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Congressional Record

PROCEEDINGS AND DEBATES OF THE 93^{d} CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Thursday, March 7, 1974*

The House met at 12 o'clock noon.

The Reverend Robert Newton Barger, president, Religious Workers Association, Champaign, Ill., offered the following prayer:

You shall not take vengeance or bear any grudge against the sons of your own people.—Leviticus 19: 18.

Father of Mercies, inspire us for leadership in healing the divisions that exist within our Nation. As we have made efforts to make peace abroad, strengthen our purpose to do likewise now at home. Never let us forget the missing in action, nor the returned veterans, nor those who for reasons of conscience have left our constituencies. While we cannot bring back our sons who have bravely died, move us to reflect Your generosity and concern for those still missing in action, for our forgotten veterans, and for our exiled sons. We ask this through Him who came to seek and to save the lost. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate having proceeded to reconsider the bill (S. 2589) entitled "An act to assure, through energy conservation, end-use rationing of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes," returned by the President of the United States with his objections, to the Senate, in which it originated, it was *Resolved*, That the said bill do not pass, two-thirds of the Senators present not having voted in the affirmative.

The message also announced that the Senate had passed a resolution of the following title:

S. Res. 293

Resolved, That the Senate disapproves all the recommendations of the President with respect to rates of pay transmitted to the Congress in the budget for the fiscal year 1975 pursuant to section 225(h) of the Federal Salary Act of 1967.

The message also announced that the Senate agreed to the amendment of the House to a bill of the Senate, S. 1745, entitled, "An act to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes," with an amendment in which concurrence of the House is requested.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 67]

Andrews, N.C.
Armstrong
Ashley
Barrett
Biester
Blatnik
Boggs
Brasco
Broomfield
Burke, Calif.
Burton
Carey, N.Y.
Chappell
Chisholm
Clark
Clausen, Don H.
Collier
Collins, Ill.
Conyers
Corman
Davis, Ga.
Dellums
Denholm
Diggs
Dingell
Edwards, Calif.
Flood
Fraser
Giaimo
Gibbons
Gray
Hansen, Wash.
Hawkins
Hébert
Henderson
Jarman
Jones, Okla.
Karth
Kazen
Long, Md.
Lujan
McKinney
McSpadden
Macdonald
Metcalfe
Mills
Minshall, Ohio
Montgomery
Moorhead, Calif.
Morgan
Murphy, N.Y.
Murtha
Nelsen
O'Neill
Podell
Randall
Reid
Rodino
Rooney, N.Y.
Rostenkowski
Runnels
Satterfield
Skubitz
Stratton
Symms
Teague
Treen
Udall
Waggonner
White
Whitehurst
Whitten

The SPEAKER. On this rollcall 358 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE HONORABLE THOMAS A. LUKEN

Mr. HAYS. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio, Mr. THOMAS A. LUKEN, be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest, and no question has been raised with respect to the validity of his election.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. LUKEN appeared at the bar of the House and took the oath of office.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MURPHY of Illinois. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REV. ROBERT NEWTON BARGER

(Mr. MADIGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MADIGAN. Mr. Speaker, the gentleman who opened the business of the House with a prayer today is the Reverend Robert Newton Barger, associated with the Newman Foundation at the University of Illinois in my district at Champaign. Reverend Barger is the author of the book about amnesty which is published and is available now, beginning today. Although I have not read the book, I have for the past year had several discussions with Reverend Barger on the subject of amnesty, and I know that this will be a studied and reasoned book.

Consequently, if any of the Members should become interested in having a copy of this book, I would be delighted to hear from them, and I would be delighted to provide them with copies of the same.

PANAMA CANAL

(Mr. DORN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DORN. Mr. Speaker, I am gravely concerned about negotiations concerning the Panama Canal. It is vital in any agreement with Panama, vital to the security and commerce of this Nation, that control of the canal remain in U.S. possession. The United States and our Navy are committed to maintaining freedom of the sealanes. This in essence means that as long as the Panama Canal is controlled by the United States, it will be open to all nations great and small.

Should this absolutely necessary link between the Pacific and the Atlantic fall under domination of a foreign power this would be a fatal blow to the defense of the Western Hemisphere and the economy of the Western world.

We must never permit a Suez-type fiasco in the Canal Zone. The economy of the Southeastern United States and yes, of South Carolina, would be adversely affected should the Panama Canal be closed or subject to riots and disorder. The shortest route between Southeast ports such as Charleston and Savannah to the west coast of South America is through the canal. It is nearer through the canal from Charleston to the west coast of South America than from San Francisco.

The growing economy of the Southeast has a direct stake in the passage of commerce through the Panama Canal, as do ports on the U.S. gulf coast. The question of continued U.S. control of the canal is perhaps the greatest single issue facing foreign policy in the Western Hemisphere.

We must never surrender U.S. sovereign control over the U.S.-owned Canal Zone.

PRIVACY STILL DIVIDED

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, today's Post reported that Dr. Don Paarlberg, a spokesman for the administration stated that Executive orders authorizing the revision of privacy of 3 million American farmers are now inoperative.

Notwithstanding this statement the fact remains that the Presidential orders are still effective.

I realize that the word "inoperative" has taken on a new meaning under the Nixon administration which carries with it the force of law. But this Member will not be satisfied until Executive Orders No. 11697 and 11709 are rescinded.

HEARINGS ON PROBLEMS AFFECTING TOURISM INDUSTRY

(Mr. HUNGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNGATE. Mr. Speaker, I would like to announce that the Subcommittee on Environmental Problems Affecting Small Business has scheduled a hearing on Friday, March 15, to examine the problems confronting small-business men and women engaged in tourism as a result of the fuel shortage.

For over 2 years now, this subcommittee has been examining the general problems of small businesses engaged in tourism and outdoor recreation, and for 3 days last August, the subcommittee traveled to Missouri, Minnesota, and Wisconsin so that we could hear directly from those small operators engaged in this industry. At that time, the full impact of the fuel shortage could not be determined because its effects were just beginning.

As a fuel shortage could have serious consequences, the subcommittee decided that it would be necessary to hold another day of hearings devoted exclusively to examining its impact on the small businesses in this industry. The March 15 hearing, to be held in Washington, will conclude our present examination of the tourism industry.

Witnesses scheduled to testify before the subcommittee include Mr. William D. Toohey, chairman, Special Travel Industry Council on Energy Conservation; Mr. William Newbold, National Campground Association; Mr. George Fichtenbaum, American Society of Travel Agents, Inc.; Mr. Robert Neville, National Restaurant Association; Mr. Arthur Packard, American Hotel and Motel Association; and representatives of the Federal Energy Office.

Members wishing to testify or submit a statement for the record should address their requests to Michael J. Ward, counsel, Subcommittee on Environmental Problems Affecting Small Business, Permanent Select Committee on Small Business, U.S. House of Representatives, 2361 Rayburn House Office Building, Washington, D.C. 20515—225-4881.

FEDERAL ENERGY ADMINISTRATION

Mr. HOLIFIELD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill—H.R. 11793—to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions.

The SPEAKER. The question is on the motion offered by the gentleman from California.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11793, with Mr. Flynt in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday section 7 of the committee amendment in the nature of a substitute ending on page 24, line 5, had been considered as read and open to amendment at any point. There was pending the amendment of the gentleman from New York (Mr. Horton) and an amendment offered by the gentleman from North Carolina (Mr. Broyhill) as a substitute for the Horton amendment.

Mr. DINGELL. Mr. Chairman, it is important to once again call attention to section 5 of the bill as amended by the distinguished and able chairman of the Committee on Government Operations—(see Congressional Record of March 5, 1974, p. 5302).

In commenting on that amendment, Chairman Holifield stressed that the purpose of the amendment is "to make clear that the bill does not give the Administrator any new authority to initiate a consumer rationing program or similar programs." Similarly, it "does not give the Administrator any new authority," to modify or affect other programs not under his jurisdiction, such as the programs of the Environmental Protection Agency. Thus, the bill, with Chairman Holifield's amendment, does not give FEA the authority to modify, alter, or in any way affect, directly or indirectly, EPA's rules, regulations, standards, guidelines, plans, certificates, et cetera, issued and administered by that Agency under other provisions of law or those of other Federal agencies, including some constituent agencies of the Interior Department, like MESA.

I commend Chairman Holifield for his forethought and wise action and his sincere effort to avoid any encroachment on the jurisdiction of other committees. It is, as he and the able gentleman from New York (Mr. Horton) suggested, a very important amendment.

Mr. HORTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, since the House adjourned yesterday afternoon, I have had an opportunity to study the Broyhill amendment. It has many good points, particularly that providing for hearings on rules that have been promulgated without benefit of hearings prior to issuance.

I understand there may be some technical problems with certain parts of the amendment. But since it is so complicated I am not prepared to offer amendments now. I will try to work out these problems in conference.

I am prepared to accept the Broyhill amendment.

Mr. HOLIFIELD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as the Members know, I moved to rise last night because the House was in a state of confusion and noise. We could not hear the amendment being read. It was a nine-page amendment.

Over the evening and this morning, we have studied this amendment, the substitute amendment offered by Mr. Broyhill of North Carolina. We believe that we can accept it. It offers certain emergency procedures which would speed up the hearing procedures that are now in existence under the Administrative Procedure Act.

Therefore, there is no objection on this side as far as I know to the acceptance of the substitute amendment offered by Mr. Broyhill of North Carolina.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. Broyhill) as a substitute for the amendment offered by the gentleman from New York (Mr. Horton).

The substitute amendment for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Horton), as amended by the amendment offered by the gentleman from North Carolina (Mr. Broyhill) as a substitute.

The amendment, as amended, was agreed to.

Mr. HOLIFIELD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am taking this time to inform some of the Members who have been questioning me in regard to the time that we will use in handling the bill, many of whom want to get out of town for speaking engagements and other business which they deem to be more important than this business, or at least commitments they cannot get out of, that it is my intention today, with the help of the House, the cooperation of the House, to move as expeditiously as possible in the consideration of amendments.

Mr. Chairman, I would like to conclude consideration of this bill by a reasonable hour this evening. As far as we know, there are 17 amendments now pending. Many of those amendments, I understand, are not important amendments; they are technical in nature. I believe the Members of the House are ready to expedite this bill, and so at the proper time I am going to suggest a limitation of debate.

I am going to ask unanimous consent to limit debate upon amendments which I think are trivial and which can be disposed of one way or the other.

Mr. Chairman, I have no desire to shut any Member off. We are going to try to move along and try to get this bill on the way.

Now, we are doing some things which the Members do not realize we are doing. I just want to make this point while there are this many Members on the floor of the House. Yesterday, we adopted the Dingell amendment, as amended by the Eckhardt amendment. This frees any producer of up to 30,000 barrels per day from price controls, the price control above the base level they have been producing in these wells. These old wells can be increased, as we all know, by different methods.

That can go up two or three times, maybe more, and that additional oil has no price control on it. It can seek its level on the market the same as the Far Eastern oil.

We are not talking about Pop-and-Mom well owners; we are talking about corporations which can produce up to 30,000 barrels per day—that is at $10 a barrel—for a price of $300,000. In 30 days, for a month's production, that runs up to 9 million barrels of oil in 1 month, and we can figure 12 times that in a year. So that is around $108 million a year for that production.

So we are not talking about Pop-and-Mom wells. We have opened up a floodgate. This is not a rollback amendment; this is a roll-forward amendment.

Mr. Chairman, I would like the Members to get this point. I have checked this with the best figures I have access to. Forty percent of the oil, the domestic oil in the United States, is produced by companies with a production of 30,000 barrels per day or less.

So if any of the Members around here think they are rolling the price back, let me tell them they are rolling it forward. We are rolling it forward, as it is now, at $7.09 a barrel, and then with all of these exempted producers, as I have just explained, by the Eckhardt amendment, that brings it up to $108 million per year of oil.

So we are, in effect, doing things that we really do not understand and we do not know much about. We are taking the word of people for things which they may believe to be the truth.

Mr. Chairman, for these reasons, I am going to try to move along with this, and if the Members want to load this bill down with all of these amendments that none of us understand, they can take the responsibility.

The CHAIRMAN. The time of the gentleman from California (Mr. HOLIFIELD) has expired.

(On request of Mr. HORTON and by unanimous consent, Mr. HOLIFIELD was allowed to proceed for 2 additional minutes.

Mr. HOLIFIELD. Mr. Chairman, if we want to move along with this bill, we should not load it down in this fashion.

Now, we have put on the so-called rollback or the roll-forward amendment. We have already put that on. That was why the President vetoed the Staggers bill. That was his main principle and his purpose for doing it.

I think most of us who are working on this legislation have had a pretty clear signal that the FEA bill is going to be vetoed. This organizational bill is being loaded down with all of these substantive measures, and the Members who are doing it can take the responsibility for it. I am sure they are willing to, and that is their privilege. However, if the House moves along as it is moving now, we are getting to an impasse.

We must remember that the President of the United States is not going to get the blame. It is the Members of this House, it is the Congress of the United States that is going to get the blame for not coming forward with an organization to tackle this energy problem.

Mr. Chairman, the responsibility is on the Members shoulders. I am not running for reelection myself, so I can look at this problem pretty objectively.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, as I understood the gentleman's figures and the point which the gentleman is making, he is saying that those Members who supported the Eckhardt amendment and later the Dingell amendment were accepting those amendments on the basis that they were exempting the independents and the small stripper well operators, and that this was not going to do very much damage to the overall effort to roll back prices.

What the gentleman is saying is that this represents 40 percent of the oil production, and those Members who are of the opinion they are rolling back prices and protecting the consumers have a misapprehension as to what they did yesterday?

Mr. HOLIFIELD. Mr. Chairman, they are rolling the price forward on new oil to a point equivalent to what the Saudi Arabians are gouging us for.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is very generous and gracious of my distinguished chairman and my good friend from California (Mr. HOLIFIELD) to undertake here today in the absence of the gentleman who sponsored the amendment adopted yesterday, to talk about this matter.

However, in the interests of accuracy I think his figures should be corrected. This is not a roll forward and it does not deal with 40 percent of the oil. I have spent as much time in studying this question as has my distinguished colleague from California.

Mr. Chairman, the amendment of the gentleman from Texas dealt with new oil, new crude, only. Let us have that straight. He are not talking about $10 here, because the average for the month of February for domestic crude was $7.02. But let us assume we were talking about $10, $12, or $15. The gentleman's bill, in section 5, provides for no kind of a rollback; it provides for no kind of a limitation upon the discretion of the Administrator of this agency. To talk about this being a simple, uncomplicated reorganizational framework is just so much bull. I am not a newcomer around here. This is my 22d year of legislating in this body.

This provides that the President can transfer unlimited functions. You do not enumerate which functions he can transfer under your transfer authority in section 6. You transfer from agencies; it is a catchall.

Mr. HOLIFIELD. Will the gentleman yield on that?

Mr. MOSS. I will be happy to yield as soon as I am finished.

It is a reorganization that permits the President to transfer and permits the agency here to undertake proceeding on roads the full reach of which no Member of this House fully appreciates.

As I recall the resistance yesterday from the chairman and the distinguished minority leader of the committee, the tenor of their discussion was that there should be no rollback authority at all; none at all. It would do grave violence to the bill, they said yesterday. But today the tenor changes, because now they say if you only roll back these smaller producers you do no great violence. You roll forward the price.

Well, that is not the case. If it were the case, there would not be so much opposition coming from downtown.

I am going to state a simple philosophy that I have stated many times on this floor. The President of the United States has full responsibility for his actions and for the exercise of his veto authority. But I, as a legislator, am responsible to the more than 450,000 people that I speak for here in this House. I am responsible to them to exercise my best judgment whether or not the President concurs in my exercise of that judgment.

I happen to think that there has been a very considerable body of evidence to show that the public confidence in the President, the individual institution of the Presidency, has declined markedly. I know you are going to say the same thing happened to the Congress, but I can point very clearly in my own district to the fact that repeatedly in election years where Presidents have been running in my district that I have outpolled them anywhere in a ratio from about 15 to 20 to 25 percentage points. So I do not think I am speaking here without the confidence of the people of my district. I can go back to them with a clear conscience knowing that they expect me to exercise my independent judgment and that they are tired of a Congress that is subservient to the whims and the will and the demands of the Executive.

In the first place, Mr. Chairman, we talk about the Presidency as though it were some sort of monolithic creature.

We do not know who is going to exercise this authority that we are voting on so freely. There is no one who can guarantee that Mr. Simon is going to be there next week. I remember in our Committee on Interstate and Foreign Commerce where we had a body of amendments offered to us one day from Governor Love, and another package of amendments from Mr. Simon the following day, as speaking authoritatively for the administration.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Moss was allowed to proceed for 1 additional minute.)

Mr. MOSS. Mr. Chairman, as a matter of fact, we had three bodies of legislative recommendations, many of them contradictory, from the recently retired Admiral Rich, who was chief adviser to Secretary Morton, former Governor Love, who is energy adviser to the White House, and Secretary Simon, all three concurrently proposing amendments to the Committee on Interstate and Foreign Commerce, and they were contradictory amendments.

So, Mr. Chairman, I am not impressed when we are told here about this being sort of a sacrosanct package, and we should not touch it, and that we should not do anything to it. I say to the Members that here is our opportunity to exercise our independent good judgment. Let us do it from knowledge, let us not be frightened or intimidated in its exercise by anybody here or at 1600 Pennsylvania Avenue.

The CHAIRMAN. The time of the gentleman has again expired.

AMENDMENT OFFERED BY MR. ROSENTHAL

Mr. ROSENTHAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROSENTHAL: On page 22, after the period on line 15, add the following: "Whenever the Administration establishes or utilizes any advisory board, task force, committee, commission or similar group, not composed entirely of permanent Federal officers and employees, with respect to any matter affecting any industry or segment thereof, the Administrator shall insure that each such group is reasonably representative of all segments and levels of such industry and of the industrial and private consumers served by such industry or segment thereof: *Provided*, That the Administrator in appointing private consumers to each such group shall give special consideration to the recommendations of public interest entities and individuals specializing in consumer, environment and conservation matters; and that the consumer members of each advisory panel shall be selected on the basis of experience and participation in consumer affairs."

Mr. ROSENTHAL. Mr. Chairman, this amendment would require the Federal Energy Administrator to appoint a consumer or public representative to each industry advisory committee not composed entirely of permanent Federal employees. It should be understood that my amendment does not require that industry advisory groups be dominated by consumer or public representatives. It merely requires that such groups are reasonably representative of all segments and levels of industry and of the industrial and private consumers served by such industry.

The consumer community has very little faith in the operation of industry advisory groups. They see these groups as special interest organs with inside information and an inside influence on the policymaking decisions of Federal departments and agencies. Frankly, I think that this impression is basically correct. But we could change that impression and foster public confidence in the work of energy industry advisory groups, if we placed a consumer spokesman on each one to ask the right questions, raise the right issues and seek data relevant to consumer interests.

It is clearly unlikely that the consumer point of view will be expressed in the deliberations of an industry advisory group unless a consumer representative is present at the meetings and participates fully in the framing of the issues and the recommendations of the group.

I urge this amendment as a way of assuring the public that their interests will be represented at all levels and in all processes of the Federal Energy Administration's decisionmaking apparatus.

In this regard, Mr. Chairman, I am appending to my remarks a sample listing of corporate executives who are now advising Government policymakers. This list appeared in the February 26, 1974, issue of "The Gallagher Presidents' Report."

The material referred to is as follows:

BIG BUSINESS CHIEFS COUNSEL BIG GOVERNMENT

(Selected list of corporate chief executives serving on Federal Advisory Committees.)

COMPANY, CHIEF EXECUTIVE AND FEDERAL ADVISORY COMMITTEE MEMBERSHIP

Allied Chemical; John T. Connor; U.S. Department of Commerce, National Export Expansion Council.

Aluminum Co. of America; John D. Harper; U.S. Department of State, International Business Problems; Federal Power Commission, National Power Survey (Executive Advisory Committee).

Amerada Hess Corp.; Leon Hess; U.S. Department of the Interior, National Petroleum Council.

Ashland Oil; Orin E. Atkins; U.S. Department of the Interior, National Petroleum Council.

BankAmerica Corp.; A. W. Clausen; U.S. Department of the Treasury, American Bankers Association Government Borrowing Committee.

Burlington Industries; Charles F. Myers, Jr.; U.S. Department of the Treasury, Liaison Committee of the Business Council.

Celanese Corp.; John W. Brooks; U.S. Department of the Interior, National Petroleum Council, U.S. Department of State, International Business Problems.

Chase Manhattan Corp.; David Rockefeller; U.S. Department of the Treasury, Liaison Committee of the Business Council.

Cities Service Co.; Robert W. Sellers; U.S. Department of the Interior, National Petroleum Council.

Consolidated Edison Co.; Charles Luce; U.S. Department of the Interior, Bonneville Regional Advisory Council-Walla Walla, U.S. Atomic Energy Commission, Senior Utility Steering Committee, U.S. Department of State, Advisory Committee on the 1972 UN Conference on the Human Environment.

Continental Oil Co.; John G. McLean; U.S. Department of the Interior, National Petroleum Council, Emergency Advisory Committee for Natural Gas; Federal Power Commission, National Gas Survey, (Executive Advisory Committee).

Deere & Co.; William A. Hewitt; U.S. Department of the Treasury, Liaison Committee of the Business Council.

Exxon Corp.; J. K. Jamieson; U.S. Department of the Interior, National Petroleum Council.

Firestone Tire & Rubber; Raymond C. Firestone; U.S. Department of Transportation, Senior Advisory Committee.

First National City Corp.; Walter B. Wriston; U.S. Department of the Treasury, American Bankers Association Government Borrowing Committee.

Ford Motor Co.; Henry Ford II; U.S. Department of Transportation, Senior Advisory Committee.

Foremost-McKesson; Rudolph J. Drews; U.S. Department of Commerce, National Export Expansion Council, Action Committee on Taxation in Relation to Exports.

General Dynamics Corp.; David S. Lewis; U.S. Department of Defense, Industry Advisory Council.

General Motors Corp.; Richard Gerstenberg; U.S. Department of Commerce, President's Advisory Council on Minority Business Enterprise; U.S. Department of Transportation, Senior Advisory Committee, Secretary's U.S. International Transportation Exposition Committee.

Gulf Oil Corp.; B. R. Dorsey; U.S. Department of the Interior, National Petroleum Council; Federal Power Commission, National Gas Survey (Executive Advisory Committee).

Honeywell, Inc.; Stephen F. Keating; U.S. Department of Defense, Industry Advisory Council.

ITT; Harold S. Geneen; U.S. Department of State, International Business Problems.

Jewel Cos.; Donald S. Perkins; Office of Emergency Preparedness, Emergency Economic Stabilization Industry Advisory Committee for Food Retailing.

Litton Industries; Charles Thornton; U.S. Department of Commerce, International Business Advisory Committee; U.S. Department of Defense, Air University Board of Visitors; U.S. Department of Transportation, Senior Advisory Committee, Secretary's U.S. International Transportation Exposition Committee; U.S. Department of the Treasury, Treasury Liaison Committee of the Business Council.

Lockheed Aircraft Corp.; Daniel J. Haughton; U.S. Department of Defense, Medical Advisory Council (Military Airlift Committee of the National Defense Transportation Association).

Marathon Oil Co.; J. C. Donnell II; U.S. Department of the Interior, National Petroleum Council.

McDonnell Douglas Co.; Stanford N. McDonnell; U.S. Department of Defense, Officer Training School Advisory Committee.

Mobil Oil Corp.; Rawleigh Warner Jr.; U.S. Department of the Interior, National Petroleum Council, Federal Power Commission, National Gas Survey.

Monsanto Co.; Charles H. Sommer; U.S. Department of Commerce, National Export Expansion Council; U.S. Department of the Interior, National Petroleum Council.

Morgan Guaranty Trust Co.; Ellmore Patterson; U.S. Department of Defense, Industry Advisory Council.

National Cash Register; Robert S. Oelman; U.S. Department of Defense, Air Force Logistics Command Advisory Board; U.S. Department of State, International Business Problems.

Occidental Petroleum Corp.; Armand Hammer; U.S. Department of the Interior, National Petroleum Council.

Pacific Gas & Electric Co.; Shermer L. Sibley; Federal Power Commission, National Power Survey, (Executive Advisory Committee), National Gas Survey (Executive Advisory Committee); U.S. Atomic Energy Commission, Senior Utility Steering Committee.

PPG Industries; Robinson F. Barker; U.S. Department of Defense, National Committee for Employer Support of the Guard Reserve.

Raytheon Co.; Thomas L. Phillips; U.S. Department of Defense, Industry Advisory Council.

Shell Oil Co.; Harry Bridges; U.S. Department of the Interior, National Petroleum Council, Federal Power Commission, National Gas Survey, (Executive Advisory Committee).

Sperry Rand Corp.; J. Paul Lyet; U.S. Department of Defense, Industry Advisory Council.

Standard Oil (California); Otto N. Miller; U.S. Department of State, National Review Board-Center for Cultural & Technical Interchange Between East & West, U.S. Department of Transportation, Secretary's U.S. International Transportation Exposition Committee Federal Power Commission, National Gas Survey, (Executive Advisory Committee).

Standard Oil (Indiana); John E. Swearingen; Federal Power Commission, National Gas Survey; U.S. Department of the Interior, National Petroleum Council.

Standard Oil (Ohio); Charles E. Spahr; U.S. Department of the Interior, National Petroleum Council.

Sun Oil Co.; Robert Dunlop; U.S. Department of the Interior, National Petroleum Council.

Tenneco Inc.; Nelson W. Freeman; Federal Power Commission, National Gas Survey.

Texaco Inc.; Maurice F. Granville; U.S. Department of the Interior, National Petroleum Council; Federal Power Commission, National Gas Survey.

Textron Inc.; G. William Miller; U.S. Department of Defense; Industry Advisory Council.

Transamerica Corp.; John R. Beckett; U.S. Department of State, International Business Problems.

Trans World Airlines; Charles Tillinghast; U.S. Department of State. International Business Problems, Secretary's Committee to Facilitate Travel; U.S. Department of Transportation, Secretary's U.S. International Transportation Exposition Committee.

Travelers Corp.; Roger Wilkins; U.S. Department of the Treasury, American Life Insurance Association Economic Policy Committee.

TRW Inc.; Horace Shepard; U.S. Department of Commerce, National Export Expansion Council.

Union Oil Co. of Calif.; Fred Hartley; U.S. Department of the Interior, National Petroleum Council.

Winn-Dixie Stores; Bert Thomas; Office of Emergency Preparedness, Emergency Economic Stabilization Industry Advisory Committee for Food Retailing.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to the gentleman from Texas.

Mr. MILFORD. I thank the gentleman for yielding.

Will the gentleman please explain to me how one can identify a consumer representative? It appears to me that every person in the country is a consumer representative.

Mr. ROSENTHAL. I do not think we have had that trouble in other areas of legislation or regulations. I am glad this colloquy has come up. I think what is intended by this amendment especially, is a person who has been actively engaged in a consumer movement, a person who has been representing consumers, people engaged in Consumers Union or other public interest organizations, anyone who has worked particularly in this field. But I would not object to any person who willingly identifies himself as a consumer. I suspect that President Armand Hammer of Occidental Petroleum might have some difficulty passing muster with that identification, but I do not think other citizens would.

Mr. MILFORD. Would the gentleman yield further?

Mr. ROSENTHAL. I yield to the gentleman from Texas.

Mr. MILFORD. How, then, would picking a consumer representative group differ from picking a lobbying group?

Mr. ROSENTHAL. I think it is a matter of judgment. I do not see any difficulty. Obviously, someone who is a chief executive officer of a major corporation, a petroleum corporation, would, I think, be disqualified. I think people who have been active in the consumer movement, who have represented consumers before Federal boards and agencies, who have asked to participate as consumer representatives, who have voluntarily come forth or who have some identification as a person having a consumer commitment. I think it is a matter of judgment. I do not think we can provide that degree of specificity here on the floor.

I urge my colleagues to adopt this amendment because I think it brings a very important blend of integrity and responsibility to what we are doing here today.

Mr. HOLIFIELD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I respect my friend, the gentleman from New York, who has worked very hard in the consumer field. He has worked hard to get out a bill for the protection of the consumers, and I think the consumers need protection today if they ever needed it in their lives. But on this matter of advisory committees I differ with him, and I will explain why.

The point is not that we are opposed to having any consumer or public representative on the advisory committees appointed by the administrator. The point is that the amendment would distort the intent and purpose of the Federal Advisory Committee Act, Public Law 92-463. That act contemplates in section 5(b)(2) that the membership of advisory committees—and I am quoting now—

> . . . shall be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee.

What I am saying here and what the law says is, if we are going to appoint these advisory committees, there is already a law that tells them that they have got to be fairly balanced. To put a consumer representative on every committee would in some instances not be appropriate. If we had a technical committee that was studying a new way of cracking gas in a refinery, the consumer that we would put on there would not be an expert in that field. It might be a technical group. They would have to consider something which is beyond the ken of the consumer spokesman.

The Administrator would have occasion, of course, to appoint advisory committees in which consumers and members of the public are part of the representation. We do not preclude that. In fact, we encourage it. The Administrator would have to appoint advisory committees on matters involved with specialized and highly technical disciplines, as I mentioned. If there are different points of view regarding a technical matter at issue, these, too, should be fairly represented. It could be a matter that is highly classified. It could be a discussion of the state of the art of fusion or laser research.

To make it mandatory that there be a consumer representative on every board, whether or not a consumer issue is involved, is a waste of time and manpower.

I believe that the purpose of the gentleman is adequately taken care of in existing law, the Federal Advisory Committee Act.

I would ask that this amendment be voted down.

Ms. ABZUG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this amendment. I want to compliment my colleague from New York (Mr. ROSENTHAL) in his effort to get consumer representation on the advisory committees.

We have a very special problem in this area. It is true that I always support the representation of consumers on advisory boards, because their concerns really represent a majority of America. But it is even more essential, because by admission of all concerned—the administration, industry, scholars, Members of Congress—the only sources of information, the only input we have had in this entire energy crisis has come from industry itself.

We have had great difficulty in dealing with this crisis, because of a lack of reliable information. Since we have been relying solely on industry data, we have been seriously hampered in our efforts to deal with this crisis. As we set up a Federal Energy Administration, we have a special obligation to make certain that we overcome what has clearly been an undue reliance on very special interests—those same interests which we seek to regulate, from whom we seek to get information, and to whom we are turning for suggestions of a new approach to our energy problems. We must give the American people some assurance that their voices will also be heard, that there will be representation of consumer power in this area that concerns them so greatly. I think it is invaluable. As a matter of fact, I think it is critical, if we are to restore meaningful legislative functions and the confidence of people in this Congress, that in this instance especially, we place consumer representatives on our boards dealing with energy problems.

I would urge Members of this House, with all deference to the feelings of our chairman, that we accept this amendment as being one that is clearly consistent with the effort we are making here to create some meaning out of a very chaotic situation. In order to provide some representation to consumers, to counteract the undue influence of industry representatives, and to insure the proper administration of our energy programs, I urge support for this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. ROSENTHAL).

The question was taken; and on a division (demanded by Mr. ROSENTHAL) there were—ayes 11, noes 25.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. HECHLER of West Virginia: Page 23, strike lines 18 through 20, inclusive.

Mr. HECHLER of West Virginia. Mr. Chairman, this amendment will strike out section 7(j) on page 23, which is one sentence long and reads as follows:

> The administrator shall perform such other activities as may be necessary for the effective fulfillment of his duties and functions.

Mr. Chairman, that is an extremely broad grant of unlimited power to the Administrator. I would say in addition that on the 5th of March, the committee adopted an amendment offered by the gentleman from California (Mr. HOLIFIELD) which confined the application of the bill to the extent expressly authorized by other sections of this act or any other provision of law.

If section 7(j) is coupled with the authorization "to take action to expedite the development of energy resources", it can pose a serious threat to our Federal lands. Using this vague and open-ended language, the Administrator could conceivably order stepped-up strip mining, oil shale development, and other oil development. Granting this kind of unrestricted power to FEA further weakens the role of Congress in defining how we meet major energy needs. The blank check in 7(j) would constitute a further sacrifice of the responsibility of Congress. I believe that Congress should only grant those powers which are clearly defined and specified to meet the energy problems.

I hope my amendment is adopted, because if it is, this will be a signal that the Congress has no intention of rolling over, playing dead, and giving up unrestricted power in such an area as strip mining. Here is a concrete example of what I am talking about: During a recent visit to North Dakota, I talked with many ranchers and cattlemen, and farmers who were concerned that large-scale strip mining of lignite for coal gasification would devastate their land. Frequently, they pointed out to me that the coal companies were pressuring the land owners to sell their mineral rights, or else the Federal Government would step in and seize these mineral rights by eminent domain. Many people throughout the Great Plains are determined that these vast areas not repeat the experience of West Virginia, where out-of-State interests have exploited the land and the people for private profit and with little resulting benefits for the people of the area.

We have the responsibility in this Congress to protect the land and the people. We also have the responsibility to preserve and protect the Constitution and the powers of the Congress. This is why I urge support for this amendment to strike from the bill the unlimited and unjustified powers conferred by section 7(j).

Mr. HOLIFIELD. Mr. Chairman, will the gentleman from West Virginia yield?

Mr. HECHLER of West Virginia. Mr. Chairman, I am happy to yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, the gentleman from West Virginia has conferred with me and also with the ranking minority member on the committee concerning this matter. It is a perfecting amendment made necessary by the adoption of the Holifield amendment on page 18, section 5.

Mr. Chairman, we accept the amendment.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. Mr. Chairman, I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I would be very happy to accept the amendment.

Mr. HECHLER of West Virginia. Mr. Chairman, I thank my friend from New York. I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Chairman, I offer an amendment.

The amendment was agreed to.

The Clerk read as follows:

> Amendment offered by Mr. Moss: Page 24, line 6, at the end of section 7, insert the following new subsections:
>
> "(l) Whenever the Federal Energy Administration submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.
>
> "(m) Whenever the Federal Energy Administration submits any legislative recommendations or testimony or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Federal Energy Administration to submit its legislative recommendations, or testimony or comments to any officer or agency of the United States for approval, comment, or review prior to the submission of such recommendations, testimony, or comments to the Congress."

Mr. MOSS. Mr. Chairman, this is really a very simple amendment. Is says rather clearly that the Congress is entitled to be informed directly and concurrently with the officials of the Office of Management and Budget as to the nature of legislative recommendations or budget proposals made by the Federal Energy Administration. I do not see why we should have to have material that has filtered through this bureaucracy downtown, which was originally the Bureau of the Budget and is now the Office of Management and Budget.

Mr. Chairman, a number of years ago I made a study of the function of the Bureau of the Budget and the staffing pattern. I found that persons of the GS–7 and GS–9 levels were frequently called upon to make judgments and, in effect, to veto actions by top administrators of Government by the simple act of not clearing them for submission to the Congress.

Now, if the kind of legislative information we want is only that which filters through this faceless bureaucracy, then my amendment would be most inappropriate, and those Members who would want that kind of filtered information should certainly vote against the amendment.

However, if the Members do believe that Congress has a right to know the clear and candid views of the Administrator, without the direct modification which might occur as a result of a review in the Office of Management and Budget or by some other unidentified and not always clearly authorized person, then they will vote for this amendment, for then we have a right to say to the Administrator: "We have requested your views. We want those views."

Mr. Chairman, we have done this in a few instances in the last few years. I can assure the Members that I intend at every opportunity in the future to offer this kind of language to legislation creating new agencies or in effect amending the charters of existing agencies. I think that the most important element in reasserting the powers of the Congress and the powers of the people is to first lay the groundwork to insure that we have full, complete, and reliable information. And I will say to the Members that we have not had that on the energy crisis, not always because the agencies have not wanted to give it to us but sometimes because they have not had it. And sometimes they have not had it because somebody has decided down in the Office of Management and Budget, in the process of approving a questionnaire under the 1942 wartime Federal Reports Act conferring that authority upon the agency, that the questionnaire was not appropriate.

Mr. Chairman, they made policy decisions that were far-reaching. They had tremendous impact upon the legislative competence of this body because it was forced to legislate with less than the full facts.

As I said, it is a simple amendment; it is a consistent amendment; it is one which is offered to help restore some of the badly eroded powers of the Congress.

Mr. HOLIFIELD. Mr. Chairman, I rise in opposition to the amendment.

The first paragraph of the gentleman's amendment would require concurrent transmission of budget estimates by the FEA to the Congress and the executive. This part is unnecessary, since committees of the Congress can get such information whenever they request it.

The second paragraph would require concurrent submission of legislative recommendations, testimony, or comments to the Congress and the executive, and would prohibit prior review or approval by the executive before submission to the Congress. The effect of this part is to treat the FEA as a legislative rather than an executive agency, at least to the extent of preventing Presidential coordination of executive branch policies and recommendations to the Congress. This adds to the confusion of responsibilities between the two branches of Government.

Taken altogether, these two paragraphs try to make the FEA a legislative or quasi-legislative agency when, in fact, it is in the executive branch and should be under the general control and direction of the President. This is to be a temporary agency. Let us not confuse lines of organization and responsibilities any more than necessary between the two branches, and let us not try to develop new theories of organization on the basis of this temporary agency.

Mr. Chairman, as the gentleman said, this is a simple amendment, and I think the gentleman has explained his position. I have certainly explained my position.

Mr. Chairman, I ask for a "No" vote on the amendment.

Mr. YATES. Mr. Chairman, I move to strike the last word.

I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, I am so pleased to learn that my distinguished colleague from California has no difficulty in getting this information. I wish he would tell some of the gentlemen on the Committee on Appropriations, because I have just discussed it with two of them and they cannot get it in the Committee on Appropriations. We have not been denied it in the Committee on Interstate and Foreign Commerce. We have not been getting the budget estimates from the Department of Transportation until they have been cleared by the OMB. Maybe the chairman can.

I would say to the gentleman that he is enjoying a most uniquely privileged position as a Member of this House and enjoying a status not enjoyed by other Members of this body.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The question was taken; and on a division (demanded by Mr. Moss) there were—ayes 12, noes 23.

So the amendment was rejected.

Mr. MOSS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Forty-two Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 68]

Armstrong
Ashley
Blackburn
Blatnik
Brasco
Brown, Calif.
Burton
Carey, N.Y.
Chisholm
Clark
Clausen, Don H.
Clay
Collins, Ill.
Conyers
Dellums
Diggs
Donohue
Drinan
du Pont
Foley
Gaydos
Giaimo
Gibbons
Hanna
Hansen, Wash.
Hastings
Hawkins
Hébert
Henderson
Jones, Ala.
Jones, Okla.
Karth
Leggett
Long, Md.
McEwen
McKinney
McSpadden
Melcher
Mills
Minshall, Ohio
Mollohan
Montgomery
Moorhead, Calif.
Morgan
Murphy, N.Y.
Nelsen
O'Hara
O'Neill
Patman
Pepper
Podell
Randall
Reid
Rhodes
Rooney, N.Y.
Rostenkowski
Roy
Ruppe
Satterfield
Sikes
Stanton, James V.
Stephens
Stokes
Stratton
Symington
Talcott
Teague
Thompson, N.J.
Tiernan
Treen
Udall
Whitehurst
Whitten

Accordingly the Committee rose; and the Speaker having resumed the chair (Mr. FLYNT) Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11793, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 358 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the point of order on the absence of a quorum was made, the Chair had started to recognize the gentleman from Texas (Mr. ECKHARDT), to offer an amendment, which the Clerk will report.

AMENDMENT OFFERED BY MR. ECKHARDT

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Page 24, after line 5, add the following: (1) the Federal Energy Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44, United States Code, but not for any other purposes.

The CHAIRMAN. The chair recognizes the gentleman from Texas (Mr. ECKHARDT) for five minutes in support of his amendment.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. Mr. Chairman, I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I have had some discussion with the gentleman from Texas on this amendment, and I am prepared to accept the amendment. I think it is a good amendment.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. Mr. Chairman, I yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, we are prepared to accept the amendment on this side.

Mr. ECKHARDT. Mr. Chairman, I thank the gentlemen. I shall merely state for the convenience of the Members of the House that this amendment has the effect of treating the FEA as an exception to the Coordination of Federal Reporting Services Act which would otherwise cover it and require FEA to act within its terms and requirements. But, as the result of the Alaska Pipeline Act, regulatory agencies are excepted from coverage of the Reporting Act. This amendment brings the FEA into this exception.

Mr. VANIK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to ask the chairman of the committee, the distinguished gentleman from California, whether in his concept of this legislation this new administration can exercise authority and jurisdiction over an energy trust fund.

We are currently in the Committee on Ways and Means discussing the possibility of an energy trust fund. The question has arisen as to what branch of the Government would be responsible for administering such a trust fund if it was established by action of our committee.

Mr. HOLIFIELD. Well, it is very difficult for me to project my mind into the future about a law that I do not know about. I do not know what it contains. If the Committee on Ways and Means, however, passes legislation which sets up a trust fund, as energy matters have been delegated by the President to other agencies, to the head of the FEA, in my opinion it could be done; but I cannot look into the President's mind to see what he will do.

Remember, this is a 2-year emergency bill. He could do that if it is delegated to him, as other powers have been delegated

Mr. VANIK. It could be within the scope of his administration?

Mr. HOLIFIELD. It could be.

Mr. VANIK. Mr. Chairman, I appreciate the response of the chairman of the committee relating to the trust fund concept.

I would like to direct attention to another issue which I would like the Federal Energy Administration—and the committee—to consider. According to page 19, line 17, of the bill as reported, one of the functions of the Administrator will be to develop and recommend policies on import and export of energy resources. As you know, last spring, the President finally terminated the oil import quota program which was choking off supplies of desperately needed oil.

But in place of quotas, a new system of fee-licenses was instituted under Proclamation 4210. Under that proclamation, the new license fees were tied to the old quota system. Importers are granted free imports to the extent of historical imports. To those importers without a history of imports or to those importers who import above their historical levels, license fees are imposed—despite the staggering high price of petroleum products on the world markets.

As of today, the import license on crude is 13 cents per barrel. The import license fee on gasoline is 54.5 cents per barrel, and is scheduled to rise to 57 cents per barrel on May 1

These fees—which are really duties imposed without congressional consent—make absolutely no sense in this time of high prices. The Proclamation 4210 itself has become irrelevant. The proclamation reads that fee licenses shall be employed to "discourage the importation into the United States of petroleum and petroleum products in such quantities or under such circumstances as to threaten or impair the national security."

It would seem to me that continuation of the fee is encouraging inflation, and to the extent it discourages imports, is threatening the national security.

I hope it would be the committee's intent that this discriminatory import fee be reexamined under the provisions of section 5, subsection 8. Hopefully, the administration will develop a policy to end this fee during this time of sky-high prices.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 7? If not, the Clerk will read.

The Clerk read as follows:

COMPENSATION

SEC. 8. (a) Section 5313 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(22) Administrator of the Federal Energy Administration.".

(b) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(62) Deputy Administrator of the Federal Energy Administration.".

(c) Section 5315 of title 5 of the United States Code is amended by striking out "(97)" in the last paragraph of such section and inserting in lieu thereof "(98)", and by adding at the end thereof the following new paragraphs:

"(99) Assistant Administrators, Federal Energy Administration (6).

"(100) General Counsel, Federal Energy Administration.".

(d) Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(134) Additional officers, Federal Energy Administration (9).".

(e) In the event that any individual at the time of entering upon any one of the positions described in subsections (a) through (c) of this section then holds another position in the executive branch, he may continue to hold such original position but shall be entitled, for as long as he holds both positions, to receive the pay for only one such position: *Provided*, That he shall be entitled to receive the greater pay if different rates of pay are prescribed for the two positions.

(f) Appointments to the positions described in subsection (d) of this section may be made without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the section be dispensed with, that the section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. HOLIFIELD

Mr. HOLIFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOLIFIELD: Page 25, strike out the text of subsection 8(e) and insert in lieu thereof:

"(e) No individual holding any of the positions described in subsections (a) through (c) of the section shall also hold any other position in the executive branch during the same period."

Mr. HOLIFIELD. Mr. Chairman, I wish to make an extraneous remark here. I hope we can retain enough Members on the floor to save the time which is involved in quorum calls. I am not asking for quorum calls, but if we can keep enough of the membership here to act upon these amendments, we can get through with the bill in very good time today, and the Members can pick up their plane reservations.

Mr. Chairman, on this amendment which I have offered, the Federal Energy Office performance to date, as I think all of us will agree, has left something to be desired. The top officials of FEA will have to do better. This is a full-time mission. Either we have got an energy crisis or we do not have one.

These officials should devote their full-time efforts to the difficult tasks they will be dealing with. The bill should make that quite clear.

When the committee considered the legislation in December, I felt that a case had been made for permitting the Administrator to serve in two related positions. In retrospect, the experience of the past 4 months teaches us that the energy emergency requires undivided attention. Also, while the case was made at that time basically for the Administrator, the bill was drafted to include his deputy and assistants.

Mr. Chairman, this has been brought to the attention of the gentleman from New York (Mr. HORTON) and myself, as well as the other members of the committee. This could lead to a proliferation of officials with divided loyalties and objectives.

I recommend that this amendment to correct the situation be adopted.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I am in complete accord with the gentleman from California, the chairman of the committee, with respect to his amendment.

I realize this is a temporary or a limited agency in the sense that its life is only for 2 years and it is going to be difficult perhaps to get the top leadership for these important positions.

On the other hand, as the gentleman has indicated, these are important positions, and this is an important matter. So I am willing to accept the amendment.

Mr. Chairman, I have talked with the representative of the administration, Mr. Simon, and I understand they are also willing to accept the amendment.

Mr. HOLIFIELD. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOLIFIELD).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TRANSITIONAL AND SAVING PROVISIONS

SEC. 9. (a) Subject to section 20, whenever all of the functions or programs of an agency, or other body, or any component thereof, affected by this Act, have been transferred from that agency, or other body, or any component thereof pursuant to section 6 of this Act, the agency, or other body, or component thereof shall lapse.

(b) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Administrator, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(c) The provisions of this Act shall not affect any proceeding pending, at the time this section takes effect, before any department or agency (or component thereof) regarding functions which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this Act had not been enacted.

(d) Except as provided in subsection (f)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

(e) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter any order which will give effect to the provisions of this section.

(f) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and any function of such department, agency, or officer is transferred under this Act to the Administrator, or any other official, then such suit shall be continued as if this Act had not been enacted, with the Administrator, or other official as the case may be, substituted.

(g) Final orders and actions of any official or component in the performance of functions transferred by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, agency, or instrumentality in the performance of such functions immediately preceding the effective date of this Act. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the performance of those functions by the Administrator, or any officer or component.

(h) With respect to any function transferred by this Act and performed after the effective date of this Act, reference in any other law to any department or agency, or any officer or office, the functions of which are so transferred, shall be deemed to refer to the Administration, Administrator, or other office or officer in which this Act vests such functions.

(i) Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to perform such function; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

(j) Any reference in this Act to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

(k) Except as may be otherwise expressly provided in this Act, all functions expressly conferred by this Act shall be in addition to and not in substitution for functions existing immediately before the effective date of this Act and transferred by this Act.

(l) The provisions of this section shall apply to functions transferred to the Administration pursuant to section 6(c) of this Act, except that reference in this section to the effective date of this Act shall be deemed to be references to the date of the transfer of the functions involved.

Mr HORTON (during the reading). Mr. Chairman, I ask unanimous consent that section 9 of the bill be considered as read, printed in the RECORD, and open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. HOLIFIELD

Mr. HOLIFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOLIFIELD: On page 29, strike out lines 16 through 20.

Mr. HOLIFIELD. Mr. Chairman, this amendment which I have offered is a conforming amendment.

The Committee of the Whole has previously approved deletion of special authority given the President by section 6(a) to make additional transfers of functions. The present amendment simply deletes the section relating to such special transfers of functions and no longer recognizes any such transfers.

Mr. Chairman, I offer this amendment in the interest of consistency.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I wish to state that I accept the amendment and I agree with the arguments made by the chairman of the committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOLIFIELD).

The amendment was agreed to.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I respectfully ask for the attention of my good friend and colleague, the gentleman from Texas (Mr. ECKHARDT) and the chairman of the subcommittee for purposes of interpreting some of the unfortunate comments made earlier by my good friend, the gentleman from California, the chairman of the committee. The chairman of the committee referred to the amendment offered yesterday by me, with an amendment offered by my good friend and colleague, the gentleman from Texas (Mr. ECKHARDT).

Unfortunately, the distinguished and able chairman of the committee, the gentleman from California (Mr. HOLIFIELD), in those earlier comments advised the House, I think in most ill fashion, as to what the contents of the amendments offered yesterday were in my amendment, as amended by my good friend, the gentleman from Texas (Mr. ECKHARDT).

So for purposes both of correcting the RECORD, creating legislative history and advising my colleagues as to what the real purposes of the amendments were yesterday, I engage in this colloquy, and I again ask for the attention of the chairman of the committee, who is my good friend and for whom I have the highest regard.

With regard to the original amendment, the amendment which was offered by me, it would have fixed a limit on the amount to which the Administrator to be established by the legislation before us would be able to raise those amounts are set forth in the amendment which appears at page 5444, and they would come to approximately a maximum of $7.09 per barrel.

Now, my good friend and colleague, the gentleman from Texas, subsequently offered an amendment which I applauded and which the House adopted, which amendment would, as I interpret it, have applied only to new oil and then only to new oil which was produced by producers who had a total daily production of less than 30,000 barrels.

Now, the allocation legislation, as my friend from Texas has advised me, does not apply to stripper wells. As a matter of fact, I am informed, there was a specific exemption for that in the other legislation. So essentially it is legislation which permits producers of less than 30,000 barrels per day, to market new oil production without price control limitations.

Now, Mr. Chairman, I yield to my good friend from Texas, because he has some comments with regard to the amounts involved and with regard to what his amendment is. I ask my friend from Texas to comment.

Mr. ECKHARDT. The gentleman in the well is absolutely correct. The amendment which I offered to his amendment was limited, No. 1, to new oil. The amount of new oil produced in the United States and covered by this act and thus exempted could not exceed 30 percent of the total production of oil. But in addition to being limited to new oil, it is limited to that new oil which is produced by those who produce less than 30,000 barrels per day.

Mr. DINGELL. And this is a relatively small percentage of the total production in the country.

Mr. ECKHARDT. Well, this is not a number of producers but an amount of production.

I did not hear the gentleman from California in his statement earlier, but I do not dispute his facts. What he was suggesting—and I would have to check the actual facts—is that those who produce under 30,000 barrels per day produce 40 percent of the total production of all oil, old and new, in the United States.

Mr. HOLIFIELD. I believe that is right.

Mr. ECKHARDT. I do not dispute that point. I think the chairman was correct if those were the facts he stated. But that would mean if one should assume the proportion of old and new oil produced by both the 30,000 and less and the over 30,000 producers—that would mean 40 percent of new oil which is exempted would be taken out of coverage, that is, 40 percent of 30 percent, which would be somewhere in the neighborhood of 12 percent. So the statement of the distinguished chairman of the committee earlier today, as I understand it, that 40 percent of the oil would be taken out of coverage by virtue of the Eckhardt amendment is, I think, an error. As a matter of fact, I know it is an error, because I know he is referring to the 40 percent produced by independents.

The amount taken out of coverage, in my opinion and from the facts that I have heard on the floor—and I shall ask permission later to check the exact figures—would not exclude more than approximately 12 percent from the total coverage of control of the total oil in the country.

Mr. DINGELL. I think it must be very plain—and I want the record straight on this, and I rise in a spirit of friendship and high regard for my friend, the chairman of the committee, but I think he made a most unfortunate statement at a time just earlier where he said that this is not a rollback but, rather, a roll forward.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, at the request of Mr. Moss, Mr. DINGELL was allowed to proceed for 5 additional minutes.)

Mr. DINGELL. I thank the gentleman.

My good friend from California made the comment that this is a roll forward. I think a careful analysis of the legislation and the comments made by my friend from Texas and me indicate that it is not a roll forward of prices at all. On the contrary, it is a rollback and, more importantly, it is a rollback provision which affords a measure of incentive for small producers to produce new oil.

As a matter of fact, the amendment which we are discussing was adopted by the House yesterday by a very healthy margin and not only rolls back prices, but provides an incentive for the production of new oil by the small producers.

It is so drafted by my friend, the gentleman from Texas (Mr. ECKHARDT) that there is a cutback in production by the persons who get an exemption from it that they do not get the advantage of being deregulated as to new production.

Now, Mr. Chairman, I yield to the chairman, the gentleman from California (Mr. HOLIFIELD), my friend, so that the gentleman can agree with me.

Mr. HOLIFIELD. Mr. Chairman, I thank the gentleman from Michigan for yielding to me.

Mr. Chairman, the statement I made was based on preliminary material that was furnished me by the FEO.

Mr. DINGELL. Mr. Chairman, let me interrupt the gentleman from California and say that if the gentleman from California believes the FEO, then the gentleman is in great error, because they are invariably in error.

Mr. HOLIFIELD. Mr. Chairman, the gentleman from Michigan asked me a question, and I am attempting to answer his question. I would not mislead this House knowingly in any way. I have this information here which I will submit to the gentleman from Texas (Mr. ECKHARDT) and the gentleman from Michigan (Mr. DINGELL) and I will confer with them on it. If I was mistaken then I will admit to the House that I was mistaken.

At the present time my understanding is as I said it. I will be very happy to submit this information and have a conference with the gentleman, and if necessary I will make a statement on it.

Mr. DINGELL. Mr. Chairman, the gentleman from California is a very fair-minded Member of this body, and I thank the gentleman for his comments, they being wholly in accord for the reasons that I have such high regard for the gentleman.

Mr. Chairman, I now yield to the gentleman from California (Mr. MOSS).

Mr. MOSS. Mr. Chairman, I thank the gentleman for yielding, and I was attempting to answer on behalf of the absentees, the two proposers of the amendment on yesterday, and noting the error made by the distinguished gentleman from California (Mr. HOLIFIELD) wherein the gentleman said that it would be a move forward, rather than a rollback, and wherein the gentleman stated that it would apply to 40 percent of the total production.

I have here in my hand, Mr. Chairman, the Pims Monthly Petroleum Report of January 31, 1974—and, Mr. Chairman, that stands for the petroleum industry monitoring system. It shows here in a diagram that new oil production amounts to 10 percent total. That includes new oil produced by those operating aggregate total production of more than 30,000 barrels a day, as well as those operating less. So the new oil figure is less than the 12-percent projection made on some calculations rather hurriedly by my friend, the gentleman from Texas (Mr. ECKHARDT) which, in the official report, is listed as 10 percent.

Mr. DINGELL. Mr. Chairman, I have promised that I would yield to my good friend, the gentleman from Texas (Mr. MILFORD).

Mr. MILFORD. Mr. Chairman, for the purpose of legislative history, since the gentleman from Michigan (Mr. DINGELL) and the gentleman from Texas (Mr. ECKHARDT) were the authors of this amendment, I would like to propose a situation to the gentlemen, and ask them what the intent of this legislation would be insofar as that situation is concerned.

Mr. DINGELL. Mr. Chairman, I would ask the gentleman from Texas (Mr. MILFORD) if he would defer my yielding to him on that particular point until the gentleman from Texas (Mr. ECKHARDT) has made a further statement. Then I will be glad to come back to the gentleman.

Mr. MILFORD. Mr. Chairman, I will be happy to do so.

Mr. DINGELL. Mr. Chairman, I now yield to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, the point the gentleman from California (Mr. Moss) made is something that needs to be addressed. When I said the figure of not greater than 30 percent, I meant to say, and I believe I did say, I think, that old oil consists of about 71 percent of the total oil. The oil which is something less than 30 percent consists of 10 percent new oil, 13 percent stripper wells, and 6 percent released oil.

In truth and in fact, my amendment only affects new oil which is an even lesser figure than 30 percent; it is 10 percent, because stripper wells do not come under this act with or without the Eckhardt amendment. The reason for that is that this bill specifically states that it does not in anywise change the substantive provisions of the coverage under the Emergency Petroleum Allocation Act, and under the Economic Stabilization Act. Those acts exclude strippers. So strippers are totally excluded from this bill with or without the Eckhardt amendment.

Mr. DINGELL. Mr. Chairman, I thank the gentleman from Texas for his remarks, and I now yield again to the gentleman from Texas (Mr. MILFORD).

Mr. MILFORD. Mr. Chairman, I again thank the gentleman from Michigan for yielding me this time.

Mr. Chairman, for purposes of defining new and old oil; we have the situation where we are going back and reclaiming old oil fields. These fields are still producing, but only a very small amount daily. Through tertiary recovery and other techniques, we are increasing the output of these wells. Would that oil then be considered new or old oil, after those processes?

Mr. DINGELL. That would be under existing oil, as I understand it. It would probably fall under the definition of production from stripper wells, in most instances, and would still be exempt under the amendment. This depends on whether they all are under the definition of stripper wells or under other legislation not presently before us.

The CHAIRMAN. Are there further amendments?

Mr. PRICE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I should like to ask the gentleman from Texas (Mr. ECKHARDT) some questions. I have an interpretation by the Office of Management and Budget that leads me to believe that in their interpretation it is different from the Dingell-Eckhardt amendment, which I understood it to do yesterday. I will read the gentleman some figures, and I should like to have him clarify them, if he could.

It provides an exemption from the mandatory ceiling for new oil if, No. 1, an oil producer produces less than 30,000 barrels per day. The exemption applies only to new crude production. Is that correct so far?

Mr. ECKHARDT. Will the gentleman yield?

Mr. PRICE of Texas. I yield to the gentleman.

Mr. ECKHARDT. That is correct.

Mr. PRICE of Texas. Above the 1972 production levels for any given property. New crude production is defined as that in excess of, first, the monthly production of a property during 1972 or, second, if oil not produced each month from a property in 1972, then monthly production is determined by dividing total production by 12?

Mr. ECKHARDT. That is correct.

Mr. PRICE of Texas. Special restrictions require that before current production is considered new, it must equal the 1972 levels on a monthly basis?

Mr. ECKHARDT. That is correct.

Mr. PRICE of Texas. It states that 60 percent of the domestic crude produced by 18 large producers, all produce over 30,000 barrels a day.

Mr. ECKHARDT. That is, I understand, correct.

Mr. PRICE of Texas. Forty percent of domestic crude produced by approximately 8,500 companies, all small producers, produce 30,000 barrels per day.

Mr. ECKHARDT. I have the same information. I cannot verify it, but it sounds right.

Mr. PRICE of Texas. Yes, but about 25 percent of the new, stripper, released, of major producers' production is currently exempt production and is at about $10 per barrel. This would be rolled back to $5.25; would that be correct?

Mr. ECKHARDT. I do not understand that to be true, because stripper production, under both the Emergency Petroleum Allocation Act which we acted on in the committee on which I sit and under the Economic Stabilization Act, is exempted altogether from coverage. This bill does not add any additional authority for the control. Therefore, control of stripper production, if it exists, would have to come from either the allocation bill or the Economic Stabilization Act. So I do not see that stripper production would be subject to price control, whether it was by majors or whether it was by independents. I do not think it is affected by this bill, by the Dingell amendment or by the Eckhardt amendment to the Dingell amendment.

Mr. PRICE of Texas. In other words, I am to understand that it is the gentleman's belief that stripper wells would fall under this category of 30,000 barrels or less?

Mr. ECKHARDT. No, not precisely. The thing about it is that stripper production was exempt from authority to control prices under the bills which give substantive authority to this administrative bill's functions. This administrative bill does not add any further authority to the FEA than that which has been substantively given under the other bills, and neither of those bills exercise control over price of stripper production.

Mr. PRICE of Texas. The summary from the Office of Management and Budget here says less than 5 percent of the current domestic production would be exempt under this provision compared to the 30, and the new, 10, and release, 6, and the strippers, 13, which is now not controlled. Therefore, on an overall basis this provision is about as restrictive as a rollback provision in the Energy Emergency Act, and would adversely affect domestic crude production.

If this is the interpretation and analysis of the Dingell-Eckhardt bill, which I supported yesterday—then I am going to go on record at the present time—that I will not today support the Dingle and Eckhardt amendment passed yesterday which I supported.

Mr. ECKHARDT. Let me point out to the gentleman that the total effect of the Dingell-Eckhardt amendment, plus the exemption of strippers, are to permit both major companies and independents to produce from stripper wells without price controls.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Eckhardt and by unanimous consent Mr. Eckhardt was allowed to proceed for an additional 2 minutes.)

Mr. ECKHARDT. Mr. Chairman, in addition to that, by virtue of the Eckhardt amendment to the Dingell amendment, companies producing below 30,000 barrels per day are exempted from restriction with respect to that production which is new production by those companies.

Now, I must qualify that a bit. Because of the parliamentary situation, the Dingell amendment was only a limitation and what it says is that the Administrator should not limit less than to this figure. Since this is an exemption to that limitation it does not tell the agency that it must come to any conclusion, but it exempts the agency from the command of the Dingell amendment not to go beyond $7.09 with respect to new oil.

So I would say this, that although it only affects perhaps 12 percent of the total production in the United States counting both the stripper exemption that existed before this amendment and this amendment and, of course, the amendment itself affecting much less than that; nevertheless, it creates a liberal provision, a liberalizing provision with respect to independent producers.

Mr. PRICE of Texas. Mr. Chairman, I would like to say for the record that I appreciate the explanation of the gentleman. I respect the efforts of the gentleman in this area; but I must go on record myself, if it does not exempt the 30,000 barrels per day, I want to make it known on the record that I am opposed to it.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Are there further amendments to section 9?

If not, the Clerk will read.

The Clerk read as follows:

INCIDENTAL TRANSFERS

Sec. 10. The Director of the Office of Management and Budget is authorized to make such additional incidental dispositions of personnel, personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred or reverted by this Act, as he may deem necessary or appropriate to accomplish the intent and purpose of this Act.

AMENDMENT OFFERED BY MS. ABZUG

Ms. ABZUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Abzug: Page 30, between lines 5 and 6, insert the following new section:

"ENVIRONMENTAL PROTECTION

"Sec. 11. There shall be established within the Federal Energy Administration an Environmental Protection Unit whose primary purpose shall be to coordinate activities between the Federal Energy Administration and the Environmental Protection Agency. The purpose of such coordination shall be to preclude the possibility that the energy actions undertaken by the Federal Energy Administration will be violative of environmental protection laws including, but not limited to, the National Environmental Protection Act and the Clean Air Act."

And renumber the succeeding sections accordingly.

Ms. ABZUG. Mr. Chairman, on pages 6 and 7 of the committee report accompanying the bill we are considering today, the primary purposes of the Federal Energy Administration are set forth. In describing the proposed Office of Energy Conservation and Environment, the report states:

> The primary purpose of this office will be to reduce the demand for scarce fuels. It will promote efficiencies in the use and development of energy resources; coordinate Federal, State, and local energy conservation programs; identify needs for research and development into methods of improving the usage of scarce fuels; develop a broad public awareness program on the need for energy conservation; and study environmental implications of energy initiatives.

The purpose of my amendment would be to carry out that intent by establishing an environmental protection unit within the Federal Energy Administration. It would serve to coordinate the functions and activities of the Federal Energy Administration with those of the Environmental Protection Agency so as to insure that there is real cooperation and consultation and that we do not emasculate one program in an attempt to carry out the other.

We have witnessed in the last months, and seen reflected in the energy bill passed by this House and by the other body, increasing attacks upon our environmental safeguards by those in the energy field and elsewhere. Attempts have been made to make the environmental protection program the scapegoat for our energy problems. There is absolutely no foundation for this. Beyond that, these are shortsighted and perilous moves. As Environmental Protection Agency Deputy Administrator John Quarles has said, if decisions are taken which sacrifice environmental protection in a rush to increase energy supplies, "we are selling out the future to satisfy a present need."

Mr. Chairman, I would go further and say that we may even now be endangering the health of our people by overreacting to a crisis which we have not yet been able to define.

I am not going to take much more time on this, Mr. Chairman, because I know we are anxious to conclude for the day, but I believe that we must get some facts straight. On the basis of facts and figures which we have before us, we can see that any shortages of energy resources which may exist are the result, not of our environmental laws but of our increasing consumption rates. According to the Environmental Protection Agency, of the total increase in gasoline consumption over the past 5 years, two-thirds of it is attributable to additional cars on the roads and 23 percent is due to increased mileage per car. Only 9 percent may be due to fuel economy losses caused in part by emission control devices in current use. When we realize that our per capita energy consumption is the highest in the world, by far, our reaction should be to reduce this role of consumption, not to emasculate our environmental protection program. I believe it is essential to work toward this end as well as to increase our energy supplies. But at the same time, we must protect our environment to the fullest extent.

Regardless of whether the Members agree fully with environmental concerns, we all must recognize that there is a problem. People have different views on this, and we must find a way to coordinate these conflicts and to reconcile them. The only way we can be assured of effective coordination is by establishing a consultative body within the Federal Energy Administration to perform this function.

Mr. Chairman, I think we can have an effective energy program together with an effective environmental protection program. To insure this, I urge support and passage of my amendment.

Mr. HOLIFIELD. Mr. Chairman, I rise reluctantly to oppose this amendment.

Mr. Chairman, as the Members know, I handled the Environmental Protection Agency reorganization plan on the floor, which put the different functions together into one agency now headed by Mr. Train. I did this for the purpose of bringing those environmental protection functions which were scattered throughout the Government together into one place, where Congress could see what they were, and where the Administrator—now Mr. Train—could coordinate them, because they were running at cross purposes to each other before we created this Environmental Protection Agency.

Therefore, I am interested in environment the same as any others here are. I have sometimes felt that Mr. Train has been more of a zealot than an advocate. I felt that he has gone too far. When he goes out to California and advocates that we do away with 80 percent of our automobiles when we have no mass transit, this convinces me that this is an act of a zealot and not an act of a responsible advocate.

However, I think in opposing this amendment which the gentlewoman from New York has offered, I want to say this, that in this bill we properly refrain from creating internal organizational units.

This is done in order to give the utmost flexibility in organizing a new agency and enabling it to adjust for changes and new problems. The amendment is contrary to that purpose.

Mr. Chairman, this amendment offered by the gentlewoman from New York (Ms. ABZUG) is not necessary. The Administrator would have ample authority to designate necessary liaison and coordinating officers with other departments and agencies of the Government. I think that the amendment confuses agency responsibilities.

The Environmental Protection Agency is charged with enforcing these environmental laws. This is their job, that is their purpose, and they are funded and they have a staff to do that. If we try to set up organizational units in this agency or in relation to another agency, and if their objectives may be diametrically opposed, we would be creating confusion. That is exactly what we would do. If we have them set up in these separate agencies, and each one is going forward and advocating its particular purpose, we have at least an orderly presentation of their views, whether they are right or wrong.

Mr. Chairman, I think we should not confuse the issue and put the Environmental Agency people into the Energy Agency, which has the task of getting on with the job of getting enough energy in this country, so that we can clean up the environment, by the way. I think we ought to keep them separate, and I ask for a "no" vote on the amendment.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I direct the attention of the gentleman to the report. Perhaps the gentleman was not listening to this when I was presenting my amendment.

On page 7 of the report it is stated that one of the primary purposes of this office will be to "study environmental implications of energy initiatives."

This is on page 7 of the report accompanying the bill.

Mr. HOLIFIELD. Yes.

Ms. ABZUG. Mr. Chairman, would the gentleman agree that if we consider this important enough to put it in our report and to indicate this is a primary purpose, would it not be perfectly appropriate to have such a unit which would indeed be able to react immediately to the impact which our energy initiatives would have on the environment? In that way we can deal with the conflicts or reconciliations, of the impact each would have upon the other. I believe this happens to be very fundamental to the whole development of an energy program.

So, Mr. Chairman, I submit that the setting up of this unit is a very fundamental suggestion which comes out of our own report.

Mr. HOLIFIELD. Mr. Chairman, if that is the way the gentlewoman reads it, I understand her position. I know the gentlewoman is very sincere in this matter.

However, I do believe, as I said before, that if we try to put these agencies together or put their functions in the same agency, why, then we will create confusion.

The head of the Environmental Protection Agency and the head of the Federal Energy Agency are both appointed by the President. Certainly the President can coordinate his appointees so that there will not be confusion.

It is just a matter, I think, of the orderly placing of functions and purposes and getting the staff to carry out those functions and purposes in one agency, and then, with a different approach to a different problem, doing the same thing in another agency.

Mr. Chairman, I just believe it would be a mistake to confuse this in that fashion.

I ask for a "no" vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. ABZUG).

The question was taken; and on a division (demanded by Ms. ABZUG) there were—ayes 10, noes 35.

So the amendment was rejected.

The CHAIRMAN. Are there any further amendments to section 10? If not, the Clerk will read.

The Clerk read as follows:

SEC. 11. As used in this Act—

(1) any reference to "function" or "functions" shall be deemed to include references to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and

(2) any reference to "perform" or "performance", when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

AMENDMENT OFFERED BY MR. LONG OF LOUISIANA

Mr. LONG of Louisiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LONG of Louisiana: Page 30, line 15, strike out the period and insert, in lieu thereof, the following: "; and (3) any reference to "domestic crude oil", "crude oil", "energy prices", or "profits" shall not be deemed to refer to royalty oil or the shares of oil production owned by a State, State entity or political subdivision of a State or to the prices of or revenues from such royalty oil or shares."

Mr. HORTON. Mr. Chairman, I should like to reserve a point of order against the amendment. I am not sure I understand what the amendment is, but perhaps I can make the point of order after the gentleman from Louisiana has explained it.

The CHAIRMAN. The gentleman from Louisiana is recognized for 5 minutes in support of his amendment.

Mr. LONG of Louisiana. Mr. Chairman, the question, of course, is why would you exempt the State's share of the revenues from the price rollbacks?

Let me state first that I voted yesterday for the rollbacks. Basically there are five reasons, I think, for allowing the States this privilege.

First, the State's share of oil production is a relatively small part of the country's total production. Second, most oil-producing States, such as Louisiana, gear their State revenue and expenditures to their oil income. Third, the Federal intervention often disrupts the State revenue system.

Fourth, another interesting thing, particularly with respect to the State of Louisiana, is that all of the income, every bit of it, every penny of it, is dedicated to education. Another example, California has dedicated its income in a number of categories, including park systems and many other things that are important in California. This would cost the State of Louisiana a substantial amount of money. Fifth, I think it would cost all of the oil-producing States a substantial amount of money if this exemption is not granted.

That is my argument. I yield back the balance of my time.

POINT OF ORDER

Mr. HORTON. Mr. Chairman, I should like to make a point of order against this amendment.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. HORTON. Mr. Chairman, this matter is not the subject matter within section 11. Section 11 is a definition section. I realize that the gentleman is attempting to define certain words, but it seems to me that the language he uses is to add new authority or subtract authority from existing law. I certainly understand the gentleman's concern, but these words included are probably included in statutes. It seems to me what he is doing is expanding or changing laws which are now in existence.

Also, we do not know the effect of the amendment on the rules of the House.

Mr. Chairman, I feel it is inappropriate to this section and nongermane and for that reason ask that it be ruled out of order.

Mr. LONG of Louisiana. Mr. Chairman, the gentleman from New York (Mr. HORTON) has raised a point of order that what I am attempting to do by this amendment is to define a term, which is what I am attempting to do by this amendment. And it appears to me to be completely within the purposes of this particular section to do so, and it seems to me that it is a perfectly valid place and a correct and specific place for an amendment of this type to be introduced.

The CHAIRMAN (Mr. FLYNT). The Chair is prepared to rule.

The gentleman from Louisiana (Mr. LONG) has offered an amendment to add a new subsection to section 11 of the bill, which is the definitions section.

The gentleman from New York (Mr. HORTON) has made a point of order against the amendment on the ground that it refers to matters not contained in the language of the section as written.

The Chair has carefully examined both the section as it appears in the bill, and also the amendment offered by the gentleman from Louisiana (Mr. LONG).

The Chair will state that subsection (1) of section 11 reads as follows:

> Any reference to "function" or "functions" shall be deemed to include—

and so forth.

The amendment sought to be offered by the gentleman from Louisiana (Mr. LONG) starts as follows:

> Any reference to "domestic crude oil", "crude oil", "energy prices", or "profits" shall not be deemed to refer to—

And so forth.

The Chair is constrained to feel that if the language of one subsection of the bill states clearly that certain references shall be deemed to include references, and there are two sections already appearing in the bill, the Chair is constrained to rule that the adding of the third section falls clearly within the reasonable interpretations of the word "Definitions," and therefore holds the amendment is germane and overrules the point of order.

Mr. REES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a complex area that we are dealing with.

Let me give the Members some background on the situation in California. The largest oil pool in the lower 48 States is the East Wilmington Pool, which is off Long Beach. This is owned by the State of California. The State of California put these lands out to bid, but they stated in the lease that the State could take its one-sixth royalty either in cash or in kind.

Because of the oil shortage, and because of the erratic price pattern, the State of California last year decided to take the oil in kind and put it out to bid, so that independent refiners and distributors would have an opportunity for an oil source that they did not then have. We were desiring to open up the market for more competition. The statutory sell-off sections of the law—and I am very familiar with these because I was in the State senate when those leases were sent out—had three purposes:

First, to provide a source of crude oil for independent refiners and distributors;

Second, to provide additional revenue to the State; and

Third, to provide a check on the crude oil prices paid for royalty oil or tidelands oil kept by the major oil companies.

Here is the problem: the cost of the oil in the East Wilmington Field is posted price, but the posted price is established by the same oil companies that are the lessees of the East Wilmington Field so that there is no way of really knowing what the real market value on that oil is. The oil that they are taking out is a heavy gravity oil, and heavy gravity oil costs less than a lower gravity oil.

The reason for this price differential was, they say, is that it costs more to refine heavy gravity oil. The problem is, though, that there have been a great many changes in the refining process. There is expert testimony that heavy gravity oil is really worth more than the oil companies claim it is. There is a case now pending in the superior court in Sacramento, Calif., where the State is trying to obtain information from the oil companies so that they can find out whether we are receiving what we should be receiving. It is an extremely serious situation where the taxpayers are being paid a price for their oil that the Joint Committee on Public Lands in the legislature thinks is too low—something like $200,000 a day less than what they should be getting.

The only way we can establish a price is to have the ability to auction this oil off so that those independent refiners and independent distributors would then have a chance to set a price in terms of the value of that oil. This is the reason for this amendment.

Originally State oil was exempt. California went to bid, and then on the day that the sales were to be consummated to the highest bidder, which was $1.10 over the posted price, the Cost of Living Council on October 25 of last year promulgated a rule that the States did not have an exemption. Of course, this means that this whole process of allowing the independents to bid on the State's share goes out the window. We have no way of testing the market to really find out what the market value of this oil is. If this continues, those oil States, such as Texas, Louisiana, and California, are going to be taking a financial beating.

The purpose of this amendment is to unfreeze this State oil, this public oil, so we can maximize the benefits to the taxpayers of these States, and—and I consider this even more important—we can develop some type of a competitive situation in the oil industry so, one, we can establish a price for the oil, and two, we can give the independents some chance of purchasing oil which today they cannot purchase. This is the reason I think this amendment is a very important one, and I would ask for an "aye" vote.

Mr. HORTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, could I have the attention of the gentleman from Louisiana, the author of the amendment? According to my copy of the amendment, under the section 11, Definitions, he would add a new definition which would say:

> Any reference to "domestic crude oil", "crude oil", "energy prices", or "profits", shall not be deemed to refer to royalty oil or the shares of oil production owned by a State, State entity, or political subdivision of a State, or to the prices of or revenues from such royalty oil or shares.

The thing I should like to ask the gentleman to define is royalty oil. If a State owns land and it leases that land to a private corporation or private individual, then that would, I assume, be royalty oil, and it would be exempt from the provisions of the rollback amendment Mr. DINGELL offered, as amended by Mr. ECKHARDT.

Mr. LONG of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Louisiana.

Mr. LONG of Louisiana. I thank the gentleman for yielding. It was my intention by the amendment, and I should like to have the record so show, that the term "royalty oil" here applies only to the royalty payable to the State of Louisiana, and not payable to individuals.

Mr. HORTON. But it does not say that. When the gentleman has used just the words "royalty oil," it seems to me that what he has done is exempt a lot of oil which is not necessarily royalty oil going to the State but which could be going to corporations. Is it not a fact that States do lease lands to private corporations or corporations.

Mr. LONG of Louisiana. Certainly. This is the way most of the oil is developed.

Mr. HORTON. That would be royalty oil; would it not?

Mr. LONG of Louisiana. As long as the royalty oil would be payable to the State of Louisiana, and then only, it would be covered by this provision oil. This is a usual term of art that is used in the oil industry. It applies to that which is paid in the form of a share of the oil that is produced from a lease.

Mr. HORTON. Mr. Chairman, I am going to oppose the amendment because I do not believe that the definition as set forth in the amendment is subject to the construction that the gentleman from Louisiana has offered. Therefore, I think it opens up a lot of questions which ought not to be opened up at this point. I, therefore, am going to oppose the amendment.

Mr. HOLIFIELD. Mr. Chairman, I move to strike the requisite number of words.

This indicates one of the difficulties of bringing into an organization bill matters of substance. Mr. HORTON and I have fought all the way along to keep these matters of substance, matters of policy, different programs, and so forth, out of this bill.

We have been unsuccessful to some extent. This is brought about, of course, by the Dingell-Eckhardt amendment, which does exempt and does roll back and does roll forward to some extent some of the categories of oil. I oppose those two amendments and I will have to oppose this amendment, in order to be consistent.

I honestly do not understand the terms that are used here. I cannot pass judgment upon the scope of this. This has not been brought before our committee. We had not discussed it and had no testimony on it. I must take a position in opposition to the amendment, because I do not understand it.

Mr. LONG of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman.

Mr. LONG of Louisiana. The reason the matter was not brought before the committee, was that I agreed, at the time the gentleman appeared before the Committee on Rules, along with Mr. HORTON, that this was going to be basically an organizational type of bill, rather than a substantive type of bill.

We have now moved, by the adoption of the price rollback yesterday, into a substantive bill and that is another reason I think it is germane and it adequately and properly fits at this point.

Mr. HOLIFIELD. Mr. Chairman, I would say to the gentleman, if I had not thought it was germane, I would have objected to it on the ground of nongermaneness. I believe it is germane. I do not know what is not germane now that the bill has been opened up by these substantive amendments.

Very frankly, I do not understand this and I must oppose it.

Mr. MALLARY. Mr. Chairman, I read the text of the amendment offered by the gentleman from Louisiana and it is clear from his explanation that he intends to refer only to royalty oil, payable, as he stated, to the State of Louisiana. I assume he also means to refer to royalty oil payable to other public entities. The reading of the amendment as offered makes clear that the exemption he proposes to add "shall not be deemed to refer to royalty oil or the shares of oil production owned by a State, State entity, or political subdivision of a State."

It appears to me the text of the amendment does not restrict royalty oil to oil of a public entity, but refers also to royalty owned by a private lessor. On that basis it opens this exemption up far wider than intended and I therefore oppose the amendment.

Mr. REES. Mr. Chairman, will the gentleman yield?

Mr. MALLARY. I yield to the gentleman from California.

Mr. REES. Would the gentleman accept an amendment which would define royalty oil as take-out oil owned by a State, so we really nail it down? If it is a problem of definition, an amendment should be in order to state exactly what the gentleman proposes for us now.

Mr. MALLARY. I think what the gentleman suggests would be preferable; but the problem is not for me to accept or deny a further amendment. The problem is that in legislating something as important we should not be offering or accepting hastily drawn amendments. The confusion at this point indicates the undesirability of this amendment. Therefore, I oppose it.

Mr. SISK. Mr. Chairman, I move to strike the last word.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield for a special request?

Mr. SISK. I yield to the gentleman.

MOTION OFFERED BY MR. HOLIFIELD

Mr. HOLIFIELD. Mr. Chairman, I move that all debate on this amendment close in 5 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from California.

The motion was agreed to.

Mr. SISK. Mr. Chairman, I want to join with my distinguished chairman and the dean of the delegation in hoping we can get on with this. I have a few questions to ask. I have been looking around for the chairman of the Committee on Interstate and Foreign Commerce.

It seems to me that the Members of the House are entitled to know what kind of procedure we are faced with in meeting the energy crisis. The Committee on Rules granted a rule to the Committee on Government Operations, and the distinguished chairman of that committee, to come down here with an organization bill setting up an organization to administer the program; not, as I understood, to get involved in a lot of substantive matters dealing with rationing, dealing with price control or anything else.

If there is anything in the world that justifies the low opinion in which the American people hold this Congress—21 percent, mind you, apparently four out of every five, think we are doing a lousy job, and I think sometimes we are; I am inclined to agree with them—this kind of demonstration we have seen here in the last 2 or 3 days, in my opinion, justifies it.

Mr. Chairman, I do not know what the Committee on Interstate and Foreign Commerce proposes to do. If there is any member of that committee here who would like to comment, I would be happy to hear him as to whether in fact they are going to take back the bill which has been vetoed and come out with an emergency bill which will meet some of the needs which this country has and which I think this country feels the Congress should be responsible for. I invite the comment of any member of that committee.

Mr. Chairman, we have gotten this bill into a shape that means it is going to be vetoed, so all we are doing here is spinning our wheels. I agree that I am taking up 5 additional minutes of the time, but it does seem to me that we ought to give a little bit of thought to what we are doing and why we are in such low esteem in this country when we go through these kinds of foolish proceedings.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. SISK. Mr. Chairman, I want to say that none of the things I have said are any criticism of the gentleman from California (Mr. HOLIFIELD) or the gentleman from New York (Mr. HORTON).

Mr. Chairman, I yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, I do understand that. The gentleman gave us the rule we asked for. There has developed a theory of germaneness, I regret to say, that in moving different entities into a new organization, substantive matters become germane for amendments.

Mr. Chairman, I would say to the gentleman as a member of the Rules Committee, and I have said it before to other members of the Rules Committee, that the Rules Committee should formulate a rule applicable to reorganization—and this is not going to affect me, because I am not going to be here to handle the reorganization plans next year—but they should make a rule that when we move entities together into an organization, that this does not thereby make germane amendments to the substantive statutory programs associated with the reorganizations.

I just hope, and I say this as a request, that the gentleman takes this matter up. On a reorganization plan we have to vote it up or down without amendments. On reorganization bills, I am not saying we should not be able to amend, maybe put another organization in it, or take organizations out of it. I think that latitude should be there, but to open up every law, every rule, every regulation of the Economic Stabilization Act to substantive amendments—and this is what we have done on this bill—is to make chaos out of it and to defeat the purpose of jurisdiction of statutory committees.

I say that the statutory jurisdiction of the committees, unless it is preserved, would have no more order than in the other body, where there is a guerrilla attack on every piece of legislation we send over there, and I deplore it because it frustrates the House and frustrates the committees.

Mr. SISK. Mr. Chairman, I appreciate the comments of my friend. Let me say that I agree with everything he is saying, and to the extent that the Rules Committee can do something to bring order out of chaos, I am all for it. Frankly, though, it does not relieve the responsibility of the legislative committee.

I am not here condemning the Committee on Interstate and Foreign Commerce, but I am wondering what their obligation or responsibility is. Apparently, they have moved in here with the idea of yielding their jurisdiction to the Committee on Government Operations in order to get something which probably will be vetoed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. LONG).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to section 11?

If not, the Clerk will read.

The Clerk read as follows:

INTERIM APPOINTMENT

SEC. 12. (a) Any of the officers provided for in section 4 of this Act may be nominated and appointed as provided in that section, at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), any functions of which are transferred to the Administrator by this Act, may, with the approval of the President, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that any officer required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such an officer immediately prior to the effective date of this Act, or any officer who was performing essentially the same functions immediately prior to the effective date of this Act, to act in such office until the office is filled as provided in this Act. While so acting, such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that further reading of section 12 of the bill be dispensed with, that it be printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there amendments to section 12?

If not, the Clerk will read.

The Clerk read as follows:

APPROPRIATIONS

SEC. 13. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The CHAIRMAN. Are there amendments to section 13?

If not, the Clerk will read.

The Clerk read as follows:

ACCESS TO RECORDS BY THE COMPTROLLER GENERAL

SEC. 14. (a) For purposes of review and evaluation of the operations of the Administration, including audit and examination of the Administration's use of Federal funds, and notwithstanding the provisions of section 16 of this Act, the Comptroller General of the United States, or any of his duly authorized representatives, shall have access to and the right to examine—

(1) any books, documents, papers, records, or other recorded information of the Administration or within its possession or control; and

(2) any books, documents, papers, records, or other recorded information of any recipients of Federal funds or assistance under contracts, leases, cooperative agreements, or other transactions entered into pursuant to subsection (e) or (i) of section 7 of this Act which in the opinion of the Comptroller General may be related or pertinent to such contracts, leases, cooperative agreements, or other transactions.

(b) Reports relating to management and conservation of energy submitted by the Comptroller General to the Congress shall be available to the public at reasonable cost and upon identifiable request, except that the Comptroller General may not disclose to the public any information which concerns or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, except that such information may be disclosed, in a manner designed to preserve its confidentiality—

(1) to other Federal Government departments, agencies, and officials for official use upon request;

(2) to committees of Congress having jurisdiction over the subject matter to which the information relates; and

(3) to a court in any judicial proceeding under court order formulated to preserve the confidentiality of such information without impairing the proceedings.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that further reading of section 14 of the bill be dispensed with, that it be printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENTS OFFERED BY MR. CULVER

Mr. CULVER. Mr. Chairman, I offer two amendments, one to section 14 of the bill, which has just been read, and the other a conforming amendment to section 15 of the bill, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. CULVER: Page 32, Line 21, strike the word "may" and insert the word "shall"; insert before the comma the words: "by the Comptroller General or the Administrator."

Pages 32–33, starting with Line 25, strike the words: "having jurisdiction over the subject matter to which the information relates".

Page 34, Line 21, after the end of the last sentence insert a new sentence as follows: "Disclosure of such information by the Administrator shall be governed by section 14(b) of this Act."

Mr. CULVER. Mr. Chairman, this is a clarifying amendment to assure legitimate access to confidential energy information for official purposes by agencies of the executive, legislative, and judicial branches including the independent regulatory agencies. The duty to provide such information to these bodies is made mandatory rather than permissive by the amendment, although still "in a manner designed to protect its confidentiality."

Further, the amendment would strike as surplusage the subject-matter jurisdiction qualification on congressional committee access. Jurisdiction is a manner for Congress to decide and should not be a debating point for those upon whom the disclosure duty falls.

Finally, for convenience we have added the Administrator as well as the Comptroller General as a party to whom official bodies may turn for such information. It will often be more convenient to secure this data directly from the FEA, although the Comptroller General would still act as a monitoring resource for the Congress.

I urge approval of this clarifying amendment.

Mr. Chairman, the second amendment is a conforming amendment to make disclosure of confidential energy data by the Administrator conform to the guidelines and procedures set forth in section 14(b) as we have now clarified that section.

The amendment is noncontroversial and I urge its approval.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. CULVER. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I have discussed these amendments with the gentleman from Iowa and with the minority side, and we are willing to accept them.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. CULVER. I yield to the distinguished chairman of the full committee.

Mr. HOLIFIELD. Mr. Chairman, I, too, have discussed this matter with the gentleman from Iowa. I know that the gentleman and his staff have worked for several days on this particular matter, and I think they have done a good job on it.

Mr. Chairman, I will accept the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Iowa (Mr. CULVER).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. ROSENTHAL

Mr. ROSENTHAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROSENTHAL: On page 32, at the end of line 13, add the following new paragraph:

"(3) any books, documents, papers, records or other recorded information of any public or private persons, organizations or other entities which are or would be available to any Federal agency pursuant to its functions and authorities relating to management and conservation of energy, including but not limited to energy costs, demand, supply, reserves, industry structure, environmental impacts, and research and development, which in the opinion of the Comptroller General may be related or pertinent to the operations of the Administration."

The CHAIRMAN. The gentleman from New York (Mr. ROSENTHAL) is recognized for 5 minutes in support of his amendment.

Mr. ROSENTHAL. Mr. Chairman, when the Comptroller General of the United States testified before the House Government Operations Committee on the Federal Energy Administration Act, he stated the following:

> Provision should be made for GAO access to the same records and documentation for which the Federal Energy Administration is provided access, thus providing Congress the assurance that independent reviews of the manner in which the Agency is carrying out its data collection functions can be made.

It is important to note that the GAO now has this authority, with respect to companies under contract to agencies of the Federal Government or where Federal loans, grants or other types of financial transactions are involved. In other words, Mr. Chairman, what my amendment attempts to do is to merely extend an existing power of the Comptroller General to a new category—the energy crisis and those companies that are subject to the information gathering powers of the Federal Energy Administration. I think that every Member of this body would agree that the General Accounting Office has served the Congress and the public well over the years. I know that my constituents—and I suspect constituents of others—are having difficulty believing the disparte energy-related statistics and data coming out of different Government agencies and from the private sector. If we are to ask the public to believe in and make sacrifices in behalf of the Federal Government's energy policies, it is vital that they have confidence that these policies are based on accurate and verifiable data.

The Comptroller General has requested that he be permitted access to the books and records of those companies which are or would be available to the Federal Energy Administration. I know he would exercise such authority with discretion and with regard for the rights of others.

If data submissions to the Federal Energy Administration are called into question or if the FEA's data collection practices are challenged, the Congress should be able to rely on the General Accounting Office to inquire into the matter. But without this amendment, such an inquiry will be impossible.

Mr. Chairman, the Comptroller General believes it is essential that the GAO have authority to report to Congress on the manner in which the Federal Energy Agency is carrying out its data-collection responsibilities. I agree.

Many, if not most, of the FEA's senior policymakers have held important jobs with oil and other energy companies. I recognize that it may be necessary, from time to time, to utilize the expertise of persons fresh from industry.

But I also believe that it is necessary to recognize the appearance of impropriety that such arrangements create. Accordingly, I have asked for and received from the Federal Energy Office a listing of policymaking officials who have recently been employed in the oil and gas or other energy industries. I am attaching to my statement this listing:

Person	Present title	Previous energy industry employment
Duke Ligon	Assistant Administrator for Policy Planning and Regulation.	Continental Oil Co., 1969.
Phil Esley	Deputy Assistant Administrator for Policy Analysis.	Sinclair.
Bob Bower	Consultant, Presidential interchange program.	Phillips.
J. Gill	Acting director, program planning.	Gill Oil Co. (president) 1973.
J. R. Goodearle	Acting Chief	Production and financing (independent sector) 1969.
D. Harnish	Industrial Specialist, Contingency Planning.	Exploration consultant, 1963.
Lisle Reed	Acting Assistant Director, Program Planning.	Exxon Petrochemicals, 1971.
Troy York	Industrial Specialist, Coal Switching.	Marathon Oil Co., 1958.
Ed Western	Industrial Specialist (Natural Gas).	Sun Oil Co. (Presidential Interchange Program), 1973.
Tom Dukes	Aide, Office of Gas Rationing.	British Petroleum; 1973 Gasoline Station Level.
Robert Presley	Contingency Planning	Exxon, 1971.
James Langdon	Price and Tax Policy	American Petroleum Institute, staff, 1973.
Susan Mintz	Price and Tax Policy	American Petroleum Institute, staff, 1973.
Clyde Topping	Price and Tax Policy	Mobil, 1972.
Linda Buck	Price and Tax Policy	Gulf Oil Co., 1974.
Arthur Finston	Price and Tax Policy	Consultant, independent oil producer, 1974.
Eugene Peer		General manager, manufacturer, 1937 to 1969.
William Darby	Unknown	Senior petroleum economist, 1942 to 1960.
David Oliver	Unknown	Chief economist, 1946 to 1964.
Earl Ellerbrake	Unknown	Chief of transportation research and development, 1946 to 1960.
Dale Swan	Unknown	Staff economist, 1973.
Dr. Tayyabkhan	Unknown	Manager of computer methods, Mobil.
Ali Ezzati	Unknown	Economist in United States, 1970 to 1974; in Iran, 1965 to 1967.
H. J. Ashman	Unknown	Unknown, 1954 to 1966.
Thomas Daugherty	Unknown	Unknown, 1965 to 1974.
John R. Lewis	Office of Energy Conservation.	(A) Petroleum engineer, Standard Oil Co. (Indiana) and Subsidiaries, 1940 to 1959 (less 3¾ yr. military service). (B) Petroleum engineer, Mid Continent Oil & Gas Association, 1960 to 1963. (C) Petroleum engineer, National Petroleum Council, 1963 to 1967.
John G. Miller	Office of Energy Conservation.	Aramco, senior process engineer, 1948 to 1959.
Bart J. McGarry	Office of Energy Conservation.	(A) Public Relations Association, Mobil Oil Co., 1955 to 1960. (B) Manager, Public Relations, Northern Illinois Gas Co., 1968 to 1971.
George Hall, Jr.	Fuel Manager, General Fuels.	Creole Petroleum Co., 1968 to 1971.
Neil Packard	Program Analyst, Residual Fuel.	Esso Eastern, Inc., Vietnam division, aviation manager, assistant terminal manager, terminal manager, Ind. services advisor, 1966 to 1973.
George Mehocic	Distribution Specialist, Residual (not yet on board).	Humble Refinery, 1967 to 1969, Esso International, 1969 to 1972, marketing.
E. Lloyd Powers	Distribution Specialist	Has consulted for several oil companies outside the United States.
Donald K. Hawes	Acting Fuel Manager, Crude Oil and Petrochemical Allocations.	(A)—Union Texas Natural Gas, 1951 to 1960, secretary-treasurer. (B)—Mobil Chemical (division of Mobil Oil) 1962 to 1968, manager of financial controls; 1968 to 1969, planning coordinator.
Robert Cunningham	Industrial Specialist (Crude Oil and Refining).	Standard Oil, Chevron Asphalt, 1948 to 1971, all positions, final position—sales manager (Baltimore region).
Robert Kahl	Industrial Specialist (petroleum products).	Kewanee Oil Co., 1935 to 1968, vice president of foreign operations (last 12 yr).
Morris Robinson	Engineer	Amarill Oil & Gas Co., consultant.
Ray W. Whitson	Refinery Specialist	(A) City Service, 1928 to 1934, chemist. (B) William Bros., 1935 to 1941, chemical engineer, pipe line company. (C) National Petroleum Refiners Association, 1964 to 1974, technical director.
Lou Bley	Industrial Specialist (residuals).	Gulf Oil, 1959 to 1968, relations director.
Tom Olson	Industrial Specialist (Bunker).	Interstate Oil Transport Co., 1969 to 1973, safety engineer.
John Osborne	Industrial Specialist	Ashland Oil and Refining Co., petroleum engineer.
Roy Pettit	Staff Assistant, Office of Program Planning and Systems Development.	Standard Oil, 1955, in training petroleum operations.
John Adger	Special Assistant, Office of The Deputy Assistant Administrator.	Mobil, 1969 to 1973; geologist/geophysicist.
These 3 men are in defile of the Assistant Administrator for Resource Development:		
(1) R. R. Atkins	FEO/ERD, Oil, Gas, Geosteam.	(A) District geologist, Westgate-Greenland Division of Mississippi River Fuel & Iron Corp., 3 yrs. (B) Independent consulting geologist, 12 yrs. (C) Director of eastern hemisphere operations, Drilling Equipment Division of Westinghouse Air Brake. (D) EPA, 2½ yr, subsurface pollution control, in petroleum industry since 1948.
(2) D. B. Gilmore	FEO/ERD, Material Expediting.	(A) District geologist, Thompson & Harris Drilling Co. 2 yr. (B) Independent consulting geologist 16 yr. (C) Asphalt refinery manager and R. & D.; Trunbull Asphalt Co., 4 yr. (D) EPA, 2 yr., geological R. & D., in petroleum industry since 1950.
(3) L. E. Moore	FEO/ERD incentive planning.	(A) Manager of unit operations; Mid States Oil Corp., 9 yr. (B) Consulting engineer, Raymond F. Kravis Co., 4 yr. (C) Independent consulting engineer, 2 yr. (D) IRS, 9½ yr., oil and gas evaluation engineering, in petroleum industry since 1948.
Chalmer Kirkbride	(Not on board yet) Consultant, will be Dr. Weinberg's expert on the oil business.	From Sun Oil, former vice president recently a private consultant.

I think it would be an abuse of our responsibility if we did not adopt this amendment. This amendment was not my idea, it was recommended by the Comptroller General. I think it is a very useful amendment and, frankly, I would hope that the committee would accept the amendment.

Mr. Chairman, I urge the adoption of the amendment.

Mr. HOLIFIELD. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. CONTE. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment has far-reaching effects, and I think the members of the committee ought to be informed as to what the amendment does. In effect, what it does is give the Comptroller General direct access to books and records of companies. In effect, what it does is give the Comptroller General indirect subpena power since it gives him the right of access to company books, records, and other information, a right which presumably is enforceable in the courts by injunction or otherwise.

The committee bill gives the Comptroller General two kinds of access to books and records, first to those of the Federal Energy Administration for the purpose of review evaluation, including audit and examination of the administration's use of Federal funds and, second, to those of any recipients of Federal aid through contracts, leases, or other transactions.

The committee does not believe that the Comptroller General should through his own resources correct and analyze energy data. That is the proper function of the Federal Energy Administration. And our bill gives him that clear authority, including the subpena power.

The Comptroller General's proper responsibility is to audit the functions and the operations of the FEA, and to help the Congress evaluate its performance. It is not a line agency in the executive branch; it is an auditing agency and an arm of the Congress.

This is too important a subject to dispose of by a floor amendment. It requires evaluation in the broader context of the Comptroller General's role and responsibility. More and more the Comptroller General is being thrust into the political and quasiadministrative areas by numerous laws and floor amendments. We ought to give some thought as to how far we want to go lest the General Accounting Office be transformed into a much different kind of institution than the one which we now have, which, I might add, I think is a very good and efficient agency.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from New York.

Mr. ROSENTHAL. Mr. Chairman, would I be correct if I said that the Comptroller General in testimony before our committee asked for this authority?

Mr. HORTON. That is right. He has asked for the authority. But the point is that the committee has not analyzed it. There is now pending before the committee a proposal by the Comptroller General.

Mr. ROSENTHAL. In his testimony on this bill he asked for this authority.

Mr. HORTON. I do not recall the exact testimony as to whether or not he did say that or not.

Mr. ROSENTHAL. He did.

Mr. HORTON. If the gentleman from New York has that recollection, then I am sure his recollection is right.

But the committee in its own judgment decided not to give the Comptroller General that authority. I think it is a wise judgment not to give it to him because it would transform the Comptroller General's office into a different type agency authorized to go in directly and get the information.

I now yield to the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Chairman, I would ask the gentleman from New York if it is not true that the committee was asked this in the committee, and that it was rejected?

Mr. HORTON. That is correct.

Mr. HOLIFIELD. And I would also ask the gentleman from New York if it is not also the truth that we are going to have hearings on this; that we consider this a very important thing. That is something the Congress has never done, to give to the Comptroller General what in effect is subpena power. There are arguments for it, I think, and the Attorney General has made some of those arguments. There is no man in government whom I respect more than Elmer B. Staats, the Comptroller. I think he is one of the great public servants of our time. We are going to consider this in our committee. But it would apply, of course, to more than just this agency.

Mr. HORTON. I appreciate the gentleman's remark and his contribution. I agree with him. I certainly agree with him with regard to the responsibility and the standing of Mr. Staats the Comptroller General. As Mr. HOLIFIELD has stated, he and I have both talked about this bill, and we do intend to have hearings on it. This is not the place for the amendment, and I urge the committee to reject it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CONTE. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, I rise to support this amendment.

In the past 7 weeks, the Select Committee on Small Business, on which I am the ranking minority member, has held 4 exhaustive days of hearings on the need for Federal legislation to require the oil companies to report timely and accurate information on production, inventories, and reserves. My distinguished colleague from Michigan, Mr. DINGELL, the chairman of the subcommittee, is to be commended for calling these hearings.

These Small Business Committee hearings showed that the present energy data reporting system is a spectacle of ignorance. Information that Federal agencies need comes to them shrouded in secrecy and often secondhand. There is a shocking overreliance on industry data that is unverified, unaudited, uncompleted, and uninformative. As witness after witness told the committee, the Federal Government needs its own source of energy data, which can be audited and verified, and then made public.

Let me give an example of how the lack of reliable information can hurt the public. Early in January, the Department of the Interior held its first lease sale for 5,000 acres of oil shale lands in Colorado. This tract was leased by two major oil companies for $210 million.

I asked the Assistant Secretary of the Interior during the Small Business Committee hearings what was the Department's "minimum acceptable bid" on this lease.

He said he did not know. I had the information so I told him. The price tag that the Interior Department set on the first oil shale bid was less than $9 million.

I said then that I thought this valuation was outrageously low—and I added that even the winning bid of $210 million was far too low.

Further investigation by the Select Committee on Small Business has shown that the public was sold out on this oil shale lease deal. Our committee has discovered that the minimum acceptable bid should have been about $515 million.

That means that the Interior Department leased valuable public lands to two major oil companies—Gulf and Standard Oil of California—for approximately 40 percent of its true value. This represents a rip off on the American taxpayer of over $300,000,000.

Mr. Chairman, at this point, I would like to insert in the RECORD two articles from the Washington Post giving the details of this outrage:

OIL SHALE TRACT VASTLY UNDERVALUED, HOUSE PROBE SAYS

(By Morton Mintz)

The federal oil shale tract in Colroado leased to two major oil companies had been secretly valued beforehand by the Interior Department at a mere one-fortieth of the winning bid, House investigators have discovered.

Moreover, the investigators say, the actual value of the tract is at least $500 million—more than twice the $210.3 million bid jointly by Gulf Oil and Standard Oil of Indiana for a long-term lease. Interior accepted the bid Jan. 17.

Actually, Interior was stunned even by the offers of the seven rivals that lost out to the Gulf-Standard combine. Their bids ranged between $16 million and $175 million. The advance calculation by Interior had been that the tract would bring a relatively modest sum—somewhere between $5 million and $6 million.

Did the two firms make a $200 million mistake? Or did Interior? And, could it be that even the $210.3 million was a bargain?

The answer unearthed by the House Select Small Business regulatory subcommittee and its staff is: It was the government that erred.

The key elements of the affair? Familiar ones, says the subcommittee staff; bureaucratic goofs concealed by secretiveness until investigators—armed in this case with subpoenas—pry out the story. Exposure on Capitol Hill. Some reforms. A career impeded,

In the shale story, a principal figure is Interior's John B. Rigg, deputy assistant secretary for energy and minerals. As late as January, he was also acting assistant secretary, but he holds that title no longer.

Rigg also had been in full charge of Interiors' program for developing six oil shale tracts with various pioneering technologies. No longer.

The story began to surface the day Interior accepted the Gulf-Standard bid on the Colorado tract, which consists of 5,100 acres and is the first to be leased for development.

At a subcommittee hearing, Rep. Silvio O. Conte (R–Mass.) asked Rigg to state Interior's minimum acceptable bid for the tract. Such figures, which take into account such factors as the difficulty of extracting oil, are calculated by a committee of five Interior Department employees whose identity is kept secret and who meet inconspicuously in an office in Denver.

Rigg said he did not know the figure. Conte said reliable sources had told him it was $9 million. Rigg, still insisting he didn't know, said, "I could get it for you and supply it to you."

Over the next few days, William F. Demarest Jr. and Peter D. H. Stockton of the subcommittee staff found Rigg unwilling to supply the figure. Chairman John D. Dingell (D–Mich.) then issued subpoenas for Rigg and Reid Stone, head of Interior's shale oil task force.

Calling on Rigg in his office Jan. 23, Stockton and Demarest found Rigg anxious to dissuade them from serving the subpoena.

The subcommittee aides recalled to a reporter Rigg's warning that they could destroy Interior's system for evaluating the oil shale tracts. He termed them "worse than the environmentalists."

Rigg also considered development of the tracts so vital to the national interest that he said they should be given away with "deep subsidies," the investigators said.

As for the $9 million figure, investigators said, Rigg reported he had been advised it was in error, and warned his visitors, "I will call you liars" if they use it. They left—after serving the subpoena—with a clear impression that $9 million must be below Interior's actual secret estimate. They subpoenaed Stone on Jan. 25.

The same day a delegation from Interior called on Stockton and Demarest. The meeting produced an admission that the $9 million estimate was erroneous not because it was too low, but because it was "substantially" higher than the true Interior committee evaluation.

The investigators agreed to a request that they recommend to the subcommittee that it receive the precise figure in confidence. The figure is still not known, although Interior had said it is about one-fortieth of the $210 million.

The explanation of the $5 million to $6 million valuation emerged on Jan. 28 at a public hearing at which Rigg admitted that there was no basis in law for Interior withholding such data from Congress.

Under questioning by Dingell, oil shale coordinator Stone acknowledged that the Interior committee had "locked in" its valuation of the tract on Sept. 25, when the price of oil—a crucial element of the computation—was $3.89 a barrel. During the ensuing three months, the price of domestic oil shot up to between $7 and $10 a barrel.

"Isn't it a fact that nothing was done to take this change into account before the sale?" Dingell asked.

"That is a fact," Stone said. He agreed, in addition, that the top-bid figure of $210 million, which reflects a high profit ratio once the breakeven point is exceeded, was probably based on an assumed price of $5.10 per barrel.

However, Federal Energy Administrator William E. Simon said he expects the price of domestic crude to settle between $7 and $8. Even at $7 the tract would be worth about $515 million, according to Demarest and Stockton. They point out that with the break-even point reached far below $7, most of that price would be profit.

Could it be worth much more? Yes, they say. The reason is that the tract will be developed as a surface mine, which, according to Rigg, will yield more than three times as much shale oil than if it were developed as an underground mine.

Interior Secretary Rogers C. B. Morton announced on Nov. 28 that the tract would be developed as a surface mine. Yet, Stockton and Demarest said, the computation to which the Interior evaluation unit had wed itself in September was based on underground mining.

Rigg told the subcommittee that open-pit mining of shale "has not yet been demonstrated," and that underground mining—"the only demonstrated system"—would produce only 1.3 billion barrels.

An Amoco spokesman in Chicago, asked about the basis for the $210.3 billion bid with Gulf, said a number of factors were involved, including a try to make the offer high enough to surpass competitors, and the extent of offshore oil and gas reserves.

The spokesman said the project was considered such a long-term affair as to make it impossible to try to compute closely a target rate of return.

Amoco says it expects the joint investment during the 30-year life of the lease to reach $4 billion (in current dollars), with about $500 million of the total being needed to build an initial plant to produce 50,000 barrels daily.

The $210.3 million—$41,319 per acre—is the most expensive federal lease ever executed. It took effect March 1.

The bid was accompanied by a check for $42 million to cover the first year's installment of the total "bonus" payment. Two more payments of $42 million each will be made in 1975 and 1976. The final two payments will be returned as a writeoff against development costs.

The companies will pay royalties on an adjustable basis, depending upon the actual grade of shale and price of crude oil. For years six through 20, the royalty must be at least $14 million.

The firms also will pay a nominal rent—50 cents per acre per year.

LOW ESTIMATE—SHALE BID MISTAKES ADMITTED

(By Morton Mintz)

The Interior Department admits that it made major errors when it estimated that the "minimum acceptable bid" for an oil shale tract in Colorado would be between $5 million and $6 million—about one-fortieth of the $210.3 million actually bid in January by Gulf Oil and Standard Oil of Indiana.

The admission is in a memo prepared by Assistant Secretary Laurence E. Lynn Jr. for Under Secretary John C. Whitaker, who had requested an analysis and suggestions to prevent a recurrence of such a miscalculation.

Those on Capitol Hill who have expressed doubt about Interior's ability to assess accurately the worth of the nation's reserves of oil and natural gas say the shale episode has added to their concern.

A copy of the memo, dated Feb. 1, was obtained by the House select small business regulatory subcommitte. Its staff has estimated that the true value of the tract is at least $500 million, more than double the sum being paid by Gulf and Standard for a long-term lease, as The Washington Post reported yesterday.

Lynn, explaining the low advance estimate made by a resource evaluation panel of Interior's Oil Shale Task Force, said it had made key assumptions in September and had not changed them before the bidding in January.

One of these assumptions was crucial: that the price of a barrel of crude oil would be $3.75. As of September, that price was "not clearly unreasonable," Lynn told Whitaker. But by the time of the sale in January oil prices had skyrocketed, with some sales being made for as much as $10, Lynn said.

The $210.3 million bid suggests that Gulf and Standard "may have had in mind a price in the neighborhood of $6.50/barrel," Lynn said, "In retrospect, it was a major error not to have revised the valuation immediately prior to the sale, in the light of the expectations then prevailing."

The official also said there was "some uncertainty" about what the minimum acceptable bid was supposed to represent. Several concepts, "not all of which are consistent, appear implicitly to have been in people's minds," Lynn said.

These concepts included getting a bid: large enough to evidence a bidder's "good faith," "not so large as to be a barrier to development of the oil shale resource," "equal to the 'true value' of the resource (where 'true value' was not clearly defined," and sufficient to provide "a 'fair return' to both the bidder and the taxpayer."

"Perhaps in part because of this uncertainty . . . it was not clear to the resource evaluations panel whether the proper price of oil to use in its calculations was a historical average ($3.75), the current spot price (up to $10), or an expected future price ($6 to $7?)," Lynn said.

Moreover, he said, "Little detailed review by major departmental officers" of the panel's work was provided. He said the possible causes included the task force form of organization, the highly technical nature of the work and the officials who "didn't want to know" the panel's minimum acceptable bid "because they feared prior disclosure to the prospective bidders."

The official most insistent on not wanting to know was deputy assistant secretary John B. Rigg.

Lynn's recommendations included a high-level departmental review of the panel's work before each lease sale, dropping the phrases "minimum acceptable bid" in favor of "expected resource value," and directing the panel to make its calculation on the basis of "best estimates of expected future prices."

In private business, nobody could afford to make a mistake like that. By the same token, the Federal Government cannot afford to base national energy policy on inadequate information.

I would add that this type of blunder is not limited to just oil shale lease sales. The Small Business Committee has found similar giveaways of public treasures in the leasing of offshore tracts in the Louisiana gulf. The committee has found one tract that the Interior Department valued at $144,000 being sold for $91.8 million—which is 637 times its predicted value.

In the Small Business Committee hearings, we heard a long series of witnesses representing Federal agencies, the major oil companies, and consumers. Without exception, and this included the witness from Exxon, these witnesses endorsed the idea that Federal energy data legislation is needed. They agreed unanimously that the present data reporting system is inadequate. The call for the legislation provided in this amendment was overwhelming.

Mr. Chairman, the Federal Energy Office has been trying to run the mandatory allocation program for the past 2 months without adequate data. Just yesterday, John Sawhill, Deputy Director of the Federal Energy Office, admitted that his agency still does not have adequate information concerning oil supplies by region and by State.

This legislation is vitally needed. A similar provision exists in the energy emergency bill, but that bill is expected to be vetoed.

Without accurate and timely data to indicate how oil shortages can be relieved in certain regions and States, the mandatory fuel allocation program will not be able to succeed.

I urge my colleagues to support this important amendment.

Mr. JOHNSON of Colorado. Mr. Chairman, I do not want to divert the gentleman from the main thrust of his argument, but he has indicated to me that the gentleman is making statements about things he is not as fully informed as I personally am, because it is in my district.

Does the gentleman know how many millions of acres the Government owns out in that oil shale land from which they leased 10,000 acres?

Mr. CONTE. Yes; we know that. We have the figures. We had expert witnesses from the Department of the Interior on this subject matter. If I am as ill informed as the gentleman is saying, then the officials from the Department of the Interior are ill informed, for I base my information on their facts and figures.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Horton and by unanimous consent, Mr. Conte was allowed to proceed for an additional 2 minutes.)

Mr. JOHNSON of Colorado. Does the gentleman know how many millions of acres the Government actually owns?

Mr. CONTE. I am informed that the United States owns outright over 7 million acres of oil shale lands in Colorado, Utah, and Wyoming.

Mr. JOHNSON of Colorado. Does the gentleman know how much it costs a company to build a 50,000-barrel-a-day plant?

Mr. CONTE. I am not arguing the cost. I am saying that the Department of the Interior evaluated and admitted under oath that they were ready to receive a $9 million bid and it went for $210.3 million. Our investigation proved it was worth over $500 million. And that was for a tract, known as tract C-a, that's only 5,089 acres.

If the gentleman wants to defend the oil companies, he can go ahead. I am saying that we have a lousy reporting system.

Mr. JOHNSON of Colorado. When the gentleman says "rip off and defend the oil companies" and that sort of thing, he is using emotional terms which get away from the facts and do not help in developing those shale oil reserves. Let us get away from those kinds of terms.

Mr. CONTE. The gentleman can strip any adjectives he wants. I am still saying we do not have the proper reporting. We do not have the proper data from any Department of the Federal Government. We have to depend on the oil and gas companies for our information.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. CONTE. Yes; I will yield to the gentleman if I have the time.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

(At the request of Mr. Horton and by unanimous consent, Mr. Conte was allowed to proceed for an additional 2 minutes.)

Mr. HORTON. Mr. Chairman, I want to agree with the gentleman on the point that the Federal Energy Office has had difficulty getting information, but that is the purpose of this bill. It is to set up a Federal Energy Administration by statute.

The next section, section 15, does give to the Administrator unusual authority to go in, to verify, look at books and records which he does not now have; so it is very important to enact this bill.

The amendment of the gentleman from New York (Mr. Rosenthal) has to do with permitting the Comptroller General to go in and the point I make in opposing the amendment——

The CHAIRMAN. The time of the gentleman from Massachusetts has again expired.

(At the request of Mr. Horton and by unanimous consent, Mr. Conte was allowed to proceed for an additional minute.)

Mr. HORTON. Mr. Chairman, the point I am making is that we do give the authority to the Administrator to get information. The Comptroller General's responsibility should be to audit the books given to the FEA and not become a legislative agent.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Rosenthal).

The question was taken and the Chair announced that the noes appeared to have it.

Mr. ROSENTHAL. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to this section?

If not, the Clerk will read.

The Clerk read as follows:

INFORMATION-GATHERING POWER

Sec. 15. (a) The Administrator shall, for the purposes of section 5(9) of this Act, have authority to collect energy information from all persons owning or operating facilities or business premises who are engaged in any phase of energy supply or major energy consumption, and to require full identification of all data and projections as to source, time, and methodology of development.

(1) The Administrator is authorized idependently to formulate, issue, and require responses by such persons to surveys or questionnaires for the collection or standardization of energy information.

(2) The Administrator, to verify the accuracy of information he has received or otherwise to obtain information necessary to perform his functions is authorized to conduct physical inspections at energy facilities and business premises, to inventory and sample any stock of fuels or energy sources therein. and to inspect and copy records, reports, and documents from which energy information has been or is being compiled, subject to the applicable procedures for administrative inspections and warrants prescribed in subsections (b)(1) through (3), (c)(1), (3) through (5), and (d) of section 510 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 880), which procedures the Administrator is hereby empowered to employ and exercise in his own right and title for purposes related to the exercise of his responsibilities under this Act. For the purposes of this Act, the term "controlled premises" shall be deemed to refer to and include energy facilities and business premises owned or operated by persons engaged in any phase of energy supply or major energy consumption.

(b) The Administrator shall collect, assemble, evaluate, and analyze energy information pursuant to categorical groupings, established by the Administrator, of sufficient comprehensiveness and particularity to permit fully informed monitoring and policy guidance with respect to the exercise of each of the advisory and program responsibilities vested in the Administrator under section 5 of this Act or otherwise.

(c) The Administrator shall have authority, for the purposes of this Act, to sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of refusal to obey a subpena served upon any person under the provisions of this section, the Administrator may request the Attorney General to seek the aid of the district court of the United States for any district in which such person is found to compel such person, after notice, to appear and give testimony, or to appear and produce documents before the Administrator.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that section 15 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York.?

There was no objection.

AMENDMENT OFFERED BY MS. ABZUG

Ms. ABZUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Abzug: Page 35, between lines 10 and 11, insert the following new subsection:

"(d) The Administrator shall collect from departments (including independent agencies), and each such department, agency, and instrumentality is authorized and directed to furnish, upon request of the Administrator, information concerning energy resources on land owned by the Government of the United States. Such information shall include, but not be limited to, quantities of reserves, current or proposed leasing agreements, environmental considerations, and economic impact analyses."

Ms. ABZUG. Mr. Chairman, my amendment requires that the Administrator of the Federal Energy Administration, in addition to obtaining much needed data from the energy industry, also collect information concerning energy resources on federally owned lands.

The American people are skeptical and angry about fuel shortages and rising energy costs. When they ask how this all came about, they are bombarded with facts and figures, which are replaced by new facts and figures, ad nauseum. The fact is, and Mr. Simon of the Energy Office readily admits, that we do not presently have an adequate energy data collection system. Nor do we have the information necessary for the public or policymakers to know where we stand in this period of energy shortages.

The legislation before us contains a section dealing with direct data collection and analysis. It falls short, however, in that it applies only to the private sector and does not provide that information be gathered concerning the energy resources to be found in Federal lands, or the current or contemplated uses of these lands.

It is estimated that 80 percent of our fuel reserves are on Federal lands. Administrator Simon, however, has admitted that we have no Government information on these holdings. Now that intense pressure is building to develop these Federal lands into new resources, we must be very cautious that in our zeal to produce new energy supplies quickly, we do not simply give away our lands because we do not know what they contain.

The President, in his January 23 energy message, directed the Secretary of the Interior to lease 10 million acres of the Outer Continental Shelf by 1975. The newspapers have recently been reporting the new found interest in oil and shale deposits on Federal lands. Pressure is building every day to throw open our remaining Federal lands to the energy companies. However, since the Department of the Interior, which has custody of the Federal domain, has little idea of how much oil, gas, coal or oil shale these lands contain, we face the danger of selling or leasing them for a fraction of their actual worth.

Furthermore, before selling or leasing any Federal lands for development, we ought to see the whole picture. How much land does the Government own? Where is it? How much of it is leased, to whom, and under what conditions? How much oil, gas, coal, and oil shale is contained in these lands? What are the environmental and social effects, as well as the total economic impact of developing these lands? Mr. Chairman, these are only a few of the questions which must be answered now, before a further raid on, and giveaway of, Federal lands occur.

The amendment which I offer will require that all agencies of the executive branch cooperate in supplying data which will give us, for the first time—it is shocking to admit—a comprehensive outlook upon the energy resource contents of our federally owned lands.

I urge my colleagues to support this amendment.

Mr. HORTON. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. Mr. Chairman, I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I know the gentlewoman from New York has worked diligently on this amendment. We have gone over it with her, and I am willing to accept it.

Mr. HOLIFIELD. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. Mr. Chairman, I yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, we will be glad to accept this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. Abzug).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Goldwater: Page 35 after line 10, a new section "(d)", and add the following:

To protect and assure privacy of individuals and personal information, the administrator is directed to establish guidelines and procedures for handling data pertaining to individuals. He shall provide in such guidelines and procedures a reasonable and expeditious method for each individual data subject to:

(1) Be informed if he is the subject of such data.

(2) Gain access to such data.

(3) Contest the accuracy, completeness, timeliness, pertinence and necessity of retention or inclusion of such data.

The administrator shall take necessary precautions to assure that no indiscriminate transfer of data pertaining to individuals is made to any other person, organization or government agency.

The CHAIRMAN. The gentleman from California (Mr. Goldwater) is recognized for 5 minutes in support of his amendment.

Mr. HORTON. Mr. Chairman, I do not want to make a point of order against the amendment because I think it is included in the rule, but I wonder if the sponsor of the amendment would hold off and present it in the next section, which is section 16, confidentiality of information?

Mr. GOLDWATER. Mr. Chairman, is the gentleman saying that he would make a point of order if it was included in this section?

Mr. HORTON. This is section 15, information gathering power. The confidentiality amendment, I think, would be more appropriate in the next section.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. Mr. Chairman, I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. Chairman, as a cosponsor of this amendment, it seems to me that wherever we give the Administrator the right to issue subpenas, we are talking about information that should be protected, or information rights that should be protected. It is the purpose of this amendment to protect the civil liberties of each individual who might, under subpena, have his privacy intentionally abused, so it is the purpose of the amendment to protect that right. I think it is germane on that particular section.

Mr. HORTON. Mr. Chairman, I ask the gentleman if he would put it into the next section. I think it would be more appropriate in the next section.

Mr. GOLDWATER. The gentleman from New York (Mr. Horton) is certainly more expert on this bill than is the author of this amendment.

The CHAIRMAN. Does the gentleman from California (Mr. Goldwater) ask unanimous consent to withdraw his amendment?

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, we do not want the gentleman from California to lose this amendment, and I think he needs the guidance of the Chair as to whether or not the amendment is germane to the next section or germane to this section. Otherwise he might lose his rights.

The CHAIRMAN. In light of the statement which was just made by the gentleman from Maryland (Mr. Bauman), the Chair will state that he is not going to rule on anything until he hears the argument.

Mr. GOLDWATER. Mr. Chairman, the gentleman from New York (Mr. Horton) recognizes the intent of this amendment, and I am sure that I will be able to go along with his thinking if he feels it would fit better in the next section of the bill.

Mr. Chairman, I ask unanimous consent that I be permitted to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there further amendments to section 15?

If not, the Clerk will read.

The Clerk read as follows:

CONFIDENTIALITY OF INFORMATION

Sec. 16. Except as otherwise provided by law, all information reported to or otherwise obtained by any person exercising authority under this Act which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential for the purposes of that section, except that such information may be disclosed to other persons empowered to carry out this Act solely for the purpose of carrying out this Act or when relevant in any proceeding under this Act.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Goldwater: Page 35, after line 21, insert a new section "(d)", and add the following:

To protect and assure privacy of individuals and personal information, the administrator is directed to establish guidelines and procedures for handling data pertaining to individuals. He shall provide in such guidelines and procedures a reasonable and expeditious method for each individual data subject to:

(1) be informed if he is the subject of such data.

(2) gain access to such data.

(3) contest the accuracy, completeness, timeliness, pertinence and necessity of retention or inclusion of such data.

The administrator shall take necessary precautions to assure that no indiscriminate transfers of data pertaining to individuals is made to any other person, organization or government agency.

Mr. GOLDWATER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GOLDWATER. Mr. Chairman, I offer this amendment on behalf of the gentleman from New York (Mr. Kemp) and myself.

Mr. Chairman, there has been much discussion recently about the concern over the privacy of individuals in this country. The President has addressed himself to it. There have been numerous Commissions that have addressed themselves to it.

There is presently, either in contemplation or in fact, hearings being held on the question, either in the Committee on Government Operations or in the Committee on the Judiciary. The gentleman from New York (Mr. KOCH) has introduced some very comprehensive legislation on this subject, as well as has my good friend, the gentleman from New York (Mr. KEMP).

This is really a very simple amendment, Mr. Chairman. It is aimed at securing individual privacy rights in one specific area, and that is in the use of individual data held in a manual or a computer data collection operation.

Now, it has been said that this bill is an organizational bill, and it is. However, it is also an authorization bill, one which authorizes and grants great power.

In my judgment, the Administrator, under section 15 of this bill, has very broad power to collect data that could have the potential of damaging the privacy rights of an individual. The individual must be protected against any indiscriminate use of such data.

The amendment only seeks to do three things:

First, allow an individual to know what kind of data is being held about him.

Second, allow the individual to inspect this data, and

Third, allow the individual to contest the accuracy of the data.

This amendment would not place an undue restriction upon the Administrator. He has the necessary latitude to establish guidelines and procedures within the Federal Energy Administration for carrying out the purpose of this amendment.

Mr. Chairman, over the past 10 years, a great deal has been said about privacy. Yet, actual invasion of privacy and the potential for invasion of privacy is greater now than ever before. I want to see this body stand up and be counted on the issue of privacy. We are creating a new agency. In the past, we have created agencies and we lost control over them. This is especially true in the area of privacy.

We now have an opportunity to tell the people of this country that this agency will be responsive to their needs, and certainly the need to protect privacy should and must be paramount.

By adopting this amendment, we will be saying to the American people that this body has begun to wage the war on privacy invasion. While it is a small step, it is nevertheless a significant step. I hope that the House will accept this amendment.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I have been in the process of reading the gentleman's amendment, and I have read it before. I certainly agree with the substance of what the gentleman is trying to put in the bill.

As a matter of fact, I have sponsored primary legislation myself, and I spoke in behalf of the Koch bill before the Committee on Government Operations. I have also served on the Subcommittee on Freedom of Information of the Committee on Government Operations as the ranking member. Until I became the ranking minority member of the full committee, I served on that committee, and I have been very much concerned about the protection of privacy of individuals.

I am certainly interested in this bill doing that, in other words, protecting the privacy of the individuals. One thing I have some trouble with is the definition of the language:

> The administrator shall take necessary precautions to assure that no indiscriminate transfer of data pertaining to individuals is made to any other person, organization or Government agency.

I am not sure those words have ever been defined, and I do not know just exactly what they mean. Could the gentleman give us an explanation of what that means?

Mr. GOLDWATER. I think it is pretty clear what "indiscriminate transfer" means. Certainly the language in that portion of the amendment gives flexibility to the administrator. In essence what it says is just be careful with personal information on individuals.

Mr. HORTON. Mr. Chairman, with the author's definition of those words, I am prepared to accept the amendment.

Mr. HECHLER of West Virginia. Will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. I commend the gentleman from California on his amendment and I will support his amendment. When the Clerk read the amendment I thought he referred to a new amendment section (D). I believe the amendment should correctly read, "Section (B)" and I am sure that by unanimous consent the incorrect reference can be corrected.

Mr. GOLDWATER. No. The amendment was read correctly referring to section 16.

The CHAIRMAN. Does the gentleman from California ask unanimous consent that where the letter "D" is used it can be changed to the appropriate number?

Mr. GOLDWATER. I do ask such unanimous consent.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I rise in support and cosponsorship of the amendment offered by the very able gentleman from California (Mr. GOLDWATER).

I take this opportunity, first, to commend the gentleman (Mr. GOLDWATER) for his many substantive efforts to strengthen the right to privacy—the right to be let alone. He has been at the forefront of efforts within this Chamber and in committee to insure compliance of investigatory and reporting systems of Government with the requirements of due process.

This amendment is, therefore, offered in furtherance of our joint and mutual commitment—reflected in the introduction and sponsorship of a number of important bills and amendments—to strengthen the right to privacy, to insure the protection of the individual's personal right to be free from intrusion by Government.

As the gentleman has pointed out, this is not a complex amendment. It is intended to secure the right to privacy in one specific area of law: The use of individual data collected and held in manual or computer data collection systems compiled, maintained, and used by the proposed Federal Energy Administration, the intended successor to the Federal Energy Office.

In these days when the methods of Government too often appear to be contrary to the protection of individual rights, the enactment of such a protective requirement should receive the support of all Members, irrespective of philosophical, political, or partisan persuasion.

I am personally confident that the principal reason the committee-reported bill did not contain such a safeguard provision is that the matter was simply never considered during that committee's deliberations. I do not feel that it was because the members of that committee would have rejected such a measure—a measure designed to more stringently guarantee protections for our citizens.

Section 15 of the bill before us, H.R. 11793, would give the administrator of the proposed agency extensive powers to collect and use data in such manners as to have the potential of damaging the rights of individuals.

The individual must, therefore, be assured by the Congress of the protections he should have—in furtherance of the principles of due process—against any indiscriminate or erroneous use of such data.

The amendment, if it becomes law, will do three basic things:

It will allow an individual to know the exact nature of data being held and used about him or his activities;

It will allow that individual to inspect such data; and,

It will allow that individual to contest, according to procedures established pursuant to this law and regulation, the accuracy of that data, correcting it when necessary.

In my opinion, the amendment would not place any undue restrictions upon the administrator or the proposed agency, for sufficient latitude is preserved to establish implementing guidelines and procedures for carrying out the strict intent of this amendment.

The consideration of this amendment affords this body an opportunity to illustrate by deeds—not just words—its commitment to the restoration of individual rights against unwarranted Government intervention or its simple mishandling of information gleaned with good intentions. This is a small step toward showing the people our commitment, but it is an important one.

We should be ever mindful of the observation of Woodrow Wilson:

> Liberty has never come from government. The history of liberty is the history of limitations or government power, not the increase of it.

I hope the House will accept the challenge and adopt this amendment.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentlewoman.

Ms. ABZUG. I am aware of the gentleman's effort in the area of privacy. I think he has a very good bill on that subject, which I have analyzed very carefully and I support it.

I am however concerned about the gentleman's application of the issue of personal privacy to this bill. Would the gentleman tell me what individual privacy he expects to be interfered with that Exxon might possess? Is the gentleman aware of the fact that we are dealing in this section with Exxon and with other major oil companies and seeking information as to prices, resources, and supplies from both private and public oil companies?

Mr. GOLDWATER. Will the gentlewoman yield back the time?

Ms. ABZUG. I certainly will. I just want the gentleman to explain what personal privacy means here.

Mr. GOLDWATER. This bill addresses itself primarily to information contained in corporations and organizations. There is nothing in the bill that precludes the Administrator from gathering information on individuals. All we are saying here is that if, if, the Administrator does possess information on individuals, then those individuals should be protected.

Ms. ABZUG. And not information that may be claimed from a corporation or its offices with respect to their oil interests or holdings or anything like that? Because we regard corporation offices as individuals under the law, I want to point out to the gentleman.

Mr. GOLDWATER. As the bill is drafted it pertains to a human being.

Mr. Chairman, basically all this amendment does is as follows: It does three things; namely, it allows an individual to know there is data being withheld about him and it allows him to inspect the data and, third, allows him to contest the accuracy or relevancy of that data.

Mr. HOLIFIELD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there are certain things that just seem to stir up the adrenal glands when we mention them. One of them is individual privacy and that sort of thing.

The gentleman from California (Mr. GOLDWATER) who offered the amendment has served on the Committee on Government Operations, and I want to pay tribute to his diligence and hard work in working on that committee. He knows, I guess, that the so-called freedom of information law came from that committee, and he also knows that for over a year now the Moorhead subcommittee has been working on freedom of information, the right of privacy, and that sort of thing.

This is a very complicated matter. It is something that gets into the constitutional rights of free speech and the privacy of the individual and other things like that.

Notwithstanding the motives of the gentleman from California, I want to speak a little word of warning here, because the gentleman's intention of protecting individual privacy is worthy, and it deserves general consideration rather than piecemeal action under this bill, which authorizes information gathering only from energy facilities and business premises. Individual data involving the privacy of individuals is unlikely to be involved. The amendment offered by the gentleman from California is unfortunately vague and difficult to understand in the context of the FEA.

For example, what is "individual identifiable personal data," which the gentleman seeks to protect? These are new words. I have read the Freedom of Information Act, and I have listened to a great deal of testimony, and I say these are new words. They are not words of legal art, and they are susceptible to all kinds of interpretations.

The prohibition against indiscriminate transfers of such data to other persons—and I underline the word "indiscriminate"—the indiscriminate transfer of such data to other persons, organizations, or Government agencies, is similarly vague. Is disclosure prohibited, or just the indiscriminate transfer? What does "indiscriminate transfer" mean? Since the proposed amendment presents a number of technical questions as to scope, definition of terms, and procedures, I must oppose it in the present context. Legislation to protect the privacy of individuals should be ironed out after hearings by the appropriate committee of jurisdiction.

We are treading on dangerous ground here. We may very well do something that we will be very sorry about. It has no real place in this bill, because we are giving this administrator the right to go into business places and to get energy data, and the right of subpena, and we are making that available, by the way, to the Comptroller General, the thing that the gentleman from New York (Mr. ROSENTHAL) was interested in. But we did not give even the Comptroller General the right to go indiscriminately out to subpena all kinds of information from every Member of the Congress. It is a serious thing when you give anyone the right of subpena power, and it is a serious thing when you think of approving language which has admittedly vague and ambiguous wording, wording which is subject to different interpretations.

So, Mr. Chairman, I ask that the amendment be voted down.

Mr. KOCH. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from California (Mr. GOLDWATER).

Mr. Chairman, I rise in support of the amendment offered by the gentleman from California (Mr. GOLDWATER). I think it cannot be all bad if it has GOLDWATER and KOCH on the same side; indeed, I think it is all good because the protection of civil liberties is not a conservative or liberal monopoly. It belongs to all.

Mr. Chairman, the reason that I rise in support of the amendment is this: For the last 5 years the appropriate committees in this House have been addressing themselves to the right of privacy. I do hope that there will be legislation coming out of the appropriate committees this year, which will open the millions of Government personal dossiers for inspection. The gentleman from California (Mr. GOLDWATER) is the sponsor of some legislation, as am I, and also the gentleman from New York (Mr. KEMP) and there are others in this House who have introduced and supported privacy legislation.

But the fact is, Mr. Chairman, that at this moment there is no legislation which would protect the individual—and we are not, let me emphasize, talking about corporations in this amendment. The word "individual" is a very precise word; it means a human being. If you want to cover corporations, then you use the word "person," not "individual."

So this will protect in some form the right of privacy of an individual. It is drawn with the purpose of making certain that the requests of the administrator under this legislation will not be denied. It in no way limits the collection of material or information by the administrator. This amendment requires that there be guidelines provided, so that there will be reasonable procedures provided which will give an individual reasonable access to his dossier to see if it is accurate and complete and relevant. We are not, under this amendment, spelling out the exact guidelines. It would be foolish on the floor to write such guidelines; they are left to the administrator.

So, Mr. Chairman, I urge support of this amendment if we are interested in protecting the rights of the individual. We must bear in mind that in protecting the privacy of individuals, the civil libertarian insists on the protection for all individuals, not just those with whom he is in accord.

Mr. CRANE. Mr. Chairman, would the gentleman yield?

Mr. KOCH. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I applaud the gentleman from New York for his remarks and the gentleman from California for his leadership on this vital issue. I must say that I could not agree with the gentlemen more. I think we are living in an age of creeping snooperism on the part of Government, albeit it is not confined entirely to the Government. The idea of keeping dossiers or Americans about which they are not informed, is a source of concern to anybody who believes in the civil rights of the individual. I cannot by any stretch of the imagination determine why anyone would have any objection to this amendment or would consider this treading on dangerous ground. The safeguards of the amendment should be guaranteed to us all. I thank the gentleman for yielding.

Ms. ABZUG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I compliment the gentleman from New York (Mr. Koch) and I compliment the gentleman from California (Mr. Goldwater) on their past efforts in behalf of the right of privacy. But I think they are distorting the whole concept in this context. I may remind you that I also believe in the right of privacy and freedom from governmental interference.

I point this out to the gentleman from New York and the gentleman from California because I oppose this amendment. The reason I oppose the amendment is that although the gentleman's objectives and motives may be good. I fail to see how this amendment will accomplish an appropriate privacy protection in the way that it is worded.

For example, the gentleman from California says:

"He shall provide in such guidelines and procedures a reasonable and expeditious method," for what? "For each individual data subject to:

"First, be informed if he is the subject of such data.

"Second, gain access to such data.

"Third, contest the accuracy, completeness, timeliness, pertinence and necessity of retention or inclusion of such data."

We are seeking information here about oil. We are seeking information about conflict of interests. We are seeking information here about what is happening to the precious commodities of energy in this country. We are going to be getting into information about individuals. Yes, we are going to be getting information about the president of Exxon and the president of Standard Oil, and all the other oil company executives.

I find it very strange, indeed, that there is at this point a big rush to the assertion of the right of privacy when what we are seeking to uncover is the source and extent of the tight control of the oil and energy resources in this country, the kind of control that is depriving millions of individuals in this country of an opportunity to obtain gas and fuel at reasonable prices, the control that is creating inflation and causing unemployment.

I really understand the basic principle of the right of privacy, but I would submit to my colleagues that this proposed amendment is an inappropriate application, or, at its best, it is poorly drawn. In either case, I think it is very important that we not now limit the opportunity we have to get information from sources, both government and private. The only kind of information that I can conceive of is the kind of information we must have and that would not invade a person's individual right of privacy.

Mr. KOCH. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from New York.

Mr. KOCH. I thank the gentlewoman for yielding.

What distresses me about my colleague's statement is that I know she is concerned about privacy. But I do not care what an individual does, whether I agree with what he does or disagree with what he does, he is entitled to the same rights of privacy that I would accord to those with whom I am in accord.

Ms. ABZUG. In general I could not agree more with the gentleman from New York (Mr. Koch), but he does a disservice to what we are seeking to do, because the Goldwater amendment seeks to provide a cover for information which has been concealed from the American people, and it does not have a darned thing to do with the right of privacy.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Goldwater).

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Goldwater).

The question was taken; and on a division (demanded by Ms. Abzug) there were—ayes 49, noes 8.

Ms. ABZUG. Mr. Chairman, I demand tellers.

Tellers were refused.

Ms. ABZUG. Mr. Chairman, I object to the vote on the ground that a quorum is not present.

The CHAIRMAN. The Chair will advise the gentlewoman that point cannot be raised in the Committee of the Whole.

Ms. ABZUG. Mr. Chairman, I demand tellers.

The CHAIRMAN. The request for tellers has been denied.

The Clerk will read.

The Clerk read as follows:

REPORTS AND RECOMMENDATIONS

Sec. 17. (a) Six months before the expiration of this Act, the President shall transmit to Congress a full report together with his recommendations for—

(1) disposition of the functions of the Administration upon its termination,

(2) continuation of the Administration with its present functions, or

(3) reorganization of the Administration.

(b) Not later than one year after the effective date of this Act the Administrator shall submit a report to the President and Congress which will provide a complete and independent analysis of actual oil and gas reserves and resources in the United States and its Outer Continental Shelf, as well as the existing productive capacity and the extent to which such capacity could be increased for crude oil and each major petroleum product each year for the next ten years through full utilization of available technology and capacity. The report shall also contain the Administration's recommendations for improving the utilization and the effectiveness of Federal energy data and its manner of collection. The data collection and analysis portion of this report shall be prepared by the Federal Trade Commission for the Administration. Unless specifically prohibited by law, all Federal agencies shall make available estimates, statistics, data and other information in their files which, in the judgment of the Commission or Administration, are necessary for the purposes of this subsection.

(c) The Administrator shall from time to time report to Congress on the policies and activities of the Administration, including information-gathering activities under section 15 of this Act, and shall provide a full report of all activities six months before the expiration of this Act.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that section 17 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there amendments to this section?

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hechler of West Virginia: Page 37, after line 4, insert the following subsection:

(d) Not later than 90 days after the date of enactment of this Act, the Administrator shall submit a report to the President and Congress detailing a plan for the creation of a Government corporation which, for the purposes of conserving scarce supplies of energy, insuring fair and efficient distribution of such supplies, maintaining fair and reasonable consumer prices for such supplies, and promoting the expansion of energy sources for the general welfare and common defense and security, would operate and maintain the property and facilities of any person in the United States whenever such property and facilities are utilized in the exploration, development, processing, refining, or required transportation by pipeline of crude oil, petroleum products, natural gas, and coal.

Mr. HECHLER of West Virginia. Mr. Chairman, this is a very simple amendment. I think we ought to seriously consider the nationalization of the oil industry.

I would say to those who are concerned about the protection of the oil industry that there are 58 ex-oilmen holding key FEO jobs. If the oil industry is nationalized, the people in the oil industry should have no concern whatsoever, since they already have their alumni holding important FEO jobs.

I would say, Mr. Chairman, that each of us on this committee have had numerous personal and direct experiences with the maladministration of the so-called energy program. During the past week, for example, there were 21,000 coal miners in West Virginia who were not producing coal because they could not get the gasoline necessary to drive to work.

We immediately contacted the Federal Energy Office, orders to supply the needed, extra gasoline were sent directly down from the Federal Energy Office but it took 3 or 4 or 5 days in many instances to get that order to be carried out by the oil industry and its distributors.

The arrogance of the oil industry is evident as these huge conglomerates try to buy elections, brainwash through millions of dollars in advertising and propaganda, and virtually regard themselves as above the law. It is about time we did something for the consumers, the working people, and the poor people of this Nation.

As a result of this, it is my conclusion that we ought to give very, very serious thought, to the nationalization of the oil industry. For those who are hesitant, I say this is only an amendment to come up with a report and plan for nationalization within 90 days. Perhaps with Mr. Simon and his 58 oil executives serving in the Federal Energy Office, we will not receive an unbiased and objective report, but at least we will get the Nation focused on the issue.

This is a very simple amendment and I trust we may get a vote on it. Let us have an end to arrogant rule by the secretive, profit-bloated, low-taxpaying oil conglomerates, and let us restore the Government to the people where it belongs.

If there are no questions, I yield back the balance of my time.

Mr. HOLIFIELD. Mr. Chairman, I rise for two purposes.

The CHAIRMAN. The gentleman from California is recognized for 5 minutes.

Mr. HOLIFIELD. Mr. Chairman, my first purpose is to compliment the valor, the bravery, and courage of the gentleman from West Virginia.

I look back in biblical history to the time when David picked up a small pebble and slew Goliath, the giant.

I remind my friend—he is my friend—that he is a David going forth to slay the giant, but he left his slingshot at home.

I do not think that it is necessary to argue about this. This has been a dream of many people. It, however, is not in tune with reality, and I ask for a no vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The question was taken; and on a division (demanded by Mr. HECHLER of West Virginia) there were—ayes 4; noes 39.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BIAGGI: Page 36, line 6, strike out "one year" and insert the following: "three months."

Mr. BIAGGI. Mr. Chairman, we understand the laudable purposes of this section, but the question of establishing the date of 1 year in the light of the urgency of the crisis strikes me as one of a dilatory nature. I would have to assume that the Administrator during the last number of months has been doing some research.

Mr. Chairman, I have oft times found that when we establish a "not later than 1 year" as the maximum, it oft times becomes the target date.

Mr. Chairman, I suggest very strongly that the people of this Nation cannot wait 1 year to find out exactly what the status of our oil reserves are, especially in light of the fact that we would be making very important determinations in the interim.

It is essential, I think, that Congress and the Nation be informed of the exact status of our energy reserves before we are called upon to make such determinations. Hence, I ask that this amendment be passed.

This amendment although simple in content, could have a profound effect on the actions of the Federal Government with respect to meeting our future energy needs. This report will provide the most accurate facts and figures yet—on existing oil and gas reserves and resources in the United States and its Outer Continental Shelf, as well as the present productive capacities and potential for increase for the next 10 years.

Must we wait for another year to elapse before we have this vital information? Many crucial energy-related decisions could be made in the next 12 months, yet without the benefit of the kind of data which would be contained in this report, how effective could these decisions be? The American nation currenty in the midst of the worst energy crisis since World War II is looking to the future for relief from the long gas lines and the high cost of heating oil which has marked the winter of 1974 thus far. Can we effectively inform them about what the future holds without knowing exactly what reserves of gas and oil we will actually have? If this report proves that we are indeed facing a critical shortage, then we must develop strong remedial legislation to cope with it.

This amendment will serve another important purpose. It could conceivably facilitate the work of the Federal Energy Administration, for this report could actually set the direction of their work. If for example the report uncovers the fact that we have no immediate shortages of vital energy supplies, then the FEA can work on expanding the long term research and development programs designed to make the United States self-sufficient in matters of energy.

In recent weeks the Congress has passed some significant energy legislation including the Solar Heating and Cooling Demonstration Act, and the emergency energy bill. Yet how can we expect to have these bills fully implemented without knowing where we are in terms of energy resources, reserves and production? This report can be made available within 3 months, it is possible that the present Federal Energy Office has already been looking into this situation for some time. My amendment would simply give them the necessary push to complete this urgently needed project.

Mr. Chairman, this legislation we are considering today is viable and important for the future of America. I have not come to change it, but rather to strengthen it. The American public is entitled to as much information as possible about what the future energy situation in this country will be. They have been in the dark far too long.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. Mr. Chairman, I am delighted to yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, the gentleman requests information within 3 months in the face of the bill language of "not later than one year." In the first place, let me say that not later than 1 year would encompass—and I am going to make some legislative history on this—"just as soon as the Administrator can obtain this information and put it together."

If we look on down at the rest of the line, it says:

> Shall submit a report to the President and Congress which will provide a complete and independent analysis of actual oil and gas reserves and resources in the United States and its Outer Continental Shelf.

This is a task that in my opinion is desirable, but I do not believe could be accomplished within 3 months. However, we had some testimony as to really the lack of information on some of these vital energy statistics in America. I am getting it and getting it just as quickly as we can, because until we do get it, we really cannot justly implement the law we are trying to pass in order to achieve victory in this energy crisis.

However, I would say to the gentleman that if it could be done in 3 months, I hereby advocate to the Administrator that he do it; do it within 6 months if it takes longer but not later than 1 year to bring this information to the Congress and to the American people.

Mr. BIAGGI. Mr. Chairman, I am certain that the chairman shares my concern and the concern of my colleagues in the House as to the urgency and need for this information.

I am not so sure that my amendment is that vital in the light of these comments. As long as we establish in this legislative colloquy which should recommend in the report that the Administrator be urged to not confuse "not later than 1 year" within the maximum as the target date.

Mr. HOLIFIELD. Mr. Chairman, if the gentleman will yield, I will state to the gentleman that I will write a letter to the Administrator and clarify it, if there is any confusion in his mind, and I will state that what we mean by this is: "Just as soon as possible, and not later than 1 year."

Mr. BIAGGI. Mr. Chairman, I thank the gentleman.

Mr. HOLIFIELD. Mr. Chairman, if the gentleman will yield further, that is conditioned on the premise that the bill is passed and not vetoed. I have some doubts in my mind, with the load it is carrying in the form of amendments, that it is going to be signed by the President.

Mr. BIAGGI. We all share that concern.

Mr. HOLIFIELD. I hope that when the time comes, the gentleman will help me get this bill passed, when we come to the point of voting on a certain amendment.

I will state to the gentleman that I will write him a letter and he can put it in the RECORD.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for his comments and for his statement of his position.

Mr. Chairman, I ask unanimous consent that I be permitted to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there further amendments to Section 17?

If not, the Clerk will read.

The Clerk read as follows:

SEPARABILITY

SEC. 18. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

The CHAIRMAN. Are there amendments to section 18?

If not, the Clerk will read.

The Clerk read as follows:

EFFECTIVE DATE AND TERMINATION

SEC. 19. This Act shall be effective no later than the expiration of sixty days after the enactment of this Act or such earlier date as the President shall prescribe and publish in the Federal Register, and shall terminate two years after such effective date.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that section 19 of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there amendments to section 19?

If not, the Clerk will read.

The Clerk read as follows:

REVERSION

SEC. 20. Upon the effective date of the termination of the Federal Energy Administration, any functions or personnel transferred by subsection 6(a) of this Act shall revert to the Department of the Interior. If before that date the Department has been abolished or reorganized such functions and personnel shall be transferred to the successor instrumentality that has assumed the Department's energy resource functions. Any other functions or personnel positions provided by statute which are transferred to the Administration under subsection 6 (c) of this Act shall revert to their respective agencies as provided in the applicable statutes. An officer or employee of the Federal Government who is appointed, without break in service of one or more workdays, to any position for carrying out functions under this Act is entitled, upon separation from such position, to reemployment in the position occupied at the time of appointment or in a position of comparable grade and salary.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that section 20 of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. HOLIFIELD

Mr. HOLIFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOLIFIELD: On page 37, strike out line 25 and everything that follows thereafter down to and including "statutes." in line 3, page 38.

Mr. HOLIFIELD. Mr. Chairman, the purpose of this amendment is to delete authority given to the President to make limited transfers of functions to the new Agency in addition to those transferred by the bill itself. The original bill gave the President this authority for a 3-month period and only for certain agencies. Any transfer was to be subject to congressional review.

These provisions were included in the bill at a time when the administration said it needed additional time to consider certain incidental functions and decide whether these should be transferred to the new Agency. Sufficient time has elapsed without request from the administration for any of these perfecting changes, and there would appear to be no further need for this transitional transfer authority. Accordingly, the amendment would strike the transfer authority and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOLIFIELD).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 20?

If not, the Clerk will read.

The Clerk read as follows:

SEX DISCRIMINATION

SEC. 21. No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or remove any other legal remedies available to a discriminatee.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that section 21 of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, right on the heels of a veto, sustained in the Senate, but sustainable here, too, this House is passing another energy bill with a provision similar to that which provoked the veto. It is a bad error, but errors are surely consistent with our traditions on this bill.

Our first error was in not passing a sensible energy bill last December.

Our second was in demanding confrontation with the White House instead of negotiation.

Our third error was approving a rollback when we knew it could mean less oil, not more.

Our most recent error is the rollback loophole. The original rollback was supposed to affect less than 20 percent of the oil we use. The 30,000 barrels per day loophole makes the rollback affect only a tiny fraction of that amount, and therefore it can't help lower gas prices very much. It also sets a price, about $75 million in annual sales, under which anything is legal, and over which anything is banditry.

Our underlying errors are two. First, we are still trying to legislate results rather than processes. That technique looks good in the press releases, but lousy at the gas pumps.

Second, we are trying to pretend we are the executive branch, but we have not fooled anyone yet. Setting prices in legislation is foolish. If it is not counterproductive, it may be the opposite—a give away.

Despite the indignities we have wrought upon it, I shall vote for this bill because we need it. Also, it is possible that the conference committee will exercise better judgment than this House and restore the bill to the simple structural form it should take.

The FEO exists on the basis of an Executive order. Until it gets its statutory basis, it cannot do the things we have complained that it does not do. FEO is struggling manfully despite borrowed employees, a shortage of skills because it cannot borrow all the people it wants, and a shortage of authority because we cannot pass a reasonable energy bill. Our criticism of FEO will never be well founded until we give the energy agency the tools it needs.

Mr. RONCALIO of Wyoming. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to congratulate and to compliment the gentleman from New York (Mr. HORTON), the leader on the minority side, for his efforts in this legislation, and, particularly, the gentleman from California, CHET HOLIFIELD.

I congratulate the gentleman from California for the manner in which he has handled some of the most complex legislation we have had this year or which this Congress shall see for many years.

Mr. Chairman, I am somewhat of an old hand around here at watching legislation. I first began as a Senate employee in 1940. My observations go back to some great leaders in floor work, in both bodies of Congress.

I think these two leaders deserve our gratitude and our congratulations in guiding this legislation, in light of the Staggers bill having been vetoed by the President yesterday, toward the end of providing energy which this Nation needs so badly.

Mr. Chairman, I commend both gentlemen for their very fine efforts.

AMENDMENT OFFERED BY MR. GUNTER

Mr. GUNTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUNTER: Page 38, line 21, add the following new section:

SEC. 22. (a) The Emergency Daylight Saving Time Energy Conservation Act of 1973, P.L. 93–182; (87 Stat. 707) is hereby repealed.

(b) This section shall take effect at 2 o'clock antemeridian on the first Sunday which occurs after the enactment of this Act.

POINT OF ORDER

Mr. HORTON. Mr. Chairman, I make a point of order against the amendment.

Mr. Chairman, this amendment amends existing law, which is not the subject matter of this bill and is therefore nongermane. I urge that the Chair rule that the amendment is out of order.

The CHAIRMAN. Does the gentleman from Florida (Mr. GUNTER) desire to be heard on the point of order?

Mr. GUNTER. Mr. Chairman, I do.

Mr. Chairman, I would ask the Chairman to recall the words of the distinguished chairman of the committee, the floor manager of this bill, a few moments ago, when he said to the House to the effect that, "I do not know what is not germane at this point in the consideration of this legislation."

Furthermore, Mr. Chairman, I would say and call the attention of the Members of the House to the language of the declaration of purpose in section 2(a) on page 14 of the committee bill which declares that among the purposes of this act is to require positive and effective action in order to promote the general welfare and the common defense and security.

I submit, Mr. Chairman, under this broad language and for the stated purposes of this act that the general welfare declaration permits an interpretation and a finding by the Congress that the enumerated and authorized activities established by the Federal Energy Administration, if executed within the framework of the year-round daylight saving time provisions, would not serve the general welfare.

Therefore, I would urge a favorable ruling to me on the point of order.

Mr. MOSS. Mr. Chairman, may I be heard on the point of order and in support of the point of order?

The CHAIRMAN. The gentleman is recognized.

Mr. MOSS. Mr. Chairman, the language would amend the Uniform Time Act of 1930, the act to which the amendments creating a new daylight saving time limitation were directed. That act has been under the jurisdiction of the Committee on Interstate and Foreign Commerce from the very beginning when it was originally introduced in this body in 1930. Each amendment to that act has been referred to and considered exclusively by the Committee on Interstate and Foreign Commerce. That act is not transfered nor is any portion of it contained in the authority conferred upon the Administrator under the provisions of this reorganization act.

For that reason it is my opinion that it is not germane and that the point or order should be sustained.

The CHAIRMAN (Mr. FLYNT). The Chair is prepared to rule.

The gentleman from Florida (Mr. GUNTER) offered an amendment the effect of which is to repeal an existing law which is not otherwise referred to in the bill under consideration.

The gentleman from New York (Mr. HORTON) has made a point of order again the bill that it is not germane to the bill and that it attempts to repeal a separate act which is not previously mentioned in the bill under consideration.

The Chair in ruling on points of order does not rule on the merits of any amendment that has been offered.

The Chair in this case is constrained in his ruling to relate to the germaneness of the amendment to the bill under consideration.

For the reasons stated in the argument of the gentleman from New York the Chair sustains the point of order.

Are there any further amendments?

Mr. HECHLER of West Virginia. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. HECHLER of West Virginia. Mr. Chairman, I ask unanimous consent to withdraw my point or order that a quorum is not present.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. HORTON. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Thirty-eight Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 69]

Adams
Armstrong
Bell
Blatnik
Boland
Brasco
Brooks
Burke, Calif.
Burton
Camp
Carey, N.Y.
Clausen,
  Don H.
Clay
Collins, Ill.
Conyers
de la Garza
Dellums
Diggs
Fraser
Fulton
Gubser
Hanna
Hansen, Wash.
Hawkins
Hays
Hébert
Henderson
Jones, Okla.
Karth
Kluczynski
Kuykendall
Leggett
McKinney
McSpadden
Mills
Minshall, Ohio
Montgomery
Murphy, N.Y.
Nelsen
O'Neill
Podell, N.Y.
Randall
Rees
Reid
Robison, N.Y.
Rodino
Rooney, N.Y.
Rosenthal
Rostenkowski
Stratton
Sullivan
Teague
Treen
Whitehurst
Wilson,
  Charles H.,
  Calif.
Wilson,
  Charles, Tex.

Accordingly the Committee rose; and the Speaker having resumed the chair Mr. FLYNT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11793, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 375 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. DONOHUE. Mr. Chairman, I very earnestly believe that the substance of this bill, H.R. 11793, with the addition of strengthening amendments as determined by the Members, eminently deserves—and I hope it will receive—the resounding approval of the House this afternoon.

It is basically designed to assemble under one roof, for concentrated administration and responsibility, practically all the varied energy-related functions that are now being performed in larger or lesser fashion, by the Departments of Interior, Agriculture, Commerce, Treasury, and the Cost of Living Council.

Mr. Chairman, if there is anything sure that has come out of all the uncertainties and frustrations surrounding the sudden eruption of the energy crisis, it is the positive and imperative need of establishing one department, with adequate authority and specific direction, to find and bring together all the scattered, disunited agency activities related to the energy shortages and to cement them into the strongest possible single resource that our National Government can project toward the immediate correction and lasting solution of our energy shortages catastrophe.

Such an agency should, and there is every reason to feel that it will, with highest efficiency, irrespective of any other legislative or Presidential projection, act to obtain all the deplorably lacking information about the major oil companies, oil supplies and reserves, and their price and profit structures, discover any unfairness and injustices in supply distribution or allocation, research the availability for development of additional private- or Government-owned supply sources, determine the feasibility, both financially and environmentally, of developing such resources in the public interest, conducting other and continuing analyses of pertinent data and providing expert guidance and recommendations to the Chief Executive and the Congress in their joint effort to achieve a prompt correction of currently frustrating shortages, particularly in gasoline, and a long-term solution of the overall energy problem that will insure our everlasting independence from any foreign deprivation.

Certainly these are timely and imperatively important objectives in the national interest. This measure before us is the legislative instrument through which these objectives can be achieved and I earnestly urge its overwhelming adoption by the House.

Mr. VANIK. Mr. Chairman, it had been my hope to offer an amendment clarifying information collection. The purpose of this amendment was to spell out in greater detail the type of information which we want the FEA to provide.

The amendment would have continued to require the Administrator to collect information on all forms of energy—but it would require, at a minimum, certain specific types of information on oil and gas.

The type of information spelled out in the amendment is almost identical to the information requested in the committee report on page 9. In the committee's report, it is stated:

> What the committee has in mind [in this subsection] are information categories such as those developed in 1970 by a cabinet task

force on oil import control chaired by George P. Shultz, then Secretary of Labor. This report stressed the need to improve the collection of statistics relevant to oil policy and listed some 15 categories of information to be developed. The Administrator is expected similarly to develop comprehensive and particularized categories of energy information.

The amendment would simply seek to insure that the Administrator actually provide the type of data we need, if we are to respond intelligently to the energy crisis.

In addition to spelling out the data requested in the 1970 report, I have added four additional, specific requests for oil and gas information.

Subparagraphs 2, 3, and 9 relate to inventories and comparative price tradeoffs between different forms of energy. The need for this type of information has been documented by the GAO's report of February 6, on action needed to improve Federal energy data. Subparagraph 19 deals with petroleum entering and leaving bonded warehouses. I have received information that stockpiling and speculating may be occurring through the use of bonded warehouses. Information on this subject could resolve that question.

I hope that the administration will provide the type of information spelled out in the proposed amendment. The 1970 Oil Import Task Force, the General Accounting Office, have both told us what type of information we should be asking for. If the FEA does not provide this data, we will have to return to this subject and legislate its collection.

The text of the suggested amendment is as follows:

AMENDMENT OFFERED BY REPRESENTATIVE CHARLES A. VANIK TO H.R. 11793, THE FEDERAL ENERGY ADMINISTRATION ACT

On page 34, strike out lines 15 through 21 and insert the following new subsection,

"(b) The Administrator shall collect, assemble, evaluate, and analyse information on all forms of energy, and with respect to petroleum, specific information pursuant to the following factors—

(1) Quantity data concerning exploration, discovery, and production of oil and natural gas by region in the United States, including information on the maximum efficient recovery rates of petroleum reservoirs and data that match exploratory development effort with the trend of reserves developed and proved;

(2) Detailed quantity data on reserves, production, and prospects on the public lands of the United States;

(3) Data on petroleum and petroleum product inventories held by refiners and major petroleum terminal operators;

(4) Data on petroleum and petroleum product inventories held by those persons other than refiners and major petroleum terminal operators, including large volume consumers and retailers;

(5) Detailed cost data and financial outlays by domestic region, covering all stages of development from leasing to production and refining;

(6) Transportation cost data, both domestic and foreign, pipeline and tanker, present and future, and data on present movements;

(7) Available information on foreign cost of development and production, and tax structures in the various countries;

(8) Complete United States price data for crude oil and finished petroleum products;

(9) Analysis of the price elasticities for oil and gas in the industrial, commercial, and residential markets;

(10) Foreign price data, including both integrated and non-integrated transfer (as opposed to "posted") prices;

(11) Trends in the technology of exploration, production, and transportation;

(12) Trends in the technology and cost of petroleum substitutes, including oil from shale, coal, tar sands;

(13) Demand data and projections for crude oil and for finished petroleum products, in the United States and in other major market sectors in the world;

(14) Data on the cost and other characteristics of domestic and imported liquified natural gas;

(15) Data on refining and distribution costs;

(16) Data on petrochemical feedstock and operating costs;

(17) Structural information relevant to competition in the markets for energy:

(18) Data on the role of petroleum in the balance of payments overall and by sector or country.

(19) Data on the amount of petroleum products entering the United States under bond and net changes in the amount of petroleum products under bond, including data on the amount of bonded petroleum products withdrawn for domestic use; and

(20) Such other data as the Administrator shall deem useful.

No later than sixty days after the enactment of this Act, the Administrator shall submit a preliminary report to Congress regarding his progress in establishing an efficient system of collection of data required by this subsection. No later than six months after the enactment of this Act, and every six months thereafter, the Administrator shall submit a report to Congress regarding the information and analyses collected under this section.

Mr. CULVER. Mr. Chairman, I am particularly pleased that with final passage of this bill, the House will have given its approval to the information-disclosure provisions of the Federal Energy Administration Act, which I introduced last December in the course of committee markup of the bill.

During those days, we worked diligently with majority and minority staff and with professional administration experts to produce language that would be both comprehensive and fully workable. I firmly believe that we succeeded in these endeavors, and that the end product merits this body's full support.

The information-disclosure provisions in the bill are comprehensive in their coverage and in the powers that they confer. That is because they respond to a comprehensive need for accurate and reliable energy information across the entire spectrum of supply and consumption.

The bill confers subpena power and, even more importantly, an independent verification authority. The public files of the 1970 Shultz Task Force on Oil Import Controls contain an admission by Exxon Corp. that it keeps four sets of books on reserves, ranging from "high optimistic" to "low pessimistic," and that it chose which set to give that task force. Thus it would do no good to simply collect reserves information, for example, unless the Administrator is also given the responsibility and the tools to determine what these figures mean. The Culver provision will give the Administrator the authority to verify the data underlying such reports, through the issuance of administrative inspection warrants that the Justice Department has confirmed are fully enforceable in court.

The scope of energy information to be collected and analyzed is similarly comprehensive. It extends to all fossil fuels, including oil shale and tar sands, as well as to nonfossil fuels such as uranium. It covers vital cost and pricing data, and so will help us to pierce the fictions of posted prices and of integrated-company transactions. It gets at the foreign operations of U.S. companies, and the highly controversial tax and royalty schemes worked out with Middle East producing countries. It covers new technology, and balance-of-payments information. It gets at demand and use by major energy consumers, which is relevant to possible hoarding or other unfair advantages, such as the availability of needed feedstocks for nonintegrated petrochemical plants. And it covers structural information bearing on energy competition, which is at the core of current policy concerns. All of these categories are carefully set forth in the never-implemented Shultz task force report, which we have endorsed by language in the bill and by specific reference in the committee report.

My information provisions cover every supply activity from exploration through retail marketing by the major integrated energy companies. This is imperative at a time when thousands of independent retail marketers have been driven out of business. The Culver provison, adopted in committee, will get at the actions of the major companies, but it will not extend to so-called "mom and pop" operations. The committee report states, and I quote:

> It is most decidedly not the committee's intention to authorize the creation of a massive federal energy police force, or to burden or harass local gasoline station operators or other small business proprietors.

What we want to get at is the truth of rumors that the major oil companies, for example, are storing excess gasoline in vacant service stations.

The provisions of the committee bill are most careful in their treatment of confidentiality. They incorporate the protection for proprietary data set forth in section 1905 of title 18 of the United States Code, but they compel the disclosure of such data in a manner preserving its confidentiality. The FEA bill, with my amendments, provides that such data will be made available to the GAO, to the courts, and to committees of the Congress, as well as to the general public in an aggregated form. Thus we will have an independent check on the diligence of the Administrator, and the public will obtain the fruits of that diligence.

In summary, I submit that my proposal, which has been incorporated in H.R. 11793 as reported by committee, does everything that needs to be done to give us accurate and reliable energy information. It is certainly not going to be welcomed by the major oil companies, but neither does it face any threat of Presidential veto. We have had both minority and majority support for this provision, and I urge each of my colleagues to support it as an integral part of the act.

Mr. HOLIFIELD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have asked for this time to inform the Members of the House that I will ask for a separate vote on the Dingell amendment, as amended by the Eckhardt amendment.

Before I make a few remarks on that point, I want to thank the Members of the House for the courtesy that they have shown during these 3 days of hard debate. The debate has been carried on at a high level. We have disagreed at times, but as far as I know all rights have been preserved.

Mr. Chairman, we have in this Federal Energy Agency an organization bill that was requested by the administration.

Mr. Chairman, the administration asked for a Federal Energy Agency to take the place of the Federal Energy Office which was established by Executive order and which is not qualified to receive appropriations. They are trying to solve this problem with borrowed personnel from the different agencies of Government, because they have no money of their own to spend.

I think the orderly thing for this House to do is to give an independent agency, set up normally, as all other independent agencies are, to the administration to attempt to solve this problem.

This crisis in energy is a real crisis in my opinion, regardless of why it happened. I have my own ideas as to why part of it happened. But nevertheless we are faced with it. The people in my district are paying 67 cents per gallon for gasoline today and they are standing in line 2 or 3 hours to get it. Something must be done.

If we in the Congress fail to do our duty and give the administration the tools which they have asked for in order to properly approach this problem and try to solve it, then we can be blamed. We can be blamed by the American people, we can be blamed by the President, and it degenerates into a political squabble.

On the other hand, if we give them the tools to work with, then it will be up to them, and it will be their responsibility to implement this strongly felt desire on the part of the American people to get this job done. That is what we are trying to do, and that is why we have fought for 3 days to keep things as nearly as we can along the line of an organizational system. We must give them that tool to work with.

Mr. Chairman, I regret that the Staggers bill was vetoed. I voted for the Staggers bill. I voted for it in good conscience. Under the separation of powers, the President had the right to veto it. I do not agree with him; I did not think he should have done it, but he did it.

That legislation was as to the form and substance of programs and procedures and powers, which the administration asked for, and he got some things that he did not ask for. I take no position on that.

However, the President vetoed that bill, and one of the strong arguments for opposition that he gave was on the so-called rollback provision.

Now, Mr. Chairman, I am going to ask for a separate vote on the rollback provision. I want the Members to vote according to their conscience on this matter.

So one may say, "Well, let him veto it. I do not say that. I do not discharge my responsibility to this House and to my committee and to the Members by saying, "Let him do this," because we are at a stalemate, and we cannot be in a stalemate in this country and survive. We have to make this work. This is one of those occasions when the President may not have all he wants and the Congress cannot have all it wants. We are trying to reach a consensus here. That is the purpose of a democracy. It is only in a dictatorship where the man on top says, "I want it this way and you cannot do it any other way." We have our ideas and we are trying to get together and have a consensus so that we can make democracy work. It is in line with that that I say, let us eliminate this particular Dingell-Eckhardt amendment and get the job done that we have tried to do for the last 3 days and for the last 6 months.

Mr. MACDONALD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise with some reluctance, because I happen to serve on both the Interstate and Foreign Commerce as well as the Government Operations Committee, and because the chairman of the Committee on Government Operations has been very fair about this entire matter, but I think the Members of the House should know that this goes a little deeper than just a matter of jurisdiction here within the House.

I think if we have a separate vote and if it is defeated, then the Congress once again is faced with going back to the people and telling them that they have done absolutely nothing to roll back prices which are increasing 1 cent here and 2 cents there on the price of gasoline.

If this bill that we had before us earlier had not been vetoed, I would have been in the working for the passage of this bill and supporting the chairman of the Committee on Government Operations. However, I believe this is the last chance the Congress has to send a message, as was said in recent elections, to the White House stating that this is not a one-man Government.

That veto overrode the wishes of about 325 Members of this House and I think roughly 67 Members of the other body, all of whom represent a great cross-section of this country.

Mr. Chairman, I would like to point out that this rollback in many ways is much less than what the Independent Producers Association said they could live with as recently as January of this year, at which time they indicated they could not only live with $6 per barrel as a price but that if we did give them that price they would have broken the back of the problem by 1980.

Also I do not believe that the passage of this bill and the veto message that accompanied the earlier bill is anything but a strawman put up when it said that there will be no further exploration and, therefore, no further discovery if this rollback is adopted. I think there is plenty of incentive to the independents. This is a favor to the true independent producers of this country.

I feel very strongly indeed that we should take the word of the gentleman, Mr. Simon, who is now in charge, although he was in charge and then was fired, and then was rehired to handle this chaos. When he stated in January of 1974 that he thought that any price over $7 a barrel was a windfall profit. I do believe very strongly that the House should stick to its guns and be able to go back and face the people and let them know that we here in the House have tried very hard to protect their interest.

I agree with the chairman of the Committee on Government Operations, the gentleman from California (Mr. HOLIFIELD), that originally this bill was an organizational bill, and strictly within the purview of the Committee on Government Operations. Unfortunately, events have changed that. And the events, I must say, are not of our making, but of the making of the White House. And I am not picking on anyone in the administration or their advisers. I think they have been misguided. In the first place, the President said we have no energy crisis. Mr. Simon said we have a very strong one. So I indicate to the House my strong belief that we should stick by our guns.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Dingell-Eckhardt amendment rolls back crude oil prices to maximum levels of $5.25 or $7.09 per barrel. New oil, however, produced by firms whose output is less than 30,000 barrels per day will be exempt from the price limitations. New oil is defined as crude from new properties produced for the first time in 1973 and production from older properties that exceeds 1972 output.

The amendment will have the barest impact on retail petroleum product prices and may pose a serious disincentive to the reopening of abandoned wells. Moreover, it will only insignificantly hit at the majors and with little effect.

RETAIL PRICE IMPACT WILL BE INSIGNIFICANT

New oil under the CLC's two-tier system accounts for only 17 percent of the U.S. petroleum supply. If the price of all this oil, which is now selling for roughly $10 per barrel, were rolled back to $5.25 per barrel it would lower prices only 80 cents per barrel or 2 cents per gallon of gasoline. If the 35 percent increase option were exercised resulting in some $7.09 per barrel crude, the price impact would be 1 cent per gallon. This amendment will exempt substantial amounts of domestic crude from the rollback estimated at 12 percent of domestic crude or over 1 million barrels per day. If all domestic crude priced at $7.09 or less would only achieve retail savings of 1 cent per gallon, exempting 12 percent of domestic output will wipe out most of even that miniscule savings.

THE ROLLBACK WILL HAVE LITTLE IMPACT ON MAJORS' PROFITS

In simple terms, 78 percent of the majors' 1973 profit increases were derived from overseas operations. Foreign economic developments are well beyond the reach of a domestic crude price rollback. Additionally, some of the larger U.S. oil companies can qualify for the 30,000 barrels per day or less exemption. Indeed, Standard Oil of Ohio reported domestic crude oil production of 25,000 barrels per day in 1973.

THE AMENDMENT DISCOURAGES THE REOPENING OF MANY ABANDONED WELLS

Despite the Dingell-Eckhardt amendment exploration and discovery efforts on the part of nonmajors may be encouraged because any new oil finds can be sold at market-determined prices. The fact remains that the amendment provides no incentive for the majors to seek oil in many marginal areas. Right now we need to stimulate production from all sources.

However, the establishment of the 1972 base production period may effectively discourage the reopening of older wells. For example, suppose a stripper well pumped five barrels a day during 1972. It was then closed in early 1973 because production dropped to 3 barrels per day. If that well were to be reopened under this amendment, its three barrels would be sold at controlled prices. Only if production topped 5 barrels per day could the small amount of additional crude qualify for market prices. Currently, the $10 per barrel price provides the incentive to operate the well. This amendment would shut it down.

The National Stripper Well Association estimates that there are many thousands of currently abandoned stripper wells. It projects that the $10 per barrel price will reactivate many of these wells with a total daily output of 250,000 barrels per day or more. Materials shortages and uncertainty over what Congress will do is holding up these efforts. The reopening of old wells can quickly supplement oil supplies where exploration and drilling activities take considerable time.

In summary, this amendment cannot reduce consumer fuel prices, it will not significantly affect the profits of the international oil giants, and it can discourage the opening of many abandoned wells. It does provide a spur to exploration and drilling although these efforts require time to bear fruit. The amendment appears to be an attempt to mildly slap the majors on the hand, minimize impact on medium and small producers, and provide a little window dressing for irate constituents.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will listen to this proposition for a moment, the stripper wells were not covered under this act, they are not covered under the Dingell amendment, and they are not covered under my amendment to the Dingell amendment.

The example which the gentleman gave of a well that was a stripper well which went out of production and came back into production is this: It is simply exempted from the Allocation Act and from the Economic Stabilization Act. There is nothing under this act which alters the exemption of stripper well coverage in those original acts. The stripper wells are excluded from this act, as is the other production.

Mr. ANDERSON of Illinois. Mr. Chairman, I will not yield further.

I think this simply illustrates the danger of legislating in this manner, adopting this kind of an amendment in this fashion on this floor, because as I read and interpret that amendment, if that well was closed down, unless it exceeds the original production and gets back up to more than five barrels a day, that oil is going to be classified as new oil. Therefore it is going to be rolled back.

Mr. ECKHARDT. If the gentleman will yield further, that is absolutely incorrect. The definition of a stripper well in the Allocation Act which was before our committee is a well producing less than 10 barrels per day.

Mr. ANDERSON of Illinois. The gentleman is now not speaking of this act; he is speaking of the earlier act that was passed in December of last year.

Mr. ECKHARDT. Through the colloquy of myself, Mr. HORTON, and Mr. HOLIFIELD, it was clearly established that this act does not give any additional authority beyond the authority which existed in the previous act.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOSS. I move to strike the necessary number of words.

I would point out, Mr. Chairman, to those very anxious and nervous colleagues who were not present here during the debate today or yesterday that their haste ill becomes them, as the effort to knock out this rollback provision ill becomes this House. We have been told that we face a stalemate, and that means, of course, that we are stopped because two parties come into disagreement. The rollback provision in this bill is significantly different than the rollback provision in the bill vetoed by the President, but I do not believe that in order to resolve that stalemate, if it continues, that it is incumbent upon this House that it yield totally to the Executive. Yet that is precisely what it is being urged to do.

Maybe the Members do not get the message, but I can tell them that the disenchantment with the Congress arises over its ready willingness to grant blank-check authority to the Executive and to avoid making any determined definition of policy on its own part. Some of that criticism has come in recent days from some of my distinguished colleagues on this side of the aisle. They cannot have it both ways. They cannot criticize us for not paying attention to the details of legislation, and at the same time criticize us for just unburdening everything onto the President. I do not want to unburden everything onto the President, or the Administrator.

If there is to be a rollback, I want it to be a rollback mandated here. I would prefer that there was much more detail in this legislation. I believe that we have a responsibility as a legislative body to give directions.

I do not know who is going to be in the Office of the Administrator of Energy in the next week. I can tell the Members, though, that when I was a boy in school, we used to have the "Simon says" sayings. I have been listening to Simon's sayings for quite a number of days, and Simon has been saying clearly and loudly that we need to give 2 cents more here, 4 cents more here, and 5 cents more here. I have yet to hear Simon say a single, damned word that makes sense about resolving scarcity or dealing with the need for more equitable distribution of supplies. But I do know that lines grow longer across this Nation.

Prices escalate ever higher. My friend from California (Mr. HOLIFIELD) says 67 cents. Up my way it is 69 cents, 69.9 cents a gallon for gasoline, and it is going to keep going higher. If Mr. Simon continues to say, my judgment is that he will resolve the problem of scarcity by a dollar a gallon gasoline and that will cause enough of the lower paid portion of our economy to move out of the market so that they will not be demanding gas. It will take some of the more comfortable ones and reduce significantly their ability to demand gas.

We are yielding here not only to Mr. Simon says and the entreaties of the chairman of the committee not to do anything to thwart the President's demand that we let him dot the "i's" and cross the "t's," but we are ignoring the needs of the American people.

Mr. RHODES. Mr. Chairman, I would like to remind my good friend from California who preceded me in the well that this is not the last bill we are going to have on energy. This is a housekeeping bill. It is not an energy bill. It is a bill to provide a means for the Federal Energy Administration to get going. If we want to take care of prices, if we want to take care of excess profits, we will have plenty of chance to do it. This is not the proper vehicle.

Mr. Simon, whose name has been kicked around on the floor by many of the Members here, said to me the other day, "You know, I used to think I was a good administrator and I would be if I had anybody to administer." Actually, he said, "I have been unable to recruit people to do this job."

He is working many hours a day and many of his staff, who have come with him on loan, are actually working many hours a day. Mr. Simon is having difficulty recruiting staff because the Federal Energy Office right now is operating under a mere Executive order.

What this bill seeks to do is give FEA a reason for being, so that people can come aboard and do the very important job we need to do. We need to conserve energy. We need to make rules and regulations for conservation and utilization of energy. We need to do the planning which is necessary to develop new sources of energy for this country.

We do not want to keep this country in the posture of trying to divide a scarcity. What we want to do is put it in a position where there will be plenty of energy for everybody. An essential first step to accomplish this is the enactment of this bill for the Federal Energy Administration.

Now, as I mentioned, there will be other bills coming along. I think that the way to deal with excess profits is to do it in the ordinary way. The Committee on Ways and Means, I am told, is working very hard on a bill to control excess profits resulting from the energy crisis.

I submit, Mr. Chairman, that this is the way to handle this problem. After all, we should not deal with prices so much as we should deal with excess profits. I say that all profit is not excess and all profit is not bad. If we are going to do the things in this country, and make the investments which we must do in order to provide the energy sources for the future which we must have, it will be necessary to invest some $20 billion within the next few years in refineries and new wells and the like. We cannot do that unless we make some profits; so the way to measure whether or not these companies have overcharged is not by what they make today or what the prices are, but what the profit is at the end of the year.

This is the type of bill which the Committee on Ways and Means will bring out and which I dare say will definitely result in reduction of the cost of gasoline to the consumer.

But, it will result in reduction in cost without reduction in gasoline. May I again remind my colleagues that what we are trying to do in this country right now is to produce more energy, to produce more gasoline; not to produce less. Frankly, I do not know of any way to produce more by rolling prices back at this particular stage of the game. It may be that prices are going too high, but if they have, we handle it in the ordinary way by excess profits tax, which I am sure the Ways and Means Committee will bring out and which I am sure the House will pass and the Senate will adopt.

Mr. Chairman, let me just say one thing about the attitude of other people, who are not Members of this body, on this bill. I have been trying to find out today if the rollback amendment is acceptable. I find it is not acceptable. It is similar to the provision which caused the veto of the Emergency Energy bill.

I do not think the people of this country want another veto. I think they want legislation. I think they want more gasoline and more energy. This is not yielding to the executive, because, as my good friend from California knows, if there is a necessity to bring out a bill to roll back prices later on, he will have the vehicle to do it. Do not do it on a housekeeping bill. That is all I ask.

Mr. FREY. Mr. Chairman, will the gentleman yield?

Mr. RHODES. Mr. Chairman, I yield to the gentleman from Florida.

Mr. FREY. Mr. Chairman, I thank the gentleman from Arizona for yielding to me.

Mr. Chairman, I have supported the rollback provisions, and frankly was ready to override the veto. However, it appears at this point that we are at a point where we have the basic choice of either killing this legislation or passing it and at least getting something we can go to the American people with.

This does not mean that I have changed my desire to have a rollback. I believe in this, but I do not necessarily think we can get there from here. Let us take what we can, and let us go back again as far as I am concerned and roll back in another provision.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, to pass this bill without passing the amendment that has to do with the rollback is to create a cornucopia without fruit; is to produce a watchdog without teeth; to produce an automobile without a gasoline tank.

We can talk all we want to about it being just a vehicle, but the people of the United States are prepared now for us to produce a vehicle which carries something to them.

Mr. Chairman, it is somewhat difficult for me, a Member from the Southwest, to take this odd position and to talk in favor of a rollback, but I think it is necessary for every Member of this House to try to weigh the equities involved in the nature of a rollback which we put into effect. It must do two things. It must cut back prices of gasoline and of diesel fuel that is used in trucks, the diesel fuel that is costing the fishermen of my coast so much money that they are going out of business unless something is done.

Therefore, I am for a rollback. I voted for a rollback in the Committee of the Whole. I shall vote for a rollback here in the full House, but when I support that rollback, I want to answer the legitimate contentions that have been made by elements of the oil industry, and have indeed been made by the President of the United States.

That is, that such a rollback should not prevent those who produce 80 percent of the new oil, those who run the risk of exploration, from continuing to run that risk and continuing to gain the capital necessary in order to bring that deep oil up, to bring in oil from offshore.

Now, I know that my good friend, the gentleman from Kentucky, is going to say that 30,000 barrels a day is a "pretty big man." Sure it is. But it is a puny midget compared to the major oil companies.

I am not here to support persons in the oil industry merely because they are little. I am here to try to support a competitive oil industry, in which an oligopoly composed of a few giant oil companies is controlling the production of oil and cutting off the flow of oil from overseas.

Incidentally, the New York Times recently ran an article saying that foreign production in foreign ships controlled by U.S. corporations was standing off in the harbor of New York and the oil oligopoly was refusing to deliver that oil because they did not like the allocation provisions of our law.

I am for creating a situation in which we have healthy competition with those major companies. That is the reason I offered the Eckhardt amendment to the Dingell amendment. I think it is the answer to the problem of bringing oil to the surface.

Mr. Chairman, I believe it is a good bill, and I believe this is a good amendment.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I wish to correct my colleagues. There are certain facts which I regret the ranking minority member did not understand and which his colleagues do not understand.

First of all, the amendment does not cover stripper oil. That should be plain.

Second of all, it decontrols new oil produced by everyone who produces less than 30,000 barrels a day. This will provide an incentive, as the gentleman from Texas has pointed out.

Last of all, it will provide a significant rollback on old oil which must continue to be produced and even continue to be produced by those whose oil would be decontrolled by the Dingell-Eckhardt amendment.

Last of all, it does something else: It rolls back prices, which it does fairly. It rolls them back to what the Administrator of FEO has said is the long-term price of oil. It will save the American people something like $4 billion a year. It will roll back the cost of gasoline about 4 cents a gallon.

That is what it does, and if the Members have heard complaints about inadequacy of supply, they can say it is going to stimulate new production and it is not going to decrease production. We get the best of all worlds under this amendment.

Mr. CARTER. Mr. Chairman, I move to strike the last word in order to answer the gentleman.

The CHAIRMAN. Is the gentleman seeking recognition?

Mr. CARTER. I am, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. CARTER. Mr. Chairman, as the House well knows, I have voted for every rollback until the present time. I voted for the rollback yesterday, but I find to my sorrow that I was wrong. I want to tell the Members why.

This so-called Dingell-Eckhardt amendment would exempt 30,000 barrels a day for one company. They say that is not much.

I want to tell the Members that the largest oil well in Texas, Old Spindletop, produced 25,000 barrels per day. This is big production, and right there is a loophole through which you could throw the entire Capitol if it were possible.

It is a tremendously bad amendment. It is not, as they say, a rollback at all.

Now, let me go into the figures concerning this. Thirty thousand barrels a day would mean 900,000 barrels in 1 month, and in 1 year, it would mean 10.8 million barrels, and if it is selling at $10 a barrel, it would be $108 million for one 30,000-barrel-a-day production, and one company.

I submit to the Members that there are 50 to 100 of these producers in the United States today, and that the profit for one producer in a year would be $72 million, and for 100 such producers it would be $7.2 billion.

For that reason, my friends, I say to you that this rollback is not a true rollback, and I mean it from here—the heart. If you will come up with a true rollback, I will vote for it as I have voted for others, but this is not a true rollback.

I do say that it is an escape valve for many large oil companies throughout the country. You know, we could listen to some of our lawyers here. They know how to hunt loopholes and find them. I say that this is a loophole for the large companies.

Therefore, today I am going to vote against this because it is not a true rollback. I urge the people of this House who really know the feeling of the people in this country to vote against this amendment if it is brought up for a separate vote.

Mr. MILFORD. Will the gentleman yield?

Mr. CARTER. I am glad to yield to the gentleman.

Mr. MILFORD. Will the gentleman be able to tell me what companies he is talking about? In Texas the average stripper wells take about 8 barrels a day.

Mr. CARTER. We are not talking about strippers in this case. I thought it was necessary to bring this up and clear the air on it, because I feel you should know the truth on this matter and I am telling you the truth.

Mr. ANDERSON of Illinois. Will the gentleman yield?

Mr. CARTER. I yield to the gentleman.

Mr. ANDERSON of Illinois. I want to congratulate the gentleman on his frank statement and also point out that Standard Oil of Ohio reported domestic crude oil production of 25,000 barrels per day in 1973. So your famous Dingell-Eckhardt amendment would mean that a big producer like Standard Oil of Ohio is in the clear.

Mr. GIBBONS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know everybody wants to vote and I know it is time to quit and I am very reluctant to enter into this debate at this late hour. However, I am going to take my full 5 minutes, so you may as well listen just a little bit, if you will, please.

Mr. Chairman, I have been sitting in the Committee on Ways and Means all of this week and all of last week and really almost since before the Christmas holidays during the period that we have been working on this problem of energy production and taxation. I know it is a very complicated problem.

When I first started on this problem I voted for a rollback, back in December I think it was. I have come to the conclusion that that was an unwise vote.

I hope that if you do not want to listen to all I have to say, you will at least take advantage of all the hours I spent sitting and thinking and listening to other people arguing about this.

We have tinkered around with our wonderful capitalistic system so long that we have overmedicated the baby and have gotten ourselves into a mess. The mess we find ourselves in right now is that we cannot get a piece of legislation passed by which we can move forward. We need to do that. We need to separate our problems and deal with them one at a time. So, if for no other reason, I believe we should separate the rollback from this particular problem and move ahead, but I am convinced the wisest thing to do with the petroleum and energy companies is to tax them just as we do other businesses in the United States and not separate them out or do anything else to them. I am going to stick to that principle and try to make it possible for the Members of this Congress to vote like that when we get an energy bill from the Ways and Means Committee.

I think that is the wisest and soundest way to proceed. I think the less we begin to monkey around with this system and let the system work, the better off we will be.

So I would urge all of the Members who are interested in getting an increased gasoline supply for the consumers as rapidly as possible, and to get on with the production of more fuel so as to make us as nearly self-sufficient as we can possibly become, to quit tinkering with the system.

I think that the Committee on Ways and Means is going to come out with a sound proposal, and one that will allow us to start to tax these oil companies like everybody else is taxed. And that is the real problem when it come to the petroleum corporations. We cannot regulate the price of the oil because the price is set on the world market, and it is set by demand and supply. We have been fooling around with this for a year now, and it has not worked. Each time we have fooled around with it we seem to dig ourselves in deeper. I say to my colleagues let us vote down the amendment offered by the gentleman from Michigan (Mr. DINGELL) and let us get on with the business. I pledge to the Members that I will try to get a bill out here by which we can tax these oil companies as they ought to be taxed, and I think that we are about to get such a bill.

Mr. ROUSSELOT. Mr. Chairman, today we are being asked to pass H.R. 11793, the proposed Federal Energy Administration Act. Passage of this legislation would supposedly, "conserve scarce energy supplies, insure fair and reasonable consumer prices for such supplies, promote the expansion of readily-usable energy sources, and assist in developing policies and plans to meet the energy needs of the Nation."

Mr. Chairman, there are many reasons why I rise in opposition to H.R. 11793. Let me outline a few: first this Congress is again going to be responsible—if this bill passes, and it appears it will—for creating an agency that will do constant battle with the free market system and will hamstring the ability to provide adequate supplies of energy to consumers in this country; second, it is basically, an anti-free-market bill; third, the Members of this House well know that there are already too many laws on the books in this field. Over-legislation kill by the Federal Government, and a bloated Federal bureaucracy, have contributed to the energy-shortage problems, not solved them. This bill we are asked to vote for today moves in precisely the wrong direction by strangling the very system that has produced the lowest prices of any nation in the world; fourth, in my judgment, this bill, in the name of protecting the consumer, is really basically anticonsumer in that it takes away the decisionmaking power of the consumer and gives this power to the Federal Government.

In a free market the consumer is king. I only wish that all Members of the House had taken the time to read carefully all 38 pages of this legislation because there are numerous phrases transfering vast amounts of power to this agency. And, fifth, the alternative to this bill is the free market system, and the Congress should be working actively to allow this free enterprise system to work instead of constantly finding ways of hamstringing and interrupting it.

Mr. ROY. Mr. Chairman, I strongly support the amendment offered by my distinguished colleague (Mr. ALEXANDER), which establishes May 15, 1973, as the base period price for propane.

This amendment will correct the unfair and inequitable burden being borne by propane consumers in Kansas and throughout the country. Over the course of the past year, propane users have been confronted with skyrocketing price increases, in some instances as much as 520 percent, of this fuel.

Ironically, these price increases have come not as a result of any shortage in the supply of propane; nor have they come as a result of any distribution problems. Rather, the soaring propane price increases have come as a result of the pricing policies initiated by the Cost of Living Council and the Federal Energy Office.

Up until a few weeks ago, the pricing regulations governing propane permitted refiners to pass through added production costs—totally unrelated to the production of propane—to propane consumers. In effect, propane users have been underwriting the production costs of other fuels.

Needless to say, this has placed a patently inequitable burden upon the shoulders of propane users. I know in Kansas, a vast majority of rural residents use this fuel to heat their homes, harvest their crops, power their trucks, and dry their grain. The Federal Government, through these regulations, has been asking this segment of the population, as well as individuals living on fixed incomes, to assume the additional costs tacked onto propane prices.

On February 4, I introduced legislation to correct this situation. While my bill differed from the amendment before us now in that it established a base period reflecting the highest price of the refiner between December 1, 1972, and January 31, 1973, I think that the May 15, 1973, date is quite workable, and will have the effect of reducing propane prices throughout the country.

On February 5, some 51 of my colleagues joined me in an appeal to Federal Energy Office Administrator, William E. Simon, for FEO to go beyond its February 1 propane pricing regulations which froze the price of propane at its highest level in history. FEO did respond to our collective concern with a "clarification" of its regulations. However, propane prices still have not been reduced to the levels that had been anticipated.

I feel that a permanent legislative solution is warranted. Mr. ALEXANDER'S amendment offers the needed relief to propane users in Kansas and throughout the country. I rise in support of this amendment.

The CHAIRMAN. If there are no further amendments, to be offered, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FLYNT, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee having had under consideration the bill (H.R. 11793) to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions, pursuant to House Resolution 788, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole?

Mr. HOLIFIELD. Mr. Speaker, I demand a separate vote on the amendment at page 19 at the end of line 7, which was offered by the gentleman from Michigan (Mr. DINGELL) as amended by the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The SPEAKER. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 19 at the end of line 7 strike the semicolon and add the following: 'The Administrator, in exercising the functions transferred by this Act, may not fix the price for domestic crude oil higher than the price prevailing in the United States on May 15, 1973, plus $1.30 per barrel; or $5.25 per barrel plus 35 per centum thereof, if he finds it consistent with the purposes of this Act, *provided however*, That no limitation on mandate contained herein shall apply to or affect any producer of new crude petroleum who, together with all persons who control, or are controlled by or under common control with such producer, produces net to his working interests not more than 30,000 barrels of crude oil per day, so as to prevent such producer from selling that new crude petroleum without respect to the ceiling price. However, if the amount of crude petroleum produced and sold in any month subsequent to the effective date of this section is less than the base production control level for that property for that month, any new crude petroleum produced from that property during any subsequent month may not be sold pursuant to this paragraph until an amount of the new crude petroleum equal to the difference between the amount of crude petroleum actually produced from that property during the earlier month and the base production control level for that property for the earlier month has been sold at or below its ceiling price.

(2) For the purposes of this subsection, (A) the term "base production control level" for a particular month for a particular property means:

(i) if crude petroleum was produced and sold from that property in every month of 1972, the total number of barrels of domestic crude petroleum produced and sold from that property in the same month of 1972;

(ii) if crude petroleum was not produced and sold from that property in every month of 1972, the total number of barrels of domestic crude petroleum produced and sold from that property in 1972 divided by 12.

(B) the term "property" means the right which arises from a lease or from a fee interest to produce domestic crude petroleum.

(C) the term "new crude petroleum" means the total number of barrels of domestic crude petroleum produced and sold from a property in a specific month less the base production control level for that property.

Mr. HORTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ECKHARDT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 163, noes 216, not voting 52, as follows:

[Roll No. 70]

AYES—163

Abdnor
Abzug
Adams
Addabbo
Andrews, N. Dak.
Annunzio
Aspin
Barrett
Bennett
Bevill
Biaggi
Biester
Bingham
Blatnik
Boland
Brademas
Breckinridge
Brinkley
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Carney, Ohio
Chisholm
Clancy
Clark
Cohen
Conte
Conyers
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Delaney
Denholm
Dent
Dingell
Donohue
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Fish
Flood
Foley
Ford
Gaydos
Giaimo
Gilman
Ginn
Grasso
Green, Pa.
Grover
Gude
Gunter
Hanley
Harrington
Harsha
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Holtzman
Howard
Hungate
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kluczynski
Koch
Kyros
Latta
Leggett
Lent
Lujan
Luken
McDade
Macdonald
Madden
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Metcalfe
Mezvinsky
Miller
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Morgan
Moss
Murphy, Ill.
Murtha
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
Owens
Patten
Perkins
Peyser
Pike
Price, Ill.
Rangel
Rees
Regula
Reuss
Riegle
Rinaldo
Rodino
Roe
Rogers
Roncallo, N.Y.
Rooney, Pa.
Roush
Roy
St Germain
Sarasin
Sarbanes
Scherle
Schroeder
Seiberling
Sikes
Slack
Snyder
Staggers
Stanton, James V.
Stark
Steele
Stokes
Stubblefield
Stuckey
Studds
Symington
Thompson, N.J.
Thone
Tiernan
Udall
Van Deerlin
Vander Veen
Vanik
Vigorito
Waldie
Walsh
Wampler
Whalen
Wilson, Charles H., Calif.
Wolff
Wylie
Yates
Yatron
Young, Ga.
Zablocki

NOES—216

Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Archer
Arends
Ashbrook
Ashley
Bafalis
Baker
Bauman
Beard
Bergland
Blackburn
Boggs
Bolling
Bowen
Bray
Breaux
Broomfield
Brotzman
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clawson, Del
Cleveland
Cochran
Collier
Collins, Tex.
Conable
Conlan
Corman
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Dorn
Downing
Duncan
du Pont
Edwards, Ala.
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fisher
Flowers
Flynt
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gettys
Gibbons
Goldwater
Gonzalez
Goodling
Gray
Green, Oreg.
Gross
Gubser
Guyer
Haley
Hamilton
Hammerschmidt
Hanrahan
Hansen, Idaho
Hansen, Wash.
Hastings
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Hosmer
Huber
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Kazen
Kemp
Ketchum
King
Kuykendall
Landgrebe
Landrum
Lehman
Litton
Long, La.
Long, Md.
Lott
McClory
McCloskey
McCollister

McCormack
McEwen
McFall
McKay
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mayne
Melcher
Michel
Milford
Minshall, Ohio
Mizell
Moorhead, Calif.
Moorhead, Pa.
Mosher
Myers
O'Brien
Parris
Passman
Patman
Pepper
Pettis
Poage
Powell, Ohio
Preyer
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Rarick
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Roncalio, Wyo.
Rose
Rousselot
Roybal
Runnels
Ruppe
Ruth
Ryan
Sandman
Satterfield
Schneebeli
Sebelius
Shipley
Shriver
Shuster
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Spence
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thomson, Wis.
Thornton
Towell, Nev.
Ullman
Vander Jagt
Veysey
Waggonner
White
Whitten
Widnall
Wilson, Bob
Winn
Wright
Wydler
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zion
Zwach

NOT VOTING—52

Armstrong
Badillo
Bell
Brasco
Brooks
Brown, Ohio
Burton
Camp
Carey, N.Y.
Clausen, Don H.
Clay
Collins, Ill.
de la Garza
Dellums
Diggs
Fraser
Fulton
Griffiths
Hanna
Hawkins
Hays
Hébert
Henderson
Hudnut
Hunt
Jones, Okla.
Karth
McKinney
McSpadden
Mills
Montgomery
Murphy, N.Y.
Nelsen
O'Neill
Pickle
Podell
Randall
Reid
Rooney, N.Y.
Rosenthal
Rostenkowski
Shoup
Stratton
Sullivan
Teague
Treen
Ware
Whitehurst
Wiggins
Williams
Wilson, Charles, Tex.
Wyatt

So the amendment was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Hays for, with Mr. de la Garza against.

Mr. Murphy of New York for, with Mr. Montgomery against.

Mr. Rooney of New York for, with Mr. Hébert against.

Mr. O'Neill for, with Mr. Pickle against.

Mr. Brasco for, with Mr. Brooks against.

Mr. Clay for, with Mrs. Griffiths against.

Mr. Podell for, with Mr. Hanna against.

Mr. Reid for, with Mr. Teague against.

Mr. Rosenthal for, with Mr. Charles Wilson of Texas against.

Mr. Rostenkowski for, with Mr. McSpadden against.

Mr. McKinney for, with Mr. Ware against.

Mr. Williams for, with Mr. Wyatt against.

Mr. Fulton for, with Mr. Shoup against.

Mr. Badillo for, with Mr. Camp against.

Mr. Carey of New York for, with Mr. Brown of Ohio against.

Mrs. Collins of Illinois for, with Mr. Don H. Clausen against.

Mr. Burton for, with Mr. Treen against.

Mr. Dellums for, with Mr. Henderson against.

Mr. Hawkins for, with Mr. Karth against.

Mr. Diggs for, with Mr. Wiggins against.

Until further notice:

Mr. Randall with Mr. Fraser.

Mrs. Sullivan with Mr. Stratton.

Mr. Jones of Oklahoma with Mr. Mills.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the amendment in the nature of a substitute reported from the Committee of the Whole House on the State of the Union.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ROUSSELOT. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ROUSSELOT moves to recommit the bill H.R. 11793 to the Committee on Government Operations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HORTON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 353, noes 29, not voting 49, as follows:

[Roll No. 71]

AYES—353

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashley
Aspin
Bafalis
Baker
Barrett
Beard
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Breaux
Breckinridge
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Butler
Byron
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clark
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hungate
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murtha
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pike
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Roush
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stubblefield
Stuckey
Studds
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Whalen
White
Whitten
Widnall
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wolff
Wright
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NOES—29

Ashbrook
Bauman
Blackburn
Bray
Brinkley
Burleson, Tex.
Clancy
Collins, Tex.
Crane
Denholm
Dorn
Eckhardt
Gross
Hicks
Jordan
Landgrebe
Mathis, Ga.
Melcher
Moss
Owens
Poage
Rarick
Rousselot
Schroeder
Seiberling
Spence
Symms
Teague
Thornton

NOT VOTING—49

Armstrong
Badillo
Bell
Brasco
Brooks
Burton
Camp
Carey, N.Y.
Clausen, Don H.
Clay
Collins, Ill.
de la Garza
Dellums
Fraser
Fulton
Griffiths
Hawkins
Hays
Hébert
Henderson
Hudnut
Hunt
Jones, Okla.
Karth
McKinney
McSpadden
Mills
Montgomery
Murphy, N.Y.
Nelsen
O'Brien
O'Neill
Pickle
Podell
Randall
Reid
Rooney, N.Y.
Rosenthal
Rostenkowski
Shoup
Stratton
Sullivan
Treen
Ware
Whitehurst
Wiggins
Williams
Wilson, Charles, Tex.
Wyatt

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hays for, with Mr. Dellums against.

Mr. O'Neill for, with Mr. de la Garza against.

Until further notice:

Mr. Hébert with Mrs. Griffiths.

Mr. Rooney of New York with Mr. Hawkins.

Mr. Rostenkowski with Mr. Rosenthal.

Mr. Murphy of New York with Mrs. Sullivan.

Mr. Brasco with Mr. Clay.

Mr. Fulton with Mr. Burton.

Mr. Henderson with Mr. Montgomery.

Mr. Pickle with Mr. Podell.

Mr. Fraser with Mr. Carey of New York.

Mr. Brooks with Mr. Mills.

Mr. Hunt with Mr. Nelsen.

Mr. O'Brien with Mr. Wyatt.

Mr. McKinney with Mr. Ware.

Mr. Hudnut with Mr. Wiggins.

Mr. Whitehurst with Mr. Williams.

Mr. Reid with Mr. McSpadden.

Mr. Randall with Mr. Jones of Oklahoma.

Mr. Badillo with Mr. Charles Wilson of Texas.

Mr. Stratton with Mr. Don H. Clausen.

Mrs. Collins of Illinois with Mr. Camp.

Mr. Karth with Mr. Shoup.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 11793

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in punctuation, section and subsection numbers, and cross references in the engrossment of H.R. 11793.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to ask the distinguished majority leader if he could inform the House of the program for the rest of this week and next week.

Mr. McFALL. Mr. Speaker, if the distinguished majority leader will yield for that purpose, there is no further legislative business today and at the close of the announcement of the program for next week I will ask unanimous consent to go over until Monday.

The program for the House of Representatives for next week is as follows:

On Monday, District day, there are no District bills, and there will be a series of committee funding resolutions as follows:

House Resolution 778, funds for the Committee on Merchant Marine and Fisheries;

House Resolution 789, funds for the Committee on Veterans' Affairs;

House Resolution 790, funds for the Committee on Armed Services;

House Resolution 793, funds for the Committee on Science and Astronautics;

House Resolution 797, funds for the Committee on House Administration;

House Resolution 800, funds for the Committee on Banking and Currency;

House Resolution 810, funds for the Committee on Agriculture;

House Resolution 814, funds for the Committee on Post Office and Civil Service;

House Resolution 846, funds for the Committee on Government Operations; and

House Resolution 855, funds for the Committee on Education and Labor.

On Tuesday, we will consider H.R. 69, Elementary and Secondary Education Act Amendment, general debate only with a modified open rule and 4 hours of general debate. We will be unable to complete the bill because of the rule that was granted until the following week when we will begin the 5-minute rule.

Wednesday and the balance of the week, we will consider the following bills:

H.R. 12341, transfer of State Department property in Venice with an open rule and 1 hour of debate;

H.R. 12465, Foreign Service Buildings Act supplemental authorization with an open rule and 1 hour of debate;

H.R. 12466, State Department supplemental authorization, with an open rule, and 1 hour of debate;

H.R. 3858, Anti-Hijacking Act of 1973, subject to a rule being granted; and

H.R. 12471, Freedom of Information Act Amendment, subject to a rule being granted.

Conference reports may be brought up at any time and any further program will be announced later.

ADJOURNMENT OVER UNTIL MONDAY, MARCH 11, 1974

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourn today it adjourn until Monday, next.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. GROSS. Mr. Speaker, reserving the right to object, I assume that means the House will adjourn for this week without taking a vote on the pay increase bill for Members of Congress, the Federal Judiciary and the hoopla's in the executive branch of Government.

Mr. McFALL. The gentleman is correct. I would say in response to the gentleman's question that, sorrowfully, the whole thing was killed over in the Senate yesterday. It would be futile for us to try to revive it here on this side.

Mr. GROSS. Does the gentleman say that sorrowfully he is making this statement?

Mr. McFALL. Yes, sorrowfully it was killed on the other side. I am in favor of the pay raise. If I had an opportunity to vote for it on this side, I would have voted for it.

Mr. GROSS. I can say to my distinguished and good friend from California that there is sorrow on the part of some Members on this side that they have not had an opportunity to vote to kill this pay raise; but I thank the gentleman for his answer and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TAX RULING REVOKED IN BIG ITT MERGER

(Mr. MOSS asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include three news articles.)

Mr. MOSS. Mr. Speaker, in the morning papers today there was carried the story of the Internal Revenue Service's reversal of a ruling given in the ITT acquisition of Hartford Insurance.

I think it was clear from the beginning that ITT failed to meet the conditions imposed by IRS; but I think that the reversal of that ruling is due in a major measure to the dogged determined efforts of our colleague, the distinguished gentleman from Texas (Mr. PICKLE) who has not for one moment let up his efforts to bring about this reversal and it is a reversal in the public interest.

I enclose the following newspaper articles:

[From the Washington Post, Mar. 7, 1974]

Tax Ruling Revoked in Big ITT Merger

(By Morton Mintz)

The Internal Revenue Service yesterday revoked a controversial tax ruling that cleared the way in 1969 for International Telephone and Telegraph Corp. to acquire Hartford Fire Insurance Co.—the largest merger in American history—by allowing for a tax-free exchange of shares.

The rare IRS action was announced in New York by ITT, which immediately requested domestic stock exchanges to suspend trading in its stock until further notice.

The IRS action—taken less than six weeks before the statute of limitations was to expire—has jarring implications for ITT, which ranked ninth among industrial corporations in sales in 1972.

Stockholders became liable for deferred capital gains taxes of about $100 million, unless the revocation is successfully challenged in the courts, according to Reuben Robertson, III, a Ralph Nader aide who had asked the IRS in April 1972, to revoke the ruling.

However, the exchange of Hartford shares worth about $1 billion for ITT shares was accomplished with what Rep. Jake Pickle (D-Tex.), another persistent critic of the ruling, has called "extreme misrepresentation." If he is correct, experts say, stockholders could sue ITT for reimbursement. One group of Hartford stockholders is already litigating and is asking federal court in New York to unscramble the merger.

ITT said that it was in "complete disagreement" with the revocation, that it would promptly seek a court review, and that it expected to be sustained.

The company also said the ruling "will not affect the Hartford acquisition." Pickle said the effects of the IRS action on the merger are a matter of "pure speculation."

The revocation may trigger new congressional inquiries into how, in less than a week, ITT got a ruling that survived for two years in the face of a recommendation for reconsideration made a year ago by the IRS district office in New York and persistent attacks by such critics as Pickle and Robertson.

For ITT's chief executive officer, Harold S. Geneen, the revocation comes at a time when he is reportedly already a target of a bitter power struggle within the giant multinational firm.

Moreover, the office of the Watergate special prosecutor is known to be on the brink of obtaining indictments in connection with intervention by high Nixon administration officials to settle antitrust cases against ITT so as to preserve the ITT-Hartford merger.

Yesterday's IRS action was believed to be unrelated to the impending indictments, which are expected to involve a pledge by ITT of up to $400,000 for the 1972 Republican National Convention.

As part of the settlement, which was reached with the Justice Department on July 31, 1971, ITT consented to spin off Avis Rent-a-Car, of which it is a 52 per cent owner. Yesterday, the New York Stock Exchange said it had suspended trading in Avis—which emphasized that the ruling did not directly concern it—as well as ITT.

ITT common at the moment of suspension was selling for $27.875 a share, down from the Tuesday close of $28. The high during 1973–74 was $60.375.

The IRS refused to go beyond the revocation, saying that it never discussed either its private rulings or their withdrawal, which in this case is retroactive.

The ruling, which was made by the agency's national office here in October, 1969, was described by Pickle yesterday as "an example of laundering stock in a foreign country without full disclosure so that a tax liability could be avoided."

The ruling involved a block of 1,741,348 shares in Hartford that ITT proposed to sell to Mediobanca, an Italian bank, before Hartford stockholders were to vote on the merger. The IRS ruling served as an inducement to Hartford stockholders to vote for the merger, because—if the sale were in fact genuine—they would be freed from capital gains taxation.

The issue turned on whether the sale to Mediobanca was "unconditional," as required by law for the capital-gains advantage to be realized and as ITT claimed.

The Securities and Exchange Commission has never regarded the sale to Mediobanca as genuine. The New York office of the IRS was understood to have advised Washington last year that disclosure to stockholders and possibly to the IRS had been "inadequate."

[From the New York Times, Mar. 7, 1974]

IRS Revokes 1969 ITT Tax Ruling That Led to Hartford Fire Co. Merger: Action Could be Costly to Holders of Stock

(By E. W. Kenworthy)

WASHINGTON, March 6.—The Internal Revenue Service revoked today a tax ruling it gave the International Telephone and Telegraph Corporation in 1969 that enabled the multinational conglomerate to acquire the Hartford Fire Insurance Company a year later in the largest corporate merger in the nation's history.

The revocation of the ruling, which is retroactive, could cost shareholders who exchanged their shares of Hartford stock for I.T.T. stock and estimated $35-million to $100-million in capital gains taxes that had been deferred under the ruling.

The $1.5-billion Hartford Fire acquisition had long been planned by I.T.T.'s president, Harold S. Geneen, and he regarded the prize as the crown of the conglomerate empire he has put together in the last 15 years.

Revocation of the ruling was announced by I.T.T. today in New York and subsequently confirmed by the Revenue Service in Washington. Neither made any immediate comment.

I.T.T. said later that it was in "complete disagreement" with the action of the I.R.S. and that it would appeal the revocation in court.

In response to inquiries, it also said that it was satisfied that the revocation of the ruling would not affect the Hartford acquisition.

Tax regulations provide for revocation of a ruling if the I.R.S. decides that the original ruling was "in error" or "not in accord with the current views of the service."

However, tax lawyers pointed out here today that it was not usual for the I.R.S. to revoke a ruling retroactively, as it did today, unless it discovered that the taxpayer requesting the ruling had misstated or omitted "material facts" in its application, or unless facts subsequently developed by the I.R.S. proved to be "materially different" from the facts on which the ruling was based.

These lawyers said, further, that there was precedent for retroactive revocation of a ruling, but no precedent in such a massive case affecting so many stockholders in a merger.

Last April 17, the New York district office of the I.R.S. had recommended to the services's headquarters that the 1969 tax ruling, long a matter of controversy among tax lawyers, be revoked.

In the last three months, Representative J. J. Pickle, of Texas, who is the ranking Democrat of the investigations subcommittee of the House Commerce Committee, has been pressing Donald C. Alexander, I.R.S. Commissioner, to act on the New York office's recommendation. Mr. Pickle pointed out to Mr. Alexander that, unless the service acted by April 15, the statute of limitations would run out on the original ruling and no recovery of taxes would be possible.

Mr. Pickle asserted to Mr. Alexander that there was material in the files of the Securities and Exchange Commission that cast doubt on the legality of the 1969 ruling, and he raised the question as to whether the ruling had been made under White House pressure.

Mr. Pickle also asked Leon Jaworski, the special Watergate prosecutor, to look into circumstances surrounding the ruling and the possibility of political pressure on the I.R.S. Mr. Jaworski replied that he would do so. Mr. Pickle also asked the Congressional Joint Committee on Internal Revenue Taxation to look into the matter, and the committee is doing so.

FAVORITISM HAS NO PLACE

Today Mr. Pickle said:

"For months I have maintained that I.T.T. had not met the conditions of a 1969 I.R.S. tax ruling. The decision to revoke the ruling is one more step in restoring our people's faith in government. Favoritism has no place in our government processes."

Reuben B. Robertson, a lawyer associated with Ralph Nader, the consumer advocate, who unsuccessfully waged battles in state and Federal courts to prevent the merger, said:

"It must now be disclosed how I.T.T. managed to get this illegal ruling in the first place and what was the role of White House pressure on the I.R.S. We believe full Congressional hearings should now be held on this case."

I.T.T. said in its announcement that it had asked all domestic stock exchanges to suspend trading in the company's stock until further notice. The New York Stock Exchange announced suspension of trading in I.T.T. stock and its subsidiary, Avis, Inc.

I.T.T. said it would have a further statement when it was told the reasons behind the revocation. Last April, when I.T.T. announced that the New York office of the I.R.S. had recommended revocation, it said that a reversal of the ruling would result in a one-time charge "that would not be material to the ability of I.T.T. to continue its growth in sales and earnings." This statement was reaffirmed by a company spokesman today.

Unless charges of fraud are later brought by the Government and sustained in court action, it is thought unlikely that revocation of the tax ruling would not threaten the merger itself. The merger was finally approved by the Justice Department in a consent decree in July, 1971,—after the actual merger, and after the Government had brought suit to require I.T.T. to divest itself of Hartford and two other acquisitions.

The 1969 tax ruling was an integral part of I.T.T.'s strategy for the Hartford take-over. To get the necessary approval of Hartford shareholders, I.T.T. had devised a two-proned plan.

First, it would give Hartford shareholders a 28 per cent premium on the exchange of I.T.T. for Hartford stock. Second, it would ask the I.R.S. to rule the exchange not subject to immediate capital gains taxes.

The Tax Code provides for such a tax-free exchange on condition that the acquiring company "unconditionally" sell its own shares in the company to be acquired before the stockholders vote on the merger.

To pressure Hartford executives into agreeing to the merger, I.T.T. had bought 141,348 Hartford shares, 8 per cent of the outstanding stock. I.T.T. had paid prices often substantially above the going market price to acquire these shares, and an immediate sale to satisfy the law would have entailed a loss of about $3.2-million.

[From the New York Times, Feb. 26, 1974]

I.R.S. Cover-Up Charged On U.S. Favors for ITT; Representative Pickle, in Letter to Jaworski, Says Revenue Agency Refused To Divulge Tax Data on Disputed 1969 Takeover

(By E. W. Kenworthy)

WASHINGTON, February 25.—Representative J. J. Pickle has accused the Internal Revenue Service of playing a part in what he calls the "cover up" of Government favors extended to the International Telephone and Telegraph Corporation.

In a letter last Tuesday to the special Watergate prosecutor, Leon Jaworski, Mr. Pickle, Ranking Democrat of the House Commerce Subcommittee on Investigations charged that the revenue service "is refusing to divulge any information" on a controversial tax ruling in 1969. The ruling not only assured International Telephone's takeover of the Hartford Fire Insurance Company but also enabled the conglomerate to gain a large profit.

The subcommittee has been investigating all aspects of the merger.

Mr. Pickle charged that "for nearly one year" the national office of the tax agency had done "nothing with a recommendation [last April 17] from its New York office that the somewhat questionable, earlier ruling be revoked."

The Internal Revenue Service declined to comment on Mr. Pickle's letter to Mr. Jaworski and on another making the same charges to the Commissioner of Internal Revenue, Donald C. Alexander.

RULING APPEALED

However, the tax agency previously told Mr. Pickle that it would neither disclose the reasons for the recommendation of the New York district office, nor discuss any investigation as a result of it, nor make public "any final decision" reached.

Mr. Pickle told Mr. Jaworski that the revenue service, in refusing to give information, was extendng to tax rulings the requirement of the law that tax returns be kept confidential.

The agency's interpretation has been successfully attacked in the United States District Court here under the Freedom of Information Act. Last June, Judge Aubrey E. Robinson, Jr., held that rulings were not part of returns "but documents generated by the agency" and therefore subject to public disclosure. The tax agency has appealed the ruling.

Mr. Pickle concluded by asking Mr. Jaworski to investigate "for possible improper outside influence" in the original ruling and "for possible wrongful efforts to cover up this matter." Reminding the prosecutor that last Nov. 27 he had promised "to delve into all those areas of the I.T.&T. case where impropriety existed," Mr. Pickle urged haste. The statute of limitations will run out April 15. In a letter to Mr. Jaworski last November, Mr. Pickle suggested there had been "White House involvement" in the ruling.

The Texas Democrat attached to the letter to Mr. Jaworski another one written the same day to Commissioner Alexander. It said that "evidence mounts each day that Government favors were given to I.T.&T. on a quid quo basis," and asked "was your agency, and is your agency, part of this sad story?"

This was a reference to the purported pledge of $200,000 to $400,000 by I.T.&T. for the 1972 Republican National Convention. It came coincidentally with a settlement of an antitrust suit that allowed I.T.&T. to retain the Hartford Fire Insurance Company. It also referred to the fact that the Securities and Exchange Commission hastily removed some documents to keep them from Congressional committees. Those documents disclosed meetings that I.T.&T. officials had with administration officials.

"I would think," Mr. Pickle said, "that you would do everything in your power to remove the cloud hanging over the I.R.S. on this matter."

NO IMMEDIATE TAX

The ruling was connected with the conglomerate's plan to effect a merger by an exchange of the corporation and Hartford shares. To get the required approval of Hartford shareholders, the conglomerate had a two-part strategy. First, it would give Hartford shareholders a 28 per cent premium on the exchange. Second, it would ask the Internal Revenue Service to rule that the exchange would not be subject to an immediate capital gains tax.

The tax code provides for such a tax-free exchange if the acquiring company "unconditionally" sells its own shares in the acquired company before the stockholders vote on the merger.

Before the vote, I.T. & T. had acquired 1,741,348 Hartford shares. An immediate sale of these, however, would have entailed a loss of about $3.2-million because the conglomerate paid above-market prices to obtain them.

Therefore the corporation arranged a transaction with Mediobanca, an Italian bank, under which the bank would "buy" the shares without putting up any money and "resell" them later when the price rose, remit the proceeds and dividends to I.T. & T. and collect a fee for its service.

A $5.9 MILLION PROFIT

The tax agency took only seven days to approve this transaction as meeting the law's requirement for an immediate "unconditional" sale and to give the requested ruling. Many tax attorneys, including two former I.R.S. Commissioners who wish to remain anonymous, and also presumably lawyers in the New York district office, have regarded the transaction as a device to avoid the loss entailed in an immediate, unconditional sale by paying a "parking fee."

On Mediobanca's "resale," the timing of which was controlled by the conglomerate investment bankers, Lazard Freres, I.T. & T. made a profit of about $5.9-million after paying the bank a $2.1-mililon fee.

POSTPONEMENT OF URBAN MASS TRANSIT BILL HURTS MILLIONS OF URBAN DWELLERS

(Mr. BIAGGI asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BIAGGI. Mr. Speaker, it is with a deep sense of outrage and indignation that I rise to express my strong opposition to the arbitrary and tragic decision made yesterday by the House Rules Committee to indefinitely postpone consideration of the House-Senate Urban Mass Transit bill. This direct slap in the face to the millions of urban dwellers who depend so heavily on mass transportation cannot be tolerated.

This critical and urgently needed piece of legislation which had originally passed the House and the Senate and which had been the subject of extensive conference committee action, has been cynically destroyed by those who consider themselves to be the spokesmen of this body for determining the future of mass transit in this Nation.

What do we find to be the reasoning behind this decision? One of the more common objections to the bill was that it was weighted too heavily in the favor of big cities. Yet to that I inquire, where do the distinguished members of the committee think the majority of mass transit users reside? Perhaps the committee feels they are located in Calumet, Ind., or Oshkosh, Wis.

No, my fellow colleagues, they are located in New York, in Boston, and Chicago and even right here in Washington. Yet as a result of the committee's action, the people of these areas through their elected representatives will not even have the opportunity to vote upon legislation which would pump in desperately needed funds to keep these beleaguered systems in operation.

The desperate hand of the Nixon administration was felt in this decision. The President apparently feels that his version of a mass transit bill which will deprive our major cities of up to $80 million in mass transit operating subsidies is better. Perhaps it was coincidence that on Monday a $60 million grant for highway construction was awarded to Lake County, Ind., the same area which the distinguished chairman just happens to represent.

I resent these games of politics being played with the people of New York City and other major cities as the losers. There are less than 7 weeks left before an emergency loan provided by the New York State Legislature runs out, and with it so does the 35-cent New York City subway and bus fare. The likelihood then is that the fare will go to 60 cents which would be a fatal blow to this already ailing system.

As I consider the consequences of this decision on the millions of Americans who rely on mass transit, I wonder why it is so simple for other "special interest" bills to sail through the Rules Committee. Is it more important that we extend the boundaries of the Golden Gate National Recreation Area or perhaps establish the Big Cypress National Preserves? I say no. The future of our mass transit system is infinitely more important and I feel that the full House should have the opportunity to determine this. Therefore, I call upon the committee to reconsider this ill-founded decision and get this bill on the floor without further delay.

AD HOC COMMITTEE ON THE DOMESTIC AND INTERNATIONAL MONETARY EFFECT OF ENERGY AND OTHER NATURAL RESOURCE PRICING

(Mr. REES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. REES. Mr. Speaker, the Committee on Banking and Currency this morning authorized the creation of the Ad Hoc Committee on the Domestic and International Monetary Effect of Energy and Other Natural Resource Pricing.

With the advent of the $11.65 posted price for Arabian oil, we are facing a serious domestic and international monetary crisis.

If the Arab boycott were lifted today and the United States resumed normal exports of oil, the new pricing could result in a negative balance of payments for the United States of from $8 to $12 billion over the next 12 months. The effect is far more severe on most other importing countries because this country produces about 70 percent of its oil domestically.

It is estimated by economists for the International Monetary Fund that by 1980 the Persian Gulf countries could have control of as much as 70 percent of the world's international monetary reserves.

On the attached table 2b there is an estimate of OPEC country government revenues projected to 1980. What will these countries do with these increased funds? Most of the oil-exporting countries have small populations, so much of their revenues will be placed in investments outside their own countries. This could have a great effect on monetary movements and on the domestic economies of countries receiving the funds for internal investment.

There is the problem of the effect of negative balance of payments on currencies from oil importing countries, and the currencies' relationship with other currencies regarding international payments.

Table 5 is a projection of the oil import bill for developing countries. In most cases the economies of these countries would be bankrupted by the high cost of oil. Their hard currency reserves and their export earners simply will not take care of even the minimal necessary imports of oil.

The bankrupting of the economies of the developing countries would have an immediate adverse effect on the political stability of such countries faced with stagnated economies, unemployment, and starvation.

The purpose of the ad hoc subcommittee would be to study the present situation, project it into the future, and then see what policies might be designed to minimize the effect of pricing both domestically and internationally.

The subcommittee would also look into the other commodities which are imported by the United States, such as copper, tin, bauxite, and iron ore; first to ascertain if the same situation could exist as exists with the arbitrary price increases of the OPEC countries; and, second, to see what might be done to prevent this from occurring.

The first task of the subcommittee would be to gather all presently available pertinent information for publication into background papers. This will be essentially a staff undertaking utilizing the expertise of experts in the general field.

The committee would then have a series of seminar-type hearings, probably beginning in the summer.

Any policy decisions or specific legislation recommended by the ad hoc committee would be referred to the full Committee of Banking and Currency for reference to the appropriate legislative subcommittees. The table follows:

TABLE 5.—OIL IMPORT BILL OF DEVELOPING COUNTRIES: INCREMENTAL EXPENDITURES 1970–80 DUE TO THE EFFECT OF THE INCREASE IN PRICES SINCE 1970 ON INCREASED VOLUME [1]

[In millions of U.S. dollars]

	1970	1971	1972	1973	1974	1975 [2]			1980 [2]		
						Low	Medium	High	Low	Medium	High
Major exporters of manufactures:											
Fast-growing exporters:											
Brazil		55	96	222	1,085	1,255	1,300	1,340	2,360	2,965	3,585
Korea		32	52	148	850	1,090	1,125	1,165	2,155	2,690	3,245
Slow-growing exporters: Argentina		8	11	15	60	55	60	60	335	425	515
Large developing countries:											
India		40	74	203	1,090	1,330	1,380	1,425	2,895	3,600	4,290
Pakistan		11	18	42	210	235	245	250	385	475	565
Bangladesh		4	6	15	75	80	85	85	130	165	195
Other countries: [3]											
Uruguay		6	9	25	120	135	140	145	230	290	350
Turkey		18	32	77	425	505	520	540	960	1,175	1,400
Morocco		5	10	24	175	200	205	210	375	475	575
Ghana		2	4	11	55	65	70	70	120	150	180
Kenya		4	7	18	90	105	110	115	195	240	290
Sri Lanka		5	9	24	120	135	140	140	230	285	340
Philippines		27	45	118	580	670	690	715	1,110	1,390	1,665
Thailand		19	32	83	400	455	470	485	815	1,020	1,220
Sub-total, developing countries		240	405	1,025	5,335	6,315	6,540	6,745	12,295	15,345	18,415
Total, all developing countries		540	900	2,290	11,635	13,580	14,040	14,500	25,395	31,720	38,080

[1] The incremental expenditure is the difference in price between the base year and current year, multiplied by the quantity in the current year.

[2] Demand is assumed to be price inelastic. Foreign exchange constraints may necessitate reduction in some countries' oil imports.

[3] The 25 hardcore least developed countries would be included here. No example is given, as individually they are by their nature users of energy in an absolute sense although their oil import burden could be heavy in a relative sense.

Source: Bank estimates.

TABLE 28.—ESTIMATED OPEC [1] GOVERNMENT REVENUES, 1960–80

[In millions of U.S. dollars]

Country	1960	1965	1970	1971	1972	1973	1974	1975			1980		
								Low	Medium	High	Low	Medium	High
Saudi Arabia	355	655	1,200	2,101	2,988	4,915	19,400	22,150	22,850	23,500	36,300	43,450	50,550
Kuwait	465	671	895	1,439	1,600	2,130	7,945	8,450	8,700	9,000	10,250	12,250	14,300
Abu Dhabi [2]		33	233	418	538	1,035	4,800	6,400	6,550	6,750	12,400	14,750	17,150
Qatar	54	69	122	185	247	360	1,425	1,600	1,650	1,700	2,400	2,900	3,350
Iraq	266	375	521	840	802	1,465	5,900	7,300	7,550	7,750	13,650	16,750	19,800
Iran	285	522	1,093	1,934	2,423	3,885	14,930	16,600	17,100	17,600	25,650	30,700	35,750
Algeria [2]			381	440	680	1,095	3,700	4,100	4,250	4,350	4,750	5,750	6,700
Libya [2]		371	1,295	1,846	1,705	2,210	7,990	9,750	10,050	10,400	10,550	12,850	15,100
Nigeria [2]			410	883	1,200	1,950	6,960	8,250	8,500	8,700	11,350	14,250	17,100
Indonesia	(3)	(3)	185	284	480	830	2,150	2,100	2,200	2,300	2,400	2,950	3,500
Venezuela	877	1,135	1,404	1,751	1,933	2,800	10,010	10,200	10,550	10,850	12,100	14,500	16,900
Total	2,303	3,831	7,742	12,120	14,515	22,675	85,210	96,900	99,950	102,900	141,800	171,100	200,200

[1] In November 1973 Ecuador became a member of OPEC, and Gabon an associate member; they are not included in the present analysis.

[2] Libya and Abu Dhabi started production in 1961 and 1962 respectively. Algeria and Nigeria started production in 1958, but no comparable figures are available for them for the earlier years at this time.

[3] Not available.

Note: Compound annual growth—1960 to 1965, 10.7 percent; 1965 to 1970, 15.2 percent; 1972 to 1973, 56.2 percent; 1973 to 1974, 275.8 percent; 1970 to 1975, 65.0 percent; 1975 to 1980, low 7.9 percent, medium 11.3 percent, high 14.2 percent; 1973 to 1980, low 30.0 percent, medium 34.0 percent, high 36.0 percent.

Sources: 1960–70, Petroleum Information Foundation, 1971–80 Petroleum Economics Ltd. and bank estimates.

I add for the RECORD a copy of the resolution and also background material on the purpose of this Ad Hoc Committee.

Resolved that an *ad hoc* committee on the Domestic and International Monetary Effect of Energy and other Natural Resource Pricing as outlined in the attached proposal by Congressman Rees be established, that membership on the committee be divided on the party ratios as in the House and that necessary staffing, funding and travel authorization be set up by the Chairman consistent with the rules of the House and Committee on Banking and Currency.

VETERANS' EDUCATION AND REHABILITATION ACT

(Mr. CONLAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONLAN. Mr. Speaker, I want to take this opportunity to comment on the unanimous adoption in the House of H.R. 12628, the Veterans' Education and Rehabilitation Act.

Unfortunately, because of a long standing commitment in Arizona, I was not able to be present for the votes on final passage of this timely measure. I believe that this bill will help relieve the financial burdens facing veterans who want to pursue their educational and vocational training, and I support this effort.

Mr. Speaker, I wish to go on record that had I been present for Rollcall No. 34, the vote on final passage of H.R. 12628, I would have voted "yea."

PRESIDENTIAL COOPERATION

(Mr. WAGGONNER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker, after having read the accounts of the President's response through his attorney Mr. St. Clair in yesterday's court proceedings and after having listened to the President's press conference of last night, I can personally say that I am pleased that the President has pledged to cooperate with the inquiry being conducted by the House Judiciary Committee. This is all that a reasonable man can ask of the President. Undoubtedly, there will be some for whatever their reason, will say that the President ought to do more, but most of those people will not be satisfied with anything short of resignation or impeachment. I would suggest that they take note of the statement made by Special Prosecutor Jaworski on February 26 that the Office of the Special Prosecutor now knows the "full story" of the Watergate affair. Taking Mr. Jaworski's statement at face value—and I do not know of anyone who has questioned his veracity—it would seem, I am convinced, that the President has cooperated fully with the Special Prosecutor and has provided the information requested to complete the investigation.

ROSCOE C. PENNINGTON: A VALIANT NAVY MAN REMEMBERED

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, I am pleased to report to the House that the Navy will name an important new nuclear submarine training center after the late CPO Roscoe C. Pennington, who was a constituent of mine.

Chief Pennington was among 129 who were lost when the submarine *Thresher* went down on April 10, 1963, in the Atlantic off Boston. As many of our colleagues will recall, it was the worst peacetime submarine disaster in the history of the Navy.

On this coming April 10, the 11th anniversary of that tragedy, the Navy will dedicate Pennington Hall, a submarine ship control training facility at the Naval Submarine School in Groton, Conn.

Fittingly, the main speaker for this occasion will be Rear Adm. Dean L. Axene, the first commanding officer of the *Thresher* and now deputy chief of Naval education and training.

Guests will include Mrs. Pennington and their son Gregory, now 17 and a standout student and athlete at Francis Parker High School in San Diego.

Chief Pennington's last words to his then small son, by letter and phone, were, "Above all, get a good education."

Gregory took this advice to heart. He has been honored by inclusion in the 1973–74 edition of "Who's Who Among American High School Students" and contacted by some 50 colleges interested in having him enroll. On his way back to California, after the dedication ceremonies, he plans to stop off for a visit at one of those schools, the University of Notre Dame.

The new training center is an especially fitting memorial to Chief Pennington, for it is intended to assure that we never again have another catastrophe like the sinking of the *Thresher* and, 5 years later, the nuclear submarine *Scorpion*.

And the Navy could not have found a more appropriate individual to receive this honor than the late Chief Pennington.

Only 39 when he died, Mr. Pennington had spent 20 years in the Navy, with practically all of his career in submarines.

During World War II, he had extensive underseas combat duty.

In the early 1960's, with the introduction of nuclear power to the submarine force, Chief Pennington was among the first men selected to attend the early military and civilian nuclear power schools.

In June 1961, after completing nuclear power training, he was assigned as the *Thresher*'s leading chief reactor technician. Later that year, he was part of a team sent to the David Taylor Model Basin to evaluate the *Thresher*'s performance. He held numerous decorations and for a time traveled the country as a recruiter for the Navy's nuclear power program.

Pennington Hall, completed last month, will house eight nuclear submarine ship control trainers. The $500,000 facility was developed in specific response to the loss of the *Thresher* and *Scorpion*, in order to increase the effectiveness and safty of personnel picked for the nuclear submarine service. As I understand them, the trainers will simulate actual conditions at sea, and even anticipate problems in ship control systems.

At this point, I include a fact sheet prepared by the Navy on Pennington Hall which also recounts highlights of Chief Pennington's distinguished career:

Brief Sheet on Pennington Hall Dedication

Naval Submarine School,
Groton, Conn.

Pennington Hall, which will house eight nuclear submarine ship control trainers, was completed in February of this year. Dedication ceremonies are scheduled for 10 April 1974, in honor of those men lost in USS *Thresher* (SSN 593), and USS *Scorpion* (SSN 598). Rear Admiral Dean L. Axene, Deputy Chief of Naval Education and Training, first Commanding Officer of *Thresher*, will be the principal speaker.

Following the loss of *Thresher* and *Scorpion*, plans were formulated under the direction of the Chief of Naval Operations to institute an Emergency Ship Control Training Program to increase the effectiveness of safety of personnel serving in or destined for duty in high speed attack class nuclear submarines. The training devices which are installed in or planned for Pennington Hall will be utilized for the initial and advanced diving and ship control training for officers and enlisted men reporting to submarine duty. These realistic devices permit the simulation of ship control casualties and evolutions, some of which are either too dangerous or complex to routinely practice at sea. This new facility is to be named in honor of Chief Electrician's Mate (Submarine Qualified) Roscoe Cleveland Pennington, a veteran of twenty years service, who lost his life in the *Thresher* disaster.

Chief Petty Office Pennington was born 3 October 1924 in Fort Worth, Texas, where he attended local public schools prior to his entering the U.S. Navy in January 1943. Chief Petty Officer Pennington was assigned to submarine duty during World War II and participated in six war patrols in the submarines USS *Sea Dragon* (SS 194) and USS *Spikefish* (SS 404). He also served in the USS *Sea Dog* (SS 401), USS *Tilefish* (SS 307), USS *Cusk* (SS 348), USS *Chivo* (SS 341), and USS *Ronquil* (SS 396) and saw service in the Pacific area during the Korean conflict.

In May 1960 Chief Petty Officer Pennington was assigned to the Portsmouth Naval Shipyard where he served as Electrical Division Chief. With the introduction of nuclear power to the submarine force, Chief Petty Officer Pennington was one of the first to be selected to attend various military and civilian nuclear power schools. In June 1961, after completing nuclear power training, he was assigned as *Thresher's* Leading Chief Reactor Technician. In September of that same year he was sent to the David Taylor Model Basin where he assisted in evaluating *Thresher's* performance. Because of his outstanding performance of duty as a submariner and his knowledge of the submarine nuclear power program, Chief Petty Officer Pennington was selected as a member of a Submarine Force Motivation Team. The team toured the country to inform high school students of the opportunities available to them in the Navy's Nuclear Power Program.

During his twenty years of service, Chief Petty Officer Pennington was awarded the Submarine Combat Pin, Good Conduct Medal, Asiatic-Pacific Medal, American Theater Medal, American Defense Service Medal, Navy Occupation Medal with Asia Clasp, Korean Service Medal, National Defense Service Medal, and the World War II Victory Medal.

Chief Petty Officer Pennington's son Gregory, an honor student and varsity athlete at Francis W. Parker High School in San Diego, will be an honored guest at the dedication ceremony. Greg has been selected for inclusion in the 1973–74 edition of "Who's Who in American High School Students" and plans to enroll in college this fall.

THE DECLINE IN ETHICAL STANDARDS: A COMMENTARY ON THE INCREASING REJECTION OF PERSONAL RESPONSIBILITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Kemp) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, the New York State Bar Journal, in its January 1974 issue, featured a perceptive commentary on the decline in the exercise of ethical criteria by individuals within recent years—a decline the results of which are now visibly manifest through disclosures of individual abuses of the public trust. Such abuses are not only predictable but also inevitable in any age which rejects the paths of self-discipline and personal responsibility for the easy paths of relativism and situational ethics.

This informative article was authored by Prof. Robert E. Hayes, of the California State University at Long Beach. Professor Hayes is a political scientist there, one obviously motivated by concerns which transcend the classroom lecture.

Upon its reading and rereading, I am struck by the relevance of this article—of our day—to one of the profound observations of the 17th century English philosopher, John Locke, to wit:

> The end of the law is, not to abolish or restrain, but to preserve and enlarge freedom. For in all the states of created beings capable of laws, where there is no law there is no freedom. For liberty is to be free from restraint and violence from others; which cannot be where there is no law: and is not, as we are told, a liberty for every man to do what he lists. (For who could be free when every other man's humour might domineer over him?) But a liberty to dispose, and order as he lists, his person, actions, possessions, and his whole property, within the allowance of those laws under which he is, and therein not to be the subject of the arbitrary will of another, but freely follow his own.

Mr. Speaker, I commend this article to the attention of all my colleagues, for this issue should transcend political or partisan considerations. Excerpts from the article follow:

Subtle Justifications Given for Law Violations

(By Robert E. Hayes)

An essential foundation for both law and morality is that individuals ought to be held responsible for their conduct. Nevertheless, this standard of personal responsibility is increasingly rejected—rejected especially in many current subtle justifications offered for illegality. But despite voluminous commentaries on law violations, particularly on violations in the name of political protest, a vital omission exists. Absent is an evaluation of many of the subtle justifications given for law violations.

Identification of the justifications is often a problem. Seldom will persons directly and openly justify lawbreaking. Instead, justifications are usually presented without acknowledgment and often even with disavowals.

Understandably reluctant to say: "I endorse lawbreaking" or "I support law violations by some individuals," some persons achieve the equivalent by two common methods. One is to disavow in form that which is endorsed in substance. For instance, commonly prefacing ideas which support and justify illegality are such assertions as: "I don't justify lawbreaking, but . . .," "I don't condone violence, however . . .," "I deplore what they have done, nevertheless . . .," and "I don't agree with them, yet. . . ." This is a typical tactic to promote a position under the guise of rejecting it. The other method of semisurreptitiously supplying justifications is to do so under a spurious claim of objective description. Commonly introduced by such expressions as: "They say," "They believe," and "They feel"—that which follows has only the form, not the substance, of objective analysis. And advocacy, instead of impartial description, is its predominant characteristic. Using a "card-stacking" approach, this tactic "describes" one position favorably and with little or no effective criticism; whereas the opposing position, if even acknowledged to exist, is usually "described" inaccurately, unfavorably, and unjustly. Thus, the "description" is tantamount to advocacy. Furthermore, this "descriptive tactic" provides an escape hatch for its users because they say, if challenged, "I'm not justifying or endorsing these ideas, *I'm merely describing them.*"[1] To reiterate, the standard for identification of justifications should be the total effect of the words used.

USE OF TRUISMS AND PLATITUDES

Truisms and platitudes, matters upon which most persons agree or at least proclaim agreement, include both factual descriptions and popularly accepted objectives. Common truisms are: "wrongs and injustice occur," "grievances are to be found," and "serious problems exist." Common platitudes are: "justice must be advanced," "crime curbed," "education improved," "pollution fought," "protest heard," "opportunities improved," "liberty enhanced," "poverty eliminated," "human needs met," and so forth. Surely the expression of these ideas neither evinces courage, nor reveals insight, nor, without more, contributes to society's betterment.

Commonly part of a strategy of diversion, truisms and platitudes elicit a general favorable response which promotes acceptance of controversial ideas.

So, often expressed is the view: "We agree with their goals. We differ only on their methods (i.e., means)." *Only* on the means?

EXCUSE BECAUSE OF GROUP MEMBERSHIP

Membership in certain categories is a major justification given for illegality by individuals, e.g., justifications are commonly based on age (e.g., young), activity (e.g., student), cause supported (i.e., "good"), race or ethnic group (i.e., certain minorities), and economic position (e.g., poor). Individuals and conduct falling within such classifications are thus given a claim for both a justification for illegality and for full or partial exemption from laws. Three parts of this justification are identifiable. First, is the acclaim for the group or category.

Note however that plaudits are, in practice, reserved for those who support *"good"* causes and are inapplicable to illegal action by youth or others who support other causes. Second, is the assumption that mere membership in certain groups endows those individuals with the group virtue. Thus, *all* members are held to possess the real or purported virtues of the particular group. And incidentally, none of the group's vices. Third, and most important, is the implicit assumption that these group virtues can and should fully or partially justify illegalities or exemptions from laws.

Mere membership in a particular group enlisted in a particular cause cannot and must not be permitted to justify illegality or full or partial exemption from laws. Individuals violate laws, generations do not. Whatever the nature of any generation, whatever the varied virtues an individual may in fact possess, every individual should be held accountable to the laws. We must reject any selective exemptions from laws, and any law-recognized privileged elites. Our standard should be the standard of our law, that guilt is personal.[2] Our objective should be an ideal of law, "the law speaks to all in the same way," lex uno ore omnes alloquitur.

SHIFT OF GUILT TO OTHERS

A third tactic is the shift of guilt to others. These others are nearly any and all persons and groups *except* the law violators. For held to be the *real* malefactors are *not* the lawbreakers, but rather others variously termed: the older generation, the politicians, the Establishment, the System, the Government, and the Society.[3] Usually an integral part of this tactic is (1) the almost total absence of criticism, much less condemnation, of the lawbreakers and (2) a sharp moral differentiation between the group to which the particular lawbreaker belongs and the other groups selected as scapegoats.

Especially important in the sweeping condemnation of others is the accusation of hypocrisy. Used to symbolize a fault far beyond hypocrisy in its traditionally-accepted sense, this charge has become a shorthand summary for the broadest repudiation of the older generation, the System, Society, and so forth.

Essential to these arguments are two major assumptions: (1) that a comparison of hypocrisy with illegality is valid and (2) that one wrong will justify another. For the first assumption to be valid, sufficient substantive similarities must exist. They do not. Instead there are great dissimilarities in fundamentals, i.e., a general allegation of the hypocrisy of an entire generation contrasted with factually-established illegality of specific individuals. For the second assumption to be acceptable requires the endorsement of the concept of one wrong excusing another, thus repudiating the legal maxim, injuria non excusat injuriam. This we must reject if we are to hold all men legally accountable for their conduct, and if we are to uphold uniform and proper enforcement of law; for otherwise, arbitrary, selective law enforcement is sanctioned and law-recognized special privilege is endorsed.

ASSERTION OF A MUTUALITY OF GUILT: "THE THEORY OF BOTH SIDES"

When the unlawful conduct is particularly gross and blatant and when blanket excuse or exoneration for it appears unattainable, another tactic is often used. This, for want of a better name, I will call the theory of both sides. The theory's apparent purpose and clear effect are to distribute guilt (legal or moral or both) so widely that neither legal nor moral guilt can be effectively fixed upon anyone. This result is founded upon two major implicit or explicit claims: (1) that both sides in conflict have guilt and (2) that because of this, a legal or moral parity exists between the two.

Permeated with invalidity, the both sides theory usually contains at least three often inter-related errors. First is the theory's implicit claim that guilt of one side will reduce or nullify the guilt of the other side. Not so. Mutuality of guilt, unless inter-related and in accord with existing legal rules, must be held irrelevant to a determination of legal responsibility. The guilt of one side must not be allowed to absolve or mitigate the guilt of the other. And, to reiterate, it is a maxim of the law that "injuria non excusat injuriam." A good society rejects a concept of wrong excusing wrong. A just society requires that *all* persons be held to answer for their wrongful conduct.

Second is the use of invalid comparisons. They are invalid because the two things compared differ in fundamentals; and these common major differences are contrasts between lawful and unlawful, speech and conduct, general and specific, moral and legal, and opinion and fact. By ignoring or obscuring these vitally important distinctions, the both sides theory characteristically uses spurious comparisons.[4]

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[1] *E.g.*, Heard, "Memorandum to President Nixon," *N.Y. Times*, July 24, 1970, at 34 cols. 1–6; Douglas, *Points of Rebellion* 88, 89 (Vintage ed. 1970). See *Final Report of the National Commission on the Causes and Prevention of Violence* (Eisenhower Commission Report) 210, 211 (1969); *Crisis at Columbia* (Cox Commission Report) (Vintage ed. 1968).

[2] ". . . under our system of law individual guilt is the sole basis for deprivation of rights." Murphy dissent in *Korematsu* v. *U.S.*, 323 U.S. at 240 (1944); "Now, if any fundamental assumption underlies our system, it is that guilt is personal and not inheritable." Jackson dissent *id:* at 243.

[3] *E.g.*, Clark, *supra*, note 6, generally and comments: "we have failed," "We are guilty" at 5, "our hypocrisy" at 18, "our inhumanity," "national hypocrisy" at 25, "the crime of a society that" at 27, "We cultivate crime, breed it, nourish it." at 50, "our failure" at 229; Heard, *supra* note 2; Hersey, *supra* note 6; Roger Wilkins, *supra* note 7; Jackson, *Soledad Brother* 48, 92 (Bantam ed. 1970).

Third is a broad fallacy, central to the both sides theory. This is the implicit assumption and claim that such things as reasonableness, justice, and perhaps even truth and wisdom, are invariably located at some midpoint between two rival positions. Of course, in *some* instances reasonableness and other virtues may be so located, but certainly not in all. And certainly not as used in the both sides theory. Otherwise, we are compelled to hold that there is an acceptable middle ground or compromise position between lawbreaking and law enforcement or between the law violator and the law complier.

USE OF DECEPTIVE TERMINOLOGY

Basic issues are often misrepresented by inaccurate and emotion-biased words which "stack the cards" in favor of illegality. This is not a justification as such given for illegality but instead a means to strengthen the justifications.

Mere use of emotion-evoking words is not the wrong. Rather it is when these words are inaccurate or used as a substitute for thought. Of particular harm is their substitution for thought because emotion, of course, can be incompatible with the use of reason.

A common manipulation of thought by word misuse is two-sided. First, negative eliciting words are replaced by positive, neutral, or only mildly negative eliciting words, e.g., "activist" for criminal, "militancy" for illegality, "protestor" for law violator, "student unrest" for campus crime, and "dissentor" for lawbreaker. Second, used to describe the opposite side, i.e., the side to be discredited, are negative or pejorative terms, e.g., "hardline," "repressive," "punitive," "provocative," "harsh," and "vindictive." Certainly, any of these words *may* be used accurately and properly. Whether they are should be determined by the facts and circumstances.

ERRONEOUS VIEWS OF LAW ENFORCEMENT

Two common errors are made about law and law enforcement. One is the failure to distinguish between lawful and unlawful force and violence. To some persons all violence and force are to be *equally* condemned. And it's often said that "force solves nothing." But consider this: Sirhan used force and violence to kill Robert Kennedy; violence and force were used to subdue Sirhan; force was and continues to be used to hold him. Are we to make no crucial distinction between these two uses of force and violence? If not, destroyed is the crucial differentiation between law violation and law enforcement. And, this is, in fact, a prime objective of the apologists for illegality.

A second common error is the failure to acknowledge coercion as a fundamental part of law. In the absence of law-compliance, law-compulsion is required. Opposition to proper law enforcement is necessarily opposition to law, including law-protected rights and liberties. Without coercive authority laws become merely suggestions or admonitions. Why else do we have police, jails, and legal sanctions in general?

SUMMARY AND CONCLUSION

Measured by the criteria of logic and law, the justifications here given for illegality are invalid and unreasonable. Furthermore, their predominant characteristic, the rejection of the standard of individual responsibility, subverts the very foundation of morality as well as that of law. Yet harmful as is a general rejection of this standard, even worse is the more common *selective* rejection. By this, some persons are held to be fully or partially exempt from legal and moral responsibility, whereas others, e.g., police, businessmen, public officials—are to be held to the strictest and highest standards of both legal and moral responsibility; on them are bestowed no excuses, no compassion, no justifications, no understanding. Thus, to those they favor, the apologists for selective illegality apply a standard of moral and legal relativism; whereas, to others, especially those they oppose, they apply a moral and legal absolutism—dogmatic and unyielding.

A central part of the current assault upon traditional authorities, this promotion of general and selective non-responsibility for individual conduct, is done typically in the name of freedom. Yet it is, in actuality, one of the gravest threats to freedom. Because disregarded or unrecognized is the indispensable inter-relationship between freedom and responsibility, and between liberty and order. Often absent is a recognition that liberty and freedom depend upon an acceptance of the virtue in obligation, the merit in duty, and the vital necessity of responsibility.

Especially ominous, then, is that the increased abandonment of individual responsibility is supported, intentionally or not, by ideas of numerous honest, intelligent, influential, and decent men, by men possessed of advantages denied to so many others, by men who ought to know better. They, far more than others, should recognize the natural and probable effect of their words; they, far more than others, should comprehend the danger of the subversion of law itself. On the other hand, when some of them supply justifications for illegality, obscure the central issues, and direct general hostility toward law enforcement, while presenting the apologetics for the law violators, we can, with reason and truth, judge their ideas to be an aid and abetment to illegality, we can, with good cause, fix upon them a moral responsibility.

So justifications given for illegality present lawbreakers with a gift usually eagerly accepted. Yet the price to society for that gift is a corrosion of something precious but perishable, the letter and spirit of the law. To recognize this and to view law and its tradition as the foundation for a good and a just society is not to hold law as sacrosanct. Rather it is simply to acknowledge the absence of better alternatives to law; it is merely to yield to common sense and the lessons of human history; and, it is only to recognize law as a repository of high principle, a shield against injustice, and an indispensable instrumentality for the advancement of mankind.

CONGRESSIONAL COUNTDOWN ON CONTROLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. CAMP) is recognized for 5 minutes.

Mr. CAMP. Mr. Speaker, I think it has finally become obvious to almost everyone that our 3-year experiment with economic controls has been a failure, resulting in a weakened economy where shortages in every area are becoming a daily fact of life. The administration, through Cost for Living Council John Dunlop, has indicated that controls are no longer necessary or desirable.

However—and this is a big "but"—Dunlop further stated that controls should remain on the oil and health care industries. Mr. Speaker, I do not think I need to point out the situation we have with energy which was brought about to a great extent by government interference. But let us look at the health care industry. In my State of Oklahoma, people are beginning to believe that it is the intent of Washington to completely close down all small and rural hospitals by imposing regulation after regulation which cannot be met without a large administrative staff and, simultaneously, slapping stringent controls on pricing.

Let us not tamper any further with the economy. Let us act now to remove all wage and price controls and return this country of ours to the supply and demand system which made it great.

THE NATIONAL EQUAL EDUCATIONAL OPPORTUNITIES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANDERSON) is recognized for 30 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, I am today introducing the "National Equal Educational Opportunities Act of 1974." This legislation is similar in most respects to legislation earlier introduced by Congressmen UDALL and PREYER (H.R. 10991), the main difference being that I have attempted to define what shall be considered to be a denial of equal educational opportunity, and, I have established a priority listing of remedies to be used by the courts and departments and agencies of the Federal Government in correcting specific denials of either equal educational opportunity or equal protection of the laws. I am especially indebted to Prof. Alexander Bickel of the Yale Law School who has contributed the most to this legislation and who has worked closely with Congressmen UDALL, PREYER and myself on this important issue.

I testified to the need for such legislation back on July 31, 1972, before the House Education and Labor Committee. At that time, I expressed the opinion that the lower courts were floundering about in the uncharted grey area between de jure and de facto school segregation, and that increasingly, decisions were being handed down "in a highly varied, inconsistent and unpredictable manner." Moreover, it was my feeling that many lower courts were stretching the meaning of de jure segregation far beyond any reasonable interpretation of the duty to insure equal protection of the laws, so as to encompass novel concepts which, in my view, have little basis in the 14th amendment or in the directives of the Supreme Court which govern its application. In short, it was my opinion that these courts had gone far beyond simply attempting to remedy constitutional violations and had ventured into the realm of social policy over which the courts have no jurisdiction. To quote from my testimony:

> Certainly, a highly pluralistic, mobile society like our own will be so much the better off in the long run if we can find ways to reduce racial isolation in the schools and provide educational environments in which every student has the opportunity to achieve his full potential. But these are public policy objectives to be agreed upon and implemented by school boards, city councils, State legislatures and the Congress itself; they are not constitutional rights to be vindicated by

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[4] *E.g., Final Report, supra* note 2 at 209, 210; *Campus Unrest, supra* note 14 at 1, 5, 6, 8, 9, 10.

the courts. To wrap them in the constitutional mantle and to insist they be achieved through the courts only provoke popular reactions posing grave risks to our constitutional system, and further defer the day when the majority of this Nation can be convinced of the rightness and necessity of this course of action of making the right social policy decisions.

Mr. Speaker, it was in a similar vein that I joined last July with a bipartisan and biracial group of Members of this body in a statement of principles on this subject. At the core of that statement was our recognition that the executive and Congress had forfeited their responsibilities in this area, and that this was the primary reason that many school systems are now being administered under judicial decree. It was our feeling that the Congress has the power and duty to establish a legislative framework for addressing the underlying problems which have given rise to these well-intentioned yet oftentimes excessive judicial remedies. Only by giving local communities and school officials the means and incentives to develop alternative solutions can we hope to reduce such disruptive judicial interference.

It is with this in mind, Mr. Speaker, that I am today introducing the "National Equal Educational Opportunities Act of 1974." The purpose of this legislation is to improve the quality of education in public elementary and secondary schools throughout the Nation and reduce achievement disparities between racial and socioeconomic groups in the schools; facilitate where possible a reduction of the concentration of such groups in certain schools, including the prevention of resegregation, primarily by means other than extensive cross-transportation; reduce and eliminate any educational ill-effects resulting in schools having such concentrations; and specify remedies for U.S. courts, departments, and agencies to correct denials of equal protection of the laws or equal educational opportunity.

Supreme Court Justice Powell perhaps made the best case for such legislation in his concurring opinion in the Denver case last June when he wrote:

> The existing state of law has failed to shed light and provide guidance on the two issues addressed in this opinion: (i) whether a constitutional rule of uniform, national application should be adopted with respect to our national problem of school desegregation and (ii) if so, whether the ambiguities of *Swann*, construed to date almost uniformly in favor of extensive transportation, should be redefined to restore a more viable balance among the various interests which are involved. With all deference, it seems to me that the Court today has addressed neither of these isues in a way that will afford adequate guidance to the courts below in this case or lead to a rational, coherent national policy.

Justice Powell went on to write:

> It is well to remember that the course we are running is a long one and the goal sought in the end—so often overlooked—is the best possible educational opportunity for all children. Communities deserve the freedom and the incentive to turn their attention and energies to this goal of quality education, free from protracted and debilitating battles over court-ordered student transportation. The single most disruptive element in education today is the wide-spread use of compulsory transportation, especially at the elementary grade levels. This has risked distracting and diverting attention from basic educational ends, dividing and embittering communities, and exacerbating rather than ameliorating inter-racial friction and misunderstanding.

And he concluded his opinion by saying:

> It is time to return to a more balanced evaluation of the recognized interests of our society in achieving desegregation with other educational and societal interests a community may legitimately assert. This will help assure that integrated school systems will be established and maintained by rational action, will be better understood and supported by parents and children of both races, and will promote the enduring qualities of an integrated society so essential to its genuine success.

Mr. Speaker, the bill which I am proposing today does address those two issues which have yet to be resolved by the Court: It does lay down a uniform national policy on the problem of school desegregation, and it does clear up the ambiguities left by the Swann decision on the transportation question by restoring a more viable balance among the various interests involved. Moreover, it does refocus our attention on what should be our primary goal—insuring the best possible educational opportunity for all children. It would permit communities the freedom and incentives to devote their full energies to this goal while assuring that integrated school systems will be established and maintained through rational action and within a framework which does balance other legitimate community and individual interests.

DENIAL OF EQUAL EDUCATIONAL OPPORTUNITIES

Title I of my bill defines what acts shall be considered as denial of equal educational opportunity and equal protection of the laws. These include not only the deliberate segregation of students on the basis of race, color, or national origin among or within schools, but the failure to take affirmative steps, consistent with those remedies enumerated in title III of my bill, to remove vestiges of discrimination due to official action. Such acts shall include school construction, abandonment or siting alteration within a district with the intent of, or having the natural, probable, foreseeable or actual effect of increasing segregation, or the creation of attendance zones with the same result. Other acts which shall be considered as denials include: failure to take appropriate action to overcome language barriers, or cultural, social, economic, or other deprivations that impede equal participation by students in instructional programs; discrimination in faculty and staff employment practices, conditions, and assignments; failure to provide for the voluntary transfer of students from schools in which their race is in a majority to schools in which their race is in a minority; and maintenance of practices and provisions of resources in schools having a concentration of minority groups which are less favorable than those at other schools. Under this title, the Secreatry of Health, Education, and Welfare shall issue regulations setting forth measures to achieve compliance; and any person or the Attorney General alleging that any policy or measure of a local educational agency is in violation of this title may bring a civil suit in the appropriate U.S. district court for equitable relief.

STATE EQUAL EDUCATIONAL OPPORTUNITIES PLANS

Title II of my bill requires that each State submit to the Secretary a plan for his approval to carry out the purposes of this act. The plan shall provide for the creation of a State advisory council, with majority representation by parents of schoolchildren, including proportional representation from parents of minority group schoolchildren. The advisory council shall advise the State educational agency on policy matters relating to the administration of the State plan, and prepare an annual evaluation report which, along with the comments of the State agency shall be forwarded to the Secretary.

By the same fashion, the plan provides for the establishment of local advisory councils, again with majority representation from parents, to advise local educational agencies on their participation in the State plan.

The State plan shall be submitted to the Secretary by June 30, 1975, shall be developed in consultation with local educational agencies and the State advisory council, and shall define goals consistent with the purposes of this act and provide for the full attainment of those goals by a date approved by the Secretary, but no later than August 30, 1985.

The State plan shall include some or all of the following components: provision for a majority transfer plan on either an intradistrict or interdistrict basis; and open communities educational resources compensation program providing payments to any school district in which students from minority families comprised not more than 10 percent of total school enrollment during the 1975–76 school year; a school district reorganization plan which may include redrawing zone boundaries, pairing and clustering of schools, establishing educational parks and magnet schools; and cooperative arrangements between schools where factors of distance, locations, and contiguity make this feasible, for common use of existing school facilities and for the construction of new joint facilities, including educational parks.

The State plans shall also assure that in each year of the operation of the plan, substantial progress will be made toward meeting the purposes of this act; specify how additional State financial assistance will be made available to local educational agencies implementing court-ordered desegregation plans; specify how current ESEA programs are integrated with the plan; specify the procedures to be used by the State educational agency in coordinating the efforts of local agencies which are desegregating or voluntarily integrating; specify what procedures will be used by the State educational agency for involving on an equitable basis children enrolled in private non-profit schools in the programs funded under this act to the extent that their participation will assist in achieving the purposes of this act; and assure that the State educational agency will require each local educational agency to report to it annually on its implementation role in implementing the State plan.

To fund the various programs instituted under the State plans, this bill authorizes $200,000,000 in fiscal year 1976, $500,000,000 in fiscal 1977, and $750,000,000 in each fiscal year thereafter. The legislation establishes formulae for the distribution of these funds. Finally, under this title, States are permitted to file in the circuit court of appeals if dissatisfied with the Secretary's final action with respect to approval of their State plan.

REMEDIES

Title III of my bill contains a priority listing of remedies available to the courts, departments, or agencies of the United States for a denial of equal educational opportunity or equal protection of the laws. In this connection, my bill clearly specifies that the court, department, or agency "shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws." The reason for this clause is the tendency on the part of many lower courts to embrace what has been termed the "total taint theory," that is, even if there are only isolated instances in which it is shown that there is segregation due to some official action, such as those set forth in title I of my bill, the whole system is considered in violation and therefore a systemwide, or even metropolitanwide remedy is required. I think the total taint theory and the resulting excessive remedies fly in the face of *Swann* in which Justice Burger, writing for the majority, said:

> It is important to remember that judicial remedies may be exercised only on the basis of a constitutional violation. As with any equity case, the nature of the violatiton determines the scope of the remedy.

In the *Denver* case the court held that if segregation in one part of the school system was found to be the result of official action, school officials were obliged to demonstrate that other schools in the system were not segregated also by official action. And, in that same decision, Justice Powell wrote in his concurring opinion:

> I would hold, quite simply, that where segregated public schools exist within a school district to a substantial degree, there is a prima facie case that the duly constituted public authorities . . . are sufficiently responsible to impose upon them a nationally applicable burden to demonstrate they nevertheless are operating a genuinely integrated school system.

But Justice Powell was careful to point out that:

> An integrated school system does not mean—and indeed could not mean in view of the residential patterns of most of our major metropolitan areas—that every school must in fact be an integrated unit. A school which happens to be all or predominantly white or all or predominantly black is not a "segregated" school in an unconstitutional sense if the system itself is a genuinely integrated one.

The first section in this title is aimed at reaffirming the *Swann* rule: let the remedy fit the violation. Further, under title III of my bill, courts would require implementation of remedies in the following descending order: first, assigning students to the school closest to their place of residence; second, good faith participation in and reasonable progress in the implementation of an approved State plan under title II of this bill by the local educational agency involved; and third, transportation of students to school other than the one closest to their home. In other words, every effort would first be made to preserve the neighborhood school concept in fashioning a remedy, and, if this is not sufficient, good faith participation and progress in a State plan would be. Transportation would only be used as a last resort.

And, with respect to transportation, no court could order such a remedy if it poses a risk to the health and safety of the students involved, significantly impinges on the educational process, or involves transportation to significantly inferior schools.

Furthermore, no remedy could substantially increase during any school year the average daily distance to be traveled, the average daily time of travel, or the proportional average daily number of students to be transported by an educational agency for all students in the sixth grade or below, over the comparable averages for the previous year. Nor could there be a substantial increase in the same averages for students in the seventh grade or above unless it is demonstrated by clear and convincing evidence that no other method under the priority listing of remedies will provide an adequate remedy for the denial of equal educational opportunity or for the denial of equal protection of the laws. And any such transportation remedy shall only be considered temporary until a long term plan is developed as provided in title II of this act.

Again, this is essentially a statutory rendition, clarification, and elaboration on the *Swann* rule relating to proper limits on transportation plans. In that decision the Court held that the age of the children should be a factor, as should the time and distance involved in travel if it is so great "as to either risk the health of the children or significantly impinge on the educational process."

Mr. Speaker, unlike some legislation which has been introduced, my bill does not deprive the courts of utilizing transportation as a remedy. But it does prescribe limits on the use of that remedy, and it does make it a remedy of last resort. I think it is far preferable to define, prescribe, and proscribe remedies by statute than it is to deprive the courts of their jurisdiction in certain cases or of particular remedies in those cases.

There can be no question about the constitutionality of my priority prescription of and proscription on judicial remedies in desegregation cases. We are talking here about denials of equal protection of the laws under the 14th amendment, and that same amendment provides in section 5 that, "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

Mr. Speaker, as Justice Powell pointed out in the *Denver* case, the existing state of the law has not yet addressed itself in a uniform way to the national problem of school segregation nor to the problem of extensive busing in the larger context of legitimate community and educational interests. Because the Supreme Court has not squarely faced these issues, the lower courts have been riding off in all directions in a state of confusion and conflict. And, as Justice Powell put it:

> In the absence of national and objective standards, school boards and administrators will remain in a state of uncertainty and disarray, speculating as to what is required and when litigation will strike.

The "National Equal Educational Opportunities Act" which I am introducing today is aimed at filling that vacuum—of establishing a national uniform policy as to what constitutes illegal school segregation and a nationally uniform set of remedies for correcting both denials of equal educational opportunities and equal protection of the laws. Moreover, this legislation addresses itself to the underlying problems and inequities of our educational system and our overriding goal of providing quality, desegregated education for all our children. I think this Congress has not only the power but the duty to promote these goals through this legislation. The answer lies not in passing constitutional amendments or legislation to simply eliminate remedies; instead, the answer lies in legislation which will encourage local school systems to solve the problems which have prompted these judicial remedies and thereby to reduce judicial interference in educational and social policy. I urge prompt congressional action on this legislation.

I include the following:

SUMMARY OF THE "NATIONAL EQUAL EDUCATIONAL OPPORTUNITIES ACT"

(Introduced by Mr. ANDERSON of Illinois)

SECTION 2. STATEMENT OF FINDINGS

The Congress finds that the maintenance of racially dual school systems is a denial of equal protection of the laws; we are approaching the time when all school systems will be unitary; once desegregation has been achieved, school systems are not required to make annual adjustments in the racial composition of student bodies due to demographic changes; the courts have failed to develop clear, rational, uniform and reasonable guidelines for fashioning remedies to correct denials of equal protection of the laws, sometimes resulting in excessive transportation plans which may pose a threat to the health and safety of students and interfere with the educational process; inequality of education persists in schools having high concentrations of children from minority group and low-income families.

SECTION 3. PURPOSE

The purpose of this Act is to reduce achievement disparities between racial and socio-economic groups in the schools; facilitate a reduction in the high concentration of such groups in certain schools, including the prevention of resegregation without extensive cross-transportation; reduce poor educational conditions in schools in which such concentrations persist; and specify guidelines for appropriate remedies to correct denials of equal educational opportunities, and equal protection of the laws.

TITLE I—DENIAL OF EQUAL EDUCATIONAL OPPORTUNITIES

Section 101. No state or educational agency established by the state shall deny equal educational opportunity to an individual on account of race, color or national origin by: deliberate segregation of students on the basis of race, color or national origin among or within schools; failure in such instances to take affirmative steps consistent with Title III of this Act to remove vestiges of discrimination due to official action; construction, abandonment, alteration or other siting of school facilities within a district with the intent of, or having the natural, probable foreseeable and actual effect of increasing segregation; creation of attendance zones or policies with the intent of or having the probable effect of increasing segregation; transferring a student outside an attendance zone with the intent of or having the probable effect of increasing segregation; failure to take appropriate action to overcome language barriers, or cultural, social, economic or other deprivations that impede equal participation by students in instructional programs; discrimination in employment, employment conditions or assignment to schools of faculty and staff; failure to provide opportunity at the beginning of a school year for a student to transfer from a school in which his race is a majority to a school in which his race is a minority; and maintenance of practices and provision of resources in schools having a concentration of minority groups which are less favorable than those at other schools.

Section 102. The Secretary of Health, Education and Welfare shall issue regulations further setting forth measures to be taken to achieve compliance with this section.

Section 103. Any person having reasonable cause to believe that a local educational agency's policy is in violation of section 101 may bring a civil action in the appropriate U.S. district court for equitable relief. If a court finds such a violation has occurred, it shall order the rescinding of such policy and affirmative action to be taken to cure the effects of such policy.

TITLE II—STATE EQUAL EDUCATIONAL OPPORTUNITIES PLANS

Section 201. Each State shall prepare and submit to the Secretary for his approval a plan to carry out the purposes of this Act.

Section 202. Such plans shall provide for: the establishment of a State advisory council appointed by the governor and consisting of businessmen, educators, parents and representatives of the general public. A majority of the council shall consist of parents of public school students, with proportional representation of parents of minority group children. The council shall advise the state on the development of and policy matters arising in the administration of the State plan. The council shall also submit through the State educational agency and to the Secretary an annual evaluation report. The plan submitted by the State shall also provide for the establishment of local advisory committees, similarly constituted as the State advisory council, for the purpose of advising the local educational agency on its participation in the State plan.

Section 203. The State plan shall be submitted to the Secretary by June 30, 1975; it shall be developed in consultation with local educational agencies and the State advisory council; and shall define goals consistent with the purpose of this Act as set forth in Section 3, and provide for the attainment of these goals by a date approved by the Secretary, but in no event later than August 30, 1985.

Section 204. State plans shall include means, for implementing some or all of the following components: voluntary majority transfer plans on either an intra-district or inter-district basis; an open communities educational compensation program; school district reorganization plan which may include redrawing zone boundaries, educational parks and magnet schools, and cooperative arrangements between school districts.

Section 205. State plans shall assure that substantial progress will be made in each year of operation of the plan toward meeting the purpose of this act; specify how additional state financial assistance will be made available to local educational agencies carrying out court-ordered desegregation; specify how other ESEA programs are integrated with the plan; specify the procedures to be used by the State educational agency in coordinating the desegregation or voluntary integration efforts of local agencies; assure that local agencies will report annually to the State agency on the implementation of the plan, and that the State will report annually to the Secretary on the overall State implementation of the plan.

Section 206. There are authorized to be appropriated for carrying out this Title not in excess of $200,000,000 for fiscal year 1976, $500,000,000 for fiscal year 1977, and $750,000,000, for each fiscal year thereafter.

Section 207. The Secretary shall approve any State Plan which meets the requirements of sections 201 through 205, and shall not finally disapprove any such plan without first affording the administering agency reasonable notice and opportunity for hearing.

Section 208. Any State dissatisfied with the Secretary's final action with respect to the approval of its plan may file a petition for review with the U.S. court of appeals for the circuit in which the State is located.

TITLE III—REMEDIES

FORMULATING REMEDIES; APPLICABILITY

Section 301. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws;

Section 302. A consideration and finding shall be made on the efficacy of the following remedies in correcting such denial, in the priority order in which they appear:

(a) assigning students to the school closest to their place of residence;

(b) good faith participation in and reasonable progress in the implementation of an approved State plan under Title II of this Act by the local educational agency involved;

(c) transportation of students to school other than the one closest to their own home;

Section 303. No court, department or agency of the United States shall, pursuant to section 302, order the implementation of a remedy that would:

(1) pose a risk to the health and safety of the students involved, significantly impinge on the educational process, or involve the transportation of students to schools significantly inferior to those which such students would, in the ordinary course, have attended; or

(2) substantially increase during any school year the average daily distance to be traveled, the average time of daily travel, or the proportional average daily number of students to be transported by an educational agency for all students in the sixth grade or below, over the comparable averages for the preceding year;

(3) substantially increase during any school year the average daily distance to be traveled, the average daily time of travel, or the proportional average daily number of students to be transported by the educational agency for all students in the seventh grade or above, over the comparable average for the preceding school year, unless it is demonstrated by clear and convincing evidence that no other method set out in section 302 will provide an adequate remedy for the denial of equal protection of the laws or equal educational opportunity that has been found by such court, department or agency. The implementation of a plan calling for increased transportation, as described in this subsection, shall be deemed a temporary measure and such plan shall be ordered in conjunction with the development of a long term plan as provided in Title II of this Act.

VOLUNTARY ADOPTION OF REMEDIES

Section 304. Nothing in this Title prohibits an educational agency from proposing, adopting, requiring or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this Title, nor shall any court, department or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this Title, if such plan is voluntarily proposed by the appropriate educational agency.

TITLE IV—GENERAL PROVISIONS

Section 401. Definitions.

Section 402. Not more than one percent of the annual appropriation under this Act shall be available to the Secretary for evaluation of the programs, activities and projects authorized by this Act.

LEST WE FORGET—MIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GROVER) is recognized for 10 minutes.

Mr. GROVER. Mr. Speaker, at a time when we as a nation are beset by varied domestic problems, we need to pause and remember that American servicemen are still missing in action throughout the lands of Southeast Asia. Perhaps, I speak with more cause than others in this body, since one of these heroes, of recent date determined killed in action, Danny Nidds, is related to my next door neighbor, and another, Marine Capt. Walter Schmidt, is the son of my college classmate, "Peewee" Schmidt; but together with many of my colleagues in the House and the Senate, I feel that our missing men must not be allowed to rest in the background of our minds or become eclipsed by other pressing issues of the day. Indeed, when the fate of 1,100 Americans remains unknown in Indochina, it becomes quite apparent that there exists another "pressing issue."

As contained within the Vietnam agreement of January 27, 1973, the Communist side was required to provide information on those men missing in action and to return the remains of any that died while held captive. But today, more than a year since the peace accord was signed in Paris, Communist officials throughout Southeast Asia have done very little to aid in the search for the missing, return the bodies of those that died while in captivity, or ease the burdens of the families concerned.

During the past months, the various military services have made a number of MIA death determinations, even though very few bodies of those determined to have died have been located and identified. In many instances, the Communists have refused to permit the American-operated Joint Casualty Resolution Center to enter certain areas where some of the missing men are thought to be. In Laos alone, 317 American servicemen were originally listed as missing in action or prisoner of war. When the POW's were released early last year, however, only 10 men captured in Laos were among those that returned. Subsequently, the question many people began asking was: What happened to the others? During the war, there were reports of men being observed ejecting from aircraft that had been shot down over Southeast Asia. Some of these men were later seen being captured on the ground by enemy forces. A number were even photographed while being held captive, but did not turn up among those released. A nagging and haunting concern thus develops: If these men were seen alive at one time, then where are they now? This is just one of the many questions that we should seek answers to from the Communist officials in Southeast Asia.

Today, throughout America, there are various organizations and agencies concerned with the plight of the MIA's and their families. A delegation from one of the national organizations interested in POW/MIA affairs recently returned from Laos after attempting to obtain details on some of the missing men. Although their visit resulted in very few encouraging developments, it did display an unceasing commitment on their part to learn more about those still missing. Some groups have petitioned government officials and their elected representatives to do more in determining the fate of the MIA's. One such group, the National League of Families of POW's/MIA's ordered their Board of Directors to ask all Representatives and Senators to take a public position on the MIA issue by the use of mailings, newsletters, and local newspaper columns and to speak out on the subject at every opportunity. Certainly, these suggestions merit a large measure of consideration on the part of all of us in Congress, for to do less would be undeserving to the families and friends of the missing men.

In conclusion, Mr. Speaker, all of us in positions of public responsibility here in Congress and in other parts of the Government should attempt to sway world public opinion to the side of the MIA's. If the world community would encourage the placing of various sanctions on those parties that have been and are continuing to be uncooperative in the search for those that are missing, then quite possibly positive results would ensue. The issue of our MIA's in Indochina is not exclusively an American one. For, in reality, it is a humanitarian issue and one that should transcend the boundaries and political ideologies of individual nations.

TOO MUCH MONEY FOR THE PENTAGON

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Michigan (Mr. RUPPE) is recognized for 5 minutes.

Mr. RUPPE. Mr. Speaker, I read in Tuesday's Wall Street Journal an interesting article by Mr. Richard J. Levine entitled, "Congress Smiles on the Pentagon Again." Mr. Levine cites Secretary of Defense James Schlesinger's statement that the proposed Federal budget contains at least $1 billion for projects which were allowed by the Office of Management and Budget for the purpose of stimulating the economy. Chairman MAHON of the Appropriations Committee has estimated that the figure is actually around $5 billion. While it indeed makes a difference whether the figure is $1 billion or $5 billion and while it can rightly be questioned whether the military budget should be manipulated for this purpose, I believe the question goes much deeper.

It is axiomatic that the more the Government spends, the greater the chance taxes may need to be raised; something I am sure we all want to avoid. So we are forced to think in terms of priorities. I have always felt that an adequately financed military should be one of our top priorities, and I have no qualms in giving the Pentagon the money that is needed so that we can all feel safe. But OMB has allowed here a padding of the Pentagon budget for a purpose that bears little relevancy to our national defense.

It is especially hard for me to accept this action in light of the great deal of impounding of funds that can be accredited to the Office of Management and Budget in the heavenly name of fighting the flames of inflation. For example, last year, the administration impounded $150 million in grant funds for rural water and sewage programs under the Farmers Home Administration. Funds are badly needed for the construction of projects to collect and treat sewage. The States, in general, and my State of Michigan, specifically, are being forced to allocate most of their Water Pollution Control Act funds for sewage treatment systems in the heavily populated areas. This leaves the smaller, rural communities and areas with few funds for their water and sewage. The funds appropriated by the Congress would have helped them tremendously, but OMB decided this expenditure was inflationary. I contend that the expenditures would have strongly stimulated the economy of northern Michigan.

I am all for keeping down or, if possible, halting the rate of inflation, and I am all for stimulating the economy, and I am all for an adequate defense budget, but I am for doing these things in such a way that makes sense. It just defies logic that money is unnecessarily put into one agency that does not need it for the purpose of stimulating the economy, but a much lesser amount of money is denied to programs on the grounds of inflation, when that money is desperately needed. It is inconsistency such as this that causes the American people to lose their respect for our governmental processes. In a time when our prestige is at a low point, it is hard for me to believe that OMB would allow such an action in light of its past stances.

Let us spend money wisely. Let us continue to think in terms of priorities. Let us continue to improve the lives of those people we represent. Let us continue to stimulate the economy. But, most importantly, let us do all these things in such a way that makes sense, is not contradictory, and provides the American people with what they need with as little waste as possible.

IMPROVE THE SSI DISABILITY TEST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. STEELE) is recognized for 5 minutes.

Mr. STEELE. Mr. Speaker, I am introducing legislation today that would remove a heavy financial burden from State and local governments under the supplemental security income program. At present, the law defines disability in such a way as to require a determination that the disability will last at least 12 months. This is a very strict definition, and that is, in fact, much stricter than the definitions that were in effect in many States prior to the implementation of the SSI program. I propose that the 12-month requirement be reduced to 3 months.

When we passed the SSI program, Congress told the States that the Federal Government was going to assume the financial burden for welfare payments to the elderly, blind, and disabled. This program was supposed to replace the old age assistance—OAA—and other State/Federal programs. However, in States where disability was formerly defined in a more liberal manner than 12 months, the costs of maintaining persons with a 3- or 6-month disability will now fall completely on the States and localities, without the aid of any Federal matching funds.

In Connecticut alone, it is estimated that it will cost $3 to $5.5 million annually to fill this gap. In my view it is grossly unfair to penalize those States that had an established definition of disability which was broader in its scope than the final uniform definition established under SSI. Because no Federal funds at all are available for this category of people, local welfare rolls will be expanded and the local burden increased.

It was my understanding that, on the contrary, it was the intent of Congress to federalize welfare for the elderly, blind, and disabled. It is very easy to frustrate that intent by setting eligibility standards so high that States must, in good conscience, fill the gap themselves.

I by no means mean to imply that I disapprove of the SSI program in general. I supported it on the floor and believe that it is an excellent means for improving the standard of living for those covered. But it is the responsibility of Congress to rectify this serious problem in the program.

SSI was meant to relieve the burden from State and local government as well as to improve the standard of living for those needy individuals covered by the program. Long before SSI many States had independently determined that in many cases disability payments were merited when a person would be unable to work for less than a year. I believe that the Federal Government has the duty to defer to the judgment of the various States on this definition and enact a 3-month disability definition into the SSI program.

TANZANIAN DEVELOPMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, on the morning of February 28 the House Foreign Affairs Subcommittee on Africa had breakfast with the Ambassador of Tanzania, the Honorable Paul Bomani, who gave a short talk on the Tanzanian approach to development. I would like to insert for the thoughtful attention of my colleagues the text of his speech:

SPEECH BY HON. PAUL BOMANI, AMBASSADOR OF TANZANIA

I have a dilemma caused by time (the time available for my talk). I find ten minutes is too much for anyone to utilize, if there is nothing to be said.

But, on the other hand, when you have to describe a New Nation's development strategy, it is next to impossible to make a fair assessment or balanced presentation within such a short time.

It could be easy perhaps for a visitor returning from Tanzania to be able to talk about the country's development because of the superficial knowledge that one tends to acquire, and snap conclusion one is tempted to make, after a short visit to a country.

My predicament is accentuated by the fact that I have lived and worked all my time in Tanzania. Most of the time I was not a mere spectator. And what I'm going to tell you, and I hope somehow, perhaps I will succeed in conveying this to you: is my interpretation of Tanzania's approach to Development.

Tanzania, like most African countries attained independence during the decade of the 1960's. If there is one phenomenon that has been most prevalent in these countries since independence, it is the determined efforts of the leaders and people of these countries to transform the economy of their countries and to bring about a higher and better standard of living for their peoples. In short, every one of these countries has been striving to attain rapid economic development. All along this has been the theme. The political slogans, party manifestos, all carried the message of the promised land, "Freedom and Plenty."

Although Tanzania has one of the shortest histories of colonial rule—73 years of combined Germany and British rule had with it all the complex of problems, change over of administration from Germany colonial territory to a British mandate. With the British mandate, of course, there was at least a promise of eventual granting of independence to the native people.

The 42 years under British rule did not see much of development for two reasons—one, the feeling of impermanence mitigated against development of any kind in Tanganyika. The economy of the country was treated as an appendage to the white settlers economy of Kenya.

It is also necessary to note there that Tanzania had at independence, so to speak the lowest of everything. The per capita was the lowest—$58, the appalling infant mortality, every 1000 children born, 175 died within the first year. Only 40 percent of our children could go to school. Life expectancy was 35.

So, the kind of development that I can talk about under these circumstances cannot be the conventional or orthodox Economics—where the development is measured by GNP or GDP. Where infra-structure, social or economic and the investment propensity could be applied as a yardstick to measure progress. You will be lost if you attempt to equate the situation with say the post war Europe situation. And yet with Europe a reconstruction programme under the Marshall plan was quickly established and institutions like the International Bank for Reconstruction and Development and Monetary Fund were established mainly to deal with the situation.

The task of a post colonial territory was first and foremost of building a nation, creative work of building everything almost from nothing. The creating of self confidence was part of development work. Boosting of the morale of the office messenger was a development activity. The oppressed people needed morale boosting and reassurance just as much as the farmers needed their rain.

Let us also remember that the Afrikan man who took over these problems is the same man, who, only yesterday was branded with indignities, excluded from world affairs, kept in the background, stripped of everything, and alien in his only land, forced to sit destitute on his riches. This same man now has to rise before the eyes of world to take his rightful place.

The greatest task of mobilising the people, particularly, the youth, who must be totally re-orientated and liberated from the colonial mentality, channeling their energies and consciousness to creative work and moulding their outlook so that they can regain their lost confidence and become creators and guardians to their fatherland was the top priority job for the party and the Government.

All I am saying is that the development of new Tanzania was not development of things or change of environments. It was first and foremost the building of a completely new society, a new man. This new man must be forged through a new dynamic socialist culture rooted in ujamaa activity and consciousness.

This for Tanzania meant a new thinking and new philosophy. The Arusha Declaration is the product of that new philosophy of development, that forges a viable alternative to authoritarian compulsion on the one hand, and the laissez-faire capitalism on the other.

The British administration was mainly involved in two things, first, they were concerned about the maintenance of law and order and two, tax collection. In short the first 10 years of post independence era saw the major thrust and pre-occupation of our new nation (and quite rightly so) to consolidate the national sovereignty and to build a unified nation.

Talking of One Nation I want to remind you what Disraeli said in 1845 about the British Nation, he was addressing the two opposing parties, he said and I quote: The slogan of both parties "One Nation" has not been achieved and that there were still two British Nations "the rich and the poor."

The British still maintain the two nations. Last week you must have seen the leader of the opposition Harold Wilson addressing political rallies with a big banner on top of the Union Jack calling for a "One Nation."

Tanzania had to avoid from the start the creation of two nations within one country, nations of the rich and the poor. The African Ujamaa which is an economic concept based on the African realities of the African traditional society, the family unity and collective life, where group interests will take precedence over individual interest seems to us to give the answer. The economic objective of Ujamaa is based on the global goal to create a humane society through development process. The strategy of this development has its target at economic and social change, aimed at transforming rural life without destroying the good tradition of African life.

The main economic targets being to eradicate poverty, unemployment and underemployment and income inequalities. The outcome of these efforts are clear. We have now in Tanzania new rural society embracing over 5000 new villages with a total population of 2 million people living and working together, enjoying for the first time modern facilities and amenities never before obtained in rural districts.

The World Bank has been satisfactorily responsive to this new dynamic and unique development approach. So far we have received long term soft loans for our rural development projects amounting to a little over $60 million for integrated schemes aimed at providing a new productive capacity in rural area including social services such as schools and health facilities and the provision of clean water. In addition to this we have received about $40 million for roads and other infrastructure development within the last 18 months.

It seems however odd to us that at a time like this when the developing countries are able to prepare plans, and where we have restructured institutions to meet the new challenges of development, and while we have reached such a high peak of appetite and capacity to implement development programs, the world trend is moving just to the opposite direction. What would have been fitting for this momentous occasion would have been a new thrust towards injecting capital for development to countries that are trying to help themselves with the same sense of urgency and vigour as it was in the Marshal plan days.

The World Bank and its branches are trying to do just that. And to a certain extent the AID.

But, while appreciating these efforts on part of the Bank I feel I will be failing in my duty, if I did not mention here, the great disappointment, developing countries left, including Tanzania when the Congress of the U.S.A. refused to approve the request for funds to replenish IDA fund. This to us is a serious drawback in our development journey. We only hope that it will be realized soon enough, that by withholding funds, Congress would, almost be condoning a new alliance of co-existence with poverty, ignorance and disease. And delaying the day when it should not be necessary yet for another mercy mission of food handouts to Africa.

But the world trend seems clearly to be even more disturbing in as far as foreign aid and technical cooperation is concerned. For quite some time now I have been waiting to hear something about the outcome or the implementation of the famous Pearson Report, which was christened with a quiet sounding title and rightly too, as the "Partners in Progress". This important report which was endorsed by U.N. and which professed to give the world a new charter of development cooperation and a new hope;

when it recommended that the developed nations should allocate at least 1% of their G.N.P. for development, if development equilibrium could and should be achieved at the end of the century; this piece of timely advice seems to have been buried and forgotten under the massive documents of U.N. And nobody is talking about that anymore. I wonder why, or maybe we are trying to do too many things at a time. For whatever the lapses and reasons, justifiable or otherwise, we could attribute this to neglect to inertia or sheer apathy. Still the fact remains that the poor countries of the Third World are suffering, and will continue to suffer more if the right decisions are not taken on these matters before it is too late.

The question again arises, when is it too late, and who is going to determine when we should cooperate and work together once again as partners for progress? I would like to leave this question in the competent hands of the leaders sitting around here with us. My last plea is that you will convey our feelings to our colleagues, that the World of today demands for cooperation and interdependence.

On the other hand there is the talk of national self reliance that one hears from time to time. We from the developing world consider this to be a romantic legacy of the past, difficult to achieve for any nation, better relegated to academic reappraisal. The truth is: modernity and modern life is a syndrome of involvement and interdependence and whether we like it or not, it is the only viable choice for a better future we have. Let us take it.

Thank you.

ELK HILLS OIL AND ANTITRUST VIOLATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Moss) is recognized for 15 minutes.

Mr. MOSS. Mr. Speaker, discharge petitions have been filed regarding proposed opening up of Navy's Elk Hills, Calif., oil reserve. Such petitions seek to extract legislation affecting this facility from the House Armed Services Committee and bring it to the floor. While I do not question sincerity governing such attempts, they are ill-advised, ignoring evidence of potential profiteering by big oil at public expense, plus an antitrust situation so volatile as to constitute the boldest single attempt to pick the public purse on record.

Today, no safeguards against such depredations exist, either in the legislation in question or these petitions. If the latter succeed, Elk Hills would be opened for 1 year to oil production of 160,000 barrels daily. This is the President's repeatedly announced goal. In such a situation, Navy's oil will go to one or two major oil corporations. Profits will largely accrue to those companies while our energy equation remains unaltered. I possess the most conclusive evidence to support these allegations, and am ready to reveal it to members before they sign any discharge petition.

One company has an inside track to profit from openup legislation as now constituted; Standard Oil of California—Socal. In February, 1974, this company—was successfully sued by the Justice Department at Navy's request, for illegally draining Elk Hills oil reserved for national defense emergencies. Nor is this the first time Socal has been in litigation for doing the same thing at this reserve. Even now an appeal is slated for March 11 argument on a similar previous drainage case. In this situation, the Asphalto case, Government sustained loss of millions of barrels of oil.

Throughout the Elk Hills equation we encounter Socal stacking odds against Government. Today this reserve is so encumbered with questionable contracts and one-sided agreements favorable to this company that any open-up must vastly enrich Socal without comparable benefit to the taxpayer. Here are examples.

Socal operates Elk Hills for Navy, yet was not low bidder on its operating agreement. Socal also owns the only sizable pipeline connecting up with and leading out of that reserve, guaranteeing it a stranglehold on any oil shipments, should production commence.

Navy's share of the reserve is 80 percent. Socal owns 20 percent, and kept that percentage only by entering into a unit plan agreement for operation of the reserve with Navy. Otherwise, Socal would have lost its holding within the reserve entirely by Federal confiscation years ago. That 80-to-20 split applies to extraction of oil from the reserve. Should it be opened, Navy's 80-percent share of any production cannot be stored, for Elk Hills' storage capacity is a minimal 500,000 barrels. Production would have to be sold at auction. In such a situation, small bidders would have no competitive chance against giants such as Social and Shell. Today Shell owns a Navy contract for excess production of oil from Elk Hills, awarded in 1970. That contract requires investigation. In the 1970 bidding, Shell and Socal submitted exactly identical bids, yet no antitrust action was then taken by Justice, even though a recommendation was made to act. Today that contract with Navy is still in force. Navy assured me it will be canceled, but Assistant Secretary of the Navy Jack Bowers has taken no action yet.

Any such oil auction, therefore, could have only one foreordained result; one or another industry giant would claim Navy's 80-percent share at prices set by them through domination of the oil market and oil pricing in nearby fields; a long established and criticized fact of economic life in those parts.

Under terms of proposed openup legislation supported by discharge petitions, Socal could enter Elk Hills and commence extracting its 20-percent share of oil, because such an openup would be for other than a wartime emergency. Congressional approval of this openup through discharge petition would amount to unilateral abrogation by Navy of the unit plan contract now governing the reserve. Navy would then be immediately forced into major maintenance and offset production within the reserve. Also, under the unit plan contract, Socal owes Navy a long-deferred debt of some $24 million in unpaid cost and production balances. Opening the reserve for other than war would allow Socal to sue, seeking forgiveness of its debt because of Navy's initiative, forced by congressional approval. And even though the company has offered pious disclaimers of such intent, no legal protection against such a move exists for Navy to utilize should the contingency arise.

Socal offers a dreary record on which to base promises in addition to what I have already listed. A major Aramco shareholder, it actively implemented King Faisal's demand during the October worldwide U.S. military alert to cut off all petroleum supplies from our forces abroad. It was also recently held in contempt by a committee of the California State Legislature, because of alleged rigging of auctions on oil produced from State-owned lands, with resulting cuts in State revenues.

Any Elk Hills openup would require a minimum of from 90 to 120 days, during which time some $30 million would be expended to undertake production. Most of these costs would be borne by taxpayers, with minimal guarantee of return. Nor is there any certainty that any Elk Hills oil, contradicting a popular misconception, would actually reach consumers. According to recent Navy testimony, this oil would probably serve as a tradeoff for foreign oil to supply American military units abroad. This was stated by Assistant Secretary Bowers to our colleague, Otis Pike, last week in hearings before his Special Subcommittee on Oil Reserves.

Elk Hills pumping, once commenced, would be categorized as new production, and hence exempt from all price controls. Should it fall into the hands of the majors, its price can only be imagined. For a starter, it could only move to market through Socal's pipeline, and documents I have already released, including a 1970 letter from Deputy Attorney General Kleindienst, indicate that this in itself constitutes a blatant antitrust situation.

New oil today, unencumbered by controls, brings about $10 per barrel. Production of 160,000 barrels daily for 1 year, as envisioned by the President and legislation in question, would total some 58,400,000 barrels. Multiplied by 10, that would yield a value of $584 million. Socal, owner of 20 percent, would immediately receive $116.8 million by the end of the year. This does not take into account whatever significant profits, probably at least another 15 percent, the company would extract for the remaining 80 percent on the open market after purchasing it from Navy.

One further strange element figures into the Elk Hills equation; attitude of the White House. In 1970, Kleindienst informed Mr. Mayo, then head of the Bureau of the Budget, of the ominous antitrust situation surrounding the Elk Hills reserve. He warned of the role of big oil. Presumably the President was informed, for those comments were made in response to an administration bill to swap Santa Barbara Channel oil leases for Elk Hills production. Last fall, as part

of my ongoing inquiry into the Elk Hills situation, I informed the President in writing of my discoveries. No action has been taken. However, the President continues to press for the Elk Hills 1-year open up, which is in reality a handing over to Socal of the largest, most valuable energy resources our Nation still possesses. Here are strange doings, indeed, calling for further probing by proper investigative bodies of Congress.

I have in my possession further complete documentation dealing with antitrust aspects of Elk Hills. They are potentially even more revealing than what I have already released. Before further attempts are made, however well meant, to open Elk Hills to commercial exploitation, Members would do well to explore all the facts bearing on this antitrust situation. At this point I submit an April 1970 letter from then Deputy Attorney General Richard Kleindienst to then Director of the Bureau of the Budget Robert Mayo, warning of and delineating the antitrust situation:

OFFICE OF THE
DEPUTY ATTORNEY GENERAL,
Washington, D.C., April 10, 1970.

Hon. ROBERT P. MAYO,
Director, Bureau of the Budget,
Washington, D.C.

DEAR MR. MAYO: This is in response to your request of March 11, 1970 for the views of the Department of Justice on the legislation proposed by the Department of the Interior "To terminate and to direct the Secretary of the Interior and the Secretary of the Navy to take action with respect to certain leases issued pursuant to the Outer Continental Shelf Lands Act in the Santa Barbara Channel, off shore of the State of California".

At the outset, consideration should be given to whether the termination of the leases in question may be expected to accomplish the objectives of the legislation and whether such termination is the best way to accomplish those objectives. As you know, a number of leases in the Santa Barbara Channel are not to be cancelled. Three of these, referred to in section 2, are to be continued in production to prevent significant seepage which will occur if the producing wells are all shut down. Although reduced, some risks will continue from the operation and maintenance of these wells and oil handling. Moreover, unitization of the three continued leases as authorized by the proposal may entail further development drilling to define more fully the outlines and content of the unitized formations. Additionally, a number of leases in the area will remain in private hands for drilling and development, some of which development is already under way. These risks should be assessed in the light of the substantial participation by the Federal Government which is contemplated and which would place on the United States significant responsibility for any subsequent spillage.

Also, consideration should be given to the possibilities of increasing the risk of pollution from other sources. For example, substantial refinery capacity has been built on the coast adjacent to the Channel area. To the extent local crude oil is insufficient for operation, oil will be shipped in from outside the area. Since Santa Barbara production was contemplated as a major local source of supply, and inland California production is dwindling, failure to develop the Channel area will correspondingly increase the need for crude oil shipped in by tanker. Recent experience indicates that tanker handling of crude oil may well involve risks as great as those of offshore production.

A second major consideration which must be kept in mind relates to the precedent which may be established by the termination of these leases. A substantial part of the future domestic crude oil supply of this country lies in offshore areas. As noted in the Report of the Cabinet Task Force on Crude Oil Imports, these reserves are important to national security. It is possible that in future instances in which substantial oil spillage occurs as a result of offshore operations, requests will be made for similar "buy outs" and limitation of exploration, development and production. The Government would be in the anomalous position of paying substantial amounts to limit exploration, development and maintenance of important national security reserves.

The proposal to use Navy Reserve oil to pay for the Santa Barbara leases presents additional problems. The rate of production required from Naval Petroleum Reserve Numbered 1 (Elk Hills), for the scale of payments contemplated to the Santa Barbara leaseholders, would substantially alter the character of that field as a "reserve". As it now stands, only minimal production has been taken from the shallow zones. The deeper zones have been fully developed but withheld from production. The contemplated five year period of heavy production would deplete considerably both the shallow and deep reserves. Whether the maintenance of such reserves is an appropriate military security policy is a question which should be examined directly, not indirectly as here proposed. In any examination of the military security problems involved, the views of the Department of the Navy would, of course, be of prime importance.

In this regard, the bill amends in effect the laws concerning Naval Petroleum Reserves, 10 U.S.C. 7421, *et seq*. However, the exact nature of any amendments should be made as specific as possible. For example, it is not clear whether the provisions of Section 3(d) of this bill, providing for sale of oil from Naval Petroleum Reserve Numbered 1 "pursuant to the provision of . . . [this bill]", would except such sales from the requirements of 10 U.S.C. 7431(3) that specified Congressional committees must be consulted prior to sales of oil from petroleum reserves. This particular illustration involves not only a matter of substance, but sticky questions of committee jurisdiction.

Moreover, it should be noted that under existing law, 10 U.S.C. 7426, the United States and the Standard Oil Company of California have entered into two agreements with respect to the production of petroleum from Naval Petroleum Reserve Numbered 1. The 1944 Unit Plan Contract, as amended, unitized for production purposes lands held by the company and the United States. It can be terminated by the United States, but such termination would leave the company free to produce as it wished for its own account. The second agreement is an operating agreement whereby Standard acts as a unit operator for the limited production now permitted from the Reserve. Since these agreements were made in contemplation of continuance of this field in reserve status, its use for immediate production would require substantial changes in both agreements.

Section 3 authorizes the Secretary of the Interior to negotiate settlements with the leaseholders as to mineral interests for which accurate valuations under existing circumstances would be most difficult. Any agreement arrived at in such negotiations would involve large sums of money and highly disputed valuations. Lacking any substantial exploratory drilling to define the extent of the oil formations underlying the cancelled leases, or the oil content or producibility of those formations, assertions of value made by the Government and the individual leaseholders may be expected to vary quite widely. Settlements made would be fairly arbitrary, and consequently difficult for the leaseholders to justify to their stockholders or creditors, or for the Government to justify to the public. Furthermore, any settlements acceptable to the leaseholders would probably require the Government to pay large sums in excess of the leaseholders' original bonus payments and subsequent expenses, particularly where any exploratory work could be asserted as indicating a possibility of substantial oil discovery.

On the other hand, of course, if no settlement can be negotiated the alternative would be the defense of complex litigation instituted by the leaseholders for just compensation. The provision in the bill with respect to such litigation calls for it to be maintained in "the appropriate United States district court". Under existing law, a Federal district court does not have jurisdiction to hear a case for the taking of property without just compensation if the claim is for more than $10,000 (28 U.S.C. 1346). To confer jurisdiction upon a Federal district court, it is necessary to remove the monetary ceiling provided for in 28 U.S.C. 1346 for actions brought under the bill. We would suggest that the bill confer upon the United States District Court for the Central District of California exclusive jurisdiction of litigation authorized by it. Also, the one year limitation for the institution of litigation (Sec. 4) would appear to be inadequate to permit advance meaningful negotiation, and, in fact, the ascertainment of the facts and expert opinions essential to both negotiation and litigation.

Also, section 4 states that a judgment shall be paid within a period of 60 months. In our judgment, permitting the Government to defer for five years the payment of compensation for property taken by it may be held violative of the Fifth Amendment.

The proposed legislation provides that payment can be made for the cancelled leases, "at the option of the holder" either in "money or in oil equivalent in value . . ." If money is chosen a leaseholder shall be paid from an account established from money acquired through sale of Elk Hills production "on the open market". Where election is made to take "oil equivalent in value" the Secretary of the Navy is directed to deliver Elk Hills oil and that oil shall be valued at "the prevailing wellhead price at Naval Petroleum Reserve Numbered 1 on the date of delivery."

A problem of valuation of the Elk Hills oil is present under either alternative. Under the money alternative, the question is whether the Navy can sell the oil on the open market at a fair market price. While the Navy could, of course, purport to make the oil available on arms length competitive bids, lack of opportunity for effective competition with respect to oil on the Reserve would prevent establishment there of a fair market price.

Standard Oil Company of California is in a controlling position with respect to such oil sales. It is owner of a substantial interest in the unitized Reserve, operator under the Unit Plan, and the largest producer and purchaser in the locality, indeed in the entire State. Moreover, Standard owns the only pipeline connected to the field, which any purchaser of Elk Hills oil must use for the first link in transportation to any refinery. The Standard line, however, is a private carrier, handling only oil owned by that company. Consequently, in order to move the oil, any purchaser must make arrangements for sale to Standard and repurchase from it at the delivery point. These factors constitute a serious limitation of the opportunity of competitors of Standard to bid.

As an alternative, the Navy might conceivably seek to use as a standard for fair market price the price for similar oil elsewhere off the Reserve. This approach, itself, has built-in problems. Even if a fair market price for wellhead oil could be so determined, it is possible that Standard, which controls the pipeline out of the Reserve, would not carry the oil under terms which permit sale of the oil at such a price. Of course, the relationship between the Navy and Standard may prompt Standard to provide reasonable terms for transportation.

Under the "oil equivalent" alternative, the question is whether "the prevailing wellhead price" at the Reserve is equivalent to the fair market price, because of Navy participation or otherwise, or whether it is not equivalent because arbitrarily set by Standard which, as noted, is in a dominant status as to purchases in the area. Again, there would remain the question whether purchasers could obtain favorable enough transportation terms from Standard to permit them to utilize this alternative.

Standard's large interests in many of the Santa Barbara leases to be terminated compounds the difficulties. These interests are shares in joint ventures with other large major companies. Consequently, such companies might attempt to continue their joint status and claim payment for their Santa Barbara leases in the form of Elk Hills oil. This could place a dominant share of the Elk Hills oil in the hands of joint ventures composed of major producers. Since the Elk Hills oil constitutes a large potential share of area production, joint control of that share could have a serious adverse effect on competition.

Also, the joint venturers might argue under this proposal that as a matter of law, "the prevailing wellhead price" is the price that Standard would set by agreement with its partners, since, in other fields, it is the purchasing pipeline at the wellhead which ordinarily sets the prevailing wellhead price; and Standard is the purchasing pipeline. If this argument were successful the companies could drive the Elk Hills wellhead price down, while still maintaining it at a higher price at the point where delivery is actually made to the refineries. Therefore, joint determination of price could have undesirable consequences to the Navy, to firms competing with Standard and its partners and to the consuming public.

Conceivably, the chances of establishing a competitive price for Elk Hills oil could be somewhat improved if the proprietary pipelines of Standard and the connecting lines off the Reserve of other integrated companies were to be compelled to act as public carriers. A possible source of authority for such action lies in the provisions of the Mineral Leasing Act requiring the Secretary of the Interior to grant pipeline permits for right-of-way across public lands only upon condition that such pipelines perform as common carriers. While we have not had an opportunity to examine the permit situation as to the pipelines involved, or to review action by the Department of the Interior on such permits, the presence of substantial areas of public land in the State might make it possible to subject such pipelines to permit authority.

Section 1 of the bill makes reference to termination of lease OCS–P–0235 which was held by Humble Oil and Refining Co. That company filed a notice to relinquish that lease in December, 1969, and by a Decision dated January 30, 1970, the Bureau of Land Management held it had been relinquished effective the date Humble filed its notice. The reference to this lease should be deleted.

In conclusion, it is the view of the Department of Justice that if protection of the environment in this situation uniquely requires termination of the outstanding leases, this could best be accomplished by authorization to the Secretary to negotiate compensation by cash payment from funds appropriated for that purpose. Further, provision should be made to confer exclusive jurisdiction on the United States District Court for the Central District of California of suits in which compensation is claimed but negotiated settlement cannot be reached.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

[From the Los Angeles Times, Mar. 6, 1974]

UNITED STATES WARNED IN 1970 NOT TO OPEN ELK HILLS

(By Richard T. Cooper)

WASHINGTON.—The Justice Department issued a secret intragovernment warning four years ago against opening up the Navy's Elk Hills oil reserve, according to a document released Tuesday by Rep. John E. Moss (D–Calif.).

Release of the document was timed to coincide with a bid by three other California congressmen to force quick House action on opening the reserve. Moss opposes that action.

The Justice Department warning, contained in a seven-page letter by then Deputy Atty. Gen. Richard G. Kleindienst, argued that the Navy's reserve would be "considerably" depleted and that the government would have serious trouble getting a fair price for its oil.

Also, the letter said, subsequent legal maneuvering eventually could permit Standard Oil of California, which operates Elk Hills for the Navy, to begin draining the rich oil pool without restrictions.

Kleindienst's letter, written to Robert P. Mayo, then–Bureau of the Budget director, on April 10, 1970, specifically was concerned with an Administration proposal linking the naval reserve and problems in the Santa Barbara Channel, but his analysis appears applicable to the present Elk Hills situation.

The effort Tuesday to force action on opening the reserve to commercial development came in the form of a discharge petition filed by Rep. Alphonzo Bell, a Los Angeles Republican, Rep. James C. Corman, a Van Nuys Democrat, and Rep. William B. Ketchum, a Paso Robles Republican whose district encompasses Elk Hills.

Rep. Silvio O. Conte (R–Mass.) joined Bell, Corman and Ketchum in sponsoring the discharge petition.

A House resolution authorizing increased production from Elk Hills is bottled up in the House Armed Services Committee, whose chairman, Rep. F. Edward Hébert (D-La.), opposed tapping the military reserve.

The petition, if signed by 128 representatives, would force Hébert to let the resolution go to the floor for consideration by the full House.

A similar resolution has passed the Senate.

Bell, dismissing critics' concern that Standard of California will have unfair competitive advantages and reap huge profits if the reserve is opened, said "that's the tail wagging the dog."

"We're in a crisis and we need this," he said. Standard Oil, which owns a 20% interest in Elk Hills, "could profit," Bell acknowledged, but he asserted that the Navy and U.S. taxpayers would profit far more.

Bell estimated that, using secondary recovery methods, Elk Hills could yield 3 billion barrels of oil, enough to "provide major production for 15 to 25 years."

Although the petition sponsors tied their action to the present gasoline and fuel oil shortages, Bell said he does not expect substantial new production from Elk Hills before 1975. Pipelines and other existing facilities presently are inadequate to handle the additional 160,000 barrels a day that would be allowed by the House resolution.

The resolution would limit additional production to one year, but Bell said "I'm talking about opening it up for as long as we have the energy crisis we have today," a period he said could stretch five to 10 years.

By then, Bell asserted, military requirements can be met from Alaska and from oil shale.

In the meantime, he argued, Elk Hills can provide civilian markets with needed quantities of low-sulfur oil and gasoline.

Bell, who owns substantial stock in the Bell Petroleum Co. of California, said, "There is absolutely no business or personal advantage to me or to Bell Petroleum" in opening the reserve. He said his position "transcends personal or business associations."

Critics have not questioned Bell's motives, but assert that Standard of California is uniquely positioned to exploit the opening of Elk Hills.

As present operator of the reserve and owner of the only pipeline serving it, a spokesman for Moss said, Standard can fend off competition and virtually dictate sales terms.

Kleindienst, in his 1970 letter, reached similar conclusions. He said "the lack of opportunity for effective competition with respect to oil on the reserve would prevent establishment there of a fair market price."

"Standard Oil Co. of California is in a controlling position with respect to such sales," Kleindienst said. He asserted that under some circumstances the oil companies could "drive the Elk Hills wellhead price down" while charging higher prices to refineries receiving the oil.

The issue of establishing a fair market price is critical because the Navy lacks adequate storage capacity for oil produced under an accelerated program and would have to sell it, probably to Standard of California.

LABOR—FAIR WEATHER FRIEND—VI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, despite the accusation of the Labor Council for Latin American Advancement, I do have some firm friends in labor, and even within the latter organization. When the LCLAA decided to attack me, it did so without the knowledge of these friends, and certainly without their participation. In fact, I think that one reason the attack on me was not cleared with the LCLAA board of directors was that the organizers of this nasty little event knew that they might not be able to convince the board that they were doing the right thing; in other words, they did not want to have to defend their action.

Some members of the board would have undoubtedly stood for the truth. One of these was Linda Ramirez, who lives in San Antonio and who certainly should know what the score is as far as I am concerned. If anybody on the board had a right to know that I was being attacked, it should have been this person, but as it turns out, she was as much surprised to hear that I was supposedly harboring antiunion thoughts as anybody. She learned about the attack only some time after it took place; and she was mad about it.

Linda Ramirez is one in the labor movement who knows me well. She is also on the executive board of the LCLAA. And this is what she thought about the LCLAA's attack on me:

SAN ANTONIO AREA
PUBLIC EMPLOYEES LOCAL 2399,
San Antonio, Tex., January 7, 1974.

RAY MENDOZA,
President, Labor Council for Latin American Advancement, Washington, D.C.

DEAR BROTHER MENDOZA: I took my vacation on December 17, 1973 and was gone from the City. Today, I returned to my job and have just read your press release dated December 19, 1973, in which you vigorously condemn Congressman Henry B. Gonzalez of San Antonio for "His Union Busting Attitude."

I was at first shocked and dismayed to see the Press Release from the LCLAA office in Washington, D.C., but now I am angry. I can only conclude that you are not aware of the seriousness of your unfounded accusations against Congressman Gonzalez. You have indeed set up the LCLAA as an instrument of lies and vicious attacks upon the innocent, and friends of Labor.

As a member of the LCLAA Executive Board from San Antonio I am indignant and resent that you did not consult with me and other Executive Board Members from San Antonio, before you released such a false, misleading and vicious attack upon a man that has stood with Labor even when it was most unpopular to do so.

Congressman Gonzalez is an Honorary Member of my Union, AFSCME Local 2399, and is one of the few Texas public officials to give 100% support to Labor throughout his public career. He has proven time and time again his support for and in behalf of Organized Labor and the Working People's right to human decency and economic justice.

I do not recall the LCLAA Executive Board having given you or Brother J. F. Otero any authority to make vicious accusations without documentation against anyone, much less a friend of the Workers of Mexican descent.

I am not taking "Farah's" side and I am not against the Farah Strikers, but I am against you taking the prerogative to speak for the LCLAA as a whole. As a member of the Executive Board, I again state, you did not have the authority to make the accusations you made against Congressman Gonzalez, because you do not have the facts. You owe Congressman Gonzalez an apology, if he will accept it, for the grave injustice you have heaped against him.

Your immediate action to correct this matter is expected.

Sincerely and fraternally,
MRS. LINDA RAMIREZ,
Executive Board Member, Labor Council for Latin American Advancement.

GOVERNOR SHAPP AND THE TRUCKERS' STRIKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MORGAN) is recognized for 10 minutes.

Mr. MORGAN. Mr. Speaker, our Nation recently faced a grave crisis when the independent truckers went on strike to protest the severe effects of the energy shortage upon their ability to earn a decent living. Gov. Milton Shapp of Pennsylvania stepped forward to provide the leadership necessary to resolve the problems and avoid a potentially disastrous situation.

At the recent 16th Annual Legislative Conference of the United Steelworkers of America, which was held in Pittsburgh, Pa., the following resolution concerning Governor Shapp was adopted. I commend it to your attention:

RESOLUTION

Whereas: The Commonwealth of Pennsylvania and the Nation faced a serious and ever more criitcal threat to the economy as 1974 dawned. The fuel shortage was acute and fuel prices were increasing at an alarming rate. The Nixon Administration, although long on rhetoric, remained motionless, providing no leadership. Where leadership from Washington should have existed, there was a vacuum, resulting in increased unemployment and growing difficulties in the task of purchasing food and other household commodities for families from empty shelves at local stores. The truck operators, who for months had sought relief from Washington without success, were desperate because of fuel shortages and spiralling fuel costs, and exhausted from their search for fuel to complete trips. With the absence of leadership from Washington, the vacuum it created erupted into violence, carrying the threat of even greater shortages and rising costs for a population already strained by the difficulties of the year past. Despite these circumstances, Governor Milton J. Shapp stepped forward to give leadership by calling together the Governors of the several states. In what was a leadership vacuum, the leadership of Milton J. Shapp sparked life. While recognizing the legitimate grievances of the truckers, he did at the same time take firm action in Pennsylvania to guarantee public safety and maintain order. Through his leadership and statesmanlike conduct, negotiations were initiated and resulted in an agreement. Violence was kept to a minimum—the road to disaster was avoided. Needed products again are being transported across the nation—the crisis has been stabilized.

Therefore, be it resolved: That even though additional positive action principally on the federal level, is needed during the next few weeks to insure a permanent solution to this problem, the Sixteenth Annual Conference of the Legislative Committee of Pennsylvania, United Steelworkers of America, formally recognizes and commends Governor Milton J. Shapp for assuming national leadership in a crisis, and further acknowledges his personal sacrifice and statesmanlike conduct during the negotiations to avert a situation which might have developed into a national disaster.

Be it further resolved: That this Resolution shall be made public so that not only members of the United Steelworkers of America, but also all Pennsylvanians and all Americans will be aware of his accomplishments.

Be it finally resolved: That this Resolution shall be submitted to a Member of the Commonwealth's Congressional Delegation for the purpose of being made part of the CONGRESSIONAL RECORD so that history may record his successful effort.

THE FEDERAL SURPLUS PROPERTY AND ECONOMIC DEVELOPMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 10 minutes.

Mr. MURPHY of New York. Mr. Speaker, I introduce today the Federal Surplus Property and Economic Development Act which is intended to correct the damage done to our cities and to restore jobs to those Federal employees dumped by the Government as a result of the oftentimes inhumane procedures used to dispose of excess Federal property.

This legislation, which so far has 24 cosponsors, should have across-the-board support from all Members of Congress. It will help Congressmen by providing financial assistance to their districts if they contain property which has been or will be discarded by the Federal Government.

The passage of this bill will benefit State and local governments by allowing faster economic development of newly acquired surplus properties which would otherwise lie dormant for long periods. It will also benefit the Federal Government by providing a greater economic gain in the long run than is realized under the present system of sale of surplus property.

Under present law, land that the Federal Government has abandoned—"surplus property"—can be sold only at a price set by the General Services Administration. However, if the property is to be used for a park, a health facility, or certain education facilities, the land with improvements and structures can be transferred to State or local governments without charge.

The passage of my proposed amendment would allow for a credit on the purchase price of surplus property equal to the amount of benefit accruing to the Federal Government if the property is used for economic development. The bill strictly limits the use of this credit to economically underdeveloped areas and further limits the credit to those projects which will ultimately result in a decrease in the unemployment rates of the persons in that area.

The benefits accruing to the United States from the application of such a credit are numerous, but the primary benefit is an increase in employment, and therefore an increase in the tax base.

A major reason I have made this proposal is that the Federal Government is in part responsible for some proportion of the unemployment which this bill seeks to alleviate. The facility which has been abandoned and declared surplus by the Federal Government normally employed civilians and military personnel, sometimes many thousands of them. Upon closing that facility these employees are usually discharged and most of them are never reemployed by other Federal agencies. A new project taking over the facility will provide jobs for those federally discharged employees and thereby lessen the adverse economic and social effects on the community as a result of the discontinuation of a particular enterprise.

I believe that municipalities which have been the host of Federal facilities that are subsequently abandoned by the Government should have the opportunity to make use of this land in a way that is most beneficial to the community. This includes economic development as well as recreational and educational use.

I believe the limited resources of a community should not be exhausted in acquiring property from the Federal Government which no longer wants the property, but should be primarily expended in the redevelopment of that property. For example, New York City will benefit considerably by the passage of this bill. It will allow the city to obtain the Brooklyn Army Terminal which they have been seeking for years. A reimbursement of approximately $24 million would be received by the city from the purchase in 1967 of the Brooklyn Navy Yard. Both of these facilities were precipitously dumped by the Federal Government without any regard for the consequences to New York City and the people involved. The Navy yard is already being developed by the Economic Development Administration and similar plans are underway for the Army terminal contingent upon the city's ability to obtain it.

The city has for years actively utilized the Brooklyn Army Terminal through the leasing of four piers and the railroad track. This has been done, however, under adverse circumstances. The industrial complex along the shorefront to the northeast of the Brooklyn Army Terminal represents one of the largest commitments to maritime, manufacturing, shipping, and trucking uses within any municipality in the world. This area still retains the potential of being one of the region's major stable industrial and job-producing centers. My legislation would allow the revitalization of the area with the money the city would have had to use to purchase the property under the old procedures. Such development of the area will further entice private development and the creation of new jobs.

I believe that my legislation is particularly important today when we are attempting to reduce Federal expenditures. The benefits of this bill extend to every community and every State which has a Federal facility in addition to those which have facilities which are already abandoned.

MEZVINSKY TESTIMONY ON FOOD PRICES AND ADVERTISING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Rodino) is recognized for 10 minutes.

Mr. RODINO. Mr. Speaker, I am pleased to include in the record today testimony which the gentleman from Iowa (Mr. Mezvinsky) presented this morning before the Senate Commerce Subcommittee on Consumers which is conducting oversight hearings on the Federal Trade Commission.

Mr. Mezvinsky is a member of the Monopolies and Commercial Law Subcommittee which I chair and which held hearings last summer to investigate rising food prices.

Mr. Mezvinsky's testimony for the FTC oversight hearings is an important followthrough on major aspects of our food price hearings. I commend his thoughtful presentation to your attention:

Testimony of Congressman Edward Mezvinsky

March 7, 1974.

Mr. Chairman, I believe that oversight of the FTC properly begins with obtaining from the agency an understanding of its sense of where it wants to be headed, how it chooses its cases, whether it has any formal guidelines for initiating cases, and how it evaluates the success of cases it has concluded. I am afraid, however, that you are going to find that the FTC does not have a very good sense of its own direction.

At least, this is the conclusion I think is justified from FTC testimony last summer at Food Price Hearings held by the Monopolies and Commercial Law Subcommittee of the House Judiciary Committee, of which I am a member. Last summer, Commissioner Engman was able to give us no indication that the FTC had a game plan for dealing with industries like the food industry that are highly concentrated and whose monopoly profits, where they exist, have a direct effect on the quality of living standard of our people. Congressional and consumer prodding has finally resulted in recent indications that the FTC now has underway a broad investigation of the food industry that may result in antitrust action. Let us hope that this investigation will really turn out to be effective in breaking up the anticompetitive situations that add on monopoly overcharges to the prices we have to pay for our food and other products.

That these monopoly overcharges exist is not disputed by the FTC, which two years ago compiled a list of estimated monopoly overcharges in 100 selected industries. From the FTC list and figures, one can calculate that Americans overpay at least $2.6 billion annually for food. Although the FTC contends that its figures are not accurate because of a lack of data, it is likely that their figures are far too low. The Monopolies and Commercial Law Subcommittee heard testimony this summer that suggested the food overcharge price tag probably runs much higher.

The FTC seems very embarrassed that this report, which was prepared for internal policy planning, ever reached the public in a partial version released in April 1972. Only after much pressure from our subcommittee did the Committee reluctantly make the full study available to us with a request for confidentiality. The FTC claims the monopoly overcharge data is imprecise and easily misunderstood. These data deficiencies ought to be cleared up now that the Alaska Pipeline Bill makes it possible for the Commission to obtain line of business and other information it deems pertinent without having its requests vetoed by the Office of Management and Budget.

Instead of getting bogged down about the issue of imprecise data, we ought instead to be able to get a straight answer from the FTC about whether the premise of the study is correct.

Do consumers fork out large sums of money for monopoly overcharges? Do the 100 industries listed in the study really enjoy monopoly profits? If the FTC stands behind the concept of the study—we should be expecting it to follow through with industry profiles and draw up battle plans for controlling those industries it believes add monopoly overcharges to consumer costs. Because the demand for food is, as the economists say, inelastic—an increase in price does little to discourage its purchase—anticompetitive developments are particularly serious in the food industry.

What has the FTC been doing about this for the past two years? All I can tell is that they have been backing off from accepting any responsibility for the implications of the study. The only exception is a soon-to-be-published economic report on the dairy industry. If the purpose of the monopoly overcharge study was to pinpoint for policy planning those industries which inflict the greatest costs on consumer products, let us ask the FTC for more economic reports on those industries high on the list.

The FTC admitted to our subcommittee that there has been less emphasis on food in their study programs since 1969 because the changes that have taken place in the food industry since the mid 60's have been less dramatic than those that took place earlier.[1] They told us that the data prepared by the National Commission on Food Marketing in 1966 is still adequate. I need not remind you that the Food Marketing Commission recommended that the FTC should make a continuing review of market structure and competition in the food industry.[2]

Since the Report of the National Commission on Food Marketing, we have had well-documented evidence of the growing concentration and mergers in the food industry. Market concentration is the best single, generally available measure for evaluating the importance of monopoly in industry. Significantly, between ¼ and ⅕ of all food industries fall into the classification of "very highly concentrated" oligopolies, that is where four firms control 75% or more of the market. By comparison, only 9% of all U.S. manufacturing industries fall within this class.[3]

The tendency for market power to accumulate in fewer and fewer hands is no idle threat to the food industry. Not only is there increasing market concentration in individual areas of food production, there is also an accelerating tendency to conglomerate mergers within the industry.

The FTC has made no study of changing industry concentration since 1969 when it published a study "On the Influence of Market Structure on Profit Performance of the Food Manufacturing Industry." Figures available then indicated that the 50 largest food industry corporations controlled close to 50% of total food manufacturing assets in 1965, up from 41 percent in 1950.[4] An estimate by an FTC economist at a recent Senate hearing on food prices before the Subcommittee on Monopoly of the Select Committee on Small Business suggested that the 50 largest food manufacturing corporations probably control close to 60% of assets now.[5] This acceleration of power is being accomplished almost solely by mergers. Many of the acquired companies have been our largest food manufacturers in a product line, household words to all of us because of their large advertising budgets.

I am familiar with the Subcommittee's concern about the FTC's exercise of its jurisdiction over false and misleading advertising. I would like to suggest to this subcommittee that you ought to demand from the FTC increased attention to the effect of advertising on industry concentration and thus on prices.

It is significant to observe what happens to a company's advertising after it is acquired by a conglomerate. Almost immediately, the average amount of advertising expenditure for the acquired brand doubles.[6] Studies indicate that this in turn increases concentration. First of all because it makes it harder for new competitors to enter the market. New firms must be prepared to spend as much or probably more than their leading, heavily advertised competitors if they are to break into the market successfully and offer competition. Second, concentration increases because the profit margin and sales of heavily advertised firms increases as advertising expenditures increase.

One of the greatest advantages powerful conglomerates have is their advertising budgets. The amount of money a company is able to spend so directly affects its profits that company incentive is toward budgeting for advertising, not in lowering prices or raising quality.

In 1964, the 50 largest food manufacturers accounted for nearly 90% of TV advertising done by food manufacturers.[7] At that time, food industry concentration was lower than it is now. Since 1966, the FTC has not obtained any figures to show the extent to which large companies control advertising.

When the FTC held a major hearing on advertising in 1972, taking weeks to hear all witnesses, not one economist was called. There was no discussion of the importance of advertising as both a cause and effect of concentration. This seems to me an incredible oversight. The best the FTC has done so far has been to have under consideration a recommendation made by the National Commission on Food Marketing that it investigate advertising rates and discounts,[8] and to have proposed a study of advertising and its effects on concentration.[9] Your subcommittee might ask the FTC for a status report on this study. I suggest that the effect which advertising expenditures has on prices is of such importance that the FTC ought to consider it a priority issue.

Maybe the subcommittee ought to encourage the FTC to develop some guidelines regarding advertising where it is clearly the cause of industry concentration. There are a number of food industries with brand name products to which this would apply—soft drinks, cereals, soups, crackers and cookies, and processed fruits and vegetables, for instance. How this could be done should be the object of an FTC study, but let me suggest several possibilities.

The FTC requires pre-merger notification of food retailers and wholesalers with annual sales in excess of $100 million so that it can determine whether competition also will be adversely affected by the merger. Why could it not also consider determining whether competition is being adversely affected by advertising expenditures of companies spending a high percent of sales on advertising?

I think the FTC should be encouraged to study the problem of advertising with the intention of working out a solution to what is a real and major contributing factor to higher prices and production costs.

Last Friday, Mark Silbergeld of Consumer's Union made the point that Congress must accept some of the responsibility for the FTC's lack of policy planning because it has not demanded basic and sound priorities and action. I think his point is well taken. I hope that my observations will help us to provide a prod in the right direction.

FOOTNOTES

[1] Exhibit C. Testimony of the FTC. Hearings before the Subcommittee on Monopolies and Commercial Law of the Committee on the Judiciary, House of Representatives, Ninety-Third Congress, of Food Price Investigation, p. 701.

[2] The National Commission on Food Marketing concluded in its final report: "In order that the Congress, the executive branch, and the public will be fully informed, we believe that the Federal Trade Commission should be charged with making a continuing review of market structure and competition in the food industry and report annually thereon to the Congress." National Commission on Food Marketing, *Food from Farmer to Consumer* (1966), p. 107.

[3] Joe S. Bain, *Industrial Organization* (John Wiley and Sons, 1959), pp. 124–133.

[4] Statement by Russell C. Parker, Asst. to the Director, Bureau of Economics, Federal Trade Commission. Hearings before the Subcommittee on Monopoly of the Select Committee on Small Business, United States Senate on The Role of Giant Corporations in the American and World Economies. Part 6. Corporate and Food Prices. December 10, 1973.

[5] *Ibid.*

[6] *The Structure of Food Manufacturing*, Technical Study No. 8, National Commission on Food Marketing, June 1966. A study prepared by the staff of the FTC for the National Commission on Food Marketing, p. 126.

[7] *Ibid.*, p. 66.

[8] Appendix 12. Hearings before the Monopolies and Commercial Law Subcommittee, *Op. Cit.*, p. 702.

[9] U.S. House of Representatives, Committee on Appropriations, Subcommittee on Agriculture, Environmental and Consumer Protection Appropriations, Hearings on Fiscal 1973 agency appropriations, April 18, 1972, pt. 4, p. 504.

THE PROPOSAL FOR A "NO-CONFIDENCE" VOTE ON THE PRESIDENT, AND A SPECIAL ELECTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 15 minutes.

Mr. REUSS. Mr. Speaker, on February 14, 1974, I introduced House Joint Resolution 903, a constitutional amendment to allow Congress, by an extraordinary majority, to vote "no confidence" in the President, and thus compel a prompt election to test the mandate of the people.

The amendment would avoid the present unsatisfactory choice between a disturbing and vaguely defined impeachment, and the impasse that arises from a President who has lost the capacity to govern well but whom the Congress and the public are reluctant to impeach.

An excellent explanation of my proposal is contained in the following article by Richard L. Strout in the Christian Science Monitor for February 22, 1974:

> WASHINGTON.—The year is A.D. 1975. A new constitutional amendment by Rep. Henry B. Reuss (D) of Wisconsin, is in effect. It permits the ouster of an American president by a "no confidence" vote. Here is how it works:
>
> The House votes "no confidence" in the chief executive by an extraordinary three-fifths majority. (If all 435 members voted this would be 261.) The Senate does the same. (It would need 60 votes.)
>
> The president would at once step aside. He would not be succeeded by a member of the rival party, however, as he would be under the parliamentary system. He would be succeeded by the vice-president—a member of his own party. The new president would function until a special presidential election was held. This would occur within the next 90 to 110 days.
>
> Mr. Reuss provides variations on when, and whether, this special presidential election would occur.
>
> If the "no confidence" vote came in the last year of a president's term, Congress, in its discretion, could decide to have no special election at all.
>
> If the "no confidence" vote occurred in a year of normal midterm congressional elections (like 1974, for example) the presidential race would simply be added to the congressional race. The president thus elected would take office the next January and would serve four years.
>
> If the special election occurred at any other time Congress would specify when the new term would start, but not less than 60 or more than 75 days following the election.
>
> There is one other notable aspect of the Reuss proposal. An ousted president would be permitted to run again. The two-term limitation of the 22nd amendment would not prevail. The theory is, of course, that in fairness an ousted president should be given opportunity to seek vindication.
>
> The Reuss amendment illustrates the ferment of discussion going on here. Isn't there some better way of dealing with a president who has lost credibility? It coincides with the British election. To oust a king you behead him. To oust a president you impeach him. But to oust a prime minister, or to decide not to, you simply hold a three-week election. In the British election each party gets five 10-minute telecasts, each candidate for Parliament has a spending limit of roughly $3,000, and there are no huge campaign funds delivered in $100 bills in attache cases! Well, the English are peculiar.
>
> Congressman Reuss when he introduced his proposal last week specifically said that he did not want it to apply to the present situation. He was just trying to get away from the cumbersome impeachment procedure and to offer a future plan that was half way to parliamentary "no confidence."
>
> The Founding Fathers feared an overweening president. They invented the separation of powers to control him. They threw in impeachment as a kind of club to make him mind his manners. Judging by debates, they regarded impeachment as a political instrument, and an "impeachable offense" as something very loose and broad. Times have changed since then and the chief executive, particularly in recent years, has become increasingly powerful so that the present awe of the office might surprise Founding Fathers Washington, Franklin, Hamilton, Madison et al.
>
> The Reuss proposal doesn't seem very likely to be adopted. But most people would be glad if some more flexible fire escape could be devised for our present dilemma.

The reaction to my proposal has been overwhelmingly favorable. A sample follows:

Charles D. Potter of Takoma Park, Md.:

> Your proposal to modify our political system by providing for a "no-confidence" vote is a good one, in my estimation. It represents the best (and easiest) compromise between the American and British systems.

Richard R. Howe of New York:

> I am highly enthusiastic about this proposal and would like to offer my services to do whatever I can, as a member of the New York Bar and a concerned citizen, to help this proposal to receive maximum exposure and consideration in the coming months . . . [S]omething along these lines is strongly needed as a means of avoiding future Watergates—and, for that matter, Vietnams as well.

Paul H. and Virginia H. Jordan of Michigan:

> We share your belief that our present resources for dealing with governmental crises are quite inadequate and are much interested in your proposed solution.

Harold V. Bell of Dallas:

> You seem to be on the right track . . . This would seem to be a good counterbalance to the vast accretion of presidential power in the last forty years and the strong voter bias in favor of the incumbent at election time.

Philip Dunkelbarger of Massachusetts:

> This to me is the only way to effectively deal with the inertia and lack of confidence that our present government is experiencing.

Elizabeth R. Young of Washington, D.C.:

> I agree with you that a change is vitally needed . . .

George Charles Bruno of New Hampshire:

> Your proposed amendment would combine the best features of the presidential system with the most useful feature of the parliamentarian system. I urge you to press forward with your proposal.

D. H. Miller of Milwaukee:

> Your idea of a confidence referendum sounds good. It would certainly let a President know he can't withhold evidence and defy the people.

Mrs. T. J. Brennan of California:

> The Constitutional amendment . . . is long overdue, as is evidenced by the predicament we now find ourselves in. Our present system is a mess!

Elda E. Purdon of Florida:

> We feel this procedure would keep the incumbent on his toes and less apt to use his presidential powers in a dictatorial manner.

Bruce E. Scott of Chicago:

> It is absurd and pitiable that the most powerful, democratic nation the world has ever known cannot remove its prime political leader when it has lost confidence in that leader, and replace him with another.

Franklin Jones of Texas:

> Although I have retired, I yet am interested in seeing some means of getting rid of a President short of what might be equated with the burning down of a barn to get rid of the rats.

E. L. Lancaster of Texas:

> I feel this is a much better approach, as you do, to provide a change in our government rather than impeachment, while congressional power is restored.

Mrs. Phyllis Paine of Iowa:

> Your "no-confidence vote" has considerable merit as a *just* way to solve our dilemma—an ineffective leader to be judged by a Congress not without blame.

George H. Skau of New Jersey:

> I am intrigued by your proposal and it does have the advantage of making sure that a President has adequate support from Congress in his governing of the nation.

G. McArthur of New York City:

> I write to congratulate you on the practicality and common sense of your suggestion of a lack of confidence amendment. Coming as I do from Canada where one can see how smoothly this system works, I heartily approve and I will write my own congressman and some others to urge support for your proposal.

Mrs. Aaron John Brumbaugh of Florida:

> This would seem simpler and more effective than our present impeachment arrangement which can drag on for years. "A crisis a day keeps impeachment away" seems to be the tactic used by President Nixon.

Rainer Fried of Omaha:

> I am pleased to learn about your proposed constitutional amendment for a possibility of a vote of no confidence of the President by Congress. This is a democratic procedure badly needed.

Arnold Robbins of East Northport, New York:

> It was especially heartening to hear that you have been instrumental in trying to alleviate a glaring weakness in our Constitution by having a congressional or country-wide vote on whether our President continues to have the confidence of the people. It is enlightened representatives of the people like you who give the feeling that there is still hope for a democracy.

Among the unfavorable reactions:

John H. Prugh of New Jersey:

> Are you really going to propose a constitutional amendment to permit Congress to vote "no confidence" is the President and order a special election to replace him? Might be OK if the President were given authority to dissolve the Congress (House and Senate) and order new Congressional elections.

Ned Watson of Ohio:

> This may be a fine idea. Now it seems necessary that you also dream up an easy method that we taxpayers can eliminate any House and Senate member in which we have lost confidence.

Vincent P. Judkins of New Jersey:

> I suggest that you include in the same bill the opportunity to remove from office any and/or all legislators also.

Ruth L. Stecher of Ohio:

> What kind of partisan idiotic legislation are you proposing? Why can't you spend your time and effort on legislation that is of vital importance to the citizens of this country?

Norman Cox of Ohio:

> Having elected a President for a four-year term of office, we should let him serve that time. This "loss of confidence" malarkey could be used as an excuse to get rid of any public servant, whether he be right or wrong. Impeach if the evidence warrants.

THE COMMODITY FUTURES TRADING COMMISSION ACT OF 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 5 minutes.

Mr. TIERNAN. Mr. Speaker, I would like to applaud the House Agriculture Committee for their favorable report of H.R. 13113, the Commodity Futures Trading Commission Act of 1974. This is a vital piece of legislation if we plan to prevent manipulative practices in the commodity futures market.

The present authority, the Commodity Exchange Authority, is woefully understaffed, so that in truth effective regulation does not exist.

The CEA employs approximately 160 people to oversee trading of almost $400 billion annually. On the other hand, the Securities and Exchange Commission employs approximately 1,600 people to oversee a market that trades $204 billion annually. We have seen the SEC uncover gigantic swindles of investors' funds in the Vesco, Equity Funding and Seaboard cases. But with almost no regulation of the futures markets, who knows what swindles are going undiscovered. Sadly, the victims of these swindles are the American consumers who pay for the speculators activities in the form of higher food prices.

The urgency of this bill is highlighted by the tight supply situations in wheat and corn. These tight markets will make it easier for speculators to step in and corner the market. This only means higher prices to the consumer.

The bill reported by the Agriculture Committee will put some teeth into commodity regulation. The independent agency, with its own legal staff, will be an effective way to police these markets. I urge the Rules Committee to act immediately to bring this bill to the floor.

WAYNE AYRES WILCOX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 5 minutes.

Mr. HAMILTON. Mr. Speaker, the tragic statistics and personal grief and sorrow that are associated with the worst civilian airline crash in history have been, I am sure, on the minds of many Members this past week. Certainly any disaster that is fatal for over 300 people in just a few seconds deserves a moment of pause and a detailed investigation of the causes.

Dr. Wayne A. Wilcox, his wife and two of his four children were on that Turkish plane in its fatal flight. Since assuming the chairmanship of the Subcommittee on the Near East and South Asia, I have become familiar with the high standards of Dr. Wilcox's scholarship, his intimate knowledge of the states of South Asia and his ability to relate the enormous economic, social and political problems of that area in a meaningful way to the American audience. American scholarship on South Asia, the Department of State and all interested in that part of the world will feel Wayne's loss.

Born in Pendleton, Ind., and educated at Purdue and Columbia University, Wayne Wilcox spent several years traveling in and writing on India, Pakistan, the new state of Bangladesh, Burma, Ceylon and Nepal. In between trips to that region, he consulted with the Department of State and developed a relationship which, no doubt, led to his sabbatical from American academia in 1971 and his becoming the U.S. Cultural Attache in London over a year ago. He served our Government with excellence, dedication and a sense of humor.

To his two surviving children, I offer my deepest sympathies and remain assured that they will be able to overcome the enormous tragedies that have occurred to their family partially through the realization of the service their parents gave to this Nation and the fact that many others also share their loss.

IMPACT AID

(Mrs. MINK asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, the impact aid program—Public Law 815 and Public Law 874—is without a doubt the most effective general aid Federal program of financial assistance to our schools. H.R. 69—Elementary and Secondary Education Amendments of 1974—which the House will consider next week contains a 1-year extension of this program. All other programs are extended for 3 years until fiscal year 1977.

H.R. 69 as reported also specifically excludes impact aid from the automatic 1-year extension provision which extends all other expired authorizations of Federal education programs for 1 year beyond the stated expiration dates.

Presumably, the reason for this untoward threat is to cause a serious review of this program by the Congress. I do not believe we can accomplish this review under the threat of an immediate expiration date of this program. As it is, the program has been seriously crippled by drastic cutbacks in funds in recent years.

When H.R. 69 comes up for House consideration, I intend to offer an amendment which would eliminate these discriminatory provisions in the bill. My amendment would extend impact aid for 3 years, through fiscal year 1977, and would delete those provisions in the bill which excludes impact aid from the automatic 1-year extension under the General Education Provisions Act.

The amendment I intend to offer is as follows:

> Amendment to be offered by Mrs. MINK to H.R. 69: "On page 84, line 14, strike out '1975' and insert in lieu thereof '1977'. On page 84, strike out lines 14 through 16 beginning with the word 'Section' on line 14."
>
> "On page 84, line 20, strike out '1975' and insert in lieu thereof '1977'. On page 84, strike out lines 20 through 23 beginning with the word 'Section' on line 20."

TRIBUTE TO JULIA BUTLER HANSEN

(Mr. YATES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. YATES. Mr. Speaker, I am sorry that I was not able to join in the roundup of tributes on Tuesday night to our good friend and distinguished colleague JULIA BUTLER HANSEN, but in the tradition of JULIA's great West, late strays are always taken in.

It was shortly before JULIA's forebears were migrating from the eastern United States to their home to be near the west coast that the famous French historian, Alexis de Tocqueville was traveling through America on the trips which he later wrote about in his book, "Democracy in America." Shortly before his return to France he was asked to what he ascribed the prosperity and strength of America. His reply was instantaneous:

> The prosperity and strength of America rests upon the superiority of its women.

JULIA BUTLER HANSEN is in that tradition. It is not fashionable these days to use the term "lady" but I know of no other term that better describes her. She is a great lady. I have sat next to her on the Interior Subcommittee of the Appropriations Committee for the last 2 years as its ranking member, and it has been a joy and a privilege to experience her wit, her wisdom, and her chairmanship. I use the word "experience" advisedly, for one does not watch or listen or follow her as she threads her way through the appropriations hearings. She is a presence rather than a person, totally in command of the budget and of the witnesses because she knows as much or more than the witnesses who appear before the subcommittee—and they know it.

The breadth of her knowledge, the variety of her interests, the scope of her interrogation are incredible. The Interior Subcommittee was designed with JULIA BUTLER HANSEN in mind, ranging as it does through the national parks, the Nation's great forests, the mines and minerals, and energy resources of the country to the cultural endeavors of the Kennedy Center, the Smithsonian Institution, and the National Endowment for the Arts and Humanities.

I would venture that no Member of Congress from the beginning of the legislative branch has done as much for the American Indian as has JULIA BUTLER HANSEN. She grew up with them and among them in Washington. She feels deeply the wrongs committed upon them from administration after administration through the history of this country, and she is determined to see that they receive the education, health, housing—all the blessings which flow to all Americans. She has fought to replace the brutalities and cruelties with genuine sympathy, understanding, and care.

Much has been said and correctly so, about her ability as a legislator. She is one of the ablest proponents of that art that I have seen in my years in Congress, using her personal charm and skills to persuade opposing factions to reason together.

Although she is normally a warm and giving person, she is tough and determined in legislative combat, as I found out some years ago in my effort to cut out the appropriation for the SST. JULIA fought me because the SST was an integral part of the prosperity of the State of Washington and JULIA keenly protects the interests of her constituents and of her State.

It took 4 years to win the SST fight and I give JULIA credit for this because Members who would normally be expected to vote against the program were persuaded not to do so by JULIA. Her influence was pervasive and telling. Now, that fight has been forgotten, and since that time my service on the subcommittee has brought a close friendship with her which I cherish.

JULIA BUTLER HANSEN has many attributes. She is a distinguished poet and author in her own right, she appreciates the visual arts and has shown me proudly the paintings by her mother of early Cathlamet. She is a patron of the arts and humanities and has fostered and built the Endowments to the high place they now enjoy.

I regret most sincerely JULIA's decision to retire from the House, but I respect it. I know how deeply she loves her home in Washington and how much she wants to return to her flowers, her trees, and the great outdoors—in short to become a woman of the West again. I would hope, Mr. Speaker, that some day I might visit her at her home in Cathlamet to witness at first hand the wonders of the West to which she is so devoted. Certainly, we would welcome her with open arms on such occasions as she returns to our midst here in the House.

LIBERALISM FACES DRY AND STONY GROUND

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DEVINE. Mr. Speaker, Prof. Reo M. Christenson, political science department, Miami University of Ohio, a political liberal but moral conservative recently had an article published in the Ohio State University student newspaper, the Lantern.

Our colleagues, Mr. Speaker, and particularly the professed liberals should read Dr. Christenson's article which follows:

> LIBERALISM FACES DRY AND STONY GROUND
>
> For decades, most social scientists have been political liberals. Apparently, this was less true during the pre-New Deal period; apparently, it will also be less true in the decades ahead.
>
> Modern political liberalism rests on an optimistic view of man and of the potential for social reform. The optimism was fed by faith in science, in education, in government.
>
> Despite the traumatic impact of World War I and the Great Depression, the New Deal brought a resurgence of liberal optimism because its programs actually worked.
>
> Social security, unemployment compensation, child labor laws, the Wagner Act, the Wages and Hours Act, the SEC, FHA, FDIC, HOLC, CCC, TVA, etc. were either successful or appeared to be so.
>
> Their performance, reinforced by John Maynard Keynes' economic formulations and the sociologists' views of man's infinite malleability, helped make the period from 1930 to 1970 the Age of Faith—in government.
>
> Few believers were more devout than the social scientists.
>
> Now, things are changing—and probably in a fundamental way. A wide variety of forces, developments, experiences and prospects are altering the political and economic complexion of the nation, eroding the optimistic premises which nourish liberal thought.

America's intervention in Vietnam, initially approved by most liberals, has unforgettably demonstrated the perils of attempting to reshape the tangled internal affairs of other countries.

Combined with the collapse of democratic governments in South Korea and the Philippines, Vietnam has effectively demolished liberal illusions about America's capacity to develop democracies in societies whose traditions and institutions are ill-suited to popular government.

The general failure of our foreign aid programs (the Marshall Plan excepted) has brought further disillusionment.

Not only have our aid programs usually failed to achieve their economic ends, but where they have been most successful—as in Taiwan and South Korea—they have primarily aided the entrepreneurial classes and the large landowners, while perpetuating or elevating right-wing dictators.

During the past decade, the failure or exceedingly modest achievements of most Great Society programs have raised great doubts about the government's capacity to materially approve the status of the American poor—a prime liberal desideratum.

The poverty program, manpower training programs, public housing, urban renewal, the Appalachian program, day care experiments—none have worked very well.

Today, neither the government nor the social scientists know where to go from here. Nor do they know how to significantly narrow the income gap between blacks and whites or deal with the economic decline or the desperate social problems of the inner city—including crime, alcoholism and drug abuse.

We have learned, however, that whenever we seem to solve one problem, we frequently create another. Ask the ecologists!

We may have great difficulty from here on increasing our real standard of living.

Steeply rising energy costs, the high price of coping with pollution, the massive appropriations needed to prevent further social and economic deterioration of the inner city, the declining percentage of the work force engaged in manufacturing (where increases in man-hour output tend to be much greater than in the "service sector"), the dwindling importance attached to the work ethic—all suggest that higher living standards will not be easy to come by in the years ahead. That, in turn, will constrict the scope of liberal programs.

Our confidence in the beneficence of science and technology has long been ebbing; they are no longer seen as midwives to an inevitably brightening future.

Like man himself, these twins are seen as deeply dualistic, equally capable of improving or worsening our lives.

As for social research, its seeming incapacity to guide us in any major policy area has added to our pessimism.

Our former faith in education as a cureall has all but vanished.

The Coleman Report, Christopher Jencks' recent jolt ("Inequality"), the failure of school integration, of Headstart, of compensatory education programs and of other plans to eliminate the educational backwardness of slum children—all these add to our dismay and bewilderment.

Painfully but inescapably, we are coming to see how hard it is for government to reshape people's lives in ways regarded as socially constructive.

The environmentalists have dominated academe for many years; now the geneticists and other critics are challenging their comfortable assumptions and reminding us of the stubborn rule of the given. (Women's Liberationists will yet learn this depressing truth.)

In religion, the "social gospel" has clearly crested, and the major churches are awakening from their dreams that man's problems could largely be solved by economics and political action.

There is fresh emphasis on the preeminent importance of solid personal values and of constructive interpersonal relationships in private life.

If the fallout from the "sexual revolution" proves as disappointing as now seems likely, it will produce further liberal disenchantment.

President Nixon's shocking abuses of executive power have brought about renewed appreciation of the value of checks and balances (an essentially conservative concept); the liberal faith that ever-increasing increments of presidential power would surely lead us upward and onward has been dealt a heavy blow.

Finally, the demonstrated incapacity of socialism to fulfill its promise rounds out the future. Neither the young nor the old in modern societies see salvation in socialism, communism, anarchism or any other politicalism.

No matter how reluctantly they face it, realistic liberals must concede that lean days lie ahead. Where the liberal zeitgeist once moved inexorably over the land, leaving its mark on almost every idea, value and institution, now a conservative zeitgeist seems destined to leave as little untouched in its counter-sweep.

Not that liberalism will die. As long as men yearn for economic and social justice in an essentially free society, the liberal impulse will live.

But that impulse must seek nourishment for the foreseeable future in dry and stony ground.

YEAR 1 OF REVENUE SHARING

(Mrs. CHISHOLM asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. CHISHOLM. Mr. Speaker, in the CONGRESSIONAL RECORD of February 20 there was included a statement of my feelings concerning the impact of the Nixon administration's revenue-sharing program on minority people. Since then a magnificent report on the same topic, printed in the January 1974 edition of the magazine Race Relations Reporter, has come to my attention. The report expounds in detail on many of the arguments which I put forth in my February 20 statement, and is reprinted here:

YEAR 1 OF REVENUE SHARING—A SPECIAL REPORT

This special section on revenue sharing was conceptualized and coordinated by RRR staff member Cynthia Jo Rich, who has been working on the project for the last three months. In the following pages she reports on the most common criticisms and defenses of revenue sharing, the prospects for minority in-put, and the Administration's plans to push ahead down the same road with its program of special revenue sharing.

In addition, RRR's regional correspondents assess the revenue sharing picture in their areas. Alan Cunningham reports from Denver on the shock that prevailed in that city when local leaders discovered that revenue sharing money was not, as they had assumed, new money—but instead was more than offset by cutbacks in categorical federal programs, many of which had been aimed at the poor. Eleanor Clift reports that the South, like the rest of the nation, has not used its revenue sharing money for the poor, but she says there is some faint hope for change. Correspondent Anthony Bristow reports that the massive categorical cutbacks have not yet hit New York, and that revenue sharing has been a fairly quiet issue there. In Los Angeles, black Mayor Tom Bradley is stuck with the legacy of his predecessor, Sam Yorty, but seems to favor a different set of priorities. And in Chicago, revenue sharing has backfired on Mayor Richard Daley, and has provided minority leaders with what could be their most effective tool yet for attacking police department discrimination.

First, an overview by Cynthia Jo Rich . . .

THE PROS AND CONS

(By Cynthia Jo Rich)

There are many critics of the Nixon Administration's State and Local Fiscal Assistance Act of 1972, better known as revenue sharing. So many that some observers may wonder where the program's proponents are hiding.

Since revenue sharing has been the law only a scant year, it is plausable to assume the criticism results mostly from calculated assumptions, rather than facts—although some back-up information has surfaced, mainly against the program's alleged lack of concern for social welfare.

Harold Himmelman of the 10-year-old Lawyers Committee for Civil Rights Under Law, headquartered in Washington, D.C., warned participants at a recent seminar on revenue sharing that without careful monitoring by citizens, revenue sharing "will become a primary vehicle to perpetuate racial discrimination in the United States—the kind of discrimination we thought we had ended 10 years ago."

In its "National Priorities Alert," the Washington-based Coalition for Human Needs and Budget Priorities quotes Congressman Charles W. Whalen (R-Ohio) as saying: "It is evident that general revenue sharing offers less 'new money' than advertised, and it is being financed, in part, through cessation of existing categorical commitments. Had I been aware last year that Congress was being 'led down the primrose path,' I would have voted against HR 14370."

While serious inequities have already resulted from the program, it must be remembered that general revenue sharing funds make up only about 3–5 per cent of the average city's budget. But it is generally agreed by politicians and minority leaders who have studied the issue that for better or for worse, the program provides an incentive for people to begin to organize and get involved in planning city budgets and to familiarize themselves with the main characters in the nation's city halls.

For their part, this time, the knowledgeable cannot be charged with leaving it up to the poor and minority communities to wake up to their responsibilities under revenue sharing. This time, even if they still can't make the proverbial horse drink, they are leading him to the water. According to the November "Focus" newsletter of the Joint Center for Political Studies, a recent checklist of national organizations involved in revenue sharing activities includes 38 such organizations.

The Clearinghouse on Revenue Sharing has just been established under joint sponsorship of the National Urban Coalition, the League of Women Voters, the Center for Community Change and the Center for National Policy Review.

Every major civil rights organization, the National Business League and the National Black Police Assn. reserved parts of their agendas for revenue sharing this year. And training organizations such as the Scholarship Education and Defense Fund for Racial Equality (SEDFRE), the Urban Training Center for Christian Mission, the Joint Center, itself, and others, are conducting seminars lasting for days on the subject. These organizations are making it possible for ordinary people to get to the seminars and take information back to their communities.

The basic tenets of revenue sharing are simple enough. Congress has endorsed a program to return $30.2 billion in federal income tax collections to states, counties, townships and cities (a total of 38,000 localities) over a five-year period to be spent in nine broad areas: public safety, environmental protection, public transportation, health, recreation, libraries, social services for the poor and aged, capital expenditures and financial administration. The nine areas criterion represents one of the few restrictions placed on use of the money, and even that restriction does not apply to the amount states receive.

Title VI of the 1964 Civil Rights Act prohibits use of federal funds (including revenue sharing) for discriminatory projects, but according to a Joint Center for Political Studies December, 1972, article on revenue sharing, "this is a very general provision which has proven difficult to enforce, and is further complicated by the revenue sharing regulation's requirement that governors are responsible for securing compliance."

The other program restriction is that revenue sharing money may not be used to match federal grants.

The formula for disbursement of the funds is complicated. It takes into account the locality's inverse relative per capital income, its tax effort and its population. Ask federal officials to explain the formula more carefully, and they present the kind of advanced calculus rendering that prompted Will Myers of the Advisory Commission on Intergovernmental Relations to quip, "if we didn't have computers, they would probably have come up with an understandable formula."

The population component is derived from the 1970 Census, which the Bureau of Labor Standards admits is off. The census undercount, estimated to be about 7.7 per cent for blacks alone, raised enough of a hue and cry in the nation to become an issue by itself. Use of the 1970 figures in the computation of revenue sharing allocations, although seen as a relatively unimportant component by some federal officials, has led to the preparation of at least one court action on behalf of Newark, N.J., which may, the plaintiffs say, have a ripple effect across the nation.

In an attempt to offset wholesale corruption, the revenue sharing law provides that each jurisdiction receiving funds must publish in the local press a statement outlining how it spent its revenue sharing funds, and must alert the media of its intention to publish the statements. Localities are also mandated to send a quarterly "Planned Use Report" to the federal Office of Revenue Sharing. But, according to the law, monies do not have to be spent according to planned use. Further, there are no provisions for community input on revenue sharing expenditures, as there were under the old OEO community action programs, even though the mechanism for such in-put is there: The community action programs trained a cadre of black and Spanish-speaking leaders who have strongly influenced the political life of the major cities.

Of particular chagrin to critics of the plan is the fact that the Office of Revenue Sharing is staffed by a total of five professionals (2 part-time). The entire staff, including clerical employees, is made up of about 50 persons. How, the critics ask, can 50 persons monitor reports of 38,000 localities each fiscal quarter?

The Office of Revenue Sharing answers that it intends to selectively audit a percentage of the reports each quarter.

ORS director Graham Watt is jubilant about the program's implementation. Like other administration spokesmen, he does not talk about revenue sharing's implications for minorities and the poor. He talks instead about history and the program's philosophical causality.

"One of the most original and durable constitutional concepts that emerged from the American Revolution," Watt said to an audience of locally elected officials at the December meeting in San Juan of the National League of Cities, "was the concept of federalism . . . refusing to sacrifice effective national power but still conceding the reserved powers of the states and the people. That federalism is alive today," he said, "and is demonstrated by the general revenue sharing program. Revenue sharing gives meaning to the words, 'new American Revolution.' "

Watt, whose dress is impeccable and whose speaking and debating style are high-handed and patronizing, allows his voice to ebb and flow over words and phrases with the confidence and precision of the accomplished orator he is. His audience in San Juan seemed hesitant to challenge him.

The Office of Revenue Sharing director supports this air of confidence with data he says his office gathered:

"Since the first revenue sharing checks were written a year ago, nearly $10 billion of federal funds has been returned to state and local governments," he said. "Most of this money already has been spent to meet local and state needs as these needs have been identified by *responsible* (his emphasis) local and state officials.

"The word we get from the National League of Cities and from other major public interest groups indicates that you like the strings-free form of federal aid that comes to you from the Treasury Department's Office of Revenue Sharing.

"We hear you when you say, 'give us the funds and let us take the responsibility for making decisions about where to use the money.'

"Your response to revenue sharing is gratifying to those of us who have long believed that we must reverse the trend that was making state and local governments beholden to Uncle Sam for the essentials. City governments had been reduced to being supplicants for federal money. You were forced to compete for the always limited grant money available in categorical programs. This assumes," Watt added sympathetically, "that you knew of the existence of the aid for which you might apply."

He was referring here to an issue the Nixon Administration has highlighted under the borrowed rhetorical banner, "Power to the People." The contention is that the power of local people will be heightened if local officials have more latitude to spend money as they see fit. Under categorical programs, federal money went out based on an application and the satisfactory evidence of need. Many jurisdictions, because of affluence, indifference, inexperience or other reasons, did not apply for and did not receive federal grant money. Under general revenue sharing, every municipality gets a share of the pie—because the pie exists. Many black mayors, minority groups, and other organizations are now pushing for a revision of the revenue sharing law that would provide that federal funds be given out based on need. These groups admit that under the old categorical programs, sometimes only the flair of an applicant's application got him a grant, but they believe even that is preferable to the no strings provisions of the current revenue sharing law.

Watt continues:

"Occasionally, on its own initiative, a recipient government will write or call to volunteer more information about how it has put the money to work. The village of Milford in upstate New York, for example, wrote to tell us: 'It was decided to appropriate the revenue sharing funds for replacement of village equipment which has not been replaced previously due to lack of funds. . . . We have been operating with snow plow equipment purchased in 1946. Our present truck, which is used to haul garbage, (for) street cleaning, and other various village maintenance, has been in service for 10 years. This revenue sharing fund is most welcomed.' "

Watt cited an allegedly unwieldy provision of the revenue sharing law which requires that municipalities publish statements of planned use of funds in local newspapers. He quoted this letter he received from Aberdeen Township in Brown County, South Dakota:

"Nothing personal intended, but our Township officers question the wisdom of all these forms and paying over $50 each time one is published. . . . 'We have spent the taxpayers' money for many years without publishing it in a newspaper.' "

Many Alaskan villages and Indian tribes, Watt said, have no newspaper whatsoever and need relief from the strict publication requirement of the law. If minority groups say there are too few safeguards on the law now, Watt's statement hints at a possible further easing of requirements.

At the end of his presentation, Watt, who shared the platform with revenue sharing critic, Pablo Eisenberg, a former OEO program director, told the mayors:

"Ours is the most dynamic urban program on the federal scene today. We shall be responsive . . . but firm in our determination to retain that which is of fundamental importance to our program as the keystone of New Federalism. We shall take our inspiration from those . . . first Federalists 200 years ago . . . whose dedication to the cause of freedom still quickens the heart beats of all peoples everywhere."

Eisenberg, who endured snide remarks from the panel's moderator, New Orleans Mayor Moon Landrieu, and put-downs from all but three of the 17 locally elected officials who stood at aisle microphones during the question and answer period, told the group that minorities regard general revenue sharing with "ambivalence, anxiety, suspicion and even distaste."

He began the sentence with, "it is no secret to most of you," but started looking uncomfortable when at the conclusion of his remarks, the group gave a rousing round of applause to one mayor who told Eisenberg:

"Mr. Eisenberg, I don't know where you get your figures, but I speak for all the members of the National League of Cities in saying we just don't believe you. Let us take care of these capital improvements first," the mayor said, "then we'll get to some of those things you're talking about."

Eisenberg said the anti-revenue sharing perspective of minorities stems "partly from the fact that revenue sharing, long the private preserve of government officials, has only recently become a public issue.

"The concept of greater local control without strong federal guidelines and guarantees has little or no appeal to disadantaged citizens who suffered under such control a few years ago and were able to obtain some relief and increased opportunities, only because of federal categorical programs and federal intervention.

"The failure of the Administration to honor its promise to you that revenue shared dollars would be additional money has done a great deal to reinforce public anxiety and skepticism. Linked with categorical program cutbacks, impoundments and freezes," Eisenberg said, "general revenue sharing is seen by many as a part of a national effort to abandon federal responsibility for national problems of poverty, housing, employment and race. Its effects are being viewed as a redistribution of federal resources not from the haves to the have-nots, but from the poor to the more affluent."

Eisenberg took a swipe at his co-panelist, Graham Watt, in charging the Office of Revenue Sharing with a lack of will to pursue aggressively the civil rights provisions of the revenue sharing law. He said that while ORS is authorized to delegate a part of its civil rights enforcement tasks to other federal agencies, it has not yet established such written agreements with other agencies, nor has it developed a clear and forceful policy against civil rights offenders.

"The Office of Revenue Sharing appears reluctant to use the deferral of funds or the threat of deferral as a lever to enforce compliance," Eisenberg charged. "A case in point is Chicago, where three organizations filed an administrative complaint to ORS asking that revenue shared funds for the city be deferred until the police department, which receives approximately 74 per cent of the city's revenue sharing entitlement, ends its discriminatory personnel practices. ORS refused to defer funds for Chicago pending the resolution of the complaint and sent the next revenue sharing payment to the city. It says it is reviewing the case, but almost three months have elapsed without any word about the progress of the review."

Eisenberg said existing revenue sharing legislation should be changed to include requirements for special, well publicized public hearings on use of funds, a redistribution of funds based on need, tax rate reduction to benefit the poor and aging only and provisions for civil rights complaint reviews within a specific time period.

Immediately after Eisenberg's talk, Mayor Landrieu quipped:

"Mr. Eisenberg, the safe passage off the island that we promised you is still good until 5 p.m."

Another revenue sharing critic, New York University professor Robert Lekachman, offered in the June 25 issue of *Christianity and Crisis* a history of Nixon's New Federalism. According to Lekachman, two progressive Democratic economists, Walter W. Heller, chairman of President Kennedy's Council of Economic Advisers, and Joseph Pechman, finance specialist based at Washington's Brookings Institution, authored the revenue sharing plan in 1964.

"Taking Lyndon Johnson seriously as a peace candidate," Lekachman writes, "Heller and Pechman assumed rapid termination of American involvement in Southeast Asia and continuation of high levels of output and employment. The prospect implied one of life's pleasanter perplexities: what ought to be done with an annual fiscal dividend to the Treasury of some $13 billion, a major consequence of sustained economic growth?"

Lekachman says Heller and Pechman thought it unwise to promote the use of a $13 billion Treasury excess towards social welfare, since Congress would probably then find it more politically attractive to use the money for tax reduction.

"For liberals," Lekachman continues, "(tax reduction) was a bad idea for . . . public needs were too pressing, state and municipal services too sketchy and the public sector too meagerly supported to allow additional tax reduction. Revenue sharing was a politically glamorous alternative."

Heller and Pechman came up with an idea to return two per cent of the annual income tax revenue base of about $300 billion, which would amount to about $6 billion of new money to lesser units of government. Their plan was to continue federal grants-in-aid at current or higher levels and to use revenue sharing money to support better schools and hospitals, improved police and fire protection, reduction in sales and property tax or a combination of these.

But high on the list of complaints of the critics of the current plan is that revenue sharing money is not new money. While Nixon is offering about $5.2 billion in revenue sharing this year, he has impounded funds already promised by federal agencies, instituted a national moratorium on housing programs, begun dismantling the Office of Economic Opportunity and cut back social welfare programs. In addition, the general revenue sharing law places a $2.5 billion ceiling on federal outlays for social services.

"What the president gave with one hand," Congressman Walter Fauntroy said in a November speech, "he took away with the other."

Lekachman says that although the original revenue sharing plans died with the Johnson Administration's Viet Nam escalation and subsequent fiscal deficit, Nixon probably picked up the plan in its revised form because, "the way to capitalize upon the attitudes of (silent majority) Republicans is to dissolve the political alliances, which have grown up since the New Deal, between the social service bureaucracies of HEW, Labor, HUD and OEO and their clients among Blacks, Chicanos, migrants, welfare families and other losers in the superbowl competition of American Life."

HOW THE SYSTEM WORKS: THE CASE OF DENVER, COLO.

(By Alan Cunningham)

DENVER.—It seemed almost like Christmas in October one day in 1972 when members of the Denver city council got together for an uncharacteristically joyous budget session. As a rule, such moments aren't jubilant. The pressure of splitting a finite number of dollars while facing a seemingly infinite number of outstretched hands is often enough to turn the most generous city councilman into an Ebenezer Scrooge—at least until the ink on the next year's final budget is dry.

But that October day was different. Somewhat in the manner of children who have found themselves in an unattended candy store, the ordinarily sober-minded gentlemen enjoyed the thrill of putting back many of the dollars they had deleted earlier from a host of city programs. Scrooge, for this day, was dead. In the space of two hours, the councilmen, restoring a dollar here and a dollar there, had succeeded in swelling the projected spending for this year's general fund by $1.6 million. And they didn't stop there.

There was money, and lots of it, just waiting to start its flow down the pipeline from Washington to the Rockies. True, the valve hadn't been turned on yet, but that was just a matter of time. The long-awaited revenue sharing bill had cleared both houses of Congress and was on its way to Richard Nixon's desk. Denver had already been assured of getting $22 million by the end of 1973. Half of that, some $11 million, was due to arrive in a matter of weeks.

Councilman James J. Nolan, an habitual watchdog of spending, was one of those who had doubts. Democratic Mayor Bill McNichols also tried to avoid sounding as if he had thrown caution to the winds. But he did not quite carry it off. "Maybe it's too soon to dream too far ahead," the mayor declared, "but we don't have to have nightmares anymore."

Nightmares of the sort to which he referred had marred the sleep of most city officials since the fall of 1971, when a management analyst in the budget office drew up an unsettling fiscal forecast. Noting that the gap between revenue and spending was beginning to open up at an alarming rate, the analyst warned that it could easily grow to a yawning chasm of nearly $30 million by 1975 unless some unforeseen windfall should come along.

And now here it was. Who could blame a Democratic mayor for setting aside his partisan suspicions of the Nixon Administration when it handed him such sweet dreams in place of those ugly ones?

Councilman Nolan saw it otherwise. He lectured his colleagues, saying they shouldn't squander this unexpected inheritance, lest the nightmare merely be postponed rather than dispelled. The morning Rocky Mountain News also chided the councilmen editorially, intoning: "We would not count any chickens before they hatch."

Such conservative warnings, of course, were unnecessary. The eggs did hatch, and revenue sharing funds did arrive in the expected amounts. But the arrival was followed soon afterward by the sudden and unexpected news of fund cutoffs in many specific federal grant programs, to which revenue sharing had been seen as only a supplement.

Even before that stunning development, however, McNichols dropped his own bombshell on the city council. In the final days of October, 1972—only two weeks after the jubilant councilmanic restoration of all those dollars to various departmental budgets—the mayor's office announced that he had decided how the city was going to spend the entire $22 million in revenue sharing money. Virtually all of it was earmarked for capital construction projects.

Neither the Democrats nor the Republicans on the 13-member council were pleased. Councilman Don Wyman, a Republican, said he had taken it for granted some of the money would be used to give property taxpayers some relief. Councilman Bill Roberts—a Democrat and one of two blacks on the council—responded that the original aim of revenue sharing had been to "meet some of the urgent needs of the nation's inner cities."

McNichols said he expected the councilmen to go along without much opposition. In his view, such projects as street repair, two new fire stations and elm disease control were, indeed, urgent needs of the Mile High City.

Several of the projects had recently been deleted from an $87-million bond package approved by voters the previous month. These were taken out on the assumption that the voters might defeat the whole package if it were too big.

Later, Councilman Roberts used his newsletter to describe his view of what happened, both before and after the Nixon Administration announced its sweeping moratoriums on further funding for many of the Johnson Era social action programs:

"As you can see," he wrote, "the October budget does not account for the cutbacks the federal government subsequently inflicted on health, day care, youth and social service programs."

Roberts' next observation is a telling one.

"I will be frank in confessing that none of us had any idea that the annihilation of certain federal programs would follow the receipt of the revenue sharing check."

He continued: "We all assumed that revenue sharing was 'extra' money we could spend as we saw fit—perhaps to supplement federal programs *of our choice*, perhaps to subsidize existing local programs or to develop new ones to combat problems unique to Denver or conceivably to fund components of all three.

"We never imagined we would have to use it to absorb programs dumped by the federal government."

The councilman went on to note that he had been to a National League of Cities revenue sharing seminar only a short time earlier in Washington, D.C., and had found the others there held the same assumptions as he.

"We were hoodwinked by the federal government," he concluded.

When it came to action, however, there was now a new enemy closer to home. And, although partisan politics consistently rears its head in the affairs of Denver's allegedly nonpartisan council, Democrat Roberts decided to do battle with the mayor. He and a small group of activists, each of whom was equally infuriated by both the federal cutbacks and the mayor's priorities, began to plot a palace revolt. Privately, they vowed to make things difficult for McNichols, whom they referred to as the architect of a plan for "$22 million worth of curb and gutter work."

By spring, Roberts and his cohorts had quietly put together a coalition. It included disgruntled employes of the city's health centers and mental health programs—both of which faced drastic cutbacks—as well as several student lobbyists from the University of Denver's School of Social Work and a grassroots delegation from most of the neighborhood action centers.

They confronted the mayor with a moderately militant stance, telling him it would be a travesty to ignore social programs during the process of distributing the city's revenue sharing money. Otherwise, they said, the poor, sick and dispossessed would remember the year 1973 as one in which the federal goose gobbled up her golden eggs, rather than delivering new ones.

McNichols gave an inch. He agreed to reconsider his original plan to omit social programs outright. One of his aides hinted that as much as $6 million might be made available to restore some of the monies lost to the Nixon moratorium.

On top of that, the mayor told Roberts he would appoint a 25-member citizens' advisory council to aid city officials in evaluating the expenditure of these funds. But he reminded them that the federal act which provided for revenue sharing was explicit in limiting the percentage of that money which could be spent for social programs.

The advisory group was to be made up of a dozen members appointed by the mayor and 13 others, each of whom would be named by a city councilman. Six others from various sources found their way on to the panel by the time it went to work.

As Joe Dodds, a 44-year-old psychology professor from DU recalls it, they were given little time. Members of the citizen group were told that their job was to recommend ways in which the money could be distributed during the final six months of 1973. As the mayor's aides explained it, it was already too late for the first half. "We had from April 16 to June 4, about six weeks," Dodds said recently.

Dodds was appointed to the panel by a city councilman who did not represent his district and did not know him. An acquaintance of his, Mrs. Thelma Hutt, was one of the mayor's appointees, but her kinship to the man who appointed her was not any closer than Dodd's was.

"I had been on the mayor's program policy advisory board for the Model Cities program," she explained a few weeks ago. "He phased that out, and when it came time to name people on this new advisory council, all but one of his appointees was left over from this other group."

She quickly added: "But he ended up with a mixed bag he didn't expect."

As Mrs. Hutt tells the story, some on the advisory group were cynical at the start, predicting the whole effort would be futile. Others, more loyal to the mayor, insisted it was to his credit that he had appointed such a committee and urged the rest to keep an open mind.

Soon, those who did not already know about the continuing rift between mayor and council discovered that it was difficult to work on such an advisory panel without being clearly labelled either as the property of McNichols or that of the council.

"We felt like a volleyball sometimes," she said. "Everybody on the council referred to us as the mayor's group."

She deemed this peculiar in light of the fact that the council appointees had those named by McNichols outmanned by one. But she, Dodds and at least one other member of the advisory group—a black building contractor whose last name also is Dodds—eventually concluded the cynicism and the label, had some justification. Lewis R. Dodds Jr., the contractor, said it quickly became evident to him that the main function which he and his fellow members were expected to carry out was to respond to the wishes of the mayor. He angrily announced that he considered himself a delegate of the city's poor people, including Chicanos—a group he regards as far worse off than Denver's black citizenry.

It was the mayor's duty to respond to the people, not vice-versa, he said. McNichols soon discovered there were other mavericks on the advisory panel, including Mrs. Hutt.

The panel spent its six weeks listening to fund appeals from representatives of day care, health, housing, manpower and other programs. Joe Dodds came to learn that many who were lobbying hardest for various fund restorations were those, other than the ultimate beneficiaries, who had a vested interest.

"Most of us felt there ought to be an advocate for human services. Contractors are pressing for housing projects and so on, but nobody is there to lobby for human needs. And so you have the day-care people fighting housing people fighting manpower people for the same scraps."

To some extent, he now feels the intramural fighting slackened during those six weeks and some of the city's heretofore competitive programs began trying to work together. It may have been the only success the advisory group could really claim.

Ultimately, panel members submitted a detailed list of recommendations for spending nearly $5.1 million of the Washington windfall on various programs in four basic areas: social service, health, community development and manpower.

In each category, they placed various programs under several levels of priority. Top priority meant panel members had the audacity to suggest that a program's funding should be increased instead of cut. Their largest single recommendation was that the city's neighborhood health centers be given almost $2.5 million of the money, slightly increasing their previous year's budget. Day-care centers, the city housing authority and two programs to provide jobs for teen-agers also were accorded this "more, not less" priority.

A *Wall Street Journal* reporter visited Denver to learn what the city was doing with its revenue sharing funds. The New York writer went away with a favorable, but not necessarily accurate, impression. He filed a story saying Denver was the first city in the nation to engage its citizens so intimately in the process of determining priorities for spending its revenue sharing funds. Members of the advisory group snickered when they read it.

Not long after the article appeared, McNichols submitted his final proposals for the use of such funds. For the most part, the advisory group's priorities were ignored.

In mid-July, of this year, councilmen approved the mayor's scaled down plan for diverting some general revenue sharing funds from capital construction to social service programs. The plan called for the city to spend about $2.9 million on such things—$2.2 million less than the advisory group proposed. Large sums were cut from the requests for neighborhood health services, housing programs, child care and other programs.

"It was almost as if the mayor didn't even read our recommendations," Joe Dodds said in early December. "It was an exercise in futility."

Doggedly, a few of the citizen group's members continued to meet on an unofficial basis. They had become convinced of one thing: that the advisory process was a good one, even if it had not borne much fruit this time out.

In the final days of October, a letter went to the mayor and the city council. It was signed by 26 of the 31 persons who had served on what was formerly called the Citizens Federal Grant Advisory Council.

"To the best of our knowledge," one passage of it read, "no action on our recommendations has been taken." Nonetheless, it urged that the process of allowing citizens to make such recommendations be allowed to continue.

As of Dec. 1, nobody at City Hall had bothered to reply. And even if they did, there was a catch to it. The 1974 budget already had been approved without even a token thought of using this year's $13.6 million revenue share for social programs. Most went into the general fund, but about $3 million was set aside for a reserve to help make ends meet in 1975.

THE QUESTION OF MINORITY INPUT

(By Cynthia Jo Rich)

Public safety—police and fire protection—ranked first on the latest official scoreboard of where the nation's general revenue sharing monies are going.

Data included in the Office of Revenue Sharing's Sept. 24 publication, "General Revenue Sharing—the First Planned Use Reports," show that 33,076 responding state and local governments (of a total of 38,000) plan to spend $696.40 million (or 23.5 per cent) of the $2.96 billion disbursed in the third entitlement period (Jan. 1, 1973 to June 30, 1973) on public safety and $651.43 (or 22.0 per cent) on education.

These results reflect a change from speculation surrounding the two earlier entitlement periods. Since the money for these two periods was granted retroactively, the most official results the Office of Revenue Sharing has are those from a survey made in April, 1973. Released in June, the survey concluded that most of the state and local government revenue sharing funds up to that time were earmarked for capital projects, tax relief and other non-recurring expenditures. According to the survey, respondents were afraid revenue sharing monies would not continue to flow, and chose not to include on-going projects in their budgets that might have to be terminated after the five-year revenue sharing bill expires.

Results from the most recent report at first glance seem to indicate a trend away from these "safe" projects and may hint at a greater success on the part of community groups in having their voices heard.

But a closer examination of the expenditures shows that, since local governments are prohibited by law from using revenue sharing monies to pay operating and maintenance costs of education, the "education" money is going into capital projects related to education, such as bricks and mortar—not scholarships.

Most of the $696.40 million earmarked for public safety represents plans of more densely populated northeastern regions of the United States. Big cities are using their funds to pay the costs of operating police and fire departments. In areas that are less densely populated, the survey shows, priority is given to building public transportation facilities, especially roads; and government facilities, like office buildings.

Housing, community development and social services, according to the report, are receiving only about five per cent of the revenue sharing pie.

The exception is that on Indian reservations and in Alaskan native villages, more money is being spent on programs to provide social services to the poor and aged than is being spent by any other type of government.

Mayor Moon Landrieu of New Orleans is quoted in a *New York Times* article as saying the small social services investment results more from the nature of the law than a lack of loyal concern.

Landrieu explained that the Administration imposed freezes, cuts and eliminations of urban programs only after revenue sharing passed. "And this," he said, "is another reason you find a lack of allocation of general revenue sharing into social services. . . ."

The apparent lack of attention to social services prompted Boston's Mayor Kevin White to say at the July convention of the National Association for the Advancement of Colored People:

"So it appears that because no federal strings were attached and because local coalitions of concerned black people and needy urban ethnics could not demonstrate effective political organization that local politicians took the most comfortable and predictable course of action. They succumbed to obvious citywide political pressures. They succumbed to hardware priorities and physical needs. And they deferred, and in some cases they never even considered programs for social services and impacted areas of the disadvantaged poor."

In an attempt to at least get more revenue sharing money into the inner city treasuries, the caucus of black mayors and city officials (of the National Black Caucus of Locally Elected Officials) at the June 19 meeting of the U.S. Conference of Mayors pushed through the resolutions committee a policy statement that would pledge the mayors to work to force the federal government to correct the data on which revenue sharing allocations are based. They point out the data should reflect the Census Department's admitted error in counting the population in the 1970 Census.

But it is generally agreed that changing the revenue sharing allocation by the revision of the census route is unwieldy, unlikely and time-consuming.

The answer to how minorities are to get a piece of the action, echoed by a myriad of public and private agency officials, is that minorities must get themselves *involved*.

In "The Budget Is Where It's At," contained in NTIS, the publication of the American Society of Planning Officials, Frank S. So offers a primer to persons with little or no experience in confronting elected officials:

"In most cities," So writes, "the budget process starts with the budgeting director. He usually is the one who figures out how much revenue will be taken for the upcoming year. He then gives this estimate to the mayor or city manager, who looks it over and decides how much can be spent by all the city departments. Then the maneuvering starts. . . . During the maneuvering, your local organization should be active, putting pressure on whoever you can to consider your (project). . . ."

It is this kind of basic instruction that minorities—historically and systematically excluded from knowledge of the inner workings of the city hall—are just beginning to get.

Alicia Christian, for example, of the Coalition for Human Needs and Budget Priorities, offered elementary advice to an audience of about 100 adults at the November Urban Training Center for Christian Mission's seminar on revenue sharing in Washington, D.C.

". . . So you can't find out when that bill is going to get out of conference," Miss Christian said to the mostly black participants from all over the country. "Everytime you think it's going to get out of conference another issue comes up. You say, 'I'm concerned about this staff, but how can I tell people to send wires and telegrams and act on this and I don't know when anything's going to happen?'

"O.K., so you have to get clear time frames from the people you are dealing with. If they say, 'we're going to study this issue' you may want to say, 'Well, we want some clear action on this within 30 days, and we're mobilizing our people for Nov. 2. Nov. 2 we'll be down here with our 20 representatives and the 20,000 people they represent behind them to get a response to the issues that we're concerned about. . . .'

"Meanwhile," Miss Christian continued, "you get your lawyers together and you explore your legal options; 'What is our legal recourse? How much political clout do we have to make them deal with our demands . . .?'

"You let it be known your people intend to be very much involved in the elections this year; and make sure that person's (voting) record is well distributed in the community.

"You should also know when storm trooper tactics are necessary. If they're totally unresponsive—and votes mean numbers—and they have to see your numbers to know your votes, then get your troops down there. And that means that the troops that you get have to be very much a part of that planning process—and this is where the grass roots folks come in. . . ."

Even with such nuts-and-bolts instructions going on, some of the more vocal high figures, like Kevin White, sound awfully pessimistic about the prospects of a timely and sizeable minority impact on the revenue sharing program. Continuing his speech at the NAACP's annual convention, he said:

"We have to quickly accelerate political organization and develop workable political coalitions at the local level if we are to prevent the New Federalism from turning into the old doctrine of States' Rights.

"There will be those who will say that great strides have already been made in terms of local and statewide politices and that the political task is under control. Well, I too am encouraged by the recent advances in the number of black elected officials. But I cannot share any euphoria about the absolute numbers; and I do not share the confidence that adequate progress on all fronts is well under way."

White pointed to statistics that show the number of black persons holding elected office has doubled in the last four years, an increase of 1,500 black elected officials representing a 121 per cent gain. But he cited other statistics that show the 2,500 elective offices held by blacks represent only one-half of one per cent of the more than half-million elective offices in the country.

Acknowledging the 16 members of the Congressional Black Caucus, White pointed to the fact that only three blacks hold offices by statewide balloting in the country: Wilson Riles, California's Superintendent of Public Instruction; Secretary of State Richard Austin of Michigan; and U.S. Senator Edward Brooke of Massachusetts.

Most discouraging to Mayor White, he said, are statistics relating to black voter participation in the 1972 national elections: Only 44 per cent of voting blacks actually went to the polls, compared to an overall turnout for all races of 55 per cent. Black voter participation was not only 10 per cent below the national average, but 14 per cent below black participation four years earlier. One out of three blacks eligible to vote still is not registered.

On the positive side, the mayor cited the victories of Tom Bradley in Los Angeles, and Andrew Young, Ronald Dellums and Barbara Jordan, who won Congressional seats in areas with large white populations. Blacks, he said, now have the potential of determining the outcome of 86 Congressional races throughout the country, including 58 Congressional districts where blacks make up 25 per cent or more of the population, and 20 Congressional districts where the number of blacks of voting age is roughly two and a half times the margin of victory for the winning candidate in 1972.

"These figures are impressive," White said, "and the potential political strength which they represent nationally could move whole new social and economic agendas. But so long as black political participation remains below the level of whites . . . numbers will reflect only future potential and not realistic political power.

"To develop this political strength and sophistication at the local level will be no simple task. It will require skill and dedication to a broad political strategy; increased black voter registration; larger turnouts on election day; many more talented blacks involving themselves as candidates in the local political arena; broader coalitions with urban ethnics and the white working class who share in disadvantage and poverty; greater ability to build lasting and viable political organizations, organizations that can provide incentives and rewards for political participation at the grass-roots level," White said.

"We have no greater enemy in facing this challenge than indifference," he said, adding, "and we have no greater obstacle than complacency."

It is not simply complacency that lessens minority impact. Mayor Charles Evers pointed to another problem, at the recent Southern Conference of Black Mayors in Tuskeegee, Ala. Speaking from among an audience of black southern mayors (who govern townships of from 250 residents to 50,000) to a panel of federal officials that had just finished describing a maze of programs available to would-be complaining minorities, the mayor of Fayette, Miss., said:

"We know we're ignorant; that's why we're here. We want you to show us what to do. A Johnny Ford (mayor of Tuskeegee, Ala.) or a Charlie Evers—we can make it—but some of us here have been wood pulp haulers and cotton pickers all our lives. If you don't just about take us by the hand and show us how to do it (get a fair share of federal funds)—if you don't take us from point A to point B, we just won't get it. . . ."

"It reminds you," said one conference participant, listening to Evers and observing the response of the federal officials, "of a lyric in the song, 'Deliver the Word' (by the popular vocal group, 'War'): 'but they don't see the urgency; that this is an emergency.' "

If it is comforting for some, it is probably unsettling for other minority group members to hear such minority spokesmen as Vernon

Jordan, Ralph Abernathy and Roy Wilkins say the old confrontation tactics—one method that seems to have gotten results in the past—no longer work, and that the movement is now in the political councilmanic chambers and city halls. A lot of minority people are skeptical of the priorities of city officials.

Kansas City City Manager John Taylor, who is white, raised the same issue last summer at a revenue sharing conference in Atlanta:

"Part of the attitude of councilmen is 'we are the spokesmen for the citizens.' Elected officials in general tend not to like 'citizen participation,'" Taylor said.

City managers, he said, have to do a selling job. Taylor gave the example of a Community Action Program he managed to get approved by his own city council.

"Part of it was just putting it in the budget. It makes sense to come to John Taylor and say, 'We need this.'" But, he warned, smiling, "budget officers can be guys who get very uptight. They like to do things where you can measure the output. Mobs of people in council chambers doesn't do much. They're used to that by now."

How does he go about selling the city council?

"I guess the President did that," Taylor said, "no money for urban renewal; moratorium on housing; model cities to be reduced and ended . . . the President said all those programs haven't worked. Then he said the crisis is over.

"One of the biggest things in selling the council was that I had social programs in the budget and the council had to get a majority to disapprove it. If you can get it in a form where they have to vote against it, that's helpful. They have to vote on a budget document. If they are going to amend the budget, it means work. If the mayor and the manager agree on something, they can get it through," Taylor said.

"I don't tell people in Kansas City this," Taylor continued. "If a councilman gets a call from six people he thinks the whole world thinks that way. Not six young black militants who all hang around together; not six people from the same block; six different people. I'm talking about the white middle class who thought we should do something about social ills during the 60s, who have now turned to other problems like water pollution. Councilmen are going to listen to white businessmen quicker than they're going to listen to poor blacks. It's a fact of life," he shrugged, "you need those kind of people."

Regional Reports: Hints of Change in the Newest South

(By Eleanor Clift)

Atlanta.—When Richard Nixon outlined his "New Federalism" philosophy in the President's 1971 State of the Union Message, he said, "I reject the patronizing idea that the government in Washington, D.C., is inevitably more wise, more honest, and more efficient than government at the local or state level." While his words proved prophetic in some ways, the final verdict on revenue sharing is not. In the South, where half the black population lives, the first windfall of revenue sharing has gone largely for capital improvements that have done little to better the lifestyle of the poor. But there have been exceptions.

In Birmingham, Ala., the city held several public hearings, each drawing several hundred people. These participants, most of them black, were organized by the Jefferson County Committee for Economic Opportunity. "They lobbied for the poor, that's what they did," declared Edward Coberly, a city official. "They didn't have too much luck at the beginning, but now we're beginning to channel some money to them for specific projects like day care." Birmingham, like most cities, spent the bulk of its revenue sharing on capitol projects. But, says Coberly, "Now that we've bought all the garbage trucks we need and covered all the critical ditches, I see a trend where more money will be put into social services and health care."

In Atlanta, Ga., it took a court order to stop Mayor Sam Massell's plan to rebate revenue-sharing funds to property owners via their water bills (see *RRR*, Vol. 4, No. 9). Maynard Jackson, then the city's vice-mayor, was a vocal critic of Massell's approach to revenue sharing. Now that Jackson is newly elected as Atlanta's first black mayor, he will get a chance to do things differently. The rumor is that he will create a Department of Human Resources to take over directly the social-service programs now carried out by myriad agencies. Though revenue-sharing money would likely be used to fund such a department, it should be noted that the demands on a city like Atlanta, now half black, are gargantuan. For example, Economic Opportunity Atlanta filed a request back in November for $2.3 million. It is one of the many casualties of the Nixon Administration's dismantling of President Johnson's "Great Society." Other agencies and organizations asking the city for money range from the Women's Chamber of Commerce to the Citizens Advisory Council for Urban Development.

Besides the changing of the guard from Massell to Jackson, attitudes toward revenue sharing played a significant part in electing a white alderman over her black opponent. The black candidate, Henry Dodson, had supported water-bill rebates while Panke Bradley fought unsuccessfully for day care and parks. While blacks voted heavily for Dodson, they provided a magin of victory to Mrs. Bradley—a margin that the Voter Education Project's John Lewis attributes partly to her stand on revenue sharing.

Statewide, Georgia has suffered greatly under the guise of revenue sharing. While the administration was giving money away with one hand, it was taking much more back with the other in the form of discontinued programs. What was touted as extra money for states and localities became a replacement for social-service monies that were no longer available. For example, under federal Title 4–A, Georgia lost $75 million worth of programs for day care, community health, retarded children and job training. In the same period of time, revenue sharing totaled $30 million. Gov. Jimmy Carter, while a zealous critic of the president's tactics, felt his hands were tied. A former nuclear submarine commander, Carter applied his mathematical mind to the problem at hand and used revenue sharing to convert the state from bond financing to cash payment. Some of the money saved in interest was funneled into worthy programs, but it was hardly a trickle.

About 130 of the nation's small towns, villages and townships have told the Treasury Department's Office of Revenue Sharing to stop sending revenue-sharing checks. Benton, Ala., sent back more than $3,000, pleading that "the amount received . . . was not worth all the red tape." And Santa Claus, Ga., said it did not have a full-time clerk to keep up with the rules and regulations. Actually, revenue-sharing red tape is minor compared to other federal programs. Aside from the usual periodic reports, where-the-money-goes must be published in local newspapers to keep the citizenry informed, on the record at least.

Rims Barber, the assistant director of the Delta Ministry in Jackson, Miss., surveyed 76 local governments in his state to find out where the money was going. He found that 75 per cent of it went for policemen, sewers and roads. And less than one per cent went for social service, education and economic development. "The fact of the matter is, most of the money is sitting in the bank," he reported with disgust.

Apparently, local Mississippi governments figured out a way to spend only 40 per cent of what they got, while the state government had spent only one per cent of its $38 million by mid-November of last year. The state easily explained the laxness in terms of the nature of the expenditures. Since it is all going for capital improvements, the money—while not exactly spent—is tied up in preliminary plans and drawings. When the legislature meets in January, it is expected to pass another capital improvements program of some $65–70 million to be covered by future revenue-sharing installments.

Francis Geoghagen, Mississippi's budget director, insists, "The only pressures we noticed in the '73 session were for various kindergarten programs. There was no pressure from the social programs. The vehicle for seeking a share is hard to locate. How do you go about getting your request before the legislature? I think that has been their problem." As for the state, Geoghagen regards social-service programs as an illogical place for revenue sharing. "After all," he says, "they might quit and withdraw the federal money and leave it to the state to either pay the bill or be unpopular and discontinue it."

The Delta Ministry is working with community groups in Mississippi in a fledgling effort to forge their lobbying strength. But Rims Barber admits he feels "fairly pessimistic. . . . We can't mount for day-care centers and health centers the kind of lobby that the highway people can." The accounting shows that the state gave $200,000 more to the National Guard than it did to black colleges. And way more ($6.4 million compared to $700,000) has been allocated for the football stadiums and field houses of colleges and universities. There have been some small commitments to human services here and there, such as money for renovating run-down day-care centers. And the local board of supervisors of Bolivar County gave $10,000 to the Delta Community Health Center. "It won't replace the two million they lost from the feds," says Barber, "but it was helpful in one program for pregnant and lactating mothers."

The Delta Community Hospital and Health Center, which served 120,000 people in a four-county area, became a political football between OEO and HEW and Mississippi Gov. William Waller. After much to-ing and fro-ing, the hospital was given a six-months federal phase-out grant with a February termination date. The health center will continue to function but in a greatly scaled-down version. All that will be left is a skeleton of 14 vehicles (compared to 68) for emergencies. Gone are all the lofty commitments to preventive health care for the poor.

In the state's capital, Jackson, revenue sharing is subsidizing an ailing bus system as well as funding capital projects. Leonard Lockley, the city controller, defends that choice of expenditures. "We think we are doing the things the majoriy of the people want. We're talking about parks and re-surfacing of streets nad baseball diamonds. This is desperately needed."

North Carolina did a lot of one-time spending for things like police equipment and firehouses and streets—many of the things voters had rejected in recent bond issues. Winston-Salem even managed to scrape together $249,300 for tennis courts, prompting a democratic state senator to complain, "Local governments are putting it all into police pistols, tennis courts and junk."

But Howard Lee, the black mayor of Chapel Hill, N.C., is using $300,000 of his city's revenue sharing for a housing trust fund. He hopes to offer interest-subsidy loans for low- and moderate-income people to either remodel or purchase new homes. Lee, who was recently re-elected by a 5-to-1 margin, says that, "New Federalism is bringing a new kind of pressure on us to be more creative, but we found that when the revenue-sharing checks came in we were worse off than before. Enough money has not been made available. It's not getting where it's most needed."

Although Lee remains critical of revenue sharing, and most communities in his state and others have done precious little for minorities with the money, hope is popping up along with another version of "New South" politics. In Raleigh, N.C., a 52-year-old black funeral home operator unexpectedly beat a white businessman for the mayor's seat. Along with Mayor Clarence Lightner come new city council members that include an outspoken environmentalist, a former anti-poverty worker and several neighborhood activisits. In a city long controlled by business interests (a former mayor was simultaneously one of the city's biggest developers), the new government means new priorities—perhaps for revenue sharing too.

Still—as of the moment—the minority side of the revenue-sharing ledger is way out of kilter. And there are a lot of disheartened people who have fought the battle for the last year and lost. One of them is Attorney Dan Paul, who headed up the now defunct Mayor's Committee on Revenue Sharing in Miami, Fla. "We had about the same effect as dropping a rose petal down the Grand Canyon and listening for an echo," he says. "We all received little plaques, which I threw in the wastebasket. We were just window dressing to let them spend it the way they wanted. They never paid any attention to us." Despite alternative suggestions from the Citizens Committee, the city of Miami spent 60 per cent of its revenue sharing on salary increases for firemen and policemen—raises normally financed through the ad valorem budget. Paul charges that, "Revenue sharing has destroyed 20 years of social planning and regional planning by passing out money to governments that have nothing to do with running the programs. We'll have nothing but more rhetoric and more bandaids in the future. I don't see any hope."

Sharing that suspicion of revenue sharing, the Atlanta-based Southern Regional Council secured grants from three foundations to study governmental decentralization—including revenue sharing. "As the Great Society is being dismantled in Washington," explained a staffer, "we're trying to find out whether it's being picked up by anybody and who's calling the shots."

When the American Institute of Planners (city and regional) met in Atlanta last October, the delegates concluded in a session on "New Federalism and the Poor" that revenue sharing includes no strong federal rules to protect minorities, no significant requirements for citizen participation and no compunction to educate citizens, especially the poor, so they can participate in political decision-making.

Their conclusions were phrased even more bluntly by a black Atlantan, old enough to have grown up through the fifties and sixties: "The federal government has been the salvation of minorities for the last 20 years. Why should I believe that people like Maddox, Wallace, Long and Stennis are suddenly going to be sensitive to our needs. There's just no way."

LA: Spending Yorty's Legacy

(By Nolan Davis)

Los Angeles.—Black Mayor Tom Bradley of Los Angeles inherited a basketful of fiscal frustrations from his predecessor, conservative ex-Democrat Sam Yorty, and high on the list appears to be Yorty's choice of how the city should spend its General Revenue Sharing allocation. At present, LA has slightly more than $59 million in GRS money, of which $49 million is to go to the police and fire departments and another $7.5 million is set for capital improvements. Missing entirely are any funds to aid the poor and the aged, but there has been little that Bradley could do about it.

By the time the new mayor came to power last year, the Yorty regime already had used more than half of its $35.9 million GRS allotment for 1972–73 to close the gap in its own deficit. This left some $24 million in LA's GRS till. To that was added $35 million in 1973–74 shares, bringing Bradley's total GRS "inheritance" to $59 million. But Mayor Yorty and the city council had already decided how the money would be spent.

Nevertheless, Bradley quickly demonstrated, to the surprise of no one, that he brings to the office of mayor a different set of priorities than those which guided Yorty. Moving first to sove GLACAA (Greater Los Angeles Community Action Agency), the city's anti-poverty agency, from Nixon Administration cutbacks, Bradley joined with officials of Los Angeles County to grant GLACAA $6 million—enough to keep the agency alive until June 30. The county's contribution came from its own slice of revenue sharing funds. But the city had to take its contributions from general reserve funds since its GRS money was already otherwise allocated.

"The $3.1 million from the county and $2.9 million from the city have saved us," says GLACAA spokesman Gwendolyn Moore. "Actually these contributions give us more than we're getting from OEO. The city-county funding gives us $1 million a month, whereas we were getting only $830,000 a month from OEO."

The importance of GLACAA is underscored by the fact that it is the umbrella over 104 anti-poverty agencies serving 250,000 poor people annually in an area encompassing 75 per cent of Los Angeles County's sprawling 4,000 square-mile basin. GLACAA's programs range from Head Start to the Neighborhood Youth Corps and programs for senior citizens and even drug addicts.

As a result of GLACAA's being saved (for the moment at least), local reaction to the disbursement of revenue-sharing monies is minimal. And, as in most cities, the "little" man is not yet aware of what revenue-sharing really means. City officials aren't either. But GRS spending has as critics here, and most are inclined to direct their criticism at the White House, rather than city hall. Says Jerome Seliger, lecturer in public administration at the University of Southern California: "I don't think we can blame Bradley because he sort of inherited this. Like other big-city mayors, he's sort of in a trick-bag. And the federal government hasn't provided him—or any mayors—with any guidelines. You've got a lot of people in Los Angeles looking for bread because the Nixon Administration's played this little trick on the mayors. Essentially, last year Nixon told the mayors: 'We'll give you your tax monies back, but we're going to cut off your categorical grants from agencies like HUD and HEW and Agriculture—everything but Highways.'

"This resulted in a windfall from the small towns; it's okay for places like Santa Rosa (Calif.) up north or Rossmoor Leisure World (a well-to-do retirement community in nearby Laguna Hills) which have homogeneous populations, are relatively middle-class and have good tax bases. In fact, these places still haven't spent their GRS money. Other cities, meanwhile, are spending the money on visible things—hardware for the police and fire departments. Fortunately, Los Angeles is so big and so populous that community groups have been organized enough to put pressure on City Hall and make it give them something.

"In essentially taking money out of one pocket and putting some of it back in the other, the government has proceeded on the assumption that one, local government is representative and two, knows local problems better than people in Sacramento (the state's capital) and Washington. But I ask: Can five men on the board of supervisors represent 8 million people? Another aspect is this: assuming that local government is representative, how do you keep them honest? Without federal guidelines, you have no protection."

California gets more than $550 million a year for the next five years under the General Revenue Sharing Act. The state government keeps a third of this and disburses the rest to the cities and counties. LA officials contend that as the state's largest megalopolis (710 square miles), the city should receive a larger share of the GRS pie than it's getting. Under current federal formulae, LA gets only $35 million yearly. Yet it contains almost 11 per cent of California's population, and if it received 11 per cent of the money its yearly share would be more like $50 million a year. City officials aren't happy about this. In fact, some of them think the state should not get anything at all.

"I believe in the position of the National League of Cities which was several years ago that you ought to give the money to the cities and not let it pass through the states," says Chuck Moffitt, administrative assistant to Bradley. "We feel that revenue sharing really should concentrate on some of the ills of major cities and certainly the Nixon Administration is not paying a great deal of attention to the cities these days, judging from what it's done to the budgets of HUD and other agencies concerned with the cities."

Los Angeles gets most of its money from taxes. Biggest tax is the property levy, which accounts for $234 million or 33.8 per cent of this year's budget. Next largest is sales taxes—$83.7 million or 12.1 per cent. Business taxes ($54.5 million; 7.6 per cent) and lesser levies such as building permits, fees, fines and special licenses ($47 million; 6.8 per cent) are next respectively.

As yet, Los Angeles has no involvement of "grassroots" residents in deciding what monies are due them. This is especially true in the case of the revenue-sharing monies. And since Bradley's hands were tied when it came to the current GRS outlays, the new regime did not "inherit" any already structured vehicles through which to communicate with the poor, the aged and the jobless. It's still in the "committees forming" stage.

Says Bill Elkins, mayoral aide for community relations and youth programs: "We are convinced that if the lifestyle of the people—and I mean *all* of the people who live in the Los Angeles basin—is to be substantially changed, that if we're going to be about the business of trying to improve the delivery of social services, for all people irrespective of their ethnicity, we're going to have to have the real involvement of people who live at the indigenous community base in the decision-making process with respect to the programs that go on in their communities.

"We see them participating on advisory boards, but beyond that we see them on commissions. For example, the city has never had a really viable senior citizen's advisory board that has access to the power structure. Over the course of the last three years, we have been putting together such a committee. I'm very hopeful that it will even be escalated to the level of a commission, which would give it more dignity. We have done the same thing with respect to youth; there has never been a viable youth advisory board. We are taking care to make certain that all ethnic groups are represented and all socioeconomic groups are represented to support them so that they can become an advocate for their own concern and again, give them direct access to the power structure so that it has to listen and has to implement some of the things that they're talking about.

"This is what we mean by 'community action,' not just some groups out there that you roll out as advisories when the funding sources inquire whether you have any involvement."

Waiting for the Crunch

(By Anthony T. Bristow)

New York.—According to New York City officials, the Watergate scandals have undercut federal efforts to curtail various social programs and have enabled the nation's largest city to utilize its sizeable share of revenue sharing funds in other areas of budget allocation.

And while federal guidelines allow these funds to be used for a broad range of municipal responsibilities, the funds in New York City have primarily been used in two general areas—to subsidize the city's financially ailing mass transit system and to improve the uniformed services, including public safety and sanitation.

Since the program as initiated in 1972, New York's share of revenue sharing has amounted to $319 million. These funds have gone into a municipal budget that includes over $10 billion for operating expenses and a separate $2.6 billion capital budget.

Richard Bing, director of the Office of Federal-State Review of the City's Bureau of the Budget, said "the law is rather general" in terms of purposes for which the funds can be used. "The law states that it can be used for public safety, environmental protection, public transportation, health, recreation, libraries, social services and financial administration," he said. "But there are only two general categories which this city has used the funds for."

He explained that revenue sharing money was used to "subsidize the fare" of New York's sprawling subway system "to the tune of $100 million" during the current fiscal year. The subsidy applied only through the end of 1973, however, and the city has been frantically attempting to find other sources of funds to prevent a sharp increase in the fares in early 1974. Last summer, William Ronan, head of the Metropolitan Transit Authority in New York, predicted that the fare would rise from 35 cents to at least 60 cents if other funds were not provided.

The revenue sharing monies have also been used by the city's administration to beef up its uniformed services. One impact of the use of funds in this area was the lifting of a general freeze on hiring in the police, fire and sanitation departments. The freeze remained in effect for all other city agencies.

"The things we have used the money for to date are things that no one has criticized us for," asserted Bing. "And there has been an awful lot of pressure to use the money [in this way]."

Asked about the use of revenue sharing funds in the social programming area that had been threatened by the Nixon Administration's proposed cutbacks in early 1973, Bing said the cutbacks "never came about" in New York's case. Because of "the Watergate effect, or whatever you call it," he explained, "we've received additional funds from the federal office that administers the Model Cities program. The community action program . . . is still going on. So the hard problem we thought we were going to face did not come about. We are in better shape fiscally from a federal standpoint than we thought we were going to be. . . ."

Bing admitted, however, that federally-funded social programs are going through a crucial "transition period" and he said the question of their continuation posed "a problem for next year's budget." Whether revenue sharing funds might be used to fill gaps created by future cutbacks in categorical federal programs is an open question, Bing said, and any decision would have to be made by New York's new mayor, Abraham Beame, who took over the reins of city government on January 1.

"I assume that if the Mayor decided there were certain priority things he wanted to maintain," Bing continued, "the law allows him the discretion to use revenue sharing funds—it's a very open program." But he added that prediction are risky in the unsettled world of U.S. politics, "so I would say anything can happen."

New York's use of federal revenue sharing funds has been in areas that restrict input by community groups, but the city has been experimenting with ways to increase involvement by local communities in the fiscal process. In what has been described as the beginnings of an innovative "grass-roots" budgeting process, the city's Planning Commission recently submitted a $1.8 billion capital expense budget for fiscal 1974–75 that is based on significant input from the 62 local planning boards in the city's five boroughs. The proposed capital budget, which details the projected cost of every school building, street paving project, and park improvement, as well as scores of other capital expenditures, was based on priorities submitted by each of the local boards.

John E. Zuccotti, chairman of the city-wide planning board, said that of the 308 projects requested by the local boards, 125 have been included in the submitted budget to be "fully funded or are being added to the budget or moved up in budget status." He said that another 51 projects, which "aren't in a stage that's ready for construction," will be reviewed by the board next year for possible funding.

Calling the process the "beginning of a community budget," Zuccotti said the kinds of projects listed in the budget reflect an emphasis by local boards on renovating and upgrading existing facilities rather than constructing new ones.

The innovative process of community input in the capital budget process has been widely applauded by city and civic agencies which consider the Planning Commission's design a model for a broader community voice in all phases of city budget review and allocation. Herbert Ranschburg, assistant director of the Citizens Budget Commission, a non-governmental watch-dog group that monitors city spending, said the process implemented by Zuccotti's commission hopefully signals the end of the exclusion of community residents from the budget review process.

"The old era of father knows best in capital budgeting could be on the way out," Ranschburg said. "If we want meaningful decentralization in New York City, this is the way to get it."

Agreeing, Bing said that the Planning Commission's formula has "worked extremely well. From what I understand," he said, "the local planning commissions performed, in some cases, with distinction. And some people who had some suspicion of the program were very happily surprised at the individual local planning districts . . . that they presented sound, concise proposals."

But, Bing noted, the "idea of decentralized budgeting" is a very "complex topic and something that cannot be treated very lightly because there are a number of problems involved with it." He pointed out that the implementation of community input was "much simpler" under the capital budget review process where there were already established community boards "and the lines are much better defined."

But if decentralization and community involvement can be extended, it could help New York avoid the lack of citizen input—and particularly minority input—that has characterized the use of revenue sharing money by other cities around the country.

A Lever for Change in Chicago

(By Robert McClory)

Chicago.—U.S. Rep. Ralph Metcalfe (D-Ill.) has frequently and publicly stated that the Chicago Police Department is "rotten to the core." Along with virtually every other leader of the black and Latin communities, he has blasted the city administration for refusing to respond to a torrent of citizen complaints about brutality and police hiring procedures. A series of scholarly studies, reports, and recommendations, issued during the past two years, have regularly encountered official silence. Mayor Richard Daley would occasionally dismiss the criticism as "politically motivated" but aside from minor shakeups in the police department (when the heat was really on), the status quo remained undisturbed.

Now, however, some significant changes may be coming. And a major vehicle for change is Chicago's federal revenue sharing money. Since December, 1972, the city has received approximately $128 million from the U.S. Treasury Department in general revenue sharing. The first $60 million was for the 1972 calendar year. The remainder consisted of quarterly payments of about $17 million each for 1973. With minor adjustments for population shifts, the city is anticipating that about $17 million will continue to flow in quarterly throughout 1974. In his recently approved budget, Mayor Daley is counting on that money, which will represent approximately seven per cent of the overall billion-dollar city outlay.

When the money was first allocated, it went into the corporate purposes fund. Thus, it could have been spent for almost any approved city purpose. But Daley and the City Council decided to apply about 10 per cent of it for the public library, the tuberculosis sanitarium, and building demolition. The remaining 90 per cent was earmarked to pay salaries of police and some firemen.

That decision was made despite the fact that at the same time the revenue sharing money started to flow, President Nixon's cutbacks in social service and urban aid programs began seriously to affect the city. According to one study, Chicago received $120 million less in 1973 than in 1972 in direct and indirect federal allocations. And there will be no reversal of the trend in 1974. Ninety per cent of the $120 million had been aimed at the city's poverty pockets. Last year, Chicago suffered a $9 million reduction in federal housing money, a $20 million reduction for community development, $10 million for Model Cities, $1.8 million for day care, $4 million for mental retardation, and almost $20 million for community mental health.

Organizations like Operation PUSH vigorously protested the cuts, and even sponsored a downtown anti-Nixon parade in July. But few publicly suggested that all, or even a part, of the city's revenue sharing money should be used to prop up the faltering social welfare programs. Daley, for his part, handled the situation skillfully—denouncing the federal cutbacks, after announcing from the start that Chicago's revenue sharing allotment would go to the general fund and thus make it unnecessary to initiate a proposed property tax increase. Howeowners extolled the mayor's "wise decision," while the poor directed their anger and criticism almost exclusively at the federal government.

But however smoothly things seemed to be going for Daley in the beginning, the mayor may be coming now to regret his own priorities. For he has inadvertently handed Chicago's minority leaders what could be their most effective tool yet for challenging discrimination in the city's police department.

The Afro-American Patrolmen's League, the Chicago NAACP, and the Joint Committee on Mexican-American Affairs have prepared a suit against the Treasury Department, demanding that the $68 million the city is slated to receive from revenue sharing in 1974 be withheld. The basis of the suit is the charge that recruiting, hiring, and promotion practices of the police department are in clear violation of the Civil Rights Laws.

Already teams of Treasury Department investigators have visited Chicago, studying police and fire department records. There is a strong possibility, according to legal experts, that the Treasury Department will cut off the flow of federal money to Chicago on the basis of the charges. Such a development would not cripple the city or the police department, since Mayor Daley could undoubtedly find $68 million from some other source to take up the slack. But Daley is assuredly not eager to approach the 1975 mayoral campaign with a clear federal finding of discrimination in his police or fire departments hanging from his neck.

To be sure, the mayor already has plenty to contend with. The Justice Department last year brought lawsuits against both the police and fire departments, charging similiar discriminatory personnel practices. Both those suits, however, may not be settled, or even get into the courts, for another year or two. The suit directed at the revenue sharing money is simpler and should get a quick decision, which could provide irreparable embarrassment to Daley and his supporters.

The plaintiffs contend that it is not necessary to wait until the Justice Department lawsuits are settled before the Treasury Department withholds the money. Since the Law Enforcement Assistance Administration (LEAA), an arm of the Justice Department, has already made two administrative findings of discrimination against the police department, plaintiffs argue, the revenue sharing money (at least the vast majority allocated to the police department) should be stopped immediately.

Although blacks represent 33 per cent of the population of the city, they comprise only 16 per cent of the sworn officers on the 13,500-man police force. Spanish-speaking, who represent seven per cent of the population, make up only one per cent of the sworn officers on the department.

The LEAA report, issued in 1972, concluded that the disproportion is no accident. "In key areas," it said, "the hard data shows that blacks and other minority members are being adversely affected by the present personnel system. Current procedures and practices do tend to have adverse impact on minority group members, both as entry candidates and as departmental personnel."

The LEAA study hit four specific areas of alleged overt discrimination: recruitment, training, promotion, and discipline.

The detailed LEAA findings went virtually unheeded by the city. Last May, one year after they were issued, Herbert Rice, director of LEAA's Civil Rights Compliance Office, declared, "Discussions and correspondence with the officials of the City of Chicago have not resulted in a commitment by these officials to undertake significant steps to achieve what this agency believes to be voluntary compliance with the civil rights laws and regulations affecting the Chicago police department. . . . LEAA has referred this matter to the Civil Rights Division of the Department of Justice for such actions as it deems appropriate."

To no one's surprise, the Justice Department filed its suit last Aug. 15, incorporating the basic allegations of the LEAA study. The specific purpose of the suit was to deny the Chicago police department a $20-million yearly allocation from the LEAA, which is not revenue sharing money.

Mayor Daley quickly responded, "I think it is a political suit." And city attorneys, anticipating a long, drawn-out legal battle, started the slow preparation of briefs, motions, and responses.

Meanwhile, the Chicago Law Enforcement Study Group, a research unit centered at Northwestern University, produced a devastating 87-page study, which claimed that the police department not only does not have a psychological testing program to weed out disturbed or racist recruits, but has, in fact, systematically dismantled a model program instituted here in the late 1960's by former police Supt. D. W. Wilson. The researchers declared that under Wilson's successor, James B. Conlisk Jr., all full-time psychologists employed by the police department had been terminated, all working relations with outside consultants had been cancelled, and the personnel division's budget severely cut. Chicago, it was claimed, remains the only one of the five largest cities in the country without an effective program of screening police applicants for emotional stability.

The study also charged that "the civil service written examination is an antiquated, culturally biased IQ test, the primary consequence of which is to screen out a disproportionate number of minority group members."

The issue of psychological tests took on special relevance in a report on the misuse of police authority issued last summer by a committee convened by Congressman Metcalfe. Two psychologists, formerly with the police department, testified before the committee that whenever emotional or personality defects are discovered in a probationary Chicago policeman, he is not removed from duty but assigned to a "stress area" (usually a black or Latino community) where he gets a lot of fast street experience. The purpose, said the psychologists, is "to make or break" these calculated risks. One of the psychologists, Dr. Arnold Abrams, commented, "I am sure that some of them come out of it and somehow manage to cope, but for most it is an extremely stressful situation and makes it very difficult on the neighborhood they are working in."

As with the LEAA findings, the study group report and the Metcalfe report evoked only categorical denials from Mayor Daley and his top police officials. As usual, silence greeted several lawsuits filed by civil rights groups in the wake of these studies.

Mayor Daley's critics charge that the result of what one black policeman called "medieval and empty-headed recruitment and training policies," is a police department that is smug, impervious to criticism, and brutal to the minority communities. Indeed, the most vociferous objections during the last two years have not been directed so much at personnel policies but at their results in the street. Police harassment of black and brown civilians, the extraordinary eagerness of the police department's Internal Affairs Division to dismiss complaints—all these comprise the fuel for the current crisis of confidence.

Three months ago, while the suit against the revenue sharing money was being prepared, the Afro-American Patrolmen's League (AAPL) and the Chicago NAACP made a formal request that the Treasury Department, in the light of the evidence, take voluntary action against the Chicago police. Although the Treasury Department stalled, Mayor Daley has since shown himself a little less intransigent on the subject of police reform.

In October, he accepted "reluctantly" the resignation of hard-line police Supt. Conlisk, but has rejected the temptation to name instantly another Conlisk-type in his place. Daley says he will appoint the best man he can find even if that means someone from outside Chicago. In early December, when Chicago's three largest and most prestigious associations of lawyers demanded that the mayor appoint an independent investigative agency to probe police misconduct, Daley did not rush to the defense of the police. Instead, he shattered precedent by stating publicly, "We know we have a problem with the Chicago police." He then met with representatives of the lawyers' groups and discussed creative compromises. In addition, the city's acting police superintendent announced in mid-December a series of reforms, including the hiring of psychologists to review the department's testing program and a reevaluation of the police Internal Affairs Division's self-investigation methods.

But the plaintiffs in the Treasury Department lawsuit declare they are not going to be lulled into slumber by vague verbal agreements. "We think this revenue sharing issue is the handle we've been looking for," says Renault Robinson, executive director of the AAPL. "And we're not going to let go now."

If revenue sharing does provide the leverage, it will be a monumental victory for Robinson, a 30-year-old traffic patrolman whose assignment until shortly after the revenue sharing suit was prepared, was guarding the alley behind police headquarters. During Robinson's first five years on the force, he was considered a "cinderella cop,"—a good Negro, who piled up an impressive series of awards and commendations. But when he formed the AAPL in 1968 and started crusading for reform from within, the awards stopped. He has since been suspended on 70 occasions, on charges ranging from not having his hat on, to accidentally firing his weapon. In 1970 he was suspended for one year and the police department made an unsuccessful attempt to fire him. In 1971 he returned to duty, serving as a downtown traffic cop until last spring when he publicly questioned a series of police shootings of black youths. It was then that he was relegated to the alley.

During the last three years, Robinson has been involved in a dozen legal attacks on police procedures, and hardly a week passes without his trenchant comments on the latest alleged brutality case. In the minority community, Robinson has become a symbol of persistence and determination to change the system.

Last November, 2,000 of his friends and supporters gathered at McCormick Place for the annual AAPL dinner, at which 21 of the nation's black mayors were honored. Robinson's experiences have also been duly noted by the Treasury Department investigators whose recommendations may decide whether or not the revenue sharing flow will be shut off. Recently, the civil rights specialist on the investigating team declined to comment on what conclusions he has reached. But he admitted that the police department's punitive attitude toward Robinson certainly made the department look "ridiculous and vindictive."

Now, with the Treasury Department's interest aroused, Robinson has been returned to traffic duty—thus feeding speculation that Chicago officials are feeling the pressure.

Five years ago, when the AAPL was in its infancy, one of Robinson's superiors cautioned him not to make a "federal case" out of a little racial discrimination. But now—with revenue sharing as the handle—that is precisely what he has decided to do.

Special Revenue Sharing

(By Cynthia Jo Rich)

Watergate foiled the president's plans for making special revenue sharing the law just in time for the holiday season. But he still sees the plan as an idea whose time has come, and has high hopes for passage by Spring thaw.

Special revenue sharing would mean the return of about $7.2 billion in federal income tax receipts to localities in fiscal 1974—July 1 through June 30. The money would substitute for about 70 so-called "categorical" programs, administered by 7 federal agencies: Programs like Manpower Training and Development, JOBS, Neighborhood Youth Core, Model Cities, Community Action, and others.

Like general revenue sharing, the special revenue sharing program has generated enough controversy that, coupled with the woes of Watergate, special revenue sharing has had to take up temporary residence on the back burner of Congressional priorities. A lot of people don't seem to think the program is so special after all; but others are guessing that at least some parts of it will be made into law.

Special revenue sharing means 70 programs would be grouped under four general headings: education (HR5823 and S1319 or "The Better Schools Act"), manpower, law enforcement (HR5613 and S1234 or alternate bill HR5746) and community development (HR7277 and S1743, "The Better Communities Act"). Bloc grants would be sent to states and localities to use as they see fit with almost no strings attached.

Proposed in 1971, the Manpower component is the only one of the four areas of special revenue sharing that actually came to a vote. The 91st and 92nd Congress failed to pass the proposal.

In a speech made several months ago, Nixon, angered at the action of Congress, announced his decision to halt attempts at getting congressional approval of the bill. Instead, he said, Congress' action had "forced" him to allow the Manpower Development and Training Act, which expired in June, to die; and to institute manpower revenue sharing through "extension of existing legislative authorities via administrative consolidation."

So manpower revenue sharing begins July 1, and by that time, federal officials say they expect to have some guidelines available for use of the money.

Local governments with populations of at least 100,000 will be eligible for the bloc grants. According to the Bureau of National Affairs, smaller units of government may be eligible if they are "contiguous," or form a labor market area, or want to join together their populations to equal 100,000.

State and local governments in fiscal 1974 would receive $950 million, or about 71 per cent of the first year's manpower funding of $1.34 billion. The rest of the money, $390 million, will be kept for federal research and development and technical assistance while transition from the federal to the local levels is completed.

Overall, the Manpower Administration budget will be reduced from the $4.24 billion of fiscal 1973 to $3.01 billion in fiscal 1974, a reduction of $1.23 billion or about a 26 per cent reduction.

By a confusing and contradictory provision known as the "hold harmless principle" localities are assured by the Nixon administration that the first year, nobody's total manpower allocation will fall below 85 per cent of the 1973 level.

In addition to these cutbacks, under special revenue sharing, three contractors with the Department of Labor—The National Urban League, Opportunities Industrialization Center and Jobs for Progress, Inc.—have been notified that the Department does not intend to renew contracts for programs they operate. If these organizations plan to continue their manpower-related activities, although they are national organizations, they will have to submit their plans to local officials for approval.

Under law enforcement revenue sharing which has not yet become a reality either though Congressional or administrative action, $891 million, an increase of $36 million over fiscal 1973, would be available to local governments to reduce and prevent crime and delinquency and to encourage comprehensive planning, improved management, research and development within law enforcement agencies.

The existing Law Enforcement Assistance Act of 1968 requires federal officials to approve state law enforcement plans as a precondition to funding. The new legislation would eliminate that requirement, except that states would have to develop three-year plans to be updated annually. The Law Enforcement Assistance Administration (LEAA) would be required to review and comment on state plans, and submit their comments to Congress to be published in the Federal Register.

Eighty-five per cent of law enforcement revenue sharing money would go to states and 15 per cent would be retained for LEAA spending.

An estimated 30–32 education programs under special revenue sharing would be grouped into education bloc grants to be used by localities for disadvantaged and handicapped children, vocational education, education of federal employes and support services. Programs of the Elementary and Secondary Education Act of 1965—like Headstart—and most programs under the Adult Education Act of 1965 would be eliminated. The administration proposes $2.5 billion for special revenue sharing's education component for fiscal 1974. An additional $244 million is proposed for school lunch programs.

Opposition in Congress to the education piece of special revenue sharing stems more from the possibility of reduced funding than over the idea of consolidation.

Community development, the last quadrant of special revenue sharing would distribute $2.3 billion among urban areas to be used at the discretion of local officials for activities like rehabilitation of buildings, removing health hazards, purchase of property, or whatever else would help improve the community. Under the Better Communities Act, 90 per cent of the allocation would be spent for community improvement in cities and counties; 8.2 per cent would go to states and 0.9 per cent would be administered by the Department of Housing and Urban Development (HUD).

The act would scrap Urban Renewal, Model Cities, Neighborhood Facilities, Basic Water and Sewer Facilities, Open Space and Land Grant programs and others.

Over the President's criticism, both houses of Congress have refused to consider the Better Communities Act until the President sends down his housing proposal to substitute for the housing moratorium he instituted.

Nixon, in his second State of the Union message, insisted his housing proposal is forthcoming, but accused the Congress of being "so interested in continuing programs that are proven failures that we are unable to gain a full hearing for new approaches that clearly deserve a chance."

The whole harmless principle applies to the Better Communities Act. It promises that no jurisdiction will get less money under community development special revenue sharing than it did under the categorical programs.

Among those who endorse the President's special revenue sharing plan is Frederick Malek, deputy director of the Office of Management and Budget and formerly deputy director of the Committee to Re-elect the President (CREEP).

Malek, who admits revenue sharing is "a very hotly debated issue" told an audience at the July 23 annual convention of the National Urban League in Washington, D.C., "I think it should be."

Malek called the special revenue sharing plan "very essential reform, totally in harmony with the needs of our time," and said, "I think if we give it half a chance to succeed, it can revitalize and restrengthen American government."

Tracing the development of what he termed "vast bureaucracies" in Washington over the past 30 years, Malek said:

"The larger these bureaucracies got, the more isolated they got from the very people they were trying to serve. The unfortunate result among the people of this country was a great deal of cynicism—a loss of faith in government's ability to solve problems. A part of the new federalism is to reverse this trend by bringing more power and more decision-making to the localities," Malek said.

"I think we've got to realize," he continued, "that the America of the 1970's is not the America of the New Deal and it's not the America of the 1960's. Today, the elderly, the poor and the minorities know how to work out their own dilemma. They know that their voices are heard and they know that no local politician can ignore their power or their demands."

Malek said four goals of the new federalism are the elimination of time-consuming forms required under categorical programs, more (local) flexibility, equitable distribution of funds and increased citizen participation.

"I don't know how you feel about it," he said, "but I for one would much rather see the taxpayers' dollars going right to the recipients rather than a certain per cent of it being siphoned off and going into the pockets of the bureaucracies in this structure that we built up."

Malek, a former Green Beret with a masters in Business Administration from Harvard, admitted there are a lot of "yes . . . buts" on the issue of special revenue sharing.

"'Yes, I agree with the goals . . . but won't the localities discriminate?' Well," he told the audience, "the answer to that one is they better not. The responsibility of the federal government to assure non-discrimination in financially assisted programs is very clear, and I hope there is no doubt in anyone's mind as to what the law requires in this area; and let there be no doubt about the intention of this administration to enforce fully both title VI of the Civil Rights Act and the non-discrimination protections contained in the general and special revenue sharing bills.

"Another 'yes . . . but,'" Malek said, "'Yes the proposal makes sense . . . but will the money really be spent in the best interests of the community?' A lot of people don't seem to trust the judgment of the state and local elected officials to spend these funds in ways that are going to help the poor people. They're concerned that the money will be spent in ways to help the middle class build tennis courts and bridle paths . . . I don't buy this line of reasoning, and I don't know if you ought to either. It seems to me that the disadvantaged in a given community," Malek said, "can do a hell of a lot more by electing the mayor of that community; they can have a hell of a lot more influence on that than they can in electing the president. I think that this being the case, they have a lot more political clout dealing with the locally elected officials, and they can bring a lot more political heat to bear than they can on a national level."

Malek pointed to the elections of Mayor Kenneth Gibson of Newark, N.J., and former Cleveland mayor, Carl Stokes, and said the recent elections of blacks to political office "is very ample evidence to me that the voice of the disadvantaged is heard and that they have a heck of an impact in the election of local officials."

With four objections, another source of support for special revenue sharing was the 41st United States Conference of Mayors, held in June. HUD Undersecretary Floyd Hyde's lobbying band of federal officials tried hard for a Conference resolution of approval for special revenue sharing. And the mayors pledged to seek to convince Congress to make these basic revisions in the special revenue sharing proposal.

1—Assure that no city would fall below a certain level of federal aid in the future. (Complaints have already begun that the bill, as submitted, makes it possible for federal money to be reduced after the first year.)

2—Remove a provision that sends some federal money to state governments to distribute.

3—Include a requirement in the bill that cities receiving federal money use it to meet national goals for housing, slum clearance and improvement of community facilities.

4—Guarantee enough federal loan assistance to allow cities to plan projects too expensive to fund with a single year's grant.

Some of the critics of special revenue sharing are as acid as Professor Robert Lekachman of New York City University who calls the plan "a second, if somewhat politer, form of Jim Crow."

"Until Watergate," Lekachman says in *Christianity and Crisis*, "this mean-spirited design look perilously near success. For the moment, the odds have shifted against Mr. Nixon. But if he surmounts this latest crisis, the special revenue sharing battle will remain to be waged."

Other critics of the plan, such as The Joint Center for Political Studies' president, Eddie N. Williams, say that special revenue sharing is a "socio-political experiment which could rip off the poor and blacks."

On the same platform with Malek, Williams, who was formerly director of the Center for Policy Study and vice president for public affairs at the University of Chicago, and a foreign service reserve officer at the U.S. Department of State, methodically told the audience of over 1000:

"It is the question of the *unrestricted* (his emphasis) use of revenue sharing funds—the absence of relevant federal standards and guidelines, the absence of national objectives, the absence of assurances that funds will be applied to the most pressing urban needs; it is this unresolved question that many of us find so troubling."

Williams, who agrees with Woodrow Wilson's warning, "centralization is not vitalization," said "however . . . it seems to me that in a pluralistic society, particularly in one which admits having some hangups about the race, creed, color, national origin and sex of some of its people, unrestricted federalism, as embodied in the special revenue sharing proposals, could result in a tyranny of the majority.

"Those innocents," he said, "who assume that the current version of special revenue sharing will assure the protection of minority interests show little understanding of the political culture in which they live. Nor do they seem to realize that in both design and potential effect, special revenue sharing is reminiscent of the withdrawal of federal troops from the South after Reconstruction."

Williams, former director of the Office of Equal Employment Opportunity, and a Congressional fellow of the American Political Association, told the gathering:

"Any plan which lets the federal government off the hook in terms of assuring the welfare of all Americans is an invitation to disaster.

"We can ill afford," he continued, "to lapse into complacency and be lulled into a false sense of security by the rhetoric of 'Power to the People,' whether it spills from the lips of Stokeley Carmichael or Richard Nixon. Certainly, it is not reassuring to note that this rhetoric comes close to the rhetoric of States' Rights."

Williams, who noted planned use reports that indicate some communities are debating whether to spend general revenue sharing monies on tennis courts, bridle paths or a dog pound, said, "there is a lesson here on special revenue sharing. If local perceptions of priorities are totally at odds with national goals, which do recognize the needs of the poor and minorities, then concern over local governments' willingness to meet these needs is heightened. These examples," he said, "are but the latest evidence that minorities and the poor cannot rely exclusively on the states and localities to see to it that their needs are met."

Williams termed it "absolutely essential" that special revenue sharing programs meet four key tests:

1—They must contain explicit national goals which take into account the needs of the poor and minorities. Where possible they should provide financial incentives to governments which strive to meet these goals.

2—There must be a reasonable application and review process which will ensure that those localities most needing funds actually receive them and that those that receive them actually use them consistent with the national objectives.

3—There must be explicit and binding civil rights protections written into the law, which take full account of the continuing need for federal enforcement.

4—There must be strong provisions for effective community participation in the decision-making process.

Of the Better Communities Act, Williams said: "It leaves us feeling the way one does after viewing 'Last Tango in Paris'—there is much to be desired. . . . You see a hurt put on the cities where we are and a bonanza for the suburbs where we ain't."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. Hudnut (at the request of Mr. Arends), for Monday, March 11, on account of Interstate Commerce Commission hearing in Indianapolis.

To Mr. Dellums (at the request of Mr. O'Neill), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Bafalis) to revise and extend their remarks and include extraneous matter:)

Mr. Kemp, for 15 minutes, today.

Mr. Camp, for 5 minutes, today.

Mr. Anderson of Illinois, for 30 minutes, today.

Mr. Grover, for 10 minutes, today.

Mr. Ruppe, for 5 minutes, today.

Mr. Steele, for 5 minutes, today.

(The following Members (at the request of Mr. Milford) and to revise and extend their remarks and include extraneous matter:)

Mr. Diggs, for 5 minutes, today.

Mr. Moss, for 15 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Morgan, for 10 minutes, today.

Mr. Murphy of New York, for 10 minutes, today.

Mr. Rodino, for 10 minutes, today.

Mr. Reuss, for 15 minutes, today.

Mr. Owens, for 10 minutes, today.

Mr. Tiernan, for 5 minutes, today.

Mr. Hamilton, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Rosenthal, and to include extraneous material, on his amendment offered in the Committee of the Whole today.

Mr. Dingell to revise and extend his remarks in connection with section 5, under the 5-minute rule today.

Mrs. Chisholm, to extend her remarks in the body of the Record, notwithstanding the fact it exceeds two pages of the Record and is estimated by the Public Printer to cost $2,037.75.

Mr. Rousselot, to extend his remarks immediately preceding the vote on H.R. 11793 today.

(The following Members (at the request of Mr. Bafalis and to include extraneous material:)

Mr. Winn.

Mr. Steelman.

Mr. Kemp in three instances.

Mr. Whalen.

Mr. Wyman in two instances.

Mr. Derwinski in three instances.

Mr. Esch.

Mr. Hosmer in two instances.

Mrs. Holt.

Mr. Broyhill of Virginia.

Mr. Anderson of Illinois in two instances.

Mr. Findley in five instances.

Mr. Hammerschmidt.

Mr. Baker.

Mr. Nelsen.

Mr. Quie.

Mr. Symms.

Mr. Zwach.

Mr. Spence.

Mr. Shoup in five instances.

Mr. Robert W. Daniel, Jr.

Mr. Bob Wilson in six instances.

Mr. Railsback.

Mr. Brotzman.

(The following Members (at the request of Mr. Milford) and to include extraneous matter:)

Mr. Mollohan.

Mr. Roncalio of Wyoming.

Mr. Rarick in three instances.

Mr. Gonzalez in three instances.

Mr. Leggett.

Mr. Stokes in three instances.

Mr. Badillo in three instances.

Mr. Moss.

Mr. Edwards of California.

Mr. Murphy of New York.

Mr. McCormack.

Mr. O'Neill.

Mr. Chappell.

Mr. Hanna in two instances.

Mr. Patten.

Mr. Litton.

Mr. Dorn in two instances.

Mr. Anderson of California in two instances.

Mr. Vanik.

A BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on March 6, 1974 present to the President, for his approval a bill and joint resolution of the House of the following titles:

H.R. 8245. An act to amend Reorganization Plan No. 2 of 1973, and for other purposes; and

H.J. Res. 905. A joint resolution extending the filing date of the 1974 Joint Economic Committee report.

ADJOURNMENT

Mr. MILFORD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 33 minutes p.m.), under its previous order, the House adjourned until Monday, March 11, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2003. A letter from the Secretary of the Navy, transmitting a report on the progress of the Naval Reserve Officers Training Corps flight instruction program for fiscal year 1973, pursuant to 10 U.S.C. 2110(b); to the Committee on Armed Services.

2004. A letter from the Acting Deputy Assistant Secretary of the Interior, transmitting notice of receipt of an application for a loan and grant from the Central Nebraska Public Power and Irrigation District, Holdrege, Nebr., pursuant to section 10 of the Small Reclamation Projects Act of 1965; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DULSKI: Committee on Post Office and Civil Service. Report on improved management in the Federal Government (Rept. No. 93–880). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 963. Resolution providing for the consideration of H.R. 69. A bill to extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes, (Rept. No. 93–881). Referred to the House Calendar.

Mr. WALDIE: Committee on Post Office and Civil Service. S. 2174. An act to amend the civil service retirement system with respect to the definitions of widow and widower (Rept. No. 93–882). Referred to the Committee of the Whole House on the State of the Union.

Mr. STRATTON: Committee on Armed Services. S. 2770. An act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services; with amendment (Rept. No. 93–883). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 12503. A bill to amend the Controlled Substances Act to provide for the registration of practitioners conducting narcotic treatment programs. (Rept. No. 93–884). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 3858. A bill to amend sections 101 and 902 of the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to amend title XI of such act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Ulawful Seizure of Aircraft; and to authorize the Secretary of Transportation to suspend the operating authority of foreign air carriers under certain circumstances; with amendment (Rept. No. 93–885). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO:

H.R. 13312. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

By Mr. ARENDS:

H.R. 13313. A bill to authorize the disposal of rutile from the National stockpile and the supplemental stockpile; to the Committee on Armed Services.

By Mr. BAFALIS (for himself, Mr. Abdnor, Mr. Broyhill of Virginia, Mr. Chappell, Mr. Collins of Texas, Mr. Duncan, Mr. Fulton, Mr. Goodling, Mr. Hosmer, Mr. Hudnut, Mr. Ketchum, Mr. Milford, Mr. Rousselot, Mr. Whitehurst, Mr. Young of Alaska, Mr. Young of Florida):

H.R. 13314. A bill to amend section 1201 of title 18 of the United States Code to impose penalties on the acceptance of a benefit extorted through kidnaping and on assisting in the distribution of such a benefit; to the Committee on the Judiciary.

By Mr. BRINKLEY:

H.R. 13315. A bill to amend title XI of the Social Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. BROYHILL of North Carolina:

H.R. 13316. A bill to impose a tax on windfall profits by producers of crude oil; to the Committe on Ways and Means.

By Mr. DICKINSON (for himself, Mr. Bevill, Mr. Buchanan, Mr. Flowers, and Mr. Nichols):

H.R. 13317. A bill to require passport applicants to swear to an oath of allegiance to the United States as a condition precedent to being granted a passport; to the Committee on Foreign Affairs.

By Mr. ESHLEMAN:

H.R. 13318. A bill to amend the Small Business Act to provide for loans to small business concerns affected by the energy shortage; to the Committee on Banking and Currency.

By Mr. GILMAN:

H.R. 13319. A bill to prohibit discrimination on account of sex or marital status against individuals seeking credit; to the Commmittee on Banking and Currency.

By Mr. HÉBERT (for himself and Mr. Bray) (by request):

H.R. 13320. A bill to amend the provisions of title III of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

By Mr. HEINZ:

H.R. 13321. A bill to amend section 428(a) of the Higher Education Act of 1965, as amended, and section 2(a)(7) of the Emergency Insured Student Loan Act of 1969, to better assure that students will have reasonable access to loans to meet their postsecondary education costs, and for other purposes; to the Committee on Education and Labor.

By Mr. HEINZ (for himself, Mr. Harrington, Mrs. Boggs, Mr. Frenzel, and Mr. Lehman):

H.R. 13322. A bill to amend the Community Mental Health Centers Act to revise the various programs of assistance authorized by that act and to extend it to the fiscal year 1976; to the Committee on Interstate and Foreign Commerce.

By Mr. HEINZ (for himself, Mr. Steelman, and Mr. Pritchard):

H.R. 13323. A bill to establish a National Center for the Prevention and Control of Rape and provide financial assistance for a research and demonstration program into the causes, consequences, prevention, treatment, and control of rape; to the Committee on Interstate and Foreign Commerce.

By Mr. HELSTOSKI:

H.R. 13324. A bill to amend title II of the Social Security Act to provide that the remarriage of a widow, widower, or parent shall not terminate his or her entitlement to widow's, widower's, or parent's insurance benefits or reduce the amount thereof; to the Committee on Ways and Means.

H.R. 13325. A bill to amend title II of the Social Security Act to provide that an individual who resides with and maintains a household for another person or persons (while such person or any of such persons is employed or self-employed) shall be considered as performing covered services in maintaining such household and shall be credited accordingly for benefit purposes; to the Committee on Ways and Means.

H.R. 13326. A bill to amend title II of the Social Security Act to reduce from 20 to 5 years the length of time a divorced woman's marriage to an insured individual must have lasted in order for her to qualify for wife's or widow's benefits on his wage record; to the Committee on Ways and Means.

By Ms. HOLTZMAN (for herself, Mr. Brasco, and Mr. Wolff):

H.R. 13327. A bill to make it clear that the bonus value of food stamps is to be included in the "hold harmless" amount guaranteed to recipients of supplemental security income benefits under the Social Security Amendments of 1972, so as to assure that recipients in cash-out States do not suffer reductions in the benefits they actually receive; to the Committee on Ways and Means.

By Mr. KAZEN:

H.R. 13328. A bill to provide that, after January 1, 1974, Memorial Day be observed on May 30 of each year and Veterans Day be observed on the 11th of November of each year; to the Committee on the Judiciary.

By Mr. KYROS (for himself and Mr. Cohen):

H.R. 13329. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MATHIS of Georgia (for himself, and Mr. Walsh):

H.R. 13330. A bill to prohibit the exportation of fertilizer from the United States until the Secretary of Agriculture determines that an adequate domestic supply of fertilizer exists; to the Committee on Banking and Currency.

By Mr. MAZZOLI:

H.R. 13331. A bill to postpone the effectiveness of certain U.S. district court orders; to the Committee on the Judiciary.

By Mr. MURPHY of New York (for himself, Mr. HELSTOSKI, Mr. METCALFE, Mr. BOLAND, Mr. EILBERG, Mr. SHOUP, Mr. MCDADE, Mr. JOHNSON of Pennsylvania, Mr. LEGGETT, Mr. THOMPSON of New Jersey, Mr. MAYNE, Mr. WON PAT, Mr. FASCELL, Mr. CRONIN, Mr. BIESTER, Mr. DAVIS of Georgia, Mrs. CHISHOLM, Mr. WHITE, Mr. RIEGLE, Mr. SARBANES, Mr. YATRON, Mr. MOAKLEY, Mr. DULSKI, and Mr. KYROS):

H.R. 13332. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the assignment of surplus real property to executive agencies for disposal, and for other purposes; to the Committee on Government Operations.

By Mr. O'BRIEN:

H.R. 13333. A bill to amend title VII of the Older Americans Act relating to the nutrition program for the elderly to provide authorization of appropriations, and for other purposes; to the Committee on Education and Labor.

By Mr. PEYSER:

H.R. 13334. A bill to amend section 428 of the Higher Education Act of 1965 to better assure that students will have reasonable access to loans to meet their postsecondary education costs; to the Committee on Education and Labor.

By Mr. ROYBAL:

H.R. 13335. A bill to amend the Internal Revenue Code of 1954 to increase to not less than 9 cents per mile the standard mileage allowance which may be used in determining the amount of the deduction allowed for expenses paid or incurred for the operation of an automobile in connection with the rendition of services to a charitable organization; to the Committee on Ways and Means.

By Mr. SHOUP:

H.R. 13336. A bill to amend section 101 of title 23, United States Code, to prohibit the impoundment of highway funds; to the Committee on Public Works.

H.R. 13337. A bill to amend title 38 of the United States Code in order to provide that all Federal retirement and similar payments be disregarded in determining annual income for purposes of the veterans' pension laws, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. THOMPSON of New Jersey:

H.R. 13338. A bill to amend the Public Health Service Act to provide for programs for the diagnosis and treatment of hemophilia; to the Committee on Interstate and Foreign Commerce.

By Mr. WHALEN:

H.R. 13339. A bill to amend title II of the Social Security Act to provide that increases in monthly insurance benefits thereunder (whether occurring by reason of increases in the cost of living or enacted by law) shall not be considered as annual income for purposes of certain other benefit programs; to the Committee on Ways and Means.

By Mr. WHITE (for himself and Mr. RUNNELS):

H.R. 13340. A bill to amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ANDERSON of Illinois:

H.R. 13341. A bill to provide for affording equal educational opportunities for students in the Nation's elementary and secondary schools; to the Committee on Education and Labor.

By Mr. FORD (for himself, Mr. LANDGREBE, Mrs. GRASSO, Mr. THOMPSON of New Jersey, Mr. HAWKINS, Mr. LEHMAN, Mr. O'HARA, Mr. MEEDS, Mr. QUIE, Mr. TOWELL of Nevada, Mr. STEIGER of Wisconsin, Mr. ERLENBORN, and Mr. HANSEN of Idaho):

H.R. 13342. A bill to amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement; to the Committee on Education and Labor.

By Mr. KING:

H.R. 13343. A bill to amend the Internal Revenue Code of 1954 to permit taxpayers to utilize the deduction for personal exemptions as under present law or to claim a credit against tax of $200 for each such exemption; to the Committee on Ways and Means.

By Mr. LEHMAN:

H.R. 13344. A bill to provide financial assistance to the States for improved educational services for handicapped children; to the Committee on Education and Labor.

By Mr. LONG of Maryland:

H.R. 13345. A bill to amend the Internal Revenue Code of 1954 to provide an additional income tax exemption to a taxpayer supporting a dependent who is mentally retarded; to the Committee on Ways and Means.

By Mr. LUJAN:

H.R. 13346. A bill to amend title 5, United States Code, with respect to the retirement of certain law enforcement and firefighter personnel, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. METCALFE:

H.R. 13347. A bill to terminate the Airlines Mutual Aid Agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. PRICE of Texas:

H.R. 13348 A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. RANGEL:

H.R. 13349. A bill to amend title XVI of the Social Security Act to provide that support and maintenance furnished to a handicapped child under the age of 18 who is living in another person's household shall not constitute income to such child for purposes of determining his or her eligibility for supplemental security income benefits, and to reduce the extent to which such support and maintenance constitutes income for such purposes in any other case; to the Committee on Ways and Means.

By Mr. RODINO:

H.R. 13350. A bill to stimulate and to increase competition in the refining sector of the petroleum industry; to the Committee on Interstate and Foreign Commerce.

By Mr. ADAMS:

H.R. 13351. A bill to amend the Federal Property and Administrative Services Act of 1949 to provide for the use of excess property by certain grantees; to the Committee on Government Operations.

By Mr. OWENS (for himself, Ms. CHISHOLM, Mr. HECHLER of West Virginia, Ms. HOLTZMAN, Mr. PATTEN, Mr. REES, and Mr. UDALL):

H.R. 13352. A bill to provide for congressional reforms and to strengthen the role of Congress as a coequal branch of Government, and for other purposes; to the Committee on Rules.

By Mr. STEELE:

H.R. 13353. A bill to amend title XVI of the Social Security Act to reduce from 12 to 3 months the minimum duration of illness or injury which may qualify an individual (on the basis of disability) for supplemental security income benefits; to the Committee on Ways and Means.

H.R. 13354. A bill making an appropriation to Radio Liberty to provide for initiating broadcasting in Baltic languages into the Union of Soviet Socialist Republics; to the Committee on Appropriations.

By Mr. BOB WILSON:

H.R. 13355. A bill to revise the boundary of Cabrillo National Monument, Calif., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ROONEY of Pennsylvania:

H.J. Res. 932. Joint resolution to designate the first week in April of this year as "National Boys' Clubs Week," to the Committee on the Judiciary.

By Mr. SIKES (for himself and Mr. KEMP):

H.J. Res. 933. Joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day"; to the Committee on the Judiciary.

By Mr. STAGGERS (for himself, Mr. ROGERS, and Mr. DEVINE):

H.J. Res. 934. Joint resolution to enable the United States to organize and hold an international conference in the United States in fiscal year 1974 and authorize an appropriation therefor; to the Committee on Interstate and Foreign Commerce.

By Mr. LENT:

H. Con. Res. 442. Conference resolution offering honorary citizenship of the United States to Alexander Solzhenitsyn and Andrey Sakharov; to the Committee on the Judiciary.

By Mr. HALEY:

H. Res. 959. Resolution to amend House Resolution 163 authorizing the Committee on Interior and Insular Affairs to make investigations into any matter within its jurisdiction, and for other purposes; to the Committee on Rules.

By Mr. HAMMERSCHMIDT:

H. Res. 960. Resolution expressing the sense of the House that the Economic Stabilization Act of 1970 should not be extended beyond its present expiration date; to the Committee on Banking and Currency.

By Mr. LONG of Maryland (for himself, Mr. FULTON, Mr. HILLIS, Mr. PREYER, Mr. WOLFF, Mrs. MINK, Mr. BADILLO, Mrs. HECKLER of Massachusetts, Mr. JONES of North Carolina, Mr. TAYLOR of North Carolina, Mr. HUNGATE, Mr. MOAKLEY, Mr. ADDABBO, Mr. DIGGS, Mr. GUDE, Mr. PEPPER, Mr. MATHIS of Georgia, Mr. SARBANES, Mr. DUNCAN, Mr. ABDNOR, Mr. THOMPSON of New Jersey, Mr. MOSS, Mr. NEDZI, Mr. BOLAND, and Mrs. BURKE of California):

H. Res. 961. Resolution to authorize the Committee on Interstate and Foreign Commerce to conduct an investigation and study of the importing, inventorying, and disposition of crude oil, residual fuel oil, and refined petroleum products; to the Committee on Rules.

By Mr. LONG of Maryland (for himself, Mr. HEINZ, Mr. ROYBAL, Mr. MATSUNAGA, Mr. DANIELSON, Mr. ASHLEY, Mr. ALEXANDER, and Mr. ROSE):

H.R. 962. Resolution to authorize the Committee on Interstate and Foreign Commerce to conduct an investigation and study of the importing, inventorying, and disposition of crude oil, residual fuel oil, and refined petroleum products; to the Committee on Rules.

By Mr. BROTZMAN:

H. Res. 964. Resolution creating a standing Committee on the Environment; to the Committee on Rules.

By Mr. OWENS (for himself, Mr. GINN, Mr. HECHLER of West Virginia, Mr. WON PAT, Mr. BAFALIS, Mr. KING, Mr. DUNCAN, Mr. BAUMAN, Mr. DE LUGO, Mr. LOTT, Mr. FRENZEL, Mr. JONES of North Carolina, Ms. SCHROEDER, Mr. CLEVELAND, Mr. WHITEHURST, Mr. RIEGLE, Mr. PEPPER, Mr. STUDDS, Mr. GUNTER, Mr. COHEN, Mr. MCKAY, Mr. WALDIE, Mr. KYROS, Mr. ICHORD, and Mr. BLATNIK):

H. Res. 965. Resolution to express the sense of the House with respect to the allocation of necessary energy sources to the tourism industry; to the Committee on Interstate and Foreign Commerce.

By Mr. OWENS (for himself, Mr. ROE, Mrs. BOGGS, Mrs. HECKLER of Massachusetts, and Mr. LEHMAN):

H. Res. 966. Resolution to express the sense of the House with respect to the allocation of necessary energy sources to the tourism industry; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII,

370. The SPEAKER presented a memorial of the Senate of the Commonwealth of Massachusetts, relative to student fares on airlines; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LUJAN:

H.R. 13356. A bill for the relief of Gloria Chavez; to the Committee on the Judiciary.

By Mr. SISK:

H.R. 13357. A bill for the relief of Mrs. Dorothy Hinck; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

399. The SPEAKER presented a petition of Miro Nohavec, Franklin Lakes, N.J., relative to redress of grievances; to the Committee on the Judiciary.

SENATE—*Thursday, March 7, 1974*

The Senate met at 10 a.m. and was called to order by Hon. DEWEY BARTLETT, a Senator from the State of Oklahoma.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, we thank Thee for the love which "suffereth long and is kind—doth not behave itself unseemly, seeketh not her own, is not easily provoked, thinketh no evil, rejoiceth not in iniquity but rejoiceth in the truth." Show us the lesson of history that as with men so it is with nations "whom the Lord loveth he chasteneth." In our time of discontent and confusion may we seek to understand others as we would be understood by them. May we trust those who repose trust in us. May we seek to serve rather than be served. Above all else may we have faith in Thy providential care over the nation which covenants to know and to do Thy will. And may we have peace in our souls and be at peace with all men.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., March 7, 1974.*
>
> *To the Senate:*
>
> Being temporarily absent from the Senate on official duties, I appoint Hon. DEWEY BARTLETT, a Senator from the State of Oklahoma, to perform the duties of the Chair during my absence.
>
> JAMES O. EASTLAND,
> *President pro tempore.*

Mr. BARTLETT thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, March 6, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

THE JUDICIARY

The second assistant legislative clerk read the nomination of Thomas E. Stagg, Jr., of Louisiana, to be U.S. district judge for the western district of Louisiana.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nominations in the Department of Justice as follows:

Carla Anderson Hills, of California, to be an assistant attorney general.

Hosea M. Ray, of Mississippi, to be U.S. attorney for the northern district of Mississippi.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NATIONAL LIBRARY OF MEDICINE

The second assistant legislative clerk proceeded to read sundry nominations in the National Library of Medicine.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished acting minority leader desire recognition at this time?

Mr. GRIFFIN. No, Mr. President, thank you.

FAIR LABOR STANDARDS AMENDMENTS OF 1974

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 2747, which the clerk will state.

The second assistant legislative clerk read as follows:

S. 2747, to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to expand the coverage of the act, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. GRIFFIN. Mr. President, what is the pending question?

The ACTING PRESIDENT pro tempore. The question is on agreeing to the Taft-Dominick amendment, No. 985.

Mr. GRIFFIN. Mr. President, how much time remains on that?

The ACTING PRESIDENT pro tempore. No time has been used so far.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum and ask that the time be charged equally against both sides on the amendment.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TAFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Ohio is recognized.

Mr. TAFT. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the amendment of the Senator from Ohio, amendment No. 985.

Mr. TAFT. Mr. President, I have offered this amendment to the minimum wage bill relating to the matter of setting pay for Members of the Senate and Members of the House. This, of course, is the same subject generally that was debated yesterday when we had the Commission's recommendation before us which was disapproved by the Senate, resulting in no increases, a position which I supported.

I would explain procedurally that it was impossible under the procedure by which the Commission recommendation came to the Senate to introduce the amendment I have now introduced to the minimum wage bill on the Commission's recommendation because of the fact that it would have constituted legislation in the form the amendment is drawn, and I think the necessary form; and legislation is not permitted to be added to a Commission recommendation of that kind under the authorizing statute.

Therefore, I am offering the amendment today. I believe that the Senate should have an opportunity to express its general opinion upon the subject. The effect of the adoption of the amendment would be to eliminate from the Commission the procedure for salary setting of Members of the Senate and the House and leave the matter of setting the salaries of the Senate and House Members entirely up to those bodies by independent legislation.

Mr. President, the Federal Salary Act of 1967 provides that the Wage Commission has jurisdiction over all the Federal salaries including those of Members of Congress. The amendment would remove the Commission authority over congressional salaries.

The distinguished chairman of the Committee on Post Office and Civil Service, the Senator from Wyoming (Mr. McGee) is on the floor with us today and the committee has expressed its view by reporting legislation which eliminated the pay raise given Members of the Congress by the President's proposal.

I believe congressional salaries have been hidden in other legislation of this sort for too long. I feel when the Senate or the House, for that matter, feels that a raise in salary is necessary and deserved that this question should be debated openly as any other legislation and not resolved in a closed committee room, screened from the public.

The back-door approach to dealing with congressional salaries is at best unwise when public confidence and trust in Government is at an alltime low.

Perhaps if all the facts were bared, congressional salary increases would not have to be passed up out of fear of retribution by voters and could be legislated when justified and necessary, based on the cost of living. We must be open and candid with the people.

When I was a Member of the House of Representatives, I opposed congressional pay raises and the Commission established for the purpose of raising such salaries. On March 11, 1969, after having studied that matter further, I introduced legislation in the House to rescind the pay increases for Members of Congress and other Federal officials pursuant to Presidental recommendations in the budget for the 1970 fiscal year, and to abolish the quadrennial Commission on Executive, Legislative and Judicial Salaries.

I continue to have the feeling that the Wage Commission is an inappropriate method to determine pay raises for Members of Congress. In addition, with the spiraling inflation and the effect it is having on our economy, I believe it would be unwise and show a poor example for Members of Congress to receive large pay raises at a time when we are asking the people of this country, our constituents, to tighten their belts. This amendment would preclude the possibility of quiet back-door raises for Congress.

I do think that those employees who are on the Federal payroll should be paid fairly and we should have the courage to say so. A pay raise for other Federal employees is fair in view of the increase in the cost of living, and I have supported it, in order to keep first-class people in Government service. I have not supported congressional pay raises in the past, which seemed to me excessive and adopted by a procedure of which I could not approve.

Mr. President, I feel we have had an assurance to a degree from the distinguished chairman of the committee that this whole matter of the Salary Commission is going to be considered in committee this year.

I have taken that into account in still pressing this amendment. The distinguished Senator from Wyoming, chairman of the committee, has indicated that he wants to have hearings and hear any proposals. I have a bill, incidentally, in the same form as the amendment that is pending, and which presumably would be heard in the Senator's hearings in the committee on this subject.

However, in view of what is the current crisis, not so much insofar as Members of Congress are concerned, but insofar as the other salaries that were defeated yesterday are concerned, I wonder if it would not be desirable to move more expeditiously than that and see if we cannot speed up the procedure of getting a fair consideration, other than for Members of Congress and having a direct consideration of Members of Congress.

I especially feel that action taken at this time on this amendment, if it should be favorable, would be very helpful in giving the committee an indication of the direction in which the Senate feels we ought to go insofar as whether we should continue a Commission approach or go back to a direct legislative approach as to senatorial and congressional salaries.

I wonder whether the distinguished chairman would comment on what his feelings would be in that respect, as to whether it would be a helpful thing to have a vote on the amendment at this time.

I will yield to the Senator.

Mr. McGEE. Mr. President, I shall be delighted to respond to my colleague from Ohio, and in this way: First of all, the legislation that is now on the books, the Federal Salary Act of 1967, was not designed to sneak by or exclude Congress, but to leave a congressional option specifically in the law, and, as the dialog and the colloquy in this body of the last several days would clearly reveal, this was an option of disallowance. This was the relevant option that has been allowed, permitting congressional discussion and disclosure of all positions and points of view. Not only was there no attempt to hide; if anything, the congressional thoughts were flaunted in very sharp rhetoric sometimes, and they were thoroughly aired.

The effect of our extended discussion of this point in the past few days made it very clear that the Congress may disapprove of the existing law, at least at this time, but probably that view means either the dismantling of the law or the redirecting of it. We do not know which. The point is, as a result of yesterday's vote, the Senator was here, I think, when I made the commitment to this body, as chairman of the committee, and seconded by the ranking minority member of the committee. The Senator from Hawaii (Mr. Fong), that as a result of this action, we would lay this matter out in detail before committee hearings, including hearings on the bill that the Senator from Ohio has introduced, as one of those being considered by the committee.

Simply as a matter of orderly procedure, I would hope that the Senator would agree to respect the committee's responsibilities in that direction, because we are going at it no-holds-barred on the whole front that this problem now presents to us.

But in particular as to the Senator's last suggestion, in other words, the equity, on some short-term action, at least in regard to those other than Members of Congress, we have likewise followed up on the suggestion made in this body yesterday by the majority leader that perhaps this is the time, now, in open and aboveboard legislation, to address ourselves to cost-of-living adjustments, and whether such adjustments would apply also for Members of Congress is what we have to thrash out. We do not know, but we are committed to bringing something back to this body in the cost-of-living realm, to relieve the compression that exists now for so many of the administrators in the Federal structure, and we are determined to report back to this body some kind of recommendation, after some shorter period, in the matter of a very few weeks.

My guess is that it would be no later than the middle of April, perhaps by the end of March, if we can get all relevant people to address themselves to the problem.

We have drafted such a measure and introduced it, but this subject is very complex. That sort of legislation should not be reported out of committee without due deliberation. I think we ought to sort it out on a short-range, cost-of-living approach, and then the committee would decide through the will of this body, whether we ought to also include the Members of Congress as well as the Federal employees at the top administrative levels.

Frankly, this morning I do not have the specifics to submit, but I do make the pledge, which I renew again, that there will be no delay on this aspect of it.

On the broader aspect of how we restructure the whole system and whether or not it includes a pay commission or some kind of pay commission, and separating Congress from it, I think before we dismantle the pay commission procedure we ought to use the expertise which a commission can provide at this time, and which we are writing the President to request, to submit the best of its findings on a much broader basis, on the complexities of the problem, rather than dismantle the commission idea with legislation now, we would like to tap their brains and see what they have.

That is the real reason why I would hope the Senator from Ohio might be willing to accept this personal pledge from the chairman of the committee; that that is the only reason for not acting upon it today; that we would like an honest opportunity to approach this matter from all directions and see if we cannot come up with a new and constructive and responsible approach to this much broader question.

Mr. TAFT. Mr. President, I thank the distinguished chairman for his comments. I find myself somewhat reassured by the time frame the chairman is discussing. When I first heard it discussed, I thought it was in the time frame of 1 year, but now he is talking about a few months or——

Mr. McGEE. A few weeks.

Mr. TAFT. Or a few weeks.

I had talked to some of these men who would be involved, and their families. Frankly, we are extremely likely to lose some valuable men in the Federal Establishment, in the scientific areas particularly, experts who are working in the Federal Establishment at a real sacrifice, who were hoping they might get some fair and comparable consideration as to what they would receive outside.

Also, in the field of the judiciary, we had discussions as to men actually turning down the opportunity to become U.S. district judges simply because the pay scale is not comparable and is not adequate and is not satisfactory to them and their standards of living as far as supporting their families is concerned.

I think it is extremely important to the Government as a whole that prompt action be taken to reconsider this entire area.

Frankly, I am very, very dubious as to whether the commission approach, insofar as Congress is concerned, is going to be helpful in that. The tying together of the two particularly is unfortunate, in my opinion.

I do not like the commission approach anyway. It ought to be a different commission. This recommendation including the other salaries tends to obscure the thing we are trying to do. I think it is impossible to do. However, to give that appearance is particularly unfortunate.

The impact of this amendment is to try to take that away.

Certainly it is true that it has been debated here on the floor and there will always be a debate on the matter when it comes up. It is also true, as the experience in the last 2 or 3 days will show, that it takes a two-thirds vote of the Senate to disapprove a pay recommendation coming from the commission.

I cannot think of anything much sillier than the situation we might find ourselves in where a pay raise would go into effect when a majority of the Members voted against it, but not a two-thirds vote of the Senate.

I think the committee ought to take that into consideration. Another factor that ought to be taken into consideration is that outside of here there have been discussions and concern expressed, and very properly so. I think that I have joined some of it myself. Concern has been expressed that the Congress tended to give away power to the President or that the executive usurped the power of the Congress.

Why in the world the executive branch of the Government should have anything to do with setting the salaries of Congress I cannot see.

The fact that we have a commission to set up the salaries of other officials is proper. However, why should we bring the President into it? It seems to me that is wholly extraneous and contrary to the principle of the separation of powers. I hope that the commission will concur when it considers this matter in the belief that the President really should not be involved in this entire area.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. TAFT. Mr. President, I am glad to yield to the Senator from Alabama.

Mr. SPARKMAN. Mr. President, I want to say that I fully agree with the statement which the Senator made. After all, we make much of the separation of the different branches of the Government. I do not think that the President should have the job of proposing what salaries the Members of the Congress should receive. I think that the Members of the Congress ought to decide that for themselves. And I believe that it was intended to be that way.

There has been a great deal of misunderstanding throughout the country regarding the proposed increase in congressional salaries this year. I have read articles, columns, editorials, and newsstories indicating that Congress was trying to grab a sizable increase in pay for the Members of the Congress. Congress has had nothing to do with it. The increase was proposed by the President of the United States. And I suppose that the record has been made complete now to establish that Congress turned down a proposal. Is that correct?

Mr. McGEE. The Senator is correct.

Mr. SPARKMAN. Congress never did ask for it and did not seek it.

I want to say that I may differ with my distinguished friend, the Senator from Ohio, in one respect. That relates, if I understood the Senator correctly, to the matter of giving a pay increase to the other people in Government. I do not think that we should give it to them. I am not including the lower levels of the civil service employees. I believe that they get a cost-of-living increase automatically. I think that all of those employed by the Government may be entitled to a cost-of-living increase as the cost of living increases yearly, or whenever it may be. However, a lot has been said about this.

I have had good friends of mine call me from my State and say that we need to pay these judges more because they can make a whole lot more outside. I imagine that a good many Members of the Congress could make more money outside of Congress than they could make here. However, somehow or other a lot of people seem willing to make a sacrifice and to seek election to the House or Senate. No consideration is given to them on the ground that they can make more money outside.

I imagine that the average judge could make more money any time practicing law than he could make by being a judge. However, there is an appeal to the office. Most lawyers would gladly be a judge. I have known Members of this body who left in order to become a judge. The same is true of the House of Representatives. It is not a matter of the amount of money one gets or whether he could make more doing something else or not. It is a matter of getting adequate pay for the job a man is doing, pay in line with other employees outside of the Federal Government.

I have never understood why this is. I know that the Senator from Wyoming is an expert on this matter. However, I have never understood why the higher paid congressional employees had a certain tie-in with executive employees in the executive department.

I remember that a couple of years ago we could not pay our administrative assistants the amount of money that the payroll of the Senate and Congress provided because there were executive employees downtown who had not gotten a raise. We had to wait until they got a raise before we could act. I have never understood why the legislative employees are tied together with the executive employees.

I notice in the proposal for a pay raise that the executive employees were going to get a substantial raise. And the cry is raised that these employees will leave if they do not get a raise. I do not believe that we have had many leave, and I do not believe that we can expect to have many leave.

I hope that the chairman of the committee that has jurisdiction over this matter will consider it further. The committee that has jurisdiction over this matter has done a wonderful job with this. I think that the proposal made in the Senate for disposing of this matter is a good, sensible solution that should be accepted. I know that he and his committee will work this out. However, we ought to keep it on an established keel and work it out together and not work it out group by group.

Mr. TAFT. Mr. President, I thank the Senator from Alabama for his remarks.

I think there is one thing that should be made clear with regard to his remarks.

I did not mean to imply that I thought this would cover the financial incentive to attract people into Government service. I think there is a real danger that we will lose some of those people if they believe that the pay is not adequate. I believe that at least they ought to be able to make as much as they would make if they were not in the Government service.

That is all that I meant to infer.

Mr. McGEE. Mr. President, will the Senator yield

Mr. TAFT. I yield.

Mr. McGEE. Mr. President, the Senator from Alabama raises two or three points, and it might be helpful if we were to spell them out a little further before we pick on the President prematurely or excessively or wrongly on this question.

The law was put together by Congress. Congress drafted the legislation. The basic motivation for it came from the House, and the Senate committee concurred in it. The reason that the President was put at the helm of this was that this coincides with the responsibility of the administration to submit a budget to the Congress. The salaries become an integral part of the budget presentation.

Second, somebody had to take the initiative to put this together. And on the Pay Commission to be appointed by the President every 4 years, the President himself was required to appoint three from outside Government from the private sector, from which three the chairman of the Commission would come.

Then the Congress was to appoint two on the part of the Senate and two on the part of the House, and the Chief Justice would appoint two more on the part of the court.

That was the distribution that Congress envisaged. It was not to have the President seize the ball and run with it, but the commission was given a responsibility, and the office of the President was simply the medium for making it operational and putting it together, and then it was only to make a recommendation.

In 1969, when this commission made its recommendation, Congress worked its will on it. The recommendation at that time was that the President get $200,000, that the Vice President get $62,500, that the cabinet members get $60,000, that the Members of Congress get $50,000, and so on. But Congress in its wisdom—I think wrongly, but that is only one man's vote—decided $50,000 was not the right spread. We decided Congress ought to get only $42,500, while the Cabinet got $60,000. But that was the result, and Congress had a free hand in making the determination or rejecting the whole thing.

So, while I am not always a spokesman for the executive branch of the Government, I do think that ought to be spread on the Record as the setting and the perspective which accompanies and surrounds this problem we are talking about here today.

The other point that was raised by the distinguished Senator from Alabama had to do with the offices that we are talking about, and how we ought to approach them. We all know that we could find thousands of individuals in each of our home States who would be delighted to come here and serve in the Senate at $42,500, or $30,000, or $22,500, or $15,000. That not only demeans the office, it really is not the point.

The point is, given what has happened in our country's economy, what happens to the offices of President and Vice President and the cabinet? What happens in the relative sectors of economic incentive, as it were? How do you structure a Federal pay system so that it comports at least in a respectable way with the private sector? Because under our philosophy, our economics, capitalism and the capitalist incentive, there is a great deal attached to the integrity of an office in proportion to its pay. That is why those with greater responsibility receive more.

If we do not think that Congress really is encumbered with that kind of responsibility, or we think Congress should not be, then we ought to say that, and let us put the Congress down to part time, a few weeks a year or whatever it may be, and pay them accordingly, and let the President run the Government. He is paid $200,000 a year. He is the only one who has a chance of competing with the 12th vice president of General Motors. He is the only one who approaches the salary structure of the subservants beneath the head of General Motors.

If that is our intent, then we ought to give the President more power. What I am saying is, we ought to get ourselves out of this as individuals and decide what the office of U.S. Senator ought to be structured at in the pay incentive hierarchy under the American system. That ought to comport with our role in the world; it ought to comport with our budget responsibilities with a $300-billion-a-year budget, which we are required to sort through and hopefully make wise judgments on; it ought to comport with a $3 trillion GNP, with a Government on whose shoulders rests the fate of the rest of the world, for better or worse, even as we make an incidental decision in these times.

I wish we could take Senator Taft, Senator Sparkman, and Senator McGee out of this consideration, and look at the office of U.S Senator and at the responsibilities of the grades 16, 17, and 18 administrators. I could give a very long list of examples. I do not want to embarrass the individuals who are in these roles, but I visited with a man yesterday, at my request, who has probably saved the taxpayers of this country several billion dollars because he rides herd, as a high-level administrator in the professional realm, on the expenditure of public funds. He is now being lured away because of the ceiling that has been hit in his case; he is receiving $36,000, because that is the ceiling set for level V of such adminstrative employees.

Another one I could mention has likewise saved the taxpayers billions of dollars; his responsibility has been to try to systematize and keep responsible the pay grades, and not to have them run away disproportionately from all the others.

I could tell you that story on and on and on. That is why there is real point to this Senator's suggestion that we have got to do something without delay, and I have committed him to make an effort to do that, so that we can adjust that fix on the $36,000, to make it possible for that responsibility to be measured in more realistic economic terms.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. McGEE. As we do that, and we must do it, that likewise means that we are going to be faced with the problem of the equities in that adjustment vis-a-vis the Members of Congress. But I must agree that the Members of Congress ought to have a straight, head-on crack at all this, in order to measure their own status. I think that is very important.

Mr. TAFT. If the Senator will yield, I gather that the Senator does not feel it would be helpful to him or the committee to have a vote by the Senate at this time on the basic question of whether or not they feel senatorial and congressional salaries should be set under the commission or not?

Mr. McGEE. Well, in general, I think we had a very ringing notification on that in the votes yesterday. I think if we want to change actual legislation that the committee reported out in another year, in 1967, we would like a crack at doing it in or modifying it along the lines suggested by the Senator from Ohio, or whatever else it may be; we would like to have that in the markup as one of the legislative options, as well as the Senator's bill that he has introduced, which is in committee right now, and a whole parcel of other measures, each designed to do something about this, to achieve greater wisdom in how it comes about. We would like the opportunity, no holds barred, to try to go at it as responsibly as we can.

Mr. TAFT. If the Senator will yield further, I am not sure I agree with the Senator, but I highly respect his committee's responsibilities and problems, and as I said, while I am not sure it would not be helpful to have a vote, it is true, I recognize, of course, that the amendment which I have offered here this morning could be offered, probably, on another piece of legislation as the schedule progresses, and we can keep it as an escape valve in that direction. In view of the chairman's request and expression of desire, at this time I would withdraw my amendment and hope that we can see prompt action by the committee on the subject.

Mr. McGEE. I thank the Senator for his consideration on that score. I also wish to express genuine appreciation for his making it possible to bring out these several facets, that we may spread them on the legislative record, in order to provide further background from which the committee will be better able to proceed as it deliberates on the question.

Mr. TAFT. One thing is abundantly clear, and that is that the commission proposal has not worked. I hope the committee will be able to come up with something that will work. We have a problem on our hands.

Mr. President, I withdraw the amendment.

The ACTING PRESIDENT pro tempore. The amendment is withdrawn. The bill is open to further amendment. Are there further amendments to be proposed?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time not be charged.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TAFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

Mr. TAFT. Mr. President, I call up my printed amendment No. 982 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 46, line 11, beginning with the word "The" strike out through the period on line 17 and insert in lieu thereof the following: "The Secretary of Labor, and the Secretary of Commerce, and the Council of Economic Advisers shall each conduct studies on the economic effect of amendments to this Act which increase coverage of workers, modify or repeal exemptions, or increase the minimum wage. Such studies shall be forwarded to the Congress before any change in the Fair Labor Standards Act is adopted.".

Mr. TAFT. Mr. President, this is a rather simple amendment. It would merely require that the Secretary of Labor, the Secretary of Commerce, and the Council of Economic Advisers shall each conduct studies on the economic effect of amendments to the Fair Labor Standards Act, so as to permit the consideration by Congress of such studies before any change in the act could be adopted.

The amendment would permit Congress to act upon the expertise of these Federal agencies as to effects on unemployment and related data from the Department of Labor; effects on commerce, particularly small business from the Department of Commerce; data on the impact to the economy from a macro viewpoint from the Council of Economic Advisers. For intelligent decisions to be made in this area I believe such criteria is absolutely vital. The approach I have suggested will constructively supplement the current information that is provided to the Congress by the Department of Labor and will permit the pertinent committees in the House and the Senate an opportunity to develop more expertise in this area.

The experience we have had in committee in attempting to ascertain what the possible employment effect might be of changes in the minimum wage law, changes in the exemptions, and changes in the minimum wage itself has convinced me that we simply do not have adequate data on which to base our decisions.

With regard to inflation, similarly, the Department of Labor has made certain studies and has certain statistics, but the fact is that we are limited, pretty much, in the committee because the Department of Labor has meager resources in this connection, and that seems to hamper any important decisions as to what the effects are from the inflationary point of view on changes in the minimum wage law.

I, therefore, submit the amendment and hope that it can be adopted.

Mr. WILLIAMS. Mr. President, will the Senator from Ohio yield?

Mr. TAFT. I yield.

Mr. WILLIAMS. The amendment does not make any provision for an authorization for the purpose of undertaking this rather involved approach to the study. Does the Senator have estimates of what, ultimately, will be necessary from a budget standpoint for this study?

Mr. TAFT. No, I do not have estimates. Presumably, if we authorize studies to be made, they would be included in the budget submitted by the Department and would go through the authorization and appropriation process.

I do not anticipate that the nature of the studies would be such that there would be any real necessity for additional money to be involved. It would be financially advantageous to use existing experts in the Department of Commerce and the Council of Economic Advisers.

Mr. WILLIAMS. Well, the only estimate we have on our hearing record, or the record of debate here, which came on the Buckley amendment last year, was $10 million for additional studies by the Department of Labor. I do not see how this can have any meaning unless the bureaucracy is built to meet new demands.

Mr. TAFT. I think the Senator has made my point for me. The studies that were discussed in connection with the Buckley amendment were comprehensive studies under the impact of the various changes proposed. This would require, in effect, the setting up in the Department of Labor of a new and I think largely duplicative effort of existing information and existing steps that already are in these various other departments. If we can have authority to call on the Secretary of Commerce and the Council of Economic Advisers and have them with their present staff make the studies necessary under their present budgets, it would be without additional expense and without the necessity of setting up an expanded study operation in the Department of Labor, which is what I am trying to avoid.

Mr. WILLIAMS. On my time, Mr. President, this approach, if it has any merit, certainly has not had the necessary forerunner of consideration in committee. We have no idea what the Commerce Department or the Council of Economic Advisers feel about this new responsibility that would be added to them. I have no idea whether the Council of Economic Advisers is in a position to undertake any of these economic studies called for under this amendment. It would be certainly very unwise to put upon them a new responsibility without knowing whether they can accept it and if they cannot accept it with their present personnel and their present administrative structure, we ought to know about it. It impresses me that we are here falling into an old and unhappy way of doing business, with more bureaucracy, more personnel, more overlap, and more confusion, when all of this effort is now directed and has been directed where I think it most importantly and singularly belongs, in the Department of Labor, where this responsibility has been theirs.

I just think we would be getting into a monstrous confusion if we had no estimate of the dimension or the expense and no views from the administration. I strongly oppose this approach and particularly because we are dealing without any of the basic information for intelligent judgment.

Mr. TAFT. Mr. President, I might point out that we are relying on some information from these departments in any event. As I understand the reports from the Council of Economic Advisers, it seems to me it has been evident in our hearings on questions so complicated and involved from an economic point of view such as the impact on the inflationary pressures in this country through the so-called wave effect of minimum wage increases upon other areas, upon the whole question of what the employment picture is going through, and how it is going to be affected, that I think these other departments already have this expertise. It does not exist to the degree that we could get a report out of the Department of Labor. I cannot see additional bureaucracy. On the contrary, I think we would avoid it by calling on them, where there would be no additional expense.

I believe the Council of Economic Advisers is adequately set up to make studies of this kind. That is their job. The same is true of the Department of Commerce. This would be extremely helpful in the future in deciding what to do in considering amendments to the Fair Labor Standards Act.

Mr. WILLIAMS. Mr. President, this is still on my time.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. WILLIAMS. First, I wish to describe what the present law is, and it continues with additional demands and requirements upon the Department of Labor. The law as the bill would amend it does provide:

> (d)(*1*) The Secretary shall submit annually in January a report to the Congress covering his activities for the preceding year

and including such information, data, and recommendations for further legislation in connection with the matters covered by this Act, as he may find advisable. Such report shall contain an evaluation and appraisal by the Secretary of the minimum wages *and overtime coverage* established by this Act, together with his recommendations to the Congress. In making such evaluation and appraisal, the Secretary shall take into consideration any changes which may have occurred in the cost of living and in productivity and the level of wages in manufacturing, the ability of employers to absorb wage increases, and such other factors as he may deem pertinent. *Such report shall also include a summary of the special certificates issued under section 14(b).*

(2) The Secretary shall conduct studies on the justification or lack thereof for each of the special exemptions set forth in section 13 of this Act, and the extent to which such exemptions apply to employees of establishments described in subsection (g) of such section and the economic effects of the application of such exemptions to such employees. The Secretary shall submit a report of his findings and recommendations to the Congress with respect to the studies conducted under this paragraph not later than January 1, 1976.

Mr. President, this continues the authority; it expands the authority and the requirements of the Secretary of Labor and the Labor Department.

The economic effects study of the Department of Labor has just recently been submitted in response to the legal demand, as it is now. I have here the most recent report submitted. This job is being done; it has been done; and it is being done. Under the bill before us, it most completely does the job.

I think this amendment is unnecessary; it is confusing. Therefore, I strongly oppose the amendment.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. JAVITS. Mr. President, the amendment to which the Senator just referred happens to be mine. I put it in committee precisely to get the information which is here asked for in the amendment of the Senator from Ohio (Mr. TAFT). The thing that stops me about the amendment, and why I would join the Senator from New Jersey (Mr. WILLIAMS) in strong opposition to it, is not only the reflection on the Secretary of Labor which is contained in the amendment—we have asked to do the very thing the Senator from Ohio (Mr. TAFT) has asked him to do—but the fact is that the Secretary of Commerce is responsible to the Commerce Committee. Any member of that committee can grill him on this subject at any time, and not just on the filing of the report. The Council of Economic Advisers goes before the Joint Economic Committee, of which I am the ranking Republican member, and have the same right. But the thing that stops me most strongly on this amendment is the last sentence, which would give a blockage to these other agencies, so that we cannot even consider a change in the Fair Labor Standards Act until we got their recommendations. This is a real way to hang us up, and I see no reason for it.

So I join the Senator from New Jersey (Mr. WILLIAMS) in his strong opposition to the amendment.

Mr. DOMINICK. Mr. President, will the Senator yield me 3 minutes?

Mr. TAFT. Mr. President, I am glad to yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, as a cosponsor of the amendment, I think I ought to say something on it, anyhow, not that it is going to change anybody's mind in the Senate. We have two here for it and two against it. We have the ranking member and the Senator from Oklahoma on my right. If they wanted to get a bigger crowd than this, they would schedule debate for this afternoon; and if they wanted to get a lesser crowd, they could schedule it for midnight tonight.

It is very frustrating to try to argue something on this floor which is important to all Americans and have everybody else tied up either in his office or in committee. Three of my committees are going right now. I imagine it is true of other Senators. At one time the rule in the Senate was that no committee shall sit while the Senate is in session. I am not sure it would do any good even if I objected to committees meeting, because every Senator has work to do in his office. So all I can say is that this is an exercise in futility, much as I agree with the Senator from Ohio.

We are going to go through, unless we adopt this amendment, the same old procedure we have been through before, and that is, we pass a bill and then we study it to see whether it might work. It seems to me not a good way to legislate. If we are going to do something, we ought to find out what the facts are first. The only facts we have are testimony from last year from the Secretary of Labor, who indicated that they did not have any facts; that they did not know what the cost of increasing minimum wage would be; that it was a very difficult thing to try to ascertain; that they had not really gone into it extensively. They also testified as to some of the exemptions which are repealed or modified in toto in this bill, and all of which were put in for particular reasons in past years that had had some studies done on them. They think some could be changed, but others they do not know about; they had had nothing to do with them.

So why in the world we should go ahead with this type of procedure, when the Senator and I have already put in a bill to increase the minimum wage without getting into this rigmarole, I for the life of me I cannot see. I am sure it is going through. I am not naive. I can count noses as well as anyone else.

What I am saying is I think it would be a good thing for the country, for this Congress, and for all the employees as well as employers in this country, to get a study and to get a reply from somebody other than just the Labor Department. We do not even have that as yet, and we are saying now we need one by 1976. But the bill goes into effect now, not in 1976. So we will have already created the very problem that the Secretary is supposed to be studying by the time any study comes along. That to me does not make very good sense. Perhaps I am being too logical, but it just does not.

If we adopt the amendment, we will have ended the progression of this wrong procedure; namely, enacting a bill and then studying it. I think the Senator from Ohio is totally right in this concept.

Mr. TAFT. I thank the Senator.

Mr. President, I yield myself 2 minutes. There has been some reflection by the distinguished Senator from New York upon the amendment by saying that the amendment tends to reflect adversely upon the Secretary of Labor. Quite the contrary. I certainly have no intention of that kind whatsoever. I would point out that the amendment which was put in by the Senator from New York, and is in the committee bill at the present time and was included by the distinguished chairman of the committee, did call for the comprehensive study, and the response of the Labor Department is that it is going to take $10 million in order to make the study. If it is a $10 million study and it is not going to be available until 1976, I do not think we are going to obtain significant economic data.

I do not know what is going to happen to this bill. The voting patterns would indicate that it might be vetoed again. Any amendments that are proposed to the bill, no matter what their substance, are being rejected by the committee. It has been said that there should be no consideration of any changes to the committee bill. If that happens, we will have hearings again. At that time I would welcome information and will welcome being in a position to ask for information from the department and the Council of Economic Advisers.

In the report of the majority, for instance, there is recognition of the effect of the Economic Stabilization Act amendments upon low wage workers.

Certainly, I cannot see why all the resources of the Government we have should not be called upon and be made available to report as to what the effect of the proposed changes of the minimum wage law will be. In effect, by rejecting this amendment, we are saying, "We do not want to get that information; we just want to get information from the Labor Department." I am not saying there is anything wrong with information from the Labor Department, although it has been difficult to get any meaningful data in this area from the Bureau of Labor Statistics and from other parts of the department in the past. I am merely trying to get information as to why we should move in particular directions or should not move in particular directions on the minimum wage law.

It seems to me the amendment is one that makes a good deal of sense, and certainly cannot do any harm.

Mr. President, I have completed my remarks. I am ready to yield back my time, and say that I expect to ask for a rollcall vote on this amendment.

I do not believe there are enough Senators present to get the yeas and nays ordered.

Mr. WILLIAMS. Mr. President, I yield myself 2 minutes.

I sometimes think it might be helpful if we had a rule of some kind that any Senator offering an amendment for further studies would be required to certify that he has read the studies we now have and that are now called for under law.

In this area we certainly are completely studied, and we have the benefit of the Labor Department studies dealing with every aspect of the legislation before us.

I included in the Record, on a prior day, a list of the studies; but, in a more abbreviated form, I ask unanimous consent Mr. President, to include the pages that list the studies of the Labor Department dealing with the economic effects of FLSA.

There being no objection, the list was ordered to be printed in the Record, as follows:

February 1973.

List of Economic Studies Published by the Employment Standards Administration, 1954 to Date

I. INDUSTRY STUDIES TO TEST FEASIBILITY OF EXTENDING COVERAGE

1. Eating and Drinking Places, Preliminary report on data pertinent to an evaluation of the need for and the feasibility of extending the minimum wage, January 1962.

2. Laundry and Cleaning Service, Data pertinent to an evaluation of the need for and feasibility of extending the minimum wage, January 1962.

3. Hotels and Motels, Data pertinent to an evaluation of the need for and feasibility of applying statutory minimum wage and maximum hours standards, February 1962. (Value of tips in relation to cash wages.)

4. Restaurants and other Food Service Enterprises, Data pertinent to an evaluation of the need for and feasibility of applying statutory minimum wage and maximum hours standards, February 1962. (Value of tips in relation to cash wages.)

5. Hotels and Motels, Data pertinent to an evaluation of the need for and the feasibility of extending the minimum wage, January 1964.

6. Laundry and Cleaning Services, Data pertinent to an evaluation of the need for and the feasibility of extending the minimum wage, January 1964.

7. Restaurants and other Food Service Enterprises, Data pertinent to an evaluation of the need for and the feasibility of extending the minimum wage, January 1964.

8. Hired Farm Workers, Data pertinent to determining the scope and level of a minimum wage for hired farmworkers, January 1964.

9. Nongovernment Hospitals, A Study to Evaluate the Feasibility of Extending the Minimum Wage under the Fair Labor Standards Act, January 1965.

10. Hired Farmworkers, A Study to Evaluate the Feasibility of Extending the Minimum Wage under the Fair Labor Standards Act, January 1966.

11. Motor Carriers, A Study to Evaluate the Need for and Feasibility of Extending Overtime Provisions to Employees of Motor Carriers, January 1966.

12. Nursing Homes and Related Facilities, A Study to Evaluate the Feasibility of Extending Minimum Wage and Overtime Protection under the Fair Labor Standards Act, January 1966.

13. Laundry and Cleaning Services, A Study to Determine the Implications of Applying the Minimum Wage and Maximum Hours Standards of the Fair Labor Standards Act, January 1967.

14. Motion Picture Theaters, A Study to Evaluate the Feasibility of Extending Minimum Wage and Overtime Protection under the Fair Labor Standards Act, January 1967.

15. State and Local Governments, A Study to Evaluate the Feasibility of Extending Minimum Wage and Overtime Protection under the Fair Labor Standards Act, January 1971.

II. DISTRIBUTION STUDIES TO DETERMINE LEVEL OF THE MINIMUM WAGE

16. Manufacturing Industries, A Study to Evaluate the Minimum Wage and Maximum Hours Standards of the Fair Labor Standards Act, January 1965. (Relationship between employees working overtime and the level of their wages.)

17. Wholesale Trade, A Study to Evaluate the Minimum Wage and Maximum Hours Standards of the Fair Labor Standards Act, January 1965. (Relationhip between employees working overtime and the level of their wages.)

18. Wages and Hours of Work of Nonsupervisory Employees in All Private Nonfarm Industries by Coverage Status Under the Fair Labor Standards Act, January 1972.

III. STUDIES OF EFFECTS OF MINIMUM WAGE LEGISLATION

19. Results of the Minimum Wage Increase of 1950, published in 1954. (Economic effects in selected low-wage industries and localities.)

20. Studies of the Economic Effects of the $1.00 Minimum Wage: Interim report, March 1957. (Economic effects in selected low-wage industries and localities.)

21. Reports Submitted to the Congress in Accordance with the Requirements of Section 4(d) of the Fair Labor Standards Act, January 1959. (Effects of the $1.00 minimum wage in selected low wage industries and localities.)

22. Report Submitted to the Congress in Accordance with the Requirements of Section 4(d) of the Fair Labor Standards Act 1959, February 1960. (Appraisal of the $1.00 minimum wage and the Puerto Rico wage order program.)

23. Report Submitted to the Congress in Accordance with the Requirements of Section 4(d) of the Fair Labor Standards Act (1960), January 1961. (Appraisal of proposed legislation and wage levels in Puerto Rico.)

24. Report Submitted to the Congress in Accordance with the Requirements of Section 4(d) of the Fair Labor Standards Act, January 1962. (Appraisal of the effects of the 1961 Amendments.)

25. Report Submitted to the Congress in Accordance with the Requirements of Section 4(d) of the Fair Labor Standards Act, January 1963. (Effects in retail trade, nonmet areas of the South and North Central regions, and small met areas of the South.)

26. Effects of Minimum Wage Rates Established under the Fair Labor Standards in Retail Trade in the United States and Puerto Rico. A Study of Changes in Wage Structure of a Matched Sample of Retail Establishments, November 1963.

27. Report Submitted to the Congress in Accordance with the Requirements of Section 4(d) of the Fair Labor Standards Act. January 1964. (Appraisal of the 1961 changes and study of wholesale prices in selected low-wage industries.)

28. An Evaluation of the Minimum Wage and Maximum Hours Standards of the Fair Labor Standards Act, January 1965. (Effects in nonmet areas of the South, effects of the 44-hour standard in retail trade, and wholesale prices in selected low-wage industries.)

29. Minimum Wage and Maximum Hours Standards under the Fair Labor Standards Act, An Evaluation and Appraisal, January 1966. (Effects in nonmet areas of the South and North Central regions, and small met areas of the South.)

30. Retail Trade, A Study to Measure the Effects of Minimum Wage and Maximum Hours Standards of the Fair Labor Standards Act, January 1966.

31. Minimum Wage and Maximum Hours Standards under the Fair Labor Standards Act, the 1966 Amendments, January 1967. (Coverage under the Fair Labor Standards Act, implications of the $1.40 minimum in selected industries, and implications of the $1.00 minimum in non-Federal hospitals.)

32. Retail Trade, A Study To Measure the Effects of the Minimum Wage and Maximum Hours Standards of the Fair Labor Standards Act, January 1967.

33. Report Submitted to the Congress in Accordance with the Requirements of Section 4(d) of the Fair Labor Standards Act, January 1968. (Effects and implications of the 1966 Amendments, and special reports on prices, Puerto Rico and Fair Labor Standards Act coverage.)

34. Eating and Drinking Places, A Study of the Effects of the $1.00 Minimum Wage under the Fair Labor Standards Act, January 1968.

35. Hotels and Motels, A Study of the Effects of the $1.00 Minimum Wage under the Fair Labor Standards Act, January 1968.

36. Hired Farmworkers, A Study of the Effects of the $1.00 Minimum Wage under the Fair Labor Standards Act, January 1968.

37. Panama Canal Zone Study, A Study of the Effects of Extending the Fair Labor Standards Act Provisions to Federal Employees in the Zone, June 1968.

38. Minimum Wage and Maximum Hours Standards under the Fair Labor Standards Act, 4(d) report, January 1969. (Effects of the 1966 Amendments, and special reports on prices and coverage under the Fair Labor Standards Act.)

39. Nursing Homes and Related Facilities, A Study of the economic effects of the $1.15 minimum wage under the Fair Labor Standards Act, January 1969.

40. Laundry and Cleaning Services, A Study of the economic effects of the $1.15 minimum wage and 42 hours maximum workweek standards under the Fair Labor Standards Act, January 1969.

41. Hired Farmworkers, A Study of the effects of the $1.15 minimum wage under the Fair Labor Standards Act, January 1969.

42. Minimum Wage and Maximum Hours Standards under the Fair Labor Standards Act, 4(d) report, January 1970. (Effects of the 1966 Amendments, and special reports on prices and coverage under the Fair Labor Standards Act.)

43. Educational Institutions, A Study of the economic effects of the $1.30 minimum wage and 40-hour maximum workweek standards under the Fair Labor Standards Act, January 1970.

44. Hospitals, study of the economic effects of the application of minimum wage and maximum hours standards under the Fair Labor Standards Act, January 1970.

45. Minimum Wage and Maximum Hours Standards under the Fair Labor Standards Act, 4(d) report, January 1971. (Effects of the 1966 amendments and special reports on cash wages and value of tips of tipped employees in eating and drinking places and hotels and motels, equal pay act, characteristics of workers paid in violation of the Federal minimum wage standard, coverage under the act, and historical data on the relationship between the minimum wage and average hourly earnings.)

46. Hired farmworkers, an economic effects study of proposals to increase the minimum wage under the Fair Labor Standards Act and the feasibility of extending coverage to additional workers, January 1972.

47. Minimum Wage and Maximum Hours Standards Under the Fair Labor Standards Act, 4(d) report, January 1972. (Secretary of Labor's statement on proposed amendments to the act, effects of the last phase of the 1966 Amendments and special reports on wages and hours of work of nonsupervisory employees in all private nonfarm industries and hired farmworkers, coverage under the act, and the relationship between minimum wages and welfare reform legislation.)

48. Minimum Wage and Maximum Hours Standards under the Fair Labor Standards Act, 4(d) Report, January 1973 (Congressional activities to amend the FLSA, equal pay under the Act, administration and enforcement, special studies on wages and hours of work of nonsupervisory employees in selected nonagricultural industries and private household workers, recent independent studies of the FLSA, and coverage under the Act).

IV. ADMINISTRATIVE STUDIES

49. The Minimum Wage in Puerto Rico, A Background Study, November 1955.

50. Salary Test for Executive, Administrative, and Professional Employees, November 1955.

51. Handling and Processing of Agricultural Products, Data Pertinent to an Evaluation of Exemptions Available under the Fair Labor Standards Act, February 1962.

52. Salary. Test for Executive, Administrative, and Professional Employees, March 1962.

53. Salary Test for Executive, Administrative, and Professional Employees, Puerto Rico and the Virgin Islands, April 1962.

54. A Special Compilation of Materials Relating to the Appropriateness of the Maximum Hours Standard, June 1963.

55. State Minimum Wage Laws and Orders Applicable to Employees in Hotels and Motels, Restaurants, and Laundries; Summary of Provisions Relating to the Level of the Minimum Wage, Standards for Overtime Compensation, Extent of Employees Coverage, and Methods of Crediting Gratuities and Other Fringe Benefits, January 1964.

56. Small Logging Operations, Data Pertinent to Evaluation of the 13(a)(15) Exemption of the Fair Labor Standards Act, January 1964.

57. Sheltered Workshop Report of the Secretary of Labor, September 1967.

58. Premium Payments for Overtime under the Fair Labor Standards Act. November 1967.

59. Sheltered Workshops, A study of Wage Payments to Handicapped Clients in Sheltered Workshops Certified under the Fair Labor Standards Act, January 1969.

60. Earnings Data Pertinent to a Review of the Salary Tests for Executive, Administrative, and Professional Employees, as Defined in Regulations, Part 541, June 1969.

61. Agricultural Handling and Processing Industries. Data pertinent to an evaluation of overtime exemptions available under the Fair Labor Standards Act, January 1970.

62. Cash Wages and Value of Tips of Tipped Employees in Eating and Drinking Places and Hotels and Motels, Data pertinent to an evaluation of the tip allowance available under the Fair Labor Standards Act, January 1971.

V. FOREIGN TRADE STUDY

63. Foreign Competition in the Jewelry and Silverware Industry in the United States, February 1965.

VI. COMPLIANCE STUDIES

64. Extent and Incidence of Noncompliance with the Fair Labor Standards Act, September 1957.

65. Extent of Compliance and the Characteristics of Noncompliance with the Fair Labor Standards Act, May 1966.

VII. STUDIES OF MINIMUM WAGE COVERAGE

66. Development of Coverage Estimates of Federal and State Minimum Wage Legislation, Selected Years.

VIII. AGE DISCRIMINATION IN EMPLOYMENT STUDIES

67. Age Discrimination in Employment Act of 1967, A Report Covering Activities in Connection with the Statute During 1968, January 1969.

68. Age Discrimination in Employment Act of 1967, A Report Covering Activities in Connection with the Act During 1969, January 1970.

69. Age Discrimination in Employment Act of 1967, A Report Covering Activities in Connection with the Act During 1970, January 1971.

70. Age Discrimination in Employment Act of 1967, A Report Covering Activities in Connection with the Act During 1971, January 1972.

71. Age Discrimination in Employment Act of 1967, A Report Covering Activities Under the Act During 1972, January 1973.

Mr. WILLIAMS. Mr. President, does the Senator from Ohio want to ask for the yeas and nays?

Mr. TAFT. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

Mr. TAFT. Mr. President, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Ohio. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) is necessarily absent.

I further announce that the Senator from Connecticut (Mr. WEICKER) is absent due to death in the family.

The result was announced—yeas 29, nays 64, as follows:

[No. 59 Leg.]

YEAS—29

Baker
Bartlett
Beall
Bennett
Brock
Byrd,
 Harry F., Jr.
Chiles
Cotton
Curtis
Dominick
Eastland
Fannin
Goldwater
Griffin
Gurney
Hansen
Hatfield
Helms
Hruska
Mathias
McClellan
McClure
Percy
Roth
Scott,
 William L.
Stennis
Taft
Thurmond
Tower

NAYS—64

Abourezk
Aiken
Allen
Bayh
Bellmon
Bible
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Church
Clark
Cook
Cranston
Dole
Domenici
Eagleton
Ervin
Fong
Gravel
Hart
Hartke
Haskell
Hathaway
Hollings
Huddleston
Hughes
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Symington
Talmadge
Tunney
Williams
Young

NOT VOTING—7

Bentsen
Biden
Buckley
Fulbright
Humphrey
Long
Weicker

So Mr. TAFT's amendment (No. 982) was rejected.

Mr. JAVITS. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER (Mr. ABOUREZK) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

FAIR LABOR STANDARDS AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 2747) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to expand the coverage of the act, and for other purposes.

AMENDMENT NO. 986

Mr. TAFT. Mr. President, I call up my amendment No. 986 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD, and the amendments will be considered en bloc.

The text of the amendment is as follows:

On page 1, between lines 2 and 3, insert the following:

"TITLE I—FAIR LABOR STANDARDS AMENDMENTS".

On page 1, line 4, strike out the word "Act" and insert in lieu thereof the word "title".

On page 1, line 7, strike out the word "Act" and insert in lieu thereof the word "title".

On page 51, line 14, strike out the word "Act" and insert in lieu thereof the word "title".

On page 51, line 20, strike out the word "Act" and insert in lieu thereof the word "title".

On page 51, after line 20, add the following new title:

"TITLE II—AMENDMENTS TO THE EMERGENCY DAYLIGHT SAVING TIME ENERGY CONSERVATION ACT OF 1973

"EXEMPTION FROM EMERGENCY DAYLIGHT SAVING TIME

"SEC. 201. Section 3(b) of the Emergency Daylight Saving Time Energy Conservation Act of 1973 is amended to read as follows:

" '(b) Notwithstanding any other provision of law, if a State, by proclamation of its Governor or in the absence thereof by Act of its State Legislature, makes a finding that an exemption from the operation of subsection (a) or a realinement of time zone limits is necessary to avoid undue hardship or to conserve fuel in such State or part thereof, the President or his designee may grant an exemption or realinement to such State.'."

Mr. TAFT. Mr. President, I am today offering an amendment to the Fair Labor Standards Act of 1938 which is before us now to repeal winter daylight saving time.

I might explain that when the time is yielded back, it is expected that the distinguished Senator from Oklahoma (Mr. BARTLETT) will offer an amendment in the nature of a substitute which has been printed as amendment No. 993 to amendment No. 986 which I am offering. My remarks will be directed and I think most of the remarks in support of the proposal on repeal will be directed toward that substitute.

The nature of the change made by the substitute is that the effective date of repeal of daylight saving time under the substitute, if adopted, would be in October rather than within a very short period from the passage of this act, which would be true if the substitute were not to be agreed to and my amendment would be agreed to.

Mr. ROBERT C. BYRD. Mr. President, is the Senator from Ohio accepting cosponsors of his amendment?

Mr. TAFT. I would be delighted to do so.

Mr. ROBERT C. BYRD. Mr. President, would the Senator kindly add my name as a cosponsor?

Mr. TAFT. Mr. President, I ask unanimous consent that the name of the Senator from West Virginia (Mr. ROBERT C. BYRD) be added as a cosponsor of my amendment; as well as the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), and the distinguished Senator from Kansas (Mr. DOLE).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I have previously introduced legislation to allow any State to be exempt from daylight saving time if the Governor of the State proclaims it is causing hardship or is not saving energy, or in the absence of a proclamation by the State Governor is acted on by the State legislature to proclaim a hardship and to petition the President for exemption.

I have also cosponsored legislation to repeal winter daylight saving time completely, as this amendment would.

I voted against the daylight saving time bill in the Senate on December 4, 1973. At that time, in my remarks on the Senate floor, I said that because I lived on the western edge of the time zone, many schoolchildren in my area of Ohio would have to get up earlier in the morning and would have to go to school in the dark or take buses in the dark.

In addition, I stated my doubts insofar as the economy of the State of Ohio is concerned as to whether there would be any material savings in the actual energy used, because of the change to daylight saving time since the changeover on January 6, 1974.

Stories of horror and the loss of work hours due to less daylight have come in from all over the Nation. In my home town of Cincinnati, construction workers cannot do their work or must work inefficiently, because of the dark during the early hours. Many housewives also would prefer not having meter readers and servicemen coming into their homes before daylight. The DST has forced predawn calls by these employees. Highway maintenance crews are seriously affected by the DST. They must wait for daylight before starting their jobs, so they will be more visible to passing motorists.

The most obvious problems, of course, have been the worry of mothers whose children must go to school before daylight. Pictures of children waiting on corners, crossing streets, and vacant lots in the darkness have appeared in major newspapers and magazines. Children who would not be roaming the streets after dark in the evening, are now doing the same thing during darkness, sometimes as late as 9 a.m., on their way to school.

My office has received over 4,000 individual letters and 15,000 signatures asking the Congress to repeal winter daylight saving time. The Ohio Poll, Inc., has released figures stating that respondents in a statewide survey turned "thumbs down" almost 2 to 1 on so-called "fast time." Sixty-four percent of a statewide sample of adults said they would like to see daylight saving time ended for the winter months.

Residents of Ohio's predominately agricultural northwest and southwest areas indicated the strongest disenchantment with DST. Problems have been caused for farmers with school children who are used to doing farm chores before going to school, and no longer do them, because of the darkness. I ask unanimous consent to have printed in the RECORD the results of the Ohio poll, for the information of my colleagues and constituents.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE OHIO POLL

Ohioans want daylight savings time to end because they think it is dangerous for school children and is not saving energy.

By almost two to one, respondents in a statewide survey of voter-age opinion, conducted by the Ohio Poll, turned thumbs down on so-called "fast time" which President Nixon invoked to save fuel.

Sixty-four percent of a statewide sample of adults said they would like to see daylight savings time ended for the winter months, while 29 percent said they like the change. Seven percent said they had no preference.

Main reasons given for wanting to see DST come to an end were that it causes children to have to go to school in darkness, which many consider to be unsafe, and because it does not result in an energy savings, which it was intended to do. A number of respondents said they oppose it simply because they find it inconvenient.

A substantial number of respondents, in criticizing the reduced safety to school children associated with DST, referred to the deaths of eight children who were killed on their way to school in Florida the first week DST was in effect. (The state energy committee in Florida reported to a special session of the legislature that the death rate of school age children that week was no different than a year earlier, when there was no DST.)

Residents in Ohio's predominately agricultural northwest and southeast areas indicated the strongest disenchantment with DST, but in the more industrialized southwest and northeast areas, feelings were less severe.

A correlation could be drawn between income and educational levels and dislike for DST The less education respondents claimed to have received, or the lower their annual income, the more inclined they were to oppose daylight savings time. This doubtless results from the need for the less-educated and poor to report to work early *in the day.*

As fiscal affluency and educational level rose among respondents, so did the appeal of DST. At income levels of under $5,000 annually, 79 percent said they hoped DST would end, while at levels of $25,000 or more annually, DST was favored by 59 percent and opposed by only 27 percent.

Respondents with eighth grade education or less were most decidedly against DST, with 74 percent opposed to it.

Women were substantially more disposed against DST than men—71 to 56 percent—but the differences were less pronounced between labor and non-labor households, which opposed DST by 69 and 61 percent respectively.

Here are responses to the question: "Daylight savings time was recently put into effect because of the energy crisis. Do you favor or oppose continuation of daylight savings time during the winter months?"

	Percentages (to nearest ½ percent)		
	Favor	Oppose	No opinion
Total State	29	64	7
Northeast	35	60	5
Northwest	20	72	8
West and southwest	32	62	6
Central and southeast	22	69	9
Men	36	56	8
Women	23	71	6
Labor	24	69	7
Non-labor	32	62	6
Black	8	81	11
White	31	63	6
Age:			
18 to 30	34	59	7
31 to 45	36	59	5
46 to 64	20	73	7
65 and over	25	68	7
Income:			
Below $5,000	14	79	7
$5,000 to $10,000	28	62	10
$10,000 to $15,000	36	58	6
$15,000 to $20,000	25	71	4
$20,000 to $25,000	50	50	0
Above $25,000	59	27	14

Mr. TAFT. In addition, the Old Farmer's Almanac, long the reference for many Americans in determining planting times, weather, and the course of their daily lives, has come out opposed to winter daylight saving time. Judson Hale, editor of the Farmer's Almanac, believes that daylight saving time should run from mid-February to the end of October. It makes astronomical sense, because the Sun is in the same position on February 15 as it is on October 31, and DST in November, December, and January makes it darker on both ends.

In Ohio, the Columbus Board of Education has noted fears of parents whose children must go to school or wait for buses in the dark. It has sent questionnaires to parents asking if a later school opening would be beneficial and helpful. The superintendent of schools, Dr. John Ellis, has stated that the problem of going to school in the dark has been a severe one. He says:

> We have a lot of working parents, a lot of parents who still drop their students off at school earlier than we would like.

Parents were asked to indicate their choice of five starting times, every 15 minutes from 8:45, the present starting time, to 9:45; 66.4 percent of the schools picked a 15-minute delay in the starting time. Parents would have picked a later time, I am told, but for the additional inconvenience that could occur to family schedules, after school schedules, and transportation schedules involving double session secondary schools and overcrowded elementary schools. Other cities in Ohio have changed their starting times. When school children leave school at 3 or 4 p.m., it is ridiculous to make them begin in the dark. In the Ohio House of Representatives, legislation has been introduced to require all Ohio's school districts to start classes an hour later, because of daylight saving time.

Some of my letters have come from the children themselves, such as the following letter from the 4th grade class of Little Flower School in Cincinnati:

> DEAR SIR: Our class does not like the new time. Someone was hit by a car and next time it might be me. There have been many accidents with buses, cars and many people involved. People don't like walking in the dark to school and work. They are sure that sometime they will be the person who gets hit. We think that Daylight Savings time should be changed, and we hope you do something about it.

The National Highway Traffic Safety Administration stated in a February 19 news release that preliminary figures from 35 States and the District of Columbia show a substantial reduction in the number of pedestrian and pedalcycle fatalities for the month of January 1974, as compared to January of 1973. There are some people who claim that this saving of lives is due solely to daylight saving time in the winter. However, the New York Times on March 4, said Federal officials have attributed lower fatality statistics to the slower speed limits recently implemented. In addition, we know there are fewer motorists on the highways now that gas is more expensive and harder to obtain. Everyone wants to save lives, but to give credit to one energy conservation measure is not realistic. The National Safety Council has said the change in lighting has had little or no effect on the number of early-morning fatalities among school-age children. I think we must all recognize by simple observation, that there is an increased danger factor in children going to school in the dark, as compared with going to school in daylight.

The amount of energy saved by daylight saving time is also debatable. The Federal Energy Office estimates that the savings in electricity that could be achieved by DST is about 100,000 barrels of oil equivalent per day. This amount, however, is only 0.6 percent of our daily consumption of 17 million barrels of oil per day. This figure of 100,000 barrels is an equivalent figure. The actual oil savings is only 14,500 barrels per day, a mere drop in the bucket of oil savings, compared to our shortfall. That is 0.09 percent of our daily oil consumption. Of course, we also save 9,650 tons of coal, but we are not short of coal. The actual savings of oil, the commodity in shortest supply, is miniscule.

The Federal Energy Office has also presented figures that indicate DST has saved Consolidated Edison up to 8 percent in electricity over a selected week in the previous year. These factors do not indicate the weather of the week in the last winter—but everyone has said we have experienced an unusually mild winter this year. The figures also concentrated on energy used between peak hours—10 and 12 in the morning. Daylight saving time is effective between 7 and 9 a.m. in my State. While the Consolidated Edison and Edison Electric Institute figures are concerned with electricity consumption, we have no figures to tell how much gasoline is used by parents who now drive their children to school, rather than allow them to walk. We have numerous reports of this occurring.

In checking with the Cincinnati Gas & Electric Co., I have learned they can attribute no energy savings to winter daylight saving time. In fact, there may be more electricity used. There is no appreciable change in figures from January 1973 to January 1974. The company believes that if any energy is saved it is more likely caused by other conservation measures. Even now, in March, on the western edge of the eastern standard time zone, motorists must drive with their lights on at 8:15 in the morning.

In Ohio, we are already on double daylight saving time. The State used to be in the central time zone, and many folks would like to return to that. My mail gives a clear mandate on this issue. Parent teacher associations, farmers, the elderly, highway maintenance crews, construction workers, and utility companies want to return to the old time in the winter. It is time for the Congress to recognize that it acted too quickly and undo this mistake. I hope the Senate will act favorably on my amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, as I understand it, the Senator from Ohio has two amendments. Is that corect?

Mr. TAFT. The Senator is correct.

Mr. MAGNUSON. One would repeal the present law, and the other would allow a Governor or a State legislature, or both, to exempt themselves from the law.

Mr. TAFT. Yes.

Mr. MAGNUSON. Also, it is my understanding that the Senator from Oklahoma is going to offer a substitute to the amendment of the Senator from Ohio.

Mr. TAFT. To the first amendment.

Mr. MAGNUSON. The one the Senator is now discussing?

Mr. TAFT. Yes.

Mr. MAGNUSON. Not the one that allows Governors or State legislatures to act.

Mr. TAFT. The Senator is correct.

Mr. MAGNUSON. Mr. President what is the situation with respect to time?

The PRESIDING OFFICER. There is a total of 2 hours.

Mr. MAGNUSON. Obviously, this amendment is not germane to this bill. How does the Senator justify the germaneness of this amendment?

Mr. TAFT. The amendment is germane because it was made so by a unanimous-consent agreement.

Mr. MAGNUSON. I know that is was made so by a unanimous-consent agreement; but if any of us had been here when that was going on, they would have objected to it. The Senator made it germane by a unanimous-consent agreement, I suppose, to get the time on the minimum wage bill. But surely it has no germaneness to the Wage and Hour Act except by unanimous consent.

Mr. TAFT. It does relate to the whole question of employment, as I pointed out, with respect to our effectiveness to deal with the problem.

Mr. MAGNUSON. If it had not been part of that unanimous-consent agreement a point of order would lie against it.

Mr. TAFT. Only if we were under a unanimious-consent agreement. We are operating under the rules of the Senate. I would not have consented to a unanimous-consent agreement that prevented it from being in order.

Mr. MAGNUSON. The point is that this is not germane to the bill except by that unanimous-consent agreement.

Mr. TAFT. It is not germane to this bill—period.

Mr. MAGNUSON. Period, yes.

Mr. President, I yield myself just a little time.

There has been a lot of misinformation about this matter and I surely want to do what I can to clear it up. The Senator from Illinois will verify this, but I think the record should show that 8 weeks ago we shifted to daylight saving time at the call of the President. That change stirred up some great emotion across the Nation. I understand that. I am happy to see the Senate is debating the matter here today so we can clear up the facts.

There have been some misconceptions about it and we took the action at the call of the President because many witnesses—many witnesses, and they were all unanimous—testified that advancing the time during the winter months could make a significant contribution toward relieving part of the Nations' energy crisis. In addition, the experts predicted there would be traffic safety, crime prevention, and some commercial benefits from the shift. We were very careful in the Committee on Commerce and they were also very careful in the House to hear all the witnesses and there was no objection to these presumptions.

The evidence to date—indicates that the electrical utilities and the Office of

Energy Conservation in the Department of the Interior were eminently correct. The most recent data released by the Edison Electric Institute which represents all electric generating and electric producing companies indicates an actual decrease of close to 2.2 percent in daily electric consumption, or the equivalent of 200,000 barrels of crude oil per day. This is two or three times greater than the predictions which led to the Senate's original action.

Secretary of Transportation Claude Brinegar, speaking for the executive branch, said yesterday that the concern that daylight saving time is resulting in increased fatalities among schoolchildren is completely unfounded. The Department of Transportation has data which shows a marked reduction in fatalities compared to the previous year for school age children. This conclusion was verified last week by the National Safety Council. They collected all the figures monthly and weekly. The council releases statistics which show no change in school age fatalities in the morning hours. There has also been a significant lessening in traffic hazards over all, particularly in the evening play hours. This early data verifies the underlying theory about year-round daylight time.

This is just what the testimony before the Commerce Committee indicated. By shifting a clock 1 hour of daylight from early morning to early evening, when activities are more concentrated, the total dependence on electric power is lessened. There is a decline in lighting utilities' peak loads, according to the latest figures. There is a reduction in space heating requirements because of the higher ambient temperatures in the early evening, when more people are up and moving around than in the early morning.

Similarly, putting the evening rush hour in daylight reduces significantly the hazards of alcohol and fatigue, which make it twice as deadly as the morning rush hour. All the figures show that. Those are the reasons why the Senate acted in November.

I am pleased to report that all those predictions are apparently borne out by the partial information that can be accumulated on 2 months of experience. But we would all benefit by waiting for the completion of the next Department of Transportation study. Congress mandated a thorough study by June 31, 1974. That study will provide us with 6 months data instead of 2. The study will be available in plenty of time to take action before October. The Senate Commerce Committee will hold hearings on that report just as soon as it is available. It must be in by the end of July.

I can think of nothing which we can gain by acting today, when our action will not take effect before next October. The evidence to date looks good. But I am willing to reserve final judgment until this summer. I believe that is the wisest course of action. We should not close our ears to the facts, nor should we repeal a law which seems to be doing everything and more than we ever expected of it.

I have said many times in the hearings—and I emphasize this for the consideration of the Senator from Ohio—that we fully expected, and said so publicly all during the hearings, that we would have hearings on this matter in September, after the report has been filed with the committee and the facts have been reviewed.

The House wanted the bill for 2 years. There was some sentiment for 1 year in our committee. There is no intention of the Commerce Committee not to look at this matter in the fall. It is too late now to do much about repeal, because we would not accomplish much, since the regular process of daylight saving comes into effect on, I believe, some date in April. We are a little more than a month away from that.

So the Commerce Committee will work on the proposition at that time and see how it has developed. We are going into the regular daylight saving time period anyway, and in September we will have oversight hearings on the whole subject. We intend to do that. To do something about the law before that time may, I think, be unwise, because we would be accomplishing nothing.

I hope that the Senator's amendment will not carry. First of all, it should not be on this bill. Second, its effect would be small, particularly with the assurance of every member of the Senate Commerce Committee and the House Committee on Interstate and Foreign Commerce that we will have legislative oversight of this matter, after getting a report.

I have no particularly fixed views on the matter. I think probably when we get all the facts and figures, Congress will probably want to look at them, and consider a 9 months time for daylight saving. Perhaps 3 months of student time would be suitable, because the period of December, January, and February are the months with the shortest days; or even a proposal of, say, 8 months and 4 months. But everybody in this country wants daylight saving. They are saying we ought to act on the problem when we have the information. And the Commerce Committee will act, I assure you, very promptly on the matter. I would like to see the June report. So far, it would appear Daylight Saving has given us some savings. I realize that different parts of the country have different problems. We have the time zone matter. We took care of that in World War II, and that can be taken care of again.

Prior to the enactment of this act, any governor had a right to get out if he wanted to. Each Governor had 3 weeks, or 2½ weeks, to do so. We accepted the views of these Governors. So I do not know what we are accomplishing here today by this precipitate action.

As I say, I have no deep feelings one way or another, but I do think we have benefited by it, and it may be we will want to do something about it. I am thinking out loud now—perhaps 9 months of daylight saving and then 3 or 4 months without, or maybe 8 and 4. I do not know.

It has worked fine in my State. We are in the northern areas. We are very fond of daylight saving all the time because of the recreation opportunities involved. In December, January, and February, people are able to be out later at night. They take advantage of the extra hour for recreation, whether it be fishing, tennis, or whatever, or even to come home and work in their gardens if they have a chance.

Some of the other States have a little different problem, but we are also working on the fact that we are going to try to do something about time zones, to try to make them more practical, rather than run them through the States as they are now. The Department of Transportation has the authority to do that. It is working on it. That will be part of the study that comes here in July.

Mr. STEVENSON. Mr. President, the Senator from Washington has made the essential point that this amendment, if it were adopted, would put the Senate in the incredible position of repealing daylight saving time because it is working far beyond the expectations or claims made by the proponents only about 12 weeks ago.

When the Senate approved daylight saving time, it was predicted that winter daylight saving time would reduce electrical consumption by about 1 percent, which would mean about 100,000 barrels of oil a day, and also reduce traffic accidents and crime. That is all that was claimed for daylight saving time at that time, and those claims have been far exceeded by the results of daylight saving time.

After only 12 weeks, we are being asked to repeal or modify winter daylight saving time on the ground that it has failed. It has not failed. The record, while it is incomplete at this point, strongly suggests that the Senate was right when it approved year-round daylight saving time, and, far from changing that earlier judgment, we ought to reaffirm it.

According to the Edison Electric Institute, during the first 7 weeks of winter daylight saving time, electrical consumption across the Nation dropped 2.2 percent, as compared with consumption during the 4-week period immediately preceding winter daylight saving time. That figure corresponds with a 2.2 percent increase in electrical generation last fall when the Nation returned to standard time. A 2.2 percent decrease in electrical consumption is twice the energy saving predicted when the Senate approved year-round daylight saving time, which is equivalent to a saving of 200,000 barrels of oil a day, and in fact far in excess of the energy savings realized from the national 55-mile-per-hour speed limit.

Consolidated Edison Co. of New York reports that daylight saving time has reduced the New York peak load by 500 megawatts out of 5,600. That is a 9-percent reduction.

All of these figures are subject to adjustment for differences in the weather and for other factors, but the first returns, the returns for the first 7 weeks, indeed all of the early indicators, suggest that daylight saving time has produced significant energy savings.

Now we are out of the woods. The long days are here again. We will, in June, presumably, have an interim report from the Department of Transportation which will give us a far better basis than we have now for judging the energy savings from daylight saving time. There is no need to take this action now. We will have an opportunity later, and, as the chairman of the Committee on Commerce indicated, when the figures are available, or more figures are available, including an interim report, the Commerce Committee will conduct hearings and give the matter a thorough review.

At this point it would be a great mistake to repeal legislation simply because it is working, and working well.

I understand the reasons for the anxiety about daylight saving time. Those reasons have to do with traffic accidents, particularly accidents involving schoolchildren. At the time the daylight saving bill was passed, it was hoped that schools and businesses throughout the country would adjust their hours to winter daylight saving time, and I regret that more of them did not do so; but notwithstanding the failure of some schools and some businesses to start their hours a little later in the morning, the results in the case of traffic accidents has been encouraging.

A recent report from the National Highway Traffic Safety Administration reports that 35 States and the District of Columbia experienced a 32-percent reduction in the number of pedestrian and bicycle fatalities for the month of January 1974 as compared with January 1973. Of the 396 fatalities reported for the month of January 1973, 98 were schoolchildren between the ages of 5 and 19. In January 1974 the number of fatalities among school-age children dropped to 57, a 42-percent reduction.

The National Safety Council reports no perceptible increase in the number of child fatalities between the critical hours of 6 a.m. and 9 a.m.

A special survey of the National Highway Safety and Transportation Administration in 15 States for the month of January found a 33-percent reduction between 1973 and 1974 in the number of afternoon accidents resulting in child fatalities.

So the evidence strongly indicates that daylight saving time does not increase morning fatalities and decreases afternoon fatalities, for a very substantial net decrease in adult and child pedestrian fatalities.

It is argued that one of the causes for the reduction in pedestrian fatalities may be energy conservation, decreased driving, and lower speed limits.

That cannot be the case because the major impact of energy conservation, including the lower speed limits, was not felt until after January. The figures I have used compare accidents in January 1974, with accidents in January 1973, before the full impact of the gasoline shortages was felt. That impact began to be felt in February. The deadline for the enactment of the 55-miles-an-hour speed limit did not become effective until early March.

Attention has been paid to the increase in early morning accidents resulting in child fatalities in Florida. Little attention has been paid to the decrease in accidents at other times of the day.

Daylight savings time reduced the accident rates in the late afternoon hours. Statistics on the total child fatalities in Florida during daylight savings time shows that there were no more than there were last year.

Montana, Arkansas, North Dakota, and Minnesota are among the States which experienced child fatalities in 1973, but experienced none in January 1974. In Massachusetts the number of fatalities in January 1973, compared to January 1974, dropped from five to two.

In Ohio, the child fatalities resulting from traffic accidents did not increase from January 1973 to January 1974. As a matter of fact, the figures for those two periods are identical—13 child fatalities in January 1973 and 13 in January 1974.

More significantly, Mr. President, overall traffic fatalities in that State—and this is not unusual—decreased very substantially. In January 1973, there were 158 traffic fatalities in Ohio. For the same period in 1974 the figure was 116. In other words, there was a 27-percent decrease in traffic fatalities after daylight saving time became effective, before serious gasoline shortages had begun with a consequent reduction in the amount of travel and the speed at which motorists could travel.

We have no way of quantifying the reduction in crime due to increased daylight during the peak crime hours—and the peak crime hours are also, as in the case of traffic accidents—in the early hours. There is absolutely no way to do it. But there can be absolutely no doubt that the crime rates have also been reduced by daylight saving time.

At the end of 2 years, and certainly later than now—this summer at the earliest—Congress will be in a position to make a sensible determination about the energy savings, the life savings, and the crime savings resulting from daylight saving time.

It appears now that daylight saving time is saving lives. It appears on the basis of preliminary evidence that it is also saving some 200,000 barrels of oil a day and reducing the crime rates. It would be a disservice to worried parents and to all people who have made sacrifices in the face of doubts and confusion over the severity and causes of the energy crisis, to declare at the end of 12 weeks that daylight saving time is a failure. To change back before all the data is collected would simply cause longer lines at gasoline stations, higher fatality rates on our Nation's highways, and more crime.

At the very least, we ought to give daylight saving time a more adequate trial. We ought to give ourselves more time in which to judge the value of daylight saving time before abandoning it, as proposed by the Senator from Ohio.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. Mr. President, I yield myself 3 minutes.

Mr. President, there should be further clarification of several things that have been stated. First of all, I do not deny the proposal was made by the administration. I thought the administration was wrong in making the proposal originally, and I still think so.

We had a prediction at that time, and certainly the House committee had a prediction, that the maximum savings in fuel would be 30,000 barrels a day of petroleum, which is an insignificant amount. The figures I received on the savings, made available by the Federal Energy Office, indicate that that is a very close estimate. It is actually less than that. The estimate from the Office of Energy Conservation in the March 4 bulletin which they put out indicates an actual savings of only 14,500 barrels a day.

The Senator from Illinois used the figure of 200,000 barrels. However, it should be clear that the energy equivalent figures, which refer to the alleged savings in gas, using gas use and coal use and nuclear and hydropower use are matched up against what the expenditures in oil would be if they were used rather than those figures. Those figures, I might point out, are at odds by 100 percent difference with the Federal Energy Office figures which total up about 100,000 barrels a day, rather than 200,000, as stated by the Senator from Illinois.

There is some difference even on the equivalent figure. However, the equivalent approach in my estimation out of the Federal Energy Office seems to be specious. To transfer other forms of energy or substitutes for petroleum use, that does not appear to have a loss. We have certain factors not computed into this figure at all. There is an increased consumption of gasoline by parents driving their children to school rather than sending them to school in the dark on a bus and that has not been figured into this.

I was also somewhat mystified by the approach taken by the distinguished Senator from Washington, the chairman of the committee, as to whether or not he intends this to be a permanent piece of legislation, which the law on the book is at the present time. He is apparently doing this on a permanent basis. This proposal was presented as an emergency energy matter when the Senate voted on this earlier this year. And I got somewhat alarmed, and I am sure that my constitutents would be very alarmed that there seem to be indications that we intend it to be permanent.

The distinguished chairman said that the Commerce Committee will have studies on this and will make a permanent and comprehensive judgment on this.

I take his word in that regard. I am sure that there will be hearings. However, in legislating on this subject of dealing with the people getting up in the dark and their children getting up in the dark, we are not dealing with it realistically. We are putting it back into a time frame of the other side of September or October.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TAFT. Mr. President, I will yield myself an additional 3 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized for an additional 3 minutes.

Mr. TAFT. Mr. President, when the time for action on this legislation comes, when the matter comes to Congress, we will be right up against a deadline of the legislation being put into effect, perhaps, at the same time or just shortly before the time change would occur under the bill as it was passed by the Senate last year.

So I think we ought to act on it now and have an open vote. The Commerce Committee can come in with anything it wants, but why not make this change now, and not be legislating up against a deadline to change what I think was a mistake when the change was made, and what I think most people consider to have been a mistake?

The Senator from Washington has indicated that there was a Governor's option. Well, there was a Governor's option to request a change of time zone for, I think, just 30 days after it went into effect. The Governor of my State decided not to make the request; however, he has now indicated to me he wishes he had, that it is a major hardship on people in our State, and that we ought to make the change.

Perhaps we could include some option on that in any future legislation also. I would like to bring that into focus for the committee.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. CHURCH. Mr. President, it is my understanding that the distinguished Senator from Oklahoma is going to offer an amendment to this amendment.

The PRESIDING OFFICER. The Senator's additional 2 minutes have expired.

Mr. TAFT. I yield myself an additional 2 minutes, and yield to the Senator from Idaho.

Mr. CHURCH. The effect would be to postpone until the fourth week in October a resumption of the old system. I must say that this appeals very much to me.

In my own State, people simply cannot comprehend how substantial energy savings can be realized by burning the candle on one end instead of the other; they keep asking me how energy is saved by an extra hour of light in the evening, when they have to get up to an extra hour of darkness in the morning.

I have not been able to find a convincing answer to this question. Furthermore, I have not seen persuasive evidence that really meaningful savings have been made in our fuel supply.

So, for that reason, I commend the Senator from Ohio for the action that he has taken, and the Senator from Oklahoma (Mr. Bartlett) as well, and tell them that I am inclined to think that, by the last week in October, it will be time to go back to the old system. Very likely, by then, the Arab oil embargo will have been lifted anyway, so there is good commonsense, is seems to me, in the position the Senator takes.

Mr. TAFT. I thank the Senator from Idaho. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. Mr. President, I yield myself 5 minutes.

Mr. COTTON. Mr. President, who has the time on the energy bill?

Mr. STEVENSON. The chairman and I were controlling the time. I am glad to yield to the Senator.

Mr. COTTON. When the Senator has finished, I would like some time.

Mr. STEVENSON. Mr. President, first of all I ask unanimous consent to have printed in the Record a fact sheet received from the Office of Energy Conservation, which makes some preliminary findings about the energy savings from daylight saving time.

There being no objection, the fact sheet was ordered to be printed in the Record, as follows:

FACT SHEET: DAYLIGHT SAVING TIME

BACKGROUND

The Daylight Saving Time Act of 1973 (Public Law 93–182) was passed December 15, 1973, to go into effect January 6, 1974. This law provides for the adoption of year-round Daylight Saving Time (DST) for a period of two years and requires the Department of Transportation to report on its effects not later than June 30, 1974, and each year thereafter. The studies that have been undertaken to date are not definitive on either the energy savings (or losses) that might occur with DST, or the peripheral effects that might be experienced (crime, agricultural impacts, accidents, etc.) which can be causally associated with DST. However, the preliminary information which is available suggests that energy benefits may accrue and the secondary effects should be minimal.

Energy reductions can occur in two ways when DST is implemented during the winter months. Direct savings are associated with absolute reductions in the level of power send-out because, for example, the added lighting requirements in the morning are less than the decreased lighting possible in the evening. Fuel savings arise through shifting power consumption from peak periods in the evening to lower use periods in the morning. Electrical load peaks typically are met with relatively less efficient generating equipment. Thus, shifting use to off peak hours results in less fuel use to produce the same amount of electricity.

ESTIMATED ENERGY SAVINGS

It is estimated that a savings of approximately 1 percent of the nation's electricity could be achieved by DST. This savings amounts to about 100,000 barrels of oil equivalent per day. This figure may be disaggregated by fuel source as follows, using National Petroleum Council fuel source data for national electrical production:

1. approximately 14,500 barrels per day of oil;
2. approximately 106 million cubic feet of gas (equivalent to 19,500 barrels per day);
3. approximately 9,650 tons of coal per day (equivalent to 42,300 barrels per day);
4. approximately 24,000 barrels per day equivalent of nuclear and hydro source power.

Other estimates of combined direct and fuel savings that could derive from DST vary from "Negligible" for some regions surveyed by the Federal Power Commission Regional Reliability Councils (1970) to as high as 4 percent. (Spokesmen from Consolidated Edison estimated that DST could shave their lead peak by between 2.9 and 4.1 percent.)

Southern California Edison estimated that DST could save as much as 1 percent in its electrical load.

William Harris of Rand Corporation testified before the Senate Commerce Committee on November 9, 1973, that DST could save on the order of 1 percent in electrical energy.

Edison Electric Institute estimated that the Nation achieved an 11 percent reduction in electrical energy peaks during World War II when DST and other conservation measures were in effect. By the end of the war, it estimated that about 700,000 tons of coal annually were being saved by DST.

In 1957, the State of Wisconsin adopted DST for a five-month winter season. One electric utility in the state reported a 3 percent reduction in energy usage but the figure was not adjusted for weather or other unrelated effects.

In 1971, four states (Arizona, Hawaii, Indiana, and Michigan) went on continuous standard time. It was found that from April to May there was a 0.28 percent increase of fuel consumption and from October to November there was a 1.58 percent decrease in fuel consumption. In the other states, there was a 0.48 percent decrease in consumption from April to May and a 0.91 percent increase in consumption from October to November. In aggregate, there was a 0.41 percent decrease in fuel consumption from April to May and a 0.71 percent increase from October to November. This 1971 experience suggests that the non-shifting states did better.

Practically, the electrical energy savings that are achieved will be difficult to associate causally and unequivocally to DST because of many other influences tending to reduce electrical demand. Savings will not be uniform for each utility in the country but will vary depending upon the detailed nature of electrical loads. They should be relatively higher on utilities which serve a high residential and lighting component and relatively lower on utilities serving a high industrial component.

SAFETY AND OTHER CONSIDERATIONS

The shift to DST will result in less light early in the morning, but daylight will extend later in the evening. This shift can have several effects.

It is likely that DST will reduce crime in the early evening when many people are still on the streets and increase the efficiency of the police forces. However, crime patterns may be shifted to other times.

It is likely that DST will reduce driver and pedestrian accidents in the heavy commuting hours of the evening because of the ability to return home in more daylight. Although there may be more accidents in the morning commuting hours, drivers are likely to be more alert and the net effect will be a reduction in total accidents.

Accidents and crimes which occur in morning darkness will be widely reported and associated directly or by implication to DST. What will not be known will be:

(a) whether the reported accidents would have occurred anyway;

(b) how many fewer accidents and crimes are occurring in the evening than would otherwise have occurred.

EXPERIENCE TO DATE MARCH 1, 1974

I. Energy indications

Uncorrected Gross Weekly Load Production Figures (EEI):

Week ending	1973–74 kWh (x10⁶)	1972–73 kWh (x10⁶)	Percent change from same week in previous year
Dec. 29, 1973	31,952	32,440	−1.50
Jan. 5, 1974	34,695	34,331	+1.06
Jan. 6, 1974	WDST put into effect		
Jan. 12, 1974	36,558	38,111	−4.07
Jan. 19, 1974	35,531	35,368	+.46
Jan. 26, 1974	34,602	35,297	−2.0
Feb. 2, 1974	34,363	36,197	−5.1
Feb. 9, 1974	36,343	35,799	+1.5
Feb. 16, 1974	35,673	36,947	−3.4
Feb. 23 1974	34,794	35,814	−2.8

Consolidated Edison reports the following electrical data normalized for weather:

Week ending	1973–74 kWh (x10⁶)	1972–73 kWh (x10⁶)	Percent change from same week in previous year
Jan. 6, 1974	621	681	−8.81
Jan. 13, 1974	665	709	−6.21
Jan 20, 1974	662	706	−6.23
Jan. 27, 1974	657	707	7.07

Consolidated Edison has been engaged in a vigorous energy conservation effort which has led to significant peak reductions. There used to be a significant peak between 5 and 6 p.m. and now the load is flat. The peak now occurs between 10 and 12 in the morning for the system as a whole.

The National Economic Research Association reports that Pacific Gas and Electric Company shaved its evening peak by approximately 3 percent. NERA also reports that Wisconsin Electric Power Company, New England Power Company, and Virginia Power and Electric Company have found shifts in peak patterns, and that the Long Island Lighting Company has found that its peak load has been slightly flattened.

Alex Radin, General Manager of American Public Power Association, which represents 1400 public utilities and accounts for 13% of total electric sales, testified that DST would produce 1–2% savings in kwh (equivalent to 3.5–7 million barrels of oil per day based on 1971 consumption figures for its utilities). His testimony is supported by a recent American Public Power Survey of several utility companies, which indicated that conservation efforts, including DST, were reducing demand.

The Municipal Power & Light Department of Garland, Texas, reported that its energy conservation efforts reduced demand about 5%, or a total of 3% in the system load. Energy savings were about 7 million kwh.

A spokesman for the Anchorage, Alaska Municipal Light & Power Department estimated that energy conservation measures have resulted in a 5% demand reduction and a kwh reduction of 4.6%.

The Los Angeles, Calif. Department of Water & Power reported a reduction of 224,052 mwh in consumption for the first 24 days of January, compared to a similar period in 1973, despite milder weather this year.

The Sacramento, Calif. Municipal Utility District reported that power consumption in the District service area was 6% less in January than for the same month in 1973, although weather conditions were similar.

II. Safety indications

The National Safety Council has found that DST has had little or no effect on the number of early morning fatalities among children of school age. The Council's Statistics Department surveyed all 50 states and the District of Columbia, to determine if there was any increase in the number of school children fatalities for January 1974 as compared with January 1973.

The survey respondents, who represented 75 percent of the population in 42 states and the District of Columbia, showed no appreciable difference between the two months in the number of early morning pedestrian and pedacycle fatalities experienced by children 4 through 18 years old.

According to the Council, 20 traffic fatalities were recorded in January 1974 among children 4 to 18 years old walking or pedaling during the going-to-school hours from 6 am to 9 am. By comparison, 19 fatalities were recorded in January 1973.

Thirteen of the 20 youthful traffic fatalities in January 1974 were children under 14 years old.

Of the 43 reporting agencies, 29 states and the District of Columbia showed no change or decreases in the number of school-age fatalities. Three states—Alaska, Arizona, and Idaho—were not included in the survey since they had not shifted over to DST. Ten states—Florida, Nevada, Virginia, Illinois, New Mexico, Wisconsin, Connecticut, Louisiana, North Carolina, and Pennsylvania—had increases in the number of school-age traffic fatalities.

Of the states with increased fatalities, Florida, according to the Council, showed the biggest increase—up five fatalities in January 1974 as compared with January 1973. Illinois showed the second largest increase—up four fatalities. Connecticut and North Carolina both showed increases of three fatalities, while the remaining six states reported increases of one school-age fatality each.

The National Highway Traffic Safety Administration of the Department of Transportation found that out of 35 states and the District of Columbia there were a total of 271 pedestrian and pedacycle deaths compared to 396 such fatalities during 1973. This figure includes all-age fatalities occurring at all hours of the day.

Mr. STEVENSON. Mr. President, this is the statement to which the Senator from Ohio referred. It does say that it is estimated that a saving of approximately 1 percent of the Nation's electricity could be achieved by daylight saving time, and mentions that this amounts to about 100,000 barrels of oil per day. However, that is the earlier estimate that was made by the Office of Energy Conservation, and upon which the Senate approved this bill. It was estimated then that it would reduce electrical generation requirements by about 1 percent.

Other figures which are included in these data indicate that the results of daylight saving time are closer to a 2-percent reduction in electrical generation, and that therefore the equivalent savings of energy are about 200,000 barrels of oil a day.

To answer the question that was raised by the Senator from Idaho, I think I can do so best by reading from a memorandum I received from Commonwealth Edison in Chicago, which explains it very simply and convincingly, as follows:

> The present estimate of Statistical Research and Power Supply departments is that extension of daylight saving time through the full year will result in a net output reduction of approximately 45 million kilowatt-hours. This will result in a savings of five million gallons of oil.
>
> It is estimated that the lighter evening hours will reduce electricity consumption by about 75 million kilowatt-hours, but that this will be offset by about 30 million kilowatt-hours of increased use during the darker morning hours.

So what they are saying is that during the lighter evening hours, which are the peak hours, electrical generation is reduced without an offsetting increase in generation during the darker morning hours. In fact, the difference is between 75 million kilowatt-hours in the evening and 30 million in the morning.

That just helps explain the energy savings. The concern in this bill over winter daylight saving time is principally about its effect on traffic fatalities and on the lives of schoolchildren.

As I indicated earlier, the bill is also saving more lives than were anticipated when we adopted this legislation just about 12 weeks ago, for basically the same reason. The peak hours of traffic accidents are in the evening. We provide more daylight during those peak hours, and thereby reduce traffic fatalities. In fact, there has not been an increase in traffic fatalities for children in the morning hours.

The rates of traffic fatalities in the morning hours, for children and others, are about the same as they were a year ago, but they are greatly reduced in the evening hours, and the result is a very substantial net decrease in traffic fatalities, which cannot be attributed to reduced supplies of gasoline and low speed limits, because these figures were based on a comparison between traffic fatalities in January 1974 and January 1973, a time before the impact of the gasoline shortage was felt, and long before the deadline for the enactment of 55-mile-per-hour speed limits. The gasoline shortage, with reduced consumption and lower speeds, came in February.

Mr. TALMADGE. Mr. President, when the year-round daylight saving time bill originally came before the Senate several months ago, I opposed it. It was clear then that the confusion, danger, and ill will brought about by its passage clearly outweighed any mythical energy savings that we could realize.

Today I am pleased to cosponsor amendments to repeal this year-round daylight saving time law or, in the alternative, to extend the time in which the Governor or State legislature may petition for exemption from winter daylight saving time.

The Federal Government has an unfortunate record of rushing pellmell into unwise emergency legislation. Often, it has taken years before the Congress recognized its error and repealed these laws. In the meantime, the damage done cannot be repealed.

Mr. President, in its great rush to approve the administration's year-round daylight saving time proposal last year, the Congress managed to ignore both logic and human nature.

Factories still run two and three shifts and use the same amount of energy as before. People now get up in the cold darkness, and have to turn on their lights and heat to see and move about. The evening rush hour with all its serious accidents has merely been transplanted to the morning. But, most importantly, the safety of our schoolchildren is now needlessly endangered. I have heard from concerned Georgia parents from all walks of life. They fear for the lives of young children walking to school or waiting for the schoolbus in the early morning darkness. They are very much aware that accidents can and in fact do easily occur during these hours.

Mr. President, the people of Georgia have for years been forced to put up with the misguided and foolish practice of busing children to achieve a so-called racial balance in schools. They have been made to stand by as millions of gallons of fuel have been wasted in a social experiment. Are they now going to have to endure yet another experiment during which the safety of little boys and girls will be totally cast aside?

Mr. President, defenders of the new time law are already handing out so-called "studies claiming that year-round daylight saving time has saved energy. But how can they prove this after a grand total of only 12 weeks? They even claimed at first that it might reduce fuel consumption as much as 5 to 7 percent. I was surprised that so many believed that. Now we are told that "studies" indicate that energy demand has dropped 2 percent. Clearly, this is a sham and a deception on the American public, which can only lead to less confidence in Government.

On the other hand, we do know that several tragic accidents have taken the lives of at least 10 schoolchildren in Georgia and Florida alone. For a questionable 2 percent energy saving, some in the Congress and the administration are prepared to offer up our schoolchildren. I will have no part of that.

Mr. President, the first amendment I am cosponsoring will extend the time during which the governor or legislature of a State can petition for exemption. Surely, this is only just and fair to the States, who were given only a brief period to seek an exemption from the new time in December.

Passage of this measure would be helpful. But, more remains to be done. The ultimate decision would still be in the hands of the President, who first thought up this winter daylight saving time scheme. Therefore, I would especially urge my colleagues to also vote for the second amendment, which will put an end for once and for all to the so-called emergency energy daylight saving time.

Mr. President, the people ask only for reason in energy conservation legislation. We cannot reasonably expect that merely switching hours of darkness from the evening to the morning will save energy, let alone lives and property. This has the same result as the old Indian trick of cutting a piece off one end of the blanket and sewing it on to the other end to make the blanket longer. We only fool ourselves when we think we have accomplished anything worthwhile.

Mr. President, these amendments offer the Senate a golden opportunity to redeem itself by repealing or, at the very least, modifying one of the most unreasonable measures ever enacted.

Mr. FULBRIGHT. Mr. President, I have listened with interest to this debate on the winter daylight saving time issue, particularly because of the expressed concern from my constitutents about this law. I intend to be responsive to this concern.

I note that the Senator from Washington (Mr. Magnuson), who is chairman of the Commerce Committee which has jurisdiction over daylight saving time legislation, has assured us that the committee will review the law after all of the relevant statistics are available in the early summer, and in any event that his committee will reconsider this law prior to October of this year when winter daylight saving time is scheduled to again go into effect. I believe it to be the wiser and more rational course of action for the Senate to follow the Commerce Committee's advice on this issue, rather than to consider it on the floor of the Senate in connection with an unrelated bill.

While there is some evidence already available that winter daylight saving time has been beneficial both from the standpoint of traffic safety as well as energy savings, I do not pass judgment on these questions at this time, but will look forward to the committee's recommendations this summer. I might add that I intend to make available to the Senator from Washington the views of Arkansans who have contacted me about this law, so that the committee will be well aware of its effect on my State. Inasmuch as we are but a few weeks away from summer daylight saving time, I do not see that any useful purpose will be served by acting on this matter at this time. Accordingly, given the assurances of the chairman of the Commerce Committee, I will support the motion to table this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. Mr. President, how much time remains to the opponents of this amendment?

The PRESIDING OFFICER. The proponents?

Mr. STEVENSON. Opponents.

The PRESIDING OFFICER. 29 minutes.

Mr. STEVENSON. I yield the Senator from New Hampshire such time as he may require.

Mr. COTTON. I thank the Senator. I shall not use but a very few moments.

Mr. President, it is now my understanding that the real compelling reason for my opposition to the amendment may be removed by its proponent, because it is my understanding that the distinguished Senator from Ohio intends to alter the amendment. Am I correct, or will he leave it as it is?

Mr. TAFT. Mr. President, through an error, the amendment which was called up is apparently No. 986. The intention of the Senator from Ohio was that amendment No. 987 be called up. The debate which we have had has been addressed toward amendment No. 987. That has been the understanding, I think, of other Senators. In view of that, I ask unanimous consent that the amendment to be considered now be amendment No. 987 and that amendment No. 986 be laid aside.

The PRESIDING OFFICER (Mr. Abourezk). Without objection, it is so ordered, and amendment No. 986 will be laid aside.

The clerk will state amendment No. 987.

The legislative clerk read as follows:

On page 1, between lines 2 and 3, insert the following:

"TITLE I—FAIR LABOR STANDARDS AMENDMENT".

On page 1, line 4, strike out the word "Act" and insert in lieu thereof the word "title".

On page 1, line 7, strike out the word "Act" and insert in lieu thereof the word "title".

On page 51, line 14, strike out the word "Act" and insert in lieu thereof the word "title".

On page 51, line 20, strike out the word "Act" and insert in lieu thereof the word "title".

On page 51, after line 20, add the following new title:

"TITLE II—AMENDMENTS TO THE EMERGENCY DAYLIGHT SAVING TIME ENERGY CONSERVATION ACT OF 1973

"TERMINATION OF EMERGENCY DAYLIGHT SAVING TIME

"Sec. 201. Notwithstanding the provisions of section 7 of the Emergency Daylight Saving Time Energy Conservation Act of 1973 such Act shall terminate at 2 o'clock antemeridian on the first Sunday which occurs after the date of enactment of this Act."

Mr. TAFT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Ohio will state it, but first the Chair would inquire of the Senator from Ohio whether he wants these amendments considered en bloc?

Mr. TAFT. Yes, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, in order to straighten out the time situation under the unanimous-consent agreement, I would ask unanimous consent that the time expended on amendment No. 986 to date be considered as time expended on amendment No. 987.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COTTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New Hampshire will state it.

Mr. COTTON. How much time is remaining?

Mr. TAFT. As I understand it, the time remaining on amendment No. 987 at this time would be—would the Chair please state the time remaining?

The PRESIDING OFFICER. The Senator from Ohio has 37 minutes remaining and the Senator from Illinois has 26 minutes remaining.

Mr. TAFT. I thank the Chair.

Mr. COTTON. On what amendment?

The PRESIDING OFFICER. On the amendment now being considered, No. 987.

Mr. COTTON. But all of this debate has been on amendment No. 986.

The PRESIDING OFFICER. The Senator from Ohio stated that the debate has been on amendment No. 987 and by unanimous consent the time has been transferred to amendment No. 987.

Mr. COTTON. Mr. President, I ask unanimous consent to comment on amendment No. 986, which has been laid aside. Most of the time has been used up on amendment No. 987, and I wish to have 20 minutes to speak on amendment No. 986, which still might come up for consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Hampshire? The Chair hears none, and it is so ordered.

Mr. COTTON. Mr. President, I shall try not to use even that much time.

I simply want to get into the Record once more certain facts that I think the Senate should bear in mind concerning the matter of daylight saving time, which was such a hot issue back around 1965–1966. There are certain pitfalls which must be avoided. I doubt whether the Senate as a whole realizes how serious this matter could become if it is not handled most carefully.

So far as this Senator is concerned, if we want a clean-cut repeal of what the Senate did by adopting year-round daylight saving time, or if we want to accept the substitute amendment offered by the Senator from Oklahoma (Mr. Bartlett) to have that repeal take place this October—even though I think I will go along with the distinguished Senator from Illinois (Mr. Stevenson) and vote to give this a longer trial—I certainly would neither be taking the time of the Senate to speak about it, nor would I be much wrought up by it. But, I do want to raise a danger flag on any possibility of the adoption of amendment No. 986 or any form of amendment which would permit either the Governors or the States to opt in and out of whatever system is in effect.

Here is the situation we faced back in about 1964. A bill came to the Congress, and we were urgently importuned to do something about the very confusing and extremely expensive situation concerning the observance of standard time and daylight saving time. It came to the Commerce Committee. At that time I was one of the younger members of the committee, and so the committee assigned me to go to work on the bill. It took several years. We had days, not hours, but days of the hottest kind of debate.

The situation that had arisen was this: Millions of Americans were living under advanced or daylight saving time for various periods of the year. There was no uniformity of the observance period. Some were on daylight saving time for but a matter of not more than 3 months; others were observing standard time all year round.

Thus, daylight saving time started and stopped on various and sundry dates. The nearest to any kind of uniformity was that in 15 States daylight saving time started on the last Sunday in April. In 16 other States that observed daylight saving time, they started on some 11 different dates throughout the month of May and into early June. But even the 15 States that started daylight saving time on the last Sunday in April did not finish at the same time. They did not all finish as we later established it by law in 1966 as the last Sunday in October. Rather, they finished it at various times ranging from August through October.

What was the result? The result was chaos. The expense in dollars and in time to the American people was colossal.

The economic and social costs are apparent when we realize that all of the modes of transportation—air, rail, bus, et cetera—as well as communications have to operate based upon the prevailing time. All such companies had to be changing their times, revising their schedules, and issuing new timetables before the 1966 act.

The cost to American business was estimated at many millions of dollars a year. In addition, time was lost by untold thousands of businessmen and others in various activities who were confused by the several time zones they passed through. It really was a very serious matter, and we had a hard time getting Congress to take remedial action.

Finally, we decided that all we could try to do—because daylight saving time has always been a very sensitive subject to the American people—was to seek certain uniformity. So we brought in a bill that simply provided a uniform observance period of daylight saving time but which allowed States to exempt themselves from such observance. They could even change their minds and come under daylight saving time later, if they desired.

All that bill provided was that daylight saving time would start on the last Sunday in April and end on the last Sunday in October. Thus, there would be uniformity of change, which would save millions of dollars and all kinds of inconvenience throughout the country.

Surprisingly, we ran into a great deal of difficulty in even bringing about that change. Certain States were subjected to a hardship.

For example, I recall very clearly that the Senators from Missouri raised the point that because of the time zones, it would work a great hardship on them, unless they could have, I believe, the western part of the State on daylight saving time and the eastern part on standard time.

Finally, in the Senate, in order to avoid getting into a situation in which there would be three or four different time zones in a State, we amended the bill so that a State with parts in more than one time zone, could by law exempt either the entire State or the entire area of such State lying within any time zone.

Thus, after many years of striving, we finally got out of that "clock madness" situation. It had been a chaotic mess.

But, we kept having trouble. For example, the Senators from Kentucky, a few years ago, became very much upset about the situation and wanted to change the dates so as to shorten the period of observance of advanced time. Obviously, this proposed shortening would present a greater problem in the North than in the South.

Amendment No. 986, which has been laid aside, would permit, as I understand it—and the distinguished Senator from Ohio will correct me if I do not state this correctly—the Governors or States to opt out of year-round daylight saving time and to do so not only for the entire State but also for parts of States. Is that correct?

Mr. TAFT. The Senator is correct.

I point out, in passing, that if amendment No. 987 were adopted, amendment No. 986 would not be raised, because it would be contrary to the provisions of amendment No. 987.

Mr. COTTON. I understand. But, there still is a possibility that amendment 986 could come up.

As I said earlier, I would agree with the Senator from Oklahoma that we should not swap horses right now, especially since the last Sunday in April is so close upon us. I am even certain that I would vote for his substitute amendment, because I am not sure that we do not want to wait and have a little longer trial period. I think the Senator from Illinois (Mr. STEVENSON) is correct that we have not given year-round daylight saving time a fair trial.

The point that I want to be sure is clearly in the RECORD is that under no circumstances, in the opinion of the Senator from New Hampshire—and this is in no way a criticism of the distinguished Senator from Ohio, for whom I have great respect—should we run the risk of reverting to a situation such as prevailed before the 1966 act. If we jump back and forth, we are going to have a resurrection of the same confusion.

The one thing the Senator from New Hampshire hopes will not be permitted to happen is to go back to that situation. We should have year-round daylight saving time as an emergency measure for the time now allowed by law, or the time that the Senator from Oklahoma has in mind, or we should go back foursquare to the 1966 law so that the whole country knows what the situation is. Otherwise, we could easily slip back into a confusion situation without realizing the dangers.

Mr. President, I yield back the remainder of my time.

Mr. TAFT. Mr. President, I yield 10 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. CLARK. Mr. President, I wholeheartedly support the amendment to repeal daylight saving time in the winter months, effective next October.

Last December, in the face of grave concern over the Arab oil embargo and the energy emergency, the Congress passed the year-round daylight saving time bill. Testimony on the expected energy savings from winter DST was inconclusive—it varied sharply, depending on which expert offered an opinion. But along with the majority of other Senators and Congressmen, I believed that winter daylight saving time would save enough energy to more than compensate for the problems it would cause.

Since daylight time began on January 6, I have become convinced that the inconvenience, hardship, and dangers are not worth the small or possibly even nonexistent energy savings.

Through January and February, it became clear that the problems and dangers caused by early morning darkness are not minimal. They cannot be taken lightly. In Iowa, winter DST has been the most divisive and disruptive conservation measure established since the energy shortages began. No doubt it is equally true in the other States. One of the principal reasons offered for winter daylight saving time was that it would develop a spirit of cooperation—that it would be a sacrifice shared in common. It has had the opposite effect. During these months, schoolchildren were walking to school and waiting for buses in subzero darkness. Construction workers were unable to start work on time. Dawn to dusk radio stations were unable to broadcast on their regular schedules—and consequently were unable to provide vital community announcements such as school closings, weather reports, and road conditions. These are the hours when radio is most effective, most useful—they provide a significant public service which is now abrogated. In letters, telegrams and personal conservations, people in Iowa and across the Nation have stated very strongly that daylight saving time is not an acceptable way to save energy. Their voice ought to count for something in our deliberations.

Mr. President, I ask unanimous consent that several of the letters I have received as well as an article from the Des Moines Register be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WODEN, IOWA,
January 17, 1974.

Senator DICK CLARK,
Washington, D.C.

DEAR SIR: In your travels around Iowa I am sure you've heard many pros & cons on daylight saving times.

A few examples:

We are a retired couple, rising around 8 A.M. On standard time we didn't need lights, and would leave the thermometer at 64° while we did our daily work. Now we use lights for an hour or so, and find we need to turn up the heat.

Energy saving?????

In many towns around here, and I know Titonka, especially, there are rest homes, with 30 to 50 patients. They are wakened in the early hours—using extra lights and maybe heat—and go to bed with still daylight outside.

Energy saving???

School children grope their way to school buses in the dark, to schools that turn on lights on hour earlier, also heat, and go home to several hours of bright day light.

Businessmen, office workers, laborers, farmers, you name it.

All use extra lights and heat in the morning hrs. for that extra hour of daylight to spend—how???

Energy saving????

I say let Congressmen start the day an hour earlier still in daylight, and work in daylight, and go home to play an hour earlier if need be, but put the rest of the nation where the people really want it back on standard time, and do it now.

Senator, I apologize for one thing, I know you are trying, but let others there know how one (at least) angry citizen feels.

Yours Truly,

Mrs. Jacob Thieben.

Edgewood, Iowa,
January 16, 1974.

Senator Richard Clark,
Washington, D.C.

Dear Mr. Clark: According to your platform that you were elected on you were for the people.

Well this Daylight time isn't for the people of our State. Children go to school in the dark. Children that walked before this new time have to be taken now. Can't send them off in the dark. Don't know what is lurking, as Crime has been given first place in our society.

Everyone has to work with lights on until almost nine A.M. Don't know where you are saving energy. Just like cutting a blanket off at one end and sewing it on the other end, doesn't make it a bit longer. The poor farmer that got up at 5 A.M. is getting up at 4 A.M. Now you know the Lord set the sun in the sky for man to go by. A few men in the White House have nothing better to do than to change the time to meet their own social needs.

The Constitution was set up to run this Country and it still stands good today. Just like the Bible.

It should be as the Constitution states the government for the people and by the people.

Sincerely,

Mrs. Donald Rizer.

Storm Lake Community
School District,
Storm Lake, Iowa, January 17, 1974.

Senator Dick Clark,
U.S. Senate,
Washington, D.C.

Dear Senator Clark: The Board of Education of the Storm Lake Community School District is very concerned about Daylight Savings Time as it relates to the time schedule for school children in Storm Lake and throughout the state of Iowa.

Our school board at its regular monthly meeting on January 15, 1974, passed a resolution opposing Daylight Savings Time for Iowa during the winter months and asked that I express their feelings to you by means of this letter.

We cannot comprehend this measure as being an energy crisis need because more lights are used in homes as the children are getting ready for school and we are finding that many families are using their automobiles to drive their children to school on these dark mornings.

To adjust our school time schedule when all other factions of our community are not adjusting time schedules creates a tremendous hardship for all of the families in our community.

I personally find in personal contact with the people of our district that there is a strong current of resentment against Daylight Savings Time in the winter.

Our greatest concern is the approaching winter of 1974–75 when we will have to be faced with this early morning darkness problem for several months. We ask that you give this matter your deepest consideration in the hope that you may be able to contribute toward a change in this situation for the future.

Thank you for any consideration given to this topic.

Sincerely,

Donald A. Ambroson,
Superintendent of Schools.

[From the Des Moines Register, Feb. 18, 1974]

DST Self-Defeating in Terms of Saving Energy, Some Say

(Note.—This article was written by Bonnie Wittenburg from information gathered by Register reporters James Ney, Jack Hovelson, Thomas Ryder, William Simbro and Larry Eckholt.)

Voluntary conservation measures rather than Daylight Saving Time (DST) appear to be the major factor in any saving in energy use in Iowa, a Register survey shows.

Energy saved through Daylight Savings Time since it began Jan. 6 amounted to less than half of one per cent for customers of Iowa Power and Light Co. in Des Moines, Gene Young, assistant vice-president said.

He credited voluntary conservation efforts with a 3.5 to 5 per cent energy saving.

The problem, he said, was that persons forced to get up earlier were turning on lights and using electricity that they otherwise would not have used at a later hour.

DIFFICULT TASK

Utility officials across the state generally agreed that ascertaining the degree of energy conservation to be credited to DST is difficult, if not impossible.

"The one thing we have found that apparently was caused by Daylight Savings Time," Robert Riedeler, of Waterloo, Iowa, Public Service Co. official, said, "is that our peak electricity loads are coming at a different time."

He said that on Dec. 17, the utility's peak load was between 5 and 6 p.m. On Jan. 14, after DST had been in effect one week, the peak was at 9 a.m.

While the amount of energy saved by DST has either been negligible or impossible to ascertain, the amount of inconvenience it has caused is readily apparent.

Mrs. Carl Forrest, a Dubuque mother of five, reflected the attitude of many Iowans when she said she doesn't believe Daylight Savings Time makes sense.

"We use more lights when it's dark in the morning than we do at night," she said.

"In the morning, lights are on in the bathroom, the bedrooms, the upstairs closet, the downstairs closet, the kitchen, and even the living room because we've got to walk through it."

DANGER TO CHILDREN

A major criticism of DST has been the danger it represents for children walking to school in the pre-dawn darkness.

Mrs. Vernon Schandrett of Iowa City said she fears for the safety of the five of her six children who must go to school in the early morning.

"I hold my breath until 8:05 or so" (the time the bus picks her children up), she said.

Some Iowa schools opted to start classes later so children would not have to walk during the early morning hours when it was still dark outside.

Late last month Senator Dick Clark (Dem., Ia.) introduced a bill into the U.S. Senate asking for the repeal of DST—a major reason being the pre-dawn deaths in January of eight Florida schoolchildren.

There are other criticisms, too. A sampling:

"We don't like it," said Elmer Langan, a co-owner of Haine Farms near Muscatine. "Daylight Savings Time doesn't affect our operation too much because we work from dawn to dark anyway, but it has affected the people we do business with."

"ALL CLOSED UP"

"They are all closed up when we still work three or four hours afterwards. That can cause problems if we need repairs or something."

Nor does Mrs. Albert Nauman, whose husband runs a grain and livestock hauling business near Sherrill, like winter Daylight Savings Time.

She said hauling starts an hour or two later each morning, which means she must prepare the evening meal an hour or two later at night.

Part of the shortcomings in using DST to save energy stems from the need for electrical lighting regardless of the time of day. Oftentimes industrial and office buildings either have few windows or work areas are too far removed from windows to depend on anything other than electricity.

"There are few windows in the plant, so we can't depend on outside light," said Donald Sanders, vice-president of Thermolyne Company in Dubuque.

Charles W. Gardner, vice-president and store superintendent of Armstrong's department store in Cedar Rapids said: "Our consumption of electricity has been down since November because of energy-saving measures. But I think little, if any, of the savings is because of Daylight Savings Time."

That observation was echoed by Don Thomas, superintendent at Younker's store in Des Moines.

ELECTRICAL USAGE

Walter Walsh, an official at Banker's Life in Des Moines agreed that up to this time conservation measures have been the primary factor in electricity usage declines.

Harold Ewoldt, assistant executive vice-president of the Cedar Rapids-Marion area Chamber of Commerce said that from his discussion with businessmen—"Nobody seems to think DST has contributed much to energy conservation."

Iowans' wrath over DST has been cooling, however, now that sunrise is coming a half-hour earlier than when DST was begun Jan. 6.

"It's getting better already," said Barbara Boose, a Drake University junior. "The first time I went to my 8 o'clock class, it was really dark. Now I even get up and go to breakfast."

Yet, it appears DST is here to stay until October, 1975, unless someone comes up with an alternative.

Samuel Tuthill, Gov. Robert Ray's chief energy adviser, jokingly suggests: "I think we should have Standard Time in the mornings and Daylight Savings Time in the afternoons. We could omit the hour between 10 and 11 a.m."

Asked what he would do with the 10 to 11 hour, he replied: "That's usually coffee break time anyway."

Mr. CLARK. Mr. President, how much energy does daylight saving time really save? The Federal Energy Office statistics indicate that 14,500 barrels of oil a day are being saved for sure. That is less than one-tenth of 1 percent of our energy use. It is so small a fraction that the statistical error factor is greater than the figure itself. The Federal Energy Office does say that an additional amount, equivalent to 85,000 barrels of oil is being saved in coal, natural gas, nuclear, and hydropower. Also according to the FEO, however, it is not always possible to convert the savings of other sources to savings of oil by transmitting it over the electricity grid system. So all these savings will not mean more available gasoline or heating oil or propane.

For example, a nuclear-powered plant in Chicago cannot necessarily send the power it saves to an oil-powered plant in New York. Some of the 85,000 barrels of oil equivalent is not a practical saving—but only a theoretical one. Even if we were to accept that figure, which I do not, it would mean a savings of only about one-half of 1 percent of our total energy consumption.

It has been said here today that there has been a 2.2-percent savings—200,000 barrels of oil equivalent, according to the Edison Electric Institute.

But surely the Edison Institute does not credit all those savings to daylight time. What about conservation? What about weather? Are we to assume that all electricity saved in this period is due solely to daylight saving time? I do not think the institute would substantiate that fact.

It would be inaccurate for us to attribute savings of 2.2 percent or 200,000 barrels of oil equivalent wholly to winter daylight saving time. In fact, the Edison Institute makes no such claim for daylight saving time; those figures relate to the total saving, including all the variables such as weather and conservation.

Advocates of winter daylight saving time argue that fewer people have been killed since daylight saving time went into effect. Of course, the problem with these statistics is that fewer cars are now on the road because of the gasoline shortages, and we have slower speed limits, so the figures are not clearly attributable to daylight saving time. Speed limits had not been legally lowered in January but the President was calling for 50-miles-an-hour limits and most Americans abided by it. In fact, the Federal Energy Office has made it very clear that none of these statistics are necessarily reliable or relevant. It is obvious to the most casual observer that there are thousands of variables that account for pedestrian deaths; to simply compare raw figures of one period to another is like comparing apples with oranges. It is quite meaningless.

In a report released yesterday, the FEO's Office of Energy Conservation said:

> The studies that have been undertaken to date are not definitive on either the energy savings (or losses) that might occur with DST, or the peripheral effects that might be experienced (crime, agricultural impacts, accidents, etc.)

It seems irrefutable to me that placing millions of young schoolchildren out on the streets and highways all across the Nation in darkness increases the dangers they face from cars and trucks.

Now, if afternoon or evening accident rates for children are down, it would not necessarily be due to daylight saving time. Actually, children returning home in the afternoon arrive at home before dark under either daylight or standard time. It is not dark either way—by 4:30 p.m. So it would not be a factor either way.

Later, in the same report, FEO indicates that it is unlikely that future statistics will be conclusive—"practically, the electrical energy savings that are achieved will be difficult to associate causally and unequivocally to DST because of many other influences tending to reduce electrical demand." Some electrical power plants assert that they have experienced savings; others have asserted that there is no saving. There is simply no conclusive evidence either way.

The burden of proof for maintaining such a program lies with those who believe it should be continued next year, and a report on the program is due in June. But, in the face of the admitted unreliability of the assessments of daylight saving time's savings, it does not appear that the report will be any more definitive than the statistics we have now.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. CLARK. I would like to ask if I may have 15 more seconds.

Mr. TAFT. Mr. President, I am glad to yield to the Senator.

The PRESIDING OFFICER. The Senator is recognized for 15 seconds.

Mr. CLARK. Mr. President, admittedly, unreliable statistics should not be used as a basis for maintaining a policy which has created so much inconvenience, and so many hardships for so many people. For this reason, I believe we should agree now to terminate daylight saving time next October.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. Mr. President, I ask unanimous consent that the names of the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Montana (Mr. MANSFIELD), and the Senator from Kansas (Mr. DOLE) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. TAFT. Mr. President, I suggest the absence of a quorum, the time to be charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TAFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I yield 5 minutes to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, the year-round Daylight Saving Time Act is, in many respects, an example of Congress legislating blindfolded.

I opposed the passage of the act of 1973 and introduced a bill to take it off the statute books earlier this year, after a visit in my State—in all corners of the State—urban areas and rural areas. The measure was passed after only brief hearings, and at that time there was no solid, factual evidence that any energy would be saved.

I can say, based not only on experience, but also on the views of a great number of rural families and families in the cities of my State of Kansas, that winter daylight saving time met with very mixed reactions and generally with a certain degree of coolness.

There were estimates of how much fuel would be saved. As a matter of fact, there is evidence that there was a fuel loss. Congress authorized a study to indicate whether energy had been saved, which indicated a weakness in the act to start with.

A number of experts—both in and out of Congress—weighed in with their profound opinions that winter daylight time might save as much as 2 percent of our total energy requirements. But they did not present any real evidence—at least to my satisfaction—that having to turn on more lights in the morning and run furnaces an extra hour earlier during the coldest part of the day was going to save anything.

NOT EFFECTIVE OR BENEFICIAL

In fact, they really admitted that they did not have any idea of the effects of winter daylight time by writing into the bill a 2-year study to tell us, after the fact, what really happened.

Therefore, I voted against the bill, not because I am against programs to conserve energy, but because it just did not seem that a convincing case had been made for the law's effectiveness.

The information we have to this point is inconclusive. It is disrupting early morning radio broadcasting, causing inconvenience to farmers and hazard to children on their way to school in the darkness. It has had a very undesirable impact in many, many areas of the country.

After spending the first 3 weeks of winter daylight time in Kansas, I became convinced that its hardships, inconvenience and real hazards were too great to justify its continuation.

AUTHORED REPEAL MEASURE

So upon the reconvening of the Congress in January, I introduced S. 2894, a bill to repeal winter daylight saving time and undo what Congress never should have done in its burst of haste and poorly considered action.

An indication of the nationwide disapproval of winter daylight saving time was shown by the fact that joining me in sponsoring S. 2894 were the Senator from Oklahoma (Mr. BARTLETT), Texas (Mr. BENTSEN), Iowa (Mr. CLARK), Kentucky (Mr. COOK), Nebraska (Mr. CURTIS and Mr. HRUSKA), North Carolina (Mr. HELMS), South Dakota (Mr. MCGOVERN), Montana (Mr. MANSFIELD), Idaho (Mr. MCCLURE), Georgia (Mr. NUNN and Mr. TALMADGE) and Ohio (Mr. TAFT).

This bill would end winter daylight time on the first Sunday after its enactment and restore the Nation to the position it was in before the law was passed. We would still have daylight saving time during the summer when adequate evidence exists that it does in fact save significant amounts of energy.

Of course, the calendar has taken care of much of the problem this year. However, I would suggest that the substitute to be offered by the Senator from Oklahoma would certainly be a step in the right direction as far as next fall and winter are concerned.

RETURN TO STANDARD TIME NEXT WINTER

The Senator from Ohio (Mr. TAFT)—who is a cosponsor of S. 2894—has offered an amendment which is entirely compatible with my bill.

It does, however, recognize that immediate repeal would not accomplish a great deal, since this year's period of winter daylight time is almost over, and we will shortly begin observance of regular summer daylight time. Therefore, it would allow the present period of winter daylight time to run its course and permit a return to standard time next fall when summer daylight time ends.

Mr. President, I am pleased to support this amendment, because it would put an end to a most unfortunate and ill-advised congressional experiment which has inflicted, inconvenienced economic loss and physical hazard upon millions of Americans.

A SERIOUS MATTER

I feel we should view this matter seriously because blunders such as this cannot help but undermine the public's confidence in congressional leadership. The people expect the laws we pass to be based on fact—not wishful thinking.

And when they see such total congressional ignorance about this simple and uncomplicated law's impact, they have good cause to wonder about Congress' homework on more complex pieces of legislation which come before it.

Therefore, I urge that we at least legislate an end to this mistake—and hopefully resolve to a better job of gathering facts and information about future proposals which come before the Senate.

Mr. President, I yield back the remainder of my time.

Mr. TAFT. Mr. President, I am willing at this time to yield back the remainder of my time on the amendment so that the substitute can be offered.

Mr. MANSFIELD. Mr. President, I yield back the remainder of the time on this side.

Mr. MAGNUSON. Mr. President, would the distinguished majority leader withhold his yielding back of time?

Mr. MANSFIELD. Mr. President, I withhold yielding back my time.

Mr. MAGNUSON. The substitute will be upon the first amendment that the Senator from Ohio is discussing?

Mr. TAFT. The Senator is correct. That is amendment No. 987.

Mr. MAGNUSON. And the other amendment which deals with the governors' options is not part of the substitute.

Mr. TAFT. The Senator is correct. The effect of the substitute would be merely a delay in the effective date until October.

Mr. MAGNUSON. The Senator will offer the substitute.

Mr. TAFT. The Senator is correct.

Mr. MAGNUSON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. BARTLETT. Mr. President, I call up my amendment, No. 993.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. BARTLETT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is as follows:

On page 1, between lines 2 and 3, insert the following:

"TITLE I—FAIR LABOR STANDARDS AMENDMENT".

On page 1, line 4, strike out the word "Act" and insert in lieu thereof the word "title".

On page 1, line 7, strike out the word "Act" and insert in lieu thereof the word "title".

On page 51, line 14, strike out the word "Act" and insert in lieu thereof the word "title".

On page 51, line 20, strike out the word "Act" and insert in lieu thereof the word "title".

On page 51, after line 20, add the following new title:

"TITLE II—AMENDMENTS TO THE EMERGENCY DAYLIGHT SAVING TIME ENERGY CONSERVATION ACT OF 1973

"TERMINATION OF EMERGENCY DAYLIGHT SAVING TIME

"SEC. 201. Section 7 of the Emergency Daylight Saving Time Energy Conservation Act of 1973 is amended by striking out 'April 1975' and inserting in lieu thereof 'October 1974'."

Mr. BARTLETT. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the names of the distinguished Senator from Iowa (Mr. CLARK), the distinguished Senator from Ohio (Mr. TAFT), the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), the distinguished Senator from Kansas (Mr. DOLE), and the distinguished Senator from South Carolina (Mr. THURMOND) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. Mr. President, I would like to point out that I will listen intently to the Senator when he discusses his amendment here. I will be hopeful that if something can be worked out, we will not need a rollcall vote.

I want to get the Senator's word that, if possible, this amendment will be worked out and we can ask unanimous consent to dispense with the rollcall vote.

Mr. BARTLETT. Mr. President, there were several Senators who wanted a recorded vote on this. That is the only reluctance I have. I know some Senators feel very strongly and want to cast their vote for it.

Mr. MAGNUSON. Mr. President, we have rollcall votes on every thing after it has been accepted. I was here one day when the manager of the bill accepted an amendment to provide that the comma was on the wrong line. They had a rollcall vote on that.

Mr. President, I hope we can dispense with this and work something out. However, let us go along and see how it works out.

Mr. BARTLETT. Mr. President, the distinguished Senator from Iowa, the distinguished Senator from Ohio, and I met recently with two members of the Federal Energy Office to discuss daylight saving time. We discussed the matter with them for probably an hour and 15 minutes. We came away from that meeting convinced that this amendment should be adopted.

This will limit the experimental year-round daylight saving time to 1 year if adopted. We will continue the daylight saving time for the balance of this winter and then continue with regular summer daylight saving time which ends the last Sunday of October. However, if enacted, this amendment would eliminate daylight saving time next winter. The merits and demerits of winter daylight saving time are debatable. We may or may not have a miniscule amount of energy savings. My report from the Oklahoma Gas & Electric Co. indicate that they believe there is a possibility that more energy is required because of the daylight saving time in the winter months of January and February. However, they feel that the amount is so small that it is difficult to say one way or the other.

The Public Service Co., the other electric utility, said that they could not tell whether there was any savings or not because of daylight saving time.

The reports from other sections of the country are conflicting. Traffic casualties caused by daylight saving time may or may not be rising. Again, different areas of the country report different statistics.

Mr. President, one thing is irrefutable. The people of this country do not accept daylight saving time as a means of saving energy, if, indeed, there is any savings in energy at all. They, like I, can listen to arguments about how much energy is saved and yet come away unconvinced. They, like I, listen a bit incredulously to suggestions that our children are as safe waiting on a school bus and walking to school before dawn. Regardless of traffic fatality statistics which are down throughout the Nation because of less driving, slower speeds, weather, and so forth, I believe it is reasonable to agree that going to or from school in the dark is more hazardous than going to or from school in the daylight.

Mr. President, by instituting a winter daylight saving time, and disrupting all our lifestyles, the burden is on the Government to prove the value of the experiment.

The American people do not mind sacrificing if the results are obviously beneficial.

If energy savings are required, the American people prefer some other way. For example, in Los Angeles, where they had a real power shortage of electrical energy, they have saved by various means 17 percent. This was because they had to do it, and they did it. So this country can save electrical energy in other ways than daylight saving time, if it is in actuality creating any savings.

Mr. President, we should continue daylight saving time for the rest of this winter. We are now through the shortest days of the winter, and are rapidly approaching the time when daylight saving is beneficial. The Sun is now rising almost an hour earlier than on January 1st of this year. To stop it now would require people to change their schedules when the law is enacted and then change again, perhaps just a few weeks later in April, when daylight saving time for the summer begins.

I urge that this amendment in the nature of a substitute be accepted. Passage will not mean the irretrievable loss of winter daylight saving time. It just means that the burden of proof is shifted, and it would be shifted to those in the Federal Energy Office and those who support it to prove to Members of Congress and the American people that there is true value in this sacrifice. If this burden is met, we can reinstate the program.

Mr. President, the American people have told us what they want, and I believe that it is our duty to respond.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. Mr. President, I think the answer is relatively simple. We have a habit of doing everything the wrong way. It stands to reason that the original jurisdiction on daylight saving time belongs to the Commerce Committees of the House of Representatives and the Senate, and the bill we are dealing with today deals with the minimum wage, which comes under the jurisdiction of the Committee on Labor and Public Welfare.

They have a rule in the House of Representatives that amendments that are irrelevant to the subject matter are subject to a point of order. So we are wasting a lot of time here debating these questions, and then they brush them aside in 5 minutes once the matter gets to conference.

If we wish to change the 2-year limitation on daylight saving time around the calendar, why does not someone introduce a bill on the merits of that particular case, and not fuss around with it when we are talking about increasing the minimum wage to $2.20 an hour for our workers, so that it will be more profitable for them to go to work rather than going on social welfare?

I will say very frankly, I think that if we do pass this amendment, when it gets to the House it will not stand up even for 5 minutes. On a point of order it will be knocked out; I make that prediction. All we are doing here is wasting time on nongermane amendments, when we have very important business before the Senate, that is, doing something for the workers of America.

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. I am ready to make a motion to lay on the table, Mr. President, when time on the amendment is yielded back.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I shall take just half a minute.

I have assured the Senate many times during the hearings that in September we would take a look at how this bill was working, and we would be prone to take action if we thought we needed to change the time limitation. Now this proposal comes along, which means that we will have to have oversight hearings anyway, and if we decide the facts are as I think they are, we will have to turn it around and get everybody in the country all upset again.

I do not see any reason for this amendment being on this bill. I, too, think it was quite unfair that no one was here when the unanimous-consent request was made, and this was put, by unanimous consent, into a wage and hour bill. If anyone had been notified, we would have objected to it and said, "Bring it up as a bill."

I shall hold some hearings, on how this worked if it did work, and we will have all our facts by then. I am just hopeful, as the Senator from Rhode Island has said, that the Senate will not do business this way.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I certainly agree, as one of the managers of the wage and hour bill before us, that this nongermane amendment, which is not relevant at all to what we are doing with the bill before us, raising the minimum wage, should be rejected. To have this imposed upon that bill would certainly delay action, confuse the matter, and we could not predict with certainty just when we would be able to bring to the lowest-paid workers this little bit of relief in these tough inflationary times.

The Senator from Rhode Island has predicted that this provision would go out on a point of order. Ultimately that question would be raised in the House of Representatives, there is no doubt about it. But before it finally got there, I will tell you, this would be a confusing factor that would waste time, time and time again, and I would say that if that motion to lay on the table is made, it should overwhelmingly prevail, if we are intent upon dealing with the subject matter before us efficiently now.

It must be remembered that this minimum wage bill has been before us now for 3 years. We have passed this bill before. It has been vetoed, and in fact we have made adjustments with the hope that it will not be vetoed this time. It is long overdue, and this particular extraneous amendment will certainly cloud the whole objective over, and we do not know exactly when we would get the desired results.

The PRESIDING OFFICER. Who yields time?

Mr. BARTLETT. Mr. President, this amendment, if it is adopted, will give ample opportunity for the Committee on Commerce to have oversight hearings to fully consider the results of studies that have been undertaken as to whether in fact there have been savings under the winter daylight saving time program, whether in fact there have been youngsters put in peril because of the daylight saving time program, and other aspects of it.

What this amendment would do is shift the burden of proof to those who support winter daylight saving, to show that it in fact has worked; 98 percent of our mail indicates that the people of Oklahoma do not want winter daylight saving time as a means of saving energy, because, first, it is very questionable, and second, it is a hazard to the youngsters, and certainly it creates inconvenience for all.

I talked recently with the Superintendent of Schools of one of our two major cities, Tulsa, and he indicated that the additional bill for energy for the school system was very large because of the daylight saving time program. More classrooms had to have light more often; they had to light the parking area; they were unable to buy more buses and improve their transportation system, so many of the parents are taking the younger schoolchildren, in kindergarten and the lower grades, to school, and thus using more energy than would otherwise be used.

So I feel that this experiment has not worked. But perhaps the more important thing is that I am convinced that people across the country do not want it, and I think this is what representative government is all about.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. Mr. President, I am not surprised at the argument made by the distinguished Senator from Oklahoma. I do not question the merits of his argument. All I am saying is that we are making the effort on the wrong bill.

The problem the Senator cites we have had all along, ever since we enacted the law; why wait for a minimum wage bill in order to get at the problem of daylight saving time?

Under the original law, the bill we passed provided for a report by June 30. The Senator's amendment provides we are going to have daylight saving time anyway until the 30th of October. So let us wait until June 30, and see what they say. If it has not worked out, I will be the first to vote for its repeal. All I am saying is, this is a useless effort, for the reason that we will get into a jurisdictional problem in the House, a point of order will be raised, and all this effort will go for naught. That is the reason I feel it is the wrong amendment at the wrong time and on the wrong bill.

At the proper time, I shall move to lay it on the table.

Mr. JAVITS. Mr. President, I should like to sustain the position of the Senator from Rhode Island (Mr. Pastore) and the Senator from New Jersey (Mr. Williams) and others who have argued that this is the wrong bill on which to drive for this amendment—for two reasons: One, we have momentum in the minimum wage bill now. We have been blocked, as everyone knows, by the youth differential problem, although that has not been resolved to everyone's satisfaction, but I have the instinctive feeling that the bill now has momentum because we have overstayed our time on raising the minimum wage, and even the President's letter on this subject recognizes that fact.

I think the momentum will be blocked and perhaps permanently lost if we get into a side jurisdictional squabble like this one, as the Senator from Rhode Island (Mr. Pastore) has just so eloquently stated.

That is reason No. 1 which is conclusive. Those who want the minimum wage bill—and many do not—but for those who want it, whatever they may think about daylight saving time, they should vote to table.

The second point, and equally important, is this: If we want to get a nongermane amendment onto a bill, at least pick a bill of the committee which has the jurisdiction. Then there is always the possibility that we can work it out with the House. But to put it on a bill to which it is not germane and pick a committee which has nothing whatever to do with daylight saving time, makes it impossible. So that if we lock it in, we absolutely block something that could go. I am speaking now to those who favor the amendment repealing daylight saving time. We do not even do that efficiently because we are putting it on a bill with a committee that has no jurisdiction. So I say, pick an interstate commerce bill if we want to try that gambit, but they are not even doing that.

Mr. MAGNUSON. If we look at the calendar on any given week, we will find it loaded with bills from the Commerce Committee. We have said over and over again that before this ends we would have full-fledged hearings on this particular subject. We told the Department of Transportation to report not later than the 1st of July. So I do not know what this is or why we use this sort of tactic, particularly when we will have all kinds of trouble over there with what is in the minimum wage bill, let alone having something on it that does not belong.

Mr. JAVITS. That is exactly right. We all know around here—it is said every day a hundred times—that we all know how to count, so there is no use in my appealing to those who are against the minimum wage bill. I do not question their good faith or sincerity. I am appealing to those who are for the bill and we seem to be two-thirds of the Senate. So let us not kill it. Let us support the Pastore motion.

Mr. PASTORE. Mr. President, I move to lay it on the table.

Mr. TAFT. Mr. President, there has been a lot of comment made on the procedures to follow, but the fact is that this measure is sound. It is wanted badly by the people. It is wanted by a 2-to-1 margin, in my constituency at least. When we think of most other people in the country wrestling with this problem, we believe it is proper to bring it up now under the procedures of the Senate. It is here to be voted on. There are people who do not want to vote on it. If we do, as the Senator from New Hampshire has already indicated, on the great problems we have with daylight saving legislation, the House may or may not, in view of public pressure involved on this particular issue, decide to question the germaneness. I do not know how the rule would work out at that point, but this procedure has been followed many times. It is true, there are many bills from the Commerce Committee on the calendar which may come up. I dare say, consistent with the position taken by the distinguished chairman, he would oppose setting up this measure to any bills from the Commerce Committee just as he opposes attaching bills to any other committee at this time.

Mr. MAGNUSON. We have until September to bring it up.

Mr. TAFT. That is correct. But the time will go back into effect in October and the hardship will begin in October. With the controversial nature of this, it is none too early to bring up this measure and put it to a vote.

The PRESIDING OFFICER (Mr. Hathaway). Who yields time?

Mr. MAGNUSON. Mr. President, I yield back my time.

Mr. PASTORE. Mr. President, I think we have said everything that needs to be said.

Mr. BARTLETT. Mr. President, I yield back the remainder of my time.

Mr. PASTORE. Mr. President, I move to lay it on the table.

Mr. TAFT. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Would the Senator from Rhode Island state which amendment he moves to lay on the table?

Mr. PASTORE. Amendment No. 987 together with the substitute, amendment No. 993.

The PRESIDING OFFICER. The question is on the motion to table the amendment of the Senator from Ohio (Mr. Taft) (No. 987), which would carry with it the amendment of the Senator from Oklahoma (Mr. Bartlett) (No. 993).

On this question the yeas and nays have been ordered and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion of the Senator from Rhode Island (Mr. Pastore) to lay on the table the amendment of the Senator from Ohio (Mr. Taft) (No. 987) which would carry with it the amendment of the Senator from Oklahoma (Mr. Bartlett) (No. 993).

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. Biden), the Senator from Indiana (Mr. Hartke), the Senator from Kentucky (Mr. Huddleston), and the Senator from Colorado (Mr. Haskell) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Mathias), the Senator from Maryland (Mr. Beall), the Senator from Texas (Mr. Tower), and the Senator from Tennessee (Mr. Brock) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. Weicker) is absent due to death in the family.

The result was announced—yeas 48, nays 43, as follows:

[No. 60 Leg.]

YEAS—48

Aiken
Baker
Bayh
Bellmon
Bennett
Bible
Brooke
Buckley
Cannon
Case
Cotton
Cranston
Domenici
Eagleton
Fong
Fulbright
Gravel
Hansen
Hart
Hatfield
Hathaway
Hughes
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
McGee
McIntyre
Montoya
Moss
Muskie
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Scott, Hugh
Stafford
Stevenson
Symington
Tunney
Williams

NAYS—43

Abourezk
Allen
Bartlett
Bentsen
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Clark
Cook
Curtis
Dole
Dominick
Eastland
Ervin
Fannin
Goldwater
Griffin
Gurney
Helms
Hollings
Hruska
Humphrey
Long
Mansfield
McClellan
McClure
McGovern
Metcalf
Metzenbaum
Mondale
Nelson
Nunn
Schweiker
Scott, William L.
Sparkman
Stennis
Stevens
Taft
Talmadge
Thurmond
Young

NOT VOTING—9

Beall
Biden
Brock
Hartke
Haskell
Huddleston
Mathias
Tower
Weicker

So the motion to table was agreed to.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PEARSON. Mr. President, 36 years ago, Congress, in approving the Fair Labor Standards Act, endorsed the fundamental principle that the American worker ought to receive a decent living wage. With the passage of this law, a wage floor was established for millions of American workers. From time to time in the intervening years, we have increased the minimum wage and broadened its coverage, guaranteeing that increasing numbers of working Americans will no longer have to endure poverty.

Today, the Senate considers raising the minimum wage from $1.60 to $2.20 per hour for almost 50 million workers presently covered under the act. In addition, we propose that FLSA coverage be extended to many millions more low-paid workers. As in times past, opponents to the legislation have raised the specter of spiraling inflation, increased unemployment and severe financial loss if this bill is passed. Yet, the record will show that each time the wage floor has been increased, none of these dire predictions have materialized.

Mr. President, as in the past, I intend to support an increase in the minimum wage and an expansion of wage and overtime coverage. I take this action, because I am convinced that no American should be required to work full time for wages which fail to equal or surpass the poverty level. In 1966, the last time an increase in the minimum wage was approved, a floor of $1.60 per hour was sufficient to provide a decent income. But in the last 8 years, the Consumer Price Index has risen 42.5 percent. We find that the person working for a minimum wage, 40 hours a week, 52 weeks a year, is not earning enough to place him above the poverty level. The bill we consider today will help the low-income worker make up much of the ground he has lost while opponents of this bill have argued against its passage. Support of this bill is a vote to provide a decent standard of living for approximately millions of low-paid workers in this country.

Much of the debate on this bill has centered on the so-called youth differential amendment, which would provide a subminimum rate for workers under 18 years of age. Although the amendment's sponsors have modified it to prevent a young worker from receiving such a wage for more than 6 months, I believe the consequences of passing such a proposal would create much confusion and unrest in the labor market.

The proposal would encourage employers to hire young workers and ignore equally qualified workers over 18 who have, quite often, more responsibilities than their younger counterparts.

The proposal would attract young workers to menial jobs with little opportunity for advancement, and it would also encourage school nonattendance and dropouts.

Finally, the subminimum rate would add to the instability of work programs of minors by encouraging a constant turnover of so-called cheap labor.

Under the present minimum wage law, a full-time student may work in a retail or service job at 85 percent of the minimum wage for 20 hours a week. During vacations and holidays they may work full-time at the foregoing rate. An added condition is that such persons must receive a certificate from the Department of Labor that their work does not replace an adult.

The bill now being considered would add education institutions to retail and service jobs.

Mr. President, this is neither the first nor the last time we shall debate over the minimum wage. We must recognize that the wage structure of this Nation has changed and will continue to do so. In my judgment, this bill is justified in the wake of 8 years of inflation and a generally rising standard of living for all, but the lowest-paid Americans. For those who stand to gain from this legislation, the increase in earnings could be the difference between a decent diet or malnutrition, adequate or substandard housing, and the dignity of useful pursuits or welfare.

The principle behind the minimum wage is sound, providing substance to the promise of prosperity. Its practice is long established in our Nation, one which takes pride in the rewards and dignity of honest work. I am convinced that the increase and expanded coverage contemplated in this legislation is justified and necessary at this time.

MINIMUM WAGE BILL—PROMISES TO KEEP

Mr. HUMPHREY. Mr. President, the Fair Labor Standards Act of 1938 held out to the American worker the promise of wages and working conditions that would permit "the maintenance of the minimum standard of living necessary for the health, efficiency, and general well-being of workers."

It is with this fundamental covenant between the Government and our Nation's working people clearly in mind that the current minimum wage bill must be viewed.

Regrettably, and despite the heroic efforts of the able chairman of the Committee on Labor and Public Welfare, Mr. WILLIAMS, the Government has broken its promise, shattered its covenant, and failed to provide a minimum wage that even approached a living wage. Due to the effective opposition of the Nixon administration and its business friends, the minimum wage has degenerated from a "well-being" assuring wage to a "welfare" assuring wage.

Rather than serving as a floor on wages to protect workers from poverty, the minimum wage has become a guarantee of poverty itself. The current $1.60 per hour minimum wage level will gross a full time worker a mere $64 per week or $3,200 per year. For the head of a family of four, this income level is $1,300 less than the official poverty level and leaves this working poor family eligible for welfare. Those who howl most about swelling welfare rolls and the demise of the work ethic, can begin to reinstate the work incentive for low-income people by supporting this modest legislation.

There can be no question that a rise in the minimum wage level is long overdue. Eliminating all of the other valid arguments relating to productivity gains, wage levels in the general economy, and the like, the proposed wage level in this bill is fully justified simply because of the devastating effects of inflation in the last 5 years. Those working at the minimum wage level have seen the real purchasing power of their paychecks plummet disastrously.

Since the last increase in the minimum wage took effect in February 1968, inflation has soared by more than 35 percent, reducing the real value of the minimum wage from $1.60 to $1.19. In other words, the worker earning the minimum wage has lost 40 cents worth of goods and services for each hour he works because of inflation alone, compared to 1968. Workers on minimum wage are unquestionably much worse-off in 1974 than they were in 1968. The Nixon years have been exceedingly hard on the working people.

While passage and enactment of the minimum wage bill before us will help to bring this wage level closer to its purchasing power in 1968, it will not achieve that modest end. The $2 level is a mere 25-percent increase in wages, while inflation has risen well over 35 percent. Even when the $2.20 level is achieved, given inflation expectation this year, workers under minimum wage will not have restored their 1968 purchasing power.

More specifically, between February 1968 and March 1975, the earliest possible effective date for the $2.20 minimum wage, inflation will have eaten away 42 to 45 percent of its real value. This means that the value of the $2.20 minimum wage is equivalent to about $1.52 in 1968 dollars. It is a sad commentary on conditions in our country today when the only way we can get a minimum wage bill enacted is by accepting a deterioration in its real value as part of the compromise.

The bill does break important new ground by extending coverage to 7 million additional workers. These include certain types of farm workers, domestics working in private homes, Government workers, and those employed in retail and service establishments. It is time that these workers were assured the modest wage levels of the minimum wage law.

Mr. President, over the year I have become convinced that we must provide that the minimum wage be adjusted annually to reflect cost of living increases and productivity gains during the prior year. It is incongruous that Federal employees, many union workers under labor contracts, and our social security recipients, receive such protection, while the working poor, perhaps the least able to do so, are asked to face it alone.

With this situation in mind, and with full knowledge of its importance, I have asked Senator WILLIAMS to have his committee staff undertake a major study of this proposal during the coming year. The chairman has informed me that he fully agrees that such a study is needed and will move ahead promptly to see that it is undertaken.

I ask unanimous consent that my correspondence with Senator Williams on this proposal be printed at the end of my remarks.

Mr. President, I urge all of my colleagues to join me in supporting this legislation. It is time the covenant between the Government and our workers, established in the Fair Labor Standards Act, be restored and the promise it held fulfilled.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

FEBRUARY 21, 1974.

Hon. HARRISON A. WILLIAMS,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to learn that your Committee soon will report another Minimum Wage Bill. No one can responsibly object to increasing wages for those at the lowest end of the Nation's wage scale, given the time that has passed since the last increase, productivity gains in that period, and the decline in real wages caused by continuous high inflation.

However, if the extraordinary rate of inflation of the past year continues in 1974, or increases, as most economists predict, the real value of the minimum wage increase will be substantially reduced.

As I said last July when the Minimum Wage Bill was debated in the Senate "the time has come for Congress to address the need to continually adjust the minimum wage to economic reality." As we make substantial progress in extending the coverage under minimum wage to all American workers, I believe we must also focus increasingly on protecting the "purchasing power" of those working under the minimum wage.

In this regard, I think it would make a great deal of sense to have your Committee carry out an in-depth study of this subject during the next year. Such a study would focus on how to assure that productivity gains and the inroads of inflation are reflected, as soon as practicable, in the National Minimum Wage level. The report would conclude with specific legislative proposals to achieve this objective.

I would appreciate knowing what you think of this idea. Obvously, I would strongly support any effort you might make to secure the funding needed to undertake the proposed study.

Congratulations on the new Minimum Wage Bill and good luck in your efforts to have it enacted.

Sincerely,

HUBERT H. HUMPHREY.

MARCH 5, 1974.

Hon. HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR HUBERT: I appreciate your thoughts on the need to protect the purchasing power of those working at minimum wages and recall your desire last year to incorporate a mechanism in the Fair Labor Standards Amendment to achieve that goal. Our concern at that time, as it is now, was that the inclusion of an automatic cost of living type escalator might deter future efforts to broaden coverage for those not yet protected by the Act. Your suggestion, however, that a study be undertaken this year, strikes me as very helpful. Such a study would also enable us to consider carefully the best method of marrying such an automatic increase mechanism with universal coverage.

I have directed the staff of the Subcommittee on Labor to explore this matter further with your staff and I appreciate your offer of assistance if additional funding would be necessary.

I look forward to visiting with you further on this issue.

With warm personal regards,

Sincerely,

HARRISON A. WILLIAMS,
Chairman.

Mr. HUGH SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUGH SCOTT. What is the pending question?

The PRESIDING OFFICER. The pending question recurs under the previous order for the consideration of Senator TAFT's amendment No. 986.

Mr. HUGH SCOTT. Mr. President, will the Senator from Ohio yield to me for 1 minute?

Mr. TAFT. I am glad to yield.

VISIT TO THE SENATE BY MEMBERS OF THE WESTERN EUROPEAN PARLIAMENTARY UNION

Mr. HUGH SCOTT. Mr. President, we have in the Chamber a number of distinguished gentlemen, who are members of the Western European Parliamentary Union. [Applause, Senators rising.]

I ask unanimous consent that the Senate stand in recess for 5 minutes in order that the Senators may greet their colleagues from Western Europe.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Thereupon, at 2:28 p.m., the Senate took a recess until 2:33 p.m. During the recess the members of the Western European Parliamentary Union were greeted by Members of the Senate.

On expiration of the recess, the Senate reassembled and was called to order by the Senator from New Mexico (Mr. DOMENICI).

FAIR LABOR STANDARDS AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 2747) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to expand the coverage of the act, and for other purposes.

Mr. TAFT. Mr. President, I withdraw my amendment, No. 986.

The PRESIDING OFFICER. The amendment is withdrawn.

The bill is open to further amendment.

Mr. DOMINICK. Mr. President, I send an amendment to the desk, in behalf of myself and the Senator from Ohio (Mr. TAFT), and ask that it be stated.

The PRESIDING OFFICER. The amendment will be read.

The second assistant legislative clerk read the amendments, as follows:

On page 16, strike lines 17 and 18 and insert in lieu thereof "be less than $200 in any calendar quarter.".

Beginning on page 16, line 25, strike through line 2 on page 17 and insert in lieu thereof "for such work would be less than $200 in any calendar quarter.".

Mr. DOMINICK. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOMINICK. Mr. President, for the benefit of those colleagues who are here and who have not taken the easy way out so they do not have to listen to the debate, I want to say I am not going to be taking more than 10 minutes. This amendment is somewhat repetitive of an amendment I offered before dealing with domestics.

As I said, the bill as reported out of committee requires that a minimum wage be paid to a domestic who receives more than $50 in a quarter. All one has to do, Mr. President, is divide that amount by the number of weeks in a quarter, and he will see it averages out to $4 a week.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. PASTORE. Would not the Senator want the manager of the bill on the floor while he is making his debate?

Mr. DOMINICK. I would like to, but I do not much care, because they are going to vote the amendment down. If he wants to be here, fine.

Mr. PASTORE. I was going to suggest the absence of a quorum. If the Senator does not care, it makes no difference to me.

Mr. DOMINICK. I will be happy to yield.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. PASTORE. On the time of the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DOMINICK. Mr. President, I thank my friend from Rhode Island. I yield myself 10 minutes, as I said earlier. I hope to get to a vote in 15 minutes, for I expect the Senator from New Jersey is not going to debate this amendment very long.

This amendment is similar to my amendment No. 290—or, I should say, 990. I beg the Senate's pardon. We have had so many amendments, that I cannot remember the hundred's. But, for the benefit of the Senate, the amendment is similar to amendment No. 990, with a technical change.

I argued the question of domestics at some length the other day, and when we put it to a vote, I got defeated. I presume I will be defeated again. But just for the record, I think I should put my principal reasons for offering this amendment into the RECORD.

The bill as reported by the committee requires only that one pay a domestic, whatever a "domestic" is, it is not defined in the bill, $50 a quarter. If we divided that amount by the number of weeks in a quarter, we come up with something like $4 a week. That means if one tries to help his neighbor's son by having him mow the lawn, or if he has a favorite babysitter because she happens to be a friend of his daughter, and he hires her 2 or 3 times in the process of a quarter, he not only has to pay the minimum wage, but he also has to file reports with the Department of Labor. The net effect of that is going to be that he does not hire his neighbor's son. He mows the lawn himself.

The net effect is that one does not have a "babysitter." He gets a friend to take care of the household while he is away so that the household will not be run over either by the kids or by someone from outside.

In the end the net effect is a massive disemployment of domestics. If we put in the $200 a quarter which I am suggesting, instead of the $50, we change the situation rather substantially. We are dealing with people who are in the business rather than somebody picking up money for school or for incidentals. We are dealing with someone who ought to be paid at least a minimum wage anyhow as a regular employee.

I personally do not know anybody—perhaps the Senator from New Jersey does—who does not pay at least a minimum wage. One would not have to worry so much about how much two hours sitting and looking at television is worth, or how much it is worth to have someone in and give them a couple of Coca-Colas. One does not have to worry about giving a glass of milk to someone if that someone happens to be a window washer on a hot day. We would require something that is much more tangible.

As I said, I do not expect that any amendment is going to be adopted. The Senator from New Jersey has done a fabulous job. So has the AFL-CIO. Apparently we are going on the basis that no amendments will be accepted. That is their privilege. That is their procedural right. If the majority in favor of the bill should succeed in getting the bill out of conference in its present form, the bill will go to the President and I confidently expect him to veto it again as he did last year. Once again we will be in a position where we are not giving a minimum wage to anybody.

What I have always believed, as part of my legislative job is that if there is a bad bill and I do not like the bill anyhow, I try to make it better. Otherwise I would be saying, "Let us do a whole lot of things. Let us bring in everyone else and put them all on a minimum wage whether they work or not. Who cares?"

As it is, I am trying to make a bad bill better. We have been unsuccessful in every single move that has been made and have been unsuccessful by a rather overwhelming vote.

This amendment is one, though, that has nothing to do with the degree of coverage. It has nothing to do with the question of paying overtime to State, Federal, and local employees which would overrule all the labor agreements that have been reached between the local municipalities over the years with their firemen and policemen.

It has nothing to do with any youth differential. It is just a very simple thing. It says that unless a domestic makes $200 in a quarter, an employer does not have to bother with all of these forms which I have described and he does not have to pay the minimum wage. It does not make any difference to me. I suspect that most Senators would have to file reports anyhow. I am not trying to mark the domestics out. I am not trying to say "No." I am trying to make a reasonable requirement out of it. I would hope that in the process of considering the bill we may do that. A number of people who are not listening to the argument, may 2 years from now read it in the Digest, although I doubt it, and then might say, "I wonder why we didn't do that."

What I am trying to do is to get some of the people who need something within the scope of the bill, and to keep out those who do not. This amendment follows that idea.

I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield myself as much time as I may require, within the limitations of the time on the amendment.

It is true that the amendment's basic subject matter has been dealt with. We have had a vote that the coverage of domestics should not change. The earlier amendment, as the Senator from Colorado says, is a change from the prior amendment that was defeated. A change, however, which has the effect, in substance, of approaching just what the last amendment did; that is, to cut out of coverage under the Fair Labor Standards Act of 500,000 employees, domestic workers, who otherwise, as a result of the bill, would be covered under the minimum wage law.

The approach is to change the test of coverage from the test that is applied to workers for coverage under social security to a new test of $200 in wages in any calendar quarter.

What this amendment does is to put a new dimension of bookeeping responsibility on those who employ domestics, whether they are housewives who want to be relieved of that part of the housework that the domestic will do, or whether they are working heads of households or are working women of the household who need someone to come into the home. They will, as a result of this new test for including them in terms of social security coverage, in terms of how much in a quarter the worker is making, come under a new quarterly test, an additional quarterly test, for minimum wage coverage.

There has been a lot of concern that we are adding a lot of bookkeeping problems to the lives of housewives and others who employ domestics. I do not believe we are. It seems to me that a woman who has the ability to balance her checkbook and manage her checkbook has ample ability to determine whether the earnings are sufficient to be covered under the minimum wage law. But if there is any concern about the ability to manage the coverage under the law, it is certainly complicated by this new approach, the new quarterly approach for a minimum wage basis.

That is not considered to be the compelling reason for rejecting this amendment. The compelling reason is the same reason why we voted to reject its predecessor amendment the day before yesterday; that is, those who work in the domestic service, we know, are truly at the bottom of the economic ladder of wage earners. That is No. 1. No. 2 is that the nature of their employment puts more burdens on them than on most other workers. I think the pattern of employment is to work in several households, so they have to go first to Chevy Chase on one day, to Bethesda on the next, and perhaps to Arlington or Alexandria on another day.

Just the transportation alone, to get to this kind of work, is a heavy burden. Beyond that physical, logistical problem that the domestic worker faces, he or she is faced with a history of lack of respect, in a sense, for the nature of the job. I will not say lack of respect for the individual, but it has been considered mean and menial work, and part of the reason for that is that this work has never been rewarded with a living wage.

We are trying now to establish the beginning of opportunity for people doing domestic work to earn for their labor enough to keep their bodies and souls together. And believe me, at these rates that is just about all that can be accomplished. The rate that we included in this measure, in this start-up provision for coverage of household domestics under the law, is $1.80 per hour. Multiply that out by the average week, and I will tell you, that produces an income for this family that is right on the borderline of poverty. I do not think it is enough, but we are faced with the realistic fact of life that for any coverage we are going to have to start low in order to get them included.

For these reasons, I again resist the amendment offered by the Senator from Colorado, and, with full respect for his personal application and dedication to his job. I differ with his viewpoint, though I certainly respect his conscientious work on the questions that come before our committee. As he has failed in the committee, with every right he brings the same questions here to the floor, though I hope that the Senate will reject his amendment.

I might say at this point, however, that the Senator from Colorado has suggested that we of the majority on the committee have been dogmatic since the beginning of our consideration of wage and hour legislation, the minimum wage bill. This is far from the fact. I do not want to describe it all now, but later on I will perhaps, if necessary, describe the changes that have been made in response to the hearing process and committee discussions, and since Senate action and the veto. Again and again we have had to come back. Mindful of the fact that we are way overdue in bringing up to date the minimum wage law, the 1966 act and its provision for $1.60 for the hourly minimum wage, now produces in real return what $1.43 was worth then. So we are way behind in bringing the lowest wage earners up to that minimum level again in these inflationary times.

Mr. DOMINICK. Mr. President, I yield myself 2 minutes. I just want to say to my distinguished Chairman that we did not hold any hearings on this bill this year at all. We have never gotten, as far as I know, any kind of a legal opinion on whether Congress has the right, under the Constitution, to regulate the wages of domestics. We do not have the right to apply fair labor standards unless the "intrastate" activity substantially affects "interstate" commerce.

The answer we get from the report is that this activity substantially affects interstate commerce because some domestic is supposed to be using a vacuum cleaner made out of the State.

That is about as thin as anything I have ever heard. If we can reach into every small town in this country and tell them what they ought to do about the wages of the people they employ in their own households, whether it is Springfield, Ill., or Julesburg, Colo., and do it legitimately, then I would say that there is no point in trying to have a Federal system any more. We might just as well run the whole Government out of Washington, and heaven knows we are doing a bad enough job now on that.

I would also say that the $1.80 figure which has been put out by the chairman will last for only 1 year. Then it goes to $2 and then to $2.20. This is the same method of computation that Senator Taft and I tried to put up, except that we went to $2.30, and the majority of the committee put that down and refused to accept it.

So any implication that we are trying to slow down the minimum wage increase, which is badly needed is, of course, wrong. It is a matter of fact, that if they had adopted Senator Taft's and my idea some 2½ to 3 years ago, the minimum wage would be higher now than is proposed in this bill. The committee bill got blocked originally in the House of Representatives. Then the next bill was passed in this body and then in the House of Representatives. We heard the same speeches as we have had on this bill. The bill went downtown and got vetoed, and the veto was sustained in the House of Representatives.

Senator Taft and I brought up a bill last fall for a minimum wage, and that was tabled, I think on the motion of the Senator from Rhode Island.

That is all right. All I am saying is that we have been trying to get a bill that will work and get passed, and we are not going to get it with this kind of action.

I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back——

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield myself 1 minute on the bill out of the time of the Senator from New Jersey (Mr. Williams), and not out of the time of the Senator from Colorado (Mr. Dominick), in order to identify myself with the arguments made by Senator Williams, which I strongly support.

The minimum wage for domestics has been a long time coming. The exemption in the bill with respect to casual babysitters and companions certainly seems to me to do even more than the limitation which would be imposed by this amendment. To do less than we are doing would not be apposite to the evils we are trying to cure.

I therefore hope very much that the amendment will be rejected.

Mr. TAFT. Mr. President, I have listened to the Senator from Colorado on this subject. It seems to me that he makes a great deal of sense.

I should like to make one point, that the $2.25 figure seems to me to be a reasonable one. I do not intend to belabor the interstate commerce problems here, but if we get down to the $50 figure, we can seriously jeopardize that part of the bill insofar as constitutionality of the interstate commerce clause is involved. The $200 figure would leave it in great jeopardy. I felt that coverage at all is subject to serious question under cases and laws which exist today, but the $200 figure shows an attempt to be reasonable.

It has been said that this bill is, somehow, a compromise bill. It has been amended and changed from the bill which went to the President last year. There have been two very minor changes in it. One is this particular provision and the $50 figure is the other, as I understand it, but I still feel that this is a totally reasonable proposal. The spirit in which it is being turned down is indicative, I think, of the unusual nature we are seeing of bills and amendments being offered to it.

THE YOUTH DIFFERENTIAL

Mr. DOMINICK. Mr. President, the current overall unemployment rate is above 5 percent. For youths 16 to 19 years of age, it is 14 percent. The rate for nonwhite youths in the same age category is much higher—31 percent. These figures, and their social implications, are alarming. But they are in fact understated, because they are based only on youths who are not looking for employment, either because they have tried, and are discouraged, or because they see all their friends out of work and are convinced no jobs are available. Insufficient data exist regarding the number of youths in this nonparticipating category, but there are undoubtedly enough to affect true unemployment rates considerably—particularly in the inner city areas.

These disquieting facts are attributable primarily to two things which occurred during the decade of the 1960's: First, the teenage population as a percentage of the total population increased from 9 to 13 percent. Second, Congress legislated a 60-percent increase in the minimum wage—from $1 to $1.60—an extended coverage to the teenage labor—intensive retail, service, and agriculture industries—the effect of which was to eliminate many marginal jobs held by teenagers. Congress cannot do anything about the first; it can and should do something about the latter.

I do not think it is any longer open to serious question that minimum wage increases operate to reduce job opportunities for teenagers. Teenagers have substantial disadvantages in competing with adults for jobs. They are unskilled and inexperienced; their job search is limited geographically—close to home or school—they need part-time or temporary work compatible with school schedules; they are eligible for the draft; and for a variety of reasons, they have a high turnover rate. Consequently, whenever changed economic conditions—an increase in the minimum wage, for example—exert pressure on employers to reduce labor costs, jobs held by teenagers are among the first to go.

There is general agreement among the experts that minimum wage increases result in decreased job opportunities for low-skilled marginal workers—particularly inexperienced teenagers. The Labor Department's 1973 report to Congress on the Fair Labor Standards Act summarizes three recent studies analyzing the impact of minimum wage increases on youth employment. Each of the studies clearly indicates that youth employment is adversely affected by minimum wage increases.

Studies by Marvin Kosters and Finish Welch for the Rand Corp., Prof. Yale Brozen of the University of Chicago, David Kaun of the University of Pittsburgh, and Prof. John M. Peterson and Charles T. Stewart, Jr., of the American Enterprise Institute, amass convincing evidence that this is true. Professor Brozen's study showed that the ratio of teenage unemployment to overall unemployment increased from 2.5 in 1960 to 3.6 in 1968, during which time the minimum wage was increased from $1 to $1.60, and its coverage broadened considerably. The Kosters-Welch study concludes:

> Our evidence indicates that increases in the effective minimum wage over the period 1954–1968 have had a significant impact on employment patterns. Minimum wage legislation has had the effect of decreasing the share of normal employment and increasing vulnerability to cyclical changes in employment for the group most "marginal" to the work force . . . teenagers. Thus as a result of increased minimum wages, teenagers are able to obtain fewer jobs during periods of normal growth and their jobs are less secure in the face of short-term employment changes.
>
> Minimum wage legislation has undoubtedly resulted in higher wages for some of the relatively low productivity workers who were able to attain employment than these workers would have received in its absence. The cost in terms of lost employment opportunities and cyclical vulnerability of jobs, however, has apparently been borne most heavily by teenagers. And a disproportionate share of these unfavorable employment effects appear to have occured to non-white teenagers. The primary beneficiaries of the shifts in the pattern of employment shares occasioned by minimum wage increases were adults, and among adults, particularly white adult males.

Since the population growth of white teenagers is expected to decline to 5 percent over the next decade, their unemployment situation may become easier to deal with. But no relief is in sight for black youths. Their projected population growth for the remainder of this decade is 44 percent. The minimum wage increases proposed in S. 2747 as reported would diminish even further the employment opportunities of black teenagers. A study by Thomas Gale Moore, "The Effect of Minimum Wages on Teenage Unemployment Rates," published in the August 1971 issue of the Journal of Political Economy might be interesting to note here. He developed an econometric model based on available data which suggests that past Secretary of Labor Wirtz' proposal to increase the minimum wage to $1.80 in 1970, and to $2 in 1971 would have increased nonwhite teenage unemployment by 4.6 percent in 1971, 11.3 percent in 1972, 14.5 percent in 1973, and 15.6 percent in 1974.

The predictions of that econometric model based on the increases recommended in the committee bill are even more interesting. Dr. Moore testified before the committee last year that, in the absence of a youth differential provision, S. 1861 the bill passed last summer could cause a 21.9-percent increase in nonwhite youth unemployment rates, and a 7.1 percent increase in white youth unemployment rates by September, 1976.

Economist Milton Friedman describes the minimum wage law as "the most anti-Negro law on our statute books—in its effect, not its intent." Economist Paul A. Samuelson states the problem as succinctly as possible, in the form of a rhetorical question:

> What good does it do a black youth to know that an employer must pay him $1.60 per hour if the fact that he must be paid that amount is what keeps him from getting a job?

Congress recognized when it amended the Fair Labor Standards Act in 1966 that something needed to be done to soften the impact of minimum wage increases on teenage unemployment. A system was established under which employers in retail, service and agriculture who obtained certificates from the Labor Department could hire full-time students at 85 percent of the applicable minimum rate for up to 20 hours a week. Due to the narrow scope of that system, and the redtape involved in getting certificates, it has gone unused for the most part. The result, as current statistics demonstrate, is that it has been ineffective in reducing youth unemployment.

Opponents of a youth differential system point to the relatively low utilization rate of hours authorized under the existing certification system, and conclude that teenagers will not accept jobs for less than the minimum wage.

While it is true that only about 42 percent of the total hours authorized under certificates were utilized in 1969, the unwillingness of teenagers to work for subminimum wages was not the primary reason. Employers were surveyed by the Labor Department, and the most frequent reason they gave for underutilization was simply that no jobs were available. Other reasons given were that the work of teenagers is unsatisfactory, and the burdensome recordkeeping requirements and redtape involved in getting certificates. In order to minimize redtape, many employers requested authorization for the maximum hours to which they were entitled, even though they did not have sufficient job openings to utilize them completely.

The bill would essentially do nothing to reduce the high youth unemployment rate, or to lessen the adverse impact of the bill's large increases and extensions of coverage on youth unemployment.

The effect of a youth differential provision would be to preserve job opportunities for students and teenagers which would otherwise be eliminated when existing minimum wage rates are increased. It is not a question of displacing adult workers. It is a question of whether marginal jobs are held by teenagers and students working part-time, or whether such jobs are simply eliminated.

In any event, I think that the need to do something to reduce youth unemployment is so imperative that the youth differential concept should be tested now. Its effect can be assessed when minimum wage legislation is again reviewed.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado (Mr. Dominick).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. Chiles), the Senator from Arkansas (Mr. Fulbright), the Senator from Michigan (Mr. Hart), the Senator from Kentucky (Mr. Huddleston), and the Senator from Washington (Mr. Magnuson) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) would vote "nay."

Mr. HUGH SCOTT. I announce that the Senator from Kentucky (Mr. Cook) and the Senator from Michigan (Mr. Griffin) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. Weicker) is absent due to death in the family.

The result was announced—yeas 36, nays 56, as follows:

[No. 61 Leg.]

YEAS—36

Allen
Baker
Bartlett
Bayh
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Cotton
Curtis
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Gurney
Hansen
Haskell
Helms
Hollings
Hruska
Long
McClellan
McClure
Nunn
Roth
Scott, William L.
Sparkman
Stennis
Taft
Talmadge
Thurmond
Tower
Young

NAYS—56

Abourezk
Aiken
Beall
Bellmon
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Case
Church
Clark
Cranston
Dole
Domenici
Eagleton
Gravel
Hartke
Hatfield
Hathaway
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Tunney
Williams

NOT VOTING—8

Chiles
Cook
Fulbright
Griffin
Hart
Huddleston
Magnuson
Weicker

So Mr. Dominick's amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 975

Mr. BUCKLEY. Mr. President, I call up my amendment No. 975.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

The amendment is as follows:

On page 36, beginning on line 9, strike out through line 10 on page 42, and insert in lieu thereof the following:

EXPANDING EMPLOYMENT OPPORTUNITIES FOR YOUTHS

Sec. 24. Section 14(b) of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows:

"(b)(1) Notwithstanding the minimum wage rate required by section 6(a)(1) or 6(b) any employer may, in compliance with applicable child labor laws, employ any employee—

"(A) to whom such rates would apply but for this subsection, and

"(B) who is (i) under the age of eighteen or (ii) eifhteen or ninteen years of age and either in his first six months of full-time employment or a full-time student,

at a wage rate which is not less than 85 per centum of the otherwise applicable minimum wage rate prescribed by such section or $1.60 per hour, whichever is higher.

"(2) Notwithstanding the minimum wage rates required by section 6(a)(5), any employer may, in compliance with applicable child labor laws, employ in agriculture any employee—

"(A) to whom such rates would apply but for this subsection, and

"(B) who is (i) under the age of eighteen or (ii) eighteen or nineteen years of age and either in his first six months of full-time employment or a full-time student,

at a wage rate which is not less than 85 per centum of the otherwise applicable minimum wage rate prescribed by such section or $1.30 per hour, whichever is higher.

"(3) The special minimum wage for such employees in Puerto Rico, the Virgin Islands, and American Samoa shall be 85 per centum of the industry wage order rate otherwise applicable to them, except that in no case shall special minimum wage be less than that provided for under a wage order issued prior to the effective date of the Fair Labor Standards Amendments of 1974.

"(4) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable.".

Mr. BUCKLEY. Mr. President, quite simply, my amendment is a youth differential amendment with which I am sure my colleagues are familiar. It was the absence of such a provision, among other things, which has caused a Presidential veto of this legislation twice before.

My amendment is a youth differential amendment which would permit the employment of teenagers at 85 percent of prevailing minimum wage rates, but not less than $1.60 an hour. Eighteen- and nineteen-years-olds could be employed at this differential for a period of only 6 months.

Last July, with a teenage unemployment rate of 14.5 percent, the Senate voted to deny teenagers jobs. Of course those of my colleagues who voted in favor of the Williams-Javits minimum wage bill did not deliberately contrive to promote teenage unemployment, however, had that bill not been vetoed by President Nixon, its implementation would have resulted in a rise in teenage unemployment just the same.

That is why, today with a January unemployment rate of 15.6 percent for teenagers, I am once again seeking the adoption of a youth differential amendment to the present minimum wage bill.

A 15-percent unemployment rate for American youth is a very serious reality and if the youth happens to be nonwhite, 30 percent gives an even more accurate view of the unemployment situation.

The youth unemployment situation is even more serious than these rates indicate. There is no doubt that these figures, bad as they are, understate the actual unemployment rates. Government unemployment statistics include only those who are actively looking for jobs. There are, however, a large number of teenagers who are so discouraged that they do not even bother to look for employment. One study estimates that, in addition to those listed as officially unemployed, at least another 20 percent of the minority teenagers in large urban areas desire work but are not actively seeking employment.

The need of teenagers for new employment opportunities is greater than ever, and it is now obvious that the Congress cannot sit back and hope that time and job training programs will solve the problem.

To me, Government-financed job creation programs are totally unacceptable and unable to cope with today's problem of teenage unemployment. First, Congress has an obligation to the American taxpayer not to spend vast sums of money for something that can be accomplished without such an expenditure. Second, we are not talking about a few thousand jobless people, but almost 1.5 million. The existing programs can provide no real solution for this many people, and I am strongly against creating a massive bureaucracy that would be necessary to deal with all the jobless teenagers. The track records of these programs themselves are the most damaging attack on the Government's training and job creation programs. That is, although the appropriations for these programs have gone from almost nothing in 1960 to $370,600,950 in 1965 to $974,513,506 in 1972, there has been no stemming of the increase in the teenage unemployment rates. The popular press has clearly documented the failure of such programs to move the participants into private, steady employment. Training programs have been notorious for training people for nonexistent jobs, or not training them at all. I cannot stress too many times that there is no substitute for real private-sector jobs. Such Government job training programs serve only as stopgap measures and fail to meet the underlying needs of young Americans seeking entry into the labor market.

I submit, Mr. President, that the youth differential provided for in my amendment is by far the most effective means of bringing our youths into a full productive participation in American life.

The current minimum wage of $1.60 an hour, and even the proposed ones of $2 and $2.20 an hour provide a very low income for a family of four. But instead of being an argument against low minimum wages and youth differentials, this is the strongest argument for them. The financial needs of a person who is married and supporting a family necessitate that he know how to keep a steady job and maintain a minimum level of productivity. But at what stage in life is a person supposed to attain this level of skill? Ideally, when his financial burdens are light—when he is still going to school, living with his family, or supporting only himself; that is, when he is a teenager.

The vast majority of those 16- to 19-year-olds are single, and many are still living with their families. For such a person, $1.60 an hour provides a yearly income of $3,200. This is considerably more than the Government-defined poverty level of $2,168 for a single person under 65 living in a city, and $1,976 for one living in the country. The teenager who earns approximately $1.60 is not living in abject poverty, and is not condemned to a low salary for the rest of his life. Instead, he is equipping himself to be able to earn a much larger income when he will need it. So precisely because a person trying to support a family of four on $1.60 or even $2 or $2.20 an hour has a very difficult time, no barriers should be placed before any young person trying to find his first job, which will give him the experience that will enable him to command a much higher wage later in life.

The serious lack of employment opportunities for our Nation's young people mandates that Congress take no action that might worsen this situation. And yet it has been proven that increases in the minimum wage cause increases in teenage unemployment. Perhaps no other economic fact of life has been so widely agreed upon by employers and economists alike, or so well documented. The congruent paths of minimum wage have been carefully charted and recharted by economists who have studied the evidence accumulated over 30 years of the rigid application of the minimum wage laws. Recently, Douglas K. Adie completed a study of the effects of minimum wage on teenage unemployment and concluded flatly: First, increases in the Federal minimum wage cause unemployment among teenagers; second, the effects tend to persist for considerable periods of time; and third, the effects seem to be increasing through time. This is verified by the steady 25-year increase in the teenage unemployment levels, matched with a steady increasing of the minimum wage.

What are the forces that make the minimum wage cause unemployment? The answer to this is simple, employers pay workers according to how productive they are. Most American workers are highly productive, and therefore earn considerably more than the minimum wage. But too many young men and women entering the job market for the first time, especially those from disadvantaged homes, lack the elementary job skills and work habits that enable them to hold a job and contribute to a worker's productivity. Some of these habits many of us take for granted such as getting to work on time, learning to give and take instructions, cooperating with coworkers, et cetera. Such habits can best be acquired through on-the-job experience.

Since many teenagers lack these habits and are not particularly skilled, they are only marginally productive. Therefore, they are the first to go when employers are forced to pay them more than their productivity will justify.

The social costs are enormous. Those teenagers not yet in the work force are kept out, and denied the opportunity to develop the skills and work habits so essential to their future success. Yale Brozen stated:

> The overall general effect (of minimum wage laws) in big cities is a bigger police problem, more juvenile delinquency, a problem of frustrated kids who are unable to obtain the initial training and skills they need so that they can move on to higher-rate jobs.

These teenagers become alienated and frustrated and blame the establishment for their troubles. Frankly, I would find it incredible that the Congress has continued its blind disregard of this documented connection between the minimum wage and youth unemployment; and I for one find it hard to defend the establishment because of its inflexible attitudes toward the minimum wage laws.

The unemployment situation is especially bad for minority group tenagers. They are the hardest hit by well-intentioned minimum wage increases because of their more disadvantaged backgrounds. By virtue of their admitted disadvantages minority teenagers are less apt to have the job skills and work habits that contribute to productivity. The teenage unemployment figures reflect this disparity in the growing gap between white and nonwhite unemployment rates.

How is it that the youth differential wage can generate so much opposition? What other legislation that is so certain to create employment for our Nation's teenagers can engender such animosity? What other legislation that promises to reverse the increase in the unemployment rates of our minority teenagers—at a time when that rate is nearly 30 percent—could arouse such opposition in this age of concern for the Nation's disadvantaged? This opposition is totally beyond me.

The arguments against a youth differential are very insubstantial, especially when weighed against the much-needed benefits that my amendment would bring. But somehow, people have found them convincing, so I will deal with them here.

In past floor debate over another youth differential amendment, the distinguished chairman of the Labor Committee said:

> That young person in the job market who is not a student and is doing the work of a man should be paid the wages of a man. It is a simple as that.

This statement highlights the two major weaknesses in anti-youth differential thinking. The first fallacy is thinking that teenagers have a choice of working for higher or lower wages, and the youth differential would force them to work for lower wages. One has only to look at the teenage unemployment figures—13.7 percent for white teens, 29.1 percent for non-white teens—to see that that is not the choice confronting nearly 1.5 million American teens. Why cannot we understand this idea? Unless we institute a youth differential these teenagers will not have a choice. With a differential they will at least have the ability to choose for themselves whether they want to work at a lower wage—as provided in my amendment—or remain unemployed. Either way, they cannot be worse off than they are now. An important economic study showed that 47 percent of the unemployed teenagers between 16 and 17 were willing to work for less than $1.60 and 96 percent were willing to work for less than $2 an hour. This means that economists Sam Levitan and Robert Taggart found that teenagers themselves have decided they would be better off with a youth differential wage than unemployed. I feel we have no right to ignore their wishes.

The second fallacy in the statement of the Senator from New Jersey was to assume that teenagers can do a man's work. This is the point that we have been stressing over and over again. Teenagers do not have the work skills of an adult, and if they are not able to find employment, they may never get them. No law forces employers to pay seasoned workers as much as they do. They are paid more because they are worth more. When those who are now teenagers reach the same skill level, they too will be better paid. But do not deny them the opportunity to develop those skills because of some misdirected humanitarian impulse.

In past debate on a similar amendment, we are now discussing, my colleague from New York raised a point which is also frequently used against youth differentials.

My distinguished senior colleague expressed the fear that adults would be thrown out of work by teenagers, if teens could be paid a lower wage. Of course, no one can guarantee that not a single adult worker would be displaced. But the misleading implication of the statement, "the father would be fired to hire the son" is that no new jobs would be created as a result of a youth differential. This is, of course, totally false, for it denies the dynamic nature of our economy. How many teenage jobs would my colleague from New York be willing to sacrifice for a single adult job—100, 1,000? I doubt that anyone could answer that, but it does put the trade-off we might be facing in its proper light. The only place we can look to predict a youth-adult job trade-off is the change in adult employment when youth employment dropped after increases in the minimum wage. If adult employment went up this could show adults filling jobs left by teens. From this the reverse might be predicted—increasing youth employment could lower adult employment. But this phenomenon is not found in the data. After the 33 percent increase in the minimum wage in 1956, when youth employment went from 11.1 percent to 15.9 percent, the general employment rate went up 2.7 points. The same results are found in looking at other times of minimum wage and teen unemployment increases. There is no pattern of overall employment staying the same or increasing, which would have meant a substantial adult-youth job trade-off. This result should not be surprising. Teenagers usually look for part-time, summer or very low-skill work, which while low in pay nevertheless provides important on-the-job experience. These low paying jobs tend to disappear when minimum wage levels are raised—thus only a youth differential will save many of them as training grounds for the young. They are almost never competing for the permanent, high-skill jobs that adults have. Close examination of this idea prohibits me from seeing it as a real argument against a youth differential wage.

So, what arguments remain for opposing a youth differential minimum wage? Nothing. And there are so many that ought to compel its adoption. Perhaps sitting here in this chamber, it is difficult to realize what unemployment means to the individual teenagers who make up the statistics I have cited. But although we are far removed from their situation, the hurt, the frustration, and the anger is very real. We would be nothing less than irresponsible if we turned our backs on this opportunity to help them.

I feel that the song "Masterpiece" by the musical group "The Temptations" captures something of what life must be for an unemployed teenager in one of our big cities:

Where I was born everything was dull and dingy,
I lived in a place called the inner city,
Getting ahead was strictly a no-no.
For no one cares about folks who live in the ghetto.

Thousands of lives wasting away—
People living from day to day.
It was a challenge just staying alive
For in the ghetto, only the strong survive.

Broken down homes, kids strung out,
They don't even know what life's about . . .

Muggings, drugs, rat-infested
And no one's interested.

It's an everyday thing in the ghetto.
It's an everyday thing in the ghetto.

Mr. President, in the legislation now before us we have the choice of condemning millions of American teenagers to the type of existence described in that song, or of giving them the opportunity to make for themselves the type of life I know all of us want for America's young people.

The step that Congress can take to ease the unemployment problem for youth, and especially minority youth, is clear—enact a youth differential.

Do not price teenagers out of the labor market. Give them the opportunity to work when they are young, learn how to earn decent wages when they are older, free from government handouts. Allow them to know that they can be successful, self-sufficient individuals.

As if to underscore its inability to meet the teenage unemployment problem head-on, last July, less than a week after its vote on the minimum wage, the Senate considered and passed, two emergency employment programs.

Mr. President, I ask unanimous consent that an article by Prof. Yale Brozen, entitled, "The effect of statutory minimum wage increases on teenage employment," which appeared in the April 1969 issue of the Journal of Law and Economics, be printed in the Record.

The PRESIDING OFFICER (Mr. Bartlett). Is there objection?

There being no objection, the article was ordered to be printed in the Record, as follows:

The Effect of Statutory Minimum Wage Increases on Teenage Employment*

(By Yale Brozen)

The effect of increases in statutory minimum wage rates on employment appears to be an unsettled question. Economic theory tells us that there are two possibilities. If labor markets for skills affected by minimum wage changes are competitive, the number of jobs decreases with an effective rise in the minimum which is not nullified by inflation. If, on the other hand, the labor markets for the affected categories are monopsonistic, no unemployment necessarily occurs. Employment may increase, provided that the rise in the minimum is not too drastic.[1]

Economic theory, therefore, gives no answer to the question of the employment effect of a minimum wage rise. However, we now have some experience with increases in statutory minima at the national level as well as changes in minima in a large number of states. Minimum rates were set by the Fair Labor Standards Act of 1938 at $0.25 an hour with provisions for further increases to $0.40 an hour. The Act was subsequently amended to raise rates to $0.75 in 1950, to $1.00 in 1956, to $1.15 in 1961 and to $1.25 in 1963 (with lower minima in newly covered occupations to reach $1.25 in 1965). The most recent amendment to the act raised minima to $1.40 in February, 1967, with a further increase to $1.60 in February, 1968 (with lower minima in newly covered occupations scheduled to reach $1.60 in 1971 except for agriculture where the minimum is scheduled to reach $1.30).

This experience should make it possible to offer some appraisal of the employment impact of this legislation. The appraisal is not easy. Many forces have been at work influencing wage rates and job opportunities at the same time that changes in national minima have occurred. Real wage rates have consistently increased in the American economy for at least a century, judging by the available data.[2] They have continued to rise since the passage of the 1938 Act and its successive amendments as well as before 1938. Money wage rates have increased even more than real rates.

Given this circumstance, increases in national statutory minima, to the extent they had any effect, may simply have hastened increases in some wage rates which would have occurred shortly anyway. In that case, the employment effects may be transitory. Increases in employment or in unemployment, depending on whether markets are monopsonistic or competitive, would result for short periods and fade away with the normal progression of economic development.

Footnotes at end of article.

Aggregate employment effects may also be transitory or fail to occur even if the labor market is competitive because the coverage of the minimum wage law is not universal. Persons losing jobs or unable to find jobs in covered employment, if minimum wage rates reduce the number of jobs available in covered occupations, can turn to the non-covered occupations where wage rates are free to adjust the rate of demand to the supply of people seeking jobs. There is some evidence of this occurring.[3]

TIMING OF WAGE INCREASES

Examining patterns of change in average wage rates in industries where minimum wage rate changes have had an effect, we find that the timing of wage rate increases has been influenced by the Fair Labor Standards Act. Average hourly earnings in the seamless hosiery industry in 1949, for example, were only 10 cents an hour above the $0.75 minimum established in January, 1950. Given the usual dispersion in wage rates, a fairly large proportion of seamless hosiery workers were earning less than 75 cents an hour in 1949. A rise in wage rates was forced for those workers in the industry whose rate was more than 10 cents below the average. As a consequence, an 11 per cent jump in the average occurred between 1949 and 1950. In contrast, average hourly earnings in all manufacturing rose less than half as much (by 5.1 per cent).

In the following three years, average hourly earnings in seamless hosiery continued to rise, but at a much slower pace. They rose at a 4.1 per cent annual rate between 1950 and 1953 for a total rise of 12.8 per cent. In contrast, average hourly earnings in all manufacturing rose at a 6.5 per cent annual rate from 1950 to 1953 for a total rise of 20.8 per cent. Thus by 1953, average hourly earnings in seamless hosiery apparently were about the same as they would have been without any rise in the statutory minimum.

The same pattern occurred in other manufacturing industries affected by the 1950 minimum. Wage rates in the industries with low average hourly earnings (not more than 25 cents above the new minimum) increased more than the average for all manufacturing when the new minimum went into effect (Table 1). In the following years hourly earnings went up much less in these industries than elsewhere. By 1952, their average wage rates had again come into approximately the same relative position they occupied in 1949 before the minimum was increased.

TABLE 1.—CHANGE IN HOURLY EARNINGS

A. 1949-52

S.I.C. number and industry [1]	Hourly earnings, 1949 [2]	Percentage change 1949-50 [3]	Percentage change 1950-52 [4]	Sum
2252—Seamless hosiery	$0.854	11.1	9.6	20.7
212—Cigars	.885	10.3	9.6	19.9
232—Men's and boys' furnishings	.919	8.8	8.0	16.8
2341—Women's and children's underwear	$0.980	7.2	8.5	15.7
Average increase		9.4	8.9	18.3
All manufacturing	1.379	5.1	13.9	19.0

B. 1955-60

S.I.C. No. and industry [1]	Hourly earnings 1955 [5]	Percentage change 1955-56 [6]	Percentage change 1956-60 [7]	Sum
2252—Seamless hosiery	$1.13	10.6	12.8	23.4
232—Men's and boys' furnishings	1.13	11.5	5.8	17.3
212—Cigars	1.19	8.4	11.6	20.0
2341—Women's and children's underwear	1.20	10.0	5.7	15.7
2391,2—Housefurnishings	1.25	7.2	8.2	15.4
2254—Knit underwear	$1.25	7.2	9.0	16.2
Average increase		9.2	9.8	18.1
All manufacturing	1.87	5.4	14.7	20.1

[1] Industries were selected whose average hourly earnings were within 25 cents of the new minimum.

[2] February 1949-January 1950 average monthly hourly earnings.

[3] Change from February 1949-January 1950 average to February 1950-January 1951 average.

[4] Change from February 1950-January 1951 average to 1952 average.

[5] March 1955-February 1956 average of monthly hourly earnings.

[6] Change from March 1955-February 1956 average to March 1956-February 1957 average.

[7] Change from March 1956-February 1957 average to 1960 average of monthly earnings.

Source: U.S. Bureau of Labor Statistics, Department of Labor Bulletin No. 1312-1, Employment and Earnings Statistics for the United States, 1909-60, at 317, 305, 334, 345, 353, 320 (1961).

The timing of wage rate increases when the minimum was raised to $1.00 an hour in March 1956 shows the same pattern (Table 1). Average hourly earnings jumped more in the low wage industries and in the following years rose more slowly, than the average in all manufacturing. Again, average wage rates a few years later were approximately where they would have been if no increase in the minimum had occurred.[4]

The more recent minimum wage increases have followed each other more quickly than the 1950, 1956, and 1961 increases. Consequently, the 1961 increase to $1.15 was not fully digested when the $1.25 minimum went into effect in 1963 and the 1963 increase was not fuly digested before the 1967 increase became effective (Table 2).

Footnotes at end of article.

TABLE 2.—CHANGE IN HOURLY EARNINGS

A. 1961-63

S.I.C. No. and industry	Hourly earnings 1961 [1]	Percentage change 1961-62 [2]	Percentage change 1962-63 [3]	Sum
2238—Work clothing	$1.27	8.0	1.2	9.3
2252—All other hosiery	1.30	7.2	2.2	9.3
232—Men's and boy's furnishings	1.34	5.6	1.1	6.7
2015—Poultry dressing and packing	1.38	3.6	.7	4.3
2341—Women's and children's underwear	$1.40	4.1	−2.0	2.1
Average increase		5.7	.6	6.3
All manufacturing	2.29	3.4	2.5	5.9

TABLE 2.—CHANGE IN HOURLY EARNINGS—Continued

B. 1963-66

S.I.C. No. and industry	Hourly earnings 1963 [4]	Percentage change		
		1963-64 [5]	1964-66 [6]	Sum
2328—Work clothing	$1.39	6.1	4.7	10.8
2321—Men's and boy's shorts and nightwear	1.41	6.1	5.3	11.4
2252—All other hosiery	1.42	5.4	8.0	13.4
2341—Women's and children's underwear	1.43	7.8	6.5	14.3
2015—Poultry dressing and packing	$1.44	6.3	9.1	15.4
2327—Men's and boy's separate trousers	1.44	4.7	5.3	10.0
Average increase		6.1	6.5	12.6
All manufacturing	2.43	3.2	8.0	11.2

[1] September 1960-August 1961 average of monthly average hourly earnings.
[2] Change from September 1960-August 1961 average to September 1961-August 1962 average.
[3] Change from September 1961-August 1962 average to September 1962-August 1963 average.
[4] September 1962-August 1963 average of monthly average hourly earnings.
[5] Change from September 1962-August 1963 average to September 1963-August 1964 average.
[6] Change from September 1963-August 1964 average to 1966 average.

Source: U.S. Bureau of Labor Statistics, Department of Labor, Bulletin No. 1312-5, Employment and Earnings Statistics for the United States, 1909-67.

With the 1950 and 1956 increases, we must look at the short interval following their imposition to see their effect since the impact on the wage structure apparently faded within a few years. Inflation and rising productivity lifted wage rates to where they would have been in any case without increases in the statutory minimum. This is less true in the 1960's when step-ups in the minimum followed each other more quickly.

However, because of the variations in the timing of cyclical forces in the 1960's as compared to the 1950's, and the necessity of disentangling these effects, it is no easier to analyze the 1960's despite the lack of full digestion of the increases which occurred in the latter period. Changes in state minimum wage laws also confuse the picture.

An employment effect does stand out as an apparent consequence of the bunching of national minimum wage increases in the 1960's and the widened coverage of the Act, in this period, leaving fewer alternative occupations for those unable to obtain jobs in covered employment. The relative incidence of non-white teen-age unemployment rose to an unprecedented level in 1966 (Table 5).

EMPLOYMENT EFFECTS (TEEN-AGERS)

Since the overwhelming majority have always had pay rates exceeding the minimum, most pay rates and most workers have not been affected by changes in the statutory minima. The effects have appeared primarily in the pay rates and, consequently, the employment of low skill workers. Also, effects on workers in disadvantaged areas of the country suffering from remoteness from markets and sources of materials and ancillary services have occurred.[5]

The largest single category of predominantly unskilled workers for which employment data is available consists of teen-agers. An examination of unemployment rates among this group in the month before an increase in the statutory minimum and in the month the increase took effect (for a majority of the month) indicates that the market for teen-agers' services is competitive. That is, each time an increase occurred, teen-age unemployment rose (Table 3).[6]

TABLE 3.—SEASONALLY ADJUSTED UNEMPLOYMENT RATES, 16-19 YEAR OLDS

	Teenage unemployment rate		Minimum wage	
	Percent	Raw datum	Covered	Not covered
January 1950	15.2	[1] (17.7)	$0.40	
February 1950	[2] 15.2	(17.3)	.75	
February 1956	11.4	(12.6)	.75	
March 1956	11.5	(11.4)	1.00	
August 1961	17.1	(13.8)	1.00	
September 1961	18.0	(15.8)	[3] 1.15	($1.00)
August 1963	16.1	(12.6)	1.15	(1.00)
September 1963	17.4	(15.2)	1.25	(1.15)
August 1964	16.7	(12.9)		($1.00)
September 1964	15.7	(13.7)		(1.15)
August 1965	13.9	(10.6)		(1.15)
September 1965	14.8	(12.8)		(1.25)
January 1967	11.1	(11.7)	$1.25	
February 1967	12.6	(13.2)	1.40	(1.40)
January 1968	11.3	(11.8)	1.40	(1.00)
February 1968	12.6	(13.3)	1.60	(1.15)

[1] Unemployment rate figure in parentheses is the raw datum not adjusted for seasonal influences. U.S. Bureau of Labor Statistics, Department of Labor, Employment and Earnings and Monthly Report on the Labor Force 13, at 10 (March 1967).

[2] Although the seasonally adjusted unemployment rate shows no rise from January to February 1950 an adjustment of the raw unemployment rate by the seasonal factors used since 1964 would have shown a rise in the seasonally adjusted rate to a figure in excess of 17.4 percent. The February 1966 raw unemployment rate of 11.7 percent, for example, becomes a seasonally adjusted figure of 12.1 percent according to U.S. Bureau of Labor Statistics, Department of Labor Employment and Earnings and Monthly Report on the Labor Force 13 at 21 (March 1967) or 12.3 percent according to U.S. Bureau of Labor Statistics, Department of Labor, Employment and Earnings and Monthly Report on the Labor Force 14, at 25 (March 1968).

[3] Minimum wage figures in parentheses for 1961-65 are for jobs not covered prior to September 1961. Minimum wage figures in parentheses for February 1967 and for 1968 are for jobs not covered prior to February 1967.

Source: U.S. Bureau of Labor Statistics Department of Labor, Employment and Earnings and Monthly Report on the Labor Force 14, at 25, 63 (March 1968); A. Howard Myers, Labor Law and Legislation 774, 805.

If the unemployment rate among teenagers always went up from month to month, this tabulation would prove nothing. However, it does not. In the twenty years covered by this available data, the month to month change was downward more than half of the time (123 downward changes, 111 upward changes, six no change).[7] The upward change in the months in which minima were raised occurs too often to be accounted for by the most improbable chance of accident or coincidence.

In addition to these immediate increases in unemployment among teen-agers in the month when new minima became effective, we also find a long term upward trend in the relative amount of unemployment among teenagers. This occurred despite a rising average level of education in this group and a declining participation rate. In order to eliminate cyclical effects on teen-age unemployment, we can look at periods of comparable cyclical positions such as 1948 and 1967 when this general unemployment rate was the same. In 1967, the teen-age unemployment rate was 40 per cent greater than in 1948 (and the participation rate was lower).

If we remove cyclical effects on teen-age unemployment by using the ratio of teen-age to general unemployment, the 75c minimum imposed January 25, 1960, apparently caused a rise in the relative amount of teen-age unemployment. The ratio rose from 2.2 in the year preceding the increase to 2.3 in the year following (Table 4). The effect was slight, in the year immediately following the increase, apparently being blunted by draft calls with the outbreak of the Korean war,[8] a decline in the teen-age participation rate,[9] and the narrowing of the coverage of the minimum wage provisions of the Fair Labor Standards Act. The effect of the March, 1956, increase appeared to be equally slight on aggregate employment although its influence was strong in forcing a shift to lower wage, non-covered employment.[10]

Footnotes at end of article.

TABLE 4.—RATIO OF TEENAGE UNEMPLOYMENT INCIDENCE TO GENERAL UNEMPLOYMENT INCIDENCE, 1949-68

[Averages of monthly seasonally adjusted data]

12 months	Unemployment rates (percent)			Minimum wage	
	Ages 16-19	General	Ratio	Covered	Not covered
February 1949 to January 1950	13.9	6.2	2.2	$0.40	
February 1950 to January 1951	11.6	5.0	2.3	.75	
March 1955 to February 1956	11.0	4.2	2.6	.75	
March 1956 to February 1957	11.0	4.1	2.7	1.00	
September 1960 to August 1961	16.4	6.6	2.5	1.00	
September 1961 to August 1962	15.4	5.8	2.7	1.15	[1] ($1.00)
September 1962 to August 1963	16.4	5.6	2.9	1.15	(1.00)
September 1963 to August 1964	16.6	5.4	3.1	$1.25	($1.00)
September 1964 to August 1965	15.6	4.8	3.3		(1.15)
September 1965 to August 1966	13.2	3.8	3.5		(1.25)
February 1966 to January 1967	12.6	3.8	3.3	1.25	
February 1967 to January 1968 [2]	12.9	3.8	3.4	1.40	(1.00)
February 1968 to December 1968	12.7	3.6	3.6	1.60	(1.15)

[1] Minimum wage figure in parentheses is for jobs not covered prior to September 1961 and February 1967.

[2] Not comparable with earlier data because of the exclusion from the unemployment count of those seeking future jobs and not currently available for work.

Source: U.S. Bureau of Labor Statistics, Department of Labor, Employment and Earnings and Monthly Report on the Labor Force 14, at 25 (March 1968); id., 13, at 21 (March 1967); id., 15 at 53 (January 1969); A. Howard Myers, Labor Law and Legislation 774, 805.

Large effects on teen-age employment appeared in the 1960's when the minimum went from \$1.00 to \$1.25 and the coverage of the Act was broadened. Unemployment among teen-agers was 2.5 times the rate of unemployment in the total work-seeking population before the \$1.15 minimum went into effect in previously covered occupations and the \$1.00 minimum in newly covered occupations in September, 1961. In 1961–62, the year following the increase, the teen-age unemployment rate jumped to 2.7 times the general incidence of unemployment. The teen-age unemployment rate rose farther to 3.1 times the general incidence of unemployment in 1963–64 after the \$1.25 minimum went into effect in previously covered occupations. This was a jump to an unprecedented level for the period covered by the data (Table 4).

Over the last eighteen years, the relative level of teen-age unemployment has increased, despite a marked decline in the participation rate,[11] and despite the usual decline in the years following the unemployment jump occasioned by an increase in the statutory minimum wage. Increases in the minimum are following too closely on the heels of previous increases with the result that one increase is not fully digested before another is enacted. Consequently, since the enactment in 1949 of the \$0.75 minimum, the incidence of teen-age unemployment has increased more than 50 percent (in relation to the general incidence of unemployment). Evidently, the market for teen-agers is competitive or the rise in the minimum has been too drastic.

Footnotes at end of article.

IMPACT ON NON-WHITE TEEN-AGE EMPLOYMENT

The minimum wage has affected employment opportunities more for non-white teen-agers than for teen-agers in general. While the ratio of the incidence of general teen-age unemployment to general unemployment rose by 55 per cent from 1949 to 1967, that for non-white teen-age unemployment rose by 145 per cent (Table 5).

TABLE 5.—RATIO OF NONWHITE TEENAGE UNEMPLOYMENT INCIDENCE TO GENERAL UNEMPLOYMENT INCIDENCE, 1949-68

[Averages of monthly seasonally adjusted data]

12 months	Nonwhite unemployment (ages 16 to 19)	Unemployment (general)	Ratio	Minimum wage	
				Covered	Not covered
February 1949 to January 1950	17.4	6.2	2.8	\$0.40	
February 1950 to January 1951	14.8	5.0	3.0	.75	
March 1955 to February 1956	15.8	4.2	3.8	.75	
March 1956 to February 1957	18.1	4.1	4.5	1.00	
September 1960 to August 1962	27.4	6.6	4.2	1.00	
September 1961 to August 1962	25.3	5.8	4.4	1.15	[1](\$1.00)
September 1962 to August 1963	29.2	5.6	5.2	1.15	(1.00)
September 1963 to August 1964	28.4	5.4	5.3	\$1.25	(\$1.00)
September 1964 to August 1965	26.1	4.8	5.4		(1.15)
September 1965 to August 1966	26.5	3.8	7.0		(1.25)
February 1966 to January 1967	25.1	3.8	6.6	1.25	
February 1967 to January 1968[2]	26.3	3.8	6.9	1.40	(1.00)
February 1968 to December 1968	25.4	3.6	7.1	1.60	(1.15)

[1] Minimum wage figure in parentheses is for jobs not covered prior to September 1961 and February 1967.

[2] Not comparable with earlier data because of the exclusion from the unemployment count of those seeking future jobs and not currently available for work.

Source: U.S. Bureau of Labor Statistics, Department of Labor, Employment and Earnings and Monthly Report on the Labor Force 14, at 23 (March 1968); id., 13, at 21 (March 1967); id., 15, at 51 (January 1969); A. Howard Myers, Labor Law and Legislation 774, 805.

Non-whites are an increasing proportion of unemployed teen-agers. The ratio of the non-white teen-age unemployment rate to the white teen-age unemployment rate has increased by seventy-five per cent since 1949, rising from 1.3 to 2.3 (Table 6).

TABLE 6.—TEENAGE UNEMPLOYMENT RATIOS: NONWHITE, WHITE, BOTH SEXES, 16 TO 19—1949-68

	Unemployment rate (percent)		
	Nonwhite	White	Ratio
February 1949–January 1950	17.4	13.4	1.3
February 1950–January 1951	14.8	11.2	1.3
March 1955–February 1956	15.8	10.2	1.5
March 1956–February 1957	18.1	10.0	1.8
September 1960–August 1961	27.4	15.0	1.8
September 1961–August 1962	25.3	13.9	1.8
September 1962–August 1963	29.2	14.9	2.0
September 1963–August 1964	28.4	15.0	1.9
September 1964–August 1965	26.1	14.2	1.8
September 1965–August 1966	26.5	11.6	2.3
February 1966–January 1967	25.1	11.1	2.3
February 1967–January 1968[1]	26.3	11.0	2.4
February 1968—December 1968	25.4	11.0	2.3

[1] Not comparable with earlier data because of the exclusion from the unemployment count of those seeking future jobs and not currently available for work.

Source: U.S. Bureau of Labor Statistics, Department of Labor Employment and Earnings and Monthly Report on the Labor Force 13, at 14–16 (March 1967); id., 15, at 51 (January 1969) Manpower Report of the President 225, 237 (April 1968).

Despite relatively larger hidden unemployment prevalent in the non-white population, reported unemployment rates for non-white teen-agers moved to levels 80 per cent higher than white rates after the 1956 minimum of \$1.00 was established. Following the application of the 1961 amendments to the Fair Labor Standards Act, reported non-white unemployment rates went to levels 130 per cent higher (1966). The 1967 increase pushed reported non-white rates to a level 140 per cent higher than white rates. Before 1956, reported non-white and white unemployment rates differed much less than they have since. For male teen-agers, they never differed by more than 20 per cent (Table 7). They now differ by more than 120 per cent.

TABLE 7.—REPORTED AND PARTICIPATION ADJUSTED INCIDENCE OF NONWHITE AND WHITE TEENAGE (16 TO 19) MALE UNEMPLOYMENT, 1948-67

Year	Nonwhite (percent)			White (percent)			Ratio	
	Reported incidence	Participation rate	Adjusted incidence	Reported incidence	Participation rate	Adjusted incidence	Unadjusted	Adjusted
1948	10.0			9.7			1.0	
1949	16.5	70.6		13.8	62.5		1.2	
1950	15.4	67.8	19.6	12.4	63.1	11.5	1.2	1.7
1951	9.2			8.0			1.1	
1952	9.1			8.9			1.0	
1953	8.2			8.0			1.0	
1954	14.2			13.5			1.1	
1955	13.7	62.0		11.2	59.9		1.2	
1956	15.3	63.0	13.9	10.4	61.6	7.5	1.5	1.9
1957	18.4			11.5			1.6	
1958	26.9			15.7			1.7	
1959	25.2			14.0			1.8	
1960	24.1			14.0			1.7	
1961	26.7	56.5		15.7	55.2		1.7	
1962	21.8	54.5	26.4	13.7	54.6	14.7	1.6	1.9
1963	27.2	53.1		15.9	55.1		1.7	
1964	24.3	52.2	25.6	14.7	55.0	14.8	1.7	1.7
1965	23.2	53.0		12.9	55.2		1.8	
1966	21.4	52.4	22.2	10.5	56.2	8.8	2.0	2.5
1967	24.0	52.0	24.6	11.0	57.0	9.7	2.2	2.5

Source: Manpower Report of the President 225, 237 (April 1968).

Of all groups, the non-white teen-ager has suffered most from the minimum wage in terms of employment experience. While the employment of white 14–19 year olds rose by 49 per cent between 1956 and 1966, non-white employment in this age group increased by only 19 per cent. The explanation is a complex one in which employment discrimination plays only a minor role.[12]

First, we must recognize that the employment qualifications of the average non-white teen-ager are inferior to those of the *average* white teen-ager seeking a job. His erducational level is lower and he is a more costly worker to employ in terms of the supervision required. At the same wage, an employer will prefer the average white teen-ager to the average non-white teen-ager. Without a minimum wage floor, the non-white teen-ager could offset his disadvantages by working for less than the white teen-ager.

We are still left with a puzzle. White teenage unemployment fell from 1955 to 1956 when the minimum was raised to $1.00 while non-white teen-age unemployment rose. Why did we not get a rise in unemployment in both groups?

To explain this we must apply the economics of information to the field of job-search. What probably happened was this. Jobs at, let us say, $0.80 to $0.90 were being refused in 1955 by many white teen-agers who expected they could find better paying jobs. Because they were taking the time to search for these better paying jobs and foregoing poorer paying jobs, their unemployment rate averaged 10.2 per cent. The jobs refused by white teen-agers were accepted by non-white teen-agers.

With the rise in the minimum wage to $1.00 on March 1, 1965, employers who had been offering, let us say, $0.80 had to offer $1.00 to workers filling these jobs if they did not eliminate them. At $0.80, only non-white teen-agers, let us say, had been willing to accept these jobs, white teen-agers choosing to search further. At $1.00, white teen-agers found these jobs attractive as those they expected to find by searching further. Their decrease in time spent searching meant a decline in their average duration of unemployment and a decline in their unemployment rate. The unemployment rate among non-white teen-agers went up probably because many of the jobs formerly left to them by white teen-agers were now filled as well as jobs which they might have found being destroyed by the wage increase.

Another factor in a role in the differential experience of white and non-white teen-agers in August-September, 1965 (when non-white seasonally adjusted teen-age unemployment jumped from 21.9 per cent in August to 28.3 per cent in September while white teen-age unemployment dropped from 13.0 per cent to 12.8 per cent). The change in coverage occurring as a result of the 1961 Fair Labor Standards Act Amendment was probably the major cause of this differential experience. Prior to 1961, black teen-agers unable to find jobs in covered occupations had increasingly occupied non-covered jobs. When many of their jobs were newly covered by the 1961 amendments at $1.00 an hour (a $1.15 minimum being applied to previously covered jobs), the relatively low minimum had little effect at that time or in September 1961 when it went to $1.15. The increase in September 1965, however, to $1.25 for these newly covered jobs where black teen-agers had previously found an entry to the labor force [13] produced a sufficient impact on the number of jobs available to non-white teen-agers to markedly increase their relative unemployment rate. Instead of their employment rate averaging only 80 per cent more than that of white teen-agers, as it had from September 1964 through August 1965, it soared to a level 130 per cent more in the following year.

Although the reported unemployment rates show the greater impact of the minimum wage laws on non-white teen-agers than on white teen-agers, these figures understate the difference. Many non-white teen-agers may also have been discouraged, but not so much if we judge by relative movements of participation rates. They have dropped more sharply for non-whites than for whites.

After the minimum wage increased in 1950, the participation rate for non-white male teen-agers fell while that for white male teen-agers rose (Table 7). If unemployment rates are adjusted for changes in participation rates from the preceding year, the relative unemployment rate of non-whites shows a 40 percent jump in 1950 compared to 1949 instead of no change.

The participation rate for both groups increased in 1956 over 1955, but more for whites than non-whites. Again, this makes for a sharper jump in the adjusted relative unemployment rate for non-whites than is shown by the unadjusted figures.

Following the September, 1961, increase in minimum wage rates, participation rates for both whites and non-whites declined. The non-white male teen-age rate fell more sharply than the white rate. For the first time, it fell below the white rate and has remained below it since. If adequate data were available for adjusting unemployment rates,[11] non-white unemployment rates would undoubtedly show a much sharper rise relative to white unemployment rates than they do. The reported unemployment figures understate the magnitude of the unemployment effect of minimum wage rates on the non-white population.

CONCLUSION

Minimum wage statutes have increased the incomes of a few workers at the time of their imposition. These increases would have come anyway, in most cases, within two to five years. The wage rates of low paid employees in noncovered occupations [15] have been rising four per cent per year since 1949 despite the depressing effect of additional workers looking for jobs in this sector who have been forced out of covered jobs.

What successive amendments to the minimum wage statute have done to jump rates in the year of application. Very slow rates of increase then occur in the following years. The total increase differs little between the industries affected by minimum wage increases in 1950 and those not affected in the longer period within which the 1950 minimum wage increase occurred. This was repeated in the case of the 1956 increase.

If all that happened as a result of the minimum wage statute was a change in the timing of wage rate increases, there would be little to concern us. However, in the interval between the time that the minimum wage is raised and the time that productivity and inflation catch up with the increase, thousands of people are jobless, many businesses fail which are never revived,[16] people are forced to migrate who would prefer not to, cities find their slums deteriorating and becoming over-populated, teen-agers are barred from obtaining the opportunity to learn skills which would make them more productive, and permanent damage is done to their attitudes and their ambitions. This is a large price to pay for impatience.

FOOTNOTES

[*] This paper was originally presented at the annual Mont Pelerin Society meeting, Aviemore, Scotland, September 3, 1968.

[1] George J. Stigler, The Economics of Minimum Wage Legislation, 36 Am. Econ. Rev. 358 (1946).

[2] A. Rees, Patterns of Wages, Prices, and Productivity, in Wages, Prices, Profits and Productivity (1959); W. S. Woytinsky and associates, Employment and Wages in the United States (1953).

[3] Yale Brozen, Minimum Rates and Household Workers, 5 J. Law & Econ. 103 (1962).

[4] David E. Kaun finds the effects on the structure of wage rates still apparent five years after the 1950 increase in the minimum wage to $0.75 despite the return of average wage rates to their old relative position. That is, a "bunching" of employees in the lowest wage interval (minimum plus five cents) had not disappeared five years after the increase in the minimum occurred. Economics of the Minimum Wage: The Effects of the Fair Labor Standards Act, 1945–1964, at 36 (unpublished dissertation, Stanford University, 1964).

[5] See, for example, Marshall R. Colberg, Minimum Wage Effects on Florida's Economic Development, 3 J. Law & Econ. 106 (1960).

[6] It has been argued that unemployment increases in the month the minimum wage rises from the month preceding because inventories are built to abnormally high levels before the minimum wage increase in order to beat the cost increase. However, this argues that additional employees are available at the previous wage below the minimum and, therefore, the labor market for low wage skills is *not* monopsonistic or the wage increase is too large. To minimize this effect, and to eliminate the effect of uncertainty in the appropriate seasonal adjustment to use in comparing month to month changes, annual data are used in the rest of this analysis. Estimates of the seasonal factor in unemployment series indicates serious bias in the seasonal adjustment factors used by the Bureau of Labor Statistics. John A. Brittain, A Regression Model for Estimates of the Seasonal Component in Unemployment and Other Volatile Time Series, 44 Rev. Econ. & Stat. 24 (1962).

[7] If a rising proportion of teen-agers in the workforce accounted for the rising unemployment rate we should expect a larger number of upward changes in unemployment rates in all the month to month changes rather than the large proportion occurring in the month of increases in national minima.

[8] White male unemployment among 18–19 year olds (the group subject to draft calls) declined from 14.2% (1949) to 11.7% (1950) while 16–17 year old unemployment rates remained at 13.4%.

[9] Among male teen-agers, labor force participation rates (including armed forces) declined from 52.3% for 16–17 year olds and 79.5% for 18–19 year olds in 1949 to 52.0% and 79.0% in 1950. Among female teen-agers, participation rates declined from 31.2% for 16–17 year olds and 53.0% for 18–19 year olds in 1949 to 30.1% and 51.3% in 1950. These declines were evidently the effect of discouragement of job seekers since participation rates in these groups rose in 1951 as the effect of the minimum wage increase was increasingly nullified by inflation. (The consumer price index rose by 8% from 1950 to 1951.)

[10] Yale Brozen, *supra* note 3, at 104.

[11] U.S. Bureau of Labor Statistics, Dept. of Labor, Bull. No. 1511, The Negroes in the United States: Their Economic and Social Situation 27 (1966).

[12] While the ratio of non-white to white teen-age unemployment rose from 1.8 (1956) to 2.4 (1967), the ratio of non-white to white employment in other age groups little affected by minimum wage rates declined from 2.4 (1956) to 2.1 (1967) for men and 2.1 (1956) to 1.8 (1967) for women.

[13] In February, 1963, 53% of non-white, 16–21 year old high school graduates who were employed full-time earned less than $49 a week (and more than half of these earned less than $40 a week) in contrast to 22% of white 16–21 year old high school graduates. Among school dropouts, 82% of non-white, 16–21 year olds employed full-time earned less than $49 a week (and more than three-

fourths of these earned less than $40) in contrast to 35% of white, 16–21 year old youths. See U.S. Bureau of Labor Statistics Bull. *supra* note 11, at 129.

[14] See K. Strand and T. Dernburg, Cyclical Variation in Civilian Labor Force Participation, 43 Rev. Econ. & Stat. 378 (1964) for a discussion of some of the factors influencing participation rates.

[15] Private household workers and agricultural employees.

[16] David E. Kaun, Minimum Wages, Factor Substitution and the Marginal Producer 79 Q. J. Econ. 478 (1965).

Mr. BUCKLEY. Mr. President, I fully recognize the futility of bringing this matter to a vote. I did want to take this occasion to reiterate the arguments so that people may be forewarned as to the probable impact of the legislation we are debating today. I believe that it is time that we came to understand the need to see the overall effects on every segment of our society of legislation of such broad scope, of such near universal applicability; but, as I said before, I recognize it would be futile to call it to a rollcall vote, and that it would be futile to call it to a voice vote. Under the circumstances, I am prepared to withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn. The bill is open to further amendment.

Mr. BUCKLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I will restore the quorum call in a moment. I want to respond to the discussion of my colleague.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. I yield myself such time as I shall require.

Mr. WILLIAMS. Mr. President, will the Senator yield to me?

Mr. JAVITS. I yield to the Senator from New Jersey.

Mr. WILLIAMS. Mr. President, the amendment that the Senator from New Mexico offers recognizes the need for time in which to adjust to the provisions of this bill if it becomes law. The date in the bill before us is the date which is carried in the bill that was vetoed last year.

This incorporates the same amount of time for adjustment under the bill as in the last bill.

I certainly approve of and accept the amendment.

Mr. JAVITS. Mr. President, the amendment is acceptable on this side of the aisle.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I just wish to say that I respect the views of my colleague from New York. The matter was discussed very completely last year.

I ask unanimous consent that my portions of my explanation of our position with respect to the provisions of the bill last year be printed in the RECORD. My statement appears in volume 119, part 19, page 24783 of the RECORD.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

Mr. JAVITS. * * *

The decisive difference in respect to youth unemployment seems to be discrimination on grounds of color, even though it is unlawful, because black unemployment is twice that of white unemployment for teenagers. It is also because of the deficiencies in manpower training and the lack of skill, which is attributable to lack of training But present law allows learners and apprentices to have special minimum rates.

Not only would we not do anything decisive by reducing the rate for youth generally, which is what the Buckley amendment seeks to do, we would also open the door to its abuse, because as union labor fears and has for years, there will be a revolving door for youth employment at 15 percent less than the minimum wage and we will be depriving adults of job opportunities without doing the youth any good, adequate to compensate for the harm we would be doing generally.

Interestingly enough, the Buckley amendment is even tougher on the youth differential than the Dominick-Taft substitute, which was turned down yesterday. For example, the Buckley amendment puts no time limit on jobs at subminimum rates for 16- and 17-year-olds, how long they may be employed at lower rates, nor does it restrict 18- and 19-year-old students to part-time work. This amendment would cover full-time work, and so it merely increases the very danger which organized labor fears from this amendment.

Secondly, we lawyers have a doctrine called the doctrine of deminimus. What we are talking about here is a 15-percent discount. The 15-percent discount, in my judgment, and I have represented many employers in my days, does not make an employer determine that he is going to hire a teenager, unless he is really anxious to cut down his wage bill by hiring youths instead of adults. Whether it is put on the basis of wasting material or not doing the job adequately, in my judgment no businessman is going to run that risk for a 15-percent discount. If he can pay him $1.70 and he is a good worker, he will pay him $2. If he needs training, the law provides a differential already. All the Buckley amendment would do, then is to open the door to unlimited exploitation.

This is essentially an open door to those who want to get a discount on the minimum wage for general business purposes, and not particularly because they want to employ youth.

Finally, we have all the studies made for years, which bear out the statement that this has no decisive effect. First, I invite the attention of Senators to the book which is on the desk of each Senator. I invite them to look at the background material on fair labor standards on page 240, which is a chart and it shows the effect on teenage employment by increases in the minimum wage. If Senators will look at the years before 1969, when there were even greater percentage increases in terms of the absolute minimum wage than this bill provides, youth employment improved than failed to improve. In the years 1969–71 youth unemployment worsened, but in those years there were no general increases in the minimum wage and there was a recession. At the very least, the overall employment statistics neither prove or disprove the fundamental thesis upon which this amendment is based.

In addition, the Labor Department has made some very important studies with respect to this situation. For example, in the 1968 manpower report of the President, a complete section was devoted to the problem of "bridging the gap from school to work." The excerpt to which I refer is at page 53 of the committee report on this bill. The very tenor of the report, which I beg Senators to read, is very important as bearing on this subject factually. The tenor of that report is that, again, there is no decisive effect in the minimum wage regarding the inducement to the individual employer to employ youths. As a matter of fact, what the Senate did, and it forced its will, I am happy to say, in the summer youth corps program, and what we will do in respect of manpower and manpower training, is infinitely more vital.

I cannot say any more than Senator BUCKLEY said—quite characteristically of him—that he cannot guarantee that no adult would be displaced by a youth who is employed. I cannot say that no youth will get a job which he would not otherwise have gotten unless we allow the 15-percent differential. But our problem is not the individual case. Our problem is the whole fate of the bill, and whether it is worth it for what this amendment asks us to do. Definitely, in my judgment, I come down on the side that it is not.

Mr. President, another study to which I wish to refer, and I have it before me and I would be glad to let any Senator examine it, is entitled "Youth Employment and Minimum Wages." It is dated 1970. Incidentally, that was a time when George Shultz, now Secretary of the Treasury, was Secretary of Labor. So there was no pro-labor bias involved.

The key finding is—

"It was not possible to adequately separate out the effects of minimum wage changes from other developments."

This is in respect of youth unemployment.

"A demonstrable relationship exists between minimum wages and youth unemployment rates, if other variables are excluded from the analysis, but when other variables, such as population and school enrollment changes are taken into account, the effect of changes in the minimum wage upon teenage employment becomes obscure."

Mr. President, I also wish to include in the RECORD an excerpt from an article on this same subject by Michael C. Lovell, in the December 1972 Western Economic Journal entitled, "Minimum Wage, Teenage Employment, and the Business Cycle," which, in essence, comes to the same conclusion.

Mr. President, I ask unanimous consent to have that excerpt printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"To sum up, the proposition that the minimum wage materially affects the level of unemployment receives support provided one is willing to assert as part of the maintained hypothesis that the substantial increase in the teenage population relative to the rest of the labor force has not materially influenced the teenage unemployment problem; but this is a dubious proposition. An optimist can hope that as additional observations accumulate it may eventually be possible with more sophisticated simultaneous equation techniques to segregate adequately the effects of such factors. Pending the results of further study, it seems more reasonable to accept, tentatively and reluctantly, the null hypotheses that the minimum wage has no impact on teenage unemployment."

Mr. JAVITS. Also, it will be noted that section 14(a) of existing law gives very broad authority to the Secretary of Labor to make any differentials, not just the 15 percent, provided that the Secretary sets the conditions as to time and number and proportion and length of service, and provided that the use be in the area of learners, apprentices, or messengers employed in delivering letters and messages and that they be under special certificates. To the extent that training is determined to be necessary for youths, section 14(a) provides for special minimum wage rates to be paid. I do not understand why any additional authority is necessary.

It seems to me that this answers the only additional point my colleague raised that youth is not worth the wage of the adult because he needs training.

I would like to say, Mr. President, that I feel that American business has by and large not pressed for the youth differential. One thing that has always puzzled me in the argument over the youth differential is to what extent American business will use it unless it is to cut or trim employment.

This is a place where they can show their good faith. They can use section 14(a). And if the response from the Secretary of Labor is unsatisfactory, this is subject to legislative oversight in the Labor and Public Welfare Committee. We will do our utmost to correct that.

For all of those reasons, we stand by our position respecting this particular provision of the bill.

Mr. DOMINICK. Mr. President, I yield 2 minutes of the bill to the junior Senator from New York.

Mr. BUCKLEY. Mr. President, I would like to comment on the remarks made by my distinguished senior colleague on the provisions in the bill.

Yes, they do represent an improvement over the present situation, but only a small improvement. They sharply restrict the areas of employment that will be made available to young men and women seeking to enter into their economic life and seeking to become self-supporting. They create a kind of bureaucratic interference in terms and conditions, and based on how governmental agencies have managed to mismanage their responsibilities in the past. It offers no great encouragement to me, as much as I respect the distinguished Secretary of Labor, who obviously would not be doing the regulating himself.

Second, although the distinguished senior Senator from New York states that if this does not work we can go back to the drawing board and come up with some other provision, we must live with the stark fact that hundreds and thousands of young men and women will remain out of work.

I see no reason why we should not go the whole step and allow young people to receive training and become self-supporting.

YOUTH

Mr. TAFT. Mr. President, I am particularly disappointed that the committee did not take new initiatives to increase employment opportunities for youth, especially for nonstudent youth. As an example of the acute unemployment problems in this area, I ask unanimous consent that a chart showing the unemployment rates for youth 16 and 17 years of age be printed in the RECORD.

This acute problem is further emphasized by the statistics for January of this year, as the national unemployment rate for Caucasians 16 and 17 years of age was 16.8 percent and for non-Caucasians 16 and 17 years of age, the rate was a towering 38.9 percent. These statistics underscore the need for implementation of a statutory national program of specialized wage structures for youth similar to proposals I have advocated during prior consideration on this issue.

While no hearings were held prior to reporting S. 2747, testimony received during the last year on the vetoed bill from economists unanimously endorsed the concept of a special youth differential. In this context, I ask unanimous consent that correspondence I received from Mr. Andrew Brimmer, member of the Board of Governors of the Federal Reserve System, on this subject be printed in the RECORD. I also ask unanimous consent that an article by Mr. Brimmer entitled "Don't Close the Job Door on Youth," that appeared in the July 1973 issue of Nation's Business be printed in the RECORD.

Further, I ask unanimous consent that an article entitled "Teen-Age Unemployment and Real Federal Minimum Wages," from the Journal of Political Economy, by Dr. Douglas K. Adie, a professor in the School of Economics at Ohio University, Athens, Ohio, and a witness before the committee last year, be printed in the RECORD.

The broad authority available to the Secretary of Labor under section 14 of the act, I am certain will be exercised. I am of the opinion that more is needed in this area and I am hopeful that my colleagues will support the proposal submitted by Senator BUCKLEY.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNEMPLOYMENT RATES FOR 16 AND 17-YEAR-OLDS ANNUAL AVERAGE, 1963–72

	Male		Female	
	White	Negro and other races	White	Negro and other races
1963	17.8	27.0	18.1	40.1
1964	16.1	25.9	17.0	36.5
1965	14.7	27.1	15.0	37.8
1966	12.5	22.5	14.5	34.8
1967	12.7	28.9	12.9	32.0
1968	12.3	26.6	13.9	33.7
1969	12.5	24.7	13.8	31.2
1970	15.7	27.8	15.3	36.9
1971	17.1	33.4	16.7	38.5
1972	16.4	35.1	17.0	38.3

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, D.C., June 7, 1973.

Hon. ROBERT TAFT, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TAFT: I am responding to your request for my views on the proposal to increase the statutory minimum wage. I support legislation to accomplish this objective. However, I have reservations about an across-the-board application, particularly with respect to young people. When the present minimum is raised, I feel that it is desirable for Congress to amend the Fair Labor Standards Act (F.L.S.A.) to permit employers to offer jobs to youths at special entry wages below the statutory minimum.

A number of considerations have led me to this conclusion. Young workers generally tend to have few job skills. Thus, a lower initial wage—at least during the first few months on a new job—would give them a better chance to compete in the labor market. If special job market provisions for young workers are not available, I think the persistent problem of youth unemployment will become even more serious.

The scope of teenage joblessness has been widely recognized, and I have studied the trends in unemployment closely. In the first quarter of this year, the unemployment rate for workers 16–19 years was 14.7 per cent—nearly four times the rate for adults. The situation was particularly distressing among black youth: nearly one out of three black teenagers in the labor force was unable to find a job. Moreover, the jobless problem among young people both black and white has been deteriorating over the past decade. Prior to 1960, unemployment among young workers was roughly two to three times the adult rate; however, since the mid-1960's, jobless rates among teenagers have been four or five times greater than that of older workers. Black youth have always carried a disproportionate share of the unemployment burden, and it has become even heavier in the last decade. For example, the ratio of the black youth unemployment rate to that of their white counterparts rose from nearly 2 to 1 in 1963 to about 3 to 1 in 1972.

Moreover, there is little prospect of relief in the immediate future: although the number of white teenagers entering the labor market in the 1970's will be substantially lower than during the 1960's, the black teenage population will continue its growth at the same rapid rate which prevailed in the 1960's. The result will be severe job-finding problems for minority group youth unless positive steps are taken.

Several developments over the last decade have contributed to the youth unemployment problem including the substantial expansion of the youth population. However, in citing various reasons, I do not think one should overlook the possibility that past changes in F.L.S.A. may have had an adverse impact on job opportunities for young people. A number of studies by economists have shown that the progressive extension of minimum wage coverage to retail trade and service industries may have had an adverse impact on teenage employment.

Teenage employment is heavily concentrated in retail trade and service establishments. For example, over three-fifths of all young workers held jobs there in 1972. These are areas in which average wages are typically below the average for the economy as a whole and where extension of FLSA coverage would have had a noticeable impact. Although it is difficult to measure the impact on teenage employment, it would seem that raising labor costs may have provided a disincentive for employers to hire teenagers. Young people searching for their first job typically have no vocational training or experience.

They need extra training and more instruction than an older worker, and all of this is costly to employers. Raising the wages of these inexperienced workers may become too costly to the employer, and job opportunities for young workers may be adversely affected. Given this situation, the implication is clear: teenagers occupy jobs in industries where a further extension of coverage and an increase in the statutory minimum might further diminish employment opportunities for young people.

To help forestall such a prospect, I urge the adoption of a special entry wage for young workers. The Administration proposal for a youth minimum wage would meet this need. The case for an entry wage rests mainly on the incentive it would give employers to help pave the way for young people to begin productive careers in the working world. However, at the same time safeguards would have to be built into a proposal of this nature because some employers would undoubtedly use a differential minimum wage to replace some of their higher-wage adult employees with lower paid teenagers. To prevent abuse, both a limit on the number of workers paid less than the minimum wage as well as an explicit time period during which the entry rate could be paid are necessary, as suggested by the Administration. Some risk will still remain, but I personally think it should be accepted. The unemployment situation among teenagers has been deteriorating for years, and there appears to be no prospect of significant improvement in the foreseeable future, unless some positive action is taken now. I believe an entry wage for young people would be a step in the right direction.

Sincerely yours,

ANDREW F. BRIMMER.

DO NOT CLOSE THE JOB DOOR ON YOUTH

(By Andrew F. Brimmer, member, Board of Governors of the Federal Reserve System)

The jobless rate among American teenagers who want to work is three times higher than that of their elders. For young blacks, it's six times higher.

Although workers aged 16 through 19 are less than 10 per cent of the civilian labor force, nearly 28 per cent of all the unemployed are in that age group.

This problem of youth unemployment has been with us for a long time, but it has gotten much worse in the past 10 years.

Among the causes: A substantial growth in the youth population; a larger number of students competing for part-time jobs; continuing movement of families from rural areas to cities, resulting in a sharp increase in the number of teen-agers who must compete in the urban job market; and the effect of the draft on hiring policies.

But to that list must be added the adverse impact on youth employment of the statutory minimum wage.

Congress is now considering legislation to raise that pay floor once again and to expand coverage to additional categories of workers.

It is crucial that any such legislation permit employers to offer jobs to teen-agers at a wage rate below that set for adults.

If such an opportunity is not provided, the youth unemployment problem will almost certainly become even more serious than it already is.

Because teen-agers have few skills, are frequently looking for part-time jobs, and cannot match more experienced workers in terms of productivity, businessmen have little incentives to employ them—or to train them once they are on the job—when they must be paid the same wages as older workers.

Teen-age unemployment is particularly high not only for this reason, but because so many youngsters lose or quit their jobs once they have them—and wind up asking new employers for work.

When we come right down to the wire, the case for an entry wage for teen-agers must rest mainly on the incentive it would give employers to pave the way for young people to begin productive careers in the world of work.

STEPPING UP

The Administration has recommended that the present $1.60 an hour minimum wage be increased to $2.30 an hour—in four annual steps for workers covered before 1966 and five annual steps for those covered since then.

For agricultural workers, the minimum would go from the present $1.30 to $2 in four annual steps.

That plan also provides for a youth differential. It would work this way for full-time jobs:

The minimum wage for 16- and 17-year-olds during their first 20 weeks on a job would be 80 percent of the adult minimum or $1.60 an hour, whichever is higher. In agriculture, the rate for that age group would be 80 per cent of the adult minimum or $1.30, whichever is higher, also for the first 20 weeks.

For those 18 and 19, the minimum would be the higher of 85 per cent of the adult rate, or $1.60. If they were in farm work, the minimum would be the higher of 85 per cent of the adult farm rate or $1.30 an hour. The entry wage rate for these older teen-agers would apply for the first 13 weeks on the same job.

The legislation also proposes that full-time students under 21 years of age be allowed to work up to 20 hours a week in any job at a minimum wage equal to 85 per cent of the adult minimum. At present, full-time students may be paid at a lower rate only in retail and service industries and agriculture.

Sen. Peter H. Dominick (R.-Colo.) also is sponsoring legislation to provide for a youth differential and [see "A Moderate Approach to the Minimum Wage," Nation's Business, March 1973] other variations have been offered.

[The youth wage concept was rejected by the House when it passed minimum wage legislation recently, but it is getting another chance in the Senate, which is expected to take action on the issue shortly.]

It's clear that the adverse effects of the minimum wage on youth employment have been recognized and that careful consideration is being given to legislative action to help use this extra burden on young job-seekers.

In the first quarter of this year, the unemployment rate among workers 16 through 19 was 14.7 per cent. This was in sharp contrast to 5 per cent for the total labor force, 3.4 per cent for adult males and 5 per cent for adult women.

The situation was particularly distressing among black youths, with a 30.1 per cent unemployment rate. Among blacks generally, the overall rate was 9 per cent. It was 5.5 per cent for adult black males and 8.6 per cent for adult black women.

Among whites, the jobless rate for youths was 12.9 per cent, compared with 4.5 per cent overall; 3.1 per cent for men and 4.5 per cent for women.

Even apart from the proposed increases in the minimum wage, a number of studies by economists, including some in the federal government have suggested that existing minimum wage legislation—the extent of coverage as well as the specific pay levels—has had a serious adverse impact on job opportunities for young people.

The progressive extension of coverage to retail and service industries may have been especially burdensome.

Prior to 1961, only 6.2 per cent of wage and salary workers in the retail trade were covered by minimum wage legislation. Last year, 56 per cent were covered.

WHERE TEEN-AGERS WORK

In the service industries, 17.4 per cent of employees were covered prior to 1961, and 51.8 per cent last year. Hardly any farm workers were covered before the 1966 amendments to the minimum wage law, but 38.3 per cent are now under its provisions. In construction, coverage went from 41.7 per cent before 1961 to more than 90 per cent last year.

It is in retail trade and services that young people find jobs most frequently.

Last year, for example, nearly 40 per cent of all employed teen-agers were in retail jobs; about 25 per cent were in service establishments and another 6 per cent were in private households.

By contrast, less than 15 per cent were in manufacturing jobs; 6 per cent on farms, 5 per cent in construction and 2.5 per cent in transportation.

For job opportunities young people have come to depend heavily on areas in which average wages are typically below the average for the economy as a whole.

Conversely, high-wage industries employ relatively few teen-agers.

The implication of these patterns is self-evident: Teen-agers occupy jobs in industries where a further extension of minimum wage coverage and an increase in the rate would close the employment door for many of them.

UNDERCUTTING LABOR GAINS?

Before concluding, it is necessary to address issues which must be confronted if an entry wage for teen-agers is to be allowed.

A number of economists, public officials and other observers (as well as trade union officials) have long held that such a provision would undercut hard-won gains made by the labor movement over many years.

I admit that if employers could pay wages below the statutory minimum, they most likely would use the option to hire people whom they otherwise might not be willing to employ. That is precisely the point: The willingness of employers to bring in teen-agers presupposes that the newly-hired workers' productivity would at least equal the wage—after some reasonable allowance for learning time.

On the record, it appears that a substantial number of employers have concluded that a considerable proportion of young people simply cannot meet that test. An entry wage below the statutory minimum would help to reduce this employment disincentive.

At the same time, I also realize that safeguards would have to be built into an entry-wage plan.

Undoubtedly, some employers would try to replace some of their high-wage employees with workers to whom they could pay less. To prevent this, the Administration's proposal would limit an employer to no more than six workers or 12 per cent of his labor force, whichever is higher, who could be paid at the below-minimum rate. The fairly short period (up to 20 weeks) during which the below-minimum rate could be paid works toward the same objective.

While some risk remains, I believe it should be accepted in view of the persistent high unemployment among young people. I know that any substitution of lower-paid young workers for higher-paid, more mature employees would involve some cost. But some benefits would also result. Thus, it becomes a question of trade-offs.

Given the fact that the unemployment situation among teen-agers has been deteriorating for years, it is obvious that they have borne more than their share of joblessness. Moreover, there appears to be no prospect of significant improvement in the foreseeable future.

Relief is sorely needed. An allowance for an entry wage for young people would be a move in the right direction.

TEENAGE UNEMPLOYMENT AND REAL FEDERAL MINIMUM WAGES

(By Douglas K. Adie, Ohio University)

(NOTE.—Received for publication June 16, 1971. Final version received January 20, 1972.

(I would like to tank Yale Brozen, Sam Peltzman, Finis Welch, Robert J. Gordon, and particularly Gene Chapin for suggestions on earlier work. I am also grateful to an anonymous referee for helpful comments. Computations were performed at the Ohio University Computer Center by John Raisian. Any errors are my responsibility. Financial assistance from the Institute for Humane Studies, the Fred C. Koch Foundation and the Earhart Foundation supported the work in this area.)

A federal minimum wage was first enacted under the Fair Labor Standards Act of 1938 to raise the minimum standard of living without curtailing employment. This note examines the impact of the federal minimum wage on teen-age unemployment to see whether the intentions of the legislators were realized.

Department of Labor studies have been criticized elsewhere for suggesting that minimum wages have not reduced employment or damaged the "marginal" firm.[1] Peterson (1957), for instance, demonstrated an employment effect from state and federal minimum wages using cross-sectional anal-

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Footnotes at end of article.

ysis. Kaun (1965) also found that low-wage industries tended to substitute non-wage factors of production for labor in response to increases in the minimum wage. Brozen's (1969) investigation showed that teen-age unemployment increased each time the federal minimum wage was increased. Except for Moore's (1971) article, however, studies have not measured the extent to which variations in minimum wages are related to variations in unemployment rates.[2] To guide policy makers, it is helpful to have some idea of the magnitude of unemployment responses to changes in the minimum wage rate. The present study provides estimates of the strength of this relationship for teen-agers.

MODEL

Economic theory suggests that the quantity of labor demanded will decrease and the quantity of labor supplied increase if a minimum wage is set above the market clearing wage. The extent of these effects depends on the discrepancy between the minimum wage and the market clearing wage and on the size of the elasticities. Because of union age requirements, statutory age requirements, and low skill levels, the market wage for a large proportion of teen-agers, particularly nonwhite teen-agers, is likely to be below the minimum. Hence, teen-agers will be more severely affected by minimum wages. However, since unemployed teen-agers drop out of the labor force to continue their education, the unemployment effect of federal minimum wages may be understated in the statistics.

To construct the model, consider a nonlinear demand for labor function,

$$D=aI^bX^c, \qquad (1)$$

where D is the quantity of labor demanded expressed in number of workers, I is an in-

To gain an appreciation for the extent of the unemployment effect of changes in the real federal minimum wage, consider columns 2 and 3 of table 1. Based on the unemployment elasticities in column 1, the unemployment effects of increases in the federal real minimum wage as of December 1965 for each teen-age labor force classification have been calculated for 1 and 10 percent changes in the minimum. For instance, consider the unemployment elasticity for all teens in column 1, which is 0.362. This means that for a 10-percent increase in the federal real minimum wage, the unemployment rate for all teens would increase by 3.62 percent of the prevailing rate. In December 1965, the unemployment rate for all teens was 12.9, so if the minimum were raised 10 percent in this month, the unemployment rate would increase initially by 0.47 due to this increase in the minimum wage. The new unemployment rate would then be 13.37, which is given in column 3. The unemployment rates in columns 2 and 3 were computed similarly. These calculations assume no change in the price level. Increases in the price level tend to erode the unemployment effect of changes in the minimum wage.

dex of industrial production, a, b, and c are parameters, and X is the real minimum wage. The equality

$$S=dX^f \qquad (2)$$

is a nonlinear supply of labor function, where S is the number of workers offering their labor services and d and f are parameters.

From (1) and (2),

$$(S-D)/S=1-(a/d)I^bX^{c\quad f}. \qquad (3)$$

Since the unemployment rate, U, is expressed in percentage terms, $U=(S-D)/S\times100$ and (3) becomes

$$U=100-100(a/d)I^bX^{c\quad f}. \qquad (4)$$

For downward-sloping demand and upward-sloping supply functions, $c<O$ and $f>O$, so $c-f<O$ and $\delta U/\delta X<O$. Using new parameters, (4) can be approximated by the following expression in log form:

$$\mathrm{In}U_t=\mathrm{a}+\beta\ln I+\gamma\ln X, \qquad (5)$$

which is the basic form of the model.[3]

THE EXTENT OF UNEMPLOYMENT EFFECTS

The unemployment elasticities for the period January 1954 to December 1965 are listed in column 1 of table 1 with the standard errors in parentheses.[4] The most striking feature of these elasticities is that they are all positive. This implies that increases in teenage unemployment in every category are associated with increases in the real federal minimum wage. Except for male white teens, all unemployment elasticities are significant at the 5 percent level.

It is interesting to compare the size of the elasticities for the different classifications of teen-agers, since they are intuitively consistent with each other. For instance, the unemployment elasticity for all teens is 0.362, so it

THE LAG STRUCTURE OF UNEMPLOYMENT EFFECTS

In this section the unemployment effects are determined after 8, 16, and 24 months by lagging the minimum-wage variable in equation (5). All the elasticities are significant at the 5 percent level and are listed in columns 4, 5, and 6 of table 1.

The elasticities show the same direction of change as the lag is increased from 0 to 24 months. The elasticities for all teens, white teens, and male white teens increase steadily as the lag is increased from 0 to 24 months. The elasticity for female white teens increases as the lag is increased from 0 to 16 months, then decreases as the lag is increased to 24 months. The elasticity for nonwhite teens decreases as the lag is increased from 0 to 16 months, then increases as the lag is increased to 24 months. The elasticity for male nonwhite teens increases, decreases, then increases again as the lag is increased from 0 to 8, 8 to 16, and 16 to 24 months, respectively. The elasticity for female nonwhite teens decreases as the lag is increased from 0 to 8 months, then increases as the lag is increased from 8 to 24 months.[6]

The remarkable feature of the lagged esti-

is reasonable that the elasticity for white teens would be lower, and the elasticity for nonwhite teens higher, than 0.362. This is the case, as column 1 of table 1 indicates. The unemployment elasticity for white teens is 0.270 in table 1 while that for nonwhite teens is 0.914. This implies that changes in the federal minimum wage affect nonwhite teens more than white teens, which is to be expected. In fact, the impact on nonwhite teens is more than twice that on white teens.

Also, it is reasonable that the unemployment elasticity for white teens would be between that for male white teens and female white teens, which it is. In fact, while the elasticity for white teens is 0.270, the elasticities for male and female white teens are 0.118 and 0.569, respectively. Similarly, the elasticity for nonwhite teens is between that for male and female nonwhite teens; more precisely, the elasticity for nonwhite teens is 0.914 while the elasticities for male and female nonwhite teens are 0.883 and 1.040, respectively.

Another interesting feature of the estimates in column 1 of table 1 is that the unemployment elasticities for male white teens and male nonwhite teens are both lower than the elasticities for female white teens and female nonwhite teens, respectively. But the unemployment elasticities for male white teens and male nonwhite teens are closer to the aggregate unemployment coefficients than are the elasticities for female white teens and female nonwhite teens, because there are relatively more males than females in the teen-age labor force both for whites and nonwhites. Besides the statistical tests already referred to, these descriptive features add considerable credence to the estimates.[5]

mates of the unemployment coefficients is that even after 2 years the unemployment effects of a change in the federal minimum wage are quite substantial and in most cases greater than the immediate effect. The unemployment elasticity is greater than the initial elasticity after 24 months for all teens, white teens, male white teens, and female nonwhite teens. The elasticities for nonwhite teens and male nonwhite teens are slightly less than the 0-month lag estimates.

The general tendency for the elasticities for all teens, white teens, and particularly male white teens to increase as the lag is increased indicates the delayed response pattern of employers in adjusting their factor proportions to a change in relative factor prices—particularly the quantity of male white teens hired. Although the 0-month lag elasticities for white teens, and particularly male white teens, are low relative to other teen-age classifications, they display the largest percentage increase as the length of the lag is increased. For nonwhite teens, with much higher initial lag unemployment elasticities, most of the adjustment takes place within 8 months.

TABLE 1.—UNEMPLOYMENT ELASTICITIES

	January 1954 to December 1965	Predicted unemployment rates under hypothetical increases in minimum wage as of December 1965		Lag months			January 1954 to September 1961	January 1954 to September 1963
		1 percent	10 percent	8	16	24		
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
All teens	0.362 (.105)	12.95	13.37	0.454 (.118)	0.517 (.115)	0.596 (.105)	0.081 (.166)	0.227 (.142)
White teens	.270 (.109)	11.13	11.39	.394 (.109)	.504 (.112)	.525 (.108)	−.031 (.157)	.093 (.137)
Nonwhite teens	.914 (.156)	27.85	30.12	.810 (.179)	.708 (.176)	.873 (.148)	.602 (.273)	.837 (.211)
Male white teens	.118 (.089)	10.91	11.03	.258 (.092)	.370 (.097)	.429 (.099)	−.135 (.130)	−.013 (.121)
Female white teens	.569 (.167)	11.67	12.26	.562 (.176)	.672 (.186)	.596 (.176)	.187 (.264)	.367 (.203)
Male nonwhite teens	.883 (.198)	23.30	25.14	1.010 (.206)	.788 (.177)	.834 (.158)	.820 (.366)	.857 (.276)
Female nonwhite teens	1.040 (.171)	34.86	38.09	.688 (.219)	.920 (.253)	1.456 (.208)	.442 (.269)	.890 (.229)

Footnotes at end of article.

Since price changes have been accounted for by using real minimum wages, the slight decrease in the elasticity for male nonwhite teens and female white teens from their peak values after 24 months reflects productivity increases relative to the productivity of other factors. However, the slow rate of decline in the elasticities indicates that even for these groups, productivity increases quite slowly and significant employment effects persist after 24 months. Since the 24-month lag elasticity for all other classifications of teen-age labor is the maximum calculated, the unemployment effects of a change in the minimum wage for all other classifications also persist for a considerable time after 24 months. Since these unemployment effects assume a zero rate of inflation, a high rate of inflation could substantially reduce the length of time of the unemployment effect.

THE UNEMPLOYMENT EFFECTS THROUGH TIME

In this section the unemployment elasticities are investigated over three time periods. (1) January 1954–September 1961, (2) January 1954–September 1963, and (3) January 1954–December 1965. January 1954 was chosen as the beginning date because it is the first month for which unemployment data are available for the classifications of teen-age labor used in this paper. The terminal dates of periods (1) and (2), September 1961 and September 1963, coincide with changes in the federal minimum wage to $1.15 and $1.25, respectively, while the last date, December 1965, represents the last month for which the data were available. The results are listed in columns (1), (7), and (8) of table 1 and indicate that the elasticities increase steadily from periods (1) to (3).[7] Increased coverage, stricter enforcement of laws, and the availability of cheap substitutes in production may account for this trend. More work needs to be done before assessing these causes.

CONCLUSION

The results of this study indicate that (1) increases in the federal minimum wage cause unemployment among teen-agers; (2) the effects tend to persist for considerable periods of time; and (3) the effects seem to be increasing through time. This result is not surprising, since one of the fundamental difficulties with legislative attempts to alter the economic structure of the economy arises from the apparent inability of legislators to see the full social and economic consequences of their interference.

In conclusion, it appears that the minimum wage is responsible for a considerable amount of teen-age unemployment. To the extent that a minimum wage creates unemployment among minority-group teen-agers, it inevitably will exacerbate the social unrest in urban ghettos. With this information in mind, serious consideration should be given to reducing, or removing, the federal minimum wage for teen-agers.

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FOOTNOTES

[1] For a discussion of Department of Labor Studies, see U.S. Department of Labor (1970, pp. 30–33). For criticism of Department of Labor studies, see Stewart and Macesich (1960).

[2] There are difficulties with Moore's (1971) specification of the real minimum-wage variable. It is not the *nominal* minimum wage in time $t - m$ deflated by average hourly earnings in time t that affects the unemployment rate in time t, as Moore's model indicates, but the *real* minimum wage in time $t - m$, which is the nominal minimum wage in time $t - m$ deflated by the average hourly earnings in time $t - m$. Also, the weights associated with earlier changes in the nominal minimum wages are constrained by his model to be larger than those associated with recent changes. This weighting pattern requires some theoretical justification, since it is not the normal decay pattern. However, despite the misspecification, Moore's results still show significant teen-age unemployment effects of changes in federal minimum wages.

[3] I have used seven classifications of teen-age monthly unemployment rates, seasonally adjusted, supplied by the Bureau of Labor Statistics for the time period January 1954–December 1965. They are for the following teen-age groups, age 16–19; (1) all teens, (2) all white teens, (3) all nonwhite teens, (4) male white teens, (5) female white teens, (6) male nonwhite teens, and (7) female nonwhite teens. The symbol U_i is used to designate the ith classification of teen-age unemployment. Also, I have used the monthly consumer price and wholesale price indices supplied by the Bureau of Labor Statistics for the same period, designated P_c and P_w respectively. The seasonally adjusted total, manufacturing, and final product indices of industrial production were taken from *Federal Reserve Bulletins*, converted to a common base period, and detrended so as to measure only business fluctuations. They are designated I_t, I_m, *and* I_f, respectively. The federal minimum wage designated W_m has been expressed as a monthly series with changes occurring only in the month the changes went into effect. The real minimum wage, X, is W_m divided by a price index.

[4] The unemployment elasticity measures the percentage changes in the unemployment rate when the real federal minimum wage changes by 1 percent and is expressed in (5) by γ. The model discussed in the text uses the total index of industrial production for I and the minimum wage divided by the wholesale price index for X.

[5] Other specifications of the model were used with different independent variables. For instance, instead of deflating the nominal minimum wage by the wholesale price index, it was deflated by the consumer price index. Also, instead of using the total index of industrial production to remove business fluctuations, the indices pertaining to manufacturing and final products were used. By using these variables, four models were generated. An inspection of the Durbin-Watson statistics showed the error terms to be serially correlated. An adjustment with partial first differences raised the Durbin-Watson statistics to acceptable levels. See Theil and Nagar (1961) for a description of the technique. Of the 28 unemployment elasticities for January 1954–December 1965, only five were not significant at the 5 percent level. Models which used the minimum wage deflated by the wholesale price index yielded slightly higher elasticities for white teens while models using the minimum wage deflated by the consumer price index yielded slightly higher elasticities for nonwhite teens. The complete results are available from the author on request.

[6] For the specifications mentioned in n. 5, all 84 lag estimates of 8 months or more are significant at the 5 percent level.

[7] The same relationships exist between the elasticities estimated with the other specifications of the model mentioned in n. 5.

Mr. DOMENICI. Mr. President, I send an unprinted amendment to the desk and ask to have it stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 17, line 20, strike out "July 1, 1974" and insert in lieu thereof "January 1, 1975".

On page 17, line 24, strike out "July 1, 1975" and insert in lieu thereof "January 1, 1976".

On page 18, line 3, strike out "July 1, 1976" and insert in lieu thereof "January 1, 1977".

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. DOMENICI. Mr. President, as I understand it, both managers of the bill, the majority and minority managers, see the wisdom of this change. It is not a substantive change in the retail service establishment section.

It merely recognizes the fact that in the bill as drafted, we begin to impose the lower dollar amounts starting on July 1 of this year.

My bill would merely add 6 months to each of those scheduled, built-in diminutions so that instead of July 1, 1974, it would be January 1, 1975. Instead of July 1, 1975, it would be January 1, 1976. And instead of July 1, 1976, it would be January 1, 1977.

I think that it is obvious that bills such as this take a long time in Congress before they become effective. Many times the dates are right upon the businessmen before they realize it. We are saying that the intent of the bill is to permit the establishments to live up to it. If we do not add 6 months, there will be no opportunity for the retail outlets to adjust to what is just ahead of them. The first date will be here before the bill is passed.

It is prudent to give an additional 6 months in changes like this to the small outlets and those who are subject to the law on the basis of $225,000 in gross sales instead of the amount that it had been, $250,000.

I think it gives an advance warning.

Mr. WILLIAMS. Mr. President, the present act contains a number of provisions which provide flexibility in the application of minimum wage rates to certain workers. Thus, under the present law:

First. Under special certificates full-time students may be employed at 85 percent of the applicable minimum wage in covered retail and service establishments and on covered farms.

Second. No minimum wage or overtime standard applies to workers in seasonal recreational and amusement establishments. This is an industry which employs many young people and such employment continues to be outside the scope of the Fair Labor Standards Act.

Third. For noncovered retail and service enterprises, no wage-hour standards apply.

Fourth. In agriculture, youths 16 and under may be paid less than the appli-

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Footnotes at end of article.

cable minimum hourly wage, provided that they are paid at the same piece rates as adults.

Fifth. The act continues to provide for a certification program for learners, apprentices, and messengers at less than the minimum wage pursuant to regulations issued by the Secretary of Labor.

This is not intended as an exhaustive list. It is designed to show the wide astunity for the retail outlets to adjust to sortment of activities that will remain either outside the scope of the act or for which student or learner rates are allowed under a certification procedure.

The committee gave the most careful consideration to these provisions of the law, and to proposals to establish an across-the-board youth differential.

The committee bill adds educational institutions to those activities which are currently permitted to employ full-time students under special certificates issued pursuant to regulations of the Secretary of Labor at a rate not less than 85 percent of the applicable minimum wage.

The bill will also provide a minimum wage and overtime exemption for students employed by an elementary or secondary school if the employment constitutes an integral part of the school's regular education program provided that the employment satisfies applicable child labor provisions.

Furthermore, with regard to retail and service establishments, up to four students may be hired without the need for the traditional precertification procedure—that is, a finding of no substantial probability of job displacement before the issuance of certificates—or the need to meet the historical experience test concerning the proportion of student hours worked during a base year, as set forth below. If more than four students are hired, the existing precertification procedure will continue to apply and the proportion of student hours of employment—including for this purpose the first four students—to total hours of employment of all employees, shall not exceed such proportion for the corresponding 12-month period before the establishment was covered by the act.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the name of the Senator from Ohio (Mr. TAFT) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, the Senator from Vermont (Mr. STAFFORD) desires to speak. He is not present on the floor at the moment. So, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment just offered by the distinguished Senator from New Mexico (Mr. DOMENICI).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, although S. 2747 does not propose to reduce the $250,000 enterprise dollar volume test as it did last year, it would repeal the "establishment" exemption for small retail and service stores which gross less than $250,000 annually, but which are part of that "enterprise" which does exceed that figure. This approach would extend the Fair Labor Standards Act to 662,000 employees in small retail and service stores. In this connection, it should be noted that inflation since 1961, when this exemtion was established, has already operated to extend coverage down to small businesses which have grossed only $171,500 annually.

The committee approach on this subject will severely affect small chain stores; none of the large, well-known chains would be effected, because each of their stores have annually exceeded the $250,000 cutoff for the exemption currently in the act. These small chain stores are located in small, rural communities primarily in the South and West. Elimination of this exemption will increase the existing pressures on small chains to consolidate and shift location to larger urban areas. This result will reduce job opportunities in, and damage the economies of, many small rural communities. Given the current plight of rural America and the great obstacles such businesses must overcome with regard to the energy crisis, I think it is a mistake for the Congress to proceed on the schedule for elimination of this exemption as proposed in the committee bill. The proposed amendment would establish the following phasein for these small businesses from $250,000 to $225,000 by January 1, 1975 in lieu of July 1, 1974; from $225,000 to $200,000 by January 1, 1976 in lieu of July 1, 1975; complete elimination and phasein from $200,000 by January 1, 1977 in lieu of July 1, 1976, I, therefore, am delighted to see that the committee chairman will accept the amendment offered by the Senator from New Mexico and myself.

Mr. DOMENICI. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment offered by the Senator from New Mexico.

The amendment was agreed to.

Mr. HELMS. Mr. President, I call up my unprinted amendment which is at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be read.

The second assistant legislative clerk read as follows:

On page 14, beginning with line 3, strike out through line 4 on page 15 and insert in lieu thereof the following:

"'(k) No public agency shall be deemed to have violated subsection (a) by employing any employee engaged in fire protection or law enforcement activities (including security personnel in correctional institutions) for any workweek in excess of the maximum workweek applicable under subsection (a)' ".

Mr. HELMS. Mr. President, I ask unanimous consent that the Senator from Colorado (Mr. DOMINICK) and the Senator from Ohio (Mr. TAFT) be added as cosponsors of my amendment, which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, there is serious concern in my State, and in many other States about the extension of the overtime provisions of the Fair Labor Standards Act to certain categories of municipal employees, namely, firemen and policemen.

The traditional terms of employment for firemen provide for a 56-hour average duty week—24 hours on duty, 48 hours off—an arrangement which firemen have always preferred to a straight 40-hour workweek. This allows the literally hundreds of thousands of firemen throughout the country to supplement their income by maintaining another job.

By accepted standards, fire department personnel spend a small percentage—1 to 3 percent—of their onduty hours in response to fire alarms and a far greater part—a minimum of 67 percent—of their time in a standby capacity.

The adoption of provisions which would phase in overtime pay would completely disrupt all existing labor contracts and could force local governments to choose one of several options, none of which are satisfactory. Local governments could:

First, increase tremendously the property tax burden or find some other source of revenue; or

Second, reduce the level of service provided by fire departments by simply reducing manpower and/or equipment and fire stations; or

Third, revert paid fire departments to volunteer fire departments with just enough paid firemen to drive the trucks to the fire; or

Fourth, reduce the level of service in some other functions of municipal government to make funds available for increased personnel costs in the fire departments; or

Fifth, apply revenue sharing funds to meet these wage increases, which would substantially negate the advantage of these funds to municipalities; or

Sixth, a combination of the above.

To ask the municipalities to reduce the hours required is a near impossible alternative for administrative and financial reasons. The reduction would require an additional reduction in the number of personnel, thereby compounding the costs for salaries, fringe benefits, uniforms, training and the like. It would also necessitate an alteration of the administrative structure of the fire department, requiring additional higher echelon supervisory personnel. It is almost impossible to estimate the actual cost that would be incurred by this but a 10- to 15-percent increase in the present cost of fire protection would not be unlikely.

According the North Carolina League of Municipalities, a municipality's growth and revenue would permit an average reduction of 4 hours every 3 years. In other words, a city with a 48-hour average week for firemen would require 6 years to drop to a 40-hour average without an excessive burden on its revenue. For instance, the city of Raleigh, N.C., with a 60-hour workweek, would require as much as 15 years to make the necessary reductions.

Mr. President, I ask unanimous consent to have printed in the RECORD several tables prepared by the North Carolina League of Municipalities. The first two tables—exhibit A-1 and A-2—demonstrate the adverse fiscal impact of extending coverage of the overtime provisions to firemen. The second table—exhibit B—lists the average workweek of full-time fire personnel in towns and cities in North Carolina with a population over 2,000.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

EXHIBIT A-1

FIRE PERSONNEL PAYROLL AND WORK HOURS, SAMPLE OF CITIES OVER 14,000 POPULATION, JAN. 1 ,1973—NORTH CAROLINA

City	Population	Total in department	Annual payroll	Workweek (hours)	Overtime policy
Charlotte	241, 178	483	$4, 807, 750	52	Civil emergency.
Durham	95, 438	136	1, 257, 619	56	Hourly pay.
Lenoir	14, 705	29	205, 000	72	None.
Raleigh	121, 577	263	2, 193, 813	60	Compensatory leave.
Rocky Mount	34, 284	65	438, 046	66	$2 per hour.
Salisbury	22, 515	44	291, 500	68	None.
Shelby	16, 328	29	195, 976	66	Straight time.
Thomasville	15, 230	27	181, 618	68	None.

EXHIBIT A-2

ADDITIONAL ANNUAL PAYROLL AT TIME AND A HALF (HOURS PER 28 DAYS)[1] BASED ON JAN. 1, 1973, ANNUAL PAYROLL—NORTH CAROLINA

City	192	184	176	168	160	Cumulative 5-yr cost
Charlotte	$170, 634	$255, 591	$341, 268	$426, 586	$511, 902	$1, 705, 981
Durham	83, 036	103, 795	124, 554	145, 313	166, 072	622, 770
Lenoir	31, 576	34, 208	36, 839	39, 470	24, 102	184, 195
Raleigh	202, 239	235, 946	269, 652	303, 359	337, 066	1, 348, 262
Rocky Mount	55, 037	61, 152	67, 267	73, 382	79, 498	336, 336
Salisbury	39, 494	43, 443	47, 393	51, 342	55, 292	236, 564
Shelby	24, 684	27, 427	30, 170	32, 913	35, 655	150, 849
Thomasville	24, 624	27, 086	29, 549	32, 011	35, 474	148, 744

[1] Assuming a zero inflation rate.

EXHIBIT B

AVERAGE WORKWEEK OF FULL-TIME FIRE PERSONNEL, TOWNS OVER 2,000 POPULATION, JAN, 1, 1973—NORTH CAROLINA

Hours	Number
2,000 to 5,000:	
40	3
44	1
48	2
56	2
60	1
68	1
72	3
76	1
78	1
84	5
No report	2
N	22
5,000 to 10,000:	
42	1
48	2
60	1
68	1
72	3
84	12
No report	9
N	29
10,000 to 20,000:	
40	1
56	1
60	1
66	1
68	2
70	1
72	8
76	1
78	1
84	1
No report	1
N	19
20,000 plus:	
52	1
56	3
60	2
62	2
66	4
68	1
72	6
N	19

Mr. HELMS. Mr. President, according to information provided by the National League of Cities, the overtime provision for the first year would cost Los Angeles $20 million; Detroit $15 million; Chicago $7 million; Salt Lake City $1.1 million; Minneapolis $1.5 million; Corpus Christi $820,000; Houston $4.5 million; St. Paul $1 million; and it would cost the 11 largest cities in the State of Washington an additional 45 percent of their present spending levels.

Should this provision become law, it would place many of our cities in an untenable position. We would in effect be asking our cities to pay the additional costs out of existing funds, to raise taxes, or use their revenue sharing funds to pay for these basic citizen services, which would substantially negate the advantage of that program.

There is no question that our firemen and policemen deserve equitable compensation. If this amendment were accepted, it would not alter the regular minimum wage for these individuals. It would simply exempt them from the coverage of the so-called overtime requirements of the act. We must be practical in our approach. To impose unrealistic wage standards on our municipalities in this regard would be an injustice to the millions of Americans who depend on them for basic and essential services. Such action would, in my view, retard the effectiveness of the level of government closest to the people.

The Secretary-Treasurer of the North Carolina Council of Fire Service Associations has advised me that he opposes the inclusion of firemen within the purview of the so-called overtime provision of the Fair Labor Standards Act. He believes that to do so would disrupt the economic pattern of most fulltime firemen. This is true because it is believed that most municipalities would take the position that they could not afford to allow firemen to work overtime at the rate of one and one-half times their base rate. Many municipalities currently do allow such employees to work longer than 40 hours per week at the regular rate.

Therefore, to include firemen in this provision would have the practical effect of reducing their income. I suggest that this same consideration is equally applicable to other areas of the country.

Mr. President, I reserve the remainder of my time.

Mr. JAVITS. Mr. President, I yield myself as much time as I may need in opposition.

The question is whether any overtime provision whatever shall be made for these particular employees—that is, firefighters and security forces.

Our position, Mr. President, is, indeed, expressed in the bill's provisions for phasing in an overtime standard. That standard begins with a 48-hour week and gradually, over a 5-year period, goes down to the 40-hour standard. The standard of the 40-hour week, and later the 40-hour week is applicable over the average of 4 weeks. The averaging provision remains and continues. Even when we get to a 40-hour week it still remains a 28-day average.

The point is that this is not a matter of firefighters or security employees not being available for the various kinds of duties which the public interest requires. It is a matter of whether they are being paid for it. They are workers like any other workers and are being covered under the Fair Labor Standards Act and, therefore, theoretically at least, should be entitled to overtime pay under the law like any other worker. Indeed, the whole tendency has been to extend general worker status to these employees on a continuing basis.

We realize that, as this area has not been subject to the Fair Labor Standards Act, some time to conform has to be introduced, and we realize also that the particular employees have not gotten the same benefits as the rank and file of employees outside of these particular services. So we provided a phase in period, with 4-years for adjustment, and we have permitted the averaging of the 40-hour week over 4 weeks continuously on a permanent basis. In addition, we lock in a matter which is referred to in the committee report on page 25—that is, a provision dealing with sleeping and eating periods which is part of the rules of the Department of Labor for those who work 24-hour shifts, like a great many of the firefighters.

Therefore, the need to exempt hours for sleeping, and the hours for mealtimes has been recognized by regulation and the committee intends that this regulation be applicable under our particular statute, if this becomes law. There has been allowed by regulation the 8-hour sleeping and eating period. The whole 8-hour time is not charged, therefore, in any overtime calculation, unless the period for sleep is under 5 hours in that particular day.

Now that will make for a considerable financial saving in respect of the units which have 24-hour duty for many municipalities.

The fundamental point is this, that we recognize that policemen and firemen are workers, just like other workers. We do allow a time for phasing in and we recognize the different nature of their employment in terms of the averaging provision, so there is no reason, in terms of compensation, why they should not get overtime pay for extra work outside of the normal hours. This amendment would propose to do that. The point I wish to emphasize here is that we are not passing on the economy of the localities. Indeed many localities may claim that they are being hurt materially and financially by coverage of any of their employees under the minimum wage but we are looking now to justice to the individual firefighter or to the security employee. We say that justice requires they shall be given comparable treatment to that of other workers. If we are going to do that, we simply have to recognize the overtime element as also an element of this kind of treatment, too.

For all those reasons, Mr. President, we oppose the amendment and hope that it will be rejected.

Mr. HELMS. Mr. President, I know that the distinguished Senator from New York is perfectly sincere in his observations, but I would say to him that he is thrusting on the firemen of this country something that they do not want. It is not justice, or whatever we wish to call it. They like the system they have now. It is compatible with municipal finances. In every way it should be left alone.

Mr. President, I ask for the yeas and nays on my amendment.

There was not a sufficient second.

Mr. HELMS. Mr. President, in that case, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Hughes). On whose time?

Mr. HELMS. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call to be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, this amendment seeks to exclude firefighters from the overtime coverage of the act. Its proponents have argued that the unique 24-hour shift schedule, worked by firemen makes it impossible and unfeasible to include them within its overtime coverage.

The committee was cognizant of the specific problems firemen face when it chose to include them under the act's overtime coverage.

The bill, therefore, includes a special overtime standard for law enforcement and fire protection employees.

For such workers, if there is an agreement, or understanding between the employer and its employees, the bill provides for a standard work period of 28 days instead of the basic standard of a 7-day week for purposes of determining overtime compensation.

Time and one-half the regular rate of pay would be required for all hours over 192 in the 28-day period the first year; over 184 during the second year; over 176 in the third year; over 168 in the fourth year; and over 160 in the fifth year and thereafter.

This phasing in of overtime coverage is consistent with the way Congress has handled new overtime coverage in the past.

The committee also examined the problems posed by the 24-hour shift.

The matter of hours worked during such shifts has, we believe, been satisfactorily treated by the Secretary of Labor. The regulations promulgated by the Secretary permit up to 8 hours of sleeptime and mealtime allowances to be excluded from calculating actual "hours worked."

The committee believes that these regulations adequately allow for the unique work schedules of firefighters while providing for those who daily protect our lives the basic protections of the Fair Labor Standards Act. We believe that these employees are entitled to the same protection of the act as we are affording all other State and local government employees.

I urge the Senate to reject this amendment.

Mr. TOWER. Mr. President, I strongly support the efforts of Senator Helms in moving to delete the bill's provisions relating to overtime pay for policemen and firemen. Besides the questionable constitutionality of this provision and the arguments that apply to the entire bill that are equally as relevant to this provision, I feel there is an additional compelling reason to delete this section.

Just to give my colleagues an example, I have been informed by city officials in Dallas that this extension of overtime coverage for firemen will cost that city $6 million in its first year.

Mr. President, the city of Dallas receives approximately $13 million in revenue-sharing funds. It is just a little ridiculous to face city governments to adjust their local budgets to the Fair Labor Standard Act at a time when we are supposedly for the first time offering to these cities Federal funds in such a manner that allows them to set their own priorities.

I have been convinced that the bill's provision will prove detrimental to the policemen and firemen that our cities and their citizens so heavily depend. Rather it will hamstring the effectiveness of the police force and firemen, forcing them to reconsider any part-time work they may have and forcing the cities to perhaps layoff some of these workers—which would be disastrous to our cities.

Mr. President, I urge adoption of the amendment.

Mr. CRANSTON. Mr. President, I know that many firefighters in California are concerned that the public safety employees' overtime provisions of S. 2747, the minimum wage bill, may threaten the present system in many California communities of working 24-hour tours of duty.

I have received many letters and calls from firefighters expressing their views that they do not want to see the present system changed.

I want to assure the firefighters of California that the public safety employees' overtime provisions will not mandate an end to the present system of working 24-hour tours of duty. The bill leaves that issue as a matter of negotiation between the firefighters and their employers.

The Committee on Labor and Public Welfare carefully prepared the overtime provisions for public safety workers to make it possible for employers and public safety employees to agree to a standard work period of 28 days instead of the basic standard 7-day week for purposes of determining overtime compensation.

It is important to understand that shifting to a 28-day work period for computing overtime produces different results than using the 7-day, 40-hour work week, for computing overtime.

The committee has made clear that the present regulations of the Department of Labor with respect to 24-hour work shifts are to be followed. These regulations provide that the employer and the employee may agree to exclude bona fide sleeping periods—up to 8 hours—and bona fide meal periods from computing the number of hours worked for purposes of overtime compensation.

The bill would provide a time and a half rate for hours in excess of 160 in a 28-day period instead of hours worked in excess of 40 hours in the normal week.

The 160-hour provision, however, does not become applicable immediately. Rather, the bill starts the overtime compensation running at 192 hours the first year, 184 hours the second year, 176 hours the third year, 168 hours the the fourth year, and then beginning the fifth year, 160 hours.

Under the committee bill, a firefighter who presently works a 56-hour week on 24-hour shifts will be able to negotiate an agreement to have overtime compensation computed on a 28-day work period basis. He will work 240 hours during the 28-day period, but 80 hours of rest period time can be excluded from the total number of hours worked. As a result, he will not have worked in excess of 160 hours within the 28-day period.

Another way to see how the committee bill preserves the 24-hour tour of duty for firefighters is to count the number of 24-hour shifts a firefighter works during a 28-day period before he draws overtime compensation.

During the first year, the firefighter works 12 shifts without overtime compensation, 11½ the second year, 11 the third year, 10½ the fourth year, and 10 the fifth year and thereafter.

If the firefighter's rest is interrupted by fire calls so that he cannot get 5 hours of uninterrupted rest, he must be paid overtime for those hours worked. I believe this to be fair.

I ask unanimous consent that the relevant pages of the report of the Committee on Labor and Public Welfare on S. 2747 be included in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Excerpts From Senate Report 93–690 To Accompany S. 2747

STATE AND LOCAL

There are a number of reasons to cover employees of State and local governments. The Committee intends that government apply to itself the same standards it applies to private employers. This principle was manifested in 1972 when the Senate overwhelmingly voted to apply Federal equal employment opportunity standards to public sector employers. Equity demands that a worker should not be asked to work for subminimum wages in order to subsidize his employer, whether that employer is engaged in private business or in government business. The Senate has also applied wage ceilings to the wages paid public employees. The Committee sees no reason, therefore, why these employees should not be protected by the wage floor provided by the FLSA.

The Committee believes that there is no doubt that the activities of public sector employers affect interstate commerce and therefore that the Congress may regulate them pursuant to its power to regulate interstate commerce. Without question, the activities of government at all levels affect commerce. Governments purchased goods and services on the open market, they collect taxes and spend money for a variety of purposes. In addition, the salaries they pay their employees have an impact both on local economies and on the economy of the nation as a whole. The Committee finds that the volume of wages paid to government employees and the activities and magnitude of all levels of government have an effect on commerce as well.

The Committee anticipates that the financial impact on local government units will be minimal.

The Department of Labor has supplied the Committee with figures on impact of minimum wage coverage on state and local governments. They indicate that the cost of increasing state and local employees covered in 1966 and those covered in this bill to $1.80 per hour will be .3% of the annual wage bill or $128,000,000. The following year, there will be a .5% increase in the annual wage bill or $162,000,000.

The Committee has also made an effort to minimize any adverse effects of overtime requirements by providing for a phase-in of those public employees who are most frequently required to work more than forty hours per week, the public safety and fire fighting employees.

The bill includes a special overtime standard for law enforcement and fire protection employees including security personnel in correctional institutions. For such workers, if there is an agreement or understanding with their employers the bill provides for a standard work period of 28 days instead of the basic standard of a 7-day week for purposes of determining overtime compensation. Time and one-half the regular rate of pay is required for all hours over 192 in the 28-day period during the first year; over 184, during the second year; over 176, during the third year; over 168, during the fourth year; and over 160 hours at the beginning of the fifth year and thereafter.

The question of treatment of employees who work 24 hour shifts was raised in the Committee. The matter of hours worked for such employees has been treated by the Secretary of Labor for many years with respect to 24 hour shift operations of nonpublic workers such as telephone and power company employees and watchmen. These regulations state the following:

INTERPRETATIVE BULLETIN ON HOURS WORKED

Sleeping time and certain other activities

Section 785.22. Duty of 24 Hours or More.

(a) General.—Where an employee is required to be on duty for 24 hours or more, the employer and the employee may agree to exclude bona fide meal periods and a bona fide regularly scheduled sleeping period of not more than 8 hours worked, provided adequate sleeping facilities are furnished by the employer and the employee can usually enjoy an uninterrupted night's sleep. If sleeping period is of more than 8 hours, only 8 hours will be credited. Where no expressed or implied agreement to the contrary is present, the 8 hours of sleeping time and lunch periods constitute hours worked. (*Armour* v. *Wantock*, 323 U.S. 123 (1944); *Skidmore* v. *Swift*, 323 U.S. 134 (1944); *General Electric Co.* v. *Porter*, 208 F. 2d. 805 (C.A. 9, 1953), cert. denied, 347 U.S. 951, 975 (1954); *Bowers* v. *Remington Rand*, 64 F. Supp. 620 (S.D. Ill. 1946), aff'd 159 F. 2d 114 (C.A. 7, 1946), cert. denied 330 U.S. 843 (1947); *Bell* v. *Porter*, 159 F. 2d 117 (C.A. 7, 1946), cert. denied 330 U.S. 813 (1947); *Bridgeman* v. *Ford, Bacon & Davis*, 161 F. 2d 962 (C.A. 8, 1947); *Rokey* v. *Day & Zimmerman*, 157 F. 2d 736 (C.A. 8, 1946); *McLaughlin* v. *Todd & Brown, Inc.*, 7 W.H. Cases 1014; 15 Labor Cases para. 64, 606 (N.D. Ind. 1948); *Campbell* v. *Jones & Laugin*, 70 F. Supp. 996 (W.D. Pa. 1947).

(b) Interruptions of sleep.—If the sleeping period is interrupted by a call to duty, the interruption must be counted as hours worked. If the period is interrupted to such an extent that the employee cannot get a reasonable night's sleep, the entire period must be counted. For enforcement purposes, the Divisions have adopted the rule that if the employee cannot get at least 5 hours' sleep during the scheduled period the entire time is working time. (See *Eustice* v. *Federal Cartridge Corp.*, 66 F. Supp. 55 (D. Minn. 1946).)

The Committee intends this regulation to be applicable to the numerous local firefighting units which work 24 hour shifts. It is the Committees' expectation that the Secretary of Labor will exclude from "hours worked" calculations, those regularly scheduled bona fide meal periods and sleeping periods of not more than eight hours which either the employer and employee expressly agree are regularly scheduled meal and sleep periods, or, where no such express agreement exists, which can be assumed to be implicitly agreed upon by the employer and employee on the basis of the existence over a reasonable period of time of regularly scheduled meal and sleeping periods.

Mr. DOMINICK. Mr. President, as a cosponsor of Senator Helms' amendment, I have heard from a number of cities in my State. They all oppose the provision in the committee bill and would support the amendment.

As an example of this problem, I commend to my colleagues the very informative letter from Mr. Linrothe, director of the city of Aurora, in my home county. I sincerely hope that this problem will be alleviated by adoption of Senator Helms' amendment, and I ask unanimous consent that the letter to which I have referred be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

February 26, 1974.

Hon. Peter H. Dominick,
U.S. Senate, Old Senate Office Building, Washington, D.C.

Dear Senator Dominick: We would appreciate the opportunity of expressing some of our thoughts on the proposed legislation extending fair labor standards to fire and police personnel.

In particular, we oppose reduction of the firemen's normal work week to 48 hours, with further scheduled reductions of two hours each year over the next four years to bring their work week eventually down to 40 hours. This would represent a decrease in hours of an immediate 14 percent, and eventually almost 30 percent from Aurora's present 56 hour week.

If overtime is paid beyond 48 hours and our 56 hour work week is retained, gross pay would increase 25 percent initially. When the normal work week settles at 40, overtime would cause gross pay to increase a prohibitive 60 percent if we stayed with a 56 hour week. If additional personnel were to be hired in order to maintain present manning levels at straight time pay, a 30 percent increase in manpower would be required for the 40 hour work week. This would cost the City of Aurora close to $500,000 with no tangible increase in the present level of fire prevention and protection service.

All these effects would be inflationary and would increase competition for scarce municipal revenues during a period of economic slowdown. Although a national fire fighting union is reputedly backing the reduction in the work week for fire personnel, most firemen in the Metro Denver area do not favor this change. Denver firemen, for example, are attempting to persuade their city to restore the 56 hour week abandoned January 1974 for a 48 hour schedule in the anticipation of passage of this legislation next year. Reduction of the fire service work week to 40 hours inevitably means abandonment of the 24 hour shift and its valued practice of consecutive days off.

This, like all other legislation affecting the local budget, requires a provision for the effective date to be postponed at least two years in order to effectively incorporate it into local government budgets.

Sincerely,

R. N. Linrothe,
Director.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield myself one-half minute to say that I think the Senator from New Jersey (Mr. Williams) wishes to be heard on this matter. I, therefore, suggest the absence of a quorum, on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. HART) and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

Mr. HUGH SCOTT. I announce that the Senator from Kentucky (Mr. COOK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. COOK) would vote "nay."

I further announce that the Senator from Connecticut (Mr. WEICKER) is absent due to death in the family.

The result was announced—yeas 29, nays 65, as follows:

[No. 62 Leg.]

YEAS—29

Baker
Bartlett
Beall
Bellmon
Bennett
Biden
Brock
Cannon
Cotton
Curtis
Dole
Dominick
Ervin
Fannin
Gurney
Hansen
Hartke
Hatfield
Helms
Hruska
McClellan
McClure
Nunn
Roth
Scott, William L.
Taft
Talmadge
Thurmond
Tower

NAYS—65

Abourezk
Aiken
Allen
Bayh
Bentsen
Bible
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Clark
Cranston
Domenici
Eagleton
Eastland
Fong
Fulbright
Gravel
Haskell
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Tunney
Williams
Young

NOT VOTING—6

Cook
Goldwater
Griffin
Hart
Symington
Weicker

So Mr. HELMS' amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BUCKLEY. Mr. President, I was going to offer an amendment that would strike the provisions——

The PRESIDING OFFICER. Who yields time?

Mr. BUCKLEY. Mr. President, I will call up an amendment and then work on that time.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that further reading of the amendment be suspended.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 997) is as follows:

On page 3, beginning with line 14, strike out through line 20 on page 9.

On page 9, line 22, strike out "Sec. 6." and insert in lieu thereof "Sec. 5.".

On page 16, line 7, strike out "Sec. 7." and insert in lieu thereof "Sec. 6.".

On page 17, line 20, strike out "Sec. 8." and insert in lieu thereof "Sec. 7.".

On page 18, line 8, strike out "Sec. 9." and insert in lieu thereof "Sec. 8.".

On page 20, line 8, strike out "Sec. 10." and insert in lieu thereof "Sec. 9.".

On page 21, line 8, strike out "Sec. 11." and insert in lieu thereof "Sec. 10.".

On page 21, line 22, strike out "Sec. 12." and and insert in lieu thereof "Sec. 11.".

On page 22, line 11, strike out "Sec. 13." and insert in lieu thereof "Sec. 12.".

On page 24, line 6, strike out "Sec. 14." and insert in lieu thereof "Sec. 13.".

On page 24, line 20, strike out "Sec. 15." and insert in lieu thereof "Sec. 14.".

On page 25, line 10, striwe out "Sec. 16." and insert in lieu thereof "Sec. 15.".

On page 25, line 18, strike out "Sec. 17." and insert in lieu thereof "Sec. 16.".

On page 26, line 11, strike out "Sec. 18." and insert in lieu thereof "Sec. 17.".

On page 27, line 9, strike out "Sec. 19." and insert in lieu thereof "Sec. 18.".

On page 28, line 8, strike out "Sec. 20." and insert in lieu thereof "Sec. 19.".

On page 32, line 10, strike out "Sec. 21." and insert in lieu thereof "Sec. 20.".

On page 33, line 21, strike out "Sec. 22." and insert in lieu thereof "Sec. 21.".

On page 35, line 12, strike out "Sec. 23." and insert in lieu thereof "Sec. 22.".

On page 36, line 10, strike out "Sec. 24." and insert in lieu thereof "Sec. 23.".

On page 42, line 12, strike out "Sec. 25." and insert in lieu thereof "Sec. 24.".

On page 45, line 2, strike out "Sec. 26." and insert in lieu thereof "Sec. 25.".

On page 46, line 4, strike out "Sec. 27." and insert in lieu thereof "Sec. 26.".

On page 46, line 22, strike out "Sec. 28." and insert in lieu thereof "Sec. 27.".

On page 51, line 13, strike out "Sec. 29." and insert in lieu thereof "Sec. 28.".

Mr. BUCKLEY. Mr. President, I will not call up the amendment for a vote. I did want to call the Senate's attention to one situation as it affects Puerto Rico. My amendment would strike those provisions which would bring Puerto Rico under the law as it applies to the mainland.

Mr. President, I am concerned over the provisions that would bring Puerto Rico within the minimum wage law that is applicable to the mainland.

One reason for my concern is that last September, the President of the United States and the Governor of Puerto Rico created an Ad Hoc Advisory Group on Puerto Rico pursuant to the 1967 plebiscite confirming Puerto Rico's status as a Commonwealth. Under its charter, the Advisory Group is given the charge to "inquire into and report and recommend on the extent to which statutory laws—of the United States should apply in Puerto Rico." Among the specific items on the agenda for the Ad Hoc Advisory Group—of which I am a member—is the extent to which U.S. minimum wage laws should be made applicable to the Commonwealth. The position paper presented by the Puerto Rican members of the Advisory Group contains the following.

> The nature of the Puerto Rican economy, which differs to such a degree from that of the mainland, calls for ad hoc treatment of the difficult problems raised by this area. Further studies are indicated to identify alternatives that can be submitted to the Advisory Group for its recommendations. The coverage of minimum wage legislation in Puerto Rico should be limited to activities that are actually engaged in interstate commerce. In fixing minimum wages the largest measure of authority should be vested in Puerto Rico. Puerto Rico recognizes that unfair competition with stateside industries and labor should not be established through low wages in Puerto Rico. The authority of Puerto Rico over labor relations matters should be as ample as possible within the framework of the Commonwealth concept.

For the benefit of Members of the Senate who are not familiar with the basis on which Commonwealth status is predicated and within which the Advisory Group is charged to consider the applicability of United States law, it is defined as—

> A maximum of self-government and self-determination within the framework of a common defense, a common market, a common currency, and the indissoluble link of the United States citizenship.

I am sure, Mr. President, that members of the committee were unaware of the specific mandate of the Ad Hoc Advisory Group in this particular area, or they might have deferred the incorporation of Puerto Rico under our basic minimum wage law until such time as the Advisory Group could render its report.

My second reason for concern over the inclusion of the Commonwealth in the legislation now under debate, is that it could have, at this particular time, a seriously adverse impact on the Puerto Rican economy and employment.

Puerto Rico currently faces many problems which the United States has already gone a long way toward solving, or which we have been fortunate enough to avoid. Among these are low per capita income, overpopulation, few natural resources, and low educational levels. But by far the largest problem for Puerto Rico is unemployment. The present unemployment rate in Puerto Rico is more than twice that of the United States.

Puerto Rico relies a great deal on outside investment to provide jobs. Most of the firms that locate in Puerto Rico do so because of inexpensive labor, and they use labor-intensive production methods. This is just what Puerto Rico needs. Industries that come in and employ large numbers of people are the best way for Puerto Rico to improve the standard of living for the entire island, gradually upgrading the skills and therefore salaries of the people. Businesses in the United States, for example, do not automatically establish plants in Puerto Rico if they are seeking a low-wage location. Countries like Korea, Taiwan, Spain, and the Dominican Republic, whose wages make Puerto Rico's look high, have been creating very tough competition for Puerto Rico for capital investment. A concrete example of this is that between 1969–71, Puerto Rico lost 82 firms and 4,641 net jobs in the textile and leather industries alone to foreign competition.

Minimum wages have a much more significant impact on Puerto Rico than they do on the mainland United States. On the mainland, the average hourly earnings in manufacturing is $3.99, or more than twice the current minimum wage. But in Puerto Rico, the minimum wage often forms the average wage. Therefore, increases in the minimum wage require much larger increases in the total wage bill in Puerto Rico than they do in the United States. This means that any effect that the minimum wage laws have in the United States would be greatly magnified for Puerto Rico.

The minimum wage effect that will be all too evident if S. 2747 is enacted unaltered in its treatment of Puerto Rico is unemployment. Because the vast majority of American workers receive wages far above the minimum wage, increases in the minimum have had little effect on the general unemployment rate. But in Puerto Rico, where most of the wages are so close to the minimum, a 25 percent increase in the minimum would mean an almost 25 percent increase in the wage bill of many businesses, if unemployment did not occur. But of course, unemployment would occur. Unemployment would increase not only from easily-observable reductions in present work forces and business relocations in different countries. Probably the most important source of unemployment would be from the businesses that decided not to locate in Puerto Rico and not to expand their operations in Puerto Rico as a result of such legislation. This effect, of course, would be difficult to measure, but economists agree that applying the U.S. minimum wage to Puerto Rico would speed up the current trend for businesses to locate in other low-wage countries instead of Puerto Rico. This is something that Puerto Rico clearly cannot afford. If Puerto Rico presently had little unemployment, and was looking to just maintain the present rate and try for slightly higher wages, S. 2747 would not pose such serious problems for Puerto Rico.

Puerto Rico's labor situation is clearly different from that of the mainland United States. The present Fair Labor Standards Act recognizes that difference, and permits Puerto Rico to establish its own minimum wages. Puerto Rico presently has close to 200 different "industry committees" which review the wages set for each industry and decide on any changes that are warranted. Thus the minimum wage for each industry is set specifically for it. The goal of the committees is to achieve the highest possible wages while maintaining employment and the health of the industries involved. These committees, which are manned by three representatives from each of labor, industry, and the public are able to weigh the unique situation in each industry and then determine the appropriate wages to be set. It is difficult to believe that, first, the Congress of the United States could set minimum wages more sensitively for Puerto Rico than these committees are able to do, and, second, that the Congress has a greater concern for the wage-employment situation in Puerto Rico than the Puerto Ricans do themselves.

Under all these circumstances, Mr. President, I would urge the sponsors to accept my amendment. The Ad Hoc Advisory Group in Puerto Rico is studying the whole topic of the applicability of U.S. minimum wage laws within the context of the Commonwealth's relationship. Let us accept their final recommendations. In the meantime, Puerto Rico's own minimum wage authority will continue to look after the needs of Puerto Ricans.

The point I want to make, Mr. President, is that there is an ongoing process at the present time trying to reexamine various facets of the relationship between the United States and the Commonwealth of Puerto Rico and that this is one of the areas, the area of the minimum wage, which is one of principal concern to our Puerto Rican colleagues.

Under the circumstances, I wish that action in this matter could have been deferred until the ad hoc group could have made a final determination to the Congress.

I realize, however, that there would be no point in taking the Senate's time in asking for a vote on an amendment that would surely be defeated. However, I did want to have the Record include reference to this matter.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BUCKLEY. Mr. President, I send to the desk two amendments and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. The clerk will report the amendments.

The second assistant legislative clerk read as follows :

> On page 8, line 21, beginning with the word "unless" strike out through "wage" on line 2, page 9, and insert in lieu thereof the following: "unless all available economic and documentary evidence in the record establishes that the industry, or a predominant portion thereof, is unable to pay that wage."
>
> On page 9, line 6, insert after the end parenthesis a comma and the following: "remand for further findings of fact."

The PRESIDING OFFICER. Is there objection to considering the amendments en bloc? The Chair hears none, and it is so ordered.

Mr. BUCKLEY. Mr. President, I have introduced these amendments at the specific request of Puerto Rico's Resident Commissioner, Jaime Benitez. He is concerned, as I am, over the fact that the hearings record on this legislation offers no basis that justifies the evidentiary requirements which section 5(c)(1) would impose on industry committees which have been established in Puerto Rico to set minimum wage levels on an industry-by-industry basis.

All covered industries in Puerto Rico will be subject to immediate 12 or 15 cents hourly increases, and equivalent annual increases until the statutory minimum is reached. In addition all covered industries will continue to be reviewed biennally by industry committees which are instructed under section 8(b) of the Fair Labor Standards Act to—

> Recommend to the Secretary the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico or in the Virgin Islands a competitive advantage over any industry in the United States outside of Puerto Rico and the Virgin Islands.

As the record of wage orders recommended by industry committees demonstrates that the committees have, on the whole, fulfilled their statutory mission, I see no justification for including section 5(C)(1) among the proposed amendments to the Fair Labor Standards Act.

The coverage in section 5(c)(1) that is particularly inappropriate to the existing situation in the Commonwealth reads:

> Unless there is substantial documentary evidence, including pertinent unabridged profit and loss statements and balance sheets for a representative period of years . . . in the record.

The simple fact is that this requires a level of proof that too few Puerto Rican employers are unable to provide.

Consider what the operative effects of section 5(c)(1) would mean in agriculture where most small farmers do not keep adequate financial records. Failure to satisfy the evidentiary standards would leave an industry committee no alternative but to recommend a wage order applying the national minimum. The result would inevitably be a further decline in agricultural employment, at a time when serious efforts are being undertaken to save agriculture, unless of course the Government of Puerto Rico were prepared to assume the cost of vastly expanding its subsidy program by paying to each covered agricultural employee the difference between what his employer can afford to pay and the minimum wage. The same analysis applies to all covered employment and small enterprises where either poor and inadequate financial records are kept, or it would be next to impossible for many dispersed and small employers to join forces and prepare the kind of financial statement which is required under the proposed amendment to section 8(b).

The language of the bill, if unamended, recognizes, of course, that to have the minimum wage rise too fast could in fact create unemployment and could in fact be damaging both to the employees and to the economy of Puerto Rico.

I believe therefore that it would be appropriate to allow the industry committees to utilize the kind of evidence they currently use in determining the appropriate minimum wages.

Accompanying section 5(c)(1) is section 5(c)(2) which expands judicial review over Industry Committee recommended wage orders and which, equally with section 5(c)(1), should be reconsidered. Section 5(c)(2) would amend section 10(2) of the Fair Labor Standards Act by inserting the following: "(including provision for the payment of an appropriate minimum wage rate)". This could have the effect of transferring the ratemaking power from the industrial committees to the court of appeals, depending on how the scope and intensity of review are actually implemented.

Thus, in any particular case, if the court were to conclude that in the record of the Industry Committee proceedings there was an absence of sufficient "substantial documentary evidence," it would then be duty bound to issue an "appropriate minimum wage rate," which by statutory definition would be the national rate if no further evidence were received by the court. An alternative would be for the court to hear further evidence on which to determine the "appropriate minimum wage rate." Under still another approach it could substitute its judgment for that of the Industry Committee, even when there was a sufficiency of financial evidence, if the court evaluated the significance of the evidence differently. In the initial period of such an amendment, one could almost certainly expect an increase in appeals and consequently of uncertainty with regard to the operative meaning of the statutory criteria, at least until the court clarified the criteria and how it was going to utilize its expanded review power.

My amendment in fact would require simply that rather than have the court place itself in the position of the Industry Committee and ordering a minimum wage level, the matter would be referred back to the appropriate committee for further action.

I would hope that the sponsors of this bill would accept these proposals. I do believe that it would simplify the whole business of achieving an equitable implementation of national standards within the context of realities as they exist in Puerto Rico.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I yield myself 3 minutes.

Before I state why I cannot accept this amendment, let me say that the provisions that deal with Puerto Rico in this bill have been worked out over the years with all people having knowledge of and interest in the economy of Puerto Rico. The bill that we have before us, I know, has the support of the Governor, labor, and most of management as well. It has been an exercise that has been long and complicated, but it does reflect broadly a consensus.

Now, dealing with the amendment offered by the Senator from New York, suggested by the Resident Commissioner, the Honorable JAIME BENITEZ, The Resident Commissioner, at the time of our conference on this bill last year, was invited to participate. His attendance was regular; as a matter of fact, his attendance, I think, exceeded that of many of the other members of the conference committee. He had an opportunity to express his viewpoints repeatedly within our conference, and he contributed a great deal then.

Now, this idea of eliminating the requirement under the bill that there be substantial documentary evidence to support the industry committees is, in my judgment, most unwise. We have seen, over the years, what has come up from industry committees for their recommendations which became law within individual industries. I remember the one that gave me the first shock I had involved the hand-sewn glove industry in Puerto Rico. The committee there, without a requirement that there by substantial documentary evidence to support the wage they arrived at, came up with 47 cents an hour.

That was the flashing light that made us look at all of this, and out of it we said that as long as it is part of the procedure to have these industry committees, let them be required to support their conclusions with documented evidence. In view of what I thought were historical abuses, we said substantial documented evidence.

For these reasons, and in view of the fact that the entire Puerto Rican section of coverage has been worked out so painstakingly, again with all interested parties, it is my feeling that this particular provision is so important that I cannot accept the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BUCKLEY. Mr. President, I yield myself such time as I may require. I would only say that it seems to me that we see here an exhibition of patriotism that seems to be quite inconsistent with the concept of commonwealth, if it does indeed mean a maximum of self-determination and a maximum of self-government, consistent with the criteria of a common market, common defense, common currency, and common citizenship.

I regret that the committee would not wait for the recommendations of the ad hoc group, but I do believe that we ought to assume that the Puerto Ricans are as concerned for the living conditions and wages of Puerto Ricans as the Congress of the United States.

Mr. President, I am ready to yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from New York.

The amendment was rejected.

AMENDMENT NO. 983

Mr. TAFT. Mr. President, I call up my amendment No. 983, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments will be considered en bloc.

Mr. TAFT's amendment (No. 983) is as follows:

On page 46, line 10, strike the word "paragraph" and insert in lieu thereof "paragraphs".

On page 46, line 20, strike the end quotation marks.

On page 46, insert between lines 20 and 21 the following:

"(3) The Secretary of Labor, the Secretary of Commerce, and the Council of Economic Advisers shall each conduct a study on means to prevent curtailment of employment opportunities among manpower groups which have had historically high incidences of unemployment, such as disadvantaged minorities, youth, elderly, and such other groups the Secretary may designate. Such studies shall include suggestions under the broad authority that the Secretary of Labor has available under section 14 of the Fair Labor Standards Act and shall be transmitted to the Congress at two-year intervals after the effective date of these amendments."

Mr. TAFT. Mr. President, this amendment provides that the Secretary of Labor, the Secretary of Commerce, and the Council of Economic Advisers shall each conduct studies on means to prevent curtailment of employment opportunities to disadvantaged manpower groups which have historically high incidences of unemployment.

One of the concerns that we have is that in adopting increments in the minimum wage, we may well be eliminating employment opportunities for many of our citizens, particularly those in disadvantaged employment categories—youth, veterans, elderly individuals—are representative of manpower categories that may be adversely affected.

Such studies would include consideration of the broad authority that the Secretary of Labor has under section 14 of the act and would be transmitted to the Congress at 2-year intervals after the effective date of these amendments.

I believe such a continuing focus on the unemployment and training problems faced by such individuals is highly desirable from Federal agencies with varying perspectives on this important problem.

For example, the Department of Commerce would be especially helpful with regard to incentives to create more employment positions in the private sector of the economy. The Council of Economic Advisers would be helpful in providing suggested economic policy alternatives for the creation of additional employment opportunities.

A particular problem, although by no means the sole one this amendment is directed at is the towering rate of youth unemployment. This has been a continuing problem over the last 5 to 10 years with very little substantive action in the Congress, or executive branch. The unemployment rate as of January 1974, for caucasians 16 and 17 years of age was 16.8 percent and for noncaucasians 16 and 17 years of age, the rate was a towering 38.9 percent.

These figures and similar ones for other disadvantaged manpower groups simply are not acceptable. Continuing reappraisal is vital in this area—the economic benefits of our economy must not be foreclosed to any manpower category.

It has been suggested, Mr. President,

that the problem here, in the refusal, to date at least, of the committee to accept what I think is a very positive and very helpful amendment, has been that we include in the responsibility for making studies the Secretary of Commerce and the Council of Economic Advisers as well as the Secretary of Labor.

I realize, of course, that the Secretary of Commerce and the Council of Economic Advisers, can be asked to testify. It would be highly desirable to statutorily establish their role, however, in the consideration of amendments to the Fair Labor Standards Act. All sectors of the economy have interests in this important area, not just labor.

Admittedly, as has been stated in the debate today, the Department of Labor last year, stated that they needed $10 million in their budget to do this kind of an economic study and do it adequately. The Department stated they would need that type of additional support. That expertise, in my opinion, already exists within the Department of Commerce and the Council of Economic Advisers, and I see no reason for not having the advice of such experts before the committee. I see no logical reason to not involve the Secretary of Commerce and the Council of Economic Advisers to provide the Congress with important information.

Mr. President, I reserve the remainder of my time.

Mr. JAVITS. I should like to say that we are working something out with a member of the committee who has these studies.

First, to state the problems the amendment raises: First, the requirement for a report from three agencies—not one agency of Government, the agency directly in charge—presents us with the complexity of having a diversity of counsels and therefore the validity of none. In addition, it imposes responsibilities on the Secretary of Commerce, who is not within the jurisdiction of our committee but of the Commerce Committee and of the Council of Economic Advisers. My belief is that they are primarily within the jurisdiction of the Banking, Housing and Urban Affairs Committee. So that I would hope again, in this bill, as we have tried to make it clear to our members, we only deal with what is within our competence. Therefore, I would hope he might consider, notwithstanding his concerns, confining this to the Secretary of Labor.

Second, and perhaps as a trade-off for what he would consider a concession, I would suggest he call for the first report within a 1-year period of time—that is, the first report to come in within 1 year and subsequent reports at 2-year intervals. Then he will have the basis for proceeding promptly.

Third, on line 4, page 2, I would hope he would strike the word "broad." I do not want to expand on or to contract the authority of the Secretary of Labor under section 14 by this amendment. Therefore, let us stick to the word "authority" which is a word of art we all understand. The word "broad" I do not know what it does or what it means, and I hope that he would strike that word.

Lastly, I hope the Senator would accept my assurance and that of the manager of our bill on the majority side that when he gets such a report, and we will see to it that he gets it within a year, making that trade-off as it were, so that he gets a more prompt report, he has a hearing on that report which it will be understood, if he wishes to produce witnesses such as the Secretary of Commerce or his proper representative, or the Council of Economic Advisers or their proper representative we would join to facilitate that.

Now, in answer to the Senator's point that, well, they will not be apprised of the change, they could be notified now, and when this bill has been passed—when, as and if there is a report—there will be a hearing and we will expect them to be prepared for that hearing, that they should coordinate with the Secretary of Labor accordingly.

Now, that is a complete mosaic to deal with the problem. As I say, I should like very much just to go along with the Senator rather than to resist. I hope he might see his way clear to fit all the parts together and work out an amendment which the manager and I could accept.

Mr. TAFT. Mr. President, I yield myself 3 minutes.

First, let me say that I have no intention of changing the authority of the Secretary of Labor under section 14. The use of the word "broad" while I believe a correct interpretation of section 14 authority, could be deleted as the Senator has suggested without changing the intent of my amendment.

As to the first report being due within a year, I have considerable doubt whether the Department of Labor, based on past performance, will be able to come up with an adequate report within a period of a year, but again I have no particular reason not to go along with the Senator's suggestion as to the first report.

Accordingly, I would modify my amendment so as to provide a 1-year interval for the report, and thereafter 2-year intervals, for the effective date of this amendment.

Unfortunately, as to the third suggestion made by the distinguished Senator from New York—and I do appreciate the spirit in which it is made and his desire to accommodate—the problem seems to me to be a more serious one than could be handled merely by having the Department of Commerce and the Council of Economic Advisers come before us and testify on what the Department of Labor's report has shown. They could simply say it is sound or unsound. They would not have had an opportunity to go into it fully.

It is not a jurisdictional problem. I should think, since the matter relates to employment, there would be no question as to the Labor Committee's jurisdiction. Since it relates to labor, there would certainly be Labor Committee jurisdiction. As the ranking minority member of the Manpower Subcommittee, I certainly would be reluctant to admit that another committee should have jurisdiction of these matters.

I cannot go along with at least the requirement that the Secretary of Commerce and the Council of Economic Advisers not be permitted to make these reports.

The PRESIDING OFFICER. Will the Senator from Ohio please send his modification to the desk?

Mr. TAFT. Yes, Mr. President.

On page 46, line 10, strike the word "paragraph" and insert in lieu thereof "paragraphs".

On page 46, line 20, strike the end quotation marks.

On page 46, insert between lines 20 and 21 the following:

"(3) The Secretary shall conduct a study on means to prevent curtailment of employment opportunities among manpower groups which have had historically high incidences of unemployment, such as disadvantaged minorities, youth, elderly, and such other groups the Secretary may designate. Such study shall include suggestions under the authority that the Secretary of Labor has available under section 14 of the Fair Labor Standards Act and shall be transmitted to the Congress one year after the effective date of these amendments and thereafter at two-year intervals after the effective date of these amendments."

Mr. JAVITS. Just to accord the Senator a chance to do that, as far as the Senator from New Jersey and I are concerned, it seems to us that the reports required from three agencies, including the Secretary of Commerce and the Council of Economic Advisers, make it more than likely that such a procedure would be more costly. But really it is a vote of no confidence in the report of the Department of Labor. We do not feel we could incorporate that amendment.

We still hope that the Senator from Ohio might work it out as I have suggested. I think it protects him in everything he wants. But if he does not wish to accept it, I feel that we must oppose the amendment for the very substantive reason I have stated.

I think we would be willing to yield back our time; and if the able Senator from Ohio is prepared to yield back his time, we can go to a vote.

I think Senators are anxious to know whether this is or is not the last amendment. I therefore propose that we suggest the absence of a quorum. Then if the Senator from Ohio were willing to ask unanimous consent that there may be third reading and have the vote on the amendment, the vote may immediately precede the vote on final passage, and we could ask for the yeas and nays. I wonder if that would be satisfactory.

Mr. TAFT. I appreciate the remarks with respect to the matter of convenience of Senators. I have not asked for the yeas and nays on the amendment.

I would express disappointment that the committee has apparently arrived at a decision that they do not want economic data in these vital areas from the Department of Commerce or the Council of Economic Advisers. These departments of Government along with Department of Labor, have the expertise on which to provide constructive economic reports and it is quite unfortunate that the committee cannot accept the amendment.

I see no particular purpose in having a quorum call at this time.

I am advised that there are a couple of other questions that should be raised. I do not think it will be necessary to offer the amendments that have been drafted dealing with those changes. I hope I will get replies to clarify my points of concern.

I am perfectly ready to yield back the remainder of my time and have a voice vote on the amendment.

Mr. JAVITS. If the Senator will allow me, on my time, I should like to say that we are not being arbitrary about economic expertise. In the first place, I doubt that the Senator can show us any statement by the Secretary of Labor that he does not have the economic expertise to make a report of this kind on a labor matter.

Be that as it may, our point is that we cannot impose a duty on the Secretary of Commerce and the Council of Economic Advisers. It is not within our primary legislative oversight and really is a duplication in effort which we would be imposing by this bill, willy-nilly, whether we could do it or not.

As a matter of fact, it might materially hold up any hearing which would get recourse for the very thing the Senator from Ohio wants, because the timing may be very different for all these departments. We may drag along here for months, waiting for the Council of Economic Adivsers, which would probably have to deal with the matter in its annual report, if it would deal with it at all. I think we are striking out in an area where we do not have control or an ability to impose control, and therefore I am really disappointed.

The Senator is disappointed with us, and I am sorry. I am disappointed that the Senator will not make to us the very slight concession which we ask. The ability to get it done the way he wants it done with a hearing is, in my judgment, unquestioned, and I think I have a little experience in these matters. The important thing for the Senator is to get the study amendment, and we gave it to him. But do not make us impose duties on the Secretary of Commerce and the Council of Economic Advisers.

Mr. TAFT. I understand the feelings of the distinguished ranking minority member of the committee on this subject.

I have great and grave doubts that when the Congress considers these matters again a complete report of the Secretary of Labor, based on adequate economic information, will be available, particularly with regard to effects of future amendments to the Fair Labor Standards Act on certain disadvantaged manpower categories.

Perhaps I should modify this amendment to say that the report shall come to the Committee on Labor and Public Welfare. I see no need to do that however. The fact that a department is generally under a particular committee jurisdiction does not prevent it from being required to make reports to other committees. That is done all the time, and I think it could be done here very easily.

However, the Senator has made one excellent point, and I feel so strongly on the issue that, with all the reservations I have made, I am going to reluctantly agree to go along, in order to obtain some type of requirement that there be a report by the Secretary of Labor within a given period of time on this issue.

Accordingly, I modify my amendment to delete the reference to the Secretary of Commerce and the Council of Economic Advisers.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. TAFT. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio, as modified.

The amendment, as modified, was agreed to.

Mr. TAFT. Mr. President, the other two matters I have, as I said, I hope can be expeditiously disposed of.

One relates to the new liquidated damages provision in the bill permitting the Department of Labor to recover liquidated damages under the Fair Labor Standards Act. As S. 2747 is drafted, as I understand it, liquidated damages could now be given in a Fair Labor Standards Act case, under the language of the bill, even though the case is brought not by an individual but by the Government.

The PRESIDING OFFICER. Is the Senator submitting an amendment?

Mr. TAFT. No. I am speaking on the bill. I yield myself such time as needed, on the bill.

I would just like to have a comment from the chairman of the committee as to whether or not the good faith defense which exists with regard to liquidated damages cases is in any way modified by this change, or whether it is the intention to leave the broad interpretation of it unchanged, even as to a liquidated damages case which would be brought by the Department of Labor.

Mr. WILLIAMS. The two sections with which the Senator is concerned are 16 (c) and 16(d). There is no change in the application of this good faith defense as it is in the——

Mr. TAFT. That I certainly realize. The question is whether it is now intended to apply as well to the extended jurisdiction for liquidated damages cases. I think it is.

Mr. WILLIAMS. I am certain that it is. The Senator from Ohio can be at ease on that score. The good faith provisions are carried over into these other areas.

The liquidated damages provision in this bill was in the bill introduced by the Senator from Ohio. It has had the support of the administration and was particularly pointed to by the Secretary of Labor when he testified. He felt that this was a very important provision, from his standpoint of administering this law.

Mr. TAFT. I agree with the Senator. I am not disagreeing with him in substance at all. What I am doing is simply trying to make absolutely certain that the broad interpretation that the courts have given to the good faith and reasonable grounds defense in section 11 of the Portal-to-Portal Act of 1947 is unchanged. I just want to make sure certain our intent is clear. I thank the chairman for clarifying the legislative intent.

The other matter on which I would like a clarification relates to the tip credit committee report language.

Under present law, an employer is authorized a tip allowance of up to 50 percent of the minimum wage. The actual amount on which the employer takes a tip credit is determined by the employer, but it must not exceed the employee's tip income. If the employee finds that his employer is taking a tip allowance in excess of his tip income, the employee has a statutory right under the act to appeal to the Secretary of Labor to show that the tip allowance exceeds his tip income. This procedure has worked fairly and equitably in the restaurant, hotel, and motel industries.

The committee bill would delete the words in section 3(n) of the act which allows the employee to challenge the employer's determination and to show that his tip income is less than the amount claimed by his employer.

The committee report states this language is deleted:

> To make clear the original intent of Congress to place on the employer the burden of proving the amount of tips received by tipped employees and the amount of tip credit, if any, which such employer is entitled to claim as to tipped employees. (Page 43 of the Committee Report)

The committee report is inaccurate on this point and nowhere during the 1966 amendments to the Fair Labor Standards Act does the legislative history reflect this intent of Congress. The existing language of the act was presented to the Senate by Senator Yarborough, then chairman of the Committee on Labor and Public Welfare. In discussing the language of section 3(n) on the tip allowance, Senator Yarborough stated:

> As to the mechanics of the provision, the bill permits the employer to make an initial determination of the amount of tips, and, thus, avoid any interference in normal payroll practices. However, it affords safeguards to the employee by permitting him to show, if he can, to the satisfaction of the Secretary of Labor that the actual amount of tips received by him was less than the amount of tips determined by his employer and having his wage adjusted by the difference. CONGRESSIONAL RECORD, Vol. 112, No. 141, August 24, 1966, at p. 19621.

It seems apparent that the change proposed cannot be supported by legislative history as reflected in the committee report.

To place on the employer the burden of proving the amount of tips received by a tipped employee, as the committee report proposes to do, would create great practical problems for an employer and promote friction in employer-employee relations. Such a burden would be entirely unreasonable to place on an employer and, perhaps, subject an employer to lawsuits that he would be practically powerless to adequately defend. Would the committee chairman clarify the comimttee's intent with regard to this subject and provide the rationale for inserting such a procedure in the committee report?

Mr. WILLIAMS. The intent of this provision is to make clear where the burden of proof rests in legal proceedings. Under current law, the employee who can ill afford legal representation has erroneously been required by one court to meet the burden of proof to the court's satisfaction that the amount of tips he or she actually received was less than the amount claimed by the employer as a tip credit, Shultz against William Lee Hotel Co. The burden is clearly on the employer to provide to a court's satisfaction that the amount of tip credit claimed by such employer was actually received as tips by the employee.

If there was any confusion about the intent, if we went back to the debates of 1966, it should be very clear now that the burden is where it realistically should be. The employer claims the credit. He should have the burden of proving that he is entitled to the credit. That is where it lies.

Mr. TAFT. I cannot agree with the distinguished chairman on that subject. I think the legislative history is clear and having made the statement I made, I think it will leave it in the position I have described as a matter of legislative history.

Mr. DOMINICK. Mr. President, I believe that S. 2747, as reported, contains too many drastic revisions of the Fair Labor Standards Act, and passage by the Senate of the bill in its present form is unwarranted. As I stated last Thursday, and as Senators BEALL, TAFT, and myself pointed out in our minority views, the debate surrounding minimum wage legislation centers around four issues: wage rates, extension of coverage, repeal of exemptions and a differential wage structure for youth. Well, I believe we are close to agreement on wage rates, but the three remaining categories have been treated by the committee with little or no supporting data. Therefore, we introduced an amendment which would have raised the minimum wage—a raise that is needed, while leaving intact the present law with regard to exemptions and extensions.

As reported, the committee bill makes sweeping changes in the existing exemptions and in extensions of coverage. Much of this was done without any evidence of economic impact, and despite the fact that these exemptions and exceptions have much legislative history behind their creation.

Mr. President, the domestic coverage alone would add 1,018,000 employees to the minimum wage. This move was made by the committee despite the fact that it had been unable to obtain "available reliable information." The fact is Mr. President, that the impact of the Senate version will be $572 million in the first year alone for domestics.

I believe, as do many of my colleagues, that such a wage increase rather than benefiting the domestics will substantially reduce employment or the number of hours worked. The impact will be greatest in the South where 40 percent of all domestics are located. Moreover, the domestics situation is only one of the problems which would be created by passage of the committee bill.

For example, this bill would also repeal a variety of minimum wage and overtime exemptions which have been established with the specific intent of protecting small businesses and small farms from the adverse effects of minimum wage increases. Changes in the small business exemptions would affect only very small chain stores, most of which are located in small, rural communities primarily in the South and West. Pressures will be added to consolidate and shift location to larger urban areas. I believe such action on the part of Congress would be a serious mistake.

In addition, minimum wage coverage would be extended in agriculture by repeal of the exemption of "local, seasonal, hand harvest laborers." The impact of this change will fall heaviest on fruit and berry farms, which utilize large numbers of hand laborers during a short harvest season. Under the bill as reported, such laborers would be included in the "500 man-day test" by adding them to extended coverage to farms using "500 man-days" of labor during the peak quarter of the preceding calendar year. The equities of this situation are not balanced, for it penalizes a small farm requiring a large amount of labor during a brief harvest season, while another farm may escape coverage by utilizing the same amount annually but not concentrated in a peak season.

Further, Mr. President, overtime coverage would now be extended to Federal, State, and local government employees. It is estimated the net effect could amount to $305 million annually. Such costs would be inflicted in many cases on State and local governments, and would summarily override negotiated contracts.

I shall vote against the bill and urge my colleagues to do likewise.

Mr. BENTSEN. Mr. President, I want to make a few comments concerning section 28 of S. 2747.

Since March of 1972, I have been attempting to move a broad age discrimination bill through the Congress. I have introduced measures on this subject on three separate occasions; at one time my age discrimination bill passed the Senate by a vote of 86–0 as part of a minimum wage package. Unfortunately, that measure never reached the President.

This year I introduced S. 2380, which has been incorporated, virtually intact, as part of the bill before us. I am pleased to report that similar language is now also a part of the House minimum wage legislation.

When the Age Discrimination in Employment Act passed the Congress in 1967, it provided a specific exclusion from coverage for local, State, and Federal employees. In my view, that exclusion is unsupportable.

State and local government constitute perhaps the fastest growing areas of employment in our economy. The Federal Government has several million workers who are not covered. There is no reason why private enterprise should be subject to restrictions that are not applicable to the Federal Government.

Since I introduced my bill in 1972, I have received many letters from Government workers, relating to me their experiences with a bureaucracy which uses coercive tactics to induce retirement at an earlier age. I have also received letters from State and local employees, who indicate that they are discriminated against in the terms and conditions of their employment. This situation must not be allowed to continue.

This legislation addresses the plight of the disabled veteran who completed 12 months of study as a wastewater treatment operator only to find that a local city ordinance prohibited hiring anyone over 45. It speaks to the Pentagon's recently announced plan to compel retirements at the age of 55, a procedure so blatantly unlawful that it could be subject to a suit from an employee in private business. It speaks to employees of Federal agencies who may be subject to harassment from letters and memoranda, suggesting that they retire and promising pension benefits which may be less generous than expected.

What this legislation does is to give these workers coverage under the age discrimination law and to give them a procedure to pursue their complaints. The signing of this measure will climax a long effort to bring equity to a large group of American workers. I urge the President to act swiftly and sign this provision into law.

Mr. BELLMON. Mr. President, there is no question that the minimum wage should be raised. For most workers there has not been an increase in over 5 years and $1.60 an hour will buy only about two-thirds as much as it would when that level was set.

The proposal before the Senate is basically the same one which was passed last year and vetoed by the President. My opposition to it now is the same as it was then. We do need to increase the minimum wage, but we should not make jobs more difficult to find for the Nation's young or handicapped workers.

That is what this bill would do, by repealing or drastically changing current exemptions and thereby extending coverage to almost 7 million additional employees. Among those affected would be employees of retail and service establishments grossing less than $250,000 annually; nursing home employees; seasonal workers; and local government employees.

Mr. President, the impact of this bill in Oklaoma would be felt especially by young people and handicapped workers now employed by small businessmen, nursing home operators and municipal governments. While the bill makes some less than the minimum wage to students provisions to allow employers to pay working part-time, these provisions have proven almost unworkable in the past, also the bill does not take into consideration the many nonstudent teenagers who need to earn money.

If this bill is enacted in its present form, it would prevent thousands of young people from holding jobs and make the youth unemployment rate, already almost 17 percent, go ever higher.

This legislation is an economic threat to small business, hard-pressed cities and towns, and those trying to enter the job market. Therefore, I cannot in good conscience support it.

The House is working on its own minimum wage bill, and any legislation passed by the Senate will go to a joint conference committee. I am hopeful that satisfactory legislation can be worked out during this session so that the long overdue increase in the minimum wage can be achieved without imposing additional hardships on both employers and employees. To therefore urge the Senate to reject S. 2747 in its present form.

Mr. DOLE. Mr. President, for almost 3 years, the Nation has been living with economic controls. Invoked in August of 1971, under authorities granted through the Economic Stabilization Act, this represented an unprecedented experience for the American people—wage and price controls in peacetime.

In 1971, and on a temporary basis, a controls policy had some justification and the freeze which was invoked initially had some good results. But much has happened since then, by way of market distortions and dislocations, which convinces me that the economic stabilization act should be allowed to pass into history when its expiration date arrives on April 30.

MARKET DISTORTIONS

In the intervening days between now and then, however, I believe we can act to rectify some of the problems which controls have caused and to smooth out some of the distortions in the market which have accompanied them. In the case of many commodities, it seems, the market mechanisms have failed to function properly. Supply and demand, in some cases, no longer seem to relate directly to price. Retail prices rise even as wholesale prices fall, in many instances, and a free market violated by undue governmental restraints, no longer shows an ability to respond to traditional market forces.

It was in an effort to remedy some of the problems caused by the controls of the last 3 years that I had intended to offer an amendment today to S. 2747.

ASSURE ADEQUATE SUPPLY

The amendment I sent to the desk yesterday was proposed in order to provide some assurance to the American people that they will continue to have a supply of hamburger and other meat products, and at a price that is within their means.

Presently retail prices for meat products are hitting all-time highs. In particular the price of hamburger in Washington's suburban grocery stores the past few days hit $1.09 to $1.19 per pound. At the same time live cattle prices have dropped 12 cents per pound. I submit a table for insertion in the RECORD which shows the increase in hamburbger prices in comparison with the prices paid to cattlemen for their animals.

The PRESIDING OFFICER. Without objection, the table will be printed in the RECORD.

(See exhibit 1.)

HAMBURGER PRICE RISE

Mr. DOLE. The housewives know the prices of meat in the grocery store. But some of them still think, mistakenly, that cattlemen are responsible for it and that cattlemen are still getting the prices for cattle that they got last summer.

Back then, Washington supermarkets were selling hamburger for 85 to 90 cents per pound. Last week in Washington, the price of hamburger hit $1.19 per pound. One store sells 5-pound rolls of hamburger which are now priced over $5 for the first time—at $5.25. Hamburger was not featured in a single newspaper ad last week. It is no wonder why.

Last summer when grocers were selling hamburger for 85 cents a pound, live cattle brought 52 to 55 cents a pound. Today, when live cattle are going for 41 to 43 cents per pound, they are selling hamburger for $1.19 per pound.

RETAIL RISE WHOLESALE DECLINE

Grocers, like any other businessmen, are entitled to a fair profit. But this is ridiculous. Especially so when cattlemen are losing from $50 to $100 a head on every animal they sell to the packer. The price of live cattle has fallen over 12 cents a pound since last August. But over the same time period, hamburger has gone up 29 cents and steaks and roasts, in fact all cuts of beef, have gone up or at least held constant. None have gone down.

Hamburger—a staple in most American households—is not even featured in advertisements in Washington papers any more, since it went over $1 per pound.

Steak prices have fluctuated more—but are seldom featured items in newspaper grocery ads.

All these price distortions point up the fact that a very finely tuned machine—our cattle and beef production and distribution system—has been thrown off kilter. We have not recovered from it yet and now energy problems and trucker protests have further delayed a return to anything like a normal situation.

LIMIT GROCERS MARGIN ON BEEF

Mr. President, the amendment that I proposed to the minimum wage bill (S. 2747) would require the Cost of Living Council to oversee the pricing practices of our retail grocers. The retail grocers would be limited to the same margin they were charging in the 12-month period prior to the imposition of price ceilings and controls, March 29, 1973. This period, April 1, 1972, to March 31, 1973, will be a fair period since it was prior to the distortions we have experienced due to those controls. The housewives are entitled to the protection this amendment will provide, and it will allow them to continue purchasing their hamburger and other beef products, which is essential in maintaining the beef production of the Nation.

THREAT TO SUPPLY

The high retail hamburger prices are causing housewives to purchase other food. This reduction in retail beef sales and depressed cattle prices, according to USDA, is causing a reduction in the number of cattle being produced in the Nation and some of the feedlots are being forced to close because of the adverse cost ratio of feed cost to depressed live cattle markets.

Our housewives deserve the protection of this amendment which will require hamburger prices to reflect the depressed cattle prices we are currently experiencing. Since the amendment is not germane to (S. 2747) I will not call it up. It is my hope, however, the amendment can be dealt with soon.

EXHIBIT 1

COMPARISON PRICES

	1967	1970	1972	Summer 1973	March 1974
Choice steers, Omaha (hundredweight)	$25.27	$29.34	$35.83	$53.61	$41.50
Hamburger (per pound)	.60	.72	.79	.90	1.19
Round steak (per pound)	.99	1.17	1.35	1.69	1.69
Chuck roast (per pound)	.64	.75	.85	1.17	1.19

Source: USDA Economic Research Service.

Mr. WILLIAMS. Mr. President, between the filing of the committee report and the beginning of the debate on S. 2747, a number of questions have been raised with me as floor manager of the bill, by some of my colleagues regarding the intent of certain provisions of the Fair Labor Standards Act as it would be amended by this legislation.

One of these questions relate to the new special provisions in section 13(b) for cotton ginning, sugarcane and sugar beet processing employees.

The new provisions in section 13(b) would provide for premium pay for hours worked in excess of specified hours for different work weeks during the year.

S. 2747 repeals the year-round overtime exemption for cotton ginning and sugar processing employees in section 13(b)(15) of the Fair Labor Standards Act, but retains the exemption for employees engaged in processing maple sap into maple syrup or sugar.

The amendment to phase down the overtime exemption for cotton ginning and sugar processing employees is as follows:

First, effective on the effective date, the workweek exemption is as follows: Seventy-two hours each week for 6 weeks of the year; 64 hours each week for 4 weeks of the year; 54 hours each week for 2 weeks of the year; 48 hours each week for the balance of the year.

Second, in 1975, the workweek exemption is as follows: Sixty-six hours each week for 6 weeks of the year; 60 hours each week for 4 weeks of the year; 50 hours each week for 2 weeks of the year; 46 hours each week for 2 weeks of the year; 44 hours each week for the balance of the year.

Third, in 1976, the workweek exemption is as follows: Sixty hours each week for 6 weeks of the year; 56 hours each week for 4 weeks of the year; 48 hours each week for 2 weeks of the year; 44 hours each week for 2 weeks of the year; 40 hours each week for the balance of the year.

The workweek exemptions are applicable during the actual season within a period of 12 consecutive months as opposed to the calendar year and are not limited to a period of consecutive weeks.

In addition, the cotton processing and sugar processing exemptions under section 7 of the law are retained but limited to 48 hours during the appropriate weeks. Furthermore, it is provided that an employer who receives an exemption under this subsection will not be eligible for other overtime exemptions under section 13(b) (24) or (25) or section 7.

The employer may specify the workweek to be allocated to the particular overtime restriction either at the beginning or the end of that particular work. The enforcement procedure of the Department of Labor, under other similar provisions of law, is to require the employer to specify which provision of the exemption will be applicable for that workweek no later than the end of that workweek.

Furthermore, when the employer makes the selection, it is applicable to all employees covered by the exemption during that workweek.

Another question has been raised concerning the amendments to the "tip credit" language of section 3(m). As noted in the committee report, and as I have stated, the intent of this provision is to make clear where the burden of proof rests in legal proceedings. Under current law, the employee, who can ill afford legal representation has erroneously been required by one court to meet the burden of proving to the court's satisfaction that the amount of tips he or she actually received was less than the amount claimed by the employer as a tip credit.

Shultz v. *William Lee Hotel Company, Inc.*, 304 F. Supp. 427 (W. D. Tenn. 1969). Under this provision the burden is clearly on the employer to provide to a court's satisfaction that the amount of tip credit claimed by such employer was actually received as tips by the employee.

A third question has been raised regarding the phrase "maid or custodial services" in the amendment to section 13(b) 8 of the act.

In phasing out completely the overtime exemption for maids and custodial workers the bill brings the full protection of the maximum hours provisions of the law to such custodial workers as maids, housemen, gardeners, and laundry workers.

The special 46-hour overtime exemption on the other hand would be applicable to other employees such as waiters, waitresses, and desk clerks, unless they perform custodial duties which are more than incidental to their noncustodial responsibilities.

Mr. President, I yield back my time.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

PROGRAM FOR TODAY AND TOMORROW

Mr. TOWER. Mr. President, will the Senator from New Jersey yield to me so that I may ask a question of the distinguished majority leader?

Mr. WILLIAMS. I yield.

Mr. TOWER. Mr. President, at this time, while Senators are in the Chamber in anticipation of the vote, I wish to ask the distinguished majority leader what he has in store for us for the remainder of this evening and tomorrow.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished acting Republican leader, as soon as the pending business is disposed of, it is the intent, according to the joint leadership, according to previous consultation, to lay before the Senate Calendar No. 669, S. 3066 the housing bill. It is anticipated we will come in around 10 o'clock tomorrow morning and hopefully we will be able to get some of the amendments out of the way and hopefully, and I say this after discussing the matter with the manager of the bill, the Senator from Alabama (Mr. SPARKMAN), and the ranking Republican member of the committee, the Senator from Texas (Mr. TOWER), we might be able to arrive at a time agreement on the consideration of the bill, covering amendments and the bill itself.

Mr. TOWER. That is my understanding. The consent request that will be suggested, I understand, will be 4 hours on the bill and 30 minutes on amendments. I still have one Senator on my side to clear it with, but we can anticipate that will probably be the agreement and I think it would be well to serve notice on Senators to find if any object or want more time.

Mr. MANSFIELD. I appreciate that.

FAIR LABOR STANDARDS AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 2747) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to expand the coverage of the act, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has been yielded back. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BROCK. Mr. President, on this vote I have a live pair with the Senator from Arizona (Mr. GOLDWATER). Were he present and voting, he would vote "nay." Were I permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. TOWER (after having voted in the negative). Mr. President, on this vote I have a live pair with the Senator from Kentucky (Mr. COOK). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. HART) is necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. HART) would vote "yea."

Mr. TOWER. I announce that the Senator from Kentucky (Mr. COOK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from North Carolina (Mr. HELMS), and the Senator from Pennsylvania (Mr. HUGH SCOTT) are necessarily absent.

On this vote, the Senator from Pennsylvania (Mr. HUGH SCOTT) is paired with the Senator from North Carolina (Mr. HELMS). If present and voting, the Senator from Pennsylvania would vote "yea" and the Senator from North Carolina would vote "nay."

I further announce that the Senator from Connecticut (Mr. WEICKER) is absent due to death in the family.

The result was announced—yeas 69, nays 22, as follows:

[No. 63 Leg.]

YEAS—69

Abourezk
Aiken
Allen
Baker
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Dole
Domenici
Eagleton
Fong
Fulbright
Gravel
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Sparkman
Stafford
Stevens
Stevenson
Symington
Talmadge
Tunney
Williams
Young

NAYS—22

Bartlett
Bellmon
Bennett
Buckley
Byrd,
Harry F., Jr.
Cotton
Curtis
Dominick
Eastland
Ervin
Fannin
Gurney
Hansen
Hollings
Hruska
McClellan
McClure
Roth
Scott,
William L.
Stennis
Taft
Thurmond

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Brock, for.
Tower, against.

NOT VOTING—7

Cook
Goldwater
Griffin
Hart
Helms
Scott, Hugh
Weicker

So the bill (S. 2747) was passed, as follows:

S. 2747

An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, to expand the coverage of the Act, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES TO ACT

SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1974".

(b) Unless otherwise specified, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the section or other provision amended or repealed is a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219).

INCREASE IN MINIMUM WAGE RATE FOR EMPLOYEES COVERED BEFORE 1966

SEC. 2. Section 6(a) (1) is amended to read as follows:

"(1) not less than $2 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1974, and not less than $2.20 an hour thereafter, except as otherwise provided in this section;".

INCREASE IN MINIMUM WAGE RATE FOR NONAGRICULTURAL EMPLOYEES COVERED IN 1966 AND 1973

SEC. 3. Section 6(b) is amended (1) by inserting ", title IX of the Education Amendments of 1972, or the Fair Labor Standards Amendments of 1974" after "1966", and (2) by striking out paragraphs (1) through (5) and inserting in lieu thereof the following:

"(1) not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1974,

"(2) not less than $2 an hour during the second year from the effective date of such amendments,

"(3) not less than $2.20 an hour thereafter.".

INCREASE IN MINIMUM WAGE RATE FOR AGRICULTURAL EMPLOYEES

SEC. 4. Section 6(a)(5) is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than—

"(A) $1.60 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1974.

"(B) $1.80 an hour during the second year from the effective date of such amendments,

"(C) $2 an hour during the third year from the effective date of such amendments,

"(D) $2.20 an hour thereafter.".

INCREASE IN MINIMUM WAGE RATES FOR EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 5. (a) Section 5 is amended by adding at the end thereof the following new subsection:

"(e) The provisions of this section, section 6(c), and section 8 shall not apply with respect to the minimum wage rate of any employee employed in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands, (2) by an establishment which is a hotel, motel, or restaurant, or (3) by any other retail or service establishment which employs such employee primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs. The minimum wage rate of such an employee shall be determined under this Act in the same manner as the minimum wage rate for employees employed in a State of the United States is determined under this Act. As used in the preceding sentence, the term 'State' does not include a territory or possession of the United States.".

(b) Effective on the date of the enactment of the Fair Labor Standards Amendments of 1974, subsection (c) of section 6 is amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

(2) Except as provided in paragraphs (4) and (5), in the case of any employee who is covered by such a wage order on the date of enactment of the Fair Labor Standards Amendments of 1974 and to whom the rate or rates prescribed by subsection (a) or (b) would otherwise apply, the wage rate applicable to such employee shall be increased as follows:

"(A) Effective on the effective date of the Fair Labor Standards Amendments of 1974, the wage order rate applicable to such employee on the day before such date shall—

"(i) if such rate is under $1.40 an hour, be increased by $0.12 an hour, and

"(ii) if such rate is $1.40 or more an hour, be increased by $0.15 an hour.

"(B) Effective on the first day of the second and each subsequent year after such date, the highest wage order rate applicable to such employees on the date before such first day shall—

"(i) if such rate is under $1.40 an hour, be increased by $0.12 an hour, and

"(ii) if such rate is $1.40 or more an hour, be increased by $0.15 an hour.

In the case of any employee employed in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5, to whom the rate or rates prescribed by subsection (a) (5) would otherwise apply, and whose hourly wage is increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the increases prescribed by this paragraph shall be applied to the sum of the wage rate in effect under such wage order and the amount by which the employee's hourly wage rate is increased by the subsidy (or income supplement) above the wage rate in effect under such wage order.

"(3) In the case of any employee employed in Puerto Rico or the Virgin Islands to whom this section is made applicable by the amendments made to this Act by the Fair Labor Standards Amendments of 1974, the Secretary shall, as soon as practicable after the date of enactment of the Fair Labor Standards Amendments of 1974, appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates, which shall be not less than 60 per centum of the otherwise applicable minimum wage rate in effect under subsection (b) or $1.00 an hour, whichever is greater, to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate recommended by the special industry committee shall (A) be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation, but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1974, and (B) except in the case of employees of the government of Puerto Rico or any political subdivision thereof, be increased in accordance with paragraph (2)(B).

"(4)(A) Notwithstanding paragraph (2) (A) or (3), the wage rate of any employee in Puerto Rico or the Virgin Islands which is subject to paragraph (2)(A) or (3) of this subsection, shall, on the effective date of the wage increase under paragraph (2)(A) or of the wage rate recommended under paragraph (3), as the case may be, be not less than 60 per centum of the otherwise applicable rate under subsection (a) or (b) or $1.00, whichever is higher.

"(B) Notwithstanding paragraph (2)(B), the wage rate of any employee in Puerto Rico or the Virgin Islands which is subject to paragraph (2)(B), shall, on and after the effective date of the first wage increase under paragraph (2)(B), be not less than 60 per centum of the otherwise applicable rate under subseciton (a) or (b) or $1.00, whichever is higher.

"(5) If the wage rate of an employee is to be increased under this subsection to a wage rate which equals or is greater than the wage rate under subsection (a) or (b) which, but for paragraph (1) of this subsection, would be applicable to such employee, this subsection shall be inapplicable to such employee and the applicable rate under such subsection shall apply to such employee.

"(6) Each minimum wage rate prescribed by or under paragraph (2) or (3) shall be in effect unless such minimum wage rate has been superseded by a wage order (issued by the Secretary pursuant to the recommendation of a special industry committee convened under section 8) fixing a higher minimum wage rate."

(c)(1) The last sentence of section 8(b) is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following: "except that the committee shall recommend to the Secretary the minimum wage rate prescribed in section 6(a) or 6(b), which would be applicable but for section 6(c), unless there is substantial documentary evidence, including pertinent unabridged profit and loss statements and balance sheets for a representative period of years or in the case of employees of public agencies other appropriate information, in the record which establishes that the industry, or a predominant portion thereof, is unable to pay that wage."

(2) The third sentence of section 10(a) is amended by inserting after "modify" the following: "(including provision for the payment of an appropriate minimum wage rate)".

(d) Section 8 is amended (1) by striking out "the minimum wage prescribed in paragraph (1) of section 6(a) in each such industry" in the first sentence of subsection (a) and inserting in lieu thereof "the minimum wage rate which would apply in each such industry under paragraph (1) or (5) of section 6(a) but for section 6(c)", (2) by striking out "the minimum wage rate prescribed in paragraph (1) of section 6(a)" in the last sentence of subsection (a) and inserting in lieu thereof "the otherwise applicable minimum wage rate in effect under paragraph (1) or (5) of section 6(a)", and (3) by striking out "prescribed in paragraph (1) of section 6(a)" in subsection (c) and inserting in lieu thereof "in effect under paragraph (1) or (5) of section 6(a) (as the case may be)".

FEDERAL AND STATE EMPLOYEES

SEC. 6. (a)(1) Section 3(d) is amended to read as follows:

"(d) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization."

(2) Section 3(e) is amended to read as follows:

"(e)(1) Except as provided in paragraphs (2) and (3), the term 'employee' means any individual employed by an employer.

"(2) In the case of an individual employed by a public agency, such term means—

"(A) any individual employed by the Government of the United States—

"(i) as a civilian in the military departments (as defined in section 102 of title 5, United States Code),

"(ii) in any executive agency (as defined in section 105 of such title),

"(iii) in any unit of the legislative or judicial branch of the Government which has positions in the competitive service,

"(iv) in a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces, or

"(v) in the Library of Congress;

"(B) any individual employed by the United States Postal Service or the Postal Rate Commission; and

"(C) any individual employed by a State, political subdivision of a State, or an interstate governmental agency, other than such an individual—

"(i) who is not subject to the civil service laws of the State, political subdivision, or agency which employs him; and

"(ii) who—

"(I) holds a public elective office of that State, political subdivision, or agency,

"(II) is selected by the holder of such an office to be a member of his personal staff,

"(III) is appointed by such an officeholder to serve on a policymaking level, or

"(IV) who is an immediate adviser to such an officeholder with respect to the constitutional or legal powers of his office.

"(3) For purposes of subsection (u), such term does not include any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family.".

(3) Section 3(h) is amended to read as follows:

"(h) 'Industry' means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.".

(4) Section 3(r) is amended by inserting "or" at the end of paragraph (2) and by inserting after that paragraph the following new paragraph:

"(3) in connection with the activities of a public agency,".

(5) Section 3(s) is amended—

(A) by striking out in the matter preceding paragraph (1) "including employees handling, selling, or otherwise working on goods" and inserting in lieu thereof "or employees handling, selling, or otherwise working on goods or materials",

(B) by striking out "or" at the end of paragraph (3),

(C) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or",

(D) by adding after paragraph (4) the following new paragraph:

"(5) is an activity of a public agency.", and

(E) by adding after the last sentence the following new sentence: "The employees of an enterprise which is a public agency shall for purposes of this subsection be deemed to be employees engaged in commerce, or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce.".

(6) Section 3 is amended by adding after subsection (w) the following:

"(x) 'Public agency' means the Government of the United States; the government of a State or political subdivision thereof; any agency of the United States (including the United States Postal Service and Postal Rate Commission), a State, or a political subdivision of a State; or any interstate governmental agency.".

(b) Section 4 is amended by adding at the end thereof the following new subsection:

"(f) The Secretary is authorized to enter into an agreement with the Librarian of Congress with respect to any individual employed in the Library of Congress to provide for the carrying out of the Secetary's functions under this Act with respect to such individuals. Notwithstanding any other provision of this Act, or any other law, the Civil Service Commission is authorized to administer the provisions of this Act with respect to any individual employed by the United States (other than an individual employed in the Library of Congress, United States Postal Service, Postal Rate Commission, or the Tennessee Valley Authority). Nothing in this subsection shall be construed to affect the right of an employee to bring an action for unpaid minimum wages, or unpaid overtime compensation, and liquidated damages under section 16(b) of this Act.".

(c) Section 7 is amended by adding at the end thereof the following new subsection:

"(k) No public agency shall be deemed to have violated subsection (a) with regard to any employee engaged in fire protection or law enforcement activities (including security personnel in correctional institutions) if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of twenty-eight consecutive days is accepted in lieu of the workweek of seven consecutive days for purposes of overtime computation and if the employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed for his employment in excess of—

"(1) one hundred and ninety-two hours in each such twenty-eight day period during the first year from the effective date of the Fair Labor Standards Amendments of 1974;

"(2) one hundred and eighty-four hours in each such twenty-eight day period during the second year from such date;

"(3) one hundred and seventy-six hours in each such twenty-eight day period during the third year from such date:

"(4) one hundred and sixty-eight hours in each such twenty-eight day period during the fourth year from such date: and

"(5) one hundred and sixty hours in each such twenty-eight day period thereafter.".

(d)(1) The second sentence of section 16(b) is amended to read as follows: "Action to recover such liability may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated.".

(2)(A) Section 6 of the Portal-to-Portal Pay Act of 1947 is amended by striking out the period at the end of paragraph (c) and by inserting in lieu thereof a semicolon and by adding after such paragraph the following:

"(d) with respect to any cause of action brought under section 16(b) of the Fair Labor Standards Act of 1938 against a State or a political subdivision of a State in a district court of the United States on or before April 18, 1973, the running of the statutory periods of limitation shall be deemed suspended during the period beginning with the commencement of any such action and ending one hundred and eighty days after the effective date of the Fair Labor Standards Amendments of 1974, except that such suspension shall not be applicable if in such action judgment has been entered for the defendant on the grounds other than State immunity from Federal jurisdiction.".

(B) Section 11 of such Act is amended by striking out "(b)" after "section 16".

DOMESTIC SERVICE WORKERS

SEC. 7. (a) Section 2(a) is amended by inserting at the end the following new sentence: "The Congress further finds that the employment of persons in domestic service in households affects commerce."

(b)(1) Section 6 is amended by adding after subsection (e) the following new subsection:

"(f) Any employee who in any workweek is employed in domestic service in a household shall be paid wages at a rate not less than the wage rate in effect under section 6(b) unless such employee's compensation for such service would not because of section 209(g) of the Social Security Act constitute 'wages', for purposes of title II of such Act."

(2) Section 7 is amended by adding after the subsection added by section 6(c) of this Act the following new subsection:

"(l) Subsection (a)(1) shall apply with respect to any employee who in any workweek is employed in domestic service in a household unless such employee's compensation for such work would not because of section 209(g) of the Social Security Act constitute 'wages', for purposes of title II of such Act."

(3) Section 13(a) is amended by adding at the end the following new paragraph:

"(15) any employee employed on a casual basis in domestic service employment to provide babysitting services or any employee employed in domestic service employment to provide companionship services for individuals who (because of age or infirmity) are unable to care for themselves (as such terms are defined and delimited by regulations of the Secretary)."

(4) Section 13(b) is amended by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or" and by adding after that paragraph the following new paragraph:

"(20) any employee who is employed in domestic service in a household and who resides in such household; or".

RETAIL AND SERVICE ESTABLISHMENTS

SEC. 8. (a) Effective January 1, 1975, section 13(a)(2) (relating to employees of retail and service establishments) is amended by striking out "$250,000" and inserting in lieu thereof "$225,000".

(b) Effective January 1, 1976, such section is amended by striking out "$225,000" and inserting in lieu thereof "$200,000".

(c) Effective January 1, 1977, such section is amended by striking out "or such establishment has an annual dollar volume of sales which is less than $200,000 (exclusive of excise taxes at the retail level which are separately stated)".

TOBACCO EMPLOYEES

SEC. 9. (a) Section 7 is amended by adding after the subsection added by section 7(b)(2) of this Act the following:

"(m) For a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection, if such employee—

"(1) is employed by such employer—

"(A) to provide services (including stripping and grading) necessary and incidental to the sale at auction of green leaf tobacco of type 11, 12, 13, 14, 21, 22, 23, 24, 31, 35, 36, or 37 (as such types are defined by the Secretary of Agriculture), or in auction sale, buying, handling, stemming, redrying, packing, and storing of such tobacco.

"(B) in auction sale, buying, handling, sorting, grading, packing, or storing green leaf tobacco of type 32 (as such type is defined by the Secretary of Agriculture), or

"(C) in auction sale, buying, handling, stripping, sorting, grading, sizing, packing, or stemming prior to packing, of perishable cigar leaf tobacco of type 41, 42, 43, 44, 45, 46, 51, 52, 53, 54, 55, 61, or 62 (as such types are defined by the Secretary of Agriculture); and

"(2) receives for—

"(A) such employment by such employer which is in excess of ten hours in any workday, and

"(B) such employment by such employer which is in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed.

An employer who receives an exemption under this subsection shall not be eligible for any other exemption under this section.".

(b)1) Section 13(a)(14) is repealed.

(2) Section 13(b) is amended by adding after the paragraph added by section 7(b)(4) of this Act the following new paragarph:

"(21) any agricultural employee employed in the growing and harvesting of shade-grown tobacco who is engaged in the processing (including, but not limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling) of such tobacco, prior to the stemming process, for use as cigar wrapper tobacco; or".

TELEGRAPH AGENCY EMPLOYEES

SEC. 10. (a) Section 13(a)(11) (relating to telegraph agency employees) is repealed.

(b)(1) Section 13(b) is amended by adding after the paragraph added by section 9(b)(2) of this Act the following new paragraph:

"(22) any employee or proprietor in a retail or service establishment, which qualifies as an exempt retail or service establishment under paragraph (2) of subsection (a) with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed $500 a month and receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed; or".

(2) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, section 13(b)(22) is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(3) Effective two years after such date, section 13(b)(22) is repealed.

SEAFOOD CANNING AND PROCESSING EMPLOYEES

SEC. 11. (a) Section 13(b)(4) (relating to fish and seafood processing employees) is amended by inserting "who is" after "employee", and by inserting before the semicolon the following: ", and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed".

(b) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, section 13(b)(4) is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours."

(c) Effective two years after such date, section 13(b)(4) is repealed.

NURSING HOME EMPLOYEES

SEC. 12. (a) Section 13(b)(8) (insofar as it relates to nursing home employees) is amended by striking out "any employee who (A) is employed by an establishment which is an institution (other than a hospital) primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises" and the remainder of that paragraph.

(b) Section 7(j) is amended by inserting after "a hospital" the following: "or an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises".

HOTEL, MOTEL, AND RESTAURANT EMPLOYEES AND TIPPED EMPLOYEES

SEC. 13. (a) Section 13(b)(8) (insofar as it relates to hotel, motel, and restaurant employees) (as amended by section 12) is amended (1) by striking out "any employee" and inserting in lieu thereof "(A) any employee (other than an employee of a hotel or motel who is employed to perform maid or custodial services) who is," (2) by inserting before the semicolon the following: "and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed", and (3) by adding after such section the following:

"(B) any employee who is employed by a hotel or motel to perform maid or custodial services and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed; or".

(b) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, subparagraphs (A) and (B) of section 13(b)(8) are each amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-six hours".

(c) Effective two years after such date, subparagraph (B) of section 13(b)(8) is amended by striking out "forty-six hours" and inserting in lieu thereof "forty-four hours".

(d) Effective three years after such date, subparagraph (B) of section 13(b)(8) is repealed and such section is amended by striking out "(A)".

(e) The last sentence of section 3(m) is amended to read as follows: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 per centum of the applicable minimum wage rate, except that the amount of the increase on account of tips determined by the employer may not exceed the value of tips actually received by the employee. The previous sentence shall not apply with respect to any tipped employee unless (1) such employee has been informed by the employer of the provisions of this section, and (2) all tips received by such employee have been retained by the employee, except that nothing herein shall prohibit the pooling of tips among employees who customarily and regularly receive tips.".

SALESMEN, PARTSMEN, AND MECHANICS

SEC. 14. Section 13(b)(10) (relating to salesmen, partsmen, and mechanics) is amended to read as follows:

"(10)(A) any salesman primarily engaged in selling automobiles, trailers, trucks, farm implements, boats, or aircraft if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling such boats or vehicles to ultimate purchasers; or

"(B) any partsman primarily engaged in selling parts for automobiles, trucks, or farm implements and any mechanic primarily engaged in servicing such vehicles, if they are employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles to ultimate purchasers; or".

FOOD SERVICE ESTABLISHMENT EMPLOYEES

SEC. 15. (a) Section 13(b)(18) (relating to food service and catering employees) is amended by inserting immediately before the semicolon the following: "and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed".

(b) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, such section is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(c) Effective two years after such date, such section is repealed.

BOWLING EMPLOYEES

SEC. 16. (a) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, section 13(b)(19) (relating to employees of bowling establishments) is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(b) Effective two years after such date, such section is repealed.

SUBSTITUTE PARENTS FOR INSTITUTIONALIZED CHILDREN

SEC. 17. Section 13(b) is amended by inserting after the paragraph added by section 10(b)(1) of this Act the following new paragraph:

"(23) any employee who is employed with his spouse by a nonprofit education institution to serve as the parents of children—

"(A) who are orphans or one of whose natural parents is deceased, or

"(B) who are enrolled in such institution and reside in residential facilities of the institution, while such children are in residence at such institution,

if such employee and his spouse reside in such facilities, receive, without cost, board and lodging from such institution, and are together compensated, on a cash basis, at an annual rate of not less than $10,000; or;".

EMPLOYEES OF CONGLOMERATES

SEC. 18. Section 13 is amended by adding at the end thereof the following:

"(g) The exemption from section 6 provided by paragraphs (2) and (6) of subsection (a) of this section shall not apply with respect to any employee employed by an establishment (1) which controls, is controlled by, or is under common control with, another establishment the activities of which are not related for a common business purpose to, but materially support, the activities of the establishment employing such employee; and (2) whose annual gross volume of sales made or business done, when combined with the annual gross volume of sales made or business done by each establishment which controls, is controlled by, or is under common control with, the establishment employing such employee, exceeds $10,000,000 (exclusive of excise taxes at the retail level which are separately stated), except that the exemption from section 6 provided by subparagraph (2) of subsection (a) of this section shall apply with respect to any establishment described in this subsection which has an annual dollar volume of sales which would permit it to qualify for the exemption provided in paragraph (2) of subsection (a) if it were in an enterprise described in section 3(s).".

SEASONAL INDUSTRY EMPLOYEES

SEC. 19. (a) Sections 7(c) and 7(d) are each amended—

(1) by striking out "ten workweeks" and inserting in lieu thereof "seven workweeks", and

(2) by striking out "fourteen workweeks" and inserting in lieu thereof "ten workweeks".

(b) Section 7(c) is amended by striking out "fifty hours" and inserting in lieu thereof "forty-eight hours".

(c) Effective January 1, 1975, sections 7(c) and 7(d) are each amended—

(1) by striking out "seven workweeks" and inserting in lieu thereof "five workweeks", and

(2) by striking out "ten workweeks" and inserting in lieu thereof "seven workweeks".

(d) Effective January 1, 1976, sections 7(c) and 7(d) are each amended—

(1) by striking out "five workweeks" and inserting in lieu thereof "three workweeks", and

(2) by striking out "seven workweeks" and inserting in lieu thereof "five workweeks".

(e) Effective December 31, 1976, sections 7(c) and 7(d) are repealed.

COTTON GINNING AND SUGAR PROCESSING EMPLOYEES

SEC. 20. (a) Section 13(b)(15) is amended to read as follows:

"(15) any employee engaged in the processing of maple sap into sugar (other than refined sugar) or syrup; or".

(b)(1) Section 13(b) is amended by adding after paragraph (23) the following new paragraph:

"(24) any employee who is engaged in ginning of cotton for market in any place of employment located in a county where cotton is grown in commercial quantities and who receives compensation for employment in excess of—

"(A) seventy-two hours in any workweek for not more than six workweeks in a year,

"(B) sixty-four hours in any workweek for not more than four workweeks in that year,

"(C) fifty-four hours in any workweek for not more than two workweeks in that year, and

"(D) forty-eight hours in any other workweek in that year.

at a rate not less than one and one-half times the regular rate at which he is employed; or".

(2) Effective January 1, 1975, section 13(b)(24) is amended—

(A) by striking out "seventy-two" and inserting in lieu thereof "sixty-six";

(B) by striking out "sixty-four" and inserting in lieu thereof "sixty";

(C) by striking out "fifty-four" and inserting in lieu thereof "fifty";

(D) by striking out "and" at the end of subparagraph (C); and

(E) by striking out "forty-eight hours in any other workweek in that year" and inserting in lieu thereof the following: "forty-six hours in any workweek for not more than two workweeks in that year; and

"(E) forty-four hours in any other workweek in that year,".

(3) Effective January 1, 1976, section 13 (b) (24) is amended—

(A) by striking out "sixty-six" and inserting in lieu thereof "sixty";

(B) by striking out "sixty" and inserting in lieu thereof "fifty-six";

(C) by striking out "fifty" and inserting in lieu thereof "forty-eight";

(D) by striking out "forty-six" and inserting in lieu thereof "forty-four"; and

(E) by striking out "forty-four" and inserting in lieu thereof "forty".

(c) (1) Section 13(b) is amended by adding after paragraph (24) the following new paragraph:

"(25) any employee who is engaged in the processing of sugar beets, sugar beet molasses, or sugarcane into sugar (other than refined sugar) or syrup and who receives compensation for employment in excess of—

"(A) seventy-two hours in any workweek for not more than six workweeks in a year,

"(B) sixty-four hours in any workweek for not more than four workweeks in that year,

"(C) fifty-four hours in any workweek for not more than two workweeks in that year, and

"(D) forty-eight hours in any other workweek in that year,

at a rate not less than one and one-half times the regular rate at which he is employed; or".

(2) Effective January 1, 1975, section 13 (b) (25) is amended—

(A) by striking out "seventy-two" and inserting in lieu thereof "sixty-six";

(B) by striking out "sixty-four" and inserting in lieu thereof "sixty";

(C) by striking out "fifty-four" and inserting in lieu thereof "fifty";

(D) by striking out "and" at the end of subparagraph (C); and

(E) by striking out "forty-eight hours in any other workweek in that year" and inserting in lieu thereof the following: "forty-six hours in any workweek for not more than two workweeks in that year, and

"(E) forty-four hours in any other workweek in that year,".

(3) Effective January 1, 1976, section 13 (b) (25) is amended—

(A) by striking out "sixty-six" and inserting in lieu thereof "sixty";

(B) by striking out "sixty" and inserting in lieu thereof "fifty-six";

(C) by striking out "fifty" and inserting in lieu thereof "forty-eight";

(D) by striking out "forty-six" and inserting in lieu thereof "forty-four"; and

(E) by striking out "forty-four" and inserting in lieu thereof "forty".

LOCAL TRANSIT EMPLOYEES

SEC. 21. (a) Section 7 is amended by adding after the subsection added by section 9(a) of this Act the following new subsection:

"(n) In the case of an employee of an employer engaged in the business of operating a street, suburban, or interurban electric railway, or local trolley or motorbus carrier (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit) in determining the hours of employment of such an employee to which the rate prescribed by subsection (a) applies there shall be excluded the hours such employee was employed in charter activities by such employer if (1) the employee's employment in such activities was pursuant to an agreement or understanding with his employer arrived at before engaging in such employment, and (2) if employment in such activities is not part of such employee's regular employment."

(b) (1) Section 13(b) (7) (relating to employees of street, suburban, or interurban electric railways or local trolley or motorbus carriers) is amended by striking out ", if the rates and services of such railway or carrier are subject to regulation by a State or local agency" and inserting in lieu thereof the following: "(regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), if such employee receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed."

(2) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, such section is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(3) Effective two years after such date, such section is repealed.

COTTON AND SUGAR SERVICES EMPLOYEES

SEC. 22. Section 13 is amended by adding after the subsection added by section 18(a) the following:

"(h) The provisions of section 7 shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any calendar year to any employee who—

"(1) is employed by such employer—

"(A) exclusively to provide services necessary and incidental to the ginning of cotton in an establishment primarily engaged in the ginning of cotton;

"(B) exclusively to provide services necessary and incidental to the receiving, handling, and storing of raw cotton and the compressing of raw cotton when performed at a cotton warehouse or compress-warehouse facility, other than one operated in conjunction with a cotton mill, primarily engaged in storing and compressing;

"(C) exclusively to provide services necessary and incidental to the receiving, handling, storing, and processing of cottonseed in an establishment primarily engaged in the receiving, handling, storing, and processing of cottonseed; and

"(D) exclusively to provide services necessary and incidental to the processing of sugar cane or sugar beets in an establishment primarily engaged in the processing of sugar cane or sugar beets; and".

"(2) receiver for—

"(A) such employment by such employer which is in excess of ten hours in any workday, and

"(B) such employment by such employer which is in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed.

Any employer who receives an exemption under this subsection shall not be eligible for any other exemption under this section or section 7.".

OTHER EXEMPTIONS

SEC. 23. (a) (1) Section 13(a) (9) (relating to motion picture theater employees) is repealed.

(2) Section 13(b) is amended by adding after paragraph (25) the following new paragraph:

"(26) any employee employed by an establishment which is a motion picture theater;".

(b) (1) Section 13(a) (13) (relating to small logging crews) is repealed.

(2) Section 13(b) is amended by adding after paragraph (26) the following new paragraph:

"(27) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight.".

(c) Section 13(b) (2) (insofar as it relates to pipeline employees) is amended by inserting after "employer" the following: "engaged in the operation of a common carrier by rail and".

EMPLOYMENT OF STUDENTS

SEC. 24. (a) Section 14 is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"SEC. 14. (a) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for the employment of learners, of apprentices, and of messengers employed primarily in delivering letters and messages, under special certificates issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 6 and subject to such limitation as to time, number, proportion, and length of service as the Secretary shall prescribe.

"(b) (1) (A) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special certificate issued under a regulation or order provide, in accordance with subparagraph (B), for the employment, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 or not less than $1.60 an hour, whichever is the higher (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6(c)), of full-time students (regardless of age but in compliance with applicable child labor laws) in retail or service establishments.

"(B) Except as provided in paragraph (4) (B), the proportion of student hours of employment under special certificates issued under subparagraph (A) to the total hours of employment of all employees in any retail or service establishment may not exceed (i) such proportion for the corresponding month of the twelve-month period preceding May 1, 1961, (ii) in the case of a retail or service establishment whose employees (other than employees engaged in commerce or in the production of goods for commerce) are covered by this Act for the first time on or after the effective date of the Fair Labor Standards Amendments of 1966 or the Fair Labor Standards Amendments of 1974, such proportion for the corresponding month of the twelve-month period immediately prior to the applicable effective date, or (iii) in the case of a retail or service establishment coming into existence after May 1, 1961, or a retail or service establishment for which records of student hours worked are not available, a proportion of student hours of employment to total hours of employment of all employees based on the practice during the twelve-month period preceding May 1, 1961, in similar establishments of the same employer in the same general metropolitan area in which the new establishment is located, similar establishments of the same employer in the same or nearby counties if the new establishment is not in a metropolitan area, or other establishments of the same general character operating in the community or the nearest comparable community. For the purposes of the preceding sentence, the term 'student hours of employment' means student hours worked at less than $1.00 an hour, except that such term shall include, in States whose minimum wages were at or above $1.00 an hour in the base year, hours worked by students at the State minimum wage in the base year.

"(2) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special certificate issued under a regulation or order provide for the employment, at a wage rate not less than 85 per centum of the wage rate in effect under section 6(a)(5) or not less than $1.30 an hour, whichever is the higher (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)(3)), of full-time students (regardless of age but in compliance with applicable child labor laws) in any occupation in agriculture.

"(3) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special certificate issued under a regulation or order provide for the employment by an institution of higher education, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 or not less than $1.60 an hour, whichever is the higher (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)), of full-time students (regardless of age but in compliance with applicable child labor laws) who are enrolled in such institution. The Secretary shall by regulation prescribe standards and requirements to insure that this paragraph will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this paragraph is applicable.

"(4)(A) A special certificate issued under paragraph (1), (2), or (3) shall provide that the student or students for whom it is issued shall, except during vacation periods, be employed on a part-time basis and not in excess of twenty hours in any workweek.

"(B) If the issuance of a special certificate under paragraph (1) or (2) for an employer will cause the number of students employed by such employer under special certificates issued under this subsection to exceed four, the Secretary may not issue such a special certificate for the employment of a student by such employer unless the Secretary finds employment of such student will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under special certificates issued under this subsection. If the issuance of a special certificate under paragraph (1) or (2) for an employer will not cause the number of students employed by such employer under special certificates issued under this subsection to exceed four—

"(i) the Secretary may issue a special certificate under paragraph (1) or (2) for the employment of a student by such employer if such employer certifies to the Secretary that the employment of such student will not reduce the full-time employment opportunities of persons other than those employed under special certificates issued under this subsection, and

"(ii) in the case of an employer which is a retail or service establishment, subparagraph (B) of paragraph (1) shall not apply with respect to the issuance of special certificates for such employer under such paragraph.

The requirement of this subparagraph shall not apply in the case of the issuance of special certificates under paragraph (3) for the employment of full-time students by institutions of higher education; except that if the Secretary determines that an institution of higher education is employing students under certificates issued under paragraph (3) but in violation of the requirements of that paragraph or of regulations issued thereunder, the requirements of this subparagraph shall apply with respect to the issuance of special certificates under paragraph (3) for the employment of students by such institution.

"(C) No special certificate may be issued under this subsection unless the employer for whom the certificate is to be issued provides evidence satisfactory to the Secretary of the student status of the employees to be employed under such special certificate."

(b) Section 14 is further amended by redesignating subsection (d) as subsection (c) and by adding at the end the following new subsection:

"(d) The Secretary may by regulation or order provide that sections 6 and 7 shall not apply with respect to the employment by any elementary or secondary school of its students if such employment constitutes, as determined under regulations prescribed by the Secretary, an integral part of the regular education program provided by such school and such employment is in accordance with applicable child labor laws."

(c) Section 4(d) is amended by adding at the end thereof the following new sentence: "Such report shall also include a summary of the special certificates issued under section 14(b)."

CHILD LABOR

SEC. 25. (a) Section 12 (relating to child labor) is amended by adding at the end thereof the following new subsection:

"(d) In order to carry out the objectives of this section, the Secretary may by regulation require employers to obtain from any employee proof of age."

(b) Section 13(c)(1) (relating to child labor in agriculture) is amended to read as follows:

"(c)(1) Except as provided in paragraph (2), the provisions of section 12 relating to child labor shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

"(A) is less than twelve years of age and (i) is employed by his parent, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or (ii) is employed, with the consent of his parent or person standing in the place of his parent, on a farm, none of the employees of which are (because of section 13(a)(6)(A)) required to be paid at the wage rate prescribed by section 6(a)(5),

"(B) is twelve years or thirteen years of age and (i) such employment is with the consent of his parent or person standing in the place of his parent, or (ii) his parent or such person is employed on the same farm as such employee, or

"(c) is fourteen years of age or older.".

(c) Section 16 is amended by adding at the end thereof the following new subsection:

"(e) Any person who violates the provisions of section 12, relating to child labor, or any regulation issued under that section, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be—

"(1) deducted from any sums owing by the United States to the person charged;

"(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction,, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

"(3) ordered by the court in an action brought under section 15(a)(4), to be paid to the Secretary.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violation for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 2 of an Act entitled 'An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes' (29 U.S.C. 9a)."

SUITS BY SECRETARY FOR BACK WAGES

SEC. 26. The first three sentences of section 16(c) are amended to read as follows: "The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 6 or 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary in an action under this subsection in which a recovery is sought of unpaid minimum wages or unpaid overtime compensation under sections 6 and 7 or liquidated or other damages provided by this subsection owing to such employee by an employer liable under the provision of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary."

ECONOMIC EFFECTS STUDIES

SEC. 27. Section 4(d) is amended by—

(1) inserting "(1)" immediately after "(d)",

(2) inserting in the second sentence after the term "minimum wages" the following: "and overtime coverage"; and

(3) by adding at the end thereof the following new paragraphs:

"(2) The Secretary shall conduct studies on the justification or lack thereof for each of the special exemptions set forth in section 13 of this Act, and the extent to which such exemptions apply to employees of establishment described in subsection (g) of such section and the economic effects of the application of such exemptions to such employees. The Secretary shall submit a report of his findings and recommendations to the Congress with respect to the studies conducted under this paragraph not later than January 1, 1976.

"(3) The Secretary of Labor shall conduct a study on means to prevent curtailment of employment opportunities among manpower groups which have had historically high incidences of unemployment, such as disadvantaged minorities, youth, elderly, and such other groups the Secretary may designate. Such studies shall include suggestions under the authority that the Secretary of Labor has available under section 14 of the Fair Labor Standards Act and shall be transmitted to the Congress one year after the effective date of these amendments and thereafter at two-year intervals after the effective date of these amendments."

AGE DISCRIMINATION

SEC. 28. (1) the first sentence of section 11 (b) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630(b)) is amended by striking out "twenty-five" and inserting in lieu thereof "twenty".

Nondiscrimination on Account of Age in Government Employment

(2) The second sentence of section 11(b) is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, and any interstate agency, but such term does not include the United States, or a corporation wholly owned by the Government of the United States.".

(3) Section 11(c) of such Act is amended by striking out ", or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance".

(4) Section 11(f) of such Act is amended to read as follows:

"(f) The term 'employee' means an individual employed by any employer except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy-making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, govermental agency, or political subdivision."

(5) Section 16 of such Act is amended by striking the figure "$3,000,000", and inserting in lieu thereof "$5,000,000".

(b) (1) The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, as section 16 and section 17, respectively.

(2) The Age Discrimination in Employment Act of 1967 is further amended by adding immediately after section 14 the following new section:

"NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 15. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit;

"(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age; and

"(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Civil Service Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Any person aggrieved may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

"(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

"(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law."

EFFECTIVE DATE

SEC. 29. (a) Except as otherwise specifically provided, the amendments made by this Act shall take effect on the first day of the first full month which begins after the date of the enactment of this Act.

(b) Notwithstanding subsection (a), on and after the date of the enactment of this Act the Secretary of Labor is authorized to prescribe necessary rules, regulations, and orders with regard to the amendments made by this Act.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR SECRETARY OF SENATE TO MAKE TECHNICAL AND CLERICAL CORRECTIONS IN ENGROSSMENT OF S. 2747

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the bill, S. 2747, and that the bill be printed as passed in the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 523, S. 2727 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I simply wish to commend the Committee on Labor and Public Welfare, and particularly its able chairman, the distinguished Senator from New Jersey (Mr. WILLIAMS), for the outstanding manner in which the minimum wage proposal was handled.

This measure represents a matter of the highest priority insofar as the Senate is concerned. To the millions who are benefited will go vital relief in filling the need to maintain a minimum standard of living. Passage of the proposal represents a fine achievement for Senator WILLIAMS, for the committee and for the entire Senate.

I wish, too, to thank Senator JAVITS for his great leadership. As always, his cooperative efforts and enormous legislative skill were indispensable.

The Senate is indebted as well to the many members who joined with comments, appraisals, and suggestions. But particularly the Senate is grateful to the cooperation exhibited by all in joining to assure such efficient action. Senator DOMINICK, Senator TAFT, Senator BUCKLEY, and others deserve special mention for aiding in these efforts.

Once again, however, Senator WILLIAMS has gained another magnificent achievement in his already abundant record book of public service.

Mr. WILLIAMS. Mr. President, final action on this major piece of legislation of such significant meaning to millions of working people would be incomplete without an expression of gratitude to the men and women of the Labor subcommittee staff who have worked so long, hard, and patiently to insure that all essential information and consultation were available to the Senate.

The members of the majority staff of the Subcommittee on Labor, Donald Elisburg, Jane Conley, Jeanette Smith, Joan Killiany, and Pat Garza, who performed so well, were directed to Gerald Feder in exemplary professional fashion.

My deep appreciation also extends to all the minority staff members, who were directed by Gene Mittelman with great dedication and skill.

ORDER OF BUSINESS—UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent, with the approval of the distinguished Republican leader and the chairman of the committee on the housing bill, that when the housing bill is called up it will be the pending business at the conclusion of the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the distinguished majority leader to make the following unanimous-consent request.

I ask unanimous consent that on the housing bill there be a time limitation of 4 hours, that there be a limitation of 2 hours on each amendment, and that on any amendment there be a limitation of 30 minutes, and on any debatable motion or appeal, there be a limitation of 20 minutes with the exception of five amendments to be offered by the Senator from New York (Mr. JAVITS), on one of which there will be 2 hours, and on each of the others there will be 1 hour, and that the agreement be in the usual form.

Mr. TOWER. Mr. President, reserving the right to object, and I do not intend to object, did the Senator except the five amendments of the Senator from New York from the rule of germaneness?

Mr. ROBERT C. BYRD. I did. I did not have an opportunity to know about that. However, I have included them.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That, during the consideration of S. 3036, a bill to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance in support of community development activities, and for other purposes, debate on any amendment (except five amendments to be offered by the Senator from New York (Mr. Javits), on one of which there shall be 2 hours debate, with 1 hour debate on each of the remaining four amendments none of which must be germane) shall be limited to 30 minutes, to be equally divided and controlled by the mover of the amendment and the manager of the bill, and that debate on any debatable motion or appeal shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the majority and minority leaders, or their designees: *Provided*, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

REFERRAL OF INDIAN SELF-DETERMINATION AND EDUCATIONAL REFORM ACT

Mr. JACKSON. Mr. President, I call up Calendar Order No. 658, S. 1017.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

Calendar No. 658, S. 1017, a bill to promote maximum Indian participation in the Government and education of the Indian people; to provide for the full participation of Indian tribes in certain programs and services conducted by the Federal Government for Indians and to encourage the development of the human resources of the Indian people; to establish and carry out a national Indian education program; to encourage the establishment of local Indian school control; to train professionals in Indian education; to establish an Indian youth intern program; and for other purposes.

Mr. JACKSON. Mr. President, this is a matter involving Indian education. I have had a number of discussions with the various Indian groups, with the distinguished senior Senator from Massachusetts (Mr. KENNEDY), and with the chairman of the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, the junior Senator from South Dakota (Mr. ABOUREZK).

The facts are that there are some misunderstandings regarding the interpretations of the language in the bill, particularly with reference to title II, subsection (a).

There may be some other matters also in which there seems to be some divergence within the Indian community.

Under these circumstances—and all of us are desirous of getting a bill that will be representative certainly of the overwhelming majority of the Indian people—in order to achieve that purpose, it will be my suggestion that this matter be rereferred to the Committee on Interior and Insular Affairs for a period of 10 days, not including the time in which we will be in recess next week.

I have discussed this matter with the Senator from Texas.

Mr. TOWER. Mr. President, Senators FANNIN and MCCLURE would like to be notified on this matter. I would like to check to see if they are satisfied with this procedure before I agree to it.

Mr. JACKSON subsequently said: Mr. President, I have cleared this matter with the minority. I understand that there is no objection.

I would like first, Mr. President, to yield briefly to the senior Senator from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY. Mr. President, I think this is a sound procedure that we are following in attempting to eliminate some of these questions that have been raised by a number of the Indian people.

We have had an opportunity to talk with the chairman of the Interior and Insular Affairs Committee and with the members of the staff about some of the questions that have been raised with me and with other Members of the Senate.

It will only go back to the committee for a period of 10 days. The chairman of the committee understands that there are a greater number of different provisions in the legislation and the Indian people want an expeditious consideration of those provisions.

Mr. President, there is strong and overwhelming support on the great majority of the legislation to be considered. However, there are certain provisions, particularly title II, subsection (a), that should be reviewed.

I am very hopeful and confident that the Indian peoples suggestions and recommendations will be reflected in the final results.

I want to thank the chairman of the Committee on Interior and Insular Affairs for taking this step and giving the opportunity to the Indian people to express their views on those particular measures.

I look forward to an early passage of this legislation and hopefully an early enactment of it into law.

Mr. JACKSON. Mr. President, may I just say that the distinguished Senator from Massachusetts has taken a great interest in this area over a long period of time. Both he and his staff have been most cooperative, and I do believe, as he does, that this will serve a useful purpose in clarifying some of the misunderstandings that have arisen.

Over all, I think we all agree that it is a good bill, but it is important that we clear up these matters in the committee room rather than on the floor of the Senate, so we will avoid further misunderstanding.

I thank the Senator from Massachusetts, and I likewise want to express my deep appreciation to the chairman of the subcommittee who is doing such a fine job in handling the Indian legislation before our committee, the distinguished junior Senator from South Dakota (Mr. ABOUREZK).

Mr. ABOUREZK. Mr. President, I would likewise like to say I think this is a good procedure to clear up the misunderstanding on part A of title II. There is broad support for all of the rest of the bill. I wish that it were possible to retain that and to pass it on over to the House of Representatives; nevertheless, I think that we can do this very adequately and still come back in 10 days.

I ask the chairman of the Committee on Interior and Insular Affairs, if I may get his attention, am I correct in understanding that it automatically returns to the Senate floor in 10 days?

Mr. JACKSON. The Senator is correct. I will make the motion, or make a unanimous-consent request either way to that effect.

In order to handle the matter properly, I am advised that we should have the specific date. If we exclude the recess dates, the time it is to be reported back would be Monday, March 25. I will make the request that way, and then there will be no dispute that it automatically comes back.

Mr. President, I ask unanimous consent that S. 1017 be rereferred at this time to the Committee on Interior and Insular Affairs, with instructions to report the bill back, as amended or otherwise, on March 25, 1974.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 702, S. 265, and Calendar Order No. 701, S. 1688, in that order.

The PRESIDING OFFICER. Without objection, it is so ordered.

SALE OF MINERAL RIGHTS IN CERTAIN LANDS IN UTAH

The Senate proceeded to consider the bill (S. 265) to authorize the Secretary of the Interior to sell certain mineral rights in certain lands located in Utah to the record owner thereof which had been reported from the Committee on Interior and Insular Affairs with an amendment on page 3, line 6, after the word "interest", insert "to"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to convey, sell, and quitclaim all mineral interests now owned by the United

States to the record owner of the surface and a one-half undivided interest in the minerals, in and to the following described land in Utah County, Utah:

Beginning at a point south 151.8 feet and west 0.27 feet from the north quarter corner of section 17, township 5 south, range 2 east, Salt Lake base and meridian, and running thence south 89 degrees, 54 minutes east 62.0 feet; thence north 0 degrees 06 minutes east 152.1 feet; thence north 89 degrees 29 minutes 44 seconds east 70 feet; thence south 0 degrees 06 minutes west 165.62 feet; thence south 89 degrees 54 minutes east 164.97 feet; thence north 0 degrees 06 minutes east 137 feet; thence north 89 degrees 51 minutes east 16.5 feet; thence south 0 degrees 06 minutes west 137 feet; thence south 39 degrees 20 minutes west 135 feet; thence south 51 degrees 07 minutes east 660 feet; thence north 88 degrees 40 minutes west 268.8 feet; thence south 0 degrees 23 minutes 30 seconds west 1,262.9 feet along a fence line; thence north 89 degrees 46 minutes west 364.2 feet; thence south 89 degrees 06 minutes 30 seconds west 133.2 feet; thence north 1 degree 17 minutes 30 seconds east 1,323.2 feet thence east 4.34 feet; thence north 0 degrees 06 minutes east 466.7 feet, more or less to the point of beginning.

Sec. 2. The Secretary shall require the deposit of a sum of money which he deems sufficient to cover estimated administrative costs of this Act. If a conveyance is not made pursuant to this Act, and the administrative costs exceed the deposit, the Secretary shall bill the applicant for the outstanding amount, but if the amount of the deposit exceeds the actual administrative costs, the Secretary shall refund the excess.

Sec. 3. No conveyance shall be made unless application for conveyance is filed with the Secretary within six months of the date of approval of this Act and unless within the time specified by him payment is made to the Secretary of (1) administrative costs of the conveyance and (2) the fair market value of the interest to be conveyed. The amount of the payment required shall be the difference between the amount deposited and the full amount required to be paid under this section. If the amount deposited exceeds the full amount required to be paid, the applicant shall be given a credit or refund for the excess.

Sec. 4. The term "administrative costs" as used in this Act includes, but is not limited to, all costs of (1) conducting an exploratory program to determine the character of the mineral deposits in the land, (2) evaluating the data obtained under the exploratory program to determine the fair market value of the mineral rights to be conveyed, and (3) preparing and issuing the instrument of conveyance.

Sec. 5. Moneys paid to the Secretary for administrative costs shall be paid to the agency which rendered the service, and deposited to the appropriation then current. Moneys paid for the minerals or mineral interests conveyed shall be deposited into the general fund of the Treasury as miscellaneous receipts.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PROTECTION OF PRIVACY AND THE RIGHTS OF FEDERAL EMPLOYEES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 701, S. 1688.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1688) to protect the civilian employees of the executive branch of the United States Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. ERVIN. Mr. President, this bill, or rather bills in the form of the present bill, have passed the Senate on five separate occasions in the 90th, 91st, and 92d Congresses.

This bill is cosponsored by more than 40 Senators, of all political philosophies, on both sides of the aisle. The bill passed the first time, in its original form, with only four dissenting votes. On all other occasions the bill has passed unanimously.

It is a bill of major importance designed to protect the rights of privacy and other fundamental rights of Federal employees. I would like to pay tribute to many Senators for their part in the formulation of this bill over the years, and particularly to the distinguished senior Senator from Nebraska (Mr. Hruska).

The bill, as I say, is of extreme importance. The development of the bill and the reasons for it are matters set forth in the report of the committee. In view of the importance of the measure, I ask unanimous consent that the committee report (No. 93–724) be printed in full in the Record at this point.

There being no objection, the report was ordered to be printed in the Record, as follows:

Protecting Privacy and the Rights of Federal Employees

The Subcommittee on Constitutional Rights to which was referred the bill S. 1688 to protect civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy, having considered the same, reports favorably thereon without amendments and recommends that the bill do pass.

S. 1688 is identical to S. 1438 as unanimously reported by the committee and unanimously approved by the Senate in the last Congress. The report on S. 1438 is therefore reprinted below as approved by the committee.

PURPOSE

The purpose of the bill is to prohibit indiscriminate executive branch requirements that employees and, in certain instances, applicants for Government employment disclose their race, religion, or national origin; attend Government-sponsored meetings and lectures or participate in outside activities unrelated to their employment; report on their outside activities or undertakings unrelated to their work; submit to questioning about their religion, personal relationships or sexual attitudes through interviews, psychological tests, or polygraphs; support political candidates or attend political meetings. The bill would make it illegal to coerce an employee to buy bonds or make charitable contributions. It prohibits officials from requiring him to disclose his own personal assets, liabilities, or expenditures, or those of any member of his family unless, in the case of certain specified employees, such items would tend to show a conflict of interest. It would provide a right to have a counsel or other person present, if the employee wishes, at an interview which may lead to disciplinary proceedings. It would accord the right to a civil action in a Federal court for violation or threatened violation of the act, and it would establish a Board on Employees' Rights to receive and conduct hearings on complaints of violation of the act and to determine and administer remedies and penalties.

STATEMENT

The subcommittee has found a threefold need for this legislation. The first is the immediate need to establish a statutory basis for the preservation of certain rights and liberties of those who work for government now and those who will work for it in the future. The bill, therefore, not only remedies problems of today but looks to the future, in recognition of the almost certain enlargement of the scope of Federal activity and the continuing rise in the number of Americans employed by their Federal Government or serving it in some capacity.

Second, the bill meets the Federal Government's need to attract the best qualified employees and to retain them. As the former Chairman of the Civil Service Commission, Robert Ramspeck, testified:

"Today, the Federal Government affects the lives of every human being in the United States. Therefore, we need better people today, better qualified people, more dedicated people, in Federal service than we ever needed before. And we cannot get them if you are going to deal with them on the basis of suspicion, and delve into their private lives, because if there is anything the average American cherishes, it is his right of freedom of action, and his right to privacy. So I think this bill is hitting at an evil that has grown up, maybe not intended, but which is hurting the ability of the Federal Government to acquire the type of personnel that we must have in the career service."

Third is the growing need for the beneficial influence which such a statute would provide in view of the present impact of Federal policies, regulations and practices on those of State and local government and of private business and industry. An example of the interest demonstrated by governmental and private employers is the following comment by Allan Graham, secretary of the Civil Service Commission of the city of New York:

"It is my opinion, based on over 25 years of former Government service, including some years in a fairly high managerial capacity, that your bill, if enacted into law, will be a major step to stem the tide of "Big Brotherism," which constitutes a very real threat to our American way of life.

"In my present position as secretary of the Civil Service Commission of the city of New York, I have taken steps to propose the inclusion of several of the concepts of your bill into the rules and regulations of the city civil service commission."

Passage of the bill will signify congressional recognition of the threats to individual privacy posed by an advanced technology and by increasingly more complex organizations. Illustrating these trends is the greatly expanded use of computers and governmental and private development of vast systems for the efficient gathering of information and for data storage and retrieval. While Government enjoys the benefit of these developments, there is at the same time an urgent need for defining the areas of individual liberty and privacy which should be exempt from the unwarranted intrusions facilitated by scientific techniques.

As Prof. Charles Reich of Yale Law School has stated, this bill "would be a significant step forward in defining the right of privacy today."

"One of the most important tasks which faces the Congress and State legislatures in the next decade is the protection of the citizen against invasion of privacy," states Prof. Stanley Anderson of the University of California, Santa Barbara. "No citizens," in his opinion, "are in more immediate danger of incursion into private affairs than Government employees. When enacted the bill will provide a bulwark of protection against such incursions."

The bill is based on several premises which the subcommittee investigation has proved valid for purposes of enacting this legislation. The first is that civil servants do not surrender the basic rights and liberties which are their due as citizens under the Constitution of the United States by their action in accepting Government employment. Chief among these constitutional protections is the first amendment, which protects the employee to privacy in his thoughts, beliefs and attitudes, to silence in his action and participation or his inaction and nonparticipation in community life and civic affairs. This principle is the essence of constitutional liberty in a free society.

The constitutional focus of the bill was emphasized by Senator Ervin in the following terms when he introduced S. 1035 on February 21, 1967:

"If this bill is to have any meaning for those it affects, or serve as a precedent for those who seek guidance in these matters, its purpose must be phrased in constitutional terms. Otherwise its goals will be lost.

"We must have as our point of reference the constitutional principles which guide every official act of our Federal Government. I believe that the Constitution, as it was drafted and as it has been implemented, embodies a view of the citizen as possessed of an inherent dignity and as enjoying certain basic liberties. Many current practices of Government affecting employees are unconstitutional; they violate not only the letter but the very spirit of the Constitution.

"I introduced this bill originally because I believe that, to the extent it has permitted or authorized unwarranted invasion of employee privacy and unreasonable restrictions on their liberty, the Federal Government has neglected its constitutional duty where its own employees are concerned, and it has failed in its role as the model employer for the Nation.

"Second, although it is a question of some dispute, I hold that Congress has a duty under the Constitution not only to consider the constitutionality of the laws it enacts, but to assure as far as possible that those in the executive branch responsible for administering the laws adhere to constitutional standards in their programs, policies, and administrative techniques."

The committee believes that it is time for Congress to forsake its reluctance to tell the executive branch how to treat its employees. When so many American citizens are subject to unfair treatment, to being unreasonably coerced or required without warrant to surrender their liberty, their privacy, or their freedom to act or not to act, to reveal or not to reveal information about themselves and their private thoughts and actions, then Congress has a duty to call a statutory halt to such practices. It has a duty to remind the executive branch that even though it might have to expend a little more time and effort to obtain some favored policy goal, the techniques and tools must be reasonable and fair.

Each section of the bill is based on evidence from many hundreds of cases and complaints showing that generally in the Federal service, as in any similar organizational situation, a request from a superior is equivalent to a command. This evidence refutes the argument that an employee's response to a superior's request for information or action is a voluntary response, and that an employee "consents" to an invasion of his privacy or the curtailment of his liberty. Where his employment opportunities are at stake, where there is present the economic coercion to submit to questionable practices which are contrary to our constitutional values, then the presence of consent or voluntarism may be open to serious doubt. For this reason the bill makes it illegal for officials to "request" as well as to "require" an employee to submit to certain inquiries or practices or to take certain actions.

Each section of the bill reflects a balancing of the interests involved: The interest of the Government in attracting the best qualified individuals to its service; and its interest in pursuing laudable goals such as protecting the national security, promoting equal employment opportunities, assuring mental health, or conducting successful bond-selling campaigns. There is, however, also the interest of the individual in protection of his rights and liberties as a private citizen. When he becomes an employee of his Government, he has a right to expect that the policies and practices applicable to him will reflect the best values of his society.

The balance of interests achieved assures him this right. While it places no absolute prohibition on Government inquiries, the bill does assure that restrictions on his rights and liberties as a Government employee are reasonable ones.

A Senator Bible stated:

"There is a line between what is Federal business and what is personal business, and Congress must draw that line. The right of privacy must be spelled out."

The weight of evidence, as Senator Fong has said: "points to the fact that the invasions of privacy under threats and coercion and economic intimidation are rampant in our Federal civil service system today. The degree of privacy in the lives of our civil servants is small enough as it is, and it is still shrinking with further advances in technical know-how. That these citizens are being forced by economic coercion to surrender this precious liberty in order to obtain and hold jobs is an invasion of privacy which should disturb every American. I, therefore, strongly believe that congressional action to protect our civil servants is long overdue."

The national president of the National Association of Internal Revenue Employees, Vincent Connery, told the Subcommittee of this proposal in the 89th Congress:

"Senate bill 3779 is soundly conceived and perfectly timed. It appears on the legislative scene during a season of public employee unrest, and a period of rapidly accelerating demand among Federal employees for truly first-class citizenship. For the first time within my memory, at least, a proposed bill holds out the serious hope of attaining such a citizenship. S. 3779, therefore, amply deserves the fullest support of all employee organizations, both public and private, federation affiliated, and independent alike."

Similar statements endorsing the broad purpose of the bill were made by many others, including the following witnesses:

John F. Griner, national president, American Federation of Government Employees.

E. C. Hallbeck, national president, United Federation of Postal Clerks.

Jerome Keating, president, National Association of Letter Carriers.

Kenneth T. Lyons, national president, National Association of Government Employees.

John A. McCart, operations director, Government Employees Council of AFL–CIO.

Hon. Robert Ramspeck, former Chairman, Civil Service Commission.

Vincent Jay, executive vice president, Federal Professional Association.

Francis J. Speh, president, 14th District Department, American Federation of Government Employees.

Lawrence Speiser, director, Washington office, American Civil Liberties Union.

Nathan Wolkomir, national president, National Federation of Federal Employees.

LEGISLATIVE HISTORY

Following is a chronological account of committee action on this legislation to date.

S. 1688 was preceded by S. 1438 of the 92d Congress, S. 782 of the 91st Congress, by S. 1035 of the 90th Congress, and by S. 3079 and S. 3703 of the 89th Congress.

Violations of rights covered by the bill as well as other areas of employee rights have been the subject of intensive hearings and investigation by the subcommittee for the last five Congresses.

In addition to investigation of individual cases, the Subcommittee on Constitutional Rights has conducted annual surveys of agency policies on numerous aspects of Government personnel practices. In 1965, pursuant to Senate Resolution 43, hearings were conducted on due process and improper use of information acquired through psychological testing, psychiatric examinations, and security and personnel interviews.

In a letter to the Chief Executive on August 3, 1966, the subcommittee chairman stated:

"For some time, the Constitutional Rights Subcommittee has received disturbing reports from responsible sources concerning violations of the rights of Federal employees. I have attempted to direct the attention of appropriate officials to these matters, and although replies have been uniformly courteous, the subcommittee has received no satisfaction whatsoever, or even any indication of awareness that any problem exists. The invasions of privacy have reached such alarming proportions and are assuming such varied forms that the matter demands your immediate and personal attention.

"The misuse of privacy-invading personality tests for personnel purposes has already been the subject of hearings by the subcommittee. Other matters, such as improper and insulting questioning during background investigations and due process guarantees in denial of security clearances have also been the subject of study. Other employee complaints, fast becoming too numerous to catalog, concern such diverse matters as psychiatric interviews; lie detectors; race questionnaires; restrictions on communicating with Congress; pressure to support political parties yet restrictions on political activities; coercion to buy savings bonds; extensive limitations on outside activities yet administrative influence to participate in agency-approved functions; rules for writing, speaking and even thinking; and requirements to disclose personal information concerning finances, property and creditors of employees and members of their families."

After describing in detail the operation of two current programs to illustrate the problems, Senator Ervin commented:

"Many of the practices now in extensive use have little or nothing to do with an individual's ability or his qualification to perform a job. The Civil Service Commission has established rules and examinations to determine the qualifications of applicants. Apparently, the Civil Service Commission and the agencies are failing in their assignment to operate a merit system for our Federal civil service.

"It would seem in the interest of the administration to make an immediate review of these practices and questionnaires to determine whether the scope of the programs is not exceeding your original intent and whether the violations of employee rights are not more harmful to your long-range goals than the personnel shortcuts involved."

* * * * *

Following this letter and others addressed to the Chairman of the Civil Service Commission and the Secretaries of other departments, legislation to protect employee rights was introduced in the Senate. This proposal, S. 3703 was introduced by the chairman on August 9, 1966, and referred to the Judiciary Committee. On August 25, 1966, the chairman received unanimous consent to a request to add the names of 33 cosponsors to the bill. On August 26, 1966, he introduced a bill similar to S. 3703, containing an amendment reducing the criminal penalties provided in section 2. This bill, S. 3779, was also referred to the Judiciary Committee, and both S. 3703 and S. 3779 were then referred to the Subcommittee on Constitutional Rights.

Comments on the bill and on problems related to it were made by the chairman in the Senate on July 18, August 9, August 25, August 26, September 29, October 17 and 18. 1966, and on February 21, 1967.[1]

Hearings on S. 3779 were conducted before the subcommittee on September 23, 29, 30, and October 3, 4, and 5, 1966. Reporting to the Senate on these hearings, the subcommittee chairman made the following statement:

"The recent hearings on S. 3779 showed that every major employee organization and union, thousands of individual employees who have written Congress, law professors, the American Civil Liberties Union, and a number of bar associations agree on the need for statutory protections such as those in this measure.

"We often find that as the saying goes 'things are never as bad as we think they are,' but in this case, the hearings show that privacy invasions are worse than we thought they were. Case after case of intimidation, of threats of loss of job or security clearance were brought to our attention in connection with bond sales, and Government charity drives.

"Case after case was cited of privacy invasion and denial of due process in connection with the new financial disclosure requirements. A typical case is the attorney threatened with disciplinary action or loss of his job because he is both unable and unwilling to list all gifts, including Christmas presents from his family, which he had received in the past year. He felt this had nothing to do with his job. There was the supervisory engineer who was told by the personnel officer that he would have to take disciplinary action against the 25 professional employees in his division who resented being forced to disclose the creditors and financial interests of themselves and members of their families. Yet there are no procedures for appealing the decisions of supervisors and personnel officers who are acting under the Commission's directive. These are not isolated instances; rather, they represent a pattern of privacy invasion reported from almost every State.

"The subcommittee was told that supervisors are ordered to supply names of employees who attend PTA meetings and engage in Great Books discussions. Under one department's regulations, employees are requested to participate in specific community activities promoting local and Federal antipoverty, beautification, and equal employment programs; they are told to lobby in local city councils for fair housing ordinances, to go out and make speeches on any number of subjects, to supply flower and grass seed for beautification projects, and to paint other people's houses. When those regulations were brought to the subcommittee's attention several weeks ago, we were told that they were in draft form. Yet, we then discovered they had already been implemented and employees whose official duties had nothing to do with such programs were being informed that failure to participate would indicate an uncooperative attitude and would be reflected in their efficiency records.

"The subcommittee hearings have produced ample evidence of the outright intimidation, arm twisting and more subtle forms of coercion which result when a superior is requested to obtain employee participation in a program. We have seen this in the operation of the bond sale campaign, the drives of charitable contributions, and the use of self-identification minority status questionnaires. We have seen it in the sanctioning of polygraphs, personality tests, and improper questioning of applicants for employment.

"In view of some of the current practices reported by employee organizations and unions, it seems those who endorse these techniques for mind probing and thought control of employees have sworn hostility against the idea that every man has a right to be free of every form of tyranny over his mind; they forget that to be free a man must have the right to think foolish thoughts as well as wise ones. They forget that the first amendment implies the right to remain silent as well as the right to speak freely—the right to do nothing as well as the right to help implement lofty ideals.

"It is not under this administration alone that there has been a failure to respect employee rights in a zeal to obtain certain goals. While some of the problems are new, others have been prevalent for many years with little or no administrative action taken to attempt to ameliorate them. Despite congressional concern, administrative officials have failed to discern patterns of practice in denial of rights. They seem to think that if they can belatedly remedy one case which is brought to the attention of the Congress, the public and the press, that this is enough—that the "heat" will subside. With glittering generalities, qualified until they mean nothing in substance, they have sought to throw Congress off the track in its pursuit of permanent corrective action. We have seen this in the case of personality testing, in the use of polygraphs, and all the practices which the bill would prohibit."

The Chairman of the Civil Service Commission informed the subcommittee that there is no need for a law to protect employee rights. He believes the answer is—

"to permit executive branch management and executive branch employees as individuals and through their unions, to work together to resolve these issues as part of their normal discourse."

It is quite clear from the fearful tenor of the letters and telephone calls received by the subcommittee and Members of Congress that there is no discourse and is not likely to be any discourse on these matters between the Commission and employees. Furthermore, there are many who do not even fall within the Commission's jurisdiction. For them, there is no appeal but to Congress.

As for the argument that the discourse between the unions and the Commission will remedy the wrongs, the testimony of the union representatives adequately demolishes that dream.

The typical attitude of those responsible for personnel management is reflected in Mr. Macy's answer that there may be instances where policy is not adhered to, but "There is always someone who doesn't get the word." Corrective administration action, he says, is fully adequate to protect employee rights.

Administrative action is not sufficient. Furthermore, in the majority of complaints, the wrong actually stems from the stated policy of the agency or the Commission. How can these people be expected to judge objectively the reasonableness and constitutionality of their own policies? This is the role of Congress, and in my opinion, Congress has waited too long as it is to provide the guidance that is desperately needed in these matters.

S. 1035, 90th Congress

On the basis of the subcommittee hearings, agency reports, and the suggestions of many experts, the bill was amended to meet legitimate objectives to the scope and language raised by administrative witnesses and to clarify the intent of its cosponsors that it does not apply to the proper exercise of management authority and supervisory discretion, or to matters now governed by statute.

This amended version of S. 3779 was introduced in the Senate by the chairman on February 21, 1967, as S. 1035 with 54 cosponsors. It was considered by the Constitutional Rights Subcommittee and unanimously reported with amendment by the Judiciary Committee on August 21, 1967. [S. Rept. No. 534, 90th Cong. 1st Sess.] The proposal was considered by the Senate on September 13, 1967, and approved, with floor amendments, by a 79 to 4 vote. After absentee approvals were recorded, the record showed a total of 90 Members supported passage of the bill. The amendments adopted on the Senate floor deleted a complete exemption which the committee bill provided for the Federal Bureau of Investigation; instead, it was provided that the Federal Bureau of Investigation should be accorded the same limited exemptions provided for the Central Intelligence Agency and the National Security Agency. A provision was added to allow the three Directors to delegate the power to make certain personal findings required by section 6 of the bill.

Committee amendments to S. 1035, 90th Congress

1. Amendment to section 1(a) page 2, line 13:

"*Provided further,* That nothing contained in this subsection shall be construed to prohibit inquiry concerning the national origin of any such employee when such inquiry is deemed necessary or advisable to determine suitability for assignment to activities or undertakings related to the national security within the United States or to activities or undertakings of any nature outside the United States."

2. Amendment to section 1(b), page 2, line 25 strike "to" (technical amendment.)

3. Delete section 1(e), page 4, lines 1–4 (prohibitions on patronizing business establishments) and renumber following sections as sections 1(e), (f), (g), (h), (i), (j), (k), and (l), respectively.

4. Delete section 4, page 10, lines 12–23 (criminal penalties), and renumber following sections as sections 4 and 5, respectively.

5. Amendment to section 1(f), page 4, line 25:

"*Provided further, however,* That nothing contained in this subsection shall be construed to prohibit an officer of the department or agency from advising any civilian employee or applicant of a specific charge of sexual misconduct made against that person, and affording him an opportunity to refute the charge."

6. Amendments to section 1(f), page 4, at lines 17 and 19, change "psychiatrist" to "physician".

7. Amendment to section 1(k), page 7, at line 10, change (j) to (i).

8. Amendment to section 2(b), page 9, at line 6 and 9, change "phychiatrist" to "physician".

9. Amendment to section 2(b), page 9, at line 15:

"*Provided further, however,* That nothing contained in this subsection shall be construed to prohibit an officer of the Civil Service Commission from advising any civilian employee or applicant of a specific charge of sexual misconduct made against that person, and affording him an opportunity to refute the charge."

10. Amendment to section 5, page 11, line 21, insert after the word "violation." the following:

"The Attorney General shall defiend all officers or persons sued under this section who acted pursuant to an order, regulation, or directive, or who, in his opinion, did not willfully violate the provisions of this Act."

11. Amendment to section 6(l), page 16, at line 24, strike "sign charges and specifications under section 830 (art. 30)" and insert in lieu thereof "convene general courts-martial under section 222 (art, 22)" (technical amendment).

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[1] See also, *Cong. Rec.* Comments.

12. Amendment to section 6(m), page 17, line 14, change subsection (j) to (k) (technical amendment).

13. Amendment, page 18, add new section 6:

"SEC. 6. Nothing contained in this Act shall be construed to prohibit an officer of the Central Intelligence Agency or of the National Security Agency from requesting any civilian employee or applicant to take a polygraph test, or to take a psychological test designed to elicit from him information concerning his personal relationship with any person connnected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters, or to provide a personal financial statement, if the Director of the Central Intelligence Agency or the Director of the National Security Agency makes a personal finding with regard to each individual to be so tested or examined that such test or information is required to protect the national security."

14. Amendment, page 18, add new section 8, and renumber following section as section 9:

"SEC. 8. Nothing contained in sections 4 and 5 shall be construed to prevent establishment of department and agency grievance procedures to enforce this Act, but the existence of such procedures shall not preclude any applicant or employee from pursuing the remedies established by this Act or any other remedies provided by law: *Provided, however,* That if under the procedures established, the employee or applicant has obtained complete protection against threatened violations or complete redress for violations, such action may be pleaded in bar in the United States District Court or in proceedings before the Board on Employees' Rights: *Provided further, however,* That if an employee elects to seek a remedy under either section 4 or section 5, he waives his right to proceed by an independent action under the remaining section."

Comparison of S. 1035, 90th Congress, as introduced, and S. 3779, 89th Congress

As introduced, the revised bill, S. 1035, differed from S. 3779 of the 89th Congress in the following respects:

1. The section banning requirements to disclose race, religion, or national origin was amended to permit inquiry on citizenship where it is a statutory condition of employment.

2. The provision against coercion of employees to buy bonds or make charitable donations was amended to make it clear that it does not prohibit calling meetings or taking any action appropriate to afford the employee the opportunity voluntarily to invest or donate.

3. A new section providing for administrative remedies and penalties establishes a Board on Employees' Rights to receive and conduct hearings on complaints of violation of the act, and to determine and administer remedies and penalties. There is judicial review of the decision under the Administrative Procedure Act.

4. A specific exemption for the Federal Bureau of Investigation is included.

5. Exceptions to the prohibitions on privacy-invading questions by examination, interrogations and psychological tests are provided upon psychiatric determination that the information is necessary in the diagnosis and treatment of mental illness in individual cases, and provided that it is not elicited pursuant to general practice or regulation governing the examination of employees or applicants on the basis of grade, job, or agency.

6. The section prohibiting requirements to disclose personal financial information contains technical amendments to assure that only persons with final authority in certain areas may be subject to disclosure requirements.

7. For those employees excluded from the ban on disclosure requirements, a new section (j), provides that they may only be required to disclose items tending to show a conflict of interest.

8. Military supervisors of civilian employes are included within the prohibitions of the bill, and violation of the act is made a punishable offense under the Uniform Code of Military Justice.

9. A new section 2 has been added to assure that the same prohibitions in section 1 on actions of department and agency officials with respect to employees in their departments and agencies apply alike to officers of the Civil Service Commission with respect to the employees and applicants with whom they deal.

10. Section (b) of S. 3779, relating to the calling or holding of meetings or lectures to indoctrinate employees, was deleted.

11. Sections (c), (d), and (e) of S. 3779—sections (b), (c), and (d) of S. 1035—containing prohibitions on requiring attendance at outside meetings, reports on personal activities and participation in outside activities, were amended to make it clear that they do not apply to the performance of official duties or to the development of skill, knowledge, and abilities which qualify the person for his duties or to participation in professional groups or associations.

12. The criminal penalties were reduced from a maximum of $500 and 6 months' imprisonment to $300 and 30 days.

13. Section (h) of S. 3779 prohibiting requirements to support candidates, programs, or policies of any political party was revised to prohibit requirements to support the nomination or election of persons or to attend meetings to promote or support activities or undertakings of any political party.

14. Other amendments of a technical nature.

S. 782, 91st Congress—Committee amendments

S. 782, as introduced by Senator Ervin with 54 cosponsors, was identical to S. 1035 of the 90th Congress as passed by the Senate. As amended in Committee, it was reported to the Senate on May 15, 1970, and passed by unanimous consent on May 19.

The Subcommittee met in executive session on July 22, 1969, to receive testimony from Richard Helms, Director of the Central Intelligence Agency and other agency representatives. On the basis of this testimony and after a number of meetings of subcommittee members with officials of the Central Intelligence Agency, the National Security Agency, and the Federal Bureau of Investigation, the language contained in the committee amendments was drafted and meets with the approval of the Directors of those agencies.

Amendments

1. Amendments to section 1(a), page 2, line 15 insert after the word "origin" the words "or citizenship" and after the word "employee", the words "or person, or his forebears".

2. Amendment to section 1(k), page 8, line 5 after the word "requests", strike the period and insert the following:

: *Provided, however,* That a civilian employee of the United States serving in the Central Intelligence Agency, or the National Security Agency may be accompanied only by a person of his choice who serves in the agency in which the employee serves or by counsel who has been approved by the agency for access to the information involved.

3. Amendment to section 6, page 18, lines 15 and 16 delete "or of the Federal Bureau of Investigation".

4. Amendment to section 6, page 18, line 25, and page 19, line 1 delete "or the Director of the Federal Bureau of Investigation or his designee".

5. On page 19, add a new section 7 as follows:

"SEC. 7. No civilian employee of the United States serving in the Central Intelligence Agency or the National Security Agency, and no individual or organization acting in behalf of such employee, shall be permitted to invoke the provisions of sections 4 and 5 without first submitting a written complaint to the agency concerned about the threatened or actual violation of this Act and affording such agency 120 days from the date of such complaint to prevent the threatened violation or to redress the actual violation: *Provided, however,* That nothing in this Act shall be construed to affect any existing authority of the Director of Central Intelligence under 50 U.S.C. 403(c), and any authorities available to the National Security Agency under 50 U.S.C. 833 to terminate the employment of any employee."

6. On page 19, add a new section 8 as follows:

SEC. 8. Nothing in this act shall be construed to affect in any way the authority of the Directors of the Central Intelligence Agency or the National Security Agency to protect or withhold information pursuant to statute or execute order. The personal certification by the Director of the agency that disclosure of any information is inconsistent with the provision of any statute or executive order shall be conclusive and no such information shall be admissible in evidence in any interrogation under section 1(k) or in any civil action under section 4 or in any proceeding or civil action under section 5.

7. On page 19, add a new section 9 as follows:

SEC. 9. This act shall not be applicable to the Federal Bureau of Investigation.

8. On page 19, at line 5, renumber "SEC. 7" as "SEC. 10" and at line 20, renumber "SEC. 8" as "SEC. 11".

S. 1438, 92d Congress

As introduced by Senator Ervin with 53 cosponsors, S. 1438 was identical to S. 782 of the 91st Congress as unanimously reported by the Committee and unanimously approved by the Senate, S. 1438 was approved by the Committee without amendment on December 6, 1971, passed by the Senate by unanimous consent on December 8, 1971, and was referred to the House Post Office and Civil Service Committee. There a majority of the full committee voted to table the bill.

On August 1, 1972, upon a motion by Senator Ervin, the Committee added the text of S. 1438 as Title II of the House-passed bill H.R. 12652, extending the life of the Civil Rights Commission and expanding its jurisdiction to include a study of the rights of women. On August 4, 1972, the Senate unanimously passed H.R. 12652 as amended. This marked the fourth time in six years that the Senate had approved the provisions of the employee privacy bill.

The House rejected the Senate amendment and requested a conference. The Senate conferees stood by the Senate amendment until it became apparent that it might jeopardize passage of the entire legislation. When the Senate passed the Civil Rights Commission authorization, it accepted the conference committee's decision to delete Title II from the bill.

QUESTIONS ON RACE, RELIGION, AND NATIONAL ORIGIN

Many complaints received by the subcommittee concerned official requests or requirements that employees disclose their race, religion, or ethnic or national origin. This information has been obtained from employees through the systematic use of questionnaires or oral inquiries by supervisors.

Chief concern has focused on a policy inaugurated by the Civil Service Commission in 1966, under which present employees and future employees would be asked to indicate on a questionnaire whether they were "American Indian," "oriental," "Negro," "Spanish-

American" or "none of these." Approximately 1.7 million employees were told to complete the forms, while some agencies including some in the Department of Defense continued their former practice of acquiring such information through the "head count" method. Although the Civil Service Commission directive stated that disclosure of such information was voluntary, complaints show that employees and supervisors generally felt it to be mandatory. Administrative efforts to obtain compliance included in some instances harassment, threats, and intimidation. Complaints in different agencies showed that employees who did not comply received airmail letters at their homes with new forms; or their names were placed on administrative lists for "follow-up" procedures, and supervisors were advised to obtain the information from delinquent employees by a certain date.

In the view of John McCart, representing the Government Employes' Council, AFL-CIO:

"When the Civil Service Commission and the regulations note that participation by the employee will be voluntary, this removes some of the onus of the encroachment on an individual's privacy. But in an organizational operation of the size and complexity of the Federal Government, it is just impossible to guarantee that each individual's right to privacy and confidentiality will be observed.

"In addition to that, there have been a large number of complaints from all kinds of Federal employees. In the interest of maintaining the rights of individual workers against the possibility of invading those rights, it would seem to us it would be better to abandon the present approach, because there are other alternatives available for determining whether that program is being carried out."

The hearing record contains numerous examples of disruption of employee-management relations, and of employee dissatisfaction with such official inquiries. Many told the subcommittee that they refused to complete the questionnaires because the matter was none of the Government's business; others, because of their mixed parentage, felt unable to state the information.

Since 1963, the policy of the American Civil Liberties Union on the method of collecting information about race has favored the head count wherever possible. Although the policy is presently under review, the subcommittee finds merit in the statement that;

"The collection and dissemination of information about race creates a conflict among several equally important civil liberties: the right of free speech and free inquiry, on the one hand, and the rights of privacy and of equality of treatment and of opportunity, on the other. The ACLU approves them all. But at this time in human history, when the principle of equality and nondisrimination must be vigorously defended, it is necessary that the union oppose collection and dissemination of information regarding race, except only where rigorous justification is shown for such action. Where such collection and dissemination is shown to be justified, the gathering of information should be kept to the most limited form, wherever possible by use of the head count method, and the confidential nature of original records should be protected as far as possible."

Former Civil Service Commission Chairman Robert Ramspeck told the subcommittee:

"To consider race, color, religion, and national origin in making appointments, in promotions and retention of Federal employees is, in my opinion, contrary to the merit system. There should be no discrimination for or against minority persons in Federal Government employment."

As the hearings and complaints have demonstrated, the most telling argument against the use of such a questionnaire, other than the constitutional issue, is the fact that it does not work. This is shown by the admission by many employees that they either did not complete the forms or that they gave inaccurate data.

Mr. Macy informed the subcommittee:

"In the State of Hawaii the entire program was cut out because it had not been done there before, and it was inadvertently included in this one, and the feeling was that because of the racial composition there it would be exceedingly difficult to come up with any kind of identification along the lines of the card that we were distributing."

The Civil Service Commission on May 9 informed the subcommittee that it had "recently approved regulations which will end the use of voluntary self-identification of race as a means of obtaining minority group statistics for the Federal work force." The Commission indicated its decision was based on the failure of the program to produce meaningful statistics. In its place the Commission will rely on supervisory reports based solely on observation, which would not be prohibited by the bill.

As Senator Fong stated:

"It should be noted that the bill would not bar head counts of employee racial extraction for statistical purposes by supervisors. However, the Congress has authorized the merit system for the Federal service and the race, national origin or religion of the individual or his forebears should have nothing to do with his ability or qualifications to do a job."

Section 1(a) of the bill was included to assure that employees will not again be subjected to such unwarranted invasion of their privacy. It is designed to protect the merit system which Congress has authorized for the Federal service. Its passage will reaffirm the intent of Congress that a person's religion, race, and national or ethnic origin or that of his forebears have nothing to do with his ability or qualification to perform the requisite duties of a Federal position, or to qualify for a promotion.

By eliminating official authority to place the employee in a position in which he feels compelled to disclose this personal data, the bill will help to eliminate the basis for such complaints of invasion of privacy and discrimination as Congress has received for a number of years. It will protect Americans from the dilemma of the grandson of an American Indian who told the subcommittee that he had exercised his option and did not complete the minority status questionnaire. He did not know how to fill it out. Shortly thereafter he received a personal memorandum from his supervisor "requesting" him to complete a new questionnaire and "return it immediately." He wrote: "I personally feel that if I do not comply with this request (order), my job or any promotion which comes up could be in jeopardy."

The prohibitions in section 1(a) against official inquiries about religion, and in section 1(e) concerning religious beliefs and practices together constitute a bulwark to protect the individual's right to silence concerning his religious convictions and to refrain from an indication of his religious beliefs.

Referring to these two sections, Lawrence Speiser, director of the Washington office of the American Civil Liberties Union testified:

"These provisions would help, we hope, eliminate a constantly recurring problem involving those new Government employees who prefer to affirm their allegiance rather than swearing to it. All Government employees must sign an appointment affidavit and take an oath or affirmation of office.

"A problem arises not just when new employees enter Government employment but in all situations where the Government requires an oath, and there is an attempt made on the part of those who prefer to affirm. It is amazing the intransigence that arises on the part of clerks or those who require the filling out of these forms, or the giving of the statement in permitting individuals to affirm.

"The excuses that are made vary tremendously, either that the form can only be signed and they cannot accept a form in which "so help me God" is struck out, because that is an amendment, and they are bound by their instructions which do not permit any changes to be made on the forms at all.

"Also, in connection with the giving of oaths, I have had one case in which an investigator asked a young man this question: 'For the purposes of administering the oath, do you believe in God?'

"It is to be hoped that the provisions of this bill would bar practices of that kind. The law should be clear at this time. Title I, United States Code, section 1 has a number of rules of construction, one of which says that wherever the word 'oath' appears, that includes 'affirmation,' and wherever the word 'swear' appears, that includes 'affirm.'

"This issue comes up sometimes when clerks will ask, 'Why do you want to affirm? Do you belong to a religious group that requires an affirmation rather than taking an oath?' And unless the individual gives the right answer, the clerks won't let him affirm. It is clear under the *Torcaso* case that religious beliefs and lack of religious beliefs are equally entitled to the protection of the first amendment."

The objection has been raised that the prohibition against inquiries into race, religion, or national origin would hinder investigation of discrimination complaints. In effect, however, it is expected to aid rather than hinder in this area of the law, by decreasing the opportunities for discrimination initially. It does not hinder acquisition of the information elsewhere; nor does it prevent a person from volunteering the information if he wishes to supply it in filing a complaint or in the course of an investigation.

CONTROL OF EMPLOYEE OPINIONS, OUTSIDE ACTIVITIES

Reports have come to the subcommittee of infringements and threatened infringements on first amendment freedoms of employees: freedom to think for themselves free of Government indoctrination; freedom to choose their outside civic, social, and political activities as citizens free of official guidance; or even freedom to refuse to participate at all without reporting to supervisors.

Illustrative of the climate of surveillance the subcommittee has found was a 13-year-old Navy Department directive, reportedly similar to those in other agencies, warning employees to guard against "indirect remarks" and to seek "wise and mature" counsel within their agencies before joining civic or political associations.

In the view of the United Federation of Postal Clerks:

Perhaps no other right is so essential to employee morale as the right to personal freedom and the absence of interference by the Government in the private lives and activities of its employees. Attempts to place prohibitions on the private associations of employees; mandatory reporting of social contacts with Members of Congress and the press; attempts to "orient" or "indoctrinate" Federal employees on subjects outside their immediate areas of professional interest; attempts to "encourage" participation in outside activities or discourage patronage of selected business establishments and coercive campaigns for charitable donations are among the most noteworthy abuses of Federal employees' right to personal freedom.

An example of improper on-the-job indoctrination of employees about sociological and political matters was cited *in his* testimony by John Griner, president of the AFL–CIO affiliated American Federation of Government Employees:

One instance of disregard of individual rights of employees as well as responsibility to taxpayers, which has come to my attention, seems to illustrate the objectives of subsections (b), (c), and (d), of section 1 of the Ervin bill. It happened at a large field installation under the Department of Defense.

The office chief called meetings of different groups of employees throughout the day * * *. A recording was played while employees listened about 30 minutes. It was supposedly a speech made at a university, which went deeply into the importance of integration of the races in this country. There was discussion of the United Nations—what a great thing it was—and how there never could be another world war. The person who reported this incident made this comment: "Think of the taxpayers' money used that day to hear that record." I think that speaks for itself.

Other witnesses were in agreement with Mr. Griner's view on the need for protecting employees now and in the future from any form of indoctrination on issues unrelated to their work. The issue was defined at hearings on S. 3779 in the following colloquy between the subcommittee chairman and Mr. Griner.

If they are permitted to hold sessions such as this on Government time and at Government expense, they might then also hold sessions as to whether or not we should be involved in the Vietnam war or whether we should not be, whether we should pull out or whether we should stay, and I think it could go to any extreme under those conditions.

Of course, we are concerned with it, yes. But that is not a matter for the daily routine of work.

Senator ERVIN. Can you think of anything which has more direful implications for a free America than a practice by which a government would attempt to indoctrinate any man with respect to a particular view on any subject other than the proper performance of his work?

Mr. GRINER. I think if we attempted to do that we would be violating the individual's constitutional rights.

Senator ERVIN. Is there any reason whatever why a Federal civil service employee should not have the same right to have his freedom of thought on all things under the sun outside of the restricted sphere of the proper performance of his work that any other American enjoys?

Mr. GRINER. No, sir.

With one complaint of attempted indoctrination of employees at a Federal installation, a civil servant enclosed a memorandum taken from a bulletin board stating the time, place, and date of a lecture by a sociology professor on the subject of the importance of racial integration. Attendance was to be voluntary but the notice stated that a record would be made of those attending or not attending.

Concerning such a practice, one witness commented: "If I had been a Federal employee and I cared anything about my job, I would have been at that lecture."

Employees of an installation in Pennsylvania complained of requirements to attend film lectures on issues of the cold war.

Witnesses agreed that taking notice of attendance at such meeting constituted a form of coercion to attend. Section 1(b) will eliminate such intimidation. It leaves unaffected existing authority to use any appropriate means, including publicity, to provide employees information about meetings concerning matters such as charity drives and bond-selling campaigns.

Section (c) protests a basic constitutional right of the individual employee to be free of official pressure on him to engage in any civic or political activity or undertaking which might involve him as a private citizen, but which has no relation to his Federal employment. It preserves his freedom of thought and expression, including his right to keep silent, or to remain inactive.

This section will place a statutory bar against the recurrence of employee complaints such as the following received by a Member of the Senate:

Dear Senator ———: On ———, 1966, a group of Treasury Department administrators were called to Miami for a conference led by ———, Treasury Personnel Officer, with regard to new revisions in chapter 713 of the Treasury Personnel Manual.

Over the years the Treasury Department has placed special emphasis on the hiring of Negroes under the equal employment opportunity program, and considerable progress in that regard has been made. However, the emphasis of the present conference was that our efforts in the field of equal employment opportunity have not been sufficient. Under the leadership of President Johnson and based on his strong statement with regard to the need for direct action to cure the basic causes leading to discrimination, the Treasury Department has now issued specific instructions requiring all supervisors and line managers to become actively and aggressively involved in the total civil rights problem.

The requirements laid down by chapter 713 and its appendix include participation in such groups as the Urban League, NAACP, et cetera (these are named specifically) and involvement in the total community action program, including open housing, integration of schools, et cetera.

The policies laid down in this regulation, as verbally explained by the Treasury representatives at the conference, go far beyond any concept of employee personnel responsibility previously expressed. In essence, this regulation requires every Treasury manager or supervisor to become a social worker, both during his official hours and on his own time. This was only tangentially referred to in the regulation and its appendages, but was brought out forcefully in verbal statements by Mr. ——— and ———. Frankly, this is tremendously disturbing to me and to many of the other persons with whom I have discussed the matter. We do not deny the need for strong action in the field of civil rights, but we do sincerely question the authority of our Government to lay out requirements to be met on our own time which are repugnant to our personal beliefs and desires.

The question was asked as to what disciplinary measures would be taken against individuals declining to participate in these community action programs. The reply was given by the equal employment officer, that such refusal would constitute an undesirable work attitude bordering on insubordination and should at the very least be reflected on the annual efficiency rating of the employee.

The principles expressed in these regulations and in this conference strike me as being of highly dangerous potential. If we, who have no connection with welfare or social programs, can be required to take time from our full-time responsibilities in our particular agencies and from the hours normally reserved for our own refreshment and recreation to work toward integration of white neighborhoods, integration of schools by artificial means, and to train Negroes who have not availed themselves of the public schooling available, then it would seem quite possible that under other leadership, we could be required to perform other actions which would actually be detrimental to the interests of our Nation."

* * * * *

Testifying on the issue of reporting outside activities, the American Civil Liberties Union representative commented:

"To the extent that individuals are apprehensive they are going to have to, at some future time, tell the Government about what organizations they have belonged to or been associated with, that is going to inhibit them in their willingness to explore all kinds of ideas, their willingness to hear speakers, their willingness to do all kinds of things. That has almost as deadening an effect on free speech in a democracy as if the opportunities were actually cut off.

Witnesses gave other examples of invasion of employees' private lives which would be halted by passage of the bill.

In the southwest a division chief dispatched a buck slip to his group supervisors demanding: "the names * * * of employees * * * who are participating in any activities including such things as: PTA in integrated schools, sports activities which are intersocial, and such things as Great Books discussion groups which have integrated memberships."

* * * * *

In a Washington office of the Department of Defense, a branch chief by telephone asked supervisors to obtain from employees the names of any organizations they belonged to. The purpose apparently was to obtain invitations for Federal Government officials to speak before such organizations.

* * * * *

Reports have come to the subcommittee that the Federal Maritime Commission, pursuant to civil service regulations, requested employees to participate in community activities to improve the employability of minority groups, and to report to the chairman any outside activities.

* * * * *

In addition to such directives, many other instances involving this type of restriction have come to the attention of the subcommittee over a period of years. For example, some agencies have either prohibited flatly, or required employees to report, all contacts, social or otherwise, with Members of Congress or congressional staff members. In many cases reported to the subcommittee, officials have taken reprisals against employees who communicated with their Congressmen and have issued directives threatening such action.

* * * * *

The Civil Service Commission on its Form 85 for nonsensitive positions requires an individual to list: "Organizations with which affiliated (past and present) other than religious or political organizations or those with religious or political affiliations (if none, so state)."

* * * * *

PRIVACY INVASIONS IN INTERVIEWS, INTERROGATIONS, AND PERSONALITY TESTS

Although it does not outlaw all of the unwarranted personal prying to which employees and applicants are now subjected, section 1(e) of the reported bill will prohibit the more serious invasions of personal privacy reported. The subcommittee believes it will also result in limitations beyond its specific prohibitions by encouraging administrative adherence to the principles it reflects.

It will halt mass programs in which, as a general rule, agency officials conduct interviews during which they require or request applicants or employees to reveal intimate details about their habits, thoughts, and attitudes on matters unrelated to their qualifications and ability to perform a job.

It will also halt individual interrogations such as that involving an 18-year-old college sophomore applying for a summer job as a secretary at a Federal department.

In the course of an interview with a department investigator, she was asked wide-ranging questions. For instance, regarding a boy whom she was dating, she was asked questions which denoted assumptions made by the investigator, such as:

Did he abuse you?

Did he do anything unnatural with you? You didn't get pregnant, did you?

There's kissing, petting, and intercourse, and after that, did he force you to do anything to him, or did he do anything to you?

The parent of this student wrote:

This interview greatly transcended the bounds of normal areas and many probing personal questions were propounded. Most questions were leading and either a negative or positive answer resulted in an appearance of self-incrimination. During this experience, my husband was on an unaccompanied tour of duty in Korea and I attempted alone, without success, to do battle with the Department.

I called and was denied any opportunity to review what had been recorded in my daughter's file. Likewise my daughter was denied any review of the file in order to verify or refute any of the record made by the State Department interviewer. This entire matter was handled as if applicants for State Department employment must subject themselves to the personal and intimate questions and abdicate all claims to personal rights and privileges.

As a result of this improper intrusion into my daughter's privacy which caused all great mental anguish, I had her application for employment withdrawn from the State Department. This loss of income made her college education that much more difficult.

Upon my husband's return, we discussed this entire situation and felt rather than subjecting her again to the sanctioned methods of Government investigation we would have her work for private industry. This she did in the summer of 1966, with great success and without embarrassing or humiliating Gestapo-type investigation.

Upon subcommittee investigation of this case, the Department indicated that this was not a unique case, because it used a "uniform policy in handling the applications of summer employees as followed with all other applicant categories." It stated that its procedure under Executive Order 10450 is a basic one "used by the Department and other executive agencies concerning the processing of any category of applicants who will be dealing with sensitive, classified material." Its only other comment on the case was to assure that "any information developed during the course of any of our investigations that is of a medical nature, is referred to our Medical Division for proper evaluation and judgment." In response to a request for copies of departmental guidelines governing such investigations and interviews, the subcommittee was told they were classified.

Section 1(e) would protect every employee and every civilian who offers his services to his Government from indiscriminate and unauthorized requests to submit to any test designed to elicit such information as to the following:

My sex life is satisfactory,

I have never been in trouble because of my sex behavior.

Everything is turning out just like the prophets of the Bible said it would.

I loved my father.

I am very strongly attracted by members of my own sex.

I go to church almost every week.

I believe in the second coming of Christ.

I believe in a life hereafter.

I have never indulged in any unusual sex practices.

I am worried about sex matters.

I am very religious (more than most people).

I loved my mother.

I believe there is a Devil and a Hell in afterlife.

I believe there is a God.

Once in a while I feel hate toward members of my family whom I usually love.

I wish I were not bothered by thoughts about sex.

The subcommittee hearings in 1965 on "Psychological tests and constitutional rights" and its subsequent investigations support the need for such statutory prohibitions on the use of tests.

In other cases, the subcommittee was told, a woman was questioned for 6 hours "about every aspect of her sex life—real, imagined, and gossiped—with an intensity that could only have been the product of inordinately salacious minds."

The specific limitation on the three areas of questioning proscribed in S. 1035 in no way is intended as a grant of authority to continue or initiate the official eliciting of personal data from individuals on subjects not directly proscribed. It would prohibit investigators, or personnel, security and medical specialists from indiscriminately requiring or requesting the individual to supply, orally or through tests, data on religion, family, or sex. It does not prevent a physician from doing so if he has reason to believe the employee is "suffering from mental illness" and believes the information is necessary to make a diagnosis. Such a standard is stricter than the broad "fitness for duty" standard now generally applied by psychiatrists and physicians in the interviews and testing which an employee can be requested and required to undergo.

There is nothing in this section to prohibit an official from advising an individual of a specific charge of sexual misconduct and affording him an opportunity to refute the charge voluntarily.

POLYGRAPHS

Section 1(f) makes it unlawful for any officer of any executive department or agency or any person acting under his authority to require or request or attempt to require or request any civilian employee or any applicant for employment to take any polygraph test designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs, practices or concerning his attitude or conduct with respect to sexual matters. While this section does not eliminate the use of so-called lie detectors by Government, it assures that where such devices are used for these purposes it will be only in limited areas.

John McCart, representing the Government Employees Council of AFL–CIO, supported this section of the bill, citing a 1965 report by a special subcommittee of the AFL–CIO executive council that:

The use of lie detectors violates basic considerations of human dignity in that they involve the invasion of privacy, self-incrimination, and the concept of guilt until proven innocent.

Congressional investigation[1] has shown that there is no scientific validation for the effectiveness or accuracy of lie detectors. Yet despite this and the invasion of privacy involved, lie detectors are being used or may be used in various agencies of the Federal Government for purposes of screening applicants or for pursuing investigations.

This section of the bill is based on complaints such as the following received by the subcommittee:

When I graduated from college in 1965, I applied at NSA. I went to 2 days of testing, which apparently I passed because the interviewer seemed pleased and he told me that they could always find a place for someone with my type of degree.

About 1 month later, I reported for a polygraph test at an office on Wisconsin Avenue in the District or just over the District line in Maryland. I talked with the polygraph operator, a young man around 25 years of age. He explained how the machine worked, etc. He ran through some of the questions before he attached the wires to me. Some of the questions I can remember are—

"When was the first time you had sexual relations with a woman?

"How many times have you had sexual intercourse?

"Have you ever engaged in homosexual activities?

"Have you ever engaged in sexual activities with an animal?

"When was the first time you had intercourse with your wife?

"Did you have intercourse with her before you were married? How many times?"

He also asked questions about my parents, Communist activities, etc. I remember that I thought this thing was pretty outrageous, but the operator assured me that he asked everybody the same questions and he has heard all the answers before, it just didn't mean a thing to him. I wondered how he could ever get away with asking a girl those kinds of questions.

When I was finished, I felt as though I had been in a 15 round championship boxing match. I felt exhausted. I made up my mind then and there that I wouldn't take the job even if they wanted me to take it. Also, I concluded that I would never again apply for a job with the Government, especially where they make you take one of these tests.

Commenting on this complaint, the subcommittee chairman observed:

"Certainly such practices should not be tolerated even by agencies charged with security missions. Surely, the financial, scientific, and investigative resources of the Federal Government are sufficient to determine whether a person is a security risk, without strapping an applicant to a machine and subjecting him to salacious questioning. The Federal Bureau of Investigation does not use personality tests or polygraphs on applicants for employment. I fail to see why the National Security Agency finds them so fascinating."

COERCION TO BUY BONDS AND CONTRIBUTE TO CAUSES

The hearing record and subcommittee complaint files amply document the need for statutory protections against all forms of coercion of employees to buy bonds and contribute to causes. Involved here is the freedom of the individual to invest and donate his money as he sees fit, without official coercion. As the subcommittee chairman explained:

"It certainly seems to me that each Federal employee, like any other citizen in the United States, is the best judge of his capacity, in the light of his financial obligations, to participate or decide whether he will particiapte and the extent of his participation in a bond drive. That is a basic determination which he and he alone should make.

"I think there is an interference with fundamental rights when coercion of a psychological or economic nature is brought on a Federal employee, even to make him do right. I think a man has to have a choice of acting unwisely as well as wisely, if he is going to have any freedom at all."

The subcommittee has received from employees and their organizations numerous reports of intimidation, threats of loss of job, and security clearances and of denial of promotion for employees who do not participate to the extent supervisors wish. The hearing record contains examples of documented cases of reprisals, many of which have been investigated at the subcommittee's request and confirmed by the agency involved. It is apparent that policy statements and administrative rules are not sufficient to protect individuals from such coercion.

The president of the United Federation of Postal Clerks informed the subcommittee:

"Section 1, paragraph (i) of S. 3779 is particularly important to all Federal employees and certainly to our postal clerks. The extreme arm-twisting coercion, and pressure tactics exerted by some postmasters on our members earlier this year during the savings bond drive must not be permitted at any future time in the Government service.

"Our union received complaints from all over the country where low-paid postal clerks, most having the almost impossible problem of trying to support a family and exist on substandard wages, were practically being ordered to sign up for purchase of U.S. savings bonds, or else. The patriotism of our postal employees cannot be challenged. I recently was advised that almost 75 percent of postal workers are veterans of the Armed Forces and have proven their loyalty and patriotism to this great country of ours on the battlefield in many wars. Yet, some postmasters questioned this patriotism and loyalty if any employee could not afford to purchase a savings bond during the drive."

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[1] Hearings and reports on the use of polygraphs as "lie detectors" by the Federal Government before a Subcommittee of the House Comimttee on Government Operations, April 1964 through 1966.

The president of the National Association of Government Employees testified:

"We are aware of instances wherein employees were told that if they failed to participate in the bond program they would be frozen in their position without promotional opportunities.

"In another agency the names of individuals who did not participate were posted for all to see. We have been made aware of this situation for some years and we know that Congress has been advised of the many instances and injustices Federal employees faced concerning their refusal or inability to purchase bonds.

"Certainly, the Government, which has thousands of public relations men in its agencies and departments, should be capable of promoting a bond program that does not include the sledge-hammer approach."

Some concern has been expressed by officials of the United Community Funds and Councils of America, the American Heart Association, Inc., and other charitable organizations, that the bill would hamper their campaigns in Federal agencies.

For this reason, the bill contains a proviso to express the intent of the sponsors that officials may still schedule meetings and take any appropriate action to publicize campaigns and to afford employees the opportunity to invest or donate their money voluntarily. It is felt that this section leaves a wide scope for reasonable action in promoting bond selling and charity drives.

The bill will prohibit such practices as were reported to the subcommittee in the following complaints:

"We have not yet sold our former home and cannot afford to buy bonds while we have both mortgage payments and rental payments to meet. Yet I have been forced to buy bonds, as I was told the policy at this base is, 'Buy bonds or by-by.'

"In short, after moving 1,700 miles for the good of the Government, I was told I would be fired if I didn't invest my money as my employer directed. I cannot afford to buy bonds, but I can't afford to be fired even more.

* * * * *

"Not only were we forced to buy bonds, but our superiors stood by the time clock with the blanks for the United Givers Fund, and refused to let us leave until we signed up. I am afraid to sign my name, but I am employed at * * *."

* * * * *

A representative of the 14th District Department of the American Federation of Government Employees, Lodge 421, reported:

"The case of a GS-13 professional employee who has had the misfortune this past year of underwriting the expenses incurred by the last illness and death of both his mother and father just prior to this recent bond drive. This employee had been unofficially informed by his supervisor that he had been selected for a then existing GS-14 vacancy. When it became known that he was declining to increase his participation in the savings bond drive by increasing his payroll deduction for that purpose, he was informed that he might as well, in effect, kiss that grade 14 goodby."

DISCLOSURE OF ASSETS, DEBTS, AND PROPERTY

Sections (i) and (j) meet a need for imposing a reasonable statutory limitation on the extent to which an employee must reveal the details of his or his family's personal finances, debts, or ownership of property.

The subcommittee believes that the conflict-of-interest statutes, and the many other laws governing conduct of employees, together with appropriate implementing regulations, are sufficient to protect the Government from dishonest employees. More zealous informational activities on the part of management were recommended by witnesses in lieu of the many questionnaires now required.

The employee criticism of such inquiries was summarized as follows:

"There are ample laws on the statute books dealing with fraudulent employment, conflicts of interest, etc. The invasion of privacy of the individual employee is serious enough, but the invasion of the privacy of family, relatives and children of the employee is an outrage against a free society.

"This forced financial disclosure has caused serious moral problems and feelings by employees that the agencies distrust their integrity. We do not doubt that if every employee was required to file an absolutely honest financial disclosure, that a few, though insignificant number of conflict-of-interest cases may result. However, the discovery of the few legal infractions could in no way justify the damaging effects of forced disclosures of a private nature. Further, it is our opinion that those who are intent on engaging in activities which result in a conflict of interest would hardly supply that information on a questionnaire or financial statement. Many employees have indicated that rather than subject their families to any such unwarranted invasion of their right to privacy, that they are seriously considering other employment outside of Government."

The bill will reduce to reasonable proportions such inquiries as the following questionnaire, which many thousands of employees have periodically been required to submit.

(Questionnaire follows:)

Confidential Statement of Employment and Financial Interests

(For use by regular Government employees)

Name (*Last, First, Initial*).

Title of position.

Date of appointment in present position.

Organization location (*Operating agency, Bureau Division*).

PART I. EMPLOYMENT AND FINANCIAL INTERESTS

List the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational, or other institutions: (a) with which you are connected as an employee, officer, owner, director, member, trustee, partner, adviser, or consultant; or (b) in which you have any continuing financial interests, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association; or (c) in which you have any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts. If none, write NONE.

Name and kind of organization (*Use Part 1 designations where applicable*).

Address.

Position in organization (*Use Part 1(a) designations, if applicable*).

Nature of financial interest, e.g., stocks. Prior income (*Use Part 1(b) & (c) designations if applicable*).

PART II CREDITORS

List the names of your creditors other than those to whom you may be indebted by reason of a mortgage on property which you occupy as a personal residence or to whom you may be indebted for current and ordinary household and living expenses such as household furnishings, automobile, education, vacation, and similar expenses. If none, write none.

Name and address of creditor.

Character of indebtedness, *e.g.*, personal loan, note, security.

PART III. INTERESTS IN REAL PROPERTY

List your interest in real property or rights in lands, other than property which you occupy as a personal residence. If none, write none.

Nature of interest, *e.g.*, ownership, mortgage, lien, investment, trust.

Type of property, *e.g.*, residence, motel, apartment, undeveloped land.

Address (*If rural, give RFD of county and State*).

PART IV. INFORMATION REQUESTED OF OTHER PERSONS

If any information is to be supplied by other persons, e.g., trustee, attorney, accountant, relative, please indicate the name and address of such persons, the date upon which you requested that the information be supplied, and the nature of subject matter involved. If none, write none.

Name and address.

Date of request.

Nature of subject matter.

(This space reserved for additional instructions).

I certify that the statements I have made are true, complete, and correct to the best of my knowledge and belief.

(*Date*).

(*Signature*).

The vagueness of the standards for requiring such a broad surrender of privacy is illustrated by the Civil Service Commission's regulation applying this to any employee whose duties have an "economic impact on a non-Federal enterprise."

Also eliminated will be questionnaires asking employees to list "all assets, or everything you and your immediate family own, including date acquired and cost or fair market value at acquisition. (Cash in banks, cash anywhere else, due from others—loans, et cetera, automobiles, securities, real estate, cash surrender of life insurance; personal effects and household furnishings and other assets.)"

The view of the president of the United Federation of Postal Clerks reflected the testimony of many witnesses endorsing sections 1 (i) and (j) of the bill:

"If the conflict-of-interest questionnaire is of doubtful value in preventing conflict of interest, as we believe, we can only conclude that it does not meet the test of essentiality and that it should be proscribed as an unwarranted invasion of employee privacy. Such value as it may have in focusing employee attention upon the problem of conflict of interest and bringing to light honest oversights that may lead to conflict of interest could surely be achieved by drawing attention to the 26 or more laws pertaining to conflict of interest or by more zealous information activities on the part of management."

The complex problem of preserving the confidential nature of such reports was described by officials of the National Association of Internal Revenue Employees:

"The present abundance of financial questionnaires provides ample material for even more abusive personnel practices. It is almost inevitable that this confidential information cannot remain confidential. Typically, the financial questionnaire is filed with an employee's immediate supervisor. The net worth statements ultimately go into Inspection, but they pass through the hands of local personnel administrators. We have received a great number of disturbing reports—as have you—that this information about employees' private affairs is being used for improper purposes, such as enforced retirement and the like."

Inadequacies in agency procedures for obtaining such information from employees and for reviewing and storing it, are discussed in the Subcommittee report for the

89th Congress, 2d Session. Widely disparate attitudes and practices are also revealed in a Subcommittee study contained in the appendix of the printed hearings on S. 3779.

The bill will make such complaints as the following unnecessary in the future conduct of the Federal Government:

DEAR SENATOR ERVIN: I am writing to applaud the stand you have taken on the new requirement that Federal employees in certain grades and categories disclose their financial holdings to their immediate superior. Having been a civil service employee for 26 years, and advanced from GS-4 to GS-15, and been cleared for top secret during World War II, and because I currently hold a position that involves the disposition of hundreds of thousands of the taxpayers' money, it is my conviction that my morality and trustworthiness are already a matter of record in the files of the Federal Government.

The requirement that my husband's financial assets be reported, as well as my own assets and those we hold jointly, was particularly offensive, since my husband is the head of our household and is not employed by Government.

You might also be interested in the fact that it required 6 hours of after-hours work on our part to hunt up all the information called for and prepare the report. Since the extent of our assets is our private business, it was necessary that I type the material myself, an added chore since I am not a typist.

Our assets have been derived, in the main, from laying aside a portion of our earnings. At our ages (64 and 58) we would be far less deserving of respect had we not made the prudent provisions for our retirement which our assets and the income they earn represent. Yet this reporting requirement carries with it the implication that to have "clean hands" it would be best to have no assets or outside, unearned income when you work for the Federal Government.

For your information I am a GS-15, earning $19,415. * * *

Thank you for speaking out for the continually maligned civil servant.

Sincerely yours,

———, ———.

DEAR SENATOR ERVIN: I am a GS-12 career employee with over 15 years service.

The highest moral and ethical conduct has been my goal in each of my positions of employment and I have found this to be true of a vast majority of my fellow workers. It may be true a few people do put material gain ahead of their ethics but generally these people are in the higher echelons of office where their influence is much greater.

Our office has recently directed each employee from file clerk to the heads of sections to file a "Statement of Financial Interest." As our office has no programs individuals could have a financial interest in and especially no connections with FHA I feel it is no one's business but my own what real estate I own. I do not have a FHA mortgage or any other real property and have no outside employment, hence have nothing to hide by filing a blank form. Few Government workers can afford much real property. The principle of reporting to "Big Brother" in every phase of your private life to me is very degrading, highly unethical and very unquestionable as to its effectiveness. If I could and did use my position in some way to make a profit I would be stupid to report it on an agency inquiry form. What makes officials think reporting will do away with graft?

When the directive came out many man-hours of productive work were lost in discussions and griping. Daily since the date at some time during the day someone brings up the subject. The supervisors filed their reports as "good" examples but even they objected to this inquiry.

No single thing was ever asked of Government employees that caused such a decline in their morale. We desperately need a "bill of rights" to protect ourselves from any further invasion of our private lives.

Fifteen years ago I committed myself to Government service because: (a) I felt an obligation to the Government due to my education under the GI bill, (b) I could obtain freedom from pressures of unions, (c) I could obtain freedom from invasion of my private life, and (d) I would be given the opportunity to advance based solely on my professional ability and not on personal politics. At this point I certainly regret my decision to make the Government my career.

Sincerely,

———, ———.

DEAR SENATOR: I write to beg your support of a "bill of rights" to protect Federal employees from official snooping which was introduced by Senator Ervin of North Carolina.

I am a veteran of two wars and have orders to a third war as a ready reservist. And I know why I serve in these wars: that is to prevent the forces of tyranny from invading America.

Now, as a Federal employee I must fill out a questionnaire giving details of my financial status. This is required if I am to continue working. I know that this information can be made available to every official in Washington, including those who want to regulate specific details of my life.

Now I am no longer a free American. For example, I can no longer buy stock of a foreign company because that country may be in disfavor with officials of the right or left. And I cannot "own part of America" by buying common stocks until an "approved list" is published by my superiors.

I can never borrow money because an agent may decide that debt makes me susceptible to bribery by agents of an enemy power. Nor do I dare own property lest some official may decide I should sell or rent to a person or group not of my choosing.

In short, I am no longer free to plan my own financial program for the future security of my family. In 1 day I was robbed of the freedom for which I fought two wars. This is a sickening feeling, you may be sure.

It seems plain that a deep, moral issue is involved here that concerns every citizen. If this thing is allowed to continue, tomorrow or next year every citizen may come under the inquisition. The dossier on every citizen will be on file for the use of any person or group having enough overt or covert power to gain access to them.

Sincerely,

——— ———.

On August 1966, Federal employees who were retired from the armed services were told to complete and return within 7 days, with their social security numbers, a 15-page questionnaire, asking, among other things:

How much did you earn in 1965 in wages, salary, commissions, or tips from all jobs?

How much did you earn in 1965 in profits or fees from working in your own business, professional practice, partnership, or farm?

How much did you receive in 1965 from social security, pensions (nonmilitary) rent (minus expenses), interests or dividends, unemployment insurance, welfare payments, or from any other source not already entered?

How much did other members of your family earn in 1965 in wages, salary, commissions or tips? (Before any deductions.) (For this question, a family consists of two or more persons in the same household who are related to each other by blood, marriage, or adoption.) If the exact amount is not known, give your best estimate.

How much did other members of your family earn in 1965 in profits or fees from working in their own business, professional practices, partnership, or farm?

How much did any other member of your family receive in 1965 from social security, pensions, rent (minus expenses), interest or dividends, unemployment insurance, welfare payments; or from any other source not already entered?

RIGHT TO COUNSEL

Section 1(k) of the bill guarantees to Federal workers the opportunity of asking the presence of legal counsel, of a friend or other person when undergoing an official interrogation or investigation that could lead to the loss of their jobs or to disciplinary action.

The merits of this clause are manifold; not least of which is that uniformity and order it will bring to the present crazy quilt practices of the various agencies concerning the right to counsel for employees facing disciplinary investigations or possible loss of security clearances tantamount to loss of employment. The Civil Service Commission regulations are silent on this critical issue. In the absence of any Commission initiative or standard, therefore, the employing agencies are pursuing widely disparate practices. To judge from the questionnaires and other evidence before the subcommittee, a few agencies appear to afford a legitimate right to counsel, probably many more do *not*, and still others prescribe a "right" on paper but hedge it in such a fashion as to discourage its exercise. Some apparently do not set any regulatory standard, but handle the problem on an ad hoc basis.

On a matter as critical as this, such a pointless diversity of practice is poor policy. So far as job-protection rights are concerned, all Federal employees should be equal.

A second anomaly in the present state of affairs derives from recent developments in the law of the sixth amendment by the Supreme Court. In view of the decisions of *Miranda* v. *Arizona*, 384 U.S. 436 and *Escobedo* v. *Illinois*, 378 U.S. 478, it is clear that any person (including Federal employees) who is suspected of a crime is absolutely entitled to counsel before being subjected to custodial interrogation. Accordingly, some agencies, such as the Internal Revenue Service, acknowledge an unqualified right to counsel for an employee suspected of crime but decline to do the same for coworkers threatened with the loss of their livelihoods for noncriminal reasons. In the subcommittee's view, this discrimination in favor of the criminal suspect is both bad personnel policy as well as bad law. It would be corrected by this section of the bill.

The ultimate justification for the "right-to-counsel" clause, however, is the Constitution itself. There is no longer any serious doubt that Federal employees are entitled to due process of law as an incident of their employment relation. Once, of course, the courts felt otherwise, holding that absent explicit statutory limitation, the power of the executive to deal with employees was virtually unfettered.

The doctrinal underpinning of this rule was the 19th-century notion that the employment relation is not tangible "property." Both the rule and its underpinning have now been reexamined. The Supreme Court in recent years has emphasized the necessity of providing procedural due process where a man is deprived of his job or livelihood by governmental action.

While the courts have as yet had no occasion to articulate a specific right to counsel in the employment relationship, there can obviously be no doubt that the right to counsel is of such a fundamental character that it is among the essential ingredients of due process. What is at stake for an employee in a discharge proceeding—often including personal humiliation, obloquy and penury—is just as serious as that involved in a criminal trial. This is not to suggest that all the incidents of our civilized standard of a fair trial can or should be imported into Federal discharge proceedings. But if we are to have fair play for Federal employees, the right of counsel is a sine qua non. It is of a piece with the highest traditions, the fairest laws, and the soundest policy that this country has produced. And, in the judgment of this subcommittee, the clear affirmation of this basic right is very long overdue.

The need for such protection was confirmed at the hearings by all representatives of Government employee organizations and unions.

The president of the National Association of Letter Carriers testified:

"It is a practice in the postal inspection service, when an employee is called in for questioning by the inspectors on a strictly postal matter that does not involve a felony, to deny the right of counsel. The inspectors interrogate the employee at length and, at the completion of the interrogation, one of the inspectors writes out a statement and pressures the employee to sign it before he leaves the room. We have frequently asked the postal inspection service to permit these employees to have counsel present at the time of the interrogation. The right for such counsel has been denied in all except a few cases. If the employee is charged with a felony, then, of course, the law takes over and the right for counsel is clearly established but in other investigations and interrogations no counsel is permitted."

Several agencies contend that right to counsel is now granted in formal adverse action proceedings and that appeals procedures make this section unnecessary for informal questioning. Testimony and complaints from employees indicate that this machinery does not effectively secure the opportunity of the employee to defend himself early enough in the investigation to allow a meaningful defense.

The predicament of postal employees as described at the hearings reflects the situation in other agencies as reported in many individual cases sent to the subcommittee. While it is undoubtedly true that in some simple questioning, counsel may not be necessary, in many matters where interrogation will result in disciplinary action, failure to have counsel at the first level reacts against the employee all the way up through the appeal and review. In the case of a postal employee, the subcommittee was told—

"The first level is at the working foreman's level. He is the author of the charges; then the case proceeds to the postmaster, who appointed the foreman and, if the individual is found guilty of the charge at the first level, it is almost inevitable that this position will be supported on the second level. The third level is the regional level, and the policy there is usually that of supporting the local postmaster. A disinteresting party is never reached. The fourth level is the Appeals Board, composed of officials appointed by the Postmaster General. In some cases, the region will overrule the postmaster, but certainly the individual does not have what one could style an impartial appeals procedure."

Employees charged with no crime have been subjected to intensive interrogations by Defense Department investigators who ask intimate questions, make sweeping allegations, and threaten dire consequences unless consent is given to polygraph tests. Employees have been ordered to confess orally or to write and sign statements. Such interviews have been conducted after denial of the employee's request for presence of supervisor, counsel, or friend, and in several instances the interrogations have resulted in revocation of a security clearance, or denial of access to classified information by transfer or reassignment, with the resulting loss of promotion opportunities.

Witnesses testified that employees have no recourse against the consequences of formal charges based on information and statements acquired during a preliminary investigation. This renders meaningless the distinction urged by the Civil Service Commission between formal and informal proceedings.

EXCEPTIONS

The act under section 9, does not apply to the Federal Bureau of Investigation. Furthermore, section 6 provides that nothing in the act will prohibit an official of the Central Intelligence Agency and the National Security Agency from requesting any employee or applicant to take a polygraph test or a psychological test, or to provide a personal financial statement designed to elicit the personal information protected under subsections 1(e), (f), (i), and (j). In such cases, the Director of the agency or his designee must make a personal finding with regard to each individual to be tested or examined that such test or information is required to protect the national security.

An exception to the right-to-counsel section has been provided to limit this right for employees in the Central Intelligence Agency and the National Security Agency to a person who serves in the same agency or a counsel cleared by the agency for access to the information involved. Obviously, it is expected that the employee's right to be accompanied by the person of his choice will not be denied unless that person's access to the information for the purpose of the case is clearly inconsistent with the national security. Other language recognizes problems unique to these two agencies.

For instance, section 7 requires exhaustion of remedies by employees of the Central Intelligence Agency and the National Security Agency and states that the act does not affect whatever existing statutory authority these agencies now possess to terminate employment. Section 8 is designed to assure that nothing in the act is construed to affect negatively any existing statutory or executive authority of the Directors of the Central Intelligence Agency and National Security Agency to protect their information in cases involving their employees. Consequently, procedures commended to the subcommittee by the Director of the Central Intelligence Agency are spelled out for asserting that authority in certain proceedings arising under the act. Other committee amendments to S. 1035, as detailed earlier, were adopted to meet administrative requirements of the Federal security program and the intelligence community as well as the management needs of the executive branch.

ENFORCEMENT

Enforcement of the rights guaranteed in sections 1 and 2 of the bill is lodged in the administrative and civil remedies and sanctions of sections 3, 4, and 5. Crucial to enforcement of the act is the creation of an independent Board on Employee Rights to determine the need for disciplinary action against civilian and military offenders under the act and to provide relief from violations.

Testimony at the hearings as well as investigation of complaints have demonstrated that in the area of employee rights, a right is only as secure as its enforcement. There is overwhelming evidence that employees have heretofore frequently lacked appropriate remedies either in the courts or the Civil Service Commission for pursuing rights which belong to them as citizens.

Under the remedies afforded by sections 3, 4, and 5 of the bill, an employee who believes his rights are violated under the act has several courses of action:

(1) He may pursue a remedy through the agency procedures established to enforce the act, but the fact that he does not choose to avail himself of these does not preclude exercise of his right to seek other remedies.

(2) He may register his complaint with the Board on Employee Rights and obtain a hearing. If he loses there, he may appeal to the district court, which has the power to examine the record as a whole and to affirm, modify, or set aside any determination or order, or to require the Board to take any action it was authorized to take under the act.

(3) He may, instead of going directly to the Board, institute a civil action in Federal district court to prevent the threatened violation, or obtain complete redress against the consequences of the violation.

He does not need to exhaust any administrative remedies but if he elects to pursue his civil remedies in the court under section 4, he may not seek redress through the Board. Similarly, if he initiates action before the Board under section 5, he may not also seek relief from the court under section 4.

The bill does not affect any authority, right or privilege accorded under Executive Order 11491 governing employee-management cooperation in the Federal service. To the extent that there is any overlapping of subject matter, the bill simply provides an additional remedy.

THE BOARD ON EMPLOYEES' RIGHTS

As a result of hearings on S. 3779, the section creating a Board on Employees' Rights was added to the bill for introduction as S. 1035.

Employees have complained that administrative grievance procedures have often proved ineffective because they are cumbersome, time-consuming, and weighted on the side of management. Not only do those who break the rules go unpunished many times, but the fearful tenor of letters and telephone calls from throughout the country indicate that employees fear reprisals for noncompliance with improper requests or for filing of complaints and grievances. Oral and written directives of warning to this effect have been verified by the subcommittee. Section 1(e) of the bill, therefore, prevents reprisals for exercise of rights granted under the act and in such event accords the individual cause for complaint before the Board or the court.

Concerning the original bill in the 89th Congress, which did not provide for a board, representatives of the 14th department of the American Federation of Government Employees commented that the remedies are the most important aspects of such a bill because "unless due process procedures are explicitly provided, the remaining provisions of the bill may be easily ignored or circumvented by Federal personnel management. As a matter of fact, we believe, the reason employees' rights have been eroded so rapidly and so devastatingly in the last few years is the absence of efficient, expeditious, uniform, and legislatively well defined procedures of due process in the executive departments of the Federal Government."

An independent and nonpartisan Board is assured by congressional participation in its selection and by the fact that no member is to be a government employee. Provision is made for congressional monitoring through detailed reports.

Senator Ervin explained the function of the Board established by section 5 as follows:

"The bill sets up a new independent Federal agency with authority to receive complaints and make rulings on complaints—complaints of individual employees or unions representing employees. This independent agency, which would not be subject in any way to the executive branch of the Government, would be authorized to make rulings on these matters in the first instance. It would make a ruling on action in a particular agency or department that is an alleged violation of the provisions of the bill, with authority either on the part of the agency or the part of the individual or on the part of the union to take an appeal from the ruling of this independent agency to the Federal court for judicial review."

Throughout its study the subcommittee found that a major area of concern is the tendency in the review process in the courts or agencies to do no more than examine the lawfulness of the action or decision about which the employee has complained. For purposes of enforcing the act, sections 3, 4 and 5 assure adequate machinery for processing complaints and for prompt and impartial determination of the fairness and constitutionality of general policies and practices initiated at the highest agency levels or by the Civil Service Commission or by Executive order.

Finding no effective recourse against administrative actions and policies which they believed unfair or in violation of their rights, individual employees and their families turned to Congress for redress. Opening the hearings on invasions of privacy, Senator Ervin stated:

> Never in the history of the Subcommittee on Constitutional Rights have we been so overwhelmed with personal complaints, phone calls, letters, telegrams, and office visits. In all of our investigations I have never seen anything to equal the outrage and indignation from Government employees, their families, and their friends. It is obvious that appropriate remedies are not to be found in the executive branch.

The complaints of privacy invasions have multiplied so rapidly of late that it is beyond the resources of Congress and its staff to repel effectively each individual official encroachment. Each new program brings a new wave of protest.

Prof. Alan Westin, director of the Science and Law Committee of the Bar Association of the city of New York, testified that these complaints "have been triggered by the fact that we do not yet have the kind of executive branch mechanism by which employees can lodge their sense of discomfort with personnel practices in the Federal Government and feel that they will get a fair hearing, that they will secure what could be called 'employment due process.' "

To meet this problem, Professor Westin proposed an independent board subject to judicial review, and with enforcement power over a broad statutory standard governing all invasion of privacy. Although it is continuing to study this proposal, the subcommittee has temporarily rejected this approach in the interest of achieving immediate enforcement of the act and providing administrative remedies for its violation. For this reason it supports the creation of a limited Board on Employees' Rights.

Perhaps one of the most important sections of the bill, if not the most important section, according to the United Federation of Postal Clerks, is the provision establishing the Board. The subcommittee was told—

"It would appear absolutely essential that any final legislation enacted into law must necessarily include such a provision. We can offer no suggestion for improvement of this section. As presently constituted the section is easily understood; and the most excellent and inclusive definition of the proposed "Board on Employees' Rights" which could possibly be enacted into law. It defines the right of employees to challenge violations of the proposed act; defines the procedures involved, as well as the authority of the Board, penalties for violation of the act, as well as establishing the right of judicial review for an aggrieved party, and finally provided for congressional review, and in effect, an annual audit by the Congress of all complaints, decisions, orders, and other related information resulting from activities and operations of the proposed act."

Sanctions

The need for sanctions against offending officials has been evident throughout the subcommittee's investigation of flagrant disregard of basic rights and unpunished flaunting of administrative guidelines and prohibitions. It was for this reason that S. 3779 of the 89th Congress and S. 1035, as introduced, contained criminal penalties for offenders and afforded broad civil remedies and penalties.

Reporting on the experiences of the American Civil Liberties Union in such employee cases, Lawrence Speiser testified:

"In filing complaints with agencies including the Civil Service Commission, the Army and the Navy, as I have during the period of time I have worked here in Washington, I have never been informed of any disciplinary action taken against any investigator for asking improper questions, for engaging in improper investigative techniques, for barring counsel when a person had a right to have counsel, or for a violation of any number of things that you have in this bill. Maybe some was taken, but I certainly couldn't get that information out of the agencies, after making the complaints. I would suggest that the bill also encompass provision for disciplinary action that would be taken against Federal employees who violate any of these rights that you have set out in the bill."

Other witnesses also pointed to the need for the disciplinary measures afforded by the powers of an independent Board to determine the need for corrective action and punishment, and felt they would be more effective than criminal penalties.

In view of the difficulty of filing criminal charges and obtaining prosecution and conviction of executive branch officials which might render the criminal enforcement provision meaningless for employees, the criminal penalties were deleted and a Board on Employee Rights incorporated into the scheme of remedies and sanctions in the bill.[1]

Although the Civil Service Commission and the executive agencies have advocated placing such administrative remedies within the civil service grievance and appeals system, the subcommittee believes that the key to effective enforcement of the unique rights recognized by this act lies in the employee's recource to an independent body.

"The theory of our Government," Professor Westin testified, "is that there should be somewhere within the executive branch where this kind of malpractice is corrected and that good administration ought to provide for control of supervision or other practices that are not proper. But the sheer size of the Federal Esablishment, the ambiguity of the relationship of the Civil Service Commission to employees, and the many different interests that the Civil Service Commission has to bear in its role in the Federal Government, suggest that it is not an effective instrument for this kind of complaint procedure."

Section-by-Section Analysis

SECTION 1

Section 1(a) makes it unlawful for a Federal official of any department or agency to require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency or any person seeking employment to disclose his race, religion, or national origin, or the race, religion, or national origin of any of his forebears.

This section does not prohibit inquiry concerning citizenship of such individual if his citizenship is a statutory condition of his obtaining or retaining his employment. Nor does it preclude inquiry of the individual concerning his national origin or citizenship or that of his forebears when such inquiry is thought necessary or advisable in order to determine suitability for assignment to activities or undertaking related to national security within the United States or to activities or undertakings of any nature outside the United States.

This provision is directed at any practice which places the employee or applicant under compulsion to reveal such information as a condition of the employment relation. It is intended to implement the concept underlying the Federal merit system by which a person's race, religion, or national origin have no bearing on his right to be considered for Federal employment or on his right to retain a Federal position. This prohibition does not limit the existing authority or the executive branch to acquire such information by means other than self-disclosure.

Section 1(b) makes it unlawful for any officer of any executive department or executive agency of the U.S. Government, or for any person acting or purporting to act under this authority, to state, intimate, or to attempt to state or intimate, to any civilian employee of the United States serving in the department or agency that any notice will be taken of his attendance or lack of attendance at any assemblage, discussion, or lecture held or called by any officer of the executive branch of the U.S. Government, or by any person acting or purporting to act under his authority, or by any outside parties or organizations to advise, instruct, or indoctrinate any civilian employee of the United States serving in the department or agency in respect to any matter or subject other than (1) the performance of official duties to which he is or may be assigned in the department or agency, or (2) the development of skills, knowledge, or abilities which qualify him for the performance of such duties.

Nothing contained in this section is to be construed to prohibit taking notice of the participation of a civilian employee in the activities of any professional group or association.

This provision is designed to protect any employee from compulsion to attend meetings, discussions, and lectures on political, social, and economic subjects unrelated to his duties. It prevents Government officials from using the employment relationship to attempt to influence employee thoughts, attitudes, and actions on subjects which may be of concern to them as private citizens. In particular, this language is directed at practices and policies which in effect require attendance at such functions, including official lists of those attending or not attending; its purpose is to prohibit threat, direct or implied, written or oral, of official retaliation for nonattendance.

This section does not affect existing authority for providing information designed to promote the health and safety of employees. Nor does it affect existing authority to call meetings for the purpose of publicizing and giving notice to activities or service, sponsored by the department or agency, or campaigns such as charitable fund campaigns and savings bond drives.

Section 1(c) makes it unawful for any officer of any executive department or agency, or for any person acting or purporting to act under his authority, to require or request or to attempt to require or request any civilian employee serving in the department or agency to participate in any way in any activities or undertakings unless they are related to the performance of official duties to which he is or may be assigned in the department or agency or to the development of skills, knowledge, or abilities which qualify him for the performance of such duties.

This section is directed against official practices, requests, or orders that an employee take part in any civic function, political program, or community endeavor, or other activity which he might enjoy as a private citizen, but which is unrelated to his employment. It does not affect any existing authority to use appropriate techniques for publicizing existence of community programs such as blood-donation drives, or agency programs, benefits or services, and for affording opportunity for employee participation if he desires.

Section 1(d) makes it unlawful for any officer of any executive department or agency, or for any person acting under his authority to require or request or attempt to require or request, any civilian employee serving in the department or agency to make any report of his activities or undertakings unless they are related to the performance of official duties or to the development of skills, knowledge, or abilities which qualify him for the performance of such duties, or (2) unless there is reason to believe that the employee is engaged in outside activities or employment in conflict with his official duties.

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[1] In the 89th Congress, S. 1035.

This section is a minimum guarantee of the freedom of any employee to participate or not to participate in any endeavor or activity in his private life as a citizen, free of compulsion to report to supervisors his action or his inaction, his involvement or his noninvolvement. This section is to assure that in his private thoughts, actions, and activities he is free of intimidation or inhibition as a result of the employment relation.

The exceptions to the prohibition are not legislative mandates to require such information in those circumstances, but merely provide an area of executive discretion for reasonable management purposes and for observance and enforcement of existing laws governing employee conduct and conflicts of interest.

Section 1(e) makes it unlawful for any officer of any executive department or agency, or any person acting under his authority, to require or request any civilian employee serving in the department or agency, or any person applying for employment as a civilian employee to submit to any interrogation or examination or to take any psychological test designed to elict from him any information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters.

In accordance with an amendment made after hearings on S. 3779, a proviso is included to assure that nothing contained in this section shall be construed to prevent a physician from eliciting such information or authorizing such test in the diagnosis or treatment of any civilian employee or applicant where he feels the information is necessary to enable him to determine whether or not the individual is suffering from mental illness. The bill as introduced limited this inquiry to psychiatrists, but an amendment extended it to physicians, since the subcommittee was told that when no psychiatrist is available, it may be necessary for a general physician to obtain this information in determining the presence of mental illness and the need for further treatment.

This medical determination is to be made in individual cases and not pursuant to general practice or regulation governing the examination of employees or applicants according to grade, agency, or duties.

Under an amendment to the bill, this language is not to be construed to prohibit an official from advising an employee or applicant of a specific charge of sexual misconduct made against that person and affording him an opportunity to refute the charge. While providing no authority to request or demand such information, the section does not prevent an official who has received charges of misconduct which might have a detrimental effect on the person's employment from obtaining a clarification of the matter if the employee wishes to provide it.

This section would not prohibit all personality tests but merely those questions on the tests which inquire into the three areas in which citizens have a right to keep their thoughts to themselves.

It raises the criterion for requiring such personal information from the general "fitness for duty" test to the need for diagnosing or treating mental illness. The second proviso is designed to prohibit mass-testing programs. The language of this section provides guidelines for the various personnel and medical specialists whose practices and determinations may invade employee's personal privacy and thereby affect the individual's employment prospects or opportunities for advancement.

An amendment in section 6 provided an exception to this prohibition in the case of the use of such psychological tests by the Central Intelligence Agency and the National Security Agency, only if the Director of the agency or his designee makes a personal finding that the information is necessary to protect the national security.

Section 1(f) makes it unlawful for any officer of any executive department or agency or any person acting under his authority, to require or request or attempt to require or request any civilian employee or any applicant for employment to take any polygraph test designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices or concerning his attitude or conduct with respect to sexual matters. While this section does not eliminate entirely the use of so-called lie detectors in Government, it assures that where such devices are used, officials may not inquire into matters which are of a personal nature.

As with psychological testing, the Central Intelligence Agency and the National Security Agency, under section 6, are not prohibited from acquiring such information by polygraph, provided certain conditions are met.

Section 1(g) makes it illegal for an official to require or request an employee under his management to support the nomination or election of anyone to public office through personal endeavor, financial contribution, or any other thing of value. An employee may not be required or requested to attend any meeting held to promote or support the activities of any political party in the United States.

The purpose of this section is to assure that the employee is free from any job-related pressures to conform his thoughts and attitudes and actions in political matters unrelated to his job to those of his supervisors. With respect to his superiors, it protects him in the privacy of his contribution or lack of contribution to the civic affairs and political life of his community, State and Nation. In particular, it protects him from commands or requests of his employer to buy tickets to fundraising functions, or to attend such functions, to compile position papers or research material for political purposes or make any other contribution which constitutes a political act or which places him in the position of publicly expressing his support or nonsupport of a party or candidate. This section also assures that, although there is no evidence of such activities at present, no Federal agency may in the future improperly involve itself in the undertakings of any political party in the United States, its territories, or possessions.

Section 1(h) makes it illegal for an official to coerce or attempt to coerce any civilian employee in the department or agency to invest his earnings in bonds or other Government obligations or securities, or to make donations to any institutions or cause. This section does not prohibit officials from calling meetings or taking any other appropriate action to afford employees the opportunity voluntarily to invest his earnings in bonds or other obligations or voluntarily to make donations to any institution or cause. Appropriate action, in the committee's view, might include publicity and other forms of persuasion short of job-related pressures, threats, intimidation, reprisals of various types, and "blacklists" circulated through the employee's office or agency to publicize his noncompliance.

Section 1(i) makes it illegal for an official to require or request any civilian employee in the department or agency to disclose any items of his property, income, or other assets, source of income, or liabilities, or his personal or domestic expenditures or those of any member of his family. Exempted from coverage under this provision is any civilian employee who has authority to make any final determination with respect to the tax or other liability to the United States of any person, corporation, or other legal entity, or with respect to claims which require expenditure of Federal moneys. Section 6 provides certain exemptions for two security agencies.

Neither the Department of the Treasury nor any other executive department or agency is prohibited under this section from requiring any civilian employee to make such reports as may be necessary or appropriate for the determination of his liability for taxes, tariffs, custom duties, or other obligations imposed by law. This proviso is to assure that Federal employees may be subject to any reporting or disclosure requirements demanded by any law applicable to all persons in certain circumstances.

Section 1(j) makes it illegal to require or request any civilian employee exempted from application of section 3(i) under the first proviso of that section, to disclose any items of his property, income, or other assets, source of income, or liabilities, or his personal or domestic expenditures or those of any member of his family or household other than specific items tending to indicate a conflict of interest in respect to the performance of any of the official duties to which he is or may be assigned.

This section is designed to abolish and prohibit broad general inquiries which employees have likened to "fishing expeditions" and to confine any disclosure requirements imposed on an employee to reasonable inquiries about job-related financial interests. This does not preclude, therefore, questioning in individual cases where there is reason to believe the employee has a conflict of interest with his official duties.

Section 1(k) makes it unlawful for a Federal official of any department or agency to require or request, or attempt to require or request, a civilian employee who is under investigation for misconduct, to submit to interrogation which could lead to disciplinary action without the presence of counsel or other person of his choice, if he wishes.

This section is intended to rectify a longstanding denial of due process by which agency investigators and other officials prohibit or discourage presence of counsel or a friend. This provision is directed at any interrogation which could lead to loss of job, pay, security clearance, or denial of promotion rights.

This right insures to the employee at the inception of the investigation, and the section does not require that the employee be accused formally of any wrongdoing before he may request presence of counsel or friend. The section does not require the agency or department to furnish counsel.

A committee amendment to S. 782 adds a proviso that a civilian employee serving in the Central Intelligence Agency or the National Security Agency may be accompanied only by a person of his choice who serves in the agency in which the employee serves, or by counsel who has been approved by the agency for access to the information involved.

Section 1(l) makes it unlawful for a Federal official of any department or agency to discharge, discipline, demote, deny promotion, relocate, reassign, or otherwise impair existing terms or conditions of employment of any employee, or threaten to commit any such acts, because the employee has refused or failed to comply with any action made unlawful by this act or exercised any right granted by the act.

This section prohibits discrimination against any employee because he refuses to comply with an illegal order as defined by this act or takes advantage of a legal right embodied in the act.

SECTION 2

Section 2(a) makes it unlawful for any officer of the U.S. Civil Service Commission or any person acting or purporting to act under his authority to require or request, or attempt to require or request, any executive department or any executive agency of the U.S. Government, or any officer or employee serving in such department or agency, to violate any of the provisions of section 1 of this act.

Specifically, this section is intended to ensure that the Civil Service Commission, acting as the coordinating policymaking body in the area of Federal civilian employment shall be subject to the same strictures as the individual departments or agencies.

Section 2(b) makes it unlawful for any officer of the U.S. Civil Service Commission, or any person acting or purporting to act under his authority, to require or request, or attempt to require or request, any person seeking to establish civil service status or eligibility for civilian employment, or any person applying for employment, or any civilian employee of the United States serving in any department or agency, to submit to any interrogation or examination or to take any psychological test which is designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters.

This section is intended to assure that the Civil Service Commission shall be subject to the same prohibitions to which departments and agencies are subject in sections 1 (e) and (f). The provisos contained in section 1(e) are restated here to assure that nothing in this section is to be construed to prohibit a physician from acquiring such data to determine mental illness, or an official from informing an individual of a specific charge of sexual misconduct and affording him an opportunity to refute the charge.

Section 2(c) makes it unlawful for any officer of the U.S. Civil Service Commission to require or request any person seeking to establish civil service status or eligibility for employment, or any person applying for employment in the executive branch of the U.S. Government, or any civilian employee serving in any department or agency to take any polygraph test designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters.

This section applies the provisions of section 1(f) to the Civil Service Commission in instances where it has authority over agency personnel practices or in cases in which its officials request information from the applicant or employee.

SECTION 3

This section applies the act to military supervisors by making violations of the act also violations of the Uniform Code of Military Justice.

SECTION 4

Section 4 provides civil remedies for violation of the act by granting an applicant or employee the right to bring a civil action in the Federal district court for a court order to halt the violation, or to obtain complete redress against the consequences of the violation. The action may be brought in his own behalf or in behalf of himself and others similarly situated, and the action may be filed against the offending officer or person in the Federal district court for the district in which the violation occurs or is threatened, or in the district in which the offending officer or person is found, or in the District Court for the District of Columbia.

The court hearing the case shall have jurisdiction to adjudicate the civil action without regard to the actuality or amount of pecuniary injury done or threatened. Moreover, the suit may be maintained without regard to whether or not the aggrieved party has exhausted available administrative remedies. If the individual complainant has pursued his relief through administrative remedies established for enforcement of the act and has obtained complete protection against threatened violations or complete redress for violations, this relief may be pleaded in bar of the suit. The court is empowered to provide whatever broad equitable and legal relief it may deem necessary to afford full protection to the aggrieved party; such relief may include restraining orders, interlocutory injunctions, permanent injunctions, mandatory injunctions, or such other judgments or decrees as may be necessary under the circumstances.

Another provision of section 4 would permit an aggrieved person to give written consent to any employee organization to bring a civil action on his behalf, or to intervene in such action. "Employee organizations" as used in this section includes any brotherhood, council, federation, organization, union, or professional association made up in whole or in part of Federal civilian employees, and which deals with departments, agencies, commissions, and independent agencies regarding employee matters.

A committee amendment provides that the Attorney General shall defend officers or persons who acted pursuant to an order, regulation, or directive, or who, in his opinion, did not willfully violate the provisions of the act.

SECTION 5

Section 5 establishes an independent Board on Employees' Rights, to provide employees with an alternative means of obtaining administrative relief from violations of the act, short of recourse to the judicial system.

Section 5(a) provides for a Board composed of three members, appointed by the President with the consent of the Senate. No member shall be an employee of the U.S. Government and no more than two members may be of the same political party. The President shall designate one member as Chairman.

Section 5(b) defines the term of office for members of the Board, providing that one members of the initial Board shall serve for 5 years, one for 3 years, and one for 1 year from the date of enactment; any member appointed to fill a vacancy in one of these terms shall be appointed for the remainder of the term. Thereafter, each member shall be appointed for 5 years.

Section 5(c) establishes the compensation for Board members at $75 for each day spent working in the work of the Board, plus actual travel expenses and per diem in lieu of subsistence expenses when away from their usual places of residence.

Section 5(d) provides that two members of the Board shall constitute a quorum for the transaction of business.

Section 5(e) provides that the Board may appoint and fix the compensation of necessary employees, and make such expenditures necessary to carry out the functions of the Board.

Section 5(f) authorizes the Board to make necessary rules and regulations to carry out its functions.

Section 5(g) provides that the Board shall have the authority and duty to receive and investigate written complaints from or on behalf of any person claiming to be affected or aggrieved by any violation or threatened violation of this act, and to conduct a hearing on each such complaint. Moreover, within 10 days after the receipt of such a complaint, the Board must furnish notice of time, place, and nature of the hearing to all interested parties, and within 30 days after concluding the hearing, it must render its final decision regarding any complaint.

Section 5(h) provides that officers or representatives of any employee organization in any degree concerned with employment of the category in which the violation or threat occurs, shall be given an opportunity to participate in the hearing through submission of written data, views, or arguments. In the discretion of the Board they are to be afforded an opportunity for oral presentation. This section further provides that Government employees called upon by any party or by any Federal employee organization to participate in any phase of any administrative or judicial proceeding under this section shall be free to do so without incurring travel cost or loss in leave or pay. They shall be free from restraint, coercion, interference, intimidation, or reprisal in or because of their participation. Any periods of time spent by Government employees during such proceedings shall be held to be Federal employment for all purposes.

Section 5(i) applies to the Board hearings the provisions of the Administrative Procedure Act relating to notice and conduct of hearings insofar as consistent with the purpose of this section.

Section 5(j) requires the Board, if it determines after a hearing that this act has not been violated, to state such determination and notify all interested parties of the findings. This determination shall constitute a final decision of the Board for purposes of judicial review.

Section 5(k) specifies the action to be taken by the Board if, after a hearing, it determines that any violation of this act has been committed or threatened. In such case, the Board shall immediately issue and cause to be served on the offending officer or employee an order requiring him to cease and desist from the unlawful practice or act. The Board is to endeavor to eliminate the unlawful act or practice by informal methods of conference, conciliation, and persuasion.

Within its discretion, the Board may, in the case of a first offense, issue an official reprimand against the offending officer or employee, or order the employee suspended from his position without pay for a period not exceeding 15 days. In the case of a second or subsequent offense, the Board may order, the offending officer or employee suspended without pay for a period not exceeding 30 days, or may order his removal from office.

Officers appointed by the President, by and with the advice and consent of the Senate, are specifically excluded from the application of these disciplinary measures; but the section provides that, in the case of a violation of this act by such individuals, the Board may transmit a report concerning such violation to the President and the Congress.

Section 5(l) provides for Board action when any officer of the Armed Forces of the United States or any person acting under his authority violates the act. In such event, the Board shall (1) submit a report to the President, the Congress, and to the Secretary of the military department concerned, (2) endeavor to eliminate any unlawful act or practice through informal methods of conference, conciliation, and persuasion, and (3) refer its determination and the record in the case to any person authorized to convene general courts-martial under section 822 (article 22) of title 10, United States Code. When this determination and report is received, the person designated shall immediately dispose of the matter under the provisions of chapter 47 of title 10 of the United States Code.

Section 5(m) provides that when any party disagrees with an order or final determination of the Board, he may institute a civil action for judicial review in the Federal district court for the district wherein the violation or threatened violation occurred, or in the District Court for the District of Columbia.

The court has jurisdiction to (1) affirm, modify, or set aside any determination or order made by the Board, or (2) require the Board to make any determination or order which it is authorized to make under section 5(k) but which it has refused to make. In considering the record as a whole, the court is to set aside any finding, conclusion, determination, or order of the Board unsupported by substantial evidence.

The type of review envisioned here is similar to that obtained under the Administrative Procedure Act in such cases but this section affords a somewhat enlarged scope for consideration of the case than is now generally accorded on appeal of employee cases. The court here has more discretion for action on its own initiative. To the extent that they are consistent with this section, the provisions for judicial review in title 5 of the United States Code would apply.

Section 5(n) provides for congressional review by directing the Board to submit to the Senate and to the House of Representatives an annual report which must include a statement concerning the nature of all complaints filed with it, the determinations and orders resulting from hearings, and the names of all officers or employees against whom any penalties have been imposed under this section.

Section 5(o) provides an appropriation of $100,000 for the Board on Employee Rights.

SECTION 6

Section 6 provides that nothing in the act shall be construed to prohibit an officer of the Central Intelligence Agency or of the National Security Agency, under specific conditions, from requesting an applicant or employee to submit a personal financial statement of the type defined in subsection 1 (i) and (j) or to take any polygraph or psychological test designed to elicit the personal information protected under subsection 1(e) or 1(f).

In these agencies, such information may be acquired from the employee or applicant by such methods only if the Director of the agency or his designee makes a personal finding with regard to each individual that such test or information is required to protect the national security.

SECTION 7

Section 7 requires, in effect, that employees of the Central Intelligence Agency and the National Security Agency exhaust their administrative remedies before invoking the provisions of section 4 (the Board on Employee Rights) or section 5 (the Federal court action). An employee, his representative, or any organization acting in his behalf, must first submit a written complaint to the agency and afford it 120 days to prevent the threatened violation or to redress the actual violation. A proviso states that nothing in the act affects any existing legal authority of the Central Intelligence Agency under 50 U.S.C. 403(c) or of the National Security Agency under 50 U.S.C. 833 to terminate employment.

SECTION 8

Section 8 provides that nothing in the act shall be construed to affect in any way authority of the directors of the Central Intelligence Agency or the National Security Agency to protect or withhold information pursuant to statute or Executive order. In cases involving his employees, the personal certification by the Director of the agency that disclosure of any information is inconsistent with the provision of any statute or Executive order is to be conclusive and no such information shall be admissible in evidence in any civil action under section 4 or in any proceeding or civil action under section 5. Nor may such information be receivable in the record of any interrogation of an employee under section 1(k).

SECTION 9

Section 9 provides that the Federal Bureau of Investigation shall be excluded from the provisions of this act.

SECTION 10

Section 10 provides that nothing contained in sections 4 or 5 shall be construed to prevent the establishment of department and agency grievance procedures to enforce this act. This section makes it clear that the existence of such procedures are not to preclude any applicant or employee from pursuing any other available remedies. However, if under the procedures established by an agency, the complainant has obtained complete protection against threatened violations, or complete redress for violations, such relief may be pleaded in bar in the U.S. district court or in proceedings before the Board on Employees' Rights.

Furthermore, an employee may not seek his remedy through both the Board and the court. If he elects to pursue his remedies through the Board under section 5, for instance, he waives his right under section 4 to take his case directly to the district court.

SECTION 11

Section 11 is the standard severability clause.

Mr. HRUSKA. Mr. President, I am pleased today to join my distinguished colleague from North Carolina, Senator Ervin, in support of S. 1688, which seeks to protect certain constitutional rights of employees of the executive branch of Government.

This measure has come before the Senate on several previous occasions and has received unanimous approval each time as I recall; but has subsequently failed to receive similar approval in the House.

The thrust of the bill is to prohibit the Federal Government from requiring employees of the executive branch and applicants for other Government positions to disclose their race, religion, or national origin. The measure also prohibits questions about the activities of employees after duty hours and in activities unrelated to their work or about their personal attitudes and beliefs, or their political views or preferences. In addition, it makes illegal the requirement for the filing of a personal financial statement unless a conflict-of-interest question is raised.

Some of the major objections to previous measures on this subject have been overcome in the instant bill. The Federal Bureau of Investigation, Central Intelligence Agency, and National Security Agency are exempt completely from the provisions of S. 1688. Moreover, the bill now provides for the right to have counsel present during certain proceedings, and for access to the courts for judicial remedy where complaints may arise.

It is fitting that S. 1688 come before the Senate for consideration at this time. This measure coincides with the President's recent announcement on the establishment of a Cabinet-level Commission on Privacy. The purpose of the Commission is to institute positive efforts by the Federal Government to protect the fundamental rights of privacy for all citizens. S. 1688 is one segment of that effort as it provides the Congress an opportunity to express its collective will in an area of concern to all Americans.

I urge my colleagues in the Senate, and in the other body, to act in an expeditious manner on this measure so that it may be placed before the President for his approval in the near future. This legislation is overdue, as a recognition of the President's proposal for a Commission on Privacy indicates. Therefore, it is now within the grasp of the Congress to recognize the need for the protection of the rights of privacy for executive branch employees and take appropriate action to achieve that end.

Mr. ERVIN. I am deeply grateful to the Senator from Nebraska, not only for his remarks on this occasion but for his assistance throughout the years in perfecting this measure. I think the bill in its present form protects the right to privacy of Federal employees without doing any substantial injury to the necessary processes of government.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1688) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. [illegible]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. It shall be unlawful for any officer of any executive department or any executive agency of the United States Government, or for any person acting or purporting to act under his authority, to do any of the following things:

(a) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency, or any person seeking employment in the executive branch of the United States Government, to disclose his race, religion, or national origin, or the race, religion, or national origin of any of his forebears: *Provided, however,* That nothing continued in this subsection shall be construed to prohibit inquiry concerning the citizenship of any such employee or person if his citizenship is a statutory condition of his obtaining or retaining his employment: *Provided further,* That nothing contained in this subsection shall be construed to prohibit inquiry concerning the national origin or citizenship of any such employee or person or of his forebears, when such inquiry is deemed necessary or advisable to determine suitability for assignment to activities or undertakings related to the national security within the United States or to activities or undertakings of any nature outside the United States.

(b) To state or intimate, or to attempt to state or intimate, to any civilian employee of the United States serving in the department or agency that any notice will be taken of his attendance or lack of attendance at any assemblage, discussion, or lecture held or called by any officer of the executive branch of the United States Government, or by any person acting or purporting to act under his authority, or by any outside parties or organizations to advise, instruct, or indoctrinate any civilian employee of the United States serving in the department or agency in respect to any matter or subject other than the performance of official duties to which he is or may be assigned in the department or agency, or the development of skills, knowledge, or abilities which qualify him for the performance of such duties: *Provided, however,* That nothing contained in this subsection shall be construed to prohibit taking notice of the participation of a civilian employee in the activities of any professional group or association.

(c) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency to participate in any way in any activities or undertakings unless such activities or undertakings are related to the performance of official duties to which he is or may be assigned in the department or agency, or to the development of skills, knowledge, or abilities which qualify him for the performance of such duties.

(d) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency to make any report concerning any of his activities or undertakings unless such activities or undertakings are related to the performance of official duties to which he is or may be assigned in the department or agency, or to the development of skills, knowledge, or abilities which qualify him for the performance of such duties, or unless there is reason to believe that the civilian employee is engaged in outside activities or employment in conflict with his official duties.

(e) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency, or any person applying for employment as a civilian employee in the executive branch of the United States Government, to submit to any interrogation or examination or to take any psychological test which is designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters: *Provided, however,* That nothing contained in this subsection shall be construed to prevent a physician from eliciting such information or authorizing such tests in the diagnosis or treatment of any civilian employee or applicant where such physician deems such information necessary to enable him to determine whether or not such individual is suffering from mental illness: *Provided further, however,* That this determination shall be made in individual cases and not pursuant to general practice or regulation governing the examination of employees or applicants according to grade, agency, or duties: *Provided further, however,* That nothing contained in this subsection shall be construed to prohibit an officer of the department or agency from advising any civilian employee or applicant of a specific charge of sexual misconduct made against that person, and affording him an opportunity to refute the charge.

(f) To require or request, or attempt to require or request, any civilian employee of the United States serving in the department or agency, or any person applying for employment as a civilian employee in the executive branch of the United States Government, to take any polygraph test designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters.

(g) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency to support by personal endeavor or contribution of money or any other thing of value the nomination or the election of any person or group of persons to public office in the Government of the United States or of any State, district, Commonwealth, territory, or possession of the United States, or to attend any meeting held to promote or support the activities or undertakings of any political party of the United States or of any State, district, Commonwealth, territory, or possession of the United States.

(h) To coerce or attempt to coerce any civilian employee of the United States serving in the department or agency to invest his earnings in bonds or other obligations or securities issued by the United States or any of its departments or agencies, or to make donations to any institution or cause of any kind: *Provided, however,* That nothing contained in this subsection shall be construed to prohibit any officer of any executive department or any executive agency of the United States Government, or any person acting or purporting to act under his authority, from calling meetings and taking any action appropriate to afford any civilian employee of the United States the opportunity voluntarily to invest his earnings in bonds or other obligations or securities issued by the United States or any of its departments or agencies, or voluntarily to make donations to any institution or cause.

(i) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency to diclose any items of his property, income, or other assets, source of income, or liabilities, or his personal or domestic expenditures or thoose of any member of his family or household: *Provided, however,* That this subsection shall not apply to any civilian employee who has authority to make any final determination with respect to the tax or other liability of any person, corporation, or other legal entity to the United States, or claims which require expenditure of moneys of the United States: *Provided further, however,* That nothing contained in this subsection shall prohibit the Department of the Treasury or any other executive department or agency of the United States Government from requiring any civilian employee of the United States to make such reports as may be necessary or appropriate for the determination of his liability for taxes, tariffs, custom duties, or other obligations imposed by law.

(j) To require or request, or to attempt to require or request, any civilian employee of the United States embraced within the terms of the proviso in subsection (i) to disclose any items of his property, income, or other assets, source of income, or liabilities, or his personal or domestic expenditures or those of any member of his family or household other than specific items tending to indicate a conflict of interest in respect to the perfomance of any of the official duties to which he is or may be assigned.

(k) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency, who is under investigation for misconduct, to submit to interrogation which could lead to disciplinary action without the presence of counsel or other person of his choice, if he so requests: *Provided, however,* That a civilian employee of the United States serving in the Central Intelligence Agency or the National Security Agency may be accompanied only by a person of his choice who serves in the agency in which the employee serves, or by counsel who has been approved by the agency for access to the information involved.

(1) To discharge, discipline, demote, deny promotion to, relocate, reassign, or otherwise discriminate in regard to any term or condition of employment of, any civilian employee of the United States serving in the department or agency, or to threaten to commit any of such acts, by reason of the refusal or failure of such employee to submit to or comply with any requirement, request, or action made unlawful by this Act, or by reason of the exercise by such civilian employee of any right granted or secured by this Act.

SEC. 2. It shall be unlawful for any officer of the United States Civil Service Commission, or for any person acting or purporting to act under his authority, to do any of the following things:

(a) To require or request, or to attempt to require or request, any executive department or any executive agency of the United States Government, or any officer or employee serving in such department or agency, to violate any of the provisions of section 1 of this Act.

(b) To require or request, or to attempt to require or request, any person seeking to establish civil service status or eligibility for employment in the executive branch of the United States Government, or any person applying for employment in the executive branch of the United States Government, or any civilian employee of the United States serving in any department or agency of the United States Government, to submit to any interrogation or examination or to take any psychological test which is designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters: *Provided, however,* That nothing contained in this subsection shall be construed to prevent a physician from eliciting such information or authorizing such tests in the diagnosis or treatment of any civilian employee or applicant where such physician deems such information necessary to enable him to determine whether or not such individual is suffering from mental illness: *Provided further, however,* That this determination shall be made in individual cases and not pursuant to general practice or regulation governing the examination of employees or applicants according to grade, agency, or duties: *Provided, further, however,* That nothing contained in this subsection shall be construed to prohibit an officer of the Civil Service Commission from advising any civilian employee or applicant on a specific charge of sexual misconduct made against that person, and affording him an opportunity to refute the charge.

(c) To require or request, or to attempt to require or request, any person seeking to establish civil service status or eligibility for employment in the executive branch of the United States Government, or any person applying for employment in the executive branch of the United States Government, or any civilian employee of the United States serving in any department or agency of the United States Government, to take any polygraph test designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters.

SEC. 3. It shall be unlawful for any commissioned officer, as defined in section 101 of title 10, United States Code, or any member of the Armed Forces acting or purporting to act under his authority, to require or request, or to attempt to require or request, any civilian employee of the executive branch of the United States Government under his authority or subject to his supervision to perform any of the acts or submit to any of the requirements made unlawful by section 1 of this Act.

SEC. 4. Whenever any officer of any executive department or any executive agency of the United States Government, or any person acting or purporting to act under his authority, or any commissioned officer as defined in section 101 of title 10, United States Code, or any member of the Armed Forces acting or purporting to act under his authority, violates or threatens to violate any of the provisions of section 1, 2, or 3 of this Act, any civilian employee of the United States serving in any department or agency of the United States Government, or any person applying for employment in the executive branch of the United States Government, or any person seeking to establish civil service status or eligibility for employment in the executive branch of the United States Government, affected or aggrieved by the violation or threatened violation, may bring a civil action in his own behalf of himself and others similarly situated, against the offending officer or person in the United States district court for the district in which the violation occurs or is threatened, or the district in which the offending officer or person is found, or in the United States District Court for the District of Columbia, to prevent the threatened violation or to obtain redress against the consequences of the violation. The Attorney General shall defend all officers or persons sued under this section who acted pursuant to an order, regulation, or directive, or who, in his opinion, did not willfully violate the provisions of this Act.

Such United States district court shall have jurisdiction to try and determine such civil action irrespective of the actuality or amount of pecuniary injury done or threatened, and without regard to whether the aggrieved party shall have exhausted any administrative remedies that may be provided by law, and to issue such restraining order, interlocutory injunction, permanent injunction, or mandatory injunction, or enter such other judgment or decree as may be necessary or appropriate to prevent the threatened violation, or to afford the plaintiff and others similarly situated complete relief against the consequences of the violation. With the written consent of any person affected or aggrieved by a violation or threatened violation of section 1, 2, or 3 of this Act, any employee organization may bring such action on behalf of such person, or may intervene in such action. For the purposes of this section employee organizations shall be construed to include any brotherhood, council, federation, organization, union, or professional association made up in whole or in part of civilian employees of the United States and which has as one of its purposes dealing with departments, agencies, commissions, and independent agencies of the United States concerning the condition and terms of employment of such employees.

SEC. 5. (a) There is hereby established a Board on Employees' Rights (hereinafter referred to as the "Board"). The Board shall be composed of three members, appointed by the President, by and with the advice and consent of the Senate. The President shall designate one member as chairman. No more than two members of the Board may be of the same political party. No member of the Board shall be an officer or employee of the United States Government.

(b) The term of office of each member of the Board shall be five years, except that (1) of those members first appointed, one shall serve for five years, one for three years, and one for one year, respectively, from the date of enactment of this Act, and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(c) Members of the Board shall be compensated at the rate of $75 a day for each day spent in the work of the Board, and shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from their usual places of residence, as authorized by section 5703 of title 5, United States Code.

(d) Two members shall constitute a quorum for the transaction of business.

(e) The Board may appoint and fix the compensation of such officers, attorneys, and employees, and make such expenditures, as may be necessary to carry out its functions.

(f) The Board shall make such rules and regulations as shall be necessary and proper to carry out its functions.

(g) The Board shall have the authority and duty to receive and investigate written complaints from or on behalf of any person claiming to be affected or aggrieved by any violation or threatened violation of this Act and to conduct a hearing on each such complaint. Within ten days after the receipt of any such complaint, the Board shall furnish notice of the time, place, and nature of the hearing thereon to all interested parties. The Board shall render its final decision with respect to any complaint within thirty days after the conclusion of its hearing thereon.

(h) Officers or representatives of any Federal employee organization in any degree concerned with employment of the category in which any alleged violation of this Act occurred or is threatened shall be given an opportunity to participate in each hearing conducted under this section, through submission of written data, views, or arguments, and in the discretion of the Board, with opportunity for oral presentation. Government employees called upon by any party or by any Federal employee organization to participate in any phase of any administrative or judicial proceeding under this section shall be free to do so without incurring travel cost or suffering loss in leave or pay; and all such employees shall be free from restraint, coercion, interference, intimidation, or reprisal in or because of their participation. Any periods of time spent by Government employees during such participation shall be held and considered to be Federal employment for all purposes.

(i) Insofar as consistent with the purposes of this section, the provisions of subchapter II of chapter 5 of title 5, United States Code, relating to the furnishing of notice and manner of conducing agency hearings, shall be applicable to hearings conducted by the Board under this section.

(j) If the Board shall determine after hearing that a violation of this Act has not occurred or is not threatened, the Board shall state its determination and notify all interested parties of such determination. Each such determination shall constitute a final decision of the Board for purposes of judicial review.

(k) If the Board shall determine that any violation of this Act has been committed or threatened by any civilian officer or employee of the United States, the Board shall immediately (1) issue and cause to be served on such officer or employee an order requiring such officer or employee to cease and desist from the unlawful act or practice which constitutes a violation, (2) endeavor to eliminate any such unlawful act or practice by informal methods of conference, conciliation, and persuasion, and (3) may—

(A) (i) in the case of the first offense by any civilian officer or employee of the United States, other than any officer appointed by the President, by and with the advice and consent of the Senate, issue an official reprimand against such officer or employee or order the suspension without pay of such officer or employee from the position or office held by him for a period of not to exceed fifteen days, and (ii) in the case of a second or subsequent offense by any such officer or employee, order the suspension without pay of such officer or employee from the position or office held by him for a period of not to exceed thirty days or order the removal of such officer or employee from such position or office; and

(B) in the case of any offense by any officer appointed by the President, by and with the advice and consent of the Senate, transmit a report concerning such violation to the President and the Congress.

(l) If the Board shall determine that any violation of this Act has been committed or threatened by any officer of any of the Armed Forces of the United States, or any person purporting to act under authority conferred by such officer, the Board shall (1) submit a report thereon to the President, the Congress, and the Secretary of the military department concerned, (2) endeavor to eliminate any unlawful act or practice which constitutes such a violation by informal methods of conference, conciliation, and persuasion, and (3) refer its determination and the record in the case to any person authorized to convene general courts-martial under section 822 (article 22) of title 10, United States Code. Thereupon such person shall take immediate steps to dispose of the matter under chapter 47 of title 10, United States Code (Uniform Code of Military Justice).

(m) Any party aggrieved by any final determination or order of the Board may institute, in the district court of the United States for the judicial district wherein the violation or threatened violation of this Act occurred, or in the United States District Court for the District of Columbia, a civil action for the review of such determination or order. In any such action, the court shall have jurisdiction to (1) affirm, modify, or set aside any determination or order made by the Board which is under review, or (2) require the Board to make any determination or order which it is authorized to make under subsection (k), but which it has refused to make. The reviewing court shall set aside any finding, conclusion, determination, or order of the Board as to which complaint is made which is unsupported by substantial evidence on the record considered as a whole.

(n) The Board shall submit, not later than March 31 of each year, to the Senate and House of Representatives, respectively, a report on its activities under this section during the immediately preceding calendar year, including a statement concerning the nature of all complaints filed with it, its determinations and orders resulting from hearings thereon, and the names of all officers or employees of the United States with respect to whom any penalties have been imposed under this section.

(o) There are authorized to be appropriated sums necessary, not in excess of $100,000, to carry out the provisions of this section.

SEC. 6. Nothing contained in this Act shall be construed to prohibit an officer of the Central Intelligence Agency or of the National Security Agency from requesting polygraph test, or to take a psychological any civilian employee or applicant to take a test, designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters, or to provide a personal financial statement, if the Director of the Central Intelligence Agency or his designee or the Director of the National Security Agency or his designee makes a personal finding with regard to each individual to be so tested or examined that such test or information is required to protect the national security.

SEC. 7. No civilian employee of the United States serving in the Central Intelligence Agency or the National Security Agency, and no individual or organization acting in behalf of such employee, shall be permitted to invoke the provisions of sections 4 and 5 without first submitting a written complaint to the agency concerned about the threatened or actual violation of this Act and affording such agency one hundred and twenty days from the date of such complaint to prevent the threatened violation or to redress the actual violation: *Provided, however,* That nothing in this Act shall be construed to affect any existing authority of the Director of Central Intelligence under section 403(c), of title 50, United States Code, and any authorities available to the National Security Agency under section 833 of title 50, United States Code, to terminate the employment of any employee.

SEC. 8. Nothing in this Act shall be construed to affect in any way the authority of the Directors of the Central Intelligence Agency or the National Security Agency to protect or withhold information pursuant to statute or executive order. The personal certification by the Director of the agency that disclosure of any information is inconsistent with the provision of any statute or Executive order shall be conclusive and no such information shall be admissible in evidence in any interrogation under section 1(k) or in any civil action under section 4 or in any proceeding or civil action under section 5.

SEC. 9. This Act shall not be applicable to the Federal Bureau of Investigation.

SEC. 10. Nothing contained in sections 4 and 5 shall be construed to prevent establishment of department and agency grievance procedures to enforce this Act, but the existence of such procedures shall not preclude any applicant or employee from pursuing the remedies established by this Act or any other remedies provided by law: *Provided, however,* That if under the procedures established, the employee or applicant has obtained complete protection against threatened violations or complete redress for violations, such action may be pleaded in bar in the United States district court or in proceedings before the Board on Employee Rights: *And provided further,* That if an employee elects to seek a remedy under either section 4 or section 5, he waives his right to proceed by an independent action under the remaining section.

SEC. 11. If any provision of this Act or the application of any provision to any person or circumstance shall be held invalid, the remainder of ths Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected.

Mr. ERVIN. Mr. President, I ask unanimous consent that the text of the bill and a statement prepared by me with respect to the bill be printed in the Record at this point.

There being no objection, the bill and the statement were ordered to be printed in the Record, as follows:

Mr. Ervin. Mr. President, over the past decade I have taken the floor many times to urge passage of legislation to insure that the privacy of federal employees is respected and protected. My colleagues here in the Senate have been unstinting in their support of my efforts. They have repeatedly approved, usually by unanimous votes, the Federal Employee Privacy Bill—also known as the "Federal Employees Bill of Rights"—which was again passed by the Senate this afternoon as S. 1688.

I am gratified by the Senate's renewed unanimous approval of these privacy-protective measures. It is now up to the House of Representatives to vote on this legislation which heretofore has languished and died in the House Post Office and Civil Service Committee. This year I understand that, through the good efforts of Representative Waldie and his colleagues on the House Retirement and Employee Benefits Subcommittee, who have recently held hearings on this legislation, there is a good chance that the Federal Employee Privacy Bill will at last be reported out for a vote on the House floor. I urge my friends in the House of Representatives to consider favorably this federal employee privacy legislation, which the Senate has so often approved in the past.

I have been impressed in recent days by the broad bipartisan support for seeking ways to assure individual Americans of their right to privacy. Everywhere I turn these days I am pleased to see new evidence of this bipartisan determination to protect individual privacy from unwarranted governmental interference. Forty-four Senators, on both sides of the aisle, have joined me in cosponsoring S. 1688, the Federal Employee Privacy Bill.

On another front in the fight to protect individual privacy, Senators of both political parties, as well as the Justice Department, are currently cooperating in drawing up legislation designed to protect the privacy of individuals who may be the subjects of criminal justice information systems. As Chairman of the Constitutional Rights Subcommittee, I am in the process of chairing hearings regarding this important privacy legislation. I am particularly impressed by the broad areas of agreement among virtually all interested parties that more effective constraints on the unwarranted collection, storage and dissemination of criminal justice information are needed now.

Moreover, the President's recent Address on Privacy underscores the Administration's comitment to the protection of individual privacy as "the most basic of all individual rights." The President concluded his address with a statement in which I emphatically concur:

"In the first half of this century, Mr. Justice Brandeis called privacy the 'right most valued by civilized men.' In the last half of this century, we must also make it the right that is most protected."

I look forward to the "direct enforceable measures" which the President has promised as the fruits of this concern about individual privacy.

The passage of the Federal Employee Privacy Bill by the Senate today is further evidence of this broad bipartisan support for the protection of individual privacy. I urge both Democratic and Republican Members of the House of Representatives, as well as the President to join the Senate in taking positive privacy protective action by seeing that this legislation designed to protect the privacy of government servants becomes law.

The need for this legislation is greater now than ever before. The report on the Federal Employee Privacy Bill (S. 1688), which I filed earlier this week, outlines in great detail the kinds of abuses and invasions of privacy which the federal employee privacy legislation is designed to prevent. Let me take just a moment now to share with you some of the additional threats to individual privacy which federal employees have brought to my attention in the past few weeks.

One instance involves some constituents of mine down in Durham, North Carolina. They are data processing, administrative and clerical personnel (GS–4 through GS–13) who work for the Environmental Protection Agency in the Data Systems and Procurement Management Divisions. Early this year twenty or more of these folks received a notice that "your position has been identified as one requiring a post-appointment full field investigation." They were instructed to complete, in triplicate, Form 86, "Security Investigation Data for Sensitive Position," as well as Form 87, the FBI fingerprint form.

Now, as Mr. Huston Blair of Durham, North Carolina, who informed me of this matter, pointed out, none of these twenty data processing, administrative and clerical workers were in any way involved in matters affecting the national security. Nor did they hold positions classified as sensitive. It sounded to Huston Blair, and it sounds to me, like unnecessary government snooping into the private lives of its employees.

I asked the Environmental Protection Agency to look into the matter and explain to me why these twenty civil servants down in North Carolina should be required to provide, on pain of criminal penalties, personal information about themselves, members of their families (living and dead) and their associations, so that their "character and honesty" can be evaluated. The Environmental Protection Agency replied that these so-called "security investigations" of people in non-sensitive clerical and administrative positions were standard operating procedures "consistent with policies of other regulatory agencies."

In addition, within the past few days I learned about some secret files kept by all supervisors of Air Force civilian employees. The Air Force Regulation under which the files were established describes them as containing "a record of the employee's conduct, performance evaluations, reprimands, commendations, debts, and complaints that may be necessary and useful in making and supporting decisions of work assignments." This regulation further provides that "an employee has no right to see" his record. On the other hand, his record must be available "for easy review by CPO [Central Personnel Office] representatives, higher level supervisors, and others authorized to make such a review." An Air Force civilian employee has described to me some of his difficulties in trying to find out about what he describes as "derogatory and libelous information about me, my personal life and medical history," which has been made a part of this secret file.

I have also been reading recently about revised instructions for preparing and submitting "Minority Group Designator data," as well as revisions of Agency Personnel Management Evaluation Systems which are to include various reports, evaluations and "personnel questionnaire surveys." Now, I do not yet know precisely what all these plans and changes mean for the privacy of federal employees. But these changes do demonstrate the fact that without the enactment of federal employee privacy legislation, the possibilities for increasing intrusions into the private lives of federal employees are unlimited.

In speaking about "government bureaucracies [which] seem to thrive on collecting additional information," President Nixon called, in his Address on Privacy, for "reasonable limits on what is collected and how it is used." I submit that Presidential support for the Federal Employee Privacy Bill, which has just passed the Senate, is perhaps the most appropriate way I can think of for him to begin setting these reasonable limits on governmental intrusion into people's private lives.

It is said that charity begins at home. I think that is where privacy begins, too. I hope that the President will see fit to begin his promised privacy protective measures right here in the Executive Branch, with statutory protections for the privacy of his own people, the millions of federal employees whose privacy is invaded perhaps more ruthlessly than any other Americans.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, what is the pending matter before the Senate?

The PRESIDING OFFICER. There is no matter pending before the Senate at this point.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 669, S. 3066, so that it may become the pending business, and that no time be consumed on the bill today.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 3066) to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance in support of community development activities, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. ROBERT C. BYRD. Mr. President, under the agreement previously entered into, I ask the Chair whether the amendments to be offered by the Senator from New York (Mr. Javits), which are specified in the agreement, would be in order regardless of their germaneness.

The PRESIDING OFFICER. Under the precedents of the Senate, named amendments under a unanimous-consent agreement would not have to be germane.

Mr. ROBERT C. BYRD. I thank the Chair. That was my intention in propounding the request.

So that there will be no question about it, I ask unanimous consent that those amendments by Mr. Javits be in order, regardless of their germaneness.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR STAFF MEMBERS TO RECEIVE BILLS, RESOLUTIONS, AND AMENDMENTS AT THE DESK WHEN SIGNED AND PRESENTED BY A SENATOR DURING THE REMAINDER OF THIS CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the remainder of this Congress it be in order for the proper members of the staff to receive bills, resolutions, and amendments at the desk when signed and presented by a Senator at any time during the day of a session of the Senate when no question is raised thereon, and that in accordance with the rules, it be in order to refer them to the appropriate committee or to refer the amendments, or order them printed and to lie on the table, as requested by the said Senator.

May I say to the Senator from Texas that this request has been cleared earlier today with the leadership on his side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements therein limited to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. BARTLETT) laid before the Senate the following letters, which were referred as indicated:

Report of Department of Navy

A letter from the Secretary of the Navy, transmitting a report of the facts concerning action pertaining to the Fleet Missile Systems Analysis and Evaluation Group, Corona, California (with an accompanying report). Referred to the Committee on Armed Services.

Proposed Legislation of Small Business Administration

A letter from the Administrator, United States Small Business Administration, transmitting a draft of proposed legislation to clarify the authority of the Small Business Administration, and for other purposes (with an accompanying paper). Referred to the Committee on Banking, Housing and Urban Affairs.

Proposed Legislation By Federal Energy Office

A letter from the Administrator, Federal Energy Office, transmitting a draft of proposed legislation to provide for the labeling of major appliances and motor vehicles to promote and effect energy conservation, and for other purposes (with an accompanying paper). Referred to the Committee on Commerce.

Report of Highway Trust Fund

A letter from the Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, the eighteenth annual report on the financial condition and results of the operations of the Highway Trust Fund dated June 30, 1973 (with an accompanying report). Referred to the Committe on Finance.

Report of Overseas Private Investment Corporation

A letter from the President, Overseas Private Investment Company, transmitting, pursuant to law, a report on "Possibilities of Transferring OPIC Programs to the Private Sector" (with an accompanying report). Referred to the Committee on Foreign Relations.

Proposed Legislation by Department of State

A letter from the Acting Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 1975 for carrying out the Board for International Broadcasting Act of 1973 (with an accompanying paper). Referred to the Committee on Foreign Relations.

International Agreements

A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, certain international agreements other than treaties (with accompanying papers). Referred to the Committee on Foreign Relations.

Report of Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of the Financial Statements of the Panama Canal Company and Canal Zone Government for fiscal year 1973", dated March 6, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

Proposed Credit for the Union Oil Co. of California

A letter from the Under Secretary of the Interior, reporting, pursuant to law, on a proposed credit for the Union Company of California (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

Recommendation of Commission on Revision of the Federal Court Appellate System Relating to the Ninth Circuit Division

A letter from the Circuit Judge, Ninth Judicial District, relating to the recommendation of the Commission on Revision of the Federal Court Appellate System that the Ninth Circuit be divided into two new circuits (with accompanying papers). Referred to the Committee on the Judiciary.

Proposed Legislation From the Attorney General

A letter from the Attorney General, transmitting a draft of proposed legislation to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 (with an accompanying paper). Referred to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. BARTLETT):

A joint resolution of the Legislature of the State of California. Referred to the Committee on Interior and Insular Affairs:

"Assembly Joint Resolution No. 68—Relative to Fuel Rationing

"Legislative counsel's digest

"AJR 68. Quimby. Fuel rationing.

"Memorializes the President, Congress, and the Federal Energy Office to provide, in any gasoline rationing program which may be instituted, special consideration for physically handicapped persons who are unable to utilize public transportation.

"Whereas, The State of California and the nation are presently experiencing a serious shortage of gasoline and other petroleum fuels; and

"Whereas, There is serious consideration being given to the possibility of rationing of gasoline, with the result that people would be required to increasingly utilize public transportation, rather than private means of transportation; and

"Whereas, Public transportation is not a feasible alternative to most physically handicapped persons because of inability to accommodate crutches, braces, or wheelchairs; and

"Whereas, Without special consideration, rationing of fuel will work a special hardship on the thousands of physically handicapped persons in this state and across this nation who will find themselves unable to maintain gainful employment, with the result that many will be forced to seek public assistance; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memoralizes the President, the Congress of the United States, and the Federal Energy Office to provide special consideration for physically handicapped persons who are unable to use public transportation in any program of rationing gasoline which may be put into effect because of the present fuel shortage; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

A resolution adopted by the Oakland County Parks and Recreation Commission, Pontiac, Mich., praying for the resumption of funding for the Land and Water Conservation Fund Act of 1965. Referred to the Committee on Interior and Insular Affairs.

A resolution adopted by the Western Reserve Society Sons of the American Revolution, Cleveland, Ohio, praying for the rescission of legislation relating to the establishment of national holidays and restoration to their original designations. Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on the Judiciary, without amendment:

H.R. 6119. An act for the relief of Arturo Robles (Rept. No. 93-728).

REPORT ENTITLED "INVESTIGATION OF THE POSTAL SERVICE"—REPORT OF A COMMITTEE—(S. REPT. 93-727)

Mr. McGEE, from the Committee on Post Office and Civil Service, submitted a report entitled "Investigation of the Postal Service," pursuant to Senate Resolution 61, 93d Congress, 1st session, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. SYMINGTON, from the Committee on Armed Services:

Martin R. Hoffman, of Virginia, to be General Counsel of the Department of Defense.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. TOWER, from the Committee on Armed Services:

M. David Lowe, of Texas, to be an Assistant Secretary of the Army.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs:

Allan Stephen Ryan, of New York, to be assayer of the U.S. Assay Office at New York.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. LONG, from the Committee on Finance:

Jack Franklin Bennett, of Connecticut, to be Under Secretary of the Treasury.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. WILLIAMS (for himself, Mr. Cranston, and Mr. Brock):

S. 3126. A bill to amend the Securities and Exchange Act of 1934 to authorize the Securities and Exchange Commission to prohibit brokers or dealers from trading listed securities otherwise than on national securities exchanges in the event the Commission determines that such trading is contrary to the public interest and the protection of investors. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. RIBICOFF:

S. 3127. A bill to amend title XVIII of the Social Security Act to provide optometric and medical vision care. Referred to the Committee on Finance.

By Mr. EAGLETON:

S. 3128. A bill to amend title XIX of the Social Security Act to require that, effective July 1, 1975, payment, under State plans approved under such title, for home health services shall be made on a reasonable cost related basis. Referred to the Committee on Finance.

By Mr. SCHWEIKER:

S. 3129. A bill to amend title 37, United States Code, to include a foster child as a dependent of a member of the uniformed services for certain purposes. Referred to the Committee on Armed Services.

By Mr. RIBICOFF:

S. 3130. A bill entitled "Shepaug River Act." Referred to the Committee on Interior and Insular Affairs.

By Mr. ROTH:

S. 3131. A bill to increase the maximum tax credit allowable for a contribution to candidates for public office, and to repeal the tax deduction allowable for such contributions. Referred to the Committee on Finance.

By Mr SPARKMAN (for himself and Mr. Tower) (by request):

S. 3132. A bill to provide for the chartering of Federal stock savings and loan associations, to regulate unitary saving and loan holding companies, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WILLIAMS (for himself, Mr. Cranston, and Mr. Brock):

S. 3126. A bill to amend the Securities and Exchange Act of 1934 to authorize the Securities and Exchange Commission to prohibit brokers or dealers from trading listed securities otherwise than on national securities exchanges in the event the Commission determines that such trading is contrary to the public interest and the protection of investors. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. WILLIAMS. Mr. President, on March 5, 1974, the Committee on Banking, Housing and Urban Affairs voted to report S. 2519, the National Securities Market System Act of 1974. This is a major piece of securities legislation which will go a long way toward speeding the development of a central market system and bolstering investor confidence in the markets.

During its consideration of S. 2519, the committee discussed amending the bill to give the SEC residual power to prohibit trading in listed securities otherwise than on national securities exchanges, if the Commission found that third market trading in an environment of fully competitive commission rates was having an adverse impact on the fairness and orderliness of the auction markets. However, it becomes apparent to the committee that the questions raised by a grant of such power required further exploration before a final decision could be made.

In order to facilitate that exploration and to give all interested persons an opportunity to comment on whether any power to prohibit third market trading should be vested in the SEC and, if so, by what means, Senators Brock and Cranston, and I are today introducing a bill to give the SEC "fail-safe" power over third market trading in very limited circumstances. The Securities Subcommittee has scheduled hearings on this measure for March 27 and 28, 1974.

No issue related to the development of a national market system has evoked more controversy than the proper role of the over-the-counter market for listed securities—the third market—in a national market system. The debate until recently has largely focused on a proposal by the New York Stock Exchange to require all transactions in listed securities to be effected on national securities exchanges. The effect of such a requirement would be to eliminate the third market with no assurance that firms operating in that market would be able to continue to perform their valuable functions on an exchange.

Within the past several months, a number of persons appear to have come to the view that responsible regulation counsels an approach which gives the SEC adequate powers to deal with any crisis that may result from continued trading in the third market after fixed commission rates have been eliminated. This bill is designed to accomplish this objective, while assuring no anticompetitive impact on present third market firms.

Fundamental changes are occurring in the securities markets as a result of altered economic conditions, regulatory and self-regulatory initiatives, and reform legislation such as S. 2519. The changes appear to be in the right direction and, although there may still be some difficult days ahead, the evidence generally points to the emergence of a healthy and more vigorous securities industry. Nevertheless, no one can operate in this area with perfect knowledge. The uncertainties which necessarily accompany the move to competitive rates make a strong case that the Commission should be given clear, but limited, authority to deal with such crises as the NYSE has predicated—just in case they do, in fact, occur.

The bill we are introducing would vest in the SEC the power—as a "fail-safe" device—to confine trading in listed securities to stock exchanges, if and only if the Commission makes specified findings after notice and opportunity for hearing. The findings that must precede any action by the SEC are crucial and, accordingly, they have been drawn so as to insure that first, there is a crisis such as NYSE has predicted, and second, the firms doing business in the third market are able to transfer their operations to an exchange without anticompetitive consequences.

Specifically, before the Commission could promulgate a rule to prohibit brokers and dealers from effecting transactions in listed securities away from an exchange, it would have to find out that first, the fairness and orderliness of the exchange markets in securities or the self-regulatory capability of the exchanges had been or is likely to be affected in a manner inimical to the public interest; and second, no rule of any exchange impaired the ability of any dealer—that is, any third market firm—to conduct his business in customary fashion—other than giving priority to public customers—or otherwise unreasonably restricted competition between him and other persons acting as market makers—that is, any exchange specialist.

Under the provisions of this bill, the Commission could make these findings only after a hearing at which all interested persons had an opportunity to comment. Moreover, any rule promulgated by the Commission on the basis of these findings would be subject to direct review in a court of appeals and could not be affirmed unless the findings were found by the court to be supported by substantial evidence.

The concerns that have been expressed by the NYSE and others relate to injuries to the auction markets which may occur during the period after the elimination of fixed commission rates and before the establishment of a national market system. Accordingly, the bill limits the SEC's powers to this period, unless the SEC finds the extension of any rule it had promulgated to be necessary in the public interest and notified the Congress 90 days before extending it.

In a practical sense the bill accomplishes two objectives: First, it insures that if there are crises in the securities markets as a result of continued trading in the third market, the SEC will be able to deal expeditiously with them. Second, it provides a powerful incentive for the exchanges, and particularly the NYSE, to eliminate anticompetitive rules and unnecessary restrictions on free and open competition among specialists and other market makers.

The securities industry is undergoing fundamental reform. This bill provides a measure of insurance that events do not move so quickly that the strength of our capital markets is impaired.

Mr. President, I now ask unanimous consent that the full text of this legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3126

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 780) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Commission shall by rule prohibit brokers and dealers from effecting transactions in securities registered pursuant to section 12(b) of this title otherwise than on a national securities exchange, if it finds, after notice and opportunity for hearing, that (A) no rule of any national securities exchange unreasonably impairs the ability of any dealer to solicit or effect transactions in such securities for his own account or unreasonably restricts competition among dealers in such securities or between dealers which are specialists in such securities and dealers which are not specialists in such securities and (B) as a result of transactions in such securities otherwise than on a national securities exchange the fairness or orderliness of the markets for such securities on such exchanges or the ability of such exchanges to carry out their responsibilities under this title, has been or is likely to be affected in a manner contrary to the public interest and the protection of investors. The Commission may conditionally or unconditionally exempt any security or transaction or any class of securities or transactions from any such prohibition if the Commission deems such exemption consistent with the public interest and the protection of investors.

"(2) For the purposes of subsection (1) the ability of any dealer to effect transactions in securities for his own account shall not be deemed to be unreasonably impaired by any rule of an exchange fairly and reasonably prescribing the sequence in which orders brought to the exchange must be executed or which has been adopted in accordance with rules promulgated by the Commission under this title.

"(3) Any rule promulgated pursuant to subsection (1) shall not become effective until the rules of national securities exchanges fixing rates of commission have been eliminated and shall not remain in effect after the Commission has determined that a national market system for securities has been established or April 30, 1978, whichever is earlier: *Provided, however*, That the Commission may extend the effectiveness of such a rule if it finds that such extension is necessary or appropriate in the public interest or for the protection of investors and reports its reasons for so finding to the Congress not less than ninety days before any such extension begins."

By Mr. RIBICOFF:

S. 3127. A bill to amend title XVIII of the Social Security Act to provide optometric and medical vision care. Referred to the Committee on Finance.

MEDICARE COVERAGE FOR OPTOMETRIC SERVICES

Mr. RIBICOFF. Mr. President, I am introducing legislation to provide part B medicare payment for basic vision care services which millions of older Americans need but cannot afford.

Problems with vision affect 95 percent of those persons over 65 years of age. And of this group, 75 percent suffer from one to more chronic conditions. In fact, some 42 percent of the group cannot even read newsprint. Studies and surveys have also indicated that 85 percent of all serious injuries to persons 65 years and over are caused by falls—and in over one-quarter of these incidents, uncorrected poor vision has been the direct cause of the fall. By preventing these accidents before they occur we can save money both for the patient and the medicare program.

To those in later stages of life, vision is an essential key. In addition to direct physical problems, uncorrected faulty vision contributes to complications affecting every phase of life for the elderly. These are intangibles, perhaps impossible to measure. Companionship, mental well-being, sense of personal worth, contact with the world—these are all affected by the State of one's vision.

Despite the teeming population in this country and a wealth of technological advantages. Growing old in America may spell isolation, along with injury, illness, and poverty. These factors can especially affect the health of the aging. Health care facilities may become virtually inaccessible to them, based on reduced finances, lack of transportation, and maldistribution of some health care practitioners.

For the older American poor vision can mean not only physical isolation, but psychological loneliness as well. As vision worsens, people become unsure of their own ability to travel even a few blocks or from room to room. The aging woman who can no longer crochet or embroider for her grandchildren begins to lose her sense of self-worth. Letters, magazines, and books become next to impossible to read and even the entertainment once provided by television becomes a pleasure of the past.

Periodic optometric and medical visual examinations would provide the means to combat the erosion of vision for 22 million older Americans, including 300,000 Connecticut senior citizens. These examinations will help to alleviate the problem of falling for the elderly, and thus prevent serious injuries. Corrected vision would contribute to mutual stability by assuring continued contact between older Americans and the rest of the world.

Even more important than these intangible benefits is the fact that periodic optometric and medical examinations will help reveal ocular diseases and severe visual disorders and impairments.

While medicare does provide for payment and coverage to our senior citizens for those conditions of the eye requiring surgical procedures and related treatment, present law specifically excludes other types of optometric and medical vision services relating to the diagnosis and treatment of conditions of the visual system. As in any illness, early diagnosis can mean significant savings in treatment cost and in the prevention of human misery.

The legislation I am introducing would provide for regular optometric and medical vision services for the elderly. Included in the services would be examinations to diagnose and treat conditions of the vision system, as well as early detection of diseases such as glaucoma, hypertensive retinopathy, diabetes, and cataracts which can be medically or surgically treated by trained experts in opthalmology. In many cases, the optometrist is in the first line of defense to spot eye problems. He can diagnose diseases and disorders and make sure that the patient is referred for full opthalmological treatment.

Everything possible must be done to encourage older Americans to have high quality periodic eye examinations. This bill will make that goal financially possible for millions of senior citizens.

By Mr. EAGLETON:

S. 3128. A bill to amend title XIX of the Social Security Act to require that, effective July 1, 1975, payment, under State plans approved under such title, for home health services shall be made on a reasonable cost-related basis. Referred to the Committee on Finance.

Mr. EAGLETON. Mr. President, I am today introducing legislation to require that payment for home health services under State medicaid plans be made on a reasonable cost-related basis.

Under the medicare program, reimbursement for home health services is made on the basis of the lesser of reasonable costs or customary charges.

However, under the various State medicaid programs the States are free to determine the basis for their payments to home health agencies subject only to the condition that those payments not be in excess of reasonable charges.

While some States do make medicaid payments for home health services on the same reasonable cost basis recognized by medicare, other States have reimbursement rates much lower than, and often completely unrelated to, the cost of providing the service.

In testimony last year before the Subcommittee on Health of the Elderly of the Special Committee on Aging, Dr. Charles C. Edwards, Assistant Secretary for Health of the Department of Health, Education, and Welfare, identified inadequate reimbursement as one of the factors that has kept home health care from becoming a viable alternative to institutional care for medicaid recipients:

> Low rates of reimbursement in some States also discourage the wider provision of hom-

health care services. Medicare pays either cost or charges, whichever is less. But under some State Title XIX programs, the negotiated rate with the home health agency may be less than half the actual cost of providing the service.

My own State of Missouri is a case in point.

There are at the present time 30 home health agencies in Missouri certified under the medicare program. A recent survey by the Missouri Association of Home Health Agencies indicates an average "per visit" charge by these agencies of $16.22. Yet Missouri's medicaid program pays only $8 for a visit by a registered nurse or $6 for a visit by a licensed practical nurse—less than half of the average cost of providing those services.

The result is that only 18 home health agencies in Missouri participate in the medicaid program and those that do are forced to limit the number of medicaid patients they can accept.

Mr. President, there is virtually unanimous agreement today that home health services are an essential component of a comprehensive health care system and that the availability of these services is a prerequisite to the appropriate use of other health resources such as hospitals and nursing homes.

If home health agencies, most of which are operated by local government units or nonprofit groups, are to become and remain a viable health resource, it is imperative that they be reimbursed for the cost of the services they provide.

Mr. President, I ask unanimous consent that the text of the bill I am introducing be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1902(a)(13) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (D) thereof,

(2) by inserting "and" after the semicolon at the end of clause (E) thereof, and

(3) by adding after clause (E) thereof the following new clause:

"(F) effective July 1, 1975, for payment of home health services provided under the plan on a reasonable cost related basis, as determined in accordance with methods and standards which shall be developed by the State on the basis of cost-finding methods approved and verified by the Secretary;".

By Mr. SCHWEIKER:

S. 3129. A bill to amend title 37, United States Code, to include a foster child as a dependent of a member of the uniformed services for certain purposes. Referred to the Committee on Armed Services.

Mr. SCHWEIKER. Mr. President, today, I am introducing a bill designed to correct an inequity in the definition of dependent for members of the armed services. As defined in title 37 of the United States Code, a dependent, for the purposes of travel expenses and medical and dental expenses, does not include a foster child or a grandchild legally dependent on the military member for over one-half of his support.

This inequity was originally brought to my attention by a constituent who, as the result of a court order, is the sole support and legal guardian of his grandson. Unfortunately, because of the law's deficiency, his grandson does not have the full privileges accorded other military dependents. As an example, every time this sergeant is transferred, he must, out of his own pocket, pay for the travel and moving expenses of his grandson. This is not an isolated case.

During the 92d Congress, I introduced similar legislation. The bill I introduce today is somewhat different, in that it incorporates recommendations provided me by the Department of Defense. Briefly, my bill would broaden the definition of dependent to include foster children, that is, children who, for all practical purposes, are dependent on the member for food, shelter, and care, but who are not legally constituted dependents under title 37. A foster child would be defined as "one who is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support, and residing in his household in a parent-child relationship, except a child who was placed in his household by a social service agency upon application of the member or former member, but without an agreement to adopt."

I would hope that the Senate will act favorably on this important matter.

Mr. President, I ask unanimous consent that the letter I received from the Department of Defense and my bill be printed at this point in the Record.

There being no objection, the letter and bill were ordered to be printed in the Record, as follows:

Assistant Secretary of Defense,
Washington, D.C., January 23, 1974.

Hon. Richard S. Schweiker,
U.S. Senate,
Washington, D.C.

Dear Senator Schweiker: This is in reply to your letter of January 4, 1974 to Mr. Brehm requesting Department of Defense comments on S. 2906 introduced by you during the 92nd Congress.

It is regretted that a report on S. 2906 was not provided to the Senate Armed Services Committee prior to the adjournment of the 92nd Congress. Investigation of this matter indicates the report was inadvertently overlooked, probably because reports on similar bills were being coordinated at the time a report on S. 2906 was requested. Please accept our apology.

The Department of Defense agrees in principle with S. 2906. It is indeed laudable in recognizing the group of children to which the bill pertains. However, in commenting on similar bills, the Department has recommended that the definition of dependents be broadened to include foster children, that is, those children who, for all practical purposes, are dependent on the member for food, shelter and care, but who are not legally constituted dependents under title 37, United States Code. A foster child would be defined as "one who is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support, and residing in his household in a parent-child relationship, except a child who was placed in his household by a social service agency upon application of the member or former member, but without an agreement to adopt." Obviously, the "unmarried legitimate child (including a stepchild or an adopted child) of his child (including a stepchild or adopted child)" as referred to in S. 2906 could fall within this definition.

I trust the foregoing satisfies the intent of your query. Your interest in the welfare of military personnel and those dependent on them for support is most gratifying.

Sincerely,

Leo E. Benade,
Lieutenant General, U.S. Army, Deputy Assistant Secretary of Defense.

S. 3129

A bill to amend title 37, United States Code, to include a foster child as a dependent of a member of the uniformed services for certain purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 401 of title 37, United States Code, is amended by—

(1) inserting "(a)" immediately before "In" at the beginning of such section;

(2) striking out in clause (2) "or an adopted child" and inserting in lieu thereof "an adopted child, or a foster child"; and

(3) adding a new subsection as follows:

"(b) As used in clause (2) of subsection (a), the term 'foster child' means a child who otherwise meets the definition prescribed in clause (2) and resides in the household of the member in a parent-child relationship, but does not include a child who was placed in the household of the member by a social service agency at the request of the member without an agreement by the member to adopt the child."

Sec. 2. Section 551 of title 37, United States Code, is amended by—

(1) striking out "or adopted child" in paragraph (1)(B) and inserting in lieu thereof a comma and the following: "an adopted child, or a foster child"; and

(2) adding at the end thereof a new paragraph as follows:

"(4) 'foster child' means a child who is dependent on the member for over one-half of his support and resides in the household of the member in a parent-child relationship, but does not include a child who was placed in the household of the member by a social service agency at the request of the member without an agreement by the member to adopt the child."

By Mr. RIBICOFF:

S. 3130. A bill entitled "Shepaug River Act." Referred to the Committee on Interior and Insular Affairs.

PRESERVE THE SHEPAUG RIVER

Mr. RIBICOFF. Mr. President, although Connecticut is in the heart of the populous Northeast it still has many great natural resources. There is, however, a serious possibility that without proper protection these resources will be overrun by rampant development.

Since coming to the Senate I have worked to preserve many of these areas—the lower Connecticut River Valley, the upper Housatonic River Valley, the Long Island Sound shoreline. Today I introduce legislation to save another endangered resource—the Shepaug River.

This small but extremely beautiful river flows south from Cornwall and Goshen through the quiet communities of Warren, Litchfield, Washington, and Roxbury until it merges with the Housatonic River at Bridgewater.

Connecticut and the rest of the Nation will be the poorer if we allow one more priceless natural resource to be squandered.

Much of this river remains close to its original state. There is, however, deep and legitimate concern among residents of the area that the river's days of beauty and tranquility are numbered.

I am therefore, introducing today legislation to add the Shepaug River to the National Wild and Scenic River System.

Under the Wild and Scenic Rivers Act, the river itself is protected by a prohibition against the construction of power dams and other encroachments. The land alongside the river is protected in three possible ways: First, complete public ownership; second, partial public ownership through acquisition of scenic or other easements, or third, local zoning ordinances.

When the legislation was passed in 1968, eight rivers were designated for immediate inclusion in the system and others were chosen for further study for possible future designation. This bill would add the Shepaug River to those now being studied.

If approved by Congress, the Department of the Interior will then make a survey of the river to determine whether it should be designated for permanent inclusion in the wild and scenic rivers system.

Because of the strong citizen support for adding the Shepaug to the wild and scenic river system and the growing threats to the river, I am hopeful that the Congress will act quickly on this important legislation.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Shepaug River Act of 1974.

Section 5(a) of the Wild and Scenic Rivers Act is amended by adding at the end thereof the following:

"(28) Shepaug, Connecticut.—The entire Shepaug River."

By Mr. ROTH:

S. 3131. A bill to increase the maximum tax credit allowable for a contribution to candidates for public office, and to repeal the tax deduction allowable for such contributions. Referred to the Committee on Finance.

Mr. ROTH. Mr. President, nationwide public opinion polls conducted in recent weeks have discovered that less than one-fourth of the American people have confidence in the ability of Congress to deal effectively with national problems. Clearly, much of this lack of confidence can be attributed to the public's concern about the manner in which campaigns for public office in this country are financed and conducted. Without question, Watergate and much of the related problems can be closely associated with the way campaign financing has been handled.

In the past, public concern about possible corruption in the electoral process has led to the enactment of several reform measures including the Pendleton Act in 1883, the Tillman Act in 1907, a disclosure act in 1910, the Federal Corrupt Practices Act in 1925, and the Hatch Act in 1940.

It was not until 1971 that Congress sought to encourage taxpayers to contribute small amounts to the candidate or party of their choice when through the 1971 Revenue Act Congress allowed each taxpayer to designate a portion of his or her tax dollars to be used for campaign financing.

One year later, just prior to the Presidential election, the Federal Election Campaign Act was passed to require disclosure of all contributions in excess of $100 and of expenditures by all candidates or political committees spending more than $1,000.

Last summer the Senate recognized the need for further reform. The Federal Election Campaign Act of 1973, which I supported, was passed by the Senate and is now in the House. This legislation both limits expenditures by candidates and committees as well as contributions. In addition, it establishes the Federal Election Commission to oversee the enforcement of the act's requirements.

Unfortunately, problems associated with unlawful or abusive political campaign conduct are not of recent origin. Over a number of years, during both Republican and Democratic administrations, several Senate committees have attempted to resolve the problems of campaign abuse through legislation.

Despite past legislative efforts, much more must be done in this area before we can completely restore public confidence in our democratic processes. Congress must take the leadership by acting promptly to bring about meaningful and substantive reforms. To do so we must increase the number of small contributions, eliminate excessively large contributions, limit out-of-State contributions, reduce the costs of campaigns, and shorten campaigns.

To accomplish these first two objectives, I am today introducing legislation to allow a tax credit of 50 percent up to $150 for a single return or $300 on a joint return. In other words, if one contributes $100 he will be eligible for a $50 tax credit. My bill will also repeal the tax deduction which is presently available to taxpayers. The present tax deduction is of benefit primarily to wealthy taxpayers who itemize their returns. In effect, it operates on a sliding scale according to a taxpayer's net income bracket. As the income bracket rises, less of a contribution is made by the taxpayer and more is borne by the Government. Thus, the higher a contributor's income, the more a given deduction will save him in taxes.

I believe the tax credit provides a more equitable means for each taxpayer to participate in the financing of election campaigns. Since it is an allowance from a taxpayer's final tax liability, every taxpayer, regardless of income, will derive the same benefit for the same amount of contribution.

The proposal for a tax credit for political contributions is not new and has in fact enjoyed bipartisan support from Senators with such differing philosophies as the late Senator Robert Kennedy and former Senator John Williams. The concept was even endorsed by the President's Commission on Campaign Costs in 1962. Most proponents agree that the tax credit approach would permit candidates and committees at all levels to receive aid, allow each citizen to determine the recipient of his contribution, and encourage citizens to contribute to candidates in primary, as well as general, elections. By this system then, any legally qualified candidate would have access to funds.

This approach is a voluntary one and should result in a marked increase in the number of small contributions. This plus the dollar checkoff should provide adequate funds for congressional and Presidential candidates. Unlike public financing, the tax credit allows the taxpayer to aid the candidate of his choice. One of the potential evils of public financing is that the political party with the most influence over the appropriations process may be able to tilt the allocation of public money in its own favor. Under such a system uncertainty and distrust will again confront many citizens and our political system will become subject to additional criticism.

Mr. President, it has been estimated that public financing would cost $200 million in a Presidential election year, while the Treasury Department says my tax credit approach will cost only $152 million. Through a combination of my proposal and the present dollar checkoff, it is my estimate that over $200 million will be available for the financing of all Federal elections in 1976.

The dollar checkoff is already working well. A combination of these two tax incentives will make public financing, and its attendant appropriations, unnecessary. This year alone, over $2 million has been collected from 14 percent of those filing returns and if this trend continues, nearly $50 million will be available for use in the 1976 campaign from this source alone. It does not take a seer to be able to forecast with some degree of accuracy that this amount plus that resulting from my tax credit approach will provide sufficient financing for future political campaigns.

To bring about the other campaign reform objectives I have mentioned here today I plan to introduce additional bills within a very short time.

I will, for example, offer an amendment to the Communications Act of 1934 to direct the Federal Communications Commission to develop regulations to require television licenses to grant free air time to candidates for public office. This will help equalize campaign resources. A second bill I will offer will authorize the Federal Government to pay the costs associated with three mass mailings for each candidate for either the Senate or the House of Representatives. These mailings will be distributed after Labor Day and an incumbent will be prohibited from distributing "campaign" mail to his constituents after July 1 of a year in which he is a candidate.

A third bill I will offer limits the amount of funds which any congressional candidate could receive from sources outside of his or her State. My bill provides that no more than 25 percent of a candidate's total expenditures may be derived from sources outside of the candidate's home State. This proposal is designed to reduce the influence that large out-of-

State contributions may have on an elected official. It seeks to insure that each official will represent the views of those individuals who are residents of his home State and not remain influenced by large organizations or wealthy individuals seeking to influence the election of candidates throughout the country.

Certainly, no single law will eliminate the possibility that some illegal behavior may occur in the financing and conduct of future political campaigns because, as you all know, you cannot legislate morality. But I am convinced that if Congress approves each of the proposals which I have offered, many of the abuses which have occurred in the past may be prevented from recurring in the future.

By increasing the tax credit to $150 for each taxpayer, an incentive will be provided for millions of taxpayers to contribute, voluntarily, to the candidate of their choice. By providing free television time and free mailing privileges to Congressional candidates, much of the campaign expenses for House and Senate candidates will be eliminated. Finally, by limiting a candidate's nonresident expenditures to 25 percent of the total amount spent on his campaign, the public will be assured that they, and not some foreign source, are providing the financial backing for their representative in Congress.

The Senate has already passed constructive legislation to shorten campaigns for Federal office and to limit campaign expenditures and contributions. By shortening the campaign period, I hope we can reduce campaign costs. Accordingly, I actively supported S. 343, sponsored by Senator BYRD of West Virginia, which limits the campaign to approximately 2 months by requiring national party conventions to be held during the third week of August. Some of my recommendations have been under consideration for several years. The time has come for each of these measures to become law, Only through such complete, comprehensive legislation can genuine political campaign reform be achieved. This is one important way we can begin to restore public confidence in our electoral governmental processes.

By Mr. SPARKMAN (for himself and Mr. TOWER) (by request):

S. 3132. A bill to provide for the chartering of Federal stock savings and loan associations, to regulate unitary saving and loan holding companies, and for other purposes. Referred to the Committee on Banking, Housing, and Urban Affairs.

Mr. SPARKMAN. Mr. President, I introduce, for myself and the senior Senator from Texas (Mr. TOWER) (by request), a bill to provide for the chartering of Federal stock savings and loan associations, to regulate unitary savings and loan holding companies, and for other purposes.

This bill is one that has been recommended to us by the Home Loan Bank Board. It contains proposals that have been the subject of discussion for some time now that would permit Federal chartered mutual savings and loan associations to convert to stock-type associations. These proposals must be given very careful consideration by our committee. Senator TOWER and I are introducing the bill so that it can be given a proper forum before our committee and the Senate.

I ask unanimous consent that an analysis of the bill be printed in the RECORD following my remarks.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ANALYSIS: FEDERAL STOCK SAVINGS AND LOAN ASSOCIATION ACT OF 1974

The purpose of this bill is to authorize the Federal Home Loan Bank Board to charter stock Federal savings and loan associations having the same powers as the mutual Federal savings and loan association which the Board is now authorized to charter and to provide the Board and the Federal Savings and Loan Insurance Corporation with the regulatory authority necessary to assure the safety of insured savings and loan institutions and their accountholders in connection with stock transactions and mergers and holding company acquisitions involving such institutions.

Allowing the creation of stock Federal savings and loan associations will, in appropriate circumstances, further the home financing goals of the Board and the Federal savings and loan system since the infusion of funds from the sale of stock will allow associations to increase their deposit base and attract new funds for home lending. In addition, so long as changes from one form of ownership to another can occur in a proper and safe manner under Board supervision, accountholders and the management of Federal associations should have the freedom to choose under which form they will operate. Further, the more explicit ownership of stock institutions, may serve to improve the accountability of management, and, through stock ownership, managements will have an increased incentive toward efficient operations.

FEDERAL STOCK SAVINGS AND LOAN ASSOCIATION CHARTERS AND CONVERSION

Section 2 of the bill empowers the Federal Home Loan Bank Board to charter Federal stock thrift associations having the same powers as mutual associations chartered by the Board. Institutions of either type may be denominated as "Federal Savings and Loan Associations" or "Federal Savings Associations." The bill also would authorize state chartered mutual institutions and credit unions to convert to a federal thrift association mutual or stock charter. Subsection (a) of section 2 amends the definition of the term "association" as used in the Home Owners' Loan Act of 1933 so that it includes any association chartered by the Federal Home Loan Bank Board under section 5 of the Act regardless of the name given to a particular association. The same amendment also adds a definition of terms such as "institution" or "savings and loan association" organized under state laws which terms are used in various parts of the Act without being defined. Subsection (a) also adds the terms "Federal mutual association," "Federal stock association," "State mutual institution," and "State stock institution" which are used in section 5(i) of the Act as amended by subsection (f) of the bill. Section 5(i) relates to conversions from the mutual to stock form of organization and from federal to state or state to federal charter.

Subsection (b) section 2 amends section 5(a) of the Home Owners' Loan Act which provides the Board's basic authority to charter and regulate federal thrift associations. The term "mutual" thrift institution in the same clause is deleted since the Board is empowered by this bill to charter both stock and mutual institutions.

Subsection (c) amends section 402 of the National Housing Act to redesignate the Federal Savings and Loan Insurance Corporation as the Federal Savings Insurance Corporation. In addition the amendment authorizes the Corporation to issue rules and regulations necessary to the task of insuring accounts in accordance with the Act.

Subsection (d) amends section 403(e) of the National Housing Act by adding Federal Savings Association accounts to the accounts which are eligible for insurance under the title.

Section 5(b) (2) of the Home Owners' Loan Act authorizes federal thrift associations to issue securities "except capital stock". Subsection (e) changes this provision to authorize federal thrift associations to issue capital stock.

Subsection (f) amends section 5(i) of the Home Owners' Loan Act. The first paragraph of section 5(i) as it now reads governs the conversion of state chartered mutual or stock savings and loan associations to federal mutual associations. The second paragraph of the existing subsection governs conversions of federal mutual associations to state mutual savings and loan associations. The third paragraph authorizes federal mutual associations to convert to state mutual or stock savings and loans or to other types of state institutions. The authorization of federal stock charters requires a complete revision of section 5(i). Subsection (f) would replace its present three paragraphs with seven, the longest of which deals with conversions of existing mutual institutions to the stock form. Paragraph (1) of the revised subsection is essentially the same as the existing first paragraph and would authorize state mutual to federal mutual and state stock to federal stock conversions. It would also authorize a mutual credit union desiring to expand its powers to convert to a federal mutual association.

Paragraph (2) similarly would govern conversions involving no change in capital structure, that is, federal mutual to state mutual and federal stock to state stock conversions. Paragraph (2) sets forth specific requirements to be met for such a conversion to take place with minimum Board supervision. A proviso relating to the FSLIC appearing in the existing second paragraph is made unnecessary by the amendments to the National Housing Act made in the bill. Obsolete provisions in the existing second paragraph are also deleted. The reference in subparagraph (C) of the new paragraph (2) to "full and accurate description of the plan of conversion" is intended to indicate that the disclosure standards of the federal securities law must be followed when giving information to association members. Paragraph (3) makes clear that an association may also convert upon an equitable basis and subject to the approval of the Board. The account holders of a federal association might wish to vote to convert on this basis in order to avail themselves of the protection which Board review entails.

Paragraph (4) governs conversions involving a federal association and a change in capital structure. That is, it governs federal mutual to federal stock, federal mutual to state stock, and state mutual to federal stock conversions. A conversion plan under this paragraph must be approved by the Board and comply with applicable state law. Subsection B of paragraph 5(i) (4) authorizes the Board to issue rules and regulations concerning generally all the areas which are more fully specified in the rest of 5(i) (4). The conversion plan must provide for an offering of capital stock of the converting association to each account holder member on the basis of the proportion of his account to all accounts in the converting association before any public offering of stock is made except that in the case of a merger or holding company acquisition, an equivalent amount of securities of the surviving institution or of the holding company may be distributed. The price of the stock offered to such account holders must be related to the value of the association taking into consideration the increase in capital that will result from the conversion. After this initial offering, the public and others may be allowed to purchase additional shares. After the conversion, shareholders and account holders if required by state law, will have voting rights but account holder members, whether or not they purchased stock, will continue to have a right to a portion of the net worth of the converted association upon liquidation. This added protection will be provided by reserving a depositors' liquidation account which will be gradually phased out. The Board may provide for the reduction of such liquidation account in accordance with changes in the type, capacity and amount of the accounts of accountholders. The plan may involve provisions for management contracts, stock options and other methods of ensuring stability and continuity of management.

Paragraph (5) of the new section 5(i) governs all other conversions involving federal associations, namely federal stock to state or federal mutual and state stock to state or federal mutual. Each of these involves the possible, but unlikely, conversion from stock to mutual form of organization.

Paragraph (6) is included to make absolutely clear the Board's regulatory authority in connection with the paragraph and to restrict for at least three years the Board's authority to charter federal stock associations to states in which state stock associations exist.

Paragraph (7) relates to judicial review of final Board action on a conversion and provides that prior to final Board action no legal action of any nature respecting the plan of conversion may be brought against the Board or any Federal Home Loan Bank. This bar applies to state as well as federal law and, in effect, gives the Board temporary exclusive jurisdiction over any and all problems relating to a conversion in a manner analogous to the jurisdiction of the National Labor Relations Board. (See 29 U.S.C. § 160(a).) The subparagraph also provides a consent to sue the Board on matters relating to conversion for state chartered associations to the same extent as for federal associations. Within thirty days after notice of final Board action, an aggrieved party may seek review in the appropriate United States Court of Appeals.

The first paragraph of subsection (g) section 2 amends section 403(b) of the National Housing Act to provide that FSLIC may count capital stock as reserves. The second paragraph of subsection (g) adds a new subsection (e) to section 403 of the National Housing Act. The new subsection governs state mutual to state stock conversions. Provisions is made for these conversions basically by incorporating by reference to the relevant provisions of new section 5(i) of the Home Owners' Loan Act of 1933 which would be added by subsection (f) of this bill. The provisions for judicial review of the final action of the Corporation on these conversions are the same as those provided in new section 5(i) of the Home Owners' Loan Act.

Subsection (h) of this section amends section 12 of the Securities Exchange Act of 1934 to vest in the Federal Home Loan Bank Board the authority over thrift institution securities that the Federal Reserve Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation have over bank securities under that subsection. At the time this authority was placed in the federal bank regulatory agencies, very few savings and loan associations were covered by the Securities Exchange Act. However, there have been an increasing number of such institutions in recent years and the number will increase as a result of this bill authorizing the Federal Home Loan Bank Board to issue stock federal charters to thrift institutions. This amendment to the securities law is necessary to assure that the Board has adequate authority to regulate proxies and insider trading of stock of thrift institutions and will be especially useful in the Board's regulation of conversions of existing institutions. Subsection (i) makes a related amendment to clarify the authority of the Board (through the FSLIC) to regulate the solicitation of proxies in mutual institutions.

Subsection (j) of section (2) would authorize the Corporation to withhold its approval of an application for conversion if the total number of approvals nationally or in a particular region would then exceed a reasonably marketable number of stock issues in that time frame. Also the Corporation could refrain from exercising any of its responsibilities under the conversion provisions if it found that the type or extent of conversions were not in the public interest.

REGULATION OF UNITARY SAVINGS AND LOAN HOLDING COMPANIES

Section 3 of the bill would amend section 408 of the National Housing Act. Section 408 of the National Housing Act contains the restrictions applicable to companies which are or become savings and loan holding companies. The section differentiates between companies controlling only one savings and loan institution (unitary holding companies) and companies controlling more than one institution (multiple holding companies). Restrictions on permissible activities apply only to multiple savings and loan holding companies.

Section 3 would amend section 408 by eliminating the difference between a multiple and unitary savings and loan holding company by deleting the definition of a multiple savings and loan holding company and all references to a multiple savings and loan holding company. The restrictions of section 408 would thereby apply to all savings and loan holding companies, whether multiple or unitary.

Section 408(c) presently provides that no savings and loan holding company or subsidiary thereof which is not an insured institution shall commence or continue for more than six months (or for more than five years after the enactment of the amendment which enacted section 408(c)(2) after becoming a savings and loan holding company, any activity except those specifically allowed under paragraph (c)(2). Paragraph (c)(2) limits the activities which a savings and loan holding company may perform to management services for an insured institution, operation of an insurance or escrow business, liquidating assets, managing property of an insured institution, acting as a trustee, or an activity which is a proper incident to the operation of a savings and loan business. The reference to "five years after the enactment of the amendment" has been deleted because it is now obsolete. In the future, every company which becomes a savings and loan holding company must divest itself of all activities except those specifically allowed in the statute within six months unless the corporation, upon a showing of good cause, grants an extension of time which in no case may exceed three years.

A new paragraph (3), similar to the grandfather clause added to the Bank Holding Company Act (12 U.S.C. §1841 et. seq.) by the Bank Holding Company Act Amendments of 1970 (P.L. 91–607; December 31, 1970), would be added to section 408(c). The provisions of this new section 408(c)(3) would apply in two situations: 1) to companies which were unitary holding companies on January 31, 1974 and 2) to companies which become unitary holding companies between January 31, 1974 and the date of enactment of the amendment. Under the existing statute companies which become unitary holding companies after January 31, 1974 may commence or continue any activity, without the approval of the Federal Savings and Loan Insurance Corporation (Corporation) as they are not subject to the paragraph (c)(2) limitations. However, when the amendment is enacted those holding companies would automatically become subject to the paragraph (c)(2) limitations and have, under paragraph (c)(3), ten years from the date of enactment to divest all unapproved activities.

For the companies which were already unitary holding companies on January 31, 1974, the grandfather provisions of paragraph (c)(3) would allow the continuation of their nonconforming activities indefinitely unless the Corporation, after opportunity for a hearing, terminates the authority to engage in such activities, having determined that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsafe or unsound practices.

Section 408(c) presently authorizes the Corporation to approve and prescribe regulations on activities which are a "proper incident" to the operations of insured institutions. The amendment would add some statutory guidelines for the Corporation's determination of what constitutes a "proper incident." The guidelines, substantially identical to those in the Bank Holding Company Act, include consideration of whether there will be benefits to the public such as greater convenience, increased competition or gains in efficiency which will outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsafe or unsound practices.

Under existing subparagraph (B) of section 408(e)(1), no company, not a savings and loan holding company, may acquire control of one or more insured institutions without the approval of the Corporation, except in two minor instances not here relevant. Subparagraph (B) requires the Corporation to approve an acquisition under that subparagraph unless it finds the financial and managerial resources and future prospects of the company and the institution involved to be such that the acquisition would be detrimental to the institution or create an insurance risk to the Corporation. The proposed amendment would delete this requirement.

Instead all acquisitions requiring approval by the Corporation under section 408(e) would be processed in accordance with section 408(e)(2) as amended. The acquisitions requiring approval under 408(e) are the acquisition by a savings and loan holding company 1) of control of an insured institution or a savings and loan holding company, or 2) the acquisition through the process of merger, consolidation, or purchase of assets of another insured or uninsured institution or holding company or 3) the acquisition by any company, not a savings and loan holding company, of one or more insured institutions, as described above. Section 408(e)(2), presently and as amended, would require the Corporation in every case to take into consideration the financial and managerial resources and future prospects of the company and institution involved, and the convenience and needs of the community to be served.

The final change made by section 3 would conform the last sentence of section 408(e)(2) as amended, to preserve its meaning in the present section 408(e)(2). Thus, the sentence would continue to require that the Corporation request from the Attorney General a report on the anti-competitive effects in cases of acquisition of a second or third insured institution or of more than one insured institution. As at present, in any circumstance where the Corporation deemed it appropriate, it could request a report from the Attorney General of the anti-competitive effects of an acquisition of a single institution.

The other amendment to section 403(e)(1)(A)(iii) would authorize savings and loan holding companies to deposit funds in savings accounts havings voting rights in savings and loan associations. The statute presently prohibits a savings and loan holding company from acquiring any voting shares in an insured institution. Thus, it is not clear that depositing funds in such savings accounts would not violate the provision. The section was intended to prevent a stock investment which could lead to control of an insured institution, and not to prevent savings and loan holding companies from having savings accounts in savings and loan associations. The amendment to the section would allow savings and loan holding companies to deposit funds in savings accounts in savings and loan associations without regard to whether the savings accounts have voting rights. In view of the substantial limitations on voting rights of savings account holders (50 maximum per account holder in a Federal association), and, the large amounts which would have to be deposited in order to gain control of those state chartered associations not having similar voting limitations, this provision is not necessary to accomplish the statutory purpose.

MERGER AND ANTITRUST PROVISIONS

Section 4 of the proposed bill would add a new section 412 to Title IV of the National Housing Act. New section 412 would clarify the authority of the Board regarding mergers, consolidations, and similar transactions involving insured institutions and would provide procedures for the exercise of that authority which would be comparable to those applicable in the field of commercial banks.

The proposed section 412 is modeled very closely upon the Bank Merger Act, as amended (12 U.S.C. § 1828(c)(1)). Under the section, insured savings and loan associations would have available to them all the protections available to banking institutions under the Bank Merger Act, and at the same time, comparable standards and procedures, particularly in the antitrust area, would be established for all financial institutions.

It will be noted that new section 412 does not contain provisions comparable to 12 U.S.C. § 1828(c)(9) relating to inclusion of a description of each merger transaction in the responsible agency's annual report. Comparable provisions would duplicate in large measure the existing annual report requirement specified in the second to last sentence of section 17(b) of the Federal Home Loan Bank Act under which the Board now describes merger transactions in its annual report to the Congress.

HOLDING COMPANY ACQUISITIONS

Section 5 would amend section 408 of the National Housing Act to conform the antitrust provisions relating to holding company acquisitions to the provisions that would apply to mergers under section 412 (which would be added by section 4 of this Act). Analagous provisions were added in 1966 to the Bank Holding Company Act of 1956 (12 U.S.C. § 1849(b)(f)). This section provides for the same delay and opportunity to bring an antitrust action before consummation of an approved acquisition as section 412 provides before consummation of a merger transaction. Subparagraph (A) of paragraph (5) (like paragraph (1) of subsection (f) of section 412) would provide for a stay of effectiveness and de novo review in antitrust actions brought in United States District Courts. The stay and scope of review provisions would not apply to petitions of review filed under subsection (k) of section 408.

ADDITIONAL COSPONSORS OF BILLS

S. 2710

At the request of Mr. Hartke, the Senator from Iowa (Mr. Clark), was added as a cosponsor of S. 2710, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, and for other purposes.

S. 2784

At the request of Mr. Hartke, the Senator from New Hampshire, (Mr. McIntyre), was added as a cosponsor of S. 2784, a bill to amend title 38, United States Code, to increase the vocational rehabilitation subsistence allowance, education assistance allowances, and the special training allowances paid to eligible veterans and persons under chapters 31, 34, and 35 of such title; to improve and expand the veteran-student services program; to establish a veterans education loan program for veterans eligible for benefits under chapter 34 of such title; to promote the employment of veterans and the wives and widows of certain veterans by improving and expanding the provisions governing the operation of the Veterans' Employment Service and by providing for an action plan for the employment of disabled and Vietnam era veterans; to make improvements in the educational assistance program; to recodify and expand veterans' reemployment rights; to make improvements in the administration of educational benefits; and for other purposes.

S. 2854

At the request of Mr. Cranston, the Senator from New Mexico (Mr. Domenici) and the Senator from New Hampshire (Mr. McIntyre) were added as cosponsors of S. 2854, a bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance a national attack on arthritis.

S. 2871

At the request of Mr. McGovern, the Senator from Rhode Island (Mr. Pastore) was added as a cosponsor of S. 2871, to amend the Food Stamp Act of 1964, as amended, and for other purposes.

S. 2877

At the request of Mr. Tower, the Senator from North Dakota (Mr. Burdick), the Senator from Maryland (Mr. Mathias), and the Senator from South Dakota (Mr. McGovern) were added as cosponsors of S. 2877, the Meeting House Preservation Act.

S. 3024

At the request of Mr. Ribicoff, the Senator from California (Mr. Tunney) was added as a cosponsor of S. 3024, the Energy Crisis Unemployment Benefits Act of 1974.

S. 3072

At the request of Mr. Hartke, the Senator from New Hampshire (Mr. McIntyre) was added as a cosponsor of S. 3072, a bill to amend title 38, United States Code, to liberalize the provisions relating to payment of dependency and indemnity compensation, and for other purposes.

S. 3077

Mr. GURNEY. Mr. President, I ask unanimous consent to add my very distinguished colleague and good friend, the senior Senator from South Carolina (Mr. Thurmond) as cosponsor to S. 3077, a bill to increase the maximum amount of the grant payable for specially adapted housing for disabled veterans and to S. 3078, a bill to increase the maximum limitations on loans made or guaranteed under title 38, United States Code, for the purchase of homes and for other purposes.

The PRESIDING OFFICER. Without objection, it is to ordered.

SENATE RESOLUTION 296—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF THE COMMITTEE PRINT ENTITLED "THE FEDERAL MINE SAFETY AND HEALTH AMENDMENTS OF 1973 (S. 2117)"

(Referred to the Committee on Rules and Administration.)

Mr. WILLIAMS submitted the following resolution:

SENATE RESOLUTION 296

Resolved, That there be printed for the use of the Committee on Labor and Public Welfare three thousand additional copies of its committee print of the current Congress entitled "The Federal Mine Safety and Health Amendments of 1973 (S. 2117)."

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 66

At the request of Mr. Percy, the Senator from North Carolina (Mr. Helms) and the Senator from Wisconsin (Mr. Nelson) were added as cosponsors of Senate Concurrent Resolution 66, to urge the release from prison of Simas Kudirka, the Lithuanian seaman.

SOCIAL SECURITY DISABILITY BENEFITS—AMENDMENT

AMENDMENT NO. 1004

(Ordered to be printed and to lie on the table.)

STIMULATE THE ECONOMY AND LESSEN THE IMPACT OF A RECESSION

Mr. KENNEDY. Mr. President, I submit an amendment to increase the personal tax exemption in the Federal income tax from its present level of $750 to a new level of $850. The amendment is essentially identical to the proposal I offered last January on the Senate floor, which was accepted by a strong 53–27 majority of the Senate, before it was recommitted as part of the overall bill to the Finance Committee.

I plan to offer the amendment to H.R. 13025, the social security disability benefits bill which passed the House of Representatives last Tuesday and which has today been ordered reported to the full Senate by the Senate Finance Committee. As passed by the House, the bill consists of a noncontroversial provision requested by HEW to enable the agency to continue to make so-called presumptive social security disability payments, pending further clarification of the eligibility of certain beneficiaries.

According to HEW, it is necessary for the bill to be enacted by March 31, in order to avoid disruption of current disability payments. Now that the bill has been ordered reported to the full Senate, I hope that it will be called up soon for debate, so that, well before the March 31 deadline for the bill, Congress will have the opportunity to consider the need for a tax cut, when it can do the most good for the economy.

The purpose of this amendment is to give the national economy the immediate tax stimulus that is needed to keep the currently worsening economic downturn from materializing into the recession that economists have almost unanimously predicted for 1974. Indeed, in the view of many experts, we are already in a recession—the second Nixon recession and America's sixth recession since the end of World War II.

The need for a tax cut stimulus is especially urgent now, in the wake of yesterday's veto by the President of the Energy Bill. The soaring cost of fuel is now taking money out of the economy and out of the pockets of consumers at the astonishing rate of $20 billion additional dollars a year.

These increased prices are equivalent in economic terms to a $20 billion Federal tax increase, because they are draining money from the pockets of consumers that would otherwise be spent on other products. In fact, in many respects, the increased prices are worse than a Federal tax increase, because a large part of the funds are being siphoned out of American pockets and into the treasuries of foreign governments. If this new and alarming "oil tax" is not offset by prompt measures to redress the balance in consumer purchasing power, the current recession situation will inevitably grow worse.

President Nixon's adamant opposition to the fuel price rollback in the energy bill may mean shorter lines at the gasoline station, but it almost certainly means longer lines at the unemployment office for millions of working men and women, whose jobs are now in danger unless Congress acts to bolster our sagging economy.

Even if the Arab oil embargo ends tomorrow, the problem is no better, since the astronomic cost of fuel will still be taking its $20 billion toll on the consumer budget. Even if the toll is cut in half by some unforseeable price reduction, the consequences will still be onerous. It may be weeks or months before consumers begin to tighten their belts in earnest, but when they do, it will be too late for any preventive economic medicine of the sort we can take today by a modest tax cut.

A prompt tax cut is the most effective way to give the economy the immediate stimulus that is needed. In principle, the President agrees that a stimulus may be necessary, because he has pledged to "bust the budget" to prevent a recession in 1974.

But the only step he contemplates is increased Government spending. To be sure, we need increased spending for programs like public service employment and extended unemployment compensation benefits, but these are steps to deal with the consequences of a recession, not to prevent it from taking place. In virtually every case, the leadtime required for increased spending is too long. Only a tax cut can do the job at once.

It is rare that tax relief is also sound fiscal policy for the economy. And it is also rare that Congress itself can take the sort of positive action capable of keeping the economy on an even keel, without the need for elaborate bureaucratic machinery or implementation by the executive branch. But we have such an opportunity today, and we cannot afford to miss it.

By raising the personal exemption from $750 to $850, Congress can provide a $3.5 billion shot in the arm to the economy. By making it effective through the withholding tables, we can make the stimulus felt immediately in the regular weekly payroll checks.

Once before, in the early 1960's, Congress used a tax cut to pull the economy out of an economic tailspin, by stimulating growth and eliminating the effects of a recession and a long period of stagnation. Thanks to that wise action, we got the country moving again, and the Nation enjoyed the longest sustained period of real economic growth and prosperity without inflation in our history.

That is the sort of foresight and economic leadership we need today. Instead, the administration is ignoring the early warning signals of recession, to the serious detriment of every aspect of the economy and every citizen.

No one can miss those signals. Annual real growth in GNP dropped precipitously from well over 3 percent in the third quarter of 1973 to barely 1 percent in the fourth quarter, an indication that recession may already be upon us, and that growth will be zero or negative in the early quarters of 1974. And 2 days ago, we learned that the widely respected Wharton Econometric Model of the Economy, prepared at the University of Pennsylvania, is predicting negative growth of 3 percent for the first half of 1974, a clear and ominous sign that America is now in a real recession.

And to the extent there was any growth at all in the final quarter of 1973, it was caused largely by businesses still producing goods, even though sales were dropping sharply. Does anyone seriously believe that business will go on producing goods while sales keep falling? Even this relatively minor aspect of growth will vanish if things go on as they are today.

The figures on unemployment tell the same story. The increase from 4.6 percent in October to 5.2 percent in January is already an increase of 13 percent and experts are predicting 6 percent or higher unemployment by June, to last through the remainder of the year. How can we stand by, when hundreds of thousands of workers are being laid off and when millions more are newly worried about their jobs and about their families' future?

Why does the administration have to wait until the economy starts to bleed to death before it is willing to give the transfusion that is needed? Why do we have to wait until a recession is hard upon us, before we respond to a situation that is clearly out of hand?

In the past the administration has argued that such a proposal is too inflationary, that it will upset the budget plans. But have they not learned anything from the recession in 1970? That recession also upset their budget plans, producing a drastic budget deficit, with drastic implications for the economy and for every citizen.

Think of the consequences if we fail to act in time. We have a trillion dollar economy today, capable of reasonable growth at an annual rate of about 4 percent. That's $40 billion a year in increased output for the economy, just from normal growth. But a recession means zero growth, the loss of the vast potential of which the economy is capable if we keep it running smoothly. By failing to take a $3 billion stitch in time today, we risk the very real prospect of losses of tens of billions of dollars to the economy in the current year alone. And those losses will be felt across the board—by business as well as labor, by housewives and consumers. All will suffer, if we fail to do our job today.

Contrary to some assertions, a tax stimulus will not impede the fight against inflation. Apart from food and fuel, where inflation is serious and where a pinpointed attack is clearly needed, the central economic problem of the Nation is slack capacity for production. This is the major factor causing the current drift into recession, and it is likely to grow worse as the recession deepens.

Fiscal policy is not an effective tool against today's inflation, but at least it can be used to soften the burden of recession. Granted, we have to fight inflation, but we don't have to compound the problem by putting the economy through the wringer.

In addition, the tax cut amendment will help offset the impact of today's continuing inflation for millions of American families hard hit by rising prices. The cost of living has risen by 13 percent since the personal exemption was increased to $750 in 1971. By raising the exemption to $850, an increase of 13 percent. Congress can set the exemption precisely at the level it should now have, if the inflation of the past 2 years had been taken into account.

I recognize that questions will arise as to the best approach to provide the tax stimulus that is needed. Perhaps the relief can be keyed to provide more assistance to the lowest income groups and those on fixed income, who are hardest hit by rising prices and rising unemployment. Perhaps the relief can be "finely tuned" to provide tax incentives for the particular domestic industries where the impact of the energy crisis and the recession will be greatest. Perhaps we should give priority to easing the bite of social security taxes. Perhaps we should try to devise a formula to decrease the amount of overwithholding under the income tax, which has risen to immense levels in recent years.

But these alternatives are likely to be controversial, because, apart from their fiscal impact, each involves a measure of tax reform. The virtue of using the personal exemption is that it is widely accepted today and widely understood in our tax laws. I believe it offers us the best available avenue for giving urgently needed across-the-board relief to taxpayers in all income classes.

Congress will have ample opportunity later in the sessions to deal with tax reform, and to consider the proper balance between tax credits and tax deductions and other measures as they relate to the overall tax equity of the revenue laws.

Indeed, the prospect is good that the pending energy tax measure now nearing final action in the House Ways and Means Committee can become the framework for a debate on comprehensive tax reform in the Senate. But that prospect should not divert us from taking the emergency action needed now to stimulate the economy.

Moreover, as the accompanying table indicates, the personal tax exemption is not in fact a seriously regressive feature of the tax code. The vast majority of the relief from the proposed amendment will go to low- and middle-income groups, with fully 80 percent of the tax relief concentrated among persons with incomes of $20,000 a year or less. In effect, the revenue distribution of increasing the exemption is not very different from the effect of a tax credit—a consequence of the fact that because of the large loopholes in the law, few taxpayers today pay taxes at a rate much over 30 percent, even though the statutory rate goes as high as 70 percent.

The theory of the present personal tax exemption is that no person and no family should feel the bite of Federal income tax until their income is high enough to meet the basic cost of living. In the early years of the income tax, the level of the exemption was set high enough to meet this goal, but in the aftermath of World War II, the level fell far behind, remaining constant at $600 from 1948 until 1969. Certainly, no one can raise a child or feed a family today out of the exemption's current level of $750.

As a practical matter, the revenue loss would be too large for Congress to try to bring the exemption into line with the cost of living today. So long as the exemption remains in the tax code, however, Congress should at least endeavor to provide annual cost of living increases to keep the exemption from falling still farther behind. The proposed increase to $850 now would at least close the gap that has opened since Congress acted in 1971.

I do not believe that the addition of this amendment will substantially interfere with the final consideration of the social security disability bill. Certainly, that bill, which I strongly support, is an important measure that Congress must pass quickly to clarify the status of thousands of disabled citizens who are potential beneficiaries of social security payments.

But we also have an obligation to act responsibly to bring our disabled national economy back to health, and the pending bill offers us the chance we need.

The time for action is now. If we fail to meet our obligation, then the blame for the consequences of a severe recession will fall squarely on Congress, as well as on the administration that failed to act.

Finally, there is an important additional anti-inflation factor that justifies an increase in the personal exemption at this time. It is well known that 1974 will be a crucial year in the fight against inflation, because of the major collective-bargaining negotiations scheduled for this year. To millions of working men and women in every section of the country, these negotiations offer an opportunity—in fact a necessity, for substantial wage increases, to offset the soaring cost of living since their wage contracts were last negotiated.

As a result, however, the Nation faces a real dilemma. If workers get the increased wages they deserve, then the increased costs for business will be passed along in the form of higher prices. In that event, the Nation will be in for a new round of serious inflation, and the upward spiral of prices will gain ominous new momentum.

By granting a tax reduction now, however, we can provide relief against the rising cost of living for working men and women, and ease the pressure for inflationary age increases in the round of collective-bargaining negotiations taking place this year.

By developing this sort of imaginative "social contract"—suggested by George Perry and favored by many other economists—we can accomplish a double goal relief against inflation in the past for those who need it most, and a brake against the pressure of excessive inflation in the future.

We cannot just sit idly by and rely on the administration's polyanna predictions of prosperity around the corner in the second half of 1974. For that to happen, things must break right for the administration in at least three major areas:

Housing starts must make a drastic comeback.

Spending on plant and equipment must continue at its present substantial level.

Detroit must be able to recover in time for the 1975 model year, with enough capacity to produce enough small cars and with customers who still want them.

Perhaps these events will happen, but wishing will not make it so. The administration admits that the economy is going through a difficult period now, but they are desperately trying to entice us into "looking across the valley" to their conjectured promised land, without any real knowledge or confidence as to how wide or deep the valley is.

If we do nothing now, if we allow ourselves to be lured yet again into following the administration's Pied Pipers of Prosperity—George Shultz, Herbert Stein, and Earl Butz—then we have only ourselves to blame. Five years of mismanaged economic policy and shattered administration credibility on the economy are enough. It is time for Congress to assert its power and to exercise its own independent judgment on economic policy.

At best, a tax cut will spare the Nation the unwanted suffering of a serious recession. At worst, it will be a useful insurance policy to guarantee that, this time, the administration's rosy predictions actually come true.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the revenue effect of increasing the personal income tax exemption from $750 to $850.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

REVENUE EFFECT OF INCREASING THE PERSONAL INCOME TAX EXEMPTION FROM $750 TO $850

Adjusted gross income	Number of returns with tax decrease (thousands)	Number of returns made nontaxable (thousands)	Decrease in tax liability (millions)	Distribution of tax decrease	
				Percent	Percent (cumulative)
$0 to $3,000	3,221	533	45	1.3	1.3
$3,000 to $5,000	7,746	557	184	5.2	6.5
$5,000 to $7,000	8,737	353	310	8.8	15.3
$7,000 to $10,000	12,229	130	616	17.4	32.7
$10,000 to $15,000	15,595	14	1,059	30.0	62.7
$15,000 to $20,000	7,557	4	624	17.7	80.4
$20,000 to $50,000	5,305	(1)	582	16.5	96.9
$50,000 to $100,000	449	(1)	88	2.5	99.4
$100,000 and over	102	(1)	22	.1	99.5
Total	60,940	1,592	3,531	99.5	99.5

[1] Less than 500.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the text of the amendment may be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1004

At the end of the Act, add the following new section:

SEC. 2. (a) Effective with respect to taxable years beginning after December 31, 1973—

(1) section 151 of the Internal Revenue Code of 1954 (relating to allowance of personal exemptions) is amended by striking out "$750" wherever it appears, and inserting in lieu thereof "$850";

(2) section 6012(a)(1) of such Code (relating to persons required to make returns of income) is amended by striking out "$750" wherever it appears and inserting in lieu thereof "$850", by striking out "$2,050" wherever it appears and inserting in lieu thereof "$2,150", and by striking out "$2,800" wherever it appears and inserting in lieu thereof "$3,000"; and

(3) section 6013(b)(3)(A) of such Code (relating to assessment and collection in the case of certain returns of husband and wife) is amended by striking out "$750" wherever it appears and inserting in lieu thereof "$850" and by striking out "$1,500" wherever it appears and inserting in lieu thereof "$1,700".

(b) Effective with respect to wages paid on or after the 30th day after the date of enactment of this Act, the table contained in section 3402(b) of such Code (relating to percentage method of withholding) is amended to read as follows:

"Percentage Method Withholding Table

"Amount of One Withholding Exemption

"Payroll period	
Weekly	$16.35
Biweekly	32.69
Semimonthly	35.41
Monthly	70.83
Quarterly	212.50
Semiannual	425.00
Annual	850.00
Daily or miscellaneous (per day of such period	2.25."

AMENDMENT OF NATURAL GAS ACT—AMENDMENT

AMENDMENT NO. 1005

(Ordered to be printed, and referred to the Committee on Commerce.)

STANDARDS FOR RATES AND METHODS OF RECOVERY FOR OIL AND GAS RESERVES

Mr. McGOVERN. Mr. President, I send to the desk an amendment to S. 2506, a bill to amend the Natural Gas Act.

Under the proposed bill, the Federal Power Commission's present jurisdiction would be expanded to include oil as well as natural gas and the Commission's regulatory powers would be considerably strengthened.

However, the bill in its present form would not give the Commission the authority to regulate the methods of developing or extracting oil and gas nor the rate at which they can be recovered.

Such authority is necessary in order to guard against the use of recovery techniques or rates of recovery which might increase the supply of oil over the short run but lead to a smaller percentage of reserves being extracted in the long run.

The risk is that the present high price of oil may lead some producers to damage fields by extracting as much oil as they can now on the assumption that oil prices will ultimately fall. An example of this is the recent dispute between the independents and the majors before the Texas Railroad Commission. The large oil companies argued for an increase in the legal rate of extraction; the small producers warned that such an increase would permanently damage the fields and result in less oil ultimately being recovered.

My amendment authorizes the Commission to establish standards for methods of developing and extracting onshore, offshore and Continental Shelf oil and gas reserves so that the maximum amount of reserves will be recovered at the lowest reasonable cost to the consumer. These standards would take into account historical rates and methods of recovery, geological conditions, and technological advancements. Included would be such items as maximum efficiency rate of recovery, primary, secondary, and tertiary recovery, and deep wells.

We must increase the domestic production of oil and gas as rapidly as possible. But in doing so we must not permit the greed of a few today to result in lower domestic fuel supplies tomorrow.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974—AMENDMENT

Mr. MONTOYA. Mr. President, yesterday, March 6, I submitted amendment No. 1003 to S. 3066, the Housing and Community Development Act of 1974. I notice in the Record, however, that the name of my friend and colleague from New Mexico, Mr. Domenici, was omitted from the list of the amendment's sponsors in my explanatory remarks. The bill clerk, however, advises me that Senator Domenici's name is on the amendment as it came back from the printer, and that is as it should be. Senator Domenici is an original sponsor, and I am distressed that his name was not included in the Record. Senators Abourezk, Metcalf, and I certainly value his participation and support.

The PRESIDING OFFICER. Without objection, the name will be added.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 963

At the request of Mr. Humphrey, the Senator from Maine (Mr. Hathaway) and the Senator from Wisconsin (Mr. Nelson) were added as cosponsors of amendment No. 963 to S. 2005, a bill to provide for adequate reserves of certain agricultural commodities, and for other purposes.

AMENDMENT NO. 986

At the request of Mr. Taft, the Senator from West Virginia (Mr. Robert C. Byrd), the Senator from Kansas (Mr. Dole), and the Senator from Montana (Mr. Mansfield) were added as cosponsors to amendment No. 986, intended to be proposed by him to S. 2747, to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under the act, to expand the coverage of the act, and for other purposes.

NOTICE OF HEARINGS ON S. 2986 AND THE INTERNATIONAL ECONOMIC REPORT OF THE PRESIDENT

Mr. STEVENSON. Mr. President, on Monday, March 11, at 10 a.m. in room 5302 of the Dirksen Senate Office Building, the International Finance Subcommittee of the Banking, Housing and Urban Affairs Committee will hold hearings on S. 2986, a bill to authorize appropriations for carrying out the provisions of the International Economic Policy Act of 1972, as amended. All interested persons should contact Stanley J. Marcuss, counsel to the subcommittee at 225-8813.

HEARINGS ANNOUNCED ON MILITARY SURVEILLANCE BILL

Mr. ERVIN. Mr. President, I wish to announce that the Judiciary Subcommittee on Constitutional Rights will begin hearings Tuesday, April 9th on S. 2318, a bill to enforce the first amendment and the fourth amendment to the Constitution, and the constitutional rights of privacy, by prohibiting any civil or military officer of the United States or the militia of any State from using the Armed Forces of the United States or the militia of any State to exercise surveillance of civilians or to execute the civil laws, and for other purposes.

This bill, which represents the legislative culmination of the subcommittee's 1971 investigation of Army surveillance, is yet another bill to protect the privacy of Americans from unwarranted intrusions by their Government.

I take note here that President Nixon has recently committed himself to securing this same goal. In his February 23d report to the Nation on the subject of privacy, he stated:

> Many things are necessary to lead a full, free life . . . but none of these is more important than the most basic of all individual rights, the right of privacy. A system that fails to respect its citizens' right to privacy, fails to respect the citizens themselves.

The President, out of his concern for such rights, has appointed a blue ribbon panel, chaired by Vice President Ford, to recommend legislation to secure the privacy of Americans.

I would submit, Mr. President, that neither the Congress nor the President need wait for the panel's recommendations before taking action. S. 2318, the bill I have introduced to prohibit military surveillance of civilians, is a measure which can and should be acted upon immediately. The dangers which such activities pose to personal privacy and to the traditional separation of military and civilian realms have been made clear.

President Nixon himself has previously condemned military surveillance in plain terms. Reacting to the subcommittee's disclosures on December 17, 1970, he declared that he was "totally, completely and unequivocally" opposed to military spying. He stated that such surveillance would not be permitted in his administration.

S. 2318 proposes that restrictions be placed not only on the present administration, but on all succeeding ones. It is a proposition whose desirability is evident.

The hearing will begin at 10 a.m. in room 2228, Dirksen Senate Office Building.

Any person wishing to testify or submit materials relevant to the consideration of this bill should contact the Subcommittee on Constitutional Rights at 202-225-8191.

NOTICE OF HEARINGS ON S. 2495, THE TECHNOLOGY RESOURCES SURVEY AND APPLICATIONS ACT

Mr. MOSS. Mr. President, on March 11, the Committees on Aeronautical and Space Sciences and Commerce will open joint hearings on Senate bill 2495, the Technology Resources Survey and Applications Act. This bill was introduced by my colleague, Senator Magnuson, for himself, myself, and Senator Tunney. Senators Goldwater, Symington, Stevens, and Chiles, have joined us as cosponsors.

S. 2495 aims at establishing within the executive branch of Government an improved mechanism, an improved climate, and improved funding for making projections of critical domestic problems which may be susceptible to scientific and technological solutions in whole or in part. It is pointed at bringing into that process careful consideration of the projected availability of the necessary scientific and technological resources to apply to those problems before they become of crisis proportion.

Specifically, the technology resources survey would be prepared and maintained to provide an inventory of the Nation's scientific, engineering, and technological resources, both current and projected. It would also provide an inventory and projection of critical domestic problems which may be susceptible of resolution by the application of science and technology. Finally, it would use this information to strengthen the economy and contribute to the resolution of such critical domestic problems.

A second provision of the bill would authorize NASA and its partners to tackle selected critical domestic problems upon assignment by the President and approval by Congress.

Federal research and development efforts have increasingly become reactive and crisis oriented. Chaos and uncertainty seem to be the hallmark of significant portions of federally supported R. & D. The energy crisis underscores this problem.

S. 2495 is intended to help avoid the social and economic cost of crisis-oriented Federal funding.

To aid in evaluating the provisions of the bill, leaders in the scientific and engineering community will be asked to testify.

For the hearing next Monday, the witnesses are:

Dr. H. Guyford Stever, Director, National Science Foundation and Science Adviser to the President.

Dr. James C. Fletcher, Administrator, National Aeronautics and Space Administration.

Dr. Philip Handler, President, National Academy of Sciences.

Dr. Daniel Drucker, president, American Society of Mechanical Engineers.

Dr. Bernard Friedman, president, American Chemical Society.

ADDITIONAL STATEMENTS

BAPTISTS FOR LIFE TESTIFY ON CONSTITUTIONAL AMENDMENT

Mr. HELMS. Mr. President, as my colleagues are aware, the Subcommittee on Constitutional Amendments is currently holding hearings on the various proposals to assure that unborn children are protected in their right to life.

Unfortunately, an issue which is based on legal tradition and the simple facts of life is being obscured in some quarters by appeals to religious bigotry or perhaps I should say, antireligious bigotry.

Since religion helps people to define and understand moral issues, it is probably true that people with deep faith in God have a more precise understanding of this issue and a greater sense of urgency in seeking a remedy. At the same time, religious faith is not an absolute requirement to understanding the problem, and there are many good people with no particular faith, or perhaps no faith at all, who understand the moral issues involved. At the same time, we cannot ignore the broad legacy of the Judaeo-Christian heritage. The right to life is not a theological issue, or a doctrine of a particular sect; it is a moral issue that reaches to all men.

I am the chief sponsor of Senate Joint Resolution 130, one of the constitutional amendments proposed to restore our legal traditions in this area. As it happens, I am a lifelong Baptist. There is a broad support for a pro-life constitutional amendment among Baptists everywhere.

The Baptists do not have a central form of organization, such as many other denominations have, and there is no one who would be bold enough "to speak for the Baptists." It is against Baptist tradition and Baptist policy. But there is an organization which was set up to provide resource material for concerned Baptists, and to present pro-life arguments from a reasoned position. The response, from all over the country, I am informed, has been gratifying.

The coordinator of Baptists for Life is the Reverend Robert Holbrook, pastor of the First Baptist Church in Hallettsville, Tex. He is a native Texan, and the father of six children. He is a graduate of Baylor University, and the Southwestern Baptist Seminary. He has done post graduate work at Southwest Texas State University. In the past year since the U.S. Supreme Court's abortion decision, he has devoted an increasing amount of his energy to this special ministry on behalf of the right to life.

Bob Holbrook is among those who have been testifying today at the subcommittee hearings. In his prepared statement, with the attached letters, he clearly shows the wide extent of support for a pro-life amendment from all denominations.

Mr. President, I ask unanimous consent that the testimony of the Reverend Holbrook, with the attachments, be printed in the Record at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement of Rev. Robert Holbrook of Hallettsville, Tex., Coordinator of Baptists for Life

Mr. Chairman, I appreciate the opportunity extended to me to speak before you regarding the abortion issue, which is deep personal interest and concern to millions of Americans.

That I am here, a Southern Baptist pastor and Coordinator of the organization "Baptists for Life" is testimony in itself to the rising tide of indignation surrounding the Supreme Court decision which legalized abortion until the moment of birth. As American citizens of all religious persuasions, or of no religious belief at all, learn what this decision said and what has happened to hundreds of thousands of unborn children as a result, they are becoming increasingly angry and concerned. The 25-million-plus Baptists of the nation are among those who are becoming aware of the full implications of current abortion trends and many of us have searched for a way to make our voices heard in protest. "Baptists for Life" was formed in late 1973 as a result of this need for a united voice. It is our intention to speak in defense of the right to life both within the public forum and within our denominations and congregations. We have received positive responses in large numbers from Southern Baptists, American Baptists, Independent Baptists, other denominational groupings including the National Baptist Convention Inc., from both pastors and laymen.

We feel certain that the members of this subcommittee and the whole Senate would want to act on this issue according to the facts that are presented, and that your deliberations will be guided by the merits of the arguments heard. Propaganda has no place. Statements made by persons purporting to speak for denominations as official spokesmen who have, in reality, no right to represent entire denominations have no place. Such an unofficial statement is one made recently by the *Baptist Joint Committee on Public Affairs'* Executive Director, Dr. James Wood, who attached his name to a recent letter inserted in the *Congressional Record* by U.S. Representative Dellums which criticized the Helms Amendment to the Foreign Assistance Act. Concerning that action by Dr. Wood, I append the following letter, signed by John J. Hurt, Editor of the *Baptist Standard*, the official weekly publication of the Baptist General Convention of Texas, in its entirety and wish to read into the record this portion:

"The Baptist Joint Committee, of which I am a member, did not authorize Dr. Wood to speak in its behalf on this issue. I regret that he is identified as executive director of the Committee, and thus identified with this group.

"I am sure each member of Congress is aware that groups like this try to mislead in their statements by *indicating that they* are speaking for the organization. Certainly, the statement is not binding upon any Baptist, nor could it be, for not even the Convention can speak for other than a majority attending a particular session. No one has ever doubted this."

It is my understanding that you have been in contact with the *Baptist Joint Committee on Public Affairs* quite recently, Mr. Chairman. I am sure you wish to know that they do not, and cannot, speak for the denominations they represent on the abortion question. Any statements that they might make will be representative of their personal opinions only.

In contrast, the following is an example of one statement officially adopted by the *Capital Baptist Association* located in Oklahoma City, Okla. It is typical of the sentiment of many Baptist conventions and groups:

Resolution 6: Abortion

Inasmuch as abortion has been condemned through the ages by law, medicine, and the Word of God, and

Because the Bible teaches that life begins at the time of conception, "But I was a sinner, yes, from the moment my mother conceived me."—Psalm 51:5, Living Bible, and,

Inasmuch as the Declaration of Independence and the Constitution of the United States clearly states, "All men are endowed with certain inalienable rights . . . life, liberty, and the pursuit of happiness", and, "that no state shall make or enforce any law which shall . . . deprive any person of life, liberty or property without due process of law.", and,

Whereas, murder by abortion is almost doubling in numbers annually, and

Whereas this is one step nearer to the legal murder of the aged, the ill, the handicapped, and even the imperfect, and,

Whereas the guilt of this act will result in the emotional, spiritual, mental, and physical ruin to all who participate, and

Whereas the Supreme Court of the United States in recent ruling has opened the doors wide for abortion,

Now, therefore be it resolved

1. That the Capital Baptist Association

encourage its pastors and congregations to be faithful to the Commandments of God, and the right of every individual to live, and

2. That we take every opportunity to represent ourselves to our public officials in opposition to this violation of the unborn's rights.

CAPITAL BAPTIST ASSOCIATION,
Oklahoma City, Okla., November 7, 1973.
Dr. THOMAS E. NIX, Jr.
Pasteur Building,
Oklahoma City, Okla.

DEAR DR. THOMAS: In their annual meeting on October 16, 1973, members of the Capital Baptist Association of the Southern Baptist Convention adopted a resolution on abortion and voted to send a copy to you and to our state congressmen and senators.

In accordance with that action, a copy of the resolution is attached.

Respectfully,
JEAN KLINGAMAN, *Clerk.*

The Capital Baptist Association resolution was adopted on November 7, 1973.

Another denomination, the General Association of Regular Baptist Churches (GARB) has expressed its opposition to abortion in the following resolution which was adopted by unanimous vote on June 27, 1973, at its 42nd annual Conference:

Whereas the moral standards of the world have so degenerated as to encourage many of our contemporaries to advocate the destruction of unborn and unwanted children, and

Whereas the Scriptures declare the sanctity of human life and repudiate the concept of "abortion on demand",

Be it resolved that we, the messengers of the churches of the Association of Regular Baptish Churches, gathered in annual conference at Kansas City, Missouri, on June 25–29, 1973, reprove such immorality and abortion and openly declare that murder is murder even if it be called "legalized abortion."

Other "official" statements of church groups purporting to speak for their denominations must be examined carefully before being accepted. The Church of the Brethren is listed as a member of the Religious Coalition for Abortion Rights, which testified this morning. However, the following statement, dated March 6, 1974, disclaims official sanction. I have been requested by the signers to read it into the record of this hearing. The full text is attached, and the following excerpt noted: "The Church of the Brethren's participation in the Religious Coalition for Abortion is without official sanction and is in direct conflict with stated denomination policy." The signers are W. D. Crouse, Moderator, Atlantic Northeast District of the Church of the Brethren, Mary E. Weaver, Moderator-Elect, Atlantic Northeast District of the Church of the Brethren, and C. Wayne Zunkel, Immediate Past Moderator, Atlantic Northeast District of the Church of the Brethren.

In line with the Brethren statememnt, I have received this correspondence from one of the most prestigious theologians in the Methodist Church, Albert C. Outler, Professor at the Perkins School of Theology, Southern Methodist University, Dallas, Texas. Dr. Outler has asked me to place his letter in the record in its entirety, and to state verbally this excerpt:

"It is misleading to suppose that, among the Christian groups in the United States, only the Roman Catholics, Mormons, etc., are the ones that are opposed to abortion on demand, on moral and religious grounds. As a loyal and devoted United Methodist, I can say with great emphasis that the current 'official' position of the United Methodist Church regarding abortion not only does not speak for me but that I regard the process by which this 'position' became 'official' as being non-representative and morally invalid. It has, therefore, no force or effect as a guide for my conscience or moral judgment—and this is widely and well-known. But here I speak for *many* other United Methodist as well (nobody knows how many there may be since this issue has never been fairly tested through the church as a whole.) It is, however, my impression and belief that given an honest opportunity to vote for or against a reasonable anti-abortion law (i.e., one that disallows abortion on demand but allows, *very* cautiously, for therapeutic abortion), a majority of United Methodists would vote *for* it. The case on this point is even clearer with Southern Baptists, Lutherans, the black churches, the Pentecostalists, etc. And if this guesstimate of mine is doubted, there is a perfect straightforward democratic way to test the hypothesis. Give the American people an honest and realistic referendum. Why not? Do we mistrust them and their moral judgments or are we content with the present confusion and one-sidedness of our current abortion legislation and its judicial interpretations as of now?"

Mr. Chairman, a frequently heard myth concerning prolife activity is that opposition to the Supreme Court decision is a Catholic concern, and only their concern. It is the constant refrain of a pressure group such as Americans United for the Separation of Church and State to insist that a Human Life Amendment would be forcing the official teaching of one church on all Americans. Yet, in just such a referendum as Dr. Outler proposes, the citizens of North Dakota (who are 22% Roman Catholic) rejected legalized abortion by the overwhelming majority of 78%.

Prolife spokesmen are very seldom referred to by religion if they happen to be Methodist, Lutheran, Baptist, Jewish, Mormon, etc. But if the person speaking out against the killing of unborn children is a Roman Catholic, the media will usually include this identification along with his or her name. This is a discriminatory tactic which effectively screens out the visibility of the millions of us who are *not* Catholic.

The prevalence of this "labeling" tactic and argument for a "Catholic issue" is no accident. At the annual forum of the Association for the Study of Abortion (ASA) held in New York City, March 21, 1967, several speakers adopted the slogan "Public health in proposition; Roman Catholic in opposition." What is disturbing is not the fact of such appeals to religious prejudice but the acceptance of such without critical examination on the part of the media and those who deal with the issues. We will always have those who seek to destroy the position of their opponent by such appeals to prejudice, emotion, and the baser nature of man. This allegation that the abortion controversy is one of Catholic concern should be received with the same interest that is accorded those who claim that concern for civil rights legislation is "Communist" inspired. An examination of certain evidences will expose this claim as having no foundation in fact.

THE HISTORY OF THE LAWS VOIDED BY THE SUPREME COURT DECISION

Basically. what is being called for in a Human Life Amendment is a return to the status quo before the court decision of January, 1973. If the anti-abortion laws placed on the books of the states were the product of the Roman Catholic Church then it would be valid to protest that a return to those laws would be "a Catholic issue". But if the laws in many of the states were the result of the concern of the legislators for protecting the unborn and these laws were enacted without the power of the Catholic hierarchy, how can a movement to return to the position of these laws be called "Catholic only?" I remind you that one of the test cases which resulted in the court decision was *Roe v. Wade* and it was a challenge to the Texas law on abortion. As a life-long resident of Texas and one who is aware of the religious make-up of that state I can assure you that a Texas law was not the result of Catholic influence. Protestant legislators put that law on the books. Texas, of course, is just one example we could draw on from that area of America known as the "Bible Belt" where traditionally conservative Protestantism holds sway. And what of other states not in the South? It is of interest to note that the pro-abortionists in the heavily Mormon states of the West have charged that opposition to legalize abortion is a "Mormon issue".

For the "one religious group" myth to hold, it would be necessary to demonstrate from history that the Protestant churches have generally been in disagreement with Catholic dogma respecting abortion. An examination of the fact, however, demonstrates that up until the recent years Protestant testimony has been very strongly anti-abortion. To plead that churchmen opposed abortion in the past because of concern to protect the prospective mother from dangerous medical procedures is to be ignorant of two factors; a research of the laws in the various states reveals a concern on the part of legislators for the unborn as well as the mother, and opposition to abortion by the churches goes back to the first century. In its decision in *Roe v. Wade* the court referred to Christian opposition to abortion practices of the Roman Empire and claimed that the Hippocratic Oath was influenced by the emerging Christian ethic. That abortion was the concern of early Christian communities is established by several contemporary writings. The most important is the *Didache*, or *Teaching* of the *Twelve Apostles*. This ancient and authoritative statement of Christian principles in Syria was composed no later than A.D. 100 and may well have been written much earlier. Here a list of percepts was given for the instruction of the Christian: "You shall not kill. You shall not commit adultery. You shall not corrupt boys. You shall not fornicate. You shall *not* steal. You shall not slay the child by abortion. You shall not kill what is generated."

Abortion was ranked as a principal sin included with those sins expressly named by the Ten Commandments. The somewhat latest Epistle of Barnabas was based on the Didache and provided a commentary by its paraphrases and additions. It put the Commandment on abortion in the Didache in this framework: "You shall love your neighbor more than your own life. You shall not slay the child by abortion. You shall not kill what is generated." The proscription was thus related to the love of neighbor. Other evidence of early Christian belief is furnished by the Christian claims addressed to the pagans. The charge was made that Christians are "homicides or devourers of men." The second century philosopher and Christian convert Athenagoras answered this charge in his apologia for Christianity to the emperor: "How can we kill a man when we are those who say that all who use abortifacients are homicides and will account to God for their abortions as for the killing of men. For the fetus in the womb is not an animal and it is God's providence that we exist." The dedicated Christian defense of life at the embryonic stage seemed to Athenagoras the surest proof of the Christian reverence for life. As the Church emerged as a legal religion and a social force in the fourth century, the sentiments on abortion so uniformly expressed in the first two centuries of Christian life took on the form of legislation. All the writers agreed that abortion was a violation of the love owed to one's neighbor. Some saw it as a special failure of material love. Many saw it also as a failure to have reverence for the work of God the Creator. The pagan culture had accepted abortion. The Christians, men of the Greco-Roman world and the Gospel condemned it. Ancient authorities and the contemporary moralists had approved, hesitated, made exceptions, but the Christian rule was certain. And it remains certain today.

When we come to the time of the Reformation we find that both Lutheran and Calvinists (Reformed) theologians opposed abortion as the taking of life begun and a sin against God's Word. It is fashionable in some pro-abortion circles to refer to present day prolife activity as an archaic hold-over from 16th-Century Catholicism; what is totally ignored is the clear evidence that it was also the position of the protestantism of that period of history.

In the disputation "De Homine", two year before his death, Martin Luther indicated the full humanity of the fetus from conception. John Calvin stated "if some woman expels the fetus from her uterus with drugs, it is considered an inexpiable crime, and rightly so." Another statement, just as strong makes clear the position of the great Genevan reformer: "The fetus carried in the mother's womb is already a man; and it is quite unnatural that a life be destroyed of one who has not yet seen its enjoyment. For, if it seems more unworthy that a man be killed in his home rather than in his field because for each man his home is his safest refuge, how much more abominable ought it to be considered to kill a fetus in the womb who has not yet been brought into the light." History clearly establishes that the position which is so often dismissed as "The Catholic Church" is actually the historic position of protestantism as well. As for Protestant thinking on abortion since Luther and Calvin one must observe that in general non-Catholic Christianity there was never in the formative generations any explicit or reasoned disavowal of anything in the Catholic view on abortion. The literature of the English reformation reveals an occasional reference to abortion. Richard Baxter, one of the better known Puritans, refers to abortion in the context of murder. John Weemse, of Scotland, commented on Exodus 21:22–23 under the title "De Infanticido, of the killing of an infant in the mother's womb." He not only appeals to Scripture, but formulates anew the touching appeal to a sense of decency:

"It is a great cruelty to kill the child in the mother's belly, to kill this innocent in his first mansion, which should have been the place of his refuge; the shelter, in which he is wrapped in his mother's belly, is called *Shiloh*, because (as the Hebrews say) the young infant should live peaceably in it, in his mother's womb, as in a place of refuge."

Weemse's treatise is evidence that the traditional Catholic position regarding abortion would find strong defenders in the Protestant branch of modern Christianity. From the evidence available in the Protestant tradition we can see that the Calvinists tended to maintain the received morality in all its force and the Lutheran moral theologians of the seventeenth century took a more rigoristic view of the matter than that espoused even by Roman Catholic moralists of the same period. A good example is Johaan Osiander in 1680. He stressed his treatise on the Fifth Commandment along traditional lines, stressing that the Old Testament protection of the life of man, as an image of God, is still valid. With regard to abortion, Osiander asks: "Whether a pregnant woman can conscientiously take a medicine of which the fetus will probably perish?" The answer is negative, on the ground that this is killing forbidden by God under the Fifth Commandment. In America the same tradition was maintained in the writings of Colonial ministers. An example is a brief reference in a treatise by Benjamin Wadsworth, where abortion is maintained as an additional mode by which some violate "Thou Shalt Not Kill." Poisoners violate the divine Command:" And so do those, who purposely endeavor to destroy the life of a child in the womb, whether the woman herself or another, does it." By the latter part of the nineteenth century civil law was not providing an effective barrier against the increasing practice of abortion. Concerned Protestants took the occasion to reiterate the traditional doctrine. Dr. John Todd, a Protestant minister in Boston, wrote in 1867 that his fellow Christians must make a more serious effort to teach the evils of abortion. For Todd, abortion is "deliberate, cold murder" and incurs the full moral guilt of murder. In 1869 both Episcopal and Presbyterian public statements were made declaring that abortion was the killing of life. In the same year in a report to the Pennsylvania medical society. Dr. Andrew Lebinger urged the Protestant churches to instruct people on three points: that the unborn is human at all stages, that it has a right to life, and that killing is murder in the Biblical sense.

Mr. Chairman, the stifling of this Protestant tradition has been a slow process and only in recent decades have the churches begun officially to approve what they had traditionally rejected. The 1930 Lambeth Conference of the Bishops of the Church of England recorded its abhorrence of the sinful practice of abortion. As recently as 1950 a Committee of the same Conference reaffirmed the traditional teaching on abortion stating, "In the strongest terms, Christians reject the practice of induced abortion, or infanticide, which involves the killing of a life already conceived." Yet by 1967 and 1968 the Episcopal Church and American Baptists, respectively, were calling for relaxation of the laws and the jettisoning of the traditional Protestant position.

I have only referred to a few sample statements and evidence to establish, without contradiction, the historical fact that is being ignored in the debate on this issue—anti-abortion conviction is Protestant as well as Catholic. Nevertheless, it is true that Protestant ministers are not conspicuously identified in the eyes of legislators, physicians, psychiatrists, and social workers with the highly articulated position on abortion commonly associated with Catholics. In seeking to ascertain the reason for the marked difference between the well-defined Protestant position of history and that espoused today by many spokesmen for those denominations I quote from an excellent article written by Professor George Williams of the Harvard University Divinity School:

"In the first place, Protestants from the outset, by returning to Scripture as sole authority in religion, tended to exclude centuries of tradition as normative, cutting themselves off from much of the aforementioned patristic texts against abortion in the Greco-Roman environment. In the second place, "In the nineteenth century the social idealism of post-revivalist Protestantism also passed by the problem of abortion of the fetus as the clergy turned successively to various groupings of more visibly disadvantaged persons—slaves, children engaged in prematurely heavy labor, immigrant laborers, and finally disenfranchised women. The involvement of the liberal Protestant clergy in the women's rights movement and the political and then the full cultural and economic disenfranchisement of women must be set down as another factor in the conspicuous present-day concern of many ministers for the complete autonomy of the mother and the protection of her from an "unwanted child." Thus taken together, both the social gospel and Protestant individualism comprise a factor in the extreme feminism which has promoted in some religiously Protestant women a self-righteous indifference about the destiny of the fetus in their overriding preoccupation with the "dignity of woman" as a sovereign individual who should not be socially enthralled by motherhood.

In the revolt of woman against sex servitude, the right of abortion is often understood as the final step in her enfranchisement, all in the conviction that no woman can call herself free until she can choose consciously whether she will or will not become a mother."

PRESENT DAY PROTESTANT INVOLVEMENT

Finally, Mr. Chairman, the "myth" of Catholic concern in abortion restriction must be exploded in the face of the overwhelming evidence of involvement by non-Catholic religious groups. I have already made reference to some Baptist pronouncements and we have here today spokesmen for others as well. Since the formation of "Baptists for Life" I have received cards, letters, telegrams, and telephone calls from Maine to California, Minnesota to Florida. Not from Board and agency spokesmen, but the men and women who make up the membership of the local churches. Before I left Texas Tuesday I received a check for $400 to help in the work of "Baptists for Life." That check came from a Baptist physician in Austin whom I have never met or spoken to—he said he was grateful to learn that a voice was being given for Baptists in the life issues and he wanted to share in it. While receiving a telegram communication some time ago from a teletype operator I was surprised when she broke the usual professional conversation to ask "Do you think you can do any good in this fight?" She then expressed her concern over the slaughter of the unborn and requested that I put her on the mailing list of "Baptists for Life."

I do not believe there can be found in America today a more zealous and committed group of Christians espousing the prolife philosophy than the millions of Baptists in the Independent churches. Because of their lack of central organization on a national level their voice is often neglected but I would hazard the opinion that the pastors of these vigorous and rapidly growing churches are "anti-abortion" to the man. Being Biblical conservatives, they have a deep conviction of the sanctity of life.

Mr. Chairman, testimony before this Committee has stated that opinions concerning abortion which are grounded in "religious" convictions should have no hearing because it would be a violation of the first amendment. But such arguments block the path to reasonable examination of the current proposals regarding a Human Life Amendment. The argument should be concerned with sound public policy; instead, proponents of abortion divert attention to the religious convictions of many in the opposition. The assumption seems to be that a public-policy position grounded in religious conviction is automatically ruled out of consideration without any hearing on its merits. Surely, the sincere convictions of Roman Catholics, Baptists, and all the others should not be tossed out of the public forum because they are theologically grounded.

The movement for the abolition of slavery (and the contemporary continuation in the fight against racial discrimination) was largely religious in inspiration owing a great deal, especially, to liberal Protestant leadership. But the conviction of those seeking racial equality was not systematically brushed aside merely because of their religious source, this position amounts to asserting that citizens who have moral convictions are entitled to invoke the law to enforce these convictions only if they are grounded in the religious ideology of secular humanism, but not if they are grounded in a theological view. This position is clearly absurd as presented yesterday by Congresswoman Bella Abzug. The U.S. Constitution forbids the establishment of any religion in order to allow for the freedom of all in this most important matter. But the Constitution does not justify a religious ideology in their claim to a prior right in the formation of public policy. May I remind this Committee that the Supreme Court has declared "Secular Humanism" a religion in *Torcaso* v. *Watkins*. Secular Humanists who demand that public policy be judged solely by utilitarian criteria are attempting to impose their particular "religion" on a pluralistic society, many of whose members still believe in a personal God.

I urge you, gentlemen, to judge this issue on the merits of the case and once and for all let us be done with appeals to bigotry and ignorance.

Mr. Chairman, it was with some surprise that I noted in the official publication of the Church and Society Committee of the United Methodist Church, Engage/Social Action, Vol. 2 No. 2, February, 1974, that the group of organizations calling themselves the Religious Coalition for Abortion Rights has stated on page 62 (see attached) that they have selected your state, Indiana, for "particular attention . . . to stir support for Senator Bayh, Chairman of the Judiciary Committee's subcommittee on constitutional amendments, who's up for re-election."

You may possibly not be aware of this avowed support for your re-election by a proabortion group committed to a position opposing a Human Life Amendment—a group testifying at these hearings. Regardless, I am convinced from hearing you state at the hearing on March 6 that you desire information to enable you to fully understand the abortion controversy that you will make every effort to grant the American people their right to a full and complete hearing. Therefore, I am requesting that you hold another day of hearings for testimony from those prolife religious leaders denied a timeslot in today's hearings. A number of persons are waiting to testify, including United Presbyterians, Orthodox Presbyterians, Methodists, United Church of Chrfist, Greek Orthodox, American Association of Evangelicals, American Association of Christian Schools, and others. It is essential that they be heard.

RESOLUTION ON ABORTION

Whereas the moral standards of the world have so degenerated as to encourage many of our contemporaries to advocate the destruction of unborn and unwanted children, and

Wheras the Scriptures declare the sanctity of human life and repudiate the concept of "abortion on demand."

Be it resolved that we, the messengers of the churches of the General Association of Regular Baptist Churches, gathered in annual conference at Kansas City, Missouri, on June 25–29, 1973, reprove such immorality and abortion and openly declare that murder is murder even if it be called "legalized abortion."

Resolution No. 9, Passed by unanimous vote June 27, 1973; General Association of Regular Baptist Churches, 42nd Annual Conference, June 25–29, 1973, Municipal Auditorium, Kansas City, Missouri.

OKLAHOMA CITY, OKLA.

Reverend BOB HOLBROOK,
First Baptist Church,
Hallettsville, Tex.:

In November 1972 the Baptist General Convention of Oklahoma in annual session voted the following on abortion: We urge our legislator . . . to make no change in the existing laws that would not consider the God-ordained principle of the sanctity of human life, including fetal life or that would lower the moral climate of our state by leading to increased immorality." There are 580,000 Baptists in 1382 churches cooperating with this convention. Be assured of my personal support for legislation or constitutional amendments that would protect the sanctity of human life from conception to natural death. May God bless you in your efforts.

JOE L. INGRAM,
Executive director treasurer Baptist General Convention of Oklahoma.

BAPTIST STANDARD,
Dallas, Tex., December 27, 1973.

Mr. M. O. TURNER,
Alamo National Building,
San Antonio, Tex.

DEAR MR. TURNER: Your letter concerning the action by James A. Wood, along with the necessary information to explain it to our readers, is much too long for our letters page. I know that almost without exception our agency leaders do appreciate comments from our Baptist people, and I suggest you write him directly. His address is 301 Baptist Building, Dallas 75201.

The Baptist Joint Committee, of which I am a member, did not authorize Dr. Wood to speak in its behalf on this issue. I regret that he is identified as executive director of the committee, and thus identified with this group.

I am sure each member of Congress is aware that groups like this try to mislead in their statements by indicating they are speaking for the organization. Certainly, the statement is not binding upon any Baptist nor could it be, for not even the Convention can speak for other than a majority attending a particular session. No one has ever doubted this.

Sincerely,

JOHN J. HURT, *Editor.*

SOUTHERN METHODIST UNIVERSITY,
Dallas, Tex., March 1, 1974.

Rev. ROBERT HOLBROOK,
Hallettsville, Tex.

DEAR DR. HOLBROOK: I was pleased to hear that you will be able to testify next Wednesday before the Senate Committee considering federal legislation concerning abortion on demand. If it were at all possible, I'd be glad to be there with you, offering my own testimony in support of a reasonable and morally defensible law against cheap and easy abortion.

My own basic concerns with respect to this problem could be boiled down to six barebones theses that might be summarized somewhat as follows:

1. Human life is sacred and, therefore, may not be taken by other humans, with *any* moral justification, except in cases where such killing is clearly the lesser of two evils. The deliberate ending of any human life must never be regarded as a moral good, or even morally innocent. This applies to abortion, murder, war and even "manslaughter," etc.

2. The origins of human life and personhood are shrouded in mystery: no one *knows*, or *can* know, exactly when human life begins and when feticide (or even infanticide for that matter) is murder in the moral sense. But the probabilities are very great that one is dealing with a potential human life at least as soon as the fertilized ovum is stabilized in the uterus (nidification) and maybe even at conception (at the latest when pregnancy can be medically diagnosed). Thus the Supreme Court's division of pregnancy into trimesters and its conclusion that abortion in these successive trimesters is less and less innocuous strikes me as arbitrary, simplistic and morally confused. For if the probability is at all real that feticide involves a human life (or a potential human life) then it is as morally indefensible in the first trimester as in the second or third—or in the first three months of infancy (since not even neonates are fully "human," neurologically speaking, in their first three months of post-uterine life).

3. Abortion, therefore, *may*, in all probability, involve the killing of a defenseless human being. Its only conceivable justification, therefore, would have to be as the lesser of two evils—i.e., as some sort of "therapeutic abortion," defined *very, very* cautiously. Abortion cannot be justified as a means of population control or as a relief from maternal distress. It is a life-and-death issue and as between human life and human distress, life is clearly the more nearly ultimate value.

4. A woman's rights with respect to her own body and its uses *are* "absolute"—up to that point where other human rights are involved. If, therefore, a fetus is a potential person—much as an infant is—then its rights have to be weighed into any decision concerning its mother's rights (exigent as they may be).

5. The case for abortion on demand follows from the same premises as those for euthanasia: i.e., unwanted life may be disposed of by those who do not want it. Thus, legalized abortion, legalized euthanasia, etc. look away from a fully humane society in which the weak are protected from injustice by the law as well as by the moral concerns of sensitive and humane persons.

6. It is misleading to suppose that, among the Christian groups in the USA, only the Roman Catholics, Mormons, etc. are the ones that are opposed to abortion on demand, on moral and religious grounds. As a loyal and devoted United Methodist, I can say with great emphasis that the current "official" position of the United Methodist Church regarding abortion not only does not speak for me but that I regard the process by which this "position" became "official" as being non-representative and morally invalid. It has, therefore, no *force* or effect as a guide for my conscience or moral judgment—and this is widely and well-known. But here I speak for many other United Methodists as well (nobody knows how many there may be since this issue has never been fairly tested throughout the church as a whole). It is, however, my impression and belief that given an honest opportunity to vote for or against a reasonable anti-abortion law (i.e., one that disallows abortion on demand but allows, *very* cautiously, for therapeutic abortion) a majority of United Methodists would vote *for* it. The case on this point is even clearer with Southern Baptists, Lutherans, the black churches, the pentecostalists, etc. And if this guesstimate of mine is doubted, there is a perfect straightforward democratic way to test the hypothesis. Give the American people an honest and realistic referendum, Why not? Do we mistrust them and their moral judgments or are we content with the present confusion and one-sidedness of our current abortion legislation and its judicial interpretations as of now?

Thus for many reasons—religious, moral, psychological, sociological, etc.—I heartily support a carefully conceived legal referendum that would give the American people a choice that has thus far been denied them by current judicial and legislative processes.

There is much warranted alarm throughout the country over the ominous rise and spread of violence in our American society—and there are many voices raised against it. Yet many of those very same partisans of non-violence are also advocates of one of the most despicable modes of violence there is—violence against the helpless. What fate does a nation in such moral confusion deserve at the hands of a just God?

Very faithfully yours,

ALBERT C. OUTLER.

TABERNACLE BAPTIST CHURCH,
Lubbock, Tex., February 11, 1974.

Reverend ROBERT HOLBROOK,
First Baptist Church,
Hallettsville, Tex.

DEAR BROTHER HOLBROOK: Thank you for your telephone call last week. I have included your suggestion concerning an article in our church paper, and I will send you a copy when it is off the press. Certainly, we stand behind you 100% in this Pro-Life Movement and against abortion. You will find enclosed a number of names and addresses that I am sending you as per your request. I am also sending you, under separate cover, a copy of the directory of the World Baptist Fellowship which gives the names and addresses of churches and pastors in this group. These, of course, will all be conservative preachers, and I think that they would all be against abortion. However, I cannot tell you what kind of reaction that you will get from them as far as giving you any aid or assistance. But, perhaps you would like to mail some of them some of your copies of the publication that you mentioned to me.

If you are interested in a list of pastors and churches who might also be interested in any mail-out material you might have, you can send $2.00 to the Baptist Bible Fellowship International, Box 106, Springfield, Mo. 65802, and they will send you a copy of their directory which lists all of the names and addresses of churches and pastors. Also, you can get the church directory of the General Association of Regular Baptists which is an organization of Fundamental-minded churches by sending $1.50 for the yearbook of the General Association of Regular Baptists. Their address is 1800 Oakton Street, Des Plaines, Illinois 60018.

I do trust that your trip to Washington will prove to be successful and that the Congress of the United States will act on the Pro-Life Amendment.

Yours in Christ,

E. L. BYNUM.

NORTH GRAND RIVER
BAPTIST ASSOCIATION,
Trenton, Mo., March 2, 1974.

Reverend ROBERT HOLBROOK,
National Right to Life,
Washington, D.C.

DEAR CHRISTIAN FRIEND: I would like to express to you the fact that the large majority of members of thirty-five Southern Baptist Churches, with a total membership of 8,229, located in North Central Missouri, along with myself, are in opposition to the liberal abortion laws, which have been passed and are now effective in the United States. Not only are they wrong and anti-Christian in our country, but they are also wrong and anti-Christian anywhere else in God's World.

We appreciate the stand you have taken and the efforts that you are making to oppose them. In behalf of both myself and the North Grand River Baptist Association, I would like to encourage you to continue your efforts to awaken the conscience of America of the sinfulness in the sight of God of these evils.

Sincerely,

THOMAS D. HILL.

MARCH 6, 1974.

SUBMITTED BY THE REVEREND W. DEAN CROUSE, PHILADELPHIA FIRST CHURCH OF THE BRETHREN, PHILADELPIA, PA.

The Church of the Brethren's participation in the religious coalition for abortion is without official sanction and is in direct conflict with stated denominational policy. The Church of the Brethren's only official statement says: "Brethren oppose abortion because it destroys life. Let it be clear that the Brethren ideal upholds the sacredness of human life and that abortion should be accepted as an option *only* where all other possible alternatives will lead to greater destruction of human life and spirit." The statement goes on to say, "Our position is not a condemnation of those persons who reject this position or of women who seek and undergo abortions. Rather, it is a call for Christ-like compassion in seeking creative alternatives to abortion."

The position statement on abortion passed by the annual conference of the Church of the Brethren in 1972 advocates contraception and voluntary measures such as sterilization rather than abortion.

W. D. CROUSE,
Moderator, Atlantic Northeast District of the Church of the Brethren.

MARY E. WEAVER,
Moderator-Elect, Atlantic Northeast District of the Church of the Brethren.

C. WAYNE ZUNKEL,
Immediate Past Moderator, Atlantic Northeast District of the Church of the Brethren.

NBC WORLD PREMIERE OF "THE LITTLE HOUSE ON THE PRAIRIE"

Mr. McGOVERN. Mr. President, in 1972 it was my privilege to review for Life magazine the work of the late Laura Ingalls Wilder, whose literary contributions have meant so much to South Dakota, particularly to De Smet and the Kingsbury County area. Her works recall the trials and tribulations, along with the occasional joys of the demanding life of our pioneers. Now, I am pleased to note that the National Broadcasting Company's television network has filmed a 2-hour drama based on Mrs. Wilder's most famous work, "The Little House on the Prairie." Jerry Franken, vice president of McFadden, Strauss & Irwin, Inc., informs me the NBC special will be telecast on Saturday evening, March 30, on its World Premiere series. The film stars Michael Landon of "Bonanza" fame, who also is the director of this production.

The special program is to serve as a pilot for a continuing series based on Mrs. Wilder's works. Mr. Franken says the idea is to continually stress the need in the Nation today for values and qualities that are meaningful and can provide strength and direction in times of crisis. These values were clearly present in the lives of South Dakota's pioneers, and are clearly values which we would do well to call upon today. I urge that my colleagues and others join me in watching what promises to be a television tribute to pioneering in our American heartland.

AMENDMENT OF THE EXPORT ADMINISTRATION ACT

Mr. CHILES. Mr. President, the Finance Committee has begun hearings on the Trade Reform Act this week. On February 21 I introduced some amendments to the Export Administration Act, which authorizes export controls. I understand these amendments have elicited some comment and interest both in the executive branch and in the Congress. I ask unanimous consent to have these proposed amendments of the act, in the form of S. 3030, printed in the RECORD.

There being no objection, the text of S. 3030 was ordered to be printed in the RECORD, as follows:

S. 3030

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 2 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new paragraphs:

"(5) It is in the national interest of the United States and advantageous to the domestic economy that the United States should be engaged in international trade negotiations to promote freer and more equitable world trading policies.

"(6) There is a continuing need to address problems of access to markets, and recent events and studies indicate that access to supplies is a growing international problem.

"(7) Economic policy actions by foreign countries affecting their exports increasingly affect internal economic conditions in the United States, making necessary the ability of the United States to use export controls to persuade other countries to modify their economic policy actions which are harmful to the United States economy.

"(8) The problem of access to supplies is made increasingly more difficult by the inadequacy of international rules and institutions to deal with world resource scarcities."

SEC. 2 Section 3 of the Export Administration Act of 1969 is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (4) through (8), respectively;

(2) by inserting after paragraph (1) the following new paragraphs:

"(2) It is the policy of the United States to encourage the formulation and implementation of multilateral arrangements which will assure all participants of reasonable and nondiscriminatory access to supplies, including raw materials and natural resources.

"(3) It is the policy of the United States to further through international trade negotiations the evolution of international institutions and rules which promote freer and more equitable world trading practices.";

(3) by redesignating clauses (B) and (C) in paragraph (4) (as redesignated) as clauses (C) and (D), respectively; and

(4) by inserting after clause (A) of such paragraph (4) the following: "(B) to the extent necessary and with respect to the articles, materials, supplies, and information necessary or appropriate, to seek an adjustment in any economic policy or action of a foreign government which has had or may have a serious domestic inflationary impact, which has caused or may cause a serious domestic shortage, or which has had or may have a serious adverse effect on employment in the United States,".

SEC. 3. Section 4 of the Export Administration Act of 1969 is amended—

(1) by striking out "section 3 (5)" in the last sentence of subsection (b) (1) and inserting in lieu thereof "section 3 (7)";

(2) by inserting ", or the need to seek adjustments in economic policy or actions by foreign governments" in subsection (c) after "scarce materials"; and

(3) by striking out "(B) or (C) of paragraph (2)" in subsection (e) and inserting in lieu thereof "(B), (C), or (D) of paragraph (4)".

SEC. 4. Section 10 of the Export Administration Act of 1969 is amended by adding at the end thereof the following: "Each such report shall contain a description of the progress being made in any international negotiations regarding rules and arrangements affecting access to supplies and export policies and practices of foreign governments. Such report shall also contain—

"(1) an analysis of any economic policy or action, during the quarter, of any foreign government affecting the price or availability of any article, material, or supply imported into the United States which is essential to the economy of the United States;

"(2) the effect of such policy or action on price, supply, or employment in the United States; and

"(3) any economic action proposed or contemplated by the United States Government with respect to such foreign economic action."

SEC. 5. Section 14 of the Export Administration Act of 1969 is amended by striking out "1974" and inserting in lieu thereof "1975".

Mr. CHILES. As I indicated when I introduced this legislation, the Export Administration Act which expires on June 30 authorizes the use of export controls almost entirely as an instrument of domestic economic policy. To bring export controls more clearly into the arena of foreign economic policy and to create some consistency between the Trade Reform Act and the Export Administration Act, I have substantially revised both the "findings" sections and the policy authorities of the Export Administration Act.

In my view this revamping is necessary to adequately empower our Government to deal with the new economic circumstances in which we find ourselves internationally. Specifically, there is an urgent need to have the legislative language governing the use of export controls reflect:

The need to be able to respond with export controls of our own to the use of export policies of other governments which are damaging to our domestic economy.

The need to address the problems of access to supplies as well as access to markets in international discussions and agreements.

The need to have export controls be an integral part of the international trade negotiations within the GATT, and

The need to strengthen international rules and institutions dealing with export policies.

As the law now stands the authority does not exist to deal with these problems. The legislation I have introduced fills these loopholes. I refer my colleagues with an interest in these matters to my earlier remarks in the RECORD on February 4 and February 21. The energy crisis and changed world economic conditions as well as the inflation problem we are experiencing in the United States make these issues of pressing importance.

ANNIVERSARY OF THE BIRTH OF THOMAS G. MASARYK

Mr. PERCY. Mr. President, I would like to pay tribute to the memory of Thomas G. Masaryk on the 124th anniversary of his birth. Thomas Masaryk was a statesman, a scholar, a moralist, and a successful politician. But more than all of this, he was a man who brought to fruition through his personal tenacity and integrity a life-long dream to make his country free.

Thomas Masaryk was the founder and first president of the Czechoslovak Republic, established at the end of World War I. He guided the Czechoslovak Republic in accordance with democratic principles which he had previously explored in several scholarly works. The keynote of his philosophy was that uncompromised truth is the absolute moral requirement in a democratic system. When he took office as President of the Czechoslovak Republic, he characteristically chose "Truth Prevails" as the maxim for his new nation.

In 1968 during the Dubcek era in Czechoslovakia people freely made the pilgrimage to Masaryk's grave. Masaryk remains today a symbol of inspiration to all who revere freedom and true national independence.

WHAT MAKES A GOOD POLICE OFFICER?

Mr. McCLELLAN. Mr. President, Winston S. Churchill, speaking of the gallant Royal Air Force pilots who saved the world from Nazi tyranny during the Battle of Britain, delivered a magnificent tribute:

> Never in the field of human conflict was so much owed by so many to so few.

I believe that these eloquent words may be applied with equal justice to our police officers at all levels—Federal, State, and local—for they are a thin blue line standing between us and the brutal onslaught of crime and the criminal.

It is in this spirit that I wish to share with my colleagues a thoughtful speech delivered by Clarence M. Kelley, the Director of the Federal Bureau of Investigation, before an Outstanding Law Enforcement Officers Award banquet held in Birmingham, Ala., on February 9, 1974.

Speaking from personal experience as both a Federal and local policeman, Director Kelley noted that it is not always pleasant to be a police officer in our troubled society and that the physical risk of being a police officer is high. He added:

> There are many groups and individuals who hate the police, who call the officer vile names. They seek to discredit and impugn our profession. If an officer makes an arrest he is accused of "brutality." If he maintains order during a demonstration he is taunted as a "bully." If he enforces the law he is charged with "harassment." He is called a "pig," and hissed and vilified as he carries out his duties.

Yet, as the FBI Director pointed out, our policemen perform their duties with skill, patience, and disregard for their own safety. And they are paying the price for guarding our lives and property. For example, during last year 134 brave officers lost their own lives as a result of criminal action—all but three of them were local, county, and State officers. This was the highest total of such slayings ever recorded, he said.

Mr. President, as a measure of tribute to the bravery and dedicated contribution made to society by our police officers, I ask unanimous consent that Mr. Kelley's remarks be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

WHAT MAKES A GOOD POLICE OFFICER?

(An Address by Clarence M. Kelley)

I am particularly gratified this evening for the opportunity of attending the third Annual Banquet for the Outstanding Law Enforcement Officers of the Year.

It is a pleasure to return to Birmingham. The three years I spent here as Special Agent in Charge of the FBI's office are among my happiest memories in law enforcement. Many of the police officers here tonight I met then for the first time.

I am grateful indeed for the splendid assistance which Alabama law enforcement has given the FBI over the years and also to Ralph Miles and Philip McNiff, our present Special Agents in Charge. As FBI Director, I pledge to you continued close and fraternal cooperation.

I want also to extend my sincere personal congratulations to each of the officers being honored tonight.

You are a credit to your profession and your community. Nothing could be more commendatory than to be selected for this distinguished award. For you, this is the culmination of years of dedication, sacrifice and faithfulness to duty. We are proud of you. You bring honor to all of us in law enforcement.

Also, I want to say thank you to the distinguished citizens of Alabama who have made this recognition possible. Having been a law enforcement officer for over 30 years, I know what this occasion means for these brave men and women. They appreciate your interest, concern, and support. Your banquet tonight symbolizes that spirit of warm fellowship which must exist between the officers of the law and our citizenry if a community is to obtain the high quality of protection it deserves.

I want to share with you this evening some thoughts on the theme, "What Makes A Good Officer?" "What are the qualities which make the man or woman in blue a top-flight officer?"

These are not easy questions to answer.

I remember talking to a group of officers when I was Chief in Kansas City.

I posed the question: "What do you expect of your chief? What qualifications do you think a good chief of police should have?"

Well, I really opened the gate. In a matter of minutes, I had the blackboard filled with suggestions.

There were such qualities as honesty and courtesy, administrative ability, integrity and a pleasant personality. One officer even suggested "good looking."

Their chief, they thought, should be experienced, wise, intelligent, well-trained, affable, strict in discipline but not too strict, understanding, a family man, healthy—and the list went on and on.

I remember, after jotting down all the suggestions, stepping back, looking at the group, and asking, "Now tell me, where are you going to find a person with all those qualifications?"

There was a moment of silence and no answers. Then I said: "As far as I'm concerned the only person who could possibly qualify as a chief would be the perfect man and I don't know where you can find him."

And I could have added: "And if you did find him, what community could afford to pay the salary be would command?"

This story illustrates the almost unbelievably high standards expected of law enforcement—by its own personnel and by you, the citizens of the community. We expect not only the very best in our officers, but a range and depth of attributes that no mortal could possibly possess.

All too frequently we expect of the officer what we do not require of ourselves.

He must, in our eyes, be above reproach at all times, scrupulously honest, virtually without a fault.

He must make no mistakes, and if he does we criticize him unmercifully.

We expect him to handle all situations with finesse, tact and competence, but seldom do we realize that as a community we have not provided him with the professional training needed to cope with today's sophisticated, changing society.

We expect him to risk his life to apprehend a hijacker, bank robber and murderer, yet we often fail to pay him a livable salary and we make few, if any, provisions for his family in case of death during the line of duty.

We expect him to be enthusiastic and never to complain or gripe (as all of us do), yet we refuse to take the time to acquaint ourselves with his working conditions at headquarters, the precinct station or wherever he may be.

We expect him to perform at top efficiency, for long hours, often being called out in the middle of the night or on weekends, and forget that he too is human, that he gets tired and hungry, and like us, he may have a son with whom he likes to play baseball.

We expect him to immediately accommodate our desires when we call the police, forgetting that we have not given the chief sufficient manpower and equipment to provide the kind of service we expect and deserve.

Yet these men and women in blue, despite these handicaps, perform admirably—and I think the citizens across the great state of Alabama—and the Nation—owe them a tremendous debt of gratitude.

I have worked with police officers all my life. I have been an officer myself. I know their gripes. I know their joys. I think I know the men and women themselves—as human beings. And I can tell you, honestly and truthfully, you will never meet a finer group of Americans. They work not alone for the salary—if they did they wouldn't be there. They work not for public acclaim—if so, they wouldn't be there. They work not to be heroes—if so, they would long ago have resigned.

They walk your streets, safeguard your homes, keep your traffic going . . . why?

Because they believe in the dignity of the law, in the triumph of right over might, and, above all, because they want to do their share in helping protect their communities.

Here are the qualities exemplified by these officers tonight. I do not know any of them personally. I don't need to—because I know the traditions in which they believe, the traditions of service, personal integrity and courage.

That's the kind of human beings they are.

Today it is not always pleasant to be a police officer. There are many groups and individuals who hate the police, who call the officer vile names. They seek to discredit and impugn our profession. If an officer makes an arrest he is accused of "brutality." If he maintains order during a demonstration he is taunted as a "bully." If he enforces the law he is charged with "harassment." He is called a "pig," and hissed and vilified as he carries out his duties.

It takes a man of unique qualities to do his job, honestly and faithfully, amid this barrage of unwarranted abuse and vilification. The excellent record of our officers in meeting these situations is a tribute to their training, skill, and patience.

In today's society the physical risk of being a police officer is high—and is growing.

Last year 134 brave officers lost their lives from criminal action, 131 being local, state and county officers. This is the highest total ever recorded. Three of these slayings were in Alabama.

For the officer, death lurks at every moment of the day. It may come from stopping a motorist, making an arrest, handling a domestic disturbance call.

Last year, for example, 30 officers were slain handling disturbance calls; 27 in connection with robbery matters; ten while investigating suspicious persons; seven at the hands of prisoners . . . and the list goes on.

In police work there is no sanctuary from the criminal's bullet.

Not only are there the dangers of regular police work but the officer is also the target of carefully planned sniper attacks, ambushes, and deliberate efforts to injure and kill. One antipolice group, for example, circulated a manual telling extremists how to fight the police. Make use of weapons, it said, such as ice picks, leather punches, can openers, sling shots, darts, and red pepper.

I write personal letters to the widows of police officers killed in line of duty. If anything brings a police department, or a group of officers together, it is the death of one of our own. In my letters I try my best to console the widow and family. But what can words say to take away the grief and pain?

Police families know that their husband and father is running a deadly risk every day—but they never expect that moment to come.

They know that when the officer leaves home in the morning they may never see him alive again—but they never expect that moment to arrive.

These widows sometimes write letters that wrench the heart, telling me about their situations. Brave women they are . . . living daily under the fear of death, yet when that moment of disaster comes, they too, like all of us, break down and cry.

"Law Enforcement," one widow wrote, "has been our way of life for 22 years. He (her husband) was doing a job he really loved—protecting the people and the city."

Note, if you will, the words "law enforcement has been OUR way of life"—a family commitment, not just the officer, but the wife and children too. This is what makes a good officer. That he works with the enthusiastic support of his wife and children. That's why tonight, if the wives and children of these honored officers are present, they should receive our applause of appreciation. The officer is a good officer. Why? Because there is a wife, a family, a mother, a father, or other devoted person behind him.

Note also this widow's words, "He was doing a job he really loved." For 22 years—almost a whole career—that officer was doing a job he really liked. Here is another quality of the top-flight officer. He wasn't in law enforcement because he had to be—but because he wanted to be! This means enthusiasm, personal interest, and a dedication to doing the best possible job.

And then these final words, the officer was "protecting the people and the city."

What more can I say? This widow has summed up the whole meaning of being a police officer. This man was a selfless human servant, doing his share, as one officer, in creating a better life for his fellow citizens in the community—most of whom he had never seen and did not know. And he was so faithful to his job that it cost him his life.

What more can we ask?

Unfortunately, you, the citizen, do not have the opportunity to look inside the "inner heart"—to see the humanity—of the officer on the street corner or in the patrol cruiser. We can so easily criticize him . . . but are we, in *our* jobs and *our* lives, performing a high quality of public service as he?

This is a question each of us must ask ourselves.

Another widow wrote me that she was overwhelmed by "the hands that reached out to my children and me."

These hands—this help—came after her husband had been killed.

I ask tonight, why cannot this help come earlier? Why must we allow a brave officer to die before the community learns to respect his profession, to appreciate the *services* he provides, to understand the vital role he plays in their lives?

This is our task—the task of every concerned citizen across this land.

This task is to become better acquainted with your police department and its officers. We need to know more about the cancer of crime in our communities. We must be more ready to personally do our share to help make a crime-free society.

That's why I am so happy to be here this evening. Not alone to honor these brave officers, but because you, as concerned *citizens* of Alabama, through this banquet are doing your share to show law enforcement in this state your appreciation, concern and support.

What makes a good officer?

It is those qualities of integrity, dedication and loyalty to a principle, those qualities which compel the officer to go the extra mile, to conduct the extra interview, to undertake the extra assignment to protect you. These are truly men of an "extra dimension" here tonight—they embody the highest qualities of their profession. I again salute them!

COSPONSORSHIP OF FULL DISCLOSURE ACT OF 1974

Mr. MOSS. Mr. President, it has been my pleasure to join in sponsoring S. 3037, the Full Disclosure Act of 1974, introduced by my distinguished colleague, Senator STEVENSON.

In requiring Federal elective officials and candidates for Federal offices to file a detailed statement of their assets and liabilities, the bill would impose a duty which I have consistently observed for years. Each Congress I have voluntarily published and made available to my constituents and the rest of the world a statement of my finances. I have found this to be a practice greatly appreciated by the voters of my State. I believe that if all Federal officeholders and candidates made such disclosures on a regular basis, it would go a long way toward restoring confidence in Government. The secrecy of the filing Senators must now make wholly defeats the purpose and the wisdom of disclosure.

I congratulate Senator STEVENSON for his bill, and I hope that the Senate will move with dispatch to pass it.

BLACK SALUTE TO SENATOR HUGH SCOTT

Mr. SCHWEIKER. Mr. President, on January 26, 1974, more than 1,000 persons joined together at the Washington Hilton to honor the civil rights record of Senate Republican Leader HUGH SCOTT. Proceeds from this "National Black Salute to HUGH SCOTT," will go to the new incorporated Hugh Scott Foundation, a foundation to aid black college students from around the country who will be studying political science and government.

Senator Scott has been a leader for decades in fighting for civil rights and equal opportunities for all Americans, and is most deserving of this special honor.

I ask unanimous consent that two Pennsylvania newspaper accounts of the Black Salute be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Johnstown, (Pa.) Tribune Democrat, Jan. 28, 1974]

1,000 Attend Fete in Honor of Scott

Approximately 1,000 persons attended a black salute to U.S. Sen. Hugh Scott Saturday in Washington, D.C.

The event was a $100-a-plate fund-raising dinner to set up an educational foundation in Sen. Scott's name, primarily to aid black students in the study of political science and government.

Burrell Haselrig of 610 Yoder St., who was in charge of the fete, gave the keynote address and explained that Sen. Scott was being honored for more than three decades of work in the civil rights field.

STIPULATION REMOVED

The Hugh Scott Foundation has been incorporated in Pennsylvania, according to Mr. Haselrig, and the scope of the foundation has been expanded. The foundation's original aim was to aid only black students, but that stipulation has been removed.

Mr. Haselrig, in his address, said, "We have . . . establishing a foundation for black students, but more than that, we are establishing a foundation for all students.

"It seems that prejudice is a two-way street, and therefore, the foundation, although its primary aim is to help blacks, is for all students.

"Clarence Mitchell, director of the Washington office of the National Association for the Advancement of Colored People, gave the main address and praised the change in the foundation's format to include all students.

102 IS AIM

Mr. Haselrig said that the first students receiving aid through the foundation should enter college in the fall of 1975. He said it was his hope that two students from each state and the District of Columbia would receive scholarships each year.

Mr. Haselrig said a similar event for the benefit of the foundation would be held annually.

The Rev. Robert F. Wurst of 1225 Christopher St., pastor of the St. James Evangelical Lutheran Church in Alum Bank, asked the invocation. Mid-States Associates, Inc., a local advertising and public relations firm, handled arrangements for the event.

[From the Dubois (Pa.) Courier Express, Jan. 22, 1974]

Testimonial Dinner for Senator Scott

An educational foundation to encourage black students to study political science will be established in the name of U.S. Senator Hugh Scott (R-Pa.)

More than 1,000 persons are expected to honor the Senate Republican Leader Saturday, January 26 in Washington, when a bipartisan committee holds its initial testimonial dinner.

The sole speaker at the event will be Clarence Mitchell, a longtime friend of Senator Scott's who for years has been the Washington representative of the National Association for the Advancement of Colored People.

According to Burrel Haselrig, a Johnstown, Pennsylvania, businessman who is heading up what has been billed as a "Black Salute to Hugh Scott," "we want to honor this man because he has been in the forefront of the civil rights movement since the days when it wasn't popular to be for civil rights."

Educational scholarships will be awarded each year. Haselrig said, "to those deserving students who need financial help." And he asked "what more fitting tribute could we give to Senator Scott than to financially help young people to get involved in the political system . . . a system he has worked for and in all his adult life."

At the $100-a-plate dinner Saturday at the Washington Hilton, Sandra Taylor, a black college student from Erie who was selected by Senator Scott as his alternate at the 1972 National Convention will present the initial check to Foundation officials.

National honorary chairman of the event is U.S. Senator Edward Brooke. The advisory committee includes: Rev. Fr. Theodore Hesburgh, president of Notre Dame University; Frank Fitzsimmons, president of the International Brotherhood of Teamsters; Mrs. Henry Hillman of Pittsburgh; former Pennsylvania Governor William W. Scranton; Joseph Rau of Washington, National Vice President of the ADA; Roy Wilkins, Executive Director of the NAACP; Vernon E. Jordan, Jr., Executive Director of the National Urban League; Rachel Robinson, President of Jackie Robinson Development Corporation; and the following Mayors: Thomas Bradley, of Los Angeles, Calif.; Robert B. Blackwell, of Highland Park, Mich.; Charles Evers, of Fayette, Miss.; and Ken Gibson, of Newark, N.J.

A WORD OF CAUTION ON U.S. FOREIGN POLICY

Mr. CRANSTON. Mr. President, throughout his travails of Watergate, the economy and the energy crisis, one thing has consistently buoyed the President: his achievements in foreign policy. And with good reason.

President Nixon's record of accomplishments in international affairs has seemed at times to be extraordinarily good. Never mind that the personal diplomacy, enterprise, and energies of Dr. Henry Kissinger played a key role in these accomplishments.

The former White House adviser, now Secretary of State, is the President's man; it is the President who sanctions and legitimizes what Dr. Kissinger does or does not do; and it is the President who deserves full credit for all the successes—as he will receive full blame for any of the failures—of Dr. Kissinger's daring initiatives. The successes have been notable:

The phenomenal Middle East settlement which—though still only in a very delicate interim stage—was a masterful demonstration of how creative diplomacy can apparently reconcile the irreconcilable.

The opening up of communications with mainland China—after 25 years of mutual distrust and hostility that have several times nearly deteriorated into armed confrontation.

The détente with the Soviet Union and the first hopeful step toward strategic arms limitation.

The movement toward a more favorable balance of trade—until the energy crisis struck us—and the return of the dollar to some degree of stability of health.

And certainly the ending of our active combat in Southeast Asia which was welcomed by all when at last it came even though, in the opinion of many, it was years late in coming, and even though it finally came only after Congress set a deadline and cut off all further funds for bombing and other forms of direct American involvement in combat in Southeast Asia.

These are significant achievements and President Nixon fully deserves the praise that has been heaped upon him for their attainment. Quite properly, that praise has come not only from his political friends and allies but also from many—myself included—who have been severely critical of the President for his handling of domestic problems. It is partly because of this that today I want to raise a note of caution.

We who praise the President for his foreign policy initiatives may unwittingly be doing him—and, more importantly, the Nation—a disservice if we praise him too soon and too effusively. And that, I fear in retrospect, may already have happened.

Things may be going well for us overseas in some important respects, but not nearly as well—and not nearly as fast—as we had been led to expect they would. There have been serious shortfalls as well as successes.

After each initial flush of success, subsequent evidence began to take on a discordant note. And perhaps we have raised our hopes—and our praises—too high and are in for some troublesome disillusion as a result. For example:

A year after our disengagement, the war in Southeast Asia continues to rage on, with still no light at the end of anybody's tunnel. By official count, there were 818,000 new refugees in South Vietnam during 1973. Hospitals there admitted 43,000 civilian casualties, and upward of 50,000 government and Communist soldiers were killed—a larger body count in a single year than all the American war deaths in Vietnam since 1965.

And though, thank God, we have stopped throwing away precious American lives in Southeast Asia, we are still throwing away precious American dollars there—around $2 billion a year on new arms, ammunition, and fuel—that is right, fuel—for the military in Indochina.

And things may get even worse. Defense Secretary James R. Schlesinger has already issued warnings that the U.S. Air Force may yet demand authority to resume the bombing in Vietnam.

After an encouraging first round of SALT, all major negotiations with the Soviet Union have stayed on dead center. There are no present signs of progress. Not only is SALT seemingly stalled, but the Soviet-sponsored Conference on European Security and the negotiation on Mutual Balanced Force Reductions—MBFR—have been going on for many months now, and neither of them is even close to reaching a conclusion.

In the meantime, the Pentagon announces a record-shattering $85.8 billion spending budget, and Secretary Schlesinger warns that we may actually be headed toward still another—and still more dangerous and expensive—round in the nuclear arms race.

Despite détente, the Soviets—which had flooded the Arab nations with the most modern, most sophisticated weaponry—did nothing to discourage the October attack on Israel, and may, in the opinion of some, even have encouraged it. Even worse, the Soviets—according to President Nixon and Secretary Kissinger—brought us to the very brink of direct, armed confrontation.

Soviet Union behavior in the Middle East, at least, makes détente almost indistinguishable from the good old fashioned Cold War. It is hard to tell the difference.

Continuing repression of minorities and dissidents within the Soviet Union, and new signs of East-West tensions in Berlin, marked by Communist harassment at check-points, are further depressing evidence that though the highly heralded détente may indeed have been a step forward, we still have a long, long way to go.

Even the administration's well-intentioned efforts at economic cooperation have gone a bit sour after a promising start. Take, for instance, the now infamous wheat deal with Russia which added to our domestic shortages, helped drive up the price of bread for American consumers, and made millions of dollars not for the farmers who grew the wheat but for speculators.

And this was followed by the disclosure by Senator CLIFFORD CASE, Republican, of New Jersey, that the United States has agreed to a secret—and probably illegal—low interest loan of $500 million to the U.S.S.R.

It is deeply disturbing to note that not only did secrecy surround our actions when we were engaged in combat with the Communists in Vietnam, accompanied by widespread doubts about the legality of many of our actions there, but now the same kind of secrecy and the same kind of questions of legality infect our actions now that we are engaged in détente with the Communists.

Even in the Middle East, where the Nixon-Kissinger performance borders on the miraculous, disquieting signs appear. That man of many threats—Defense Secretary Schlesinger—warns that the Arab oil embargo could trigger a crisis leading to a Western military takeover of the oil fields. And that man of much confident optimism—Dr. Henry Kissinger—expresses public chagrin that the embargo, which he had expected the Arabs to have lifted long before now, is still going on—at the cost of disrupted lives and disrupted economies here, in Europe, and in Japan.

And speaking of Europe and Japan, not all Nixon-Kissinger activities have been successes, however belatedly qualified. Some of them have been recognized failures from the beginning. Whatever happened, for example, to the great "year of Europe" that was supposed to have brought us and the NATO nations closer together? Instead of getting closer to our friends, we have drawn farther apart than at any time since World War II.

Our allies refused to allow us use of our own air bases for the arms airlift to Israel during the October war. Now they are scrambling against one another—and against us—for the oil supplies that have been cut because of that war. France, for example, has concluded three major oil deals on her own.

A new worry in Washington is that President Nixon may wind up wishing he had never called the international conference of major oil-consuming nations in hopes of putting together a common front to deal with the oil embargo.

Just before the conference opened, a top oil industry Middle East expert was quoted as saying there was "great fear that the session will simply demonstrate to the Arabs that unity among the big oil-consuming nations is not possible, making the Arabs even tougher to deal with." France's behavior, which might have been predicted, gave substance to the fear.

And our NATO allies still resist shouldering a larger and fairer share of the burden of defending themselves—a burden that continues to cost the American taxpayer $17 billion a year. The Common Market countries not only have more people than either the United States, or the U.S.S.R., but they now are the most powerful trading group with almost 40 percent of world trade. Yet they want us to provide and pay for all too much of their defense.

And to add to the confusion, Secretary Schlesinger has issued a threat—this time on behalf of the Russians, of all people—that the Soviets will overrun Europe if we substantially reduce the 300,000 troops we still have stationed there.

In Asia, Japan has not fully recovered from the "shock" of being left totally uninformed and unconsulted about the administration's plans for an historic turn in our relations with China—Japan's historic neighbor and rival and sometimes implacable foe. India is still bitter about the U.S. "tilt" toward Pakistan in the tragic war over Bangladesh.

It is well then that we cease being so indiscriminately laudatory about the administration's foreign policy and subject it to more critical analysis. Unless we check our national proclivity toward over-sell and over-optimism, we could be setting the stage for serious disappointments as reality begins to catch up with us. The consequence could be a counter-reaction, a further turning inward of the American people—already understandably preoccupied with mounting domestic problems—to the detriment of world peace and improved international relations.

We could see a backlash of public disillusion if the great expectations that the administration has raised do not produce concrete results. It would be tragic indeed—for us and the world—if there were to be a new American isolationism.

We should continue to give the President and Mr. Kissinger credit when credit is due. But perhaps in more restrained fashion. And perhaps with a bit more skepticism and a bit more "show me" than we have manifested in the past.

Let us demand more hard results from promising beginnings. Let us put an end—sometime, for God's sake—to pouring billion's of dollars into the military rathole in Vietnam.

Let us go beyond the present dubious détente—which seems little more than the cold war in another, slightly less pernicious form—to achieve a more stable and more secure relationship with the Soviet Union and China than balance-of-power politics is ever likely to bring us.

Let us reduce—not merely limit at successively higher levels—the provocative, costly arms race and work with all nations to at last bring the arms race to an end.

Let us reduce the nearly 2,000 overseas military bases and installations, and the 600,000 men we maintain in some 30 foreign countries around the world at an annual cost of $30 billion.

And let us make the United Nations and the World Court more effective instruments for order and justice under law for all people of all nations.

We have taken promising steps toward reopening lines of communications and launching constructive dialogs with governments with whom we have been in sharp disagreement in recent years.

That is great.

The people of our Nation—and the people of the world—are relieved that the big nuclear powers, who have the ability to destroy not only themselves but everyone else on this planet, are still talking to one another. That is, with the exception of any Soviet-Chinese dialog.

But after so many years of misunderstanding, there is little likelihood that the resolution of outstanding problems will occur overnight. Progress, especially in international relations, takes time and will always be short of perfection even when it does take place.

We have got to be realistic about how much to expect and how fast to expect it. But we have also got to be realistic in not being satisfied to settle for just talk-talk between governments.

Talking is good, but it is not good enough. We should be demanding from our leaders positive progress and positive results. Actions—for good or bad—will always speak louder than words. And it is by what our leaders do even more than by what they say that we should judge them.

Our relations with other nations will be truly meaningful only when associated with gains in the areas of peace, prosperity and human liberty. Our foreign policy should be directed toward what is best for the people of our land and best for the people of other lands—not toward what may merely be best for government, or for those who for fleeting moments in the course of history exercise governmental power.

NAVAL PETROLEUM RESERVES

Mr. GRAVEL. Mr. President, the energy crisis has prompted discussion of the opening of Naval Petroleum Reserves, and considerable attention has been given specifically to the reserve in Alaska, referred to as PET 4. Apparently there has been some misunderstanding about the boundaries of PET 4, and it appears the Department of the Navy is attempting to extend the boundaries at the expense of the State of Alaska.

The matter of boundaries is of written record, and is perfectly clear. However, people in the Navy, conversant with the northern Alaska topography and geology, have attempted to change the long-standing boundaries after oil was discovered at Prudhoe Bay, which is near PET 4, despite the fact that the same naval branch of our Federal Government had never argued that Alaska was not the owner of the Colville River bottom under the Submerged Lands Act. It is obvious to Alaskans that, following the discovery of the large field of oil at Prudhoe Bay, certain persons in the Department of the Navy were intent to diminish the potential value to the people of Alaska of future oil discoveries in that area.

Some historical facts relating to the boundaries of PET 4 are as follows:

On February 27, 1923, President Warren G. Harding established Naval Petroleum Reserve No. 4 by Executive Order No. 3797-A. Its eastern boundary was described as the "western or right bank of the Colville River." From that day until 1969, after discovery of oil and gas at nearby Prudhoe Bay, no one questioned that the western bank of the Colville River was the reserve's boundary.

The western bank was given as the boundary by the Navy itself in its proposed draft of the Executive order to establish the reserve in 1923. The Geological Survey map used as a reference in the preparation of the Executive order shows the boundary of the proposed reserve on the western—left—bank of the Colville River. The term "or right bank" was inexplicably added to the proposed draft by the Bureau of Mines when it reviewed the proposal. The Director of Naval Petroleum Reserves in a 1945 letter to the Commissioner of the General Land Office acknowledged the error, stating that the description should read: "the western or left bank of the Colville River."

All maps of Alaska which depict the reserve show its eastern boundary as the west bank of the Colville River. This includes the Navy's own map by the Bureau of Yards and Docks published in 1953. In 1958, at the request of and in cooperation with the Navy, the Geological Survey published Professional Paper 301 on the reserve. Plate 1 of the publication is a large map of the reserve and clearly shows its eastern boundary as the western—left—bank of the Colville River. Finally, on April 22, 1958, in order to remove any ambiguity concerning the boundary, the Secretary of the Interior, at the behest of the Navy, issued Public Land Order 1621, redefining the eastern boundary as the western or left bank of the Colville River. This version was confirmed by Assistant Secretary of Defense Morris in a letter to the Secretary of the Interior in 1964.

For 11 years the Navy assented to the redefined boundary, just as it had, in effect, since 1923. The 2-mile buffer for mineral leasing near the reserve was measured from the western—left—bank. The Navy approved State selections of land on the eastern—right—bank. No one argued that Alaska was not the owner of the bed of the Colville under the Submerged Lands Act. Then oil was discovered at nearby Prudhoe Bay, and after 46 years—nearly half a century—of administration to the contrary, the Navy asserted jurisdiction over the Colville, and for good measure, over more than 200 square miles of submerged lands also belonging to the State, in the Arctic Ocean.

The State protested the Navy's assertion of jurisdiction over lands belonging to the State of Alaska, and, seeking to force a legal resolution of the Navy's claim, requested the Navy to assert whether its action was final. The Navy responded that "we are continuing our consideration—and we would welcome any further comments." By refusing to take action, the Navy places itself in a position to answer any legal complaint by saying that the courts should not interfere since it is still considering the matter and has not done anything to deprive anyone of any rights. Now, apparently, through the use of "leaks" to Members of Congress, the Navy seeks to accomplish through political pressure that which would be nothing less than a travesty on justice against Alaska, a sovereign State of our American Union, and that which it knows could not be accomplished in the courts.

There is no question that many persons have become unwitting supporters of a position in this matter that is patently erroneous. Those who are responsible for causing this wrongful impression, should, in my judgment, be held to answer for the purposeful conveying of wrong information.

In a recent Jack Anderson column, Mr. Anderson states:

> The oilmen would like to put their rigs three miles closer to the rich reserve, which would probably enable them to tap into the Navy's oil. To accommodate them, the Bureau of Land Management has raised a boundary dispute in an attempt to pry the desired area away from Navy control.

Apparently the position of the Bureau of Land Management is merely one that follows the description which established Naval Petroleum Reserve No. 4 by Executive Order 3797-A, in 1923. A thorough check of all the records will bear this out.

The State has no connection with the oil companies in this matter. The State's sole interest is to honorably represent the people of Alaska and their best interests. It appears that there are those in the naval branch of our Federal Government who would, in effect, attempt to have a large portion of Alaska's rightful inheritance, granted to Alaska with the passage of the Alaska Statehood Act in 1958, blatantly stolen from Alaska.

In light of the above related simple facts in this matter, I would urge all to explore in depth the validity of the foregoing information, and then work with the State of Alaska not only to rectify the very hurtful impression that has been created, but to help Alaska see to it that the important subject boundaries remain as they have existed since February 27, 1923, and as they became part of the boundaries of the State of Alaska when Alaska achieved Statehood on January 3, 1959.

Mr. President, I am frankly appalled by the Navy's action. I recently testified before the Subcommittee on Naval Stockpile and Naval Petroleum Reserves. As stated in my testimony, the 10 to 33 billion barrels of reserve oil in PET 4 are enough to meet our total military needs for 30 to 100 years at current levels of consumption. At a military consumption rate of 398 million barrels per year—the highest level attained during the Vietnam war—we could meet total military needs from 25 to 83 years. At the peak rate attained during World War II—570 million barrels per year—we could supply the military for 18 to 58 years.

Despite uncertainty surrounding both reserve size and military consumption levels, there is much more oil in the reserve than is necessary to meet military needs on an emergency basis. The above figures assume that total military oil needs would be met with the reserves—a situation that is not likely to happen.

The energy crunch is upon the civilian sector—not the military.

MINERALS AVAILABILITY AND THE TRADE REFORM ACT

Mr. DOMENICI. Mr. President. I expressed my concern regarding the continued availability of critical minerals to the United States in a statement on March 5. In today's Washington Post an article by Hobart Rowen entitled "The Threat of Foreign Embargoes" calls further attention to the threat of the mineral embargoes.

Mr. President, the gravity of this threat to our economy merits the immediate attention of all Members of the Congress. Mr. Rowen outlines some of the alternative responses to these potential artificially created shortages of raw materials. Since we will soon be considering the Trade Reform Act, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE THREAT OF FOREIGN EMBARGOES

(By Hobart Rowen)

When President Nixon proposed broad new foreign trade legislation last year, the world was largely concerned with tariffs, quotas, and other measures that are supposed to protect producers in their domestic markets.

But the Arab oil embargo has given a dramatic new focus to world trade problems. We are still concerned with import questions—especially the continuing and short-sighted protectionist pressures that would attempt to insulate the United States in a world obviously growing more interdependent.

However, the effective use of the boycott and production curtailments by the cartel of oil-producing nations—for which no one was prepared—has demonstrated that trade policy must deal as well with the crucial problem of fair access to foreign supplies.

Belated, the Nixon administration has come around to the notion that the tough, aggressive economic measures adopted by the oil cartel must be met with an equally determined stance on the part of the oil-consuming nations.

Beyond that, the administration has now formally approved the initiative taken by two Democratic senators. Walter Mondale of Minnesota and Abraham Ribicoff of Connecticut to amend the Trade Reform Bill in a way that will help the nation respond to artificially-created shortages of materials.

"If we are having so much difficulty coping with an Arab oil boycott affecting less than 10 per cent of our total oil consumption," says Ribicoff, "imagine an international squeeze play affecting such minerals as chromium, tin, manganese, platinum, cobalt, nickel, bauxite, and asbestos, where we are from 80 to 100 per cent dependent on foreign sources."

Treasury Secretary George P. Shultz this week told the Senate Finance Committee that "we need unambiguous authority to withdraw the benefits of trade concessions from countries that impose illegal or unreasonable restraints on sales of commodities in short supply."

The administration may not be ready to go as far as Ribicoff and Mondale would in imposing sanctions against countries that wage economic warfare against us.

But unless some strong actions are taken, ultimately on a multilateral basis, the world will get itself into a race for raw materials that only worsens an already devastating inflationary spiral.

One way would be to establish "escape clause" procedures comparable to those now existing on imports if the U.S. finds it necessary to retaliate against export discrimination. Criteria for such retaliation would be spelled out, and public hearings proposed. This in itself might act to discourage those countries that may be thinking about halting or reducing the flow of their supplies of raw materials.

The larger and original purposes of the Trade Reform Act—to enable the U.S. to negotiate effectively in new multilateral bargaining and to manage the domestic impact of lowered tariffs and barriers—are still essential. But the bill would be a sham unless it deals forthrightly with the new power that the Arabs have persuasively demonstrated resides in the Third World.

As Fred C. Bergsten of the Brookings Institution points out, the whole nature of the foreign economic problem has changed in a year's time. So long as the main unsolved problem is inflation, major nations will be trying to establish export controls.

In a sense, that is an effort to shift the inflationary burden to others. Until now, the focus related more to import controls, which was an effort to export—not inflation—but unemployment.

It should be remembered that to protect the supply and the price of soybeans last year, the United States unilaterally put export controls on soybeans, which seriously threatened the Japanese food resources for a while. This was no more defensible than the Arab oil boycott.

More recently, when the fuel crisis was at a peak, the Japanese came close to slapping controls on plastics exports to their Asian customers, and the U.S. quietly considered putting export controls on petro-chemicals.

The problem of access to supplies, therefore, is pervasive, and not just limited to crude oil. Exporters of other raw materials will learn quickly from the oil producers. Thus, the nations that depend on a steady supply of raw materials must not be dissuaded from acting in their own self-interest by a misplaced euphoria over lifting of the oil embargo, when, and if that comes.

PRINCIPLES FOR NATIONAL HEALTH INSURANCE SUPPORTED BY THE COUNCIL FOR THE ADVANCEMENT OF THE PSYCHOLOGICAL PROFESSIONS AND SCIENCES

Mr. HARTKE. Mr. President, there is no greater need in our society than the need for adequate health care of all Americans. A year ago, I introduced the Health Care Insurance Act, S. 444, which would provide for comprehensive health services through a system of voluntary health insurance, including protection against the catastrophic expenses of illness. S. 444 now has 180 cosponsors in the House and Senate.

As Congress embarks upon a discussion of various national health insurance proposals, we will welcome input from consumers, providers of health care, insurance carriers, and other segments of the community. The Council for the Advancement of the Psychological Professions and Sciences is a public policy organization representing the viewpoint of the psychological community. Psychologists are a substantial and useful manpower source which can and should be effectively utilized in national health care delivery programs such as medicare, medicaid, CHAMPUS, Federal employees health benefit plan, and others—in addition to national health insurance. CAPPS has adopted a set of 12 principles for national health insurance.

Mr. President, I ask unanimous consent that these 12 principles of the council be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Principles for National Health Insurance Supported by Council for the Advancement of the Psychological Professions and Sciences (CAPPS)

1. *Universality*—a national health plan must apply to all residents.

2. *Dual Choice*—the consumer must have the option of choice between not less than two alternatives and competing health care plans.

3. *Practitioner Access*—the consumer must have freedom of choice among the major health professions, including psychology, and direct access to licensed/certified health professionals, with guarantee of privileged communication.

4. *Controls*—it is essential that the controls to utilization be directed primarily to the practitioner rather than the consumer and implemented through peer review, and continuing education.

5. *Differentiation*—it is essential that there be a distinction between two separate but complementary systems focused to: a) active treatment of health disabilities and, b) continuing care for those no longer able to work or live independently.

6. *Prepayment*—it is essential, to enable effective planning, development and competition, that the plans in a national system of health care be financed on a prepaid basis.

7. *Non-Government*—it is essential that there be tax credit incentives to employee/employer participation for health plan development and that the premium costs for indigent subscribers be the only intrusion of government into the funding of direct health care services.

8. *Mental Health*—since emotional or mental disorder is a primary or concurrent problem for the majority of persons seeking health care, it is essential that broad mental health coverage be an integral component of all health plans.

9. *Continuity*—all plans/services must be available on a 24 hour basis and a prescriptive treatment plan must be formulated upon determination of disability.

10. *Prevention*—it is essential that all health plans seek to minimize disability through health education, screening and evaluation of persons at risk and through early treatment intervention and health maintenance.

11. *Parsimony*—it is essential that emphasis be given to ambulatory treatment and alternatives to hospitalization to: a) maximize treatment and cost effectiveness. b) minimize disruption of community and family life and, c) make optimal use of health practitioner and facility resources.

12. *Relevance*—major determinants to the development and continuity of health plans should be market demand and consumer use.

December 13, 1973 (Rev.)

Herbert Dorken, Ph. D.,
Chairman, CAPPS Committee on Governmental Relations.

Mr. HARTKE. Mr. President, these principles deserve the attention and thoughtful analysis of those of us who are responsible for shaping health care programs for this country. I find myself in accord with each of these 12 principles and am pleased to learn that the council will make its representatives available to discuss the principles and their application to national health care as the debate proceeds in Congress.

MALNUTRITION, U.S.A.

Mr. McGOVERN. Mr. President, I would like to submit the following thoughtful editorial from the Medical Tribune, February 13, 1974, entitled "Malnutrition, U.S.A.," which discusses a recent study issued by the Senate Select Committee on Nutrition and Human Needs.

As chairman of the Senate Select Committee on Nutrition and Human Needs, I have been repeatedly disturbed by the extent to which malnutrition and its related problems continue to exist in our great country. One of the greatest nutritional problem areas exists among low-income mothers and their infants.

Since the late 1960's, my committee has heard the recommendations of many blue ribbon panels comprised of medical experts in this field. Their general thrust is always the same: Low-income women and children are an especially vulnerable group, are "at nutritional risk," and those programs dealing with this problem should be improved and expanded. The groups making such recommendations include the American Academy of Pediatrics, the Food and Nutrition Committee of the Urban Affairs Council at the White House, the President's Committee on Mental Retardation, and the White House Conference on Food, Nutrition, and Health.

I think the clearest summary, although by no means the first testimony I have heard regarding the connection between poor nutrition, infant mortality, and behavior abnormalities came during the June 1973 hearings before the Senate Select Committee on Nutrition and Human Needs on maternal, fetal, and infant nutrition. Dr. Myron Winick, who is a Robert R. Williams professor of nutrition, and professor of pediatrics, as well as director of the Institute of Human Nutrition, Columbia University, concluded his prepared statement with this summary of his investigations:

1. An association exists between the amount of weight gained during pregnancy and birth weight in all types of population.

2. An association exists between maternal nutritional status prior to pregnancy and birth weight in poor populations.

3. The difference in birth weight between rich and poor accounts for the difference in mortality between rich and poor.

4. The larger number of smaller infants the greater the chance of mental retardation.

5. Malnutrition retards infant growth producing smaller infants and organ growth producing smaller brains.

6. In animals, malnutrition results in behavioral abnormalities which may persist throughout life. In humans, early malnutrition results in similar abnormalities.

7. Feeding a better diet during pregnancy increases maternal weight gain, birth weight, and therefore, should decrease mortality and the incidence of retardation.

Fortunately, proven mechanisms for meeting this problem exist. Doctors in Memphis, Tenn., and Baltimore, Md., have been supplementing diets of low-income infants for the past few years and have achieved initial results that are very encouraging. They are using what has been called "the prescription food" technique. In other cities, officials are using the supplemental food program to improve the nutritional status of low-income mothers and infants. This program supplies a package of supplemental food made up of available commodities. Due to a combination of reasons, however, this program has not begun to reach the numbers of people who need its benefits.

Diet supplementation is an economical as well as a humane approach to addressing serious health problems of mothers and children. I do not like to talk about children's lives and health in terms of dollars, but the taxpayer is entitled to a guarantee that his lawmakers will not only pick a good program, but also the most economical one.

Failure to combat infant health problems, is expensive. Low birth weight babies need intensive care, sometimes totaling thousands of dollars per month. There are 300,000 premature babies born each year. The total amount spent, on those who survive, is staggering. There are 150,000 mentally retarded children born each year. Protein deficiency may well play a crucial role in the causes of mental retardation.

It just makes good sense to me to save the lives and preserve the health of babies through the use of sound nutritional supplementation, rather than pay later. We can make no better investment in America than guaranteeing the health and well-being of our children.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MALNUTRITION, U.S.A.

A report from the Select Committee on Nutrition and Human Needs of the U.S. Senate refers to a "staggering" incidence of prematurity or low birth weight in infants born to the poor and the correlation with poor survival, subsequent poor health, and poor mental development.

The report, published a few weeks ago, states, "Malnutrition appears to be the common denominator of each of these problems—low birth weight, infant mortality, mental retardation, and intellectual malfunction. Any attempt to break the cycle of poverty characterized by these phenomena must include nutritional intervention or this wasteage of human life will continue unabated."

Direct action to improve the nutritional status of the poor meets the problem head on. We have in the past emphasized that data about the health status of the poor have frequently been cited only to support the position that *medical care* of the poor is bad and that the system of health delivery in this country is deplorable. This has resulted in a confusion of *health needs* with *medical care*, as though the two were identical, which they are not.

Health needs, of necessity, include adequate nutrition, qualitatively and quantitatively, good sanitation, and good housing—in addition to satisfactory medical care. Historically, in terms of the greatest number of people, the first three listed above are to be credited with far more than can be attributed purely to medical care alone.

The problem of the delivery of medical care must be considered on its own merits, apart from the question of malnutrition U.S.A., housing U.S.A., sanitation U.S.A., etc. It has not been helpful in the past to confuse one problem with the others.

Last week a MEDICAL TRIBUNE editorial emphasized the likelihood that freely available abortion has reduced U.S. infant mortality. The rate can be reduced even further by improving the maternal-nutritional status. It is more than probable that we can approach the best international mortality without any drastic change in our current systems of delivering medical care.

"SALT" AND THE U.S. STRATEGIC POSTURE

Mr. BROOKE. Mr. President, a debate is in progress in the Congress and elsewhere over the possible implications of the alterations in our strategic posture suggested by Secretary of Defense James Schlesinger. In the Senate the subject is being explored by the Subcommittee on Arms Control of the Foreign Relations Committee, the Armed Services Committee, and the relevant subcommittee of the Appropriations Committee. A similar investigation is underway on the House side. Given the complexity of the subject, such an extensive effort to explore all the ramifications of the issue in each of these forums is fully justified, indeed is a vital function the Congress must perform as part of its overview responsibility vis-a-vis U.S. defense policy and capabilities.

During the past several months I have made an extensive effort to understand the exact nature of the proposals made by Secretary Schlesinger. I have yet to receive information on the crucial details that will determine whether or not I will be able to accept the course of action advocated by the Defense Secretary. However, it is possible at this time to identify what I believe to be the three major rationales for the suggested alterations in our strategic posture. They are: First, to increase U.S. options across a certain portion of the deterrence spectrum; second, to enhance the credibility of the U.S. security guarantee extended to its allies; and third, to influence the SALT negotiations. In the next few months I intend to comment extensively on the relationship of these rationales to the proposals of Secretary Schlesinger. Today, however, I will make only a few brief observations on the SALT rationale.

Given the dynamic momentum of the Soviet programs in strategic nuclear weaponry, both the administration and the Congress are concerned that influential groups in the Soviet Union may believe that an opportunity is presenting itself for Russia to achieve clear nuclear superiority in the world. I believe we are all agreed that it is necessary to disabuse such individuals of this notion. The most desirable way to do this is to achieve a permanent limitation on strategic offensive weapons through a negotiated SALT agreement. Many believe that what is needed to accomplish this is a clear signal that the United States will do everything necessary to deny the Soviet Union any of the advantages it anticipates it may achieve by its strategic momentum. If such a signal were sent, many argue that the stage would be set for a meaningful agreement. *This is* the context within which the "SALT rationale" for nuclear flexibility is believed to be operable.

While I am essentially in agreement with the idea that certain elements in the Soviet Union must be persuaded that the United States will not tolerate the attainment of any unilateral advantage by Moscow in the strategic field, I think it is important that we recognize that the course of action suggested by Secretary Schlesinger, as it relates to the SALT negotiations, is, at best, a gamble. As the Economist recently stated:

> . . . if the budget [FY 75 U.S. Defense Budget] brings home to the Russians the breathtaking range of possibilities available to the technological power of the United States, Mr. Brezhnev may decide to make SALT-2 the great breakthrough to cooling off the cold war which most of the world hopes it will be. But if SALT-2 fails, 1974 will have introduced the idea of a flexible nuclear response and could be the beginning of an extremely expensive round in the arms race.

Before we are "locked" into playing this gamble to the hilt, we had better explore all its implications—military, political and psychological. I am not convinced that the needed indepth exploration has occurred.

The proposals of the Defense Department will increase the technological complexities of the SALT negotiations. MARV, cruise missiles and the possibility of a new small missile submarine are bound to complicate the technological calculations inherent in the SALT process. Whether or not this negative aspect of the proposed alterations will be offset by positive political results is an open question.

Naturally, there are other questions relating to the potential effects on the SALT negotiations and the arms race in general of the proposed alterations in our strategic posture. For instance, these alterations may have an impact on the nuclear proliferation question far in excess of that anticipated by the proponents of nuclear flexibility.

It is impossible to make any final decisions yet as to whether or not "nuclear flexibility" is the path we want to follow in seeking our objective of a permanent limitation on strategic offensive forces. Before the Congress will be in a position to make this determination, we must receive a much more extensive analysis of both the short- and long-term implications of such an approach. Hopefully such an analysis will be forthcoming in the next few months.

Mr. President, I ask unanimous consent that the Economist article entitled "The Schlesinger Gamble" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

THE SCHLESINGER GAMBLE

After the energy conference, Nato: Mr. Kissinger has scored another point in America's relations with Europe. He has been arguing that the United States and its European allies need a better method of regular consultation. Now, from next month, the political heads of 14 foreign ministries—everybody in Nato, including France, except Iceland—will meet frequently with the Nato permanent council. This provides a new level of consultation, between the twice-yearly meetings of ministers and the stodgy gatherings of the permanent council meeting alone. The change is needed: the recent publication of the American defence budget is a vivid reminder not only of the preeminence of the United States in matters of defence but also of the two-way dependence with its allies.

The new items in the American defence budget, plus some major changes in emphasis, have set the United States off in a fresh direction. This budget is very much the creature of the new Secretary of Defence, Mr. Schlesinger. The hallmark is flexibility. He wants to have several possibilities for response in any situation. Not only does he want the power to fight a conventional war; he wants a rich variety of nuclear options as well, so that even nuclear action can be tailored to the shape of any particular crisis.

There are three distinct results of this budget; all are, or ought to be, highly controversial, and not looked upon simply as this year's ration for the American military establishment. First, the bad news for America's European allies is that Mr. Schlesinger's nuclear flexibility is apparently to be achieved at the expense of some kinds of conventional forces. Although widely billed as America's biggest defence budget since the second world war, it is actually smaller in real money terms than any since 1951. It does not directly reduce the American forces in Europe but it does cut about 20,000 men out of the armed services as a whole. If this kind of budget becomes routine over the next few years it will certainly generate pressures of its own for reductions in Europe; a sizeable part of the Defence Department could find itself allied with the isolationists in Congress.

The second result of this budget will be to make the current round of Strategic Arms Limitation Talks (Salt) much more difficult. The negotiators are confronted with America's proposal to produce lots of different new weapons. There are now not only bombers and land-based and submarine-carried missiles (and numbers of warheads) to be considered. There is a new quiet missile submarine, smaller than the 24-missile Trident; there are missiles with maneuverable warheads; there are also, in one of the sharpest budget increases, new cruise missiles which can be launched from submarines or aircraft. None of these new weapons is here yet; most are years away. But the American defence budget, with its tradition of revealing nearly everything about American plans, is itself a major instrument in arms politics. And this one, with its bewildering array of strategic possibilities, cannot fail to make Salt-2 a very complex operation indeed.

The third result of this budget may be a sharp acceleration of the arms race. The Americans' nuclear strategy has passed through several distinct stages. There was President Eisenhower's "more bang for the buck", which was massive nuclear retaliation for any attack by the Soviet army. This was followed by flexible response, which has never seemed entirely convincing because Nato has never been willing to provide enough troops to hold off a Soviet attack for more than a few days. Then the advent of anti-ballistic missiles (ABMs) threatened to break the nuclear balance. The Salt-1 agreement tried to put the lid back on this box by limiting the numbers of ABMs. But in retrospect Salt-1 may have been a hollow triumph; certainly the tacit agreement by both sides to deploy only one of their two allowed ABM systems was due in large part to the realisation that offensive technology is moving faster than defence. The new American budget pushes this technology a stage further with all its hints of new attacking weapons to come. The nuclear arena is, once again, the centre of the American-Russian competition.

SEE WHAT WE CAN DO

Of course, the American budget is not the only factor which threatens to destabilise things. The Russians have built a lot more missiles over the past few years than the Americans have, and have lately tested several new long-range missiles; they have also developed multiple independently-targetable re-entry vehicles before western intelligence predicted they would. Mr. Schlesinger's announcement that some American warheads are being re-targeted on to Russian missile sites is part of the response to that. (It is also the result of the increased number of Poseidon missiles in America's inventory. With Poseidon's multiple warheads, there are so many warheads available that they are literally running out of city targets.) The budget is another part.

So this year's American defense proposal—which is all the budget is at this point—may simply be a historical milestone in a process that began several years ago. There is a strong argument that the nuclear flexibility this budget represents can be used to make war less likely. And if the budget brings home to the Russians the breathtaking range of possibilities available to the technological power of the United States, Mr. Brezhnev may decide to make Salt-2 the great breakthrough to cooling off the cold war which most of the world hopes it will be. But if Salt-2 fails, 1974 will have introduced the idea of a flexible nuclear response and could be the beginning of an extremely expensive round in the arms race.

SENATOR HUMPHREY ATTACKS DECISION TO INCREASE MILK IMPORTS

Mr. HUMPHREY. Mr. President, once again the Cost of Living Council has taken steps to destroy America's agriculture, this time by urging the importation of 150 million pounds of nonfat dry milk between now and June 30. And the move is in direct contradiction to the reasons given by the CLC.

When this announcement was made on March 4, Cost of Living Council Director John T. Dunlop stated that their objective was to "encourage—greater capacity in areas of the economy experiencing domestic shortages."

I contend their action will do just the opposite. It will not encourage greater capacity in the production of nonfat dry milk—it will discourage it.

It is regrettable what this, and earlier actions have done to our domestic dairy industry. Throughout 1973 the administration authorized the importation of huge supplies of manufactured dairy products—nonfat dry milk, butter, and cheese. During this same period dairy farmers in the United States by the hundreds were selling off their dairy herds, primarily because they were getting no encouragement from Government policy to produce these vitally needed foods. Instead, such actions as these imports were discouraging them. As a result, dairy production in the United States dropped by 3 percent last year and is still dropping. Milk production has been down in every month since October 1972.

A step which should be taken now to encourage dairy farmers to produce the dairy products we need and one which I strongly recommend is to raise dairy price supports to 90 percent of parity for the coming year.

The Secretary of Agriculture must announce the price support level by April 1, and I am urging him to set the level at 90 percent, the highest level permitted by law.

My own State of Minnesota is particularly hard hit by these discouraging actions because 68 percent of its milk, according to latest USDA figures, is what is known as manufactured grade and can only be used for products of the type which are being imported. These imports, therefore, hit directly at the economy of our State.

These imported dairy products are subjected only to a spot check surveillance. Neither the production of the milk going into these products nor the processing of them are subjected to the same inspections which Minnesota dairy products must undergo.

Unfortunately, these trends are not very well known, but I can assure you that dairy farmers are going out of business in droves. They are efficient and can compete effectively with European dairymen. But this is impossible when Government policies work to foreclose markets to our dairy industry and fail to enable dairymen to earn a decent return on their production costs.

VETO OF THE ENERGY EMERGENCY ACT

Mr. ROTH. Mr. President, I recognize that the politically popular vote would be to vote to override the President's veto of the Energy Emergency Act. In good conscience, however, I cannot do so. It would be both demagogic and shortsighted for me to vote for this legislation.

The sense of this position is clearly demonstrated by recent editorial positions in several responsible leading daily newspapers representing a spectrum of political opinion. The Wilmington Evening Journal, the Wall Street Journal, the Washington Post, the Philadelphia Inquirer, and the Washington Star-News have all taken positions against the Energy Emergency Act and to one degree or another view this acts as an impractical and political approach to the energy problem.

My view, also shared by these newspapers, is that this legislation may mean longer lines, because by rolling back prices we may well reduce supply. Our top priority must be to increase the supply of oil and you cannot do so by legislatively locking in prices. If there is to be any kind of price rollback, it should be handled administratively rather than legislatively. That way you can respond more quickly to the supply-and-demand factors.

It also is far preferable to handle the windfall tax problem through tax reform measures which would change the depletion allowance and other tax benefits for the oil and gas industry.

Frankly, one reason there is so little confidence in Government today is because too many of us do what is political rather than what will bring the best results. I believe that the important thing to do in this case is to move now in the direction of progress toward increasing supplies of oil and gasoline. We should be wary of any measure which would obviate this approach, no matter how popular at the moment.

PUBLIC FINANCING OF FEDERAL ELECTIONS

Mr. HART. Mr. President, the ongoing debate about public financing of Federal elections sometimes overshadows the fact that provisions for such funds for Presidential elections are already law.

A taxpayer can participate merely by checking a box on his or her income tax return. The money, $1 for a single person or $2 for a joint return, will go into a fund to be equally divided between major party candidates for President, with smaller amounts available for candidates receiving more than 5 percent of the vote.

Unhappily, too few people are aware of this provision or of exactly how it works. The $1 Checkoff Committee, Washington, D.C., has prepared a useful question and answer sheet on the program which I ask be printed in the Record at the conclusion of my remarks.

Certainly I would encourage taxpayers to use this checkoff provision, for the larger the fund, up to a limit, the less Presidential candidates will be permitted to raise for their 1976 campaigns.

No one should suggest that public financing alone will restore public confidence in our political leaders, but public financing would remove one major cause of public distrust—the appearance, if not the fact, that large contributions buy access if not commitments. I urge all persons filing income tax returns to check off the Presidential election campaign fund box on their tax forms.

I ask unanimous consent that the checkoff questionnaire be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

How the Dollar Checkoff Works

QUESTIONS AND ANSWERS

1. *What is the dollar checkoff?*

In 1971, Congress passed a new law establishing the Presidential Election Campaign Fund. The purpose of the law is to provide public financing of Presidential campaigns by allowing each taxpayer to direct one dollar of his or her Federal income tax to a special fund to be distributed among the candidates.

2. *What is the procedure for an individual wishing to make use of the dollar checkoff?*

On the regular 1040 and 1040A Federal income tax form, *line 8* is entitled "Presidential Election Campaign Fund." Taxpayers wishing to direct one dollar of their taxes to the Fund simply check the box on that line. If it is a joint return, there is a second box for a total of two dollars.

If the taxpayer did not make use of this portion last year (1972), he or she may now do so by additionally checking off a second set of boxes in the enclosed line entitled "Note" directly above the signature line at the bottom. This will direct an additional one dollar (or two dollars in joint returns) from the paid taxes to the Fund.

Thus, in 1973 a taxpayer may direct a total of two dollars (or a total of four dollars in joint returns) to the Fund by checking off both line 8 for 1973 and the additional line at the bottom, in order to retroactively checkoff for 1972.

3. *What will this cost the individual taxpayer?*

Absolutely nothing. The checkoff simply directs a dollar of the individual's normal taxes to the Presidential Election Campaign Fund established by Congress. It does not increase anyone's taxes, nor does it reduce any tax refunds.

4. *Where does the money go?*

All funds go directly to a special account in the Treasury Department administered by the Secretary of the Treasury and the Comptroller General of the United States. (Section 9006)

5. How will this Fund be used?

Monies from the fund will be distributed to eligible candidates for President and Vice President based on the formula established in the law creating the Fund. The formula provides that all candidates whose party received 25% or more of the total votes cast in the preceding Presidential election (referred to as major parties) are eligible to receive 15c per eligible voter over 18 years of age, based on the census figures as of June 1 of the year preceding the election.

The candidates of minor parties, i.e., those parties which received more than 5% but less than 25% of the vote in the preceding Presidential election, will receive from the Fund payments which are in the same ratio to the payments received by major party candidates as the vote of that minor party to the average votes received by the major party candidates in the preceding Presidential election.

Example: Using round figures, let us suppose that in 1972 there were 100,000,000 popular votes cast for President. Of those, suppose that the Republicans received 50,000,000 votes, the Democrats 40,000,000 and the remaining 10 million were cast for various minor parties of which one, The Third Party, received 9,000,000, with the remaining 1 million scattered among a number of other splinter groups.

On June 1, 1975 (the year preceding the 1976 election) the Bureau of the Census will report its determination of the number of Americans over 18 and therefore eligible to vote. Supposing that the Bureau reports a figure of 160,000,000 eligible voters, the Republicans and Democrats would each be entitled to receive a payment of 15c times that figure, or $24 million each. The hypothetical Third Party, which received 9,000,000 votes, or 9% of the total popular vote, is also entitled to a payment since it received more than 5% but less than 25%. To compute that payment, one calculates the average number of votes received by the major parties, which in this case would be 45,000,000, in order to arrive at a ratio between that average and the number of votes received by the minority party: or 9:45 reducible to 1:5. The same ratio is then applied to the payment due each major party, shown above to be $24 million. The Third Party would then be entitled to ⅕ of that, or $4,800,000, for use in the 1976 election. *None of* the remaining splinter parties would be eligible since none received over the minimum 5% of the popular vote in 1972.

The actual voting figures in 1972 for the Presidential elections were as follows:

Republicans (Nixon) (60.7%)	47, 169, 905
Democrats (McGovern) (37.5%)	29, 170, 383
American Independent (Schmitz) (1.4%)	1, 098, 635
Total popular vote	*77, 734, 330
Average of major parties	38, 163, 000

* The discrepancy in the total is due to votes cast for minor parties or candidates.

Since only the two major parties received more than 5% of the votes cast in 1972, only those two will be eligible to receive payments in 1976. Since they both independently received more than 25% of the vote, their payments will be based on the formula for major parties and no minor party will be eligible to receive funds in 1976.

6. *Can the candidates still solicit or accept private donations?*

If enough money is in the Presidential Election Campaign Fund to meet all payments due the candidates according to the formula explained above, then candidates may not solicit or accept private donations.

However, if the candidates under the above formula are entitled to receive $24 million each, but there are only enough funds to provide them with $14 million each, then they may make up the difference through private contributions. But they may not exceed the sum to which they would normally be entitled if adequate monies were available in the Fund. In other words, they may raise the extra 10 million dollars to reach the 24 million dollar figure in the above case, but they may not go beyond the 24 million dollar limit based on the number of eligible voters once they have agreed to participate in the program.

7. *How may the funds given a candidate be spent?*

The funds may be used only for *qualified campaign expenses.* The law creating the Presidential Election Campaign Fund defines qualified campaign expenses as expenses that a candidate or his authorized committee incurs to further his election to office. This includes everything from television advertising costs to office space to travel expenses. The law states: "(Subsection), (11) The term "qualified campaign expense" means an expense—

(A) incurred—

(i) by the candidate or a political party for the office of President to further the election of the candidate of such political party for the office of Vice President, or both

(ii) by the candidate of a political party for the office of Vice President to further his election to such officer or to further the election of the candidate of such political party of the office of President, or both, or

(iii) by an authorized committee of the candidates of a political party for the offices of President and Vice President to further the election of either or both of such candidates to such offices,

(B) incurred within the expenditure report period (as defined in paragraph (12)), or incurred before the beginning of such period to the extent such expense is for property, services, or facilities used during such period, and

(C) neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which such expense is incurred or paid.

Public Law 92-178. 85 Stat. 564

8. What about groups, committees, special interests, and individuals spending money for the election of a candidate for President or Vice President independent of that candidate's campaign?

It is unlawful for any group or individual to knowingly or willfully incur expenditures above $1,000.00 to further the election of a candidate, when such an expenditure would constitute a qualified campaign expense (as defined above) if made by the candidate or the campaign itself.

9. What if the amount paid to a candidate exceeds the total sum of the qualified campaign expenses he incurred?

Candidates are entitled to receive a total payment equal only to the sum of all their qualified campaign expenses, minus any allowable private contributions. Excess payments, if made, must be repaid to the Federal Treasury as certified by the Comptroller General.

10. What if the amount of money collected through the dollar checkoff exceeds the total amount needed to pay all of the candidates the sums to which they are entitled?

All such excess funds will revert back to the general fund of the Treasury after the election, to be used as normal tax revenue.

11. Who pays for the primaries?

The dollar checkoff law applies only to the general election, the period following the nominating conventions. Primary campaigns will be conducted with funding from private sources as before.

12. Who in the government is responsible for overseeing and reporting on the use of the funds?

The Comptroller General of the United States is generally charged with overseeing the administration of the Presidential Election Campaign Fund. Once the sums have been paid to the candidates, however, the candidate has control over the funds assigned to him. All candidates are required to periodically report on expenses, and after the election the Comptroller General is to carry out a complete audit. The Comptroller General is required to report to Congress after each election on the qualified campaign expenses of each candidate and such information is to be made public as a Senate document.

DO WE FACE ANOTHER BEEF SHORTAGE?

Mr. McGOVERN. Mr. President, the prevailing view in much of America is that, because of high food prices, the farmer is getting rich.

And while prices of some farm commodities have increased sharply in recent months—in a long overdue increase—few, if any, farmers are joining the ranks of the "new rich." In most cases, the reality is precisely the opposite.

The reason, of course, is that the farmer does not benefit from inflation—he suffers, as the rest of us, from inflation. In many cases the farmer is hurt even more severely.

The cost of farm production—the farmer's index of inflation—has jumped 20 percent in the past year.

One example of the new cost-price squeeze is demonstrated in the area of beef cattle. At last year's peaks, slaughter cattle sold for as much as $58 per hundredweight. Yesterday's Omaha prices were in the $41 to $42 range for choice slaughter steers.

Many Americans are puzzled and disturbed that the price of beef in their supermarkets has not shown any significant drop since last year's record high levels.

We hear new discussions of plans for another "consumer beef boycott" next month.

In my view, such an action would be counterproductive to the goals and aspirations of consumers. Last year's beef boycott, to which the administration responded with disastrous controls on beef prices, neither decreased nor slowed the increase in the retail price of beef.

The chaotic disruptions in the food economy which began with price controls are still being felt. It may take another year or two for these dislocations to work themselves out.

In the meantime, livestock feeders today are caught with fed cattle that cost them up to $55 per hundredweight to feed to slaughter weight, and a market that may pay them $41 or $42 a hundredweight. Cattle feeders who take slaughter cattle to market today stand to lose $100 to $150 for every animal marketed.

The large majority of livestock feeders today are small family operators who have been subjected to wild up-and-down swings in the market—and who today are caught between a sharp downturn in the prices of their cattle and equally sharp upswings in the prices of feed and other inputs.

When one realizes that this cost-price pinch is compounded by shortages of many necessary items, such as urea and phosphate feed supplements, it is readily understandable that the livestock feeder has little incentive to buy replacement feeders.

A depressed market for feeder cattle, in turn, diminishes the incentives for livestock growers to stimulate production of calves, starting anew the chain which leads to cyclical shortages of beef in the supermarket.

Our meat economy is as close to a free market as this Nation has today, and it will require some period of being left alone, absent of price controls and other tamperings, for the situation to work itself out.

But, in the meantime, farmers and consumers will pay a hard price for the unwise decisions of a year ago—consumers will find retail prices high, farmers will be forced to sell their cattle at a loss.

There are a few steps which the Government can take to alleviate the pain. As for consumers, we have made significant improvements in food stamp and other food assistance programs which will soften the impact on those families least able to pay.

But for the average working family and for the livestock grower and feeder, Government policy has worked the other way.

For the farmer and for the working family, I would urge two steps:

First, the Department of Agriculture should immediately resume buying meat products for the school lunch program and accelerate its rate of purchases. Not only would this step create a bit more demand for meat, benefiting farmers and ranchers, but it would make more meat available to hundreds of thousands of schoolchildren at a school lunch price their families can afford.

Second, the administration should immediately reimpose quotas on imported beef. With livestock feeders losing $150 a head, the administration is terribly remiss in suspending, as it has, import quotas for the remainder of the year.

Mr. President, Gordon Van Vleck, president of the American National Cattlemen's Association, recently wrote a thoughtful article on beef price controls in his association's newsletter and I ask unanimous consent that it be printed in the Record.

In addition, I ask unanimous consent that an article quoting the presidents of two major farm organizations in South Dakota, both of whom express sharp opposition to the President's decision to allow unlimited beef imports this year, be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Beef Price Controls: A Disaster for the Consumer

(By Gordon Van Vleck)

Because consumers and the government sent beef producers the wrong signals in 1973 in the form of boycotts and the price freeze, beef supplies are now down . . . and consumers are paying more for their favorite meat. This has been further compounded by the recent transportation crisis which almost completely shut down the beef pipeline.

The 1973 beef price freeze was the third in less than 30 years, not to mention those imposed during World War I, and not once have they worked. The freeze totally disrupted the live cattle market, causing wild upward and downward gyrations in prices. The freeze reduced the number of cattle placed in the nation's feedlots by about eight percent, even though there were about five percent more cattle available to go into feedlots.

Experience is supposed to be our best teacher, but some people seem prone to repeat mistakes of economic history. The trouble is the public is highly sensitive to food prices—and beef in particular—and price controls are viewed by some as a politically expedient solution to the short range situation.

It's ironic that the Administration talks about the dangers of short-term political expediency when dealing with the oil exporting nations; while at the same time short-term political expediency seemed to be the rule when it imposed controls on beef. The results will have long-term detrimental effects on the American consumer.

Beef production in the free market system—not frozen prices—is the key to better living. Consumers live and eat better only when adequate quantities of food are available. And the only way to increase supplies is to let stronger prices induce producers to turn out more. In a supply and demand business like cattle and beef, increased supplies will keep prices in line.

By mid-August last year, opinion polls showed that most Congressmen favored dropping price controls on beef so that cattlemen would produce more. Later, prices did decline, only to rise again more recently, because of the freeze-caused tightening of supplies—although average beef prices still were below 1973 highs. All indications point to larger beef supplies and somewhat lower retail prices later in 1974.

With the cattlemen's production costs at the highest levels in history, and with runaway inflation, we can never expect to return to the "cheap" food of yesteryear. But we can assure the consumer of adequate supplies at the most reasonable price for the consumer if we let the time-proven free market system work. We believe that is in the best interest of all. Therefore we urge Congress to let the Economic Stabilization Act expire on April 30.

[From the Aberdeen (S. Dak.) American-News]

STATE FARM LEADERS RAP BEEF ACTION

(By James W. Kofski)

Two South Dakota farmer spokesmen say that President Nixon's decision to remove restrictions on beef imports for 1974 would harm the nation's cattle producers.

"In the face of relatively low prices of live cattle it seems improper, and for that matter unfair, for the American cattle producer," according to Ben H. Radcliffe, Huron, president of the South Dakota Farmers Union.

Henry Knochenmus, Sioux Falls, said Tuesday the action could cause beef prices to fall in the United States, and "with the cost of operation today, that would not be good for beef producers."

Knochenmus is president of the South Dakota Farm Bureau Federation.

"I think it's poor economics and poor business to import beef and at the same time to put the domestic cattle feeder out of business," Radcliffe said. "We may find ourselves relying too much on imported food, as we have relied too much on imported petroleum.

"We need to encourage domestic production," he added.

Knochenmus said he could not see the necessity of dropping the import restrictions now. "The price of beef has been going down the last couple of weeks," he said, "so it shows there must be plenty of beef on the market."

As he did last year, President Nixon signed a proclamation declaring that it is in the "overriding economic or national security interests" that meat import quotas be suspended. The proclamation said potential imports of meat in 1974 will be 1.5 billion pounds.

Knochenmus said the president acted last year to pacify consumers after the price of beef had risen rapidly compared to the previous 15 or 20 years.

"He figured by bringing in more beef he would help to hold the price down," he said. "But what actually happened is that world demand was so great that not too much extra beef was imported last year."

If prices in the United States are high enough in 1974 to attract meat imports away from competing markets such as Japan and Europe, Knochenmus added, those imports could hurt the market in America.

"I think nothing can be worse for the long-range prospect for the consumer than to have the cattle feeder put in the position where he feels he can no longer put cattle in the feedlots," Radcliffe said. "We may see empty feedlots in the summer and fall, and our consumers may find the country out of domestic beef."

"At the present time, the beef business in South Dakota and all over the United States is in a kind of dilemma because the price of live beef is going down," Knochenmus said.

Radcliffe agreed. "With the current high price of feed, especially corn, cattle feeders are in a bind now with relatively low live cattle prices," he said. "And this action can only aggravate that situation."

"We normally expect to import some beef," Knochenmus said, "but I'm not so sure but that imports should be restricted to a certain extent in 1974.

"There is supposed to be a lot more beef in the country now than there has been," he added. "And when that grows up and comes into town, it will hurt the beef producer inordinately if we have beef coming in from other nations."

THE ENERGY AND ENVIRONMENTAL CRISIS

Mr. TOWER. Mr. President, today we hear more about the energy crisis than we do the environmental crisis and we hear more about the debate as to whether environmental action was a contributing factor to the energy crisis than we do about the great strides we have made in the last few years in cleaning up our country's air and water.

I do not understand why some individuals cannot see that the energy crisis and the environmental crisis are one and the same and that it is not an "either/or" situation. We do not have abundant energy or a clean environment, we do not have to sacrifice one for the other. What we do have to do is continue to work for abundant, clean energy which in turn can only assist us in improving our environment.

It would be a serious error to stop our aggressive, constructive environmental efforts at this time. It would be a mistake for our citizens to lose their impetus for working to improve their environment just when so much progress is being made. Certainly it is possible that we may have to delay implementation of some environmental standards or approve emergency variances, but we must not lose sight of our original environmental goals. For these reasons, I have again become a sponsor of Senator NELSON's Earth Week resolution. This 1-week observance has, in the past, helped to educate our citizens and to increase their interest in working in their own communities to make them better places in which to live.

Passing this resolution will emphasize that we in this country have not lost sight of our environmental goals and that we continue to pursue them.

THE SUEZ CANAL AND INTERNATIONAL STABILITY

Mr. JACKSON. Mr. President, indications now are that, whatever else happens, one outcome of the administration's Middle Eastern diplomacy will be the reopening of the Suez Canal. On many occasions since 1967 I have expressed my belief that the opening of the canal should be considered only in the context of an overall peace settlement negotiated by the parties involved and establishing defensible borders for Israel. As I said in my report to the Congress of December 1970:

> The opening of the Canal . . . must be considered a trump card in any forthcoming settlement of the Arab-Israeli dispute. As such, agreement on this point should be withheld until a settlement of the fundamental issues is reached.

It was and is my conviction that the reopening of the canal is a principal objective of the Soviet Union; and because of the considerable Soviet interest in bringing this about we ought to have held this trump card in the Western hand until issues of comparable interest to us had been resolved. The administration has played it prematurely and unwisely. It is not too late, however, to propose and negotiate the demilitarization of the canal. I believe the administration should now insist that the Suez Canal be closed to the warships of all outside powers including naval vessels of the United States and the Soviet Union.

The nearly total dependence of Europe and Japan on energy produced in the Persian Gulf has been dramatically emphasized by the events since October 6, 1973. The strategic importance of the gulf, to which I have often referred in recent years, is now undeniable. And Soviet interest in establishing primacy over the oil-producing states of the gulf, so evident in Russian policy toward Iran in the past and Iraq at present, is a matter of utmost concern to our national security.

In the mid-1950's Soviet strategy in the Middle East, which had for centuries focused on Persia with only occasional forays beyond into Egypt—as in 1788 when Catherine the Great offered military assistance to the Bey of Egypt—took on a "leap-frogging" quality founded on efforts to exploit the differences between Arabs and Israelis. Directing its attention to Egypt and Syria, the Soviets hoped to gain a position in the Middle East that would have encircled Iran, Saudi Arabia and the smaller sheikdoms skirting the Indian Ocean. More recently, Soviet policy has focused on

Iraq, on Iran's neighbors to the north and east and on Somalia, Yemen, and Aden on the Red Sea and the Gulf of Aden. In this strategy the Suez Canal occupies a central position.

The principal, and rapidly growing, Soviet military fleet is deployed in the Black Sea where it is supported by the industrial and military resources of European Russia. The reopening of the Suez Canal—unless it is demilitarized—will substantially reduce the transit time and distance that the Black Sea Fleet must cover for deployment or operations in the Persian Gulf—not by a few percentage points, not by a few miles, but by over 70 percent, from 11,500 down to 3,200 nautical miles. The principal effect of this reduction in time and distance is this: With the canal in operation the Soviet Black Sea Fleet can be quickly sent into the Persian Gulf where it would rapidly outnumber anything that we could deploy in that vital region. The handling capacity of the canal is on the order of 50–60 ships per day. In the event of a crisis in the gulf—and it is not difficult to imagine such conflicts as the recurring exchange between Iran and Iraq reaching crisis proportions—the very considerable navy that the Soviet Union keeps on station in the Mediterranean could be quickly redeployed in the gulf, while the Black Sea fleet could be sent south into the Mediterranean. Moreover, recent developments in Somalia clearly suggest that the Soviets are likely to be in a position to provide air cover from operating bases at the southern access of the canal.

We, for our part, cannot expect to make comparable use of the canal. The sailing distance from the east coast of the United States to the Persian Gulf, now in excess of 11,000 nautical miles would only be reduced to 8,000 nautical miles if the canal were available to the U.S. Navy—a doubtful proposition at best. In any event the carrier task forces on which our naval power depends are, for the most part, unable to use the canal which is neither deep nor wide enough to accommodate our carriers. Nothing comparable to available Soviet facilities on the Gulf of Aden will be available to us to support fleet operations in the Indian Ocean.

The net effect of these facts is this: The power vacuum that developed with the withdrawal of British forces from the Persian Gulf and Indian Ocean—a vacuum that provided an interim measure of stability so long as it remained unfilled by the Soviet Union—can be expected to give way to the very great and dangerous instabilities that would result from Soviet predominance in this area. Vital sources of energy at the disposal of weak and potentially unstable governments would come under increasing Soviet influence even in the best of times; and in crisis situations only the Soviet Union would be in a position to bring substantial power to bear.

Mr. President, this evolving situation is highly disadvantageous to the United States and its allies and, I believe, prejudicial to the stability of the gulf and to our national security. The tenuous stability that now prevails in the gulf must be preserved, not only in the near term but for years to come.

Neither the American nor the Soviet Navy presently deploys in force in the Indian Ocean. Thus, the opening of the Suez Canal could turn out to be a stimulus to an arms race in that pivotal ocean.

I believe that we have a propitious opportunity to stop an arms race in the Indian Ocean before it starts; and the place to begin is at the gateway to the region, at Port Said. To accomplish this I believe that the administration should press for the closing of the Suez Canal to the warships of all outside powers including naval vessels of the United States and the Soviet Union. From time to time opportunities for regional restraint present themselves; and in my judgment the region is the Indian Ocean and the opportunity is now.

A proposal to demilitarize the Suez Canal would be in keeping with efforts to defuse the dangerous situation in the Middle East. It could have a salutary effect on the potential volatility of Soviet-Chinese relations. Because keeping the canal closed to outside military vessels would limit the size of the naval force the Soviets can deploy there, we could hope to avoid a long term requirement for a comparable deployment capability of our own.

Mr. President, as one looks ahead to the potential sources of international instability the Indian Ocean and its approaches loom large. One need only recite the countries that are affected: Egypt, Ethiopia, Somalia, Saudi Arabia, Kuwait, Iraq, Iran, the sheikdoms of the Persian Gulf, Pakistan, India and so on. If we fail now to move to limit a potential stimulus to arms competition in this area we will look back on this moment with regret.

WHAT TRANSPORTATION MEANS TO THE CITIES

Mr. HUMPHREY. Mr. President, I have frequently voiced my feelings before this body about the importance of a balanced, modern transportation system to the Nation's rural areas. I continue to believe that this need is one of the most glaringly neglected matters on the national agenda.

We are all similarly aware of the need for equally balanced transportation facilities in our cities. A great volume of criticism has been directed at the current lack of balance in our urban transportation systems, with the current energy shortages providing additional stimulus to this type of commentary.

Mr. President, I believe it might be both refreshing and enlightening if we were to take a brief look at the subject of transportation from a positive standpoint. Not to downgrade the value of criticism in dealing with our problems and needs, it is sometimes healthy to look at the achievements we have made and the benefits that have been provided by past action—if only as a means of measuring today's challenges and the progress we are making in coping with them.

In that spirit, I call the attention of my colleagues to an article that recently appeared in the Midwest Motor Transport News, the official publication of the Minnesota Motor Transport Association.

The article provides an excellent insight into the important connection between transportation services and facilities, and the economic growth and health of a community.

While the article understandably pays particular attention to the trucking industry and its contribution to the growth and development of the Twin Cities of St. Paul and Minneapolis, Minnesota, it also provides an excellent insight into the role other modes of transportation have played.

I ask unanimous consent that the article be printed in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE TWIN CITIES—TOWNS THAT TRANSPORTATION BUILT

The Twin Cities of St. Paul and Minneapolis are booming towns. And transportation has played a major role in developing the progressiveness and prosperity associated with the Twin Cities' mature, growing cosmopolitanism.

St. Paul, the older and smaller of the Twins, visited by Father Hennepin, French missionary in 1680, was originally known as "Pig's Eye." It derived its name from a coarse, ill-bred, one-eyed bootlegger with piggish features who peddled illicit grog from a Mississippi River cave to soldiers at nearby Fort Snelling, the bulwark of pioneer defense perched on high bluffs overlooking the confluence of the Mississippi and Minnesota Rivers. Father Lucien Galtier in 1841 built a crude log cabin chapel, dedicated to St. Paul, and the riverside settlement became known as "St. Paul's Landing," and the emerging community of St. Paul became an incorporated town, and the territorial capital when Minnesota became a territory in 1849. Populated by only a small cluster of immigrants who'd settled at the site of St. Paul's Landing the northernmost Mississippi River port, the city now has a population of 309,866, and a transportation history as vibrant as the city's importance historically, geographically and industrially.

Minneapolis, the younger but larger of the Twins, was born as the Village of St. Anthony in 1855, was incorporated as Minneapolis in 1856. Its history, however, dates back to 1805 when Lt. Zebulon Pike, commissioned to explore the area by the Army, made a treaty with the Indians by which they relinquished all rights to the sites where Fort Snelling now stands and lands adjacent to St. Anthony Falls. Seen by Pike as an important source of power and an ideal settlement site for immigrants seeking homes and opportunities near the Fort, the river in what was then a vast wilderness was populated almost entirely by Indians. From its founding fathers and first settlers at St. Anthony village, Minneapolis—combining the Indian word 'minne' meaning water, and the Greek word 'polis' meaning city—the city grew and prospered as a milling center and now boasts a population of 434,000. The Twin Cities 7-county metropolitan area encompasses Anoka, Carver, Dakota, *Hennepin*, *Ramsey*, Scott and Washington counties, giving the Twin Cities metropolitan area a population of some two million plus in a state whose total population totals just a touch under 4 million.

River transportation made the first big impact on Twin Cities and state growth by providing riverboat transport forms for immigrants seeking new lives in the remote northern frontier.

Topography makes the Twin Cities the natural crossroads of the Midwest and gateway to the Northwest. Consequently, most of the transcontinental truck lines, headquartered in all national sectors, have regional terminal facilities in the Twin Cities. All authorized dealers for all makes of trucks, trailers, truck parts, refrigeration and repair firms have found the Twin Cities the center of Midwest trucking enterprise. A number of major component parts producers and service firms headquarter in the Twin Cities. Major truck and trailer rental and leasing companies serve the state through Twin Cities facilities. The Twin Cities comprise a robust trucking center and gateway, with the focal point of industry activities being centered in Roseville, and with major other truck centers in St. Paul's Midway Industrial area, the Mid-City Industrial area, and other focal points in St. Paul and Minneapolis.

The initiator of transport activity in the Twin Cities were Mississippi river packet boats, paddlewheelers, steamboats, other pioneer river craft, bringing settlers and goods to St. Paul's Landing and the village of St. Anthony.

Railroads accelerated the growth of the Twin Cities as a transport city, giving birth to James J. Hill, the "Empire Builder," who linked the nation's east and west coasts with rail travel and saw St. Paul become the headquarters for two major transcontinental railroads, the Great Northern and Northern Pacific. Airlines passenger travel, nurtured by new horizons blazed by aviators Speed Holman and Minnesota's Charles A. Lindbergh, provided incentive for construction of Twin Cities metropolitan airport—served by all major airlines today—not the least of which is Northwest Airlines which headquarters in St. Paul. The post-World War I development of trucks made the Twins one of the nation's major trucking centers. Today, trucks are the dominant Twin Cities transport form; though the two cities are still served by rail freight service by principal railroads, passenger service by Amtrak, airline service by all major domestic carriers, barge service by Twin City Barge Line and other river transport forms, and pipelines.

The Twin Cities commenced the stride of their growth with initiation of each transport form; river boats, railroads, truck lines, airlines, pipelines and barge lines. With each transport stride the cities attracted world attention and gave tremendous impetus to not only the cities' growth, but also to the development of a myriad of industries in the Midwest.

Thus, the geographical location of the Twin Cities and their significant historical roles coupled with the cities' potpourri of strong-willed people to spawn the growth of the Twins to become the vibrant center they are today in the Midwest as national leaders in business, industry, education and culture. There is an indomitable spirit in Twin Citians, reflecting the pioneer spirit of their forefathers who blueprinted the growth of a vast metropolitan area as milling, clothing, manufacturing, food processing, and publishing centers; a sprawling, robust 7-county metropolitan area that sets the pace for the nation and world in many areas.

Minnesota agriculture feeds the nation—the world. Wheat harvested in Minnesota is moved to Minneapolis milling centers and processed into flour, ready-mix products, instant foods, varied other food products. All major milling firms in Minneapolis have traffic and transportation departments; all heavily rely on trucks to bring crops to milling centers, and transport finished products to national and world markets. Livestock raised in Minnesota moves almost entirely by truck to So. St. Paul for slaughtering, and again by truck to wholesale and retail food markets across the nation. The 3M Co., Minnesota's largest corporation, with headquarters in St. Paul, employs the equivalent of a medium-sized city in personnel, and manufactures products for national and world markets, pursues scientific studies for development of new products in a multitude of major product lines.

The state trucking industry can take great pride in the growth of the Twin Cities, state and region because of its vital role in perpetuating the Twins as major transportation centers which—through its service to every state community—has triggered growth; not only through the past 41 years, but present and future.

THE ENERGY CRISIS

Mr. GURNEY. Mr. President, the Permanent Subcommittee on Investigations, of which I am a member, held hearings on March 6, concerning the effect of the energy crisis on our Nation's cities.

In my opening remarks, I pointed out the problems which exist in my own State of Florida, as well as statistics which illustrate similar problems in other areas of the country.

Because of the concern shared by all Americans over this energy crunch, and because many of my colleagues represent States with problems similar to those in Florida, I ask unanimous consent to have my statement printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OPENING STATEMENT OF SENATOR EDWARD J. GURNEY

THE CITY MAYORS

America's energy crisis has developed into more than just a shortfall of gasoline supplies, long lines, and angry motorists. It has aggravated problems within all sectors of our society—including those of mass transit, disposable waste, industrial inefficiency, unplanned growth, inflation, unemployment, the balance of payments, and many others. No single crisis has affected so many segments of our technological society.

Since the brunt of energy crisis has fallen most heavily on American cities, it is very appropriate that I join Chairman Jackson in welcoming an outstanding group of mayors from around the country. I am especially delighted that my long time friend, Mayor Carl Langford of Orlando, is here to represent Florida.

Florida's energy problems are, in some instances, acute. But more generally, they are quite typical of the difficulties that our cities are now facing. Using my own state, I would like to illustrate some of these deficiencies.

For example, in 1973, some 25 million people visited Florida, spending in the process over 5.6 billion dollars. This represents 15 percent of Florida's gross product and makes it the largest industry in our state.

However, in the winter, 60 percent of the state's visitors come by automobile while approximately 85 percent arrive by car in the summer season, and herein lies the crux of the problem.

As of February, the Florida State Department of Commerce estimates that tourism has dropped approximately 15 percent statewide, and that auto travel is down roughly 30 percent. If this trend continues, Florida stands to lose 5 million tourists, $200 million during FY 1975 in state revenue, and $1 billion in general expenditures. Some 150,000 to 200,000 individuals now stand the chance of losing their jobs.

For example, in St. Augustine, tourism is down 26% from a year ago, and 15% in St. Petersburg. Daytona Beach and Tampa, Florida, have been hard hit also and down in Miami—where about half of our tourists visit—business has slackened off by 8%.

Among our resorts and special attractions places such as Circus World, Sea World and Cape Canaveral—attendance is down by as much as 30% to 40%. Already, Rainbow Springs and Sponge-O-Rama have closed for lack of paying customers.

January 1974 unemployment claims resulting from the energy crisis have jumped 42%, and in December of 1973, 93,000 Floridians were unemployed. The spring and summer months, however, are not yet upon us, and Florida's state economist has predicted that by year end, this number will double.

Florida's dependence on petroleum and natural gas amounts to 9% of its total energy use. This compares with the national average of approximately 75%. Over 50% of Florida's energy goes for transportation and 97% of this amount is petroleum based. Thus, Florida is much more dependent on those energy sources which are in shortest supply than most states.

Many cities across the nation have experienced problems with their electrical utilities—either in terms of supply interruptions, inflation, or greatly reduced inventories. Florida is not alone in this respect. For example, before the allocation program took effect, FEO diverted 139,000 barrels of residual oil from our state's largest utility—Florida Power and Light—to the northeast coast. Because this oil had to be replaced at a higher cost, consumers in Florida had to shoulder an additional $600,000 burden. Then, just this last February, Florida Power and Light's inventory was reduced by 45% of predicted needs while many other utilities across the country experienced cutbacks ranging from 10 to 20 percent. Yet, Florida's demand for oil to generate electricity is surpassed only by New York which has three times the population. Since January 1973 utility bills for half the state's population have increased on the average of 27 percent. Many other utiilties in Florida, however, are faring much worse.

Like many cities, Florida's rapid growth has created special hardships. Since 1972, gasoline consumption has been increasing 10% annually and Florida's car-to-people ratio now approaches 60 percent—the highest of any of the largest states. During 1973, Florida's consumption of gasoline rose 12%. This was the largest of any state in the nation. Florida is now the fastest growing large state in the union, with between 4,000 and 8,000 newcomers deciding each week to make Florida their permanent home. Since 1972, nearly half a million new residents have migrated to Florida. Yet, because of this tremendous growth, gasoline deficits in Florida have been magnified by an additional 10 and 20 percent beyond the announced 1972 shortfall.

Public transportation is dismally inadequate in Florida. Only two passenger train lines service the entire state. Furthermore, tentative data indicates that Florida's transit system accounts for approximately 1.2 percent of total person trips while private cars account for 69 percent of total person trips.

Finally, since the energy crisis began, 11 companies, representing 815 potential jobs for Florida citizens, have postponed or cancelled plans for expanding into Florida.

Because of statistics like these, I have taken or proposed the following measures: Last month, I introduced legislation that would provide increased gasoline allocations to states that show increases in unemployment of 0.5 percent or more as a direct result of the energy crisis. I have supported—and will continue to support—the provision in the Emergency Energy Act which provides up to $500 million in special unemployment benefits to those affected by the energy shortage. Likewise, I was an original sponsor of S. 2760, a bill which would amend the Small Business Act to provide for loans to those small businesses adversely affected by the energy shortage. Within the week, I intend to introduce my own bills to help fund public transportation and to change Florida's allocation fraction so as to adjust for our rapid growth. I have also urged Energy Administrator William Simon to create a tourist advisory committee and to appoint a tourist specialist within FEO.

The plight of the American city—made even more evident with the coming of the energy crisis—has encouraged all of us in the United States Senate to throw our active support behind the Federal Energy Office's conservation plans, the shift towards mass transportation, the development of alternative energy sources, and many other projects. These hearings will aid those efforts and hopefully pave the way for lasting solutions to the problems we face.

TOURISM AND ITS IMPACT ON THE U.S. ECONOMY

(A fact sheet prepared by Senator EDWARD J. GURNEY)

Preface: The data for this synopsis have been gleaned from four major sources, including a $20,000 study commissioned by the FEO from the consulting firm of Booz, Allen and Hamilton, Inc., the National Tourism Resources Review Commission, the U.S. Travel Service, and the United States Travel Data Center.

1. Estimates of the magnitude of the Leisure-Recreation Industry range from $61 billion to $125 billion per year. This variation is largely due to the differences in definitions of the industry. As defined in the Booz-Allen study, the Leisure-Recreation industry consists of the following non-conclusive categories: home activities, local non-sport activities, local sport activities, spectator sports, winter sports, water sports, camping, hunting, fishing and other outdoor sports, traveling, resorts, second homes, and recreational vehicles and others. Among these categories, the "Tourist" industry is generally singled out as those activities taking place away from home and requiring a modicum of traveling.

2. According to the Booz-Allen study, the Leisure-Recreational industry accounted for $100 billion in personal expenditures in 1972. The U.S. Travel Service estimated that the "Tourist" industry contributed approximately $61 billion to the U.S. economy in 1972.

3. The National Tourism Resources Review Commission has concluded that ". . . of all retail activities, tourism would be second only to grocery sales if it could be classified as a single retail activity."

4. Tourism is among the top three industries in nearly 46 states—and the leading industry in such states as Hawaii, Florida and Nevada.

5. Foreign tourism in the United States represents $3.2 billion in foreign exchange and supports 222,000 jobs. These foreign earnings ranked tourism as one of the nation's leading export items in 1972, larger than exports of iron and steel ($826 million), wheat ($1.4 billion), textiles ($1.4 billion) or electrical machinery ($2.5 billion).

6. The average individual has a large percentage of hours during the year available for leisure activities—some 25 to 30 percent. Most leisure hours are spent in the home (60%–70%) while approximately 10% to 20% are consumed as vacation hours.

7. The Booz-Allen study estimates that 7 to 10 million people are employed in the Leisure-Recreation industry. This represents approximately 10% to 15% of the total labor force.

8. The automobile is by far the most common code of transportation for Leisure-Recreational activities. Data indicate that for nearly every state, 80% to 95% of all visitors arrived by car. For vacation trips over 100 miles, 91.3% of those trips are made by automobile.

9. However, despite heavy dependence on the automobile, the car is not principally used for leisure purposes. Only one-third of all driving is Leisure-Recreational related. Only 10% of Leisure-Recreational activity is related to vacation trips.

10. American vacations by automobile account for only 2.6% of all household automobile mileage and consume only 2% of consumer gasoline supplies. The overwhelming use of cars in the U.S. is not for vacations, but for daily commuting to and from work—equaling 61% of automobile mileage per household. International tourists account for less than one-half of one percent of U.S. consumer gasoline usage.

11. The typical auto trip to and from work transports only 1.4 persons, while vacation trips more fully utilize auto capacity by carrying 3.3 persons on the average.

12. Data incorporated within the Booz-Allen study suggests that among three categories—(1) total leisure travel revenues, (2) the ratio of leisure travel revenues to gross state product, and (3) the total person-nights of leisure travel—Florida, "which appears in all three lists, is particularly sensitive to any loss of travel revenue." Florida was the only state to appear in all three categories. Reflecting 1972 statistics, Florida was first in total leisure expenditures, second in total person-nights of leisure travel, and fourth in the ratio of leisure revenues to gross state product.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it has been argued by opponents of the Genocide Convention that the treaty serves no useful purpose. I disagree.

The fact is that our continuing failure to ratify this treaty is a handicap to us in our dealings with other countries, particularly in international forums such as the United Nations. During any kind of negotiation or debate in these organizations, no matter how sincerely we argue in favor of human rights and freedom, our opponents have a ready-made vehicle with which to challenge that sincerity: the fact that the United States, alone among the major Western Powers, has failed to take a firm stand against genocide. In fact, former Ambassador Yost made just this point in 1970 during the Foreign Relations Committee hearings on the treaty.

Mr. President, this treaty was first submitted to the Senate by President Truman in 1949. I urge my colleagues to think about that. It has been a full quarter century since we have had that treaty—a full generation has grown to manhood in that time. It is imperative that we act now.

HOUSING AND COMMUNITY DEVELOPMENT ACT

Mr. McGOVERN. Mr. President, I want to congratulate the Senate Banking, Housing, and Urban Affairs Committee for its persistence, hard work, and dedication in bringing to the Senate floor an excellent housing and community development bill. May I pay special tribute to the chairman of that committee, Senator JOHN SPARKMAN, for his patience and determination. Few understand as clearly as my distinguished colleague from Alabama the need to maintain a Federal presence in housing. This bill, S. 3066, represents such a perceptive understanding. The ill-housed of America owe Senator SPARKMAN and the entire committee a debt of gratitude.

We also owe special thanks to my distinguished colleague from the State of Maine, Senator WILLIAM HATHAWAY. Senator HATHAWAY has done yeoman's work on behalf of the special needs and concerns of rural America. I know I speak for many of my colleagues from States with a high percentage of rural people, when I express my own deep appreciation for his exceptional service on this legislation.

This Nation, through the Congress, has committed itself to providing a decent home for all of our people. That commitment has been renewed periodically in 1937, 1949, 1954, and in 1968. Though it has been thwarted by the administration, I believe that commitment still exists. And we can reassert it by acting responsibility now.

Millions of Americans still live in substandard housing, without proper sewage, clean water, or proper heating. And rural America, with only 30 percent of the country's population, has 44 percent of its poverty and over 50 percent of its substandard housing.

These statistics, while only percentages, represent families who live in one room, children who drink polluted water, Indian families living in abandoned car bodies, or older citizens who, after contributing to the economic growth of our country, are then denied a decent place to live out their final years.

I hope that America never loses its capacity for compassion and concern. I hope that we in the Congress will lead the way, by providing the tools that are so essential to eliminate substandard housing.

Bad housing is to be deplored wherever it exists. Overcoming bad housing conditions in rural areas has proven to require a different set of tools than are presently used in urban areas. Rural areas are more thinly populated. They have fewer institutions, public and private; a smaller construction industry; a limited number of entrepreneurs—or developers—to use the public and private programs which may be available.

It is for these reasons that the Farmers Home Administration and its programs are so well suited to rural areas. The FHA has offices in almost every rural county in the country staffed by people who can deal directly with those in need. Direct financing and counseling are also available.

But while the FHA has made important contributions in efforts to eliminate substandard housing in rural areas, it is limited by programmatic and administrative considerations. It is not possible under present programs for the FHA to serve the housing needs of lower-income families. In 1972, $6,400 was the median income level of families receiving indirect subsidy under the section 502 homeownership program. While this may not seem a high average income, we must be aware that eligibility for interest credit is limited to those with incomes of $7,000 or less.

Therefore, if we are to keep our promise of a decent home for all rural families, and if we are to make homeownership a possibility, then new methods, new programs, and new concepts must be used.

Recent statistics indicate a slowing of migration from rural areas. This is a hopeful trend. It can be solidified by providing, among other things, opportunities for homeownership for all income levels in rural areas. There is a history of homeownership in small towns and the countryside. It should be preserved and encouraged. Homeownership can be a cornerstone in maintaining stability and encouraging development in those parts of our country, and in ending this wasteful migration from rural areas to overcrowded urban areas.

Mr. President, we have an opportunity to provide the FHA with the ability to serve a broader section of the rural population more effectively. I understand the Senator from Maine will offer an amendment to test the practicality of using a deep subsidy program for homeownership. The percentage limits imposed by the amendment are indeed modest in view of the 4 million families in rural America who lack decent homes. And it does no more than simply permit low-income rural people to receive the homeownership benefits that are now available to many others.

Mr. President, I am proud to associate myself with Senator HATHAWAY's amendment. I urge its adoption as a rededication of the congressional commitment to rebuild rural America.

THE ECONOMIC STABILIZATION ACT

Mr. DOMENICI. Mr. President, I am sorry that the amendment offered this week by my distinguished colleague, Senator BUCKLEY, to repeal the Economic Stabilization Act, failed. I voted against tabling his amendment because I think it is imperative that we act now to repeal this act. I have no reservations regarding the good intentions of Congress in enacting this legislation, nor do I question the sincerity of the administration in attempting to accomplish the purposes of this act. Their purposes, as I understand them, were to combat inflation, protect low-income consumers, and prevent further deterioration of the dollar internationally. Unfortunately, these purposes have not been accomplished despite good intentions and herculean efforts on the part of many individuals and several agencies, including the Economic Stabilization Board and the Cost of Living Council.

For a time it appeared that the Administration would be able to control inflation effectively under the provisions of the Economic Stabilization Act. Inflation was held to an acceptable level of 3 percent in 1971 and 1972. But, as the lessons of economic history should have impressed upon us, this level of artificially low inflation administered by wage and price controls would, and did, cause serious economic dislocations and diseconomies which surfaced in 1973. Indeed, it is a curious method of protection for the low-income consumer to insure the eventual nonavailability of many items by controlling their prices at artificially low levels.

The problems with subsequent phases of the Economic Stabilization Act were that everyone was waiting around for another exemption or exception. Everybody was waiting for the next phase. Therefore, I think that even the standby provision for enacting controls is a mistake. It may be that after we give the free marketplace a chance to recover from the past 3 years of controls, we will find in some special areas that we need some guidelines administered. I am genuinely concerned about the inflationary spiral that is eating away at the earnings of every working man and woman in this country. I realize that we may see some pretty dramatic rises in prices when controls are gone. But we may also stop seeing spot shortages of vital goods and we may see true free market stabilization once again.

The inevitable pressures of deferred inflation have caused an 8.8-percent rise in the Consumer Price Index over the past 12 months. Many economists are predicting inflation in the double figures this year. And the Wholesale Price Index jump of 3½ percent for January alone could presage this kind of inflation.

If these predictions are well founded, should we now extend the Economic Stabilization Act and risk shortages and rationing due to administered prices which are below true market price levels? This appears to be the crux of the matter—the hard choice we now face. Every country which has instituted wage and price controls has had to face this hard choice and without exception these countries have had difficulties no matter what choices they have made. We now must make this hard choice and we should make it with the lessons of economic history always in mind. As Santayana so sagely observed long ago, those who do not know history are condemned to repeat it.

The plain truth of the matter is that there is a true price, determined by the law of supply and demand, for every good or commodity. While it is certainly legitimate for Government to take the necessary action to prevent the administration of artificially high prices through promotion and protection of competition, it most certainly is not legitimate for Government to administer artificially low prices through actions such as those taken under the Economic Stabilization Act. It would be hard enough to face up to this fact without the added pressures of the international devaluations of the dollar which occurred during the effective period of the Economic Stabilization Act.

Domestic price controls coupled with this devaluation encouraged exports of vital goods, chemicals, fuels, and fertilizer, at a time when domestic demand was strong and unsatiated. Examples of these dislocations—baler wire, fertilizer, tubular steel for drilling, and so forth—come to our attention constantly. Enough is enough.

Knowing full well this is no easy choice for us to make, let us now scrap these controls which have failed to accomplish their stated purposes and have brought us to this sad point in our economic history.

I understand that the Banking, Housing, and Urban Affairs Committee of the Senate is now working on the Economic Stabilization Act. I devoutly hope that we will not forget the lessons that this experiment with controls has so painfully taught us—there is a true price which must be paid if goods are to be available for consumption. As dependent as we are upon imported raw materials, and as dependent as the rest of the world has become upon our food production, we must decide to pay true world prices for goods and materials if we wish to be able to purchase them and to be able to sell our products, in turn, for true prices in the world market. Repeal of the Economic Stabilization Act will serve as notice that we have begun to face this hard fact.

THE OLD POST OFFICE

Mr. HARTKE. Mr. President, 2 years ago I urged my colleagues to pay special attention to the Old Post Office here in the District of Columbia. It is a marvelous piece of architecture whose very existence is a most tenuous affair.

There are some planners who think that the Federal Triangle will never be complete unless the Old Post Office is torn down and replaced with a marble and glass palace. Other planners, however, realize that which is outstanding architecture is not necessarily that which is new. Recently, a proposal has been put forward to turn the Old Post Office into a "people's place" with cafes, restaurants, shops, boutiques, arts, and crafts workshops, small cinemas and theaters, exhibits, and festivities. Before the fate of this building is sealed, this sort of dynamic proposal should be explored fully.

Mr. President, I ask unanimous consent that an article and an editorial from the Washington Post on this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOUSING ARTS AMIDST CAFES AND EIGHT TIERS OF AUDIENCE

(By Sarah Booth Conroy)

The Old Post Office at 12th and Pennsylvania Avenue, under sentence of demolition for almost half a century, would be transformed into a national arts center in time for the Bicentennial under a plan drawn up by the architectural staff of the National Endowment for the Arts.

"If everything moves smartly, we could celebrate the Bicentennial in its nine-story, glass-roofed interior court—complete with cafes, trees, craftsmen, dancers, actors and eight balconies of audience," said architecture department head Bill Lacy yesterday.

The plan, which Lacy says would restore a space capable of making "heads snap back," provides for performances, exhibitions and offices for arts organizations in the mammoth Romanesque Revival structure. The report, drawn up by Lacy for Arts Endowment chairman Nancy Hanks, has now gone to the General Services Administration.

"I am extremely enthusiastic about the plan," GSA Administrator Arthur F. Sampson said yesterday. "We are now preparing a prospectus for the Office of Management and Budget to be finished by mid-month. After they have evaluated it, the plan goes to the Congressional Public Works Committee for approval. Then the projects would be included in the GSA appropriations. I will go to the Hill myself to testify for the very imaginative plan."

The cost is estimated at $12 million.

The Arts Endowment is proposing a "mixed uses" after-hours program for the building, which could inspire multiple uses of federal buildings across the country.

The endowment would be the prime tenant for the building and supervise the architectural design. The 87,000 square feet of office space will be used by the Arts Endowment, perhaps the National Endowment for the Humanities and federal agencies concerned with historic preservation.

The 18,000 square feet of performance and exhibit space would include:

Office/meeting space for local groups from the D.C. Bicentennial Commission to black dance and drama groups; performance spaces for chamber music, poetry readings and experimental theater; a central ticket office for citywide cultural events; restaurants; shops selling American furnishings, fabrics, graphic art and Indian crafts in sort of a national design center; studios for craftsmen-in-residence; a winter home for the Summer in the Parks program of the Interior Department; monumental exhibit space; flag displays and even "a carillon in the tower for concerts on national holidays and during the rush hours."

The cost figures out to about $32.50 per square foot, far under the estimated cost of tearing the building down and putting up a new one with fewer amenities.

The building's 5-foot-thick solid Maine gray granite walls are ornamented with arches, columns, carved spandrels, capitals, turrets, bays and a 315-foot-high clock tower. The 99- by 184-foot interior court rises to a glass roof 196 feet high.

"It seems so dramatic because we aren't accustomed to that sort of immense vertical interior space in Washington," Lacy said. For years the glass roof has been covered over with a metal roofing.

Until 1934, the structure included the offices of Postmasters General. Currently the FBI is a major tenant.

The Old Post Office was designed by Willoughby J. Edbrooke and is the only example of Romanesque Revival architecture left in Washingon, Ironically, the Columbia Exposition of 1893 brought a change of fashion from the romantic to the neo-classical style. And building techniques using steel outmoded the structure's solid masonry construction. Thus the building was considered passe by the time it was completed in 1899.

* * * * *

There have been previous proposals for use of the Old Post Office. Among past suggestions were architect Arthur Cotton Moore's 1971 plan for a center to include shops, theaters, restaurants and a 450-room hotel and another similar plan by architect John Wiebenson.

Last June, GSA also proposed that a leasehold in the building be transferred to the D.C. government for a multi-use center.

The present plan would keep the building on the federal rolls.

A People's Palace on Pennsylvania Avenue

With luck and a bit of doing we may still be dancing some in that grand "cortile," or glass-roofed inner court of the Old Post Office on Pennsylvania Avenue. The marvelous Romanesque granite pile has long been doomed to demolition because it doesn't conform to the classic monotony of the Federal Triangle. But now Nancy Hanks of the National Endowment for the Arts has put in her bid for the structure and that may save not only a fine old building, but the whole idea of revitalizing Pennsylvania Avenue.

The National Endowment would, of course, use only a part of the nine-story building for its offices. The far larger part would be converted into a sort of peoples' palace with cafés, restaurants, shops, boutiques, arts and crafts workshops, small cinemas and theaters, exhibits and festivities where people from all over the country would display and market the products of their indigenous culinary, musical and artistic skills and craftsmanship. "We'll have eight balconies of audience," said Bill Lacy, the Endowment's architecture and environment man, who has drawn up the preliminary plans. He refers to the eight stories of Romanesque arcades which enclose the "cortile." They make it one of the most thrilling architectural spaces in Washington. Few people know about it because the FBI is one of the current tenants of the Old Post Office and requires special entrance passes.

If Miss Hanks has her way, this center of American folk art, fun and relaxation, will attract many of the millions of tourists who now rarely venture beyond the Mall. They will bring life and cash to the avenue and much of downtown, and thus help to give the renovation of the avenue a purpose beyond making it a more dignified setting for inaugural parades. "This won't be yet another federal thing sitting on Pennsylvania Avenue," is how Nancy Hanks put it.

Arthur F. Sampson, the administrator of the General Services Administration, which is in charge of the building, says he is "extremely enthusiastic about the plan." Under a new program to preserve old federal buildings, Sampson has recently transferred a similar Romanesque court building in St. Paul and a French Empire post office in St. Louis to community use.

But Congress, and particularly the Public Works Committees which must recommend a $12 million expenditure for the conversion of the Pennsylvania Avenue building, will want to be assured of more than Mr. Sampson's enthusiasm. We therefore urge the Mayor and city council, as well as Washington's citizen organizations, such as the Board of Trade, the D.C. Bicentennial Commission, our various arts and cultural organizations and historic preservationists to speak up loud and clear in support of what we consider perhaps the most promising bicentennial project so far advanced.

A CHECKLIST FOR SENIOR CITIZEN TAXPAYERS

Mr. MUSKIE. Mr. President, many of the older Americans who will file Federal income tax returns in 1974 are faced with the danger of overpaying their taxes. Hearings conducted by the Senate Special Committee on Aging show that perhaps one-half of all the elderly may be paying more taxes than the law requires.

The Committee on Aging has prepared a checklist to help older Americans prepare their tax returns if they itemize deductions. The list is not exhaustive, but includes many of the charges which can be deducted but which are sometimes overlooked. This list can be useful not only to the elderly but also to taxpayers of all ages.

The committee has also prepared a description of other tax relief measures available to older Americans.

To help taxpayers preparing their Federal income tax returns, Mr. President, I ask unanimous consent that these two documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses are deductible to the extent that they exceed 3%of a taxpayer's adjusted gross income (line 15, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 15, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expense (subject to 3% limitation):

Abdominal supports.
Ambulance hire.
Anesthetist.
Arch supports.
Artificial limbs and teeth.
Back supports.
Braces.
Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.
Cardiographs.
Chiropodist.
Chiropractor.
Christian Science practitioner, authorized.
Convalescent home (for medical treatment only).
Crutches.
Dental services (e.g., cleaning teeth, X-rays, filling teeth).
Dentures.
Dermatologist.
Eyeglasses.
Gynecologist.
Hearing aids and batteries.
Hospital expenses.
Insulin treatment.
Invalid chair.
Lab tests.
Lip reading lessons (designed to overcome a handicap).
Neurologist.
Nursing services (for medical care).
Ophthalmologist.
Optician.
Optometrist.
Oral surgery.
Osteopath, licensed.
Pediatrician.
Physical examinations.
Physician.
Physiotherapist.
Podiatrist.
Psychiatrist.
Psychoanalyst.
Psychologist.
Psychotherapy.

Radium Therapy.

Sacroiliac belt.

Seeing-eye dog and maintenance.

Splints.

Supplementary Medical Insurance (Part B) under Medicare.

Surgeon.

Transportation expenses for medical purposes (6¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.)

Vaccines.

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).

Wheelchairs.

Whirlpool baths for medical purposes.

X-rays.

TAXES

Real estate.

State and local gasoline.

General sales.

State and local income.

Personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of 5 classes of items: automobiles, airplanes, boats, mobile homes and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security or Railroad Retirement Annuities).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, state or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g. clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 6¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g. postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.

Auto loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges or loan fees, credit investigation reports. If classified as service charge, may still deduct 6 percent of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) limited to the portion of the total fee or service charge allocable to the year.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g. VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

CASUALTY OR THEFT LOSSES

Casualty (e.g. tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

CHILD AND DISABLED DEPENDENT CARE EXPENSES

The deduction for child dependent care expenses for employment related purposes has been expanded substantially. Now a taxpayer who maintains a household may claim a deduction for employment-related expenses incurred in obtaining care for a (1) dependent who is under 15, (2) physically or mentally disabled dependent, or (3) disabled spouse. The maximum allowable deduction is $400 a month ($4,800 a year). As a general rule, employment-related expenses are deductible only if incurred for services for a qualifying individual in the taxpayer's household. However, an exception exists for child care expenses (as distinguished from a disabled dependent or a disabled spouse). In this case, expenses outside the household (e.g., day care expenditures) are deductible, but the maximum deduction is $200 per month for one child, $300 per month for 2 children, and $400 per month for 3 or more children.

When a taxpayer's adjusted gross income (line 15, Form 1040) exceeds $18,000, his deduction is reduced by $1 for each $2 of income above this amount. For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

MISCELLANEOUS

Alimony and separate maintenance (periodic payments).

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Campaign contributions (up to $100 for joint returns and $50 for single persons).

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees for securing employment.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions: Taxpayers may now claim either a deduction (line 33, Schedule A, Form 1040) or a credit (line 52, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) state committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $50 ($100 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $12.50 ceiling ($25 for couples filing jointly).

Presidential Election Campaign Fund: Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) to help defray the costs of the 1976 presidential election campaign. If you failed to earmark $1 of your 1972 taxes ($2 on joint returns) to help defray the cost of the 1976 presidential election campaign, you may do so in the space provided above the signature line on your 1973 tax return.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

OTHER TAX RELIEF MEASURES FOR OLDER AMERICANS

Required to file a tax return if gross income is at least—

Filing status:	
Single (under age 65)	$2,050
Single (age 65 or older)	2,800
Married couple (both spouses under 65) filing jointly	2,800
Married couple (1 spouse 65 or older) filing jointly	3,550
Married couple (both spouses 65 or older) filing jointly	4,300
Married filing separately	750

Additional Personal Exemption for Age: In addition to the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1974, you will be entitled to the additional $750 personal exemption because of age for your 1973 Federal income tax return.

Multiple Support Agreement: In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) Gross Income, (3) Member of Household or Relationship, (4) Citizenship, and (5) Separate Return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support.

However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10 percent of the mutual dependent's support, *but only one of them,* may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers: A taxpayer may elect to exclude from gross income part, or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least five years within the eight-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $20,000, an election may be made to exclude part of the gain based on a ratio of $20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within one year before or one year after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

Retirement Income Credit: To qualify for the retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received earned income in excess of $600 in each of any 10 calendar years before 1973, and (c) have certain types of qualifying "retirement income". Five types of income—pensions, annuities, interest, and dividends included on line 15, Form 1040, and gross rents from Schedule E, Part II, column (b)—qualify for the retirement income credit.

The credit is 15 percent of the lesser of:

1. A taxpayer's qualifying retirement income, or

2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxable pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62 he must reduce the $1,524 figure by the amount of earned income in excess of $900. For persons at least 62 years old but less than 72, this amount is reduced by one-half of the earned income in excess of $1,200 up to $1,700 plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer if he has requested that IRS compute his tax and he answers the questions for Columns A and B and completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayer should also write "RIC" on line 17, Form 1040.

THE INTERNATIONAL ACADEMY OF PREVENTIVE MEDICINE

Mr. TOWER. Mr. President, I would like to call the attention of my colleagues to a most significant event taking place in our Nation's capital this week.

The International Academy of Preventive Medicine, which has its headquarters in Houston, Tex., is observing "International Preventive Medicine Week" with an educational seminar in Washington. Foreign Ministers of Health from nations throughout the world are here this week conducting open discussions about preventive medical measures between physicians, dentists, and all health-related professions. The different medical and health-related disciplines, and the various needs of representative nations are being considered.

The International Academy of Preventive Medicine is a professional organization dedicated to the principles of holistic medicine and the highest ideals of the prevention of disease and the preservation of total health of peoples throughout the world. Their objectives are broad in scope and principle, covering community medicine, epidemiology health, international health, health services administrations, maternal health, child health, applied nutrition and clinical preventive medicine, in the belief that keeping patients healthy is preferable to crisis diagnosis and treatment.

I know that each of my colleagues would want to join me in commending the Academy and its members for their efforts in this important area, and inviting them to report to us individually and collectively on their conclusions and suggestions for improvement of our health care delivery system to focus urgently needed attention on the preventive measures necessary and available for the preservation of our total health.

RESTRICTING THE USE OF COMPUTERIZED CRIMINAL JUSTICE INFORMATION

Mr. ERVIN. Mr. President, for some time I have been expressing my concern about the threat that the computer poses to individual liberties and privacy. The potential uses for the manmade genius cannot be understated, and neither can our responsibility to answer and resolve the many fundamental questions that that potential raises.

One of the most obvious threats the computer poses to privacy comes in its ability to collect, store, and disseminate information without any subjective concern for human emotion and fallability. Yesterday the Senate Subcommittee on Constitutional Rights, which I chair, opened hearings into legislation designed to restrict the use of criminal justice information. This legislation is all the more necessary in light of the recent trend toward the computerization of such information so as to make it readily available to any agency or anybody who happens to have access to a given criminal justice data bank.

As I mentioned in my opening statement before the subcommittee, this legislation raises five basic questions with respect to the rights of the individual. First, should incomplete or inaccurate records be allowed to circulate among criminal justice agencies or outside of the criminal justice system? Second, what types of information collected by criminal justice agencies should be available to outside agencies, such as commercial establishments? Third, what types of remedies should be available to the individual whose privacy is threatened by improper use of such information systems? Fourth, what special restrictions should be applied to criminal intelligence information, which is the most sensitive of all types of criminal justice information? And finally, who should control the criminal justice information systems affected by this legislation?

The General Accounting Office has noted both in a special report to the subcommittee and in an earlier report issued in January of 1973 that some of these basic questions have not been carefully considered by the Department of Justice. The GAO report further raises questions concerning the worth of the interstate system as compared with its cost. According to the most recent GAO report—

> The cost to develop and operate the criminal history exchange system has not been determined and problems related to the system's operational effectiveness have not been resolved.

To quote the report further—

> The most consistent opinion expressed by local police at all organizational levels is that criminal history is not vital prior to an arrest.

It is certainly not my place to determine the needs of law enforcement. Hopefully these hearings will answer the many questions that have been raised, and will result in legislation that will allow law enforcement officials the latitude they need to perform their vital function while affording the greatest amount of protection possible to the privacy of the individual.

I ask unanimous consent that my opening statement be printed in the Record along with the two reports of the General Accounting Office concerning Federal and State computerized criminal history information systems.

There being no objection, the material was ordered to be printed in the Record, as follows:

Opening Statement of Senator Sam J. Ervin, Jr.

(Subcommittee on Constitutional Rights, Hearings on Criminal Justice Data Banks and Privacy, Tuesday, March 5, 1974)

The Subcommittee on Constitutional Rights opens hearings today on federal legislation to protect the privacy and reputations of persons whose names appear in criminal justice data banks. These hearings are a continuation of the Subcommittee's study of the general question of governmental data banks, records and information policy and their impact on the freedom and integrity of Americans. As I stated upon introduction of S. 2963, the "Criminal Justice Information Control and Protection of Privacy Act of 1974," I see the controversies surrounding the establishment of criminal justice data banks as a microcosm of the general controversy about governmental data banks and the invasion of privacy. So I hope that in attempting to understand and resolve the issues that confront us in the development of workable criminal justice data bank legislation, we will be taking the first steps toward the development of a comprehensive policy on all data banks and the protection of personal privacy.

These hearings are opening in the midst of a growing bipartisan consensus in the Congress and in the Executive Branch on the importance of developing safeguards for the protection of privacy. That consensus began to appear in January when the President announced in his State of the Union address that he viewed the protection of privacy as a major component in his program for the coming year. His announcement was followed closely with the introduction on February 5th of S. 2964 by my friend the Senior Senator from Nebraska, on behalf of the Administration. I am a cosponsor of that bill as is a broadly representative group of our colleagues. On the same day I along with Senator Hruska and many of the other cosponsors of his bill, introduced S. 2963, a bill which I have been working on for the past year. Both bills address the subject of the Subcommittee's hearings, the collection and dissemination of routine law enforcement information and law enforcement intelligence.

Another significant sign of this developing consensus on the question of personal privacy is the two bills themselves. The Justice Department and I did not collaborate or communicate on these projects during the months they were in preparation. Yet to everyone's surprise the two bills, though different in some significant respects, are essentially alike in approach. Just to highlight that fact I would like to introduce at this point in the Subcommittee record a comparison prepared by the Subcommittee staff.

(Not supplied for the RECORD).

In light of this, I feel quite optimistic that Congress will enact legislation on criminal justice data banks within the year. However, I also recognize that legislation as complex, controversial and important as that represented by these two bills will not be enacted if this spirit of accommodation and bipartisanship is not preserved. In that regard I pledge to representatives of state, federal and local law enforcement agencies who are going to be so profoundly affected by this legislation that while my questioning and that of my colleagues and the staff may be rigorous, it will not be hostile. The purpose of these hearings is not to expose so-called law enforcement abuses to the public but to learn how law enforcement agencies collect, use and disseminate information covered by this legislation. For if the Congress does not understand it will legislate in a vacuum and risk shackling those courageous men who are on the streets preserving law and order. I want to emphasize this point to the representatives of the Federal Bureau of Investigation which I consider to be the most professional and competent law enforcement agency in the world.

In that regard I would like to reiterate what I have said on many occasions since the introduction of S. 2963 on February 5th. Neither I nor any of my colleagues who joined me in that bill are wedded to every provision. We have made this proposal for the purpose of provoking discussion, as a focus or stepping off point for representatives of law enforcement agencies, and other witnesses. So while I recognize that many of the provisions of this bill and S. 2964 may have unintended effects upon law enforcement, I encourage law enforcement representatives to come before the Subcommittee in the same spirit that we have come. Indeed some of the provisions of my bill, especially those regarding criminal justice intelligence have been drawn deliberately to be provocative. I hope that law enforcement witnesses will not simply criticize such provisions but come forward with alternative language and suggestions for meeting the objectives of S. 2963 and S. 2964.

While we want to avoid any unnecessary impediments to proper and enlightened law enforcement, at the same time the need is clear that strong action must be taken to protect the privacy of American citizens. These systems are too dangerous to leave unguarded. I see no reason why we cannot come to a proper balance between rights of citizens and needs of law enforcement. That, after all, is the pattern of our constitutional system.

I am not going to summarize the historical background of the subcommittee's interest in the question of criminal justice data banks for I believe I covered that in sufficient detail in my statement upon introduction of S. 2963. Therefore I ask unanimous consent that that statement be inserted in the record at the conclusion of my opening statement.

I would like to concentrate today on several questions or issues which I had in mind as I worked on this legislation, problem areas which I believe we should use to evaluate these bills and the testimony before the Subcommittee.

In setting out these issues I will attempt to illustrate each problem with actual cases. I think it will be useful in evaluating testimony and legislative proposals to ask whether the witness or the proposed legislation has adequately resolved the issues and whether the incident would have been avoided. I might make a caveat at this point. All of the incidents or cases I am about to describe have been brought to the attention of the Subcommittee. However, we have not verified all of them nor can we absolutely vouch for their accuracy. But I am convinced that under existing rules and regulations, or lack thereof, these incidents are not only plausible but likely.

The first general issue or problem area concerns the quality and accuracy of information which should be allowed to circulate in the criminal justice data systems, whether or not those data systems are computerized. To be more specific, should incomplete or dated records, such as a record of an arrest without any indication of disposition, be allowed to circulate between law enforcement agencies or outside the law enforcement community? The President specifically mentioned this problem in his privacy message last week. Should records which resulted in acquittal or dismissal of charges be freely disseminated?

I have two cases which illustrate this problem area. The first involved a young man who had filed suit against a large metropolitan police department for harassment growing out of an arrest record. He was arrested while a senior in high school. A few months later he was acquitted of a robbery charge because of an apparent case of mistaken identity. He is now a college student and a National Merit Scholarship winner. According to his court complaint, on at least three occasions police have shown his photographs in neighborhoods where crimes have been committed, seeking to have him identified as the criminal in some new crime. Each time this has been done, his family and acquaintances have been interrogated anew.

The second case involves a man named Brian who was arrested as a public nuisance in 1970 and was tried and acquitted in 1971. Later he was arrested in California for possession of marijuana; the charges were dismissed. Two years later he was hired by a firm installing alarm systems in banks. The local police in the city where his employer was based did a security check with the FBI at the request of the employer and was informed of the man's arrests but not of the dispositions. This information was reported to the employer who fired Brian, but the employer told Brian that he would rehire him "if the record could be cleared up in the future."

Both of these incidents might have been prevented if there had been a ban on dissemination of incomplete records, or if there was a procedure for sealing or purging certain incomplete records or records which resulted in an acquittal or if there were accuracy and updating standards, and if these subjects had a statutory right to see and challenge their records. All of those proposals are contained in S. 2963 and S. 2964 in one form or another.

Of course the second of the cases which I have recited, the case involving the young man who was fired for having an arrest record, suggests an even more fundamental problem. What type of information should be available from police files to non-law enforcement agencies, especially commercial establishments? Two other cases illustrate this problem. The first involves a school teacher in California. Not long ago this man was walking near one of the subway stations of the new Bay Area Transit System (BART). He noticed a lot of television cameras surrounding a man whom he later recognized to be the Secretary of Transportation, Mr. Claude Brinegar. The man approached Secretary Brinegar and asked, "Excuse me, sir, could you tell me if you think the President should be impeached?" Mr. Brinegar made no comment, ignored the man, and suddenly the man was seized by four BART policemen and placed under arrest. The man was later turned over to the city police, fingerprinted, and charged with assaulting a cabinet member as well as a number of misdemeanor assault and resisting arrest charges. At the arraignment the Judge suggested that the prosecutor drop all charges and questioned why the prosecutor brought such an unwarranted case in the first place. At the trial the prosecutor announced that the charges were being dropped because of insufficient evidence. The gentleman has sued BART for false arrest but in the course of developing the suit discovered that the State Board of Education had been informed of the arrest and was reviewing his case to decide whether to suspend his teaching credentials. The man assumes that at least one set of fingerprints was circulated to the Board of Education.

Under my bill only conviction records can be released to non-criminal justice agencies and then only to such agencies and persons as are specifically authorized by state or federal statute. S. 2964 is a bit looser on this point. In certain circumstances, arrest records without dispositions could be disseminated outside the criminal justice community. However, this is no simple issue. For example, if we completely cut this information off to persons outside the criminal justice community, we may inappropriately shroud crime and law enforcement agencies in a blanket of secrecy. Should the press be allowed to view a police blotter to determine who has been arrested, or to determine whether a candidate for office has ever been tried for a crime? How will the press be able to determine whether a local prosecutor has been corruptly dropping charges against organized criminals if there is no way for them to find out whether certain individuals have ever been arrested or charged with crimes and, if so, the disposition?

It will not be easy to develop the proper balance between the public's right to know how the police and the courts function on the one hand and the individual's right to privacy on the other. But I hope that the press will not over-react and see this legislation as an attack on freedom of the press. I, for one, believe that privacy and the free press are compatible and I have sought to protect the press' rights wherever I can.

A third problem concerns the types of civil remedies which should be available to a citizen to enforce the dissemination rules set out in federal legislation or regulations issued pursuant thereto. Should a citizen be able to enjoin a law enforcement agency from violating the statute, or are criminal penalties sufficient? Should agencies which operate data banks and their employees be civilly liable for damages if information is disseminated in violation of the statute?

Two cases which have come to my attention suggest the necessity of the remedies which have been included in both S. 2963 and S. 2964. In the first case a man was arrested and adjudged guilty but his record was expunged under a state expungement statute. However, he had been fingerprinted at the time of this arrest and his arrest record had been sent to the FBI's fingerprint file where it was available to police and certain non-law enforcement agencies all across the country. After the defendant got the expungement order, he attempted to get his rap sheet returned from the Bureau. A letter from Director Kelley responded that FBI policy states that records can only be returned if the reporting agency so requests. The police department involved would not request return of the records despite the state statute. Therefore, the record is being disseminated in violation of the state statute.

An even more disturbing case which illustrates the need for some type of effective civil remedy involves a service station operator who was arrested on a charge of maintaining and operating a gambling premise. The charge was dropped later when it was determined that the man was unaware of one of his employees running a numbers game in the busy service station. The man became obsessed with the idea of having an arrest record; he had worked hard all of his life and had never been in trouble before. He talked to many people about it, seeking advice. A lawyer told him to forget it because the legal proceedings would be too costly. He finally mentioned his problem to a friend on the county police force, who suggested that he write the county state's attorney stating all the facts. In a week or so he was advised that for a fee of $750 the record could be expunged.

A fourth problem area concerns the collection and dissemination of intelligence or investigative files. These are files on individuals by law enforcement agencies which are non-public record in nature. They usually contain a considerable amount of very sensitive information, a great deal of which may be hearsay and conjecture. If we are going to propose restrictions upon the use of routine public record information such as arrest records, it is absolutely essential that we address the collection and dissemination of this much more embarrassing and sensitive information. We will hear from representatives of agencies which have computerized files or indexes of intelligence information on persons. Other agencies have automated files on investigative reports.

Some agencies have automated files on the modus operandi used in burglary cases. This gives the agency the capability of asking the computer for a list of persons who enter houses in a particular manner. However, should a man be listed in such a computer unless he has actually been convicted of such a crime or at least arrested and prosecuted?

It is not enough that we rely simply on assurances that these intelligence and investigative reports will not be abused. The time is long since past for that. Before we permit computerization of this data, we must require rules to protect privacy at least as sophisticated as the ones we now propose for record information.

One final concern is probably the most difficult and important one which the Subcommittee and the Congress must address. That is, who shall control and operate the manual and automated data systems covered by this legislation. Shall the law enforcement agencies themselves or an outside independent board make policy? On the federal level, should policy and regulation issued under this legislation be the exclusive responsibility of the FBI or the Attorney General or should the states have an equal voice? This whole problem has been pointed up by the experience of Massachusetts in the past few years. We will hear from Governor Sargent today who has attempted to implement his state's new arrest records statute and at the same time participate in federal information exchange programs such as NCIC and rap sheet exchange program operated by the Bureau.

I am sure Governor Sargent is going to describe to the Subcommittee how he and his administration began to restrict access to law enforcement files only to be faced by a number of law suits not only by private users but also by the federal government. The Small Business Administration threatened to cut off almost $30,000,000 in federal funds to Massachusetts if it was not permitted access to police files. The Defense Department threatened to freeze 2,400 defense-related jobs in Massachusetts for the same reason. The Justice Department also sued the state for access to police files. In effect, the federal government was attempting to undermine the legitimate efforts of the people of Massachusetts to protect their own privacy. It is hard to imagine a more classic example of the case for states rights.

The automated arrest record exchange systems from the very beginning have placed a significant strain on federal-state relations. When Project SEARCH attempted its prototype computerized interstate exchange of arrest records in 1970, the data system was established as a purely state venture. All of the computerized files were to be maintained on a decentralized state-by-state basis. Therefore, each state could control access to its own files. However, when the FBI took over control of the SEARCH prototype in 1971, the Bureau announced that many of these files would be maintained in the Bureau in Washington.

There have also been troublesome questions about whether the FBI should be able to impose operational security and privacy regulations upon the states without the states having an opportunity to influence the development of those regulations. For example, how can a state like Massachusetts insure that information which it will contribute to the federal data bank will be used by other states in a manner consistent with the Massachusetts statute?

My legislation attempts to resolve these problems. First, it would give precedence to state statutes or regulations which are more stringent than the federal statute or regulations. However, even more important than this provision is Title III of my bill which establishes a comprehensive federal-state administrative structure. This would ensure a sharing of policy and operational authority between the federal government and the states in this most difficult area. Because these systems involve more than just Justice Department interests, but those of the states, other federal agencies, and ordinary citizens as well, we need an administrative structure that recognizes this diversity. Law enforcement is a local business. Privacy is a matter of the rights of individuals. Title III seeks to recognize these interests. It is a problem which cannot be ignored.

I know that this question and the proposals contained in Title III of the bill are the most difficult but perhaps the most important which the Subcommittee and the Congress must face in the development of criminal justice data bank legislation. However, I am struck by the fact that no one on the federal level has ever seriously considered and resolved this problem. I would like to introduce at this point in the Subcommittee record a report prepared last week by the General Accounting Office that bears directly upon this controversy.

I was surprised to learn in reading the GAO report that the Office of Management and Budget considered the question of control and content of a federal criminal justice data bank before the Attorney General made his decision in 1970 but that the Attorney General apparently ignored OMB's recommendations. OMB's recommendations are not unlike what I suggest in Title III. OMB suggested that any federally-run interstate criminal justice data bank should be decentralized and subject to the policy control of an independent board which reports directly to the Attorney General, composed of representatives of all components of the criminal justice system. OMB proposed that membership on the board be structured so that the States have an equal voice with the federal government in recommending policies. The fact is that LEAA and the FBI were not informed of OMB's recommendations and these proposals were never seriously considered in the establishment of the NCIC/CCH system. Judging from the positive response to Title III of S. 2963 by several of my colleagues, especially my friend, the Senior Senator from South Carolina, and by several witnesses who will testify in the hearings, there is considerable support for this proposal in the Congress and in the state governments.

Another fundamental issue is also raised by this GAO report, and was the subject of an earlier one of January 1973. This is whether these data programs have been properly evaluated in terms of their cost, their development, and their usefulness. In the words of the 1973 report:

"The cost to develop and operate the criminal history exchange system has not been determined and problems related to the system's operational effectiveness have not been resolved. No one has determined what a fully operational system will cost. Therefore, the participants cannot determine whether they will be able, or willing, to meet the financial requirements of developing and operating the system. Although the reporting of arrest and disposition data within the States is known to be incomplete, neither LEAA nor the FBI has insured that all information entered into the system is complete. About half the States do not have laws requiring that arrests and dispositions be reported to central State identification units."

The most recent GAO report raises this issue again. According to GAO no data is available either from NCIC or the original SEARCH experiment indicating exactly how this information is being used by local police. It is my understanding that it is not even clear that police need CCH on an instantaneous basis prior to arrest. According to GAO:

"Data is not available at the national level to indicate for what purpose State and local criminal justice agencies use CCH information. The CCH system can identify the control agency terminals making inquiries to the system, but not the agencies within the State making requests of the control terminals. The States, however, would have such data. Moreover, there is no way to determine, from the computerized printouts, the purposes of inquiries."

GAO goes on to quote from the original evaluation of SEARCH:

"The observation of local police use of the system was not realized; therefore, this portion of the findings come from detailed interviews and not from operational experience. The most consistent opinion expressed by local police at all organizational levels is that criminal history is not vital prior to an arrest."

In conclusion, I should like to emphasize the ultimate question we must ask ourselves and the witnesses who appear before the Subcommittee: What should be the national policy on an exchange of criminal justice information and who should make that policy? Perhaps Judge Gerhard Gessell stated it most effectively in the case of *Menard v. Mitchell*, in which the FBI's huge rap sheet dissemination was halted by a court order. Judge Gessell asked whether anyone, the Bureau, the Congress, or the local police departments, had effective control of this information exchange.

To illustrate this point, I would like to cite one last case. Several months ago a young man was arrested by a local police department on a traffic charge. At first, he was told he could pay a $15 fine and would be released. But then an officer told him he could not leave because the Marines "had a hold on him." A detective then showed him a copy of a computer printout listing someone with the same name as AWOL from the Marines and a deserter. This young man was not AWOL or a deserter from the Marines because he was not even a Marine. The arrest occurred more than a month after the young man had become a civilian and his discharge papers attested to this. The assistant police chief said that the police were not to blame for the arrests (this had not been his first arrest) because they were only following the computer's instructions.

If local police are blindly following instructions from some faceless computer, we are indeed in real trouble. The answer to Judge Gessell's question is that no one is in control of these data systems. I fear that this is unfortunately the case. But I hope that these hearings will suggest to the Subcommittee and the Congress a method for creating a statutory scheme which will bring some order and control out of the chaos.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C.

To the President of the Senate and the Speaker of the House of Representatives:

This is our report entitled "Development of a Nationwide Criminal Data Exchange System—Need to Determine Cost and Improve Reporting." Federal participation in this program is administered by the Department of Justice.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

Copies of the report are being sent to the Director, Office of Management and Budget, and to the Attorney General.

ELMER B. STAATS,
Comptroller General of the United States.

DEVELOPMENT OF A NATIONWIDE CRIMINAL DATA EXCHANGE SYSTEM—NEED TO DETERMINE COST AND IMPROVE REPORTING

WHY THE REVIEW WAS MADE

A fully operating computerized criminal history exchange system will enable law enforcement agencies, courts, and correctional institutions to determine, in seconds, whether an individual has a criminal record. If he has, the system will provide information on the nature and number of arrests, the related charges, their disposition by the courts, and any time spent in prison.

This will be accomplished through a nationwide computerized system linking criminal justice agencies with the Federal Bureau of Investigation (FBI) and with each other.

The Law Enforcement Assistance Administration (LEAA), Department of Justice, awarded grants totaling about $4 million for developing a prototype of such a system and to enable 20 States to participate when it became operational. Substantial additional funds will be required by Federal, State, and local governments before the system can become fully operational in all 50 States.

The General Accounting Office (GAO) made this review to find out how the system's development was progressing and how much a fully operational system would cost.

FINDINGS AND CONCLUSIONS

A 2-year project demonstrated that it is practicable to exchange criminal history data between the States by a computerized system. The FBI is operating a limited criminal history exchange system. (See pp. 3 to 6.)

Statements by LEAA and State officials indicate that a fully operational exchange system could cost at least $100 million. But the cost to develop a fully operational system has not been determined. (See p. 7.) Therefore Federal, State, and local governments cannot determine whether they will be able, or willing, to meet the financial requirements of developing and operating the system.

Law enforcement agencies, courts, and correctional institutions are not reporting all arrest and disposition data to the State agencies which enter such data into the system. Until they do, system users have no assurance that the data they receive is complete or accurate. (See p. 9.)

RECOMMENDATIONS

Before authorizing substantial additional expenditures, the Attorney General should require that:

Either the FBI or LEAA determine the total cost of developing and operating the criminal history exchange system so that the participants can decide whether they are able, or willing, to meet the system's financial requirements.

The FBI and LEAA implement a program for improving the reporting of arrests and dispositions by law enforcement agencies, courts, and correctional institutions to the State agencies which enter such data into the national system.

AGENCY ACTIONS AND UNRESOLVED ISSUES

The Department of Justice agreed with GAO's recommendations and said that it was taking action to accomplish their objectives. (See app. I.)

These actions should provide cost data and should improve the reporting of arrest and disposition data; however, they do not go far enough to insure reliable cost estimates or complete and current reporting.

Cost data will be collected only as part of a comprehensive data systems program which does not require that each State participate or that specific cost estimates be developed for determining criminal history change costs. Because LEAA requires mandatory reporting only by those States participating in the comprehensive data systems program, a State not participating could develop a criminal history exchange system without accomplishing mandatory reporting.

MATTERS FOR CONSIDERATION BY THE CONGRESS

The report is submitted to the Congress because Federal funds will be used for further development of the criminal history exchange system.

CHAPTER 1

Introduction

In examining Law Enforcement Assistance Administration (LEAA), Department of Justice, grants for criminal justice information systems, the General Accounting Office (GAO) reviewed the prototype System for Electronic Analysis and Retrieval of Criminal Histories (Project SEARCH). Project SEARCH was largely an experiment in the interstate exchange of criminal histories of offenders; it was funded under title I, part C, of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. 3701).

Development of the system

As of June 30, 1972, LEAA had awarded about $4 million to Project SEARCH for developing a prototype criminal history exchange system and to enable 20 States to participate when the system became operational. Substantial additional funds will be required by Federal, State, and local governments before the system can become fully operational in all 50 States.

Project SEARCH began in July 1969 as a 14-month project to (1) establish and demonstrate the feasibility of a computerized system for the interstate exchange of criminal histories and (2) design and demonstrate a computerized statistics system. At the time our fieldwork was completed, 15 States were participating in the criminal history exchange project.[1]

The criminal history exchange system, as envisioned by Project SEARCH, was to enable criminal justice agencies—law enforcement agencies, courts, and correctional institutions—to obtain, in seconds, information on offenders. The criminal justice agency would obtain information by making an inquiry on a "user terminal." The inquiry would be transmitted through the State computer to a central computer index. The central index, to be maintained by a designated agency and containing a brief index of all persons in the system, would then electronically tell the inquiring agency whether a criminal record existed for the individual in question and, if so, from what State detailed information could be obtained. Without such a system, it would take days or weeks to obtain this data, if it could be obtained at all.

The system was to have been demonstrated during July and August 1970; however, to gain more experience and to give States which had recently joined the project a chance to participate, the demonstration period was continued until June 30, 1971.

The system adopted by the SEARCH project group and tested during the demonstration period used detailed criminal history records maintained and controlled by the individual participating States and certain identification and summary data maintained in a central index accessible by all States. When an inquiry was received, the central index (temporarily maintained by Michigan) responded with (1) personal descriptors and identifying numbers, (2) an abbreviated criminal profile, and (3) the name of the State holding the full criminal record. The inquiring agency then had direct access through its State computer and the central index to the desired file in the State holding the record. The information in this file was then electronically transmitted to the inquiring agency through the central index and the inquiring agency's State computer.

Operation of the system

The National Crime Information Center (NCIC) of the Federal Bureau of Investigation (FBI) has maintained, since 1967, computerized national files on wanted persons and certain stolen articles. The NCIC network consists of 102 law enforcement control terminals, which make information in the files available to all 50 States within seconds.

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[1] Arizona, California, Colorado, Connecticut, Florida, Illinois, Maryland, Michigan, Minnesota, New Jersey, New York, Ohio, Pennsylvania, Texas, and Washington. (After our fieldwork was completed, Arkansas, Georgia, Massachusetts, Nebraska, and Utah also joined the project.)

In 1967 NCIC recognized that a computerized criminal history file would be a logical part of a nationwide criminal justice information system. NCIC's stated goal was to provide a national index of criminal justice information and communication lines linking NCIC and the national index with a central State computer in each State. However, NCIC initially emphasized developing and implementing a system that would provide information only on wanted persons and certain stolen articles. After the SEARCH project group demonstrated the feasibility of a criminal history exchange system, the Attorney General in December 1970 authorized the FBI to manage the exchange system. In November 1971 the FBI began operating, through NCIC, a limited version of this system.

Since the FBI assumed management responsibility, LEAA has continued to assist States to participate in the system. Under NCIC, the system has also been changed, at least temporarily, from a system of State maintained and controlled files linked by a central index to a system in which the NCIC central index maintains all information provided by the States. According to an NCIC officials, this change was necessary because the present NCIC communication lines could not handle the requirements of transmitting detailed criminal histories from one State to another.

NCIC, under its criminal history exchange system, maintains a central index containing more detailed information than would have been contained in the central index under the system adopted by the SEARCH project group. Except as noted below, NCIC will maintain all criminal history information and answer all inquiries directly.

NCIC maintains detailed history records of all Federal, multi-State, and single-State offenders whose records have been placed in the system. According to FBI officials, when the system is fully developed, NCIC will maintain detailed history records of multi-State and Federal offenders but only a summary record of single-State offenders.

The summary records will contain personal identification and descriptive data for an arrested individual; the number of times arrested and the number of charges and convictions for each type of offense; and the last arrest, court, and custody status. The detailed criminal history records will include (1) personal identification and descriptive data, (2) complete information on each arrest, the charges for each arrest, and the disposition of each charge, (3) complete information on each count entered in court, the disposition of each count, and any appeal, and (4) information on the custody status of an individual and any change in that status, such as parole.

Under NCIC's system, all record entries, clearances, and modifications, other than for Federal offenders, are to be made through the States; hence the States will control all input to the system, other than for Federal offenders. Each entry must be supported by a criminal fingerprint card processed by the State making the entry. Processing involves an analysis of the card to come up with a 20-character fingerprint profile of the offender. Therefore a State will not be able to enter criminal records into the system until it has an identification unit capable of processing such cards.

Scope of review

Our review was made at Project SEARCH headquarters in California and at FBI and LEAA headquarters in Washington, D.C. We reviewed documentation developed by the Project SEARCH group, LEAA, and the FBI on developing the criminal history exchange system. We also interviewed officials of LEAA, the FBI, Project SEARCH, and several States.

After work to develop the system began, additional tasks were assigned to the Project SEARCH group. These included determining the feasibility of transmitting fingerprint images and other information by communications satellite, enhancing the development of automatic fingerprint comparison, analyzing the requirements of State identification bureaus, initiating the development of a standardized crime-reporting system, and developing a prototype system for the interstate exchange of organized crime intelligence information. Our review concentrated on the project's major task—developing a computerized criminal history exchange system.

CHAPTER 2

Need for cost information and improved input to system

The cost to develop and operate the criminal history exchange system has not been determined and problems related to the system's operational effectiveness have not been resolved. No one has determined what a fully operational system will cost. Therefore the participants cannot determine whether they will be able, or willing, to meet the financial requirements of developing and operating the system. Although the reporting of arrest and disposition data within the States is known to be incomplete, neither LEAA nor the FBI has insured that all information entered into the system is complete. About half the States do not have laws requiring that arrests and dispositions be reported to central State identification units.

Without an accurate forecast of all system costs and a plan for insuring the completeness of reporting, the Federal Government is entering into an open-end commitment; it has no assurance that the participants will be able to meet the financial requirements of the system or that the system will provide complete and accurate criminal history information.

Need for estimate of total cost

As of June 30, 1972, LEAA had awarded to Project SEARCH grants totaling about $4 million for developing a prototype criminal history exchange system and to enable 20 States to participate when the system became operational. For fiscal year 1972, the FBI budgeted $1.3 million and LEAA budgeted $3 million for expanding the system during 1972.

Despite the substantial Federal funds already committed to this system and a greater funding commitment expected in the future, LEAA and NCIC officials told us that neither agency had estimated the total cost of a fully operational system. According to statements by LEAA and State officials, a fully operational system could cost at least $100 million.

To participate, each State will need the necessary hardware, software, personnel, and intrastate communication lines, as well as the ability to convert arrest and disposition data to the standardized NCIC format and to identify fingerprints and maintain fingerprint cards for offenders whose records will be included. The States, assisted by LEAA, will pay these costs. Law enforcement agencies, courts, and correctional institutions within each State will also incur costs to obtain and maintain user terminals for querying the system. About 6,500 user terminals are on the NCIC network and have access to NCIC data. NCIC estimates that about 45,000 user terminals will be added to the system when it is fully operational. Although LEAA and NCIC have already spent several million dollars on developing and operating the tsystem, only four States had entered records in the system as of September 1972.

An NCIC official told us that most of NCIC's future costs will be incurred in upgrading communication lines that link NCIC with the States in the system. Accordingly, NCIC has started a study to determine these costs.

LEAA expects to provide funds to enable the States to participate in the system through block and discretionary grants. LEAA block grants, awarded under title I, part C, of the Omnibus Crime Control and State Streets Act of 1968, as amended, are allocated among the States according to their respective populations. The individual States decide how much of their block grants to use for a given purpose, such as the criminal history exchange system. Under the act LEAA also awards discretionary grants in response to specific State applications.

In May 1972 LEAA allocated about $12 million of fiscal year 1972 discretionary grant funds to initiate a comprehensive data systems program intended to finance the development of criminal justice statistics programs in the States. To receive funding under the comprehensive data systems program, a State must submit a plan for implementing a five-part program. One of these parts is the establishment of a criminal information system that will track offenders passing through the criminal justice system and also provide criminal history exchange capability. Each State will decide whether to participate in the comprehensive data systems program.

According to an LEAA official, because the FBI manages the criminal history exchange system, it, in conjunction with the States, should make any analysis of the total cost of developing and operating the system.

In a paper delivered at the national symposium on criminal justice systems, the Commissioner of Florida's Department of Law Enforcement said that he was:

> "* * * not sure that we are in a position to justify the cost involved to implement a criminal history exchange system on an operational basis * * *.
>
> * * * we must determine the value of criminal history information in relation to the cost * * *."

He acknowledged the limitations in performing a meaningful in-depth cost-benefit analysis but recommended that LEAA develop a "white paper" to serve as the first phase of such an analysis.

A cost-benefit analysis, an LEAA official told us, would be inappropriate because of the many intangible benefits to be derived from the system. We believe, however, that sound financial management of a project of this magnitude requires at least an estimate of the costs of the project. Otherwise neither the sponsoring Federal agencies nor the Congress can determine whether they will be able or willing to meet the financial requirements of the system. Further, the intent of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is that State and local governments will assume project costs after a reasonable period of Federal assistance. For this reason it is vital that State and local governments have the information necessary to determine whether they can finance the development and continued operation of the system.

Need for improved reporting of arrest and disposition data

A criminal history exchange system is valuable because it provides criminal justice agencies—law enforcement agencies, courts, and correctional institutions—with complete, accurate, and timely information on all offenders. Under the NCIC system, criminal justice agencies must report arrests and dispositions within each State to the State's central identification unit which maintains and controls State criminal records and supplies the data for the national files. According to the Department, only 24 States had laws requiring that criminal justice agencies report arrests and dispositions to a central identification unit.

An August 1969 to July 1970 LEAA survey showed that many arrests and their dispositions were not reported by criminal justice agencies to their State identification units, as shown below:

Transaction	Number of States by percent of completeness of arrest and disposition reporting to State identification units [1]		
	More than 90 percent	65 to 90 percent	Less than 65 percent
Arrests	11	20	18
Dispositions	7	11	31

[1] State did not provide information on arrests; another State did not provide information on dispositions.

Only four States had achieved more than 90-percent reporting for both arrests and dispositions which means that, in each of these four States, over 90 percent of the arrests and over 90 percent of the dispositions were reported to a State indentification unit. Of the 15 States participating in Project SEARCH at the time our fieldwork was completed, only five had more than 90-percent arrest reporting and only four had more than 90-percent disposition reporting. According to our July and August 1971 survey of the 15 States participating in Project SEARCH, although some improvements had been made, reporting was still incomplete.

Until such reporting is improved, the exchange system cannot be fully effective. System users must be certain that they are aware of all of an offender's prior arrests and their dispositions. Otherwise, the users may face time-consuming investigations to determine whether all prior arrests have been reported and the outcome of arrests reported.

An LEAA official agreed that the system would not be fully effective if reporting was incomplete. He told us, however, that the system should be part into operation and that arrest and disposition reporting problems could be worked out later. He said that the Project SEARCH group had developed a model State act which, if adopted by individual State legislatures, would improve reporting in those States.

An NCIC official made essentially the same comments. He said that, when the criminal history exchange system was in full operation, NCIC would be able to provide participating States with periodic lists showing reported arrests for which disposition data was missing. These lists would make the States aware of deficiencies in disposition reporting and would encourage improvements.

To put a system into operation without first insuring that the information it will process is complete will result in a system that maintains and provides incomplete data to system users. The value of the system to law enforcement or court officials will be diminished if they cannot rely on the completeness of the record they are using. When decisions are being made to set bail, impose sentence, or grant parole, the offender's record should present an accurate and complete history of arrests and dispositions.

The model State legislation formulated by the Project SEARCH group is a step in the right direction. The model act, however, deals primarily with security and privacy. Although it may enhance State efficiency in maintaining offender records, it does not specifically address the problem of arrest and disposition reporting.

Our survey and that of LEAA show that the States are well aware of their reporting problems. An NCIC list would aid the States in improving the completeness of records, but it is no solution because it will not insure that the file is accurate or complete at all times and will have no effect on preventing the dissemination of information on an arrest for which a disposition has not been obtained. The failure to restrict dissemination of data on an arrest for which a disposition has not been obtained is a serious system deficiency because it permits dissemination of arrest information without showing whether a person was convicted or found innocent. According to the Department, NCIC did not have procedures to remove an arrest entry which was not followed by a related disposition entry. The Department recognized that restricting the dissemination of such data may be required by future legislation or other mandate but said that NCIC had no definite plans along this line.

CHAPTER 3.—CONCLUSIONS AND RECOMMENDATIONS

The computerized criminal history exchange system may provide intangible benefits which would make a cost-benefit analysis difficult. We believe, however, that sound financial management of a project of this magnitude requires at least an estimate of total project costs. Otherwise the participants cannot determine whether they will be able or willing to meet the financial requirements of developing and operating the system.

The incompleteness of arrest and disposition reporting is also a system deficiency. Until all criminal justice agencies are providing the required data on arrests and their dispositions, system users will have no assurance that the criminal history data they receive is complete or accurate.

Recommendations to the Attorney General

We recommend that, before authorizing any substantial additional expenditures for the system, the Attorney General require that:

Either the FBI or LEAA determine the total cost of developing and operating the criminal history exchange system so that the participants can decide whether they are able, or willing, to meet the system's financial requirements.

The FBI and LEAA implement a program for improving the reporting of arrests and dispositions by law enforcement agencies, courts, and correctional institutions to State agencies which enter such data into the national system.

Agency comments and GAO evaluation

The Department of Justice agreed with GAO's recommendations and said that it was taking action to accomplish their objectives. (See app. I.) According to the Department:

LEAA has started a program which requires each State to submit a comprehensive data system plan to LEAA as a prerequisite to LEAA funding of data systems under the program. The States are required to estimate in the plan the total cost of their criminal history systems plus the required incremental cost to be supported by the Federal Government.

LEAA, under its comprehensive data system program, will not fund data systems in States which do not require mandatory reporting when the States' systems become operational.

The FBI is continuing to encourage prompt and complete reporting of arrest and disposition data by law enforcement agencies.

The Attorney General, on July 18, 1972, proposed legislation that would place the burden upon the agencies submitting criminal record information to insure accurate, complete, and current information. Present law does not require the States or other governmental entities to report arrest and disposition data.

The Department's actions, if effectively implemented, should provide cost data and should improve arrest and disposition reporting.

It is questionable, however, whether the comprehensive data systems plans will provide an estimate of the total funding that will be required to make the criminal history exchange system fully operational or whether the program will insure accurate, complete, and current reporting. A State may decide not to participate in the comprehensive data systems program and still participate in the criminal history exchange system. As of October 1972 only about half the States had submitted comprehensive data system plans to LEAA. Although these plans contained cost estimates of State participation in the comprehensive data systems program, they did not contain cost analyses to show what costs would be required for the State to develop its State criminal history exchange system.

Although arrest and disposition reporting should improve as a result of LEAA and FBI actions, the comprehensive data systems program requires only that the States insure that mandatory reporting will be accomplished by the time the States' systems become operational. States therefore can avoid or postpone mandatory reporting by not participating in the comprehensive data systems program or by delaying participation.

APPENDIX I

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., October 24, 1972.

Mr. MAX A. NEUWIRTH,
Associate Director, General Government Division, U.S. General Accounting Office, Washington, D.C.

DEAR MR. NEUWIRTH: This letter is in response to your request for comments on the draft report titled "Development of a Criminal History Exchange System—Need to Determine Cost and Improve Reporting."

We consider the recommendations of the report to be appropriate and well founded. However, both recommendations were overtaken by time, and action has been taken to accomplish the objectives which the report appropriately recommends.

With respect to the recommendation that we determine the total cost of the criminal history exchange system, the substance of the report is based primarily on the work accomplished in developing the Computerized Criminal History System under Project SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories). Since the time the major portion of the work under Project SEARCH was conducted and reported on, the Law Enforcement Assistance Administration (LEAA) has embarked upon the Comprehensive Data Systems (CDS) Program. This program, which contains five parts, incorporates the provision for funding the Computerized Criminal History System, or the Offender Based Transaction Statistics/Computerized Criminal History System (OBTS/CCH) as it is referred to in the CDS Program. In the CDS Program, LEAA is requiring each State to submit a CDS Plan. In this plan, the States are required to estimate their total cost plus the required incremental cost to be supported by the Federal government for each of the five segments. As a result, the 50 CDS Plans will, in the aggregate, provide an estimate of the total dollar amount that will be required for making the OBTS/CCH System operational throughout the United States. These intrastate systems will interface with the Federal Bureau of Investigation's (FBI) National Crime Information Center/Computerized Criminal History (NCIC/CCH) System.

To assure that a State is in a position to meet its funding commitment, we are also asking the Governor, or at the very least the Director of the State Planning Agency, to be the person responsible for approval of the CDS Plan. This approval includes the acceptance of long-range funding by the State. Thus the Governor or his direct representative indicates his awareness of the commitment of the State for continuation of the program. This commitment includes funding not only for the OBTS/CCH System but also for the other four parts of the CDS Program.

With respect to determining the cost to make the criminal history exchange system operational, we consider it important to stress the fact that the exchange of criminal histories does not require the development of a separate "system" independent of other essential criminal justice functions as the report seems to infer. The FBI's computerized National Crime Information Center (NCIC), operational since 1967 in the exchange of information concerning wanted persons and stolen property with other law enforcement agencies, already provides a dedicated communications network extending to all 50 States, the District of Columbia and Canada. In addition, computerized systems servicing criminal justice agencies already exist today, funded in whole or in part by the States. These systems have been developed to handle, among other things, the exchange of criminal history data. There are 29 operational computerized State systems already tied directly to NCIC. These systems currently afford immediate NCIC access to approximately 6,000 local agencies having terminal devices in intrastate communications networks.

With respect to the second recommendation, which concerns the implementation of a program for improving the reporting of arrests and dispositions by law enforcement agencies, courts, and correctional institutions, Title 28, United States Code, Section 534, contains no provisions mandating a State or other governmental entity to report arrest and disposition data. However, under date of July 18, 1972, the Attorney General forwarded to the Speaker of the House of Representatives, United States Congress, a legislative proposal to amend Title 28, Section 534, United States Code and provide for the dissemination and use of criminal history information and for other purposes. An important provision of the proposed legislation is that it will place a burden upon the agencies submitting criminal record information to insure that the information is accurate, complete and current.

Without the sanction of law, however, the FBI and LEAA are making every effort to improve the reporting of arrest and disposition data. LEAA's CDS Program requires participating States to develop a comprehensive system with mandatory reporting and rigid quality control standards. Additionally, detailed guidelines have been developed to assist States in the preparation of grant applications for the OBTS/CCH System. In essence, the guidelines provide that for a State to be funded, it must have legislation on the books which requires reporting of judicial and corrections dispositions into the OBTS/CCH System. If the State does not have the wherewithal to fulfill this requirement, in other words, legislation actually on the books, there must be a very high probability that such legislation or an executive order will be in effect by the time the systems development efforts are completed and the system becomes operational. If this is not the case, it is not LEAA's intent to fund either the CDS Program or the OBTS/CCH System. Furthermore, no State will be funded which does not assure the collection of data from every agency at each level of the criminal justice system.

The report suggests that no efforts have been made to increase participation by fingerprint contributors in the reporting of data. On the contrary, the FBI, through their Identification Division and Uniform Crime Reporting Statistical Program, has always urged the prompt and complete submission of such data. Letters dated as recently as June 2, 1971, July 22, 1971, and November 9, 1971, solicited the cooperation of all law enforcement agencies which submit fingerprint cards to the FBI to follow the submission of each arrest card with the reporting of a final disposition. The July 22, 1971 letter also forwarded a revised form for use by the contributors in reporting final dispositions. The November 9, 1971 letter furnished to contributing agencies a redesigned fingerprint card with instructions as to how to handle same so that the Computerized Criminal History Program could be more readily implemented. The instructions emphasized that all information on the revised fingerprint card was essential including the listing of final dispositions.

In connection with the FBI's continuing efforts to encourage the reporting of arrest and disposition data, they have worked closely with and assisted in the passage of resolutions which were adopted in the past year by the National District Attorney's Association, the National Association of Attorneys General and the International Association of Chiefs of Police. Each of these resolutions was aimed at stressing the need for prompt and complete reporting of arrest and disposition data. At a national meeting on August 2, 1972, of the International Association for Identification at Milwaukee, Wisconsin, a resolution was passed encouraging support of enactment of State legislation to mandate the reporting of final disposition data applicable to each arrest to the central file at the State or national level to which the arrest fingerprint card was submitted. Some 24 States now have statutes which provide for the reporting of criminal identification information.

Also, in the numerous schools held for law enforcement personnel in the Washington, D.C. area and throughout the United States in which the FBI's Identification Division function is discussed, the administrators and officers in attendance are told of the absolute necessity for a prompt and complete reporting of all arrest and disposition data.

The body of the draft report contains two statements concerning the FBI's NCIC which are incorrect. (See GAO note.)

The second inaccuracy (See GAO note.) wherein an NCIC official is quoted as stating if an arrest recorded in the (computerized) system is not followed by a related disposition entry within 9 months, the arrest entry will be removed. This is not a procedure utilized in the NCIC Computerized Criminal History Program. There is a possibility that restricting the dissemination of such data may be required by future legislation or other mandate; however, no definite plans by NCIC along this line exist at this time.

We appreciate your providing us the opportunity to furnish comments on the draft report. As requested, one copy of the report is being returned with this response.

Sincerely,

L. M. PELLERZI,
Assistant Attorney General
for Administration.

GAO note: Material detailed referred to matters or page numbers in the draft report which have been revised.

PRINCIPAL OFFICIALS OF THE DEPARTMENT OF JUSTICE RESPONSIBLE FOR THE ADMINISTRATION OF ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of office	
	From—	To—
Attorney General:		
Richard G. Kleindienst	June 1972	Present.
Richard G. Kleindienst (acting).	March 1972	June 1972.
John N. Mitchell	January 1969	February 1972.
Ramsey Clark	March 1967	January 1969.
Ramsey Clark (acting)	October 1966	March 1967.
Director, Federal Bureau of investigation:		
L. Patrick Gray (acting)	May 1972	Present.
J. Edgar Hoover	May 1924	May 1972.
Administrator, Law Enforcement Assistance Administration:		
Jerris Leonard	May 1971	Present.
Vacant	June 1970	May 1971.
Charles H. Rogovin	March 1969	June 1970.
Patrick V. Murphy (acting)	October 1968	March 1969.

COMPTROLLER GENERAL OF
THE UNITED STATES,
Washington, D.C., March 1, 1974.

Hon. SAM J. ERVIN, Jr.,
Chairman, Subcommittee on Constitutional Rights, Committee on the Judiciary, U.S. Senate.

DEAR MR. CHAIRMAN: Your letter of February 21, 1974, requested that we provide your Subcommittee with information on the development and use of computerized criminal history information. You requested specific information in connection with hearings on legislation to guarantee the security and privacy of criminal history information (S. 2963 and S. 2964).

We have reviewed actions relating to the development of the Federal and State computerized criminal history information systems (CCH). Enclosed are our findings, which may be useful to your Subcommittee during its March hearings. We will provide the other information you requested after the hearings and further discussions with your staff.

Briefly, our findings indicate:

When the Attorney General authorized the Federal Bureau of Investigation (FBI) to operate the CCH system in December 1970, he did not inform the FBI of (1) the extent to which certain criminal history information should have been maintained in Federal rather than State computers or (2) what type of advisory policy board should be established to review the policies and procedures used for CCH. He had, however, received recommendations regarding both matters from the Office of Management and Budget, Executive Office of the President.

In the absence of such direction from the Attorney General, the FBI, with the concurrence of its National Crime Information Center Advisory Policy Board, developed the policy and operating procedures for CCH.

There is some question as to the extent of computerized criminal history information which should be retained in the FBI's computers.

Data is not available to indicate how computerized criminal history information has been used.

Both the FBI and the Law Enforcement Assistance Administration have either funded, or seek to develop, telecommunication system capabilities, to allow State and local criminal justice agencies to exchange administrative messages more effectively. The development of two systems could result in duplication and an unnecessary expenditure of Federal funds. Moreover, the Attorney General has not decided whether the FBI has legal authority to operate such a system.

The principal question which has resulted from our work to date, and which your Subcommittee might wish to pursue in its upcoming hearings, appears to be: What should the national policy be regarding development of computerized criminal history information systems, and to what extent should the various segments of the criminal justice community and appropriate Federal agencies participate in such policy development?

During the hearings the Subcommittee may wish to discuss with the Administration additional matters noted on pages 6, 8, and 10 of the enclosure.

We did not obtain comments from the Department on this report, but we did discuss the findings with cognizant officials, who generally agreed with the facts.

Sincerely yours,

Elmer B. Staats,
Comptroller General of the United States.

Development of the Computerized Criminal History Information System

BACKGROUND

A cooperative effort of several States established and demonstrated the feasibility of using a computerized system for the interchange of criminal histories. The States' effort was called the System for Electronic Analysis and Retrieval of Criminal Histories (SEARCH).

The SEARCH project began receiving Federal funds in 1969 from the Law Enforcement Assistance Administration (LEAA) as part of LEAA's effort to encourage States to improve their criminal justice systems. SEARCH was developed on the basis that all computerized criminal history records would be stored in the States and that a central computer would maintain an index of abbreviated summary data on arrested individuals.

On request, a State was furnished this summary—which contained information on the reasons for and number of arrests and convictions—and, if necessary, could query the State listed on the summary as having the individual's records for the detailed information. LEAA gave the States about $4 million to develop and operate SEARCH.

SEARCH proved that it was feasible to use a computerized system for the interchange of criminal histories. The question then facing the Department of Justice was how to make the system operational: Who should operate the system? What computerized criminal history information should be contained at the Federal or at the State level?

The Attorney General's Office, the Federal Bureau of Investigation (FBI), and LEAA discussed the alternatives during the summer of 1970. One concern of LEAA was that the central index might contain too much detailed information, possibly raising the specter of a national computerized data bank. Regarding the extent of information to be contained in the central index, an August 1970 memorandum from the FBI Director to the Attorney General stated:

"* * * no final decision has been made as to the exact details to be included in a national index criminal history record. This can only be done in coordination with the states. This Bureau plans no greater detail in the computerized criminal history record than is presently frequently available in the manually operated criminal identification record function."

Another issue was whether the FBI, LEAA, or the States should operate the system. The Assistant Attorney General for Administration supported the FBI's view that it was experienced in handling criminal information and should operate the system. LEAA basically proposed that it share operating responsibility with the FBI.

Before making any decisions the Attorney General requested the Office of Management and Budget (OMB) to study alternatives for the future organization and operation of SEARCH. On September 3, 1970, the Associate Director of OMB recommended to the Attorney General that:

The FBI operate the SEARCH central index on a limited record-length basis, while the States continue to develop and operate their individual, but compatible, automated criminal history systems.

A strong Policy Control Board be established, which would report directly to the Attorney General, to decide the future development and operations of SEARCH. The Policy Control Board should include high-level officials from the FBI, LEAA, and the States, which should represent all elements of the criminal justice system (police, prosecutors, courts, corrections, and parole). Membership should be structured so that the States have an equal voice with the Federal Government in recommending policies for the future direction of SEARCH.

Planning be initiated to develop an integrated criminal justice system. This would bring together SEARCH and the related FBI activities. The Policy Control Board should be the center of this planning activity.

On December 10, 1970, the Attorney General informed LEAA and the FBI that the FBI would take over management responsibility for a computerized criminal history system. However, we were told that the Attorney General did not follow or advise either LEAA or the FBI of OMB's other recommendations.

The FBI named the system the Computerized Criminal History (CCH) Program and operated it as part of its National Crime Information Center (NCIC), using NCIC computers and communication lines.

OPERATION

Since CCH is part of NCIC, a brief description of the system is useful.

Since the 1920's the FBI has maintained, in a manual central file in Washington, D.C., records of all arrests reported by local law enforcement agencies and has disseminated such information, on request to State and local law enforcement agencies. The arrests are reported to the FBI in fingerprint cards which are put in a file maintained for each arrested individual by fingerprint classification. Information from the fingerprint cards is transferred to a "rap sheet," making it a master list of all reported criminal activity for that particular individual. Disposition data is also supposed to be submitted by the arresting agency or the court on a disposition form and becomes part of the file maintained for each arrested person. Copies of the rap sheet are forwarded to local agencies in reply to requests for information on the particular individual.

The headings of information contained on rap sheets follow:

(1) contributor of fingerprints (usually arresting agency or correctional institution),
(2) individual's name,
(3) date arrested or received (i.e., sent to jail).
(4) nature of charge, and
(5) disposition.

The FBI began operating NCIC in 1967. Its current function is to supply, from a central data bank maintained by the FBI, an almost instantaneous response to inquiries from Federal, State, and local law enforcement agencies regarding fugitives; and stolen vehicles, license plates, securities, boats, guns, and other articles. Terminals at central State locations and at local law enforcement agencies are linked to a central computer, at FBI headquarters, which stores and disseminates this information on request. Other criminal justice agencies in the States can request NCIC information from these control terminals.

NCIC was developed with the assistance of an advisory group composed of State and local law enforcement personnel from agencies that either had computerized systems or were in the advanced planning stages of such systems.

The advisory group was replaced in 1969 by the NCIC Advisory Policy Board. The Board was composed primarily of State and local law enforcement personnel and made recommendations on NCIC policy to the FBI Director. Members were elected by the criminal justice agencies which had computer terminals linked to NCIC—mainly law enforcement, rather than court or correction agencies. The Board obtains some input on how to operate the system from an annual meeting of users of the system.

Because CCH was an integral part of NCIC, the Board governing NCIC made recommendations to the FBI Director regarding CCH's development.

The NCIC Board, however, did not have as broad a composition as that of the board OMB envisioned when it made its September 1970 recommendations to the Attorney General; nor did it report directly to the Attorney General, as OMB had recommended.

In March 1971 the NCIC Board approved the operational concept, security requirements, and record content for the CCH program. The central data bank, as recommended by the Board and as agreed to by the FBI, would no longer merely point inquiries to the State where detailed criminal history informaton could be obtained. Instead, it would contain a detailed criminal history record on each offender whose record was entered by the States into the system. Basically, this detailed criminal history record would contain the information which the FBI had maintained manually on its offender rap sheets. It would consist of information showing the arresting agency, the reason and date of each arrest, and disposition and custody action, when available.

Maintaining the complete detailed record of each offender was to be an interim measure, according to the NCIC Board, because all users would not have the capability to fully participate in the beginning of the system. It would take time for the States to establish identification bureaus and develop fingerprint identification capability, information flow, and computer systems capability.

The ultimate concept of CCH, as envisioned by the Board, is a single-State, multi-State system. For single-State offenders NCIC would maintain only summary data and the States would maintain the detailed records: For multi-State offenders and for Federal offenders, NCIC would maintain the complete record. The summary record would include only the reason for arrests and number of arrests and convictions and specific information on the reason, date, and disposition of an offender's latest arrest and the criminal justice agencies involved. FBI studies have shown that about 70 percent of rearrests will be within the same State. Therefore, most detailed records will be for single-State offenders and ultimately maintained at the State level.

The NCIC Board in March 1971 had therefore committed itself to developing an operational system that went beyond the original SEARCH concept in terms of the Federal Government's involvement. The information in the FBI's computers would not be limited to abbreviated summary data for single-State offenders, but would include complete criminal data on each offender until the States could develop fully operational CCH State systems. The FBI endorsed this concept, and the Board stated that the States should have fully operational systems by July 1, 1975.

State participation in CCH, in terms of entering records into the computer, is voluntary. But, any State which complies with the NCIC Board's security and confidentiality requirements can access information in the system.

Because the Attorney General did not follow all of OMB's recommendations, OMB officials held a meeting on April 26, 1971, with Department of Justice, LEAA, and FBI representatives to discuss CCH. Two of the major findings, according to a May 11, 1971, OMB memorandum of the meeting, were that:

Neither the FBI nor LEAA had received

copies of the September 1970 OMB report to the Attorney General.

The FBI was building a central data bank of all criminal records instead of operating a central index as OMB recommended.

On May 13, 1971, the OMB Associate Director reported to the Attorney General that:

The NCIC Board governing CCH had all police representatives instead of representatives from the total criminal justice system, including the courts, corrections, prosecutor, and parole segments, as OMB recommended.

The NCIC computer system's policies limited CCH to police use. OMB intended that the system be used by the total criminal justice system.

The rap sheets used in recording data included data on corrections and courts but those agencies did not have access to that data under the CCH system.

Although authority existed for using statistical data from the system for criminal justice research, no firm commitments existed for making the data available for this purpose.

A September 1973 NCIC Board paper discussed the need for detailed information at the national level, noting that such information:

"* * * is required to efficiently and effectively coordinate the exchange of criminal history among State and Federal jurisdictions and to contend with interstate criminal mobility.

"* * * sufficient data must be stored in the national index to provide all users, particularly those users who do not have the capability to fully participate in the beginning system, the information necessary to meet basic criminal justice needs."

The same paper reiterated that for the system to be a truly national system the States must create fully operational systems by July 1, 1975.

Both FBI and LEAA officials, however, advised us that it is questionable whether many States can meet the July 1975 deadline. The probability exists that, because of the difficulty of developing systems in all the States, the FBI will retain detailed computerized criminal history information on single-State offenders for a substantial period.

In September 1973 the NCIC Board recommended that the FBI Director appoint some non-law-enforcement officials to its Board, since up to that time none of the Board members represented the court, prosecution, or correction segments of the criminal justice system. In February 1974 the Director appointed two prosecutors, two judges, and two correction officials to the Board. As of February 27, 1974, five had accepted the appointment.

Matter for consideration by the subcommittee

The Subcommittee may wish to explore with the Attorney General whether he believes OMB's September 1970 recommendations are appropriate and, if so, how he intends to implement them.

USE OF CCH

On November 30, 1971, the CCH system became operational. As of February 17, 1974, six States and the District of Columbia, in addition to the Federal Government, had supplied computerized records to the system in the numbers shown below.

Arizona	18, 497
California	72, 522
District of Columbia	45, 099
Florida	70, 480
Illinois	28, 954
New York	46, 285
Pennsylvania	10, 177
United States Government [a]	156, 487
Total	448, 501

[a] Federal offenders are entered by the FBI.

This number represents only about 2 percent of the approximately 20 million individuals on whom the FBI has criminal history information. The CCH system, therefore, currently provides criminal justice agencies only a small portion of the total information they receive from the FBI.

Summary data the FBI gave us on the inquiries to CCH in January 1974 gives some indication of the type of requests coming to CCH. About 31,470 requests were received for either summary or complete CCH information. Of the approximately 25,900 requests for summary information, such as would be contained in the national index for single-State offenders, the CCH file contained information on 2,925, or about 11 percent. Of the approximately 5,570 requests for complete criminal history data to be transmitted back to the requestor by computers, the CCH file contained information on about 4,290, or 77 percent.

Data is not available at the national level to indicate for what purpose State and local criminal jusitce agencies use CCH information. The CCH system can identify the control agency terminals making inquiries to the system, but not the agencies within the State making requests of the control terminals. The States, however, would have such data. Moreover, there is no way to determine, from the computerized printouts, the purposes of inquiries.

An evaluation of SEARCH[1] attempted to determine police use of SEARCH, but the evaluation report noted that:

"The observation of local police use of the system was not realized; therefore, this portion of the findings come from detailed interviews and not from operational experience. The most consistent opinion expressed by local police at all organizational levels is that criminal history is not vital prior to an arrest.

"The requirement is for a reliable source of accurate and timely information during the investigative phase, after an offender has been arrested."

The report, however, did not indicate the number of local police interviewed, their duties (such as patrol or identification), or whether those interviewed were randomly selected from all local police. Without such information, it is not possible to determine whether the views expressed to the evaluators are representative.

The SEARCH evaluation report did not address how court and correction agencies used computerized criminal history information, but noted that before SEARCH the "lack of criminal history data in the courts and correction functions was appalling."

Matter for consideration by the Subcommittee

We believe it is necessary to know what use is made of computerized criminal history information to determine what type of security and privacy provisions should be applied to the data and to provide management with sufficient information to determine how best to meet user needs. The Subcommittee may wish to discuss this matter with the Attorney General.

ADMINISTRATIVE MESSAGE SWITCHING

An important collateral development to the CCH system is the development of the communication system over which law enforcement agencies can exchange administrative messages on such matters as details of thefts of automobiles, or the transportation of arrested individuals.

The primary system used by the States is the National Law Enforcement Teletype System (NLETS). A consortium of States established NLETS in 1966 as a nonprofit corporation for the interjurisdictional exchange of criminal justice administrative messages. Teletype terminals in the States, accessible to local criminal justice agencies, interfaced with a central message switching terminal in Phoenix. NLETS was operated entirely on teletype equipment and had no data storage capability. The FBI was linked into the system with the same capabilities as the States. Each State financed its own participation in the network.

In 1973 LEAA and State and local law enforcement agencies became concerned that this low-speed system had become obsolete and could not meet the high-speed telecommunication needs of law enforcement agencies. Therefore, LEAA entered into an agreement with the National Aeronautics and Space Administration to have one of the Administration's contractors, the Jet Propulsion Laboratory of the California Institute of Technology, develop alternatives for nationwide telecommunication systems to cover interstate criminal justice telecommunication needs up to 1983. The study will cost LEAA $500,000. The Jet Propulsion Laboratory is to issue its final report in mid-1974.

As an interim measure, LEAA gave the States $1.5 million in June 1973 to upgrade NLETS over a 42-month period so computers could be used to exchange information over high-speed communication lines. During the first 18 months NLETS was authorized to spend about $1.2 million to buy computer equipment, organize and install the high-speed communication lines, and bring in technical experts to implement the system. This upgrading, the initial phase of which was substantially completed in January 1974, enables computer-to-computer messages to be transmitted over the lines. As of January 31, 1974, about $741,000 had been spent.

Concurrently, the FBI expressed interest in operating law enforcement interstate administrative message switching. On July 11, 1973, the FBI Director requested the Attorney General's concurrence in his opinion that statutory authority for the FBI's NCIC included authority to provide expanded communications support for NCIC, including the switching of administrative messages and other interstate criminal justice communications. FBI officials advised us that the request to the Attorney General had been delayed until a permanent Director took office. Under the FBI's proposal, the FBI, rather than the States, would operate the central message switching unit to enable the different computerized information systems of the States to communicate directly.

The FBI pointed out that message switching is an integral part of the CCH system and that the NCIC communication network would be capable of handling all message switching requirements with minimal additional communication lines and upgrading of computer hardware.

According to an August 6, 1973, memorandum from the Department's Office of Legal Counsel to the Attorney General, it is arguable whether there is adequate legislative authority to support the FBI's proposal to acquire administrative message switching. Moreover, if the FBI obtains administrative message switching capability, there is a question whether NLETS needs to exist.

As of February 27, 1974, the Attorney General had made no decision on the FBI's request.

Matters for consideration by the subcommittee

Before moving forward with either LEAA's plans to continue upgrading NLETS or the FBI's proposal to implement administrative message switching, such Federal agencies as the Department of Justice, OMB, and the Office of Telecommunication Policy of the Executive Office of the President, should agree on what overall Federal involvement should be in computerized criminal justice telecommunication systems. The Subcommittee may wish to discuss these matters with the Attorney General.

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[1] The evaluation, completed on October 23, 1970, was done by Data Dynamics, Inc., Arlington, Virginia, for the California Crime Technological Research Foundation.

THE RIGHT OF ALL CHILDREN TO GOOD NUTRITION

Mr. HUMPHREY. Mr. President, I was pleased earlier this week to introduce S. 3123, the Child Nutrition Act of 1974, to establish a universal food service program for children.

I have long favored this concept, and feel the time has come to put it into action.

We provide our school pupils with free textbooks and free transportation, as part of a free public education.

But despite abundant scientific evidence linking diet with mental and physical health, we discriminate among students when it comes to providing them with the food they need to perform at their best ability. We know that a poorly nourished student will be a poor student, but we treat nutrition as an economic rather than a physical and mental need. The poor get free lunches, the almost poor get reduced price lunches, and the more affluent pay the full price.

Yet, there is ample evidence to show that inadequate nourishment ignores economic lines. The well off can be just as poorly fed as the poor, and too frequently, are.

To address this widespread situation in our Nation, I introduced S. 3123 on March 6, proposing a truly universal free school lunch program.

I am deeply grateful to the American School Food Service Association and its members for their advice in the preparation of this bill. These dedicated professionals, who are responsible for the excellence of the school lunch program as it now functions in our Nation's schools, have long had universality as their goal.

I was honored to address this fine organization on the same day I introduced the bill, during their second annual legislative action conference, held in Arlington, Va.

In my prepared remarks I outlined in detail my thought on the universal school lunch concept and on related matters affecting the Nation's child nutrition programs. The warning I gave to conference participants was that unless certain policies of the present administration are reversed, we can expect the dismantlement of the school lunch program as we now know it.

I sharply criticized the administration's failure to fully implement the WIC supplementary feeding program for women, infants, and children. I noted continued footdragging by the Department of Agriculture in carrying out the mandates of Congress last year to improve and expand the school lunch and school milk programs.

Already, the result of administration policies has been that 500,000 youngsters have been pushed out of the school lunch program. I have strongly urged early action by the Senate on legislation I have joined in sponsoring, to prevent a further adverse impact upon the school lunch program, from a sudden phase-down in the distribution of Government-purchased commodities—a proposal currently under consideration in the Department of Agriculture.

Mr. President, I ask unanimous consent that the text of my remarks, as prepared for delivery at the ASFSA conference, be printed in the Record.

There being no objection, the text of the remarks was ordered to be printed in the Record, as follows:

REMARKS BY SENATOR HUBERT H. HUMPHREY

It always is a pleasure to meet with the American School Food Service Association. We are old friends and allies. And now it looks as if our alliance will have to go on the offensive in another tough fight.

Your organization long has had as one of its major goals a universal program of balanced, nutritious meals for youngsters in every school in this nation. Your theme this week is, "Universality: The Possible Dream."

Well, as you no doubt are painfully aware, the Nixon Administration has other ideas. It would like to make your dream impossible.

We have seen evidence in recent weeks that the Administration is embarked on a course that would lead to the eventual dismantlement of the school lunch program as we now know it. Rather than becoming a universal program, it would be squeezed and narrowed in scope to become a welfare program. The average American, whose children now benefit by the millions from the good, nourishing meals you place before them, would be cut off from further participation.

I want you to know that I will do everything I can in the Senate to see that this Administration policy trend is reversed.

In fact, I am pleased to announce that I am introducing in the Senate the "Child Nutrition Act of 1974," embodying the principles of universality. I hope that the Senate will move quickly to consider this bill, which would achieve goals that you and I have sought for many years,

The school lunch programs mean more than food for the body. They mean food for the brain. Food for thought. Food is as important as books if a child is to learn and grow up fit to compete as an adult, to apply his learning and make a contribution to society—and to raise healthy, productive children of the future generation.

Today we know more, thanks to science, than ever before about the relationship between food and the mind. As a member of the Senate Select Committee on Nutrition and Human Needs, I have listened to hours of expert testimony and read through volumes of transcripts on this subject.

Diet clearly affects mental condition, particularly in the young and unborn. What is or is not in the diet of the pregnant mother or the infant strongly affects what that child grows up to be.

And in growing children, both the diet itself and the eating habits learned with the diet further determine the conditions that will prevail in adulthood. In boys, a steady diet of hamburgers and soda pop can set a pattern of poor diet in adult life and such problems as heart disease in middle age.

In girls, the problem is perhaps even more serious. Not only does poor diet produce poor health in the girl and then the woman, but it can mean her children will be born unhealthy. And, even worse, the mother will lack the knowledge and habits necessary to teach the child proper dietary practices.

Thus, the legacy of poor food and poor mental and physical health can be passed from generation to generation in an endless, heartless, hopeless chain unless someone steps in to break it. That is the important mission of the American School Food Service Association and the mission to which I have committed my full support.

But to accomplish this mission, we will have to reshape the thinking that has prevailed in the present Administration, which has attempted to dismantle programs and systems that have taken years to build and perfect. You know what I am talking about:

The Nixon-Butz philosophy that says, "Let's wait until the next grain crop is harvested before we worry about the wheat shortage."

Or, that says, "Sure, give them school meals. But have the cook run down to the grocery store to buy the food. We can't be bothered with supplying commodities anymore."

But that isn't the whole story. Even given a program that doesn't include government-supplied commodities, the Administration drags its feet.

For example, the Nutrition Committee has been fighting a running battle with USDA for nearly two years now to implement the WIC supplementary feeding program for women, infants, and children. This program supplies "prescription food" for pregnant and lactating mothers, infants and children—or is supposed to.

We had to go to court to break an 18-month USDA delay in just writing the rules under which the WIC program would be run. We now have the rules, but they were hastily written and need to be rewritten. Meanwhile, we have delay and unnecessary administrative complications.

Yet there has been such a demand for participation in the WIC program that the government has had to turn down over a hundred agencies that would have operated programs worth $35 million. And the program still is not operating the way it should be after this much time.

But, you know what has been going on You were there when in Congress last year we debated the School Lunch Bill. We were able to hold the Administration off and we won a few victories.

We got a guaranteed minimum reimbursement rate for school lunches.

We got an escalator clause that attempts to recognize the impact of Nixonomics on the school lunch program, by increasing reimbursement rates periodically to reflect inflation.

We mandated the continued availability and expansion of the school milk program.

And we raised the income guidelines that determine eligibility for reduced-price lunches.

I was happy to pitch in and offer these amendments and fight for them. We didn't get everything we wanted, but if we hadn't fought, you can be sure the school lunch program would be in a shambles today.

As it is, the cost of inflation has been the loss of many participants in this program—many of them the youngsters who need the program most. You know the statistics. Some 200,000 students were forced to switch from a paying to a non-paying status because the price of a lunch went as high as 65 cents in some cases. And worse than that, a half-million youngsters were pushed out of the program altogether.

At the same time, the quality of meals suffered. Trying to hold down costs and continue your programs, some of you have shown remarkable ingenuity in the face of your problems.

The figures I was just quoting come from a study done by the Select Committee on Nutrition and Human Needs. The same study reported that because the USDA commodity surplus program no longer provides ground beef, you invented the "chicken stick," a batter-dipped cylinder of ground "odds and ends" of the bird. But deserts and seconds have had to be eliminated in many cases, and the size of portions has had to be reduced.

And all this ocurred after the Administration fought us tooth and nail last year, opposing our reimbursement increases, opposing our escalator clause, opposing the special milk program, opposing the funds for new kitchen equipment.

If they had won, we might be talking today about the loss of a million or two million youngsters, rather than a half-million, from the school lunch program.

The battle has continued over recent months. The Department of Agriculture has still not published regulations to implement the expanded special free milk program enacted last fall. And unless Congress acts to continue beyond June 30th the increased maximum income guideline—designed to help children of near-poor families receive reduced-price lunches—there will be few schools that take advantage of this provision, on the expectation that USDA will allow it to expire.

But the Administration is not through. Here is what is facing us now:

A total food program budget of nearly $6 billion proposed by the Nixon Administration last month, containing a *spending* increase of about $1 billion, but an actual *program* increase that in many important areas, including the school lunch program, amounts to virtually nothing.

A school lunch equipment assistance budget would reduce available funding by nearly 20 percent. The Administration says it plans to spend $28.1 million during the current fiscal year, and it proposes to reduce this to $22 million for the next year. Against this, the Nutrition Committee has estimated a need of $40 million annually, to help schools with outdated equipment replace it and to equip others that rightfully should be getting into the program.

And finally, we have the now infamous Yeutter memo which shows the full extent of the Administration's callousness, indifference and insensitivity to the food and nutrition needs of this Nation. This proposal calls for the total phaseout of the agricultural commodity purchasing program as a longterm goal, and a general phasedown in the meantime, to get us used to the idea.

All that the school lunch budget does is provide for a shift of some 400,000 students from paying to free-lunch status, without any provision for increased participation. This is planned at a time when you and I know that the program should be growing by leaps and bounds.

There is no program, except perhaps Social Security, that is so excellent an investment for the working, taxpaying American, as the school lunch program. It provides nutritious meals at low cost for his children, while also helping feed others less fortunate and perhaps helping diminish the chance that the children of the poor today will grow up to be the parents of the poor in tomorrow's schools.

But all that the President's fiscal 1975 budget does, while increasing expenditures by one-sixth, is cover the cost of inflation.

This budget tacitly admits that the Administration has been unable to do anything about the soaring cost of food, and does not expect to do anything about it in the coming year, either, through mid-1975.

It is a mystery why there should be such a precipitous scramble to scuttle the commodity program. We have just experienced the first year in memory without surpluses, but there is no guarantee that there won't be surpluses again. If the Nixon Administration has its way, and we do again find ourselves with more agricultural commodities than we can absorb in one year, the American farmer would be without the insurance policy that this country has painfully developed over years and years.

But the new assault on the commodity program carries even more dangerous implications.

If the commodity purchase system were scrapped, we don't know that there would be—or could be—an adequate replacement. The Administration claims that the States and school foor service personnel could buy just as cheaply as the USDA could on the open market. But the truth is that no one knows what the difference in purchasing power is between the federal government and the local units. If the USDA can buy a hundred-thousand pounds of chicken for $100,000, for example, who is to say it might not cost you $150,000 or $200,000 to buy the same quantity?

Nor has the Administration promised to provide adequate financing to supply you at present levels of quantity and quality if your costs do exceed those under a federal purchasing system. If the Administration were to succeed in its tactics, it could mean either a cutback in the scope of your programs, or a vast increase in your costs, or both. The people who benefit from the school lunch program and the taxpayer would both suffer.

What we must do—and what I have joined Senator McGovern and others in proposing—is to adopt a guarantee that you can continue to operate at least at your current levels through a continuation of the present commodity program without reduction, until such time as an acceptable alternative is found. If one is not produced, we then must revitalize the commodity purchase system itself.

Price is not the only argument favoring this approach. If we allow the Administration to precipitously dismantle the commodity program, we lose in numerous other ways:

We lose the experts in warehousing and distributing bulk foods, who have made the USDA program function all these years. Suddenly the states would be forced to take over. At present, only one state, Rhode Island, the smallest state, has its own purchasing system. The other 49 would have to build their own systems overnight, and their residents would suffer while the bugs were worked out.

We would lose the Federal inspection system that has guaranteed you high-quality foods for your programs. This is another area in which ability and funds are lacking at the state level. The USDA has an excellent corps of meat inspectors.

The USDA also has a fine system of market analysis to determine the best time to buy canned fruits and vegetables. If the states and localities were forced to do their own buying, they would first have to find the experts to advise them, and then would have to replace the existing federal storage and distribution system. Chances are, you would have to buy for shorter time periods, exposing yourselves to market fluctuations.

And if the commodity program were replaced with cash that was allotted to you at the start of the year, what would you do when the price jumped and you found you hadn't been provided enough cash?

The Yeutter Memo and other indications from USDA have outlined the Administration strategy. The ultimate goal is to scrap the commodity program and push the school lunch and supplemental feeding programs over to the Department of Health, Education and Welfare. There are those who argue that this is only logical, since HEW is in the business of feeding people, while Agriculture is supposed to deal with farmers.

That may make sense on somebody's organization chart, but you and I know the realities don't bear the argument out.

If the food assistance programs were moved out of the agricultural area and into HEW, there is a possibility of deep cuts being made in the school lunch and supplemental food program budgets, due to competing priorities in services to people.

Secondly, if HEW became the administrator of the school lunch programs and the related food programs, the next step could be an effort to put some of these programs funds into revenue-sharing. This would be just another scheme to scrap a successful federal program and hand it to the states without any guarantee that they could do as well—and I don't recall having heard any of the states begging to be given the headaches.

Finally, placing the school lunch program under HEW's administration would automatically lump these programs among the HEW programs for the poor.

Adequate nutrition of th children of lower-income families does remain a primary need to be met in school food programs. But it is an essential *beginning* point, not a final limitation for these programs. We have abundant statistics that show beyond the shadow of a doubt that poor nutrition in America has no respect for different income groups, but is widespead even among children of families who could be considered well-off.

And that is precisely why the establishment of a universal child nutrition program is of such vital importance.

There recently was a report by the Public Health Service, which I am sure most of you read about. It found that poor people, and especially poor black people, are most vulnerable to dietary deficiencies. But it also found that iron, for example, is deficient in the diets of 95 percent of *all* pre-school children and women of child-bearing afe. It also found other deficiencies showed up even among the affluent.

A universal school lunch program could help teach our children what constitutes a balanced diet, and could help develop the eating habits that could lead to a better nourished nation in the future.

That, I know, is your dream. I certainly share it, and together we can make it a reality.

OCEAN AND STUDY AND MARINE LIFE

Mr. TOWER. Mr. President, recently I became a sponsor of two pieces of legislation, one of which has already passed the Senate, Senate Resolution 222, the national ocean policy study and Senate Joint Resolution 184, to protect whales and certain other living marine resources. I would like to briefly comment on why I thought it was important to become a sponsor of these resolutions.

Texas has long had an interest in the sea and its resources, since it is a major gulf coast State interested in both the fishing and mineral resources of its waters. I have become even more convinced in the last few years that Congress and the executive branch must take more aggressive action in setting a national ocean policy, not only to safeguard the peaceful use of the sea, but also for the protection of our domestic fishing industry. This is a matter which cannot wait another 10 years, but demands immediate action if we are to save our ocean resources and avert protracted international conflicts.

In the first session, I cosponsored S. 1988 which would extend, on an interim basis, the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry. I did this to focus attention on the plight of our domestic fishing industry and to highlight the need for a meaningful Law of the Sea Conference. Ambassador John R. Stevenson, special representative of the President for the Law of the Sea Conference, to be held in Caracas this summer, spoke of the Conference in these terms:

> No one who is personally involved in negotiating with some 150 sovereign nations to achieve a comprehensive multi-lateral treaty affecting hard political, economic, military and other national interests could minimize the inherent difficulties. However, by the same token we should not minimize the threat that failure to reach agreement poses not only for our non-resource interests but for certain resource interests, such as the ocean transportation of petroleum and hard minerals. . . . The choice is not between the U.S. freedom to exploit on the one hand and a give-away on the other, but between an agreed international solution protecting our interests and the partition of a large part of the oceans by coastal states with no agreed rules for the area beyond. There is at the very least a common general interest in minimum rules of order which can . . . provide ground rules under which competition can be carried on without disastrous conflict from which no one will emerge the winner.

Mr. Stevenson's comments highlight the need of instituting this ocean policy study. The ocean's resources are in great demand, and some of these demands may be in conflict, such as the need for environmental protection and mineral development. A national ocean policy is essential to balance these objectives; a coherent, unified program setting goals and priorities, providing us with a guide for peaceful development and use of the ocean without destruction of its sea life, pollution of its waters, or international conflict over its valuable minerals.

Senate Joint Resolution 184, to protect whales and certain other living marine resources, states that whales are both esthetically and scientifically valuable to mankind and that, if hunting pressures are continued, the whale is in danger of extinction. However, it is not merely a matter of protecting whales. The whale is but a harbinger of the future. Its fate may be the fate of many of our sealife.

No issue at the United Nations Conference on the Human Environment aroused as much support as the move to declare a 10-year moratorium on whaling. However, the leaders of the Soviet and Japanese Governments, whose people conduct 80 percent of the world's whaling, will not abide by any international conservation provisions. Many conservationist organizations are so enraged that they have even demanded a boycott of Soviet and Japanese goods. Senator MAGNUSON, the sponsor of this resolution stated that—

> Those nations responsible for this irresponsible conduct are Japan and the Soviet Union, which do not consume whale meat in any appreciable quantities, but slaughter them for frivolous and wholly unnecessary purposes such as for use in dog, cat, and mink food, and for cosmetic additives for which there are readily available substitutes.

This problem is an international one and no legislation we have passed which protects these animals in our territorial waters will rectify this problem. If we do not attempt to find an international solution to the possible extinction of the whale, how successful will we be in protecting our domestic fishing industry the next time other nations attempt to deplete and destroy additional marine life. Next time this destruction will involve fish that are part of this Nation's food supply and integral to the survival of our fishing industry. Our domestic fishing industry is already experiencing these problems and is in need for our assistance.

This resolution directs the Secretaries of Commerce and State to determine and report to Congress what action can be taken to promote international compliance with conservation measures already agreed to and to which the United States is already a party. We must express our grave concern over this situation and what it portends and we must do it now.

VIETNAM VETERANS GI BILL

Mr. McGOVERN. Mr. President, millions of young veterans who served their country during the recent Vietnam conflict have been striving for recognition of their service and their postservice needs in the past year or so. In recent months, they appear to have made their voices heard in a way that may finally convince the Congress and the administration that a special effort must be made to provide the same level of benefits and opportunities for today's young veteran that was provided for those of us who fought in World War II.

This week, Mr. Robert Eaton, national commander of the American Legion, delivered a message to the Congress calling for "some form of variable payment to diminish the differences" in education costs from State to State. I want to commend Mr. Eaton and the entire Legion organization for recognizing the urgent need that exists for amendments to the GI bill that will make it just as easy for a veteran in a State with high cost public education to attend school as it is presently for a veteran in a State whose tuition costs are well below the national average. It is a recognition of something long held to be true by the Legion and that is that veterans served their enitre counrty and deserve equal treatment for their service no matter where they maintain their official residence.

This same idea of a variable payment program was enodrsed in studies conducted by the Educational Testing Service and the National League of Cities, Council of Mayors, during 1973. It is also the idea that prompted the initiation of legislation to provide a partial tuition payment first conceived by Congressman WALSH and contained in the Vietnam era veterans GI bill which I introduced last December 7 along with Senators MATHIAS, DOLE, and INOUYE.

The partial tuition payment plan would offset the differences that exist in public education costs from State to State. According to studies conducted by the VA, the average public tuition cost of a 4-year institution is a little above $400. If the Walsh plan as it exists in S. 2789 were adopted, the veteran would still be responsible for paying that first $400. He would be reimbursed by the VA for all tuition costs above $400 up to a total of $1,000. Out of a total tuition cost of $1,000, then, the veteran would pay $400 and the VA would pay the remaining $600.

Mr. President, support for equal educational assistance for all young GI's has always been a major platform of both the American Legion and the VFW. At a time when many of us have been trying to bring the attention of the country to the forgotten young veteran, the Legion and the VFW have remained steadfast in their early and increasingly vocal support of the young veterans' needs. To illustrate their concern, I ask unanimous consent that an Associated Press story concerning the Legion's message to the Congress and an article written by VFW Commander Ray Soden in a recent issue of the VFW magazine be printed in the RECORD.

There being no objection, the story and article were ordered to be printed in the RECORD, as follows:

AMERICAN LEGION ASKS GI BENEFITS' INCREASE

The American Legion urged Congress yesterday to provide GI education benefits which include "some form of variable payment to diminish the differences" in education costs from state to state.

"A uniform percentage increase in the existing educational assistance rates is not the best answer to the problem," said the legion's national commander, Robert E. L. Eaton of Chevy Chase.

Eaton presented the educational proposal to the Senate and House Veterans Affairs Committees and requested other increases in VA payments to veterans, including:

An increase from $495 to $600 a month in the payment for veterans 100 per cent disabled from military service with a similar percentage of increases for those with lesser ratings. President Nixon has proposed a 12 per cent increase.

A 25 per cent increase in the dependency and indemnity compensation rates for widows and children of those who die of service-connected causes. Eaton also suggested that pensions of veterans and widows no longer be reduced by any increases in Social Security or other pension income.

VIETNAM VETS DESERVE FAIR SHAKE

(By Ray R. Soden)

Not long after it was evident the Vietnam war was drawing to a close Congress directed the Veterans Administration to undertake an independent study to determine whether the Vietnam veteran was receiving educational benefits similar to those granted his comrades of past wars.

Congress had heard the plea of the V.F.W. which had been fighting for educational support for veterans since World War II and had also felt the hot breath of the returned Vietnam veteran asking for his fair shake. Congress required the VA to document the educational assistance provided under the three GI Bills and to reach conclusions concerning the information gathered.

On balance, the report indicates, "In general, the 'real value' of the educational allowance available to veterans of World War II was greater than the current allowance being paid to veterans of the Vietnam Conflict . . ."

The Administrator of Veterans Affairs took issue with the study contracted by his own agency to evaluate the adequacy of its educational assistance. He notified Congress the "VA does not agree that a major change should be made in the nature of the GI educational assistance."

Let us look at the findings of this independent group who analyzed the assistance provided veterans of three wars.

Because World War I veterans received no educational assistance, the V.F.W. and others pressed for a GI Bill for the veterans of World War II.

WWII veterans received a monthly subsistence of $75 plus up to $500 a year for tuition, fees and books for a maximum of 48 months. This permitted them to attend the school of their choice. The Korean War veteran received $110 a month. From this amount, he paid the costs of his education and subsistence up to 36 months.

In 1955, all educational assistance ceased in spite of the continued draft of the so-called Cold War soldier and the disruption of his normal pursuits. During the 10-year period it took for the Vietnam GI Bill to be passed, the V.F.W. continuously urged that these soldiers be extended educational benefits. When the present GI Bill became law, the V.F.W. succeeded in having it cover all veterans, including the period from 1955.

The Vietnam GI Bill initially provided almost the same assistance as the Korean GI Bill. Later it was raised to $220 per month for a maximum of 36 months.

In any discussion of similarity of benefits, it is necessary to measure changes in the cost of an education as well as studying the Consumer Price Index (CPI) which reflects fluctuations in all aspects of the economy. The question to be asked is what type of education is available to the Vietnam veteran on the basis of current benefits? The CPI has not quite doubled since World War II, but tuition and fees at a four-year public college have more than doubled, while at four-year private institutions they have gone up more than five times. Obviously, the Vietnam veteran cannot afford to attend a private college.

In trying to refute the report, the VA was quick to point out that over 80% of all Vietnam veterans are attending a public school and that the report stated, "it is apparent that the average Vietnam veteran attending a 4-year public or 2-year private institution has educational benefits slightly higher than his World War II counterpart when adjustments for changes in the CPI are made."

However, the VA failed to quote the next sentence which reads, "It may well be that this slight gain is overstated for it does not take into account the fact that the World War II veterans was often able to take advantage of low-cost veterans' housing and many other special services that are generally not available to the veterans of the Vietnam Conflict." The VA also failed to point out that with private schools raising costs fivefold, the veteran could attend only public schools.

Another measure of similarity of benefits is additional income available to the veteran to supplement the GI Bill payments in order to pay costs of college and to live. The report found, "It is apparent that inflation and a rising standard of living have taken their toll on the Vietnam veterans benefits and that his 'real' ability to purchase post-secondary education has diminished with respect to his World War II counterpart."

More importantly, the report concludes: "When estimated 9-month resources available to the veteran for the 1972–1973 academic year are compared with his estimates of living expenses for a similar period; only the married veteran with a working wife has sufficient additional resources to meet the average expenses . . ."

It should be clear to all, contrary to the VA Administrator, that a major change is necessary so that the Vietnam veteran receives educational assistance similar to that received by other veterans. The V.F.W. stands firmly for the following principles:

Each veteran should have sufficient educational assistance under the GI Bill to attend the school of his choice, private or public.

There must be an increase in assistance rates to enable the veteran to obtain an education.

The maximum period of schooling should be extended to 48 months to equal that given to veterans of World War II.

The eligibility period after separation from service should be extended from eight years to nine as it was for the World War II veteran.

The V.F.W. will continue to champion the rights of veterans. We will never rest until all veterans have the same opportunities.

SPEECH BY CONGRESSMAN TOM RAILSBACK TO THE RURAL COALITION

Mr. PERCY. Mr. President, one of my colleagues and good friends, Congressman TOM RAILSBACK, represents a district with an urban, but also a large rural constituency. Over the years, Congressman RAILSBACK has become attuned to rural problems and has become an effective spokesman in the House of Representatives for a proper focus on rural America.

In a recent speech to the Rural Coalition, Congressman RAILSBACK expressed new optimism for the future of rural America. In the past he has been realistic, even sometimes pessimistic, but as farm exports increase, farm prices rise, and the quality of life in our rural areas is more appreciated, he can now in good conscience encourage young people to remain in rural America and make a decent living.

I think Congressman RAILSBACK's speech presents some valuable insights for all of us, and stands as another example of his pentrating powers ot analysis and his love of country. And I ask unanimous consent that the text of his statement be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH TO THE RURAL COALITION

(By Congressman TOM RAILSBACK)

I want to thank Wilson King and Susan Fridy for inviting me to join you this noon and I want to particularly express my appreciation for the wonderful work of the coalition on behalf of all of us who live in and represent rural areas. It is my belief that the work of this group has been extremely important in helping those of us who are interested in improving our rural areas.

I want to share with you this noon some of my observations about the rural areas which constitute a major percentage of my Congressional district and which also represents some of the most productive farm land in the world as well as a major livestock producing area with the number one pork producing county in the United States.

I have been in government for about 12 years; 4 years in the Illinois Legislature and now I am entering my 8th year as a Member of Congress. I was a practicing attorney in Moline, Illinois and really had not a great deal of concern for or expertise in rural development before I was successful in being elected to the Illinois Legislature. This was true despite the fact that my father and uncles had been born and raised on a farm in central Illinois and also despite the fact that I happen to represent the farm implement manufacturing center of the United States where we have Deere and Company's home office and several large International Harvester plants as well as J. I. Case.

Frankly my interest in agriculture was fostered by the direct contacts that I made and the friendships that developed from spending a great deal of time at meetings and campaigning in the rural areas. I grew to respect the typical rural family as being proudly independent, self-reliant and industrious. During these years I couldn't help but recognize that we were losing rural population to the urban areas, particularly through attrition. Young people born and raised on farms decided for one reason or another not to continue farming or business in their home towns or communities.

Many farm implement workers I represent right now have either been farmers themselves who couldn't make it or were born and raised on farms and thought that they had a better future working in the shops in the metropolitan quad city area. When I was invited to speak to rural high schools or 4–H groups or future farmer groups, I could not in good conscience express a great deal of optimism about the future of our rural areas and farming in particular. Capital costs were on the rise, farm prices were low, net return on investments was poor, and frankly as rural population dwindled, so did the voice of rural residents in government. The one attraction that remained strong and could be urged as a reason for continuing to live in the rural areas was quality of life and living, i.e., clean air, good schools, low crime rate, room to move, and better working environment.

Recently I had a chance to speak to a 4–H group at Geneseo, Illinois in Henry County and there must have been 300 people in attendance and I was able to express my belief that for once I could be optimistic about the future of American agriculture, primarily because for the first time in years, farmers were able to participate with other segments of our economy in enjoying the prosperity that the others had been enjoying for years. I am optimistic because I think the new foreign agricultural market potential particularly augurs well for more stable farm income and farm prices. I delight in telling urban Congressmen when they complain of high food prices that they ought to compare what the people in other developed countries are paying as far as percentage of their dollar for food. I delight in pointing out that we have the best quality food at the cheapest prices anywhere in the world. We can be optimistic, if we give our farmers the incentives to produce, if we recognize that they are entitled to a fair return on their investment, which is substantial, and if we recognize that food is a basic requirement in our lives and is the basic source of the energy that has helped us as a young country to become the most technologically, scientifically, educationally advanced country in the world.

We can be optimistic as well because there is a new awareness on the part of our federal government—that without agricultural exports this country would be in even more serious financial shape than is presently the case. Internationally, we are breaking down long-standing restrictive trade barriers.

Who would have guessed just three years ago—

—That Asia would be a better market for U.S. agriculture than Western Europe;

—That in 1973 American exports would total almost twenty billion dollars;

—That in 1973, China would purchase 575 million, Russia nearly 1 billion, Japan 3 billion, and Latin America 1.7 billion dollars worth of American farm products.

As we're all aware, our country has sustained a very serious 6.4 billion dollar trade deficit in 1972 including a 4 billion dollar trade deficit with Japan, a two billion dollar trade deficit with our neighbor Canada, and even a 900 million dollar trade deficit with the common market countries.

The one bright ray of hope in that dismal trade picture was agricultural exports which showed a 2 billion dollar favorable balance.

It is imperative, in my opinion that our governmental policies be designed to further encourage expansion in foreign trade for American agriculture.

Now having spoken optimistically about the future of American agriculture, one of the problems that remains an obstacle to rural development deserves attention. Again I want to refer to my own experience in my Congressional District which I imagine is similar in many respects to areas that all of you represent. We still have problems of rural poverty, rural health, and inadequate schools in some of our areas.

In addition, in our zeal to recognize the big city problems of urban transportation, we must not forget that rural residents in many areas have to travel pot-holed, narrow roads that can cause accidents and that can cause serious delays in moving produce to markets. These roads also serve to discourage people from moving to rural areas. We must continue to provide improved transportation including year round navigation on our waterways, better railroads and better roads.

There is a need to continue our rural electrification programs as well as our rural telephone programs that are designed to provide low cost service to rural residents and which would not otherwise be served by the private telephone companies.

Even more importantly we must implement properly the Rural Development Act that theoretically gives us the means to support new programs of rural housing, community facilities, and farming.

It is still my personal belief that many local Farmers Home Administrators are not concerned enough with helping the young, inexperienced (or experienced, for that matter) potential farmer, who does not have the capital required to begin farming. It's the same old story—Some of them take great pride in making certain that their FHA grants or loans will not be risky. But when you read the applicable provisions of the Farmers Home Administration legislation it becomes apparent that it was the intention of the Congress to try to help these very people, who were unable to get any kind of credit from other sources. So if we want to reverse the statistics which show the average age of the farmer operators going up, then we have to make it possible for young farmers to get help with their desire to start farming.

We must also provide incentives for business to locate in rural areas. If we are to reverse the exodus from our rural areas, we must be able to provide the same services in our rural communities that are provided in the big cities. I'm talking particularly about retail businesses and even big businesses that can provide employment that will attract people from the larger areas.

A long neglected area—and one which I'm happy to say this group has been interested in—is rural health. In my own Congressional District, I've had a chance in a limited way to survey the need of some of my own counties. In one town, Nauvoo, Illinois, which is a very small, very attractive river town, and which was at one time a Mormon settlement, there is a huge sign that is hung across the main street, which says, "Nauvoo Needs A Doctor." In Mercer County which has a total population around 20,000, there are four physicians serving the entire, large geographical area, and two of the doctors are in their sixties and want to retire, but stay on simply because they were needed. In my own town of Moline, my brother-in-law practices medicine, and specializes in internal medicine, and has told me he gets fifteen calls a day he cannot handle. He says this is true of all the other physicians as well. There is a critical need to completely overhaul our present health care system, with an emphasis upon improving delivery of health care, and it is not enough to establish so-called trauma centers where people with serious traumatic injuries can be taken, because the geographical constraints make it virtually impossible for my rural residents to be served at such trauma center located as much as 50 miles away from where they are living or working. There must be incentives to encourage general practitioners who don't specialize in a particular brand of medicine. In my opinion, we have too many doctors who specialize in footcare, eye care, brain surgery, internal medicine, surgery, obstetrics, gynecology, anesthesiology, radiology. There is an obvious need to have doctors, particularly in rural areas, provide all-around care. I think we in Government are going to have to provide the necessary incentives to see that this is done.

I am one of the sponsors of a rural health bill which would establish within HEW a Rural Health Office that would be designed to provide some incentives to accomplish these purposes.

Let me just say in closing that I am optimistic about the future of our rural areas, because I think there is a new awareness and new recognition of the importance of perserving the wonderful quality of life of those areas. I've seen some examples in my own District. For example, a young lawyer and his wife moved from Chicago to Carroll County where he wanted to practice law because of the quality of life there. I just attended a retirement dinner a few nights ago for a Vice President of the Borg-Warner Corporation, who is looking forward with anticipation to return to a small farm in Henry County because of the quality of life there. I recently read about the antique retailer of Chicago who visited Galena, Illinois—a very small town in the northwestern part of the State—and who liked it so much he decided to move lock, stock, and barrel to that town, because of its quality of life.

I hope that all of you here today will continue your great work to let Americans everywhere know of what rural America has to offer. I also hope you will continue to work to preserve and improve that quality that attracted our forebearers and helped to make our country as strong as it is today.

AGAINST A DEPARTMENT OF ENERGY AND NATURAL RESOURCES

Mr. TALMADGE. Mr. President, as many Members of the Senate know, there has recently been some renewed interest in the establishment of a Department of Energy and Natural Resources, as provided for in S. 2135.

Since the reawakening of this issue, I have heard expressions of concern from many of the most prominent voices in the conservation movement including the Association of State Foresters. In response to this concern, every member of the Committee on Agriculture and Forestry has signed a letter to the distinguished chairman of the Senate Government Operations Committee (Mr. ERVIN) opposing this legislation.

Mr. President, I ask unanimous consent to have printed in the RECORD:

First, a copy of my committee's letter to Senator ERVIN;

Second, a letter from Mr. Richard McArdle, distinguished former Chief of the U.S. Forest Service;

Third, a letter from Mr. Edward P. Cliff, yet another distinguished Chief of the Forest Service;

Fourth, a letter from Mr. Edward C. Crafts, who distinguished himself both as Deputy Chief of the Forest Service and as Director of the Bureau of Outdoor Recreation;

And finally, a copy of a resolution opposing a Department of Energy and Natural Resources adopted February 12, 1974 by the National Association of Conservation Districts.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., February 22, 1974.

Hon. SAM J. ERVIN, Jr.,
Chairman, Committee on Government Operations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The existing and potentially long-range energy needs and shortages and their impact on the total economy and the citizens of this country certainly merit immediate consideration and action by the Congress and the Administration.

However, we find it difficult, if not impossible, to envision how the transfer of the Forest Service and certain Soil Conservation Service activities contemplated in S. 2135 would contribute to the effective and efficient pursuit of a goal of national sufficiency in energy.

This is not to say that the consolidation of some activities relating to energy is not desirable. Quite the contrary, it seems to us that a centralization of responsibility in this area is imperative if the present and future energy needs of this country are to be met and the goal of self-sufficiency is to be achieved.

However, this Committee is unaware of any hard data or any rational argument available which suggests advantages in the transfer of the Forest Service and the Soil Conservation Service activities contemplated. It appears to this Committee that such a move may prove counterproductive to the massive effort needed to solve our energy crisis.

The federal government manages significant reserves of fossil energy and related fuels such as oil, gas, shale, coal, and geothermal steam. The major portion of these energy reserves is either under the public lands managed by the Bureau of Land Management, or the outer continental shelf, also managed by the BLM.

In the Department of the Interior, the BLM issues mineral leases not only on lands it administers, but on lands of other federal agencies as well. It then turns over the administration of these leases to the Conservation Division of the Geological Survey.

The lands administered by the Forest Service, on the other hand, while they have some minerals, are not the key to a rational energy policy.

Natural resources cannot be combined into a neat package. Air, water, soil, minerals, vegetation—our whole environment—comprise natural resources. It is not possible to separate out and combine all programs affecting them.

Conflicts in policies and programs governed by specific laws having different purposes cannot be resolved or eliminated by combining agencies under one roof. Attainment of a more rational energy policy for federal lands can be largely secured by reforms which do not include the Forest Services or the Soil Conservation Service. We, therefore, think that there needs to be a most careful review given to the ways that intra-departmental improvement would achieve a better national energy policy *now*.

Splitting off forestry and other selected natural resource functions from the Department of Agriculture and putting them into another department would not result in combining all natural resource functions in one department.

Further, it is difficult to understand how the combination of other agencies with existing functions of the Department of the Interior would provide the coordination that would benefit the environment. This is especially true when we consider that these functions are not now coordinated within the Department of the Interior's own agencies.

The Forest Service and the Soil Conservation Service have shown their ability to coordinate their own functions well. For example, the Forest Service has been the leader among the conservation agencies working for reform of the 1872 mining law.

In 1952, under the direction of the Secretary of Agriculture, a comprehensive study of abuses under the mining law was completed. The Department of Agriculture is presently proposing a further administrative reform by requiring permits for mining claims as an aid to protecting legitimate mining under the 1872 law, and discouraging misuse of that law. The Department of the Interior has no comparable reform under consideration on Bureau of Land Management lands.

It may appear to some that it is untidy that the Forest Service is in one department and the responsibilities for other public lands are in another. However, in actuality, this arrangement results in greater diversity, more opportunity for access, and a broader audience for land and resource management issues, especially those that embrace so wide a group as farmers, ranchers, woodlot owners, sports enthusiasts, nature lovers, and others interested in the preservation of our Nation's wonders.

The Department of Agriculture is a natural resource department. It has very broad conservation and natural resource responsibilities throughout rural America. The highly decentralized USDA organization currently extends program activities to ninety percent of the Nation's land area and watersheds. Specialists in soils, crops, livestocks, forestry, outdoor recreation, rural economics, education, landscape management, and water resources, and related disciplines, are in the Department. Multi-purpose management and use of natural resources, together with protection of environmental quality, are the key to meeting growing deands on agriculture and natural resources. This is the main thrust of USDA leadership in land and water conservation and comprehensive planning.

Two-thirds of the Nation's lands are in private ownership. The private owners, with whom the Department of Agriculture deals in its many programs, will make the basic decisions upon which the Nation's future position in natural resources will depend. The major part of the job of conservation, development, and protection of natural resources will occur on private lands. The historic success, the know-how, and the federal leadership to get the job done are in the Department of Agriculture.

Agricultural lands included in the small watershed program of the Soil Conservation Service are, in general, operated under private ownership. This program is inseparable from other farm management activities. The separation of SCS survey and planning functions from its administrative and budget functions can only provoke waste and confusion.

The National Forest System and the Soil Conservation Service contribute to rural area development, which is tied closely to rural people. A major portion of the National Forest timber harvest is processed in rural communities. SCS Resource Conservation and Development Projects contribute in some areas the only professional planning available to economically pressed small towns.

Forestry is an essential element in the rural economy. In many low income areas, development of forestry is a major new income opportunity.

All of the Department of Agriculture's natural resource programs are tied together by similar sciences. The Department of Agriculture has the trained professional personnel to provide leadership in natural resource management. Forestry research is interrelated with other agricultural research. Forest Service research and federally supported state forestry research efforts should be kept together in the Department of Agriculture with other federal agricultural research efforts.

Forestry is a combined USDA effort. Much of the Department of Agriculture's Cooperative Forestry Program is carried out in cooperation with agencies in Agriculture other than the Forest Service. The new Forestry Incentives Program, enacted in 1973, will be carried out as a component part of the Rural Environmental Conservation Program of the Department of Agriculture. If S. 2135 is enacted in its present form, we feel that the contribution of the Forest Service to the well-being of rural America will be submerged in a huge new Department whose primary interest will be the energy needs of urban America. Further, we have grave doubt that the environment would be protected in a Department whose major thrust would be in meeting the energy needs of the Nation.

The present regional structure of the Forest Service field offices would change with the attendant concerns which were raised by Congress and the public in 1973 when such a move was proposed last year. In fact, the proposed Secretary of the Department of Energy and Natural Resources could abolish the transferred agencies of the Soil Conservation Service, the Forest Service, or any Department of the Interior agency.

Organization of the new Department of Energy and Natural Resources would follow the lines of the Federal Regional Councils. While the Regional Councils would tend to get many federal agencies closer to the people, our agricultural and natural resource agencies are already organized to be on-the-ground where the farms and natural resources are. To pull these agencies into the Regional Council system would tend to centralize them, and reduce essential decision-making which should be made by professional managers and resource personnel at ground level.

Any separation of the National Forest System (National Forests), cooperative forestry programs on state and private lands, and forestry research would weaken federal leadership in forestry.

Just this week the Committee on Agriculture and Forestry reported, and the Senate passed, S. 2296. S. 2296 is a major and comprehensive bill designed to achieve the goal of long-range multiple-use sustained-yield of our forest, rangeland, and other renewable resources and assure a continuing yield of net benefits and resources for the enjoyment and well-being of the citizens of the United States.

The Department of Agriculture now has larger resource conservation authorities and responsibilities than does the Department of the Interior. The Department of Agriculture, in cooperation with state agencies, is now responsible to Congress for all of the Nation's cropland, all of the improved pasture and most of the open rangeland, over ninety-five percent of the timber land, and most of the recreational land. Most of our water originates on lands administered directly or indirectly by USDA.

In one way or another the United States Department of Agriculture has responsibility for approximately ninety percent of our renewable natural resources.

To interfere with this system which has worked successfully for more than one hundred years, establishing close relationships with state and local governments, would be disastrous.

We strongly oppose any legislation which would tend to upset an efficiently operating system merely for the sake of moving bureaucrats into a new set of cubbyholes. The risk is the subversion of governmental functions which the public clearly desires, and the destruction of the current system in which the professional resource managers play an important role in helping to shape public policy.

Therefore, we strongly urge that the Committee delete from S. 2135 those provisions which would transfer the Forest Service and certain functions of the Soil Conservation Service from the Department of Agriculture.

With every good wish, we are

Sincerely,

HERMAN E. TALMADGE,
Chairman.
CARL T. CURTIS,
Ranking Minority Member.
GEORGE D. AIKEN,
MILTON R. YOUNG,
ROBERT DOLE,
HENRY BELLMON,
JAMES O. EASTLAND,
GEORGE MCGOVERN,
JAMES B. ALLEN,
HUBERT H. HUMPHREY,
JESSE HELMS,
WALTER D. HUDDLESTON,
DICK CLARK.

WASHINGTON, D.C.,
February 16, 1974.

Senator HERMAN TALMADGE,
Chairman, Committee on Agriculture and Forestry, U.S. Senate, Washington, D.C.

DEAR SENATOR TALMADGE: The current revival of interest in establishing a Department of Energy and Natural Resources prompts me to write this letter. That there will be five days of hearings on S 2744 is indicative of the importance attached to this proposal. Hearings already have been held on HR 9090. I address my comments to you because the proposal can have profoundly harmful effects on the U.S. Department of Agriculture.

The proposal is to change the name of the Department of the Interior and to add new responsibilities by transfer of functions from other Departments. I have no fault to find with the establishment of a Department of Natural Resources but the proposed name change would be far more applicable to the Department of Agriculture than to Interior.

The impression has been deliberately created that the present Department of the Interior already has jurisdiction of all natural resources and resource administering agencies except a few such as TVA, the civil functions of the Army Engineers, the Soil Conservation Service and the Forest Service. This is not true.

The Department of Agriculture has larger resource conservation authorities and responsibilities than has the Interior Department. The Department of Agriculture directly and in cooperation with State agencies is now responsible to Congress for all of the Nation's crop land, all of the improved pasture and most of the open range land, about 95 percent of the forest land on which crops of timber can be grown and most of the recreational lands of this country. Most of our water originates on lands administered directly or indirectly by the Department of Agriculture. In one way or another Agriculture has responsibility for three-fourths of our natural resources. But whether the correct figure is more or less than three-fourths it is obvious that the proposal to designate the Interior Department as the principal or only federal resource conservation agency is bound to materially affect the Department of Agriculture and its long established relationships with the States.

Your Committee also may want to consider the announced intention of dismembering all established agencies both within the present Interior Department and those to be transferred to it. At the hearings on HR 9090 Budget Director Ash and Interior Secretary Morton testified that the plan is to transfer functions rather than agencies. Present agencies would be abolished. The new Department would be organized along functional lines. Wildlife management would be handled by one agency only, range management by one agency only, management of recreation by one agency only, management of water resources by one agency only, and so on. As the plan was described there would not be agencies in the customary sense but regional administrators. The proposal would put management of each acre in the hands of a dozen or more likely a dozen different administrators. The effect on federally owned land would be disastrous and the indirect effect on State and privately owned lands scarcely less.

It is difficult to think of a more cumbersome system. It is also impractical. It would be comparable to entrusting the management of one ice cream cone to six or a dozen small boys. If this is typical of the thinking that has gone into the proposals for a new Department the thinking is not yet far enough along to merit the attention of the Congress.

A more logical proposal would be to consolidate responsibility for natural resource conservation in the Department of Agriculture where most of this responsibility now rests. The present Department of the Interior would then be able to concentrate on urgent problems of energy.

Sincerely yours,

RICHARD E. MCARDLE.

ALEXANDRIA, VA.,
February 20, 1974.

Senator HERMAN TALMADGE,
Chairman, Senate Committee on Agriculture and Forestry, U.S. Senate, Washington, D.C.

DEAR SENATOR TALMADGE: I strongly urge you to oppose S2135, a bill to create a Department of Energy and Natural Resources. This bill, among other things, would transfer the Forest Service and a substantial part of the responsibilities of the Soil Conservation Service, from the Department of Agriculture to the proposed new department which would be built around the present Department of the Interior. It would also transfer the planning functions of the Corps of Engineers of the Department of the Army to the new department in an effort to get most of the water resources activities in one department.

I can agree that there is a need to establish a strong organization to deal with energy problems and energy research. I can also see the logic of combining the responsibilities for managing the energy materials—coal, oil, oil shale, natural gas, uranium, and the geothermal resources in connection with the overall management of energy programs. It would also be logical to place in the same department the responsibilities for administering other federal programs for administering other non-renewable mineral resources and federal power programs. Such a Department of Energy and Mineral Resources would have a tremendously large and important job and it will be so for a long time. The energy crunch is not going away quickly. A department fully staffed and funded to deal adequately with energy and non-renewable resources would be a large and powerful organization. To make it larger by including forestry, most of the water programs and most of what is now in the Department of the Interior would, in my judgment, make it too large and unwieldy. There would be a real danger that forestry and other renewable resource programs would be overshadowed by concern over energy problems and lost in the shuffle.

If natural resource activities of the Federal Government are to be reorganized and combined in some manner a much more logical and viable proposal would be to combine the responsibilities for all renewable resources, including the surface resources of all public lands and soil and water resources in an enlarged Department of Agriculture. It could be renamed the Department of Lands, Waters and Agriculture, Agriculture and Renewable Resources, or some other suitably descriptive name.

The Department of Agriculture has demonstrated its ability over the years to manage land and renewable resource problems and particularly those related to the two-thirds of the nations land that is in private ownership. No combination of resource management agencies could possibly embrace all of the natural resources. The proposed Department of Energy and Natural Resources would be a misnomer and the forced marriage of the Forest and SCS with an organization predominantly involved with energy and nonrenewable resources would be incompatible. After all, the food producing lands comprise the nation's most important natural resource. The Department of Agriculture is now and always should be a natural resource department—a renewable natural resource department.

Since we will always need a Department of Agriculture to deal with this vital part of our economy it is plain common sense to combine with it the other compatible renewable natural resource functions—forestry, soil and water management, and all other renewable surface resources of federal lands. Forestry, agriculture, soil science, wildlife production all rely on the same biological and physical sciences. Research in these fields has been closely coordinated. It would be a mistake to tear them apart.

The Department of Agriculture agencies have had broad experience, unmatched in any other Department of Government, in dealing constructively with private land owners who own the bulk of the nation's land. Also with land grant universities and other institutions involved in management of renewable resources. These ties should be continued and strengthened—not torn apart.

Many of the arguments advanced for transferring the Forest Service to another department are based on the concept that it would be more efficient to have all of the public land agencies in one department. Proponents of this idea overlook the fact that about 73 percent of the commercial forest land in this country is privately owned much of it by farmers. It is on these private lands where the greatest need and the greatest opportunity for forest management lies. The Department of Agriculture has an organizational structure capable of dealing with private forest land owners and the state and private forestry organizations. This should not be tampered with. Forestry should be kept closely allied with agriculture where it belongs.

I could go on developing further arguments but I know that you are familiar with most of them. As you can see, I feel very strongly about this matter. I am willing to work with you in any way to defeat this unwise proposal.

Sincerely yours,

EDWARD P. CLIFF,
Former Chief, U.S. Forest Service.

WASHINGTON, D.C.
March 4, 1974.

Senator HERMAN E. TALMADGE,
Chairman on Agriculture and Forestry
Washington, D.C.

DEAR SENATOR TALMADGE: Thank you for your letter of February 26, and the enclosed letter of February 22 to the Chairman of the Committee on Government Operations objecting to those provisions of S. 2135 which would transfer all functions of the Forest Service and certain functions of the Soil Conservation Service to the Administration's proposed new Department of Energy and Natural Resources.

Because the February 22 letter represented the unanimous views of your Committee, it occurred to me you might be interested in the views of one who has served in both Interior as a bureau head, and in Agriculture as a deputy bureau chief.

I spent seven years in Interior as Director of the Bureau of Outdoor Recreation and Administrator of the Land and Water Conservation Fund. Prior to serving in Interior, I was in Agriculture for 30 years, 12 of them as Deputy Chief of the Forest Service. From 1950 to 1962, I had close working relations with the Senate Committee on Agriculture and Forestry.

Because of this service in both departments and both agencies, I hold no special brief for either department or natural resource agency present or proposed. Staff competence in Agriculture and Interior at the professional level is about equal. My only concern is for the best management of the Nation's renewable natural resources —an objective toward which I have devoted my entire professional life .

Accordingly, I share your deep concern over certain provisions of the Administration's bill. In my view, if their potential is fully implemented, I am convinced they are in conflict with the strong conservation stands for which you and the Committee on Agriculture and Forestry are noted.

To understand the full significance of these provisions, it is necessary to consider them in connection with:

1. The White House statement by the President of June 29, 1973, issued at the time the bill was submitted to the Congress.
2. The White House President's Statement on Energy—Summary Outline—Fact Sheet, issued on the same date.
3. The Administration's section-by-section analysis of the Department of Energy and Natural Resources.
4. Papers Relating to the President's Departmental Reorganization Program—A Reference Compilation, Part V—The Proposed Department of Natural Resources, dated March, 1971.
5. The testimony and interrogation of Mr. Ash and Secretary Morton before Congressman Holifield's Committee on Government Operations, July 1973, re H.R. 9090, the companion bill.
6. Three draft position papers prepared within Interior entitled: "Framework for Organization in the Proposed Department of Natural Resources", March 1, 1972; "Position Paper on the Land and Recreation Resources Administration in the proposed Department of Natural Resources", November 18, 1972; and "Position Paper on the Research Function in the Land and Recreation Resources Administration in the proposed Department of Natural Resources", November 18, 1971.

I also call attention to the prepared testimony of the Citizens Committee on Natural Resources which that organization is seeking to present at Mr. Ribicoff's on-going hearings. That statement is a fair interpretation of what is authorized and contemplated by the questionable provisions which concern me. It is specific as to proposed amendments, has been checked by attorneys, and deserves careful consideration before any bill is marked up.

My concerns relate only to certain sections of Title III and IV. They do not relate to the energy aspects of the bill. Attention is called to:

POSSIBLE ABOLITION OF BUREAUS

Section 403(b) states: "The Secretary may organize the Department as he may deem to be necessary or appropriate . . .". No Congressional review or approval is required. This authority would apply not only to agencies newly proposed for transfer, such as the Forest Service, but also to existing renewable resource agencies now in Interior, such as the National Park Service, Bureau of Sport Fisheries and Wildlife, Bureau of Land Management, Bureau of Outdoor Recreation, and others.

The whole thrust of the Administration's proposal is to move over a period of 2 to 5 years to a functional approach along resources lines such as timber, recreation, water, forage, wildlife, and so on under Regional Administrators, and correspondingly move away from agency administration with line authority vesting in agency heads. Secretary Morton made this clear in his House testimony. Also in the second reference in item 6 of the references cited appears the statement on page 35: "Accordingly, over a period of three to five years, some of the involved multiple-resource bureaus could lose their present identities and be merged and reconstructed into new components which will be more closely integrated to achieve the Secretary's broad land, resource, and environmental 'common purpose' objectives."

Functional administration of multiple-resources with decision-making authority coming together only at regional or very high Washington levels is obviously unworkable when one stops to consider that multiple-resources occur on the same 10, 100, or 1000 acres of public lands as they do. Decision making responsibility for all resources on a given geographic basis, which is the agency approach, is the only workable alternative as has been demonstrated for at least 70 years by the Forest Service, since 1916 by the National Park Service, and by other resource agencies.

I do not believe you or other members of your committee would endorse blanket discretionary authority for any Secretary to completely abolish the above-named well-known Federal conservation agencies of long standing. Yet, Section 403(b) would do just that.

George Hartzog, former Director of the National Park Service, who was in the Department of the Interior at the time the reorganization proposals were developed, shares my concern over the possible disappearance of the National Park Service as an agency in view of the language referred to herein coupled with his personal knowledge of Administration intent.

REGIONAL, DISTRICT, AND LOCAL RESTRUCTURING

Section 404 would authorize the Secretary "to establish, alter, or discontinue and to maintain such State, regional, district, local, or other field offices as he may deem to be necessary . . .". No Congressional review or concurrence would be required.

The intention here is to restructure to conform to the ten standard Federal regions and headquarters. I call your attention to the discussion, pages 38–41, of the "Framework for Organization in the Proposed Department of Natural Resources" named in item 6 of the references cited above.

You will recall, I am sure, the attempt by Secretary Butz in April, 1973, to eliminate three Forest Service regions in the West, close Forest Service Regional Headquarters in Missoula, Ogden and Albuquerque, and close two Forest Service Regional Forest Experiment Stations at Asheville, N.C. and Ogden. The intent was to make the Forest Service comply with the standard Federal regions.

Such furor was raised that your Senate Committee on Agriculture and Forestry held hearings on the proposal last June 26–27. Opposition witnesses were lead by Senators Mansfield, Metcalf, Moss, Bennett and Montoya, the Governor of Montana, a representative for the Governor of Utah, and several congressmen from the affected Rocky Mountain states. The pressure became so great, especially from the Majority Leader of the Senate that the Administration eventually backtracked and Secretary Butz withdrew his order.

Yet, Section 404 would grant the Secretary of the new Department authority to exercise just such reorganization without any Congressional check or oversight. The intention to do so is clearly spelled out in the Administration's House testimony, and other documents.

TRANSFER OF FOREST SERVICE FUNCTIONS

Section 301(d) would transfer all Forest Service functions to the new Department. It is significant that no mention is made of transfer of the agency itself, but only its functions. There are numerous reasons why the Forest Service should be left in Agriculture. Some of these include:

(a) The Administration's own section-by-section analysis of the bill makes clear the three-fold functions of the Forest Service, namely, responsibility for the National Forests and Grasslands which are public lands, cooperation with the States on private and local public forest lands, and research to service both the National Forests and private lands. Most lay and Congressional circles tend to think of the National Forests as synonymous with the Forest Service. They overlook the co-equal responsibility of the Forest Service for forestry on farm and other private woodlands and the extensive network of Forest Experiment Stations dating back to 1908 which is closely tied to the Agriculture Research Service of the Department of Agriculture.

(b) The growing of trees, grass and shrubs and the management of small upstream watersheds involves primarily the application of plant science, the basic knowledge for which is found in the Department of Agriculture, not in Interior.

(c) Through County agricultural agents, extension foresters, farm foresters and State foresters, the Forest Service has nation-wide contacts with farmers which are the largest single class of small woodland owners. Comparable avenues to farmers do not exist in any other Department, and farmers own more commercial forest land than any other class of forest owner.

(d) The Forest Service has been operating along its present pattern for 70 years and is a remarkable conservation agency with world-wide recognition for competence, dedication and achievement. Most nations of the world have either followed the pattern of the United States or have come to the same conclusion independently by placing their Forest Services in their Agriculture Departments. Similarly, in the United Nations, forestry is located in the Food and Agriculture Organization.

(e) In Agriculture the Forest Service has been singularly free of political meddling. Not one Chief has been dismissed by an incoming Secretary of Agriculture and all Forest Service Chiefs have been professionals. The same may be said of the Soil Conservation Service. In contrast, the Department of Interior, wherein are vested most of the other natural resource agencies, is noted for the political casualties of its bureau chiefs. Under the present Administration, the head of every renewable natural resource agency in the Department of Interior has been replaced, even though these men were career professionals.

Never before has this happened to the National Park Service, while in contrast, the shortness of tenure of Directors of the Bureau of Land Management is well-known.

If the practice that is now prevailing, and has prevailed historically in Interior, were to pass to the proposed new Department and the Forest Service were to be transferred, it too would become politically vulnerable.

FRAGMENTATION OF SOIL CONSERVATION SERVICE AND CORPS OF ENGINEERS

Section 301(e) would transfer to the new Department Soil Conservation Service functions to conduct river basin surveys and investigations, and the planning and funding of certain watershed protection and flood prevention operations. Remaining functions of the Soil Conservation Service would be retained in Agriculture. Similarly, Section 301(c) would transfer to the new Department all the planning and funding activities associated with the Corps' civil functions. This would include river basin planning and selection of projects proposed for authorization. The Corps remaining within the Department of the Army would continue to carry out feasibility studies, contract administration, construction and so on.

I have been closely associated with the Soil Conservation Service for many years. Also, I worked briefly for the Corps after my retirement from Interior.

In all my many years as a Federal Administrator, that which I found most difficult was to function simultaneously as Director of the Bureau of Outdoor Recreation under the Secretary of Interior, and also as Executive Director of the President's Council on Recreation and Natural Beauty which was chaired by a cabinet officer other than the Secretary of Interior. In other words, I was reporting to two cabinet officers at the same time on over-lapping functions. My belief and conviction is that the division of the Soil Conservation Service and the civil functions of the Corps between two departments and two cabinet officers is utterly unworkable and urge that these sections be amended or dropped. One cannot work effectively for two bosses.

I hope you will accept this letter in the constructive spirit with which it is written. I wished to get through to you my deep concern over these undesirable provisions of the Administration's proposal.

There would be no objection to making this letter available to other Senators or placement in the Congressional Record.

With kindest regards.

Respectfully yours,

EDWARD C. CRAFTS.

FEDERAL REORGANIZATION

Legislation has been introduced in Congress at the request of the President to create a new federal Department of Energy and Natural Resources. The National Association of Conservation Districts is opposed to major provisions of this proposed legislation. In particular, we oppose the proposed transfer of the Forest Service and certain functions of the Soil Conservation Service and Army Corps of Engineers to the proposed new Department.

We believe it would be a serious mistake to transfer the Forest Service from the Department of Agriculture, where it has developed an enviable reputation for cooperation and professional capability, to a new Department where these values might be jeopardized. More than half of the forest land in the United States is in non-industrial private forests. Therein lies the largest forestry job ahead. In furtherance of this work, the Forest Service works closely with State forestry agencies, and they in turn work directly with farmers and other private owners.

The proposed legislation would also split the authority and federal-funding control for the upstream watershed program between the Soil Conservation Service and the proposed new Department. To place the funding and decision-making authority in one department and the delivery system in another is to invite unnecessary problems in management of the program; in assignment of personnel; in establishing essential priorities; in Congressional, federal-state, and sponsor relations;

and in carrying out an efficient installation program.

The proposed legislation would also fragment the water resources work of the U.S. Army Corps of Engineers. In our judgment it would complicate the planning and funding procedures associated with their work without any offsetting advantages either in terms of resources or the operations of the agency.

Since the introduction of the proposal to create a DENR there have been two significant developments directly affecting the well-being of the nation and the lives of all Americans. There is now an urgent need to increase production of agricultural commodities. And there is an energy crisis.

We believe these developments create the need for a different kind of reorganization in the federal departmental structure than that proposed by the Administration.

Reliable forecasts indicate that shortages of energy are likely to affect the nation's economy adversely for many years ahead. Agricultural production, industrial employment, commercial and residential heating, and transportation systems of all kinds are among the key areas facing serious adjustments. Clearly there is a vital need to develop new sources of energy and also find acceptable ways to increase the supplies and uses of traditional sources. In our judgment, the problems of energy are continuing problems of the highest magnitude. We propose, instead of a Department of Energy and Natural Resources, the establishment of a highly-focused Department of Energy and Minerals.

We believe there are sound reasons, also, to expand the responsibilities of the Department of Agriculture to include administration of substantial segments of the public lands of the country. We believe the Department of Agriculture should be enlarged to serve as the Department of Agriculture and Natural Resources, concerned not only with the production and marketing of vital food and fiber commodities, but with the essential land, water, forest, and related resources of the nation.

Ninety percent of the continental United States is rural land producing crops, trees, forage, water, wildlife and recreational opportunities. Seventy percent of these lands are privately owned and sustain the most productive farm, forest, grazing, and wildlife capabilities of the nation. The renewable resources of the public lands are in thousands of instances intermingled with, or adjoined to, the privately-owned lands. The management of privately-owned lands is affected by the management of public lands, and vice versa. There is a clear-cut need, in our view, for close coordination of programs affecting the basic resources of the country, regardless of ownership. We believe this can be accomplished best through a Department of Agriculture and Natural Resources which would have within its structure an unparalleled body of experience, expertise, research and educational facilities, and the proven capability of reaching to every part of the grass roots of America.

GI BILL NOT AIDING VETERANS AS IT HAS IN THE PAST

Mr. BEALL. Mr. President, in a report conducted by the Education Testing Service, it was concluded that the GI bill is not doing today for veterans as it did in the past. An analysis of the participation rate shows that both full and part-time enrollments are below those for the GI's who fought during World War II. In fact, in my own State of Maryland, with an estimated veterans population of 139,000 only 21.1 percent have ever been in college under the GI bill. It is for that reason I am pleased to join several of my colleagues in the Senate in cosponsoring S. 2789, "The Vietnam Veterans GI Bill".

Just as there are many factors which must be taken into consideration when one looks at a comparison of the quality of benefits available to the World War II GI's and those available to the veterans of the Vietnam war, there are several factors that must be considered when one examines the current participation rates. Of prime importance is the necessity of taking into account the significant changes in the economy that have taken place in the interim from World War II to the Vietnam war. While the Consumer Price Index has not quite doubled since World War II the average tuition at a 4-year public institution has more than doubled and the tuition at a 4-year private institution has increased fivefold.

According to the ETS study, when all factors such as books, tuition and supplies at a 4-year public institution are considered, the remaining is not sufficient to meet the veterans' living expenses. The study further indicates that "the single veteran would require $728 in additional resources, a married veteran with no children would require over $2,000 in resources over and above current allowances." Comments from my own constituents throughout Maryland have ranged from the fact that marriage, children and the additional responsibilities entailed have necessitated "choosing" employment over education, to an instance where a young man has been confined to a mental hospital for the last 6 years and upon his release now has plans to begin his college education.

Although it is pointed out that there are other federally funded programs available to veterans, none of them have given a priority preference for the veteran and the data which has been compiled indicates that the veteran's participation in these programs has been substantially low.

Of particular significance also is the increasing educational level of veterans, which of course reflects the increasing educational levels of the population in general. Today only 1 in 5 veterans lacks a high school education, compared with over one-half of the World War II veterans. Thus, as there has been a growing emphasis on education, the needs and demands for the veterans will increase accordingly. Likewise, the age of the veterans reveals much about his or her needs. At the end of World War II, 61.2 percent of the veterans were under 30 years of age, while 78.3 percent of the Vietnamese veterans are under 30. This indicates that an increasing percentage of veterans went into the service during the years when most of their peers were obtaining their education and it is more likely that their time in the service disrupted their educational plans. Certainly those who gave of their time in the service of our country deserve an adequate opportunity to continue the pursuit of their goals.

Mr. President, it is evident that more time and more money is needed if our veterans are to meet their objectives. I believe Senate bill 2789 is a major effort in correcting current deficiencies and inequities in the law and I hope it will receive speedy consideration.

Mr. President, I ask unanimous consent that the attached summary of S. 2789 be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

The Comprehensive Vietnam Era Veterans Educational Benefits Act of 1973

Inadequacies in the present GI bill deny the Vietnam veteran the assistance and opportunities that Congress intended they have. This is the conclusion of the Congressionally commissioned report published by the Educational Testing Service on educational assistance programs for veterans. Their findings are confirmed by independent hearings conducted by the National League of Cities, U.S. Conference of Mayors, and the American Association of Junior Colleges.

This bill is designed to overcome the specific inadequacies of the present GI bill and to provide assistance and opportunities to veterans who are currently unable to use their benefits. It is also designed to meet the mandates of major veterans organizations in the most comprehensive, flexible, and effective manner possible.

MAJOR PROVISIONS

1. A tuition payment made to the veteran for tuition costs above $400 per school year. The ETS study showed $400 to be the average tuition cost at a 4 year public institution. The veteran would pay the first $400 himself and the V.A. would reimburse him for tuition costs up to a total of $1,000. Out of a total tuition cost of $1,000, the veteran would pay $400 and the V.A. $600. Any cost above $1,000 would have to be paid by the veteran.

This would enable veterans in states with high cost public education to use the GI benefits. The GI bill participation rates in Ohio, Pennsylvania, Indiana, New Jersey, and New York (states with public education costs averaging over $750) are half those of states with low cost public education (California, Texas, and Massachusetts). The inability of the veteran to make an initial tuition payment of $600 or $800 is the most formidable obstacle preventing participation in an education or training program.

2. An increase in the subsistence allowance paid to veterans in vocational rehabilitation and education programs of 13.6%. This is consistent with action already taken in the House of Representatives and covers the 8% inflation rate since the present rates were enacted.

3. An extension of the present 36 month entitlement period for up to 9 additional months subject to case by case approval by the V.A. This will allow veterans who are subject to special circumstances to complete the course of education they set out on. Specifically, it is intended for those who have lost credits because they have transferred from one school to another or because they lack sufficient preparatory background and need additional courses to complete their program of instruction.

4. An increase from 8 to 10 years in the eligibility period. Presently veterans have eight years from date of discharge to complete their education with the help of GI assistance. Many veterans discharged in 1964, 1965, and 1966 were unable to use the benefits until 1970 when the subsistence rate was raised above $130. Others have attended on a part time basis and also face the prospect of losing part of their 36 month allotment when the eight years is up.

5. A provision allowing a veteran to draw his full 36 month entitlement in larger amounts over a shorter period of time. Present subsistence allowance for a single veteran is $220 per month. This provision would allow the veteran to draw up to $440 per month

for only 18 months. This would enable veterans with prior education to complete their programs with a minimum of money worries. It would also enhance the prospects for those who may wish to attend medical or law school or a two year vocational objective.

6. The bill removes the restrictions of the work study program. This will enable the V.A. to utilize veterans to fulfill vitally needed outreach work while allowing them to earn money that will help defray their college costs.

7. Establishment of a Vietnam Era Veterans Communication center and a veterans advisory committee. The center would insure that the input, advice, experience, and knowledge of young veterans would be used in the coordination and implementation of programs affecting Vietnam era Veterans. The advisory task force would combine government and private efforts to make veterans programs more effective and more widely utilized.

Cost.—(A consensus reached after consulting the V.A., OMB and various private concerns).

1. Tuition payment, 200 million.
2. Subsistence increase, 370 million.
3. Extension of entitlement, 15 million.
4. Extension of eligibility period, 20 million.
5. Accelerated subsistence, no new cost.
6. Expansion of work-study, 25 million (to be determined by V.A. and Cong. authorization).
7. Communication center, funded out of existing V.A. funds.

THE IMPACT OF HIGH ENERGY COSTS

Mr. McGOVERN. Mr. President, the real threat of sharply higher costs of all forms of energy is not so much the doubled price of gasoline for our family cars as it is the grossly inflationary effect which will result throughout the economy.

Every commodity, from agriculture to washing machines, is dependent on energy for production, processing, transportation and its ultimate retail sale and use. When one considers the added cost of energy at every step of the way, the enormity of a doubled price of basic energy materials takes on a new and different meaning.

The president of Output Systems Corp. of Arlington, Va., Mr. Matthew Kerbec, has written a letter to the President which encloses a number of newspaper articles together with his own comments, which make an eloquent case for a rollback in the price of crude oil. I ask unanimous consent that Mr. Kerbec's letter, the newspaper articles to which his letter refers, and his comments on those articles be printed in the Record.

There being no objection, the materials were ordered to be printed in the Record, as follows:

Output Systems Corp.,
Arlington, Va., February 25, 1974.

The President,
The White House,
Washington, D.C.

Dear Mr. President: This letter was stimulated by an article appearing on the front page of the February 21, 1974 edition of the New York Times. Simply stated the article announces new record highs for commodity prices and that farm production prices have increased 50% in one year. This is an economic danger signal when you realize this is at the farm level before any of the markups that occur between the farm and the complex marketing system required to bring food products to the consumer. In the same article a commodity broker is quoted as saying "The prices are not only undermining the value of paper money but in the case of grains they are destroying the cattle and hog industries." As you know new highs are being registered each month in all price indexes with no end in sight.

Mr. President, play the energy game and try to think of any product that does not have an energy cost as part of the price and you will begin to appreciate the enormity of the consequences associated with irresponsible price hikes at the crude oil level. Although we cannot control foreign oil prices we can stabilize our economy by subsidizing the difference between a fixed crude oil price and the price of imports in the same way Canada is handling the problem. (See Article 2, Pages 12 and 15).

It can be demonstrated that cost and price ripples caused by sudden massive energy price hikes (energy includes crude oil, coal and natural gas) have an amplified effect greater than any other commodity. Natural gas and petroleum based chemicals account for over 43% of material costs needed to produce fertilizer. The Cost of Living Council decontrolled fertilizer in October 1973, and fertilizer selling prices increased by 37% in 3 months. Fertilizer is needed to grow corn and soybeans used for livestock feed, and, the increased price is forcing these prices up. These prices are marked up again and again as they travel through the marketing chain to the retail level. Also it is estimated that 6.5 billion gallons of gasoline and fuel oil were used on farms in 1973. An increase of 10¢ per gallon adds $650 million to farm costs that will ripple through the food marketing system before being passed on to the ultimate consumer.

The attached Article 2 covers some of the first round effects of the energy price hikes in several critical industries. Contrary to the opinion of some analysts, the effects of these price hikes should not be thought of as a one-shot phenomena. They are the first step in a chain reaction that will amplify prices as they ripple through the economy.

The following is a list of four major cumulative inflationary effects that are being triggered by sudden and massive energy price hikes:

1. Agriculture and industry responds by equivalent massive price hikes. Price controls become meaningless because massive increases in the prices of raw material fossil fuel inputs make higher product prices mandatory if the steel, food, transportation, petrochemical and power utilities and other industries, are to survive.

2. Unions and workers demand equivalent massive wage hikes to maintain buying power. People with fixed incomes have no practical recourse and may resort to violence (in 1972 there were over 10 million families with an average income of $3,500 per year).

3. Reduced buying power caused by massive inflation will lead to layoffs. Greater percentages of income will go for necessities and distort spending patterns.

4. Demand for luxury products and nonessential items will dramatically decrease leading to more layoffs that will affect executives and workers at all income levels.

Events after Effect 4 are anyone's guess. The U.S. is now definitely at Effect 1 with prices rising at unprecedented rates. Effects 2, 3 and 4 are showing increasing activity. One thing is certain—there will be delayed effects long after the high priced energy is fed into our economic system. For example, coal prices are now following oil prices. One report states that Bethlehem Steel Corporation announced that it will lay off 1250 people because the Cost of Living Council does not allow steel companies to bid up to the $27 to $35 the utilities are paying for coal. An international example of delayed cost effect that was triggered by energy price increases is that organized labor in Japan is asking for an unprecedented 30% increase in 1974 (see attached articles). These are effects not causes.

I have reviewed many of the energy and economic policy statements made by your executives in the past three months but have not yet heard any meaningful detailed analysis of what massive energy price hikes are doing to the economy in terms of raw materials costs, profits, prices, wages, unemployment and inflation. These are all part of the same management problem. Knowingly or unknowingly your executives present a tremendously misleading picture when they only speak of economic effects caused by crude oil price increases as plus or minus a few cents at the gasoline pump.

The time has come for all thinking people to stand up to be counted, and it should be clearly understood by all elected and appointed government officials that the foundation is being laid now for future disruptions to our economic system. Specifically, we are now laying the groundwork that will lead to management-labor confrontations, antisocial acts by people being relentlessly squeezed between soaring prices and fixed incomes, unprecedented inflation and unemployment.

One fact clearly stands out. Great Britain, Japan, the United States and other countries who have allowed internal energy prices to reach cartel levels are all experiencing raging inflation. Canada has frozen crude oil at $4.00 per barrel and is not having problems with runaway inflation (see Article 2, pages 12 and 15).

Because energy is the only commodity that is a necessity for all industries and activities I strongly urge an immediate rollback of energy prices and a realistic national energy policy that balances the need for energy self-sufficiency against the degree of economic disruption that can be tolerated (see Article 2, page 13). There are many ways to finance increased exploration for crude oil and to build additional refinery capacity without massive energy price increases that have no relationship to production costs. It is also true that no foreign country will cut their oil prices when our government does nothing about the uncontrolled $10.35 per barrel of crude oil produced domestically. Why should they? Until we start treating energy as a necessity in the same context as air and water and not as ordinary commodities such as steel, and grain we will continue to apply old nonapplicable remedies to a new problem requiring new basic policies.

Mr. President, I realize your burdens are heavy but I close this with the sincere hope that you can generate some priority decisive action to reduce this continuing suicidal inflationary spiral.

Sincerely,

Matthew J. Kerbec,
President.

[From the New York Times, Feb. 21, 1974]

Prices Hit Peaks for Commodities: Bidding for Raw Materials Pushes Many Futures to Record Levels

(By H. J. Maidenberg)

The nation received its loudest signal to date yesterday that consumer prices will soar much higher in coming weeks and months. It came as commodity traders and speculators bid up the prices of most raw materials to record or near-record levels once again yesterday.

Bids on the commodity exchanges here and in Chicago sent prices of potatoes, copper, sugar and silver to historic highs and raised most other basic raw materials closer to record levels.

"It's frightening," one broker said in a telephone interview, from Chicago. "I've never seen anything like it in 20 years that I've been in the business.

"The prices are not only undermining the value of paper money, but in the case of the grains, they are destroying the cattle and hog industries," he added.

The broker explained that soaring grain prices, consumer resistance to current prices and the recent truck strike in the Midwest have caused uncommonly high rates of cattle and hog slaughter.

"This means beef and pork prices may not run up as fast now, but watch out when the livestock herds are wiped out later this year," he added.

Another broker observed that grain prices have been supported largely by record exports. Yesterday, for example, Mexico bought 18 million bushels of corn and sent that commodity up the daily permissible limit of 10 cents a bushel.

When cattle and hog feeders balked at the higher levels, prices fell a few pennies from the day's highs by the close of trading.

Chicago wheat prices were mostly higher, with the biggest gains in contracts for delivery in July, September and December. These months normally lag behind other deliveries because they reflect the winter wheat harvest that starts in June and constitutes two-thirds of the nation's crop.

But traders have been scoffing at Secretary of Agriculture Earl L. Butz's optimistic predictions of record grain harvests in 1974.

Cargill, Inc., the huge grain trading company, reported recently that farm production costs were running 50 per cent above the year-ago level. Moreover, the trade doubts that the critical fertilizer shortage, compounded by price controls that encouraged exports, will overcome in time to produce the record harvests forecast by Washington.

"If words could raise crops," a New York broker said, "then Washington would become the country's biggest farm."

STOCKPILING RUSH IS ON

Some grain exporters note that each time grain prices move up foreign buyers rush in to stockpile, which is happening today. Flour millers have been particularly affected. One Kansas City miller declared: "Washington is more interested in trade balances than in whether or not we will have enough grain for bread."

In the smaller New York commodity markets, speculators again joined trade buyers to bid up raw sugar to record levels. The near March delivery closed at 24.65 cents a pound; a year ago it traded at 8.9 cents.

Commodity futures prices represent the first stage of the processing and marketing system, with retail prices 50 percent higher in most finished products.

Although speculators and others fleeing from inflation—and paper money—have been bidding up silver bullion prices to record levels each day for the last two weeks or so, some brokers reported that this buying had spread to the copper market.

"An increasing number of silver speculators have become nervous over the high price of silver and are switching over to copper," a metals merchant said.

Cost is another factor. With initial margins in both commodities about 10 per cent of total value, a silver contract represents an outlay of almost $6,000, while one in copper is roughly $2,000.

In any event, all silver and copper deliveries closed at their limit highs. The current delivery in silver (February) finished at $5.61 an ounce, despite considerable switching from near to more distant contracts during the day. As a result, the most distant delivery, May, 1975, closed at $5.77.

Comment: This article is an urgent warning of what is to come in higher grain and other commodity prices.

These increases are not surprising when it is realized that 43% of the cost of raw materials used to produce fertilizer are derived from petroleum and natural gas. Due to energy price hikes, shortages of petroleum based chemicals and higher prices received from export sales the price of fertilizer jumped 37% in three months. Fertilizer is one of the greatest costs for growing grain. Corn and soybean are the single greatest cost in feeding livestock so when a massive energy price hike is imposed on fertilizer production it creates a massive ripple effect that will not be felt for 18 months or more or when these livestock products hit the retail level. Also in 1973 farms used 6.5 billion gallons of gasoline and fuel oil. These fuels are scheduled to go up by 10 cents a gallon in 1974 which will add at least another $650 million to the farm cost in 1974. (see Article 2. Page 5). Fertilizer price controls are meaningless if there is no control of the petroleum based raw materials.

[From the Washington Post, Feb. 19, 1974]

JAPANESE RALLY FOR PAY RISES

(By Don Oberdorfer)

TOKYO, February 18.—All factions of organized labor staged a joint anti-inflation rally here tonight as part of a nationwide drive for massive wage increases.

The 30,000 unionists, sitting amid red banners in a vast indoor hall, heard speeches declaring that the government, big business and the international oil companies are responsible for this country's soaring inflation. Consumer prices here rose by 19 per cent last year, the highest rate for any major industrial nation and about twice that of the United States.

Organized labor is asking for an unprecedented 30 per cent pay rise in this year's annual round of wage negotiations, known here as the spring labor offensive, or "shunto." Advance indications are that the results will average 25 per cent or more, accelerating inflation and causing economic headaches at a time of nearly stagnant output and productivity.

Nothing was said about the inflationary aspects of the big pay demands tonight. The purpose of the anti-inflation rally was to display rare unity of the politically divergent wings of organized labor and to enhance organized labor's image with the general public and with the two-thirds of the Japanese labor force which is unionized.

Because of political as well as the economic circumstances, this year's "shunto" is likely to cause unusually difficult problems and a bigger than usual uproar in Japan. Organized labor supports various factions of the Socialist and Communist political opposition, which is threatening to wrest control of the upper house of Parliament from the ruling Liberal Democratic Party, which is conservative, in this summer's election.

Massive labor demonstrations and a planned general strike during the spring labor offensive are scheduled to emphasize social, welfare demands and popular discontent in an attempt to weaken the political position of the government.

"This is our best chance to give more power to opposition parties and the opposition coalition," said Ryoichi Yasutsune, planning director of Sohyo, Japan's largest labor federation.

If the spring offensive is tied strictly to wage demands, the general public might react adversely, he added. Thus, the anti-inflation and public welfare aspects of this year's drive will be pushed to the foreground in demonstrations planned to mobilize as many as 1 million protesters around the Parliament building in March and April.

In an effort to strengthen the government position, Premier Kakuei Tanaka has invited the chiefs of all four labor federations to a meeting this Thursday. Tanaka will appeal to the unions to moderate their demands and avoid economically damaging strikes and slowdowns. The union chiefs will accuse the government of allowing excessive profits, commodity speculation and inflation. After the meeting, both sides will seek to make their points with the general public.

Supported by rapidly rising productivity and fast-paced economic growth, Japanese industrial wage rates have grown apace in recent years. They are now at about the same general level as in Western Europe, and almost half the level of those in the United States.

Last year's spring offensive produced an average major industry wage hike of 20.1 percent, a record. But most of this has been sopped up by inflation, particularly in the months since the Middle East war and Arab oil boycott sent commodity prices soaring.

Comment: Cumulative inflationary events. events.

CAUSE

1. Sudden and continuous massive energy price hikes.

EFFECTS

2. Agriculture and industry responds by equivalent massive price hikes. Price controls become meaningless because massive increases in the prices of raw material fossil fuel inputs make higher product prices mandatory if the enterprise is to survive.

3. Unions and workers demand equivalent massive wage hikes to maintain buying power. People with fixed incomes have no practical recourse.

4. Reduced buying power caused by massive inflation will lead to layoffs. Greater percentages of income will go for necessities and distort spending patterns.

5. Demand for luxury products and nonessential items will dramatically decrease leading to more layoffs.

6. ANYBODY'S GUESS. The United States is definitely at Event 2 and is showing increasing activity in Events 3, 4, and 5.

[From the Wall Street Journal, Feb. 8, 1974]

BETHLEHEM STEEL IS CUTTING OUTPUT OF RAW STEEL 8 PERCENT: METALLURGICAL-COAL SHORTAGE CITED; ACTION AT TWO FACILITIES WILL LAY OFF 1,250 PERSONS

In yet another impact of the energy crisis, Bethlehem Steel Corp. said in Bethlehem, Pa., it is being forced to cut its raw-steel production one million tons, or about 8%, over the next six months because of a metallurgical-coal shortage.

Metallurgical-coal supplies have become increasingly tight recently because of record world-wide steel production and a switch to such coal by utilities that have been unable to obtain oil or lower-cost steam coal. Nevertheless, Bethlehem's move took other steelmakers by surprise.

U.S. Steel Corp. said in Pittsburgh that it has sufficient supplies, but warned that any disruption to the already-tight supply situation would make it doubtful that it "will be able to sustain the current-level of operations into the summer months." Similarly, Richard E. Thompson, group vice president of National Steel Corp., said that company's coal situation is "tight as the dickens."

Bethlehem said the cutbacks will come at its large steelmaking facilities at Sparrows Point, Md., and Lackawanna, N.Y., and will result in layoffs of 1,250 persons.

At Sparrows Point, Bethlehem banked one of its older blast furnaces Feb. 1 and will close down another iron-making furnace for relining. Operations at the coke plant, where metallurgical coal is baked to remove oxygen, will also be curtailed.

At Lackawanna, one of six blast furnaces will be banked Feb. 15 and an open hearth steelmaking furnace will be closed the following day. Coke operations there will also be curbed.

CAN'T MEET NEEDS

C. Thompson Stott, Bethlehem's senior vice president, steel operations, said cutbacks were necessary because the company hasn't been able to produce enough coal from its own mines or buy enough here and abroad to meet its needs. While he didn't say so, the company has also been buying some processed coke from abroad.

Steel production in the U.S. and abroad has been at unprecedented levels over the past year. Domestic production last year, for instance, jumped 13% to 150.4 million tons from 133.2 million, and Bethlehem's production totaled 23.7 million tons.

For each ton of raw steel produced, two-thirds of a ton of metallurgical coal is needed. The coal is baked into coke that is then fed into blast furnaces where it serves as both a fuel in melting iron ore and as a chemical ingredient in the molten iron.

Coal mines have been straining to meet the increased demand and to accommodate long-term orders from foreign steelmakers, particularly in Japan. Exports of metallurgical coal totaled 43 million tons in 1973 and represented 83% of total coal exports.

But, "the straw that broke the camel's back," according to one fuel consultant, was the Arab oil embargo that sent utilities that had switched to low-sulphur oil to meet air-pollution standards back to the mines to obtain coal. And with low-sulphur steam coal also in short supply, the utilities turned to higher-cost metallurgical coal.

CONDITION WAS AGGRAVATED

The condition was further aggravated when the Cost of Living Council decontrolled the price of coal moving to the utilities but held the lid on the price steel producers can pay. National Steel's Mr. Thompson, for instance, said utilities currently are paying $27 to $35 a ton for metallurgical coal on the spot market, while steel producers can only bid $15 to $19 a ton for the same product.

"The shortage can be readily corrected by permitting all metallurgical coal to be priced at a fair market value to the traditional users—namely the domestic-steel industry," a U.S. Steel spokesman added. While such a move would certainly enable steelmakers to compete with the utilities for coal it wouldn't increase total supplies, which are limited more by technological and labor restraints than by price levels.

Thus one steelman surmised that the situation won't be ameliorated "until the Arab oil embargo ends."

Comment: Lack of export restrictions and a unified energy price policy has utilities, steel companies and foreign buyers bidding for the same coal.

Of the 18% of the energy used to produce basic steel (see Article 2, Page 9) over 9% consists of natural gas, electricity, fuel oil and residual oil. The other 9% is metallurgical coal. With coal prices doubling and other energy costs increasing from 50% to over 100% basic steel prices will have to increase dramatically. Obviously, any realistic attempt to control the selling price of basic steel will have to begin with a drop in energy prices or price control is a meaningless exercise and indeed should be discontinued.

It follows that wages will have to be decontrolled if buying power is to be preserved.

After energy and transportation steel perhaps has the largest ripple effect and these price increases will make a significant contribution to increased prices on the retail level and over all inflation.

[From the Washington Post, Feb. 23, 1974]

Five Dead in Ethiopian Riots Over Prices

Addis Ababa.—Some 300 persons were in jail and an estimated five persons dead in the aftermath of four days of violence in the Ethiopian capital, apparently sparked by soaring prices and growing unemployment.

An uneasy calm prevailed last night as 1,500 soldiers, with orders to shoot "troublemakers" on sight, patrolled the streets and guarded government ministries, the radio station and other strategic centers.

Steel-helmeted troops moved into the city Thursday night to put an end to clashes between police and marauding demonstrators who were stoning diplomatic and private cars, shops and public buildings.

The violence erupted at the beginning of the week when the city's 3,500 taxi drivers went on strike in protest against the doubling of gasoline prices and increased licensing fees.

Adding to the troubles was a decision by teachers to go on strike Monday against a new education program recently announced by the Education Ministry. Schools have been closed since then. The teachers are also seeking pay increases.

[Diplomatic sources in Washington reported that there had also been a strike by air force personnel last week over economic issues.]

The cost of living has been climbing sharply, with basic foods such as rice, flour and bread more than doubling in price in the past three months. The number of beggars on city streets has noticeably increased recently.

[From the Washington Post, Feb. 23, 1974]

Seven Killed, 25 Hurt in Bombay Food Riots

Bombay.—Police fired on mobs rampaging Friday night across Bombay in food riots. Seven persons were killed and 25 wounded, officials said yesterday.

Thousands of persons thronged the streets to protest price rises and shortages of essential goods.

Protesters burned shops and public buses, set fire to police vehicles and hurled rocks at the police. Two assistant commissioners of police, four inspectors and 23 constables were injured in the clashes, official said.

In neighboring Gujarat, home state of the late Indian leader Mohandas K. Gandhi, mob violence continued for the 45th day.

Comment: In 1972 over 10.8 million families (20 percent of the lowest income families) only received $37 billion or 5.4 percent of the total family income of $686 billion. This is an average of only $3,425 per family for the year. Obviously, as prices continue to skyrocket these low income families will be squeezed between ever increasing prices and relatively fixed incomes and having no bargaining agents or other practical recourse the potential for violence is great and the possibility of riots and other anti social acts are high. Under present energy pricing policies and those still to come the only uncertainty is when it will happen.

ERNEST C. MARRINER CELEBRATES 1,000TH BROADCAST

Mr. MUSKIE. Mr. President, in 1948, when I was practicing law in Waterville, Maine, a neighbor of mine, Ernest C. Marriner, agreed to broadcast a half-dozen programs on the local radio station, WTVL and WTVL–FM, to fill a vacant 15 minutes of air time between two popular radio shows, "Monday Morning Headlines" and "Drew Pearson Reports." Another neighbor, Carleton D. Brown, who owned the station, talked Keyes Fiber Co. into sponsoring the shows.

Those half-dozen "Little Talks on Common Things" were so popular that Marriner continued the broadcasts, and last month, WTVL, Marriner and Keyes Fiber celebrated the 1,000th broadcast of Marriner's program. The station believes that the program and sponsor have set an endurance record for radio. As Brown said in introducing the 1,000th program February 10th:

> Continuous sponsorship of a radio broadcast by a single sponsor for 1,000 weeks, using the same talent on the same program is a radio first.

Keyes Fiber, by the way, does not air commercials during the broadcast, but simply announces its sponsorship.

Mr. Marriner is now 82 years old, and serves as Colby College historian, after 37 years on the Colby faculty. He is also dean emeritus of the faculty at Colby. His "Little Talks on Common Things" are, mostly, historical lessons, homilies on the great and near great which help guide us as well as entertain us. And his little talks are, mostly, about Maine.

In his first talk he passed on the wisdom of Arthur J. Roberts, former Colby College president, who used to say:

> In Maine, farming isn't an occupation; it's a misfortune.

In his 500th talk he related the story of a corporal in a Civil War regiment who was delivered of a child while on picket duty.

And in his 1,000th discourse, he told the following story about political power:

> " . . . [O]ne day in 1889 a prominent Virginian, John Wise, burst into the office of the Speaker of the House, Thomas B. Reed of Maine, yelling out, "Who's running this government anyway?" Reed calmly replied, "Why John, the great and the good are running it of course." "Well then," said Wise, "the great and the good must all live in Maine. Here I come to Washington to do business with the Secretary of State, and I find he is Jim Blaine of Maine. I call to pay my respects on the President pro tem of the Senate, and he is Mr. Frye of Maine. I want to consult the Senate's majority leader and they send me to Mr. Hale of Maine. Then I must take up a tariff matter with the chairman of the Ways and Means Committee of the House, and who is he but Mr. Dingley of Maine. Then there is a naval bill I am interested in, and who chairs that committee but Mr. Milliken of Maine. I have to see about an appropriation for a public building in Richmond, and who's in control but Mr. Boutelle of Maine."
>
> "Yes, John," said Reed, "the great and the good and the wise. The country is still safe," And out they went arm in arm to have lunch with the Chief Justice of the U.S. Supreme Court, Mr. Justice Fuller of Maine.

Mr. President, to commemorate both Dean Marriner's longevity and genius, I ask unanimous consent that the 1,000th, 500th, and first "Little Talks on Common Things," along with a biological sketch and two articles on the program, printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[Program No. 1000]

"Little Talks on Common Things" With Ernest C. Marriner, Broadcast on WTVL and WTVL–FM on February 10, 1974

INTRODUCTION

Carleton D. Brown: Back in the autumn of 1948, Radio Station WTVL in Waterville, Maine, invited Ernest Marriner, then Dean of the Faculty at Colby College, to broadcast half-a-dozen 15-minute Sunday programs, centering on common themes. That brief period has extended into 26 years, and the program you are about to hear is the one which was broadcast on the 1000th consecutive week of this series.

For more than a quarter of a century, this unusual program has put on the air a myriad of topics, most of them concerned with the social history of the State of Maine, and especially that of its Kennebec Valley. Little attention has been given to political events, but much to the way Maine people lived and talked from earliest pioneer days to the beginning of the present century.

The broadcasts have told about the early settlements, the construction of roads from Indian trails to turnpikes, the story of Maine's ten narrow-gauge railroad lines, the ocean-going schooners built in Maine, the old country stores with their sales of rum and gingerbread. Well-remembered is the story of a Maine murder case in which the expert witnesses were not doctors, but ox drivers testifying to the speed of a yoke of oxen on a dark night drive covering sixteen miles.

In the more than 25 years this show has been on the air, it has been sponsored continuously by the Keyes Fibre Company, internationally-known converters of wood fiber into molded household and commercial products.

Never once has a broadcast been interrupted by advertising. Only at the beginning and at the close is there a single sentence saying that the program is presented as a service to the public by a friendly industrial neighbor—the Keyes Fibre Company.

Continuous sponsorship of a radio broadcast by a single sponsor for 1000 weeks, using the same talent on the same program is a Radio FIRST—a First in this nation.

Be our guest now as we bring you "Little Talks on Common Things" with Ernest Marriner.

FEBRUARY 10, 1974.

MARRINER: As Little Talks reaches its 1000th broadcast, it may be appropriate to mention some unusual things about Maine. I could tell about Maine items of today: our famous lobster, never to be confused with the less tasty crayfish; about Aroostook potatoes so big that one will make a meal for a family; about our giant industries concerned with pulp and paper, about Maine's famous shirts and her equally celebrated steel grandstands, known all over the nation.

However, Little Talks has for a quarter of a century been concerned with Maine history. So let me tell you a few things about the State of Maine that may be new to you, not the kind of things told in the history books.

Everyone knows that New England's first permanent settlement was at Plymouth in 1620. Now, the most authentic record of that settlement is a contemporary account written by the settlement's first governor, William Bradford and entitled "Bradford's Relation." In that book Bradford relates that, after that first terrible winter at Plymouth, as the snows began to melt, the little colony was one day entered and greeted by an Indian who spoke English. Bradford does not tell us where that red man learned his few English words, but subsequent research has made it clear that he learned it at Pemaquid on the Maine coast, where British fishing fleets had been drying their codfish every summer for many years before any Pilgrim foot stepped on Plymouth Rock.

Bradford does tell us that, in the late spring of 1621, he sent the Pilgrim shallop to Pemaquid for supplies. Admittedly there were then no permanent settlement at Pemaquid. Why did Bradford think he could get supplies there? He makes it clear that he meant European goods, not Indian grain and furs. Bradford knew very well one or more British fishing fleets would be starting to dry their fish on the Pemaquid shore at about that time, and surely some of thse ships could spare him supplies.

The first vessel ever built on the North Atlantic shore of what is now the United States was built in Maine, the same year as the founding of the colony at Jamestown, Virginia, 1607. A British colonizing party had established a settlement at the mouth of Maine's Kennebec River. It lasted only a year, but in that interval the colonists had built a sturdy sea-going ship.

Why do folks coming to Maine from New York or Boston always speak of going "down east?" Maine is north as well as east of Boston, and on a map north is always up, not down. Boston people invariably went down to New York and they still go down to Florida. Then why didn't they go up to Maine?

The answer comes from the days of sail. Off the New England coast the prevailing fair wind comes from the southwest. In colonial days sailing vessels were thus driven "with the wind" or "down wind" to Maine. To go in the other direction Maine craft had to go against the wind, or up wind to Boston.

Many competent historians, to say nothing of us common folk, don't know what was the first crop of early Maine settlers. It was ashes. The quickest way for a settler in the Maine wilderness to get land ready for sowing oats, the easiest grain to raise, was to fell and burn the trees, using only such wood as he needed to build cabin and barn and supply fuel for his fireplace. By one of those lucky accidents of history, the settlement of Central Maine towns coincided with the rapid growth of the wool industry in England. Wool has to be washed many times in its several processes from sheep to loom, and those washings took a lot of soap. Soap was made of potash, and potash was made from ashes. Enterprising men set up potash kilns at the larger settlements on Maine's big rivers, and to those kilns, in boats and canoes, on sleds and ox carts, the settlers carried their otherwise useless ashes, doing that for two or three years before they had any surplus grain to sell.

Compared with the big states of Texas and Alaska, Maine is of course small; yet she is the largest of the six New England states, so large that all the other five could be put within Maine and still have a few square miles left over. Visitors to the Maine coast and the valleys of the larger rivers, as well as to the narrow strip of Aroostook along the New Brunswick border, seldom realize how little of Maine they have actually seen. Ninety percent of Maine is still forest, and in that wilderness are located more than two-thirds of Maine's thousand lakes. Despite two hundred years of lumbering, careful conservation and scientific reforestation has seen to it that Maine still has a tremendous supply of available wood.

Some Maine products became known all over the world. Cans of Maine sweet corn have been found in the shops of Vladavostok. Maine canned blueberries could be bought in Istanbul. Today air express takes fresh Maine lobsters to the tables of London and Paris. Magazine readers have become familiar with pictures of the man with the eye patch, wearing a shirt made in Maine. Packages of fruits, vegetables, and eggs are on the shelves of supermarkets of a dozen countries, the trays all marked as made by Keyes Fibre Company in Maine.

Maine's most notable product, however, is not things. It is people. In 150 years of statehood, Maine's population has reached barely a million because she has done so much to populate other states. Maine boys went not only to the gold fields of California in the middle of last century; they went also to the prairies of Iowa and Kansas, on the Oregon Trail and to the Cinnamon Strip. In proportion to her population Maine did more than her share to develop the Great West.

One generation of a single Maine family, the Washburns of Livermore, furnished governors of two states, and at the same time three of the brothers were representatives to Congress from three different states.

Maine has never had a national president and one only vice president, though she has twice had sons come very near occupying the White House. However, near the end of the 1880's Maine enjoyed peculiar prominence in Washington. Walter Emerson tells about it in his book "Latchstrings." He says that one day in 1889 a prominent Virginian, John Wise, burst into the office of the Speaker of the House, Thomas B. Reed of Maine, yelling out, "Who's running this government anyway?" Reed calmly replied, "Why, John, the great and the good are running it of course." "Well then," said Wise, "the great and the good must all live in Maine. Here I come to Washington to do business with the Secretary of State, and I find he is Jim Blaine of Maine. I call to pay my respects on the President Pro Tem of the Senate, and he is Mr. Frye of Maine. I want to consult the Senate's majority leader and they send me to Mr. Hale of Maine. Then I must take up a tariff matter with the chairman of the Ways and Means Committee of the House, and who is he but Mr. Dingley of Maine. Then there is a naval bill I am interested in, and who chairs that committee but Mr. Milliken of Maine. I have to see about an appropriation for a public building in Richmond, and who's in control but Mr. Boutelle of Maine."

"Yes, John," said Reed, "the great and the good and the wise. The country is still safe." And out they went arm in arm to have lunch with the Chief Justice of the U.S. Supreme Court, Mr. Justice Fuller of Maine.

Maine has had its share of inventive genius. I could tell you about the Maxim brothers and their famous guns; about the Stanley brothers, who invented both the dry plate for photography and the Stanley Steamer automobile; about the Lombard Log Hauler, with its first successful caterpillar tread, forerunner of the farm tractor and the war tank; but time permits me to tell you about only one Maine inventor, Martin Keyes. Envisioning the possibility of throw-away dishes made from molded wood pulp, Keyes suffered many disappointments and frustrations before in the first decade of this century, in a tiny mill in the little hamlet of Shawmut, Maine, he turned out the first usable and saleable dishes from wood pulp. That was the beginning of the Keyes Fibre Company, with plants now in five states and several foreign countries. Martin Keyes' half dozen sizes of PAPRUS plates have grown to more than a hundred items, including the famous CHINET line of disposable tableware.

I take great pride and satisfaction in knowing that, after 25 years, folks can still listen to the weekly broadcast of Little Talks because of the generous sponsorship of the Keyes Fibre Company.

Up Music Bridge Theme: Auld Lang Syne—20 secs—then fade to Closing Announcement.

CARLETON D. BROWN: It has been a pleasure to be a guest in your home with the program you have just heard, "Little Talks on Common Things" with Ernest C. Marriner.

This broadcast was produced by Radio Stations WTVL–AM & FM at Waterville, Maine, and reached you with the good wishes of these stations and of Keyes Fibre Company, manufacturers of useful things molded from the cellulose wood fibers of trees.

Up Theme—Auld Lang Syne—Run 30 secs. and fade.

[500th Broadcast]

LITTLE TALKS ON COMMON THINGS

(With Ernest C. Marriner)

MAY 21, 1961.

As improbable as it seems to me, this is indeed the 500th broadcast of Little Talks.

I cannot pretend that any of them have been important, but if they have given pleasure to any listeners over the years, I am sufficiently rewarded for the effort that has gone into their preparation.

An important aspect of this program is that it is one of very few radio programs in the whole nation that has continued for 39 weeks of each year, for thirteen consecutive years, under the same sponsor. Putting and keeping Little Talks on the air would have been quite impossible without the sponsorship of the Keyes Fibre Company. I am sure listeners appreciate that, from the day these broadcasts started thirteen years ago in 1948, they have never been interrupted by advertising. In a few simple words at the beginning and at the end, you are told that the program comes to you as a public service, not a commercial ad, of the Keyes Fibre Company. Never once has the Company in any way sought to control the contents of the program. I have been completely free to say anything I pleased. I assure you that whenever I have spoken about Keyes Fibre on these broadcasts, it has been entirely on my own initiative. But I want everyone to know that I am very grateful to that Company for making this program possible.

I am often asked where I get the material for the broadcasts, and I have often replied that it comes chiefly from listeners. Without the generous help of hundreds of persons, the program could never have reached 500 broadcasts. People have loaned me precious letters and family documents, account books and diaries, maps and scrapbooks, old newspapers and hand bills—every sort of written or printed record. Items have come not only from the Kennebec Valley and other parts of Maine, but from Massachusetts, Vermont, New York, Pennsylvania, Ohio, Minnesota, Texas and California. One very interesting item reached me from Alaska.

As you know, the program has resulted in the publication of two books, Kennebec Yesterdays and Remembered Maine. In those books are memorialized the narrow gauge railroads, the stage coach lines, the call of Maine boys to the gold fields of California, the old country stores, the disastrous river floods, the rigors of pioneer living, the squatters on the land, and many other topics. In each of those books is the story of a Maine murder case.

During the past four years, since the publication of Remembered Maine, what have been the topics that received most favorable reception? By far in the lead has been the subject of Maine railroads—not only the narrow gauge lines about which much has been added in the past four years to what I had already told in the two books—but also much about Maine's broad gauge railroads. We have discussed the origin of the Maine Central the adventurous building of the Portland and Ogdensburg, which became the Maine Central's Mountain Division. We have seen how the prosperous Bangor & Aroostook grew out of the old Aroostook R.R. We have talked about the Battle of the Gauges, about the first M.E. locomotive, about railroad postmarks and railroad souvenirs.

Almost as popular as the railroads, have been stories about Maine's famous race horses of the 19th and early 20th centuries. Naturally Waterville's famous horse, world champion, Nelson, has led the list, but quite as famous in their day were the bitter competitors, General Knox and Hiram Drew, whose matched races drew immense crowds.

The other subjects, each of which supplied material for several programs were the diary of Charles Keith of Winslow, and the voyage of William Heath around the world. The Keith story is important because it covers nearly thirty years of daily records, and is especially informative about the Winslow Congregational Church. The Heath narrative is one of the most amazing stories ever recorded about a Maine boy, and it comes from that boy's own diary, telling in detail how he shipped out of San Francisco alone for Honolulu, just before his 16th birthday in 1850, and how he unintentionally went on to China and around the world before he returned to his Maine home just after his 17th birthday.

Local listeners were especially interested in the story of John McKechnie, the man who surveyed the lots along the river for the Plymouth Company, who was this community's first physician, and who built its first mill.

Several broadcasts devoted to two well remembered political figures attracted attention. Both of them were belligerent Democrats—Ben Bunker, published of the Kennebec Democrat in the 1880's and William R. Pattangall, publisher of the Waterville Sentinel in the early 1900's. I contend that one of the most brilliant works of political satire ever written in Maine is Pattangall's Meddybemps Letters.

Other stories that listeners tell me they enjoyed were the California adventures of Thomas Flint, the young medical student whose testimony clinched the conviction of Waterville's Dr. Coolidge for murder; the pre-Revolutionary journeys down to the Kennebec and the Androscoggin of the military engineer, John Montressor; and several broadcasts dealing with that splendid, upright and industrious sect, the Shakers.

Some of the old time things we have mentioned in recent years on the program have been ox helves and beetles, bridle chains and scantling, sulfur matches and sarsaparilla, tobacco tags and hardtack, rag peddlers and street sprinklers.

The different persons we have mentioned, only in the last four years, have been more than 200. We have had much to say about the leading families of the Kennebec: the Gardiners, the Norths, the Conys, the Langs, and the Burleighs; the Appletons and the Redingtons, the Plaisteds and the Heaths, the Boutelles and the Gilmans, the Moors and the Stockpoles; the Geralds, the Connors, the Totmans, and the Laurences; the Clevelands and the Coburns, the Jackmans and the Whipples. Recently we have paid fitting respect to our Central Maine men in the Civil War, to whom as a part of the Union forces, we owe the fact that we are now a united, not a divided nation.

Are the topics exhausted? Have we said all there is to say? Have the nearly one million words that have gone over the air in these 500 broadcasts exhausted the discoverable historical information about ordinary living in Maine towns and villages? By no means. On the contrary, new information continues to pour in, and I assure you there is enough to keep this program going for some time to come.

To show you how true it is that something new is always coming along, let me tell you for the first time about a letter written by a Civil War soldier almost a hundred years ago. The letter was written from the camp of the Fifth Maine near White Oak Church, Va., on April 19, 1862, by James Littlefield of Greenwood, Maine, the town in which is the village of Bryant's Pond. The letter was addressed to Littlefield's female cousin, Miss Martha Rice, at Waterville. She later married a Bickord and became the mother of Bertel and Webster Bickord of North Belgrade. Martha Rice Bickford herself died in Smithfield in the 1880's.

The greater part of the Littlefield letter is confined to the ordinary details of life in the Civil War camps, with which many other letters have made us familiar. It contains the usual gripes, such as "It may be all right to make pack mules of us poor devils, but I cannot see it in that light." But what distinguishes the letter is the writer's sudden injection of astounding news. Let us have it in his own words.

"I will tell you of a strange circumstance that happened here a few days since. Perhaps you will think it rather an indelicate subject, but I must tell you about it and ask you to excuse me. A corporal in a New York regiment near us, while on picket a few days since, was delivered of a child. Perhaps you will think that incredible, but such is a fact. He, or I should say she, came with the regiment as a soldier and has been with it since its organization. Her sex has remained undiscovered until now, but most likely she will now get her discharge. I think she ought to have a pension in order to bring up the child in good style."

For a chance to see that amazing letter I am indebted to Richard Sturtevant of North Belgrade, who with his brother Laurence Sturtevant, has already supplied many interesting items for this program over the years.

Another recently found item is a letter written by Robert E. Pattison, when he was President of Waterville College in 1838. The letter was addressed to a very good friend and trustee of the college, William King, who 18 years earlier had been Maine's first governor. To Governor King the Waterville College president said: "I am very anxious to spend a few weeks at Harvard University, that I may make myself acquainted with whatever they have that is peculiar. This I cannot do except in the winter vacation. Besides this, friends in Boston have notified me that, if I will visit them, they will do something for the college. I can accomplish both objects by a single journey."

Why did Pattison say he could make no extended visit to Harvard except during the winter vacation? The answer is that, in 1838, the long vacation of the college year came in the winter in order that the students might have opportunity to teach a full term in the public schools during the winter. The college year was then composed of three terms. The fall term began in September and closed just after Christmas. Then came the long vacation, with the spring term opening early in March and closing in May. It was followed, after recess of only one week by what was then called the summer term, from late May to the middle of August. The year ended with the commencement exercises about August 20th.

President Pattison's letter to William King had the following postscript: "You, Judge Weston and Mr. Marsters were appointed at our last meeting a committee to solicit aid of the Legislature at their approaching session. I hope, dear sir, that it may come before that body at a favorable time, for although I am far from sanguine as to the result. I hope that something will be done. Mr. Boutelle will supply all necessary facts."

The Mr. Boutelle referred to was Waterville's leading citizen, Timothy Boutelle, who was then treasurer of the college. Every year, after Maine became a separate state, the struggling new college at Waterville got a small grant, never more than $3,000 and often as little as $1,000. But those grants ended in 1833, and even with the prestige assistance of William King, President Pattison's attempt to secure another grant in 1838 met with failure.

Now, as we close this 500th broadcast, I want to express my appreciation of Carleton Brown, President of Kennebec Broadcasting Company and Manager of this station WTVL. To him and to his staff, especially the several young men, who from time to time have announced this program, I am profoundly grateful.

[First Broadcast]

LITTLE TALKS ON COMMON THINGS

(With Ernest C. Marriner)

NOVEMBER 14, 1948.

The uncommon and unusual excites and thrills us, but all our lives we are touched with ordinary things that are signficant and sometimes even spectacular. Abraham Lincoln once said: "God must love the common people, he made so many of them," So it is that we common people, both he who speaks and those who listen, are asked to think for a few minutes about life's common things.

There is an old saying that begins "as inevitable as . . ."; you know the rest of it. Yes indeed, one of life's most commonest things is taxes. A prelude to these programs therefore came last Sunday evening when the Mayor of Waterville, Hon. Russell Squire, presented the sound, unanswerable case for a local taxation survey. The mayor explained the decision of the city government to employ professional valuation experts to survey all real estate holdings in Waterville and establish new evaluations for tax assessment. Every local citizen should approve. Tax valuation ought to be on an impartial, scientific basis. Perhaps some day we shall see that this is only a beginning and that all our municipal services should be operated by business methods under an impartial administrator, responsible to no political party. The taxpayer is interested not only in paying a fair tax in comparison with his neighbor; he is interested also in getting maximum services for his tax dollars. In local democracies we make haste slowly; but in the long run, partisan interests cannot prevail over the common interests. Let us be grateful that we have a mayor and a city government willing to make a start in that direction.

How common, yet how mysterious is the miracle of birth. A future king of England was born today, amid age-old ceremony, in Buckingham Palace. What sort of an England will he rule? Is the old England dying, the old empire fading away? The little prince in Buckingham Palace, now only a few hours old, may symbolize for Old England what Tennyson wrote at the end of his Idylls of the King. The Round Table of the glorious knights had fallen apart; King Arthur was dead; the sword Excalibur had sunk into the sea. As old Sir Bedivere watched the flaming sword drop beneath the waves, "the sun rose, bringing the new year." For the little prince, may someday the sun rise bringing England a new era.

One of life's commonest things is hunger. How easily most of us satisfy it in this American land of abundance. But how very hungry we city folks would get if it were not for the farmer. In our persistent cry for better urban services, he is often forgotten. So I want to share with you a bit of writing that recently came to my attention. I have a neighbor who occasionally hands me copies of a weekly newspaper published in his native Scotland. It is the Peebleshire News, put out in southern Scotland just north of the English border. In its issue of June 11, 1948, appeared an editorial that applies equally well to the farmers of Maine. Here is part of it:

"Our rural people pay high taxes, sometimes in excess of the cities, and yet they do not have the same services. People are moving away from the farms of Scotland. If this depopulation continues, rural Scotland may become a national park for which the industrial areas will have to pay. We see towns and cities extended, eating up more and more agricultural land, and we take it as a sign of progress. Gone is the day of praising healthy life on the farm."

That was published in far-away Scotland. Perhaps it doesn't apply to Maine. Never having lived on a farm, I cannot claim to be sure about it. But I do know that a shrewd observer of Maine life who was brought up on a farm, had a very definite opinion. That observer was Arthur J. Roberts, President of Colby College, who used to say: "In Maine, farming isn't an occupation; it's a misfortune."

Let us who live in the city ever be mindful of our dependence upon the farms. Let us support vigorously every effort to extend modern services to the rural areas.

Is devotion a common thing? Isn't it unusual? Not at all. We see it all around us. A mother lavishes sacrificial devotion on her child. A father goes without things for himself that his family may have more. Not all employees are clock-watchers. Many are devoted to their work.

Devotion is a precious common thing, but it rarely hits the front pages of our newspapers. It is eventful, therefore, when a great metropolitan newspaper gives space to the devotion of a man who died 150 years ago. Last Monday, filling two columns of the first page, and running over to fill an entire inside page of the New York Times, was the story of the long-lost Boswell Papers. In the 18th century, James Boswell wrote what is considered the greatest biography in the English language, his life of Samuel Johnson, writing it as an act of devotion to the man with whom he spent day after day, recording the acts and sayings of the man.

After Boswell's death, his precious notes and journals became scattered and neglected. For more than a hundred years no one knew whether they still existed or had been destroyed. Then began another story of devotion. Col. Ralph Isham, a young officer in the First World War, determined to spend his time and fortune collecting every scrap of paper connected with Boswell. During the past 25 years he had gathered those papers from dusty rooms in Scottish castles, from an old croquet box, from barrels in mouldy cellars, from trunks in cobwebbed attics. The arrival of the whole collection in the United States, on its way to Yale University, was the occasion of the New York Times' story. Waterville is interested in this discovery, because at Yale the papers will be studied and eventually published by a Colby graduate, Dr. Frederick Pottle.

Dr. Pottle will prepare for modern readers not only details of the association of those two men, Boswell and Johnson, but the contents of hundreds of letters addressed to Boswell by the great men of his time, such as Joshua Reynolds the artist, Alexander Pope, the aged poet, and members of the royal court.

The whole story is a serial of devotion, of Boswell to Johnson, of Col. Isham to the public cause of finding the missing Boswell papers.

Another common thing is hero-worship. Every boy has a time in his life when he adores some man and wants to be like him. Many of us have felt the stirring influence of some person whom we have come to idolize. Yet, did you ever stop to think how rarely it happens that we ever know personally and intimately anyone who can truly be called great? Have you ever had a speaking acquaintance with a truly great man? Perhaps you have and do not know it, because really great men seldom advertise their greatness.

So, perhaps without being aware of it, many of us in Central Maine have known well a great man. For Rufus Jones was truly great—a great mystic, a great Quaker, a great teacher, a great humanitarian, a great soul. Shortly before he died, a friend said to Rufus Jones, "You must write one more book, a book that will help modern folks who have the scientific outlook to find their way back to vital religion. Many people have stopped going to church because what they hear there is at sharp variance with that they know."

So now, a few months after Rufus Jones' death, appears his last book, "A Call to What is Vital," a book which he says he wrote in sympathy with folks who say "I'd rather see where I'm going than remember where I've been."

In this little book of 140 pages that great world citizen, a native of Maine, interprets the dynamic force that activated his own wonderful life, a religion that accepts the facts of science, but clarifies those facts by revelation and by faith, by what the Quakers call the inner light.

In simple, impressive prose, this great son of Maine, bids us heed the greatest story ever told and emulate the greatest life that ever lived.

And now, at the close of this first Little Talk, we say as the old preachers used to say, "Here endeth the first lesson."

Biographical Sketch

ERNEST C. MARRINER

Native of Maine. Born, Bridgeton, 1891.

Graduate of Colby College; Honorary degree of L.H.D. from Colby and from University of Maine.

On faculty of Colby College, 1923–1960, as Professor of English, Dean of Men, Dean of Faculty, and College Historian.

Author of four books on Maine history and biography, and of articles in Down East, Maine Life, and other publications.

For 23 years, 1949–1972, member of the Maine State Board of Education, and twice its chairman.

Chairman of state-wide commission appointed by Governor Reed in 1964, to present to the Legislature a plan for State Archives. Chairman of Archives Advisory Board, when Archives became an agency of state government in 1965.

Present Activities: Historian of Colby College; Member, State Archives Advisory Board; President, Waterville Historical Society; Trustee, Maine League of Historical Societies; Chairman, Board of Trustees of Thomas College; Trustee, Waterville Public Library; and Member, Central Maine Library Council.

"Little Talks on Common Things"—First Broadcast, November 14, 1948; 1000th Broadcast, February 10, 1974; Program now in its 26th consecutive year.

[From the Maine Sunday Telegram,
Feb. 10, 1974]

Dean Marriner Presents 1,000th Broadcast Today

(By Irv Faunce)

Waterville.—Back in 1948, Sunday night radio was definitely "prime time."

At 6 o'clock there were 15 minutes of the fast-paced patter of Walter Winchell and at 6:30 the pointed commentary and journalistic diggings of Drew Pearson.

But for Carleton Brown, owner and station manager at WTVL here, that 15-minute hiatus between the "big-leaguers" presented a problem. He needed a show, a good one. And that show would need a sponsor.

Brown, a 1933 Colby graduate, went to his friend and former teacher Ernest Cummings Marriner who, at that time, was dean of the faculty and professor of English at the college and a veritable "walking archive" of Maine history.

"He had a voice that had the ring of Franklin Roosevelt in those days," Brown is fond of recalling. "It had a timbre of believability."

Dean Marriner, himself a 1913 Colby graduate who in 1963 was to write the definitive history of the college, agreed to do some sort of show in that time period. When pressed by Brown for a catchy title, Marriner waved him away saying off-handedly, "We'll call it 'Little Talks On Common Things.' "

Somewhere in that formula there was a magic ingredient that contemporary packagers of entertainment would no doubt want to lay their finger on because today Dean Marriner will present his 1,000th consecutive broadcast of "Little Talks On Common Things."

What is more, the sponsor for today's presentation will be the Keyes Fibre Company of Waterville, the very same firm which originally agreed to pick up the tab in 1948.

And this has been no hard-sell package. According to Brown "the program has never been used to 'sell soap.' We open and close with an acknowledgement of the sponsor but never once have we interrupted the Dean's program for a commercial message."

Brown, along with his son David who is now station manager, is convinced that all this represents radio history and perhaps a slot in the Guiness Book of World Records—Longest consecutive string of radio broadcasts and the longest running show under one sponsor.

Accordingly, today's show will be heard by a statewide network of raido stations eager to focus attention on the Dean's accomplishments. "Little Talks" will be heard on stations in Rockland, Farmington, Bath, Bangor, Presque Isle, Portland, Lewiston, Biddeford, Augusta, Sanford, Poland Spring and Calais.

State Sen. Paul Huber of Rockland has introduced into the Maine Legislature a resolution honoring the Dean and his contribution to state and national radio history. A text of today's show will be made a part of the Legislature's record and will be read into the Congressional Record by U.S. Sen. Edmund S. Muskie.

As it has for all these years, today's show will focus on a fascinating variety of Maine topics. It will be in its usual time slots of 1 and 6:15 p.m.

Dean Marriner will be talking about ventures of early pilgrims to the coastal settlement at Pemaquid; about the first vessel ever built on the North Atlantic Shore (it was built in 1607 at the mouth of the Kennebec); and of the origin of the term "Down East."

He will describe the first money crop for Maine settlers (it was ashes); will give a quick look at Maine geography and the state's exports (the most notable of which the Dean claims is people); and finally will present this vignette about inventor Martin Keyes.

"Envisioning the possibility of throw-away dishes made from molded wood-pulp, Keyes suffered many disappointments and frustrations before, in the first decade of this century, in a tiny mill in the little hamlet of Shawmut, he turned out the first useable and saleable dishes from wood pulp.

"That was the beginning of the Keyes Fibre Company with plants now in five states and several foreign countries."

Passing milestones has by now become somewhat routine for Dean Marriner who, at the age of 83, continues an active deeply involved pace.

He is Colby's historian and chairman of the board of trustees at Thomas College. Colby named a dormitory for the Dean and the Thomas library carries his name. He served Colby as librarian, bibliographer, professor of English, dean of men and of the faculty.

He was principal of Hebron Academy before that, served as chairman of the State Board of Education for 20 years and as a chairman of the Maine Archives Committee.

[From August 1961, U.S. Radio magazine]

CAN A SPONSOR BE SILENT AND SELL?

Fourteen years ago, on a tiny station in central Maine, an experiment was tried that went one step beyond the soft sell. It was the silent sell.

The Keyes Fibre Co. of Waterville, Maine, a manufacturer of paper products, was in the market for a vehicle that would boost its status with the local community. The company turned to radio, but added an unusual twist: it decided to sponsor a program without commercials.

The program turned out to be a gold mine in the heart of the Maine lumber country. It is now New England's longest running show with the same sponsor.

For more than 500 broadcasts, the program, Little Talks on Common Things, has yet to broadcast its first commercial. The man who delivers the "little talks" is Ernest C. Marriner, a former college professor who speaks like Franklin D. Roosevelt. For 15 minutes every Sunday, Marriner chats about the folk and folklore of the state of Maine.

The program was an early success. Sen. Margaret Chase Smith in a tribute to Marriner printed in the Congressional Record this year said the show is "undoubtably the most popular local radio program in the state of Maine."

Sponsoring a program without commercials is not a foolproof method of improving local public relations, but Keyes found the key by identifying itself with a respected member of the community. This was the strategy from the beginning.

Recalling the early attempts to garner a sponsor for the program, Carleton D. Brown, president of WTVL Waterville, said, "We were convinced that in Ernest Marriner we had found a colorful local personality who could build stature for both a good sponsor and for our station, so we selected Keyes as our best potential. They had the money, and we felt the company management had a good record of community responsibility.

"We proposed that the concern undertake a public relations program sponsorship. We knew that Marriner had the capacity of achieving an unusually high degree of believability with any audience, particularly a radio audience. We pointed out to Keyes that they could get a franchise on what could be an extremely valuable insurance policy."

Marriner was not a professional performer when he began his broadcasts in the fall of 1948. In fact, he originally appeared on the program in response to a plea from Brown, his close friend and neighbor. Brown needed a temporary replacement for a 15-minute spot on Sunday evening. "It will only be a few weeks," Brown told Marriner, who was hesitant about going before the microphone. "I didn't care what he talked about as long as he would talk," Brown recalls.

Marriner did talk—and hasn't stopped since. He has talked about everything from Waterville's first murder to the history of Maine's narrow gauge railroads.

Soon after Marriner took to the air, happy listeners swamped the station with letters. The volume of mail has been so huge that since the third broadcast, the grey-haired former Colby College dean has found it unnecessary to do his own digging for material.

Listeners send him old letters, newspapers, dairies, account books and maps, keeping him submerged in a pool of Maine folklore.

In one broadcast, Marriner told about a letter sent to him that was written by a soldier in the Civil War. Marriner explained that "the greater part of the letter is confined to ordinary details of life in the Civil War camps, but what distinguishes this letter is the writer's sudden injection of astounding news." He then quoted from the letter:

"I will tell you (the writer's cousin) of a strange circumstance that happened here a few days ago. Perhaps you will think it a rather indelicate subject, but I must tell you about it and ask you to excuse me. A corporal in a New York regiment near us, while on picket a few days since, was delivered of a child. Perhaps you will think that incredible, but such is a fact. He, or I should say she, came with the regiment as a soldier and has been with it since its organization. Her sex has remained undiscovered until now, but most likely she will now get her discharge."

Throughout the 14 years, Keyes has remained quietly in the back ground as a silent partner. In his 500th broadcast in May, Marriner paid tribute to his sponsor. "An important aspect of this program," he said, "is that it is one of the very few radio programs in the whole nation that has continued for 39 weeks each year—and under the same sponsor.

"Putting and keeping *Little Talks* on the air would have been quite impossible without the sponsorship of the the Keyes Fibre company. I am sure listeners appreciate that, from the day these broadcasts started, they have never been interrupted by advertising. Never once has the company sought to control the contents of the program. I am completely free to say anything I please."

Keyes believes this policy of nonintervention has paid off in better community relations. This was the company's original goal in sponsoring the program and Keyes intends to maintain its policy of no commercials.

The company's view is explained by John S. Parsons, the advertising manager. "The program developed from quite a different point of view than the sale of products. In fact, we have never commercialized this program in any way but have considered it as a community relations vehicle throughout. It has unquestionably built many friends for Keyes," he said.

Most of Marriner's programs usually begin and end with the short announcement that "This program is brought to you by your good friends, Keyes Fibre Company of Waterville and Shawmut." From time to time, Keyes will use the show to encourage support of various community fund-raising drives.

Besides supporting the Marriner program, Keyes relies heavily on radio to push its consumer line of molded paper plates. Last year, the company ran a spot campaign during the summer in nine major cities throughout the country.

Parsons explained that they have found "local radio particularly effective for warm weather promotions, when we want to push our molded paper plate and dish line for picnic and other outdoor uses."

Most of the advertising budget is allocated to trade magazines because the bulk of Keyes' product sales are made to institutions, supermarkets and shippers.

The company produces more than 300 different varieties of paper products, including fruit packing materials, egg flats and egg cartons. The company's domestic sales last year totalled more than $19.5 million.

Regional sales offices are scattered over the United States from Boston to San Francisco and as far south as Jacksonville. Keyes also has licensed operations in Canada, England, Ireland, Denmark, Norway and Australia.

The company was founded in 1903 in Shawmut, Maine, where it still maintains its ground wood pulp mill. The principal manufacturing plant is located in nearby Waterville.

Since the late forties the company has been literally bursting at the seams. Increased sales prompted the company to build a plant at Hammond, Ind., to serve the middle west. In 1957, Keyes doubled the capacity of the Hammond plant. Meanwhile, the company modernized its Waterville plant to speed up production.

Keyes is far from finished. Last month, the management announced that ground had been broken in Sacramento, Calif., for a multi-million dollar pulp molding plant. The new plant will be the largest industrial addition to Sacramento in the last nine years.

Keyes expects to open the plant in the middle of 1962. The factory will manufacture molded paper products for the food industry, including plates, pre-packaging meat and produce trays, food service trays, cake circles, apple packs and egg trays. It will serve 11 western states as well as Hawaii and Alaska.

The company estimates that about $5

million worth of products will be produced annually for the first few years.

More than five years of planning and research backed up the company's decision to launch its latest venture in Sacramento. The management made the choice after an extensive study of several possible west coast locations.

Keyes is a company on the move. And one reason for its success is its desire to maintain friendly relations with its local community, particularly with the local labor force. This spurs its continuance of a radio program without commercials.

WHY KEYES FIBRE SPONSORS A PROGRAM WITHOUT COMMERCIALS

Keyes fibre 14 years ago decided to embark on a radio program that was designed to foster community respect for the company. For more than 500 broadcasts it has maintained this policy of attracting community interest and developing good will. This is the Keyes Fibre philosophy as explained by John S. Parsons, the company's advertising manager:

He says: "The program on WTVL developed from quite a different point of view than the sale of products. We have never commercialized this program, but have considered it as a community relations vehicle . . . We have never attempted to promote the company's line of products via the program, although we have used the program to encourage support of various community fund-raising drives . . . It has unquestionably helped build many friends for Keyes . . ."

NATIONAL STRATEGIC POLICY

Mr. THURMOND. Mr. President, there appeared in the March 1974 issue of Air Force magazine a statement adopted unanimously by the Board of Directors of the Air Force Association in Washington, D.C., on February 9, 1974.

This statement is one of the finest presentments on strategic policy it has been my pleasure to read. It endorses the shift in national strategy as enunciated by Secretary of Defense Schlesinger.

Mr. President, it is my hope that every Member of Congress and as many citizens of our Nation as possible will read this strong and concise declaration of a national strategic policy. It recognizes the realities faced by the President and endorses a defense situation which will assure the survival of our Nation.

Mr. President, I ask unanimous consent that this statement be printed in the Record at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement

The need for rethinking US strategic concepts, stemming from radical changes in world power equations that have taken place in the past year, is now recognized. As a result, a basic and welcome change in the strategic plans and policies of the United States is beginning to take shape.

The risky and rigid strategic concept of assured destruction is giving way to a more flexible, more realistic deterrent doctrine incorporating counterforce—the ability to destroy an attacker's essential military targets, both soft and hard—making it possible to respond in kind to less than all-out nuclear aggression.

The Air Force Association endorses this shift in national strategy, with its greatly expanded emphasis on purely military targets rather than on military-related industrial and transportation targets and population centers. We commend Secretary of Defense Schlesinger for his sure grasp of the advantages of a strategy incorporating counterforce capabilities and for articulating these advantages so convincingly. We welcome the initiatives taken in the Administration's FY '75 budget that support such a strategy.

It remains now for the Administration, the Congress, and the American people to bring into being, and to maintain, the military and political apparatus required to make a counterforce-oriented strategy possible, workable, and believable.

Recent advances in Soviet military technology, together with the disarray among US allies arising from the Middle East confrontation, permit no other reasonable choice to the United States.

Counterforce too often is wrongly equated with a destabilizing first-strike posture. Counterforce likewise is seen by critics as ensuring continuance of an arms race. The first of these claims is not true. The second ignores even worse alternatives.

What is true is that counterforce weapons in the hands of the Soviet Union, without tangible evidence of an off-setting US capability, would create intolerable pressures on our national leadership. The US eventually would be reduced to a high-risk dependence on bluffing, and the nation's ability to maneuver diplomatically would be paralyzed. Doubts concerning US capabilities and intentions would proliferate, not only in the Kremlin but among our allies.

The world balance of power would shift, first into a period of precarious stability, and ultimately into a situation of one-way deterrence, with the Soviet Union in the driver's seat.

Whatever risks may be associated with an arms race, the greatest risk of all would be for the United States to finish second best.

A credible counterforce capability thus becomes essential to a credible US deterrent posture. In a counterforce strategy, the segments of the US Triad become even more interdependent one upon the other, with land-based ICBMs remaining the principal counterforce weapon. Therefore, it becomes a matter of urgent priority to exploit more fully the inherent counterforce capabilities of our ICBMs. These are limited in number by the SALT I agreements, and hence can only be upgraded qualitatively—in accuracy, yield, and numbers of warheads, plus hardening of launch sites.

Failure to maintain at least essential equivalence, overall as well as key counterforce capabilities, would be dangerous, provocative, and irresponsible.

Compounding these factors is the declining US investment in military-oriented scientific research over the last decade, especially when set against a steadily increasing Soviet level of effort. There is real danger of major technological surprise in the years ahead. US defense research is down some twenty-five percent since 1964, while the Soviet effort has increased manyfold over the same period.

The signs are ominous. US scientists and associated experts know of the existence of dozens of advanced Soviet research projects whose nature and purpose defy assessment. Among these projects may well be the seeds of a technological breakthrough to rival or exceed the combination of the nuclear warhead and the ICBM.

The Air Force Association, therefore, urges the Administration and the Congress to take the following essential actions and to assure their continuance in the interest of stability in the world:

An increase in basic military R&D sufficient to make up for lost ground in order to maintain a position of technological superiority;

Development of technological options, beyond the present family of strategic weapons, so that Soviet numerical superiority of strategic weapon systems accorded by SALT I is not reinforced by qualitative superiority as well;

Upgrading of our ICBM force to achieve full counterforce capabilities;

Expeditious development and deployment of the B–1 strategic bomber as essential insurance against potentially decisive technological surprise;

Full funding of current force modernization programs to maintain the US ability to credibly deter conventional war;

Expansion of the US strategic airlift capability; and

Maintaining the manpower of the armed forces, both the Reserve components and the active-duty forces under the total-force policy, at levels in consonance with their mission of deterring nuclear as well as conventional war.

WASHINGTON POST AND OTHER MEDIA CONTRIBUTE TO UNDERSTANDING OF HANDICAPPED

Mr. RANDOLPH. Mr. President, as chairman of the Subcommittee on the Handicapped, I am gratified that recently increased attention has been given in the press and on television to the problems of handicapped individuals. I am even more reassured that the content of these articles and programs has been very enlightened—the problems have been clearly defined and the possible solutions have been explored.

Above all, the attitude of the writers and interviewers has been one of total respect for the individual's dignity with positive emphasis on accomplishments and potential. It is precisely this attitude which will inform the American public about handicapped persons and bring about the public awareness necessary to secure increased opportunities to which they are entitled.

On February 28, the Washington Post published an article "Pediatrics: Treating the Whole Child" by Thomas Brubisch. This material concerns the work being done by Dr. Mark Ozer, director of the program for learning studies at Children's Hospital, and his staff, on learning and behavioral problems. I urge all who are interested in this field to read this stimulating article on the relationship between the child and his or her environment.

Mr. President, I request unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Pediatrics: Treating the Whole Child

(By Thomas Grubisich)

It doesn't take a diagnostic genius to figure out what is ailing most children in a pediatrician's waiting room. Amid the Jack & Jill magazines, Dr. Seuss books and clattering, clunking toys are youngsters who are showing or saying exactly what is wrong with them; their noses are running, they are coughing, they are holding a supporting hand to their stomach or ear.

But what does the pediatrician do when a child has problems that may not show up in the examining room, that won't be revealed in laboratory tests, that the parents may even be reluctant to talk about—problems of learning or behavior?

Dr. Mark N. Ozer, director of the Program for Learning Studies at Children's Hospital, thinks that pediatricians should get involved in these problems, even though they usually don't have anything to do with the diseases student doctors learn about at their medical schools and in their hospital residencies. Doctors should get involved, Ozer says, because learning and behavior are part of a child's development—and development, as much as disease, is a pediatrician's concern.

Yet, says Ozer, many doctors, haven't been trained to deal with these sometimes elusive problems.

In the medical schools and hospital residencies, the emphasis has been on identifying diseases and on immunology. That emphasis, though, is being challenged. Speaking of pediatric education, Dr. Robert G. Frazier, executive director of the American Academy of Pediatrics, said in an interview, "The academy has felt there is an imbalance and inappropriate training. There's been a question whether the technology of health learned in medical school is appropriate to the problems of practice."

Frazier said there is a need for "more general pediatricians to provide the general care children need. Such care, he said, would include dealing with learning and behavior disabilities, which he defined as a "major health problem."

Some changes are occurring. George Washington University Medical School changed the name of its pediatric department (which is Children's Hospital) to the Department of Child Health anrd Development, and has instituted (and charted on paper) programs it hopes will reflect the new emphasis on development.

According to various estimates, 10 to 15 per cent of all school children have learning or behavioral problems that require special attention. The children can't concentrate or read, they are disruptive or withdrawn, they don't seem to listen. Often the problems are scattered: A child may have a good verbal ability, but be a poor reader.

In the past 15 years or so, medicine and other professions and disciplines, ranging from optometry to psychology, have developed a variety of labels for learning and behavioral problems: minimal brain dysfunction (to cover a whole constellation of them), dysgraphia (impairment in writing skills), dyslexia (inability to read words), auditory sequential memory handicap (inability to recall a series of instructions).

Ozer thinks many of these problems do require the help of specialists like therapists, but still training, he emphasizes doesn't deal with the whole child—his relationship with his parents, teachers, peers, every part of society he encounters.

Ozer said pediatricians should be concerned with the whole child, how he develops not only as a body but as a person.

To do this, Ozer said, pediatricians have to be knowledgeable about problems of behavior and learning. Being knowledgeable, he said, doesn't simply mean applying technical labels ("They don't tell you what to do"), Ozer said, it means working closely with the parents, and even the school.

"What we're trying to say here at the center is not that something is wrong with a child or parent," he said, "but what can we do about the relationship in which they both participate?"

Parents of children with developmental problems often have a negative image of themselves. So when Ozer asks them questions, he "turns the whole thing upside down. You ask what things worked with the child, not just what went wrong. We ask for information to show how the parents have coped. The glass is half full as well as half empty."

This approach, Ozer said, builds up the parents' confidence, and it also shows them that their child does do things successfully, that his problems may involve only a small part of his total behavior.

To detect and deal with developmental problems in a child takes not only skill but time. Ozer said pediatricians ought to be abe to space their office hours and adjust their fees to permit conferences with parents of children who may have such problems. A few skillfully put questions about behavior at home and school, consuming no more than five minutes, can usually determine if a longer conference—15 to 45 minutes—is necessary. One productive extended conference may not require any future ones, Ozer said, only periodic calls into the office by the parents.

In a 45-minute videotape, he made of an actual meeting he had with the parents of a 7-year-old boy, Ozer tried to show what rule a pedatrician could assume.

The child's delivery had been difficult, and shortly after birth he had several seizures, though none thereafter. The boy had problems working with his hands, following instructions and pronouncing certain sounds. His condition had been diagnosed as cerebral palsy and he had been given speech therapy, but his parents still felt a sense of helplessness and frustration in dealing with him. Besides there were unresolved problems at school.

During the meeting, Ozer continually tried to find out "what worked" with the boy, what did he do that was right.

With the boy, Ozer went through what he calls a neuro-development observation keyed to his main problem at school—following instructions. Ozer asked him to perform a series of tasks—raising and lowering certain fingers, connecting a series of dots on a sheet of paper. Each exercise was a little more complicated than the previous one.

The boy had some trouble during the more complicated exercises, but when Ozer repeated the instructions more slowly, eliminated deliberate distraction or demonstrated the tasks himself, he completed them all successfully.

The big smile on the boy's face seemed to be a clear indication that he was enjoying discovering that he could do things he had thought he couldn't.

"Why did it work?" Ozer asked him after one successfully completed exercise.

"It went slower," the boy said.

"So when somebody asks you to do something, you can ask them to repeat what they said slower, can't you?"

"Yeah."

Questioning the parents, Ozer was told the boy sometimes had difficulty getting ready for bed. Actually, though, what the boy had difficulty doing was several things in smooth sequence: Going upstairs, taking his clothes off, taking a bath, and then putting his pajamas on.

Lately the boy was putting his pajamas on by himself—it was the steps leading up to that over which he stumbled.

Ozer asked the parents if they couldn't work on one step at a time, until the boy could perform the entire sequence smoothly

He also reminded them of something he had learned from the boy: "Do you think it would help Billy (a pseudonym) if he could tell you when he wants you to tell him things more slowly?"

"Yes," they both said.

"Then it's a deal," Ozer said.

Ozer also asked the boy what he thought the teacher should be asked to do to help him in school. The boy replied, "Say things more slowly."

After learning that the school graded students downward from a possible perfect score, Ozer asked the parents: "Could we set some kind of goals together and talk this over with the school and ask for a more positive communication?"

Ozer thinks the meeting accomplished several things. The boy was given a chance to make some decisions and thus enhance a self-image that had been battered at home and in school. The parents saw that by dividing tasks into smaller components, their boy could complete them. The school was being brought into the co-ordinating process to help the boy cope better.

At the Program for Learning Studies, Ozer gives crash training programs for pediatricians, from the Washington area and beyond, who want to know more about learning and behavioral problems. He develops models of neuro-developmental observations that can be used by physicians and paraprofessionals in school systems. He also speaks before groups of pediatricians and shows the videotape of his conference with Billy and his parents.

"The child is your client if you're his pediatrician," Ozer said. "You're interested in both his physical and mental growth. Obviously this is not the way it's done now, but this is definitely the policy of the Academy of Pediatrics, and of (Children's) hospital."

HOUSING FOR LOW-INCOME RURAL FAMILIES

Mr. HATHAWAY. Mr. President, yesterday I introduced amendment No. 1002 to S. 3066, the Housing and Community Development Act of 1974, an amendment to set up a demonstration program under the Farmers Home Administration to provide housing for low-income rural families not served by existing housing programs. I stated at that time that the additional cost of this program, over and above that of existing subsidy programs, would be minimal, while the benefits to low-income rural people would be substantial.

A cost analysis done on the impact of this proposed program indicates that the additional cost to the Federal Government would indeed be minimal—an estimated $1.5 million a year, based on a projected maximum for the year of 10,500 deferred principal mortgage loans. This is a small price to pay to provide decent housing for poor families in rural areas.

Mr. President, I ask that the full text of the explanation of costs for this amendment be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Explanation of Costs

Sec. 513a(3)—Extending subsidy for ownership under Sec. 502 Loans

The proposed amendment would extend home ownership subsidies under Farmers Home's Section 502 loan program by permitting deferral of repayment on up to 50 percent of loan for varying periods of years.

The existing interest subsidy program of Farmers Home has not been effective in meeting the needs of families with incomes below $4,000. The median family income for Farmers Home Administration borrowers receiving interest subsidies was $6,400 in fiscal year 1972. However, two-thirds of the families living in substandard housing in rural areas have annual incomes of less than $4,000. The purpose of this amendment is to extend the available home ownership subsidy in order to meet the needs of lower income families.

It must be recognized that the cost of providing decent housing to lower income families will be substantial. There is no costless or inexpensive way of providing housing assistance to the poor. However, the anticipated impact of the expanded home ownership assistance program proposed in this section would not be excessive.

The attached table presents the costs of a typical Farmers Home loan financed under three alternative loan programs, i.e. and unsubsidized loan at 8.5 percent interest, an interest credit loan at one percent interest, and a deferred interest and principal loan carrying a 50 percent capital subsidy. The table also outlines the different income levels which can be served by the alternative subsidy programs.

As reflected in the table, the public subsidy involved in reducing the interest rate from 8.5 percent to one percent as under the current interest credit program is $880 per loan per year. ($1,450 less $570=$880) Under the proposed extended subsidy program, the total additional annual public subsidy involved is $280 per loan per year. ($570 less $290=$280)

The overall additional cost to the government of this extended subsidy will obviously be dependent upon the approved program level. For fiscal 1974, the Congress has earmarked $1.1 billion for interest subsidy loans under Farmers Home's Sec. 502 loan program. This would finance approximately 70,000 homes at an average cost of $16,000.

As proposed in the amendment, the provision of extended subsidies would be limited to 15 percent of the total subsidized Sec. 502 loans. As a result, the maximum number of deferred principal loans would be approximately 10,500. (70,000 loans × 15%=10,500.) For the purposes of estimating probable costs, it is anticipated that on the average, 25% of the principal (rather than the maximum of 50%) will be deferred, which would result in an average additional annual subsidy of $140. It is therefore estimated that the total additional cost to the government resulting from this amendment would be $1.5 million per year. (10,500 loans × $140 subsidy=$1.5 million.)

TABLE A.—COMPARISON OF FAMILY COSTS ON FMHA REGULAR INTEREST LOANS, INTEREST CREDIT LOANS AT MAXIMUM 1 PERCENT LEVEL, AND DEFERRED PAYMENT LOAN AT MAXIMUM LEVEL AND THE EFFECTS ON MAXIMUM FAMILY INCOME REQUIRED TO BE ELIGIBLE

$16,000 loan (33 yr)	No subsidy 8.5 percent interest	Interest credit, 1 percent	50 percent deferred
Loan amortization (annual)	$1, 450	$570	$290
Taxes/insurance	350	350	350
Total annual cost to borrowers	1, 800	920	640
Gross family income required:[1]			
For 6 member family	10, 737	6, 105	4, 632
For 4 member family	10, 105	5, 474	4, 000
For 2 member family	9, 474	4, 842	3, 368

[1] Based on FmHA formula.

TREATMENT OF U.S. PRISONERS BY NORTH VIETNAM

Mr. THURMOND. Mr. President, there appeared in the March 1974 issue of Air Force magazine an article entitled "MIA/POW Action Report."

Authored by Mr. William P. Schlitz, assistant managing editor of Air Force magazine, this article takes note of statements made by American POW's of the Southeast Asian war.

This report and others which have appeared in national media clearly document the inhuman treatment afforded our POW's by North Vietnam. The torture they were subjected to should be recorded and it is pleasing that many of them are writing articles or books toward this end.

Some time ago I recommended that the Senate undertake an investigation into this subject, because it is my judgment that the terrible treatment accorded to our POW's should be a matter of public record for the world to examine.

The citizens of our Nation and of the world need to be reminded that Communist governments are totalitarian in every sense of the word. Human life to them is not sacred and the state is all powerful. This viewpoint should be kept in mind as we try to exist or deal with nations with Communist governments. These governments break agreements whenever it is to their purpose to do so. Any concessions they might make are merely preparatory to further steps looking toward extending their system of government throughout the world. The leaders of these governments have never disavowed their goal to communize the world. Indeed, their basic philosophy requires such a policy.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MIA/POW ACTION REPORT

(By William P. Schlitz)

"THEY WOULDN'T LET US DIE"

It was the keys. You'd hear them jingling. They always like to jingle things. They're like kids in many ways. Then, the next thing you'd hear is that the jingling would stop in front of your door. . . .)

In this chilling fashion, Dick Stratton, a Navy pilot shot down in January 1969, describes how it was to be a prisoner in North Vietnam, waiting to be taken from your cell for another beating.

The American POWs of the Southeast Asia war are home now, and the books by and about them are beginning to flow (see p. 72 of the February '74 issue for a review of the Col. [Brig. Gen. selectee] Robinson Risner's account of his captivity). But these books, more than newspaper and magazine articles, television interviews, and public appearances, will serve as a permanent record and constant reminder to all Americans of what the POWs endured.

As for Dick Stratton and others like him, no need for reminders:

We pulled an experiment recently, I maintained that I would wake up and bolt upright in my bed if someone rattled some keys. So we closed the doors in the hospital ward in Oakland and a guy came by after I was asleep and rattled some keys and I bolted upright.

The quotes are from They Wouldn't Let Us Die, a book by Stephen A. Rowen (Jonathan David, Middle Village, N.Y.) about the POW experiences. The title alludes to prisoners in such wretched agony because of torture that they would have welcomed death.

Based for the most part on informal interviews with small groups of former POWs, the book chronicles in detail how the men dealt with the trials of their captivity.

For Maj. Konrad Trautman, an Air Force pilot shot down in 1967, the initial shock of bailout was quickly superseded by the more intense anxiety of capture:

I felt I had been through a time machine, from the year 2000 back to the year maybe 1000, perhaps 1000 B.C. The people were that primitive and crude, both in appearance and their dress, their conduct especially, and the tools they used to beat us with.

(A recurring sentiment expressed by most POWs was the feeling of helpless horror at being at the mercy of a primitive and brutal foe whose motives were incomprehensible).

What followed for many, at least in the earlier years of the war, were prolonged periods of isolation in solitary confinement. More than one POW maintained his sanity by utilizing such mental devices as building an imaginary dream house brick by brick.

Then there was the matter of the torture. A number of POWs expressed the belief that the purpose of the physical abuse was simply to break the men's will rather than the usefulness of any military or other information that might be obtained.

One Air Force pilot, Tom Kirk, shot down in October 1967, remembers his ordeal:

The toughest thing was the battle within myself as to how long I could hold out. Because I already knew that they were going to get it sooner or later. Physical torture will achieve the desired effect in a short period of time. I don't care who you are. If I strap you up or rope you up, short of killing you, I can subject you to such pain that in a relatively short period of time your mind is going to overcome what you call your will, and you are going to give something to get out of this pain, short of dying. . . .

In such distorted circumstances, a sense of value became very personal and individualized. According to Robert Craner, a forward air controller shot down in December 1967:

The one thing that gave me strength up there was not what I've heard other people expressing so often since we got back: faith in God or a sense of duty to country. The thing that kept my endurance up, that kept me conscientious, was my obligation to the other guys. . . .

The inhuman treatment of the POWs was also self-defeating in that it only served to bring the men closer together. Allen Brady, a Navy pilot shot down in mid-1966, derived considerable comfort in his guilt for succumbing to torture when he was told:

Don't worry. We don't know anyone yet who has not broken. They have broken everyone. Just try to hang in as tough as you can and tell them as little as possible. Don't feel bad about it. Just hang in there.

With adversity uniting them, the POWs gathered much strength from the communications net and military organizations they created within the prisons. Render Crayton, a Navy pilot shot down in 1966, commented on the effectiveness of this discipline in his camp:

The Vietnamese in a lot of cases thought if they took the senior men and put them in isolation, the organizational structure would fall apart. They couldn't have been more wrong because they would take the top man out, and the next man would take command. We were determined to do this down to the last man. . . .

Navy pilot Eugene "Red" McDaniel, downed in May 1967, put it more succinctly in describing how the military discipline bolstered the POWs' spirit and morale:

If you're in a room with forty people, you're gonna do with the wave. You're gonna think alike. That's the way we were. We didn't have any weak ones. If they were weak ones, they became strong ones.

There is something in the saga of the American prisoners of the Southeast Asian war that is considerably more than the sum of its parts. That this remarkable group of men behaved as they did under such trying conditions is an addition to the national heritage.

In the end, they not only endured—they prevailed.

PRESIDENT NIXON COMMENDED BY SENATOR RANDOLPH FOR SIGNING WATER RESOURCES LEGISLATION

Mr. RANDOLPH. Mr. President, I am gratified to report to the Senate that President Nixon today signed the Water Resources Development Act of 1974. This important legislation is now law, and its provisions will benefit many millions of our fellow citizens.

The act represents 2 years of work by the Congress. The conference report on the legislation was given final approval on February 21. On the following day I sent a telegram to the President urging him to sign the bill. That message was printed in the RECORD. I made a similar request in another telegram yesterday.

The response of the President, as reflected in his approval of the measure, was very reassuring to me. Therefore, I sent a telegram to the President today expressing genuine thanks for his action.

I ask unanimous consent that this telegram be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

MARCH 7, 1974.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Millions of Americans will benefit from the provisions of the Water Resources Development Act which you signed today. This positive action, in my judgment, was in the best interest of our country by continuing and strengthening one of the oldest proven Federal programs. Our water resources are great, but they must be properly harnessed and managed if we are to reap the maximum return from this national asset. Your approval of the act was a further commitment to a better future for our country and our people.

JENNINGS RANDOLPH,
Chairman,
Senate Committee on Public Works.

ACTION FOR PRIVACY, SENATOR HART'S RESPONSE TO THE PRESIDENT

Mr. MUSKIE. Mr. President, last Saturday, our colleague and good friend, the senior Senator from Michigan (Mr. HART) made a national radio broadcast giving the response of the congressional majority to the President's message on privacy legislation. Senator HART not only exposed the inadequacy of the administration's proposals; he also set out a detailed program of effective action to end government spying on citizens and to control access to criminal records in government files. As he pointed out, the President can prove the sincerity of his concern for privacy by taking five different but related executive actions, without waiting for legislative definition. Speaking for the Congress, he promised to work with the President to turn administration rhetoric into reality and said:

> We look forward to a time when the tragedy of Watergate, and all it has come to represent, will also mark a decisive turning point in the preservation of our civil liberties.

Mr. President, Senator HART's speech forthrightly defines our concerns over official invasions of privacy. I ask unanimous consent that it be printed in full in the RECORD for the benefit of all who seek to understand the realities of this vital issue.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESPONSE TO PRESIDENT NIXON'S MESSAGE ON PRIVACY

In his State of the Union Address, President Nixon promised to "make an historic beginning on the task of defending and protecting the right of personal privacy for every American."

That promise, subsequently outlined in the President's February 23rd radio address, turned out to be principally the naming of a new committee rather than a broad program of action.

The President's only specific proposal dealt with one small part of the problem—the serious threat to personal privacy created by widespread use of data banks or computers. And even that was a halfway measure.

Despite all the disturbing revelations of Watergate, the President made no promise to instruct his administration to live up to the guarantees of personal privacy contained in the Constitution, nor did he give his support to several bills dealing with this which are already before Congress.

The fact is that Mr. Nixon is almost 200 years late in proclaiming a historic beginning in protecting personal privacy for every American. That foundation was laid in the Bill of Rights of the Constitution. The Founding Fathers, having led a revolution against the dictates of a king, knew that the cornerstone of liberty was strict prohibitions against government intrusion in the personal lives of its citizens.

The First Amendment to the Constitution guarantees citizens the right to speak or remain silent about their political beliefs, whether or not those beliefs agree or disagree with the government.

That means the federal government has no right to spy on political opponents, but the Nixon administration did just that.

The Fourth Amendment guarantees the right of people to be secure from unauthorized searches of their person, their house and their papers, but some either involved with President Nixon's election campaign or associated with his White House staff broke into at least two buildings seeking information.

When government officials use Army personnel to spy on peaceful political meetings, as the present Administration did, your privacy is threatened. When government officials send burglars to break into the offices of doctors for confidential files as this administration did with its Plumbers squad, your privacy is threatened.

When government officials use the confidential files of the Internal Revenue Service to harass persons on a White House enemies list, as this administration did, your privacy is threatened.

When government officials eavesdrop on private conversations of political opponents, as this administration did, your privacy is threatened.

Many of these actions by our government have been defended on grounds of "national security," but we have come to understand that there is a wide range of constitutional abuses a determined political operative can seek to have excused under that mantle. And, indeed, the American people realize that.

A recent poll, for example, showed that 75 percent of those interviewed considered "wiretapping and spying under the excuse of 'national security' as a serious threat to people's privacy."

As the public learned about government spying and wiretapping, it became fearful. Many have come to believe that their phones are tapped, their homes or offices bugged, their mail opened, and their tax returns made available to officials who seek to punish them for political dissent.

This concern was underscored for me by a constituent who wrote not long ago. He (or possibly she) said he could not sign his name in a letter to his Senator anymore. He feared his letter might be intercepted and his name might go on a White House "enemies list".

While these fears may be exaggerated, they no longer can be dismissed as groundless paranoia. And they demonstrate the very real chilling affect on the exercise of First Amendment rights which the actions of the Administration have had.

No one denies that modern government needs certain kinds of information about its citizens to administer programs fairly and effectively. We must balance the right to be left alone against the needs of society. But we must always be guided by the need to keep government's ability to use information about private lives to the absolute minimum.

In his discussion of data banks, President Nixon did point to some very real threats to personal privacy. Federal agencies alone have files on every aspect of many of our lives—medical records, army records, school records, business records, to name a few. Consolidation of data could provide a tremendous amount of information for an unscrupulous official to use against us because of our views, our friends, or the way we live.

The pace of modern technology and data collection is a stiff challenge to maintaining privacy. However, and perhaps understandably in light of Watergate, the President chose to paint the primary threat as one of technology.

We have learned to our regret that, with or without sophisticated technology, unprincipled men can find ways to invade our privacy. A crow bar, after all, is a rather simple machine used to jimmy a door.

So if the President is serious about joining Congress in efforts to control government invasion of privacy, let me suggest a program of action he can take now.

Perhaps the most pressing need is to put an end to domestic political surveillance and intelligence gathering by government agencies. The President could begin that effort by supporting a Senate bill to prohibit military personnel from spying on American citizens.

The President should order everyone in his Administration to refrain from political spying of any kind. There is absolutely no justification, legal or otherwise, for government to collect intelligence on its political opponents for the purpose of or with the effect of stifling their opposition.

The President should immediately order that no wiretapping, bugging or breaking and entering, be carried out without authority of an independent court order.

He should state without equivocation that the label of "national security" will not be used again to hide or excuse illegal acts. And then he should join Congress in preparing legislation to make those executive orders into law.

The President should respond to continuing reports that telephone records, bank records and other private business records are being obtained by the government secretely with no legal safeguards—without the protection of a court warrant, or the opportunity for the person involved to raise legal objections to protect his rights. The President, by executive order, could and should end that practice and require any federal agency to obtain a subpoena for such information.

For several years, the Administration has opposed a Senate-passed bill to prohibit government employees from being asked about their religious beliefs, their politics and their social lives. The President should support this measure. Such a law would set an example for employers in the private sector to follow and free our civil servants from implied threats when that kind of information is sought.

And finally, the Administration should support stiffer controls on dissemination and use of criminal justice records than those contained in its current proposal.

These records include arrests as well as convictions. They are sold or given to credit bureaus, banks, insurance companies, employers, and schools. Too many people have been denied advanced schooling, a loan or a job because of inaccurate records or because an arrest record fails to include the fact that charges were later dropped or the person was acquitted.

And too many people never find out that such records exist and cause their difficulties.

The answer is a law to prevent private access to all arrest records and require officials to open these records to inspection and correction by those involved. And any criminal justice agency participating in the nationwide criminal information network should be required to update their records.

I have outlined a program of action I would hope the President would adopt. In doing so, he would turn his back on what I believe to be unprecedented efforts in this Administration to undermine the right to privacy and he would live up to the rhetoric of his message on that right.

We in Congress are fully prepared to work with him toward that end. We look forward to a time when the tragedy of Watergate, and all it has come to represent, will also mark a decisive turning point in the preservation of our civil liberties.

As it is with many rights necessary to keep a country free, we do not always understand the importance of the guarantee to privacy until it has been threatened.

But defend it we must or else cease to be a land which would be free.

Justice Louis Brandeis once wrote that our Founding Fathers:

"Sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the government, the right to be left alone—the most comprehensive right and the right most valued by civilized man."

We must not surrender that most valued right.

Thank you.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, as I understand it, the distinguished majority leader secured an order earlier today requiring the resumption of the consideration of Calendar No. 669, S. 3066, upon the conclusion of routine morning business; am I correct?

The PRESIDING OFFICER. The Senator from West Virginia is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, tomorrow, the Senate will convene at the hour of 10:30 a.m.

After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes.

At the conclusion of routine morning business, the Senate will resume consideration of Calendar No. 669, S. 3066, a bill to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance in support of community development activities, and for other purposes.

There is a time agreement on the bill. While it is not anticipated today that action will be completed on tomorrow, yea-and-nay votes are expected to occur on amendments thereto tomorrow.

If the bill is not completed tomorrow, the Senate will resume its consideration on Monday next.

ADJOURNMENT TO 10:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator from Texas (Mr. TOWER) has no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10:30 a.m. tomorrow.

The motion was agreed to; and at 6:02 p.m., the Senate adjourned until tomorrow, Friday, March 8, 1974, at 10:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 7, 1974:

DEPARTMENT OF JUSTICE

Carla Anderson Hills, of California, to be an assistant attorney general.

Hosea M. Ray, of Mississippi, to be U.S. attorney for the northern district of Mississippi for the term of 4 years.

NATIONAL LIBRARY OF MEDICINE

The following-named persons to be members of the Board of Regents, National Library of Medicine, Public Health Service, for the terms indicated:

Term expiring August 3, 1976:

Ethel Weinberg, of Pennsylvania.

Term expiring August 3, 1977:

Joseph Francis Volker, of Alabama.

(The above nominations were approved subject to the nominees's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

THE JUDICIARY

Thomas E. Stagg, Jr., of Louisiana, to be U.S. district judge for the western district of Louisiana.

NOMINATIONS

Executive nominations received by the Senate March 7, 1974:

DEPARTMENT OF STATE

Hermann F. Eilts, of Pennsylvania, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Arab Republic of Egypt.

FEDERAL HOME LOAN BANK BOARD

Garth Marston, of Washington, to be a member of the Federal Home Loan Bank Board for the remainder of the term expiring June 30, 1975, vice Carl O. Kamp, Jr., resigned.

IN THE ARMY

The Army National Guard of the United States officers named herein for promotion as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, section 593(a) and 3392:

To be major general

Brig. Gen. Alfred Fredrick Ahner, SSN [redacted].

Brig. Gen. Joseph Roland Chappell, Jr., [redacted].

To be brigadier general

Col. Bruce Ingle Staser, [redacted]

IN THE AIR FORCE

The following-named officers for promotion in the U.S. Air Force, under the appropriate provisions of chapter 839, title 10, United States Code, as amended.

Lieutenant colonel to colonel

LINE OF THE AIR FORCE

Abell, John T., [redacted].
Addington, Vernal E., [redacted].
Addison, Belmer J., [redacted].
Albright, Theodore L., [redacted].
Alexander, Gerald F., [redacted].
Allen, Bennie R., [redacted].
Allen, Owen W., Jr., [redacted].
Allison, Paul J., [redacted].
Anderson, Kenneth A., [redacted].
Anderson, William L., [redacted].
Armstead, Claude E., [redacted].
Arth, Donald L. [redacted].
Bacchieri, Leo R., [redacted].
Bagnani, Valentino, Jr., [redacted].
Baker, Elmo C., [redacted].
Baker, James E., [redacted].
Baker, Thomas P., Jr., [redacted].
Baker, Willard D. [redacted].
Bal, Eugene, Jr., [redacted].
Balderson, Robert E., [redacted].
Barfknecht, Harold A., [redacted].
Barnes, Edd G., [redacted].
Barr, James A., [redacted].
Bass, Gerry W., [redacted].
Bass, Gordon, [redacted].
Bayus, Richard M., [redacted].
Beck, Edward M., [redacted].
Bell, Edward J., III, [redacted].
Bentz, Richard H., [redacted].
Beery, Raymond E., [redacted].
Besley, Richard D. [redacted].
Beyer, Robert C., Jr., [redacted].
Biediger, Larry W., [redacted].
Birmingham, Daniel J., Jr., [redacted].
Blocker, Clarence B., [redacted].
Bodenhamer, Kenneth D. [redacted].
Boggess, Lawrence L. [redacted].
Boggie, Edwin D., [redacted].
Bohne, Derwin L., [redacted].
Bonar, Vernon G., [redacted].
Boren, J. D., [redacted].
Botbyl, George W., [redacted].
Bott, Donald H., [redacted].
Boucher, William A., [redacted].

Bowen, Joseph A., Jr., [redacted].
Boyer, Joe C., [redacted].
Bradley, Charles W., [redacted].
Bradshaw, John A., [redacted].
Braeden, Cecil H., [redacted].
Branch, William E., Jr., [redacted].
Brandeberry, James R., [redacted].
Brandt, David D., Jr., [redacted].
Breckner, William J., Jr., [redacted].
Brendel, Jo, [redacted].
Brittain, Charles J., [redacted].
Brockman, William F., [redacted].
Brown, Alfred D., Jr., [redacted].
Brown, David M., [redacted].
Browning, Bob D., [redacted].
Broyles, George D., [redacted].
Bruha, Harlan L., [redacted].
Brundage, Harold L., Jr., [redacted].
Bruno, America P., [redacted].
Brunson, James E., [redacted].
Buford, Carrol D., [redacted].
Buikema, Kenneth E., [redacted].
Bullington, Robert J., [redacted].
Bullock, Jerry M., [redacted].
Burnett, Roy P., [redacted].
Busbee, Roderick M., [redacted].
Cameron, Paul A., Jr., [redacted].
Candee, Leslie W., [redacted].
Carpenter, James B., [redacted].
Casey, Walter H., [redacted].
Cassidy, Duane H., [redacted].
Chambers, John E., [redacted].
Chapman, Kenneth N., [redacted].
Cheek, Fleming A., [redacted].
Cherry, Richard E., Jr., [redacted].
Chetelat, Larree D., [redacted].
Chisholm, Richard K., [redacted].
Choromokos, James, Jr., [redacted].
Chovanec, Albin E., [redacted].
Chubner, James F., [redacted].
Chur, Lester R., [redacted].
Clapp, John N., [redacted].
Clark, Andrew J., [redacted].
Clarke, Clarence S., [redacted].
Clarke, William H., [redacted].
Clarke, William S., Jr., [redacted].
Claxton, Charles P., [redacted].
Clune, John J., [redacted].
Cobb, Francis C., [redacted].
Colcord, J. Dudley, [redacted].
Cole, James G., [redacted].
Conlee, William W., [redacted].
Connolly, Keith B., [redacted].
Connolly, Michael F., [redacted].
Cook, Roger D., [redacted].
Copin, Charles R., [redacted].
Copperthite, Harry S., Jr., [redacted].
Corak, George J., [redacted].
Corbisiero, John V., [redacted].
Cornelius, John T., [redacted].
Correll, Charles A., [redacted].
Councill, James W., [redacted].
Covington, Lowell D., [redacted].
Cowell, Roger R., [redacted].
Cox, Glenn T., [redacted].
Cozort, Gerald N., [redacted].
Crabb, James W., [redacted].
Craig, Leo L., Jr., [redacted].
Craig, Wilbert F., III, [redacted].
Cromack, Dana B., [redacted].
Cudahy, George F., [redacted].
Curtis, Raymond J., [redacted].
Curtis, Thomas J., [redacted].
Custis, Daniel P., Jr., [redacted].
Daily, Madison M., [redacted].
Daiuto, Ronald J., [redacted].
Dale, John A., [redacted].
Dale, Walter M., [redacted].
Daley, James P., [redacted].
Darling, Frederick R., [redacted].
Dart, Maurice E., [redacted].
Davis, Charles H., IV, [redacted].
Davis, Fred M., [redacted].
Davis, Grady E., Jr., [redacted].
Davis, James B., [redacted].
Davis, Walter R., [redacted].
Day, Robert F., [redacted].
DeBoe, William C., [redacted].
Delmar, Robert A., [redacted].
Denney, Carl L., Jr., [redacted].
Dennis, Derrol L., [redacted].
Depoorter, Win E., [redacted].
Deppish, Walter C., Jr., [redacted].
Dereska, Stanley P., [redacted].
Desing, Richard M., [redacted].
DeSoto, Ernest L., [redacted].
Dethlefsen, Merlyn H., [redacted].
Dever, James C., Jr., [redacted].
Dickey, John P., [redacted].
Dickey, William R., [redacted].
Diebold, James W., [redacted].
Dimond, Harold R., Jr., [redacted].
Dixon, Robert H., [redacted].
Dodds, George A., [redacted].
Dodds, John W., Jr., [redacted].
Dodson, Carl E., [redacted].
Doerschlen, Eddy J., [redacted].
Donahue, John F., [redacted].
Donaldson, Ralph L., [redacted].
Doryland, Charles J., [redacted].
Dougherty, Joseph M., [redacted].
Doughty, Daniel J., [redacted].
Doyle, William L., Jr., [redacted].
Drawbaugh, Robert E., [redacted].
Dube, Francis P., [redacted].
Duke, William G., [redacted].
Dunn, Harry P., [redacted].
Dunn, James D., [redacted].
Dunwoody, Richard H., [redacted].
Duplessis, Paul E., [redacted].
Dyer, Pintard M., III, [redacted].
Eaton, Melville E., Jr., [redacted].
Edwards, David J., [redacted].
Edwards, Murray, [redacted].
Edwards, Richard D., [redacted].
Eells, Gordon L., [redacted].
Eglinton, William S., [redacted].
Eknes, David M., [redacted].
Ellermets, Arne, [redacted].
Ellington, Robert F., [redacted].
Ellins, Meyer, [redacted].
Elliott, Arlie R., [redacted].
Elliott, David L., [redacted].
Elliott, John N., [redacted].
Ellis, George E., [redacted].
Emmons, John E., [redacted].
Emrick, Harry W., [redacted].
Endres, William J., [redacted].
Engel, George W., Jr., [redacted].
Erchinger, Ralph C., [redacted].
Erickson, William D., [redacted].
Erickson, William J., [redacted].
Ernest, Donald L., [redacted].
Evenson, Loren D., [redacted].
Falzun, Alexander, [redacted].
Fanning, Dennis R., [redacted].
Farrar, Coy W., Jr., [redacted].
Farrar, Walter B., Jr., [redacted].
Fassett, Chester A., [redacted].
Fazio, Vincent S., [redacted].
Feilner, Paul W., [redacted].
Field, Edsel R., [redacted].
Fields, Samuel H., [redacted].
Filbey, Hugh L., [redacted].
Fischer, James W., [redacted].
Fisher, Donald G., [redacted].
Fisher, William E., [redacted].
Fitzsimmons, Robert, [redacted].
Foister, James W., Jr., [redacted].
Foley, Brendan P., [redacted].
Fordham, Wyndell F., [redacted].
Forster, Tom J., [redacted].
Fortin, Paul E., [redacted].
Foster, James E., [redacted].
Foster, William B., [redacted].
Fox, Loren J., [redacted].
Fredericks, Barron, III, [redacted].
Freeland, Darrell E., [redacted].
Frei, James R., [redacted].
Freitag, Theodore C., [redacted].
Frias, Reynaldo, [redacted].
Fried, Clarence D., [redacted].
Frizzell, Donaldson, D., [redacted].
Fuller, Benjamin R., III, [redacted].
Gallardo, Edward F., [redacted].
Gallo, Frank G., [redacted].
Galloway, Floyd E., Jr., [redacted].
Gannaway, Jay T., [redacted].
Garczynski, Frank B., Jr., [redacted].
Gardecki, Anthony, [redacted].
Gassman, James O., [redacted].
Gaty, Charles L., [redacted].
Gibson, James A., Jr., [redacted].
Gibson, James K., [redacted].
Gideon, Willard S., [redacted].
Gill, Edgar A., Jr., [redacted].
Gillen, Thomas E., [redacted].
Giordano, Richard, [redacted].
Girling, Wallace D., [redacted].
Gish, William F., [redacted].
Glovins, Robert A., [redacted].
Godec, Robert F., [redacted].
Goldfein, William M., [redacted].
Goode, Jimmy L., [redacted].
Goodrich, David M., [redacted].
Gordon, Carl L., [redacted].
Gordon, Williams S., [redacted].
Gore, James E., [redacted].
Gormley, Vince E., [redacted].
Gracey, Robert H., Jr., [redacted].
Grammes, Richard A., [redacted].
Grayson, Robert W., [redacted].
Green, Frederick B., [redacted].
Green, James D., [redacted].
Green, Ray G., Jr., [redacted].
Greenley, Charles H., [redacted].
Greer, James M., [redacted].
Gregory, Kenneth L., [redacted].
Griggs, James L., Jr., [redacted].
Gugin, William P., Jr., [redacted].
Gunderson, Lindy C., [redacted].
Gurney, Harlan L., [redacted].
Guyton, Sidney L., [redacted].
Hackney, Hunter F., [redacted].
Hackworth, Robie, [redacted].
Haddock, Clovis C., [redacted].
Hagen, Vernon D., [redacted].
Hall, James G., [redacted].
Hamblin, Robert A., [redacted].
Hamilton, Nelson R., [redacted].
Hammock, Paul R., [redacted].
Hampton, John F., [redacted].
Hanavan, Ernest P., Jr., [redacted].
Hansen, Alfred G., [redacted].
Hansen, Donald C., [redacted].
Harbour, Elbert E., [redacted].
Hargrove, Willis L., [redacted].
Harral, Gene G., [redacted].
Harrington, John J., [redacted].
Harrington, Lewis B., Jr., [redacted].
Harris, William S., [redacted].
Harrop, Steve J., [redacted].
Hart, Loren V., [redacted].
Hartman, Charles H., Jr., [redacted].
Hartman, Nathan, [redacted].
Hartsfield, Henry W., Jr., [redacted].
Hasbrouck, Lawrence, [redacted].
Haselhorst, Delbert J., [redacted].
Hawkins, James R., [redacted].
Hawkins, John V., [redacted].
Hayes, Herman G., [redacted].
Haynie, John M., [redacted].
Hecker, Guy L., Jr., [redacted].
Heggen, Keith R., [redacted].
Heinbaugh, Jimmie B., [redacted].
Heiniger, Keith D., [redacted].
Heinrich, George F., [redacted].
Helsten, Charles T., [redacted].
Hemby, William R., Jr., [redacted].
Henderson, Robert M., [redacted].
Henjum, Joseph, Jr., [redacted].
Henkle, Dallas M., [redacted].
Hensley, Russell D., Jr., [redacted].
Harring, Alfred D., [redacted].
Hess, Ted H., [redacted].
Hickman, Gerald J., [redacted].
Higginbotham, William G., Jr., [redacted].
Hight, Ronald P., [redacted].
Hinsen, David E., [redacted].

Hobbs, Terrence E., [redacted].
Holiday, Robert C., [redacted].
Holland, Chester A., [redacted].
Hollingsworth, Joe B., [redacted].
Holly, Manford C., Jr., [redacted].
Holman, William G., [redacted].
Holt, William B., Jr., [redacted].
Horner, Charles A., [redacted].
Hosch, Thomas L., [redacted].
Houchin, Lloyd K., [redacted].
Houghton, Stanley P., [redacted].
Howerton, Rex D. [redacted].
Huggins, Norman P., [redacted].
Humphrey, William R., [redacted].
Humphries, James F., Jr., [redacted].
Hunt, Joseph B., Jr., [redacted].
Huppertz, John F., [redacted].
Ingram, Richard A., [redacted].
Iverson, Alan R., [redacted].
Iverson, Kendell O., [redacted].
Ives, Russell B., [redacted].
Jackson, Melvin L., [redacted].
Jakubowski, Tadeus L., [redacted].
Janota, Paul, [redacted].
Jennings, Allen L., Jr., [redacted].
Jennings, James M., [redacted].
Johannsen, William M., [redacted].
Johnson, Forrest G., [redacted].
Johnson, Gerald D., [redacted].
Johnson, Harold F., [redacted].
Johnson, Isiah, [redacted].
Johnson, Jerry R., [redacted].
Johnson, Ronald A., [redacted].
Johnston, Randall A., [redacted].
Jones, Glenn A., [redacted].
Jordan, James M., [redacted].
Kaapke, Llyle D., [redacted].
Kaminski, Joseph J., [redacted].
Kamm, Herbert H., [redacted].
Keeler, Billie R., [redacted].
Keenan, James C., Jr., [redacted].
Keirn, Richard P., [redacted].
Kellim, James D., [redacted].
Kelly, Charles A., [redacted].
Kelly, James A., [redacted].
Kensinger, John T., [redacted].
Kerin, Bernard M., [redacted].
Kern, Charles W., [redacted].
Kessinger, Robert C., [redacted].
Kiley, Frederick T., [redacted].
Killwey, Marie L., [redacted].
King, Leonard A., [redacted].
King, Richard K., [redacted].
Kirkland, Bobby J. [redacted].
Kisner, Frank J. [redacted].
Kivette, Ralph T., [redacted].
Klaerner, William H., Jr., [redacted].
Knoebel, Russell P., Jr., [redacted].
Knops, Frederick W., Jr., [redacted].
Knott, William J., [redacted].
Knox, James S., [redacted].
Kozuma, Roger T., [redacted].
Krecklow, Charles W., [redacted].
Krejci, Edwin M., [redacted].
Kyker, James H., [redacted].
Lajeunesse, Donald W., [redacted].
Lea, Robert E., Jr., [redacted].
Leaphart, John L., [redacted].
Lee, Harry R., Jr., [redacted].
Lee, James W., [redacted].
Lee, Kenneth H., [redacted].
Lee, Ralph E. [redacted].
Lejk, Richard A., [redacted].
Lemay, Lovell A., [redacted].
Leventen, George N., [redacted].
Levis, Charles A., [redacted].
Lewandowski, Dale J., [redacted].
Lewis, Charles R., [redacted].
Lilly, James [redacted].
Linthicum, William B., [redacted].
Linton, Charles R., [redacted].
Litke, Donald P., [redacted].
Littman, Mayer, [redacted].
Livers, Francis D., Jr., [redacted].
Lix, Robert E. [redacted].
Lloyd, Edward A., [redacted].
Lockley, Stanton G. [redacted].
Loessberg, Frank J. Jr., [redacted].
Looney, Ralph L., [redacted].
Loukota, Robert D., [redacted].
Lucas, Robert J. [redacted].
Luna, Norman P., [redacted].
Lytle, John L. [redacted].
Maccann, Henry E., [redacted].
Maccormack, Richard E., [redacted].
Macko, Charles [redacted].
Macleod, Donald, Jr., [redacted].
Madry, James A., [redacted].
Majors, Donald E., [redacted].
Mallozzi, Cosino B., [redacted].
Malone, Frank J., [redacted].
Mancuso, Dominic L., [redacted].
Marr, William J., [redacted].
Martin, Charles H., [redacted].
Martin, John M., [redacted].
Martin, Paul L., Jr., [redacted].
Martin, Richard A., [redacted].
Martin, Thomas P., [redacted].
Marvin, Byron L., [redacted].
Marzand, Ronald J., [redacted].
Mason, Richard A., [redacted].
Massey, Billlie J., [redacted].
Mathern, Wayne G., [redacted].
Matthews, Harrison W., [redacted].
Maus, Thomas H., [redacted].
McCarthy, William, [redacted].
McFadden, Julian R., [redacted].
McKay, William G., [redacted].
McKenna, James L., [redacted].
McKenna, Louis J., [redacted].
McMakin, Grover S., [redacted].
McVeigh, William M., III, [redacted].
Melsness, Robert N., [redacted].
Mendonca, Robert R., [redacted].
Merrell, Alfred L., [redacted].
Mewborn, Rufus W., [redacted].
Meyer, Carl W. [redacted].
Micale, Peter N., [redacted].
Mieth, Ivan G. [redacted].
Miller, George H., [redacted].
Miller, Gerald R., [redacted].
Mirehouse, James H., [redacted].
Moore, Harrell M., [redacted].
Moore, Rolland W., Jr., [redacted].
Moothart, Jackie E., [redacted].
Morgan, Glenn F., Jr., [redacted].
Morgan, Homer E., [redacted].
Morris, Thomas E., [redacted].
Morris, William F., [redacted].
Morton, Allan W., [redacted].
Morton, Leo C., [redacted].
Moulton, John R., [redacted].
Muir, Donald L., [redacted].
Munnerlyn, Thomas A., [redacted].
Murray, Richard D., [redacted].
Musgjerd, William A., [redacted].
Myers, Armand J., [redacted].
Myhrum, Roger B., [redacted].
Nagahiro, James Y., [redacted].
Nassr, Michael A., [redacted].
Nelson, Elmer E., [redacted].
Nelson, Harold B., [redacted].
Nelson, James R., [redacted].
Newman, Russell T., [redacted].
Newsom, John A., [redacted].
Newsome, Wesley A., Jr., [redacted].
Nichols, Ray E., [redacted].
Nickerson, Ronald E., [redacted].
Nicola, Oliver P., III, [redacted].
Nightengale, Merlyn E., [redacted].
Norman, Bobby L., [redacted].
North, Kenneth W., [redacted].
Nou, Juri V., [redacted].
Nugent, Robert A., [redacted].
Nuhn, Perry R., [redacted].
O'Brien, Harry T., [redacted].
O'Brien, William J., [redacted].
Ogle, Frederic E., Jr., [redacted].
O'Malley, Thomas J., [redacted].
Osgood, Jerry W., [redacted].
Ostrominski, John, [redacted].
O'Toole, Joseph W., [redacted].
Overacker, William E., [redacted].
Oveson, Richard M., [redacted].
Paige, Frederick D., [redacted].
Painter, Richard G., [redacted].
Parrish, John A., Jr., [redacted].
Parshall, Gerald H., [redacted].
Pascoe, Richard M., [redacted].
Passmann, Donald J., [redacted].
Patterson, Douglas, [redacted].
Patterson, Robert B., [redacted].
Patterson, Winston D., [redacted].
Patton, Orin C., [redacted].
Payne, Edward D., [redacted].
Pearce, Warren C., [redacted].
Pelzer, James L., [redacted].
Pennella, Anthony J., [redacted].
Pepe, Robert J., [redacted].
Perry, Hugh D., [redacted].
Peshkin, Richard A., [redacted].
Peterson, Allen B., [redacted].
Petty, Robert O., [redacted].
Pelugrath, Donald O., [redacted].
Phillips, John F., [redacted].
Philson, Arland L., [redacted].
Pitchford, John J., Jr., [redacted].
Pitts, Charles R., [redacted].
Poehlman, William, Jr., [redacted].
Polk, Adrian V., [redacted].
Pollard, Ben M., [redacted].
Poole, George W., [redacted].
Poos, Henry W., [redacted].
Portanova, Thomas D., [redacted].
Poston, Billy M., [redacted].
Powell, Charles E., [redacted].
Priester, Durward K., [redacted].
Pugh, Charles E., [redacted].
Purcell, Robert B., [redacted].
Quasney, William R., [redacted].
Rainwater, William M., [redacted].
Ramsey, John E., [redacted].
Ramsey, Raymond C., [redacted].
Ray, David L., [redacted].
Ray, Don R., [redacted].
Reaves, Donald R., [redacted].
Reck, Bernard C., [redacted].
Reece, Jack H., [redacted].
Reed, Lawrence L., [redacted].
Reed, Robert R., [redacted].
Reeder, Frank D., [redacted].
Reichart, Robert D., [redacted].
Renfroe, Earl W., Jr., [redacted].
Renko, Thomas M., Jr., [redacted].
Reyes, Edward D., [redacted].
Rhyner, Daryl A., [redacted].
Rice, George E., [redacted].
Richards, Frank D., [redacted].
Richards, Mark R., [redacted].
Richardson, Donald W., [redacted].
Riede, Philip J., [redacted].
Ries, Albert M., [redacted].
Ripple, Robert C., [redacted].
Roberts, John E., Jr., [redacted].
Robertson, Malcolm B., [redacted].
Robinett, Eugene D., [redacted].
Robinson, James M., [redacted].
Robson, Lawrence, [redacted].
Roetcisoender, Robert J., [redacted].
Rogers, Gardner E., [redacted].
Rodgers, James K., [redacted].
Rogers, Ross H., [redacted].
Ropka, Lawrence, Jr., [redacted].
Rose, Robert D., [redacted].
Rosenow, John B., [redacted].
Roth, William E., [redacted].
Rothaus, Murray H., [redacted].
Roush, Charles H., Jr., [redacted].
Rowe, Philip A., Jr., [redacted].
Roy, Vincent P., [redacted].
Roysdon, Douglas A., [redacted].
Ruhman, Bryant L., [redacted].
Ryan, James C., [redacted].
Sauer, Thomas B., [redacted].
Scallorn, Ben G., [redacted].
Schafer, David F., [redacted].
Schmidt, John B., [redacted].
Schmit, Edward P., Jr., [redacted].
Schroder, Kenneth S., [redacted].
Schuler, William E., [redacted].
Scott, Rawland L., [redacted].
Sears, Bobby J., [redacted].
Sechler, Henry J., [redacted].

Secrest, Robert D., [redacted].
Seeber, Bruce G. [redacted].
Seely, Arthur D., [redacted].
Sell, Robert L., [redacted].
Sexton, John N., [redacted].
Shadburn, Theodore H., [redacted].
Shaffer, Paul R., Jr., [redacted].
Shaffer, William M., [redacted].
Shaffran, S. J., [redacted].
Sharon, Dennis P. [redacted].
Shattuck, Lewis W., [redacted].
Shaud, John A. [redacted].
Shelton, Franklin D., [redacted].
Sheppard, Jack W. [redacted].
Shubert, Richard E., [redacted].
Sigethy, Robert, [redacted].
Simmons, Bland B., [redacted].
Simon, Ervin P., [redacted].
Sivils, Howard B., Jr., [redacted].
Sizer, Frank E. [redacted].
Skeans, Ted L. [redacted].
Skur, Anthony I., Jr., [redacted].
Smith, Charles N. D., [redacted].
Smith, Dennis C., [redacted].
Smith, Howard K., [redacted].
Smith, James A., [redacted].
Smith, John H., Jr., [redacted].
Smith, Joseph B., [redacted].
Smith, Paul G., [redacted].
Smith, Peter L., [redacted].
Smith, Robert L., [redacted].
Snavely, Richard C., [redacted].
Sparkman, William J., [redacted].
Spohn, Gary E. [redacted].
Stanley, Kenneth E. [redacted].
Stebick, James A., [redacted].
Steere, Richard E., [redacted].
Stefanelli, Mario J., [redacted].
Stegall, Joseph F., [redacted].
Steinmiller, James E., [redacted].
Stephensen, Mark L., [redacted].
Stevens, William L., [redacted].
Stewart, Harvey J., [redacted].
Stockstill, Floyd E., [redacted].
Stone, Reed L., [redacted].
Stone, Robert E., [redacted].
Stout, Kenneth E., [redacted].
Stout, Thomas A., [redacted].
Straub, Edward C., [redacted].
Strickland, Robert K., [redacted].
Strom, Oren G., [redacted].
Strub, James E. [redacted].
Stuart, Robert H., [redacted].
Sullivan, John J., [redacted].
Sumpter, Thomas W., Jr., [redacted].
Sandquist, John W., [redacted].
Swart, Samuel H., Jr., [redacted].
Swords, Smith, III, [redacted].
Taffet, Harvey, [redacted].
Tapp, Marshall L., [redacted].
Tarleton, Howard R., [redacted].
Taylor, Billie J., [redacted].
Taylor, Charles D., [redacted].
Taylor, Donald H., [redacted].
Taylor, James H., [redacted].
Taylor, Stanley A., [redacted].
Taylor, William M., [redacted].
Tarpening, Russell D., [redacted].
Terrell, Irby D., Jr., [redacted].
Thomas, Florence K., [redacted].
Thompson, Ray G. [redacted].
Thornton, Billy D., [redacted].
Tibbetts, Larry N., [redacted].
Tillotson, James A., Jr., [redacted].
Tindall, J. D., [redacted].
Tissaw, George H., [redacted].
Tolbert, William T. [redacted].
Tolman, Frederick G., [redacted].
Toole, Clarence J., Jr., [redacted].
Treska, Milo, [redacted].
Troop, Richard W. [redacted].
Turner, Alvin R., [redacted].
Turner, Joseph G., Jr. [redacted].
Turner, Robert E., [redacted].
Tyra, Joseph B., [redacted].
Underwood, William E., III, [redacted].
Valentine, Robert T., [redacted].
Vanerden, Thomas, Jr., [redacted].
Vanloan, Jack L. [redacted].
Vanriper, Gerrit S., [redacted].
Voelker, Robert G., [redacted].
Vogel, Richard D., [redacted].
Waddell, Dewey W. [redacted].
Waddell, Donald R., [redacted].
Wagoner, Paul D. [redacted].
Walker, William L., [redacted].
Wall, Carl D., Jr. [redacted].
Wallace, Bruce M., Jr., [redacted].
Wathen, John A., [redacted].
Watson, Richard J., [redacted].
Watts, George O., [redacted].
Webb, William B., [redacted].
Wehling, George E. [redacted].
Weiner, Arthur C., [redacted].
Weseman, Henry E., [redacted].
Westphal, Curtis D., [redacted].
Wetzel, Emery S., Jr., [redacted].
Wheeler, Charles E., [redacted].
Whinery, Clarence E., [redacted].
Whitaker, Darrell D., [redacted].
White, Dawson N., [redacted].
White, Joe M., [redacted].
Wiggins, Jesse P., [redacted].
Williams, Gordon E., [redacted].
Williams, John W., Jr., [redacted].
Williams, Peter D., [redacted].
Williams, Roger L., [redacted].
Williams, Stuart J., [redacted].
Willis, Giles W., Jr., [redacted].
Wilmot, Charles L., Jr., [redacted].
Wilson, Charles H., [redacted].
Wiltgen, Joseph N., [redacted].
Wingate, Douglas W., [redacted].
Winter, Charles T., [redacted].
Wolfsberger, Richard E., [redacted].
Wolverton, James R., [redacted].
Woodruff, Wesley D., [redacted].
Woody, Charles L., [redacted].
Wootton, Louis A., [redacted].
Wrentmore, John W., [redacted].
Wright, Jerdy A., Jr., [redacted].
Wyatt, James G., [redacted].
Yarbrough, Robert L., [redacted].
Yeager, Jerry L., [redacted].
Zienert, Clarence E., [redacted].

CHAPLAINS

Caudill, Charles C., [redacted].
Cole, Newton V., [redacted].
Cortese, Patrick S., [redacted].
Kingsley, Earl J., II, [redacted].
Wild, Phillip T., [redacted].

NURSE CORPS

Beaton, Frances A., [redacted].
Boatright, Mary A., [redacted].
Foley, Eileen H., [redacted].
Klajnowski, Martha G., [redacted].
Krauss, Teresa E., [redacted].
Merrow, Jean T., [redacted].
Peek, Lilith J., [redacted].
Pulliam, Gladys C., [redacted].
Shealy, Katherine I. [redacted].
Shipe, Olive L., [redacted].
Studer, Joan R. [redacted].
Tyrrell, Marie V., [redacted].
Vickers, Cassandra C. [redacted].
Wellman, Crescentia C., [redacted].

MEDICAL SERVICE CORPS

Baddour, Robert A., [redacted].
Crews, James M., Jr., [redacted].
Currie, William D., [redacted].
Fisher, Jackie V., [redacted].
Gonzales, Norbert, [redacted].
Harmon, Charles C., Jr. [redacted].
Illsley, David B. [redacted].
Jacko, Paul P., [redacted].
Kaplan, Burton, [redacted].
Klotsko, John A., [redacted].
Marcotte, Victor H., [redacted].
Marschall, Barton R., [redacted].
McAfee, Charles A., [redacted].
Murphy, John E., [redacted].
Wells, Darius L., [redacted].
Zimmerman, Rodney J., [redacted].

VETERINARY CORPS

Osborne, Donald V., [redacted].
Shannon, Robert U., [redacted].
West, Joe E., [redacted].
Wise, David, [redacted].

BIOMEDICAL SCIENCE CORPS

Carter, Donald I., [redacted].
Deuel, Kenneth H., [redacted].
Goldner, Teresa M., [redacted].
Kittilstad, Owen H., [redacted].
McDonald, Maynard R., [redacted].
Penikas, Vincent T., [redacted].

EXTENSIONS OF REMARKS

VOICE OF AMERICA SPEECHLESS ON "GULAG ARCHIPELAGO"

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, March 7, 1974

Mr. HARRY F. BYRD, JR. Mr. President, in a column published in the Washington Post on March 7, Rowland Evans and Robert Novak point out that the Voice of America has broadcast very little concerning "Gulag Archipelago," the latest work by exiled Soviet writer Alexander Solzhenitsyn.

The failure on the part of the Voice of America comes despite a request for fuller coverage from the U.S. Embassy in Moscow, according to Evans and Novak.

The columnists indicate that the omission of details about Solzhenitsyn's work, which is an attack on the policies of the Stalin era, is the result of a conscious effort at the policy level of the U.S. Information Agency not to offend the leadership of the Soviet Union.

The Voice of America has a basic mission to get across the truth behind the Iron Curtain. Failure to communicate the content of "Gulag Archipelago" seems to me to represent an abandonment of this basic mission.

The Voice of America should not be subject to policy dictation based on the theory that all will be well if we are nice to the Kremlin. As Evans and Novak state:

> Such a switch could destroy its credibility and lose its audience.

I ask unanimous consent that the column, "Voice of America Speechless on 'Gulag Archipelago,'" be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VOICE OF AMERICA SPEECHLESS ON "GULAG ARCHIPELAGO"

(By Rowland Evans and Robert Novak)

The Voice of America (VOA), this nation's overseas propaganda arm, has been strangely mute about Alexander Solzhenitsyn's monumental "Gulag Archipelago" despite pointed pleas from the U.S. embassy in Moscow to pass the dramatic word in detail to the Russian people.

When excerpts of the great author's work first appeared in Western newspapers last December, the embassy cabled the U.S. Information Agency (USIA) commending VOA's first handling of what was becoming a big international story. But the diplomatic cable also strongly pressed USIA, which runs

VOA, to be sure and get into "the substance" of Gulag—that is, to beam great gobs of it into the heart of Russia.

Yet, the USIA high command is so timid about seeming to undercut President Nixon's detente with Moscow that that telegram was never even answered.

Just how much of this policy has been dictated to USIA director James Keogh by the White House or the State Department is not known. Keogh told us VOA policy is made by him and his top aides in conformity with U.S. policy.

Whatever the answer, USIA's refusal to exploit Gulag is infuriating not only anti-Soviet hardliners but other politicians fearful that President Nixon's weakness at home may lead him into unwarranted concessions abroad in his search for foreign successes.

Thus, the policy of playing down news that might affront the White House was applied to Gulag. Actually, according to middle-level USIA officials, former chief Nixon speechwriter Keogh began subtly toning down VOA's coverage of the Watergate scandal when he took over USIA from Frank Shakespeare in early 1973 at the recommendation of then White House staff chief H. R. Haldeman.

But political reaction to Keogh's muted coverage of Gulag far transcends criticism of his kid-glove treatment of Watergate. Powerful politicians of both parties are quietly campaigning to force Keogh to tell millions of radio listeners in the Soviet Union far more about Solzhenitsyn's bitter outcry against the Stalin era.

The first congressional target was not USIA's treatment of Gulag but its apparent playing down in broadcasts to the Soviet Union of news about Soviet dissidents. In a January speech, Sen. Henry M. Jackson questioned whether USIA was trying "to accommodate the Soviet demand that we refrain from broadcasting about what Soviet authorities consider to be matters of an internal nature."

That elicited an overnight response from Eugene P. Kopp, Keogh's deputy director. Kopp wrote Jackson that the new regime at USIA was trying to "reach a wider Soviet audience with more news and information about the United States." In short, spare newsless Russians the harsher facts of Soviet life and give them goodies about America.

In line with this new policy of what middle-level USIA officials call the Keogh-Kopp clique, the USIA flatly ruled out proposals from both Congress and VOA itself that excerpts of Gulag be read over VOA. Instead, coverage of the shocking study of the Stalin era was limited to a rehash of stories, editorials and commentaries taken from the U.S. media.

In the past, VOA seldom if ever broadcast to Communist nations lengthy excerpts of published material. But Gulag is unique: the most powerful expose ever published of life under Stalin. That's why the Russian service of the British Broadcasting Corp. (BBC) has been reading lengthy excerpts from Gulag. Similarly, the German overseas radio, Deutsche Welle, has given its Soviet audience a regular dose of long quotations.

In public, Keogh says Soviet officials are complaining about present VOA coverage of the Russian dissident movement but boasts, "we are holding to it." In private, he tells associates inside USIA that one reason for playing down Gulag is fear of renewed Soviet jamming of VOA, which stopped last fall as a Soviet concession to detente. However, neither the German nor the British excerpts have been jammed.

Keogh, biographer and longtime idolater of Richard M. Nixon, takes the public position that USIA is committed "to support, not oppose, U.S. foreign policies." Responding last week to his critics, he said: "The principal goal of American foreign policy is to affect the foreign policies of other nations toward negotiations and away from confrontation, not to transform the domestic structures of these societies."

That is a shocking admission that VOA is being switched from no-holds-barred news into a policy arm of the U.S. Such a switch could destroy its credibility and lose its audience.

NUCLEAR BLASTS FOR OIL SHALE

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. RONCALIO of Wyoming. Mr. Speaker, the New York Times on March 6 carried an excellent article summing up the Atomic Energy Commission plans to use underground nuclear blasts to recover natural gas and shale oil in the States of Utah, Wyoming, and Colorado.

As the time approches for Members of Congress to vote on the AEC request of $4.4 million for the Plowshare program, this article is must reading:

[From the New York Times, Mar. 6, 1974]

AEC IS PLANNING NEW SHALE BLASTS

(By James P. Sterba)

DENVER.—Just as critics of nuclear tests thought they were winning, the Atomic Energy Commission has revitalized plans to expand research and testing of underground nuclear stimulation blasts to extract natural gas and shale oil in the Rocky Mountains.

Termed "dead as a doornail" last summer, more nuclear blasts are now planned as part of the national goal of energy self-sufficiency.

Reacting to news from Washington that the explosions were still being planned, Gov. John Vanderhoof of Colorado vowed recently to stop further testing, at least in his state. He said Colorado would take court action, if necessary. Other opponents are working toward a statewide referendum on the issue in Colorado, and opposition is also very strong in Wyoming, where the next test blast was originally scheduled.

Dr. Dixy Lee Ray, chairman of the Atomic Energy Commission, has proposed spending $224.1-million over five years to develop technology for natural gas and shale oil recovery. Of that, $107.6-million is earmarked for applied nuclear research and development, including another nuclear blast to extract natural gas and perhaps one more to extract oil from shale.

TO KEEP PROGRAM GOING

In his budget, President Nixon earmarked $4.4-million for the fiscal year 1975 to keep the program alive, although no blasts are planned in that year, beginning this July 1.

Dr. Ray's five-year program calls for $56.2-million to be spent on nuclear natural gas stimulation and $51.4-million on nuclear shale oil extraction. Opponents, including Teno Roncalio, Wyoming's lone Representative, a Democrat, have called the experiment wasteful and dangerous.

Project Rio Blanco was the third experimental blast since 1967 designed to free natural gas from tight rock formations. In it, three 30-kiloton nuclear devices were detonated simultaneously a mile underground last May 17 to create a single cavity into which natural gas could collect. Instead, three cavities were apparently created, one on top of the other. When workers drilled back into the top cavity, pressure was disappointingly low and little gas was produced.

Now, to connect the three cavities, a costly new well will probably have to be drilled, according to John Toman, the project engineer.

BY LIQUID PRESSURE

Another way to get gas from these tight formations is called hydraulic fracturing. Favored by environmentalists because it involves no radiation, this technique involves cracking the rock layers by pumping in under high pressure a liquid such as water. The A.E.C. announced several weeks ago that it would help sponsor a massive hydraulic fracturing experiment near its Rio Blanco test site in northwest Colorado to compare results.

Meanwhile, a fourth and larger nuclear experiment called Project Wagon Wheel, had been planned in Wyoming. Shortly after the Rio Blanco test, however, Dr. Ray pronounced that project "dead as a doornail," although she hinted it could be revived.

Now, thanks in part to the energy crisis, it is being actively considered again for either Colorado, Utah or Wyoming.

Dr. Ray's five-year plan, which needs Congressional funding, calls for a test like Wagon Wheel in which five or six holes are drilled. Then three to five nuclear explosives are stacked in each hole and the holes are detonated in sequence so that the shock waves will be less severe.

For oil shale recovery, the A.E.C. plans call for an experimental blast on its Nevada test site followed by a similar one somewhere in the Rockies.

If tests prove successful, atomic researchers envision exploding hundreds of nuclear devices a year to extract both gas and shale oil in the Rocky Mountain region. Public resistance to such development could be high, they concede, but that will depend on the long-term effects of energy shortages.

Also, private companies planning conventional techniques to get out gas and shale oil in the same region are concerned that the nuclear blasts might endanger their operations.

IMPORTING CHROME

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, March 7, 1974

Mr. HARRY F. BYRD, JR. Mr. President, the February 13 edition of the Atlanta Journal included an excellent column on the issue of Rhodesian chrome by John Crown, who is a staff columnist of that newspaper.

Mr. Crown makes the point that in voting to resume the embargo against importation of chrome from Rhodesia, the Senate last December was acting more on the basis of emotion than on reason.

I feel this is an accurate evaluation, and I hope that this mistake will not be repeated in the House of Representatives when the issue comes before that body.

I ask unanimous consent that the text of the column, "Importing Chrome," be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IMPORTING CHROME

(By John Crown)

The emotional violins are being tuned up once again on a matter which should be regarded objectively and pragmatically in the national interest—the importation of chrome.

Chrome is an essential ingredient in the production of military hardware. Ergo, it is vital to the national defense. It is necessary that we have a source of supply that is both dependable and reasonable in terms of prices.

There are two major chrome producers. One is the Soviet Union. The other is Rhodesia.

Through some sort of twisted logic the United Nations has imposed an embargo upon Rhodesia on the grounds that it has an oppressive regime in power, while ignoring the fact that the Soviet regime is one thousand times more oppressive.

Thus members in good standing within the United Nations are supposed to piously ignore Rhodesia while engaging in unrestricted trafficking with the Soviet Union.

The gut issue, of course, is not oppression. The people who advocate a boycott of Rhodesia couldn't care less about oppression as such. What they are opposed to is what they call white oppression.

To them, black oppression is okay. And if you doubt it, try to find some boycott efforts against the likes of that black racial despot, Gen. Idi Amin who has persecuted and expelled and expropriated the property of all nonblack Africans in Uganda.

Rhodesia has a white minority and a black majority. The white minority has brought the country to the stage of development where it stands today. But we are supposed to boycott Rhodesia until the white minority turns over the country to the black majority. Never mind qualifications. Never mind ability to guarantee stability. Just turn it over—and run for your lives.

Because it was so illogical for us to boycott Rhodesia on the grounds of "oppression" and have to turn to the oppressive regime that rules the Soviet Union with an iron grip, in 1972 Sen. Harry Byrd Jr., D-Va., initiated legislation which would remove us from the United Nations boycott insofar as chrome was concerned.

Sen. Byrd—and the Congress—took the sensible approach that from a security point of view we have nothing to fear from Rhodesia. So why be forced to buy something essential to our defense from our greatest adversary? And at inflated prices.

Thus we freed ourselves from the Rhodesian boycott insofar as chrome is concerned.

But apparently with the illusory atmosphere of detente sweeping Washington, a move has been initiated to repeal Sen. Byrd's pragmatic legislation. Repeal of that legislation has been voted by the Senate. It now comes before the House.

There is nothing logical about the matter. It is sheer emotionalism based on either racism or racism in reverse.

The despotic dictatorship in Moscow has committed more crimes against mankind than can ever be accomplished in Salisbury. And yet if we cannot import chrome from Rhodesia we are cast upon the questionable mercy of the Soviet Union for this vital defense ingredient.

In recent years the House has proved more sensitive to national needs than has the most exclusive club in the world—the United States Senate. We can only hope that once again the House will recognize the lunacy inherent in repealing Sen. Byrd's logical legislation.

In refusing to enact favorable trade legislation for the Soviet Union, Congress itself has expressed some foreboding over the illusion of detente with our adversary.

Yet the Senate has voted to make us totally dependent upon the Soviet Union for defense chrome.

It doesn't make any sense. But then emotionalism never does.

JULIA BUTLER HANSEN

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. STEED. Mr. Speaker, abler Members than I have spoken eloquently on the life and work of our highly esteemed colleague, JULIA BUTLER HANSEN, on the occasion of her announcement of retirement from the House of Representatives. I approve and applaud all the well-earned accolades paid to her.

Being privileged to serve on the Appropriations Committee with her was my good fortune for many reasons. My district and my State hold great interest in many matters that came under her jurisdiction as chairman of the Interior Subcommittee. These matters included a wide range of our natural resources but probably more important, some fairly extensive matters of human resources, our Indians.

JULIA HANSEN was not just a friend of the American Indian. She was a person who devoted enormous time and effort to knowing the Indian citizens of our land, seeking out their problems and then applying this knowledge to the positive action that got results. Despite the universal regret we all have at her departure, these Indian citizens are losing a great friend and benefactor, the equal to which we may not see again. Their health, their education, and their hope for a future all are better served today because Mrs. HANSEN came their way. I stress these points because I sat at a vantage point of knowing the inside story of a great deal of her devoted work.

As a friend, as a lawmaker, as a chairman, as a person, JULIA HANSEN meets every test. To have worked with her is to have had experiences that are worthy to be remembered and cherished. Her love for and devotion to the well-being of America is a lasting inspiration.

But perhaps most of all, to have known her is to have had the privilege of serving with a keen mind, a devoted heart, and a courage unsurpassed. And this crowned with a typical western ability to make the incisive statement that scored the victory. May she enjoy a long and happy retirement.

TRUCK WEIGHTS ON INTERSTATE HIGHWAYS

HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. SHOUP. Mr. Speaker, on February 27, 1974, I introduced H.R. 13117 which deals with truck weights on interstate highways. Due to the widespread interest that the bill has generated, I include it in the RECORD:

H.R. 13117

A bill to amend section 127 of title 23, United States Code, relating to vehicle weight on the Interstate System

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 127 of title 23, United States Code, is amended to read as follows:

"§ 127. Vehicle weight.—Interstate System

"(a) No funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 shall be apportioned to any State within the boundaries of which the Interstate System may lawfully be used by vehicles or combinations thereof with weight in excess of twenty thousand pounds including tolerances carried on any one axle, or with a tandem-axle weight in excess of thirty-four thousand pounds including tolerances, or with an overall gross weight including tolerances on a group of two or more consecutive axles in excess of that produced by application of the following formula:

$$W=500(LN/(N-1)+12N+36)$$

where W=overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L=distance in feet between the extreme of any group of two or more consecutive axles, and N=number of axles in the group under consideration; or the corresponding maximum weights or dimensions permitted for vehicles or combinations thereof using the Interstate System within such State under laws or regulations established by appropriate State authority in effect on the effective date of this Act, whichever is the greater. Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse.

"(b) Notwithstanding subsection (a) of this section, two consecutive sets of tandem axles may carry a gross load of 68,000 pounds providing the overall distance between the first and last axles of such consecutive sets of tandem axles is 34 feet or more.

"(c) Nothing in this section shall be construed to deny apportionment to any State which allows the operation within such State of any vehicles or combinations thereof that could be lawfully operated upon the Interstate System within such State on effective date of this Act.".

LITHUANIAN INDEPENDENCE

HON. THOMAS E. MORGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. MORGAN. Mr. Speaker, the atmosphere of détente which has pervaded East-West relations in recent times must not be allowed to obscure the tragedy of Lithuanian's lost independence. Since 1940, the people of this brave Baltic nation have suffered under Kremlin rule as a state of the U.S.S.R.

The Soviet invasion and occupation of Lithuania in World War II followed an all-too-brief era of freedom and self-rule for Lithuanians. I refer to the period beginning with the Declaration of Independence of Lithuania, 56 years ago, although the notable past history of Lithuania dates from centuries earlier. Following the declaration of 1918, the people of Lithuania showed what self-government can and should accomplish. Progress and prosperity, imbued by the spirit of liberty, brought unparalleled benefits until the Russian aggression 22 years later.

Events since have shown that the spirit of liberty in Lithuania cannot be quelled, efforts at suppression notwithstanding. The aspirations of Lithuanians for freedom and basic human rights remain strong.

It is to the credit of the United States that to this day we have steadfastly refused to recognize the Soviet takeover of this valiant land.

ENERGY CRUNCH PUTS PET 4 UNDER SCRUTINY

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. BOB WILSON. Mr. Speaker, the current controversy over the release of oil from the Elk Hills reserve forces us to study alternatives. With the advent of the Alaskan pipeline from the North Slope, the Navy's reserves in that area become more meaningful. I am hopeful we can release oil from Elk Hills because of two factors: increased use of nuclear power by the Navy and the realities of further reserves of oil being available in Alaska.

I ask unanimous consent to make the attached article a part of my remarks. The article follows:

ENERGY CRUNCH PUTS PET 4 UNDER SCRUTINY

(By Bert Tarrant)

ANCHORAGE, ALASKA.—For 50 years, Naval Petroleum Reserve No. 4, on Alaska's north shore, has been left much to the lemmings and caribou.

But the energy crisis may change that.

The reserve covers about 23-million acres, making it about the size of Indiana. Estimates of its recoverable oil range from 33-billion to 100-billion barrels.

By comparison, Alaska's much publicized North Slope contains just under 10-billion barrels of recoverable oil. Current proven world oil reserves are estimated at 600-billion barrels, enough to last 30 years at present world consumption rates.

The reserve is bounded on the east by the Colville River and south by the river to near the 156 longitude where it drops south to be bounded by the Naotak River. The north boundary is the Arctic Ocean. The west is around the 162 longitude mark.

Known as "Pet Four," it got its latest batch of publicity when Sen. Adlai E. Stevenson III, D-Ill., charged it and Naval Reserve No. 1 at Elk Hills, Calif., had the makings of another Teapot Dome scandal.

Teapot Dome was the name attached to major scandals in the Harding administration in the 1920s. Naval reserves were first transferred to the Interior Department and then leased to private oil companies without competitive bidding.

A Stevenson aide, Les Goldman, says the senator is convinced federal officials are fudging on Pet Four boundaries to allow oil companies to drill in the reserve's two-mile buffer zone and thus tap the oil pool.

Specifically, Stevenson charged that original offshore boundary descriptions that included all bays have been changed to the shoreline. This would allow state ownership of major bays and, therefore, part of the reserve.

Stevenson claims major oil companies are getting ready to drill in the area.

The director of the State Division of Oil and Gas, Homer Burrell, says the offshore boundary question appears headed for litigation.

He says Alaska has issued leases right up to the Colville River but that no commercial oil has been found in several years of drilling.

"No oil has been found and no oil is being or has been planned to be produced," he says. "Any allegations that oil companies are draining oil from Pet Four are patently false."

The tract was set aside in 1923 as a Naval Petroleum Reserve for national defense purposes, after oil seeps on the land were found.

The Navy carried out a $60-million, nine-year program that ended more than 20 years ago and confirmed existence of at least 100-million barrels of oil.

The U.S. Geological Survey has estimated the reservse at 33-billion barrels and subsequent estimates have pushed the figure to 100 billion. The Navy dipped its official estimate to 33-billion barrels in May of 1973.

Current development on Pet Four has been held to six producing natural gas wells used to supply Navy operations and the needs of native villages and Barrow, at the northern tip of the state. Permission has recently been granted for two additional gas wells.

Drilling is conducted under the supervision of the Department of the Navy by contractors using Navy equipment.

A total of 36 test wells have been drilled on the reserve plus 44 core holes to study the subterranean shelf composition.

Orginal plans for development of Pet Four called for shipment of the oil from Port Barrow on the Arctic Ocean, a port open less than two months of the year.

But the proposed Alaska pipeline has offered an alternative.

Pentagon figures indicate the reserve could be connected to the trans-Alaska pipeline for $38 million. Spokesmen say a separate government pipeline would cost $1.9 billion with about $500 million needed per year for maintenance.

The Department of Interior says the separate pipeline estimates are too low and impractical. By comparison, Alyeska Pipeline Service Co., the firm that would build and operate the Alaska pipeline, says its line will cost from $4.5 billion to $5 billion.

A Pentagon energy panel says full development of Pet Four would render the Department of Defense self-sufficient in meeting military petroleum requests for either peace or war within 10 years.

The Navy admits the reserve probably will have to be opened within the next 10 years. In January of 1973 it announced it has a 10-year plan for detailed oil exploration of the area.

A FULL PAYMENT TO VETERANS

HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. SHOUP. Mr. Speaker, there can be no doubt that one of the most sacred obligations of this Government is to pay to veterans and their widows and children the full measure which the law allows. Unfortunately many payments are less than they should be because in the computation of annual income for determining amounts to be paid as benefits, reductions are made for social security payments and other public pensions which they receive.

In order to make more clear the intent of the law and to insure the full payment to eligible persons, I am introducing legislation to amend certain parts of title 38 of the United States Code. This bill would direct the Administrator of Veterans' Affairs to disregard Federal annuities, endowments, and similar non-Federal public and private payments in determining annual income for purposes of setting veterans' pensions.

Not only would this measure clarify the law in this area, it would be a reassertion of our intention to deal fairly with veterans.

Mr. Speaker I include this measure in the Record for the benefit of my colleagues and for others interested in this matter:

A bill to amend title 38 of the United States Code in order to provide that all Federal retirement and similar payments be disregarded in determining annual income for purposes of the veterans' pension laws, and for other purposes

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled, That section 415(g)(1)(G) of title 38, United States Code, is amended to read as follows:

"(G)(i) payments to an individual under any Federal retirement, annuity, endowment, or similar plan or program,

"(ii) 10 per centum of the amount of payments to an individual under public (other than Federal) or private retirement, annuity, endowment, or similar plans or programs;".

Sec. 2. Section 503(a)(6) of title 38, United States Code, is amended to read as follows:

"(6)(A) payments to an individual under any Federal retirement, annuity, endowment, or similar plan or program,

"(B) 10 per centum of the amount of payments to an individual under public (other than Federal) or private retirement, annuity, endowment, or similar plans or programs;".

Sec. 3. The Administrator of Veterans' Affairs shall disregard payments under any Federal retirement, annuity, endowment, or similar plan or program to an individual in determining the pension payable to that individual under section 9(b) of the Veterans' Pension Act of 1959.

Sec. 4. The amendments made by this Act apply with respect to annual income determinations for calendar years after 1972.

COL. FRANK M. BASHORE—FAREWELL TO A SOLDIER

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. MURPHY of New York. Mr. Speaker, today, on the occasion of his recent retirement from active military duty, I invite the attention of my colleagues to the distinguished service given to our country by Col. Frank M. Bashore, Infantry, U.S. Army, retired.

Colonel Bashore entered the U.S. Military Academy in 1947 as a young man from his home in Lancaster, Pa. Appointed at large to West Point, Colonel Bashore graduated in the class of 1951, having made a name for himself as a hard-hitting, aggressive football player and all-around athlete. On graduation, true to form, he chose to serve in the infantry, one of the most demanding of the combat branches.

Shortly thereafter, he headed for the sound of the guns and was fighting at the front in the Korean war as an infantry platoon leader assigned to the 7th Infantry Regiment of the famed 3d Infantry Division. In Korea, Frank Bashore distinguished himself in combat, was awarded the Silver Star and Bronze Star Medals for valor, and won the coveted combat Infantry Badge.

After Korea, Colonel Bashore then served progressively in the normal staff, command, and school assignments, both in the country and overseas, that are typical to the career development of a Regular Army officer. During the following years, for example, he graduated from the Command and General Staff College, and served another tour in Korea. In recognition of his valuable service during these years he was awarded the Meritorious Service Medal and the Army Commendation Medal.

In 1969 Colonel Bashore again headed for the sound of the guns, this time in Vietnam. There he served as a "green beret" commander and staff officer in the famous 5th Special Forces Group.

After Vietnam, Colonel Bashore returned to the United States and served again the various staff and command assignments.

On February 28, 1974, after 23 years of devoted and illustrious service to his country, Col. Frank M. Bashore, accompanied by his wife, Irma, and their children, took the honors at a retirement ceremony at Fort Bliss, Tex. Frank Bashore's decision to return to private life is a distinct loss to the military service and the country. The many decorations, medals, and badges worn on Colonel Bashore's blouse are a symbol, however inadequate, of the thanks that the people of this Nation as well as Korea and Vietnam, sire to this gallant soldier. We wish him the best of luck in his next endeavors.

ECONOMIC INCENTIVES FOR TAXPAYERS WHO ADOPT SOLAR ENERGY AS HEATING AND COOLING SOURCE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. McCLORY. Mr. Speaker, shortages of all kinds appear to have become a part of American life. From a world perspective, if this Nation is to have freedom of action, we must halt our growing dependence upon foreign nations for scarce fuel resources.

In order to achieve energy self-sufficiency in the United States; and, at the same time, end dependence on foreign energy sources, we should greatly increase research and development of new sources of energy.

One step in this direction has been taken. The passage of the Solar Energy Heating and Cooling Demonstration Act of 1973 will do much to encourage commercial development and public acceptance of solar energy for the heating and cooling of homes and offices. However, I think that in order to bring about early acceptance an additional step is required—economic incentives.

I have introduced a bill (H.R. 13203) that will grant a tax deduction when solar heating and cooling systems are installed in homes and offices.

The legislation will permit home and office owners to deduct not more than 50 percent of the cost of such solar heating and cooling equipment.

Mr. Speaker, it is extremely important that such tax incentives be established immediately in order to induce companies to invest in solar power. Without such incentives, it is estimated that it would take at least 30 years for solar power to capture an important part of the energy market.

Mr. Speaker, it should be noted particularly that if only 10 percent of the sunlight's energy could be converted into electricity, all of the electrical power consumed in the United States in 1969 could be generated from .14 percent of the Nation's land area. Thus, if larger numbers of homes and offices throughout the country adopt solar heating and cooling systems, we could halt in a very short time energy shortages in this country and dependence on foreign energy sources. We must encourage such utilization of solar energy. It is my hope that passage of H.R. 13203 will be a significant first step.

GOVERNMENT FRAUD

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. DERWINSKI. Mr. Speaker, the needed shakeup of the Federal Housing Administration has long been overdue evidenced by the exposure of corruption of FHA officials across the country.

The Federal Housing Administration is intended as a key to effective Federal housing programs, but it is obvious that some administrative officials are guilty of a disservice to the public interest. This point is very well made in an editorial on February 14 by WBBM-TV Chicago.

The editorial follows:

GOVERNMENT FRAUD

Less than two years ago a major scandal erupted in the state of New York concerning the Federal Housing Administration. Several FHA employees, some holding high posts, were indicted on bribery charges. The investigation by the Justice Department led to allegations that more than 200 million dollars had been stolen from the federal government in home loan insurance schemes.

That 200 million dollars, it must be remembered once belonged to taxpayers just like you. And now there is reason to believe that perhaps taxpayers in many other states, including Illinois, have also helped line the pockets of unscrupulous FHA agents, contractors, bank and mortgage firm officials.

The ever-widening probe by the Justice Department of FHA doings has now reached Chicago, and the preliminary news is not good; an estimated 50 indictments have reportedly been returned. Of course, indictments are not convictions, but the scent of wrongdoing is strong in an agency that is looked upon by many as their last chance for decent housing.

The Federal Housing Administration is supposed to be there to help people who don't have the wherewithal to deal with the high rolling mortgage bankers and lending houses on their own. Now, it seems, these people, and other taxpayers, have been ripped off by many in the FHA, working in collusion with others outside the agency.

The Justice Department owes it to all taxpayers to see that the probe is expedited with all due speed. Too many good people depend on the FHA.

MY RESPONSIBILITY AS A CITIZEN

HON. ROBERT W. DANIEL, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conducts a Voice of Democracy Contest. This year nearly 500,000 secondary school students participated in the contest competing for five national scholarships which are awarded as the top prize.

In this year's contest the theme was "My Responsibility as a Citizen." The winner from Virginia, Miss Bonnie L. Brockwell of Petersburg, Va. lives in the congressional district I have the honor to represent.

Her outstanding essay on responsibility as a citizen is an excellent guide to young people's participation in our democratic process. I invite my colleagues to read this fine article:

MY RESPONSIBILITY AS A CITIZEN

So? Who cares? This is the attitude of many young citizens today. We are living in a decade of apathy much like that of the fifties. This is a direct contrast to the sixties in which youth eagerly faced up to their tasks as citizens of helping to improve their country. The time has come to stop waiting for someone else to step in with solutions. It is up to me to do my part.

As a young American citizen, I have certain responsibilities which I must meet vigorously and sincerely. Only in accepting these responsibilities can I share in the ideals of freedom on which my country was founded and for which my forefathers gave their lives.

My major responsibility as a citizen is to get involved. I must care, and reflect my concern in my actions. It is my duty to aid my country in any way that I can, and to help her be the very best country possible. The first step is to become enlightened; to find out what is going on around me. Because I live in a democratic society, I am free to ask questions. When something happens that I do not understand, I can write to my local newspaper or my government representatives and ask for information and views on the issue. I can also educate myself by taking time each day to read the newspaper, especially front page reports and editorials. Magazines and other publications can help keep me informed as to the events taking place in my country.

Yet only by responding to this information can I actually fulfill my responsibilities. Again I can employ local media. It is my privilege to write to my local newspaper and express my feelings through editorials and public opinion polls. My right to freedom of speech allows me to discuss my views openly with others. Finally, my state delegates, national congressmen, and senators were elected to reflect the interests and desires of the people. It is my duty to let my representatives know what I am thinking and how I feel. In this way, they will be better qualified to represent me.

This involvement must not be kept in the dark. It is my job to spark concern in other young citizens and to help enlighten those around me.

I can take actions both now and in the future to fulfill my personal responsibilities. I believe that if each individual did his or her part as a citizen, many of the problem issues of today would not exist. Thus by my single contribution, I am helping to achieve the overall solution to my nation's problems.

Soon I will be granted the right to vote. It is my responsibility to use this privilege to elect to office leaders who will work to improve my country and insure its democracy to coming generations. I can assume the task of population control in my later life by planning my family.

I accept and deal with many responsibilities in my day to day life. I can turn my heat down, drive slower, and turn off lights not being used to do my share to relieve the energy crisis. I am also able to clean up my country by proper disposal of discarded materials. In school, I can take an active part in student government affairs, classroom discussions, and mock elections. This involvement helps prepare me to face the responsibilities my citizenship imposes.

In the community I can participate in clubs and service projects which deal with the issues that threaten my country.

I try always to be conscious of the fact that my citizenship places a great deal of trust in me and demands that I dedicate myself to my country. She deserves my support in both actions and thoughts; I must remain loyal despite the turmoil that she inevitably faces. It is my duty to continuously put forth my best efforts to try to improve myself by setting an example other young people will want to follow.

Who cares? I care, because I want to fulfill my responsibilities as a citizen.

DISASTROUS BUDGET CUT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. DRINAN. Mr. Speaker, I protest, in the strongest possible terms, the elimination of the general research support program from the administration's proposed fiscal year 1975 budget. Many physicians and hospital administrators have written me concerning this source of funds to medical schools and teaching hospitals. The general research support program has in the past provided funds both for teaching hospitals and medical schools to provide seed money for young researchers just beginning their careers. In addition, these funds have also provided support for joint ventures such as the acquisition of instruments which might be used by a variety of investigators in a given institution. There are many other uses to which the general research support grant funds have been applied.

The deletion of these funds proposed by the Nixon administration will definitely erode the quality of research in our academic institutions and will hamper the development of research in the future. None of us needs to be reminded of the major role which research has played in developing programs of medical care for the future.

The elimination of this program from the budget preserves only a miniscule fraction of the health budget. The loss will be disproportionately felt because the general research support program has been a major factor in the establishment and development of young physician-scientists and, therefore, an important tool used to advance biomedical science in the longer view.

Mr. Speaker, I have written to Roy L. Ash, Director of the Office of Management and Budget, protesting again in the strongest possible terms, the elimination of this program in the administration's budget for fiscal year 1975. I am hopeful that the chairman of the Labor-HEW Appropriations Subcommittee, the distinguished gentleman from Pennsylvania (Mr. FLOOD), will insure the continued vitality of this program. This discontinuation of this program will have undesirable consequences for the quality of biomedical research and medical care delivery. I urge that these funds not be cut.

ENERGY AND DEFENSE INDUSTRY PROTECTION ACT

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. MOSS. Mr. Speaker, on December 19, 1973, I introduced H.R. 12040, the Energy and Defense Industry Protection Act. This bill would amend the Securities Exchange Act of 1934 to prevent control of foreign persons of American companies engaged in vital industries.

This bill has apparently generated a great deal of interest, and I am informed that copies of it are very difficult to obtain. I am inserting a copy of the bill in its entirety immediately following my remarks:

H.R. 12040

A bill to amend the Securities Exchange Act of 1934 to prevent control by foreign persons of American companies engaged in vital industries

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy and Defense Industry Protection Act".

SEC. 2. Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781), is amended by adding at the end thereof the following new subsection:

"(j) (1) It shall be unlawful for any person—

"(A) who is not a citizen of the United States; or

"(B) who is owned or controlled by a person who is not a citizen of the United States;

to control any American issuer registered under this section if such issuer is engaged in the energy or defense industries.

"(2) For purposes of this subsection—

"(A) the term 'American issuer' shall mean any issuer organized under the laws of any State, or having its principal place of business in any State; or any person owning or controlling such an issuer;

"(B) the term 'control' shall mean the ownership, either directly or indirectly, of 10 per centum or more of an issuer's voting securities, but the Commission may, by rule, set a lower figure for particular issuers or classes of issuers;

"(C) an issuer shall be considered to be engaged in the energy industry if a principal business of such issuer is the production or processing of crude oil, residual fuel oil, refined petroleum products (as defined in the Emergency Petroleum Allocation Act of 1973), shale, natural gas, coal, geothermal steam, uranium, or electricity;

"(D) an issuer shall be considered to be engaged in the defense industry if it derives 20 per centum or more of its gross revenues from contracts with the armed services or the Department of Defense, or from contracts with persons who have contracts with the armed services or the Department of Defense, or if such issuer produces a product, service, or commodity which the Secretary of Defense designates, by rule, regulation, or order, to be vital to our national defense;

"(E) when two or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of an issuer, such partnership, limited partnership, syndicate or group shall be deemed a 'person'.

"(F) in determining any percentage of a class of any security, such class shall be deemed to consist of the amount of the outstanding securities of such class, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer.

"(3) The Administrator of the Federal Energy Administration may, by order, upon application or upon his own motion, after appropriate notice and opportunity for hearing (which hearing shall be on a record within the meaning of subchapter II of chapter 5 of title 5 of the United States Code and shall be conducted in accordance with the provisions of sections 556 and 557 thereof), exempt either conditionally or unconditionally any issuer engaged in the energy industry from the prohibition of this subsection if the Administrator finds that the granting of such exemption would not adversely affect the production or supply of energy within the United States;

"(4) The Secretary of Defense may, by order, upon application or upon his own motion, after appropriate notice and opportunity for hearing (which hearing shall be on a record within the meaning of subchapter II of chapter 5 of title 5 of the United States Code and shall be conducted in accordance with the provisions of sections 556 and 557 thereof), exempt either conditionally or unconditionally any issuer engaged in the defense industry from the prohibition of this subsection if the Secretary finds that the granting of such exemption would not adversely affect the national defense.

"(5) Any person who is in violation of the provisions of this subsection on the date of enactment of this Act shall have two years from such date to bring himself into compliance."

WRONG MOVE ON ENERGY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. DERWINSKI. Mr. Speaker, as we hope to continue to grind out a new version of Federal Energy Agency, it is obvious that the Democratic leadership is more interested in oratorical flights of fancy than seeing to it that the energy shortage is solved.

I specifically refer to the vote yesterday to impose a rollback provision in the pending legislation, as soon as it was known that the President would veto the emergency energy bill, because of the mandatory rollback provision.

Therefore, I insert an editorial on March 1 edition of the Chicago Daily News, even though, I recognize that this kind of commentary is destined to be ignored by many Members of Congress:

WRONG MOVE ON ENERGY

> Congress discarded principle and went on an emotional binge when it passed the emergency energy bill with its mandatory rollback of some domestic crude oil prices. Responding to a plea to "help the little people, the poor people," the House followed the Senate and sent to the President a bill he has no choice but to veto.
>
> If there were any chance that a rollback would help the people, that would obviously be the way to go. There isn't a motorist in the country who wouldn't like to see gasoline prices go down instead of up. But the rising price is directly traceable to the shortage of crude oil. What we must have is more of it, and the way to get more is to make it worthwhile to bring oil out of the ground. Forcing down the price by government edict would be a virtual guarantee that needed oil would stay underground and never reach the gas pumps. There's no help for anyone in that direction.
>
> Most congressmen know this, but the chance to play hero by appearing to "help the little people" was too inviting to pass up. It was safe, too, for Mr. Nixon had promised a veto and the blame for high gas prices would fall on an already unpopular President and on everybody's villain, the big oil industry.
>
> The result is that unless the veto is overridden—and it should not be—the many essential or desirable features of the energy bill are further delayed. For one thing, the Federal Energy Office still lacks the statutory authority to do the job it is trying to do and must learn to do better. Once the rollback question is settled, Congress should speedily return to a simpler energy bill and get the necessary laws on the books.
>
> By now it should be apparent to everyone that the energy shortage is no short-term affair. If and when the Arab oil embargo is lifted the shortage will be relieved to some extent, but it will by no means vanish. Inescapably, Americans must learn to get along with less while pursuing long-range plans to discover and develop more domestic sources of energy, with oil high on the list. It is futile to pretend that prices can be rolled back at the same time enormous sums must be spent on drilling for oil and building more refinery capacity.
>
> The government is properly concerned with preventing unjustified price hikes and under-the-counter profiteering, and it must have the legal tools to enforce adequate safeguards. But a misuse of government power on oil pricing could have an effect similar to that of government blundering on meat prices last year. The price of meat held steady but meat almost vanished from the stores. Low gasoline prices will be no bargain if there is no gas to buy.

11500 BANANAS ON PIKE'S PEAK

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. HOSMER. Mr. Speaker, H.R. 11500, the anticoal mining bill, rigidly imposes a requirement that the dirt or soil removed to uncover a strip mine's coal seam be put back essentially where it came from. Even if it can be hauled away someplace unobjectionable and the mined land put to equal or better use than before, H.R. 11500 blindly insists, nonetheless and regardless of the cost, that it be put back.

This is reasonless environmental zealotry.

It will unnecessarily run up the cost of mining coal, in many cases to a level where it just will not be mined. This energy will be lost to this Nation which needs it badly and no compensating advantage whatsoever will ensue.

It is time to blow the whistle on that kind of foolishness. H.R. 11500 makes about as much sense as trying to grow bananas on Pike's Peak.

WARFARE AND WELFARE DO NOT MIX, LET US NOT "WPA" THE DEFENSE BUDGET

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. LEGGETT. Mr. Speaker, Secretary of Defense James Schlesinger's recent testimony last week should give us all food for thought. The Secretary, testifying before the House Appropriations Committee, admitted that between $1 billion and $1.5 billion of the current military spending request is there to stimulate the economy, rather than to meet essential defense needs. The committee chairman, our colleague, GEORGE MAHON, says he understands the figure to be about $5 billion.

Based on what I know of the Defense budget, I am more inclined to credit Mr. MAHON's version. The Defense budget this year carries an unprecedented number of new programs, and it is astounding now to gain the admission that they have been created only for the purpose of spending money. Dr. Schlesinger wants to build submarine-launched cruise missiles that will do nothing our existing submarine-launched ballistic missiles cannot do better. He wants to give our strategic warheads hard-target capability, which will insure that the Soviets will empty their missile silos before our warheads reach them. He wants a new generation of clean tactical nuclear warheads to make nuclear war in Europe more feasible; somehow he assumes our use of clean warheads will prevent the Russians from coming back at us with their dirty warheads. These programs are not cheap—Pentagon pronouncements to the contrary, true military spending is scheduled to increase 9.3 percent about the current year's level, even excluding the effects of inflation—and they will be even more expensive as they get rolling in the years to come.

But more to the point—defense spending is arguably not the best way to stimulate the economy. Compared to the civilian programs which Mr. Nixon is starving to varying degrees, defense spending is highly technology-intensive, when what we need is spending that is labor-intensive. Defense spending produces approximately one-third fewer jobs per dollar than does civilian spending; the multiplier and pump-priming effects are therefore reduced accordingly, though admittedly there are a lot of aerospace workers out of jobs.

While it may be argued that the energy crisis has created a new need for high technology programs, this is an argument against increased military spending rather than for it. Perhaps we should sacrifice some short-term economic health to gain a long-term energy technology base. But it is obvious that a nuclear physicist or engineer working on these new nuclear warheads is a total loss to our energy programs. We need to transfer these men out of weapons research and put them to work bringing us safer, cleaner, and sooner nuclear power generation.

I am pleased to see that the committee chairman, Mr. MAHON, and other members of the committee, including the gentleman from Florida, Mr. SIKES, have expressed deep reservations about creating a warfare-welfare complex. I hope to see this concept decisively defeated as the year progresses.

In California, our congressional policy has always opposed WPA for defense purposes.

FREEDOM FOUNDATION AWARD WINNERS

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mrs. HOLT. Mr. Speaker, a number of Maryland Fourth District residents and organizations were recent recipients of the 1973 Freedom Foundation Awards, and I would like to take this opportunity to express my personal pride, and that of Maryland, in their accomplishments. Their achievements mark a high level in the remarkable quality of patriotism reflected in Marylanders, and I would like to commend the following:

Vincent Godfrey Burns of Annapolis, Poet Laureate of Maryland for "American Poetry;"

Brooklyn Park Elementary School for their school publication, the B.P.E.S. Journal;

The U.S. Marine Corps at Fort George G. Meade for Governmental Unit Activities;

Master Sergeant Jack F. Holden of Fort George G. Meade for his Armed Forces Letter "Human Goals—Value for Living;"

Cadet Barry N. Breen of Laurel for his Armed Forces Letter "Human Goals—Values for Living;"

Captain Michael P. Nemchick, U.S.N.R. of Oxon Hill for his Armed Forces Letter "Human Goals—Values for Living;"

National Sojourners, Andrews Chapter of Temple Hills in the Community Programs Category;

Frederick Sasscer Junior High School in Upper Marlboro in the School Category; and

Cadet Martha Lewis, Air Force Junior R.O.T.C. in Upper Marlboro for Armed Forces Letter "Human Goals—Values for Living."

FEDERAL PROGRAMS WITH A HEART

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. CHAPPELL. Mr. Speaker, 3 weeks ago I was able to observe three very fine and wonderful programs that get assistance from the Federal Government. It would do the heart good of every citizen in the country if they could see programs like these in action—where their money is spent wisely and for good purpose.

My first visit was to a half-way house for alcoholics in Daytona Beach, Fla. This program, Halifax Alcohol Court Oriented Program, Inc.—HACOP—was begun by my good friend Hal Marchman who is the minister of the Central Baptist Church in Daytona. The director is Mr. James Dawson and one of their very inspiring staff members is Robert Roden who coached three Olympic boxing winners, all of whom became world champions.

The phenomenal thing about this rehabilitation program is their 55 percent success record. Their action with an alcoholic is a revolving-door type process—contacting him as he is going to jail; getting the cooperation of the judge in releasing him to their mission to sober; and urging him to participate in the HACOP program. It's a no-nonsense program, with 22 hours of group therapy each week and lots of responsibility, both for the treatment center and for the individual being helped. They have nine buildings for their treatment facilities, as well as two retail stores which they have established. Many patients work in their retail stores, while others work outside the community in all walks of life—secretaries, construction workers, businessmen, medical technicians, et cetera.

Many times I have talked in speeches about the importance of work to a man. It is good to see a program that forces an individual to accept responsibility—first just for keeping himself and his room neat and clean; to perform small jobs; then finally to accept full-time work.

So far, in this one program in Daytona Beach, HACOP with Federal assistance since 1970 totaling $18,315 has helped house some 248 at the mission house and helped rehabilitate 712 persons. These folks now hold responsible jobs—pay their taxes—but most of all, many of them are helping other alcoholics find the way back to normalcy.

Another federally funded program which I was able to see in action was our meals on wheels service. The Director of this program is Mrs. Shirley Ferguson and Mrs. Barbara Egan, nutritionist for the Volusia County Health Board, works with the group. Some of the top volunteers are Mr. and Mrs. Richard Zellar, Mrs. Anne Alberti, Mrs. Faye Weaver, all of Daytona Beach; Mr. and Mrs. Hubert Mathews, Holly Hill; Mr. and Mrs. H. S. Housh, Ormond Beach; and Mrs. Glayds Honaker, New Smyrna Beach.

Until you have seen with your own eyes the needs of many of our elderly and sick citizens, you cannot begin to understand how much this one hot meal delivered to them 5 days each week means. To many, it makes the difference in being able to stay in their own place or having to find a place where they can be cared for.

Today, in the Volusia area alone, the Meals on Wheels program, provided for under the Older Americans Act, is taking a hot lunch to some 325 people. The balanced meal of meat, vegetables, milk, et cetera, costs from 25 cents to $1.30, depending on ability of the person to pay. It is delivered by a gracious volunteer.

While the Federal Government can assist an elderly citizen by bringing hot, nourishing lunches, it will take action by neighbors, friends, churches, retired citizens' organizations, civic associations, youth groups—to see that they are given the warm human companionship that drives the stark loneliness from their lives. I want to urge everyone in the Fourth Congressional District who can possibly do so to devote at least 1 hour a week visiting these folks. I know you will feel just as enriched as I did by this experience.

A third program which deeply impresses me is the Retired Senior Volunteer Program—RSVP. Bringing assistance, compassion and fellowship to thousands, RSVP received a grant of $38,350 in Federal funds for this year. Already they have their limit of 125 volunteers, with a long waiting list of others who want to serve. There are only three paid employees—all the others volunteer their time and effort for work in nonprofit organizations. Mrs. Pat Cleland is the project director and volunteers who have been recognized for giving 100 hours of their time are Mrs. Pauline Barto, Mr. Francis Bidwell, and Mr. David E. Winnerstrand.

The project which I visited was the Talking Library for the Blind. It is manned mostly by retired telephone workers. Other volunteers do hospital work; act as teachers' aides in the public schools; assist at four libraries; visit in nursing homes; do clerical and other work for the American Heart Association and Easter Seal; and additionally they show movies for senior citizens and do miscellaneous work for the Meals on Wheels program.

Mr. Speaker, at a time when some of the Federal Government's programs are criticized as extravagant, I am proud to report to my colleagues and constituents on three programs that exemplify the humanitarian attitude we had in mind when we created these programs. I wish to highly commend the three programs and the many wonderful volunteers that make them work.

JULIA BUTLER HANSEN

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. ZABLOCKI. Mr. Speaker, it has been my privilege to serve with JULIA BUTLER HANSEN in the House of Representatives for the past 14 years. Her retirement at the end of this year will mean the loss of a colleague of great conviction and dedication.

Mrs. HANSEN has compiled a record of great accomplishment, particularly in the area of environmental concern. As chairman of the Interior Appropriations Subcommittee she has espoused national conservation legislation providing the development of governmental policy in the areas of reclamation of National Park and forest lands, hydroelectric power development, and fisheries conservation. Her efforts on behalf of the Indian people in the form of increased funding for hospitals, schools and employment opportunities are among her many achievements.

Mrs. HANSEN is the first and only woman to serve on our House Democratic Steering Committee, an example of her many "firsts" as a woman. As Democratic Woman of the Year in 1958, and by her example before and since receiving this award from the Democratic Party, she has paved the way for the inclusion of women and minorities in the policymaking bodies of our Democratic Party.

It is with mixed emotions that we accept her decision to bring to an end 37 years of public service. She will be missed in Congress and the Nation will lose an able legislator. We who have had the privilege of serving with her will miss her pragmatic leadership and wise counsel. Mrs. Zablocki and I extend our very best wishes for a well-deserved retirement with the hope that she will be able to do all the things she has planned and that her days will be filled with much happiness.

MY RESPONSIBILITY AS AN AMERICAN CITIZEN

HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. SHOUP. Mr. Speaker, I am submitting to you a speech by Linda Mallon which won her recognition by the Veterans of Foreign Wars in their Voice of Democracy Contest in Montana. I feel that Linda exemplifies the young people of today which will be the governing citizens of tomorrow. Her speech is refreshing evidence of strength and character of America's young people. Linda having won the State contest will soon be in Washington, participating with other young Americans for national honors. It is a high privilege of mine to enter her winning essay into the RECORD:

MY RESPONSIBILITY AS AN AMERICAN CITIZEN

America is young and unfinished. It is like a skyscraper being built story by story with each generation adding new rooms, new levels. The sturdy foundation was built with the concrete ideas of freedom and of a democratic government. Upon this, each story was built and rebuilt with improvements and changes constantly being made. As a young citizen I am a carpenter helping to shape and build a place for our generation. I am a part of the designing and constructing of a beautiful America.

It is my responsibility to get all the education possible so that I will be able to do my work with skill and knowledge. Each one of us must take it upon ourself to be aware of the many blue prints that our country can follow. Whether a conservative or a liberal format is used, is up to us. So it is important that we are aware of the world around us to see which designs have succeeded and which have failed.

It is my duty to state my opinion in the building of this country because every individual has the right to voice what he or she feels. The first step in the future is to begin forms of good citizenship. I will work beside and with my fellow man helping him when he falls, praising him when he is victorious. In one more year I will be given the right to vote—one of the greatest privileges of democracy. My vote *does* count, and I must try to use this vote wisely. To prepare myself for the task of being a good citizen, I must be able to tell what is right and what is wrong. I must decide for *myself* which design to follow.

I am obligated to America for all that it has given me: protection for myself and those I love, the freedom of religion, speech, press, the freedom to choose, to express myself and the right to be unique. I must realize that these gifts of freedom cannot be taken for granted.

Although sometimes our country seems wrong in the way it works, we must support it, for without this support it would fall. We have so much more than so many other people that everyone should be grateful. If someone or some power were to try to destroy our country, it could not be ruined—if the people would stand beside it and fight for it. The building of America is a difficult task, and with each generation the job seems to become more difficult.

As an American citizen I will work to the best of my ability to construct a story of our generation, and I hope that it will be the most wonderful of them all.

America, an ever-growing skyscraper, reaches toward the limitless sky, standing strong and united. America is young and unfinished.

LITHUANIAN DECLARATION OF INDEPENDENCE OBSERVATION

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 6, 1974

Mr. VANIK. Mr. Speaker, on February 17, the Cleveland American Lithuanian community commemorated the 56th Anniversary of the Declaration of Independence of the Republic of Lithuania.

While the Republic, and its neighboring States of Latvia and Estonia, was able to prosper and grow during the 1920's and 1930's, these small, free nations were caught up in the whirlwind of World War II. Marauding armies crossed and recrossed the land, and in the land, and in the end, Soviet Russia remained in control, snuffing out the independent existence of these nations.

For nearly 30 years now, these nations have been under the control of the Soviet Union.

Yet as free men, we must continue to remember the plight of these peoples. When any man loses his freedom through oppression, the freedom of all men is threatened.

We have particular cause to remember the plight of these peoples at this time—for their plight has just been redramatized by a Nobel Prize writer who describes the horrors of the huge prison state system which fell on Lithuania and its neighbors. Lithuania is a Gulag Archipelago—a massive prison camp.

As we welcome the freedom of Mr. Solzhenitzen, we should continue to remember those who are left behind—those who still look to use for the ideal and reality of freedom.

POLITICAL KIDNAPINGS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. DERWINSKI. Mr. Speaker, I have been somewhat surprised and little disappointed at the lack of much intense concern on the part of my colleagues in the kidnaping of Atlanta Constitution Editor Reg Murphy and that of Patricia Hearst.

These are political kidnapings and significant of more than has been recognized, therefore, I insert into the RECORD an editorial by Jim Alvord, managing editor of the Sun Journal of Lansing, Ill.

A MOST DESPICABLE ACT

(By Jim Alvord)

The recent kidnapping of Atlanta Constitution Editor Reg Murphy prompted a well-intentioned reader to call the other day.

"Jim, what would happen if someone decided to kidnap the Sun Journal editor"

"Funny you should ask. I had a talk with my publisher about that this morning and he made some advance policy decisions."

"And?"

"He will pay a ransom up to but not exceeding $10. In addition. I am to be docked for any time away from the office."

While this conversation never really took place, the safe return of Murphy and capture of his abductors caused a brief sigh of relief to be heard across the country. It's only a brief sigh because the fate of Patricia Hearst remains an unknown factor.

Upon reflection, one gets the unmistakable impression that the kidnap craze may become a national malady, similar to the skyjackings of '72 and '73. There is apparently some perverse law of human nature that says sick minds travel in patterns. The Murphy kidnapping came fast on the heels of the Hearst case, and you can probably expect a few more in the near future. The question, why, must be asked, but as usual, there is no logical answer.

An even tougher question to answer is why do the poor people of California accept the fresh meat and vegetables given to them by Randolph Hearst. Even the slowest of minds can comprehend the fact that this food is blood money of sorts, a forced donation from an anguished father. In addition to violating the most basic of moral principles, the poor people are paving the way for future blackmail programs. The food giveaway, called People in Need, began last Friday and was punctuated by confusion and violence. People were actually fighting over their share of the ransom booty. It makes me think humanity has reached an all-time low in America.

Furthermore, where are the radical leaders now that we need them. Ever championing for freedom and fairness for all men, those silver-tongued rebels are now conspicuously silent. If they were to rise up in unison, condemn the actions of the Hearst kidnappers and forbid their followers to accept the food payments, another kidnapping could be avoided. It seems that justice is a one-way street as far as they are concerned.

There are those who will say what do you know about being hungry. It is true I have been fortunate in this life, never facing an urgent need for food, clothing or shelter. And yet at the same time, I can say without fear of contradiction that I would rather starve than feed off the misery of innocent kidnap victims.

William Randolph Hearst didn't make the people of California poor. In fact, the reverse is true. The empire founded by his father has created jobs for hundreds of thousands of people through the years. People who rap the super rich and big business never give thought to the idea that their money makes money for everybody. If all the owners of large companies decided they didn't want the headaches of business and shut down in favor of lifetime vacations on the Riviera, there wouldn't be many people cashing paychecks on Friday.

We can only hope and pray for the safe return of Patricia Hearst. While the Bible teaches tolerance and understanding, I'm running a little short of both commodities as far as the Symbionese Liberation Army is concerned. I've been an opponent of capital punishment my whole life, but I'm beginning to think I was wrong.

MIKE AND MARK HEMBD 1974 POSTER TWINS FOR NATIONAL ASSOCIATION FOR RETARDED CITIZENS

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. HANNA. Mr. Speaker, I wish to bring to the attention of my colleagues two recent visitors to Washington and the association they represent. Mark and Mike Hembd, 5-year-old twins from Cypress, Calif., were selected as poster children for the National Association for Retarded Citizens. Yesterday, they met with Mrs. Nixon at the White House, and I had the pleasure to meet them when they visited the Capitol.

This was the first public appearance for Mark and Mike. I am sure they will remember their visit to the White House with pleasure, and that their trip to Washington will be remembered for a long time.

NARC, whose name was recently changed from National Association for Retarded Children to National Association for Retarded Citizens to reflect its concern with both children and adults, is a 24-year-old association with 270,000 members. Mr. Marion P. Smith of Clearwater, Fla., president of NARC, accompanied the twins, their parents, Mr. and Mrs. James A. Hembd, and their brother Scott, to Washington.

Mr. Smith said NARC was created to provide services and programs for the 6 million mentally retarded persons in the United States, and to foster research on the causes and prevention of mental retardation.

As a Californian, I have supported that State's efforts to improve the life of its mentally retarded citizens. I have been impressed with the success of these efforts to bring the mentally retarded into the community as productive and independent members of the society. Mark and Mike Hembd are fine examples of these efforts. Their selection as poster twins for 1974 underscores two principal needs of mentally retarded children: the reduction of the number of retarded persons in institutions through expansion of alternative services in the community; the need for more special education opportunities in public schools.

I would like to take this opportunity to commend NARC for the fine work they are doing in behalf of retarded persons. Mark and Mike are great youngsters, and will, I am sure, represent NARC well during 1974. The need for better understanding of the problems of our retarded citizens by the public is a vital one. NARC performs this task admirably. My best wishes to both NARC and the Hembd family for the future.

NUTRITION FOR ELDERLY

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. O'BRIEN. Mr. Speaker, today I am introducing a bill that would extend urgently needed funding for the nutrition program for the elderly through 1977.

Millions of our elderly citizens suffer from poor nutrition primarily because they cannot afford nourishing, well-balanced meals. In addition, their limited mobility makes it difficult for them to shop or cook for themselves. Even when they can, they often do not know what foods to choose or how to prepare them. Feelings of loneliness and rejection common to the aged compound the problem by killing any incentive to cook a meal only to eat it alone.

The nutrition program for the elderly was established in 1972 to combat this problem. It provides hot, nutritious group meals to senior citizens at a very low cost. Meals are served at centrally located sites such as schools, churches, and elderly housing projects.

Transportation is provided where necessary and means are home delivered to eligible shut-in individuals who would otherwise be unable to participate.

The program not only promotes better health among senior citizens and reduces their isolation but it also gives older persons and welfare recipients job training and employment.

Funding for this vital program expires June 30. My bill would amend title VII of the Older Americans Act to authorize extended funding at a rate of $150 million for fiscal 1975, $175 million for fiscal 1976 and $200 million for fiscal 1977.

For most of the participants, this program has meant the difference between being sick, lonely and dependent or being able to continue living in their own place independently and surviving a few more years in the dignity to which they are entitled.

For former welfare women, the training, jobs and experience have meant the difference between being stigmatized by welfare or leading independent, productive lives in their communities.

I believe that termination of the nutrition program would be a tremendous setback in our efforts to improve the lives of our older citizens. Therefore, I urge you to support my proposal.

PRIESTS CALL FOR IMPEACHMENT

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. DELLUMS. Mr. Speaker, the Oakland Association of Priests, an organization doing volunteer work in the diocese of Oakland, has sent me a copy of a resolution passed in their meeting of February 25.

I would like to call this resolution to the attention of my colleagues. First, it shows once again that the people who feel that our Government and our political system are being disgraced by the present administration are no small minority of congenital malcontents, but a wide spectrum of the American people.

Second, it shows that impeachment proceedings are necessary if the corroding spirit of distrust and dishonesty is not to triumph over a chance for a new start. As the poet William Blake said, we need—

> To call down a great solemn assembly, so that he who will not defend the truth may be compelled to defend a lie, and so be snared, and caught, and taken.

The resolution follows:

ASSOCIATION OF PRIESTS,
Oakland, Calif., February 28, 1974.
Representative RONALD DELLUMS,
California Congressman, House Office Building, Washington, D.C.

DEAR CONGRESSMAN DELLUMS: At its monthly meeting, held on February 25, the Oakland Association of Priests, passed the following resolution:

OAP RESOLUTION 2/74

Whereas, the stability and performance of government depends upon the moral and legal probity of elected and appointed officials, and:

Whereas, the present administration has, through various activities and involvements, diminished public trust in government, raised serious doubt in the public's mind as to the legality and morality of certain of its actions, and:

Whereas, the Constitution provides that in such situations officials may be impeached.

Let it be resolved therefore: That the Congress be urged to begin impeachment proceedings summarily against Richard M. Nixon.

REV. PAUL ROSS VASSAR,
Secretary.

COAL DEVELOPMENT MUST NOT BE BLOCKED

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. NELSEN. Mr. Speaker, I recently received a letter from my good friend, Andrew Freeman, manager of the Minnkota Power Cooperative in Grand Forks, N. Dak., which very vividly describes the great energy potential that lies in the North Dakota coal fields.

Andy also describes in no-nonsense fashion the serious dangers of several legislative initiatives that would inhibit our Nation's ability to make use of this vast resource located in North Dakota and several other States.

I believe Andy's letter should be read by every Congressman and Senator, and I, therefore, insert it in the RECORD at this point in my remarks:

MINNKOTA, POWER COOPERATIVE, INC.,
Grand Forks, N. Dak., February 20, 1974.
Hon. ANCHER NELSEN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN NELSEN: I know that you, along with other Congressmen and Senators of this upper midwest area, are aware of the fact that North Dakota and other western states contain vast deposits of coal and that these are now being considered as fuel for power plants, gasification plants and other petro chemical purposes.

I want to urge you to take no action which would block us from using these resources or placing an undue burden on our opportunity to employ them for they are vital to our own economic survival and to the welfare of the residents throughout a several upper midwest state area, if not the entire nation.

This energy crisis confronting the nation is real. It is not something that we are going to solve with a 68° thermostat or a 55 mile an hour speed limit or a price rollback. It is more than a political slogan. It is a national emergency and it's about time all of us wake up to that fact. All of us in fact, must begin to realize that we are in trouble and that our local coal deposits must be called on to take on some of the load now being carried by oil and gas, and do it quickly if we are to avoid some very serious economic repercussions.

There is no other way to keep our national integrity and economy in balance. We must, as quickly as we can, shift to an electric economy and use electricity made from coal or atomic plants in every way possible to displace some of the oil and gas that we are misusing to heat our homes, fuel power plants and supply industrial heat and the like.

Today 88% of our domestic fuel reserves are in the form of coal. However, they supply only 17% of our energy needs. On the other hand, known gas and oil reserves are being called upon to supply over 70% of our energy requirements with no known capability to sustain such a loading.

Coal cannot meet this challenge and serve as an effective weapon to combat the energy crisis if pending legislation in the Congress becomes law.

At this very moment, we are talking about achieving a self-sufficiency position with regard to energy, yet we have a Congress passing and considering legislation which is dangerously out of phase with what must be done.

How can we, in good conscience, consider outlawing the stripping of coal? Where would you get the miners or machinery to underground mine North Dakota lignite? Don't people know that someone tried that 50 years ago only to find out that in the course of time, it rendered the surface useless?

Then there is the Seiberling Amendment calling for a $2.50 increase in the cost of coal as a way to discourage strip mining. Aren't costs going up fast enough already without more aid to inflationary forces?

There is also congressional effort being expended which will require lands to be returned to their original contour. Why do that? In many cases a better contour can be had by changing the contour as is already in evidence in central North Dakota where strip mining is the only way much of our coal can be mined.

The Mansfield Amendment is another piece of legislation that doesn't make sense and could do much to destroy numerous coal fields that are in future power production plans. In western North Dakota there is much mineral wealth in the hands of the federal government. The enactment of such an amendment could greatly discourage and very likely kill any opportunity to mine such land.

I think this nation must realize that the energy crisis is real in that oil and gas are carrying a burden far greater than the known reserves warrant. We must switch a part of this load to an electric economy. This electricity must come in part from coal and in part from atomic power and come as quickly as possible.

Already you can see the great disruption that has come to our economy. Next year the impact will be greater. It could find its way into food production due to lack of fuel and fertilizer. When that happens, then widespread suffering will begin and trouble will be upon us.

From where I sit and based on my experience and knowledge, I can assure you the energy problem is real and our lignite coal can and must be a part of the answer. Every acre of lignite has the heat equivalent of 1,350,000 gallons of fuel oil. One million acres of North Dakota land contains 15 billion tons of lignite worth a trillion 350 billion (1,350,000,000) gallons of fuel oil or 30 some billion barrels of oil. Yet it represents less than 2% of the state's area, just a little more than the area of one of our small counties. If it were to be mined over a 40 year period it could supply all the heat, light and power that every farm, every home, every school, every church, every commercial place and every factory and still have enough left to take care of the growth that would occur. What's more, all the mined lands would be reclaimed. What a small price to pay for a tailor made contribution to the energy crisis that our nation is facing.

Please don't do anything to destroy our opportunity to use this valuable resource by hastily passing unrealistic laws that can only add to the troubles our nation is plagued with. What is more, work to see that your fellow colleagues don't do it either for this strip mined coal is badly needed if we are to overcome the challenges we face.

Yours very truly,

ANDREW L. FREEMAN,
Manager.

AMENDMENT TO VOTER REGISTRATION ACT, H.R. 8053

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. BADILLO. Mr. Speaker, at such time as the House considers H.R. 8053, the Voter Registration Act, I intend to offer an amendment to section 5, requiring the States to publish lists of registered voters at least 60 days prior to a Federal election. The text of my amendment is as follows:

AMENDMENTS TO H.R .8053

Page 16, immediately after line 21, insert the following new subsection:

(b) State officials in each State shall, no later than 60 days before any Federal election, prepare and distribute a list of the names and addresses of all residents in each State who are registered and qualified to vote in such Federal election.

Page 16, line 22, strike out "(b)" and insert in lieu thereof "(c)".

SOVIET ADVISERS MOVE INTO PERU

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. SPENCE. Mr. Speaker, a very disturbing article recently appeared dealing with Soviet efforts to penetrate into Latin America. Even though the Communists failed in their efforts to transform Chile into another satellite nation like Cuba, they continue to probe for vulnerable areas among our Latin American neighbors. In a story which appeared in the Star-News, Fred S. Hoffman cites American intelligence sources as pointing out direct Soviet movements into Peru. Not only have substantial amounts of Soviet equipment been shipped into Peru, but also Russian military advisers have appeared. An arms race now appears quite possible among many of the nations of Latin America as a result of these initial actions taken by the Soviet Union. It is entirely understandable that Peru's neighbors have become quite disturbed by this Russian intervention and feel the need to protect themselves with comparable military equipment. A costly military buildup by the nations of Latin America would be detrimental to all their economics. Consequently, we must express our alarm over these dangerous developments in hopes of dissuading the Soviets from possibly precipitating warfare in our own hemisphere as they have done before in Asia and the Middle East. I include the Star-News article at the conclusion of my remarks:

[From the Washington Star-News, Feb. 25, 1974]

SOVIET ADVISERS MOVE INTO PERU

(By Fred S. Hoffman)

U.S. intelligence sources say Russian military advisers have moved into South America for the first time.

They report that Russian technicians have arrived in Peru to train Peruvian soldiers in the use of T55 medium tanks bought from Russia last year.

Soviet military advisers have been present in Cuba for about a dozen years, but they have never been accepted by a South American nation.

Peru's purchase of Russian tanks and other military hardware has alarmed Chile and other neighboring countries. The appearance of Russian military advisers is certain to deepen that concern, U.S. military officials said.

American intelligence is uncertain how many Russian tanks and advisers have reached Peru. There Peruvian government has bought as many as 200 medium tanks, heavy artillery and other arms, and may be planning to order small SA7 antiaircraft missiles from the Soviet Union.

Russia has been trying for some years to gain an arms sales foothold in South America.

Moscow concentrated on Chile until the overthrow of the leftist Allende government by a rightist military junta last fall. Despite offers of low-price, low-interest, long-term arms deals, Russia was not able to open up a market there.

Then the Soviet Union switched its focus to Peru, and Peruvian President Juan Velasco acknowledged two months ago that his government had bought tanks and other weapons from Russia.

This was followed by reports that Chile's new military rulers were negotiating with the French for the possible purchase of more than 40 AMX30 medium tanks, which the Chilean army regards as comparable to the Russian armor bought by Peru.

Meanwhile, Chilean officers asked for American tanks and planes, arguing that these new armaments are essential to maintain an armed balance with Peru.

The Chileans have been telling American diplomats and military men that the Peruvians might use their new military muscle to try and take back territory lost to Chile in the War of the Pacific nearly 100 years ago.

U.S. officials appear to take little stock in talk of a new Chilean-Peruvian war, but they are disturbed at what is shaping up as an arms race in Latin America.

Ecuador, another neighbor of Peru, reportedly has indicated to American officials recently that it wants to buy arms from the United States. *This came after it was reported* that Peru is planning to form a new army division, and possibly an air force wing, to be stationed in a region bordering Ecuador.

NEED FOR A FEDERAL ENERGY ADMINISTRATION

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. RAILSBACK. Mr. Speaker, I would just like to add my support to H.R. 11793, legislation to reorganize and consolidate certain energy programs and policies within a Federal Energy Administration. Events of the last few months have vividly demonstrated the need for strong and coordinated leadership to resolve the energy problems our country is now unfortunately facing.

H.R. 11793 is important for several reasons. First, it will resolve any remaining confusion concerning the proper lead-agency for implementing energy emergency policy.

Second, the bill allows the Administrator the flexibility he needs to resolve energy emergency problems on a short-term basis. For example, the committee did not outline the specific functions of the six Assistant Administrators of FEA, observing "that the emergency nature of the agency, quickly changing conditions, and the varied functions to be performed, require the utmost administrative flexibility."

Third, this legislation recognizes the need for more timely and relevant energy information across an entire spectrum of issues. The need for accurate energy supply and demand information has become painfully apparent during this energy crisis. The bill takes an important first step toward resolving the problem by expanding the Administrator's powers to collect and evaluate data.

Mr. Speaker, H.R. 11973 lays the foundation on which we can hopefully resolve the energy crisis and sets us on the proper course toward energy self-sufficiency. I urge immediate enactment of the bill before us this afternoon.

Thank you.

HOW NOT TO CURE AN ENERGY CRISIS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. CRANE. Mr. Speaker, if we are really concerned with solving the energy problems which now face the Nation we would do well to consider the manner in which these problems developed. It will do little good to make scapegoats of the petroleum companies or to call for dramatic new governmental interventions in the economy if such actions are irrelevant to the real causes of the problem. It is clear that they are indeed irrelevant to such causes.

Government intervention is, in fact, one of the chief causes of the problem. Before such intervention, no shortages existed. Once a ceiling price was set on natural gas, however, exploration was discouraged, usage was increased, and shortages developed. Once Government banned the use of coal with sulfur content, the supply was sharply restricted. Once laws were passed requiring drastic reductions in the engine efficiency of automobiles because of pollution related modifications, the use of gasoline dramatically increased. The list goes on and on.

Government has itself stimulated the excessive demand for energy in the United States. Dr. Gary North notes that:

> The governments have subsidized cheap power for years. They have not permitted public utilities—themselves the monopolistic creations of governments—to raise prices on their various products. So the public has accepted as valid economically the one indicator they have to measure the value of the energy source, that is, the cost-per-unit consumed. The government has deliberately subsidized the public by keeping prices lower than the companies have insisted was necessary.

While many now tell us that the same government which caused today's crisis is the best agency for correcting our difficulties, Dr. North disagrees. He points out that:

> The answer to the . . . crises lies in the re-establishment of the free mobility of risk capital, the free bargaining of private citizens with each other, the free mobility of prices, and the eradication of 'free' goods and the fallacious philosophy which undergirds them . . . Let the free market do the . . . rationing efficiently, and we will not need to be burdened with the ghastly inefficiency of statewide or Federal economic planning.

If any event in our recent history has provided us with an example of how the free market works and how Government intervention distorts and destroys it, the question of our energy resources is that example. Hopefully, we will learn the proper lessons from this difficult time.

I wish to share with my colleagues the article, "How Not To Cure an Energy Crisis," by Dr. Gary North, from the February, 1974 issue of The Freeman, and insert it into the Record at this time.

How Not To Cure an Energy Crisis

(By Gary North)

(Note.—Dr. North, economist, lecturer, author, currently is an associate of Chalcedon, an educational organization dedicated to Christian research and writing. His latest book is *An Introduction to Christian Economics*, Craig Press, 1973.)

President Nixon went on national television on November 7, 1973, to announce to the nation that we are in the midst of an energy crisis.

Since the mid-1950's, when the construction of Federal highway projects was seen as the eighth wonder of the world, we have now come full circle. Highways are bad; now we need rapid transit. Southern California, which had quite a serviceable electric trolley car network—the Pacific Electric—now must spend billions of dollars of taxpayers' money in order to achieve as good a system as we had in 1950, before the days when government-financed "freeways" were built.

We have the best possible highways—safe at 70 miles per hour on some stretches, safe at 65 virtually everywhere. Now we are told that we should only drive 50.

Unfortunately, as General Motors President Edward N. Cole has pointed out in a letter to Sen. Jennings Randolph (November 8, 1973 release), most of our driving is done under 50 anyway—around town or on country roads. United States Department of Transportation data indicate that only about 42 per cent of the driving is done at speeds of over 50—and I wonder if this takes into account the driving done at under 50 during traffic jams on the superhighways. So the new speed restrictions, even if imposed in all states, would only save the nation 45 million barrels of crude oil annually, or about two and a half days' worth of consumption. Terriffic!

EFFECT OF NEW SPEED LIMITS ON THE TRUCKING INDUSTRY

Then, of course, there is the effect the new speed limits will have on the trucking industry. Shipments will be delayed, since truckers will not be able to drive at the higher speeds. Government regulations over rail transport, coupled with near-monopoly status of the "favored" railroads, now offer us another crisis. Some cities face both power shortages and shortages of other goods and services. Government regulations are like stones tossed into pools of water; they create ripple effects that not even the most sophisticated computer predictions can foresee.

So we return to the first half of the proposed crisis cure: restrictions, voluntarily imposed, on energy use. We turn of all neon signs, for example, as they have done in Oregon cities. A spokesman for the Outdoor Advertising Association of America informs us that this will save about 1 per cent of all electricity used in the country.

What about voluntary restraint on heating homes and businesses? Perhaps it may be healthier. It may encourage higher output. But why should a firm or a housewife keep the temperature down? By their own demonstrated preference, people like warmer climatic conditions in the winter, cooler in the summer. Each man will always have that nagging doubt: I'm living less comfortably, but what about everyone else? What good does one uncomfortable family (or work crew) count in a nation of millions?

NOT MUCH DIFFERENCE

Indeed, the problem is very much like the smog problem or the traffic jam problem. How much pollution or how much used-up space will one additional automobile cause? An infinitesimal quantity, obviously. Literally unmeasurable by macro-economic tools. Each family or each driver or each business concludes that his presence or his use of power won't make that much difference. Each person is absolutely correct; it won't make much difference. All those micro decisions, however, produce macro crises in today's world.

Yet, in other areas of our lives, the micro decisions do not produce macro crises. The newspaper boy fails to deliver a paper one day. This is an inconvenience, but not a disaster. You can call up the local distributor, and a man will send out the paper. If this happens too often, there is an economic incentive for you to take another newspaper. The newspaper managers know this, so they take care to organize their staffs so that the paper does get delivered most of the time. It pays them to have built-in self-correction devices that operate against micro-economic errors.

There is an economic incentive for companies to see to it that micro failures do not become macro failures. And they have a reliable indicator to remind them of their task: the profit and loss statement. It works so long as there is the right to exchange property (including labor) on a market of freely changing prices.

These are outright micro failures. But what about micro decisions that should not be, in and of themselves, detrimental? Suppose pizza eaters who have for years ordered their pizzas with mushrooms should decide to order them with pepperoni. All of a sudden, pizza shops have to order more pepperonis and fewer mushrooms. As always, customers set prices. Their increased demand for pepperonis increases the price of the available supplies of pepperonis, for the customers are bidding (as always) against each other. Meanwhile, the price of mushrooms tends to drop.

Then entrepreneurs will concentrate their attention on increasing the supply of pepperonis more efficiently—more inexpensively—in order to reap profits. Up goes the supply of pepperonis, which is precisely what the public has demanded, while the mushroom producers are forced to cut production, freeing economic resources (such as capital) for more important uses. No "crisis" emerges—no television speeches by the President, no Congressional hearings, no paperbacks from Nader's summer vacation student lawyers—unless someone tries to impose price controls on the pepperoni industry.

BREAKING THE CHAIN

With price controls, however, the complex chain of economic events is disrupted: no one is quite sure just how much pepperoni should be produced or which pizza shops should get priority consideration in receiving the now short supplies—short in relation to public demand at the artificially low price of pepperoni. Soon the Italo-American Society will be picketing on the Capitol steps, the Pizza and Straw Hat Amalgamated Brotherhood will be petitioning Earl Butz, and the FDA will send out preliminary warnings against debased pepperoni quality to all the pepperoni producers of the nation. We will then have a full-blown crisis. The public will be asked to order at least one mushroom pizza for every three pepperonis, with rationing of pepperoni pazzas threatened if "voluntary" restraints—one's patriotic duty in the war against spiraling pepperoni prices—should fail. Then the Cost of Living Council will add a new department: the Pepperoni Control Division. A chain of underground black market pepperoni pizza parlors will spring up. All over America, certain unpatriotic citizens will be whispering into door-slits, "Luigi sent me." A simple shift in taste at the individual level, when coupled with price controls, can produce a national macro catastrophe.

Therefore, we can adopt a simple (though not infallible) principle: where micro decisions produce macro crises on a regular basis, someone—probably the civil government's officials—is probably interfering with the right to exchange property (including labor) on a market of freely changing prices.

WHO'S TO BLAME?

Are the Arabs cutting off our oil—variously estimated from 6 percent of our total supplies to 12 percent, which tells us something of the accuracy of statistical reporting—thus producing a crisis? Why didn't we have a reserve, such as the north-slope Alaskan oil? Because ecology advocates prohibited the construction of the pipe to transport it; they go government agencies to stop construction. Because ecologists stopped drilling for new oil in places like the Santa Barbara channel—again, by state interference.

Are persons using too much energy, that is, more than this week's crisis mentality in Washington would prefer? Well, why not? The governments have subsidized cheap power for years. They have not permitted public utilities—themselves the monopolistic creations of governments—to raise prices on their various products. So the public has accepted as valid economically the one indicator they have to measure the value of the energy source, that is, the cost-per-unit consumed. The government has deliberately subsidized the public by keeping prices lower than the companies have insisted was necessary. So the companies have not been able to afford to hire the best people available. In some cases, they have found it necessary to keep older, less efficient equipment, having it repaired by less skillful repairmen on their staffs. They have found it difficult to raise capital on the free market, for their bonds are rated low (and therefore the interest they must offer to pay must be higher) because some local public utilities commissions have had their eyes on the ballot box instead of the scarcity of capital.

SHIELDED FROM COMPETITION

Then, of course, there is the inefficiency of managements that are shielded from free competition. For years they have faced political battles with the public utilities commissions instead of economic battles with competitors that might otherwise have been able to enter the market. Who can say what alternatives might have been developed?

The public supposedly has been protected by these various power monopolies. Now the government finds that the public must cooperate in order to make the jerry-built government monopolies work more or less successfully. But the public is not given an economic incentive to co-operate. Are electricity rates boosted sufficiently to cut down the consumption of electricity? No, indeed; that might be politically dangerous! So we go to voluntary controls in the name of the national emergency. They are too much like the "voluntary price guidelines" that were scrapped on August 15, 1971. We co-operate voluntarily, or else . . . rationing.

There is another consequence of "voluntary" controls to consider. Citizens are asked to cut back on their consumption of power. Before this crisis, individuals were free to use up as much power as they chose, so long as they were willing to pay for it. With free pricing, the expenses associated with such physical comfort would have to be borne by the user. But today men are warned that those who keep their homes warmed are unpatriotic, even immoral.

So now, instead of producers competing in order to give the customers what they want, we see the incredible spectacle of gasoline companies telling customers to walk more or to ride the bus! They spend millions of dollars to buy television advertising to ask us not to use their products! And because of the threat of direct rationing and the creation of a "temporary emergency control board," this advertising may be well spent by the oil companies. The competition we see now is not between the gas company and the electric company, but between the ecologists' political bloc and the energy-crisis political bloc. This, it should be noted, is precisely what Soviet Russia has developed: the only competition is that between government bureaucratic agencies. The consumer simply hopes and prays that the system will operate after the political dust has cleared, or at least has settled into another province's back yard.

The answer to the macro-economic crises lies in the re-establishment of the free mobility of risk-capital, the free bargaining of private citizens with each other, the free mobility of prices, and the eradication of "free" goods and the fallacious philosophy which undergirds them, whether in this country, Libya, Venezuela, or Japan. Let the free market do the micro-economic rationing efficiently, and we will not need to be burdened with the ghasty inefficiency of state-wide or Federal economic planning. Micro-economic decision-making is the primary device for keeping crises on a micro level. At least, under micro-economic crises, someone gives me a direct incentive for sitting in 68-degree semi-comfort: I don't wind up with a monthly bill that produces 72-degree financial discomfort.

NEW DEPARTMENT IS NOT NECESSARY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. TEAGUE. Mr. Speaker, the executive branch of the United States presently has ample departments and legislation to handle the current energy crisis. Be that as it may, there are still efforts being made to establish another Cabinet-level agency. Such an office would prove to be an irresponsible move on the part of the Congress. We cannot let anything such as this happen.

An editorial in the Fort Worth Star Telegram of March 2, 1974, discusses the problem and should be noted by my fellow Members of Congress and the general public.

The editorial follows:

NEW DEPARTMENT IS NOT NECESSARY

A sound case can be made against the proposal in Congress (S. 2135) for creation of a new major bureaucratic entity called the Department of Energy and Natural Resources.

In the first place the addition at this time of any such new thick layer to the already massive structure of federal bureaucracy that was not absolutely necessary (and a Department of Energy and Natural Resources does not fall into that category) would be financially irresponsible and administratively unjustified.

This is a time for trimming the federal hedges, not planting more to proliferate in years to come.

We cannot quarrel with those who point to the urgent need for better management of our energy need for better management of our energy and natural resources problems. What seems obvious, however, is that the federal government—the White House and its administrative arms—already has at its disposition enough bureaucracy in place to deal with them and to deal to the necessary degree with Congress in solving those problems.

What is needed is not another cabinet-level department, but strong and well-conceived use of the departments and the authority now resting in the administrative branch of government. What is needed is direct, effective action by enlightened, strong leadership within the present ample federal framework.

Those are some generalized objections to creation of the new department. But there are some specific objections that can be raised, too. The present proposal would, if adopted, transfer the Board of Engineers for Rivers and Harbors to the new department. This, as officials of the Trinity Improvement Association have been saying, would deprive the U.S. Corps of Engineers of its main source of review of projects for engineering, economic and environment feasibility.

All funding for water resource projects also would be lumped into the new department, thus interposing a new bureaucratic hurdle between Congress and the public in implementing needed projects all over the nation.

Our energy and natural resource problems are indeed pressing—more now than ever—but we do not agree that relying on an ill-conceived plan for a new cabinet-level agency of government to solve them is the way to go about it.

THE 100TH ANNIVERSARY—MACALESTER COLLEGE

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. QUIE. Mr. Speaker, March 5 commemorated the 100th anniversary of the chartering of Macalester College, located in St. Paul, Minn. The new educational institution was founded by Edward Duffield Neill as a grammar school and preparatory school for the University of Minnesota, as well as a religious education adjunct of the university.

It was named after a benefactor, Charles Macalester, who donated Winslow House, located on the eastern banks of the Mississippi River near St. Anthony falls.

The original property was later sold and a new college campus was located at St. Paul.

Over the years, Macalester has grown into one of the Nation's best liberal arts colleges. The college has contributed significantly to the educational and cultural climate in the Upper Midwest. It is noted particularly for its interest in international affairs, being the first college to fly the U.N. flag in the State. Macalester also developed the Student Project for Amity Among Nations—SPAN—under which students spend time in foreign countries learning about their cultures as well as their problems.

In recent years, Macalester has had a relatively high proportion of foreign students and also operated a special program for foreign newsmen.

The college is planning to celebrate this milestone throughout the coming year and I wish it well as it begins its second century of service.

SENATOR ROBERT C. BYRD: STATESMAN AND LEADER

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. MOLLOHAN. Mr. Speaker, one of the most astute observers of the national scene and as articulate a writer on matters of great public concern as we have in the American press corps today is Harry Hamm, editor of the Wheeling, W. Va. News-Register.

Today I call to the attention of my colleagues in Congress his recent editorial on the statesmanship of Senator Robert C. Byrd, the distinguished majority whip of the U.S. Senate.

Senator Byrd has earned the respect of his colleagues through sheer dedication to excellence in the performance of his daily responsibilities. We are fortunate indeed to have a man of his caliber, reared in a coal mining family, experienced to Government, and attuned to the needs of America, occupy his present position of leadership. I have no doubt that he will be called to tasks of even greater magnitude in the years ahead.

Mr. Hamm's perceptive editorial follows:

Byrd's Rise On National Scene Eyed

Not for many years has any West Virginian moved into the national political spotlight on the scale as has U.S. Senator Robert C. Byrd over recent months.

The energetic Sen. Byrd has even been mentioned by several national publications as a possible contender for the Democratic presidential nomination in 1976. Certainly he must be considered as a strong prospect for the Vice Presidential spot on the next national Democratic ticket.

Sen. Byrd's rise into the American political limelight has not been contrived like the boomlet briefly attempted for Governor Moore in Republican politics. It is not press agentry on the part of the popular West Virginia Senator that has caused network television shows to seek him out for appearances or various national publications to turn out major articles about Sen. Byrd. The attention he is getting results from his diligent work in the United States Senate and because of what he stands for in the political arena.

The Senator's straightforward approach to the issues of the day is what the people like about him. At a time when most politicians are held in low regard, it is refreshing to find a man such as Byrd who is not afraid to tell the people where he stands. He does not always seek out what appears to be the popular view. He does what he thinks is right and most of the time it turns out that the rank and file people are with him.

This explains his fantastic popularity in West Virginia where he won reelection with a 78 per cent landslide the last time out. He is the only West Virginian ever to serve in both houses of the state legislature and both houses of the Congress.

Depending upon which way Sen. Byrd decides to go in the future, there is little chance that he can be unseated even by Governor Moore, who some believe might decide to take him on in '76 when both of their terms in office expire.

Sometime between now and January 1977, Senater Majority Leader Mike Mansfield will retire from his post. No one doubts that Sen. Byrd can have this high position if he wants it. Winning the Majority Whip's post over Sen. Edward Kennedy demonstrated Sen. Byrd's strength with his colleagues. If anything, he is even stronger with them today because he tends to business and many of his colleagues owe him favors.

If the Majority Leader's position would come his way before 1976 that would place Sen. Byrd in somewhat of a bind in becoming a part of the national ticket. Even as a Vice Presidential candidate, Byrd would be forced to take to the campaign trial and he is not one who believes in shirking his Senatorial responsibilities. His amazing Senate attendance record bears this out for in 1973 he missed only one of the 594 rollcall votes, an attendance of 99.8 per cent. In fact, his percentage of attendance at rollcall votes since 1959 stands at a remarkable 96.7 per cent.

Nevertheless, Byrd is getting increased national public exposure. Today, for example, he will appear on the highly regarded NBC television program, Meet the Press, which is seen locally over WTRF at 1 p.m. In recent weeks he has appeared on several network television shows, including an interview program on the national educational television network, in which he was very impressive.

Byrd is being invited to appear as a speaker at more and more national meetings and conventions although he is forced to turn down many such engagements because of the press of duties in the Senate. Recently he did invade Wallace country when he was the featured speaker at the Jefferson-Jackson Day Dinner in Birmingham, Alabama. Reports say he made a fine impression on Alabama Democrats during that appearance.

At no time, however, does the Senator neglect the problems and cares of his constituents at home. He maintains regular contact with various persons throughout the state, often telephoning them from Washington to chat about what is happening in West Virginia and sample how they feel about national issues of the moment. He is a fighter for West Virginia and responsible for the flow of millions of federal dollars into the state for worthwhile projects.

The national publications have assigned their top writers to do special feature articles on Sen. Byrd and even those who do not like him admit that he is a worker. "The New Times" a liberal magazine recently did a lengthy piece on Senator Byrd and while it was rather caustic the article admitted that he had a dedication to his constituents, a gargantuan capacity for work and a genuine yearning for self-improvement. The magazine noted how Byrd got his law degree at the age of 45 by going to night school.

U.S. News & World Report magazine frequently has carried stories about Sen. Byrd and lengthy interviews on timely subjects. Last January, Howard Flieger, editor of U.S. News & World Report wrote an editorial in which he was highly complimentary of Byrd's address before the National Association of Food Chains in Washington.

He quoted from that address as follows: "One of the most prevalent and frightening attitudes in America today is that of being complacent, apathetic and noncommittal—the absence of deep convictions on anything.

"We can condemn—and we do—the intellectual shortcomings of television and newspapers, we can decry—as we should—those who abuse the protection of the Fifth Amendment; we can deplore—as we do—the vicious and senseless criminality that pervades our social structure.

"But how often do we hear our leading citizens, in all walks of life, stand up in public and declare themselves unequivocally on matters of real principle and consequences?

"Ethics cannot thrive in a neutral mind, and the most dangerous enemies to our way of life are not only those who loudly threaten to overthrow the system; equally dangerous to our freedoms are those who say they don't much care, one way or the other."

Some observers claim that Sen. Byrd has tended to become more liberal in his political views as he bids for the Senate Majority Leader's post and moves into the national Democratic limelight. But I don't find that to be the case. The truth is that Sen. Byrd always has been liberal on certain issues and conservative on others. The secret to his success stems from the fact that when he is liberal or conservative most likely a majority of citizens stand the same way.

Naturally there are certain questions where Byrd has changed his viewpoint as times and conditions have warranted. Always a bitter foe of Communism, today Sen. Byrd realizes the necessity of detente with the Soviet Union and China. He also has advocated a more relaxed attitude towards Cuba.

When it comes to crime and lawlessness he continues as a hard-liner. That is one position where he rallies the support of most Americans. And that very well may be a significant point in boosting Sen. Byrd into the Democratic national spotlight even more in 1976. One columnist on the national scene noted the other day that the selection of the next President of the United States now is "very likely to reflect a renewed public demand for toughness" against criminals and terrorists.

Keep an eye on Sen. Byrd. He has the stuff that Americans are looking for in their leaders today.

TRIBUTE TO BARTON L. COLLINS, CHIEF OF DETECTIVES, SAN JOSE, CALIF.

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. EDWARDS of California. Mr. Speaker, on March 14, 1974, friends and associates of Chief of Detective Barton L. Collins will honor his retirement after 38 years of distinguished service on the San Jose Police Department with a testimonal dinner. It is fitting that we, too, should pay tribute to this dynamic civic leader and outstanding police officer.

Born in Nevada City, Calif., on September 16, 1911, Mr. Collins and his family moved to San Jose in 1914 where he has been a resident ever since. He attended local schools—Horace Mann Grammar School, Roosevelt Junior High School, San Jose High School, and San Jose State College—and worked his way through all of them. He graduated from State College in 1935 with a bachelor degree in social sciences and three minors in police administration, photography, and psychology.

After graduation, he was appointed, as the department's first college graduate, to the San Jose Police Department on August 3, 1935. He continued his education by attending the University of Santa Clara Law School for 2 years and quickly progressed through the ranks of the department. He was appointed chief of detectives in February 1947 and has served in that capacity for the last 27 years. Bart's record has been outstanding. During the entire time he was on the department, he has had a perfect attendance record with no absences from work.

He made it a point throughout his career to keep abreast of developments in his profession, and he attended numerous in-service training programs. He also graduated from the Federal Bureau of Investigation Academy in 1957, where he was elected as class vice president, and has remained a member of the FBI National Academy Graduates.

His vast and valuable knowledge of criminal investigation has made him a much-sought-after lecturer in this field. He was an assistant professor at the San Jose State College School of Law Enforcement and Administration during the years between 1951 and 1970 and at the Coast Guard Reserve Academy during the summers of 1959, 1960, and 1961. He was also guest lecturer and panel member at numerous conferences and seminars dealing with criminal investigation, where his expertise in this field won him national recognition and acclaim.

Barton Collins is a firm believer in the advancement of the law enforcement techniques through worthwhile professional groups. He was a founding member of the California Safe and Burglary Investigators Association in 1950 and served as the president of the northern area in 1952. He was also a founding member of the Law Enforcement Intelligence Unit in 1963; vice chairman of the northwest zone, 1965–67; chairman, 1967–69; and was national vice chairman of the organization in 1969–71. And he was chairman of nine Bay Area Counties Task Force on Organized Crime for the California Council on Criminal Justice.

While it is obvious that Barton Collins has spent much of his life dedicating his enormous talents and energy to finding new and better ways of protecting the citizens of San Jose from crime, he also found time to become one of San Jose's most active and productive civic leaders. It would be impossible, Mr. Speaker, to list all of the civic activities Barton Collins has participated in during the years he has lived in San Jose. Even those in which he provided his leadership capabilities make a most impressive list.

He organized the Keith Kelley Club of the San Jose Police Department served as director of the Santa Clara County United Fund for 4 years, and was a member of the board of directors for 2 years for the mental health association. He was elected to the San Jose Police and Fire Pension Board in 1946 and has served continuously to the present including several terms as chairman of the board. He was also active in the Boy Scouts of America for 7 years and is a member of the San Jose Scottish Rite bodies, where he was venerable master in 1968 and 1969. Even with these demanding civic responsibilities, he has found time to be active in the San Jose Lion's Club since 1956 and served as their president in 1967 to 1968.

San Jose owes tribute not only to this outstanding citizen, but also to his wife, Mary, and his three daughters, Kathryn, Jeanne, and Barbara, who have so unselfishly shared Bart with the San Jose community. It would be a sad day, if the testimonial dinner on March 14 marked the end of Bart's service to the community. But I know he has already taken on new responsibilities as executive secretary of the San Jose Scotish Rites bodies and that he will surely continue to make Santa Clara County a better place for all to live.

Mr. Speaker, I am proud to have Bart Collins living in the Ninth Congressional District and I know my colleagues will join me in paying tribute to this dedicated servant of the people of San Jose. His long and extensive record of commitment to the civic progress of our community makes him well deserving of this tribute.

FEDERAL AID FOR MASS TRANSIT

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. PATTEN. Mr. Speaker, I take the floor to strenuously object to the recent action taken by the Rules Committee which in effect killed the Senate-House conference agreement providing Federal aid for mass transit. The administration is up to its tricks again, and once more, it is the consumer who suffers. Just as the White House effectively delayed final congressional approval of the Energy Emergency Act for nearly 3 months while the people of New Jersey were waiting hours for 3 gallons of gasoline and paying unjustifiably high prices for fuel, the latest move by the administration will delay a positive attempt to save and restore ailing mass transit facilities in the Northeast.

When the Urban Mass Transportation Act of 1973 was before the House, the administration tried to and almost succeeded in defeating the needed legislation. The White House was inalterably opposed to operating subsidies and effective mass transit aid. Then came the energy crisis, and "surprise" the office down the avenue was urging Congress to take affirmative action to see that there is further mass transit development and improvement of existing systems. I can only ask at this point in time, "Where were you?"

Mr. Speaker, heavily populated northern New Jersey, the site of daily mass intrastate and interstate commuting—a region inequitably bearing the brunt of a gasoline shortage—would have received $35.2 million to revitalize its transit systems. The administration's proposal would reduce that to $28.5 million. The New York system, which is very much a part of the metropolitan area's systems and which also is in dire straits for financial support, would receive nowhere near the amount it would be funded in the Minish bill.

The administration bill will thinly spread the funds throughout the country. I realize there are mass transit needs in places other than the New Jersey-New York metropolitan area, but the needs are not as great. The New York Times of today correctly indicates that the administration formula would provide 9 percent of the total funds to New York City despite the fact that New York City "accounts for 40 percent of the Nation's transit passengers."

It is obvious, once again, that the President is still abiding by his earlier statement, rather announcement, that the urban crisis is over—that the problems of the city are no longer substantial. Mr. President, I beg to differ.

RECENT VISIT TO ISRAEL

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. O'NEILL. Mr. Speaker, last week, my very able Massachusetts colleague, JOE MOAKLEY, addressed the Jewish Community Council of Boston. Having recently returned from a trip to Israel, JOE offered his personal observations of the situation in Israel, as well as his incisive thoughts on America's Middle East diplomacy.

I insert his remarks in the RECORD so that others may have a chance to read JOE's excellent speech. The speech follows:

RECENT VISIT TO ISRAEL

I welcome this opportunity to be here today. It seems particularly appropriate to discuss my recent visit to Israel with you, as you prepare to celebrate the feast of "Poorem" on the 8th. Centuries have passed, yet the story of "Poorem" continues to provide models of courage and daring for Jews in Israel and throughout the world. Surrounded by the most formidable enemies, the children of ancient Israel remained steadfast. They refused to compromise their integrity or their faith. Nor did Queen Esther shrink from personal danger, but interceded with the king to save her people.

The current generation of Israelis is no less threatened by its neighbors and it is no less courageous. Also notable is the dedication of Jews in this country to the survival of Israel. Since my visit to the Holy Land, I understand more deeply your devotion and the reasons for your intercession.

I was impressed by the willingness of Israelis to walk away from their civilian careers to take up arms to protect their country without complaint. It was praiseworthy. It was moving, for I know that the dream of the "Halootseam" was to build, not to fight—to turn swords into plowshares.

Above all, I know that the overriding wish of Israelis is for peace. Shalom is their greeting. It is their farewell. Shalom is the true goal of zionism.

I expected to find gloom in Israel. I had read that the war had been costly in many ways. In truth, I did find some disillusion with their leadership. People were discouraged because the war had not resulted in an easy, clearcut victory as in 1967. The people were deeply disappointed that none of the African nations they aided had made even a gesture of friendship in their hour of need. They were hurt that the NATO nations not only turned their backs on them, but even refused to allow Americans to refuel on their land. Israel was also in the throes of coping with the adverse effect of the war on their economy. There was much sadness throughout the entire nation because of the war dead.

But all this is normal and to be expected. What surprised and touched me was the undaunted spirit I encountered. The people were tireless—willing to work 12 to 14 hours a day to restore their country. As we all know, they have been through four major wars in 25 years and will go through another four if necessary. But like all of you, I pray it will not be necessary. The cost of war on this tiny nation is high.

As I returned to my room in the King David Hotel in Jerusalem one evening, I tried to analyze why peace in the Middle East has been so elusive. Israelis that I spoke to were convinced that this most recent war was more a contest between Russia and the United States than between them and their neighbors. I partially agree, but I see other explanations as well.

U.S. policy in the Middle East has been sloppy. We have made certain guarantees to Israel and then in the crunch, not entirely lived up to them. We did this in 1967. We sat by while the Egyptians blockaded the Straits of Tiran. We did this again in 1970. When Soviet built missiles were installed on the west bank of the canal, Senator Henry Jackson tried to persuade then presidential advisor Henry Kissinger to insist upon their removal. Unfortunately, Jackson was unsuccessful.

I understand the U.S. leaders' reluctance to rattle sabres. But, I wonder if our leaders understand the Soviet tendency to test for softness with bayonets?

I understand the Nixon administration's particular investment in detente. I applaud their efforts to ease global tensions.

But I wonder if Mr. Kissinger and Mr. Nixon understand that one sided detente is more dangerous than no détente. The present detente has fostered some very fuzzy thinking. At the height of the recent crisis Kissinger said Soviet behavior in 1973 compared favorably to Soviet behavior in 1967. Yet it was in 1973, not in 1967 that the Soviets resupplied the Egyptian and Syrian armies. It was in 1973, not in 1967, that the Soviets issued calls to Iraq, Algeria, and other Arab countries to fight. In all, more than seven points of the formal detente were abrogated by the Soviets.

I understand and respect the wish to deal fairly with both sides in the controversy. But I wonder if the State Department understands how much the slogan "even handedness" is a creature of Soviet and Arab propaganda? Israel's very existence is called "aggression". Not to mention the territories gained in 1967. But who refers to Egypt's acquisition of the Gaza as aggression? Jordan acquired the west bank and the old city of Jerusalem by force in 1948. And need I remind you that the U.S.S.R. annexed over 272,500 square miles of territory through World War II?

The Israelis are called aggressors. They have been labeled arrogant and intransigent even in our press. Yet they have never been unwilling to negotiate. What has prevented any agreement in the past, has been Egypt's consistent refusal to accept any negotiations, direct or indirect.

Our wish for peace in the Middle East is strong. So strong that it has sometimes blurred our vision of reality. Hence, we have dismissed the public proclamations of Arab leaders as so much hot air. Yet, surely we must realize that where feeling runs high, such proclamations create commitment.

We tend to ignore the radical Arab leaders and become mired down in the deliberately ambiguous statements of the moderates. Moderates talk of "secularization" or "naturalization" of the Middle East. At best this means Jews would be a tolerated minority under Arab rule. At worst, one need only consult the history of tolerated minorities throughout 13 centuries of Islamic rule.

Moderate leaders no longer talk of driving the Israelis into the sea. It is not that they have grown fond of them or resigned to their existence.

The Arabs simply see Israel's extinction as their ultimate goal, not their immediate one. Every indication is that the Arabs are following a strategy of isolating Israel diplomatically. The oil embargo was devised to drive a wedge between the United States and Western Europe and Japan. The goal is to weaken U.S. support for Israel. We are a country grown tired of war after a decade in Vietnam. The Arabs and their Soviet sponsors are capitalizing on this weakness.

I believe that Secretary Kissinger acted to avert a major crisis in the middle east. Yet I am sympathetic to the Israelis who are skeptical. Many feel that he moved too quickly. They fear he was motivated by the Arab oil embargo and the resultant strain on NATO. I personally agree with Kissinger that if the United States had taken a hard line position, we would never have gotten Egypt and Israel to sit down at the same table.

My own attitude is to keep a vigilant watch on the outcome of those negotiations to see how well the guarantees to Israel are honored. I do not for one moment assume that Arab antagonism to Israel is artificial. True, it is fanned by the Soviets for practical purposes. Other nations use it to secure their ends in the Middle East. Arab leaders capitalize on it to achieve solidarity. The Israeli feat of forging a viable nation in the desert sands is a painful reminder of Arab failures.

Therefore, I am not as sanguine as the administration is about peace being at hand. What I do believe, is that President Nixon needs some foreign policy successes to compensate for his domestic failures. I am certain that *he* is working very hard to achieve peace.

I do not wish to place *all* the blame for Israel's plight on U.S. foreign policy failings either. Other members of NATO have been at fault as well. Many of these nations have differed publicly from the U.S. on the issue of the middle east—obvious to the threat divisiveness poses to our alliance. Only the Dutch and the Portuguese can be proud of their stand in the face of Arab blackmail. History will surely find the rest of Europe short sighted.

On another score, we have to realize that since 1967 the Arab world has made progress. Undoubtedly the Israelis became over confident as a result of their 1967 victory. They underestimated Arab ability to unite and to wage war. We overestimated Israeli ability to overcome any obstacle.

The Israelis are a talented, hardworking people. I imagined that I saw in them, reminders of a young America where a devoted hardy group of people worked together and overcame many hardships to build a great nation. The spirit, the energies, the talents may be the same. The geography is altogether different. Israel can only survive with the help of our Government and private organizations. She is surrounded by unfriendly neighbors. Soviet policy plans to keep the Middle East cauldron boiling. The small, oil rich Arab nations are happy to finance Egypt's wars with Israel. It protects them from Egypt. The conservative monarchies are eager to rally their people against Israel. It strengthens their positions vis a vis the opposing radical forces who seek to depose them.

In sum, we must be guided by the lessons of the past. Israel will be best protected by a firm, unflinching American policy of support. We must insist on a demilitarized Sinai. The October attack made this abundantly clear. Surely there is widespread resentment because of the coercive tactics used by the Arabs and the Soviet to organize the diplomatic isolation of Israel. Let us capitalize on this resentment, not join the boycott. Of all the nations we aid, none is more grateful than Israel. Let us dramatize this point with our commitment.

We must also recognize that the Arab-Israel quarrel is a threat to world peace only because the USSR has exploited it. The Middle East has become a weapon for Soviet policy. Their plan is to radicalize the Arab regimes; break their ties to the West; gain control by outflanking NATO in the South, neutralizing Europe, and driving the United States out of the Mediterranean and Europe.

I want to encourage all friends of Israel to keep pressure on the administration. Nixon's firm stance in October had a salutary effect on U.S. public opinion. Over 75% of those polled in late October approved sending aid. Only 4% disapproved. This represents more widespread U.S. support than in 1967.

Most indicators suggest that the majority of Americans are sympathetic to Israel. They do not, however, want to become involved in another Vietnam. But Israel desires no such involvement. Moreover, polls reveal that Americans are unwilling by a 2-1 margin to sacrifice Israel for oil. And for this too, I am glad. Clearly this is as in other foreign policy matters, American public opinion is shaped by the actions and opinions of the political leadership in Washington. Let me assure you that my trip to Israel has deepened my insight into the Middle East. It has strengthened my already strong commitment to continue to work on behalf of a secure Israel. Shalom.

NATION NEEDS REVISED FHA

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. HANNA. Mr. Speaker, I know that many of my colleagues have long shared my concern for the future viability of FHA as an instrument to help working Americans become home owners. For those who have yet to realize the problem, let me say that the system developed three decades ago simply does not do the job in today's housing market. The regulations and statutes now dictating its operations are unrealistic in most of the growing urban and suburban areas of the country.

Mr. Speaker, I have introduced a bill which, while perhaps not the final or whole answer to making FHA viable again, will, I am confident, put the issue squarely before the Congress where it should be. FHA is dying by attrition. The Congress should decide openly and by direct action whether FHA is to be abolished or made effective. I offer this bill as a vehicle for bringing about a much needed debate. I do so at this particular time because the Housing Subcommittee on which I serve is currently making up a community development and housing bill. It is my hope that the subcommittee, will at an appropriate time in the next few weeks, extend its consideration to the subject matter of this bill.

Mr. Speaker, I hope the majority of my colleagues will be persuaded as I am of the necessity of an FHA-like component continuing as a part of the overall dynamics of the housing industry. To construct such a vehicle is a task we can ill afford to neglect any longer.

SPEECH OF DR. ROGER W. HEYNS

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. ESCH. Mr. Speaker, there has already been an overabundance of words on Watergate. However, few persons have put the recent events in Washington in such vivid and constructive context as did Dr. Roger W. Heyns, President of the American Council on Education in a speech before the ACE Interns. His message on the responsibility for leadership is so profound that I take this opportunity to present it to the other Members of the House and to the country.

SPEECH OF DR. ROGER W. HEYNS

I am prompted to reflect on the uses of power as I think of the current calamities in Washington: those complex and pervasive events called the Watergate affair. It is not my intention to take sides, to present my conclusions about guilt and responsibility, to gloat or relish the discomfort of people in power, but rather to consider some of the lessons concerning leadership and authority which all of us can properly and usefully contemplate.

The malfunctions in Washington are not unique to exalted offices. They can be present in all institutions in our society and at all administrative levels. To the extent that these malfunctions reflect the frailty of mankind and the temptations to which we are susceptible—and I think they do—they are potentially possible for all of us. Anyone who has held a position of significant responsibility has experienced one or another of the maladies represented by Watergate. We have all had, or come close to having, our little Watergates. This observation in no way justifies anyone. It should serve to make us humble.

Let me be explicit about some of the aspects of leadership and the exercise of power which we are obliged to contemplate, particularly if we think of Watergate not in terms of what others did or did not do but, as I now urge, in terms of what we should learn.

First, we are reminded vividly of the age-old problem of means and ends and of the ancient wisdom that they cannot be separated. Noble ends pursued by ignoble means end in disaster—the results not just pragmatically unsuccessful but permanently harmful and destructive. While we may, in our desire to win or to show sympathy, discount unworthy acts committed for noble causes, we know this is hollow indeed. We are obliged always to be sensitive of the presence in ourselves and in others of excessive zeal for goals that seem worthy.

Second, we are reminded of the need, in the exercise of power, for the constant free and unedited flow of information and advice. We all know of the constraints and weaknesses that tend to interfere with the flow. Free exchange is time consuming; it confronts us with conflict. We know the unpleasantness of bearing and receiving bad news. Yet we see how perilous is information and counsel fed through a screen too fine for the complexity of the problem and how dangerous an orthodoxy too strict for useful heresies to be heard.

The basic protection against this malfunction is the firm personal conviction that listening to others—in a basic posture of respect for them and humility for oneself—will improve the quality of our decisions. Conversely, the primary crime of arrogance is its adverse effect on the free exchange of ideas.

Third, let us reflect on the complicated problem of loyalty. There is substantial wisdom in requiring loyalty from those who work for us and giving it to those for whom we work. But we are reminded by Watergate that loyalty is an exceedingly complicated matter. One can have too limited a definition of loyalty so that mere disagreement during policy development or critical examination of a policy already developed results either in banishment or silence. Or loyalty may be too restricted—to a person rather than the office or the institution.

All of us have the responsibility to see that decisions, once made, are executed fairly, sensitively, and loyally, but not at the cost of a stoppage of other ideas, inadequate review, or abandonment of principled behavior.

Now, consider the matter of secrecy versus privacy. In the give and take of daily administrative life, there are times when the process of decision making must be essentially private. Primarily, the reason is to protect the decision-making process itself—the full examination of all ideas, no matter how fragile. Sometimes the knowledge that a particular discussion is going on may itself be harmful. But Watergate is not only a vivid reminder that secrecy can never protect a wrong act but, more important, that if one makes a decision or policy that is effective only if it remains secret or inconspicuous, one is doomed to disaster, and properly so. There is a useful distinction to be made between confidentiality and secrecy. We may insist, properly, upon confidentiality to protect a process of problem solving or the rights of individuals. Secrecy is quite a different matter. Its purpose is to prevent disclosure; it can be justified in only the most limited circumstances, such as national security, carefully defined. Certainly, it cannot be a way of life for the leader, and it can never be a protection for unworthy decisions.

Finally, contemplate the pervasiveness of leadership. Every bit as important as pronouncements made, orders given, or policies stated are the leader's values, attitudes, and style. No memoranda have to be written for decisions to be made, policies executed, or problems solved.

This fact of life, this pervasiveness, is a great advantage. Often we are proud when those who work for us reflect our values and attitudes and make decisions in their spirit. This response multiplies the leader's effectiveness and reduces the need for consultation. And we are pleased when we respond in this way to those for whom we work. There isn't anything we can or should do to change this. The important matter is to recognize that this pervasiveness exists and that it can malfunction. Above all, this new evidence of the pervasive nature of leadership requires us to examine what it is that we communicate to those who assist us about our goals, attitudes, and standard of style. What do those who work for or with us assume our attitudes to be toward people, fairness, failure, and disagreement? What do they conclude about the weight we give our promises? What ways of influencing others are acceptable to us?

Several recent studies have shown a progressive loss of public confidence in the leadership of virtually all institutions—the church, educational institutions, business, law, and government. The Watergate affair has undoubtedly added to that decline. While the emphasis has been on the loss of confidence in the presidency and in the political process generally, we make a mistake if we conclude that these are the only areas in which the loss will be felt.

From among the many forces that have produced this decline in public confidence, I want to mention one in particular. There has been, for some time now, a slow and subtle elevation of craftiness, slickness, toughness, and pragmatism as desirable leadership characteristics. There has even been a grudging increase in the value attributed to dishonesty, violence, and hatred. These traits are made to seem to have a certain efficiency. I believe, however, that honesty, integrity, compassion, and cooperation are *the* virtues, that they are stronger and that they will prevail. I think we can be steadfast in that enriching belief without being maudlin or overly romantic about the nature of man.

But, given the pervasiveness of leadership, it is imperative that all of us in positions of power and responsibility communicate our commitment to these human values in everything we do. Only in that way will we play a part in restoring confidence in our institutions; only in that way can we strengthen the public belief that those in power will use that power for the welfare of all and not for themselves. Only by manifesting these values in our behavior can we respond to Watergate constructively, not only for the benefit of the institutions we serve but also for the good of all of society.

FAREWELL TO BILL DROWER OF THE BRITISH EMBASSY

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. WHALEN. Mr. Speaker, I would like to take a moment to express my high regard and deep affection for one of the finest gentlemen I have ever known, Mr. William M. Drower.

Bill is leaving the British Embassy after having served as counselor for the past 9 years. The fact that he remained in Washington that long is a tribute to the tremendous job he did for Her Majesty's Government in functioning as the liaison for the Embassy with Capitol Hill.

From the comments of colleagues and other diplomats as well as my own observations, there is no question that Bill developed the justifiable reputation as the premier legislative liaison man within the Washington diplomatic community. His approach was always cordial and his responses to requests excellent. The friendships he made during his long tenure here gave him, I believe, an unique insight into both the American way of life and into our political and governmental system. The level of discernment he acquired was one that any reporter would wish he had and, in effect, made him indispensible to the British Embassy.

Like many other Members of the House, I have come to know Bill Drower very well and to consider him a friend. I am deeply appreciative of his many courtesies and cooperative efforts which I am convinced have contributed immensely to the excellent relations between the United Kingdom and the legislative branch of the U.S. Government.

Bill leaves Washington with my very best wishes for his continued success. Without a doubt he will be missed in the Capital, of which he was an integral and valued part.

PROHIBITING IMPOUNDMENT OF HIGHWAY FUNDS

HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. SHOUP. Mr. Speaker, even though the U.S. Court of Appeals for the Eighth Circuit has held that section 101(c) of Federal Aid Highway Act does not allow apportioned funds to be "withheld from obligations for purposes totally unrelated to the highway program," the impoundment of highway trust funds continues. In that same case, State Highway Commission of Missouri against Volpe, the Secretary made the argument that the precatory language of section 101(c), "It is the sense of Congress that under existing law" invested him with discretion wide enough to justify impoundment. The absence of such language in section 101(d) was one basis for that contention, but this entire argument was rejected as being wholly without merit and contrary to the clear intent of Congress.

In order to correct the defect of section 101(c) alleged by the Secretary, I am this day introducing anti-impoundment legislation. In form, the measure I propose is a reiteration of that section but with the precatory words deleted. Not only would passage of this bill place a clear and unequivocal statement of law on the books, it would be further strong evidence of the intent of Congress that this particular form of impoundment be discontinued.

Although there are good arguments for the legislation which deals with impoundment in a general way, there are equally compelling propositions for the elimination of this illegal practice by narrowly drawn legislation directed at specific funds. In fact, the ad hoc approach to this controversy effectively avoids the fact that in some cases and under some circumstances the withholding of appropriated money is justifiable. It also avoids the constitutional questions which may consume months or even years in being formulated and ultimately resolved by the Supreme Court. Indeed, there are no assurances that even when the question is placed squarely before the Court that it will not indulge itself in its penchant for avoiding constitutional questions except as a last resort.

Let us therefore address ourselves to particular problems of impoundment as they arise, and certainly none is more ripe than the one involving highway trust funds. The present status of this fund was displayed in a DOT release dated February 14, 1974. It is set out here to illustrate the extent of these impoundments which, as you can see, involves billions of dollars to which the States are legally entitled.

TABLE IV.—STATUS OF THE HIGHWAY TRUST FUND

[In thousands of dollars]

	3 mo. ended Dec. 31, 1973	Fiscal year July 1, 1973 to Dec. 31, 1973
Balance at beginning of period	[1] 6,192,602	5,590,688
Income:		
Tax revenue:		
Motor-fuel taxes (net after refunds)	1,141,909	2,322,330
Less motorboat fuel revenue [2]	6,200	23,400
Net for highways	1,135,709	2,298,930
Trucks, buses, and trailers	135,015	289,573
Tires, tubes, and tread rubber	220,476	463,234
Vehicle use	75,414	158,083
Parts and accessories, trucks and buses	29,076	65,290
Lubricating oil (net after refunds	33,833	64,336
Total excise revenues	1,629,523	3,339,446
Interest earned	175,642	184,970
Total income	1,805,165	3,524,416
Disbursements:		
For highways	1,321,654	2,418,535
National Highway Traffic Safety Administration	23,155	[1] 40,611
Trust fund share other highway programs		3,000
Total disbursements	1,344,809	2,462,146
Balance at end of period	6,652,958	6,652,958
Liability for unpaid obligations (Dec. 31, 1973)	7,310,899	
Balance less liability for unpaid obligation	−657,931	

[1] Revised.

[2] Transferred to the land and water conservation fund pursuant to title II, sec. 202, Public Law 88-578, effective Jan. 1, 1965.

Continued impoundment of these funds is prejudicial to highway safety, to highway maintenance, and to the entire highway construction industry. The entitlement of my State of Montana could very well exceed $65 million which when translated into jobs, services, and material sales is substantial. Speedy action on this measure will convey a message to the administration which it will be unable to ignore.

I would ask that this bill be printed in the RECORD for the benefit of my colleagues and others interested in this matter.

The bill follows:

A bill to amend section 101 of title 23, United States Code, to prohibit the impoundment of highway funds

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 101 of title 23, United States Code, is amended to read as follows:

"(c) No part of any sums authorized to be appropriated for expenditure upon any Federal-aid system which has been apportioned pursuant to this title shall be impounded or withheld from obligation for purposes and projects as provided in this title by any officer or employee in the executive branch of the Federal Government, except such specific sums as the Secretary of the Treasury, after consultation with the Secretary of Transportation, determines are necessary to be withheld from obligation for specific periods of time to assure that sufficient amounts will be available to the Highway Trust Fund to defray the expenditures which will be required to be made from such fund."

RARICK REPORTS TO HIS PEOPLE: LOUISIANA'S THIRD FOREST

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. RARICK. Mr. Speaker, Louisiana's forests are one of the State's greatest natural resources. The economic activity generated by forestry and related industries total more than $1.7 billion annually. Forestry is the largest single industrial employer in Louisiana, providing jobs for some 42,000 of our citizens.

Obviously, the forest industry is vitally important to our State.

A few weeks ago, several thousand Louisiana Boy Scouts participated in one of the most unique and valuable conservation programs in the country. The Scouts, under the guidance of their scoutmasters and industrial and public agency foresters, planted more than 300,000 trees on understocked, privately owned forest land in the State.

Tree seedlings, planting tools, and professional assistance for the program were donated by the forest industry members of the Louisiana Forestry Association. Foresters were on hand to demonstrate proper planting techniques, and to provide the scouts with brief lessons in forest management and forest environment.

Here in the Sixth Congressional District, more than 500 Scouts from the Istrouma Scout Council took part in the day-long project. It was an honor for me, as chairman of the Forests Subcommittee in Congress, to work with the Scouts and the forest industry to make this first in the field operation of Boy Scouts' "Third Forest Day" a success.

The encouragement of this program is important to Louisiana for several reasons. More than half of our State's total land area is forest land. About three-fourths is owned by private, nonindustrial landowners. Unfortunately, less than half of this usable land is adequately stocked with trees that can contribute to the manufacture of forest products to benefit our State and the Nation.

It is hoped that the Scout program will dramatize the need to improve this great natural resource, our forests. Certainly, the Scouts that I worked with that day became well aware of this need.

Our forests, under the multiple-use concept, provide not only timber for harvest, but recreation, wildlife habitat, grazing, watershed protection, as well as great natural beauty.

The national need for timber for use in home building and wood products is growing every year. To meet the expanding national demand for wood, Louisiana's forests must continue to be highly productive and to increase their timber yields.

Our forests bring millions of dollars into the Louisiana economy every year. In 1972 for instance, Louisiana's pulpwood production alone passed the $100 million mark, ranking our State as the fourth largest pulpwood producer of the 12 Southern States.

Much of our State and the South are in what is known as the third forest. That is the third generation of forests grown in North America. In some areas the generations overlap somewhat, but they generally fall into the categories of: virgin forests growing before European settlement, the second-growth forests that grew back or were planted by man, and the modern, intensively cultivated forests being developed today.

Intensive forestry, which can produce more wood from less acreage, will become increasingly important in the decades ahead. It is estimated that by the year 2000 the world's wood consumption will double. Forest experts have told me that the United States has the potential to double its production of timber in that time through intensive management practices on all our commercial forest lands.

Louisiana and the South have a great opportunity to participate in the development of the third forest. Our climate and land conditions are highly favorable for intensive forest cultivation.

Some of the areas that could help develop our potential growth are: prompt reforestation of all understocked lands, the use of genetically improved planting stock, intensive timber culture such as thinning for optimum spacing, fertilization where necessary, and much more intensive utilization.

Our existing timber supplies can be stretched by salvaging dead and dying timber, for instance. More efficient methods of harvesting and manufacturing, as well as developing methods to use mill wastes and logging residues could also help. So would the greater use of preservatives to prolong the life of wood in use. The average American consumes almost 500 pounds of paper products every year. It is easy to see then that recycling and reuse of paper products and solid wood would go far in helping expand existing timber resources.

All of these things, if done on a continual basis, could probably stretch our existing wood supplies by 30 to 40 percent.

Timber is not like most natural resources, which are irreplaceable once they are used up. Most Americans are well aware that such natural resources as oil, gas, and metals are becoming in short supply. And when they are gone, there are no more sources being produced. Timber, on the other hand, is a renewable resource. With proper planning, cultivation, and management, we can supply our economy with the lumber and wood products we will need.

But we cannot rely on our existing sources alone. This is why the development of the third forest concept is so vital to our national and State growth. Without proper planning right now, getting future supplies of wood could become a serious problem.

Multiple use of forest lands, as opposed to the wilderness or set-aside concept of single use, is necessitated by the fact that the forest land base of the country is steadily shrinking. The boundaries of cities are expanding. New roads, airports, and other transportation rights-of-way, commercial, industrial and agricultural use of land has caused a shrinking of our total forest land available.

The third forest will be managed according to the multiple-use concept, whereby a given stand of timber will be managed according to the use for which it is best suited. Other uses would be permitted to the extent that they do not interfere with the predominant use. An unusually scenic area, for instance, would be protected to the extent that its scenic beauty is preserved. But at the same time, some timber harvesting would be permitted as necessary to remove insect infested timber, for instance. Other areas considered to be most valuable as prime sources of timber would be managed for their maximum yields. Other uses, such as recreation, would also be permitted.

Sites best suited for commercial timber production can be managed just as intensively as other farm land is managed for annual crops.

As I said before, so much of the private timber producing land in Louisiana is not currently being used to its fullest capacity. This was one of the prime reasons that led me to begin work on a forest incentives program. More than 3 years ago I was one of a handful of Congressmen who introduced a similar proposal in Congress. This past year, working with the forest industry and the U.S. Forest Service, my Subcommittee on Forests held hearings which resulted in Congress passing a forest incentives program as part of the general farm bill of 1973. Its purpose is to encourage the small landowner to transfer tracts of up to 500 acres of idle land into commercial timber production by planting trees and timber stand improvement. The new law provides financial incentives and professional assistance to the private landowner who wishes to participate in the program.

An incentives approach was necessary, because many of these landowners are farmers, used to planting an annual cash crop. Timber, of course, takes many years to grow to full marketable maturity. For a landowner to agree to allow his land to be used for tree growing, it was generally felt that some form of financial compensation was needed.

Just the other day, I had the privilege of attending ceremonies memorializing the first tree planting under the forest incentives program in the entire country. The event was ever more important to me, because it was on land in Louisiana.

Our State has a great potential for forestry. This valuable resource can and must be developed to its maximum.

TRIBUTE TO JULIA BUTLER HANSEN

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. FLOOD. Mr. Speaker, I am sorry to learn of the upcoming retirement from Congress of our distinguished colleague from the State of Washington, JULIA BUTLER HANSEN.

Mrs. HANSEN has served with distinction in this body and is the first woman to serve as chairman of a subcommittee, Interior Appropriations. She is the dean of the Washington delegation and has been a powerful voice on behalf of her region and its interests.

She is a most gracious lady and it has been my great privilege to know her during her entire career in Congress.

Mrs. HANSEN will be greatly missed in Congress when she retires at the end of this session. She will be missed by her constituents, by those who have served with her in this body, and by all those who believe in good and effective Government.

I heard her retirement statement and I am sure we can well understand her desire to return to her native State and do the things that I am sure she did not have the time to do during her very busy career in Congress.

I join with my colleagues in wishing JULIA BUTLER HANSEN a long, happy, and contented retirement.

POSSIBLE SERIOUS MEDICAL RISKS ATTRIBUTED TO USAGE OF MARIHUANA

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. BOB WILSON. Mr. Speaker, the distinguished columnist, John P. Roche, recently wrote some interesting observations on the changing attitude toward the damaging effect of the use of marijuana and the danger of comparing it to the consumption of alcoholic beverages.

I insert this article as a portion of my remarks at this point:

FIRST AVERSION TO "WEED" GETS SCIENTIFIC SUPPORT

(By John P. Roche)

By some bizarre process, smoking cannabis (marijuana) became in the 1960s a symbol of social "liberation." Indeed, one's attitude toward the ritual became a sort of litmus test of character: the real swinging adults, charter members of Adults for a Student Society, would demonstrate their freedom from the superstitious and reactionary "system" by joining the kids smoking "joints."

All very cozy.

In contrast, those of us who objected—for various reasons—to legalizing "pot" were written off as fossils. After all, didn't we realize that smoking cannabis was *just like* drinking?

I confess that my dislike for marijuana goes back a long way and is hardly scientific. During World War II we had a couple of characters in our barracks who grew the stuff. Not realizing that we were dealing with a symbol of human liberation, we made them smoke them outdoors.

I made a mental note that anything that stank like those reefers couldn't be good for you.

When the marijuana cult burgeoned, my objection again was non-scientific: the practice struck me as the ticket of admission to the drug culture, the first step on the escalator to hard-drug addiction.

But this was a defensive response which was invariably countered by the alcohol analogy: "You don't ban whiskey because some drinkers become alcoholics."

However, if you pushed further and asked, "Is a joint equivalent to 2 ozs., 4 ozs., or a pint of hard booze?" the reply tended to be evasive. Or worse, you were simply excommunicated from the progressive sector of society.

Then, as I reported here about a year ago, some new precincts began to report. On Sept. 18, 1972, Dr. Olav J. Braenden, director of the United Nations Narcotics Laboratory in Geneva, appeared before the Internal Security subcommittee of the Senate Judiciary Committee.

Dr. Braenden indicated that the work done in his labs on cannabis indicated there were possibly serious medical risks attached to its usage.

A good scientist, he refused to go beyond his evidence, but he did note a sharp distinction between pot and alcohol (alcohol does not accumulate in the system) and concluded that he was leery of legalization because "it is better to be careful when it comes to medicine and drug policy than it is to be careless . . . much more research should be done so as to be able to take the right position in establishing controls over marijuana."

Well, that was 1972. Now in 1974 a new scientific report has appeared, sponsored by the College of Physicians and Surgeons at Columbia University, which devastatingly confirms Dr. Braenden's caution.

The head of the four-man research team, Dr. Gabriel Nahas, indicated that regular smoking of marijuana not only weakened the role of white blood cells in fighting off viral infections, but that it seemed to have a damaging effect on chromosomes, one which could adversely affect "the genetic equilibrium."

This is a scientific way of saying that it could lead to deformations in the children of pot addicts.

RETIREMENT OF JULIA BUTLER HANSEN

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mrs. GRASSO. Mr. Speaker, I would like to add my best personal wishes to my colleague and friend, the Honorable Julia Butler Hansen, on her announced retirement from the House. Her retirement, though well deserved, will create a void in this body that will not be easily filled.

Throughout her 37 years in the service of the people, Julia has shown her compassion and dedication to the needs of those she has served. Her accomplishments in public service are numerous, her admirers legion.

As chairperson of the Interior Appropriations Subcommittee, Julia has translated her concern for the American Indian, the environment, and the arts into national policy. In addition, the House is indebted to the gentlewoman from Washington for her work as chairperson of the Hansen committee. Through her efforts, the House has made encouraging reforms in its rules and procedures.

Julia's counsel and kindness will be missed by those who have served with her. The people of her district have done this Nation a great service by sending such a remarkable person to the House as their Representative. The country and her colleagues are the beneficiaries of her largesse.

May her retirement be as fulfilling as her public career has been distinguished.

GI BILL

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. HAMMERSCHMIDT. Mr. Speaker, a great deal has been said recently about problems some Vietnam veterans going to college have had receiving GI bill paychecks and a great number of Americans have been disturbed by these reports. While there have been bugs in the system, the vast majority of GI bill students have been receiving their checks regularly and proceeding in school without disruption, according to Administrator of Veterans' Affairs Donald E. Johnson.

On February 26, Mr. Johnson met with representatives of the press, radio, and television to put the reports of late pay into proper perspective. He pointed out that more students have gone to college under the Vietnam GI bill than went after World War II or the Korean conflict and that the Veterans' Administration processes some 13 million education checks a year, each of which requires correct information and correct action from VA, the educational institution, and the veteran. It is truly an operation of large magnitude.

Here is Mr. Johnson's statement:

STATEMENT BY DONALD E. JOHNSON

First, I want to thank you for your attendance this afternoon and this opportunity to discuss with you the Veterans Administration's G.I. Bill education and training program.

The current G.I. Bill program began on June 1, 1966. It has been long recognized, I believe, that our series of three G.I. Bills since World War II have been among the finest legislative investments we have ever made for the nation as well as for our veterans, and certainly our newest program is proving to be just that.

In the seven years and nine months this Third Generation bill has been in operation the VA has provided education and training for 4,576,220 veterans and servicemen. As of the end of last month there were 1,405,431 trainees enrolled under the G.I. Bill. More veterans will be trained during this fiscal year than ever before since the new program started in 1966.

A natural question has been: How does the current program compare with the two earlier ones?

At the higher education levels, there have already been more Vietnam era trainees going to college than there were during the entire 12 years of the World War II G.I. Bill. Through the end of last month, there were 2,230,000 total in World War II and 1,158,109 college trainees under the Korean G.I. Bill.

You often hear it said that the total participation rate under the present G.I. Bill is far below that of World War II.

As a matter of fact, the participation rate for Vietnam era veterans is precisely the same right now as it was for World War II veterans at the same stage of their program. After the first 91 months of educational assistance under both programs the participation rate is an identical 50.4-per cent. The participation rate for Korean veterans was 42.5-per cent. The participation rate for Korean veterans was 42.5-per cent at the same period in time, and for Post-Korean veterans it has been 45.4-per cent.

With the extra "outreach" effort VA has invested in the current program—an effort we plan to intensify even further—and the probability of increased allowances paid to veterans, we confidently expect the present G.I. Bill will be the most successful of all in any terms of comparable measurements.

On the increased allowances, incidentally, I think most of you know that the President has recommended to Congress a cost of living increase of eight-per cent, and that since 1969 he has already approved increases passed by Congress totaling about 69-per cent.

I think you would all agree that we are talking about a program of very considerable magnitude. In the course of one year the VA processes something in the neighborhood of 13-million educational checks.

In order to process this huge number of checks the payment information must come not only from VA's own records, but also from the training institution and from the veteran himself. If any one of these pieces of information is not provided in timely fashion, or if incorrect information is supplied, then there is inevitably a delay in the payment of G.I. Bill allowances.

Complicating the payment procedure starting this school year has been a provision for the payment of allowance checks in advance to veterans instead of after each month's training was completed as has been true in the past.

The advance payment concept is a great idea, and is of great benefit to veterans. In fact, it was proposed by this Administration and was greatly favored by Congress. But the entirely new procedure has injected an additional element into the payment timetable, and—as with all new procedures—it has created some "bugs" which we believe we have now ironed out.

Last night at the President's press conference a question was raised about the payment of G.I. Bill checks. And earlier this week—on February 20—one of the TV network news shows had a segment indicating that late payment of these checks was almost epidemic.

It is my hope in holding this conference that I can put the payment of these checks into proper perspective.

The simple truth is that the vast majority of these millions of checks are paid right at the moment they are due.

In an operation of these proportions it is obvious that not every check is going to be paid on time every month. We strive for such a goal, of course, but it never has been nor will be possible considering such constant changes as dates of entering and leaving school, changes of address and dependency status, and the need for correct and timely certifying information from thousands of schools and millions of veterans.

Let me give you an example of some of the problems by referring to the network program I mentioned earlier.

Four veteran students were interviewed on the program. All of them blamed the VA for non-receipt of checks. And yet our investigation shows that in each case VA actions were correct for the information provided.

One veteran's checks were mailed promptly to him, but the Post Office had to return them, for the veteran had moved and left no forwarding address.

The second veteran complained of no advance payment, and yet he had never applied for such a payment. Even the fact he had enrolled on the 15th of last month was not certified by the college until six days later. His check paying him through to March 1 was received by the veteran on February 25.

The third veteran was issued a certificate of eligibility by the VA last December 3, but he never requested an advance payment and has informed VA he will not enroll in school until next summer.

The fourth veteran was earlier enrolled in a correspondence course under the G.I. Bill. Under the law a veteran must certify to VA that he has completed a prior course such as this before the agency can pay him for new training. This veteran was advised of this requirement last November and again in January, but the certification had not been received at the time of the broadcast.

The network program charged that only nine of 58 veterans at the Montgomery (Md.) Community College had received payments from the VA. A check of both school and VA records the day after the broadcast revealed not a single complaint from the college relative to G.I. Bill payments.

Furthermore, a VA staff member who visited the school learned that in 13 of the 49 supposedly delinquent cases payment had been made directly to the veteran. In 20 other cases, the school's certification of enrollment had been only recently received, or was not obtained until contact was made with the institution. Eleven other veterans counted in the 49 failed to enroll at all. One veteran failed to provide the necessary record of his military service, and in the remaining four cases either the claim numbers of Social Security numbers failed to match existing names and records.

This, I think, will illustrate some of the problems in making these payments, and I do not want to hide the fact that problems do exist—including errors on the part of the VA.

But I do want to reemphasize that the vast majority of these millions of checks are indeed paid in timely fashion, and that even this good track record will improve in the future as the agency, the training establishments and the veterans grow more accustomed to the new payment procedures.

With me today is Odell W. Vaughn, VA's Chief Benefits Director and the man who heads up our G.I. Bill program. Perhaps if we take your individual questions at this time we can better put in perspective the situation on our G.I. Bill payments.

THE REAL ISSUE BEHIND OIL'S ABUSE OF THE FOREIGN TAX CREDIT

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. VANIK. Mr. Speaker, the abuse of the foreign tax credit by the oil companies is generally acknowledged even by the tax experts in the administration. In fact, the Department of the Treasury has put forth revisions of the oil companies use of the credit. Treasury proposes that a ceiling be created beyond which oil company payments would be considered as deductions—rather than credits—for the purposes of determining U.S. tax liabilities.

The trouble with this and most other proposals for reform of the foreign tax credit now before the Ways and Means Committee is that they are superficial reforms—they do not reach the real problems created by international oil investment. The implicit assumption underlying these proposals is that the basic concept of the foreign tax credit when applied to the petroleum industry is sound. Following this reasoning, all that is really needed is the establishment of some controls to curb the abuses that are now taking place.

But there are strong arguments to raise against allowing international oil and gas investments the privilege of the foreign tax credit. The objective of the provision is to guarantee "tax neutrality." That is, it is intended to allow the investor the same tax burden regardless of whether his investment is made here at home or in a foreign country. Given our goal of energy self-sufficiency, it is vital that we question whether we should allow tax neutrality to operate with energy investments.

Chase Manhattan Bank has estimated that the capital requirements of our energy industry will reach $600 billion for the period from 1970–85. Many private industry estimates range much higher. Whatever the estimate, it is clear that our goal of energy self-sufficiency will create tremendous demands on our capital markets. In the past few years we have witnessed increased interest by multinational oil companies in developing foreign production primarily for foreign markets. If we are really serious about achieving energy self-sufficiency, we must reconsider extending the privilege of the foreign tax credit to our petroleum companies.

The issue of the foreign tax credit is a complex one. However, the public interest study group, tax analysts and advocates have presented a lucid explanation of the key elements of the controversy in a petition filed by TA/A with the Internal Revenue Service. I recommend this material to my colleagues:

PETITION

I. CREDITABILITY OF CRUDE OIL "INCOME TAXES" IS NOT ALLOWED UNDER THE INTERNAL REVENUE CODE

Amounts paid to the principal OPEC nations in the guise of "income taxes" are levied without regard to actual company profits. Instead, they are fixed or almost fixed per barrel payments that constitute royalties. Therefore, these payments are not creditable foreign income taxes under either Section 901 or 903 of the Internal Revenue Code.

What a government payment is called by a foreign government does not determine whether it is classified as a creditable income tax for the purpose of Section 901. A foreign tax will qualify as a creditable tax under Section 901 only if it is the substantial equivalent of an "income tax" as that term is understood in the United States. Section 903, while allowing credits for foreign government revenues other than income taxes equivalent to U.S. income taxes, is restricted by its terms in its scope to foreign "taxes," and then narrowly only to those "taxes" imposed in lieu of income taxes which are the equivalent of U.S. income taxes. Therefore, as a requisite to being creditable under either Section 901 or 903, payments made to foreign governments must, in fact, be taxes.

Therefore, although the principal OPEC nations denominate the payments required to be made to them by oil companies as "income taxes," this foreign terminology by itself obviously does not allow the payments to be treated as creditable taxes under Section 901 or 903 if they in fact are not taxes at all.

Since the OPEC countries both own the land where execptionally valuable oil fields have been discovered and are also sovereign states, they have the option to collect revenues either in their capacity as sovereigns exercising their rights of taxation, or as ordinary owners of property from which they can collect rents or royalties, or as both. Although the OPEC nations denominate the revenues they collect in connection with the use of these oil producing lands largely as "income taxes," in fact, as the following analysis will show, they have chosen to collect all their revenues in connection with the oil production in a form which has only the elements of royalties. As such, these revenue payments are not taxes at all, and, therefore, cannot be credited under either Section 901 or 903.

In past years, the dual function of the oil producing nations as sovereign states and valuable oil property owners raised the problem in the minds of many persons outside the Treasury Department whether the amounts denominated as their income taxes were, in fact, royalties. Although no firm conclusions were reached in the past as to the exact nature of these amounts, events beginning with the 1970 Libyan negotiations described earlier in the petition have made clear that these payments now clearly constitute royalties and not taxes.

The fact that the principal OPEC nations divide their oil payment "takes" into amounts denominated as "taxes" and "royalties," does not mean, as is argued by representatives of the U.S. oil companies, that the amounts denominated as taxes must be true creditable taxes. The general OPEC royalty rate is 12–15% of the posted price, which is comparable to the predominant royalty rates paid to lessors on oil properties located in the United States. However, the cost of producing oil in the Middle East and North Africa is many times cheaper than the cost of producing oil in the United States. Under basic economic theory, profits stemming from efficient oil properties accrue to the owner of the mineral rights. Therefore, these efficient foreign wells should command very high royalty rates—not the minimal 12–15% currently charged. By comparison, when lease bonuses are spread over expected oil fields from U.S. offshore wells, the effective royalty rates, calculated on prices expected in early 1973, are about 50%; and these wells are much more costly and less productive than those of the Persian Gulf.[1]

On the other hand, applying accepted economic theory, the concession holders should be allowed income sufficient only to keep them operating the concessions. Therefore, the profits resulting from the efficiency of foreign oil production should flow to the owners of the mineral rights—the foreign governments—in the form of higher royalties. However, for foreign tax credit purposes, large parts of these economic profits accruing to the foreign governments have been denominated as income taxes. The similarity between the dominant royalty rate in the United States and the royalty rate ostensibly imposed on the more efficient and more profitable foreign properties is of absolutely no relevance for the assertion that the amounts denominated as "income taxes" by the foreign governments are true income taxes creditable under Section 901 or 903.

The OPEC revenues denominated as income taxes actually take the form of royalties because they are per barrel payments unrelated to the income or gross receipts of the oil company concession holder. As described earlier in this petition, amounts

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Footnotes at end of article.

received by the principal OPEC nations presently treated as creditable income taxes, are determined by reference to an artificial posted price. This price, in turn, is fixed by the OPEC nations by reference to the amount of total revenue ("income tax" plus royalty) each principal OPEC nation has determined it should receive per barrel of crude oil produced under concession agreements by foreign oil companies. Since the posted price is unrelated to the actual market price of the crude oil, the posted price is unrelated to the actual gross receipts received by the oil companies for their crude oil production. Thus, since the purported "income taxes" are a fixed percentage of this artificial price minus certain fixed costs (the amount denominated as a "royalty") and other costs which can vary, if at all, a minimum amount per barrel, the "taxes" in fact are fixed or almost fixed per barrel costs. This is obviously the form of a royalty rather than a net income, gross income, or gross receipts tax.

As previously stated in this petition, until recently, amounts paid by the concession-holding oil companies could vary at most by a few pennies per barrel from the targeted "take" set by the principal OPEC nations, as a result of unexpected changes in production costs. Only narrow fluctuations resulted, principally because costs are such a small fraction of the per barrel posted price. However, as described earlier in this petition, the December 23, 1973 OPEC press release strongly implies that even such minimal variations from the targeted take no longer will be permitted. Depending upon the extent to which such minor variations are tolerated, the so-called "taxes" collected from the oil companies by the principal OPEC nations constitute either almost pure per barrel charges or else absolute per barrel charges unrelated to either the gross receipts, gross income, or net income of the oil companies making the payments.[2]

The excerpt from the OPEC press release reproduced earlier in this petition indicates that the $7.00 Persian Gulf "government take" was set with reference to the world market price of crude oil. The $7.00 figure is widely regarded as the price at which these countries can maximize their revenues from oil production. Since the "income tax" paid by the oil companies constitutes a fixed or almost fixed amount of this $7.00, it is clear that the amount of "income tax" due is set by the OPEC countries by reference to the potential value of the concession rights rather than by reference to the income of the concession holders. Again, this is an important aspect of a royalty, rather than an income tax law promulgated to provide revenues so that a nation can provide traditional governmental services to its citizens and residents.

Moreover, as indicated in the example set forth previously, the proportion of purported "income tax" paid by the oil companies to pre-tax income is so high (over 91%), that if the tax were a true income tax, this rate would preclude any foreign oil producing company from being able to operate profitably within OPEC nation borders. The high proportion of "tax" to total "pre-tax" income only can be explained as representing a large royalty element.

Sections 901 and 903 do not allow credits to be taken for part of a payment made to a foreign government.[3] Under these statutes, either a charge is fully creditable or not creditable at all. Whether a charge is creditable depends upon the basis on which it is calculated. Therefore, it is totally unpersuasive from a legal standpoint to argue that since a foreign government which grants an oil concession to a foreign company could collect a true income tax from the company as well as a royalty, that even if the entire payment made to the government is calculated as a fixed or almost fixed per barrel amount, the payment partially must represent a tax on production income earned by the company. Obviously, a sovereign nation owning valuable mineral rights within its borders has the right to determine the extent to which revenues required to be paid to the government by oil companies shall be in the nature of actual royalties, and the extent to which, if any, such companies shall pay taxes actually based their gross or net income.

However, imposing royalties on a fixed per barrel basis has the important advantage to the government of providing a fixed per barrel revenue without regard to the profitability and efficiency of the oil company operations. On the other hand, imposing a true income tax necessarily ties government revenues to fluctuations in the market price of oil which would affect oil company gross income, as well as to the operational efficiency of the company operations.

By deciding to collect a pure or almost pure per barrel royalty without regard to the actual income of the oil companies, the principal OPEC nations voluntarily have sacrificed the collection of income taxes in order to maximize fixed royalty payments. Whether payments to a foreign government are creditable depends solely upon the basis upon which the payments are collected, i.e., the actual nature of the payments. Forebearance by a foreign country from collecting taxes based upon income does not mean that any part of the amounts collected by the country in the form of royalties must "represent" income taxes and, therefore, to some extent is creditable. The fact that a country could impose an income tax but doesn't do so, does not mean that any part of the charges it does impose are creditable. Therefore, the per barrel revenues received by the principal OPEC members from the oil companies should not, even to a limited degree, be treated under Section 901 as creditable taxes.

It is also significant that except for purposes of the foreign tax credit, the so-called OPEC "income taxes" currently are consistently treated as royalties, which, unlike true income taxes, are viewed as costs of production that are shifted forward to purchasers of crude oil. International oil trade journals compare the relative cost of producing oil in the various OPEC nations by reference to the "tax paid cost" of each barrel of crude.[4] This term includes the royalty payment per barrel, "tax" cost per barrel, and the average production costs per barrel. In effect, the "income tax" is viewed as a cost of production—a view patently inconsistent with the treatment of a true income tax.

Similarly, and even more importantly, it is understood that the IRS treats these OPEC "income taxes" like royalties or severance taxes, rather than as income taxes, in applying Section 482 to inter-company transactions between related oil company subsidiaries. Section 482 of the Internal Revenue Code authorizes the Internal Revenue Service to reallocate income and deductions between related companies to properly reflect income on such inter-company sales. This provision is used to ensure that sales between related oil producing companies and "off-taker" companies are made at prices which fairly reflect income earned by each company. It is understood that in allocating a fair profit to the producing company, the Internal Revenue Service treats the "income taxes" paid to the OPEC nations as part of the cost of producing the oil. The IRS treats as production company taxable income only the amount in excess of the sum of the production costs, royalty, and foreign "income tax." This treatment is inconsistent with the treatment of true foreign income taxes by the IRS. As a rule, foreign income taxes paid by a seller are not included in determining an arm's length price for a commodity sold to a related company.

A long-standing principle of tax theory is that income taxes are absorbed by corporate taxpayers, whereas direct taxes such as excise taxes, sales taxes, and value added taxes are shifted forward in the cost of goods sold to purchasers, like royalties and other costs of production. As a result, the foreign tax credit mechanism, which was adopted in the Internal Revenue Code to eliminate the burden of double taxation that could fall on a taxpayer who would otherwise be forced to absorb taxes imposed by two different nations, only provides a credit for foreign *income* taxes. Double taxation can result when income earned by a U.S. taxpayer in a foreign country is subject to foreign income tax, and the remaining after tax income is then subject to income tax by the United States, which imposes tax on the taxpayer's worldwide income. Since direct taxes and other charges imposed by foreign governments are shifted forward in the price of goods and services, granting an ordinary deduction for such charges does not result in double taxation of a U.S. corporate taxpayer. Therefore, it is unnecessary to provide a tax credit for such costs.

From the foregoing brief summary, it is clear that failure to provide a U.S. taxpayer a credit for foreign taxes paid results in double taxation only where the incidence of the tax is not shifted forward to purchasers. Therefore, treating OPEC income taxes as deductible expenses rather than creditable taxes will result in double taxation only if those "taxes" are absorbed by the oil companies.

Although oil company executives assert that the foreign tax credits for OPEC country taxes are necessary to avoid double taxation,[5] it is evident that the OPEC "taxes are shifted forward to crude oil purchasers just like the OPEC charges currently denominated as royalties.

The recent worldwide increases in petroleum product prices resulting from OPEC "tax" increases clearly reflect the shifting of these "tax" costs. The Federal Energy Office has accepted the concept that these tax costs are shifted forward, in permitting OPEC "tax" increases on crude oil production to be passed on in downstream sales of crude imported into the United States. Even more specifically, a letter sent by Occidental Petroleum to notify its crude oil customers in the late summer of 1970 of increases in its Libyan crude costs indicated that by contractual agreement these increased costs, attributable solely to a higher posted price and increased tax rate (from 50–58%), were to be 100% passed on to consumers.[6] The higher posted price incorporates higher "royalty" charges, but principally higher "income tax" costs. Thus, in what is understood to be a general oil industry practice, increased tax costs are contractually shifted forward to crude oil purchasers. Thus, in almost all ways except for foreign tax credit purposes, it is evident that OPEC oil production "income taxes" are treated as royalties.

The foregoing has been an analysis of the threshold issue whether the principal OPEC nations oil production revenues denominated as taxes constitute royalties, and therefore are not true taxes at all. Only if it is determined that these revenues are not royalties, is it necessary to analyze the second stage issue, whether these payments have the characteristics necessary to be classified as among the limited types of taxes which are creditable under either Section 901 or 903. In view of the compelling evidence to support the conclusion that these OPEC revenues are royalties, as well as petitioner's lack of access to complete and current compilations of the principal OPEC nation tax laws and regulations, this petition will summarize only very briefly the considerations relevant to determining whether these OPEC oil production revenues are creditable taxes under Section 901 or 903.

Footnotes at end of article.

Since the OPEC oil production revenues are determined with respect to sales calculated on a posted price unrelated to actual market sale prices, and therefore are unrelated to the taxpayer's gross receipts or gross income, these revenues clearly could not qualify as "income taxes" under Section 901. This term has been narrowly interpreted by the courts to include only net income taxes, and, at most, certain gross income taxes on income which is very much like net income (i.e., subject to very few, if any, deductions).[7]

Without careful analysis of the general tax laws and regulations of the principal OPEC nations, it is not possible to determine whether their oil production revenues, if not classified as royalties, could qualify as creditable "in lieu" income taxes under Section 903. In order to be creditable under this provision, it is necessary that the foreign taxes actually be imposed instead of, and not in addition to, a generally imposed national income tax.[8] Assuming this difficult standard can be met, there is little judicial precedent on the additional important question of how much a foreign tax may differ from the form of a net income tax and still be a creditable tax under Section 903.[9]

However, it is unnecessary to definitively resolve these issues concerning the nature of foreign taxes creditable under either Section 901 or 903, since it is clear that the principal OPEC nation revenues presently collected in connection with oil production are not taxes at all, but rather are royalties which cannot qualify for foreign tax credits under Section 901 or 903. Petroleum. However, it is understood there are strong public pressures in the United Kingdom similarly to deny tax credits for "taxes" paid by BP to the principal OPEC nations. This raises the strong possibility that any minimal competitive disadvantages that might result from denial of credits for these OPEC "taxes" on a unilateral national basis could be eliminated by a multinational denial of tax credits for OPEC "taxes" by the governments of the nations in which the major oil companies have their home offices.

On the other hand, there are strong policy considerations in favor of denying tax credits for these payments. If these credits were disallowed, U.S. oil companies would be able to treat all payments made to the oil-producing countries as deductible costs of doing business. Therefore, the oil companies would treat the per-barrel payments made to foreign governments exactly the same as if they were producing oil in the United States where only deductions are available for royalty payments. As a matter of tax equity, there is no reason to continue preferential tax treatment, in the form of credits for what are not in fact *income* taxes, to foreign oil production income when the United States has announced a firm national policy to develop domestic and offshore sources of energy as quickly as possible.

In addition, continued granting of tax credits for these "tax" payments to the principal OPEC nations will result in a continued large annual loss of revenue to the United States Treasury. The only persons who appear to profit from these rulings are the oil companies and the OPEC governments.

According to Senator Frank Church, the Treasury Department acquiesced in the initial oil production "tax" ruling in order to provide the Persian Gulf countries with needed revenues in order to keep them from coming under Soviet influence.[10] It is obvious that this policy consideration is no longer valid—the last thing in the world needed by the Persian Gulf nations is additional oil revenues. Instead, the IRS currently is left with the legacy of this outmoded foreign policy—a series of outmoded revenue rulings which still recognize a now widely acknowledged artificial system [11] as resulting in creditable tax payments.

II. POLICY CONSIDERATIONS

According to the foregoing analysis, as a matter of law, the purported "income taxes" paid to the principal OPEC countries do not qualify as creditable taxes. Therefore, the rulings cited at the beginning of this petition should be revoked without taking policy considerations into account. Nevertheless, it is relevant to note that policy arguments recently raised by oil company representatives fail to present a compelling case for the need to continue the existence of the current rulings.

The principal contention of these companies is that denial of the foreign tax credit for OPEC "taxes" would subject U.S. companies to higher tax burdens than their foreign-owned competitors, and place them at a competitive disadvantage.[12] However, no evidence has been put forth in support of this argument, which is the same general assertion made when any proposal is made which would increase taxation of foreign source income. In fact, in view of recent extremely high foreign income of U.S. oil companies, it is just as reasonable to conclude that increased U.S. taxation of such income through elimination of the foreign tax credit for OPEC "taxes" merely would reduce the extremely high foreign profits to very high foreign profits with no detrimental competitive results.

Even if U.S. oil companies became less competitive abroad because of higher U.S. tax payments, there is no indication the interests of the U.S. would be harmed—only the oil companies would be harmed. Since only a small part of foreign crude oil production of U.S. based companies is imported into the U.S., increased tax costs would affect what, in essence, are totally foreign operations. Moreover, apart from high dividend income repatriated to the U.S. on high foreign production income, there is no indication that the U.S. benefits from having U.S. based companies hold foreign oil concessions. Oil produced abroad will be sold into the U.S. by foreign as well as U.S. oil companies if there is a market for the oil in the United States.

In addition, most of the leading international oil companies are incorporated in the United States. Any minimal detrimental competitive effects of denial of tax credits for "taxes" paid for the principal OPEC nations currently could benefit a limited number of foreign companies—principally Shell and British Petroleum.

III. CONCLUSION

Apart from being denominated as "income taxes," the payments made to the principal OPEC nations by the international oil companies in connection with their oil production activities no longer have anything in common with true income taxes. In this context, the old riddle traditionally attributed to Abraham Lincoln would appear relevant:

"If you call a tail a leg, how many legs has a dog?"

"Five?"

"No; calling a tail a leg don't *make* it a leg."

Similarly, a foreign government, merely by calling a royalty an "income tax", does not make the royalty a creditable income tax for purposes of either Section 901 or 903.

FOOTNOTES

[1] Dr. Gerard M. Brannon, Georgetown University, in statement before the Senate Foreign Relations Subcommittee on Multinational Corporations on January 30, 1974. BNA Daily Tax Report, January 30, 1974, at J–13.

[2] This conclusion is consistent with that of Dr. Glenn P. Jenkins, Harvard University, given in testimony on January 30, 1974 before the Senate Foreign Relations Subcommittee on Multinational Corporations. BNA Daily Tax Report, January 30, 1974, at J–14.

[3] *See New York & Honduras Rosario Mining Co.* v. *Commissioner*, 168 F. 2d 745 (2nd Cir. 1948).

[4] See, for example, Petroleum Intelligence Weekly, January 21, 1974, at 8.

[5] See, for example, Statement of W. L. Henry, Executive Vice President, Gulf Oil, on behalf of the American Petroleum Institute et al., before the House Ways and Means Committee on February 6, 1974, in BNA Daily Tax Report, February 6, 1974, at J–4.

[6] Petroleum Intelligence Weekly, September 21, 1970, at 2–3.

[7] *Bank of America National Trust & Savings Ass'n* v. *U.S.*, 459 F. 2d 513 (Ct. Cl. 1972); *Keasbey & Mattison Co.* v. *Rothensies*, 133 F. 2d 894 (3rd Cir. 1943), *cert. denied* 320 U.S. 739 (1943); *Santa Eulalia Mining Co.* v. *Commissioner*, 2 T.C. 241 (1943).

[8] *United States* v. *Waterman Steamship Co.*, 330 F. 2d 128, 131 (5th Cir. 1964); *Metropolitan Life Insurance Co.* v. *United States*, 375 F. 2d 835, 839 (Ct. Cl. 1967); *Allstate Insurance Co.* v. *United States*, 419 F. 2d 409 (Ct. Cl. 1969).

[9] *Lamman & Kemp-Barclay & Co.* of *Columbia* v. *Commissioner*, 26 T. C. 582, 589 (1956); *Metropolitan Life Insurance Co.* v. *United States*, 375 F. 2d 835 (Ct. Cl. 1967).

[10] Opening Statement of Senator Frank Church, Chairman of Senate Foreign Relations Subcommittee on Multinational Corporations at Hearings, January 30, 1974, on International Oil Companies and U.S. Foreign Policy, BNA, Daily Tax Report, January 30, 1974, at J–10.

[11] "The artificiality of this [Libyan posted price] system is obvious and well known, but it has not been challenged by I.R.S." Excerpt from a cable sent on January 26, 1971, from an oil company tax expert to group negotiating with Libya on per barrel costs. Released by the Senate Foreign Relations Subcommittee on Multinational Corporations.

[12] See Statement of W. L. Henry, cited in notes 17 and 22, which criticized the recent Treasury Department legislative proposal which would limit the creditable amount of OPEC "tax" on oil production income to 48 percent of such income, on the ground that it would place U.S. oil companies at a competitive disadvantage.

TWENTIETH CENTURY OPPORTUNITY

HON. DONALD G. BROTZMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. BROTZMAN. Mr. Speaker, there are historians who believe that the 20th century will be recalled primarily as the dawn of the nuclear age. Others believe that it will be noteworthy as that point in time when man was first able to break the fetters of gravity and travel to the outer reaches of the solar system. Still others are of the opinion that future generations will regard genetic and medical discoveries as the greatest contribution of our generation to the mainstream of civilization.

However, Mr. Speaker, I believe we have the opportunity to achieve in our time, a distinction which would be more important to the future of mankind than any of these.

We can become that generation in which mankind, for the first time, was wise enough to leave the Earth, its waters, and its atmosphere in better condition than we found it.

Perhaps "opportunity" is misstating the challenge. More accurately, it is mandatory that we give a positive and perpetual control over those byproducts of civilization which are destroying our physical environment.

Since the dawn of history man has regarded the natural environment as a great bank from which to draw for his physical needs. He had also used it as a repository for his waste products. This has never been more fully realized than in the present decade when our economic and personal well-being demands that we extract and achieve maximum development of those abundant energy resources that lie beneath the Earth's surface.

Until relatively recent times man tended to regard the ability of the environment to sustain these functions as infinite. Today we know that every component in what we collectively term "the environment" is not only finite, but in some cases is tragically near depletion or, as the case may be, irreversible despoilment.

Insofar as the magnitude of this threat to future generations is concerned, I cite the following stark word picture, set forth by Dr. David M. Gates, director of the Missouri Botanical Gardens, as part of a congressional colloquium in the summer of 1968:

> A future earth populated by "half starved, depressed billions gasping for air, depleted of oxygen and laden with pollutants, thirsting for thickened eutrophic water, struggling to avoid the constant presence of one another, and in essence continuing life at a degraded substance level. . .

Mr. Speaker, I firmly believe that the time has come to take hold of and control those factors which are responsible for degrading our environment.

I do not imply that either the executive branch or the Congress have been blind to the threats or negligent in stepping out to meet them.

The aforementioned colloquim which was sponsored by the House Committee on Science and Astronautics and the Senate Committee on Interior and Insular Affairs, was one of a series of expressions of national interest for the environment made in recent years by the Congress and the executive branch.

It is incumbent upon Congress, in my view, to take a singleminded approach in providing the enabling legislation, the funding, and perhaps most important of all, eternal oversight as the environment protection efforts begin.

In April of 1969, during the second session of the 91st Congress, I introduced a resolution which provided for the creation of a Standing Committee on the Environment in the House of Representatives. I reintroduced this same resolution in the 92d Congress and again in the first session of this Congress with a total of 215 cosponsors.

I was very pleased when, in the first session of this Congress, the intent of my legislation was partially realized and the House Select Committee on Committees recommended the creation of a standing Committee on Energy and Environment as part of their reorganization of the House committee system.

The select committee takes a very big step in the right direction toward solving environmental problems. I do not believe, although, that consolidating energy and environment into one standing committee will provide these issues with the selective consideration they must have in the Congress.

These issues cover very substantial areas of jurisdiction and many times, as the select committee notes, will overlap each other's jurisdictional boundaries.

To handle this so-called "broadgaged" legislation, the select committee has recommended that a mechanism of joint bill referral and review procedures for legislation be adopted. This is a mechanism that is necessary for the effective handling of so many bills that cover a wide range of issues.

At the same time, Mr. Speaker, I believe that it is just as necessary that energy and environment issues, each covering such a wide range of public policy matters, be included in different standing committees. Many times legislation covering one of these areas will come before this body, and will have nothing to do with any other issue. In most cases, these bills reflect the interest and needs of many millions of Americans, and Congress would be doing a great disservice to the Nation by giving such legislation anything but priority consideration.

Accordingly, today I have introduced an update of my earlier standing committee resolution which takes all of the environmental jurisdiction proposed by the Select Committee on Committees for inclusion in proposed committees on Agriculture and Natural Resources and Energy and Environment, and combines them under one separate standing Committee on the Environment.

The standing committee which I propose would provide each of its members with an opportunity for meaningful participation in decisionmaking within a significant public policy field. These issues certainly deal with broad segments of public policy and would, therefore, attract a broadly representative membership.

As a result of consolidating all issues dealing with the environment into one standing committee, its members would be able to give coherent consideration to all pressing environmental problems whose handling has always been fragmented in the past.

This standing committee will provide a mechanism for more responsible legislative oversight when dealing with environmental laws being implemented by the Federal Government, and a professional approach in management of information resources supporting services and physical planning.

I have had the pleasure in the past weeks of working together with many of the major environmental groups in the country in preparing this legislation. These groups believe as I do that the principles outlined in this legislation are needed so that this Nation's environmental interests can be effectively represented in the Congress. They include the National Park and Conservation Association, the Sierra Club, National Wildlife Federation, the Natural Resources Defense Council, Citizens Committee on Natural Resources, Wilderness Society, National Recreation and Park Association, Friends of the Earth, and Fund for Animals.

Mr. Speaker, I envision the Committee on the Environment as one of the most important and prestigious assignments in Congress. Certainly, I could think of no greater responsibility than assuring a high quality of life for current and future generations.

THE 1975 DEFENSE BUDGET IS "SAFE"

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. BOB WILSON. Mr. Speaker, we must keep our defenses up at a time when it is most easy to lose our strength through lack of financial support for rebuilding our worn out military machine. I urge my colleagues to carefully review the following thoughtful anaysis of the proposed defense budget by Ira C. Eaker, a retired lieutenant general in the U.S. Air Force:

THE 1975 DEFENSE BUDGET IS "SAFE"

(By Ira C. Eaker)

The proposed defense budget which President Nixon submitted to Congress on Feb. 4 called for an expenditure of $85.5 *billion* against $79.5 billion spent last year by the Department of Defense (DOD).

Since the left-wing and pacifist press immediately trumpeted "a $6 billion increase in military appropriations for 1975," it is appropriate to examine what this represents as a contribution to the so-called "arms race."

Of this $6 billion increase for DOD for 1975, $3.6 billion is to cover increased pay raises. Inflation, the increased costs of weapons and supplies, accounted for $1.5 billion. The increased cost of fuel for the military (due to the Arab oil embargo) was $500 million. This left but half a billion dollars as the true increase in defense costs for '75 over '74.

Defense continues to decline as a percentage of the overall federal outlay. In 1974 it represented 27.9 per cent; in 1975 it represents 27.2 per cent. By contrast, welfare and human resource programs represent 50 per cent of the federal budget for 1975, a substantial increase over 1974.

The allocation of the defense budget among the services is always of interest as it can record current changes in defense policy.

The following table shows these allocations in billions of dollars:

	1974	1975
Army	$22.1	$22.9
Navy (& Marines)	27.1	29.0
Air Force	25.5	27.5

Personnel costs continue to represent 55 per cent of all defense expenditures. Total defense military and civilian employment at the end of 1975 will be 3.18 million. This represents a 23,000 cut from 1974 in people strength. It is also 540,000 below the personnel strength a decade ago, and 1.65 million less than the peak strength during the Vietnam War in 1968.

Military personnel is cut 22,000 in the '75 budget while civilian personnel remains practically unchanged.

In numerical terms, our forces are at the lowest level in a quarter-century, more than 1 million below the peacetime year of 1950.

The Pentagon calls this a "readiness budget." It is designed to increase the immediate readiness and effectiveness both of the general purpose forces and the strategic nuclear forces. Significantly, it is also responsive to the lessons of the Vietnam War and the Arab-Israeli conflict.

There is an increase of $300 million for communications and intelligence programs; significant sums are spent for improved sea- and airlift, and new command and control devices and techniques receive added emphasis—all direct results of implications of the Middle East conflict.

Strategic forces get about the same budget increase as general purpose forces in the '75 budget, nearly $1 billion.

Research and development funds are wisely increased more than $1 billion in the '75 budget to ensure the modernization of our military capability and to prevent technological surprise.

The '75 budget might also appropriately be called a "holding budget."

Defense Secretary James Schlesinger, testifiying in support of the new budget, recently told congressional committes that the action of the Soviet Union will necessarily determine the size of this and future defense budgets.

If on-going negotiations with the Soviet Union in SALT II (strategic arms limitation talks' second round) and in related mutual and balanced force reductions talks (MBFR) achieve meaningful mutual reductions in armaments and defense forces, the U.S. arms budgets will be promptly responsive.

The 1975 budget contains funds for the continual development of the strategic Triad programs, land-based intercontinental ballistic missiles, Trident (the new underseas fleet) and the B–1, new strategic bomber.

The United States will then be in a position to deploy each of these essential systems without delay if the Soviets continue their vast arms expansion clearly designed to gain overwhelming superiority.

Secretary Schlesinger also expressed the hope that this evidence of U.S. determination might speed the negotiating process in SALT II.

The '75 defense budget is not an optimum budget but a minimum safe outlay if the United States is to maintain parity and effectiveness as a world power.

MY RESPONSIBILITY AS A CITIZEN

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. ZWACH. Mr. Speaker, each year the Veterans of Foreign Wars of the United States, and its Ladies Auxiliary, conducts a Voice of Democracy contest.

This year, nearly 500,000 secondary school students participated in the contest, competing for the five national scholarships which are awarded as top prizes.

The winning contestant from each State is brought to Washington, D.C. for the final judging as a guest of the Veterans of Foreign Wars.

I am gratified to note that the Minnesota winner in this contest is Miss Debra C. Bock of Route 2, Tracy, in our Sixth Congressional District.

For the edification of my colleagues, I insert her prize-winning essay in the CONGRESSSIONAL RECORD:

MY RESPONSIBILITY AS A CITIZEN

(By Miss Debra C. Bock)

DEAR DIARY: Just another ordinary Friday—eight hours of school and the bus ride home. Well, on second thought, maybe not an ordinary day—we commemorated Veterans' Day—the same program as in the past five years of high school, only today was the last time that I will participate!

Maybe that's what happened to great numbers of Americans—they reach the final leg of one segment of life and forget to go on. Will that happen to me—no interest in my government's decisions, actions, or needs until I'm ready for my social security checks. NO, that will not happen to me, for today I felt: "I'm going to be a part of this society in a few months. I'm 18—what am I going to do? Will I follow the apathetic mood of the 1950's, or will I get involved like the young of the sixties, who were very much concerned? But you see there is a difference, because I am the young of the seventies, a young adult who must make a decision as to how I will fulfill my responsibility—that of being a United States citizen.

You know its a funny thing,—I've never starved,—or worked long hours in poor conditions for little pay,—I've never been on a battlefield or I've never heard a machine gun,—or have I witnessed anyone die,—every day of my life I've had a warm bed to sleep in, a television to watch, a radio to listen to and every other middle class luxury of an American family.

Yet, I have heard speaker after speaker tell me how important citizenship is,—how great our government is,—how important it is to die for it,—to stand up for it,—and to salute it,—but I think the most important and the hardest ordeal is being 18 and never having had to pay just a little for my right of being an American citizen.

My country has given me a school to go to where I have studied and learned practically everything I know about our government, how it functions, what citizenship entails, but as the old cliche goes, "You never know how great something is until you lose it."

And I am telling you now that I do not intend to lose it. Oh, you can say it is easy to say something like that; but to carry it out is the hardest part. But I feel that just knowing its going to be hard, is the first step.

I intend to enter the military service where I plan to continue my education and learn all I can, because I want my children to inherit the social, economic, and political standards that I have lived with, and for them to be able to improve upon them. I want them to run on that beach, and I want them to be able to speak out their feelings and I want them, most of all, to have the freedoms I have had.

But you see,—this means I have a responsibility,—I know today that I want to exercise my right to vote, to select the best leaders for my country, and to stand up for those in office. I intend to be a concerned citizen who will objectively analyze the news of our world, the actions of our government, and the people therein. This is not for someone else to do; but for me as an individual citizen.

If this means driving down the road 50 miles per hour, or going to a city council meeting, or turning off that unneeded light, then that is what I must do.

This is my responsibility as a citizen,—to be involved with my government's affairs. Maybe breaking away from my peer group and to cry and salute Old Glory the next time she passes by won't be easy, but you see,—the creation of this ordinary Friday wasn't so easy either.

HISTORY SHOWS FAILURE OF CONTROLS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. SYMMS. Mr. Speaker, wage and price controls, in various forms, have been tried in many countries throughout history; each time they have been tried the results have not been what the planners expected.

President Johnson tried wage-price guidelines. The guidelines failed and were abandoned. The British tried a wage-price board; it failed and was abolished in 1970. The Canadians tried voluntary wage-price controls. In 1971, their Prices and Incomes Commission announced the program was unworkable and would be abandoned.

The Nixon administration has just announced it will recommend the end of almost all controls on April 30, 1974. The reason for this, of course, is that these controls also have been ineffective and have resulted only in distortions of the economy.

The record is clear:

> During Phase I (August 1971 to November 1971) the rate of increase of prices was 2.0% (which indicates a freeze can have an effect for a short period). However, during Phase II (November 1971–January 1973) the rate of increase was 3.6%. During Phase III (January 1973–July 1973) the rate of increase was 7.4%. And during the present Phase IV (July 1973) the rate of increase has climbed to 11.1%. (U.S. News and World Report, February 4, 1974, page 18.)

Wage and price controls have failed to stem inflation, because they have attacked its symptoms and not the causes. Inflation is caused by increases in the money supply combined with increasing demand and decreasing supplies. That is, more money in circulation is bidding for less goods; therefore, prices—and then wages—are pushed up. Attempts to stop the upward push of prices through imposition of controls is the equivalent of trying to stop a raging fever by breaking your thermometer.

Although, as we have seen, wage and price controls have little, if any, effect in controlling inflation, they do have a number of negative side-effects. As the distinguished economist, Milton Friedman of the University of Chicago, has pointed out:

> The controls affect productivity in three ways: (1) millions of man-hours in government and industry devoted to administering controls constitute pure and unadulterated waste; (2) insofar as any wage rates are prevented from rising, workers have less incentive to do their best and employers are hampered in hiring as many and as high quality workers as they demand; (3) insofar as profit margins approach the permitted ceilings, businesses lose much of their incentive to keep down costs. (Newsweek, May 22, 1972.)

Many of my colleagues and I have been pointing out these basic facts for years. It is good to know that the Nixon administration, through its recent experience, has come to the same conclusion as did the Continental Congress on June 4, 1778, when they declared that—

> Whereas, it hath been found by Experience that Limitations upon the Prices of Commodities are not only ineffectual for the Purposes proposed, but likewise productive of very evil Consequences to the great Detriment of the public Service and grevious Oppression of Individuals. . . . Resolved, That it be recommended to the several States to repeal or suspend all Laws or Resolutions within the said States respectively limiting, regulating or restraining the Price of any Article, Manufacture of Commodity." (Journals of the Continental Congress, 1908 edition, vol. 11, pg. 569.)

HON. DIXY LEE RAY SPEAKS ON ENERGY CRISIS SOLUTIONS

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. BAKER. Mr. Speaker, the Chairman of the Atomic Energy Commission, the Honorable Dixy Lee Ray, was recently in the Third District of Tennessee, and I had the honor of appearing with her at meetings in Oak Ridge.

During the course of her visit in Tennessee, she appeared before several groups in east Tennessee, one of which was the 2-day meeting of the Welding and Testing Technology Exhibition and Conference—WATTEC—at the Regency Hotel in Knoxville. At this meeting she reviewed the role of the Oak Ridge plants in helping solve the energy crisis and also explained what the AEC is doing generally to come up with solutions.

A summary of her remarks appeared in the February 25 edition of the Oak Ridger, the daily newspaper of Oak Ridge. What Chairman Ray had to say will be of interest to all who are working to break the back of the energy crisis. I, therefore, feel it is appropriate to include excerpts of her remarks as reported by the Oak Ridger.

Chairman Ray called for expanded manpower training programs in engineering and said the training and technology program—TAT—in Oak Ridge "could well serve as a model for many others that will be necessary in every aspect of energy development." She reported that the TAT program has graduated more than 200 skilled workers in the last 7 years.

The TAT program in Oak Ridge is supported by State and Federal funds and is conducted at the Y-12 plant.

HON. DIXY LEE RAY SPEAKS ON ENERGY CRISIS SOLUTIONS

She said that, because of shortages in nuclear engineering and other engineering fields, more manpower training programs are needed. She also supports the plan of Gov. Winfield Dunn, whom she visited with Thursday morning, to develop a vocational school system in the state to train craftsmen.

Chairman Ray said that there are 33,000 engineers in atomic energy now. She added that, based on nuclear power growth projections, 3700 new nuclear engineers should be added every year for the next decade or two.

"Of the total engineering degrees granted," Chairman Ray said, "nuclear represents only two percent and this is not nearly enough in order to sustain increased manpower needs."

Chairman Ray was introduced by Aubrey Wagner, chairman of the Tennessee Valley Authority, with whom she spent much of the day Thursday. Master of ceremonies for the WATTec banquet was Robert Hart, manager of AEC's Oak Ridge Operations.

Hart presented a citation to Floyd Culler, deputy director of Oak Ridge National Laboratory, who served as acting director for nearly a year, "in recognition of outstanding achievement." The citation was awarded by the engineering and technical community of Oak Ridge, as represented by more than a dozen engineering society chapters.

The WATTec program also included a number of exhibits. Among these exhibits were:

An energy-environment simulator built by Oak Ridge Associated Universities;

An ORNL fish tag attached to a largemouth bass in order to measure the rates of temperature change in the water where the fish swims;

A prototype mirror for a laser fusion machine developed by the Y-12 Plant. (The Y-12 mirror would be used to focus the concentrated light from a laser to heat pellets of heavy hydrogen isotopes to millions of degrees so that explosive fusion reactions occur, contained in a chamber.)

According to the Y-12 exhibit on mirrors, "The Sandia Corporation (in New Mexico) is designing a demonstration solar energy system to collect and store five million BTUs (British Thermal Unit, a measure of heat content) per day. A hundred reflectors with a total surface area of 10,800 square feet will be needed.

"The Y-12 Plant is assessing the feasibility of options to manufacture high quality reflectors at an economical price."

In her general talk described as "inspirational" by Hart, Chairman Ray called engineers "a wanted commodity" and the nation's "prime problem solvers."

She said that engineers are needed to help the nation achieve two goals identified in a report she led in preparing for the President on how to spend billions of dollars for energy research and development in the next five years.

These goals, Chairman Ray said, are to increase the efficiency of known technologies to reduce the cost of developing energy self-sufficiency, and "to develop new technologies to guarantee our energy self-sufficiency over the long run."

Chairman Ray said that the federal government plans to spend $11.3 billion over the next five years for energy research and development, excluding pilot plant construction.

If the President's budget for fiscal 1975 is approved by Congress, she said scientists and engineers can expect the government to spend $1.8 billion for direct energy research and development next fiscal year, which begins July 1.

Another $200 million would be spent for basic and supporting research and for environmental effects, she added.

Chairman Ray said that the proposed expenditures for energy research follow closely the recommendations she made in her report to the President last December. This report, she added, had input from more than 400 people from private industry, national laboratories, private foundations and universities.

The report, she said, listed five talks to be met if the U.S. is to achieve the goal of getting all its energy from domestic sources by the next decade.

These tasks include:

1. To conserve energy. Chairman Ray said that our society should continue to be based "on mechanical machines and good engineering practices" rather than be shifted back to a slave and servant society. She lashed out at "self-flagellating words that bemoan the fact that we use energy."

Energy conservation, she added, includes improving the efficiency of machines and conversion processes involved in energy use. "Here is where the engineer has a tremendous role to play," she said.

2. To increase the domestic production of oil and gas as rapidly and reasonably as possible so that the U.S. can rely less on fuel imports.

3. To increase the use of coal and to perfect economic processes to make fuel oil and gas from coal so as to supplement and later substitute for diminishing oil and natural gas resources.

4. To expand nuclear energy so that atomic fuel can eventually replace fossil fuels for producing heat to make steam for generating electricity.

5. To foster the use of renewable resources, such as heat from the interior of the earth, from the sun, and from thermonuclear fusion as well as power from hydroelectric sources.

Chairman Ray said the national goal is that "nuclear power and the use of coal will be the prime basis for the production of electricity throughout the remainder of this century."

She added that the U.S. owes it to future generations not to burn up all the earth's fossil fuels now for heat and electric power generation. These fossil fuels, she added, are probably more valuable as sources of hydrocarbon chemicals for fertilizers, plastics, other synthetics, petrochemicals, and feedstock.

Chairman Ray, a marine biologist with a Ph. D. from Stanford University, began her talk by saying, "I think I know more about nuclear engineering than any other marine biologist in the country."

She said that, because of her studies of how ocean microorganisms cause the deterioration of wood structures in the sea, she was offered membership in the American Society of Corrosion Engineers.

This society, Chairman Ray said, called her Miss Deterioration.

JULIA BUTLER HANSEN

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. HELSTOSKI. Mr. Speaker, as we all know, this year a significantly large number of House Members have announced their retirement and intend to return to private life. Among the many fine Members the House will lose this year is Congresswoman JULIA BUTLER HANSEN of Washington. Congresswoman HANSEN has decided to retire after 37 years of exemplary public service at the city, State, and Federal levels of government.

Widely respected for her forthrightness and integrity, she has represented her State and served her Nation with vision and compassion for 14 years. As chairman of the House Interior Appropriations Subcommittee, she was the first woman to hold a subcommittee chairmanship in either the House or the Senate.

Today, most of us have become sensitive to and well aware of the women's rights movement. However, those who have had the privilege of working with this fine person, knew long ago of the vital and dynamic contributions women could make to Congress and to society.

During her tenure, she devoted herself to issues concerning the environment, national parks, forest lands, fisheries, energy resources and the needs of the Indian people, in addition to providing outstanding service for the people of her district.

We, in Congress, will miss Congresswoman Hansen. I am sure that as a private citizen, Julia Butler Hansen will continue to work for the things in which she believes and continue to help the people whom she has served.

OIL TANK CONSTRUCTION AND CLEANING — SIGNS OF MASSIVE HOARDING

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. VANIK. Mr. Speaker, today my staff investigated the availability of oil storage tanks and their sales in the Greater Cleveland, Ohio, area.

The findings indicate that there is a possibility of hoarding on a massive scale.

All the tank supply and construction companies we surveyed informed us that their sales have increased from 20 percent to 50 percent since the energy crisis began. The companies also informed us that a much greater increase in sales could have been made if the supplies for constructing these tanks were available. For example, one company said that the normal order-to-delivery period was 6 to 8 weeks before the energy crisis, but now this period is 10 to 12 weeks. This same company said that November and December have traditionally been the industry's slow period with usual layoffs of workers. This year there were no layoffs. This year the company gave overtime.

Another company informed us that usually 10,000-gallon tanks are the "big sellers," but since the energy crisis, 20,000-gallon tanks have been much more in demand. The spokesman for this company also noted that orders for 8,000- to 10,000-gallon tanks are usually made in quantities of 1 or 2, but in the past year orders of 8 to 10 tanks of this quantity are common.

My staff also contacted oil tank cleaning companies. We found that business for tank cleaning has slowed down considerably. This is a possible indication of tanks that cannot be cleaned, because they are full.

It is obvious, Mr. Speaker, that we must undertake an immediate survey of possible speculation, hoarding, and the creation of artificial shortages that hurt the general public.

GOV. JOHN WEST'S LETTER TO MR. SIMON

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. DORN. Mr. Speaker, our distinguished Gov. John C. West has written Hon. William Simon an excellent letter, which I call to the attention of my colleagues in the Congress. We commend the Governor for his splendid statement. What has been going on is no solution. The answer is less controls, not more bureaucracy. We respectfully urge that the present Government role in petroleum distribution be ended at the earliest possible moment.

Governor West's letter follows:

State of South Carolina,
February 21, 1974.

Mr. William E. Simon,
Administrator, Federal Energy Office,
Washington, D.C.

Dear Mr. Simon: During the past three and a half months, the Federal government and the States have embarked on a momentous new adventure, one on a scale of novelty and importance that has no parallel during the postwar era. The decision to take over the critical operations of the petroleum distribution system was made only after the Arab embargo caused the nation to fear catastrophic shortages affecting the vitality of our economy.

These catastrophic results have not taken place, both because the American people have *voluntarily* cut back on their consumption and because the actual shortage has been less than initially feared. From my admittedly local point of view, government regulation of the distribution system has done little positive to alleviate the situation. In fact, I have observed such massive confusion that my faith in the superiority of the free enterprise system has been greatly reinforced.

Do you honestly believe that, once the Arab embargo is terminated, we should continue our belated efforts to operate the petroleum distribution system? Both the States and the Federal government have made superhuman efforts to undertake this laborious task. We have diverted some of our best staff and our limited executive attention from other vitally important matters. I am not saying that if we continued to sacrifice our valuable administrative resources we could not meet this task. In fact, I believe that the problem is that "the best and the brightest" can always figure out how unlimited numbers of persons like themselves could accomplish almost anything. Unfortunately government, federal and local, does not have unlimited numbers of such exceptional persons and we need them ever so badly to work on the problems of economic development, environmental protection, human resources development, etc.

With this in mind, shouldn't we admit that once again "the best and the brightest" have led us into the trap of "governmental overload" and that, as quickly as possible, we should return petroleum distribution to persons experienced in such work. If there are some specific inequities and injustices that require remedy, surely "the best and the brightest" can find a way for us to remove them without trying to run the entire petroleum industry.

In summary, I hope very much that we can terminate our joint adventure in petroleum distribution as soon as the Arab embargo ends.

Sincerely,

John C. West.

GOVERNMENT LAWLESSNESS— ABOVE AND BEYOND WATERGATE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. RANGEL. Mr. Speaker, today, it is not a particularly radical statement to say that Government officials and politicians commit crimes. Watergate saw to it that the phrase "they're all crooks" became tragically common in the American vernacular.

Yet, crimes both large and small in significance have often been adversely affected the way in which people are allowed to live their lives. It just happened that this reality failed to reach the national consciousness. Back in June of 1972, the Congressional Black Caucus held public hearings on the subject of Government lawlessness. The information that was brought out at those hearings should have been heeded. It was, however, virtually ignored and it took Watergate to shock the collective illusion of this country.

Today, politicians, writers, and ordinary citizens are coming to realize that Watergate followed a long history of Government abuse of the law. In a particularly fine column, in a recent edition of the Washington Post, Colman McCarthy considered the subject of "Government Lawlessness." I now submit the column for the consideration of my colleagues:

GOVERNMENT LAWLESSNESS

(By Colman McCarthy)

The Watergate explosions continue: a new burst of facts one day, a loud clapping of suspicions the next, and always the banging of denials from the White House. A problem in watching these explosions closely is not that they blind but that they make it harder to watch the behavior of the rest of the government. A peripheral vision is needed, a constant shifting of the eyes, watching in one line the nimble positionings of Richard Nixon while simultaneously eyeing an assistant secretary in charge of reporting to Congress on lead paint poisoning, or a deputy assistant running a housing program, or a director of a bureau concerned with inner-city reading problems. The latter are not usually the spectacular figures of government but they are important because they are charged by the citizens with upholding and enforcing the law. In recent months, a run of examples of government lawlessness suggests that contempt for the law is hardly confined to the Watergate figures. A pattern of official lawlessness has emerged, whether the laws are being ignored, broken or defied.

The better-known examples of recent government lawlessness are easily recalled: the illegal dismissal of Archibald Cox, the illegal appointment of Howard Phillips to OEO, the more than two dozen illegal impoundment cases. All of these cases went before judges, but recently the White House didn't even bother with a trial: it merely announced as illegal Pat Nixon's $138-a-day job to a voluntary action council. The administration's lawlessness does not go unnoticed by its once loyal servants. When William D. Ruckelshaus recently spoke before the Environmental Defense Fund, The New York Times reported: "Mr. Ruckelshaus told the audience of 150 that he found it odd to be addressing a group that had sued him and the Environmental Protection Agency several times and won each case."

These examples are in the open, well reported by the press, even though, as the trend of lawlessness continues, new examples tend to be less newsworthy. Less noticed, though, are countless other examples, still important because they affect people's lives. In late January, the AP reported: "Four months and 18 days beyond the date required by law, the Agriculture Department has filed with Congress the government's goal for the development of rural United States." The Washington Post reported that the Food and Drug Administration broke the law last year by banning the growth hormone DES from cattle feed. The Wall Street Journal reported that a U.S. district court ruled that the Forest Service broke the law by allowing a West Virginia national forest to be clear-cut for wood. These three cases are from but a one-week period in January; other examples are easily found for the other weeks of January, even the other weeks of every month. The lawlessness in government is not confined to Washington; on the state level there is Agnew's Maryland and among cities Addonizio's Newark.

It is hard for Americans to comprehend the awesome idea of a government that breaks laws. Murderers, robbers and rapists are the law-breakers, we think, not well paid officials who are sworn into office on Bibles and live in clean neighborhoods. Even when a high official is caught and convicted —which is rare (what clear-cutting officials in the Forest Service will be fined or jailed for breaking the law?)—it is called "obstruction of justice," not committing a crime. Our unwillingness to see government lawlessness may be explained by the expectations of honesty we have for the government; to replace this brightness with the dark shadows of crime—an image we reserve for the back alleys where street criminals are ready to jump us—suggest our own stupidity, a thought as unacceptable as government crime. Yet, citizens are as much victimized—even more victimized in many cases—by the crimes of their government as by neighborhood thugs, even though it is the latest FBI "crime rate" statistics that scare us.

Citizen reaction to official contempt for the law is discussed in "How the Government Breaks the Law" (Stein and Day) by Jethro K. Lieberman. "When the Government breaks the law . . . the psychological reactions are far more complex (than in low-life crime). The community is split. No one need defend a criminal, but 'our government—as opposed to the bureaucracy'—must be sustained and defended; illegal activity, when committed by the Government, quickly becomes fuzzy and political, thus salving the conscience of some, since staunch and 'sincere' political beliefs are highly prized. And when the political activity is illegal, it can put even the most fair-minded citizen in a terrible dilemma, for he is part of the citizenry that nurtures the Government. Thus, whenever the Government takes some action, part of the populace—whether a larger or smaller part depends on the issue—will automatically support it simply because it is action taken in the name of Government."

Occasionally attention in Washington is given to government lawlessness. In June 1972, the congressional Black Caucus held hearings on the subject. After four days of learning the details of the crime wave, Rep. Charles C. Diggs (D-Mich.), said: "To say that we have the existence of government lawlessness would be a supreme understatement. To say that it is even larger than we ever anticipated is also an understatement . . . One thing seems evident: we are seeing a war right here in America, a real war, waged between government officials and agencies who openly refuse to follow statutes and regulations and those citizens who should receive the benefits of those programs and who have to fight like hell to get them, and many times they don't." The Black Caucus hearings received almost no coverage in the media Rep. Ron Dellums (D-Calif.) recalls that "at the time of the hearings a Democratic party credentials fight was going on across town, and the media and the politicians convinced each other that this was the important news of the day. Yet, for me, the hearings on government lawlessness were the most explosive ones I ever heard." As for the agencies whose lawlessness was detailed by witnesses and confirmed by facts, the hearings were as easily ignored as the law itself.

What is the solution? For the moment, none appears evident, especially when so many in the government refuse to admit there is a problem. How can a criminal be rehabilitated if he is deluded he has done nothing wrong? The attitude is pervasive, not only in cases the government loses in the highest courts but even in traffic violations. The day after Attorney General William B. Saxbe was sworn in, he was stopped on the street and received a citation because his Cadillac had an illegal sticker. Saxbe first tried to talk his way out of it; but that tactic failed. Then the nation's top law official tried the do-you-know-who-I-am argument in an effort to bully two of the nation's lowest law officers. But the latter gave their mighty boss a ticket anyway. Two days later, a news story said the Attorney General "joked about the incident." Perhaps that is the solution to government lawlessness—enjoy a good laugh. If so, it would be logical at a time when the law is being treated as a joke anyway.

ISRAELI PRISONERS OF WAR IN SYRIA

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. DRINAN. Mr. Speaker, I would like to share with my colleagues the testimony I intend to submit to the Subcommittee on International Organizations and Movements of the House of Representatives Committee on Foreign Affairs on the subject of the treatment of Israeli prisoners of war in Syria.

The testimony follows:

ISRAELI PRISONERS OF WAR IN SYRIA

Mr. Chairman: I was happy to learn that on February 27, after months of stern rejections by Syria of Israeli offers aimed at solution of the prisoner situation, the Syrian Government agreed to take the first steps toward compliance with the Third Geneva Convention of 1949. Their decision to release a list of prisoners and to permit Red Cross inspection of the treatment of the prisoners is a long overdue but welcome measure.

The prisoner of war situation remains the key issue for Israel. There exists all but irrefutable evidence that the prisoners in Syrian hands have been mistreated. Last week, before this same subcommittee, Israeli witnesses testified as to the brutal murder of 42 Israeli prisoners by the Syrians, the Syrians' total lack of cooperation with the Red Cross up to that time, and their ignoring of the Geneva Convention of 1949 relating to the treatment of prisoners of war. These allegations are not based on hearsay or rumor, but on eyewitness fact. There is no refuting the fact that a man, found bound, denuded and riddled in the face with bullets, has been killed in cold blood.

There would be less trepidation about the fate of the missing men if Syria were abiding by the Third Geneva Convention. Article 13 of the Convention provides, in part, that "prisoners of war must at all times be humanely treated." Article 17 prohibits torture, coercion, and extortion of information from prisoners. Other provisions provide that prisoners shall be enabled to write directly to their families, that the Red Cross or other representative of the Protecting Powers shall be allowed to visit the prisoners, and that the prisoners shall be repatriated without delay upon the cessation of hostilities. But the Syrians have proven themselves impervious to humanitarian considerations and deaf to the appeals advanced by a procession of international representatives.

The Syrian record of treatment of Israeli prisoners of war in the past 25 years has enough witnesses to support the Israeli fear that prisoners are being physically and psychologically mistreated, the most recent being the three Israeli pilots returned in an exchange just before the October war.

As for the behavior of Israel, she released the names of all the prisoners she holds to the International Red Cross 3 days after their capture, and allowed the Red Cross access to the prisoners weeks ago. Syrian prisoners in Israel are reportedly treated well by Israel. Non-partisan reports indicate that the Syrian wounded in Israel are treated as well as Israel's own wounded soldiers.

The Syrians do not seem concerned about the return of their own 377 men in Israeli hands. Many public and private offers for repatriation have been turned down by Syria. Instead, Syria cruelly flaunts the prisoners they hold in an attempt to use them for political gain.

On December 3, 1973, I wrote to Secretary of State Kissinger asking him to instruct our representative at the United Nations to introduce a Securtiy Council resolution calling on Syria to fulfill Geneva Convention requirements in the exchange of wounded prisoners. I urge our Government and the International Red Cross to exert all their influence through other nations and appropriate international bodies to persuade the Syrian government to abide by the accepted norms of civilized conduct in war.

War is in itself tragic and inhumane. However, there are relatively well-established international agreements with respect to the handling of prisoners of war, and it is assumed that responsible governments will honor theses obligations.

The Geneva Conventions of 1949 were based on the idea of respect and dignity for human life. Some day, I hope, there will be a Geneva Convention against war itself. Until there is, there remains this standard of morality and behavior in time of war. Syria must be made to live up to it.

PRESCRIPTION FOR FEDERAL CAMPAIGN FINANCING AND ACOUNTABILITY

HON. JERRY LITTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. LITTON. Mr. Speaker, one of the foremost concerns in the wake of the 1972 political campaigns has been the increasing demand from citizens representing a wide spectrum of American society for legislation to cure the curse of campaign financing and accountability.

During the past year or so, many interesting concepts have been advanced to change the methods of financing campaigns, as well as appropriate ways of accounting for expenditures. Various proposals have elicited much diversity in thinking on just what is needed. But, there is one definite point of agreement—

refinement in our present system is high-priority unfinished business of the Congress in the 2d session of the 93d.

Several years ago, Mr. Speaker, one of our more candid House Members was quoted in Esquire magazine as saying:

> The primary and overriding duty and responsibility of each Member of the House of Representatives and the Senate is to get reelected.

In my judgment, the primary and overriding duty and responsibility of each Member of the 93d Congress is to restore the faith of the American people in the democratic processes of their Government. What better way is there to get reelected than by those acts which show the people we represent that we deserve to be reelected?

The 92d Congress made the first comprehensive revision in campaign finance legislation to be accomplished in almost half a century. Few would dispute the Federal Election Campaign Act of 1971 was not a major improvement over the inadequate Corrupt Practices Act of 1925 which it replaced. Conversely, most Members of Congress, as well as the public at large, would heartily agree there are yet some loopholes to be closed.

Thus, Mr. Speaker, last month I introduced a bill, H.R. 13144, designed to eliminate some of the more obvious flaws which became apparent during, and following, the last Federal elections.

I noted in President Nixon's televised press conference last night that his recommended campaign reform legislation which he intends to offer Congress tomorrow is very close to my bill. The main emphasis of my bill is to tighten up on reporting and the disclosure of campaign contributions and campaign expenditures; to limit campaign contributions and to close some of the loopholes of the 1971 act so as not to permit a replay in the 1974 and 1976 elections of some of the corrupt and deceptive acts of the 1972 elections.

My bill would seek to do this by requiring a candidate for Congress to designate one State or Federal bank as his one and only depository for campaign contributions. All campaign contributions and campaign expenditures on behalf of a candidate would have to go through this one bank account, with the bank statement being made a part of the candidate's campaign report.

With my bill a contributor would know that a candidate for office, or those acting in his behalf, had violated a Federal law if his contribution was not listed among those deposits in the one named bank depository. By the same token, anyone accepting payment for a campaign expense in excess of $100 in any form other than a check from the one named bank would also know that a Federal law was being violated. It is my understanding that the campaign reform to be suggested to us by the President tomorrow has the same unique approach to identifying all campaign contributions and expenditures.

My bill established a limit on campaign contributions at $3,000 which I understand is also part of the President's proposal. My bill makes illegal any campaign contributions in cash in excess of $100. I understand the President's proposal sets a limit on cash contributions at $50.

To safeguard against the frequently used practice of making contributions in different names such as John Smith and J. P. Smith, my bill requires the listing of the social security number of any contributor whose contributions total in excess of $500.

Another feature of my bill prohibits contributions from any individual or group in excess of $500 5 days before the election. The purpose of this is to prevent candidates from seeking large campaign contributions from special interest groups a few days before the election, knowing that through the slow reporting process the voters would not know of the contribution until after the election.

So as to reduce the chance of suitcases full of cash or $100,000 contributions held in a safe for a candidate for a couple of years, my bill requires that any contribution in excess of $100 must be deposited in the designated bank within 15 days after receipt of the contribution.

Mr. Speaker, I suffer no illusions that my bill, if enacted, will end corruption in political campaign practice. One can not legislate character.

In the 1972 campaigns, the Attorney General whose lofty position proclaimed him to be the No. 1 law enforcement officer in this country said, "Don't listen to what we say, watch what we do." That was a campaign promise and indeed the eyes of America are still upon what they did, though some of the verdicts are not yet in.

While we cannot legislate character, we can write legislation which will be less tempting to those seeking high office. We can also write legislation which will provide greater guarantees against those acts which would undermine our free election process. Could some not say that our failure to properly legislate against those acts which have disgraced our election process might not represent as much dereliction of duty as does the violation of the election laws themselves?

We must keep in mind that out there in our districts across this land are others who stand ready, willing and able to fill our seats and the American people, who more decisively than ever in the days to come will exert their will at the polls, have about had it with dirty politics which they are fast thinking includes almost all in government. Today the people express anger at those who violate election laws. Tomorrow they may express their anger against those who are unable to write effective and enforceable election laws.

The patience of the American people has grown thin. We should not expect them to withstand another national election like the last one. The time for us to act is now.

BUSING: FOR WHAT?

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. TEAGUE. Mr. Speaker, I recently signed a discharge petition that would provide for the discharge of an amendment to the U.S. Constitution prohibiting the assignment or transportation of pupils to public schools on the basis of race, color, religion, or national origin. The issue is of major significance to the people of this Nation and demands immediate attention.

An editorial that appeared in the Dallas Morning News of February 25, 1974 discusses busing and presents an opinion with which I concur. I recommend it to you, my fellow Members of Congress and the general public.

The editorial follows:

BUSING: FOR WHAT?

A school desegregation study recently released by the Health, Education and Welfare Department makes two findings:

(1) That desegregation does not substantively improve student achievement.

(2) That students of any race learn better in schools where racial tension is absent.

Well, who can wonder? Had racial-balance busing not become gospel with so many federal judges in recent years, the truth of such propositions might have manifested itself much earlier.

The judges decided, after much metaphysical musing, that busing is a Good Thing. This is because Negro teachers are presumed incapable of instructing Negro youngsters and the Negro youngsters incapable of learning except they sit alongside a number of whites proportionate to the whites' share of the population.

And yet there was never any solid evidence for such a view. A study almost a year ago by Dr. William J. Webster of the Dallas Independent School System reviewed the effects elsewhere of "induced desegregation." Webster concluded that "it is not possible to cite a single example of a large-city school system which could serve as a model of the effectiveness of busing, pairing, etc."

Why so? Sociologists increasingly are coming to realize that family and home environment are the governing factors in the learning process. Harvard's Christopher Jencks, though himself a dedicated leftist, nevertheless submits "that the character of a school's output depends largely on a single input, namely the characteristics of the entering children. Everything else—the school budget, its policies, the characteristics of the teacher —is either secondary or completely irrelevant."

What is even plainer, perhaps, is that education—any kind of education—suffers whenever students are brought together for no other reason than racial balance and accordingly resent it.

Only in the 1973–74 school year did the schools at the end of the bus routes settle down to something approaching normality. But the worst may not yet have come. Should the Supreme Court authorize intercity busing, the reaction is sure to be loud and angry. And disruptive of education.

The pity is that disuption should occur because key federal officials are intent on implementing a policy that doesn't work nearly so well as people expected it to. It is as though we tried to shave with a meat clever—and wondered why we kept cutting ourselves.

ENERGY PROBLEMS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. BOB WILSON. Mr. Speaker, certainly the most vexing problem facing us today is the need to find both immediate and long-term solutions to our rising demands for energy. The following article, "How To Solve Our Energy Problems," by Dr. S. S. Penner, offers concrete alternatives for dealing with the current energy crisis, as well as developing future sources of energy without our present dependence on fossil fuels. Dr. Penner, professor of engineering physics at the University of California, San Diego, is the coordinator of energy studies at the university. In view of the great interest and the variety of energy measures which have proliferated in the Congress during the past few months, I would like to share Dr. Penner's article with my congressional colleagues and commend his observations to their close attention:

HOW TO SOLVE OUR ENERGY PROBLEMS

(By S. S. Penner)

A reasonable approach in searching for adequate long-range supplies of energy sources is to assign first priority to minimization of the economic impact of embargoes on foreign fossil-fuel shipments to the United States and second priority to the early construction of facilities for abundant energy production in the United States without the use of fossil fuels (gas, oil, coal).

That we must learn in time to live without fossil fuels is certain.

Eighty percent of these resources will be used up in a period of about 300 years (counting the beginning as about 1850, when coal first came into widespread use), almost independently of any fuel economies that can reasonably be effected.

Considering their limited supply, it would be wiser if we reserved the use of fossil fuels for petrochemical and pharmaceutical manufacture rather than burning them for energy generation.

The sudden withdrawal or price rises for foreign oil shipments have provided us with the needed incentive to accomplish a necessary task.

Historically, the increases of gross national product (GNP) and of per capita income in the United States have been closely linked with energy consumption.

About $30 billion of GNP has corresponded to the utilization of the energy-equivalent of one million barrels of oil per day. Thus, the loss of four million barrels per day might be considered to imply a GNP decline of $120 billion.

Although this last conclusion has been drawn by a number of observers, it is not a law of nature or of growth in our economic system.

What has been true historically under our particular version of the free enterprise system need not be true and has not been true in other, closely related, advanced economic systems.

For example, each of the following countries has achieved in recent years a much more rapid growth of GNP with increased energy utilization than we have: Japan, France, F.R.G., the United Kingdom.

In 1964, France used only about 54 per cent of the energy per person and F.R.G. only about 75 per cent of the energy per person which was utilized in the United Kingdom for nearly the same per capita income.

GNP and per capita income do not simply depend on total energy utilization: they depend on how the available energy is used.

We have not learned how to optimize economic value for a given energy usage rate.

This challenge faces us now and we must learn how to respond intelligently.

We are a very rich nation indeed.

Our remaining energy-resources base is very large.

We probably have left under our control conventional oil and gas resources more than double those now readily available in the Middle East, not including the enormous and only partially explored Alaskan reserves.

In addition, the oil in oil shale in the U.S. may ultimately yield from five to more than 100 times the oil in the known Middle Eastern reserves, depending on the extent to which this oil can be recovered economically.

The tar sands of Alberta, Canada, have a near-term potential (i.e., for recovery over the next 30 years) at least equal to the Middle Eastern reserves.

We own about 25 per cent of the world's vast remaining coal reserves, enough to last for hundreds of years at the current energy use rate if we were to change to an all-coal economy.

We have about 6.5 per cent of the world's hydroelectric potential of which only about 28 per cent is currently fully developed.

We can harness abundant wind energy and smaller energy reserves in selected tidal basins.

We probably have more than 50 per cent of the world's high-grade uranium oxide and a still larger percentage of the identified thorium oxide ores to make nuclear-fission energy for all of our needs for hundreds of years, once we have learned how to build large-scale nuclear breeder reactors.

Our country is large with abundant sunlight, which alone could be adapted to take care of our foreseeable energy needs.

The temperature gradients in our coastal waters, created by the sun, may allow the development of solar-sea generators for energy production.

We have some hydrothermal energy resources (naturally occurring steam and hot water) and a likely enormous potential for geothermal energy generation (using the heat of the earth to produce steam and hot water).

Finally, we are working on fusion reactors to burn the abundant deuterium (discovered by U.C. Professor and Nobel Laureate Harold Urey) in the waters. If we succeed in this endeavor, we may anticipate an energy base so vast that it will supply the world's energy needs at the anticipated year 2000 use rate for perhaps one billion years, and possibly without serious environmental damage.

We are a very rich country with an enviable energy potential. But we must learn how to use it efficiently and without destroying our environment.

The energy industries (oil companies, utility companies, coal companies, etc.) are so complex and big that only a very large, long-time, and very costly development program can have a sizable impact on energy sources.

No significant change can be made within months or even years because of the staggering required investment costs.

It has generally taken from 10 to 20 years just to change the 10 per cent use level to a 20 per cent use level when the fuel type was changed.

It took that long when wood was replaced by coal before coal burning accounted for 20 per cent of the total energy generation after coal burning had already accounted for 10 per cent of the total energy generation.

The introduction of oil and gas to significant levels required many years.

Nuclear energy, which began shortly after World War II, contributed in 1970 only about one third as much energy as wood burning.

Investment costs are staggering.

Our domestic refinery capacity was short by about four million barrels of oil per day in 1973. It will take at least two years and a capital investment of perhaps $8 billion to develop this refining capacity domestically.

Investment-cost estimates in energy production and utilization to the end of the century exceed our entire gross national product for 1973.

It was estimated in 1972 by the National Petroleum Council that more than $500 billion would be needed by 1985, and this estimate was made without allowing for an oil embargo or the enormous 1973 price increases.

The energy industries are very big and it will take many years and a great deal of money to change to new supply bases.

Probably the best way to facilitate new energy-resource development is to make it profitable to do so in a free, competitive market.

Because most estimates of new domestic fossil-fuel development costs were pegged well above prevailing prices in early 1973, it is unrealistic to think of a return to the price base prevailing a year ago.

But there were no estimates for oil recovery from the tar sands, from oil shale, for coal liquefaction, even remotely as high as the current foreign crude prices ($11.50 per barrel and higher).

To encourage and protect the development of new domestic fossil-fuel resources, a permanent government tax to bring imported oil to a price level of $6 to $8 per barrel might be justified. This type of control would appear to be preferable to outright subsidies.

Given the present economic stresses, we must develop a mixed strategy for early production of energy resources within the United States and friendly countries, while developing complete long-term solutions to our needs for cheap and abundant energy.

The nature of the current crisis dictates immediate emphasis on offshore and mainland oil and gas exploration, on increased coal production, on construction of the Alaskan pipeline, on oil recovery from the Athabasca (Alberta, Canada) tar sands, on construction of nuclear fission reactors, on expansion of hydroelectric facilities, on exploitation of hydrothermal facilities on the development of electrical-power-generating plants using selected tidal basins, and perhaps application of magnetohydrodynamic power conversion (using combustion gases with high electron concentrations in a channel with a large magnetic field in place of a turbine electric generator).

These are technologies which we can apply now in order to relieve shortages during the next decade. In addition, a concerted and continuing program for energy savings should become a continuing national objective.

By the year 2100, our current problems with energy generation should be totally resolved.

Adequate energy supply can be assured by full development of one or more total long-term solutions: controlled nuclear fusion reactors, geothermal power generation using the outer earth mantle as a heat source, the solar-sea generator, land-based solar-generating stations, all combined with a hydrogen-fuel technology.

This is the fossil-fuel-free energy resource schedule to which we must change. Knowing where we are and where we are going, we can construct a long-term energy-development map for effecting the change from a fossil-fuel-dominated economy to a fossil-fuel-free economy.

Ultimately, our "fuel" for transportation may be a light-weight efficient battery, recharged with energy supplied from a nuclear reactor, a solar-electric generator, or a geothermal energy source.

Alternatively, we may use hydrogen made from water as a universal, non-polluting fuel.

Synthetic hydrogen fuels represent a third alternative.

Knowing that there is long-term relief does not help us tomorrow when we have to pay too much for a commodity that is in short supply.

But at least we should have the satisfaction of knowing that we are the terminal beneficiaries of a transient technology that is being replaced on an optimal schedule.

Unfortunately, it is not now apparent that we have really embarked on a defined national course with the assurance needed to get the energy independence that we must have.

"THE NEXT HUNDRED YEARS"—A CENTENNIAL EDITORIAL

HON. JAMES R. MANN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. MANN. Mr. Speaker, the Greenville News of Greenville, S.C., last week commemorated a century of public service with an extraordinary edition of the morning newspaper, which depicted in selected front pages the triumphs and trials of the Nation and in news features "100 Years of Progress" in our community.

It is illustrative of the progressive philosophy of this newspaper and its management that in its anniversary editorial the Greenville News chose not to dwell on past achievements, but to look forward to the establishment and realization of a new goal for Greenville and the Piedmont region.

Mr. Speaker, I want to congratulate J. Kelly Sisk, chairman of the board and publisher, Edmund A. Ramsaur, president and copublisher, B. H. Peace, Jr., honorary chairman of the board, Rhea T. Eskew, vice president and general manager, James H. McKinney, Jr., editorial page editor, R. G. Avakian, managing editor, Aubrey Bowie, associate editor, Carl D. Weimer, executive news editor, and all the outstanding men and women who are contributing and have contributed to the success of this newspaper and to share with my colleagues the Greenville News' centennial editorial:

[From the Greenville (S.C.) News, Feb. 26, 1974]

THE NEXT HUNDRED YEARS

Presenting today's special edition commemorating the 100th year of The Greenville News, we look more toward the next 100 years than at the past century.

We record the progress of this newspaper and the city and region it serves. We are proud of the people who built the newspaper and the other institutions of Greenville and the South Carolina Piedmont. Names like Williams, Smythe, Chapman, the dynamic Peace family and many others are engraved in our history.

Studying their accomplishments reveals one outstanding attribute—the ability to look ahead, never to live in the past. As they grappled with the problems of their present, they also worked for the future, which has become our present. Therefore, a glance at the past impels us to turn quickly, pausing only to draw experience and inspiration from history in order to cope with the present and the future.

A comparison of Greenville and the Piedmont region of 100 years ago and now reveals one great similarity and many differences. Then, as now, the chief concern of the city and region was of growth. There the similarity ends.

One hundred years ago Greenville was a small, one-industry city. The County of Greenville was predominantly agricultural, as was the region. The objective then and throughout most of the succeeding years was to stimulate growth—almost any kind of growth. The struggle was severe. Competition for growth was keen. Economic conditions often were stark.

Looking forward, our forebears—on this newspaper and in many other institutions—worked for growth. They succeeded. They made us a strong economic and social entity, in many ways a national success story.

But the nature of the growth problem has changed in recent years. Whereas the need of the past was to promote growth, now it is to control a growth which has become automatic.

Now growth must be managed, lest it overwhelm us, destroy our beautiful natural setting, ruin our ways of living, break down our institutions, turn this God-favored Red Hill country into a human jungle. We now must be selective, and careful about placement of industry and other institutions of society, and about population distribution as well.

We must cope with rapid change, not only at the small community level, but all across the Piedmont region. In order to cope, we need to think, plan and cooperate regionally, as well as in our local communities. Communities now have to cooperate with each other—and compromise with each other—as individuals have in the past. We must learn to live and help live in the regional community which has developed.

One task is to strengthen local institutions and to build regional ones able to handle complex problems beyond the capacity of any local community. We have to regulate our affairs in order to retain space and a proper atmosphere in which we can live and breathe, not merely exist. We must create better bonds of understanding and cooperation along all elements of our society, alleviating conditions which breed misunderstanding and dissention.

A special dream for the South Carolina Piedmont region is to build a strong, comprehensive knowledge industry. The purpose would be to create new frontiers—to push back the bounds of knowledge—and to use the products of knowledge at home and for profitable "export."

We have the building blocks for such an industry in our higher educational and research centers, public and private. Strengthening, adding to and coordinating them cooperatively can open the way for advanced study in many areas. The field is limitless. It ranges from the infinity of invisible smallness to the infinity of the undefined cosmos.

The dream is not impossible, although it is difficult to attain. We can achieve it, or at least partially fulfill it, if we try.

Our goal is to maintain and improve the quality of life in Greenville and the Piedmont region. Looking ahead to the next 100 years, we dedicate ourselves, in cooperation with many others, to the new challenges of dynamic growth in material ways and in the priceless human spirit.

GRAIN FOR THE ARABS—NO OIL FOR US

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. GAYDOS. Mr. Speaker, the American citizen, confronted by newspaper reports on our burgeoning wheat exports and the dire predictions of coming bread shortages, has good reasons to wonder whether his Government is operating in his interest or in the interests of certain peoples abroad.

I cite these recent examples. The United Press International said the other day that exporters are forecasting total U.S. wheat shipments by June 30 will exceed Department of Agriculture estimates by some 100 million bushels, making 1.313 billion bushels the total for the marketing year ending on that date.

In response to this, the UPI quoted Dawson Ahalt, an Agriculture Department economist, in what seemed to me less than reassuring terms. Mr. Ahalt conceded, the UPI said, that the domestic wheat supply is "tight" but that the Government has plans to buy back our wheat from Russia. And at the current inflated price, thus giving the Russians a whopping profit on their deals with us.

Meanwhile, in the same news period, the American citizen read that the American Bakers Association, certainly a knowledgeable organization in matters of bread and wheat supplies, feared there will be no wheat around by June 30 and that bread prices may soar to as high as $1 a loaf. Mr. Ahalt has branded the bakers' claims "wholly inaccurate," but he has not been too convincing. A Pittsburgh bakery official said he could see a 75-cent loaf in the offing—or 25 cents more than the current average price.

This then, is the news on the state of the Nation's vital wheat supply. Admittedly, it is precarious and fraught with new dangers to the household budgets of Americans. I shudder at what could be the housewives' reaction to $1-a-loaf of bread.

The impending wheat crisis has its roots, of course, in our bargain-basement sale of what was termed the U.S. "surplus" to the Russians back in 1972, a deal still in the process of being fulfilled by our exporters. As we have learned, it was reckless and disastrous. Not only wheat, under the impact of the Soviet sale, shot up in price, but virtually every other food item in the grocery stores. Booming grain prices meant soaring meat costs, and so forth.

And what are we doing about it now? One thing we are doing, judging from the news reports, is compounding the problem by more and more exports while, at the same time, subjugating the American interest to a new level of absurdity. Scripps-Howard, in the "Weekly Sizeup" column by its Washington staff, reports that our grain sales to the Middle East, mostly to the Arab nations, will top *$800* million this year, or double last year's totals. The Scripps-Howard breakdown:

Egypt, $100 million worth; Saudi Arabia, $100 million; Algeria, $144 million; and Iraq, $60 million. The rest is scattered over the region.

Of pointed interest to me is the Scripps-Howard assertion that our grain sales to the Arab States are running at a rate 25 percent higher that the estimates made before the Arab oil boycott brought about the oil crisis here. In other words, we are lifting the export of our critically needed grain to the Arabs while they continue to deny us the oil which we critically need from them. Has there ever been such an example of placing the American consumer last? I doubt it.

I ask, Mr. Speaker, how long it is going to be necessary for us in the Congress to meet the protests of our constituents on this and other matters in which Americans are getting the runaround. I think it is time we quit accepting these situations as having some esoteric value in the exercise of our foreign policy and look upon them for what they actually appear to be—abrogations of the prime responsibility of any government to work in behalf of its own people. We have had this principle violated time after time since our diplomats started out on their abortive mission of buying up friends abroad by giving away or sharing the substance of this Nation. It has been a one-way street, as we see again in the U.S.-grain-for-the-Arabs and no-Arab-oil-for-us arrangement. And it has not worked. And the American people are the victims.

ADDRESS BY HON. ROBERT R. COKER

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. DORN. Mr. Speaker, the Honorable Robert R. Coker of Hartsville, S.C., is the Nation's most outstanding expert on the growing of cotton. This distinguished American is a life member of the Clemson University Board of Trustees, a champion of private enterprise, and leader in American agriculture. Recently, Dr. Coker delivered a superb address to the National Cotton Council's annual meeting at St. Louis. This great address has special significance at this time when we are faced with possible food and fiber shortages. Our textile industry needs cotton and the world needs more cotton. Dr. Coker's address to the Cotton Council received world attention, and I commend this timely and great address to the attention of our colleagues, agronomists, and agriculturalists the world over:

NATIONAL PROGRAM FOR BOLL WEEVIL ELIMINATION

(By Robert R. Coker)

The state of Oaxaca, Mexico, is situated some 200 miles to the south and east of that beautiful, sub-tropical playground of Acapulco. It was in a cave in Oaxaca that in 1968 Dr. C. Earl Smith, a botanist of the U.S. Department of Agriculture, discovered a small batch of seed cotton along with Indian pottery from a known period of Indian civilization. In examining this sample of cotton, Dr. S. G. Stevens, geneticist of North Carolina State University, found a perfectly preserved boll weevil. Through the use of radioactive carbon 14, together with the dating of the Indian pottery, it was determined scientifically that this boll weevil had lived a thousand years previously, or in approximately 968 A.D. This finding established the fact that this insect existed in South and Central America long before civilization there began, where it fed on wild cotton growing in those areas.

About 1519, this Aztec civilization was brought in contact with that of Europe, and went down in defeat with the Spanish Conquest. No one ever dreamed that this little insect would some day take from North America many times the value of the gold and other treasure that the Spanish took from Central America and Mexico.

The boll weevil was first brought to the notice of the world in 1843 when a specimen collected near Vera Cruz, Mexico, was sent to Europe and given the name Anthonomus Grandis by the Swedish entomologist, Boheman. About 1892, it crossed the Rio Grande near Brownsville, Texas, and entered United States territory. By 1894, it had spread to a half dozen counties in southern Texas, and since has extended its range north and eastward until in 1928 almost all of the important cotton producing sections, except the western irrigated areas, had become infested. The areas of the Cotton Belt which are now affected by this insect comprise about 11 million acres of cotton.

Most of us look upon Sherman's devastation of large sections of the South with fire and pillage some 100 years ago as the greatest catastrophe which the area ever experienced. Perhaps it was, but the value of the destruction which the cotton boll weevil has caused during the past eighty-one years is far greater in dollars and cents loss to our economy.

From 1909 through 1954, the U.S. Department of Agriculture made annual estimates of the crop loss to the boll weevil. By projecting these loss figures through 1971, we find that for this period—1909 through 1971—the total loss of cotton and cottonseed directly attributable to the boll weevil amounted to 85,393,000 bales of cotton, and 36,335,000 tons of seed. Based on the farm prices during this 63-year period, the lint and cottonseed lost amounted to more than $11,000,000,000, or an annual average of $175,000,000.

The 36,300,000 tons of cottonseed would have produced one and a half billion gallons of cottonseed oil, and would have required 190,000 railroad tank cars to transport it. Domestic disappearance of food fats and oil is nearly 52.7 pounds per capita annually. At this rate, the cottonseed oil lost would have provided the total food fats and oil requirements for the total population of the United States for an entire year. The cottonseed lost would have produced 16,500,000 tons of high protein meal, and 9,000,000 tons of hulls. Ninety-three pounds of cottonseed meal used with the proper amount of silage will produce one hundred pounds of beef. Thus, the meal that was lost could have produced enough meat to have provided 169 pounds for every man, woman, and child in the United States.

The 85,393,000 bales of cotton destroyed between 1909 and 1971, if placed end to end, would extend in a straight line 72,799 miles long, and would reach around the earth at the equator almost three times. It would reach approximately one-third the distance from the earth to the moon.

From each bale of cotton can be produced 640 long-sleeved, combed cotton shirts, 3408 medium-weight diapers, or 5,485 handkerchiefs. According to the 1970 census, there are 71,500,000 males in the United States fourteen years or older. The cotton lost to the boll weevil, if made into shirts, would have provided these individuals with 764 shirts each. If made into diapers, it would have provided each of the 8,000,000 children in the United States under two years old with 36,000 each. If this cotton were made into handkerchiefs, it would have made 130 handkerchiefs for each of the 3,600,000,000 inhabitants of this planet.

Against the background of these continuing losses, it appeared that the time had come for due recognition on the part of the Federal Government of its responsibility for attacking the problem at the source. Accordingly, seventeen years ago at the Annual Meeting of the Council in Phoenix, Arizona, a resolution which I authored was passed by the delegates. The resolution read as follows:

"That the National Cotton Council recognize that the cotton boll weevil is the No. 1 enemy of efficient cotton production in large and important areas of the U.S. Cotton Belt, and is taking an annual toll of tens of thousands of bales of cotton and of many millions of dollars, and that, in recognition of this, the Council pledge its best and most vigorous efforts to obtain fully adequate research funds and research effort aimed at eliminating the cotton boll weevil as a threat to the U.S. cotton crop at the earliest possible time."

The interim years from the date of that resolution to the present time were years of dedicated effort by a great many people. These efforts resulted in an appropriation of $1,100,000 made by the Congress in 1960 to build a research facility at State College, Mississippi, dedicated to the sole purpose of conducting research aimed at the elimination of the boll weevil. This laboratory was dedicated on March 22, 1962, and I should like to quote briefly from a statement which I made on that occasion.

"Just as we dreamed of acquiring facilities and funds for research on the eradication of the boll weevil, we now envision the time when our scientists, making use of the knowledge and these facilities in utilizing the funds made available for that purpose, will be successful in driving the boll weevil from our cotton fields and helping restore cotton to its rightful place in the nation's economy."

During the thirteen years of its existence, the boll weevil research laboratory has been under the able and dedicated direction of Dr. T. B. Davich. The research conducted at this lab, together with valuable related research carried out at other federal labs, has resulted in the development of striking new knowledge, methods, and techniques for the control and elimination of the boll weevil. These research findings have resulted in the development of a synthetic boll weevil sex attractant, Grandlure, which provides a new method of detection and suppression. The male sterility technique was developed and perfected, and is a new way to eliminate low weevil populations. More effective ways of using available insecticides have also been developed, and a number of other important research findings have been made.

Because of the substantial research progress, a special study committee on boll weevil elimination was appointed by the National Cotton Council in 1969. This committee consisted of leading cotton producers from all affected areas of the Belt, together with leading entomologists and other scientists from the USDA, state experiment stations, and Cotton Incorporated. It was my privilege to serve as chairman.

On May 6, 1969, the committee met in Memphis, Tennessee, to review the status of current knowledge and to determine whether or not enough progress had been made to consider plans for a national program to eliminate the insect. Following the review, the committee decided it would be necessary to experiment on a scale sufficiently large to determine whether it was technically and operationally feasible and practical to stamp out the pest.

A subcommittee was appointed to consider requirements for the pilot experiment, and to select the location for it. A site centered in South Mississippi was selected, as it was generally agreed that because of the seriousness of the weevil problem in that area, to eliminate the insect there would offer positive proof that a national elimination program could be successful. A total fund of $5¼ million was made available jointly by USDA, Cotton Incorporated, and the State of Mississippi. The pilot experiment was initiated in 1971 and terminated in August 1973.

Based on results and experiences gained in this experiment, which extended into Alabama and Louisiana, the Technical Guidance Committee for the test unanimously concluded that it is technically and operationally feasible to eliminate the boll weevil as an economic pest in the United States by the use of techniques that are ecologically acceptable.

In 1969, when it appeared that research had developed the know-how for eradication, a study was begun to fashion a sound plan for moving ahead. By May of 1972, we saw the need to develop an overall approach in considerable detail, so a technical committee was structured to tackle this job. This committee was made up of the best experts on the boll weevil in the country. It was headed by Dr. E. F. Knipling and Dr. J. R. Brazzel of the USDA, with other scientists from USDA, states, and industry as members.

The committee had ten subgroups at work for 17 months. Its report was reviewed with our parent committees in Memphis on December 3, 1973, where it received our strong endorsement. The report is entitled, "Overall Plan for a National Program to Eliminate the Boll Weevil from the United States."

The program would consist of applying a series of integrated weevil suppression treatments—chemical, biological, and cultural. The principal ones are the fall use of insecticides, sex-attractant traps and trap crops, and the release of sexually sterile weevils as a final mop-up.

The U.S. boll weevil belt would be programmed by zones over a period of eight years, starting in 1975 for Zone 1 in West Texas. Operations would move eastward the following year to adjacent Zone 2. By the third year, a second front would be opened in the Virginia-Carolina zone, with the two fronts converging in subsequent years.

In advance of the actual elimination program, we strongly urge the Extension Services to assist producers in expanding organized diapause control programs and other weevil management procedures. The effort should start in 1974 and continue until the elimination program reaches their zone. This would not only slash weevil losses, but would also create better conditions for elimination, and cut program costs sharply.

The total cost of the elimination program for the eight years is estimated at $655 million, including 20 percent for contingencies. This is an average of $60 an acre for the approximately 11,000,000 cotton acres in the boll weevil belt. Many of us farmers spend almost this much in a single year when infestations are heavy.

I want to emphasize our full expectation that research advances in technology and operating experience as the program proceeds will reduce the estimated total cost by $100 to $200 million.

As a result of the untiring efforts of the Council and other cotton industry groups, with the valued assistance of our Southern Congressional leaders, Section 611 was included in the Agriculture and Consumer Protection Act of 1973 (PL 93-86). This section authorizes and directs the Secretary of Agriculture to carry out programs to destroy and eliminate the boll weevil.

On December 12, 1973, a copy of our overall elimination plan was presented to Secretary of Agriculture Butz at a meeting presided over by Mike Maros, president of the Council. The session was attended by a dozen Congressional leaders, representatives of the cotton industry, Council staff members, the president of Cotton Incorporated, Mr. Dukes Wooters, and others.

We have also sent copies of the 102-page report to a large list of industry and government leaders, requesting that any recommendations be sent directly to Secretary Butz. He and his staff are giving the report careful consideration, and we are urging a decision to get the program started not later than 1975. We are all mindful that each year of delay will cost the industry $200 to $300 million.

I have already mentioned several overwhelming reasons for moving ahead to rid the nation of boll weevils. On the surface, most of these may seem to be of benefit only to the South. A deeper analysis, however, points toward ultimate benefits throughout the Cotton Belt and the nation.

Elimination of the boll weevil would reduce the amount of insecticides used on all crops in the United States by one-third, thus benefiting the environment. It would remove the threat of the weevil gaining a foothold on the Texas High Plains and in the irrigated West. It would remove many problems related to insect resistance to insecticides and the control of other insects. It would pave the way to similar elimination efforts on other susceptible insects such as the pink bollworm. It would free research funds for use on other pressing industry problems. The program, itself, would point the way for new concepts and approaches toward better pest control in all of agriculture.

I could cite many other reasons why we need to go forward with the weevil elimination program. But, I want to mention only one more—the matter of follow-through in using research results. More than $21 million have been spent on boll weevil eradication research since the early 1960's. Much of this was provided by cotton growers all over the Belt through their dollar-a-bale contributions to Cotton Incorporated. The research job has now been essentially completed, and we have the opportunity to put the results to work. Unless the elimination program proceeds, most of this research expenditure will have been wasted and the benefits I have mentioned will never come to pass.

I am confident that the cotton industry will do its part to move the elimination program forward on a sound basis. Our president, Mike Maros, has already appointed an industry Action Committee to follow through and work toward obtaining the funds necessary to implement the national program at the earliest possible time. This committee consists of leading producers from every cotton-growing state, and advisory members representing important producer and industry organizations throughout the Belt. This committee had its initial meeting here last Friday and will be working hard in the months ahead on the federal, state, and local level. Each of us on the committee realizes fully that the elimination program will be a major undertaking, requiring the support and cooperation from the entire industry, and federal and state agencies. We know, too, that a major effort must be made to acquaint everyone involved with all aspects of the proposed program. In this connection, I am pleased that a three-day conference on the whole subject will be held at the Holiday Inn-Rivermont, Memphis, Tennessee, on February 13-15, 1974. This comprehensive conference will serve as a sort of kickoff in supplying information, and I would urge all industry leaders who can to attend.

The boll weevil elimination program holds a bright, new hope for the cotton farmer. Its success will be the fulfillment of a dream of increased income from cotton production through lower costs, higher per-acre yields, better quality, and of improving cotton's competitive position with synthetic fibers. It will be the time when the boll weevil will belong to history, and bring to an end the staggering losses experienced ever since the boll weevil began its devastating march across southern cotton fields.

Then will dawn a new day for cotton, and it can make its full and rightful contribution to the economy and the nation.

GEORGE "DUKE" TABLACK OF STRUTHERS, OHIO, IS HONORED

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. CARNEY of Ohio. Mr. Speaker, recently I had the pleasure of attending a testimonial dinner in honor of former State Representative George "Duke" Tablack, which was held at the Sokol Center in Youngstown, Ohio.

George D. Tablack was born March 26, 1901 at Hawk Run, Clearfield County, Pa. His family moved to Struthers, Ohio in 1916. He married the former Helen M. Durick on January 26, 1922. They have seven children, Mrs. June M. Donchess, Mrs. Norma May Katusic, William G., Robert E., George D., James E., and John N. Tablack. George and Helen Tablack are very proud of their 22 grandchildren.

George was elected as a councilman in the city of Struthers in 1935 and served in that position for six terms. He became a State representative in 1946 and remained to serve 10 terms in the Ohio House of Representatives. In 1949, he was appointed chairman of the House Reference Committee, and in 1959, he was appointed chairman of the House Finance Committee. He has also served as a member of the State Control Board, Sundry Claim Board, and Capital Improvements Committee.

Mr. Speaker, I had the privilege of serving in the Ohio General Assembly with the Honorable George "Duke" Tablack for 16 years. He was a veteran member of the house of representatives when I first was elected to the senate. Representative Tablack was never too busy to help me when I had a problem, and he taught me a great deal about the intricacies of the legislative process. Duke Tablack was a true liberal who really cared about the average citizen and the working people of his district and State.

Because of his many years of dedicated service as a State representative, Ohio is a better place in which to live and work. I am proud to be counted among the many friends of George "Duke" Tablack. Mr. Speaker, I insert in the RECORD the program and an article which appeared in the Youngstown Vindicator:

PROGRAM

Pledge.

Invocation, Rev. Victor G. Romza, St. Michael's Byzantine Catholic Church, Campbell, Ohio.

Toastmaster, Stephen R. Olenick, Mahoning County Auditor.

For Remarks: Jack Sulligan, Chairman, Mahoning County Democratic Party.

Resolutions, Michael Soldak.

Introduction of Main Speaker, Charles J. Carney, Congressman, 19th District.

Main Speaker, Eugene (Pete) O'Grady, Director of the Ohio Department of Highway Safety.

Introductions, George Tablack, State Representative.

Introduction of Guest of Honor, Thomas Barrett, County Commissioner.

Guest of Honor, George "Duke" Tablack.

Remarks, Judge Joseph O'Neill, 7th District Court of Appeal.

Benediction, Rev. David Rhodes, Chancellor Diocese of Youngstown.

COMMITTEE

Dominic A. Rimedio, General Chairman.

Stephen R. Olenick, Joseph Garea, Mike Zoldak, Jack Sulligan, Joseph E. O'Neill.

Edward Brown, John McCarthy, William Coleman, Mario D'Alesio.

GEORGE TABLACK HONORED FOR LEGISLATIVE SERVICE

Some 400 state and area political figures, friends and family of former State Rep. George (Duke) Tablack gathered at the Sokol Center Sunday night to honor the veteran legislator for his many years of service.

Among those present to pay tribute to Tablack, who served for 20 years in the Ohio House of Representatives, were guest speaker Eugene (Pete) O'Grady, director of the Ohio Department of Highway Safety, and U.S. Rep. Charles J. Carney, D–19th District.

Framed resolutions were presented to Tablack for his service "to his fellow man and the community."

READ PROCLAMATION

Resolutions were presented by Mahoning County Commissioner Thomas J. Barrett on behalf of the commissioners; State Sen. Harry Meshel, D-33rd District, from the Ohio Senate; Struthers Mayor Thomas Creed on behalf of the Struthers City Council; State Rep. Thomas P. Gilmartin, D-51st District, representing the Ohio Legislature; Youngstown Councilman William Wade R-5th, a resolution from Youngstown City Council, and Frank Leseganich, director of District 26, United Steel Workers of America, on behalf of labor in the Mahoning Valley.

State Sen. Tony P. Hall of Dayton read a proclamation from Gov. John J. Gilligan declaring Sunday "George Tablack Day."

Jack Sulligan, Mahoning County Democratic chairman, singled out Tablack as a true public servant as compared to some who have cast a shadow on the profession.

"Watergate has caused many people to look down on politics and politicians and I can't blame them. But the vast majority are true public servants," Sulligan said. He recalled that in 1946 the county party first endorsed candidates and Tablack was one of the nine endorsed that year.

Referring to Tablack as "Mr. Legislator," Sulligan compared the political figure in the Ohio House to the late U.S. Rep. Michael J. Kirwan in the U.S. House of Representatives—"a legislator's legislator."

Of Tablack, Rep. Carney said he "started exposing some of the evil" that began during the Rhodes administration. Also, O'Grady, during his brief remarks, referred to Tablack as having many of the qualities of former President Harry S. Truman.

CITED HUMILITY

Seventh District Court of Appeals Judge Joseph O'Neill said Tablack, a former Struthers councilman, "served with humility. Duke did more for his fellow man and community office, he has served as administrator for the county commissioners and on the Ohio Liquor Commission.

During his tenure in the House, he served as chairman of the House Reference Committee and in 1959 was chairman of the House Finance Committee. He also has served as a member of the Control Board, Sundry Claim Board and Capital Improvements Committee.

Mahoning County Auditor Stephen R. Olenick was toastmaster and Dominic A. Rimedio was general chairman.

The Rev. Victor G. Romza, pastor of St. Michael's Byzantine Catholic Church in Campbell, gave the invocation and the Rev. David Rhodes, chancellor of the Diocese of Youngstown, the benediction.

TRIBUTE TO JULIA BUTLER HANSEN

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. DINGELL. Mr. Speaker, I appreciate this opportunity to pay special tribute to the lady of the House who has done so much to help properly guide fish and wildlife programs of this Nation.

Since Congresswoman HANSEN became chairman of the House Interior Appropriations Subcommittee in March of 1967, the annual spring trek to the Hill to convince the lady from Washington and her colleagues of the need for funds to run the Bureau of Sport Fisheries and Wildlife has been an experience deeply imprinted upon the memory of a succession of Bureau directors and their staffs.

There usually emerged from the groups a collective sigh of relief when the appropriation hearings were over. For Mrs. HANSEN was a stern task master, and an extremely knowledgeable one. With the aid of a highly competent staff Mrs. HANSEN had always done her homework before hearing time and would abide no lesser degree of preparation by those who testified before her. A witness was never quite sure whether he would be hanged or hamstrung by the purse strings so deftly, yet fairly, manipulated by "Madame Chairman."

Yet, beneath this formidable and sometimes seemingly blunt and decisive demeanor was a genuine and compassionate feeling for the needs of all living resources. Her deep understanding of the requirements for proper management of the Nation's fish and wildlife resources is undeniable. Nor was this interest parochial. It extended far beyond the boundaries of her congressional district into the great Pacific Northwest and the Nation as a whole. She was an ecologist long before the term attained its present popularity and despite her well-earned reputation for fiscal frugality during the 7 years she headed the Appropriation Subcommittee Federal moneys made available by the Congress for fish and wildlife management and conservation rose by about 80 percent—from approximately $100 million annually to more than $180 million in the current fiscal year.

Perhaps Mrs. HANSEN's greatest contribution to the cause of fish and wildlife conservation was that she literally forced Federal managers to agonize long and hard over the best ways to approach and discharge their responsibiilties. It was an unwise bureaucrat who appeared before her without a head scratching, soul search rethinking of his objectives and a reordering of his priorities. Mrs. HANSEN played the adversary role with consummate skill and the job being done by natural resources agencies such as the Bureau of Sport Fisheries and Wildlife is the better for it.

Chairwoman HANSEN's manner was sometimes elusive, perhaps deliberately so. At times she spoke with facetious disparagement of the "magnificent sparrow palace" being proposed for the endangered California condor when American Indian peoples often lacked such minimal necessities of life as food and clothing. She also viewed with mock sarcasm and amusement fund requests for the preservation of such oddly monicked endangered species as the unarmored thick-spined stickleback, the Santa Cruz long-toed salamander and the Morro Kangaroo rat. Yet these animals have a chance for survival today partly because of her support of legislation protecting threatened and endangered species and funds to carry out this effort.

Without question there would be no refuge today for the nearly extinct Columbia white-tailed deer which *inhabits* both sides of the Columbia River in Oregon and Washington nor for the beleaguered dusky seaside sparrow whose home is Merritt Island off the coast of Florida if it had not been for the efforts of Mrs. HANSEN.

Mrs. HANSEN also was a firm advocate of research, believing that the more man increases his knowledge the better our Government and world will be.

Many of Mrs. HANSEN's most significant contributions to the wiser use and management of fish and wildlife resources resulted from her compassion for and empathy with the Indian peoples of the Pacific Northwest—my people as she referred to them, knowing that the feeling was reciprocal.

She was among the first persons of influence to recognize and push for fish and wildlife developments that would benefit not only the individual Indian reservations but the economy of the entire Pacific Northwest.

For example, she:

First. Supported and obtained funding for the Quinault National Fish Hatchery which is located on the Quinault Reservation and will be of tremendous benefit to the Indian tribe and the surrounding area.

Second. Supported and obtained funds for land and planning for the proposed Makah National Fish Hatchery to be located on that tribe's reservation. Benefits from this facility will be similar to those resulting from the Quinault Hatchery.

Third. Together with Congressman ULLMAN of Oregon was principally responsible for establishment of a large modern salmon hatchery on the Warm Springs Indian Reservation.

Fourth. Was a force to be reckoned with in operation of all the facilities of the vast Columbia River fishery program, sport as well as commercial.

The positive force of JULIA BUTLER

HANSEN's stalwart efforts in behalf of all phases of fish and wildlife programs will long be felt. Though many of her contributions were often unheralded and remained unexposed to public attention, the Nation, and especially professional fish and wildlife managers, owe her an immense debt. Her tough-minded, but constructive, scrutiny of how Federal funds are spent for fish and wildlife purposes provides constant assurance that these expenditures will be made with studied forethought, accountability and in the best public interest.

PROGRESS COMES TO THE COUNTRY

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. BROYHILL of Virginia. Mr. Speaker, the poem below was written by a talented constituent of mine, Anthony K. Carbone of Bluemont, Va. The poem concerns the county of Loudoun in my congressional district, but the sentiments are appropriate to many other such areas in the United States. I feel it is appropriate for this poem to be presented in the CONGRESSIONAL RECORD.

The poem follows:

PROGRESS COMES TO THE COUNTRY

Progress is a large parking lot, neatly organized shopping centers, and standing-in-line. Progress is a plethora of houses, crime, and more policemen. Progress is neat concrete curbs, traffic lights, and accidents. Progress is larger county offices, more "hearings," and higher taxes. Progress is, "How soon can I sell my land, make a fortune, and move away from progress?" Progress is, after all, inevitable.

Here is a poem entitled by the above or "Inevitable."

A home is needed
  out in the country where the air is clean.
The lawn is seeded,
the garden weeded
  and roofs are everywhere to be seen.

After a while
  the doggie romps and plays.
Your neighbor's child,
not knowing he's wild,
  pulled his tail and got rabies.

To court you went
  where the judge did say,
"What, no fence.
Shame, shame, from hence
  you shall have to pay."

A boy grows up
  out in the country where the air was clean.
The mountains he saw
are now obscure
  by the fumes of your noisy machine.

He goes to school
  much too small for your communities needs.
What no swimming pool?
How come its not cool?
  Let's float a bond to pay for these deeds.

Taxes went up
  out in the country where the deer ran free.
The farmers said, "Yup!"
Just got to stop
  Can't afford to live in this here county."
"Oh, what to do!",
  Cried politicians immersed in their way.
Let's sponsor a group
to seek out and coo
  a new tax base called light industry.
Down Richmond way
  not a helping hand could be found
"Farms were okay."
They all did say.
  But only on our more southern ground.

Up in the north
  you folks don't have a prayer.
We need your stores,
your tons of cars,
  to support our clean air.

The little county
  cried out loud and proud.
Don't let me
die and bleed.
  I don't want this ungodly crowd.

They came in droves.
  Out to the country where the air was clean.
Pushing their loads
over fast, blacktop roads,
  bringing money that was very green.

Bulldozers too,
  moved rich topsoil around and aside.
Dug holes for you.
Two-by-fours flew.
  The county's earth all littered, just cried.

Millions were made
  by people whose holdings were large.
Drooling with greed,
hurry and speed,
  tun my acres—yes, that's my charge.

Build faster roads
  shopping centers, and large parking lots.
Bring them in loads.
Cut loose all holds.
  Rezone that parcel for shops.

As they did come,
  your gentle and tender pace,
the birds that sung,
the pile of cow dung,
  were so easily and swiftly replaced.

The promise of country
  to avoid those things of suburbia,
they came to flee.
Taxes rose proportionately
  to pay for the demands of disturbia.

The teachers did cry,
  "Whatever happened to educating him?
We spend our time
in chaos, not rhyme.
  There is no more discipline."

It came to pass
  all that has been said
so very fast
it could not last
  and the old county was dead.

A. K. CARBONE.

NO-STRIKE BARGAINING IN THE STEEL INDUSTRY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. GAYDOS. Mr. Speaker, at a time when so much seems to be wrong in our society it is indeed refreshing to learn that both the United Steel Workers and the big ten steel companies are determined to effectively implement the experimental negotiating agreement—ENA—so as to avoid future strikes in the collective-bargaining process.

The March 3 edition of the Pittsburgh Press Roto carried an interesting article concerning the optimism shared by both Mr. I. W. Abel, president of the United Steel Workers and the top executives of the United Steel Corp., toward contract negotiations covering 500,000 steel workers to be conducted this year.

I take great pride in the fact that both Mr. Abel who was most instrumental in bringing the experimental negotiating agreement into existence as well as a sizable portion of the operations of the United Steel Corp. are constituents of mine in the 20th Congressional District of Pennsylvania.

The text of the Pittsburgh Press article follows:

[From the Pittsburgh Press Roto, Mar. 3. 1974]

LABOR: "THE SECOND TIME AROUND WILL BE THE TEST"

(By Edward Verlich)

Steelworkers—from I. W. Abel to the cast-house laborer beneath the giant blast furnaces—are confident of the new no-strike bargaining approach with the basic steel industry. But they have reservations.

The unique pact—the Experimental Negotiating Agreement (ENA)—was signed by the United Steel Workers and the steel coordinating companies, known as The Big 10. It will be first used this year. Steel contracts covering 500,000 steelworkers expire Aug. 1, and under the ENA, arbitration, not a strike or a lockout, will be the ultimate weapon.

Both sides, according to USW President I. W. Abel, are determined to reach an agreement without resorting to arbitration.

"Both sides have stated it is preferable to resolve our own differences in our own ways, because we know our problems best," Abel reasons. "With both sides entering the talks in this frame of mind, we can be optimistic that a settlement can be reached without utilizing arbitration," he explains.

While the talk is "confidence," even Abel allows the ENA could prove not successful. Down the line in the union, there are more reservations.

EXPENSIVE PROBLEM

If the new bargaining procedure proves successful, "and both sides believe it will be," Abel adds, "then we shall have solved a most perplexing problem that has cost our members and the industry money through prolonged layoffs and plant shutdowns. If the new procedure does not prove successful on this experimental basis, then we will continue the search for a bargaining procedure that will meet the test."

Joseph Odorcich, USW District 15 director in the Mon Valley, and a member of the union's top-ranking executive board, indicates the unique agreement came as a surprise:

"That Tuesday morning when Abel presented the ENA to the board, most board members didn't know discussions were being held in the area. Most of the board was taken aback.

"We kicked it around for three or four hours.

"Abel said 'This is my answer to the problem. If you've got something better, let's hear it'."

The problem to which Abel referred was stockpiling. Steel users—such as the auto companies—began stockpiling steel long before the strike deadline, often buying imported steel. Thus, no one needed steel for months after the deadline—strike or not. In addition, some of the foreign producers tied up business for additional months by demanding that the American steel users sign long-term contracts for imports.

"I came up when the strike was a weapon—

and was used effectively," Odorcich continued.

However, he allowed that due to imports, "the strike has become less of a weapon.

"And when the steel mills began closing a month ahead of time during the last negotiating period, the problem really came on target," Odorcich said.

1971 LAYOFFS A FIRST

He referred to 1971 steel contracts when 100,000 steelworkers were laid off, many of them a month before contracts expired. It was the first experience when union members were laid off prior to a contract expiration. Steel plants previously kept rolling steel products up to the last minute before an expected walkout. Many steel experts predicted a strike in 1971. Many layoffs lasted six to eight months.

Odorcich was joined by Edward Galka, president of McKeesport Local 1408, and Jack Walk, a shearman helper for 26 years in U.S. Steel Corp.'s National Tube Works in McKeesport, in expressing reservations about arbitration for settling unresolved disputes.

ARBITRATION DISPUTED

"I'm not quite satisfied with the arbitration procedures we do have," Walk said.

Walk noted that the steel companies disputed an arbitrator's award handed down in 1970 spreading incentive, or bonus pay, to 90 per cent of the steelworkers.

The union had to seek a clarification from the arbitrator to implement the award. Some disagreement still exists over the incentive award.

"If this situation would come up in negotiations, it would be disastrous," Walk suggested.

Asked if he meant disagreement over an arbitration award could spark a walkout, Odorcich interrupted to say, "I would say that's more than jut a possibility."

Walk said he is "more than willing to give it a try."

Galka was a member of the USW's Basic Steel Conference made up of 600 local union presidents who ratified ENA after the board approved it.

He said he has no reservations over his affirmative vote.

"We never gained by past strikes. We know how our members suffered. Some were forced to go on public assistance. Now, they can have peace of mind and plan ahead," Galka said.

After the 1971 settlement, 800 members of the Local 1408 were laid off for eight months.

"We were one of the hardest hit plants in the area," Galka recalled. "I endorsed wholeheartedly the new concept on an experimental basis. We'll have to come up with some other means if ENA is not satisfactory."

He said he has "utmost faith in Abel to come up with another solution" should ENA fail. Galka lauded the Abel administration for establishing "progressive ideas."

Walk, Galka and Odorcich all said they expect ENA to pan out for another important reason—the steel companies have as much, if not more, to gain as the steelworkers.

Odorcich said in his contacts with steelworkers in his district, "a few militants think we've made a mistake.

"It's easy to say maintain the strike as a weapon. The most difficult (task) is to reach a contract without a strike," Odorcich said.

Under ENA, steelworkers are guaranteed at least a three per cent annual hike, a $150 cash bonus and other benefits.

"COMPANIES WILL SAVE"

Walk noted that union leaders described the three per cent as a down payment. "I think the companies are going to save a lot of money. This is okay for a down payment, but this doesn't wipe the slate clean."

Odorcich said the union feels 10 per cent amounts to the "substantial increase" the USW has set as a bargaining goal.

The director noted that most settlements in other industries have been in the 6 to 7 per cent range.

The USW is expected to pattern its basic steel aims along the lines of the union's three-year contract reached Feb. 1 with major aluminum companies, then duplicated by can companies.

That pact, called the "most significant of my entire labor career" by Abel, provided for an average 70 cents an hour wage over the three years, plus pace-setting pension improvements.

Some future retired aluminum workers will receive more than 85 per cent of their wages when their pension benefits are added to Social Security benefits.

The aluminum workers received their first-year wage boost of 28 cents an hour four months before their old contract expired. Steelworkers will be looking for the same kind of treatment if their pact comes early as expected.

NOT SATISFIED WITH LESS

"We aren't going to be satisfied with less than others," Odorcich said. We won't entertain too many words in that direction. Look at the steel industry's profits. Wow! Maybe I'm being conservative with 10 per cent."

Odorcich and Galka joined Abel in saying that they believe disagreements can be settled without any issues going to arbitration.

For the first time, local unions in the USW have the power to call a strike over local issues—apart from the national contract—if they feel it is necessary.

Galka said he sees no issue big enough between Local 1408 and National Tube to spark a strike.

"We have been fortunate here in our discussions with management," Galka said.

One issue that could have led to a walkout by Local 1408—foremen working—was recently settled, he said.

Odorcich said an issue that could be "sticky" in some District 15 plants is the unpaid lunch period where workers have to put in an 8½-hour day, the extra half hour for a lunch break.

"Some plants have been reluctant to go to to a straight eight-hour day," Odorcich said.

Walk concluded, "The first time around, it (ENA) should go pretty good. Both sides will try to make it work. The second time around will be the real test."

MANAGEMENT: ALREADY A BONANZA IN WORKER ATTITUDES

(By William H. Wylie)

A century ago, Andrew Carnegie went into the steel business, launching the industry we know today.

He built his first mill at Braddock on the banks of the Monongahela River. Shrewd instincts told him the Pittsburgh area was the best place to make steel.

Of course, Carnegie was right. He reaped a half-billion-dollar fortune from his wisdom and sweat.

Is Pittsburgh still a good place to make steel?

The industry must add at least 25 million tons of new capacity by 1980. Will this area get its share of new mills?

Is the historic no-strike labor agreement working?

These and other questions were put to the four men who run U.S. Steel—the corporate colossus that bought out Carnegie in 1901 and today makes a billion-dollar annual contribution to the Pittsburgh area's economy.

Joining chairman Edgar B. Speer around a large desk in his 61st-floor office in the U.S. Steel Building were R. Heath Larry, vice chairman, Wilbert A. Walker, president, and David M. Roderick, chairman of the finance committee.

All were born in the Pittsburgh area. They believe it's the first time the nation's largest steel company has been bossed by a team of all Pittsburghers.

All agreed Pittsburgh still boasts many of the assets that attracted Carnegie. But that doesn't mean the future is secure.

PLENTY OF PLUSES

High on the list is coal, which Speer said "will continue to be a major asset so long as we don't legislate ourselves out of the use of it"—an obvious reference to stringent health, safety and environmental codes.

Other obvious advantages are river and rail transportation, nearness to steel markets and an abundance of skilled labor.

So much for the pluses—and Pittsburgh has no monopoly on them. Other areas—the Great Lakes, the Southwest and the East and West coasts—can match Pittsburgh in many respects.

"A lot of factors must be considered when we decide where we'll spend our money," Speer said. "Community attitude is critical," he continued, noting that the corporation prefers to do business in places where it is welcomed as an asset.

"In my own opinion, Allegheny County as a whole doesn't regard U.S. Steel as an asset, and it's a little bit too bad. I don't think many people know what U.S. Steel's contribution is," he said.

And that contribution is considerable, as "big steel" sees it. U.S. Steel estimates it pumps a billion dollars annually into the district economy in payroll, related employment, purchases and taxes.

With 45,000 employes and a $515 million annual payroll, the company is the metropolitan area's largest employer. And there are an additional 30,000 related jobs here.

"HARD TO OPERATE"

Also, 19,000 pensioners collect $54 million annually and 30,000 stockholders receive $8 million a year in dividends.

Speer stressed he wasn't directing his criticism at these people, but rather at the public and government.

"Look at the tremendous harassment this company gets from the environment*alists*. Look at the harassment in the Frick district, in our coal mines, under the massive army of inspectors OSHA (Occupational Safety and Health Act) sends in. It almost makes it impossible to operate," he charged.

But is Allegheny County any different from any other industrial area in these respects?

"I certainly think it is," Speer replied. "It is one of the real marginal areas in my opinion as far as community attitude goes."

Nevertheless, he said there are "some major installations" planned for the Pittsburgh area, although he refused to be specific.

Since 75 per cent of the steel made here—by U.S. Steel and other companies—is heavy stuff, it's a good bet new miles will be additions to existing facilities.

Plates, structurals, bars, railroad products and tubing are district specialties. Sheets that go into cars and appliances play a smaller production role here than in other steel centers.

In spite of the energy crisis and recession talk, industry is expected to spend $110 billion in the United States for new plants and equipment this year. This will require a lot of steel—the kind Pittsburgh makes.

Yield on investment in plants and equipment is a key yardstick in determining where corporations spend their money. How does Pittsburgh compare to Chicago, the other big steel-making center, in this respect?

Roderick said, "I would say that over a period of time it would be a horse for a horse. It will vary from time to time as we develop better productivity in one place or another. But over a period of time the facilities are quite comparable. We should get about the same results."

HIGH CORPORATE TAX

Taxes are another matter. At the state level, Pennsylvania is one of the most expensive states to do business in, Speer said, citing the 11 per cent corporate income tax.

Walker added, "Pennsylvania isn't bad at the local level. We are getting rid of the machinery tax. But in Gary (Ind.) that's the main source of revenue."

How badly was Pittsburgh hurt by steel imports?

"Probably the West Coast suffered the most," Speer said. "Then Chicago and the Gulf Coast were hit hard," he added, noting that markets near sea lanes were most vulnerable.

Imports dealt the decisive blow to Donora's wire mill, Larry said, but it was more a victim of obsolescence than cheap foreign steel.

"There was a market shift at that time," Speer said. "We replaced Donora's capacity with a new rod mill at Fairless (near Philadelphia) to be near our customers."

Pittsburgh probably felt the sting of imports less than other steel-making centers. But the district hasn't escaped unscathed.

In the third quarter of 1971 the devastating impact of imports combined with the recession of the year before hit home. Steel shipments plunged to pre-World War II Depression levels, forcing massive layoffs. And the slump dragged on into the following year.

"In 1971 we ran out of business two weeks before the potential strike date," Larry said. Steel customers had stocked up in anticipation of an industry-wide shutdown.

Many buyers had committed themselves to foreign steel because they knew it would be available if there was a domestic strike. As it turned out, the walkout was averted by a last-minute agreement.

But "crisis bargaining" already had done its damage. There was very little domestic steel made in the last half of 1971.

"It took us a year and a half to get Youngstown back on stream," Speer recalled.

These were the conditions that paved the way for the no-strike agreement with the United Steel Workers union.

"The impact of unemployment and the dues loss made it possible to convince the union there was some self-interest in such an arrangement," said Larry, the industry's chief labor negotiator.

At the same time, the union agreed to work seriously with management to improve productivity. Are they making any progress?

"There's a dialogue going in both directions," Larry said. "Management is learning from the guys on the floor and vice versa."

Speer pointed out that workers are most interested in boosting productivity when mills are operating "flat out"—as they are now—than when they're limping along at 70 per cent capacity.

"At full production a guy is thinking how he can get that extra ton. At 70 percent, he's afraid if he gets it his shift will be cut from five days to four,' he explained.

REAL TEST TO COME

The real test of the productivity effort will come when operations slacken off. Actually, it will be years before any real achievements show up, Walker said.

But management already has reaped a bonanza in new worker attitudes through the no-strike pact, Speer said. "When there's a strike threat every three years," he explained, "workers are lost to us mentally for nearly half of that time.

"For seven or eight months before the contract expires, they regard their jobs as something they really aren't so interested in," he said.

"And you spend another seven or eight months getting them back to work after the contract is signed," he added.

Will the no-strike clause work?

Lerry believes it will. So do his colleagues. The proof will be an American steel industry that can hold its own in the domestic market place against foreign competition.

That would assure jobs for workers and profits for management, which is what it's all about anyway.

ILLINOIS STATE MEDICAL SOCIETY SEEKS REPEAL OF PSRO

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. RARICK. Mr. Speaker, the Illinois State Medical Society, which last year endorsed professional standards review organizations—PSRO—recently reversed its previous position and has urged repeal of the controversial HEW program of rationed medical care.

The Illinois doctors have long been committed to the establishment of "a superior peer review program" and plan to move ahead with this plan independent of HEW and PSRO.

Peer review is an established medical practice. However, peer review and HEW's plans for PSRO are distinctly different. Peer review seeks to provide the patient with the best medical care and treatment available. PSRO has as its primary aim, the lowering of the overall medical costs for medicare and medicaid. Lower costs, brought about by diagnosis, care, and treatment through HEW established "norms," may not necessarily coincide with the best medical interests of the patient.

At this time, more than 30 Members of the House have either cosponsored my bill, H.R. 9375, to repeal PSRO or introduced legislation of identical nature. Senator Carl T. Curtis of Nebraska has introduced an identical bill in the Senate.

There is little doubt that as HEW continues to unveil its bag of tricks known as PSRO, more medical professionals will realize the true nature of the program. It will not be too long before the patients under medicare and medicaid treatment discover that the health care services they receive are being rationed by PSRO bureaucratic decisions, and not based on the medical knowledge and experience of their physicians.

I ask that the related news clippings follow:

[From the American Medical News, Mar. 4, 1974]

Illinois Votes Against PSRO

Reversing a position it adopted last year, the Illinois State Medical Society has decided it wants nothing more to do with the Professional Standards Review Organization (PSRO) program.

The society says it wants repeal of the PSRO law and other federal regulatory proposals, and it has asked its 11,400 members to chip in $10 apiece to finance an information campaign designed to build support for repeal.

In addition, the society has resolved to move ahead with plans for a statewide peer review program in Illinois, a program that will be independent of PSRO.

All this was approved Feb. 24 during a special session of the Illinois State Medical Society (ISMS) House of Delegates in Chicago. The session was called several weeks ago after federal health planners announced that Illinois would be carved into seven PSRO districts.

The ISMS House last year endorsed a single, or "unified," USRO plan for the state, implying that its support for PSRO would hinge on federal acceptance of this concept.

In January, following disclosure of the multiple-PSRO plan for Illinois, the ISMS board of trustees halted all work on PSRO implementation and adopted a tentative position of non-compliance with the law. That position has now been endorsed by the house of delegates.

A resolution adopted in special session last month declares that ISMS "is committed to the establishment of a superior peer review program and will therefore refrain from involvement in the federal PSRO initiative," The statement authorizes the society's board of trustees "to proceed with a plan outside the purview of the federal PSRO law to organize a statewide medical peer review program emphasizing and safeguarding local physician autonomy. . . ."

The resolution also urges other medical groups in the state to withdraw any PSRO applications already submitted to the U.S. Dept. of Health, Education, and Welfare.

JULIA BUTLER HANSEN

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. FRASER. Mr. Speaker, "Mo" Udall put it best when he said that people and legislators like Julia Hansen do not come along very often.

Julia has shown all of us how to mix together warmth, compassion, and hard-headed realism in just the right amounts. As a political leader, as a legislator, as a public servant—in all these roles Julia has provided a model that we can well emulate.

Since 1967, Julia has served as chairman of the House Interior Appropriations Subcommittee. In that capacity, she has moved boldly and effectively to shape public policy in a wide range of areas including the arts, natural resources, pollution control, and energy management.

I have worked with her most closely on issues affecting American Indians, where she has provided an extra measure of compassion, sensitivity, and understanding. I think it is safe to say that no one in the House has done more to aid American Indians than she. Leon Cook, former chairman of the National Congress of American Indians, says of her:

> We have no better friend and advocate in Washington.

Just last year, Julia, along with Senator Sam Ervin, was awarded the first annual Henry Teller award by NCAI for her tireless efforts on behalf of native Americans. In my district, the Indian people of Minneapolis know Julia as the person that made possible the first urban Indian health project in the country.

In addition to her work on the Appropriations Committee, Julia has made landmark contributions to the cause of congressional reform. In 1970, she was assigned the job of chairing the Democratic Committee on Organization, Study and Review, later known as the Hansen committee. As a result of this group's efforts and Julia's leadership, the Democratic caucus was able to democratize the seniority system at the start of the 93d Congress.

All of us will miss this great and good woman when she returns to Cathlamet, Wash., next year. It will never be the same here without her.

WHEAT SHORTAGE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. WOLFF. Mr. Speaker, on February 15, 1974, I held an ad hoc congressional hearing in New York City on the continued wheat and related grain exports and the projected shortages of these grains this spring. I would like to bring to the attention of my colleagues the interesting and important testimony that arose from this hearing, that resulted from my serious concern over the unconscionably high food prices and the rumors of such a severe wheat shortage this year that the price of a loaf of bread will skyrocket to $1.

The testimony that follows comes from the men in the baking industry who are in vital positions to judge the extent of the wheat exports and the deleterious effect that our continued expansion of those exports have on their own industries and on the American consumer. Before we hear from the baking industry, I insert a copy of my opening remarks at the hearing, at which over 40 representatives from the baking industry's unions, the retail baking industry, and the large biscuit and cracker manufacturing companies attended, in the RECORD.

The material follows:

OPENING REMARKS BY LESTER L. WOLFF

In the last few weeks we have witnessed the lifting of United States import quotas for wheat—an irresponsible move designed to permit increased purchases of foreign grain while ships still pass in the night carrying our own diminishing domestic wheat supply abroad.

We have heard, too, from Secretary of Agriculture Butz (and I quote him) that, not only are these increasing exports of grain to the Soviet Union and the Peoples Republic of China required "to prove our reliability as an overseas supplier" but are "footing the nation's oil bill." How much longer does the American consumer have to swallow this hog wash? We've beefed up our balance of payments by having the consumer pay higher prices for beef—that's *my* beef!

The double-talk reasoning advanced by Secretary Butz that, since our oil imports last year cost X number of dollars and this happens to be the exact amount received from farm exports in the same year, we are pursuing a "perfect" trade policy, convinces me that Mr. Butz' slick talk about oil just continues to grease the skids for the American consumer. Attempting to compare oil barrels and wheat baskets proves only one thing to me—both can be empty.

The real truth is that, by deliberate Executive action, this Administration has permitted two of the most powerful blocs in the nation, oil and agriculture, to completely alter the American standard of living in two ways: one, by depriving Americans of their mobility, and two, by depriving the consumer of ready access to not only the basic food staples, but to the variety of choice in the market place that has made our life style the envy of the world.

I believe we must reassert ourselves at once and again prove America's reliability to first supply the American consumer with the products he needs, at prices he can afford. We must dispell the conflicting theories foisted upon him by the Administration in its flimsy attempt to answer the question—why are food prices soaring out of reach?

There is no doubt that the consumer is bearing the brunt of the grain deals with shortages and unprecedented price increases for bread, flour, cereals, dairy products, meats, poultry and end-products such as cooking fats and oils. He is experiencing sheer chaos in the supermarket and neighborhood store as he is compelled to pay more and more each day for nearly every commodity.

The answer, of course, lies—as it always will—in the age old law of supply and demand, the economic equation that dictates the rise and fall of costs and prices in the market place. Very simply, if we continue to deplete our supplies through ill-conceived export policies, then our demands will have to be met by other means—namely by imported goods at prices the American consumer cannot readily pay. The American consumer deserves better, he already has been asked to make too many sacrifices with his pocketbook.

Today, my colleagues and I are meeting with the millers, the bakers and the distributors of grain products, primarily to gather as much up-to-date information as we can on the conditions resulting from the foreign grain deals.

We are told by newly released Department of Agriculture figures (1/31/74) that a record 714 million bushels of wheat were exported during the six month period, July to December, 1973, mainly to Russia and Red China, and that these exports are expected to rise to 1.2 billion bushels by June 30, 1974.

At the same time the USDA admits that the domestic reserves of wheat have shriveled to 178 million bushels, the lowest level since 1947. Export figures for corn, soy beans and rice are equally staggering. And, now we are doubling our sales of food to the oil producing states of the mid-East. They cut off our oil, why not cut off their food? Why not, because we have Butz instead of guts.

I am hopeful, therefore, that the data and the comments we assemble today will help to regenerate efforts in the Congress to control these shameful exports until our at-home needs are adequately filled. There is precious little time left to act before additional long-range export arrangements are initiated—deals, I fear, would be the harbinger of economic disaster.

STATEMENT BY JAMES A. BYRNE, DIRECTOR AND TREASURER, RESPECTIVELY, OF THE NEW YORK STATE ASSOCIATION OF MANUFACTURING RETAIL BAKERS, INC. AND ASSOCIATED RETAIL BAKERS OF QUEENS, NASSAU, SUFFOLK & AFFILIATES, INC.

If the Congressman will recall members of the Baking Industry appeared before a delegation of New York Congressmen on September 21, 1973 and October 10, 1973 to appeal for relief from the disastrous results of this wheat deal. A bill was prepared and I understand it is now in committee or should I say "limbo". When we make inquiries regarding the status of the bill we are told—a survey is being conducted—studies are being made—reports have been requested. Surveys, studies, reports, all this while we daily attend the funerals of our members. Seven closed last week, 2 today, how many tomorrow? We need help now, today, this minute. It is already too late for many, don't let it be too late for all.

Let us be realistic and look at the results of this wheat deal. After the "deal" wheat was in short supply. This naturally caused the price to rise. A simple case of supply and demand. Other farm producers, quick to learn, jumped on the band wagon. Selling abroad and having a short supply at home doubled or tripled the price of many food items. Short supply became a byword whether it was true or not. Holding an item back from the market doubled its price. Now it is merely simple arithmetic and is likely to cause chaotic conditions if permitted to continue. For example: merely to illustrate let us suppose it takes 10 men to produce 10 potatoes. The potatoes sell for $1.00 each. Allowing 10% for spoilage or leftovers the producer will receive $9.00 for his crop. Taking a lesson from the wheat-deal he now produces only 5 potatoes with only 5 men and now being that they are in short supply they are gobbled up at $2.00 each giving him $10.00 for less work, less labor, less storage, less trucking, etc. Other industries are following suit, cotton, plastics, etc.

Let us not overlook labor's part in this inflationary trend. The ideology of labor unions that they must get something for their members each year is against all the laws of economics. There must be a limit to a particular category. To go further, one must "learn to earn". Mr. Stein, a so-called expert in economics for our Government says that a 5.5% annual increase is fair. Did you ever stop to think what this 5.5% really means, and not that labor is satisfied with it. Let's take a New York City Sanitationman's salary for example: His salary is $250.00 per week. An increase of 5.5% a year will bring his salary to $501.00 in 12 years. In less than 50 years our garbageman will be getting $4,006.00 a week. Remember it doubles every 12 years. This would be funny if it were not true.

There must be a roll back in prices and wages. There must be a limit for a particular job category. There must be an excess profits tax imposed immediately and made retroactive to penalize those who have taken advantage of an abominable situation.

In conclusion may I suggest that you inform your colleagues, especially those from the farm and oil states that they are Americans and part of these United States and that what is best for the great majority of the American people is in turn best for our Country and that the Wheat-Bill now in the Banking Committee, The Hon. Wright D. Patman of Texas, Chairman, be voted out on the floor of the Congress and let the American people, by a majority vote of their representatives, decide as to its passage. Our bakeries are closing in farm and oil states as well as in other states. Unemployment is rising at an alarming rate. A small segment of our Country shall not long remain healthy if the rest of the Country is destroyed. (If you think this is strong language ask the people who have lost their jobs and businesses what they think.) Congress has the power, regardless of what our President does, to correct this condition. Don't have it said that, I was a member of the Congress of the United States of America who sat idly by while our Country was destroyed.

STATEMENT BY GEORGE ROSENTHAL, IBA WHEAT COMMITTEE CHAIRMAN AND PRESIDENT OF FINK'S BAKING CO., LONG ISLAND CITY, N.Y.

We are grateful for the opportunity today to focus upon the serious wheat supply situation.

IBA consists of approximately 150 independent wholesale bakery plants located throughout the United States, representing a majority of the independent wholesale bakers who do an estimated $3¼ billion of a $6 billion industry (S.I.C. Code 2051).

We believe that there will be a scarcity of wheat in this country this spring. The U.S. Department of Agriculture's own statistics as of January 6, 1974 indicate a carryover July 1, 1974 of minus (3) million bushels of wheat. When added to carryover requirements to fill the U.S. pipeline this adds up to a shortage of over 300 million bushels.*

Existing and predicted transportation problems will exacerbate the problem making such estimated shortage extremely conservative this crop year end.

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* Yesterday the price of wheat for delivery next month reached an historic high of $6.11, up the daily limit, based upon additional sales for export to Brazil this March, April and May of 10 million bushels.

For six months IBA has been urging the Federal Government to act to assure an adequate domestic supply of wheat. Present limited actions by U.S.D.A. are too little, too late. We urge immediate Congressional hearings on the need for an adequate U.S. reserve of wheat.

Congressman Wolff's bill H.R. 10844 would assure an adequate domestic supply of wheat and other agricultural products for the American consumer. Senator Humphrey's grain reserve bill is another approach. But only the Administration can act immediately.

Let us look at the record. U.S.D.A. statistics show that the U.S. carryover was 863 million bushels on July 1, 1972; it was 430 million bushels on July 1, 1973; later U.S.D.A. statistics indicate a scheduled carryover of minus 3 million bushels of wheat on July 1, 1974. We believe this is reason enough for legitimate concern.

During these same past six months the U.S.D.A. has predicted an "estimated" carryover of 300 million bushels lowered to 250 million bushels, lowered to 210 million bushels, lowered to 182 million bushels, lowered to 178 million bushels, which is their most recent estimate to our knowledge. Considering the inaccuracy of U.S.D.A. predictions this past year and a half, we do not feel it unreasonable to ask to understand the basis for estimates and optimism.

Furthermore, for purposes of analysis, if it were concluded that their newest estimate is accurate, it is anticipated by the trade that there will still be serious disruptions in supplies.

It should be remembered that following the Russian wheat deal and subsequent foreign demand, the carryover went to 430 million bushels July 1, 1973, resulting in a poor quality of flour with improper blends of new and aged wheat. The price of wheat went from $1.60 a bushel in June 1972 to the present range of $5.00 to $5.80 in January 1974.

"Yesterday there has been a concomitant increase in the cost of bread, meat, milk, etc. To measure it another way, the price of flour before freight has increased 350 to 400% and the price of bread 25 to 30%. Bread will increase in N.Y.C. this week.

We are not in favor of an embargo, but we are in favor of a guaranteed minimum supply of food for the American consumer.

Farmers were faced with fertilizer shortage because of excessive exports. U.S. export controls have been imposed on the shipment of ferrous scrap. All wheat exporting countries, except the U.S., now have restrictions on exports. We understand that Canada, for example, is selling exports as high as $6 per bushel, while keeping the price to Canadian mills at $3.50 a bushel. Canada is also reported to be ready to sell the U.S. wheat at a $1 premium, but only if we can provide the necessary transportation equipment (such as hopper cars), which is now a dubious proposition.

In order to salvage the present situation, we respectfully suggest that the following three steps would be most productive:

1. Restrict shipments of all wheat sold without identification in this crop year.

2. Prohibit additional law wheat export sales for this crop year.

3. Defer shipment of existing wheat export sales for the remainder of this crop year, and license so that no more than 15 million bushels of wheat per week be permitted to be shipped for the remainder of this crop year.

We fear that if these steps are not taken, there will be serious shortages of flour causing many bakers to shut down, some never to reopen; and that the price of wheat, flour, bread and other foods effected by the cost of feed, will rise to new heights. The consumer will in effect be asked to pay an even greater price to support our favorable balance of payments.

It appears to us that the obligations of the Department of Agriculture are twofold:

1. To protect the interests of the American farmer, and

2. To see that the American people have an adequate supply of food at reasonable prices.

We understand that this is the President's stated policy, but we doubt whether the present direction, if unaltered, is serving that end. It is time to stop wishful thinking and to act to save the baker and the consumer from a bread shortage this spring.

STATEMENT BY RICHARD E. BROWN, EXECUTIVE DIRECTOR INDEPENDENT BAKERS ASSOCIATION

We are appreciative of the opportunity to testify at your request regarding the effect on the American Consumer which has developed as the result of sales of wheat particularly to the Soviet Union and the Peoples Republic of China during the past year.

Since it has already been documented that record amounts of wheat have been exported resulting in prices for wheat, flour and bread that have reached historic highs, our statement will be confined at this time to actions and policies on the part of U.S. Department of Agriculture and high officials of that department which should be brought to the attention of members of Congress and the consuming public.

Since early December 1973 members and staff of the Independent Bakers Association have repeatedly brought to the attention of members of Congress, officials of USDA and other government agencies, the Association's concern that because of record exports of wheat the supply situation at the end of the 1973–1974 crop year would be in such a depleted condition that there would be disastrous interruptions in the supply pipeline from the farm to the miller, to the baker. We believe that even at this late date that if the Congress of the U.S. were to enact legislation which would impose immediate limitations on wheat exports the disaster of dislocated if at all available bread supplies still may be avoided.

Our appeal, as supported by facts which are available from the Statistical Reporting Service of USDA which in its latest report dated January 20, 1974 admits to a negative carry over position on July 1 of minus 3 million bushels. It is most pertinent to point out that the Statistical Reporting Services data has been available to high officials of USDA during all the times during the past 7 months when certain officials of the department were stating carry-over figures in variance to SRS reports of some 200 million bushels. It is indicative to note that in September the Department estimated carryovers in excess of 300 million bushels. This figure has been revised downward several times and the last official public statement to the press and industry stated a figure of 178 million bushels.

We believe that immediate inquiry should be made by members of Congress as to why with other figures in their possession officials of USDA continue to ignore and fail to admit to the existence of SRS data which now points to a minus carry-over on July 1. It would appear to us that this conduct if not scandalous is, indeed, irresponsible.

TIME TO ACT ON RAPE BILL

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. WINN. Mr. Speaker, in the past few months, articles in local newspapers in my congressional district have indicated that rape continues to be a serious problem, especially on the campus of the University of Kansas. As these senseless crimes continue to go unchecked, the need for preventive legislation becomes even more clear.

Just a few weeks ago, a television movie depicted a rape case which emphasized the problems rape victims often encounter while trying to be "good citizens." In all too many cases, when a woman reports such a crime, she is intimidated to the point of accepting all the guilt for a crime she did not commit.

In my mind, this situation must be changed.

The time has arrived for Congress to take action to remove the threat of rape from the lives of American women. H.R. 11520, a bill which I have cosponsored, purports to do just that.

The National Center for the Prevention and Control of Rape, which would be established by this legislation, would be responsible for financing and conducting research programs into the causes, consequences, prevention, treatment, and control of rape.

The Center would focus national attention on the growing threat of rape in the life of every American woman. Additionally, it would develop a fuller understanding of the crime of rape, at the same time presenting methods of treating the victims and the accused.

In conjunction with the Department of Justice, the Center would be responsible for studying rape laws and the low rate of rape convictions, with the overall goal being the drafting of a model rape law.

Hopefully, this legislation will help our Nation move toward a more responsive, more humane system for dealing with rape victims, and lead to a more effective law for dealing with the perpetrators of this crime.

With the hope of spurring my colleagues along and at the same time urging immediate action on H.R. 11520, I would like to insert in the RECORD at this time three articles which have appeared recently in newspapers in my district. The first is from the University Daily Kansan, the student newspaper at the University of Kansas, the second from the Lawrence Daily Journal-World, and the third from the Kansas City Star.

The articles follow:

WOMEN ALTER ACTIVITIES FROM FEAR OF ATTACKS

(By Ann Gardner)

The threat of rape has caused many University of Kansas women to alter their routines in various ways.

Several women interviewed recently said they thought it was unsafe for a woman to walk alone on campus at night. Some said they wouldn't leave their homes after dark alone; others said they would walk alone only if it was necessary.

According to Faith Lubben, Shawnee freshman, women in her scholarship hall usually ask friends to walk with them if they must walk to an evening examination.

"You never go to a play or a concert by yourself," Lubben said.

She said many women had been influenced by recent attacks that had occurred in the area.

"When things like that have happened," she said, "you can't ignore it."

Janet Westlake, Wichita senior, said she was especially concerned about the possibility of rape because she had known women who had been attacked.

"I don't like to go up to Strong to work any more," she said. "I kind of feel like my freedom has been curtailed."

Some women said that they didn't like to walk alone but that they didn't have a choice.

Kay Turner, Hays sophomore, said that because of recent attacks on women, she was more alert when walking alone.

Turney said she hoped the recent attacks would make women realize they must become able to defend themselves.

Terri Rupert, Topeka senior, said an attack on her roommate last spring had made her much more aware of the dangers of rape. Since then, three of the four women living in her apartment have taken some kind of self-defense course.

Although Rupert conceded that recent attacks made it more dangerous to walk on campus, she said she hadn't really changed her habits.

"When I walk across campus, I'm more frightened," she said, "but I refuse to let my paranoia curtail my activities."

Some of the women interviewed said they still walked alone. However, they said they took precautions such as walking in well-lighted areas and taking different routes when walking home.

Many of them said they were unhappy with the present security situation.

Joanna Patterson, Derby sophomore, said, "It personally makes me very angry that I feel as if I can't walk alone at night."

[From the Lawrence Daily Journal-World, Feb. 21, 1974]

SENSITIVITY

A Wednesday night television movie reflected the problems that a female rape victim encounters above and beyond the attack itself when she tries to be "a good citizen" and get some semblance of justice. The film showed, as have others before it, how in some cases a victim can wind up more of a suspect, and more ostracized, than the attacker.

The handling of such difficult cases, particularly in larger cities, is often so callous and so degrading to the plaintiff and her family that it has frightened many women from even reporting sexual assaults. The long and frustrating process of trying to get a rapist off the streets is sometimes so devastating to the victim that many, noting what can happen, decide "what's the use?" or choose to let it pass, hoping they can at least escape with a little dignity.

Some positive steps have been taken in recent years to combat the problems of plaintiffs in such cases by having trained women in key portions of the investigation. But still much needs to be done.

Yet while the picture is less than satisfactory in many cities, important steps have been taken in the Lawrence community through a cooperative effort by law enforcement people, concerned women's groups and Kansas University officials.

Emily Taylor, dean of women at KU, points out that the Lawrence approach to the problem is perhaps one of the better to be found. There is less reluctance of women here to report assaults because they are aware they will not be subjected to the degredation the victim in the Wednesday TV movie suffered.

Because steps are being taken to help women prepare to deal with difficult situations as well as to be treated sensitively after rape occurs, there is a good chance the incidence of rape can be lessened here.

During 1972 in Lawrence, there were 26 reports of rape to law enforcement people and KU authorities, and 21 of these were cleared. In 1973, the same total of 26 cases occurred, but only 11 of them were cleared by investigation. The big difference is that one man is suspected of guilt in a large number of 1973 cases. To date he has not been apprehended.

Deterrence, of course, is the best solution to crime. One way is for women to be well enough prepared, through discussions and clinics, to discourage attackers by screams or appropriate physical action. Then if would-be rapists know that women needn't fear character assassination when they report attacks, that should help dissuade some assaults. And if potential rapists know that the law is direct and firm in dealing with attackers, that also can cut the incidence.

Lawrence and KU do not have all the answers, but they have more than a good many other communities seem to have. The underlying theme, of course, is a sensitivity to the plight of the victim.

The rate of rape is rising throughout the nation and will continue to do so until it is dealt with more intelligently. As of now, Lawrence seems to be meeting the situation much better than other cities, with the prospect that the rate may begin to decline here, even though it is on the upswing elsewhere.

ELUSIVE RAPIST ON K.U. CAMPUS

LAWRENCE, KANS.—Women at the University of Kansas and in Lawrence aren't safe in daylight or in darkness from a man police believe is responsible for at least 20 rapes since May.

Of 26 rapes reported on the K.U. Campus and in Lawrence in 1973, about half occurred at daylight, Sgt. Francis Alexander of the Lawrence police said. Eighteen rapes reported last year were in the city and eight were on campus.

Alexander said police think one man is responsible for at least 20 of the rapes because all victims reporting rapes or attempted rapes have given similar descriptions of the man.

"The rapist always walks by the woman, then walks back to her and makes casual conversation, such as asking what time it is, and then he attacks her," Alexander said. The rapist was described as a white man, about 6 feet tall, weighing 150 to 175 pounds and in his early 20s, clean-shaven, with brownish wavy hair cut just below his ears, but not reaching his collar.

Most attacks seem to be concentrated on the northeast side of the campus and the rapist has never attacked anyone before noon or after midnight, Alexander said.

"We don't believe he is a student, or one of the rape victims would have recognized him by now," Alexander said. "We don't think he has a car, either, because we've never found a trace of one."

Lawrence and K.U. campus police have checked out more than 50 leads since May.

"But we just aren't even close to catching him yet," Alexander said. "The rapist seems to be just as willing to attack during the day as at night."

Lt. Vernon Harrell of the Lawrence police department said the rape situation in Lawrence wasn't any worse now than at any other time, but he did advise women to walk in pairs. All of the rapes and attempted rapes have occurred when the victim was alone. In 1972 there were 31 rapes in Lawrence and on the K.U. campus. There were only eight rapes in 1971 and three rapes in 1970 in both the city and the campus, Harrell said.

Sgt. Alexander suggested women "be more observant" when they are walking and immediately report a rape or attempted rape to the Lawrence police or the campus police. Capt. Robert Ellison of the campus police suggested that women not take unnecessary chances and that they avoid poorly lighted areas.

Ms. Casey Eike, an assistant to the dean of women at K.U. and a rape counselor, recommended that the victim immediately report the rape to police and then go to a hospital for a vaginal smear, a veneral disease test and a morning-after contraceptive pill. There are six rape counselors at K.U. and one of the counselors once was a rape victim, Ms. Eike said.

Ms. Shirley Pearson, K.U. campus policewomen, said she has talked with nearly all the rape victims and she said most seem embarrassed at first and then scared that they might have to go to court and testify against the rapist.

"Most of the victims just don't believe that it could have happened to them," Ms. Pearson said.

"None of the recent rape victims has been hysterical when they have contacted the rape counselors," Ms. Eike said. 'But many of the women feel guilty because, perhaps, they could have hit the rapist harder and he would have been frightened.

"In many cases, if we detect guilt in the victim, then we try to induce anger in the woman against the rapist," the K.U. aide said.

Many K.U. women have complained that there isn't sufficient lighting on campus and that there should be a foot patrol at night on campus.

One possible deterrent to rapes in Lawrence has been a suggestion by Ms. Jodi Deutsch, New Shewsbury, N.J., senior, that women wear a whistle at all times, on a chain, on their neck or on a bracelet. The whistle has been endorsed by Miss Emily Tayor, K.U. Dean of Women who currently is meeting with leaders of women's organizations, both on campus and in the communit, to purchase whistles for distribution at low cost.

Police said whistles had been distributed to women at the University of Colorado in Boulder, with good results.

A slide show titled "Women Take Warning" is being shown at women's residence halls, sorority houses and various campus meetings sponsored by the dean of women's office and campus police. The programs instruct women to be aware of the danger of attack and how to take defensive action, Ms. Eike said.

TO CREATE AN ENERGY SHORTAGE

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. WYMAN. Mr. Speaker, seldom has the Congress passed legislation as ill-considered as the recent conference-reported Energy Emergency Act.

The purpose of this legislation allegedly was to establish, for the first time, a coordinated Federal energy policy aimed at correcting present shortages. If signed into law its effect will be the opposite.

It would assure the continuance of energy shortages and guarantee them into the foreseeable future.

Under the guise of "consumerism," the act would roll back domestic petroleum prices but not foreign and world prices which are beyond its reach. In this country most of the known, easily recovered, relatively inexpensive to drill petroleum deposits have been used up or are on line. The remaining deposits are substantial, but require costly secondary and tertiary recovery technology such as water injection under pressure, and so forth.

Imposing an artificially low price by law—as has been the case with natural gas—merely insures that the costs of secondary recovery cannot be met. This means the oil will stay in the ground. The lines at the gasoline stations will grow longer.

This is not responding to the needs of the consumer.

That our present shortages are in large part due to shortsighted, fragmented Federal energy policies and laws of the past is dramatically emphasized in the following article by Bruce Henderson.

It is the responsibility of the Congress to act to correct these mistakes. We need legislation to avoid the need for gasoline rationing, not legislation that will force us to ration. Such measures as my bill to allow dealers to adjust emissions controls on cars to improve gas mileage where not needed for public health is a specific example of what Congress ought to enact immediately.

Mr. Speaker, the country is looking to Congress for some responsible legislation on energy. It is past time Congress provided it.

The article follows:

TO CREATE AN ENERGY SHORTAGE

(By Bruce D. Henderson)

NATURAL GAS

Set a ceiling price on natural gas. This discourages exploration and increases use. Keep the prices down in spite of inflation. This amplifies the effect and guarantees a shortage eventually.

COAL

Ban the use of coal with sulfur content. This sharply restricts the supply. Sharply restrict strip mining for cosmetic reasons. This further restricts the supply. Then suddenly impose drastic new safety rules which will substantially cut output from existing mines. Freeze prices so no one can offset cost increase from reduced output or justify further investment.

ATOMIC POWER

Delay construction a matter of years by uncertainty about licensing requirements. Delay operation at full power after construction. Delay start of construction by environmentalist suits.

OIL

With natural gas, coal and atomic power all severely restricted that leaves only petroleum. First, grossly increase automotive consumption of gasoline by requiring drastic reductions in engine efficiency because of pollution related-modifications. That alone will insure a severe shortage of energy. Then ban the use of oil containing sulfur. This severely reduces refining capacity. Put into effect new pollution objectives which make refineries far more expensive. At the same time, introduce great uncertainty into the requirements that must be met. That will virtually stop refinery construction or expansion. Eliminate practically all new refinery sites because of environmental legal delaying tactics. Further curtail refinery investment by making supplies of crude oil very uncertain. Block the use of Alaska North Slope oil by arguments on the cosmetic effects in uninhabited and unreachable regions. Stop the use or search for oil offshore in California because of potential leaks. Slow all offshore operations for environmental reasons. For good measure, hold down the price of gasoline to half that in Europe. This encourages large cars.

To be sure that all of the above is misunderstood by the general public, bring a law suit which charges all the largest energy companies with being non-competitive and therefore causing the energy shortage.

The above scenario has actually occurred in the U.S. Each and every action described above has been the result of public policy. Each act had laudable objectives. In the aggregate these actions will prove to be very punishing to the general public for years to come.

Such program management by a private business would justify charges of gross mismanagement. The whole task of management is optimization of value delivered from the resources available. False weighting of values or misallocation of resources are equal failure.

All the ultimate objectives can, in due course, be achieved by coordination, by scheduling, by value/cost optimization and by resource allocation priorities. That, however, is what management is.

The object of management is optimization of benefits from the use of the available resources. The objectives of public policy also require management to achieve optimum results. Impulsive, extremist, poorly timed and uncoordinated actions produce inevitable frustration, waste, and cures that are worse than the disease.

Whom do we blame when mismanagement in public policy is imposed by the Congress and amplified by the Judiciary? This kind of mismanagement is occurring at all levels of our government in all areas of public policy.

PROF. OTTO ECKSTEIN REPLIES TO POLICY QUESTIONS ON OIL TAXATION

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. VANIK. Mr. Speaker, during the past few weeks the Ways and Means Committee has been considering windfall profits taxation of the oil industry. In an effort to develop a substantive record on the complex issues surrounding the tax treatment of income from oil and gas production, I sent a series of questions to several noted economists and asked for their comments. These questions focused on matters of oil policy now before the Congress. By virtue of the extreme importance and intricacy of these policy matters, it is vital that we in Congress make the most effort to seek expert advice.

In the days ahead, I will place the responses I have received to this questionnaire in the RECORD for the benefit of my colleagues. In the first of these responses, Prof. Otto Eckstein of Harvard University punctures several myths surrounding the issue of oil taxation. In answer to the question, "Are existing tax subsidies essential to meeting the capital requirements of the oil industry?" Professor Eckstein replies:

> At high prices the industry will be able to attract all the capital it needs, and then some.

With regard to the depletion allowance, Professor Eckstein comments:

> The trouble with the depletion allowance is that a large part of the benefit goes to high income families to whom it is a tax loophole. It is possible to stimulate oil exploration in other ways, indeed the high prices that are inevitable will be a massive stimulus. In my opinion, the depletion allowance is simply obsolete.

Finally, on the matter of subsidies generally for the production of oil, he states:

> There is no need for government subsidies with their corrupting effect on the various branches of government.

The entire text of Professor Eckstein's comments follow:

HARVARD UNIVERSITY,
DEPARTMENT OF ECONOMICS,
Cambridge, Mass., February 18, 1974.
Congressman CHARLES A. VANIK,
Washington, D.C.

DEAR CONGRESSMAN VANIK: Here is my reaction to the interesting set of questions that you sent me.

Question. The Administration is proposing that the market price for crude oil reach a "long run equilibrium price." The Treasury Department estimates this price level to be about $7 a barrel. The Department also estimates that this equilibrium price will be achieved in three to five years. Are these realistic projections? As far as you can determine, are the assumptions underlying these projections valid? In an industry in which price has been closely regulated through such mechanisms as state prorationing and import quotas is it justified now to have confidence in the price mechanism to allocate available petroleum supplies?

Answer. Yes. The future price of crude oil is uncertain, but $7.00 is a reasonable estimate. It is currently slightly higher, averaging domestic old controlled oil and the uncontrolled foreign and domestic oil, but the current price is created by the suddenness of the Arab cutoff. On the other hand, it would be premature optimism to look for declines that go below $7.00.

Question. It appears to me that the Administration's windfall profits tax is engineered to prevent wild fluctuations in the domestic price for crude, while at the same time allowing this price to reach its "equilibrium" level. Is this a correct interpretation of the primary function of the tax? What is your opinion of the Administration's proposal? Is it correct to label this tax an excise tax on the price of crude oil? If so, is the tax likely to be shifted forward to consumers? How regressive do you think this tax is likely to be?

Answer. It turns out that any tax on oil profits has numerous difficulties, and it is therefore difficult to pass a quick judgment whether one form of this tax is better than another. The Administration's windfall profits tax is, in the technical sense, an excise tax on the price of domestic crude oil. I think it is impossible to maintain a large spread between the price of foreign and domestic oil for more than a year or so, therefore if it is the political decision to limit the profits on domestic oil, an excise tax is a practical solution. On the other hand, even the excise tax will run into problems of avoidance and evasion, and will involve a considerable enforcement machinery.

Question. Does the Administration's goal of achieving a long run equilibrium price for crude undercut in any way the case for production subsidies, such as the depletion allowance? I understand that the impact of such subsidies is to bring forth more supplies than a given price alone would justify. Accepting this interpretation, do you see a "price" policy as an adequate substitute for a "tax" policy? Would not the pursuance of both simultaneously be contradictory?

Answer. The trouble with the depletion allowance is that a large part of the benefit goes to high income families to whom it is a tax loophole. It is possible to simulate oil exploration in other ways, indeed the high prices that are inevitable will be a very massive stimulus. In my opinion, the depletion allowance is simply obsolete.

Question. In your opinion, is the percentage depletion allowance an efficient means of guaranteeing our domestic production capacity as one component of national security? Should the depletion deduction be terminated altogether? If so, would you advise an immediate repeal of the depletion allowance for domestic properties? Or as an alternative, would you favor a gradual phasing out of the deduction?

Answer. Of course, the termination of the depletion allowance has to be seen in the light of the total new tax treatment of the oil industry. If the price of domestic crude to be received by the producer is held down to pre-crisis levels by a very steep windfall excise tax, then there would still be a need for the depletion allowance. But I think such a steep tax would create such difficulties that it is impractical anyway. Thus I would recommend an end to the depletion allowance and a substantial increase in the price of domestic oil.

Question. If you feel that some sort of subsidy for domestic oil production is warranted, would you favor substituting a direct cash payment system for tax subsidies? The advantages I see in such an approach is that such a cash system would be easily managed and accurately targeted to exploratory activity.

Answer. There is no need for government subsidies, with their corrupting effect on the various branches of government. The need for the subsidy will only develop out of excessive taxation; it would be much better to let the price do the job.

Question. A major argument against removal of the depletion allowance and other tax advantages for petroleum production is that these reforms would undermine the industry's ability to attract new capital. Could you evaluate this argument? Are the existing subsidies essential to meeting the financial requirements of the industry?

Answer. At high prices the industry will be able to attract all the capital it needs, and then some.

Question. Would the national security be better served through the establishment of a national defense petroleum reserve (in situ or in above ground storage) on the public lands of the U.S.? Do you feel it is wise to establish inventory requirements for producers and/or refiners?

Answer. The national security argument has always been a dubious one in connection with our oil policy. Once we are over our present difficulties, we may wish to consider the policies used by more exposed countries in Europe and Japan to insist on some national minimum reserve in private and/or public hands. But it is certainly not an issue for policy at this time since we have no way of building up a reserve.

Question. The Administration has recommended the repeal of the depletion deduction on foreign properties. Do you favor this step?

Answer. The depletion allowance on foreign properties is simply incongruous at this time and should be promptly done away with.

Question. The foreign tax credit has been criticized as an irresistable incentive for foreign investment by the petroleum companies. Do you agree? Do you feel that the foreign tax credit, in general, is a sound policy? Do you find the oil companies use of the credit as an unjustified abuse? If so, would you favor outright repeal of the credit for the oil companies or do you recommend that an effort be made to define what is a royalty payment and what is a tax?

Answer. Similarly, the foreign tax credit raises the bargaining power of the oil producing governments. It is not that easy to terminate the credit, and it must be kept in mind that the oil companies are truly multinational companies even though many of them are headquartered in the United States. I would defer to specialists more experienced in the oil taxation field on the exact method of reform.

Question. Do you recommend any change in the intangible drilling expense provision?

Answer. The intangible drilling expense provision has some similarity to depletion in this sense: it is a major tax benefit to upper income people who get a loophole to avoid income tax, with the benefit to the supply of oil rather uncertain. This particular set of tax provisions should be reformed to reduce the benefit to the high income taxpayer without seriously affecting the incentive to look for new oil.

Question. It has been said that many producers shut down marginal wells and declare them as dry holes in order to expense their cost. To prevent this abuse, would you recommend that dry hole costs be placed in a special capital account and be depreciated over five or ten years?

Answer. The shutting down of marginal wells and dry holes is an unfortunate byproduct of the present tax treatment. It is probably unreasonable to say that a dry hole is a capital item, since in fact it is presumably worthless. But perhaps one could insist on the grouping of well activity to eliminate the perverse incentive. There may be other solutions to this question.

I hope you find these reactions useful.

Sincerely yours,

OTTO ECKSTEIN.

THE NUCLEAR POWER PLANT SITING BILL—H.R. 12823

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. McCORMACK. Mr. Speaker, there are 42 nuclear powerplants licensed to operate in the United States today. The capacity of these plants is 25,000 megawatts.

However, there are 56 more plants being built, and 101 additional are on order. These 157 additional nuclear plants will have a capacity of 163,000 megawatts, almost 20 percent of this Nation's electric production capacity when they come on line. One of the problems that this Nation faces in responding to the energy crisis is the need to reduce the long leadtime in getting these nuclear plants operating. At present, the leadtime required from the moment a utility commits itself to build a nuclear plant until the power is on line varies from 8 to 10 years. This includes the tragic loss of from 2 to 4 years in totally unnecessary delays that have nothing to do with public safety or with protection of the environment.

To understand the impact of these delays, it is instructive to compare the amount of energy that will be produced by these 157 plants that are already ordered or being built. We would have to burn 5 million barrels of oil per day to produce this much electricity. At only $10 per barrel, the saving from getting these nuclear plant on line 1 year sooner would be $18 billion.

Obviously it is essential that we enact appropriate legislation to eliminate needless delays in getting nuclear powerplants on line, while still protecting public safety and the environment.

On February 14, I introduced H.R. 12823, a nuclear power plant siting bill designed to accomplish these ends. Joining me in cosponsoring this legislation were Chairman MEL PRICE of the Joint Committee on Atomic Energy and Congressman CHET HOLIFIELD and CRAIG HOSMER of the committee. On March 3 the identical bill (H.R. 13204) was submitted with the cosponsorship of all the House members of the Joint Committee on Atomic Energy.

The purpose of this legislation is to eliminate duplication and unnecessary delays in approving sites for nuclear powerplants, preserve States' rights, provide a greater degree of local participation in decisionmaking, and maintain the maximum standards for protecting the environment and the public. I anticipate that if such a siting bill is adopted, and if the Atomic Energy Commission establishes a program of licensing reactors simultaneously with site selection by individual States, we may reduce the time required to get a nuclear powerplant on line by from 1 to 2 years.

The entire emphasis on this legislation is to transfer as much authority as possible for siting nuclear reactors to the individual States. However, each participating State must agree to meet all of the safety and environmental standards of the AEC, and to act promptly and decisively on requests by utilities for nuclear powerplant sites.

I believe that the incentives that are included in this proposed legislation should attract broad support. It provides: First, for industry—increased reliability in the expansion of utility systems.

Second, for the States—a preservation of States' rights; an opportunity for responsible and constructive involvement with maximum autonomy; and an orderly process for handling problems that have, in many cases, seemed insurmountable.

Third, for all responsible environmentalists—an opportunity for local participation in working out the environmental factors involved in siting nuclear reactors, without the expense of hiring legal counsel; a built-in assurance of continued high quality environmental protection; an opportunity to help develop and plan integrated regional power programs, including the thoughtful consideration of alternate sites and transmission corridors.

Fourth, for the public—a vast savings of money through lower electric rates; a significant economy in time in getting need electricity on the line; local participation in siting plants, and protecting the environment; an increased reliability in utility systems; and an increased assurance that electric energy will be available on schedule.

Fifth. For the Congress—a clean and simple bill, unencumbered by endless involvement in non-nuclear industrial siting decisions; an opportunity to offer the States a partnership plan in solving their problems, rather than the threat of coercion; a greater efficiency in the use of technical manpower; a guarantee of environmental protection; and, above all, action now to help solve the energy crisis.

Mr. Speaker, I invite the serious consideration of all Members of Congress to this legislation, and I invite the consideration of it by the administration, the electric industry, and all persons seriously concerned with helping to solve the energy crisis while protecting the environment. I am convinced that if we all unite behind this legislation we can this year make significant progress in this matter.

TECHNICAL EXPLANATION OF H.R. 12823

To clarify the precise changes which would be made in the Atomic Energy Act, I want to describe, in some detail the six sections of H.R. 12823 which either add new sections to or amend existing sections of the Act. These six sections are:

(A) *New* section 275, "State Environmental Review of Proposed Nuclear Power Reactor Sites," (minor amendments to Sections 274 and 185 support this addition).

(B) Amendment to Section 189, "Hearings and Judicial Review."

(C) *New* Section 193, "Early Site Approval and Standardization."

(D) *New* Section 276, "Interstate Cooperation and Compacts."

(E) *New* Section 277, "Nuclear Power Park Survey."

(F) *New* Section 278, "Long Range Planning."

The interaction of the first three sections must be clearly understood to fully comprehend the impact of this bill.

The first section (A) establishes a procedure whereby certain qualified states are granted responsibility and authority to make environmental reviews and certify sites. If any state elects not to participate in this program, the AEC will retain its authority and responsibility and perform the environmental reviews (NEPA) as follows.

The second section (B) authorizes AEC to change its regulatory review, licensing, and hearing procedures (radiological safety and environmental review) to streamline and shorten the overall process. Regarding radiological safety it will apply to all sites. Regarding environmental review it will apply only if State certification does not apply.

The third section (C) authorizes AEC to make reviews and approve sites in advance of construction permit application if state certification does not apply.

The third section (C) *also* authorizes AEC to approve standard nuclear power plants or standard major components a major systems of nuclear power plants. Such approval is independent of early site approval or state certification.

A. The bill adds a new Section 275, "State Environmental Review of Proposed Nuclear Power Reactor Sites." This section authorizes AEC to enter into an "agreement" with any qualified State or regional agency under which the agency has authority to:

(a) conduct an environmental review of; and

(b) issue or deny an application for a site certificate for any proposed nuclear power reactor site within the State or region within which the agency has jurisdiction.

To qualify for an agreement the agency must have authority to make conclusive decisions regarding siting, land use, public convenience and necessity, aesthetics, and any other State or local requirements.

Decisions required by *Federal Law* to be made by an agency other than the agreement agency are exempt from the jurisdiction of the agreement agency. State water and air quality programs established pursuant to Federal Water and Air Quality legislation are examples of exempted programs.

By requiring the agency to possess authority to make conclusive judgment on all other aspects of State or local law this bill approaches true *one stop siting* at the State or regional level.

The bill also allows the State or regional agency to issue certificates on sites for which:

(a) specific reactors have been proposed;

(b) "black box" reactors from which emissions and effluents have been described; and

(c) standardized units approved by AEC.

An environmental impact statement is required to be completed by the agreement agency. AEC is required to supply sections to the statement dealing with radiological health and safety subjects. Other Federal agencies are required to cooperate with the agreement agency in the preparation of the statement.

If a certificate is issued pursuant to an agreement all agencies of the Federal Government are *deemed* to have *satisfied* all requirements described in Paragraph A through D of Section 102(2) of NEPA.

The AEC is required to establish agreement and certificate guides and criteria within six months after the bill becomes law.

The present AEC procedures and requirements regarding NEPA will continue in the non-Section 275 agreement states.

The AEC will continue its authority to review and make decisions regarding all radiological health and safety matters.

B. The bill amends Section 189 of the AEC Act to provide flexibility in regulatory review and licensing nuclear power reactors. Namely, regarding a construction permit application the AEC may divide the proceeding into two parts; environmental review and radiological safety. Where the environmental review has been completed (or a site certified pursuant to Section 275) the CP can be issued without a hearing after Federal Register notice.

In the case where the applicant proposes a *standardized* unit the radiological safety hearing may be a legislative type.

The bill also allows the AEC to issue an operating license without a hearing if the construction permit has been issued after a hearing, except where certain questions have been left unresolved or where unconsidered technology changes have taken place.

C. (1) The bill adds a new Section 193, "Early Site Approval and Standardization," to the AEC Act. It will authorize AEC to grant or deny an application for a site in advance of the need for the site. In doing so the AEC is required to base its decision on established site technical parameters and is required to so condition the approval.

The AEC is authorized to issue a construction permit or operating license on an approved site if all site conditions are met. The AEC may do so without a hearing unless new information is brought forth.

(2) The bill also provides for AEC review and approval by rule of preliminary or final designs of parts of a nuclear power reactor (so-called standardized). The bill clearly provides for the formal approval by rule making procedure of a standardized plant within certain limitations.

(3) Under this new Section the AEC may grant a construction permit and/or operating license without a hearing provided the facility will be constructed on a site previously approved by AEC or certified by an agreement state.

(4) The bill also provides that if the site has been subject to NEPA (under AEC review) or certified by an agreement agency then no further environmental review is necessary prior to AEC action granting or denying the application for a construction permit.

D. The proposed bill clearly calls for closer cooperation among the states and between interstate organizations (i.e., compacts) and the Federal government in effort to resolve nuclear power plant siting issues. The bill gives Congress final consent to such compacts.

E. The proposed bill requires AEC to make a national survey to identify and designate sites for Nuclear Power Parks in each of the electric reliability regions. The bill also defines Nuclear Power Parks as being a site large enough to support utility operations and other major elements of the final cycle. The bill establishes the elements of the survey. It also requires that Federal properties be specifically included in the survey.

F. Finally the bill requires the regional reliability councils to organize and analyze the long range planning data supplied by its utility members and on an annual basis issue a report listing all nuclear power reactor sites and candidate areas for nuclear power reactors within its region.

SECTION-BY-SECTION ANALYSIS OF H.R. 12823 (H.R. 13204)

THE PROBLEMS

Duplication of environmental review of nuclear power plant sites between States and AEC.

Multiple independent and sometimes conflicting approval process at the State level.

No provision for early nuclear power plant site approval.

Delays in regulatory approval of needed nuclear power plants.

Lengthy litigation caused by regulatory hearing process.

Non-standard facilities cause repetitive and time consuming first of a kind reviews.

No mechanism for resolving regional siting issues.

Nuclear power park concept and sites not moving forward.

Utility long range planning information and siting data not readily available to the general public.

The Proposed Legislation Will:

Simplify site environmental review process by allowing qualified States to complete this action at the local level.

Place responsibility and authority for certification of nuclear power plant sites into qualified State or regional agencies.

Streamline AEC licensing procedure and reduce licensing delays by: authorizing separate environmental and safety hearing; and providing for legislative rather than adjudicatory hearings (under certain conditions).

Authorize AEC to consider sites prior to construction permit application and thereby designate sites in advance of need.

Provide AEC with authority to review and by rule approve standardized plants or major components or systems thereof.

Require AEC to make a national survey, identify and designate sites, for nuclear power parks in each electric reliability region and thereby bring together major elements of the total nuclear fuel cycle onto one site.

Urge AEC to cooperate with States and regional agencies to resolve site issues and give Congressional consent to Compact organizations for this purpose.

Require the electric regional reliability councils to issue annual reports to the public which list designated nuclear power plant sites and candidate areas for nuclear power plants.

SITE REVIEW AND CERTIFICATION

State or Regional Agency Role

Establish agency with authority to make environmental review, judgement regarding need for facility, land use and other matters of State or local law and binding decision on site certification.

Request, negotiate and implement Agreement with AEC and thereby assume total Federal environmental impact review responsibility and authority.

Receive applications for site certification from any interested party or on its own motion.

Consider environmental impact, balance against need for the facility, issue an impact statement, consider comments from interested parties, and make final conclusive decision granting or denying the application.

Sites may be certified for specified nuclear reactors or designated in advance for standardized units.

Federal Role

AEC will issue criteria for Agreement.

AEC will sign Agreement with qualified States and thereby relinquish authority to do environmental review.

AEC will maintain radiation health and safety responsibility and authority.

AEC will continue NEPA responsibility in States where no Agreement is in effect.

CHANGES TO AEC LICENSING PROCEDURES

AEC is Authorized to:

Receive applications for construction permits and separate the proceeding into parts covering environmental matters and radiological safety, respectively.

Proceed with separate environmental review.

Proceed with radiological safety matters if site has been certified pursuant to Section 275.

Issue a construction permit without a hearing, if the site has been certified or if the AEC has completed its environmental review.

Hold a legislative hearing if requested on radiological safety questions or where standardized plant is used.

Issue an operating license without a hearing unless substantial unresolved health and safety problems exist or major changes in technology have occurred during construction.

ADDITIONS TO AEC REGULATORY AUTHORITY

AEC is Authorized to:

Consider and grant or deny applications for sites in advance of need and prior to receiving construction permit application (where certification does not apply).

Condition site approvals with site related restrictions on construction and operation of the reactor(s).

Assure that no construction permit is issued unless all site related restrictions are complied with.

Grant or deny an application to approve standard units or major components.

Grant a construction permit and/or operating license without a hearing provided the site is approved or certified and standard units are used.

Follow provisions of Section 102(2)(c) of NEPA in the review for approval of early sites.

NUCLEAR POWER PARK SURVEY

The Congress finds it in the National interests to develop Nuclear Power Parks.

The AEC is required to make a National survey to identify and designate a Nuclear Power Park site in each electric reliability council region.

The survey must include Federally held property excluding such property being used or to be used for public purposes.

The AEC is required to report the survey results within one year after enactment of this Act.

LONG RANGE PLANNING

Each electric reliability council is required to issue annually a report to the public which lists all nuclear power plant sites and candidate areas for nuclear power plant sites within its region.

INTERSTATE COOPERATION AND COMPACTS

Encourages cooperative activities by States to resolve issues causing power plant delays.

Grants Congressional consent to States to form interstate compact organizations to resolve regional siting issues.

FOOD PRICES

HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. SHOUP. Mr. Speaker, I call your attention and that of the membership of Congress to a letter I received from a leading rancher-businessman of my district. Mr. Moore brings up some interesting points concerning the plight of the agricultural sector of our Nation in regards to the marketplace and profit margins available for promotion of the farmers and ranchers causes. Mr. Moore's letter deserves your attention and scrutiny:

WESTERN BROADCASTING CO.,
Missoula, Mont., February 28, 1974.

Dr. DON PAARLBERG,
Director, Agricultural Economics, Agriculture Department, Washington, D.C.

DEAR DR. PAARLBERG: I very much enjoyed your article in U.S. News & World Report concerning food prices. I felt both your questioner and you yourself were quite fair to the segment of America which has been all too often forgotten. I speak of rural America—the farmer and rancher. I believe you brought in interesting figures concerning the farmers share of the food dollar. I do have the following questions:

1. For each of the past six years, what has been the average increase in prices paid for beef, pork, lamb, wheat, barley, oats, and corn for the same year, and what has been the average percentage increase in wages paid in the agriculture sector, in the industrial sector, in the government and white-collar industry. Also, what has been the average increase including fringe benefits in the auto, transportation and utilities industries.

2. What has been the average increase, percentage-wise, in net spendable income per family for each of the six years versus average percentage increase in food, generally, and in beef, pork, lamb and chicken specifically.

3. If bread has gone from where it was, which was approximately 25¢ when wheat was $1.80, to 35¢ when wheat is $6.00, and if wheat represents 15%, as you say, in the cost of bread, then certainly it wasn't the so-called high cost of wheat that caused a 50% increase in the cost of bread, and most certainly if your estimates that it would take a $33-a-bushel wheat to justify a $1-a-loaf bread, then I think it is the responsibility of government generally and the Agriculture Department specifically to make more so-called headlines, to the point that the increased cost of wheat certainly does not justify the prices currently being charged for bread, but rather it is the cost of the packaging delivery, and labor which comes back to the unions' exorbitant, inflationary wage and fringe increases as contrasted to the "at the mercy of the market" farmer and rancher.

4. I appreciated your point on page 43 concerning 15.7% as a percentage of take-home pay versus 15.9%, but frankly, this was almost lost in the total impact of the article. I think it's high time for the government generally and the Agriculture Department specifically to go on a real positive, hell-bent-for-election program to tell the people how little the increased costs of these farm products really bear to their percentage of their take-home pay. I am sure much could be made about the low percentage of the total American income that is spent for food versus England, Japan, China, Russia, Germany, etc. I think it's time this department of government of agriculture starts stressing this and making the other purveyors, manufacturers, packagers, deliverers, processors, and others more accountable for the exorbitant prices we are paying, even though in the total, it represents an insignificant percentage of the total family budget costs.

The farmer and rancher of America today still faces the same basic problem—that he has since time immemorial—that problem is continuance of penury doesn't leave much of an opportunity for slick advertising campaigns, public relations staffs, advertising/promotion/marketing programs. When you look at the battery of lawyers, advisors, staff, public relations, promotion, advertising people connected with a union, manufacturer, an automobile company, an electronics manufacturer, a bureaucracy of government or any other manufacturing or production sector of our economy, and then look at what the individual farmer, rancher or any group that you can speak of, has for comparable budgets for personnel, then you realize the real scope of the problem to which I am addressing myself. Just as there is no quick way to gain legitimacy, so also there is no quick way for the farmer and rancher of America, representing 7% of the population, can turn around his plight.

Thank you for your consideration of the above and I would appreciate your comments and answers to my questions.

Sincerely,

DALE G. MOORE,
Chairman.

P.S. Since farm subsidies will drop from four to five billion to about 150 million, will number of people and cost of administration also drop drastically? It sure shouldn't cost nearly as much to administer and parcel out 150 million as it does four or five billion.

SENATE—*Friday, March 8, 1974*

The Senate met at 10:30 a.m. and was called to order by Hon. ROBERT T. STAFFORD, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, we thank Thee for the power of the silent forces all about us. We do not hear the Moon rise or set. We do not hear the great force of gravity holding us to the Earth. We do not hear the life-giving warmth of the Sun. May we learn from nature that reason and persuasion are more powerful than boisterous, bombast, or noisy emotion. Teach us that "the still small voice" in the moment of prayer is the most powerful force for personality in the universe. May wisdom, comfort, and hope be Thy gift to us in the sacrament of silence as we open our hearts to Thee. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 8, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ROBERT T. STAFFORD, a Senator from the State of Vermont, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. STAFFORD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, March 7, 1974, be dispensed with.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the calendar.

There being no objection, the Senate proceeded to consider executive business.

DEPARTMENT OF DEFENSE

The PRESIDING OFFICER. The clerk will state the first nomination.

The second assistant legislative clerk proceeded to read nominations in the Department of Defense.

Mr. MANSFIELD. Mr. President, I ask that those nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations will be considered en bloc. Without objection, the nominations will be confirmed en bloc.

DEPARTMENT OF THE TREASURY

The second assistant legislative clerk proceeded to read nominations in the Department of the Treasury.

Mr. MANSFIELD. Mr. President, I make the same request.

The PRESIDING OFFICER. Without objection, the nominations will be considered en bloc. Without objection, the nominations will be confirmed en bloc.

Mr. STAFFORD. Mr. President, I ask that the President of the United States be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, the President will be immediately notified of the confirmation of the nominations.

LEGISLATIVE SESSION

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

OCEAN DUMPING CONVENTION IMPLEMENTATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent to call up Calendar No. 703, H.R. 5450 at this time.

The PRESIDING OFFICER. The clerk will state the bill by title.

The second assistant legislative clerk read the bill by title as follows:

A bill (H.R. 5450) to amend the Marine Protection, Research, and Sanctuaries Act of 1972, in order to implement the provisions of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS

Mr. STAFFORD. Mr. President, I do not seek recognition.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the majority leader wish to proceed with morning business first?

Mr. MANSFIELD. Yes, indeed. I withdraw my suggestion of the absence of a quorum.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each.

Is there morning business?

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Without objection, it is so ordered.

ORDER TO HOLD H.R. 11793 AT DESK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when received, the bill (H.R. 11793), the new Federal Energy Administration Act, be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I may say, for the information of the Senate, that the purpose is to give the Senate committee which reported a similar measure advance knowledge, so that they will be prepared to discuss a bill which, I understand, is somewhat different from the bill which passed the Senate.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The third assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUED REFERENCE OF S. 354—NO-FAULT INSURANCE BILL

Mr. MANSFIELD. Mr. President, after discussing the continued reference of S. 354, the no-fault insurance bill, with the chairman of the Committee on Commerce, the distinguished Senator from Washington (Mr. MAGNUSON), with the distinguished Senator from Mississippi (Mr. EASTLAND), chairman of the Committee on the Judiciary, and with the distinguished Senator from Nebraska (Mr. HRUSKA), the ranking Republican of the committee, I would point out that on the the basis of an informal agreement that while the bill was returned to the Senate Calendar on February 18 of the basis of an agreement achieved between the Committee on Commerce and the Committee on the Judiciary, it was kept within the jurisdiction of the Judiciary Committee for 30 days. The 30 days will expire on March 18. With the approval of the Senators whom I have mentioned, I ask unanimous consent that when S. 354 is reported back on March 18, or thereabouts, it then be considered the pending business.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVISION OF UNANIMOUS-CONSENT AGREEMENT ON NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent to revise the previous unanimous-consent request granted by the Senate to substitute the date of March 19 rather than March 18, with the proviso that the leadership on that date or on any date thereafter be given the right to call up S. 354, the no-fault insurance bill, and that it be made the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. STAFFORD) laid before the Senate the following letters, which were referred as indicated:

ROTC Flight Instruction Program

A letter from the Secretary of the Navy transmitting, pursuant to law, a report of the Naval Reserve Officers Training Corps flight instruction program for the fiscal year 1973 (with an accompanying report). Referred to the Committee on Armed Services.

Army Research and Development Contracts

A letter from the Assistant Secretary of the Army transmitting, pursuant to law, a report of the Army research and development contracts for $50,000 or more awarded during the period July 1 through December 31, 1973 (with an accompanying report). Referred to the Committee on Armed Services.

Reports of the Comptroller General

Four letters from the Comptroller General of the United States transmitting, pursuant to law, four reports entitled "Assessment of the Food and Drug Administration's Handling of Reports on Adverse Reactions from the Use of Drugs"; "Problems of the Upward Bound Program in Preparing Disadvantaged Students for a Postsecondary Education"; "Improvements Needed in Development Testing"; and "Supply and Demand Conditions for Teachers and Implications for Federal Programs." (With accompanying reports). Referred to the Committee on Government Operations.

Report of the Immigration and Naturalization Service

A letter from the Commissioner of Immigration and Naturalization Service transmitting, pursuant to law, the annual report of the Service for the year ended June 30, 1973, with an accompanying report. Referred to the Committee on the Judiciary.

Orders of the Immigration and Naturalization Service

A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, orders entered by the Service relating to certain persons with accompanying papers. Referred to the Committee on the Judiciary.

Proposed Legislation by the Department of Health, Education, and Welfare

A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to amend the Juvenile Delinquency Prevention Act, and for other purposes with accompanying papers. Referred to the Committee on Labor and Public Welfare.

Report of the Economic Development Administration

A letter from the Secretary of Commerce transmitting, pursuant to law, a report on the achievements and activities of the Economic Development Administration for the fiscal year 1973 with an accompanying report. Referred to the Committee on Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. FULBRIGHT:

S. 3133. A bill for the relief of Raul Arriaza, his wife, Maria Marquart Schubert Arriaza, and their children, Andres Arriaza and Daniel Aivouich Arriaza. Referred to the Committee on the Judiciary.

By Mr. HASKELL:

S. 3134. A bill to amend the Internal Revenue Code of 1954 to impose an excessive profits tax on the excess petroleum profits income of certain domestic corporations engaged in multinational operations. Referred to the Committee on Finance.

By Mr. METCALF:

S. 3135. A bill to establish a Federal Employee Labor Relations Board to regulate Federal labor-management relations, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. DOMENICI:

S. 3136. A bill to authorize the National Endowment for the Arts to make grants to States for the establishment and maintenance of State centers for American arts and handicrafts, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. CRANSTON (for himself and Mr. WEICKER) (by request):

S. 3137. A bill to clarify the authority of the Small Business Administration and for other purposes; and

S. 3138. A bill to amend the Small Business Act. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. JAVITS:

S. 3139. A bill to amend the Public Health Service Act to assure the development of a national health policy and of effective State health regulatory programs and area health planning programs, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. McCLURE:

S. 3140. A bill to prohibit increases in rates of pay to Members of Congress until fiscal balance is achieved. Referred to the Committee on Post Office and Civil Service.

By Mr. DOLE:

S. 3141. A bill to authorize construction of the Clinton Parkway, Douglas County, Kans., and for other purposes. Referred to the Committee on Public Works.

By Mr. HUMPHREY:

S. 3142. A bill for the relief of Robert Braun. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HASKELL:

S. 3134. A bill to amend the Internal Revenue Code of 1954 to impose an excessive profits tax on the excess petroleum profits income of certain domestic corporations engaged in multinational operations. Referred to the Committee on Finance.

THE FOREIGN PETROLEUM INCOME TAX ACT OF 1974

Mr. HASKELL. Mr. President, on several occasions, I have spoken of my concern with the adequacy and effectiveness of the windfall profits and price rollback provisions that we have contemplated including in the Energy Emergency Act. The recent veto by the President of the Energy Emergency Act doubles my concern: It is apparent beyond question that the President is of the view that the current crisis should be shouldered by the American people, by the consumers of petroleum products, and that the oil industry should unfairly profit from the Nation's crisis.

I reject once again, as I have in the past, the President's view of the energy crisis. I reject the suggestion that the current price levels of crude oil leave no room for a price rollback. I reject categorically the President's view that a price rollback would diminish the exploratory incentive of the industry and hence contract the supply of oil and gas. I introduced in the RECORD, well over 1 month ago, opinions expressed by those who should know, the oil industry's executives and spokesmen, to the effect that long before—very long before—the price of new crude oil reached $10 a barrel sufficient incentive to explore new sources existed. There is room for, there is reason for, and there is an understandable popular demand for a price rollback and a program of continued, meaningful price controls.

As I have said before, Mr. President the American people are reasonable and cooperative in times of crisis. They are willing to roll back their demand for petroleum products. They have cooperated in turning thermostats down, in slowing down highway speeds, and in taking whatever steps they can to conserve energy supplies. But, the American people are also accustomed to the fundamental principles of fair play—and their willingness to cooperate should be met halfway by the President and the oil industry. The ceiling that the President has put on the real earnings of the American people with his high inflation-high unemployment economic policy should be recognized and responded to by the President's energy policy. If he can limit the incomes of ordinary Americans, why can he not support a limit on prices? If he can ask the people to limit consumption, how can he also ask them to pay higher prices for what they consume while the industry makes record profits? The answer is obvious: The "crisis" belongs to the people in the President's mind, not to the industry. The people shall pay more, he says, and the industry shall profit more.

I reject, once again, the President's permissive attitude toward unreasonable profiteering by a few corporations at the expense of the already financially hard-pressed American consumer. I am pleased and encouraged by reports that concerned Members of the House, as well as the distinguished Senator from Washington (Mr. JACKSON) are moving ahead to find another way to once and for all gain approval of the vital rollback and price control provisions of the recently vetoed Energy Emergency Act.

Still, Mr. President, as I stated on the floor over 1 month ago, price control is simply not enough. Keeping prices down without inhibiting future exploration, and more importantly, taking steps to see that the burden of this crisis is shouldered fairly and equally, will require that steps beyond price controls and a rollback be taken.

Accordingly, I am today introducing a bill that will impose an excess profits tax on the petroleum profits income of multinational oil companies. Let me say at the outset, Mr. President, that I am not fond of excess profits taxes; as a general rule, I recognize that they are often extremely difficult to administer, that they are not a substitute for effective and rigorous price controls. But, the bill that I am introducing is not designed to be a substitute for price controls—rather, it is meant to be complementary to such a program. This bill is directed at that segment of the petroleum industry—the overseas operations of domestic corporations—that price controls cannot regulate.

Neither controls nor a rollback can effectively spread the burden of the energy crisis to multinational oil operations simply because they are able to direct their costs and profits to foreign subsidiaries that are beyond the reach of the price control programs that have been contemplated. Were these companies truly competitive and operating within a free market, the controls contemplated by the Congress and the measure I am today introducing might be unnecessary. Such, however, is not the case, as all in this Chamber well know. The petroleum market is, at this time, a market that has been distorted by a sharp cutback in supply which was unaccompanied by a parallel reduction in demand. The continuing great disparity between supply and demand has left the American petroleum consumer—who long ago became utterly dependent upon this industry for so many of life's necessities, including light to see by, warmth to be sheltered by, and fuel to travel to work by—completely vulnerable to price exploitation.

And, it is vital that we realize that price controls, necessary as they are, are not sufficient to protect the American consumer from the part of the petroleum industry that has much of its operations located overseas. For years, we have witnessed the multinational oil industry tuck-away profits in foreign subsidiaries that do business with the parent corportations located here in the United States. They accomplish this simply by, in effect, charging themselves higher prices for various petroleum related products and services and then taking their profits in the form of dividends from their subsidiaries. It is this corporate enterprise that price control will not meaningfully touch and to which my bill addresses itself.

I believe, Mr. President, that the bill I have put together is a workable and effective one. It says to the multinational oil industry, "We have a crisis, and you will not be given the opportunity to unfairly take advantage of that crisis by exploiting an already economically hard pressed American people. You shall share with all of us the burden of this crisis, although we shall not prevent you from taking your fair profit, nor shall we inhibit you from taking the development initiatives that are necessary to an ultimate solution to this crisis." It says to the American people, "You will not be gouged during this energy crisis. We shall control prices and roll them back where necessary, but where that is not possible we shall impose excess profits taxes so that unreasonable profits will be channelled to the common good."

The bill is workable because it will not allow profits to be hidden abroad. All domestic corporations which receive 20 percent of their "petroleum profits income" from abroad will be subject to the tax. And, the income that is earned by foreign subsidiaries would be included in the taxable income of the domestic corporation in proportion to the value of the foreign corporation's stock that is held by the domestic corporation. The rate of taxation on the excess profits is 80 percent and the term excess profit is defined as the amount by which the corporation's income exceeds the larger of the corporation's average annual petroleum profits income for the base period—defined as years 1970 through 1973—or an amount equal to a return for the taxable year of 10 percent on capital invested.

Under my proposal, it is only the petroleum related profits that are subject to the tax. If a domestic corporation holds a foreign corporation's stock and that foreign corporation is engaged in activity that is unrelated to the petroleum industry then the profits of that foreign corporation will not be considered in the imposition of the excess profits tax. On the other hand, the bill would include the profits of those foreign corporations that, while not themselves in the petroleum business, supply necessary services, such as insurance, or products, such as pipeline material, to the domestic corporation, provided, of course, that the domestic corporation holds the stock of the foreign supplier. And, the bill allows considerable flexibility to reflect changes in the volume of petroleum products handled by the company, changes in the type of petroleum industry activity engaged in by the company, or changes in the combination or proportion of petroleum industry activities from the volume, types or combinations engaged in during the base period.

Finally, Mr. President, this bill makes it very clear that this excess profits tax is distinct from the ordinary corporate income tax: The profits subject to this tax are not also subject to the ordinary income tax, since to make them subject to both would have the effect of imposing an excess profits tax in excess of 100 percent, obviously not the intent of the Congress should it see fit to approve this measure.

Let me conclude by saying, Mr. President, that I regret this measure is a necessary one. I firmly believe, however, that it offers the only hope of spreading the burden of the energy crisis to all concerned—including the multinational oil industry—and the only effective method of assuring against the exploitation of the American public during the crisis. I only wish that price rollbacks and controls could deal with the problem entirely, since I view that mechanism as the most efficient and easily administered of the alternatives before us. Since that cannot be—price controls will be ineffective as to the multinationals—this excess profits bill is a necessary element of our efforts to come to grips with the hardships and the causes of the energy crisis.

At the same time, I once again urge my colleagues to support a meaningful rollback of domestic prices and a vigorous program of continued price controls—should we fail to take those steps, I fear we shall have to turn to an excess profits tax on the domestic side of petroleum operations as well as on foreign petroleum activities. That, of course, is the less desirable course of action since the relief contemplated in the tax runs to the taxpayer, not to the petroleum consumer as it should.

I hope that my colleagues will give serious and favorable consideration to this bill, Mr. President, and I ask unanimous consent at this time that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Petroleum Income Tax Act of 1974."

EXCESSIVE PROFITS TAX

SEC. 2. (a) Subtitle A of the Internal Revenue Code of 1954 (relating to income taxes) is amended by adding at the end thereof the following new chapter:

"Chapter 7—TAX ON EXCESSIVE PETROLEUM PROFITS

"SEC. 1601. Imposition of tax.
"SEC. 1602. Excess petroleum profits income.
"SEC. 1603. Corporations taxable under chapter.
"SEC. 1604. Definitions special rules regulations.

"SEC. 1601. IMPOSITION OF TAX.

"There is imposed on the excess petroleum profits income of every corporation described in section 1603 a tax of 80 percent.

"SEC. 1602. EXCESS PETROLEUM PROFITS INCOME.

"For purposes of this chapter, the term 'excess petroleum profits income' means the amount by which the petroleum profits income of a corporation for the taxable year exceeds the larger of—

"(1) the average annual petroleum profits income of that corporation for the base period or

"(2) an amount equal to an annual return for that taxable year of 10 percent on capital invested by that corporation in petroleum industry activities.

"SEC. 1603. CORPORATIONS TAXABLE UNDER CHAPTER.

"a) In General.—The provisions of this chapter apply for any taxable year to any domestic corporation which has petroleum profits income from sources without the United States in an amount equal to, or in excess of, 20 percent of its total petroleum profits income for that taxable year.

"(b) Related Corporations.—In the application of the provisions of this chapter to any domestic corporation which owns stock issued by a foreign corporation which has petroleum profits income from any source—

"(1) the domestic corporation is considered to have petroleum profits income from that source in an amount which bears the same ratio to the total amount of the petroleum profits income of that foreign corporation as the value of the foreign corporation's stock held by the domestic corporation bears to the total value of all stock issued by the foreign corporation, and

"(2) a foreign corporation (referred to elsewhere in this paragraph as the acquiring corporation) which owns stock issued by another foreign corporation (referred to elsewhere in this paragraph as the issuing corporation) which has petroleum profits income from any source is considered to have petroleum profits income from that source in an amount which bears the same ratio to the total amount of the petroleum profits income of the issuing corporation as the value of the issuing corporation's stock held by the acquiring corporation bears to the total value of all stock issued by the issuing corporation.

"(c) VALUATION RULE.—For purposes of this section, the value of a share of stock is its average fair market value for the taxable year. If the Secretary or his delegate determines that the fair market value of a particular class of stock cannot be ascertained with reasonable certainty, the value of that stock shall be determined in accordance with rules promulgated by the Secretary or his delegate which are designed to reflect fairly, for purposes of this chapter, the ownership interest of the corporation which owns the stock in the corporation which issues the stock.

"Sec. 1604. Definitions; Special Rules; Regulations.

"(a) Definitions.—For purposes of this chapter—

"(1) Base Period.—The term 'base period' means, in the case of any corporation, the first four taxable years of that corporation beginning after December 31, 1969.

"(2) Petroleum Industry Activity.—The term 'petroleum industry activity' means the business of extracting, refining, transporting, distributing, manufacturing, producing, or selling petroleum, petroleum products, or products or services used in connection with the extraction, refining, transportation, distribution, manufacture, production, or sale of petroleum or petroleum products.

"(3) Petroleum Profits Income.—The term 'petroleum profits income' means the taxable income of a corporation derived from petroleum industry activities.

"(b) Special Rules.—

"(1) Application of Related Corporation Rules.—The related corporation rules contained in section 1603 apply to the determination of petroleum profits income for the base period and for the taxable year, and to the determination of return on investment.

"(2) Return on Investment.—

"(A) In General.—For purposes of section 1602, return on investment shall be determined by computing the excess of the petroleum profits income for the taxable year over the capital investment in petroleum industry activities for the taxable year as a percentage of the amount of such capital investment.

"(B) Exclusions.—In computing return on investment there shall be excluded from consideration—

"(i) the excess of any amount allowed as a deduction under section 613 (relating to percentage depletion) over the amount allowable under section 611 for cost depletion;

"(ii) any amounts allowed as a deduction in accordance with the provisions of section 263(c) (relating to intangible drilling and development costs in the case of oil and gas wells) in connection with any oil or gas well which is commercially productive, as determined by the Secretary or his delegate; and

(iii) with respect to each item of section 1250 property (as defined in section 1250 (c)), the amount by which the deduction allowable for the taxable year for exhaustion, wear and tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life (determined without regard to section 167(k)) for which the taxpayer has held the property.

"(3) Changes in corporation structure, volume of business, etc.—In the application of the provisions of this chapter—

"(A) income, expenditures, gains, and losses not related to petroleum industry activities shall be disregarded; and

"(B) if, for any taxable year, the petroleum profits income of a corporation is greater than the average annual petroleum profits income of that corporation for the base period as a result of expanded volume of products handled, a different type of petroleum industry activity than that engaged in by the corporation during the base period, or a different combination or proportion of petroleum industry activities than those engaged in by that corporation during the base period, the corporation may, with the approval of the Secretary or his delegate, adjust the annual average base period petroleum profits income, or compute the taxable year's petroleum profits income in such a manner as necessary, to reflect equitably that part of the petroleum profits income for the taxable year which is subject to treatment as excess profits from petroleum industry activities as compared to the profits from those activities during the base period. Any approval granted by the Secretary or his delegate under this subparagraph shall be granted after a public hearing conducted in accordance with the provisions of section 553 of title 5, United States Code, applicable to rulemaking.

"(c) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this chapter.".

(b) Exclusion of Excess Petroleum Profits Income from Normal Alternative Tax.—Section 11 of the Internal Revenue Code of 1954 (relating to tax on corporations) is amended by adding at the end thereof the following new subsection:

"(g) Tax Not To Apply to Excess Petroleum Profits Income.—The provisions of this section do not apply to any part of the taxable income of a corporation for the taxable year which is excess petroleum profits income (as defined in section 1602) of that corporation for that taxable year.".

(c) Technical Amendments.—

(1) Section 12 of such Code (relating to cross references relating to tax on corporations) is amended by adding at the end thereof the following new paragraph:

"(9) For tax on excess petroleum profits income, see chapter 7.".

(2) Section 21 of such Code (relating to effect of changes) is amended by adding at the end thereof the following new subsection:

"(f) Changes Made by the Foreign Petroleum Income Tax Act of 1974.—In applying subsection (a) to the taxable year of a corporation which is not a calendar year, the tax imposed under section 1601 shall be treated as a change in a rate of tax.".

(3) The table of chapter for subtitle A of such Code is amended by adding at the end thereof the following item:

"Chapter 7. Tax on excessive petroleum profits.".

TECHNICAL AND CONFORMING CHANGES

Sec. 3. The Secretary of the Treasury or his delegate shall, as soon as practicable but in any event not later than 90 days after the date of the enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives a draft of any technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

EFFECTIVE DATE

Sec. 4. The amendments made by this Act apply with respect to taxable years ending after December 31, 1973.

By Mr. DOMENICI:

S. 3136. A bill to authorize the National Endowment for the Arts to make grants to States for the establishment and maintenance of State centers for American arts and handicrafts, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. DOMENICI. Mr. President, today I send to the desk for appropriate reference a bill to authorize the National Endowment for the Arts to make grants to States for the establishment and maintenance of State centers for American arts and handicrafts.

A few months ago I met with artists and craftsmen in New Mexico because I believe that our American handicrafts are of great importance. They are creative expressions of those who produce them and give great satisfaction to those who come to own them. In addition, they have great historical interest because they express the unique character of the time and place in which they are made as well as that of the person who creates them. They generally reinforce high quality in design and project it in time, especially when the skills they require are handed on from generation to generation.

I asked these artists and craftsmen for their views on how best the Federal Government might assist them. There was quick agreement that the Government could assist by helping States to establish centers or workshops, similar to the Pronof in Juarez which began as a "World's Fair of Mexican Art," and has become a permanent group of shops selling arts.

Mr. President, my bill would declare it the policy of the United States to support, enhance, and stimulate American arts and handicrafts by providing financial assistance for the establishment and maintenance for a center for American arts and handicrafts in each State.

Mr. President, I believe that the arts and handicrafts will play an important role in this country's Bicentennial celebration. And, what better time to establish a record of our time by encouraging and stimulating American arts and handicrafts.

I request unanimous consent that this bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "American Arts and Handcrafts Act".

DECLARATION OF PURPOSE

Sec. 2. The Congress declares it to be the policy of the United States to support, enhance, and stimulate American arts and handcrafts by providing financial assistance for the establishment and maintenance for a Center for American Arts and Handcrafts in each State.

DEFINITIONS

Sec. 3. As used in this Act—

(1) the term "American arts and handcrafts" has the meaning given that term in regulations prescribed by the Chairman of the National Endowment for the Arts;

(2) the term "Chairman" means the Chairman of the National Endowment for the Arts;

(3) the term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands; and

(4) the term "workshop" means an activity the primary purpose of which is to encourage the artistic development or enjoyment of amateur, student, or other nonprofessional participants, or to promote scholarship and teaching among the participants.

AUTHORIZATION AND ALLOCATIONS

Sec. 4. (a) There are authorized to be appropriated for the fiscal year ending June 30, 1974, and for each of the three succeeding fiscal years $5,300,000 to enable the chairman to make grants under this Act.

(b)(1) Of the sums appropriated pursuant to subsection (a) in each fiscal year, each State which has an application approved by the Chairman shall be allotted $100,000. For the purpose of this paragraph, the term "State" includes the District of Columbia but does not include the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(2) The Chairman shall allot the remainder of the sums appropriated, but not in excess of $200,000 in any fiscal year, among the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands, according to their respective needs upon an application approved by the Chairman.

(3) If the sums appropriated pursuant to subsection (a) are insufficient to make the allotments under paragraph (1) in full, such sums shall be allotted among the States in equal amounts.

PROGRAM AUTHORIZED

SEC. 5. (a) The Chairman, with the advice of any appropriate interagency committee on arts and crafts of the Federal Government, is authorized to establish and carry out a program, in accordance with the provisions of this Act, of grants to States to enable each such State to establish and maintain a center for American arts and handcrafts in that State.

(b) The Chairman is authorized to provide technical assistance to any State having an application approved under this section with respect to the establishment or operation of a center assisted under this Act.

(c) No grant may be made under this section, except upon application therefor which is submitted to the Chairman in accordance with regulations and procedures established by the Chairman. Each application shall—

(1) provide a description of the activities of the center to be established and maintained in that State, including a description of the facility to be established and operated at that center which will—

(A) permit observation by the public of the craftsmen at work,

(B) facilitate the conduct of workshops at the center, and

(C) contain appropriate equipment and facilities for the display, sale, and exhibition of American arts and handcrafts at the center;

(2) provide assurances that the State will pay from non-Federal sources the remaining costs of carrying out the application;

(3) provide fiscal control and fund accounting procedures necessary for the proper disbursement and accounting of Federal funds paid to that State under this Act; and

(4) provide such reports as may reasonably be required by the Chairman and such records as are necessary to evaluate the correctness and verification of such reports.

(d) Applications for grants under this Act may be approved by the Chairman only if the application meets the requirements set forth in subsection (c) of this section.

PAYMENTS

SEC. 6. (a) From the amounts allotted to each State under section 4(b), the Chairman shall pay to that State an amount equal to the Federal share of the cost of carrying out its application. Such payments may be made in installments by way of reimbursement or in advance with necessary adjustments on account of overpayments or underpayments.

(b) The Federal share for any fiscal year shall be 50 per centum of the cost of carrying out an application of the State with a maximum of Federal contribution of $100,000 in any one year.

WITHHOLDING

SEC. 7. Whenever the Chairman, after reasonable notice and opportunity for hearing, finds that—

(1) a State is not complying substantially with the provisions of this Act; and

(2) a State is not complying substantially with the provisions of its application approved under section 5 of this Act,

the Chairman shall immediately notify the State with respect to which such funding was made that no further payments will be made under this Act to such State until there is no longer any failure to comply.

By Mr. CRANSTON (for himself and Mr. WEICKER) (by request):

S. 3137. A bill to clarify the authority of the Small Business Administration and for other purposes; and

S. 3138. A bill to amend the Small Business Act. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. CRANSTON. Mr. President, today I am introducing, by request, two bills that effect changes in the Small Business Administration. One proposal would effect three amendments to section 4(c)4 of the Small Business Act governing the amount of loans, guarantees, and other obligations. The Small Business Administration's revolving ceiling authorization expires June 1974. The other proposal is a technical bill which transfers title IV of the Economic Opportunity Act of 1964 to the Small Business Act. The Small Business Administration has been authorized to carry out these programs since 1966, and this transfer of authority to the Small Business Act is only to eliminate any possible confusion upon the impending expiration of the Economic Opportunity Act. Other technical amendments are included. Hearings are scheduled on these bills in the Subcommittee on Small Business March 13 and 14.

I ask unanimous consent that the text of the bills and analysis be printed in the RECORD.

There being no objection, the bills and analyses were ordered to be printed in the RECORD, as follows:

S. 3137

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Amendments of 1974".

SEC. 1. (a) The Small Business Act is amended—

(1) by redesignating subsection (b) of section 2 as subsection (c) and by adding after subsection (a) of that section the following new paragraph:

"(b) The assistance programs authorized by sections 7(i) and 7(j) of this Act are to be utilized to assist in the establishment, preservation, and strengthening of small business concerns and improve the managerial skills employed in such enterprises, with special attention to small business concerns (1) located in urban or rural areas with high proportions of unemployed or low-income individuals; or (2) owned by low-income individuals; and to mobilize for these objectives private as well as public managerial skills and resources.";

(2) by amending clause (B) of paragraphs (1) and (2) of section 4(c) and clause (A) of paragraph (4) of that section by striking out "and 8(a) of this Act," and inserting in lieu thereof "7(i), and 8(a) of this Act, and" and by striking out "and title IV of the Economic Opportunity Act of 1964,";

(3) by amending clause (D) of paragraph 4 of section 4(c) by striking out "title IV of the Economic Opportunity Act of 1964" and inserting in lieu thereof "section 7(i) of this Act"; and

(4) by adding at the end of section 7 the following three new subsections:

"(i) (1) The Administration also is empowered to make, participate (on an immediate basis) in, or guarantee loans, repayable in not more than fifteen years, to any small business concern, or to any qualified person seeking to establish such a concern, when it determines that such loans will further the policies established in section 2(b) of this Act, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals or owned by low-income individuals: *Provided, however,* That no such loans shall be made, participated in, or guaranteed if the total of such Federal assistance to a single borrower outstanding at any one time would exceed $50,000. The Administration may defer payments on the principal of such loans for a grace period and use such other methods as it deems necessary and appropriate to assure the successful establishment and operation of such concern. The Administration may, in its discretion, as a condition of such financial assistance, require that the borrower take steps to improve his management skills by participating in a management training program approved by the Administration:

Provided, however, That any management training program so approved must be of sufficient scope and duration to provide reasonable opportunity for the individuals served to develop entrepreneurial and managerial self-sufficiency.

"(2) The Administration shall encourage, as far as possible, the participation of the private business community in the program of assistance to such concerns, and shall seek to stimulate new private lending activities to such concern through the use of the loan guarantees, participations in loans, and pooling arrangements authorized by this subsection.

"(3) To insure an equitable distribution between urban and rural areas for loans between $3,500 and $50,000 made under this subsection, the Adminstration is authorized to use the agencies and agreements and delegations devleoped under title III of the Economic Opportunity Act of 1964, as amended, as it shall determine necessary.

"(4) The Administration shall provide for the continuing evaluation of programs under this subsection, including full information on the location, income characteristics, and types of business and individuals assisted, and on new private lending activity stimulated, and the results of such evaluation together with recommendations shall be included in the report required by section 10 (a) of this Act.

"(5) Loans made pursuant to this subsection (including immediate participation in and guarantees of such loans) shall have such terms and conditions as the Administration shall determine, subject to the following limitations—

"(A) there is reasonable assurance of repayment of the loan;

"(B) the financial assistance is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

"(C) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made;

"(D) the loan bears interest at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (ii) such additional charge, if any, toward covering other costs of the program as the Administration may determine to be consistent with its purposes: *Provided, however,* That the rate of interest charged on loans made in redevelopment areas designated under the Public Works and Economic Development Act of 1965 (42 U.S.C. 3108 et seq.) shall not exceed the rate currently applicable to new loans made under section 201 of that Act (42 U.S.C. 3142); and

"(E) fees not in excess of amounts necessary to cover administrative expenses and probable losses may be required on loan guarantees.

"(6) The Administration shall take such steps as may be necessary to insure that, in any fiscal year, at least 50 per centum of the amounts loaned or guaranteed pursuant to this subsection are allotted to small business concerns located in urban areas identified by the Administration as having high concentrations of unemployed or low-income individuals or to small business concerns owned by low-income individuals. The Administration shall define the meaning of low income as it applies to owners of small business concerns eligible to be assisted under this subection.

"(7) No financial assistance shall be extended pursuant to this subsection where the Administration determines that the assistance will be used in relocating establishments from one area to another if such relocation would result in an increase in unemployment in the area of original location.

"(j)(1) The Administration is authorized to provide financial assistance to public or private organizations to pay all or part of the costs for projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under subsection 7(i) of this Act, with special attention to small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals.

"(2) Financial assistance under this subsection may be provided for projects, including without limitation—

"(A) planning and research, including feasibility studies and market research;

"(B) the identification and development of new business opportunities;

"(C) the furnishing of centralized services with regard to public services and government programs, including programs authorized under subsection (i);

"(D) the establishment and strengthening of business service agencies, including trade associations and cooperatives;

"(E) the encouragement of the placement of subcontracts by major business with small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals, including the provision of incentives and assistance to such major businesses so that they will aid in the training and upgrading of potential subcontractors or other small business concerns; and

"(F) the furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served;

"(3) The Administration shall give preference to projects which promote the ownership, participation in ownership, or management of small business concerns by residents of urban areas of high concentration of unemployed or low-income individuals, and to projects which are planned and carried out with the participation of local businessmen.

"(4) The financial assistance authorized by this subsection includes assistance advanced by grant, agreement or contract, but does not include the procurement of plant or equipment, or goods or services.

"(5) The Administration is authorized to make payments under grants and contracts entered into under this subsection in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants, with necessary adjustments on account of overpayments or underpayments.

"(6) To the extent feasible services under this subsection shall be provided in a location which is easily accessible to the individuals and small business concerns served.

"(7) The Administration shall provide for an independent and continuing evaluation of programs under this subsection, including full information on and analysis of the character and impact of managerial assistance provided, the location, income characteristics and types of businesses and individuals assisted, and the extent to which private resources and skills have been involved in these programs. Such evaluation together with any recommendations deemed advisable by the Administration shall be included in the report required by section 10(a) of this Act.

"(8) The Administration shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, so that contracts, subcontracts and deposits made by the Federal Government or in connection with programs aided with Federal funds are placed in such a way as to further the purposes of this subsection and of subsection 7(i) of this Act. The Administration shall provide for the continuing evaluation of programs under this subsection and the results of such evaluation included in the report required by section 10(a) of this Act.

"(k) In carrying out its functions under subsections 7(i) and 7(j) of this Act, the Administration is authorized—

"(1) to utilize, with their consent, the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or political subdivision of a State, accept and utilize the services and facilities of such State or subdivision without reimbursement;

"(2) to accept, in the name of the Administration, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal or mixed, tangible or intangible, received by gift, desire, bequest, or otherwise;

"(3) to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)); and

"(4) to employ experts and consultants or organizations thereof as authorized by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a), except that no individual may be employed under the authority of this subsection for more than 100 days in any fiscal year; to compensate individuals so employed at rates not in excess of $100 per diem, including travel time; and, to allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5 of such Act (5 U.S.C. 73b–2) for persons in the Government service employed intermittently, while so employed: *Provided, however,* That contracts for such employment may be renewed annually."

(b) Title IV of the Economic Opportunity Act of 1964, as amended, is hereby repealed; and all references to such title in the remainder of that Act are repealed.

SEC. 2. The Small Business Act is further amended—

(1) by amending section 5(b) by striking out "and" following paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and" and by adding at the end of paragraph (9) the following new paragraph:

"(10) upon purchase by the Administration of any deferred participation entered into under section 7 of this Act, continue to charge a rate of interest not to exceed that initially charged by the participating institution on the amount so purchased for the remaining term of the indebtedness."

(2) by striking out the third sentence in paragraph (2) of section 7(h) and inserting in lieu thereof:

"The Administration's share of any loan made under this subsection shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity that are comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum plus an allowance adequate in the judgment of the Administration to cover administrative costs under the program."

SEC. 3. Section 403 of the Small Business Investment Act of 1958 is amended—

(1) by striking out "$10,000,000" and inserting in lieu thereof "$35,000,000";

(2) by adding after the second sentence the following new sentence: "Additional capital is hereby authorized to be appropriated to such fund in such an amount as may be necessary to carry out the provisions and purposes of this part and part B of this title."; and

(3) by striking out the word "initial" from the fourth sentence and from the fifth and final sentence.

ANALYSIS OF S. 3137

Section 1(a)(1) of this bill amends section 2 of the Small Business Act to reflect the policy previously stated in title IV of the Economic Opportunity Act of 1964, the substance of which title in made sections 7(i) and 7(j) of the Small Business Act by section 1(a)(4) below.

Sections 1(a)(2) and 1(a)(3) of this bill amend paragraphs (1), (2) and (4) of section 4(c) of the Small Business Act, to make technical changes in terms of program funding, repayments to revolving funds, and program ceilings made necessary by the transfer to the Small Business Act of the authority previously embodied in title IV of the Economic Opportunity Act of 1964.

Section 1(a)(4) of the bill adds new subsections (i), (j), and (k) to section 7 of the Small Business Act, transferring thereto generally *en toto* the authority to render financial assistance to socially or economically disadvantaged persons previously authorized by title IV of the Economic Opportunity Act of 1964. The Small Business Administration has been authorized to carry out these programs since 1966, and this transfer of authority to the Small Business Act is only to eliminate any possible confusion upon the impending expiration of the Economic Opportunity Act.

In addition, the Administrator of SBA is authorized to utilize, with respect to title IV of the Economic Opportunity Act, some of the powers conferred on the Director of OEO by title VI of the Economic Opportunity Act. Since many of these powers are already contained in the Small Business Act, all of the title VI authorities referred to need not be transferred to the Small Business Act.

Thus, section 1(a)(4) also transfers to the Small Business Act in title VI authorities already conferred on SBA by the Economic Opportunity Act and which are necessary to administer the title IV programs but which are not already provided SBA by the Small Business Act. The new subsection 7(j) of the Small Business Act contains the provisions of section 609(2) and part of section 602(n) of the Economic Opportunity Act, and the new subsection 7(k) contains the provisions of sections 602(e), 602(f), 602(g) and 602 (b)(1) of the Economic Opportunity Act.

Section 1(b) repeals the aforementioned title IV of the Economic Opportunity Act of 1964.

Section 2(1) of the bill would provide that, in the case of loans guaranteed by the Small Business Administration pursuant to section 7 of the Small Business Act, for purchase of which the participation institution has made a valid demand under the terms of the guarantee, a rate of interest not to exceed that charged by the institution may continue to be charged by SBA for the remaining term of the outstanding indebtedness. Under existing legislation, when the Agency purchases the guaranteed portion from the participant and assumes servicing of the account, the rate of interest to the borrower is automatically reduced to the statutory rate applicable to the SBA share, which can vary between 3 and 6¾ percent per annum.

This situation creates an inconsistency because interest may be charged by participating financial institutions at a rate which is legal and reasonable, and the Agency may reimburse the participant at that rate of interest up to a rate of 10½ percent. Yet, if the Agency purchases the guarantee, the interest on that share must be reduced to the statutory rate applicable to the SBA share. This also creates an inequity due to the fact that most purchase actions result from a condition of borrower default. A defaulted borrower automatically is the beneficiary of reduced interest rates, while those borrowers who maintain their loan accounts in current status must bear the burden of the higher interest costs permitted to be charged by participating institutions. While SBA does not know the extent to which borrowers, with or without the cooperation of participating banks, purposely permit their loans to go into a default condition so as to receive this reduced interest benefit, the law as presently drafted does permit such activity. The purpose of this amendment is to close that specific loophole.

Section 2(2) clarifies section 7(h) (2) of the Small Business Act relating to the rate of interest applicable to loans under SBA's handicapped assistance program. Under the existing legislation, "(a)ny loan made under this subsection shall bear interest at a rate of 3 per centum per annum." If such a rate were applicable to the participating lending institution's share of such a loan, obviously no participation loans would be made. Since section 7(h) also encourages participation loans, the inconsistency is thus apparent. While the Comptroller General has ruled that participating institutions may charge a rate that is "legal and reasonable," he also strongly suggests that SBA seek appropriate revisions of the language in question.

This proposal implements that suggestion. Section 2(a) also adjusts the interest rate applicable to such handicapped assistance loans by making this rate a "formula" rate as are all other business loan programs authorized by section 7(b) of the Small Business Act.

Section 3 of the bill amends section 403 of the Small Business Act of 1958. Under title IV of the 1958 Act, SBA is authorized to guarantee up to 90 percent of a surety's loss on any bid, payment or performance bond issued to a small concern on any contract up to $500,000 in amount, where the bond would have been unavailable without such guarantee. Because of the minimal fees charged for a surety bond, and the small additional fee SBA is realistically able to charge, this program is not expected to be self-sustaining.

The loss rate is now 1.3 percent of total commitments less pro rata completions (for contractors who were previously considered unbondable for any number of reasons, including size, capacity and capital), substantially less than the original projection of 2 percent. However, since SBA has been collecting only .3 percent on contracts, the cost to SBA will be substantial. With the current loss rate on the $767 million in contract guarantees through December 31, 1973, the contingent liability under this program has almost reached the amount which can be supported by the initial capital presently allocated to the Section 403 revolving fund. Our projection for the end of FY 1974 is for $1.1 billion outstanding. With the rate of increase continuing to accelerate, total commitments under the program could reach $1.9 billion by the end of FY 1975. Based on the current loss rate, almost $20 million will be required to support the program's contingent liability.

It should be noted that the Section 403 revolving fund also provides the capital for SBA's lease guarantee program under which SBA guarantees the payment of rentals due under leases of commercial and industrial properties entered into by small business concerns where such leases would not be available without the SBA guarantee. Therefore, there are two programs operating out of a single revolving fund: the lease guarantee program, which by statute must be operated on a sound actuarial basis to the extent practicable and is in fact self-sustaining; and the surety bond program, which is not self-sustaining and requires substantially greater capital.

It is clear that funds presently allocated to support the rapidly growing and successful lease and surety bond guarantee programs are already insufficient. Section 3(1) of the bill is based on SBA estimates that a total of $35 million in capital will be required in order to sustain both programs through FY 1975. Of this $35 million, it is estimated that $10 million will be sufficient capital to maintain the lease guarantee program, and $25 million would be allocated for the surety bond guarantee program. These amounts take into account the projected growth of both programs through FY 1975, the amount of funds required to support the contingent liability of each, plus a 15 percent reserve to protect against having to suspend either program in the face of more rapid growth than is projected. Because both programs are not separately funded, it is imperative that a healthy reserve for each be established to prevent erosion of either program's allocated capital at the expense of the other's. By providing initial capital thought to be sufficient to maintain the programs through FY 1975, it is hoped that SBA will be able to coordinate future requests for such capital with its biannual proposals involving the adjustment of business loan and investment fund ceilings established under section 4(c) of the Small Business Act.

Section 3 also clarifies SBA's authority to seek such additional capital in the form of appropriations to the revolving fund as may be necessary for the successful continued operation of both programs. The existing prohibition against investment of initial capital and the existing requirement for the payment of interest to Treasury on net outstanding disbursements of initial capital is also broadened to apply to any additional capital appropriated to the fund under this, or any other bill.

S. 3138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (4) of section 4(c) of the Small Business Act is amended—

(1) by striking out "$4,875,000,000" and inserting thereof "$6,000,000,000";

(2) by striking out "$556,250,000" and inserting in lieu thereof "$725,000,000"; and

(3) by striking out "$381,250,000" and inserting in lieu thereof "$450,000,000".

Analysis of S. 3138

The bill would effect three amendments to the provisions of section 4(c) (4) of the Small Business Act governing the amount of loans, guarantees, and other obligations or commitments which may be outstanding at any one time from the Business Loan and Investment Fund.

The first of these amendments would increase from $4,875,000,000 to $6,000,000,000 the amount which may be outstanding from the fund at any one time under sections 7(a), 7(b) (3), 7(e), and 8(a) of the Small Business Act, and Title IV of the Economic Opportunity Act of 1964. The second amendment would increase from $556,250,000 to $725,000,000 the amount which may be outstanding at any one time under Title III of the Small Business Investment Act of 1958. The third amendment would increase from $381,250,000 to $450,000,000 the amount which may be outstanding at any one time under Title IV of the Economic Opportunity Act of 1964.

A review has been made of the probable requirements through June 30, 1975, of the programs governed by the existing limitation of $4,875,000,000. These projections indicate that a limitation of $5,887,800,000 is needed for the combined activities. In order to provide a reasonable reserve for contingencies, it is recommended that the limitation amount be increased to $6,000,000,000.

Section 4(c) (4) provides a separate limitation of $556,250,000 on the amount of loans, guarantees, etc., which may be outstanding at any one time for Small Business Investment Company financing under Title III of the Small Business Investment Act of 1958. The projected amount outstanding at June 30, 1975, for these financing activities is $677,300,000. In order to provide a reserve for contingencies in this limitation too, it is recommended that the existing limitation of $556,250,000 be increased to $725,000,000.

The projected amount outstanding at June 30, 1975, for business loans under Title IV of the Economic Opportunity Act of 1964, as included in the figure of $5,887,800,000 cited above, is $408,500,000. Allowing in this instance also a reserve for contingencies, it is recommended that the present limitation of $381,250,000 for Title IV loans be increased to $450,000,000.

By Mr. JAVITS:

S. 3139. A bill to amend the Public Health Service Act to assure the development of a national health policy and of effective State health regulatory programs and area health planning programs, and for other purposes. Referred to the Committee on Labor and Public Welfare.

HEALTH PLANNING ACT

Mr. JAVITS. Mr. President, I am introducing the Health Planning Act, a bill fashioned upon H.R. 12053, but with changes, H.R. 12053 being a measure introduced by the distinguished chairman of the House Public Health and Environment Subcommittee, Representative Paul Rogers; my congressional colleague, friend and fellow New Yorker and a key minority member of the subcommittee, Representative James Hastings; and physician/attorney, Representative William Roy.

The differences between the bill I introduce today and H.R. 12053, other than technical changes which reflect my own drafting preferences and the deletion of the House bill's provisions calling for the establishment of a Presidential National Council for Health Policy in the Office of the President, are in its provisions with regard to the organization and designation of State health commissions to perform delineated regulatory functions.

The Department of Health of the State of New York has expressed deep and legitimate concerns about the provisions of H.R. 12053. I ask unanimous consent that the full text of the New York State Department of Health letter and detailed analysis of concerns be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

State of New York,
Department of Health,
Albany, N.Y., February 13, 1974.

Hon. Jacob K. Javits,
U.S. Senate,
Washington, D.C.

Dear Senator Javits: I am very deeply concerned with H.R. 12053 and am attaching comments setting forth the position of this Department.

I should like to emphasize that this type of legislation will in no way improve the capability of New York State to serve its citizens. Indeed, the long-term effect will be highly detrimental, for it will not be possible to recruit or retain well trained health officials to serve as puppets dangled by the Secretary's strings.

Past history would indicate that the Secretary of the future will be neither skilled in nor highly interested in health matters. What is far worse is the lack of a trained cadre of health professionals at the Washington level to serve as his staff. We have instead a scattering of specialists, some highly competent in narrow fields, who are embedded in a vast amorphous matrix of mediocrity in which communication and coordination are sadly lacking. Even if the Public Health Service were reconstituted and revivified, there would still not be sufficient know-how available to the Secretary to enable him wisely to rule his fiefdom of 200 million subjects.

Incidentally, the same comments can be applied to H.R. 10955, which would transfer responsibility for protection of public water supplies to the Environmental Protection Agency Administrator. This also is an unnecessary and pernicious piece of legislation.

I sincerely hope you will find it possible to review the bills and give some credence to the enclosed comments.

Sincerely,
Hollis S. Ingraham, M.D.,
Commissioner of Health.

COMMENTS ON H.R. 12053

In the past decade or so, terms like "medical market area" and "problem shed area" have come into vogue among planners. They are used to describe areas linked by common features or by a physical proximity that spans political boundaries of city, county or state.

At first glance, approaching health problems on a "problem shed" basis appears sound and reasonable. The weight of experience, however, argues for less unbounded enthusiasm. Attacking health problems on a "problem shed" basis often requires, among other things, a new agency specifically designed for the purpose. A new agency, existing among older ones, can create more problems than it solves. Special regional bodies or compact agencies threaten to introduce more, not less, fragmentation and duplication of effort.

A more serious drawback of regional agencies, however, is that they are rarely given the power they need to function effectively. The participating governments involved are quite naturally unwilling to pass legislation giving any real power to the regional agency because this would mean they would have to surrender some of their own autonomy. Since this asks more than human nature can give, regional bodies frequently end up with authority so diluted that they are rendered ineffective.

We on the State and local operating levels are aware of the rush of history which has compelled the Federal government to perform in a larger arena. We know that the old lines of responsibility have faded under which Washington simply fought the wars and delivered mail, state governments built the roads and locked up the more important criminals, while local government provided water, schools and picked up the trash.

In spite of the well-intentioned but demonstrably ineffective efforts under Comprehensive Health Planning and Regional Medical Programs to create a regionally-oriented independent, or quasi-governmental agency approach to solving social or environmental problems, legislation recently introduced into Congress seeks to force upon the states just such a system or organization with the roots of its power centered in Washington.

The purpose of the proposed legislation, H.R. 12053, is quite laudable in that it seeks to "develop recommendations for a national health policy, to recommend planning for health services manpower and facilities, and to authorize financial assistance for the development of programs to further that policy." The legislation then proceeds to describe a new system of government, centrally based in Washington, which would preempt states' rights in determining priorities for the health care of its citizens, overlook the constitutional mechanisms by which Congress relates to the individual states, and totally ignore the existence in progressive states of programs which have already proven successful in solving problems which this legislation hopes to be able to solve.

One of the major problems is the limitation of the state health commission's role to a ministerial certificate-issuing function by the operation of Section 613, subsection (e), and the constraints on the commission's exercise of regulatory authority created by Section 613, subsection (d). Furthermore, disagreements between the central state commission and the area agency are first resolved by the test of conformity with LGP and SPP which are established by the area agency in the first instance but are subject to the annual review and approval by the central state commission (see Section 613 (a) and Section 627 (a)(1)).

If disagreements are not resolvable by reference to the LGP and SPP standard, they are reviewable by the procedures and criteria established by the Secretary under Section 614. In turn, the Secretary's rules of procedure and criteria govern all of the regulatory functions of the state commission under Section 627. Although the functions of the commission are denominated as "regulatory" by Section 627, the effect of:

The possession of initiative by the area agency in establishing the LGP and SPP standard (Section 613(a) and Section 627 (a)(1)).

The Secretary's power to determine all substantive and procedural standards for the conduct of the commission's business (Section 614).

The possession of initiative by the area agency to govern licensure of manpower, services and facilities as needed or not needed; fundable or not fundable, etc. (Section 613(e) (f) and (g); and

The conditional designation and temporary existence of the state commission subject to the sole discretion of the Secretary (Section 625); makes the commission, at most, a ministerial body without real authority or regulatory power. Furthermore, this state ministerial body is accredited without requirement of the consent of the Governors or Legislatures of the several states as to scope of powers or jurisdiction of the area agencies (Section 611(b)) or the scope and powers of the state commission (Section 625 (a)). Furthermore, if the Governor and Legislature of any state choose to refuse to cooperate with the subordination of their regulatory functions to the Secretary's control by wrtiten agreement under Section 625, or even if the state does try to cooperate with the Secretary, if the Secretary is not satisfied with the state's performance the Act authorizes the Secretary to preempt all of the regulatory functions by merely giving the Governor of the state six months' notice (Section 627(d)).

Furthermore, there are no substantive standards in this Act which are to be followed by the Secretary in making his unilateral decision to:

Preempt or not to preempt the states' police power over health affairs;

To continue or not to continue in effect any designation agreement with the state; or

To assign or not to assign to a state commission any of the regulatory functions.

The only standards in the bill which are to guide the Secretary's unilateral determination are his finding that the commission's performance is "necessary", "adequate", "satisfactory", "proper", "efficient", "appropriate", or "effective".

This lack of substantive standards for the unilateral exercise of power by a Federally appointed official over state offices filled by elected officials is unprecedented and probably unconstitutional. It reflects a degree of Federal paternalism which has heretofore existed only in the Federal Government's relations with native American indians.

This Act reduces the states to the status of Federal reservations whose affairs are controlled by a single official who is not directly accountable to the people he will *govern*

This proposal puts the Secretary of the Department of Health, Education and Welfare into the position of establishing and regulating the regional and state agencies created under the law, and thus, through them, excluding states from the exercise of their legitimate responsibilities for protection of the public health. The proposal would usurp the states' executive and legislative authority to structure and regulate state agencies concerned with implementing health programs. Both the regional and state agencies would be approved by and responsible to the Secretary who would regulate their organization form, staffing, administrative procedures, plans and continuing jurisdiction.

RECOMMENDATIONS

The purpose of this legislation could be much better served by recognizing and supporting more fully, those existing state programs which have proven successful in accomplishing the same purposes, and by encouraging the development of such programs in states which do not have them. In all instances, the primary responsibility should remain firmly with the state and not with the Secretary of the Department of Health, Education and Welfare. The constitutional, legislative, and administrative issues and problems which are raised or caused by this legislation, would only serve to lessen the effectiveness in many states of those agencies of government which are directly accountable to the people through the usual processes.

The general recommendations for fulfilling the purposes of this legislation are:

Establish a mechanism for development of a national health policy by creation of a Federal Department of Health responsible for attaining the national health priorities outlined on pages 8–9 of the bill. A cabinet level department with fixed responsibilities avoids the creation of still another supra-cabinet level bureaucracy called a "National Council for Health Policy" compounding the existing overlapping fragmentation in the name of coordination.

The bill should charge the Federal Department of Health with the duty to establish minimum regulatory standards to be administered by the individual states encompassing the financing and supply of health resources (both the facilities and manpower) and the availability of health services provided by the organizations using such resources to assure access to health services commensurate with the public need. The failure of a state to implement these minimum national standards, within a specified period after the enactment date, should result in the economic penalty of reduction in Federal support to the state.

The people of this Nation will not be served by having their state governments reduced to field outposts for a monolithic Federal bureaucracy. The idea of 50 state laboratories of thought and action is still valid. It deserves to be nurtured by Washington not starved, while at the same time all Federal health policy is developed, promulgated and coordinated on the executive level from a single address.

Utilization and encouragement of state leadership and innovation is fundamental to the Federal idea. The preservation of states' rights depends upon the exercise of states' responsibilities. The time is upon us now once again to call upon our states to be active where they have been passive, progressive where they have been timid, creative where they have been cautious. In a word, let's get back to fundamentals—it is time again for the states to lead.

Mr. JAVITS. Mr. President, in essence the State's problems relate to the provisions of H.R. 12053 which:

Would preempt the States' exercise of police power over public health, school health, licensing, et cetera.

Would suspend the operation of the New York State constitution on the arrangement of State departments.

Would preempt the authority of the Governor of a State to discharge his duties of supervision over the governmental subdivisions of the state as to the bill's delineated police power functions.

Would permit he HEW Secretary to circumvent the Federal system of regulating interstate matters ordinarily handled by interstate compacts which require an act of the Congress with the consent of the State concerned.

The bill I introduce today amends the House bill and seeks to alleviate New York State concerns by providing:

First. In lieu of the Secretary designating health market areas they are established by the Governors of each State subject to the Secretary's approval; and where an area should for rational planning cross State boundaries, the Secretary may request the States and the Congress to consolidate them into a single area pursuant to an interstate compact.

Second. In lieu of local health planning agencies being organized as ordinary nonprofit corporations it authorizes their establishment where appropriate, as public benefit corporations, a unique and successful legal concept in New York State which provides greater authority and flexibility in management and operation. In addition there is the advantage of increased public accountability and visibility when compared to "not for profit corporations," they also have unique financing capacities which would be particularly helpful in the health care facilities planning and developmental activities. For example, interest guarantees or loans made by the Federal Government when funneled into such an entity could be managed as consolidated temporary financing and bond issues for an entire area. More favorable debt service costs would accrue for the entire area and be particularly helpful in the implementation of the bill's proposed short-term plan or the long-term plans.

Third. Deletes administrative criteria, compensation, and composition of membership of State health commissions and rather permits them to be established pursuant to State law.

Fourth. In lieu of Federal intervention into State public health police powers where a State fails to comply with the provisions of the bill, the bill rather withdraws all Federal funding program support.

I have introduced this bill to insure that when the Health Subcommittee of the Committee on Labor and Public Welfare, of which I am ranking minority member, begins its hearings on the complex health planning and development issue on Monday, March 11, there are in addition to the subcommittee chairman's bill, alternative legislative proposals to which the witnesses may address themselves. I also intend to introduce the administration's bill and another bill being developed jointly by Representatives ROGERS and HASTINGS.

I believe we must carefully examine all legislative alternatives so that we may fashion the best final measure from them all. We should not have only one legislative road to travel.

The bill I introduce today and the other bills on this subject I plan to introduce—about none of which I am doctrinaire—along with Senator KENNEDY's bill will enable us to stimulate a thorough debate of the critical issue before us as we seek to develop a new and more effective system for the planning and development of health services as contrasted to the expiring current legislative authority for existing planning and development programs; such as comprehensive health planning, regional medical programs and Hill-Burton.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Health Planning Act".

SEC. 2. Title IV of the Public Health Service Act is amended to read as follows:

"TITLE VI—HEALTH PLANNING

"Part A—HEALTH PLANNING AGENCIES

"HEALTH AREAS

"SEC. 601. (a) The Governors of each State, subject to the approval of the Secretary shall establish health areas with respect to which health planning agencies shall be designated under section 606. Each health area shall meet the following requirements:

"(1) The area shall be a national region for the proper planning and development of health services which has the available resources to provide all necessary health services for the residents of the area.

"(2) To the extent practicable, the area shall include at least one center for the provision of highly specialized health services.

"(3) The area shall follow State boundaries, except that the Secretary may request the States and the Congress to consolidate two or more areas established by the States, into a single area pursuant to an interstate compact, which crosses State boundaries if the Secretary determines that such a region is a more rational region for the proper planning and development of health services.

"(4) The area, upon its establishment, shall have a population of not less than five hundred thousand or more than three million; except that (A) the population of an area may be more than three million if the area includes a standard metropolitan statistical area (as determined by the Office of Management and Budget) with a population of more than three million, and (B) the population of an area may be less than five hundred thousand if the area comprises an entire State which has a population of less than five hundred thousand.

"(5) To the maximum extent feasible, the boundaries of an area may not cross the boundaries of a standard metropolitan statistical area (as determined by the Office of Management and Budget).

The Secretary shall coordinate his designation of areas under section 1152 of the Social Security Act of areas for Professional Standards Review Organizations with the health areas so that either a health area designated under this section comprises the entire territory of one or more areas designated under such section 1152 or an area designated under such section 1152 comprises the entire territory of one or more health areas designated under this section.

"(b) (1) Except for those areas to be designated by interstate compact, within one hundred and twenty days following the date of the enactment of this section, the Secretary shall publish in the Federal Register proposed boundaries for health areas covering the United States. If the respective States fail to establish health areas within sixty days following the date of enactment of this section, the Secretary shall establish such health areas soliciting the views of the Governor (or other chief executive officer) of each State. During the thirty-day period beginning on the date of the publication in the Federal Register of the proposed boundaries of the health areas, the Secretary shall consider comments submitted to him by other interested persons respecting the boundaries of such areas and at the expiration of such period he shall publish in the Federal Register the boundaries of the health areas.

"(2) The Secretary shall review on a continuing basis the appropriateness of the boundaries of the health areas and may recommend to the Governors of each State boundary revisions.

"HEALTH PLANNING AGENCIES

"SEC. 602. (a) (1) For purposes of this title, the term 'health planning agency' means a public benefit corporation which is organized and operated in the manner described in subsection (b) and which is capable, as determined by the Secretary, of performing each of the functions described in section 603. The Secretary shall by regulation establish standards and criteria for the requirements of subsection (b) and section 603.

"(2) For purposes of this Act, the term 'Public Benefit Corporation' means a corporation created by a State to act as an agency in the administration of civil government. Such a corporation will be not for profit.

"(b) (1) A health planning agency for a health area shall (A) be incorporated in the State which is located (in whole or in part) in that area and which has the largest part of the area's population, and (B) not be a subsidiary of, or otherwise controlled by, any other public benefit corporation or other private legal entity.

"(2) A health planning agency shall have a staff which provides the agency with expertise in at least the following: (A) The gathering and analysis of data, (B) planning, and (C) health manpower, facilities, and services. The size of the professional staff of any agency shall be not less than the greater of 5 or the number obtained by dividing the population (rounded to the next highest one hundred thousand) of the health area which the agency serves by one hundred thousand. The staff of a health planning agency shall be selected, paid, promoted, and discharged in accordance with such system as the agency may establish, except that the rate of pay for any position shall not be less than the rate of pay prevailing in the health area for similar positions in other public or private planning or health service entities.

"(3) (A) Each health planning agency shall have a governing body composed, in accordance with subparagraph (B), of not less than ten members and of not more than thirty members, except that the number of members may exceed thirty if the governing body has established another unit (referred to in this paragraph as an 'executive committee') composed, in accordance with subparagraph (B), of not more than twenty-five members of the governing body and has delegated to that unit the authority to take such action as the governing body is authorized to take. The governing body—

"(i) shall be responsible for the internal affairs of the health planning agency, including matters relating to the staff of the agency, the agency's budget, and procedures and criteria (developed and published pursuant to section 604) for performing its functions under subsections (e), (f), and (g) of section 604;

"(ii) shall be responsible for the approval of the long-range plan and short-term plan required by section 604(b);

"(iii) shall issue an annual report concerning the activities of the agency, include in that report the long-range plan and short-term plan developed by the agency, and make the report readily available to the residents of the health area and the various communications media serving such area;

"(iv) shall reimburse its members for their reasonable costs incurred in attending meetings of the governing body;

"(v) shall meet at least once in each calendar quarter of a year and shall meet at least two additional times in a year unless its executive committee meets for that number of times in that year; and

"(vi) shall conduct its business meetings in public and shall make its records and data available, upon request, to the public.

A quorum for a governing body shall be not less than one-half of the members described in each clause of subparagraph (B). If in the exercise of its functions a governing body appoints a subcommittee of its members or an advisory group, it shall, to the extent practicable, make its appointments to any such subcommittee or group in such a manner as to provide the representation on such subcommittee or group described in subparagraph (B).

"(B) Of the members of the governing body and executive committee (if any) of a health planning agency—

"(i) at least one-third of such members shall be residents of the health area served by such agency who are not providers of health care services and who are broadly representative of the various economic, social, racial, and geographic population groups of such health area;

"(ii) at least one-third of such members shall be residents of such health area who are providers of health services and who are broadly representative of—

"(I) health professionals, public and community health personnel, and allied health personnel;

"(II) the health institutions (including hospitals, extended care facilities, and university health centers) located in such health area and the employees of such institutions not described in subclause (I); and

"(III) persons in such health area who pay for health care services (including direct service and indemnity insurance companies); and

"(iii) at least one-third of such members shall be residents of such health area who hold public elective offices which are broadly representative of the elected governmental authorities in the area.

"For purposes of clauses (i) and (ii), the term 'provider of health services' means an individual who receives (either directly or through his spouse) more than one-tenth of his gross annual income from fees or other compensation for the direct provision of health care services or from financial interests in entities engaged in the direct provision of health services or in producing or supplying drugs or other articles for individuals and entities engaged in the direct provision of such services, or from both such compensation and such interests.

"(c) A health planning agency may establish subarea advisory councils representing parts of the agencies' health area to advise the governing body of the agency on the performance of its functions. To the extent practicable, the composition of a subarea advisory council shall conform to the requirements of subsection (b) (3) (B).

"FUNCTIONS OF HEALTH PLANNING AGENCIES

"SEC. 603. (a) For the purpose of—

"(1) improving the health of residents of a health area,

"(2) increasing the accessibility, acceptability, continuity, and quality of the health services provided them, and

"(3) restraining increases in the cost of providing them health services,

each health planning agency shall have as its primary responsibilities the provision of effective health planning for its health area and the promotion of the development within the area of health services and facilities which meet identified needs, reduce documented inefficiences, and implement the health plans of the agency. To meet its primary responsibilities, a health planning agency shall carry out the functions described in subsections (b) through (g) of this section.

"(b) In providing health planning, development, and regulation for its area, a health planning agency shall perform the following functions:

"(1) The agency shall assemble and analyze data concerning—

"(A) the status of the health of the residents of its health area,

"(B) the status of the health care delivery system in the area and the utilization of that system by the residents of the area,

"(C) the effect the area's health care delivery system has on the health of the residents of the area, and

"(D) the area's health resources, including health facilities and manpower.

"(2) The agency shall, after appropriate consideration of the objectives set forth in subsection (c) of section 607, and the needs and resources described by paragraph (1) of this subsection, annually establish a long-range plan which shall be a detailed statement of goals (A) describing a healthful environment and health systems in the area which, when developed, will assure that quality health services will be available and accessible in a manner which assures continuity of care, at reasonable cost, for all residents of the area; (B) which is responsive to the unique needs and resources of the area; and (C) which takes into account the Secretary's guidelines respecting the area's supply, distribution, and organization of health resources and services.

"(3) The agency shall annually establish a short-term plan which describes objectives which will achieve the goals of the long-range plan and priorities among the objectives. In establishing the short-term plan, the agency shall give priority to those objectives which maximally improve the health of the residents of the area, as determined on the basis of the relation of the cost of obtaining the objectives to the benefits to be derived from obtaining such objectives, and which are fitted to the special needs of the area.

"(4) The agency shall develop and publish specific plans and projects for achieving the objectives established in the short-term plan.

"(c) In implementing its long-range plan and short-term plan, a health planning agency shall perform the following functions:

"(1) The agency shall seek to implement its plans with the assistance of individuals and public and private entities in its health area.

"(2) The agency shall provide, in accordance with the priorities established in the short-term plan, technical assistance to individuals and public and private entities in the area for the development of projects and programs which the agency determines are necessary to achieve the health system described in the long-range plan, including assistance in meeting the requirements of the agency prescribed under section 604.

"(3) The agency shall, in accordance with the priorities established in the short-term plan, make grants to and enter into contracts with individuals and public and private entities in the area to assist them in planning and developing the projects and programs which the agency determines are necessary to achieve the health system described in the long-range plan. Such grants and contracts shall be made from the Area Health Planning Development Fund of the agency established with funds provided under grants made under section 609. No such grant or contract may be used for (A) the support of an established program, (B) to pay the costs incurred by an entity or individual in the delivery of health care services, or (C) for the cost of construction of health facilities.

"(d) Each health planning agency and each Professional Standards Review Organization (designated under section 1152 of the Social Security Act), shall coordinate its activities in accordance with the regulatory guidelines established by the State Health Commission. The agency shall, when requested, provide technical assistance to the State Health Commission and secure data from it for use in the agency's planning and development activities.

"(e) Each health planning agency shall (1) review and approve or disapprove each proposed use within its health area of Federal funds appropriated for a program under this Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 for the development, expansion or support of health faciilties, manpower, or services; and (2) establish priorities for the approval of applications under part C

* * * * *

disapproves under clause (1) a proposed use of Federal funds for a program described in that clause, the Secretary may not make Federal funds available for such program until he has made, upon request of the entity making such proposal, a review of the agency decision. In making any such review of any agency decision, the Secretary shall first consult with the State Health Commission and afford the State Health Commission an opportunity to consider the agency decision and to submit to the Secretray its comments on the decision. The Secretary after taking into consideration State Health Commission comments may make Federal funds available, notwithstanding the agency decision. Each such decision by the Secretary to make funds available shall be submitted to the appropriate health planning agency and State Health Commission and shall contain a detailed statement of the reasons for the decision.

"(f) To assist planning agencies, designated under section 1122 of the Social Security Act, in carrying out their functions under such section 1122, health planning agencies for the areas for which such planning agencies are designated shall review and make recommendations to such planning agencies for the approval or disapproval of all capital expenditures in excess of $100,000 proposed by health service entities in the health areas of such health planning agencies.

"(g) Each health planning agency shall review on a periodic basis the health services offered or proposed to be offered in the health area of the agency and shall make recommendations to each State health commission, designated under section 625 for each State in which the agency's health area is located, for the Commission's certification of such health services under section 627(a)(5). If the State health commission determines that it cannot certify as needed a particular health service, the health planning agency for the health area in which such service is offered or proposed to be offered shall work with the provider or proposed provider of such service, the State health commission, and other appropriate individuals and entities for the improvement or elimination (as the agency determines appropriate) of such service. After the initial certification as needed by a State Health Commission of a health service offered within its health area, the agency shall review, at least every five years, the certification of such health service.

"PROCEDURES AND CRITERIA FOR REVIEWS OF PROPOSED HEALTH SYSTEM CHANGES

"SEC. 604. (a) In conducting reviews pursuant to subsections (e), (f), and (g) of section 603 or in conducting any other reviews of proposed or existing health services, each health planning agency shall follow procedures, and apply criteria, developed and published by the agency in accordance with regulations of the Secretary; and in performing its review functions under section 627, a State Health Commission shall follow procedures, and apply criteria, developed and published by the Commission in accordance with regulations of the Secretary. Procedures and criteria for such reviews may vary according to the purpose for which a particular review is being conducted or the type of health services being reviewed.

"(b) Each health planning agency and State Health Commission shall include in the procedures required by subsection (a) at least the following:

"(1) Written notification to affected persons of the beginning of an agency or Commission review.

"(2) Schedules for reviews which provide that no review shall take longer than one hundred and twenty days from the date the notification described in paragraph (1) is made.

"(3) Provision for persons subject to an agency or Commission review to submit to the agency or Commission (in such form and manner as the agency or Commission shall prescribe and publish) such information as the agency or Commission may require concerning the subject of such review.

"(4) Submission of applications made under part C of this title, other titles of this Act, or other provisions of law for Federal financial assistance for health services.

"(5) Submission of periodic reports by providers of health services and other persons subject to agency or Commission review respecting the development of proposals subject to review.

"(6) Notification of providers of health services and other persons subject to agency or Commission review of the status of the agency or Commission review of the health services or proposals subject to review, findings made in the course of such review, and other appropriate information respecting such review.

"(7) Provision for public hearings in the course of agency or Commission review if requested by persons directly affected by the review; and provision for public hearings, for good cause shown, respecting agency and Commission decisions.

"(8) Regular reports by the agency and Commission of the reviews being conducted (including a statement concerning the status of each such review) and of the reviews completed by the agency and Commission (including a general statement of the findings and decisions made in the course of such reviews) since the publication of the last such report.

"(9) Access by the general public to all applications reviewed by the agency and Commission and to all other written materials pertinent to any agency or Commission review.

"(10) In the case of construction projects, submission to the agency and Commission by the entities proposing the projects of letters of intent in such detail as may be necessary to inform the agency and Commission of the scope and nature of the projects.

"(c) Criteria required by subsection (a) for agency and Commission review shall include consideration of at least the following:

"(1) In the case of reviews of health services, the relationship of the health services reviewed to the applicable long-range plan and short-term plan.

"(2) The relationship of services reviewed to the long-range development plan (if any) of the person providing or proposing such services.

"(3) The need that the population served or to be served by such services has for such services.

"(4) The availability of alternative, less costly or more effective methods of providing such services.

"(5) The relationship of services to the existing health care system of the area in which such services are provided or proposed to be provided.

"(6) In the case of health services proposed to be provided, the availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of such services and the availability of alternative uses of such resources for the provision of other health services.

"(d) In making a review under section 603(e), each health service agency shall give priority consideration to—

"(1) the relationship to the applicable long-range plan and short-term plan of the health services reviewed, and

"(2) the availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for any proposed provision of health services and the availability of alternative uses of such resources for the provision of other health services.

"(e) In making a review under section 603(f), each health planning agency shall give consideration to—

"(1) the costs and methods of any proposed construction, and

"(2) the probable impact of the construction project reviewed on the costs of providing health services by the provider or other person proposing such construction project.

"(f) In making a review under section 603(g), each health planning agency shall give priority consideration to—

"(1) the relationship of the health services reviewed to the applicable long-range plan and short-term plan,

"(2) the need that the population served or to be served by such services has for them, and

"(3) the availability of alternative, less costly or more effective methods of providing such services.

"ASSISTANCE TO ENTITIES DESIRING TO BE DESIGNATED AS HEALTH PLANNING AGENCIES

"SEC. 605. (a) The Secretary may provide all necessary technical and other nonfinancial assistance (including the preparation of prototype plans of organization and operation) to nonprofit private entities (including entities presently receiving grants under section 314(b) or title IX) which—

"(1) express a desire to organize a public benefit corporation to be designated as a health planning agency, and

"(2) the Secretary determines have a potential to meet the requirements of a health planning agency specified in sections 602 and 603,

to assist such entities in developing applications to be submitted to the Secretary under section 606 and otherwise in preparing to meet the requirements of this title for designation as a health planning agency.

"(b)(1) The Secretary may make grants to nonprofit private entities to assist them in meeting the costs of meeting the organization and operation requirements of section 602(b).

"(2) No grant may be made under this subsection unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and contain such information as the Secretary may require. The Secretary may not approve the application of an entity unless he determines that the entity, with the assistance of a grant under this subsection, will, within two years after such grant is made, be able to meet the requirements of section 602(b) and be qualified to perform the activities prescribed for a health planning agency by section 603.

"(3) For the purpose of making payments pursuant to grants under this subsection, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1975, $30,000,000 for the fiscal year ending June 3, 1975, $30,000,000 for the fiscal year ending June 30, 1976, and $30,000,000 for the fiscal year ending June 30, 1977.

"DESIGNATION OF HEALTH PLANNING AGENCIES

"SEC. 606. (a) For each health area established under section 601 the Secretary shall, upon the recommendation of the State Health Commission, designate a health planning agency. Such designation shall be made under an agreement entered into between the Secretary, the State Health Commission and the entity to be designated as a health planning agency. Any such agreement under this subsection shall (1) contain such provisions respecting the requirements of sections 602(b) and 603, and such conditions designed to carry out the purpose of this title, as the Secretary may prescribe and (2) shall be for a term of twelve months; except that, prior to the expiration of such term, such agreement may be terminated—

"(1) by the entity at such time and upon such notice to the Secretary may by regulation prescribe, or

"(2) by the Secretary, at such time and upon such notice to the entity as the Secretary may by regulation prescribe, if the Secretary determines that the entity is not complying with or effectively carrying out the provisions of such agreement.

"(b) The Secretary may not enter into an agreement under subsection (a) with any entity unless the entity has submitted an application to the State Health Commission for designation as a health planning agency. Such an application shall be submitted to the Secretary by the Commission and shall contain assurances satisfactory to the Secretary that the applicant meets the requirements of section 603 (b) and is qualified to perform or is performing the activities prescribed by section 603. In considering such applications, the Secretary shall give priority to an application which has been recommended for approval by the State Health Commission. The Secretary may not enter into an agreement for the initial designation of an entity as the health planning agency for a health area unless the Governor (or other chief executive officer) of each State in which such area is located approves such designation of such entity.

"TECHNICAL ASSISTANCE FOR HEALTH PLANNING AGENCIES AND STATE HEALTH COMMISSIONS

"Sec. 607. (a) The Secretary shall provide health planning agencies and State Health Commissions (1) model health plans and planning processes, (2) technical materials and standards for use in health planning, and (3) such other technical assistance as they may require to perform their functions.

"(b) The Secretary shall include in the materials provided under subsection (a) the following:

"(1) (A) Requirements for the data needed to describe the health status of the residents of a health area, including requirements for data which describe mortality and morbidity by age, sex, race, residence, economic status, and occupation and data which describe the epidemiology of such mortality and morbidity and etiology (if known).

"(B) Requirements for the data needed to describe the status of the health resources of a health area, including requirements for data which describe health facilities in the area by size, types of services provided, location, and operating costs and data which describe health manpower in the area by type, specialty, supply, location, income, and mode of practice.

"(C) Requirements for the data needed to describe the utilization of health resources within a health area, including requirements for data which describe the utilization of health resources by various specific population groups, including groups based on age, sex, race, residence, economic status, and occupations.

"(2) Models, consistent with the Secretary's guidelines for appropriate planning and development by health planning agencies and regulation by State Health Commissions of health resources and services, shall cover the following:

"(A) The provision of primary care services for medically underserved populations, especially those which are located in rual or economically depressed areas.

"(B) the development of multi-institutional systems for coordination or consolidation of institutional health services (including obstetric, emergency medical, intensive and coronary care, and radiation therapy services).

"(C) The development of medical group practices whose services are appropriately coordinated or integrated with institutional health services.

"(D) The training and increased utilization of physician assistants, especially nurse clinicians.

"(E) The development of multi-institutional arrangements for the sharing of support services necessary to all health service institutions (including laundry and dietetic services and the purchasing of supplies).

"(F) The promotion of activities to achieve needed improvements in the quality of health services, including needs identified by the review activities of Professional Standards Review Organizations under part B of title XI of the Social Security Act.

"(G) The development by health service institutions of the capacity to provide various levels of care (including intensive care, acute general care, and extended care) on a geographically integrated basis.

"(H) The adoption of uniform cost accounting, simplified reimbursement and utilization and reporting systems and improved management procedures by health service institutions.

"(I) The development of effective methods for financing of, reimbursement for, regulating rates of reimbursement and payment for, medical care.

"(3) Guidelines for the organization and operation of health planning agencies and State Health Commissions, including guidelines for—

"(A) the structure of a health planning agency, consistent with section 602(b), and of a State Health Commission, consistent with section 625(d);

"(B) the conduct of the planning, development, and regulation processes;

"(C) the performance of health planning agency functions in accordance with sections 603 and 604; and

"(D) the performance of State Health Commission functions in accordance with sections 604 and 627.

"PLANNING GRANTS

"Sec. 608. (a) The Secretary shall make in each fiscal year a grant to each health planning agency with which there is in effect at the beginning of the fiscal year a designation agreement under section 606. A grant under this subsection shall be made on such conditions as the Secretary determines is appropriate and shall be used by a health planning agency for compensation of agency personnel, collection of data, planning, and other activities of the Agency. A health planning agency shall not use a grant under this subsection to make payments under a grant or contract with another entity for the development of health services.

"(b) (1) The amount of any grant under subsection (a) to any health planning agency for any fiscal year shall be the product of $1 and the population of the health area for which are agency is designated unless the agency would receive a greater amount under paragraph (2) or (3).

"(2) (A) The amount of such a grant for any fiscal year shall be the product of $1.50 and the population of such area if the application of the agency for such grant contains assurances satisfactory to the Secretary that the agency will expend or obligate in that fiscal year from non-Federal funds meeting the requirements of subparagraph (B) and for the activities of the agency for which such grant is made an amount not less than the amount by which the grant amount for such agency resulting from the application of the formula prescribed by this paragraph exceeds the grant amount for such agency resulting from the application of the formula prescribed by paragraph (1).

"(B) Exclusive of funds appropriated by the States for agency support, the non-Federal funds which an agency may use for the purpose of obtaining a grant under subsection (a) which is computed on the basis of the formula prescribed by subparagraph (A) shall be funds—

"(i) no more than 5 per centum of which are contributed to the agency by any one private contributor, and

"(ii) which are not paid to the agency for the performance of particular services by it and which are contributed to the agency without conditions as to their use other than the condition that the funds shall be used for the purposes for which a grant made under this section may be used.

"(3) The amount of a grant under subsection (a) to a health service agency for any fiscal year may not be less than $150,000.

"(c) (1) For the purpose of making payments pursuant to grants made under subsection (a), there are authorized to be appropriated $60,000,000 for the fiscal year ending June 30, 1975, and $100,000,000 for the fiscal year ending June 3, 1976.

"(2) Notwithstanding subsection (b), if the total of the grants to be made under this section to health planning agencies for any fiscal year exceeds the total of the amounts appropriated unedr paragraph (1) for that fiscal year, the amount of the grant for that fiscal year to each health planning agency shall be an amount which bears the same ratio to the amount determined for that agency for that fiscal year under subsection (b) as the total of the amounts appropriated under paragraph (1) for that fiscal year bears to the amount required to make grants to each health planning agency in accordance with the applicable provision of subsection (b).

"GRANTS FOR AREA HEALTH PLANNING DEVELOPMENT FUNDS

"Sec. 609. (a) The Secretary shall make in each fiscal year a grant to each health planning agency—

"(1) with which there is in effect at the beginning of the fiscal year a designation agreement under section 606,

"(2) which has in effect a long-range plan and short-term plan approved under section 627, and

"(3) which, as determined under the review made under section 611, is organized and operated in the manner prescribed by section 602(b) and is carrying out its planning and other responsibilities under section 603 in a manner satisfactory to the Secretary, to enable the agency to establish an Area Health Planning Development Fund from which it may make grants and enter into contracts in accordance with section 603 (c) (3).

"(b) (1) Except as provided in paragraph (2), the amount of any grant under subsection (a) shall be determined by the Secretary after taking into consideration the population of the health area for which the health planning agency is designated, the average family income of the area, and the supply of health services in the area.

"(2) The amount of any grant under subsection (a) to a health planning agency for any fiscal year may not exceed the product of $1 and the population in the health area for which such agency is designated.

"(c) Grants under subsection (a) shall be made on such conditions as the Secretary determines appropriate.

"(d) For the purpose of making payments pursuant to grants under subsection (a), there are authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1975, and $125,000,000 for the fiscal year ending June 30, 1976.

"REVIEW

"Sec. 611. (a) Exclusive of funds appropriated by a State for agency purposes, the Secretary shall review and approve the annual budget for each health planning agency with which there is in effect a designation agreement under section 606. Such review shall take into consideration the comments of each State Health Commission designated under section 625 for each State in which the agency's health area is located.

"(b) The Secretary shall review in detail at least every three years the structure, operation, and activities of each health planning agency with which there is in effect a designation agreement under section 606 to determine—

"(1) (A) the extent to which the agency's governing body (and executive committee (if any)) represents the residents of the health area for which the agency is designated;

"(B) the professional credentials and competence of the staff of the agency;

"(2) the adequacy of the long-range plan of the agency in meeting the needs of the residents of the area for a healthful environment and for accessible, acceptable, and continuous quality health care at reasonable costs and the effectiveness of the short-term plan in achieving the system described in the long-range plan;

"(3) the appropriateness of the data assembled pursuant to section 603(b) and the quality of the analysis of such data;

"(4) the extent to which technical and financial assistance from the agency are utilized in an effective manner to achieve the goals and objectives of the long-range plan and the short-term plan; and

"(5) the extent to which it may be quantifiably demonstrated that—

"(A) the health of the area's residents has actually been improved;

"(B) the accessibility, acceptability, continuity, and quality of health care in the area has actually been improved; and

"(C) increases in costs of the provisions of health care have actually been restrained.

"PART B—STATE HEALTH COMMISSIONS

"DESIGNATION OF STATE HEALTH COMMISSIONS

"SEC. 625. (a) For the purposes of the performance within each State of the regulatory functions described in section 627, the Secretary shall enter into an agreement with the qualified agency designated by the Governor of each State as the State Health Commission for such State, if—

"(1) on the basis of its performance during a trial period (not to exceed 24 months) the Secretary determines that such agency is capable of performing, in a satisfactory manner, the regulatory functions of a State Health Commission prescribed by section 627, and

"(2) a State administrative program for the performance of such functions by the State Health Commission has been approved under section 626.

"(b)(1) The Secretary shall initially recognize as the qualified agency the State Health Commission designated by the Governor on a conditional basis with a view to determining the capacity of such agency to perform the functions prescribed by section 627 for such Commissions. Such recognition may not be made prior to receipt from such agency, and approval by the Secretary, of an administrative program under section 626 for the orderly assumption and implementation of the functions of a State Health Commission.

"(2) During any such trial period, the Secretary may require as a condition of recognition that a State Health Commission perform only such of the functions prescribed by section 627 as he determines such Commission to be capable of performing. The number and type of such functions shall, during the trial period, be progressively increased as the Commission becomes capable of performing responsibilities so that, by the end of such period, such Commission may be considered for recognition but only if the Secretary finds that it is substantially carrying out in a satisfactory manner the functions prescribed by section 627.

"(3) Any agreement under which any agency is conditionally recognized as the State Health Commission may be terminated by such agency upon ninety days' notice to the Secretary or by the Secretary upon ninety days' notice to such agency.

"(c) Any recognition agreement under this section with a State Health Commission (other than an agreement under subsection (b)) shall be for a term of twelve months; except that, prior to the expiration of such term, such agreement may be terminated—

"(1) by the Commission at such time and upon such notice to the Secretary as may be prescribed in regulations (except that notice of more than three months may not be required); or

"(2) by the Secretary at such time and upon such reasonable notice to the Commission as may be prescribed in regulations, but only after the Secretary has determined (after providing such Commission with an opportunity for a formal hearing on the matter) that such Commission is not complying with or effectively carrying out the provisions of such agreement.

A recognition agreement (other than an agreement under subsection (b)) shall contain such provisions as the Secretary may prescribe to assure that the requirements of this part respecting State Health Commissions are complied with.

"(d) For purposes of this section, a 'qualified agency' of a State is an agency which is organized and operated as follows:

"(1) The agency shall—

"(A) be an independent establishment within the State government;

"(B) be the sole agency of the State for (i) the performance of the regulatory functions prescribed by section 627 (except as authorized under subsection (b) of such section), and (ii) administering or supervising the administration of (I) the health planning activities of the State, (II) coordination of the plans of the health service agencies in the State, and (III) implementation of those parts of such plans which relate to the government of the State;

"(C) not engage in activities which are unrelated to health planning or the regulation of health services and shall not directly engage in, or be a part, or under the control, of any State agency directly engaged in, the (i) delivery or administration of programs of public or personal health services or health manpower education, (ii) construction of facilities for health service institutions, or (iii) the administration of the State's plan approved under title XIX of the Social Security Act or of assistance for medical expenses under other public assistance programs or public health insurance programs (this clause shall not be construed to preclude the state agency in exercising its functions qualifying health care providers participating in such programs);

"(D) conduct its activities in accordance with procedures and criteria established and published by it, which procedures and criteria shall, to the extent practicable, conform to the requirements of section 614; and

"(E) conduct its business meetings in public.

"(2)(A) The agency shall be established by the State pursuant to State law, the executive officer of the agency shall be appointed by the Governor (or other chief executive officer) of the State or its legislature.

"(B) The State's Governor (or other chief executive officer) or legislature (whichever is authorized under the law creating the agency) shall appoint an advisory council for the agency to advise it on its budget and the performance of its functions. The executive officer of the agency together with the advisory council shall constitute the State Health Commission. The members of such a council shall be individuals who are not providers of health care services (as so defined) and shall be representative of the various geographic regions of the State, the health service agencies within the State, the holders of public elective offices in the government of the State and of its political subdivisions, and the various economic, social, and racial population groups of the State. Such a council shall meet periodically, not less than two times in a year, and shall conduct its meetings in public.

"STATE ADMINISTRATIVE PROGRAM

"SEC. 626. (a) A State administrative program for the performance within the State by its State Health Commission of the regulatory functions prescribed by section 627 is not recognizable for any year unless it—

"(1) meets the requirements of subsection (b);

"(2) has been submitted to the Secretary by the State Health Commission (designated for the State under section 625) at such time and in such detail, and contains or is accompanied by such information, as the Secretary deems necessary;

"(3) has been submitted to the Secretary only after the State Health Commission has afforded to the general public of the State a reasonable opportunity for presentation of views on the administrative program.

"(b) The State administrative program must—

"(1) provide for the performance within the State of the regulatory functions prescribed by section 627 and designate the State Health Commission for the submitting State as the sole agency for the performance of such functions (except as provided in subsection (b) of such section) and for the administration of the administrative program;

"(2) contain or be supported by satisfactory evidence that the Commission has the authority to carry out such functions and the administrative program in accordance with this part and has authority to enforce its decisions under section 627;

"(3) provide, in accordance with methods and procedures prescribed or approved by the Secretary, for the evaluation, at least annually, of the regulatory functions of the State Health Commission and of their economic effectiveness; and

"(4) provide that the State Health Commission will from time to time, and in any event not less often than annually, review the administrative program and submit to the Secretary any modification thereof which he considers necessary.

"(c) The Secretary shall approve any State administrative program and any modification thereof which complies with subsections (a) and (b). The Secretary shall review for compliance with the requirements of this part the specifications of and operations under each administrative program approved by him. Such review shall be conducted not less often than once each year.

"STATE HEALTH COMMISSION REGULATORY FUNCTIONS

"SEC. 627. (a) Each State Health Commission for which a recognition agreement is in effect under section 625 shall, except as authorized under subsection (b), perform within the State for which the Commission is designated the following regulatory functions:

"(1) Review annually and approve or disapprove the long-range plan and short-term plan of each health planning agency within the State.

"(2) Review annually the budget of each such health planning agency and report to the Secretary, for purposes of his review under section 611, its comments on such budget.

"(3) Review applications submitted by such health planning agencies for grants under sections 608 and 609 and report to the Secretary its comments on such applications.

"(4) Serve as the designated planning agency of the State for the purposes of section 1122 of the Social Security Act.

"(5) After consideration of recommendations submitted by such health planning agencies under section 603 (g) respecting health services offered or proposed to be offered within the State, determine which of the services it will certify as needed. Certification of need shall be conducted on a periodic basis.

"(6) License health care facilities and health care delivery personnel in the State.

"(7) To the extent authorized by State law, set standards for health care facilities and review for quality the performance of health services within the State.

"(8) Determine prospectively rates used for reimbursement purposes for health services of health care providers within the State and regulate all reimbursements of such health care providers made on either a charge, cost, negotiated, or other basis. In carrying out such function, the Commission shall—

"(A) permit health care providers subject to such determinations or regulation to retain savings accruing to them from effective management and cost control,

"(B) create incentives at each point in the delivery of health services for utilization of the most economical modes of services feasible,

"(C) document the need for and cost implications of each new service or facility for which a determination of reimbursement rates is sought, and

"(D) employ for each type or class of health care provider—

"(i) a unit for determining the reimbursement rates of the provider, and

"(ii) a base for determining rates of change in the provider's reimbursement rates,

which unit and base are satisfactory to the Secretary.

For purposes of this paragraph, the term 'health care provider' includes at least the following: Hospitals, nursing homes and extended care facilities, community health care programs (such as family planning clinics, community mental health centers, neighborhood health centers, and rehabilitation centers), home health agencies and visiting nurse associations, and indirect suppliers of health services (such as medical laboratories, ambulance services, blood banks, and dental laboratories).

"(b) If a State Health Commission makes a decision in carrying out a function described in paragraph (4), (5), (6), (7), or (8) of subsection (a) which is not consistent with the goals of the applicable long-range plan or the priorities of the applicable short-term plan, the Commission shall submit to the appropriate health planning agency a detailed statement of the reasons for the inconsistency.

"(c) If, upon the expiration of the fourth fiscal year which begins after the calendar year in which the Health Planning Act is enacted, a recognition agreement for a State Health Commission is not in effect under section 625, all Federal funds appropriated for programs under this Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 for the development, expansion, or support of health facilities, manpower or services will be withheld from that State by the Secretary, but not before the Secretary has given the Governor (or other chief executive officer) of that State at least six months' written notice that such funds will be withheld from that State until a State Health Commission is in effect under section 625. If a recognition agreement for a State's Health Commission is terminated under section 625, the Secretary shall withhold such funds from that State after giving the notice prescribed by the preceding sentence.

"GRANTS FOR THE DEVELOPMENT AND OPERATION OF STATE HEALTH COMMISSIONS

"Sec. 628. (a) The Secretary may make grants to States to assist in meeting the costs of developing State Health Commissions. Any grant under this subsection shall be made for development costs incurred in the one-year period beginning on the first day of the first month for which such grant is made and may be for an amount which does not exceed 90 per centum of such costs.

"(b) The Secretary may make grants to States for the operation of State Health Commissions. Each grant under this subsection shall be made for operation costs for the one-year period beginning on the first day of the first month for which such grant is made. The amount of any grant for a State Health Commision's costs of operation for the first year of its operation may not exceed an amount equal to 75 per centum of such costs; and the amount of any other grant for a Commission's costs of operation may not exceed the lesser of (1) $500,000, or (2) an amount equal to 50 per centum of the costs of its operation for the year for which the grant is made.

"(c) No grant may be made under subsection (a) or (b) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and contain such information as the Secretary may require. The Secretary may not approve any such application unless he determines that the Federal funds under the grant applied for will be used to supplement State funds that would in the absence of such Federal funds be used for the purposes for which such grant would be made and will in no event supplant such State funds.

"(d)(1) For purposes of making payments under grants under subsection (a), there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1974, $3,000,000 for the fiscal year ending June 30, 1975, and $3,000,000 for the fiscal year ending June 30, 1976.

"(2) For purposes of making payments under grants under subsection (b), there are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1974, $5,000,000 for the fiscal year ending June 30, 1975, and $10,000,000 for the fiscal year ending June 30, 1976.

"PART C—CONSTRUCTION ASSISTANCE

"LOANS AND LOAN GUARANTEES AND INTEREST SUBSIDIES

"Sec. 631. (a) To assist in meeting the costs of construction projects for health facilities, the Secretary may make grants and loans to public and nonprofit private entities and may guarantee to non-Federal lenders payment of principal of and interest on loans made by such lenders to nonprofit private entities for such projects.

"(b)(1) Subject to paragraph (2) of this subsection, in the case of a guarantee under this part of any loan made to a nonprofit private entity, the Secretary shall pay, to the holder of such loan and for and on behalf of such entity amounts sufficient to reduce by 3 per centum per annum the net effective interest rate otherwise payable on such loan. Each holder of a loan which is guaranteed under this part shall have a contractual right to recieve from the United States interest payments required by the preceding sentence.

"(2) Contracts to make the payments provided for in this subsection shall not carry an aggregate amount greater than such amount as may be provided in appropriations Acts.

"(c) No loan under this part shall be made in an amount which exceeds 90 per centum of the cost of such project (as determined under regulations of the Secretary). No loan guarantee under this part with respect to any project may apply to so much of the principal amount thereof as exceeds 90 per centum of the cost of such project (as so determined).

"(d) The Secretary, with the consent of the Secretary of Housing and Urban Development, shall obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this part as will promote efficiency and economy thereof.

"(e) The cumulative total of the principal of the loans outstanding at any time which have been directly made, or with respect to which guarantees have been issued, under this part may not exceed such limitations as may be specified in appropriations Acts.

"APPLICATIONS

"Sec. 632. (a) No loan or loan guarantee may be made under this part unless an application therefor has been submitted to the Secretary and approved by him. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. The Secretary may not approve an application under this part for a construction project unless the application (1) has, if there is a State Health Commission for the State in which such project is to be located, been approved by such State Health Commission, and (2) such project has a higher priority (set by the health planning agency for such area under section 603(e)(2)) than any other project in such area for which applications are pending before the Secretary for his approval. In considering application under this part the Secretary, after applying any applicable priority established under section 603(e)(2), shall give priority to applications for projects for facilities for the provision of ambulatory care, facilities for the provision of rehabilitative services, facilities for emergency medical services systems (as defined in section 1201), or hospitals for areas with rapid, recent propulation growth.

"(b) No application submitted under this part may be approved for a project unless such application contains reasonable assurances that all laborers and mechanics employed by contractors or subcontractors on the project will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act). The Secretary of Labor shall have with respect to the labor standards referred to in the preceding sentence the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"GENERAL PROVISIONS RELATING TO LOANS AND LOAN GUARANTEES

"Sec. 633. (a)(1) The Secretary may not approve an application for a loan under this part unless—

"(A) the Secretary is reasonably satisfied that the applicant therefore will be able to make payments of principal and interest thereon when due, and

"(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

"(2) Any loan made under this part shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing on the date the loan is made, with respect to loans guaranteed under this title, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this part while adequately protecting the financial interests of the United States.

"(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reason of the failure of a borrower to make payments of principal of and interest on a loan made under this part, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

"(b)(1) The Secretary may from time to time, but with due regard to the financial interests of the United States, sell loans made by him under this part.

"(2) The Secretary may agree, prior to his sale of any such loan, to guarantee to the purchaser (and any successor in interest of the purchaser) compliance by the borrower with the terms and conditions of such loan.

Any such agreement shall contain such terms and conditions as the Secretary considers necessary to protect the financial interests of the United States or as otherwise appropriate. Any such agreement may (A) provide that the Secretary shall act as agent of any such purchaser for the purpose of collecting from the entity to which such loan was made and paying over to such purchaser, any payments of principal and interest payable by such entity under such loan; and (B) provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"(3) After any loan made under this part to a public entity has been sold and guaranteed under this subsection, interest paid on such loan which is received by the purchaser thereof (or his successor in interest) shall be included in the gross income of the purchaser of the loan (or his successor in interest) for the purpose of chapter 1 of the Internal Revenue Code of 1954.

"(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the fund established under section 634.

"(c) (1) The Secretary may not approve an application for a loan guarantee under this part unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this part.

"(2) (A) The United States shall be entitled to recover from the applicant for a loan guarantee under this part the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this part may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

"(C) Any loan guarantee made by the Secretary under this part shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

"(D) Guarantees of loans under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this title will be achieved.

"LOAN GUARANTEE AND LOAN FUND

"SEC. 634. (a) There is established in the Treasury a loan guarantee and loan fund (hereinafter in this section referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriations Acts, (1) to enable him to make loans under this part, (2) to enable him to discharge his responsibilities under guarantees issued by him under this part, (3) for payment of interest on the loans which are guaranteed under this part, and (4) for repurchase by him to direct loans made under this part which have been sold and guaranteed. There are authorized to be appropriated to provide capital required for the fund $100,000,000 in the aggregate for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976. To the extent authorized from time to time in appropriation Acts, there shall be deposited in the fund amounts received by the Secretary as interest payments or repayments of principal on loans and any other moneys, property, or assets derived by him from his operations under this part, including any moneys derived from the sale of assets.

"(b) If at any time the moneys in the fund are insufficient to enable the Secretary to discharge his responsibilities under this part, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

"DEFINITIONS

"SEC. 635. As used in this part—

"(1) The term 'construction' includes—

"(A) construction of new buildings,

"(B) modernization of existing buildings,

"(C) the acquisition of initial equipment (including medical transportation facilities) for buildings constructed or modernized with assistance under this part, and

"(D) acquisition of equipment for any building in any case in which it will help to provide a health service not previously provided in the community served by such building.

"(2) The term 'modernization' includes the alteration, expansion, major repair (to the extent permitted by the Secretary by regulations), remodeling, replacement, or renovation of existing buildings.

"(3) The term 'cost' as applied to a construction project includes architects' fees but does not include the cost of off-site improvements or the acquisition of land."

CONFORMING AMENDMENTS

SEC. 3. Title IX and subsections (a), (b), and (c) of section 314 of the Public Health Service Act are repealed.

EFFECTIVE DATE

SEC. 4. The amendments made by this Act shall take effect July 1, 1974, except that on and after the date of the enactment of this Act (1) the Secretary of Health, Education, and Welfare shall carry out the duties imposed by section 611 of the Public Health Service Act (as added by section 3) and provide the assistance authorized by sections 615 and 628 of such Act (as so added), and (2) appropriations may be made under section 634 of such Act (as so added) for the purpose of capitalizing the fund authorized by that section.

By Mr. McCLURE:

S. 3140. A bill to prohibit increases in rates of pay to Members of Congress until fiscal balance is achieved. Referred to the Committee on Post Office and Civil Service.

FISCAL ACCOUNTABILITY SALARY ACT OF 1974

Mr. McCLURE. Mr. President. Now that we have dealt congressional pay increases a death blow for this year, I propose a measure that prohibits any pay increases for Senators and Congressmen anytime—until we bring about a real end to deficit spending.

Recently a public opinion poll showed that only 21 percent of the American people approve the job Congress is doing. I am afraid we deserve that judgement. The Congress has been giving away its powers to the bureaucracy at an alarming rate and has been allowing and approving spending by those same bureaucrats as if there were no tomorrow.

But indeed, there is a tomorrow—a tomorrow that will surely pay for the careless fiscal policies of this Congress, just as we are now paying for the inflation created by yesterday's Congress. And somewhere in the not-to-distant future there lies a day of reckoning. I would suggest that 79 percent of the public knows that fact, even if the majority in Congress does not.

Excessive Federal spending and the deficit it creates, is one of the major causes of inflation in this country. We find Members of the Congress calling for salary increases to offset the inflation which Congress itself helped create.

Instead of a salary increase, 79 percent of the American people have said that we do not even deserve the salaries we receive today. Instead of protecting its Members against the effects of inflation created at least in major part by its own acts, a protection not afforded to many of our citizens, should not the Members of Congress suffer from its own errors—should not we bear the same burden we help inflict on the country? We do not exempt ourselves from the taxes we levy on others, why should we expect to exempt ourselves from the inflation we levy on others?

Why were we successful in defeating the pay raise? I am sure there were a number of reasons why Senators voted as they did, but I am confident that the major reason was the clear opposition of the majority of the people. There was more interest in the Senate in the debate on this issue than there was on the passage of $2.6 billion in aid to Israel, which proves a second point—Senators do have an over-riding interest in their own pay. Let us use those two forces—the interest of the public and senatorial self-interest—to accomplish one of the most fundamentally required of all congressional reforms, adoption of a budgetary process which can eliminate massive deficits.

If Congress is to regain the respect of the American people, a first and major step must be the end of inflation that is tearing at our very economic well-being. And to end inflation, we must take a truly unprecedented step—balance Federal expenditures with Federal receipts. Not just a paper budget balance. This is the kind of real balance that would spotlight back door spending. This is the kind of real balance that would not cheat the American taxpayer and wage earner of a slice of his paycheck through ever-increasing taxes, coupled with a constantly eroded dollar.

Specifically, Mr. President, to give the fiscally irresponsible majority in the Congress a real impetus to achieve the kind of balance demanded by the American public, I would propose that any salary increase for U.S. Congressmen and Senators be withheld and prohibited until the day that an absolute balance between Federal spending and intake is achieved.

There is a real logic in the lack of confidence expressed by that 79 percent of the people. I see it in my mail every day. They are simply saying: "If Congress were to end deficit spending, and thus end the major cause of inflation, it would not need to grant its Members the protection of a pay increase as a hedge against inflation." So, if a pay increase is ever warranted, it must be for doing our job not just working at it, doing something deserving of a raise, thus earning support of the majority of the American public.

By Mr. DOLE:

S. 3141. A bill to authorize construction of the Clinton Parkway, Douglas County, Kans., and for other purposes. Referred to the Committee on Public Works.

Mr. DOLE. Mr. President, a difficult situation has developed in connection with Clinton Lake, in Douglas County, Kans.

This major multipurpose Corps of Engineers project is now under construction, with impoundment of water expected to begin in 1975. When completed, it will be one of the major attractions for the city of Lawrence and for the entire northeast area of the State. Millions of people are expected to visit the lake each year to enjoy its water, its shores, and many other attractive features associated with it.

The problem, however, lies in the lack of adequate access routes to the project—particularly from the southwestern portion of Lawrence at the intersection of two major highways from the south and east of the city. At the present time only a two-lane road leads from this intersection westward to the project area, and it is entirely inadequate to carry the traffic which is expected to be going to and from the project.

By way of a further explanation of the city's plight, I ask unanimous consent that an editorial published in the Lawrence Daily Journal-World be printed at this point in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Clinton Parkway

Immediate action is necessary at the city, county and state level to get work started as soon as possible on the Clinton Parkway route. Water is scheduled to be impounded in Clinton Reservoir starting in 1975, yet some local officials are talking about not contracting the road work until 1976, and one spokesman speculated the project might take eight years to complete. Lawrence and Douglas County cannot afford to stumble around, twiddle their thumbs and do nothing.

Whether the Corps of Engineers, the Environmental Protection Agency, the Department of Interior or some other office has thrown the city, county and state a curve relative to making new requests for information about the impact of the roadway, it is essential that action be taken to get the necessary reports prepared as soon as possible and quit talking about the project taking eight years to complete.

The Corps of Engineers predicts three million visitors a year shortly after Clinton is opened, and evidently one study talked about 10,000 vehicles a day using the Parkway. Imagine what Twenty-Third Street and the already dangerous roadway now providing access to the Clinton Reservoir area will be like in only a few years with 10,000 additional vehicles a day.

Were local officials negligent in not providing complete information for the various state and federal agencies who now demand more facts and studies before they place their stamp of approval on the Parkway project? Something has gone wrong somewhere, and it should be corrected. According to reports the County Commission was informed in July, 1972, that a comprehensive study would be required because the road would pass through federally owned land. The report was due to be completed by early 1973, but evidently there have been numerous delays.

Now an official who talks about it possibly being another eight years before the project might be completed says, "That's the way the Federal government does things. There is no way to push it along."

This sounds like a defeatist attitude and the city, county and state should join forces and start "pushing" as hard as possible right now! There might be surprising results.

The roadway is badly needed and cannot be put off for a 1982 completion date.

Mr. DOLE. Mr. President, I believe that special action is required to deal with this problem. And I offer a bill to expand the project to include construction of this very important road leading from Lawrence to the Clinton Lake project area.

The bill would provide Federal funding for 70-percent of the road's cost, up to a limit of $6 million. The road would be constructed, as is the usual case, in cooperation with State and local authorities, who would also assume responsibility for maintaining it after completion.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2782

At the request of Mr. Robert C. Byrd (for Mr. Jackson), the Senator from Washington (Mr. Magnuson) was added as a cosponsor of S. 2782, the Energy Information Act.

S. 2868

At the request of Mr. Church, the Senators from Minnesota (Mr. Humphrey), Texas (Mr. Bentsen), South Dakota (Mr. McGovern), Delaware (Mr. Biden), Massachusetts (Mr. Kennedy), Indiana (Mr. Bayh), Nevada (Mr. Bible), Maine (Mr. Hathaway), Michigan (Mr. Hart), New Mexico (Mr. Montoya), South Dakota (Mr. Abourezk), Louisiana (Mr. Johnston), Iowa (Mr. Hughes), California (Mr. Tunney), Minnesota (Mr. Mondale), Hawaii (Mr. Inouye), Montana (Mr. Metcalf), Colorado (Mr. Haskell), Rhode Island (Mr. Pell), Wyoming (Mr. McGee), West Virginia (Mr. Randolph), Maine (Mr. Muskie), Connecticut (Mr. Ribicoff), Mississippi (Mr. Eastland), New Hampshire (Mr. McIntyre), Montana (Mr. Mansfield), Rhode Island (Mr. Pastore) were added as cosponsors of S. 2868, a bill to provide for tax counseling to the elderly in the preparation of their Federal income tax returns.

S. 2938

At the request of Mr. Robert C. Byrd (for Mr. Jackson), the Senator from Minnesota (Mr. Humphrey) and the Senator from Arizona (Mr. Goldwater) were added as cosponsors of S. 2938, the Indian Health Care Improvement Act.

S. 3028

At the request of Mr. Haskell, the Senator from Minnesota (Mr. Humphrey) was added as a cosponsor of S. 3028, the Weather Modification Regulation Act of 1974.

S. 3098

At the request of Mr. Dole, the Senator from Tennessee (Mr. Brock) was added as a cosponsor of S. 3098, a bill to amend the Emergency Petroleum Allocation Act of 1973 to provide for the mandatory allocation of plastic feedstocks.

SENATE JOINT RESOLUTION 172

At the request of Mr. Pastore, the Senator from Colorado (Mr. Haskell) and the Senator from Rhode Island (Mr. Pell) were added as cosponsors of Senate Joint Resolution 172, proposing an amendment to the Constitution of the United States providing for a special election for the offices of President and Vice President when an individual who has been appointed Vice President succeeds to the Presidency.

ADDITIONAL COSPONSOR OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 68

At the request of Mr. Javits, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of Senate Concurrent Resolution 68, regarding Americans missing in action in Indochina.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 257

At the request of Mr. Pastore, the Senator from North Dakota (Mr. Burdick), the Senator from Rhode Island (Mr. Pell), the Senator from Missouri

(Mr. SYMINGTON), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of Senate Resolution 257, to amend the Standing Rules of the Senate to establish a procedure for requiring amendments to bills and resolutions to be germane.

AMENDMENT OF UNITED STATES CODE RELATING TO ADAPTIVE EQUIPMENT FOR CERTAIN VETERANS AND MEMBERS OF THE ARMED FORCES—AMENDMENT

AMENDMENT NO. 1006

(Ordered to be printed, and referred to the Committee on Veterans' Affairs.)

AMENDMENT TO S. 2363

Mr. CRANSTON. Mr. President, I submit for printing, and appropriate reference, an amendment to my bill, S. 2363, a bill to amend chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces. My amendment would add a section to provide for research and development by the Veterans' Administration of adaptive equipment and adapted conveyances meeting safety and quality standards, and to promote coordination with the Rehabilitation Services Administration—carrying out its program under the Rehabilitation Act of 1973, for which I was the Senate manager—by the VA in carrying out this program.

Mr. President, S. 2363 will be considered in hearings in the Veterans' Affairs Committee next Wednesday, and I intend to propose this amendment during the markup of the bill in committee.

I ask unanimous consent that the full text of the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1006

Add at the end of the bill the following:

SEC. 4. (a) At the end of chapter 39 of such tittle, insert the following new section:

"§ 1904. Research and development; coordination with other Federal programs.

"(a) In carrying out prosthetic and orthopedic appliance research under section 216 and medical research under section 4101, the Administrator shall provide for special emphasis upon the development of adaptive equipment and adapted conveyances (including vans) meeting standards of safety and quality prescribed under subsection (d) of section 1903, including the development and support for the production and distribution of devices and conveyances so developed.

"(b) In carrying out subsection (a) of this section, the Administrator, through the Chief Medical Director, shall consult with the Secretary of Health, Education, and Welfare and the Commissioner of the Rehabilitation Services Administration, as established within the Department of Health, Education, and Welfare by section 3(a) of the Rehabilitation Act of 1973 (Public Law 93–112), in connection with programs carried out under section 3(b) (to develop and support, and stimulate the development and utilization, including production and distribution of new and existing devices, of innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems) and section 202 (b)(2) (establishment and support of Rehabilitation Engineering Research Centers) of such Act.".

(b) The table of sections at the beginning of such chapter 39 is amended by inserting at the end thereof:

"1904. Research and development; coordination of other Federal programs."

INCREASE IN CERTAIN SOCIAL SECURITY BENEFITS—AMENDMENT

AMENDMENT NO. 1007

(Ordered to be printed and to lie on the table.)

Mr. GURNEY. Mr. President, I am submitting an amendment to H.R. 13025 to provide for more equitable tax treatment for retired Americans through modernization of the retirement income tax credit.

This retirement income tax credit was first adopted in 1954 in order to provide nonsocial security retirees with tax relief comparable to that received by social security beneficiaries. While persons retired under social security are exempt from Federal income tax, persons retired from the civil service as well as teachers, policemen, and firemen can receive a tax break by claiming a 15-percent credit on their qualifying retirement income, which includes pensions, annuities, interest, dividends, and rent.

My amendment would increase the maximum amount for computing this 15-percent credit from $1,524 to $2,500 for aged individuals, and from $2,286 to $3,750 for aged couples.

I think nothing speaks so eloquently of this change in the retirement income tax credit as the Senate report on H.R. 1, the Social Security Amendments of 1972. The Senate report states:

> The committee agrees with the House that it is desirable to recast the present retirement income credit for several basic reasons. One reason is that the credit needs updating. Most of the features of the present credit have not been revised since 1962 when the maximum level of income on which the credit is computed was set and when the current earnings limits were established. Since then, there have been numerous revisions of the social security law which substantially liberalized the social security benefits. As a result, the present maximum amount of income eligible for the credit is considerably below the maximum social security primary benefit of slightly over $2,500 available for a retired worker and the maximum social security primary and supplemental of slightly over $3,750 available for a retired worker and his spouse.

I might add that this retirement income tax credit provision of H.R. 1, passed the Senate, and it passed the House of Representatives in a slightly modified version. For one reason or another, despite the fact that the provision had passed both Houses of Congress, the conference committee deleted this section. Meanwhile, time is running out for hundreds of thousands of nonsocial security retirees.

I would hope that the committee would accept my amendment to H.R. 13025, and take it to conference once again. Surely the reason is obvious. While social security benefits have been increased six times since 1964, for a total of 104 percent, the retirement income tax credit has remained the same. I hope the committee will accept the amendment, but if not, I certainly hope my colleagues will give the amendment their support.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974—AMENDMENTS

AMENDMENT NO. 1008

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted an amendment intended to be proposed by him to the bill (S. 3066) to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance in support of community development activities, and for other purposes.

AMENDMENTS NOS. 1009 AND 1010

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted two amendments intended to be proposed by him to the bill (S. 3066), supra.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1002

At the request of Mr. HATHAWAY, the Senators from South Dakota (Mr. McGOVERN and Mr. ABOUREZK), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Iowa (Mr. HUGHES), the Senator from New Hampshire (Mr. McINTYRE), and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of amendment No. 1002 to S. 3066, a bill to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance in support of community development activities, and for other purposes.

AMENDMENT NO. 1003

At the request of Mr. MANSFIELD, the Senator from Alaska (Mr. STEVENS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Oklahoma (Mr. BELLMON, the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Wyoming (Mr. McGEE), the Senator from Alaska (Mr. GRAVEL), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of amendment No. 1003 to the bill (S. 3066), supra.

NOTICE OF HEARINGS ON BEEF PRICES

Mr. HUDDLESTON. Mr. President, I announce that the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices will hold hearings on farm and retail prices for beef on March 13 and 14, 1974, beginning at 10 a.m. in room 324 Russell Senate Office Building.

Anyone wishing to testify please notify the committee clerk as soon as possible.

NOTICE OF WITNESSES TO TESTIFY AT HEARINGS ON ENERGY REORGANIZATION BILLS, S. 2135 AND S. 2744

Mr. RIBICOFF. Mr. President, the Subcommittee on Reorganization, Research, and International Organizations of the Committee on Government Operations will hold hearings on March 12 and 13 on S. 2135 and S. 2744, proposed energy reorganization legislation, at 10:15 a.m., room 3302, DSOB.

The witnesses are as follows: Tuesday, March 12: Panel I: Dr. Theodore B. Taylor, nuclear physicist, president, International Research and Technology Corp., Washington, D.C.; Dr. Ralph Lapp, nuclear and environmental consultant, Washington, D.C.; Dr. Edward Radford, professor, Johns Hopkins University School of Hygiene, Baltimore, Md.; Samuel Love, president, Environmental Action, Washington, D.C.

Panel II: Steven Ebbin, George Washington University program of policy studies in science and technology; Harold Green, professor, George Washington University; Anthony Roisman, attorney for citizen intervenor groups, Washington, D.C.; George Freeman, attorney for utilities and nuclear industry, Richmond, Va.

Wednesday, March 13: Senator FRANK E. Moss, of Utah; Donald R. Cotter, Assistant to the Secretary of Defense, atomic energy.

Atomic Energy Commission panel: Dr. Dixy Lee Ray, chairman, Atomic Energy Commission; William A. Anders, Commissioner, AEC; William O. Doub, Commissioner, AEC; Dr. Norman C. Rasmussen, AEC safety study consultant; Dr. William R. Stratton, Advisory Committee on Reactor Safeguards, AEC; L. Manning Muntzing, Director of Regulation, AEC.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

William J. Mulligan, of Wisconsin, to be U.S. attorney for the eastern district of Wisconsin for the term of 4 years, vice David J. Cannon, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, March 15, 1974, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

HUMPHREY ANNOUNCES GASOLINE HEARINGS

Mr. HUMPHREY. Mr. President, I am pleased to announce that the Consumer Economics Subcommittee, of the Joint Economic Committee, which I chair, will hold 2 days of hearings next week on "Gasoline Distribution."

The hearings will be held on March 12 at 10:30 a.m. in room 1202 of the Dirksen Senate Office Building and on March 14 at 10 a.m. in room S-407 of the Capitol.

The list of witnesses is as follows:

Charles Binsted, executive director, National Congress of Petroleum Retailers.

William Brooks, president, Greater Washington-Maryland Service Station Association.

John de Lorenzi, managing director, Public Division, American Automobile Association.

William Brier, director of energy resources, National Council of Farmer Cooperatives.

Thursday, March 14, 10 a.m.:

John Sawhill, Deputy Administrator, Federal Energy Office.

Fred Allvine, professor of marketing, Georgia Institute of Technology.

ADDITIONAL STATEMENTS

RHODESIAN CHROME

Mr. HARRY F. BYRD, JR. Mr. President, as the chief sponsor of legislation which in 1971 removed the ban on the importation of Rhodesian chrome, I feel that the Senate made a serious mistake last December in voting to reimpose this sanction.

An analysis of the issues involved in the chrome debate has been written by columnist Robert S. Allen and is appearing in newspapers this week.

Mr. Allen points out that resuming the embargo against Rhodesian chrome would benefit the Soviet Union, which is also a major chrome producer and exporter. He states that it is possible that the House of Representatives will reverse the action of the Senate and permit the United States to continue importing chrome, a strategic material, from Rhodesia.

I hope that Mr. Allen is correct, because I feel it would be a serious mistake for our country to cut itself off once again from the largest source of this vital material.

I ask unanimous consent that the text of Mr. Allen's column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Human Events, Mar. 9, 1974]

THE UN EMBARGO: SOVIETS PROFIT BY BOYCOTT OF RHODESIAN CHROME

(By Robert S. Allen)

The detente-obsessed State Department is exerting heavy backstage pressure on the House Foreign Affairs Committee to report out a bill that would restore Russia's monopoly of the U.S. supply of metallurgical chrome—vital in the production of planes, missiles and other key weapons.

The measure was unobstrusively approved several months ago by a Foreign Affairs subcommittee headed by Rep. Donald Fraser (D.-Minn.), and the State Department is vigorously trying to force consideration by the full House.

Forcefully resisting this undercover drive are a number of House leaders—foremost among them Representatives Wayne Hays (D.-Ohio), chairman of the Administration Committee and a ranking member of the Foreign Affairs Committee, and Robert Sikes (D.-Fla.), Appropriations subcommittee chairman.

Both are scathingly blasting the legislation as a highly profitable windfall to the Soviets.

Says Hays: "The only thing this bill will do is force us to buy chrome from Russia, which will get it from Rhodesia and charge us an exorbitant price for it. The Soviet Union has been getting chrome from Rhodesia for a long time and totally disregarding the United Nations sanctions."

Sikes, making the same charge, declares: "While the U.N. sanctions were in effect, we paid a costly premium for chrome, much of which was transshipped from Rhodesia through Russia to the U.S. at a handsome profit to the Russians. It makes no sense to put an embargo on ourselves. It makes no sense to pay a costly premium out of the pockets of the American taxpayer. Yet that is exactly what this legislation will do if enacted into law."

The State Department's detente-motivated bill would repeal the measure put through Congress by Sen. Harry Byrd (Ind.-Va.), in 1971 abolishing the punitive U.N. embargo against Rhodesia. The department strenuously opposed Byrd's precedent-setting legislation.

Sponsors of the State Department's repeal bill are two leading supporters of the detente policy—Sen. Hubert Humphrey (D.-Minn.), and Rep. Donald Fraser (D.-Minn.), chairman of the Foreign Affairs subcommittee that quietly approved the measure.

Fraser, an ardent McGovernite and like Humphrey, an ultra-liberal and zealous internationalist, is now head of the New Left Americans for Democratic Action.

Outcome of the tense backstage struggle over this little-noticed but far-reaching legislation will be decided in the House.

After a long battle and strenuous lobbying, it was rammed through the Senate last December in the closing days of the 1973 session. The State Department is now aggressively trying to repeat these tactics in the House.

Directly zeroing in on that, Rep. Sikes bluntly warned that if the bill is to be defeated, that will have to be done in the House.

"It has already been approved by the Senate," he pointed out, "so if we are to prevent the reinstatement of sanctions imposed by the U.N., which had adverse and highly costly effect upon our country and which would serve no useful purpose whatever, we will have to do it in the House.

"We must have no illusions about exactly what this legislation does. Under it, we would again become dependent on Russia for our chrome supply. I know of no nation on earth that would cut off its supply of a vital and strategic material from a friendly country and place itself at the mercy of an enemy country for essential defense metals. Yet that is exactly what this measure will do.

"It makes no sense to punish our friends and reward our enemies. It make no sense to place our selves in a position of dependence for chrome on Soviet whims. The House of Representatives must make forcefully clear to the U.N. and to the world that the United States knows how to place its own interests above the interests of others."

Just how lucrative the United Nations embargo was to Russia is graphically shown by the following:

Prior to these sanctions—put through by the votes of the Soviet bloc, black African and Arab countries—Rhodesia was the largest U.S. source of metallurgical chrome. This country has no production of this indispensable ore needed for the manufacture of military aircraft, missiles and nuclear submarines.

Following the embargo, Russia became the principal U.S. supplier, with exports soaring to 60 per cent of this country's chrome requirements. Simultaneously, the price skyrocketed from $30 to $72 a ton.

In 1971, the year Sen. Byrd's measure repealing the sanctions was enacted, Russian shipments amounted to more than 400,000 tons—at an increase in cost to U.S. taxpayers of more than $15 million.

Since adoption of the Byrd bill, Rhodesia has again become this country's main supplier of chrome—upwards of 500,000 tons have been imported.

Sen. Byrd, citing the indisputable fact that many U.N. countries are flagrantly disregarding the U.N. embargo, declared that reimposing it would be "senseless and self-destructive."

"That just wouldn't be sound judgment," maintains the Virginian. By observing the U.N. sanctions, the U.S. would be forced to import Russian chrome—a perfectly ridiculous situation in view of the fact that the USSR is our major military threat. Congress decisively put an end to that ridiculous and untenable situation, and now to undo that would be the height of folly."

Foreign Affairs committeemen report they are being literally buttonholed by State Department lobbyists to bring out the chrome bill for a House vote.

If that does happen, it's possible the department may be in for a jarring surprise.

The House might defeat the measure.

To the stunned astonishment of both the White House and the State Department, that's what happened on the bill to give a $1.5-billion "replenishment" to the International Development Agency—the "soft loan" branch of the World Bank.

In 1972, the Administration had no difficulty putting through Congress a $900-million "replenishment" for IDA. To date, the U.S. has provided approximately 40 per cent of its more than $4-billion capital—which is loaned to so-called undeveloped countries on 40-year terms at minuscule interest rates.

But this time, under the vigorous leadership of Rep. H.R. Gross (R.-Iowa), the House revolted and killed the measure by a margin of more than 100 votes.

It's entirely within the realm of possibility that the same upheaval may happen on the chrome bill. In the House, unlike the Senate, there is widespread bipartisan distrust of the policy of détente with Russia.

HOT LUNCH PROGRAM FOR SENIOR CITIZENS BEGINS IN DELAWARE

Mr. BIDEN. Mr. President, as a result of the enactment of the Older Americans Act of 1973, which I consponsored, funds have been made available for nutrition programs for the elderly.

I am especially pleased that Delaware, in keeping with its tradition as the "First State," has again been a forerunner in making hot lunches available to its senior citizens. Last November Wilmington was among the first cities in the Nation to participate in the hot lunch program when the Wilmington Senior Center opened its doors to over 250 senior citizens and serve them a hot meal of roast beef and mashed potatoes.

Before the first year of funding is over, it is expected that four project areas, Delaware's three counties and Wilmington, will be in full operation serving from 1,000 to 1,200 hot meals a day.

Mr. President, I commend the Delaware Division of Aging for its hard work and our senior Delawareans who have contributed donations so that these nutrition programs may continue.

I ask unanimous consent that the text of an article, "Senior Hot Lunch Program Starts," which appeared in the Division of Aging's newsletter, Delaware Horizons, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SENIOR HOT LUNCH PROGRAM STARTS

Over 250 older citizens in Wilmington pulled up their chairs and tucked in their napkins before partaking of hot roast beef and gravy, whipped potatoes, and new peas with pimento as the federally funded hot lunch program for the elderly began November 19, 1973. Also on the menu at four local senior centers were salad, hot rolls, dessert and milk, with a choice of coffee or tea being offered.

St. Anthony's Community Center at 9th and Scott Sts. led the list with 101 elders participating, while Wilmington Senior Center at 1901 N. Market St. drew a crowd of 85. St. Patrick's Senior Center at 1414 King St. reported 36 on hand, and West Presbyterian Church had about 30 eating lunch at 8th and Washington Sts.

Wilmington is among the first cities in the nation to participate in the program following Congressional authorization in March 1973. It is important to emphasize that the program is not a handout (unacceptable to many independent elderly). The project was planned as a contributory one with participants donating according to their means. The more contributions taken in to offset the cost of the meal, estimated at 75 cents, the more people can be served.

Four other senior centers in Wilmington began during the first week of December. As the word spreads and participation reaches peak levels, the various feeding sites will shift to a daily sign-up basis.

Paul L. Buehrle, head of Wilmington Senior Center and responsible for the Nutrition Program, said each location plans to handle 70 persons a day, with the Wilmington area expected to serve from 500 to 560 daily meals when in full operation. Provisions are being made to begin delivery of meals at home to those immobilized by illness, accident or handicaps. Transportation is available to those needing it, although scheduling still presents minor problems. Buehrle expressed pleasure at the turn-out for opening day, pointing out that the goal for the four operating sites would be 280 meals daily when the project gets into full swing. With over 250 patrons appearing at the inaugural session, a full 90 per cent of that target figure has already been reached.

The Wilmington area program is expected to cost $221,960 a year, of which $199,764 will come from federal money and the remainder from contributions in cash and in kind from local participating agencies. $493,000 in federal funds were made available to the State Division of Aging at the start of the 1973 fiscal year, and Delaware expects to earmark an added $25,000 for the state-wide project. Since the funds come from fiscal year '73 appropriations, they had to be obligated by December 31, 1973, or revert to the Federal government.

The Senior Services Division of the New Castle County Department of Parks and Recreation received its grant for the county area, on Dec. 15, 1973. It plans to serve a minimum of 150 meals daily at four proposed sites in Middletown, Odessa, Townsend and the New Castle area, beginning in early 1974.

The Dover Modern Maturity Center, cooperating with the Kent County Office on Aging, was funded on Nov. 1, 1973 and began operations early in December at the Dover Center, at the Milford Bi-County Center and at Harrington. Two additional sites, the Queen Manor Apartments in Dover and St. Paul's Episcopal Church in Wyoming, expect to begin feeding by February. When fully operational Kent County expects to serve over 300 meals a day.

The Methodist Manor House in Seaford received its grant on Dec. 31, 1973, and plans to serve a minimum of 250 daily meals at six proposed sites, beginning in the early spring.

The program will provide a hot, nutritious meal once a day, five days a week, to eligible individuals. It will also make available, where needed, such supportive services as transportation, nutrition education, shopping assistance, escort service, health and welfare counseling, recreation, and information and referral.

Eligibles are defined as those aged 60 and over who do not eat properly because of poverty or lack of the skills and knowledge to prepare nourishing meals; who have limited mobility which makes it difficult to shop and cook for themselves; or who, being isolated, rejected or withdrawn, have lost the incentive to prepare and eat nourishing foods.

Lacking funds to serve every eligible Delawarean, the Division of Aging has set up a target population of low-income and minority group elderly whose greater needs give them a higher priority. Each of the 3,000 persons over 65 on Old Age Assistance is probably eligible and in need of the benefits of this program. Money is available for up to 1,200 daily meals, although rising food costs may reduce this number.

Consumer advisory councils, established for each project area and for each meal distribution site, will set an expected contribution for the meals. However, no one will be turned away because of inability to pay.

Before the first year of funding is over, the four project areas—the three counties and the City of Wilmington—are expected to be in full operation, with a total of 1,000 to 1,200 meals a day being served statewide, and the necessary supportive services provided or made available to several thousand elderly.

SCIENCE AND AGRIBUSINESS CONFERENCE OF 1974

Mr. JAVITS. Mr. President, at a time when international economic cooperation between the United States and Europe is severely strained by the world energy situation, it is very encouraging to note that a high level group of Europeans and Americans met recently in London to discuss the world food situation and the means by which the agribusiness community might be mobilized to deal with the problems of agricultural production in the developing countries. This meeting was a timely gathering in advance of the World Food Conference to be held under United Nations sponsorship later this year.

It is efforts such as this conference that give one hope that the critical international economic problems that face the world in 1974 can be solved through informed and enlightened cooperative efforts.

Mr. President, I ask unanimous consent that the report on the Science and Agribusiness Conference be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

Science and Agribusiness Conference of 1974 in London

From February 18 to 20, 1974, a gathering of business, scientific, international organisation, government and foundation representatives met in London for a conference on "Science and Agribusiness in the Seventies" under the chairmanship of Henry J. Heinz II of the United States, and Edmund de Rothschild of France and Dr. Victor H. Umbricht of Switzerland. Some 80 Europeans, 45 North Americans and 20 leaders from developing countries participated in the conference, which was supported by foundations on both sides of the Atlantic. The meeting commenced on Monday evening, February 18, with a keynote address by Sir Robert Jackson, Under Secretary General of the United Nations, who called attention to the inter-relationships of the increasingly grave problems of population, food, energy, and currency stability.

The theme of the first day was "The Coming Revolution in Agricultural Production". Agricultural scientists, working throughout the tropical areas of the world, reported on their progress with such important basic crops as wheat, barley, corn, rice, sorghum and grain legumes, and livestock.

On the second day, the meeting concentrated on the theme, "Stimulating Agribusiness Investment in Developing Nations". Speakers from the developed and developing worlds addressed themselves to the problems and prospects of channelling greater private and public resources into the agricultural sector of developing nations. Participants from the developing nations spoke of their increasing desire to improve their agriculture, a sector neglected in some countries due to development plans where highest priorities were given to rapid industrialization. It is now evident, according to these spokesmen, that agriculture is as important as industry in economic growth, and especially today when food supplies are critical to survival.

The more than 140 participants from some 25 nations also met in discussion groups on both afternoons. The reports of these groups together with the papers delivered by the principal speakers, will form the conference record.

The meeting recognized that the gravity of the problems of food shortages, particularly in relation to the dangerously low level of stocks, explosive population growth, and energy constraints, is such that greater co-operation between the business and scientific communities, as well as with governments and the international development agencies, is essential. It was felt that everything should be done to improve communications within the international agribusiness and scientific communities, governments, and the international organizations.

It was the sense of this meeting that a continuing committee be established, composed of:

Giovanni Agnelli, Louis Camu, J. George Harrar, Henry J. Heinz II, Sir Robert Jackson, Pierre Liotard-Vogt, Victor Umbricht, Lord Zuckerman, (Ex Officio) The Chairman of the FAO/Industry Cooperative Programme.

This committee will publish the proceedings of the conference, study and determine appropriate action in relation to the international agribusiness community, the international research institutes, the international organizations and individual governments. In this process, the committee will consult with:

(1) Governments of the developed and developing nations

(2) International organizations working in the development field, particularly the United Nations and the UNDP, the FAO and its Industry Co-operative Programme, the World Food Programme, the World Bank, the International Monetary Fund, the Inter-American Development Bank, UNIDO, and other interested organizations such as the Agribusiness Council

(3) The Secretary General of the United Nations World Food Conference

(4) The international foundations

(5) The international agricultural research centres

(6) The international business and financial community.

The committee will render its report on these matters as soon as feasible to the conference participants and to all the interested international organizations.

TRADITIONAL OPPOSITION TO DICKEY-LINCOLN IS FADING

Mr. HATHAWAY. Mr. President, I was very pleased to learn that the New England Power Co. has decided to stop its long standing opposition to the Dickey-Lincoln hydroelectric project in Maine. I am very glad to have New England Power on our side, and I am hopeful that other private power companies in New England will soon follow the same course.

With the support of traditional opponents like the private power companies and with the support of House Majority Leader THOMAS P. "TIP" O'NEILL, plus many other Members of the House of Representatives, particularly in the New England delegation, who have indicated that they intend to back Dickey-Lincoln, plus the traditional support of the Senate, I am very optimistic about getting funds to construct this very worthwhile project which will mean so much to the people of Maine and the rest of New England.

Mr. President, I have just received a report from the Army Corps of Engineers with an update on the total cost, benefit-cost ratio, and other significant information relating to the Dickey project. I ask unanimous consent that this report, along with an article from the Bangor, Maine, Daily News announcing the decision of New England Power to support Dickey-Lincoln, be printed in the RECORD.

There being no objection, the report and article were ordered to be printed in the RECORD, as follows:

Project: *Dickey-Lincoln School Lakes, Maine.*

Summarized financial data:

Estimated total appropriation required	$356,000,000
Future non-Federal reimbursement	341,500,000
Estimated Federal cost (ultimate)	14,500,000
Estimated non-Federal cost reimbursement:	
Power	341,235,000
Recreation	265,000
Total estimated project cost	356,000,000
Allocations to date	2,154,000
Balance to complete preconstruction planning	2,046,000
Amount that could be used in fiscal year 1974	800,000

Authorization: Flood Control Act of 1965:

Location and description: Dickey Lake is located on the Upper Saint John River near the Town of Dickey, Aroostook County, Maine immediately above its confluence with the Allagash River. The project provides for an earth-fill dam and supplemental dikes impounding reservoirs with gross storage capacity of 7,700,000 acre-feet for power, flood control and recreation. The Lincoln School Lake is located on the Saint John River 11 miles downstream from Dickey Lake and provides for an earth-fill dam impounding a reservoir with usable storage capacity of 30,000 acre-feet for purposes of regulating discharges from Dickey Lake and power generation.

Proposed operations: The amount of $800,000 would be used to resume preconstruction planning.

Justification: The Dickey-Lincoln School Project is an integral unit of the comprehensive development and conservation of the water and power resources of the Saint John River Basin. Electric power will constitute the major benefits from the project and, due to power revenues, is fully reimbursable including interest. On-site annual power generation of 1.2 billion kilowatt-hours resulting from an installed capacity of 830 MW will provide needed power to the New England area. Additional power benefits will be realized at downstream Canadian power plants. Flood control storage provided by the project will eliminate flood damages below the site. The advent of low-cost power and flood protection would contribute significantly to the advancement of the economic climate of the State of Maine and the New England area. The Dickey-Lincoln School Project is located in the part of Aroostook County, Maine which is classified as a Title IV(1) Economic Development Area. The benefit-cost ratio is 2.6 to 1. Average annual benefits are estimated as follows:

Power	44,365,000
Flood control	60,000
Area redevelopment	817,000
Recreation	1,250,000
Total	46,492,000

Status: Of the approximate $2.2 million spent to date, $1.5 million or 68 percent was allocated to surveys and foundation and soils exploration. Remaining funds were expended on real estate investigations and general design effort. No detailed engineering for actual bid plans and specifications has been started. No planning has been accomplished since November 1967 because of lack of funds. Preconstruction planning is approximately 60 percent complete, but some lost effort will be realized in resuming design.

[From Bangor Daily News, Mar. 7, 1974]

Power Firm Reverses Stand on Dickey-Lincoln

PROVIDENCE, R.I.—New England Power Co. officials said Wednesday they no longer oppose plans for the massive Dickey-Lincoln hydroelectric power project in Maine.

The change in position was disclosed in Washington by Rhode Island Gov. Philip Noel and confirmed later by spokesman for New England Power and the Narragansett Electric Co.

Noel, chairman of the New England Regional Commission said that if new studies find the power project is viable, "There's no way the power companies are going to kill it now." He said power companies now are ashamed of their past opposition, which has been blamed for blocking the project.

However, a Narragansett Electric spokesman said the company feels "we were correct in our evaluation of the project several years ago, which indicated Dickey-Lincoln was not economically attractive."

The project proposed for the upper St. John River in Maine, was estimated originally to cost more than $300 million.

Spokesmen said power companies now feel a new study of the project should be made because of high fuel costs caused by the energy crisis.

They added that if the project is built with federal tax dollars, that power should be available to all utilities in New England.

Congress has repeatedly voted down money requests for the project.

THE AMERICAN ECONOMY

Mr. HARRY F. BYRD, JR. Mr. President, the American economy is experiencing many difficulties at the present time, but it is important for us to keep in mind that the private enterprise system remains the strongest possible basis for prosperity.

It is vital that in seeking to deal with such critical problems as inflation and the energy crisis, that we do not undermine the basis strength of the American system of private enterprise.

Recently Mr. Richard C. Gerstenberg, chairman of the General Motors Corp., spoke at a conference on "areas of public concern." In his address he emphasized that private enterprise, supported by reasonable profits, is essential to efficiency and economic growth.

Mr. Gerstenberg also pointed out that reasonable profits are needed for corporations to fulfill their social responsibilities. As he put it:

> A corporation—or any business, for that matter—must first do well before it can do good.

Excerpts from Mr. Gerstenberg's address were printed in the New York Times on March 4. I ask unanimous consent that these excerpts be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

THE PROFIT SYSTEM AND AMERICA'S GROWTH

(By Richard C. Gerstenberg)

WARREN, MICH.—As a nation we have launched ourselves on a most ambitious social agenda. We want to achieve even higher standards of education, health, and well-being for all our people. We want to abolish poverty. We want to rebuild our cities. We want to preserve and restore the beauty of our great resources; our land, our waters, and our skies. We want to give every American—of whatever color, religion, or background—an equal opportunity to become all he is capable of becoming. We aim for full employment, and even more—the full opportunity for everyone to participate in all that America has to offer.

These tasks are inherent and they are right—right for our country and for our time. But they are formidable, and sustained achievement will require a full committal of our moral and mental resources. Right now the hard fact is that the material resources essential to this task will simply not be available unless our economy stays healthy, and this is possible only if business remains profitable. Not one of our grand national goals—not one—can be accomplished unless business prospers. Profits, from which come all wages, taxes, and dividends, fuel the growth of our nation, and our future depends on the profitability of free enterprise.

Yet we are daily confronted with evidence that not enough Americans understand this. To them, the word "profit" has a grubby, selfish sound. The Vice President, Gerald Ford, noted recently, that many Americans consider a legitimate profit as a "rip-off, something that the bad guys steal from the good guys."

My concern today is heightened because so many of the most pressing issues confronting our nation are economic in nature. There are dollars-and-cents considerations, hard questions of profit and loss, in the energy situation, in housing, the deterioration of public transit, in the economic inequities between the races. Yet most of our people are ill-equipped to recognize the economics in these issues, much less to recommend the economic remedies. This lack of public understanding seriously threatens the continuation of our competitive private enterprise system.

In America, public understanding is fundamental. The people still have the ultimate power. Nothing endures—not on Capitol Hill, not in Detroit, and not anywhere in our nation—except by the will and vote of the American people, however unwieldy, however imperfect, however capricious the democratic system may seem. In the last analysis, the people determine what regulations will govern our economy and the conduct of our business.

Remember when we used to say, "Fifty million Frenchmen can't be wrong." Now 200 million Americans can be wrong on balance if a growing number of them believe, as they seem to, that profits are too high, that more regulation is needed, and that big business is getting too big.

The opinion polls present a grim arithmetic. According to a recent survey, only 3 per cent of the American people think business as a whole is not making enough profit, while 35 per cent—or more than ten times as many—think business is making too much profit. The latest public estimate of the average manufacturer's after-tax profit is 28 cents on the dollar, whereas actually he earns in the neighborhood of a nickel.

For the first time since World War II, a majority of Americans no longer thinks that companies should be allowed to make all the profits they can. The trend instead shows a growing public support for a government ceiling on profits. And it may be significant that this study was taken before the energy situation was brought to the forefront of public attention by the oil embargo.

The public is wrong. Dangerously wrong, because the typical corporation is not the insensitive, unchanging inaccessible giant that so many picture it to be. On the contrary, it is one of the most flexible and responsive of man's creations. It takes on the character of its times.

We in General Motors know there is no conflict between corporate profits and social progress. We know that each is necessary for the other. We will continue to be one of the most effective and efficient assets to society that man has devised to achieve his social and economic goals.

In addition to our efforts at General Motors to earn a profit, and largely because of our success in those efforts, we are helping to create a better balanced system of transportation in this country and throughout the world; to explore space; to cleanse our air and water; to develop new materials and means of manufacture; to recruit, hire, and advance minority employes and women; to foster minority enterprise; to support education and a wide range of other community and civic programs. In short, to help do what must be done if our country and the world are to become all that we want them to be.

In such ways a corporation—and remember that there are more than 1.6 million of them in the country today—can help swell the tide of social and economic advancement for all the people of this country, even as they seek a profit.

We make these contributions today because the people—that is, the society we serve—expect us to. In that light, these contributions make good business sense, indeed, the times allow no alternative. And we will continue to make such contributions for as long as our business remains profitable.

In the minds of many people, these social contributions are no longer understood as ancillary to a corporation's basic purpose; they are judged to be basic—responsibilities whose performance is even more essential, or at least more praiseworthy, than providing value for the customer, wages for employees, and a fair return on the stockholder's investment.

In many popular trends of thought, basics have been turned upside down. A private corporation is being confused with a public, tax-supported agency. Profits are not applauded; they are scorned. Business is not encouraged; it is regulated. Enterprise is not rewarded; it is questioned and regarded with suspicion.

This is a road down which we dare not travel. It is a road darkened by a lack of public appreciation of what makes a person willing to risk his capital or to work harder than the next fellow. It is a road which leads to the dead end of excessive and irrational Government regulation—and ultimately to the end of private enterprise.

This, I know is not what the American people want. But this is what we will all get unless more understanding is gained of the importance of profit. Somehow, we must convince people, more people than we have already, that a corporation—or any business for that matter—must first do well before it can do good. Better understanding of our institutions won't just happen. We must make it a goal, make it "happen."

SOL HUROK—IN MEMORIUM

Mr. JAVITS. Mr. President, one of the real geniuses of our time in his world has just passed away at the wonderful age of 85—Sol Hurok, the impressario, unofficial ambassador extraordinary to the Soviet Union, and one of the most colorful figures who ever produced for the American theater, concert, and operatic stage in the United States. He certainly has earned national attention, and for his work in cultural interchange with the Soviet Union and the deeds of his whole life, national thanks and appreciation. I ask unanimous consent to have printed in the RECORD the most impressive obituary in the New York Times of March 6, 1974.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOL HUROK, THE IMPRESSARIO, DIES AT 85

(By Alden Whitman)

Sol Hurok, one of the world's foremost impressorios, died yesterday afternoon of a massive heart attack at the age of 85.

He had had lunch with Andrés Segovia, a close friend who was among the many distinguished artists whose appearances he had sponsored, and had then gone to a meeting with David Rockefeller at the Chase Manhattan Bank in the financial district. He became ill in Mr. Rockefeller's office and was taken to Beekman Downtown Hospital, where he was pronounced dead.

The marquee headline "S. Hurok Presents" had been customarily followed by the name of a famous musical artist, ballet group, opera company, folklore ensemble, symphony orchestra or theater troupe. And what these groups offered was, like as not, a superb and exciting performance. Many of them, moreover, were the fruit of Mr. Hurok's persistent efforts to bring distinguished foreign virtuosos and ensembles, notably from the Soviet Union, to American audiences; as well as his pioneer campaign to promote the dance, and especially ballet, in the United States.

Singly and together, these artists were what Solomon Isaievich Hurok liked to call "S. Hurok Attractions," with the last word capitalized even when he spoke about his offerings without mentioning his name. The fact that his glittering performers appeared only in "Attractions" served to connote that Mr. Hurok was no ordinary purveyor of artistic talent, but an impressario, one of the few who could legitimately claim that majestic appellation.

Defining that word as it applied to him, Mr. Hurok explained a few years ago that an impressario "is a man who discovers talent, who promotes it, who presents it, and who puts up the money and takes the risk."

"That's my main work," he went on, "which is a lot different from a mere agent, a booker, a fellow who works strictly on percentage."

A KEEN DISCERNMENT

And, indeed, Mr. Hurok was not being unduly immodest, for he had a remarkable ability to discern what American audiences would like. "He was absolutely illiterate musically, one observer said, "but he had a fantastic sense of what was excellent."

He looked for projection, that indefinable something that comes over the footlights and strikes an audience in its solar plexus. Hearing Marian Anderson, then an unknown contralto in Paris, for the first time in 1935, Mr. Horuk recalled, he felt chills dance up and down his spine, and his hands got wet. He knew immediately that she would project, and he signed her to a contract with a handshake. The contralto was one of his biggest discoveries.

But artists who flunked the projection test were not taken on, and many of those who grew cold were quietly dropped despite their technical abilities.

Over the years virtually every big name in music and the performing arts was presented by Mr. Hurok. In addition to Miss Anderson and Mr. Segorra, these included Arthur Rubinstein, Isaac Stern, Mischa Elman, Sviatoslay Richter, Emil Gilels, the Oistrakhs, Feodor Chaliapin, Anna Pavlova, Isadora Duncan, Victoria de los Angeles, Roberta Peters and Jan Peerce. Among the dance groups there were the Sadler's Wells Ballet, the Royal Ballet with Margot Fonteyn, the Bolshoi Ballet with Galina Ulanova, the Kirov Ballet of Leningrad and the Moiseyev Dance Company. Among theatrical troupes there were the Old Vic and the Comédie Francaise. There were, moreover, Kabuki players from Tokyo and parading Guards regiments from Britain.

TREATED WITH GRANDEUR

The short, rotund Mr. Hurok, who liked to say that what he did "was not a business, but a disease," often treated his artists with opulent grandeur.

When Miss Ulanova arrived in New York with the Bolshoi in 1959, the impressario ushered her into a three-room hotel suite that held a refrigerator stocked with caviar and champagne and other necessaries of a ballerina's life. On a table were an electric percolator and an unopened tin of the finest coffee (Miss Ulanova liked coffee); there were flowers all over the place; and in one room there was a specially constructed ballet barre, with full-length mirrors.

"So, my dear, you can practice here if you wish," Mr. Hurok said with an expansive wave of his gold-headed cane. (He had a silver-headed one for less stately moments.)

After the premiere at the Metropolitan Opera House, he gave the Bolshoi company a party at the St. Regis Roof with 200 notables as guests. There were champagne, peroshke, caviar, beef Stroganoff, chicken Hurok (sliced chicken with white sauce over a bed of rice and noodles), plus dancing to an 11-piece orchestra. The party cost at least $15,000.

In all, Mr. Hurok invested $100,000 of his own money and committed himself to expenses of $350,000, to bring the Bolshoi here. It was part of his panache to gamble on an "Attraction," but in this case he had a sure winner, and the hotel suite for Miss Ulanova and the party were in keeping with his view of himself as a great impressario.

To be great, he once said, means "first of all you have to love the things you do," adding:

"How much do you love this attraction or that personality? How much do you owe the American public? Those are the important things. The money you think about later."

Mr. Hurok's bravura behavior might have had another side, though, according to a man who has known him for a generation.

"Sol has a great need to justify himself," his friend remarks. "The way he fulfills himself is in doing things big and getting his name in print. He needs a feeling of recognition. That's why he overtips and throws his money around, though in some respects he can be a penny-pincher. He unconsciously remembers the old days when things were precarious. But always he wanted to be the grand seigneur, and in a curious way he has succeeded."

A man of impressive energy, Mr. Hurok liked to socialize with his eminent stars, and among the photographs he displayed on his office walls were pictures of him waltzing with Moira Shearer and Miss Fonteyn, the British ballerinas, and doing the conga with Katherine Dunham, the American dancer. He once fox-trotted with Miss Palova at the Palisades Amusement Park in New Jersey, but there was no photographer to record the event. On another occasion, he played in "Petrushka," dancing with the bear.

THE LOUDEST APPLAUSE

Attending many of the performances of his stars, Mr. Hurok visited them in the dressing rooms before the curtain rose to assure them that they would give a great performance. Afterward, he ranged the back of the house, applauding louder than anyone else and shouting well-placed "bravos."

To concert hall habitues Mr. Hurok was an immediately recognizable figure with his black horn-rimmed glasses, and his round, expressive face—and, of course, his cane.

In keeping with his station and his palate, Mr. Huroke liked to eat in New York at Le Pavillion, and its closing a couple of years ago sorrowed him. He was fond not only of the food, but also of the deference he was accorded there and other costly and elegant restaurants. He talked well over a meal in an English fractured with a Russian accent. The word "ballet" came out as "bolly" or "bollay," and the Old Vic was always "Ud Wick," but it was evident that he had a command of his business and a profound love for it.

He sometimes, too, spoke in Goldwynisms, one of which—"When people don't want to come, nothing will stop them"—has become a concert business classic.

HARD-EARNED SUCCESS

At the pinnacle of his profession Mr. Hurok could say "I'm not bragging when I say I am responsible" for the great growth of American interest in the ballet and full houses for classical music, for his success was hard-earned. "When other managers are out playing golf or something," a man in the business observed recently, "Mr. Hurok is on 57th Street [his office then was on the corner of 57th and Fifth Avenue] making plans."

His regal office, in which he was very much the patriarchal monarch ("I play a 100 per cent role"), was far removed from the lower-middle-class circumstances of his boyhood and youth in Czarist Russia. Born in Pogar, a small town not far from Kharkov, on April 9, 1888, he was the son of a hardware merchant and his wife, Israel and Naomi Hurok. When he was 17, the boy was sent to Kharkov with 1,000 rubles to learn the hardware business.

But his sights were set on the United States, where there were relatives, and he arrived here in May, 1906, with $1.50. There was a brief period in Philadelphia and then a job as a stock boy in a New York hardware concern. Out of his wage of $7 a week he managed to hear Chaliapin at the Metropolitan Opera House, then downtown, and told a friend:

"Someday I am going to manage artists like Chaliapin, maybe even Chaliapin."

Living in the Brownsville section of Brooklyn, Mr. Hukor became engaged in activities of the Socialist party, in whose behalf he took his initial managerial step in 1911. With chutzpah in hand, he persuaded Efrem Zimbalist to play at a party fund-raising concert at a bargain rate. The violinist was a great success in Brownsville, and Mr. Hurok was off and running.

His next venture was to form, with a partner, the Van Huga Musical Society, which sponsored Mr. Zimbalist in a Carnegie Hall concert. By 1916 Mr. Hurok was prepared to devote full time to his career. Among his first successes were Sunday concerts at the Hippodrome at 43d Street and the then Sixth Avenue, where, at a $2 top, the public thronged to hear such musical stars as Eugene Ysaye and Ernestine Schumann-Heink.

These triumphs led Mr. Hurok to present Pavlova, from whose performances he made $25,000, and Chaliapin, on whose opera tour he lost $150,000. He also presented the irrepressible Isadora Duncan, who bared one of her breasts in Symphony Hall, Boston, and was, as a result, almost banned in that city. Mr. Hurok was momentarily nonplussed, but he managed to surmount the crisis and, in time, became accustomed to artistic temperament.

"If they're not temperamental, I don't want them," he later remarked of his clients. "It's in the nature of a great artist to be that way. There's something in them—some warmth, some fire—that projects *into an* audience and makes it respond. Give me the temperamental artist every time."

FASCINATED BY BALLET

From virtually the outset of his business, Mr. Hurok was fascinated by the ballet. The Ballet Russe de Monte Carlo was among his early triumphs. But not all his ballet experiences were happy, and he once contemplated a book to be called "To Hell With Ballet."

Mr. Hurok persevered sufficiently, however, to become "the King of Ballet" and manager of the Ballet Theater from 1942 to 1946 and again for the 1955–56 season. In the nineteen-fifties he imported the Sadler's Wells, later the Royal Ballet, for a succession of cross-country tours. And at last, in 1959, he brought in the Bolshoi Ballet, perhaps the high point of his role as a dance impressario. The run was sold out in advance.

Before and since, Mr. Hurok dealt with the Soviet Government as a leading American agent for its artists. Long before there was an official cultural exchange, he was the agency through whom such Soviet groups as the Moiseyev and such instrumentalists as the Oistrakhs appeared in American halls. For his efforts he was decorated by New York City in 1961, and a number of his distinguished artists—Rubinstein, Stern and Miss Anderson—attended a dinner for him at the Waldorf-Astoria, for which William Steinberg conducted the Pittsburgh Symphony.

With the help of Ruth Goode, once his press agent, Mr. Hurok wrote "Impressario" in 1946, which later became a movie called "Tonight We Sing." He continued his story of his life in "S. Hurok Presents: A Memoir of the Dance World," published in 1953.

In early 1969, when he was 80, the impressario sold S. Hurok Concerts, Inc., then grossing between $8-million and $10-million a year, to the Transcontinental Investing Corporation for an undisclosed amount. "Hurok will be bigger than ever—tell the people that," he said then, adding that the acquisition would permit him to reach the youth audience, which "was not following concert music the way they used to."

At the time Mr. Hurok was offering 60 attractions a season that were playing more than 2,000 concert dates to five million American patrons.

Many of these attractions had been under his auspices for a long time—the Russian troupes since the nineteen-thirties, Rubinstein since 1937, Stern since the late thirties and Segovia since 1943. These and other friends gave him a dinner in 1967. "I didn't ask for it," he said. "The friends who will come to this dinner to pay respects—this is my balance in the books."

A PERIOD OF DECLINE

After Mr. Hurok sold his business, he seemed to many to have gone into a decline. Martin Feinstein, long in charge of public relations, left the staff amid reports of a falling out, and Mr. Hurok's presentations appeared to limp a bit. He himself, however, maintained his cheery disposition in public and insisted that he was doing better than ever.

Mr. Hurok moved his offices from Fifth Avenue and 57th Street to the Avenue of the Americas and 56th Street. This office was fire-bombed Jan. 26, 1972. A young woman employe was killed and 13 persons were injured, including Mr. Hurok, who was borne from the scene cloaked in his fur coat. He suffered from smoke inhalation but quickly recovered.

Because of Mr. Hurok's prominent role in bringing Soviet artists to this country, the attack was attributed to the Jewish Defense League. Two members of the league, a militant organization, were nonetheless cleared of charges when their case was dismissed in Federal Court last year.

BOMBING IN A POEM

The fire bombing was the subject of a poem by Yevgeny Yevtushenko in Izvestia, the Soviet Government newspaper. The Soviet poet referred to Mr. Hurok by his first name and patronymic and paid tribute to Miss Iri Kones, who died in the fire. The poem was titled "With Bombs Against the Arts."

Last May, to mark Mr. Hurok's 85th birthday (it had been privately celebrated in April) and his 60 years as an impresario, a sellout crowd of 1,500 persons assembled in the Metropolitan Opera House for a gala. The audience included diplomats, royalty, aristocrats, members of the Social Register, famous musicians and dancers.

The program, steeped in nostalgia, included Van Cliburn at the piano, Isaac Stern playing a violin, a solo for Margot Fonteyn in a "Swan Lake" excerpt, Shirley Verrett singing Donizetti, and Mikhail Lavrovsky and Natalia Bessmertnova of the Bolshoi Ballet.

He is survived by a daughter, Mrs. Ruth Lief of this city and two grandchildren.

Funeral arrangements were incomplete last night.

SAVE CONNECTICUT'S RAILROADS

Mr. RIBICOFF. Mr. President, on Monday the Rail Service Planning Office of the Interstate Commerce Commission will hold a public hearing in Hartford, Conn., on the U.S. Department of Transportation's recommendations for rail freight line abandonments in Connecticut.

I oppose the DOT plan and shall urge the ICC to reject it.

Under the Regional Rail Reorganization Act of 1973—Public Law 93–236—the Department of Transportation was charged with developing recommendations for future rail service in the areas served by the bankrupt northeastern railroads. Unfortunately, the DOT has interpreted that mandate for change as a license to kill and maim rail service. DOT's plan for Connecticut disregards the State's interests and could result in serious economic dislocations.

Fortunately, it is not the final plan. Many steps remain and, hopefully, DOT's suggestions will be shelved by more responsible authorities. The next stage of the planning process is a review of DOT's report by the Rail Service Planning Office of the ICC. I am hopeful that when the evidence is in it will reject DOT's plans.

DOT recommends that 175 miles or 26 percent of Connecticut's 664 miles of rail freight tracks be abandoned, resulting in a decrease of over 7,000 freight car shipments each year. To the businesses that would lose rail service, it may be a death knell.

The DOT plan would eliminate the bulk of Connecticut's north-south routes that connect the State's businesses with their Massachusetts neighbors and customers.

Some of the routes that would be dropped are: The old New Haven "Canal Line" running north from New Haven through Hamden, Cheshire, Southington, Avon, and Granby into Massachusetts; the link between Waterbury and Bristol; and most of the Danbury and Berkshire line north from Norwalk.

Because DOT also recommends the elimination of the parallel Upper Harlem Valley line across the New York border, a vast area running east from the Hudson River past the Housatonic River Valley and almost into the middle of Connecticut, would find itself without any rail freight service.

Also determined by DOT to be "potentially excess" were the Middletown-Cromwell, Hartford-Rocky Hill, Hartford-Bloomfield and South Windsor-Enfield sections served by the Penn Central. Central Vermont's service from the Massachusetts border to Lebanon and a spur in Willimantic would also be dropped.

If DOT's recommendations are allowed to be implemented, hundreds, possibly thousands of jobs, would be placed in jeopardy. Hardest hit will be the small towns where the local economy relies on only one or two industries now threatened with the loss of their ability to ship or receive goods by rail. Many plants were built years ago on these rail lines far from main roads, and will find it extremely difficult and sometimes impossible to convert their shipping operations.

Connecticut's entire freight transportation network could be thrown into chaos. The 7,000 rail freight car loads will have to be hauled by truck either to their ultimate destination or the nearest railroad terminal.

Trucks may be difficult to find and will certainly be more expensive. Because of the present energy shortage in Connecticut it will be difficult to fuel the hundreds of trucks that would be needed to meet the demand.

Those trucks that were available would increase the congestion and hazards on Connecticut's already crowded highways and severely magnify the wear and tear on road surfaces and bridges.

Finally, it is particularly ironic that at a time when the Nation is faced with an energy shortage, DOT would eliminate a freight system that consumes far less fuel per ton than trucks. In fact, when it comes to hauling, freight trains are from 2 to 5 times more efficient than trucks along the same route.

The issue is more than just one of dollars and cents or freight tonnage per mile. The ultimate economic and social cost of abandoning these lines may be far greater than the cost of maintaining service on them.

Thousands of jobs and the economic future of towns, cities, and entire regions are at stake.

I urge the ICC to reject the DOT findings and recommendations.

HOUSING AND CONSTRUCTION COSTS SOAR WITH CONTINUED PRICE SPIRAL

Mr. HUMPHREY. Mr. President, the Wholesale Price Index released by the Bureau of Labor Statistics this week confirms the spiraling and pervasive inflation faced by the United States today. In February, wholesale prices rose 1.2 percent on a seasonally adjusted basis. At a compound annual rate the WPI rose 15.5 percent. In testimony before the Joint Economic Committee last week, Arthur Burns, Chairman of the Board of Governors of the Federal Reserve, cautioned that double-number rates of price increases, if continued very long, would lead to a South American-style inflation in the United States. I am afraid, Mr. President, that each passing month makes Dr. Burns' prediction more likely.

It is true that WPI increases in February were slightly less than in December or January, but a slowdown in the rate of inflation from 2 or 3 percent a month to 1.2 percent a month is hardly comforting. There is little expectation on the part of most economic forecasters that price increases will slow appreciably before midyear, if then.

In reviewing the February price increases, I was struck by the sharp rise in prices for basic manufacturing and construction items. The following table is only a partial listing of these items:

Wholesale price increases for selected items February 1974

	Percent change from 1 year ago	*Percent change from January to February*
Plywood	5.6	1.9
Paperboard	19.4	3.1
Iron and steel	16.6	2.9
Nonferrous metals	36.4	2.4
Fabricated metal products	9.7	1.0
Construction equipment	7.5	1.0
Concrete products	10.4	1.8
Asphalt roofing	21.9	6.4
Gypsum products (wallboard)	12.3	1.6
Paint materials	23.1	3.0

Removal of price controls and higher prices for petroleum products account for part of the rise in these basic construction materials. In the coming months, these higher materials costs will be reflected in higher housing prices, and higher construction costs for business.

Mr. President, the American homeowner or prospective homeowner has been buffetted on all sides in the last year. Skyrocketing land prices have put single-family dwellings out of the reach of many families. Then a restrictive monetary policy followed by the Federal Reserve Board since mid-1973 sent mortgage rates to unprecedented levels. Even at the high prevailing rates, prospective homeowners found that mortgage money was unavailable in many communities without restrictive requirements, such as 40-percent downpayments and 15-year-term mortgages. On top of this, the consumer will face even higher house, and eventually rent, prices as higher costs of iron, steel, concrete, roofing, and wallboard are passed on.

Businessmen will also face sharply higher capital equipment prices. In a number of key industries, the United States is operating at or very close to capacity, and additional capital investment is sorely needed. The administration and private economists expect that plant and equipment spending will provide the major strength in the economy this year. However, a 13-percent increase in capital equipment spending projected for 1974 will largely reflect higher prices and, at present, it seems that the increase in real spending will be rather small.

Mr. President, undoubtedly, increases in world raw commodity prices and oil have accounted for a significant part of the rise in construction materials prices. But this administration is guilty of rushing from one brushfire to another, and doing a poor job of fighting each of them. The President and his economic advisers are in complete disarray, and this is sharply evident in the scarcity of recommendations in their budget and annual economic report for dealing with inflation. This country faces an economic crisis, yet leadership from the President is virtually nonexistent. Mr. President, it is incumbent upon this Congress to fill this vacuum if we are to avoid an inflationary spiral that is completely out of control.

OVERSEAS RELIEF PROGRAMS OF THREE GREAT FAITHS

Mr. BUCKLEY. Mr. President, one of the underlying strengths of our Nation is the reliance on private initiative and private organizations in the field of social welfare. Nowhere is the success of such private initiative demonstrated more than in the annual spring relief appeals of America's three great faiths to seek funds to assist the needy of other lands. These appeals will coincide on Sunday March 24, 1974.

Millions of Americans, each through his own faith, will make special contributions to support religious voluntary agency assistance programs for the world's homeless, hungry, and destitute.

The three appeals are: Protestant—One Great Hour of Sharing; Catholic—The American Catholic Overseas Aid Fund; Jewish—United Jewish Appeal.

The overseas relief programs of the religious faiths serve victims of war, natural disasters and destitution with both emergency aid—lifesaving medicines, food, clothing, and shelter—and with continuing programs of rehabilitation. Self-help projects restore their dignity and self-sufficiency.

These ministries of mercy account for a major portion of all American voluntary overseas relief efforts, giving assistance annually to millions of destitute men, women, and children.

Mr. President, I have long felt that part of the greatness of our Nation lies in the commitment of its people to these "ministries of mercy". It is my hope that this year's appeal meets with the traditional open hearts and financial support that has so long characterized the American people when others are in need.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the Senate has balked time and again on the most crucial question of this century—the inherent rights of mankind. The failure to ratify the Genocide Convention is a case in point and it is time for the Senate to recognize the impact of its delay upon the people of the United States and all mankind.

In 1945 the Senate overwhelmingly ratified the United Nations Charter. In doing so, we reiterated a pledge of the founders of this Nation—to uphold "the dignity and worth of the human person."

Our nonratification of the Genocide Convention has jeopardized our credibility in the field of human rights. Our failure to adopt a treaty so consistent with our own national goals is a source of international disillusionment. It appears as if we prefer lipservice for concrete support of human rights measures.

I believe it is long overdue for the U.S. Senate to renew its dedication to human rights. It is time for us to regain a leadership position in this struggle for the improvement of the human condition.

Mr. President, it is time for us to restore our credibility in the international community by advising and consenting to this humanitarian treaty.

MINORITY ENTERPRISE—THE NEED FOR BOLD INITIATIVES AND STAUNCH ALLIES

Mr. JAVITS. Mr. President, the state of minority business enterprises today shows encouraging signs while plagued by discouraging statistics. In a speech to the Contractor's Association of Boston on March 2, my good friend and colleague, Senator BROOKE, presented a most compelling analysis of the plight and portent of minority business. His analysis and recommendations underscore the challenges and opportunities of American business and labor to insure that all Americans get a piece of the economic action. I commend to my colleagues Senator BROOKE's speech and ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

MINORITY ENTERPRISE—THE NEED FOR BOLD INITIATIVES AND STAUNCH ALLIES

(Remarks of Senator EDWARD W. BROOKE)

"Anyone looking for the Civil Rights movement in the streets is fooling himself. Politics is the civil rights movement of the seventies. Politics is the last non-violent hurrah."

I agree with Maynard Jackson's assessment. And right now, Atlanta's newly elected Mayor is at the Boston Statler taking Reginald Eaves away from the Hub and no doubt expanding on his observation about the new emphasis in the Civil Rights movement. I would add to the distinguished Mayor's assessment one word, "economics." Politics and economics are the civil rights movements of the seventies!

Politics is power! Economics is power!

The right to work and profit in our system of enterprise is a right to be shared by all Americans and must be shared equally. It is the right to shape and to improve one's life and one's community. It is the right that leads to power. And unless minorities gain this power they will be virtually impotent in a society whose strength is founded on economic power and political power.

Power is why we are here tonight. And we must seek power tomorrow and each day thereafter—relentlessly and responsibly! Not for our own egos and enrichment, but for the millions of Americans who look for signs of hope and examples of the successful application of power.

Looking back just a few years, we see impressive advances in the number of Black elected office holders in the United States. In 1969 there were 1,185. The latest survey shows 2,894 elected officials, an increase of 144 percent.

This percentage of increase is dramatic. It shows that Black Americans have learned how the political system works and how to work the political system. We have shifted our goals from confrontation to political achievement and set our sights on the Mayor's office, the State House, the Congress and, yes, the White House.

Yet, we 2,894 black elected officials still represent only one-half of one percent of all elected officials in the country. And regretably more than 50 per cent of eligible black voters failed to vote in 1972.

Blacks and other minorities must increasingly cast their ballots and be on those ballots. Similarly it is not enough that corporations hire minorities. It is essential that minorities serve on the Boards of Directors of our nation's corporations.

In 1963 the gross national product of the Black community was estimated at less than $20 billion. Today it is said to be more than $50 billion. To be sure the gross national product as a whole has also grown rapidly, but unlike 1963 there is, in just about every major city and many towns and rural areas, one or more fledgling organizations devoted exclusively to minority economic development.

With this new focus on economic development, the members of the Contractors' Association of Boston and similar organizations are fulfilling critical needs by helping minorities understand the real meaning of capitalism and how we can make it work for us. But the Black community now exercises little control over the $50 billion that we spend. Scant sums are channeled back into the Black community and very little of it benefits these communities.

What we need now are bold strategies and staunch allies to gain control of as much of that $50 billion that passes through Black hands each year as possible!

The Civil Rights movement significantly changed the inner city environment as more Blacks became aware of how the economic system works. There is more talk now of getting a piece of the action, and Blacks now realize that economic development has many spinoffs.

Keeping dollars in the Black community creates new jobs, makes services more accessible to the poor and the elderly, and contributes to a sense of community pride.

Looking back to 1963 and the heady days of the 1960's, let us recall how we have come to a new day. Few of the gains made in the past decade would have been possible without the Civil Rights movement as we knew it then. The legislative offspring of the Civil Rights movement—the Civil Rights Act of 1964; the Voting Rights Act of 1965, the Economic Opportunity Act of 1964; the Elementary and Secondary Education Act of 1965 and the Civil Rights Act of 1968—stem in large measure from the pressure tactics and powerful convictions of those who marched not just in Washington, but in Albany, Georgia; Selma, Alabama; St. Augustine, Florida; and countless other cities.

We now have the formalities and the legal protections of law. And the time has come for us to shift to the new dimensions of civil rights—the living and working conditions of our people!

It is right to have laws that declare discrimination in employment illegal. But it is also right to have meaningful jobs and livable incomes. We must have jobs and income.

It is right to ban segregation in education. But it is also right to have modern, well-equipped schools with competent, well-paid teachers and relevant curriculums.

It is right to have government employ blacks and other minorities. But it is also right that corporate industries and the financial institutions practice equal opportunity and equal treatment in all of their economic, management, and employment functions.

Emphasis must be on broadening the American economic system to give opportunity to all segments of our society.

And there are some encouraging signs. The minority owned savings and loan field has made significant gains in recent years. Born in the self-help period of the turn of the century, these institutions forged by outstanding leaders like Booker T. Washington, J.B. Blayton and Carter Wesley. In 1969, there were 42 minority owned savings and loan associations. Today that number stands at 62. Moreover the current assets of these institutions now total over one-half billion dollars—a 65 percent increase in the past three years.

And through a combined government private sector program to increase deposit balances in the nation's fifty minority owned banks, deposits in these banks increased by $537.7 million—an expansion of 110% between June 30, 1970 and June 30, 1973.

Today there are more than 322,000 minority businesses, which produce over 3.3 billion dollars in annual sales.

But there are also some discouraging facts. Seventeen percent of Americans are minorities. But minorities control less than one percent of the nation's business assets! This statistic is as demanding as it is damning! It demands that we look at historic causes for this tragic disparity. It demands that we explore the present plight of minority business. It demands that we assess present remedies and propose new solutions.

In a way, the situation which minority entrepreneurs face today is analagous to that which Blacks faced at the turn of the century. Possessing little land and scant skills in farming, Blacks were encouraged to master rapid advances in agricultural know-how and to make themselves into better farmers. This advice suffered from a fatal flaw: the mainspring of the American economy was drifting from agriculture to industry.

And during the bitter days of segregation, of restricted access to housing and public accommodations, black businessmen came forward to meet the limited demand for services of a predominantly low income population.

And today we find that the fields of concentration of black enterprises—small scale retail trade and personal services—are growing more slowly than the economy as a whole.

Thus we need to diversify the range and focus of black-owned business. And in an era of "bigness" we need to increase the size and efficiency of black-owned firms.

This can be accomplished through consolidation as well as through cooperation. And the cooperative initiative of the Contractors Association of Boston—48 firms working together to gain greater access to the market—serves as an exemplary model for the nation.

There are two keys to success in business—managerial skills and capital.

The pursuit of both is essential to the acquisition of economic power.

In 1969, the establishment of the Office of Minority Business Enterprise marked the first national commitment to coordinate minority business development. OMBE was designed to be a catalyst, to stimulate and coordinate a joint federal-private partnership to assure America's minorities equal access to the rewards—as well as the risks—of the free enterprise system. In the five years since its formation, OMBE has mushroomed from a staff of seven people and a 46 thousand dollar budget to a national assistance network with minority business activity in every state with a significant minority population.

In Fiscal Year 1974, the OMBE program level was 52.5 million dollars, with a permanent staff of 230. The majority of these funds were used to maintain over 300 private organizations nationwide which, in turn, provide management and technical assistance to individuals or groups in their business ventures across the country.

Regrettably the vision of the OMBE team is not matched in OMB (Office of Management and Budget), which myopically has kept the Fiscal Year 1975 budget at the 1974 level with the exception of an additional $2.5 million for new marketing initiatives for minority businesses. The OMBE budget on the surface appears larger—totalling $94.9 million. But close scrutiny reveals that this larger budget stems mainly from the shift of 39.3 million dollars from the Office of Economic Opportunity to OMBE to continue funding Community Development Corporations.

This transfer is premised on the Administration's continued desire to totally disband OEO, an effort which I hope and believe will once again be thwarted by the Congress.

I have great confidence in OMBE's Director Alex Armendaris and his team. And as a member of the Senate Appropriations Committee and its Subcommittee on State, Justice and Commerce, I shall explore fully the funding needs of OMBE and hopefully increase substantially its funding for Fiscal Year 1975.

The Small Business Administration also has an important role in spurring minority business enterprise, as it carries out the intent of the Small Business Investment Act and the Minority Enterprise Small Business Investment Act. Under Section 8(a) of the Small Business Act, SBA is permitted to obtain procurement contracts from other federal agencies and to award subcontracts to minorities to help them become owners of sulf-sustaining manufacturing, construction and other related service enterprises. It is anticipated that 1,500 companies will be thus assisted in 1975 with contracts totalling 250 million dollars.

The SBA loan guarantee program seeks to assure the availability of capital to minority entrepreneurs. Through this program, progress has been made.

However, a large gap still remains unfilled. So far, the emphasis on the financing of minority business has been through the extension of loans. While debt financing has been pursued, equity financing, which is the more usual, desirable source of funds for high-risk ventures, has been ignored.

Equity financing through the private sector creates a situation whereby the investor, who supplies the venture capital, becomes a partner in the enterprise. And thus brings to it not only capital and a broad base of experience—technical and managerial expertise—but a strong commitment to its success.

Last March Senator James Buckley of New York and I introduced legislation to stimulate the flow of equity capital into minority business ventures. Our bill would provide qualified investors in such endeavors the right, sharply limited in time, to sell their investment to the SBA at 70 percent of cost. Simply put, if the market value of the investor's stock declined below 70 percent of the purchase price, the investor would have the SBA as a ready market, for his shares. We felt that this provided a potential investor a sufficiently large risk of loss to insure that no investment was made lightly and that the investor would provide the expertise to insure the venture's success. Our bill has stimulated thought and comment in the business community and the Administration. In the next few weeks I am hopeful the Committee on Banking, Housing and Urban Affairs, on which I serve, will hold hearings on a refined draft of our bill.

Minorities must be increasingly willing to share in joint ventures with businessmen of other races and to tap the stream of risk-taking capital flowing through the economy as a whole. And most important, minorities must be prepared to undertake the hard task of acquiring the technical managerial skills increasingly required to survive and prosper in the sophisticated business world.

In this regard the report released in January by the National Task Force on Education and Training for Minority Business Enterprise underscores the magnitude of the problem.

I strongly urge that this compelling report be widely read. The report makes six basic findings:

"1. The alarmingly high failure rate of minority owned businesses is attributed primarily to poor management and business skills of the owners and managers of these enterprises.

"2. There is a chronic shortage of trained minority talent available to meet the pressing need for owners, managers and business technicians in the growing number of new and expanding minority business firms.

"3. Management and business skills are critical elements in the survival and successful growth of minority business enterprises.

"4. Education and training programs designed to provide needed management and business skills must become an integral part of the national strategy to expand minority business ownership.

"5. Entrepreneurship as a career opportunity for minority youth is given inadequate attention within the total educational system; and

"6. There is a wide range of existing national, state, and local resources which can be enlisted to support or conduct minority business enterprise education and training programs for existing, potential, and future entrepreneurs."

Based on these findings, the Task Force concluded that a comprehensive program for minority business enterprise education and training must be established if the national goal of expanding minority business ownership is to be successful.

The Task Force's recommendations should become the agenda for the entire business community. Business should demand of itself and the appropriate levels of government proper responses to the need for business education, and training programs utilizing and improving upon existing public and private resources.

Our educational and job training processes are not adequate to the needs of minorities, indeed, most Americans in the 1970's. I have long advocated expansion of the career education concept and the message is slowly getting across. Young people must be exposed early in their schooling to the vast and varying world of work. They should learn of the role of plumbers and physicists, stock-brokers and surgeons, retailers and riveters, carpenters and contractors. Pride in each and every endeavor should be instilled. The workings of our economic system must be understood.

And here is an area where all can help. Not at some distant time, but now. Your firms, facilities, foremen and workers are invaluable educational resources that are overlooked. Go to your school committees, your school boards and the schools themselves. Offer these resources to them. Encourage our youth to come to your building sites and learn about the construction industry first hand. And this applies to all economic endeavors; stock-brokers, insurance companies, banks, stores and others.

Our children need more than text book

examples, they need practical experiences in the world of work which they will inevitably enter.

Fortunately this is being done in some experimental programs. But if you in the business community offer relevant experiences for our youngsters and offer your facilities to the school systems, I am sure that your offers will be accepted and that our young people will benefit.

And the new manpower revenue sharing act provides job training decision making and direction at the state and local level and invites business inputs which hopefully will insure that job training responds to job opportunities.

If we promise minorities that they can indeed get a piece of the action, we must first be sure there is enough action to go around.

In the next few weeks, the Senate will take up an omnibus housing bill, with which I have been working for months. This bill authorizes 8.5 billion dollars in federal expenditures for housing and communtiy development over the next two years.

And, let us hope this bill will pass the Senate and House of Representatives and will be signed into law by the President. And that the money authorized therein will be appropriated and spent without delay or impoundment. For too long we have deferred our nation's commitment of a decent home for every American. Hopefully, the funds spent pursuant to this act will both meet the needs of all Americans for decent housing as well as the needs of the construction firms and workers. And, we must, in spending these funds, insure that minorities will receive their fair share of the act.

Tonight, while we celebrate the successes and contributions of a few, let us not forget the hopes and aspirations of the many who look to us for help and leadership.

These are Americans who are unemployed or underemployed, unskilled and perhaps undereducated. Many have been displaced by technology and by-passed by affluence. They cannot also be denied hope.

Regardless of their color, what unites them is far greater than what divides them. They want jobs. They need job opportunities.

They need, in Leon Sullivan's words, "a hand up, not a hand out." Tonight I want to commend CAB's goal of self-sufficiency by 1975, which I hope symbolizes the determination of all minority entreprenuers.

But when help is needed let us not be too proud to seek it! And, let us insure that our allies and aid mechanisms are close at hand.

We need and are fortunate to receive talents of executives like Charles O'Leary now on loan from Polaroid to CAB.

We need and are fortunate to receive federal seed money from OMBE to initiate programs like CAB. And I have assured Gus Perry that CAB will receive OMBE's aid.

We need and are fortunate to receive joint ventures like the black and white Morton Plaza Shopping Center in Mattapan, where John Mugar, President of Star Market, and John Cruz, President of John Cruz Construction Company are combining their wealth of talents to enhance opportunities and the community.

In Boston, throughout the Commonwealth and the nation, we find similar examples of Blacks and Whites, of people working together.

The needs of all Americans are intertwined. As Whitney Young used to say: "We may have come here on different ships, but we're in the same boat now."

Thus admonished; let us do what we can to rekindle the American dream.

A BIG SKY CHAMPIONSHIP FOR IDAHO STATE UNIVERSITY

Mr. CHURCH. Mr. President, Idaho State University has just won its first Big Sky conference championship, and its basketball team now goes on to a berth in the NCAA playoffs. I take this opportunity to extend my congratulations to a great team, a fine coach and athletic department, and a fine university.

I ask unanimous consent, Mr. President, that an article in the March 6 Idaho State Journal of Pocatello be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Pocatello (Idaho) State Journal, Mar. 6, 1974]

ISU Wins Big Sky

(Editor's Note: Idaho State University's Bengals captured their first Big Sky Conference championship Tuesday night in Missoula, Mont., defeating the University of Montana Grizzlies 60–57. The now-undisputed Bengal title holders will face the University of New Mexico Lobos at 9:10 a.m. Saturday in the Minidome, in the first round of an NCAA west sub-regional tournament.)

(By Lyndam Fillmore)

Missoula, Mont.—It had to be poetic justice, pure and simple.

Early Tuesday, Montana coach Jud Heathcote maneuvered a huddle with Big Sky Conference athletic commissioner John Roeing.

Heathcote, knowing his Grizzlies would face Idaho State University on the Montana court for the right to meet Western Athletic Conference winner New Mexico in the NCAA West sub regional Saturday, proposed to the commissioner that Tuesday night's playoff not only decide the Big Sky representative to the NCAA, but also the conference champion.

Although it had been announced last Friday that Idaho State and Montana would share the crown this season on the basis of identical 11–3 conference records, Roeing announced his decision late Tuesday that the victor of the playoff game would hold sole claim to the Big Sky crown.

And as it turned out, Heathcote got a lot more than he bargained for, as the Bengals turned back Montana, 60–57, for the Grizzlies' first loss of the season on the Missoula court, and their first defeat in the last 14 games.

"I really want to extend a big thank-you to Jud Heathcote for making all this possible," said ecstatic ISU coach Jim Killingsworth. "We thought we were coming up nere to play for an NCAA berth, but Jud decided it should be for all the marbles. At this point, I am very glad he did. We are no longer co-champions; we are the Big Sky champions, and the only Big Sky champions. Thanks again, Jud."

ISU athletic director Dubby Holt said Montana 'blew" any chance of an NIT bid for a conference team with its actions prior to Tuesday's game.

"It's a classic example," said the proud ISU athletic director, "of putting all your eggs in one basket.

"Montana assumed it was in a very good position to beat us," he continued. "The NCAA berth was not enough; they wanted it all. And they got Roning to agree with them.

Apparently Heathcote referred Roning to an obscure paragraph in the Big Sky handbook, from which Roning decided the winner of the playoff would be named conference champ.

"However," Roning told a Journal reporter, "this is not for national publicity. As far as national publicity is concerned, we have co-champions. We want an NIT bid for the conference, and the NIT indicated it was only interested in a champion, not a runner-up. So as far as the conference is concerned, the winner holds the title. But as far as the NIT is concerned, it's co-champs."

Holt attempted to argue the point with Roning prior to the game, but Roning insisted "winner take all."

"I had done a lot of work with the NIT selection committee to get them to consider accepting a co-champion," Holt said. "But Montana threw it all out the window with their decision to ask for a single titlist."

Killingsworth noted the Bengals were "up" for the game, even before leaving Pocatello Monday.

"They remembered what Montana did to us when we were up there the last time, and they wanted to repeat," said the Bengal mentor.

Killingsworth pointed to guard George Rodriguez, who had proclaimed he was happy when Montana won the coin toss to determine the playoff site.

"George kept telling everyone we had a piece of Montana due us, and he wanted to go up there and get it, Killingsworth said. "He kept saying this right along, and it made a difference."

Killingsworth said Montana's decision to ask for the conference championship to Tuesday's winner "only worked to psych the players up."

"They probably thought it would work against us," the "Killer" said, "but we fooled them. We used it to our advantage. We knew we had all the more to go out there and work for, and we did it.

"I am extremely proud of these young men," he continued. "All season long, with the odds against them, they continued to fight. And it paid off. Nobody picked us as Big Sky champs, but here we are."

Although freshman center Steve Hayes, who filled in for an ailing Dan Spindler Tuesday, stole the show with 19 points and 13 rebounds—several of them coming in the crucial closing minutes—Killingsworth declined to single out a hero.

"Steve was utterly fantastic in there when it really counted," Killingsworth declared, "but it's been a team effort all along. As I look back over the season, I can point to several occasions where each player made the difference between winning and losing. And that's how I want it to stay. No star, just a great team effort."

Killingsworth said the victory was the greatest in his 25 years of coaching basketball.

"At this point, it has to be," he exclaimed, choked up with emotion and barely able to speak. "If there ever was a finer one, you'll have to show it to me."

Besides earning "Killer" his first berth in an NCAA tournament—and the first for Idaho State since the Rocky Mountain Conference days—the big win fulfilled another dream for the ISU coaching staff.

"I sincerely believe, for the first time since I've been here, we'll fill the Minidome," he declared.

And, of course, he was referring to the game Saturday night against New Mexico . . . "a team we can beat if we put it together like we did in this one."

Bengal Banter—Approximately 500 ISU fans, including the Pep Band and three busloads of fans from Pocatello, were among the record crowd of 8,343 in Adams Field House . . . ISU shot a hot 52 per cent from the field, compared to 39 per cent for the losing Grizzlies . . . Montana's Ken McKenzie, the leading scorer in the Big Sky, did not tally a point in the first half, while sitting out a good portion with three fouls. He finished the night with 14.

ISU boosters, out to meet returning planes carrying fans Tuesday night at the airport, put together a "memorial" to Heathcote, consisting of a huge "We try harder" Avis car sign and several ISU "We're No. 1" buttons. An order for a funeral wreath was also placed to be delivered to Heathcote . . . Tickets are now on sale at the Minidome box office for Saturday's regional games, which will be televised throughout the West, except in the Pocatello area . . . The ISU team and coaches will return by plane at 5:09 p.m. today at the Pocatello Airport. Chamber of Commerce president Tom Spofford said he hopes 2,000 or more fans are on hand to greet the Big Sky champs.

NATIONAL ASSOCIATION OF COUNTIES OUTLINES LEGISLATIVE PRIORITIES

Mr. HUMPHREY. Mr. President, a few days ago I received a copy of the National Association of Counties most recent newsletter entitled "1974 National Legislative Priorities." In this outstanding newsletter, NACO outlines the critical issues currently facing every American community, such as energy shortages, the need to build better communities for the future, and land use policy, and offers an array of intelligent recommendations on action to alleviate them.

In addition to the areas mentioned above, NACO also expresses its strong support for the full funding of the Rural Development Act of 1972, in a separate statement recently issued on this subject.

Short of the full funding that is needed, NACO recommends that priority be given to annual appropriations of $300 million for rural water and waste disposal grants, $30 million for rural water and waste disposal planning grants, and $10 million for rural comprehensive planning grants.

Mr. President, funding for rural development by this administration has been totally inadequate. We must see to it that it is greatly increased.

NACO understands that most counties, whether urban, suburban, or rural in nature, have similar needs, and in trying to meet these needs NACO effectively coordinates 12 policy steering committees to develop comprehensive policy recommendations for member counties. This organization has done a tremendous job over the years in identifying the legislative priorities of local governments, informing the Congress of their problems, and working closely with the Congress to achieve their goals.

Mr. President, I ask unanimous consent that this newsletter and statement on rural development funding, be printed in the Record.

There being no objection, the newsletter and statement were ordered to be printed in the Record, as follows:

[NACO Newsletter]

1974 National Legislative Priorities

ENERGY LEGISLATION

The National Association of Counties is appalled by the federal government's lack of action on the worsening energy shortage. Congress and the Administration are continuing to squabble over emergency energy legislation. After eight months of attempts to reorganize federal agencies and formulate a consistent national program, there is still internal division and confusion.

It is now time to act. NACo believes the highest priority of the Congress has to be the enactment of comprehensive energy legislation. The time for further debate is over. The country cannot afford either congressional delays or threats of Presidential vetoes of this vital legislation.

GENERAL REVENUE SHARING AND CONGRESSIONAL BUDGET REFORM

NACo urges the Congress to exempt future revenue sharing programs from the provisions of the Congressional Budget Reform bills and, therefore, the necessity of going through an annual appropriations process. The present versions of the Congressional Budget Reform bills, in both the House and Senate, would require that General Revenue Sharing go through an annual appropriations' process after 1977 just like any other federal grant program. Counties are trying desparately to move away from government by reaction and into government by planned action which requires a more stable and dependable financial base than presently exists.

COMMUNITY DEVELOPMENT BLOCK GRANTS

As the Congress considers legislation consolidating various community development categorical programs into a single block program, NACo strongly recommends: that counties be eligible recipients of a guaranteed formula share of community development block grant funds; that the legislation authorize and provide financial incentive for multi-jurisdictional community development applications from units of general purpose local government; and that the Congress promptly enact community development block grant legislation at an adequate funding level.

RURAL DEVELOPMENT FUNDING

NACo urges the Congress to give top priority to appropriating the full annual amounts for the following grant programs authorized by the Rural Development Act of 1972: $300 million for rural water and waste disposal grants; $30 million for rural water and waste disposal planning grants; and $10 million for rural comprehensive planning grants.

MANPOWER FUNDING

NACo congratulates the Congress for enacting the Comprehensive Employment and Training Act of 1973. This legislation provides the basic vehicle to respond to the manpower needs of county residents. In view of rising unemployment in part due to the energy crisis, NACo urges Congress to promptly appropriate sufficient additional funds in the FY '74 supplemental appropriations for Title II. NACo also urges Congress to carefully review the level of unemployment in providing sufficient funds for the 1975 appropriations.

TRANSIT OPERATING FUNDS

NACo urges Congress and the Administration to agree quickly on legislation giving counties and cities transit operating cost assistance. At least $800 million per year is needed. In transit assistance and other local transportation decisions Congress should define local officials as ones locally elected, publicly accountable with capability to raise matching monies for federal funds.

CLEAN WATER FUNDING

The National Association of Counties calls on the President to release the full $18 billion appropriated by Congress for planning and construction of sewage treatment plants and sewage collection systems. NACo calls on the Environmental Protection Agency to speed up its funding and review process to provide local governments with the money now available.

SOCIAL SERVICES REVENUE SHARING

NACo supports the social services revenue sharing proposal (HR 3153) and urges the House Ways and Means Committee to conduct hearings as soon as possible so that the definitions and programmatic components of social services will be clearly identified. In the meantime, the status of the current regulations needs to be clarified by Congress so that services delivery will not be crippled by the absence of definitions.

PUBLIC HEALTH SERVICES

NACo supports continuation of public health services, planning and health manpower programs and urges the adoption of a federal-state-local cost-sharing program that reimburses states and counties for specified categories of public health services.

LAND USE POLICY LEGISLATION

NACo urges passage of the land use bill reported by the House Interior Committee (HR 10294) which contains NACo amendments strengthening local planning and reflects NACo's policy. NACo urges defeat of amendments to be offered on the House floor which would attempt to gut the thrust of the legislation. NACo urges the Senate to agree to all NACo amendments in the House-Senate Conference Committee.

ECONOMIC DEVELOPMENT ACT

NACo strongly recommends that the Congress assure continuation of the grant and loan program of the Public Works and Economic Development Act through FY '75 at a substantial level of funding. NACo reserves judgment at this time on the proposed "Economic Adjustment Assistance Program" until its details are made public.

CHILD WELFARE SERVICES FUNDING

NACo urges the House and the Senate Appropriations Committees to recommend a substantial increase in Title IV–B to better match local resources. There is currently authorized $226 million for Title IV–B child welfare services—those services guaranteeing protection and care to all children. The 1975 HEW budget request is $46 million or only eight percent of total state, local and private agency spending ($600 million).

WELFARE REFORM

NACo urges expeditious development of welfare reform legislation, including a national work security program to replace public assistance for employable persons. This program should provide income maintenance during periods of unemployment or training with an adequate minimum cash floor. This program should also provide support for individuals unable to work because of disability or the need to care for dependent children.

NATIONAL HEALTH INSURANCE

NACo endorses the principle of a single universal comprehensive health insurance system for all people. Comprehensive benefits must be made available to all citizens regardless of socio-economic differences. The program should also cover expenditures related to public health and insure an adequate supply of manpower that will be needed to provide services covered under a national health insurance program.

Counties and the Congress, a Partnership for Progress

County officials and Congress share the same goals in wanting to serve their constituents better, being responsive to their needs and working to improve government at all levels. It is a continuing, interdependent partnership.

The National Association of Counties (NACo) is the only national organization representing county government in the United States. Its membership spans the spectrum of urban, suburban and rural counties which have joined together for a common purpose of strengthening county government to meet the needs of all Americans.

NACo is governed by its member counties through a weighted voting system based on population. The counties elect a Board of Directors annually. Twelve policy steering committees meet several times a year to develop policy recommendations for the member counties. The organization's official policy positions are documented in the *American County Platform.*

NACo works closely with Member of Congress and Congressional Committees in gathering information on local needs and the views of county and local officials. This research is directed towards constituent services as much as legislation. In addition to the 70 staff members headquartered in Washington, D.C., NACo works closely with state associations of counties in 46 states. All told, there are 250 people ready to serve the Congress.

Strike Force Paper—Rural Development Funding

BACKGROUND

The Rural Development Act of 1972 is designed to bring new life to the rural areas of America. It is composed of various grant and loan authorities which are intended to assist business and industrial development, together with the provision of essential community facilities. Included among the authorizations are:

Unlimited loan authority for rural development programs such as business and industry and essential public community facilities.

$300 million for water and waste disposal grants

$30 million for water and waste disposal planning grants

$50 million for industrial park development

$10 million for comprehensive rural development planning grants

$7 million for rural fire protection grants

Like the Fiscal 1974 budget, the Fiscal 1975 budget proposes that for the most part only the loan authorizations in the Act be funded. The total amount of rural development loans is proposed to increase to $1 billion over the $720 million requested for Fiscal 1974. Included is $400 million for water and waste disposal loans (down from $470 million), community facility loans—$200 million (up from $50 million) and business and industrial development loans—$400 million (up from $50 million).

The budget proposes spending $20 million for water and waste disposal grants, down from $30 million in Fiscal 1974. No appropriation for these grants is requested as the funds will come from a total of $150 million appropriated in Fiscal 1972 and 1973 but not spent. Also requested is $10 million in grants to local governments to facilitate development of private business facilities such as industrial parks—the same amount as appropriated in Fiscal 1974.

NACO POSITION

NACo policy with respect to funding of the Rural Development Act of 1972 was adopted in July, 1973. It recommends:

That the act, insofar as possible, be fully funded. Recognizing, however, that this may not be possible in view of limited federal funds, priority should be given in appropriating the full amounts for the following programs:

an annual appropriation of $300 million for rural water and waste disposal grants;

an annual appropriation of $30 million for rural water and waste disposal planning grants;

an annual appropriation of $10 million for rural comprehensive planning grants;

a total of $45 million through Fiscal 1976 for rural development research.

ACTION NEEDED

Reaffirm the NACo policy with respect to full funding of the Rural Development Act.

All counties (both urban and rural) should pass resolutions supporting full funding of the Rural Development Act and specifying how the programs could help in the development of their county. This must be a high priority for all counties.

HIGH-POTENCY VITAMINS AND MINERALS

Mr. GURNEY. Mr. President, I would like to make a few comments about S. 2801, a bill to prohibit the Food and Drug Administration from classifying safe vitamins and minerals as drugs, rather than as foods or food supplements.

First, I am not too sure that vitamins and minerals should be taken in the huge doses advocated by some health food faddists. There is evidence of physical dammage resulting from extreme overdoses of certain vitamins, and I don't think we should disregard this evidence. I further believe that particularly elderly people must be very cautious in the use of high-potency vitamins and minerals, being certain that they continue to eat properly whenever possible. No vitamin pill is a substitute for sound, nutritionally balanced meals.

At question here is whether the Food and Drug Administration should have the authority to remove these high-potency vitamins and minerals from the over-the-counter market simply because they do not promise a cure for disease. To my mind, the purchase of vitamins and minerals should be a personal decision.

It may be that time and a careful examination of the facts will tell us that mega-vitamins and minerals are dangerous, and should be provided only with a prescription. Classifying all vitamin and mineral pills in excess of 150 percent of the "recommended daily allowances" as drugs, and regulating them as such, now, even with no evidence of danger, would be "big-brotherism" at its worst.

WAGE-PRICE CONTROLS

Mr. KENNEDY. Mr. President, the Amalgamated Meat Cutters & Butcher Workmen, AFL–CIO, has presented unusually frank and informative testimony to the Senate Production and Stabilization Subcommittee concerning wage-price controls. Few organizations have told a congressional committee so bluntly and so directly how their members feel about a particular problem as this 500,000-member food industry union has on this important issue.

In their statements, Patrick E. Gorman, secretary-treasurer and chief executive officer, and Leon B. Schachter, vice president and director of the Washington office, analyze effectively the economic fallacies and inequities of the stabilization program, show how badly their members have been hurt by the program, and demonstrate the reactions of their members to it.

I commend the Amalgamated Meat Cutters & Butcher Workmen for their very frank presentation and painstaking research on this important subject.

I ask unanimous consent to have printed in the Record the two statements of the Amalgamated Meat Cutters & Butcher Workmen.

There being no objection, the statements were ordered to be printed in the Record, as follows:

Statement by Leon B. Schachter

My name is Leon B. Schachter. I am a Vice President and the Director of the Washington Office of the Amalgamated Meat Cutters and Butcher Workmen (AFL–CIO). Accompanying me are James Wishart, the Research Director, and Arnold Mayer, the Legislative Representative of our Union.

The Amalgamated is a labor union with 500,000 members organized in more than 500 local unions throughout the United States and Canada. The Amalgamated and its local unions have contracts with tens of thousands of employers in the meat, retail, poultry, egg, canning, leather, fish processing, sugar and fur industries.

Mr. Chairman and Gentlemen of the Committee, we have submitted to you a detailed statement by our Secretary-Treasurer and Chief Executive Officer, Patrick E. Gorman. It contains (1) an analysis of the price inflation factors concerning food, especially meat, and (2) case studies of our members' bitter experience with wage controls in 1973. It is, in effect, a study of how wage and price controls have increased profits for industry and reduced earnings for workers. It demonstrates that if the purposes of the Economic Stabilization Act had been to shift income distribution from lower and middle income workers to rich corporations, it could not have been carried out more effectively in the food industry. We would appreciate your making the Gorman statement a part of the hearing record.

FRANK TESTIMONY

In this oral testimony, I shall draw on information from the Gorman statement, but I shall not summarize it. Instead, Mr. Gorman has instructed me to talk very frankly about what the so-called economic stabilization has meant to our members, how they are reacting to it and what its consequences are likely to be for future labor-management relations in the food industry. I must warn you in advance that our testimony is not very pleasant or hopeful.

We appeared before this Committee in 1972 and in 1973 to discuss economic stabilization, to urge prevention of the all-too-evident inequities, to plead for real *price* control, to warn about the dangers to the sanctity of labor-management contracts and to raise danger signals about the deterioration of collective bargaining. Last year, we provided a detailed statement about prices and wages in the food industry. We pointed out that more than 80 per cent of the food price increases were due to cost rises of raw agricultural products, whose prices the President and Congress had specifically exempted from controls. We complained about the maintenance of a rigid mandatory 5.5 per cent wage ceiling for food industry workers, while price control was a sad joke and while wage controls in most other industries were no longer mandatory. We urged the Committee to treat our members like other groups in the economy by either setting meaningful standards for prices throughout the economy or by taking the wraps off us.

Neither this Committee, nor the Senate, nor the House of Representatives apparently agreed with our analysis or conclusions and they did little about them. Aside from the major action of excluding from controls those workers who earn less than $3.50 an hour and writing some minor amendments into the Act, you left all of the power and all of the decisions to President Nixon. Let him have all of the responsibility, we were told—as if Congress could possibly wash its hands of the whole mess.

AMALGAMATED EXPERIENCE

And how the President and his Administration have used that power and carried out that responsibility! I should like to itemize briefly some of the consequences of the Congressional decision not to decide and the ensuing Administration performance:

1. Our members have been under mandatory wage controls since 1971. Any contract which provides for wage increases over 5.5 per cent a year or fringe benefits over 0.7 per cent annually must be specifically approved by the Cost of Living Council. The amounts over 5.5 and 0.7 per cent cannot go into effect until the Council has specifically acted on them. Legitimate labor-management agreements are cut to shreds. These contracts—once considered sacred—are often not worth the paper they are written on after the Council has finally decided them.

2. Some of our members have lost as much as $2,000 in a contract term from freely and legally negotiated agreements because of cuts ordered by the Cost of Living Council. The combination of rigid wage controls, wage

reductions and rampant inflation have slashed the real wages of food industry workers. Average hourly earnings for food processing workers in December 1973 after adjustment for increased living costs were $3.64 an hour compared to $3.72 in December 1972 and for food retailing workers $3.15 as compared to $3.24 in the same time frame.

3. Many employers with whom we have bargained for decades readily shake hands with us on contracts which provide increases of more than 5.5 per cent. We reach full and stated understandings that the higher increases are necessary in view of the cost of living rises and the relationship of our members' wages to those of other workers. Yet, the ink on the contracts is hardly dry before these very same employers urge the Cost of Living Council to reduce the provisions of these "inflationary" agreements. Needless to say, the money from the resulting wage cuts do not go into any public fund or into any charity for the poor. They go into the corporate treasuries.

EMPLOYER WEAPON

4. Rigid and discriminatory wage controls have provided employers additional weapons against workers and their unions. Some managements have been able to effectively short-circuit organizing campaigns by using the chilling question, "Why join a union when all it can get you is 5.5 per cent?" Hostile employers whose shops are already organized have benefitted from the suspicion, hostility and skepticism of the rank-and-file union members who blame the union for their impossible-to-understand pay cuts. Many local unions are undergoing internal difficulties and an increasing number of competent and responsible local union officers have been defeated for re-election because of the plight of their contracts before the Cost of Living Council.

5. Contracts undergo incredible delays before they are decided by the Cost of Living Council. A decision takes at least months and often a year. If either party appeals a decision—which is often the case—the final outcome may take years in coming. It is not unusual for our Union to negotiate a new contract before the final decision on the expired one has been rendered. The effect on negotiations is chaotic and stifling

6. Workers pay for these delays. When increases are totally or partially approved many months or a year after the contract was to go into effect, the Cost of Living Council often does not permit the approved increases to be paid retroactively. Each day and each month of bureaucratic delay, therefore, takes additional money out of workers' pockets and puts it into corporate treasuries.

7. The wage decisions of the Cost of Living Council are incredibly capricious and arbitrary. Those which concern food workers are really made by the Food Wage and Salary Committee, where an alliance of management and public members hold sway. The Council's rules and guidelines seem to mean nothing. Long-established relationships between the wages of different occupations are upset without qualm. Long-established relationships between labor markets are destroyed with little care. The Council's and Committee's own "precedents" are overturned from one case to another. The Committee's or Council's treatment of contracts negotiated by various unions reflect national politics and relationships to the Administration as well as the vagaries of economic stabilization.

HUGE PRICE INCREASES

8. The 1973 cutbacks—the efforts to keep wages around 5.5 per cent in the food industry—occurred at the same time that food prices increased 22.5 per cent. Ironically, our members probably have the most direct experience on food price increases. They know more about them than either the Cost of Living Council personnel, economists, legislators or even housewives, for they mark up prices weekly or several times a week at the orders of food retail executives in the stores.

9. Workers are expected to absorb the increased cost of living while their wage increases are kept around 5.5 per cent and the cost of living skyrockets much higher. But business groups are allowed the so-called pass-throughs. No increased business cost need be absorbed. Increased business costs are passed on to the consumer and perhaps a little more is added.

10. The so-called control of business profit margins probably exists in paper-shuffling only. In our detailed testimony, we show the increases in profits in various parts of the food industry during the 1973 "control" period. If the Committee doubts our skepticism, perhaps it might find out why retail meat prices went down so little in September through November 1973 when cattle prices plummeted. What happened to profit margins then?

11. Economic protests by groups against the bungling of the Cost of Living Council or other parts of the Nixon Administration generally result in the massive layoffs of food workers. In May 1973, consumers boycotted meat to protest high prices and cattlemen held back shipments to maintain them. In July, August and September 1973, cattlemen were incensed at the beef price freeze and held back shipments. In February 1974, truckers refused to haul goods in order to win better treatment. In each of these cases and in others, the result was massive unemployment and loss of wages for our members. Every time someone in the economy sneezes because of the draft caused by the so-called stabilization program, our members catch pneumonia.

12. The sacrifices which our members have made have hardly won them the thanks of a grateful nation. Some managements in the food industry still come before you and complain about inflationary wage settlements. Various Congressmen and Senators still delight business audiences by lambasting the "labor bosses' greed." Far more serious, our members are continuously asked by their fellow citizens to defend their wages against the charge of forcing meat and food prices on their continuously upward spiral. You can imagine how this salt feels in their wounds.

ABUSE AND MOCKERY

To summarize these background factors, let me say that our members have been used and abused. Their patriotism has been taken advantage of. Their desire to abide by the law has been made a mockery. They have been cheated out of wages. Their families' income has been reduced. Their union contracts have been shredded. They have made sacrifices to the great benefit of their employers. And still, they are accused of causing inflation.

Our members recognize these facts and they are damned angry. In meeting after meeting, the example of the independent truckers is brought forward. Why don't we do the same, they ask? Union officers urging restraint are reminded very pointedly about the years of restraint and what the results have been.

Many members blame their union, as well as the President and Congress, for the economic trickery which has hurt them so badly. Our lobbying and our many court cases against the blatant inequities of the Act and the Cost of Living Council's actions appear quite irrelevant to them. Why did the union finally accept the mickey-mouse controls instead of leading the members into massive walkouts to force a change in the stabilization structure, they ask?

The farce of the so-called economic stabilization has been exposed at the same time as the apparent Presidential corruption has. The problems of inflation, wage controls, energy crisis, milk scandal, ITT case, Presidential taxes and campaign contributions, may be nicely compartmentalized to lawyers and perhaps to politicians. But they melt into one rotten mess to a packinghouse worker or a meat cutter or a poultry worker. They believe government policies are for sale and *they* are paying the bill.

CONFIDENCE IN COLLECTIVE BARGAINING

The workers' loss of faith is not limited to their government and its policies. Confidence in collective bargaining has suffered as well.

The contract between labor and management setting wages and working conditions was once considered sacred. It no longer is. As we previously said, employers run to the Cost of Living Council shortly after negotiating and signing the agreements to denounce them as inflationary. The Council changes them by fiat. The provisions of the freely negotiated agreements have been shown to be meaningless in the last two and one-half years. Then, why should workers believe in them? Why should they obey them. Why should they not go on wildcat strikes—as British workers do regularly—whenever some problem occurs?

Under these circumstances, what should you do about the Economic Stabilization Act? Please do not consider me insulting when I tell you honestly that what you do may possibly not matter too much. You can deliberate about the continuation of controls, what the controls should be, whether standby controls are desirable, whether you should give full responsibility to the President again, what policies are wise and which are politically beneficial. The fact of life is that many workers regard the legislation as irrelevant. They just don't believe in it anymore. In 1974, economic policy may be made and remade on an emergency basis by the Administration and Congress in response to what happens in the streets—as occurred during the independent truckers' strike, the independent gasoline dealers' protest and so many other *non-labor actions*.

Please believe me when I tell you that we shall do all we can to avoid this disaster. We have to. If we are the leaders of workers, then it is our job to practice leadership. But, I greatly fear that the Administration and Congress have probably used up our leadership and our strength with the charades of economic stabilization during the last two and one-half years. In fact, you may have used them up before the main event has begun.

RETRIEVAL OF FAITH

Needless to say, food prices are not only increasing, but their upward rate is accelerating. Holding food industry wage increases to 5.5 per cent has had no effect on food price inflation. It has simply fattened corporate profits. The U.S. Department of Agriculture predicts that food prices will increase some 12 per cent this year. That means—based on the Department's past performances—that they may rise 24 or 36 per cent.

We have had wage controls, but we have had little price or profit control. Our Union, therefore, urges that Congress ought to attempt to retrieve the faith of workers by attempting price and profit control and letting wages go free to catch up for the losses of recent years.

If you decide against such an approach, then we suggest, secondarily, that you drop the whole farce of controls. They have little or no effect on prices and probably none on profits. They do lower wages and that process is simply creating a bitter and resentful labor force.

Perhaps God will stop inflation. Certainly the Administration and Congress have shown no ability—and sometimes little inclination—to do so.

STATEMENT OF PATRICK E. GORMAN

My name is Patrick E. Gorman. I am the Secretary-Treasurer and Chief Executive Officer of the Amalgamated Meat Cutters and Butcher Workmen (AFL-CIO).

The Amalgamated is a labor union with 500,000 members organized in more than 500 Local Unions throughout the United States and Canada. The Amalgamated and its Local Unions have contracts with tens of thousands of employers in the meat, retail, poultry, egg, canning, leather, fish, sugar and fur industries.

DISASTER AT HAND

In our 1972 and 1973 statements to this Committee, we warned about the mushrooming inequities of the so-called economic stabilization program, the rigidity of wage controls, the lack of meaningful price and profit controls, the increasing bitterness among workers, the workers' decreasing faith in their government's fairness and the deterioration of collective bargaining. Unfortunately, the great harm which we predicted would result from the inequitable controls is now becoming a reality.

This accuracy is of little comfort to our Union. What has occurred in the so-called economic stabilization program in 1973 has been a disaster to many of our members. They have been kept to a 5.5 per cent wage increase level, while food industry prices increased 22.5 percent. Their contracts have been torn to shreds as the Cost of Living Council cut as much as $2,000 from the workers' pay during the contract term. Bureaucratic bungling has delayed consideration of contract increases by the Council for months and even more than a year. The Council then punished the workers for its own procrastination by forbidding retroactivity for their long-delayed wage increases.

How the so-called economic stabilization has worked in the food industry in 1973 and what its effects have been is difficult to describe in a rational fashion. A malevolent Alice in Wonderland would have an easier time. However, in this statement, we shall attempt to deal briefly with (1) the economic aspects of stabilization, and (2) the experiences of our members before the Cost of Living Council.

I. UNBOUNDED INFLATION

Dr. John Dunlop deserves credit for an unusual degree of candor for spokesmen of the Executive Branch. In his February 6 testimony before this Committee, he conceded that the year 1973 and Phase IV price controls "saw rapid inflation unmatched" since 1948, with the exception only of the year 1950.

Government and private economists had forecast a 3 per cent price rise for the year 1973. In fact, a 5.3 per cent rise occurred in the year's deflator of the Gross National Product and an 8.8 per cent rise in the Consumer Price Index from December of 1972 to December of 1973. The January 1974 Consumer Price Index brought further rise of 1.0 per cent.

In the food sector of the economy, where the rigid wage controls of Phase II had been continued and intensified during the year, Dunlop's scorecard marked up the heaviest defeat for the crusade against inflation. Dunlop cited the Department of Agriculture's prediction on February 13, 1973, that retail food prices for that year "would average about 6 per cent above 1972."

In reality, retail food prices averaged 14.5 per cent above 1972. By December, as Dunlop pointed out, the average price of food at retail was 20 per cent above the level of December, 1972. By January of this year, the total rise in food prices under the "controls" of Phase III amounted to 22.5 per cent.

FALSE PREMISES

From the beginning, it should have been obvious that Phase III economic policy was based on false premises.

The Administration assumed by January 1973 that the battle against inflation was essentially won. Only a few minor skirmishes remained to be fought. Stabilization had been generally effective, it was announced, with the exception of some continuing pressures on food prices. The health care and the construction industries also remained as isolated trouble spots. These comfortable assumptions had no basis in fact. They led to a massively mistaken policy.

We shall offer no detailed analysis on that general failure and the impact of inflation on the total economy. In our opinion, however, the premature celebration of victory over inflationary tendencies ignored at least two basic elements: (1) The preference of highly concentrated industry for limited output at higher prices rather than expanded production at stabilized prices, and (2) The degree to which the U.S. economy had been made vulnerable by dollar devaluation to world inflationary trends.

NO MEANINGFUL PRICE CONTROL

In the food industry, Phase III was based on a series of paradoxes as well as fallacies. Farm prices—the cost of raw agricultural products—continued to be specifically exempted from controls. They had risen 19 per cent from December 1971 to December 1972 and accounted for more than 80 per cent of the increases in the consumer price of food and some 90 per cent of the increases in the consumer price of meat. This was the real inflationary dynamic in the nation's food economy, but it was ignored. There was not even a pretense of controls.

Controls were supposedly applied to the costs and profits of processing, transporting and retailing foods. Yet, according to the U.S. Department of Agriculture, this element in food costs—the cost of getting food from farm to retail market—had increased only 2.9 per cent from the fourth quarter of 1971 to the fourth quarter of 1972. The performance here was close to the Administration's own ideal goal of inflation; no more than 2.5 per cent a year.

To soften the discriminatory nature of applying price controls only to this part of the industry, the Administration made certain that the controls were elastic, flexible and often meaningless. They were a bother to the industry, to be sure. They brought about many, many conferences in Washington in which industry sought and often got relief. But they were hardly rigid, tough controls where price increases had to be approved by a tri-partite committee, including adversaries of business.

UNFAIR WAGE CONTROLS

This type of control was reserved only for the wages of workers in the food industry. They, together with workers in the health and construction industry—alone among U.S. workers—were kept under rigid, mandatory controls. Any contract providing more than 5.5 per cent wage increases had to be approved by the Cost of Living Council before any amount over this guideline could be paid. As we shall show later in actual case histories, this procedure meant, in practice, that the increases really had to be approved by the management representatives and their public member allies of the Food Wage and Salary Committee of the Cost of Living Council.

This discrimination against workers made even less sense than the rest of food industry "controls." In the first place, food industry wages could hardly be considered high and, therefore, a specially needed target for control among the incomes of various parts of the U.S. labor force. Average hourly earnings in December 1972 were $3.95 an hour for all manufacturing, but only $3.72 for food processing and $3.24 for food retailing.

Secondly—and more important—food industry wages had shown no inflationary trend whatsoever. Actual 1972 increases in hourly earnings were 5.7 per cent in food processing and 5.5 per cent in food retailing as compared with 7 per cent in all manufacturing and 6.2 per cent in the entire private economy. Food workers had actually increased their earnings by less than the amount allowed other employees under the old Pay Board guidelines which were the governing rules in 1972.

But the workers were to be allowed even less in 1973 and Phase III. The rigid controls which were applied to food industry workers alone and the rampant inflation had the inevitable result of reducing employees' real wage levels. Average hourly earnings for food processing workers in December 1973, after adjustments for increased living costs, amounted to $3.64 an hour as compared to $3.72 in December 1972. For workers in food retailing, the decline was from $3.24 an hour in December 1972 to $3.15 in December 1973. The real wages of meat product industry workers fell by 18 cents an hour in the same period.

EMPLOYER WEAPONS AND PROFITS

The Phase III control over food industry wages has been a powerful weapon in the hands of employers. With it, they have been able to sidetrack, delay and deny many wage increases negotiated in good faith. With it, they have been able to short-circuit union organizing drives. "Why join a union when all it can get you is 5.5 per cent?" is a normal, chilling question in company-sponsored literature during organizing campaigns.

And hostile employers whose shops are already organized have benefitted from the suspicion, hostility and skepticism of rank-and-file union members who blame the union for their impossible-to-understand pay cuts. An increasing number of competent and responsible Local Union officers have been defeated for re-election because of a "wage stabilization" policy for which they are no more responsible and which they do not understand any better than their members.

Industry profits, on the other hand, did very nicely under Phase III. Despite controls which management executives bemoan so greatly, profits increased steadily at a good rate in all parts of the food industry. We are enclosing tables of announced profit figures for major supermarkets, food processing companies and meat companies. Some firms did better than others, but average increases in all or part of 1973 as compared to 1972 were 34.7 per cent for retail grocery chains and 41.6 per cent for meat corporations. These figures, especially such profit gains as 153.3 per cent for Kroger, 61.3 per cent for Del Monte and 66.3 per cent for Iowa Beef compare very well with the 5.5 per cent wage increases permitted workers.

GOVERNMENT SCHIZOPHRENIA

As if the government's other idiocies in food policy were not enough, its total approach to the problem of restraining food price inflation also had an element of schizophrenia. The right and left hands of the Administration were working in massive opposition. On the one side, the Cost of Living Council proclaimed the need for rigid limitations over wages and prices in the food industry. On the other side, the Department of Agriculture policy continued to work for the creation of scarcities which would inevitably continue upward pressure on farm prices.

In explaining the failure to predict food price inflation in 1973, Dr. Dunlop observed, "The most important single source of the underestimation in 1973 was the failure adequately to relate the United States economy to the world economy, particularly when large agricultural stockpiles no longer served as a buffer." In other words, the Administration had simply underestimated the impact of farm polices in 1972 which had kept 60,000,000 acres of land out of cultivation, had paid out nearly $5 billion to farmers to curtail production and, at the same time, had enormously increased the export of U.S.-produced farm commodities. Food price problems in 1973 reflected in part a giant "miscalculation" of domestic and foreign demand for food—a "miscalculation" which just may have been aimed at influencing certain farm state votes in November 1972.

FUTURE FOOD PRICES

What about the future of food prices? Unfortunately, our Union cannot share the comfortable assurances given recently—once again—by the Secretary of Agriculture Earl L. Butz, that food prices will stabilize in the second half of 1974.

Farm prices reached a peak last summer as the Administration tried to control the inflation which it had unleashed with its own farm level policies by putting price ceilings on the wholesale level. As of the third quarter of 1973, the food bill for the average American family, as computed by the USDA, had risen to an all-time high of $1,603.70. This was an increase of $273 a year over the level for the fourth quarter of 1972, when Phase III was in gestation. Out of this $273 in increased cost paid by consumers, $226, or 83 per cent, had gone to pay higher prices at farm levels.

In the fourth quarter of 1973, some decline showed in farm prices, most significantly in the prices of cattle and hogs. But only a minor fraction of these reductions were passed on to consumers. Food processors and retailers operating under "profit margin controls" brought their net income levels for the year up to and sometimes beyond permissible maximum.

By the first months of 1974, farm prices are again showing sharp gains. From December to January, the price of food at farm levels rose by 8.2 per cent. The price of processed foods rose by 4.1 per cent and the price of food at retail, as registered in the Consumer Price Index, rose by 1.8 percent. Such trends will continue. Higher fuel costs, for example, have yet to spread their impact fully through the food economy.

Efforts have been made to reverse the scarcity policies basically responsible for 1973's food price inflation. Reportedly some additional 25 million acres have been opened for livestock grazing. This creates some possibility of higher farm outputs this year. But even these hopeful prospects are heavily endangered by the energy crisis. The ready availability of fertilizers and insecticides needed to obtain maximum crop output in 1974 is open to serious questions. The manufacture of these farm supplies is heavily dependent on petroleum products.

Also, the figures on livestock supplies are not reassuring. As of January 1, the number of cattle and calves on feed in the 23 major feeding states was down 6 per cent from the number on feed as of January of 1973. Actual placements of cattle and calves in the 23 states during the fourth quarter of 1973 dropped by 15 per cent from the comparable period of 1972. Actual slaughter rates for cattle in the fourth quarter of 1973 were running only 4 per cent below the same period of the previous year. There is no evidence that any increase in placements of cattle in feed lots has occurred in January and February. These statistics suggest a sharp reduction in the total numbers of cattle to come to slaughter in the first seven or eight months of 1974.

PRICE AND WAGE TRENDS

[December 1971 to December 1973]

	December 1971	December 1972	December 1973
Consumer Price Index (1967=100.0)	123.1	127.3	138.5
Food at home	120.3	126.0	151.5
Wholesale Price Index (1967=100.0)	115.4	122.9	145.3
Farm food	115.8	137.5	187.2
Processed foods	115.9	129.4	155.7
Average hourly earnings:			
Food processing	$3.52	$3.72	$3.97
Food retailing	3.07	3.24	3.43
Meat products	3.71	3.93	4.10
All manufacturing	3.69	3.95	4.21
Total private economy	3.52	3.74	4.01
	Percent change		
	1971 to 1972	1972 to 1973	1971 to 1973
Consumer Price Index	3.4	8.8	12.5
Food at home	4.7	20.2	25.9
Wholesale Price Index	6.5	18.2	25.9
Farm food	18.7	36.1	61.7
Processed foods	11.6	20.3	34.3
Average hourly earnings:			
Food processing	5.7	6.7	12.8
Food retailing	5.5	5.9	11.7
Meat products	5.9	4.3	10.5
All manufacturing	7.0	6.6	14.1
Total private economy	6.2	7.2	13.9

Source: Bureau of Labor Statistics.

FAMILY MARKET BASKET OF FARM FOODS

Period	Retail	Farm value	Farm-retail spread
2d quarter 1971	$1,244.76	$474.16	$770.60
3d quarter 1971	1,260.90	482.30	778.60
4th quarter 1971	1,260.09	486.17	773.96
1st quarter 1972	1,291.36	506.86	784.50
2d quarter 1972	1,297.85	510.29	787.56
3d quarter 1972	1,323.42	534.15	789.27
4th quarter 1972	1,330.63	534.23	796.40
1st quarter 1973	1,413.83	614.46	799.37
2d quarter 1973	1,497.05	665.19	831.86
3d quarter 1973	1,603.92	762.29	841.62
January 1973	1,374.98	587.86	787.12
February 1973	1,409.47	607.13	802.34
March 1973	1,458.11	651.13	806.98
April 1973	1,481.32	654.48	826.84
May 1973	1,493.78	652.38	841.40
June 1973	1,517.55	686.74	830.81
July 1973	1,529.28	698.47	830.81
August 1973	1,653.76	838.84	814.92
September 1973	1,626.73	747.59	879.14
October 1973	1,620.20	723.19	897.01
November 1973	1,634.07	707.27	926.80
December 1973	1,650.00	710.00	940.00

Source: U.S.D.A.

SUPERMARKET PROFITS LAST 9 MONTHS

[In thousands]

	1973	1972	Percent change
Albertsons	$6,944	$5,454	+27.3
Allied Supermarkets	2,370	1,485	+59.6
American Stores	12,020	184	+433.2
Colonial Stores	1,891	2,017	−6.3
Fisher Foods	7,450	6,404	+16.3
Food Fair	4,606	3,466	+45.5
Gamble-Skogmo	13,780	11,389	+20.9
Grand Union	4,789	5,668	−15.5
Great Atlantic & Pacific	(270)	(50,015)	+
Jewel	16,837	17,123	−1.7
Kroger	26,310	10,388	+153.3
Lucky Stores	25,099	23,626	+6.2
National Tea	−33,806	3,031	—
Safeway	68,170	73,081	−6.7
Stop & Shop	3,881	1,298	+198.9
Supermarkets General	3,068	675	+354.5
Winn Dixie	34,519	31,470	+9.7
Total	197,658	146,744	+34.7

Note: Based on the latest 9 months according to published company reports.

PROFITS OF FOOD PROCESSING COMPANIES

[In thousands]

	1973	1972	Percent change
Del Monte (6 mo)	$15,966	$10,554	+61.3
Stokeley Van Camp (6 mo)	4,281	3,889	+10.1
Beatrice (9 mo)	92,321	79,009	+16.7
General Mills (6 mo)	$43,984	$37,907	+16.0
Pillsbury (6 mo)	16,741	11,134	+50.4
Heinz (6 mo)	24,696	23,597	+4.7
Ralston Purina (year)	77,550	62,746	+23.6
General Host (40 weeks)	2,070	917	+125.7
Borden (9 mo)	55,029	50,556	+8.8
Kraftco (year)	103,428	100,335	+2.8
General Foods (39 weeks)	85,767	79,165	+8.3
Campbell Soup (6 mo)	43,307	39,804	+8.8

PROFITS OF MEAT COMPANIES 1973 AND 1972 FISCAL YEARS

[In thousands]

	1973	1972	Percent change
American Beef[1]	$3,378	$1,098	+207.7
Esmark	48,802	37,003	+31.9
Flavorland	1,750	1,286	+36.1
George Hormel	7,403	7,778	−4.9
Hygrade	4,539	2,808	+61.6
Iowa Beef	12,248	7,367	+66.3
Kansas Beef	2,470	1,984	+24.5
Marhoeffer	(197)	(1,294)	
Oscar Mayer	17,382	15,975	+8.8
Missouri Beef	4,670	2,359	+97.9
Monfort	1,027	5,820	−82.4
National Beef	1,699	936	+81.5
Rath	106	(2,915)	
Spencer	4,563	(546)	
Tyson	5,309	1,777	+198.8
Western Beef	1,630	1,018	+60.1
Total	116,779	82,464	+41.6

[1] Year ending June 2, 1973.

RETAIL BEEF PRICE SPREADS

	Retail price per pound	Farm value	Farm retail spread
2d quarter 1971	$1.048	$0.682	$0.366
3d quarter 1971	1.054	.686	.368
4th quarter 1971	1.066	.699	.367
1st quarter 1972	1.144	.737	.407
2d quarter 1972	1.123	.736	.387
3d quarter 1972	1.153	.727	.426
4th quarter 1972	1.132	.701	.431
1st quarter 1973	1.292	.874	.418
2d quarter 1973	1.358	.929	.429
July 1973	1.363	.967	.396
August 1973	1.442	1.085	.357
September 1973	1.449	.919	.530
October 1973	1.360	.832	.528
November 1973	1.399	.800	.599

RETAIL PORK PRICE SPREADS (1971–73)

2d quarter 1971	$0.688	$0.301	$0.387
3d quarter 1971	.713	.336	.377
4th quarter 1971	.719	.353	.366
1st quarter 1972	.790	.438	.352
2d quarter 1972	.799	.443	.356
3d quarter 1972	.861	.516	.345
4th quarter 1972	.877	.517	.360
1st quarter 1973	.981	.637	.344
2d quarter 1973	1.031	.649	.382
July 1973	1.075	.825	.250
August 1973	1.315	.993	.322
September 1973	1.263	.769	.494
October 1973	1.171	.733	.438
November 1973	1.154	.719	.435

Source: U.S.D.A.

II. THE DISASTER OF FOOD WAGE CONTROLS IN 1973–74

In our testimony last year, we presented case studies of the rigidity, arbitrariness and unfairness of the old Pay Board in Phase II. We showed how our members were systematically denied meaningful wage increases and how slowly the bureaucracy of the Pay Board functioned.

The advent of Phase III and Dr. John Dunlop was to bring about a new flexibility and equity to wage controls. Our members were to be kept under mandatory controls, while all other workers—except those in the construction and health, as well as food industries—were to be under voluntary controls. But this great discrimination was to be somewhat compensated by a new rationality and fairness.

Our Union accepted these assurances. We joined in the tri-partite Food Wage and Salary Committee, which is composed of an equal number of labor, management and public members. The Committee was supposed to apply the new principles in deciding the merits of contract wage increases which exceeded 5.5 per cent, including those increases in contracts which had been negotiated during Phase I and II.

The Committee was vested with advisory powers only. The Administrator of the Office of Wage Stabilization, Donald M. Irwin, was given final authority over the Committee's decisions whenever the Committee was not unanimous. The majority and minority on the Committee were to file separate reports with the Administrator. The latter was then to consider the issues and make a decision which was to be final. A petition for review by an aggrieved party was to be permitted and to be considered.

BITTER REALITY

From the start, we have been bitterly disappointed. The new program did not live up to its advance billing. The new principles of flexibility and equity are still to be put into operation. The new system has certainly been as harmful to workers as the old one and in many cases even more so.

We soon found that:

Split decisions between management and labor on the Committee are the rule and public members generally vote with management in an alliance.

Committee actions simply become an extension of management's bargaining with our Union in that management representatives try to win from us what they could not get in the original bargaining.

The Administrator's umpire function is meaningless. He simply and always rubber-stamps the management-public member majority positions against those of the labor minority.

The review function available to an aggrieved party about a decision is meaningless. It is *pro forma* in that it takes place before the very same Advisory Committee which originally heard the case and split on the decision. The Administrator never attends. In fact, in no case involving our Union has the Committee or the Administrator reversed the original opinion.

LOUISVILLE CASE

That our hopes were to be dashed became apparent early in the operation of the Committee. We did not think that we would ever look back favorably to a decision of the old Pay Board—our past nemesis—but that is exactly what occurred.

In reconsidering our Union's agreements with Kroger and the A & P Tea Company in Louisville, Kentucky, the old Pay Board approved $1.40 of a $1.50 wage increase negotiated over the life of the contract. The Board found that the Louisville contract was patterned after and was "tandem" to contracts which had been negotiated with the retail industry, including A & P and Kroger, in adjacent geographic areas prior to the beginning of Phase I. In these adjacent areas, the companies were paying the full contract rate.

The decision affecting Louisville was handed down in February 1973, just before the new Food Wage and Salary Committee began operating under the Cost of Living Council. Our Local Union in Louisville had waited for this decision for more than one year and, according to the Pay Board's rules and regulations, the decision was final. The only recourse, under those rules and regulations, was through the courts.

Instead of taking their case to the courts, however, the companies in Louisville brought an appeal to the new Food Wage and Salary Committee. Management members of the new Committee—two of whom were representatives of Kroger and A & P—and the public members reversed the old Pay Board decision. In effect, they allowed only approximately 76¢ of the $1.50 negotiated over the contract. They cut in half the allowable wage increase permitted by the old Board.

In addition, they denied the retroactive payment of money which the old Board order had permitted. Each Meat Cutter in Louisville, therefore, lost more than $2,000 in wages which he would have received if the old Board's order had been enforced. The companies involved saved at least $1,000,000 from wages due our members under these contracts.

To reverse the old Pay Board's decision, the new management-public member alliance fabricated the rationale that Louisville was a "separate labor market" apart from the adjacent geographic areas to which the Louisville contract had historically been linked. It determined further that non-union wage rates in the Louisville area would put Kroger and A & P at a competitive disadvantage—despite the facts that (1) these two companies had always paid higher wage rates; (2) had signed the new contracts after Phase II began and, (3) were fully aware of the agreement's economic realities.

Several important factors must be noted from this case: The Committee allies were more concerned about the companies' competitive position than the companies' own bargainers were. One would assume that the bargainers knew about non-union wage rates in the area, yet they willingly signed the contract. The Committee allies, however, rolled back the increase; in part, because of the non-union rates.

Also, the old Pay Board did not seriously consider the non-union wage rates. And, the Pay Board always permitted retroactive increases when it approved a particular wage long after it was to have been in effect. The Food Wage and Salary Committee management and public members successfully showed that they could reduce wages of workers even more drastically than the old Pay Board could.

NEW ORLEANS CASE

For members of our union, the Louisville Case marked the beginning of a history of decisions by this Committee which have worked serious economic hardships on our members throughout the country. The rationale of the Committee's management-public members alliance has swerved and zig-zagged from case to case in a futile effort to avoid collision with its own logic in previous cases.

In New Orleans, the A & P and National Tea Company have had identical collective bargaining agreements with our Union for more than ten years. Wage rates had been identical to a quarter of a cent up to the beginning of Phase II (November 14, 1971). In late 1971, our Union negotiated first with National Tea. The contract was concluded just prior to the beginning of Phase II and National Tea put the negotiated rates into effect.

The identical contract was then negotiated with A & P just after Phase II began. A & P, however, paid only 5.5 per cent in wages, which left Meat Cutters in the A & P stores $15.56 a week behind the same classification in the National Tea stores. The Union appealed to the old Pay Board, but because of bureaucratic delays and foul-ups, we never received any decision from that Board.

The new Food Wage and Salary Committee took up the case but the allies did not permit A & P employees to receive the same wage paid by National Tea until one year later (November, 1972). As a result, a Meat Cutter in A & P lost more than $800 in that one year—$800 which a Meat Cutter in National Tea had received.

To even matters out, the Committee allies ordered National Tea not to pay any further wage increases until they were approved by the Committee. Therefore, National Tea did not pay even the minimum permissible 7 per cent which it could have paid in the second year of the contract (1972)—an increase which it could have paid without prior approval under old Pay Board regulations. Meat Cutters in National Tea, therefore, did not receive any further wage increases until October 1973—two years later—when the Committee allies allowed them a small increase of $9.50 per week. This amount was less than even 5.5 per cent. A & P then paid the same increase on the same date.

During this two-year period, Retail Clerks employed in the same National Tea stores working under a contract which National Tea had negotiated with the Retail Clerk's Union, received all of their contract increases on their due dates. The skill differentials within these stores between the Clerks and Meat Cutters narrowed from $49.30 a week in 1971 to $17.30 a week in 1973.

There was no "separate labor market theory" or "competition between chains argument" for the Committee allies to fall back on in determining what wage rates A & P in New Orleans should have paid from 1971 to 1972 and, certainly, historic wage and skill relationships with the Clerks in the same stores dictated a different consideration for Meat Cutters. But these arguments fell on deaf ears. Instead, the Committee allies found non-union wage levels to be a suitable rationale to hold down Meat Cutter wage rates. Yet, differences between union and non-union wage levels for Retail Clerks in New Orleans did not impede the operation of their wage increases!

DALLAS WAREHOUSE CASE

In Dallas, we have two examples of the arbitrary and unfair decisions of the Committee allies. We shall discuss the warehouse case first. Our Union has under contract the meat distribution plants located within the A & P, Kroger, and Safeway grocery warehouses in Dallas. In the same warehouses, the Teamsters Union has the bargaining rights for the grocery employees and the Machinists Union has the contract covering mechanics. Employees in the various bargaining units are separated by only as much as a swinging door.

The Teamsters' and Machinists' contracts in the Dallas warehouses were untouched by the old Pay Board in 1972 and, consequently, operated according to their full contract terms. However, the wages of Meat Cutters bargaining unit employees in these same warehouses were cut by a total of 40 cents an hour. The Meat Cutters appealed to the Food Wage and Salary Committee, but to no avail.

As a further and glaring example of this gross discrimination, consider what happened to the wage rates of fork lift drivers. We have fork lift drivers in our bargaining unit in the warehouses and so do the Teamsters. Their jobs in the two bargaining units are virtually identical. Because of the wage cut ordered in our contract, fork lift drivers receive 16 cents an hour less than those in the Teamsters' bargaining unit from January to June 1972, 21 cents an hour less from June to November 1972, 41 cents less from November 1972 to June 1973, and 62½ cents less from June to November 1973. The same sharp reverses in wage relationship occurred in the other job classifications in the two bargaining units where jobs are virtually identical.

Wage rate differences for skilled jobs in our bargaining unit and in the Machinists' bargaining unit were sharply accelerated by the Committee allies' action. From 1968 to 1972, for example, mechanics averaged approximately, 30 cents more than our Meat Cutters. From February to August 1972, however, the wage spread increased to 66 cents and from August 1972 to February 1973 to 71 cents. In February 1973, the spread increased further to 91 cents, and in August 1973 it was more than one dollar per hour. The Committee allies did not even consider these relationships relevant.

DALLAS RETAIL CASE

Our Dallas warehouse members did not have a monopoly in getting the back of the hand from the Committee allies. Our retail members in the city did too.

Over the last decade, the Dallas retail Meat Cutters' contracts have been patterned directly after the ones in Houston. Representatives of the Dallas Local Union have been physically present in the Houston negotiations and have signed essentially the same contract two or three weeks later. The same major food chains—Safeway, Kroger, A & P and Shop Rite operate in both Dallas and Houston. The warehouses discussed above service both the Dallas and Houston stores.

Nevertheless, the Committee allies decided that Dallas is "a separate labor market" from Houston when they considered the retail Meat Cutters contract. The Committee's public members permitted only a small wage adjustment for Dallas without any retroactivity. The result was that Meat Cutters in Dallas lost more than $1,500 over the life of the contract—$1,500 that Meat Cutters in Houston received because their contracts had not been cut by the old Pay Board.

In their report to the Administrator permitting the small wage increase, the public members seemed to have their tongues in their cheeks as they wrote:

"Nevertheless we feel equity requires some adjustment before the end of the contract year (1973) so that new negotiations (in Dallas) can begin with unionized Dallas meatcutters in a reasonable relationship to unionized employees in other areas of Texas. The adjustments recommended would put Dallas cutters at $4.98, 10 cents ahead of San Antonio, a less organized and lower wage area. It would leave them 17 cents behind Houston, a more highly organized area. In the absence of a *strict tandem* relationship, it is hard to be dogmatic about the precise amounts that are appropriate."

If the Dallas rates were in some reasonable relationship when the contract negotiations began, that relationship should have been maintainable—especially if it is a historic one. Houston was clearly the bench mark. At no time, did the Local Union ever claim any tandem or other relationships with San Antonio. San Antonio, in fact, was always in a wage-catch-up relationship with Dallas. In November 1971, for example, a Meat Cutter in San Antonio received $1.14½ an hour less than a journeyman in Dallas.

In comparison, it is interesting that the Committee allies totally ignored wage rates in other parts of Louisiana, such as Shreveport, Lake Charles and Boussier City, in their decision affecting Meat Cutters in New Orleans. The Union pointed out that the vast majority of Meat Cutters outside New Orleans and throughout the rest of the state were receiving $5.15 an hour, or 72 cents more than Meat Cutters in New Orleans. And the Committee allies in their Louisville decision totally ignored the specific tandem relationship which the old Pay Board cited in its decision.

MINNEAPOLIS CASE

A further example of the Committee's allies' incomprehensible logic and capricious actions, is the decision affecting retail Meat Cutters in Minneapolis. They were denied a 20-cent an hour wage increase even though they performed virtually the same skilled work as the Meat Cutters in the same Local Union who work in the Minneapolis wholesale meat industry. The decision to cut the retail store rates came *after* the Committee had approved the identical wage increases over the same time period in the agreements of both the wholesale industry and a large independent retailer operating in that city.

The approved contracts were negotiated after and patterned directly from the retail agreement. What is more, retail Meat Cutters gave up substantial overtime-hour guarantees and significant premium pay provisions contained in their previous agreement to get the contractual wage increases. But all of these facts presented to the Committee allies were of no avail.

The allies' real reason for cutting the retail rates in Minneapolis was apparently summed up in one sentence of their decision: "The straight-time hourly rates in these contracts are some of the highest in the country for these classifications in the industry." The actual fact is that Meat Cutters in Chicago and Detroit and other metropolitan areas in the Midwest are earning more!

The Committee allies' concern over high wage levels contrasts sharply with their lack of bother over low wage levels. Meat Cutters in Miami, Florida, for example, are today the lowest paid in any other metropolitan area in the entire country *as a result of being held back by economic stabilization decisions*. Their wage rates were so low that these skilled employees were leaving the industry for better-paying, lower-skilled jobs in construction and elsewhere. The Committee allies, in their benevolent consideration, however, continued these workers as still the lowest paid in the country.

NO RULE OF LAW

In St. Louis, our Meat Cutter members have lost more than $1,000 out of their contract since January 1972 because the Committee allies refused to recognize the historic collective baragining relationships that have existed between St. Louis and East St. Louis. Not only did the St. Louis members lose $1,000 which East St. Louis Meat Cutters received, but the rate for a Journeyman in St. Louis is now $7.00 a week less than the rate for the very same employee in East St. Louis. All this is in spite of the fact that companies operating in both cities transfer employees from St. Louis into East St. Louis and vice versa.

These examples are by no means the exceptions. They are actually pattern-setting cases as a result of which thousands of workers have lost millions of dollars. The equity and flexibility promised food workers in Phases III and IV have been a fraud. If those words mean anything to the Committee allies, then equity has been considered in relation to the lowest common denominator (non-union wage levels) and flexibility has meant the right to operate under shifting ground rules. Rules are made and then changed and then ignored.

Some of the very basic rules of the Economic Stabilization Act itself have been flagrantly ignored by the Committee allies. For example, the Act stipulates that productivity and cost of living were among the factors to be considered. The Committee allies have consistently ignored these points when they have been introduced by the Union. In Dallas, for example, the cost of living, according to the Bureau of Labor Statistics, is higher than in Houston. But this fact was absolutely of no relevance to the allies. In Detroit, where Meat Cutters will get approximately an 8¢ an hour wage increase in this contract year, the Union argued that significant productivity increases occurred because of the increased flow of boxed meat into the retail stores. Yet, the Committee allies never even demanded a single statistic from the companies. The Union has filed an unfair labor practice and persisted in its demands that this information be brought before the Committee.

Under old Pay Board rules, wage increases could be put into effect and then challenged by either the employers or the Council itself. These rules were changed so that wage increases must now be announced in advance. They cannot be paid if they exceed 5.5 per cent until they are specifically approved by the Committee. The Committee allies have even prohibited payment of the automatic 5.5 per cent in some situations, such as in New Orleans, until it has reviewed wage rates. The snail's pace of the Committee and the bureaucracy delayed the consideration of that increase for months and months.

In our testimony last year, concerning the operations of the old Pay Board, we discussed at length the long delays and the bureaucratic foul-ups which occurred We gave specific examples in case studies. In this testimony, we have concentrated on the arbitrary and capricious nature of the decisions against our members. That does not mean that the Committee allies and the Cost of Living Council staff now work efficiently—even if adversely. Quite the contrary!

The long delays, the loss of documents and the bungling continue. The mess is messier. A worker is kept waiting for months, perhaps a year or more, before he finally hears that he has suffered a pay cut from the contract rate. The cut has been enforced against him often by representatives of the very same companies which bargained and agreed on the contract originally. What is more, whatever increase is allowed may not be made retroactive. The worker pays for the delay.

This is what the new flexibility and equity of the Cost of Living Council has meant to our members in 1973 and part of 1974.

III. END WAGE CONTROLS

The so-called economic stabilization program has been even a greater fraud in the food industry in Phases III and IV than in the previous I and II. Farm prices are specifically exempted from controls. Other food prices are not controlled in any meaningful way. Profits are allowed to mushroom. But wages are controlled very effectively with management playing a major role in this "stabilization."

Inflation has not and is not lessened in any way by the workers' sacrifices. In the food industry, inflation accelerates at an ever quickening pace. Perhaps the wage cuts are not even meant to affect inflation. They may be meant simply to increase corporate profits at the expense of wages. It is vital that this Committee remembers that the money from the wage cuts does not go into a public fund or some charity for the poor, but simply into corporate treasuries.

STRUCTURAL REFORM

Fortune Magazine had an interesting commentary on the wage control process in its August 1973 issue. It declared:

"In his day to day attention to the details of wages and prices, Dunlop keeps a long-range objective in mind. He wants to use the leverage of controls to promote permanent 'structural reforms' to tinker with institutional arrangements that now makes some sectors of the economy 'inflation prone,' as he puts it. The payoff may be three to five years away, he admits, but 'in six months you can get started' . . . Perhaps the most ambitious of Dunlop's aims is to use his wage control powers to spur enduring improvements in labor-management relations. He is currently trying to do this in the supermarket industry, the only segment of food retailing where unions have substantial footholds. Its labor relations, Dunlop says, are 'in more than a mess'."

We do not know whether this report is accurate. If it should be, then Dunlop fails to understand workers. Nothing could doom such a proposed policy to greater failure than the bitterness, the anger, the loss of trust and the decline in faith caused among food industry workers by the actions of the Cost of Living Council and its various units. If labor relations in the industry were a mess before—and we sharply disagree with such a conclusion—then we are afraid that much, much worse is yet to come.

To be very frank, workers have been had. They know it. They do not like it. They are not going to permit the process to continue.

The so-called economic stabilization program has taught them that contracts are not sacrosant and that their government and their employers are not to be trusted. Their observance of the law has been made a mockery as they suffer more and more from wage cuts, on the one hand, and accelerating inflation, on the other.

AMALGAMATED RECOMMENDATIONS

We suggest that Congress play fair with these workers now. We suggest that it attempt to win back their faith. Since wage controls have been in effect for more than two years and price and profit controls have not, we recommend that wages be allowed to rise. We urge that prices and profits, on the other hand, be controlled for a change. Perhaps then, food price inflation, which has only accelerated during the period of effective wage control, may be stemmed.

If the Committee will not take this fair step to make up for the suffering which has so far been caused workers, then we suggest that you drop the controls entirely. In actual fact, you will be dropping only wage controls, because the others exist in fraudulent name only.

THE FEDERAL BUDGET

Mr. BUCKLEY. Mr. President, the budget proposed by the Nixon administration is likely to further fan the fires of inflation without checking the growth of the Federal bureaucracy he has pledged to limit. The efforts made early in the second Nixon administration toward eliminating wasteful Federal programs which attempted in President Nixon's words to simply "throw dollars" at problems rather than attempt to achieve sensible solutions to our pressing social and economic problems.

The new budget abandons any attempt to limit superfluous Federal programs; it merely follows the path of least resistance along the well-tread fault lines of special-interest social legislation.

It is time the Congress curbs the runaway level of spending by the Federal Government by rationing the largesse to the "uncontrollable" Federal social programs so that the budget can be contained within manageable limits, the growth of the bureaucracy restrained, and inflation brought under control.

UNITED NATIONS DEVELOPMENT PROGRAM IN JAMAICA

Mr. McGEE. Mr. President, as a staunch and longtime supporter of the United Nations, I have been quite concerned in recent years over efforts in the Congress to erode our participation in that institution.

In this connection, I have also been concerned over what I believe to be unjustified and oftentimes blind criticism of such programs as the United Nations development program. It becomes a simple matter for many in the Congress to play politics with such issues as our contribution to UNDP.

Therefore, it was with interest that I read Majorie Banks' article on the contributions UNDP is making to the social and economic progress of the nation of Jamaica. The article, entitled "Two Faces of Development: Jamaica" appeared in the December issue of Vista magazine. The article portrays the human side of the United Nations development program and is a poignant illustration of its value. After studying the article, it is little wonder that the developing nations of the world view the U.S. contribution to UNDP as evidence of this Nation's commitment to the United Nations, or lack of it.

I would hope my colleagues in both the Senate and the House would devote their attention to this article. I believe it will serve to enlighten us all over UNDP and what it is accomplishing for such developing nations as Jamaica.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TWO FACES OF DEVELOPMENT: JAMAICA

How does a developing country feel about the United Nations Development Programs?" I asked this of the editor of the *Daily Gleaner*, the morning newspaper of the island of Jamaica.

"The United Nations Development Programs are absolutely essential for us," Mr. Theodore Sealy, the editor, replied emphatically without a moment's hesitation. "How else can we buy at the lowest prices? How else can we get the best possible experts from anywhere in the world?"

"Does the UN exert 'outside influence'?" I inquired.

"The experts leave when the projects end and we are on our own. There is no 'influence' implied by the assistance we receive. It's a program of cooperation that we can trust."

The *Daily Gleaner* has the qualities of a metropolitan paper even though it serves only the small island of Jamaica, roughly the size of Lake Ontario and the home of about two million people. The *Gleaner* (it was Noel Coward's favorite newspaper) soon becomes the vacationer's morning staple for both world and Caribbean news. However, one difference from the metropolitan press in the United States slowly emerges. Every day or so there is an article about some ongoing project in which the Jamaican government is assisted by that major arm of the United Nations in developing countries, the United Nations Development Program (UNDP).

With the *Gleaner* at hand for possible reference to UNDP-assisted projects, I rode east along the North Shore. The flowers were brilliant and the coconut palms kept watch overhead. Suddenly the palms appeared beheaded. Only the stark trunks remained. Later the *Gleaner headlined.*

30,000–60,000 COCONUT PALMS LOST ANNUALLY—LETHAL YELLOWING

The account told that after ten years of research the villainous killer had been isolated but not eradicated. Although the cause has been found, the search for a cure continues with help from a team of scientists, one affiliated with UNDP and others from the United Kingdom bilateral assistance program. In the meantime the scientists had successfully introduced the disease-resistant "Malayan Dwarf" palm. The important coconut industry has been saved.

Day after day there were banner headlines of the *Gleaner* about the price of bananas per ton for overseas shipment—just as the price of hogs comes first in news in Omaha.

Farther on in my journey a gleaming white banana boat was loading. An inspector was throwing out great green stalks with the ruthless scrutiny of a perfectionist. The small growers turned away in despair. Then a truck arrived with bananas packed in containers and already inspected. A UNDP-assisted project had set up a new marketing method whereby only imperfect bananas are thrown out rather than the whole stalk. The others are cut off in small bunches and boxed for shipment at top prices. What was wrong with those rejected bananas? Many had been bruised by jolts over rough roads.

Sir Arthur Lewis, the West Indian world-renowned economist and President of the Regional Caribbean Development Bank, also UNDP-assisted, argues that better roads in certain areas of the Caribbean would produce an increase in banana productivity that would be worth the cost of road improvement. Accordingly, a World Bank team (financed by UNDP) has just completed an investment feasibility study in Jamaica which is expected to lead to a major loan from the World Bank. The loan would allow the Government to modernize its roads' maintenance capacity, upgrade its system and the personnel to run it, and provide the much-needed equipment to do the job. The small banana farmer now has hopes of substantially fewer rejections.

Along the roads and in the towns I saw many idle youths. The younger generation in rural areas often finds life meaningless. They can't get paying crops to market due both to the poor state of existing roads and to an outmoded marketing system. The *Gleaner* reported this conclusion on the basis of a UNDP-assisted survey of the availability of good farm land. For a new nation with the recently declared goal of becoming self-sufficient in food production, here was one of the countless pieces to be fitted into overall national planning. As I turned back toward Kingston a figure from Robert McNamara's annual report as President of the World Bank to its Board of Governors persistently recurred to me. He said that forty percent of the total population in all developing countries, despite their economic growth, are trapped in poverty.

The Kingston slums showed what he meant. The population has doubled to 700,000. The poorest families live under improvised lean-tos, too often pressed so tightly under hot roofs that they can't stretch out to sleep. Children go to schools (if they go at all) to classes of 80 to 200, sometimes packed into makeshift space where there is hardly room to squeeze onto a narrow bench. Lunch is often inadequate.

Mr. McNamara put it bluntly: "Current development programs are seriously inadequate. The affluent nations are not moving effectively enough to assist the indigent nation. The indigent nations are not moving effectively enough to assist the poorer forty percent of their own populations."

"What does this mean for the future of our world?" he sharply asked the Board of Governors of the World Bank. He advised that the highest priority be given to the population problem. Next to be considered should be jobs for survival for the very poor (two and one-quarter billion worldwide). Third, a more equitable income spread needs to be achieved in the next thirty years than the present $4,500 per capita annual average in developed countries in contrast to around $100 per capita annual average income in the developing countries. He declared that we know enough to significantly improve conditions for this forty percent of the world's people without unacceptable penalties for national growth.

In Kingston I talked with the United Nations Resident Representative, Mr. Sturges Shields. As Chief of Mission he has the awesome responsibility of comprehending the total scene; of assuring a mutually satisfactory partnership between the National Government and twenty-some UNDP-assisted projects; of informing the UNDP administrative structure of feasibility studies, making funding arrangement, submitting evaluative reports with recommendations; of hosting informal conferences between international agencies, the development banks and the donor countries such as Canada, the United Kingdom and the United States; and of inducing cooperation among non-governmental agencies who might participate in development.

The day I returned to Kingston the *Gleaner* had a four-column spread on a speech by Mr. Shields on Social Planning in National Development. He said, "Some of the highest priorities in development are in the social field—uncontrolled population growth, unemployment especially of youth, unequal distribution of income and proper nutrition."

Then he defined these problems for Jamaica. "Population density has moved in the last twenty years from 200 to more than 400 persons per square mile. This creates pressures on both family life and the national government. Unemployment is the lot of forty-five percent of those under twenty-five, while many skilled posts go begging. The gap between rich and poor is worsening even in Jamaica. Proper nutrition through growth of the right food crops must reach the critical groups that need it most."

There are 160,000 unemployed youth under twenty-five in Jamaica, Five UNDP-assisted youth camps are reaching one percent or 1,600 of them with vocational training, and the graduates are finding jobs. The new government is taking the initiative to reach 16,000 in the near future through community centers all over the island.

Thanks to American youths who participated in marathon walks at so much a mile to benefit the World Food Program, the youth camps receive flour and other staples for those hungry campers from the World Food Program.

The UNDP headquarters occupies a modest, aging residence in middle Kingston. Mr. Shields is a big man, quietly absorbed in his role and obviously on top of it. I mentioned my awareness, gained from the *Gleaner*, of UNDP-assisted projects touching at some time almost every major concern in Jamaica. I inquired if I might see some terminating projects with tangible long-range impact. So it was that I visited the Topographical Mapping Project in the Jamaican Survey Department and the production headquarters of the National Physical Plan for Jamaica.

The mapping project started in 1966. The Survey Department building was modified to meet the requirements of the modern methods of mapping. Air conditioning was installed to maintain temperature and humidity within narrow ranges, Mr. Allen Williams, Project Manager, explained. After the map-making equipment was installed groups of young Jamaicans were recruited by a team of UN experts in the four main disciplines: photogrammetry, cartographic drawing, photomechanical techniques and lithographic printing.

A young Jamaican trainee spoke up with pride: "We get the machinery best suited to our work and at the best prices available anywhere in the world." I noticed their machines came from four different countries—Germany, Switzerland, England and the United States. I recalled that buying at competitive prices rather than just from the donor country usually meant a saving of fifteen percent, according to Senator Frank Church of Idaho, in an article in *The New Republic* where he explained his vote against U.S. aid but his approval of the World Ban.

The Topographical Mapping staff was also very proud that they helped to meet what promised to become a serious emergency. The shortage in the Kingston area water supply obliged engineers to request topographical maps on short notice. The Survey staff produced the maps according to the engineers' time demands.

The maps are put to all kinds of uses. I saw an engineer of a bauxite company poring over an array of them, searching for clues for possible mining sites. Much of this bauxite is shipped to the United States to be made into aluminum products. The maps serve for the selection of sites for dams, for real estate developments, for the location of a newly planned farming community, for airport extension. The Survey Department for mapping is well on the way to becoming self-supporting as the basic work is completed and special requests are met.

The Topographical Mapping project was an essential contribution to the other project I visited, the making of a National Physical Plan that would establish a frame of reference for future economic and social decisions for the twenty years from 1970 to 1990. It is a monumental achievement, fully documented and beautifully published in two parts, as a National Plan and as an atlas of Jamaica. The National Plan covers twenty areas of national life—agriculture, forestry, fisheries, mining, tourism, water resources, manufacturing, population, urban structure, housing, utilities, education, libraries, health, parks, recreation, conservation, environmental quality, land use and transportation.

Against this comprehensive and detailed background of facts all Ministries of Government can make decisions. It is up to Jamaicans to make use of this remarkable National Plan for shaping their future. There is no financial indebtedness to eat away the hopes it raises, as it was paid for in advance as always by matching funds from UNDP and the government—a partnership of equals.

I returned to the office of Mr. Shields with a few questions.

"How are UNDP-assisted projects selected?"

"They are determined by the Jamaican government with the advisory services of the UN Resident Representative. The UNDP is always dealing with changing governments. The projects are so basically needed and so flexibly executed that they continue through different administrations."

"Will these projects help just the sixty percent who have work and some fulfillment?" I asked. "How will the other forty percent benefit?"

"First, the developing nations themselves must take on this responsibility as part of their national purpose—Jamaica seems to be doing this—although I must say that it involves a growth of national awareness and of national spirit. These are developing but will take time. Secondly, UNDP and other-sources of external assistance must make conscious efforts to channel more help into these types of programs. Community development in rural areas, agricultural projects for the small farmer, training of youth to meet the needs of the community—these are as important as the building of dams, bridges and new industries. To expand both national capabilities and international assistance in these areas required expanding resources for development."

"What is the funding situation with UNDP?" I inquired.

"Funding has been increasing over the last few years by about twenty percent in the delivery of actual services," he stated. "The increase has come from countries other than the U.S.A. The United States contributed the same amount, $86 million, for the three years 1969–1972.

"In 1972 about $250,000,000 was expended worldwide by UNDP and about two million of this was allocated here in Jamaica. As I said before, the governments contribute as much or more than UNDP provides. The goal is to increase such services to $500 million annually from UNDP by 1976. However, the anticipated increase in prices will take up much of this increase. But without annual increases in contributions our momentum will level off and good projects will have to be cut back or dropped, particularly if the United States only maintains or reduces the 1972 level of contribution.

"We have to ask ourselves if we believe in the power of building a better life for ourselves and others. Look here, we all know that people, organizations and countries who look out only for themselves cease to grow and become decadent. Those that reach out to help themselves and others generally maintain healthy growth."

With this declaration from the United Nations Resident Representative, my *Gleaner*-inspired tour of Jamaica ended. Editor Sealy's outlook and that of the Jamaicans I had met was of a people who expect to win the economic struggle.

THE FARMER CONSERVES ENERGY

Mr. McCLURE. Mr. President, I believe that my colleagues are specifically aware of the critical problems facing American farmers this year—shortages of everything from fuel to baling wire to fertilizer, uncertainties as to the availability of transportation to haul their crops, and consumers who place the blame for higher prices on farmers, who are providing food at prices far below what most of the rest of the world is paying. To top it off, the Government is placing the responsibility for keeping our balance of trade in shape squarely on the shoulders of those same farmers, by calling for increased production for export to the markets of the world.

If only those facts are considered, it may seem that the farmer has a near-impossible job. Fortunately, however, there is one additional factor, a factor which impresses me more every day. That extra variable is plain old American ingenuity, which our farmers have to possess in greater quantities per capita. In fact, they seem to be looking at today's problems with an attitude that says, "How can we make all these problems turn out to be a long-range asset?" The answer to that question is arising in the form of new technology and more efficient operating methods, as a recent Farmland News article indicates. I ask unanimous consent that the article titled "Energy Crisis Hastening Age of Zero-Till Farming" be printed in the Record at the conclusion of my remarks, along with a "Facts for Farmers" column, also from Farmland News. The column contains an excellent example of an attitude I find encouraging when it says:

> This is a good time to evaluate your entire farming power input. The past energy needs of many farmers have evolved under conditions that are no longer with us. The elimination, reduction, postponement, or readjustment of some of your operations could

result in considerable fuel savings and still allow for the necessary work.

As I have said before, the farmer can live up to the challenge that has been presented to him. Our responsibility in the Congress is to remove the barriers that could hold him back.

There being no objection, the material was ordered to be printed in the Record, as follows:

Energy Crisis Hastening Age of Zero-Till Farming

(By Michael Graznak)

Zero tillage has come of age.

The energy crisis forced the maturity of a practice that has been a "toddler" for a decade. New herbicides have hastened adoption of the practice to a point where last year almost eight million acres in the United States were planted in some variation of the system.

This year the acreages of minimum bill, no-tillage, stubble mulching, or any of the other variety of names given to the practice, will certainly leap upward rapidly. America's fuel-hungry agriculture is ready for some new fuel saving ideas! perhaps part of the answer is zero-tillage.

On a spring day, when others are not yet starting to plow, Norman Weiss of Jackson, Mo., plants his corn. "I can plant quicker, earlier and have my work interrupted less by unpredictable spring weather by using a no-till planter than by any other way that I know of," Weiss said. He explained how residue of the past crop not only protects his sloping ground from erosion during the winter but keeps giving soil protection until his crop roots anchor it in the current season.

It doesn't take a lot of tractor horsepower . . . 35 to 40 will do it. He doesn't have to plow his ground in the fall to have it ready to work at the earliest possible date, thus it isn't exposed to winter washoff.

In the spring of 1973, when farmers were having trouble getting into their fields because of continuing rains, Weiss and some 40 others in his area who own no-till equipment were able to put in corn and soybeans while those with conventional equipment waited, helplessly in many cases, until only very late planting was possible.

"A 4-row unit, basic in the southeast Missouri area, costs about $2,800," said John Brown, Allis Chalmers dealer in Jackson. He sold 12 units in the spring of 1973. "Every unit in the area was busy and farmers who cared to do it had all the custom work that they could handle," he said. Many lent equipment to neighbors to increase the no-till acreage of the county to more than 8,000 acres of corn, milo and soybeans.

"I feel it is now a well established practice in our area," said Norman Weiss. He recalled there was much skepticism in the community when Harlan Hager of Gordonville purchased the first unit.

"You have a larger original cash outlay for the crop when you farm no-till because you need chemicals to control the weeds," Weiss said. "To me the savings in labor, time and fuel make it come out about equal to standard practices in cost. Being able to plant the crop on time, or earlier, more than evens things up. The erosion control makes it a whale of a benefit above the usual way."

As head of the county ASCS office, he is aware of abuses to soil and appreciative of practices which prevent them.

The University of Missouri's Dr. C. M. Woodruff has done some early work with no-till corn production. "American people recognize needs for careful and wise use of natural resources, elimination of waste, cessation of polluting, and revitalizing family farms as a means of supporting more people comfortably and profitably in rural communities," Woodruff said. "Considerations today extend beyond economics. They encompass aesthetics, and the spirit of the people as they provide opportunities to lead rich and rewarding lives."

Woodruff sees the no-till as a practical form of conservation farming.

"The primary emphasis of our research today is directed toward generating and developing new systems of conservation farming made possible by no-tillage technology," he said in viewing the practice as ". . . systems of farming for use of land that previously has been deemed unfit for production of row crop production."

Woodruff has compiled an outstandingly thorough mimeographed set of directions of interest to farmers who are considering the system. This material may be obtained by writing his office at the University of Missouri, Columbia, Missouri 65201. It bears on Missouri conditions but brings out points every prospective no-till farmer will want to examine. Woodruff covers the entire range of conditions from sticky Gumbo river bottoms to brushy sod hillsides.

George McKibben, agronomist of University of Illinois Research Center at Dixon Springs, Ill., comes as near as anyone in the field to being the "Granddaddy" of zero-tillage. The last eight years have found him looking at more angles of the practice than any other person in the nation.

"Double cropping soybeans really caught on in Illinois last year," said McKibben. He explained a system whereby soybeans are planted into wheat to produce both a crop of wheat and a crop of soybeans the same year. Not only is there the profitable 2-crop advantage but the soybeans add nitrogen to the soil for the use of the succeeding crop of wheat.

McKibben finds a 2-pass system more suitable for his zero-tillage program. He explains that the herbicide application, the key to zero-tillage, needs to be done with all of the possible care that a farmer can muster. "Weed control is so important that a farmer needs to pay full attention to it rather than trying to put on seed, mouse control, fertilizer and insecticide in one pass," said McKibben. "When zero-tillage is done on heavy sod the farmer is putting on a great deal of water which will make numerous stops necessary while planting. This can complicate matters if a farmer is trying to do everything at once."

McKibben outlined a system of using red clover to grow some of the needed nitrogen for a nitrogen-short agriculture. "Grow wheat in fall and seed red clover into it in spring; then cut the wheat and let the clover stand over," he suggested. "This would provide nitrogen for a corn crop the following year. The problem here is that we would lose a chance at a second crop, say soybeans, the same year, but if nitrogen gets that short it is a way of growing some of it."

McKibben is investigating the harvest of several crop systems in a single season. His success with wheat, planted to soybeans prior to harvest of the wheat, and then combining the soybeans in time to get in another crop of wheat has been shown to have extremely practical economic possibilities in Illinois.

A somewhat parallel project at the University of Missouri by C. M. Woodruff bolsters the evidence of practicality. The work of both men and numerous farmers of both states has shown profitable results. In several instances farmers thought so much of the idea that they changed prior major farming commitments to include the practice in their future plans.

I think everybody needs to recognize that with our prospects for limited nitrogen supplies for the coming seasons we need to plan to cut nitrogen use down quite a bit," McKibben said. "If it could be put on at the proper time as a side dressing there is no question that we can cut back the amount needed without hurting ourselves too much.

"We made an anhydrous side dressing applicator. Workers side dress the crop when the corn is eight to 10 inches tall. A regular plow coulter is used ahead of the ammonia blade to cut through the surface trash."

Workers there have experienced a need to develop equipment as situations arose, but McKibben feels that the implement industry eventually will be able to provide the needed tool for zero-tillage. He told of local dealers who were sold out of no-till planters early last spring.

"One of our dealers fixed up a *number of* side dressing ammonia applicators to be used by his customers," said McKibben in noting drawbacks to nearly all of the commercial units available for seeding and other zero-tillage operations. The researcher feels that a trend toward improvement is past due. He is convinced that industry is entirely too slow in getting machinery developed.

His needs for a zero-till grain drill took him to farm machinery manufacturers who, in effect, told him, "You go ahead and develop the practices and machinery and if the market develops, we will build the machinery for it."

"This is just the sort of thing that you face though, when you get to breaking new ground," said McKibben as he explained how all of the pieces of the zero-tillage "picture puzzle" would eventually fall into place.

"Once we get some good solid engineering to provide us with equipment that will work for the farmer who, using established practices, has to stay out of the field because the ground is too wet, the practice will really take off," concluded McKibben.

The Universities of Illinois and Missouri are working on zero-till on corn, soybeans, sorghums, cotton and combinations of several crops. The University of Kentucky has tobacco work in progress. Others throughout the nation are researching the field at an intensified pace. Energy requirements, fertility practices, labor, insect and disease relationships, management techniques *and* even crop varieties are entering the picture at an astounding rate.

At Ohio State University, Dr. G. B. Triplett, research agronomist, sums up the feelings of most of the specialists: "Success with no-till crop production hinges on the satisfactory performance of the herbicide system to control weeds."

He has considerable advice for farmers switching from conventional to no-tillage crop production—most of it is aimed at effective weed control. At the other end of the corn belt, Nebraska tests are leaning strongly in favor of no-till corn for its energy-saving potential. In addition, figures there show that machinery costs of slightly more than half of those required by conventional methods will produce comparable results, thus capital-short farmers are examining that practice.

It is impossible to summarize easily the position of zero-tillage. Even an effort to list a few of the people heavily committed to the research and development of the practice falls very short of being representative. As with all new or evolving agricultural practices, there will be many mistakes, many along for a free ride and much that will need to be unlearned as more accurate knowledge comes to light.

Seldom in agriculture has there been a development that has sparked such high interest, or one that requires so much continuing study by those engaged in or contemplating the pursuit.

The axiom, "Be not the first by which the new is tried nor yet the last to lay the old aside," fits the situation most farmers find themselves in. As with most new developments in agriculture, local agricultural information sources such as the county agent, the co-op, or the agricultural college will be counted on heavily to keep the inquiring farmer informed.

Facts for Farmers

If ever there has been a year when proper farm machinery maintenance prior to the season was important, the experts say this is it. Spring planting season is by far the most demanding on machinery. Heading the list of key equipment is the tractor.

If possible, take the tractor to a dealer and have him check the power with a dynamometer. This will index its condition and allow him to adjust it. It will indicate bad plugs in a gasoline engine, leaky valves and bad rings which should be corrected. A compression check, a change from winter to summer oil, air cleaner and radiator check will help improve performance and reduce fuel-robbing tendencies.

The fluid in the hydraulic system and transmission may need changing. Clutch pedal travel, exhaust system, muffler and power take off adjustment should be checked.

Finally, make sure of all safety devices, covers and guards. Replace "make-do" repairs before the rush starts. Functions that appear trivial while you are relaxed and rested can invite disaster when you are tired and hurried.

This is a good time to evaluate your entire farming power input. The past energy needs of many farmers have evolved under conditions that are no longer with us. The elimination, reduction, postponement or readjustment of some of your operations could result in considerable fuel savings and still allow for the necessary work.

The following table compiled by Edward J. Constien, University of Missouri Extension Agricultural Engineer, will give you an idea of where and to what extent fuel consumption takes place in your farming.

ENERGY AND FUEL REQUIREMENTS FOR SELECTED FARMING OPERATIONS

Field operation	Energy required		Fuel required (gallons per acre)	
	Pounds pull per foot	Horsepower hours per acre	Gasoline	Diesel
Moldboard plow	950	20.9	2.32	1.67
Chisel plow	635	13.9	1.55	1.12
Field cultivator	240	5.3	.58	.42
Disc harrow-stalk ground	250	5.5	.61	.44
Disc harrow—tilled ground	280	6.2	.68	.49
Spike tooth harrow	105	2.3	.26	.18
Spring tooth harrow	180	4	.44	.32
Plant—conventional	180	4	.44	.32
Plant—no tillage	90	2	.22	.16
Spray			.14	.1
Rotary hoe	100	2.2	.24	.18
Row crop cultivator	195	4.3	.48	.34
Combine—small grain	375	8.25	.92	.66
Combine—corn	650	14.3	1.59	1.14
Mow	130	2.9	.32	.23
Rake	80	1.8	.20	.14
Bale	400	8.8	.98	.70
Flail type harvester	400	8.8	.98	.70
Field chop—green	800	17.6	1.46	1.40
Hay or straw	200	4.4	.49	.35
Row crop	1,250	27.5	3.06	2.20
Rotary mower	375	8.3	.92	.66

Note: Energy requirements shown are for typical conditions and include only fieldwork. Transport to and from the field is not included. The chisel and modlboard plow figures are based on plowing in loam 8 inches deep at 4¼ miles per hour.

SSI AND OUTREACH

Mr. CHURCH. Mr. President, the supplemental security income program—SSI—which became operative on January 1 of this year represents a Federal assumption of various State and local welfare programs. For the first time, a system of direct Federal income maintenance payments at a set national minimum level will be made to the blind, disabled, and elderly. Through the administration of the Social Security Administration, SSI guarantees a monthly income of at least $140 for an individual and $210 for a couple. A cost-of-living increase will be provided in July bringing the levels to $146 and $219, respectively.

From the national standpoint, the SSI program will reach a great many more people than the previous State welfare programs. It is estimated that SSI will reach an approximate 6.3 million persons while the previous programs for the aged, blind, and disabled reached only 3.3 million. The 3 million "new recipients" who were not on State public assistance rolls offer a particular problem, as they must be sought out systematically on a largely individual basis.

To seek out these needy eligibles, a joint effort has been launched by the Administration on Aging and the Social Security Administration. SSI-ALERT is an extensive outreach effort being conducted in cooperation with the American Red Cross and national aging organizations. Each Federal Social Security District office is responsible for coordinating the efforts within their areas with about ten agencies per district designated as ALERT components. Enlisting the services of media and volunteers, ALERT is attempting to find and help those individuals eligible for SSI to apply for the benefits.

An example of one of the ALERT programs is the Community Council of Greater New York. Mr. President, I ask unanimous consent that the New York Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 25, 1974]

Courage and Dignity of Elderly Poor Surface During Project To Aid Them

(By Deirdre Carmody)

Courage can be a quiet quality when it breeds in the obscure and joyless corners of the city. For the most part it goes unheralded. But it can be found, if anyone tried hard enough.

Thousands of examples of this kind of courage against the anguish of old age and poverty have surfaced in the last few weeks as the city has been conducting a major drive to find 275,000 elderly people who are living on incomes of about $50 a week. The point of the drive is to inform the old people—as well as the blind and disabled of any age who are living in poverty—that they are eligible for the new Federal program of Supplementary Security Income, which should add a few more dollars each month to their meager incomes.

At the beginning of the year, 71,512 people 65 years old and older were switched from the city's Old Age Assistance lists to the Social Security Administration, which oversees the new program. But the vast majority of the elderly poor do not appear on these lists because they have traditionally maintained that welfare is the ultimate abnegation of dignity. And thousands upon thousands of them continue inexorably to cling to this tenet and to live in overwhelming poverty.

The Community Council of Greater New York, which is conducting the search for eligibles for the new Federal program in cooperation with the American Red Cross, has been combing the 1970 census figures to lift the anonymity of the elderly. One major conclusion the officials have reached is that the majority of the elderly poor are white, which is not particularly surprising since statistics show that whites live longer than blacks and since 90 per cent of the people over 65 in the city are white.

But who are the elderly white poor?

They are of Jewish, Italian, Irish, German, Greek, Polish and Russian origin for the most part, and they live in small cluttered, rent-controlled apartments in shabby neighborhoods throughout the city. A study now being compiled by the Mayor's Office on the Aging found that whites make up 49 per cent of the elderly who live in the 26 neighborhoods designated as poverty areas by the Human Resources Administration.

Their life expectancy is 68.3 years for a man and 75.7 years for a woman, seven years longer than that of blacks. The study found that about 100,000 of the elderly whites in the inner city were more than 70 years old. And although it is generally assumed that they are mostly foreign-born, 47 per cent of them were born here, and of this group, 40 per cent are at least second-generation Americans. Most of them worked during their lives and once knew better days. but now 30 per cent of them have annual incomes of less than $2,000.

But despite the paucity of their funds, many of them hold on desperately to small savings that will guarantee them a decent burial and assure that they will leave this world with the same, fierce dignity with which they lived in it.

Gertie Tucker is a 70-year-old woman who lives on upper Riverside Drive, somewhat north of Harlem but well south of the neat brick apartment buildings of Washington Heights, where other elderly Jewish women like her live. She is deaf and has been partially disabled since she was 5 years old when doctors damaged her spine during an operation to cure the effects of polio.

As a result of her spinal condition, she is 4 feet 6 inches tall and it has become increasingly painful for her to walk. She also has a bronchial condition and needs oxygen, but no one is willing to lug the oxygen equipment up the six steep flights of steps in her building.

There is an elevator, but it has been broken for the last six months, and despite her disabled condition, Miss Tucker has to trudge up the stairs to get to the small, three-room apartment, where she has lived since she sold the family house in the Williamsburg section of Brooklyn during the Depression for just enough money to guarantee a grave for her father when he died.

Recently she was confined to her apartment for days because of her bronchial condition, with nothing more to eat than the cereal from the boxes on the shelf. She does not go to the doctor at times like this because it costs to much and she is too proud to apply for Medicaid.

"You have to go through a means test," she said, "And I just couldn't go through that."

In the early days she was quite a phenomenon because, despite her physical disabilities, she had been one of 13 girls in a class of 400 men to graduate from the Brooklyn College of Pharmacy. For years after that she worked for doctors and in hospitals.

When she was 53 years old, she tried to lift a metal X-ray container, but it was too heavy and it ripped her chest. She had to stop working.

One day she awoke to find a man trying to climb through her window. She got out in time, but the apartment has since been broken into four times. She has been mugged on the street four times and twice thieves have taken her eyeglasses as well as her money.

"Once it was three young boys," she said. "Two were 11 or 12 years old and one was maybe 7 or 8. Can you imagine them mugging me? It's because I'm so small and because I'm a very slow walker. The oldest one got me around the throat and one went through my pockets while the third one grabbed my bag."

After that she began staying home all the time.

"I began to feel myself go very much downhill and I was beginning to get morose," she said. "I think I might have become senile but I recognized it in time and I decided suddenly one day that I had to get out."

She loves to study, so she went to the Jewish Theological Seminary and persuaded them to take her as a student in a Hebrew class. The seminary agreed, but it was nonetheless a problem because the bus left her three blocks from the siminary at the top of a sharp incline that was too steep for her.

So, day after day, people driving onto Riverside Drive stopped in amazement as they caught sight of a tiny, elderly woman hitch-hiking down the steep hill to Broadway to attend her class.

Now, her health is worse and she has had to give up her classes. She will not say what her income is, but it is evidently sparse. Her television set has been broken for four years and she cannot afford to have it fixed. Every day she struggles down the six flights of stairs where a bus, sponsored by a neighborhood group, picks her up and takes her to the local senior citizen center where she can get a free lunch.

The neighborhood is almost entirely black and Puerto Rican and she is the only white person at the center. She says she is often excluded from activities as a result.

"I don't really blame them," she said. "Perhaps they want their own."

The curious thing about Miss Tucker, who declined to have her picture taken, is that her face is unlined and her hair still dark brown. The thing that bothers her most is that she is completely alone and if anything should happen to her, she thinks it might be days before anyone found her. She has heard that there are groups who call old people at home once a day to check on them and she would like that.

"It would give me a feeling that someone knows I'm here," she said.

One of the principal lures of the Federal program for people like Miss Tucker is that it is not what they consider a handout from the Government but money from Social Security funds to which they are entitled by virtue of having worked during their life. Actually, however, a person does not have to have held a job to be entitled to join the Federal program and recipients automatically get Medicaid.

People who are over 65, blind or disabled are eligible if their total income does not exceed $227 a month if they are single or $315 a month for a couple. They are also allowed to own a house valued at $25,000; a car valued at $1,200; and have savings of up to $1,500 ($2,250 for a couple) and insurance policies with a total face valuue of $1,500 or less. Income limitations are slightly higher for people who are working.

Applicants should apply to their local Social Security Administration offices, listed in telephone books under "United States Government: Health, Education, and Welfare, Department of . . ."

To date, the program has unearthed 56,000 of the 275,000 persons thought to be eligible.

Shloime Davidman is 75 years old and there is still a lot of red in the thick thatch of hair above his crinkled face. It is easy to see what the brash, husky-voiced Rumanian immigrant must have looked like 50 years ago when he first came to New York wearing a straw hat and carrying a cane.

When he left Ellis Island, he had $24.50. Today, his total income is the $182 a month he receives from Social Security, although this will probably rise to $227 a month when he applies for supplemental income. He pays $143 a month in rent and $13.65 every three months for Medicaid, although he will be able to forgo this when he gets S.S.I.

But Mr. Davidman is so cheerful and so busy and so smiling that it is as if he had no cares at all. It is difficult to get him to talk about how he lives on so little money, not because it seems to be the raw and painful subject that it is to so many elderly people, but simply because he seems to dismiss his poverty with impatience as if he didn't have time to dwell on it.

He has been a butcher in Philadelphia, worked in laundries in the Bronx, owned a small store in the Crown Heights section of Brooklyn, which sold knishes, and has run all around the city as a messenger, even in his later years.

But his talent has been as a teacher and a writer and he taught Yiddish history and literature in Jewish schools in Chicago, Detroit, Passaic and Paterson. In addition to English, he speaks Yiddish, Hebrew, Russian, Ukrainian and Rumanian and the zest that carries him through the lean days now is the zest of a scholar for whom days are never long enough. He says he often does not go to bed until 2 A.M.

"I'm not looking for money," he said. "What I'm interested in is that people should know my work as a teacher."

Mr. Davidman has just completed a book called "A Song to Yiddish," which is a compilation of essays and poems, many of them his own. Friends gave him enough money to have it published privately and he considers it his greatest achievement.

A radio plays classical music as he works in the kitchen of his sunny apartment in Brighton Beach, a block away from the ocean.

There are spools of thread, rubber stamps, bottles of ink, cough medicine, playing cards and endless notebooks scattered around and he works for hours writing stories or working on translations into Yiddish. A few years ago he went to work for a small Jewish newspaper for $30 a week as a proofreader, but times were bad and they let him go a year ago.

He smokes three packs of cigarettes a day. He does his own washing and cooking and eats chicken, when he can, with lots of onions. The rest of the time he eats rice and drinks tea.

His wife died six years ago and he has a daughter who lives in Queens and a son who is an artist in San Francisco.

"When I get in a jam, I write to the kids and they're good to me," he said. "Sometimes I'm so busy, but this way it's happiness. You feel that you're really creating."

One of the most difficult problems for many of the elderly white poor is that they never experienced the degree of poverty that they have now and they are bitterly aware of their decline. The study for the Office of the Aging found that the largest bulk of whites they studied were skilled workers during their adult working years, but that 15 per cent were once involved in professional and managerial occupations and 20 per cent were owners of small businesses or employed in clerical or sales occupations. But in 1970, according to the study, 30 per cent of them had annual incomes of less than $2,000.

Another characteristic of the white elderly is their fierce independence and their refusal to move in with children who are often living in suburban homes in comfortable circumstances. The Office of the Aging study found that 95 per cent of the old white people continued to maintain their own homes despite the overwhelming difficulties in doing so.

Julie O'Connor is a 64-year-old widow whose $50 a week of unemployment ran out in July and whose life savings ran out in September.

"I got panicky," she said. "But oh, I swallowed my pride and that was hard. Living in the neighborhood and knowing all the families and knowing that they knew my daughter wasn't living with me. I don't like people asking me personal things like wasn't my son giving me anything?"

So she applied for food stamps, but she didn't even have enough cash to buy the quantity that was required. Then she applied for welfare, although years before when her husband was dying she had been treated roughly when she applied and had sworn she would never go to a welfare office again.

She had been told at that time that she was ineligible because she had a $1,000 insurance policy and when she said she would use it for her husband's funeral, she was told she had no reason to worry because the city paid $250 to bury paupers.

But last fall she was desperate so she swallowed her Irish pride and went to the welfare offices again, only to find that her battered old car, which she uses to visit her son and his family in the suburbs on weekends, prevented her from being eligible for welfare.

Julie O'Connor, however, is made of a certain kind of toughness despite her frail demeanor and her gentle pale face. She had been widowed in her 30's, raised two children and taken care of her father until he died at 83. When her father forbade her to work because he felt that women shouldn't, she took in ironing and did it in secret without his knowing.

This time she found a job taking care of an old woman and now she has a secretarial job. Her apartment in Long Island City costs her $85 a month, but she cannot afford to rent an apartment in the suburbs near her son. Her pride is immense (she refused to have her picture taken) and her strong Irish Catholic faith carries her through.

"The wolf isn't at the door, he's at the table," she said. "But God gives us what we have and what we don't have we don't need."

GAO RULES ON RUSSIAN ENERGY DEAL

Mr. SCHWEIKER. Mr. President, I am today releasing a ruling by the Comptroller General stating that the pending $6.1 billion Russian energy development deal in Siberia is illegal without a specific determination by the President that this specific transaction is "in the national interest."

The GAO also concluded that all past Export-Import Bank transactions with the U.S.S.R. have been illegal because they circumvented existing law.

I asked for this GAO ruling because I oppose this Russian "energy deal" and felt that the Export-Import Act requirements were not being followed. American tax dollars should be put into domestic energy exploration, and not spent on Russian energy exploration.

Based on this GAO report, I am taking two actions:

First. I have formally requested the Export-Import Bank today to "immediately suspend consideration of all credit, loan, guarantee, or insurance applications for the benefit of the Soviet Union until Congress has received adequate assurances that future Export-Import Bank transactions with the Soviet Union will comply with existing law."

Second. As a member of the Appropriations Committee, I have begun preparations to introduce an amendment to bar the multibillion-dollar Russian "energy deal" in the event that the President does report to Congress that the Export-Import Bank credits for the Siberian energy development project is in the national interest.

One Russian "wheat deal," which has been driving American bread prices sky-high is enough. I vehemently oppose putting billions of precious American energy development money into the proposed Russian "energy deal."

The United States should be concentrating our long-range energy investment dollars on domestic coal, shale oil, atomic energy, and other potential U.S. energy sources, rather than investing in Russian development.

The Export-Import Bank Act of 1945, as amended, prohibits Export-Import Bank transactions with Communist nations unless the President reports to Congress that each such transaction is in the national interest. It is not enough, as the present and past administrations have done, to simply certify across-the-board that trade with a particular country will be in the national interest.

I will press for congressional review of this Siberian energy deal and congressional action to put our money into domestic energy development instead.

I ask unanimous consent that the full text of the GAO legal opinion be reprinted in full at this point in the Record.

There being no objection, the legal opinion was ordered to be printed in the Record, as follows:

Comptroller General of
the United States,
Washington, D.C., March 8, 1974.

Hon. Richard S. Schweiker,
U.S. Senate,
Washington, D.C.

Dear Senator Schweiker: Your letter of January 31, 1974, raises several questions concerning the participation of the Export-Import Bank (Eximbank) in transactions involving the Soviet Union. These questions arise primarily in view of section 2(b) (2) of the Export-Import Bank Act of 1945, as amended, which prohibits the Bank from guaranteeing, insuring or extending credits in connection with the purchase or lease of any product by a Communist country except in the case of any transaction which the President determines would be in the national interest and so reports to the Congress.

You state it to be your understanding that on October 18, 1972, President Nixon determined it to be in the national interest for Eximbank to extend credits to the Soviet Union. Subsequent to this Presidential determination, Eximbank has extended credits to the Soviet Union in numerous transactions, and the Bank has reported such transactions to the Congress. However, no separate determination of national interest for each individual transaction has been issued by the President.

You also indicate that Eximbank is presently considering an application by the Soviet Union for a $49.5 million direct loan to be invested in an energy development project in the Yakutsk area of Eastern Siberia, and that the Soviet Union is expected to seek additional Eximbank credits to finance a $7.6 billion North Star energy development project in Western Siberia.

In consideration of the foregoing matters, you request our response to the following specific questions:

(1) In view of the restrictions contained in the Export-Import Bank Act of 1945, as amended, has the Bank acted in compliance with applicable law in extending credit to the Soviet Union in the absence of individual Presidential determinations, submitted to Congress, to the effect that each such transaction is in the national interest?

(2) Regardless of the legality of prior loans, in view of the present American energy crisis, can the Eximbank legally extend credit to the Soviet Union for the pending Yakutsk energy development project in the absence of a specific Presidential determination, submitted to Congress, that such transaction is in the national interest?

(3) What is the total amount of Eximbank funds presently outstanding in loans, guarantees or insurance to the Soviet Union, and what is the total amount of Federal funds presently committed to energy research and development in the United States?

As you indicate, the President made a determination concerning extension of Eximbank credits to the Soviet Union on October 18, 1972. The full text of this determination, as published at 37 F.R. 22573 (October 20, 1972), is as follows:

"The White House,
Washington, October 18, 1972.

"I hereby determine that it is in the national interest for the Export-Import Bank of the United States to guarantee, insure, extend credit and participate in the extension of credit in connection with the purchase or lease of any product or service by, for use in, or for sale or lease to the Union of Soviet Socialist Republics, in accordance with Section 2(b) (2) of the Export-Import Bank Act of 1945, as amended.

[signed] Richard Nixon"

This determination was reported to the Congress on the date it was made. See Congressional Record for October 18, 1972, H10409 (Executive Communication No. 2432). Obviously this document evidences a determination that it is in the national interest to extend credits to the Soviet Union as a general matter, and without reference to any particular transaction or transactions.

Your first question, as to the validity of such a general determination, requires consideration of the legislative history of section 2(b) (2) of the Export-Import Bank Act and prior appropriation act provisions.

Section 2(b) (2) of the Export-Import Bank Act of 1945, as amended, 12 U.S.C. 635(b) (2), provides, quoting from the United States Code:

"The Bank in the exercise of its functions shall not guarantee, insure, or extend credit, or participate in any extension of credit—

"(A) in connection with the purchase or lease of any product by a Communist country (as defined in section 2370(f) of Title 22), or agency or national thereof, or

"(B) in connection with the purchase or lease of any product by any other foreign country, or agency, or national thereof, if the product to be purchased or leased by such other country, agency, or national is, to the knowledge of the Bank, principally for use in, or sale or lease to, a Communist country (as so defined),

"except that the prohibitions contained in this paragraph shall not apply in the case of any transaction which the President determines would be in the national interest if he reports that determination to the Senate and House of Representatives within thirty days after making the same."

The above-quoted provision was added by section 1(c) of the act approved March 13, 1968, Pub. L. 90-267, 82 Stat. 47, 48. The 1968 act was in this regard based upon a somewhat similar limitation which had been carried in appropriation acts for prior years.

The appropriation act limitation first appeared in the Foreign Aid and Related Agencies Appropriation Act, 1964, approved January 6, 1964, Pub. L. 88-258, 77 Stat. 857, 863, as follows:

"None of the funds made available because of the provisions of this Title shall be used by the Export-Import Bank to either guarantee the payment of any obligation hereafter incurred by any Communist country (as defined in section 620(f) of the Foreign Assistance Act of 1961, as amended) or any agency or national thereof, or in any other way to participate in the extension of credit to any such country, agency, or national, in connection with the purchase of any product by such country, agency, or national, except when the President determines that such guarantees would be in the national interest and reports each such determination to the House of Representatives and the Senate within 30 days after such determination."

The same language was included in the appropriations acts for 1965 (78 Stat. 1022), 1966 (79 Stat. 1008), 1967 (80 Stat. 1024–25), and 1968 (81 Stat. 943).

The appropriation act limitation, as originally enacted in 1964, represented a compromise between proponents of a flat prohibition against Eximbank participation in any transactions involving Communist countries, led by Senator Mundt and Representative Findley, and those members who insisted upon according discretion to the President. However, the legislative history indicates that this language was intended to require a specific Presidential determination for each transaction to be exempted from the prohibition. Thus Senator Mundt commented as follows in a statement appearing at 109 Cong. Rec. 25619:

"* * * The compromise language which we finally developed in the conference report and which has been adopted by the House is a significant and important policy recommendation by Congress and a firm expressional intent. It contains the same specific prohibition against extension and guarantees of credit to the Communist nations contained in S. 2310 but it provides an escape clause to be used by the President of the United States only—and I repeat only—when he himself finds in the case of each proposed credit transaction that he believes it to be in the national interest * * *.

* * * * *

"I am confident there are many in Congress and throughout the country—and I include myself among them—who will want to scrutinize each such transaction most intently and carefully if it should actually eventuate and be authorized. * * *

"Thus, I am well satisfied with the policy declaration and the specific prohibition in this matter contained in the conference report and by the work accomplished by the House-Senate conference committee in writing into this foreign aid appropriations bill a prohibition which can be voided only by specific Presidential action to be publicly reported in each case within 30 days to both Houses of Congress."

The same intent seems to be manifested during House consideration of the conference report. Mr. Passman observed:

"* * * The so-called Mundt amendment which was agreed to by the conferees requires two things specifically: The President must determine that financing such assistance by the Export-Import Bank is necessary, and the President must report each such determination * * *.

* * * * *

" * * * If, for example, there are 20 such determinations, the President will report 20 different times * * *." 109 Cong. Rec. 25416–17.

In response to an observation that the President had already in effect determined that sales of wheat and other agricultural products to the Soviet Union were in the national interest, Mr. Rhodes stated:

"Of course, the gentleman realizes that a new determination has to be made with each transaction under the terms of this amendment?" *Id.* at 25418.

As noted previously, the present statutory provision was enacted in 1968 by Public Law 90-267. The report on the 1968 legislation by the Senate Committee on Banking and Currency noted the similar provision contained in prior appropriation acts, but pointed out:

"* * * the committee provision goes beyond the existing provision in two respects. First, as indicated, *it would require a determination of national interest by the President in the case of indirect as well as direct transactions* with Communist countries. Second, the provision becomes a part of the Bank's statutory charter and does not need to be adopted each year by the Congress as in the case with the appropriation act." S. Rept. No. 493, 90th Cong., 1st sess., 4. (Italic supplied.)

The conference report commented with reference to the provision enacted:

"The Bank is also prohibited from participating in credit transactions in connection with the purchase or lease of any product by a Communist country * * * *except after a Presidential determination communicated to Congress within 30 days after it is made, that the transaction would be in the national interest*." H. Rept. No. 1103, 90th Cong. 2d sess., 4. (Italic supplied.)

Finally, in explaining the conference version of the 1968 legislation, Senator Muskie reiterated that section 2(b)(2) was patterned after the similar limitation which had been carried in appropriation acts. 114 Cong. Rec. 3836.

Thus the language of section 2(b)(2) of the present act, together with its legislative history, clearly requires a separate determination for each transaction. Your first two questions are therefore answered in the negative.

With reference to your third question, the materials enclosed herewith indicate the present status and extent of Eximbank participation in transactions involving the Soviet Union. Finally, a report to the President dated December 1, 1973, from the Chairman of the Atomic Energy Commission indicated the following obligations for Federal energy research and development for fiscal years 1973 and 1974:

[In millions of dollars]

Program element	Actual 1973	Planned 1974
Conserve energy	$52.8	$62.3
Increase domestic production of oil and gas	20.0	19.5
Substitute coal for oil and gas	88.8	167.2
Validate nuclear option	395.8	517.3
Exploit renewable energy sources	82.8	123.0
Total	640.2	889.3

We have not audited or verified the above data. The President's fiscal year 1975 budget contains $1.5 billion for direct energy research and development.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. McGEE. Mr. President, what did the House vote in January, which saw the defeat of our fourth replenishment to the International Development Association, really prove?

Was it an indication that the American people were fed up with our participation in such programs? Was it an indication that the American people were turning their backs on two-thirds of the world's population? Was it an indication that Americans feel they could now go it alone in the world? Or was it an indication that we had become coldhearted and ruthless in our treatment of the poor, the starved, the illiterate, and the less fortunate of the developing world?

Even though considerable rhetoric to this effect was sounded in the House vote, I do not believe the American people necessarily support the action taken by their elected representatives. I base this conclusion on the hundreds of editorial letters, and resolutions by numerous organizations which have poured into my office condemning the action.

Today, I am inserting in the RECORD a sampling of the editorial sentiment from around the Nation which I believe represents the true spirit of this Nation and not what the opponents of IDA perceived to be the sentiment of our citizens.

From the Milwaukee, Wis., Journal:

Uncle Sam has been left looking like Uncle Scrooge.

From the Providence, R.I., Bulletin:

It (the House vote) was unexpected and largely unexplainable.

From the Spokane, Wash., Spokesman Review:

Congress may have lost a long-term positive gain because of a short-term negative aspect.

From the American Banker:

The House vote last week was spiteful, and directed at the wrong targets. In the midst of all the country's troubles involving self-respect and public stature, it ought not to impose on the country this unnecessary disgrace.

From the Knoxville, Tenn., News Sentinel:

Ever since the Marshall Plan, foreign aid has been firmly based on the enlightened self-interest of the United States. It would be a pity to abandon this philosophy now in an attempt to strike back at oil blackmail.

From the Los Angeles Times:

But for the United States itself to adopt the selfishness, the shortsightedness of these oil-producing nations on the broad question of economic development would compound the crisis, not resolve it.

From the Boston Globe:

Congress has no reason to be proud of its first substantive act after returning from a six-week recess for the holiday season—a recess which probably involved a lot of personal pleasure and comfort for many of its members.

From the Chicago Sun-Times:

By its unthinking act, the House may have imperiled not simply the economies of some of these countries, but also the lives of many of their inhabitants.

From the New York Post:

Obviously many Americans are weary of high food prices, political corruption and seemingly contrived shortages. Their fatigue is understandable. It does not, however, compare with devastating deprivation elsewhere in the world—or excuse refusal to extend relief in conformity with our worthiest tradition.

From the Columbus, Ohio, Citizen Journal:

If the poor nations of the earth conclude there is no compassion left among the wealthy countries, and no hope of further help in improving the lot of their woefully needy people, the ultimate price to the United States and the rest of the Western World might be very high indeed.

From the Buffalo, N.Y., News:

We are all in the same world, and the problems of the poor countries are, in part, the problems of us all.

From the Baltimore Sun:

But as a percentage of the nation's gross national product, the American contribution rates well down the list of the developed countries.

From the Hartford, Conn., Courant:

Just when others are increasing their support of the IDA is no time to withdraw ours. The hand that's lost could be our own.

From the Louisville, Ky., Courier Journal:

Last week's vote by a substantial majority of the House to reject the U.S. commitment of $1.5 billion to the International Development Association (IDA) was indefensible and deplorable.

From the Kansas City Times:

Bias, narrow self-interest and outright misunderstanding won the field this week.

From the Philadelphia Inquirer:

We like to think of ourselves as a generous people, yet as World Bank President Robert McNamara notes, the U.S. ranks 14th among the top 16 donor countries in terms of national income.

From the Wilmington, Del., News:

The House of Representatives has voted against the honor, tradition and interests of the United States.

From the Washington Star-News:

The refusal to authorize the contribution of $1.5 billion over the next four years is an act of shocking irresponsibility.

From the New York Times:

Often it is argued, the Congress seems reluctant to recognize that development assistance brings mutual benefits to industrialized and less developed nations alike.

As I mentioned earlier, these are only a sampling of the editorial comments from around the Nation. In the next few days, I will be inserting more editorials in the RECORD. I would hope that my colleagues in the Senate would not lose sight of what these editorials are saying to the Congress. The tenor of these editorials are reasoned, logical, and farsighted. I would hope that we, as elected representatives of the people, could conduct ourselves with some semblance of the responsibility to be found in these comments.

With all our domestic difficulties, it might be just the time for the Congress to begin exerting a little leadership, rather than engaging in narrow and self-serving ends. The Nation will pay a high price for this reckless self-indulgence if we do not begin acting responsibly.

I ask unanimous consent that these editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Milwaukee Journal, Jan. 25, 1974]

HOUSE SHUNS POOR NATIONS

Uncle Sam has been left looking like Uncle Scrooge. Abruptly and foolishly, the House has killed a bill for a new contribution to the World Bank to help economic development in the poorest countries on earth.

The contribution, amounting to $1.5 billion over four years, is part of a total contribution of $4.5 billion from wealthier countries and is proportionally smaller than the current U.S. share of support. The Nixon administration is behind the idea, but many defecting Republicans joined Democrats to crush it.

The need is clear. The World Bank calculates that for 41 of these poorer nations the additional oil import bill this year will exceed the entire amount of foreign aid they receive. It is too often overlooked that while the industralized West is squeezed hard by the high cost of oil, backward nations are devastated.

Congressmen who argue that the aid will merely flow to the Arab oil countries are thinking narrowly. It's a lot like saying that you shouldn't pass the hat for the gravely ill because wealthy physicians might ultimately profit. It may be true, but it does not lessen the need, or the moral obligation to assist.

As for the argument that the US itself has pressing domestic needs, none can deny that this is so. But it is also true that we possess the basic wealth to meet our own problems as well as assist impoverished nations.

This is the right kind of aid. It is economic, not military. It is channeled through a multinational agency and thus does not entangle us in the political affairs of assisted countries. The House should reconsider.

[From the Providence (R.I.) Bulletin, Jan. 28, 1974]

DISASTER FOR POOR NATIONS

The House defeat of a bill to increase the United States contribution of "soft loans" to developing countries through the World Banks has spread dismay among the whole development aid community. It was unexpected and largely unexplainable.

This country had agreed last year, in consultations with other members of the World Bank, to a doubling of the total contributions to the "soft loan" program, which is handled by the International Development Association, a subsidiary of the World Bank. The increase would raise the program to a level of 1.5 billion dollars a year, compared with the old program of about 800 million dollars annually. Where the U.S. share was 40 per cent in the old program, American negotiators had insisted on cutting it to one-third in the new.

Still, the House rejected the entire authorization, which, in the legislative process, had been changed to 1.5 billion spread over four years. The vote was decisive—248 to 145. It was so startling that it drew a strong statement of protest from Secretary of State Kissinger and Secretary of the Treasury Shultz. An even stronger blast came from Robert S. McNamara, World Bank president, who called the vote "an unmitigated disaster for hundreds of millions of people in the poorest nations in the world."

The "soft loan" program is separate from the regular loans of the World Bank. The bank, in the past five years, has boosted its annual volume of loans from 1.5 billion to three billion dollars. These are made on a much tougher basis, from a banker's point of view, although interest charges are relatively low. They are designed to foster business and industrial enterprises in the poorer nations. IDA "soft loans" are interest-free, extend for as much as 50 years, and go only to countries with per capita incomes of $300 a year or less. They are much more in the nature of "foreign aid," although not outright grants.

One of the arguments in the House against the expansion of the program was that the total of increased loans for most of the poor countries would be less than the increased cost of oil. Members argued, in effect, that the extra money would simply flow through to the oil exporting countries, especially the Arab oil producers that have created international upset by their current oil embargo. But the developing nations desperately need oil. They do not have any margin of waste or luxury that can be cut, as does the United States, for example. The increased cost of oil poses an overwhelming problem for them. In short, the squeeze on oil makes aid all the more urgent for them, not less urgent.

Although Congressman Mahon of Texas, chairman of the House Appropriations Committee, warned that House members aren't going to change their minds, an attempt ought to be made to prevent a crisis for the developing countries. Possibly a favorable vote by the Senate could have some impact. Certainly, greater pressure ought to have come from the congressional leadership and from the White House, despite their preoccupation with the Watergate scandals.

The World Bank and the IDA can provide the impetus for putting the poorer nations on their own feet economically. But they cannot do it without full cooperation from the rich nations. The House vote has left U.S. participation in the stepped-up program in question.

[From the Spokane (Wash.) Spokesman Review, Jan. 26, 1974]

INVESTMENT IN VITAL RESOURCES

It may not be an unusual circumstance, but Henry Kissinger is mad at Congress. The House has killed a bill sponsored by the administration for a new contribution to the World Bank to aid economic development in poor nations. Kissinger considers us to be committed to an equitable share among all industrialized nations and this action will mean a major blow to United States world leadership.

At first glance, it is easy to see the root of the bill's defeat. The country is understandably disillusioned with foreign aid. Many congressmen pictured the aid simply flowing from the poor countries into the pockets of the oil-producing Arab countries. We would be throwing money away with nothing to show for it.

These fears are understandable but Kissinger has a point also. The contribution should be handled as a loan and not a gift and with that condition it can be thought of as a grubstake for our future. The poorer nations may be poor in the way of development but certainly not in terms of natural resources that will be extremely valuable in future years. In a sense, through economic development loans we are investing in those resources.

There is a legitimate fear that these poorer nations will pull a stunt similar to the Arab oil boycott. Nevertheless, they could do so and in fact may be more likely to do so without U.S. loans. When the United States doesn't utilize its influence others are quick to fill the gap. The Arab oil-producing nations have already announced plans to set up a $200 million fund to help African countries purchase Arab oil. That can feasibly mean the beginning of an Afro-Arab alliance that can team up against the United States later.

Kissinger is right in warning we can't go it alone. We may be able to become self-sufficient in energy and other areas but there is always going to be some vital resource we need. Provided the loans are legitimately treated as loans, provided our economy can afford the investment and provided other developed nations are also doing their share, the economic development lending program is a worthwhile investment in our future. Congress may have lost a long-term positive gain because of a short-term negative aspect.

Summary: In the House defeat of a bill to give a contribution to the World Bank, Congress has weakened a valuable investment for our future.

[From the American Banker, Jan. 28, 1974]

THE DENIAL OF IDA IS A DISGRACE

It was a disturbing signal that the House of Representatives gave last week, when it voted overwelmingly against the replenishment of IDA.

By a count of 248 to 155, the House killed the bill which had been passed by the Senate to commit $1.5 billion over a period of four years to the International Development Association. As the soft-loan agency of the World Bank, the IDA makes loans to the most desperately poor countries on easy terms. The $1.5 billion represents one-third of IDA's budget for that period, a reduction from the 40% which the United States had granted in the past.

The sadness of the action is not so much that it is one more manifestation of the new isolationism which seems to be gaining strength in the nation. Rather, it is a cause for concern because it seems to show a turning away from the poor and helpless—a repudiation of the national characteristic of thoughtful charity.

One of the main reasons for this rebuff, of course, is the national disenchantment with foreign aid. That process of disillusionment set in when the promise of political benefits abroad, which was one of the early selling points for these programs, was dashed, and the country learned that could not buy friendship. That poor climate was subsequently made worse by the impact of foreign competition upon domestic industries, giving rise in recent years to a virulent new form of protectionism. And the oil crisis, of course, has dramatically sharpened antipathy and fear of the harm foreign economic and business activity can do to American workers.

That quite legitimate concern has grown so large that it has caused Congress to revoke its traditional modest expression of charitable concern for the poor nations which pose no threat to the economic well-being of Americans.

The arguments on behalf of IDA, which make a clear distinction between its function and the more politically motivated forms of aid, have been engulfed in the overwhelming resentment of all endeavors remotely suggestive of giving anything to foreigners.

The fact that the U.S. economic leaders, particularly Treasury Secretary George Shultz, have labored successfully to diminish the proportion of the U.S. load, and to spread this modest burden more fairly among other industrial nations, has availed nothing. The fact that the U.S., once the world leader in foreign aid, now has fallen well behind other industrial nations in the proportion of its wealth that it allocates for development has not appeased the political mood to reduce it even further.

Oddly, the cutting off of aid to the poor abroad does not appear to be in response to a demand to take better care of the poor at home; it seems to be entirely a protest vote against foreign aid as such.

The banking industry is in a unique position to appreciate how wrong is this denial of IDA, both because of its sense of community responsibility, as expressed in individual institutions' support for local charities, much as the U.S. government has helped its poor neighbors around the globe, and in its sense of the potential for healthy business relationships in helping the less developed countries to grow.

Now the Administration, beset by enormous problems elsewhere, faces the task of trying to salvage what it can, legislatively, in the hope of delivering on its promise to the poorest of the world. There seems to be some hope that the IDA replenishment bill, which breezed through the Senate before it was overwhelmed in the House, could be revived, possibly for less money. There is some embarrassment to the political technicians who will have to do this chore, and there will be some difficulties within IDA in making the necessary adjustment if they do have to settle for a smaller amount.

But that awkwardness is insignificant compared with the shame of the rich U.S. in the eyes of the poor of the world if this repudiation is allowed to stand. The House vote last week was spiteful, and directed at the wrong targets. In the midst of all the country's troubles involving self-respect and public stature, it ought not to impose on the country this unnecessary disgrace.

[From the Knoxville (Tenn.) News-Sentinel, Jan. 27, 1974]

An Ill-Considered Vote

The House should reconsider its lopsided 248–156 vote against a new $1.5 billion U.S. contribution to the International Development Association (IDA), the branch of the World Bank that makes "soft" loans to the poorest of the world's poor nations.

The Administration bill to fund the IDA was beaten by a combination of circumstances, chief among which was the oil price squeeze and the widespread suspicion in the House that a great deal of the $1.5 billion would ultimately find its way into the treasuries of extortionate Arab oil princes.

Lending credence to this theory was a World Bank calculation that for 41 of the have-not nations the increases in the price of the oil they must import would more than eat up the total foreign aid they will receive from all sources this year. Hence, the House reasoned, the U.S. contribution to IDA would do no more than further enrich oil-producing nations that are plucking the industrial Western World like a helpless chicken.

As tempting as the theory is, it won't stand analysis. If the U.S. reneges on its promised contribution to IDA, so will other wealthy nations. Thus the total cost to poor countries will be some unknown multiple of $1.5 billion, and it is going to hurt them cruelly. More than the oil imports they need, it will deprive them of public health services, improved agriculture, power and water projects, roads and bridges—in short, everything they need to lift their people out of the hopeless morass of poverty into which they were born.

If the poor nations of the earth conclude that there is no compassion left among the wealthy countries, and no hope of further help in improving the lot of their woefully needy people, the ultimate price to the United States and the rest of the Western World might be very high indeed.

Ever since the Marshall Plan, foreign aid has been firmly based on the enlightened self-interest of the United States. It would be a pity to abandon this philosophy now in an attempt to strike back at oil blackmail.

The Administration promises to resubmit a scaled-down request for new IDA funds. We hope it does so. We hope too that the White House will support the new request with more vigor and purpose than it showed during the House debate over the original request.

[From the Los Angeles Times, Jan. 25, 1974]

The Wrong Target of U.S. Anger

It is not surprising that Congress is mad at the Arabs about the inflationary increases in petroleum prices. But to vent this anger by killing the new American contribution to the International Development Assn. is to pick the wrong target.

IDA is the World Bank arm that serves the 145 poorest nations in the world, nations with a per capita income of $375 a year or less. Since 1961 it has provided about $6 billion, not much in a world accustomed to spending hundreds of billions on arms alone. But it has made a crucial difference for the recipients, helping improve agriculture, education, family planning—making a difference that argues for more, not less, money.

In broad terms of American finance, the amount of the contribution is not significant. The American share of the proposed replenishment was to be at an annual rate of $375 million a year, compared with the present level of contribution of $320 million.

But in withdrawing, Congress places in jeopardy the entire $4.5 billion funding. The American share was to be $1.5 billion over a four-year period—one-third of the total, compared with the 40% share paid in the past.

The United States already is a year behind schedule in keeping its commitments to earlier pledges totaling $1.6 billion since 1960. In the general accounting of foreign assistance from rich nations, measured as a percentage of gross national product, the United States presently ranks among the lowest contributors, with only Japan, Italy, Switzerland and Austria giving lower percentages of GNP. The present flow of American loans and grants is less than 0.33% of America's GNP, and includes only about $300 million a year in nonrepayable grants.

Many congressmen who voted against the IDA replenishment must have had their eyes on the oil-producing nations. And for good reason. The massive increases in oil prices have crippled development in the poor nations of the world, in effect wiping out the potential gains provided by Western assistance.

What makes matters worse is that the rich oil-producing states have shown no sense of responsibility in sharing their capital with other developing nations. None of the Arab states, for example, has ever contributed to IDA in the past, and only one, Kuwait, with a modest $27 million, has pledged to help the next IDA replenishment. No price concessions have been offered the poor countries, although there has been a proposal for a $200 million Arab fund to help black Africa.

In this circumstance, the congressmen must have wondered if any further aid from the West would simply end up in the coffers of the oil-rich nations, further distorting the world monetary situation.

But for the United States itself to adopt the selfishness, the shortsightedness of these oil-producing nations on the broad question of economic development would compound the crisis, not resolve it.

There is no question that economic development will be set back, stalled, perhaps reversed, unless the oil producers themselves compensate for the blow of high oil prices on the poorest nations. That makes more urgent, not less, however, continued support for IDA from the Western industrial nations that have been its prime supporters.

[From the Boston Globe, Jan. 25, 1974]

Help the Poor Countries

Congress has no reason to be proud of its first substantive act after returning from a six-week recess for the holiday season—a recess which probably involved a lot of personal pleasure and comfort for many of its members. On Wednesday it killed a $1.5 billion appropriation as the American share of the latest "replenishment" of the International Development Association. Other nations will furnish another $3 billion to assist the less-developed countries in the long and complicated task of upgrading their economies.

This is to be the fourth replenishment of IDA, an adjunct of the World Bank, and its programs of interest-free loans. IDA's credits are for periods of 50 years with only one percent repayment for each of the first 10 years and larger amounts over the balance of the loan. The funds are used for such basic projects as agriculture, electric power, transportation and water supply, plus commercially oriented industrial and tourist enterprises.

It is difficult to overestimate the needs of the poorer countries. Hundreds of millions of persons in Asia, Africa and Latin America still subsist on annual incomes of about $100. Their only hope for greater longevity and fuller lives lies in agricultural and industrial improvements that will alleviate chronic hunger and other privations in health, education and housing.

As compelling as their immediate needs may be, Congress had other reasons to vote the funds for IDA. The recent surge in petroleum prices has caused some disruption in the industrialized world, but it has created havoc in the plans of the poorer countries, which now find collectively that higher prices for fuel more than offset flows of aid through IDA and other national agencies.

The oil producing countries—themselves for the most part nonindustrialized—have so far made no attempt to assist the poorer nations either with special price treatment or with other forms of assistance. They have made some pious comments about community of interest with the poorer nations but have not made any significant contributions to a problem shared by all mankind.

The assistance to IDA and the poorer countries will serve as reminder to everyone—rich nation, poor nation and oil nation—that an incredibly large job must still be done and that the current energy shortage, aggravated if not actually caused by the producing nations, must not interrupt it.

The opposition to the bill that led to its death in the House seems partly inspired by doubts about the utility of aid generally, but we suspect this is rooted in the flaws of direct aid by this country, often linked with or even as disguised military aid.

Furthermore, although there are unquestionably errors, mistakes, false starts and disappointments with such assistance, it is absurd to kill the whole concept rather than attack the specific shortcomings.

From a practical point of view, the chief possibility seems renegotiation of the amount involved to allow reconsideration by Congress. This should be done speedily. And Congress should reverse its vote.

[From the Chicago Sun-Times, Jan. 28, 1974]

Help the Bank—And the Hungry

By a vote of 248 to 155, the House last week killed a bill that would have provided an appropriation of $1.5 billion to help the World Bank alleviate some of the unprecedented human suffering in the underprivileged countries of the world. By its unthinking act, the House may have imperiled not simply the economies of some of these countries but also the lives of many of their inhabitants.

Robert S. McNamara, president of the bank, does not ordinarily comment on actions by the bank's member countries, but he correctly called the House's action "an unmitigated disaster." Several African nations were counting on the money to help them recover from some of the century's worst droughts. India, the world's largest democracy, has been disastrously crippled by the energy crisis and a food shortage and is in desperate need of aid. Similar conditions also exist in Pakistan and Bangladesh.

The House's action was particularly thoughtless because, unlike the other designated contributions to the fund, the United States would have been allowed to spread its contribution out over four years instead of three. Moreover, the $1.5 billion was the smallest share asked of any member country.

Treasury Sec. George P. Shultz, who recognized the need to pass the bill, hopes to revive it—perhaps by seeking its passage in the Senate and then giving the House another chance to do right by the thousands of people who need help. The need for the House to reverse its vote is as real and as pressing as the hunger the bill is designed to ease.

[From the New York Post, Jan. 26, 1974]

Inhumane Bank Holdup

Must America the affluent hold back any more loans to the world's developing nations because it is making too many lavish deposits in the accounts of discreditable regimes which have proved themselves disastrous risks?

The question emerges after this week's vote in the House of Representatives blocking legislation for a relatively modest $1.5 billion increase, phased over four years, in U.S. contributions to the International Development Assn. Yet this country is now spending $500 million more than that sum on direct assistance to South Vietnam and Cambodia, as duly authorized by Congress, after squandering billions there.

The IDA, an arm of the World Bank, is the primary source of aid for "least developed" countries. Their desperate human needs are frequently made even more acute by natural disasters—such as the fearful droughts in West Africa. In many cases, the only hope of emergency relief and the kind of assistance that can asssure long-term survival through wisely planned development rests with the IDA.

Obviously many Americans are weary of high food prices, political corruption and seemingly contrived shortages. Their fatigue is understandable. It does not, however, compare with devastating deprivation elsewhere in the world—or excuse refusal to extend relief in conformity with our worthiest tradition.

[From the Columbus (Ohio) Citizen Journal, Jan. 28, 1974]

An Ill-Considered Vote

The House should reconsider its lopsided 248–156 vote against a new $1.5 billion U.S. contribution to the International Development Association (IDA), the branch of the World Bank that makes "soft" loans to the poorest of the world's poor nations.

The Administration bill to fund the IDA was beaten by a combination of circumstances, chief among which was the oil price squeeze and the widespread suspicion in the House that a great deal of the $1.5 billion would ultimately find its way into the treasuries of extortionate Arab oil princes.

Lending credence to this theory was a World Bank calculation that for 41 of the have-not nations the increases in the price of the oil they must import would more than eat up the total foreign aid they will receive from all sources this year. Hence, the House reasoned, the U.S. contribution to IDA would do no more than further enrich oil producing nations that are plucking the industrial Western world like a helpless chicken.

As tempting as the theory is, it won't stand analysis. If the U.S. reneges on its promised contribution to IDA, so will other wealthy nations. Thus the total cost to poor countries will be some unknown multiple of $1.5 billion, and it is going to hurt them cruelly. More than the oil imports they need, it will deprive them of public health services, improved agriculture, power and water projects, roads and bridges—in short, everything they need to lift their people out of the hopeless morass of poverty into which they were born.

If the poor nations of the earth conclude that there is no compassion left among the wealthy countries, and no hope of further help in improving the lot of their woefully needy people, the ultimate price to the United States and the rest of the Western world might be very high indeed. Ever since the Marshall Plan foreign aid has been firmly based on the enlightened self-interest of the United States. It would be a pity to abandon this philosophy now in an attempt to strike back at oil blackmail.

The Administration promises to resubmit a scaled-down request for new IDA funds. We hope it does so. We hope, too, that the White House will support the new request with more vigor and purpose than it showed during the House debate over the original request.

[From the Buffalo (N.Y.) News, Jan. 28, 1974]

Foreign Aid Still Vital

The increasing disillusionment with foreign aid was strikingly illustrated by the overwhelming defeat in the House last week of a modest $375 million-a-year contribution to the International Development Association, affiliate of the World Bank. The agency makes interest-free loans for vital development projects in the poorest countries of the world.

The disillusionment, while unfortunate, is understandable. The process of development is so slow that the aid seems to some congressmen like pouring money into a bottomless pit. In addition, there is a tendency to expect instant gratitude from the recipients of aid, instead of viewing aid as a means of solving a worldwide development problem. Finally, the Arab oil boycott and price extortion has stirred some congressmen to react in an isolationist manner.

Actually, this last development is an especially telling argument in favor of the IDA contribution, since the extortion of the oil-producing countries is affecting the poor countries even more severely than the rest of the world. They will pay an estimated $10 billion more for their oil imports this year, a sum that exceeds what they are scheduled to receive in foreign aid from all sources.

World Bank President Robert McNamara said the House vote was an "unmitigated disaster for hundreds of millions of people." The IDA programs are the main source of aid for 21 of the least developed countries of the world including those in Africa that have been stricken by a disastrous drought.

The thoughtless action by the House casts the entire IDA program in doubt, since the 24 other donor nations are not obligated to contribute if the United States reneges. Those who think the U.S. is contributing too much should note that, in proportion to our gross national product, the U.S. ranks only 14th among the 16 principal donor nations.

The fight for the IDA funds must be renewed in Congress. Some of the negative feelings about foreign aid might be dispelled if some of the oil nations like Saudi Arabia or Libya, which have more ready cash than they can use, were induced to make a contribution. This might not be too difficult, since the Arab nations seem alarmed by what their price policies are doing to their friends in the "Third World," and they have been discussing aid programs of their own.

The wealthy nations simply must not turn their backs on the three-quarters of the world that is poor. That could have dire consequences. There is an ominous threat, for example, that some poor countries will follow the examples of the oil producers, banding together to push up the price of copper, zinc or some other commodity. We are all in the same world, and the problems of the poor countries are, in part, the problems of all.

[From the Baltimore Sun, Jan. 28, 1974]

The Wrong Cutback on Foreign Aid

The House of Representatives has just spitefully pulled the rug from under one of the Nixon administration's tortuously negotiated important agreements with the rest of the world. It has refused to authorize an American contribution of $1.5 billion spread over four years to the International Development Association. Secretary of the Treasury Shultz worked this schedule out at the World Bank meeting in Nairobi last September, as part of a new formula in which the United States share of contributions is reduced and those of Japan and West Germany increased. If one nation welshes on its commitments, the others are not obliged to live up to theirs.

The International Development Association is an arm of the World Bank that advances "soft loans" (long term, low interest) for technological aid and development of the poorest countries, which have largely exhausted more conventional credit. The provision of funds for it to lend, by the wealthier nations, is one of the purest forms of foreign aid. It is not something else labeled foreign aid, as for instance military grants are.

The enlargement of the International Development Association lending power, reached in the "Fourth Replenishment" agreed to at Nairobi, is really an attempt to catch up with world inflation in behalf of the poorest countries, which are in a rat race to do more than just maintain their current standards of subsistence for growing populations. The increased emphasis on international financial institutions is the worthiest turn that foreign aid has taken, and owes its impetus largely to the United States.

None the less, because foreign aid has turned sour in the minds of many congressmen, they are taking it out on the least offending part. Although Democrats were rather evenly divided in this decisively negative vote, Republicans were more than two-to-one against. The anguish of Treasury Secretary Shultz and Secretary of State Kissinger was evident. The President's loss of Republican support for what is, after all, a presidential program, was never more poignant. Since the United States is the largest contributor to the International Development Association, there may be a sentiment in Congress that it is being taken. But as a percentage of the nation's gross national product, the American contribution rates well down the list of the developed countries.

There is a catch to all this. Congress has time to undo its damage. The United States is behind in its payments to the International Development Association. Congress has just recently appropriated the second of three installments to the "Third Replenishment." What the House has now rejected is a four year authorization for a "Fourth Replenishment." It can change its mind, and the sooner the better in the interest of keeping other contributing countries to their commitments, and retaining some residue of goodwill in the Third World.

[From the Hartford (Conn.) Courant, Jan. 23, 1974]

Thin Arms Grow Biceps

Presumably a cruelly effective way of shutting off a lively conversation would be suddenly to ask: But what's your position on the fourth replenishment of the International Development Association? You know, the IDA.

Frankly, one might reply, I'm not sure, What has it run out of? And, by the way, what is it?

As any world banker of your acquaintance could tell you, the IDA has been around for more than a dozen years as a World Bank affiliate, and up to June, 1973, had lent some $5.7 billion to developing countries for a host of beneficial projects, at no interest and to be repaid over 50 years.

Only a few days ago the World Bank and the IDA agreed to provide $77.2 million to four countries: to Malagasy Republic for state-owned railroad modernization, to Bolivia for development of medium-size mines, to Turkey for forest utilization, and to Ireland for education. The IDA loans were to Malagasy and Bolivia.

The replenishment involves what is usually involved in such matters. Money. The amount required of the U.S., now under consideration by a Congressional subcommittee, is $1.5 billion. What is striking here is that the percentage sought is considerably less than the percentage in 1971, made possible by increases in the amounts sought from other member countries, notably Japan and the Federal Republic of Germany.

Something else has happened since the Third Replenishment contribution, when we accounted for 40 per cent of the total instead of the 33 per cent currently sought. We've discovered the force and effect of dependency and competition. For the first time in 40 years we've seen inflation and shortages of supply become the dominant forces in world economics instead of unemployment and shortages of demand.

Backers of and believers in the IDA have given Congress cogent arguments in favor of this country accepting its designated obligation, but none seems more persuasive than the idea that this is one way we can create true partners in the world community, and that each, by increasing its own investment in the IDA operation, may be less inclined to "bite the hand that feeds it." The hand it bites may be its own.

We've seen oil embargoes. Copper and coffee cartelization is next if not already here. We're already dependent on imports for over half of our supply of six of our 13 basic raw materials, and our dependency will rise. Per capita income in several European countries now equals ours, while Germany and Japan run far larger trade surpluses than ever achieved by the United States. We can be denied markets; we can be blocked in attempts to make changes in international monetary and trading rules and institutions. We're just no longer free to operate largely independent of external events. In matters such as IDA, the United States is at last seeing other countries assume greater obligations and thereby gain at least commensurate self-respect and multi-lateral responsibility. We assumed the burden when others were economically adolescent. Now, as nations mature and prosper, let's respond to their adult participation. Just when others are increasing their support of the IDA is no time to withdraw ours. The hand that's lost could be our own.

[From the Louisville (Ky.) Courier Journal, Jan. 27, 1974]

A Shameful Vote on IDA Fund

Foreign aid spending has been under attack in Congress for the past few years, some of the time for good reason. But last week's vote by a substantial majority of the House to reject the U.S. commitment of $1.5 billion to the International Development Association (IDA) was indefensible and deplorable.

It was largely through a congressional initiative that IDA was founded 15 years ago. By the late 1950s it was becoming obvious that the poorest countries couldn't raise the money they needed for vital development at ordinary interest rates. The association was set up to provide those nations loans at minimal interest, with strict standards for both the eligibility of the countries and the soundness of the proposed projects.

The major source of funds for IDA has been a series of replenishments from the richer industrialized nations every few years. Last year, 25 donor nations, including the United States, agreed on a fourth replenishment of $4.5 billion—almost double the previous replenishment of $2.4 billion in 1971.

The U.S. commitment to the fourth replenishment was, as some congressmen complained, a sizable increase from America's 1971 assessment of $960 million—half of which has still not been appropriated. But the increased figure does represent a marked decrease in the U.S. share of the total. After vigorous negotiation by the administration, our position was reduced from the previous 40 per cent to one-third, while the proportion raised from other donors, particularly West Germany and Japan, has been increased.

Even at the best of times, withdrawal of U.S. support would be devastating. In a period of world economic turbulence it is catastrophic. Certainly we have been hit by the energy crisis, but not nearly so hard as other countries, both rich and poor. The dollar is rising to new strengths, while West Germany and Japan—now faced with doubled and tripled IDA assessments—are floundering.

And the very poorest countries in Africa and Asia, which stand to lose most anyway as prices of badly needed imports soar out of reach, will see prospects of any real progress this century virtually disappear if IDA aid is cut off. In recent years half of IDA's loans have gone for development of agriculture and education—the basic priorities—yet even with this help mass famine was only narrowly averted in the poorest regions of Africa last year.

The hand that Congress helped to hold out in 1960 should not be pulled back now for narrowly selfish reasons. The Senate should act quickly to approve the $1.5 billion and the House should reconsider its vote. World faith in American ideals and our own pride in American humaneness and responsibility demand no less.

[From the Kansas City Times, Jan. 25, 1974]

House Deaf to World's Poorest

Bias, narrow self-interest and outright misunderstanding won the field this week when the U.S. House voted 248 to 155 to reject—for the first time ever—the President's request for funds to meet this country's pledge to help replenish the coffers of the International Development Association.

I.D.A. is the so-called "soft loan window" of the World Bank. The bank itself lends money on essentially commercial terms to help stimulate development. I.D.A. grants long-term, virtually interest-free credits to help meet the most pressing needs in the very poorest lands. The formula for this fourth replenishment called for the U.S. to provide $1.5 billion and other prosperous countries a total of $3 billion. Without action, the association's assets will be depleted by late June.

A variety of forces conspired to produce I.D.A.'s rebuff in the House. Some legislators simply detest aid in any form. Some support only bilateral aid on the mistaken grounds that it can be used to buy friends and influence. Others, supportive of multilateral aid in principle, turned their backs on I.D.A. this time out of the belief that a U.S. whose economy is troubled at home can no longer afford to meet its national responsibilities abroad—a thesis that surely is lamentable if true. Some representatives opposed the replenishment out of sheer, confessed stupidity, thinking somehow they were getting in a dig at Arab oil boycotters who, in fact, do not receive I.D.A. credits.

The Senate's I.D.A. bill will soon be coming out of committee and may fare better than the House version. With luck, a U.S. contribution at some lesser level will eventually be voted by the lower chamber and a compromise will be struck. But it will be late. And every dollar cut will likely mean corresponding reductions by the other contributors, and it will be the poorest of the world's peoples who will feel the direct effects.

[From the Philadelphia Inquirer, Feb. 3, 1974]

United States Can't Resign Its Role

There are several reasons why the U.S. House voted down, 248–155, an administration-sponsored bill to authorize $1.5 billion in new funds, spread over four years, for the World Bank's "soft loan" window.

For one, foreign aid, never overwhelmingly popular in the U.S., is even less so today. As congressmen see it, there are vast unmet domestic needs for which money is not forthcoming. Why, then, shell out American dollars to "ungrateful" foreigners who, in any case, don't vote in American elections?

The soaring prices of oil, the impact of which is felt most painfully by the poorest nations, had further impact on Congress attitude. Critics charged that the U.S. dollars would simply flow through the World Bank and end up in the Arab oil producers coffers.

And the fact must be faced that the President is hardly in any position now to exert the moral authority of his office, especially for such an unpopular cause.

To understand the reasons, though, is not to make them reasonable. The funds are for economic development of the world's poorest nations, including those sub-Sahara countries where thousands of people are literally dying of starvation and millions are threatened by draught. Other major recipients are India, Pakistan and Bangladesh, which also have been hit by bad weather and poor crops.

It is a bitter irony that the Arab oil embargo, aimed at the industrial nations, will cause the most suffering among the poor, many of which cut diplomatic ties with Israel to support the Arab cause. It would be an even more bitter irony, however, if the U.S. were to add to that suffering by sabotaging the kind of multilateral approach to foreign aid which the World Bank exemplifies.

Last September, Treasury Secretary George Shultz persuaded other World Bank contributors to agree to a reduced American share, from 40 percent to one-third. We like to think of ourselves as a generous people, yet as World Bank President Robert McNamara notes, the U.S. ranks 14th among the top 16 donor countries in terms of national income.

We hope Congress will take another more enlightened view. Even though America is going through a time of troubles, it must not resign from a responsible role in world affairs.

[From the Wilmington (Del.) News, Jan. 30, 1974]

Misstep on Foreign Aid

In voting against approval of the newly negotiated U.S. contributions to the International Development Association, the House of Representatives has voted against the honor, tradition and interests of the United States. IDA, an affiliate of the World Bank, is the major source of development assistance for the poorest of the developing countries. The House vote, if not changed, would spell "unmitigated disaster" for the countries dependent on IDA funds, according to World Bank President Robert S. McNamara.

It may be a time of inconvenience and some difficulty in the rich countries, but in the countries dependent on these funds it is a time of acute misery. The oil shortage hits harder here, because they have few frills they can economize on; and the higher prices for the oil are making a disastrous situation tragic. This is coming on top of the devastating drought and famine in Africa and when the "green revolution" on the Indian subcontinent seems to have become a fleeting miracle because of both drought and floods.

No doubt the aid fund fell victim principally to the current political atmosphere in Washington, in which the White House finds it difficult to keep its supporters in line and in which the Democrats do not want to miss any chance to embarrass the Administration. But foreign aid has had its own independent problems, too. There are some long-held notions about it that need to be shed now, no matter how valid they may have been at one time.

For example, while the United States is still the biggest single contributor of development funds, the burden in relation to the Gross National Product is very little, less than 1 per cent. As Mr. McNamara pointed out "The United States' total development effort today runs 14th among the 16 principal donor countries, and in relation to its national income is only one-tenth of what it was 25 years ago." Americans spend more money on flowers, seeds, potted plants and movies than on official development aid.

The new share of U.S. contribution, negotiated at the Nairobi meeting of the World Bank in September, amounts to one-third of the total funds, 17 per cent lower than the previous year's and in fact the lowest ever. The United States was also allowed to spread this contribution, $1.5 billion, over a period of four years, unlike the other donating countries, whose share has gone up and who are allowed to spread the payment over three years.

Nor is such aid a giveaway. In 1971, when the U.S. share of development assistance was already beginning to decline, almost a billion dollars of it came back to the United States in the form of orders for U.S. commodities. And, of course, the funds are loans, even though for a long term and interest free.

Rep. Wayne Hays of Ohio has introduced another argument by asserting that most of the money going to the poor nations will actually wind up in Arab coffers, because of the oil situation. At first look this seems a rather disturbing thought, but its validity is highly questionable. Four leading American economists were recently interviewed by the Associated Press to discuss the problem of the massive flow of the rich nations' cash to the oil-exporting states. All four were unanimous in their opinion that the wealth of the non-Communist world will stay essentially where it is now—in the United States, Europe (including Britain) and Japan. "The money has to return to the industrial world in one way or another," according to Charles Stewart, an oil economist at Columbia University. "It is the only place the Arabs and the other oil producing nations can spend it."

In any case, the U.S. share in the IDA funds represents such an infinitesimal amount in the global economic picture that its going to the Arabs cannot give them any help or strength that they do not already have; and it does not do any damage to the U.S. economy.

But going back on the commitment can hurt the United States in far more serious ways—by tarnishing its reputation, by bringing into question its reliability, and by forcing the poor nations to do whatever buying they can in other places.

Even if humanitarian considerations do not move some members of Congress any more, reasons of politics and economics should.

[From the Washington Star-News, Jan. 28, 1974]

Reneging on Aid

One can only surmise what motives inspired the members of the House in voting down the American contribution of the World Bank's International Development Association by a whopping margin of 248 to 155. But World Bank President Robert McNamara is right in saying that the action is "an unmitigated disaster for hundreds of millions of people in the poorest nations of the world." And beyond that, the refusal to authorize the contribution of $1.5 billion over the next four years is an act of shocking irresponsibility.

There are plenty of reasons, of course. "Foreign aid"—whether on a bilateral basis or channelled through international agencies—has never been politically popular with the electorate, particularly in view of the persistent and bitter criticism of the United States from most of the recipient countries. In its present distracted state, furthermore, the administration does not seem to have put nearly as much pressure behind its request as it should have.

No doubt also, the current oil crisis had something to do with it. Loss of development aid is by no means the greatest of the unmitigated disasters to have struck the underdeveloped world in recent days. The aid funds represent, in fact, something less than one-fifth of what these countries will be forced to pay for imported oil at the new, vastly increased prices. In this situation, the $4.5 billion in proposed IDA financing by the richer countries becomes almost irrelevant.

Something, however, will surely be done about this. Some of the Arab nations themselves are talking in terms of a two-tiered pricing system to benefit the poorer nations of Africa and Asia. It is also conceivable that they may be induced to use some of their new-found riches to get into the aid business themselves—though so far they have shown a preference for a somewhat heavy-handed buying up of governments, rather than in development aid.

None of this, however, relieves the United States of its obligations as a leading—and the richest—world power to bear its fair share of the very basic and essential projects which the IDA supports. The other developed nations have been increasing their share of the burden. Japan had agreed to triple its share of the IDA loan pool, Germany's contribution was to have more than doubled. The action of the House—unless it can be speedily reversed—places all of these agreements in the greatest peril.

[From the New York Times, Jan. 25, 1974]

No Aid, No Trade

The House of Representatives threw much more into jeopardy than its members may have realized when it refused to authorize funds for an enlarged development loan pool to be operated by the World Bank for the poorest nations of the world. Several reasons for defeat of the Administration's proposal are obvious; there are many more reasons why this unthinking action should be quickly reversed, if it is not too late.

The mass defections among Republicans—only 47 supported the measure despite strong urging from the White House—gives one more sign of weakened Presidential influence, even in his own party. Neither among voters nor, more inexcusably, among their elected representatives does the notion of foreign aid seem able to overcome its earliest years of being considered an American "giveaway." However often it is argued, the Congress seems reluctant to recognize that development assistance brings mutual benefits to industrialized and less developed nations alike.

The program just defeated, a $1.5-billion contribution to the World Bank's International Development Association, represented a positive and sophisticated approach to foreign aid. First of all, it is multilateral in its funding, avoiding the dangers inherent in attaching political strings. Through its multilateral structure, the I.D.A. is equipped to draw on the new resources of oil-rich countries, as well as the conventional donors, for redistribution among countries still in need of investment funds.

Secondly, the World Bank sponsors development projects of direct benefit to the poorer segments of the population in the less developed countries, as opposed to the earlier practice of strengthening national economic institutions from the top and hoping that the benefits would "trickle down" to the poor—hopes that were often shown to be futile.

Finally, the I.D.A. loan pool, negotiated last September at the World Bank meeting in Nairobi, represents a genuine trend toward burden-sharing among the richer states—another retort to the traditional critics of American giveaways. The United States share would have been dropped from 40 per cent to one-third; Japan, in contrast, had agreed to triple its contribution; West Germany's share would have more than doubled.

The essence of worthwhile foreign aid in the coming decade is to create productive economic ties among richer and poorer nations, to realize the benefits from cooperation as opposed to short-term advantages that might be gained from embargoes, unilateral price hikes and expanding cartels. The threats of economic warfare that have arisen over the Middle Eastern oil power-plays should stand as ample lesson of what is endangered when a country or group of countries goes its own way into economic confrontation rather than cooperation.

[From the Chicago News, Jan. 14, 1974]

Aid Bill Would Help United States

The World Bank is asking the United States for $1.5 billion, over three to four years, to replenish the lending capacity of the International Development Assn. (IDA). It is the agency that makes 50-year interest-free loans to stimulate development in the poorest of nations.

The drive for approval was launched last September by World Bank President Robert McNamara. He said that the common lot of some 40 per cent of the people in the poor nations is "a condition of life so degraded by disease, illiteracy, malnutrition and squalor as to deny its victims basic human necessities—a condition of life so limited as to prevent realization of the potential of the genes with which one is born . . ." Asian and African nations, especially, are in need of the IDA's soft-loan financing to stand any chance of breaking the cycle of poverty.

Treasury Sec. George Shultz supports the fund request. And, in a move to encourage Congress, he won some concessions for the United States when the International Monetary Fund met in Kenya last fall. Shultz negotiated a reduction in the U.S. quota for IDA from 40 per cent of funding to 33 per cent, which is more fair in light of the growing economic strength of other nations.

A case for enlightened self interest was made last month by C. Fred Bergsten, the eminent foreign affairs scholar with the Brookings Institution. Bergsten made the simple point that because the poorer nations possess much of the natural resource wealth, it is to the advantage of all industrialized countries to foster economic development that leads to political and social stability. The oil crisis has taught that a cartel of producing nations can wreak havoc with the rich countries, and don't think the Arabs' example has been lost on the producers of tin, manganese and other products necessary to keep industries running. "For the first time in over 40 years," Bergsten testified before a House Subcommittee, "the power balance has thus shifted from purchasers toward suppliers."

The point is not to "buy off" these producing countries, as some have charged, but to offer them development alternatives that encourage international economic order and discourage the sort of chaos that the oil crisis had bred. Such aid, too, is less likely to create political problems when administered through international agencies.

Congress has stalled the request, although on three other occasions since 1960, when IDA was established, the United States and other developed nations have supplied new capital. Sec. Shultz remarked that this country accepts "the simple premise that no nation . . . can be oblivious to the conditions in which other men and women are living." For that reason, and in the national interest, Congress should once again support IDA.

[From the Minneapolis Star, Jan. 29, 1974]

GOING BACK ON A PLEDGE

The U.S. House of Representatives took a long step backward last week when it retreated from this country's commitment to support development of the world's poorest nations. The vote pulls the rug out from under a pledge made last fall to contribute $1.5 billion over a four-year period to the International Development Association (IDA), an affiliate of the World Bank.

The House action is understandable only if one equates a U.S. contribution to IDA with traditional foreign aid programs. Those programs, made on a government-to-government basis, can legitimately be criticized. Except for the billions of dollars poured into Western Europe and Japan after World War II, few of the U.S. foreign aid funds accomplished the purpose for which they were intended, particularly of helping the poorer countries of the world help themselves. Too many of the dollars were used to purchase arms or to support such luxuries as national airlines, and not enough on projects that could increase national incomes and standards of living.

Contributions to IDA, on the other hand, go into a pool, out of which come long-term no interest credits for the world's poorest countries. Such credits have gone into agriculture, education, industry, electric power, transportation and other economy-building projects. Funds have come initially from richer countries in the form of subscriptions and replenishments. The $1.5 billion is part of a fourth replenishment; other countries will supply twice that amount.

The poor countries need IDA credits perhaps as never before, since their developing economies stand to be crippled by higher prices for oil. And the U.S. which is increasingly dependent on imports of basic raw materials from these countries, can ill afford to see them go down the drain.

Secretary of State Kissinger and Treasury Secretary Shultz denounced the House action and said they would confer with leaders of both parties to seek a reversal of the vote. We hope they succeed.

[From the Pittsburgh Press, Jan. 29, 1974]

VOTE AGAINST THE POOR

The House should reconsider its lopsided 248–156 vote against a new 1½-billion-dollar U.S. contribution to the International Development Association (IDA), the branch of the World Bank that makes "soft" loans to the poorest nations.

The Nixon administration's bill to fund the IDA was beaten by a combination of circumstances, chief among which was the oil-price squeeze and the widespread suspicion in the House that a great deal of the $1.5 billion would find its way into the tresuries of extortionate Arab oil princes.

Lending credence to this notion was a World Bank calculation that for 41 of the have-not nations the increases in the price of the oil they must import would more than eat up the total foreign aid they will receive from all sources this year.

Hence, the House reasoned, the U.S. contribution to IDA would do no more than further enrich oil-producing nations that are plucking the industrial Western world like a helpless chicken.

But if the U.S. reneges on its promised contribution to IDA, so will other wealthy nations. Thus the total cost to poor countries will be some unknown multiple of $1.5 billion, and it will hurt them cruelly.

More than the oil imports they need, it will deprive them of public-health services, improved agriculture, power and water projects, roads and bridges—in short, everything they need to lift their people out of the hopeless morass of poverty into which they were born.

If the poor nations of the earth conclude that there is no compassion left among the wealthy countries, and no hope of further help in improving the lot of their woefully needy people, the ultimate price to the United States and the rest of the Western world might be very high indeed.

Ever since the Marshall Plan, foreign aid has been firmly based in the enlightened self-interest of the United States.

It would be a pity to abandon this philosophy now in an attempt to strike back at oil blackmail.

The Nixon administration promises to resubmit a scaled-down request for new IDA funds.

When it does, the White House should support the new request with more vigor and purpose than it showed during the House debate over the original request.

Otherwise, the proposal is likely to be voted down again.

KANSAS CATTLEMEN'S DAY OBSERVANCE

Mr. DOLE. Mr. President, I would like to call attention to the remarks made recently by Kansas Livestock Association President Claire Robinson at the Kansas State University Cattlemen's Day observance.

Mr. Robinson cited the necessity for livestock producers to maintain a rapport with the consumer, even though the "middleman" separates them, for it is consumer demand which will ultimately determine the profits realized by producers. To that end, a Kansas Beef Promotion Council has recently been established to handle public relations and stimulate demand; livestock producers are being encouraged to voluntarily support that effort in their behalf.

I hope that others will take note of the current status of the livestock industry and its attempts to promote this very significant part of our Nation's economy.

I request unanimous consent that the text of this series of articles be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

CATTLEMEN'S DAY, MARCH 1, 1974

Thank you very much. It's always a pleasure to attend Cattlemen's Day at Kansas State University and for me, this is a special year. I'm honored to serve as president of the Kansas livestock association and I consider it a privilege to be able to share a few thoughts with you on this year's program.

I think it's interesting to note that this is K-State's sixty-first cattlemen's day. The last convention of the Kansas livestock association, held only a few months ago in Wichita, happened to be our sixty-first. Of course, the two events have not exactly paralleled each other over the years, but, it does help me make a point that I'd like to make. This great university, which I consider to be one of the finest, has traditionally worked with, and been supportive of, the Kansas livestock association. The goal of both has been to build a greater livestock industry in this state and I think our industry today is proof of the effectiveness of this working together. This warm relationship has been due to many individuals from both sides, but let me say special thanks to such men as Don Good, Rufus Cox, Dad Weber, Glenn Beck and others. We appreciate it. And I guess I should mention, Don, Jack Hartman hasn't hurt the pride which Kansans feel in K-State either.

I'm glad to learn that some of our industry's problems are in the process of being solved right now by animal scientists and veterinary researchers here at K-State. We heard this morning some of the many areas in which they're involved. These guys are finding answers to questions which must be answered if our industry is to prosper. Yet, as all of us know, problems of nutrition, health and management are only one side of a two-sided coin. The other side has to do with our markets, our dealings with each other, and our dealings with consumers. And this is the side I want to visit with you about for a few minutes.

You know, this has been called the "age of the consumer". Consumers are in the newspapers every day and each new consumer price index is the top news story for several days.

Actually, consumers represent the biggest challenge our industry is facing. In pure economic terms, my real customer has never been the consumer. I've never sold an eleven hundred pound steer to a housewife. The packer-buyer has been my real customer. And you, if you sell calves or light cattle, your real customer has been the feeder or dealer. Even the packer's customer is the retailer rather than the consumer. Now, the only one who actually does sell to the consumer, the retailer, spends a good bit of money in advertising. Packers even spend money trying to advertise to chain store meat buyers. Purebred bull producers advertise their bulls to sell to cowmen. But the rest of us figure we don't need to advertise to our real customers so we don't advertise at all. Most of us have no place in our books for advertising dollars. A cattleman is one of the few businessmen who can do business at all without an advertising budget.

But, the eventual consumer, the housewife, is still king, no matter what Ralph Nader or anyone else tells you. When that housewife, by herself, goes from market to market searching out the best buys, she is forcing these giant chains to be competitive. She doesn't have to form a coalition, or boycott, or join a group of any kind. She can do it by individual choices that she and millions like her make every shopping day. Of course, the stores may try to fool her by marking up other items (the average supermarket has more than 8,000 different products) but there's a limit to what they can do. One thing is certain, and we in this end of the beef chain ought to realize it, that retailer is going to try very hard not to upset her at the meatcase because that's the easiest place for her to compare IGA with Safeway and A&P with Dillons. If the live market drops rapidly, the store manager will be hesitant to drop retail prices any more than necessary. The same principle applies when the live market goes up. Retailers strive to be competitive, but they also strive to avoid sudden fluctuations. They want that housewife to buy her meat at their store knowing that they'll make their profits on all the other items she puts in the cart.

Well, my point is this. That independent housewife, the king of the marketplace (or maybe I should say queen) is the key to profit and loss in our industry and the sooner we realize it, the better off we'll be. It doesn't take a roomful of economists to demonstrate to me that if we're losing money when fat cattle are selling for $45, there are only three possible solutions. One is to lower the price of feeder cattle and I doubt that most of you consider that a satisfactory long-range solution. Another is to lower grain prices, which again I expect most folks here wouldn't care to do in the longrun. The third is to increase the price being paid for fat cattle. We like that solution but there are only two ways to cause that to happen in a free market . . . decrease supply or increase demand. Decreasing supply is a painful process so our only feasible solution is to increase consumer demand for our product, in other words, promote beef to the consumer.

We have a new organization called the Kansas Beef Promotion Council. It's made up of industry leaders from all segments of the cattle and beef business. It came about as a result of recommendations of an industry-wide study committee that was formed several years ago to study this issue of beef promotion. The study group included farmers, ranchers, feeders, packers, market operators, cowbelles, Kansas State, Kansas Farm Bureau and some others I'm forgetting. They studied programs in every State and they studied the work of the National Livestock and Meat Board. Their recommendations finally culminated in the new Kansas Beef Promotion Council and the 10¢ per head beef check-off in Kansas.

Starting in January of this year, a number of markets in Kansas, some of the largest order buyers, and most of the packers began checking off 10¢ per head on all beef cattle sold . . . voluntarily, of course. 7¢ goes toward national programs of the National Live Stock and Meat Board, and 3¢ is to be used in Kansas. This 7 to 3 ratio compares with the fact that 70% of all Kansas beef is consumed outside the State.

Incidentally, last year under the traditional 3¢ per head program the entire State of Kansas sent only $73,000 to the meat board. Unfortunately, that sum won't even buy one single 60-second commercial on the Waltons TV program. The price is over $80,000. Our industry spent about 2 million dollars last year. . . . The dairy industry spent about 22 million. I hope that if you're in the cattle business and you agree with what needs to be done, you'll support the 10¢ checkoff and ask your market man or order buyer or auction markets to make the collection. The Kansas Beef Promotion Council is a division of KLA but all funds are completely separate with every penny spent only for beef promotion and spent not by the KLA board, but directed by the council itself made up of leaders from all segments of the industry.

I really believe that the consumer is our key to profit in this business. We have KLA staff members working every day in the Kansas legislature and we're affiliated with the American National Cattlemen's Association which now has three men working full-time in Washington. We have a central bull test station in cooperation with the Kansas State University Extension Service and a beef cattle improvement committee working with genetic improvement of our cattle. We have cattle-fax analysts working in our office coordinating marketing information. We in Kansas have an outstanding university working on nutrition, management and health problems of livestock production and feeding. However, it will all be forgotten if we cannot maintain our market for red meat. Luckily, we have people in Kansas who realize this and are doing something about it. I hope you'll join the effort. Thank you very much.

POSSIBLE WHEAT SHORTAGE

Mr. SYMINGTON. Mr. President, I ask unanimous consent that a letter from Paul E. Mastin, executive vice president of the Colonial Baking Co., representing many of the bakers of my State, and having to do with a potential wheat shortage, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Colonial Baking Co.,
St. Louis, Mo., March 4, 1974.

Senator Stuart Symington,
Old Senate Office Building,
Washington, D.C.

Dear Senator Symington: Confirming our conversation of Tuesday, February 26, which was also attended by other bakery businessmen from the State of Missouri, we are stating below a four point program as set forth by the American Bakers Association regarding the present and future status of our nation's wheat supply as of July 1, 1974.

1. USDA should determine the minimum wheat supply necessary to assure a full supply of baked foods during the second quarter of 1974, and develop a plan to assure that supply.

2. The Director of the Council on International Economic Policy in the White House, Mr. Peter Flanigan, should be assigned responsibility for securing firm agreements from foreign purchasers to delay their shipments until after July 1.

3. The government should review planned concessional sales and donations under the PL 480 program to determine which ones could be postponed without causing undue hardship in foreign lands.

4. If these methods do not yield the necessary assured domestic supply, the secretaries of Commerce and Agriculture should move under the Export Administration Act of 1969, to establish an export licensing system. This should be combined with an immediate announcement that 1973–74 U.S. wheat is "sold out" and that no additional export licenses will be granted for sale of such wheat. This would allow many existing contracts to be filled but permit an adequate wheat supply for American consumers.

We shall be most appreciative of your efforts in supporting our program with the Administration.

My colleagues from the State of Missouri and myself also wish to thank you for sharing with us time from your busy schedule. It was the highlight of our rally day visiting our State Senators and Congressmen.

Kindest personal regards,

Paul E. Mastin,
Executive Vice President.

LOU HOFF

Mr. MATHIAS. Mr. President, when I was a freshman member of the House of Delegates of Maryland, one of the people who educated new legislators was Louis M. Hoff. Mr. Hoff presided then, as he does now, over the bill room which keeps track of copies of legislation as it moves through both Houses of the General Assembly of Maryland. In this position he has made a real contribution to the legislative process in Maryland and I am happy to salute the work that he does every day in Annapolis as typical of the splendid contribution that so many people make to good government in America in carrying out their duties which are integral parts of our complex political system.

I ask unanimous consent that the article contained in the March 4, 1974, issue of the Annapolis Evening Capital be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Old Lou: He Has Been Around the State House the Longest

(By Karen Hosler)

Ask someone who's been around the State House the longest and he'll probably try to figure out which legislator has served the most consecutive terms.

But if you ask who has worked in the building the longest, the answer has got to be "old Lou".

Louis M. Hoff is the chief clerk of the bill room, a position he has held for 22 years when the General Assembly is in session.

The bill room supplies delegates, senators, lobbyists and journalists with copies of every piece of legislation introduced. Standing there at the half door over which requests for copies are made, sooner or later you get to meet just about everybody.

"That's what I like about this job," Hoff says, "you get to meet so many people. And they all call me Lou "

Not exactly all. Hoff's closest friends call him "Keat", a childhood nickname tagged on him by his brother which refuses to fade away even after 79 years.

Hoff and his family have lived in *Annapolis* all their lives. The house he was born in is now part of the Naval Acadamy.

The Hoffs used to own an automotive repair garage which provided them their income until he sold it and retired in 1950. That's when he went to work in the State House.

"I started out as a page," Hoff said. "At that time they used adults instead of the school kids they use now."

He worked only 15 days as a page in 1951, the length of his patronage appointment. When he came back the *following* year looking for work, he was told the only job available was in the bill room.

"I'll take it," he said.

Hoff is not working at the State House for the money; the salary at such jobs isn't very high. He does it because he likes to work and because he likes the people.

As the legislature has grown over the years and the state problems to be considered have become more complex, the amount of bill work necessary before the session begins has increased substantially.

This year, Hoff said, he and the other 14 billroom staffers worked a full two months before the session opened in January to organize pre-filed bills.

There is still a lot of time during the year when Hoff isn't needed at the State House. And that gives him time to travel

"My wife lives to travel, really," he said. "We have been to California four times and Florida a couple times."

But Annapolis, Hoff said, is "the garden spot of the world."

"I wouldn't give you a foot of Annapolis for all the rest of the world combined," he said.

INDIAN SELF-DETERMINATION AND EDUCATION REFORM

Mr. KENNEDY. Mr. President, yesterday the Senate agreed, on the motion of the Senator from Washington (Mr. Jackson), to rerefer S. 1017—the Indian Self-Determination and Educational Reform Act—to the Interior Committee with instructions to report the bill back on March 25, 1974. As I indicated at the time, I think this is a sound procedure and I commend the Senator from Washington for his providing this additional time to clarify some of the matters that have caused confusion and conflict in the Indian community.

Because the committee will be considering this legislation in the next few weeks, and because the Senate will be voting on it after March 25, I would like to take the opportunity to outline for my colleagues some of the recent history of this bill and some of the various analyses that have been brought to my attention since the bill was first reported last month.

The Indian Self-Determination and Educational Reform Act sets out as its objectives what American Indians have for years been asking the Federal Government to do:

> To promote maximum Indian participation in government and education of Indian people; to provide for full participation of Indian tribes in programs and services . . .; to establish a program of assistance to upgrade Indian education; to support the right of Indian citizens to control their own educational activities. . .

Thus, S. 1017 sets forth congressional findings that have been recited time and time again, beginning in recent years with special emphasis in the 1969 report of the Special Subcommittee on Indian Education which called Indian education a national challenge and a national tragedy. The Interior Committee, which during the termination period of the 1950's had been the source of dislocation of the native American and the weakening of his tribal institutions, has under the distinguished leadership of the Senator from Washington become a forceful spokesman for the interests of the Indian community.

In his July 8, 1970 Indian message, President Nixon proclaimed a goal of "self-determination without termination," and this sentiment was embodied during the last Congress in Senate Resolution 126, sponsored by Senator JACKSON, reflecting congressional adherence to this policy.

Title I of S. 1017 represents the transformation of the self-determination policy into specific legislative action. The objectives of the bill reflect the objectives of the Indian people.

S. 1017 is divided into two titles. Title I is called "The Indian Self-Determination Act." It is an important and long-needed act authorizing contracts between the Secretaries of the Interior and HEW and Indian tribal organizations to turn over operation of service programs now provided by—and run by—the Federal Government. Planning and other grants related to the contracts are authorized, as is assignment of Federal personnel. This authority has been sought by Indian tribes, proposed in administration legislation, and incorporated into a complex of interrelated sections in the first title of S. 1017.

Title II, which is independent from title I, contains six generally unrelated parts reflecting specific authorities given the Secretary of the Interior to support training of education professionals, school construction, a youth intern program, and other specially directed Indian education programs. Part C, providing for contracts for school construction, is a much-needed new authority. I know that the Senators from Montana have pursued this particular goal over a number of years, and I am pleased to see their efforts blossom this session into this important part of S. 1017.

Part D of the title sets up a youth intern program, which should prove most beneficial to young Indian students. A few summers ago a BIA-sponsored intern worked in my office, and later became special assistant to the BIA Commissioner, and now directs the first all-Indian theater ensemble. So I know from personal experience how valuable these intern programs can be.

Part A of title II has been proposed in response to general discontent with the way both the BIA and the states and local school districts have administered the Johnson-O'Malley Act. JOM constituted the basic authorization for the Government's contracting of assistance programs for Indians. But the administration of JOM came under fire first in the 1969 report of the Special Subcommittee on Indian Education. Later, it was blasted by the Legal Defense Fund study, "An Even Chance." The Comptroller General added his barrage of criticism in 1970, and numerous Indian groups and tribes have added to the crescendo of opposition to the way the act has been administered in the education area.

Although part A of title II has gone through a number of drafting changes since its introduction a year ago tomorrow, the basic approach of the part has remained constant. If certain preconditions are met relating to a school district's taxing effort and the State's allocation of education aid to the district, then the Secretary of the Interior can enter into contracts to provide funding for those schools. Eligible contractors include not only the State or political subdivision, but also tribes or tribal organizations. Of course only the State or political subdivision can control the taxing and State-aid allocation effort, and thus they determine the eligibility of any contractor to obtain funds going into the district involved.

The distribution of the funds into the eligible district is by a complex formula. As much money as is necessary can be used to bridge any gap in the basic, operational support within the system—for Indian and non-Indian students. If there is still money left in the appropriations, once this gap is filled, then an additional fund will be available to the contractor for supplemental programs designed to meet the "specific educational requirements of Indian students."

The testimony by Indian leaders on title I of S. 1017 was uniformly supportive. But during the hearings last summer numerous spokesmen for Indian groups—including the All Indian Pueblo Council, the National Tribal Chairmans Association, the National Congress of American Indians, and the Coalition of Indian Controlled School Boards—severely criticized part A of title II of the bill.

Mr. President, I have studied the provisions of part A in light of the objectives of the legislation—which objectives I wholeheartedly support and share with the cosponsors of the bill. Unfortunately, part A falls far short of reaching those objectives—in fact, it may well represent a step backward in some respects. I believe that a careful analysis of the language of part A will show that it is in some respects unworkable and in other respects undesirable.

We should keep in mind that if we adopt this part we are authorizing an expenditure of $60 million for a new program, eliminating an old program which involved some $23 million, and affecting a large number of Indian children. Merely because present JOM programs are in some places working badly does not necessitate a total revamping of the program unless it will be made to work better. Of course, to assess this, we need to know how part A will work. That is a major problem.

I ask unanimous consent that at this place in the RECORD a memorandum by my staff detailing some of the specific problems, identified with part A be printed.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM RE: PART A OF S. 1017

Part A. of S. 1017 is in some respects unworkable and in others undesirable. A discussion of the problems raised by this part follows, with the first part stressing the workability problems and the last part stressing the policy problems.

(1) The complex funding formula in part A is premised on the assumption that there is tax-exempt Indian land in a public school district serving Indian children. An Interior Committee staff memorandum states, for example, that "Part A provides a formula for determining the entitlement of a school district for Federal financial assistance for educating Indian children *who reside on tax exempt property.*" There being little or no tax exempt Indian lands in California, Oklahome, and Alaska, presumably there could be no funds going to these states. This reading of the bill is reflected in the recommendation of the California Superintendent of Public Instruction Wilson Riles, who urged that Oklahoma, Alaska and California be excluded from the basic qualifying criteria.

(2) At the same time, in addition to the language from the staff memorandum just quoted, the report says part A "Affects primarily only those children who are enrolled in public schools currently aided through contracts between state departments of education and BIA." These involve California, Oklahoma and Alaska, among others. But more importantly, the other schools currently aided through such contracts are those located "on or near Indian reservations." The school population figures given in the report are for public schools "on or near Indian lands."

But the bill's definition includes children "who are members of federally-recognized tribes"—estimated by the BIA to be upwards of 250,000 children. Thus the report says there are 87,000 Indian students attending public schools on or near Indian lands, the BIA says 95,000 students presently enjoy the benefits of the JOM program, and over 250,000 children are "Indians" as defined in S. 1017. That may mean the target population for JOM is tripled. Or it may not. Part A does not tell us.

(3) Under section 203(a) the Secretary *cannot* contract with an Indian tribe or organization, or with a state or local education agency, *unless* the contractor submits a plan showing that the tax rate in the district equals the rate of the five most comparable school districts in the state, and *unless* the state and local per pupil payments meet the same standard. This requirement raises a number of substantial questions:

"Comparable school district" is defined in the bill (section 4(f)) in terms of enrollment. What if there are not five districts in the state of comparable enrollment to the district in question? Do the Indian children in the schools of that district receive no assistance under part A? They do not the way the bill is drafted.

The comparable districts under part A must be districts "not eligible for assistance under Part A." But nowhere in the bill is defined what an "eligible" district is. If it is any district with one or more "Indians" as defined in the bill, then five comparable districts are unlikely to be found in most states with any Indian population of measure.

Tribes may be most likely to want to contract directly for JOM funds where the local school district is least helpful, as where they are not taxing up to par. But it is precisely in these districts where, if the local political subdivision wants to keep its taxes low, the Indian tribe is out of luck. And so are its children in those schools.

Section 203(a)(1) refers to a "tax rate". What happens if the tax rate is comparable, but the assessment is kept lower than in those comparable districts? The bill doesn't answer this question either.

The Comptroller General reported on the Administration of JOM in 1970 and recommended that the Secretary of Interior require the BIA to "furnish program funds on the basis of demonstrated financial need" and "implement additional methods of supervision and control over the distribution and use of funds by the school districts." The Comptroller General identified the absence of required adequate tax efforts as a defect in the allocation approach in use by the BIA at the time. GAO did not, however, suggest any specific formula approach to remedying this problem—most certainly not the unworkable formula embodied in part A.

(4) Part A gives no priority to Indian tribes and organizations, or those tribes and organizations which presently are prime JOM contractors, even for supplemental programming. Will these groups lose their present contracts? They would appear to if the local school districts where their children are in school do not qualify for assistance under the formula in section 203. Although this bill is supposed to give Indians control over the education programs affecting their children, in fact, the Indians are the first to lose if the school districts do not qualify under the formula—by chance or on purpose. And they will lose if the district qualifies but if the Secretary decides he would prefer to contract through the state or with the local political subdivision. And self determination becomes particularly meaningless where the taxing body—usually not controlled by Indians—controls and determines whether one cent of the $60 million authorized under part A gets into the district.

(5) Section 203(d) purports to direct the Secretary of Interior to provide funds "either pursuant to the authority provided in this Act or pursuant to any other authority" to "expend funds for the educational support of Indian children to any tribe or tribal organization which controls and manages any previously private school." As explained in the report, this section "authorizes the Secretary to provide funds for the operation of former private schools which the tribes have taken or may take over." The Secretary under title I might contract with the tribe or organization under that title without the benefit—or the inhibition—of the formulas and qualifications in part A. Since this provision is a part of part A, however, it becomes necessary to ask how the formula can in fact apply. The schools involved, for example Holy Rosary and St. Francis in South Dakota, and St. Mary's in Idaho, raise no tax money, receive no state aid or PL–874 funds. Either the application of the formula might preclude eligibility, or the authorization does not belong within the purview of part A.

Before moving to the issue of undesirability, the possibility that passage of this provision might have some affect on programs presently being administered by the Office of Education for the benefit of Indian children in public schools should be noted. Part A is directed at two needs—for basic support and for supplemental support. Public Law 874, of course, is designed solely for basic support of schools serving children living on reservations—tax exempt trust lands. Title I goes to public schools for programs aimed at helping Indians, among other underprivileged children. The first part of the Indian Education Act (part A of title IV, PL. 92–318) provides an entitlement assistance to all public schools serving Indian children, to be used only for specific, special, supplemental programs designed for the needs of those Indian children. And part B of the Indian Education Act authorizes grants for special demonstration-type projects to serve Indian children.

Neither S. 1017, nor its report, suggests how these provisions should be coordinated so that they are not used as pawns in a bureaucratic battle and eventually kill one-another off. There appears to be no attempt in title II to coordinate the new part A with existing legislation. Thus if, for every dollar added above present JOM funding to fund part A of S. 1017, a dollar may be taken away from, for example, the Indian Education Act, what will the ultimate impact on programs, on communities, and on Indian children be?

In analyzing the provisions of part A it would be well to repeat the congressional finding in the bill that Indians will "never surrender their desire to control their relationships" with non-Indian governments. In moving from the present far-from-adequate JOM program to part A, Congress may be requiring Indians to "surrender their control" when it comes to funding of JOM programs in public schools. If a recalcitrant non-Indian school board refuses to come into comparability under section 203, then the Indians in that district get neither basic support assistance *nor* supplemental programs. There is no available alternative—for example, their obtaining the funds for those supplemental efforts on their own.

(1) Clearly the funding formula in section 203 provides for *more* financial benefit to public school districts and far *less* Indian control than Indians are now seeking—and some receiving—under existing JOM regulations, especially with the amendments Indians have proposed to those regulations. Thus it should at least be acknowledged that part A is designed to go to school districts, not Indians. Yet part A is being described as having as the first of its two primary purposes as extending "contracting authority for education of those federally-recognized Indians who are enrolled in public schools to Indian tribes and tribal organizations."

(2) Indians have unanimously sought to use JOM funds for meeting the special, supplemental educational needs of Indian children. This goal, incidentally, is also that of the National Education Association. Yet part A replaces a flexible JOM with a bill guaranteeing state and local education agencies general budget support. There may be certain poor districts on or near reservations where the education of Indian children suffers generally because of the low level of basic support that would be devastating without added JOM funds. Red Lake in Minnesota and Rocky Boy in Montana are such districts. But part A allows a broad range of districts to use federal funds for basic support whether or not they are on or near reservations, and the impact of this on availability of funds for supplemental programs has not been determined.

(3) The BIA has indicated that under JOM now not less than 30% of the total per Indian pupil expenditure in affected school districts is used for "special needs." Unfortunately, section 203(a)(4) allows a minimum of 20%—but only if the school district otherwise qualifies under the formula, and only if there is enough money to go around. (The bill provides for a ratable reduction where appropriation falls below what is necessary; the $60 million authorization is only an estimate by the National Education Association, not by BIA or HEW, and the report admits that this might be wholly inaccurate.) Thus there exists a possibility, if not a likelihood, that less money than at present will go into special supplemental Indian education programs under part A.

(4) In earlier versions of S. 1017 there was a limitation of 3% for administrative expense. Numerous studies, and hearings before the Subcommittee on Administrative Practice and Procedure showed that undesirably large amounts of BIA-administered education money is used for administrative expense. Indeed, some Indian witnesses testified that 3% was inadequate to meet actual administration costs, especially for tribes and tribal organizations. The Navajo Divison of Education spokesman recommend 5–8% as more realistic. Yet the limit was completely deleted from part A funds at each level—by the BIA central office, by the Area offices, by the State and/or local education agency, and by the school. Little may be left for the Indian child at the end of the funnel.

(5) The only mandatory contract under part A is with state education agencies. While some coordination within a state is desirable, a contract for support staff and administrative services at the state level should not be required. It is not clear how large those contracts will be.

(6) The programs "suggested" under section 203(a)(4) substantially duplicated programs serving Indian children in public schools under other federal programs. Since the BIA has inadequately monitored and enforced JOM contract programs under existing law, it would be most responsive to the past criticisms to require some monitoring and evaluation of part A programs. But the bill provides no enforcement powers, no monitoring mechanism, for the government. So the Secretary will have to set up new administrative machinery to oversee these contracts.

(7) S. 1017 finds and declares that Indians should have greater control of education programs, but part A falls short of insuring such control. Section 203(a)(6) requires that the "community education committee" shall "fully participate in the development and approval of programs." This appears to be somewhat less than the requirement of the Indian Education Act that the application for funds must be made "with the participation and approval" of the committee. Thus the Indian Education Act requires approval by the committee of the application; S. 1017 only requires participation in the approval, which may prove especially weak in the face of a hostile school board.

(8) As to advisory committees to the State Education agencies, required by part A, the "advise and make recommendations" language makes the committee a token one, without providing the committee even with the power to obtain necessary information to allow it to arrive at knowledgeable advice.

A number of Indian tribes and organizations and state educators share these concerns about part A outlined above. In his letter of February 21, the Executive Director of the Nevada Indian Commission says "We understand that this bill means well, in its intent and we do fully support Title I of the Act. However, we feel that there must be a number of drastic changes in Title II or a complete revision before Indian people can benefit." From Alaska, the Bering Straits Native Association Board says: "If S. 1017 is passed, it will prove to be detrimental to the education process of the native students of Alaska." The United Sioux tribes of South Dakota list many criticisms, including "The formula that is provided for in the bill does not clearly define the method to be used . . . (it) does not provide for sufficient Indian input into programs . . . The priorities established for supplemental assistance are not clear." Also opposing passage are the Americans for Indian Opportunity, the National Indian Education Association, the Institute for Development of Indian Law, the National Advisory Council on Indian Education, the Native American Lobby, and many other Indian supported and developed groups, including various Johnson-O'Malley Committees from all over the country. In addition to these organizations, the All Indian Pueblo Council, the United Tribes of Kansas and Southeast Nebraska, the United Southeastern Tribes, and the Intertribal Council of Nevada have expressed their desires that part A not be included in this legislation. Other tribes have likewise gone on record in this respect.

Mr. KENNEDY. Mr. President, S. 1017 was passed on the Consent Calendar on February 8. At that point few Members of Congress, and unfortunately, few members of the Indian community had had sufficient opportunity to examine the final draft of the bill. I discussed this fact with the majority leadership, and as a result, the passage was vacated. At the same time, a number of Indian people began to express serious misgivings about the potential impact of that part on the Johnson-O'Malley programs. Some of those are mentioned in the staff memorandum I have inserted in the record. In response to this Indian viewpoint, I began discussions with the Senators from South Dakota and Washington in an attempt to improve part A. I believe that during the discussion among their staffs, Senator Mondale's staff, and my staff, substantial progress was achieved. It was my understanding that all parties to the discussion agreed that the changes to part A suggested in those staff meetings constituted significant improvement However, we were still unable to ascertain the effects of part A on Johnson-O'Malley expenditures within individual States. There is no supportive data to lend this proposal predictability. There has been no Indian participation or discussion of this alternative. And it clearly does not respond to all of the criticisms of the original part A, since it uses the objectives and approach of that part as a foundation.

In my opinion, therefore, the natural and appropriate course to follow in this case is that chosen by the Senator from Washington. I believe that the Interior Committee can clarify part A and resolve questions and problems raised about it in the context of an overall review of the bill. This will not, under the time limitation provided, unduly delay Senate action on this important legislation.

So that the Senate, the committee, and the Indian people might have the benefit of the language worked out by staff during the past few weeks, I ask unanimous consent that it be printed in the Record.

There being no objection, the language was ordered to be printed in the Record, as follows:

On page 40, beginning with line 19, strike out all through line 8 on page 61 and insert in lieu thereof the following:

TITLE II—THE INDIAN EDUCATIONAL REFORM ACT

Sec. 201. This title may be cited as the "Indian Educational Reform Act".

Part A—Education of Indians in Public Schools

Sec. 202. For the purpose of providing education to Indians enrolled in the public schools of any State, in addition and as a supplement to assistance under Title IV of Public Law 92-318 (86 Stat. 235), the Secretary is authorized to enter into contracts with any such State or political subdivision thereof, or with any Indian tribe or tribal organization residing in any such State (such State, political subdivision, Indian tribe, or tribal organization to be hereinafter referred to as "contractor"): *Provided*, That, in the event the contractor is an Indian tribe or tribal organization which resides in more than one State and the Secretary wishes to contract with such tribe or tribal organization to provide education to Indians enrolled in the public schools of more than one State, separate contracts may be negotiated with such tribe or tribal organization for each such affected State.

Sec. 203(a) (1) In administering the provisions of this Act, the Secretary shall not enter into any contract unless the prospective contractor has submitted to and has had approved by the Secretary an education plan which assures that—

(A) the educational objective to be provided to Indian students as beneficiaries of the contract will be satisfactory;

(B) the contract assures adequate protection for any trust resources affected;

(C) the proposed project or function to be contracted for can be properly completed or maintained by the proposed contract;

(D) the proposed contractor has adequate equipment, bookkeeping and accounting procedures, substantive knowledge of the program to be contracted for, Indian community support for the contract, adequately trained personnel, and other necessary components of contract performance.

(2) In addition, where the proposed contractor is a State or political subdivision thereof, the education plan shall reflect that—

(A) The tax rate within each school district affected by the plan is at least equal to the average tax rate of all school districts within the State: *Provided*, That all funds which any such affected school district receives under the provisions of title I of the Act of September 30, 1950 (64 Stat. 1100), as amended, shall be considered local tax income for the purposes of this subsection;

(B) per pupil payments of State equalization and general education funds to any such affected school district are not less than the State average of such payments to all school districts within the State.

(C) When there is tax exempt Indian land within any school district or portion thereof affected by a contract pursuant to section 202, there shall be provided to the contractor, as a part of such contract, a sum equal to the difference between the average per pupil payment for districts in such State and the per pupil payment in such affected district multiplied by the number of Indian students attending school within such affected school district or portion thereof for current operating expenditures of the school district or portion thereof affected by such contract; *Provided*, That any school district educating Indian students who are members of Indian tribes which do not normally reside in the affected State and who are residing in Federal boarding facilities for the purposes of attending public schools within such district shall be reimbursed for the full amount of the per capita costs to such school district for educating students in comparable grades: Except, that where the family place of residence of any such Indian student is within the affected State the Federal payment pursuant to part A of this title shall be reduced by the equivalent of the affected State's share of the per pupil cost as defined in clause (3) of this subsection for each such Indian student; *And provided further*, That in no event shall the total of such payments for current operating expenditures under this subsection (d) in any calendar year exceed 25 percent of the total *payments under* this section.

(D) Subject to other provisions of this Act, funds in an amount not less than 30 per centum of the average per pupil expenditures in such affected district multiplied by the number of Indian pupils, shall be used by the contractor in accordance with the terms of the contract for programs which meet the special or supplemental educational needs of the Indian students affected by the contract, as determined by the contractor with the approval of the Secretary, such as—

(i) guidance and counseling services for Indian students in grades five through twelve which, wherever feasible, should be provided at a ratio of not less than one counselor for every fifty Indian students;

"(ii) curriculum development programs, including production of special bilingual and bicultural materials, to meet the needs of Indian students;

(iii) teacher aides (bilingual where appropriate) at a ratio, wherever feasible, of one per twenty Indian students in grades kindergarten through six, and one per thirty Indian students in grades seven through twelve;

(iv) supplemental school lunch and school breakfast funds for Indians as needed, such funds to be in addition to any assistance otherwise provided by law;

(v) school nursing services for *Indians*, which services shall be coordinated with the Indian Health Service of the Public Health Service;

(vi) summer school programs for Indians, including academic as well as recreational, remedial and cultural and academic enrichment components, as desired by the Indian community;

(vii) payment of students' fees and other costs incidental to school programs which are not included within the budget of the affected school district;

(viii) vocational technical career education; and

(ix) such other educational programs as may be mutually agreed upon by the Secretary and the contractor: *Provided*, (1) That where the contractor is a State or subdivision thereof, such contract shall be with the advice and approval of the communtiy education committee of each affected district for which provision is made in subsection (g); and

(2) That nothing contained in section 203 (d) shall prevent the contractor, where the majority of the students in a school district or portion thereof affected by such a contract are Indians, with the advice and approval of the community education committee, to define the special needs of Indian students within that district or portion thereof as a need for current operating expenditures under the particular contract then in force;

(3) That funds provided for programs delineated under this subsection shall add to, and not replace, other funds provided in State and Federal programs for the benefit of Indians;

(4) That if an affected school district does not comply with the provisions of section 203(b) the Secretary may enter into a contract with an Indian tribe or tribal organization to provide funds in an amount not less than 30 percent of the average per pupil

expenditure in such district multiplied by the number of Indian pupils. The contractor shall negotiate in good faith with the public school district to subcontract for programs such as described in section 203(a)(2)(D) to be operated within the school program. If agreement cannot be reached, and the Secretary is satisfied that the contractor has acted in good faith, the contractor may use the funds provided in this section to carry on programs for Indian pupils as agreed upon between the Secretary and the contractor.

Nothing contained in this section is designed to limit the authority of Indian tribes or tribal organizations to contract under Title I of this Act.

(5) That payments under a contract to a state or political subdivision thereof shall be withheld if any affected school district if the Secretary finds that it has reduced its tax rate below the rate required under section 203(a)(1); or if the per pupil payments shall fall below the amount required in Sec. 203(a)(3) above, or if the State or subdivision thereof uses the funds under this part to supplant funds otherwise received or receivable by the district; and such funds shall remain suspended unless and until the affected State or district shall bring its tax rate or per pupil payments, as the case may be, into compliance with the provisions of section 203(a)(1) and 203(a)(3).

(2)(A) Funds provided to any contractor under any contract pursuant to Part A of this title shall be available to the contractor for administrative and consultative costs in carrying out such contract, excluding payments pursuant to section 203(d) of this Act, where appropriate in such amounts as the Secretary may authorize: *Provided*, That in no event shall such administrative or consultative costs exceed 10 percent of the amount of the contract without the advise and approval of the community education committee of any district or portion thereof affected by the contract;

(B) in the event that the local public school board of a school district directly affected by any such contract pursuant to this part A is not composed of a majority of Indians, a community education committee shall be established, which shall be composed of members elected by the parents of Indian students attending the school or schools under the jurisdiction of such board, and which shall fully participate in the development of, and shall approve, programs authorized by this part A, and shall be so structured, and carry out such other duties, as the Secretary shall by regulation provide, subject to the laws of the affected State: *Provided*, That in the event that a local Indian committee exists pursuant to section 411 of the Act of June 23, 1972 (86 Stat. 235), or the Act of April 16, 1934 (48 Stat. 596) as amended, such committee may be utilized for the purposes of this clause;

(C) For each fiscal year during which a contractor receives or expends funds under contracts pursuant to this part, the contractor shall submit to the community education committee, the appropriate State Indian Advisory Council on Education, hereinafter provided for, and to the Secretary, a report including, but not limited to, an accounting of the amounts and purposes for which Federal funds were expended, information on conduct of the program or service involved, and such other information as the education committees, Advisory Councils and the Secretary shall request. The reports and records of any such contractor shall be subject to audit by the Secretary and the Comptroller General of the United States.

(b) Whenever a prospective contractor is State education agency, prior to entering into a contract with such prospective contractor, the Secretary shall be assured that—

(1) an Indian Advisory Council on Education to advise the State education agency has been established, which Council shall be composed of educators which, insofar as practicable, is proportionally representative of all tribes within such State and which has been elected by the local Indian committees designated pursuant to clause 203(a)(6) of this Act or by an Indian-controlled school board;

(2) such Advisory Council has had the opportunity to fully advise and make recommendations to the chief State school officer in the preparation of the education plan pursuant to subsection (a) of this section;

(3) such Advisory Council shall have the opportunity to advise and make recommendations on the development of other programs provided for in this title; and

(4) on or before July 1 of each year, such Advisory Council shall submit to the Secretary, in such form and manner as he shall prescribe, a report evaluating the progress achieved in education of Indians in such State under programs provided for in this title. Such report shall be submitted by the Secretary to the relevant State agency for comment and shall be available to the public.

(c) The Secretary may enter into a contract with the State education agency of any State the public education system of which is affected by a contract or contracts pursuant to section 202, regardless of who the contractor or contractors may be, to provide the professional and support staff and administrative services necessary in performing such contract or contracts in implementing the purposes of this title, if and to the extent that such assistance is requested by a contractor or contractors within such State. The costs of such contract shall be included within the limitations of section 203(f) if a single contractor is involved, or allocated to each contract involved if more than one contractor is involved.

SEC. 204. (a) There are hereby authorized to be appropriated for each of the seven fiscal years following the first fiscal year after the date of enactment of this Act $60,000,000.

(b) For the purpose of affording potential contractors adequate notice of available Federal financial assistance under this part A, appropriations for contracts pursuant to section 202 are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

SEC. 205. Whenever the sums appropriated for any fiscal year for payments pursuant to this part A are not sufficient to pay in full the total amounts which all contractors are eligible to receive pursuant to this part A for such fiscal year, the maximum amounts which each such contractor is eligible to receive pursuant to this part A for such fiscal year shall be ratably reduced. Whenever additional funds become available for making such payments for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced.

SEC. 206. The Secretary shall proceed expeditiously to negotiate the contracts authorized by section 202. Such contracts and the authority provided by this part A shall replace existing education programs for Indians conducted pursuant to, and the authority to conduct and administer such programs provided by, the Act of April 16, 1934 (48 Stat. 596), as amended. Upon June 30, 1975, all authority to conduct and administer education programs for Indians pursuant to the Act of April 16, 1934 (48 Stat. 596), as amended, shall be rescinded and that Act shall be further amended by deleting the word "education," wherever it appears.

PART B—DEVELOPMENT OF PROFESSIONALS IN INDIAN EDUCATION

SEC. 207. (a) The Secretary is authorized to establish and carry out a program of making grants, to, and contracts with, institutions of higher education and other public, private nonprofit organizations or agencies, or Indian tribes or tribal organizations with relevant experience and expertise in order to provide fellowships and carry out programs and projects to—

(1) prepare persons to serve Indians in public, private, or totally federally funded schools as educational administrators, teachers, teacher aides, and ancillary educational personnel, including, but not limited to, school social workers guidance counselors, school nurses, and librarians; and

(2) improve the qualifications of persons who are serving Indians in such capacities.

(b) In selecting participants in or recipients for fellowships to programs and projects under this section preference shall be given to Indians.

(c) The Secretary is authorized and directed to determine and publish criteria pursuant to which he shall evaluate all grants and contracts authorized under this section.

SEC. 208. For the purpose of making grants or contracts pursuant to this part B there is authorized to be appropriated $10,000,000 for the fiscal year after the enactment of this Act, and $15,000,000 for each of the next two succeeding fiscal years.

PART C—SCHOOL CONSTRUCTION

SEC. 209. (a) The Secretary is authorized to enter into a contract or contracts with any State education agency, school district, Indian Tribe, or Tribal organization for the purpose of assisting such agency or district in the acquisition of sites for, or the construction, acquisition, or renovation of facilities (including all necessary equipment) in school districts on or adjacent to or in close proximity to any Indian reservation or other lands held in trust by the United States for Indians, if such facilities are necessary for the education of Indians residing on any such reservation or lands.

(b) The Secretary of the Interior may expend not less than 75 per centum of such funds as are authorized and appropriated pursuant to this part C on those projects which meet the eligibility requirements under subsections (a) and (b) of section 14 of the Act of September 23, 1950 (72 Stat. 548), as amended. Such funds shall be allocated on the basis of existing funding priorities, if any, as established by the United States Commissioner of Education under subsections (a) and (b) of section 14 of the Act of September 23, 1950. The United States Commissioner of Education, in coordination with any tribe affected, is directed to submit to the Secretary, at the beginning of each fiscal year, commencing with the first full fiscal year after the date of enactment of this Act, a list of those projects eligible for funding under subsections (a) and (b) of section 14 of the Act of September 23, 1950.

(c) The Secretary may expend not more than 25 per centum of such funds as may be authorized and appropriated pursuant to this part C on any school eligible to receive funds under subsection 223 of this Act.

(d) Any contract entered into by the Secretary pursuant to this section shall contain provisions requiring such State educational agency to—

(1) provide Indian students attending any such facilities constructed, acquired, or renovated, in whole or in part, from funds, made available pursuant to this section with standards of education not less than those provided non-Indian students in the school

district in which the facilities are situated; and

(2) meet, with respect to such facilities, the requirements of the State and local building codes, and other building standards set by the State educational agency or school district for other public school facilities under its jurisdiction or control or by the local government in the jurisdiction within which the facilities are situated.

(e) The Secretary of the Interior shall consult with the entity designated pursuant to section 203(a)(3)(B) and with the governing body of any Indian tribe or tribes the educational opportunity for the members of which will be significantly affected by any contract entered into pursuant to this section. Such consultation shall be advisory only, but shall occur prior to the entering into of any such contract. The foregoing provisions of this subsection shall not be applicable where the application for a contract pursuant to this section is submitted by an elected school board of which a majority of its members are Indians.

(f) For the purpose of implementing the provisions of this section, the Secretary shall assure that the rates of pay for personnel engaged in the construction or renovation of facilities constructed or carried out in whole or in part by funds made available pursuant to this section are not less than the prevailing local wage rates for similar work as determined in accordance with the Act of March 3, 1921 (46 Stat. 1491), as amended.

(g) Within ninety days following the expiration of the three year period following the date of the enactment of this section, the Secretary of the Interior shall evaluate the effectiveness of the program pursuant to this section and transmit a report of such evaluation to the Congress. Such report shall include—

(1) an analysis of construction costs and the impact on such costs of the provisions of subsection (f) of this section and the Act of March 3, 1921 (46 Stat. 1491), as amended;

(2) a description of the working relationship between the Department of the Interior and the Department of Health, Education, and Welfare including any memorandum of understanding in connection with the acquisition of data pursuant to subsection (b) of this section;

(3) projections of the Secretary of the Interior for future construction needs of the public schools serving reservation Indian children, residing on or adjacent to Indian reservations;

(4) a description of the working relationship of the Department of the Interior with local or State educational agencies in connection with the contracting for construction, acquisition, or renovation of school facilities pursuant to this section, and

(5) his recommendations with respect to the transfer of the responsibility for administering subsections (a) and (b) of section 14 of the Act of September 23, 1950 (72 Stat. 548), as amended, from the Department of Health, Education, and Welfare to the Department of the Interior.

(h) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated the sum of $35,000,000 for the fiscal year ending June 30, 1974; $35,000,000 for each of the four succeeding fiscal years; and thereafter, such sums as may be necessary, all of such sums to remain available until expended.

PART D—YOUTH INTERN PROGRAM

SEC. 210. In order to provide meaningful and career-related work opportunities for Indian youth who are not enrolled in educational programs during the summer months, the Secretary is authorized to establish and carry out an Indian youth intern program for any Indian sixteen years of age or older who is regularly enrolled in secondary school, vocational school, or higher education program during usual school terms.

SEC. 211. (a) In establishing and administering the Indian youth intern program, the Secretary shall designate or recognize community service fields including those related to education, child development, recreation, law, health services, engineering, research, science, government, agriculture and forestry, business and commerce, tribal government, and other appropriate pursuits, which can provide useful experience to Indian youth in exploring and participating in activities related to their future choices of possible careers.

(b) The Secretary shall determine the number of Indian youth in the community or reservation who are interested in employment during the summer months in the fields designated in subsection (a) of this section.

(c) The Secretary shall require negotiations with employers for the employment of each Indian youth participating in the Indian youth intern program, such negotiations to include a job description outlining specific duties, evaluation of the progress of the Indian youth intern, and consultation by the employer with the Indian youth intern periodically.

SEC. 212. In establishing and carrying out the Indian youth intern program, the Secretary shall take such action as may be necessary to assure that—

(1) each Indian youth intern shall be paid not less than the Federal minimum wage;

(2) each Indian youth intern shall engage in activities which are supplemental to those of the regular work force where he is employed and shall not replace any regular adult full-time employee, except as a temporary substitute during any normal vacation or other such leave of any such employee;

(3) the total wages paid each Indian youth intern employed by a nonprofit agency shall be paid out of funds provided in this part D;

(4) one-half the wages paid each Indian youth intern employed by other than a nonprofit agency, tribe, or tribal organization shall be paid out of funds provided in this part D, and one-half by the employer;

(5) each Indian youth intern shall be covered by appropriate workmen's compensation laws;

(6) no Indian youth intern shall be entitled, by reason of his employment as an intern, to participate in any pension, retirement, or unemployment compensation programs;

(7) there shall be one supervisor for each twenty Indian youth interns during their period of employment; that such supervisor shall be compensated at a rate not in excess of the minimum rate for GS-9 of the General Schedule under section 5332 of title 5, United States Code; and that, with respect to the position of supervisor, preference shall be given to qualified Indians residing in the locality in which the interns are employed.

SEC. 213. For the purpose of carrying out the provisions of this part D, there is hereby authorized to be appropriated $10,000,000 for the first year after the enactment of this Act, and $15,000,000 for each of the next two succeeding fiscal years.

PART E—EDUCATIONAL RESEARCH AND DEVELOPMENT

SEC. 214. (a) The Secretary is authorized to make grants to and contracts with universities and colleges and other public and private nonprofit agencies, institutions, and organizations, and to and with individuals for research, surveys and demonstrations in the field of Indian education and for the dissemination of information derived from such research, surveys, and demonstrations. In selecting participants in or recipients for grants and contracts under this section, preference shall be given to Indian tribes, organizations or institutions.

(b) No grant shall be made or contract entered into pursuant to this section until the Secretary has obtained the advice and recommendations of educational specialists who are competent to evaluate proposals as to the soundness of design, prospects of productive results, and adequacy of the resources of any applicant to conduct research, surveys, or demonstration projects. Wherever possible among the educational specialists consulted shall be Indians who are not employees of the Federal Government.

(c) No grant shall be made or contract entered into pursuant to this section *until* the Secretary is satisfied that the activities to be funded do not substantially duplicate research, surveys, or demonstrations the results of which are or will be accessible to the public.

SEC. 215. For the purposes of carrying out the provisions of this part E, there is hereby authorized to be appropriated $2,000,000 for the first fiscal year after enactment of this Act, and $3,000,000 for each of the next two succeeding fiscal years.

PART F—ADULT, VOCATIONAL, AND EARLY CHILDHOOD EDUCATION

SEC. 216. After consultation with persons competent in the appropriate field of education, the Secretaries of Interior and of Health, Education and Welfare shall jointly present to the Ninety-fourth Congress, within sixty days of the convening thereof—

(1) a proposed program of adult and continuing education designed to meet the needs of Indian people;

(2) a proposed program designed to meet the vocational and technical career education needs of Indian people;

(3) a proposed program designed to meet the early childhood education needs of the Indian people;

(4) a proposed program designed to meet the special education needs of gifted and handicapped Indians aged three to twenty-one years; and

(5) a review and analysis of existing programs in higher education for Indians administered by the Department of the Interior and the Department of Health, Education, and Welfare and a proposed program of higher education designed to meet the needs of the Indian people; and

(6) an assessment of the capability of the Federal Government to measure effectively and accurately the educational progress and achievement of Indian people, such assessment to include a review of the ability of the Department of the Interior to measure the educational achievement and progress of Indian people, and as to the capability of the Office of Education or the National Institute on Education to measure the educational progress and achievement of Indian people, and shall include the result of the review in such report.

SEC. 217. For the purpose of carrying out the provisions of this part F, there is hereby authorized to be appropriated $750,000 for the first fiscal year after the enactment of this Act.

PART G—GENERAL PROVISIONS

SEC. 218. No funds from any grant or contract pursuant to this title shall be made available to any school district unless the Secretary is satisfied that the quality and standard of education, including facilities and auxiliary services, for Indian students enrolled in the school of such district are at least equal to that provided all other students from resources, other than resources provided in this title, available to the local school district.

SEC. 219. No funds from any contract or grant pursuant to this title except as provided in part B shall be made avaliable by any Federal agency directly to other than public agencies and Indian tribes, institutions, and organizations: *Provided*, That school districts, State education agencies, and

Indian tribes, institutions, and organizations assisted by this title may use funds provided herein to contract for necessary services with any appropriate individual, organization, or corporation.

Sec. 220. (a) (1) Within six months from the date of enactment of this Act, the Secretary shall consult with national and regional Indian organizations with experience in Indian education to the extent practicable, to consider and formulate appropriate rules and regulations to implement the provisions of this title, (2) within seven months from the date of enactment of this Act, the Secretary shall present the proposed rules and regulations to the Interior and Insular Affairs Committees of the Senate and House of Representatives, (3) within eight months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties, and (4) within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this title.

(b) The Secretary is authorized to revise and amend any rules or regulations promulgated pursuant to subsection (a) of this section: *Provided*, That prior to any revision or amendment to such rules or regulations the Secretary shall consult with appropriate national or regional Indian organizations, to the extent practicable, and shall publish any proposed revisions in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and receive comments from other interested parties.

Sec. 221. Prior to expending any funds appropriated pursuant to this title, the Secretary shall be assured, after consultation with the Secretary of Health, Education, and Welfare that such funds shall add to, and not replace, other funds provided in Federal programs for the benefit of Indians.

Sec. 222. The Secretary is authorized and directed to provide funds, either pursuant to the authority provided in this Act or pursuant to any other authority granted to him to extend funds for the educational support of Indian children to any tribe or tribal organization which controls and manages any previously private school.

Sec. 223. The National Advisory Council on Indian Education, established pursuant to title IV of Public Law 92–318 (86 Stat. 235) shall be consulted by the Secretary of Interior in implementation of the programs established by this title.

Mr. KENNEDY. Mr. President, last Wednesday another alternative draft of part A was prepared by Interior Committee staff. The new draft is entirely different from the one produced jointly during the first part of the week—that is, the version labeled "improved" by all participating staffs. It is true that the new part A does not contain the unpredictability of the original draft; however, it also contains none of the advantages.

This alternative triples the allocation for the JOM program, the administration of which has been the focal point for innumerable documented grievances. The Legal Defense Fund Report, the Comptroller General's report, my work with the Indian Education Subcommittee, and the hearings of my Subcommittee on Administrative Practice and Procedure held in December, testify to the many problems associated with Johnson-O'Malley expenditures. In my opinion, this proposal would have little effect on the situation that presently exists with respect to abuse of JOM funds. In fact, it seems to be acknowledged that this amendment does not constitute meaningful reform of the Johnson-O'Malley Act. Thus, this latest amendment merely increases funding for a program that is being bungled and ultimately risks retarding the possibility of future JOM reform by allowing this provision to go on record as a result of the Senate's year-long effort toward progress.

Again, for comparison, I ask unanimous consent that this alternative draft be printed at this point in the Record.

There being no objection, the alternative draft was ordered to be printed in the Record, as follows:

On page 40, line 19, strike all of Title II down to and including line 8 on page 61, and insert in lieu thereof the following:

TITLE II—THE INDIAN EDUCATIONAL REFORM ACT

Sec. 201. This title may be cited as the "Indian Educational Reform Act".

Part A—Education of Indians in Public Schools

Sec. 202. For the purpose of providing education to Indians enrolled in the public schools of any State, in addition to and as a supplement to assistance under Title IV of Public Law 92–318 (86 Stat. 235), the Secretary is authorized to enter into contracts with any such State or political subdivision thereof, or with any Indian tribe or tribal organization residing in any such State (such State, political subdivision, Indian tribe, or tribal organization to be hereinafter referred to as "contractor"): *Provided, That*, in the event the contractor is an Indian tribe or tribal organization which resides in more than one State and the Secretary wishes to contract with such tribe or tribal organization to provide education to Indians enrolled in the public schools of more than one State, separate contracts may be negotiated with such tribe or tribal organization for each such affected State.

Sec. 203(a) (1) Of the funds appropriated pursuant to this Part A, the Secretary shall contract not more than 25 percent for the purpose of general school district operation expenses. The Secretary shall contract at least 75 percent of the funds appropriated pursuant to this Part A solely for the purpose of special or supplemental programs for Indian people enrolled in the public schools, such as:

(i) guidance and counseling services for Indian students in grades five through twelve which, wherever feasible, should be provided at a ratio of not less than one counselor for every fifty Indian students;

(ii) curriculum development programs, including production of special bilingual and bicultural materials, to meet the needs of Indian students;

(iii) teacher aides (bilingual where appropriate) at a ratio, wherever feasible, of one per twenty Indian students in grades kindergarten through six, and one per thirty Indian students in grades seven through twelve;

(iv) supplemental school lunch and school breakfast funds for Indians as needed, such funds to be in addition to any assistance otherwise provided by law;

(v) school nursing services for Indians, which services shall be coordinated with the Indian Health Service of the Public Health Service;

(vi) summer school programs for Indians, including academic as well as recreational, remedial and cultural and academic enrichment components, as desired by the Indian community;

(vii) payment of students' fees and other costs incidental to school programs which are not included within the budget of the affected school district;

(viii) vocational technical career education; and

(ix) such other educational programs as may be mutually agreed upon by the Secretary and the contractor;

Sec. 203. (a) (2) In administering the provisions of this Act, the Secretary shall not enter into any contract unless the prospective contractor has submitted to and has had approved by the Secretary an education plan which assures that—

(A) the educational objective to be provided to Indian students as beneficiaries of the contract will be satisfactory;

(B) the contract assures adequate protection for any trust resources affected;

(C) the proposed project or function to be contracted for can be properly completed or maintained by the proposed contract;

(D) the proposed contractor has adequate equipment, bookkeeping and accounting procedures, substantive knowledge of the program to be contracted for, Indian community support for the contract, adequately trained personnel, and other necessary components of contract performance.

Sec. 204. (a) Any school district educating Indian students who are members of Indian tribes which do not normally reside in the affected State and who are residing in Federal boarding facilities for the purposes of attending public schools within such district shall be reimbursed for the full amount of the per capita costs to such school district for educating students in comparable grades: except that where the family place of residence of any such Indian student is within the affected State the Federal payment pursuant to part A of this title shall be reduced by the equivalent of the affected State's share of the per pupil cost as defined in clause (B) of this subsection for each such Indian student.

In the event a local school board in a district affected by this Part A is not composed of a majority of Indians, the parents of the Indian children enrolled in the school or schools affected by this Act shall elect a local committee from among their number, which committee shall fully participate with the school board in the development of, and shall approve, programs authorized by this Part A. The local committee shall be so structured and shall carry out such other duties as the Secretary shall by regulation provide, subject to the laws of the affected State: *Provided*, That in the event a local Indian committee exists pursuant to section 411 of the Act of June 23, 1972 (86 Stat. 235) such committee may be utilized for the purposes of this section.

(c) Funds provided to any contractor under any contract pursuant to Part A of this title shall be available to the contractor for administrative and consultative costs in carrying out such contract where appropriate in such amounts as the Secretary may authorize: *Provided*, That in no event shall such administrative or consultative costs exceed 10 percent of the amount of the contract without the advise and approval of the entity designated in section 204(b) of any district or portion thereof affected by the contract;

(d) For the purpose of affording potential contractors adequate notice of available Federal financial assistance under this part A, appropriations for contracts pursuant to section 202 are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current year and one for the succeeding fiscal year.

SEC. 205. Whenever the sums appropriated for any fiscal year for payments pursuant to this part A are not sufficient to pay in full the total amouts which all contractors are eligible to receive pursuant to this part A for such fiscal year, the maximum amounts which each such contractor is eligible to receive pursuant to this part A for such fiscal year shall be ratably reduced. Whenever additional funds become available for making such payments for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced.

SEC. 206. There are hereby authorized to be appropriated for the purposes of this Part A for each of the seven fiscal years following enactment of this Act the sum of $65,000,000.

Mr. KENNEDY. Finally, Mr. President, I would like to print in the RECORD, with unanimous consent, the analyses of part A written by the Coalition of Indian-Controlled School Boards and the Native American Rights Fund. I am sure that these will be useful for the committee and the Senate in determining the future course of action on this provision.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1017—THE INDIAN SELF-DETERMINATION AND EDUCATIONAL REFORM ACT

In the "Congressional Findings" of S. 1017, we acknowledge that the views of Indian education by the Committee on Interior Affairs and Insular Affairs coincides with our findings that the present BIA structure and policy acts as a retardent to the concept of Indian self-determination. We acknowledge also that in spite of Congressional attempts for educational reform—State and Federal domination of educational programming is still producing and will continue to produce the same high failure and dropout figures that have always been an Indian stigma. As an illustration of this we have attached a memo from the New Town Public School. We acknowledge that data from one school is insufficient for a general conclusion yet believe that a broader study will reveal the same startling facts. Because the responsibility to "educate" Indian people is becoming so totally confused through a dual State-Federal relationship, legislation must be enacted to place our educational process back into our hands. Such legislation should set forth the policy that (1) it is the responsibility of the Federal Government to finance the education of Indian children, (2) that Indian communities have a right to control and operate their own schools and (3) the financial assistance therefore must be directed to Indian schools controlled by Indians themselves.

The basic problem with the present approach is that the non-Indian institution is the beneficiary rather than the Indian child or Indian community. Congress must set before itself the real problem of who is accountable for Indian education and what is the nature of the institution which must be held accountable. The two institutional structures which Congress has traditionally entrusted this educational task lead in only one direction—the direction of the non-Indian institutions. For the BIA administered schools, the direction is toward the preservation and strengthening of the BIA system. For the public school districts the direction is for the maximum amount of Federal dollars to reduce the taxes in the school district. In neither case does the Indian child or Indian community receive the full value of the educational dollar appropriated specifically for Indian children.

The legislation then must have as a basic policy the development of Indian controlled educational institutions. A responsibility of the Federal agencies in their relationship to tribes is to provide assistance such that tribal government can reach a plateau of sophistication which will permit for a sound and systematic management of educational programs. We believe this can be accomplished if S. 1017 includes legislative authority for Federal agencies, i.e., the Office of Education and the BIA Education Office to recognize local educational agencies established by tribal educational codes. S. 1017 should direct the Secretary to provide funds for tribes to develop such codes which would allow for local communities to be recognized by the tribes as local tribal educational agencies. A tribal educational code which establishes rules and regulations independent of the political structure would remove the unwarranted political interference of educational programs and be a positive step toward the full self-determination of tribes and communities within tribes. (See Appendix).

Although Sections 102(a) and 103(a) direct the Secretaries of Interior and HEW to contract with Indian tribes and organizations, the directive is lost in the restrictive provision outlined in the same sections. In many instances, contracts are entered into with a limited knowledge of what may constitute contract compliance. Rather the steps for compliance can be outlined and negotiated by the contracting parties prior to consummation of a contract with the fixation of a reasonable time period to meet the requirement established in the terms of contract. The Bureau of Indian Affairs, in their management of Indian affairs, has created a maze of contradictory policy which contract schools have had to encounter at some point or another. We have on various occasions presented the Commissioner of Indian Affairs, and his subordinates, recommendations which would enhance the BIA's ability to carry out the policy statements of Congress and the Administration. Needless to say, our recommendations were ill-received by the Bureau in spite of the fact that the present structure, personnel and regulations of the BIA are not adequate to deal with the contemporary needs in Indian education.

In our statement to the Senate Interior Committee on S. 1017 we provided specific examples of administrative and structural inadequacies of the present Bureau of Indian Affairs. We recommend strongly that this bill, S. 1017, establish an educational structure to remedy the inadequacies. Accordingly, we recommend that in place of the restrictive provisions in Section 102(a) there be included the following directive.

"The Secretary of the Interior is authorized and directed to establish a central educational contracting office to negotiate and implement all BIA contracts and grants to provide technical assistance for purposes of developing contracts and contract capability, particularly with Indian tribes and organizations, to render technical assistance to comply with contract stipulations, for training, for monitoring and auditing such contracts and grants from the central BIA office to local/tribal or educational grantee and contractors."

This would establish the central contracting office yet would not fully address the problems of lines of authority within the Bureau. We feel that the only solution is to establish by this legislation a Deputy Commissioner for Educational Programs in the BIA with *Line Authority* and full responsibility to carry out the total educational programs for the BIA. The deputy would report directly to the Commissioner of Indian Affairs. There would be no Area Director or Agency Superintendent interference in decisions that should be resolved on the basis of educational principles.

In addition, Section 106(a) should be entirely reworded to exempt contracts under the Act from constrictive Federal procurement laws and procedures. Under Sections 102, 103 and 104, contracts and grants can only be given to Indian tribes. This requirement poses a severe limitation on the range of Indian entities which can potentially qualify since several Indian communities with legitimate grounds for seeking control of their own educational programs are not in a position to have tribal governments intercede for them with the Federal government.

TITLE II—THE INDIAN EDUCATIONAL REFORM ACT

Section 203—Part A

Addresses education for Indian children in public schools by establishing a process by legislation for distributing Federal funds received within affected school districts. According to provisions of the bill there are states in which districts with large Indian enrollments could be excluded from the benefits for a number of reasons. For example, low tax generating ability of even the highest assessed districts. Public funds have served to keep taxes down and few districts would think of increasing their tax effort to receive funds under this Act. Myron Jones of the Indian Education Training, Inc. has prepared an analysis of S. 1017, Title II, Part A, which points out the effect that the equilization formula will have on the public schools educating Indian children. This also has been included in the attachments for your information. Accordingly, we recommend that Title II, Section 203, Part A be removed from the bill.

In many respects Title II completely ignores the recommendations submitted by the Coalition during the public hearings on June 4, 1973. We suggest and adamantly recommend that you consider a new dimension in educational programming and that is: developing the mechanism that will build in compliances for public administered Indian educational programs with options if the Indian community desires to develop their own education programs free and separate from public institutions as well as minimal interference from the Bureau of Indian Affairs.

We believe that reform of Johnson-O'Malley programs—or rather, reforms relative to Indian beneficiaries in public schools—must be brought forth through legislation, especially since the history of JOM usage indicated that other attempts to reform or regulate may at best be difficult and impossible in most instances. Public schools in virtually every state have assumed an attitudinal posture that has truly violated the intention of the Johnson-O'Malley Act. Yet we believe that the equalization of revenues for public school usage will not change these attitudes nor will its effect be beneficial to Indian students. Rather, we would wish to see Title II used to structure the BIA's internal structure, with built in assurances for accountability, and outline the process where the agencies must devise the structure, regulate policy, which is compatible with the aspirations of *all* Indian communities, and place advantages in Indian hands rather than the opposite.

To illustrate what we consider will permit the delivery of more equitable JOM programs, we have attached a draft of proposed regulations prepared for presentation to the Commissioner of Indian Affairs. The development of these regulations was a joint effort of CICSB (Bill Roberts and Gerald Clifford), Indian Education Training, Inc. (Myron Jones), Native American Rights Fund

(Charles Wilkinson), and Americans for Indian Opportunity. We want to emphasize this is a rough draft and subject to language changes. However, the regulations will not be changed in philosophy or concept. Any subsequent changes will be submitted to all appropriate committees and members. Although we are suggesting the replacement of Part A by legislation which includes the language provided in the attached draft regulations, we will repeat the highlights of our testimony on June 4, 1973 which are minimal provisions which would make Part A acceptable to the Coalition.

Title II, Section 202, should be rewritten to prevent bilateral relationships between states and the Federal Government in Indian education. All Federal funds for Indian education in public schools should be funneled through Indian tribes or organizations which may then contract with states if they wish. (If they do not, they should be permitted to use the funds in their own schools). Suggested wording:

"Sec. 202. For the purpose of providing education to Indians enrolled in the public schools of any state, the Secretary is authorized to enter into contracts with any Indian or tribal organization residing in any state which in turn may contract with the state or political subdivision thereof upon such terms and conditions as are mutually agreed upon. If a tribe or Indian organization does not wish to contract in this manner with any state agency or subdivision it may use the funds in its own schools under the provisions of Section 102."

In addition, Title II should be strengthened by including a discretionary power in the Secretary to order the redistricting of state school district boundaries to provide for increased Indian control where all other efforts for reform have proven fruitless and he considers conditions of discrimination and unequal educational opportunities for Indians to be endemic or inherent. This remedy is justified upon the same basis that withholding of Federal funds under 42 USC 2000d, *et seq.* and 45 CFR Part 80 is.

Section 207(a) contracts should go only to Indian tribes, organizations or other Indian institutions. The same applies to Section 214(a).

Section 203(c) contracts should be made discretionary.

The entire relationship between Titles I and II should be clarified. As they now stand, it is difficult to see the distinction between a contract with an Indian tribe or tribal organization under Title I and one under Title II. What would prevent using Title I to write contracts with these groups or entities for use in public schools, thus avoiding the explicit application requirements under Title II?

Appropriations for contract schools should be increased. At present only $4.5 million is earmarked for these schools out of a total BIA education budget of $190 million. And per pupil funding formulas should be reconciled with those used for the BIA's own schools.

S. 1017 does not include the needs for funding of institutions of higher learning controlled by Indian people. Indian controlled institutions of higher learning provide a continuance of education for the students whose primary educational experiences are received from elementary and secondary schools under Indian control. Such institutions, i.e., Indian controlled community colleges on Indian reservations should be encouraged and authorized with operating program service money in this bill.

Part C—School construction

We see a definite construction need in the Indian controlled schools, which are not affected by P.L. 815, for an authorization for physical facilities to conduct educational programs. Our experiences with the Bureau of Indian Affairs has been for the Area Offices to place construction for Indian controlled schools in a "low priority" in the budget process. We are convinced this is an effort to thwart the Indian control movement. Our recommendation would be to include Indian controlled schools and colleges with these provisions and to give their construction needs top priority.

The authorization for the appropriation of construction funds should include all phases of construction from planning and design through the final phases of construction for each particular project.

Other parts of Title II are basically sound and would be acceptable with additional comment or amendment. The principle which we have always held is that until the time that comprehensive legislation is developed—which applies to the Federal trust responsibility as well as the needs of urban and non-Federally recognized Indian peoples—we will support any reasonable educational bill that applies to Indian people. We can assure you that we will work diligently in the development of comprehensive legislation. This is all we can do—the responsibility is really on the law-makers and their willingness to make profound commitments to Indian people.

Native American Rights Fund,
Boulder, Colo., February 22, 1974.
Hon. Henry M. Jackson,
U.S. Senate, Russell Senate Office Building, Washington, D.C.
Hon. Paul J. Fannin,
U.S. Senate, Russell Senate Office Building, Washington, D.C.
Hon. Edward M. Kennedy,
U.S. Senate, Old Senate Office Building, Washington, D.C.

Re S. 1017 (Indian Self-Determination and Educational Reform Act).

Dear Senator: The Native American Rights Fund very rarely comments on legislation. We have, however, studied S. 1017 with care and have several comments which we wish to draw to your attention.

Like virtually all Indian organizations, we vigorously support Title I of S. 1017. The contracting procedures in Title I are progressive and offer the promise of a new dimension in tribal self-government. On the other hand, we are deeply concerned over several provisions of Title II, Part A, of S. 1017. Although we believe that Title I should pass the Senate at the earliest possible date, it appears to us that Title II, Part A should be referred to committee for further, intensive study.

SUMMARY

In this letter, we will deal with several major problem areas which we see in Title II, Part A. There are other, more minor problems that could probably be cured by draftsmanship in the House of Representatives.

Our major concerns fall into two broad areas. First, the formula for distribution will result in funding on a random, arbitrary basis and will cause major inequities for many students, Indian and non-Indian alike. Our conclusion is that the formula would probably result in a substantial drop in the level of Bureau of Indian Affairs' funding for supplemental programs for the special needs of Indian children: indeed, it is likely that funds under this bill would dwindle to almost nothing in the many states which have adopted, or will adopt, equalization plan. In addition, the formula is actually a "federal equalization plan" and, as such, is a serious encroachment on the prerogatives of the many states which are experimenting with equalization. Second, the bill as written simply will not benefit Indian children as much as does the present Johnson-O'Malley program. The programs under the bill are not supplemental. The community participation provisions are extremely weak. Very significantly, the Indian community's considerable expertise in dealing with Johnson-O'Malley matters will be lost because the Johnson-O'Malley program itself is terminated by S. 1017. Our specific discussion of the major defects in Title I, Part A, of S. 1017 is as follows.

DISCUSSION

I. The formula for eligibility requires wholesale revision

A. The Formula Will Result in Random, Arbitrary Disruption of Funds

Section 203(a) is the primary section dealing with eligibility. A district is eligible only if its tax rate is "no less than" the average tax rate of the five most comparable districts. § 203(a)(1). "Comparable school district" is defined as a district in the same state with student enrollment which is most nearly equal to the district seeking funds. § 4(f). A district is ineligible for *all* funds under this bill unless its tax rate is at least as high as the average rate of the five most comparable districts.[1]

This kind of approach will inevitably result in the elimination of Bureau of Indian Affairs' educational services to many deserving students who are presently receiving such services.

Let us work from the example set forth at pages 23–24 of the Senate Interior Committee Report. The example in the Committee Report assumes that the "Indian district" has a tax rate of 40 mills and that the five most comparable districts also have a tax rate of 40 mills. Under that example, the "Indian district" is eligible for funding.

Assume, however, that a very minor and reasonable adjustment to the example is made—and we emphasize that this is a situation which will actually occur if this bill is passed. Assume that the five most comparable districts have an average tax rate of 42 mills, rather than 40 mills. This difference could occur as a result of several factors. Such a difference could easily result from the fact that local tax assessors in the five most comparable districts simply compute assessed valuation slightly differently than do the assessors in the "Indian district". The problem of uneven assessment from county to county within a state occurs nationwide.[2] The difference in the tax rates in the example might also arise from the fact that there is a slightly lower degree of commercial development in the five comparable districts. The difference in the tax rates could also occur because the "Indian district" is poor but the five comparable districts are, on the average, slightly poorer.

Under this hypothetical example, the "Indian district" is ineligible for funding under S. 1017, regardless of how needy the Indian children in the district may be. The only way for the "Indian district" to become eligible for S. 1017 funding is for the district to raise its tax rate by at least 2 mills. Although a few districts in such a situation might be willing to raise their tax rates, we think it likely that most districts would refuse to do so. The funds available under S. 1017 are just not substantial enough for most districts to take the politically unpopular step of raising taxes, especially when § 203(a)(4) requires that at least 20 percent of the funds must be used for "special programs" for Indian students.

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[1] § 203(a) provides that no contract shall be made with a district unless the district meets several requirements, including the tax rate provision.

[2] Part of the problem is that most states have no real uniformity of assessment as among counties. In addition, different areas of many states cannot be compared due to regional characteristics—different appraisal methods must necessarily be used to appraise ranch land, recreational areas, farm land, suburban areas, and industrialized areas.

The kinds of situations just discussed will occur because "tax rate" is not a realistic method by which to compare school districts. *One can derive little meaning from a tax rate alone—the crucial determination is made only by a complex analysis of the tax rate, the assessed valuation, and the technique used to reach the assessed valuation.* Even then, regional differences within states, such as discussed in footnote No. 2, may make comparion impossible; these regional differences are particularly prevalent in the large western states which educate most Indian children. If one district reaches its assessed valuation by a slightly different method than another district, then comparison between the districts by "tax rate" is superficial at best. The result of such an analysis will be the random and arbitrary denial of S. 1017 funds to many Indian districts.

Let us take two school districts as very specific, significant examples. Our firm has just completed litigation against Central Consolidated District No. 22, headquartered in Kirtland, New Mexico. This district educates approximately 3,400 Indian students and is, next to the Gallup-McKinley School District in New Mexico, the largest educator of American Indian students in the United States. Central is unquestionably ineligible under S. 1017 because it has the lowest tax rate in the State of New Mexico. We have vigorously sought to require the district to raise its tax rate so that it would be eligible for Johnson-O'Malley funding.[3] The district has steadfastly refused to raise its tax rate even though it is already the lowest in this state. Our experience leads us to conclude that there is no realistic probability that this district would raise its tax rate in order to become eligible for these funds. The result will be that the second largest district in the country, in regard to numbers of American Indian students, will be ineligible for funding under S. 1017.

A second—and perhaps even more dramatic—example is Red Lake School District in Minnesota. Brice Lay, Chief of the Division of Educational Assistance of the BIA, has testified in a deposition that Red Lake is an impoverished school district which needs Johnson-O'Malley funds for operational purposes. Unfortunately, Red Lake would be ineligible for *any* funding under S. 1017, whether operational or for "special programs". According to statistics compiled by Mr. Lay, the present tax rate of the Red Lake School District is 32.98 mills, while the tax rate of the five comparable districts is 43.798 mills. The result is that Red Lake will be ineligible for any funding under S. 1017 unless it raises its tax rate by almost 11 mills, an increase of more than 30 percent. We have no direct knowledge as to whether such a marked rise in tax rate is likely at Red Lake, but obviously such a major tax increase is problematical at best.

It is too easy an answer to say that the above analysis simply means that some *districts* will receive less funding than is the case now. This ignores the fact that some needy districts, such as Red Lake, will be ineligible. But the real point is that the focus should be upon the *Indian children* who will no longer receive funds from the Department of the Interior. It is the children, not the district, who will no longer receive class rings or gym shoes and who will no longer benefit from Indian clubs, Indian guidance counselors, and bilingual programs. This problem is compounded because, as is pointed out in Section II, below, the present Johnson-O'Malley Act provides for truly supplemental funding, while S. 1017 provides no such guarantee.

Thus, as the above analysis shows, the formula under S. 1017 is arbitrary and, in many cases, will be unfair to truly needy districts. The problem, however, is that it is not the districts who will suffer most. The real victims of this formula will be American Indian children, who are now the beneficiaries of supplemental funding under the Johnson-O'Malley program.

B. The formula will probably result in low levels of funding to districts receiving Impact Aid

If a district is eligible to contract on the basis of comparable tax rates, as discussed above, the next question is the level of funding. Basically, the formula provides that S. 1017 money will make up the difference between the operational per-pupil expenditure in the "Indian district" (including state, local and Impact Aid payments) and the average operational per-pupil expenditure of the five most comparable districts. § 203(a)(4). Thus a district will not receive S. 1017 funds if its per-pupil operational expenditures (including Impact Aid) are equal to, or more than, the operational per-pupil expenditures of the five most comparable districts.

We suggest that this approach will mean that many districts receiving Impact Aid will not receive any funds at all under this bill. We have been involved in litigation in several districts receiving Impact Aid and, almost without exception, those districts are in relatively good shape financially. Although we have never had cause to compare their per-pupil expenditures with five comparable districts, we believe that most districts receiving Impact Aid would probably have per-pupil expenditures at least as high, and probably higher, than comparable districts. If there is any premise in Indian education finance, it is that Indian students "bring in" more than their fair share of funds, particularly where Impact Aid is involved. See, e.g., *An Even Chance,* p. 1, 8 (NAACP Legal and Defense Fund, 1971). Because of these funds, Impact Aid districts would be unable to show a deficit in operational funds, as required by § 203(a)(4).

Under these circumstances, many Indian districts would receive little or no S. 1017 funding for operational purposes. This is fair—a district which already has sufficient operational funds should not receive an additional federal gratuity.

The problem comes, not with S. 1017 operational funds, but with S. 1017 "special program" funds. If a district is not eligible for operational funds it is not eligible for "special program" funds either.[4] If we are correct in concluding that many districts will not be eligible for operational funds, then those same districts will be ineligible for "special program" funds. Again, the real losers are the Indian children, not the districts.[5]

C. The formula contains no definition of those districts which are eligible for funding under S. 1017

The Committee Report refers several times to "Indian districts", but the legislation itself contains no such definition. For the following reasons, we believe that this is a serious, fundamental problem.

Let us take an obvious example. Under the present bill, a district with one Indian student is eligible for funding under S. 1017. If that district were a large district, S. 1017 would make up the entire deficit defined in § 203(a)(4). Thus, under the present S.1017, a district with almost no Indian students in, say, Dayton, Ohio, would be fully eligible for funding. If the Dayton, Ohio district were below the total funding of the five most comparable districts, the entitlement under S. 1017 could be extremely substantial, even though very few Indian students were involved.

A first blush this problem seems to be merely a technicality which could be easily cured by amendment. We are not so certain, however, that establishing a definition for eligibility is such a simple matter. One method of curing this defect might be to require a minimum number of Indian students. If the number were very low (use ten eligible Indian students as an example), then districts such as Dayton, Ohio might still qualify. On the other hand, if the number is high (use 100 Indian students as an example), then many small rural districts would be excluded. The other logical source for a definition would be to use the percentage of Indian students which the district serves. Again, there are important policy decisions to be made here. Even using a relatively low percentage, such as ten percent, large numbers of eligible Indian students would be excluded from the funding under this bill.

We believe that the basic lack of a definition for eligible agencies is, by itself, sufficient cause to warrant further study of this legislation.

D. S. 1017 is basically a federal equalization plan and, as such, would conflict with the many state equalization plans which are now being developed

At its essence, the S. 1017 formula is an equalization plan. It is identical in concept to the equalization plans which are being worked upon diligently by most states: the plain, stated goal of S. 1017 is to provide funding, from sources outside of the school district, so that the district in question will have per-pupil expenditures which are substantially equal to expenditures in other districts in the state. Since most states are now working hard on equalization formulas, this type of a formula serves only to confuse an area of finance which is already extremely technical and complex. Frankly, the very simplistic formula in S. 1017 is almost impossible to reconcile with the detailed, sophisticated formulas which have been developed in many states. We very strongly suspect that S. 1017 would confuse and hinder state efforts to arrive at fair equalization programs.

E. Most district in the many states which adopt equalization plans will probably be ineligible for S. 1017 funds

Equalization raises a question which cuts to the core of S. 1017 as presently written. Assume that all or most states do arrive at equalization plans, a result which appears to be consistent with present trends. If this is the case, virtually every "Indian district" would have operational per-pupil expenditures substantially equal to the operational per-pupil expenditures of the five most comparable districts.

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[3] Our motives in seeking a tax increase were the same as those underlying the formula used in S. 1017. Central plainly did not have a "reasonable tax effort" as required by the Johnson-O'Malley regulations. See, 25 C.F.R. § 33.4(b). The Bureau of Indian Affairs was not enforcing its own regulations. We sought to achieve a raise in the tax rate so that more operational funds would be available for a bilingual program for Indian children. We had hoped that the threatened loss of Johnson-O'Malley funds would force the district to increase its tax rate. The district and the Bureau of Indian Affairs both refused to have anything to do with a tax increase. We then dropped the demand as part of the settlement agreement.

[4] The bill provides that no contract shall be made unless the district is eligible in all respects, including the tax rate section and the operational funds section. See, § 203(a).

[5] The serious matter of low-level funding for "special programs" under S. 1017 will remain even in many districts which would be eligible for S. 1017 funds. Under this bill, the "special program" funds are computed with reference to the level of operational funding; "special program" funds must be not less than twenty percent of the operational funds." § 203(a) (4). Accordingly, if the amount of "special program" funds is computed as a percentage of the amount of operational funds, then the funds for "special programs" will be low in those districts where funding for operational funds is low.

What, under such entirely plausible circumstances, is there left for S. 1017 to do, since "equalized" districts are ineligible for S. 1017 funding under § 203(a)(4)? Unfortunately, the answer seems to be that there would be no operational S. 1017 funds for such a district and, therefore, no "special programs" money for such districts. *Thus, if equalization does live up to its promise of becoming law in most states, Indian education funding from the Bureau of Indian Affairs will become virtually extinct if S. 1017 passes.*

II. S. 1017 DOES NOT PROVIDE FOR SUPPLEMENTARY PROGRAMS FOR INDIAN STUDENTS

Although the Committee Report to S. 1017 speaks of "supplementary" programs, that crucial word is never found in the bill. We have been involved in lengthy litigation concerning the definition of "supplementary" programs within the context of Title I and Johnson-O'Malley. Although we were successful in those cases, the litigation was much more protracted due to the vague manner in which the Johnson-O'Malley legislation and regulations provided for supplementary programs. In our judgment, the language of S. 1017 is an invitation for litigation because it provides no guarantee that the money would be used for supplementary programs.

It is true that the phrase "special educational requirements" is used in § 203(a)(4) of S. 1017. Nevertheless, "special" is not the same as "supplementary". For example, assume that a district without S. 1017 funds already has a guidance counselor for Indian students and that the counselor meets the requirements of § 203(a)(4)(A). In the next year, if S. 1017 funds were to come into the district for the first time, the district could fund that counselor with S. 1017 funds. This would in turn permit the district to use the operational funds, formerly used to pay the counselor's salary, for other purposes. Nothing would be added. There would be no supplementary program. This kind of pattern is one which we have seen in many school districts and is one which schools will follow if the legislation permits them to do so.

If the intent of the legislation is to provide supplementary, i.e., *extra*, programs, then the bill should say so. As the bill stands now, the lack of a provision for truly supplementary programs is a serious deficiency.

III. THE COMMUNITY PARTICIPATION PROVISIONS OF S. 1017 ARE EXTREMELY WEAK

The community participation provisions of § 203(a)(6) are only slightly stronger than the Johnson-O'Malley regulations. The provisions of S. 1017 are, on the other hand, substantially weaker than the present Title I regulations, than the present Title IV regulations, and than the revisions which will very likely be made to the present Johnson-O'Malley regulations.

We will list just a few of the weaknesses of the community participation provisions of S. 1017. Under § 203(a)(6), the parent committee is entitled to "fully participate in the development and approval of programs", but there is no "veto" power as is the case with the Title IV regulations. Our experience with Johnson-O'Malley programs is that an advisory role, such as contemplated by S. 1017, is insufficient to provide true community control; there must be a veto or there will be no true community input in the majority of the public school districts. Second, there is no provision giving the committees any power over the continuing operation of the program; there is not even a provision requiring that the committee members be provided with copies of all documents concerning the program. Third, there is no grievance procedure for cut-off of funds, so that there is no specific avenue of recourse for the parents if their recommendations are not followed.

Fourth, we note that the state advisory board under § 203(b)(1) must be "composed of educators", rather than Indian parents. This is an obvious lack of self-determination. Finally, there is no provision for true self-determination by Indian parents because there is no provision for contracting directly with parent groups themselves. *Very significantly, Title II is not necessary to provide full contracting authority under the Johnson-O'Malley Act for Indian tribes, because Title I of S. 1017 gives the tribes power to contract for Johnson-O'Malley funds. Therefore, Title II, Part A, adds nothing to the contracting powers of Indian tribes.*

IV. THE JOHNSON-O'MALLEY PROGRAM SHOULD NOT BE TERMINATED

Section 206 eliminates the Johnson-O'Malley program. We mention this consideration last, but we by no means consider it least important.

It is no secret that Johnson-O'Malley has been a terribly neglected and abused federal program. Money has been misexpended in almost every state which receives Johnson-O'Malley funds. Recently, however, it has been established that Johnson-O'Malley funds are supplementary. *Natonabah v. Board of Education*, 355 F. Sup. 716, 726 (D. N.M. 1973). The clarification of the law on this point has helped to eliminate one major area of abuse. Indian parents have become increasingly knowledgeable and vigorous concerning Johnson-O'Malley funds and programs. The regulations are familiar, the problems are familiar, and the increasingly effective remedies are familiar. Charles Trimble, Executive Director of the National Congress of American Indians, made this precise point when he testified on S. 1017: "We have just gotten the feel of the Johnson-O'Malley Act to where he can control it despite its inadequacies." Hearings on S. 1017 before the Subcommittee on Indian Affairs of the Senate Committee on Interior and Insular Affairs, 93rd Cong., 1st Sess. at 163 (1973). In this context, we think it incredible that the Johnson-O'Malley Act would be scraped after more than 40 years of frustration turned into confidence.

Morris Thompson, then newly-appointed Commissioner of the BIA, has also created a new hope for Johnson-O'Malley. The proposed Johnson-O'Malley regulations have been published, and the regulations are in the process of serious, constructive revision. We are confident in saying that anyone who has dealt with Commissioner Thompson on this issue would agree that the climate is ripe for meaningful, effective changes to the Johnson-O'Malley regulations. If such changes are made, the entire focus of S. 1017, which does not in any event provide for supplementary programs, would be duplicative and unnecessary.

V. CONCLUSION

In our judgment, most of the weaknesses in Title II cannot be cured by simple amendments. This proposed legisaltion has serious, fundamental failings which can be corrected only by careful, time-consuming redrafting. Very candidly, we have doubts as to whether these root inconsistencies can be cured at all. The hard truth is that most of the basic precepts of this bill must be re-examined to see if they hold water.

The three of you, as well as most of your colleagues, are fully aware of the literally desperate educational plight of the Indian children in this nation's schools. We know that one of the basic goals of this legislation is to better that plight. Unfortunately, the present version of S. 1017 would seriously worsen, not improve upon, the situation as it now stands. Our conclusion is that the only reasonable course is to delay further action on Title II of this legislation until it can receive the further attention which it so badly needs.

Very truly yours,

JOHN E. ECHOHAWK, *Director*.

Mr. KENNEDY. Again, I commend the Senator from Washington for his leadership in this area. By giving a second intensive look at this important measure, while continuing his commitment to the passage of this bill in the near future, Senator JACKSON has again shown himself to be responsive to the needs and desires of the Indian people.

OVERWITHHOLDING OF INCOME TAXES

Mr. MATHIAS. Mr. President, each year the Federal Government withholds far more money from wage earners than these individuals actually owe the Government as taxes. This overwithholding not only denies our individual citizens money which they need and want, particularly in light of the current inflation, but it also takes this money out of the economy. If we stopped this overwithholding, we would free billions of dollars to go to work in our economy, producing goods, services, and jobs. And we would cut the budget deficit.

On Tuesday, March 5, 1974, I introduced S. 3111, which would cut withholding by 8 percent across the board. Even this reduction would still mean that most persons would probably overwithhold, but not by the excessively large amounts now common. I have been pleased at the reception to this idea among economists and the general public.

Recently the Houston Post wrote an editorial endorsing a general reduction such as I have proposed. I ask unanimous consent that this editorial, which appeared on February 23, 1974, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MORE ACCESS TO EXCESS

Secretary of the Treasury George Shultz wants taxpayers to spend more money to improve the economy, but is opposed to cutting taxes. So his Treasury planners came up with a novel plan to get excess tax collections back into the spending stream. Part of this approach would benefit many taxpayers, yet other parts of it seem discriminatory. With a little revision of their proposal, Shultz and his experts could do something to eliminate inequities in the income tax withholding system.

The tentative plan calls for reducing the amount withheld from the paychecks of those who provide the sole income of their families. Those reductions would add up to the amount of withheld earnings that would be refunded at the end of the year. The theory is that the sole breadwinners would thus have more take-home pay for immediate spending instead of waiting for a refund in a lump sum. The estimate is that $6 billion could be cut from withholding over the year and presumably would be spent, boosting the economy.

But the inequity of the plan is that it differentiates between single-income and multi-income families without taking amounts into account. Families in which two or more are employed and single persons would be excluded. This could be discriminatory all the way around. The sole earners in some families may make more money than the combined incomes of two or more workers in another family. Thus the latter, who may need the extra spendable income more, would be denied it. The fact that more than one person is out working to support a family often means there is a shortage of cash in the home rather than a surplus.

A better application of the underlying idea in Shultz' plan would be to end overwithholding altogether and restore maximum spending power to all those who do not now have it, regardless of circumstances. That would put even more money back into circulation if the Treasury Department theory is correct. Besides, if taxpayers want to save that money the government is now saving for them, they should at least have the option of saving it in an interest-bearing account.

DISASTER IN THE DESERT

Mr. HUMPHREY. Mr. President, I am deeply concerned about recent allegations that world disaster relief to the Sahel was inadequate during the last year, and that as a result tens of thousands died of starvation and disease.

I have been concerned since I first learned of this terrible disaster about the many, many factors that would make it extremely difficult to get the right amount of food and medicine to the right places in time to alleviate suffering and avoid starvation.

First, it is extremely difficult to get any accurate information about conditions in the six affected countries. The governments of these countries do not have the resources to collect statistics on the size and location of their populations, to predict the size of harvests in advance, or even to monitor the weather. They did not realize when the 1972 crops were being harvested that they were far below normal; they did not realize until the supply of food began running out that they were faced with a severe crisis.

Second, it must be remembered that the six countries of the Sahel are newly independent, sovereign states. Proud of their independence and wanting to solve their own internal problems, they did not request outside help until very late. Only when it was overwhelmingly evident that they could not handle this crisis alone—in March 1973—did these countries come to the international community for disaster relief assistance. This is not a phenomenon unique to the Sahel. More recently, Ethiopia has been faced with a similar crisis resulting from a drought. The dimensions of this crisis were not fully realized by the Ethiopian Government until very late; and requests for United States and world assistance have come even later.

We know that many developing countries have been faced with food shortages. Yet, they often do not request assistance until it is too late. Even when we do have some idea of the problems these countries might be facing, we cannot force foreign assistance on them. In most cases, they have a strong desire to first do everything possible to deal with their crises before asking for outside help.

Third, conditions within these countries among the least developed in the world—make effective distribution of disaster relief assistance extremely difficult. There are very few roads—almost none paved. What roads there are, are unusable during the spring rainy season—when food supplies are at their lowest. When disaster struck, there were no storage facilities in the remote areas where food could be kept for the times when these areas would be totally isolated.

The governments of these terribly poor countries did not have the administrative infrastructure or the personnel to carry out highly complicated disaster relief programs. Many of the people most seriously affected were nomads. No one knew where many of these people were; and, spread out across the desert, they were extremely difficult to reach with food supplies and medicine. Most of them were helped only when they reached refugee camps—and thousands died on the way.

Fourth, the drought came at a time when there was a world shortage of food. In the past, the United States has had abundant surpluses which could be used to avert famine around the world. But last spring we were beginning to feel the effects of a world demand for food that has been growing at a much faster rate than world supply. Our wheat had been sold to Russia and other "paying customers" of the industrialized world. The surpluses available for our Public Law 480 program were extremely low. We not only had problems finding the grain needed to avert famine in the Sahel; we had problems finding the ships to get it there.

Fifth, there were unique problems in coordinating the disaster relief effort in the Sahel. It was six countries, not just one, that were affected. And there were many major donors. To coordinate the efforts of all the recipients and all the donors to assure the most effective distribution of assistance was a mammoth task—and it had to be done almost overnight.

Finally, neither the international agencies nor the donor nations were prepared for this kind of disaster. We were prepared to respond to floods and to earthquakes—to go in with food and medicine after a traumatic event had killed thousands in a relatively small area in a few days. What has been called the "creeping disaster" in the Sahel was something new—all the more tragic because it might have been prevented if the world had been prepared to deal with disasters that can be averted as well as those that cannot. This is a crisis of long duration—a drought now in its fifth year. It covers an area two-thirds the size of the continental United States. It has brought slow death—by starvation and disease—for tens of thousands over a year. Not so dramatic as a flood or earthquake, it took the world longer to realize the dimensions of this crisis and to respond to it.

Recovery from this disaster will now take a greater commitment by the international community than is usually required. After a flood or an earthquake or even a year of drought, the land can be replanted. Herds can be fed. Homes, schools, wells, and roads can be rebuilt. This is not the case in the Sahel. Over 4 years of drought, much of the once-arable land has been claimed by the desert. Many of the herds that have been a major export and the source of livelihood for thousands have died. It will do little good to build immediately homes, schools and roads in areas where there is no economic support for communities. In the Sahel, it is the economic foundation of the area, the herds and the land itself, that will have to be rebuilt first.

A recent study sponsored by the Carnegie Endowment focused on this last set of problems—the ability and willingness of the United States and the international community to respond *effectively* to this special kind of disaster. While I do not agree with every point of their assessment of the disaster relief effort, I share their concern that the U.S. Government and the international agencies are not adequately prepared to deal with crises such as that in the Sahel.

Last June, I held hearings of the Senate Foreign Relations Committee Subcommittee on African Affairs to investigate what the U.S. Government was doing to prevent famine and relieve suffering in the Sahel. At these hearings, we examined the many obstacles I have mentioned to providing adequate disaster relief assistance. We expressed our concern as Members of Congress that the United States do everything in its power to overcome these obstacles and to alleviate the suffering in the Sahel. In addition, as I mentioned in my opening remarks:

> The central purpose of this hearing is to make certain that this catastrophe is no longer played down or overlooked here in the United States or in other parts of the international community, and that this kind of unnecessary suffering does not recur in this part of the world or any other.
>
> It is my hope that our witnesses will be able to assess realistically the short and long range needs of the stricken area.
>
> We will want to examine the need for an early warning system to predict food shortages, for better transport facilities, for improving water resources, for rebuilding herds, for restoring crop production and for reclaiming land taken over by the desert.
>
> We will also want to assess the adequacy of world food reserves for meeting such crises and the effectiveness of international mechanisms for relief coordination.

In July, it became apparent that funds available for international disaster relief assistance were not adequate to meet the needs of the Sahel. I introduced, with Senators McGEE, PEARSON, KENNEDY, and JAVITS, a bill to provide additional funds for this purpose (S. 2241).

By October, it was evident that rainfall for the Sahel had again been far below normal and that the disaster relief needs would be as great or greater this year. At that time, I introduced a bill which increased the funds available for relief and recovery in the Sahel by $50 million. Congressional action on these two bills and similar legislation introduced in the House has resulted in $75 million being appropriated for assistance to the Sahel for fiscal year 1974. Of this, $50 million has yet to be authorized.

The crisis in the Sahel, coming at a time of world food shortage, has made clear the critical need for both a system of world food reserves and a system for monitoring worldwide food production and forecasting shortages. In order to assure that the international community will be better prepared for severe food shortages and threats of famine in the future, I introduced with Senators Javits and Dole an amendment to the foreign assistance act supporting U.S. participation in a system of world food reserves. I hope that the upcoming world food conference will lay the foundation for more effective international food assistance as well as for a greater worldwide commitment to increasing food production in developing countries such as those of the Sahel.

Mr. President, in addition to the subcommittee hearings and legislation I have outlined as steps taken to address critical drought and food shortage problems in the developing countries, I should mention that the personal staff members of every member of the African Affairs Subcommittee have visited the Sahelian drought region. They have reported to their Senators in detail on the trip and on the problems involved in administering the relief program.

The African Affairs Subcommittee of the Foreign Relations Committee will soon be holding hearings on the authorization of $50 million that has been appropriated for disaster relief and recovery in the Sahel during the coming year. At these hearings, we will want to investigate the problems that have been cited in the Carnegie study and to make certain that U.S. disaster relief and recovery assistance to the Sahel in the coming months will be adequate and effective.

We will also want to consider proposals that have been made for making international disaster relief assistance more effective. And we will want to explore what the United States can do to restore and improve the productive capacity not only of the Sahel but of all developing countries. If these countries can develop effective water supply systems, can increase their agricultural production and build their reserves, and can improve their internal transportation they will be far less vulnerable to these disasters and far better prepared to handle crises without massive outside involvement.

Mr. President, I ask unanimous consent that the following articles about disaster relief in the Sahel be printed in the Record:

The Carnegie Endowment news release summarizing "Disaster in the Desert."

AID Comments on the Carnegie Sahel Report.

My opening statement of June 15, 1973, before the African Affairs Subcommittee's hearing on the Sahelian drought.

"West Africa and International Relief," Washington Post editorial, March 5, 1974.

"100,000 Deaths in Africa Linked to Drought Neglect," by David Binder, New York Times, March 5, 1974.

"West African Drought Worsens," by Henry S. Hayward, Christian Science Monitor, February 13, 1974.

"On U.S. Assistance to Parched West Africa," by Maurice J. Williams, New York Times, February 16, 1974.

"Famine South of Sahara," by Martin Walker, New York Times, February 25, 1974.

"Waldheim Says Worst of African Drought Is Not Over," by Kathleen Teltsch, New York Times, March 8, 1974.

There being no objection, the material was ordered to be printed in the Record, as follows:

Disaster in the Desert, Carnegie Endowment Study Reports Failures in Relief for African Drought

Washington.—A detailed study sponsored by the Carnegie Endowment on aid given drought-stricken countries of West Africa reports a "pattern of neglect and inertia" in the administration of relief by the United States and the United Nations. "Behind humanitarian intentions and officials claims of success," say *Disaster in the Desert,* "lay US and UN bureaucracies often unprepared, or unable, to take measures that might have further reduced the tragedy."

Citing previously unpublished documents showing that over 100,000 died from the drought during 1973 alone, the study says that relief efforts by the US Agency for International Development (AID) and the UN Food and Agriculture Organization (FAO), leading institutions in Africa drought relief, were "haunted by rudimentary failures to heed early warnings, to plan in advance, and to monitor and coordinate the rescue efforts."

The study points up the irony of its findings. "Weighed against the humane purpose and accomplishments of the US and UN relief efforts, and against the comparative lethargy of the governments," it says, "those failures might be overlooked—were not the stakes so high. But for thousands in the Sahel, the stakes were high enough."

"An administrative and bureaucratic disaster was added to the natural calamity," concludes the study, "inevitably at a higher cost in human lives and suffering."

Published today, the study is based on extensive interviews conducted by the Endowment's Humanitarian Policy Studies Program with US and UN officials, academic experts, private relief agencies, journalists and others knowledgeable about the Sahelian drought. It discusses several examples of what it calls "serious flaws" in AID and "to some extent" FAO relief assistance:

Despite "scores" of US and UN officials on the scene since 1968 and repeated evidence of impending disaster, "neither AID nor the FAO had contingency plans ready . . . to help the Sahelian countries deal with the wave of hunger and disease breaking over them in 1972–73." (pp. 11–20)

The failure to plan meant, among much else, "improvised relief measures without such critical provisions as special rations to save severely malnourished children, or vaccines against measles, which US medical teams later found to have been "a major killer in the drought." (pp. 21–33) "A well-planned measles immunization campaign," the study says, quoting an authoritative but nearly suppressed US government study, "could have reduced measles morbidity and mortality." (pp. 42–50)

AID failed to anticipate or act on evidence of "fatal discrimination" against nomadic peoples in the distribution of relief food in some drought-ravaged countries. "The nomads are being wiped out," the study quotes a US official. Of this and other instances of waste and inefficiency in the $200 million relief effort, the study says, "Much as the US and UN relief bureaucracies were unready to react to the drought before it became a catastrophe, they were also largely unprepared to monitor the effectiveness and equity of the massive relief effort." (pp. 38–50)

Authoritative scientific data gathered by US Public Health doctors on the nutritional status of the suffering countries provided evidence of over 100,000 deaths during 1973, of discrimination against nomads, and of levels of starvation sometimes higher than in the historic famine in Bangladesh. But the survey was treated, says the study, with "astonishing casualness" within the U.S. Government. It was distributed to concerned officials only in the most "haphazard" way and received by some AID officers "ignorant or indifferent regarding the survey's findings." "The only planned, coherent appraisal of starvation, food distribution and the threat of disease in the drought," the nutritional survey was "another casualty" of "bureaucratic rivalries" and a "failure of communication at all levels" of the relief effort. (pp. 40–58) Quoting official sources that there were attempts to censor the nutritional data, the Carnegie study reprints the public health survey in full. (pp. 76–123, pp. 131–167).

The study quotes official AID reports identifying some US relief shipments of sorghum to West Africa as "animal feed." "Indigestible sorghum appeared in AID documents as life-saving relief," says the study, "but in the refugee camps of the Sahel it was cramps and diarrhea, and a further drain on strength and hope." (pp. 35–41)

Transport of relief to Africa was obstructed by the wheat sale to the Soviet Union, says the study. "It seems grain for humanitarian relief always takes a back seat to cash purchases," the study quotes an American Ambassador (pp. 21–25)

Similarly, transport within West Africa was plagued by lack of planning for long-recognized obstacles, apparent indifference to warnings of impending shortages and unchecked waste and corruption. (pp. 36–38) For a lack of planning and because of inadequate funds, the US rejected a UN request for an emergency airlift of seeds to needy areas. (pp. 29–33)

US funds for drought relief became a "political football." The study quotes officials as saying that President Nixon cancelled a White House initiative to seek needed funds because he thought the foreign drought relief a political embarrassment in the light of his recent veto of a domestic disaster relief bill. (pp. 26–33)

An AID report to the President in August 1973, says the study, was an example of the "confusion and self-deception" in the relief effort. Reprinting the memo against other documents, the Carnegie study analyzes how the memo concealed "the deadly problems that shrouded the relief effort." (pp. 46–52, pp. 124–128)

The study traces numerous examples of bureaucratic infighting between the US and UN, between US Embassies abroad and AID in Washington, within the State Department, between AID and the public health doctors. "The rivalries and clashes of individuals and organizations," says the study, were critical. "Time lost by bureaucratic vagaries became an irredeemable loss in the fading vitality of children and adults in West Africa." (pp. 25–27, 29–31, 49–52)

The study also discusses briefly the relief policies of other countries, such as France, "so conspicuous by their relative indifference to the tragedy." It also refers to neglect by the US press and Congress in foreseeing the disaster or monitoring effectively government actions. (pp. 52–58)

"The failures of 1972–73," says the study, "can be traced to more than a decade of foreign aid policies by the US and others which ignored the destitute countries of the Sahel." (pp. 5–11) The study publishes a previously unreleased US report on aid to Africa. (pp. 70–75).

Disaster in the Desert concludes with a summary of the "cumulative" effects of lack of planning and monitoring of relief. It recommends reforming international disaster relief to include adequate information, planning and monitoring functions (pp. 59–63)

The Carnegie report urges in particular private establishment of an international training center for experts, especially from developing countries, to deal with disasters "which now needlessly claim thousands of lives each year." (pp. 63–66)

The book closes with a somber epilogue on recent developments in West Africa in January–February, 1974, warning that 200,000 more people are in immediate danger of starvation, and that relief efforts are still inadequate. (p. 66)

The study was written uner the Humanitarian Policy Studies Program of the Carnegie Endowment for International Peace, which has also published widely-noted studies on US policy toward genocide in Burundi, *Passing By* and on issues of Rhodesian sanctions, *Irony in Chrome* and *Business As Usual*. The Program brings together student researchers with experienced Project Directors for studies of human rights and humanitarian relief problems in US foreign policy and international relations.

The authors of *Disaster in the Desert* are Roger Morris, a former aide to Henry Kissinger working on African affairs on the National Security Council Staff, and Hal Sheets, who attended the US Military Academy and graduated in 1973 from Reed College in Portland, Oregon.

AID COMMENTS ON CARNEGIE SAHEL REPORT

The Agency for International Development has not had an opportunity to review in detail the report on the Sahel drought in Africa. "Disaster in the Desert," issued by the Carnegie Endowment for International Peace, and is not prepared at this time to respond to all the points raised in the publication. We find the report makes clear the terrifying and extensive impact that this drought has had upon the people of the Sahel and emphasizes the complexity of dealing with the disaster. It documents the range of concerns that the world donor community has had to face in responding to the conditions of the Sahel—not only food but the right kind of food in the right place; problems of transport of that food; assuring equity and efficiency in distribution; and dealing with the medical problems afflicting a drought-stricken populace.

It is true, as the report points out, that the United States has not been a major financier of development programs in the Sahel over the past decade. This has not been a region of close historical, economic or political ties with the United States. Other donors, with closer ties, have played a leading role in financing developing programs. But in its relatively modest pre-drought programs, AID had recognized that the problems of improving cereals production and improving livestock must be overcome if the region were to be able to withstand the periodic droughts from which it has always suffered. Thus, important programs aimed at improving production and marketing of cereals and livestock were undertaken in the rain-short—but not drought—years of 1969–1971. These programs included provision of modest amounts of U.S. cereals to meet recurring deficits during that period.

In was from involvement in these programs that AID recognized that 1972 was becoming not just a year of lower than desired rainfall but a drought situation of significan proportions. As soon as the 1972 harvest failure was fully recognized. AID stepped up delivery of the 48,000 tons of grains already programmed for the region and obtained agreement to provide an additional 108,000 tons.

Thus, while there may not have been a contingency plan of the sort envisaged by "Disaster in the Desert", there was always clear recognition that the fragile ecology of the region—the weakness of which can only be overcome by long-term development plans—could be deeply hurt by renewed drought. And when that occurred there was a prompt response.

In any effort as complex and immense as the Sahel drought relief operation, there are inevitable differences of view on how best to react, and how well the job is progressing. But that does not mean that the U.S. Government's response to the drought has been marked by a pattern of neglect and inertia, or that there is a lack of humanitarian concern among the officials concerned with the problem.

On the contrary, it is our belief that the response of the donors, in moving huge quantities of food, medicines and other supplies to some of the most inaccessible destinations in the world has been a remarkable effort, Only those who know the Sahel from personal experience can understand the incredible difficulties of the terrain; the almost complete lack of communications and transportation in the areas most severely affected; the vast sociological, environmental, economic and political factors involved. These, plus the normally difficult and time-consuming details of administering any relief effort, whether an earthquake or a flood or a drought, have made the persistent Sahel disaster one of the most unusual and complicated in the history of humanitarian assistance.

Considering the nature of the drought and the problems involved, the wonder is not the extent of the tragedy, but that it was not greater. The facts are that the United States and other donors did respond; they did move the food and other relief supplies where needed; they did save lives—against immense odds.

This is not to say that the Sahel relief effort was a model operation. As the report points out, there were many problems, and AID, the FAO and all other donors have learned some hard lessons from this disaster. But we must differ from the report's statement that these problems constituted "an administrative and bureaucratic disaster". The proof is in the approximately one billion pounds of food committed and shipped within a year's time—despite a shipping crunch in American ports, overburdened African facilities, a shortage in rail cars and trucks in Africa, poor roads, damaged bridges, rivers too dry to float barges, airfields too small for cargo planes; little or no place for adequate storage. But since the first warnings, the United States has provided more than $129 million in emergency and recovery relief—over 35 percent of the overall $340 million furnished by all donor countries and agencies.

It is also clear that the complexity of this situation is different from the usual cataclysmic emergency. The problems of the drought are only a sign of longer-term development needs which must be dealt with at the same time as the drought itself. Six national governments are involved, as are a range of regional and international organizations and bilateral donors. The report proposes an organizational mechanism to deal with this kind of situation. While AID obviously intends to study these recommendations in detail, the proposal does seem to deal rather simplistically with the different interests of all the parties so deeply concerned in the matter.

While much has been accomplished, no one can deny the terrible suffering that remains. AID has repeatedly pointed out that the problem has not yet been resolved and it continues to take a leading role with other donors in emphasizing what more needs to be done; 1973 was another year of drought and the problems of the region have been made only harder. Even if the rains come again, the problems of recovery are enormous—but AID has already begun recovery programs.

And to build the kinds of economies and societies which truly can overcome the ecological difficulties faced by the Sahel may take many years of concentrated and cooperative effort by the developed countries and the people of the Sahel—and again, AID has engaged high-level U.S. scientific and technological skills to look for solutions that the African states can use in dealing with these longer-term needs.

AID is pleased that the Congress shares with the Administration recognition of the problems still facing this region through the initiatives it has taken recently in providing $25 million for recovery programs and in its present consideration of a broader bill for disaster relief and recovery programs in the Sahel, as well as Pakistan and Nicaragua.

STATEMENT OF SENATOR HUBERT H. HUMPHREY AT SUBCOMMITTEE ON AFRICAN AFFAIRS

May I, first of all, express my pleasure and gratification at the presence of so many representatives of the countries in Africa that are the subject of our discussion here today. I want to welcome the Ambassadors and the other officers of these countries, and express to them personally my desire to be of all possible help and cooperation.

I have a brief statement and following this statement we will hear from our witnesses. Our first witness this morning will be Mr. David Newsom, the Assistant Secretary of State for African Affairs. He will be followed by Mr. Donald S. Brown, Deputy Assistant Administrator for Africa and, I gather, there may be some others who will participate with Mr. Newsom and Mr. Brown.

Mr. NEWSOM. Possibly, Senator, from time to time.

Senator HUMPHREY. Six nations in West Africa are suffering a catastrophic drought. We have with us the map of the area giving some indication of the size of the territory and the scope literally of the problem. We have superimposed on this map the map of the United States of America, with the exception of Hawaii and Alaska, and it is quite evident that the area that we are speaking of in Africa approximates the size of our own country, so the land area is immense.

The situation in these six nations has been described by the United Nations Secretary General, Mr. Waldheim as "every bit as serious as the famine situation in Bangladesh last year."

We have seen the pictures of suffering and devastation.

We have been told of starving migrants in search of food, their animals and crops dead. We have read the statistics of economic disaster in six of the poorest countries of the world. Together, they tell a story as tragic as any of the disasters of the past decade.

HUMAN DIMENSIONS OF CRISIS

First, let us look at the human dimensions of the crisis.

The Food and Agriculture Organization (FAO) fact-finding team estimated that at least 5 and possibly 10 million people are threatened by starvation—that 2 million could face starvation in the next few weeks.

There are between 25 and 30 million people living in this area. Even in the best of times, many of them live on the edge of starvation. Now, further weakened by the food shortage, they are highly vulnerable to epidemics such as the current outbreaks of measles.

Many of these people live in areas which are extremely hard to reach under the best conditions. The rains which started this month will make these areas totally inaccessible to ground transport, at least so I am informed. Unless some other way is found of getting food to the inhabitants, millions will die of starvation.

Thousands of people have left their homes in search of food and water. Whole villages have been deserted—or left to the care of those too weak to travel. Villages have become cities overnight, bordered by starving migrants waiting to be fed.

Migrations of people and cattle have caused overgrazing in the areas where there is still water and violent clashes between the owners of the land and the newcomers.

Farmers have left their lands and will not return in time to plant crops for the next harvest—even if the rains do return to their normal level. The hunger will continue. Indeed, as indicated this morning in an article by Mr. William Raspberry, there is a shortage of seed for crops.

ECONOMIC DIMENSIONS

Now, speaking of the economic conditions and the economic dimensions:

These countries, whose economies are primarily agricultural and pastoral, have suffered 4 years of incredible drought. Rainfall this year was in some countries only 30 percent of its normal level. The wells have dried up in many areas. The rivers did not flood. The salt content of inland waters is unusually high. Lake Chad, the richest fishing lake in the world, has shrunk to one-third its normal size.

Depending on the country, between 33 percent and 80 percent of the cattle have died.

The Zebu cattle that remain have been moved south into areas ridden with diseases to which they have no immunity.

Every attempt is made to slaughter cattle before they die; but meat smoking and storage facilities are inadequate. Most of the meat goes to waste.

It will take years to rebuild the herds, as we know, and will require healthy breeding stock which does not now exist. Calves compete with starving people for milk. Pregnant cows are slaughtered by owners who need money to live.

Farmers have planted as many as seven times without harvesting a single crop. Production of the basic food crops and the export crop needed to import food has fallen by 30 to 80 percent.

Food reserves in these countries are completely exhausted.

Government revenues and foreign exchange reserves have fallen drastically.

With normal per capita incomes of $60 to $100, these countries have nowhere near the resources to deal with this crisis—let alone rebuild their economies when it is over.

Despite these tragic dimensions, this has been a "quiet crisis".

Not so dramatic as an earthquake or a civil war and occurring in an area that some people believe is of minor political importance, it went unnoticed until much of the damage was done.

It is not that there was no warning, however. Four years of drought in some of the poorest countries in the world—countries where the majority of the population barely subsisted on what they produced in a good year—should have been warning enough.

RELIEF ASSISTANCE

But it was not until February, 1973, that is this past winter, when food reserves were exhausted and people already starving, that these countries asked for relief assistance.

I think it should be noted that people who inhabit these countries are very proud and self-reliant, and they hesitated as the record shows to seek assistance, hopeful that they could make it entirely on their own. This is surely a commendable trait of character and yet it has now resulted in a very tragic situation in terms of the lack of food for the feeding of the people.

It was not as I said, until March that an international relief mechanism was established through the FAO.

International and bilateral emergency relief institutions must share the blame for this tragic delay. They are set up to move in once a catastrophe has occurred, when thousands of lives have already been lost. They must be made more sensitive to avoidable catastrophes. They must develop the capacity to foresee food shortages and to begin relief efforts before it is too late.

The central tragedy of this crisis is that much of the suffering could have been avoided.

PURPOSE OF HEARING

The central purpose of this hearing is to make certain that this catastrophe is no longer played down or overlooked here in the United States or in other parts of the international community, and that this kind of unnecessary suffering does not recur in this part of the world or any other.

It is my hope that our witnesses will be able to assess realistically the short and long range needs of the stricken area.

We will want to examine the need for an early warning system to predict food shortages, for better transport facilities, for improving water resources, for rebuilding herds, for restoring crop production and for reclaiming land taken over by the desert.

We will also want to assess the adequacy of world food reserves for meeting such crises and the effectiveness of international mechanisms for relief coordination.

INTERNATIONAL FOOD RESERVE

Let me digress from my prepared statement just to say in all of my days in the Congress, I have been pleading for an international food reserve. We have had some commitments, as we know, by other countries where they have set aside a certain amount of food that they call World Food Reserve. It has never been properly organized. For years I led the battle here to get the Congress of the United States to go on record to direct our representatives at the United Nations to work for a World Food Reserve. We made some progress, and I should not in any way underestimate it, but it is not anywhere near adequate and now, speaking for this country, we find ourselves today without any food reserves. Not only do we not have food reserves for the rest of the world, we do not even have food reserves for ourselves.

FOOD NEEDS OF GROWING WORLD

For years and years we talked about surpluses as if they were an abomination. I know, for example, when I pick up the daily paper now there are constantly stories about the possibilities of shortage of food. Three years ago, two years ago, the same papers were talking about the unbelievable circumstances of the United States in having these supplies of food—"just wrecking us, tearing our economy apart," as if there was something wrong about having a little food on hand. It is completely asinine, I might say, and stupid and one of these days we will wake up to it, but I am afraid it is a little late. That is why this hearing this morning is so distressing to me, because as we look at this area of the world and know that out of just humanitarian concern we ought to do something, we find ourselves able to give them all the weapons that they can possibly want, but not able to give them the food that they desperately need. We are strong on guns and planes and shells, and short on soybeans and milk and wheat and corn. We just have got our priorities upside down, Mr. Secretary. You and I happen to agree on this, but I have got to get it off my chest sometime because no one around here will listen. They just do not understand the food needs of a growing world.

INCREASING PRODUCTIVITY OF POOR AREAS

Finally, we must look at the contribution multilateral and bilateral assistance should make to increasing the productivity of the poorest people in the poorest areas. I believe that bringing these people into the development process could minimize the threat of famine.

A number of proposals have been made for restoring this area to economic health. I hope our witnesses will evaluate these proposals, and if our representatives here from AID [Agency for International Development] wish to discuss these matters in detail with us we will welcome it.

I happen to believe that we have been spending far too much money building steel plants which people do not need, and far too little money teaching people how to farm in these developing areas of the world.

With that I will ask our Assistant Secretary of State for African Affairs, Mr. Newsom, to lead off with his statement. We surely want to welcome you. I know you had to return from a meeting in Philadelphia, and we thank you very much, Mr. Secretary.

[From the Washington Post, Mar. 5, 1974]

WEST AFRICA AND INTERNATIONAL RELIEF

When a catastrophe of the dimensions of the drought in the Sahel (West Africa) strikes, concerned people rightly ask what went wrong. The particular answer offered in "Disaster in the Desert," a new study of the Carnegie Endowment for International Peace, is that the relief bureaucracies in the United States and United Nations were not up to the task. Their work was marked by inadequate planning, coordination and urgency, the report indicates, concluding: "An administrative and bureaucratic disaster was added to the natural calamity—inevitably at a higher cost in human lives and suffering."

Whether each count in this angry indictment is on the mark, we are not prepared to say. What is plain, however, is that no bureaucracy of any sort can be expected to meet an overwhelming crisis without the strongest political support coming down from the top. In the case of the Sahel's continuing tragedy, top priority was never assigned by the United States government. Grain that might have been shipped to West Africa, for instance, instead was sold to Russia. The President did not demand a swift and effective American response: having vetoed a domestic disaster relief, the report states, he held off submitting a request for more disaster funds for the Sahel. Other nations, in particular the French, whose former colonies were in duress, did even worse.

The Carnegie report concludes, in the manner of many earlier well-meaning observers of human suffering, that a new international agency should be set up just to deal compassionately and non-politically with relief. But, of course, relief is a form of international activity no less inherently political and bureaucratic than any other form, such as trade or war. Indeed, the report finally concedes the point: "The creation of a new system of international relief begs a score of formidable questions—under whose aegis? With what sustained funding? With what political power to deal with the opposition of nations or whole regions to humanitarian relief? Where does national sovereignty (and indifference to suffering) stop, and international humanitarianism begin?"

There remains the harsh reality that no conceivable success in planning or administering relief can space a country its own responsibility for caring to the best of its capacities for its own citizens. It is unfair to blame foreign or international relief bureaucrats, as the Carnegie report tends to do, for failing to cope effectively with the results of massive policy failures by the affected countries themselves. Whether the relief agencies have done all they could in any given situation is a question that will always trouble men of good will. But the responsibility of national leaders cannot be denied.

[From the New York Times, Mar. 5, 1974]

100,000 DEATHS IN AFRICA LINKED TO DROUGHT NEGLECT

(By David Binder)

WASHINGTON.—A newly published study of relief efforts by the United States Government and international agencies for the victims of last year's drought in West Africa has charged that gross neglect and outright failures contributed to the deaths of more than 100,000 people.

The study was prepared for the Carnegie Endowment for International Peace by Roger

Morris, a former aide to Secretary of State Kissinger, and his assistant, Hal Sheets.

The 66-page study asserted that officials of the United States Agency for International Development and other relief organizations had known that a long-term drought was developing in the sub-Saharan region of West Africa for the last five years. Yet no contingency plans were drawn, the authors say.

The region covers six countries—Senegal, Mauritania, Mali, Upper Volta, Niger and Chad—with a population exceeding 20 million. The drought directly affected about two million people, primarily nomadic herdsmen.

Mr. Morris and Mr. Sheets hold that "a pattern of neglect and inertia" by the United States aid agency and the United Nations Food and Agriculture Organization caused emergency food and medical supplies to reach the nomads too late.

The study, released last night, drew a four-page response from the agency for International Development, acknowledging that there had been no emergency plan for the region. It also acknowledged that the United States relief effort in West Africa, totaling $129-million, or 35 percent of the international contribution, was not "a model operation."

But the agency rejected charges of neglect or inertia, as well as the report's allegation that "an administrative and bureaucratic disaster was added to the natural calamity."

The Carnegie Endowment which sponsored the report, was established by the steel magnate Andrew Carnegie in 1910 with a bequest of $10-million. It operates on a budget of a little more than $2-million a year and has a staff of about 60 in Washington, New York and Geneva. Funds are used for study, projects and publications dealing with questions of war and peace.

The study on African drought relief is entitled "Disaster in the Desert" and is based on extensive interviews with American officials and on previously unpublished documents.

It makes its strongest charges on the basis of the discovery of a United States Public Health Service survey dated September, 1973. That survey said that thousands of inadequately fed nomadic children faced imminent death from measles, for which vaccine was lacking.

The Carnegie Endowment study asserts that the health findings, prepared by field teams of the Center for Disease Control in Atlanta, had made clear the acute malnutrition and rampant measles epidemics many months before relief supplies were sent.

Yet the teams' reports remained in the files of the American and international agencies until it was too late to save many children, Mr. Morris and Mr. Sheets charged.

MILK, NOT SORGHUM

They added that emergency food shipments often consisted of sorghum, which they said was fit for cattle feed but not for starving children, who needed milk. Often, they charged, deficiencies in local transportation caused supplies to rest at dockside instead of reaching the famine victims.

The United States sale of grain to the Soviet Union also caused deficiencies in the relief effort, the authors said. Finally, they reported that there had been a distribution problem, in which the nomads from the desert suffered more than villagers on the fringes of the drought region.

[From the Christian Science Monitor, Feb. 13, 1974]

WEST AFRICAN DROUGHT WORSENS

(By Henry S. Hayward)

NIAMEY, NIGER.—Five long years of drought have etched leaden signs on the land and people throughout the six west African states south of the Sahara.

In spite of a brief rainy spell, this year will be another hard one for Mali, Mauritania, Niger, and Chad, with Senegal and Upper Volta only slightly better.

"1974 will make this year [1973] seem like the year of the horn of plenty," said a pessimistic aid official in Niamey in December.

With five months to go before they can plow, sow, and hope for rain again, farmers already are reported out of food and begging.

In Niger, alone, the shortfall of foodstuffs is reckoned at 300,000 tons below normal.

EXPERTS ARE PRESENT

"The situation is as bad as last year," a Western informant declared. "The only thing that is better is that governments and relief agencies are more aware of the dimensions of the disaster—and international experts already are on the scene."

Not until December, 1972, was the initial appeal for outside aid raised by the drought-stricken Sabel countries. Then the dryness already was two years under way.

Until then, the newly independent nations were either too proud to ask for help or unaware they faced a full-blown emergency.

Sad to say, there also was an element of racism involved. In short, the governments don't really care if some of their people perish. They may be members of a minority tribe, considered troublesome or rootless by the majority.

NO ONE KNOWS HOW SERIOUS

"Even in the best of years, a number of people die from malnutrition in this part of the world," observers here point out. "When food and water are scarce, life is cheap. Local people scarcely give casualties among the less fortunate a second thought."

Thus it is only when matters get greatly beyond this point that Sahel nations start to take a catastrophe seriously.

What are the human losses so far? "They must number 500,000," says one veteran observer. "But nobody really knows. No reliable statistics exist. That's why it's so hard to get essential aid. Some donors want facts and figures first—and they don't exist."

Of Niger's 4.2 million population, 1.2 million are nomads, 300,000 are Tuaregs, 700,000 are Peul or Fulani. And there are 80,000 refugees from neighboring Mali who walked over the border in hope of getting some relief.

Eighty percent of Niger is arid desert in normal times. The other 20 percent is good only for livestock raising and limited crops.

Belatedly, a huge relief operation now is under way. For the past 18 months, it can be described as intensive. Heavy American aid, for example, commenced late in 1972. The United States is far and away the largest contributor, having given more than twice all other donors combined. Without this input it is hard to visualize what the situation would be today.

Since Niger is 1,200 miles from the Mediterranean and 1,000 miles from the South Atlantic, getting aid here is no small problem. For example, Washington announced Jan. 23 it would be sending an additional 100,000 tons of sorghum grain at a cost of $10.5 million. It will cost another $9 million for ocean and inland transportation alone.

In December, Washington committed itself for another 150,000 tons of grain, making the 18-month total 506,000 tons. The value of U.S. aid is set at $100 million to date.

Distribution, meanwhile, is a fearsome problem once the foodstuffs arrive in-country. Roads are so poor only light vehicles can use them in many areas. Some routes shown on maps are best described as only tracks.

[From the New York Times, Feb. 16, 1974]

ON U.S. ASSISTANCE TO PARCHED WEST AFRICA

(By Maurice J. Williams)

WASHINGTON.—The continuing drought in the sub-Sahara region of Africa and the hardships it is bringing to the people who live there is one of the great tragedies of our time. It is, as it should be, of concern to Americans and, because of its magnitude and duration, there has been considerable comment on what the Government is doing to help, and how well we are performing our job.

The drought that has afflicted the Sahel, as the sub-Sahara region of West Africa is called, is no sudden catastrophe. It has been years in the building. United States officials in the affected countries—Senegal, Mauritania, Mali, Niger, Chad and Upper Volta—warned in the summer of 1972 that the poor rains for the fourth straight year could bring famine to this region of nomadic herdsmen and subsistence farmers.

The ecological balance of the area has been changing. The desert has been encroaching on grazing areas and farms, and the drought has accelerated the process. Trees have died. Lakes and rivers have dried up. Cattle weakened by successive years of drought have been unable to survive. Reserves of grain, including seed stocks, have vanished, and there has been a large migration of people in search of water and food.

The United States had been conducting a wide range of development programs in the Sahel region amounting to about $30 million anually to help with some of the essential needs. Nevertheless, the situation deteriorated seriously when the 1972 harvest fell far short of the need.

By November, 1972, the United States had already committed a substantial increase in food shipments to the area. By the time the six affected governments formally called for worldwide help in March, 1973, the first United States pledge of over $21 million in 156,000 metric tons of food was beginning to arrive. The United States Agency for International Development also provided $3.5 million in contingency funds to speed the delivery of this food to the rural areas in greatest need.

Other donors quickly joined in these relief efforts to provide food, medicines and other assistance—the total international effort in 1973 was over $120 million. A major limitation on effective relief in 1973 was not the over-all level of relief aid but the capacity of West African ports and transport to move food inland to the drought-affected areas. This capacity was augmented by airlifting food in planes from Belgium, the United Kingdom, West Germany, Canada, and the United States, among other countries. The drought deeply affected some two million nomads, many of whom were left destitute, as well as millions of others who became dependent on relief food. Widespread starvation was averted, but without the international relief effort millions would have died of starvation.

The summer rains in 1973 initially were believed to have been adequate for improved cereal crops and, hence, able to give the people of the Sahel a breathing spell to turn their attention to recovery and longer-term development needs. But the critical late-summer rains again failed. So in 1974 the Sahel—in particular Mali, Mauritania, Niger and Chad—again faces a potentially disastrous situation.

The United States and its partners in the international relief effort are already acting to assure that food, transport, medicines and other essential supplies are available to meet needs. The Food and Agriculture Organization of the United Nations estimates that over 550,000 tons of food grains will be needed this year before the October harvest. The United States has already committed 250,000 tons of food to meet this need, most of which will arrive this spring.

Food commitments from other donors and the United States should more than meet the F.A.O. target of minimum essential need.

Since the first warnings, the United States has provided more than $129-million in emergency drought relief food and other assistance—over 35 per cent of the over-all $340 million furnished by all donor countries and agencies. Food commitments have totaled 506,000 metric tons—more than twice the amount provided by any other single donor and about 46 per cent of all food shipments.

Solutions to restoration of the land must be found in new development approaches and the innovative application of what we have learned from experience elsewhere in the world.

A start has been made. Congress has authorized and appropriated $25 million in special relief funds for the Sahel and another $50 million has been appropriated and is being actively considered by the authorization committees. From the $25 million that is now available, the Agency for International Development has already committed $20 million for programs to rehabilitate and develop livestock herds, start vegetable and other garden projects, provide proteins and vitamins, make available health facilities and medical teams, dig wells and construct small reservoirs.

[From the New York Times, Feb. 25, 1974[

Famine South of Sahara

(By Martin Walker)

For the last year, one grim image has been running through the mind of Moise Pensah, one of the brilliant new generation of African administrators who runs the Food and Agricultural Organization for West Africa. It is the memory of a tribe in northern Chad, a tribe ravaged by eight years of drought. All their cattle were dead and most of their camels. Their undernourished children were too weak to resist an outbreak of diphtheria. But they begged Mr. Pensha to send no drugs. Starvation, they told him, would be too slow a death. Let diphtheria rage.

These lands of the Sahel, the six French-speaking countries of the southern Sahara, are among the poorest in the world and when this longest of recorded droughts began in 1966, the region was also trying to cope with the problem of over-population. The good intentions of aid organizations in providing pump-driven wells removed a vital natural restraint upon the cattle herds. Traditionally, the Tuareg and the Peul tribes had kept as many cattle as could be watered by hauling water from the ground. With unlimited well water, with vaccination programs and even minimal health care, the numbers of cattle and people probably doubled between 1959 and 1966.

The cattle began to overgraze the sparse desert grass. Soon trees were uprooted as food. The Sahara began to move. Last year alone it advanced up to 50 miles, creeping through thousands of villages in the 2,000-mile belt from Dakar to Lake Chad, destroying communities that had survived on subsistence crops of millet and sorghum and forcing the nomad herds of the Sahara to move further south.

The Sahel drought seems to be a part of a climatic tragedy which stretches at the same line of latitude around the earth from Nicaragua, through West Africa, through the Wallo region of Ethiopia and into India's Maharashtra Province.

Last year, the international community provided over $150-million in food grains, transport subsidies, cargo aircraft, children's food and drugs. A human tragedy was barely averted, although there were pockets of starvation, outbreaks of cholera and an almost total breakdown of the ecological balance which allows the nomadic way of life of the Tuareg and the Peul to continue. This year, there are only people left to suffer.

Already, F.A.O. officials estimate privately that another $150-million will be needed to keep alive the 13 million people who are again facing the threat of starvation. And that $150-million allows for no long-term remedial measures of reforestation and herd restocking which could make this area once again—as it was only 30 years ago—a grain-exporting region.

In this part of the world, statistics mean nothing. In Niamey, UNICEF made an official request for a breakdown by sex, age, region and medical history of children below the age of 15. Out of desperation and politeness, overworked civil servants invented what figures they could for a country that has never had a remotely accurate census. In the Sahara town of Agades, the prefect always thought "about 70,000" lived in his department. He thought about the refugees from Mali and divided his available food stacks into rations to feed 100,000. He actually was feeding over 150,000 people.

Thus there is no accurate figure as to how many people may have died as a result of the drought and malnutrition, and related diseases. One estimate, and it only that, is that 70,000 persons may have died.

What follows is a nation-by-nation examination of the drought and some of its effects in the Sahel:

Senegal: The richest of the Sahel countries, with the modern port-city of Dakar, has suffered the least. The best local estimates say a quarter of the cattle have died. But Senegal played host and Samaritan to the devastated remnants of the herds from Mauritania. And now Dakar and the major towns are surrounded by disease-prone shantytowns of impoverished farmers and herdsmen.

Mauritania: One of the hardest-hit, least-aided and most desolate lands on earth. Nobody accused the government of exaggeration when it asserted that three out of every four cattle were dead. Malnutrition and the nomads' difficulty in digesting Western aid food contributed to the ravages of cholera, measles and diphtheria. Even in "normal" times, one out of every two children dies before the age of 5.

Mali: The military government of Mali has probably taken the strongest steps to fight the drought, requisitioning vehicles, storage space and manpower to distribute the aid flown in by the United States Air Force and the R.A.F. But in the south, where communications and administration work best, herds and people have moved on into Upper Volta. In the barren and remote north, the problems have been compounded by refugees from Mauritania.

Upper Volta: Benno Haffner, the European Economic Community aid official, estimates that over half of his resources have gone to supply the refugees from Mali. About half of Upper Volta's cattle are dead, and over 600 villages have been wiped out by the advancing Sahara.

Niger: Last July, in the village of Tabelot in the barren Mountains of Air, the schoolmaster, Ama Dilla, showed a visitor the fresh graves of nine of his 31 pupils, dead of measles which they were too weak to resist. By last month, eight more graves had been dug near the tiny school. At the wells of Assouas, in the grazing lands of Ir-Hadez, all of the cattle and nine out of every ten camels are dead. Refugees from Mali and Chad, and the diseases of the N'dama cattle of the humid south infecting Niger's herds of Zebou cattle, have compounded Niger's own monstrous problems. Outside the capital of Niamey is a shantytown called Lazareth, in late November, there were 6,000 impoverished Tuareg there; 1,200 graves had been filled in the previous four months.

Chad: Internal guerrilla war and military security make Chad the least known area in the Sahel. But, it is clear that about two-thirds of the cattle are dead. Estimates of the number of people who have died of disease begin at 20,000.

[From the New York Times, Mar. 8, 1974]

Waldheim Says Worst of African Drought Is Not Over

(By Kathleen Teltsch)

UNITED NATIONS, N.Y.—Secretary General Waldheim, back from an inspection of drought-stricken areas of West Africa, said today that thousands were dying and "the worst is definitely not over."

Mr. Waldheim gave a grim account of conditions in the affected countries—Niger, Chad, Senegal, Upper Volta, Mali and Mauritania—and called for a "bold international effort of enormous scope" to rehabilitate the area.

To carry out this effort, which he likened to the Marshall Plan, he presented a catalogue of 123 suggested projects for dams, irrigation and agricultural improvements to the six governments that had requested help. United Nations authorities gave an estimate of $875-million for the projects, which they hoped could be financed by contributions from countries and international agencies.

LACK OF FORESIGHT

At a news conference Mr. Waldheim conceded that the world might not have been sufficiently alert to the magnitude of the West African famine brought on by five years of drought.

Last week, the Carnegie Endowment for International Peace charged in a study that the United States Government and international agencies had been remiss in preparing relief programs, and that this contributed to 100,000 deaths. This estimate was disputed today in a statement by the Food and Agriculture Organizatin, a United Nations body, as "not supported by authoritative evidence."

The Secretary General stressed that the six countries had kept hoping there would be a change in the weather that would ease the famine and that they did not want to accept the drought as a permanent situation.

"I should not criticize too much the international organizations," Mr. Waldheim declared.

Mr. Waldheim said transportation and distribution of relief supplies was the major problem now. He said he had seen piles of food in the capitals that could not be shipped to afflicted areas in the north, because not enough trucks were available.

"There are thousands of people dying, especially older people and chidlren who cannot walk to the south," Mr. Waldheim reported. "They have lost their cattle and cattle was all they had."

He added that he had been prevented from flying to two of the most seriously affected areas because of sandstorms and because airstrips were destroyed by heavy cargo planes that had delivered relief supplies.

John A. Scali, the chief United States delegate, after seeing Mr. Waldheim yesterday, remarked that he did not accept the criticism of American aid made in the Carnegie report. He said the United States had given $129-million in assistance—more than any other country, and he wished "others" had joined in.

REBUFF BY PARIS REPORTED

American officials privately complained that earlier offers of assistance had been discouraged by French authorities, probably because they feared that such help would give the United States political leverage in former French territories.

According to these officials, the United States routinely asked France's cooperation on such aid because of the French Government's strong political and economic involvement in Africa. In this instance, they said, the French were reluctant to help arrange airlifts and one official added: "We even had trouble convincing the French there was a problem as late as April 1973."

France had a regular aid program for the six countries totaling $350-million over the three-year period from 1970 to 1973. It covered technical assistance, training, investment and budget support. Beyond that, she spent $10.6-million to fly and distribute grain in 1973 and allocated $11.5-million for similar help in the first seven months of 1974.

Meanwhile, the Director General of the Food and Agricultural Organization, Addeke H. Boerma, in a statement from Rome, said that the agency had come across no such evidence of deaths by starvation as reported by the Carnegie Endowment.

Defending the agency's relief efforts, Mr. Boerma said that the six nations affected had declared disaster areas in March, 1973, and that he had acted earlier to organize a field force to help them. Food began moving into the area in 1969, it was said. Mr. Boerma stressed the difficulties encountered by the governments in getting supplies to isolated and roadless areas, and said the Carnegie charges of neglect and inertia were grossly unfair."

ENERGY POLICY

Mr. MATHIAS. Mr. President, the failure of the Senate on March 6 to override the President's veto of the National Energy Emergency Act ends another chapter in what has been a discouraging narrative of delay and confusion. S. 2589 contained much needed authority for coping with energy shortages. The bill did, however, also contain at least one ill-conceived provision, a congressionally mandated rollback of oil prices. This weakness was softened only slightly by the temporary nature of the bill.

So I am not concerned that we have lost the price rollback provision. The extravagant promises made in connection with the rollback would have worked a cruel hoax on the American public. But, I am deeply concerned that the Federal Energy Office still lacks statutory authority to exist, that their actions are unchecked by the administrative procedures which I proposed and which are designed to insure due process and accountability, that unemployment compensation has not been tailored to meet energy related layoffs, that service stations are not protected from the arbitrary cancellation of their leases, that authority to grant variances in an orderly manner under the Clean Air Act has not been established. All of these measures were in the bill and they have been temporarily lost.

Carl F. Christ, professor of political economy at the Johns Hopkins University has recently written to me concerning the present condition we find ourselves in, the merits of a price rollback, and price controls in general, and the provisions by which we tax the oil companies.

I commend his views to Senators and I ask unanimous consent that the full text of his letter be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATHIAS. Finally, I would note that much of the debate which has taken place regarding oil prices and supply focuses on the question of whether there is an acceptable level of competition among the energy companies. Many Senators find competition in the marketplace lacking. I share that view. Price controls will not solve the problem, but may actually carry us irrevocably away from the beneficial discipline of the marketplace. Senators who believe there is a lack of competition and that the public is paying the price should explore ways to structure the marketplace so as to foster the necessary competition rather than stifle it through inefficient controls.

EXHIBIT 1

THE JOHNS HOPKINS UNIVERSITY,
Baltimore, Md., February 23, 1974.

Hon. CHARLES MATHIAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: This is the letter that I promised you about the oil problem when we met at the reception at Hopkins yesterday.

There are three aspects of our oil problem that must be dealt with.

The first is the allocation of the supply that's available at any moment. This is now being done in a most wasteful manner, namely by allocating gasoline to those who are willing to wait longest in line for it . . . all that time spent by all those people is wasted unnecessarily.

The second is the increasing of the available supply. We are now doing very little in this regard. Those who have a choice as to where to sell their oil cannot be blamed for selling it in Europe and Japan where it brings higher prices than oil sold under price ceilings here. Those who have a choice as to whether to devote resources to finding oil (either on world markets or in the ground) to sell here cannot be blamed for declining to devote costly resources to the obtaining of a product that can be sold in the U.S. controlled-price market only at a loss.

The third is the equitable treatment of oil companies' profits. We currently have several preferential provisions in the U.S. tax system that favor oil companies, with no justification that can be defended.

ALLOCATION OF SUPPLY

The long waiting lines reported in many states are ridiculous and unnecessary. Japan, England, the Netherlands, and other countries in Europe face the same circumstances regarding oil as we do, even worse because they have less domestic crude oil capacity, yet they have no waiting lines, no panic, no surgeons unable to get to operating rooms on time. Returning travelers and news reports make this clear. Why do we have long lines and near panic?

The reason is simply that we alone have declared as government policy that the customers shall not be allowed to bid up the price of gasoline and fuel oil. We have put a ceiling on prices. Other countries have not.

The effect of a price ceiling is typically to result in all the symptoms of a shortage. Whenever a price is held below the point where buyers would bid it up to, then of course there are more would-be buyers than can be served. Sellers then must have some way of apportioning the available supply, and it inevitably dissappoints some of those who want to buy at the controlled price. If sellers decide to use a first-come-first-served basis, the result will be long waiting lines, which waste's everyone's time and also in this case waste gasoline in thousands of idling engines. Some sellers will resort to favoritism, perhaps of old customers, perhaps to those who will pay more under the table.

You and I have seen it many times before. It began to occur in gasoline in the summer of 1973, but the shortages then were not great because the price ceiling was not very much below the price that customers would have been willing to pay. It occurred with a vengeance during rent control in World War II.

The same principle works in the opposite direction whenever government fixes a price floor that is above the price that sellers would be willing to make offers down to: the great agricultural surpluses in the U.S. were the direct result of government-established price floors.

There is not any doubt that today customers would willingly bid the price of gasoline up above the price ceiling now allowed. Look at the personal inconvenience that people will bear, and the time they will devote, to trying to be among the ones who do obtain gasoline at the current ceiling prices, rather than be among the ones who do not. The simple fact is that in today's conditions, oil is sufficiently scarce that its value per gallon has risen, and is above the price ceiling.

If the price ceilings are removed, prices will rise, and the waiting lines will disappear overnight.

For decades, centuries, human societies have been allocating scarce supplies of thousands of commodities without waiting lines and panic, merely by permitting buyers and sellers to bid and offer in the market. We should continue to do so. Other countries with greater oil difficulties than ours show that it's perfectly possible.

INCREASING THE SUPPLY

Now consider means of increasing the available supply, not merely of gasoline and oil from conventional sources, but of energy of all kinds.

Under the present price ceilings in the U.S., we are like a wishful customer who goes to market, funds that the price of the product he wants is say 65 cents, and then asks sellers please to sell him some for 50 cents, indeed, to sell him all he wants at 50 cent. This is a buyer.

If the price ceilings were lifted, I mean removed entirely, the first response would be a price increase. The second response would be a realization by sellers in the world market, and potential sellers too, that the U.S. wants more oil and will pay for it, so sellers would shift some of the available supply away from Europe and Canada and Japan (which now are willing to pay more than we can legally pay under our ceilings) to the U.S. That would increase the supply available here. Further, the higher prices paid here would encourage the development and production of oil and of other sources of energy, which would produce an increase for the world as a whole, some of which would create a further increase in the supplies available here. These increases in supplies would cause the price to fall again, not so low as the present ceilings, but below the level that would prevail in the first few days after the ceilings were removed.

We saw the same thing happen in the beef markets a few months ago.

It is hard to predict what the price of gasoline would be in a few months after the lifting of ceilings, but the price rises in Japan, England, and Europe in the past 6 months would give a rough guide: increases of perhaps 50 percent over the prices of last summer would probably be in the ball park.

Thus the removal of the price ceilings would solve the waiting-lines and panic problem, and would also contribute to increases in the available supply.

OIL PROFITS

We have seen increases in population and in income per person in all the oil-using economies of the world. This has meant that the amount of oil that customers would want to buy at prices of last year and the year before has risen . . . people buy more cars, bigger houses, more air conditioners, and more industrial goods that are produced in part with oil. Placed against existing oil supplies, some of which are owned by Near Eastern governments and some of which are deep in the ground and expensive to extract, the price rises. This always results in increased profits for those who extract, process, and sell the product. What should be done?

If the oil industry were an ordinary industry, taxed like everyone else, and subject to effective competition inside and outside the industry, then the traditional American approach would be fine: rely on the corporation income tax to take a share of corporate profits, and rely on the progressive income tax on personal income tax (and the progressive gift and inheritance taxes) to moderate the effects of increased profits, and to make a share of those profits available for public purposes through government decisions about how to spend those taxes revenues.

The oil industry is not taxed like everyone else. It has several important tax preferences that should never have been granted, and should be removed forthwith.

Only the Congress can do that.

First, percentage depletion should be repealed. Then oil firms would be limited to charging off against income only the actual amount of costs incurred in oil exploration and development, through the so-called cost depletion option (which is now available in the law, but which is rarely used by an oil firm because percentage depletion yields such a large tax advantage).

Second, the privilege of writing off as current expense the so-called intangible drilling costs should be repealed. Cost depletion is an available option here too under the present law, and is perfectly fair.

Third, the privilege of writing off the expenses of dry holes as current expense should be repealed. Here again, the present law provides that an available option is to take cost depletion on these costs, and that is quite fair.

(In the three aforementioned matters, you are probably aware that the *cost*-depletion method provides that the firm may regard each of those three kinds of cost as capital expenditures, and may under "*cost* depletion" charge off those costs over a period of time against income, in much the same manner as depreciation. Under *cost* depletion, the firm may not charge off more than the cost incurred. Under *percentage* depletion, if the value of the deposit discovered is much greater than the cost incurred to discover it, the firm may in some cases write off far more than the cost incurred, and hence may have in effect a much lower tax rate on its income than other firms do, because such an oil firm's "income" is understated because of the percentage depletion feature.)

Fourth, the privilege of treating income as capital gains (and thus limiting the tax rate applicable) should be limited in oil and gas so that its operation is more in line with what other industries must do.

Sincerely yours,

CARL F. CHRIST,
Professor of Political Economy.

GENOCIDE ACTIVITIES IN PARAGUAY

Mr. ABOUREZK. Mr. President, on March 2, 1974, the International League for the Rights of Man released a letter to me which was addressed to the Secretary General of the United Nations. The letter charges the Government of Paraguay with a "consistent pattern of genocidal activities as well as other gross violations of human rights and fundamental freedoms."

The letter charges that the members of the Aché Indian Nation in Paraguay are presently the victims of a rein of almost unprecedented terror characterized by slavery, massacres, starvation, torture, and other conditions of inhumanity which have taken on genocidal proportions and have been carried on with the apparent approval and even connivance of Paraguyan governmental agencies.

Achés are being systematically hunted by armed raiding parties. Men, women, and children are being indiscriminately mowed down in party "hunts." The preferred weapon of the massacre is the machete, which saves the hunters the expense of bullets.

An exception may be made for Achés who submit to being tamed and trained as killers of their own kindred. Their reward is a diet capable of insuring survival and the assignment of captured Aché women as their wives. Those willing to accept unadulterated slavery may also be kept alive for indefinite periods as work hands at a bare subsistence level and without medical attention.

Recently, I received a copy of a receipt made out for payment for work done by Aché slaves. A Paraguyan rancher paid an American Aché reservation administrator 2,500 guaranis for work done by his Indians. In addition to the receipt, I received a letter which was written by the rancher who told of the slaves' fear of returning to the reservation:

> I was struck by the fear that this man (the administrator) inspires in these Indians, the rancher wrote. When they noticed he was there (to return them to the reservation), they started to run away into the forest—many wept.

While on the reservation, the Indian slaves are discouraged from using their own language and Aché music is expressly forbidden. The death rate from diseases of malnutrition and sheer lack of will to survive is one of the highest in the world.

This inevitable attrition is accelerated by such acts as that reported by a team of anthropologists—that "about one-half—of a recently captured band of Achés was liquidated, partly by the conscious withholding of food and medicine," by the Paraguayan Government.

The rites of their religion are denied the Achés even in death. What is felt by the survivors is a pervasive melancholy and a sense of degradation, rarely capable of verbalization, yet occasionally captured in a weeping song which laments the end of the Aché Nation and "regards himself as no longer an Ache and not even a human being * * * and half dead."

Not unreasonably, the letter to the Secretary General calls on the United Nations to seek implementation of the Genocide Convention and the relevant principles of the United Nations Charter, and the Universal Declaration of Human Rights.

The Genocide Convention, which has been signd by Paraguay, and which must be viewed as part of the customary Law of Nations, explicitly encompasses all of the activities described in the league letter.

The information contained in the letter to the U.N. is largely based on extensive firsthand observations by a German anthropologist, Dr. Mark Munzel. His report cites firsthand accounts of the barbaric and inhumane treatment of the Achés. Munzel's photographs, included in his report, shows the bloated bodies of the dying on the reservations.

His attempts to persuade the killers to abandon their pursuits have been fruitless. What is more, there have been few who have come to the aid of this once proud and now diminishing nation. The Catholic Church in Paraguay has acknowledged the existence of terror and has denounced it. So has the World Council of Churches.

European governments and their press have also denounced Paraguay's genocidal policies and at various times have featured accounts of the liquidation of these hapless peoples.

The U.S. Government has played its typical ostrich-like role of sticking its head in the sand for fear of seeing something they do not want to admit is happening. In a response to an inquiry from Congressman DANTE FASCELL, the chairman of the House Inter-American Affairs Committee, the State Department admitted that they are aware of incidents where Ache Indians have been the victims of harsh individual acts, but simply write off this grave situation as the acts of irresponsible ranch hands who were said to have been drunk, and rationalize the problem by stating that the treatment of Achés is basically an internal matter.

Yet, we have been dumping massive amounts of foreign aid into Paraguay since 1954, the year Alfredo Stroessner obtained his dictatorial power. Over $200,000,000 has been pumped into this ruthless regime and more is on the way. American investment has been overwhelming from both the private and governmental sectors. As with most U.S. foreign aid, the impoverishment of the Paraguayan masses, of course, remains unaffected.

The State Department assertions that the mass atrocities which have been committed is simply the work of a few, drunken ranch hands, rings of the public naivete expressed of the illegal Cambodian bombing and U.S. involvement in the overthrow of some foreign governments.

While the extermination of the Aché population has been progressing, our relations with the Paraguayan Government have even improved. General Stroessner stated once that he even considers the American Ambassador a member of his cabinet, in describing the close relationship which the two countries share.

Liquidation of the Acheé has progressed apace with the roadbuilding and settlement of civilized communities upon undeveloped land—with the heavy financial assistance and encouragement of the United States.

Mr. President, I think that the time has long passed when this country could afford to hold out its hands and turn its head the other way in doling out its billions of dollars in foreign aid money. A government which is bent on the mass extermination of part of its people does not deserve our aid any more than a convicted and professed killer deserves a welfare check.

The time has come for Congress to go on record in opposition to the genocide of this Indian nation, and to call on the Nixon administration to use its great influence with the Stroessner regime to put a stop to this gross violation of the basic rights of all men. I believe that refraining from doing so is tantamount to complicity to the torture and murder which continues to run rampant in the bloody lands of our South American friend.

Several excellent reports have been written on this problem in recent weeks, which describe in further detail the terror and repression which the Achés face every day of their lives. I ask unanimous consent that these articles, as well as the letter from the International League for the Rights of Man, be printed in the Record.

Temple University,
School of Law,
Philadelphia, Pa., March 1, 1974.
His Excellency Kurt Waldheim,
Secretary-General of the United Nations,
United Nations, N.Y.

Dear Mr. Secretary-General: On behalf of the International League for the Rights of Man, and at its request I address this letter to you as its Communication Concerning Genocide and Gross Violations of Human Rights in Paraguay.

You will see that this communication (with its annexes) reveals a consistent pattern of genocidal activities as well as other gross violations of human rights and fundamental freedoms by the Paraguayan Government.

The victims of these acts of genocide and other gross violations of human rights and fundamental freedoms cannot speak for themselves. Applications made on their behalf by governments, organizations in consultative status with the United Nations and religious groups have been peremptorily rejected. This applies to the rejection by the Paraguay Government of: Danish diplomatic representations in 1973; the intervention of the International Commission of Jurists of the same year; and representations made by spokesmen of Catholic, Protestant and Jewish religious organizations in an interview granted to them by the Paraguayan Ambassador in Washington on January 8, 1974.

It is relevant in this context that the Director of the Paraguayan Department of Native Affairs is identified as engaging in described violations.

The Indian tribe under attack—the Achés (of Guayaki linguistic stock) are not capable of speaking for themselves, not only for the above cited reason, but because of the reign of terror highlighted by slavery, physical extermination, starvation, torture and related conditions of inhumanity, launched against them and unremittingly pursued with governmental toleration and complicity in relatively inaccessible areas of Paraguay. They are thus without access to any member of the Paraguayan officialdom save their persecutors.

Similar Indian tribes—beyond the reach of academically independent anthropological research teams—located in more remote parts of Paraguay may be suffering a similar fate, although the latter—unlike that of the Achés—is not subject to incontrovertible documentation.

The fate of the Achés is summarized in the statement furnished by the University of Bern in January of 1974 and appended as Annex I:

"They are and continue to be subject to genocidal extermination by acts of physical killing, the deliberate creation of conditions of starvation, semi-starvation and psychological stress including but not limited to the denial of cultural expression to survivors and by salary."

Genocidal acts committed against the Achés are further documented in Annexes II, III and IV respectfully setting forth the experiences of Dr. Mark Munzel, a recent eye-witness, with further up-to-date information in his summary covering all of the available evidence on genocidal acts in Paraguay up to and including January 1974. These acts include the systematic degradation of individual men and women—both as members of the Aché ethnic group and as members of families. Aché chiefs are tortured to secure a breakdown of their authority within the Aché group and a consequent disintegration of group identification; Aché tribal rites including religious worship are prohibited and such families as survive are split up and their members including children sold as slaves to the available bidders. As described by Professor Miguel Chase Sardi at the Catholic University in Asuncion, the Achés are:

"Pursued; they are hunted like animals, the parents are killed and the children sold as slaves and there is not one family in which a child has not been murdered as well."

And all such Aché hunts are accompanied by military vehicles, subject to the orders of the Ministry of Defense. This described pattern of oppression is not solely calculated to inflict untold suffering, but directed at the disappearance of the Aché ethnic group. Inevitably, even survivors are observed to have abandoned any will to live. They are rounded up and permitted to survive as slave laborers or worse, and deprived of their cultural identity. The net result is the wholesale disappearance of a group of human beings subject to the protection of the genocide convention.

The object of this communication is to seek implementation of the United Nations Charter, the Universal Declaration of Human Rights and other applicable instruments in the human rights field. In particular, attention is drawn to the Convention on Genocide defined as "any of the following acts committed with intent to destroy in whole or in part a national, ethnical, racial or religious group as such": "killing members of the group," "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part," "imposing measures intended to prevent births within the group," "forcibly transferring children of a group to another group," "causing serious bodily or mental harm to members of the group."

Among the rights in the Universal Declaration of Human Rights that in Paraguay have been and are grossly violated are these:

The right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

The right to life, liberty and security of persons, and to be free from arbitrary arrest and detention.

The right not to be held in slavery or servitude.

The right to equal protection against discrimination that violates the Universal Declaration of Human Rights.

In Paraguay, the atrocities have been and continue to be perpetrated on and near the Indian reservation by individuals including officials under the direct control of the Government of Paraguay. Governmental inaction, highlighted in Annexes II, III and IV, bespeaks a settled policy which cries out for international action.

Therefore, Mr. Secretary-General, we request that you proceed pursuant to ECOSOC Resolutions 728F and 1503 to secure a study or investigation of the pertinent facts and that you recommend whatever steps may be appropriate to help secure the study or investigation we herein request.

It should be recalled that Paraguay, as a Member of the United Nations, more than a quarter-century ago pledged itself to take joint and separate action, in cooperation with the Organization, for the achievement of the human rights goals set forth in Article 55 of the United Nations Charter.

Sincerely,

Richard Arens, *Counsel.*

Affidavit

Dr. Mark Münzel, being duly sworn according to law, deposes and says:

As an ethnologist specialized in research on South American Indian groups, I obtained my Ph-D at Goethe University, Frankfurt. There, I have been teaching South American ethnology. Presently, I teach general ethnology at the University of Giessen, and I am Director of the South America section of the Ethnographical Museum of Frankfurt. For 2½ years I participated in the social anthropology research program of Museu Goeldi, Brazil, carrying out research among the Kamayurá Indians of the Mato Grosso and the Makú and Tukano of the Brazilian North West Amazon. At another occasion, I carried out a field research among Indians of the Cuzco zone, Peru. From July 1971 to June 1972 I was in Paraguay, mainly among Aché Indians of Colonia Nacional Guayaki. I was invited there for anthropological field research by the President's Technical Planification Secretary and the Catholic University of Ascunsción. This stay was financed by the German Research Association. I was accompanied by my wife Christine Münzel. We had both learnt the Aché idiom before.

The Aché of Paraguay are persecuted, often killed, their children sold as slaves. These facts have been admitted by Paraguayan pro-governmental newspapers, official spokesmen, scientists, church dignitaries (cf. sources cited in my IWGIA report). According to the Paraguayan authorities' own thesis, they are not implicated in these acts, but have on the contrary established a reservation, the "Colonia Nacional Guayaki", as a shelter for the persecuted Aché.

(1) Minimum calculation: Achés total 1962: 1255; 1972: 892. Vanished 1962–72: 363=28.92%.

Reasonable estimate:

Achés total 1962: 2227; 1972: 1152.

Vanished 1962–72: 1075=48.27%.

Reservation: Total input of Achés "attracted", 1962–72: 307 (minimum) or 394 (reasonable estimates). Reservation Achés 1972: 202. Vanished 1962–72: 105=34.20% (minimum) or 192=48.73% (reasonable estimate).

Although these figures include neither the disappearance of persons born in the Reservation nor the recent loss of human lives in the Reservation after July 1972, they show: Loss percentage of human lives in the Reservation is not much lower, or is higher, compared with the Achés total. Those responsible for the Reservation are the same who, according to Paraguayan legal dispositions, are responsible for the security of the Achés outside the Reservation: The military authorities, particularly the Native Affairs Department of the Defense Ministry.

(2) In the just named Reservation, I tape-recorded a great number of depositions of Aché Indians. They insist on certain facts:

(a) Outside the Reservation, these Aché were persecuted. Any family in the Reservation has many relatives murdered and children carried off. The Aché Máximo Pereira stated: His cousin and another man were killed by military or police men. According to the descriptions, manhunts changed since about 1968, from occasional attacks to systematical "cleanings" and to long-ranging hunts often going on day and night during months.

(b) To the Reservation, the Indians (except a group of 20) were brought as captives against their will. Indians were killed during these captures in which military personnel participated since 1966. The manhunters (some of whom Aches forced to participate) sometimes had rests in military compounds. At least 1970, transport of captured to the Reservation was realized on military trucks.

(c) Several Reservation children were taken away from their parents and given to outside people. The Aché boy Krajági, son of the Aché woman Falipa Pereira, was taken away by military or policemen in uniforms.

My own eye-witness observations:

WITHHOLDING MEDICAL ASSISTANCE

(3) 20 Sept., 1971 on the Reservation, the Aché Lorenzo Pereira was bitten by a poisonous snake. The man in charge of the Reservation refused to help him with a serum and only changed his mind at the arrival of 3 more witnesses from outside. The victim was finally taken to hospital. The main Administrator, Mr. Manuel de Jesús Pereira, who had been absent that day, got very angry when on his return he was informed about the incident. He told me there was no need to help an Indian with a serum, nor to take him to hospital.

(4) October 1971 flu spread in the Reservation. The administration took no steps against it, although, (a) it disposed of enough medicaments and had the possibility of calling a doctor, (b) it is well known that flu can be mortally dangerous to the Aché. My wife and I administered medicaments of our own. When the Administrator became aware of this activity of ours, he told us to stop it.

(5) This non-assistance was repeated in March 1972, when flu brought about imminent mortal danger to many Achés. Father Melia (a high church dignitary) and I visited General C. Bejarano (President of the Indigenist Association of Paraguay) in his home at Asuncion on 13 March and informed him. My wife and I visited Colonel Infanzón (Director of the Defense Ministry Native Affairs Department) in his office on 21 March and informed him. But the authorities took no steps, what lead to the fatal consequences described on p. 54–56 of my IWGIA report. In April, I saw dead bodies of Reservation Indians who looked starved. At that occasion, the Reservation Indians asked me for food saying they were hungry.

TORTURE

(6) 8 March 1972 on the Reservation, the Administrator, Mr. Pereira, showed me an Indian just captured and said this was a chief to be "careful" with. On May 26, 1972, I saw the same Indian again, his right leg injured, obviously by contacts with fire, on 3 spots (cf. photo of him taken by someone else one day later, p. 48 IWGIA report). He said he had been tortured by the Administrator who had pressed pieces of burning wood against his legs. This was confirmed by Indian witnesses.

(7) 20 Oct. 1971 on the Reservation, the Administrator punched the Aché Kandepukúgi brutally in the genital organs several times, then kicked in the same and other parts until Kandepukúgi fell to the ground, then continued the treatment until the victim lost consciousness. This scene, to which I was not present, was vividly described to me 5 minutes later by Indian witnesses, and me the fresh wounds he had obtained during 2 hours later by the very victim who showed the treatment.

SLAVERY

(8) On the Reservation, I was offered a 15-year-old Aché woman "to serve" me. The offer was made in a disguised way on 17 Aug. 1971 by Cnel. Infanzón, Director of the Native Affairs Department; in a direct way, with reference to the sexual pleasure this woman could offer me, by the Reservation Administrator, Mr. Pereira; on 12 Sept. 1971. As I showed no interest, Mr. Pereira offered me an 11-year-old girl. Neither the woman, nor the girl, nor their parents or other relatives were consulted.

(9) 21 Sept. 1971 on the Reservation, I met the Aché Kandepukúgi with a Paraguayan who told me he was taking him to a place outside the Reservation (thus separating him from his people) in order to make him work there. From Kandepukúgi's emotion, it was clear that he was following the Paraguayan against his free will.

(10) The Reservation Indians were not consulted about the work they were ordered to do. Most of their labour's products were carried away with no benefit left for them. They received no payment, only what was necessary for their survival, sometimes less.

CULTURAL DESTRUCTION

(11) The Administration tried to destroy the Indian culture of the Aché. Cf. details in my IWGIA report, p. 31–33. The loss of cultural identity leads the Reservation Indians to consider themselves as no more human beings and often to desire death.

MANHUNTING

(12) 8 March 1972 on the Reservation, my wife and I observed the "voluntary attraction" of 80 new Indians to the Reservation. They marched in the middle between men with machetes and firearms, obviously nervous from fear. They were brought to a hut where they were still surrounded by armed guards. The first day, they only left the hut in groups under escort to satisfy their physical necessities. Their general mood was desperate. Many of their women passed most of their time weeping and complaining about "capture on end", while several of their men refused food and refused talking except for saying that they would prefer to die.

CONCLUSIONS

These do not represent isolated events, but a consistent pattern, as confirmed by other cases cited in my IWGIA report, and by still other cases which I cannot explain in detail if I care for the security of the persons who informed me about them. I believe that those cases which I am informed about represent only the peak of the iceberg. Moreover, judging from scattered informations I received about the situation of certain other Indian groups in Paraguay, I fear that the Achés are not the only Paraguayan Indians who suffer from persecutions. Those Paraguayan Indians who, by their reluctance to integrate, can be compared to the Achés, might be in part even more persecuted: The Ayoreos (also called Moros), some 2500; the Tomarxa (also called Chamacocos bravos), some 1000; the Manjuy, some 500. Investigations about these groups' situations seem to me to be very urgent.

The Reservation Administrator until Sept. 1972, Mr. Pereira, was a non-commissioned officer of the Paraguayan Army, and as such bound to military orders. As Administrator, he was directly submitted to the Native Affairs Department of the Defense Ministry he was a functionary of. The hierarchic structure of Paraguay's social and political order would make it impossible to a single man of low military grade, as Mr. Pereira, to act against against orders of his superiors.

The Reservation Administrator Mr. Pereira was dismissed of his functions in 1972, but I am informed that he was allowed, when leaving the Reservation, to take with him a group of Aché slaves. I am also informed that another group of Reservation Achés was forced to join a military compound where the women are being used as prostitutes. Mr. Pereira's immediate superior, Cnel. Infanzón, Director of the Native Affairs Department, still occupies his post. No preventive or other measures have been taken against those private persons who, as namely Mr. Parini of the town of Coronel Oviedo, are said to have ordered and suspected to be able to order again manhunts against Achés. No trial has been accomplished against Mr. Pereira or Mr. Infanzón.

Reports of 1973 make suppose that the situation of the Achés is still bad—namely, that they are still persecuted in the forests, and deprived of elementary rights like that of guarding their own cultural identity in the Reservation. As those responsible for the persecutions still dispose of total liberty of action, I fear the total disappearance of the Aché Indians. Perhaps, other Indians are threatened as well.

SLAVERY JUST ONE THREAT FACING PARAGUAY TRIBE

(By Jonathan Kandell)

ASUNCION, PARAGUAY, Jan. 11.—In the jungles of eastern Paraguay a small Stone Age hunting tribe of Indians is facing a losing battle to preserve a primitive culture and way of life from the onslaught of the white man.

Until less than two years ago the members of the Aché tribe were the victims of manhunters intent on slaughtering them, enslaving their infants or forcing them onto reservations. Examples of slavery abound even today in eastern Paraguay, and occasionally here in the capital.

The Indians have been further decimated by epidemics contracted from their first prolonged contract with whites. Although a missionary-run reservation in a jungle clearing has recently made the first real attempts to improve their economic and physical well-being their traditional way of life appears to be rapidly and inexorably coming to an end.

Anthropologists and Paraguayan officials concerned with Indian affairs estimate that the Achés number no more than 500 to 1,000. Those who have remained in the jungles find their hunting grounds constantly diminishing. The few hundred who have voluntarily turned to the reservation must make the difficult transition to a sedentary agricultural life, pervasive government indifference and the outright hostility of assimilated Indians and white settlers moving into virgin territories.

IT'S AN OLD STORY

The story is as old as the conquest of the Americans by the Spaniards more than 400 years ago. The descendants of the Conquistadors are thrusting out from the cities and the plains into the last wilderness in search of new land and raw materials. And as their ancestors did centuries ago, they are encountering, annihilating and "civilizing," the last of the original inhabitants.

In Brazil a vast national effort to open the hinterlands of the Amazon could uncover incalculable wealth in wood, minerals, farmland and other natural resources. It has also often exposed Amazonic tribes to brutal mistreatment.

In the late sixties Brazilian officials disclosed that even the Indian Protection Service was deeply involved in atrocities against its charges. In *1968* a Government investigation into treatment of the Long Belts in the Mato Grosso documented cases of slaughter, intentional starvation, induced epidemics and sexual assault. Although some unscrupulous officials have been replaced, occasional reports of brutality still filter out.

In Chile the Mapuche Indians, for decades crowded into the worst farmlands of the agriculturally rich province of Cautin, about 40 miles south of Santiago, the capital, benefitted somewhat by the land-distribution programs of President Salvador Allende Gossens, the Marxist who was ousted last September. They also became the victims of a fierce political game, with ultraleftists urging the Indians to seize former ancestral lands from the conservative farmers who are descendants of European settlers.

DEATHS IN LAND DISPUTES

In the last three years about a dozen people—most of them Indians—have died in land disputes. Within two weeks after the military coup against the Marxist coalition Government, the conservative farmers disclosed that the Mapuches had been evacuated from most of the seized farms.

On the other hand, there are a few positive examples of Indian treatment, such as the efforts of the Peruvian military Government to better the lot of the descendants of the Incas. Attempts have been made to recultivate ancient communal lands and to link impoverished rural communities with vast modern farms and ranches recently expropriated by the Government. A few educational programs have begun using Quechua, the Indian language, instead of Spanish.

But most of the 15 million to 25 million Indians in Latin America live in numbing poverty, with diseases that wipe out almost half their infants and cut average life expectancy to less than 40 years.

In such countries as Argentina and Chile, where Indians are heavily outnumbered by descendants of Europeans, their problems rank low on governmental priority lists and their very existence is often denied by the urban middle class.

In other nations—where the Indians' numbers are larger and their assimilation is unquestioningly equated with progress—it is widely assumed that they will painlessly incorporate themselves into modern society, intermarrying with mestizos or even whites and somehow finding employment on farms and in factories.

BICKERING AMONG PROTECTORS

The Aché has drawn considerable attention, particularly in European anthropology circles, as a poignant example of the worst type of treatment. But, sadly, even as the Achés edge perilously close to extinction, there is heated bickering among their proclaimed protectors over how to alleviate their plight.

"We have no Indian problem to speak of in Paraguay," said Col. Tristan Infanzon, head of the Government's Bureau of Indian Affairs, noting that the 40,000 to 80,000 Indians, divided into 16 tribes, represent less than 4 per cent of the 2.3 million Paraguayans.

Colonel Infanzon, a stanch supporter of the 20-year-old right-wing dictatorship of Gen. Alfredo Stroessuer, believes that most of the severe critics of his Indian policy are "politically motivated left-wingers."

"Nobody is going to stop progress," the colonel asserted. "If we left the Aché in the jungles, they would not survive, and we are not going to preserve them as guinea pigs for anthropological study."

Though acknowledging the lack of financial aid, he noted the existence of a handful of professional employes of Aché background as evidence that "some Achés have overcome their disadvantages largely through their own efforts."

LAISSEZ-FAIRE DEPLORED

A retired General César Belatane, president of the private Indian Society of Paraguay, also believes that the primitive hunting culture of the Achés is inevitably doomed, but he has spoken out sharply against the Government's laissez-faire attitude toward exploitation of the Indians.

"We must assure them agricultural lands and attempt the community's economic and social development as a whole," he maintains. "We cannot depend on the chance formation of a small élite. If one or two Indians have achieved success in white society, it is crazy to believe that they all will return to help their tribe."

Most anthropologists who have studied the Achés urge that a jungle area large enough to maintain their nomadic hunting life be set aside by the Government—a territory that could expand to 2,300 square miles or more.

"From the point of view of the modern anthropologist who believes in cultural relativism," Miguel Chase Sardi, a Paraguayan ethnologist, explained, "there is no culture that can be called superior to another one. Taking into account our obligation to respect all cultures, anything short of preserving the Achés' traditional way of life would amount to cultural genocide."

"Assimilation means converting Indians into the cheapest labor reservoir," he added. "They will remain discriminated against, impoverished, existing on charity, only without any sense of their own culture to fall back upon."

HONEY, INSECTS, FISH, GAME

Those Achés who continue their traditional existence live in groups of 30 to 50, subsisting on honey, insects, fish and any animals they can reach with seven-foot bows and arrows. Naked and adorned only by ceremonial scars and animal-tooth necklaces, they live in simple huts covered by foliage and easily dismantled.

Their dialect resembles the Guarant spoken by a third of the country's population and other "assimilated" Indians, but they are physically distinct from other tribes, having lighter pigmentation and strongly Mongoloid features.

The traditional contempt more sedentary tribes held for the Achés probably earned them their alterate name, Guayaki, which means "jungle rat" ("Aché" means "person" or "human being").

Accounts of cruelty against the Achés date from the turn of the century. A German anthropologist, Mark Münzel, who has publicized the tribe's plight in a study entitled "The Aché Indians: Genocide in Paraguay," quotes a 1907 account of white settlers on an Aché manhunt:

"They arrived at the camp of the Aché, slaughtered seven women and children and caught seven small children. When leaving the next morning, they got into a dispute about the direction of their return. The captured children cried and lamented. The manhunters felt threatened, although they had burned all the bows and arrows left behind in the camp by the fleeing Achés. In his excitement and fear, the local police chief gave the order to cut the throats of all the children."

THE EXCUSE: RETALIATION

Mr. Münzel and other anthropologists and concerned clergymen have traced the slaughter, capture and enslavement of Achés by nearby settlers into recent times. The brutalities were often excused as retaliation for killing of farm animals by Indians whose natural prey had been thinned out by encroaching roads, woodcutters and farms. The most recent massacre documented by Mr. Münzel, involving woodcutters in eastern Paraguay in August, 1971, is described thus:

"It was carried out with machete knives, as proudly described by the killers themselves. There were between 12 and 20 killed, some of them most probably the mothers of kidnaped children. At least five small children were captured alive. One, a girl of some 6 years of age, was later purchased by José Dolores Pereira of Laurel."

In the early sixties the Paraguayan Government agreed to let a notorious Indian-hunter, Manuel Jesús de Pereira, set up a reservation for the Achés. The "Pereira experiment" ended in September, 1972, in the wake of news reports, eyewitness accounts and extensive documentation that Mr. Pereira had forcibly herded Indians into the reservation, maintained them underfed, used them as unpaid farm labor, allowed them to die through medical neglect, squandered aid money and sexually abused young girls.

Recalling the most virulent epidemic at the reservation, which he witnessed, Mr. Münzel wrote:

"In March and April of 1972 about 171 'wild' Achés were captured and deported to the Aché reservation, whose population thus rose to about 277. Only 202 were left at the end of July. The dead seem to belong mostly to the new arrivals. Their liquidation is due to the lack of food and medical attention. The Paraguayan Episcopal Conference, in a press communiqué on June 29, 1972, explains the high death figure by the fact that the new captives were brought to the reservation in April, when an influenza epidemic was already raging there. Taking a large number of forest Indians there at this time, without providing for their health requirements, was direct mass murder."

With the departure of Mr. Pereira—he was never prosecuted—the reservation was placed under the administration of three American Fundamentalist missionaries and their families belonging to the New Tribes sect.

Unfortunately, with the adverse publicity surrounding the Pereira experiment, funds for the reservation collected by private companies, including the Bank of America branch in Asunción and the West German pharmaceutical concern Höchst, immediately dried up.

The reservation, reached by an eight-hour jeep trip into the jungles about 130 miles northeast of Asunción, consists of about a dozen primitive wooden huts set in a corner of an 8,000-acre expanse. The 100 acres that have been brought under cultivation produce tobacco, corn and vegetables.

There is no longer any attempt to force the Achés onto the reservation. During a recent visit there appeared to be no malnutrition or serious health problems among the 30 or so families there semi-permanently.

At times as many as 300 live on the reservation, but for most it is a stopover in their nomadic hunting cycles when game runs short.

"We are trying to make this a buffer zone between the jungle and Paraguayan society," said James Stolz, one of the missionaries. "We want the Achés to learn enough culture and language so that they can walk up to a Paraguayan and not be shot at—which still happens around here."

According to Mr. Stolz, a good deal of his time is spent trying to convince the local authorities to help return about a dozen children to nearby communities as slaves.

"It's still a sign of status around here to own your own Aché," Mr. Solz explained. "Many Paraguayans consider them the fiercest Indians in the country, and I guess for some of them it's like having a tiger at home to show off to friends."

EXTINCTION FACES PARAGUAY INDIANS, REPORTER ASSERTS

ASUNCION, Paraguay—A reporter who has made a survey of conditions in Paraguay reports that "a small tribe of aboriginal Indians, the Guayakies, are dying out from disease and despair in conditions of semi-slavery."

These Native people live only a short distance from where Paraguay and Brazil have agreed to cooperate in building one of the world's most massive hydro-electric power plants.

The reporter, Hugh O'Shaughnessy, writing in The Observer, states that the allegation that the Tribe is facing extinction is being made "by leading ethnologists in Paraguay." This country prides itself upon having achieved the most harmonious relations between Europeans and the indigenous peoples, of any country in the western hemisphere.

Paraguay is the only country in America where a pre-Columbian language, Guarani, has survived the coming of the European and has indeed thrived.

411 GUAYAKIES

According to Miguel Chase-Sardi, a prominent Paraguayan expert on the native peoples, there are only 411 Guayakies left. They are widely scattered over thousands of square miles of Eastern Paraguay, in the rough areas of the Guayre Falls on the Perana River. Both are soon to be harnessed for power production.

The tribe, Chase-Sardi states, always had a name for independence, and has constantly been the object of murderous attacks by Europeans or other indigenous tribes who resent the fact that the Guayakies sometimes "stole a few cattle or some food crops."

SLAVERY

The town of San Juan Nepomuceno was the center of a slave trade in Guayakies, up to only a year ago. They would be bought for a few pounds apiece.

In October, 1971, a Chilean entomologist, Luis Pena, who was doing research for the Peabody Museum, reported that he had been offered boys for sale at prices ranging from 2,500 guaranies (about $18), to 19,000 guaranies. They may still be sold as slaves for senior officers in the Paraguayan Army.

Ten years ago the Army officers founded a reserve for the Guayakies, the Blessed Roque Gonzalez de Santa Crub National Guayaki Settlement. Funds were found from the Vatican at Rome. A group of 50 Guayaki were put in charge of a former Army sergeant, Manuel Pereira, on a piece of land not far from San Juan Nepomuceno.

A BAD EXPERIMENT

This experiment has failed. Now the whole tribe is, according to reports, resigning itself to the fact that it will soon disappear. During the first 6 years of the Settlement's existence there was a slow wastage of Guayakies through disease and malnutrition. In 1962, the population consisted of 100. In 1968, it had fallen to 78.

According to various reports, Pereira attempted to maintain the population in the Settlement by getting his "tame" Guayakies to bring in their nomadic brothers from the bush. Manhunts were mounted.

However, of 36 such enforced inhabitants of the Settlement, who arrived in 1970, ten were dead within 10 months.

The Settlement was soon adopted by a group of Asuncion businessmen, including representatives of foreign companies like the Bank of America, and the German Hoechst chemical company. There was, however, no effort to ensure the health and welfare of the Guayakies.

MASSACRE

In addition to the manhunts for purposes of kidnapping the Natives living in the bush, assassination gangs organized genocide against the Bush Natives. Last year, during only two months, it is estimated that between 12 and 30 Guayakies were killed through such gang massacres.

A letter published in La Tribuna by Leon Cadogan, an ethnologist, says that Pereira has been pocketing money made by selling the bush Indians' possessions, and that he had called for Pereira's dismissal years ago. Pereira is also accused of being "in a state of continual drunkenness," by Chase-Sardi.

According to Cadogan, the officer who decided to name the Settlement after the Blessed Roque, a 17th century missionary martyr, was guilty of sacrilege. Today, Cadogan said, "the place is only a dirty pigsty."

ONE-THIRD OF SENATE COSPONSORS HONORARY CITIZENSHIP FOR SOLZHENITSYN

Mr. HELMS. Mr. President, I ask unanimous consent that the names of the following Senators be enrolled as cosponsors to Senate Joint Resolution 188, a joint resolution to authorize and direct the President to declare by proclamation Aleksandr I. Solzhenitsyn an honorary citizen of the United States: The Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Wyoming (Mr. MCGEE), the Senator from Rhode Island (Mr. PELL), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from New Jersey (Mr. WILLIAMS).

Mr. President, the case of Aleksandr Solzhenitsyn is a case which goes not only to fundamental human rights but also to the problem of how to deal with countries that restrict these fundamental human rights. This is an issue which is uniting men of all political philosophies who are dismayed that our country has failed to take a clear stand on the Solzhenitsyn case. With this addition of eight cosponsors today, 33 cosponsors—or a third of the Senate backs honorary citizenship for Solzhenitsyn.

As I have said before on this floor, there can be no true détente as long as we are dealing with a powerful system that attacks human rights. While everyone wants to move forward to an international system in which all nations can live together without aggression, there is serious doubt that such a system can come about when one of the major powers exerts totalitarian control over its own people. The reason for this is that a political system that excludes debate and dissent has no internal checks and balances against the adoption of aggressive policies by the ruling elite. We have seen that the Soviet Union has adopted a program of rapid military build-up, both in nuclear and conventional warfare, that is unequalled in the history of the world. During the very same period, we have seen the rigid suppression of dissent within the Soviet Union—a process that is highly suggestive of what would happen if the Soviets attempted to apply their ideological system worldwide. The lack of internal debate in a system that has the capability to wage devastating war is itself a threat to our own freedom and the freedom of the world.

The only true détente is détente that applies pressures to bring about a loosening of repressive measures in Soviet society. The idea that trade and cultural relations without political conditions and concessions can bring about détente is just the opposite of the right of way of going about it. Indeed, the Soviet reaction to increased contact through trade and technological change is to clamp down even harder. They need trade and technology; they also know that increased interchange is a calculated risk to their totalitarian rule. So they must necessarily, according to their way of thinking, step up restrictions and repression to compensate for the increased risk. When we deal with the Soviets on their own terms, as Solzhenitsyn has said, we become accomplices to the terror in the Soviet system.

Mr. President, today 33 Senators have been enrolled as cosponsors of Senate Joint Resolution 188. It is gratifying to note that this is an issue which is bringing together many Senators of different parties and political philosophies.

The same unified response is coming from thoughtful Americans everywhere. As examples, I would like to cite the lead articles in current issues of two journals of political opinion, the New Leader and Human Events, the New Leader has long been identified as an articulate spokesman for the social democrat point of view, whereas Human Events is a distinguished spokesman for political conservatives. Yet both are questioning the reality of policies which attempt to ignore the kind of government we are dealing with in the Soviet Union.

Mr. President, I ask unanimous consent that the article "The Dissident's Détente Debate" in the New Leader and "Has Détente Really Ended Confrontation?" be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOLZHENITSYN, SAKHAROV, MEDVEDEV: THE DISSIDENTS' DÉTENTE DEBATE

(By Rudolf L. Tokés)

Aleksandr I. Solzhenitsyn's expulsion from the Soviet Union last month, coming as it did in the midst of a growing concern over the course of East-West détente, has intensified the debate in the Free World about what the current relaxation of tensions between the superpowers means for dissidents within the USSR. A number of observers have noted that were it not for the Kremlin's policy of improving relations with the West, the Nobel Prize-winning author would probably have been prosecuted and imprisoned instead of deported; indeed, he is the first prominent Soviet figure to be forced into exile since 1929, when Stalin ordered Leon Trotsky out of the country. Others have pointed out that since the Nixon-Brezhnev summit of May 1972, the Soviet government has largely succeeded in breaking the back of the dissident movement; and in banishing Solzhenitsyn, the Kremlin has not only rid itself of its most celebrated domestic critic but clearly hoped to diminish the power of his voice by making him just another Russian emigree cut off from his spiritual roots.

Long before the debate flared outside, however, it was under way inside the USSR. In the 1970 Nobel lecture that Soviet authorities would not permit him to deliver for example, Solzhenitsyn expressed the fear that East-West détente would harm prospects for internal democratization in the USSR. His view was not shared, though, by either of the other two leading Soviet dissidents—Andrei D. Sakharov, the nuclear physicist and father of the Russian H-bomb who became a fighter for civil rights in his country; or Roy A. Medvedev, the revisionist historian who advocates the return of Communism to its original Marxist-Leninist principles. It seems an especially appropriate time, therefore, to analyze the different attitudes of the three men toward détente, which have tended to be obscured by their common opposition to the excesses of the Soviet regime.

Solzhenitsyn, following the classical tradition of the Russian intelligentsia, is perhaps above all else a moral philosopher. Accordingly, he assumes the posture of keeper of his people's moral conscience and guardian against its corrupt and inherently immoral rulers. His contempt for professional politicians ("boils on the neck of society preventing it from freely moving its head and arms"), far from being restricted to the Soviet leadership, extends to powerful hypocrites of all nations, including avaricious heads of nonaligned nations, apologists for acts of terrorism and "national liberation wars," U.S. Democrats seeking to profit from the Watergate scandal, International Olympic Committee officials, and those who in the name of ending the Cold War wish to muzzle free international broadcasting.

In his letter proposing Sakharov for the 1973 Nobel Peace Prize, Solzhenitsyn deplored "the widespread mistake of defining peace as the absence of war rather than the absence of violence," and urged the leaders of world opinion to expose individuals who accept a fraudulent peace as the alternative to armed conflict:

"Coexistence on this tightly knit earth should be viewed as an existence not only without wars—that is not enough—but also without violence, or telling us how to live, what to say, what to think, what to know and what not to know. . . . If we want to achieve not just a brief respite from the threat of war, but a real peace, a peace in essence, with a healthy foundation, we will have to struggle no less intensely against the quiet, concealed forms of violence than we struggle against the loud forms. . . . We will have to erase from human consciousness the very idea that anyone has the right to use force against justice, law and mutual consent."

Solzhenitsyn's moral-absolutist definition of international order leads him to an unqualified repudiation of East-West détente as it has been practiced in the post-Vietnam era. He argues that it resolves nothing and serves to prolong the danger of global war:

"There seems to be little doubt, as many now realize, that what is going on in the USSR is not simply something happening in one country, but a foreboding of the future of man, and therefore deserving the fullest attention of Western observers. No, it is not any difficulties of perception that the West is suffering, but a desire not to know, an emotional preference for the pleasant over the unpleasant. Such an attitude is governed by the spirit of Munich, the spirit of complaisance and concession, and by the cowardly self-deception of comfortable societies and people who have lost the will to live a life of deprivation, sacrifice and firmness."

Andrei D. Sakharov, in his famous 10,000-word statement, "Thoughts on Progress, Peaceful Coexistence and Intellectual Freedom," was the first to consciously link the question of political democratization in the USSR with the larger issue of peaceful coexistence and global economic progress. A strong advocate of East-West convergence, he nevertheless also supports a balance-of-power approach to international peace and stability. But he fears a devil's pact between the two superpowers at the expense of their democratic opponents at home and their militarily weaker clients abroad. Consequently, although he is an anti-Machiavellian in the general area of international politics, Sakharov is prepared to use every legitimate lever—such as U.S. denial of "most-favored-nation" status to the USSR until it eases emigration restrictions—to bring about a liberalization of Soviet society. His overall view was perhaps most succinctly stated in an interview he gave to a group of Western reporters on August 21, 1973, the fifth anniversary of the occupation of Prague:

"Détente without democratization, détente in which the West in effect accepts the Soviet rules of the game, would be dangerous. It would not really solve any of the world's problems and would simply mean capitulating in the face of real or exaggerated Soviet power. It would mean trading with the Soviet Union, buying its gas and oil, while ignoring all other aspects. I think such a development would be dangerous because it would contaminate the whole world with the antidemocratic peculiarites of Soviet society, it would enable the Soviet Union to bypass problems it cannot resolve on its own, and to concentrate on accumulating still further strength.

"As a result, the world would become helpless before this uncontrollable bureaucratic machine. I think that if détente were to proceed totally without qualifications, on Soviet terms, it would pose a serious threat to the world as a whole. It would mean cultivating a closed country where anything that happens may be shielded from outside eyes, a country wearing a mask that hides its true face. I would not wish it on anyone to live next to such a neighbor, especially if he is at the same time armed to the teeth."

Yet, as I. F. Stone observed in his insightful analysis in the New York Review of Books, Sakharov is no enemy of détente. On the contrary, complete and genuine détente, ideological as well as political coexistence, has been one of the two objectives of the extraordinary campaign that he has been waging since 1968. The other is the democratization of the Soviet Union."

Roy A. Medvedev, unlike Solzhenitsyn and Sakharov, believes the impetus for democratic reform will come from gradual personnel and policy changes in the top Party leadership, rather than from outside pressures. He tends to downgrade the positive results achieved by open protest, and is sharply critical of what he terms the "immortality" and "provocative" behavior of certain dissidents. Medvedev's *samizdat* essay, The Problem of Democratization and the Problem of Détente," made public last November, was prompted by what he considered to be the counterproductive radicalization of several leading spokesmen for the Soviet civil rights movement. These people, he argues, "have begun to express more extreme views and to make still less constructive proposals, guided more by emotions than considerations of political appropriateness."

The examples of this kind of imprudent behavior cited in Medvedev's essay clearly point to at least three identifiable figures. One is the writer Vladimir Y. Maksimov, who in an open letter to the German novelist Heinrich Böll denounced Chancellor Willy Brandt's *Ostpolitik* as a fraud and described its architect as a "mediocre apologist for a new Munich who takes himself for a great politician." Another is Sakharov, who is taken to task for his endorsement of U.S. trade restrictions against the USSR. The third is Solzhenitsyn, who is chastised for comparing the South African government's treatment of imprisoned blacks with the Kremlin's confinement of dissident activist Pyotr Grigorenko in a hospital for the criminally insane.

Medvedev admits that a causal relationship might exist between the relaxation of international tensions and the growing repression of Soviet dissidents. But in the long run, he feels, the advantages of détente may outweigh the difficulties now being experienced by the regime's critics. In his opinion, the responsibility for recent retrograde policies belongs to "our hawks" and "Right-wing circles" within the Party's Central Committee. With the removal of conservative Politburo members Pyotr Shelest and Gennadi Voronov, he intimates, these forces have lost their leaders.

Medvedev credits the cessation of jamming of foreign Russian-language broadcasts in September 1973, the ratification by the Supreme Soviet of two United Nations covenants on social and political rights, the continued outflow of Jewish emigrants, the de facto suspension of the notorious "education tax," and the generally pragmatic stance toward the West to détente-inspired compromises. While he does not discount the influence of Western public opinion on Soviet internal policies, he thinks there are practical limitations to the efficacy of dissident protest aimed at foreign countries:

"In general, the opportunities for pressure on the Soviet Union from the point of view of interstate or economic relations should not be overestimated. Not only because the Soviet partners in the talks will reasonably protest against interference in Soviet domestic affairs, but we generally doubt very much that the majority of Western leaders are really seriously concerned with *problems* of political and human rights in the USSR or China. In the long run, Nixon, Pompidou and Heath defend the interests of the ruling classes of their countries, and it is not axiomatic that capitalist circles in the United States, England, France, and the German Federal Republic are so interested in the most rapid development of socialist democratization in the USSR or in speeding up economic, social and cultural progress in the Soviet Union. Therefore, Soviet 'dissidents' who turn to Western countries for support must consider carefully the 'address' to which they direct these appeals."

The trouble, as Medvedev sees it, is that dissident appeals have provided Western "Rightist" circles with too much comfort, and have not given enough encouragement to "Leftist social organizations which are most interested in the evolution of genuine socialist democracy in our country." In any case, he feels "it would be an illusion to think that Western public opinion will sometime become more concerned with internal Soviet problems than with internal problems of its own." Finally, he reminds his fellow intellectuals "not to fall victim to a peculiar Moscow-centrism and fail to see that in many other countries there are just as severe, and in many instances still more severe, internal problems than those that exist in the USSR."

Despite their disagreements about how to put pressure on the Party leadership, a remarkable consensus exists among dissident Soviet intellectuals on the nature of contemporary international relations and the place of the USSR in the community of nations. All seem to agree that some kind of change is inevitable in the way the USSR coexists with the rest of the world. None has false illusions about the Western political institutions and the capitalist market economies that shape the daily lives of politicians, intellectuals and the common people on the "other side." They oppose political extremism and ideological demagoguery of all kinds. They are deeply concerned about the prospects of a genuine and enduring peace, and are fearful of the Soviets' "military-industrial complex."

According to their individual temperaments these men address different constituencies at home and abroad. As an artist, Solzhenitsyn probably speaks to the largest audience: everyone who dreads war, oppression and the power of faceless bureaucrats over the destiny of mankind. Sakharov, the liberal scientist, seems to be directing his remarks to political decision makers, educated elites, and those who believe in the superiority of reason to the blind passions of anachronistic ideologies. Medvedev might be called the honest broker between the two, trying to reconcile his comrades' pleas for sympathy and help from the outside with the forbidding political realities of the Soviet Union—where, he argues persuasively, all domestic reform must begin.

With Solzhenitsyn in exile and Sakharov in danger of being forced to follow him abroad, we may soon see the important debate on democratization and détente that has been flourishing among Soviet dissidents reduced to the more orthodox positions taken by Medvedev and other inward-looking reformers. If that happens, the dissident movement will probably "go native" for a while and cease to be a serious obstacle to Moscow's efforts to sell its version of détente to the West. But then, of course, the moral fiber of the West will face its trust test.

Nixon on Solzhenitsyn—Has Détente Really Ended Confrontation?

President Nixon made his most effective pitch for detente last week in his nationally televised news conference. Asked his reaction to the expulsion from the Soviet Union of Alexander Solzhenitsyn and whether it would affect U.S. policy toward Russia, the President responded that he, personally, was an admirer of this Nobel Prizewinner who "has shown such great courage." And if he thought that "breaking relations with the Soviets" or "turning off our policy of negotiation and turning back to confrontation would help him or help thousands of others like him in the Soviet Union, we might do that."

On the other hand, said the President, as he looked "back to the years of confrontation" with the Soviets, he found that Solzhenitsyn and men like him, instead of being exiled, would have "been sent to Siberia or probably worse." The two superpowers, moreover, must continue "to make progress toward limiting arms, toward avoiding confrontations which might explode into war. . . .

"In a nutshell, that is what we have to consider. Do we want to go back to a period when the United States and the Soviet Union—the two great superpowers—stood in confrontation against each other and risk a runaway nuclear arms race and also a crisis in Berlin, in the Mideast, even again in Southeast Asia or other places of the world, or do we want to continue on a path in which we recognize also the fact that we must either live together or we will all die together?"

What the President would have Americans believe, then, is that during these halcyon Nixon-Kissinger days of detente—supposedly a total reversal from policies followed by previous Administrations—we have *avoided* confrontation with the Soviets.

Detente, argues the President, and all that it implies—summitry, relinquishing critical concessions at SALT, plentiful trade credits for Russia subsidized by the U.S. taxpayer, plans to ship the Soviets sophisticated computers and to develop their oil and gas fields, the conspicuous failure of American officials to aid Soviet dissidents—have made this planet far safer than would otherwise have been the case.

But the President's implied claims are highly exaggerated. Far from detente being some new Nixonian policy, in fact, some form of it has been practiced by virtually every President since Herbert Hoover—only then Republicans like Richard Nixon were assailing such policy as "appeasement."

Roosevelt at Yalta and Teheran and Truman at Potsdam—with detente and conciliation uppermost in their minds—consigned Eastern Europe to Stalin and paved the way for a Communist takeover in China. We lavished lend-lease upon the Soviets in World War II and devised the Marshall Plan in the mid-40s to provide U.S. aid to Communist as well as non-Communist countries.

From the very beginning of his presidency, John F. Kennedy embarked upon a calculated effort to woo the Soviets through trade, summitry and unilateral disarmament. The deliberate policy of permitting the Soviets to gain "nuclear parity" with the United States was initiated under JFK and continued under Lyndon Johnson. Johnson, furthermore, pressed ahead with other programs designed to appeal to the Russians and was afraid to launch any move in Vietnam that might invite Soviet hostility. But detente as practiced by these Presidents—witness the Berlin blockade, the Cuban missile crisis, the Middle East explosion—never put an end to U.S.-Soviet confrontations.

Nor has President Nixon, through his magical detenteist wand, been able to exorcise confrontations with the Soviet Union. Indeed, confrontations with the Soviets have been so severe under this Administration that the President has likened at least two incidents to the Cuban missile crisis—perhaps the most severe rupture ever between the United States and the Soviet Union and certainly the episode that came closest to involving the two superpowers in a nuclear exchange.

Consider, for instance, how the President himself described our relations with the Soviet Union in October 1973, five years after the President had initiated detente and presumably after it had been in full flower. Had detente ended confrontation? Not exactly.

While defending the Administration's policy of trying to reconcile differences with the Kremlin, the President told assembled reporters at a news conference that he had put American forces around the globe on full military alert during the Egyptian-Israeli war because he had obtained information "which led us to believe the Soviet Union was planning to send a very substantial force in the Mideast—a military force.

"When I received that information, I ordered shortly after midnight on Thursday morning [Oct. 25] an alert for all American forces around the world. . . . The purpose of that was to indicate to the Soviet Union that we could not accept any unilateral move on their part to move military forces into the Mideast."

When CBS anchorman Dan Rather seemed to imply that the President, because of impeachment pressures, may have acted rashly in the Mideast affair, Nixon replied: "The events of this past week I know, for example, in your head office in New York, thought it [the military alert] was simply a blow-up exercise [to draw attention away from the firing of Special Watergate Prosecutor Archibald Cox], there wasn't any real crisis. It was a real crisis. *It was the most difficult crisis we've had since the Cuban confrontation of 1962.*" (Emphasis added.)

Asked if he thought the Watergate problems convinced him that the U.S. "needed a strong response in the Mideast to convince other nations that you have not been weakened," the President responded: "Well, I noted speculation to the effect that the Watergate problems may have led the Soviet Union to miscalculate. I tend to disagree with that, however. I think Mr. Brezhnev probably can't quite understand how the President of the United States wouldn't be able to handle the Watergate problems. . . .

"But I think what happens is that Mr. Brezhnev does understand is the power of the United States. What he does know is the President of the United States.

"What he knows is that the President of the United States, when he was under unmerciful assault at the time of Cambodia, at the time of May 8th, when I ordered the bombing and the mining of North Vietnam, at the time of December 18th [the Christmas bombing], still went ahead and did what he thought was right. The fact that Mr. Brezhnev knew that regardless of the pressures at home, regardless of what people see and hear on television night after night, he would do what was right. That's what made Mr. Brezhnev act as he did."

A global military alert, an event similar to the 1962 Cuban missile crisis, the bombing and mining of Hanoi—these aren't precisely the words and phrases which suggest that confrontation with the Soviets has somehow vanished.

The 1970 Mideast crisis also ended in a showdown with the Soviets. Author and Journalist Allen Drury in his non-fictional book on the Nixon Administration—*Courage and Hesitation*—quoted a veteran foreign affairs observer of that event as saying at the time that this was "really the most dangerous crisis this Administration had faced." Syria, this knowledgeable observer told Drury, invaded Jordan, after having massed 300 tanks on the border, an operation of such magnitude and time-consumption that the Soviet Union could not possibly have been in ignorance of it.

Following the attack, the President forbade any communication with anyone but the Soviets, and to them he barked a command: "Call your boys, the Syrians, back."

Drury's foreign affairs expert continued: "The President, in the face of intense and even agonized bureaucratic opposition, stood firm. It was understood that if Jordan really started collapsing, the Israelis would have no choice but to move. That would mean that the Egyptians would probably feel that they had to move. If this seriously threatened the Israelis, the United States would have to move. In order to prevent the final play in the game—the Russian move—the Russians had to be made to understand that under these conditions the United States *would* move, which meant that a confrontation would be inevitable. . . .

"He [Dr. Henry Kissinger] says that he 'practically never' goes to embassy parties but the Egyptians were holding a reception and he decided to attend—'to show the flag,' as he puts it. Soon after he arrived, he had an unexpected opportunity to make the U.S. position once more emphatically clear to the Russians. He did so, reiterating the stand already emphasized by the President.

"At 2:30 the next afternoon, while Kissinger and Bill Rogers were having a vigorous discussion of the situation in the President's presence in the Oval Office, word came that the Syrians were withdrawing.

"In a few more hours, Hussein had vanquished the fedayeen and reestablished his control of Jordan. In a matter of days, the President was calmly departing on his previously scheduled visit to the Mediterranean fleet. And the crisis was over.

"But it might not have been. If the President had wavered and waffled, as some proposed, Hussein would have gone and Jordan would have fallen to a Soviet client state. Russia would have been implanted squarely astride the Middle East, very swiftly Israel would have been in danger, complete chaos would have ensued and war between the United States and the Soviet Union would have been almost impossible to avoid.

"This was the crisis the President referred to in his foreign policy report to Congress on Feb. 25, 1971, as 'The gravest threat to world peace since this Administration came into office.' It is difficult to disagree."

In the Midest situation, one gathers, confrontation and threats of confrontation—not delicate diplomatic maneuverings conjured up by such words as "detente"—are the order of the day. In dealing successfully with the Communists, not just with the Soviets, a leader's toughness, his ability to stare the enemy down and his military arsenal are clearly the most essential ingredients.

Supplied and armed to the teeth with Soviet weaponry, Hanoi, for instance, refused to sign a peace agreement with the United States or South Vietnam until the U.S. exerted some ferocious miltiary pressures against North Vietnam. President Nixon could not buy his way out of the Vietnam War with expanded Soviet trade.

Despite detente, Soviet party boss Lenoid Brezhnev supplied the North with the awesome military might that made the Vietnam War possible, including planes, tanks, missiles and long-range artillery. He furnished Hanoi every single aircraft battery and missile and MIG responsible for the shooting down of the several thousand American planes lost in the North and the South.

On the very eve of President Nixon's 1972 summit meeting with Brezhnev, the Soviet party boss was helping to mastermind Hanoi's massive Easter offensive against South Vietnam. Hanoi Radio, in fact, reported that a high-ranking Soviet delegation was conferring with Hanoi's top military leaders just prior to that offensive.

The Nixon Administration could not extricate itself from the war until it had gone into Cambodia and mined and bombed Haiphong. Even after these momentous military events, Hanoi refused to sign anything like a reasonable agreement until the Administration had steadily rained bombs over Hanoi during Christmas of 1972. And Hanoi, with Soviet connivance, is still systematically violating the agreement.

A spokesman for the Vietnam working group in the State Department, Jim Bullington, informed Human Events last week that Hanoi's troops in South Vietnam are now "better equipped . . . than at any period of the war." Furthermore, the Soviets must be held responsible for failing to prevent Hungary and Poland, two of Moscow's most controllable satellites, from flagrantly sabotaging the functioning of the International Commission of Control and Supervision that is supposed to monitor the "cease-fire" in South Vietnam.

Briefly, as we have stressed before, there is a growing myth about detente, which has not in any way been helped by the President's frequently euphoric pronouncements about its success. While we have been disarming, the Soviets have constructed the most fearsome military machine on this earth.

In 1966—only eight years ago—the United States enjoyed what appeared to be unchallenged nuclear superiority, while today the Soviets have outstripped us in long-range missiles. Included in the Soviet missile force, furthermore, are more than 300 giant SS-9 missiles, each carrying a payload of 25 megaton. These missiles, according to defense experts, make sense only as first-strike weapons, designed to give Moscow the capacity to knock out American ICBM's in their hardened, concrete silos.

While we have been talking detente, Brezhnev has increased the number of Russian tanks in Central Europe from 14,000 to 20,000, thus giving the Warsaw Pact nations better than a 3-to-1 advantage over NATO forces. Jeffrey Record of the Brookings Institution has stressed that a study of the Soviet forces in Europe leads to the following conclusions: the size of the Soviet ground forces in Europe is "grossly disproportionate" to the Soviet stated purpose that they are needed for defense reasons and the structure "reveals preparations for offensive, not defensive, military operations."

Though pretending opposition to international terrorists operations, Brezhnev has seriously undermined the security of the Western nations by furnishing training and logical support to a wide variety of revolutionary terrorists in Asia, Latin America, Europe and Africa. Brian Crozier, director of the London-based Institute for the Study of Conflict, recently warned that the Soviets and their satellites were increasingly supporting terrorist movements with money and arms. Said Crozier:

"From the Russians' point of view, terrorism is an ideal weapon. In public, they can call for detente and try to improve relations with a government. Simultaneously, they can give secret support to terrorists who may actually be working to overthrow that government.

"To the Kremlin, anything is good that undermines the interests of Western Europe or the United States. In Mexico, for example, Soviet intelligence recruited some political dissidents to attend Moscow's Patrice Lumumba University. The Russians then transported the group to North Korea for training in sabotage and terrorism. Returning home, the Mexicans began a campaign of urban terrorism—as a result of which the chargé d'affaires and several of his staff were expelled.

"The Soviet KGB now has its own terrorist programs in Chile. . . . In 1969 Russian arms began reaching the Palestinian 'freedom fighters,' who had set up training camps for terrorists in Lebanon and Syria. Scores of Turkish terrorists were instructed at these camps. . . ."

"Terrorist organizations also co-operate by providing training and places of refuge for each other, as well as money, forged passports and arms. Like armies, terrorists have to have bases. When you trace the line of supply and communication, you find that they lead to a string of 'subversive centers.' The most important are in the Communist countries: the Soviet Union and its East European satellites especially. . . .

Author John Barron, who recently penned an authoritative book on the KGB, says that the Soviet secret police have probably been more active in fomenting troubles abroad during the five years of Nixon's detente policies than in the previous decade.

With all due regard for the President, then, detente is largely a myth. In no way has it eliminated confrontations and potential confrontations with the Soviets.

Despite all the offers of trade, etc., the Soviets continue to build a threatening strategic nuclear arsenal and still engage in the massive exportation of terrorism and subversion around the globe. As in Vietnam and the Middle East, they have pressed their aggressive policies to a point where they have knowingly risked a military confrontation with the United States.

When the President says detente is working, he is, in effect, calling upon Congress and the American people to look with favor upon—and to encourage—the soft side of his dealings with Moscow, expanding Red trade, giving concessions in the disarmament area, saying as little as possible to aid Soviet dissidents like Solzhenitsyn. Yet judging from the President's own words and the history of his relations with the Soviets, the soft policies have conspicuously failed. They have certainly not achieved what he suggested had been accomplished last week: the removal of confrontations with Russia. What has paid off has been the President's posture of firmness in the crunch. And as the President prepares for the Soviet summit in the months ahead, it is to be devoutly hoped that it is the tough Nixon—not the apologist for detente—that will go to Moscow.

SUMMER OPPORTUNITIES FOR YOUTH

Mr. HUMPHREY. Mr. President, as one who has been directly involved, both as a Senator and as Vice President, in the development of programs that benefit poor youth of this country, I am pleased to learn that the Neighborhood Youth Corps summer jobs program will be funded this year without an agonizing battle. Senators may recall that the administration last year, only at the 11th hour and only after litigation in the Federal courts, consented to provide the funds necessary to maintain the program.

Although I reserve the right to determine later whether the funding level is adequate, it is indeed encouraging to learn that the administration has pledged to commit $300 million toward summer jobs for youth, and has done it this early in the year. This $300 million will provide for 740,200 jobs—jobs for which there will be a crucial need this year.

This early commitment was no accident, however, because the Congress included in the Comprehensive Employment and Training Act of 1973 a transition section that enabled the Secretary of Labor to gear up for a program that would be maintained, at the very least, at last year's levels.

This $300 million will be made up of $208.6 million in a revised fiscal year 1974 budget request, and $91.4 million in manpower funds carried over from last year. Although I would have preferred that the $91.4 million had been used to fund this vital program last year, I understand that its commitment to this year's program represents a sincere effort to maintain the momentum of the summer job effort.

I understand that the administration also is going to ask for $250 million in a revised request for fiscal 1974 for public employment programs under the Comprehensive Employment and Training Act.

However, Mr. President, the administration's funding proposal for the Neighborhood Youth Corps summer jobs program may not yet be adequate to meet the job needs of many of the disadvantaged young persons who should be receiving help. I expect that we may have to look more closely at this program later this spring after the full impact of the energy crisis has hit both the poor rural areas and the cities of this Nation.

In addition to the summer jobs program, there is another program for disadvantaged youth that I fear may be neglected and left to wither on the vine. I am speaking of the National Summer Youth Sports program. Since 1969, the program has received about $15 million from the Federal Government, and has benefited more than 208,000 youngsters in 36 States. However, unless legislation is enacted to extend certain Office of Economic Opportunity programs, the summer sports program might expire after the summer of 1974.

Mr. President, this summer sports program is needed. It gives the disadvantaged youth of this country excellent training, using the facilities of colleges and universities and the expertise of trained staff members. There is no reason why this program—which has given many youngsters an opportunity to develop skills and look forward to the future with hope—should be terminated.

It is my earnest hope that the legislation continue the life of present OEO programs will be given swift approval when it is introduced in the Congress.

I am greatly encouraged that the Neighborhood Youth Corps will not have to hang by its fingernails until the last minute, before it is certain enough funds will be secured to enable it to survive and carry its program forward another summer. I certainly will do everything possible to see that a revised fiscal year 1974 budget request is acted upon favorably and swiftly by Congress.

The disadvantaged youth of this country deserve the opportunity to learn skills that will lift them out of poverty and let them cast off the ragged cloak of idleness. The Neighborhood Youth Corps summer jobs program and the summer recreation programs are two instruments, two tools, that will allow them to do this.

COPPER STOCKPILE DEPLETION AND PRICE CONTROLS

Mr. DOMENICI. Mr. President, again I find it my unpleasant duty to call to the attention of my distinguished colleagues another instance of Government programs at cross purposes with each other. In my relatively short service as a U.S. Senator I have seen sufficient examples of these cross purpose situations that I am alarmed that the Federal Government, including the Congress, is not aware of the cumulative effect of laws passed and programs implemented with all good intentions.

I refer in this particular instance to the domestic price of refined copper.

As members of this body are aware, the Congress during its last session authorized the disposal of part of the country's stockpile of copper. By Public Law 93–214, enacted on December 28, 1973, the copper stockpile was ordered reduced from its level at that time, 258,000 tons to about 7,000 tons. The General Services Administration has taken action to carry out the disposal of this 251,000 tons of refined copper.

The General Services Administration has already sold 45,000 tons by competitive bids at prices ranging from approximately 80 cents a pound to $1 per pound. A recent announcement by GSA indicates that bids on another 120 million pounds of the stockpile will be opened on March 18, 1974, in Washington, D.C. It is expected that the prices the Government will receive from these bids will average 90 cents per pound or better.

At the same time that the Government is receiving this 90 cents per pound for refined copper sold from its stockpile, copper being domestically produced and sold by private enterprise is frozen at 68 cents per pound by the Cost of Living Council. This would be bad enough if it were not for another Government action which vividly demonstrates the "cross purpose" aspect of this situation which I mentioned above.

Recently the Department of Commerce has announced that copper must be included under the defense priorities system. This means that domestic producers of copper must sell copper to customers with a defense-rated order, regardless of historical customer relations, at the frozen price of 68 cents a pound while the Government sells its stockpiled copper at about 90 cents a pound.

I have no quarrel at this point with the objectives of any one of the three major Government thrusts that comprise this complicated triangle. The Cost of Living Council intends to control inflation and protect the consumer The disposal of the stockpile was ordered after extensive hearings during the last session of Congress, and although in view of the recent developments regarding foreign oil and mineral imports, I tend to question the wisdom of that decision; I cannot at this point say it is wrong. The decision to require producers to fill orders from the defense industry is probably also a very valid Government action.

Questions do arise though, such as: Why is it the burden of private enterprise to carry on the fight against inflation through controlled prices while the Government has no such limitation on its stocks of copper? If the orders which domestic producers must now fill for defense purposes have a No. 1 priority and come ahead of their traditional customers at a controlled price for varied defense needs, why cannot these orders be filled from the defense stockpile which is being disposed of?

These are questions to which I have no reasonable answers at this point. I do think they are severe enough that the entire copper situation must be thoroughly reexamined and all of these Government actions considered in light of their combined effects.

I do feel that the issues involved and the questions which appear just on the surface of this complex situation may be severe enough to justify a delay in the GSA sale of March 18. I plan to consider very carefully that course of action next week and if I feel it is justified after closer examination, I will attempt to have the sale delayed, or at least have the opening of the bids delayed.

I have recently publicly called for the end of wage and price controls. I am confident that the copper producers who are adversely affected by this combination of Government programs have no quarrel with the decision to dispose of the stockpile or the manner in which the stockpile is being disposed of. They do not even object to the inclusion of copper under the defense priorities system. What they do object to, and rightfully so, is the imposition on them of an artificially low price they can charge for their product. So, we have here another illustration of the disruptive effect of price controls on another industry of vital importance to this Nation and its economy. How many more examples of this kind must be exposed before we find the intestinal fortitude required to take decisive action to terminate controls? I say let us do it now.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (H.R. 11793) to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions in which it requests the concurrence of the Senate.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

The PRESIDING OFFICER. Under the order entered on yesterday, the Senate will now resume the consideration of the unfinished business, S. 3066, the title of which the clerk will read.

The second assistant legislative clerk read as follows:

> Calendar No. 669 (S. 3066), a bill to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance in support of community development activities, and for other purposes.

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the time for debate on the bill is limited to 4 hours to be equally divided and controlled between the majority and minority leaders or their designees. There will be 30 minutes on any amendments except five amendments to be offered by the Senator from New York (Mr. JAVITS). There will be 20 minutes on any amendment to an amendment, debatable motion, or appeal, with the agreement in the usual form.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be taken out of the bill.

The PRESIDING OFFICER. Without objection, the time will not be taken out of the bill.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hours of 11 a.m. this morning.

The PRESIDING OFFICER. Without objection, the Senate will stand in recess until the hour of 11 a.m. this morning.

Accordingly, at 10:45 a.m. the Senate took a recess until 11 a.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. HATHAWAY).

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

The Senate continued with the consideration of the bill (S. 3066) to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance in support of community development activities, and for other purposes.

Mr. SPARKMAN. Mr. President, the Senate has before it a bill, S. 3066, cited as the Housing and Community Development Act of 1974, which has been recommended for Senate passage by the Committee on Banking, Housing and Urban Affairs.

This bill is a major rewrite of all our basic housing laws and a major consolidation and reform of our community development programs. We believe it represents a major step forward in proposing new answers to the problems that confront our cities and towns. This is probably the most significant legislative proposal on this subject since the Federal Government became involved in housing back in the 1930's.

It is significant for a number of reasons. In size and coverage it exceeds any previous housing bill ever proposed or passed by the Congress. We look back with nostalgia to the great landmark housing bills of the past—the National Housing Act of 1934 setting up the FHA, the Public Housing Act of 1937, the Urban Renewal Act of 1949 and 1954, the rent supplement act of 1965, the model cities act of 1966, and the interest subsidy act of 1968. Every one of these acts has been rewritten and consolidated into the 1974 act.

This bill is also significant because at this time the Government's housing and community development programs are in total disarray. There seems to be utter confusion at the Federal level and the local level as to where we are going and what can be expected in the future for Federal assistance in these fields. Last year, on January 5, the White House cut off all HUD subsidy funds for a period of 18 months. You can imagine the great consternation this caused among the Nation's mayors and other Government officials who relied upon Federal aid to provide decent housing and good environments for their people.

Despite objections from Congress and extensive efforts to lift the freeze by Governors, mayors, county officials, and heads of nearly every responsible housing and redevelopment organization throughout the Nation, this 18-month moratorium is still in effect.

There have even been several court decisions to force HUD to release funds; but HUD has appealed, and nothing yet has come from these decisions. HUD remains adamantly opposed to many programs in existing law and continues to resist further use of the funds for these programs.

Mr. President, I believe the only way out of the current dilemma is the adoption of new programs under a new law which, with congressional approval and approval of the President, would put the Federal Government back in the housing and community development business. Thousands of communities throughout the Nation are waiting for this legislation to become law so they can get back to the job of cleaning up their slums, eliminating blighted areas, and rebuilding housing to meet the needs of their citizens.

For the most part, S. 3066 is a consolidation bill bringing together housing programs on the one hand and community development programs on the other.

On the housing side, the existing FHA programs would be consolidated into two basic programs, a home ownership program and a rental program. The old title I home improvement program would be consolidated and in the future probably will be known as title III of the 1974 act rather than title I of the 1934 act.

On community development, as many of you know, about 10 categorical programs are being consolidated into a single community development program. The most important of these are urban renewal, model cities, and water and sewer.

The new program finally approved by the committee is basically the product of S. 1744, the Community Development Assistance Act of 1973 introduced by me. Many features of the administration's special revenue sharing Better Communities Act, S. 1743, are also incorporated. The committee adopted the block grant approach with an application and specific eligibility requirements to insure that Federal funds would be used with a priority to eliminate slums and blight, to upgrade low and moderate income housing, and to make the Nation's cities more livable, attractive and viable places in which to live, rather than leaving these objectives to chance as would have happened under the administration's revenue sharing bill.

The committee bill outlines specific objectives of the program and contains procedures to insure that the Federal funds are used to meet these objectives to the maximum extent feasible. This is done through four requirements.

First. A summary of a 4-year plan for meeting the community's development needs, including proposed programs to meet housing needs, to prevent and eliminate slums and blight, and to improve community services;

Second. A description of proposed activities and expenditures;

Third. Certifications that the applicant has met certain requirements related to the objectives of the act, citizen participation, local codes and the provision of replacement housing; and

Fourth. A performance report assessing activities carried out under the program in relation to the community's development goals and the bill's objectives.

The only exception to the application process would be for smaller cities of under 25,000 population outside urbanized areas which would be applying for Federal assistance for a single activity, other than an urban renewal or model cities activity, such as the financing of water and sewer facilities or open spaces. The committee believes such an exception should be used sparingly, on an interim basis. Eventually all localities requesting Federal funds for significant local development should be required to fulfill certain minimum standards relative to providing decent housing and eliminating slums and blight.

The committee also adopted a major rewrite of the section 701 comprehensive planning assistance program, agreeing to the terms of the Stevenson bill, S. 854, rather than the administration-supported planning and management provisions in order to insure a higher priority use of Federal grants for State and local planning. I believe that the bill would resolve the present impasse on State distribution of 701 funds to communities and regional bodies by requiring mutual consent by the State and local units before authorizing State distribution, and no unit would be denied funds because of failure to reach agreement.

The bill also contains a number of significant amendments to title V of the Housing Act of 1949 on rural housing. For the most part, the new provisions would broaden or liberalize the provisions of existing law to cover deficiencies in existing law relative to the authority of the Farmers Home Administration to provide assistance for lower income rural families.

Now let me turn to more specific provisions of the bill in programs in which you have special interest.

The bill authorizes two new programs for lower income families, a new section 402 homeowners' assistance program and a new section 502 rental assistance program. In adopting these programs as replacements for the existing section 235 and section 236 programs, the committee approved the following reform provisions:

Subsidy funds would be reserved for use in communities to meet the housing objectives contained in applications approved under the new community development program or would be made available for developers only for use on sites which generally conform to housing plans for units of general local government;

Prototype mortgage ceilings would be established to insure a more equitable distribution of subsidy funds to high-cost areas;

Eligibility for assistance would be limited in general to families with incomes less than 80 percent of median to insure more coverage for lower income families;

Mandatory counseling would be required for section 402 families and discretionary counseling for section 502 families to reduce defaults;

Rehabilitation would be encouraged by setting aside 20 percent of section 402 funds and 10 percent of section 502 funds for this purpose;

Consumer protection would be increased by a warranty requirement and by provision for reimbursement for defective workmanship;

Economic integration would be encouraged by requiring that 20 percent of rental units in each project be provided additional assistance payments on behalf of low-income families and that each project has a reasonable range of family incomes;

Special consideration for the elderly would be attained by requiring that from 15 to 25 percent of contracts for rental assistance payments be set aside for housing projects for the elderly; and

Improved management would be fostered by authorizing the Secretary to provide through contracts or otherwise for monitoring and supervising of privately sponsored projects.

The committee believes that these programs, if administered as designed, would meet the objections raised to the old interest subsidy programs and, when coupled with community development efforts on the part of our cities, will go a long way toward eliminating slums and blight and providing decent housing for all our people.

Mr. President, on January 8, 1973, as Senators will recall, George Romney, then Secretary of the Department of Housing and Urban Department, announced a suspension of all basic HUD assistance programs. A week later, on January 15, the White House, in rejecting my telegram of December 29 urging continuation of programs, charged that the housing assistance programs were "inequitable," "wasteful" and "ineffective." Two days later, James T. Lynn appeared before the committee, following his nomination to be the new Secretary of the Department of Housing and Urban Development. He assured us that he was committed to the achievement of our national housing goal, but said, at the same time, that he supported the White House position. When the committee asked for evidence of program failure, he responded that he would undertake immediately, and with an open mind, a thorough reevaluation of all HUD programs.

During the following months, HUD officials, in speeches throughout the country, continued to assert that the programs had failed and that the HUD study would prove it. We were told there was "mounting evidence" of failure.

It was not until October 6, 1973, almost 9 months after the moratorium began, that the committee received, in preliminary form, one part of the long-awaited HUD evaluation. In his forwarding letter, Secretary Lynn explained that the final editing of part I would be completed in the near future, and that part II, the technical and background papers, would also be submitted.

Although the study and its conclusions have been given wide publicity, the committee has not yet received the final copy of part I and, only very recently, received a preliminary draft of the supporting technical record, which turns out to be an essential part of the evaluation.

I report this to the Senate to indicate some of the difficulty the committee has had in considering the administration's views and actions during the past year.

As expected, the HUD study concluded that our housing programs have failed. This conclusion was expected. One may ask why, when there was assurance of an "open mind." The Washington Post of December 3, 1973, provides an answer. The front page story of that day reported that the subsidized housing programs were frozen before there were any justifications for doing so. The story quotes from a memorandum written on March 5, 1973, by the HUD Deputy Assistant Secretary for Policy Development, that the official reasons given for the moratorium were "paper thin," "highly subjective," and totally unsupported by any backup data. "Preparation of the administration's position," he went on to say, "will have to begin from ground zero."

Three days later, on March 8, HUD officially began its evaluation effort.

The HUD study is a very long, very theoretical and very technical document. It also was very expensive, costing well over $2 million, I am informed. In light of this, I requested the Congressional Research Service to prepare a critique of the preliminary documents that we have now received. The Congressional Research Analysis, which will be available as a committee print as soon as we can get the Government Printing Office to print it, reveals that the evaluation—presented chiefly in chapter 4 and the technical record—is filled with assumptions and judgments that raise as many problems as answers. It clearly indicates why no adequate assessment of the HUD work is possible at this time.

On the basis of a 215-page Congressional Research Service analysis, I must report that the "mounting evidence" of program failure, alleged by HUD officials, turns out to be more theory than fact. Its conclusions rest, like a house of cards, on an unsteady foundation. The document which we have received is not an adequate evaluation of Federal housing programs. Nor can it be considered an adequate base for formulating national housing policy. It does not contain justification for the past year's suspension of homeownership and rental housing programs to assist low- and moderate-income families, elderly families, rural families, or families dependent on low-rent public housing for decent shelter. Nor does it contain justification for ending grants to localities for urban renewal, water and sewer or other development activities. There is, in short, nothing in the HUD Report to support the do-nothing policy of the past year.

Let me say, however, that this judgment is not made in criticism of the work of many able and dedicated persons who contributed to it. In many respects, Housing in the seventies is a valuable addition to our housing literature. It does not, however, live up to the claims made for it over the past year.

Why not? For one, the information needed to assess the report is not readily available. Some of it is stored in computer files; some is in HUD offices across the country. At least one piece appears to have been submitted to a university only weeks ago as a doctoral dissertation. The HUD study says that all of the calculations presented—and there are a considerable number of them—can be repeated, and that the same answers will appear. "This," it asserts, "provides all the information necessary to appraise the reliability of the results."

But, clearly, what goes into the calculations is also important. The reliability of the mathematics cannot take the place of the validity of the judgments and the reasoning used.

Because the study "does not defend its methods" which "would require a detailed explanation of every computation with a rationale for each assumption, no one can, at this time, readily evaluate the evaluation. Three examples will indicate why the evaluation conclusions cannot be accepted without considerable additional review.

The first example indicates a possible bias in the reasoning used. The study asks the question: Does a section 235 house cost more to build than a conventional house? Regression techniques are used to arrive at a statistical answer—which turns out that the section 235 house is actually cheaper, by $1.55 per square foot. But, the report continues:

> The technique produced unexpected results—the equations are misspecified—it is impossible to draw statistically valid conclusions.

The unexpected result gives rise to an unexpected judgment—that the sample used is inadequate and that, therefore, a different answer should be adopted.

The second example shows how critical judgments are, in evaluating programs, and how important it is that we understand exactly how these judgments are arrived at. The study asks the question whether a section 236 project costs more than a conventional multifamily apartment. Two HUD surveys form the basis for determining the answer. One yielded the result that conventional units cost less; the other indicated that section 236 units may cost less. Which one should we accept? The finding that conventional units cost less needs to be considered carefully because, it turns out, that conventional units which are judged to be comparable to section 236 units are also, in a number of cases, older in age, and because of inflation, lower in cost. The finding that section 236 units may be cheaper also requires careful judgment because, the study reports, they may not actually provide equivalent amenities. After due consideration, HUD makes the finding that the section 236 units cost more by some 20 percent. It is not, however, fully clear that the judgment is correct.

A third example shows how fragile the conclusions are. The study asks the question whether tenants in section 236 housing receive a dollar in benefit for the dollar it costs. This, everyone would acknowledge, is a difficult question to answer with mathematical precision. But the study does. Section 236 housing is determined to be inefficient, because according to the calculations performed, a tenant receives only an equivalent of $50 in benefits for every $100 spent out of the Federal Treasury.

What supports this conclusion? A series of estimates beginning with an estimate of the "true market rent" that a section 236 unit would command without a subsidy, and requiring, among many other steps taken, the determination of the consumer preferences of public housing residents, and the assumption that these preferences are identical to those held by residents of section 236 housing. This suggests the complexity of the analysis that has been undertaken to provide an evaluation of HUD housing programs.

Theory should clearly guide man's efforts. But not, however, until it has rigorously been put to the tests of logic and reality.

Several specific charges have been repeated over and over again by administration officials regarding the existing housing programs. The Congressional Research Service review of the HUD study discusses several of these, which I would briefly call to your attention.

The first of the oft-repeated charges is that our present housing programs adopt the wrong approach. They emphasize housing production.

This is wrong, it is alleged, because the problem we are trying to deal with is not a housing problem, but an income problem. The better approach, it is asserted, is to provide direct cash assistance to poor people, instead of directing our attention to building housing.

This analysis is simplistic, and its policy is seriously defective. The low-income housing problem of our country is not simply an income problem. It is, at this point in our history, a housing problem—a problem arising from an insufficient supply of decent housing. Direct Federal assistance for the production of housing is required to help solve that problem because as long as the supply is insufficient, the cost of decent housing will remain out of the reach of low-income groups. To say that a system of direct cash assistance will solve the housing problems of the poor while, at the same time, shutting off all Federal assistance for the production of housing, is to ignore the very real facts that there just is not enough decent housing in this country now to go around, even if every family were given enough money to buy it. Nor is it likely that a program of cash assistance would, in the absence of a production program assure an adequate supply—at the right places and times—for many years to come.

A system of direct cash assistance may also prove to be a useful tool in the housing field. In the Housing bill of 1970, the committee authorized the housing allowance experiment which has been undertaken by HUD. In this year's housing bill, a significant expansion of that program would be authorized. It is, consequently, the view of the committee that direct cash assistance should be examined as one of the means for solving housing problems. But the committee rejects the view that such a program should replace production programs at this time.

It should add that there is already a significant shift in the administration's position on the question of housing production. Increasingly, administration officials, are recognizing that production programs will be needed to meet housing needs in many areas of the country. Housing production programs are no longer in the doghouse. The issue is becoming what kind of production program. This gives rise to a second charge that continues to be repeated—the charge that the present interest subsidy programs are defective. Much has been made of this allegation in the light of repeated stories about excessive defaults and widespread scandals.

The facts, however, indicate that the interest subsidy programs are not actuarilly unsound, despite projected rates that sound high and that reflect fraudulent practices which led to widespread scandals.

A recent analysis indicates that the insurance funds for the section 235 program are actuarially sound at a default termination rate of 18 percent and is projected to remain so. The most recent actuarial data shows that default rates for later loans are lower than for earlier loans. This positive projection gains support from the fact that HUD has already made significant improvements in its underwriting procedures. Additional support would be anticipated from expansion of counseling activities such as would be required under the 1974 housing bill. Moreover, a stabilizing of economic conditions in the future in a number of areas in the Nation would also serve to reduce default levels significantly.

A recent examination of the section 235 defaults showed that more than 10 percent of all program defaults occurred in just two of the areas, Seattle and Dallas. Experience under section 236 also does not indicate that the program is actuarially unsound, although the data are not sufficient to make an adequate projection. Experience with other FHA multifamily programs suggests that even when troubled with default experience in early years, such programs have in the longer run become actuarially sound.

The charge of widespread scandals has on close examination been less attributable to subsidized housing programs in a few localities than to unsubsidized programs, that the number of indictments for criminal activities related to the high incidence of foreclosures in a few areas involved abuses of section 203 and section 221(d)12) nonsubsidized home financing, reflecting laxity in program management, rather than inherent weaknesses of any of the specific programs.

Another charge frequently raised concerns alleged inequities in the present housing programs. It is asserted, for example, that HUD housing programs serve only a small percentage of those eligible. This analysis, however, has several shortcomings. It assumes that all households of a particular income group have, by definition, a common housing problem. There are, however, many low income households, including many homeowners, who may not have a housing problem so much as a food or health problem, or an income or welfare problem. There are, moreover, a very large number of low-income families who receive their housing assistance through welfare rather than housing programs, but are uncounted as housing assistance recipients. Some groups, such as single persons of middle age, although of low income, have not been included as eligible recipients of housing assistance by legislative design, because of the limited housing assistance resources available. The Congressional Research Service analysis suggests, moreover, that a partial analysis of equity—in terms of housing programs alone—is misleading in the broader conception of equity, and that instead, the equity of Federal assistance programs should be considered in relation to benefits received under all major assistance programs, including medical, food, education, and other Federal aid rather than any single program such as housing since not all families within an income group have identical needs. The allegation that only a few are served and consequently benefit, also suffers from the neglect of indirect benefits. Housing programs have worked, for the most part, by aiding some persons directly, and helping all indirectly by increasing the total stock of decent housing available.

Several other equity questions are raised as arguments against the existing programs. It is sometimes asserted that equity requires that those in the lowest income groups should be served first. The sections 235 and 236 programs for example, are charged with not serving those most in need.

But this charge of inequity is misdirected. The Congress did not intend that these programs should serve the very poor. The statutory provisions clearly provide that income eligibility should be established at the lowest practicable levels consistent with the ability to make required payments for housing, taking into account the subsidy assistance made available under the law. While the Congress did not intend to automatically exclude the lowest income groups from homeownership and rental programs, it did not design the programs principally to serve such families. Accordingly, persons served by these programs generally have a higher average income than would persons served by public housing and rent supplemental programs. This congressional intent is ignored in the HUD calculation of the number of persons in need served by housing programs, since a $5,000 income was selected as the dividing line between the most needy who should be served and other income groups.

A number of additional inequity arguments are raised in the HUD analysis. The Congressional Research Service report suggests that the underlying assumptions and reasoning of such allegations of inequities, while not totally without merit, are dubious, and require considerable examination before acceptance.

It is, moreover, difficult to come to grips with the charge of "inequity" when no realistic alternative is presented. While it may be desirable to quadruple the Federal budget for housing, as is implied by the direct cash assistance program, no budget proposal has been seriously made to carry out such a program.

Another major charge against existing housing programs concerns their cost. It has been alleged that these programs will cost between $65 and $85 billion over the next 30 to 40 years. It should, however, be noted that these estimates cover all housing programs, including public housing which now shelters over 1 million of our lowest income families. It is estimated that public housing costs alone count for almost two-thirds of the total for all housing programs. Since most of the subsidy payments would be made in future years, their discounted value at the present time would total less than $40 billion, or $1 billion per year. At current budget levels, this would be about one-third of 1 percent of the current annual Federal budget, an amount that is not inconsistent with current priorities. Furthermore, the estimated public housing costs fail to take account of the offsetting value of a publicly owned stock of low-income housing after the capital debt on them has been paid off—which will come to pass in about 5 years for the oldest projects.

Mr. President, I ask unanimous consent that the following staff members of the Housing Subcommittee may have the privilege of the floor during the course of the debate on this measure: Howard Beasley, Carl Coan, Thomas A. Brooks, Jeremiah Buckley, Randall Higgins, Robert Malakoff, and Dorie Thomas. I presume that not all of them will be here at the same time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

Today we are going to consider one of the most important pieces of legislation that this Congress has considered since enactment of the 1968 Housing Act. The Housing and Community Development Act of 1974, if enacted, will affect this Nation's housing efforts for years to come. Additionally, it provides for a major revision in the existing community development programs.

Two years ago, this body passed a bill which was similar in scope and content. Unfortunately, that bill did not reach the House floor. It is hoped that the same fate does not await this proposal. The Banking, Housing and Urban Affairs Committee has labored long and hard on this bill, and there are many provisions of exceptional merit within its 357 pages. Most of these provisions are long overdue, and I am pleased that they are included. But, as I have stated, this is a large bill. I do not remember when, if ever, we have produced as big a bill as this. Unfortunately, the larger the bill, the more of a chance there is for conflict and contradiction. The larger the bill, the more of a chance there is for inclusion of obscure, but highly important provisions. For the most part, I would agree with the provisions contained in S. 3066. But, there are certain elements of this proposal to which I must take strong exception. I should very briefly like to touch upon these issues.

One of the provisions is contained in section 107 of S. 3066. This is the same provision that was offered to the FHA extension bill this past summer but was not adopted. It would provide that an owner of a house that was insured by FHA could obtain compensation from the FHA if it could be shown that a defect existed at the time of the FHA inspection, and that defect could have reasonably been discovered during such an inspection, but was not. I do think that if the FHA has been at fault, then something should be done to alleviate the harm that it caused. But, this provision goes much further. It changes the nature and role of the FHA as we have known it in the past. From now on, when FHA inspects an existing property, instead of inspecting it to simply determine its value in its current condition, for insurance purposes, it will now be in the business of warranting the condition of the property to the purchaser. I think that this should be a responsibility of the seller rather than the Federal Government. Additionally, this provision requires that FHA offer such compensation to owners whose mortgage was insured by them as far back as 1968. I think that this would be an almost impossible task to perform. Furthermore, HUD has estimated that the initial costs of this program could be as high as $300 million.

Another important provision contained in this bill is the continuation in a revised form of the old section 235 and section 236 programs, now known as the section 402 and section 502 programs. It cannot be denied that these programs have contributed to the production of the many units that are needed to house low- and moderate-income families in this country. As Senators are aware, a year ago January, HUD, placed a moratorium on these programs because they thought that there were many inequities in them, they were inefficient, and many would be subject to defaults in the near future.

Many have questioned the findings of the HUD study, and passed it off as the administration's attempt to scuttle the existing subsidy programs in favor of paving the way for its new direct cash assistance approach to produce housing. It was thought that the projected default rate was greatly over-exaggerated. In order to determine precisely what the current situation was in the HUD region that I am most concerned about, the Dallas region, I asked HUD to give me a status report on the section 236 program. As of December 31, 1973, the following information for section 236 units in region VI, which covers 5 States, was obtained. There are 49,350 units either produced or in progress. Of this amount, 1,494 units were foreclosed, 2,692 units were assigned to the Secretary, and 2,138 units were in default. This means that 8.5 percent of the units were either foreclosed or held by HUD. If you add the units that are in default the figure is increased to 12.8 percent. Now, I cannot tell you if this is the result of inflation, the nature of the program, FHA processing, or what. All I do know is that, with some modification, we are providing for a new program that contains the very same framework as the program we intend to replace. While the program has produced several successful projects in the past, I think that these figures show that it is not without many substantial problems.

Now what bothers me the most is that section 821 of the bill will require that all funds that are appropriated for each program contained in S. 3066 must be made available to be spent during each year. What this would do would be to mandate the spending of all funds authorized for section 502. If it could be shown that the section 502 program would provide housing for lower income families, and that HUD would not wind up owning the projects in a couple of years, and it could be shown that the program would operate as it is envisioned to operate, then I would approach section 821 with a different perspective. But no one has shown me that section 502 will be without the problems that have plagued section 236. Some have said that all that is needed is better quality processing by HUD. But, I do not think that this is the answer, as quality processing supposedly has been in existence since 1971 as a result of the many criminal indictments that occurred due to the FHA scandals at that time. And while it is true that this bill would provide operating subsidies for increases in costs of utilities, maintenance, and taxes after the initial year of operation, I question the wisdom of a program that could make a project eligible for operating subsidies a year after the rent-up occurs. It disturbs me, Mr. President, that section 821 would require us to spend millions of dollars on a program that could continue to make the HUD Secretary the largest property owner in the United States.

Additionally, S. 3066 provides for new and untried programs. Section 821 would require spending money on such programs, even if HUD determines after several months or years of operation that such programs were designed poorly and do not produce housing units in the manner for which they were originally created.

Another provision of S. 3066 that causes me some concern is chapter III which deals with community development. In allocating community development funds, no consideration is given to what a community might need. Rather, funding is based on what a community has received in the past. This simply rewards past grantsmanship. I am sure that most of these "hold harmless" communities would still need funds, but such a need would still be recognized and met under an allocation formula as originally proposed in the Better Communities Act. As I stated on this floor a few days ago, the present allocation, for example, would exclude from an entitlement funding 28 cities and counties in Texas and 51 cities and counties in California. The only way these communities could now receive funding is to make a mad scramble during the first year for a portion of the discretionary funds that might be available. I submit that if this occurs, we have not at all progressed in our efforts to modernize community development funding. What we will have, essentially, is the urban renewal process all over again. An application will be submitted and a Federal official will compare it with others to determine which one receives the funds.

Another issue that has caused me some concern is the requirement that the 10-percent local matching requirement be in the form of cash. I think that this could result in excessive paperwork and redtape. In section 308(a)(2) we allow a community to use 10 percent of the project funds completely as it sees fit. If we can presume for a moment that this 10 percent is the same 10 percent that is required to be contributed in cash, what, in effect, results? The 90-percent Federal contribution could be looked upon as really being a 100-percent grant. The 10-percent local share could be used in any manner the locality sees fit. So why should it be in cash? Why could it not be in the form in which the cash will eventually be spent? The result will be the same, but a lot of paperwork will be bypassed. Additionally, this does not reflect the different financial capabilities that exist among our cities. Some are bonded to their limit. Others are not.

I agree that some guidance should be given as to the purposes for which these funds can be used. But, I think that the bill contains provisions which unduly restrict our local officials as to how they use this money. They are in the best position to know what the local priorities are. But regardless of these needs and priorities, we are telling them in section 306 that they cannot use more than 20 percent of their funds for improving certain types of community public services. For cities that have had an extensive model cities program, for example, this could irreparably cripple their efforts. Regardless of this fact, I question the wisdom of our looking over the local official's shoulder in determining how the funds should be spent. Additionally, section 308(b) contains more restrictions which I think will only serve to cause an increase in redtape and processing problems and could distort a community's effort to solve some of its pressing problems.

Mr. President, as I stated earlier, the enormity of S. 3066 makes it very difficult to see precisely what some of these provisions might mean. For instance, instead of having the maximum FHA mortgage limit set in a statute, the bill proposes that the limit be set at not more than 100 percent of the prototype cost for a particular area. There are many difficulties in establishing a prototype cost, but some preliminary figures I have seen would result in setting the FHA mortgage limit at a level which is lower than that which currently exists in statute. I do not think that this was the intent of the committee, and I would hope that when HUD determines prototype costs due consideration will be given to this problem.

Another interesting factor that I have gleaned from this bill is the income limits that are used to determine eligibility for assisted housing programs. While we attempted to achieve uniformity in the definition of income as it relates to eligibility of a family for participation in assisted housing programs, we unfortunately have achieved everything but that.

The section 502 program would make a family eligible for assisted housing if their income did not exceed 80 percent of the median income for the area. In the section 402 program, the Secretary of HUD can establish a ceiling which could be higher or lower than the 80 percent of median figure. For regular public housing programs, income limits for occupancy are determined by the local housing authority, with the approval of HUD. But, as projects are required to have "very low-income" families, another income limit is needed. As used in the new section 8 public housing program, eligibility for assistance could vary depending upon whether or not the unit to be occupied is a new unit or an existing one.

As a result of this lack of uniformity the following situation could result. Let us take the political boundaries of the District of Columbia as a market area. The median income for a family of four in the District is $9,583. If we take 80 percent of this, a family could not make more than $7,666 to qualify for the section 502 program. But if we assume that a new two-bedroom apartment in the District of Columbia could have a fair market rental of $250, to qualify for the section 8(g) public housing program, a family could make up to $12,000. In other words, you could make $12,000 and qualify for public housing, which was originally designed for very low-income families, but you could not qualify for the FHA subsidized section 502 program. Is this what we really want? If it is, I submit that if anyone thinks that the FHA subsidized programs are in financial difficulty now, the situation will be greatly aggravated in the near future.

Mr. President, as I have previously stated, I strongly support some of the very important revisions and additions to our existing housing and community development laws which are contained in S. 3066. We are in a very sad state in this country, as little housing is being provided for lower- and moderate-income families. Additionally, some of the best talent that has been responsible for the local administration of the different community development programs is being lost to other forms of employment. Our local renewal agencies are being disbanded and the projects for which they had the responsibility of administering are at a standstill. While I disagree with some very basic issues in this bill, I think that the needs of this country demand that we act quickly on this legislation. Likewise, it is hoped that our colleagues in the House will be able to report a bill in the near future which deals with these same issues. We could then iron out any differences that might exist and get a bill enacted so we could get some of these programs in operation. This Nation can ill afford congressional apathy on such major issues.

Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time consumed be charged equally to both sides.

The PRESIDING OFFICER (Mr. HUDDLESTON). Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I yield the Senator from Massachusetts (Mr. BROOKE) such time as he may require.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. BROOKE. Mr. President, it has been nearly 2 years since the Committee on Banking, Housing and Urban Affairs has brought a comprehensive housing and community development bill before the Senate. The omnibus housing bill which the Senate approved by a vote of 80 to 1 in March of 1972 died in the Rules Committee in the other body during the waning days of the 92d Congress. The bill which the Senate takes up today, if enacted, will be the first major revision of our housing and community development laws since 1968. Without question it is the most extensive piece of housing legislation ever considered by the Senate.

This bill was drafted under the shadow of an unprecedented, unwise, and in my opinion unlawful, moratorium on construction of federally subsidized housing. The timing of the moratorium corresponded with a severe contraction of mortgage credit, thus aggravating a severe housing situation. As the committee worked on this bill, it watched housing starts plummet to a 3-year low.

While the Office of Management and Budget froze housing subsidy funds, the Department of Housing and Urban Development proceeded to study what were our housing programs. The results of this study were presented to the Congress in September of last year. If one were to summarize the study in a word, it would be "inconclusive." A considerable amount of data was compiled at considerable expense, but HUD's finding that existing housing subsidy programs are defective, a result which many regard as preordained, is questioned by independent experts.

On the other hand, HUD's prescription for the future of our housing assistance programs was equally inconclusive. The Department recommended that we move toward a program of direct cash assistance to low-income families while testing the viability of such a program by an expanded "housing allowance" experiment. While the committee has given HUD the authority to proceed with this "housing allowance" experiment, it has not put total reliance on this as yet unproven concept.

The housing programs which the committee is presenting to the Senate for consideration reflect the committee's belief that there must be a continuity in our housing policy, particularly as it relates to housing for low-income families. The bill contains changes and improvements in existing programs, while it opens the way to the future through several innovative demonstration programs.

In section 8 of the revised *act, the* committee has modified the leased housing program, contained in section 23 of the present version of the U.S. Housing Act of 1937. In so doing, we have adopted many suggestions made by the Department of Housing and Urban Development, though we have changed HUD's proposal where necessary to make it workable. Our objective here has been to accommodate the Department's proposal as far as is possible. It is recognized that the success of our housing programs depends to a large degree on the commitment of those who administer them. In this same spirit, the committee has also provided $440 million in contract authority for the new leasing program. It is the intention of the committee that HUD use this spending authority along with the authority given for spending on the traditional public housing and interest subsidy programs.

The bill also contains an authorization of $500 million per year for operating subsidies for public housing. These funds may be used to meet the rising fuel and maintenance costs which are crippling many local housing authorities. Also, $30 million in contract authority is provided for modernization of existing public housing. Aside from the obvious and compelling humanitarian considerations, from a purely financial viewpoint, it is sound policy to make modernization money and operating subsidies available in order to preserve our huge investment in the existing stock of public housing, which has an estimated replacement value of $20 billion.

Improving the quality of life in public housing is one of my personal priorities. It is not a goal which will be easily or quickly achieved, but one which I believe is achievable. This year I have undertaken a series of investigating trips to meet with public housing officials and tenants in a number of cities and towns across the country. Let me assure my colleagues that those who manage public housing and those who live in it have the will and the ability to make public housing work. From them we ask a renewed commitment, and in return we pledge to supply the tools necessary to do the job.

The committee's recommendations with regard to community development programs are designed to streamline what were 10 categorical grant programs into one comprehensive program. We have cut the redtape. At the same time we have sought to prevent the Community Development Assistance Act from becoming little more than an amendment to the general revenue sharing bill.

The committee recognizes that the funds supplied under this bill for the elimination of slums and blight are not enough to accomplish that objective in the near future. But if we are to begin to approach that goal, we must avoid the expenditures of community development funds to meet every social need, however pressing. Therefore, at my suggestion, the committee limited the amount of community development funds which may be spent on public service programs, such as health, education, and law enforcement programs, which should be funded through departments other than HUD. We have also refused to permit these funds to be used to finance costly citywide capital improvements such as libraries and city halls. This money, limited as it is, should be used to rehabilitate older, declining areas and to provide for the resources needed to assemble land and prepare the sites for new, viable neighborhoods.

Knowing that "hardware" alone will not build a viable community, the committee believes that local units of government should coordinate other Federal programs with their own resources to develop a community which is physically and socially complete.

The watchword of our day is "crisis." Mimicking, and at the same time suggesting, a headline, the speaker labels his subject a "crisis" and calls for emergency measures. This practice has been with us so long that the phrase "housing crisis" almost evokes a feeling of nostalgia.

Yet the fact remains that our 25-year-old goal of a decent home and suitable living environment for every American family is just that for eight million families—a goal, not a reality.

We can be proud that a majority of America's families are well housed. We have moved a long way down the road to achieving our national goal of a decent home for every family. Today we renew our commitment to persevere until all of our children, all of our elderly, all of our low-income families, urban and rural, have a decent place to live.

The bill which the Senate will consider is a most effective demonstration of our resolve to persevere until our goal is met. I commend the chairman for his leadership and assiduousness in seeing the bill through no less than 26 markup sessions. His dedication to the cause of improved living conditions for all our citizens has again been the prime moving force in getting a housing bill written. The ranking minority member, the Senator from Texas, and committee members also deserve credit for the spirit of cooperation which has produced a bill in the face of difficult circumstances. With the help of a capable and hard working staff we are able to bring a good bill to the floor.

Building on what we have achieved, changing where change is needed, we have renewed the promise that all Americans will live in decent housing. I urge my colleagues to give the bill favorable consideration.

Mr. President, I thank the Senator from Texas for yielding to me.

Mr. SPARKMAN. Mr. President, I yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. MONDALE. Mr. President, I will be calling up an amendment to the pending bill, S. 3066, dealing with income ceilings applied to section 402 and section 502 programs, which are commonly known as the sections 235 and 236 homeownership program and the rent assistance program now in effect. These amendments are cosponsored by Senators JAVITS and BROOKE.

First, however, I wish to commend the distinguished chairman of the Committee on Banking, Housing, and Urban Affairs and the chairman of the Subcommittee on Housing (Mr. SPARKMAN) for what I think is a splendid and realistic housing program as embodied in S. 3066.

The committee, under the chairman's leadership, has for many years led this country in its understanding of the needs for decent housing and in urging the country to fulfill its commitment, made years ago, that all Americans should be accorded the opportunity of living in decent housing, in a decent environment.

In recent years, that opportunity has become increasingly complicated as the administration has resorted to impounding, and then, on occasion, risking illegality, resisting existing law, and resisting the expenditure of appropriated funds to fulfill this fundamental need for decent housing in this country.

Today we do not have a recession; we have a housing depression. So it is even more essential that we pass this housing bill and that we make certain it is a sound bill, one which will achieve the objectives which I think the Nation overwhelmingly demands.

One of the key provisions is that found in sections 402 and 502, dealing with homeownership assistance and rental assistance. They are two of the main programs by which, since 1968, we have sought to produce the housing needed in this country for low- and moderate-income families, who cannot obtain such housing in the conventional market.

My amendment would strike the words "80 per centum" where they appear on lines 12 and 16 of page 58 and on lines 1 and 5 of page 76 of the bill. In place, there would be inserted the term "90 per centum." These two changes would be made to section 402 and 502 of the Revised National Housing Act set out in chapter 1 of the bill. In effect, the changes would set the maximum income limit, for eligibility under these two housing assistance programs, at 90 percent of the median income for a given area, instead of the bill's proposed 80 percent.

The original bill, as introduced by the distinguished Senator from Alabama (Mr. SPARKMAN) contained a 90-percent rather than an 80-percent ceiling. But in committee that ceiling was reduced to 80 percent, and I believe that thereby the effectiveness of the program has largely been eliminated, particularly as it affects housing in the central cities of the country.

Mr. President, I ask unanimous consent that an explanation of the operation of the 80-percent ceiling and a table which shows its effect in selected cities be printed at this point in my remarks.

There being no objection, the explanation and tables were ordered to be printed in the RECORD, as follows:

MAXIMUM INCOME LIMITS FOR FHA 402 AND 502 HOUSING PROGRAMS

The attached table illustrates the inadequacy of the proposed maximum income limits for the 402 and 502 housing assistance programs contained in S. 3066. These are the programs designed to replace the present FHA 235 and 236 programs.

Under S. 3066 a family cannot qualify for occupancy in a single family home or apartment unit with assistance under Section 402 or 502 if its income exceeds 80% of the median for the housing market area in which it lives. There is a limited exception to this ceiling for the 502 rental program, but no exception for the 402 homeownership program.

To demonstrate the effect of this 80% ceiling, the attached table was prepared of 31 cities throughout the country. The table shows the relatively limited income range into which a family's income would have to fall in order to be assisted. In 13 of the 31 cities, a family would have to have an income in excess of the 80% ceiling in order to be able to afford a house without paying more than 20% of its income toward its monthly payment under the mortgage. In four other cities the range is less than $500, in seven others it is between $500 and $1,000. In only seven of the cities is there anywhere approaching a reasonable income range, with four of them having a spread between $1,000 and $2,000 and three with a spread of slightly over $2,000.

Unless there is a reasonable number of eligible families who can afford, with the available subsidy assistance, to purchase homes under the 402 program, it is highly unlikely that private builders will build homes for sale under the program. To induce a builder to risk his capital, he must have some reasonable assurance that there will be a broad enough market for his product. Such a market should include an income range of at least $1,000 to $1,500. This will not be achievable in many areas under the proposed 402 program with the income limits set at 80% at the median. In fact, as the table demonstrates, in more than ⅓ of the cities, there will be no market at all.

One of the problems with the present 235 program has been that the income ceiling, especially in higher cost parts of the country, has been too low to make available a broad enough market to induce builders to produce under the program. Additionally, the regular 235 limits have left a broad income gap between those eligible for assistance and those who can purchase a modest home without assistance.

The proposed 80% limit would only worsen the situation in many areas, as indicated by the fact that in nine of the 31 cities reviewed the new limit would be lower than the present 235 limit and in seven more cities the new limit would be no higher than

$300 over present limits. Nor would there be any provision as under the 235 program for exception limits. Under 235 at this time, 20% of the contract funds can be used to assist families whose incomes are not in excess of 90% of the income limits under the 221(d)(3) below-market interest rate program. This is equivalent to 90% of the median.

Most of the problems posed by the 80% of median income limit contained in S. 3066 would be eliminated if the limit was raised to 90% of the median. This was the ceiling agreed upon by the Senate in passing the Housing and Urban Development Act of 1972. It would provide a more feasible income range for most communities, thereby inducing private builders to develop housing under the 402 program.

It would also serve a definite need for assistance as is so vividly illustrated by Column H of the attached table. In this column there is set out for each city the income a family needs to afford a mortgage of 120% of prototype with 20% of income. In all cases this income is in excess of the median. While, of course, 90% of the median will not take care of the whole problem, it will expand those eligible and definitely in need of assistance to a broad enough base to make the program more workable and therefore more acceptable to the public at large.

The figures used in the table attached are based on various HUD data and represent the best available at this time. There may of course be variations when a close review is made of a given community, as far as costs and actual incomes are concerned. However, it is believed that the surveyed cities represent a cross-section of those cities for which information is available and that the patterns evident would be replicated in most other communities.

It is recognized that using the maximum permissible mortgage amount, 120% of prototype, can in some instances skew the results, because there is no question that in some communities housing can and should be produced at a lower cost than the maximum permissible. However, the cost data used is approximately one-half year old and therefore, does not represent the high inflation in housing costs that has occurred since the third quarter of 1973. It is therefore believed that these two factors help to cancel each other out.

While the data used relates only to the homeownership program under section 402, the patterns indicated should be equally applicable to the rental program under section 502. The problem of two narrow an income range has been just as serious under the 236 program as under the 235 program. It is just as important that rental projects assisted under 502 have a broad enough market as it is for homes built under 402. Cutting off basic eligibility under the 502 program at 80% of the median will result in many needy families being unable to obtain decent rental housing that they can afford.

EFFECT IN SELECTED CITIES OF USING INCOME LIMIT OF 80 PERCENT OF MEDIAN INCOME FOR INTEREST ASSISTANCE PROGRAMS UNDER THE 402 AND 502 PROGRAMS IN S. 3066

(A) Median income for 3- or 4-member family; (B) 90 percent of median income; (C) 80 percent of median income; (D) Regular income limits for 235 and 236 programs; (E) FHA prototype cost estimate for moderate-cost home; (F) 120 percent of prototype estimate; (G) Monthly carrying cost of mortgage at 120 percent of prototype (col. F); (H) Annual income needed to pay monthly carrying cost in col. G; (I) Maximum monthly carrying cost that can be borne by family with income at 80 percent of median limit proposed in S. 3066 (col. C); (J) Monthly carrying cost of mortgage at 120 percent of prototype (col. F) with full subsidy under sec. 402 of S. 3066; (K) Income range of families eligible to receive assistance under 402 program of S. 3066]

	A	B	C	D	E	F	G	H	I	J	K
Albany, N.Y	10,700	9,630	8,560	9,180	22,046	26,455	263.67	15,820	142.67	138.96	8,338-8,560)
Atlanta, Ga	8,400	7,560	6,720	6,750	18,790	22,548	221.20	13,272	112.00	115.11	(6,907-6,720)
Baltimore, Md	9,300	8,370	7,440	7,425	22,806	27,367	270.81	16,249	124.00	141.86	(8,512-7,440
Birmingham, Ala	8,600	7,750	6,880	6,750	17,524	21,028	203.65	12,219	114.67	103.92	6,235-6,880
Boston, Mass	11,200	10,100	8,966	8,100	22,806	27,367	270.81	16,249	149.34	141.86	8,511-8,960
Buffalo, N.Y	9,800	8,820	7,840	9,180	23,490	28,188	277.17	16,630	130.67	120.93	7,256-7,840
Camden, N.J	10,600	9,540	8,480	7,020	18,245	21,894	209.20	12,552	141.33	106.18	6,371-8,480
Chicago, Ill	11,500	10,350	9,200	8,775	20,439	24,527	237.07	14,224	153.33	113.99	6,839-9,200)
Cincinnati, Ohio	10,600	9,540	8,480	8,100	23,240	27,888	274.78	16,487	141.33	143.47	(8,608-8,480
Dallas, Tex	8,700	7,830	6,960	7,965	16,496	19,795	186.45	11,187	116.00	93.33	5,600-6,960)
Denver, Colo	9,000	8,100	7,200	6,885	20,091	24,109	233.90	14,034	120.00	120.26	(7,216-7,200
Des Moines, Iowa	11,700	10,530	9,360	7,290	23,935	28,722	281.53	16,892	156.00	146.20	8,772-9,360
Detroit, Mich	11,400	10,260	9,120	7,425	22,806	27,367	270.81	16,249	152.00	141.86	8,512-9,120
Greensboro, N.C	7,200	6,480	5,760	7,830	19,190	23,028	225.17	13,510	96.00	116.72	(7,003-5,760)
Jacksonville, Fla	8,200	7,380	6,560	6,885	19,928	23,914	232.31	13,939	109.33	119.62	(7,177-6,560)
Los Angeles, Calif	10,800	9,720	8,640	8,235	22,806	27,367	270.81	16,249	144.00	141.86	8,512-8,640
Memphis, Tenn	8,600	7,740	6,880	6,750	17,367	20,840	200.48	12,029	114.67	102.40	6,144-6,880
Milwaukee, Wis	10,100	9,090	8,080	7,560	10,100	22,806	223.59	13,415	134.67	116.08	6,965-8,080
New Orleans, La	8,700	7,830	6,960	6,480	20,790	24,948	240.23	14,414	116.00	122.98	(7,379-6,960)
Philadelphia, Pa	10,600	9,540	8,480	6,415	22,806	27,367	270.81	16,249	141.33	141.86	(8,512-8,480)
Portland, Oreg	10,600	9,540	8,480	7,290	20,307	24,368	235.88	14,153	141.33	121.07	7,364-8,480
Providence, R.I	11,800	10,620	9,440	7,830	22,263	26,716	265.65	15,939	157.33	139.76	8,386-9,440
Sacramento, Calif	10,700	9,630	8,560	7,830	18,159	21,791	208.41	12,505	142.67	105.86	6,352-8,560
St. Louis, Mo	11,400	10,260	9,120	8,100	21,856	26,227	261.69	15,701	152.00	138.15	8,289-9,120
St. Paul, Minnesota	10,300	9,270	8,240	8,370	22,806	27,367	270,81	16,249	137.33	141.86	(8,512-8,240)
Salt Lake City, Utah	8,300	7,470	6,640	7,020	17,593	21,112	203.25	12,195	110.67	103.47	6,208-6,640
San Francisco, Calif	10,400	9,360	8,320	7,695	22,806	27,367	270.81	16,249	138.67	141.86	(8,512-8,320)
Seattle, Wash	10,300	9,270	8,240	7,695	20,618	24,742	238.45	14,307	137.33	125.21	7,513-8,240
Tulsa, Okla	7,600	6,840	6,080	6,480	17,596	21,115	203.58	12,215	101.33	104.09	(6,245-6,080)
Washington, D.C	12,200	10,980	9,760	7,830	25,575	30,690	308.42	18,505	162.67	163.90	(9,834-9,760)
Wilmington, Del	9,100	8,190	7,280	7,155	22,915	27,498	271.61	16,297	121.33	142.18	(8,531-7,280)

EXPLANATORY NOTES

(A) Derived from HUD Handbook 4500.3 Income Limits for Sec. 221(d)(3) Below-Market Interest Rate Housing (in most communities these limits are identical to the median).

(B) Same as present exception limits for 235 and 236 programs.

(C) Limit established for 402 and 502 programs in S. 3066.

(D) Derived from HUD Handbook 4500.2.

(E) FHA cost data as of Mar. 14 1972 increased by 8.6 percent to reflect average increase in construction cost per square foot for FHA 203(b) new 1-family houses from 1st quarter 1972 (15.36) to 3d quarter 1973 ($16.68).

(F) Maximum mortgage amount under sec. 402 and 502 of S. 3066.

(G) Based on 30-year mortgage at 8¼ percent (present FHA interest rate)—includes principal interest mortgage insurance premium and monthly payments to real estate tax and hazard insurance escrows (tax and insurance amounts provided by FHA Division of Research and Statistics and are the average tax and insurance payments based on FHA estimate of property value on new 1-family homes insured under sec. 203(b) in 1972).

(H) Based on using 20 percent of income.

(I) Based on using 20 percent of income.

(J) Based on using 20 percent of income.

(K) Left or lower figure represents the minimum income needed with full allowable subsidy to pay the monthly carrying cost on mortagge at 120 percent of prototype (col. J); right or higher figure represents the income limit under S. 3066 (col. C)—where figures are in parentheses ( ) left figure will be higher than right figure indicating that minimum income needed with full subsidy to carry mortgage with 20 percent of income exceeds the income limit for the city.

Mr. MONDALE. Mr. President, if I may set forth a few examples of what the 80-percent ceiling means. If it were to remain in its present form in the bill, in 13 of the 31 major cities measured by the above table a family would have to have an income in excess of the 80-percent ceiling in order to be able to afford a house without paying more than 20 percent of its income toward its monthly payment under the mortgage.

In other words, in 13 of the 31 cities, there would be no section 402 or section 502 housing at all. It would be economically impossible under the provisions of the bill.

In four other cities of those who would be eligible for housing would have incomes only $500 less than the ceiling. In seven others, it would be the narrow range between $500 and $1,000.

In other words, in about 24 of the 31 cities, for all practical purposes, the provisions of this bill would not apply at all. In only seven of the cities is there anywhere approaching a reasonable income range, with four of them having a spread of between $1,000 and $2,000, and three with a spread of slightly over $2,000. To induce a builder to risk his capital, he must have some reasonable assurance that there will be a broad enough market for his products. Such a market, according to the experts, must include an income range of at least $1,000 to $1,500. That will not be achievable in many areas under the proposed 402 program limits.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. MONDALE. Mr. President, may I have 5 more minutes, please?

Mr. SPARKMAN. I yield the Senator 5 additional minutes.

Mr. MONDALE. In fact, the table demonstrates that in 13 of the cities there will be no market at all. The proposed limit would only worsen the situation in many areas, as indicated by the fact that in 9 of the 31 cities reviewed, the present limit would be lower than the 235 limits. In other words, we would be taking a backward step from even the limits established under the 1968 act, and in seven other cities the new limit would be no higher than $300 over the present limits.

So most of the median income limits contained in S. 3066 would be eliminated if the limit were raised to 90 percent of the median. Let me point out how this 80 percent ceiling now in the bill would work to destroy the probability of new housing in our country.

To pick an example, Birmingham, Ala., one of the cities in the State of the distinguished floor manager, the 80-percent ceiling would mean that for economic reasons a family would have to make at least $6,235 per year to make it economically possible for them to buy housing under the most generous assistance made available under the bill. But under this ceiling, they could be making, under the law, no more than $6,800 in order to be eligible, so there would be a range of about $500. My amendment would raise the ceiling to $7,750, which, according to many economists, is the minimum range necessary if you are going to have a housing market sufficient to induce any production of housing under the provisions of this bill.

There are many other examples that one could give. In my home State of Minnesota, in St. Paul, Minn., the minimum needed for economic reasons would be $8,512. The ceiling would limit you to $8,240, so there would be utterly no market.

So, in effect, what the 80-percent ceiling means is that there will be new housing under these essential programs in the city of St. Paul. This would also be true in San Francisco, Tulsa, Okla., Washington, D.C., Wilmington, Del., Atlanta, Ga., Baltimore, Md., Cincinnati, Ohio, and Denver, Colo., Greensboro, N.C., Jacksonville, Fla., New Orleans, Philadelphia; these cities would be, in effect, repealed out of the bill.

The PRESIDING OFFICER. The Senator's additional 5 minutes have expired.

Mr. SPARKMAN. I yield the Senator 5 minutes more.

Mr. MONDALE. I cannot believe that, as we act on a housing measure to deal with the problems of low- and moderate-income housing, we can deliberately set forth a ceiling which prohibits, for all practical purposes, the extension of this program to millions and millions of people living in the central cities of our country, North, South, East, and West; and for that reason I am hopeful that this amendment will be adopted.

Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> On page 58, lines 12 and 16, strike "80 per centum" and insert in lieu thereof "90 per centum".
>
> On page 76, lines 1 and 5, strike "80 per centum" and insert in lieu thereof "90 per centum".

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I yield myself 5 minutes.

I should like to call to the attention of the Senator from Minnesota that I do not believe we need the amendment that he proposes on page 76. That is already taken care of in another requirement of the bill. I have not discussed this with the Senator from Texas, but I would suggest, for my part, that the Senator withdraw that part of the amendment, and limit his request to the one on page 58, which, for my part, I would be glad to accept.

Mr. MONDALE. I would be glad to do that, if I may pose an inquiry.

Mr. SPARKMAN. Yes.

Mr. MONDALE. As I read the language on page 76, it appears that the same 80-percent ceiling applies there as in the earlier pages.

Mr. SPARKMAN. Has the Senator referred to subsection (4) on page 70?

Mr. MONDALE. I am referring to the language on page 76.

Mr. SPARKMAN. No, but I want the Senator to refer to the language on page 70.

Mr. MONDALE. All right.

Mr. SPARKMAN. In subsection (4).

Mr. MONDALE. To what lines does the Senator refer?

Mr. SPARKMAN. Commencing with line 9.

Mr. MONDALE. As I understand that language, it would permit 20 percent of the tenants to exceed the ceiling.

Mr. SPARKMAN. That is correct. In other words, we have provided leeway there, which I think is the same thing, but just arrived at in just a little different way.

Mr. MONDALE. If the distinguished floor manager is satisfied that that deals with the ceiling, for all practical purposes, for the rental program, I am willing to accept his judgment.

Mr. SPARKMAN. That is my interpretation. In other words, it arrives at the same end that the Senator proposes, but by a little different route.

Mr. MONDALE. All right. I modify my amendment to delete that reference to the 502 program, so that it refers solely to the 402 program.

Mr. SPARKMAN. Correct. In other words, the part on page 76 the Senator would strike?

Mr. MONDALE. Correct. I modify my amendment accordingly.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. MONDALE's amendment, as modified, is as follows:

> On page 58, lines 12 and 16: strike "80 per centum" and insert in lieu thereof "90 per centum".

Mr. TOWER. Mr. President, I am in agreement with the Senator from Minnesota, and, in behalf of the minority, am perfectly willing to accept the amendment as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota, as modified.

The amendment, as modified, was agreed to.

Mr. MONDALE. Mr. President, I have discussed another amendment with the distinguished floor manager for creating a standby Home Owners Loan Corporation. The evidence shows that we may well be running into a period when we will have a great number of home foreclosures in this country. The record from the 1930's will show that the Home Owners Loan Corporation helped enormously in saving millions of Americans from losing their homes.

I would not propose that it be established and be put into operation at this point, but my amendment does call for standby authority to do so should the mortgage foreclosure rate reach a percentage which requires the implementation of a corporation along the lines of that which saved so many homes from foreclosure during the 1930's.

Mr. President, I do not think anything strikes harder than the loss of one's home, particularly when it is for reasons beyond the control of homeowners to maintain mortgage payments. For literally thousands of Americans, that heartbreak may be a reality in the next several months. As inflation continues to rise unemployment continues to increase, and the energy crisis takes its toll in both prices and jobs, many Americans may find it increasingly difficult, and eventually impossible, to meet home mortgage payments. For these unfortunate citizens, a major investment—quite possibly the largest investment of their lifetime—will vanish, and their shelter will be suddenly gone.

So that the Federal Government, in anticipation of this possibility, may be ready to cope with this tragedy and aid those families faced with mortgage foreclosure, I am today introducing standby legislation which would reactivate the Home Owners' Loan Corporation. The legislation is designed to become operative only when the foreclosure situation reaches crisis proportions and provides real help to those American families faced with the loss of their homes.

THE ORIGINAL HOME OWNERS' LOAN CORPORATION

During 1932 and 1933, this Nation experienced a period of high unemployment. At the same time, the public exhibited a serious lack of confidence in existing property values. As a result of these two forces, the annual rate of real property foreclosures climbed to nearly 250,000. Most of the foreclosed properties were owner-occupied homes. And, surely, the foreclosures resulted from the inability of families, with the head of the household unemployed, to meet mortgage payments.

The foreclosures obviously exacerbated the economic hardships of the effected families. In addition, they had a domino effect by collapsing real estate values and making lenders reluctant to finance new housing. The resultant inactivity in the construction industry further contributed to the depression of the entire economy.

Against this background, Congress enacted the Home Owners Loan Act of 1933. It directed the members of the Federal Home Loan Bank Board to establish the Home Owners' Loan Corporation and to serve as the Board of Directors of the HOLC. The HOLC represented an attempt to counteract mortgage foreclosures by allowing the HOLC to purchase mortgages from private lending institutions and to refinance the mortgages of homeowners faced with foreclosure because of temporary financial hardship.

The HOLC was authorized to issue stock of up to $200 million and up to $2 billion in bonds. The bonds had the full faith and credit of the United States behind them, were tax-exempt, and were to bear interest at a rate of 4 percent or less.

The HOLC was authorized to exchange its bonds for home mortgages and other liens—such as tax liens—secured by real estate. A $14,000 limitation—or 80 percent of the value of the property—was placed on the mortgage or lien to be refinanced. The HOLC could rewrite the mortgage loan balance to be amortized over a 15-year period and could grant such extensions of time for payment as might prove necessary. The maximum interest rate on the refinanced mortgage would be 5 percent, which was significantly lower than the prevailing rate. The HOLC could also make cash loans to homeowners with debt-free homes who were faced with financial difficulties and possible loss of the home. Such loans could not exceed 50 percent of the appraised value of the property and bore an interest rate of 6 percent or less.

The Home Owners' Loan Corporation was established in June of 1933 and eventually liquidated in March of 1951. It made, or acquired and refinanced, about 1,016,000 mortgage loans; most during the first 3 years of its existence. The original aggregate amount of these loans totalled $3,039 million. Only about 19 percent of the original loans ended in foreclosure. In the process of its operations, the HOLC helped about 800,000 homeowners save their homes. It also helped innumerable lending institutions from whom it acquired mortgages. By stemming the tide of foreclosures, it was also influential in stabilizing property values and in restoring the necessary confidence which led to an upturn in residential construction.

THE NEED FOR THE HOLC TODAY

During the fourth quarter of 1973, the economy grew at a rate of only 1.3 percent. The unemployment rate is over 5 percent, and leading economists are predicting a rise in unemployment to 7 percent. The energy crisis is estimated to have displaced more than 200,000 workers already, and more energy-crisis unemployment can be anticipated as the automobile manufacturing industry, the plastics industry, and the construction industry feel the effects of the energy shortage.

Against the backdrop of high unemployment, we find a situation where, for millions of American homeowning families, mortgage payments are high in relation to income and savings. This predicament is particularly acute for young workers who acquired their homes in recent years at high prices with mortgage interest rates high. Unemployment rates among this group will be even higher than the national average, and their savings are frequently too small to permit them to meet mortgage payments over any extended period of unemployment.

The PRESIDING OFFICER (Mr. HASKELL). The time of the Senator from Minnesota has expired.

Mr. SPARKMAN. Mr. President, does this mean that the time allotted to the Senator from Minnesota as the author of the amendment has expired—his total time?

The PRESIDING OFFICER. There is no amendment pending at the moment. The Senator is using time on the bill.

Mr. SPARKMAN. I understood from the agreement yesterday afternoon that each amendment would have 30 minutes, except the Javits amendments. This means 15 minutes for the Senator from Minnesota. Has that 15 minutes expired?

The PRESIDING OFFICER. That is correct. But no amendment has been offered.

Mr. MONDALE. Mr. President, I send an amendment to the desk and ask unanimous consent that its reading be dispensed with; and, further, I ask unanimous consent that the charge of the time I have used be charged to this amendment.

The PRESIDING OFFICER. Without objection, reading of the amendment will be dispensed with, and the amendment will be printed in the RECORD; and, without objection, the time used by the Senator from Minnesota will be charged against this amendment.

The text of the amendment is as follows:

On page 357, line 11, insert the following:

CHAPTER IX—HOME OWNERS' LOAN ACT

SEC. 1. The provisions of this chapter may be cited as the "Home Owners' Loan Act of 1974."

DEFINITIONS

SEC. 2. As used in this Act—

(1) The term "Corporation" means the Home Owners' Loan Corporation created under section 3 of this Act.

(2) The term "home mortgage" means a first mortgage on real estate in fee simple or on a leasehold under a renewable lease for not less than 99 years upon which there is located a dwelling for not more than four families, which is, or was for at least one month during the preceding year, used by the owner as a principal residence, and which has a value not exceeding $40,000.

(3) The term "first mortgage" includes such classes of first liens as are commonly given to secure advances on real estate under the laws of the State in which the real estate is located, together with the credit instruments, if any, secured thereby.

ESTABLISHMENT AND CAPITALIZATION OF HOME OWNERS' LOAN CORPORATION

SEC. 3. (a) There is established a corporation to be known as the Home Owner's Loan Corporation, which shall be an instrumentality of the United States, which shall have authority to sue and to be sued in any court of competent jurisdiction, Federal or State, and which shall be under such bylaws, rules, and regulations as it may prescribe for the accomplishment of the purposes and intent of this section. The board of directors of the Corporation (hereinafter referred to as the "board") shall consist of the members of the Federal Home Loan Bank Board, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Administrator of Veterans' Affairs, all of whom shall serve as such directors without additional compensation.

(b) The board shall determine the minimum amount of capital stock of the Corporation and is authorized to increase such capital stock from time to time in such amounts as may be necessary, but not to exceed in the aggregate $1,000,000,000. Such stock shall be subscribed for by the Secretary of the Treasury on behalf of the United States, and payments for such subscriptions shall be subject to call in whole or in part by the board and shall be made at such time or times as the Secretary of the Treasury deems advisable, and for the purpose of making such payments, the Secretary is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such payments. The Corporation shall issue to the Secretary of the Treasury receipts for payments by him for or on account of such stock, and such receipts shall be evidence of the stock ownership of the United States. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the stock acquired by him under this subsection. All purchases and sales by the Secretary of the Treasury of such stock under this subsection shall be treated as public debt transactions of the United States.

(c) The Corporation is authorized to issue bonds in an aggregate amount not to exceed $10,000,000,000, which may be sold by the Corporation to obtain funds for carrying out the purposes of this section, or exchanged as hereinafter provided. Such bonds shall be issued in such denominations as the board shall prescribe, shall mature within a period of not more than 18 years from the date of their issue, shall bear interest at a rate not to exceed a rate determined by the Secretary of the Treasury taking into account the average yield on outstanding marketable obligations of the United States as of the close of the preceding month, and shall be fully and unconditionally guaranteed as to interest only by the United States, and such guaranty shall be expressed on the face thereof. In the event that the Corporation shall be unable to pay upon demand, when due, the interest on any such bonds, the Secretary of the Treasury shall pay to the Corporation the amount of such interest, which is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, and the Corporation shall pay the amount of such interest to the holders of the bonds. Upon the payment of such interest by the Secretary of the Treasury the amount so paid shall become an obligation to the United States of the Corporation and shall bear interest at the same rate as that borne by the bonds upon which the interest has been so paid. The bonds issued by the Corporation under this subsection shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by any State, county, municipality, or local taxing authority. The Corporation, including its franchise, capital, reserves and surplus, and its loans and income, shall likewise be exempt from such taxation; except that any real property of the Corporation shall be subject to taxation to the same extent, according to its value, as other real property is taxed.

FUNCTIONS

SEC. 4. (a) The Corporation is authorized, for a period of three years after the date of enactment of this Act, but only during any calendar quarter in which the Federal Home Loan Bank Board determines that the foreclosure rate (stated as an annual percentage rate of all mortgaged structures) exceeds one-half of one per centum, (1) to acquire in exchange for bonds issued by it, home mortgages and other obligations and liens secured by real estate (including the interest of a vendor under a purchase-money mortgage or contract) recorded or filed in the proper office or executed prior to the date of the enactment of this Act, and (2) in connection with any such exchange, to make advances in cash to pay the taxes and assessments on the real estate, to provide for necessary maintenance and make necessary repairs, to meet the incidental expenses of the transaction, and to pay such amounts not exceeding $50, to the holder of the mortgage, obligation, or lien acquired as may be the difference between the face value of the bonds exchanged plus accrued interest thereon and the purchase price of the mortgage, obligation, or lien, except that the aggregate of such advances and payments shall be reduced by an amount determined by the board to be equal to the amount of costs which would have been incurred in foreclosure proceedings in connection with the mortgage, lien, or other obligation. The face value of the bonds so exchanged plus accrued interest thereon and the cash so advanced shall not exceed in any case $40,000. In any case in which the amount of the face value of the bonds exchanged plus accrued interest thereon and the cash advanced is less than the amount the home owner owes with respect to the home mortgage or other obligation or lien so acquired by the Corporation, the Corporation shall credit the difference between such amounts to the home owner and shall reduce the amount owed by the home owner to the Corporation to that extent. Each home mortgage or other obligation or lien so acquired shall be carried as a first lien or refinanced as a home mortgage by the Corporation on the basis of the price paid therefor by the Corporation, and shall be amortized by means of monthly payments sufficient to retire the interest and principal within a period of not to exceed 30 years; but the amortization payments of any home owner may be made quarterly, semiannually, or annually, if in the judgment of the Corporation the situation of the home owner requires it. Interest on the unpaid balance of the obligation of the home owner to the Corporation shall be at a rate not exceeding 6 per centum per annum. The Corporation may at any time grant an extension of time to any home owner for the payment of any installment of principal or interest owed by him to the Corporation if, in the judgment of the Corporation, the circumstances of the home owner and the condition of the security justify such extension, and no payment of any installment of principal shall be required during the period of three years from the date this Act takes effect if the home owner shall not be in default with respect to any other condition or covenant of his mortgage. As used in this subsection, the term "real estate" includes only real estate held in fee simple or on a leasehold under a lease renewable for not less than 99 years, upon which there is located a dwelling for not more than four families used by the owner of a home or held by him as a homestead and having a value not exceeding $40,000. No discrimination shall be made under this Act against any home mortgage by reason of the fact that the real estate securing such mortgage is located in a municipality, county, or taxing district which is in default upon any of its obligations.

(b) The Corporation is further authorized, during any quarter referred to in subsection (a) in any case in which the holder of a home mortgage or other obligation or lien eligible for exchange under subsection (a) of this section does not accept the bonds of the Corporation in exchange as provided in such purchase, or repurchase agreement, or loan finds that the home owner cannot obtain a loan from ordinary lending agencies, to make cash advances to such home owner in an amount not to exceed 50 per centum of the value of the property for the purposes specified in such subsection (a). Each such loan shall be secured by a duly recorded home mortgage and shall bear interest at a rate of interest which shall be uniform throughout the United States, but which in no event shall exceed a rate of 6 per centum per annum, and shall be subject to the same provisions with respect to amortization and extensions as are applicable in cases of obligations refinanced under subsection (a) of this section.

(c) The Corporation is further authorized, during any quarter referred to in subsection (a), to exchange bonds and to advance cash, subject to the limitations provided in subsection (a) of this section, to redeem or recover homes lost by the owners by foreclosure or forced sale by a trustee under a deed of trust or under power of attorney, or by voluntary surrender to the mortgagee within two years prior to such exchange or advance.

(d) The board shall issue such rules and regulations as may be necessary, including rules and regulations providing for the appraisal of the property on which loans are made under this section so as to accomplish the purposes of this Act.

(e) Any person indebted to the Corporation may make payment to it in part or in full by delivery to it of its bonds which shall be accepted for such purpose at face value.

ADMINISTRATIVE PROVISIONS

Sec. 5. (a) The Corporation shall have power to appoint and fix the compensation of such officers, employees, attorneys, or agents as shall be necessary for the performance of its duties under this Act, without regard to the provisions of other laws applicable to the employment or compensation of officers, employees, attorneys, or agents of the United States. No such officer, employee, attorney, or agent shall be paid compensation at a rate in excess of the rate provided by law in the case of the members of the Federal Home Loan Bank Board. The Corporation shall be entitled to the free use of the United States mails for its official business in the same manner as the executive departments of the Government, and shall determine its necessary expenditures under this Act and the manner in which they shall be incurred, allowed, and paid, without regard to the provisions of any other law governing the expenditure of public funds.

(b) The board is authorized to make such bylaws, and issue such rules and regulations, not inconsistent with the provisions of this section, as may be necessary for the proper conduct of the affairs of the Corporation. The board is further authorized and directed to retire and cancel the bonds and stocks of the Corporation as rapidly as the resources of the Corporation will permit. Upon the retirement of such stock, the reasonable value thereof as determined by the board shall be paid into the Treasury of the United States and the receipts issued therefor shall be canceled. The board shall proceed to liquidate the Corporation when its purposes have been accomplished, and shall pay any surplus or accumulated funds into the Treasury of the United States. The Corporation may declare and pay such dividends to the United States as may be earned and as in the judgment of the board it is proper for the Corporation to pay.

PENALTIES

Sec. 6. Whoever makes any statement, knowing it to be false, or whoever willfully overvalues any security, for the purpose of influencing in any way the action of the Home Owners' Loan Corporation or the board subsection and in which the Corporation upon any application, advance, discount, under this Act, or any extension thereof by renewal deferment, or action or otherwise, or the acceptance, release, or substitution of security therefor, shall be punished by a fine of not more than $5,000, or by imprisonment for not more than two years, or both.

FHA AUTHORITY

Sec. 7. During any period when the Corporation is carrying out its function pursuant to section 4, the Secretary of Housing and Urban Development may not make cash expenditures in connection with default proceedings under any provision of the National Housing Act, except as provided in the second sentence of section 207 (j) of such Act.

AUTHORIZATION

Sec. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. MONDALE. Mr. President, this amendment is cosponsored by Senators Hart, Humphrey, and Johnston.

There are also millions of elderly American homeowners who, although their homes may be debt-free, will find it extremely difficult to meet the cost of property taxes during a period of inflationary living costs. Their fixed incomes will simply be squeezed too far. Many will lose their homes to tax liens.

For millions of homeowners of all ages, the equity invested in their homes represent their greatest asset. Furthermore, almost all would have to pay more for housing in today's inflated market, if they were forced to live elsewhere. When the cruel arm of unemployment reaches into their homes, literally millions of Americans will find their shelter seriously threatened. They will have nowhere to turn, and nowhere to hide. Although many mortgages are insured, they are insured to protect the lender-mortgagee against loss, not usually the homeowner-mortgagor. Our present guarantees run to the protection of the lenders and not to the person who has borrowed to buy his own home.

There are between 30 and 35 million owner-occupied, one-to-four family homes in this country. More than 20 million of these homes are subject to outstanding mortgages. According to a quarterly index published by the Federal Home Loan Bank Board, the mortgage foreclosure rate on all properties for the first three-quarters of 1973 was about four-tenths of 1 percent. But, the mortgage delinquency rate on one-to-four family properties—the most accurate measure of potential mortgage foreclosures on this class of properties—was 4.26 percent at the close of the third quarter of 1973.

Just yesterday it was announced that the rate for the fourth quarter of 1973 was 4.7 percent, the highest in 20 years. What I am saying is that I think we are heading into a recession. The figures now presented show that economic conditions, unless something happens, will force thousands, perhaps millions, of Americans out of their homes due to mortgage foreclosures, not because of their own fault but because of unemployment, because of inflation, and because of the reduced workweek. Surely, in a country like ours, we do not intend to stand by while millions of decent Americans are put in this kind of cruel posture.

In addition, seriously delinquent loans—those with two or more payments past due—rose to a record high of 1.26 percent at the end of the third quarter. We are already seeing a trend—an ominous trend toward mortgage foreclosure on a widespread basis for one-to-four family dwellings.

When the mortgage foreclosure rate on all properties reaches a level of five-tenths of 1 percent, it is estimated that the rate of foreclosures on one-to-four family properties would be approximately 100,000 per year—surely a critical situation. When and if such a situation occurs—and we have every reason to believe that it might—we should be prepared to help those families who face the possibility of a loss of their home.

A NEW HOLC

Mr. President, I am today introducing legislation designed to help these homeowners who face the possibility of the loss of their homes during a serious economic downturn. The bill establishes a new Home Owners' Loan Corporation; to come into being when and if the Federal Home Loan Bank Board Index reaches the critical five-tenths of 1 percent level. The Board of Directors of the Corporation will be the members of the Federal Home Loan Bank Board, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Administrator of Veterans' Affairs. The Corporation will be empowered to issue stock and bonds at levels sufficient to serve its needs.

The Corporation will be empowered to acquire, in exchange for bonds issued by it, home mortgages and other obligations and liens secured by real estate. It is limited to one-to-four family properties of a value of $40,000 or less. The Corporation may refinance the mortgage over a 30-year period at an interest rate not to exceed 6 percent. In addition, the Corporation may make cash advances, up to 50 percent of the property value, to homeowners whose obligations cannot be secured by the Corporation. Finally, the Corporation will be able to help homeowners redeem homes already lost to foreclosure.

It is important to note that the HOLC will not become operative—and will cost nothing—until we are faced with a national foreclosure crisis. When and if that crisis comes, we will be ready with a mechanism for helping thousands of American families from losing their homes.

There is nothing new in this in terms of the operation of our previous experience with the Home Owners Loan Corporation. It is patterned precisely on that experience. It will cost nothing unless we hit this catastrophic level of home foreclosure.

It is important to note that the HOLC will not become operative and will cost nothing until we are faced with a national foreclosure crisis.

When and if that comes, we will be ready with a mechanism for helping thousands of American families not to lose their homes.

We may well be near the point at which we will have these widespread catastrophic foreclosures occurring in this country. There is not now an effective mechanism in place which will protect Americans should this occur. This is the appropriate point, it seems to me, to take the steps necessary to head off what would be an outrageous, cruel, and inexcusable position in which millions of Americans, through no fault of their own, working Americans, trying to take care of their families, trying to take care of their mortgages, will lose their homes because of inflation, a reduced work week and unemployment, as well as older Americans who, because of the bite of inflation, may find themselves unable to hold onto their homes.

The latest figures, as I have said, show that the delinquency rate is rising. In the fourth quarter of 1973, it was 4.7 percent, the highest in 20 years, and the economists predict an upward trend.

I think the time to act is now, and we are acting not with a new program that would require extensive hearings. We are simply restoring an old program which has been the product of years of experience, which proved itself to work successfully when it was needed, the last time we had these conditions, and saved more than 800,000 homes from mortgage foreclosure.

This is one occasion when Congress could get ahead of a problem and be ready with a mechanism and a law to protect Americans from something that should never happen to any of them in this country. I am hopeful that the committee will accept the amendment.

Mr. TOWER. Mr. President, I do not necessarily disagree with the Senator from Minnesota on the merits of his proposal. As a matter of fact, I am inclined to think that it probably has a very great deal of merit. But the fact is that it has not been discussed and was not considered either during the hearings or the markup on this bill, if I am correct. We have had no opportunity to hold hearings on it or to really discuss it. Therefore, we do not have any real idea at the moment what effect it might have on existing financial institutions and the total availability of mortgage funds.

Therefore, I suggest to the Senator from Minnesota that it be introduced as independent legislation, with the understanding that it is something we would have a look at in committee.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. BROOKE. I certainly agree with the distinguished Senator from Minnesota as to the concept, and I would be pleased to cosponsor the Senator's amendment, but I do think it should be subjected to hearings. I believe it would be in the best interest of the amendment if we could have a hearing on it and if we could have an agreement from the Senator from Alabama (Mr. SPARKMAN) and the Senator from Texas (Mr. TOWER) that we will have hearings on this matter.

Mr. MONDALE. Mr. President, I ask unanimous consent that the name of the Senator from Massachusetts be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. I recognize that, generally speaking, when one comes up with a new program, it should be sent through the hearing cycle. But there are two or three arguments for action now.

First, the figures show that there is a startling rise in home mortgage foreclosure. I believe we all agree that few things are less excusable than to tell a working person, who is working hard, trying to hold a job, trying to keep his family together, paying his taxes, that through no fault of his own, he may have lost his job and cannot keep up the mortgage payments, or because of the bite of this fantastic inflation, the worst since World War II—conditions which are no fault of his or hers—he must lose his home. There is nothing that can happen that is more cruel, more humiliating, more destructive of the family, more inexcusable in a civilized society, than to tell working people: "We're very sorry. We know it is not your fault. We know you have tried. But, out of your house. We have a program to protect the lenders. They are not going to lose anything because, after all, lenders are important. You just happen to be in the wrong spot. You're just a worker, and we don't have any guarantee program for you." I do not want to be in a position to see that happen.

Second, this is not a new idea; it is an old idea. We have had 20 years of experience with this. It has had about as much administrative and legal experience as any measure we coud possibly suggest. It is an old idea. I do not think we need any more hearings.

Third, the housing bill is here now, and if we go back to a hearing cycle, it could well be months before we pass this measure, and then we would have to pass it on its own. When we know the deeply felt feeling of this administration for people of that kind, we cannot be sure that the President is going to sign it; so I would like to put it on something the President might sign, and I would like to do it in time to do something about the problem.

Therefore, much as I appreciate the feelings of my colleagues, I believe that this matter should be included in this bill, so that for once we can be ahead of a problem.

If it were something new or something with which we were not familiar I would want to hold hearings, but on something as old, as tested, and as necessary as this, particularly in light of these dramatically rising mortgage foreclosure rates, we should move now.

Mr. President, I hope the committee will accept the amendment.

Mr. SPARKMAN. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SPARKMAN. I agree with the view that has been expressed by the Senator from Texas. The term "HOLC" brings back memories of the tremendous job that was done back in the days of the deep depression. But that was a tremendous undertaking and if the need develops, as the Senator from Minnesota pictures it being a possibility, it would require a large amount of money and a well established corporation.

I just cannot agree with our setting up a corporation here on the floor of the Senate without any committee consideration, a corporation of the wide responsibility that this corporation would have.

I certainly hope that the Senator from Minnesota will accept the suggestion made by the Senator from Texas; that he will introduce the proposal as a bill and let us have hearings on it. We will have hearings on it if the Senator follows that course. But I believe the matter calls for more consideration than here on the floor of the Senate.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. MONDALE. What conceivable legislative vehicle would there be beyond the underlying housing bill that could offer any hope for reasonably prompt action on the part of Congress? That is what bothers me as I study this proposal and look at the current statistics which show the immediate prospect for the loss of well over 100,000 homes per year and the immediacy of this problem and the sharply rising foreclosure rates. One looks at the economy and realizes we are already in a recession. I am fearful we will go into the hearing cycle and maybe in several months have a bill. Then the bill perhaps will pass the Senate, and we will start over again in the House, there will be hearings, or perhaps more delay experienced before we have a chance to deal with the problem. In the meantime, people ask why we did not act.

I would hope that in light of the fact that this is not a new program—it is an old program—it was around for a long time, I think we have had 20 years experience and the details of it are well known—that we might accept it now.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. MONDALE. I am glad to yield to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, I do not wish to debate this matter with my distinguished colleague. I agree with him that it is a good amendment. He asks the question, What would we tie it onto or what vehicle would be used? I mention the emergency mortgage credit bill on which I think we are going to have hearings on around March 19. I think this provision could be tagged on at that time, and we would have an opportunity to see what the impact would be.

Would the Senator from Minnesota be willing to accept—I am sure he will accept the chairman's word that there will be hearings; I am trying to suggest to him the hearings could be as early as the 19th of March.

Mr. MONDALE. Mr. President, I am anxious to accommodate the committee as well as try to move toward the solution of these problems. I am torn between that and what I think is the immediacy of a despicable problem. We are now looking in the face of an explosive problem where thousands are losing their homes through no fault of their own, and we would impose the reinstitution of an old, experienced organization; I am torn between that and the Senator's argument.

Does the floor manager think there might be a chance of holding hearings before March 18 and 19?

Mr. SPARKMAN. I cannot give a date. The Senator formerly served on the committee and he knows that it is a very busy committee. We do have matters scheduled but I am certain we could find ample time for adequate hearings in the reasonable near future.

The PRESIDING OFFICER. All time of the Senator from Minnesota has expired. The Senator from Alabama has 9 minutes remaining.

Mr. SPARKMAN. As I understand it, the Senator from New Hampshire is going to hold hearings on March 19 on somewhat similar matters. I assume it could be tied in with those hearings. I do not know.

Mr. MONDALE. Would that be a possibility?

Mr. BROOKE. That is the Emergency Mortgage Credit Act, on which Senator McIntyre's committee will be holding hearings.

Mr. MONDALE. Has the administration taken a position on that?

Mr. SPARKMAN. The dates, I understand, are the 19th, 20th, and 21st of March.

Mr. BROOKE. That is right, 3 days.

Mr. MONDALE. Mr. President, will the Senator from Massachusetts yield?

Mr. SPARKMAN. I will yield to the Senator from Minnesota.

Mr. MONDALE. Has the administration taken a position on the Emergency Housing Act to which the Senator has referred and on which the hearings will be held?

Mr. BROOKE. To my knowledge the administration has not taken a position.

Mr. MONDALE. Mr. President, I regretfully think I would like to bring this matter to a vote because I can see this going on a year or more. Let us get it over with.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. MONDALE. I observe the absence of a quorum.

The PRESIDING OFFICER. Until the Senator from Alabama yields back his time, a quorum call is not in order.

The Senator from Alabama has 7 minutes remaining.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there may be a quorum call with no time charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, may I have 2 minutes?

Mr. SPARKMAN. Mr. President, I yield 2 minutes to the Senator from Minnesota.

Mr. MONDALE. Mr. President, I have discussed this matter with the distinguished floor manager and the Senator representing the minority and the distinguished Senator from Massachusetts (Mr. Brooke). I am advised that there is a good chance to have hearings on this measure as part of the Emergency Mortgage Credit Act sponsored by the Senator from New Hampshire (Mr. McIntyre), and in that hope, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

CAMPAIGN REFORM—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. Haskell) laid before the Senate a message from the President of the United States, which was ordered to lie on the table and to be printed. The message is as follows:

To the Congress of the United States:

I. INTRODUCTION

The American people wield a mighty instrument of free choice as they enter the voting booth. Indispensable to the health and integrity of that process is the accountability of candidates for public office.

Campaign abuses recently publicized and of years gone by, samplings of congressional and public opinion, expert observation, the experiences of all of us in elective office—all proclaim that the electoral process needs reform and that the accountability of candidates must be more uniformly enforced. I commend the Congress for its own recognition of this need as evidenced by recent Senate passage of two important reform measures, by the introduction of scores of reform bills, and by detailed analyses of this entire area by many Members of Congress in both Houses.

The Executive and the Congress have, therefore, a common goal: reform that works, reform that deals with the very real concerns we have in a way which improves the electoral system instead of simply coating it with the appearance of change.

I feel strongly that the reform we seek must be realistic. For example, I continue my interest in the possibilities of a six-year, one-term Presidency and four-year terms for Members of the House of Representatives. Yet, the advantages of these proposals are not so compelling as to merit driving now for a constitutional amendment. I do, however, urge further consideration of these subjects both by the Congress and the public.

Another such proposal, appealing but in my view impracticable, is the so-called Post Card Registration plan. Its goals are laudatory, but not its practical results.

Testimony before the House Election

Subcommittee has already indicated that the proposal's stated objective would not be reached and the target groups not registered. In addition to being an unwarranted Federal intrusion in an area reserved by the Constitution to the States, post card registration would be an administrative nightmare and would cause chaos in existing registration systems. Of even greater importance is the open invitation to election fraud that would be inherent in so haphazard a system. I would add that periodic in-person registration by a citizen involves a personal and political commitment that I would regret very much to see us lose.

All of our solutions in the area of campaign reform must be grounded on the solid experience of nearly 200 years, not merely on the spirited rhetoric which so frequently pervades this arena.

II. LEGISLATIVE PROPOSALS

On May 16, 1973, I urged the Congress to establish a non-partisan commission on Federal election reform. This blue-ribbon commission would have been composed of political party leaders, Members of Congress, and distinguished laymen. Only one House of Congress, the Senate, has focused on it. This lack of action has come at the very time that many Members of Congress and private leaders have been speaking out about the need for vigorous action against campaign abuses.

If it had been created in a timely manner, this commission would have been charged to file a public report no later than December 1st of last year. By now we would have had an authoritative, bipartisan report recommending carefully weighed reforms for Federal campaigns, and perhaps by now we could have been well on the way toward new statutes applicable to the upcoming elections this November.

It is because of this delay that I have directed the Department of Justice to work with my staff in preparing a comprehensive set of reforms for consideration of the Congress in this session. I am hopeful that these proposals, together with other approaches being advanced in Congress, will lead to vigorous debate and solid, effective reform.

Of course, we should not be concerned with Presidential campaigns alone. A massive volume of campaign contributions goes into Senate and Congressional campaigns as well. The problem faces us all, and because we are all concerned, I am anxious for the Congress and the Executive to work together in a spirit of full cooperation. For real progress to occur, we must all consider the paramount interests of the electoral system rather than parochial interests of any party or candidate.

The proposals I urge the Congress to consider as it continues to evolve its own approach fall into four major areas: campaign finances, campaign practices, campaign duration, and encouragement of candidate participation.

A. CAMPAIGN FINANCE

In recent years, political campaigns in America have become increasingly expensive. Because the need for more and more money has become acute in many Federal elections, I regard campaign financing as the most important area for reform, and the area in which reform is most urgently required.

After extensive study of a wide range of suggestions, including the many proposals developed by Congressional sources, I conclude that the single most important action to reform campaign financing should be broader public disclosure. Complete financial disclosure will provide the citizens of our country with the necessary information to assess the philosophy, personal associations, and political and economic allegiances of the candidates.

A number of statutes already exist which require some disclosure, but we can and should expand and improve the process.

Specifically, I endorse the proposal that each candidate in every Federal election be required to designate one single political committee as his authorized campaign organization, which in turn would have to designate one single depository for all campaign funds. With this single committee and single depository, accountability becomes virtually assured, and the unhealthy proliferation of political committees to pyramid and conceal campaign donations would be stopped at last.

I also strongly support the proposed requirement that every donation to these committees be specifically tied to the original individual donor, excepting only donations by a national political party organization. Other organizations could act as agents of individual contributors, but the donor himself would be required to designate the ultimate recipient of his campaign donation. This requirement would do more than facilitate disclosure; it would have the highly positive side benefit of reducing the influence of special interest groups by discontinuing their direct and often very substantial contributions to candidates. Donations to political party organizations, rather than to individual candidates, would not be interfered with and would continue to be identified as to the original donor, as existing law requires.

Even though disclosure is, I believe, the single most important prescription to deal with financing reform, I believe also that donation limits are needed on the amounts that an individual contributor could give to any Federal election campaign. I suggest that a candidate's authorized campaign committee be prohibited from accepting more than $3,000 from an individual donor in any Senate or House election, and not more than $15,000 in any Presidential election. These ceilings would apply in each campaign—primaries, runoffs, and general elections—and would include any contributions earmarked for a candidate through a national political committee. Regardless of the number of Presidential primaries, no candidate for President could receive more than $15,000 from any individual for all of the primaries combined, or more than this amount from any individual in the general campaign.

In recent years there has been a proliferation of "in kind" contributions in the form of paid campaign workers, printing supplies, the use of private aircraft, and other such non-monetary campaign assistance. Because there is as much room for abuse with "in kind" contributions as with financial ones, I believe we should prohibit all "in kind" donations by any organization other than a major political party.

Any "in kind" contribution by an individual would, of course, continue to be permissible, but would have to be disclosed as to both donor and recipient, with an open report of its reasonable value. These personal "in kind" donations would come within the same ceiling limitations as monetary contributions and would apply toward the ceiling amounts for Senate, House and Presidential elections.

I also urge:

—That all donations of more than $50 be made by check or other negotiable instruments, so that large flows of cash can be at least inhibited;

—That all campaign-related expenditures of over $50 be drawn only from the central campaign treasury;

—That all loans to political committees be banned, so that we can end the practice of disguising donations as loans;

—That the donation of physical assets such as appreciated stocks be prohibited;

—And that campaign contributions from foreign accounts and foreign citizens be prohibited.

These proposals, when added to the present disclosure law that took effect in 1972, should assure American voters of the information they need to decide for themselves whether or not a candidate is financing his or her campaign honestly and in an acceptable manner.

The proposals I have offered advance the common goal of restraining campaign expenditures, but they do so without imposing arbitrary limits. It is important to note, as well, that existing law already limits the amount which candidates for Federal office may spend for campaign advertising in the communications media, the most costly part of modern campaigning.

Additional spending limits, desirable as they are at first thought, raise significant constitutional questions. Moreover, they would be unworkable because many citizens furnish direct support to a multitude of groups which in turn support candidates only because of selective positions on narrow issues. They can also be unfair because expenditure limitations can be set too low to provide a challenger with any hope of contrasting his views with those of the better known, federally subsidized incumbent. Finally, a limit appropriate to a geographically small, congested Congressional district could be utterly inadequate for a large one. There are many other district-by-district variations that rigid nationwide spending limits could not fairly accommodate.

I conclude that full disclosure of campaign contributions and expenditures, subject to existing limitations, is the best and fairest approach, one that lets the voters decide for themselves whether or not too much money is being collected and spent. There should not be a limit on the widest possible dissemination of ideas and positions on issues, but I fear that would be precisely the effect of additional spending limitations however carefully designed.

Much of the debate over campaign reform has centered around the issue of drawing down on the public treasury to pay for all or part of political campaigns. I strongly oppose direct Federal campaign financing, and I doubt very much that most citizens would favor diverting hundreds of millions of tax dollars away from pressing national needs in order to underwrite politicians' campaigns.

Neither is it right to make millions of Americans pay the cost of the political activities of individuals and parties with which they might totally disagree. This even goes beyond taxation without representation. Thomas Jefferson in the Statute of Religious Freedom said that "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical."

Moreover, if we outlaw private contributions, we will close the only avenue to active participation in politics for many citizens who may be unable to participate in any other way. Such legislation would diminish, not increase, citizen participation and would sap the vitality of both national parties by placing them on the Federal dole.

In addition, almost any "public financing" measure would give incumbents an unfair advantage. Frequently, a challenger must spend more than the incumbent in order to make his qualifications known and to counterbalance the incumbent's in-office financial advantages. But if the taxpayers are to put up the money, ceilings on such spending would have to be imposed which unavoidably would penalize the lesser-known challengers.

Through the existing tax check-off for Presidential elections and political tax credit or deduction, in 1972 the Federal Treasury was subject to the expenditure of up to $100 million for taxpayer support of political campaign activities. These programs, however, do not sever the crucial tie between the individual citizen and the party or candidate of his choice, and do not carry as great a threat of Federal domination of political campaigns.

I believe our Nation has already seen too many examples of how the use of tax dollars can lead to Federal control. By setting reasonable limits on campaign contributions, and by requiring broader public disclosure, we can guarantee that the American voters are fully aware of who is making the contributions; and the Nation can then leave it to the people themselves to judge the wisdom and propriety of these donations.

Another problem in this area warrants the early attention of Congress. The Internal Revenue Service has recently held that income earned from funds of political parties is taxable under the present Internal Revenue Code. This ruling has caused widespread confusion and uncertainty on the part of political campaign committees. I believe this situation was never intended by Congress and urge enactment of legislation removing any tax or potential tax on any income earned from political party funds.

While strong financing and disclosure laws are necessary, these alone will not insure the reform we need. For most of the 20th century our campaign laws have not been enforced. Enforcement of the Federal Corrupt Practices Act, a measure riddled with loopholes, has been all but impossible, and enforcement of the Federal Election Campaign Act is difficult because of the proliferation of committees and the lack of central reporting.

Therefore, I endorse the proposal developed in the Congress to establish a Federal Elections Commission to supervise the Federal Election Campaign Act and other election measures.

This independent commission would be bipartisan and would monitor our campaign finance and disclosure laws. It would bring under the umbrella of one agency the current oversight functions of the Comptroller General, the Clerk of the House of Representatives, and the Secretary of the Senate. Membership on the commission should include representatives of the major political parties.

In its supervisory capacity, the commission would serve as a much needed central repository for election records and would have powers to subpoena documents and witnesses to fulfill its duties. It would also be able to refer campaign violations to the Justice Department for appropriate action. The work of the commission would in no way impinge upon Congressional rights and responsibilities, but would expedite the disposition of violations and provide a coordinated supervisory role in overseeing the various election laws.

B. CAMPAIGN PRACTICES

Many people have made the point that additional Federal laws are needed to deter or punish criminal, tortious or otherwise improper activities in Federal election campaigns. Existing laws deal with vote bribery, vote fraud, spurious campaign literature and other breaches of campaign ethics, but as in the area of campaign finance, these laws are unclear and have been unevenly and sometimes unfairly enforced through selective prosecution.

I have reviewed several recommendations in this area and conclude it is time for Federal statutes to spell out specifically the prohibition of certain campaign and election day practices. I propose that we prohibit three types of campaign practices:

- —Activities which unreasonably disrupt the opposing candidate's campaign, such as the dissemination of false instructions to campaign workers and related disruptive activities, or which constitute a fraud upon the voters, such as rigging opinion polls, placing misleading advertisements in the media, misrepresenting a Congressman's voting record, or organizing slander campaigns.
- —Activities which involve the use of force, such as the organized use of demonstrators to impede or deny entry at a campaign rally, or individual criminal actions which take on a special significance when they are done intentionally to disrupt the Federal election process.
- —Those election day practices, such as stuffing ballot boxes, rigging voting machines, forging or altering ballots, or failing to count certain votes, all of which directly affect the electoral process in a most pernicious manner.

I realize that attempting to outlaw certain improper campaign activities requires particular attention to the First Amendment guarantees of free speech and assembly. With this in mind, I have asked the Department of Justice to draft a criminal statute designed to prohibit wrongful practices and to make them *Federal* offenses if the conduct is engaged in with the specific intent of interfering with the Federal election procedure. I invite especially thorough debate by the Congress in this difficult area.

C. CAMPAIGN DURATION

In the campaigns of 1972, there were no less than 23 separate State primaries for the Presidential contestants. The extent and duration of these proliferating primary contests have not only extended the length of campaigning but have also materially added to its expense.

I believe deeply in the statewide Presidential primary system. It affords the public a true measure of candidates who have to take their cause to different parts of the country and face the voters with their positions on crucial issues. Because I believe in the primaries but wish to bring some sense of order to the system we now have, I agree with the proposal not to hold any State Presidential primaries or nominating conventions before May 1st of an election year, and I urge that this be done.

Even though moving primary dates later in the election year is the only specific legislative action I offer to shorten campaigns, other helpful measures can be taken without Federal legislation. One way to cut down on the cost and duration of Presidential campaigns is to delay the national nominating conventions until the month of September. I urge the leaders of both national political parties to plan now for the scheduling of their 1976 conventions at this later time.

I know that delaying the nominating conventions may conflict with certain State requirements that a nominee's electors must be selected earlier than September. Therefore, I encourage the States having such requirements to change their laws to conform with this potential action by the national parties. I am reluctant to ask for Federal legislation in this area because it would intrude unduly into the right of each State to determine its election laws, but I am hopeful that the States will cooperate in this important effort. To this end, I am instructing the Department of Justice to give the States such assistance as they may desire in developing legislation to make this possible.

D. ENCOURAGE CANDIDATE PARTICIPATION

One of the major items on the agenda of campaign reform is the need to encourage qualified people to run for office and maintain a strong two-party system. We should never limit the voter's choice or discourage capable men and women from seeking to represent their fellow citizens.

I urge the Congress to examine its own benefits of incumbency which have mounted over the years. It would be inappropriate for the Executive to propose specific remedies in this congressional area, but I suggest there is reason for concern over the marked advantages—federally funded—that congressional incumbents now enjoy over their challengers. Such things as free mailing privileges, use of "public service" broadcast time, and the extensive staff and financial fringe benefits of office have made it progressively more difficult for competent challengers to have a fair chance in congressional races. I readily concede that the Presidential incumbency advantage is also substantial, but there is some protection here in the constitutional limit on length of Presidential service. I urge the Congress to review this problem and to develop reforms that will assure a better balance in congressional races.

I also propose repeal of the "equal time" provision of the Communications Act of 1934 for all Federal elections. The repeal of this provision would reduce campaign expenditures by allowing the electronic media the flexibility to provide free campaign coverage to the major political candidates, and in doing so would assist our citizens in reaching sound judgments on election day.

Finally, I have asked the Department of Justice to explore the possibility of legislation to reaffirm certain private rights of public figures so that people interested in running for public office can have greater assurance of recourse against slanderous attacks on them or their families. Landmark Supreme Court decisions have severely restricted a public figure's ability to gain redress against such grievances, but I would hope that specifically defined limits can be legislated by the Congress to prevent unscrupulous attacks on public figures. These reforms are not intended to restrict vigorous debate, but to enhance it, to help give it dignity and integrity, and to improve the prospects for good and decent people who today flinch from political participation because of their fear of slanderous attacks.

III. CONCLUSION

The reforms I have urged here, and that many in the Congress are seeking as well, are designed to open up our electoral process and to correct some of its most egregious abuses.

I am doubtful that any legislation can provide the panacea that some seek to guarantee absolute integrity in the electoral process. If our campaigns, like the communication of ideas in every area of our public life, are to remain free and spirited, they will frequently be caustic and hard-hitting, and some excesses and abuses will inevitably occur.

The central purpose of the reforms I suggest is to get the really important political information out to the people, to let them know as much as possible about their candidates, and to eliminate abuses which cross the boundaries of fair play.

America has had a remarkable history and tradition of campaign electioneering. Given full access to the actions and thoughts of political aspirants, the American people have shown great wisdom at the ballot box over two centuries of self-government. The reforms I propose today are intended to strengthen the will of the people by making our election process more open.

RICHARD NIXON.

THE WHITE HOUSE, *March 8, 1974.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. ROBERT C. BYRD) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

The Senate continued with the consideration of the bill (S. 3066) to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance in support of community development activities, and for other purposes.

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On pages 51 and 52, lines 23 through 2 substitute the following language for (ii): "the mortgagor or member of his immediate family shall have owned the property for a period of not less than three years prior to such refinancing unless the mortgagor shall be a nonprofit, limited profit, or cooperative certified by the Secretary as being eligible to participate in the refinancing program under criteria established by the Secretary."

On page 64 lines 15 through 17 substitute the following language for (A): "the mortgagor or member of his immediate family shall have owned the property for a period of not less than three years prior to such refinancing unless the mortgagor shall be a nonprofit, limited profit, or cooperative certified by the Secretary as being eligible to participate in the refinancing program under criteria established by the Secretary."

The PRESIDING OFFICER. The Chair will inquire of the Senator from New York as to whether this is an amendment on which there is a 1-hour or 2-hour limitation.

Mr. JAVITS. There is a 1-hour time limit on this amendment.

Mr. President, I yield myself 10 minutes.

Sections 401(h) and 501(k) introduce a new and important concept into the Federal Housing Act, to wit, availability of FHA insurance for refinancing and repair—moderate rehabilitation—of existing housing stock in designated neighborhood preservation areas. These provisions represent congressional recognition of the logical premise that the abandonment phenomenon which threatens vast sections of New York and other older cities must be confronted in its incipiency not after abandonment has occurred, buildings have been vandalized and responsible citizens have fled.

As reported by the committee, the new refinancing provisions were limited to owners who had held their properties for 3 years. This limitation was intended to avoid speculation and abuses inherent in ownership transfers. However, it also excluded responsible nonprofits, tenant cooperatives and limited profits from participation in the program.

Restriction of the refinancing program in this manner is highly questionable, both conceptually and in practice.

One of the major causes of housing deterioration in older cities has been the nature and quality of property ownership as it now exists. Studies in New York indicate that much of the stock is owned by inexperienced individuals with limited capability to manage and maintain their properties. Some of the stock is also held by absentee owners and unscrupulous individuals or syndicates which milk properties at the expense of tenants. Thus, one sound cornerstone of any intelligent neighborhood preservation strategy should be the encouragement of property transfer from unsound or unscrupulous hands to responsible entities who will act in the best interests of tenants.

This does not mean that transfer should be sanctioned for every entity that purports to act in tenants' behalf. But, it should definitely sanction transfers to: first, reputable nonprofits with proven capacity and responsibility to undertake housing sponsorship and management, and, second, responsible tenant cooperatives. As with other FHA programs, such as Project Rehabilitation, eligible applicants can be carefully screened in advance of project approval to weed out incompetents.

The rationale for similar inclusion of limited profit entities—under strict criteria—is the same. There should be no reason to exclude responsible profit motivated entities per se. It is not the profit factor itself that creates problems but rather the abuse thereof by unscrupulous or inexperienced operators. The proper focus then should not be on excluding all profit-motivated entities from participation but rather on identifying and certifying in advance responsible limited profits who will equate good business with responsiveness to tenant needs.

In fact, it is unlikely that any comprehensive neighborhood preservation scheme on a large scale can succeed without involvement of profit-motivated interests. Capable nonprofit housing entities are scarce and hard to develop. Tenant cooperatives, however meritorious, take a great deal of time to organize and implement. On the other hand, limited profit firms, or consortiums of firms, have the resources and capability to undertake major projects with real neighborhood impact.

For all of the above reasons, my amendment seeks to expand the definition of those eligible under the proposed neighborhood preservation program to include, in addition to present owners, non-profits, tenant cooperatives and limited profits certified in advance by the Secretary under strict eligibility criteria developed by HD to prevent abuses.

I would hope very much the committee will accept this amendment.

Mr. President, while I am on my feet and while perhaps the chairman might give the matter consideration, I would like to refer to just what I plan to do, but first I yield to the Senator from Minnesota (Mr. MONDALE).

Mr. MONDALE. Mr. President, I ask unanimous consent that Mr. Robert Barnett, of the majority staff, be given the privileges of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, while I am on my feet and have a little time, because I hope very much this amendment may be accepted, I would like to state for the information of the chairman and the ranking minority member what I would propose to do in the time I hope to occupy.

I have three amendments. The first one I have already submitted. The next one deals with an effort to bring in the lowest income groups into housing which is low-income housing. That amendment, which applies on pages 145 and 146, has been submitted to the staffs of the minority and majority.

The third amendment, Mr. President, is to deal with the problem of allocation under section 111 to State housing agencies and with the coordination of State and local housing programs, again the objective being to coordinate the two and to provide for a fair allocation of what is available to that particular State between them. This is particularly sharp in my State because we have the Urban Development Corporation which is very active in housing throughout New York.

Those are the three amendments that I hope very much might conceivably be accepted by the committee.

I have a fourth amendment which arises by virtue of the fact that the Senator from Minnesota (Mr. MONDALE) did not press part of his amendment which is of particular interest to the big cities. That is the requirement in section 502, which is the old section 236 housing program for 80 percent median income limits to be the roof for a family which would be eligible, whereas he has provided in his amendment, which the committee took, for 90 percent for single-family housing in section 402.

Multifamily housing is what counts in cities, not only my own city, but all the cities in the country, and the median figure which the committee has set of 80 percent is just too low, 90 percent is what I believe is the right figure.

The presentation of the Senator from Minnesota (Mr. MONDALE), which I will take the liberty of appropriating, it seems to me, conclusively proves that proposition. I mention that amendment only because, again, my colleagues who are in charge of the bill and their staffs might look at the matters which I might raise on the four amendments.

Also, I should hope to allocate a few minutes to a colloquy with my colleague from Alabama (Mr. SPARKMAN). I might say that I wish at once to make it clear that our country has tremendously benefited by the chairmanship of the Senator from Alabama (Mr. SPARKMAN), who, without regard to only his own local conditions—with, of course, full protection to his own constituents, but without feeling that that is the limit of his responsibility—has been one of the most extraordinary servants in this legislative body in recognizing needs which might be remote to his own local considerations but which affect the rest of the country. I have seen this through the years. I have worked with Senator SPARKMAN. Whether he takes any of my amendments or not, what I have said stands. He has been a very able Senator and a very great benefactor of the whole country in terms of housing and extraordinarily free of any parochial attitude that is so essential in this particular field. I believe the Senator from Texas (Mr. TOWER) has also shown a great understanding of housing problems of large metropolitan areas and has been most helpful in fashioning effective housing legislation for the Nation.

So, Mr. President, I hope to have a colloquy with the Senators about a neighborhood conservation bill which I introduced, and important sections of which are addressed in this bill. The Senator from Alabama (Mr. SPARKMAN) will help us all enormously by stating, as I understand he is prepared to do, what has been carried in this bill regarding neighborhood conservation. I do not expect to force my amendment to any vote; I just think it would be a proper basis for any colloquy.

Finally, I would like to pay my tribute to the committee for including in this bill, in section 811, the essence of my bill S. 2103 for the establishment of a National Institute of Building Sciences. The Institute will for the first time provide a national forum to deal with the technology in this field and it will be able to propose nationally acceptable standards for local building codes, all of which will enormously facilitate the attainment of the goals set forth in the monumental and historic Housing and Urban Development Act of 1968.

The problems of construction, the fragmentation in the industry, its backwardness in terms of materials and techniques are tremendously susceptible of improvement, with great benefit to all. The inclusion of this bill, S. 2103, which I have introduced as section 811 of the pending bill with some modifications, as for example in appropriation, in my judgment will be of tremendous benefit to the country. It is also tremendously gratifying to me and I wish to express my deep appreciation for that to the committee.

Now, as to the pending amendment, Mr. President, I wonder whether the Senator would be kind enough to give us his views as to whether it might be acceptable.

Mr. SPARKMAN. Mr. President, with reference to the first amendment, and that is the one to which he refers.

Mr. JAVITS. The Senator is correct, the 3-year proposition.

Mr. SPARKMAN. Mr. President, personally I think the amendment is all right. However, I have not yet had an opportunity to discuss it prior to this time with the Senator from Texas.

Mr. JAVITS. Then I will continue until the Senator is ready.

Mr. SPARKMAN. Let me just state that I would be willing to accept the amendment if the Senator from Texas is willing to accept it. I have to leave the floor temporarily at this time for just a short period of time.

Mr. JAVITS. I thank the Senator from Alabama.

Mr. TOWER. Mr. President, the import of the amendment has been explained to me. I am sorry that I was off the floor when the Senator made his explanation of the amendment. I am prepared to accept the amendment.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All the time has been yielded back. The question is on agreeing to the amendment of the Senator from New York (putting the question).

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion was agreed to.

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

On page 145, lines 18 and 19, delete "a gross" and insert "an".

On page 146, line 3, after "families." add the following new sentence: "In any housing area where the annual fair market rental for purposes of subsection (5) is determined on the basis of rentals for newly constructed rental housing, the public housing agency shall exert special efforts to the end that, with respect to dwelling units in existing private structure in such area that are to be occupied by families assisted under this section, such units will, to the maximum feasible extent, be occupied by families whose incomes are in the lower portion of the income range of families that qualify as low-income families in that area."

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. JAVITS. Mr. President, I yield myself 10 minutes on the amendment.

The PRESIDING OFFICER. The Senator from New York is recognized for 10 minutes.

Mr. JAVITS. Mr. President, the amendment is, for all practical purposes, self-explanatory.

I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I am proposing two amendments that relate to the standard for family income used in determining eligibility for assistance under section 8 of chapter II of the bill, the amended United States Housing Act of 1937.

Section 8 provides for the new program of rent assistance for low-income families which occupy leased units in private housing. A family must qualify as a "low-income family" to be eligible to enter into occupancy of a unit assisted under section 8.

The definition of "low-income family" is contained in section 8(a)(5). It now uses a family's "gross income" as the basis for determining whether the family qualifies as a low-income family. My amendment provides, instead, that family income as defined in section 3(1) of the amended United States Housing Act will be used for that purpose.

The definition of income in section 3(1) is used in all other provisions of the amended United States Housing Act. Absent overriding reasons, which I do not find, it should be used here for legislative consistency and ease of understanding and administration. Gross income is not used anywhere else in the proposed Act, nor is it used in the existing statute.

More important, it would be inequitable to determine family eligibility under section 8 on the basis of gross income rather than on income as defined in section 3(1). Income under section 3(1) is determined after making certain exclusions, similar to exclusions or deductions allowed for Federal individual income tax, such as—

Family size, where an exclusion of $300 is allowed for each child;

Extraordinary medical or similar expenses, which may be excluded as approved by the Secretary;

Nonrecurring income, which is excluded income of a spouse, which is excluded up to $300, and income of children which is excluded; and

An exclusion of 10 percent of gross income for elderly families.

Gross income makes no allowance for any of these factors.

In determining eligibility under section 8, it would be unfair to families that have more children, or are elderly, or are burdened with greater medical expenses—the kind of families we are especially concerned with helping—to disregard these kinds of differences in the real financial condition of families with the same gross income.

Using the standard definition of income in section 8(a)(5) will mean that some families which would be excluded from eligibility under the gross income test will, because they have children, or high medical expenses, or are elderly, become eligible for occupancy of units assisted under section 8.

I understand that the use of the gross income test stemmed from a concern with avoiding an unduly high maximum income limit under section 8. This concern was focused in particular, as I understand it, on cases where the area involved is one with a scarcity of existing decent housing for lower income families and where calculations of fair market rent in the area—which is also a factor in the eligibility formula in section 8(a)(5)—will accordingly be based on rentals for newly constructed housing. I can appreciate and share this concern with assuring that the needs of the neediest are effectively served and that families who can actually afford decent housing without governmental assistance are not brought within the benefits of section 8.

The views in this regard that are expressed on pages 144 and 145 of the committee's report are very much in accord with my own:

> Recognizing that these income limits will generally prove to be somewhat higher than those now in effect for housing assisted under the present Section 23, the Committee is concerned that low-income families be effectively served under the program. For that reason. Section 8(a)(6) requires that 20% of the families assisted under this Section in any market area must be "very low income families." Very low income families are defined as families whose income does not exceed 50 percent of the median income for the area as determined by HUD with adjustments for larger and smaller families. The Committee also has in mind the benefits that result from having projects occupied by families of varying income levels. It recognizes that in communities where housing is scarce and expensive, families in a fairly broad spectrum of income may be unable to obtain decent housing through the unaided operations of the private sector, and economic diversity and integration in housing occupancy can be accomplished only through allowing families within such a spectrum to occupy Federally assisted housing.

The concern with guarding against benefitting families of unduly high income in the type of situation I described earlier is not, in my judgment, best dealt with by imposing a gross income test, because of the inequity which that involves. My second amendment, which adds a new sentence at the end of section 8(a)(6), provides, I believe, a fairer and more workable solution. Under the amendment, where section 8 assistance is provided for existing units in areas where fair market rentals are based on new construction, public housing authorities are called upon, in carrying out their responsibilities under section 8, to make special efforts to see that such units are occupied to the fullest extent feasible by families whose incomes are in the lower part of the range of eligible incomes.

I hope very much that the committee would be willing to use these words which are consistent with that objective.

I would greatly appreciate it if my colleagues would let me know how they feel about the amendments.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Deena Sosson be granted the privilege of the floor during the consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, my principal difficulty with this amendment is that experience has shown us in the past that whenever we have tried to provide housing programs for very-low-income families, for one reason or another the eligibility seems to gravitate up the income scale, to the extent that a great number of our resources are going to help people further up the income scale rather than those whose income is lowest. That has always been a great problem, to try to keep these programs responsible to the low-income families.

That is the principal difficulty that I have with the amendment.

Mr. JAVITS. Mr. President, would the Senator from Texas feel better if I revised the second part of the amendment?

Mr. TOWER. Mr. President, before I respond to that question, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged to the Senator from Alabama and myself on the time allotted to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield back the remainder of my time on this amendment.

Mr. TOWER. We are prepared to yield back our time.

The PRESIDING OFFICER. Does the Senator from Texas yield back his time?

Mr. TOWER. Yes.

The PRESIDING OFFICER. And the Senator from Maine?

Mr. HATHAWAY. Yes.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing, en bloc, to the amendments of the Senator from New York (putting the question).

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask that the Chair put the question again.

The PRESIDING OFFICER. The question is on agreeing to the amendments (putting the question).

The "noes" appear to have it. The "noes" have it. The amendments are rejected.

Mr. JAVITS. Mr. President, I send another amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be read.

The legislative clerk read as follows:

On page 20, following line 24, insert the following new subsection:

(3) The Secretary shall, to the extent feasible, reserve out of sums allocated under subsection (a) sufficient amounts to meet the housing objectives contained in State housing agency programs, except as the Secretary may determine that any such program does not make adequate provision for the needs of low- and moderate-income families or is otherwise not consistent with basic objectives stated in this Act.

On page 21, line 3, after "housing plans of" insert "the State and".

On page 21, beginning in line 4, strike out "of a unit" and all that follows through "does not make" in line 6 and insert in lieu thereof "where there is no plan of either the State or the unit of local government, or where the Secretary determines that neither such plan makes".

On page 21, line 9, after "prescribe." add "If, in any case where there are housing plans of both the State and the unit of local government, the Secretary finds significant inconsistency between such plans with respect to their provisions for meeting the needs of low- and moderate-income families, he shall take such steps as he deems appropriate for the purpose of having the State and the unit of local government reconcile such inconsistencies."

The PRESIDING OFFICER. The Chair wishes to inquire how much time is yielded.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

I am proposing several amendments in section 111 of the bill relating to housing programs and planning of the States.

Section 111 contains the provisions that govern the allocation of housing assistance funds provided under sections 402 and 502 and under the U.S. Housing Act as amended by chapter II of this bill.

The amendments essentially make two modifications or clarifications in these allocation provisions.

First, a new subsection (3) is added in section 111(b) which provides that the Secretary shall, to the extent feasible, reserve out of funds allocated under section 111(a) sufficient amounts to meet the housing objectives contained in the programs of State housing agencies. Such reservations would not be made if or to the extent the Secretary determined that any such program did not make adequate provision for the needs of low and moderate income families or was otherwise not consistent with basic objectives stated in the act.

Section 111(b) now provides for reservations of housing assistance funds to meet the housing objectives contained in any approved application under the Community Development Assistance Act of 1974, which is chapter III of the bill, and contained in any new community project agreement approved under title VII of the Housing and Urban Development Act of 1970 or under title IV of the Housing and Urban Development Act of 1968.

The new subsection (3) provides for similar reservations for State housing programs. It would make clear that we favor and intend continuation of HUD's existing practice whereby it has customarily made housing assistance funds available to State housing agencies through annual or periodic block setasides. Section 236 funds have usually been made available to operational State agencies through so-called annual arrangements. I am informed that HUD has recently announced its intention to make section 23 leased housing assistance funds available to State agencies through periodic block setasides.

This procedure has worked well. The State agencies have made effective use of the assistance funds made available to them, as I will discuss in a moment. The reservation procedure has enabled State agencies to plan their programs, and to work out housing program arrangements with localities and communities, on a broad basis. That would be much more difficult to do if assistance funds were made available to them in a piecemeal project-by-project manner.

Reservations of funds for State agencies have of course been subject to limitations, and would continue to be subject to limitations. Funds reserved for an agency must be put to use within a reasonable period of time. Otherwise they are subject to recapture and reallocation to others who can use them more promptly and effectively. Furthermore, reserved funds are contractually committed for specific projects only after statutory and other basic pre-conditions have been met.

In this regard it should be noted that HUD, recognizing that State agencies are governmental bodies with a commitment to public purposes and responsibilities, has followed the general practice of delegating to such agencies maximum responsibility for performing processing functions and making required determinations, subject to post audit by HUD. I applaud this approach and anticipate that it will be continued and extended.

Fund reservations for State agencies would of course be made within and subject to the allocations for types of geographic areas provided for in section 111(a)—the allocation of 75 percent of housing assistance funds for use in metropolitan areas and 25 percent for use in nonmetropolitan areas. They would be made from funds other than those reserved for housing provided for in community development plans and new community project agreements pursuant to subsections (1) and (2) of section 111 (b). Funds reserved under subsections (1) and (2) could also, of course, as section 111(c) makes clear, be made directly available to State housing agencies as well as to other public housing agencies or eligible mortgagors for use in accordance with the applicable community development plans and new community project agreements, and where appropriate such funds might be made available to a State agency for such purposes by set-aside rather than by individual project applications.

Section 111(b) should not, of course, preclude the Secretary from administratively adopting a fund reservation procedure in other situations where he might in the future find this the most effective method for administering housing assistance.

Second, the three amendments I am proposing in section 111(c) essentially provide that housing assistance funds, after they are allocated as provided in section 111(a), are to be made available for use in conformity not only with the housing plans of the units of local government in the areas where the funds are to be used, as now provided in subsection (c), but also in accordance with such housing plans of the States as may be applicable in those areas.

I believe there is wide agreement on some basic concepts that I find reflected in this bill. We want to encourage State and local governments to assume a lead role and responsibility in assessing their own housing needs and formulating priorities and plans for meeting those needs, and in the provision of governmental assistance, Federal, State, and local, for meeting those needs in accordance with those priorities and plans. That is in keeping with the concept of the New Federalism.

We want housing and community development activities to be planned and carried out in a coordinated way so that they are mutually supportive in serving the basic objectives of the act. And we want to assure that, where Federal assistance is to be used, there is effective collaboration and coordination between State and local governments in planning housing and community development programs, and that in the process for formulating State housing plans there is suitable provision for participation by local governments that would be affected and for hearing public views. We of course recognize, at the same time, that the distribution of functions between State and local governments and the formulation of working arrangements between State and local governments are essentially matters within the province of the State rather than the Federal Government.

These are considerations that underlie my proposed amendments to *section* 111(c), and that I would expect to be taken into account by the Secretary in administering section 111(c).

However, section 111(c) now refers only to housing plans of units of local governments, providing that Federal housing assistance funds are to be made available for use in accordance with those plans.

I take for granted there is no intent to suggest precluding State governments from formulating housing plans to meet needs within their States, which would be beyond our province anyway, nor to suggest that, where such plans are formulated, they are to be disregarded in the furnishing of Federal assistance in areas within the State. My amendments are intended to avoid any such implication.

This is more than a theoretical concern. According to my information there are now some 16 States, including my own State of New York, that, pursuant to State law, are engaged in analysis of statewide housing needs and defining priorities as a guide for actions to meet their housing needs. Another eight States or so have statutory authority to do the same thing. And there are some 10 States that have formulated housing plans, including again my own State of New York.

This, then, is the substance and intent of the amendments that I am proposing.

I should call to your attention that the National Governors' Conference Committee on Rural and Urban Development has urged the adoption of amendments such as I am proposing in a resolution that it adopted last Wednesday expressing its support for the Senate committee bill with these and two other amendments.

Under the amendments I am proposing in section 111(c), funds would be made available for use in accordance with the housing plans of the State and of the units of local government in the areas where the funds are to be used. However, any such plan would not apply in making assistance funds available if the Secretary found that the plan did not make adequate provision for the housing needs of low and moderate income families. If there was only one plan applicable to the area, State or local, funds would be made available for use in accordance with that plan. If there was no plan, funds would be made available in accordance with such terms and conditions as the Secretary may prescribe. If there were both a State and a local plan, and the Secretary did not find significant inconsistences between them, funds would be made available in accordance with the two plans. If in such a case the Secretary did find significant inconsistencies between the State and local plan, then, as provided in the sentence I am proposing be added at the end of subsection (c), the Secretary would take such steps as he deemed appropriate toward having State and local government reconcile those differences. In the meantime, in cases where the State plan has binding effect, funds should appropriately be allocated in accordance with that plan; and in other cases they would be allocated on such basis, within the framework of the two plans, as the Secretary deemed most appropriate.

In introducing these amendments, I want to say that I have a strong interest in the activities of State and local government agencies, and in the expanded role which they can play in the future, in efforts to meet the housing needs of low- and moderate-income families. It was this interest that prompted me to introduce the amendment in the Housing and Urban Development Act of 1968—an amendment adopted by the Congress—which authorized Federal housing assistance under the section 236 interest subsidy program to be used in the programs of State and local housing agencies.

I am greatly heartened by the progress and accomplishments of these agencies since that time, and by the growing number of States that have established housing agencies and programs.

In 1968 there were seven states which had established State housing finance and development agencies. This included New York, where we have two such programs—the Urban Development Corporation, established in 1968, and the program of the State division of housing and community renewal working with our State housing finance agency, the first such agency created in the country.

Since 1968 some 22 additional States have established State housing agencies, many of them created within the past 2 years.

So there are now some 30 States that have State housing agencies. In 19 of these the programs are now operational.

These State housing agencies are performing an increasingly important and effective role in the total national effort to meet the housing needs of low and moderate income families.

Since 1968 these agencies have developed close to 120,000 units of housing for lower income families. Almost all of this housing was made possible, I am pleased to report, by Federal assistance that was provided pursuant to my amendment to section 236, and that was used in combination with the resources provided for this housing by State and local governments.

Indeed, nearly 20 percent of all of the housing that has been built with section 236 assistance was developed under the programs of these State agencies.

In States where there are longer established State housing agencies, these agencies have become a major force in meeting the housing needs of our lower income families. I am confident that this will become the case in many more States as their housing agencies become fully operational, and assuming there is available the Federal assistance that is indispensable for the provision of low-income housing, as is provided for in the committee's bill.

In New York, our State housing agencies have developed some 65 percent of all of the low- and moderate-income housing that has developed in my State using section 236 assistance. Indeed, one-third of all the housing that has been developed in our State during the past 2 years, and close to 80 percent of all the housing that was developed in New York City during that period, was developed through the use of one form or another of Federal, State, or local assistance, or a combination of such assistance.

While the importance of governmental assistance for housing has perhaps been most dramatically illustrated in New York, it has been important in other States as well. In Massachusetts, for example, the State housing finance agency has developed some 37 percent of all the housing developed in that State since 1968 with section 236 assistance.

I should also point out that to date there has not been a single foreclosure on any project of a State housing agency, in contrast to the experience with some other federally assisted projects.

I appreciate your bearing with my recital of this information. I think you will find it as gratifying and encouraging as I do, and that it amply warrants what the committee has said about State housing efforts on pages 37 and 38 of its report:

> [T]he Committee has been cognizant of the increasingly important and effective role that State housing finance agencies have come to play in the field of government-assisted housing, and of the growing number of States that within the past few years have assumed this kind of responsibility for dealing with housing needs within their States. There are now about 30 State housing agencies, most of them created within the past few years. The Committee welcomes and encourages this approach, which combines the use of State resources, through State financing of housing and other measures such as tax abatement, with Federal housing assistance for low- and moderate-income housing.

I believe this information also helps to explain why I want to assure that, under the excellent bill that the committee has reported, there be a firm basis on which these efforts of our States and their agencies can continue, expand, and grow in effectiveness.

With that purpose I urge the adoption of the amendments I have proposed in section III.

Mr. TOWER. Mr. President, I feel that the amendment is questionable. The bill would provide that funds would be set aside for communities but only to the extent of meeting their housing objectives in a plan approved in accordance with community development funding as provided in chapter 3 of the bill. This is to achieve coordination between housing and community development activities in a city.

We reserve funds for new communities only to the extent that it is necessary to fill HUD commitments which exist by virtue of a signed project agreement.

It is our belief that there should be no special setaside for State agencies. They can apply just as can any other developer. If HUD already gives them some preference, they can still continue to do so. If we have a setaside for States, why should we not have a setaside for regional housing plans or areawide housing plans? Where would we draw the line as to what potential recipients should have a setaside of funds?

Therefore, I think this is a provision, in my estimation, about which I have serious reservations.

Mr. JAVITS. Mr. President, the real problem is that many States do have State housing agencies. Thirty States have State agencies, and of those 30 States, 19 have programs which are operational. It seems to me that that evidences enough of an interest so that the States should be brought into the picture, just as localities are.

Also, to provide that where there are housing plans of both the State and the unit of local government, and where the Secretary finds inconsistency in such plans, then he shall act in respect to such inconsistency in an effort to reconcile the inconsistencies. It seems to me that both these matters are divisable.

In short, I would greatly appreciate it if we could be advised whether that part of the amendment is satisfactory to the committee. Then we could at least confine our debate to the part of the amendment which is unsatisfactory. May we know whether that part of the amendment which relates to the reconciliation of plans between the States and local areas is satisfactory?

Mr. HATHAWAY. Mr. President, if the Senator would change the word "shall" to "may," the language would be satisfactory. In the first line of the amendment, change "shall" to "may". Then it would be acceptable.

Mr. JAVITS. May I see the amendment—show me the text, please. It says the "Secretary shall." I will revise the amendment in the first part accordingly and send a revision to the desk.

The PRESIDING OFFICER (Mr. ABOUREZK). The amendment is so modified.

Mr. JAVITS. Mr. President, I am ready to yield back my time.

Mr. TOWER. I believe the Senator asked about the reconciliation feature which would, in effect, make the Secretary of HUD the arbitrator between State and local housing agencies?

Mr. JAVITS. Why do we not say there "may" also—". . . he may take such steps." In other words, he may take such steps as he deems appropriate instead of making it mandatory.

Mr. TOWER. I think that HUD feels that it might be an administrative nightmare to arbitrate a dispute between State and local agencies.

Mr. JAVITS. We have the possibility of some other language on that particular subject.

I yield myself another 10 minutes and will proceed to another matter, if I may.

The PRESIDING OFFICER. The Senator from New York is recognized for 10 minutes.

Mr. JAVITS. Mr. President, I should like to speak about urban mass transit and its problems. The hopes of the cities were considerably dashed, the cities were dismayed, include the biggest of all cities in our country, the city of New York, by the opposition of the administration to the so-called Minish-Williams bill which would have given interim opportunity within the next 2 years to finance and operate mass transit systems. This is a devastating blow because it will demand radical increases in fares and will be extremely damaging to ridership, extremely damaging to the utilization of mass transit systems and, therefore, will be hard on the conservation of gasoline and extremely unfair to areas which have an historic basis for low use of gasoline per capita because of the use of mass transit systems and which are now suffering doubly because of the expensiveness of mass transit systems. So that it is really a mare's nest of the worst possible kind.

I had thought seriously about appending the Minish-Williams bill to this measure, as this measure does deal with this problem and the Minish-Williams bill is a banking and currency bill.—In fact is a provision in the Housing Act relating to mass transit, section 822 of the bill, and so it would have been entirely proper and permissible to introduce that kind of amendment.

But, Mr. President, I have consulted with Senator WILLIAMS who, some years ago, joined me in the first breakthrough in the Senate which provided $800 million for mass transit systems, both operating and capital. Senator WILLIAMS feels that we should not as yet take that route, that is, propose an amendment to the housing bill which, in essence, would be the Minish-Williams or the Williams-Minish bill, but he feels that he is doing his utmost and he believes he has lots of cooperation to find a way in which to carry out the basic effect of the Williams-Minish bill. He feels there will be another vehicle, a bill over here from the House, on banking matters, which can carry an amendment relating to mass transit operations and capital equipment, and that we are best advised to see yet a little further on what can be done through the art of negotiation and persuasion with respect to the Williams-Minish bill before we offer it as an amendment here.

Now, Mr. President, one other thing which is critically important in this regard. I believe that the common acceptance was the fact that the administration would favor, not disfavor, the interim approach which would enable particularly mass transit in New York City to operate at the present 35-cent fare instead of being so seriously jeopardized by a fantastic increase in the fare, which it definitely faces. We were not only disappointed but dismayed at what seemed to be a midstream reversal of the general attitude on the part of the White House.

I wish to call that to the attention of Congress in its consideration of what to do about this matter. I hope very much that that change of direction may not persist but that we may have the cooperation of the President, which we fully expected to have, based on the assertions made to the governor of New York State and the mayor of New York City, to me, and to others, with respect to the grave problem of mass transit systems. At least we could agree on this on an interim basis for the next 2 years as provided by the Williams-Minish bill.

Mr. President, I shall withhold any such amendment on this bill in deference to Senator WILLIAMS because I have always worked with him on this matter and I am confident that that is the best way to get a result. But I did wish to report these views with respect to the bill and my strong feelings regarding the radical change of direction from anything which has heretofore been indicated so far as the administration is concerned with respect to this very grave problem.

Now, Mr. President, if we are not ready on this particular amendment, I am prepared to withdraw it and go to another amendment.

Mr. President, I send to the desk a modification of my amendment. It is only modified as to the last paragraph.

The PRESIDING OFFICER (Mr. ABOUREZK). Is there objection to the amendment being modified? The Chair hears none, and it is so ordered. The clerk will state the modification.

The legislative clerk read as follows:

At the end of paragraph 4 of the amendment, on the last line, ". . . he may give priority to the plan which, in his judgment, best meets the housing needs of low and moderate income families."

Mr. JAVITS. Mr. President, if that is satisfactory, I am prepared to yield back my time.

Mr. TOWER. I would say to the Senator from New York that we have struck a deal.

Mr. JAVITS. I thank my colleague. I yield back my time.

Mr. HATHAWAY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment as modified.

The amendment as modified was agreed to as follows:

On page 20, following line 24, insert the following new subsection:

(3) The Secretary may, to the extent feasible, reserve out of sums allocated under subsection (a) sufficient amounts to meet the housing objectives contained in State housing agency programs, except as the Secretary may determine that any such program does not make adequate provision for the needs of low- and moderate-income families or is otherwise not consistent with basic objectives stated in this Act.

On page 21, line 3, after "housing plans of" insert "the State and".

On page 21, beginning in line 4, strike out "of a unit" and all that follows through "does not make" in line 6 and insert in lieu thereof "where there is no plan of either the State or the unit of local government, or where the Secretary determines that neither such plan makes".

On page 21, line 9, after "prescribe." add "If, in any case where there are housing plans of both the State and the unit of local government, the Secretary finds significant inconsistency between such plans with respect to their provisions for meeting the needs of low- and moderate-income families, he may give priority to the plan which, in his judgment best meets the housing needs of low and moderate income families."

Mr. JAVITS. Mr. President, I move that the vote by which the amendment, as modified, was agreed to be considered.

Mr. HATHAWAY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I send another amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of the bill add the following new chapter:

CHAPTER IX—NEIGHBORHOOD CONSERVATION

SEC. 901. The purpose of this chapter is to encourage the preservation of older neighborhoods which are threatened with blight and housing abandonment and to stimulate the broadscale conservation and upgarding of existing low- and moderate-income housing by establishing a program of neighborhood conservation grants and a new program of mortgage insurance designed to generate private capital for housing repairs, mainteance, and rehabilitation.

GRANTS OF NEIGHBORHOOD CONSERVATION AREAS

SEC. 902. For the purpose of this Act, the term "neighborhood conservation area" means any area in which (1) the predominant residential area is housing for low- and middle-income families, and (2) such housing, though basically sound, is threatened with decay and abandonment or is in need of repair, maintenance, rehabilitation, or refinancing.

PROGRAM AUTHORITY

SEC. 903. (a) The Secretary of Housing and Urban Development (hereafter referred to as the "Secretary") is authorized to make, and to contract to make, grants under this section to cities, municipalities, counties, and other general purpose units of local government to assist them in carrying out designated neighborhood conservation area programs designed to improve basic community facilities and services and bring about such other changes as may be necessary or appropriate to eliminate the threat of housing abandonment or decay in such areas and to restore and maintain such areas as suitable and stable living environments.

(b) Grants under this section may cover a period of not to exceed five years and may provide 100 per centum of the cost of any of the following types of activities within the neighborhood conservation area:

(1) The repair of streets, sidewalks, playgrounds, schoolyards, paths, street lights, traffic signs and signals, publicly owned utilities, or public buildings which have an impact on the quality of life in the neighborhood.

(2) The improvement of private properties to eliminate dangers to the public health and safety.

(3) The demolition of structures determined to be structurally unsound or unfit for occupancy.

(4) The establishment of temporary or permanent public playgrounds or parks within the area to serve residents of the neighborhood.

(5) Other similar neighborhood-oriented activities and improvements calculated to aid significantly in achieving the objectives of this section.

(6) Assistance to qualified neighborhood-based nonprofit organizations in carrying out development activities under other provisions of this Act or in carrying out management training, maintenance, or tenant education programs.

(c) To be eligible for assistance under this section, a locality acting through its chief executive authority, shall designate a specific area and prepare and submit to the Secretary a plan specifying—

(1) the improvements in basic community facilities and services to be made in such area over the five-year period in which such improvements will be made;

(2) the programs to be introduced to improve the quality of housing in the area; and

(3) the public and private resources which will be marshaled to carry out such improvements and programs.

(d) Grants under this section shall be made, or shall continue to be in effect, with respect to any neighborhood conservation area if the Secretary finds that—

(1) the five-year plan submitted by the locality involved is workable and will provide an effective means of carrying out the purposes of this Act in such areas;

(2) the locality has the necessary resources to carry out in a timely fashion all of the improvements and programs set forth in the plan;

(3) the locality continues to make significant progress toward achieving its objectives it established for itself in the plan during the term of the grant; and

(4) the locality satisfies such other conditions and requirements as the Secretary may prescribe to insure that the purpose of this Act will be achieved.

(e) There are authorized to be appropriated for grants under this section not to exceed $100,000,000 for the fiscal year ending June 30, 1974, not to exceed $150,000,000 for the fiscal year ending June 30, 1975, and not to exceed $220,000,000 for the fiscal year ending June 30, 1976. Any amount so appropriated shall remain available until expended, and any amount authorized for any fiscal year under this subsection which is not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1976.

(f) The Secretary is authorized to designate an area which meets the requirements of this section as a neighborhood conservation area notwithstanding the unavailability of funds for grants under this section. Upon such designation, the Secretary may furnish other assistance (including assistance under any mortgage insurance or related housing maintenance program) to such area.

FEDERAL MORTGAGE INSURANCE TO FACILITATE SALE OR REFINANCING OF HOUSING IN NEIGHBORHOOD CONSERVATION AREAS

SEC. 904. (a) Title II of the National Housing Act is amended by adding at the end thereof the following new section:

"MORTGAGE INSURANCE IN NEIGHBORHOOD CONSERVATION AREAS

"SEC. 244. (a) The purpose of this section is to help preserve and upgrade the quality of housing in designated neighborhood conservation areas by facilitating the rehabilitation refinancing of such housing or its transfer to tenant- or neighborhood-based corporate ownership.

"(b) The Secretary is authorized to insure any mortgage in accordance with the provisions of this section and to make commitments for such insurance prior to the date of the execution of the mortgage or disbursement thereon upon such terms and conditions as he may prescribe.

"(c) In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers residential property located in a neighborhood conservation area approved for assistance under section 4 of the Neighborhood Conservation Act or any area designated as a neighborhood conservation area under section 4(c) of such Act, subject to the following conditions:

"(1) The mortgage shall cover a multifamily rental property, or a cooperative or condominium property which is basically sound or capable of being placed in standard condition without substantial rehabilitation and which contains—

"(A) more than one but less than seven dwelling units if the mortgagor is an individual or entity described in paragraph (2) of this subsection; or

"(B) seven or more dwelling units if the mortgagor is an organization described in paragraph (3) of this subsection.

"(2) The mortgage covering property referred to in paragraph (1)(A) of this subsection shall be executed by—

"(A) an individual who owns the property and occupies the property and is refinancing outstanding indebtedness related to the property, or who is purchasing the property and will occupy one or more of the units in the property after its purchase;

"(B) a cooperative or condominium organization which consists of a majority of the residential units on the property; or

"(C) a private nonprofit organization which is based in the neighborhood in which the property is located and which is approved by the Secretary.

"(3) The mortgage on a property referred to in paragraph (1)(B) of this subsection shall be executed by—

"(A) a cooperative or condominium organized which consists of or includes a majority of the occupants of the property;

"(B) a private nonprofit organization or association approved by the Secretary; or

"(C) a limited dividend ownership entity (as defined by the Secretary) including, but not limited to, corporations, general or limited partnerships, trusts, associations, and single proprietorships.

"(4) In the case of a mortgage involving a mortgagor referred to in paragraphs (2)(A), (2)(B), and (3)(A) the mortgage shall include a principal obligation, including such initial services charges, discounts, appraisal, inspection, and other fees, as the Secretary shall approve in an amount not to exceed the sum of 97 per centum of the Secretary's estimate of the value of the property before any repairs or improvements deemed necessary by the Secretary to help restore or maintain the area in which the property is situated as a stable and suitable living environment, except that in no case involving refinancing shall such principal amount exceed such estimated cost of repairs and improvements and the amount (as determined by the Secretary) required to refinance existing indebtedness secured on the property.

"(5) In the case of a mortgage involving a mortgagor referred to in paragraph (2)(C) or (3)(B), the mortgage shall include a principal obligation, including such initial services charges, discounts, appraisal, inspection, and other fees, as the Secretary shall approve in an amount not to exceed the sum of 100 per centum of the Secretary's estimate of the value of the property before any repairs or improvements deemed necessary by the Secretary to help restore or maintain the area in which the property is situated as a stable and suitable living environment, except that in no case involving refinancing shall such principal amount exceed such estimated cost of repairs and improvements and the amount (as determined by the Secretary) required to refinance existing indebtedness secured in the property.

"(6) In the case of a mortgage involving a mortgagor refered to in paragraph (3)(C), the mortgage shall include a principal obligation, including such initial services charges, discounts, appraisal, inspection, and other fees, as the Secretary shall approve in an amount not to exceed the sum of 90 per centum of the Secretary's estimate of the value of the property before any repairs or improvements deemed necessary by the Secretary to help restore or maintain the area in which the property is situated as a stable and suitable living environment, except that in no case involving refinancing shall such principal amount exceed such estimated cost of repairs and improvements and the amount (as determined by the Secretary) required to refinance existing indebtedness secured on the property.

"(7) The mortgage shall—

"(A) provide for complete amortization by periodic payments within such term (not exceeding forty years) as the Secretary shall prescribe, except that in the case of a property referred to in paragraph (1)(A) such term shall not exceed twenty years;

"(B) bear interest (exclusive of premium charges for insurance and service charges, if any) on the amount of the principal obligation outstanding at any time at not to exceed such per centum per annum as the Secretary finds necessary to meet the mortgage market.

"(8) The Secretary shall not insure any mortgage under this section unless he has received satisfactory and enforceable assurances from the mortgagor that the refinancing or sale of the property (and any improvements thereto) will not result, directly or indirectly, in any increase in the rentals or other charges for dwelling units in the property for a period of at least one year from the date of final endorsement for mortgage insurance, or in any increases in such rentals thereafter in excess of such increases as the Secretary finds justified and approves on the basis of increased operating expenses. In addition, the Secretary may place such further restrictions on the mortgagor as to sales, charges, capital structure, rate of return, and methods of operation as, in the opinion of the Secretary, will best effectuate the purpose of this section.

"(d)(1) For the purpose of maintaining or reducing rentals or other charges for properties insured under this section, the Secretary is authorized to make, and to contract to make periodic interest reduction payments on behalf of the owners of the properties but for the benefit of the residents, which shall be accomplished through payments to mortgagees holding mortgages meeting the special requirements of this subsection.

"(2) Interest reduction payments with respect to a property shall only be made during such time as the property is operated as a rental housing and is subject to a mortgage which meets the requirements of, and is insured under, this section.

"(3) The interest reduction payments to a mortgagee by the Secretary on behalf of a property shall be in an amount not exceeding the difference between the monthly payment for principal, interest, and mortgage insurance premium which the property owner as a mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest such property owner would be obligated to pay if the mortgage were to bear interest at the rate of 4 per centum per annum.

"(4) The Secretary may include in the payment to the mortgagee such amounts, in addition to the amount computed under this subsection as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

"(5) As a condition for receiving the benefits of interest reduction payments, the owner shall operate the project in accordance with such requirements with respect to tenant eligibility and rents as the Secretary may prescribe.

"(e) The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

"(f) Prior to insuring any mortgage under this section, the Secretary shall obtain satisfactory and enforceable assurances from the mortgagor that all repairs and improvements necessary to place the underlying property in standard condition have been or will be made and that such property will be continuously maintained in standard condition.

"(g) The Secretary shall cooperate with the Secretary of Labor and the Health, Education, and Welfare, to insure that, to the greatest extent feasible, funds appropriated under the Manpower Development and Training Act of 1962, as amended, shall be made available on a priority basis for training and employment support use in connection with improvements financed by mortgages insured under this section. The Secretary shall cooperate with the Director of the Office of Minority Business Enterprises, the Director of the Educational Development Agency, and the Administrator of the Small Business Administration, to insure maximum utilization of minority and small business contractors in connection with improvements financed by mortgages insured under this section.

"(h) In administering the program established by this section, the Secretary shall use his best efforts to enlist the support and actual cooperation of State and local governments in establishing State or local mortgage lending funds, in providing adequate municipal services in low- and moderate-income areas, particularly in areas threatened by building abandonment, and in insuring, to the maximum extent feasible, the administration of laws and ordnances relating to existing housing stock, including building codes, housing codes, health and safety codes, zoning laws, and property tax laws, in such manner as will encourage maximum utilization of this program in accordance with the purposes herein expressed.

"(i) The Secretary shall develop and maintain full information and statistics regarding the utilization of and experiences incurred under this program, which shall include, but not be limited to, information and statistics concerning—

"(1) financial market conditions, including the interest rates, payback periods, and other terms and conditions affecting housing eligible to be financed hereunder;

"(2) the character, extent, and actual costs of repairs, renovations, and moderate housing rehabilitation undertaken hereunder;

"(3) factors affecting and statistics showing the extent of actual and potential utilization of this program;

"(4) factors affecting the processing time of applications submitted hereunder and statistics showing processing times actually experienced;

"(5) mortgage arrearages and defaults on mortgage loans insured hereunder;

"(6) abuses of the program, actual or potential, and remedial or punitive actions taken in connection therewith; and

"(7) the costs of administering this mortgage insurance program, provided by this section.

The Secretary shall submit each year to the Congress and to the President an annual report summarizing such information. Such report shall include his analysis of the effectiveness and scope of the program and his recommendations for its improvement and greater utilization.

"(j) If the Secretary determines that the unavailability of property insurance coverage is hindering the widespread utilization of this program, he shall take all practicable steps to insure that the protections and benefits of the Urban Property Protection and Reinsurance Act of 1968 are utilized to provide adequate property insurance coverage for mortgagors and mortgagees under this program.

"(k) If the Secretary determines that widespread utilization of this program is hindered by the charging of points or discounts by mortgages, he shall take steps to implement the Government National Mortgage Association's authority under section 305(j) of this Act to purchase and make commitments to purchase mortgages insured under this section, at a price equal to the unpaid principal amount thereof at the time of purchase, with adjustments for interest and any comparable items, and to sell such mortgages at any time at a price within the range of market prices for the particular class of mortgages involved at the time of sale as determined by the Association.

"(l) If the Secretary determines that widespread utilization of this program is hindered by delays in processing and approval of projects, he shall establish procedures to insure, to the maximum extent feasible, the expeditious processing and approval of applications for insurance hereunder, including, where necessary and appropriate, the use of procedures and practices similar to those under title I (home improvement loans).

"(m) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make interest reduction payments under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts and payments pursuant to such contracts shall not exceed $50,000,000 per annum prior to July 1, 1974, which minimum dollar amount shall be increased by $100,000,000 on July 1, 1975, by $150,000,000 on July 1, 1976."

Mr. JAVITS. Mr. President, one of the major drawbacks I have found in the existing housing programs is their focus on the production of new housing while neglecting our existing housing stock. In New York City housing in transitional neighborhoods has been deteriorating at an alarming rate. To try to stem this tide I sought in 1972 to encourage the development of a national policy and strategy which would focus talent and resources on the preservation and upgrading of existing housing stock in older cities around the country. My proposal, which was included in part in the omnibus housing bill that did not become law last Congress, sought to provide a comprehensive neighborhood preservation approach to upgrade transitional neighborhoods and involve private investment through the use of FHA insurance and related shallow subsidies for refinancing and repair of existing housing stock. The amendment I have proposed is, in essence, S. 2776, the Neighborhood Conservation Act.

It provides for areas to be designated as "neighborhood conservation areas" by local governmental entities, which areas would then be eligible for grants by HUD to be used for repairs of streets, sidewalks, playgrounds, and schoolyards; improvements of private property to eliminate dangers to health and safety and other similar neighborhood-oriented activities and improvements calculated to aid in achieving the objectives of the legislation.

In order to receive grants, localities would have to submit a 5-year plan and demonstrate at the end of each year that significant progress was being made. It is hoped that this program along with the other parts of the bill will help localities make a coordinated attack on the abandonment and decay of existing housing.

A new mortgage insurance program covering residential property located in neighborhood conservation areas is also authorized. All properties covered would be multifamily rental properties, cooperative or condominium properties which are basically sound or capable of being placed in standard conditions without substantial rehabilitation.

In the case of a mortgagor who is an owner-occupier of a building containing two to seven units, or of a cooperative or condominium covering more than seven units, the mortgage could cover 97 percent of the value of the property. The mortgage could be upped to 100 percent of value for nonprofits and 90 percent of value for limited dividend projects. However, only owners who live on the premises would be allowed to secure mortgages under this legislation on property of less than seven units. This will serve to eliminate many of the abuses we have seen in existing insurance programs covering small dwelling units.

The mortgage program will allow for refinancing or sale of the property provided that repair and improvements are made to such property. HUD will have to take such steps as it deems necessary to insure that repairs and improvements have been or will be made.

Rentals on properties which receive mortgage insurance shall not be increased for a period of at least 1 year from the date of final endorsement of the insurance or thereafter unless the increase can be justified on the basis of increased operating expenses. For the purpose of maintaining or reducing rentals the Secretary of Housing and Urban Development is authorized to make interest reduction payments on behalf of the owners of the properties—but for the benefit of the tenants—which will reduce interest rates down to a minimum of 4 percent per annum. This "shallow subsidy" should enable rents to remain steady or perhaps decrease depending on the individual owner's mortgage terms.

The Secretary of Housing and Urban Development is authorized to take such steps as accelerated processing of applications under the program; implementing the Government National Mortgage Association's authority to purchase mortgages under this legislation; and, to coordinate with other Government departments to insure that manpower training funds and funds for small businesses and minority businesses are made available to neighborhood conservation areas.

Authorizations for neighborhood conservation area grants are $100 million for fiscal year 1974, $150 million for fiscal year 1975 and $200 million for fiscal year 1976; and for mortgage interest reduction payments $50 million for fiscal year 1974, $100 million for fiscal year 1975 and $150 million for fiscal year 1976.

I believe that this legislation will provide the coordinated attack that is necessary to preserve many of the "transitional areas" in New York and other States of the Nation.

Mr. President, I understand that a great many of the provisions of my bill designated for neighborhood preservation are already addressed in the bill before the Senate. I would appreciate it very much if the manager of the bill would state to us the particular references, so that all who are interested in this very critical problem may be advised and informed as to where in the bill they can find some help in respect to this matter.

Mr. HATHAWAY. Mr. President, the committee appreciates the merits of the proposal which the Senator from New York has made; but, as the Senator has indicated, many of the provisions he would like to incorporate in the bill are already contained therein. I cannot give him the particular references at the moment, but I will do so shortly.

The bill does contain the insured rehabilitation loans, insured refinancing loans, and direct loans for the purposes that the Senator would like to see.

In my opinion, we have covered the thrust of the Senator's amendment with provisions we already have in the measure. If the Senator will turn to page 76 of the report, under "Rehabilitation and Preservation Programs," continuing to page 77, he will see an explanation of what is in the bill that covers the purposes that the Senator from New York would like to cover in his amendment.

Mr. President, I ask unanimous consent that that excerpt from the report be printed in the Record.

Mr. JAVITS. As a statement of the manager.

Mr. HATHAWAY. As a statement of the manager.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

REHABILITATION AND PRESERVATION PROGRAMS

The language of the bill reflects the Committee's strong belief that our housing rehabilitation programs can be extremely effective in "transitional areas" which have not deteriorated to the point where comprehensive renewal is necessary, but which could be headed in that direction if immediate and concerted efforts are not made to halt or reverse the deterioration process. The Committee believes that the provision of increased Federal housing rehabilitation assistance for such neighborhoods could ultimately be cheaper than allowing them to decline until more comprehensive government action becomes necessary. The amendment also calls for an effort to encourage more timely repair and maintenance of the housing units themselves. In addition, the amendment emphasizes the absolutely essential need for adequate municipal services on a continuing basis in neighborhoods where preservation efforts are to be undertaken.

Several tools for implementing this new provision of the national housing goals are included in the Committee bill. The increase in maximum allowable amounts and loan terms in the FHA home improvement loan program (Sec. 302 of Chapter 1) will encourage use of private money for home repairs. Sec. 401 and Sec. 501 of Chapter I, by authorizing the FHA to insure mortgages so that housing repairs and improvements along with the refinancing of existing indebtedness can be financed without forcing increases in monthly housing expenses, will also facilitate the use of private funds for housing preservation. As a means of attracting State and local government money as well as private money for the housing preservation effort, the Committee authorized coinsurance on a portfolio basis for State and local rehabilitation loan funds (Sec. 309 of Chapter I). The Committee also authorized community development funds to be used for rehabilitation (Chapter III) and rejected the proposal that the 3 percent direct Federal rehabilitation loan program be absorbed by the community development program. Instead, it broadened somewhat the geographic applicability of that program (Sec. 815). To facilitate more substantial rehabilitation of owner-occupied dwelling, the bill allows the FHA homeownership program (Sec. 402 of Chapter I) to be used for this purpose by present homeowners and raises the percentage of program contract authority reserved for housing rehabilitation from ten to twenty. Various other provisions of the bill, such as the requirement that counseling be provided to all future FHA-subsidized homeowners, would also contribute to an increased housing preservation effort even though they do not provide rehabilitation assistance directly.

The Committee recognizes that the provisions of adequate and timely maintenance is just as vital to a successful housing preservation strategy as housing rehabilitation efforts. Proposals were presented that HUD undertake demonstrations of ways to improve housing maintenance. One of these demonstrations would have provided cash incentive payments in small amounts to families in Federally assisted housing who maintain their homes exceptionally well relative to others receiving subsidies. Another would have allowed HUD to encourage or require subsidy recipients in the FHA homeownership program to establish and maintain escrow accounts, which would be used to meet maintenance and repair expenses. The Committee did not adopt these proposals. The Committee believes that HUD has adequate authority to conduct research to promote better housing maintenance in whatever ways it deems appropriate.

Mr. JAVITS. I thank the Senator very much for it. I think that does it very appropriately.

Mr. President, I am satisfied that the committee is making measurable progress in this matter. I also feel that now that we have started on it and in an appreciable way, whatever else might be needed we have a good chance to get on a showing of merit.

Therefore, Mr. President, I would be disposed to withdraw my amendment, with this record made in respect of this bill. Before I do that, I should like to suggest the absence of a quorum, and I ask unanimous consent that the time may be charged to neither side.

Mr. MANSFIELD. Mr. President, will the Senator withhold his request?

Mr. JAVITS. Yes.

Mr. MANSFIELD. Has the Senator withdrawn his amendment?

Mr. JAVITS. I will do so in a moment.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MANSFIELD. Mr. President, on behalf of the Senator from South Carolina (Mr. Hollings), I ask unanimous consent that his legislative assistant, Burt Rosen, be given the privilege of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I now renew my unanimous-consent request for a quorum.

The PRESIDING OFFICER. Without objection, it so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Mr. Joel Severson, of Senator Abourezk's staff, be given the privilege of the floor during the debate on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, under the same conditions as previously.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER (Mr. Abourezk). Without objection, the amendment is withdrawn.

Mr. JAVITS. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 76, lines 1 and 5, strike 80 per centum and insert in lieu thereof 90 per centum.

On page 70, lines 9 through 16 strike subsection (4).

Mr. JAVITS. Mr. President, I ask unanimous consent that the amendments may be considered en bloc.

The PRESIDING OFFICER. Without

objection, the amendments are considered en bloc.

Mr. JAVITS. Mr. President, as the matter stands in the bill 80 percent of the medium income maximum for low-income tenants was coupled with a provision allowing 20 percent of the units to be up to median income. That was defined as being within the discretion of the mortgagor, the developer or the housing authority.

From the point of view of the cities, although it is a painful choice, we believe we are better off by omitting the 20 percent, the one-fifth, to take us to the higher 90 per centum limit in order to get a consistent limit comparable to what has been done in section 402 for section 402 homeownership.

By this amendment we increase the 80 percent to 90 percent, but strike out the 20 per centum discretion up to median income vested in the hands of the mortgagor completely so that the flat figure becomes the same in section 402, or 90 percent.

I hope that the compromise is acceptable.

Mr. TOWER. Mr. President, this matter has been discussed and we feel this is a reasonable compromise. For the minority I am prepared to accept the amendment.

Mr. HATHAWAY. Mr. President, the majority also is willing to accept the compromise.

Mr. JAVITS. Mr. President, I yield back my time on the amendment.

Mr. HATHAWAY. I yield back my time on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATHAWAY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, will the Senator from Texas yield to me for 30 seconds?

Mr. TOWER. Mr. President, I yield on the bill as much time as the Senator requires.

Mr. JAVITS. I thank the Senator.

Mr. President, this is only the culmination of a long experience with this committee on housing. I want to especially speak of the Senator from Texas (Mr. Tower). I spoke of the Senator from Alabama (Mr. Sparkman) before. In the housing field seemingly there is a tremendous meeting of the minds and consensus of views. I think what the committee has done—and they beat me down a bit—is part of the whole process of getting the best bill that represents the best the Senate has to offer.

I think that is the highest praise that can be uttered for Senators in charge of a bill. I express my gratitude to the Senator from Alabama (Mr. Sparkman), the Senator from Texas (Mr. Tower), and the Senator from Maine (Mr. Hathaway). This is characteristic of the way housing measures have been handled here over the years.

Mr. TOWER. Mr. President, I thank the distinguished Senator from New York for his generous remarks. I hope we will always have our objectives clearly before us and that to the extent possible we will be able to get every American, regardless of his income level, in housing that is at least standard housing. There could be nothing of greater impact on social improvement in these United States than to accomplish that objective.

I appreciate the Senator's remarks and also I appreciate his splendid efforts in this matter, as well.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, on behalf of the Senator from New Mexico (Mr. Montoya), the Senator from South Dakota (Mr. Abourezk), the Senator from Montana (Mr. Metcalf), the Senator from New Mexico (Mr. Domenici), myself, and others, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

The amendment is as follows:

On page 131, line 11, after the period, insert the following: "Of the aggregate amount of contracts for annual contributions authorized under this section to be entered into on or after July 1, 1974, not less than $15,000,000 per annum, which amount shall be increased by not less than $15,000,000 per annum on July 1, 1975, shall be available only for low-income housing for persons who are members of any Indian tribe, band, pueblo, group, or community of Indians or Alaska Natives which is recognized by the Federal Government as eligible for service from the Bureau of Indian Affairs.".

Mr. MANSFIELD. Mr. President, this amendment calls for an appropriation of $15 million to be applicable to the Indians, Eskimos, Aleuts, and others for low-cost housing. It would be possible under this amendment, if agreed to by the Senate and acceded to by the House and the President, to allow for the building of 7,500 low-cost units for Indians in the next 2 years. This is only a small way in which we can accommodate the first Americans and I hope this gesture will be given unanimous approval of the Senate.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. SPARKMAN. I wish to check one matter. The Senator said it would take an appropriation of $15 million. It was my understanding this did not call for an additional appropriation but simply allocated funds being authorized in this bill.

Mr. MANSFIELD. That is correct. I am glad the Senator corrected that.

Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from New Mexico.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Joseph M. Montoya

Indian "self-determination" is a major goal of the Congress and the Administration. It implies the assumption of full self-government by Indian tribes in the management of their political, economic, and social affairs, but it also assures the continuation of federal trust responsibility. Self-determination is, unfortunately, an elusive creature to people who suffer poor health and whose environment is a continual reminder of their impoverishment. I question how "free" is an individual whose home is a shack—or a tent or car body—whose polluted drinking water must be carried several miles, and whose access to a doctor is obstructed by impassible roads.

If self-determination is our nation's goal for Indians, then concomitant with that goal must be the elimination of the impoverished environment which so many Indian people endure. My purpose today is to address the particular issue of Indian housing, and to inform you of what I believe is a retreat by the federal government from its avowed commitment to provide decent housing for Indian people. In 1971, the General Accounting Office published its report, "Slow Progess in Eliminating Substandard Indian Housing"; it is my concern that neither the Congress, nor the Administration, allow an epilogue to that report be written and entitled, "No Progress . . .".

As the Senate is aware, Indian housing is the worst in the country, and we believe a special effort is needed to assure the Indian people a decent place to live. Of the 92,000 existing units on Indian land, 56,000 are substandard. Of these, 32,000 are so dilapidated that they cannot be renovated but must be replaced. An additional 15,000 units are needed for families who have no home of their own and now live two or more families to a unit or who live in tents or in car bodies.

As you also know, Federal housing assistance to Indians is particularly important because Indians have almost no access to private housing resources. Lending institutions and home builders do not exist on Indian lands, nor will they involve themselves with Indian housing programs because of the special status of Indian land which denies these institutions the security they require.

New Mexico, which is home to a tenth of the nation's Indian population, and to more than 13 percent of the national Indian rural population, is illustrative of the severity of the Indian housing problems. On the Pueblos, which are tourist attractions to thousands of visitors, and in the rural, isolated lands of the Apaches, substandard housing accounts for 62 percent of all housing units, by BIA's own estimation.

As in all rural areas, the presence of extremely bad housing is coupled with a high incidence of poverty. You are probably aware that half the nation's poor people live in rural areas. Indeed, the 1970 Census shows that 19 percent of all rural families are impoverished. But Indian poverty is even more dramatic. We find that 47 percent of all rural Indians have incomes that fall below the poverty level.

These poverty statistics assume great importance when we begin to consider how Indians can improve their housing conditions. There is no question that decent, safe, and sanitary housing is costly, and that most Indians cannot afford it. In most cases, Indians need either partially or totally subsidized housing. Yet such housing exists only in limited supply on Indian reservations. HUD data to December 31, 1972, show that 12,094 units of low-rent, mutual help, and Turnkey III housing units were completed by tribal housing authorities since 1961, or about 1,000 units per year—not even enough to keep up with population growth.

Though these programs are small, particularly in comparison to need, their numbers far exceed the production records of the more shallow subsidy programs of HUD–FHA and the Farmers Home Administration. For example, in HUD's Region IX, which serves the Indian population in all the southwestern states, including my home state of New Mexico, HUD insured projects totalled only 183 units in eight years. In that same region, Farmers Home Administration had only 100 Indian loans in force as of March, 1972.

The only major and formal commitment to providing decent housing to Indians on reservations was made in April, 1969, but this commitment was more an outcome of the budget planning process than a serious reflection of housing needs or goals. In a Memorandum of Understanding between HUD, the Bureau of Indian Affairs, and the Indian Health Service (HEW), each agency's responsibilities were outlined in an attempt to overcome the lack of coordination that resulted in families occupying new housing units that lacked plumbing or access roads. HUD would provide housing financing under the public housing programs, BIA would provide access roads, and the Indian Health Service would provide water and sewer facilities. To secure the agreement, HUD committed itself to the construction of 6,000 Indian housing units annually for five fiscal years ending June 30, 1974.

Five years have nearly passed, and the total 30,000 unit commitment is not fulfilled. When fiscal year 1974 ends, there will be a balance of at least 4,700 Indian units with no contract authorization. Even though HUD Secretary James Lynn has publicly stated his intention to fund those units in FY 75, the Administration budget is silent on the matter.

The 1969 commitment to Indians must not be allowed to die. Furthermore, since those 4,700 units will only replace a tenth of the 47,000 new units that BIA said were needed more than nine months ago, Congress must also provide in its housing legislation, authorization for the continuation of those programs which serve Indian housing needs. These are, primarily, the low-rent, mutual help homeownership, and Turnkey III homeownership programs.

The Administration's notion of a revised Section 23 leased housing program and housing allowance demonstration for all poor people living in bad housing would be a tragic mistake in Indian areas, since these areas contain no stock of standard housing for lease, nor do they contain the financial institutions and building enterprises required if private development is to function. I have grave concerns about the applicability of the Administration's proposals to most rural areas, and Indian areas particularly. It is surprising to me that after ten years of working in Indian areas, the Department of Housing and Urban Development would offer a nation-wide program for all low-income persons that the Agency knows cannot house Indians. Yet the FY 75 HUD budget offers no alternatives to Indians. It appears to me that, HUD, the only Agency with programs and funds to address the severe Indian housing problem, has implicitly called an end to its participation in that effort.

Mr. President, we are in the process of debate on S. 3066, the Housing and Community Development Act of 1974. Senator Sparkman and members of the Committee are to be commended for their efforts in producing legislation that incorporates basic housing reform, and yet retains the federal commitment to low- and moderate-income families. The legislation clearly reflects Senator Sparkman's continuing dedication to federal involvement in housing development, particularly for lower-income American families and elderly. It is my concern, however, that in the area of Indian housing, the Administration may veer from the goals established by this body.

The amendment sets aside, for the exclusive use of our Indian people, $15 million of the $795 million authorized for FY 75 and $15 million of the $720 million authorized for FY 76 for annual contributions for low-income housing projects. This set aside will allow for the construction of approximate 7,500 units of Indian housing per year.

We sponsors of Amendment 1003 are attempting to guarantee the informal commitment which the Department of Housing and Urban Development made in 1969 and to extend that commitment for the two year life of this authorization. The construction of these units has been and will continue to be essential to reduce the staggering back log of 47,000 units of needed Indian housing. We are also attempting, through this amendment, to assure the construction of the 1,500 units needed annually to house an increasing Indian population and to replace deteriorating existing units.

Housing set-asides are essential to the continuation of Indian housing efforts, but there are other issues that must also be addressed. Among those are the multi-agency responsibility for Indian housing which causes long delays and confusion, the lack of clear guidelines for the development of mutual help housing, the adequacy of urban oriented public housing development and management guidelines to the rural Indian setting, and the lack of mortgage financing for Indians whose incomes exceed public housing guidelines.

We believe that the programs funded by Chapter II of the bill—especially the low rent, mutual help and Turnkey III programs, are those which have been of greatest benefit to the Indian people. Subsidy programs such as those operated by the Farmers Home Administration and provided for in Chapter V of the bill, simply do not work on Indian Reservations. The amount of assistance provided is too small to be of help to low-income Indians, and the regulations which control these programs work to prevent Indian participation.

Indians involved in housing have addressed these problems to the Department of Housing and Urban Development by letter, telephone, and innumerable personal visits. Last July, HUD promised Indians that a manual for the mutual help program would be written, incorporating Indian suggestions, and would be ready for Indian review in October. It is now March, and there is no manual.

And in January of this year, Dr. Gloria E. A. Toote, HUD Assistant Secretary for Equal Opportunity, agreed to hold a nationwide Indian housing conference within 60 days. An organizing committee was appointed, but has never been asked to meet. Telegrams and letters of support for the conference from Indians and Congress remain unanswered.

There is no question that Indians need thousands of units of new housing, and that their ability to pay is limited, thus forcing them to rely on the public housing programs. These programs need continued funding, and they need some revisions that will make them operate better for Indians. There may even be a need for a specific Indian housing program, separate from all other housing efforts. But before such a program is designed, or revisions made in the old programs, we should hear what Indians from all over the country have to say.

I urge that Congressional support be given to a nationwide Indian housing conference, and that the conference be convened by HUD no later than April 15, in a place convenient to a large portion of Indian people.

BASIC NEEDS OF INDIAN HOUSING

Mr. ABOUREZK. Mr. President, let me try to paint a brief statistical picture of the Indian housing situation.

There are 180,000 Indian households according to the 1970 census.

About two-thirds of them are in nonmetropolitan areas. In my own State of South Dakota, for example, 98 percent of the Indian population is in rural areas.

Nearly one-third of all Indian households have incomes of less than $3,000 a year. In the nonmetropolitan areas, the figure is more like 40 percent.

Median income for Indian families is only 60 percent of the national income.

Indian households are generally larger than average—a median size of 3.4 persons per houshold as compared to 2.7 for the general population.

Almost 16 percent of Indian households have seven or more members—three times the national incidence of large households.

Thus it is hardly surprising to find that almost half of the Nation's Indian households occupy units which either lack essential plumbing facilities or are overcrowded, or both.

The Indian population suffers an incidence of substandard housing which is three times the national average.

In absolute terms, 77,000 Indian households are living in substandard units, according to the 1970 census. Three-fourths of these substandard units are in nonmetropolitan areas.

In some places the picture is not so bleak.

In other places it is worse. My own State falls into that category.

As of June 30, BIA reported 92,000 occupied housing units under its jurisdiction. Less than 40 percent of them were rated "standard" quality. Moreover, nearly 15,000 units were housing two families. Putting that latter figure another way, there were less than 36,000 adequate houses available to 107,000 Indian families.

The situation is worse for the Navajos. Less than 13 percent of their families have adequate housing.

The BIA estimates that about one-third of the existing housing can be upgraded by rehabilitation. The rest—some two-thirds—will require new construction.

At the Juneau and Alaska BIA offices, it is estimated that more than 90 percent of the units just simply must be replaced.

Mr. President, late last year I asked Dr. George Rucker, the research director of the Rural Housing Alliance, to look at these figures and tell me what they mean.

His conclusion was quite stark:

Last year the Federal Government—through all programs—assisted in 9,300 new starts and rehabilitations for the Indian people. These 9,300 units secured a net reduction of only 1,506 units in Indian housing need.

This means, if last year's was a typical pattern, that it will take 7,800 starts and rehabs every year just to stay even. To eliminate the backlog within 10 years will require nearly twice the current level of activity.

Mr. President, the need for more funding of Indian housing construction and rehabilitation is self-evident. The Montoya amendment is, if anything, too modest.

At this point in the RECORD I ask permission to insert Dr. Rucker's detailed analysis of Indian housing needs.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

INDIAN HOUSING: A BACKGROUND PAPER

The 1970 Census reported more than 180 thousand Indian households. Nearly 100,000 of those were outside of Standard Metropolitan Statistical Areas—making the Indian population far more rural than the population in general. The 80,000 households that *are* in metropolitan areas are relatively concentrated. More than half are in sixteen of the nation's 243 SMSAs, and more than a fourth (some 22,000 Indian households) are in six SMSAs in California and Oklahoma.

Indeed, as Table I, on the distribution of Indian households, shows, the total Indian population of the country is largely concentrated in a few major areas. Nearly half of the households are in the four states of Oklahoma, California, Arizona, and New Mexico. Roughly two-thirds of the total is in ten states, and of these ten, only three (California, New York, and Texas) have more than half of their Indian population residing in metropolitan areas. In short, Indian housing needs are predominantly, though not entirely, rural housing needs. This is particularly true of those within BIA territory. Here in the Dakotas, for example, more than 98% of the Indian households live in nonmetropolitan areas—largely on reservations under the jurisdiction of the Bureau of Indian Affairs.

TABLE I.—DISTRIBUTION OF INDIAN HOUSEHOLDS, 1970, INSIDE AND OUTSIDE SMSA's, SELECTED STATES AND REGIONS

	Number of occupied units				Distribution of occupied units (percent)			
	Total	Major SMSA's[1]	Other metro	Nonmetro	Total	Major SMSA's[1]	Other metro	Nonmetro
California	24, 304	13, 823	6, 059	4, 422	100. 0	56. 9	24. 9	18. 1
Arizona	17, 809	3, 816		13, 993	100. 0	21. 4		78. 6
New Mexico	13, 541	1, 329		12, 212	100. 0	9. 8		90. 2
Washington	7, 207	2, 209	1, 166	3, 832	100. 0	30. 6	16. 2	53. 2
Montana	5, 302		579	4, 723	100. 0		10. 9	89. 1
Alaska	3, 301			3, 301	100. 0			100. 0
Oregon	3, 231		1, 395	1, 836	100. 0		43. 2	56. 8
Colorado	2, 001		1, 316	685	100. 0		65. 8	34. 2
Utah	1, 899		577	1, 322	110. 0		30. 4	69. 6
Nevada	1, 731		644	1, 087	100. 0		37. 2	62. 8
Idaho	1, 236		76	1, 160	100. 0		6. 1	93. 9
Other Western States	1, 333		255	1, 078	100. 0		19. 1	80. 9
Western region	82, 895	21, 177	12, 067	49, 651	100. 0	25. 5	14. 6	59. 9
Oklahoma	26, 709	8, 338	1, 537	16, 834	100. 0	31. 2	5. 8	63. 0
North Carolina	9, 636		1, 207	8, 429	100. 0		12. 5	87. 5
Texas	5, 119	1, 701	2, 535	883	100. 0	33. 2	49. 5	17. 2
Florida	1, 672		1, 153	519	100. 0		69. 0	31. 0
Louisiana	1, 192		365	827	100. 0		30. 6	69. 4
Other Southern States	6, 858		4, 036	2, 822	100. 0			41. 1
Southern region	51, 186	10, 039	10, 833	30, 314	100. 0	19. 6	21. 3	59. 2
South Dakota	5, 713		96	5, 617	100. 0		1. 7	98. 3
Minnesota	4, 752	2, 286	406	2, 060	100. 0	48. 1	8. 5	43. 4
Michigan	4, 208	1, 478	1, 031	1, 699	100. 0	35. 1	24. 5	40. 4
Wisconsin	4, 199		2, 127	2, 072	100. 0		51. 7	49. 3
Illinois	2, 958	2, 378	330	250	100. 0	80. 4	11. 2	8. 4
North Dakota	2, 479		37	2, 442	100. 0		1. 5	98. 5
Kansas	2, 128		1, 042	1, 086	100. 0		49. 0	51. 0
Ohio	1, 889		1, 679	210	100. 0		88. 9	11. 1
Missouri	1, 616		1, 156	460	100. 0		71. 5	28. 5
Nebraska	1, 291		441	850	100. 0		34. 2	65. 8
Other North-central States	1, 582		1, 020	562	100. 0		64. 5	35. 5
North-central regions	32, 815	6, 142	9, 365	17, 308	100. 0	18. 7	28. 5	52. 7
New York	7, 314	4, 753	1, 365	1, 196	100. 0	65. 0	18. 7	16. 3
Pennsylvania	1, 655		1, 489	166	100. 0		90. 0	10. 0
Other Northeastern States	4, 401		3, 098	1, 303	100. 0		70. 4	29. 6
Northeastern region	13, 370	4, 753	5, 952	2, 665	100. 0	35. 5	44. 5	19. 9
United States total	180, 266	42, 111	38, 217	99, 938	100. 0	23. 4	21. 2	55. 4

[1] "Major SMSAs" are the 16 SMSAs in 10 States, each of which reported an Indian population of 5,000 or more. For details, see the Source.

Source: 1970 Census of Housing, HC(7)-9, "Housing of Selected Racial Groups".

Table II summarizes the national pattern in terms of selected characteristics of Indian housing, as reported in the 1970 Census. One thing it makes perfectly clear is that Indian housing need is dramatically more severe than is that of other groups. In almost every characteristic, Indian housing is far below average.

To begin with, only half of the nation's Indian households own their own homes, while for the rest of the population the proportion is more like two-thirds. To a large extent, of course, this tenure pattern stems from the extremely low-incomes characteristic of Indian households. The median income for them is 60% as large as the median income for the general population. Nearly one-third of all Indian households reported incomes of less than $3,000 in the 1970 Census. (In nonmetropolitan areas, almost 40% of the Indian households were in that bottom income category.)

Bad as those figures are, the situation is really worse when put in the perspective of a couple of other factors. In the general population, a significant portion of the poverty is associated with elderly households The Indian population, though, has distinctly less elderly households than is characteristic of the general population. (Only 15% of Indian households were headed by persons 65 years of age or older, while nearly 20% of all households in the country had elderly heads.) Similarly, low-incomes are frequently associated with small households, but Indian households are generally larger than average—with a median size of 3.4 persons as compared with 2.7 for the general population. Even more dramatic is the proportion of very large households. Almost 16% of all Indian households had seven or more members, a percentage more than three times the comparable figure for the nation as a whole.

To give some local perspective to this general pattern, one can look at Table III, reflecting the data for North and South Dakota. As can be seen, median incomes in these states was slightly lower than the national pattern for nonmetropolitan areas. Conversely, the proportion of households containing seven or more persons was distinctly larger than the national average for Indian households.

Against this background, it is hardly surprising to find that almost half of the nation's Indian households occupy units which either lack essential plumbing facilities, or are overcrowded, or both. Of the 77,000 households reported by the Census to be in such units, almost three-fourths were in nonmetropolitan areas, where 57% of the Indian households were inadequately housed, even by this limited measure (which does not consider either the condition of the structure or the proportion of the family's income that is being paid to occupy it).

Once again, to make relative comparisons: the incidence of housing which lacks plumbing facilities or is overcrowded among Indian households is more than three times as high as among all households in the country.

TABLE II.—SELECTED CHARACTERISTICS OF INDIAN HOUSING, 1970, INSIDE AND OUTSIDE SMSAS

Selected characteristics	Inside SmSAs			Total	
	In central cities	Outside central cities	Total metro areas	Outside SmSAs	(Metro and non-metro)
All occupied units	44, 257	36, 071	80, 328	99, 938	180, 266
Owner-occupied	13, 824	19, 612	33, 436	56, 682	90, 118
Renter-occupied	30, 433	16, 459	46, 892	43, 256	90, 148
Percent renter-occupied	68. 8	45. 6	58. 4	43. 3	50. 0
(National average—percent renter)	(51. 9)	(29. 7)	(40. 5)	(29. 6)	(37. 1)
Age of units: 10 yr or less	6, 330	10, 096	16, 426	28, 130	44, 556
10 to 30 yr	15, 225	15, 263	30, 488	31, 405	61, 893
30 yr or older	22, 702	10, 712	33, 414	40, 403	73, 817
Percent 30 yr or older	51. 3	29. 7	41. 6	40. 4	40. 9
(National average—percent 30 yr)	(48. 0)	(27. 8)	(37. 7)	(46. 7)	(40. 5)
Quality: Units lacking plumbing	2, 818	4, 642	7, 460	39, 945	47, 405
Percent lacking plumbing	6. 4	12. 9	9. 3	40. 0	26. 3
(National average—Percent without plumbing)	(2. 9)	(2. 9)	(2. 9)	(11. 4)	(5. 5)
Units with plumbing but crowded [1]	6, 927	5, 375	12, 302	17, 300	29, 602
Percent with plumbing but crowded [1]	15. 7	14. 9	15. 3	17. 3	16. 4
(National average—percent crowded)	(7. 9)	(6. 3)	(7. 1)	(6. 4)	(6. 9)
Units with plumbing, severely crowded [2]	1, 968	1, 552	3, 520	7, 199	10, 719
Percent with plumbing, severely crowded [2]	4. 4	4. 3	4. 4	7. 2	5. 9
(National average—Percent severely crowded)	(2. 0)	(1. 1)	(1. 6)	(1. 3)	(1. 5)

Selected characteristics	Inside SmSAs			Total	
	In central cities	Outside central cities	Total metro areas	Outside SmSAs	(Metro and non-metro)
Household income: Under $3,000	11, 054	7, 711	18, 765	38, 652	57, 417
$3,000 to $5,999	11, 129	7, 643	18, 772	26, 780	45, 552
$6,000 to $9,999	11, 893	9, 318	21, 211	21, 241	42, 452
$10,000 to $14,999	7, 061	7, 491	14, 552	9, 626	24, 178
$15,000 and over	3, 120	3, 908	7, 028	3, 639	10, 667
Median	$6, 000	$7, 100	$6, 500	$4, 200	$5, 100
(National median)	($7, 900)	($10, 300)	($9, 100)	($6, 800)	($8, 450)
Household size:					
1 person	9, 825	5, 026	14, 851	13, 535	28. 386
2 persons	11, 059	8, 673	19, 732	18, 465	38, 197
3 to 4 persons	13, 349	11, 601	24, 950	27, 037	51, 987
5 to 6 persons	6, 745	7, 058	13, 803	19, 680	33, 483
7 or more persons	3, 279	3, 713	6, 992	21, 221	28, 213
Median	2. 7	3. 2	2. 9	3. 8	3. 4
[National median]	[2. 4]	[3. 0]	[2. 7]	[2. 7]	[2. 7]
Percent 7 or more persons	7. 4	10. 3	8. 7	21. 2	15. 7
[National percent 7 plus persons]	[4. 6]	[5. 1]	[4. 8]	[5. 7]	[5. 1]
Age of household head: Under 35	18, 449	12, 236	30, 685	29, 038	59, 723
35 to 44 yr	8, 605	7, 746	16, 351	20, 607	36, 958
45 to 64 yr	12, 126	11, 650	23, 776	32, 763	56, 539
65 and over	5, 077	4, 439	9, 516	17, 530	27, 046
Percent with head under 35	41. 7	33. 9	38. 0	29. 1	33. 1
[National percent with head under 35]	[26. 8]	[26. 5]	[26. 6]	[23. 5]	[25. 7]

[1] "Crowded" means more than 1 person per room.

[2] "Severely crowded" means more than 1.50 persons per room.

[ ] Bracketed data are comparable figures for the total population, including all races and ethnic groups.

Source: 1970 Census of Housing, HC(7)-9, "Housing of Selected Racial Groups," HC(7)-1, "Housing Characteristics by Household Composition," and HC(2)-1, "Metropolitan Housing Characteristics."

TABLE III.—INDIAN HOUSING IN THE DAKOTAS, 1970

	South Dakota	North Dakota
Occupied units by household income:		
Under $3,000	2, 425	876
$3,000 to $5,999	1, 802	764
$6,000 to $9,999	833	538
$10,000 to $14,999	484	221
$15,000 and over	169	80
All incomes	5, 713	2, 479
Median	$3, 500	$4, 000

	South Dakota	North Dakota
Quality of housing:		
Units lacking plumbing	2, 580	1. 176
(Percent of all units)	(45. 21)	(47. 4)
Units with plumbing but crowded	1. 287	511
(Percent of all units)	(22. 5)	(20. 6)
(Severely crowded units)	581	196
(Percent of all units)	(10. 2)	(7. 9)
Household size:		
1 or 2 persons	1, 548	637
3 or 4 persons	1, 433	624
5 or 6 persons	1, 245	546
7 or more persons	1, 487	672
(Percent of all with 7 plus persons)	(26. 01	(27. 1)

Source: "Census of Housing, 1970," HC(7)-9, "Housing of Selected Racial Groups."

It is worth emphasizing that these are national patterns. In some places the picture is not so bleak, while in others it is even worse. The Dakotas fall into the latter category. As Table III shows, more than two-thirds of the Indian households in these two states occupy units which lack plumbing, are overcrowded, or both.

The 1970 Census figures are depressing enough, but the annual housing inventory prepared by the Bureau of Indian Affairs indicates that things are a good deal worse even than that—at least among the Indian households for which BIA is responsible. Table IV summarizes the data from the most recent mid-year inventory, released just last week.

As of June 30th, the BIA reported nearly 92,000 occupied housing units under its jurisdiction. Less than 40% of those were rated as "standard" in quality. Moreover, nearly 15,000 units (about one-sixth of the total) were housing two families. Put another way, there were less than 36,000 adequate houses available to nearly 107,000 Indian families. The situation is reported to be worst at the Navajo Office, where less than 13% of the families have adequate housing. It is evidently least bad in the area administered by the Billings office, though even there no more than 55% of the families have adequate housing.

Of the total need indicated by these figures, BIA estimates that roughly one-third can be met by upgrading existing housing through rehabilitation. The other two-thirds (including that represented by the "doubled up" families) will require new construction. The Navajo Office is the only one in which rehabilitation can be expected to meet a majority of the needs. At the other extreme are the areas under the Juneau and Phoenix offices, where more than 90% of the estimated need will require new construction.

TABLE IV.—HOUSING CONDITIONS FOR INDIANS UNDER BIA JURISDICTION, MID-1973

BIA offices	Total number families	Number standard units	Number substandard units	Families "doubled up"	Total need as percent of families	New units needed	Rehabilitations needed
Aberdeen	10, 546	4, 697	4, 353	1, 496	55. 5	4, 739	1, 110
Billings	6, 071	3, 335	2, 269	467	45. 1	1, 861	875
Minneapolis	3, 283	1, 685	1, 409	189	48. 7	1, 092	506
North-Central total	19, 900	9, 717	8, 031	2, 152	51. 2	7, 692	2, 491
Anadarko	5, 373	1, 401	2, 617	1, 355	73. 9	2, 398	1, 574
Muskogee	16, 052	7, 171	5, 547	3, 334	55. 3	7, 044	1, 837
Albuquerque	8, 349	3, 180	2, 841	2, 328	61. 9	3, 332	1, 837
Navajo	23, 801	3, 126	19, 242	1, 433	86. 9	7, 324	13, 351
Phoenix	9, 644	3, 193	5, 309	1, 142	66. 9	6, 025	426
Southwest total	63, 219	18, 071	35, 556	9, 592	71. 4	26, 123	19, 025

BIA offices	Total number families	Number standard units	Number substandard units	Families "doubled up"	Total need as percent of families	New units needed	Rehabilitations needed
Juneau	12,550	2,751	8,503	1,296	78.1	9,209	590
Portland	6,116	3,331	1,951	834	45.5	1,804	981
Sacramento	2,149	518	1,080	551	75.9	1,260	371
Pacific total	20,815	6,600	11,534	2,681	68.3	12,273	1,942
Southeast agency	2,768	1,153	1,226	389	58.3	1,084	531
U.S. total	106,702	35,541	56,347	14,814	66.7	47,172	23,989

Source: Consolidated Area Housing Inventory.

Over all, this year's figures indicate some improvement from last year's, when total housing need amounted to 71% of the total number of families. In the intervening year the number of standard units was increased by almost 5,400 and the number of substandard units reduced by nearly 2,000 (the number of "doubled up" families decreased by less than 50, however). It is again necessary to point out, though, that this reflects a national average. In four of the twelve offices (the Southeast Agency, the Minneapolis, Anadarko, and Navajo Offices) total housing need reportedly increased during Fiscal 1973, and the Juneau Office reports no change in its net housing need. At best, a comparison of last year's inventory and this year's indicates that the rate of improvement registered over the last year would require nearly five more decades to eliminate housing need in BIA areas.

If one compares the mid-'73 inventory with that in mid-1970, things are still worse, with total need nationwide having gone *up* over the three years—a pattern characteristic of seven of the twelve individual offices. (The Navajo Office figures indicate the greatest retrogression, with total need reportedly almost tripling over the three years.) It is not possible that this evident deterioration in the situation is largely a statistical matter, though. A General Accounting Office investigation in 1970–71 concluded that BIA estimates of housing need were inadequate and this reportedly led to a more careful preparation of the mid-year inventory thereafter. Thus, the situation may not have deteriorated since 1970, it may just have been worse than had been indicated prior to 1971, and later inventories revealed a situation that had existed all along. Since we don't know how much of the 1970–73 differences to attribute to improved information and how much to actual change in the situation, we can only conclude that current progress in Indian housing is slow at best and perhaps even nonexistent.

This is not to say that there has been no housing activity. As Table V sets forth, the BIA reports the rehabilitation of more than 14,000 units and the construction of more than 16,000 new units during the last three fiscal years. (A substantial part of the latter activity, however, was required just to meet new family formations, since the total number of Indian families under BIA jurisdiction went up by almost 11,500 in that three year period.)

On the new construction side, public housing financing was utilized for 70% of the units—hardly a surprising fact considering the dismal incomes of Indian households. More than half of those public housing starts were under the Mutual Help program. Rehabilitation of BIA housing is largely financed by the agency's Housing Improvement Program (HIP financing accounts for 90% of the rehabilitations reported in Table V).

TABLE V.—CONSTRUCTION AND REHABILITATION STARTS IN BIA AREAS, FISCAL YEAR 1971 THRU FISCAL YEAR 1973

BIA office	Mutual help	Other public housing	HIP construction	Other new construction	Total new construction	HIP repairs	Other repairs	Total repairs
Aberdeen	120	1,930	78	158	2,286	1,325	7	1,332
Billings	299	525	97	156	1,077	771	33	804
Minneapolis	30	603	129	30	792	836	30	866
North-central total	449	3,058	304	344	4,155	2,932	70	3,002
Anadarko	1,224	50	4	9	1,287	776	54	830
Muskogee	1,830	744	69	346	2,989	642		642
Albuquerque	1,122	120	6	3	1,251	1,452		1,452
Navajo	270	180	532	1,163	2,145	3,243	689	3,932
Phoenix	675	405	304	131	1,515	1,395	19	1,414
Southwest total	5,121	1,499	915	1,652	9,187	7,508	762	8,270
Juneau	126	315	197	679	1,317	579	229	808
Portland	98	335	45	433	911	660	231	891
Sacramento			236	7	243	865	50	915
Pacific total	224	650	478	1,119	2,471	2,104	510	2,614
Southeast agency	290	92	10	23	415	252	10	262
U.S. total	6,084	5,299	1,707	3,138	16,228	12,796	1,352	14,148

Source: BIA, Bureau-wide Consolidation, Construction Starts.

There are great variations among the various offices in the utilization of the programs. Mutual Help dominates the picture at the Anadarko, Albuquerque and Muskogee Offices, but is little used in the Dakotas, Alaska, or on the West Coast. The HIP program is clearly the favored instrument of policy at the Navajo Office (which accounts for one-fourth of all HIP-financed rehabilitations during the period and for nearly one-third of HIP-financed new construction). At the Anadarko and Phoenix Offices, HIP is used for rehabilitation but very little for new construction. To what extent these variations stem from differences in local situations and to what extent they reflect vagaries of administrative preference at the local level is not known.

Finally, it is of interest to compare housing activity reported by BIA with housing need as they estimate it. Given the presumed differences in costs involved, it is probably not surprising that rehabilitation gets the greater relative attention. The number of units repaired during Fiscal '73 was about one-fifth of the number estimated at the beginning of the year as in need of repair. New construction starts during that year amounted to only one-tenth of the number estimated as required in mid-'72. (This does *not* imply that total needs for new units would thus be met in ten years, since, as indicated, new family formation requires a substantial amount of new construction each year regardless of need existing at the beginning of the year.)

This relative "favoritism" for rehabilitation is characteristic of every office, though it is least marked in the Oklahoma Offices. It is greatest at the Aberdeen, Phoenix and Sacramento Offices.

Of more interest, probably, is the comparison of total housing activity with estimated need. This can be misleading, though, because it makes no allowances for changes during the year. Thus, the offices showing the highest levels of activity during Fiscal '73 relative to estimated needs at the beginning of the period were Minneapolis and Sacramento. But despite this, the number of units reported as needed by the Minneapolis office was *greater* at the end of the year than before! Net improvement in Sacramento was not spectacular.

Looked at in terms of this net improvement over the last year then, the Muskogee Office had the best record during FY '73 and the Aberdeen Office would rank second. (Before Dakota chauvinism rears its head, however, it should be pointed out that the Aberdeen Office is one of the two [Albuquerque is the other] reporting a decline in the total number of Indian households.) The least relative improvement—or, to be more accurate, the greatest relative retrogression during Fiscal '73—was reported by the Southeast Agency, where total need increased by 17% during the year. The Minneapolis Office was next with a 10% net increase in housing need during FY '73.

In short, last year's 9,339 starts and rehabilitations secured a net reduction in BIA housing need of only 1,506 units. This means, if last year's was a typical pattern, that more than 7,800 starts and rehab's are required each year just to "stay even." If the backlog of need is to be eliminated within a decade, it will require nearly twice the current level of housing activity in BIA areas. It will also require reallocation of resources, both as to programs and areas, to secure a better match between need and response.

Mr. SPARKMAN. It is a good amendment. I am prepared to accept it.

Mr. TOWER. I am prepared to accept the amendment on behalf of the minority.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. HATHAWAY. Mr. President, I suggest the absence of a quorum without the time being charged to either side.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Stafford). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, on page 2, line 2, after the word "Affairs" I want to add to the amendment now pending the words "or who are wards of any State government."

The PRESIDING OFFICER. The amendment will be so modified.

Mr. MANSFIELD. Mr. President, I yield back my time.

Mr. SPARKMAN. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment as modified. (Putting the question.)

Without objection, the amendment as modified is agreed to.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BROOKE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Abourezk). The clerk will report the amendment.

The legislative clerk read as follows:

On page 122, line 8, strike out "It is the sense of the Congress that no" and insert in lieu thereof "No".

Mr. BROOKE. Mr. President, this is a very simple amendment. I offer it as a clarifying amendment to the public housing portion of the bill.

This amendment would make a matter of law what is the intent of Congress, that no person shall be barred from serving on the board of directors of a local public housing agency because of his tenancy in a low-income housing project.

It would do this by striking the words "It is the sense of the Congress that".

Mr. President, this language appears on line 8 of page 122.

There has been some problem with this language. This does not mean that a person must be on a public housing authority. It merely means that the law says that a tenant cannot be barred from serving on a public housing authority.

I have discussed this matter with the distinguished chairman of the committee and with the distinguished ranking minority member of the committee. I believe that they are both willing to accept the amendment.

Mr. SPARKMAN. Mr. President, the amendment is acceptable to me.

Mr. TOWER. Mr. President, I have already discussed the matter with the Senator from Massachusetts. It is a good amendment, and I am prepared to accept it.

Mr. BROOKE. Mr. President, I yield back the remainder of my time.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Massachusetts. (Putting the question.)

The amendment was agreed to.

Mr. BROOKE. Mr. President, I send to the desk an unprinted amendment and ask that it be considered at this time.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is as follows:

On page 28, line 18, strike out "(b) and (c)" and insert in lieu thereof "(b), (c), and (d)".

On page 28, beginning with "The Secretary" on line 20, strike out all through page 29, line 4.

On page 29, after line 25, insert the following:

(d) The Mutual Mortgage Insurance Fund, created by section 202 of the National Housing Act, shall be used by the Secretary as a revolving fund for carrying out his obligations incurred pursuant to sections 203(b), 203(h), and 203(i) of such Act and pursuant to section 401 of this Act.

On page 30, line 1, strike out "(d)" and insert in lieu thereof "(e)".

On page 30, line 11, strike out "(e)" and insert in lieu thereof "(f)".

On page 30, line 22, strike out "(f)" and insert in lieu thereof "(g)".

On page 31, beginning with line 9, strike out all through line 13.

Mr. BROOKE. Mr. President, S. 3066 contains a provision for the consolidation of the Mutual Mortgage Insurance Fund and the General Insurance Fund into a new, expanded General Insurance Fund. To the layman this may seem to be a routine housekeeping matter, but to appreciate its significance one must have some idea of the dollars involved.

The Mutual Mortgage Insurance Fund was created to insure mortgages which finance the purchase of small homes. Most of the FHA mortgages are insured under the MMIF. This fund has over $50 billion in insurance in force and insurance reserves to cover losses of some $1.75 billion. According to HUD's actuaries, the MMIF has over $200 million in surplus and is in sound financial condition.

But the situation is very different with regard to the General Insurance Fund, which insures mortgages to finance the purchase, construction, or improvement of some small homes, multifamily properties, nonresidential properties, and commercial structures. The General Insurance Fund has over $22 billion in insurance in force. However, it has a reserve deficiency of about $1 billion, and that deficiency is growing at the rate of several hundred million dollars a year. To put it bluntly, the General Insurance Fund is an actuarial catastrophe, and the situation appears to be deteriorating rather than improving.

To appreciate the magnitude of the problem, you must be aware that the General Insurance Fund does not insure any 235, 236, or special risk properties which are covered by the Special Risk Insurance Fund. The Congress never contemplated that the General Insurance Fund, which even insures luxury apartments, would operate on anything but a sound financial basis. But it is now in deep trouble.

As a member of the Appropriations Committee, I am concerned about the condition of the General Insurance Fund and the potential cost to the taxpayers to meet the mounting losses experienced by that fund. I intend to explore this matter further with HUD during appropriations hearings this spring.

I do not support the proposal that the Mutual Mortgage Insurance Fund and the General Insurance Fund be merged into one new General Insurance Fund. As I see it, the danger in such a move is that the surplus reserves of the Mutual Mortgage Insurance Fund are not likely to be sufficient to cover expected losses incurred by the General Insurance Fund. A new consolidated fund would then come to depend on appropriations to keep going, and any semblance of actuarial soundness in the operation of the FHA insurance funds will be lost. This, in my opinion, would lead to the weakening or even the demise of FHA as we have known it.

Over the last 35 years FHA has provided the basis for a massive expansion of homeownership opportunities for moderate-income families who could not afford to make a large downpayment on a house. This has been done without any cost to the Government. No private mortgage insurer has been able to match the FHA in making available low downpayment mortgages.

I am offering an amendment for myself and Senators Cranston and Mondale to retain the Mutual Mortgage Insurance Fund and the General Insurance Fund as separate funds. The effect of our proposal will be to continue the use of the Mutual Mortgage Insurance Fund to insure those mortgages presently insured under section 203 of the National Housing Act as well as those mortgages to be insured under section 401 of the proposed bill.

Mr. SPARKMAN. Mr. President, the

Senator from Massachusetts has made the substance of his amendment known to me. As far as I am concerned, I am willing to accept it.

Mr. TOWER. Mr. President, I am willing to accept the amendment.

Mr. BROOKE. Mr. President, I yield back the remainder of my time.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

SECTION 23

Mr. ABOUREZK. Mr. President, the prevailing opinion seems to be that Indian housing authorities are just beginning to be proficient with the traditional public housing programs—turnkey and conventional.

They argue that to force a new program upon them now would be a setback.

Moreover, they make a valid argument that existing decent housing stock which is privately owned, in addition to the rather complicated financing mechanisms and willing financial institutions for that approach—both are just plain impossible to come by in Indian areas.

This point is buttressed by a recent study by the Rural Housing Alliance concerning the geography of section 23 leased housing. It turns out that the program is primarily an urban program, whereas Indian reservations are primarily rural.

The RHA study concludes that rural areas received only 18 percent of section 23 leased housing as compared to having 58 percent of the Nation's substandard housing.

Those figures—showing where section 23 has actually wound up—make a telling point about its applicability in rural areas in general and Indian reservations in particular, and I ask permission to have the study inserted at this point in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

THE GEOGRAPHY OF LEASED PUBLIC HOUSING UNDER SECTION 23: MORE DISCRIMINATION AGAINST RURAL AND SMALL TOWN PEOPLE

(By George W. Rucker, Rural Housing Alliance, February 1974)

HIGHLIGHTS

From its inception in 1965 until mid-1973, the Section 23 program provided for the leasing of a total of 162,000 units. The program has accounted for 30% of all public housing units put under Annual Contributions Contract in the last five years.

Geographic distribution of the program has been uneven. California has accounted for 24% of all units leased under Section 23.

Though Section 23 was originally conceived of as a way to utilize existing housing for public housing, nearly half of the units under the program have been specifically constructed for it. This new construction aspect has been most characteristic of the South.

The total number of Section 23 units going into nonmetropolitan areas has been 29,300—only 18% of all Section 23 units. This means that the program has been only half as effective as other public housing approaches in reaching rural areas and small towns.

BACKGROUND NOTES

The U.S. Public Housing program started in 1937 and has run on one cylinder for nearly 40 years. In that period of time it has managed to get little better than 1 million units under management, contrasted to the total of 63 million dwelling units in the U.S. It was not lack of need for low income housing but the grim opposition of the vested interests—ideological, realtor and slumlandlord—which swept the program at such low levels.

In 1965 one of the many new approaches to try to solve the housing problems of the poor was a program to permit the Department of Housing and Urban Development (HUD) to finance leasing by Local Housing Authorities of privately owned housing, new and old, in clusters or individual units. The mix of ideas was to enable the agencies to cut costs by using existing stock, mix public housing among private units to get away from the "project" image, facilitate mixing of racial groups, and give private enterprise a cut in the program along with tax payments to local governments. In the eight years between its birth and mid-1973, this program had made 162,000 housing units available to public housing authorities, 30 percent of the total achieved in the last five years.

In the new Nixon budget for FY 1975 it is proposed to virtually eliminate the old public housing program and go all out on the leasing program. Under the proposals in the budget, over 400,000 units would be authorized for the next 18 months. Public management through housing authorities would also be all but eliminated and income levels served under the program substantially raised.

People in small towns and rural areas have reason to be concerned over and above the other conflicts over the program. They are being had, again, by this shift because the program does not seem to work as well in small towns and rural areas as other public housing approaches.

THE GEOGRAPHY OF LEASED PUBLIC HOUSING UNDER SECTION 23

Preliminary statistics just made available by HUD indicate that as of mid-1973 there were 162,000 leased public housing units under Annual Contributions Contract. The program began in the mid-1960's and 84% of those units have been put under AAC since 1967. During that 5½-year period, the leasing program has accounted for about 30% of all additions to the public housing supply.

Distribution of the leasing program has been extremely uneven. Five states account for 45% of those 162,000 units, and one state for 45% of those 162,000 units, and one state—California—accounts for 24% of the total! (California, where the leasing approach escapes the local referendum required for other public housing programs, has been the leading user of Section 23 both for new construction and for existing units; Massachusetts, New York, and New Jersey are the other biggest, users of the program for existing housing; Florida, Mississippi, Louisiana, and Ohio are the other biggest users of the program for new construction. Together, those eight states account for well over half the total program.)

Just over 46% of the Section 23 units had been especially constructed for the program. This aspect has been particularly favored in the South. (That region accounted for 45% of all the leased new construction units, but less than 10% of the leased existing units.) Conversely, application of Section 23 to already existing housing, either with or without rehabilitation, has been most favored on the Pacific Coast and in the Northeast. (These latter two areas together account for two-thirds of the existing units under lease, but only one-third of newly constructed Section 23 units. California alone accounts for 30% of the existing units put under lease, and together with Massachusetts and New York, accounts for 45% of the total.)

NONMETROPOLITAN USAGE

Of the 162,000 unit total, 29,300—or 18%—of the leased units are in nonmetropolitan areas. Again, the distribution pattern is uneven. Section 23 is most heavily used for nonmetro areas in the South. The five states with the most nonmetro Section 23 units were Mississippi, California, North Carolina, Louisiana, and South Carolina. Together, they accounted for 38% of the nonmetro total. (In Mississippi and South Carolina, more than three-fourths of all Section 23 units were in nonmetro areas, and in North Carolina and Louisiana, more than 40%.)

But it needs to be emphasized that use of the Section 23 program in nonmetropolitan areas rests overwhelmingly on new construction. Some 77% of the Section 23 units in such areas came under that category.

NONMETRO USE OF SEC. 23 COMPARED WITH NONMETRO USE OF OTHER PUBLIC HOUSING PROGRAMS

Taken as a whole, the Sec. 23 program has not served nonmetropolitan areas as well as other public housing programs. About 24% of all public housing units are in nonmetropolitan areas, but only 18% of Sec. 23 units are in such areas. The disparity is even more striking when one remembers that the leasing program is a recent development on the public housing scene. During the years in which Sec. 23 has been a major vehicle, more like 30%–35% of the units added to the public housing supply have been in nonmetropolitan areas. If Sec. 23 has accounted for 30% of all additions to the supply, with 18% of those going into nonmetro areas, then 35%–40% of the units under programs other than Sec. 23 have evidently been going into nonmetro areas. In short, other public housing programs have been twice as effective as Sec. 23 in reaching nonmetro areas.

We don't have the data necessary for a direct comparison, state-by-state, covering the late 1960's and early 1970's. However, we do have regional data on the metro-nonmetro distribution of all public housing units brought under contract during the three years 1970, 1971 and 1972. Based on those data, we have estimated the distribution pattern for the longer period 1968 through 1972 and for the component divisions of the regions as well.

Unless these estimates are extremely wide of the mark (and we have allowed a range of 5% in each case), they indicate that in every one of the nine Census Divisions of the country, the Sec. 23 program was less successful in reaching nonmetropolitan areas than the other public housing programs used during the same period.

In fact, looking only at new construction for leasing—that part of the program receiving the most usage in nonmetro areas—it would still appear that in most parts of the country, the other public housing programs are more successful in reaching nonmetro areas. Only the Northeast Region and the West North Central Division would seem to be exceptions to that generalization.

In short, the geography of the Sec. 23 program (at least as operated in the past) certainly supports the arguments of those who contend that nonmetropolitan areas have little existing housing stock suitable for assisted housing—particularly in the Southern states. It also gives little reason for optimism to those who might think that an expanded Sec. 23 program means an expanded nonmetro public housing program.

LOCATION OF SEC. 23 LEASED PUBLIC HOUSING UNITS UNDER ANNUAL CONTRIBUTIONS CONTRACT AS OF JUNE 30, 1973, BY PROGRAM CATEGORY, IN ALL AREAS AND IN NONMETROPOLITAN AREAS, BY STATE, DIVISION, AND REGION

	Number of sec. 23 units under ACC, June 30, 1973						
	All areas			Nonmetropolitan areas			
	Program categories			Program categories			Percent of sec. 23 in nonmetropolitan areas
States, divisions and regions	New construction	Existing units	All units	New construction	Existing units	All units	
Total United States	75, 244	86, 759	162, 003	22, 685	6, 617	29, 302	[1] 18.0
Maine	625	343	968	453	150	603	6.2
New Hampshire	406	771	1, 177		69	69	5.9
Vermont	602	629	1, 231	602	629	1, 231	[1] 100.0
Massachusetts	3, 111	7, 196	10, 307	110	488	598	5.8
Rhode Island	4	762	766				
Connecticut	1, 662	1, 126	2, 788	100		100	3.6
New England	6, 410	10, 827	17, 237	1, 265	1, 336	2, 601	15.1
New York	3, 575	5, 295	8, 870	2	249	251	2.8
New Jersey	459	4, 753	5, 212		65	65	1.2
Pennsylvania	1, 721	3, 498	5, 219	955	53	1, 008	19.3
Mid-Atlantic	5, 755	13, 546	19, 301	957	367	1, 324	6.9
Northeast	12, 165	24, 373	36, 538	2, 222	1, 703	3, 925	10.7
Delaware	200	46	246				
Maryland	190	1, 143	1, 333	140	67	207	15.5
Virginia	187	561	748				
West Virginia	142	125	267				
North Carolina	3, 707	361	4, 068	1, 740	196	1, 936	47.6
South Carolina	1, 666	269	1, 935	1, 450	269	1, 719	88.8
Georgia	2, 503	927	3, 430	958	38	996	29.0
Florida	6, 762	1, 027	7, 789	1, 170	115	1, 285	16.5
South Atlantic [2]	15, 563	5, 003	20, 566	5, 458	685	6, 143	31.0
Kentucky	550	6	556	225		225	40.5
Tennessee	2, 502	220	2, 722	897	28	925	34.0
Alabama	3, 832	46	3, 878	1, 565		1, 565	40.4
Mississippi	4, 593	24	4, 617	3, 631	24	3, 655	79.2
East South Central	11, 477	296	11, 773	6, 318	52	6, 370	54.1
Arkansas	497		497	211		211	42.5
Louisiana	3, 956	311	4, 267	1, 661	175	1, 836	43.0
Oklahoma	436	1, 806	2, 242	436	496	932	41.6
Texas	2, 199	1, 041	3, 240	268	168	436	13.5
West South Central	7, 088	3, 158	10, 246	2, 576	839	3, 415	33.3
South [2]	34, 128	8, 457	42, 585	14, 352	1, 576	15, 928	38.1
Ohio	3, 917	3, 269	7, 186	324	41	365	5.1
Indiana	639	1, 230	1, 869	93	55	148	7.9
Illinois	2, 099	3, 551	5, 650	692		692	12.2
Michigan	1, 544	563	2, 107				
Wisconsin	940	184	1, 124	200	14	214	19.0
East North Central	9, 139	8, 797	17, 936	1, 309	110	1, 419	7.9
Minnesota	309	2, 816	3, 125	210	25	235	7.5
Iowa	8	1, 556	1, 564	6	206	212	13.6
Missouri	912	1, 567	2, 479	557	2	559	22.5
North Dakota	956	118	1, 074	956	118	1, 074	100.0
South Dakota	129	155	284	129	155	284	100.0
Nebraska	169	1, 684	1, 853				
Kansas	584	672	1, 256	380	187	567	45.1
West North Central	3, 067	8, 568	11, 635	2, 238	693	2, 931	25.2
North Central	12, 206	17, 365	29, 571	3, 547	803	4, 350	14.7
Montana							
Idaho	202	48	250				
Wyoming	120	380	500	120	380	500	[2] 100.0
Colorado	377	135	512	43	60	103	20.1
New Mexico	455	850	1, 305	455	50	505	38.7
Arizona	1, 033	71	1, 104	42	44	86	7.8
Utah	462	75	537	234		234	43.6
Nevada	90	700	790				
Mountain	2, 739	2, 259	4, 998	894	534	1, 428	28.6
Washington	357	3, 644	4, 001				
Oregon	1, 210	3, 631	4, 841	584	1, 016	1, 600	33.1
California	12, 439	26, 330	38, 769	1, 086	985	2, 071	5.3
Alaska							
Hawaii		700	700				
Pacific	14, 006	34, 305	48, 311	1, 670	2, 001	3, 671	7.6
West	16, 745	36, 564	53, 309	2, 564	2, 535	5, 099	9.6

[1] State has no metropolitan area.

[2] Includes District of Columbia.

Source: Preliminary tabulation of Feb. 15 1974 made available by Statistical Operations Branch, Division of Research and Statistics, Department of Housing and Urban Development.

NONMETROPOLITAN SHARE OF PUBLIC HOUSING UNITS UNDER ALL PROGRAMS AND UNDER SEC. 23 LEASING PROGRAM, BY CENSUS DIVISION AND REGION, SELECTED PERIODS

	Percentage of all public housing units going to nonmetropolitan areas		Percentage of sec. 23 units going to nonmetropolitan areas, 1965–73		
Census divisions and regions	Cumulative total, 1937–71	Estimate for recent years 1968–73 [1]	New construction	Existing units	Total (both)
U.S. total	22.4	[38] 30–35	30.1	7.6	18.0
New England	9.8	16–21	19.7	12.3	15.1
Middle Atlantic	7.2	8–13	16.6	2.7	6.9
Northeast region	7.9	[16] 11–16	18.3	7.0	10.7
South Atlantic	29.9	36–41	35.1	13.7	31.0
East south-central	46.8	62–67	55.0	17.6	54.1
West south-central	36.7	42–47	36.3	26.6	33.3
South region	36.1	[52] 45–50	42.1	18.6	38.1
East north-central	14.9	21–26	14.3	1.3	7.9
West north-central	36.0	60–65	73.0	8.1	25.2
North-central region	20.4	[42] 35–40	29.1	4.6	14.7
Mountain	40.5	66–71	32.6	23.6	28.6
Pacific	11.0	18–23	11.9	5.8	7.6
West region	17.1	[33] 26–31	15.3	6.9	9.6

[1] Bracketed figures are actual percentages for the 3-year period, 1970–72, from data made available by Statistical Operations Branch, Division of Research and Statistics, Department of Housing and Urban Development.

Sources: Data in 1st column are from "Public Housing: Where It Is and Isn't" (Rural Housing Alliance and Housing Assistance Council, 1972); data in 2d column are estimated (largely on basis of indications from the regional data for 1970–72); and data in final 3 columns are from preceding table.

Mr. METCALF. Mr. President, I ask that the Senate reconsider the Montoya amendment that was just recently adopted and ask unanimous consent that it be reconsidered at this time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. TOWER. Mr. President, reserving the right to object, I want to ask the Senator for what purpose he is asking reconsideration?

Mr. METCALF. Mr. President, I had intended to offer an additional modifying amendment to the Montoya amendment. I did not realize that it was going to come up so fast. I had my amendment at the desk. The only purpose is to add a statement that will take care of some of the Indian reservations in the request.

Mr. TOWER. Mr. President, if that could be specified in the request, that this is the only purpose for which the amendment will be reconsidered, I have no objection.

Mr. METCALF. I thank the Senator from Texas.

Mr. President, my amendment is designed to clarify and specify the intent of the amendment by Mr. MONTOYA and others on a set-aside of public housing funds for use in meeting the needs of our native Americans for decent housing, water, and sanitary facilities.

Our Indian population has the worst housing in the Nation. The Bureau of Indian Affairs reports that two-thirds of the nearly 107,000 families within its jurisdiction either occupy housing which is substandard or else have no housing of their own at all. At the rate of improvement registered last year, that situation will not be solved for nearly 50 more years. In Montana alone, the Bureau estimates that nearly 1,900 homes are, in their words, "desperately needed."

It has been over 14 years since Phileo Nash—BIA—and Maggie McGuire—Public Housing—agreed to make a joint attack on the Indian housing problem. Since then, we have come a long, tortuous road. This zigzagging road has meant that about the time their leaders were adjusted to some program it would be reorganized, merged, reformed and something new set before them to try to work with. Let us presume that many of these changes may have made some sense in terms of the general economy, but programs which will work in the general society frequently work poorly, if at all, on reservations because of the combination of land trusts, unemployment, low income, the very strong aversion of the Indian people to being crowded into multiple-family dwellings, isolation, absence of private credit—the list is long but it is real and must be reckoned with in shaping housing programs which will work on reservations.

My amendment is specifically designed to see that no attempt is made to substitute private leasing arrangements for traditional public housing programs on reservations, not, in this instance, because of any philosophical or political differences but simply because the leased housing program cannot and will not function on Indian reservations. Indeed, as a recent research paper by the Rural Housing Alliance indicates, the leased housing program is overwhelmingly an urban, even metropolitan program and does not work well in small towns and rural areas anywhere in the country. RHA found that with nearly two-thirds of the substandard housing, the nonmetro areas of the country had gotten only 18 percent of the leased housing units since the inception of the program.

I urge your support for this amendment which will retain the traditional mutual help and other public housing programs for use on reservations. Any contentions on the superiority of leased housing are—insofar as the reservations are concerned—not erroneous so much as just irrelevant.

The PRESIDING OFFICER. Would the Senator from Montana also ask unanimous consent to offer his amendment to the Montoya amendment?

Mr. METCALF. Mr. President, I ask unanimous consent that my amendment, which is at the table, is being offered by the distinguished Presiding Officer, the Senator from South Dakota (Mr. ABOUREZK), the distinguished Senator from New Mexico (Mr. MONTOYA), and other Senators, be incorporated in the Montoya amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 2, line 2, after "Affairs" insert the following: ", except that none of the funds made available under this sentence shall be available for housing in private accommodations under section 8".

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and the amendment is agreed to and incorporated in the Montoya amendment.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is as follows:

On page 145, lines 2 and 3, strike the following: "in accordance with criteria established by the Secretary".

On page 145, lines 21 and 22, strike the following: "in accordance with criteria established by the Secretary".

On page 146, lines 10 and 11, strike the following: "in accordance with criteria established by the Secretary".

On page 147, lines 9 and 10, strike the following: "in accordance with criteria established by the Secretary".

On page 151, lines 7 and 8, strike the following: "in accordance with criteria approved by the Secretary".

On page 152, lines 1 and 2, strike the following: "in accordance with criteria approved by the Secretary".

On page 152, lines 19 and 20, strike the following: "in accordance with criteria established by the Secretary".

On page 153, lines 9 and 10, lines 13 and 14, and lines 24 and 25, strike the following: "in accordance with criteria established by the Secretary".

Mr. CRANSTON. Mr. President, this amendment strikes the phrase "in accordance with criteria established by the Secretary" everywhere that it appears in section 8. In two instances, the phrase is modified to read "in accordance with criteria approved by the Secretary." That phrase occurs on page 151, lines 7 and 8, and on page 152, lines 1 and 2. I propose that they be deleted as well.

The HUD Secretary has broad rulemaking authority. The phrase "in accordance with criteria established by the Secretary" inserted throughout the leased housing section implies that in addition to his rulemaking authority, the HUD Secretary has some additional—although undefined—power. It opens the door to regulations which have no statutory guidance.

The actual intent of section 8 is clear. The bill states as follows:

> In carrying out this section it is intended to vest in public agencies the maximum amount of responsibility in the administration of this program.

Retaining the phrase "in accordance with criteria establishd by the Secretary" seems to suggest that deespite the express intent, Congress would tolerate a derogation of local agency responsibility. I believe it is essential to establish that such derogation of local responsibility is not intended either under the phrase "in accordance with criteria established by the Secretary" or under HUD's general rulemaking authority.

Unfettered local initiative is especially critical to my view in three areas: First, in the ability of the owner to subcontract with the public housing agency for management and other responsibilities, second, in the ability of the local housing agency to waive the limitation on the number of assisted units in projects of 50 or more units, and third, in the ability of the public housing agency to determine when newly constructed or substantially rehabilitated leased units should be provided.

Other committee members may believe that vesting the maximum amount of responsibility for program administration in public agencies is critical for different aspects of the leased housing program. The importance is that we have agreed upon the intent of the leasing program.

Through his general rulemaking power, the Secretary carries out the intent of the Congress. The intent of the section 8 leasing program is this: To give maximum opportunity for local initiative to fulfill the objective of "providing a form of low income housing which will aid in assuring a decent place to live for every citizen, which will take full advantage of vacancies in the private housing market, and which will provide economically mixed housing."

Mr. President, I think that spells out the main intent of the amendment. I understand that the amendment is acceptable, and I trust that it is.

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AIKEN. Mr. President, to clarify the bill, I would like to ask a question of the manager of the bill.

In looking over chapter 3—the community development section of the proposed legislation—I noted that grants and loans would be available to agencies for neighborhood facilities.

A town in the State of Vermont with a population of about 12,000 is very much interested in constructing a civic center. This town has participated in HUD programs during the 1968–72 entitlement period outlined in this proposed legislation.

My question is, would this town be eligible for grant or loan funds for constructing its proposed facility under the terms of S. 3066?

Mr. SPARKMAN. Do I correctly understand that the facility the Senator is suggesting is a civic center?

Mr. AIKEN. A civic center. Not, however, a big auditorium.

Mr. SPARKMAN. A neighborhood center, we will call it.

Mr. AIKEN. A neighborhood center, with a skating rink, a basketball court, and things like that.

Mr. SPARKMAN. Well, now, do not put too much on it, and I would say it would be allowed.

Mr. AIKEN. I thank the manager of the bill. I just wanted to have that made clear for the RECORD.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I yield to the distinguished Senator from Texas.

Mr. TOWER. Mr. President, I just want to make sure that, in removing the power of the Secretary to establish criteria, we are not removing the Secretary's power to provide guidelines and regulations. This would, I think, be chaotic, and I would like to engage the Senator from California in a little colloquy here, so that we can make legislative history, to make sure that HUD retains the ultimate authority to promulgate guidelines and regulations.

It is not a part of the Senator's intention, as I understand it, to eliminate that ultimate authority on the part of HUD.

Mr. CRANSTON. That is absolutely correct. That is not the intent of the amendment.

Mr. TOWER. I thank the Senator very much. In that case, I am willing to accept the amendment.

Mr. SPARKMAN. I likewise accept the amendment and yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. CRANSTON. I send to the desk another amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CRANSTON's amendment is as follows:

> On page 164, between lines 16 and 17, insert the following:
>
> LEASED HOUSING
>
> SEC. 209. (a) Nothing in this chapter or any other provision of law authorizes the Secretary of Housing and Urban Development to apply any policy or procedure established by him with respect to a project which is subject to a contract for annual contributions under the provisions of the United States Housing Act of 1937 if such contract was entered into prior to the effective date of such policy or procedure.

Mr. CRANSTON. Mr. President, there is a great deal of confusion among housing authorities as to the status of existing section 23 contracts in light of the legislation pending before us and in light of the newly promulgated section 23 regulations.

The new regulations on existing and newly constructed units provide that—

> With respect to projects for which agreements to lease have been entered into prior to the effective date of this part, HUD may apply these standards to the extent it determines it is practicable to do so.

I have been informed by the Office of the General Counsel of HUD that HUD did not mean by this language to prevent an owner from exercising his option to renew a contract up to the maximum renewal term under the same terms and conditions as the initial contract.

However, the language of the regulations does not preclude this possibility.

Therefore, I believe it is important to dispell this uncertainty and clarify that if owners exercise their option to renew contracts existing between themselves and local housing authorities, HUD cannot require the modification of the terms of those contracts to bring them into conformity with the new section 23 regulations or with regulations issued pursuant to this bill. My amendment assures the continuity of the terms of contractual agreement between the owner and the local housing authority as long as the contract is renewed up to the maximum term prescribed by law.

Since the information I received from the Office of General Counsel indicated that HUD could not waive the rights of owners and local housing authorities where the terms of the contract have not been breached and where the owner has exercised his option to renew, I cannot see why there would be objection to clarifying that fact in this bill, since the regulations seem to leave open the possibility.

That, in brief, states the purpose of this amendment.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. CRANSTON. I am glad to yield to the manager of the bill.

Mr. SPARKMAN. Has the Senator finished making his presentation?

Mr. CRANSTON. On this amendment, yes.

Mr. TOWER. Mr. President, it is my understanding that this applies only to a project which is under an existing contract; is that correct?

Mr. CRANSTON. That is correct.

Mr. TOWER. Then I am prepared to accept it.

Mr. SPARKMAN. I am willing to accept the amendment, and yield back the time.

Mr. CRANSTON. I thank the Senator.

Mr. CHILES. Mr. President, will the Senator from California yield?

Mr. CRANSTON. I yield.

Mr. CHILES. What is the position of this legislation now as to the regulations and provisions heretofore promulgated by HUD. Are they a part of this housing bill?

Mr. CRANSTON. Yes, in some aspects, but not in all. There are provisions in the present law; the bill states some of those, and there are some changes in it.

Mr. CHILES. Perhaps my question really should be directed to the chairman. I will let the Senator finish with his amendment, and direct the question to the chairman.

Mr. CRANSTON. Does the Senator from Florida have a specific question to ask at some other time?

Mr. CHILES. Yes, I will ask the chairman.

Mr. CRANSTON. I thank the Senator. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. CRANSTON. I send to the desk another amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> On page 137, line 12, after the comma insert the following:
>
> "(5) the need for maximizing the conservation of energy for heating, lighting, and other purposes,".
>
> On page 137, lines 12 and 13, strike out "(5)" and "(6)" and renumber as "(6)" and "(7)".

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum, for one moment.

The PRESIDING OFFICER. How is the time to be charged?

Mr. CRANSTON. To be charged to me.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, in establishing the prototype cost for FHA insured single family and multifamily units, the Secretary is required in S. 3066 to take into account "the need for maximizing the conservation of energy for heating, lighting, and other purposes."

My amendment includes this identical language in the public housing section of the bill so that in establishing the prototype cost for conventional public housing units, the Secretary would also have to take into account "the need for maximizing the conservation of energy for heating, lighting, and other purposes."

The Department of Housing and Urban Development can play an extremely influential role in promoting the construction of housing units that use less energy in heating and cooling, in lighting, and running appliances, and in meeting other household energy needs.

One way that HUD can influence the development of energy saving units is to include the cost of design and materials that can reduce energy consumption in the calculation of prototype cost—the prototype cost is the total construction cost of a standard-sized new single family home or a standard-sized unit within a multifamily structure.

S. 3066 presently requires the Secretary to include energy conservation as a factor in estimating the cost of FHA insured housing. My amendment brings the public housing prototype cost section into conformity with FHA insured housing by requiring the Secretary to include energy conservation as a factor in calculating the cost of building a standardized public housing unit.

Mr. President, I understand that this amendment is acceptable to the chairman and to the Senator from Texas.

Mr. SPARKMAN. That is correct, Mr. President.

Mr. TOWER. I am prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I send to the desk a final amendment, as far as I am concerned, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 357, add after line 10, the following:

"Sec. 823. Title V of the Housing and Urban Development Act of 1970 is amended by adding at the end thereof the following:

"ADDITIONAL RESEARCH AUTHORITY

"Sec. 509. (a) In carrying out activities under section 501, the Secretary may undertake special demonstrations to determine the housing design, the housing structure, the housing-related facilities, services, and amenities most effective or appropriate to meet the needs of groups with special housing needs including the elderly, the handicapped, the displaced, single individuals, broken families, and large households. For this purpose, the Secretary is authorized to enter into contracts with, to make grants to, and to provide other types of assistance to individuals and entities with special competence and knowledge to contribute to the planning, development, design, and management of such housing.

"(b) In carrying out his functions under this section the Secretary shall give preferential attention to demonstrations which in his judgment involve areas of housing user needs most neglected in past and current research and demonstration efforts.

(c) The Secretary is authorized to undertake demonstrations involving the actual planning, development, and occupancy of housing utilizing the contract and loan authority of any federally assisted housing program. He is also authorized to set aside any development, construction, design, and occupancy requirements, for purposes of these demonstrations, if in his judgment they inhibit the testing of housing designed to meet the special housing needs.

(d) In carrying out this section, the Secretary shall include, as part of any demonstration, an evaluation of the demonstration to cover the full experience involved in planning, development and occupancy.

(e) In addition to any other contract or loan authority which the Secretary may utilize under subsection (c), not more than $20,000,000 from amounts approved in appropriations Acts shall be available for research under this section.

Mr. CRANSTON. Mr. President, this amendment directs the Secretary of HUD to undertake research on the special housing needs of particular groups: the elderly, the handicapped, single nonelderly persons, large households, broken families, and displaced persons.

The purpose of this amendment is to spur HUD into research that will determine the housing design, housing structure, housing-related facilities, services and amenities most appropriate to the special housing needs of special groups. The amendment emphasizes that research and demonstrations should be undertaken for groups which have been neglected in past or current research and demonstration efforts.

A group which has been especially neglected has been single nonelderly persons, known as single-room occupants. Up to now the use of congregate housing—a type especially desired by single nonelderly persons—has been impeded because HUD could not waive the eligibility or design requirements of the HUD housing programs.

My amendment permits HUD to set aside any development, construction, design, and occupancy requirements if the Secretary determines they inhibit the testing of housing suitable to special user groups.

This amendment does not authorize additional money. It permits the Secretary to use the contract or loan authority for any federally assisted program. Out of title V appropriated research funds, the amendment limits the amount of money that can be spent on special housing needs research to $20 million.

Mr. President, that completes my case at this point for the amendment and I hope that it is acceptable.

Mr. TOWER. Actually, this is something that HUD intends to do. I wonder whether the Senator would consider that, since the budget for HUD is only $70 million, this could cripple their efforts. Would the Senator consider reducing the amount to $5 million?

Mr. CRANSTON. The amendment does not require that it be $20 million, $10 million, or $5 million. It just states "not more than." So is it really necessary to reduce the amount?

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to the Senator from Alabama and myself.

The PRESIDING OFFICER (Mr. Domenici). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I modify my amendment, to strike in next to the last line the figure $20 million and reduce it to $10 million.

The PRESIDING OFFICER. The amendment is so modified.

Mr. TOWER. Under those circumstances, I am prepared to accept the amendment.

Mr. SPARKMAN. I accept the amendment.

Mr. CRANSTON. Mr. President, I yield back the remainder of my time.

Mr. SPARKMAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment, as modified, of the Senator from California (Mr. Cranston).

The amendment, as modified, was agreed to.

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 198, line 18: strike out "$300,000,000" and insert in lieu thereof "$600,000,000."

On page 198, lines 19 and 20: strike out "$300,000,000" and insert in lieu thereof "$600,000,000."

Mr. KENNEDY. Mr. President, I yield myself such time as I may require. First of all, I commend the distinguished Senator from Alabama (Mr. Sparkman) and the distinguished Senator from Texas (Mr. Tower), as well as the members of the committee, for the development of this legislation.

Speaking as one Senator from Massachusetts, if this legislation were to become law and we were to gain full funding, it would have a significant impact on the quality of housing for millions of our citizens. I think that this approach is imaginative and is sensitive to the experience that has been gained in the housing and development field.

I join the other Members of this body in commending the committee and particularly its chairman and the ranking member for the development of the legislation.

The amendment is rather simple. It merely increases the amount of money for funds that will be available for ongoing urban renewal projects from $300 million to $600 million during the period of transition to full block grant assistance. The need for additional urban renewal funding has been substantiated by the National Committee for Renewal Funding, by the League of Cities, the Conference of Mayors, and the National Association on Housing and Redevelopment Organization, time and again.

I realize that many communities in the Commonwealth of Massachusetts and in other States throughout the Nation are in a critical period of development. Even with a transitional funding of $300 million there will be a number of communities that will be adversely affected. The doubling of that authorization in this period of transition will enable many cities to carry forward their objectives in the spirit of this legislation.

I hope the amendment will be accepted. I think there is complete justification for it. I think with this amendment, and with the amendment to be proposed by the majority leader which I am cosponsoring, cities and towns will be protected during the period of transition.

With regard to urban renewal, I believe we already have seen a sad decline from a high of 1,100 communities to the current 853. If we do not provide an adequate transitional cushion while the new law is being enacted, while regulations are issued, while guidelines are produced and while the allocation is being made, these projects may well suffer severe delays and perhaps fail.

It would be a tragedy if ongoing urban renewal projects were to die while the community development program contained within this legislation is being implemented.

I would add that I have been both a supporter and a critic of urban renewal programs. Initially, I felt that inadequate attention had been directed at assuring adequate housing for individuals displaced by urban renewal projects which seemed to concentrate on shopping centers and office buildings.

That situation has changed. Today the urban renewal program has become not only a key to the recovery of the center city but the key to the addition of vitally needed housing as well.

It should be emphasized that the housing now being planned for and being built by urban renewal projects is not limited to the low- and moderate-income category. While those opportunities must be available because they were the individuals whose homes may have been demolished, the housing has more and more been aimed at providing a socio-economic mixture that is vital to the future of the cities.

These projects are not only replacing the housing of those forced to leave but also to those who fled the city not too long ago because of their fear of the steady deterioration of their own neighborhoods.

I would recall for my colleagues the study prepared by the Congressional Research Service of the Library of Congress for the committee. That study, "The Central City Problem and Urban Renewal Policy" contained a wealth of material on urban renewal and on our other urban programs.

It found that urban renewal agencies—

> . . . function with increased proficiency . . .

It found too that—

> Local tax revenues from project sites after redevelopment have been several times as great as before redevelopment.

It found too that despite the early lag of housing construction, there was a steadily rising trend.

The report showed only 78,000 new housing units completed by 1968. But by 1971 it had risen to 243,000.

But even more important, in a recent private survey assisted by the U.S. Conference of Mayors, National League of Cities, National Housing Conference, and National Housing and Redevelopment officials nearly 400,000 housing units were reported as completed. Another 75,000 units were under construction and some 460,000 units were scheduled as part of the renewal total projects in 396 of 853 communities reporting.

These communities also reported that some $34.7 billion in new construction is being generated by urban renewal programs. That construction means vital jobs at a time when the unemployment rate is climbing because of the economic policies of this administration.

I also would emphasize to my colleagues that the current energy crisis has underlined the crucial role played in this Nation by our cities. It is in the cities where we can maximize the use of our energy resources through the joint use of public services, through mass transportation, through the sharing of facilities.

I believe that the past record of this adimnistration toward our cities has been one of neglect and indifference. The impoundment of mass transit funds, the impoundment of urban renewal, model cities and housing funds, the impoundment of community development funds—all speak to the conscious decision of this administration to turn its back on urban America.

That is an additional reason why it is of fundamental importance to have sufficient funds available for immediate obligation to continuing urban renewal projects so that any delay in the implementation of the community development block grants provided in this legislation will not do irreparable damage to the development programs already underway in communities throughout the Nation.

I hope the chairman of the committee will accept the amendment. I ask unanimous consent that the study by the National Committee for Renewal Funding be printed in full in the RECORD at this time.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF URBAN RENEWAL OF NEEDS

Last year the Administration "terminated" Urban Renewal, requesting only $137.5 million for FY 1974 vs. $1.2 billion in FY 1973. No funds have been requested for FY 1975.

At the same time, HUD has promised an "orderly transition" into a new yet-to-be legislated program.

Instead, across the nation, communities with renewal programs are suffering from disruption.

To assess the damage, a nationwide survey was undertaken by the National Committee for Renewal Funding, assisted by the USCOM, NLC, NHC and NAHRO.

The survey covered every community known to have an active renewal program. 346 communities—large and small—responded, accounting for 62% of all program activity.

The survey shows:

COST OF FUNDING DELAYS

HUD funding delays have added over $822 million to renewal costs.

Many communities are shutting down their programs.

FUNDING NEEDS

90% of all communities with renewal programs need funds in FY 1974–75.

$1.1 billion for the balance of FY 1974.

$1.3 billion to continue existing projects through FY 1975.

$1.7 billion to begin long delayed new projects in FY 1975.

BENEFITS OF RENEWAL

In the 346 communities alone:

$34.7 billion in new construction is being generated—producing jobs when jobs are desperately needed.

593,000 new housing units are being constructed—64% for persons of low and moderate income.

340,000 housing units are being rehabilitated—to conserve neighborhoods.

Urban renewal cannot be "terminated" until there is a viable substitute. No substitute program can be legislated and properly implemented before July 1, 1975. Communities cannot wait for this. Urban renewal must be funded—not less than $1.5 billion to carry communities on a minimal basis through FY 1975.

THE RENEWAL IMPASSE

For the past two years the Administration has announced the termination of the Urban Renewal Program.

Last year the Administration requested only $137.5 million in renewal appropriations for FY 1974, to be used to "close out"—not complete—existing renewal projects. This year the Administration has requested no renewal funds for FY 1975.

During this time HUD has refused to accept applications for locally approved new projects, has severely limited activities and slowed progress of existing projects.

At the same time HUD has promised an "orderly transition" into a new-yet-to-be-legislated program.

Congress has not accepted the Administration's unilateral termination and underfunding of renewal and has continued to fund the program while pursuing legislative alternatives.

The Administration and Congress are engaged in legislative debate over possible new directions for consolidation of community development programs. It is not clear when legislation satisfactory to the Administration, Congress and communities can be enacted.

Certainly, it is quite clear that no legislation can be enacted and implemented prior to July 1, 1975. Formulation of administrative regulations, citizen participation and observance of the environmental protection act will preclude any consolidated program from being implemented for at least a year following enactment of legislation.

In the meantime, communities with renewal programs, and residents and small businessmen in renewal projects are caught in an impasse. The impasse is disruptive to communities across the nation.

Projects left uncompleted
New projects long delayed
Delays in construction
Escalating costs
Loss of local tax revenues
Housing sites left vacant
Loss of jobs
Promises unfulfilled

This report measures the extent of damage and the need to fund the renewal program to prevent further injury.

THE SURVEY

A nationwide survey was undertaken early in 1974 by the National Committee for Renewal Funding. The Committee was assisted by the United States Confernce of Mayors, the National League of Cities, the National Housing Conference and the National Association of Housing and Redevelopment Officials.

The survey covered every community known to have an active renewal program. Questionnaires were sent to over 850 communities. Responses were reecived from the 346 communities listed in Exhibit A, representing some 62% of program activity undertaken by the nation's communities since inception of the renewal program. The survey was directed at:

Cost of delays from insufficient funding.

Funding needs for the balance of FY 1974 and for FY 1975.

Renewal benefits to local communities.

The response to the survey shows:

COST OF DELAYS

Renewal programs have been substantially delayed and made more costly by inadequate funding. During the past four years the Administration has consistently requested insufficient funds from Congress. In addition, impoundment and other delays in releasing appropriated funds, restrictive administrative regulations and HUD reorganizations have materially disrupted the flow of funds into local programs. Project execution has also been delayed by the Administration's housing moratorium.

When projects are delayed, costs are increased by inflation and continuing administrative, interest and property management expenses. Delays are costly to the Federal Government, to the local communities, and most of all to the residents and small businessmen who live and work in renewal projects.

$822 million has been added to renewal costs by HUD funding delays during the past four years.

$3.8 billion in private construction has been delayed or lost.

963 questionnaires were mailed to communities known to have active renewal programs in 1973 survey. Only 853 communities could be identified and were mailed questionnaires this year. Thus, there is a continuing attrition of the 1,000 communities known to be in the program four years ago.

The remaining communities have reduced their staffs by over 3,200 employes needed to bring projects to an earlier and less costly conclusion if funding levels had permitted.

FUNDING NEEDS

Renewal appropriations for fiscal year 1970–73 were at an average level of approximately $1.2 billion annually. (See Urban Renewal Funding graph). During this period the communities were implementing a program that had been legislatively expanded and combating costs increased by inflation. While funding was still required at not less than the 1970–73 experience to fulfill program obligations, the FY 1974 appropriation plummeted to $600 million.

Immediate release of the $600 million appropriated in August, 1973 would have mitigated the injury of inadequate funding. Now, six months later there is only promise of the release of $322.5 million. OMB has impounded the remainder.

The Administration has requested no funds for renewal in FY 1975 but did request $2.3 billion for *all community development programs* if consolidated under its proposed Better Communities Act (BCA).

HUD officials have been reported willing to consider requesting funds to carry programs forward *if* BCA cannot be implemented by July 1, 1974. HUD has asked communities to report their funding needs to determine if such a request for funds should be made.

The survey of the 853 communities which are the subject of this report indicates a need for $4.1 billion renewal funds in fiscal years 1974–75:

$1.1 billion for the balance of FY 1974.

$1.3 billion to continue existing projects through FY 1975.

$1.7 billion to begin long-delayed new projects. If communities are to be able to undertake a consolidated community development program with effective organizations, new program money is essential.

RENEWAL BENEFITS

Renewal alone cannot solve the energy crisis, inflation or threatened recission but it has:

provided better quality communities—communities people prefer to live in rather than commute to.

stimulated private investment—generating jobs, tax revenues and housing.

The survey shows that in 346 communities alone *renewal has produced:*

$34.7 billion in new construction—producing jobs when jobs are desperately needed.

$15.2 billion completed or underway

$19.5 billion scheduled

593,000 new housing units—64% for residents of low and moderate income.

311,000 completed or under construction

282,000 scheduled

340,000 housing units rehabilitated—to preserve neighborhoods.

162,000 completed or underway

178,000 scheduled

In addition, the renewal program nationally is generating over $799 million in increased local property tax revenues *every year.*

CONCLUSIONS

Renewal is successful and attempts to terminate it are nationally disruptive.

Renewal must be maintained until a viable alternative is implemented.

New legislation cannot be implemented prior to July 1, 1975.

Communities cannot wait:

Communities need immediate release of all impounded renewal funds.

Communities need money in FY 1975—$1.3 billion—to continue existing renewal projects.

Communities need money in FY 1975—$1.7 billion—to start long-delayed new projects, projects that will be an essential part of any consolidated community development program.

TABLE I.—SURVEY RESULTS: FUNDING NEEDS

[In millions of dollars]

Type of renewal program	Existing projects			New projects, fiscal year 1975
	Balance, fiscal year 1974	Fiscal year— 1975	Fiscal year— 1976–80	
Conventional	360	328	736	[1] 964
NDP	305	415	2, 475	
Section 115	13	19	97	29
Section 117	17	16	47	29
Total [2]	695	778	3, 355	1, 022
Adjusted total [3]	1, 126	1, 260	5, 435	1, 666
Section 312 loans [1]	71	36	239	337

[1] Conventional and NDP.

[2] 346 responding communities.

[3] Statistically adjusted to the universe of all communities participating in renewal program by a factor of 1.62 (100 percent/62 percent sample of total grant authorizations).

TABLE II.—SURVEY RESULTS—HOUSING [1]

A. PRODUCTION

Number of housing units in renewal areas	Sec. 235	Sec. 236	Public housing	Market rate	Total new construction	Rehabilitated	Total new construction and rehabilitation
Completed through 1973	7, 005	71, 726	74, 179	96, 608	249, 518	147, 426	396, 944
Under construction	828	34, 660	11, 807	14, 204	61, 499	14, 225	75, 724
Scheduled	17, 619	119, 377	40, 903	103, 976	281, 875	177, 919	459, 794
Total existing projects	25, 452	225, 763	126, 889	214, 788	592, 892	339, 571	932, 463
Estimated for new renewal projects	11, 548	62, 085	28, 789	86, 839	189, 261	95, 701	284, 962

B. FUNDING NEEDS

[Fiscal years]

Housing units needing funding in fiscal year 1974–75	Sec. 235		Sec. 236		Public housing	
	1974	1975	1974	1975	1974	1975
Within renewal areas	7, 527	10, 197	54, 484	54, 480	16, 984	16, 616
Outside renewal areas	12, 804	14, 732	22, 197	24, 690	30, 961	35, 035
Total	20, 331	24, 929	76, 681	77, 170	47, 945	51, 651

[1] 346 communities responding.

TABLE III.—SURVEY RESULTS [1]—VALUE OF CONSTRUCTION IN RENEWAL PROJECTS

[In billions of dollars]

Construction	Public sector	Private sector	Total
Completed through 1973	4.1	6.5	10.6
In progress	1.6	2.9	4.6
Scheduled	5.4	14.1	19.5
Total for existing projects	11.1	23.5	34.7
Projected for new projects	2.1	9.7	11.8
Total for existing and new projects	13.2	33.2	46.5

[1] 346 communities reporting.

EXHIBIT A

COMMUNITIES RESPONDING TO NATIONAL RENEWAL FUNDING SURVEY

ALABAMA

*Birmingham
*Childersburg
*Huntsville
*Mobile
*Sheffield
*Sylacauga

ARIZONA

*Tempe
*Tuscon

ARKANSAS

*Hope
*Jonesboro
*Little Rock
*McGehee
*North Little Rock
*Pine Bluff
*Van Buren

CALIFORNIA

*Corona
*East Palo Alto
*Fresno
*Indio
*Inglewood
*Long Beach
*Los Angeles
*Napa
*National City
*Oakland
*Oxnard
*Pasadena
*Port Hueneme
Redding
*Redondo Beach
*Richmond
*Sacramento
Salinas
*San Bernardino
*San Diego
*San Francisco
*San Jose
*Santa Barbara
*Santa Fe Springs
*Santa Maria
*Santa Rosa
*Seaside
*Stockton
*Tulare
*Ventura
*Visalia

COLORADO

*Denver
*La Junta
*Longmont
*Pueblo

CONNECTICUT

*Ansonia
*Bridgeport
Bristol
*East Hartford
*Hartford
*New Britain
*New Haven
Norwich
*Stamford
Stratford

Footnotes at end of article.

DISTRICT OF COLUMBIA

*Washington, D.C.

FLORIDA

*Dade County—Miami
Fort Lauderdale
*Jacksonville
*Tampa

GEORGIA

*Atlanta
*Athens
*Brunswick
*Columbus
*Cordele
*Decatur
Douglas
*Gainesville
Waycross

HAWAII

*Honolulu

IDAHO

*Lewiston

ILLINOIS

*Bloomington
*Carbondale
*Chicago
*Danville
*Decatur
Joliet
*Peoria
*Rockford
*Rock Island

INDIANA

Batesville
*Bloomington
*East Chicago
*Elkhart
*Evansville
*Gary
*Indianapolis

IOWA

*Burlington
*Cedar Rapids
Charles City
*Council Bluffs
*Davenport
*Des Moines
*Dubuque
*Evansdale
Fort Dodge
*Iowa City
*Keokuk
*Mason City
*Muscative
*Sioux City
*Waterloo

KANSAS

*Coffeyville
*Fort Scott
*Kansas City
*Lyons
*Merriam
*Newton
*Parsons
*Topeka
*Witchita

KENTUCKY

*Bowling Green
*Dayton
*Louisville
*Paducah

LOUISIANA

*New Orleans
*Shreveport

MAINE

*Auburn
*Bangor
*Caribou
*Lewiston
*Portland

MARYLAND

*Baltimore
Cambridge
*Colmar Manor
*Cumberland
*Glenarden
*Hyattsville
*Rockville

MASSACHUSETTS

*Boston
*Brookline
*Fitchburg
*Holyoke
*Lawrence
*Lowell
*Malden
*New Bedford
Newburypoint
*Newton Lower Falls
*Pittsfield
*Quincy
*Springfield

MICHIGAN

*Big Rapids
*Detroit
*Ferndale
*Flint
*Jackson
*Lansing
*Lincoln Park
Manistique
*Muskegon
*Muskegon Heights
Pontiac
*Saginaw

MINNESOTA

*Austin
Chisholm
Mankato
*Minneapolis
*Saint Paul
*Winona

MISSISSIPPI

*Batesville
*Holly Springs
*Jackson
*Oxford
*Picayune
Senatobia

MISSOURI

*Charleston
*Independence
*Jefferson City
*Kansas City
*Lees Summit
*Mexico
Saint Charles
*Saint Louis
*Smithville
*Springfield
*University City

MONTANA

*Anaconda
*Helena

NEVADA

*North Las Vegas

NEW HAMPSHIRE

*Laconia
*Manchester
*Portsmouth
*West Lebanon

NEW JERSEY

*Atlantic City
Bordentown
*Jersey City
*Morristown
*Newark
*Newton
*Plainfield
*Vineland
*Wayne
*West New York

NEW MEXICO

*Albuquerque
Carlsbad
*Santa Fe

NEW YORK

*Beacon
*Binghampton
*East Rochester
*Freeport
*Glen Cove
*Hudson
*Little Falls
*Middletown
*Monticello
*New Rochelle
*New York City
*Olean

*Oneonta
*Peekskill
*Plattsburgh
*Poughkeepsie
*Roslyn Heights
*Salamanca
*Schenectady
*Syracuse
*Tuckahoe
*White Plains
*Woodbridge

NORTH CAROLINA

*Burlington
*Charlotte
*Clinton
*Greensboro
*Greenville
Hendersonville
*High Point
*Kings Mountain
*Monroe
*Winston-Salem

NORTH DAKOTA

*Bismarck
*Jamestown
*Williston

OHIO

*Akron
*Ashtabula
*Berea
*Canton
*Cincinnati
*Columbus
*Dayton
*Hamilton
*Ironton
*Massilon
*Middletown
*New Boston
*Norwood
*Painesville
*Saint Bernard
*Steubenville
*Youngstown

OKLAHOMA

*Edmond
*Hugo
*Lawton
*McAlester
Miami
*Muskogee
*Oklahoma City
*Pawhuska
*Stillwater
*Tulsa

OREGON

*Eugene
*Portland
*Salem

PENNSYLVANIA

*Allentown
*Altoona
*Chester
*Easton
*Erie
*Franklin
*Harrisburg
*Johnstown
*Kittanning
*Monessen
*Morristown
*Nanticoke
*New Castle
*New Kensington
*Oil City
*Philadelphia
*Pittsburgh
*Pottsville
*Sharon
*Steelton
*Titusville
*Washington
Wilkensburg
*Wilkes-Barre

RHODE ISLAND

*Central Falls
*Lincoln
*Newport
North Providence
*Pawtucket
Providence
*Woonsocket

SOUTH CAROLINA

*Greenville
*Rock Hill
*Spartanburg

SOUTH DAKOTA

*Fort Pierre
*Mitchell
*Rapid City
*Sioux Falls

TENNESSEE

*Chattanooga
*Greenville
*Jackson
*Johnson City
*Knoxville
*Memphis
Murfreesboro
*Nashville
*Shelbyville

TEXAS

*Alice
*Brenham
*Corpus Christi
*Crystal City
*Edinburg
*Georgetown
*Lubbock
*Marshall
*Mercedes
*Mission
Port Arthur
San Antonio
*San Marcos
Schertz

UTAH

*Ogden
*Provo
*Salt Lake City

VIRGINIA

*Alexandria
Bristol
*Charlottesville
*Chesapeake
Danville
*Franklin
*Hampton
*Hopewell
*Newport News
*Norfolk
*Norton
Portsmouth
*Richmond
Roanoke
Suffolk

WASHINGTON

*Pasco
*Seattle
Tacoma

WEST VIRGINIA

*Huntington

WISCONSIN

*Beloit
*La Crosse
*Monroe
*Stevens Point
*Wisconsin Rapids

WYOMING

*Cheyenne

Mr. SPARKMAN. Mr. President, for my part, I am willing to accept the amendment.

Mr. TOWER. On behalf of the minority, I am willing to accept the amendment.

Mr. SPARKMAN. I am prepared to yield back my time.

Mr. TOWER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment offered by the Senator from Massachusetts.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from California (Mr. TUNNEY), I submit an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MANSFIELD. Mr. President, I ask that the further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 131, line 9, strike out "$140,000,000" and insert in lieu thereof "$312,000,000".

On page 198, line 17, strike out "and" and insert in lieu thereof "by $300,000,000 on July 1, 1974, and".

At the end of the bill add the following:

TRANSITIONAL AUTHORIZATION FOR PUBLIC HOUSING

SEC. 823. Section 10 (e) of the United States Housing Act of 1937 is amended by striking out "$140,000,000" and inserting in lieu thereof "$312,000,000".

TRANSITIONAL AUTHORIZATION FOR MODEL CITIES

SEC. 824. (a) The first sentence of section 111 (b) of the Demonstration Cities and Metropolitan Development Act of 1966 is amended by striking out "and not to exceed $200,000,000 for the fiscal year ending June 30, 1972" and inserting in lieu thereof "not to exceed $200,000,000 for the fiscal year ending June 30, 1972, and not to exceed $400,000,000 for the fiscal year ending June 30, 1975".

(b) Section 111(c) of such Act is amended by striking out "July 1, 1974" and inserting in lieu thereof "July 1, 1975".

TRANSITIONAL AUTHORIZATION FOR BASIC WATER AND SEWER FACILITIES GRANT AND NEIGHBORHOOD FACILITY GRANT

SEC. 825. Section 708(b) of the Housing and Urban Development Act of 1965 is amended by striking out "July 1, 1974" and inserting in lieu thereof "July 1, 1975".

TRANSITIONAL AUTHORIZATION FOR RENTAL HOUSING ASSISTANCE

SEC. 826. Section 236(i) (1) of the National Housing Act is amended by striking out "and by $200,000,000 on July 1, 1971" and inserting in lieu thereof "by $200,000,000 on July 1, 1971, and by $180,000,000 on July 1, 1974".

TRANSITIONAL AUTHORIZATION FOR RENT SUPPLEMENTS

SEC. 827. Section 101(a) of the Housing and Urban Development Act of 1965 is amended by striking out "and by $40,000,000 on July 1, 1971" and inserting in lieu thereof "by $40,000,000 on July 1, 1971, and by $50,000,000 on July 1, 1974".

On page 6, after

"Sec. 822. Mass transportation", insert
"Sec. 823. Transitional authorization for public housing
"Sec. 824. Transitional authorization for model cities
"Sec. 825. Transitional authorization for basic water and sewer facilities grant and neighborhood facility grant
"Sec. 826. Transitional authorization for rental housing assistance
"Sec. 827. Transitional authorization for rent supplements".

Mr. MANSFIELD. Mr. President, the purpose of the amendment is to tide over various programs with the funds necessary during the transitional period.

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*Communities indicating funding needs for fiscal years 1974–75.

I hope the amendment will be acceptable to the distinguished manager of the bill (Mr. SPARKMAN) and the ranking Republican member of the committee (Mr. TOWER).

Mr. SPARKMAN. The amendment is acceptable to me. I had understood that some such language as this was needed in order to provide authorization. I am willing to accept it.

Mr. TOWER. I do not think any reasonable argument can be made against the amendment. I am ready to yield back my time and to accept the amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent that I be listed as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that I be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask that I be listed as a cosponsor, as long as I have offered the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment offered by the Senator from Montana.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, the Senator from California (Mr. TUNNEY) has prepared a statement explaining in detail the effect of this amendment. That statement explains most persuasively the great need for authorizing transitory statement explains most persuasively the amendment deals. I commend the statement to all Senators. It demonstrates Senator TUNNEY's enormous appreciation of the housing requirements of this Nation today.

I ask unanimous consent that the statement be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR TUNNEY

Our cities are like a wounded person waiting for an ambulance to arrive. They need help, and they need it now. They can't wait until July 1, 1975 for a proposed consolidated community development program to be legislated and properly implemented. They need an immediate transfusion of funds, yet the administration has impounded vital funds.

It's as if the ambulance has been locked in a garage, and the keys thrown away.

In California alone, 45 cities have active renewal programs, but their vital signs are weakening. They are releasing key personnel. They are delaying planning and deferring site acquisitions.

Meanwhile, the spiral of inflation continues. Experts estimate that funding delays by the Department of Housing and Urban development have added some $33 million to renewal just in California.

In cities across the nation, vital signs are weakening. Renewal programs, once the hope of converting blight into promise, are being drastically cut in city after city—shut down altogether in some. Many cities are releasing personnel. They are delaying planning and deferring construction.

Meanwhile, the administration has closed off funds, while inflation continues to take its drastic toll. So far, none of the $600 million appropriated for renewal in fiscal 1974 has been released by HUD or the Office of Management and Budget.

This delay in funding, some 362 cities recently reported, has added over $822 million to their renewal costs.

In these cities, renewal, in recent years, has generated $34 billion in new construction. Additionally, it has provided 593,000 new housing units, mostly for persons of low and moderate income, and rehabilitated an additional 340,000 units to conserve neighborhoods.

In 45 cities surveyed in California, some $4.7 billion in new construction has been generated—producing desperately needed jobs; and some 46,500 new housing units are being constructed and 23,000 are being rehabilitated.

But now these programs are in mortal danger. They can't be sure they can sustain what they already have under way or on the drawing boards.

Just to carry forward with renewal, some $1.5 billion will be needed nationally to carry California communities on a minimal basis through FY 1975.

In California, the needs are clear:

$62 million in HUD grants for the balance of FY 1974.

$74 million in HUD grants to continue existing projects through FY 1975.

$88 billion in HUD grants to begin long-delayed new projects in FY 1975.

No more than an injured person can wait until a hospital is built to care for him, the cities can't wait for funding until the community development act is law and fully effective. That, clearly, won't be until mid-1975. The Senate and the House have yet to agree on the act, and, of course, it will take additional months to work out regulation and application forms and all the other paraphernalia (?) of administration.

Interim funds must be provided, and Congress must act now to rescue our cities by authorizing adequate funding for the categorical community development programs. These interim funds will permit continuity of planning and development. If such authorization is adopted before enactment of the pending legislation, communities will be able to plan systematically, to budget prudently and to move ahead with confidence. Therefore, I am pleased that Senator Mansfield is proposing an amendment in my behalf to provide an assurance of authorization for interim funding.

The funds thus made available will be the crucial lifeline to sustain our cities through the transition while the Community Development Act goes through the various legislative and administrative stages.

Mr. CHILES. Mr. President, I wonder if the distinguished chairman of the committee will yield for some questions that I have concerning certain proposals in the bill.

Mr. SPARKMAN. Certainly. I yield to the Senator from Florida such time as he may require.

Mr. CHILES. What I wish to ask the distinguished chairman about are some of the provisions in the bill. Recently I had a meeting with some of our local housing authorities who came to the Capitol. They were concerned about some of the proposals as advanced by Secretary Lynn, and how they were going to be considerably changed from what had been the way the housing programs were financed in what had been the way leasing programs were financed or facilities were being financed in the past, as to the way Secretary Lynn was proposing they be financed in the new proposal.

What I want to find out is, how much are those proposals that are proposed by Secretary Lynn in the section 23 leasing?

Mr. SPARKMAN. I say to the Senator from Florida that we had a good deal of correspondence regarding the very things he has mentioned, and we had that in mind in connection with the preparation of this bill. The administration requested many changes in the bill that varied considerably from the old section 23 provisions. We tried to preserve the qualities of section 23 and at the same time to make modifications as consistent as possible with the administration's request. I believe we have improved considerably upon what the administration had asked for in their proposed section 8 amendments. We have made it more practical and more workable for the housing authority.

Mr. CHILES. In addition to the workability for the housing authority, my understanding is that if someone was going to construct and try to seek money for construction a facility under section 23, the procedure was going to be changed quite a bit, that 20 percent had to be in low-rent housing. So low-income people were going to be mixed with the other tenants, and the whole form as to how a developer would get the lease would be changed. Whereas before, the tenants would be under the control of the housing authority and he would be contracting with the housing authority, now, under the proposal of the Secretary, under section 23, the tenants would deal directly with the developer, and that would be a completely changed set of circumstances, also.

Mr. SPARKMAN. As I see it, the Senator's question really is in two parts.

First, with respect to the regulations regarding section 23, the Secretary, as I understand, is withholding the regulations he had issued for comments; and he is now in the process of preparing changes which we hope will take care of the complaints that have been made.

With reference to the last item the Senator mentioned, we have tried to correct that in this bill, and I think we have done so.

Mr. CHILES. I share the concern of the people in my local housing authorities. Their feeling is that under the Secretary's proposed regulations and his change to section 23, there just would not be any new lease housing; because they said no developer is going to want to borrow money so badly that he is going to agree to do these things and change so drastically the proposal by which now, as I understand, he gets approval on a site, and once he has the site approval and that goes through everyone, he can go forward. But they were requiring a number of different people to make contract proposals, all of which would be at great expense, and then there would be a selection of the winner. So what would be done about all the people who had nothing to guarantee for their expense?

Then there was the situation in which 20-percent low income had to be put into the other housing, which would make it very difficult to have the units rented.

Then the whole concept changed for the developer-manager, whereby he becomes the landlord, and he does not have the public housing authority to stand between him and the tenant, to see that the tenant carries out the duties he should carry out.

They were unanimous in their conclusion that under the regulations I have set forth, no developer would seek funds; therefore, in effect, it would eliminate help to low-income people because there would be no housing starts with the lease provision, and we would be back where we have been all these months. We have terminated the present program. We just would not have a lease-housing program at all for low-income people.

Mr. SPARKMAN. We understand the problem as the Senator has outlined it. The committee was in sympathy with those problems that came up, and we have done our best in this bill to remove them. I believe we have done a very good job.

Of course, when it comes to the site being selected that choice is usually made by the local authority. I do not believe the Secretary has anything to do with that outside of laying down broad guidelines on how the sites are selected. There is no reason why there should be any conflict at all. It is not a matter of a contractor just picking out a site and saying that is where it is going to be. The application has to be made and it has to be passed upon.

Mr. CHILES. Does the proposed legislation require that in any lease housing program, you would have to have 20 percent or not greater than 20 percent of low income people? What are the requirements in that, by law?

Mr. SPARKMAN. It is not in existing law, but it is in our bill. It is 20 percent.

Mr. CHILES. Mr. President, I am having a hard time understanding the chairman. I hear other people in the Chamber, but I do not hear the chairman.

The PRESIDING OFFICER. The Senate will be in order.

Mr. SPARKMAN. The 20-percent provision is carried forward into section 8. The committee had placed it in as a requirement for regular public housing and carried it forward into the leasing program.

Mr. CHILES. There is no change in the legislation in that regard?

Mr. SPARKMAN. No change in the proposed legislation relative to the leasing program.

Mr. CHILES. The prime concern of the junior Senator from Florida is what authority we are giving the Secretary with respect to his program of lease housing, which looks to me as though it is going to be a disaster. I am concerned about whether I am going to vote him some statutory authority to put in a plan which, from what I can understand about the plan, will be a continuation of what we have had in the past—no low-income housing, especially in the lease field—because of the legislation and the proposals he is drafting.

Mr. SPARKMAN. I said to the Senator earlier that the Secretary is withholding those regulations and is now preparing to draft new changes, and we have every reason to believe that he will correct them. He knows the thinking of our committee, and I think he will draw them in accord with that thinking.

Mr. CHILES. I thank the distinguished chairman for his comments. I certainly hope that proves to be true, because it appeared to me that it would be a disaster, under the present regulations as they were being proposed.

The other item I wish to ask the distinguished chairman about is this: This has been mentioned on the floor by the distinguished ranking minority member of the committee, the Senator from Texas (Mr. TOWER).

But this is a provision I know the committee wrestled with at length, and that is what to do about changing the definition of who is going to get these funds, whether they had been in these urban renewal projects in the past, and whether it was going to be as needed. I think the definition was not on a need basis, but whether they had projects in the past.

This is a matter of great concern to me because we have a good many cities that would have complied under the old definition, but now they are not able to comply because they did not have existing projects in the past.

What does the committee see as a way to resolve this matter in the future?

Mr. SPARKMAN. The Senator has in mind, I am quite sure, the change of categorical grants to block grants.

Mr. CHILES. The better community program.

Mr. SPARKMAN. Yes. We had a great deal of discussion of that in committee. There is a problem involved in the transition, but the local community, if it wants to continue the program, may study it and work out arrangements for any transition that has to be made. It will be a local matter.

Mr. CHILES. But as I understand it, the bill now would allow the continuation of participation. Perhaps the distinguished ranking minority member of the committee could help me.

Mr. SPARKMAN. We do extend the present program for a period of time within which the local government has the opportunity to change over to the new program. In other words, it is not just a fixed date by which it must be done. We do not say, "You must do this by July 1, 1974." They will have a year to pass from one into the other. We think we have worked it out on a flexible basis that will take care of the situation.

Mr. CHILES. I wonder if the distinguished ranking minority Member of the committee would enter into the colloquy.

Mr. SPARKMAN. Let me complete this explanation.

Just a few minutes ago the amendment offered by the Senator from Montana on behalf of the Senator from California (Mr. TUNNEY) was taken up and one of the things that amendment was doing was providing funds for transition from one to the other.

Mr. CHILES. As I heard that amendment, he just raised the figure.

Mr. SPARKMAN. The Senator from Massachusetts raised the figure and then, if I understood correctly, the Tunney amendment, as proposed by the Senator from Montana, provided the flexibility to make the transition work.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. TOWER. It provided there would be no shortfall in funding between the current time and the time the new program came into effect.

Mr. SPARKMAN. That is correct.

Mr. CHILES. My concern has been in the change of definition, and this is following part of the discussion that the ranking minority member, the distinguished Senator from Texas (Mr. TOWER) had yesterday, that there would be certain cities in many States that would lose out because they would not have existing programs and would not be qualified.

Mr. TOWER. This is one of the foibles of the bill, I will have to concede. I do not know whether the Senator from Florida heard my opening statement, but there are many things that concern me in connection with the bill. I think it is essential that we act on the measure. I know the House will address itself to some of these problems and I know some of these problems will be solved satisfactorily in conference.

It does reward those cities that have been pretty good on grantsmanship. A number of cities in California and Texas will be ineligible, but we hope ultimately we can get this bill passed. The House is going to consider some of these problems and it is hoped that many of the issues in the bill which concern many of us, such as this one, will be cleared up in conference.

Mr. CHILES. We have a number of cities that did not have growth programs and really were not good at grantsmanship or have people on board then to do so, and they cannot get these funds now, yet some of them have had tremendous growth. I refer to West Palm Beach and Lakeland.

Mr. TOWER. Yes, and Miami Beach, Pensacola, and some of these areas that have suffered disasters, like Hollywood and Boca Raton.

Mr. CHILES. Some of these areas probably have some of the highest growth in the country yet in dealing with a bill of this magnitude we are leaving out those places and they cannot share on the same basis, yet if they had had some start a year ago the situation would be different. That gives the Senator from Florida great concern. Leaving those areas out gives great concern to the Senator from Florida.

Mr. TOWER. They are not automatically left out of receiving anything because there are some discretionary funds. It does mean, however, that there will be a scramble for them. There is no doubt about that.

Mr. CHILES. Is there not some way we could have a provision in the bill to assure States that have cities in this category that they are going to be entitled to participate? It seems to me if we just take a definition, a definition that we just happen to take, those cities that had grants in the past are treated differently and there is no basis of fairness or equity in that system nor does it mean necessarily that the area with the greatest problem today will be helped. It does not necessarily mean that where the greatest problem lies today it is the area where the problem was yesterday.

We are dealing with a bill of this magnitude, and I know of the great work the committee has done, but there should be some definition to place these cities on a fairer basis than to go back and for convenience sake say that we are going to take those that had these programs and say they can go forward, and we have a hold-harmless provision to see that there is no shortfall.

So some cities are going to be taken care of and some of the cities in my State are not going to be taken care of. For some cities we would say, "That is too bad about that. You can fight over the nibblings that are left but we do not make any provision for you in the bill."

Mr. SPARKMAN. I noticed the Senator used the term "nibble." Actually it is approximately $1 billion. I do not call that nibbling. I wonder if the Senator fully understands what we did. First of all, over 90 percent of the large cities have engaged in these programs. There is a total of approximately $2 billion in entitlement for such cities.

Mr. CHILES. Would that be 90 percent of the cities in my State?

Mr. SPARKMAN. I think Florida would be treated as a typical State. I find that Florida would always get its share.

But let me say to the Senator from Florida that we made $2.8 billion available for this program for the first year, of which $1.8 billion would be distributed in the manner the Senator has mentioned. But there will be about $1 billion left over to take care of the other places which the Senator feels may be left out. We felt we were providing adequate and equitable treatment for all of the cities. I believe the Senator will find that to be true.

Mr. CHILES. When we talk about cities that would not be eligible under this definition, the cities in Florida so covered would be Boca Raton, Clearwater, Cocoa, Gainesville, Hialeah, Winter Haven, Hollywood, Lakeland, Miami Beach, Pensacola, and West Palm Beach, and then the urban counties of Broward, Hillsborough, Pinellas, Orange, and Palm Beach. Excluding Dade County, which would be included, I guess those are the largest counties we have in Florida that would be excluded, so it would be virtually a majority of Florida that would be excluded under the definition in the bill of those that would not be eligible.

Mr. SPARKMAN. I may say to the Senator from Florida, I have a very interesting chart of Florida and Florida cities. I would like him to look at it sometime. I think it would give him the full story. Then we have the totals here for Florida. According to this chart, there is allocated for the State of Florida $45,696,000 in the "hold harmless" category. That is for the cities in metropolitan areas. Then there is a further sum of approximately $2 million available for cities outside metropolitan areas—the smaller places.

I would invite the Senator's attention to these figures. I would be glad to have a member of the staff go over it with the Senator. It is quite a document. I believe he will find that Florida is well taken care of.

Mr. CHILES. I again wish to say that I appreciate the work that the distinguished Senator has done, as well as the committee, on this bill, and I appreciate also his offer to look at that information. I will be delighted to look at it.

I would like, at this time, to make a further statement on this matter.

Mr. President, the main thrust of S. 3066 is to consolidate and simplify existing programs. But it does also contain authority for the development of several new programs, the most important of which is a new and far-reaching block grant community development program. This legislation is certainly a complex bill and I am aware that the Senate Banking, Housing and Urban Affairs Committee members and staff have spent long months deliberating over it.

I understand that in the administration's Better Communities Act, S. 1743, $2.3 billion in community development funds would have been distributed to cities and counties on the basis of a "needs" formula—determining factors being considerations of population, housing overcrowding, and poverty. This would have been entitlement funding not subject to the discretion of the Secretary of Housing and Urban Development.

In S. 3066, however, the formula for determining "needs" has been abandoned in favor of entitlements to communities which have had past program experience in certain community development activities—that is, communities that have had grants in the past.

Senator TOWER recently asked the Department of Housing and Urban Development to prepare a list of those metropolitan cities and urban counties which would have received a direct entitlement based on the "needs" formula of the better communities act, but which receive no direct entitlement under the provisions of S. 3066. In Florida these included: Boca Raton, Clearwater, Cocoa, Gainesville, Hialeah, Winter Haven, Hollywood, Lakeland, Miami Beach, Pensacola, and West Palm Beach and the urban counties of Broward, Hillsborough, Pinellas, Orange, and Palm Beach.

I personally find it difficult to argue in principle against the idea of distributing funds based upon a formula reflecting an "objective" indication of community needs. The "evils of grantsmanship" have been discussed quite a bit in recent years and it would seem that whatever funding distortions and inequities exist as a result of the present system would only be given new direction by placing such an unfair emphasis on the past successes of communities in obtaining grants.

Apparently no formula presented before the committee was suitable. However it seems inconceivable that, given more time, the committee would not be able to come up with a just and equitable formula to assure that whatever funds were made available would be distributed to those localities which were most in need.

I remain hopeful that the formula approach will again come under consideration in the near future. I believe that communities ought to receive funds according to their objectively determined needs in relation to those of other communities. And I do appreciate the difficulties surrounding the formulation of such "objectively determined" needs.

I quite agree with Senators TOWER, BROCK, and PACKWOOD in their supplemental views contained in the committee report:

> With the current bill . . . the committee has abandoned entirely the concept of an objective "needs" formula. Instead, there is one initial statutory factor or standard—what the community has received before. The Secretary may, it is true, make adjustments in this amount over time, but there is no objective cumulative limit on those adjustments, whether up or down. There is no needs floor, no formula, no adequate common standard. All depends upon grantsmanship and, over time, the Secretary's discretion.

This is, substantially, the system we have had in the past. And it ought to have been the system we should be trying to replace with something better, fairer, and more reasonable.

Mr. HATHAWAY. Mr. President, I call up my amendments No. 1002.

The PRESIDING OFFICER. The clerk will state the amendments.

The second assistant legislative clerk proceeded to read the amendments.

Amendments No. 1002 are as follows:

On page 230, line 21, strike out the quotation marks.

On page 230, between lines 21 and 22, insert the following new subsection:

"(3) (A) When necessary in order to enable a person of low income to provide adequate housing and related facilities for himself and his family, the Secretary may make or insure a loan under section 502 or 517 or under paragraph (1) of this subsection in terms which, with respect to a portion of the loan not to exceed 50 per centum, shall—

"(i) bear interest after but not before it becomes due under clause (ii) or is reamortized under clause (iii) of this paragraph;

"(ii) become due upon expiration of the amortization period or upon full payment of the balance of the loan or in the event that without the Secretary's written consent or approval, the mortgaged property or any interest therein is transferred to or ceases to be occupied by the borrower or default occurs with respect to any obligation under the loan or mortgage, whichever occurs earliest; and

"(iii) on becoming due, be amortized for payment of principal and interest in installments over a period not exceeding thirty-three years.

"(B) In carrying out his functions under this subsection, the Secretary shall—

"(i) limit the benefits of this subsection to mortgagors able to meet the responsibilities under the mortgage and to maintain the housing acquired thereunder;

"(ii) require reasonable inspections to assure that the expected remaining life of a property subject to a mortgage under this subsection is equal to or exceeds the expected maximum term of such mortgage;

"(iii) review at intervals of one year the income of each mortgagor subject to this subsection for the purpose of making adjustments in the amount of principal which is currently amortized and payable; and

"(iv) report to the Congress not later than six months from the date of enactment of this paragraph (3) regarding the implementation of this paragraph, and not later than eighteen months from such date of enactment regarding the effectiveness of the program implemented under this paragraph, in meeting the housing needs of lower income rural families.

"(C) Not more than 15 per centum of the loans which are made in any fiscal year in accordance with paragraph (1) shall be available for the loan terms provided in this paragraph (3)."

On page 231, line 2, after the period, insert the following: "In addition, there shall be reimbursed to the fund by annual appropriations such sums as may be necessary to carry out the provisions of paragraph (3) of subsection (A).".

Mr. HATHAWAY. Mr. President, this amendment, sometimes called the deep subsidy or extended subsidy amendment, allows a deferral of up to 50 percent of a loan provided under Farmers Home Administration housing programs. It is designed to help lower income rural families.

According to fiscal year 1972 figures, under the Farmers Home subsidized interest program, the median family income of those aided is $6,400. This amendment would reach down lower and help those whose incomes are as low as $4,000. Almost two-thirds of the rural families living in substandard housing have annual incomes of less than $4,000.

No more than 15 percent of the subsidized housing loans made by the Farmers Home Administration in any fiscal year would be available for use under this program. It is a demonstration program only. It authorizes the Secretary to carry out this program to whatever extent he deems advisable. The deferral of up to 50 percent is just what it says. He can defer 1 percent of a mortgage if he wishes to, or he can go up to any amount, up to a ceiling of 50 percent.

We have computed that with an average deferral of 25 percent on the average mortgage of $16,000, using the full 15 percent of the estimated number of loans that would be available, the total cost to the Federal Government would be only $1.5 million. I think that is a small amount to pay to help very low-income people achieve homes of their own.

In addition to that, the Secretary is mandated to report back to the Congress within a 6-month period as to what extent he has implemented this program, and to submit another report within a year thereafter as to how successful the program has been.

This program has been utilized in Norway. Right after World War II it was used there for 20 years to allow Norwegians to get back on their feet. They had a subsidy program very similar to this, and it worked extremely well. I think the same type of subsidy program would work very well in this country also.

Mr. BIDEN. Mr. President, will the Senator yield?

Mr. HATHAWAY. Before I yield to the Senator from Delaware, I ask unanimous consent that the following Senators be added as cosponsors of the amendment: Senators Abourezk, McGovern, Kennedy, Hughes, McIntyre, Biden, and Humphrey.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. I yield to the Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that two statements in support of the amendment of the Senator from Maine on behalf of the Senator from South Dakota (Mr. Abourezk) may be printed at this point in the Record.

There being no objection, the statements were ordered to be printed in the Record, as follows:

Statements by Senator Abourezk

Mr. Abourezk. Mr. President, I rise in support of the amendment proposed by the Senator from Maine, Mr. Hathaway.

Last year 25 members of this body cosponsored a bill, S. 2190 (later revised as S. 2583) to create a housing program to meet the needs of the people in small towns and rural areas as far as housing is concerned.

The bill contained two titles.

The first would have established the Emergency Rural Housing Administration as an independent agency to create a housing delivery system in rural America and to equip it with flexibility and subsidy mechanisms designed to assist every badly-housed rural American family, no mater how poor.

Title two of the bill was designed to expand and increase the authority and funds of the Farmers Home Administration to deal with the needs of part of the rural and small town population.

I am delighted that the Committee has reported most of those amendments in S. 3066. They will rectify many inequities between rural and urban housing programs. They will provide us with many tools we have long needed to get the job done right in rural America.

The Committee is to be commended for the hard work it has done on behalf of rural housing needs. They worked hard on the rural housing chapter, and the package they came up with must be praised.

The question is raised, then, as to why the Hathaway amendment is needed.

Mr. President, the answer is plain and simple.

There are 890,000 poorly-housed rural American families who right now have an average rent-paying ability of $14 per month. For the most part they are senior citizens.

In the Committee package there is a very significant amendment which will make rural rental housing a much more realistic prospect for many of those 890,000 households.

But more needs to be done.

We need to find new ways to make homeownership available to those who presently cannot afford it, even with the interest subsidy down to one per cent.

That is what the Hathaway amendment would do. It would authorize Farmers Home to test some practical new ways of making homeownership available to families with lower incomes than we are presently able to serve.

There is an argument for doing this on account of inflation. As every day of inflation continues, the minimum income level we are able to serve keeps rising.

Only a week or so ago I had a letter from a small builder in Valley Springs, South Dakota, who had to lay off six of his people. The reason: He was having a very hard time finding families who were able to qualify for Farmers Home financing. The practical income floor kept rising on account of inflation, while the maximum income ceiling was frozen by OMB. The range of people who were practically able to qualify kept getting narrower and narrower.

Farmers Home offered some relief to this problem just recently when it raised its maximum income ceilings a little bit. In South Dakota, they raised it only $400. I understand that in some places it was raised by 17 percent.

The Hathaway amendment would offer further relief to that problem. It would broaden the range of those we are able to serve, at least for purposes of the demonstration.

What I am saying is that with this amendment we could point to another example of positive, constructive action by the Congress to help the country cope with inflation. We would, with passage of the Hathaway amendment, begin the search for new ways to make homeownership available.

There is another distinct appeal to the approach we are taking here—and that is the fact that it is a demonstration. We are not rushing whole-hog into an untried idea. Instead, the amendment proposes giving the idea a modest test. With this demonstration, we would learn how low on the income scale it is practical to go in subsidizing homeownership. It would show us what it costs, and hopefully it will lead to even better ideas for the future.

My last point is that once again this amendment would seek to redress an inequity between the rural and the urban programs.

As you know, for the last several years HUD has spent tens of millions of dollars to demonstrate the housing allowance concept. I think any fair-minded person would agree that for the most part this is an urban approach. As I understand it, the housing allowance system is, for the most part, premised upon adequate private housing stock or a private housing industry. Most rural housing experts agree that that kind of stock is not available in rural America.

Moreover, the statistics of the housing allowance program argue that it is primarily urban-oriented.

I understand that the President's budget proposes a research cost of $17 million for the housing allowance program. I understand that the budget says that by the time the other forms of subsidy assistance are included, the housing allowance program will cost $200 million in fiscal 1975.

I understand that they propose to assist about 24,000 families in this experiment. I have reviewed the list of where they plan to find these families, and it turns out that most of them will be in big cities. The sole exception will be some 250 families in the state of North Dakota, where the primary purpose of the experiment will focus on the administrative agency used to implement such a program.

Now it may well turn out that there will be slightly more rural orientation than these figures suggest. I hope so. But I think the disparity is pretty clear.

If twice as many rural families will be included in the housing allowance experiment than the figures tend to indicate as possible, rural Americans will still constitute only 2% of that program. More likely they will constitute only about 1%

It should also be said that the amendment proposes to rectify the situation by launching a separate new rural demonstration program. That amendment is going to cost a lot less than $200 million a year.

If Farmers Home uses the full 15% of its units authorized for this demonstration, which is a pretty liberal assumption, and if you assume that what they do with them will pretty much reflect past experience regarding loan tenure, then the most this amendment could cost, over its entire life, would be about $20 million—which is 10% of the President's estimate for *one year* of the urban-oriented housing allowance demonstration.

Mr. President, the amendment is a careful, responsible approach. I think we should support it.

Mr. Abourezk. Mr. President, the rural housing provisions of S. 3066 enjoy the wide public support they deserve.

The same thing can honestly be said of the Hathaway amendment.

As you know, both the rural housing amendments and the idea on which the Hathaway amendment was based were contained in the Emergency Rural Housing Act, which was proposed last year by myself, by Senator McGovern, and which was cosponsored by 25 members of this body.

On the House side, 44 members have put their names on nearly identical legislation.

After word of the bill got out to the public, we had quite a bit of favorable reaction to it in our mail.

A couple in Williamson, New York, wrote:

"This proposal certainly needs serious consideration since the housing problem in our area of Wayne County has reached almost crisis proportions."

The Southmoreland, Pennsylvania Civic Association wrote:

"It is our experience that rural areas such as ours have an extremely difficult time in securing the necessary government assistance to provide adequately for low-income persons. We believe that the Emergency Rural Housing Act will provide a great deal of help now lacking.

A social worker from Clarksburg, West Virginia wrote:

"The inclusion of greater population areas into the Farmers Home program would be most helpful. We often encounter small city situations in which Farmers Home help is unavailable and in this area we have no other source of help."

The Housing Assistance Office in Butte, Montana wrote:

"We here in the state of Montana, as in South Dakota, desperately need a major step forward such as this to promote decent, safe and sanitary housing in our area."

The director of the migrant center at the state university in Geneseo, New York wrote:

"Your solution to the problem is most certainly a viable one . . . please know that those of us who serve migrant and seasonal farmworkers are deeply appreciative of this major move to resolution of rural housing problems."

A consulting engineer in Edwardsville, Illinois wrote:

"Recently I read a newspaper article about your bill that would create a national housing policy tailored to the needs of the elderly and the rural Americans. I agree with you 100 per cent. In this area, the young families, as well as the retired families, cannot afford to buy a home."

A housing director in Providence Forge, Virginia wrote:

"How happy I am to finally see some form of national legislation directed towards the rural housing dilemma . . . in Charles City County the total number of occupied homes is 750, out of these 722 lack one or more plumbing facility . . . The key to relieving the rural housing problem is to reach out with a humanly directed housing program helping those families who need housing the most . . . Only a drive through the backroads of any given rural county will point out to any Senator the housing problems; only a knock on any door will point out the need."

A minister from Willmar, Minnesota wrote:

For several years I have worked as a consultant to rural America in behalf of the American Lutheran Church. I am fully aware of the great needs that exist and am writing to give you encouragement in this step that you are taking."

The Oklahoma Housing Development Corporation wrote:

"Words cannot express our deep appreciation for the dedication of you and your committee to the housing needs of the rural poor . . . It is our feeling that S. 2583 is an excellent piece of legislation . . . It is the most comprehensive approach to solving the the rural housing needs that we have seen."

The director of the South Carolina State Housing Authority sent detailed comments on the bill, and added:

"In my opinion, implementation of this Act would make a sizable contribution to provide additional housing for the state's rural low income."

The Governor of South Dakota wrote:

"This legislation will not only provide housing assistance where it is desperately needed, but it will also begin the process of revitalizing rural America. It will begin to redress the imbalance which has existed between urban and rural areas in terms of federal assistance."

The Director of Elderly Housing in the Department of Health in the State of Maine wrote:

"Because of the predominantly rural nature of Maine, we have experienced little impact on our housing problems from the current HUD programs. Farmers Home does not provide the deep subsidy programs for which we here in Maine have a great need because of the low-income nature of Maine's population, especially the elderly. It is our opinion that the Stephens-Abourezk bills offer the best proposals, particularly the title two Farmers Home reforms."

The Alaska Housing Finance Corporation wrote to urge favorable consideration of the bill and said:

"The Alaska Housing Finance Corporation has sold tax-exempt bonds to obtain funds to purchase mortgages, however, bond buyers insist that we have insured loans and we are unable to obtain mortgage insurance in many of our rural areas . . . this has been a very feeble attempt at solving the deplorable housing conditions in our rural areas . . . we urge favorable consideration to this much-needed legislation."

A real estate and insurance agent in Summerville, Georgia wrote:

"Our county has a population of between 19 and 20 thousand people. The majority of these individuals are textile employes with incomes in the $6000 bracket. The need for inexpensive housing here is great. I hope you and other concerned Senators will vote to help rural communities like ours."

The director of the Massachusetts Housing Finance Agency wrote:

"I would be very happy to support your bill."

Another New Englander, the director of the Vermont State Housing Authority wrote:

"May I applaud you, Senator McGovern and all other Senators and Representatives who realize that the current housing programs are not reaching the low-income people of our rural communities and who are taking a stand in trying to alleviate the inequities that currently exist. Facing up to the fact that the delivery systems in providing housing in rural America is different and does present different problems than that of urban America . . . is long overdue. This fact comes to light almost every day as we try to develop our program in the rural communities of Vermont, and, try to overcome hurdles that would not be considered hurdles in urban areas."

The American Baptist Service Corporation in Valley Forge, Pennsylvania wrote:

"We are supportive of this stance and hope that you will initiate additional necessary housing legislation."

The director of the East Alabama Housing Cooperative wrote:

"You have our fullest support."

A contractor in Monte Vista, Colorado wrote:

"The rural poor are in desperate need of housing assistance. Over the years I have been convinced and proven right that the rural poor home owner takes greater pride in homeownership, upkeep, care and home improvement. They deserve our help and support in every way possible."

The Urban League in Little Rock, Arkansas wrote:

"We must all continue to work toward equality in housing and feel the passage of your bill is a step in the right directions."

The executive director of the Community Action Council in Omak, Washington wrote:

"I deeply appreciate the effort you and Senator McGovern are making to expand rural housing programs . . . I have long been concerned about the critical need for rural housing in Okanon County. There simply isn't a house or room to rent for people who need housing. Many persons with families who are above our poverty guidelines cannot afford decent housing for their families."

The Executive Director of the Kentucky Housing Corporation of the Executive Department for Finance and Administration in the Comomnwealth of Kentucky wrote:

"We encourage and are 100 per cent behind your efforts . . . the elderly population of Kentucky is expected to approach the half million mark by 1980, an increase of nearly 30% over the 1970 figures—a fourth of these elderly will reside in substandard housing."

A sanitarian in the State of Washington's health services division wrote:

The Emergency Rural Housing Act is long overdue. Action is needed now to reduce the serious deficit of adequate housing in areas where the majority of substandard housing exists.

This comment came from Vineland New Jersey:

In our dealings with farmworkers and the rural communities of south Jersey, we have found out that housing is the most vital need, and unfortunately the one we have not been able to tackle . . . passage of this legislation would be a dramatic step toward revitalization of rural America which is so desperately needed and so long overdue.

A social worker from Portsmouth, Ohio, wrote:

From a person involved in training welfare fathers to build 1,100-square-foot, low-cost housing under Farmers Home Administration, I can only say "right on" concerning your rural housing bill.

This comment came from the department of social services in Spotsylvania, Virginia:

A good deal of our service workers' time is spent in hunting for nonexistent housing. We have obtained a few houses through the Farmers Home Administration but this is very limited.

She also noted that lack of decent housing had forced many families—

to move into Federal housing in the city of Fredericksburg due to the fact that there are no houses available for them in the county.

A homebuilder from Des Moines, Iowa, wrote:

In our 21 years of experience we have never found a better program than the Farmers Home Administration for rural housing. This could be expanded into the areas you contemplate in your new act, and I am confident that the country would be vastly improved in the housing sector . . . I think it would be an excellent program for rural America and you may rest assured of the complete endorsement of our company in every effort to put this legislation into effect.

The following comment came from Kankakee, Illinois: "As homebuilders who have been active in rural housing, we want to express our appreciation and support for the legislation that you and Senator McGovern have been sponsoring. If there is anything we can do to give support to this much needed legislation, please contact us and we will be happy to cooperate in any way you deem necessary."

From the war on poverty in Hill County, Texas came the following comment:

"I believe that provisions are desperately needed for loans with substantially lower income and repayment restrictions than are currently required by the Farmers Home if rural housing conditions are to be improved."

A housing coordinator from Trenton, Missouri wrote:

"Over the past several years HUD has exercised their inability to operate a good housing program and have admitted it. Also, a very small amount of HUD money has been funnelled out to the rural communities. Farmers Home has done a little better but very limited. I want to commend you for your efforts toward some real legislation which will help the rural poor have adequate and decent housing."

A housing coordinator in Lewisville, Minnesota wrote:

"We are the orphans. HUD wants nothing to do with rural housing. We have had an open admission by HUD employes that they would never okay a program in our area and would never turn us down either. So for three years we, in our attempts to erect multiple housing units in our area, were led on by roadblocks and regulation changes. Most of the noise that we hear about inadequate housing has been in the South, but the thing that is happening in the midwest is just as serious. In the northern areas we are losing people to urban areas thus adding to the urban blight, and further causing a decline in effective development of rural assets. I just want to add one more voice to the cry for help in rural America."

Another housing worker, this one in San Luis Obispo, California, wrote:

"I would like to take his opportunity to express my full suport on the proposed rural housing legislation on which you are now working."

The Area Committee to Improve Opportunities Now, from Athens, Georgia wrote:

"I am confident that rural housing assistance is a major step in the direction of keeping people from moving into the urban areas and the drying up of local rural communities."

A housing specialist in the office of the governor of the Commonwealth of Virginia wrote:

"You may know that last year Virginia was number one in the nation in Farmers Home loans and is striving to maintain that role this year. Nonetheless, one of the problems is reaching the real low-income group. Very few of these houses are now as low as $18,000 and even with 1% interest this prices many people out of the program—the very people who need decent housing the most."

The Ohio Housing Development Board wrote:

"We would wholeheartedly support that portion of the bill that seeks to expand the Farmers Home Administration program."

Mr. President, I think the point is clear. When we proposed the Emergency Rural Housing Act, which included many of the Farmers Home amendments in this act, we heard quite a bit of support. I do not recall a single dissent to the Farmers Home amendments in all the mail that I have received on the bill. And, Mr. President, one of those amendments included the idea which Mr. Hathaway has before the Senate today. In fact, our bill proposed that we simply put that idea right into the law. Mr. Hathaway has come up with a much more responsible idea, that we give it a good test first. I agree with the wisdom of that. I believe we should support this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HATHAWAY. Mr. President, I reserve the remainder of my time.

Mr. SPARKMAN. Mr. President, I yield myself such time as I may require.

There was a good bit of talking and negotiating going on around here. May I ask the Senator from Maine whether this is the amendment that he discussed earlier?

Mr. HATHAWAY. Yes; this is the amendment I discussed with the chairman earlier today.

Mr. SPARKMAN. And did the Senator modify the percentage?

Mr. HATHAWAY. I have not made a modification as yet, but I would be receptive to it.

Mr. SPARKMAN. I believe we requested that.

Mr. HATHAWAY. I did indicate to the chairman that, to get his support, I would be willing to reduce it to 10 percent of the number of subsidized loans, and I shall so modify it if that would meet with the chairman's approval.

Mr. SPARKMAN. Let me say that if the Senator does modify it to that extent, I shall be very glad to accept it.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that on page 3 of my amendment, line 10, the figure "15" be changed to "10."

The PRESIDING OFFICER. The Senator has the right to modify his amendment. The amendment is so modified.

Mr. SPARKMAN. Mr. President, if the Senator is ready to yield back his time, I would be willing to accept the amendment.

Mr. HATHAWAY. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment, as modified, of the Senator from Maine.

The amendment (No. 1002), as modified, was agreed to.

Mr. BUCKLEY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read the amendment, offered by Mr. BUCKLEY for himself and Mr. BROOKE, as follows:

> On page 340, lines 4 and 5, strike out "single family dwelling" and insert in lieu thereof "one- to four-family residence".

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BUCKLEY. I yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that final passage of the pending bill occur on Monday at no later than 5 p.m., paragraph 3 of rule XII being waived, and that if any yea-and-nay votes are ordered on amendments during the rest of this day, they be conducted back to back on Monday at no earlier than the hour of 2:30 p.m.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. ROBERT C. BYRD. Mr. President, I temporarily withdraw my request.

The PRESIDING OFFICER. The unanimous-consent request is withdrawn.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I renew the request I made earlier.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BUCKLEY. Mr. President, in a number of our cities there have been community programs to revitalize decayed and deserted urban areas by encouraging individuals and families to buy at nominal cost, neglected properties acquired by the city through in rem proceedings. Sometimes these efforts have been in the form of appointed commissions and sometimes as a result of private initiatives. A variety of methods are then devised to assist buyers to restore abandoned dwellings into sound, modern facilities. Although such programs have been scattered, there is enough evidence to indicate that success with this type of redevelopment can be achieved. To my mind, participation by the Federal Government in the urban homesteading will do much to popularize this innovative approach to saving deteriorating housing.

I would like to congratulate the junior Senator from Delaware for recognizing the possibility of encouraging the restoration of abandoned HUD-owned single-family dwellings by applying the philosophy of the Homestead Act of 1862 which offered 160 acres of virgin land to anyone who would live for 5 years on a tract and develop it. History substantiates the contribution that the original Homestead Act made to the development of this great Nation of ours, and I was happy to cosponsor S. 2676, the National Homestead Assistance Act, which the Senator from Delaware introduced. I was delighted that this proposal has been included in the Housing and Community Development Act of 1974, S. 3066.

But, Mr. President, I envision an even broader utilization of this concept. Our cities cry out for relief from the stench of decay. Why not include the HUD-owned dwellings that are more prevalent in cities such as New York, namely; two-, three-, and four-unit dwellings. An inventory of HUD-owned small homes—one to four-family residences—in New York/New Jersey Region II indicated that approximately 60 percent are two-, three-, or four-family residences. In support of this estimate, I ask unanimous consent that the inventory provided by George Puchall, Assistant Regional Administrator for Housing Management for Region II of HUD, be printed in the RECORD at the conclusion of my remarks.

If the Urban Homesteading is to be fully effective, it must include this substantial portion of abandoned family residences. The amendment which the Senator from Massachusetts and I are introducing will accomplish this by including up to four-family dwellings in the homestead provisions of S. 3066, instead of limiting their applicability to single-family dwellings. We believe our approach is wholly consistent with the philosophy of deeding vacant dwellings to individuals who are willing to live in and improve the dwellings according to the reasonable requirements stipulated. My amendment contemplates the new owners occupying one unit, and restoring and renting the remaining ones.

Mr. President, concern has been voiced

about the possibility that an owner of a multi-family dwelling could make some profits if he invested money, time and physical labor in restoring a multi-family dwelling. But the Homestead Act of 1862 was not apologetic about profits. It was the opportunity to earn a decent living that lured American settlers into the hostile lands of the West and our amendment would lure settlers into the deteriorating areas of the cities.

The incentives provided by profits contribute to the success of the endeavor and provide additional housing units as well as increasing property values within communities. This amendment does not encourage absentee landlords who milk the assets of property and then abandon it, as the owner is required to reside on the premises thereby preventing deterioration of the property through neglect, or vandalism.

I do not pretend that acceptance of this amendment will be a panacea for urban disintegration. This program is a modest one, but it could help to add new life to abandoned and vandalized dwellings at little cost to the Federal Government. Even more important is the encouragement this program will give to the cities, communities, and States who have initiated, or are anticipating homesteading programs.

Mr. President, I ask unanimous consent that a tabulation from the HUD Regional Office in New York be printed in the RECORD.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
New York, N.Y., February 22, 1974.

Mr. JAMES MCGUIRE,
New York, N.Y.

DEAR JIM: Listed below is the information you asked for concerning the inventory of HUD-owned small homes in our Region. The figures are as of 1–31–74.

Area/insuring office	Total 1 to 4 family	Number of 1 family	Number of 2, 3, 4, family	Percent	
				Major repair required (approximate)	Minor repair required (approximate)
Albany	39	23	15	85	15
Buffalo	136	64	72	60	40
Hempstead	3,349	837	2,512	85	5
Camden	503	489	14	90	10
Newark	1,336	601	735	70	30
Puerto Rico	34	34			100
Total	5,396	2,048	3,348		

Sincerely,

GEORGE PUCHALL,
Assistant Regional Administrator for Housing Management.

Mr. BUCKLEY. Mr. President, my amendment is an amendment to the homestead provision introduced by the able Senator from Delaware (Mr. BIDEN). His proposal adopted the Homestead Act of 1862 philosophy of self-help and applied it to the situation where we have deteriorating housing. That is a philosophy that has been tested in his State, in the city of Wilmington and elsewhere. It is a philosophy which benefits under appropriate circumstances the housing units which have been abandoned but which are found to be inherently sound and capable of being taken over at low cost by someone who is willing to undertake the expense, using their own labor, to rehabilitate the housing.

The Federal Government has come into the ownership of a great deal of housing around the country. The department therefore has an inventory that is admirably suited to this highly imaginative approach.

My amendment was introduced on behalf of myself and the distinguished Senator from Massachusetts (Mr. BROOKE). It would expand the concept from the single-family dwelling to four-family unit dwellings.

I know that my own State, and I believe it is true in the State of Massachusetts also, has a great number of structures of the type we are talking about. They are not single-family units. Therefore, by allowing the Secretary and the local government the discretion to accept the units, we can multiply the effect of this provision.

I have discussed this matter with the distinguished chairman and also with the distinguished ranking minority member of the committee. They both indicate to me that my amendment will be accepted.

Mr. President, I yield to the distinguished Senator from Massachusetts.

Mr. BROOKE. Mr. President, I am pleased that the distinguished Senator from New York (Mr. BUCKLEY) has introduced his amendment. I discussed the substance of this amendment in the housing committee meeting with my able colleague, the Senator from Delaware (Mr. BIDEN). At the time I think Senator BIDEN was interested in accepting the amendment. Apparently, however, there was some misapprehension as to whether or not the owners of two-, three-, and four-unit dwellings were actually in the real estate business and whether they were entrepreneurs, so to speak.

I try to assure the Senator from my own personal experience, if the Senator will forgive my reference to my own personal experience, that I took over a four-dwelling building under the GI bill of rights. I lived in one unit and rented the other three. That was the only way that I could afford to own that home and keep it up. What we are trying to do now is to take care of some of the housing that needs rehabilitation.

It would be a necessity for a person who owned a four-family dwelling to live in one of the four apartments so that he would not be an absentee landlord. He would be able to rent out the other three and maintain the home and pay the mortgage and the bills.

I do not know about the dwellings in Delaware. Perhaps they do not have as many four deckers, as we call them, as there are in the States of Massachusetts and New York. However, the concept which the Senator from Delaware had in introducing his amendment is an excellent one. I supported him wholeheartedly.

I am very pleased that the Senator from New York introduced his amendment on the floor and that the distinguished chairman and the distinguished ranking minority members have accepted it.

I hope that Senator BIDEN would understand that we are not adversaries in this cause but are allies. We are striving to achieve the same goals that the Senator from Delaware desired.

Mr. BIDEN. Mr. President, I have no objection, obviously, to the intent of the legislation introduced by my friends, the Senator from New York and the Senator from Massachusetts. However, again to raise the questions which I raised in committee, I am concerned about three things.

First, it seems that the section 312 loans are necessary for a single-family homeowner to have access to in order to rehabilitate the housing he or she would be given. I do not know whether the 312 loan program would be available to multiple family residence. If it is, it seems as though we are leaving it open to people, who have a considerable amount of money, to rehabilitate for multifamily unit dwellings which, I suspect—would cost more money than to rehabilitate a single-family unit. I assume that we are talking about more square feet of housing at a higher cost to bring it up to snuff.

This legislation under the homestead concept was initiated by a classmate of mine, Mayor Maloney of Wilmington. I took the idea and applied it to the national level. I do not know whether by this proposed action we would be turning this into a program in which speculators would be able to take advantage of the situation.

I have no objection to anyone making a tiny profit in rehabilitating these homes. However, my primary objective was not to find people homes, but to find homes for people.

I do not know what restrictions would exist under this proposal to prevent a developer from coming in and becoming a slum landlord in the area. I hope that would not happen.

I am also concerned, however, since my bill is in such an embryonic stage and we have had very little experience with it. We have had a little experience in Delaware and in some other cities on the east coast.

I was willing to start the program and watch it through additional trials so as to make sure that it would bear up and be workable.

I expressed my reluctance to support the multi-family concept. I am not here to make a great fight against the amendment. I still do not support it. I am not going to ask a rollcall vote or make strong objection.

I wanted the Senator from Massachusetts to understand why I am reluctant.

Mr. BROOKE. Mr. President, I certainly do understand. We did have that colloquy in the Housing Committee.

I would like to address myself to the first problem that my colleague finds with the Buckley-Brooke amendment.

I think the Senator raised a question as to how many of the homes rehabilitated under the 312 program are multiple-family dwellings. I think that was the question.

Of the 25,000 homes already rehabilitated under 312, 4,300 are two, three, or four family homes.

So that is a matter of record.

The second point was as that speculators may move in and make profit on this program. Of course, under the provisions of the bill, the owner must live in the house himself.

Mr. BIDEN. That is correct.

Mr. BROOKE. That would also apply to the two-, three-, and four-family dwellings, as well as the single-family home. Most speculators do not want to live in the neighborhoods where these properties are located. They just want to buy a property for speculation, but live on Park Avenue, perhaps, in New York. But by the requirement which is written into the bill that the owner live on the premises, which I think is a very sound one, because he is there and he is going to maintain it and look after it——

Mr. BUCKLEY. Mr. President, if the Senator will yield, I point out it is not merely jumping in and out, but must be for a minimum period of residence of 3 years.

Mr. BROOKE. Yes; I am glad the Senator made that point. The buyer has got to stay in the property continuously for 3 years. He is hardly going to be a speculator. I think that should satisfy the concerns of the Senator from Delaware as far as speculators are concerned. I do not believe I quite understood the third point the Senator raised. Perhaps the Senator from New York can respond unless the Senator wishes to restate it.

Mr. BIDEN. I think my colleague has responded sufficiently to show that our interest is identical. It would be better to specify that number of units that could be brought under the concept, rather than make any change within the concept, which is that there be a resident owner living there for a period of 3 years, meeting the housing code and other requirements of that city or municipality, and in fact having the intent to stay there. That is the reason why I put 3 years in there; I think the Senator has responded to my concern sufficiently. I have no further comment, and I shall not take issue with the amendment.

Mr. BROOKE. Mr. President, may I first commend the distinguished Senator's classmate, the mayor of Wilmington for the original concept which the Senator so generously and modestly attributes to him, and then commend my colleague from Delaware for introducing this amendment in the committee and making it a part of this omnibus housing bill. And I thank the Senator from New York (Mr. Buckley) for presenting this amendment to the bill, because I think many more persons will be benefited now with the expansion to two, three, and four family dwellings, and I am very pleased and proud to have been a cosponsor of the amendment.

Mr. BUCKLEY. Mr. President, I also thank my distinguished colleagues from Delaware and Massachusetts. We are all seeking precisely the same objective, I believe, but by expanding the number of units that can be covered under the program, we do not erode the essential element of the concept of homesteading, namely, the requirement that some individual fill the requirements and responsibilities of ownership in bringing about the restoration of decaying but nevertheless salvageable housing, the extra effort that will save so many of our cities.

I know in the case of Massachusetts and in my own State of New York some of the areas that are about to go over the brink, that have been abandoned, tend to involve more than one unit. So I hope this amendment will be seen as merely an extension of the concept introduced by the Senator from Delaware, without in any way opening the doors to the misuse of that concept.

Mr. TOWER. Mr. President, I yield myself such time as I may require under the bill.

For my part, I think this is a meritorious amendment. I am prepared to accept it, and I believe my distinguished Chairman has also indicated his approval. Therefore, I think we can act on it.

Mr. BUCKLEY. Mr. President, I yield back the remainder of my time.

Mr. SPARKMAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from New York (Mr. Buckley).

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I have two unprinted amendments at the desk, which I believe will not take much time. I call up the first amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the Record at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Hathaway's amendment is as follows:

On page 240, between lines 8 and 9, insert the following:

STATE AND LOCAL AGENCIES

Sec. 522. Section 501(c) of the Housing Act of 1949 is amended by adding at the end thereof the following: "If an applicant is a State or local public agency—

"(A) the provisions of clause (3) shall not apply to his application; and

"(B) the applicant shall be eligible to participate in any program under this title if the persons or families to be served by the applicant with the assistance being sought would be eligible to participate in such program."

Amend the table of contents accordingly.

The PRESIDING OFFICER. Does the Senator wish his amendments considered en bloc?

Mr. HATHAWAY. I think we had better consider them separately.

This amendment would make State and local housing agencies eligible to apply for interest credit loans to provide housing for low- and moderate-income families, on the same basis as other eligible sponsors. Under current law, public bodies are unable to build housing for lower income families under Farmers Home programs because they cannot get loan money at a low enough interest rate. This amendment would accomplish by statute what Farmers Home is already planning to do administratively.

I reserve the remainder of my time. I understand there is no objection from either the chairman or the ranking minority member.

Mr. SPARKMAN. That is correct, Mr. President. I am prepared to accept the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. TOWER. I yield back my time.

Mr. HATHAWAY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I call up my second amendment.

The PRESIDING OFFICER. The amendment will be stated.

Mr. HATHAWAY. I ask unanimous consent that the reading of the amendment be dispensed with, and that it be printed in the Record at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Hathaway's amendment is as follows:

On page 230, line 22, strike all through line 5 on page 231, and insert the following:

(b) Subsection (c) of such section is amended to read as follows:

"(c) There shall be reimbursed to the Rural Housing Insurance Fund by annual appropriations (1) the amounts by which nonprincipal payments made from the fund during each fiscal year to the holders of insured loans described in subsection (a)(1) exceed interest due from the borrowers during each year, and (2) the amount of assistance payments described in subsection (a)(2). The Secretary may from time to time issue notes to the Secretary of the Treasury under section 517(h) to obtain amounts equal to such unreimbursed payments, pending the annual reimbursement by appropriation."

Mr. HATHAWAY. Mr. President, this is merely a technical amendment to correct an inaccuracy which developed in the printing of the bill. The amendment has been gone over by both the minority and the majority, and I understand there is no objection to it.

I reserve the remainder of my time.

Mr. SPARKMAN. Mr. Presdent, the Senator from Texas is agreeable to the amendment, and I am agreeable also. I yield back the time.

Mr. HATHAWAY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. BAYH. Mr. President, I send to the desk an unprinted amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be considered as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH's amendment is as follows:

On page 184, between lines 9 and 10, insert the following:

(4) CITIZEN PARTICIPATION.—A description of the opportunities for citizen participation which were afforded in connection with the preparation of the application, a summary of any proposals or recommendations which were made pursuant to such opportunities and the extent to which such proposals or recommendations have been incorporated in the summary plan or activities program, and an outline of the community's plans for citizen participation during any further planning for, or during the execution of, its community development activities.

On page 184, line 15, before the period insert in lieu thereof "(5)".

On page 184, line 15, before the period insert a comma and the following: "and an assessment of the contribution of citizen participation to the planning and conduct of such activities".

On page 194, line 2, strike out "and".

On page 194, line 5, strike out the period and insert in lieu thereof "; and ".

On page 194, between lines 5 and 6, insert the following:

"(4) a description of the most effective uses of citizen participation in the planning and execution of community development activities, and an assessment of the general effectiveness of citizen participation in the planning and execution of community development activities."

Mr. BAYH. Mr. President, as I read chapter III of S. 3066 regarding community development, I was pleased to see that the committee had made some provision for citizen participation in the planning and execution of community development activities. Under the bill, local organizations involved in providing advisory services to governmental units planning and carrying out community development activities could receive financial assistance. Further, the governmental unit applying for funds for any type of development activity would have to hold a public hearing regarding the application at least 30 days before its submission to HUD, and then would be required to certify that there had been and would be adequate opportunity for citizen participation in the planning and execution of the activities.

I have fear, however, that these measures in their present form may not be sufficient to insure broad based and meaningful participation of the citizenry. I understand the committee's reluctance to define citizen participation, and I agree that participation in one or more of many forms could be appropriate and adequate for a given project. Nonetheless, I have visions that under the bill's present requirements many applicants will simply hold a hearing, to which they will be unresponsive, certify that there has been adequate participation, and submit the application. Unless HUD were to conduct extensive investigations in its review of applications, it certainly would have no way of knowing whether the citizen participation was real or token.

To insure sincere efforts by applicants to involve the citizens of a community in development activities, I offer an amendment to the bill. This amendment is mainly directed to section 308 of chapter III, covering application and review. As that section stands, an application would contain a summary plan, an activities program, certifications, and a performance report. My amendment would require that the application also contain a new portion containing a description of the opportunities for citizen participation which were afforded in connection with the preparation of the application, a summary of any proposals which were made pursuant to those opportunities and the extent to which such proposals had been incorporated in development plans, and an outline of the community's plans for citizen participation during any further planning for, or during the execution of, its community development activities.

By requiring this recitation in the application, I believe my amendment would encourage local governmental organizations to involve their citizens in the programs and then to pay close attention to what those citizens had to offer and to say. It would reduce the temptation to have a token hearing and then sign a one-sentence certification that there had been adequate citizen participation. Further, my amendment would provide officials in HUD with information—right in the application—to help them determine whether or not there had been adequate opportunity for citizen participation in formulation of the plan.

The amendment would further change the application by requiring the applicant to set out in its performance report an assessment of the contribution of citizen participation in the planning and conduct of its community development activities during the preceding contract period. Such an assessment would require the agency to review past citizen participation and make notes of the successes and failures. Hopefully, this would be a beneficial educational process which would lead to more effective involvement of the populace in the future programs. The assessment would also provide HUD with useful information regarding the effectiveness of techniques aimed at increased citizen participation.

Finally, the amendment would require the Secretary of Housing and Urban Development to include in his annual report a description of the most effective uses of citizen participation in the planning and execution of community development activities and an assessment of the general effectiveness of citizen participation in these activities. This information will be invaluable to us as legislators in planning and enacting legislation to utilize the vast resources our citizens can provide by participating in governmental programs in their communities.

Mr. President, we all know that the chances for success of development programs are greatly increased if the citizens affected by those programs are involved in their planning and execution at every step. We also know that it is essential that we involve our citizens in our Government wherever possible if we wish to maintain a responsive and viable system of democratic government. This amendment I offer today would increase that involvement in community development programs funded by the Federal Government. It would also provide us with information regarding the most productive uses of citizen participation. I urge my colleagues to consider it carefully and include its provisions in S. 3066.

Mr. SPARKMAN. Mr. President, I appreciate the remarks and the amendment by the Senator from Indiana.

We have tried to do something that would be really effective in providing for citizen participation. I believe the Senator started to say or to read subsection 183. It shows how we are trying to get citizen participation to become a real activity. It is our purpose to continue to try to achieve that goal.

I agree with him that it would be a good thing if a report should be made from time to time by the Secretary of Housing and Urban Development showing just what progress has been made and the degree to which the activity has been encouraged by HUD itself.

I would say, that for my part I would desire and expect HUD to make such a report. I shall certainly be glad to pass along, to the Secretary of Housing and Urban Development our desire to have a report from time to time with reference to what is done for meaningful citizen participation.

Mr. BAYH. I take it from the discussion of my distinguished friend, the chairman of the committee and the floor manager of the bill, that he would prefer not to have my amendment written in specific language in the bill, but that it should rather be included in the legislative history.

Mr. SPARKMAN. Yes, I think we can work it that way very well. I would be glad if the Senator would not insist upon his amendment but take this discussion as being our intent in the legislative history, to the effect that a report will be expected from HUD.

Mr. BAYH. I am not wed to the vehicle of the amendment as long as the intent is fulfilled, and having the very strong statement of the chairman helps.

I have no objection to withdrawing my amendment, but could I suggest that it might strengthen the legislative history if, after this colloquy, he would ask the staffs to put this in any conference report language so that, in addition to the colloquy in the CONGRESSIONAL RECORD, we would also have it written into the report accompanying this very fine piece of legislation.

Mr. SPARKMAN. It may well be that in the report that will be issued following the conference committee meeting, we could bring it out in that. I will be glad to ask the staffs to see that that is done.

Mr. BAYH. May I ask the distinguished chairman from Alabama if he would answer one question more clearly, in order to further define the congressional history.

On page 183 of the bill, it states:

> (C) has afforded adequate opportunity for citizen participation in the development of the application and has provided for the meaningful involvement of the residents of areas in which community development

activities are to be concentrated in the planning and execution of these activities, including the provision of adequate information and resources;

Does the Senator from Alabama expect the applicant to provide—

. . . a description of the opportunities for citizen participation which were afforded in connection with the preparation of the application, a summary of any proposals or recommendations which were made pursuant to such opportunities and the extent to which such proposals or recommendations have been incorporated in the summary plan or activities program, and an outline of the community's plans for citizen participation during any further planning for, or during the execution of, its community development activities.

Mr. SPARKMAN. That is correct.

Mr. BAYH. I appreciate the patience of my friend from Alabama. Again I want to salute him. I would ask if it is correct that it is intended that the information required by other parts of my amendment which have already been described is required by the bill in its present form.

Mr. SPARKMAN. The Senator is correct.

Mr. BAYH. I thank my friend from Alabama.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BIDEN. Mr. President, I send to the desk an amendment and ask it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 53, line 20, delete the period after the word "section", and insert after the word "section" "or which mortgages are assisted under a state or local program providing assistance through loans, loan insurance or tax abatement."

Mr. BIDEN. Mr. President, it is my understanding that the ranking minority member and the chairman of the committee have no objection to this amendment.

If I can take just a moment to explain it, this amendment would permit section 402 homeownership subsidy payments to be made in conjunction with mortgages assisted through loans, loan insurance or tax abatement from a State or local program even though the mortgage is not insured by FHA. This would bring section 402 into line with section 502 which permits rental subsidies to be paid in conjunction with State loans although not FHA insured. Under such an arrangement, it is the State or local agency not the Federal Government, that bears the risk of loss if a loan goes sour. Certainly if a State agency wishes to bear this responsibility, it should be allowed to do so pursuant to my amendment.

Under the predecessor program to section 502—the section 236 program State housing finance agencies have made loans for over 70,000 units, the majority of which have been subsidized but not insured. This has proven to be a very constructive State-Federal partnership and I am delighted that section 502 allows its continuance for multifamily units. My amendment simply extends this exercise in creative federalism to single family loans made by such State housing finance agencies.

Mr. President, that is short and simply what my amendment would do. I understand there is no objection to its being incorporated in the bill, and if there is no objection to it, I yield back the remainder of my time.

Mr. SPARKMAN. Mr. President, I am receptive to the amendment.

Mr. TOWER. Mr. President, I am also prepared to accept the amendment.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Delaware (Mr. BIDEN).

The amendment was agreed to.

Mr. TOWER. Mr. President, I think we have disposed of all the amendments that Senators were prepared to bring up today. I do not know of any others. I understand that Senator WILLIAMS will have an amendment to be considered on Monday, as well as Senator BELLMON, and Senator TAFT, who will be here then. We can deal with his, which we are, for the most part, in sympathy with. Therefore I think at this point, I would suggest the absence of a quorum so that we can make a determination of whether——

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND RESUMPTION OF CONSIDERATION OF S. 3066 ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes; at the conclusion of which the Senate resume the consideration of S. 3066, the housing bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a resumption of routine morning business, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEWIS W. DOUGLAS

Mr. HARRY F. BYRD, JR. Mr. President, Lewis W. Douglas died yesterday at his home in Arizona. Mr. Douglas was a splendid American. He served his Nation with great ability and with great courage. He was a Member of the House of Representatives, he served as Ambassador to Great Britain,, and he was at one time Director of the Federal Budget.

Mr. Douglas came to Washington in his early thirties, as a Member of the House of Representatives, representing Arizona.

When Franklin D. Roosevelt became President, he selected Lewis Douglas, a young Congressman 39 years of age, to be his Director of the Budget.

Mr. Douglas had a brilliant future ahead of him in Government. He was a favorite of President Roosevelt. But a little more than a year later, he reached the conclusion that, as a matter of principle, he could not agree with the spending policies of the Roosevelt administration. So Lewis Douglas, at age 40, did something that is unheard of around Washington these days. He resigned from his top Government post as a matter of principle. He felt that the spending policies of the Roosevelt administration would be detrimental in the long run to the country he loved.

I might point out that the spending policies which President Roosevelt initiated and the deficits which were incurred during his administration were only a fraction of the deficits we see in the Federal budget today.

Mr. Douglas was a close friend of my father. That also endeared me to him. But as a student at the University of Virginia when Mr. Douglas resigned his important post in the Federal Government, I was intrigued by the fact that a high Government official, one with a great future, would leave his Government position and resign as a matter of principle because he disagreed with the policies of the administration he was serving. I think that what the Government needs today are more Lewis Douglases, more men who will take issue with whichever administration might be in power, and will not subordinate their own convictions to the wishes of the bureaucracy. Lewis Douglas would not do that.

He went on, after he left the position as Director of the Budget, and in World War II served his Government in important but lesser positions. Then he was named Ambassador to Great Britain.

Mr. President, I ask unanimous consent that the obituary of Lewis M. Douglas, published in today's Washington Post, be printed in the RECORD.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

[The Washington Post, March 8, 1974]

AMBASSADOR LEWIS DOUGLAS, FDR AIDE, DIES

TUCSON, Ariz., March 7.—Lewis W. Douglas, former U.S. congressman and ambassador to Great Britain, died at his home here today. He was 79.

He had returned to Tucson last week after being hospitalized in New York City.

Mr. Douglas was elected to the House in 1927 and served six years before resigning during his fourth term to become President Franklin D. Roosevelt's federal budget director.

* * * * *

(By Ferdinand Kuhn)

Before Lewis W. Douglas was 40 he was being talked about as a future President.

The talk came first from Franklin D. Roosevelt soon after he moved into the White House, and it filtered down through the President's advisers. Roosevelt had watched Mr. Douglas as a Democratic congressman from Arizona. He had named Mr. Douglas director of the budget, and had given him a seat in the Cabinet as an unprecedented mark of liking and favor.

In April 1933, Roosevelt wrote to Col. Edward M. House that Mr. Douglas "is, in many ways, the greatest 'find' of the administration." Privately he gave him still higher praise. One morning as he was chatting with Raymond Moley, a member of his so-called brain trust, he said of Mr. Douglas:

"In 12-years he would be a good Democratic candidate for President." Twelve years in the future Mr. Douglas would have been almost 51, the same age as Roosevelt when he was elected.

Obviously Mr. Douglas had charmed the President, who was something of a charmer himself when he wanted to be. An alert mind, a facile tongue, a diffident manner, a disarming look of candor in his wide brown eyes—these were among the attributes Douglas brought to private meetings and public appearances in the early New Deal days.

"It is so easy to like Douglas that his biases tend to be forgotten," Rexford G. Tugwell, a Roosevelt adviser, wrote in his diary.

Mr. Douglas' chief bias was a passion for economy in government. He was a business-minded conservative. At the turn of the century he would have been called a sound-money man. When heard that Roosevelt had decided to take the dollar off gold in 1933, he spent an evening grieving with a few fellow-conservatives in the government. His final comment, as Moley remembered it many years later, was:

"Well, this is the end of Western civilization."

For more than a year Mr. Douglas fought rearguard skirmishes inside the government against New Deal spending. Finally, in August, 1934, after Roosevelt refused to reduce spending on public works, Mr. Douglas resigned.

Officials from the top down were amazed. It was not unusual to toss a public office overboard because of a private conscience. Roosevelt was shocked and hurt. Afterward, Mr. Douglas wrote him that the balancing of the budget would determine, "conceivably, the immediate fate of Western civilization."

He was not pretending. He genuinely believed that fiscal soundness of the old-fashioned kind was the mark of a nation's character, the test of its survival.

He returned to private life and wrote a book, "The Liberal Tradition" that attacked many New Deal measures as "roads leading away from free capitalism."

Mr. Douglas followed his convictions to the political limit. In 1938, he actively supported Alf M. Landon against Roosevelt; in 1940, he headed a national committee of "Democrats for Wilkie." He did not come back into the government until Britain was threatened with invasion and Western civilization faced a danger of a nonbudgetary kind.

The threat to Britain held a special meaning for Douglas. His ancestry as well as his common sense in those days made him pro-British. His grandfather was an eminent Scottish-Canadian geologist who helped set up the Phelps-Dodge copper company in Arizona. His father married an Arizona miner's daughter and became an American citizen. Their son Lewis was born July 2, 1894, in the mining town of Bisbee.

They brought him up in the great outdoors of the West, but sent him to Amherst in the East for his college education. World War I took him to France as a first lieutenant of field artillery; he won a citation from Gen. Pershing and a Croix de Guerre from Belgium.

Back home, he taught history at Amherst for a year, but decided that an instructor's life was not for him. In 1921, he married Peggy Zinsser, a niece of the famous bacteriologist and author, Dr. Hans Zinsser.

The young couple set up housekeeping in the West. Mr. Douglas began earning money in ranching and citrus growing in his native Arizona, and tried his hand at politics in the state legislature. He was elected to a two-year term in the state House of Representatives in 1923.

In 1926, he was known widely enough to be elected to Congress. There he served three terms and came to Franklin Roosevelt's attention as an economizer.

He never lost his attachment to Canada and Britain. After quitting the New Deal he served two years as chancellor (president) of McGill University in Montreal. He was the first United States citizen to attain this honor. As for Britain, Mr. Douglas was one who talked, as many Britons still do, of "the Anglo-Saxon race." He became a leader of the unofficial aid-to-Britain movement long before Pearl Harbor.

After Wilkie's defeat in 1940, Mr. Douglas asked for a job, any job, in what was coming to be the American war effort. He was already president of the big Mutual Life Insurance Company of New York, but this held little meaning for him in wartime. His brother-in-law John J. McCloy, who had married another Zinsser sister, was already making himself more than useful as assistant secretary of war. With the help of Harry Hopkins in the White House, Mr. Douglas was made deputy war shipping administrator.

In this work he had to allocate American merchant shipping among many American and foreign claimants. Thus he became a key figure in sending food and war supplies to Britain in the war's darkest hours.

Mr. Douglas and Roosevelt found no trouble in burying the hatchet. In 1943, for example, when Americans and Britons were squabbling at the first Quebec Conference, the President asked Mr. Douglas to hurry to Quebec to pour his charm on the ruffled Anglo-American waters. He also put Mr. Douglas on the delegation to the Cairo Conference. At these historic meetings, Mr. Douglas stood close to the center of power, but most of the time out of public view.

His finest hours in public began early in 1947 when President Truman appointed him ambassador to Britain. A trick of fate sent him there while Socialists rather than business-minded conservatives held government office. Still, Mr. Douglas managed to seem happy as well as effective in his new job.

Mr. Douglas told an interviewer that Britain's Socialist government was "none of my business. It is up to the English to select their own type of government. Nor does the fact that the Labor Party is in power make any difference in our relations."

He enjoyed friendly publicity, not so much for himself as for his golden-blonde daughter, Sharman. She filled so much space in the London gossip columns that to many thousands of newspaper readers, Lewis Douglas was better known as Sharman's father than as the American ambassador.

Sharman was dubbed "Charmin'" Sharman. She became fast friends with Princess Margaret and was a leading figure in the social whirl of London's Mayfair set.

Behind the scenes, Mr. Douglas was a more important figure. He presided over a sprawling embassy staff that, in its variety, was a United States government in miniature. He made himself a trusted channel of communication between Washington and British leaders.

President Truman, knowing his talents as a talker, brought him home temporarily to help get the Marshal Plan for European recovery approved by a conservative Congress. Mr. Douglas also served as the administration's chief civilian contact in Europe with Gen. Lucius D. Clay, the military governor of Germany.

He might have climbed still higher in public life if a grotesque accident in England had not interferred. One day in 1949 he was trout fishing on the River Test, near Southampton. As he cast a fly, a gust of wind blew the fish hook into his left eye. For two months the ambassador was laid up, much of the time in pain. Repeated operations were needed. He lost the eye, and from then on wore a dark patch over it.

Largely because of recurring ill health, he resigned as ambassador in 1950. When he resigned, his friend Walter Lippmann wrote that Mr. Douglas was "the youngest of the elder statesmen who, like Stimson and Marshall, have to come forward when wisdom, not merely competence or even brilliance, is needed."

After London, Mr. Douglas's public life was an anti-climax. Presidents Eisenhower and Johnson, whom he had supported for election, appointed him to largely honorary sinecures. At his 50,000-acre ranch at Sonoita, near the Mexican border, he entertained a stream of visitors, including Princess Margaret and others from London.

Well into old age, he kept his business interests and business viewpoint. As honorary chairman of the Southern Arizona Bank and Trust Company, he maintained an office in Tucson. He served as a director of mining companies and made himself helpful in Anglo-American and charitable causes.

One of his few public statements of his old age appeared in the Arizona Daily Star of Tucson at the end of 1971. The state board of health had ordered the Phelps Dodge copper company to clean up the smoke from its smelter at Douglas or have the smelter shut as a menace to public health.

Mr. Douglas, pained, wrote a column conceding that the copper companies had been late in acting to control pollution. But, he pleaded, closing the smelter would end many jobs and hurt the Arizona economy; in any event private cars, not copper companies, were to blame for pollution. He was a spokesman for business to the end.

He is survived by his wife, Peggy; two sons, James Stuart and Lewis W., and his daughter, Sharman Hay.

BATTLE OF GREAT IMPORTANCE IN POCATELLO, IDAHO, ON SATURDAY NIGHT

Mr. McCLURE. Mr. President, since some Members of this august body have seen fit, from time to time, to express their deep concern over the probable outcome of various unimportant sporting events, I must point out that a battle of great importance will open tomorrow night in Pocatello, Idaho—a battle between Idaho State University and the University of New Mexico.

Both teams are top-ranked NCAA contenders: Idaho State University as the Big Sky Conference winner, with a 21–7 overall record; and the University of New Mexico, winner in the Western Athletic Conference, with a 20–6 record.

Since the honor of the State of Idaho is at stake, I would challenge the good Senator from New Mexico to a small wager. For our ante, we would offer 10 100-pound bags of the world's finest potatoes—produced, of course, in Idaho. I would hope that the Senator from New Mexico might accept this challenge.

Mr. DOMENICI. I am delighted to rise and accept the challenge. I will tell the Senator from Idaho what I intend to do with 10, 100-pound bags of potatoes. I do not intend to give them to the 10 athletes on the squad, but rather to the 10 members of my family.

But first, I want to tell the Senator

from Idaho that the cattle raisers of New Mexico have decided that they would offer to the Senator from Idaho half a beef as a part of this challenge. I say that with some reluctance, because it seems to me that I am getting the worse end of the bargain. I hope we get the potatoes. I had hoped I would get the beef. But since I am not getting it, I am telling the Senator that our cattle growers will give the Senator from Idaho half a beef.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. McCLURE. I yield.

Mr. ROBERT C. BYRD. With all the acrimony that seems to be developing in this heated discussion, I hope that the Chair will insist that the rules be followed and that the Senators address each other in the third person—not in the second person.

Mr. DOMENICI. We thank the Senator.

Mr. McCLURE. I thank the Senator for interjecting that comment because the comments of the Senator from New Mexico really did raise my blood pressure for just a minute when he suggested that New Mexico beef was worthy of comparison with Idaho potatoes. We have been resisting the impulse of a number of people in New Mexico to export Idaho beef to them. We had to adopt an antibusing provision to prevent that a few years ago.

While the challenge is equal, the wager is not equal. The J. R. Simplot of Boise, Idaho, agreed to provide the potatoes in the unlikely event that Idaho State should lose, and I do regard that as an unlikely event. We will accept the unequal offer the Senator has made, but I want to make one other suggestion. In spite of the fact that New Mexico cattle are thought by most people in Idaho to be inferior, not only to Idaho potatoes but also to our Idaho cattle, the other half of the beef might be sent to the State of Texas. I hear the Senator from Texas (Mr. Tower) is in desperate need of some Hamburger Helper to hold up that so-called Texas chili he is bragging about, but maybe that would give Senator Goldwater too much of an advantage in that contest that is brewing.

Mr. DOMENICI. The Senator from New Mexico wants to tell the Senator from Idaho that there is only one reason that New Mexicans would consider eating Idaho potatoes, and that came about because the price of pinto beans has gone to $60 to $70 a hundredweight.

I would like to share the dilemma in which I find myself which would make the potatoes so welcome. It will be remembered that the Senator from Colorado (Mr. Dominick) led the fight for Senators not to get a pay raise. I am reporting today to the Senator from Idaho that I may deal with him. I told him I would support his measure, but if he prevailed I would give him six of my children to support. He prevailed and he then showed the sense of a good lawyer and found our deal was unenforceable.

I am met now with a very serious problem that I share with the Senator from Idaho because even though we are not accustomed to eating Idaho potatoes in New Mexico, the potatoes will be welcomed by Nancy and Pete Domenici.

Mr. McCLURE. I look forward to accepting the substandard beef of New Mexico that may come my way. I am sure the Senator will find the hospitality of the people of Idaho is unmatched, except when your team will submit to Idaho State University tomorrow night in Pocatello, Idaho.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. McCLURE. I yield.

Mr. ROBERT C. BYRD. What will happen in cases of a tie?

Mr. McCLURE. I would say to the Senator from West Virginia I think it is very unlikely that it will be even close to a tie.

Mr. ROBERT C. BYRD. In the event of a tie I would invite the two Senators to participate in one of West Virginia's ramp festivals. The delicacy is most delectable—as well as memorable.

Mr. DOMENICI. In the event of a tie I will keep the beef.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene on Monday at 12 o'clock noon. After the two leaders or their designees have been recognized under the standing order there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 5 minutes each.

At the conclusion of routine morning business the Senate will resume consideration of the bill (S. 3066), the Housing and Community Development Act of 1974. Any record votes on amendments to that bill will occur no earlier than 2:30 p.m., with a vote on final passage to occur at not later than 5 p.m. on Monday.

ADJOURNMENT TO MONDAY, MARCH 11, 1974

Mr. ROBERT C. BYRD. Mr. President, if the distinguished assistant Republican leader has no further business, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon on Monday next.

The motion was agreed to; and at 3:25 p.m., the Senate adjourned until Monday, March 11, 1974, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate March 8, 1974:

Inter-American Foundation

The following-named persons to be Members of the Board of Directors of the Inter-American Foundation for the terms indicated:

For the remainder of the term expiring September 20, 1976

Jack B. Kubisch, of Michigan, vice Charles A. Meyer.

For a term expiring September 20, 1978

John Michael Hennessy, of Massachusetts, vice John A. Hannah.

For a term expiring October 6, 1978

Charles A. Meyer, of Illinois, vice Luis A. Ferre, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 8, 1974:

Department of Defense

Martin R. Hoffmann, of Virginia, to be General Counsel of the Department of Defense.

M. David Lowe, of Texas, to be an Assistant Secretary of the Army.

Department of the Treasury

Jack Franklin Bennett, of Connecticut, to be Under Secretary of the Treasury.

Allan Stephen Ryan, of New York, to be assayer of the U.S. Assay Office at New York, N.Y.

(The above nominations were approved subject to the nominees's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSIONS OF REMARKS

LETTER TO SOVIET LEADERS

HON. J. W. FULBRIGHT

OF ARKANSAS

IN THE SENATE OF THE UNITED STATES

Friday, March 8, 1947

Mr. FULBRIGHT. Mr. President, there was published in the March 3 issue of the London Sunday Times an interesting letter addressed to the men who rule Russia written by Alexander Solzhenitsyn.

In view of the considerable interest in the writer of this letter by several Members of this body I believe it is appropriate to have it inserted in the appendix of the Record.

I ask unanimous consent to have it printed in the Appendix of the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Letter to the Soviet Leaders—Solzhenitsyn Speaks: World Exclusive

Today we print one of the most remarkable and eloquent documents of our time: an impassioned letter from Alexander Solzhenitsyn to the men who rule Russia. It was dispatched six months ago and still awaits an answer. It is published now in full with the writer's complete approval and for the first time. It is his first public statement since his exile: a testament of astonishing power, with uncanny relevance to our own problems in the West. In it Solzhenitsyn denounces the cardinal folly of pursuing an expansionist foreign policy when there is nothing to fear from Europe and America. He calls for an accommodation with China. He deplores the mindless policy of economic growth which has despoiled the beauty of Russia's cities and ruined the tranquility of her countryside. He reiterates that the real wealth of Russia lies in her own soil. He pours scorn on the dead creed of Marxism. He claims that the Russians drink far too much vodka. He advocates the end of national service, and says promotion should not depend on party membership. He pleads for kindness from Russia's rulers and peace for its citizen.

I do not hold out much hope that you will be well disposed to examine ideas not formally solicited by you, although they come from a fellow-countryman of a rare kind. He is one who does not stand on a ladder subordinate to your command, who can be neither dismissed from his post, nor demoted, nor promoted, nor rewarded by you. He is therefore one from whom you are almost certain to hear an opinion sincerely voiced, without any careerist calculations, such as you are unlikely to hear from even the finest experts in your bureaucracy. I do not hold out much hope, but I shall try to say what is most important in a short space, namely, to set out what I hold to be for the good and salvation of our people, to which all of you—and I myself—belong.

That was no slip of the tongue. I wish all peoples well, and the closer they are to us and the more dependent upon us, the more fervent is my wish. But it is the fate of the Russian and Ukrainian peoples that preoccupies me above all, for, as the proverb says: It's where you're born that you can be most useful. And there is a deeper reason, too: the incomparable sufferings of our people.

I am writing this letter on the SUPPOSITION that you too are swayed by this primary concern, that you are not alien to your origins, to your fathers, grandfathers, and great-grandfathers, to the expanse of your homeland; and that you are conscious of your nationality. If I am mistaken, there is no point in your reading the rest of this letter.

I am not about to plunge into the harrowing details of the last sixty years. I try to explain the slow course of our history and what sort of one it has been in my books, which I doubt if you have read or will ever read. But it is to you in particular that I address this letter, in order to set out my view of the future, which seems to me correct, and perhaps to convince you all the same. And to suggest to you what is, for the moment at least, still a timely way out of the chief dangers facing our country in the next ten to thirty years.

These dangers are: war with China, and our destruction together with Western civilisation in the crush and stench of a fouled earth.

1. THE WEST ON ITS KNEES

Neither after the Crimean War, nor, more recently, after the war with Japan, nor in 1916, 1931 or 1941, would even the most unbridled patriotic soothsayer have dared to set forth so arrogant a prospect: that the time was approaching, indeed, was close at hand, when all the great European powers taken together would cease to exist as a serious physical force; that their rulers would resort to all manner of concessions simply to win the favour of the rulers of the future Russia, would even vie with one another to gain that favour, just so long as the Russian Press would stop abusing them; and that they would grow so weak, without losing a single war; that countries proclaiming themselves "neutral" would seek every opportunity to gratify us and pander to us; that our eternal dream of controlling *straits*, although never realised, would in the event be made irrelevant by the giant strides that Russia took into the Mediterranean and the oceans; that fear of economic losses and extra administrative chores would become the arguments against Russian expansion to the West; and that even that mightiest transatlantic power, having emerged all-victorious from two world wars as the leader and provider for all mankind, would suddenly lose to a tiny, distant Asiatic country and show internal dissension and spiritual weakness.

Truly the foreign policy of Tsarist Russia never had any successes to compare with these. Even after she had won the great European war against Napoleon, she did not extend her power over eastern Europe in any way. She undertook to crush the Hungarian revolution—to help the Hapsburgs. She covered the Prussian rear in 1866 and 1870 without gaining anything in exchange—that is, she disinterestedly advance the power of the German states. They, on the other hand, entangled her in a series of Balkan and Turkish wars, where she lost repeatedly, and despite her enormous resources and threatening gestures, she never did succeed in realizing the dreams of her leading circles to acquire the straits, although she entered her last (and for herself fatal) war with precisely this as her chief aim. Tsarist Russia often found herself carrying out other people's missions quite unconnected with her own. Many of her foreign policy blunders were the result of a lack of practical calculation at the top and a cumbersome, bureacratic diplomatic service, but they also seem at times to have been connected with a certain streak of idealism in the thinking of her rulers, which hindered them from taking a consistent line in defence of the national self-interest.

Soviet diplomacy has rid itself of all these weaknesses root and branch. It knows how to make demands, exact concessions, simply get things, in ways that Tsarism never knew. In terms of its actual achievements it might even be regarded as brilliant; in fifty years, with only one large-scale war, which it won from a position no whit more advantageous than that of the other participants, it rose from a country riven by civil strife to a super-power before which the entire world trembles. There have been some particularly striking moments when success was piled on success. For instance, at the end of the Second World War, when Stalin, who had always easily outplayed Roosevelt, outplayed Churchill, too, and not only got all he wanted in Europe and Asia, but also got back (probably to his own surprise) the hundreds of thousands of Soviet citizens in Austria and Italy who were determined not to return home but who were betrayed by the Western allies through a combination of deceit and force. No less an achievement than Stalin's have been the successes of Soviet diplomacy in recent years: for the Western world, as a single, clearly united force, no longer counterbalances the Soviet Union, indeed has almost ceased to exist. In finding the unity, steadfastness and courage to face the Second World War, and then the reserves of strength to pull itself out of postwar ruin, Europe appears to have exhausted itself for a long time to come. For no external reasons, the victorious powers have grown weak and effete.

At the peak of such staggering successes, the last thing a person wants to hear are other people's opinions and doubts. This, of course, is the worst possible time I could have chosen to approach you with advice or exhortations. For when outward successes come thick and fast, it is the hardest thing in the world to desist from piling up more, to place limitations on oneself and to change one's whole outlook.

But this is where the wise differ from the unwise: they heed advice and counsels of caution long before the need becomes overwhelming.

Furthermore, there is much about these successes that gives little cause for self-admiration. The catastrophic weakening of the Western world and the whole of Western civilisation is by no means solely due to the success of an irresistible, persistent Soviet foreign policy. It is, rather, the result of an historical, psychological and moral crisis affecting the entire culture and world outlook which were conceived at the time of the Renaissance and attained the acme of their expression with the eighteenth-century Enlightenment. An analysis of that crisis is beyond the scope of this letter.

And something else one notices—and cannot fail to notice—about our successes is two astonishing failures: at the same time as achieving all these successes we ourselves bred two ferocious enemies, one for the last war and the other for the next year—the German *Wehrmacht*, and Mao Tse-tung's China. Circumventing the Treaty of Versailles, we helped the German *Wehrmacht* train their first officers on Soviet training grounds, where they received their first experience of the theory of modern warfare, tank thrusts and airborne landings, all of which later proved very useful to them when Hitler accelerated his military preparations. And the story of how we bred Mao Tse-tung in place of a peaceable neighbour such as Chiang Kai-shek and helped him in the atomic race, is recent history, and very well known (Are we not heading for a similar failure with the Arabs also?)

And here we come to the crux of the matter we are discussing: these failures stemmed not from mistakes committed by our diplomats, nor from the miscalculations of our generals, but from an exact adherence to the precepts of Marxism-Leninism—i.e. in the first instance to harm the cause of world imperialism and in the second, to support communist movements abroad. In both cases *national* considerations were completely lacking.

I am well aware that I am talking to total realists and I shall not waste my breath on appeals such as: oh, if only we could retrieve just a little of the bumbling idealism of the old Russian diplomacy! Or: Let's do the world a favour and keep our nose out of its business. Or: Let's take a closer look at the moral foundations of our victorious foreign policy—it brings the Soviet Union power abroad, but does it bring any real benefit to her peoples?

I am talking to total realists and the simplest thing is to name the danger of which you have a much more detailed knowledge than I, for you have been looking uneasily in its direction (and rightly so) for a long time already: China.

As our proverb has it as the forest grew, so the axe handle grew with it.

In this case, 900 million axe handles.

2. WAR WITH CHINA

I hope you will not repeat the mistakes made by many of the world's rulers before you. Don't reckon on any triumphant *blitzkrieg*. You will have against you a country of almost a thousand million people, the like of which has never yet gone to war in the history of the world. The time since 1949 has evidently not been enough for the population to lose its high degree of fundamental industriousness (which is higher than ours is today), its tenacity and submissiveness; and it is firmly in the grip of a totalitarian system no whit less vigilant than ours. Its army and population will not surrender *en masse* with Western good sense, even when surrounded and beaten. Every soldier and every civilian will fight to the last bullet, the last breath. We shall have no ally in that war, none, at least, the size of, say, India. You will not, of course, be the first to use nuclear weapons; that would do irreparable damage to your reputation, which you cannot disregard, and anyway from a practical point of view still wouldn't bring you a quick victory. The opposing side is even less likely to use them, being more poorly equipped. And in general, fortunately, mankind is able to hold itself back from the ultimate brink of destruction by virtue of its simple instinct for self-preservation. Thus it was after the First World War no one dared to use chemical warfare, and thus it is, I believe, that now after the Second, no one will use nuclear weapons. So all the ruinously extravagant superstockpiling that is going on is senseless and gratifies only the boffins and the generals—this is the hard fate of those countries who have elected to be in the front ranks of the nuclear Powers. (The stockpiled weapons will never be of any use; and by the time conflict erupts they will be obsolete.)

A *conventional* war, on the other hand, would be the longest and bloodiest of all the wars mankind has ever fought. Like the Vietnam War at the very least (to which it will be similar in many ways) it will certainly last a minimum of ten to fifteen years—and incidentally will run almost exactly along the lines forecast by Amalrik, who was sent to his destruction for what he wrote instead of being invited to join the inner circle of our advisers. If Russia lost up to one and a half million people in the First World War and (according to Khruschev's figures) 20 million in the Second, then war with China is bound to cost us 60 million souls at the very least, and, as always in wars, they will be the best souls—all our finest and purest people are bound to perish there. As for the Russian people, our very last root will be extirpated. And this will be the climax of a long line of extirpations, beginning in the seventeenth-century with the extermination of the Old Believers, carrying on with Peter the Great and a string of successors (which I will also leave to one side in this letter) and ending with this, the ultimate one. After *this* war, the Russian people will virtually cease to exist on this planet. And that alone will mean the war has been lost *utterly*, irrespective of all its other consequences (for the most part dismal, including the consequences for your power, as you realise). One's heart bleeds at the thought of our young men and our entire middle generation, the finest generation, marching and riding off to die in a war. To die in an ideological war! And mainly for a dead Ideology! I think *even you* are not able to take such an awesome responsibility upon yourselves!

One aches with sympathy for the ordinary Chinese too, because it is they who will be the most helpless victims of the war. They are held in such a strait-jacket that not only can they not change their fate or discuss it in any way, they daren't even wiggle their ears.

This calamitous future, which is just around the corner at the current rate of development, weighs heavily on us creatures of the present—on those who wield power, on those who have the power of influence and on those who have only a voice to cry: there must never be such a war. This war must not happen, ever! Our task must be not to *win* the war, for no one can possibly win it, but to avoid it!

I think I can see a way. And that is why I have undertaken to write this letter today.

Why are we veering towards this war? For two reasons. One is the dynamic pressure of a China 1,000 million strong on our as yet unexploited Siberian lands—not the strip that is now being disputed on the basis of past treaties, but the whole of Siberia—to which, in our scramble for great social and even cosmic transformations, we haven't yet bent our energies. And this pressure will increase as the earth becomes increasingly overpopulated. But the main reason for this impending war, a reason that is far more powerful and indeed is the chief and insuperable one, is ideological. This should not surprise us: throughout history there have been no crueler wars and periods of civil strife than those provoked by ideological (including, alas, religious) dissensions. For fifteen years now a dispute has been going on between yourselves and the Chinese leaders over which of you best understands, expounds and propagates the doctrines of the Fathers of the Progressive World-View. And in addition to a fierce power-struggle, there is this global rivalry developing between you, this claim to be the sole true exponent of Communist doctrine and this ambition to be the one to lead all the peoples of the world after you in carrying it out.

And what do you think will happen? That when war breaks out, both the belligerents will simply fly the purity of their ideology on their flags? And that 60 million of our fellow-countrymen will allow themselves to be killed because the sacred truth is written on page 533 of Lenin and not on page 335 as our adversary claims? Surely only the very, very first of them will die for that . . .

When war with Hitler began, Stalin, who had omitted and bungled so much in the way of military preparation, did not neglect *that* side, the ideological side. And although the ideolocical grounds for that war seemed more indisputable than those that face you now (the war was waged against what appeared on the surface to be a diametrically opposed ideology), from the very first days of the war, Stalin refused to rely on the putrid, decaying prop of ideology. He wisely discarded it, all but ceased to mention it and unfurled instead the old Russian banner—sometimes indeed, the standard or Orthodoxy—and we conquered! (Only towards the end of the war and after the victory was the Progressive Doctrine taken out of its mothballs.)

So do you really think that in a conflict between similar, closely related ideologies, differing only in nuances, *you* will not have to make the same re-orientation? But by then it will be too late—military tension alone makes it very difficult.

How much wiser it would be to make *this same* turnabout today as a preventive measure. If it has to be done anyway *for a war*, wouldn't it be more sensible to do it much earlier, to avoid going to war at all?

Give them their ideology! Let the Chinese leaders glory in it for a while. And for that matter, let them shoulder the whole sackful of unfulfillable international obligations, let them grunt and heave and instruct humanity, and foot all the bills for their absurd economics (a million rubles a day just to Cuba), and let them support terrorists and guerrillas in the southern hemisphere, too, if they like.

The main source of the savage feuding between us will then melt away, a great many points of today's contention and conflict all over the world will also melt away, and a military clash will become a much remoter possibility and perhaps won't take place at all.

What we want is not eternal progress but zero growth

Take an unbiased look: the murky whirlwind kind of progressive ideology swept in on us from the West at the end of the last century, and has tormented and ravaged our soul quite enough; and if it is now veering away further east of its own accord, then let it veer away, don't try to stop it. (This doesn't mean I wish for the spiritual destruction of China. I believe that our people will soon be cured of this disease, and the Chinese too, given time; and it will not be too late, I hope, to save their country and protect humanity. But after all we have endured, it is enough for the time being for us to worry about how to save our own people.)

Ideological dissention will melt away—and there will probably never be a Sino-Soviet war. And if there should be, then it will be in the remote future and a truly defensive, truly patriotic one. At the end of the twentieth century we cannot give up Siberian territory, that's beyond all question. But to give up an ideology can only mean relief and recovery for us.

A CIVILISATION IN AN IMPASSE

A second danger is the multiple impasse in which Western civilisation (which Russia long ago chose the honour of belonging to) finds itself, but it is not so imminent; there are still two or three decades in reserve. We share this impasse with all the advanced countries, which are in an even worse and more perilous predicament than we are, although people keep hoping for new scientific loopholes and inventions to stave off the day of retribution. I would not have mentioned this danger in this letter if the solutions to both problems were not identical in many respects, if one and the same turnabout, a single decision would not deliver us from both dangers. Such a happy coincidence is rare. Let us value history's gift and not miss these opportunities.

And all this has so "suddenly" come tumbling out at mankind's feet, and at Russia's!! How fond our progressive publicists were both before and after the revolution, of ridiculing those *retrogrades* (there were always so many of them in Russia): people who called upon us to cherish and have pity on our past, even on the most god-forsaken hamlet with a couple of hovels, even on the paths that run alongside the railway track; who called upon us to keep horses even after the advent of the motor-car, not to abandon small factories for enormous plants and combines, not to discard organic manure in favour of chemical fertilisers, not to mass by the million in cities, not to clamber on top of one another in multi-storey blocks. How they laughed, how they tormented those reactionary "Slavophiles" (the jibe became the accepted term, the simpletons never managed to think up another name for themselves). They hounded the men who said that it was perfectly feasible for a colossus like Russia, with all its spiritual peculiarities and folk traditions, to find its own particular path; and that it could not be that the whole of mankind should follow a single, absolutely identical pattern of development.

No, we had to be dragged along the whole of the Western bourgeois-industrial and Marxist path in order to discover, at the end of the twentieth-century, and again from progressive Western scholars, what any village greybeard in the Ukraine or Russia had understood from time immemorial and could have explained to the progressive commentators ages ago, had the commentators ever found the time in the dizzy fever of theirs to consult him: that a dozen maggots can't go on and on gnawing the same apple *forever;* that if the earth is a *finite* object, then its expanses and resources are finite also, and the *endless, infinite* progress dinned into our heads by the dreamers of the Enlightenment cannot be accomplished on it. No, we had to shuffle on and on behind other people, without knowing what lay ahead of us, until suddenly we now hear the scouts calling to one another, we've blundered into a blind alley, we'll have to turn back. All that "endless progress" turned out to be an insane, ill-considered, furious dash into a blind alley. A civilisation greedy for "perpetual progress" has now choked and is on its last legs.

And it is not "convergence" that faces us and the Western world now, but total renewal and reconstruction in both East and West, for both are in the same impasse. All this has been widely publicised and explained in the West thanks to the efforts of the Teilhard de Chardin Society and the Club of Rome. Here, in very condensed form, are their conclusions.

Society must cease to look upon "progress" as something desirable. "Eternal progress" is a nonsensical myth. What must be implemented is not a "steadily expanding economy", but a zero growth economy, a stable economy, economic growth is not only unnecessary but ruinous. We must set ourselves the aim not of increasing national resources, but merely of conserving them. We must renounce, as a matter of urgency, the gigantic scale of modern technology in industry, agriculture and urban development (the cities of today are cancerous tumours). The chief aim of technology will now be to eradicate the lamentable results of previous technologies. The "Third World," which has not yet started on the fatal path of Western civilisation, can be saved only by "small-scale technology" which requires an increase, not a reduction, in manual labour, uses the simplest of machinery and is based purely local materials.

All the unrestrained industrial growth has taken place not over thousands or hundreds of years (from Adam to 1945) but only over the last twenty-eight years (from 1945 onwards). It is this rapidity of growth in recent years that is most dangerous for mankind. The groups of scientists I mentioned have done computer calculations based on various possible courses of economic development, and All these courses turned out to be hopeless and pointed ominously to the catastrophic destruction of mankind some time between the years 2020 and 2070 if it did not relinquish economic progress. These calculations took into consideration five main factors: population, natural resources, agricultural production, industry and environmental pollution. If the available information is to be believed, some of the earth's resources are rapidly running out: there will be no more oil in twenty years, no more copper in nineteen, no more mercury in twelve; many other resources are nearly exhausted; and energy and fresh water are very limited. But even if future prospecting uncovers reserves twice or even three times as big as those we now know about, and even if agricultural output doubles and man succeeds in harnessing unlimited nuclear energy in all cases the population will be overtaken by mass destruction in the first decades of the twenty first century; if not because of production grinding to a halt (end of resources), then because of a production surplus (destruction of the environment)—and this whatever course we take.

When everything is staked on "progress," as it is now, it is impossible to find a joint optimum solution to all five of the problems referred to above. Unless mankind renounces the notion of economic progress, the biosphere will become unfit for life even during our lifetime. And if mankind is to be saved, technology has to be adapted to a stable economy in the next twenty to thirty years, and to do that the process must be started now, immediately.

Actually, though, it is more than likely that Western civilisation will not perish. It is so dynamic and so inventive that it will ride out even this impending crisis, will break up all its age-old misconceptions and in a few years set about the necessary reconstruction. And the "Third World" will heed the warnings in good time and *not* take *the Western path at all.* This is still perfectly feasible for most of the African and many of the Asian countries (and nobody will sneer at them and call them "Negro-philes").

But what about us? Us, with our unwieldiness and our inertia, us with our flinching and inability to change even a single letter, a single syllable of what Marx said in 1848 about industrial development? Economically and physically we are perfectly capable of saving ourselves. But there is a road-block on the path to our salvation—the sole Progressive World-View. If we renounce industrial development, what about the working class, socialism, communism, unlimited increase in productivity and all the rest? Marx is not to be corrected, that's revisionism. . . .

Let's leave the Arabs to their fate—they have Islam

But you are already being called "revisionists" anyway, whatever you may do in the future. So wouldn't it be better to do your duty soberly, responsibly and firmly and give up the dead letter for the sake of a living people who are utterly dependent on your power and your decisions? And you must do it without delay. Why dawdle, if we shall have to snap out of it sometime anyway? Why repeat what others have done and loop the agonising loop right to the end, when we are not too far in it to turn back? If the man at the head of the column cries "I have lost my way," do we absolutely have to plough right on to the spot where he realised his mistake and only there turn back? Why not turn and start on the right course from wherever we happen to be?

As it is we have followed Western technology too long and too faithfully. We are supposed to be the "first socialist country in the world," one which sets an example to other people, in both the East and West and we are supposed to have been so "original" in following various monstrous doctrines—on the peasantry, on small tradesmen—so why, then, have we been so dolefully unoriginal in technology, and why have we so unthinkingly, so blindly copied Western civilisation? ("Why?" From military haste, of course, and the haste stem from our immense "international responsibilities," and all this because of Marxism again).

One might have thought that, with the central planning of which we are so proud, we of all people had the chance *not* to spoil Russia's natural beauty, *not* to create anti-human, multi-million concentration of people. But we've done everything the other way round: we have dirtied and defiled the wide Russian spaces and disfigured the heart of Russia, our beloved Moscow (what crazed, unfilial hand bulldozed the boulevards so that you can't go along them now without diving down into degrading tunnels of stone? What evil, alien axe broke up the tree-lined boulevards of the Sadavoye Kiltso and replaced them with a poisoned zone of asphalt and petrol?) The irreplaceable face of the city and all the ancient city plan have been obliterated, and imitations of the West are being slung up, like the New Arbat; the city has been so squeezed, stretched and pushed upwards that life has become intolerable—so what do we do now? Reconstruct the former Moscow in a new place? That is probably impossible. Accept, then, that we have lost it completely?

We have squandered our resources foolishly without so much as a backward glance, sapped our soil, mutilated our vast expanse with idiotic "inland seas" and contaminated belts of waste land around our industrial centres—but for the moment, at least, far more still remains untainted by us, which we haven't had time to touch. So let us come to our senses in time, let us change our course!

4. THE RUSSIAN NORTH-EAST

And here there is some extra hope for us, for there is one peculiarity, one reservation in the arguments of the scientists I mentioned earlier. That reservation is: The supreme asset of all peoples is now the Earth. The earth as open space for settling. The earth as the extent of the biosphere. The earth as a cloak over our deeply buried resources. The earth as fertile soil. Nevertheless, the prognoses for fertility are gloomy too: land resources averaged out over the planet as a whole—and any rises in fertility will be exhausted by the year 2000, and if agricultural output can be *doubled* (not by the collective farms, of course, not by us), fertility, *on average for the planet as a whole,* will still be exhausted by 2030. But there are four fortunate countries still abundantly rich in untapped land even today. They are: Russia (that is not a slip of the tongue: it is precisely the RSFSR that I mean), Australia, Canada, and Brazil.

And herein lies Russia's hope for winning time and winning salvation: in our vast north-eastern spaces, which over four centuries our sluggishness has prevented us from mutilating by our mistakes, we can build *anew:* not the senseless, voracious civilisation of "progress"—no; we can set up a *stable* economy without pain or delay and settle people there for the first time according to the needs and principles of that economy. These spaces allow us to hope that we shall not destroy Russia in the general crisis of Western civilisation. (And there are many lands nearer to us that have been lost through collective farm neglect.)

Let us, without any dogmatic preconceptions, recall Stolypin and give him his due. Speaking in the state Duma in 1908 he said prophetically: "The land is a guarantee of our strength in the future, the land is Russia." And on the subject of the Amur railway: "If we remain plunged in our lethargic sleep, these lands will be running with foreign sap, and when we wake up they will perhaps be Russian only in name."

Today, because of the confrontation with China, this danger is spreading until it threatens virtually the whole of our Siberia. Two dangers merge, but by a stroke of good fortune, a single way out of both of them presents itself: throw away the dead ideology that threatens to destroy us militarily and economically, throw away all its fantastic alien global missions and concentrate on opening up (on the principles of a stable, nonprogressive economy) the Russian North-East—the north-east of the European part and the north of the Asian part and the main Siberian massif. We shall not nurture hopes—we shall not hasten the cataclysm which is perhaps ripening, perhaps will even come to pass in the Western countries. These hopes may be deceived, just as the hopes for China were in the 1940s, if new social systems are created in the West, they may prove even harsher and more unfriendly to us than the present ones. And let's leave the Arabs to their fate, they have Islam, they'll sort themselves out. And let's leave South America to itself, nobody is threatening to take it over. And let's leave Africa to find out for itself how to start on an independent road to statehood and civilisation, and simply wish it the good fortune not to repeat the mistakes of "uninterrupted progress." For half a century we have busied ourselves with world revolution, extending our influence over Eastern Europe and over other continents; with the reform of agriculture according to ideological principles; with the annihilation of the land-owning classes; with the eradication of Christian religion and morality; with the useless show of the space race; with arming ourselves and others whenever they want it; with everything and anything, in fact, but developing and tending our country's chief asset, the North-East. Our people are not going to live in space, or in South-East Asia, or Latin America: it is Siberia and the North that are our hope and our reservoir.

It may be said that even there we have *done* a lot, built a lot, but we have done less of building than destroying people, as it was with the "death road" from Salekhard to Igarka (but let's not go through all those prison camp stories again here). Building the railway round Lake Baikal so that it became flooded, and sending the loop line senselessly through the mountains, so that the bracken burned, building things like the pulp mills on Lake Baikal and the Selenga River, the quicker to profit and poison—we would have done better to wait a while. In terms of the speed of development in this century we have done very little in the North-East. But today we can say: how fortunate that it *is* so little, for now we can do everything rationally, right from the start, according to the principles of a stable economy. Today that "little" is still fortunate; but in a very short time it will already be a disaster.

We have lost half of our entire people

And what irony: for a half a century, since 1920, we have proudly (and rightly) refused to entrust the exploitation of our natural resources to foreigners—this may have looked like budding national aspirations. But we went on and on dragging our feet and wasting more and more time. And suddenly now, when it has been revealed that the world's energy resources are drying up, we, a great industrial super-power, like the meanest of backward countries, invite foreigners to exploit our mineral wealth and, by way of payment, suggest that they carry off our priceless treasure, Siberian natural gas—for which our children will curse us in half a generation's time as irresponsible prodigals. (We would have had plenty of other fine goods to barter if our industry had not also been built chiefly on . . . ideology. Once again ideology stands in the way of our people!)

I would not consider it moral to recommend a policy of saving only ourselves, when the difficulties are universal, had our people not suffereed more in the twentieth century, as I believe they have, than any other people in the world. *In addition to* the toll of two world wars, we have lost, as a result of civil strife and tumult alone—as a result of internal political and economic "class" extermination alone—66 (sixty six) million people!!! That is the calculation of a former Leningrad professor of statistics, I. A. Kurganov, and you can have it brought to you whenever you wish. I am no trained statistician, I cannot undertake to verify it; and anyway all statistics are kept secret in our country, and this is an indirect calculaation. But it's true: a hundred million *are no more* (exactly *a hundred*, just as Dostoyevsky prophesied!), and with and without we have lost *one third* of the population we could have now had and almost *a half* of the one we in fact have! What other people has had to pay such a price? After *such* losses, we may permit ourselves a little luxury, the way an invalid is given a rest after a serious illness. We need to heal our wounds, cure our national body and national spirit. Let us find the strength, sense, and courage to put our own house in order before we busy ourselves with the cares of the entire planet.

And once again, by a happy coincidence, the whole world can only gain by it.

Another moral objection may be raised: that our North-East is not entirely Russia's, that a historical sin was committed in conquering it; large numbers of the local inhabitants were wiped out (but nothing to compare with our own recent self-extermination) and others were harried. Yes, it was so, it happened in the sixteenth century, but there is nothing whatsoever we can do now to rectify *that*. Since then, these spreading expanses have remained almost unpeopled, or even entirely so. According to the census the people of the North number 128,000 in all, thinly scattered and strung out across vast distances. We would not be crowding them in the slightest by opening up the North. Quite the contrary, we are now sustaining their way of life and their existence as a matter of course; they seek no separate destiny for themselves and would be unable to find one. Of all the ethnic problems facing our country, this is the least; it hardly exists.

And so there is one way out for us (and the sooner we take it, the more effective it will be), namely, for the state to switch its attention away from distant continents—and even away from Europe and the south of our country—and make the North-East the centre of national activity and settlement and a focus for the aspirations of young people. (Of course, a switch of this kind would oblige us sooner or later to withdraw our protective surveillance of Eastern Europe. Nor can there be any question of any peripheral nation being forcibly kept within the bounds of our country.)

5. INTERNAL, NOT EXTERNAL DEVELOPMENT

This switching of the focus of our attention and efforts will need to take place, of course, in more than just the geographical sense: not only from external to internal land masses, but also from external to internal problems—in all senses, from outer to inner. The actual—not the ostensible—condition of our people, our families, our schools, our nation, our spirit, our life-style and our economy demands this of you.

The sickening roar in our skies shatters rest, sleep, and nerves

Let us begin at the end, with agriculture. It is a paradox, impossible to believe: that such a great power, one of such military might and with such brilliant foreign policy successes, should be in such an impasse, and in such desperate straits with its economy. Everything we have achieved here has been gained not by brains, but by numbers, that is, through the extravagant expenditure of human energies and material. Everything we create costs us far more than it is worth, but the state allows itself to disregard the expense. Our "ideological agriculture" has already become the laughing-stock of the entire world, and with the worldwide shortage of food-stuffs it will soon be a burden on it as well. Famine rages in many parts of the world, and will rage even more fiercely because of over-population; scarcity of land, and the problems of emergence from colonialism. In other words, people cannot produce the grain. We, who should be able to, however, don't produce enough, or we shudder after one year of drought (and doesn't the history of farming tell us of cases of seven years in succession?) And all because we *won't* admit our blunder over the collective farms. For centuries, Russia *exported* grain, ten to twelve million tons a year just before the First World War, and here we are after fifty-five years of the new order and forty years of the much-vaunted collective farm system, forced to *import* twenty million tons per year! It's shameful—it really is time we came to our senses! The village, for centuries the mainstay of Russia, has become its chief weakness! For too many decades we have sapped the collectivised village of all its strength, driven it to utter despair, and now at last we have begun *giving back* its treasures and paying it fair prices—but too late. Its interest and faith in its work have been drained. As the old saying goes: Rebuff a man and riches won't buy him back. With the impending worldwide shortage of grain there is only one way for us to fill the people's bellies: give up the forced collective farms and leave just the voluntary ones. And set up in the wide open spaces of our North-East (at great expense, of course) the kind of agricultural system that will feed us at a natural economic tempo, and not flood us with Party agitators and mobilised labour from the towns.

I assume you know (it's obvious from your decrees) about the state of affairs throughout our national economy and throughout our gargantuan civil service: people don't put any effort at all into their official duties and have no enthusiasm for them, but cheat (and sometimes steal) as much as they can and spend their office hours doing private jobs (they're forced to, with wages as low as they are today; for nobody is strong enough and no life-time long enough to earn a living from wages alone). Everybody is trying to make money for less work. If this is the mood of the nation, what sort of time scale can we work to for saving the country?

But even more destructive is vodka. That's something else you know about, there was even that decree of yours—but did it change anything? So long as vodka is an important item of State revenue nothing will change, and we shall simply go on ravaging the people's vitals (when I was in exile I worked in a consumers' co-operative and I distinctly remember that vodka amounted to 60–70 per cent of our turnover).

Bearing in mind the state of people's morals, their spiritual condition and their relations with one another and with society, all the material achievements we trumpet so proudly are petty and worthless.

When we set about what, in geographical terms, we shall call the opening up of the North-East, and in economic terms the building of a stable economy, and when we tackle all the technical problems (construction, transport and social organisation), we must also recognise, inherent in all these aspects, the existence of a moral dimension. The physical and spiritual health of the people must be at the heart of the entire exercise, including every stage and part.

The construction of more than half our state in a fresh new place will enable us to avoid repeating the disastrous errors of the twentieth century—industry roads and cities for example. If we are to stop sweating over the short-term economic needs of today and create a land of clean air and clean water for our children, we must renounce many forms of industrial production which result in toxic waste. Military obligations dictate, you say? But in fact we have only one-tenth of the military obligations that we pretend to have; or rather that we intensively and assiduously create for ourselves by inventing interests in the Atlantic or Indian oceans. For the next half-century our only genuine military need will be to defend ourselves against China, and it would be better not to go to war with her at all. A well-established North-East is also our best defence against China. No one else on earth threatens us, and no one is going to attack us. For peacetime we are armed to excess several times over; we manufacture vast quantities of arms that are constantly having to be exchanged for new ones; and we are training far more manpower than we require who will anyway be past the age for serving by the time the military need arises.

From all sides except China we have ample guarantees of security for a long time to come, which means that we can make drastic cuts in our military investment for many years ahead and throw the released resources into the economy and reorganising our life. For technological extinction is no less a threat than war.

The time has also come to exempt the youth of Russia from universal, compulsory military service, which exists neither in China, nor in the United States, nor in any other large country in the world. We maintain this army solely out of military and diplomatic vanity—for reasons of prestige and conceit; also for expansion abroad, which we must give up if we are to achieve our own physical and spiritual salvation; and finally in the misguided notion that the only way to *educate* young men to be of use to the state is to have them spend years going through the mill of army training. Even if it is ever acknowledged that we cannot secure our defence otherwise than by putting *everybody* through the army, the period of service could nevertheless be greatly reduced and army "education" humanised. Under the present system, we as people lose *inwardly* far more than what we gain from all these parades.

In reducing our military forces we shall also deliver our skies from the sickening roar of aerial armadas—day and night, all the hours that God made, they perform their interminable flights and exercises over our broad lands, breaking the sound barrier, roaring and booming, shattering the daily life, rest, sleep and nerves of hundreds of thousands of people, effectively addling their brains by screeching overhead (all the big bosses ban flights over their country estates); and all this has been going on for decades and has nothing at all to do with saving the country—it is a futile waste of energy. Give the country back a healthy *silence*, without which you cannot begin to have a healthy people.

The urban life which by now as much as half our population is doomed to live, is utterly unnatural—and you agree entirely, everyone of you, for every evening with one accord you all escape from the city to your dachas in the country. And you are all old enough to remember our old towns—towns made for people, horses, dogs—and the trams too; towns which were humane, friendly, cosy places, where the air was always clean, which were snow-clad in winter and in spring redolent with garden aromas streaming through the fences into the streets. There was a garden to almost every house and hardly a house more than two stories high—the pleasantest height for human habitation. The inhabitants of those towns were not nomads, they didn't have to decamp twice a year to save their children from a blazing inferno. An economy of *non*-giantism with small-scale, though highly developed, technology will not only allow for but will necessitate the new building of towns in the *old* style. And we can perfectly well set up road barriers at all the entrances and admit horses, and electric accumulator engines, but not poisonous internal combustion engines, and if anybody has to dive underground at crossroads, let it be the vehicles, and not the old, the young and the sick.

God forbid war between communist super-powers

These are the sort of towns that should adorn our frost-bitten North-East when it has been thawed out, and let that cosmic expenditure on space research be poured into the thawing-out process instead.

It's true that there was another special feature of the old Russian towns, a spiritual one which made life there enjoyable even for the most highly educated and which meant they didn't have to conglomerate in a single capital city of seven million: many provincial towns—not just Irkutsk, Tomsk, Saratov, Yaroslavl and Kazan, but many besides—were important cultural centres *in their own right*. But is it conceivable nowadays that we would allow any centre of independent activity and thought to exist outside Moscow? Even Petersburg has quite lost its lustre. There was a time when a unique and tremendously valuable book might be published in some little place like Vyshni Volochek—could our *ideology* conceivably allow that now? The present-day centralisation of all forms of life of the mind is a monstrosity amounting to spiritual murder. Without these sixty or eighty towns Russia does not exist as a country but is merely some sort of inarticulate rump. So here again, at every step and in every direction, it is IDEOLOGY that prevents us from building a healthy Russia.

A man's mental and emotional condition is inextricably linked with every aspect of his daily life. People who are forced to drive caterpillar tractor or massive-wheeled lorries down grassy byways and country lanes ill-suited and unprepared for them, churning up everything in their path, or who, out of greed, jolt a whole village awake at first light with the frenzied revving of a chainsaw, become brutal and cynical. It is no accident either that there are these innumerable drunks and hooligans who pester women in the evenings and when they are not at work; if no police force can handle them, still less are they going to be restrained by an *ideology* that claims to be a substitute for morality. Having spent a fair amount of time working both in village and town schools, I can confidently state that our educational system is a poor teacher and a bad educator, and merely cheapens and squanders the childhood and hearts of our young people. Everything is so organised that the pupils have no reason at all to respect their teachers. Schooling will be genuine only when people of the highest calibre and with a real vocation go into teaching. But to achieve this we will have to expend untold energy and resources—and pay our teachers much better and make their position less humiliating. At the moment the teacher training institute has the least prestige of almost all the institutes and grown men are ashamed to be school teachers. School-leavers rush into military electronics like flies to a honey pot—is it really for such sterile pursuits that we have been developing these last eleven hundred years?

Apart from not getting what they need from the schools, our future citizens don't get much from the family either. We are always boasting about our equality for women and our kindergartens but we hide the fact that all this is just a substitute for the family we have undermined. Equality for women doesn't mean that they have to occupy *the same number* of factory jobs and office positions as men, but just that all these posts should in principle be equally open to women. In practice, a man's wage level ought to be such that whether he has a family of two or even four children, the woman *does not need* to earn a separate pay-packet and *does not need* to support her family financially on top of all her other toils and troubles. In pursuit of the five-year plans and more manpower we have never given our men the right sort of wages, with the result that the undermining and destruction of the family is part of the terrible prices we have paid for those five-year plans.

How can one fail to feel shame and compassion at the sight of our women carrying heavy barrows of stones for paving the street or for spreading on the tracks of our railway lines? When we contemplate such scenes, what more is there to say, what doubt can there possibly be? Who would hesitate to abandon the financing of South American revolutionaries in order to free our women from this bondage? Almost every sphere of activity is neglected and in desperate needs of funds, hard work and perseverence. Nor is *leisure* time an exception, reduced as it is to television, cards, dominoes and that same old vodka; and if anybody *reads*, it is either sport or spy stories, or else that same old Ideology in newspaper form. Can this really be that seductive socialism-cum-communism for which all those people laid down their lives, and for which 60 to 90 million perished?

The demands of *internal* growth are incomparably more important to us, as a people, than the need for any *external* expansion of our power. The whole of world history demonstrates that the peoples who created empires have always suffered spiritually as a result. The aims of a great empire and the moral health of the people are incompatible. We should not presume to invent international tasks and bear the cost of them so long as our people is in such moral disarray and we consider ourselves to be its sons.

And should we not also give up our Mediterranean aspirations while we are about it? But to do that, we must first of all give up our ideology.

This ideology that fell to us by inheritance is not only decrepit and hopelessly antiquated now; even during its best decades it was totally mistaken in its predictions and was never a science.

6. IDEOLOGY

A primitive, superficial economic theory, it declared that only the worker creates value and failed to take into account the contribution of either organisers, engineers, transport or marketing systems. It was mistaken when it forecast that the proletariat would be endlessly oppressed and would never achieve anything in a bourgeois democracy—if only we could shower people with as much food, clothing and leisure as they have gained under capitalism! It missed the point when it asserted that the prosperity of the European countries depended on their colonies—it was only after they had shaken the colonies off that they began to accomplish their "economic miracles." It was mistaken through and through and its prediction that socialists could only ever come to power by an armed uprising. It miscalculated in thinking that the first uprisings would take place in the advanced industrial countries—quite the reverse.

And the picture of how the whole world would rapidly be overtaken by revolutions and how states would soon wither away was sheer delusion, sheer ignorance of human nature. And as for wars being characteristic of capitalism alone and coming to an end when capitalism did—we have already witnessed the longest war of the twentieth century so far, and it was not capitalism that rejected negotiations and a truce for fifteen to twenty years; and God forbid that we should witness the bloodiest and most brutal of all mankind's wars—a war between two communist super-powers. Then there was nationalism, which this theory also buried in 1848 as a "survival"—but find a stronger force in the world today. And it's the same with many other things too boring to list.

Marxism is not only not accurate, not only not a science, has not only failed to predict a *single event* in terms of figures, quantities, time-scales or locations (something that electronic computers today do with laughable ease in the course of social forecasting, although never with the help of Marxism)—it absolutely astounds one by the *economic* and mechanistic crudity of its attempts to explain that most subtle of creatures, the human being, and that even more complex synthesis of millions of people, society. Only the cupidity of some, the blindness of others and a craving for *faith* on the part of still others can serve to explain this grim humour of the twentieth century: how can such a discredited and bankrupt doctrine still have so many followers in the West! In *our* country there are fewest of all left. *We* who have had a taste of it are only pretending willy-nilly. . . .

We have seen above that it was not your common sense, but that same antiquated legacy of the Progressive Doctrine that endowed you with all the millstones that are dragging you down; first collectivisation; then the nationalisation of small trades and services (which has made the lives of ordinary citizens unbearable—but you don't feel that yourselves; which has caused thieving and lying to pile up and up even in the day-to-day running of the country—and you are powerless against it), then the need to inflate military development for the sake of making grand international gestures, so that the whole internal life of the country is going down the drain and in fifty years we haven't even found the time to open up Siberia; then the obstacles in the way of industrial development and technological reconstruction; then religious persecution, which is very important for Marxism*, but senseless and self-defeating for pragmatic state leaders—to set useless good-for-nothings to hounding their most conscientious workers, innocent of all cheating and theft, and as a result to suffer from universal cheating and theft. For the believer his faith is *supremely* precious, more precious than the food he puts in his stomach.

Have you ever paused to reflect on why it is that you deprive these millions of your finest subjects of their homeland? All this can do you as the leaders of the state nothing but harm, but you do it mechanically, automatically, because Marxism insists that you do it. Just as it insists that you, the rulers of a superpower, deliver accounts of your activities to outlandish visitors from distant parts—leaders of uninfluential, insignificant communist parties from the other end of the globe preoccupied least of all with the fortunes of Russia.

Let's shake off this sweaty shirt of ideology

To someone brought up on Marxism it seems a terrifying step—suddenly to start living without the familiar ideology. But in point of fact you have no choice, circumstances themselves will force you to do it, and it may already be too late. In anticipation of an impending war with China, Russia's national leaders will in any case have to rely on patriotism, and patriotism alone. When Stalin initiated such a shift during the war—remember?—nobody was in the least surprised and nobody shed a tear for Marxism—everyone took it as the most natural thing in the world, something they recognised as Russian! It is only prudent to redeploy one's forces when faced by a great danger—but sooner rather than later. In any event, this process of repudiation, though tentative, began long ago in our country, for what is the "combination" of Marxism and patriotism but a meaningless absurdity? These two points of view can be "merged" only in generalised incantations, for history has shown us that in practice they are always diametrically opposed. This is so obvious that Lenin in 1915 actually proclaimed: "We are anti-patriots." And that was the honest truth. And throughout the 1920s in our country the word "patriot" meant exactly the same as "White Guard." And the whole of this letter that I am now putting before you is patriotism, which means rejection of Marxism. For Marxism orders us to leave the North East unexploited and to leave our women with their crowbars and shovels, and instead finance and expediate world revolution.

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*Sergei Bulgakov showed in "Karl Marx as a Religious Type" (1906) that atheism is the chief inspirational and emotional hub of Marxism and that all the rest of the doctrine has simply been tacked on. Ferocious hostility to religion is Marxism's most persistent feature.

Beware when the first cannons fire on the Sino-Soviet border lest you find yourselves in a doubly precarious position because the national consciousness in our country has become stunted and blurred—witness how mighty America lost to tiny North Vietnam, how easily the nerves of American society and American youth gave way, precisely because the United States has a weak and undeveloped national consciousness. Don't miss the chance while you've got it!

The step seems a hard one at first, but in fact, once you have thrown off this rubbishy ideology of ours, you will quickly sense a huge relief and become aware of a relaxation in the entire structure of the state and in all the processes of government. After all, this ideology, which is driving us into a situation of acute conflict abroad, has long ceased to be helpful to us here at home, as it was in the twenties and thirties. In our country today nothing constructive rests upon it, it is a sham, cardboard, theatrical prop—take it away and nothing will collapse, nothing will even wobble. For a long time now, everything has rested solely on material calculation and the subjection of the people, and not on any upsurge of ideological enthusiasm, as you perfectly well know. This ideology does nothing now but sap our strength and bind us. It clogs up the whole life of society—minds, tongues, radio and press, with lies, lies, lies. For how else can something dead pretend that it is living except by erecting a scaffolding of lies. Everything is steeped in lies and everybody knows it—and says so openly in private conversation, and jokes and moans about it, but in their official speeches they go on hypocritically parroting what they are "supposed to say," and with equal hypocrisy and boredom read and listen to the speeches of others! How much of society's energy is squandered on this! And you, when you open your newspapers or switch on your television—do you yourselves really believe for one instant that these speeches are sincere? No, you stopped believing long ago. I am certain of it. And if you didn't, then you must have become totally insulated from the inner life of the country.

This universal, obligatory force-feeding with lies is now the most agonizing aspect of existence in our country—worse than all our material miseries, worse than any lack of civil liberties.

All these arsenals of lies, which are totally unnecessary for our stability *as a state*, are levied as a kind of tax for the benefit of Ideology—to nail down events as they happen and clamp them to a tenacious, sharp-clawed but dead Ideology: and it is precisely because our state, through sheer force of habit, tradition and inertia, continues to cling to this false doctrine with all its tortuous aberrations, that it needs to put the dissenter behind bars. For a false ideology can find no other answer to argument and protest than weapons and prison bars.

Cast off this cracked ideology! Relinquish it to your rivals, let it go wherever it wants, let it pass from our country like a storm-cloud, like an epidemic, let others concern themselves with it and study it, just so long as we don't! In ridding ourselves of it we shall also rid ourselves of the need to fill our life with lies.

Let us pull off and shake off from all of us this filthy, sweaty shirt of Ideology which is now so stained with the blood of those 66 million that it prevents the living body of the nation from breathing. This Ideology bears the entire responsibility for all the blood that has been shed. Do you need me to persuade you to throw it off without more ado? Whoever wants can pick it up in our place.

I am certainly not proposing that you go to the opposite extreme and persecute or ban Marxism, or even argue against it (nobody will argue against it for very long, if only out of sheer apathy). All I am suggesting is that you rescue yourselves from it, and rescue your state system and your people as well. *All you have to do* is deprive Marxism of its powerful state support and let it exist by itself and stand on its own feet. And let all who wish to do so make propaganda for it, defend it and din it into others without let or hindrance—but outside working hours and *not on state salaries.* In other words, the whole *agitprop* system of agitation and propaganda must cease to be paid for out of the nation's pocket. This should not anger or antagonize the numerous people who work in *agitprop*: this new statute would free them from all possible insulting accusations of self-interest and give them for the first time the opportunity to prove the true strength of their ideological convictions and sincerity. And they could only be overjoyed with their new twofold commitment: to undertake productive labour for their country, to produce something of practical value on weekdays in the daytime (and whatever work they chose in place of their present occupation would be much more productive for the work they do now is useless, if not positively detrimental), and in the evenings, on free days and during their holidays, to devote their leisure to propagating their beloved doctrine, revelling selflessly in the truth! After all, that is exactly what our believers do (while being persecuted for it, too) and they consider it spiritually satisfying. What a marvelous opportunity. I will not say to test but to prove the sincerity of all those people who have been haranguing the rest of us for decades.

7. BUT HOW CAN ALL THIS BE MANAGED?

Having said all that, I have not forgotten for a moment that you are total realists—that was the starting-point of this discussion. You are realists *par excellence,* and you will not allow the power to slip out of your hands. That is why you will not willingly tolerate a two party or multiparty parliamentary system in our country, will not tolerate *real* elections, at which people might not vote you in. And on the basis of realism one must admit that this will be within your power for a long time to come.

A long time—but not for ever.

Many workers grab what they can for themselves

Having proposed a dialogue on the basis of realism, I too must confess that from my experience of Russian history I have become an opponent of all revolutions and all armed convulsions, including future ones—both those you crave (*not* in our country) and those you fear (*in* our country). Intensive study has convinced me that bloody mass revolutions are always disastrous for the people in whose midst they occur. And in our present-day society I am by no means alone in that conviction. The sudden upheaval of any hastily carried out change of the present leadership (the whole pyramid) might provoke only a new and destructive struggle and would certainly lead to only a very dubious gain in the quality of the leadership.

In such a situation what is there left for *us* to do? Console ourselves by saying "sour grapes." Argue in all sincerity that we are not adherents of that turbulent "democracy run riot" in which once every four years the politicians, and indeed the entire country nearly kill themselves over an electoral campaign, trying to gratify the masses (and this is something which not only internal groups but also foreign governments have repeatedly played on); in which a judge, flouting his obligatory independence to pander to the passions of society, acquits a man who, during an exhausting war, steals and publishes War Ministry documents? While even in an established democracy, we can see many instances when a fatal course of action is chosen as a result of self-deception, or of a random majority caused by the swing of a small and unpopular party between two big ones—and it is this insignificant swing, which in a way expresses the will of the majority (and even the will of the majority is not immune to misdirection), which decides vitally important questions in national and sometimes even world politics. And there are very many instances today of groups of workers who have learned to grab as much as they can for themselves whenever their country is going through a crisis, even if they ruin the country in the process. And even the most respected democracies have turned out to be powerless against a harmful of miserable terrorists.

Yes, of course: freedom is moral. But only if it keeps within certain bounds, beyond which it degenerates into complacency and licentiousness.

And *order* is not immoral, if it means a calm and stable system. But order too has its limits, beyond which it degenerates into arbitrariness and tyranny.

Here in Russia, for sheer lack of practice, democracy survived for only eight months—from February to October 1917. The emigré groups of Constitutional Democrats and Social Democrats still pride themselves on it to this very day and say that outside forces brought about its collapse. But in reality that democracy was their disgrace, they invoked it and promised it so arrogantly, and then created a chaotic caricature of democracy, because first of all they turned out to be ill-prepared for it themselves, and then Russia was worse prepared still. Over the last half-century Russia's preparedness for democracy, for a multi-party parliamentary system, could only have diminished. I am inclined to think that its sudden reintroduction now would merely be a melancoly repetition of 1917.

Should we record as our democratic tradition the Land Assemblies of Moscovite Russia, Novgorod, the early Cossacks, the village commune? Or should we console ourselves with the thought that for a thousand years Russia lived with an authoritarian order—and at the beginning of the twentieth century, both the physical and spiritual health of her people were still intact?

However, in those days an important condition was fulfilled, that authoritarian order possessed a strong moral foundation, embryonic and rudimentary though it was—not the ideology of universal violence, but Christian Orthodoxy, the ancient, seven centuries old Orthodoxy of Sergei Radonezhsky and Nil Sorsky, before it was battered by Patriarch Nikon and bureaucratised by Peter the Great. From the end of the Moscow period and throughout the whole of the Petersburg period, once this moral principle was perverted and weakened, the authoritarian order, despite the apparent external successes of the state gradually went into a decline and eventually perished.

But even the Russian intelligentsia, which for more than a century has invested all its strength in the struggle with an authoritarian regime—what has it achieved for itself or the common people—by its enormous losses? The opposite of what it intended, of course. So should we not perhaps acknowledge that for Russia this path was either false or premature? That for the foreseeable future, perhaps, whether we like it or not, whether we intend it or not, Russia is nevertheless destined to have an authoritarian order? Perhaps this is all that she is ripe for today?

Everything depends upon what sort of authoritarian order lies in store for us in the future. It is not authoritarianism itself that is intolerable, but the ideological lies that are daily foisted upon us. Not so much authoritarianism as arbitrariness and illegality, the sheer illegality of having a single overlord in each district, each province and each sphere, often ignorant and brutal, whose will alone decides all things. An authoritarian order does not necessarily mean that laws are unnecessary or that they exist only on paper, or that they should not reflect the notions and will of the population. Nor does it mean that the legislative, executive and judicial authorities are not independent, any of them, that they are in fact not authorities at all but utterly at the mercy of a telephone call from the only true, self-appointed authority. May I remind you that the Soviets, which gave their name to our system and existed until 6 July 1918, were in no way dependent upon ideology. Ideology or no Ideology, they always envisaged the widest possible consultation with all working people.

Would it be still within the bounds of realism or a lapse into daydreams if we were to propose that at least some of the real power of the Soviets be restored? I do not know what can be said on the subject of our constitution: from 1936 it has not been observed for a single day, and for that reason does not appear to be viable. But perhaps even the constitution is not beyond all hope?

Still keeping within the limits of strict realism, I do not suggest that you alter the disposition of the leadership which you find so convenient.

But take all whom you regard as the active and desirable leadership, and transform them en bloc into a Soviet system. And from then onwards let posts in the state service no longer depend on party membership as they do now. In doing so you can clear your party of the accusation that people join it only to further their careers. Give to some of your other hard-working fellow-countrymen the chance to move up the rungs without having to have a party card—you will get good workers, and only in the disinterested will remain in the party. You will, of course, want to keep your party a strong organisation of like-minded confederates and keep your special meetings conspiratorial and "closed" to the masses. But at least let your party, once it has relinquished its Ideology, renounce its unattainable and irrelevant missions of world domination, and instead fulfill its national missions and save us from war with China and from technological disaster. These goals are both noble and attainable.

What have you to fear? Is it so terrible?

We must not be governed by considerations of political giantism, nor concern ourselves with the fortunes of other hemispheres; this we must renounce for ever, for that bubble is bound to burst—the other hemispheres and the warm oceans will in any case develop without us in their own way, and no one can control this development from Moscow or predict it even in 1973, much less could Marx have done so back in 1848. The considerations which guide our country must be these: to encourage the inner, the moral, the healthy development of the people; to liberate women from the forced labour of money-earning—especially from the crowbar and shovel; to improve schooling and children's upbringing; to save the soil and the waters and all of Russian nature; to re-establish healthy cities and complete the conquest of the North East. Let us hear no more about outer space and the cosmos, no more historic victories of universal significance, and no more dreaming up of international missions: other nations are no whit more stupid than we are, and China has money and divisions to spare—let her have a try.

Stalin taught us—you and all of us—that kind-heartedness was a "very dangerous thing," meaning that kind-hearted rulers were a very dangerous thing! He had to say that because it fitted in with his scheme of exterminating millions of his subjects. But if you have no such aim, disavow his accursed teaching! Let it be an authoritarian order, but one founded not on an inexhaustible "class hatred" but on love of your fellow men—not of your immediate entourage but sincere love for your whole people. And the very first mark that distinguishes this path is magnanimity and mercy shown to captives. Look back and contemplate the horror: from 1918 to 1954 and from 1958 to the present day not one person in our country has been released from imprisonment as a result of a humane impulse! If the odd one has occasionally been let out, it has been out of barefaced political calculation: either the man's spirit is completely broken or else the pressure of world opinion has become intolerable. Of course, we shall have to renounce, once and for all, the psychiatric violence and secret trials, and that brutal, immoral bag of camps where those who have erred and fallen by the wayside are still further maimed and destroyed.

So that the country and people do not suffocate, and so that they all have the chance to develop and enrich us with ideas, allow competition on an equal and honourable basis—not for power, but for truth—between all ideological and moral currents, in particular between all *religions*: there will be nobody to persecute them if their tormentor, Marxism, is deprived of its state privileges. But allow competition honestly, not the way you do now, not by gagging people; allow it to religious youth organisations (which are totally non-political; let the Komsomol be the only political one), grant them the right to instruct and educate children, and the right to free parish activity. (I myself see Christianity today as the only living spiritual force capable of undertaking the spiritual healing of Russia. But I request and propose no special privileges for it, simply that it should be treated fairly and not suppressed.) Allow us a free art and literature, the free publication not just of political books—God preserve us!—and exhortations and election leaflets; allow is philosophical, ethical, economic and social studies, and you will see what a rich harvest it brings and how it bears fruit—for the good of Russia. Such an abundant and free flowering of inspiration will rapidly absolve us of the need to keep on belatedly translating new ideas from Western languages, as has been the case for the whole of the last fifty years—as you know.

What have you to fear? Is the idea really so terrible? Are you really so unsure of yourselves? You will still have absolute and impregnable power, a separate, strong and exclusive party, the army, the police force, industry, transport, communications, mineral wealth, a monopoly of foreign trade, an artificial rate of exchange for the trouble—but let the people breathe, let them think and develop! If you belong to the people heart and soul, there can be nothing to hold you back!

After all, does the human heart not still feel the need to atone for the past?

Perhaps it will seem to you that I have deviated from my initial platform of realism? But I shall remind you of my original assumption that you are not alien to your fathers, your grandfathers, and the expanses of Russia. I repeat: the wise heed advice long before the need becomes overwhelming.

You may dismiss the counsels of some lone individual, some writer, with laughter or indignation. But with each passing year—for different reasons, at different times and in different guises—life itself will keep on thrusting exactly the same suggestion at you, exactly the same. Because this is the only feasible and *peaceful* way in which you can save our country and our people.

Soviet Russia is 55—and so am I

And yourselves into the bargain. For the hour of peril will come, and you will appeal to your people once more, not to world communism. And even your own fate—yes, even *yours!*—will depend on you.

Of course, decisions like these are not made overnight. But now you still have the opportunity to make the transition calmly, over the next three years perhaps—or five, or even ten, allowing for the whole process. But that is only if you make a start now, only if you make up your minds this moment. For the demands life is going to make on you later will be even harsher and more pressing.

Your dearest wish is for our state structure and our ideological system never to change, to remain as they are for centuries. But history is not like that. Every system either finds a way to develop or else collapses.

It is impossible to run a country like Russia according to the passing needs of the day: in 1942 to condemn Nehru and his national liberation movement is a clique (for undermining the military efforts of our allies the English), and in 1956 to exchange kisses with him. And the same with Tito and with many, many others. To run a country like Russia you need to have a national policy and to feel constantly at your back all the eleven hundred years of its history, not just the last fifty-five—five per cent.

You will have noticed, of course, that this letter pursues no personal aims. I have long since outgrown your shell anyway and my writings will be published irrespective of any sanction or prohibition by you. All I had to say is now said. I too am fifty-five, and I think I have amply demonstrated that I set no store by material wealth and am prepared to sacrifice my life. To you such a version of life is a rarity—but here it is for you to behold.

In writing this letter I too am taking upon myself a heavy responsibility to Russian history. But not to take upon oneself the task of seeking a way out, not to undertake anything at all, is an even greater responsibility.

A. SOLZHENITSYN.

September 5, 1973.

LITHUANIAN INDEPENDENCE DAY

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 6, 1974

Mr. HELSTOSKI. Mr. Speaker, the Lithuanian people have a glorious history which dates back to the 12th century, and February 16, 1974 was the day on which Lithuanians throughout the world observed the 56th anniversary of the Declaration of Independence of Lithuania.

The only country where the people were unable to celebrate this historic event was in Lithuania itself because of the continuing subjugation and oppression by the Soviet Union. However, the Soviets are unable to suppress the aspirations of the Lithuanian people for freedom and the exercise of their human rights as demonstrated by the events of recent years.

The brave people of the Baltic republic, just as those of other nations subjugated by Soviet imperialism have suffered untold hardships since their unjust annexation by Soviet Russia in 1940. But they have also demonstrated a remarkable courage and devotion to the cause of freedom and true democracy.

I sincerely hope that our interest in their great and proud nation will not end within our profound expressions of sympathy and admiration. I think they are entitled to more than that. I sincerely believe that we, by positive action, will support efforts to maintain the universal principles of independence, personal liberty, and human dignity and demonstrate that we do not recognize the illegal acts which deprived the Lithuanians of their freedom and that we are determined to work toward the goal which they acquired on February 16, 1918.

Without justice to all the oppressed people there can be no hope for a just and permanent peace.

I pay my deep respects to the courage, patriotism, and love of freedom and liberty to that gallant nation. I share the fond hopes and prayers of those who express faith in the restoration of freedom to the Lithuanian people.

I hope that the time will not be too far distant when Lithuania, free and strong and dedicated to liberty and justice, will once again take its rightful place among the sovereign nations.

REPORT ON UNSAFE CAMP TENTS

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. PEYSER. Mr. Speaker, hidden dangers which can threaten the health and safety of Americans sometimes remain hidden, because the ramifications of the danger escape detection. Such a situation has been revealed in a special report on the hidden hazards in tent camping which was telecast by WNBC–TV of New York City on March 4, 1974. The report noted that because of the usually bucolic, relaxed atmosphere of camping there seems to be no conscious concern about one particular danger: Fire.

In its report, WNBC–TV alerted Americans to the fact that most of the tents in their possession, as well as most of the tents in the commercial market, were in fact nothing less than vertical candles. This is because so many of the tents are constructed of a fabric made of paraffin-coated cotton.

The report was produced, written, and reported by Bernard Gavzer, investigative reporter for WNBC–TV. It emerged from prior work done by William Perez, Gavzer's colleague on the television station's investigative unit. Perez had earlier produced a report on fire hazards in aircraft. I am inserting a copy of this well-done report in the RECORD at this point so that my colleagues in the House may have the benefit of it:

TENTS

JIM HARTZ: The story we're about to report has some scenes of a badly injured boy, which may be upsetting to some viewers, but this report about hidden hazards in camping, specifically danger of death and injury from tent fires is so important we urge you to watch it. This report was produced and written by Bernard Gazzer of WNBC–TV's special investigative unit.

It seems so rustic, carefree, peaceful, but there's a hidden danger in tent camping, one which the tent industry has treated like a secret. It's the hazard of fire. The worst disasters have come when people are most vulnerable, asleep in their tents. It's a risk that threatens millions of Americans who go camping. That's because most of the small tents now in use are basically paraffin and cotton. They are like candles and once they start burning they keep burning. The large umbrella tent was set on fire by its maker, the Olin Corporation. It became a flaming mass and collapsed in two minutes. The pup tent was burned as part of a court case, and collapsed in about one minute.

BILLY AQUINO. I didn't know it'd be so fast, so quick. Thought it'd take five, ten minutes, probably, or more.

HARTZ: That's Billy Aquino of San Antonio. On the night of June 13th, 1971, he was in the back yard of a scoutmaster's home in Pensacola, Florida. He was with his twin brother, and the scoutmaster's son. They pitched a tent like this one, bought with trading stamps. The boys got some light by using a candle holder like this. They put the candle outside the tent, and went to sleep.

AQUINO. I heard someone yell, "Fire, fire," and got up. I saw—on fire in front of me, and I—and I waited for a few seconds, and saw Tom Hammer and my brother Tom, they went out before me. We stood there just for a few seconds. . . .

HARTZ. They got out: Tom Hammer died the next day; Tommy Aquino died sixteen days later.

AQUINO. First time I saw them, I saw myself, I saw my face and I was kind of shocked. I don't really notice my hands now. I don't know how long . . .

HARTZ. Besides those tents now on the market, there are literally hundreds of thousands of flammable tents which people have in attics, garages, and basements. They drag them out once in a while and go camping, or let the kids put them up in the backyard. There are fire retardant tents, like this one being tested by the Olin Corporation. Notice that the fabric sort of melts, rather than allowing the flame to spread rapidly, as it did in the other umbrella tent, which was burned.

Franklin Hauser, the San Antonio lawyer who represented Billy Aquino, claims the Boy Scouts have had fire retardant tents, they fail to promote them.

FRANKLIN HAUSER. They have yet to advertise if they have a flame retardant tent, and yet I know personally of at least nine Boy Scouts who were either killed(?) or severely injured when they were using a tent which was not flame retardant.

LUDY CHRISTOFERO. We have had a number of our tents that are fire retardant, the lightweight tents. And we've not been secretive about it, as we published a catalog that had the tents in it, it's stated there that they are fire retardant.

HARTZ. Our investigation shows that in the last few years, there have been at least five deaths and twenty-one gross disfigurements in such fires. We simply haven't been able to find any statistic for the number of fires or minor injuries. Obviously, it costs more to make a fire retardant tent. How much? According to some court depositions, by textile chemists from eight to twelve cents a square yard extra. On the average, there's ten square yards in a pup tent, so it would come to about one dollar.

Olin Corporation is one of the large manufacturing companies now making tents, which have clear warnings on the tent fabric itself. Olin made the change after it was the principal loser in a nine hundred thousand dollar settlement given Billy Aquino. Our investigation shows: one, most tents are fire hazardous; two, there is no federal standard for the industry; three, retail sales people often are ignorant or just lying about tent flammability; four, labelling and warnings are now wholly inadequate; five, fire retardant tents might cost more, but not much.

Billy Aquino is trying to return to some sort of normal routine, he's a brave young man. Perhaps one day he will even fulfill his desire to become an astronaut. But Billy has already been some sort of astronaut for society. His tragedy and his lonely voyage of pain and suffering have opened the doors on a highly dangerous problem. Maybe Billy's suffering will bring us the awareness we need to prevent future tent mishaps.

HARTZ. Since we began our investigation, the tent industry is urging some federal standards. A spokesman for a major trade group told us the industry has no alternatives, morally or economically, other than changing to fire retardant tents. Right now, there are labels such as this one in red and black that say in plain words that tents can burn quickly. Tents that would resist burning would be better, but at least these new labels are being honest with the public.

TRIBUTE TO NORTHERN MICHIGAN RESIDENT

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. RUPPE. Mr. Speaker, a recent occurrence in the upper peninsula of Michigan deserves the attention of those who say all is not well in the United States in 1974. The statement which follows should serve to reaffirm that compassion and courage are still alive. I feel privileged to commend Craig Denholm of the 11th District of Michigan in the CONGRESSIONAL RECORD by formally acknowledging his selfless action on December 24, 1973. The statement follows:

On December 24, 1973, my family from the Washington, D.C. area, came to Gaylord, Michigan to celebrate Christmas with my brother's-in-law. Unfortunately, I suffered a heart attack on that morning at the age of 29. The unusual aspect of this episode and my purpose for writing is to call your attention to an outstanding young resident of your great state. Craig Denholm, 855 S. Court, Gaylord, Michigan 49735, an employee of the Chalet Motel, observed my collapse and immediately came to my aid. Having lost his own father to a heart attack, he knew exactly what to do. While others called for the Rescue Squad, he applied external heart massage until relieved by the Rescue Squad. As attested by a statement by my doctor, without Craig's quick and knowledgeable ef-

forts, any action by the excellent Rescue Squad or later at the fully competent hospital might have been fruitless or so delayed that I would have suffered irreparable brain damage. Because of Craig's actions, neither is true and I am well on the road to recovery.

With appreciation,

Kenneth R. Velie.

REGARDING VOTE ON H.R. 11793, THE FEDERAL ENERGY ADMINISTRATION ACT

HON. BEN B. BLACKBURN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. BLACKBURN. Mr. Speaker, I opposed and voted against the Federal Energy Administration Act because it fails to address the basic and critical problem of energy development and production. Worse, this act will compound our present problem by creating a powerful Government bureaucracy to aggrevate it.

Through such governmental meddling and regulation, the Federal Energy Administration can determine the life or death of any industry in America. By simple bureaucratic whim or fiat, this agency can grant life to one industry and slow down or kill another.

In short, in a moment of crisis, this body has replaced the free market with still another interruptive factor. It would appear that my colleagues have learned little from the grim and costly lessons of history. It was bureaucratic interruptions of the normal economic flow of supply and demand that led to our present serious shortage in such critical commodities as steel, paper, and fertilizers as well as in petroleum products.

In large measure, most recognized economists trace these shortages to the wage and price controls imposed by the administration in August 1971.

This is now compounded by a worsening milk shortage caused by feed stock prices so high that the costs of production of milk is higher than the anticipated sale price of the raw milk. Under such circumstances, dairy farmers are reducing herds and production capabilities at a time when demand is increasing. Such results of Government meddling have become the rule rather than the exception.

My colleagues seem to forget that it was Government regulation under the guise of improving and insuring freight service that led to bankruptcy for the Nation's largest railroad.

When the independent truckowners found themselves caught in the unbearable squeeze of rising prices and reduced income, the bureaucracy known as the Interstate Commerce Commission found itself unable to respond. Antiquated anachronism that it is, it was already overburdened by self-imposed stagnation of paperwork. It is this same ICC that today stifles development of urgently needed satellite cities and dispersal of business and housing activities from our overly impacted major cities.

The dismal performance of economies controlled by Government bureaucracies stands in chilling contrast with the performance of those controlled by the free flow of an unfettered market.

That the Congress would respond to the energy shortage with this kind of legislation worries me greatly and gives me considerable reason to fear for the future.

Certainly, additional efforts must be made to develop new energy sources. But these efforts must create incentives for research, exploration, and production of such energy.

I would, indeed, support Government funding designed to assure research and development necessary to achievement of such a goal. I would support moves to grant special tax treatment to industries, institutions, or individuals attempting innovative techniques in energy production or use. For this is the sort of thing we must have if we are truly to address ourselves to our energy problem.

Sadly, the Federal Energy Administration Act is not such a vehicle. Rather, I see it as perhaps a fateful step toward further Government intervention and imposition in the already-badly battered marketplace.

NO ROLLBACK ON GASOLINE PRICE

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. LEHMAN. Mr. Speaker, as one of those Members who changed his mind on the price rollback provision contained in H.R. 11793, the Federal Energy Administration Act, I would like to put forth my reasons for doing so.

I, too, would like to offer the people I represent a reduction in oil and gasoline prices. While a price rollback would offer temporary relief, it is not a long-term solution. We have already involved the Federal Government in private enterprise to such an extent that we are now compounding the problem instead of solving it. I have previously had misgivings about the idea of a price rollback, and the comments of my colleague from Florida, Sam Gibbons, during yesterday's debate convinced me that rolling back prices is not the best way to go about this.

With the Ways and Means Committee working on excess profit taxes for the oil companies, we can expect to have a bill on the floor within the next few months that will deal more wisely with the problems of excess profits and costs to consumers. By taxing excess profits and thereby discouraging excess costs that consumers would otherwise have to pay, we will both help the consumer and encourage exploration and development by the oil companies.

Second, just as the President vetoed the National Energy Emergency Act because of the rollback provision, we could expect a veto of this bill for precisely the same reason. I do not believe we can afford to spend more time debating this issue. The energy problems in my district are not getting better by any means; the FEO office in Atlanta is concerned because it will soon lose its 90 day personnel appointments; and we would be back where we started from, with the all confusion that accompanied the first weeks of FEO's operation.

CASE FOR A FEDERAL OIL AND GAS CORPORATION: NO. 7

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. HARRINGTON. Mr. Speaker, last Friday an article appeared in the Washington Post explaining that consumers are again being forced to realize price increases for gasoline.

These increases are necessary, the Federal Energy Office claims, to provide the oil companies an incentive to produce increased amounts of gasoline, instead of heating oil, as the weather gets warmer.

In light of the revenues the major oil firms are now recording, increasing these profits at the expense of consumers is unconscionable. I believe that measures to make the petroleum industry more competitive must be adopted before any escalation in "production incentives" is even considered.

I have introduced legislation to set up a Federal Oil and Gas Corp. As I have expressed in previous extensions of remarks in the Record, the corporation would enter the producing sector of the oil industry with the aim of enhancing competition.

At this point, Mr. Speaker, I request that the March 1, 1974, Washington Post article be inserted in the Record:

TWO-CENT RISE IN GAS COST SEEN TODAY

(By Peter Millius)

Gasoline prices at most service stations will go up another 2 cents today, and will probably rise at least another cent later in March.

One oil company, Getty, with outlets in 11 northeastern states, said it is raising its prices 5.25 cents a gallon effective today. That is on top of the general two-cent increase expected.

Gasoline prices, which the Labor Department says make up about 3 per cent of the cost of living, have already gone up 25 per cent in the last year, and rose 6 per cent in January alone. The average U.S. price for regular gasoline was 46.5 cents a gallon in January.

A two-cent increase, to take effect today, was granted to the nation's independent service station operators last Saturday by federal energy chief William E. Simon.

That is for the service station operators themselves, in addition to the prices they pay their supplying companies and pass along to their customers. The independent operators, who run 90 per cent of the nation's gas stations, had threatened a "pump-out" to protest their declining profits.

The supplying companies are also expected to raise their prices in March, as Getty announced it was doing. First of all, they are allowed to pass on the rising price of crude oil, which Getty said was one factor in its announcement.

Second, Simon's Federal Energy Office is allowing refiners to raise their gasoline prices 1 cent beginning today, to induce them to start producing more gasoline per barrel of crude oil and less heating oil and other distillates.

Last winter, when he wanted more heating oil. Simon had let them charge more for that, and cut back on what they could charge for gasoline.

Getty, a relatively small company, is the first to announce how much prices to its dealers will go up in March. It is not known how much the prices of the major companies will go up.

While prices continued upward, some 17,000 coal miners in West Virginia continued to stay home from work yesterday, saying they cannot get enough gasoline to get to the mines. Their walkout, now two days old, has stopped production of an estimated 175,000 tons a day of metallurgical coal used mainly in steel-making.

Simon's energy office has ordered additional gasoline sent into West Virginia, but Gov. Arch A. Moore Jr. says much of it hadn't arrived.

The miners, some of whom have to drive long distances to and from work, also want Moore to rescind an order of his barring gasoline sales to anyone whose tank is more than one-quarter full. A United Mine Workers spokesman here said Moore promised on Wednesday that he would relax the order, but hasn't done so yet.

In other developments yesterday;

The American Petroleum Institute said both crude oil imports and gasoline production in the United States increased somewhat in the week ended Feb. 22 from the week before.

McGraw-Hill Publications Co. said its latest survey showed energy-producing companies have sharply increased their planned new investments from the total projected last fall. The petroleum industry had planned about $6.5 billion in investment, and now plans $7.68 billion, McGraw-Hill said.

POST CARD VOTER REGISTRATION BILL

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. FRENZEL. Mr. Speaker, in the event we have the unfortunate experience of voting on H.R. 8053, the post card voter registration bill, I intend to offer the following amendments:

AMENDMENT TO H.R. 8053, AS REPORTED, OFFERED BY MR. FRENZEL

Page 14, line 17, strike out "or political subdivision thereof" and insert in lieu thereof, "of a county, town, or township election board, or of a county, town, or township voter registration board,".

AMENDMENT TO H.R. 8053, AS REPORTED, OFFERED BY MR. FRENZEL

Page 15, strike out lines 17, 18, and 19, and insert in lieu thereof the following:

(3) provide information to State officials concerning voter registration-by-mail and information relating to election administration generally;

AMENDMENT TO H.R. 8053, AS REPORTED, OFFERED BY MR. FRENZEL

Page 17, line 11, strike out "and as the Administration determines appropriate".

AMENDMENT TO H.R. 8053, AS REPORTED OFFERED BY MR. FRENZEL

Page 18, strike out line 22 and all that folows through page 19, line 2, and insert in lieu thereof the following:

(c) The Postal Service shall distribute the registration forms no earlier than 120 days or no later than 60 days before the close of registration for each biennial general election.

AMENDMENT TO H.R. 8053, AS REPORTED, OFFERED BY MR. FRENZEL

Page 21, line 13, immediately after "that State." insert the following:

The Administration is authorized to compensate any State which adopts a centralized accounting system for voter registration form processing costs.

REMOVAL OF THE ARCHITECTURAL BARRIERS FOR THE HANDICAPPED

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. TEAGUE. Mr. Speaker, the Veterans' Administration has always been in the forefront of the effort to improve the design, construction, and alteration of buildings, its own and others, to overcome architectural barriers for the handicapped. The VA's first steps in the field were taken back in the 1950's. Fortunately for the entire country other groups have adopted and utilized standards which have been set by the agency.

Several months ago the VA issued new construction standards which, while applying only to the 170 VA hospitals and other VA facilities, will hopefully lead to implementation in both public and private facilities. The new standards include requirements for wider sidewalks and shallower gradients; improved accessibility to and from parking lots and curb ramps at intersection of roads and walks for wheelchair users; improvement in toilet facilities for the handicapped; lower drinking fountains; modifications of passenger elevators including audible signals to assist the blind; and other provisions to make it more likely for these individuals to participate fully in activities on the same basis as those who do not suffer the loss of any physical function.

Dr. Marc J. Musser, the chief medical director, and Mr. Viggo Miller, assistant administrator for construction of the VA, have been most active in developing these new standards and I commend them for their leadership.

I include as a part of my remarks the text of the newly promulgated standards:

ACCOMMODATIONS FOR THE PHYSICALLY HANDICAPPED

PURPOSES

This standard establishes policy for the design, construction, and alteration of certain VA buildings and facilities so that physically handicapped persons will have ready access to, and use of, such buildings and facilities.

FEDERAL LAW AND REGULATIONS

The design, construction, and alteration of VA buildings and facilities shall comply with the following applicable Federal law and regulations:

a. Public Law 90–480, approved August 12, 1968, entitled "An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically hanicapped"; (42 U.S.C. 4151), as amended.

b. Federal Property Management Regulations, Chapter 101, Subpart 101–17.7, entitled "Accommodations for the Physically Handicapped"; (41 CFR 101–17.7).

VA SUPPLEMENTARY STANDARDS

The applicable Federal Property Management Regulations (41 CFR 101–17.7) require conformance to the minimum standards contained in the "American Standard Specification for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped. Number A117.1–1961", approved by the American National Standards Institute, Inc. In addition to the basic minimum standards in ANSI A117.1–1961, the VA requires conformance to the supplementary standards prescribed in the following paragraphs of this VA construction standard. These supplementary VA standards are not intended to be a substitute for all the basic standards in ANSI A117.1–1961. To forestall misinterpretations and to avoid potential conflicts between the two standards, the unsupplemented basic standards in ANSI A117.1–1961 are neither repeated nor paraphrased in this VA construction standard. However, this VA construction standard shall govern wherever it deviates from ANSI A117.1–1961.

SITE DEVELOPMENT

Walks

Walks shall be at least 72 inches wide and shall have a gradient not greater than 3 percent. A ramp shall be substituted for any walk where the gradient of the walk would otherwise exceed 3 percent. The ramps shall comply with the requirements prescribed in paragraph 5a of this VA construction standard. Walks that have gradients of from 2 to 3 percent shall be provided with level platforms at 200-foot intervals and at intersections with other walks. A walk shall have a level platform that is at least 6 feet by 6 feet, at the entry to a building, or where the direction of traffic-flow changes. These platforms shall extend at least 18 inches beyond each side of the doorway for single leaf doors and 12 inches for double leaf doors. Walks and platforms shall have nonslip surfaces. Warning lines of a contrasting color shall be provided across the full width of a walk at its intersection with a vehicular traffic lane. The warning lines shall be perpendicular to the vehicular traffic lane and shall extend not less than 3 feet from the vehicular traffic lane. In order to be perceptible to the touch when swept by the cane of a blind person, the warning lines shall be composed of durable nonslip strips that project approximately 1/16-inch above the finished surface of the walk. The strips shall be 3 inches wide; a 3-inch clear space shall be left between them.

Parking lots

Spaces that are accessible and proximate to the main entrance and to the outpatient entrance to each building or facility shall be set aside and identified for use by individuals with physical disabilities. When placed between two conventional diagonal or head-on parking spaces, single parking spaces for individuals with physical disabilities shall be 13 feet 6 inches wide. If multiple parking spaces are provided for individuals with physical disabilities, each of the parking spaces shall be not less than 9 feet wide; in addition, a clear space 4 feet wide shall be provided between the adjacent parking spaces and also on the outside of the end spaces. Curb ramps (curb cuts) shall be provided between the parking spaces used by individuals with physical disabilities and the access walks to those parking spaces. The curb ramps shall comply with the detailed standards in the following paragraph 4c.

Curb ramps—curb cuts

Curb ramps shall be provided at all intersections of roads and walks. The curb ramps shall be not less than 4 feet wide; they shall not have a slope greater than 8 percent, and preferably not greater than 5 percent. The vertical angle between the surface of a curb ramp and the surface of a road or gutter shall not be less than 176 degrees; the transition between the two surfaces shall be smooth. Warning lines that meet the requirements in the preceding paragraph 4a shall be provided on a curb ramp at its intersection with a vehicular traffic lane. Curb ramps shall have nonslip surfaces.

BUILDINGS

Ramps with gradients

Any walks or floors shall be ramped if the slope exceeds 3 percent. Ramps shall not have a slope greater than 8 percent, and preferably not greater than 5 percent. The ramps shall have handrails on both sides; every handrail shall have a clearance of not less than 1½ inches between the back of the handrail and the wall or any other vertical surface behind it. Ramps shall not be less than 4 feet wide clear between curbs; curbs shall be provided on both sides. The curbs shall not be less than 4 inches high and 4 inches wide. A level platform in a ramp shall not be less than the full width of the ramp and not less than 5 feet long. Entrance platforms and ramps shall be provided with protective weather barriers to shield them against hazardous conditions resulting from inclement weather. Ramps and level platforms in ramps shall have nonslip surfaces.

Entrances

Entrances shall be level, within the requirements of this standard. Entrances to all outpatient buildings and facilities shall be usable by individuals with physical disabilities. Routes to the entrances that are accessible to, and usable by, the handicapped shall be marked by directional signs placed at the parking lot, the main entrances, and along the way to the accessible entrances; the accessible entrances themselves shall also be marked by identification signs. The signs shall incorporate the *International Symbol of Accessibility for the Handicapped*, as prescribed in paragraph 5j of this VA construction standard.

Doors and doorways

Single-leaf doors, and at least one leaf of double-leaf doors, shall have a clear opening of no less than 34 inches and shall be operable by a single effort. "Operable by a single effort" means that they can be opened the full width of the doorway by a single push or pull of not more than 8 pounds of pressure, and preferably not more than 5 pounds. Thresholds shall not project above the finished floor. The centerline of door handles shall be not more than 36 inches above the floor. Lever type handles are preferred instead of door knobs. At full glass doors, warning lines of a contrasting color shall be provided on the floor across the full width of the doorway. The warning lines shall be perpendicular to the door and shall extend not less than 3 feet on both sides of the door. In order to be perceptible to the touch when swept by the cane of a blind person, the warning lines shall be composed of durable nonslip abrasive strips that project approximately 1/16-inch above the finshed surface of the floor. The strips shall be 3 inches wide; a 3-inch clear space shall be left between them.

Stairs

Handrails shall be provided on both sides of stairs. The handrails shall be designed so that loose clothing cannot catch over their ends. Treads shall have nonslip surfaces and shall have nosings of a color in contrast to the general color of the stairs. The contrasting color shall extend 1 inch down the riser and 1 inch deep along the full length of the tread. At the top and bottom of stairs, warning lines of a contrasting color shall be provided on the floor across the full width of the stairs. The warning lines shall be perpendicular to the stairs and shall extend not less than 3 feet from the stairs. In order to be perceptible to the touch when swept by the cane of a blind person, the warning lines shall be composed of durable nonslip abrasive strips that project approximately 1/16-inch above the finished surface of the floor. The strips shall be 3 inches wide; a clear space of 3 inches shall be left between them.

Toilet Rooms

Toilet rooms that are made accessible to, and usable by, the physically handicapped shall be clearly marked by signs incorporating the *International Symbol of Acecssibility for the Handicapped*, as prescribed in paragraph 5j of this VA construction standard. The toilet rooms of this type that are provided for visitors shall preferably be located on the level at which the visitors enter the building; the toilet rooms that are provided for employees shall be located adjacent to main locker rooms. Every toilet room of this type shall be provided with the following:

Water Closet Compartment

At least one water closet compartment shall: (a) be not less than 5 feet 6 inches wide and not less than 6 feet deep; (b) have a door that is 34 inches wide which swings out and that is not located directly in front of the water closet; (c) have a grab rail on one side, 30 inches high, 1½ inches in outside diameter with 1½ inches clearance between rail and wall; and (d) have one wall mounted water closet with its centerline located 18 inches from the side wall to which the grab rail is fastened, and placed with the seat 15 inches above the finished floor.

Exception.—As an alternative to the immediately preceding standards, the water closet compartment may: (a) be not less than 3 feet 6 inches wide and not less than 6 feet 6 inches deep; (b) have a door that is 34 inches wide which swings out; (c) have grab rails on each side, 30 inches high, 1½ inches in outside diameter, with 1½ inches clearance between rail and wall; and (d) have one wall mounted water closet located on the centerline of the rear wall of the compartment, and placed with the seat 20 inches above the finished floor.

Lavatories

One of the lavatories shall be either a wheelchair type, VA Equipment Guide List Symbol No. P-66WCL and have a tilted mirror above as shown on VA Architectural Standard Detail No. 15; or it shall be a vanity type as shown on VA Architectural Standard Detail No. 53. Either single lever (not "Push-Pull" type) or wrist blade water controls shall be provided for wheelchair lavatories. A paper towel dispenser and a duplex electrical receptacle shall be provided within easy reach of a handicapped individual seated in a wheelchair in front of the lavatory. The dispenser shall be surface mounted, with its bottom no higher than 40 inches above the finished floor. The towel dispenser shall be designed for multifold interlocking paper towels.

Urinals

Urinals shall have a manual flushing handle mounted not more than 40 inches above the finished floor. Stall urinals extending to the floor are acceptable for use by the handicapped and may be provided under this standard. Wherever wall mounted urinals are provided for use by patients, staff, and/or the general public, one of the urinals shall be mounted with the lip of the basin not more than 15 inches above the finished floor, so as to be usable by the handicapped.

Entrance Doors

The toilet room entrance doors shall be easy opening, 3 feet wide, and hinged to swing into the room. Where the plan arrangement would otherwise permit a direct view of the toilet room while the entrance door is open, a suitable screen partition shall be provided not less than 4 feet away from the entrance door, as shown on VA Architectural Standard Detail No. 12A.

Water Fountains

Water fountains and water coolers provided for the handicapped shall be set into alcoves and shall be wall mounted with the rim at 34 inches above the finished floor and provide a minimum clearance of 27 inches under the fountain, all as shown on VA Architectural Standard Detail No. 4C.

Public Telephones

At least one public telephone for handicapped individuals shall be provided on each floor. These telephones shall have amplifiers on the receivers, push button controls, and cords not less than 3 feet long. The telephone cabinets shall be as shown on VA Architectural Standard Detail No. 56.

Elevators

These requirements apply to all elevators except mortuary and freight elevators. Call buttons in elevator lobbies shall be centered 3 feet 4 inches above the finished floor. Signals audible in elevator lobbies shall emit a sound of higher pitch for upward bound arriving cars; lower pitch for downward bound arriving cars. An automatic elevator shall have: (1) slow-acting doors, meaning doors requiring 7 foot-pounds or less of kinetic energy to close, resulting in an average closing speed of one foot per second; (2) doors with mechanical safety edges and twin photoelectric light ray protection; (3) a door opening not less than 36 inches wide and preferably 48 inches wide; (4) raised or engraved identification provided on the panel adjacent to each control button; (5) an auxiliary call button panel in the car mounted either in the front return panel opposite the main car operating station or in the side wall of the car adjacent to the entrance strike jamb; (6) the auxiliary call buttons in the car centered at 3 feet, and extended not more than 3 feet 6 inches, above the floor of the car (where an auxiliary car operating panel is not feasible, the main car operating panel shall meet these height requirements); (7) double handrails on three sides of the car located at heights of 32 inches and 42 inches respectively above the floor of the car; (8) a car that is not less than 5 feet 8 inches wide and 5 feet deep; (9) an emergency intercom station, without dial, located not more than 40 inches above the floor of the car; (10) call and operating buttons illuminated and projecting from the panel board; and, (11) push-to-stop emergency buttons raised from the panel board.

Utility outlets, receptacles, and controls

The centerlines of utility outlets, receptacles, switches, and controls for light, heat (exclusive of thermostats), ventilation, windows, draperies, plumbing and all similar controls of frequent or essential use, shall be located where they will be accessible to the handicapped and shall be mounted within a range of 18 to 40 inches above the finished floor. The centerlines of fire alarm boxes shall be mounted 48 inches above the finished floor.

Identification

The International System of Accessibility for the Handicapped shall be used to clearly identify facilities and areas that are designed for full access and use by all handicapped individuals. The Symbol is illustrated on VA Architectural Standard Details No. 45A and 45B.

Cafeterias and retail stores

Food serving lanes and aisles shall not be less than 36 inches wide, and preferably 48 inches wide. Cutlery and display racks shall be visible to, and within easy reach of, an individual seated in a wheelchair; the racks shall not be higher than 54 inches above the finished floor. Tray lines should be continuous through the serving and dispensing areas to the cashier's station.

Vestibules

Where a vestibule is considered necessary, its depth shall be not less than 6 feet 6 inches and both doors shall swing in the same direction.

Carpets

Carpets in public areas shall be the contract type designed for heavy traffic. The carpeting shall have a tight weave and a low pile, preferably a tight dense loop pile and not a plush or cut pile. Carpets installed without underlayments are preferred by wheelchair users.

Tables

The vertical clear space between the bottom surface of a table and the finished floor shall not be less than 30 inches; nor shall the clear space be obstructed by horizontal bracing, skirts, fascias, and table bases. Pedestal base or cantilevered type tables are preferred.

Ash trays

The lips of wall mounted ash trays shall not be higher than 36 inches above the finished floor.

RESCISSION

VA Construction Standard CD-28 "Facilities for the Handicapped (Other Than Patients)", dated March 24, 1966, is hereby rescinded.

HON. JULIA BUTLER HANSEN

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. RODINO. Mr. Speaker, it was with deep regret that I learned of my friend JULIA's decision not to seek another term in the House. It will not only be a personal loss to me as she has been a close friend and associate of mine for many years, but also a profound loss to the people she has served so well. Mrs. HANSEN has not only produced numerous legislative innovations, in addition she has also demonstrated that recognition and ability must be measured by one's achievements rather than by one's race, creed, or in this case sex. It has been a rewarding experience to be her colleague and I know my own stay in the Halls of Congress has been enriched by her presence. I want to wish her much happiness and success in any future endeavors which she may pursue in her new role as a private citizen.

WORLD OPINION

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. COLLIER. Mr. Speaker, ever since I came to Congress 17 years ago, I have been hearing about world opinion. Evidently only Americans have to worry about it.

Just what is world opinion? If there is such a thing, perhaps it can be found in the United Nations Organization, to which the U.N. cult has given the grandiose designation of "world body."

Let us take a look at the makeup of the United Nations. At present it has 135 members, the Soviet Union having three memberships. The member nations have a total population of 3,568,531,000, which is just 190,556,000 short of the total world population of 3,759,087,000. The member nations contain 94.93 percent of the earth's people.

Now let us take a further look and see how close the organization comes to reflecting world opinion. A majority of 68 votes can be formed by nations representing 157,276,000 people, or 4.41 percent of the world's population. A two-thirds majority of 90 votes can be formed by nations representing 346,193,000 people, or 9.70 percent of the world's population.

Each member of the United Nations, no matter how large or how small, has one vote. Communist China, with 800,720,000 people, has one vote. Qatar, with 115,000 people, has one vote.

When the disparities in population are taken into account, we find that Red China and India each have a voting strength of 1, while Qatar has a voting strength of 6,963. The United States has a voting strength of 4.

All of the members put together, while having a total of 135 votes—one each—have a voting strength of 72,429. In other words, the United States, which pays the lion's share of the organization's expenses, can be outnumbered by 72,425 to 4.

No other nation should be permitted to vote away our money, our resources, or our young men, but votes in the United Nations could furnish some indication of what popular opinion throughout the world might be, provided a more intelligent system of voting were put into effect.

If one vote were given for each 50,000 people, there would be a total vote of 71,369 or 98.54 percent of the present voting strength. Maldives and Qatar would each have a voting strength of 2 instead of the present 6,510 and 6,963, respectively. The United States would have 4,231 instead of the present 4.

Even with a more realistic system of voting, the United States would be hopelessly outnumbered, 67,138 to 4,231. I hope that my colleagues will keep this imbalance in mind when this body considers S. 1868, which provides that the provisions of the Strategic and Critical Materials Stock Piling Act concerning the importation of strategic raw materials including Rhodesian chrome shall not apply to prohibitions or regulations issued under the United Nations Participation Act of 1945.

Mr. Speaker, the following table includes the population, present voting strength, and what the voting strength would be under a more equitable apportionment of the present membership of the United Nations Organization. I am sure that my colleagues will be interested in these statistics.

The table follows:

Member[1]	Population (thousands)	Approximate present voting strength	Voting strength if 1 per 50,000[2]
Afghanistan	17,880	45	358
Albania	2,230	359	45
Algeria	15,270	52	305
Argentina	23,920	33	478
Australia	15,612	51	312
Austria	7,490	107	150
Bahamas	190	4,214	4
Bahrain	220	3,640	4
Barbados	240	3,336	5
Belgium	9,691	83	194
Bhutan	1,150	696	23
Bolivia	5,190	154	104
Botswana	690	1,160	14
Brazil	100,100	8	2,002
Bulgaria	8,580	93	172
Burma	28,900	28	578
Burundi	3,400	236	68
Cameroon	6,000	133	120
Canada	22,047	36	441
Central African Republic	3,000	267	60
Chad	3,790	211	76
Chile	10,000	80	200
China, Communist	800,720	1	16,014
Colombia	23,000	35	460
Congo (ex-French)	980	817	20
Costa Rica	1,843	434	37
Cuba	8,750	92	175
Cyprus	651	1,230	13
Czechoslovakia	14,480	55	290
Dahomey	2,830	283	57
Denmark	5,100	157	102
Dominican Republic	4,300	186	86
Ecuador	6,598	121	132
Egypt	34,839	23	697
El Salvador	3,760	213	75
Equatorial Guinea	300	2,669	6
Ethiopia	25,930	31	519
Fiji	540	1,483	11
Finland	4,630	173	93
France	53,820	15	1,076
Gabon	500	1,601	10
Gambia	380	2,107	8
Germany, East	17,050	47	341
Germany, West	61,670	13	1,233
Ghana	9,090	88	182
Greece	9,030	89	181
Guatemala	5,600	143	112
Guinea	4,110	195	82
Guyana	750	1,068	15
Haiti	5,070	158	101
Honduras	2,690	298	54
Hungary	10,400	77	208
Iceland	210	3,813	4
India	563,490	1	11,270
Indonesia	120,400	7	2,408
Iran	30,550	26	611
Iraq	10,070	80	201
Ireland	3,010	266	60
Israel	3,200	250	64
Italy	54,350	15	1,087
Ivory Coast	4,530	177	91
Jamaica	1,920	417	38
Japan	107,332	7	2,147
Jordan	2,470	324	49
Kenya	12,070	66	241
Khmer	7,250	110	145
Kuwait	910	880	18
Laos	3,110	257	62
Lebanon	2,960	271	59
Lesotho	1,200	667	24
Liberia	1,650	485	33
Libya	2,080	385	42
Luxemburg	350	2,288	7
Malagasy	7,655	105	153
Malawi	4,670	171	93
Malaysia	10,920	73	218
Maldives	123	6,510	2
Mali	5,260	152	105
Malta	322	2,487	6
Mauritania	1,230	651	25
Mauritius	840	953	17
Mexico	52,640	15	1,053
Mongolia	1,320	607	26
Morocco	15,830	51	317

Member [1]	Population (thousands)	Approximate present voting strength	Voting strength if 1 per 50,000 [2]
Nepal	11, 470	70	229
Netherlands	13, 371	60	267
New Zealand	2, 962	270	59
Nicaragua	1, 990	402	40
Niger	4, 210	190	84
Nigeria	58, 020	14	1, 160
Norway	3, 930	204	79
Oman	700	1, 144	14
Pakistan	64, 892	12	1, 298
Panama	1, 520	527	30
Paraguay	2, 580	310	52
Peru	14, 460	55	289
Philippines	39, 040	21	781
Poland	33, 070	24	661
Portugal	24, 870	32	497
Qatar	115	6, 963	2
Romania	20, 770	39	415
Rwanda	3, 900	205	78
Saudi Arabia	8, 000	100	160
Senegal	4, 120	194	82
Sierra Leone	2, 630	304	53
Singapore	2, 150	372	43
Somalia	2, 940	272	59
South Africa	23, 650	34	473
Spain	34, 490	23	690
Sri Lanka	13, 030	61	261
Sudan	16, 490	49	330
Swaziland	430	1, 862	9
Sweden	8, 143	98	163
Syria	6, 680	120	134
Tanzania	14, 000	57	280
Thailand	36, 290	22	726
Togo	2, 090	383	42
Trinidad and Tobago	1, 040	770	21
Tunisia	5, 380	149	108
Turkey	37, 500	21	750
Uganda	10, 460	77	209
Union of Soviet Socialist Republics	250, 000	3	5, 000
United Arab Emirates	200	4, 004	4
United Kingdom	61, 304	13	1, 226
United States	211, 561	4	4, 231
Upper Volta	5, 610	143	112
Uruguay	2, 960	271	59
Venezuela	10, 970	73	219
Yemen Arab Republic	6, 060	132	121
Yemen, People's Democratic Republic of	1, 510	530	30
Yugoslavia	20, 770	39	415
Zaire	22, 860	35	457
Zambia	4, 420	181	88
Total	3, 568, 531	72, 429	71, 369
Nonmembers	190, 556		
Grand total	3, 759, 087		

[1] Members have 94.93 percent of the world's population.

[2] Voting strength of 1 per 50,000—98.54 percent of approximate present voting strength.

NORTH SIDE TOPICS OF INDIANAPOLIS HAS SOME PLAIN FACTS ABOUT BUSING

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. BRAY. Mr. Speaker, following is an editorial from the February 28, 1974, North Side Topics, of Indianapolis, on busing:

BUSING: JUST AN EXPEDIENT

As central Indiana awaits the federal court ruling on metropolitan desegregation here, most of the real issues in the matter are, unfortunately, obscured.

"Busing", that is, the transportation of pupils from one school or one school system to another to achieve a "racial balance", is merely an expedient.

The real cause for concern comes from the inevitable fact that busing, as a tool of the kind of "desegregation" ordered by the courts, will result in the "federalization" of one of the few remaining branches of government still under local control—the schools.

The sorry fact that "discrimination" and "desegregation" as principles have become entwined in this affair only serves to confuse it even more. Indeed, anyone or any party who chooses to differ with the aims of busing is liable to have the tag "racist" or "bigot" hung around his neck.

That is deplorable, to be sure, because "school desegregation" and busing to achieve a "racial balance" are two entirely different things.

"Desegregation" means the elimination of practices that differentiate between people on the basis of race. Busing to achieve a "racial balance" is not, according to its lawful definition, the same as "desegregation".

Busing of the sort ordered in and about Indianapolis, where 11,000 city children could be bused into the "innocent" suburban school systems, is an unconstitutional, illegal, and unprecedented usurpation of lawful local control of the schools.

It is unconstitutional because the 1954 Supreme Court ruling in Brown vs. the Board of Education affirmed the tradition of neighborhood schools and stated that no attention whatsoever should be paid to the color of one's skin in assigning pupils to schools.

It is illegal because the 1964 Civil Rights Act explicitly states that "racial balance" shall not mean "desegregation" and that busing to achieve such a balance in public schools is unlawful.

It is unprecedented because the 1971 Supreme Court ruling in Swann vs. Board of Education, the very ruling which gave the initial go ahead to inter-district busing states that busing solutions may only apply to school systems found guilty of practicing segregation.

And that fact makes the Indianapolis situation unconscionable: that 24 autonomous suburban school corporations, the people who run them, the taxpayers who support them, were found to be innocent of practicing segregation by Judge Dillin himself, yet are made to bear the financial burden and surrender lawful local control of their schools by being ordered into a metropolitan busing plan because of the errors, real or imagined, of the Indianapolis Public Schools.

It is to say that the suburban school systems are in fact innocent of any violation of law, but those people in the suburbs are, after all, guilty because the place in which they live does not have an appropriate "racial balance".

It is to say that where one lives and the color of one's skin distinguishes him before the law, a position totally untenable in the light of American law.

The Supreme Court will rule on the constitutionality of metropolitan busing in the Detroit, Michigan case to which Indianapolis is a party. Unless they overturn it, which appears unlikely, any hope of resolving the situation must come from Congress.

As much as 80 to 90 percent of the public, according to some polls, are against busing. Yet Congress, which purports to represent the people, has time and time again avoided the mater because it is a politcial "hot potato."

If there is a solution to the problem, it is not in sight. However, very much in sight is the loss of local control over education in the name of education itself.

THE END OF INFLATION

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. LANDGREBE. Mr. Speaker, for decades the Federal Government has been expanding the supply of money and credit. In the last few years this inflation has been accelerated to a point that has alarmed everyone in the Nation. Instead of stopping this expansion, this inflation of the money supply, price and wage controls have been imposed in an effort to control rising prices caused by the inflation of the money supply. The results have been the shortages that are spreading throughout the country and throughout all industries. Price controls treat malaise and help disguise the fact that the cancerous growth of our dollars continues unabated.

What must be the result of the inflationary policy our Government is pursuing? We need only rely on theory, for there are at least two historical examples of Nations which followed a course similar to ours. The first is France in the years following the Revolution of 1789, and the second is Germany in the year's following the First World War.

I ask that an editorial by Howard Flieger entitled "Fright: A Flashback" 'which appeared in the U.S. News & World Report be entered into the RECORD as an eyewitness account of a nation in the throes of economic choas. The chaos in Germany brought forth Hitler; the revolution in France spawned Napoleon. Are we to undergo a similar experience? The article follows:

FRIGHT: A FLASHBACK

(By Howard Flieger)

Something is out of whack when a construction worker is taking home $400 a week, after two 6 per cent raises this year, and is worried about the future.

The worker puts his concern succinctly: "Everybody is frightened."

Frightened? What follows is a story that makes the fear come alive:

Kurt Lachman is an old friend—an American citizen who grew up in Germany and lives there now. He has spent many years on the staff of this magazine.

Kurt lived through the inflation that all but devoured Germany 50 years ago. When he talks about inflation, the word is not an abstraction. It takes on the characteristics of human futility—like flood, famine, plague.

"In 1921," he said the other day, "the rise in the value of foreign currencies and in domestic prices in Germany came steadily, and gained momentum."

Sound familiar? He went on:

"The situation helped businessmen who were in foreign trade, and it helped those who were allowed to raise prices. But it didn't help at all the people living on fixed retailers who had to sell their goods at controlled prices while the cost of restocking with the same goods rose constantly.

"Harsh laws were being applied to retail trade that prevented the marking up of goods beyond a certain percentage above cost. Under this system, only those merchants who broke the law could survive.

"Blue collar workers got raises. But these lagged behind the rise in prices. White collar employes, civil servants and professional people dropped even further behind. It reached the point where the pay of a university professor was down to that of a doorman."

By 1923 the runaway was at full gallop.

"Printing of federal money was being farmed out," Kurt recalls, "because the state presses couldn't keep up with the job. Some cities began to print their own money."

Paper currency grew more plentiful with each passing day—and more worthless.

At that time Kurt was an assistant editor of one of Germany's leading newspapers, the "Frankfurter Zeitung." Listen as he describes a payday in 1923:

"Large laundry baskets filled with paper money had to be carried into the editorial conference room where the editors would sort it out, count it, and distribute the pay.

"As soon as somebody got his bundle, he'd rush out to buy whatever he could. Anything was more valuable than money.

"More and more people turned to speculation and blackmarketing in cloth, precious metals, foreign bills and so on. The result was that the output of industry sagged.

"Because of price controls and rationing, goods were scarce in the cities. Foraging in the countryside became commonplace. The railroad stations were jammed with people going out to the peasants to bargain for food."

Kurt speaks about those days as though he still finds them hard to believe.

"A feeling of frustration seized many people," he says. "To get out of the country—even out of life—became a widespread desire. Hopelessness is the word."

In this atmosphere an obscure politician named Adolf Hitler set off a theatrical putsch in Munich—a failure, but a harbinger.

German currency reached 4.2 billion marks to the U.S. dollar. Finally, it was brought down to earth with a thud—by stripping off the ciphers and revaluing the mark at 4.2 to the dollar. If you had 4 billion marks that morning, you only had 4 by sunset.

Ugly story, isn't it? There is an unreal quality about it. But it happened.

Who is to say it could never happen here?

NET ENERGY: THE REAL ENERGY CRISIS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, March 8, 1947

Mr. DINGELL. Mr. Speaker, the energy crisis has been very much in the news in past months, and every indication is that it will continue to be in the news for some considerable time. Contrary to reassurances that we have been provided by some spokesmen and administration officials—who ought to know better—we are not over the hump, and shortages in energy supply are, I believe, a fact of life with which we are going to have to cope in the indefinite future.

My view of the problem is that the energy crisis is not an energy crisis at all: that it is rather the first major symptom of a national and global resource crisis. Other symptoms are visible: mineral-producing countries are even now beginning to discuss export controls on a number of hard minerals. Cartels and multinational corporations also will play a highly important role in this regard, and we are going to have to keep a very close eye on these activities as well.

In all of the talk about the energy crisis of today, however, there appears to be little discussion of a very important factor: the true costs of energy production. It is as true here as it is elsewhere that you never get something for nothing. There are energy costs involved in getting energy supplies, and if these costs are carefully budgeted, we may find that we are spending as much as, or more than, we are obtaining in return.

Edward Flattau and Jeffrey Stansbury, well-informed and conscientious reporters, have written a recent article on the subject, reprinted in the Washington Monthly of March 1974. Some errors crept into the article during the editing process, and I have obtained from them a corrected copy, which I ask be reprinted in the RECORD.

They make the point that a goose which lays a golden egg a day, but which consumes six of these for every seven it produces, is a net producer of only one egg a week. Simple and elementary, perhaps, but a concept that appears to be lost in the mists of high-echelon policymaking. I believe that this is, indeed, a critical concept, and one with which we will all have to become familiar as the energy and resource crises deepen. The article should be required reading for all Members and staff.

The article follows:

[From the Washington Monthly, Mar. 1974]

IT TAKES ENERGY TO PRODUCE ENERGY: THE NET'S THE THING

(By Edward Flattau and Jeff Stansbury)

Suppose you've found a wondrous goose that lays seven golden eggs a week. Does this mean you will be able to corner the gold market? Unfortunately, no, because to keep the bird fat and fluffy—and to keep its production up—you must feed it six golden egg yolks each week. Net result: only one golden egg for sale.

This yarn may augur a potentially grim tale for the U.S. economy, for it symbolizes our net energy crisis. Not the various rigged shortages and price machinations you've been reading about, but the real thing: our *net* energy crisis.

If you haven't pondered net energy, the fault's not yours alone. Senator Henry M. Jackson, Capitol Hill's leading energy warrior, hasn't heard of it either and William E. Simon, chief of the Federal Energy Office, wouldn't recognize a net energy ratio if he tripped over one on his way to a press briefing. Nor would *The New York Times* and *The Washington Post* reporters who have been following Simon around with almost a religious zeal. President Nixon, a flock of oil executives, and most influential economists have yet to discover net energy let alone apply its implacable logic to their decisions.

Net energy is the energy you start with minus the energy you use up producing it—in other words, the calories you must spend to find, mine, transport, refine, convert, and deliver it. From the initial resource you must also deduct any physical losses of energy in the foregoing sequence, as well as the energy yields that you have sacrificed in the single-minded pursuit of any one fuel.

Without doubt, net energy may well be the simplest idea ever to have been ignored by so many acknowledged experts. Corporations would go bankrupt if they did not understand the distinction between gross income and net profit, but our thinking about energy has somehow not yet reached this level of sophistication.

It does not matter whether you start with energy in the ground (coal, gas, oil, uranium oxide, plutonium, steam), in surface waters (hydropower reservoirs, tides, waves), on the land (timber, food, manure) or in space (sunlight, wind): in order to use this energy, you must first expend much or most of it.

Agriculture presents an object lesson in the dynamics of net energy. To produce America's moderately high per-acre crop yields (up 63 per cent in the last 20 years), American farmers use more petroleum than *any* other economic group, and, as a result, they consume much more energy than they produce.

California State University professor Michael Perelman has calculated that the energy value of the food Americans consume roughly equals the energy burned by tractors—just one fraction of our farm machinery. Significantly, the energy efficiency of U.S. agriculture has been steadily declining. Even ten years ago some 150 gallons of gasoline per American flowed into food production. That was five times as much energy as each of us consumed at the table—and the ratio has grown even worse in the ensuing decade.

Perelman's research also suggests that most other countries balance this equation better than we do. In the extremely labor-intensive agriculture of China, a wet-rice farmer produces 50 units of food energy for each energy unit he expends. For a typical American grain farmer, the ratio is dramatically reversed: one unit of energy harvested for five expended.

The largest portion of our energy deficit in agriculture comes from the use of nitrogen fertilizer. Since World War II our per-acre yields of corn have tripled, but our nitrogen energy inputs have risen 16 times. That may be efficient in terms of man-hours, but it is wasteful of energy. Dr. Georg Borgstrom, a food scientist at Michigan State University, calculates that it takes the calorie equivalents of five tons of coal to make one ton of nitrogen fertilizer. Agriculture Department officials have stated that, because of the energy squeeze, we will face a nitrogen fertilizer shortfall of about one million tons this spring. And these shortages have already raised fertilizer prices by 30 to 60 per cent over last year's level.

Meanwhile, the sewage technology employed by our narrowly trained sanitary engineers has been dumping about 2.4 million tons of perfectly good nitrogen into our lakes, streams, and estuaries each year. Dr. John R. Sheaffer, until recently the U.S. Army's top environmental consultant, estimates that this nitrogen is worth $1 billion and equals nearly a third of the synthetic fertilizer sold. By wasting it and forcing us to replace it with manufactured nitrogen, sanitary engineers make us burn the equivalent of an extra 2.2 billion gallons of fuel oil each year. Reclaiming most of this sewage will greatly improve the net energy yield of our agriculture, although it is not the whole answer.

Howard T. Odum, professor of Environmental Engineering Sciences at the University of Florida, has done the most provocative thinking on the importance of net energy. "Many forms of energy are low-grade because they have to be concentrated, transported, dug from deep in the earth or pumped from far at sea," Odum says. "If it takes 10 units of energy to bring 10 units of energy to the point of use, then there is no net energy. Right now we dig further and further, deeper and deeper, and we go for energies that are more and more dilute. We are still expanding our rate of consumption of gross energy, but since we are feeding a higher and higher percentage back into the energy-seeking process, we are decreasing our percentage of net energy production."

That single paragraph makes more sense about our energy predicament than volumes of solemn declarations from the Senate Interior Committee, the Federal Energy Office, and the oil companies. It puts the spotlight on the steady decline in the net energy yields of our traditional fossil fuels. Our nearest, least resistant oil fields have been drained, now we must literally squeeze oil from marginal ones, or import it from abroad in tankers (which themselves use fuel), or pump it long distances from offshore rigs to refineries. In the past, when oil returned a high net energy yield, it handsomely subsidized all our other fuel and power sources. Oil built hydroelectric dams. Oil and electricity extracted our coal. Oil grew our wheat. Oil made 20th-century America "work." But today, our free ride on oil is coming to a halt.

FLUNKING THE NET ENERGY TEST

This means, among other things, that each of our remaining fuels must henceforth meet the test of its own intrinsic net energy ratio.

Let's look briefly at three such fuels: coal, uranium oxide, and shale oil.

In a recent interview with The Washington Post, William Simon declared: "Today we've got an 800-year supply of coal in this country where we can get from 25 to 35 per cent of our needs . . . for an infinite period of time." The kindest phrase we can think of to describe this statement is "whistling in the dark." Simon has simply commandeered—and inflated—the best prevailing estimates of our gross coal reserves without making any allowance for the energy cost of extracting this coal.

Unfortunately, common sense suggests that the net yield from our remaining coal deposits will be low. Unlike oil from wells, coal can be extracted only after tons of earth have been pushed aside. In the case of strip-mined coal these tons are literally mountains—mountains which must later be bulldozed back into shape, covered with topsoil, seeded, and carefully tended for 15 or so years (that is, unless we're willing to leave the land unreclaimed).

Seven months ago the President's Council on Environmental Quality issued a booklet on electric power. It contained some serious errors, but one useful fact can be found in it. Of all the deep or strip-mined coal that we extract, only 30 per cent reaches the final user. The rest disappears through physical losses in processing and transportation, heat losses during conversion to electricity, and electrical leakage from transmission lines. Furthermore, each of these steps, like the extraction process itself, consumes considerable energy. "Big Muskie," a giant coal dragline now tearing up Muskingum County, Ohio, gulps enough power each day for 27,000 all-electric homes. The energy costs of mining coal and converting it to electric power must therefore be subtracted from the 30 per cent of the initial resource which is left after leakage and physical disappearance.

We must also subtract the energy harvest we sacrifice when we decide to use land for strip-mining. Joseph Browder, of Washington's Environmental Policy Center, says, "The energy costs of stripping Northern Great Plains coal must included the direct loss of agricultural productivity in the Powder River Basin and other areas where livestock produced on native grasses would be replaced by livestock produced in a feedlot system dependent on energy-intensive, fertilized, irrigated crops."

In the West, the energy problems caused by strip-mining have another facet: Immense amounts of water will have to be set aside to gasify, liquefy, or convert the coal into electricity. This means new water sources will have to be developed, at a high energy cost, to replace those consumed by converting coal.

When all these relevant energy costs are deducted, the net yield from our coal reserves may drop to three or four percent or less. Presto! Simon's 800-year bonanza has shrunk to a few decades.

LOSING ENERGY WITH ATOMIC POWER

Then there's nuclear power, which the Nixon Administration is betting will eliminate our energy problems forever by the end of the century. So far, however, 25 years of nuclear fission power have drained off more energy than they have produced. It's easy to see where the problem comes from.

In 1972, according to the authoritative *Electric World*, the Atomic Energy Commission (AEC) used 25.7 billion kilowatt-hours of electricity just to produce the uranium needed to fuel nuclear power stations—stations with a power output of about 50-billion kwh. This was not a fluke. "As much as half of the gross electrical output of a nuclear plant would have to be recycled to supply input for fuel processing," says E. J. Hoffman, a University of Wyoming nuclear energy specialist. If you also include the energy costs of searching for uranium ore, mining it and transporting it; findings, mining, refining, and transporting the metals that go into nuclear power plants; manufacturing the concrete for these plants; operating them (which includes driving to and from work); and storing or reprocessing the "dirty" wastes from nuclear fission—you will find the 1972 net energy yield from uranium has probably sagged to less than 10 per cent.

The sober conclusion we draw from all this is that our nuclear energy program would collapse without its big energy subsidy from oil. Three years ago, after studying the past, present, and projected yields of U.S. nuclear power plants, Dr. Hoffman stated:

"The cumulative energy expenditure of the entire atomic energy program may not be recouped from nuclear fission power plants by the time the reserves of economically recoverable U-235 are used up."

Shale oil presents us with another statistical no-man's land. There are between one billion and 10 billion barrels of shale oil burned in the West, according to official estimates. However, after all the energy requirements of shale oil have been subtracted, there may be a net yield of only a few hundred million barrels. This could even drop off close to zero if all that buried shale has to be laid bare, heated to squeeze out the oil (which makes the waste rock expand), pushed back into place and recontoured. In a recent book, *The Energy Crisis*, Lawrence E. Rocks and Richard Runyon predict that the net energy yield from 99 per cent of our Rocky Mountain oil shale will be zero.

One reason why almost nobody seems to care about net energy is the tendency of otherwise knowledgeable people to confuse net energy with mere efficiency of extraction. When we hear the term "fuel efficiency," it is easy to think of extraction ratios: for example, we can only suck about 30 per cent of the oil in an oil field out of the ground, and solar devices can convert only about one per cent of the incoming light into useful energy. This may make oil seem more "efficient" than solar energy. But it doesn't cost us anything to pass up that 99 per cent of solar energy of 70 per cent of oil; we get nothing and we expend nothing, so this loss doesn't really affect our calculations. What really counts is how much energy we must expend to *get* the obtainable energy. Extracting and refining the 30 per cent of the oil may consume so much energy that the net energy yield is quite low.

Another problem is that the entire debate over fuels is dominated by economists, geologists, and capitalists who have been trained to think only in terms of dollars. Is oil shale still too costly to develop? Well then, they advise, wait for conventional fuels to grow scarce (high-priced) and shale oil will become a profitable commodity. The trouble with such incantations is that they assume the dollar costs of a given fuel will faithfully—and quickly—reflect its energy costs. This assumption is unwarranted. The dollar costs of new oil wells, for example, depend on tax write-offs and other accountng decisions which do not reflect net energy. A fuel can remain artificially underpriced for months, even years, after its net yield drops. And the notion that shale oil will become profitable at the very moment when it can no longer count on a big initial subsidy from deep-well oil is, in net energy terms, absurd.

"The truth is often stated backwards by economists," says Dr. Odum. "Often they propose that marginal energy sources will become economic when the rich sources are gone. But the ability of marginal sources to yield goes *down* as the sources of subsidy become poorer."

Three months ago, Brookings Insitution President and former Budget Director Kermit Gordon admitted to the American Economics Association: "I know of no neat theory of inflation that fits the facts of the last five years—neither aggregate demand, nor money supply, nor labor power, nor oligopoly power, nor bottlenecks, nor expectations—though I could easily be convinced that they all played a part."

The "facts" of the last five years boil down to a lickety-split inflation that has respected neither boom nor bust. Might not our shrinking net energies provide the "neat" theory that resolves this seeming paradox? Professor Odum sees it that way: "If the energy reaching society for its general work is less because so much energy must go into the energy-*getting process*, then the real work of society per unit of money circulated is less. Money then buys less real work . . . and is worth less." This inflationary bind could exist in a rising or a falling economy, provided that the actual money supply did not substantially dwindle.

The infamous U.S.-Soviet wheat deal two years ago provides a vivid example of the fickle relationship between dollars and net energy. This exchange was a financial windfall for a few grain exporting firms, but an energy disaster for Americans. Wilson Clark, a Washington, D.C. energy specialist, claims that it cost us 10 units of energy to ship grain worth one unit of energy to the Russians. In return we were promised Soviet natural gas worth two energy units. "Financially it worked out fine," Clark says, "but in energy terms we suffered a 5 to 1 net loss."

BALANCING OUR ENERGY ACCOUNTS

Clearly, before the United States invests hundreds of millions and then billions of dollars in a desperate scramble for miracle fuels, we must devise a system of national energy accounts. How much of the energy from wesetrn coal must be pumped back into its production? How will the net yield of western strip-mined coal compare with that of midwestern deep-mined coal? What natural energy harvests will be sacrificed by these alternatives? How heavily must we subsidize the next 25 years of nuclear fission? To bring one 1,200-calorie loaf of cracked wheat bread to a suburban table, how many thousands of calories must we spend on fertilizer, pesticides, cultivation, harvesting, farm overhead, milling, baking, distribution, sales, and—not least—that luxurious trip to the supermarket? For our overseas oil, how much energy do we invest in our Mediterranean fleet, in our farflung corporate empires, and in their support structures in the Departments of State, Commerce, and Interior? Will solar converters yield a rich net energy harvest? And (assuming the necessary copper can be scavenged) will windmills?

A bookkeeping system capable of answering these and a vast number of related questions will do something for us that mere dollars cannot: it will test our economic sanity, rationalize our economic planning, and give us a long-lost sense of proportion *vis a vis* the natural world we inhabit. We need to launch this accounting revolution immediately, for the world we face tomorrow is not the world we know today. Immutable laws of net energy are leading us toward an economic steady state.

"Our system of man and nature will soon be shifting from rapid growth to steady state non-growth as the criterion of economic survival," says Dr. Odum. Ecologists are familiar with both the growth state and the steady state; they observe both in natural systems." Economists, however, have been schooled during, by, and for growth. Most of them have never seen a steady state. Except for the London School's Ezra Mishan and a mere handful of kindred spirits, they reject the possibility of a steady state even though man lived in something very close to one during 99 per cent of his evolution.

Why is a new steady state—presumably at a decent level of health and well-being—in our cards? It is in our cards because the high net-yielding energy sources we need to survive, with the doubtful exception of nuclear fusion, cannot match the total daily output we have heretofore enjoyed from the fossil fuels. Oil, coal, and gas have been a marvelous energy "capital," a 400-million-year-old bankroll for the Western world. Sunlight is energy "income", however; we can tap only so much of it each day. Whether we like it or not, we'll have to live within our means. This is the only way we can reach that redoubtable state Mr. Nixon calls "energy self-sufficiency."

SOVIET TRADING STRATEGY: "LET THE WEST FINANCE ITS OWN DESTRUCTION"

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 7, 1974

Mr. RARICK. Mr. Speaker, the Arab oil-producing countries are not the only ones reaping a handsome profit from the energy crisis. The Russians have now gotten into the act.

The Soviets recently "sold" military armaments to Iraq in exchange for $13 million worth of Iraqi oil. The petroleum was never intended for use in Mother Russia, however. It was resold for $40 million in hard currency to West Germany, even before the Iraqis delivered it. For their efforts at playing the middle men, the Soviet wheeler-dealers pocketed a nice profit of $27 million.

Sound familiar? It is the same technique the Russians used 2 years ago when they pulled off the "great grain robbery," which sent food prices in this country into orbit. In the case of the wheat deal, it will be remembered, the Russians received taxpayer subsidies and were able to purchase our wheat at bargain basement prices. Some 200,000 tons of the U.S. wheat was diverted for resale to Bangladesh, as a Soviet public relations gesture, even before it left the Port of Houston. Recent reports now indicate that the Russians are willing to sell some of the same wheat back to the United States at an inflated profit, of course.

Last April, the Soviet market manipulators arranged another deal with the European Common Market to purchase 200,000 tons of butter at 17 cents a pound while the market price was 93 cents a pound. It was assumed at the time that the cheap butter would be used on bread made from the cheap U.S. wheat. As it turned out, much of the butter was resold at a profit to the Communist government in Chile.

The Soviets also have no misgivings about "ripping off" their allies in trade deals. Cotton, which the Soviets bartered away from Egypt and the Sudan last year, has now found its way into the world market. The Russian-owned cotton is currently in direct competition with cotton exports from these two countries.

A trend appears to be developing. The Soviet Union has finally learned how to make their economic system work: Sponge off the capitalists at a profit.

Some observers in this country hail this trend as a sign that the Soviets are developing into a semicapitalistic system. I disagree. I am reminded of the accurate observation made many years ago by the great mentor of Soviet communism, V. I. Lenin. He told his comrades:

> When the capitalist world starts to trade with us—on that day they will begin to finance their own destruction.

Mr. Speaker, as an additional example of our continued financing of the Soviet Union, I include a related news clipping:

> SAME CREDIT TERMS EXTENDED TO MOSCOW
>
> The Export-Import Bank has extended $248.5 million in export trade credits to the Soviet Union on the same terms as to other borrowers, senators were told yesterday.
>
> The loans will support exports of U.S. equipment with a total value of $552 million.
>
> Walter C. Sauer, vice chairman of the bank, said Moscow has received no preference and was able to obtain its required 50 per cent matching of borrowed funds from private lending institutions without government guarantees.
>
> The bank board, Sauer said, acted on available information about the Soviet economy and trade statistics in finding "reasonable assurance of repayment."
>
> But, he said, more information would be required to go substantially beyond the present level of borrowing.
>
> Sauer testified at the bank's budget hearing before the Senate Appropriations Subcommittee on Foreign Operations.

HOUSE OF REPRESENTATIVES—*Monday, March 11, 1974*

The House met at 12 o'clock noon.

The Reverend Henry L. Reinewald, national chaplain, Veterans of Foreign Wars, offered the following prayer:

Father, we pray Your blessings upon the United States of America, upon its people, upon its Government, and especially upon the House of Representatives of the United States.

We invoke the guidance of Your Holy Spirit upon our Nation and its people, as we meet the challenges and opportunities of this day and age, that in all things we shall do Your will. We thank You Father that in every age since the founding of these United States of America Your blessing has been upon this land and its people. We pray that Your blessing will ever be the guiding light of our Nation, that we as a people shall ever know the way, the truth, and the life You desire for us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Is there objection to dispensing with the reading of the Journal?

MOTION OFFERED BY MS. ABZUG

Ms. ABZUG. Mr. Speaker, I object to dispensing with the reading of the Journal, and I move that the Journal be read.

The SPEAKER. The question is, shall the Journal be read?

The question was taken; and the Speaker announced that the noes appeared to have it.

The motion was rejected.

The SPEAKER. Without objection, the Journal stands approved.

There was no objection.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5450. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972, in order to implement the provisions of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 265. An act to authorize the Secretary of the Interior to sell certain mineral rights in certain lands located in Utah to the record owner thereof;

S. 1688. An act to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy; and

S. 2747. An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to expand the coverage of the act, and for other purposes.

RESIGNATION OF THE PRESIDENT

(Mr. VANDER VEEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANDER VEEN. Mr. Speaker, as you know, I was elected as the first Democrat in 64 years from the Fifth District in Michigan. When I announced in early December of 1973 that I would be a candidate, I said that the issue in the election was Richard Nixon. I said at that time that Richard Nixon, for the good of the country, should resign. Throughout the campaign, my opponent refused to take a stand against Richard Nixon. On election day the issue was clearly drawn.

The voters spoke decisively, electing me by a 7,000-vote margin in a turnout exceeding all predictions. A very recent poll showed that for each Republican that stayed home, 2 to 1 would have voted for me, thus increasing the margin by an even larger number.

Nothing has occurred since my original statement to change my position. Each passing day and each new development has only strengthened my conviction. Some Democrats have wondered whether, for partisan advantage, it would be more advantageous to have the President continue in office. Our country is facing a moral crisis in government. Now is no time to seek partisan advantage.

In like manner, the President should put ahead of all other considerations the good of the country. We desperately need to get the country moving.

I was sent to Washington to deliver a message. The message is clear. I, speaking now as a duly elected Representative, am now stating that message from the floor of the House of Representatives.

Mr. President, for the good of the country, you should resign. The time is at hand.

FEELINGS OF PEOPLE OF MICHIGAN

(Mr. HUBER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBER. Mr. Speaker, I happen to come from the State of Michigan. I listened with a great deal of interest to my fellow Michigander's observation as to the message in his recent election. What the gentleman from Michigan neglected to tell my fellow Congressmen was that Senator Vander Laan had campaigned in 1970 that if he was elected to the State senate, he would be opposed to income tax increases, and in 1971 he led the fight for those increases. In 1972 he assisted in the gasoline tax increase and in the metropolitan area of Grand Rapids those things are remembered by the Dutch, who have a long memory on things like that.

There are other things such as the parliamentary maneuver or reconsideration of the abortion bill. I think we heard only a partial summation this morning by my distinguished colleague from Grand Rapids as to what happened in the State of Michigan.

I will be putting in the Extensions of Remarks today some articles from papers which will shed an entirely different light on what happened in the State of Michigan.

Mr. Speaker, I think the President of the United States does not have to accede to the appeal made this morning for his resignation. If he wants to get the message from the Fifth District election, I will be glad to send him comments from other people in the State of Michigan.

REPEAL SECTION 249F OF SOCIAL SECURITY AMENDMENTS

(Mr. LANDRUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. LANDRUM. Mr. Speaker, I am today introducing legislation to repeal section 249F of the Social Security Amendments of 1972 which established the Professional Standards Review Organizations.

The Medical Association of Georgia has been in touch with me, as have many individual doctors from my district, and they have shown me how foolish this legislation was to begin with. Now that the law is going into effect, it is obvious how misguided the whole idea was. It should be repealed before it gets into full operation.

What will we gain by having a committee scrutinizing our doctors? Well, for one thing, we will run the risk of having a patient's records viewed by committeemen other than his own doctor, persons with whom he is not and may not wish to be in consultation.

More importantly, we will have our doctors unable to exercise their own best judgment as to what care is best for their patients and whose records they know. Instead, they will have to clear everything through a committee and work using "recipes" for the committee's "cookbook." All innovation and experimentation in new techniques will be curbed to keep care at the level of mediocrity. Also, the physician will be burdened with another level of bureaucracy and another load of Government paper, an obvious incentive for costs to rise.

The doctors who have talked with me are not concerned for themselves so much as they are concerned about the damage this law will do to the level of their patients' care. They rightly fear the loss of our free enterprise medical system to "medicine by cookbook." Our private enterprise medical system, run by the individual doctors, has given us the best medical care in the world. To require the doctors to be answerable to a Government committee will be a step backward.

I urge speedy consideration of this bill.

FEELINGS OF THE PEOPLE OF MICHIGAN

(Mr. HAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYS. Mr. Speaker, I could not help but be amused by the speech that the gentleman from Michigan who just preceded me made. What he said, in effect, was that the Republican candidate in Michigan, Mr. Vander Laan, had not told the truth to the people and that is why he got defeated. I hope he can get a few more candidates like that in the fall.

RESTRICTIVE RULE ON H.R. 69

(Ms. ABZUG asked and was given permission to address the House for 1 minute, to revise and extend her remarks and include extraneous matter.)

Ms. ABZUG. Mr. Speaker, tomorrow the House is scheduled to begin debate on H.R. 69 to which I have very serious objections. I intend, this afternoon to undertake extraordinary measures to bring to the attention of the other Members the gross inequity that the passage of H.R. 69, under the restrictive rule of House Resolution 963, will render to a large number of urban areas and numerous counties all over this country. Among these areas affected are: New York, District of Columbia, Boston, Columbus, Buffalo, Minneapolis, Newark, Omaha, Rochester, Charlotte, Yonkers, Gary, Kansas City, and Paterson, N.J.

It is indeed a sad day for Congress when the very lives of children caught in the web of poverty will be prohibited from even having their fate fully debated by the House. We will have to debate changes in the educational policy which has existed in the United States for nearly a decade with little opportunity for amending the new educational policy as introduced in H.R. 69.

H.R. 69, as reported, employs a grossly inequitable formula for the distribution of title I funds from ESEA that penalizes those States, and especially those cities and counties with large concentrations of poor, who have made the greatest sacrifice in the utilization of their tax dollar for education and have been the most innovative in so doing.

The situation is exacerbated by House Resolution 963 which is a restrictive rule waiving points of order against the committee substitute for failure to comply with clause 7, rule XVI and allows for no amendments to amendments.

I shall object to the procedures of the House today with the hope that reason will prevail and H.R. 69 will be taken off the calendar tomorrow to allow for the development of a more equitable formula.

CALL OF THE HOUSE

Ms. ABZUG. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 72]

Addabbo
Alexander
Andrews, N.C.
Annunzio
Armstrong
Ashbrook
Ashley
Badillo
Bafalis
Baker
Barrett
Bell
Biaggi
Bingham
Blatnik
Bolling
Brademas
Brasco
Breaux
Brooks
Burke, Calif.
Butler
Byron
Carey, N.Y.
Chappell
Chisholm
Clancy
Clark
Clay
Cohen
Conlan
Conyers
Corman
Cotter
Crane
Culver
Danielson
Davis, S.C.
Delaney
Dennis
Dent
Devine
Diggs
Donohue
Dorn
Downing
du Pont
Eckhardt
Erlenborn
Eshleman
Fish
Fisher
Flowers
Flynt
Frelinghuysen
Frenzel
Fulton
Giaimo
Gilman
Goldwater
Grasso
Gray
Green, Oreg.
Green, Pa.
Gubser
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Hawkins
Hébert
Heckler, Mass.
Henderson
Holifield
Howard
Hudnut
Jones, N.C.
Jones, Okla.
Jordan
Kluczynski
Koch
Kuykendall
Kyros
Lehman
McCloskey
McEwen
McKinney
McSpadden
Macdonald
Madigan
Mahon
Maraziti
Martin, N.C.
Metcalfe
Michel
Milford
Mills
Mink
Minshall, Ohio
Moakley
Montgomery
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nix
Obey
O'Brien
Patman
Pepper
Pickle
Podell
Quillen
Railsback
Rangel

Reid
Robison, N.Y.
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rostenkowski
Roush
Roy
Ryan
St Germain
Shipley
Slack
Smith, N.Y.
Staggers
Stanton, J. William
Steele
Steelman
Stubblefield
Symington
Thone
Thornton
Tiernan
Walsh
Ware
Wilson, Charles, Tex.
Wydler
Young, Ga.

The SPEAKER. On this rollcall 287 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
March 8, 1974.

Hon. CARL ALBERT,
The Speaker,
U.S. House of Representatives:

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:10 P.M. on Friday, March 8, 1974, and said to contain a message from the President concerning Campaign Reform.

With kind regards, I am.

Sincerely,

W. PAT JENNINGS,
Clerk, U.S. House of Representatives.
By W. RAYMOND COLLEY.

ELECTORAL PROCESS REFORM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-231)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

I. INTRODUCTION

The American people wield a mighty instrument of free choice as they enter the voting booth. Indispensable to the health and integrity of that process is the accountability of candidates for public office.

Campaign abuses recently publicized and of years gone by, samplings of Congressional and public opinion, expert observation, the experiences of all of us in elective office—all proclaim that the electoral process needs reform and that the accountability of candidates must be more uniformly enforced. I commend the Congress for its own recognition of this need as evidenced by recent Senate passage of two important reform measures, by the introduction of scores of reform bills, and by detailed analyses of this entire area by many Members of Congress in both Houses.

The Executive and the Congress have, therefore, a common goal: reform that works, reform that deals with the very real concerns we have in a way which improves the electoral system instead of simply coating it with the appearance of change.

I feel strongly that the reform we seek must be realistic. For example, I continue my interest in the possibilities of a six-year, one-term Presidency and four-year terms for Members of the House of Representatives. Yet, the advantages of these proposals are not so compelling as to merit driving now for a constitutional amendment. I do, however, urge further consideration of these subjects both by the Congress and the public.

Another such proposal, appealing but in my view impracticable, is the so-called Post Card Registration plan. Its goals are laudatory, but not its practical results.

Testimony before the House Election Subcommittee has already indicated that the proposal's stated objective would not be reached and the target groups not registered. In addition to being an unwarranted Federal intrusion in an area reserved by the Constitution to the States, post card registration would be an administrative nightmare and would cause chaos in existing registration systems. Of even greater importance is the open invitation to election fraud that would be inherent in so haphazard a system. I would add that periodic in-person registration by a citizen involves a personal and political commitment that I would regret very much to see us lose.

All of our solutions in the area of campaign reform must be grounded on the solid experience of nearly 200 years, not merely on the spirited rhetoric which so frequently pervades this arena.

II. LEGISLATIVE PROPOSALS

On May 16, 1973, I urged the Congress to establish a non-partisan commission on Federal election reform. This blue-ribbon commission would have been composed of political party leaders, Members of Congress and distinguished laymen. Only one House of Congress, the Senate, has focused on it. This lack of action has come at the very time that many Members of Congress and private leaders have been speaking out about the need for vigorous action against campaign abuses.

If it had been created in a timely manner, this commission would have been charged to file a public report no later than December 1st of last year. By now we would have had an authoritative, bipartisan report recommending carefully weighed reforms for Federal campaigns, and perhaps by now we could have been well on the way toward new statutes applicable to the upcoming elections this November.

It is because of this delay that I have directed the Department of Justice to work with my staff in preparing a comprehensive set of reforms for consideration of the Congress in this session. I am hopeful that these proposals, together with other approaches being advanced in Congress, will lead to vigorous debate and solid, effective reform.

Of course, we should not be concerned with Presidential campaigns alone. A massive volume of campaign contributions goes into Senate and congressional campaigns as well. The problem faces us all, and because we are all concerned, I am anxious for the Congress and the Executive to work together in a spirit of full cooperation. For real progress to occur, we must all consider the paramount interest of the electoral system rather than parochial interests of any party or candidate.

The proposals I urge the Congress to consider as it continues to evolve its own approach fall into four major areas: campaign finances, campaign practices, campaign duration, and encouragement of candidate participation.

A. CAMPAIGN FINANCE

In recent years, political campaigns in America have become increasingly expensive. Because the need for more and more money has become acute in many Federal elections, I regard campaign financing as the most important area for reform, and the area in which reform is most urgently required.

After extensive study of a wide range of suggestions, including the many proposals developed by congressional sources, I conclude that the single most important action to reform campaign financing should be broader public disclosure. Complete financial disclosure will provide the citizens of our country with the necessary information to assess the philosophy, personal associations, and political and economic allegiances of the candidates.

A number of statutes already exist which require some disclosure, but we can and should expand and improve the process.

Specifically, I endorse the proposal that each candidate in every Federal election be required to designate one single political committee as his authorized campaign organization, which in turn would have to designate one single depository for all campaign funds. With this single committee and single depository, accountability becomes virtually assured, and the unhealthy proliferation of political committees to pyramid and conceal campaign donations would be stopped at last.

I also strongly support the proposed requirement that every donation to these committees be specifically tied to the original individual donor, excepting only donations by a national political party organization. Other organizations could act as agents of individual contributors, but the donor himself would be required to designate the ultimate recipient of his campaign donation. This requirement would do more than facilitate disclosure; it would have the highly positive side benefit of reducing the influence of special interest groups by discontinuing their direct and often very substantial contributions to candidates. Donations to political party organizations, rather than to individual candidates, would not be interfered with and would continue to be identified as to the original donor, as existing law requires.

Even though disclosure is, I believe, the single most important prescription to deal with financing reform, I believe also that donation limits are needed on the amounts that an individual contributor could give to any Federal election campaign. I suggest that a candidate's authorized campaign committee be prohibited from accepting more than $3,000 from an individual donor in any Senate or House election, and not more than $15,000 in any Presidential election. These ceilings would apply in each campaign—primaries, runoffs, and general elections—and would include any contributions earmarked for a candidate through a national political committee. Regardless of the number of Presidential primaries, no candidate for President could receive more than $15,000 from any individual for all of the primaries combined, or more than this amount from any individual in the general campaign.

In recent years there has been a proliferation of "in kind" contributions in the form of paid campaign workers, printing supplies, the use of private aircraft, and other such nonmonetary campaign assistance. Because there is as much room for abuse with "in kind" contributions as with financial ones, I believe we should prohibit all "in kind" donations by any organization other than a major political party.

Any "in kind" contribution by an individual would, of course, continue to be permissible, but would have to be disclosed as to both donor and recipient, with an open report of its reasonable value. These personal "in kind" donations would come within the same ceiling limitations as monetary contributions and would apply toward the ceiling amounts for Senate, House and Presidential elections.

I also urge:

—That all donations of more than $50 be made by check or other negotiable instruments, so that large flows of cash can be at least inhibited;

—That all campaign-related expenditures of over $50 be drawn only from the central campaign treasury;

—That all loans to political committees be banned, so that we can end the practice of disguising donations as loans;

—That the donation of physical assets such as appreciated stocks be prohibited;

—And that campaign contributions from foreign accounts and foreign citizens be prohibited.

These proposals, when added to the present disclosure law that took effect in 1972, should assure American voters of the information they need to decide for themselves whether or not a candidate is financing his or her campaign honestly and in an acceptable manner.

The proposals I have offered advance the common goal of restraining campaign expenditures, but they do so without imposing arbitrary limits. It is important to note, as well, that existing law already limits the amount which candidates for Federal office may spend for campaign advertising in the communications media, the most costly part of modern campaigning.

Additional spending limits, desirable as they are at first thought, raise significant constitutional questions. Moreover, they would be unworkable because many citizens furnish direct support to a multitude of groups which in turn support candidates only because of selective positions on narrow issues. They can also be unfair because expenditure limitations can be set too low to provide a challenger with any hope of contrasting his views with those of the better known, federally subsidized incumbent. Finally, a limit appropriate to a geographically small, congested congressional district could be utterly inadequate for a large one. There are many other district-by-district variations that rigid nationwide spending limits could not fairly accommodate.

I conclude that full disclosure of campaign contributions and expenditures, subject to existing limitations, is the best and fairest approach, one that lets the voters decide for themselves whether or not too much money is being collected and spent. There should not be a limit on the widest possible dissemination of ideas and positions on issues, but I fear that would be precisely the effect of additional spending limitations however carefully designed.

Much of the debate over campaign reform has centered around the issue of drawing down on the public treasury to pay for all or part of political campaigns. I strongly oppose direct Federal campaign financing, and I doubt very much that most citizens would favor diverting hundreds of millions of tax dollars away from pressing national needs in order to underwrite politicians' campaigns.

Neither is it right to make millions of Americans pay the cost of the political activities of individuals and parties with which they might totally disagree. This even goes beyond taxation without representation. Thomas Jefferson in the Statute of Religious Freedom said that "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical."

Moreover, if we outlaw private contributions, we will close the only avenue to active participation in politics for many citizens who may be unable to participate in any other way. Such legislation would diminish, not increase, citizen participation and would sap the vitality of both national parties by placing them on the Federal dole.

In addition, almost any "public financing" measure would give incumbents an unfair advantage. Frequently, a challenger must spend more than the incumbent in order to make his qualifications known and to counterbalance the incumbent's in-office financial advantages. But if the taxpayers are to put up the money, ceilings on such spending would have to be imposed which unavoidably would penalize the lesser-known challengers.

Through the existing tax check-off for Presidential elections and political tax credit or deduction, in 1972 the Federal Treasury was subject to the expenditure of up to $100 million for taxpayer support of political campaign activities. These programs, however, do not sever the crucial tie between the individual citizen and the party or candidate of his choice, and do not carry as great a threat of Federal domination of political campaigns.

I believe our Nation has already seen too many examples of how the use of tax dollars can lead to Federal control. By setting reasonable limits on campaign contributions, and by requiring broader public disclosure, we can guarantee that the American voters are fully aware of who is making the contributions; and the Nation can then leave it to the people themselves to judge the wisdom and propriety of these donations.

Another problem in this area warrants the early attention of Congress. The Internal Revenue Service has recently held that income earned from funds of political parties is taxable under the present Internal Revenue Code. This ruling has caused widespread confusion and uncertainty on the part of political campaign committees. I believe this situation was never intended by Congress and urge enactment of legislation removing any tax or potential tax on any income earned from political party funds.

While strong financing and disclosure laws are necessary, these alone will not insure the reform we need. For most of the 20th century our campaign laws have not been enforced. Enforcement of the Federal Corrupt Practices Act, a measure riddled with loopholes, has been all but impossible, and enforcement of the Federal Election Campaign Act is difficult because of the proliferation of committees and the lack of central reporting.

Therefore, I endorse the proposal developed in the Congress to establish a Federal Elections Commission to supervise the Federal Election Campaign Act and other election measures.

This independent commission would be bipartisan and would monitor our campaign finance and disclosure laws. It would bring under the umbrella of one agency the current oversight functions of the Comptroller General, the Clerk of the House of Representatives, and the Secretary of the Senate. Membership on the commission should include representatives of the major political parties.

In its supervisory capacity, the commission would serve as a much needed central repository for election records and would have powers to subpoena documents and witnesses to fulfill its duties. It would also be able to refer campaign violations to the Justice Department for appropriate action. The work of the commission would in no way impinge upon congressional rights and responsibilities, but would expedite the disposition of violations and provide a coordinated supervisory role in overseeing the various election laws.

B. CAMPAIGN PRACTICES

Many people have made the point that additional Federal laws are needed to deter or punish criminal, tortious or otherwise improper activities in Federal election campaigns. Existing laws deal with vote bribery, vote fraud, spurious campaign literature and other breaches of campaign ethics, but as in the area of campaign finance, these laws are unclear and have been unevenly and sometimes unfairly enforced through selective prosecution.

I have reviewed several recommendations in this area and conclude it is time for Federal statutes to spell out specifically the prohibition of certain campaign and election day practices. I propose that we prohibit three types of campaign practices:

—Activities which unreasonably disrupt the opposing candidate's campaign, such as the dissemination of false instructions to campaign workers and related disruptive activities, or which constitute a fraud upon the voters, such as rigging opinion polls, placing misleading advertisements in the media, misrepresenting a Congressman's voting record, or organizing slander campaigns.

—Activities which involve the use of force, such as the organized use of demonstrators to impede or deny entry at a campaign rally, or individual criminal actions which take on a special significance when they are done intentionally to disrupt the Federal election process.

—Those election day practices, such as stuffing ballot boxes, rigging voting machines, forging or altering ballots, or failing to count certain votes, all of which directly affect the electoral process in a most pernicious manner.

I realize that attempting to outlaw certain improper campaign activities requires particular attention to the First Amendment guarantees of free speech and assembly. With this in mind, I have asked the Department of Justice to draft a criminal statute designed to prohibit wrongful practices and to make them *Federal* offenses if the conduct is engaged in with the specific intent of interfering with the Federal election procedure. I invite especially thorough debate by the Congress in this difficult area.

C. CAMPAIGN DURATION

In the campaigns of 1972, there were no less than 23 separate State primaries for the Presidential contestants. The extent and duration of these proliferating primary contests have not only extended the length of campaigning but have also materially added to its expense.

I believe deeply in the statewide Presidential primary system. It affords the public a true measure of candidates who have to take their cause to different parts of the country and face the voters with their positions on crucial issues. Because I believe in the primaries but wish to bring some sense of order to the system we now have, I agree with the proposal not to hold any State Presidential primaries or nominating conventions before May 1st of an election year, and I urge that this be done.

Even though moving primary dates later in the election year is the only specific legislative action I offer to shorten campaigns, other helpful measures can be taken without Federal legislation. One way to cut down on the cost and duration of Presidential campaigns is to delay the national nominating conventions until the month of September. I urge the leaders of both national political parties to plan now for the scheduling of their 1976 conventions at this later time.

I know that delaying the nominating conventions may conflict with certain State requirements that a nominee's electors must be selected earlier than September. Therefore, I encourage the States having such requirements to change their laws to conform with this potential action by the national parties. I am reluctant to ask for Federal legislation in this area because it would intrude unduly into the right of each State to determine its election laws, but I am hopeful that the States will cooperate in this important effort. To this end, I am instructing the Department of Justice to give the States such assistance as they may desire in developing legislation to make this possible.

D. ENCOURAGING CANDIDATE PARTICIPATION

One of the major items on the agenda of campaign reform is the need to encourage qualified people to run for office and maintain a strong two-party system. We should never limit the voter's choice or discourage capable men and women from seeking to represent their fellow citizens.

I urge the Congress to examine its own benefits of incumbency which have mounted over the years. It would be inappropriate for the Executive to propose specific remedies in this congressional area, but I suggest there is reason for concern over the marked advantages—federally funded—that congressional incumbents now enjoy over their challengers. Such things as free mailing privileges, use of "public service" broadcast time, and the extensive staff and financial fringe benefits of office have made it progressively more difficult for competent challengers to have a fair chance in congressional races. I readily concede that the Presidential incumbency advantage is also substantial, but there is some protection here in the constitutional limit on length of Presidential service. I urge the Congress to review this problem and to develop reforms that will assure a better balance in congressional races.

I also propose repeal of the "equal time" provision of the Communications Act of 1934 for all Federal elections. The repeal of this provision would reduce campaign expenditures by allowing the electronic media the flexibility to provide free campaign coverage to the major political candidates, and in doing so would assist our citizens in reaching sound judgments on election day.

Finally, I have asked the Department of Justice to explore the possibility of legislation to reaffirm certain private rights of public figures so that people interested in running for public office can have greater assurance of recourse against slanderous attacks on them or their families. Landmark Supreme Court decisions have severely restricted a public figure's ability to gain redress against such grievances, but I would hope that specifically defined limits can be legislated by the Congress to prevent unscrupulous attacks on public figures. These reforms are not intended to restrict vigorous debate, but to enhance it, to help give it dignity and integrity, and to improve the prospects for good and decent people who today flinch from political participation because of their fear of slanderous attacks.

III. CONCLUSION

The reforms I have urged here, and that many in the Congress are seeking as well, are designed to open up our electoral process and to correct some of its most egregious abuses.

I am doubtful that any legislation can provide the panacea that some seek to guarantee absolute integrity in the electoral process. If our campaigns, like the communication of ideas in every area of our public life, are to remain free and spirited, they will frequently be caustic and hard-hitting, and some excesses and abuses will inevitably occur.

The central purpose of the reforms I suggest is to get the really important political information out to the people, to let them know as much as possible about their candidates, and to eliminate abuses which cross the boundaries of fair play.

America has had a remarkable history and tradition of campaign electioneering. Given full access to the actions and thoughts of political aspirants, the American people have shown great wisdom at the ballot box over two centuries of self-government. The reforms I propose today are intended to strengthen the will of the people by making our election process more open.

RICHARD NIXON.

THE WHITE HOUSE, *March 8, 1974.*

ADDITIONAL COMPENSATION TO CERTAIN EMPLOYEES IN HOUSE PUBLICATIONS DISTRIBUTION SERVICE

Mr. HAYS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 93–889) on the resolution (H. Res. 923) providing additional compensation for services performed by certain employees in the House Publications Distribution Service, and ask for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 923

Resolved, That notwithstanding any other provisions of law, there is authorized to be paid out of the contingent fund of the House of Representatives such sums as may be necessary to pay compensation to each employee of the Publications Distribution Service of the House of Representatives for all services performed by such employee in excess of the normal workday where such services are authorized by the Committee on House Administration. Such compensation shall be paid on an hourly basis at a rate equal to the rate of compensation otherwise paid to such employees.

This resolution shall take effect on its adoption and payments made under this resolution shall be terminated as the Committee on House Administration determines necessary.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR THE COMMITTEE ON HOUSE ADMINISTRATION

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 797 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 797

Resolved, That for the further expenses of the investigations and studies to be conducted by the Committee on House Administration, acting as a whole or by subcommittee, not to exceed $320,000, including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $65,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, this resolution, House Resolution 797, is the funding resolution from the Committee on House Administration. It represents the same amount as the committee requested and used last year. It has been agreed upon by both sides.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR THE COMMITTEE ON ARMED SERVICES

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 790 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 790

Resolved, That (a) the further expenses of the investigations and studies to be conducted pursuant to H. Res. 185, by the Committee on Armed Services, acting as a whole or by subcommittee, not to exceed $150,000, including expenditures—

(1) for the employment of investigators, attorneys, and clerical, stenographic, and other assistants;

(2) for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); and

(3) for specialized training, pursuant to section 202(j) of such Act (2 U.S.C. 72a(j)), of committee staff personnel performing professional and nonclerical functions;

shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration.

(b) Not to exceed $9,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72(i)); and not to exceed $2,000 of such total amount may be used to provide for specialized training, pursuant to section 202(j) of such Act (2 U.S.C. 72a(j)), of staff personnel of the committee performing professional and nonclerical functions; but neither of these monetary limitations shall prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Armed Services shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Ms. ABZUG. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Clerk concluded the reading of the resolution.

Mr. THOMPSON of New Jersey. Mr. Speaker, this resolution relates to the funding of the Committee on Armed Services. It was agreed upon unanimously by the majority and the minority. It represents the same funding as the committee had last year.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Ms. ABZUG. Mr. Speaker, I object to the vote on the ground that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 312, nays 1, not voting 118, as follows:

[Roll No. 73]

YEAS—312

Abdnor
Abzug
Adams
Anderson, Calif.
Andrews, N. Dak.
Archer
Arends
Aspin
Baker
Bauman
Beard
Bennett
Bergland
Bevill
Biester
Blackburn
Boggs
Boland
Bowen
Bray
Breaux
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Coughlin
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, Wis.
de la Garza
Dellenback
Dellums
Denholm
Derwinski
Dickinson
Dingell
Downing
Drinan
Dulski
Duncan
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Foley
Ford
Forsythe
Fountain
Fraser
Frenzel
Frey
Froehlich
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Griffiths
Gross
Grover
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanrahan
Hansen, Idaho
Hansen, Wash.
Hastings
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hillis
Hinshaw
Hogan
Holt
Holtzman
Horton
Hosmer
Huber
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Koch
Kyros
Landgrebe
Landrum
Latta
Leggett
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCollister
McCormack
McDade
McFall
McKay
McKinney
Madden
Mallary
Mann
Martin, Nebr.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Miller
Minish
Mitchell, Md.
Mitchell, N.Y.
Mizell
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Mosher
Murtha
Myers
Natcher
Nelsen
Nichols
O'Hara
O'Neill
Owens
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Railsback
Randall
Rangel
Rarick
Regula
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rose
Rosenthal
Rousselot
Roybal
Runnels
Ruppe
Ruth
St Germain

Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton,
J. William
Stanton,
James V.
Steed
Steele
Steiger, Ariz.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Veysey
Vigorito
Waggonner
Waldie
Wampler
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson,
Charles H.,
Calif.
Winn
Wolff
Wright
Wyatt
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—1

Stark

NOT VOTING—118

Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Annunzio
Armstrong
Ashbrook
Ashley
Badillo
Bafalis
Barrett
Bell
Biaggi
Bingham
Blatnik
Bolling
Brademas
Brasco
Brooks
Butler
Carey, N.Y.
Chisholm
Clancy
Clay
Cohen
Conyers
Cotter
Crane
Culver
Danielson
Davis, S.C.
Delaney
Dennis
Dent
Devine
Diggs
Donohue
Dorn
du Pont
Eckhardt
Erlenborn
Eshleman
Fisher
Flowers
Flynt
Frelinghuysen
Fulton
Goldwater
Grasso
Gray
Green, Oreg.
Green, Pa.
Gubser
Hanley
Hanna
Harrington
Harsha
Hawkins
Henderson
Holifield
Howard
Hudnut
Jones, N.C.
Jordan
Kluczynski
Kuykendall
Lehman
McCloskey
McEwen
McSpadden
Macdonald
Madigan
Mahon
Maraziti
Martin, N.C.
Metcalfe
Milford
Mills
Mink
Minshall, Ohio
Moakley
Montgomery
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nix
Obey
O'Brien
Patman
Pickle
Podell
Quillen
Rees
Reid
Robison, N.Y.
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rostenkowski
Roush
Roy
Ryan
Shipley
Slack
Steelman
Steiger, Wis.
Stephens
Stubblefield
Symington
Thornton
Tiernan
Walsh
Ware
Wilson,
Charles, Tex.
Wydler
Young, Ga.

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Roncallo of New York.
Mr. Annunzio with Mr. Bell.
Mr. Carey of New York with Mr. Wydler.
Mr. Barrett with Mr. Devine.
Mr. Fulton with Mr. Armstrong.
Mr. Brasco with Mr. Dennis.
Mr. Morgan with Mr. Cohen.
Mr. Holifield with Mr. Erlenborn.
Mr. Badillo with Mr. Ashbrook.
Mr. Kluczynski with Mr. Hudnut.
Mr. Murphy of New York with Mr. Eshleman.
Mr. Delaney with Mr. Bafalis.
Mr. Brooks with Mr. Goldwater.
Mr. Dent with Mr. Harsha.
Mr. Donohue with Mr. Butler.
Mr. Henderson with Mr. Gubser.
Mr. Hanley with Mr. Crane.
Mr. Moakley with Mr. du Pont.
Mr. Nix with Mr. Rees.
Mr. Reid with Mr. Conyers.
Mrs. Chisholm with Mr. Culver.
Mr. Diggs with Mr. Podell.
Mr. Rooney of Pennsylvania with Mr. Kuykendall.
Mr. Rostenkowski with Mr. Martin of North Carolina.
Mr. Clay with Mr. Harrington.
Mr. Tiernan with Mr. Minshall of Ohio.
Mr. Macdonald with Mr. Clancy.
Mr. Slack with Mr. Madigan.
Mr. Shipley with Mr. O'Brien.
Mr. Ryan with Mr. Quillen.
Mr. Obey with Mr. Robison of New York.
Mr. Hawkins with Mr. Maraziti.
Mr. Addabbo with Mr. Frelinghuysen.
Mr. Biaggi with Mr. McCloskey.
Mr. Bingham with Mr. McEwen.
Mr. Ashley with Mr. Steelman.
Mr. Alexander with Mr. Steiger of Wisconsin.
Mr. Metcalfe with Mrs. Mink.
Mr. Andrews of North Carolina with Mr. Anderson of Illinois.
Mr. Blatnik with Mr. Walsh.
Mr. Flynt with Mr. Danielson.
Mr. Brademas with Mr. Dorn.
Mr. Cotter with Mr. Davis of South Carolina.
Mrs. Grasso with Mr. Fisher.
Mr. Gray with Mr. Eckhardt.
Mrs. Green of Oregon with Mr. Hanna.
Mr. Green of Pennsylvania with Mr. Jones of North Carolina.
Mr. Howard with Ms. Jordan.
Mr. Lehman with Mr. Mahon.
Mr. Stubblefield with Mr. Thornton.
Mr. Stephens with Mr. Young of Georgia.
Mr. Milford with Mr. Mills.
Mr. McSpadden with Mr. Roy.
Mr. Roush with Mr. Nedzi.
Mr. Symington with Mr. Moss.
Mr. Murphy of Illinois with Mr. Pickle.
Mr. Charles Wilson of Texas with Mr. Flowers.
Mr. Montgomery with Mr. Patman.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR FURTHER EXPENSES OF THE INVESTIGATIONS AND STUDIES AUTHORIZED BY HOUSE RESOLUTION 175

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 855 and ask for its immediate consideration.

The Clerk proceeded to read the resolution.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Ms. ABZUG. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

Mr. THOMPSON of New Jersey. Mr. Speaker, I withdraw the resolution.

The SPEAKER. The gentleman from New Jersey withdraws the resolution.

PROVIDING FUNDS FOR FURTHER EXPENSES OF INVESTIGATIONS AND STUDIES AUTHORIZED BY HOUSE RESOLUTION 253

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 793 and ask for its immediate consideration.

The Clerk proceeded to read the resolution.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Ms. ABZUG. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

Mr. THOMPSON of New Jersey. Mr. Speaker, I withdraw the resolution.

The SPEAKER. The gentleman from New Jersey withdraws the resolution.

The SPEAKER. Does the gentleman from New Jersey desire to call up any of the other resolutions?

Mr. THOMPSON of New Jersey. Mr. Speaker, I do not so desire.

IMPROVEMENT IN RECORDING OF ROLLCALLS AND VOTES

(Mr. McFALL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. McFALL. Mr. Speaker, the video consoles at the majority and minority tables can now show information by State listing. Also, the video consoles can be operated until the beginning of the next rollcall. This improvement to the system results from a continuing effort by the Committee on House Administration and its distinguished Chairman WAYNE HAYS to provide an operational system that best meets the voting needs of the Members.

This means the Members can now use the consoles to retrieve voting information for their State delegation in addition to the previous capability of retrieving information by party and vote preference.

MASS TRANSIT LEGISLATION DEFERRED

(Mr. MADDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MADDEN. Mr. Speaker, last Wednesday, March 6, 1974, the Committee on Rules postponed action on S. 386, the Urban Mass Transportation conference report. The Committee on Rules will again take up the conference report, S. 386, when the Committee on Public Works reports the unified transportation assistance program legislation presently pending before their committee.

The Committee on Rules deferred action on S. 386 in order that it may be considered together with the unified transportation assistance program to be reported by the Committee on Public Works.

The only reason a rule was requested on S. 386 was because it violated clause 3, rule XXVIII of the Rules of the House of Representatives, in that it contained three major changes that are not within the scope of either the House or Senate bill. Both the bills passed by the House and Senate provided for grants for operating subsidies only. S. 386 authorizes money for grants for both operating subsidies and capital improvements. The conference committees report provides for a new formula which allocates funds in a manner which was not passed by either the House or Senate and which is in complete violation of the rules of the House.

Also, the House and Senate bills provided that the State and local agencies would be the recipients of the funds. The conference report provides that the funds are to go directly to the transit agencies.

The Committee on Public Works will begin hearings on the unified transportation assistance program on March 19. They have promised to report a bill within 5 weeks. All Members of Congress realize that it is essential we pass a practical urban mass transit bill in this session of Congress.

S. 386, which is now before the Committee on Rules, would meet with disastrous results on the floor of the House. Evidence of this fact is included in the attached table which draws a comparison between S. 386 and the unified transportation assistance program which the Committee on Public Works is expected to report.

[Dollar amounts in thousands]

Urbanized area	S. 386		Unified transportation assistance program (S. 3035, H.R. 12589)	
	Dollars in 1st 2 years of program [1]	Percent of total program	Dollars in 1st 2 years of program [2]	Percent of total program
New York	$166,640	20.83	$142,678	9.5
North New Jersey	35,280	4.41	60,703	4.1
Los Angeles	40,080	5.01	104,801	7.1
Chicago	53,520	6.69	77,619	5.7
Philadelphia	25,680	3.21	50,461	3.4
Detroit	20,480	2.56	49,828	3.4
San Francisco	19,280	2.41	37,495	2.5
Boston	21,440	2.68	33,287	2.2
Washington, D.C	18,640	2.33	31,140	2.1
Cleveland	13,040	1.63	24,595	1.7
St. Louis	11,520	1.44	23,630	1.6
Pittsburgh	13,040	1.63	23,166	1.6
Minneapolis	9,920	1.24	21,389	1.4
Houston	8,480	1.06	21,056	1.4
Baltimore	11,840	1.48	19,825	1.3
Dallas	6,960	.87	16,800	1.1
Milwaukee	8,320	1.04	15,717	1.1
Seattle	6,880	.86	15,537	1.1
Miami	7,520	.94	15,306	1.0
San Diego	5,360	.67	15,038	1.0
Atlanta	6,880	.86	14,717	1.0
Cincinnati	5,680	.71	13,936	1.0
Kansas City	5,280	.66	13,826	.9
Buffalo	6,320	.79	13,635	.9
Denver	5,040	.63	13,142	.9
New Orleans	(3)	(3)	12,069	.8
Phoenix	3,360	.42	10,834	.7
Portland	4,800	.60	10,352	.7
Indianapolis	(3)	(3)	10,294	.7
Providence	(3)	(3)	9,980	.7
Columbus	4,160	.52	9,914	.7
San Antonio	4,240	.53	9,694	.7
Dayton	3,040	.38	8,608	.58
Norfolk	4,160	.52	8,386	.56
Memphis	3,840	.48	8,220	.56
Rochester	3,520	.44	7,547	.51
Akron	2,160	.27	6,812	.46
Birmingham, Ala	(3)	(3)	7,003	
Jacksonville	(3)	(3)	6,645	.45
Toledo	2,320	.29	5,972	.41
Nashville	(3)	(3)	5,627	.38
Honolulu	2,880	.36	5,552	.37
Richmond	2,800	.35	5,227	.35
Syracuse	(3)	(3)	4,721	.32
Wilmington	1,680	.21	4,388	.31
Grand Rapids	1,360	.17	4,427	.30
El Paso	1,200	.15	4,235	.28
Tacoma	1,760	.22	4,173	.28
Flint	1,280	.16	4,142	.28
Wichita	1,280	.16	3,794	.26
Albuquerque	1,360	.17	3,733	.25
Charlotte, N.C	1,280	.16	3,508	.24
Peoria	1,120	.14	3,101	.21
Mobile	(3)	(3)	3,236	
Columbia, S.C	$1,200	0.15	3,034	$.20
Harrisburg	1,200	.15	3,021	.20
Aurora			2,923	.20
Charleston, S.C	1,120	.14	2,867	.19
Fort Wayne	1,040	.13	2,826	.19
Corpus Christi	1,040	.13	2,670	.18
Madison	1,280	.16	2,578	.17

Footnotes at end of table.

[1] Fiscal year 1974–75.

[2] Fiscal year 1975–76.

[3] Amounts not shown.

Note: UTAP amounts do not include the $700,000,000 per year discretionary fund.

CALL OF THE HOUSE

Mr. WOLFF. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. MAZZOLI). Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 74]

Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Annunzio
Armstrong
Ashbrook
Ashley
Badillo
Bafalis
Barrett
Bell
Bevill
Biaggi
Bingham
Blatnik
Bolling
Brademas
Brasco
Breckinridge
Brooks
Broyhill, Va.
Burgener
Butler
Carey, N.Y.
Carney, Ohio
Chisholm
Clark
Clay
Cohen
Conyers
Corman
Cotter
Coughlin
Crane
Culver
Danielson
Davis, S.C.
Delaney
Dennis
Dent
Devine
Diggs
Dingell
Donohue
Dorn
Drinan
Dulski
du Pont
Eckhardt
Erlenborn
Eshleman
Fisher
Flowers
Flynt
Frelinghuysen
Fulton
Giaimo
Goldwater
Grasso
Gray
Green, Oreg.
Green, Pa.
Gubser
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Hawkins
Henderson
Holifield
Howard
Hudnut
Hunt
Johnson, Pa.
Jones, N.C.
Jordan
Kluczynski
Kuykendall
Lehman
Long, Md.
McCloskey
McEwen
McSpadden
Macdonald
Madigan
Mahon
Maraziti
Martin, Nebr.
Martin, N.C.
Metcalfe
Milford
Mills
Minshall, Ohio
Moakley
Montgomery
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelsen
Nix
Obey
O'Brien
Patman
Pickle
Podell
Preyer
Quillen
Rees
Reid
Reuss
Robison, N.Y.
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rostenkowski
Roush
Roy
Ryan
Satterfield
Shipley
Slack
Stanton, J. William
Steelman
Steiger, Wis.
Stephens
Stubblefield
Stuckey
Symington
Thornton
Tiernan
Ullman
Walsh
Ware
Widnall
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wydler
Young, Ga.

The SPEAKER. On this rollcall 288 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CAMPAIGN REFORM A MUST

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, the President recently unveiled a campaign reform proposal.

I feel very strongly that we who hold the public trust must do all we can to instill people's faith in their Government. It is for just that reason I commend the President's initiative, and hope we in Congress will continue our efforts to enact a good election reform bill this year.

Last session I introduced legislation aimed at improving the present campaign process. However, I am not unalterably wedded to my bill, H.R. 11383, and am currently studying all possible avenues of achieving what I view to be three major objectives of any effective campaign financing proposal.

First, we need to establish a Federal Elections Commission which would set realistic regulations for expenditures and contributions, and vigorously oversee election activities.

Second, we must thoroughly review the role of the mass media in our campaign process, as expenses for this purpose, which account for so much of a candidate's budget, are already high and are still increasing.

And, third, I believe that we ought to shorten the campaign time, which presently runs from spring primaries to November elections, a duration, in some instances, of more than half a year.

With regard to expenditures, the campaigns of 1972, in which $77 million was spent on senatorial and House primary and general election campaigns, were called the "costliest ever" by Herbert Alexander, one of this country's foremost authorities on money in politics. Figures show that expenses are mounting, not only for the Presidential and Senate races, but even in House contests, where some candidates are spending hand over fist. It is the rare candidate who can raise substantial sums of money—which in many cases are necessary to run a truly competitive race—without relying on large contributors. It is estimated that less than 5 percent of the voters provide the money necessary to keep the electoral process working.

My approach is rather simple. I suggest that we limit both the amount a candidate can spend and the amount any one individual can contribute. Similar restrictions must be placed on the contributions candidates receive from political interest groups.

In my bill, I have suggested that each candidate be limited to spending no more than 10 cents for each eligible voter in his State or congressional district. This serves a dual purpose. Not only does it accomplish its obvious purpose—to clamp down on excessive spending—but it should relieve the need for large contributions, since the average congressional candidate would be limited to less than $50,000.

H.R. 11383 also proposes that major party candidates for all Federal offices be granted free television time with prorated allocations for minor party candidates as well. I am the first to admit that there are problems inherent in this approach. For example, in large metropolitan areas there are so many candidates that the limited number of stations might find it burdensome to grant TV time to all candidates for Federal office, not to mention the possibility of political overkill of sorts. Nonetheless, I am convinced it is imperative to cut down on the huge sums of money candidates on all levels are pouring into radio and television advertising—$59.6 million in 1972—and it is imperative to provide the voters with information so that they know about their candidates and the positions they take.

Finally, I am a strong proponent of shortening the time of the campaign itself. Elections in Great Britain, Canada, Australia, and Israel are all much shorter in duration. They usually entail 7 or 8 weeks of campaigning maximum, which is a far cry from the 4 months between our midsummer conventions and our November elections—not to mention the preconvention nominating period.

Moreover, protracted campaigns may do more harm than good. Voters are often alienated by the incessant bombardment of television advertisements, brochures, billboards, and so forth. In the last Presidential election, candidates started campaigning in January of 1971 for an election to be held at the end of 1972. The result—a 55 percent voter turnout—was the lowest turnout since 1948. A shortened election period, I predict, would raise voter interest and turnout, and would, of course, not place such immense financial and physical strains upon the candidates. My bill, prohibiting expenditures except during the 60-day period preceding an election, would effectively reduce the months spent electioneering.

Coupled with these specific provisions, I think there is a general need to preserve the public's participation in the electoral process. Citizen participation is an enormously important aspect of our democratic system, and our history is studded with examples of one candidate or idea making a significant political imprint because of substantial groundswell of public support. My point is that there are definite changes which must be made in our present campaign system, but we must also bear in mind the individual's rights in the political arena.

Polls and studies reveal the American people want campaign reform. Both the House and Senate have begun work in this area. The administration has now come out in favor of one approach. Before the problems of another election are upon us next November, let us do what we can to improve the current system.

LABOR—FAIR WEATHER FRIEND—VII

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, from my recent statements you know that I was attacked by a labor group called the Labor Council for Latin American Advancement. You also know that this attack on me was organized by a very few people and not cleared by the board of that organization.

I know a good number of the people in the LCLAA, and it was surprising to me that some of them did not bother to protest the tactics in this situation. These are after all people who have been the victims of unfair attacks themselves. They are people who appealed to me for help when no one else would listen. They know what it means to be tagged with the curse of guilt by association, to be victimized by unfair tactics; and they should be sensitive when somebody else receives such treatment, and especially when that someone else was a friend back in colder, more lonely days. But my friends in the LCLAA let me down.

One of the officers of the LCLAA is Maclovio Barraza, and he of all people might have been expected to be among my defenders. But when the leading lights of that organization met here in Washington a few weeks ago, I did not hear from him. And when the leaders of the group decided not to do anything to clear the record or clear the injustice that had been done to me, there was no sign that Barraza tried to do anything.

This is the same Maclovio Barraza who once came to me asking for help, because he and his union had been victimized by the brush of guilt by association. This is the same man who appealed to me because I would listen. I had no great power then, but he knew that I had a sense of justice, and would act on my conscience. And I did. But now, a decade later, this same Barraza does not know who I am.

Back in those days, Barraza was associated with the Mine, Mill & Smelter Workers. One officer in his union had been named a Communist, and the whole organization had come under the cloud of suspicion. Barraza came to me, saying that his union could not get anywhere, because everyone was saying that it was dominated by Communists. He wanted the name of the union to be cleared; otherwise its whole existence might be threatened.

I wondered who I was to help. I was then a freshly elected Member of the House. Certainly I had no great position of power. But, then, too, I had traveled throughout the area in which Barraza's union was trying to do its work. I knew that the cloud under which he was working was unfair, and that justice had to be done.

Others probably knew what I did, but they were afraid to touch anything that was supposedly tainted. On Barraza's appeal, and out of my own sense of justice, I asked the Subversive Activities Control Board to clear the name of the union, and it did.

Barraza was grateful then, but where is he now? I stood by his side when no one else would, though he had never helped me before, and though he came from a State that I did not represent. I am not ashamed of what I did, and would probably act today as I did then.

But looking back on that event, it would seem that a man like Barraza, who knows what it is to be victimized, would speak up in behalf of those who helped him overcome adversity. But alas, now in his more respectable days, Barraza has a short memory. He can afford to ignore his old friend, and wash his hands of me. Well, so be it. But next time Barraza comes to me for help, I can only ask, "where were you, Maclovio?"

IMPEACHMENT

The SPEAKER. Under a previous order of the House, the gentleman from Washington (Mr. HICKS) is recognized for 10 minutes.

Mr. HICKS. Mr. Speaker, the Sixth District of the State of Washington says impeach the President. On January 15 my office sent out more than 160,000 questionnaires on impeachment and public financing of elections. We have been inundated with responses ever since.

To date we have received more than 20,000 replies representing the views of almost 38,000 residents of the Sixth Congressional District on the following questions:

1. As you know, the House Judiciary Committee is now in the process of investigating the impeachment charges against the President. While you do not have the benefit of the findings of this committee, if you were a Congressman how would you now vote with the information you do have?

a. For impeachment

b. Against impeachment

2. Did you support the President in 1972?

3. Because of Watergate and all its implications, there is a rising demand for financing of federal general elections (not primaries) out of the public treasury. If you had to vote on these issues today would you support:

a. Public financing of Presidential campaigns?

b. Public financing of Senate campaigns?

c. Public financing of House campaigns?

Because we, as Members of the House, will no doubt be considering one or all of these issues in the near future, I am making the results of that questionnaire known to my colleagues.

Of those answering, almost 62 percent would now favor impeaching the President. This figure is much more significant in light of the fact that a little less than one-third of the people in that 62 percent actually supported the President in 1972.

On the other hand, about one-seventh of those who do not favor impeachment did not support the President in the last election. Less than 2 percent of the respondents were undecided on this issue.

In fact, many of those who returned our questionnaire felt so strongly either for or against impeachment, that they included a letter with their response.

A man from Bremerton wrote:

> It's time to get on with the business of impeachment so that integrity can be restored in our governmental institutions and in our elected officials.

And, a woman from Tacoma said:

> I would hate to be a history or government teacher at this time. What could I honestly tell students about their government when the President and his immediate staff are so far off base?

On the other side of the fence, a voter from Port Orchard tells me:

> There is no direct evidence now made public to say he is guilty of any act for which he may be reasonably impeached. I am personally tired of having the executive officeholder

of our land being covered with mud that others are throwing.

Agreeing, a man from Sumner comments:

> There have been too many innuendoes, charges, countercharges, truths, half-truths, and probable outright lies filling the air concerning our President.

Mr. Speaker, as you are aware, there are several interpretations on what is, and what is not, an impeachable offense. Every interpretation is based on the sparse words of the Constitution which say:

> The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

A recent memorandum issued by the staff of the House Judiciary Committee states that impeachable conduct need not be criminal. The report points out that of the 12 impeachments voted by the House since 1789—including 9 Federal judges, a Senator, 1 Cabinet officer and 1 President—Andrew Johnson—at least 10 involved 1 or more allegations of misconduct as well as criminality.

Under this criteria, the staff report concludes that Presidential misconduct, as well as evidence of criminal activity, is within the grounds for impeachment. This report specifically refers to undermining the integrity of the office, arrogation of power, and abuse of Government process as impeachable offenses.

The administration, however, has taken a narrower interpretation for impeachable acts, charging that evidence of criminal conduct must be a prerequisite to impeachment.

In any event, as you are aware and many of my constituents are not under the Constitution the House is charged only with determining if there is reasonable cause to believe that the President has committed impeachable acts. If the House so determines by a majority vote, then the President has been impeached or charged and the matter goes to the Senate for trial. There a two-thirds vote is needed for removal from office. My constituents are now learning that the Senate action is much like a trial with the Chief Justice of the Supreme Court presiding and the Members of the Senate making the decision regarding the weight and sufficiency of the evidence.

The question of impropriety in office is closely tied in with the other major question in our poll, public financing of political campaigns in general elections. With the exception of the Presidential race, the results were fairly well split down the middle.

About 57 percent of those answering would favor some sort of public financing of Presidential campaigns. That number dropped off to 48 percent in favor of financing Senate races with about 45 percent opposed. And, about 47 percent favored funding House campaigns with 45 percent disapproving. As you will observe, a small percentage was undecided on this issue and did not respond to the question.

Mr. Speaker, I am sure every Member of Congress in this Chamber has received scores of letters, as I have, saying, "If you vote for impeachment, you will lose my vote." And, I am equally sure that every Member has received just as many letters saying, "If you vote against impeachment you will lose my vote."

The important question we must ask ourselves, however, is not whether we will lose or gain votes but whether we will do what is right for our country. And, we cannot make that determination until the House Judiciary Committee has completed its investigation and all the evidence is in.

The concern of the people in my district over recent events and over the issue of impeachment is evidenced by the unprecedented response I have received. Their concern focuses not only on the immediate issue before us regarding the guilt or innocence of the President, but on the whole system of government which spawned such abuses.

I am confident that the system will vindicate itself through the proceedings which are now underway in Congress and in the courts. However, I am also confident that everyone now realizes that it is essential that a climate of healthy skepticism continue to exist toward all levels of government. Such a climate promotes honesty and integrity in public affairs and is but an implementation of the proposition stated long ago by Thomas Jefferson that "Eternal vigilance is the price of liberty."

OLIN E. TEAGUE RECEIVES GODDARD MEMORIAL TROPHY

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes.

Mr. FUQUA. Mr. Speaker, this past Friday evening I had the pleasure of attending the 17th Annual Goddard Memorial Dinner where a good friend and colleague, the Honorable OLIN E. "TIGER" TEAGUE, received the Goddard Trophy. This most coveted award is presented annually by the National Space Club as a tribute to the memory of Dr. Robert H. Goddard, who is known as the "Father of American Rocketry." Each year the recipient has been selected by the National Space Club for great achievement in advancing space flight programs contributing to U.S. leadership in astronautics. The trophy, which is a half-life-size bust of Dr. Goddard, is the premier trophy of the National Space Club.

This year's recipient of the National Space Club's award could not have gone to a more deserving individual than the Representative of Texas' Sixth Congressional District, OLIN E. TEAGUE. I feel qualified to express such an opinion because I have worked with TIGER and I have served with him on the Science and Astronautics Committee for more than a decade. I served under TIGER's leadership on the Manned Space Flight Subcommittee of the Science and Astronautics Committee and I now have the pleasure of being the chairman of the subcommittee that he once chaired. The groundwork he laid there has made my job much easier. The leadership he now gives as chairman of the full committee is most distinguished.

This man from Texas has truly been a champion of America's space program. The citation presented with the trophy last Friday night underscores his championship.

The citation reads:

> For his significant and invaluable contribution to this nation's space program. Congressman Teague is a charter member of the House Committee on Science and Astronautics and Chairman of the Subcommittee on Manned Space Flight since it was formed in 1963. He played a major role in the decision to commit to a manned lunar landing and return by 1969 and following this commitment, provided invaluable leadership to NASA and the nation during the Apollo 204 accident investigation. Congressman Teague's depth of understanding of our aeronautics and space program combined with his widely recognized personal leadership in the House of Representatives has led to a much higher level of congressional understanding in support of the national space program. The honor and acclaim that has been attributed to the United States for its pre-eminence in space exploration is fully shared by this great statesman who is dedicated to maintaining our country's role in world leadership.

Mr. Speaker, I ask you to join in this recent acclaim of our colleague, OLIN E. "TIGER" TEAGUE. His achievements bring acclaim to us because he is one of our most distinguished Members.

ADDITIONAL INFORMATION ON RIOT CONTROL AGENTS AND THE GENEVA PROTOCOL

The SPEAKER. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 10 minutes.

Mr. OWENS. Mr. Speaker, on February 5, 1974, I provided information for the Members—CONGRESSIONAL RECORD page 2099—with regard to my concern about the President's proposed exclusion of riot control agents and herbicides from the Geneva Protocol of 1925. This treaty presently is before the Senate Foreign Relations Committee for advice and consent to ratification. In my statement at that time, I advised the Members that the U.S. Army had been completing tests on a British riot control agent known as CR—dibenz (b,f)-1:4-oxazepine—and that the United States might be near to adopting this agent within its own arsenal of such agents. I also indicated that CR had been noted to have certain adverse effects, considered to be minor in the average adult population, but that, like CS, we might not really understand all of the potential effects. My point at that time was that it would be a very difficult task to exclude riot control agents from the Geneva protocol and justify this exclusion in any terms that would adequately distinguish these agents from other toxic agents on the basis of "relative" toxicity. They are chemical agents, and they have been and are being used in warfare—whether civil, national, or international war; the fact that some of the warfare is internal against nonmilitary personnel is beside the point in discussions of the Geneva protocol. The moment that we exclude one category of chemical agents from a treaty on chemical warfare agents, it seems to me that we expose ourselves to the potential challenge of treatybreaking when new agents become available, as they will inevitably. We have evidence of this continuing adoption of new agents in the news which I have received that CR has indeed been adopted by the U.S. Army for certain applications where the older standard agent CS was not suitable. The problem as I see it is the difficulty in definition which is encountered: Must we enter into careful and explicit definitions each time a new agent is considered so that we avoid crossing the grey area between agents which would be covered by the Geneva protocol and agents which would not be covered? An examination of the technical difficulties being encountered in the current negotiations at Geneva on a new CW treaty are ample illustration of this type of problem. I do not believe that we can expect to establish any semblence of credibility in the ratification of a treaty prohibiting the use in war of chemical agents if we hamper such a treaty with selective definitions of agents which might or might not be included in the protocol. Evidence for this problem of credibility has already been voiced at the United Nations where 80 nations have expressed their opinion that herbicides and riot control agents are included in the Geneva protocol in contrast with the U.S. minority position that they are not.

I have received a reply from the Department of Defense in response to my inquiry about the potential adoption of agent CR. Without objection I would like to have this reply included in the Record for the information of all the Members:

Director of Defense Research
and Engineering,
Washington, D.C., February 20, 1974.
Hon. Wayne Owens,
House of Representatives,
Washington, D.C.

Dear Mr. Owens: This is in response to your letter of 25 January 1974 to Mr. Thomas R. Dashiell of my staff, requesting information on riot contral agent CR. The United States and the United Kingdom (UK) have officially exchanged scientific and technical data on riot control agents and their dissemination devices through established Weapons Standardization Programs for many years. The United States does not develop agents or dissemination devices for non-US military organizations; all developments are in response only to approved US military requirements. This does not mean to imply that we would not perform confirmatory testing to determine the validity of any data supplied if there appeared to be a valid US military need to be met.

As to your specific questions on agent CR, dibenzoxazepine, it is an upper respiratory irritant similar in effects to CS. It was first discovered by the UK in the early 1960s and was first reported in June 1962. The US obtained samples from the UK and conducted tests on effectiveness from December 1963 to June 1964. This testing demonstrated it was an effective riot control agent; however, very little effort was expended since CS at that time met all US requirements for a riot control agent. More recent information from the UK, regarding liquid suspensions of CR in proplylene glycol, was of interest to the US and additional testing was conducted to confirm the UK results. Of primary US military interest is the solubility of CR in a solvent that has medical acceptance, and its subsequent suitability in a small hand-held riot control agent dispenser. As you know, the commonly sold hand-held dispensers, for example MACE, have been shown to cause eye damage and contact dermatitis. Agent CR, 1% solution in propylene glycol, has now been approved by the Army Surgeon General as a riot control agent. Its focus of effects is the skin and mucous membranes (eyes, nose, throat, and mouth). It does not affect the central nervous system. It is approved for use only in the XM30 (1 quart dispenser), the XM32 (Hand-held "mace" type dispenser), and XM33 (Back-pack dispenser). These are the only disseminators being considered for CR, other military requirements are met by standardized CS items.

These approvals by the Army Surgeon General has been given only after comprehensive testing has demonstrated that this solution will not cause any permanent injury to persons subjected to its use.

Enclosure 1 contains two recent papers which have appeared in the British literature which provide more detail on the human effects of CR. Also, enclosed for your use (Enclosure 2) is a copy of the British investigations on the medical and toxicological aspects of CS. Please note conclusion 5 on page 46 which should allay any fears regarding hazards of civilian populations posed by CS.

We are precluded from releasing reports of the investigations we have performed at this time since we are bound by the terms of the standardization agreements not to release information derived from the property of foreign governments. However, it should be noted that the UK has now embarked on an active program to present information on CR in the scientific literature. We anticipate, therefore, early release of some technical publications concerning our investigations.

We hope these comments answer any questions you may have on the subject of agent CR.

Sincerely,
Malcolm R. Currie.

ARMY REPLIES TO INQUIRY ABOUT OPEN AIR TESTING OF BINARY CHEMICAL WEAPONS

Mr. Speaker, on February 28 I advised the Members—Congressional Record page 4802—of the availability of a special report from the Congressional Research Service which discussed chemical warfare issues before the Congress during 1973. This report considered, among other issues, the Army's proposed production of a binary chemical weapon to replace a portion of our existing stockpiles of chemical warfare munitions. I indicated in that statement that I had asked Gen. Creighton Abrams whether there are any plans to conduct open-air testing of the binary munition with the compounds necessary to produce the toxic agent on target. I now have a reply from General Abrams and, without objection, I would like to have this letter included in the Record for the information of the Members:

U.S. Army, the Chief of Staff,
March 4, 1974.
Hon. Wayne Owens,
House of Representatives.

Dear Mr. Owens: This is in response to your 4 February letter requesting information regarding the Army's plans for field testing binary chemical munition systems, and especially GB or VX artillery munitions.

You are correct in your understanding that no environmental impact statement has been filed for such testing. This is because the Army, at the present time, has no approved plan or program for the open-air testing of nerve agent munitions.

In the Army's research and development program for this project, we have relied on munition and agent testing in a closed environment, in conjunction with open-air tests in which harmless stimulants were used. The results of this simulation testing are now being thoroughly reviewed to determine whether the data obtained are sufficient for a production decision, or whether it will be necessary for us to recommend to the Secretary of Defense that carefully controlled, limited, open-air tests of toxic agents be undertaken to verify the effectiveness of the ammunition before making any decision regarding production.

A recent decision by the Office of the Secretary of Defense that the chemical deterrent/retaliatory stockpile materiel at Rocky Mountain Arsenal need no longer be retained was made with due regard for the fact that plans call for modernization of binary chemical weapons in the near future.

We recognize the extreme care that must be exercised in making such a decision, and you may be assured that any plans we may have to open-air test toxic agents would be fully disclosed well in advance of the proposed date, as required by the National Environmental Policy Act and Public Act 91-121, as amended by Public Law 91-441.

Best wishes.

Sincerely,
Creighton W. Abrams,
General, U.S. Army Chief of Staff.

REV. HENRY L. REINEWALD

(Mr. DINGELL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DINGELL. Mr. Speaker, the Reverend Henry L. Reinewald, B.A., M. Div., delivered today's prayer upon the opening of business in the House. Reverend Reinewald, is the pastor of the Community Congregational United Church of Christ in Pinckney, Mich., and as the national chaplain of the Veterans of Foreign Wars of the United States, accompanied Michigan veterans to Washington to present the VFW legislative program to Congress this week.

Reverend Reinewald will serve as national chaplain for the VFW to the conclusion of the 75th national convention of the veterans organization this summer. He also has served as Michigan State VFW chaplain since 1970.

Reverend Reinewald became a member of the VFW in 1945 while serving as a pharmacist mate aboard the U.S.S. *Tryon* during World War II.

He received his master of divinity degree from New Brunswick Theological Seminary, New Brunswick, N.J., in 1955. It is the oldest seminary in the United States.

A BILL TO INCREASE AUTHORIZATION FOR GULF ISLANDS NATIONAL SEASHORE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I am introducing a bill today to increase the authorization for land acquisition for the Gulf Islands National Seashore. The bill is cosponsored by Mr. Scott of Mississippi. This project was authorized by Public Law 91-660, approved January 8, 1971. It is an area 150 miles in lenth on the gulf coast in the States of Florida and Mississippi. The project will preserve for posterity some of the most beautiful land and water areas in the world as well as old forts and other important historical sites. The park will consist of 17,948 acres of high land, 145,252 acres of water and submerged lands, and 52 miles of fine white sand beaches. The original authorization in 1971 included about $3 million in funds to acquire privately owned property. Steps were instituted to acquire the property but soaring property values have made it impossible to obtain it with the funds that are available. It is now estimated that $10 million may be required to obtain the 554 acres within the boundary of the seashore, most of it on Perdido Key which is privately owned. This property is an important part of the seashore program and I am not willing to see acquisition dropped. The only recourse is to ask the Congress to approve a higher funding authorization. That is the purpose of the bill I have introduced today. I consider Gulf Islands National Seashore a truly signfiicant national landmark and one of the most valuable projects that I have sponsored during my service in the Congress. Although it has been in operation only a short time, it is estimated that 1 million visitors enjoyed the seashore during the calendar year 1973 and that within a very few years, it will be attracting 5 million persons per year. The land that we seek to acquire is an important part of the project and it should be made a part of the seashore as quickly as possible. Land values are continuing to increase and delays will only prove more costly.

A BILL TO AID IN RETENTION OF MILITARY MEDICAL PERSONNEL

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I am introducing a bill which will provide needed help in recruiting and keeping military medical personnel in the ranks of service to their Nation.

My proposal would make such personnel immune from lawsuits which arise from charges of malpractice while such personnel are acting in the performance of their duties. It would bring military medical people on a par with similar personnel who serve the Public Health Service and the Veterans' Administration.

As things now stand, military medical teams treat a great many patients who are in the civilian sector. This includes, of course, dependents and retirees who come to military hospitals and clinics for treatment of illness. Even more significant is the fact that, in the process of gaining advanced training in special skills, military doctors are assigned to civilian medical schools and teaching hospitals around the Nation where doctors in the course of their work also treat individuals. Some military doctors are given an opportunity also to practice in civilian communities where there is a serious shortage of civilian doctors. Should, for any reason, these civilian patients bring malpractice suits, the military doctor is personally liable. Few are covered by medical malpractice insurance because of the cost. Doctors in private practice are in general covered by insurance.

This situation has caused hardship and concern among military medical personnel. Many are declining the opportunity to advance their skills because of the danger of malpractice suits. Many leave the service rather than run the risk of being hit with personal lawsuits against which they have no protection. Many view with dismay the status of other Government doctors—Public Health Service and Veterans' Administration—who do not run this risk.

My bill would authorize the Attorney General to defend civil actions against military doctors. It would make such claims applicable against the United States rather than the individual. This is as it should be.

When the Department of Defense assigns a doctor to a post where he is under orders to treat civilians, that doctor should not be placed in personal financial jeopardy because of this assignment.

My proposal seeks equity among Government doctors. It provides no special privilege to the military nor does it remove protection from those presently covered.

It simply provides equal protection to all military personnel who are called upon by their country to serve in a variety of ways. They should not be required to serve at personal financial risk.

A technical discussion of the bill follows:

TECHNICAL DISCUSSION

Section 233 of title 42, United States Code, provides generally that suit against the United States—or alternative benefits granted by the government when suit is not permitted—shall be the exclusive remedy for claims arising out of the performance of medical functions by an officer or employee of the Public Health Service acting within the scope of his employment.

The following bill would extend to active duty military medical personnel immunity from individual liability similar to the immunity presently afforded to medical personnel of the Veterans Administration and the Public Health Service.

ANALYSIS OF THE BILL

Section 1: This section of the draft bill would amend title 10, United States Code, by adding a new section 1089.

a. New 10 U.S.C. 1089(a) would provide that suit against the United States shall be the exculsive remedy for damages for personal injury and death allegedly arising from malpractice or negligence by active duty military medical personnel while in the exercise of their duties in or for the Department of Defense or any other federal agency. (Patterned after 42 U.S.C. 233(a) and 38 U.S.C. 4116(a))

b. New 10 U.S.C. 1089(b) would direct the Attorney General to defend any civil actions brought against active duty military medical personnel for damages for personal injury and death allegedly arising from malpractice or negligence by those personnel while acting within the scope of their employment (Patterned after 42 U.S.C. 233(b) and 38 U.S.C. 4116(b))

c. New 10 U.S.C. 1089(c) would provide for the removal of suits arising out of the alleged malpractice or negligence of active duty military medical personnel while acting in the scope of employment. (Patterned after 42 U.S.C. 233(c) and 38 U.S.C. 4116(c))

d. New 10 U.S.C. 1089(d) would permit the Attorney General to settle any claim asserted in a civil action arising out of the alleged malpractice or negligence of active duty military medical personnel while acting in the scope of employment. (Patterned after 42 U.S.C. 233(d) and 38 U.S.C. 4116(d))

e. New 10 U.S.C. 1089(e) would provide that suit against the United States shall be the exclusive remedy for damages for alleged assault and battery arising out of the alleged negligence of active duty military medical personnel while acting in the scope of employment. (Patterned after 42 U.S.C. 233(e))

f. New 10 U.S.C. 1089(f) would authorize the Secretary of Defense to hold harmless, or provide liability insurance for, active duty military medical personnel for damages for personal injury or death arising out of the alleged negligence of those personnel when they are acting within the scope of employment while serving in a foreign country or with other than a federal agency. As a result, active duty military medical personnel could be protected by liability insurance in the case of any claim arising out of their alleged negligence while they are acting in the scope of employment but for which alleged negligence they would not be immune from suit. (Patterned after 42 U.S.C. 233(f))

Section 2: This section of the draft bill would make new 10 U.S.C. 1089 effective on the first day of the third month which begins following the date of enactment of the draft bill. The provisions of new section 10 U.S.C. 1089 would apply only to claims accruing on or after the effective date.

H.R. 13368

A bill to amend title 10 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon medical malpractice on the part of active duty military medical personnel, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 55 of title 10 United States Code, is amended—

(a) by adding a new section at the end thereof:

"SEC. 1089. Defense of certain malpractice and negligence suits

"(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for personal injury, including death, allegedly arising from malpractice or negligence of an active duty physician, dentist, nurse, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel of the armed forces in furnishing medical care or treatment while in the exercise of his duties in or for the Department of Defense or any other federal department, agency, or institution shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or his estate) whose act or omission gave rise to such claim.

"(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomsoever was designated by the Secretary of Defense to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General and to the Secretary of Defense.

"(c) Upon a certification by the Attorney General that the defendant was acting in the scope of his employment in or for the Department of Defense or any other federal department, agency, or institution at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court.

"(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

"(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to assault and battery arising out of negligence in the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations.

"(f) The Secretary of Defense or his designees may, to the extent that he or his designees deem appropriate, hold harmless or provide liability insurance for any active duty physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel, of the armed forces for damages for personal injury, including death, negligently caused by any such personnel while acting within the scope of his office or employment and as a result of the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, if such person is assigned to a foreign country or detailed for service with other than a federal agency or institution, or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679(b) of title 28, for such damage or injury."

(b) by adding at the end of the analysis of chapter 55 the following:

"Sec. 1089. Defense of certain malpractice and negligence suits"

"Sec. 2. This Act shall become effective on the first day of the third month which begins following the date of its enactment and shall apply to only those claims accruing on or after the effective date.

SIGNIFICANT ADDRESS BY HON. LEO FOSTER

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the Honorable Leo Foster, counselor at law and long recognized as one of the ablest attorneys in Florida's capital city, Tallahassee, recently delivered a speech at the Tallahassee Bar Association entitled "Impeachment—The Doctrine of Separation of Powers." In it Mr. Foster shows a remarkable grasp of the entire concept of impeachment proceedings under the Constitution of the United States. I strongly feel that it deserves the attention of the Members of Congress and I am privileged to submit it for reprinting in the Congressional Record:

IMPEACHMENT—THE DOCTRINE OF SEPARATION OF POWERS

It is my purpose to sketch rapidly certain outstanding phases of constitutional law. A great danger to constitutional government lies in popular misunderstanding of its precise methods and purposes. In many ways the small minority who would treat the United States Constitution as an archaic hindrance to their centralist purposes, and willingly would discard or subvert it, pose less threat than that far greater number who vocally support the Constitution but who unwittingly approve or participate in actions that tend to destroy its protective principles.

As employed in this Country, constitutional law signifies a body of rules resulting from the interpretation by a high court of a written constitutional instrument in the course of disposing of cases. The effectiveness of constitutional law as a system of restrains on governmental action in the United States, which is its primary raison d'etre, depends for the most part on the effectiveness of certain doctrines, (1) the concept of federalism, (2) the doctrine of separation of powers, (3) the concept of a government of laws, not of men, and (4) the doctrine of due process of law and attendant conceptions of liberty.

The second great structural principle of American constitutional law is supplied by the doctrine of separation of powers. The notion of three distinctive functions of government approximating what we today term, (1) the Legislative, (2) the Executive, and (3) the Judicial, is set forth in Aristotle's Politics. It was Montesquieu who, by joining the idea to the notion of a "mixed constitution" of "checks and balances," brought Aristotle's discovery to the services of the rising libertarianism of the Eighteenth Century. He contended that "men entrusted with power tend to abuse it." Hence, it was desirable to divide the powers of government, first, in order to keep a minimum the powers lodged in any single organ of government; and secondly, in order to be able to oppose organ to organ.

The American conception of the separation of powers may be summed up in the following propositions: (1) there are three intricately distinct functions of government, the Legislative, the Executive and the Judicial; (2) these distinct functions ought to be exercised respectively by three separately manned departments of government; which (3) should be constitutionally equal and mutually independent and, finally (4) the Legislature may not delegate its powers. At least three distinct ideas have contributed to the development of the principle that legislative power cannot be delegated. One is the doctrine of the separation of powers: Why go to the trouble of separating the three powers of sovereignty if they can be straightaway remerged on their own motion? The second is the concept of due process of law. Lastly, there is the maxim of agency "delegata potestas non potest delegari" which John Locke borrowed and formulated as a dogma of political science, that is "The Federal Constitution and State Constitution of this country divide the governmental power into three branches * * * in carrying out that constitutional diversion * * * it is a breach of the national fundamental law if Congress gives up its legislative power and transfers it to the President or to the judicial branch; or if by law it attempts to invest itself or its members with either executive power or judicial power.

"The Constitution," said Charles Evans Hughes, "is what the Judges say it is." If "treason, bribery, and other high crimes and misdemeanors" and "good behavior" are what Congress says they are, and Senator Giles and his later day counterpart Congressman, now Vice President Ford, did not err in asserting that impeachable offenses are what Congress consider them to be, what will happen when one party elects all of the members of Congress—or even two-thirds? If that party is strictly disciplined as are the Communist parties, the officers of that party will be more powerful than our elected officials and the Chairman of that party could exercise all the powers of sovereignty—directly or by threats of removal and impeachment of the officers of the executive and judicial branches—and by expelling members of Congress who would not go along.

As early as September 6, 1819, Thomas Jefferson complained that the judiciary department after twenty years' confirmation of the federal system by the voice of the nation, was on every occasion still driving the nation into consolidation. He wrote from his home at Poplar Forest to Spencer Roane,

"In denying the right they usurp of exclusively explaining the Constitution, I go further than you do, if I understand rightly your quotation from the Federalist, of an opinion that 'the judiciary is the last resort in relation *to the other departments* of the government, but not in relation to the rights of the parties of the compact under which the judiciary is derived.' If this opinion be sound, then indeed is our Constitution a complete felo de se. For intending to establish three departments, coordinate and independent, that they might check and balance one another, it has given, according to this opinion, to one of them alone, the right to prescribe rules for the government of the others, and to that one too, which is unelected by, and independent of the nation. For experience has already shown that the impeachment it has provided is not even a scare-crow; that such opinions as the one you combat, sent cautiously out, as you observe also, by detachment, not belonging to the case often, but sought for out of it, as if to rally the public opinion beforehand to their views, and to indicate the line they are to walk in, have been so quietly passed over as never to have excited animadversion, even in a speech of any one of the body entrusted with impeachment. The Constitution, on this hypothesis, is a mere thing of wax in the hands of the judiciary, which they may twist and shape into any form they please. It should be remembered, as an axiom of eternal truth in politics, that whatever power in any government is independent, is absolute also; in theory only, at first, while the spirit of the people is up, but in practice, as fast as that relaxes. Independence can be trusted nowhere but with the people in mass. They are inherently independent of all but moral law. My construction of the Constitution is very different from that you quote. It is that each department is truly independent of the others, and has an equal right to decide for itself what is the meaning of the Constitution in the cases submitted to its action; and especially, where it is to act ultimately and without appeal."

The impeachment that Jefferson characterized as "not even a scare-crow" brings into play the power of one organ to remove officers of the other two organs from office on impeachment for and convictions of misdeameanors in office. Most of the state have drafted their constitutional provisions on this subject in language similar to the language of the Federal Constitution. All states but Oregon and Ohio have provisions for impeachment in their Constitutions. Slight variations exist in other states but after all is said, the basic law in them as in our State stems from the Constitution of the United States.

As there is no enumeration of offenses comprised under the term "misdemeanor in office," no little difficulty has been experienced in defining offenses in such a way that they fall within the meaning of the constitutional provision.

Impeachable offenses were not defined in England. Two theories of impeachment had evolved in English parliamentary law, (1) the Judicial, and (2) the Political theory. The Judicial is known by the fact that the law names the offenses for which impeachment may be imposed, the proceedings that must be taken to effectuate it, who may institute it, who may try it and the penalty that may be imposed. It proceeds on notice and due process. It is ruled by reason, passion is suppressed, and justice should be the goal. The Political Theory proceeds on the premises that the offense on which impeachment is based may not be specified in the constitution or the statutes but that those charging and those trying it may convict for anything that is offensive to the ideals of the triers; that anything which they in their judgment evidences unfitness for holding office, whether connected with official conduct or not, cause so decide; that passion rules, reason is suppressed, and political victory is the goal, is ground for impeachment if the triers of the The wrongs in the Political Theory, supra, are most noticeable in some English cases where all subjects were liable to impeachment and punishment was in the discretion of the King.

Madison, whose objection led to the insertion of the more definite phrase "high crimes of the broad construction of the impeachment and misdemeanors," was the strongest advocate powers. He argued that incapacity, negligence or perfidy of the Chief Magistrate should be ground for impeachment. In discussing the President's powers of removal he maintained that the wanton removal from office of meritorious officers would be an act of maladministration and would render the President liable to impeachment.

Hamilton thought the proceeding should never be tied down by such strict rules either in the delineation of the offenses by the prosecutors or in the construction of it by the Judges. It would thus appear that it was not the intention that the Constitution should attempt an enumeration of offenses for which an impeachment would lie.

The Framers of the Constitution in leaving out of the Constitution any provision for the removal of an official subject to impeachment did it purposely and with a view of giving stability to those who hold the offices, and especially the judges:

"Mr. Dickinson," says Elliott in his Debates on the Constitution, "moved, as an amendment to Article XI, Section 2, after the words 'good behavior,' the words, 'Provided, That they may be removed by the Executive and the application by the Senate and House of Representatives'."

This was in respect of the judges.

Mr. Gerry seconded the motion. Mr. Gouveneur Morris thought it a contradiction in terms to say that the judges should hold their offices during good behavior and yet be removable without a trial. Besides, it was fundamentally wrong to subject judges to so arbitrary and authority.

Mr. Randolph opposed the motion as weakening too much the independence of the judges.

Delaware alone voted for Mr. Dickinson's motion."

Says Judge Lawrence in a paper on this subject, which he filed in the Johnson impeachment case: "Impeachment was deemed sufficiently comprehensive to cover every proper case for removal.

"The first proposition was to use the words 'to be removable on impeachment and conviction for malpractice and neglect of duty.' It was agreed that these expressions were too general. They were therefore stricken out."

Mr. Mason said:

"Treason, as defined in the Constitution, will not reach many great and dangerous offenses. Hastings is not guilty of treason. Attempts to subvert the constitution may not be treason as above defined."

He moved to insert after "bribery" the word "or maladministration."

Mr. Madison replied:

"So vague a term will be equivalent to a tenure during the pleasure of the Senate."

Mr. Mason withdrew "maladministration" and substituted "other high crimes and misdemeanors against the State."

Hinds' Precedents—Vol. 3, § 2012, pp 329, 330 (Nature of Impeachment).

The above relatively flexible conception of misdemeanor was early replaced by a much more rigid one in consequence of Jefferson's efforts to diminish the importance of the Supreme Court, the first step in which enterprise was the impeachment in 1805 of Justice Samuel Chase. The Constitution had not contemplated the formation of political parties and while there were factions within Washington's administration it remained for the organizational genius of Thomas Jefferson to bring about partisan politics and as a result, Jefferson was elected President and his political party had commanding control of the House and Senate, but he could not control the Supreme Court either by threats or intimidation and in order to accomplish his goal of achieving supreme power the impeachment of Chase was mandatory. The theory of Chase's enemies was summed up by Jefferson's henchman, Senator Giles, of Virginia, as follows:

"Impeachment is nothing more than an inquiry by the two Houses of Congress whether the office of any public man might not be better filled by another . . . the power of impeachment was given without limitation to the House of Representatives; and the power of trying impeachments was given equally without limitation to the Senate; . . . a trial and removal of a Judge upon impeachment need not imply any criminality or corruption in him . . . but was nothing more than a declaration of Congress to this effect; you hold dangerous opinions, and if you are suffered to carry them into effect you will work the destruction of the nation. *We want your offices* for the purpose of giving them to men who will fill them better." John Quincy Adams' Memoirs, Vol. 1, pp. 321, 322 (1874).

To this theory Chase could have answered, "If this be true, the modern theories of government and the forms of civil government framed in the later periods are but solemn complicated frauds, machines for the amusement and the impoverishment of the people. If all political and judicial supervisory power is lodged in one body of men, notwithstanding the establishment which all peoples have so reverently organized under written Constitution which in terms divide the powers of government into several departments of magistracy, supposed to be created to perform the offices of adjustments and balances, then are such several departments mere cheats and shams, baubles and playthings invented to delude and ensnare.

"If this be so, what need to any other department than a single body of men, or indeed a single human being, covered with tinsel, whose ambrosial locks and imperious nod may dispense all power and all justice, and command the obedience of all other men; a government fashioned after that of Heaven itself, but whose Mentor is a mere piece of crumbling pottery?"

Chase's lawyers submitted the proposition that high crimes and misdemeanors meant offenses indictable at common law; and Chase's acquittal went far to affix this reading to the phrase 'til after the War between the States.

A major crisis in the history of American constitutional law had been successfully weathered and the great structural doctrine of separation of powers had survived. Had the Jefferson theory prevailed and impeachment established as being nothing more than an inquiry by the two Houses of Congress whether the office of any public man might not be better filled by another, the political party in power, with its control of Congress and the Chief Magistrate, could by threat of impeachment intimidate the judicial organ so as to diminish the importance of the Supreme Court. The political party in power would then exercise all soverignty as does the communist party today in USSR. Chase's acquittal went far to preserve the "checks and balances" which was greatly in the public interest because men entrusted with power tend to abuse it.

But with the impeachment of President Johnson in 1867 for "high crimes and misdemeanors," the controversy was revived. Representative Bingham, leader of the House Managers of the impeachment defined an impeachable offense as follows:

"An impeachable high crime or misdemeanor is one in its nature or consequences subversive of some fundamental or essential principle of government or highly prejudicial to the public interest, and this may consist of a violation of the Constitution, of law, of an official oath, or of duty, by an act committed or omitted, or, without violating a positive law, by the abuse of discretionary powers from improper motives or for an improper purpose."

Former Justice Benjamin R. Curtis stated the position of the defense in these words:

"My first position is, that when the Constitution speaks of 'treason, bribery, and other high crimes and misdemeanors, it refers to, and includes only high criminal offenses against the United States, made so by some law of the United States existing when the acts complained of were done, and I say that this is plainly to be inferred from each and every provision of the Constitution on the subject of impeachment."

(Trial of Andrew Johnson, I, (Government Printng Office, 1868), 147.

The issue was made. The two theories of impeachment met head on. Johnson contended for the judicial theory. The House Managers of the reconstruction Congress espoused the political theory proceeding on the premise that the offenses on which impeachment is based need not be specified in the Constitution or the Statute but that those charging and those trying it may convict for anything that is offensive to the ideals of the triers; that anything which they in their judgment evidences unfitness for holding office, whether connected with official conduct or not, is ground for impeachment; that passion rules, reason is suppressed, and political victory is the goal.

With Johnson's acquittal, the narrow view of "high crimes and misdemeanors" appeared again to win out. Doctrine of separation of powers again sustained but by only one vote in the Court of Impeachment. Two successful impeachments of lower Federal Judges in recent years have at first blush seemed to have restored something like the broader conception of the term which Madison and Hamilton endorsed, (Archbald and Ritter), but a careful study of the proceedings will reveal that in both these instances the final result was influenced by the consideration that Judges of the United States hold office during "good behavior" and that the impeachment process is the only method indicated by the Constitution for determining whether a judge's behavior has been "good."

It is my judgment that this is what Watergate is all about. The separation of powers leaves no room for removal by a vote of no confidence and those who would treat our Constitution as an archaic hindrance to their centralist purposes and willingly would discard or subvert it have adopted impeachment as their modus operandi.

Professor Raoul Berger of Harvard in his book, "Impeachment: the Constitutional Problems," published last year argues for judicial review of impeachments. He states:

"I would urge that judicial review of impeachments is required to protect the other branches from Congress' arbitrary will. It is hardly likely that the Framers, so devoted to 'checks and balances,' who so painstakingly piled one check of Congress on another, would reject a crucial check at the never center of the separation of powers. They scarcely contemplated that their wise precautions must crumble when Congress dons its 'judicial' hat, that then Congress would be free to shake the other branches to their very foundations."

I respectfully submit that if we ever agree to such a proposal (which Jefferson condemned so bitterly in his letter to Spencer Roane) accomplished by a judicial fiat of an activist court or a constitutional amendment then we should insist that the name of the Supreme Court be changed to The Presidium.

Under our division of powers doctrine, national military heroes such as Marlboro, Washington, Grant and Eisenhower became useful civil servants whereas in Greece or Rome they would have become another Pericles, Sulla or Caesar.

I submit that we must preserve inviolate the separation of powers doctrine and that we should not permit it to be eroded and as Adams in his "Defense of the Constitutions of Government of the United States of America" written and published in October 1787 states and I quote:

". . . the whole art of government consists in combining the powers of society in such a manner, that it shall not prevail over the laws. The excellence of the Spartan and Roman constitutions lay in this; that they were mixtures which did restrain it, in some measure, for a long period, but never perfectly. Why? Because the mixture was not equal. The balance of three branches is alone adequate to this end; and one great reason is, because it gives way to human nature so far, as to determine who is the first man. Such is the constitution of men's minds, that this question, if undecided, will for ever disorder the state. It is a question that must be decided, whatever blood or wounds it may occassion, in every species of gregarious animals as well as men. This point, in the triple division of power, is always determined; and this alone is a powerful argument in favour of such a form. . . ." Adams's Defense, Vol. 3, pp 410, 411.

If we abandon the separation of powers America is finished and dead.

I have seen much to hate here—much more to forgive. But in a world where America is finished and dead I do not wish to live.

CAREER DAY

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, for the past several years, staff of the Committee on Education and Labor has been privileged to participate in a unique activity which started out experimentally, and has now reached the status of an increasingly more successful annual event. This activity takes place at an elementary school located within the shadow of the National Capitol itself in southeast Washington, D.C.

Career Day is the brainchild of the principal of Lenox Elementary School, Mrs. Jennie Gross, and the school counselor, Mrs. Juanita Augustus, both of whom have worked diligently to develop a program of meaningful significance to the sixth graders for whom the activity is presented. These youngsters are by and large from low-income families and Career Day is a kind of "show and tell"—the consultants who are invited to participate in the program will have interviews with these youngsters and tell them about the job they have, and respond to questions about how they got it, the money they make, their hours of work, education, and so forth.

I suppose one can characterize this program as a big propaganda effort—an effort to show these boys and girls the value of an education, and what proper job training can do in terms of opportunities, and the groundwork that can be laid in their studies now.

Mr. Speaker, the Federal Government in so many different approaches in legislation has also called attention to the same need for training and retraining, vocational education, and postsecondary educational experiences—all geared to the fundamental purpose of making people employable and their work more satisfying to them. The need for education and training is emphasized many times as an indispensable asset in finding, holding, and advancing in the job that is a self-satisfying challenge within the range of one's capabilities and interests.

As I said earlier, Mr. Speaker, Career Day at Lenox Elementary School had a rather modest beginning some 7 years ago, but it has grown into an activity-filled program including blue collar workers, professionals, several "stars," administrative and clerical types—all from the workaday world. I am pleased that staff of the Committee on Education and Labor has annually participated in this program, as was done again this year on February 27.

You can imagine the arrangements that must be made to hold such an event. Students prepare posters on occupations and ambitions; special workshops on careers are conducted; demonstration projects are available. The consultants who are recruited volunteer their time for this worthy purpose. As a result, boys and girls have had opportunities to talk to people from all walks of life. Physicians have demonstrated the use of medical instruments; a bus driver for the D.C. schools has explained a view of the driver different from what students normally get; staff of the U.S. Treasury's Bureau of Engraving and Printing showed some "samples"; a biochemist brought a white rat to give students a close look at her occupation; a phone company recruiter demonstrated some sophisticated communications equipment; a hairdresser restyled some of the girls' hair; the District of Columbia Fire Chief talked about fighting fires; and youngsters have gotten legal opinions from attorneys.

These personal contacts have been enhanced by many invitations for class visits on numerous occasions, as well as return visits to the classrooms by consultants.

Career Day at Lenox Elementary School has become a slick, sophisticated and smooth production—and it has become famous. Several schools have started their own versions of the program and the Lenox format has achieved a good deal of praise—praise which in my judgment is richly deserved.

One of the veteran participants in Career Day is Sgt. James Thomas of the U.S. Park Police. As a result, Sergeant Thomas has visited many schools on the east coast—both in-city and suburban—to talk about the necessity of a good educational base on which to build futures, and how goals are more possible with some highpowered planning now.

Mr. Speaker, the June 1972 issue of Manpower, published by the Department of Labor, contains an article about Career Day at Lenox Elementary School. I feel my colleagues would be interested in reading the article, and I should like, therefore, to insert it at this point in the Record:

What Could I Be?

"I expected sixth-grade students to be curious about television jobs. But I didn't expect them to ask such adult questions."

That was the reaction of TV associate producer Jean-Louise Landry to the quizzing she got on Career Day from sixth graders at Lenox Elementary School, which is located in a low-income section of Washington, D.C. The students were more practical than starry-eyed about TV, Mrs. Landry says. Their questions centered on the inner workings of the industry, its variety of jobs, their chances of breaking into TV, how to prepare for jobs, and the pay.

Career Day, an annual event, brings together about 90 youngsters from Lenox and neighboring schools to talk to some 60 adults from all walks of life. The purpose is to start students thinking about their future careers by exposing them to people who can give them firsthand occupational information. Among this year's visitors were a lawyer, cosmetologists, policemen, a bus driver, a Marine, a telephone operator, a jewelry saleswoman, a customs officer, a biochemist, a doctor, and the director of an African jazz ensemble.

A number of the adults will continue working throughout the year with interested youngsters. A florist invited some to visit his store, and a pet shop owner will show students his recordkeeping as well as his animals. George Leftwich, assistant basketball coach at Georgetown University, plans to bring some of his players to Lenox to demonstrate their skills, in addition to giving Lenox youngsters tickets to Georgetown games. Mrs. Landry is going to take 10 budding television workers to visit the Federal City College communication arts department to learn more about the TV trades and courses they should take in secondary school.

Career Day is no stranger to U.S. education. However, the usual purpose is to bring together high school students and potential employers. Lenox school principal Jennie Gross is an advocate of sixth-grade career days, and she strongly supports her counselor's efforts to make these days a success. In part, this is because of her school's population. A number of the sixth graders are 13 years old and will soon start searching for summer jobs, she says. Moreover, many students are in families getting public assistance and have few other contacts with employed persons.

Mrs. Landry agrees that sixth grade is prime time for Career Day. "These youngsters should be giving serious thought right now to what they are going to do with their lives," the black, native Washingtonian says. "Then they won't miss out later on for lack of the right academic preparation."

AUSTIN WARNKEN—HE HELPED DEVELOP THE WEST

(Mr. LEGGETT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. LEGGETT. Mr. Speaker, on March 15 of this year Mr. Austin Warnken will be retiring from the Department of Agriculture, Soil Conservation Service.

Austin Warnken's first position with the SCS was as junior agronomist at Placerville, receiving this appointment in September 1937. In 1939 he became assistant soil conservationist at Placerville, where he worked until 1941 when he joined the U.S. Army.

Upon his return from military duty in 1946, Austin Warnken went to Merced, transferring to Sacramento in 1947, where he has remained. In August 1952 he was promoted to area conservationist, representing the Service at the State capitol on high-level relationships with legislators, keeping them, as well as State and Federal agencies, well informed about Service activities, enhancing the prestige of the Service; also representing the State conservationist in an outstanding manner at meetings of the State resource conservation commission. Innumerable citations and commendations have been presented to him for his excellent work, the most recent being an outstanding performance rating in 1972.

Mr. Warnken has always developed and implemented a technically sound and balanced soil and water conservation program, along with broad land use and resource planning, directing district conservationists in this activity in the 14 field offices in his area.

During his 37 years with the Service Austin Warnken has been a devoted employee. His ardor in doing what is best for the land has long been his trait. His work has been more than a job; it has been his life.

Because Austin Warnken's performance with the Soil Conservation Service has been exemplary, I feel this brief mention in the CONGRESSIONAL RECORD most appropriate. The Congress thanks you, Mr. Warnken, for your service in helping measurably to develop western agriculture.

SEATO IS DEAD—LET US BURY IT BEFORE IT STINKS

(Mr. LEGGETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. LEGGETT. Mr. Speaker, on countless occasions during the sorry course of the Vietnam war, we heard it argued that "Maybe we shouldn't have made the SEATO commitment, but we did and now we've got to stick by it." Dean Rusk seemed to come out with this on an average of once a week.

I never took this argument seriously; it appeared clear that the people who made it were using it to support a position rather than to arrive at one. In any case, they are now being put to the test.

We are out of Vietnam, and in order to eliminate one cause of future Vietnams the Senate Foreign Relations Committee is considering pulling us out of SEATO. You would think that the administration, which tells us it did not start the war, would welcome this move.

Instead, the administration seems determined to hang onto SEATO. In the words of Assistant Secretary of State Robert Ingersoll:

> It would create doubt and uncertainty were the U.S. to urge the dismantling of . . . SEATO at this time. (SEATO is required to provide Thailand) with an under girth of multinational support as it adjusts to an uncertain future. (Abolition of SEATO) would simply enforce a current opinion among Asian leaders that the U.S. is rapidly withdrawing from Asia and leaving them to fend for themselves.

Mr. Speaker, somebody is living in a dream world and I do not think it is I. The facts are:

First. SEATO is already dismantled, if indeed it was ever assembled and functioning. Pakistan pulled out last year. France is no longer paying dues. Britain never played an active part in SEATO, giving us no help in Vietnam. Australia and New Zealand helped us in Vietnam, but they have had a change of heart and want no more military adventures. So now we are left with only the United States, Thailand, and the Philippines.

Second. The idea of Thailand or the Philippines doing anything to protect the United States is ludicrous. In this case, "collective security" means they get the security and we collect the bills.

Third. Thailand now has an encouraging and hopeful liberal democratic government. Therefore, our CIA apparently has attempted to bring it down. With the Chilean experience fresh in our minds, it seems clear we can be most helpful to Thai democracy by getting our fingers out of their pie and keeping them out.

Fourth. The "current opinion among Asian leaders that the United States is rapidly withdrawing from Asia and leaving them to fend for themselves" is a correct opinion, at least in military terms, and needs to be reinforced. We currently have about 35,000 troops supporting a massive Air Force bombing capability in Thailand, but this capability is literally a helpless giant. We cannot use it in Laos, Cambodia, or Vietnam because of congressional prohibition. We cannot use it in any internal conflict in Thailand because the American people would not tolerate involvement in another Asian civil war. And we cannot use it in China because any action there will call for long-range remote-based weapons.

Let us face reality. Our military role in the underdeveloped nations of Southeast Asia is over. It makes no sense not to adjust our budget, our troop deployment, and our diplomacy to reflect this fact.

AFTER 25 YEARS, LET US RISK SIGNING THE GENOCIDE CONVENTION

Mr. LEGGETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. LEGGETT. Mr. Speaker, in 1948, with the horrors of Dachau and Buchenwald still fresh in the minds of men, the United States joined 55 other members of the United Nations General Assembly in unanimously adopting the International Convention on the Prevention and Punishment of the Crime of Genocide. In 1949 the Genocide Convention was transmitted by President Truman to the Senate for its advice and consent. It was not until a quarter of a century later, however, and after 78 other countries had ratified the treaty, that the Genocide Convention finally came to the floor of the Senate for a vote. This was just a month ago during the first days of the present session of the 93d Congress.

One would have thought this a banner day for the United States of America, but after a week of intermittent debate the Convention has been taken back from the floor of the Senate and put again on the calendar, with no vote taken and its future in serious doubt. U.S. adherence to the Convention, like so many honorable initiatives before it, had been blocked by a minority filibuster of a conservative coalition—an opposition battling change with a determination fired by fear.

Raising and repeating the grim specter of our Constitution superseded, U.S. sovereignty impaired, and American citizens and the U.S. Government dragged through foreign and international courts for vague crimes and under false charges, the opponents of the Convention have created a climate of concern which has no foundation in fact, but has thrown a cloud of emotionalism over serious efforts to look at the facts squarely and fairly. Although the issues have been debated for years, I would like to review the situation briefly in the hope of adding some force to the effort to clear away the time-hardened but hollow fears of the last 25 years and bring the Genocide Convention back to the Senate floor for favorable consideration.

At the outset, it must be admitted as charged that the Genocide Convention is an imperfect document, reflecting as it does the give and take of compromise among many nations. Within the United States it has been the subject not just of fearmongering but of sincere and responsible disagreement. A substantial body of opinion has questioned the wisdom of U.S. adherence to the *Convention* as drafted because of possible ambiguities and doubts about several provisions.

However, in reponse to these doubts, the Senate Foreign Relations Committee reported the Convention with specific understandings setting forth the precise interpretation of the agreement under which U.S. ratification would occur. On the floor of the Senate the sponsors of the Convention proposed a formal reservation, as well, in order to remove any remaining doubt about one of the most sensitive points, extradition. They pointed out, too, that U.S. adherence to the treaty could not take place until the Congress passed separate implementing legislation making genocide a crime in the United States. I submit that no one taking a fresh and open look at the Convention as thus clarified could continue to have any well-founded fears about its import or impact.

The Genocide Convention itself is a straightforward document with only nine short substantive articles. It declares genocide to be an international crime which the parties to the agreement undertake to prevent and punish. It defines the crime of genocide precisely, enumerating acts against members of groups which amount to genocide only when carried out with the intent to destroy a national, ethnic, racial, or religious group, as such. It provides that conspiracy and complicity in genocide are punishable and makes rules, public officials and private individuals alike subject to punishment. Participating states undertake to enact the laws necessary to make genocide a crime in their countries. Accused persons are made subject to trial in the place where genocide is committed or by an international tribunal—but no such court has ever been set up. The parties pledge they will extradite offenders in accordance with their own laws and treaties. They are empowered to call on the United Nations to act against genocide as appropriate under the charter. Finally, parties to disputes concerning the convention are authorized to submit the disputes to the

International Court of Justice for decision.

In my judgment, the convention on its face is clear and compelling and gives no cause for alarm. Nonetheless to meet the doubts and objections raised against it, specific clarifications and limitations have been made an integral part of our proposed adherence, as follows: The three understandings of the Foreign Relations Committee, first, strengthen the connection between the wrongful acts specified in the convention and the intent to commit group destruction that must be present to constitute genocide; second, clarify what is meant by the Convention in making "mental harm" a punishable act, and third, make clear the intention of the U.S. Government to try its own nationals for genocidal acts whether committed at home or abroad. The committee's declaration defers U.S. ratification until after implementing criminal legislation has been enacted. This proposed legislation, defining the crime of genocide and limiting the impact of this Federal initiative, has been introduced and is available for consideration. The reservation offered on the Senate floor, makes absolutely explicit the refusal of the U.S. Government to surrender American nationals for trial for genocide outside the United States.

These proposed qualifications, which are undeniably of full legal effect, should have put to rest the arguable objections to the convention. Let grim charges persist, with a momentum of their own. I would like to cast out these specters one by one.

Charge: The convention would lead to American citizens being tried in foreign lands without constitutional safeguards.

Answer: The proposed reservation negates the extradition provision of the agreement and makes clear our refusal to extradite U.S. nationals to other countries. Americans found abroad have always been subject to trial in other countries according to their laws. The convention would not change this, but might well ease the situation where genocide is charged by providing agreed definition and procedures.

Charge: Adherence to the convention would lead to incessant genocide charges against the United States by extremists in such situations as lynchings, birth control clinics, and police action against the Black Panthers. It would lead to trials of U.S. servicemen, in situations like Vietnam, for genocide, before hostile foreign courts or kangaroo international tribunals.

Answer: The convention clearly limits the definition of genocide to specified acts committed with the intent to destroy entire groups of people. One of the proposed U.S. understandings strengthens the definition even further. The definition simply cannot be expanded to cover other acts like homicide, racial discrimination, or combat killing without proof of genocidal intent. The treaty does not strengthen the hand of those who would violate international law or trump up charges to discredit the United States, nor would it silence them. It would help to show that American intentions lie in the right direction.

Charge: A treaty establishing an international crime and its punishment violates the Constitution since treatment of U.S. nationals by the American Government is purely a domestic concern.

Answer: We already are party to a number of international agreements establishing international offenses. These include oil pollution, narcotics, slave trading, pelagic sealing. If we can agree internationally to govern the killing of seals, certainly we can act in concert with other nations against killing people.

Charge: The treaty will supersede the Constitution, intrude improperly into areas of law enforcement traditionally reserved for the States, nullify inconsistent State and Federal laws and confuse questions of jurisdiction.

Answer: The Supreme Court has regularly and uniformly recognized the supremacy of the Constitution over any treaty. The convention is of no effect without implementing Federal criminal legislation. The Congress could properly enact this legislation with or without a convention under express and residual powers conferred by the Constitution. The proposed implementing act has been narrowly and precisely drawn to leave undisturbed all State and Federal laws not necessarily in conflict with it.

Charge: The convention would allow the United States to be dragged before the International Court of Justice.

Answer: Alleged disputes under the treaty involving the United States could be taken before the ICJ, but only by another signatory nation and not by any group or individual. We have acceded to ICJ jurisdiction in numerous instances such as the Antarctic Treaty and the International Atomic Agency Statute. No case has been brought before the ICJ under the Genocide Convention in its 25 years, but if we take the worst possible leap of fantasy and imagine a suit and unfavorable judgment, the matter would stop right there, for the ICJ has no enforcement powers at all.

Mr. Speaker, I submit that none of the objections to U.S. ratification that have been voiced can stand up in face of the facts. We have an element of fear here which apparently is preventing critics of the convention from rationally considering the facts. As a matter of fact, if the convention is open to criticism, it is not because it is too dangerous but because it is too weak, because it is not likely to have much real, practical effect in preventing or punishing genocide. In the 25 years since the adoption of the convention, no complaint has been brought up under the treaty and no serious effort has been made to establish the international tribunal it envisages.

Working both sides of the street, critics of the convention have argued against U.S. ratification not only because it is too dangerous, but also because it is too ineffectual. The argument that the United States should ignore the treaty because it is too weak misses the point entirely.

Even if imperfect, the convention stands as a high effort among nations to establish a more enlightened standard of international conduct. The persistent failure of the United States to accede to this standard has been used by our detractors around the world as evidence that the United States does not respect human rights, that we oppress minorities at home and acquiesce in the practice elsewhere, that the United States has refrained from joining the convention because it wants to reserve the right to practice genocide at home and abroad. To us this seems absurd, but to those hundreds of millions of persons uninformed about the United States the train of thought is not without its destructive logic.

Ratifying the Genocide Convention offers the United States a new opportunity to demonstrate the strength of our dedication to human rights and our sustained interest in the orderly development of international law. The Senate can advise and consent to the convention with no risk of relinquishment of U.S. power or prestige whatsoever, with no threat to U.S. citizens, and no likelihood of interference with domestic law and justice. I hope, Mr. Speaker, that reason will prevail and the Genocide Convention will be soon taken up again by the Senate for favorable consideration.

ENERGY CONSERVATION CHECK-LIST

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, all of us have waited in line for gasoline and otherwise felt the inconveniences of the current energy crisis. And beyond the inconveniences, higher prices and unemployment resulting from this energy shortage have created real hardships for many of our fellow citizens. Each of us, therefore, has a real responsibility to try to save energy, and thereby assure that there will be enough for the essential tasks of our economy.

I am particularly pleased that in my area the energy council of the Greater Miami Chamber of Commerce has compiled and distributed a comprehensive "Energy Conservation Check-List" for business and industry. The checklist has been distributed widely throughout our area and has proven to be very valuable to our businessmen. I believe it would be of interest and help to businessmen in other parts of the country.

I include this checklist at this point in the RECORD:

A COMPREHENSIVE PROGRAM FOR ENERGY CONSERVATION

ENERGY CONSERVATION CHECKLIST

THE FIRST STEP

The majority of institutions, businesses and industries involved have initially appointed a committee to develop and administer an energy conservation plan. If not an entire committee, the plan has been established and implemented by *an in-house energy coordinator.*

The *program* or plan is *designed to reduce overall energy consumption by a specific percentage and is capable of greater reductions* should they be required and/or necessary.

The *effectiveness of the conservation measures* being taken by business and industry has *not* been *pinpointed as of yet. Most com-*

panies, however, are hoping to lop anywhere from 15–25% off of their electric and fuel consumption.

SOME CREATIVE CONSERVATION CUES

For banks

Are financial interests prepared to make special loans to business and other consumers of energy to finance purchase of equipment that will save fuel and electricity?

For public relations firms

As new ways are developed to make better use of energy and to create new forms of energy, is advertising ready to sell these new products and techniques?

For retail and wholesale businesses

Could the range of company products be expanded to create more of a "one-stop" supply center for consumer needs?

AND

For all employers

Are more intensified efforts being launched toward youth motivation programs that emphasize the value of staying in school? (Dropouts can only contribute to the unemployment problem.)

MANAGEMENT EFFORTS

Has a task force been formed within the company to determine the availability of materials vital to the company's existence?

Do promotional efforts for company products and services emphasize consumer conservation/education?

To help with wise energy management, has the business been counseled by local power company representatives?

If office dress codes are limiting the range of comfortable office temperatures, have they been changed?

Are work hours scheduled to minimize the use of office spaces after the regular work day?

Have ultimate work schedules, including a possible four-day schedule, been examined?

Has the use of portable heaters and air conditioners been limited?

Have office copiers and other energy consuming equipment been monitored to reduce power consumption?

Have janitorial services been rescheduled to accomplish a majority of the work during daylight hours?

Do janitorial personnel use lights only in work areas or throughout the entire building?

Do personnel travel by air or other public conveyance rather than private automobile on out-of-county trips?

Is telephone contact utilized when possible to reduce the need for in-county and out-of-county travel?

To maintain essential business services and to insure the availability of equitable allocations of gasoline for all company owned vehicles, has a feasible allocation program been established? (The program should consider the number of vehicles, their purpose and type, and the consumption of gasoline by each type of vehicle.)

Has the possibility of consolidating all business activities in fewer rooms or buildings been examined?

Has an audit of all energy usage been completed?

Have air conditioning temperatures been raised and heating temperatures lowered, with the total unit turned off weekends and evenings when feasible?

Has a transportation system been developed with Metro. to pick up groups of employees?

Have efforts of employees wanting to participate in energy conserving programs such as car pooling been coordinated by management?

Have noticeable displays of bus route information and car pooling maps been prepared with origin-destination coordinates?

Has appropriate material on bus routes and schedules, procedures to follow in setting-up car pools and bus clubs, express bus data, and location of park-ride facilities been distributed to employees and interested customers?

Have answers been secured to the transportation questions of employees and customers?

ELECTRICAL SERVICE

Have interior and exterior lighting levels been reduced where possible within the limits of security protection? (A good place to start is stockroom and hallway lighting as well as parking areas.)

Where electrical products are displayed, have the majority of "demonstration" models been turned off?

Is demand kept low by shutting off one type of equipment before turning on another?

Where feasible, is heavy equipment turned off when not in use?

Have incandescent light bulbs been replaced with more efficient fluorescent lighting?

Are light bulbs and fixtures kept clean?

Have all unnecessary electrical, heat-producing devices—such as water cooler refrigeration units and office water heaters—been turned off?

Have all decorative, floodlight and advertising lights been turned off?

Have moat water circulators, fountain pumps and other water handling pumps for decorative purposes been turned off?

Have switches been installed to control lights that are normally on twenty-four hours a day?

Are escalators and/or elevators off until store opening?

TRANSPORTATION FUELS

Have all trips been planned so that repetitive trips to conduct business in the same area are avoided?

Has the smallest class vehicle that will adequately, economically and safely meet business needs been purchased?

Are delivery and other trucks moving with a full load?

Has all dead idling on delivery stops of longer than one minute been prohibited?

Has the frequency of deliveries been reduced, coupled with a stronger "carry-it-with-you" campaign?

Has the possibility of utilizing bicycles for delivery of small parcels been explored?

Are all vehicles properly tuned?

Is the lowest octane rated fuel that will provide satisfactory operation being purchased?

Are tires inflated one to two pounds above normal inflation to reduce rolling resistance?

Motor Vehicle Operation

Are jackrabbit starts avoided when driving?

Is cruising speed attained through gradual as opposed to quick acceleration?

Is driving speed paced with traffic?

When stopping, is moderation the guide in applying brakes? (Drivers should try to anticipate places that they will have to slow down or stop.) In manual shift vehicles, avoid letting the transmission slow the vehicle down except for safety reasons.

Is vehicle air conditioning used only when necessary?

Is start-and-stop driving avoided wherever possible?

Is gasoline rationing (at service stations) anticipated? (Play safe, attempt to keep the gas tank at least half-full.)

General aviation aircraft operation

Are fuel tanks "topped off" or is room left for expansion? (With room for expansion, an average of 2 to 3 cups of fuel per tank can be saved, depending on the type of plane.)

Has power been reduced on small aircraft from 75% to 55% when cruising? (Reduced power does not compromise safety and can save up to 25% except for new or rebuilt engines during the first 100 hours of operation.)

Are proper leaning procedures being used? (If the plane is equipped with exhaust gas temperature gauge (EGT), use it all altitudes and power settings below 75% and within limitations specified by the manufacturer.)

Is ground operation time being reduced?

Is the airplane kept clean? (Accumulations of mud, bird droppings, and other dirt reduce speed and increase drag and fuel consumption.)

Is improper rigging corrected? (Having to hold aileron or rudder during cruise indicates that the airplane is out of rig. It slows speed and wastes fuel.)

Are direct courses being flown? Instead of flying from one radio navigation aid to another in Visual Flight Rules (VFR) weather, take a direct course.

Is Instrument Flight Rule filed only when necessary because of bad weather?

Are intersection takeoffs used at larger airports? (Intersection takeoffs save taxi time and long waits at end of runway, especially where airlines are waiting for separation purposes.)

Is proper spacing used in traffic pattern to avoid go-arounds?

Is strict attention paid to navigation?

Are plane pools used as you would car pools?

Is alternate transportation considered? (By carefully considering schedules, number of persons traveling in a group, time and money, there are occasions when scheduled airline service is more practical. This will conserve fuel for those many other times when travel by private aircraft is more efficient and practical.)

PRESENT BUILDING STRUCTURE/FUTURE CONSTRUCTION

Has attic space in buildings with insulated ceilings been inspected *recently* to insure that insulation has not deteriorated and is in place? (Overhead and sidewall insulation will not only conserve fuel, but will pay for itself with lower heating and cooling bills.)

Is attic space vented with thermostatically controlled exhaust fans?

Has the roof insulation been inspected to insure its good condition in buildings that have insulated roofs and make use of ceiling space for return air?

Have summer window solar loads been reduced by installing externally mounted solar screens in the east and west exposures *and* by keeping blinds and drapes closed on the sunny side?

To reduce building cooling loads, has the building roof a highly reflective surface color?

Have new building structures been designed so that they may be occupied with minimal heating and air conditioning in operation? (Building layout and design can also maximize the use of daylight.)

OPERATIONAL PROCEDURES

Is personnel reminded to "turn off the lights" when the room is no longer occupied? (Remember, the need for air conditioning is reduced in direct proportion to every 100 watts of lighting reduced.)

Are blinds and drapes closed in summer and opened in winter to take advantage of heat from the sun?

When and where possible, has all air handling equipment been turned off in unused or unoccupied areas?

Has door hardware been modified to insure that doors close automatically to save air-conditioning?

Have heating boiler temperatures been lowered?

Have new grounds maintenance schedules been established to reduce fuel use?

Have domestic-type hot water heaters been turned off except where health rules forbid?

In businesses with food preparation facilities, are kitchen-type exhaust systems turned off when not in actual use?

In hotels, motels and recreational areas, are swimming pool heaters turned off except for periods of low temperatures?

When and where possible have water temperatures in swimming pools been lowered?

MAINTENANCE ACTIVITIES

Have all heating, ventilating, and air-conditioning systems been recently inspected to assure "energy-economical" operations?

Are all dampers operational and properly set?

Have all automatic temperature control systems been calibrated, adjusted, repaired or replaced to permit the most efficient operation?

Have all bearings been lubricated, all fan belts tightened, and all dirty fan blades cleaned?

Have dirty filters been thoroughly cleaned or replaced when necessary?

Are all control valves operating properly?

Have all cooling and heating coils been cleaned where dirty?

Have all air and water condensing heat exchanges also been cleaned?

Is all duct and piping insulation in good condition?

Have all worn or obsolete pumps been replaced?

Have all burner and boiler controls been inspected, cleaned, adjusted and set to insure maximum operational efficiencies?

Has a schedule of overall preventive maintenance been established?

HEATING, VENTILATING, AND AIR-CONDITIONING SYSTEMS

Are all heating ducts and furnace vents properly fitted?

Have air temperature and humidity controls been set at the most "energy-economical" levels?

Have temperature control systems been modified to make better use of outdoor air?

Has maintenance inspection—to assure minimum leakage of air in windows and doors—been conducted? (Weatherstripping and caulking around windows and doors will considerably reduce the leakage of air.)

HON. ERWIN N. GRISWOLD

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, one of the great men who has held with distinction the Office of Solicitor General of the United States was Erwin N. Griswold who recently retired from that great office. Erwin Griswold, after being president of the Harvard Law Review and many years dean of the Harvard Law School resigned as dean and retired as Langdell professor of law in 1967 in order to become Solicitor General of the United States, one of his long-held ambitions. Erwin Griswold brought to this office a great intellect, the deepest dedication to the law, a warm concern for the public interest, and an extraordinary capacity for hard work.

To his distinguished career as a professor and dean in the teaching of the law, he was finally to become an eminent advocate before the Supreme Court of the United States for the most important possible client, the Government and the people of the United States. Through scholarship and saturation in the law he possessed a great gift of advocacy. Standing out even above his learning and experience was the quality of sincerity and firm belief in the merit of the cause he espoused which undoubtedly carried great weight with the court. His career as Solicitor General will stand out in the annals of the law and of the Supreme Court and he may always look back upon those years as a troubled time in which he made a momentous contribution to the law, to the work of the Supreme Court, and to his country. No better appreciation of Erwin Griswold could be given than was embodied in the Harvard Law Review of June 1973 on the occasion of his retirement as Solicitor General.

The first of these entitled "Erwin N. Griswold—Some Fond Recollections" is by Henry J. Friendly, judge of the U.S. Court of Appeals for the Second Circuit. The second is entitled "Dean Erwin N. Griswold" by Albert M. Sacks, dean of the Harvard Law School. The third entitled "Erwin Griswold, as Seen by a Classmate" is by Louis L. Jaffe, Byrne professor of administrative law in the Harvard Law School. The fourth entitled "Erwin N. Griswold, as Seen by a Teacher and Friend" is by Austin W. Scott, professor of law, emeritus, Harvard Law School.

These several articles present Erwin Griswold as a dean, a professor, a friend, and as a man. The total picture by these knowledgeable people confirms the estimate of him by all who knew him that Erwin Griswold is a great and good man. No higher compliment can be paid to any man. I, too, have long known Erwin Griswold and been his admiring friend. The gratitude of his Government, of the court, and of his fellow countrymen, I am sure, will go with Erwin Griswold all the days of his life, which we pray may be many to enjoy with his great, lovely, and gracious wife.

Mr. Speaker, I include the articles in the Harvard Law Review to which I referred in full following my remarks in the Record:

Erwin N. Griswold—Some Fond Recollections

(By Henry J. Friendly) *

My first contact with the future Dean of the Harvard Law School and Solicitor General of the United States occurred nearly half a century ago, in the fall of 1926, when I had the pleasant task of inviting him to become a second-year editor of the *Harvard Law Review*. It took only a few months to make it plain that, as his first year grades had foreshadowed, Erwin was the right man to succeed me as President, even in a class containing such distinguished students as the future Justice Nathan Jacobs of New Jersey and Professor Louis Jaffe. There was one slight hitch. Less mellow then than now, Erwin had not hid under bushels his views with regard to the consumption of alcohol, which were sanctioned at the time by the National Prohibition Act, and his opinions of law students who were lawbreakers. This exercise of first amendment rights had not endeared him to some of the second-year editors. They capitulated only after having been kept in confinement at the Faculty Club until around 4:00 a.m. Doubtless the administration of a small amount of alcohol would have facilitated the decisional process, but we knew Erwin would not have liked that. I am sure the editors of 1928 never regretted their choice of a leader.

It was the custom then, as now, that the new officers would be responsible for the May and June numbers. When Erwin came to see me, I explained briefly and, I am sure, unnecessarily, what the duties of the editor-in-chief were. I also expressed my belief that the best thing for an ex-president to do was to get out of the place as soon as possible, although remaining available for counsel and advice. Erwin fully agreed. Although the masthead made me appear responsible for the May and June numbers, I was completely confident that, under his supervision, they would be as good as I could have made them. They were.

Our paths diverged for a while, until after his years of government service he came back to teach at the Law School. As is well known, he took as his two principal subjects the conflict of laws and federal taxation. In his teaching and writing on choice of law, while recognizing that Professor Beale's checkerboard had been irreparably shattered, he sought to preserve a modicum of law rather than to leave everything to choice. Very likely this was one of the few efforts in which he was not wholly successful. But who has been? Any third-year law student can knock Beale's wonderful system into smithereens, but no one has produced anything really satisfactory to take its place. With respect to federal taxation, Professor Griswold was self-taught in the Department of Justice. Today's students would doubtless be amazed to know that in the late 1920's the Harvard Law School *offered nothing* in taxation except Professor Beale's half-year course, outmoded even then, on jurisdiction to tax. In taxation Professor Griswold was on more solid ground and made exceedingly important contributions. I have recently had occasion to study and plagiarize from his remarkable article, *The Need for a Court of Tax Appeals*.[1] Perhaps the pressures on the courts of appeals and the Supreme Court may now make attainable this goal so effectively advocated thirty years ago.

It was a typically wise decision when President Conant chose Professor Griswold to become Dean of the School, at a time when the loss of some of the most illustrious members of the faculty, the problems of the war years, and the Greek tragedy of the Landis deanship had posed a threat to its continued primacy. Erwin went about the task of reconstruction in his characteristically quiet and thorough way. I saw him rather frequently by virtue of my membership on a joint faculty and nonfaculty "ad hoc" committee on appointments which President Conant had created during World War II; one of our members said, some twenty years later, that this must have been the longest "hoc" in history. Erwin was not particularly receptive to our occasional comments that a candidate for tenure did not seem to us to excel in the classroom, to have won the regard of students, or to have demonstrated writing capacity sufficiently to justify a life commitment. His answer to me usually was, "How do you think he compares with——?" mentioning one of the lesser luminaries of our own days at the School. My regular reply was that what may have been good enough—more accurately, was not good enough—in Pound's day did not suffice for Griswold's. Although I believe a few mistakes were made, doubtless the Dean was right in thinking that unless young men leaving practice for an assistant professorship could feel a fair assurance of promotion to tenure, the supply would be adversely affected, and that the School could stand one or two professors who were less than great. Certainly he left his successors a faculty second to none.

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* Judge, United States Court of Appeals for the Second Circuit. A.B. Harvard 1923; LL.B., 1927.

[1] 57 Harv. L. Rev. 1153 (1944); *see* H. Friendly, Federal Jurisdiction: A General View, 161–68 (1973).

Long years later, when I became chairman of the Overseers' Committee to Visit the Law School, I expressed my view that our meetings should be expanded from one day to two, primarily in order to afford more opportunity for talking with professors, particularly the newer ones, and with students. While I am certain the Dean regarded this as unnecessary, his reaction was positive: "It is for the Visiting Committee to decide how it wants to visit; it is for the Dean to facilitate its work." If the new format was an improvement, as I think it was, this could not have been achieved without his help.

When I was about to be sworn in as a judge of the Second Circuit in 1959, Mr. Justice Harlan, who was to induct me, phoned one day that he had heard Dean Griswold was coming down from Cambridge to New York. This was in late September, perhaps the busiest time for a law school dean. Calling Erwin, I told him how deeply I appreciated his proposed action but that it would be wrong for him to waste a day for a fifteen minute ceremony. He said, "I am coming down." That was the end of the conversation. I shall always treasure what he did and what he said. A year or so later, when I became a member of the Council of the American Law Institute, I could observe him in action there. When he raised an objection, even in fields of law that were not within his special interests, he invariably went to the jugular. My admiration was doubtless heightened by the fact that we were almost always in agreement. This was hardly accidental; we had drunk at the same font. As Mr. Williston is supposed to have said when his colleagues chided him over his giving an exceedingly high mark in contracts to a student whose performance in other courses was mediocre, "Perhaps it was the instruction."

Dean Griswold was a builder not only of faculty but also of buildings. He enlisted me in the job of procuring from corporations the funds, comparatively modest in amount but unexpectedly difficult to get, that were needed to match a foundation grant for the first new structure, the International Legal Studies building.[2] That was only a small beginning. Dean Griswold undertook the hard task of raising the money for other needed additions and for an endowment. I do not suppose he liked fundraising any more than most. But he recognized this was part of his job, and he did it in his typically effective way.

By 1967 the time had come when Dean Griswold had given all that he could to the Law School and he should return to serve the nation. But one of those happy coincidences that lift the heart, it was just after the splendid observance of the sesquicentennial, marked by his fine address, *Intellect and Spirit*,[3] that President Johnson tendered him the solicitor generalship, a post for which he was supremely qualified. The depth and breadth of his knowledge, his integrity of character, and his evident respect for the Supreme Court made it possible for him to say things to the Justices which some of them did not much care to hear, without in any way impairing the relationship that a great Solicitor General must have with all members of the Court. The same qualities won for him the admiration of an able and devoted staff.[4]

I glance rather frequently at the photograph of our *Law Review* board in my chambers. Erwin is right behind me, looking ready, willing, and able to support me if I should falter. There is no one I would rather have in that place. After all he has done for the Law School and the country, he is entitled to a rest. No one expects or wants him to take one.

DEAN ERWIN N. GRISWOLD

(By Albert M. Sacks)*

In 1967—as it happened, just after the Law School had celebrated its sesquicentennial year—Erwin N. Griswold resigned as Dean and retired as Langdell Professor of Law, in order to become Solicitor General. In an informal and candid talk to a group of well-wishers, he acknowledged that he had had three career ambitions: to be President of the *Harvard Law Review*, Dean of the Harvard Law School, and Solicitor General of the United States. That he had achieved these high ambitions was not only a stroke of happy fortune, for him and the institutions, but also a measure of the great admiration and respect he elicited from his peers at each stage of his career.

I plan to focus on Erwin Griswold's accomplishments as Dean. Since he was a faculty member at the Law School for 33 years and Dean for 21, it is obvious that the School has absorbed far more of his energy and concerns than has any other institution. To thousands of alumni—and to me as well—he continues to be "the Dean." And as a successor, I have a new appreciation of what he faced and how he coped during his deanship.

In the century since the first dean was appointed at the Law School, but four deans have had a length of service that enabled them to exercise a major and prolonged influence on the School: Langdell, Ames, Pound, and Griswold. Each faced unique problems, Langdell most clearly, and comparisons are not here called for. Still, of the four, Erwin Griswold's task was in some ways the hardest. In 1946, he inherited a school of towering reputation whose momentum had been seriously disrupted by World War II and whose faculty, student body, programs, and plant needed substantial rebuilding and recasting. He responded with a leadership whose influence can be seen in the remarkable development of the School during the post-war period.

The faculty was rebuilt and enlarged to about twice its prewar size, without dilution of quality. This growth made possible and was coodinated with the faculty's revamping of the curriculum so that a variety of elective courses and seminars were developed for second- and third-year students, and research and writing could be offered to and demanded of each third-year student. The cutting edge of the growth tended to be in the international field in the 1950's and in criminal law and urban law in the 1960's, but the expansion extended into most areas. This growth also added to the diversity of talent and outlook of the faculty, greatly enriching the intellectual life of the School.

The caliber and character of the student body were enormously strengthened, even though its size increased only slightly. Until shortly before the War, students were admitted to the Law School with nothing more than a diploma in hand from an accredited college. Scholarship assistance was limited to a relatively few advanced students. Placement was not easy and was left to individual student initiative. During the Griswold period, the rapidly rising number of qualified applicants led to an increasingly selective admissions policy. Financial aid programs combining grants and loans were designed, then tried and redesigned, and they were gradually expanded until the Law School in the mid-1960's was able to assure every applicant that, if admitted, financial need would not preclude his or her going to Harvard. This was a fabulous achievment, involving an expansion of financial aid from very minor sums to an anual disbursement of about one and a half million dollars. And a policement office was established and strengthened over time.

Life for law students was made less impersonal, less rigid, and otherwise improved in a variety of ways. The new availability of small courses and seminars has been mentioned; small group instruction by teaching fellows was also developed for first year students. And new dormitories, a dining hall, and meeting rooms were built in 1950. We look at these today and note how, with additional funds, they could have been much better. But in 1950, they represented a vast improvement, and funds were not then easy to raise.

Though the size of the student body was kept fairly stable, the increased number of courses and student organizations and activities, the expanding library, and the larger faculty and staff made increased space essential. Erwin Griswold planned and worked for this increase. The ILS building was added in the 1950's. The larger Faculty Office and Pound Buildings were opened after he left, but were a clear part of his legacy. In terms of physical facility and of intangible "atmosphere," they have enormously improved the Law School.

Virtually all of these developments called for more money, and many required much more. Before Griswold, the School had not sought regularly recurring support from its alumni; if this was to change, the Dean obviously had to organize and lead the undertaking. Erwin Griswold devoted himself to this task, with astonishing success. In the first year of the Law School Fund, the goal was $50,000. Last year, the Fund total was over $1,400,000. The Fund conception, organization, and staff, and above all the existence of a solid relationship with alumni are primarily the products of his prodigious and skillfull labors.

To list and describe these developments does not fully capture the magnitude of the changes wrought in the Law School over a quarter of a century. Dissatisfactions remain, new problems are perceived, and there is much to do. But the School is a far different and better place than it was when I was a student in 1946–48.

No one would attribute all of these changes to Erwin Griswold alone, or to any other one person. The faculty, the staff, and the students all have played important roles. But Dean Griswold exercised a strong and pervasive influence on the School. Through the strong press of his personality, his enormous energy and drive in getting things done, and an orderly and disciplined style of work, he could project himself into all of the significant corners of the School's operations. His single-minded devotion to the School, a rock-like stability of temperament, and an utter integrity of character gave assurance that his decision would be as fair and as free of narrow bias as he could make them.

He found congenial and expansive view of the role of law and lawyer, and he saw many ways in which students might develop and faculty might grow. But with this went a tough-minded insistence on adherence to standards of quality. In 1970, in expressing his hopes for the School in the future, he made the point as follows: [1]

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[2] I had best make clear for the record that this fundraising activity was before I became a judge!

[3] THE PATH OF THE LAW FROM 1967, at 142 (A. Sutherland ed. 1968).

[4] Occasionally the Solicitor General has taken the time to send me a note about my opinions, especially ones against the Government where he has decided not to seek review. One that sticks in my memory concerned Ira S. Bushey & Sons, Inc. v. United States, 398 F.2d 167 (2d Cir. 1968), in which, on quite amusing and unusual facts, I had gone rather far in holding the Government liable for the tort of a drunken member of the Coast Guard. Erwin's note ran something like this:

> I have been under some pressure to petition for certiorari. I very much doubt whether, when we were in Law School, you would have considered that this man was acting within the scope of his employment. If Cardozo were still on the Court, I would have asked for certiorari. But he isn't and I won't.

*Dean, Harvard Law School, B.B.A., C.C.N.Y., 1940; LL.B., Harvard University, 1948.

"The first hope that I find myself formulating in my mind is that the School will never yield in maintaining the highest intellectual standards, including rigor and intellectual honesty, and the recognition that thought in our field does not come easily and superficially. Though the School had shortcomings when I was a student, the great mark that it left was a scorn for shoddy and wishful thinking, and an understanding of the power of the mind when applied with rigor and discipline. I had some fine teachers in college, but not one of them gave me what I got at Harvard Law School—from Powell and Frankfurter, and Chafee, and others—a disdain for question-begging, an awareness that the conclusion is assumed in the premise, an appreciation of the value of thoroughness and many other aspects of the intellectual life."

It has been said of Erwin Griswold that, in oral encounter, his manner tends to be austere and stiff and thereby discourages relaxed feelings and easy conversation. Also, that he cannot abide small talk or suffer fools gladly. I have seen him at times when these observations were true. But I have also often seen him behave with great warmth and humor. He has sent handwritten letters to me—and to many, many others—that show a sensitive understanding and warm compassion. When faculty or staff members have confronted serious personal problems, Erwin has given strong support in every possible way. When they have received honors, he has added his tribute. And their significant accomplishments have received his personal recognition. Praise from him has the extra value of his unyielding honesty.

Erwin Griswold is about to retire as Solicitor General. We at Harvard Law School regard him as an admired colleague and cherished friend, we recall with gratitude all that he has done for the School, and we wish him many more years of happy service in the callings of the law.

Erwin Griswold, as Seen by a Classmate

(By Louis L. Jaffe) *

I have known Erwin Griswold since we were classmates together at the Law School long, long ago in the years 1925–28. This includes two years on the *Harvard Law Review*, of which, in the year 1927–28, he was President and I a rather lowly editor without portfolio. Despite these many opportunities for contact, I cannot say that I knew him well in those days. Griswold had then as he has now an air of authority with which he may have been born. Now that I have served under him I have come to know that his sometimes stern manner belies his humanity and his wit.

A student of mine told me a story that illustrates the point. It was his position that the Dean was stiff and unfriendly. It seems that a fellow student had seen the Dean's lights burning one Christmas Eve, and had popped his head in the door with a "Merry Christmas, Mr. Dean." "Humbug" was the reply! The Dean's wry humor was, I am afraid, lost on my friend (who would appear to have been less literate than the Dean) and there have been others down the years who have been put off by his dead-pan style. But as a professor I found him compassionate and generous in good times and in bad.

The key to Erwin Griswold's career is his intense commitment to whatever job he may be doing at the time, whether as Professor, Dean, member of the Civil Rights Commission, or Solicitor General. There are some who contend that the "liberal" attitudes he espoused on the Civil Rights Commission do not jibe with the positions he has taken as Solicitor General. The English view, as I understand it, is that a barrister does not pick or choose his cases. As an advocate he makes the best argument he can whatever his own views, even though he may play a role, as I believe Griswold has done in the decision not to bring cases to the Supreme Court.

Undergirding this wholehearted devotion of his great talents to the job is Erwin Griswold's social philosophy. Observing him as Dean, I could see how over time he pursued a policy of gradual change. He has a deep feeling for tradition but an acute awareness that the basic tradition cannot survive if new demands are not met and recognized with positive action. He left the Law School with its traditions, as he saw them, intact but with countless innovations: a larger, more varied faculty, a curriculum of great variety, a student body far more representative in sex, class, and race. The Law School is infinitely richer, more intellectually stimulating, more humane than the Law School he and I knew together in the years 1925–28, and it was during his tenure as Dean that the School came to be what it is today.

Erwin N. Griswold, as Seen by a Teacher and Friend

(By Austin W. Scott) *

I shall speak here of Erwin Griswold simply as a student, a colleague, and a friend.

I first knew him as a student in my classes in Civil Procedure and in Trusts, nearly 50 years ago. It was soon clear that he was an outstanding student. He became an editor of the *Law Review*, and then its President. He was graduated at the head of his class and was given the Fay Diploma, awarded to the member of each class of the Law School who, in the judgment of the law faculty, has during his three years by his scholarship, conduct, and character given evidence of the greatest promise. That the promise was fulfilled is evidenced by the recognition of the academic world in the conferring upon him of honorary degrees by many universities and colleges in the United States, in England, in Scotland, in Canada, and in Australia.

On his graduation from the Law School he decided to spend another year with us as a candidate for the doctorate of juridical science. I well remember the oral examination, in which two of my colleagues and I put questions to him. His answers sometimes showed a greater knowledge and skill than that of his questioners.

During this year I was fortunate in having him as my assistant in drafting the *Restatement of Trusts* for the American Law Institute. We happened to be dealing with the subject of spendthrift trusts. He gave me fresh ideas, and his assembling of the authorities was flawless. He published on his own account his articles in the *Law Review*, and he soon expanded them into a book on spendthrift trusts. The articles and the book have frequently been relied upon by the courts. He was thereafter one of my most active and stimulating advisors in drafting the *Restatement*, and he prepared the Index, as well as the Index to my treatise on Trusts.

At the end of his fourth year of study, and after a brief bout with practice of the law in Cleveland, he went to Washington as an attorney in the office of the Solicitor General, and later as a special assistant to the Attorney General. But to my great delight he was induced to join the faculty of the Law School. This was in 1934, and in 1946 he became its sixth dean. He was engaged in teaching and in administration until 1967, when he added the title emeritus and went again to Washington, this time as Solicitor General.

As a colleague, both before and after he became Dean, he was a source of great help to me. He was one of those colleagues with whom you could talk on any branch of the law, and get help. Whether or not the particular problem was in his fields, he brought to it an immediate understanding and fresh ideas. Under his leadership as Dean for two decades, the Law School flourished.

A COVENANT TO WORK TOGETHER

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, over a great many years I have maintained a keen interest in the affairs of the Latin American members of our hemispheric community and whenever I have had an opportunity I have tried to see as much of Latin America and to learn as much about Latin America as I could. During the recent congressional recess it was my privilege to visit Panama and Guatemala, and recently I joined a number of our colleagues in conducting a seminar on the situation created in Chile by the lately ousted Marxist regime of Salvador Allende.

I have also taken a strong interest in the development of the hemispheric outlook of the Miami area, which I help to represent in the Congress. As you know, we have a substantial Latin population in our area. We serve as a gateway to Latin America for U.S. businessmen and travelers and as an entryway for business and tourists from Latin America. This hemispheric outlook was reflected in the third annual convention of the Inter-American Businessmen's Association which took place in Miami on October 20 of last year, and especially was it reflected in the address to that convention by Ambassador Joseph John Jova of the U.S. Permanent Mission to the Organization of American States.

The past few decades have seen some significant shifts in the profile of inter-American relationship and I believe Ambassador Jova's splendid address will be of interest to our colleagues and to all who read this Record. I include it at this point:

Remarks by Ambassador Joseph John Jova to the Inter-American Businessmen's Association

In the course of my life this part of the United States has changed from a real frontier—a simple mix of vacationland and farm country—to a cosmopolitan gateway for the entire world. There were first the days of boom-and-bust speculation in South Florida swampland in the twenties, followed by a far more substantial boom in the next generation, when Miami and its environs became America's playground. And now in the past decade or so it has blossomed into a bilingual city, fast developing into an extremely busy center of inter-American business, banking, education, culture, medicine and society. True, Miami has about it little of that wonderful Latin Culture exemplified in, say, Cuzco or Old Mexico. And it is not perhaps an industrial dyanamo like a Pittsburgh or a Sao Paulo. I think it is rather uniquely the inter-American city of the future. For that reason it seems an ideal place for me as the United States Ambassador to the Organization of American States to meet with the Associacion Interamericana de Hombres de Empresa. This dynamic organization is bringing together the real "fuerzas vivas" of some of the most active cities on the Gulf of Mexico and the Caribbean. As a resident of Washington I am particularly pleased at the establishment of a chapter in the Nation's capital. A city that, like Miami, is undergoing its own metamorphosis, in its case from a purely government city to a modern metropolis.

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[1] Speech of Erwin N. Griswold, at Meeting of Visiting Committee of the Harvard Law School, Apr. 18, 1970.

*Byrne Professor of Administrative Law, Harvard Law School. A.B., Johns Hopkins, 1925; LL.B., Harvard, 1928; S.J.D., 1932.

*Dane Professor of Law, Emeritus, Harvard Law School. A. B., Rutgers, 1903; LL.B., Harvard, 1909; LL.D., Rutgers, 1933; D.C.L., Oxford, 1954.

I trust that you are aware of the importance of private business at this point in the history of Latin America, when development is the main pre-occupation in every country. As businessmen, in your industrial, commercial and financial activities in Latin America you are, of course, concerned with making a profit. It is only right—indeed in our economic system it is indispensable—that you do so. But I hope too that you are conscious of your profound responsibility in the ongoing economic and social development of the hemisphere. Without such development, the outlook for business itself is dim indeed.

The United States and the industrial revolution were born at about the same time, twins out of the same mother. It should not be surprising then that the British colonies in the New World and the country which grew out of those colonies should be in the forefront of economic development. Latin America likewise grew up in the wake of a glorious tradition—the Spain of Columbus, Diego de Valasquez, Cortez, Cervantes; the Portugal of Henry the Navigator, of Camoes; of the bandeirantes; not to mention the Indian and African infusions which make our hemisphere so uniquely rich. But neither the Iberian tradition nor the Afro/Indian tradition sufficiently prepared Latin America for economic development in the twentieth century. I need not belabor the point: for complex reasons, the entrepreneurial spirit pervaded North America; and it was later in coming in most of the countries which developed south of the Rio Grande and the Straits of Florida. Those days are passed, however, and expanding economies in Latin America and your own presence here today is testimony of this fact. This little historical capsule is, I hope, sufficient to point up your importance as businessmen in the hemisphere's future. Latin America is no longer far from the center of the world's stage; no longer are there banana republics; no longer are large parts of America doomed to economic and social stagnation. No longer are its managerial and business talents confined to running haciendas or collecting urban rents.

Today Latin America is alive—actively and assiduously seeking the economic wherewithal to make up lost time. Most of the hemisphere must rely on the private sector to be the true motor of development. It must look to the membership of this association (for example) for trade, for capital, for technological expertise—whether you are nationals of the United States of the host country or of a third country. Yet the climate for the private sector—and particularly for foreign investment—often seems gloomy. We have seen expropriations, nationalizations and the intention of some governments to control the activities of foreign companies. I think we—and by that I mean both the potentative investor and the U.S. Government—should keep in mind that reasonable controls on investment are a fact of modern life and need not be against our long-term interests. Host governments have a right to insure that investments are in the general welfare. But it is important for both government and investor to know what the rules of the game will be. By the same token, private investors have a right to stay away if the rules are too tough or their application too uncertain. I believe that most of the governments of Latin America recognize the importance of foreign investment to their economies, and I also believe most of them are increasingly aware that it is unwise to take actions which would discourage potential investors. In today's world capital is scarce and it flows only to those places where it is welcome. This fact should become increasingly clear during a period when development, with its never ending requirement for inflows of capital and technology, is the prime goal of every country of the hemisphere.

This very drive for development is opening vistas as well as creating problems for both business and government and has helped to create the present state of U.S.-Latin American relations. For those of you who are U.S. citizens especially, but for all of you, I think, the state of those relations are very important. I, therefore, propose to review briefly the picture as seen from my particular arena—the Organization of American States.

From the perspective of history, inter-American relations show a central and recurring theme, the effort of Latin American nations to place restraints upon the behavior of its giant neighbor to the north. I don't use restraint in any pejorative sense. Nations, like human beings, do themselves no good when they behave in an unrestrained fashion. So it is good for us and it is good for every nation to agree to the placing of *reasonable* restraints, and I emphasize reasonable, upon its own behavior.

For many years the principal thrust of this effort lay in the field of political behavior as Latin America sought to restrain us from intervening, militarily or otherwise. The good neighbor policy was a recognition of the validity of the principle of non-intervention and (in 1947–48) it was made a treaty obligation in the Charter of the OAS and in the Rio Treaty.

When the nations of the hemisphere agreed, not without difficulty, to institutionalize the Inter-American System through the Charter of the OAS and the Rio Treaty, these steps were based on the existence of at least a rough consensus on hemispheric goals and principles. I would summarize this consensus in terms of four elements (a) non-intervention (b) the deterrence of extra-continental aggression (c) the maintenance of peace among the nations of the hemisphere themselves and (d) the acceptance of a system of cooperation among us all.

This consensus was later inadequate to deal with the drive toward economic and social development, which became increasingly important to the Latins in the fifties and suffered a partial breakdown which threatened the edifice of inter-American cooperation. This new concern led to Operacion Panamerica and the creation of the I.D.B., and, sharpened by the advent of the Castro regime, led directly to the Alliance for Progress during the administration of President Kennedy.

The accomplishments of the Alliance for Progress were many. But it has now been largely overtaken by events and by changes in attitudes both north and south. We have seen an erosion of the consensus that bound us together, an erosion that has been accelerated by the lessening of the threats of the Cold War era. In Latin America we have seen grow a nationalism that has become increasingly assertive in its concentration on development goals. For our part, we in the United States have become increasingly cognizant of the *finite* nature of our resources and our need to balance international responsibility with our duty to our own people.

The Nixon Doctrine was a direct response to these realities. Its concept of a mature relationship, without the paternalism of the past, of a realization that our capabilities are—and must of necessity be—directed to helping others to help themselves and its offer to respond to Latin initiatives in both trade and aid, was well received in both Latin America and at home.

Unfortunately, the war in Vietnam, our obligations at home, and a deteriorating balance of payments combined to make it difficult for us to be as responsive as we had hoped.

It is this complex of changed realities, then, that is reflected in Latin America's dissatisfaction with the existing system for development cooperation. It is precisely this dissatisfaction that underlies the complaints about the OAS and the Inter-American System as a whole and which led to the creation of a Special Committee of the OAS to reform the Inter-American System. This Committee has been meeting since June, first in Lima and now in Washington. The thrust of the Latin Americans is not so much for changes in the structure or organs of the OAS as for a change in the very relationship between the U.S. and Latin America.

In drawing up a new framework of relationships, some of the Latin American countries seek to obtain from the U.S. a commitment for additional legally binding obligations and restraints. For example, a system of collective ecomonic security—complete with both obligations to provide assistance and with definitions of economic aggression—has been proposed. While the U.S. has no intention of committing economic aggression against any country, in an interdependent world, such as we have today, nearly anything one government does will have *some* impact on another. Sugar quotas in the U.S. affect world prices. An export embargo on a commodity affects the world supply situation. Moreover, it is easy to forget that this would apply to actions by Latin American governments against U.S. interests as well as vice versa. Therefore, I do not believe that such a wide-ranging system of collective economic security is acceptable to the U.S. at this time.

This is merely an example of the type of issue which faces us in the OAS now. There are many differences of opinion among OAS members, but we are working overtime in an effort to find formulas which will protect the interests of all parties.

I should make clear that our joint efforts in the Inter-American system run parallel to efforts on the world scene to order the relationships between the developed and the developing, an undertaking in which President Echeverria of Mexico has taken a leading role. In this connection, speaking of the development effort, Secretary of State Kissinger stated to the United Nations General Assembly:

"We will participate without conditions, with a conciliatory attitude and with a *cooperative* commitment. We ask only that others adopt the same approach . . . We are willing . . . to examine seriously the proposal by the distinguished President of Mexico for a Charter of Economic Rights and Duties of States. Such a document will make a significant and historic contribution if it reflects the true aspirations of all nations; if it is turned into an indictment of one group of countries by another it will accomplish nothing. To command general support—and to be implemented—the proposed rights and duties must be defined equitably and take into account the concerns of industrialized as well as of developing countries. The U.S. stands ready to define its responsibilities in a humane and cooperative spirit."

In short, the U.S. agrees that we need in the hemisphere an effective and active Inter-American System, but one based on reciprocity. We think it important to seek a new *consensus*, suitable to the times in which we live, but one that is realistic, which aims at enhancing "convergent interests" and at resolving the differences among us. We must approach this in a spirit of accommodation and realism and so must our neighbors. As the Foreign Minister of Colombia, Alfredo Vasquez Carrizosa, pointed out recently in the OAS Special Committee, Latin votes of twenty-two against one American are worth nothing in themselves. If decisions are to be meaningful, Dr. Vazquez said, a consensus must be worked out in which the United States can participate. Good faith—a will of all nations to work together for peace and development—these are the essentials of a workable Inter-American System for the years ahead. In order to develop such a political will, Dr. Vazquez called for a conference of the hemisphere's foreign ministers. From the perspective of a diplomat and of someone whose vocation and personal commitment has been to the inter-American relationship, I would like to point out some of the ground rules and conditions which determine how the game will be played.

First, countries make their own decisions on what reforms are needed; development is largely an internal question. Self-help is the most essential ingredient for development, and outside assistance—while important—is secondary. A set of rules and sanctions with respect to U.S. economic behavior will not substitute for the internal development process.

Secondly, we are dealing with sovereign states, including the U.S. Where there is conflict between U.S. interests and those of other sovereign states, one must recognize the legitimacy of interests on both sides and seek mutual advantage through a process of accommodation.

Thirdly, this is a richly diverse hemisphere, with differing views on many matters. At the last OAS General Assembly we joined together to recognize under the rubric of "plurality of ideologies" the diversity of political, social, economic systems. But at the same time a historic commonality of ideals and interests has joined the Americas into a living relationship which has endured since the days of our Independence. This vitality of the Inter-American System has often been overlooked.

My fourth and last point concerns a matter I touched on briefly before—the knotty issue of the behavior of private foreign investment. There simply is not enough public capital available overseas to fund the needs for capital in the developing countries. President Nixon, in his major Latin American policy speech in October 1969, emphasized the importance of foreign investment: "For a developing country," he said, "constructive foreign private investment has the special advantage of being a prime vehicle for the transfer of technology. And certainly, from no other source is so much investment capital available, because capital, from government to government on that basis, is not expansible. In fact it tends to be more restricted, whereas, private capital can be greatly expanded." The experience of Cuba in pre-Castro days and of Brazil today could hardly be more eloquent as examples of the truth of that statement.

At the same time, developing nations fear that foreign business may contravene national development policies or interests. All of course, reserve to themselves the sovereign right to determine the conditions under which foreign investment operates. The issue involves strong emotions and real interests. It would be in everyone's interest to work out some means of resolving disputes in this area that would protect the legitimate interests of all concerned.

It is now part of our conventional wisdom that the U.S. has, for a number of years, been walking a valley of shadows. Our traditional optimism has been frustrated by the unsuspected stubbornness and complexity of problems both domestic and foreign. We have come to an equivocal tangle of complexities, new responsibilities and even setbacks in a world which is changing vertiginously. The United States has learned more of pain. And, if I may say so, I think we have learned also of humility.

Much of the thrust of this Administration's foreign policy reflects a realistic appreciation of these events. Thus we have the Nixon Doctrine, detente, a determination not to be the policeman of the world, and particularly in Latin America, a more modest perception of our true role. We also recognize the new Latin nationalism as a fact of life.

For several years we have been trying to mold our Latin American policy to these realities. We have consciously channeled a majority of our economic assistance through multilateral institutions such as the IDB and the World Bank. We have diminished the number of U.S. Government officials in Latin America. We have accepted the existence of a "plurality of ideologies" in the hemisphere. There is a realization that development is a complex matter indeed and most of the impulse must come from within.

While we are still as committed as we ever were to the desirability of economic and social development in Latin America, we want to do more listening and less talking. Because of the importance to us (and indeed to Latin America as well) of our own economic health, we have given priority to this issue. The U.S. and Latin America are traditional trading partners; we are mightily interested in the promotion of American exports, and the United States Government has given this new emphasis. And we are attempting, with due respect for the sovereignty of others, to protect what we have seen as legitimate interests of U.S. investors in Latin America and elsewhere abroad.

I need not emphasize that our efforts so far have not met with uniform success. At times we have lacked the style, the panache to project the seriousness of our intention to continue cooperating with Latin America while shedding the accoutrements of paternalism. And we have run into conflicts between how *we see our* economic interest and how several Latin American countries view *their* interests.

Despite this I am persuaded there is reason for optimism that U.S. relations with the other countries of the hemisphere can be improved in the years ahead. As Secretary Kissinger recently pointed out, we and the Latin Americans—despite our differences—have much the same principles based on freedom and human dignity. Despite differing levels of development within Latin America as well as between Latin America and the U.S., we share a tradition in which the private individual, the private entrepreneur, the private business organization have key roles in determining how society will develop.

I hope that each of us here will go forth with a deeply felt determination to help in the continuing construction of this hemisphere which we still know proudly as the New World. More and more, business is being called on to consider whether its activities are in the interest of those ideals about which we in the OAS speak—and I hope, think—a great deal. Namely, prosperity for the many, peace among the peoples of the world, the fulfillment of the individual man. Creation of healthy societies also is good business.

Through the Inter-American System the United States has a covenant to work together to improve the quality of the life for all people in the hemisphere. I feel confident that the private businessman can be counted on to do his part in the fulfillment of that covenant.

PATHETIC POSTAL SERVICE

(Mr. GROSS asked and was given permission to extend his remarks at this point in the Record and to include an article.)

Mr. GROSS. Mr. Speaker, during most of 1969 and 1970, while the long effort to secure passage of the Postal Reorganization Act was underway, the rallying cry of the postal reformers was "Let's Get Rid of the Deficit-Ridden Post Office."

Larry O'Brien and Thruston Morton, chairmen of the Citizens Committee for Postal Reform, used the postal deficit theme almost exclusively, not only to raise hundreds of thousands of dollars, but to generate support for their reform campaign. Paid newspaper ads boldly imploring an end to the "deficit-ridden Post Office" appeared over their sponsorship in hundreds of newspapers from coast to coast.

The first recommendation of the Kappel Commission on Postal Organization was that the Postal Service should "operate on a self-supporting basis." The report stated:

> We are confident that the postal deficit can be ended within several years after the Corporation is underway through productivity improvements and a sound rate structure.

The Commission reported further that passage of postal reform legislation would provide "the opportunity to release well over a billion dollars a year of our Federal budget for the urgent social purposes of our time."

Postal reform was sold to Congress and to the American people, both from within and outside Congress, principally on the basis that only total reform of the Post Office could, and would, eliminate postal deficits.

It so happens that on August 6, 1970, during final debate on the conference report on the Postal Reorganization Act, I attempted to call to the attention of the House the solution of the conferees for getting rid of the so-called postal deficit. In pointing out that the bill called for generous appropriations from the Federal Treasury to cover so-called public service costs and to reimburse the Postal Service for "revenue foregone" for handling free and reduced rate mail, I stated:

> It does not take a lot of acumen to figure out that the new Postal Service can be self-sustaining—completely free of deficit—as long as it has a pipeline out the back door pumping up money from the public well.

I concluded my statement in opposition to the conference report as follows:

> I am convinced beyond any doubt that this so-called reform legislation will result in less postal service to the American people and at a much higher cost.

Mr. Speaker, I recite this bit of past history only for the purpose of bringing into proper perspective the observations I now make that are based on a careful examination of the Postal Service budget figures contained in the President's budget message submitted to Congress on February 4.

For fiscal year 1974, which ends this coming June 30, the Postal Service has already received appropriations from the Federal Treasury in the amounts of $1.373 billion to cover so-called public service and "revenue foregone" costs, and an additional $105 million supplemental appropriation to cover "revenue foregone" on the temporary rates which were scheduled to go into effect January 5. The budget indicates there will be two further supplemental requests for fiscal year 1974. One request is for $284 million to cover the Postal Service's unfunded liability in the civil service retirement program, and the other is a $235 million supplemental request because of the delay in postal rate increases from January 5 to March 2.

Assuming the two additional supplementals are granted, the Federal Treasury will have funneled nearly $2 billion of Federal tax revenues into the Postal Service in 1974. Yet, astoundingly enough, even with this massive Federal payment, the Postal Service estimates a net operating loss of $385 million for this fiscal year.

There is only one clear, unmistakable conclusion that can be drawn from these budget figures. In fiscal year 1974, the third full year of operation of the new Postal Corporation, the total deficit of the Postal Service—that is, the total difference between operating revenues and operating expenses—amounts to over $2.3 billion.

Mr. Speaker, this deficit is more than $1 billion higher—more than twice as much, if you please—than the largest deficit ever incurred by the old Post Office Department. A $2.3 billion deficit certainly destroys the main premise of the Kappel Commission study, which confidently concluded that the postal deficit would be ended within several years after the Corporation was underway. If nothing else, this deficit should make us admit that Congress was sold a bad bill of goods when it was pressured into reforming the Postal Service under the guise of getting rid of postal deficits.

Mr. Speaker, I am deeply concerned that unless proper action is taken, things will get much worse in the future, and "the pipeline out the back door pumping up money from the public well" that I talked about in 1970, will have no shutoff valve.

Since the so-called break-even concept was so heavily touted back in 1970, the conferees on the Postal Reorganization Act were careful to provide in the act only three specific and narrowly defined authorizations for appropriations from the Federal Treasury. These authorizations were for transitional expenses, a fixed amount to cover so-called public service costs, and an authorization for appropriations to reimburse the Postal Service for the revenue lost in handling free and reduced-rate mail. These moneys were routinely appropriated in the regular appropriation bill last year.

Nevertheless, an additional $105 million was pumped into the Postal Service in the supplemental appropriation bill last December, in response to the request of the Postal Service for additional "revenue foregone" to cover the temporary postal rates which were scheduled to go into effect on January 5.

Not only was there no authorization in the law for this type of appropriation, but obviously since temporary rates were ordered postponed for two months by the Cost of Living Council, the amount appropriated in advance was overestimated.

As I indicated earlier, the President's budget indicates that the Postal Service will ask for an additional supplemental appropriation this year of $284 million to cover its liabilities to the civil service retirement fund. There is no authorization anywhere in the law for this type of an appropriation.

The budget also indicates that the Postal Service will request a $235 million supplemental to reimburse it for the delay which the Cost of Living Council ordered in the imposition of temporary postal rates. There is no authorization in the law for this type of appropriation, either.

I submit, Mr. Speaker, that if this Congress is to continue appropriating moneys to the Postal Service, it should confine itself to appropriating only those amounts that have been specifically authorized in the Postal Reorganization Act.

The dam has already been breached with the $105 million last year for which there is no authorization, and if the Postal Service gets the two additional unauthorized appropriations it will request, the Congress will be on the way to pumping the public well dry in bailing out the Postal Service.

Mr. Speaker, there is something we can do to bring order out of what is becoming a fiscal nightmare and at the same time make the Postal Service more responsive to the needs and wishes of the people of this country.

Last year the House passed H.R. 2990, which provides, in essence, that all appropriations to the Postal Service must be previously authorized in separate legislation from the Post Office and Civil Service Committee. In other words, it requires an annual authorization bill for the Postal Service similar to the procedures we now use for the State Department, NASA, the Atomic Energy Commission, USIA, and a number of other departments and agencies.

I am firmly convinced that only through this type of annual, careful scrutiny of all postal operations and all aspects of Postal Service spending, can Congress recapture some measure of control over the Postal Service and over burgeoning postal deficits.

H.R. 2990, approved by an overwhelming rate in the House, has been languishing in the Senate committee since July 13, 1973. I would hope for the sake of the American taxpayers that the leadership of that committee would see fit, before this Congress adjourns, to favorably report the bill so that it can be enacted this year.

Mr. Speaker, I insert as a part of my remarks the following article bearing on this subject from the March 1974 issue of Dun's, the national business publication:

IS BUSINESS SUBSIDIZING THE POST OFFICE?

Amid all their worries about the rising cost of food, fuel and other essential goods, Americans are being confronted these days with still another costly phenomenon the astronomical rise in postal rates. The $3-billion direct-mail industry has seen its postal bill rise by more than 50% in the past three years. Second-class-mail charges have gone up 60% over the same period. And since 1971, the cost of mailing a first-class letter has gone from 6 cents to a dime (effective this month)—an incredible 66% hike. "At the rate they are going," charges Wyoming's Gale McGee, Chairman of the Senate Post Office Committee, "we will be paying 38 cents for a first-class letter by the 1980s."

From the earliest days of the Republic, the Founding Fathers established the principle of a government-subsidized postal system run as a public service. Not only did cheap postal rates foster trade and commerce, the thinking went, but they encouraged literacy and education through the proliferation of publications that benefited from low rates. Congress wrote this principle into law in 1794, and reiterated it at least half a dozen times over the next 150 years.

Then in 1970, at the urging of the White House, Congress made the U.S. Postal Service an independent agency—one, moreover, that would pay its own way. The change seemed reasonable and businesslike. The government was losing billions of dollars each year in running the post office. So what could be more natural than cutting the post office loose to make it on its own.

DISASTROUS CONSEQUENCES

Since then, the independent Postal Service has pursued self-sufficiency with a vengeance. And the consequences could be disastrous for both business and the nation. First of all, it could affect the profits of such divergent businesses as retailers, mail-order houses and even banks and insurance companies. For the more it costs, the more reluctant the average wage earner will be to tear a coupon out of a newspaper and send away for a new product, or to inquire about a new insurance policy or bank service. As for the direct-mail industry, business uses it to promote everything from appliances and automobiles to travel and theater productions. An estimated $45 billion of the nation's Gross National Product is generated through direct mail. "Each piece of direct mail," says New York's Democratic Congressman James Hanley, "is a seed that could ultimately raise our GNP. It is obviously productive or business wouldn't use it so much."

The nation's magazines, which have been hard hit by the rise in second-class mail rates, are also essential to the economy. The demise of both *Life* and *Look*, for example, cost thousands of jobs in such varied industries as paper, printing, advertising and trucking—as well as publishing. These huge publications decided to give up following the first big boost in second-class rates in 1971. In the case of *Look*, the rate boost would have cost $6 million.

With an additional 15% rate hike for second-class mail going into effect this month, dozens of marginal magazines are expected to go under—taking with them thousands of jobs in many industries. The victims might not only be such well-known publications as *National Review*, *Commentary* and the *New Republic*, but dozens of magazines that cater to business, religious, agricultural and other special groups. According to economic consulting firm Richard J. Barber Associates, the nation's magazines will be paying $341 million more in postal rates in 1977 than they were in 1971.

When pressed, Postmaster General Elmer T. Klassen will concede that some industries might suffer because of rising mail costs. But this, he argues, is not his problem. Klassen is equally disdainful of the

Founding Fathers' insistence on cheap postal rates to foster commerce and education. "We are a materials-handling business," he insists, "that can be made self-sustaining."

Outspoken Elmer Klassen, a former president of American Can Co., was tapped to head the Postal Service two years ago because of his long years of experience in labor negotiations. With 85% of the Postal Service's budget going for labor, the White House believed that Klassen, who was American Can's top labor troubleshooter for many years, would be the ideal man to solve the post office's troublesome union problems.

Klassen's solution, however, was to buy the postal workers off—at the expense of the postal customer. Despite wage controls and Klassen's rhetoric about putting the post office on a businesslike basis, the 1973 contract was far and away the best contract the postal unions had ever negotiated.

The Cost of Living Council declared that the contract was within the wage guidelines. But it is hardly a secret in Washington that the package far exceeded the 6.2% wage/fringe, package permitted under the regulations. On wages, the postal workers got a 12% increase over two years—plus an all-important cost-of-living kicker; under an escalator clause, the workers will get a 1% wage boost for every 2% rise in the cost of living. With prices rising at an annual rate of 8%-9%, this could mean an additional 4% pay hike for each year of the contract. "It could turn out to be a 20% wage boost," smiles President James Rademacher of the National Association of Letter Carriers.

Buying off the unions was not exactly what the White House had in mind when it tapped the seemingly tough-minded Klassen to run the post office. What the White House did not realize, of course, was that this was the time-honored way of doing business in the can industry in Klassen's time. Instead of taking a strike by the steelworkers over wages or the thorny issue of productivity, the can negotiators would simply grant the demands and pass them along in the form of a price increase to customers. Klassen insists that there was no other way out in dealing with the postal workers either. "We had no choice but to give the unions what they wanted," he insists. "Otherwise, they would have gone on strike."

One thing Congress did have in mind when it made the postal service independent was that mail service would surely improve. But just the opposite has happened. True, the post office improved its handling of the Christmas mail crush last year after a disastrous 1972. But along with that, it has already cut service, and Klassen plans to cut even more. Almost 900 post offices around the country have been closed down in the past three years, and late-afternoon pickups have been eliminated in many communities. Now Klassen is prepared to do away with such "frills" as Saturday service and special delivery. "It used to be said," argues Klassen, "that the world would come to an end if the banks were closed on Saturdays; it didn't. That is why I believe that the American public can be trained to do without Saturday mail deliveries. I also believe," he continues, "that special delivery will eventually be eliminated.

There is a widespread feeling, in fact, that Klassen might find the energy crisis a convenient excuse for stepping up his plans to cut back Saturday service. Since the 200,000 mail trucks obviously use gasoline, it would be difficult to argue with such a decision. "Remember," points out John Jay Daly, senior vice president of the Direct Mail Marketing Association, "that when Lucky Strike Green went to war, it never came back. That is what will happen with Saturday deliveries, if they are eliminated because of the energy crisis."

NO END IN SIGHT

The sharp rate increases and service cutbacks notwithstanding, the postal service is still a long way from paying its way. To make up for its present deficit, it is still receiving some $900 million a year from the federal treasury. Moreover, costs seem sure to keep rising. For money was not the only thing the postal workers got in their record-breaking 1973 contract.

Klassen also agreed to a no-layoff clause that guarantees a lifetime job for the more than 700,000 employees of the Postal Service, a move that can only lead to increased costs and inefficiency. Besides that, the Postal Service now pays 65% of the employees' health insurance and 100% of their life insurance premiums. For the rest of the federal government, the employer contribution is 40% and 50%, respectively. "These breakthroughs worry me," says a high-ranking member of the House Post Office and Civil Service Committee, "because they could soon spread to the rest of the federal civil service. And that will cost the taxpayers billions."

These milestones are mere drops in the bucket compared to Rademacher's next bargaining goal: assumption by the Postal Service of the 7% contribution to pension costs that is now deducted from the employee's pay. If he is successful, it would cost the Postal Service $500 million. And if Klassen's present course is any clue, the cost would be passed on to mail users in the form of still higher rates. "Klassen doesn't worry that much about costs," snaps J. Edward Day, who was Postmaster General in the Kennedy Administration, "because he can always tack them on to the rates."

That Klassen does not worry much about costs seems evident in the style in which he has decorated his office. According to the General Accounting Office, Klassen spent $48,500 to furnish his office and an additional $130,600 to outfit the lavish reception area. He also had a kitchen installed to the tune of $45,000. "It might be expected that the Postmaster General would spend most of his time in these fancy surroundings," complains Iowa Congressman H.R. Gross, the House Post Office Committee's ranking Republican. "But he spent $12,900 for travel in fiscal 1973."

Nor was cost-consciousness an evident concern when the Postal Service bought its spanking new headquarters building in Washington's L'Enfant Plaza, an office/hotel complex that was having difficulty leasing its space. The Postal Service paid some $30 million for the building to L'Enfant Plaza, Inc., which is headed by retired Air Force General Elwood ("Pete") Quesada, a well-connected Washington wire puller who once headed the Federal Aviation Agency. "On a square-foot basis," charges New Mexico's Democratic Senator Joseph Montoya, "this is the most expensive office space in Washington."

Of course, Klassen's business performance at American Can was not exactly a stellar one either. Under his leadership, the company's earnings slid from $4.12 in 1966, the year he took over, to $3.48 a share in 1969. The earnings of arch-rival Continental Can Co. rose from $2.54 to $3.18 a share during the same period. At that point, Klassen took early retirement to go to Washington as Deputy Postmaster General. "That job in Washington was a face saver for Klassen," says a prominent Wall Street analyst. "The directors wanted him out and so they used their contacts with the new Nixon Administration to get him the post office job."

What makes the Postal Service situation even more disturbing is the fact that there is no real check on its costs. Unlike other government-granted monopolies such as the telephone, transportation and power companies, there is no overseeing watchdog such as the Federal Communications, Interstate Commerce or Federal Power Commissions. Congress somehow neglected to provide one for the Postal Service in its rush to cut it loose from the government.

True, the Postal Service must have its rate increases approved by the newly created Postal Rate Commission. The Commission, however, seems little more than a captive of the agency it is supposed to regulate. Incredible as it may seem, its decisions are subject to the approval of the Board of Directors of the Postal Service. From the beginning, moreover, it has been plagued by a heavy turnover of commissioners—there have been three chairmen during the past year—who know little or nothing about the Postal Service. "The Rate Commission," points out Victor Smiroldo, Counsel to the House Post Office Committee, "does not have the muscle to examine the expenditures of the Postal Service. So it merely takes the Postmaster General's word on costs and apportions the needed revenue increase to pay for them among the various classes of mail."

The Postal Service's huge outlays for labor-saving equipment are a case in point. With a great deal of fanfare, it has spent $1.5 billion for mechanization during the past two fiscal years. Still, the percentage of its outlays going to labor—some 85%—is no less than before the program began. "There are no dramatic breakthroughs in bringing that 85% figure down," admits Darrell Brown, Senior Assistant Postmaster General for Labor Relations, "because mechanization is not moving as fast as we would like."

Whatever its faults, the post office does have a knack for knowing whom not to antagonize. For probably the best mail service in the nation is given to the National Press Building in downtown Washington, which gets no less than five pickups a day. Here are located the offices of some of the nation's most influential newsmen, whose ire, it goes without saying, could bode ill for the Postal Service. "We make a very special effort in the press building," admits Thomas W. Chadwick, the Postal Service's consumer advocate, "After all, a man's copy has got to move."

THE COMING BATTLE

In the face of the post office's seemingly uncontrollable costs, then, the rate spiral could be endless. But Klassen is running into increasing opposition to his policies, both in and out of government. And Congress is already beginning to listen.

Last year, with Klassen turning a deaf ear to their cries, the nation's hardpressed magazines and direct-mail industry went to Congress to get some relief from their plight. They managed to get through the House Post Office Committee a bill that would stretch the original 127% hike in second-class rates from five years to ten years. With the general public also exercised about rising mail costs and declining service, they seemed well on their way to getting the bill through Congress.

At this point, Klassen started fighting. Recognizing that he was unschooled in the folkways of Capitol Hill, he left the massive lobbying effort to the professionals—of which he had many. For the Postal Service's lobbying/public relations budget is second only to that of the Pentagon: $2.3 million for a staff of 68. In addition to that, Klassen has seen fit to retain the New York public relations firm of Burnaford & Co., which did extensive work for him at American Can Co. Thus far, Burnaford—without competitive bidding—has received some $821,000 from the Postal Service under Klassen's aegis. As if all this high-price muscle were not enough, Klassen hired away Norman Halliday, the magazine industry's crack lobbyist, and made him Assistant Postmaster General for Congressional Relations.

Knowing that the bill would be enacted if it ever hit the House floor, Klassen's high-priced lobbyists shrewdly concentrated their fire on the Rules Committee. (Even though a Committee has reported out a bill, it cannot go to the floor unless it gets through Rules, which controls the flow of legislation.) The strategy worked. Bombarded with arguments that such a stretch-out would be a "windfall" for *Reader's Digest, Time* and *The Wall Street Journal,* Rules blocked the measure by a hairbreadth vote of six-to-five. "Everybody seemed to forget about all the little magazines that might go under," says Victor Smiroldo. "They just kept talking about the big boys."

But the battle is far from over. The hefty rate increases that go into effect this month will surely bring increased pressure on Congress to stop the spiral. And that pressure will not only emanate from the Northeast, where the publishing and correct-mail industries are so heavily concentrated. Congress is also beginning to hear from the small-town weeklies and dailies suddenly alarmed at their rising postal costs.

Just a few of the projected postal rate increases for small newspapers: *Ironwood* (Michigan) *Globe,* 218%; *Watertown* (South Dakota) *Public Opinion,* 200%; and the *Minot* (North Dakota) *News,* 193%. "Unfortunately" points out Stephen Kelly, president of The Magazine Publishers Association, "the fastest way to make Congress see the light is to deliver up the body of some dead publication."

Whether that happens or not, the best chance right now to roll back postal rates is the Senate. The generally sophisticated Senate is far more responsive to the importance of a prolific and diversified press than the often more parochial House. Demands to give the publishers some relief have already come from such widely divergent Senators as Massachusetts' Edward Kennedy and Arizona's Barry Goldwater. If the 1974 economy turns out to be as soft as many forecasters are predicting, the pressures on Congress to ease the financial burdens of the publishers and the direct-mail industry will surely intensify.

As with virtually every postal service in the world, the resultant deficit would have to be made up by the taxpayers. But that is precisely what the Founding Fathers intended in the first place. "If the question of giving the Postal Service $1.5 billion in a budget of $300 billion was put to the voters," argues former Deputy Postmaster General Frederick Belen, "I am sure they would opt for picking up the tab. Klassen's notion of making a materials handling business out of something that is essentially a public service simply doesn't make sense."

DOMESTIC FOOD PRICE IMPACT STATEMENT

(Mr. HEINZ asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HEINZ. Mr. Speaker, I am introducing today the Domestic Food Price Impact Statement Act of 1974, which requires the publication of a "Domestic Food Price Impact Statement" by the Secretary of Commerce prior to approval of the exports of any American agricultural commodity in excess of 20 percent of the projected crop. No one need remind the American people of the poor judgment used by the administration in the execution of the Russian wheat deal or of the justifiable public suspicions and anger aroused over their outrageous and costly venture. My bill is designed to safeguard the country against the negative effects of further agricultural bonanzas that disrupt the domestic market and hurt consumers at no profit to the American farmer.

At present, commodities exporters are required to file an anticipated export report with the Department of Commerce at the time each foreign sale is made. These reports show that 1.3 billion bushels of our current wheat crops are now slated to be shipped overseas during the market year July 1, 1973-July 30, 1974. This is over 70 percent of a total projected wheat crop of 1.7 billion bushels at a time when our wheat and bread prices are at an alltime high and going up daily.

Our present system is inadequate for dealing with our new situation. All we have is a reporting system. There are no safeguards. Even though reports are filed, the massive exports which have driven our food prices through the roof, continue to go out on schedule. The record shows that neither the Department of Agriculture nor the Agriculture Committee of Congress are willing to take any action. It is like having a computerized alarm system which records burglaries and catalogs them for future reference. The present system makes no connection with any law enforcement arm charged with taking action.

Under the Export Administration Act of 1969, the Department of Commerce may impose export controls, if there is a domestic scarcity, a national security impact, and an undesirable foreign policy effect. Occasionally, export controls are imposed under this authority, most notably in the case of soybeans, after the price jumped from $3.13 per bushel to over $12 per bushel in less than a year.

But the price of No. 2 wheat recently jumped from $2.64 per bushel to $4.29 per bushel from July to October 1973. Last Friday, futures on No. 2 wheat closed in Chicago at $6.31. Yet, while we still have reports, no one is taking action on controls. I think it is high time we stop being satisfied with reports of fires being started, and start demanding that a fire department get to work before everything goes up.

To prevent such "fires," my bill would prohibit all commodity exports until the Secretary of Commerce has approved each individual export registration statement. And in any year when the approved export registration statements represent 20 percent of the projected total crop—or such lower figure as the Secretary of Commerce may set—no further exports can be approved until the Secretary of Commerce has published a "Domestic Food Price Impact Statement." In this statement, the Secretary of Commerce must certify that additional exports will not, first, cause domestic scarcity; second, have direct or indirect adverse impact on U.S. consumer prices; or third, increase U.S. unemployment.

Mr. Speaker, this "Domestic Food Price Impact Statement" will be the counterpart of the environmental impact statement, which has been an effective tool in saving our environment. It will, for the first time, require a high Government official to certify to the American people, before our food goes overseas, that the exports will not take place at the expense of the American consumer. And my amendment requires the updating of this statement each time an additional 10 percent of any crop is registered for export.

America has a prime role in feeding the world's poor and hungry populations, and we can and should continue to serve as the world's breadbasket. I object—and indignantly—to the secret deals, where a handful of speculators enrich themselves at the expense of the American taxpayers. What my amendment does, Mr. Speaker, is force these speculators to put their cards on the table, and empower the Secretary of Commerce to represent the American people in these transactions.

Our skyrocketing food prices need no documentation and excessive exports are clearly the major contributing factor. In the last session of Congress alone, at least 80 bills were introduced to deal with the food price/export problem. To my knowledge, however, none of these bills makes the Secretary of Commerce directly accountable to the American people to end these exports at the expense of the American consumer. My bill does that, Mr. Speaker, and I hope it will be promptly enacted.

Mr. Speaker, the text of my bill is included in the Record at this point:

H.R. 13361

Be it enacted by the House of Representatives of the United States of America in Congress assembled, That this act shall be cited as the "Domestic Food Price Impact Statement Act of 1974."

Sec. 2. Definitions. As used in this title—

(1) the term "Secretary" means the Secretary of Commerce; and

(2) the terms "agricultural commodity" and "commodity" mean any raw agricultural commodity produced in the United States, including flour, meal, and oil derived from any such commodity.

Sec. 3. Registration.

(a) No agricultural commodity may be exported to any foreign country unless (1) the person exporting such commodity has submitted an export registration statement to the Secretary, and (2) the Secretary has approved such statement.

(b) An export registration statement shall be in such form, shall contain such information, and shall be submitted at such times as the Secretary may, by regulation, require for the orderly administration of his functions under this title.

Sec. 4. Export Limitation.

(a) Except as provided in subsection (b), the Secretary may not approve an export registration statement for a quantity of a commodity which, when added to the quantity of such commodity already approved for export during the crop year (for the commodity concerned) in which the export will occur, exceeds 20 per centum (or such lower per centum as may be established under section 5(a)) of the Secretary's estimate of the level of domestic production of that commodity for that crop year.

(b) The limitation contained in subsection (a) shall not apply to any commodity with respect to which the Secretary causes to be published a Domestic Food Price Impact Statement which contains the Secretary's certification that—

(1) the domestic production of such commodity will be sufficient to insure against domestic scarcity;

(2) exports in excess of the limitation will not have any direct or indirect impact on consumer prices in the United States; and

(3) such exports will not result in increased unemployment in the United States.

Sec. 5. Additional Limitations and Requirements.

(a) The Secretary may by regulation establish a limitation lower than 20 per centum for any commodity for the purpose of section 4(a) if he (1) determines such lower limitation to be necessary to insure against domestic scarcity, consumer price inflation, or increased unemployment caused by exports, and (2) causes such determination to be published.

(b) Whenever the level of exports of a commodity covered by export registration statements increases by 10 per centum, and thereafter whenever the level of exports of such commodity increases by any multiple of 10 per centum, of the estimated domestic production of that commodity above the limitation established under section 4(a) or subsection (a) of this section, the Secretary may not approve any additional export registration statement for such commodity unless he first publishes another Domestic Food Price Impact Statement containing the certifications referred to section 4(b) with respect to such increased level of exports.

Sec. 6. Administrative Revision of Estimates or Limitations. The Secretary may revise upward or downward his estimate of domestic production or any limitation established by him if he determines on the basis of new information that the estimate or limitation originally established was erroneous or that such estimate or limitation should be revised for other reasons.

Sec. 7. Consultation. In carrying out his functions under this title, the Secretary shall consult with the Secretary of Agriculture for the purpose of estimating domestic production of and demand for agricultural commodities and with the Secretary of Labor for the purpose of determining possible price and employment effects of various export levels of such commodities.

Sec. 8. Administration. The Secretary is authorized to issue such rules and regulations as may be necessary to carry out the provisions of this title.

Sec. 9. Applicability. This title applies to agricultural commodities planted for harvest in 1974 and subsequent years, except that section 3 of this title does not apply to any quantity of an agricultural commodity exported pursuant to a contract entered into prior to the date of enactment of this title.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Cohen (at the request of Mr. Arends), for today, on account of the Ditchley Conference at London, England.

Mr. Mahon (at the request of Mr. O'Neill), for today, on account of death in his immediate family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Adams (at the request of Mr. Owens), for 30 minutes, on March 12; and to revise and extend his remarks and include extraneous matter.

(The following Members at the request of Mr. Beard) to revise and extend their remarks and include extraneous matter:)

Mr. Railsback, for 5 minutes, today.
Mr. Lent, for 5 minutes, today.

(The following Members (at the request of Mr. Owens) to revise and extend their remarks and include extraneous matter:)

Mr. Eilberg, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Hicks, for 10 minutes, today.
Mr. Fuqua, for 5 minutes ,today.
Mr. Owens, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Gross, to revise and extend his remarks and include an article.

(The following Members (at the request of Mr. Beard) and to include extraneous material:)

Mr. Young of Alaska.
Mr. Hansen of Idaho.
Mr. Kemp in three instances.
Mr. Shoup in 10 instances.
Mr. Derwinski in three instances.
Mr. Zwach.
Mr. Whitehurst in two instances.
Mr. Huber in two instances.
Mr. Archer in two instances.
Mr. Scherle in three instances.
Mr. Collins of Texas in four instances.
Mr. Mayne in two instances.
Mr. Hosmer in three instances.
Mr. McKinney in three instances.
Mr. Steelman.
Mr. Goodling in two instances.

(The following Members (at the request of Mr. Owens) and to include extraneous material:)

Mr. Howard.
Mr. de Lugo in 10 instances.
Mr. Natcher.
Mrs. Mink.
Mr. Fisher in four instances.
Mr. Dingell.
Mr. Rarick in three instances.
Mr. Gonzalez in three instances.
Mr. Annunzio in six instances.
Mr. Minish.
Mr. O'Neill.
Mr. Meeds.
Mr. Murtha.
Mr. Murphy of New York.
Mr. Rosenthal in five instances.
Mr. Young of Georgia.
Mr. Stokes in five instances.
Mr. Anderson of California in two instances.
Mr. Burke of Massachusetts.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1688. An act to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy; to the Committee on Post Office and Civil Service.

S. 2747. An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to expand the coverage of the act, and for other purposes; to the Committee on Education and Labor.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5450. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972, in order to implement the provisions of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, and for other purposes.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 16 minutes p.m.), the House adjourned until tomorrow, Tuesday, March 12, 1974, at 12 o'clock noon.

CONTRACTUAL ACTIONS, CALENDAR YEAR 1973, TO FACILITATE NATIONAL DEFENSE

The Clerk of the House of Representatives submits the following report for printing in the Congressional Record pursuant to section 4(b) of Public Law 85–804:

National Aeronautics and
Space Administration,
Washington, D.C., March 7, 1974.

Hon. Carl Albert,
Speaker of the House of Representatives,
Washington, D.C.

Dear Mr. Speaker: This is a report to the Congress pursuant to Section 4 of the Act of August 28, 1958 (72 Stat. 972; 50 U.S.C. 1431–35), submitted to the Speaker of the House of Representatives pursuant to Rule XL of that House.

During calendar year 1973, the National Aeronautics and Space Administration, acting through its Contract Adjustment Board, utilized the authority of the above-cited statute as follows:

a. Under date of April 10, 1973, the Board authorized a partial adjustment of a contract with Tenco Services, Inc., for operation and maintenance of a steam generating plant for NASA. The adjustment was granted on the basis that the company incurred a loss as a result of the Government's failure to cancel an original contract solicitation, and to issue a new solicitation, containing information as to what NASA considered applicable wage rates for one category of employees under the contract should be. The amount of the adjustment was $14,930.26.

b. Under date of July 24, 1973, the Board authorized a partial adjustment of a contract with Environmental Research Associates for a study of astronaut restraints and mobility aids in a weightless, shirtsleeve environment, which authorized the use of Government-furnished property on a no-cost basis. The adjustment was granted on the grounds that the company and NASA were both mistaken as to the material fact of who was to bear the costs of disposition of the Government-furnished property. The amount of the adjustment was $9,554.

Sincerely,

James C. Fletcher,
Administrator.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2005. A letter from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1974 for the Department of the Treasury (H. Doc. No. 93–232); to the Committee on Appropriations and ordered to be printed.

2006. A letter from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1974 for the Civil Aeronautics Board (H. Doc. No. 93-233); to the Committee on Appropriations and ordered to be printed.

2007. A letter from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1974 for the Department of Commerce (H. Doc. No. 93-234); to the Committee on Appropriations and ordered to be printed.

2008. A letter from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1974 for the Department of the Interior (H. Doc. No. 93-235); to the Committee on Appropriations and ordered to be printed.

2009. A letter from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1974 for the Department of Agriculture (H. Doc. No. 93-236); to the Committee on Appropriations and ordered to be printed.

2010. A letter from the President of the United States, transmitting a proposed supplemental appropriation to pay claims and judgments rendered against the United States (H. Doc. No. 93-237); to the Committee on Appropriations and ordered to be printed.

2011. A letter from the Secretary of Agriculture, transmitting the annual report of the Federal Crop Insurance Corporation for the 1973 crop year, pursuant to 7 U.S.C. 1508(a); to the Committee on Agriculture.

2012. A letter from the Assistant Secretary of the Interior for Management and the Acting Administrator, American Revolution Bicentennial Administration, transmitting a report on a possible violation of section 3679 of the Revised Statutes, as amended, by the American Revolution Bicentennial Commission and the Department of the Interior, pursuant to 31 U.S.C. 665(i)(2); to the Committee on Appropriations.

2013. A letter from the Deputy Secretary of Defense, transmitting a report on the condition and operating results of working capital funds for fiscal year 1973, pursuant to 10 U.S.C. 2208(i); to the Committee on Armed Services.

2014. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to repeal sections which impose certain restrictions on enlisted members of the Armed Forces and on members of military bands; to the Committee on Armed Services.

2015. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notice of the intention of the Department of the Navy to donate certain surplus property to the Warren County Chapter of the National Railway Historical Society, Warrenton, N.C., pursuant to 10 U.S.C. 7545; to the Committee on Armed Services.

2016. A letter from the Acting Assistant Secretary of the Air Force (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend Public Law 92-477, authorizing at Government expense the transportation of house trailers or mobile dwellings, in place of household and personal effects, of members in a missing status, and the additional movements of dependents and effects, or trailers, of those members in such a status for more than 1 year, to make it retroactive to February 28, 1961; to the Committee on Armed Services.

2017. A letter from the Commissioner of the District of Columbia, transmitting a report of the action of the District of Columbia Government on the recommendations of the Commission on the Organization of the Government of the District of Columbia; to the Committee on the District of Columbia.

2018. A letter from the Assistant Secretary of Agriculture, transmitting a report of a survey conducted by the Department of Agriculture on the funding needs of schools for food service equipment, pursuant to section 6(e) of Public Law 92-433; to the Committee on Education and Labor.

2019. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a listing of excess defense articles to be furnished foreign countries on a grant basis which have been programed for the fiscal year 1974 military assistance program since the last report and which were not included in the fiscal year 1974 military assistance congressional presentation material, pursuant to section 8(d) of the Foreign Military Sales Act Amendments of 1971, as amended [22 U.S.C. 2321b(d)]; to the Committee on Foreign Affairs.

2020. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties entered into by the United States, pursuant to Public Law 92-403; to the Committee on Foreign Affairs.

2021. A letter from the Director, Bureau of Land Management, Department of the Interior, transmitting a report on negotiated sales contracts for the disposal of mineral and vegetative materials on public lands during the 6 months ended December 31, 1973, pursuant to 30 U.S.C. 602(b); to the Committee on Interior and Insular Affairs.

2022. A letter from the Administrator, Federal Energy Office, transmitting a draft of proposed legislation to authorize energy conservation programs and end use rationing of fuels, and for other purposes; to the Committee on Interstate and Foreign Commerce.

2023. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on amendments and modifications to contracts in connection with the national defense executed by the Administration during calendar year 1973, pursuant to 50 U.S.C. 1434(a); to the Committee on the Judiciary.

2024. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of ordered entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a) (28) (I) (ii) of the Immigration and Nationality Act [8 U.S.C. 1182 (a) (28) (I) (ii) (b)]; to the Committee on the Judiciary.

2025. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d) (3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, together with a list of the persons involved, pursuant to section 212(d) (6) of the Act [8 U.S.C. 1182(d) (6)]; to the Committee on the Judiciary.

2026. A letter from the Vice Commander, Civil Air Patrol, transmitting the annual report of the Civil Air Patrol for calendar year 1973; to the Committee on the Judiciary.

2027. A letter from the Secretary of Transportation, transmitting a report on a study of revenue mechanisms for financing mass transportation, pursuant to section 138(b) of Public Law 92-87; to the Committee on Public Works.

2028. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to amend section 203(b) of the National Aeronautics and Space Act of 1958; to the Committee on Science and Astronautics.

2029. A letter from the Administrator of Veterans Affairs; transmitting the annual report of the Veterans' Administration for fiscal year 1973, pursuant to 38 U.S.C. 214 (H. Doc. No. 93-258); to the Committee on Veterans' Affairs and ordered to be printed with illustrations.

2030. A letter from the Chairman, U.S. Atomic Energy Commission, transmitting a draft of proposed legislation to amend the Atomic Energy Act of 1954, as amended, to provide for approval of sites for production and utilization facilities, and for other purposes; to the Joint Committee on Atomic Energy.

RECEIVED FROM THE COMPTROLLER GENERAL

2031. A letter from the Comptroller General of the United States, transmitting a report on problems of the Upward Bound program in preparing disadvantaged students for a postsecondary education; to the Committee on Government Operations.

2032. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in the Department of the Navy's development testing; to the Committee on Government Operations.

2033. A letter from the Comptroller General of the United States, transmitting a report on the Food and Drug Administration's handling of reports on adverse reactions from the use of drugs; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAYS: Committee on House Administration. House Resolution 923. Resolution providing additional compensation for services performed by certain employees in the House Publications Distribution Service (Rept. No. 93-889). Referred to the House Calendar.

Mr. MATSUNAGA: Committee on Rules. House Resolution 971. Resolution providing for the consideration of H.R. 11035. A bill to declare a national policy of converting to the metric system in the United States, and to establish a National Metric Conversion Board to coordinate the voluntary conversion to the metric system over a period of 10 years. (Rept. No. 93-890). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOORHEAD of California: Committee on the Judiciary. H.R. 1715. A bill for the relief of Cpl. Paul C. Almedeo, U.S. Marine Corps Reserve; with amendment (Rept. No. 93-886). Referred to the Committee of the Whole House.

Mr. FROEHLICH: Committee on the Judiciary. H.R. 3534. A bill for the relief of Lester H. Kroll; with amendment (Rept. No. 93-887). Referred to the Committee of the Whole House.

Miss JORDAN: Committee on the Judiciary. H.R. 5907. A bill for the relief of Capt. Bruce B. Schwartz, U.S. Army; with amendment (Rept. No. 93-888). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CASEY of Texas (for himself and Mr. Burleson of Texas):

H.R. 13358. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. DRINAN:

H.R. 13359. A bill to amend chapter 3 of title 3, United States Code, to provide for the protection of foreign diplomatic mission; to the Committee on Public Works.

By Mr. HASTINGS:

H.R. 13360. A bill to amend the Clean Air Act to provide for temporary suspension of certain air pollution control requirements; to provide for coal conversion; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HEINZ:

H.R. 13361. A bill to require filing of domestic food price impact statement in connection with exports of U.S. commodities; to the Committee on Banking and Currency.

By Mr. JOHNSON of Colorado (for himself, Mr. Armstrong, Mr. Brotzman, and Mr. Evans of Colorado):

H.R. 13362. A bill to provide that moneys due the States under the provisions of the Mineral Leasing Act of 1920, as amended, may be used for purposes other than public roads and schools; to the Committee on Interior and Insular Affairs.

By Mr. JOHNSON of Colorado (for himself, Mr. Armstrong, Mr. Brotzman, Mr. Evans of Colorado, and Mrs. Schroeder):

H.R. 13363. A bill to provide that moneys due the States under the provisions of the Mineral Leasing Act of 1920, as amended, derived from the development of oil shale resources, may be used for other purposes other than public roads and schools; to the Committee on Interior and Insular Affairs.

By Mr. KASTENMEIER:

H.R. 13364. A bill to amend title 17 of the United States Code to remove the expiration date provided in Public Law 92–140 which authorized the creation of a limited copyright in sound recordings for the purpose of protecting against unauthorized duplication and piracy of sound recordings; to increase the criminal penalties for piracy and counterfeiting of sound recordings; and for other purposes; to the Committee on the Judiciary.

By Mr. LANDRUM:

H.R. 13365. A bill to amend the Social Security Amendments of 1972; to the Committee on Ways and Means.

By Mr. MATHIAS of California (for himself, Mr. Alexander, Mr. Biester, Mr. Bell, Mr. Coughlin, Mr. Goodling, Mr. Ketchum, Mr. Lent, Mr. O'Hara, Mr. Podell, Mr. Rangel, Mr. Roe, Mr. Stark, Mr. Winn, and Mr. Young of Illinois):

H.R. 13366. A bill to amend the act which created the U.S. Olympic Committee to require such committee to hold public proceedings before it may alter its constitution, to require arbitration of certain amateur athletic disputes, and for other purposes; to the Committee on the Judiciary.

By Mr. PERKINS:

H.R. 13367. A bill to amend the Federal Coal Mine Health and Safety Act of 1969 to eliminate the support requirements for divorced wives and surviving divorced wives; to the Committee on Education and Labor.

By Mr. SIKES:

H.R. 13368. A bill to amend title 10 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon medical malpractice on the part of active duty military medical personnel, and for other purposes; to the Committee on Armed Services.

By Mr. SIKES (for himself and Mr. Lott):

H.R. 13369. A bill to amend the act establishing the Gulf Islands National Seashore to increase the amount authorized for the acquisition of private property to be included in the seashore; to the Committee on Interior and Insular Affairs.

By Mr. STEPHENS:

H.R. 13370. A bill to suspend until June 30, 1976, the duty on catalysts of platinum and carbon used in producing caprolactam; to the Committee on Ways and Means.

By Mrs. SULLIVAN (for herself and Mr. Leggett):

H.R. 13371. A bill to amend title 6 of the Canal Zone Code to permit, under appropriate controls, the sale in the Canal Zone of lottery tickets issued by the Government of the Republic of Panama; to the Committee on Merchant Marine and Fisheries.

By Mr. THOMSON of Wisconsin:

H.R. 13372. A bill to amend section 22 of the Agricultural Adjustment Act of 1933, as amended; to the Committee on Ways and Means.

By Mr. CHARLES H. WILSON of California:

H.R. 13373. A bill to amend the Public Health Service Act to provide for the establishment of a National Institute of Aging; to the Committee on Interstate and Foreign Commerce.

By Mr. WINN:

H.R. 13374. A bill to amend the Railroad Retirement Act of 1937 so as to increase the amount of the annuities payable thereunder to widows and widowers; to the Committee on Interstate and Foreign Commerce.

By Mr. ZWACH:

H.R. 13375. A bill to support the price of milk at 90 per centum of the parity price for the period beginning April 1, 1974, and ending March 31, 1976; to the Committee on Agriculture.

By Mr. FINDLEY (for himself, Mr. Abdnor, Mr. Andrews of North Dakota, Mr. Arends, Mr. Bauman, Mr. Burlison of Missouri, Mr. Carter, Mr. Cohen, Mr. Guyer, Mr. Henderson, Mr. Hutchinson, Mr. Jones of North Carolina, Mr. Litton, Mr. McKay, Mr. Madigan, Mr. Mayne, Mr. Quie, Mr. Railsback, Mr. Scherle, Mr. Sebelius, Mr. Shoup, Mr. Schuster, Mr. Taylor of North Carolina, and Mr. Thone):

H. Res. 967. Resolution relating to the serious nature of the supply, demand, and price situation of fertilizer; to the Committee on Agriculture.

By Mr. ROUSSELOT (for himself, Mr. Archer, Mr. Bauman, Mr. Blackburn, Mr. Burgener, Mr. Burke of Florida, Mr. Camp, Mr. Cochran, Mr. Collins of Texas, Mr. Crane, Mr. Derwinski, Mr. Hinshaw, Mr. Lott, Mr. Mathias of California, Mr. Rarick, Mr. Spence, and Mr. Symms):

H. Res. 968. Resolution expressing the sense of the House that the Economic Stabilization Act of 1970 should not be extended; to the Committee on Banking and Currency.

By Mr. ROUSSELOT (for himself, Mr. Ashbrook, Mr. Baker, Mr. Beard, Mr. Collier, Mr. Duncan, Mr. Froehlich, Mr. Horton, Mr. Hunt, Mr. Kemp, Mr. Martin of North Carolina, Mr. Michel, Mr. Myers, Mr. O'Brien, Mr. Parris, Mr. Steelman, and Mr. Steiger of Arizona):

H. Res. 969. Resolution expressing the sense of the House that the Economic Stabilization Act of 1970 should not be extended; to the Committee on Banking and Currency.

By Mr. CHARLES H. WILSON of California:

H. Res. 970. Resolution to authorize the Committee on Interstate and Foreign Commerce to conduct an investigation and study of the importing, inventorying, and disposition of crude oil, residual fuel oil, and refined petroleum products; to the Committee on Rules.

MEMORIALS

Under caluse 4 of rule XXII, memorials were presented and referred as follows:

371. By the SPEAKER: A memorial of the Senate of the State of Arizona, relative to handgun control; to the Committee on the Judiciary.

372. Also, memorial of the Senate of the State of Arizona, relative to the observance of Veterans Day on November 11; to the Committee on the Judiciary.

373. Also, memorial of the House of Representatives of the State of Oklahoma, relative to Environmental Protection Agency regulations governing the production of crude oil; to the Committee on Public Works.

374. Also, memorial of the Senate of the State of Arizona, relative to the establishment of a national cemetery in Arizona; to the Committee on Veterans' Affairs.

375. Also, memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to Federal participation in the costs of the social security program; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. STEED introduced a bill (H.R. 13376) for the relief of those members of the class action suit *Mozelle Frey* v. *United States of America*, filed in the U.S. District Court for the Western District of Oklahoma, for whom judgments were entered by such court, but later vacated by the U.S. Court of Appeals for the Tenth Circuit, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII petitions and papers were laid on the Clerk's desk and referred as follows:

400. By the SPEAKER: Petition of the Committee on Industry and Business, North Dakota Legislature, relative to State workmen's compensation laws; to the Committee on Education and Labor.

401. Also, petition of John B. Smith, Memphis, Tenn., relative to the 1972 election in the Eighth Congressional District of Tennessee; to the Committee on House Administration.

402. Also, petition of the council of the County of Kauai, Hawaii, relative to emergency energy legislation; to the Committee on Interstate and Foreign Commerce.

SENATE—*Monday, March 11, 1974*

The Senate met at 12 o'clock noon and was called to order by Hon. WALTER D. HUDDLESTON, a Senator from the State of Kentucky.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, help us to work this day in the confidence that Thou art with us. Deliver us from all that would obstruct our serving the Nation in the spirit of a divine vocation. Keep us from sluggish thinking or ambiguous expression. Deliver us from coldness of heart or weakness of the will. Help us to say "yes" or "no" to the promptings of conscience. Deliver us from easy discouragement or abandonment of hard undertakings. Keep us congenial with our colleagues, cooperative with our fellow workmen. At the end of the day may we be nearer to Thee than when the day began.

Hear our prayer, in the Lord's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 11, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WALTER D. HUDDLESTON, a Senator from the State of Kentucky, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. HUDDLESTON thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, March 8, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the call of the Legislative Calendar under rules VII and VIII be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. HUDDLESTON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ARTURO ROBLES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 704, H.R. 6119.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The second assistant legislative clerk read as follows:

H.R. 6119, for the relief of Arturo Robles.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, was read the third time, and passed.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished minority leader desire to be recognized at this time?

Mr. HUGH SCOTT. Mr. President, I yield back my time.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CUTTING SOCIAL SECURITY TAXES COULD DESTROY SOCIAL SECURITY BENEFITS

Mr. PROXMIRE. Mr. President, for the past several weeks I have chaired a series of meetings of the Joint Economic Committee and have noticed a persisting proposal to reduce the social security tax. The argument is that it would provide for stimulation of and a demand for more employment, that it would be a progressive action, inasmuch as the social security tax is paid mainly by people with low incomes, and that it would ease the inflationary pressure on low-income workers.

I vigorously disagree with this proposal. If social security taxes are reduced while benefits continue to increase, the whole social security system could be gutted. This could, in fact, be the end of what is probably the most popular program, and rightly so, that the Government has developed in the past 50 years.

The relationship between contribution and benefit as a matter of right is not only fundamental—it is probably essential if social security is to continue as the most successful program fighting poverty and need that this country has developed.

Those who would make the social security tax progressive are well-intentioned. They do indeed want to help the low-income worker, but in doing so they would destroy the basis not only for his sure and certain claim on a decent retirement income, but also the assurance of dignity and respect that a full contribution gives him.

Mr. President, Robert M. Ball, Commissioner of Social Security from 1962 until 1973, has written a superlative article saying why social security should be separated from the budget and from other Government income and expenditures, to prevent the kind of so-called progressive social security tax that I think is very likely to come if we do not take that sort of action.

Mr. Ball is another very distinguished Commissioner of the social security system. He was preceded by Arthur Altmeyer, of Wisconsin. These men understand the social security system well, the psychology on which it is based, the political philosophy on which it is based, and the importance of grounding it on a social insurance system which will enable people to contribute in a way that entitles them clearly, and will entitle them fully in the future, to receive their benefits.

The article could hardly be more timely, as proposals to kill the social insurance principle, under the guise of a progressive social security tax, hit Congress in the coming months. I commend the article to my colleagues, and I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AGAINST "PROGRESSIVE" SOCIAL SECURITY TAXES

(By Robert M. Ball)

In the name of "tax reform" there is a movement afoot which would seriously undermine the contributory nature of the social security system.

One current proposal is to finance social security by a progressive tax, with complete exemption for low-wage earners. Under this proposal the present flat-rate social security deductions from earnings would be dropped, and the loss of income arising from the failure of low-wage earners to make contributions would be made up by higher payments from middle-level and higher-paid wage earners. As a consequence such earners would be called on to pay more for social security than their protection is worth to them.

Proposals to finance all or the major part of social security out of the general revenues of the United States are also being advanced.

I believe that such changes would be dangerous to the stability of the system and would threaten contributors' rights to future benefits.

A good argument can be made for direct government assistance to low-income workers, but this can be accomplished without making radical changes in the nature of our popular and successful social security system. Social security is a social insurance system similar to those found in major industrial countries throughout the world and is based on a long tradition of self-help. The fact that those who get protection for themselves and their families pay specifically toward the support of the system, together with the absence of a means test, are the main features of social insurance which sharply distinguish it from "welfare."

The proper financing principles for such a program—really a government-operated, contributory, retirement and group insurance plan—are by no means the same as the financing principles one would want to follow in raising money for the support of general government expenditures. Social security financing should not be considered separately from social security benefits or approached solely as a tax issue.

If the financing principles of social security are changed so that large numbers of people are paid benefits without contributing, while large numbers of other people are charged much more than they would have to pay for obtaining the protection elsewhere, fundamental changes in the benefit side of the program are almost bound to follow. Without a tie between benefit rights and previous contributions, questions would undoubtedly arise about the basis for paying benefits to those who can support themselves without the benefits. If financing were related to ability to pay, it is very likely that benefits would be related to need. Thus as a result of a change in financing, we could find that social security had been turned into a welfare or negative income tax program designed to help only the very poor and that it not longer was a self-help program serving as a base for all Americans to use in building family security.

The analysis of social security financing separately from social security benefits and solely in terms of taxation principles seems to me to be based on a misunderstanding of the nature of social security—a misunderstanding that grows in part out of the fact that social security today is lumped in with other government programs, both organizationally and in the presentation of the budget. I believe it would help make the nature of social security clear if it were operated by a separate government corporation or instrumentality and if social security transactions were kept separate from the rest of the federal budget.

Before considering this proposal, however, it would be well for the reader to have in mind the scope and nature of our social security system as it is today.

During 1974 the social security programs—cash benefits and Medicare—will pay out $75 billion in benefits.

Approximately 100 million working people will make social security contributions during 1974 and in return will receive credits toward benefits for themselves and their families designed to partly make up for the loss of earned income during retirement, during periods of extended and total disability before retirement age, or because of death. They also will receive credits toward paid-up hospital insurance during periods of extended and total disability and after age 65. Nearly 30 million people—one out of seven Americans—now receive a social security check each month, and practically all Americans are heavily dependent upon the system for future retirement, disability, survivors', and health insurance protection.

The social security system is a compact between the federal government and those who work in employment covered by the system. In return for paying social security contributions while earning, the worker and his family receive certain benefits under defined conditions when those earnings have ceased or may be presumed to have been reduced. As in all insurance, the covered individual exchanges the uncertainty of a relatively large potential loss for the certainty of a relatively small payment.

Social security involves very long-term commitments; not only are beneficiaries paid on the average over many years once they come on the rolls, but contributors today are being promised benefits which may not begin for 40 or more years in the future.

The system is almost entirely compulsory, and the employee contributions which are similar to employee contributions to private pension plans and group insurance are legally a tax—a benefit tax paid by the persons, who together with their families, are protected by the program. By law the income of the system can be used only for social security benefits and the administrative expenses of the social security system.

Unlike individual annuities under private insurance, social security does not, and indeed should not, build up reserves held to each worker's account sufficient to pay off accumulated rights. Social security is financed on a current-cost basis, with nearly all contributions in a given year ordinarily being used in that year to meet benefit payments and administrative expenses. The social security trust funds that do exist are contingency reserves designed to avoid the need for sudden and disruptive contribution rate increases that might otherwise be required by a sudden dislocation in the nation's economy which brought a cut in payrolls and consequently in social security income.

Precisely because the honoring of expectations now being built up is dependent on future contribution income, it is essential to establish the inviolability of benefit rights and to guard the financing source from other uses or erosion. To a very considerable extent this has been done. To help make certain that the obligations now being created are honored in the distant future, the management of the system by the Executive Branch and the Congress has been conservative. All costs have been carefully estimated over the long run (for 75 years in the case of cash benefits and for 25 years in the case of hospital insurance) and earmarked financing designed to meet the estimated cost has been provided for by law.

But the security of future benefit payments not only derives strength from there being *some* kind of long-range plan to fully meet cost, but is also greatly reinforced by the concept of a social security tax or contribution *paid by the people who will benefit under the system*. Putting it another way, the moral obligation of the government to honor future social security claims is made much stronger by the fact that the covered workers and their families who will benefit from the program made a specific sacrifice in anticipation of social security benefits in that they and their employers contributed to the cost of the social security system and thus they have a *right* to expect a return in the way of social security protection.

This is true in social security, railroad retirement, civil service, and state and local retirement systems, even though there is not ordinarily in any of these programs—nor, for that matter, in private group insurance—an exact relationship between the amount of protection provided and the contributions made by the individual. Very importantly, the contributory nature of the system helps to make clear that it would be unfair to introduce eligibility conditions to people who have paid toward their protection.

I believe it would add significantly to public understanding of the trustee character of social security as a retirement and group insurance plan if the program were administered by a separate government corporation or instrumentality and if its financial transactions were kept separate from other government income and expenditures.

Social security now, with 70,000 employees and some 1,300 district offices across the country, is one of the very largest direct-line operations of the federal government. It accounts for nearly 60 percent of the personnel of the Department of Health, Education, and Welfare and pays out $1 for every $3 spent by all the rest of the federal government.

It does not make sense administratively to have this huge program, which intimately touches the lives of just about every American family, operated as a subordinate part of another government agency. The management of social security could be made more responsive to the needs of its beneficiaries and contributors if it were freed from the frequent changes in the levels of service to the public which grow out of short-term decisions about employment ceilings and the varying management value systems which follow the frequent changes of HEW secretaries and their immediate staffs.

Until the fiscal year 1969 budget, the financial transactions of the social security system were kept entirely separate from general revenue income and expenditures, except for purposes of economic analysis. Today they are a part of a unified budget, which lumps together general revenue income and expenditures and the separately financed social security system. This is leading to confusion on just how separate from other government programs social security really is. In the interest of protecting social security's long-term commitments, the separateness of social security financing should be made unmistakably clear.

The purpose of the annual budget is, on the one hand, to make choices among expenditures, giving preference in the budget period to one expenditure over another and, on the other hand, to determine who pays what and how much for the expenditures. Social security promises—stretching into the distant future, resting on past earnings and contributions, and with separate financing—are not a proper part of this essentially competitive process.

The inclusion of social security transactions in a unified budget is bad for other reasons as well. It leads to a distortion of the decision-making process on non-social security programs. Occasional excesses of income over outgo in social security operations in the short run tend to be used as an excuse for financing additional general revenue expenditures since social security income, though legally reserved for social security expenditures, is treated in the budget in the same way as general revenue income and shows up as if it were available money.

Just about every American has a major stake in protecting the long-term commitments of the social security program from fluctuations in politics and policy. The administration of social security by a separate government corporation or instrumentality and the separation of social security financial transactions from other government income and expenditures would strengthen public confidence in the security of the long-run commitments of the program and in the freedom of the administrative operations from short-run political influence. It would give emphasis to the fact that in this program the government is acting as trustee for those who have built up rights under the system. Such changes would not only help to preserve social security as our most effective anti-poverty program—keeping some 12 million people out of poverty and doing so under conditions that protect their dignity and self-respect—but would also help to preserve social security as a universal retirement and group insurance plan on which all Americans can rely.

QUORUM CALL

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow, under the standing order there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

ORDER FOR CONSIDERATION OF THREE BILLS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the transaction of routine morning business tomorrow, the Senate proceed to the consideration of Calendar No. 699, S. 872 a bill to facilitate prosecutions for certain crimes and offenses committed aboard aircraft, and for other purposes; that upon the disposition of that bill, the Senate proceed to the consideration of Calendar No. 700, S. 1835, a bill to amend title 38, United States Code, to increase the maximum amount of servicemen's group life insurance to $20,000, and so forth; that upon the disposition of that bill, the Senate proceed to the consideration of Calendar No. 698, S. 1401, a bill to establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Whether or not the Senate will complete action on all three of those bills tomorrow remains to be seen. It is doubtful. In any event, they would be taken up in the sequence ordered.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. PROXMIRE. As far as I am concerned 1 o'clock is fine.

Mr. ROBERT C. BYRD. I thank the Senator.

RECESS UNTIL 1 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until 1 p.m. today.

The motion was agreed to; and at 12:23 p.m. the Senate took a recess until 1 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ABOUREZK).

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. HUDDLESTON) laid before the Senate the following letters, which were referred as indicated:

Report on Loan, Guarantee and Insurance Transactions Supported by Eximbank

A letter from the First Vice President and Vice Chairman, Export-Import Bank of the United States, reporting, pursuant to law, on loan, guarantee and insurance transactions supported by that Bank to Yugoslavia, Romania, the Union of Soviet Socialist Republics, and Poland, during January 1974. Referred to the Committee on Banking, Housing and Urban Affairs.

Proposed Legislation of U.S. Small Business Administration

A letter from the Administrator, United States Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act, with an accompanying paper). Referred to the Committee on Banking, Housing and Urban Affairs.

Civil Air Patrol Report

A letter from the Vice Commander of the Civil Air Patrol submitting its report for the calendar year 1973 (with an accompanying report). Referred to the Committee on Commerce.

Proposed Legislation of the Secretary of Transportation

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriations for the Coast Guard for the procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize appropriations for bridge alternations, to authorize for the Coast Guard an end-year strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes (with an accompanying paper). Referred to the Committee on Commerce.

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend section 2 of title 14, United States Code, to authorize icebreaking operations in foreign waters pursuant to international agreements, and for other purposes (with an accompanying paper). Referred to the Committee on Commerce.

Report on Study of the Clarion River, Pa.

A letter from the Secretary of the Interior, reporting, pursuant to law, a study of the 90-mile segment of the Clarion River from the borough of Ridgway, Pa., to its confluence with the Allegheny River for potential addition to the National Wild and Scenic Rivers System. Referred to the Committee on Interior and Insular Affairs.

Report on Negotiated Sales Contracts for Disposal of Certain Materials

A letter from the Director, Bureau of Land Management, Department of Interior, transmitting, pursuant to law, a report of negotiated sales contracts for disposal of materials, during the period July 1 through December 31, 1973 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

Report of Certain Contract Adjustments

A letter from the Administrator, National Aeronautics and Space Administration, reporting, pursuant to law, on certain contract adjustments by that Administration, for the calendar year 1973. Referred to the Committee on the Judiciary.

Report of National Advisory Council on Equality of Educational Opportunity

A letter from the Chairman, National Advisory Council on Equality of Educational Opportunity, transmitting, pursuant to law, a report of that Council, dated December 1973 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

Revised Prospectus for Federal Office Building, Saginaw, Mich.

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, a revised prospectus for the Federal office building previously approved for construction at Saginaw, Mich. (with accompanying papers). Referred to the Committee on Public Works.

PROSPECTUS RELATING TO PROPOSAL TO LEASE LABORATORY FACILITIES AT RESEARCH TRIANGLE PARK, NORTH CAROLINA

A letter from the Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, a prospectus concerning EPA's proposal to lease laboratory facilities at Research Triangle Park, North Carolina (with accompanying papers). Referred to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. HUDDLESTON):

A joint resolution of the Legislature of the State of Colorado. Referred to the Committee on the Judiciary:

"SENATE JOINT MEMORIAL NO. 5

(By Senators Minister, Allshouse, Anderson, Ball, Darby, DeBerard, Garnsay, Johnson, Kinnie, Locke, McCormick, MacManus, Noble, Parker, Plock, Ruland, Schieffelin, Stockton, Strickland, Taylor, and Wunsch; also Representatives Bryant, Baer, Bishop, Bledsoe, Boley, Burns, DeMoulin, Dittemore, Eaker, Eckelberry, Hamlin, Koster, McNeil, Massari, Miller, Moore, Munson, Pettie, Showalter, Sonnenberg, Strahle, Wells, and Younglund)

"Memorializing the Congress of the United States to enact legislation returning the observance of Veterns Day to November 11

"Whereas, November 11 is the anniversary of the armistice which ended hostilities in World War I; and

"Whereas, November 11 became known as Veterans Day in 1954 so that all former members of the armed forces of the United States might be remembered and honored; and

"Whereas, The celebration of Veterans Day on November 11 had become a time of reflection and prayer in the United States; and

"Whereas, This national holiday should not be sacrificed for the benefit of a three-day weekend; now, therefore,

Be It Resolved by the Senate of the Forty-ninth General Assembly of the State of Colorado, the House of Representatives concurring herein:

That the Congress of the United States is hereby memorialized to enact legislation returning the observance of Veterans Day to November 11.

"*Be It Further Resolved,* That copies of this Memorial be sent to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of Congress from the State of Colorado."

Resolutions of the Massachusetts State Senate. Referred to the Committee on Commerce:

"RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES AND THE CIVIL AERONAUTICS BOARD NOT TO ELIMINATE STUDENT FARES BY THE AIRLINES

"Whereas, The Airlines have a special student fare for youths which permits them to travel back and forth to school; and

"Whereas, The Airlines and the Civil Aeronautics Board have requested the elimination of this fare; and

"Whereas, Such an elimination will create an economical hardship on the youth; and

"Whereas, the United States faces an energy crisis and mass transportation should be encouraged by the provision of incentives for youth; and

"Whereas, The Youth Council of the City of Worcester recommended the adoption of a resolution by the City of Worcester; and

"Whereas, The City Council of Worcester, recommended adoption of a similar resolution by the City of Worcester; and

"Whereas, the City council of Worcester, Massachusetts adopted a similar resolution on the twentieth of November, nineteen hundred and seventy-three, by a vote of nine yeas and no nays; now, therefore, be it

"*Resolved,* That the Massachusetts Senate joins the Worcester City Council in its opposition to the elimination of the youth fare and respectfully memoralizes the Congress of the United States to adopt legislation prohibiting the Civil Aeronautics Board and the Airlines from ending it; and be it further

"*Resolved,* That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth."

A resolution adopted by the Executive Council of the Episcopal Church, New York, N. Y., praying for the enactment of legislation for the enlarged development loan pool of the World Bank International Development Association. Referred to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUDDLESTON, from the Committee on Agriculture and Forestry, without amendment:

S. 3075. A bill to amend the Agricultural Adjustment Act of 1938 (Rept. No. 93–729).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CHURCH (for himself, Mr. CLARK, Mr. HUMPHREY, Mr. WILLIAMS, and Mr. RIBICOFF):

S. 3143. A bill to amend titles II, VII, XI, XVI, XVIII, and XIX of the Social Security Act to provide for the administration of the old-age, survivors, and disability insurance program, the supplemental security income program, and the medicare program by a newly established independent Social Security Administration, to separate social security trust fund items from the general Federal budget, to prohibit the mailing of certain notices with social security and supplemental security income benefit checks, and for other purposes. Referred to the Committee on Finance.

By Mr. HUGHES:

S. 3144. A bill for the relief of Gregg Kenneth LeDuc. Referred to the Committee on the Judiciary.

By Mr. COOK:

S. 3145. A bill to conserve energy by establishing an Emergency Fuel Conservation Driving Limitation Plan. Referred to the Committee on Commerce.

By Mr. TOWER:

S. 3146. A bill to increase the corporate surtax exemption to $100,000. Referred to the Committee on Finance.

By Mr. CLARK:

S. 3147. A bill to amend the Occupational Safety and Health Act of 1970 to provide additional assistance to small employers. Referred to the Committee on Labor and Public Welfare.

By Mr. HATHAWAY:

S. 3148. A bill to extend and amend the Economic Stabilization Act of 1970. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 3149. A bill to authorize appropriations for the saline water program for fiscal year 1975, and for other purposes; and

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 3150. A bill to authorize energy conservation programs and end use rationing of fuels, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. JACKSON (for himself, Mr. MAGNUSON, Mr. FANNIN, and Mr. COTTON) (by request):

S. 3151. A bill to authorize coordination of acquisitions and analysis of energy information, to provide for the acquisition of accurate, timely energy information necessary for the formulation of public policy, and for other purposes. Referred to the Committees on Commerce and Interior and Insular Affairs, jointly, by unanimous consent.

By Mr. KENNEDY:

S. 3152. A bill to amend title 10, United States Code, to remove the restriction on the use of certain private institutions under the dependents' medicare program, and for other purposes. Referred to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHURCH (for himself, Mr. CLARK, Mr. HUMPHREY, Mr. WILLIAMS, and Mr. RIBICOFF):

S. 3143. A bill to amend titles II, VII, XI, XVI, XVIII, and XIX of the Social Security Act to provide for the administration of the old-age, survivors, and disability insurance program, the supplemental security income program, and the medicare program by a newly established independent Social Security Administration, to separate social security trust fund items from the general Federal budget, to prohibit the mailing of certain notices with social security and supplemental security income benefit checks, and for other purposes. Referred to the Committee on Finance.

SOCIAL SECURITY ADMINISTRATION ACT

Mr. CHURCH. Mr. President, on behalf of myself and the Senators from Connecticut (Mr. RIBICOFF), Iowa (Mr. CLARK), Minnesota (Mr. HUMPHREY), and New Jersey (Mr. WILLIAMS), I introduce for appropriate reference, the Social Security Administration Act.

One of this Nation's landmark legislative achievements is the social security program, which protects workers and their families from loss of earnings because of retirement, death, or disability. Moreover, it provides protection for a substantial part of the costs of medical care during periods of extended and total disability and after age 65.

All Americans have a vital stake in assuring that the integrity of this system is maintained. In one form or another, social security affects the lives of almost every American family.

Today 30 million persons—1 out of every 7 Americans—receive retirement, survivors' or disability benefits and 100 million workers will make social security contributions during 1974. In return, they will receive credits toward benefits for themselves and their families.

Over 90 percent of all people 65 or older are eligible for social security. Nearly 4 out of every 5 persons in the 21 to 64 age category qualify for disability coverage. And 95 percent of all mothers and children in the country would be eligible for social security monthly benefits if the father in the family should die.

For the vast majority of older Americans, social security is the economic mainstay. It accounts for over half the income for two-thirds of aged single beneficiaries and one-half for elderly couple beneficiaries. These monthly payments are almost the entire source of support—90 percent or more of total income—for over 30 percent of single elderly social security beneficiaries and 15 percent of older couples.

These basic facts of life underscore the importance of maintaining the economic and social soundness of this vital program, as well as the objectivity of its administration.

Throughout its history the social security system has been a model of excellence—in large part because it has been well administered and free of scandals. These qualities, which have helped to make the social security system such an enormous success, should be given permanence and protection through further organizational safeguards.

INDEPENDENT NONPOLITICAL AGENCY

And this is a major reason that we have introduced the Social Security Administration Act, a bill which would establish an independent, nonpolitical Social Security Administration outside of the Department of Health, Education, and Welfare. This autonomous agency would be under the direction of a three-member governing board appointed by the President, with the advice and consent of the Senate. The President would also select one of the three members to be Chairman.

To help assure the nonpolitical nature of this independent agency, the three members would be appointed for staggered terms for 5 years. Initial appointments would be for 2 years, 4 years, and 5 years.

This new agency would be responsible for:

Administering the old age, survivors, and disability insurance program, medicare, supplemental security income, and that part of the black lung benefit program under the Coal Mine Health and Safety Act now administered by the Social Security Administration;

Making recommendations as to the most effective methods for providing economic security through social insurance; and

Submitting an annual report to the Congress concerning its activities.

PROHIBITION ON MAILING OF POLITICAL NOTICES

Our bill also contains a further safeguard to assure that the nonpolitical qualities of the social security and supplemental security income programs are strengthened.

This would be achieved by prohibiting the mailing of announcements with Social Security and SSI checks which make reference by name, title, or signature to any officer of the United States.

Our proposal would not—and I want to emphasize this point—prohibit the mailing of notices for legitimate informational purposes by the Social Security Administration.

It would, however, immunize the program from attempts to derive political benefit on the part of elected officials.

In recent years, it has become the custom of Republican and Democratic administrations alike to include announcements with social security increases. These notices generally suggest that a boost in benefits is the result of action taken by a particular President.

This practice, in my judgment, has the tendency to demean the social security system and politicize it.

No one benefits—least of all the elderly—when the social security or SSI mailing process can be used for a potentially partisan purpose. These programs are just simply too important to be exploited in this fashion.

EXISTING FEATURES UNCHANGED

Our proposal, of course, would not make any changes in the benefit or financing provisions of the social security system. And it would leave unchanged most of the interrelationships between the Social Security Administration and other units of Government.

The responsibility for investment of the trust funds would still reside with the Secretary of the Treasury.

Moreover, there would not be any lessening of Presidential control over important policy and legislative changes. The new agency would be subject to the usual clearances on legislative proposals and, in general, would operate under the broad supervision of the various control agencies of the Government. There would be no need to disturb existing relationships between the program and the Office of Management and Budget, the General Accounting Office, and the General Services Administration.

Authority to spend from the trust funds for administrative purposes would continue to be part of the regular budget process, just as it is today.

The statutory Advisory Council on Social Security would still remain, as well as other special purpose advisory councils. Their membership, though, would be appointed by the governing board of the Social Security Administration, thereby enhancing the nonpolitical character of the system.

REMOVE SOCIAL SECURITY TRUST FUNDS FROM UNIFIED BUDGET

Finally, our proposal would remove the transactions of the social security trust funds from the unified budget. As a result, the desirability of social security changes would be assessed on their own merits and in relation to financing provided for by the program, rather than, as has been true recently, in terms of their immediate impact upon the overall Federal budget.

However, this would in no way—and I want to underscore this important point—prevent policymakers from taking into account the fiscal and economic impact of recommended improvements for the social security program. These issues are, of course, proper considerations for any responsible Member of Congress to weigh in making his decision for proposals affecting social security.

Until the fiscal year 1969 budget, the financial transactions of the social security system were—except for purposes of economic analysis—kept entirely separate from general revenue income and expenditures.

Today social security transactions are a part of the unified budget which lumps together general revenue income and expenditures and the separately financed social security system. This is leading to confusion concerning, first, how well protected social security benefit rights are; and second, how separate this group insurance and retirement program is from other programs of the Government.

Social security obligations—based upon past earnings and contributions—are a commitment to pay by the Federal Government, with separate financing provided for that purpose. These obligations should not be lumped in with other programs, as if it were possible within the budgetary process to make choices between social security payments and other Government expenditures.

Public confidence in the security of the long-range commitments of the program calls for budgetary and accounting treatment that is entirely separate from other programs of the Government.

Moreover, the inclusion today of social security transactions in the unified budget leads to a distortion of the decisionmaking process as it relates to nonsocial security programs. Any excesses of income over outgo in social security operations in the short run tend to be used as an excuse for financing additional general revenue expenditures, since social security income is treated in the unified budget in the same way as general revenue income.

Equally important, the inclusion of both the trust fund outgo and, for example, the health and education programs in HEW expenditure ceilings leads to unrealistic and unnecessary short-run swings in education and health expenditures because of fluctuations in the separately financed social security program. Even a comparatively small change in social security estimates from those furnished at an early stage in the budget process can lead to a scramble to reduce expenditures in unrelated general revenue programs, regardless of the merit of those expenditures and solely to bring total outlays for HEW under a predetermined ceiling. Since social security is separately financed, this places an unnecessary burden on the operation and management of other programs.

Furthermore the public understanding of managing the budget, as a whole, would be improved if there would be general recognition that the social security trust funds are almost entirely self-financed through earmarked contributions. These trust funds result from obligations built up in the past and, therefore, not controllable by the decisions of any administration in office.

Although social security transactions would not be a part of unified budget, for purposes of economic analysis trust fund transactions would, of course, need to be taken into account, as they have always been. And any general revenue contributions to social security would be shown as expenditures in the general budget.

JUSTIFICATION FOR SEPARATE STATUS

Quite clearly, the social security system has evolved to a point where it is large enough and important enough to call for separate organizational status.

Social security today is one of the largest direct-line operations in the Federal Government. It employs some 70,000 persons across the country.

Over 1,200 offices are located throughout the country to provide valuable and helpful services for millions of families each year.

The Social Security Administration also has one of the largest recordkeeping jobs in the world. For this reason, it operates a huge computer installation.

In summary, social security employs considerably more persons than all of the other units of HEW put together. And, it is larger than all other independent departments and agencies, except the Department of Defense, Department of Agriculture, Department of the Treasury, the Postal Service, and Veterans' Administration.

The management of this major institution in American life should be independent of essentially political heirarchies in the Department of Health, Education, and Welfare, which come and go with great frequency.

Establishing social security as an independent entity would also offer advantages from the standpoint of making the remainder of the Department of Health, Education, and Welfare more manageable. The sheer size of the HEW budget and the number of its employees, when social security is included, creates unwieldiness. With this huge operation established as an independent agency the smaller remaining units of HEW could receive the full-time attention of the Secretary and his staff. Instead of about 120,000 employees to manage, they would oversee 50,000.

WHY NOT CONTINUE PRESENT SYSTEM?

One question that will undoubtedly be raised during the consideration of this proposal is: Why not continue the present social security system in HEW under a single commissioner? A former Commissioner, Mr. William Mitchell, has provided a very sensible and powerful response for taking the course of action which our bill seeks to achieve. He said:

> I think the very fact that outstanding single Commissioners, such as Arthur Altmeyer and Robert Ball, were removed from office for political reasons, and the Social Security Administration recently continued without a Commissioner for seven months provide compelling reasons to question the desirability of continuing the single Commissioner form of administration. Also, it appears that we are running short of people in this country who possess the outstanding qualifications for the technical, administrative, and other demands that are made upon a single administrator.

An independent agency would also underscore in the public mind the essential difference between contributory social insurance programs, such as social security, and other operations of the government.

Mr. President, all Americans—whether they are young, middle-aged, or old—have a real and direct interest in the integrity of the social security system. They also have a right to insist that the program will continue to be built upon sound acturial principles and equitable policy considerations. And they must be assured that the program will be administered fairly and impartially.

For these reasons, I urge early consideration of our Social Security Administration Act.

Mr. President, I also ask unanimous consent that the text of this bill be printed at this point in the RECORD.

Additionally, I ask unanimous consent that some descriptive material about the social security program and the Social Security Administration be printed at this point in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Social Security Administration Act".

DECLARATION OF PURPOSE

SEC. 2. (a) The purpose of this Act is to strengthen the fiscal and administrative structure of the contributory social security programs. These programs constitute a retirement and group-insurance plan that provides nearly all American workers and their families protection designed to partly make up for the loss of earned income during retirement, during periods of extended and total disability before retirement age, or because of death, and provides protection against the costs of medical care during periods of extended and total disability and after age 65. In conjunction with the program of Supplemental Security Income to the needy, designed to fill the gaps in insurance protection, these contributory social insurance programs form a universal structure of economic security. It is essential that we take every practical step to assure the long-range fiscal integrity of these programs and to provide for non-political, objective, and skilled program administration.

(b) In creating the contributory social security and health insurance programs the Congress has undertaken a fiscal obligation which differs in essential respects from its obligations under programs financed in other ways. The distinctive nature of this obligation results from (1) the contributory character of the programs which gives to nearly every American a personal financial stake in future benefit rights, (2) the concomitant obligation of Government to assure beyond peradventure that these rights earned by compulsory contributions and based on past earnings will in fact be honored when they fall due whether in the near or the distant future, (3) the dependence of the programs, if this assurance is to be fully credible, on adequate long-term sources of income dedicated exclusively to these programs, (4) the need that changes in these systems which may be required to meet changing economic and social conditions be developed on a long-range basis and in the context of their interrelated benefit and financial structures. In order to assure more completely the full recognition of the fiscal obligations inherent in these programs this Act separates the transactions of the self-financed social insurance programs from the transactions of the general budget.

(c) The magnitude of these social insurance programs and of the Supplemental Security Income program—in terms of the number of people affected by them, the volume of income and expenditures, the number of persons engaged in their operation, the nationwide network of local offices, and the complexity of these huge operations—demands the utmost in skillful, non-political administration. To help assure such administration and continuously high levels of service to the beneficiaries of and contributors to the programs, this Act constitutes the Social Security Administration as an independent agency in the Executive Branch, responsible directly to the President. The independence accorded by this change will also serve to emphasize to the public that the Government's role in the insurance programs is essentially that of trustee and manager for those who have worked in covered employment and contributed to the support of the programs, a role which is markedly different and carries different obligations from the Government's role in programs financed in other ways.

TITLE I—SOCIAL SECURITY ADMINISTRATION

SEC. 101. (a) Title VII of the Social Security Act is amended by inserting immediately before section 702 the following new section:

"SOCIAL SECURITY ADMINISTRATION

"SEC. 701. (a) (1) There is hereby established, as an independent agency of the Executive Branch of the Government, a Social Security Administration (hereinafter in this section referred to as the 'Administration'). The Administration shall be headed by a Board which shall consist of three Members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall, from time to time, designate one of the Members as Chairman of the Board.

"(2) No individual shall, during the time that he holds the office as a Member of the Board, engage in any business, vocation, or employment, other than the discharge of his duties and the exercise of his authority as a Member of the Board.

"(3) Not more than two of the Members of the Board shall be members of the same political party.

"(4) Each Member of the Board shall hold office for a term of five years, except that (A) a Member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term, and (B) the terms of office of the Members first taking office after the date of enactment of the Act to establish the Social Security Administration as an Independent Agency shall expire, as designated by the President at the time of appointment, one at the end of two years, one at the end of four years, and one at the end of five years, after the date of enactment of such Act.

"(5) Actions taken, and decisions made by, Members of the Board shall be by majority vote; and any action so taken, or decision so made, shall be the action or decision of the Administration.

"(b) (1) It shall be the duty of the Administration to administer the programs established by titles II, XVI, and XVIII of this Act, and to discharge the duties and responsibilities imposed on the Secretary of Health, Education, and Welfare in connection with the administration of the program established by title IV of the Federal Coal Mine Health and Safety Act of 1969.

"(2) The Administration shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security through social insurance, and as to legislation and matters of administrative policy concerning the programs referred to in paragraph (1), and to other programs having similar objectives.

"(3) The Administration shall prepare and submit to the Congress an annual report on its activities, which report shall include the recommendations of the Administration made pursuant to paragraph (2).

"(c) (1) There shall be in the Administration an Executive Director, who shall be appointed by and serve at the pleasure of the Administration, and who shall perform such functions concerning the programs administered by the Administration as the Administration may prescribe.

"(2) There shall be in the Administration a General Counsel, who shall be appointed by and serve at the pleasure of the Administration, and who shall be the principal legal counsel in the Administration. The Administration may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code."

(b) Section 702 of such Act is amended by inserting, immediately before the period at the end thereof, the following: "; except that nothing in this section shall be construed to require the Secretary to make studies of or recommendations with respect to programs administered by the Social Security Administration".

(c) Section 706 of such Act is amended—

(1) by striking out "Secretary", wherever it appears therein, and inserting in lieu thereof "Social Security Administration",

(2) in subsection (c) (1) thereof, by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Social Security Administration", and

(3) in subsection (a) thereof, by striking out "the public assistance programs under this Act" and inserting in lieu thereof "the program established by title XVI of this Act".

(d) Section 201(c) of such Act is amended—

(1) in the first sentence thereof, by inserting "the Chairman of the Board of the Social Security Administration," immediately after "Secretary of Labor,", and

(2) in the third sentence thereof, by striking out "Commissioner of Social Security" and inserting in lieu thereof "Executive Director of the Social Security Administration".

(e) The last sentence of section 205(g) of such Act is amended by striking out "in the person occupying the office of Secretary or any vacancy in such office" and inserting in lieu thereof "in the membership of the Board of the Social Security Administration or any vacancy in the membership of such Board".

(f) Section 1817(b) of such Act is amended—

(1) in the first sentence thereof, by inserting "the Chairman of the Board of the Social Security Administration," immediately after "the Secretary of Labor,", and

(2) in the third sentence thereof, by striking out "Commissioner of Social Security" and inserting in lieu thereof "Executive Director of the Social Security Administration".

(g) Section 1841(b) of such Act is amended—

(1) in the first sentence thereof, by inserting ", the Chairman of the Board of the Social Security Administration," after "Secretary of Labor" and

(2) in the third sentence thereof, by striking out "Commissioner of Social Security" and inserting in lieu thereof "Executive Director of the Social Security Administration".

(h) Title II (other than the first sentence of section 201(c) thereof, and the last sentence of section 205(g) thereof), title XVI, (as enacted by section 301 of the Social Security Amendments of 1972), and title XVIII (other than the first sentence of section 1817(b) thereof, and the first sentence of section 1841(b) thereof), of the Social Security Act are each amended—

(1) by striking out, wherever it appears therein, "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Social Security Administration".

(2) by striking out, wherever it appears therein, "Department of Health, Education, and Welfare" and inserting in lieu thereof "Social Security Administration",

(3) by striking out, wherever it appears therein, "Department" (but only if it is not immediately succeeded by the words "of Health, Education, and Welfare", and only if it is used in reference to the Department of Health, Education, and Welfare) and inserting in lieu thereof "Social Security Administration", and

(4) by striking out, wherever it appears therein, each of the following words (but, in the case of any such word, only if such word refers to the Secretary of Health, Education, and Welfare): "Secretary", "Secretary's", "his", "him", and "he", and inserting (in the case of the word "Secretary") "Social Security Administration", (in the case of the word "Secretary's") "Social Security Administration's", (in the case of the word "his") "the Social Security Administration's", (in the case of the word "him") "the Social Security Administration", and (in the case of the word "he") "the Social Security Administration".

(i) Section 1868(b) of such Act is amended by adding at the end thereof the following new sentence: "Any advice or recommendations so provided by the Advisory Council with respect to title XIX shall be transmitted by the Social Security Administration to the Secretary."

(j) Title XIX of the Social Security Act is amended by striking out "Secretary", wherever it appears, and inserting in lieu thereof "Social Security Administration" in—

(1) section 1902(a) (9) (A) thereof, and

(2) section 1903(i) (2) thereof.

(k) Section 1122 of such Act is amended—

(1) in subsection (c) thereof, by striking out "The Secretary shall pay" and inserting in lieu thereof "The Social Security Administration shall (pursuant to and in accordance with directives from the Secretary) pay",

(2) in subsection (d)(1) thereof, by striking out all the matter that follows clause (ii) of the first sentence and inserting in lieu of the matter stricken the following: "then, for such period as he finds necessary in any case to effectuate the purposes of this section, he shall in determining the Federal payments to be made under titles V and XIX with respect to services furnished in the health care facility for which such capital expenditure is made, not include (and shall direct the Social Security Administration, in determining the Federal payments to be made under title XVIII with respect to services furnished in such health care facility, not to include) any amount which is attributable to depreciation, interest on borrowed funds, a return on equity capital (in the case of proprietary facilities), or other expenses related to such capital expenditures. With respect to any organization which is reimbursed on a per capita basis, the Secretary shall, in determining the Federal payments to be made under titles V and XIX, exclude (and shall direct the Social Security Administration, in determining the Federal payments to be made under title XVIII, to exclude) an amount which in his judgment is a reasonable equivalent to the amounts which would otherwise be excluded under this subsection if payment were to be made on other than a per capita basis.", and

(3) in subsection (e) thereof, by striking out "in determining the Federal payments" and inserting in lieu thereof "for the purpose of the determination of the Federal payments".

(l) Part B of title XI of such Act is amended—

(1) in section 1152(e) thereof, by—

(A) inserting "or title XVIII" immediately after "(other than this part", and

(B) inserting at the end thereof the following new sentence: "In order to avoid duplication of functions and unnecessary review and control activities, the Social Security Administration is authorized to waive any or all of the reveiw, certification, or similar activities otherwise required under or pursuant to title XVIII when it finds, on the basis of substantial evidence of the effective performance of review and control activities by Professional Standards Review Organizations, that the review, certification, and similar activities so required are not needed for the provision of adequate review and control.",

(2) in section 1155(f) (2) thereof, by inserting "(or cause to be made, in appropriate cases, by the Social Security Administration" immediately after "that the Secretary make",

(3) in section 1157 thereof, by striking out "The Secretary" and inserting in lieu thereof "The Social Security Administration",

(4) in section 1159(b) thereof, by—

(A) inserting "(or by the Social Security Administration, in case of a beneficiary or recipient under title XVIII)" immediately after "to a hearing thereon by the Secretary", and

(B) inserting "(or the Social Security Administration's final decision, in case of a beneficiary or recipient under title XVIII)" immediately after "review of the Secretary's final decision", and

(C) inserting "(or the Social Security Administration, as the case may be)" immediately after "The Secretary",

(5) in section 1165 thereof, by inserting "(promulgated in consultation with the Social Security Administration)" immediately after "The Secretary shall be regulations", and

(6) in section 1168 thereof, by adding at the end thereof the following: "In determining the amount to be payable from the Federal Hospital Insurance Trust Fund, the Secretary shall consult with the Social Security Administration; and any amount payable from such Fund shall be payable by the Social Security Administration, pursuant to and in accordance with directives of the Secretary.".

SEC. 102. (a) Except as provided in subsection (b), the term "Secretary of Health, Education, and Welfare" and the term "Secretary", when used to refer to the Secretary of Health, Education, and Welfare, shall be deemed to refer to the Social Security Administration when (and to the extent that) such term is employed in any provision of law which imposes any duty or responsibility on, confers any authority on, or imposes any limitation on the exercise of authority by, the Secretary of Health, Education, and Welfare with respect to the administration of the programs established by (1) title II, XVI (as enacted by section 301 of the Social Security Amendments of 1972), or XVIII, of the Social Security Act, or (2) part IV of the Federal Coal Mine Health and Safety Act of 1969.

(b) The provisions of subsection (a) shall not apply to any provision of law which is contained in (1) title II, XVI (as enacted by section 301 of the Social Security Amendments of 1972), or XVIII, of the Social Security Act, (2) title IV of the Federal Coal Mine Health and Safety Act, or (3) section 1122 of the Social Security Act, or part B of title XI of such Act.

SEC. 103. (a) There are transferred to the Social Security Administration (established by section 701 of the Social Security Act) all functions carried out by the Secretary of Health, Education, and Welfare, with respect to the administration of programs and activities the administration of which is vested in such Administration, by reason of this Act and the amendments made thereby.

(b) There are transferred to the Social Security Administration (as established by section 701 of the Social Security Act under the amendment made by section 101(a) of this Act) all personnel, assets, liabilities, contracts, property, and records, which the Director of the Office of Management and Budget determines to be employed, held, or used by the Secretary of Health, Education, and Welfare primarily in connection with the functions, activities, and programs which, by reason of this Act and the amendments made thereby, are vested in or become the responsibility of such Administration.

(c) The position of Commissioner of Social Security is abolished.

SEC. 104. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, promulgated, granted, or allowed to become effective, in the exercise of functions (A) which were exercised by the Secretary of Health, Education, and Welfare (or his delegate), and (B) which relate to functions which, by reason of this Act and the amendments made thereby, are vested in the Social Security Administration (as established by section 701 of the Social Security Act under the amendment made by section 101(a) of this Act), and

(2) which are in effect at the time this Act takes effect,

shall (to the extent that they relate to functions described in paragraph (1)(B)) continue in effect according to their terms until modified, terminated, suspended, set aside, or repealed by the Social Security Administration (as established by section 701 of the Social Security Act).

(b) The provisions of this Act (including the amendments made thereby) shall not affect any proceeding pending at the time this Act takes effect before the Secretary of Health, Education, and Welfare with respect to functions vested (by reason of this Act and the amendments made thereby) in the Social Security Administration (as established by section 701 of the Social Security Act under the amendment made by section 101(a) of this Act), except that such proceedings, to the extent that they relate to such functions, shall continue before the Social Security Administration (as so established). Orders shall be issued under any such proceeding, appeals taken therefrom, and payments shall be made pursuant to such orders, in like manner as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by the Social Security Administration (as so established), by a court of competent jurisdiction, or by operation of law.

(c) Except as provided in this subsection—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect; and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

No cause of action, and no suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Health, Education, and Welfare, shall abate by reason of the enactment of this Act. Causes of actions, suits, or other proceedings may be asserted by or against the United States and the Social Security Administration (as established by section 701 of the Social Security Act under the amendment made by section 101 (a) of this Act), or such official of such Administration as may be appropriate, and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of a party, enter an order which will give effect to the provisions of this subsection (including, where appropriate, an order for substitution of parties).

(d) This Act shall not have the effect of releasing or extinguishing any criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function which (by reason of this Act) is vested in the Social Security Administration.

(e) Orders and actions of the Social Security Administration in the exercise of functions vested in such Administration under this Act (and the amendments made thereby) shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been taken by the Secretary of Health, Education, and Welfare in the exercise of such functions immediately preceding the effective date of this Act. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function so vested in the Social Security Administration shall continue to apply to the exercise of such function by such Administration.

(f) In the exercise of the functions vested in it under this Act (and the amendments made thereby), the Social Security Administration shall have the same authority as that vested in the Secretary of Health, Education, and Welfare with respect to the exercise of such functions immediately preceding the vesting of the same in such Administration, and actions of such Administration shall have the same force and effect as when exercised by such Secretary.

TITLE II—MISCELLANEOUS AND CONFORMING AMENDMENTS

Sec. 201. * * *

* * * * *

"(1) is not related to the provisions of this title or title XVIII, or

"(2) contains the name, signature, or title of any officer of the Government of the United States."

* * * * *

"(6) The Social Security Administration shall not permit to be enclosed with any check for benefit payments under this title any material which—

"(A) is not related to the provisions of this title or title XVIII, or

"(B) contains the name, signature, or title of any officer of the United States."

SEC. 202. Title IV of the Federal Coal Mine Health and Safety Act of 1969 is amended—

(1) in section 402(c) thereof, by striking out "where used in part B means the Secretary of Health, Education, and Welfare, and", and

(2) in all the provisions thereof (other than section 402(c) and section 427) by—

(A) striking out, wherever it appears therein, "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Social Security Administration", and

(B) striking out, wherever it appears therein, each of the following words (but, in the case of any such word, only if such word refers to the Secretary of Health, Education, and Welfare): "Secretary", "Secretary's", "his", "him", and "he", and inserting (in the case of the word "Secretary") "Social Security Administration", (in the case of the word "Secretary's") "Social Security Administration's", (in the case of the word "his") "Social Security Administration's", (in the case of the word "him") "the Social Security Administration", and (in the case of the word "he") "the Social Security Administration".

SEC. 203. (a) Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11) is amended—

(1) in the second sentence of subsection (a) thereof, by striking out "The Budget" and inserting in lieu thereof "Except as provided in subsection (d), the Budget"; and

(2) by adding at the end of such section the following new subsection:

"(d) The Budget shall set forth the items referred to in paragraphs (4), (5), (6), (7), (8), (9), and (12) of subsection (a) which are attributable to receipts of and expenditures from the general fund of the Treasury (commonly referred to as the 'administrative budget'), and shall set forth separately such items which are attributable to receipts of and expenditures from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund.".

(b) The amendment made by subsection (a) shall apply with respect to the Budget for the fiscal year ending June 30, 1976, and for each fiscal year thereafter.

SEC. 204. (a) Section 5313 of title 5, United States Code (relating to level II of the Executive Schedule), is amended by adding at the end thereof the following new paragraph;

"(22) Chairman of the Board of the Social Security Administration."

(b) Section 5314 of such title (relating to level III of the Executive Schedule) is amended by adding at the end thereof the following new paragraphs:

"(60) Member of the Board of the Social Security Administration.

"(61) Executive Director, Social Security Administration."

(c) Section 5315 of such title (relating to level IV of the Executive Schedule) is amended by striking out—

"(97) Commissioner of Social Security, Department of Health, Education, and Welfare.",

and by inserting in lieu thereof—

"(97) General Counsel, Social Security Administration."

SEC. 205. (a) This Act, and the amendments made by this Act, shall take effect on the first day of the first calendar month which begins not less than 90 days after the date of enactment of this Act.

(b) Notwithstanding the provisions of subsection (a), the Members of the Board of the Social Security Administration may be appointed prior to the effective date of this Act, but after the date of enactment of this Act; and the Executive Director and the General Counsel of such Administration may be appointed by such Administration at any time after all Members of the Board of such Administration have been appointed. The officers referred to in the preceding sentence shall be compensated from the date they first take office, at the rates provided for in the amendments to title 5, United States Code, made by section 204 of this Act. Such compensation and related expenses of such officers shall be paid from funds available for the functions vested in the Social Security Administration by this Act and the amendments made thereby.

SOCIAL SECURITY BOARD

John G. Winant, Chairman, 1935–37.

Arthur J. Altmeyer, Member, 1935–37; Chairman, 1937–46.

Vincent M. Miles, Member, 1935–37.

George E. Bigge, Member, 1937–46.

Mary W. Dewson, Member, 1937–38.

Ellen S. Woodward, Member, 1938–46.

Frank Bane, Executive Director, 1935–38.

Oscar M. Powell, Executive Director, 1938–46.

COMMISSIONERS OF SOCIAL SECURITY

Arthur J. Altmeyer, Commissioner for Social Security, 1946–53.

John W. Tramburg, Commissioner of Social Security, 1953–54.

Charles I. Schottland, Commissioner of Social Security, 1954–58.

William L. Mitchell, Commissioner of Social curity, 4/3/62–3/17/73.

Robert M. Ball, Commissioner of Social Security, 1959–62.

James B. Cardwell, Commissioner of Social Security, 10/24/73.

Bureau Directors

Murray W. Latimer, Director, Bureau of Federal Old-Age Benefits, 1936.

Henry P. Seidemann, Director, Bureau of Federal Old-Age Benefits, 1936–37.

Leroy Hodges, Director, Bureau of Old-Age Insurance, 1937–38.

John J. Corson, Acting Director, Bureau of Old-Age Insurance, 1938. Director, Bureau of Old-Age Insurance, 1938–41. Director, Bureau of Old-Age and Survivors Insurance, 1943–44.

Oscar C. Pogge, Acting Director, Bureau of Old-Age and Survivors Insurance, 1941–42; Director, 1942–43; 1944–53.

Victor Christgau, Director, Bureau of Old-Age and Survivors Insurance, 1954–63.

FACT SHEET ON THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

	Number of beneficiaries	Monthly rate
A. Beneficiaries in current-payment status on Dec. 31, 1973: Total	29,872,000	$4,270,000,000
Retired workers and their dependents, total	18,793,000	2,833,000,000
Retired workers	15,364,000	2,557,000,000
Wives and husbands	2,808,000	238,000,000
Children	621,000	38,000,000
Survivors of deceased workers, total	7,160,000	968,000,000
Children	2,906,000	325,000,000
Widowed mothers with child beneficiaries in their care	572,000	68,000,000
Aged widows and widowers, and aged parents	3,603,000	566,000,000
Disabled widows and widowers	79,000	9,000,000
Disabled workers and their dependents, total	3,561,000	$449,000,000
Disabled workers	2,017,000	369,000,000
Wives and husbands	381,000	21,000,000
Children	1,162,000	59,000,000
Noninsured persons aged 72 and over (virtually the entire cost of these payments is borne by the general fund of the Treasury)	358,000	20,000,000
B. Selected categories of beneficiaries (included in A above) in current-payment status Dec. 31, 1973:		
Disabled beneficiaries (OASDI)—Workers, "disabled children", and disabled widows and widowers	2,416,000	410,000,000
Children (OASDI)	4,690,000	421,000,000
Student children aged 18–21	652,000	73,000,000
Disabled children aged 18 and over	320,000	32,000,000
Survivor children and widowed mothers	3,478,000	392,000,000
Beneficiaries aged 62 and over (OASDI)	22,301,000	3,435,000,000
Beneficiaries aged 65 and over (OASDI)	19,458,000	3,046,000,000

Note: Totals may not equal the sum of rounded components.

AVERAGE MONTHLY FAMILY BENEFITS

Beneficiary group and estimated average family benefits in current-payment status, Dec. 31, 1973	
Retired worker alone (no dependents receiving benefits)	$162
Retired worker and wife, aged 62 and over, both receiving benefits	277
Disabled worker, wife (under age 65), and 1 or more children	364
Widowed mother and two children	392
Aged widow alone	157

AVERAGE BENEFITS FOR RETIRED OR DISABLED WORKERS

Type of benefit and average monthly benefit in current-payment status, Dec. 31, 1973	
All OAIB's	$166
All DIB's	183

MEASURES OF PROTECTION

1. *Coverage:* About 100 million persons will work in covered employment or self-employment in 1974 and more than 9 out of 10 jobs in paid employment and self-employment are covered or eligible for coverage under the program.

2. *Retirement:* 91% of the people aged 65 and over at the beginning of 1974 were receiving benefits or would be able to receive benefits when they or their spouses retire, and 93% of the people reaching age 65 in calendar year 1974 are eligible for monthly cash benefits.

3. Survivor: Today, 95 out of 100 children under 18 and their mothers can count on monthly cash benefits if the family breadwinner dies.

4. Disability: Today, 4 out of 5 men and women aged 21–64 can count on monthly cash benefits in the event the breadwinner suffers a severe and prolonged disability.

BENEFIT PAYMENTS IN 12 MONTHS ENDING DECEMBER 31, 1973

[*In billions*]

OASI	$45.7
DI	5.7
Total	51.5

OPERATIONS OF OASI AND DI TRUST FUNDS, 12 MONTHS ENDING DECEMBER 31, 1973

[*In billions*]

Income	$54.8
Outgo	53.1
Assets, end of period	44.4

PROTECTION ON JANUARY 1, 1974

1. Hospital insurance (HI).

About 23.3 million persons in the U.S. population were eligible for hospital insurance protection. Of this number, 21.5 million were persons, aged 65 and over, representing nearly all of the aged population. The remaining 1.8 million persons were disabled beneficiaries under age 65.

Beneficiaries under age 65 who have hospital insurance protection on account of disability have been entitled to benefits for the required minimum of 24 months. Thus, the 1.8 million persons with such protection represent about 70% of the total number of disabled beneficiaries under age 65 who would have hospital insurance protection in the absence of the 24-month-of-entitlement requirement.

2. Supplementary medical insurance (SMI).

About 22.6 million persons in the U.S. had protection under the voluntary supplementary medical insurance plan. Of this number 21.0 million were persons, aged 65 and over, representing about 95% of the aged population. The remaining 1.6 million persons were disabled beneficiaries under age 65.

3. Chronic kidney disease.

About 95% of the population under age 65 in the United States have both hospital insurance and supplementary medical insurance protection in the event of the occurrence of chronic kidney disease requiring kidney transplantation or hemodialysis.

"BENEFICIARIES"

For calendar year 1973, payments for services covered under the hospital insurance program were made on behalf of an estimated 5.0 million persons, of which 4.8 million were aged 65 and over and 0.3 million were disabled beneficiaries under age 65.

For calendar year 1973, payments for services covered under the supplementary medical insurance program were made on behalf of an estimated 10.8 million persons, of which 10.2 million were aged 65 and over and 0.6 million were disabled beneficiaries under age 65.

BENEFIT PAYMENTS IN 12 MONTHS ENDING DECEMBER 31, 1973

[*In billions*]

HI	$7.1
SMI	2.5
Total	9.6

TABLE 9.—ESTIMATED OPERATIONS OF THE SMI TRUST FUND, CALENDAR YEARS 1973–79

[In millions of dollars]

Calendar year	1973	1974	1975	1976	1977	1978	1979
Income:							
Premiums	$1,550	$1,764	$1,865	$1,903	$1,941	$1,979	$2,018
General revenue	1,705	2,168	2,633	3,245	3,864	4,529	5,251
Interest	57	68	79	98	118	140	164
Total income	3,311	4,000	4,577	5,246	5,923	6,648	7,433
Disbursements:							
Benefits	2,526	3,446	3,834	4,375	4,954	5,571	6,240
Administrative costs	318	442	461	528	612	686	769
Total disbursements	2,844	3,888	4,295	4,903	5,566	6,257	7,009
Trust fund at end of year	1,111	1,223	1,505	1,848	2,205	2,596	3,020

D. OPERATIONS OF TRUST FUNDS, 12 MONTHS ENDING DEC. 31, 1973

[In billions]

	HI	SMI	Tota
Income	$10.8	$3.3	$14.1
Outgo	7.3	2.8	10.1
Assets, end of period	6.5	1.1	7.6

Mr. CLARK. Mr. President, Senator CHURCH and I today are introducing the Social Security Administration Independent Agency Act. This legislation would initiate broad organizational reforms to insure that the social security system maintains its stability and reliability in the future and, it would bring the social security system to full maturity by recognizing it as an independent agency.

In the 39 years since its establishment social security has come a long way. It has progressed from limited protection for little over half of the work force to a continuing mainstay for virtually every family in this country.

The social security program helps millions of Americans in times of need by providing financial protection for retired workers and family survivors, for disability and for health costs to older citizens. Today, 30 million Americans are receiving benefits from the social security program, and over 100 million individuals are making contributions to the program.

From these years of experience, a great deal has been learned about the individual programs and about their administration. This experience has told us that social security programs like medicare or the cash benefit program need to be strengthened and, in some cases, expanded, and that the administration of these programs should be independent—free from any political control.

In past years, the Social Security Administration has been susceptible to widely diverse political pressures within the executive branch of Government because it falls under the jurisdiction of the Department of Health, Education, and Welfare. This legislation would place the Social Security Administration outside of HEW, taking away many of the political pressures that have been generated by the present relationship between the two agencies. This independent, nonpolitical administration would be governed by a three-member board, appointed by the President with the advice and consent of the Senate, and it would be responsible for administering the supplemental security income program, medicare, the old age, survivors, and disability insurance program as well as that part of the black lung benefit program now administered by the Social Security Administration. Additionally, the new agency would submit an annual report to the Congress detailing its activities and making recommendations to improve the entire system.

One of the most glaring examples of the political abuse was the mailing of "announcements" with benefit checks. In past years, both Republican and Democratic administrations have been guilty of this practice. This legislation specifically would prevent this from happening by forbidding the mailing of political announcements.

Senator CHURCH, chairman of the Senate Special Committee on the Aging, his staff, and a number of experts with a vast knowledge of the Social Security Administration have spent a great deal of time developing this vitally needed piece of legislation. I am happy to be a chief cosponsor of it, and I plan to include a similar measure later this year when I introduce a comprehensive social security reform bill.

By Mr. COOK:

S. 3145. A bill to conserve energy by establishing an Emergency Fuel Conservation Driving Limitation Plan. Referred to the Committee on Commerce.

Mr. COOK. Mr. President, on February 19, Senator WEICKER introduced a bill which would give the President the power to establish a rationing program. However, in his introductory remarks, Senator WEICKER mentioned several forms which the plan could take, other than the traditional coupon rationing plan for which regulations have already been proposed and made public.

I am glad that the Senator left this possibility, as I think it is important that we consider every possible alternative to rationing before adopting a rationing plan like the one mentioned above. A rationing system would not only be difficult to administer and enforce, but would undoubtedly lead to black marketing. I fear that rationing would create more problems than it would solve. As one article concerning rationing stated:

> The argument goes around in a circle, finding something wrong with every solution. It will be a choice among mounting evils, and the longer we postpone it and ultimately perhaps avoid it, the better.

I am opposed to rationing until I am thoroughly convinced that there is no other alternative.

In keeping with this view, I am today introducing the fuel conservation-driving limitation plan.

While my bill instructs the Secretary of Transportation to promulgate the regulations, I think that the plan will follow this basic outline:

Under the emergency fuel conservation-driving limitation plan, all persons owning a registered vehicle for personal use will be issued, for each vehicle, a decal on which a day of the week is printed, excluding Saturday and Sunday. Such decals will be color coded for easy identification and will be placed on the car or other vehicle so that it can be easily seen. That vehicle cannot be driven on the day listed on the decal. In order to eliminate any advantage which might accrue to multiple-car families, all vehicles in the same household would be issued the same decal day.

The decals would be randomly distributed so that an approximately equal number of vehicles will not be permitted to be driven on each such day in the week. The plan will provide for exceptions, such as driving to the hospital during an emergency, and for an appeals board which will have the authority to determine hardship cases, as well as change the prohibited driving day.

This plan is based on the Israeli plan, which has been used in Israel with very satisfactory results—almost a 20-percent savings in gasoline since the plan was adopted.

This plan would impose only a minimal administrative burden on the Federal Government, and could be implemented upon the printing of the decals. Rather than issue the decals four times a year, as is suggested for the rationing coupons, they can be issued once each year, possibly at the time that the new license tags are distributed. The plan would affect all people equally.

The adoption of this plan would mean that everyone would have to find an alternate means of transportation on the day when his or her car could not be driven. This would further encourage the use of car pools and mass transit systems, where available. As an example of the effect this plan could have if used even on a very modified scale, I would like to read a paragraph from the January, 1974 issue of "American Motorists:"

> Car and bus pooling are one of the most effective measures for reducing traffic congestion, air pollution, and fuel consumption in the Washington area. To illustrate—if the average car occupancy for work trips to downtown can be increased from the current 1½ persons per vehicle to only 2 persons per vehicle, the number of commuting vehicles on our highways can be reduced by 25 percent. That—means—gasoline consumption can be reduced by almost half a million gallons a day, if the number of persons per car is increased from 1.2 to 2 areawide.

As you can see, this article describes the effect in the Washington area: Thus, it is obvious that this plan could have extremely good results if applied nationwide. Using recent figures supplied by the Department of Transportation for 1972–73, it can be shown that this plan will save 200 million gallons of gas per week: There are approximately 100 million passenger cars in the United States, with each car using an average of 14.5 gallons per week. If each car is not driven 1 day a week, then the amount saved for that car would be 2 gallons. If each car did this, the savings would amount to 200 million gallons per week. That would be a savings of almost 11 billion gallons per year.

This plan would allow everyone to drive as much as he wished, except for 1 day.

We cannot wait indefinitely before we act to ease the current problems brought on by the fuel shortages. I think we should give this proposal immediate attention.

By Mr. TOWER:

S. 3146. A bill to increase the corporate surtax exemption to $100,000. Referred to the Committee on Finance.

Mr. TOWER. Mr. President, it is in the public interest to maintain a strong, locally controlled small business sector in our economy. Toward this end, a healthy tax environment is essential. Today, I am introducing a bill which I submitted in the last Congress which is designed to provide some recognition of the tax problems faced by smaller businessmen over the past several decades as the dollar has depreciated in value.

The long-standing Federal income tax provision states that a corporation is taxed at a rate of 22 percent on the first $25,000 of its taxable income and at a 48 percent rate thereafter. This provision, the corporate income surtax exemption, enacted in 1950 to provide benefits equivalent to those granted under the previous tax law is now hopelessly out of date. The small businessman is caught in a squeeze, not only by the rising cost of living, up almost 70 percent since 1950, but also by the rising cost for capital investments which has doubled, as measured by the implicit price deflator for prices of capital goods. Its purpose—to provide a beneficial rate reduction to cut the small businessman's tax liability and spur growth through internal capital formation—is no longer effective. The value of the dollar has diminished so greatly that those businessmen who rely heavily on retained earnings for capital are severely restricted from growth as soon as their taxable income reaches $25,000. My bill would raise the exemption to $100,000 to reflect these changed circumstances and thus to give small businessmen a decent chance at financial survival and success.

A principal advantage of raising the surtax exemption is that the effective rate reduction could be achieved without tampering with the normal rate structure through statutory reductions.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 11(d) of the Internal Revenue Code of 1954 (relating to the surtax exemption) is amended by striking out "$25,000" and inserting in lieu thereof "$100,000".

SEC. 2. (a) The following provisions of the Internal Revenue Code of 1954 are amended by striking out "$25,000" and inserting in lieu thereof "$100,000" each place it appears therein:

(1) section 12(7),

(2) section 962(c),

(3) section 1561 (as in effect for taxable years beginning before 1975),

(4) section 1561(a)(1) (as in effect for taxable years beginning after 1974), and

(5) section 1564(a)(1)(A).

(b) The table contained in section 1564 (a)(1) of such Code is amended by striking "4,167" in the column headed "Surtax exemption" and inserting in lieu thereof "16,667".

SEC. 3. The amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. CLARK:

S. 3147. A bill to amend the Occupational Safety and Health Act of 1970 to provide additional assistance to small employers. Referred to the Committee on Labor and Public Welfare.

OSHA—ONSITE CONSULTATIONS FOR SMALL EMPLOYERS

Mr. CLARK. Mr. President, 4 years ago, Congress enacted the Williams-Steiger Occupational Safety and Health Act. Since then, it has sparked considerable controversy, particularly in determining the law's application to small businessmen. Perhaps the greatest problem has been the dilemma of many small businessmen who want to comply with the act but who find it difficult to pierce the voluminous regulations and complex provisions to determine exactly what is expected of them. Since coming to the Senate, I have become increasingly aware of the problems of OSHA for small businessmen.

A recent letter from a lawyer representing one such small businessman in Iowa illustrates the problem. The businessman, who hires one full-time and one part-time employee, wanted to be sure that he was obeying the law and asked his lawyer what OSHA required of him. The lawyer himself was not certain, so he wrote away for further clarification. The response was a copy of the 11 page Iowa law and the 250 page Federal law and regulations. As his letter said:

> Obviously, there is no way that my client is going to be able to go through all that material. Similarly, this client does not have the funds to hire me to make a thorough check of all these OSHA regulations.
>
> My question is this: What safeguards are being made for the small businessman who faces either an astronomical lawyer's fee or the possibility that he might unconsciously and unknowingly violate the standards of OSHA?

The sad fact is that right now few such safeguards exist. It would be helpful to allow Federal personnel to visit the work site, advise employers of any possible violations and give them a chance to correct them before penalizing the employers. But the law as currently drafted and administered virtually prohibits any onsite consultation. Whenever an official from the Department of Labor visits a business under the act, the official is required to note any violations and issue appropriate citations which bring penalties. If the purpose of OSHA is to guarantee safe and healthy work establishments rather than to punish employers, then this blanket prohibition of onsite consultations would seem counterproductive.

A valid point has been raised on behalf of the proposition that the education and enforcement under OSHA should be separated. For example, the Justice Department has the responsibility of enforcing the law against drug abusers, while the Department of Health, Education, and Welfare has the educational responsibility of drug and health programs. Some people argue that Labor Department officials entrusted with the enforcement provisions of OSHA should not be "diverted" by being asked to perform an educational role any more than Justice Department officials should be diverted from criminal enforcement.

One answer to the problem is to provide for onsite consultations through an agency other than the Department of Labor—an agency with the expertise to implement the goals and standards of the act while simultaneously meeting the problems posed to small businessmen. That agency is the Small Business Administration.

For the past 20 years, SBA has actively carried out its congressional mandate to "aid, counsel, assist, and protect—the interests of small business concerns." It also was selected as the agency best suited to help assist the Nation's small businessmen adjust to wide ranging legislation in the areas of rural development, disaster relief, consumer products—and the OSHA Act itself. The experience and performance by SBA under OSHA, combined with its built-in accountability to the needs of small businessmen, uniquely qualify it to administer an on-site consultations program. That is why I am introducing legislation today to authorize SBA on-site consultations for the benefit of small employers.

This bill would provide for on-site consultations to all employers with 50 or fewer employees, but only if the employer requests the visit. It completely divorces this inspection role from the enforcement function which will continue under the Department of Labor. The result: inspections will not entail the issuance of citations or civil penalties. The only exception to this separation involves cases of "imminent danger" where the inspector would bring the matter to the immediate attention of both the employer and the Secretary of Labor. The bill also enables SBA personnel to make recommendations to the employers and the Secretary of Labor regarding the elimination of safety hazards noted during the course of an on-site inspection. The sole purpose of the bill is to provide for consultation visits to insure that the fundamental due process right of notice is accorded to those small businessmen attempting to comply with the law.

Mr. President, this legislation represents a compromise which both labor and business can support enthusiastically. Businessmen have been critical of the absence of any notice provision under the OSHA law since its very inception, and they have long urged that onsite consultations be adopted as the solution to that problem. The AFL-CIO passed a resolution at its national convention last October which stated in part that OSHA "should be amended to—accept any onsite consultative service program for small employers only if it is separately financed and administered by an agency other than the Labor Department." This bill meets that last objection to onsite consultations by leaving the Labor Department's compliance function intact. I urge the Senate to take prompt and affirmative action on the bill.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Occupational Safety and Health Act of 1970 is amended by adding a new subsection as follows:

"(15) The term 'Administrator' means the Administrator of the Small Business Administration."

SEC. 2. Section 21 of the Occupational Safety and Health Act of 1970 is amended by adding a new subsection as follows:

"(d) In order to provide additional assistance to small employers any Administrator may conduct onsite consultations pursuant to the provisions of subsections (b), (c), and (d) of section 28."

SEC. 3. (a) The heading of section 28 of the Occupational Safety and Health Act of 1970 is amended to read as follows:

"ASSISTANCE TO SMALL EMPLOYERS"

(b) Section 28(a) of such Act is amended by inserting "(1)" immediately after the subsection designation, by striking out "(1)" and inserting in lieu thereof "(A)" and by striking out "(2)" and inserting in lieu thereof "(B)".

(c) Subsections (b), (c), and (d) of section 28 of such Act are redesignated as paragraphs (2), (3), and (4), respectively.

SEC. 4. In order to carry out the responsibilities under subsection (d) of section 21 relating to additional assistance to small employers, upon a valid request by any employer with fifty or less employees for consultation and advice at the workplace of any such employer on the interpretation or applicability of standards, the Administrator may visit the workplace for the purpose of affording consultation and advice for such employer. Any such visit shall be limited to the matters specified in the request affecting conditions, structures, machines, apparatus, devices, equipment, or material in the workplace. The Administrator shall evaluate a request by an employer pursuant to this subsection and, if appropriate, may provide for an alternative means of affording consultation and advice other than onsite consultation.

* * * *

"(2) The Administrator may make recommendations regarding the elimination of any hazards disclosed within the scope of the onsite consultation. No visit authorized by this subsection shall be regarded as an inspection or investigation under section 8 of the Act and no citations shall be issued nor shall any civil penalties be proposed by the Administrator upon such visit, except that nothing in this subsection shall affect in any manner any provision of this Act the purpose of which is to eliminate imminent dangers.

"(3) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

"(c)(1) When, in the course of any visit carried on under subsection (b), there is discovered an apparent serious violation (as specified in section 17(k)) of the requirements of section 5, of any standard, rule, or order promulgated pursuant to this Act, the Administrator shall issue written notices to the employer and the Secretary describing with particularity the nature of the violation, and the action which must be taken within a reasonable period of time specified by the Administrator for the abatement of the violation. Within such reasonable period of time specified by the Administrator, the employer shall certify that he has complied with the abatement instructions. Where an employer fails to make the certification required by the preceding sentence within the prescribed period, the Secretary shall, without further notice, conduct an inspection under Section 8 of this Act.

"(2) In the event of a subsequent inspection, the Secretary shall take into consideration any information obtained during the consultation visit of that workplace in determining the nature of an alleged violation and the amount of the penalties to be proposed, if any. The failure of the Administrator to give consultation and advice regarding any specific matter during the consultation visit shall not preclude the issuance of appropriate citations and proposed penalties with respect to that matter."

SEC. 5. Nothing in the amendments made by this Act shall be construed to affect the rights established for the protection of employees in the Occupational Safety and Health Act of 1970.

SEC. 6. The amendments made by this Act shall take effect ninety days following the date of its enactment.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 3149. A bill to authorize appropriations for the saline water program for fiscal year 1975, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. FANNIN) a bill to authorize appropriations for the saline water program for fiscal year 1975, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication accompanying the proposal from the Secretary of the Interior be printed in the RECORD at this point in my remarks.

There being no objection, the communication was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 25, 1974.

Hon. GERALD R. FORD,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill, "To authorize appropriations for the saline water program for fiscal year 1975, and for other purposes."

We recommend that the bill be enacted.

FISCAL YEAR 1975 APPROPRIATION AUTHORIZATION

The legislation under which the saline water research program is conducted, the Saline Water Conversion Act of 1971 (Public Law 92-60; 85 Stat. 159), authorizes "... to be appropriated such sums, to remain available until expended, as may be specified in annual appropriation authorization acts." In order to meet fiscal year 1975 program requirements, we recommend that an appropriation of $3,029,000 be authorized, to be used in the program as set forth below:

Category	*Appropriations*	*Program*
Research	0	$1,600,000
Development	$500,000	566,000
Design, construction, acquisition, modification, operation and maintenance of saline water conversion test beds and test facilities	876,000	1,050,000
Design, construction, acquisition modification, operation and maintenance of saline water conversion modules	588,000	588,000
Administration and coordination	1,065,000	1,065,000
Total	3,029,000	4,869,000

BACKGROUND

Of amounts authorized and appropriated in fiscal year 1973, $1,840,020, remains as planned carryover to fiscal year 1975. Program funds required for fiscal year 1975 total $4,869,020, including the fiscal year 1973 carryover.

Research programs (category 1) will be allocated $1,600,000, which will provide for investigations on processes for desalting seawater (membranes, freezing and pretreatment) and on new processes, basic data and materials.

Development programs (category 2) are budgeted for $566,000, which will be used for membrane and component configuration selection and testing the integrity of high-volume assembly developments in desalting processes through limited pilot plan operations and modifications.

Category 3 programs for the design, construction, acquisition, modification, operation and maintenance of saline water conversion test beds and test facilities are allocated $1,050,000, which will provide the necessary support functions for the operation and maintenance of test facilities supporting development functions. The operating facilities are Wrightsville Beach, North Carolina, Fountain Valley, California, Yuma, Arizona, and Roswell, New Mexico. They will be used for testing in conjunction with the seawater membrane processes, freezing processes, and brackish water membrane processes.

Design, construction, acquisition, modification, and operation and maintenance of saline water conversion modules programs (category 4) totaling $588,000, provide for the remaining 6-months costs of management, operation and maintenance necessary to conduct the operational evaluation of the VTE/MSF modle (Orange County Project).

Administration and coordination (category 5) of the saline water program will total $1,065,000, for a staff of 26 persons to carry out the program's activities and to supervise the closing of facilities.

ENVIRONMENT EFFECTS

The environmental impact of the program that will be carried out under this Act during fiscal year 1975 is described in the enclosed environmental statement dated February 12, 1973. Should future actions under this program involve significant environment effects not previously covered by an environmental impact statement prepared under Section 102(2)(C) of the National Environmental Policy Act of 1969, such a statement will be prepared and circulated in accordance with the Act's requirements.

The Office of Management and Budget has advised that this proposed legislation is in accord with the program of the President.

JACK HORTON,
Assistant Secretary of the Interior.

By Mr. JACKSON (for himself and Mr FANNIN) (by request):

S. 3150. A bill to authorize energy conservation programs and end use rationing of fuels, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. FANNIN) a bill to authorize energy conservation programs and end use rationing of fuels and for other purposes, which may be cited as the "Special Energy Act."

Mr. President, this draft legislation was submitted and recommended by the Federal Energy Office, and I ask unanimous consent that the executive communication and the factsheet accompanying the proposal from the Administrator of that office be printed in the RECORD at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Federal Energy Office,
Washington, D.C., March 11, 1974.
The Honorable Gerald Ford,
President, U.S. Senate,
Washington, D.C.

Dear Mr. President: There is transmitted herewith a proposed bill to authorize energy conservation programs and end use rationing of fuel.

We recommend that this bill, the "Special Energy Act" be referred to the appropriate committee for consideration and we recommend that it be enacted.

This bill is designed to authorize a program for rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, and any refined petroleum product. The bill also authorizes the President to take appropriate energy conservation actions. In addition, the President may make grants to states to carry out the authorities of the act.

On March 6, 1974, the President returned to the Senate without his approval, the Energy Emergency Act. In his message to the Senate, the President noted the need for authority to require energy conservation measures and to establish a rationing program if, and only if, rationing would become a necessity.

This bill does not mandate rationing, but only gives the needed authority to implement rationing when all other practical measures prove inadequate. The bill requires that the President provide the end-user with procedures enabling the end-user to petition for a review or modification of any determination made under the program.

In addition, the President is granted the authority to take appropriate energy conservation actions that will result in reduction of energy use. These actions may include transportation controls and reasonable restriction on public and private use of energy.

The President stressed the importance of these authorities in his energy message to Congress on January 23, 1974.

The bill also recognizes the need for Federal, state and local cooperation in managing the energy problem. In addition to the grant authority mentioned above, the bill authorizes the delegation of authority to states and local officials or boards for exercising authorities and carrying out programs relative to the implementation and enforcement of the Petroleum Allocation Act of 1973 and this Act.

It is contemplated that the responsibility for administering the programs under this act would be delegated to the Federal Energy Office.

The Office of Management and Budget advises that enactment of this legislation would be in accord with the President's program.

Sincerely yours,
William E. Simon, *Administrator.*

Enclosure.

Fact Sheet—Special Energy Act

BACKGROUND

On November 7, 1973, the President indicated that additional authority was needed for such measures as rationing and mandatory energy conservation programs to meet the energy emergency.

The Emergency Energy Act which was passed by the Congress on February 26 would have provided the necessary authority, but the bill was encumbered by a number of extraneous and undesirable provisions resulting in a necessity for the President to veto the bill.

During the President's veto message he announced that he would seek those authorities necessary to deal expeditiously with energy problems.

The President is now asking the Congress to enact a bill the "Special Energy Act."

THE PROBLEM TO BE SOLVED

Statutory authority available to the Executive Branch is not adequate to permit implementation of rationing should it be necessary.

Statutory authority is not sufficient to institute conservation actions.

Statutory authority is needed to provide grants to states and local governments to meet the energy challenge.

WHAT THE BILL WOULD DO

Amend the Emergency Petroleum Allocation Act to provide the authority for the establishment of a program for the rationing and ordering of priorities among classes of end-users if the President finds that all other methods to limit energy demand are inadequate.

Permit dissatisfied consumers to petition for review and reclassification or modification of any determination made under this Act.

Authorize the President to take appropriate actions designed to result in a reduction of energy consumption to a level consistent with available energy resources. Such actions may include:

Transportation controls (including reduction of speed limits)

Limitations on energy consumption

Authorize the President to make grants to the states to carry out any programs which they shall establish in managing the energy problem.

By Mr. JACKSON (for himself, Mr. Magnuson, Mr. Fannin, and Mr. Cotton) (by request):

S. 3151. A bill to authorize coordination of acquisition and analysis of energy information, to provide for the acquisition of accurate, timely energy information necessary for the formulation of public policy, and for other purposes. Referred to the Committees on Commerce and Interior and Insular Affairs, jointly, by unanimous consent.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself, the senior Senator from Washington (Mr. Magnuson), the Senator from Arizona (Mr. Fannin), and the Senator from New Hampshire (Mr. Cotton) a bill to authorize coordination of acquisition and analysis of energy information, to provide for the acquisition of accurate, timely energy information for the formulation of public policy, and for other purposes, which may be cited as the "Energy Information Disclosure Act of 1974," and is referred jointly to the Committees on Commerce and Interior and Insular Affairs.

Mr. President, this draft legislation was submitted and recommended by the Federal Energy Office, and I ask unanimous consent that the executive communication accompanying the proposal from the Administrator of that office be printed in the Record at this point in my remarks.

There being no objection, the communication was ordered to be printed in the Record, as follows:

Federal Energy Office,
Washington, D.C., February 22, 1974.
Hon. Gerald R. Ford,
President of the Senate,
Washington, D.C.

Dear Mr. President: In accordance with the President's Energy Messages of January 23, 1974, there is transmitted herewith a proposed bill "to authorize coordination of acquisition and analysis of energy information, to provide for the acquisition of accurate, timely energy information for the formulation of public policy, and for other purposes."

This proposed "Energy Information Disclosure Act of 1974" would provide Federal authority to acquire, on a mandatory basis, energy information from all relevant industries. The bill would authorize the collection, verification and reporting of data on energy resources, reserves, production, inventories and consumption. In addition, costs, prices, capital investment, industry structure, and other energy-related data could be obtained under this proposal.

In his message of January 23, the President directed that the Federal Energy Office establish an Energy Information Center, to serve as the focal point of energy data collection, coordination and dissemination. The energy information acquisition, analysis and dissemination functions of this proposed bill will be conducted by the Center, which will be transferred to the Federal Energy Administration when it becomes established by legislation. In the interim, the Center will be managed and staffed within the Federal Energy Office.

The bill would also provide a means where to the greatest practicable extent, energy information will be disseminated to the public. The exceptions to the general rule of public access to energy information are purposely narrow, recognizing that for personal privacy, national security and competitive purposes some energy information must remain confidential.

Two of the most significant facets of the energy information acquisition program to be authorized by this bill are public confidence in the integrity of the methods by which energy information is developed, and the effects upon competition that disclosure of certain energy information would present. To address these matters, under the authority provided by this legislation we intend to establish an interagency competition review board and an advisory committee on energy information.

The review board would be composed of representatives of the Attorney General, the Federal Trade Commission, and the Federal Energy Office. The board would provide advice upon the potential anticompetitive effects that disclosure of certain energy information might present.

In addition, we would also establish an advisory committee composed of qualified individuals who would assess the objectivity of the methodology by which energy information is acquired and tabulated. Reports made by the advisory committee on this subject would be available to the public.

Only by combining mandatory reporting authorities and a method for validation in a timely manner can the Federal government deal effectively with our energy problems in the months and years ahead.

The Office has been advised by the Office of Management and Budget that enactment of the proposed legislation would be in accord with the program of the President.

Sincerely,
William E. Simon, *Administrator.*

Mr. JACKSON. Mr. President, I ask unanimous consent that the bill be referred jointly to the Committee on Commerce and the Committee on Interior and Insular Affairs.

The PRESIDING OFFICER. The bill will be received and, without objection, in accordance with the request of the Senator from Washington, the bill will be referred to the Committee on Commerce and the Committee on Interior and Insular Affairs.

By Mr. KENNEDY:

S. 3152. A bill to amend title 10, United States Code, to remove the restriction on the use of certain private institutions under the dependents' medical care program, and for other purposes. Referred to the Committee on Armed Services.

Mr. KENNEDY. Mr. President, the bill I am introducing today would permit proper medical care to be made available to mentally retarded or physically handicapped dependents of active duty members of the armed services, and it will remove unnecessary burdens which have affected all too many widows of Vietnam war-dead.

This measure, which is identical to H.R. 2703, introduced by Congressman Leggett of California, removes the existing restriction on the use of private facilities which are not nonprofit institutions.

Although the congressional intention to assure adequate medical care to handicapped dependents was evident in the passage of Public Law 89–614 in 1966, the lack of adequate numbers of nonprofit institutions has prevented the goal from being achieved.

Because of this situation, I joined Congressman Leggett in the past in introducing legislation similar to the measure being submitted today.

Since that time, there has been continuing documentation provided by the Department of Defense of the hardship that families with handicapped and retarded children are forced to bear because of the lack of adequate numbers of nonprofit institutions.

In the most recent comment on this matter, the Department of Defense, in a letter to House Armed Services Chairman F. Edward Hébert, stated:

> We have concluded that the ban on the use of private profit institutions is unduly restrictive.

The letter cited three specific reasons, which I would like to quote at this time:

> (1) the "advance approval" concept under which our program now operates affords us ample opportunity to exclude from participation those private profit institutions not offering quality care or which have unreasonable charges.
>
> (2) The provisions of 10 U.S.C. 1079(f) already exclude the use of any private institutions when public facilities are adequate and available.
>
> (3) If in a given area (or for a particular type of care) the only available institution is a private one operated for profit and such an institution provides care of an acceptable quality at a reasonable cost, there is no logical reason why such an institution should not be used.

I believe that this measure is thoroughly supported by the available evidence and is not expected to result in increased budgetary requirements, according to the Department of Defense.

There is a second provision to the measure which I would call to the attention of my colleagues.

Under current law, if a wife of a combat duty serviceman is pregnant, his death will result in a sharp increase in the share of medical expenses that she must pay. This provision, which also is supported by the Defense Department would permit those widows to continue to receive health care services at the costs they would have been entitled to had their husbands not been killed. This provision will be retroactive to January 1, 1967. Clearly, it is in the interest of the military and of the Nation for this measure to become law. I am only saddened that we have allowed this current law to remain unmodified to the present.

Mr. President, the House of Representatives, from the attached letter from Chairman Hébert to Congressman Leggett is willing to move on this measure at once if the Senate acts. I would hope that we could have expeditious consideration of this measure and see its early adoption.

I ask unanimous consent to have printed in the Record correspondence along with a copy of the legislation.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 3152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 55 of title 10, United States Code, is amended as follows:

(1) by striking out the word "nonprofit" in section 1079(d)(4).

(2) by adding the following new section at the end thereof:

"§ 1089. Cost-sharing for certain dependents

"Notwithstanding any other provisions of this chapter, when a member dies while he is eligible for the receipt of hostile fire pay under section 310 of title 37, United States Code, or from illness or injury incurred while eligible for such pay, and it is determined under joint regulations to be prescribed by the Secretary of Defense and the Secretary of Health, Education, and Welfare that his wife is pregnant, she may be provided care for that pregnancy under this chapter on the same basis prescribed for the dependents of members who are on active duty."

(3) the analysis is amended by inserting the following item:

"1089. Cost-sharing for certain dependents".

Sec. 2. The amendments made by this Act shall be effective on the date of enactment, except that clause (2) of section 1, shall be effective as of January 1, 1967.

Committee on Armed Services,
Washington, D.C., November 27, 1973.

Hon. Robert L. Leggett,
House of Representatives,
Washington, D.C.

Dear Mr. Leggett: I have reference to your recent letter in which you urged early Subcommittee hearings on your bill, H.R. 2703, to amend title 10, United States Code, to remove the restriction on the use of certain private institutions under the dependents' medical care program, and for other purposes. You point out that the Executive Branch has indicated its support of the proposal and, therefore, you urge its early passage by the House.

I am, as you are aware, most sympathetic to the need for expeditious action on legislation of this kind. However, as you are also aware, legislation almost identical in nature (H.R. 1409) was previously acted upon favorably by this Committee and passed the House on July 19, 1971, but failed to obtain a hearing in the Senate. This type of inaction by the Senate had, therefore, prompted me to establish a policy of not considering legislative proposals previously passed by the House but not acted upon by the Senate.

You may rest assured that if our Senate colleagues act on this legislative proposal, this Committee will expedite its passage in the House.

Sincerely,

F. Edw. Hébert,
Chairman.

Committee on Armed Services,
Washington, D.C., November 26, 1973.

Hon. Robert L. Leggett,
House of Representatives,
Washington, D.C.

Dear Mr. Leggett: Enclosed is a copy of the report of the Department of Defense on your bill, H.R. 2703.

Sincerely,

F. Edw. Hébert,
Chairman.

General Counsel of the
Department of Defense,
Washington, D.C., November 8, 1973.

Hon. F. Edward Hébert,
Chairman, Committee on Armed Services,
Washington, D.C.

Dear Mr. Chairman: Reference is made to your request for the views of the Department of Defense on H.R. 2703, 93d Congress, a bill "To amend title 10, United States Code, to remove the restriction on the use of certain private institutions under the dependents' medical care program, and for other purposes.'

The purpose of the bill is to permit, under certain circumstances, the mentally retarded or physically handicapped spouses and children of active duty members of the uniformed services to use "private institutions" operated for profit when obtaining benefits under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) and to correct retroactively certain inequities involving medical care for pregnant wives of active members who die as a result of disease or injuries while in receipt of hostile fire pay.

If enacted, clause (1) of Section 1 of the bill would eliminate the general prohibition on institutional care for eligible dependents in profit-making private facilities. The Military Medical Benefits Amendments of 1971 (P.L. 89–614) authorized, effective January 1, 1967, the establishment of a special financial support program for the spouse or child of an active member of the uniformed services who is moderately or severely mentally retarded or who has a serious physical handicap. Among other benefits, such persons are eligible for the following:

"Institutional care in private nonprofit, public and State institutions and facilities and, when appropriate, transportation to and from such institutions and facilities."

The Department of Defense has considered the bill and the inequities which it seeks to overcome. We have concluded that the ban on the use of private profit institutions is unduly restrictive. Our conclusion rests primarily on the following three points:

1. The "advance approval" concept under which our program now operates affords us ample opportunity to exclude from participation those private profit institutions not offering quality care or which have unreasonable charges.

2. The provisions of 10 U.S.C. 1079(f) already exclude the use of any private institutions when public facilities are adequate and available.

3. If in a given area (or for a particular type of care) the only available institution is a private one operated for profit and such an institution provides care of an acceptable quality at a reasonable cost, there is no logical reason why such an institution should not be used.

Clause (2) of Section 1 of the bill would alleviate an undue burden on a specific class of dependents. Under existing law, a pregnant wife of an active member of the uniformed services may receive care on a space-available basis in a facility of a uniformed service at a cost of $1.75 per day or receive similar care from civilian sources under the aegis of CHAMPUS.

If the care is received under CHAMPUS, the dependent pays $1.75 per day of hospitalization or $25, whichever is greater. Upon the death of the active duty serviceman, his dependent remains eligible for care at the Federal hospital subject to the availability of space, facilities and staff at the previously stated cost rate. However, as of midnight the date the sponsor dies, his dependent who is or will be receiving care under CHAMPUS does so under a different cost-sharing basis. As a result, the surviving dependent wife would pay 25% of the health care costs and the Government 75%. In the case of a complicated pregnancy, the unanticipated additional costs to the surviving wife can be significant. This burden falls on the surviving wife of a deceased member who dies while receiving hostile fire pay at a time that she is least prepared for the unexpected increase in cost.

Section 2 of H.R. 2703 contains a retroactive provision for the cost-sharing amendment dating back to January 1, 1967. Normally, the Department of Defense opposes retroactive measures involving pay. However, in the instant case we support the amendment as being mutually benefiical to all concerned.

In view of the foregoing, the Department of Defense strongly supports the enactment of H.R. 2703.

As a matter of technical comment, it is recommended that page 2, line 2, of H.R. 2703 be amended by striking out "United States Code," to confrom to the style for amending title 10, United States Code.

COST AND BUDGET DATA

The enactment of H.R. 2703 is not expected to result in increased budgetary requirements to the Department of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there would be no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

L. Niederlehner,
Acting General Counsel.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 976

At the request of Mr. McIntyre, the Senator from Idaho (Mr. Church) was added as a cosponsor of S. 976, to amend the Occupational Safety and Health Act of 1970 with respect to small businesses.

S. 1730

At the request of Mr. Ribicoff, the Senator from Texas (Mr. Bentsen) was added as a cosponsor of S. 1730, the physicians community services program.

S. 2385

At the request of Mr. Talmadge, the Senator from South Carolina (Mr. Hollings) was added as a cosponsor of S. 2385, a bill to designate the Chattooga River in the States of North Carolina, South Carolina, and Georgia, as a component of the National Wild and Scenic Rivers System, and for other purposes.

S. 2510

Mr. CHILES. Mr. President, due to the rapid progress made by S. 2510, to create an Office of Federal Procurement Policy, in being passed by the Senate on March 1, several Senators who wished to support the legislation did not have the opportunity to be added as cosponsors.

I ask unanimous consent that the Senator from Washington (Mr. Jackson), the Senator from California (Mr. Tunney), the Senator from Alaska (Mr. Stevens), and the Senator from Wyoming (Mr. McGee) be added as cosponsors of S. 2510, to create an Office of Federal Procurement Policy in the Executive Office of the President, and for other purposes, and that the permanent record be corrected to add these names at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2658

At the request of Mr. Moss, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 2658, a bill to provide for the early commercial demonstration of the technology of solar heating by the National Aeronautics and Space Administration and the Department of Housing and Urban Development, in cooperation with other Federal agencies, and for the early development and commercial demonstration of technology for combined solar heating and cooling.

S. 2801

At the request of Mr. Proxmire, the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of S. 2801, a bill to amend the Food, Drug, and Cosmetic Act and for other purposes.

S. 2880

At the request of Mr. McGovern, the Senator from Wyoming (Mr. McGee) was added as a cosponsor of S. 2880, to amend the Agriculture and Consumer Protection Act of 1973 to provide additional incentives for farmers to produce wheat, feed grains, and cotton, and for other purposes.

S. 3006

At the request of Mr. Proxmire, the Senator from Vermont (Mr. Stafford) was added as a cosponsor to S. 3006, the Fiscal Note Act.

S. 3024

At the request of Mr. Ribicoff, the Senator from Massachusetts (Mr. Brooke) was added as a cosponsor of S. 3024, the Energy Crisis Unemployment Benefits Act.

S. 3069

At the request of Mr. Ribicoff, the Senator from Oregon (Mr. Packwood) was added as a cosponsor of S. 3069, to extend benefits under the supplemental security income program.

S. 3079

At the request of Mr. Thurmond, the Senator from North Carolina (Mr. Helms) was added as a cosponsor of S. 3079, to reinstate November 11 as National Veterans Day.

S. 3098

At the request of Mr. Dole, the Senator from Rhode Island (Mr. Pell) was added as a cosponsor of S. 3098, to amend the Emergency Petroleum Allocation Act of 1973 to provide for the mandatory allocation of plastic feedstocks.

SENATE JOINT RESOLUTION 189

At the request of Mr. Harry F. Byrd, Jr., the Senator from North Carolina (Mr. Helms) was added as a cosponsor of Senate Joint Resolution 189, to restore posthumously all citizen rights to Gen. R. E. Lee.

SENATE RESOLUTION 297—SUBMISSION OF A RESOLUTION RELATING TO CERTAIN ACTIVITIES OF THE EXPORT-IMPORT BANK

(Referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. DOMINICK (for himself, Mr. Jackson, Mr. Brock, Mr. Ribicoff, Mr. Domenici, Mr. Williams, Mr. Buckley and Mr. Helms) submitted the following resolution:

S. Res. 297

Resolved, That it is the sense of the Senate that, during the period pending consideration and action by the Senate upon the bill H.R. 10710, as introduced in the first session of this Congress, cited as the "Trade Reform Act of 1973", and as amended and passed by the House, no loan, guarantee, insurance, or credit shall be extended by the Export-Import Bank of the United States to any nonmarket economy country (other than any such country whose products are eligible for column 1 tariff treatment on the date of the enactment of this resolution), and no such country shall participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly.

Mr. DOMINICK. Mr. President, today I am submitting a sense of the Senate resolution attempting to insure that the U.S. Export-Import Bank—Exim—not grant any further credit to the Soviet Union until the Senate has had the opportunity to consider and act on the Trade Reform Act of 1973.

By adopting the Mills-Vanik amendment to the Trade Reform Act, the House of Representatives voted to forbid Government-backed trade credits to any nation which denied its nationals the right to free emigration; the amendment was aimed primarily at the Soviet Union. Seventy-six Members of the Senate, including myself, cosponsored a similar amendment introduced by Senator Jackson.

Despite this clear statement of congressional will, Exim has continued to process loans to the Soviet Union. Exim has approved $128.8 million in loans to the Soviet Union since the House passed the Mills-Vanik amendment on December 11, bring Exim's total loans to the U.S.S.R. to $248,256,000. Pending Soviet credit applications at Exim now total $221,085,000 for four projects. In addition, there are pending applications for preliminary commitments for $54 million, including an application for $49.5 million for the beginning of the exploration of gas reserves in eastern Siberia.

Thus, granted loans, promised loans, and requests by the Soviets now run over half a billion dollars in credit backed by the American taxpayer. The $128.8 million approved in the past 2 months suggests Exim is racing to approve as many loans as possible before the Senate can consider the Trade Reform Act and before the requirements of the Mills-Vanik-Jackson amendments become law.

We in the Senate are shortly to consider the Trade Reform Act. This resolution asks only that before processing additional loans to the Soviets, the Bank await the final expression of congressional will on this issue.

This resolution will not have the binding force of law. At present, however, Exim appears to be ignoring congressional rights in its determination to lend as much money to the Soviets as it can regardless of the will of Congress. I hope this resolution will serve as a forceful reminder that the Congress of the United States controls the future and programs of the Eximbank and has a legitimate role to play in determining American trade policy. I think it is incumbent upon us to remind the Bank that it is an agency of the U.S. Government and as such is expected to carry out the policies made by the duly-elected legislative branch of our Government.

Mr. President, in addition to the issue of the flouting of congressional authority and stated intent, there are several other issues which need to be addressed at this time concerning loans to the Soviet Union. Restrictive and repressive Soviet emigration practices, the increasing evidence of Soviet persecution of scientists and intellectuals with the attendant denial of the most basic human rights, the Soviet role in the Middle East war and in the Arab oil embargo, and the effect our credit and technology in domestic fields will have on Soviet military strength and the balance of military power in the world all deserve careful attention.

In regard to the Soviet application for a $49.5 million loan for the exploration of gasfields in eastern Siberia, it seems to me we should ask to what extent we think we could ever rely upon the Soviet Union to fulfill its commitments without using oil and gas as a political weapon. I think we must also ask if we could not much more wisely spend such money for energy exploration and development at home.

Mr. President, this resolution is a temporary measure to stop the unilateral action of Exim in granting loans to the Soviet Union until the Congress has worked its will in the matter. Once the Senate has acted upon the Trade Reform Act of 1973, this resolution would no longer be in effect. A majority of the House has cosponsored an identical sense of the House resolution sponsored by Representatives ICHORD, ASPIN, and DENT.

I believe the resolution merits speedy consideration by the Senate.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1974—AMENDMENTS

AMENDMENT NO. 1011

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY submitted an amendment intended to be proposed by him to the bill (S. 3044) to amend the Federal Election Campaign Act of 1971 to provide for public financing of primary and general election campaigns for Federal elective office, and to amend certain other provisions of law relating to the financing and conduct of such campaigns.

AMENDMENT NO. 1012

(Ordered to be printed, and to lie on the table.)

Mr. FANNIN. Mr. President, the committee bill S. 3044 is described by its sponsors as a comprehensive Federal Election Campaign Act. Yet, the bill at no place seeks to provide any limitation upon the campaign contributions in either cash or services by organized labor unions. In subsequent speeches I shall document the charge that unions have become the largest and most influential force in politics today. Mr. George Meany has demanded that his political organization produce a "veto proof" Congress this November.

Mr. President, the essence of my amendment, which the Senator from Texas (Mr. TOWER) has joined me as a cosponsor, is "voluntarism." Labor unions and nonprofit corporations do not lose their tax-exempt status unless they use money, which they receive from compulsory dues, in political campaigns.

The amendment then proceeds to enumerate five things they cannot do without losing their tax-exempt statutes. Paragraphs numbered 1 and 2 are directed primarily at the so-called hard money contributions. Paragraphs numbered 3, 4, and 5 are directed primarily at the so-called soft money services contributed.

Mr. President, our amendment would not destroy COPE or any similar, activity or organization that presently exists or may be created by the Chamber of Commerce or the National Association of Manufacturers, or similar organizations. It is only where the activity is financed by compulsory produced money that their tax-exempt status would be endangered.

Mr. President, when I have sponsored similar bills or amendments in the past, I have called it the "untouchable tax loophole." If we are to have a comprehensive Election Campaign Act, the largest tax loophole cannot be left untouched.

Mr. TOWER. Mr. President, I commend Senator FANNIN for again bringing to the attention of the Senate one of the major abuses in our political system. Unless the power of organized labor to influence our political system is curbed, true campaign reform will never be achieved. Yet, the bill fails to directly deal with this major problem and the committee report which outlines the need for basic campaign reform is silent on the subject. I am pleased, therefore, to be in addition to Senator FANNIN, the major sponsor of this amendment.

The amendment would treat all section 501 tax exempt organizations and trusts equally. Any one of these organizations would be denied tax exempt status if they actively engaged in the listed activities, such as publicly supporting or opposing candidates or parties for election to office and carrying on voter registration drives, by using fees or dues that are received by the organization as a condition of employment.

Mr. President, I will find it difficult to support S. 3044 whether or not the public financing title is retained, deleted or modified, if the kind of reform envisioned by the Fannin-Tower amendment is not made part of the Senate bill. How can we truly say we have passed campaign reform legislation if we do not call a halt to organized labor's use of "soft money" which, in effect, in many campaigns is more influential than direct cash contributions.

It is, therefore, very important that the Senate consider this amendment. It serves to bring the attention of the American people whether the Senate will allow to be considered all of the campaign abuses recently witnessed, or just some of them.

Mr. President, the chairman of the Republican National Committee, recently delivered an address to the Young Republican Leadership Conference in which he very thoroughly described the kind of campaign abuse that this amendment attempts to redress. I ask unanimous consent that excerpts from this address be printed in the RECORD at this point.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM A SPEECH BY REPUBLICAN NATIONAL COMMITTEE CHAIRMAN GEORGE BUSH BEFORE THE YOUNG REPUBLICAN LEADERSHIP CONFERENCE, FEBRUARY 28, 1974

Have you heard of "soft money"?

Most Americans haven't. But it's a well-known term to the leaders within organized labor who run the unions' political operations. Some of these leaders, not all, have intervened in recent elections with massive power that may not be legal.

Federal laws for decades have barred unions from using funds from their treasuries to contribute "anything of value" to candidates for federal office. Such direct contributions must come from voluntary donations coaxed from union members. I won't speculate today on how some of this coaxing is done.

But, the federal laws do permit a union to spend its dues money politicking for partisan candidates if that politicking is directed at the union's members and their families.

Money spent in this fashion is called "education money" or "soft money".

And, now, we're beginning to see evidence that some of this "soft money" may be being used for purposes the framers of the federal laws hadn't intended at all.

The Wall Street Journal on January 29 in a major front page story, reported in detail on a lawsuit brought by dissident members of the International Association of Machinists who wanted the court to bar use of dues money for any political activity. As a result of the suit, the union was forced to release thousands of documents which the Wall Street Journal said provided a "rare glimpse into the inner workings of one of the AFL–CIO's largest (800,000 members) and most politically active unions . . .".

The Journal story stated that "the documents indicate that direct gifts are often overshadowed by various services provided free of charge to favored candidates under the guise of 'political education' for union members". The Journal added that "the direct aid includes some of labor's most potent political weapons: assignment of paid staff members to candidates' campaigns, use of union computers, (and) mobilization of get-out-the-vote drives".

The story also states that "few, if any, campaign committees for machinist-backed candidates listed indirect aid from dues money as contributions".

Here are a couple of examples of this "indirect" help revealed in the internal union documents brought out in courts and reported by the Journal:

Ralph Yarborough, who ran unsuccessfully for the Democratic nomination for Senate in Texas in 1970, was listed in filed reports as having received $8,950 from the machinists union. An internal document brought out in court suggests he got other help worth at least $10,680 more.

Democrat John Gilligan received $15,200 from the League, official reports show, when he unsuccessfully ran for Senate from Ohio in 1968. The court-subpoenaed documents show the union indirectly provided help worth $15,500 more.

Maybe—as the Journal quoted one unnamed labor political strategist—"the problem is that the machinists put too much in writing".

We saw some of the same thing in the special election in Pennsylvania's 12th Congressional District on February 5. Certain labor unions sent in what observers said—and which the press reported—was unprecedented amounts of money and manpower to campaign for the Democratic candidates.

Some unions took a block of 15 rooms at the Sheraton Inn in Johnstown, Pennsylvania, from which an extensive campaign was conducted. In addition, we heard another eight rooms were rented through election day—all the rents prepaid—so anyone staying in these rooms didn't have to register.

As Jack W. Germond of the Washington Star News reported: "The corridors and watering spots of the Sheraton Inn here swarm with union professionals working to turn out the lobor vote . . . for Jack Murtha." Murtha was the Democrat candidate.

There is nothing illegal per se about that. But a couple of things have come to my attention which raises a question of how some of the unions' "soft money" was used in the Pennsylvania election.

At least two mailers—there may have been more—for Murtha went out by the Pennsylvania AFL–CIO COPE organization under its "non-profit organization" bulk postage permit. This meant each piece cost only 1.7 cents to mail, as against 4.6 cents if a regular bulk mailing permit had been used. We at the RNC by law must use the regular 4.6 cent rate.

My question: Who received these mailings from this "non-profit organization"? Was it a proper use of union money? And, who paid for the computer labels for the mailings?

Another example: The Pennsylvania Political Action Committee for Education sent a mailing to "active and retired educators". Included was a petition in which the recipient was asked to "write down the names (non educators) of 10 immediately family, relatives, neighbors, and personal friends". Then, the recipient was instructed to personally call them and ask them to vote for the Democratic candidate. The names were to be put on the petition form and returned to the union's office in Johnstown where—the form stated—"This information will be used on election day to get out all votes supporting Jack Murtha."

My question: What education union funds would be used to get out the vote of the "non educators"—those active or retired educators listed as members of his immediate family, relatives, neighbors or personal friends who planned to vote for Murtha? Was "soft money" used here? Will the reports finally filed show what money was used to get out this vote?

We must have an investigation of union practices in election campaigns. Certain labor unions from outside the district swarmed into Pennsylvania. They showed a lot of muscle. I am told they went en masse to the Michigan District—one reporter is said to have counted 300 phones in union halls, all actively manned, and now these same unions have swept into Cincinnati.

Fortunately, the working man doesn't play "follow the leader" as much now. Fortunately some unions don't go along with this blind one-party support. In Pennsylvania, though outregistered by 7000 votes, our candidate is said to have picked up a lot of votes from union members.

What is needed is an in-depth across-the-board investigation of the campaign spending practices of some of the big labor spenders. Alexander Barkan at COPE should be the lead-off witness. COPE is really a political arm of the Democratic Party.

We at the RNC do not have the resources to do all the investigation work necessary. We'll do our part, but a broad investigation by press or Senate Committee should be done.

We will watch the financial filings in these districts very carefully. The American people have a right to know how the out-of-district union activity works. Whether any union dues go into these elections. Whether union officials paid directly by dues spend their time on campaigns. How the candidates report these direct inputs of money. More important, how and whether they report the massive influx of "soft money".

How a union reports an expenditure on polls that relate directly to a campaign or to electing candidates of one party or defeating candidates of another. How the mail rates are used. Do "low rate" mailings urging the election or defeat of candidates go to others than the union members.

Surely with all the investigations going on someone can help get the facts out on what everyone who has been to these districts recognizes is a major over-use of out-of-district big labor muscle.

If no investigation is forthcoming maybe you here could form a public service election watch to monitor the elections now or in the fall—interviewing the canvassers, getting the facts on how many come from outside the district, inquiring about use of the mails and polling.

It is a project that could make a real contribution towards opening up the election process.

AMENDMENTS NOS. 1013 AND 1014

(Ordered to be printed and to lie on the table.)

Mr. CLARK submitted two amendments intended to be proposed by him to the bill (S. 3044), supra.

MANDATORY IMPOSITION OF THE SENTENCE OF DEATH—AMENDMENTS

AMENDMENTS NOS. 1015 AND 1016

(Ordered to be printed, and to lie on the table.)

Mr. KENNEDY. Mr. President, tomorrow the death penalty bill, S. 1401, will come before the Senate. Although I plan to vote against S. 1401, because I am opposed to the death penalty, I plan to offer the following amendments in the hope of diminishing the possibility of error and, thereby, reducing the likelihood that an innocent person would be executed.

One of my amendments would require that the aggravating factors enumerated in sections (g) and (h) of the bill be proven beyond a reasonable doubt rather than by a preponderance of the evidence as the bill provides. Another would provide for a directive that the words used in section (f) to describe the mitigating factors be "liberally construed." I believe that both of these amendments would serve to diminish the possibility of error in view of the finality of the death penalty.

A third amendment would provide for an additional mitigating factor which, subject to the consent of the Attorney General, would preclude imposition of the death penalty if, after killing one or more individuals, the defendant released the remaining hostages being held by him. This provision would allow law enforcement officials in appropriate cases, to offer a guarantee to the defendant that he would not get the death penalty if he released his hostages. At a time when we are confronted almost daily with kidnapings, skyjackings, and other crimes involving hostages. I believe that this amendment would provide law enforcement officials with an indispensable tool with which to save lives.

I ask unanimous consent that the amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

S. 1401

AMENDMENT No. 1015

On page 14, line 3, immediately after "(f)", insert "(1)".

On page 14, line 7, strike out "(1)" and insert "(A)".

On page 14, line 8, strike out "(2)" and insert "(B)".

On page 14, line 12, strike out "(3)" and insert "(C)".

On page 14, line 15, strike out "(4)" and insert "(D)".

On page 14, line 20, strike out "(5)" and insert "(E)".

On page 14, between lines 24 and 25, insert the following:

"(2) (A) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in subsection (d) that the action resulting in the offense for which the defendant was convicted involved the holding or detaining by the defendant of one or more individuals as hostage or otherwise and that, on the basis of an assurance given to him by the Attorney General or his delegate to the effect that the release of any and all such individual or individuals then held or otherwise detained would be considered a mitigating factor for purposes of this subsection, the defendant thereafter released, any and all such individual or individuals on the basis of that assurance.

"(B) In any sentencing hearing involving a defendant who received an assurance in accordance with the provisions of subparagraph (A) of this paragraph and who, on the basis thereof, released any and all individual or individuals held or detained by him at the time such assurance was given, the Attorney General shall certify that information to the court conducting such hearing and such certification shall be deemed a mitigating factor for purposes of this subsection.".

AMENDMENT No. 1016

On page 13, beginning with line 17, strike out all through line 2 on page 14 and insert in lieu thereof the following:

"(e) If the jury or, if there is no jury, the court finds, beyond a reasonable doubt, that one or more of the applicable aggravating factors set forth in subsection (g) or (h) exists, the court shall sentence the defendant to death, except that if such jury or court, as the case may be, finds by a preponderance of the information that one or more of the mitigating factors set forth in subsection (f) exists, the court shall not sentence the defendant to death but shall impose any other sentence provided for the offense for which the defendant was convicted.".

On page 14, line 3, immediately after "(f)", insert "(1)".

On page 14, line 7, strike out "(1)" and insert "(A)".

On page 14, line 8, strike out "(2)" and insert "(B)".

On page 14, line 12, strike out "(3)" and insert "(C)".

On page 14, line 15, strike out "(4)" and insert "(D)".

On page 14, line 20, strike out "(5)" and insert "(E)".

On page 14, between lines 24 and 25, insert the following:

"(2) For purposes of determining the existence of mitigating factors under this section, the provisions of this section relating thereto shall be liberally construed."

FEDERAL ACT TO CONTROL EXPENDITURES AND ESTABLISH NATIONAL PRIORITIES—AMENDMENT

AMENDMENT NO. 1017

(Ordered to be printed, and to lie on the table.)

Mr. CHILES. Mr. President, I introduced this open meetings amendment to S. 1541, the budget reform bill, over a week ago. It has, however, never appeared in the CONGRESSIONAL RECORD, so I am again introducing it today in order that it may be printed before the Senate considers this bill.

I ask unanimous consent that the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1017

On page 107, after line 19, insert the following:

(d) Each meeting of the Committee on the Budget of the Senate, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee or subcommittee, as the case may be, determines by record vote of a majority of the members of the committee or subcommittee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt of obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees, or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

(e) Paragraph 7(b) of rule XXV of the Standing Rules of the Senate and section 133A(b) of the Legislative Reorganization Act of 1946 shall not apply to the Committee on the Budget of the Senate.

NOTICE OF HEARINGS ON S. 2871

Mr. ALLEN. Mr. President, the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture and Forestry will hold hearings March 27 and 28 on S. 2871, to continue the commodity distribution program after June 30. The hearing March 27 will begin at 10 a.m. and the hearing March 28 at 9 a.m. Both hearings will be in room 324, Russell Office Building. Anyone wishing to testify should contact the committee clerk as soon as possible.

NOTICE OF HEARINGS ON THE CONVERSION OF SAVINGS AND LOAN ASSOCIATIONS TO STOCK FORM

Mr. McINTYRE. Mr. President, as chairman of the Subcommittee on Financial Institutions of the Senate Banking, Housing and Urban Affairs Committee, I would like to announce that hearings will commence on April 8, 1974, at 10 a.m., room 5302, Dirksen Senate Office Building, on the question of conversion of mutual savings and loan associations to stock form. A legislative moratorium on conversions expires on June 30 of this year.

S. 3132 has been introduced by Senators SPARKMAN and TOWER, by request, which would provide legislative authority for the Federal Home Loan Bank Board to allow conversions.

During the committee hearings, testimony will be received on the appropriateness of legislatively providing for conversions and also whether the present moratorium should be extended.

Anyone interested in testifying should contact Mr. T. J. Oden, room 5300, Dirksen Senate Office Building, telephone number 225–7391.

NOTICE OF OVERSIGHT HEARINGS ON LONG ISLAND SOUND

Mr. RIBICOFF. Mr. President, the Subcommittee on Reorganization, Research and International Organizations of the Committee on Government Operations will hold oversight hearings on the subject of the New England River Basins Commission's Long Island Sound study. The hearings will be held in the municipal office building in Stamford, Conn., at 10 a.m. on March 18.

HEARING ANNOUNCEMENT RELATING TO THE COLORADO RIVER

Mr. JACKSON. Mr. President, I wish to announce a hearing by the Public Lands Subcommittee of the Interior and Insular Affairs Committee on S. 449, a bill to amend the Wild and Scenic Rivers Act of 1968 (82 Stat. 906) by designating a portion of the Colorado River, Colo., for study as a potential addition to the National Wild and Scenic Rivers System; S. 30, a bill to amend the Wild and Scenic Rivers Act by designating a segment of the Colorado River in the State of Utah as a component of the National Wild and Scenic Rivers System; and S. 2319, a bill to amend the Wild and Scenic Rivers Act by designating segments of certain rivers in the State of Colorado for study as potential components of the National Wild and Scenic Rivers System.

The hearing will be held on April 13, 1974 at 12 noon, in room 253, Administration Building, Fort Lewis College, Durango, Colo. Those who wish to testify or submit a statement for inclusion in the hearing record should contact Steven P. Quarles, special counsel to the committee, at 225–2656.

HEARINGS ON CORPORATE DISCLOSURE TO BEGIN MARCH 21

Mr. METCALF. Mr. President, on behalf of the distinguished chairman of the Intergovernmental Relations Subcommittee (Mr. MUSKIE) and me, I wish to announce that on March 21 the Government Operations Subcommittee on Budgeting, Management, and Expenditures and Subcommittee on Intergovernmental Relations will begin joint oversight hearings regarding the collection and tabulation of corporate information by Federal agencies.

The first phase of these hearings will be conducted on Thursday, March 21; Tuesday, March 26 and Thursday, March, 28. The hearings will be conducted in room 3302, Dirksen Senate Office Building, beginning at 10 a.m. each day. Additional hearings will be scheduled later. Persons wishing to testify, submit statements or obtain additional information may get in touch with the Subcommittee on Budgeting, Management and Expenditures, 225–1474, 161 Russell Senate Office Building or the Subcommittee on Intergovernmental Relations, 225–4718, 357 Russell Senate Office Building.

These hearings follow the publication, in January, of the Government Operations Committee print, "Disclosure of Corporate Ownership." That report was prepared jointly by the two subcommittees, in cooperation with the Congressional Research Service of the Library of Congress, the General Accounting Office and consultants. Copies of this study will be available shortly from the Document Room as Senate Document No. 93–62.

This study showed that ownership of many large corporations is concentrated in a few large banks, which often are not even identified in ownership reports filed with regulatory agencies. One regulatory Commission did not know that banks were in gross violation of its regulations regarding concentration of ownership until the banks themselves told the Commission about it. The study showed that the concentration of stockholdings and voting powers of bank trust departments is increasing within a broad range of companies, and that there is a strong correlation between bank stock holdings in companies and other levers of influence or potential influence over companies—interlocking directorates and control of credit. Senator MUSKIE and I stated in our conclusions:

> Neither companies nor ordinary stockholders have information which they need, to protect their own interests, regarding stock ownership and the personnel and business relationships between portfolio companies and institutional investors, principally banks. The Federal Government does not have sufficient information in these areas upon which to base reasoned public policy. Much of the information collected by Federal agencies regarding stock ownership, displayed in public files and shared with State agencies and the public, is meaningless or misleading despite the clear policy stated in the Federal Reports Act of 1942 that information collected by Federal agencies should be tabulated so as to "maximize the usefulness of the information to other Federal agencies and the public" . . .
>
> Congress and some Federal commissions have on occasion established limits on institutional levels of corporate control, principally regarding stockholders. But neither the Congress, nor the commissions, nor the executive branch can fully evaluate the total effect of concentration—the impact of the several levers of corporate control exercised by banks and other major investors throughout industry groups and the economy as a whole.
>
> Meanwhile, the portfolio companies in which a few banks have substantial influence make many decisions affecting public policy. Oil companies deal with foreign nations regarding oil supply and cost. Pipeline companies deal with the Soviet Union for natural gas. Utilities exercise the right of eminent domain. Milling companies and the Soviet Union arrange grain sales which sharply affect domestic price, supply, transportation, and storage. These are momentous public issues in which Federal officials play a minor role, much of it after basic decisions have been agreed upon by American companies and foreign governments. . ."
>
> Whatever solutions the Federal Government chooses to the mounting problems resulting from economic concentration, the prerequisite is the regular collection and disclosure of information from institutional investors on stock holdings and the personnel and business relationships between institutional investors and portfolio companies.
>
> Equally important, the information must be centrally available to the Federal Government and the public, at one location, most appropriately the Library of Congress. Such information, insofar as it is now reported, is scattered among three Federal banking agencies, 50 State insurance commissions, the SEC (for investment companies), various other Federal and State regulatory commissions, and the files of hundreds of universities, foundations, and funds.

We emphasized that much can be done toward improving corporate reporting without new legislation. Congress long ago provided the independent, Federal regulatory commissions with strong, broad authority, including sanctions and subpena power, to enable them to collect information that they need. The Office of Management and Budget has been directed by Congress in various statutes to plan and promote the improvement, development, and coordination of Federal management informations systems, to help agency heads develop consistent accounting classifications and, with the Comptroller General and the Secretary of the Treasury, conduct a continuous program for the improvement of accounting and financial reporting in the Federal Government.

But Government's efforts to provide information have not been equal to others' efforts to hide it.

The Federal Reports Act of 1942 gave the Bureau of the Budget—now Office of Management and Budget—responsibility for coordinating the collection of information from business firms by Federal agencies. Since passage of that act there have been many hearings dealing with its provision for minimizing the burden upon business enterprises which are required to report to Federal agencies. These hearings have often dealt with the problems of small businessmen. They along with the public generally, have never been adequately represented in the process of reviewing forms proposed by Government agencies.

OMB, and its predecessor Bureau of the Budget, looked instead to the Business Advisory Council on Federal Reports. It consists primarily of officials of large firms and their trade associations. They used their favored position within BACFR to keep Government from asking questions that they did not want to answer. That is one of the reasons for the misleading and inaccurate data in Government files regarding corporate ownership, as shown in Senate Document 93-62.

Congress provided for greater public participation in BACFR and other advisory committees by enacting Public Law 92-463, the Federal Advisory Committee Act. Some advisory committees, including BACFR, have not as yet met the act's standards for broadened membership. Last month I discussed this matter with OMB Deputy Director Frederic V. Malek, during advisory committee oversight hearings conducted by the Subcommittee on Budgeting, Management, and Expenditures. I am hopeful that he will take steps to broaden the membership of advisory committees and otherwise increase public participation in Federal form review.

Already, as a result of this oversight hearing, OMB is publishing in the Federal Register the daily list of forms received from Federal agencies for clearance. That simple matter of notifying the public about proposed Federal forms and questionnaires may not appear to be a breakthrough in the field of disclosure. But it is. Until hearings on advisory committee legislation began this daily list of forms received for clearance was not generally available. It was distributed by OMB to the select members of the BACFR, with the admonition "not for publication."

In contrast to the constant concern over the burden on businesses which file Federal reports, little attention has been paid to another section of the Federal Reports Act of 1942. It provides that information collected from firms by agencies be tabulated so as to "maximize the usefulness of the information to other Federal agencies and the public." The act also speaks of reducing the cost to the Government of obtaining information. As we pointed out in Senate Document 93-62, a senior commission staff official had to spend weeks translating unintelligible ownership reports filed by broadcast companies with the Federal Communications Commission, translating nominee names into the names of banks, then aggregating accounts.

Before this translation and aggregation of bank holdings and voting rights in broadcast companies were available to the Commission, it had acted to permit greater concentration of bank holdings in broadcast companies. Thus the ownership reports, which the law says should be tabulated to provide maximum usefulness to other Federal agencies and the public, were not even of timely value to the Commission which collected them. And the burden in this instance was not upon business, but upon the Commission staff. It labored to transform unintelligible material, submitted by broadcast companies, into useful data.

There has been much concern recently regarding agency's collection of data from energy companies. This concern is sometimes expressed in administrative proceedings, such as those before the Federal Power Commission, which deals with the reporting and availability to the public of data on cost and quantities of fuel available to electric utilities. The concern has been expressed in proposed legislation which would require companies to report additional, specified information. It has been expressed by Senate approval, in at least three different bills in the 93d Congress, of legislation which would at long last provide the General Accounting Office with subpoena power to enable it to obtain data from energy companies if other methods failed. And it has been expressed by inclusion, in the Alaska pipeline law, of a proviso that the GAO, rather than OMB, coordinate and review the questionnaires proposed for submission to business firms by independent Federal regulatory agencies. The legislative history of that proviso, section 409 of Public Law 93-153, which was made during the 91st, 92d, and 93d Congresses, by the Government Operations and Interior Committees and in Senate and House floor debate, clearly established that the Congress was not satisfied with the collection of corporate information by independent regulatory commissions as supervised by the OMB. So Congress gave that responsibility to its own agency, the GAO. Congress thereby added to its own responsibility. We now must see to it that the job is done.

Mr. President, that is the background for the hearings which two subcommittees of the Government Operations Committee will initiate next week.

During the 3 days of hearings this month we will hear from institutions and individuals with records of accomplishment and concern in the matter of corporate disclosure. Witnesses from the business, academic, banking, regulatory and public interest communities will testify.

The witness on the opening day of the hearings will be Norton Simon, the California industrialist and financial authority and founder of the billion-dollar corporation which bears his name. Mr.

Simon is a director of many companies. He recently resigned as a director of the Burlington Northern, the Nation's largest coal and railroad conglomerate, after 22 years of service as a director. He is a trustee of the Princeton Institute of Advanced Studies, a member of the Carnegie Commission on Higher Education, and a regent of the University of California. He is also a long-time advocate of more ethical disclosure of information in publicly owned corporations.

The witnesses for the March 26 and March 28 hearings, and the dates for subsequent hearings, will be announced at a later date.

NOTICE OF HEARING ON 10-YEAR TERM FOR DIRECTOR OF FBI

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. EASTLAND, chairman of the FBI Oversight Subcommittee, of the Committee on the Judiciary, I wish to announce that a hearing will be held by the FBI Oversight Subcommittee on S. 2106—10-year term for Director of the FBI.

The hearing is scheduled for Monday, March 18, at 10:30 a.m., in room 2228 of the Dirksen Senate Office Building. Any person who wishes to testify or submit statements pertaining to this legislation should send the request or prepared statement to the subcommittee, room 2226, Dirksen Senate Office Building, telephone 225-5225.

ADDITIONAL STATEMENTS

DIVERSION OF LIBYA'S OIL TO COMMUNIST EASTERN EUROPE

Mr. BROCK. Mr. President, time and again, the interference of government into free market transactions causes distress or suffering to the American people. Jerry Landauer explains how the State Department, in attempting to modify the behavior of Libya, succeeded only in diverting oil from New England to Communist Eastern Europe. I ask unanimous consent that his article from the Wall Street Journal be printed in the RECORD

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BEHAVIOR OF LIBYA

(By Jerry Landauer)

WASHINGTON.—Perhaps you've been wondering what your State Department has done for you lately.

Well, by working hand in glove with some major U.S. oil companies, it has all but assured higher electricity bills in New York City and has helped divert oil intended for fuel-short New England to the Communists of Eastern Europe.

Bizarre as it may seem, those are two results of a recent exercise in global diplomacy that backfired. The idea was to put pressure on the government of Libya. Just how it came about that the ultimate blow fell instead upon the beleaguered U.S. consumer is to be detailed next week by Democratic Sen. Frank Church of Idaho.

Sen. Church will release testimony before a Senate Foreign Relations subcommittee showing how the State Department and major concerns like Texaco and Standard Oil Co. of California worked to dissuade other U.S. concerns from importing "hot oil" from Libya—that is, oil pumped from fields formerly controlled by the majors but nationalized by Libya last September. The immediate goal was to demonstrate that "hot oil" couldn't be marketed profitably without U.S. acquiescence, and to compel Libya to pay the majors fair compensation. The long-range goal was to discourage the governments of other oil-producing states from following Libya's lead.

AN URGENT CALL

So it was that one Thursday afternoon in September a few days after the nationalization found Laurie W. Folmar, senior vice president of Texaco Inc., placing an urgent call to New England Petroleum Corp., a New York concern that is the single largest supplier of fuel oil for the electric generators of Consolidated Edison Co. Don't buy oil from Libya, Mr. Folmar sternly warned Richard Weinand, vice president for utility sales. (This was, of course, before the Arabs imposed their oil boycott in October.)

Five minutes later, according to New England Petroleum's records, this call was followed by one from H. A. Navis, a vice president of California Standard. Mr. Navis had a similar warning against buying Libyan oil. And about a half-hour after that, there was still another call, this one from State Department officer Frank A. Mau. He also wanted to talk about Libyan oil.

"They all said the same thing," says a spokesman for New England Petroleum Corp., which is called Nepco. "They even used the same words."

Besides supplying oil to Con Ed, Nepco also furnishes substantial quantities to such other utilities as Long Island Lighting Co. After Libya grabbed a 51% "participation" in the producing properties of California Standard, Texaco, Mobil and other U.S. companies last fall, Nepco signed a contract for 105,000 barrels of crude oil a day with the government-owned Libyan National Oil Co.

CANCELING A CONTRACT

The majors' pressure on Nepco didn't stop with phone calls. Despite an appeal to California Standard President Otto N. Miller from Con Edison Chairman Charles F. Luce, California Standard canceled a contract for tankers that had been carrying the Libyan crude to a refinery in the Bahamas that California Standard and Nepco jointly own.

This compelled Nepco to scramble for substitute tankers. But instead of paying 40 cents a barrel for transportation, as provided by the canceled contract, Nepco now had to pay as much as $1.90 a barrel. Nepco is passing on these higher quotes to Con Edison, and, partly as a result, Con Edison has petitioned the New York State Public Service Commission for sharply higher electricity rates. "These and other costs increases are heavy burdens on Consolidated Edison and on the economy of New York City," says Joseph C. Swidler, the commission chairman.

"This week a commission hearing examiner ruled that Con Edison should be permitted to increase rates immediately for $126.9 million in added annual revenue, pending determination of its request for a $422.6 million increase.)

A STRATEGIC FAILURE

In tactical terms, the campaign against Nepco was at best only partially successful. And in strategic terms, the effort to shut off the world-wide market for hot oil was a complete and embarrassing bust. Indeed, last week Libya nationalized the remaining operations of California Standard and Texaco and moved against other U.S. concerns as well.

As a gesture of gratitude for Nepco's willingness to defy the major oil companies, the Libyan government quietly kept supplying Nepco with crude oil despite the Arabs' embargo. In all likelihood, this leakage is continuing despite public vows by Libyan Premier Abdel Salem Jalloud to take unspecified "measures against those who may be breaking the embargo." And Nepco is still supplying Con Edison with fuel oil, although at less than contract quantities, Mr. Swidler says. The company resolutely refuses to identify its source of crude.

On a world-wide basis, the U.S. pressure campaign had next to no effect because panicky buyers from other nations were only too eager to buy Libyan oil, hot or cold. Meanwhile, Mr. Swidler of the Public Service Commission was calling the whole matter to the attention of Sen. Church. A Senate Foreign Relations subcommittee headed by the Senator looked into things behind *closed* doors.

There seems to have been at least one other instance where the State Department lent its support to big oil. Besides "advising" Nepco ("We didn't direct them to do anything," one official insists), a State Department man also rang up Harry G. Fair, president of Coastal States Gas Corp. in Corpus Christi, Texas. Coastal States also had purchased oil from the nationalized fields after getting opinions from three outside law firms that this practice was legal.

Mr. Fair says his caller took a quite different tack. "His tone wasn't intimidating, but he let me know that the State Department didn't like what we were doing," the Coastal States executive says. "Obviously he was getting a lot of pushing from somebody, and I can guess who it was."

Partly because the State Department disapproved but mostly because of "harrassment" by expropriated companies, Mr. Fair says Coastal States didn't have any choice except to resell Libyan oil to Eastern Europe, instead of bringing it as fuel oil to the needy Northeastern U.S., as originally intended.

Actually, the Communists have benefited more than once from the inadvertent results of collaboration between the State Department and the big oil companies.

Probably the biggest fiasco occurred in the late 1960s, after the government of Iraq had canceled a concession held by Iraq Petroleum Co., a consortium of Western firms that included Mobile and Standard Oil Co. (New Jersey), currently Exxon Corp. Iraq acted because it thought the consortium wasn't pumping enough oil.

According to government records that Sen. Church plans to release, the State Department leaned on 10 U.S. companies, asking each not to sign agreements with the Iraqui government pending settlement of the concession dispute. Moreover, top executives of Jersey Standard and Mobile asked Assistant Secretary Anthony Solomon to "threaten economic retaliation," even against friendly foreign governments, to stomp competitors from muscling in on the consortium area. ENI, the Italian government corporation, was thought to be the chief intruder.

The State Department complied. "After careful consideration of the dangers of alienating the government of Italy, we have gone to great lengths to support Iraq Petroleum Co. against depredations by ENI," a department document says.

Nevertheless, the affair ended unhappily. While the State Department was elbowing Westerners aside, Iraq invited the Russians in. With Soviet help, a government-owned company started exploiting the *concession* area and selling most of the oil to Eastern Europe.

SENATOR ABOUREZK'S FINANCIAL STATEMENT

Mr. ABOUREZK. Mr. President, in response to an inquiry from a television station in my State of South Dakota, I recently provided a full listing of speaking honoraria received by me during 1973 and a tabulation of the way in which I disposed of those funds. I ask unanimous consent that this list be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ABOUREZK. The bulk of the $49,425.15 honoraria which I received was from Americans of Arabic heritage throughout the United States. As the first American of Lebanese extraction to be elected to the U.S. Senate, I have received numerous requests to attend testimonials on my behalf and to speak at these events. I accepted a number of these requests and most of my 1973 honoraria came from such events

I used $10,000 of my income from honoraria to retire past personal debts. Of the $49,425.15 which I earned in honoraria, I used a total of $30,404.41 to pay expenses of my Senate offices in South Dakota and in Washington which were not covered by Senate reimbursements. The balance of $9,020.74 was retained by me to use for paying taxes and for personal use.

EXHIBIT 1

Senator James Abourezk 1973 statement of income from honoraria and expenditure of income from honoraria

INCOME	
Total income from honoraria (itemization attached)	$49, 425. 15

EXPENDITURES	
Total expenses of operating Senate offices in Washington and South Dakota less amount provided by Senate for this purpose (includes telephone bill for U.S. House of Representatives incurred in 1972 but paid in 1973)	30, 404. 41
Personal debt retirement	10, 000. 00
Personal use including funds for payment of income tax	9, 020. 74
Total expenditures	49, 425. 15

HONORARIUMS—1973

DATE AND PLACE, PAYEE, AMOUNT

January 27, 1973, Minneapolis; Don Risk, Dinner Chairman, $3555.00.

February 10, 1973, Detroit; Woodrow Woody, Chairman, $10,000.00.

February 23, 1973, Rochester, N.Y.; Housing Council of Monroe County, $500.00.

March 4, 1973, Cleveland; George Maloof, Chairman, $3666.05.

March 23, 1973, Los Angeles; Fred Mickel, Chairman, $2864.47.

March 24, 1973, Los Angeles; Wally Karabian, Chairman, $800.00.

April 7, 1973, Pittsburgh; Ed Ayoub, Chairman, $3150.50.

April 8, 1973, Washington, D.C.; Dick Shadyac, Chairman, $3653.66.

May 20, 1973, Worcester, Mass.; George Hayeck, Chairman, $5000.00.

June 10, 1973, Pittsburgh; Monsour Medical Found., $6000.00.

September 28, 1973, Boston; Emile Hajar, Chairman, $8335.47.

December 11, 1973, Washington, D.C.; National Executive Conference, $1000.00.

April 17, 1973, Washington, D.C.; International Association of Bridge, Structural and Ornamental Ironworkers, $500.00.

April 14, 1973, Rapid City, S.D.; American Federation of Government Employees, $400.00.

Total, $49,425.15.

RESTORATION OF CITIZENSHIP TO ROBERT E. LEE

Mr. HARRY F. BYRD, JR. Mr. President, on February 21, 1974, I introduced Senate Joint Resolution 189, a resolution to restore posthumously full rights of citizenship to Gen. Robert E. Lee. On that day, I indicated that the Virginia ered related legislation.

I have recently received a copy of Virginia Senate Joint Resolution No. 38. Its principal sponsor is Senator Paul W. Manns. His district, the 28th Senatorial District, includes the counties of Caroline, Essex, King George, Lancaster, Northumberland, Stafford and Westmoreland, and the city of Fredericksburg.

As students of Virginia history and admirers of General Lee know, Westmoreland County is General Lee's birthplace and the location of the Lee family home, Stratford Hall. The residents of that county in Virginia's historic "Northern Neck" take a special pride in having in close proximity this stately home of one of Amerca's most distinguished families.

Virginia Senate Joint Resolution No. 38 was cosponsored by practically every Senator in that 40 member body. It passed by acclamation on February 7, 1974, the same date as its introduction.

Action in the Virginia House of Delegates was completed on February 20, 1974, when the 100 member House passed the measure unanimously.

Clearly, both by the explicit language of the resolution and the affirmative acts of both of Virginia's legislative bodies it is the sense of the General Assembly of the Commonwealth of Virginia that the Congress of the United States restore to General Lee all the rights which he, as a beloved Virginian and a great American, so rightly deserves. It is important to note that General Lee himself requested in writing the restoration of his rights.

Mr. President, I am also pleased to announce that the distinguished Senator from North Carolina (Mr. HELMS) has asked to be included as a cosponsor of Senate Joint Resolution 189, and I ask unanimous consent that his name be added to those other cosponsors of this legislation: the Senator from Virginia (Mr. SCOTT); the Senator from South Carolina (Mr. THURMOND); the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Alaska (Mr. GRAVEL).

I ask unanimous consent that the text of Senate Joint Resolution 38 of the Virginia Senate be printed in the RECORD.

There being no objection, the text of the resolution was ordered to be printed in the RECORD, as follows:

SENATE JOINT RESOLUTION NO. 38

Whereas, this entire Nation has long recognized the outstanding virtues of courage, patriotism, and selfless devotion to duty of General R. E. Lee, and has recognized the contribution of General Lee in healing the wounds of the War Between the States; and

Whereas, in order to further the goal of reunion of this country, General Lee, on June thirteen, eighteen hundred sixty-five, applied to the President for amnesty and pardon and restoration of his rights as a citizen; and

Whereas, this request was favorably endorsed by General Ulysses S. Grant on June sixteen, eighteen hundred sixty-five; and

Whereas, General Lee's full citizenship was not restored to him subsequent to his request of June thirteen, eighteen hundred sixty-five, for the reason that no accompanying oath of allegiance was submitted; and

Whereas, on October twelve, eighteen hundred seventy, General Lee died, still denied the right to hold any office and other rights of citizenship; and

Whereas, a recent discovery has revealed that General Lee did in fact on October two, eighteen hundred and sixty-five, swear allegiance to the Constitution of the United States and to the Union; and

Whereas, it appears that General *Lee thus* fulfilled all of the legal as well as moral requirements incumbent upon him for restoration of his citizenship; now, therefore, be it

Resolved by the Senate, the House of Delegates concurring, That the legal disabilities placed upon General Lee as a result of his service as General of the Army of Northern Virginia should be removed, and that General R. E. Lee should be posthumously restored to the full rights of citizenship, effective June thirteen, eighteen hundred sixty-five, by the Congress of the United States.

Resolved, further, That the clerk of the Senate is directed to send copies of this Resolution to the members of the delegation to the Congress of the United States of this Commonwealth in order that they may be apprised of the sense of this Body.

PORTSMOUTH THEATER-BY-THE-SEA REACHES A MILESTONE

Mr. McINTYRE. Mr. President, one of New Hampshire's many seacoast towns, is distinguished both on a State and a national level by being the smallest community to support a professional theater. This organization is the Theater By The Sea, and as it celebrates its 10th anniversary, I believe we should pause and reflect on its achievement. The Theater By The Sea offers high quality entertainment to Portsmouth and surrounding communities under circumstances which few could overcome. Their theater is tiny, their budget equally as small, yet they preserve and continue to provide eager and appreciative audiences with excellent and professional theater.

In light of these admirable accomplishments, I ask unanimous consent that the article entitled, "Theater By The Sea Reaches a Milestone" appearing in the March issue of New Hampshire Profiles be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THEATRE BY THE SEA REACHES A MILESTONE

(By Jim Bolquerin)

When the final blackout shrouds performers on stage during this season's closing production at Theatre-By-The-Sea in Portsmouth, it will mark the end of a decade of quality theater that was only a dream ten years ago—a mere hope and a prayer that has since been made real and tangible by a remarkable procession of determined and dedicated people.

In all probability there will be no more than four or five actors on stage for the curtain call; for, due to physical limitations of the building itself. Theatre-By-The-Sea rarely mounts productions with large casts. But in the mind's eye of many veteran supporters, the tiny stage is certain to be crowded with memories of past performances and the hundreds of people who have worked thousands of hours as volunteers; local businessmen and women have donated time, money, supplies and even furnishings. Members of the Board of Trustees have guided TBS through its most trying crises and faculty members and students from the University of New Hampshire and members of the Theater's Guild have played important on- and off-stage roles too.

It has taken many hands to earn for Portsmouth the distinction of being the smallest community in the United States to support a professional theater and its achievements to date have more than justified the faith and early efforts of its founders.

Stan and Patricia Flower started Theatre-By-The-Sea as a repertory theater in a 200-year-old building which had been a grain elevator. Located on Portsmouth's waterfront only a stone's throw from the bank of the Piscataqua, TBS is unlike conventional theaters, having a forty-foot wide stage with no proscenium, wings or fly space. The backstage facilities are even more limited, serving in some cases quadruple functions.

Still, despite the handicap of inadequate funding and the physical limitations of the building itself, TBS has mounted an impressive number of outstanding productions in Portsmouth, and has a record of one-night stands in school gymnasiums and civic auditoriums throughout neighboring areas that would do credit to the most stalwart and dedicated of touring companies.

To date, more than 100 adult theater performances have been staged, ranging from Shakespeare to Pinter and Albee, from Moliere to Neil Simon. At least three children's shows a year have been performed and in one season three shows were performed 67 times in schools throughout New Hampshire and Maine.

The out-of-town performances have been discontinued for a variety of reasons. They were financially unfeasible and physically too demanding. Aside from the problems posed by having to mount the productions in makeshift quarters without adequate time for restaging and reblocking, there was the awful drain on the energy and resources of the actors themselves, all professionals recruited generally in the New York City area.

In the past, many supporters of TBA have erroneously assumed that the theater is primarily a training ground for would-be actors and amateur back-up men, behind the scenes and on the boards. They couldn't be more wrong. It is a highly structured *professional* organization with opportunities available for amateurs only at the lowest levels, and like most professional dance, drama or music entities, its most outstanding achievements to date have been shaped by one dynamic personality during each of its successive stages of development.

The man currently at the helm is Artistic Director Bernard Hiatt. There have been many others since its founding, but none has dramatized more effectively than Hiatt the importance of dedication and concern for professionalism.

"It's not the easiest thing in the world to persuade New York actors to come to New Hampshire to work, especially when we are not able to pay them the kind of salaries they are accustomed to receiving," Hiatt explains. "They can't leave us in the middle of a show to return home to do a television commercial or audition for a Broadway show."

"But those who have worked with us know that Theatre-By-The-Sea offers an actor an excellent opportunity to work at his craft and hone his talent," Hiatt adds. "And it is this—more than anything else—that has made it possible to recruit talent in the city."

Artistic considerations aside, however, there remains the harsh reality of economic survival and the myriad financial problems that have to be solved daily before the curtain can go up or the lights turned on; and it is in this area that Managing Director Steven Mendelson comes into his own.

"With only 92 seats, Theatre-By-The-Sea cannot satisfy demand or maintain its operating deficit within reasonable limits," Mendelson has noted. "The building and finance committees realize that the present size is not economically feasible and are seeking larger quarters."

Because of its high professional standards, additional support for the theater has come from other sources including Maine and New Hampshire Commissions on the Arts; the Sears Roebuck Foundation; Project TRY (Theatre Resources for Youth—a Federally granted project under the Elementary and Secondary Education Act of 1965); and Project Arise, another such project for northern New Hampshire. Many individuals and businesses have also encouraged and supported the Theater.

Still, the deficit persists, a fact of life recognized by the National Council on the Arts, which noted in one of its Annual Reports that "There has been an increasing recognition on the part of national foundations, state arts agencies, municipal governments, as well as local private sources of support, that the professional, resident theatre . . . cannot operate without a deficit and therefore must be permanently supported."

"While we cannot operate without a deficit, as the National Council on the Arts has clearly stated, we can hope to reduce the deficit through grants from trusts, the banking and industrial community, and from individuals," Mendelson pointed out. "Theatre-By-The-Sea is incorporated as a non-profit cultural and educational institution. As such, contributions to it are tax deductible and most welcome."

"Their tenth anniversary season erupted like a volcano with a stunning go at The Effect of Gamma Rays on Man-In-The-Moon Marigolds" by Zindel, raved Fritzie Cohn, drama critic for WCSH-TV in Portland, Maine. "Follow your nose to the salt air on your right and the spice of The Blue Strawberry on your left to Portsmouth for quality, professional theater at Theatre-By-The-Sea."

It is advice well worth taking.

FEO AND THE GAS LINES

Mr. BROCK. Mr. President, Prof. Milton Friedman is one of the most creative thinkers of our time, and a recent column by him in Newsweek demonstrates once again his innovative approach to urgent problems.

His argument with regard to the gasoline lines cries out for greater attention than we, in the Congress, have given it in our politics-as-usual-blame-the-free-enterprise-system method of operation.

Friedman calls for the abolition of the Federal Energy Office, but it is important for us to remember that in doing so he is not placing any personal blame on Mr. Simon and his associates. His argument, while it might be summarized in the same words, is not at all like that of those persons who carp at the administration for mismanaging the crisis.

Those critics call for more restrictions. Friedman calls for more freedom. Since we value freedom, we would do well to listen closely to his arguments.

I ask unanimous consent that his comments be printed in the Record.

There being no objection, the comments were ordered to be printed in the Record, as follows:

FEO and the Gas Lines

(By Milton Friedman)

As I write this in Chicago, lines are forming at those gas stations that are open. The exasperated motorists are cursing; the service-station attendants are fuming; the politicians are promising. The one thing few people seem to be doing is thinking.

How is it that for years past, you and I have been able to find gas stations open at almost any hour of the day or night, and have been able to drive up to them with complete confidence that the request to "fill up" would be honored with alacrity and even with a cleaning of the windshield? To judge from the rhetoric that pollutes the air these days, it must have been because there was a powerful Federal Energy Office hidden somewhere in the underground dungeons in Washington, in which an invisible William Simon was efficiently allocating petroleum products throughout the land, riding herd on greedy oil tycoons lusting for an opportunity to mess things up and create long lines at their gas stations.

Of course, we know very well that the situation is precisely the reverse. The lines date from the creation of a real Federal Energy Office run by a very visible, able and articulate William Simon. Which is the cause and which the effect? Did the lines produce the FEO or the FEO the lines?

CONSIDER WEST GERMANY

After the Arabs cut output, Germany imposed no price controls on petroleum products. It did initially restrict Sunday driving but soon removed that restraint. The price of petroleum products jumped some 20 or 30 per cent, but there were no long lines, no disorganization. The greedy consumers found it in their own interest to conserve oil in the most painless way. The greedy oil tycoons found it in their own interest to see to it that petroleum products were available for those able and willing to pay the price.

Other European countries, like the U.S., imposed price controls. And, like us, they had chaos.

The Arab cut in output can be blamed for higher prices, but it cannot be blamed for the long lines. Their creation required the cooperation of shortsighted governments.

The world crisis is now past its peak. The initial quadrupling of the price of crude oil after the Arabs cut output was a temporary response that has been working its own cure. Higher prices induced consumers to economize and other producers to step up output. It takes time to adjust, so these reactions will snowball. In order to keep prices up, the Arabs would have to curtail their output by ever larger amounts. But even if they cut their output to zero, they could not for long keep the world price of crude at $10 a barrel. Well before that point, the cartel would collapse.

The effects of consumer and producer relations are already showing up. The European countries that introduced rationing and restrictions on driving have eliminated them. World oil prices are weakening. They will soon tumble. When that occurs, it will reveal how superficial are the hysterical cries that we have come to the end of an era and must revolutionize our energy-wasting way of life. What we have been witnessing is not the end of an era but simply shortsightedness.

At home, unfortunately, our problems will not be over so soon. The panicky FEO forced oil companies to shift so much production to heating oil that we face a glut of heating oil but a paucity of gasoline. The FEO's allocations among states have starved some, amply supplied others. Its order that refineries operating at high levels must sell oil to those operating at low levels sounds fine. In practice, however, it reduces the incentive for the recipients to buy oil abroad and produces a wasteful use of oil at home.

We have the worst of both worlds: long lines and sharply higher prices—indeed, higher than I believe they would have been without the waste resulting from FEO controls.

Is rationing the solution? Far from it. It is the problem. We already have rationing of producers and distributors. Coupon rationing of final consumers would simply be the hair of the dog that bit you.

ABOLISH FEO

The way to end long lines at gas stations is to abolish FEO and end all controls on the prices and allocation of petroleum products. Within a few weeks, your friendly dealer would again be cleaning your windshield with a smile.

How can thinking people believe that a government that cannot deliver the mail can deliver gas better than Exxon, Mobil, Texaco, Gulf and the rest?

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the Senate has had the Genocide Convention before it now for 25 years—a full quarter-century.

For some that lengthy delay may seem but a brief moment in the span of history, but for those who have suffered the terror of persecution that delay has been intolerable. As I mentioned during our debate on the treaty this year, we owe a debt of gratitude to Anne Frank. Through her diary, the nightmare of religious and racial prejudice was brought home in terms that we all could understand. For that courageous girl, struggling day by day to escape murder in Nazi concentration camps, each hour brought a growing fear of betrayal and capture. Each minute was filled with mounting terror.

Mr. President, Anne Frank was an amazing individual. Her death came as one of 6 million, but her story has been immortalized. It served to highlight our apparent callousness in delaying ratification of the Genocide Convention.

Former Chief Justice Earl Warren has decried the fact that the United States may well be the last signatory of this human rights treaty—a treaty which we should have been the first to ratify.

Mr. President, the story of Anne Frank has lived on to remind us of the tragic inhumanity that still exists. The setting may have changed but the stark reality remains. I urge the Senate to act now and end this blight on our national honor by ratifying this convention.

CLASSIFICATION OF VITAMINS AND MINERALS AS DRUGS

Mr. STEVENS. Mr. President, I wish to add my name to the list of cosponsors of Senator William Proxmire's bill, S. 2801, to prevent the Food and Drug Administration from classifying safe vitamins and minerals as drugs.

Higher prices, synthetic additives, and increasing awareness that chemicals are used to induce animal reproduction are prompting people to eat less meat. Therefore, we need more vitamins and minerals to help us maintain our health. I might add that although fresh moose and caribou are available to the Alaskan who is lucky enough to bag an animal during hunting season, many Alaskans do not get fresh vegetables at their best. Alaskans know what shipping does to produce—and there is a definite difference in the fruits and vegetables before and after they have been shipped to Alaska. Alaskans need and frequently use vitamin and food supplements. Out in the bush where Alaskans rarely receive fresh produce and often cannot go into town to buy these products, much less go to a doctor to get a prescription for the use of them, vitamins are a real necessity.

In our history of glamorizing the use of white "enriched" flour, sugar, bread, and rice, the average American consumer uses these products and is not getting the vitamins required to insure and maintain proper nutrition.

While I do agree with the Food and Drug Administration on nutrition labeling for the purpose of supplying consumers with more information on what they are actually getting in the foods they are buying at the market today, I believe that there are vitamins and food supplements that are safe and need not be taken off the market for prescription use only. I support continued study on this matter.

As you know, 15 percent of the U.S. population are elderly Americans, many of them suffering from mental and physical illnesses which, in many cases, can be greatly reduced by a proper diet and food supplements. It is wrong to require these aged citizens to go to more expense and time to go to a doctor just to get these safe vitamins in the form of prescriptions that they could normally purchase in a local store.

Thus, I cosponsor Senator Proxmire's bill on behalf of my Alaskan constituents and the many others who have contacted me in this regard.

PROPOSED SALARY INCREASES

Mr. McGEE. Mr. President, rents, interest, prices, in fact the cost of just about anything you want to name down to and including, as of 6 days ago, postage, has risen lately. Since 1969, prices have risen generally 30 percent, in fact, although the top officials of this Government, in all of its branches, have not seen any raise whatsoever in that span of time.

By our recent action, the Senate has, at least for the time being, voted to continue this situation. It is, by my lights, inequitable. It will, if permitted to continue as the policy of this Government, cost us much in the way of services by competent, experienced, even distinguished, individuals.

Mr. President, I invite my colleagues' attention to a letter from a senior career employee, a GS–18, on this subject. I ask unanimous consent that his letter be printed in the Record. I do not ask the same for the Business Week article to which he refers, since that already has appeared in the Record and is available to the Members of the Senate.

There being no objection, the letter was ordered to be printed in the Record, as follows:

February 5, 1974.

Hon. Gale W. McGee,
U.S. Senate,
Washington, D.C.

Dear Senator McGee: I was disappointed indeed to read about opposition to President Nixon's proposal to increase Congressional pay. As you know, unless Congressional pay moves out of its 5-year freeze, the salaries of cabinet officials and civil service employees remain equally frozen. Now it may be very magnanimous and statesmanlike for some Congressmen to refuse a pay increase (although it is surely earned), but I am afraid that this evidences no consideration for those civil servants who had been suffering through five years of rising rents, prices, interest, etc., on fixed salaries.

As a career employee in grade GS–18, I am one of those who has seen federal salaries for most people increase 25% while mine remains frozen. In view of what may seem to be my personal bias, I have attached a copy of a recent article from Business Week and I would hope that you could take a few minutes to read it. I wonder how you can conceivably see any justice in continuing to withhold salary increases from top level career employees and how you can see any logic in continuing to compress salaries for all of the executives, their assistants, their assistants' assistants, and so on.

And, of course, you must know very well that there is only one basic reason for continuing this unjust and illogical practice—Congress just has not and will not raise salaries of executive department employees until their own salaries are raised. So what they are really doing by grandly refusing a raise for Congressmen is denying raises to career civil service employees who have been discriminated against for the past five years and who are now 25% behind the great majority of federal employees (as well as state, local and those in the private sector).

In the case of a GS–18, for example, the salary has been frozen at $36,000. Had this group received equal treatment over the past five years and received the same increases given to the other GS grades, the salary would have been approximately $44,000. If there is merit and justice in withholding this amount, I have yet to hear anyone in the Congress explain it. What I do hear are the grand, self-sacrificing statements of legislators who are prepared to give us raises they have earned for a reason which has not been made clear. But none address the point that these grand gestures result in the unjust deprivation of career civil servants.

May I say, in all respect, that members of Congress are certainly entitled to make such personal sacrifices as they think are appropriate; however, it is really not fair nor proper to sacrifice salaries earned by, and due to, others.

——— ———.

FUEL SAVING DEVICE

Mr. BROCK. Mr. President, the energy crisis ultimately will be resolved by the free market system and the ability of the American people to conserve our limited resources. One such effort by ordinary citizens to conserve fuel has recently come from my own State of Tennessee. William Young, director of electrical and mechanical maintenance for the Humboldt school system, has devised a means to automatically control the thermostats in the city's five schools. The mechanism reduces the heat to 50° in the off-school hours and on weekends, thereby saving the schools an average of

9 percent in the amount of fuel they require. Mr. Young estimates that the savings would run much higher during the cold January and February months. I am proud that a fellow Tennessean has come up with this innovative idea. I applaud his efforts and ask unanimous consent that an article from the Memphis Commercial-Appeal explaining the system be printed in the Record so that others may share his discovery.

There being no objection, the article was ordered to be printed in the Record, as follows:

Humboldt Schools Find Fuel Key

(By Kemp Ward)

Humboldt, Tenn., December 11.—School officials here feel the energy crisis soon may ease a bit for the city school system.

Instead of needing additional fuel this winter to heat the schools, officials hope to have some left over.

After months of study and testing, school officials have developed an experimental electronic heating control system that could cut consumption of heating fuel at the city's five schools in half.

The system was developed by William 'Dink' Young, the city school's director of electrical and mechanical maintenance, and automatically rations heat on a need basis allowing for no significant waste.

Since its installation at two schools earlier this year, the system has proven a substantial energy saver.

Stigall Elementary and Stigall Junior High schools, each used only 5 per cent of their yearly fuel allotment the first month of heating this year, said school Supt. Ralph Mays.

The three schools without the system used more fuel. East End Elementary used 7 per cent of its allotment, Main Street Elementary 8 per cent and Humboldt High School 9 per cent.

Officials said the percentages should widen even further during the bitter cold months of January and February.

"I think it will be a tremendous help," Mays said. "I think the first month's figures show that. We believe it's going to do the job for us."

Young said he began working on the system last fall after noticing the old system of regulating heating at the schools produced "excessive waste."

"It didn't make sense to me to be wasting all that fuel," he said. "It's a good system and it has come at a time when it's badly needed. We need more people to spend time toward the conservation of energy. I devised this circuit and tried it out and it's doing what I want it to."

The system, which cost about $100 per school, utilizes a seven-day clock to control a school's thermostats and electronic sensors to adjust controls to heating needs.

"One thermostat, the 'day control,' is preset at 72 degrees and the other thermostat, the 'night control,' is preset at 50 degrees," he explained.

"From 7 a.m. to 3 p.m., the day control thermostat is activated. The rest of the time the night control thermostat takes over. The thing shuts down automatically on Friday and the heat doesn't come back to 72 degrees until Monday morning."

To prevent mishandling, the thermostat control panels are kept locked and only principals have keys.

The system has an outside temperature sensor that automatically prevents the heating system from working when outside temperatures reach a warm level and a manual override that allows the heating of buildings at night and on weekends for special occasions, he said.

In his bid to make the system almost self-sufficient, Young has also hooked an alarm system into the school's burglary alarm equipment that will alert officials immediately to a malfunction in the heating system without tripping the burglar alarm.

"The temperature in the buildings should never get down to dangerous limits without our knowledge," he said. "This alone is worth a lot."

Young, who is working to install the system in all the city schools, said it could be used in homes, factories, businesses and other places to conserve fuel.

"I'd like to see this system in use everywhere," he said. "If for no other reason because it will help conserve energy. Anyone who want to know how this works can have the plans."

HELLER CALLS FOR FISCAL STIMULUS NOW

Mr. HUMPHREY. Mr. President, a wide variety of economic indicators confirm that the United States is in a serious economic downturn—real growth has halted and will decline in the first quarter; unemployment has risen by 500,000 and is expected to increase further to 6 percent by the end of 1974; real purchasing power of the consumer declined in 1973 and continues to decline in the first quarter. In the face of these hard facts, what is the administration's reaction? Mr. Nixon and his economic advisers tell us that if the situation gets worse, they have contingency plans that will be unveiled to bolster the economy. My response to them is: How bad do things have to get?

In an excellent article which appeared this morning in the Wall Street Journal, Dr. Walter Heller was more eloquent than I. He concluded that:

> Given the typical lags in policy action and economic reaction, one can only say that the time to act is now. When a man is drowning, one should not deny him a life preserver on grounds that one can always resort to mouth-to-mouth resuscitation.

Dr. Heller, now president of the American Economic Association and one of the most respected economists in the United States today, recommended an increase in the personal exemption from $750 to $900, which would relieve the tax burden on low- and middle-income families. It is these families that have suffered the most severe decline in real income as a result of the recent inflation. In addition, he favors a rollback in oil prices as a means of curbing profiteering and restoring much needed purchasing power to the consumer.

Mr. President, I could not agree more with my colleague from Minnesota that the time to act is now. I ask unanimous consent that Dr. Heller's incisive analysis be printed in the Record.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

The Case for Fiscal Stimulus

(By Walter W. Heller)

Once again, the battle between anti-recessionists an anti-inflationists is joined. Without differing very much on the 1974 economic scenario—downturn and double-digit inflation in the first half followed by an upturn and some ebbing of inflationary pressures in the second—the antagonists run the gamut from "ease up" to "hold tight" in their prescription for fiscal-monetary policy in 1974.

Part of this division reflects conflicting diagnoses of the nature of this year's recession and inflation. Partly, it grows out of divergent appraisals of how much of any given demand stimulus will translate into jobs and output and how much into more inflation (either now or later). And in no small part, it goes beyond positive economics to a conflict of values.

Nothing throws the issues into bolder relief than the proposal for a quick income tax cut in the form of an increase in personal exemptions. A tax reduction of $5 billion to $6 billion a year could be effected either by boosting the per capita exemption from $750 to $900 or by adopting Senator Mondale 's proposal to give the taxpayer the option of taking a $200 credit against tax or continuing to deduct $750 from income.

The equity case for this move is obvious: Before the year is out, inflation will have eroded the real value of the $750 exemption by more than 20% since it went into effect at the beginning of 1972.

Even more important, boosting exemptions would concentrate the bulk of the tax benefits at the middle and lower end of the income scale where recent inflation, especially in the form of surging food and fuel prices, has exacted a particularly heavy toll. (To reach the lowest income calls for further action, e.g., a step-up in social service programs and relief from Social Security payroll taxes on the poor.)

Indeed, the social rationale for income and payroll tax relief in the lower brackets is so compelling that it would make sense even if it were matched by simultaneous tax increases elsewhere.

But equity aside, can a broad-based income tax cut stand on its *economic* merits? Those who say it can't—Messrs. Shultz, Burns, Fellner, McCracken and Stein somehow come to mind—cite such arguments as these:

Our current economic downturn is mainly the result of supply restraints, of shortages and bottlenecks; such demand deficiencies as exist will soon correct themselves.

Any further stimulus will simply increase the ferocity and tenacity of inflation.

Mr. Nixon's fiscal 1975 budget already contains all the stimulus the economy can stand. And besides, cutting income taxes today robs us of vital revenue-raising power we need for tomorrow.

Straw men? Hardly. But neither are they holy writ.

SOME UNMISTAKABLE SIGNS

First, as to the nature of recession. Though supply shortages get the headlines, a close look reveals unmistakable signs of a shortage of demand. The weary consumer, whiplashed by tight money and fiscal restraint and whipsawed by runaway food and fuel prices, has pulled in his horns:

For nearly a year, his consumption of durables other than autos has fallen in real terms, while his consumption of non-durables and services has kept only a trifle ahead of inflation.

As to autos, the gasoline shortage has converted an expected decline into an actual disaster. Lying behind the 27% drop in overall sales of domestic cars last month was a plunge of nearly 50% in demand for standard and larger models.

Tight money has cut the rate of residential construction outlays from $60 billion a year ago to around $47 billion today.

For consumers, January was perhaps the cruelest month. While personal income dropped $4 billion, consumer prices raced upward at a 12% annual rate. Real spendable earnings of non-farm workers, after taxes, were down 4% from a year earlier, the largest drop in 10 years.

Nor is any early rebound in sight. It will be months before exploding oil prices have worked their way through the economy soaking up $15 billion to $20 billion of consumer purchasing power in the process. For that's the amount of tribute the American consumer has to pay foreign and domestic producers of oil—and in the shortrun, very little of the funds thus siphoned off will reappear in the economy as demand for exports or increased dividends and capital spending by the U.S. oil industry. So even with an end to the Arab embargo, the U.S. economy will continue to suffer the paradox of "oil drag"—a cost-inflation of prices and a tax-like deflation of demand.

Contrary to the Alice-in-Wonderland reasoning in Mr. Nixon's veto message on the energy bill, a rollback in domestic crude oil prices could materially ease that drag. For example, a cutback in new oil prices to $8 and old oil prices to $4.25 (as against $7.09 and $5.25 in the energy bill), while maintaining strong incentives for boosting output of new oil and oil substitutes, would serve to:

Cut oil-cost inflation by $5 billion.

Restore $5 billion of real purchasing power to consumers.

Stop that amount of excess profits at the source.

It isn't often that a single measure promises to cut cost inflation, bolster aggregate demand, curb profiteering, and still maintain vital incentives. Yet doctrinaire pursuit of market ideology coupled with a paralyzing fear of further inflation seems to be blinding policy makers to the opportunities for simultaneously serving different objectives of policy. Not all demand stimulants aggravate inflation on net balance.

That brings us to the second major charge against the proposed tax relief, namely, that much or even most of it will run off into added inflation. No one can deny that added dollars in consumers' hands will elicit some price increases. But in 1974, a year in which deficient demand will persist even after recovery replaces recession, the trade-off will be highly favorable. Consider the nature of today's inflation:

Above all, it reflects price pressures born of the food and fuel shortages of yesteryear which, as Arthur Burns cogently pointed out last fall, "hardly represent either the basic trend in prices or the response of prices to previous monetary or fiscal policies." After this year, those pressures will begin to burn themselves out, leaving a legacy of high but less rapidly rising prices.

In part, it is a lagged response to the boom in world commodity prices in general. And these pressures too will ebb even as demand recovers, much as they did after the price explosion set off by the Korean boom in 1951.

Further, it is the result of a sharp rise in unit labor costs, which moved ahead at a 9% annual rate in the last quarter of 1973 and will get worse in recession before getting better in recovery.

Upward price adjustments as industries are freed from controls will also give inflation a jolt, largely a one-shot phenomenon.

In other words, inflation in 1974 has a life of its own, nourished not by excess demand but mainly by a variety of cost factors beyond the reach of fiscal and monetary management. The great bulk of the stimulus of a prompt tax cut would therefore express itself in higher output, jobs, and income, not in higher prices.

It can be argued—indeed, George Perry of Brookings has argued—that a well-tempered tax cut can help relieve cost-push pressure by redressing labor's cost-of-living grievances in part through tax relief rather than wage escalation. Labor leaders keep an eye closely cocked on that critical barometer, "real spendable earnings *after* taxes." Cut income and payroll taxes and real earnings rise. If a fiscal bargain could be struck with labor to substitute this paycheck sweetener in part for wage hikes, less of the 1973–74 food and fuel price upsurge will be built into wage bargains.

But what about the legacy of a weakened tax system in 1975 and later years? Won't the inflationary chickens come home to roost? Not if responsive fiscal and monetary policies head off renewed excess demand when it again threatens the economy.

For that matter, the Congress should build a large part of the protection by coupling its exemption boost with a firm commitment to enact compensating revenue-raising tax reforms to become effective in and beyond 1975. The necessary funds could be raised simply by a substantial hike in the minimum tax plus a phasing out of most of the tax shelters for petroleum as oil prices curbs are progressively relaxed. (It is worth noting that with appropriate pricing policies, one can both avoid punitive excess profits taxes and phase out the distorting and inequitable tax preferences for petroleum—thus serving both equity and efficiency.)

THE THIRD QUESTION

But one still has to confront the third question: Isn't Mr. Nixon's new budget already offering plenty of stimulus to a sagging economy? And besides, shouldn't we be reassured by Mr. Ash's promise to "bust the budget" if Mr. Nixon's exercise in exorcism fails and the economy is by recession repossessed? The answer is "no" on both counts.

True, the fiscal 1975 budget gives the *appearance* of stimulus. Spending is scheduled to rise $30 billion, and the deficit to double from $4.7 billion to $9.4 billion. But as this most realistic of Mr. Nixon's budget messages makes clear, 'the recommended budget totals continue [the] policy of fiscal restraint as part of a continuing anti-inflation program." Indeed, the unified budget surplus on a full-employment basis would rise from $4 billion to $8 billion.

On a national income accounts basis, the rise in the full-employment surplus would be even greater. Even without fully accepting the St. Louis Federal Reserve Bank numbers showing a rise in the full-employment surplus from a rate of $2 billion in the first half of 1974 to nearly $13 billion in the first half of 1975, and even allowing for the inevitable slippage in the budget process, one can safely conclude that the fiscal 1975 budget, contrary to surface appearances, offers no substantial stimulus to the economy.

But what of the assurances that contingency plans will be rolled out to step up spending in case recession rears its ugly head? Given the typical lags in policy action and economic reaction, one can only say that the time to act is now. When a man is drowning, one should not deny him a life preserver on grounds that one can always resort to mouth-to-mouth resuscitation.

EXHAUSTED ROOSTER'S BANQUET

Mr. HANSEN. Mr. President, the Worland Jaycees in north-central Wyoming are in the process of establishing what they hope will be an annual Exhausted Rooster's banquet.

The label of Exhausted Rooster applies to those young men who have reached the age limit for members of the Junior Chamber of Commerce of the United States.

The honoree at Worland's first banquet will be a local Exhausted Rooster, John W. "Dub" Maxwell, and I am pleased to call attention to his fine record of achievement and to request that a resolution summarizing his activities be printed in the CONGRESSIONAL RECORD.

Wyoming's Jaycees in general and Worland, Wyo.'s, Jaycees in particular have done an outstanding job and Dub Maxwell has been a real leader and a most worthy recipient of the Worland Jaycees 1974 award.

The banquet to honor him will be held in Worland on Saturday, March 16, under the chairmanship of Gordon Maxwell of the Jaycees and with the assistance of W. C. Hunter, secretary-manager, of the Worland-Ten Sleep Chamber of Commerce.

I am delighted to take part in this activity by submitting the following Jaycee resolution and ask unanimous consent that it be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas: The "United States Jaycees" is a constructive action organization of young men who devote a portion of their time to community service in the public interest, and the development of other young men and themselves to assume leadership responsibility, and

Whereas: The Wyoming Jaycees are dedicated to principles and policies as exemplified by the *"United States Jaycees"*, and

Whereas: The Worland Jaycees subscribe to principle and policy of the Wyoming Jaycees and the United States Jaycees in a united effort to constitute a responsible and adherent leadership to serve the public interest, and

Whereas: Each individual Jaycee embraces the articles of the "Jaycee Creed" which states:

We believe

That faith in God gives meaning and purpose to human life;

That the brotherhood of man transcends the sovereignty of nations;

That economic justice can best be won by free men through free enterprise;

That government should be of laws rather than of men;

That earth's great treasure lies in human personality;

And that service to humanity is the best work of life.

Whereas: John W. (Dub) Maxwell has personally exemplified the above State's principles, philosophies, and beliefs, beyond any reasonable expectation and

Whereas: John W. (Dub) Maxwell has been directly instrumental in leading many other young men to this high plateau, at great personal sacrifice, and selflessly,

Be it therefore resolved: That John W. (Dub) Maxwell be highly commended for his unselfish dedication to community, state, country and Jaycee organizations and be hereby proclaimed an "Exhausted Rooster" depicting his meritorious service.

INDEPENDENCE DAY OF THE BALTIC STATES

Mr. THURMOND. Mr. President, each year during the months of February and March the U.S. Congress commemorates the declaration of independence of the Baltic States of Lithuania, Estonia, and Latvia.

On this occasion, we seek to reaffirm our friendship for these people and assure them that they have not been forgotten. The people of the Baltic States are entitled to governments of their own choosing and it will be a happy occasion indeed when they can once again enjoy national independence.

I ask unanimous consent that House Concurrent Resolution 416 and an essay on this subject prepared by Americans for Congressional Action To Free the Baltic States be printed in the RECORD.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows.

THE BALTIC STATES AND THE CONSCIENCE OF THE WEST

(Red Terror in Lithuania, Latvia, and Estonia)

The recent publication in Paris of Solzhenitsyn's *The Gulag Archipelago*, dealing with the system of slave-labor camps on which the Soviet State is based, should make Americans reconsider the direction our foreign policy has taken. Do we wish to be joined with the rulers of the Soviet State in the oppression which they continue to visit upon their people, the Baltic States, and all other captive nations?

Solzhenitsyn's lonely and courageous testimony leads us to ask ourselves whether the image of President Nixon sitting down cheek by jowl with Party Secretary Brezhnev, while millions of Russians and other captive people suffer deprivation of their basic human rights, corresponds to the kind of morality we believe should govern our political purposes.

Members of the United States Congress have spoken feelingly and with great truth, concerning the plight of the Soviet Jews. But if the plight were somehow remedied, would we then have no concern with the fate of the rest of the enslaved people by the Soviet Communists who suffer so severely under the oppression of the Soviet commissars and rulers of the slave-labor camps? That is the kind of question which Solzhenitsyn forces us to ask our conscience.

TAKEOVER OF THE BALTS BY THE SOVIETS

The Kremlin is fond of saying that Russian imperialism died with the czar. But the fate of the Baltic nations—Lithuania, Latvia and Estonia—shows this to be a cruel fiction. The Communist regime did not come to power in the Baltic States by legal or democratic process. The Soviets invaded the Baltic States in June of 1940 and grabbed them by force of arms. The Baltic peoples have been suffering in Russian-Communist captivity for more than 30 years. One year later—in June of 1941—the Russian Communists started mass deportations of the Baltic people, and over 150,000 Lithuanians, Latvians and Estonians were swallowed up in Siberian slave and labor camps. Several days before the Nazi invasion of the Soviet Union on June 22, 1941, the people of Lithuania succeeded in getting rid of the Communist regime in the country: freedom and independence were restored and a free government was re-established. This free, provisional government of Lithuania remained in existence for more than six weeks. At that time Lithuania was overrun by the Nazis who suppressed all the activities of this free government and the government itself.

ANCIENT NATIONS

The Balts are proud people who have lived peacefully on the shores of the Baltic from time immemorial. For instance, this year marks the 723rd anniversary of the formation of the Lithuanian state. Mindaugas the Great unified Lithuanian principalities into one kingdom in 1251.

The Baltic peoples have suffered for centuries from the "accident of geography." From the West they were invaded by the Teutonic Knights, from the East by the Russians. It took remarkable spiritual and ethnic strength to survive the pressures from both sides. The Lithuanians, Latvians and Estonians, it should be kept in mind, are ethnically related *neither to the Germans nor the Russians.*

RESISTANCE AGAINST THE INVADERS

Since the very beginning of Soviet Russian occupation, however, the Balts have waged an intensive fight for freedom. It is widely recognized that in the period between 1940 and 1952, some 30,000 Lithuanian freedom fighters lost their lives in an organized resistance movement against the Soviet conquerors.

The Baltic peoples have never experienced such an extermination and annihilation of their people in their long history through centuries as during the last three decades. Since June 15, 1940, the Baltic nations of Lithuania, Latvia and Estonia have lost more than one-fourth of their combined populations to the ethnically genocidal deportation and resettlement programs of the Soviet Union. The genocidal operations and practices being carried out by the Soviets continue with no end in sight.

REDS COMB LITHUANIA FOR PROTESTERS

Soviet secret police have mounted a massive search of homes, offices and churches to ferret out dissidents responsible for illegal publications and protest actions in Soviet-occupied Lithuania, an underground journal reports. The police dragnet was described in the seventh and eighth issues of the *Chronicle of the Lithuanian Catholic Church* which were made available to western newsmen in Moscow recently. The *Chronicle* reveals increasing unity between nationalist and religious activists in the Baltic republic. Both groups regard Soviet authorities as the source of their problems.

The *Chronicle* No. 7 reported that in 1973 a total of 31,944 Lithuanians protested in three petitions to the Soviet authorities over religious repression and discrimination in secular life. One petition was signed by 16,800 persons, it said.

Dissatisfaction in Lithuania was candidly reported in January, 1974, in the republic's Communist party press which cited nationalism, religious individualism among the party's chief concerns.

CONFRONTING THE SOVIETS WITH THEIR ACTS OF AGGRESSION

The United States Government still refuses to recognize the forced incorporation of the Baltic States into the Soviet Union. But this lack of official recognition by our Government is not enough. Our diplomatic representatives at the United Nations and elsewhere should be prepared to confront the Soviet Union with its acts of aggression against Lithuania, Latvia and Estonia when Soviet spokesmen raise the cry of "imperialism" against our own country.

The Soviet Union has signed the U.N. Declaration of Human Rights. This document describes the fundamental privileges which are due to every individual from a state in which he lives. These include the rights of assembly, of free elections and of freedom of worship. Most importantly, they include the right to move freely over the borders for emigration or temporary visiting.

The United States and other countries of the free world should urge the Kremlin leaders to make these rights described in the Declaration available to the Balts and other captive people. If the rulers of the Soviet Union had the courage to carry out such reforms there would be no need for self-immolation to demonstrate the plight of Lithuanians and other people in the Russian Communist captivity.

BRINGING THE BALTIC CASE IN THE UNITED NATIONS

Past experience indicates that the Soviet Government is sensitive to criticism of its actions by those in the free world. Hoping that such means may minimize the persecution of the Balts in the Soviet captivity, the Administration should go ahead and implement H. Con. Res. 416 (89th Congress). This legislation was unanimously passed by the House and the Senate and it calls for the freedom from Soviet domination of Lithuania, Latvia and Estonia. The President of the United States should bring the issue of the liberation of the Baltic States in the United Nations and demand the Soviets to withdraw from Lithuania, Latvia and Estonia. We should have a single standard for freedom. Its denial in the whole or in part, in any place in the world, including the Soviet Union, is surely intolerable.

H. CON. RES. 416

Whereas the subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations, and is an impediment to the promotion of world peace and cooperation; and

Whereas all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, cultural, and religious development; and

Whereas the Baltic peoples of Estonia, Latvia, and Lithuania have been forcibly deprived of these rights by the Government of the Soviet Union; and

Whereas the Government of the Soviet Union, through a program of deportations and resettlement of peoples, continues in its effort to change the ethnic character of the populations of the Baltic States; and

Whereas it has been the firm and consistent policy of the Government of the United States to support the aspirations of Baltic peoples for self-determination and national independence; and

Whereas there exist many historical, cultural, and family ties between the peoples of the Baltic States and the American people: Be it

Resolved by the House of Representatives (the Senate concurring), That the House of Representatives of the United States urge the President of the United States—

(a) to direct the attention of world opinion at the United Nations and at other appropriate international forums and by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Estonia, Latvia, and Lithuania, and

(b) to bring the force of world opinion to bear on behalf of the restoration of these rights of the Baltic peoples.

ENERGY POLICY STATEMENT

Mr. BARTLETT. Mr. President, the Energy Advisory Task Force of the Metropolitan Tulsa Chamber of Commerce should be commended for the energy policy statement that it has adopted. The task force's recommendations, if followed, would be a tremendous stride toward domestic self-sufficiency of energy.

Mr. President, I ask unanimous consent that the letter from the Metropolitan Tulsa Chamber of Commerce and the energy policy statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

METROPOLITAN TULSA CHAMBER OF
COMMERCE,
Tulsa, Okla., February 20, 1974.
Hon. DEWEY F. BARTLETT,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR BARTLETT: A recent Energy Policy statement, adopted by this organization's Board of Directors, is enclosed for your consideration.

The Energy Policy statement was adopted upon a recommendation made by an Energy Advisory Task Force, whose membership includes a wide cross section of consumers, suppliers, and producers. The recommendations were formulated after long study by the entire task force.

We hope that this Policy Statement will provide some guidelines and input into your decisions in legislative matters involving the energy situation.

Sincerely,
DONALD L. BRAWNER, M.D.,
President.

STATEMENT OF POLICY ON ENERGY

BACKGROUND

The Metropolitan Tulsa Chamber of Commerce recognizes the seriousness of the world-wide energy situation. It was most appropriate that our Energy Advisory Task Force recommended this statement to convey the concerns which this situation presents to the business and industrial community as well as to all of our citizens.

Our nation has become so dependent on oil as an energy source that decisions made in regard to production, distribution and pricing of petroleum products are critically important to all. Such decisions must be based on the fact that controls on pricing adversely affect production and thus aggravate petroleum shortages in the long run. U.S. balance of payments deficits to foreign oil producing nations are more dangerous to the national economy than are the earned profits of our domestic energy companies. Increases in the supply of all forms of domestic energy must be the prime objective for the long-range alleviation of U.S. shortages.

Meanwhile, it is important for all of us immediately to put into effect conservation measures in our businesses and at home. It is appropriate for the business community to take the lead in protecting jobs by initiating conservation programs within their companies. It is also important for businesses to encourage employees to take advantage of the local mass transit system as well as to encourage forming car pools.

If we are to be successful in our efforts, the total business community will need to cooperate in an educational campaign for Tulsans and northeastern Oklahomans. Our Task Force is gathering suggestions from employers to provide ways to lessen the impact of energy shortages. Several of our major firms have already put conservation plans in action.

Our Task Force urges that government—state, local and national—must be involved in establishing standards and guidelines for adopting energy conservation programs. Our Task Force urges that government not overreact by implementing legislation that could have a detrimental impact on our economy. In this regard, the special needs of the recreation industry should receive careful and thoughtful consideration.

Therefore, based upon the Task Force recommendations, the following policy has been adopted by the Board of Directors of the Metropolitan Tulsa Chamber of Commerce.

POLICY STATEMENTS

1. The petroleum industry should be permitted to operate in a free market economy. Wellhead prices for natural gas and oil must be allowed to reflect the true market value, and price controls on all petroleum products should be immediately removed.

2. The intangible drilling costs deduction should be retained as an incentive to the continued search for natural gas and crude oil.

3. There should be a revision of leasing policies on Federal lands and waters for the development of coal, oil, gas, oil shale and tar sands to encourage immediate development consistent with prudent environmental practices.

4. The maximum use of coal for an energy source as an alternative to petroleum should be encouraged even if relaxation of environmental restrictions becomes necessary.

5. Expedite government processing of applications and issuance of permits for nuclear energy installations.

6. Educate and encourage businesses and individuals to implement effective energy conservation programs to avert rationing during the immediate crisis but more importantly to move toward more efficient energy utilization.

7. Support enforcement of the nationally proposed 55 MPH speed limit.

8. Encourage a public attitude favorable to timely expansion of refining capacity. Promote public understanding that advanced waste disposal techniques are compatible with adequate environmental safeguards.

9. Other energy resources should be developed by a high priority Government—Industry Research Program. All programs to increase energy production should be undertaken with sane and sensible consideration of their effect on the environment.

GUARD AND RESERVE FORCES

Mr. THURMOND. Mr. President, every day we are learning of policy and administrative decisions which are chipping away at Guard and Reserve fundings and strength levels.

Authorized drills are being cut back drastically in the Naval Reserve solely for monetary reasons. Furthermore, the Navy has made an internal decision to force out some 10,000 Naval Reserve enlisted personnel in fiscal year 1975.

Enlisted strength of the Marine Corps Reserves is down sharply and Marine Commandant Gen. Robert Cushman, Jr., has warned Congress the Marine Reserve program "may be in jeopardy."

The Air Reserve and Air Guard are reeling from air defense cutbacks which will result in thousands of dedicated enlisted and officer reservists being involuntarily discharged from that program.

The Army Reserve faces broad cuts which may result in the elimination of as many as 30,000 dedicated personnel within the Selected Reserve. All of this is being done despite the fact that Secretary of Defense Melvin Laird instigated the total force concept and Secretary Schlesinger made it Defense Department policy. This was done because it was recognized Reserve and Guard forces offer a cheap alternative to a larger and more expensive standing force.

Everyone says we should make the Reserve and Guard "leaner and meaner." This approach is valid, but being "leaner and meaner" does not necessarily mean being smaller. If such were the case we could reduce the Guard and Reserve to practically nothing and it would be the meanest military force in the world by virtue of its size.

The problem appears to be that the Guard and Reserve are fair game when the bureaucrats start looking for areas to save money. No one seems to be looking at the potential of the Guard and Reserve as a sound alternative to a large Active Force. No missions are being transferred to the Guard and Reserve in the interests of economy. Rather, trained manpower in the Guard and Reserve is being forced out.

Mr. President, there are undoubtedly areas of "fat" in the Reserve and Guard as in any organization. These should be eliminated. But some of those who are making the decisions do not see the Reserve or Guard as a viable element of the total force policy. They do not recognize the potential for real savings by expansion of these forces.

The Congress needs to give these matters serious study. It is the Congress, under the Constitution, which has the responsibility and authority to establish and maintain our military forces. It is about time we exercised that responsibility in a more participatory way.

Mr. President, a recent statement on this subject has been brought to my attention. I ask unanimous consent that an article by Maj. Gen. H. W. McMillan, president of the National Guard Association, entitled "Small Additional Steps That Will Guarantee Success," be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SMALL ADDITIONAL STEPS THAT WILL GUARANTEE SUCCESS

(By Henry W. McMillan)

Officials who must make the critical decisions on our defense posture are not in an enviable position. They are confronted on the one hand by burgeoning costs and heavy pressures to reduce defense spending, and on the other by a frightening awareness that America must not be permitted to fall behind Soviet Russia's expanding military power.

But in today's environment, too often the choice becomes not *whether* to further weaken our military forces but merely *where* to make the cuts.

The problem is intensified by the inability of many Americans to understand "why peace costs more than war", as an influential Congressional leader phrased it when the spending tab for the first post-Viet Nam year turned out to be as large as its wartime predecessors.

This seeming paradox can be explained, but the explanations are not readily acceptable to people who expected a "peace bonus" once the shooting stopped. First, inflation has taken its toll in defense as well as personal spending. Defense dollars buy far less than they used to. Second, manpower costs have skyrocketed under the impetus of record pay raises and "all-volunteer" outlays. Third, we must replenish war-depleted stocks of weapons, equipment and ammunition. And fourth, the need to maintain technological superiority demands heavier emphasis on research and development.

Unfortunately, many Americans interpret the so-called "detente" in a far rosier light than actual progress to date justifies, making it even harder for them to understand why defense costs can't be reduced drastically.

In this continuing effort to reduce spending, competition for every defense dollar has become ruthless. In the larger sense, the

Guard/Reserve has fared better than the Active Forces. In the past six years, the Guard/Reserve share of the total defense budget has doubled, from 2.5% to about 5%. (In actual dollars, the amount has climbed from $2.20 billion to $4.44 billion).

But in some specific areas, the Guard and Reserve have been denied relatively minor sums for which the return in terms of enhanced readiness would have far exceeded the costs. A case in point is the decision, effective last year, when the recruiting problem was at its peak, that the Army Guard and Army Reserve no longer could put new recruits on the payroll until they had been sent off to REP training. Another example is the Dept. of Defense's reluctance to authorize anything less than a full six years of active drill participation for new enlistees (the so-called "3 x 3" program was tested—three years of active drilling, three years in the Inactive Ready Reserve—but the test ended 31 Dec. and the DoD says the program's cost-effectiveness must be proved before it will consider its renewal).

Perhaps the most striking example of withholding support at a critical juncture is the failure of both the Pentagon and Congress to provide additional low-cost recruiting incentives for the Guard and other reserves.

It was pressures to reduce spending that led to formulation of the Total Force Policy. Guard/Reserve units cost far less to maintain than comparable Active units. It was recognized that, given more equipment and training support, Guard/Reserve units could attain higher readiness levels and thus supplant some of the more expensive Active Forces. But today, ironically, the very pressures that gave rise to Total Force are leading to false economies which jeopardize attainment of the desired readiness levels. Time and energy that should be spent on direct readiness-producing efforts now must be devoted to recruiting.

With millions already expended to make the Guard and Reserve a more responsive, all-volunteer force, we think it's time to take those small, additional steps that will guarantee success.

WYOMING YOUTH WINS PUBLIC SPEAKING CONTEST

Mr. HANSEN. Mr. President, I have long been convinced that our Nation's greatest resource is its youth. This conviction was reinforced when I had the privilege to meet Gregory C. Dyekman, a Cheyenne, Wyo., youth who is a student at the University of Wyoming.

Gregory was in Washington, D.C., for the Reader's Digest Association-Boy Scouts of America National Public Speaking Contest on February 20, 1974. He represented the North-Central region and was named the national champion in the public speaking contest. At the Boy Scout Congressional Breakfast on February 21, Gregory was one of the honored youth representatives and delivered his winning speech to the Members of Congress and other guests.

Gregory exemplifies the many outstanding young men and women who are involved in the Scouting programs of the Boy Scouts of America. He is to be commended for his skills and dedication which bring credit to his parents, teachers, friends, and community. The Boy Scouts of America and the Reader's Digest Association are to be commended for the opportunities they afford our Nation's youth.

Mr. President, I ask unanimous consent that Gregory's speech be printed in the RECORD. It is an inspiring speech which challenges the citizens of this Nation to get involved in meeting the challenges which face us.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY GREGORY C. DYEKMAN

You know the United States is the oldest "new nation" in the world. In less than three years the United States will be celebrating its 200th birthday making it the oldest sustained government in existence.

Through those first 200 years, though, the United States has been through some pretty rough times with a revolutionary beginning, eight subsequent major military conflicts including a bloody civil war, an earth shattering depression, and more recently, riots in cities and on campuses across the country. But, the United States has always shown an amazing capacity to bounce back from such crises. Why? Because throughout American history, there have always been those who are willing to stand up, to be counted, to get involved.

Unfortunately, I am afraid, that once again the United States is in a critical situation. For about the last decade, and especially in the last few years, a growing number of Americans have voiced rising dissatisfaction with government and the people who run it. With the events of the last few months the term "politician" seems to have become synonymous with "crook" and although its not making the headlines it once did, the Watergate affair has cast a dark ominous shadow of doubt over government at all levels and in all areas of the country. Our political system provides for the representation of the masses by a relatively small group of individuals and yet it's that very provision which has caused most Americans to forget that they, too, can and indeed should have a strong voice in government.

Sadly enough, it's very simple to find examples of where Americans simply haven't taken advantage of the opportunities for involvement. For example, rarely does a day go by when someone doesn't say "I wish I knew more about what was going on in Washington . . . ," and yet, the very first week that the Watergate hearing hit the television screen, American housewives ranted and raved because they were missing "Secret Storm."

And then there's the environment. No one seems satisfied with our environmental policy today. Either it's too conservative or it's too liberal. We're reacting to the alarmists or we're selling out to the industrialists. No one seems satisfied and so it seems rather strange, that at the public hearings, which precede nearly every important environmental decision made in this country, that the empty seats outnumber the witnesses and the spectators combined.

And then there's education, an area in which we have a great deal to gain but even more to lose. Every American is directly affected by the quality of education produced in this country. Indeed, the decisions made by our educational leaders today will shape the future of the United States. That's why it is disheartening to me to find, that across the country, school board elections and school bond issue elections invariably draw among the lowest voter turnouts of any type of election.

Why don't people know more about welfare, inflation, tax reform or the energy crisis? Well, I'm afraid it's because we've become complacent. For years now we've allowed ourselves to sit back and let someone else make all the decisions for us and then we complain about the results.

Yet, even those people, that we've given the power to make our decisions for us, have been trying harder everyday to get us actively involved. A good example is the fact, that in many states across the country, legislators have enacted open meeting laws. And what about the 18 year old vote—a move by Congress to give us young people a chance to become an integral part of the political system we're going to be operating under for the rest of our lives.

What's going to happen to the United States if we allow this wave of apathy to continue? Some leading political and social scientists indicate that perhaps *the United* States is on the verge of a downfall—another Roman Empire because we're too affluent and too selfish to worry about anyone else. We seem to have forgotten the millions upon millions of Americans who simply haven't been able to make their needs known to government effectively and who rely on us to do that for them. The poor, the ill, the elderly, but especially the young. They have the most to lose for it's their futures that we're playing with.

Those futures can be made bright. The United States can bounce back from this crisis as it has from many others in its past. We're still basically the same nation after the same goals of life, liberty, and the pursuit of happiness as were our forefathers 200 years ago. But, we must remember the people in our society who depend on us to demonstrate to them the real meaning of a government of the people, by the people, and for the people. And even if we can't see the benefit in it for ourselves, let's get involved for them.

Thank you very much.

COMMONSENSE

Mr. BROCK. Mr. President, there is no better judge than the American marketplace to determine supply and demand. It cannot be legislated. My contention is backed by an article by Dr. W. Philip Gramm and Dr. Richard R. Davison, who wrote on "The Commonsense Way to More Oil" in the Wall Street Journal. This particular article deals with the energy shortage, but its philosophy can easily be applied to the entire economic marketplace. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

THE COMMONSENSE WAY TO MORE OIL

(By W. Philip Gramm and
Richard R. Davison)

In the great debate about how to stretch the nation's crucially short available supplies of petroleum products to meet current and expected demand, many people in influential positions are trying to straddle the issue. They are proposing rationing or high federal fuel taxes as a short-term policy and free markets as a long-term policy.

On the surface this blend of controls and freedom seems to make sense. The exact magnitude of today's petroleum *shortage* is unknown but the quantity of excess demand has been estimated in the range of 10% to 20%. Until the forces of the marketplace can once again achieve equilibrium, it is proposed that high fuel taxes would serve to trim some of the excessive demand and rationing would make sure that everyone gets his fair share of the available supplies of gasoline and fuel oil.

In fact, almost nothing could be quite as disastrous for everyone concerned. Rationing and taxing will cause output to fall and the shortage will get worse. The explanation is simple. If these programs are introduced as temporary measures, it's true they will serve to hold down the price of oil of domestic producers, but at the same time they will also serve to introduce the expectation of higher prices after controls end. The producer, therefore, will have an incentive to restrict current supply and to maintain his capacity to produce under more profitable conditions.

We need only look back to last summer when beef prices were frozen to see what will happen. Since oil can be held indefinitely, while cattle quickly pass their prime market period and eventually die of old age, we can expect even more production holdovers in oil than we experienced in cattle.

Not only will rationing and taxing petroleum not eliminate the shortage, but under such programs the effective price of petroleum to the consumer *will be higher* than the price that would exist in a free market. There, as prices rise the quantity supplied would expand from both domestic production and increased importation; and the shortage would be partly eliminated by decreases in the quantity demanded and partly by increases in the quantity supplied. The taxing system, on the other hand, would produce no supply response and we would have to rely solely on decreases in the quantity demanded as the effective price rose—thus a higher price to the consumer than under a free market system.

Rationing, with a "white" market in coupons, though lowering the transaction costs that were incurred in the black market trading of World War II, will still produce a higher effective price to the consumer than the free market solution. The market price of ration tickets will be bid up to the point at which the ceiling price of gasoline, plus the price of the ration ticket are equal to the price at which the 10% to 20% of excess demand is choked off. But again there will be no stimulation of oil output, with the consequence that the effective price will rise above the level the free market would have produced.

THE ICEBERG IMAGE

What, then, could we expect of free market pricing by itself? Where would the additional supplies of oil come from if prices rise? Like an iceberg, 90% below the surface of the ocean, about 90% of the known oil in the U.S. is unrecoverable at present prices, existing in fields that are now considered largely depleted. But, as an iceberg floats higher when the sea becomes denser, so more oil reserves become available when the price rises.

To put this in perspective, in 1969, before the energy shortage developed and when there was little prospect of higher oil prices, cumulative production in the U.S. was 84 billion barrels, and recoverable reserves were about 31 billion barrels. (The Alaskan North Slope strike has increased this to about 39 billion barrels.) Yet there remained in these same reservoirs, in fairly well-defined locations and volumes, 285 billion barrels not recoverable at existing prices. The technology exists to recover much of this oil. Even now, over a fourth of the oil produced in this country comes from fields subject to artificial water floods, but even after successful water flood, about 50% of the original oil remains in place.

There are a large number of so-called "tertiary" recovery techniques that include steam and fire drives, dissolving the oil with miscible gases or liquids and methods employing detergents that literally wash the oil from the rock. The high temperature methods are particularly effective with highly viscous oils. There are estimates that up to 50 billion barrels of low gravity, viscous oil are recoverable by these methods. On the other hand, miscible fluid recovery techniques with higher gravity oils are capable of recovering as much as 90% of the oil in place.

While in time, more and more of this hidden part of the iceberg will become available as improved technology brings down the cost and risk, a few dollars per barrel price increase would likely have the effect of *tripling* U.S. oil reserves. Just how fast this additional oil would become available as the price rises is impossible to answer with precision. However, between 1947 and 1972 the record indicates that every 1% increase in prices of refined petroleum products was on average associated with a 4% increase in the production of gasoline. This fact bears out what the bureaucrats have been saying: Oil men are greedy. If you raise the rewards for production, they produce more to get it. If real prices fall, as they have under price ceilings, production falls off.

In a free market, all marginal or stripper wells that could produce profitably would soon be in operation. There are over 350,000 stripper wells in the U.S., producing 10 barrels per day or less and tens of thousands more shut down which could be made operational on short notice. Production from these wells could probably increase stripper production by 20% to 25%. Though some of these wells would require renovation, most could be on stream in six months to a year and could produce about 250,000 barrels per day. The even larger inputs from secondary and tertiary production and increased exploration would be felt more slowly. within a 24-month time frame, new production approaching one million barrels per day might be expected and this source would gush forth in ever increasing quantities until stopped by declining prices.

The free market oil price in constant dollars would be below $8 per barrel. At $8, a vast amount of energy from other sources would cut deeply into the conventional oil market. Not only would coal and nuclear energy replace oil and gas for power generation, but gas from coal would supplement natural gas supplies; and methyl alcohol from coal could undersell gasoline. The U.S. has some of the best coal deposits in the world—at least 200 billion tons (equivalent to roughly 900 billion barrels of oil and significantly in excess of world crude reserves). There are also huge reserves of shale and tar sands that could make a significant contribution at these prices, and even solar energy could make inroads into the space heating market in many localities.

A RETURN TO NORMALCY

Gaseous and liquid fuels from coal have a longer lag time than increased petroleum production, but the potential contribution is such that it places an absolute upper limit on ultimate fuel prices. For instance, methyl alcohol, produced from coal, can compete with gasoline at oil prices well below $8 per barrel. Furthermore, methyl alcohol is over 100 octane, lead-free, much cleaner burning than gasoline, and, as a by-product, it could save billions in pollution abatement. With these many energy alternatives, given the opportunity, the free market system would provide adequate fuel for rapid economic expansion.

One of the loudest objections raised against a free market solution to the energy crisis is that the petroleum industry will make excessive profits if prices are allowed to rise. Since the crisis was, in large part, engendered by various government regulations that disrupted the workings of competitive markets and by price ceilings that caused the real price of petroleum and natural gas to fall and lowered the return on investment, rising profit margins represent not so much a windfall gain as a return to normalcy. These profits are necessary if we are to revitalize the exploration and production process in the energy industry.

U.S. production of crude oil and natural gas liquids this year has been running close to 11 million barrels a day, while the latest figure for imports is about 6 million barrels a day. Imports, not covered by price controls, are selling for about $8 a barrel on average, although in extreme cases they have sold for twice that amount. Recently, new and stripper well production was freed from controls and is now selling for over $6.75 a barrel. Last week in a commendable move the price ceiling on "old oil" from existing wells was raised $1 a barrel, but this still leaves two thirds of America's oil selling for $5.25 or less and the other third ranging up to nearly $8 a barrel. The stated objective of these pricing policies is to encourage the finding of new oil and the maintenance of production from marginal wells, but under such a system there is a clear incentive to cut the production of nonstrippers and wait for prices to rise when ceilings are removed. Such incentives explain why many wells have been capped under the present pricing system.

Without question, the government has held the price of oil and gas artificially low for years. As a result, the return on invested capital in the petroleum industry has fallen from 9.4% in 1963 to 7.4% in 1972. Falling prices also have caused a drastic decline in drilling and hence curbed the growth of oil reserves. Twenty years ago, when crude production was only 60% of present production, there were about half again as many drilling rigs operating in the U.S. as there are now. But 20 years ago it cost less than half as much to find a dollar's worth of reserves as it did in 1972. Just from 1967 to 1972 the cost to drillers for oil field machinery, pipe and labor increased about 30% while the price of finished petroleum products rose less than 9%. This has caused a steady decline in the discovery ratio. At present, not including Alaska, we are depleting reserves about 20 times as fast as we are finding new oil.

In order to reverse this trend the oil companies must spend billions, but this they cannot do if their return on investment is less than the going interest rate. Under a free enterprise system the only way that the cash flow and incentives necessary for research and exploration can be provided is from profits. These profits cannot arise under the present system of controlled prices. The proposal that the government subsidize the oil industry for purposes of exploration and research will create a quasi-governmental cartel modeled on that paragon of efficiency—the U.S. Postal Service. It seems far better (and cheaper), therefore, to allow the oil companies to finance this exploration themselves through free competitive capital markets.

TREASURY CONTRADICTIONS

The new proposal to institute a progressive "windfall profits" tax on crude oil that sells for over $4.25 a barrel will only lessen the profitability of marginal production, and short term output will increase by a smaller amount than it would in the absence of such a tax. By extracting $3 billion to $5 billion a year from oil company revenues, such a tax will make it more difficult to plow back the $200 billion necessary to maintain current production over the next 15 years or to get external financing for such a massive investment. Moreover, the Treasury's estimate that such a tax will not affect prices to consumers is based on the assumption that over the five year life span of the tax the quantity of oil supplied will be perfectly fixed, i.e. that no marginal production is possible. This flies in the face not only of every private estimate of the price responsiveness of crude oil supply but of previous estimates put out by the Treasury itself.

Somewhere along the line people have forgotten how the profit system works, that it is to each producer's self-interest to expand output and thereby expand profits. As each producer does this, excess profits are competed away. Excess profits vanish when their work is done and output has increased.

It is plain common sense that if government regulation and price controls have helped to cause the energy crisis, they are not likely to solve it. When government intervention does not solve a problem, the bureaucrat never thinks to end controls. He cries for more controls. Those who have no knowledge of free enterprise stampede to give him more power. In such cases, our problem is not an "energy crisis" but a "leadership crisis."

ALEXANDER SOLZHENITSYN

Mr. THURMOND. Mr. President, the tragic story of Alexander Solzhenitsyn is full of lessons for the free world.

Although we have problems here, we should all be proud of the fact that what happened to Mr. Solzhenitsyn in the Soviet Union could never happen in the United States. Mr. Solzhenitsyn criticized his country's government and was exiled. In America, any citizen can criticize without fear of reprisal.

An excellent article on this issue by James J. Kilpatrick appears in the Washington Star-News on February 20, 1974, and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star-News,
Feb. 20, 1974]

SOLZHENITSYN SHOWS FORCE OF TRUTH

(By James J. Kilpatrick)

The first stories last week on the arrest of Alexander Solzhenitsyn said that the Russian police sent seven men to pick him up. Seven men! If laughter can be found in this affair, let us find laughter here.

Seven men! The masters of the Kremlin might as well have sent a battalion, or two divisions, or a thousand armored cars. In making this arrest, the many would have been as helpless as the few.

How do you arrest an idea? How do you put truth in irons? They came too late for Solzhenitsyn. They should have seized him 50 years ago, before the boy learned to write.

The story speaks at two levels of time and truth. The first has to do with the Soviet Union in this century. The second has to do with man past and man future.

Nothing could more clearly reveal the fundamental weakness of communism—the rotten core at the heart of the ideology—than the story of Solzhenitsyn. A vase deal of nonsense has been written in recent years to the effect that the Communist revolution has "matured," or "come of age." Specialists in Kremlinology have found "cracks in the Iron Curtain." The cheery watchword is détente."

Yet nothing has changed, nothing at all. Communism is as fearful, as suspicious, as paranoid as it was in the bloody days of Stalin. The party cannot rule by reason; it can rule by force alone. In Hungary, in Czechoslovakia, in Poland, on Gorky Street last week, it is always the same: Dissent is equated with heresy, and public criticism with darkest treason. The Soviet Union has the mightiest army on earth, the greatest navy and the deadliest missiles. And the Soviet Union is afraid—afraid of a novelist, afraid of a man's ideas.

But the encouraging thing—the part of the story that lifts us up—is that man endures. For 50 years the Communist masters have labored to put out the fires of human freedom. They have made the press an instrument of propaganda. They have herded their children into state nurseries. They have purged their libraries and monopolied the book stalls. They have jammed the air waves and stopped up the people's ears. They have banned travel in the free world. They have corrupted law and perverted education.

Solzhenitsyn is 55. He was reared in this darkness, punished by imprisonment, denied access to every tool that might sharpen his intellect. But the fires cannot be wholly extinguished.

The spark never quite goes out. It is a lesson that tyrants learn in time: Something in the soul of stubborn man goes on. They could pave Red Square with granite blocks and cover the blocks with thick concrete. One day, in some distant spring, a seed still would come up.

To speak in terms of man or of mankind is to speak in abstract terms. Survival is personal. It manifests itself in the one human being—Joan at the stake, Luther at the door, Patrick Henry in a schoolhouse, Rosa Parks in an Alabama bus. The trees of freedom are metaphorical trees, but they are watered in real blood and tears. Solzhenitsyn is a symbol; he is also a very courageous man.

As for today's world, it has to be said that his act of martyrdom will not accomplish much. He has not loosened so much as one stone in the monolith. The Russian people will not be roused to counter-revolution. After a week or two, when the story drops out of the news, detente will continue as before. If Solzhenitsyn had been executed or imprisoned, the prospect might be different, but the Kremlin masters are brutal, not stupid. Exile, even brilliant exiles, get to be tedious old men. Banishment was better.

Yet things will not be precisely as before. Within the Soviet Union, the story will be told, and told again, of how the seven came for Solzhenitsyn; and under the snows of Russia the story will sleep like a single, indomitable seed.

NET ENERGY

Mr. HATFIELD. Mr. President, there are certain important principles of how natural forces operate on this planet that we must bring to the attention of our energy planners and our economists. Without the benefit of these perspectives, we will continue reacting only to immediate crises while we rush blindly toward a future that threatens us with energy scarcity, ecological deterioration, and economic disaster. In discussing these principles, we should treat man as the part of the world ecosystem that he is, subject to the same laws of nature as are all other populations of living things.

FORMS OF ENERGY

Man uses energy from many available forms. He consumes food energy in order that the cells of his body may perform their work so that he may function as an organism. He burns fossil fuels—oil, gas, and coal—in order to apply the energy released as heat to fashion certain products for his use or to propel him in vehicles or simply to keep him warm. He converts the heat energy released by the breakdown of fissionable materials to electrical energy, a form he can use to do the same kinds of things he does with fossil fuels. All other living things also use energy, although they are not as proficienct at tapping as many different sources as is man.

At the creation of the universe, the energy of the planet Earth was the heat of its molten core and the energy locked in the structure of the atoms that make up all matter of the planet. Since that time, other energy forms have accumulated here from the incidence of solar radiation on the surface of the Earth. Green plants transformed this solar energy into chemical energy. Our fossil fuels are just dead plant material accumulated over millions of years and converted to their present form by geologic pressures over a period of additional millions of years. They are very "rich" fuels, as concentrations of those millions of years of solar energy conversion by the green plants.

All this fossil-fuel energy that took so long to accumulate we are digging up and burning up in the space of a couple hundred years. Although solar energy continues to arrive at the Earth—and it is the only significant source of new energy entering this sphere—it is a very diffuse form of energy. You might have guessed this from the fact that it took millions of years to cause the accumulation of what man is using up in a couple hundred. It is so diffuse that, except for application to heating and cooling buildings, it will be of little use to man for his other endeavors.

NET ENERGY

We must therefore reserve most of our development efforts for the energy that is already right here on earth. And this is no small amount, in gross terms. However, there is a big problem that man is facing with regard to his energy supplies. And that is that the true value of energy to society is not the gross amount that exists in the world. The true value is the net energy—the amount remaining after you subtract the energy costs of getting and concentrating that energy.

Most forms are not concentrated for man's use in technological society. For example, there is easily releasable energy in trees, but we would have to cut down an entire forest and burn the wood in order to get the equivalent amount of Btu's in a single supertanker full of oil. We can concentrate energy from wood by converting it to oil or methyl alcohol, two processes we are now *investigating* to utilize the wood wastes generated by our timber industry. But we must realize that these processes are costly in terms of the energy that is expended to make the energy of wood available.

The fact that it takes energy to extract energy—to make energy available for our many uses—is a crucial consideration to which our energy planners and economic advisers have not paid attention. We should be asking—and finding out—just how many Btu's are burned up in making 10 Btu's of energy available to produce the goods and services we demand. Obviously, if we begin to exploit energy resources that take 11 Btu's in order to make just 10 Btu's available, we are going to lose the energy battle. We need to assess the President's "Project Independence" immediately in terms of what we are going to expend for what we intend to get. We need to look at the energy technologies we are going into—coal gasification, extraction of oil from shale rock, nuclear fission reactors, and so forth—in this light. But we have not developed the kind of energy accounting system that will allow us to make these assessments.

One thing already appears evident, however. And it is an ominous pattern. These new energy technologies are less and less efficient. It is taking more and more energy to get the energy to make our goods and services. To put it more precisely, the energy that we net from these processes is declining as a percentage of the gross energy released from the source.

ENERGY AND ECONOMICS

The economic ramifications of this development are extremely important. The major new energy processes being developed to replace our conventional sources will require more energy to get the energy available to the consumer. Therefore, they will be more costly to the consumer. You will be paying more and more for the process that makes the energy available to you. Consider this pattern:

In 1965 $1 bought an average of 100,000 Btu's.

In 1970 the same dollar bought 80,000 Btu's.

By next year, that 1965 dollar will only get you 50,000 Btu's.

We can soon expect this phenomenon of declining net energy percentage to become the principal cause of inflation, eclipsing all the other inflationary pressures which already are seriously unsettling the U.S. economy.

The more the United States increases its energy consumption under conditions of declining efficiency of the energy extraction process, the more rapidly inflation and the consequent economic instability will increase. An inappropriate energy policy, one that does not take net energy into account, will be felt in terms of a general economic crisis rather than in terms of the energy crisis that lies at its base. Only when our energy and economic planners recognize this relationship can we begin to attempt an orderly transition, from our present energy binge, to a period of consumption that is more attuned to the level that our energy sources can support without such adverse economic impacts. The transition will probably need to be accomplished within 20 years, but international political and economic developments could make the need for such a fundamental transition even more urgent.

Further, a national political decision like "Project Independence" if seriously pursued, would also have the effect of hastening the need to control our consumption, as we would begin moving on a crash basis toward implementing expensive technologies that are poor net energy producers—or may even be net energy losers. It could spell disaster for our economic system. I do not deny that technologies such as nuclear fission and coal gasification must be used in the next several decades until something like fusion becomes commercially feasible. We must realize, however, that we cannot possibly afford to consume energy from these sources in the same unlimited fashion that we have consumed the traditional forms of oil, gas, and coal. As we move into this interim period, we must restrain our consumption.

In order to nail down the points I have been trying to make, I would like to discuss some particular details.

QUESTION OF NET ENERGY RESERVES

We are often presented with statistics about how much oil, natural gas, and coal is still in the ground. These gross figures are then translated into terms such as how many years the United States could continue to run on this amount of fuel. Likewise, projections for the contribution of nuclear power to our energy supply are simply reported in terms of gross kilowatt output. What is ignored in all of this is the concept of net energy.

Suppose that for every 10 energy units of some deposit of oil shale proposed as an energy source, there were required 9 units of energy to mine, process, concentrate, transport, and meet the environmental requirements. Such a shale reserve would deliver only one-tenth as much net energy and last one-tenth as long as was calculated using the gross figures. We should be obtaining estimates of net energy from our estimators of energy reserves. We are getting a phony picture today. The net reserves of fossil fuels are mainly unknown, but they are much smaller than the gross reserves which have been the basis of public discussions and decisions that have implied that our present growth can continue unabated.

NUCLEAR POWER AND NET ENERGY

With regard to our nuclear energy resource, I would estimate that right now it is just barely a yielder of net energy. The high costs of mining, processing fuels, developing, and building plants, storing wastes, operating complex safety systems, and operating Government agencies make present nuclear power production a marginal operation. Because these supporting operations depend on cheap and abundant fossil fuels, there may not be a major long-range contribution of this nuclear fission technology to our economic survival. I emphasize, therefore, that this is likely an interim technology that will help us through the next 35 years or so. When the subsidy of the fossil fuels is removed, this marginal source will be even less economic, and may not be net yielding at all.

Although the breeder process is calculated to increase dramatically the efficiency of fuel use by nuclear reactors, we must be cautious about these figures. They do not show the diversions of other cheaper forms of energy that are required to operate the breeder technology. These diversions amount to an energy subsidy—they support the fancy, energy-consumptive structures and operations that are part of the breeder technology.

The fact is, we do not know whether the breeder will be a better net energy yielder than our present nuclear reactors. Further, this process is being developed near the end of the fossil fuel era—near the end of the time that fossil fuel subsidies can help keep the process a net energy yielder.

NET ENERGY FROM SOLAR

Many solar energy advocates do not realize that the energy cost of concentrating this form for any use but space heating and cooling is prohibitive, from a net energy standpoint. Forests and food producing plants have already maximized net energy from solar for human use. Plants build tiny microscopic photon receptors that are the same in principle as the solar cells promoted at vastly greater expense by some solar advocates. Such further efforts at concentration of solar energy require large energy subsidies. Plants, on the other hand, build their photon receptors and supporting structures entirely within their energy budget.

This is not to say, however, that some further concentration of solar energy is not possible with reasonable subsidies. Organized agriculture has made higher food—chemical energy—yields possible. Energy subsidies in agricultural efforts include large quantities of fossil fuels for fertilizers and running farm equipment. But beyond agriculture, building solar cells to further concentrate solar energy would be throwing bad money—and energy—after good.

ENERGY AND MONEY

Energy and money are by *no means* the same, but they are both currencies which flow through society. Energy is the currency around which we should be basing our economic forecasts, not money supply, the value of the dollar abroad, the value of stocks on the New York Exchange, the price of gold on the world market, and so forth. In order to get a better picture of where this country is going, or where it ought to be going, we should be thinking in terms of energy. We should develop energy budgets. Energy is absolutely central to our economic life, and this fact alone should show us that if we are to continue to have some control over our destiny, we should start looking at how we use our energy and where we're going to find more on a net basis.

ENERGY AND ECOLOGY

Today we are being led to believe that maintaining a quality environment and providing for our energy needs are conflicting objectives. Many of you have seen the advertisements that have appeared recently in our newspapers urging that auto emission controls be junked. Maintenance of our natural ecological systems, however, should not have to compete with man's other uses for energy. These ecological cycles should actually supplement our energy supply, and it is tragic that we have allowed this relationship to be turned around.

We have been making technological choices that have been displacing products and processes which fit in with the cycles of nature. Then, to rescue nature, we have been applying "environmental technology" which substitutes for natural processes, and therefore duplicates the works available from the ecological sector. This displacement and duplication is a crippling economic handicap.

Consider the example of how we handle human waste. As the growth of urban areas has become more and more concentrated, much energy, including research and development work, has gone into developing and implementing technologies to protect our lakes and rivers and coastal waters from the wastes we are dumping into them. These wastes, however, are themselves rich sources of chemical energy capable of being recycled back to the farmlands from which these nutrients came. They would replace much of the fertilizer that we produce from fossil fuels and eliminate the need for energy-expensive tertiary sewage treatment.

When population or economic growth becomes so concentrated that such energy-consumptive technologies as tertiary sewage treatment or automobile pollution control devices start to be employed, then this growth needs to be arrested, or it will arrest itself, through an energy-caused economic depression.

Man as a partner of nature must learn to use well the natural ecosystems. They can be good, cheap recycling processes that utilize the kinds of energy and other resources for which man and nature do not compete. Or they can be destroyed at the same time we're expending great amounts of energy trying to keep them from being destroyed. Our present efforts to resurrect Lake Erie are a good case in point.

ENERGY AND ENTERPRISE

Societies appear to compete economically by the same principle that describes how natural living systems compete. The principle is this: those systems come to dominate that maximize their total net energy from all available sources, and then distribute this energy toward the ends that most promote their survival. In natural systems, a diversity of species develops that allows more of the available energies to be tapped. Many components of such successful systems are specialists in extracting useful power from less concentrated energy sources and they receive subsidies from the richer components of the system.

Consider how trees use energy, for an example of what I mean. The Sun-drenched leaves at the top of trees transport fuels that help the shaded leaves get some additional energy from the last rays of dim light reaching the forest floor. Trees use a portion of their rich energies to get a little more energy, even from sources that would not be net yielding alone; thus they develop more total power and more resources for their survival.

In the U.S. economy, we see how our rich fossil fuels have kept all kinds of goods and services cheap, so that marginal energy sources, such as nuclear fission, may receive the subsidy benefit that makes them net yielders. And just as the tree would die if its top leaves were somehow permanently shaded out, our present fission technology may not be able to stand on its own without the subsidy of cheap and abundant fossil fuels.

TRANSITION TO AN ERA OF LIMITED ENERGY

During times when there are opportunities to greatly expand the net energy available to a society there is a competitive advantage to rapid growth, even to the point of being wasteful of this energy. The last 200 years of Western culture is testimony to this phenomenon, as Western man rapidly colonized the Americas and Africa and exploited the resources of the Middle East and South Asia. Unfortunately, as we move into a period of declining efficiency in obtaining net energy, Western culture is still locked into a mode of belief that expansion is necessary for survival. Naturally, the Eastern and third world cultures share this belief and aren't about to be talked into slowing down their development by the Western World.

But at some point soon, man in nature must shift from rapid growth as the criterion for economic competitiveness to a relatively steady state as the model. The timing depends only on whether the breeder reactor works out as a good net yielder—a later brief reprieve from energy limitations may come if fusion works out.

Man must break out of his expansive ways, which now have him mesmerized, so that his total society can settle into a steady state, just as all other living things must reach an equilibrium point, in balance with the other living things and governed by the constraints of the natural world.

THE NATURAL LIMITS TO GROWTH

Ecologists have long been familiar with both growth states and steady states, having routinely observed both in all manner of natural systems. For example, they have observed the dog-eat-dog growth competition that occurs every time new vegetation colonizes a bare field. Here the immediate survival premium is first placed on rapid expansion to cover the available solar energy receiving surfaces. The early population consists of weeds that are not as efficient as energy converters, but are fast-growth specialists. Later, these plants are replaced by a population of higher diversity—more efficient in energy tapping, longer living, better controlled, and with more stable components.

Unlike biological scientists, most energy planners and economic advisers have never even conceived of a steady state. They have been trained in their subject during a period of rapid growth. However, most of man's history has been close to an ecological steady state, and it is only the last 200 years that has seen a burst of temporary growth, because man tapped certain concentrated energy supplies that accumulated over long periods of geologic time. It should be obvious that our most basic assumptions must be reexamined.

ENERGY MYTHS AND REALITIES

I would like to conclude by examining six commonly held, but mistaken, notions about our energy problems.

Myth No 1: We have unlimited fuel to continue running a highly consumption-oriented society.

We actually have far less net energy in our fossil reserves and in future alternative sources than the gross energies we are reporting. Until we unlock an energy resource that greatly expands net energy yield, our society will suffer greatly if we continue the rapid expansion of the consumer economy that has characterized our last 200 years.

Myth No. 2: Environmentalists caused the energy crisis.

We must understand that energy is part of the whole realm of creation, and not in competition with it. Our misuse of the natural cycles of the world ecosystem has been our single greatest waste of energy. Not only have we foregone utilizing the energies that power these cycles, we are paying a heavy energy penalty to save these crucial natural cycles from destruction.

At this point, we have no choice but to pay this price. But we need not keep on paying at this rate, if we would only mend our environmental ways in relating to these cycles. Man is an integral part of nature, and it is past time that we should realize the consequences of our acting as though we are not subject to the same natural laws that all other life is subject to.

Myth No. 3: Population increases causes the energy crisis.

The skyrocketing consumption of energy in this country has far outstripped our population increases. Per capita consumption has increased sharply due to the technological choices we have been making. We have been displacing lower polluting, lower energy consumptive processes with higher polluting, higher energy-consumptive processes:

Synthetic fibers have been displacing natural fibers.

Aluminum and plastics have been displacing forest products.

Truck freight hauling has been displacing rail.

Aluminum and cement has been displacing steel.

Nonreturnable containers have been displacing returnables.

Consider the impacts:

Synthetics—such as nylon and plastics—accumulate in the environment where they have no place in the natural cycles. They are usually toxic to living systems and cannot be broken down. Their synthesis has heavy power requirements.

Aluminum has 10 times the pollution price tag of an equivalent amount of wood. And wood is produced by solar energy in a natural cycle.

It takes six times the energy to move the same amount of freight by truck than by rail.

Production of aluminum, cement, and chemicals consumes 30 percent of the industrial use of electrical power in the United States.

The beverage container industry would consume 40 percent less energy by switching back to returnables.

It is imperative that we cut back on uses. The displacements I have described came about because of the higher profits inherent in the new processes and it will take economic incentives to get us back on a more ecologically compatible track.

We must stop invading the natural cycles with heavy concentrations of pollutants. In the end these only cause us to use even greater amounts of energy to save ourselves and the world's ecological balance.

Myth No. 4: The energy problem is a temporary U.S. petroleum problem.

The Arab embargo and their price hikes have exacerbated our immediate problem in this country. However, the crucial energy problem—namely, declining net energy yields at a time when man's societies are rapidly developing, growing, expanding—is a world problem. Economic chaos in the more developed Western societies, where the problem will be felt first, will reverberate throughout the world, affecting Eastern societies and the so-called underdeveloped world as well.

Also, as energy forms are closely interrelated, shortages in one form will quickly be felt throughout the various energy sectors. For example, a natural gas shortage in this country soon becomes an oil problem, and the oil problem becomes an electrical power problem as well, as we switch from alternative to alternative energy source.

Myth No. 5: "Project Independence" will solve all our energy problems.

National energy independence, even if it is possible, will not solve the problem of constraints to our net energy output. If anything, Project Independence will bring us more quickly to the day when we must reach that equilibrium position, curtailing our rapid growth pattern and utilizing our net energy wisely, for things that will best serve our economic survival.

Myth No. 6: Traditional economic analysis by the President's Council of Economic Advisers, the Office of Management and Budget, the Federal Reserve Bank, and economics scholars in our colleges and universities will continue to throw light on the central economic problems of our day and guide us safely past the danger of depression.

As I have tried to explain, isolated economic perspectives will not reveal the full dimensions of our economic dilemma. What we tend to see as "economic problems" will in fact be a net energy predicament.

UNITY OF ENERGY, ECOLOGY AND ECONOMICS

Only when our leadership is able to grasp the unity of energy, ecology, and economics will we be able to guide our country in the desired direction. Today, instead, we hear adversary arguments coming out of these three disciplines, and this is dangerous to the welfare of our Nation and to the role of man as custodian of the Earth. In place of the confusion that comes from Western civilization's characteristic educational approach of isolating variables in one-dimensional thinking, we should seek a commonsense overview. Pragmatically, a way to begin would be to set up a capability in government to budget according to flows of energy rather than money. Energy is the all-pervasive underlying currency of our society. We must know how it works, where it comes from, and where it goes. Then we can intelligently deal with it and stabilize the economic fluctations of our society that are growing wilder every day.

RIGHTS OF THE RETARDED

Mr. HUMPHREY. Mr. President, recently U.S. District Court Judge Earl Larson of the State of Minnesota handed down a decision relating to the mentally retarded that will have nationwide impact. Judge Larson ruled that mentally retarded persons confined involuntarily to State institutions have a right to receive adequate care and treatment under the due process clause of the 14th amendment.

Judge Larson said the basis for his "right to treatment" ruling is that treatment is the only constitutionally permissible purpose for the confinement of a mentally retarded person because they have not been guilty of any criminal acts. If the treatment is not given, he said, being hospitalized for mental retardation would be like being placed in prison indefinitely for no convicted offense.

The mentally retarded are all too often the forgotten people of our society. They desperately need the protection of our legal system and the respect of their constitutional rights as citizens entitled to equal treatment under the law.

Judge Larson's ruling is another one of a series of historic rulings that, if properly implemented, can bring some sense of humanity and decency to the care, treatment, and education of the mentally retarded.

I ask unanimous consent that the article concerning this decision by Judge Larson which appeared in the St. Paul Pioneer Press of February 20 be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Retarded Persons' Rights Are Upheld by Judge

(By Nancy Livingston)

U.S. District Court Judge Earl Larsen has held that mentally retarded persons confined involuntarily to state institutions have a right to receive minimally adequate care and treatment under the due process clause of the 14th Amendment.

Six mentally retarded persons, patients in four mental institutions, were named as plaintiffs in a lawsuit brought in their behalf by the Legal Aid Society.

Named as defendants in the suit, which was tried last September in Larson's court, were state Welfare Commissioner Vera Likins and six state hospital administrators.

Judge Larson's ruling, made public Tuesday, dealt only with the legal issues involved in the case. He said he will order specific remedies later.

By agreement of lawyers on both sides, the trial was confined to Cambridge State Hospital with the understanding that it would apply to other hospitals, thus representing more than 3,500 persons. In his preliminary opinion, Larson has not attempted to judge the lawfulness of conditions and practices at Cambridge, but he will do so in subsequent orders.

The judge did say that plaintiffs' rights may have been violated under the due process clause of the 14th Amendment and the cruel and unusual punishment clause of the 8th Amendment.

The plaintiffs said Larson in an attached memorandum, have a right to "a humane and safe living environment while confined under state authority . . . Included in this right are protection from assaults or other harms from fellow residents, reasonable access to exercise and outdoor activities and basic hygienic needs."

He listed several practices at Cambridge which may violate this constitutional right:

Secluding residents in barren "isolation" rooms without being strictly supervised.

Use of physical restraints without first attempting less restrictive measures.

Excessive use of tranquilizers as a means of controlling behavior rather than as a part of therapy.

The judge said evidence presented indicated all mentally retarded persons, no matter how severe the problem, can improve if given adequate and suitable treatment. He said a program of "habilitation" can improve the lives of Cambridge patients.

This last finding was eagerly welcomed by the two Legal Aid Attorneys who brought the suit—Neil Mickenberg and Luther Granquist. They indicated they are anxiously waiting to see what practical application it will have. By court order, they will confer with the judge within 20 days to work out what relief the judge will order.

Larson said the basis for his "right to treatment" ruling is that treatment is the only constitutionally permissible purpose for the confinement of the plaintiffs because they have not been guilty of any criminal acts. If the treatment is not given, *he said*, being hospitalized for mental retardation would be like being placed in prison indefinitely for no convicted offense.

The judge said it is not enough for the defendants to show that conditions at Cambridge are improving and that they acted in good faith. Neither is lack of resources justification for the state depriving any person of his constitutional rights.

He noted that the legislature has dealt a number of blows to the institution, such as repeatedly appropriating a drastically smaller amount of money for special equipment than requested. And in 1971, the legislature eliminated about 550 positions in 10 state hospitals. As a result of this, Larson said, Cambridge, which had requested 98 additional staff positions for the 1971–73 period, lost a total of 148 employes. Since mid-1971, the institution has had a decrease of more than 170 staff members.

Though the question seems to be one of conflicting leigslative priorities and though the state is not constitutionally obligated to provide services to its citizens, Larson said federal courts have forced additional expenditures on state agencies to remedy constitutional violations.

He said the court has the right to order defendants to seek out and develop community based facilities for the placement of involuntarily committed retarded persons.

"SACRED COWS" INTENSIFY ENERGY CRISIS

Mr. DOLE. Mr. President, a series of articles which recently appeared in the Wichita Eagle discussed this Nation's use of petroleum products for automobiles. Like most of us, Energy Editor Ted Brooks is concerned about the current fuel shortage, and he deplores modern America's worship of its "sacred cow," the automobile.

The solution to the shortage of petroleum—as Mr. Brooks and the Citizens Advisory Committee on Environmental Quality see it—is to somehow lessen our Nation's dependence on large and inefficient automobiles so that petroleum can be diverted to other necessary areas of our existence.

We have seen an increase in the purchase of smaller automobiles, and greater use of car pools and public transportation within the past several months. Perhaps this behavior indicates a return to some good, old-fashioned thriftiness that will help blunt the effects of high prices and product shortages we confront today. Mr. Brooks has suggested our fuel shortage may well vanish with the "extinction of sacred cow worship" in our society. I hope that others will take note of these articles for the serious and thought-provoking observations they make about the automobile and petroleum industries today and their relationship with the energy crisis.

I ask unanimous consent that the text of this series of articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

From the Oil Desk: Our Prodigal Sacred Cow—I

(By Ted Brooks)

In India, the sacred cow is a cow.

In the U.S., it is the automobile.

It is said that some 80 million of the Indian species roam about the countryside gobbling up nearly as much of the nation's provender as the Indians themselves. An Indian would be as likely to eat his grandmother as any part of a cow.

In the U.S., there are close to 98 million passenger cars. They scoot about on the highways and heat up in slow traffic to gobble up 75 billion gallons of gasoline a year. They too are sacred. Homo sapiens Americanus would as leave shoot his mother-in-law as give up his car. When she yells loudly from the back seat, he sometimes does so anyway.

Utter dependence on the automobile leads to some trillion-odd miles of travel a year. It is generally conceded that possibly half of this is necessary. Half of that would be safer and more enjoyable on foot or a bicycle Few people are trampled to death by pedestrians returning from bars.

As a result of all this, 29 per cent of our total petroleum supplies are devoted to feeding our sacred cows. This is almost 13 per cent of total energy use. Total current energy consumption in the U.S. amounts to approximately 73,000 trillion British thermal units (BTU's) annually. Passenger car gasoline sops up 9,417 trillion BTU's of that immense figure. This is only the beginning.

In addition to the 125,000 BTU's of energy that go up in smoke for every mile that is driven, about 150 million Btu's of energy are expended in the manufacture of each motor car. In a 10-million car year, this accounts for another 1,500 trillion BTU's, or two per cent of total energy expenditures annually.

The figures pile up endlessly. Each 125,000 BTU gallon that goes in the tank requires another 25,000 in the refining process. In what amounts to one of the largest industry subsidies ever known, we have paved some 21,000 square miles of pasture for our sacred cows.

This is done with asphalt and road oil with processing costs about half that of gasoline; and uncounted billions of tons of cement, which is manufactured with an energy expenditure of more than 7.5 million BTU's to the ton.

Summing it up, the Citizen's Advisory Committee on Environmental Quality says that the total energy cost of the country's passenger cars amounts to 18,400 trillion BTU's annually (the equivalent of 147.2 billion gallons of gas).

That figure includes direct fuel use, refining losses, auto manufacturing, retail exertions and repairs. With admirable delicacy the committee left out hospital costs, doctor bills, speeding tickets, drivers licenses, insurance, wooden legs and monuments for those who proved they had the right-of-way.

The committee doesn't want to abolish the auto. Goofy or not, the auto business provides one out of six jobs in the country. It does want to lessen our dependency upon our sacred cows and take a little glitter from industry's golden calf.

The mildest of restraint in this area would yield extra energy for other pleasantries such as staying alive. How this can come to pass without pounding everyone over the head with a ballbat is unknown. The committee is trying persuasion. Some of its recommendations will be recounted in a column to follow.

From the Oil Desk: Our Prodigal Sacred Cow—II

(By Ted Brooks)

(This is the second of several columns on America's sacred cow, the automobile—Ferro bovine Americus.)

The sagacious readers of these columns will instantly recall the immense expenditures of energy connected with the use and abuse of the automobile. Some may be seized with feelings of guilt when forced to ride in these contraptions.

Those with transistors in their frontal lobes will recollect that of the 73,000 trillion British Thermal Units whooped off in the U.S. each year (a rising figure now out of date), an astounding 18,400 trillion (18.4 quadrillion) are debited to the auto.

The significance of such a figure is difficult to reconcile with ordinary experience. The Wichita Eagle's energy desk, in a historic contribution to public interest has calculated that the BTU figure is the caloric equivalent of 13,240 trillion hamburgers.

With an allowance for some supplement to this wretched fare, this would feed the present U.S. population for 24.5 horrible years. It further upsets the bowels to contemplate that it would be the patriotic duty of each man, woman and child to consume seven hamburgers a day during the period of darkness.

Given the alternative, all but the McDonald people would probably opt for the explosive equivalent—7.9 trillion pounds of 75 per cent dynamite.

High officials in government, even though lacking the superior insight of hamburger arithmetic, are alarmed by this prolifigate use of energy. Secretary of State Henry Kissinger and members of the Citizens Advisory Committee on Environmental Quality are directly concerned.

Secretary Kissinger is preparing the nation for an extended period of austerity in case his mideastern foreign policy bombs out. The environmental group, dedicated to the conservation ideal without qualification has published a booklet, "Citizen Action Guide to Energy Conservation," to persuade us to use our energy more wisely. Though available at a mere $1.75 and the most important publication in the U.S. today, it remains unsold in vast numbers in the vaults of the Superintendent of Documents, Washington, D.C., 20402.

It is indispensable for those who would like to get the jump on the mounting energy crunch. Judging from the feckless tenor of the times, one might estimate that at least one person out of every 10,000 will have the good sense to order it.

The environmental people concentrate most of their efforts on the pooling of cars, the promotion of smaller cars and the avoidance of all forms of energy-using transport whenever possible.

Bicycles and the feet are excepted, though they utilize 200 and 300 BTUs per passenger mile, respectively. Biological energy is not related as costly in this view, though of course this is not exactly true. The rising price of calories is an irritating part of the energy pinch.

That most hazardous and extravagant of all common forms of transport, the flying machine, ranks at the bottom of the list with a rating of 8,400 BTUs per passenger mile. In intercity travel the automobile consumes 3,400 BTUs per passenger mile, the railroad 2,900 and the bus 1,600. In urban driving, the auto soars to 8,100.

This is where the environmentalists would score most. A modest 3-man car pool boosts car occupancy from an average of 1.4 to 2.8 per trip. That would have the effect of reducing 360 trips of about 10 miles each to 180 trips, resulting in a savings of 127 gallons of gasoline (15.8 million BTUs), or $48 per year.

Gains on other operational costs of 10-plus cents a mile would increase savings to $220 a year.

Enterprising car owners might add several more passengers to the pool to maximize savings, but the human problems have a tendency to outrun monetary benefits. It is very difficult to find six people who can endure each other's pipes, cigars, cigarettes, dirty jokes and various levels of taciturnity and garrulity for five days a week.

The negative considerations are augmented by the fact that at 7:30 a.m. almost everyone is inclined to hate everyone else.

On the other hand, an agreeable and talented carload can provide a rewarding daily adventure. As an accountant may reveal how one may avoid the rapacious hand of the IRS with minimum risk, so may a commuting doctor remove furuncles, wens and warts without charge.

A danger lies here in the possibility that the tastes, desires, conviviality and BTU ratings of the passengers so closely coincide that the riders almost never get to work.

Other and more serious aspects of the energy crisis as reflected in the transportation sector will be expounded in columns to follow at erratic intervals.

From the Oil Desk: Our Prodigal Sacred Cow—III

(By Ted Brooks)

(This is the third of a series of columns on our most extravagant medium of energy waste—our sacred cow, the iron cow of America, the automobile.)

Savings that accumulate from small, persistent economies are seldom sought unless they materialize immediately. Otherwise, there would be far less pooh poohing of car pooling, not to speak of other prudent rules of car use and operation.

If, instead of the present demigods, we were ruled by benevolent despots such as the late Ivan the Terrible, there would be no problem. Car poolers might be paid in advance. We have seen how each pooling family would save $220 per year. The government would snatch the advance payment back with interest through a number of insidious and common processes.

This would not deter a general rush to pooling, a patriotic demonstration of public concern over the energy crisis and the collection of $220 in reasonably hard currency.

However the project were effected, the energy and dollar savings would be large. The Citizens' Advisory Committee on Environmental Quality says that if every car-family participated, the national saving would amount to 87.8 million trips, 11.2 billion gallons of gas and more than 4 billion dollars a year.

The gasoline saving alone adds up to 1,400 trillion British Thermal Units (BTUs) and represents about 14.9 per cent of gasoline consumption.

Also suggested by the committee is the sacrifice of just one trip a week per family. This would be no burden; 54 per cent of all trips are of less than five miles. Many, at least one a week, might be postponed forever. Others would yield to advance planning. Mother could go to the beer hall while father shopped and the children played with matches.

The total saving would amount to 38 billion miles, 2.9 billion gallons of gas, 1.1 billion dollars and 362 trillion BTUs.

Each family would collect another $74 a year under the advance payment plan.

Predictably, the most practical economy available is most difficult to establish—a switch to smaller cars. This violates the fundamental gospel of the Sacred Cow as laid down by the high priests of Detroit. They have successfully propagandized most of us into the secret belief that that size and elegance of our transportation is a measure of success.

This childish tenet, both the cause and effect of subtle big-car advertising, is a cultural attachment. People who ignore it run the risk of being thought odd or undependable in important matters.

Most happily, growing numbers are beginning to consider this a worthwhile risk and a sensible deviation from the norm. As in the case of long hair and shaggy fashions, we are indebted to the counter culture for this trend.

If every family switched from a medium-sized, 3,500-pound car to a 2,500-pounder, there would be an additional individual savings of $132 per year. This would accrue as gasoline mileage increased by 6 miles to the gallon.

Allowing for small cars already on the road, this might save a total of 13 billion gallons of gas annually, or 1,625 trillion BTUs. Additionally, the buyer saves about $1,000 on his capital investment, and since it takes 26 million BTUs to process a ton of steel, that too is saved—over and above the computations to follow.

Summing up on these three items alone, each passenger car family can save $426 a year (8 bucks a week). Since everyone has a place for $426 but would simply fritter away a slow accumulation of savings, this would be paid on the spot.

Assuming 75 million happy families participated in this event, the total distribution would amount to about $31.9 billion, which is less than the military spends on creating large explosions in uninhabited jungles. The government would retrieve the money immediately at the exorbitant interest rates charged by conventional institutions.

The immediate energy saving would total 3,387 trillion BTUs annually. The magnitude of the saving may be illustrated by hamburger arithmetic which reveals that the caloric equivalent in food would sustain everyone in the country for more than four years. It is assumed they could stand to eat 7 hamburgers a day.

In subsequent columns the prudent reader will be delighted to learn of other savings he may effect through the care and feeding of his sacred cow. Finally, it will be argued that the contraption is the most inefficient and poisonous piece of junk ever put together.

FROM THE OIL DESK: OUR PRODIGAL SACRED COW—IV

(By Ted Brooks)

(This is the fourth series of columns on America's sacred cow, the automobile.)

We have seen how each car-family may squirrel away an extra $426 per year through savings in direct transportation costs. It was shown that this would result in a national energy savings of 3,387 trillion British Thermal Units (BTUs).

This is an immense saving. It amounts to about 4 per cent of all annual energy expenditures. It would result if each car-family would pool its daily work rides, sacrifice one trip a week and switch to compact cars.

This defines the so-called energy crisis. With these easily achieved savings, most of its aspects would cease to exist in the realm of liquid fuels.

This suggests the existence of a much graver crisis: An alarming shortage of common sense and a reciprocal over-supply of those sins of indolence and pride, which, in the days of the horse, were supposed to guarantee one a ghastly future in hell. By the horror with which mild shortages are viewed, one must now define hell as walking to the grocery store.

But there are signs of hope on one front—the switch to small cars. Most productive of the three redeeming changes, this would save some 13 billion gallons of gasoline a year.

We despaired of bringing this about. Few passions exceeds that of the car buyer stepping up to the luxury of the Packard Twin Six.

This despondency was premature. It is the worried word from Detroit that compacts are selling like mad. The behemoths are glued to the showroom floors. The news is not universally acclaimed as good.

Auto manufacturers and dealers have met the problem with characteristic fortitude and ingenuity. The compacts they promoted a year ago in the $2,000 range are now loaded with such vital equipment as whitewall tires and glove compartment lights; whereupon they bring $3,000-plus. Fuel economy is selling at a price.

This amounts to an unrecognized revolution. Social customs such as weddings, shoot-outs, funerals, hangings and car-buying usually change but slightly over a period of many years. All defy the cautions of good sense. All attract supporters who owe their prosperity to keeping the bamboozlements alive in their most expensive and illogical forms.

But here is one that has drastically changed in a matter of months. It urges one to the shocking thought that the American Petroleum Institute and the big oil companies have so oversold the energy crisis that they may be driven out of business. Gasoline sales could drop to a mere 90 billion gallons a year.

It is possible. No one dreamed that the energy crisis alarms might make conservation fashionable. The day may not be far off when the person who purrs to town all alone behind several hundred horsepower may be considered something of a nut; when the buyer of a large car is counted as a member of a vanishing race of vainglorious barbarians.

When reason fails, the laughter and scorn of one's peers serves to induce sanity. The most stubborn citizen abhors the prospect of being considered old-fashioned or mentally retarded.

But until such gentle thoughts and economies win wider acceptance, prudent motorists will have to make do with the sacred cows extant. How individual savings in other ways add up to additional large energy gains will be related in a column to follow.

FROM THE OIL DESK: OUR PRODIGAL SACRED COW—V

(By Ted Brooks)

(This is one of several columns about Ferro bovine Americus, the common automobile.)

They almost danced in the streets in Amsterdam. People strolled around and zigzagged about on bicycles as though they owned the throughways—and they did. The occasion was the first no-driving Sunday celebration in The Netherlands.

In a general way, the Dutch are shorter on gasoline but longer on tulips and brains than Americans. There was no nonsense about the one-day-a-week driving moratorium. A blatant violation might earn one a five-year education in the workhouse.

A similar no-driving Sunday edict in the U.S. would save about 273.9 million gallons of gasoline per Sunday. In a year of Sundays that would add up to 14.2 billion gallons. The gasoline shortage would vanish. Sunday bargain hunters and storekeepers would get a needed day of rest.

One may guess that the entire character of the country would change. With time on their hands, people would be compelled to read their newspapers and highly informative discourses such as this. For the first time they would find out what is going on.

Tiring of that and almost equally enlightening opportunities contaminating the air waves, many would stroll about and meet their neighbors. Others might be moved to find out what the hell is going on at church.

Undoubtedly there would be a great outpouring of old-fashioned social functions. There would be a dramatic rise in beer-drinking, church going, popcorn-popping, garage poker games, hobbies, lawn mowing, homicides and gardening, just to mention a few. With some delicacy, one is obliged to predict a brisk population increase in due course of time.

Relieved *of the dominance* of the sacred cow, citizens might find the back-to-the people, back-to-the-home and back-to-the-earth freak-out so much fun that a second day of grace would be demanded.

President Nixon has wisely and belatedly moved into conformance with the philosophy of this column. But there is a certain amount of overkill in proposals which severely restrict business and industry for seven days a week.

Weekend restrictions would impede the flow of commerce very little. Only those establishments which persistently violate the Sabbath and the five-day work ethic would suffer. The change would be restricted to recreational habits. Few of these are vital to the individual or society.

The sudden presence of 80 million emancipated car drivers might pose a temporary problem. They would have to be watched closely for signs of mental troubles, ingrown toenails and other diseases associated with unaccustomed exercise.

The President's admonition about speed reduction was not well received. For some reason, people ho hum this. The 2 per cent saving is not descriptive. In practice it amounts to about 2 billion gallons a year, or 250 trillion British Thermal Units (BTUs).

Similarly, a little attention is paid to the aggregate gains of well-tuned engines. The Treasury Department claims that twice-a-year tune-ups would save 140,000 barrels (5.3 million gallons) of gasoline a day—2.1 billion gallons a year. Consistently and properly inflated tires would save nearly half of that.

But as the average person will seldom bother to retrieve a dropped penny, so is he unimpressed by a few pennies saved on each tank of gas. Unless people learn that the energy economy is passing from an era of abundance to one of scarcity, they may, like the Dutch, have to start throwing each other into jail. This would be deplored by many, although it would raise the intellectual, moral and social level of the prison population and thus lead to many needed prison reforms.

But the sacred cow itself has been ignored in all of these energy-saving strategems. The idea persists that the only way to get from here to there is to manufacture a huge number of contraptions which utilize a series of violent explosions. These are awkwardly converted to motion, most of which is dangerous and all of which is wasteful.

This sacred cow of ours is often described as the fruit of mechanical and organizational genius that is in some way unique to America. In truth, it is a sophisticated blunder that we should be happy to share.

It gallops along with an overall fuel systems efficiency of about five per cent. With care, frequent repair and nursing along at less than half of rated load, it lasts about 8,000 hours, or less than six months of continuous operation. Much of its efficiency is derived from petroleum chemistry, not automotive design, this, despite loyal industry claims, is achieved at an overall fuel systems loss and at high environmental and monetary cost to the public.

These disquieting items will be developed in columns to follow along with the redeeming calculation that all of the autos in the U.S. would easily fit into a box of less than a mile to the side. This could be dumped into the Grand Canyon where it would hardly be noticed.

From the Oil Desk: Our Prodigal Sacred Cow—VI

(By Ted Brooks)

(This is next to the last in a series of columns on America's sacred cow, the automobile, the use of which and customs concerning which are now in process of revolution.)

It is generally conceded that the horseless carriage business and automotive engineers were well on the way to the mechanical perfection of the internal combustion engine until about 1920. At that time, most of the auto engineers were turned into chemists and petroleum engineers.

It was the expedient and profitable thing to do. Both of these factors have been undervalued but rarely in what we used to call the affluent society.

When the chemists discovered tetraethyl lead, the search for mechanical octanes almost stopped. Lead became a $400-million-per-year business. Its ingenuity in ascribing to leaded gasoline most of the credit for the blessings of a wheeled civilization surpasses any amount of admiration that the candor of these columns would permit.

Lead was not the only factor to carve out a vested interest in, and become a built-in design feature of, the internal combustion engine. As the gasoline market expanded, refiners sought to increase the yield of gasoline from crude.

The old-fashioned distillation "cooking" yielded 60-octane gasoline and little of that. Higher pressure distillation ("cracking") was introduced. It boosted the octane number to around 70. Catalytic cracking hiked this to about 80 and the yield went up to about 50 per cent.

Innumerable parallel processes made it possible to break down and recombine the oil molecules to produce clear gas of more than 90 octane. Lead and certain petroleum additives would take it on up to 100-plus.

Unhappily, reciprocating, internal combustion engines were still in use in aircraft when WW II broke out. The government, ever eager to blow its enemies from the face of the earth at the highest cost consistent with the well-being of its suppliers, underwrote all-out production of high-octane aviation gasoline. There was no going back.

So it was that the design of the internal combustion engine followed rather than led the development of fuel. This created the spectacular growth of what some call the auto-petroleum complex. Automobile compression ratios were joyously raised. These efficiency gains were quickly erased by added size, weight, horsepower and all sorts of auxiliary power equipment providing effortless driving and comforts exceeding those of the home.

It would seem that all of this might be classed as a technological triumph. Is it not true, as the American Petroleum Institute is so fond of saying, that a gallon of modern gas in a modern engine will take one several miles farther down the road than in the 1920s? Yes, it is true, but it is a half-truth and the worst kind of convincing misrepresentation.

For it is also true that every time a molecule is boiled, broken down, twisted and recombined, energy must be expended. This is exactly proportional to the work. The old "straight run" crude cooker, for all of its limitations, has a thermal efficiency of better than 95 per cent.

But energy was cheap. So the refiners, hooked by the "high test" gasoline doctrine started piling on equipment.

The addition of catalytic reforming and cracking, thermal reforming and cracking, polymerization, alkylation, hydrogen treating and other processes without number almost doubled process energy input. Most of it goes out the stack in the form of heat or warms huge quantities of water which give the fishes fits. So what appears to be a great bargain in application is attained at a great extravagance in manufacture.

As long as energy was dirt cheap, this posed no problem. Belatedly, we have found that this waste, springing from misassigned economic values, was very costly. Its real, and exterior costs, were but deferred to vex a later generation. This happens to be us. We are shocked to find that we must solve the problems quite quickly.

One of these lies in the fueling of the sacred cow. Partly because it was designed in a way to mutually accommodate the petroleum industry and the auto-makers, our refineries huff and puff along with an overall thermal efficiency of around 86 per cent. It takes about 1 million British thermal units (BTUs) to process every 6 million BTU barrel of crude going through the plant.

Restricted to gasoline alone, the efficiency would drop much lower. The Stanford Institute, including all products, set the processing input at about 715,000 BTUs to the barrel. Counting all energy losses and inputs in the refinery production, manufacturing and transport system, one might guess that it would be an extraordinary plant that would exceed 80 per cent efficiency.

So it is that the overall fuel system efficiency of the sacred cow has been reduced by 20 per cent before it ever pulls away from the curb—at least 10 per cent less than the thermal efficiencies common in the early 1920s.

If the auto engineers had stayed out of the chemistry business, we may assume they would have discovered mechanical methods to raise compression ratios (heat and power levels). The refiners took over the octane design. As a result, billions of gallons of gasoline have been burned that should not have been made at all.

The frequent claim that today's "high efficiency" engines and marvelous "high octane" gasolines result in individual and social savings become ridiculous when balanced in terms of total energy expenditures.

In a final column we'll pull away from the stoplight to demonstrate how the sacred cow's overall efficiency dwindles to an embarassing 5 per cent. Moreover, it is entirely possible that an economy measured in dollars rather than basic energy units will bring about further reductions in efficiency before it discovers that energy is everything.

From the Oil Desk: Our Prodigal Sacred Cow—VII

(By Ted Brooks)

(The care, feeding and survival of America's sacred cow, the automobile, are now subjects of frightened concern. It is a part of the sanity crisis, fuel shortage and the political-economic exigency. This is almost the last of several columns on the subject.)

We have seen how the design of the internal combustion engine has followed the lines best suited to the prosperity and growth of the petroleum and auto industries. It has much more to do with the arts of promotion, marketing and style than the disciplines of engineering. As a result, only the abominable flying machine, the flying cows, exceeds the inefficiency of the motor car.

This is not immediately apparent. Depending upon the condition of use, the engine itself bangs along at an overall of efficiency of about 30 per cent. This is not bad at all. It means that out of every 100 gallons poured (12.5 million BTUs) in, 30 gallons (3.7 million BTUs) will keep the pistons moving. The other 70 heats the water, goes out the tail pipe and is radiated. It is a heat engine. The greater the difference between the temperature of the heat in and the heat out, the greater the efficiency. Hence, the push to boost compression ratios and raise the heat (and pressure) level of the initial cylinder charge.

As a comparison, the human engine does no better. In top tune, its efficiency is about the same. It is dramatically less if one spends too much time at the table and tavern and fails to keep his joints lubricated with exercise.

But this is not the end of the matter. The automobile is the final link in a long chain that begins with crude oil production. It is a part of a sequence that composes a system, each part of which has built-in levels of efficiency. These are added to reveal the overall system, efficiency.

It has been figured that crude oil is produced with an efficiency of about 95 per cent. So out of 100 gallons produced in the field, we lose 5 gallons in the process.

The 95 gallons goes to the refiner who manufactures the product at about 85 per cent efficiency, leaving 81 gallons; this is transported and marketed at an efficiency of 97 per cent, leaving 78 gallons.

Our 30 per cent engine slurps up its share to leave 23 gallons. It looks as though we're ready to take a trip to admire the World's Largest Ball of Twine out in western Kansas, but we've left out mechanical efficiency. This concerns the operation of such necessary auxiliaries as the fan, water pump and generator.

Engineers a generation ago figured it at 71 per cent. Now, with air conditioning, power steering, brakes and transmission, it must be much closer to 55 per cent. So that leaves us with about 13 gallons, and the cow hasn't moved.

Before we pull away from the light, the rolling efficiency must be accounted for. This takes care of all losses between the clutch and the road, including that lap full of gears in the transmission and rear end and (mostly) tire deformation.

Those who believe that the principal function of tires is to keep them comfortable are deluded. Their biggest job is to survive an acceptable lifetime of constant flexing and heat generation. Generally, this engine-powered generation and dissipation of waste heat is a function of tire size and flexibility.

Comfort is a compromise. Being more merchantable than efficiency and durability, it is the favored factor in the wear-out-and-throw-away tire technology. The much-advertised radial and steel-belted construction, though partially undermined by greater widths, is a hopeful step away from this philosophy. The new tires ride harder, last longer, and are much more efficient. So too are conventional tires that are kept slightly over-inflated.

Summing up, rolling efficiency is calculated at about 30 per cent. We had about 13 gallons left for the trip. After deducting *rolling* efficiency losses we have left but 3.87 gallons.

In other words, the overall systems efficiency of the automobile is about 4 per cent.

Cancel the trip to the World's Biggest Ball of Twine; we've barely enough left to go out to the local zoo and contemplate the sad condition of our fellow dumb animals.

The final efficiency figure is 1 per cent less than that calculated by engineers in studies during the past two decades. This drop is principally due to added mechanical efficiency losses, deeper drilling and higher gasoline manufacturing losses.

This is not exactly what an engineer would like to cite as the culmination of 10,000 years of progress. He could do an infinitely better job if the automotive and petroleum people didn't pay him to louse it up. The old-fashioned railroad steam engine, for instance, was twice as efficient. The modern diesel-electric engine is six or seven times as efficient.

The possible and unpopular steps that may be taken to correct this unpretty state of affairs will be discussed in the last half of this column at a later date.

From the Oil Desk: Our Prodigal Sacred Cow—VIII

(By Ted Brooks)

(This is the last of a series of colunmns on the passenger car, the sacred iron cow—Ferro bovine Americus. The factual content of the series has been recited or derived from various engineering and scientific publications. The opinions are the writer's. They provoke a very low level of admiration from the major segments of the petroleum and auto industries.)

If we were confronted with solid evidence to show that motherhood is an ignominy, the shock would not be much greater than that derived from the intelligence that the beautiful family car is the most incredible blunder conceived in the history of mankind.

The alert and now highly informed reader will instantly recall that of the 100 gallons of fuel that starts flowing from the oil field, but 4 gallons remain available to move the sacred cow. The only work remaining for this 4 gallons of energy is pushing the air out of the way.

This is no small task, even at low speeds. At 30 miles an hour it amounts to about 5 pounds of resistance for every square foot of effective frontal area; at 80, the job is nearly six times as great. Speed has a high energy cost.

Because economic costs have not been equated properly with energy, speed remains relatively cheap in terms of dollars. High-powered types of people justify fast driving and use of the abominable flying machines because of savings in time. They allege this is of great value and necessary to their business. They should be reminded that Alexander conquered the world on foot and horseback in much less time than it took Detroit auto executives to conquer America. He had more time to think.

There are other energy-economic anomolies. The highest thermal efficiencies are attained at virtually full-bore operation.

The 120-mile-an-hour auto gets more useful BTUs out of a gallon loafing along at about 115. The automobile's point of highest fuel economy will generally be at about half-load. It will vary generally for every engine and is generally put in the 35- to 45-mile-an-hour range.

Broadly speaking, the higher the performance design of the engine, the farther apart are the thermal efficiency and fuel economy curves. One of the chief advantages of the small car and small engine is that the peaks of these curves are brought closer together. Foreign car drivers are quick to learn that their cars are quite sluggish and waste gas unless the gears are used to keep the revs up high on the horsepower curve.

It should appear obvious that high-efficiency, small cars using the lowest grade fuels possible provide the quickest, most certain and economically sane solution to the fuel shortage problem. This, however, does not fit the requirements of an industrialized state founded on abundance. The petroleum industry equates 100 billion gallons of gasoline a year with patriotism; the auto industry says that what is good for it is good for America. That is more specifically defined as about 11 million cars a year.

It has been carefully calculated that the manufacture of each of those cars absorbs 126.8 million BTUs or nearly one and one-half per cent of current annual energy requirements in the U.S.

But the trend is quite the other way. Instead of utilizing to the fullest possible extent the efficiencies of fuels within reach, we are reaching out into untried areas of ghastly inefficiencies. As petroleum fuels rapidly dwindle, gasoline must be extracted from other things—most likely coal.

Whereas we recall that crude oil is refined at an overall systems efficiency of about 85 per cent, the extraction of gasoline from coal proceeds at about 50 per cent. Recalling again the train of systems efficiency that left our sacred cow stumbling along at 4 per cent, substituting synthetic gasoline from coal will reduce that to about 2 per cent. This is hailed as progress.

Similarly, more exotic fuels such as hydrogen and alcohol require equally large energy expenditures and revolutions in technology and design. There are chemically simple and economically prohibitive methods of extracting gasoline from vegetation. Assuming carbon dioxide could be taken from the atmosphere in useful amounts, gasoline could be made from air and water.

All of these things can and should be done when technologies are developed to cut the process energy costs. But to superimpose any of these extravagant measures upon the wheeled society without first eliminating its unrestrained transport wastes would compound folly beyond point of recovery.

The danger is that we may do just that. It may be of short term profit to someone and there is always someone eager to take it. Again it must be stressed that energy costs and economic costs do not necessarily jibe. Because of this, the waste of oil and natural gas, in both production, product manufacture and use, must someday go down in history as one of the major scandals of civilization.

The analysis that has been recounted points the way to the only possible means of attaining fuel sufficiency within the brief period when most people alive today will struggle for existence in our mechanized world.

First the sacred cow must be scaled down to size and power levels that will satisfy its primary purpose, transportation. In a given year, the auto-makers would be handed the specifications of the auto. No more behemoths would be made. As the older cars went to their graves, the new ones would gradually replace them. Thus, in about 10 years, the sacred cow population would be replaced by sprightly little mills we could be proud of.

They would use clear gasoline of about 70 octane and get 40 per cent better mileage. Eventually they might be switched to the more efficient diesel cycle. Competition would remain in the form of design, styling and, most of all, durability.

The petroleum industry would recover quickly from the interruption of its unlimited growth. Its energy-consuming high-octane equipment would be phased out as the old cars ceased to exist. The unneeded gasoline capacity would be switched to much-needed heating oil. The phase-in, quite profitable, would permit this to take the place of declining natural gas deliveries and even foster growth.

Allowing normal growth of both car manufacturing and refining, passenger car gasoline sales would decline from about 77 billion gallons to 60 billion. Fuel oil sales would rise proportionately. At the end of 10 years, the refiners would have an extra 42.9 billion-gallon annual capacity diverted to heating oils.

This would have a thermal value of 6,126 trillion BTUs. That is the equivalent of 6.1 trillion cubic feet of natural gas annually. Thus, fuel oil shortages would vanish with the extinction of cow worship.

Too many cows would be gored for this short-term solution to be acceptable. The joint failure of the auto and petroleum corporations must become absolute before they may be commanded to perform in the public interest the same high level of attainment they have dedicated to themselves at public expense.

NATION BEING HURT BY UNSCRUPULOUS PUBLIC OFFICIALS, NOT BY PRESS

Mr. CRANSTON. Mr. President, I vigorously oppose a Federal libel law as proposed by the President in his message to Congress on Friday that would preempt State statutes and make it easier for Federal officeholders and political candidates to win a libel suit.

President Nixon should be *more* concerned about public officials telling the truth than about the press allegedly libeling public officials.

The President's call for more permissive slander and libel laws to protect politicians is a transparent strike at the press for blowing the lid off the Watergate mess.

Contrary to White House Counselor Bryce Harlow's contention last Friday that this is "not an effort to shaft the press," this is clearly an effort to shaft not only the press but to shaft the first amendment and the public's right to be told about corruption and abuse of power in Government.

Any public official or would-be public official who cannot stand the heat of total press disclosure should take President Truman's advice and get out of the political kitchen.

President Nixon claims that a national libel law is needed "to prevent unscrupulous attacks on public figures."

But the fact is the country is now suffering not from unscrupulous press attacks on public figures but rather from unscrupulous attacks by public figures on truth, morality, and law.

For years Government officials at the highest levels in the Johnson and Nixon administrations lied to the American people about the conduct of the war in Southeast Asia. More recently public officials at the highest levels have either admitted to, or have been indicted for, a premeditated plan to lie and cover up what John Mitchell called "the Watergate horrors."

It was our free press, unfettered by fears of unreasonable libel suits and spurred by the desire to get at the whole truth, that brought these outrages to light.

Any new restrictive laws in this area should be directed at public officials who violate their public trust not at a free press that is fulfilling its responsibility.

Indeed, a press law we do need is one that fully protects a news source against unwanted identification that might jeopardize his life or his livelihood, such as my pending bill, the Free Flow of Information Act—S. 158, amendment 27. Confidential news sources are essential for public opinion to be informed of wrongdoing and corruption, in and out of Government.

President Nixon has often charged that he is villified in the press. Nixon has also attacked some Watergate stories which he says have falsely condemned his former aides.

Had President Nixon been more attentive to, and less belligerent about, press criticism he—and the Nation—might have avoided some of his present problems.

A free-wheeling press profoundly discomforts people in power. But it is not the job of the press in a free society to say sweet things about people who wield power in Government.

The press must remain free, fearless, and, yes, fearsome—the gadfly of politicians. If this makes politicians unhappy, so much the worse for politicians—and so much the better for the public.

There has been no national libel law since the infamous Alien and Sedition Act in the early 1800's. The President himself admits that "a constitutional problem" exists for such a law at this time and has asked the Attorney General to "explore the possibility" of legislation.

President Nixon's concern about a public official's "restricted" opportunities for legal redress against the press apparently stems from the Supreme Court ruling making it extremely difficult for public officials, public figures, and newsworthy persons to win a libel suit. They must prove actual malice or that the press printed or broadcast an injurious falsehood with "reckless disregard" for the truth.

I agree with the Court's position that any more permissive standard "dampens the vigor and limits the variety of public debate" in violation of the first amendment.

Mr. President, I shall also fight a national "right-to-reply" law for political candidates who are criticized in the press. The President suggested such a law at his press conference last Wednesday.

I originally voiced my opposition to this dangerous, deplorable idea more than a month ago.

I say again what I said on the Senate floor February 5: I oppose Government editorship of a free press as strongly as I oppose Government censorship. Once the Government is given the power to tell newspapers what they must print in the name of "fairness" it is only a matter of time before the Government will be telling newspapers what they must not print—also in the name of "fairness."

A newspaper's sense of professionalism and its readers' demands for fairplay are far superior safeguards for fairness and freedom than the heavy hands of self-serving Government agents.

We must resist the temptation to set up big brother as the arbiter of fairness in the press.

To give the Government power to correct the alleged faults of a free press would be a remedy far, far worse than the disease itself. Indeed, such a supposed remedy may well be lethal to freedom.

GOLDWATER'S CHANCES IN 1976

Mr. HANSEN. Mr. President, in tribute to the distinguished senior Senator from the State of Arizona (Mr. GOLDWATER), I ask unanimous consent that an editorial by James J. Kilpatrick titled "Goldwater for 1976" be printed in the RECORD. Mr. Kilpatrick's editorial is extremely thought-provoking and deserves a wider audience.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GOLDWATER'S CHANCES FOR 1976

(By James J. Kilpatrick)

WASHINGRON.—The text of a recent speech delivered in Washington has just come to hand. It was a honey of a speech, and it prompts me to wonder aloud if its author, Sen. Barry Goldwater (R-Ariz.), could be talked into running for President once more.

A prudent columnist knows better than to ask the senator himself about this, for the senator would only say "no," or maybe "hell, no." And there's no point in drowning a nice warm idea in cold water. The proposition ought not to be brushed aside.

When the senator ran as the Republican nominee in 1964, every conceivable political factor counted against him. He was little-known; he came from a small state with no political clout; from the very night of his acceptance speech, partly through his own fault, he was unable to shake an image of right-wing extremism. John F. Kennedy had been killed in November, 1963; Lyndon B. Johnson still commanded enormous support; the country was not about to vote for a third President in barely a year. Goldwater polled a respectable 27 million votes, but got swamped in the electoral college.

The situation is vastly different now. Goldwater is "Mr. Republican." He has grown in the country's respect and affection. He is untouched by Watergate. He was born in 1909, which would make him 68 at inaugural time in 1977. It would be pretty old for an incoming President—but we hear much talk of Nelson A. Rockefeller (1908), Ronald Reagan (1911), Henry M. Jackson (1912).

It would be interesting to see George Gallup test Goldwater's name in an iffiness poll: If the election were being held tomorrow, how would Goldwater do against Edward M. Kennedy? He might do remarkably well.

Goldwater began his speech Feb. 6 by criticizing the typical performance of an ill-prepared businessman before a congressional committee. He warned the industrialists that they must expect tough questions prepared by "brilliant young staff members who mistrust or totally disbelieve the attributes of the enterprise system."

Turning to broader themes, Goldwater took note (by implication) of reecnt legislative trends affecting railroads, health care, communications and petroleum: "I believe that competitive enterprise is now face to face with one of the greatest threats in this country's 200-year history."

Determined forces are working toward nationalization, Goldwater said, though they call it something else. "You can butter up the term, sweeten it, pour syrup on it, do anything you want with it—but it is nothing but socialism, and that is the system that has never done anything for any people."

Goldwater urged the industrial leaders to promote the profit system in their own communities, to compete in the intellectual market place of ideas and to employ all legitimate means at their disposal in support of candidates who believe in private enterprise.

He wound up with a ringing defense of economic freedom, which he termed "the essential freedom." What good is the right to life, Goldwater asked "if a man does not control the means to life?"

It was a real bell-ringer of a speech, clear and clean. It recalled Goldwater's fine little book, "The Conscience of a Conservative," written 15 years ago, and it echoed the best of his campaign speeches of 1964.

The Republican slogan in that election was, "You know in your heart that he's right." Ten years later, Goldwater is still right, and a great many concerned Americans still know it in their hearts.

GOV. EDWIN EDWARDS OF LOUISIANA DISCUSSES THE ENERGY CRISIS

Mr. LONG. Mr. President, it was my pleasure last week to witness a television news interview of the Governor of my State on the subject of the energy crisis.

Louisiana's Gov. Edwin Edwards was questioned on CBS morning news, March 7, 1974, and I ask unanimous consent that the transcript of this question and answer session be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is ordered.

(See exhibit 1.)

Mr. LONG. Although the time allotment was only 4 or 5 minutes, my distinguished Governor raised several points with which I fully concur and to which I would like to direct some additional comment.

First, the two of us agree wholeheartedly that additional supplies of both natural gas and crude are the answer to the current problem. But as the Governor pointed out, you cannot produce one drop of additional gasoline or oil by extending and expanding Federal control and regulation.

Translated into terms we can all understand, certain proposed legislation known as the Consumer Energy Act of 1974 would accomplish exactly what we do not need—extension of Federal control, through either the Federal Power Commission, or the Federal Energy Office, to sales of intrastate gas and oil.

Like Governor Edwards, I have stated and restated that I am unalterably opposed to such a concept for two important reasons. One, it would simply be a reapplication and a repeat performance of those counterproductive regulatory methods which are the central cause of our current shortages of natural gas; and two, because it would rob Louisiana of her own supplies of natural gas, accumulated over the last 20 years at a very dear price by Louisiana's citizens.

During this period, while the rest of the country has enjoyed prices for natural gas which have been unrealistically low, we in Louisiana took a different approach. We have willingly paid the fair market value for our gas, and by paying these premium prices have built up a modest intrastate supply which is the foundation of our economic well being. We have invested huge sums over the period of time, paying realistic prices for a natural gas system which now supplies us with gas for which we are happy to pay 50 or 60 cents per million cubic feet. We will take gas at 50 or 60 or 70 cents every day of the week in preference to having no gas at 25 cents per million cubic feet.

As H. L. Mencken, wit and satirist of the 1930's put it, when you do not have enough hats for all the heads, you do not solve the problem by cutting off heads. You solve it by making more hats. I want to go on record loud and clear: nobody, but nobody, is going to lop the heads off Louisianians, not if this Senator has anything to say about it.

The idea that the fundamental errors of policy which have brought about the current gas shortage can be corrected by robbing my State—and other States similarly situated—of intrastate gas in which they have a long-term, vested, proprietary interest is completely untenable and unacceptable.

A second major point made by Governor Edwards was that it is the free enterprise American oil and gas industry that has provided this Nation with energy costs far below those existing in other Western industrial countries. To now shackle the industry with a proposed Federal Oil and Gas Corporation designed to take over the role of private industry, is like using a meat cleaver on a problem requiring no more than a scalpel. We should not allow our free enterprise system to be chopped to pieces by a few overzealous theoriticians who want more to undermine the basic strengths of the system than to improve on it.

Russia, which has relied exclusively on such a bureaucratic government corporation, is now proposing that American oil companies come in and help drill their wells, develop their reserves, build their refineries, and make economic sense of their rag-tag oil industry. Certainly we could not be foolish enough to copy the preposterous inefficiency of the Russian system at the very time they are admitting the obvious superiority of ours.

A third important subject on which Governor Edwards spoke and on which I will be speaking at length in days and weeks to come is the apparent unwillingness of some other States and some other regions of the country to do their fair share in supplying the energy needs of the country.

It seems that those who complain loudest about having to wait in line for gasoline are often those who oppose any and all means of increasing our energy supplies. They are against construction of superports; they are against new refineries; they are against the Alaska pipeline; they are opposed to offshore drilling; they are against nuclear powerplants; they object to strip mining of coal; they are against anything and everything except to drain away every ounce of gas and oil which Louisiana, Texas, Oklahoma, and a few other States can produce. It would seem to me, Mr. President, that it might be equitable in our allocation procedures among the States to take into account whether a State is being helpful in providing the Nation reasonable access to the mineral resource within its bounds. If a State is playing the role of an obstructionist, it would seem that its "fair share" of what resources are available should be less than that of States which are permitting maximum production of their mineral resources for the benefit of the entire Nation.

EXHIBIT 1

TRANSCRIPT OF CBS MORNING NEWS, MARCH 7, 1974, WITH GOV. EDWIN EDWARDS OF LOUISIANA

NEWSMAN. Governor, I just can't imagine gas lines in Louisiana, for some reason. Are you having problems?

EDWARDS. It is ridiculous, isn't it? We are having problems just as the rest of the nation is, in some areas for a few moments of time, maybe two or three days a week. But, I think it is going to ease up if the country would address itself to the problem and get on with the business of producing more fuel.

NEWSMAN. You don't think it has been addressed in the proper way, I gather?

EDWARDS. Oh, of course not. The whole system, in my judgment, for the past two years, has been counter-productive. You can't produce one drop of additional gasoline or oil by regulation or allocation of priorities. You have to go to the other end of the pipeline where it is produced. The system that has been used by the federal government dampens incentives for production of additional oil.

NEWSMAN. What is wrong with the system? Why is it——

EDWARDS. Two things are wrong with it. First, it is un-American in times such as these to allocate and to ration and to regulate. It is un-American because it runs counter to the system that made this country what it is: the free-enterprise system. It is un-American and unproductive because people who are in the business cannot be expected to spend huge sums of money to explore reserves, to build refineries, to do all the things necessary to stimulate the production of oil and, therefore, increase the amount of supply.

The other thing is, even if you are going to adopt that philosophy as the American way, which I don't, certainly this vacillation that you have lived with for the past twelve months creates nothing but confusion. No one knows from week to week and month to month what is going to happen, whether we are going to have rationing, whether we will continue with this regulation or that. This confusion just makes it impossible for the industry to address itself to the problem.

NEWSMAN. Of course, some people think the industry hasn't been regulated enough, that it has had its own head and its own way too much. It has been able to be too arbitrary.

EDWARDS. Well, of course, that belies history. If you go back for the past forty years you will find that this nation, with six per cent of the world's population, has used one-third of the world's energy at about a third of the prices paid by people in the rest of the world. And that the oil and gas industry is responsible for the technology and the machines and the men and the equipment that made it possible to develop oil reserves for less than anywhere in the world—in six hundred feet of water, in the desert sands of Africa, or in the ice slopes of north Alaska. This particular industry, when it was not regulated, was doing an excellent job of bringing oil and gas to the American people. I think, if given more latitude and some certainty as to its future, and if the national government went to shale oil, the use of coal where it is available, exploration on the Atlantic Seaboard and could expedite the construction of the Alaskan Pipeline, given a lag time of a couple of years, we would be self-sufficient again.

NEWSMAN. A number of states, unlike Louisiana, don't seem to want refineries or offshore rigs, or whatever. There was a vote in New Hampshire at a town meeting where they rejected a refinery. You consider this not a realistic attitude?

EDWARDS. Absolutely. It is a kind of myopia that is invading the whole nation. These same people are the ones who are going to curse the loudest in lines because they can't get 30¢ gasoline. Yet, they close their eyes to the realities and the possibilities of the development of additional refineries. We need twenty additional refineries, with a 200,000-barrel-per-day capacity. Here, this gentleman wanted to build one and, incidentally, our state has invited him to come to Louisiana.

NEWSMAN. Mr. Onassis?

EDWARDS. Yes. On the grounds that these refineries do not have the adverse environmental consequences that people believe they have. Second, they are necessary. Someone has to find the crude. You can't put it in an automobile as it comes out of the ground. The point I make, however, is that it is time for the rest of the nation to wake up to the realities. They cannot expect Louisiana and Oklahoma and Texas to deplete its reserves, build the refineries, build the pipelines, take all the environmental consequences, whatever they are. Yet, everybody is going to share on an equal basis. Those happy days are not going to be with us any longer because circumstances just won't permit it. It is not in the national interest.

NEWSMAN. Governor Edwards, does your viewpoint represent a vested interest in any sense? Not only is the oil and gas industry a major backbone of the economy in your state but, as I understand it, you personally receive some royalties from oil companies?

EDWARDS. Not enough to color my judgment. I receive less than $1,000 a month in oil royalties. Even if it were a million dollars a month, I do have a vested interest in this: It is an interest in my country! I am going to suggest to you that not only the economy of our country but the security of our country are involved in additional fuel.

What galls me is that this country has a capacity and the capability and the technology and the money to become self-sufficient if the rest of the nation did what other states are doing: Louisiana, Oklahoma and Texas. We are doing our share. But, you can't have people on the Atlantic Seaboard sitting on fifty billion barrels of oil and unmeasured trillions of cubic feet of gas. Yet, they are running around with tin cups asking for more gasoline at 30 cents a gallon, yet refusing to allow oil and gas companies and the national government to develop the Atlantic Seaboard.

For five years we sat on the Alaskan pipeline which, if constructed today, would be bringing two million barrels of oil a day into this country which is very badly needed. This unnecessary, too fast application of environmental regulations, which have no reasonable relationship to the regulation and the sought-for result, just cannot be continued.

The country can resolve the problem. But, Louisiana and Texas and Oklahoma cannot. We are now furnishing seventy per cent of the nation's oil. But, we cannot do that forever and we are not going to do it forever, under the conditions the national government expects us to.

NEWSMAN. We just have a few seconds left. Mr. [William] Simon, head of the Federal Energy Office, has indicated that the governors are not doing their jobs in some states by proper allocation or quick-enough allocation. Are they falling down in their responsibilities?

EDWARDS. Of course not. We don't know from one day to the next what they want us to do. Certainly the governors of the oil producing states are doing their share. We are producing it at maximum-efficient rates, which is all that can be expected of us. We are dividing with the rest of the country which doesn't want to produce its own oil or use their own coal or go to shale oil. The people who have caused the problems are the ones who now want us to do more than we have been doing for thirty years.

AFRO-AMERICAN HISTORY WEEK

Mr. BARTLETT. Mr. President, about 1 year ago, I cosponsored a bill introduced by the distinguished Senator from California (Mr. CRANSTON) to authorize the President to designate Afro-American History Week, Senate Joint Resolution 56. More than 1 year has passed, and no action has been taken.

Mr. President, I want today to reaffirm my support for this measure. I expressed my desire to see action taken in a letter to Senator ROMAN HRUSKA, of the Subcommittee on Federal Charters, Holidays, and Celebrations.

Afro-American history is a discipline which has just begun to be compiled. To demonstrate my point, I wish to place in the RECORD a list of the accomplishments of some black Oklahomans.

Bear in mind, Mr. President, that this list is comprised of Oklahomans, only. It is a short list. Space will not allow the complete outline of all black Oklahomans many accomplishments. Further, remember that this list must be multiplied 50 times. The need for an Afro-American history week is therefore obvious.

I urge the Senate to take action on Senate Joint Resolution 56, and thereby to formally honor the many significant Afro-American contributions to our great American heritage.

Mr. President, I ask unanimous consent that the list of accomplishments be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

OUTSTANDING BLACK OKLAHOMANS

(The following brief biographical sketches are not meant to constitute a catalog of Black accomplishment; rather, they are a representative sampling of the talented and capable Black Oklahomans who have achieved national and sometimes international success, and renown, for themselves and brought credit to all Oklahomans).

EDUCATION

Dr. Hillard A. Bowen

Dr. Bowen was born in Oklahoma City in 1911. He graduated from the Old Douglass High School and was awarded a scholarship to Langston University and later to Wilberforce, where he earned his bachelor's degree. Later, he obtained his master's degree and his Doctor of Philosophy (Ph. D.) from Ohio State University.

Dr. Bowen's experience in the field of education has been wide. He was an instructor, Dean of Men, and Director of Student Personnel at Langston; a professor and registrar at Fort Valley State College in Georgia; Chairman of the School of Education at Tennessee Agricultural and Industrial State University, presently he is assistant superintendent of the Atlanta Public Schools in Georgia.

Listed—Leaders in Education, Who's Who in Colored America, and Who's Who in American Education.

MUSIC

Earl Grant

Mr. Grant was born in Idabel, one of 12 children of Rev. J. G. Grant. He started playing the piano and organ at the age of four during his father's church service.

Accomplishments: He won National fame while playing at the Pigalle Club in Los Angeles. He performed in the United States, Japan, Australia, Europe, Mexico and Canada. During his career, Grant appeared in such movies as "Tender is the Night," "Imitation of Life," and "Tokyo Night."

ART

John Wesley Arterbery

Born in Texas and educated in Oklahoma—Langston, University of Oklahoma.

Accomplishments: Received the Letziser Medal as the most outstanding art student for 1955–56 while at Okla. City. He has exhibited his work very widely throughout the United States and is well known in art circles. He is listed in American Negro Art and famous Negroes past and present.

Jack Jordan

Like Mr. Arterbery, Jack was born in Texas and educated in Oklahoma—Ardmore's Douglass High School, Langston Univ. and University of Oklahoma.

Accomplishments: Mr. Jordan specializes in scuplture and has exhibited his work in three countries and twenty-four states. He has received more than thirty awards for his creations. He has been included in numerous books on outstanding Black artists and also in Who's Who in American Education

BUSINESS

Jesse B. Blayton

Mr. Blayton was born in Harden, Oklahoma. Attended Langston University, L.L.B. University, Chicago, CPA American Ext. School of Law.

Accomplishments: Co-founder of Mutual Federal Savings and Loan, Atlanta, Georgia, and president since 1956. President J. B. Blayton and Company, CPA, Director of Citizens Trust National Bank and Trust Company. In 1961 he was named the most outstanding Alumnus of Langston University. Listed in Who's Who in America.

SPORTS

Marques Haynes

Mr. Haynes is a native of Sand Springs, Okla. Attended Langston University and Booker T. Washington High School. After College, Mr. Haynes played for the Kansas City Stars Basketball Team, a farm team for the famous Harlem Globe Trotters.

He later organized his own team, *The Magicians*. The Magicians have played all over the world and have gained the respect of Athletes everywhere for their skill on the court, as well as their showmanship. He travels more than 55,000 miles a year, but he still spends a part of his off-season in Oklahoma.

Prentice-Gavtt

Oklahoma City—home town. Attended Page Elementary School, Douglass High School, Oklahoma University.

Accomplishments: First Black to end the all-white team at O.U. Played with the Cleveland Browns, St. Louis Cardinals, All American Squad Assistant Football Coach at the University of Missouri, and Chief Scout for that team.

HISTORY

John Hope Franklin

Mr. Franklin was born is Rentiesville, a small, all Black town in eastern Oklahoma. Attended Washington High School in Tulsa, Fisk University, Harvard University.

Accomplishments: He taught at Harvard, Howard University in Washington, at Brooklyn College, Cambridge England, University of Chicago. In addition to teaching and writing, Dr. Franklin lectures all over the world, "from Southeast Asia to Salzburg, Austria," according to Life Magazine. Dr. Franklin is a prolific writer. He has ten books to his credit, including the well-known "From Slavery to Freedom." Dr. Franklin himself is generally considered to be one of the foremost American historians.

LITERATURE

Ralph Ellison

Mr. Ellison was born in Okla. City. After dropping out of high school, he attended Tuskegee Institute in Alabama.

Accomplishments: Published several short stories and essays in various Journals and popular magazines. His first book, Invisible man, won the National Book Award, the Russwurm Awards-1953, and the National News Publishers Award 1954. Mr. Ellison received the Medal of Freedom from President Lyndon Johnson and the Chevalier Ordre Arts et Lettres from the French government for his contribution to the literature of the world. He has taught in a number of universities in Europe and the United States. He was a charter member of the National Council on the Arts and the Carnegie Commission on Educational Television. He is a Fellow in the National Institute of Arts and Sciences, and Silliman College, Yale University.

OTHER OUTSTANDING BLACK OKLAHOMANS

There are numerous other Blacks who lived in Oklahoma that have played an important role in helping to bring about better race relations in education, employment, housing, voting rights, and many other areas, to mention a few:

The Late Roscoe Dungee, *Black Dispatch*, Okla. City.

The Late Amos T. Hall, Attorney, Tulsa.

The Late Ben H. Hill, Minister, Tulsa.

The Late H. W. Williams, Dentist, Idabol.

Ada Lois Fisher, Chickasha, Okla.

The Late George McLaurin, Okla. City.

J. J. Simmons, Oil, Muskogee.

F. D. Moon, Educator, Okla. City.

The Late I. W. Lane, former Mayor, of Red Bird, Okla.

A. C. Hamlin, first Black to serve in the State Legislature.

Lucious Selmon, Eufaula, Okla. . . . placed Eufaula in the limelight—O. U. Football, All-American Guard.

The Late B. C. Franklin, attorney, Tulsa.

PUBLIC PARTICIPATION IN FEDERAL FORM REVIEW

Mr. METCALF. Mr. President, on February 21, the Office of Management and Budget made progress in providing public access to information and public opportunity to participate in the review of questionnaires proposed by Federal agencies.

Pursuant to the Federal Reports Act of 1942, OMB is responsible for reviewing all executive branch department and agency requests for information from 10 or more firms or individuals.

Until late year, the OMB also had responsibility for the review of requests from independent regulatory agencies. However, the Hart amendment to the Alaskan pipeline bill, Public Law 93–153, removed OMB's control and placed an advisory review function for independent regulatory agency requests in the General Accounting Office.

On February 9, Fred Malek, Deputy Director of the Office of Management and Budget, testified before the Government Operations Subcommittee on Budgeting, Management, and Expenditures regarding the Federal Advisory Committee Act Public Law 92–463. We discussed the need for participation in Federal form review by small businessmen and others who are not represented by the Business Advisory Council on Federal reports. It is an OMB big business advisory committee which plays a major role in the clearance of many of the requests for information.

At that hearing, Mr. Malek and Mr. Roye Lowry, clearance officer of OMB, assured me that steps would be taken to insure that small business would have an opportunity to participate in the forms clearance procedure.

On February 21, the Office of Management and Budget began publishing its daily list of "requests for clearance of reports" in the Federal Register. Publication will go a long way to help individuals, particularly small businessmen, participate in formulation of questionnaires which they are required to fill out, previously without timely opportunity to comment on the need for collection of additional information from some firms, the burden of the request, the need for the information, or the availability of the data.

Publication of the daily list in the Federal Register facilitates participation by small businessmen, farmers, employees, and others in an important process of Government. I urge interested parties to avail themselves of the opportunity.

Mr. President, I ask unanimous consent to print in the RECORD the list of requests for clearance which have appeared in the Federal Register under the new policy thus far.

I also ask unanimous consent to print in the RECORD the announcement of the March 14 meeting of the Business Advisory Council on Federal reports, the high-level, big-business advisory committee which advises OMB on Federal forms, and which does not include in its membership representatives of many persons who have as much interest in collection of information by Federal agencies as large corporations do.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Federal Register, Vol. 39, No. 36, Feb. 21, 1974]

OFFICE OF MANAGEMENT AND BUDGET— REQUEST FOR CLEARANCE OF REPORTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 15, 1974 (44 USC 3509).

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issue, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529).

NEW FORMS

Department of Health, Education, and Welfare

Health Resources Administration: Connecticut Ambulatory Care Study, Form HRABHSRE 0115, Single time, Ellett, Connecticut physicans.

Social Security Administration: SSI Referral Notice, Form SSA–L 8050, Occasional, Caywood, Business firms, government agencies.

Small Business Administration

Group Application Form Loan Development; Group Application, Form State Development: Forms 502, Parts I & II, 502A and 501; Occasional, Caywood Business firms requesting assistance.

Group Application for Lease Guarantee—Part I; Group Application for Lease Guarantee—Part II; Group Application for Lease Guarantee—Part III: Forms 800, 800a, 800b, Occasional, Caywood, Individuals requesting assistance.

Application for Surety Bond Guarantee Assistance: Form 994; Occasional, Lowry, Business firms requesting assistance.

License Application, Instructions, Personal History Statement, Amendments to Application: Form SBA 415, 415A, 415B, and 415C, Occasional, Lowry, Venture capitalists.

Size Status Declaration: Form SBA 480, Occasional, Lowry, Small businesses.

Minority Vendor Profile Request Form: Form SBA 1024, Occasional, Sunderhauf/Lowry, Large private sector firms.

Application for Certificate of Competency: Form SBA 74, 74A and 74B, Single time, Lowry, Small business concerns.

Application for Membership in Small Business Production or Research and Development Pool: Form SBA 419, Occasional, Caywood/Weiner, Small business community.

Investigative Inquiry for Small Business Investment Co. Applicants: Form SBA 415 (E), Single time, EGGD/Lowry, Federal, state, and local law enforcement agencies.

Questionnaire to Selected Lessees of the Lease Guarantee Program: Form ---, Single time, EGGD/Caywood, Lessees of lease guarantee program.

REVISIONS

Small Business Administration

Compliance Report: Form SBA 707, Annual, Sunderhauf/Lowry, Small businesses.

Veterans Administration

Serviceman's Application for Program of Education or Training: Form 22–1990a, Occasional, Caywood, Servicemen.

Employment Assistance Questionnaire (Vietnam Era Service-Connected Disabled Veterans): Form 22–8672k (NR), Single time, CVAD, Veterans.

EXTENSIONS

Federal Mediation and Conciliation Service

Notice to Mediation Agencies: Form FMCS F–7, Occasional, Evinger (x), Labor-management.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.74–4228 Filed 2–20–74;8:45 am]

[From the Federal Register, Vol. 39, No. 37, Feb. 22, 1974]

OFFICE OF MANAGEMENT AND BUDGET—CLEARANCE OF REPORTS

LIST OF REQUESTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 19, 1974. (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529).

NEW FORMS

Department of Agriculture

Economic Research Service, Rappahannock County Land Ownership Survey, Form ----; single time; Foster/Planchon; owners of land in county.

Statistical Reporting Service, Wheat Variety Survey—1974, Form ----; single time; Lowry; wheat farmers.

Department of Commerce

Economic Development Administration, Validation Survey for Industry Innovation in Municipal Market, Form ED 729; single time; Ellett; local public purchasing officials.

Small Business Administration

Contractor Compliance Data, Form SBA 601 C; single time; Sunderhauf/Lowry; federally-assisted contractors over $10,000.

Financial Statement of Debtor, Form SBA 770; occasional, small business borrowers.

Financial Statement, Form SBA 362; occasional; Caywood; small business borrowers.

REVISIONS

Department of Commerce

Economic Development Administration, Employment and Remuneration of Expediters, Form ED 100; Occasional; Lowry; all applicants for EDA financial assistance.

Department of Health, Education, and Welfare

Center for Disease Control, Tuberculosis Hospital Bed Census, Form CDC 5.6; Annual; Evinger; hospitals with beds for tuberculosis patients.

National Aeronautics and Space Administration

Traveler Survey, Form ----; Single time; Foster; travelers.

Veterans' Administration

Certification of Delivery of Advance Payment and Enrollment. Form 22–1999v; occasional; Caywood; Certifying official.

EXTENSIONS

Department of Housing and Urban Development

Housing Production and Mortgage Credit, Requisition of Funds Applicable to College Housing Program—Related Forms, Forms 4300, 4300A, 4301, 4302, 4304; occasion; CVAD; educational institutions.

Department of Labor

Employment Standards, Administration, Application for a Certificate to Employ Full-Time Students in a Retail or Service Establishment, Form WH–200; Occasion; Evinger (x); business firms.

Application for a Certificate to Employ Full-Time Students at Special Minimum Wages in Agriculture, Form WM 257; occasion; Evinger (x); farms.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc. 74–4291 Filed 2–21–74; 8:45 am]

[From the Federal Register, Vol. 39, No. 38, Feb. 25, 1974]

OFFICE OF MANAGEMENT AND BUDGET— CLEARANCE OF REPORTS

LIST OF REQUESTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 20, 1974. (44 USC 3509) The purpose of publishing this list in the Federal Register is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of an information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529).

NEW FORMS

Department of Agriculture

Soil Conservation Service: Conservation Plan of Operations—RECP Program: Forms SCS-CONS-11: SCS-CONS-12; Occasional; Lowry; Farm Owners/Operator.

Department of Commerce

Bureau of East-West Trade: Ferrous Scrap "Ship-Breaking"—Reporting Requirement: Form EAR 377.4A(d); Monthly; Caywood; Business firms.

Federal Energy Administration

Request for Data on Coal Conversion: Form; Single time; Lowry; Electric utilities.

REVISIONS

Department of Commerce

Bureau of the Census: Current Sales and Credit Report—Multi-unit Firm: Form BUS 67P; Annual; Weiner; Retail business firm which operate 11 or more retail estab.

Current Sales and Credit Report: Form BUS 50P; Annual; Weiner; Retail business firm which operate 10 or less retail establishments.

Current Service Trade Report: Form BUS 80P; Annual; Weiner; Service business firm.

Department of Commerce

Bureau of the Census: Current Service Trade Report: Form BUS 80P; Annual; Weiner; Service business firm.

EXTENSIONS

Department of Commerce

Economic Development Administration: Application for Assistance from the Economic Development Administration to Finance Public Works Impact Projects: Form ED 101-PWIP; Occasional; Evinger (x).

Application for Assistance from the Economic Development Administration to Finance Public Works and Development Facilities; Form ED 101; Occasional; Evinger (x).

Department of State

Preliminary Questionnaire to Determine Immigrant Status; Form FS 497; Occasional; Evinger (x).

Biographic Data for Visa Purposes: Form DSP 70; Occasional; Evinger (x).

PHILIP D. LARSEN,
Budget and Management Officer.

[FR Doc. 74-4396 Filed 2-22-74; 8:45 am]

[From the Federal Register, Vol. 39, No. 39, February 26, 1974]

OFFICE OF MANAGEMENT AND BUDGET—REQUESTS FOR CLEARANCE OF REPORTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 21, 1974. (44 USC 3509) The purpose of publishing this list in the Federal Register is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529).

NEW FORMS

Department of Agriculture

Economic Research Service: An Evaluation of Public Transportation Policies Affecting Agriculture (Proposed Contract), Form ----, Singletime NRD/ESD/Foster, Receivers and truckers of perishable foods.

Statistical Reporting Service: Colorado Response Evaluation in List Development and Maintenance, Form ----, Singletime, Wann, Cattle producers.

Department of Defense

Departmental: Training and Education Questionnaire, Form ----, Singletime, NSD/Planchon, Individuals.

Department of Labor

Employment Standards Administration: Definition of Workfore Analysis for 41 CFR, Parts 60-2 and 60-60, Form ----, Occasional, EGG/Sunderhauf/Lowry, Federal contractors, except construction, with 50 or more employees and contract of $50,000 or more.

REVISIONS

Cost of Living Council

Income and Expense Analysis for Hospital and other Institutional Health Service Providers with Accompanying Schedule, Forms CLC 52 and Schedule A, Quarterly, Hulett, Hospitals and nursing homes.

EXTENSIONS

Department of Agriculture

Food and Nutrition Service: Receipt and Distribution of Donated Commodities, Forms FNS 155, Monthly, Lowry, State distributing agencies.

Department of Defense

Department of the Army: Application for Walter Reed Army Institute of Nursing, Form DA 3494, Occasional, Lowry, Individuals.

Department of Housing and Urban Development

Housing Production and Mortgage Credit: Application for Project Mortgage Insurance—Nonprofit Hospital, Section 242, Form FHA 2013, Occasional, Evinger (x).

Contractor's Requisition for Payment of Construction Costs of Section 242, FHA Mortgage Insured Nonprofit Hospital, Form FHA 2448, Occasional, Evinger (x).

PHILLIP D. LARSON,
Budget and Management Office.

[FR Doc.74-4537 Filed 2-25-74;8:45 am]

[From the Federal Register, Vol. 39, No. 40—Feb. 27, 1974]

OFFICE OF MANAGEMENT AND BUDGET—REQUESTS FOR CLEARANCE OF INFORMATION REPORTS

LISTING

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 22, 1974. (44 U.S.C. 3509.) The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529).

NEW FORMS

National Aeronautics and Space Administration

Computer Data Communications Questionnaire; Form ----; single time; IS; data communications professionals.

Department of Transportation

U.S. Coast Guard; Nationwide Boating Survey; Form ----; single time; EGG/Wann/Lowry; individuals.

REVISIONS

Department of Agriculture

Animal and Plant Health Inspection Service; Regulations—Viruses, Serums, Toxins, and Analogous Products; Form ----; occasional; Lowry; biologics producers.

Agricultural Stabilization and Conservation Service; Notice of Commodity Availability (For Voluntary Relief Agencies); Form CCC 512 (MP); Occasional; Evinger; voluntary agencies.

Department of the Interior

Bureau of Mines; Magnesium; Form 6-1081-A; Annual; weiner; consumers of magnesium metal.

EXTENSIONS

Department of Agriculture

Agricultural Marketing Service; Regulation Governing the Importation of Dates; Form ----; occasion; Evinger; importers and users of dates for processing.

Department of Health, Education, and Welfare

Social Security Administration; General Authorization for Medical Information; Form SSA 827B; occasional; Evinger (x).

Claimant's Authorization to Attending Physician; Form SSA 827A; occasional Evinger (x).

Outpatient Physical Therapy Provider Statement of Reimbursable Cost; Form SSA 2088; annual; Evinger (x).

Department of Transportation

Federal Highway Administration; Survey of Bus Riders (Opinion Survey to Evaluate New Bus Stop Signs in Philadelphia); Form ----; Single time; Foster; riders of Walnut & Chestnut St. buses in Philadelphia.

Contractors Qualifications and Information; Form PR 50; occasional; Evinger (x).

State Highway Department Federal-Aid Highway Construction Summary—Equal Opportunity Compliance Review; Form ----; occasional; Evinger (x).

Equal Employment Opportunity Prequalification of Federal Aid Highway Construction and Subcontractors Specific Equal Employment Opportunity Responses—Federal Aid Highway Construction Project; Form ----; occasional; Evinger (x).

Federal-Aid Highway Construction Contractors Monthly EO Report; Form PR 1391; occasional; Evinger (x).

Federal Aid Highway Construction Summary of Employment Data (Including Minority Breakdown for all Federal Highway Projects for Month ending July 31, 19--; Form PR 1392; annual; Evinger (x).

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc. 74-474 Filed 2-26-74; 8:45 am]

[From the Federal Register, Vol. 39, No. 41, Feb. 28, 1974]

Office of Management and Budget—Clearance of Reports

LIST OF REQUESTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 25, 1974. (44 USC 3509) The purpose of publishing this list in the Federal Register is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529).

NEW FORMS

Department of Commerce

Bureau of the Census, Letters to non-government sources of "Farm" Operations Not Likely to be Included as Farms in Administrative Records of Farm Operator Addresses, Form 74–A22 (Ll) (Ln), Single time, Lowry, Organizations holding lists of atypical farm operations.

Department of Health, Education, and Welfare

Center for Disease Control, Irritant Effects of Industrial Chemicals: Formaldehyde and Acetone, Form CDCTB 0207, Single time, Ellett, Workers exposed to industrial chemicals.

Department of Housing and Urban Development

Housing Management, Report on Unit Availability, Form HUD 51230, Occasional, CVAD/Sunderhauf, Local housing authorities.

Office of Policy Development and Research, Jacksonville Special Study, Form —, Single time, Sunderhauf/CVA, Individuals.

Tennessee Valley Authority

Response Cards from Nuclear Organizations, Form —, Single time, Ellett/Foster, Public & investor-owned utilities.

REVISIONS

None.

EXTENSIONS

Department of Justice

Immigration and Naturalization Service: Application for Special Certificate of Naturalization to Obtain Recognition as a Citizen of the U.S. by a Foreign State, Form N–577, Occasional, Evinger (x).

Application for Advance Permission to Enter as Nonimmigrant, Form I–192, Occasional, Evinger (x).

Application for Stay of Deportation, Form I–246, Occasional, Evinger (x).

PHILIP D. LARSEN,
Budget and Management Officer.

[FR Doc. 74–4834 Filed 2–27–74; 8:45 am]

Gross National Product Data Improvement Project

NOTICE OF CHANGE OF PUBLIC MEETING

Notice of public meeting for the Gross National Product Data Improvement Project appearing on page 6784, Vol. 39, No. 37 of the FEDERAL REGISTER dated February 22, 1974 has been changed from March 4, 1974 to March 12, 1974 in room 10104, New Executive Office Building at 9:45 a.m.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–4833 Filed 2–27–74;8:45 am]

[From the Federal Register, Vol. 39, No. 42, Mar. 1, 1974]

Office of Management and Budget—Request for Clearance of Reports

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 26, 1974 (44 USC 3509). The purpose of publishing this List in the Federal Register is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529).

NEW FORMS

Department of Agriculture

Animal and Plant Health Inspection Service, Official Export Certificate for Animal Biological Products, Form VS 14–17, *Occasional,* Lowry, Biologics establishments.

Forest Service, Youth Conservation Corps–IV Summer 1974, Form ----, *Single time,* Planchon, Enrollees in youth Conservation Corps Program in 1974.

Department of Commerce

Bureau of Domestic Commerce, Metal Cutting Tools, Form DIB 967, *Single time,* Peterson, Metal cutting tool manufacturers.

Bureau of the Census, 1973 Commodity Transportation Study, Form S–188, S–189, S–190, S–192(I), *Single time,* Foster, Wholesale estab., Mineral establ., & assemblers (farm products).

Department of Health, Education, and Welfare

Office of Education, Field-test Questionnaire—Second Follow-up Survey of National Longitudinal Study, Form OE 2367–1, *Single time,* Planchon, High school graduates of Class of 1971.

Department of Labor

Manpower Administration, Forms Handbook for Initial Funding of Title II, CETA, Form ----, *Quarterly,* HRP Raynsford Ellett, State and local agencies.

REVISIONS

Department of Commerce

Bureau of the Census, Steel Shipping Drums and Pails, Form M34K, *Monthly,* Peterson, Manufacturing establishments.

Departmental, AFN Financial Structure and Related Data, Form FDI 105, *Single time,* Hulett, Sample of 450 are direct investors.

National Oceanic and Atmospheric Administration, Volunteer Severe Weather Observer, Form NOAA 86–512, *Occasional,* Foster, Individuals.

Department of Health, Education, and Welfare

Office of Education, Basic Educational Opportunity Grant Program Supplemental Form for 1974–75 Academic Year, Form OE 255–2, *Occasional,* Lowry, BEOG applicants.

Departments of the Treasury

Departmental, Worksheet for Projections of Corporate International Investment Accounts for 1974 and 1975, Form ----, *Semiannually,* Hulett, Major companies with direct investment.

Veterans' Administration

Veteran's Application for Program of Education of Training (Under Chapter 34, Title 38, U.S.C.), Form 22–1990, *Occasional,* Caywood, Veterans.

EXTENSIONS

National Science Foundation

Employment Inquiry, Form 218, *Occasional,* Evinger (x).

Special Foreign Currency Expenditure and Financial Status Report, Form NSF 672, *Annual,* Evinger (x).

Survey of Graduate Science Student Support and Summary, Form 811/812, *Annual,* Evinger (x).

Cash Outlay Report, Form 612, *Quarterly,* Evinger (x).

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74—4908 Filed 2–28–74;8:45 am]

[From the Federal Register, Vol. 39, No. 43, March 4, 1974]

Office of Management and Budget—Clearance of Reports

LISTING OF REQUESTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 27, 1974 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529).

NEW FORMS

Department of Health, Education, and Welfare

Office of Education, Assessment of Vocational Education Programs for Handicapped through 6, *Single time,* HRD/Planchon, 100 (Project Review Forms), Forms OE 348, 1 vocational education projects in 25 States.

Health Resources Administration, Notification of Action under Section 1122 of the Social Security Act, Form HRABHRD 0221, *Occasional,* Caywood, One DPA in each participating State or territory.

Survey of Users and Uses of Marriage and Divorce Statistics, 1972, Form HRANCHS11, *Single time,* Tunstall, Research agencies.

Audiovisual Materials in Dental Auxiliary Education–A, Catalog, Form HRABHRD 1116, *Single time.* Planchon, Educational institutions.

Health Services Administration, Putnam Flagler Study of Migrant Worker Health Status, Form HSABCHS 1217, *Single time,* Reese/Wann, Migrant farm workers based in Putnam, Flagler and St. Johns Counties, Fla.

REVISIONS

National Aeronautics and Space Administration

Patent Waiver Report, Form NASA 1393, Annual, Caywood, Business firms.

EXTENSIONS

Department of Health, Education, and Welfare

Center for Disease Control, Quarterly Report of Rat Control Project Activities, Form CDC 7.15, *Quarterly* Evinger (x).

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-4992 Filed 3-1-74;8:45 am]

[From the Federal Register, Vol. 39, No. 44, Mar. 5, 1974]

OFFICE OF MANAGEMENT AND BUDGET CLEARANCE OF REPORTS

LIST OF REQUESTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 28, 1974 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529).

NEW FORMS

Department of Commerce

National Bureau of Standards, Form Letter and Resume for "A Directory of Authoritative Sources for Property Data on Ceramics", Form ———, Single time, Caywood, Information centers covering ceramics.

Bureau of the Census 1974 Census of Agriculture Pretest: Recheck Listing Sheet; Respondent Interview, Forms 73X-A7, 73X-A8, Single time, Lowry, Farms.

Regular and Short Agriculture Questionnaries, Forms 73X-A1 PR, 73X-A PR, Single time, Lowry, Puerto Rican farmers in pretest area.

Federal Energy Administration

Request for Data on Coal Conversion, Form ———, Single time, Lowry, Buisness firms.

Federal Reserve Board

Monthly Report on Foreign Assets, Form FR 936, Monthly, Hulett, Banks.

Federal Reserve Board

Quarterly Report on Foreign Assets, Form FR 937, Quarterly, Hulett, Nonbank financial institutions.

Department of Health, Education, and Welfare

Health Resources Administration, Evaluation of Hill-Burton Technical Standards and Guidelines for Medical Facilities, Form HRABHRD 0110, Single time, HRD/Sunderhauf, Hospitals built recently with Hill-Burton funds.

National Science Foundation

RANN Research Utilization Survey: Projected Utilization and Actual Utilization, Form—, Single time, Planchon, Principal investigators.

Department of Transportation

Departmental, University of Texas Transportation Survey Questionnaire, Form—Single time, Foster, Adults in Austin, Texas.

REVISIONS

Department of Health, Education, and Welfare

Social Security Administration, 1974 Survey of Independent Health Insurance Plans, Form SSA 1807, Annual, Caywood/Reese, Larger independent health insurance plans.

EXTENSIONS

Department of Commerce

National Bureau of Standards, Package Size Survey, Form NBS 181, Occasional, Evinger (x), State & local govt. weights & measures officials.

Department of Health, Education, and Welfare

Center for Disease Control, Congenital Rubella Syndrome—Case Report, Form 4.271, Occasional, Evinger (x).

Rubella Case Investigation Report, Form 10.17, Occasional, Evinger (x).

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-5175 Filed 3-4-74;8:45 am]

[From the Federal Register, Vol. 39, No. 45, Mar. 6, 1974]

OFFICE OF MANAGEMENT AND BUDGET REQUESTS FOR CLEARANCE OF REPORTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on March 1, 1974 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the freuency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529).

NEW FORMS

Department of Agriculture

Food and Nutrition Service, National School Lunch and Child Food Service Survey, Form ———, Single time, HRP/Wann, School food service directors.

Department of Health, Education, and Welfare

Office of Education, Application for Federal Assistance (Nonconstruction Programs)—Instructions for Health and Nutrition Programs, Form OE 347, Annual, Lowry (GSA-Marcantonio), LEA's and nonprofit private educational organizations.

Application for Federal Assistance (Nonconstruction Programs) Instructions for Educational Opportunity Centers, Form OE 343, Annual, Lowry (GSA-Marcantonio), Educational community and agencies or organizations.

National Science Foundation

Survey of Scientific Society Members, Form ———, Single time, Wann, Physical and social scientists and engineers.

REVISIONS

None.

EXTENSIONS

Department of Agriculture

Packers and Stockyards Administration Regulations under the Packers and Stockyards Act, Form ———, Occasional, Evinger (x).

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc. 74-5356 Filed 3-5-74;8:45 am]

[From the Federal Register, Vol. 39, No. 42, Friday, Mar. 1, 1974]

OFFICE OF MANAGEMENT AND BUDGET—BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

NOTICE OF PUBLIC MEETING

Pursuant to Public Law 92-463, *notice is* hereby given of a meeting of the Business Advisory Council on Federal Reports to be held at 9:30 a.m., on March 14, 1974, in Room 2010, New Executive Office Building, 726 Jackson Place NW., Washington, D.C.

The purpose of the meeting is to conduct Council business such as the Treasurer's Report and reports of various committees, to hear remarks by the Deputy Associate Director for Statistical Policy, and to receive reports of recent actions by the Office of Management and Budget which affect the burden on business firms of reporting to Federal agencies. The meeting will be open to public observation and participation.

Anyone wishing to participate should contact the Deputy Associate Director for Statistical Policy, Room 10202, New Executive Office Building, Washington, D.C. 20503, Telephone (202) 395-3730.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.74—4888 Filed 2-28-74;8:45 am]

ALEKSANDR SOLZHENITSYN DEEPLY TOUCHED BY SENATE RESOLUTION OFFERING HONORARY U.S. CITIZENSHIP

Mr. HELMS. Mr. President, Friday evening I received a personal letter from the great Russian writer, Aleksandr Solzhenitsyn. On February 19, I introduced Senate Joint Resolution 188 which would direct our President to declare Aleksandr Solzehnitsyn an honorary citizen of the United States. This is an unusual honor which, to my knowledge, has been conferred upon only two citizens of other lands, the Marquis de Lafayette and Sir Winston Churchill. Already, 33 Senators—one-third of the Senate—have joined in cosponsoring this resolution.

Solzhenitsyn stands for principles of freedom which are not narrowly partisan, but which are part of the very fiber of our Nation. Here is a man with great dedication to the cause of human freedom. He is a man who is willing to stand up and speak the truth in a land where speaking the truth has always meant death. Yet, as he himself has said, one word of truth can counterbalance the weight of the whole world. With his words of truth he has exposed the terror of the totalitarian system. And he has begged us not to become accomplices in that terror.

In his letter, Solzhenitsyn writes out of the despair of exile. Yet, even in that exile there burns a deep faith in the future, in the eventual freedom of his homeland, and in the freedom of the world.

He understands the importance of this gesture of honorary citizenship, and is humbled by the great role which he is now called upon to play in bringing about that freedom. He says that the bestowal of this honor would be a great support in the worldwide struggle against totalitarian governments and ideologies.

Let me now go to the words of Solzhenitsyn himself which I had translated from the Russian text:

5 MARCH 1974.

Highly Respected Mister JESSE HELM'S: I am deeply touched by your actions and your proposal to the Senate and the House of Representatives of the United States to declare me an honorary citizen of your country, especially in view of your argument that my fate is not just a private fate, but remains forever tied up with the destiny of my homeland.

Obviously, it is a high honor for me and a great support in my position as an expellee from my homeland in this involuntarily chosen struggle, which for many years I have been compelled to conduct outside of the framework of art and literature, for the rights of man, his inner dignity, and his calm assessment of the dangers threatening us all.

In your Senate speech of February 19 (and again in your letter to me of March 1), you called me "Citizen of the World." This is all the more exacting a title inasmuch as I have in no way deserved it yet, since my life-experience has not yet given me an opportunity to include the tasks and needs of the entire world. However, the truth is that the closely intertwined condition of the world today cannot but lead to the emergence of such a level of understanding and responsibilities—which, obviously, will expand in the twentieth and twenty-first centuries.

Regretfully, it is only your hospitable invitation to visit the United States, and your own house, to meet with the representatives of American society, which I cannot accept at the present time. In particular now, in my unaccustomed new situation, I must with special diligence and attention concentrate on my principal literary work, on my main literary design, for which my entire life may not be long enough. And because of this, no travel at all and no extensive social activity are possible for me now.

With gratitude and good wishes,

Sincerely yours,

SOLZHENITSYN.

There is little that can be added. We must stand with this great man in his struggle and share his hope. We must support him, not only as members of a political party, but as Americans of all parties. I urge my fellow Americans, particularly my fellow Senators, to join with him in his fight for freedom.

I wish he could visit our country now, but, as his letter states, his life is too short and his mission is too great. This dedication is a part of his greatness. This is the way he was in the Soviet Union, and we cannot expect him to change now. And I have the feeling that, if we join with him, his mission will one day take him back to his homeland when his homeland is free.

THE IMPORTANCE OF SOYBEANS

Mr. HUMPHREY. Mr. President, a highly significant article, entitled "Soybeans," appeared in the February issue of Scientific American.

The article notes the rapid increase in soybean production and indicates its rising importance as an agricultural export. Other countries are starting to grow soybeans and the potential for production in India appears to be very promising.

It is also important to note, in this period of shortages of fertilizer and energy, that soybeans, with their nitrogen-fixing capability, supply part of their own fertilizer.

The article also discusses the versatility of soybeans, including their serving as a health food and meat substitute.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOYBEANS

(By Folke Dovring)

In 1930 soybeans were harvested from a million acres of farmland in the U.S. and the crop amounted to about 14 million bushels. Last year 56 million acres were in soybeans and the harvest is estimated at more than 1.5 billion bushels. Even more remarkable is the expanding role of soybeans in U.S. exports. As recently as 1950 soybean exports were negligible; last year they had a value exceeding $3 billion, or about 5 percent of all income from exports. This year soybeans may account for an even larger part of U.S. exports, thereby becoming a critical factor in the nation's balance of trade as a source of the money needed to pay for such essential imports as petroleum.

The economic value of soybeans lies in their protein and fat (extracted as soybean oil). Even though the fat content of soybeans (18 to 20 percent) is less than that of most other oilseed crops, the output of fat per acre is often higher than that of other oilseeds because soybeans have a higher yield. Oil alone, however, would not have enabled soybeans to compete with other crops for farm acreage in the U.S.; of equal importance to the fat content is the protein content, which is as high as from 40 to 45 percent of the weight of the beans, an unusually large fraction for any crop.

The soybean is a relative newcomer to America. The plant originated in China, but (unlike many other crops) it did not spread around the globe during the era of geographical discovery. Until the early part of this century nearly all soybeans were grown in eastern Asia. The soybean is a staple food in the mainly vegetable diets of China, Japan and Indonesia but for a long time seemed to have little to contribute to the meat-oriented diets of the West, where it was used chiefly as soy sauce for Chinese cooking and for British ketchups. Attempts to grow soybeans in Europe have met with scant success because of the climate, which is characterized by drought in early summer. Efforts have also been made since late in the 19th century to grow the crop in Russia, but the U.S.S.R. has had a measure of success only in its Far East region.

The climatic possibilities for introducing soybeans on a large scale lay elsewhere. Both North and South America have large areas with predominant summer rains, as in eastern Asia. The wetter parts of southern Asia and tropical Africa also qualify as potential soybean country. Soybeans can also be grown under irrigation in any climate with warm summers.

Soybeans remained of small importance in the U.S. until World War II brought shortages of butter. With soybeans oil going increasingly into margarine, the harvested soybean acreage rose to 10 million in 1943, 30 million in 1964 and 40 million in the late 1960's. The 56 million acres in soybeans last year put the crop in a class with wheat and not far behind corn.

Soybeans first began to spread in the corn belt. In recent years the crop has become increasingly important in the lower Mississippi Valley and the Southeast. Thirty states have a significant acreage in soybeans; the first seven in order of contribution to the 1973 crop are Illinois, Iowa, Indiana, Missouri, Minnesota, Arkansas and Ohio. Soybeans are not much grown in the Western states for the same climatic reason as in Europe.

The soybean is a leguminous plant. Like other members of the family, such as peas and clover, it can harbor nitrogen-fixing bacteria on its roots and thus supply part of its own fertilizer. Although the yield of soybeans is much lower than the yield of corn and wheat in the high-rainfall areas where most soybeans are grown, the price per bushel is higher. As a result soybeans have in recent years surpassed wheat as a cash crop. With the prices that are now being paid, the 1973 crop of soybeans may prove to rival corn crop in value.

All of this has made the U.S. the world's major producer. About three-fourths of all the soybeans produced are grown in the U.S., and the bulk of the soybeans moving in world trade comes from the U.S. The second-largest producer is still China, but its production has not increased much in recent decades and only a minor part of the crop is exported. The only other exporter of consequence is Brazil, which in recent years has developed a big soybean enterprise and exports a substantial part of the crop. Other major soybean countries such as the U.S.S.R., Japan and Indonesia each produce less than a million tons per year; Japan has a large net import need of soybeans. Many other countries, notably Mexico and Colombia, have begun to grow soybeans commercially, but their output is not yet significant in world markets.

The expansion of the soybean business in the U.S. has had a profound impact both on the domestic food economy and on foreign trade. A comparison of the trends in butter and margarine illustrates the role that soybeans have come to play in the domestic food economy. In 1940 the ratio of butter to margarine in domestic consumption was 7:1. Now margarine is in the lead by a ratio of 2:1. Most of the increased output of margarine is made with soybean oil, which now accounts for three-fourths of the country's margarine production.

Even so, margarine takes only about a fifth of the soybean oil produced in the U.S. Other foods such as salad oil and shortening are made with soybean oil. Soybean oil also goes into a number of nonfood products and into the export trade. Soybean oil now accounts for more than half of all the food fat produced in the U.S. In the world as a whole soybeans have become the largest single source of edible fat, ahead of butter and also ahead of any other oilseed. Soybeans deliver some 15 percent of all world supplies of edible fat, and about a fourth of all the edible fat in international trade is soybean oil or the fat in whole soybeans.

Because of the rather low fat content of soybeans, the part of the bean that remains after the fat has been extracted is usually worth somewhat more than the oil, even though the oil brings a higher price per unit of weight. Soybean cake and soybean meal for feeding livestock are the chief products made from what is left after the oil is removed. Leaving aside feed grains such as corn and sorghum, the soybean products now make up nearly half of all commercial feedstuffs sold in the U.S. They have an even larger role in U.S. exports of livestock feed. For the rising supply of all kinds of meat, particularly poultry, the swelling flow of soybean cake and meal is of the greatest importance. U.S. exports are also important in the expansion of animal husbandry and the meat supply in Western Europe and (more recently) Japan.

In foreign trade soybeans over the past five years or so have become the largest single item among U.S. agricultural exports, exceeding in value both wheat and corn. The devaluation of the dollar early last year, combined with a strong demand for farm products, brought the prices of such products to unprecedented levels. The soybean harvest of 1973 proved when finally added up to meet the expectation of from 1.5 to 1.6 billion bushels; if 40 or 50 percent of it is exported at current prices, soybeans could account for 10 percent of the value of U.S. exports in 1974.

The present high level of demand for American soybeans may prove to be a temporary extreme condition. What are the prospects for the longer term? Could soybeans come to occupy an even more strategic position in the national economy? The answer will depend on two trends: the trend toward a higher yield per acre of soybeans and the trend toward the more intensive consumption of soy protein in human foods, either as "artificial meat" or in other forms.

Soybeans biology has been and is the subject of considerable work in the U.S. Varieties have been developed that are suitable for cultivation in various parts of the country. Yields have been slowly but steadily increased.

Other countries besides the U.S. have benefited from this work, including Mexico and India, which both recently imported from the U.S. soybean strains that proved to be suitable for local conditions. The results are particularly promising in India, where certain American varieties have turned out to give higher yields than they do in the U.S. The potential for soybean production in India appears to be large.

Even though soybean yields are generally higher than those of other oilseeds or of other dry pulse crops such as peas and beans, the consensus among soybean biologists is that the yield potential of the soybean is far from exhausted. It may well prove possible to increase the yield of soybeans per acre to two or three times the levels now reached in the U.S. If such results are achieved, the scope for growth high-protein food will be correspondingly larger. The perspective is plausible; what remains uncertain is when it may materialize.

The perspective of producing soy-protein food for direct human consumption is not just a thing of the future. Meat analogues and other soy-protein dishes that many people find tasty are already on the market. Widespread acceptance by consumers may be only a matter of time. The commercial promotion of soybean recipes and a conscious economic policy favoring soybeans as human food will also be important.

The manufacture of imitation meat from soybeans rests on a technology that has been under way for some time. Soy-protein isolates have been available commercially in the U.S. since about 1960; by 1970 the production was some 20,000 metric tons per year. The protein isolate is spun into fibers, fashioned to resemble whatever kind of meat it is intended to resemble and flavored accordingly. The name for the fibers is "textured vegetable protein," usually shortened to TVP. As defined in a regulation issued by the U.S. Department of Agriculture, the material must have "a structural integrity and identifiable texture such that each unit will withstand hydration and cooking and other procedures used in preparing the food for consumption." In other words, it must not cease to look and taste like meat if it is boiled or fried.

A marketing test of imitation bacon strips conducted in Fort Wayne, Ind., in 1970 showed ready acceptance of the soybean product by the public. The price on an "as served" basis (that is, after cooking, which in natural bacon results in a loss of weight) is about half the price of natural bacon. At present imitation meat is available to the general public in two forms: imitation bacon bits, which are flavored and colored to resemble bacon, and unflavored textured vegetable protein. The bacon bits are recommended as a spice or an additive in dishes where natural bacon would be appropriate. Unflavored textured vegetable protein serves as a meat extender in hamburgers and other dishes where ground meat is a main ingredient. Here too the soy product costs about half as much as real meat.

The manufacturers of these meat substitutes have not seemed to be rushing to capture a large share of the meat market. Part of the explanation for their caution appears to be the fact that certain soy products put on the market a number of years ago without careful development gave soybean foods a bad name. It may also be that the manufacturers want to avoid conflict with the farmers and food processors involved in meat production—some of whom are members of the same companies or conglomerates as the manufacturers of textured vegetable protein.

Whatever the reasons for the cautious attitude of the manufacturers toward meat analogues, the fact is that the American public is already eating soy products to a larger extent than is indicated by the production of textured vegetable protein. Breakfast foods, biscuits, various kinds of bread, sausages and many other foods contain soybean meal in less expensive forms than textured vegetable protein. As of 1970 such foods consumed 10 times as many soybeans as the manufacture of textured vegetable protein. American food scientists have recently perfected a soy beverage that could substitute for milk, and they have also improved the taste of soybeans for consumption as whole beans (in bean salad, for example), as flakes in baby food and in other forms.

Religious groups and health-food groups with an interest in vegetable-based diets have developed many more soybean products and recipes than are available from standard sources. As a result a large variety of meat analogues can be found in specialty stores. Moreover, anyone, who likes to experiment in his own kitchen can discover more uses for textured vegetable protein than the major manufacturers offer. For example, if the unflavored products is mixed with a strongly flavored bacon analogue, the blend serves with good effect in recipes calling for minced meat.

Soy protein is nutritionally somewhat less complete than meat, but the few deficiencies can be made up easily from other vegetables, including corn. A complete diet without animal products is therefore readily attainable. Many more meat imitations than are currently available could be made from soybeans, including analogues of several boneless meat and poultry cuts.

A move toward a more vegetable diet would have several advantages for the public, such as lowering the cost of living and reducing the ingestion of fat. It would lessen the pressure of economic activity on the environment, since the current energy crisis is symptomatic of an impending scarcity of resources that would be greatly relieved if less land were used to feed domestic animals.

The production of natural bacon, for example, requires 10 times as much cropland as the same quantity of bacon analogue from soybeans; beef production calls for from 15 to 20 times as much land as is needed for soy protein. Moreover, since soybeans can obtain their own nitrogen fertilizer, they draw less on the energy-intensive industries that manufacture commercial fertilizers. The ecological pressure from high levels of application of nitrogen fertilizers would also diminish, because less nitrogen would leak into the ground water and the streams.

For countries with a low level of per capita income, foods based on vegetable protein offer even greater advantages. Although at present in the poorest countries soybeans are best consumed directly (or in such forms as flour additives and "soy milk"), in the longer term meat analogues could become highly important in economic development. Experience shows that when per capita income rises, the demand for meat goes up. It rises most rapidly at certain intermediate levels of income (between about $400 and $1,600 per capita per year in current prices). "Inflation feeds on red meat" is an expression that originated in France in the 1950's when the country was on such a middle-income level. The expression has particular point today in such countries as Argentina and Mexico. Sooner or later, if all goes well, the problem will come up in the present low-income countries. It would be far less difficult economically for those countries to plan toward large supplies of vegetable protein than to try to build up meat production on a scale that would satisfy the aspirations of their people, since vegetable protein is so much more sparing of resources. Indeed, the food situation of the entire world would benefit from a greater reliance on vegetable protein.

For the U.S. the question of agricultural priorities is closely tied to issues of foreign trade. In recent years the U.S. has become increasingly dependent on imports of petroleum, particularly from the Arab nations of the Middle East and North Africa. Apart from the political embarrassment of being dependent on such distant sources, the nation confronts the impact of petroleum imports on the U.S. balance of payments. The balance-of-payments situation is quite bad and was deteriorating until the early part of 1973. A modest surplus of payments in recent months has redeemed only a tiny fraction of the huge amount of dollars held in foreign countries. At present it appears that agricultural exports, with soybeans foremost among them, may bail out the U.S., at least for a time. The question is how long they can continue to do so. The answer lies, among other things, in the trends of consumption of meat and of energy.

Both trends have been upward, and since the early 1960's they have risen at rates exceeding those of the previous several decades. These two indicators are sure signs of rising standards of living. It is clear from the figures that Americans in general have become better off over the past dozen years and that the improvement has been faster than in earlier decades.

These developments would be all to the good if it were not for the problem of resources that underlies the rising figures for meat and for energy consumption. The problem is intensified by the fact that beef accounts for much of the increasing consumption of meat. At present the U.S. is paying for its imports (including meat as well as petroleum) by exporting soybeans, wheat, corn and other raw agricultural products. If the upward trend in meat consumption continues, however, more of the nation's corps will be needed to feed meat animals and less can be exported. If energy consumption continues to rise, petroleum imports can be expected to rise too.

In other words, the trend in meat consumption and energy consumption are on a collision course. If they continue upward, the two together will bring the U.S. into increasing difficulty. To put the matter rather crudely, the American public may have to choose between steaks and pleasure trips. A turn toward mass transit and other means of economizing on the consumption of energy could bring down the need for importing petroleum. In addition, however, a shift toward meat analogues and other high-protein foods based on vegetable sources—soybeans foremost among them—could reduce the requirement for feed crops within the country and allow for higher exports of agricultural products to pay for petroleum and other essential imports while keeping the foreign-trade account in balance.

Agricultural products have historically been a large part of U.S. exports. Even now the U.S. has the largest potential for agricultural production of any nation. (Brazil could be come a match for the U.S. in the future, but that remains to be seen.) It is logical for the U.S. to employ its comparative advantage by paying for imports with the proceeds from farm exports.

In recent decades, however, the nation's farm exports have become relatively less important. Manufacturing industries have increased their share of the export trade because of their comparative advantage over other countries in technology and management. Their real export has been embodied technology.

Lately the industrial advantage has declined somewhat because much technology has been exported and much has been reproduced abroad. This was probably inevitable; a comparative advantage based on technology tends to be short-lived in an era of rapid technological progress. Comparative advantage based on natural resources is more dependable, which is why it is logical that the U.S. should again rely on its agricultural base to strengthen its foreign trade position.

The logic is even stronger now that worldwide demand for U.S. farm products has risen, partly because of rising standards of living in Europe, Japan and elsewhere and partly because many countries have more difficulty than the U.S. has in increasing agricultural production. The prospect for trade between the U.S. and the U.S.S.R. rests essentially on the superiority of the U.S. in agriculture and the large mineral resources of the U.S.S.R.

A revival of this country's role as food grower for much of the world will be easier to achieve if the U.S. can slow down or halt the trend toward devoting an increasing amount of land to feed domestic animals for an increasing consumption of meat. Recent experience is suggestive: if butter had continued to dominate margarine in the marketplace, less grain would now be available for export. In the future a shift toward meat analogues made with vegetable protein, soy protein being the cheapest and most abundant, could help to release more acreage for export crops.

The shifts in production, consumption and trade implicit in the argument set forth here cannot be affected suddenly. What is important is to look ahead at national problems and to be aware of the probable consequences of alternative courses of action. If foresight had been applied to the long-term prospects of the economy in the 1950's, for example, it is likely that neither the current energy crisis nor the adverse balance of foreign trade would have arisen.

The superiority of the soybean both for domestic purposes and for export comes from the wide range of products that can be made from it. An important general characteristic of a modern economy is an increasing versatility of raw materials. This characteristic, together with rising productivity and per capita income, is one of the sources of the widening freedom of choice that makes the socioeconomic environment an "optional society"—a society where the range of options open both to individuals and to society as a whole is wider than ever and still widening. The soybean ranks high in this respect, and so it is an eminently modern commodity. The biologists and food chemists who work with soybeans therefore hold important keys to the nation's economic future.

BERNARD LEWIS TESTIMONY ON THE PRESENT STAGE OF THE ARAB-ISRAELI CONFLICT

Mr. JACKSON. Mr. President, as part of its study of negotiation and statecraft, the Permanent Subcommittee on Investigations was privileged to take testimony Friday, March 8, from Prof. Bernard Lewis of the University of London. Professor Lewis, who has just returned from visits to Israel and Egypt, testified on the present stage of the Arab-Israeli conflict.

It is my strong conviction that we need history as a guide to sound judgments in foreign and defense affairs—including the handling of crucial negotiations such as those in process in the Middle East situation.

Few people can equal the range of Professor Lewis' historical and political insights into this conflict. As a distinguished historian of the Middle East, Professor Lewis sheds important new light on the relationship between Mideastern developments and East-West détente.

Since 1949 Bernard Lewis has been professor of history of the Near and Middle East at the University of London. He has also been a visiting professor at UCLA, Columbia University, Indiana University, and Princeton University, and a visiting member at the Institute for Advanced Studies in Princeton.

He is the author of such learned books as "The Emergence of Modern Turkey," revised edition 1968, "The Assassins," 1968, "The Middle East and the West," 1964, "The Arabs in History," revised edition 1971, "Race and Color in Islam," 1971, and "Islam in History," 1973. Professor Lewis has also written many scholarly articles, including several trenchant analyses of Russian interest in the Middle East.

I believe Professor Lewis' path-breaking analysis deserves the widest reading and study. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE PRESENT STAGE OF THE ARAB-ISRAELI CONFLICT

(By Prof. Bernard Lewis)

(Statement to the Permanent Subcommittee on Investigations, Friday, March 8, 1974).

For the first time since the signature of the Rhodes Armistice agreement, there is real hope for peace in the Middle East. When the Armistice Agreement was signed in 1949, the hope was widely held and still more widely expressed that the armistice would be followed by negotiations leading to a real peace between the conflicting parties. These hopes—incorporated in the actual text of the armistice—were not fulfilled, the tentative negotiations were abandoned, and the conflict between the Arab states and Israel settled into the form which has become painfully familiar. The war of 1956 was followed by an Israeli retreat, under American pressure, from occupied territories, but once again the expectations, much feebler this time, that this would pave the way to peace negotiations proved vain. The war of 1967 again broke the log jam, and there was a brief interval when there may have been some opportunity of beginning real peace negotiations. This opportunity, if indeed it ever existed, was lost and the situation was once again deadlocked by the Khartoum Summit conference in September 1967 and its adoption of the formula of no recognition, no negotiation, no peace.

Now once again, after yet another war, there seems to be a chance. Every opportunity, however, inevitably involves an equivalent danger, and it is therefore necessary to examine the present situation very closely for its local, regional and international implications.

THE STAGES OF THE CONFLICT

The Arab-Israeli conflict is *sui generis*, resembling no other conflict in the world. In the form in which it has existed since 1949 it is insoluble. In considering the possibility of a solution, we must therefore envisage a process in two stages—first the normalization of the conflict, and then, after this has been achieved, the resolution of the conflict and the normalization of relations between the contending parties.

To make the point in another way: in the first stage the issue of the conflict is the existence of Israel, in the second stage the size of Israel. In the first phase no agreement or even negotiation is possible, since there is no compromise or midway point between existing and not existing. In this phase, the Arab position is that Israel has no right to exist and that its very existence, therefore, irrespective of its actions or policies, constitutes an aggression. This was the view formulated most explicitly by the late President Nasser. The Arabs recognized neither the legitimacy of the Jewish state nor the existence of the Jewish nation, and saw Israel as a state based on a fiction and achieved by usurpation. "Justice" required that this usurpation should be undone and the state dismantled.

THE SIGNIFICANCE OF DIRECT NEGOTIATION

Both the Arabs and Israel understood the situation, and accurately expressed their understanding by the stress which both sides laid on the question of direct negotiation. On the Arab side negotiation was clearly not possible with a state, the very right of which to exist they did not recognize; even to enter into such negotiation, irrespective of its course or outcome, would have been to concede the point which they regarded as fundamental in the whole conflict. On the Israeli side, entry into direct negotiation became the touchstone of Arab good faith. In its absence, the Israelis sought maximum protection against political and perhaps physical extinction.

Outsiders often failed to understand this character of the conflict. They made light of the threats to Israel's existence, dismissing them as empty rhetoric and incapable of realization, and blamed Israel for demanding a degree of military security enjoyed by no other state—or perhaps only one other state—in the world; namely the safeguarding of her borders by the annexation or occupation of territory belonging to her neighbors. Israel replied that she faced a threat unknown to any other state in the world—that of annihilation by her neighbors.

The ruling generation of Israelis, dominated by memories of Auschwitz, could not dismiss the threat of annihilation so lightly, the more so since, as careful readers and hearers of the Arab media, they were better informed than the outside world of the seething hatred which these conveyed. Such fears were reinforced by observation of the political style in Arab countries and the treatment of even domestic political adversaries. At the time of the troubles in Jordan, in

September 1970, many Israelis asked "if that is how they treat each other, how would they treat us?"

In the second phase of the conflict the existence of Israel is accepted, and the problem is the delimitation of its frontiers, i.e., a simple straightforward diplomatic problem of the classical type—like Alsace-Lorraine and Schleswig-Holstein. These examples will make it clear that even such problems are far from easy. This one would be particularly difficult in that Israel has not and never has had any frontiers but only cease-fire lines. Even the old international frontier with Egypt was formally abolished by the Rhodes Armistice agreement—ironically at Egyptian insistence—and redesignated as a cease-fire line without prejudice to the claims of either party in an eventual political settlement.

The frontier problem is certainly a difficult one, but at least it is capable of discussion, negotiation, and perhaps even, by normal diplomatic processes, of final resolution.

THE EFFECTS OF RESOLUTION 242

Many observers have argued that this second phase has already been reached, and that the acceptance by Israel's Arab neighbors of Security Council Resolution 242 constitutes formal recognition of Israel's existence. The Israeli objection to this view has been very well put by Dr. Haykal: "If the Arabs wish to go back on their agreement to the Security Council Resolution," said Dr. Haykal, in an interview in *Al Nhar* of 2 August 1970, "they can easily do so by a single word. But if Israel should wish to go back on the implementation of this resolution, she will have to wage a new war to reconquer the territories she will have evacuated in accordance with this Resolution." This kind of statement, together with the frequent use by responsible Arab leaders of open-ended formulae such as "the recovery of occupied territories," "the removal of the consequences of aggression," "the restoration of the rights of the Palestinians" and the like, lead many Israelis to believe that the Arabs have not accepted the existence of Israel, that the limited and ambiguous recognition which they have expressed is tactical and temporary, and that their real aim remains the destruction of the Israeli state. They find support for this in the differences between the private and public statements of Arab leaders, sometimes even between two versions of a single public statement, as for example between the soft-spoken English text of an interview published in an American news magazine and the strident Arabic version of the same interview published in the Arabic press. Since 1967, talk of throwing the Jews into the sea has ceased, but enough remains in the charter, statements, and activities of the Palestine Liberation Organization to indicate the views of that body on the future of Israel and of its inhabitants.

AFTER THE OCTOBER WAR, TOWARDS A PEACE TREATY?

Since the October war there has been some diplomatic movement, and indications, more convincing than ever before, of a genuine desire for a settlement on the part of some Arab leaders, notably President Sadat. The next question is this: What is the purpose of these moves? Do they see them as a first step toward peace to be followed by others in the same direction—or do they see them as a first stage in the unravelling of the past—first to undo the war of 1967 and then, when circumstances permit, to undo the war of 1948–9? Clearly, much depends on the answer to this question.

There is no single or simple answer. The present phase is one of transition, in which many different attitudes can be detected among Arab leaders—attitudes which are subject to change in either direction. Israel cannot safely disregard explicit threats which the October war has shown to be more substantial than was thought. But equally, Israel cannot afford to neglect any real opportunity to achieve peace. Such an opportunity now exists. This opportunity must be exploited—but at the same time the dangers attending it should be identified and, as far as possible, guarded against. I would suggest that the best safeguard, as between the Arab States and Israel, is a signed peace and normalization of relations. It may be objected that such a program is unrealistic and Utopian. It would be equally unrealistic and Utopian to expect the Israelis to withdraw to less defensible borders without at least some assurance that they will not have to defend them against annihilation. This, after all, is what the conflict has been about for a quarter of a century. If the threat of annihilation is real, it must be countered; if false, it must be exorcised. This would make it possible to meet Arab fears and desires concerning Israeli expansion and the settlement of the problem of the Palestinians.

The Arabs are often blamed for loose, wild utterances. We should, however, note the accuracy, consistency and indeed integrity of their refusal to make a real peace. In one sense this is discouraging, but it also gives some grounds for hope that once this point is overcome, the way will really be open and not subject to sudden changes and reversals.

One should not overstate the significance of diplomatic peace-making, but it seems to me that formal peace negotiations between the parties and a formal treaty of peace would have a two-fold importance. In the first place it would mean the crossing of a vital psychological barrier in the Arab world—and such crossings are not easily reversed. In the second place it would set up what the record of events in the world since 1945 has shown to be a real obstacle to armed conflict—namely, a normal, demarcated, recognized, functioning, international frontier defended by passport and customs men and traversed by regular communications. Of the many wars fought since 1945, virtually all have begun over an undemarcated frontier—a partition line, a cease-fire or an *ad hoc* line of some kind. A recognized, international frontier still has some value.

A peace treaty would also be a token of good faith—an assurance that the ultimate aim of negotiation is really peace and not the unmaking of the past. If necessary, the process of normalization could be staggered and linked to a staggered territorial withdrawal. As Dr. Haykal remarked, the application of Resolution 242 is asymmetrical in that the Arabs could at any time reverse their compliance whereas Israel could only do so at the cost of another war.

It would be easy to withdraw verbal acceptance of Resolution 242, which in itself is more than sufficiently ambiguous; it would be much less easy to undo the normalization of relations. Diplomatic peace would give no final assurances, and would still leave many problems and dangers, such as changes of regime, government or merely policy on the Arab side. It would, however, constitute an important and probably an indispensable step in the direction of a real peace of mutual acceptance.

Both sides have an interest in such a peace. The Arabs can continue the struggle and might eventually succeed in destroying Israel, since the Israelis are few and their friends are fickle or far away or both. But to achieve this would require protracted struggle extending over decades or longer and involving a succession of wars. It would wreck the Arab economies, poison their public life, delay or prevent their development and worst of all, expose them to a far greater danger than Israel could possibly offer—the danger that in trying to recover Palestine they might lose Egypt, Syria, Iraq and the rest, and become vassals or subjects of the one power which might be willing to encourage and help them in their aim. Even without any decision or action on the Soviet part, this would be the virtually inevitable result of a continuance of the struggle.

THE SOVIET INTEREST

Which brings me to my next point: What is the Soviet position in the present situation? Unfortunately, the Middle East conflict is not just a local or regional one between the Arab states and Israel; if it had been, it would no doubt have been settled long since by the exhaustion of both sides and their realization that neither could impose a solution by force on the other. The Middle East is also one of the most important areas of confrontation between the superpowers—far more important in global terms than, for example, Southeast Asia, to which so much effort and attention have been given, on which so much blood and treasure have been spent. The Middle East directly adjoins both Russia and Europe; it includes the main land, sea and air routes to Asia and Africa; it contains the world's greatest reserves of oil, the lifeblood of modern industry and modern armies; it embraces the heart lands of Islam, the religion followed by the vast majority of the non-European subjects of the Soviet Union. By controlling the Middle East, Russia could outflank NATO, immobilize Europe, threaten Turkey and Iran from the rear, acquire direct access to Africa, and control the route to the Indian Ocean and the Indian subcontinent, now of crucial importance in the conflict with China. Russia has been concerned with the area for centuries and has steadily and relentlessly advanced her frontiers southward.

In 1955, after a period of relative inactivity, she entered a new phase of massive involvement in Arab countries. This began with the arms deal of September 1955 and was greatly extended with indirect and unintentional American help after the Suez War of 1956. Such help was again forthcoming after the war of 1967. Soviet activity was encouraged by the announcement of the Rogers Plan which, whatever its merits, was interpreted in the circumstances in which it was published as a sign of weakness and disinterest; it was further encouraged by the apparent American readiness to turn a blind eye to the immediate and blatant Soviet violations of the standstill agreement of August 1970 by introducing new missiles into the Canal Zone. The détente agreement of May 1972 was again interpreted by the Soviets not as an occasion to reduce the scale of their military activity in Syria and Egypt, but as a license to increase it. This could be seen in the greater strength, range and flexibility of the Soviet Mediterranean fleet, with its air and shore support and its amphibious capability; the increased Soviet presence in the Indian Ocean following the British withdrawal from the area; and in Soviet military involvement in Egypt, Syria, Iraq, and Southern Arabia.

THE SOVIET ROLE IN THE WAR

It has been claimed that the Soviet Union planned and launched the Syro-Egyptian attack of 6 October 1973. There is no *hard* evidence of this, though the military operations show unmistakable signs of Soviet military thinking and planning. It is, however, certain that even if the Soviets did not launch the offensive, they knew about it for at least several days before it took place. This is clear, among other things, from the prior evacuation of Soviet families and the stepped up rhythm of Soviet military supplies. The Soviets did not stop the offensive, though it is difficult to believe that they would have failed if they had tried. They did not inform the United States of the impending danger, thus violating one of the most important of the détente agreements. They did nothing to stop the hostilities but, on the contrary, tried to extend the conflict by calling on other Arab states to send their forces and by coaching the Arab oil producers in the use of oil as a weapon against the West. They had already been doing this for some time through Arabic broadcasts and presumably through other channels. As the Arab armies advanced, the Russians fanned the flames—until a change of wind suddenly transformed them from arsonists to firemen.

The Israelis stopped the Arab advance on the third day in the north and on the fifth day in the south. On the fourth day the Soviets began a massive airlift of arms to Egypt and Syria and even arranged for the dispatch of North Korean and North Vietnamese pilots to serve with the Arab air forces. Only when the Israeli counter-offensives were well under way did the Soviets show interest in a cease-fire. They obtained this by threatening to end detente and exploited it immediately by trying, as in August 1970, to introduce new and more sophisticated weapons to the area.

The United States in effect intervened twice in the war, first by organizing her own airlift of supplies in response to that of the Russians and thus saving Israel, and second, by running a diplomatic airlift to stop the fighting and thus save the Arabs. The replacement of the formula of "no war, no peace" by a formula of "no victory, no defeat" is imaginative and constructive. It opens a real possibility for dialogue and negotiation which could lead to a genuine settlement; it also offers an opportunity to disengage the Egyptians, and perhaps others, from the Soviet embrace and persuade them to adopt a more friendly or at least a more neutral posture. The Soviets can, of course, see this as clearly as anyone else and are unlikely to acquiesce quietly in a course of action which would terminate or even reduce their influence in the Middle East and replace it with that of the United States.

THE DILEMMA OF AMERICAN POLICY

Herein lies the dilemma of American policy. To save the Arabs, it was necessary to save the Russians, and we may be sure that they will neither appreciate nor reciprocate this service. To win over the Arabs, it is necessary to restrain the Israelis, but this could weaken them and thus endanger the main source of America's present diplomatic strength in the Middle East. The game is one requiring great skill, clear and firm purpose, and above all, no delusions, especially the most perilous of all, self-delusion. For Russia detente is an instrument of policy; for America it could become a substitute for policy, and that would be very dangerous.

PRESENT SOVIET ATTITUDE AND INTENTION

At the moment the Soviets appear to be cautious and worried—alarmed by the military results of the war, the successes of American diplomacy so far, and the diplomatic immobility imposed on them by their total linkage to one side. There is the second point, that they are at the moment more concerned with the Chinese than with the Western adversary and therefore inclined to avoid confrontation on matters where the U.S. shows firmness. They are permitting and to some extent even encouraging the movement towards peace, but at the same time are taking the routine precaution of laying a political minefield across the way to peace which they can detonate at any time that peace endangers Soviet interests. Here I would draw your attention to the very important statement ascribed to Gromyko and published in Al-Ahram on 22nd January 1974:

"Andrei Gromyko gave assurances of the continuance of Soviet support for the Arab peoples and the people of Palestine and it was clear that he defined the attitude of the Soviet Union in the following points:

"Moscow does not oppose any efforts undertaken by the United States in the Middle East as long as these efforts have as their basic objective the protection of the rights of the Arab peoples and the people of Palestine, and as long as these efforts do not injure the interests of a third party.

"The Soviet Union will not accept anything less than the Arabs themselves would accept and if this does not happen, the Soviets will announce their position clearly.

"The key to the solution of the Middle East crisis is in the hands of Egypt in the first instance. The Soviets are fully aware of this and they will strive to establish relations with some of the other Arab states.

"The attitude of the Soviet Union toward Israel must be clearly defined. It is that the Soviet Union is the friend and strategic ally of the Arabs and that the security and peace of the peoples of the area depend on the solution of the problem of the Palestinian people and the restoration of their rights.

"The Soviet Union aims at maintaining relations with all the Arab states, irrespective of their political regimes."

This statement—seen by the more intransigent elements in Egypt as an expression of support for their views—appears to have no immediate relevance in the present situation. It has rather been issued for the record, for possible exploitation at a later stage if necessary. It tallies with the ambiguous Soviet attitude on the Palestinian question—they appear to oppose the establishment of a Palestinian state but at the same time cultivate the leaders of the PLO and adopt some of their formulae. This has been well described as a built-in destruct mechanism in any structure of peacemaking.

Meanwhile, the American position in the Middle East has been greatly strengthened. In 1967, when the U.S. did not intervene in the war, the Arab states broke off diplomatic relations. In 1973, when American intervention was decisive, Egypt decided to resume relations. The U.S. is now reaping the benefits of a firm policy in terms of prestige and influence. The Soviet Union is for the time being in a state of disarray. Europe has earned the mistrust of Israel, the patronage of the Arabs and the respect of neither. Only the U.S. has and is seen to have both power and responsibility. In this there lies a hope for peace.

WALTER W. HELLER—"THE CASE FOR FISCAL STIMULUS"

Mr. KENNEDY. Mr. President, last Thursday, I introduced amendment 1004 to H.R. 13025, the social security disability benefits bill, to raise the personal exemption in the Federal income tax to $850 from its present level of $750, and thereby give a much-needed fiscal stimulus to our sagging recessionary economy.

Today's Wall Street Journal contains a major article on the need for such a fiscal stimulus by Walter W. Heller, a former Chairman of the President's Council of Economic Advisers and now the Regents' Professor of Economics at the University of Minnesota.

In his article, Professor Heller strongly supports proposals for a tax cut to stimulate the economy. As he puts it:

> It isn't often that a single measure promises to cut cost inflation, bolster aggregate demand, curb profiteering and still maintain vital incentives.

As he points out, the proposed tax cut will accomplish all these goals.

As the architect of the tax cut which pulled the economy out of its tailspin in the early 1960's, and which launched the longest uninterrupted period of economic growth and prosperity in our Nation's history, Professor Heller brings impressive credentials and extremely persuasive arguments to bear on this issue.

By acting now, Congress can seize the moment, and take a step that is capable of halting the recession into which our economy is now sinking.

Mr. President, I believe that Professor Heller's article will be of interest to all of us concerned about the health of our economy, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 11, 1974]

THE CASE FOR FISCAL STIMULUS

(By Walter W. Heller)

Once again, the battle between anti-recessionists and anti-inflationists is joined. Without differing very much on the 1974 economic scenario—downturn and double-digit inflation in the first half followed by an upturn and some ebbing of inflationary pressures in the second—the antagonists run the gamut from "ease up" to "hold tight" in their prescriptions for fiscal-monetary policy in 1974.

Part of this division reflects conflicting diagnoses of the nature of this year's recession and inflation. Partly, it grows out of divergent appraisals of how much of any given demand stimulus will translate into jobs and output and how much into more inflation (either now or later). And in no small part, it goes beyond positive economics to a conflict of values.

Nothing throws the issues into bolder relief than the proposal for a quick income tax cut in the form of an increase in personal exemptions. A tax reduction of $5 billion to $6 billion a year could be effected either by boosting the per capita exemption from $750 to $900 or by adopting Senator Mondale's proposal to give the taxpayer the option of taking a $200 credit against tax or continuing to deduct $750 from income.

The equity case for this move is obvious:

Before the year is out, inflation will have eroded the real value of the $750 exemption by more than 20% since it went into effect at the beginning of 1972.

Even more important, boosting exemptions would concentrate the bulk of the tax benefits at the middle and lower end of the income scale where recent inflation, especially in the form of surging food and fuel prices, has exacted a particularly heavy toll. (To reach the lowest incomes calls for further action, e.g., a step-up in social service programs and relief from Social Security payroll taxes on the poor.)

Indeed, the social rationale for income and payroll tax relief in the lower brackets is so compelling that it would make sense even if it were matched by simultaneous tax increases elsewhere.

But equity aside, can a broad-based income tax cut stand on its *economic* merits? Those who say it can't—Messrs. Shultz, Burns, Fellner, McCracken and Stein somehow come to mind—cite such arguments as these:

Our current economic downturn is mainly the result of supply restraints, of shortages and bottlenecks; such demand deficiencies as exist will soon correct themselves.

Any further stimulus will simply increase the ferocity and tenacity of inflation.

Mr. Nixon's fiscal 1975 budget already contains all the stimulus the economy can stand. And besides, cutting income taxes today robs us of vital revenue-raising power we need for tomorrow.

Straw men? Hardly. But neither are they holy writ.

SOME UNMISTAKABLE SIGNS

First, as to the nature of recession. Though supply shortages get the headlines, a close look reveals unmistakable signs of a shortage of demand. The weary consumer, whiplashed by tight money and fiscal restraint and whipsawed by runaway food and fuel prices, has pulled in his horns:

For nearly a year, his consumption of durables other than autos has fallen in real terms, while his consumption of non-durables and services has kept only a trifle ahead of inflation.

As to autos, the gasoline shortage has converted an expected decline into an actual disaster. Lying behind the 27% drop in overall sales of domestic cars last month was a plunge of nearly 50% in demand for standard and larger models.

Tight money has cut the rate of residential construction outlays from $60 billion a year ago to around $47 billion today.

For consumers, January was perhaps the cruelest month. While personal income dropped $4 billion, consumer prices raced upward at a 12% annual rate. Real spendable earnings of non-farm workers, after taxes, were down 4% from a year earlier, the largest drop in 10 years.

Nor is any early rebound in sight. It will be months before exploding oil prices have worked their way through the economy, soaking up $15 billion to $20 billion of consumer purchasing power in the process. For that's the amount of tribute the American consumer has to pay foreign and domestic producers of oil—and in the shortrun, very little of the funds thus siphonored off will reappear in the economy as demand for exports or increased dividends and capital spending by the U.S. oil industry. So even with an end to the Arab embargo, the U.S. economy will continue to suffer the paradox of "oil drag"—a cost-inflation of prices and a tax-like deflation of demand.

Contrary to the Alice-in-wonderland reasoning in Mr. Nixon's veto message on the energy bill, a rollback in domestic crude oil prices could materially ease that drag. For example, a cutback in new oil prices to $8 and old oil prices to $4.25 (as against $7.09 and $5.25 in the energy bill), while maintaining strong incentives for boosting output of new oil and oil substitutes, would serve to:

Cut oil-cost inflation by $5 billion.

Restore $5 billion in real purchasing power to consumers.

Stop that amount of excess profits at the source.

It isn't often that a single measure promises to cut cost inflation, bolster aggregate demand, curb profiteering, and still maintain vital incentives. Yet doctrinaire pursuit of market ideology coupled with a paralyzing fear of further inflation seems to be binding policy makers to the opportunities for simultaneously serving different objectives of policy. Not all demand stimulants aggravate inflation on net balance.

That brings us to the second major charge against the proposed tax relief, namely, that much or even most of it will run off into added inflation. No one can deny that added dollars in consumers' hands will elicit some price increases. But in 1974, a year in which deficient demand will persist even after recovery replaces recession, the trade-off will be highly favorable. Consider the nature of today's inflation:

Above all, it reflects price pressures born of the food and fuel shortages of yesteryear which, as Arthur Burns cogently pointed out last fall, "hardly represent either the basic trend in prices or the response of prices to previous monetary or fiscal policies." After this year, those pressures will begin to burn themselves out, leaving a legacy of high but less rapidly rising prices.

In part, it is a lagged response to the boom in world commodity prices in general. And these pressures too will ebb even as demand recovers, much as they did after the price explosion set off by the Korean boom in 1951.

Further, it is the result of a sharp rise in unit labor costs, which moved ahead at a 9% annual rate in the last quarter of 1973 and will get worse in recession before getting better in recovery.

Upward price adjustments as industries are freed from controls will also give inflation a jolt, largely a one-shot phenomenon.

In other words, inflation in 1974 has a life of its own, nourished not by excess demand but mainly by a variety of cost factors beyond the reach of fiscal and monetary management. The great bulk of the stimulus of a prompt tax cut would therefore express itself in higher output, jobs, and income, not in higher prices.

It can be argued—indeed, George Perry of Brookings has argued—that a well tempered tax cut can help relieve cost-push pressure by redressing labor's cost-of-living grievances in part through tax relief rather than wage escalation. Labor leaders keep an eye closely cocked on that critical barometer, "real spendable earnings after taxes." Cut income and payroll taxes and real earnings rise. If a fiscal bargain could be struck with labor to substitute this paycheck sweetner in part for wage hikes, less of the 1973–74 food and fuel price upsurge will be built into wage bargains.

But what about the legacy of a weakened tax system in 1975 and later years? Won't the inflationary chickens come home to roost? Not if responsive fiscal and monetary policies head off renewed excess demand when it again threatens the economy.

For that matter, the Congress should build in a large part of the protection by coupling its exemption boost with a firm commitment to enact compensating revenue-raising tax reforms to become effective in and beyond 1975. The necessary funds could be raised simply by a substantial hike in the minimum tax plus a phasing out of most of the tax shelters for petroleum as oil price curbs are progressively relaxed. (It is worth noting that with appropriate pricing policies, one can both avoid punitive excess profits taxes and phase out the distorting and inequitable tax preferences for petroleum—thus serving both equity and efficiency.)

THE THIRD QUESTION

But one still has to confront the third question: Isn't Mr. Nixon's new budget already offering plenty of stiumlus to a sagging economy? And besides, shouldn't we be reassured by Mr. Ash's promise to "bust the budget" if Mr. Nixon's exercise in exorcism fails and the economy is by recession repossesed? The answer is "no" on both counts.

True, the fiscal 1975 budget gives the *appearance* of stimulus. Spending is scheduled to rise $30 billion, and the deficit to double from $4.7 billion to $9.4 billion. But as this most realistic of Mr. Nixons budget messages makes clear, "the recommended budget totals continue [the] policy of fiscal restraint as part of a continuing anti-inflation program." Indeed, the unified budget surplus on a full-employment basis would rise from $4 billion to $8 billion.

On a national income accounts basis, the rise in the full-employment surplus would be even greater. Even without fully accepting the St. Louis Federal Reserve Bank numbers showing a rise in the full-employment surplus from a rate of $2 billion in the first half of 1974 to nearly $13 billion in the first half of 1975, and even allowing for the inevitable slippage in the budget process, one can safely conclude that the fiscal 1975 budget, contrary to surface appearances, offers no substantial stimulus to the economy.

But what of the assurances that contingency plans will be rolled out to step up spending in case recession rears its ugly head? Given the typical lags in policy action and economic reaction, one can only say that the time to act is now. When a man is drowning, one should not deny him a life preserver on grounds that one can always resort to mouth-to-mouth resuscitation.

LET US MAKE CERTAIN FARMERS HOME CAN DO THE JOB

Mr. McGOVERN. Mr. President, this housing bill is a landmark piece of legislation for rural America. Its recognition of the special needs of rural and small town America is indeed gratifying.

The committee has proposed amendments which would significantly expand and modernize the rural housing program. In addition, they will equip rural housing programs with many features previously available only under the urban-oriented programs of HUD.

So the committee bill clearly places responsibility for decent rural housing on the shoulders of the Farmers Home Administration.

In so doing it assigns a very important set of responsibilities to Farmers Home. For instance, one amendment expands Farmers Home service territory to include towns of up to 25,000 population wherever a serious shortage of mortgage credit occurs in those larger towns. This plugs what has been a very serious gap in our present programs.

But there is another side to the coin for this and other amendments: the question can be fairly raised as to whether Farmers Home will be physically able to implement our intent to the fullest extent.

Over the past 10 years, the program responsibility and the caseload handled by Farmers Home have been increased many times over. Yet the agency's manpower and administrative overhead budget has not received as much attention. Thus it has been common, in the past few years, to refer to an "administrative bottleneck" in Farmers Home.

There seems to be pretty clear agreement, in the Congress at least, that Farmers Home is the agency when the subject is rural development—whether you are talking about rural housing, rural water and sewer, rural small enterprise, or nearly any other kind of rural community development activity.

This being the case, and considering the new responsibilities this housing bill and the Rural Development Act thrust upon the agency, I think there is an urgent and pressing need for a full scale investigation of the capacity of the Farmers Home Administration to meet these expanding obligations.

I want to say at the outset that such hearings should be based on the assumption that on an overall basis the Farmers Home Administration holds a well-deserved reputation for responsible service to rural America. We do not expect or believe that any investigation would uncover widespread scandals of the type that have plagued the Federal Housing Administration in urban areas like Philadelphia and Detroit. The uncovering of fraud, bribery, or maladministration is not the purpose we have in mind.

What is needed is a thorough investigation into the scope of the authorities that have been vested in the Farmers Home Administration by the Congress and the capacity of that agency to properly administer those authorities.

Twenty years ago the Farmers Home Administration was limited to a relatively small program of providing supervised credit to family farmers—a worthy effort, but a small one. But during the sixties almost every year saw additional programs given to this agency. The housing program was expanded to serve not just farmers but all rural Americans. A substantial rural community water and sewer system construction program was created.

During the seventies the expansion of FHA programs has continued. The Rural Development Act of 1972 greatly broadened the scope of financial assistance in the development of rural community facilities, and a whole new category of business and industrial loans was created. The 1974 Housing and Community Development Act further increases the types of housing assistance available from the agency.

Today the Farmers Home Administration offers some 20 different loan and grant services. And each of these is needed if family farmers are to survive, if rural slums are to be eliminated and if rural communities are to grow and prosper.

But those of us who have had a chance to observe some of the approaches Farmers Home is being forced to take to cope with this extremely heavy workload are uneasy about the effectiveness of the agency's efforts. The staff has not in any sense kept pace, in terms of size and skills, with the expansion in the scope and size of the programs administered.

I mentioned the multiplication of authorities, but we must also be concerned about the volume of business conducted. In fiscal 1974 the agency expects to lend and grant nearly $3.8 billion, even though it is not trying to reach all the program levels set in the 1974 Appropriation Act. This compares with $700 million loaned in 1964—a 443-percent increase. In addition, during the past 10 years the amount of loans outstanding, loans that have to be serviced, has risen to $12 billion—a 275-percent increase. During the same 10-year period the staff has increased 64 percent. This current year the staff is being reduced 10 percent.

How can an agency so strapped for personnel begin to function in the manner in which the Congress intended? What will be the consequences of the steps the Office of Management and Budget is forcing the agency to take?

What about the increasing reliance on guaranteed loans, that is, loans made and serviced by private lenders with Farmers Home serving only to provide its stamp of approval and guarantee of repayment? What happens to the trademark of the old Farmers Home Administration—supervised credit—when guaranteed loans take over? What about the efforts that have been made to turn the appraisal and inspection of property over to the private sector? Will this lead to the corruption that plagued the urban housing program?

What about the efforts now being made to merge all of the USDA field operations into one office? How will the staffs of these one stop centers be able to explain all the types of service available from FHA? Even the curent FHA staff is hard put to keep abreast of all their regulations.

With a small staff, a large caseload and constantly expanding authorities, just what is happening to the people served and those supposed to be served by the Farmers Home Administration? How are the small farmers faring in all this turmoil? How are the poorly housed rural poor making out? What about those rural communities that need the grant funds for water and sewer systems that are being withheld by OMB? What are the real priorities set by the administration?

Mr. President, these are some of the questions that need answering. A thorough review of all the functions of the Farmers Home Administration—service to rural industries—must be conducted promptly.

There have been suggestions made that the Farmers Home make a thorough examination of its own personnel needs. This is an unworkable, impractical, approach to a very complicated situation. No Government agency is allowed to speak for itself—certainly not the Farmers Home Administration.

The responsibility for analyzing and evaluating the administrative structure of this agency rests with the Congress. Such an effort, on the part of the Senate, is long overdue.

I am going to propose to other Senators who have committee responsibility for rural matters to join with me in a careful inquiry of all questions relating to the FHA administration of the above rural programs.

PROTECTING AN ENVIRONMENTAL PROTECTION LAW

Mr. HUMPHREY. Mr. President, recently there appeared in the Washington Post an editorial entitled "Protecting an Environmental Protection Law." I commend its reading to every Member of the Congress and, indeed, to those who are deeply concerned about the protection of our environment.

As the editorial has properly noted, there is a move on within the Nixon administration to weaken the provisions of the National Environmental Policy Act, particularly the requirements for environmental impact statements. Mr. Russell E. Train of the Environmental Protection Agency and Mr. Russell W. Peterson of the Council on Environmental Quality are showing considerable courage in resisting these moves to weaken or waive the provisions of the law.

The Congress should once again express its determination that the Environmental Policy Act be adhered to. As long as the National Environmental Policy Act is public law, it must be observed and respected. No executive or administrative officer should be permitted to weaken or waive its provisions. If the administration feels that the act needs amendment, it should present such recommendations to the Congress and let the Congress work its will. I am confident that the Congress will not back away from an effective environmental policy commitment.

Mr. President, I ask unanimous consent that the Washington Post editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Protecting an Environmental Protection Law

When it slipped quietly through Congress in 1969—before the first Earth Day and before ecology became a common word—few foresaw the potential power of a law requiring federal agencies to submit an environmental impact statement before undertaking a particular project. As part of the National Environmental Policy Act, the provisions of the impact statement aroused little interest, and certainly no opposition, when Congress made it law. Now, five years later, the provisions have proven themselves important and useful and the environment has been well served by them. But the law has also been controversial, meaning that many federal administrators have found it bothersome to obey—accustomed as many of them were to the old way of not worrying too much about the impact of their projects upon the environment until the damage had been done. The much-needed law reversed this, making the agencies accountable *before* they acted.

The environmental impact statement is topical because reports now suggest that within the Nixon administration an effort is being made to waive its provisions. More and more we are hearing the long familiar let's-be-realistic argument, especially now during the energy crisis. To their credit, both Russell E. Train of the Environmental Protection Agency and Russell W. Peterson of the Council on Environmental Quality are resisting any proposals to weaken the law. Both have seen its utility and both have seen through the scapegoat theory that holds the environmentalists responsible for the current energy alarm.

The proposal to weaken the law is still a brushfire, and Mr. Train and Mr. Peterson may be able to put it out. Should they fail, though, as other environmentalists within the administration have failed before on other issues, it will be left to Congress to decide the fate of proposals to weaken the law. Some lawmakers will perhaps be tempted to use the energy problem as an excuse to push aside this sound piece of legislation. But they should not be allowed to sacrifice the long-term interests of the nation—and the next generation, as Mr. Peterson noted—for the immediate convenience of a few powerful interests.

TRIBUTE TO REPRESENTATIVE JULIA BUTLER HANSEN

Mr. JACKSON. Mr. President, with her retirement Julia Butler Hansen, the dean of Washington State's delegation in the House of Representatives and chairman of the House Interior Appropriations Subcommittee, will leave behind a legacy of accomplishment and permanent memories of her forthrightness and unwavering honesty.

Although I extend my best wishes to our distinguished colleague and bow to her desire to return to her home in the town of Cathlamet on the banks of the

Columbia I must say that I will miss her as a colleague to whom I have looked for advice and most important as a warm personal friend.

The political career of Julia Butler Hansen, totaling 37 years in public office, began on the city council of Cathlamet in early 1938, progressed to the Washington State Legislature where she served for 22 years and culminated in her election as a Representative in Congress in 1960. The scope of her career makes it easy to understand why she is one of the most respected and influential Members of Congress, one who knows the legislative process and the use of legislative power on behalf of the people as well as anyone who has served in public office. She is indeed a legislative craftsman with few her equal.

Mrs. Hansen has said:

> I am a Westerner and I want to return to the West.

In keeping with the Western tradition of an undaunted pioneering spirit she has blazed an impressive trail of firsts. It all began when she became the first woman to serve on the city council in her native Cathlamet. From there she went on to become the first woman to chair the county Democratic central committee and capped her career in State government as speaker pro tempore of the Washington State House of Representatives. When she arrived in Washington, D.C., she brought with her the savvy of a political veteran. She was the first Democratic woman to serve on the House Appropriations Committee. She is also the first and only woman to serve on the House Democratic Steering Committee. Her record is one of substance, of which she can be justly proud, as we are of her.

And it is not over. She said:

> Life is not going to be long enough to do all the things that I want to do. I have so many interests.

Along with her congressional colleagues I want to wish her well as she returns to private life, about which she said:

> At the end of the year, when my term expires, I shall return to my home in Cathlamet, Washington, with my husband, to write, to garden, do as I please, hang up the telephone or take the damn telephone off the hook, and when people I do not know appear at my door and walk in without knocking, I will have the great opportunity of telling them it is my private home.

Even though she is retiring from public office to the life of a private citizen, the last thing I would expect her to do would be to disassociate herself from the career of public service she has so admirably led for so many years. I was not surprised when she said:

> As a private citizen, I shall continue, as long as I live, to have a strong interest in my community, district, State, and Nation.

Without a doubt this is what all of us in the Washington State delegation would expect from our distinguished Representative from the Third District.

I will again wish her well when she returns home and will express to her the hope that she, as a concerned citizen and valued friend, will not put the telephone off the hook when I keep calling for advice and help.

INFLATION

Mr. BROCK. Mr. President, according to the Lou Harris polls, inflation is the No. 1 concern of Americans today. Dr. Paul W. McCracken has written a fine editorial spelling out the details of this problem.

Most important, the former Chairman of the Council of Economic Advisers explains that only monetary and fiscal policy can deal with inflation. When virtually all economists agree on this point, we should consider it carefully. There are no easy escapes for us. Inflation is a grave danger, and monetary and fiscal responsibility is our single weapon against it.

I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Inflation

(By Paul W. McCracken)

While energy gets the headlines, it is not the most fundamental economic problem facing the industrial nations of the world. Their most fundamental problem is an ominous acceleration in the pace of inflation to what would have been referred to not so long ago as "banana republic rates."

The basic facts do not make a reassuring picture. For the OECD nations as a whole, the speed of inflation has accelerated from a 5.5% annual rate in the second half of 1972 to 7.5% in the next six months, and on to a 10.9% annual rate in the three months ending last October. In the last of the three periods the rates for the major member countries ranged from a low of 5.5% for Germany to a high of 16.3% for Australia.

ANNUAL RATE OF INCREASE IN CONSUMER PRICES

[In percent]

Period	OECD	United States	United Kingdom	Japan
1972—2d half	5.5	3.4	8.9	5.9
1973—1st half	7.5	6.2	8.4	11.8
3 months to October	10.9	11.4	12.0	13.0

Source: Economic Outlook, OECD, December 1973. Percentage change from previous period.

Nor is the problem simply food prices, though the explosion of food prices obviously made a major contribution to the trend. It is clear, however, that a serious acceleration in the rate of inflation was occurring in nonfood prices also, to a rate approaching 8% by the latter part of 1973.

For the United States the figures are both more reassuring and more disturbing. For the entire second half of last year consumer prices as a whole rose at a 9.4% yearly rate, but the rate for prices of all commodities other than food was only 5.6%. It is, of course, a commentary on the seriousness of the problem that one finds himself grasping for reassurance from a "only a 5.6% annual rate." The most disturbing aspect of our own price level problem, however, is that during the latter half of 1973 large increases in industrial prices at the wholesale level were occurring, and these will be affecting price tags confronting consumers this year. We cannot, in short, comfort ourselves with the beguiling thought that 1973 was some sort of special circumstances, and that somehow the inflation can be expected in 1974 to go away or die or slow down from sheer old age.

Is it really essential to counter the inflation? For many years many economists, perhaps even a majority, would have given that question a negative answer. The number taking that relaxed view, it seems safe to say, is probably diminishing. And for good reasons.

ALL GROUPS DISADVANTAGED

For one thing, in the American context a highly inflationary economy does not seem to perform well for any group. Average spendable weekly earnings in real terms last year decline 1.4% for those in the private nonagricultural economy, and there were actually declines in eight of the 12 months. This obviously means that for a majority of families outside agriculture the contents of the pay envelope were buying less as 1974 opened than they were a year earlier. And survey evidence is clear that the collapse of consumer confidence in 1973 had its origins largely in the inflation.

This quite naturally has led to the suspicion that businesses must be profiting, or even profiteering, from the hardships imposed by this shrinking purchasing power. Businesses do after all put the price labels on what consumers buy. Moreover, the profits figures seemed to confirm this suspicion. Corporate profits rose from $98 billion in 1972 to an estimated $126.5 billion in 1973, a rise of 29.1%. This was a good deal more than the 10.2% rise in total wages and salaries received.

A closer look, however, suggests that even reported profits have not done quite all that well either. If we take a longer look, for example, we would find that reported profits in real terms rose 22% from 1965, the year before inflation began to accelerate, to 1973, substantially less than the 40% gain in real after-tax incomes of consumers. Indeed for manufacturing companies, profits after taxes as a percent of stockholder equity in 1973 were if anything somewhat low relative to other years of high employment. And, as we shall see in a moment, the profits picture is considerably worse than these data seem to suggest.

Now the point of this arithmetic is not to prove the identity of the hero and the villian. That verdict seems to be remarkably immune to empirical evidence. What is clear is that our economy when it is under inflationary pressure simply performs poorly. And this poor performance has a socially divisive and disintegrating effect that sets group against group. Each, not doing well itself, plausibly assumes that others must be getting away with something.

Moreover, our experience during the last decade has to raise the question about whether even in the politically stable and economically advanced nations of the world the rate of inflation might continue to accelerate. The 1957 stabilization program had by mid-1958 set the price level on a trend rising at the gentle rate of 1½% per year (probably not much more than unmeasured grains in quality). The acceleration of the price level after 1965 was finally halted by early 1970 at about a 7% rate, which by mid-1971 had been worked down but only to about 4%. And even in the face of wage-price freezes and controls 1973 closed with something like a 10% rate. If the basic rate of inflation could go from 1½% to 4% and then (even with controls) to 10%, the possibility of even higher rates ahead if stern action is not taken cannot be ruled out as nonsense.

What would "stern action" be? One thing which obviously will not do the job is incomes policies—a phrase long on tone but short on solid content. In the early 1970s a "strong incomes policy" was supposed to be the way we could have full employment, price stability, vigorous growth, and a pricing system which in some mysterious way would retain fluidity and work in spite of the imposed arthritis.

In fact for two-and-a-half years now this country has had a price-wage program far tougher than anything really contemplated by incomes policies. Even so from July 1971 to December 1973 the consumer price index rose at the average rate of 5.5% per year. And there was a marked tendency toward acceleration at the end even though the controls program was stern enough to create mounting distortions in production and marketing patterns. (When The Saturday Review can get paper only by bartering propane gas, as reported in this newspaper on Feb. 13, one must assume that these distortions have become pervasive.)

The attack on this problem must be two pronged. It may be that modern societies do not have the knowledge and will to keep the price level reasonably stable. This contingency has to be assigned an uncomfortably high probability. Both government and business must, therefore, take more seriously explorations of ways to keep the impact of inflation as neutral as possible. The personal exemptions and bracket limits of the personal income tax, for example, should be adjusted automatically for changes in the consumer price index. The government should obligate itself to pay holders of savings bonds a contractual "real" rate. The present procedure by which even interest receipts that do not leave these bond holders whole in real terms are then taxed as income is morally dishonest—doubly so when we remember that the victims are those with limited alternatives for employing their savings.

The accounting profession has delayed inexcusably in facing up to the implications of a rising price level. As a result conventional procedures vastly exaggerate profits, and therefore the tax liability, for two reasons. One is a failure to charge as costs the full economic value of items used in production. (The national income experts have been far more alert to this problem than accountants generally.) Second, conventional accounting procedures do not—as they should if their figures are to be meaningful—account for the full economic value of capital expiring or used up in the current accounting period.

When the price level was edging upward at only 2% or 3% per year, a certain establishmentarian resistance by the accounting profession to new thinking was not serious. The economy has enough flexibility to adapt to displacements if they are not large.

Now the magnitudes are larger, the consequences are already serious, and the profession should give this problem intellectual leadership or court a serious backlash not so far down the way.

PROFITS AFTER TAXES OF NONFINANCIAL CORPORATIONS

[In billions]

Year	As reported	Understatement of costs	As adjusted	Profits in 1965 prices	
				Total as adjusted	Retained earnings
1965	$38.2	$2.1	$36.1	$36.1	$19.2
1966	41.2	3.2	38.0	37.3	19.4
1967	37.8	3.8	34.0	32.1	14.2
1968	38.3	6.9	31.4	28.8	9.6
1969	34.3	9.7	24.6	21.6	3.4
1970	28.2	11.4	16.8	14.0	−2.7
1971	34.4	12.5	21.9	17.5	1.3
1972	39.2	14.3	24.9	19.5	2.9
1973	50.3	25.1	25.2	18.7	2.1

Source: Machinery and Allied Products Institute.

According to a study by the Machinery and Allied Products Institute, which has led the way in rigorous work on capital goods economics, the undertsatement of true economic costs by conventional accounting procedures in 1973 was about $25 billion. After-tax profits last year, therefore, were actually 30% below those in the mid-1960's. And when profits, with more realistic estimates of costs, are expressed in 1965 prices throughout, the real purchasing power of after-tax profits in 1973 is found to be roughly half that in 1965.

The most dramatic aspect of these data, expressed in 1965 prices, is that earnings reemployed in businesses (retained earnings) dropped from $19 billion in 1965 to $2 billion last year.

Now one need not love corporations or profits, and there seems to be no modern difficulty in restraining tendencies toward such affection, to be concerned about such trends. This is the flow of purchasing power on which society relies to an important extent for improving its productive facilities. These figures take much of the mystery out of why the economy has been reeling under the heavy demands that we have placed upon it for improvements.

The only real solution to these problems is, of course, a more stable price level. Could this be achieved without a rise in unemployment? The answer is, of course, "No." And one requirement of a well-rounded stabilization program would be reasonable provision for income maintenance. It is neither necessary nor morally just to imply that those whose employment might be interrupted should "eat cake."

With such a program the social displacements even during the period of disinflation are apt to be less than the capricious displacements from inflation. That also seems to be the instinct of people generally. A Harris study for the Senate Committee on Government Operations found that 63% of the respondents thought inflation and related matters are the biggest problem confronting the country compared to 6% for unemployment. In any case the magnitude of any probable rise in the unemployment rate would not be apt to be large during the disinflationary adjustment period. The favorable effect on the economy's operating rate from the demise of price controls, as bottleneck restraints that have limited the expansion fade, would work the other way.

COUNTERING INFLATION

How then could the inflation be countered? No inflation has ever been countered except through reliance on the fundamentals of fiscal and monetary restraint. This is where we got the current inflation besetting the industrial nations of the world today. During 1972 the rate of monetary expansion, which set the stage for 1973, was 12% for the U.S. 15% for France, 14% for Germany, 16% for Canada, and 25% for Japan. And is fiscal 1973 our own budget would have shown a substantial deficit even if the economy had been at reasonably full employment.

Some prices, such as for food and fuels, did make an enormous rise, but these do not add up to generalized inflation unless there is overly expansive fiscal and monetary policies. And fiscal and monetary restraint is where the fundamental therapy is to be found.

For Federal Reserve policy in 1974 this would seem to mean monetary expansion in the 6%–7% zone, and preferably toward the low end of that range. While in the short run one can never be sure where the basic monetary track is, we seem currently to be on such a course.

As for present policy, the fiscal plan put forward by the President earlier this month is at the outside edge of what would permit making real headway toward a more stable purchasing power of money. And the Congress has an opportunity in this session for a major step toward a new stability by completing action on legislation to reform budget procedures.

With a policy of restraint, firmly but carefully pursued, the price level will begin to stabilize, if we are patient and realistic about the time required. It is even possible that such a commitment to the long-run good might rally a surprising amount of citizen support in the short-run.

FREEDOM OF SPEECH

Mr. BUCKLEY. Mr. President, in our passionate commitment to the great principles of freedom of speech that are enshrined in the first amendment, we too often these days suspend any critical judgment when it comes to matters of decency, of propriety, of civility, of taste, for fear that we will be accused of having a lower regard for these essential freedoms than do others.

Recently, a particularly outrageous abuse of freedom of expression was brought to my attention. It involved a cartoon in the student newspaper of City College, in New York City, which managed to combine obscenity with a particularly offensive attack on the religion of a significant portion of the student body. The publication in question is supported by compulsory contributions exacted of every member of the student body.

In commenting on the incident, the president of City College expressed his own personal outrage, but then while talking about the freedom of the press, failed to make all the important distinctions about the sums of the publication's financial support, the civilizing role that is supposed to be one of the functions of our academic community, and the social equivalent of yelling "fire" in as pluralistic a society as ours. In the words of Thomas Jefferson, a man whose life epitomized the principles of the first amendment:

> To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical.

Mr. President, I ask unanimous consent that there be printed in the RECORD, a statement that I have issued on this sorry subject.

There being no objection, the statement was ordered to be printed in the RECORD as follows:

STATEMENT BY JLB ON OBSERVATION POST DRAWING

The February 13th issue of the Observation Post, a publication written and edited by students of City College, contained a vicious and incredibly offensive anti-religious drawing. Although the drawing in question was specifically directed against Roman Catholics, the bigotry underlying it was directed against all religions. President Marshak of City College has sent a letter to those responsible for the publication of this drawing, stating his "personal outrage" and that he is "dismayed and deeply offended" by the drawing. It is my understanding that Alfred A. Giardino, Chairman of the Board of Higher Education, has asked Chancellor Robert J. Kibbee to investigate possible changes in university policy concerning such incidents at the next Council of Presidents meeting on March 11, 1974.

One of the most heartening signs to emerge from this distasteful incident is the outrage of the students of City University as shows by a statement of the Student Senate and by letters to the editor of the newspaper in question. It is obvious that civility, one of the cornerstones of civilized discourse and ordered freedom evidently is still alive and well among the students, faculty and administrators in our cities and universities. These expressions of outrage are welcome but, considering the circumstances, they are not enough.

Part of the reason for the reluctance of university and college officials to take immediate stronger measures appears to be the fear that any action taken against those responsible for this deliberate act of anti-

Catholic prejudice will be seen as an abridgement of free speech and of freedom of the press.

President Marshak has written:

'City College, as a matter of principle, does not practice censorship of the student press in news or editorial matters. Nor does it intend to do so in the future. However, freedom to publish implies the right of others to criticize what is published."

While I realize that President Marshak's view reflects the current by-laws of the University, it seems to me to be missing the point of the incident. What is at stake here is not the "right of others to criticize" an obscene and anti-religious cartoon published in a campus newspaper, but the question of whether anyone has a "right" to publish such a cartoon in a paper supported by compulsory contributions extracted from the entire student body. Thus offended students are denied the right to express their criticism in a most telling way; namely, through a withholding of their financial support. "Freedom to publish" quite simply is not the issue and I find quite disturbing a statement of absolute refusal to exercise administrative responsibility by stopping such offensive and divisive practices.

My own position on this question is based on my conviction that no one has the right to publish anti-religious, or racist, or clearly divisive propaganda of whatever nature in such a publication. There can be no compromise with bigotry and there should be no question as to the absolute prohibition of material offensive to racial, religious and ethnic groups in publications paid for out of funds imposed on students attending tax-supported institutions.

Therefore, I urge the Council of Presidents at their next meeting to immediately implement existing regulations against religious and racial bigotry in campus publications or, if existing regulations are not sufficient, to create explicit and strict regulations governing such matters, including expulsion of any student or group of students who deliberately abuse the tax-supported education institution's power to impose student fees which go to pay the costs of printing and publishing campus publications. According to university officials, this is not the first incident in which the people of New York City have been subjected to expressions of religious prejudices in student publications of the City's institutions of higher learning. I urge that the Council of Presidents, by swift and decisive action, make certain it is the last.

I have sent a letter to Peter E. Holmes, Director of HEW's Office for Civil Rights, and to J. Stanley Pottinger, head of the Department of Justice's Civil Rights Division, asking them to investigate the possibility of such anti-religious propaganda constituting "discrimination" as outlined in federal statutes. I do not believe it is unreasonable to state that it is discriminatory to deliberately offend the religious convictions of members of religious and racial groups in a publication that has its office in and owes its very existence to an institution receiving public funds. The time has come for the taxpayers of New York to demand that their right to be free of racial and religious oppression and discrimination in their own education institutions is not only paid lip service but defended in fact.

AMERICA AND A HUNGRY WORLD

Mr. KENNEDY. Mr. President, the world today has entered a period, perhaps an era, of scarcity of precious resources—and none is more precious, nor apparently more scarce, than food. This is particularly so in one-fourth of the world—mostly in West Africa, South Asia, and the Central American-Caribbean area—which face starvation this year.

In an important dispatch printed in the Christian Science Monitor, Richard Critchfield explores some of the chief elements in this crisis, and discusses what the United States can do to help

Mr. President, I believe Mr. Critchfield's article will contribute significantly to the Senate's understanding of the food crisis now threatening several millions of people around the globe, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ONE-FOURTH OF THE WORLD IS LOSING ITS FIGHT TO SURVIVE—WHAT WILL AMERICA DO ABOUT IT?

(By Richard Critchfield)

WASHINGTON.—The poorest fourth of the world could slip into a period of incredible chaos within the next 12 months.

Normally restrained experts on energy, agriculture, population, and the global economy are starting to predict bankruptcy, social breakdown, and starvation for as many as 1 billion people by late this year or early 1975.

Some 30 countries could be affected, mostly in tropical Africa, South Asia, and the Central American-Caribbean area.

So many things have come together so fast there is a fear that even if the "rich bloc" of the United States, the Soviet Union, Europe, Japan, and the Mideast oil states were to begin political steps now to forge a Marshall Plan-type response—and there is little sign yet that this will happen—it might not come in time.

Some of the chief elements of the crisis:

The cost of energy, mostly oil, for the poor two-thirds of the world in 1974 will rise $10 billion over two years ago, according to the Overseas Development Council in Washington. The additional cost of food and fertilizer imports will be at least $5 billion more.

The initial impact of the energy crisis has been to heighten isolationism in the United States, as evidenced in late January when the House of Representatives by a vote of 248 to 155 killed the administration bill to fund the International Development Association (IDA), the World Bank's soft-loan subsidiary.

Low-credit deals for surplus American food through the PL480 program have also come to a standstill. World wheat reserves in 1973 fell to their lowest level in 20 years; and with wheat tripling in price and in such short supply, U.S. traders can market any surplus abroad for record-high profits.

The earth's population will reach 4 billion by the end of the year, and 5 billion in little more than another decade. In the poor countries no satisfactory method of control has been found. It would seem nothing now can stop their populations from doubling in the next 24 years.

Earth's climate is going through its biggest shift since 1700, turning slightly colder, with greater extremes of rainfall variation—the equatorial zones getting wetter and the inland zones on either side of the equator getting drier.

DROUGHT FORECAST

The likelihood of disastrous floods and droughts is further increased by deforestation of mountainsides, overgrazing, and overcultivation. Meteorologists warn that even the Great Plains of the U.S. and Canada—practically the earth's only food surplus region—is overdue for a major drought.

When one adds everything together—more floods, more drought at a time of low world food reserves, bankrupt countries unable to import enough food to feed their growing cities nor enough fertilizer to grow in the countryside, populations reaching critical densities and growing American isolationism—it is hard to see anything immediately ahead save one violent political explosion after another.

What can be done?

The situation is by no means hopeless.

Even among the less-developed countries, there are widely varying levels of economic strength coming into play—most conspicuously just now among the oil-exporting nations.

And the long-accumulating human and technological resources of the industrialized countries haven't really been tested yet.

But the leadership of the United States will be essential.

The U.S. is the only major industrialized economy that can hope to return to a strong position by late 1974. It is nearly 90 percent self-sufficient in oil; together with Canada it grows most of the world's now scarce surplus food, is benefited by greatly increased demand and prices for its other raw-material exports, and is probably the most attractive country for investment from other capital-surplus countries.

(Western Europe and Japan are weak on all four counts. Most of their prosperity was somewhat artificial, to the extent that it was based on cheap Mideast oil; and those days are over.)

The major need for the next few years is somehow to transfer back to the poorer countries some $12 billion to $15 billion a year, in addition to the present flow of investment and aid.

James P. Grant of the Overseas Development Council and others estimate *some two*-thirds of this amount can be handled on commercial or near-commercial terms through the International Monetary Fund (IMF), expanded World Bank loans, increased medium-term export credits, and the Eurocurrency markets.

The rest—directed toward the 30 poorest countries—will need to be supplied on grant or highly concessional terms; debts will need to be rescheduled and new technical assistance supplied.

Some $2 billion to $3 billion a year is urgently needed on these terms, preferably channeled through the IMF and World Bank, the Asian Development Bank, and the Inter-American Development Bank.

A special further need is an investment of about $15 billion over the next six years in expanded fertilizer production. The limits of existing capacity have now been reached. New fertilizer plants are needed, and more of their product must get into the hands of the world's farmers, especially in the poorer countries.

Among the countries most in need, the potential "returns" on all this are enormous.

Agricultural yields in India, the Philippines, and Bangladesh, for instance, are still relatively low. With enough irrigation, insecticides, and fertilizer they could double their grain production in 10 years.

Ceylon and Nepal have unexploited hydroelectric potential, India has large unexploited coal reserves, and the Mekong River, if developed, could some day support a population as big as that of the Ganges or Yangtze.

But the most immediate terms of the problem are those of stark survival.

And the biggest imponderable is whether the United States politically has the interest and the will to lead the way toward the solution.

The oil-producing countries also can play an important role. Iran has already provided some dramatic initiative with its pledge two weeks ago of a $1 billion loan toward a new development fund to help the poorer countries get through the immediate squeeze caused by higher oil prices.

But the Iranian proposal stipulates that contributions to the fund must also come from its fellow oil-surplus countries and from the 12 major industrial countries of the world.

How will the United States respond?

This remains the critical question of the moment, for the United States is by far the country with the greatest maneuvering room for making the hard decisions that must be made about allocation of capital resources.

America's foreign-exchange earnings have soared because of the sharp price rises for wheat, soybeans, and other U.S. farm products. In this new price situation, the United States has yet to provide food in large amounts at concessional prices to the poorest countries faced with hunger and severe malnutrition.

Sen. Edward M. Kennedy (D) of Massachusetts has proposed 10 percent of U.S. food surpluses be set aside for this purpose. But for the past two months the Agency for International Development in Washington has been unable to procure any wheat at all, and should there suddenly be a famine in the next few weeks, it would have no wheat at all to supply in relief.

As is often mentioned, the United States with 6 percent of the earth's people consumes 35 percent of its resources.

Every American food is high-energy consuming. A poor Asian eats about 400 pounds of grain a year and little else. An American eats more than a ton—150 pounds directly as bread, pastries, and breakfast cereals but the rest indirectly as meat, milk, and eggs.

The resources needed to feed an American—land, water, and fertilizer—are five times those needed for an average Indian or Nigerian. And an American's overall energy consumption is 60 times greater.

Specific comparisons can turn up far greater extremes.

A poor Javanese eats rice, lights his house with coconut oil from a nearby palm tree, and aside from his plow's steel tip and cooking utensils consumes almost no nonreplenishable resources. Compare him with the New York executive with his private jet, skyscraper office suite, power launch, air-conditioned mansion, and all the rest.

The affluent New Yorker may consume 25,000 or 50,000 times as much energy as a Javanese peasant.

DECISIONS INTERRELATED

Decisions as to how the earth's available resources can best be used are becoming more critical by the day—and also more interrelated.

The "food crisis" and the "oil crisis" are fast becoming joined into one total energy problem.

Under existing technology, increasing food production depends heavily on more fertilizer—and fertilizer is mostly made from oil and natural gas.

Fertilizer is not a by-product; it is the direct result of an energy-intensive manufacturing process. And experience shows it takes a 3.5 percent increase in fertilizer to get a 1 percent increase in crop yield.

Experts sum it up by estimating it now takes the energy equivalent of 88 gallons of gasoline to grow one full acre of corn.

The choice of how to use a given quantity of oil becomes clear-cut. One either gets the 88 gallons of gasoline or the acre of corn, not both.

Making the choice will not fall to America unconditionally.

The United States in 1970 depended on imports for more than half of its supplies of 6 of the 13 basic raw materials required by a modern economy. By 1985, it is projected to be primarily dependent on imports for supplies of 9 of the 13 basic raw materials, including 3 vital ones: bauxite, iron ore, and tin.

Technological advances in telecommunications, miniaturization, solar energy, fusion, and the rest may allow for some continuation of American affluence—but for the immediate future a change in American lifestyles seems inevitable. The United States will have to give up more resources to Chile, Peru, Zambia, and Zaire in exchange for copper; Malaysia, Bolivia, and Thailand for tin; India and Pakistan for jute; Southeast Asia for rubber and copra; and so on.

It means a trade-off on energy and food, and a few thrifty years where the choice will be a real one between air-conditioning a home or feeding a dozen or even a hundred Asians.

Only a few years ago British author-stateman C. P. Snow warned Americans it might not be long before they began to view global famine on their living-room TV set.

The cruel irony of 1974, which Lord Snow did not forecast, is that it is beginning to be appreciated that the energy consumed by that TV set, if converted into fertilizer and food, might save the lives of those seen starving on the screen.

Can Americans afford affluence at such a high human price?

Within the next nine to 12-months as the pressure builds in a dozen Afro-Asian cities, we may begin to perceive the answer.

FUNDS FOR HIGHER EDUCATION IN INDIANA

Mr. HARTKE. Mr. President, I am pleased to provide for the information of my colleagues a chart prepared by the Indiana Commission on Higher Education which depicts the amount of money which has gone to higher education in Indiana under title I, community service and continuing education program, Higher Education Act of 1965, as amended. This is a most important Federal aid program with which I have been involved since its inception.

Mr. President, I ask unanimous consent that the chart to which I have referred be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

PROJECTS FUNDED IN FISCAL YEAR 1973 UNDER THE INDIANA TITLE I, COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAM, HIGHER EDUCATION ACT OF 1965, AS AMENDED

Institution	Title	Director	Federal contribution	Institution contribution
Indiana Vocational Technical College	Demonstration and Pilot Educational Training Program for Home Health Care Aides.	Mr. Paul Arnold	$23,530	$15,510
Indiana University-Purdue University at Indianapolis	City County Internship	Dr. John Liell	20,545	8,805
Indiana University, Bloomington Campus	Elected and Appointed Officials Training Program	Dr. Roy Jumper	35,000	22,369
Purdue University, Lafayette Campus	Institute on Community Awareness and Involvement in Environmental Issues	Mr. Peter Harrington	40,000	20,000
Indiana University-Purdue University at Indianapolis	Coordinated Comprehensive Early Childhood Development	Dr. John Liell	36,391	19,595
Indiana State University, Terre Haute Campus	In-Service Workshop Series for Child Care Workers	Dr. Jan McCarthy	71,447	35,865
University of Evansville	Interim Support for Project INPUT	Mr. Richard Griffin	4,645	6,095
Ball State University	The Huffer Experience	Dr. Ruth Hockstetler	35,000	37,459
University of Evansville	Continuing Education and Guidance Program for Women	Dr. Jan Walker	10,000	9,007
Do	Leadership Development for Community Blacks	Mr. Joseph T. Holt	7,535	3,762
Ball State University	An Evaluation of Labor and Industry as Related to Current Decline and Future Growth of Manufacturing in Muncie, Ind.	Mr. Joseph Brown	13,078	8,704
Indiana University, South Bend Campus	Analysis and Use of the Health System Model for Saint Joseph County	Dr. Monahar Nasta/ Dr. George Wing	22,300	14,577

MARYLAND FOOD COMMITTEE

Mr. BEALL. Mr. President, since coming to the Senate I have had the pleasure of working with a most industrious and energetic group of Marylanders who comprise the Maryland Food Committee. Under the able leadership of Mrs. Susan P. Tippett, the executive director, the Maryland Food Committee has become a significant force in efforts to overcome hunger in the State of Maryland. As a result of their efforts many of the school systems, local governments, and the State of Maryland have increased their commitment to improving the nutrition of people throughout the Free State. Their pioneering efforts served as model projects for Federal legislation designed to provide food supplements to needy women and children.

In addition to raising private funds and seeking new legislative initiatives, the Maryland Food Committee has worked diligently to mobilize the existing resources of the Federal, State, and local governments in the cause of combating hunger. I can assure my colleagues that Mrs. Tippett, Mrs. Sterns, Mrs. Miller, Dr. Paige, and the other members of the Maryland Food Committee are very vigorous and skillful proponents of their cause. It has been my pleasure to meet with the members of the Maryland Food Committee and to work closely with them in securing the cooperation of the U.S. Department of Agriculture, the Office of Economic Opportunity, and the Department of Health, Education, and Welfare. Although not all of these battles have been successful, I was pleased to note that USDA recently approved a number of WIC applications in the State of Maryland. The projects and grant amounts are as follows: Comprehensive Child Health Care program, Johns Hopkins University—$23,000; Garrett County Health Department—$8,200; Johns Hopkins University—$61,500; Prince Georges County Health Department—$97,500, and the Provident Comprehensive Neighborhood Health Services in Baltimore—$17,700. The total for these projects is $207,900.

Mr. President, I was pleased that the Maryland Food Committee received the recognition that it so ably deserves in an article entitled "Solving the School Lunch Problem" which appeared in the Washington Post on March 7, 1974. I ask unanimous consent, Mr. President, that the article be printed in the Record at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

Solving the School Lunch Problem

(By Pat Brown Kelly)

The Maryland Food Committee uses verbs that don't sound as if they have anything to do with food. Like love. And prod, poke, unravel, nudge, overcome.

From its basement office in Maryland's Episcopal diocesan house in Baltimore, the committee puts these verbs to work to feed hungry children and needy adults throughout Maryland—the tenth richest state in the United States, committee members like to point out.

The committee prods government agencies responsible for feeding the poor with publicity about food problems. It gives starting money to local feeding programs which, in turn, nudge the state for more funds. The committee's considerable contacts with Maryland's doctors, lawyers and bankers unravel red tape. Ecclesiastical pressure also helps.

These tactics, orchestrated by a small group of hardworking women who have done their homework, have helped feed thousands of hungry poor people. In the process, the committee, a volunteer organization of more than 100 private citizens, has become a model advocacy group for antihunger organizers and nutrition experts.

Recently anti-hunger task force representatives from Boston, New Haven, Philadelphia, Cleveland, Jersey City, Gary, Saginaw, and the state of Kentucky attended a two-day seminar in Baltimore, learning from the Maryland Food Committee.

"Citizen advocacy groups have never before been able to demonstrate the hunger problem and present a workable solution at the same time," says Rodney Leonard, director of the Community Nutrition Institute, a Washington-based anti-hunger organization that has worked with task forces across the country. This committee does.

Hunger was a more popular cause in 1969, when the food committee went to work on its first issue: the federal school lunch program. Then only 5,000 Baltimore school children were getting free lunches, even though 100,000 eligible city children were eating less than one adequate meal a day. Schools which did not have cafeterias presented a special problem.

The mayor of Baltimore challenged private citizens on his nutrition task force to "do something." Among them were Susan Tippett, now executive director of the Maryland Food Committee; and Frances Stearns, the committee's food stamp consultant. These two women later helped organize the statewide committee. Ann Miller, the committee's "contact person," and Jean * * * were to become what one anti-hunger representative called the "driving force" behind the Maryland Food Committee.

Looking back during a recent interview, Ann Miller recalled the initial quandary about how to approach the school lunch problem.

The state and federal governments had money to feed needy children; public pressure, the fledgling committee decided, would force them to spend it. A little "grease money" to the schools could encourage them to come up with matching public funds.

The women appealed to churches and synagogues for starting funds. "Feeding the hungary is a primary concern of every religious group," Mrs. Tippett said. "We simply reminded the churches of their obligation."

In September, 1969, Maryland religious groups sponsored the first anti-hunger offering, now an annual event. The first drive produced almost $70,000; the final tally of last September's drive is expected to be about $74,000. In addition, the Episcopal diocese of Maryland gave the committee rent-free office space.

The "grease money" bought cafeteria equipment for some schools, paid a food worker's salary at others, provided food items where they were most needed. There was always a string attached. Schools that got assistance were expected to work toward feeding more children, perhaps by adding the salary of another food worker to the next budget or by applying for more state or federal funds. Committee members explained what government funds were available and how to apply for them; and helped solve every kind of related problem, from locating volunteer lunch supervisors to informing parents that free school lunches were available to their children.

Today more than 130,000 Maryland children are eating free or reduced-price lunches. The committee acknowledges its work helped increase participation by "more than 600 per cent," but says 50,000 more children are not getting lunches to which they are entitled.

The Maryland Food Committee's second major project, a pilot program to distribute iron-fortified milk for anemic infants, gained national attention. Ann Miller explained its beginning: "We had started in the schools, but then began worrying about what happened to children before they got there." Studies showed that half the inner-city children had iron-deficiency anemia. Premature birth and infant mortality rates were high.

In January, 1971, the committee set up a program for 260 infants in the Cherry Hill section of Baltimore. The committee paid for the milk and the city health department picked up the tab for administrative costs.

Dr. David Paige of Johns Hopkins University School of Hygiene and Public Health, a member of the Maryland Food Committee's board of directors, evaluated the changes in the infants' heights, weights and blood characteristics.

He discovered that after eight or more months on the fortified formula, the infants' anemia had been largely corrected and growth was improved significantly. The committee then helped start similar programs in other areas of Baltimore, in Anne Arundel and Prince Georges counties and in nine counties along the eastern shore.

The committee's pioneering work helped bring two other results: an Office of Economic Opportunity grant to Johns Hopkins for a larger iron-fortified-milk program now reaching 1,800 Maryland babies, and national legislation establishing a supplemental feeding program for mothers and infants that provides iron-fortified formula.

The Maryland Food Committee also has worked to increase Marylanders' participation in school breakfast, summer lunch, day care and elderly feeding programs.

Expanding the food stamp program is a continuing concern. Frances Stearns assists with a pilot program, funded by OEO, to reach more persons eligible for food stamps.

The committee is also working to ease—with emergency food and administrative assistance—the transition of elderly, blind and disabled persons from public assistance to a new Social Security income program.

Perhaps more important than the Maryland Food Committee's weapons against hunger are the people who decide when and how to use them. They have forced the criticism that most of the women who run the committee represent "the American classic of women who are bored with the suburban bit," according to Rodney Leonard; but even their critics admit their combination of talents would be hard to duplicate.

Susan Tippett, a nurse, studied at Johns Hopkins and was assistant director of the medical care clinic at the University of Maryland. Her father was a well known professor of medicine. Committee members say she is the "backbone" of the group. She studies federal legislation and regulations for food programs, testifies before Congressional committees, speaks at conferences, and does the committee's crucial follow-up work with public officials.

"Mary Q. Citizen could do what Susan does," Jean Noble told a group of hunger task force representatives, "but not many Marys have the guts."

Ann Miller is a public health nurse who served as chief nurse at the Comprehensive Child Care Clinic at Johns Hopkins. Her later supervisory work in the Baltimore city health department gave her a background in day care and infant feeding that the committee relies on. "Ann knows more people in Maryland than anyone else I know," says Mrs. Tippett, who knows a lot of people, including a banker cousin who helped launch an innovative coupon-check voucher system for the Johns Hopkins infant feeding program.

Frances Stearns studied portrait painting and anthropology. As Baltimore city welfare chairwoman for the League of Women Voters, she learned the intricacies of the food stamp program.

The commitee relies on Jean Noble to keep things organized. "Jean knows the refinement of paper work," Mrs. Tippett says. A church activist and former secretary to a bank officer, Mrs. Noble has contributed endless hours of typing as well as her leadership activities.

Of the four, only Mrs. Tippett receives any pay—a small salary from the committee for part-time work. Also paid on a part-time basis are a secretary, a nutritionist and the school breakfast coordinator. Their salaries plus all the committee's administrative expenses amount to about $20,000 a year.

For the future, the Maryland Food Committee is considering some new possibilities—such as nutrition education through food advertising. There is no lack of food problems in Maryland, the committee says. One of the biggest problems is convincing many of the counties that there are hungry people who need help.

S. 821—THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

Mr. BAYH. Mr. President, I am pleased to announce that the Senate Subcommittee to Investigate Juvenile Delinquency, on March 5, 1974, reported unanimously to the full Judiciary Committee, S. 821, the Juvenile Justice and Delinquency Prevention Act of 1974.

I was joined by my distinguished colleague from Kentucky, Senator Marlow W. Cook, the ranking minority member of the subcommittee in introducing S. 821 on February 8, 1973. S. 821, as reported by the subcommittee, is substantially similar to the bill we introduced. We are gratified by the cosponsorship of this bill by 23 distinguished colleagues: Senators Abourezk, Bible, Brock, Burdick, Case, Church, Cranston, Gravel, Hart, Humphrey, Inouye, Kennedy, Mathias, McGee, McGovern, Mondale, Montoya, Moss, Pastore, Randolph, Ribicoff, Tunney, and Williams.

S. 821 provides for Federal leadership and coordination of the resources necessary to develop and implement at the State and local community level effective programs for the prevention and treatment of juvenile delinquency. The bill establishes a new Juvenile Justice and Delinquency Prevention Administration within the Department of Health, Education, and Welfare to provide comprehensive national leadership for the problems of juvenile delinquency and to insure coordination of all delinquency activities of the Federal Government. The bill authorizes substantial grants to States, local governments, and public and private agencies to encourage the development of programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system and to provide community-based alternatives to traditional detention and correctional facilities used for the confinement of juveniles.

The bill creates a National Institute for Juvenile Justice to serve as a center for national efforts in juvenile delinquency evaluation, data collection and dissemination, research and training. The Institute, through an Advisory Committee on Standards for Juvenile Justice, will be charged with developing recommendations on Federal action to facilitate adoption of standards for the administration of juvenile justice.

The bill also amends the Federal Juvenile Delinquency Act, virtually unchanged for the past 35 years, to provide basic procedural rights for juveniles who come under Federal jurisdiction and to bring Federal procedures up to the standards set by various model acts, many State codes, and court decisions.

The subcommittee held 10 days of hearings and heard 80 witnesses on S. 821 and S. 3148, a similar bill which I introduced in the 92d Congress. These hearings demonstrated the need for a comprehensive overhaul of Federal juvenile delinquency programs combined with assistance to States, local governments, and private agencies to prevent delinquency and to provide community-based alternatives to juvenile detention and correctional facilities. The bill has been endorsed by the National Council on Crime and Delinquency, the National Council of Juvenile Court Judges, the American Parents Committee, the Boys Clubs of America, the Girls Clubs of America, the American Federation of State, County and Municipal Employees, the National Congress of Parents and Teachers, the National Executive Committee of the American Legion, the National Legal Aid and Defender Association, the National Federation of Jewish Women, the National Association of State Juvenile Delinquency Program Administrators, the National Association of Social Workers, the Family Service Association of America, the National Governors Conference, the National League of Cities and U.S. Conference of Mayors and many other concerned organizations.

We cannot afford to delay any longer. I urge my colleagues in the Congress to give this bill careful consideration. I hope that they will act expeditiously to give this country the comprehensive, coordinated juvenile delinquency program it so desperately needs.

Mr. President, I ask unanimous consent that S. 821, as amended, be printed in the Record.

There being no objection, the bill—S. 821—was ordered to be printed in the Record, as follows:

That this Act may be cited as the "Juvenile Justice and Delinquency Prevention Act of 1974."

TITLE I—FINDINGS AND DECLARATION OF PURPOSE

FINDINGS

Sec. 101. The Congress hereby finds—

(1) that juveniles account for almost half the arrests for serious crimes in the United States today;

(2) that understaffed, overcrowded juvenile courts, probation services, and correctional facilities are not able to provide individualized justice or effective help;

(3) that present juvenile courts, foster and protective care programs and shelter facilities are inadequate to meet the needs of the countless neglected, abandoned, and dependent children, who, because of this failure to provide effective services, may become delinquents;

(4) that existing programs have not adequately responded to the particular problems of the increasing numbers of young people who are addicted to or who abuse drugs particularly non-opiate or polydrug abusers;

(5) that States and local communities, which experience the devastating failures of the juvenile justice system, do not presently have sufficient technical expertise or adequate resources to deal comprehensively with the problems of juvenile delinquency;

(6) that the adverse impact of juvenile delinquency results in enormous annual cost and immeasurable loss in human life, personal security, and wasted human resources;

(7) that existing Federal programs have not provided the direction, coordination, resources, and leadership required to meet the crisis of delinquency; and

(8) that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate, comprehensive, and effective action by the Federal Government.

PURPOSE

Sec. 102. It is the purpose of this Act—

(1) to provide the necessary resources, leadership, and coordination to improve the quality of juvenile justice in the United States and to develop and implement effective prevention and treatment programs and services for delinquent youth and for potentially delinquent youth, including those who are dependent, abandoned, or neglected;

(2) to increase the capacity of State and local governments, and public and private agencies, institutions, and organizations to conduct innovative, effective juvenile justice and delinquency prevention and treatment programs and to provide useful research, evaluation, and training services in the area of juvenile delinquency;

(3) to develop and implement effective programs and services to divert juveniles from the traditional juvenile justice system and to increase the capacity of State and local governments to provide critically needed alternatives to institutionalization;

(4) to develop and encourage the implementation of national standards for the administration of juvenile justice, including recommendations for administrative, budgetary, and legislative action at the Federal, State, and local level to facilitate the adoption of these standards;

(5) to guarantee certain basic rights to juveniles who come within Federal jurisdistion;

(6) to establish a centralized research effort on the problems of juvenile delinquency, including an information clearinghouse to disseminate the findings of such research and all data related to juvenile delinquency;

(7) to provide for the thorough and prompt evaluation of all federally assisted juvenile delinquency programs.

(8) to provide technical assistance to public and private agencies, institutions, and individuals in developing and implementing juvenile delinquency programs;

(9) to establish training programs for persons, including professionals, paraprofessionals, and volunteers, who work with delinquents or potential delinquents or whose work or activities relate to juvenile delinquency programs; and

(10) to establish a new Juvenile Justice and Delinquency Prevention Administration in the Department of Health, Education, and Welfare to provide direction, coordination, and review of all federally assisted juvenile delinquency programs.

DEFINITIONS

Sec. 103. For the purpose of this Act—

(1) the term "community-based" facility, program, or service means a small, open group or home or other suitable place located near the juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning, operation, and evaluation of their programs which may include, but are not limited to medical, educational, vocational, social, and psychological guidance, training, counseling, drug treatment and other rehabilitative services;

(2) the term "construction" includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for new buildings). For the purposes of this paragraph, the term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them;

(3) the term "Federal juvenile delinquency program" means any juvenile delinquency program which is conducted directly or indirectly, or is assisted by any Federal department or agency, including any programs funded under this Act;

(4) the term "juvenile delinquency program" means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, training, and research, including drug abuse programs; the improvement of the juvenile justice system; and any program or activity for neglected, abandoned, or dependent youth and other youth who are in danger of becoming delinquent;

(5) the term "local government" means and city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, and an Indian tribe and any combination of two or more of such units acting jointly;

(6) the term "public agency" means any department, agency, or instrumentality of any State, unit of local government, or combination of such States or units;

(7) the term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(8) the term "Secretary" means the Secretary of Health, Education, and Welfare.

TITLE II—AMENDMENTS TO THE FEDERAL JUVENILE DELINQUENCY ACT

DEFINITIONS

SEC. 201. Section 5031 of title 18, United States Code, is amended to read as follows:

"§ 5031. Definitions.

"For the purposes of this chapter, a 'juvenile' is a person who has not attained his eighteenth birthday, or who has not attained his twenty-first birthday and is alleged to have committed an act of delinquency prior to his eighteenth birthday, and 'juvenile delinquency' is the violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult."

DELINQUENCY PROCEEDINGS IN DISTRICT COURTS

SEC. 202. Section 5032 of title 18, United States Code, is amended to read as follows:

"§ 5032. Delinquency proceedings in district courts; transfer for criminal prosecution.

"A juvenile alleged to have committed an act of juvenile delinquency shall not be proceeded against in any court of the United States unless the Attorney General, after investigation, certifies to an appropriate district court of the United States that the juvenile court or other appropriate court of a State (1) does not have jurisdiction or refuses to assume jurisdiction over said juvenile with respect to such alleged act of juvenile delinquency, or (2)) does not have available programs and services adequate for the rehabilitation of juveniles.

"If the Attorney General does not so certify, such juvenile shall be surrendered to the appropriate legal authorities of such State.

"If an alleged delinquent is not surrendered to the authorities of a State or the District of Columbia pursuant to this section, any proceedings against him shall be in an appropriate district court of the United States. For such purposes, the court may be convened at any time and place within the district, in chambers or otherwise. The Attorney General shall proceed by information, and no criminal prosecution shall be instituted for the alleged act of juvenile delinquency except as provided below.

"A juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this Chapter unless he has requested in writing upon advice of counsel to be proceeded against as an adult except that with respect to a juvenile sixteen years and older alleged to have committed an act after his sixteenth birthday which if committed by an adult would be a felony punishable by a maximum penalty of ten years imprisonment or more, if imprisonment, or death, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States if such court finds, after hearing, that there are no reasonable prospects for rehabilitating such juvenile before his twenty-first birthday.

"Evidence of the following factors shall be considered, and findings with regard to each factor shall be made in the record, in assessing the prospects for rehabilitation; the age and social background of the juvenile; the nature of the alleged offense; the extent and nature of the juvenile's prior delinquency record; the juvenile's present intellectual development and psychological maturity; the nature of past treatment efforts and the juvenile's response to such efforts; the availability of programs designed to treat the juvenile's behavioral problems.

"Reasonable notice of the transfer hearing shall be given to the juvenile, his parents, guardian, or custodian and to his counsel. The juvenile shall be assisted by counsel during the transfer hearing, and at every other critical stage of the proceedings.

"Once a juvenile has entered a plea with respect to a crime or an alleged act of juvenile delinquency subsequent criminal prosecution or juvenile proceedings based upon such alleged act of delinquency shall be barred.

"Statements made by a juvenile prior to or during a transfer hearing under this section shall not be admissible at subsequent criminal prosecutions."

CUSTODY

SEC. 203. Section 5033 of title 18 U.S.C. is amended to read as follows:

"§ 5033. Custody prior to appearance before magistrate.

"Whenever a juvenile is taken into custody for an alleged act of juvenile delinquency, the arresting officer shall immediately advise such juvenile of his legal rights, in language comprehensible to a juvenile, and shall immediately notify the Attorney General and the juvenile's parents, guardian, or custodian of such custody. The arresting officer shall also notify the parents, guardian, or custodian of the rights of the juvenile and of the nature of the alleged offense.

"The juvenile shall be taken before a magistrate forthwith. In no event shall the juvenile be detained for more than twenty-four hours before being brought before a magistrate."

DUTIES OF MAGISTRATE

SEC. 204. Section 5034 of title 18 U.S.C. is amended to read as follows:

"§ 5034. Duties of magistrate.

"If counsel is not retained for the juvenile, or it does not appear that counsel will be retained, the magistrate shall appoint counsel for the juvenile. Counsel shall be assigned to represent a juvenile when the juvenile and his parents, guardian, or custodian are financially unable to obtain adequate representation. In cases where the juvenile and his parents, guardian, or custodian are financially able to obtain adequate representation but have not retained counsel, the magistrate may assign counsel and order the payment of reasonable attorney's fees or may direct the juvenile, his parents, guardian, or custodian to retain private counsel within a specified period of time.

"The magistrate may appoint a guardian ad litem if a parent or guardian of the juvenile is not present, or if the magistrate has reason to believe that the parents or guardian will not cooperate with the juvenile in preparing for trial, or that the interests of the parents or guardian and those of the juvenile are adverse.

"If the juvenile has not been discharged before his initial appearance before the magistrate, the magistrate shall release the juvenile to his parents, guardian, custodian, or other responsible party (including, but not limited to, the director of a shelter-care facility) upon their promise to bring such juvenile before the appropriate court when requested by such court unless the magistrate determines, after hearing, at which the juvenile is represented by counsel, that the detention of such juvenile is required to secure his timely appearance before the appropriate court or to insure his safety or that of others."

DETENTION

SEC. 205. Section 5035 of this title is amended to read as follows:

"§ 5035. Detention prior to disposition.

"A juvenile alleged to be delinquent may be detained only in a juvenile facility or such other suitable place as the Attorney General may designate. Whenever possible, detention shall be in a foster home or community-based facility located in or near his home community. The Attorney General shall not cause any juvenile alleged to be delinquent to be detained or confined in any institution in which adult persons convicted of a crime or awaiting trial on criminal charges are confined. Alleged delinquents shall be kept separate from adjudicated delinquents. Every juvenile in custody shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care including necessary psychiatric, psychological, or other treatment."

SPEEDY TRIAL

SEC. 206. Section 5036 of this title is amended to read as follows:

"§ 5036. Speedy trial.

"If an alleged delinquent who has been detained pending trial is not brought to trial within thirty days from the date when such juvenile was arrested, the information shall be dismissed with prejudice, on motion of the alleged delinquent or at the direction of the court, unless the Attorney General shows that additional delay is unavoidable, caused by the juvenile or his counsel, or consented to by the juvenile and his counsel. Unavoidable delay may not include delays attributable solely to court calendar congestion.

RIGHTS

SEC. 207. Section 5037 of this title is amended to read as follows:

"§ 5037. Rights in general.

"A juvenile charged with an act of juvenile delinquency shall be accorded the constitutional rights guaranteed an adult in a criminal prosecution, with the exception of indictment by grand jury. Public trial shall be limited to members of the press, who may attend only on condition that they not disclose information that could reasonably be expected to reveal the identity of the alleged delinquent. Any violation of that condition may be punished as a contempt of court."

DISPOSITION

SEC. 208. A new section 5038 is added, to read as follows:

"§ 5038. Dispositional hearing.

"(a) If a juvenile is adjudicated delinquent, a separate dispositional hearing shall be held no later than twenty court days after trial unless the court has ordered further study in accordance with subsection (c). Copies of the presentence report shall be provided to the attorneys for both the juvenile and the Government at least three court days in advance of the hearing.

"(b) The court may suspend the adjudication of delinquency or the disposition of the delinquent on such conditions as it deems proper, place him on probation, or commit him to the custody of the Attorney General. Probation, commitment, or commitment in accordance with subsection (c) shall not extend beyond the juvenile's twenty-first birthday or the maximum term which could have been imposed on an adult convicted of the same offense, whichever is sooner.

"(c) If the court desires more detailed information concerning an alleged delinquent, it may commit him after notice and hearing at which the juvenile is represented by counsel, to the custody of the Attorney General for observation and study by an appropriate agency. Such observation and study shall be conducted on an outpatient basis, unless the court determines that inpatient observation and study are essential. No alleged delinquent may be committed to the custody of the Attorney General for study and observation without the consent of his attorney and his parent, custodian, or guardian. Unless the juvenile upon advice of counsel consents, no judge who has read or heard social data regarding an alleged delinquent as a result of such study, or in the course of a transfer hearing, shall preside over the hearing to adjudicate the delinquency of the juvenile. In the case of an adjudicated delinquent, such study shall not be conducted on an inpatient basis without prior notice and hearing. The agency shall make a complete study of the alleged or adjudicated delinquent to ascertain his personal traits, his capabilities, his background, any previous delinquency or criminal experience, any mental or physical defect, and any other relevant factors. The Attorney General shall submit to the court and the attorneys for the juvenile and the Government the results of the study within thirty days after the commitment of the juvenile, unless the court grants additional time."

JUVENILE RECORDS

SEC. 209. A new section 5039 is added, to read as follows:

"§ 5039. Use of juvenile records.

"(a) Upon the completion of any formal juvenile delinquency proceeding, the district court shall order the entire file and record of such proceeding sealed. After such sealing, the court shall not release these records except under the following circumstances:

"(1) inquiries received from another court of law;

"(2) inquiries from an agency preparing a presentence report for another court;

"(3) inquiries from law enforcement agencies where the request for information is related to the investigation of a crime or a position within that agency;

"(4) inquiries, in writing, from the director of a treatment agency or the director of a facility to which the juvenile has been committed by the court; and

"(5) inquiries from an agency considering the person for a position immediately and directly affecting the national security.

Information about the sealed report may not be released when the request for information is related to an application for employment, license, bonding, or any civil right or privilege. Responses to such inquiries shall not be different from responses made about persons who have never been involved in a delinquency proceeding.

"(b) The entire file and record of juvenile proceedings where an adjudication of delinquency was not entered shall be destroyed and obliterated by order of the court.

"(c) District courts exercising jurisdiction over any juvenile shall inform the juvenile and his parent or guardian, in writing, of rights relating to the sealing of his juvenile record. The information in these communications shall be stated in clear and nontechnical language.

"(d) During the course of any juvenile delinquency proceeding, all information and records relating to the proceeding, which are obtained or prepared in the discharge of official duty by an employee of the court or an employee of any other government agency, shall not be disclosed directly or indirectly to anyone other than the judge, counsel for the juvenile and the government, or others entitled under this section to receive sealed records.

"(e) Unless a child who is taken into custody is prosecuted as an adult—

"(1) neither the fingerprints nor a photograph shall be taken, without the written consent of the judge; and

"(2) neither the name nor picture of any child shall be made public by any medium of public information in connection with a juvenile delinquency proceeding."

COMMITMENT

SEC. 210. A new section 5040 is added, to read as follows:

"§ 5040. Commitment.

"A juvenile who has been committed to the Attorney General has a right to treatment and is entitled to custody, care, and discipline as nearly as possible equivalent to that which should have been provided for him by his parents. No juvenile may be placed or retained in an adult jail or correctional institution.

"Every juvenile who has been committed shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care, including necessary psychiatric, phychological, or other care.

"Whenever possible, the Attorney General shall commit a juvenile to a foster home or community-based facility located in or near his home community."

SUPPORT

SEC. 211. A new section 5041 is added, to read as follows:

"§ 5041. Support.

"The Attorney General may conduct with any public or private agency or individual and such community-based facilities as halfway houses and foster homes, for the observation and study and the custody and care of juveniles in his custody. For these purposes, the Attorney General may promulgate such regulations as are necessary and may use the appropriation for 'support of United States prisoners' or such other appropriations as he may designate."

PAROLE

SEC. 212. A new section 5042 is added, to read as follows:

"§ 5042. Parole.

"The Board of Parole shall release from custody, on such conditions as it deems necessary, each juvenile delinquent who has been committed, as soon as the Board is satisfied that he is likely to remain at liberty without violating the law."

REVOCATION

SEC. 213. A new section 5043 is added to read as follows:

"§ 5043. Revocation of parole or probation.

"Any juvenile parolee or probationer shall be accorded notice and a hearing with counsel before his parole or probation can be revoked."

SEC. 214. The table of sections of chapter 403 of this title is amended to read as follows:

"Sec.
"5031. Definitions.
"5032. Delinquency roceedings in district courts; transfer for criminal prosecution.
"5033. Custody prior to appearance before magistrate.
"5034. Duties of magistrate.
"5035. Detention prior to disposition.
"5036. Speedy trial.
"5037. Rights in general.
"5038. Dispositional hearing.
"5039. Use of juvenile records.
"5040. Commitment.
"5041. Support.
"5042. Parole.
"5043. Revocation of parole or probation."

TITLE III—JUVENILE JUSTICE AND DELINQUENCY PREVENTION ADMINISTRATION

ESTABLISHMENT OF ADMINISTRATION

SEC. 301(a) There is hereby created within the Department of Health, Education, and Welfare the Juvenile Justice and Delinquency Prevention Administration (referred to in this Act as the "Administration").

(b) There shall be at the head of the Administration a Director (referred to in this Act as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The Director shall be the chief executive of the Administration and shall exercise all necessary powers, subject only to the direction of the Secretary of the Department of Health, Education, and Welfare. The Director shall be Assistant Secretary.

(d) There shall be in the Administration a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director from time to time assigns or delegates, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

(e) There shall be in the Administration an Assistant Director, who shall be appointed by the Director, whose function shall be to supervise and direct the National Institute for Juvenile Justice established under section 501 of this Act.

PERSONNEL, SPECIAL PERSONNEL, EXPERTS, AND CONSULTANTS

SEC. 302. (a) The Secretary is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and to prescribe their functions.

(b) The Secretary is authorized to select, appoint, and employ not to exceed three officers and to fix their compensation at rates not to exceed the rate now or hereafter prescribed for GS–18 of the General Schedule by section 5332 of title 5 of the United States Code.

(c) Upon the request of the Secretary, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to the Director to assist him in carrying out his functions under this Act.

(d) The Secretary may obtain services as authorized by section 3109 of title 5 of the United States Code, at rates not to exceed the rate now or hereafter prescribed for GS–18 of the General Schedule by section 5332 of title 5 of the United States Code.

VOLUNTARY SERVICE

SEC. 303. The Secretary is authorized to accept and employ, in carrying out the provisions of this Act, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

CONCENTRATION OF FEDERAL EFFORTS

SEC. 304. (a) The Secretary shall establish overall policy and develop objectives and priorities for all Federal juvenile delinquency programs and activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research, and improvement of the juvenile justice system in the United States. In carrying out his functions, the Secretary shall consult with the Interdepartmental Council and the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

(b) In carrying out the purposes of this Act, the Secretary is authorized and directed to—

(1) advise the President as to all matters relating to federally assisted juvenile delinquency programs and Federal policies regarding juvenile delinquency;

(2) assist operating agencies which have direct responsibilities for the prevention and treatment of juvenile delinquency in the development and promulgation of regulations, guidelines, requirements, criteria, standards, procedures, and budget requests in accordance with the policies, priorities, and objectives he establishes;

(3) conduct and support evaluations and studies of the performance and results achieved by Federal juvenile delinquency programs and activities and of the prospective performance and results that might be achieved by alternative programs and activities supplementary to or in lieu of those currently being administered;

(4) coordinate Federal juvenile delinquency programs and activities among Federal departments and agencies and between Federal juvenile delinquency programs and activities and other Federal programs and activities which he determines may have an important bearing on the success of the entire Federal juvenile delinquency effort;

(5) develop annually with the assistance of the Advisory Committee and submit to the President and the Congress, after the first year the legislation is enacted, prior to September 30, an analysis and evaluation of Federal juvenile delinquency programs conducted and assisted by Federal departments and agencies, the expenditures made, the results achieved, the plans developed, and problems in the operations, and coordination of such programs. This report shall include recommendations for modifications in organization, management, personnel, standards, budget requests, and implementation plans necessary to increase the effectiveness of these programs;

(6) develop annually with the assistance of the Advisory Committee and submit to the President and the Congress, after the first year the legislation is enacted, prior to March 1, a comprehensive plan for Federal juvenile delinquency programs, with particular emphasis on the prevention of juvenile delinquency and the development of programs and services which will encourage increased diversion of juveniles from the traditional juvenile justice system; and

(7) provide technical assistance to Federal, State, and local governments, courts, public and private agencies, institutions, and individuals, in the planning, establishment, funding, operation, or evaluation of juvenile delinquency programs.

(c) The Secretary may require departments and agencies engaged in any activity involving any Federal juvenile delinquency program to provide him with such information and reports, and to conduct such studies and surveys, as he may deem to be necessary to carry out the purposes of this Act.

(d) The Secretary may delegate any of his functions under this title, except the making of regulations, to any officer or employee of the Administration.

(e) The Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

(f) The Secretary is authorized to transfer funds appropriated under this Act to any agency of the Federal Government to develop or demonstrate new methods in juvenile delinquency prevention and rehabilitation and to supplement existing delinquency prevention and rehabilitation programs which the Director finds to be exceptionally effective or for which he finds there exists exceptional need.

(g) The Secretary is authorized to make grants to, or enter into contracts with, any public or private agency, institution, or individual to carry out the purposes of this Act.

(h) All functions of the Secretary under this Act and all functions of the Secretary under the Juvenile Delinquency Prevention Act (42 U.S.C. 3801 et seq.), shall be administered through the Juvenile Justice and Delinquency Prevention Administration.

JOINT FUNDING

SEC. 305. Notwithstanding any other provision of law, where funds are made available by more than one Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile delinquency program or activity, any one of the Federal agencies providing funds may be designated by the Secretary to act for all in administering the funds advanced. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Secretary may order any such agency to waive any technical grant or contract requirement (as defined in such regulations) which is inconsistent with the similar requirement of the administering agency or which the administering agency does not impose.

AMENDMENTS TO TITLE 5, UNITED STATES CODE

SEC. 306. (a) Paragraph (17) of section 5315 of title 5, United States Code, is amended to read as follows:

"(17) Assistant Secretaries of Health, Education, and Welfare (6), one of whom shall be the Director of the Juvenile Justice and Delinquency Prevention Administration."

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(131) Deputy Director, Juvenile Justice and Delinquency Prevention Administration."

INTERDEPARTMENTAL COUNCIL

SEC. 307. (a) There is hereby established an Interdepartmental Council on Juvenile Delinquency (hereinafter referred to as the "Council") composed of the Attorney General, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Director of the Special Action Office for Drug Abuse Prevention, the Secretary of Housing and Urban Development, or their respective designees, and representatives of such other agencies as the President shall designate.

(b) The Secretary of the Department of Health, Education, and Welfare shall serve as Chairman of the Council.

(c) The function of the Council shall be to coordinate all Federal juvenile delinquency programs.

(d) The Council shall meet a minimum of six times per year and the activities of the Council shall be included in the annual report required by section 304(b)(5) of this title.

(e) The Chairman shall appoint an Executive Secretary of the Council and such personnel as are necessary to carry out the functions of the Council.

ADVISORY COMMITTEE

SEC. 308. (a) There is hereby established a National Advisory Committee for Juvenile Justice and Delinquency (hereinafter referred to as the "Advisory Committee") which shall consist of twenty-one members.

(b) The members of the Interdepartmental Council or their respective designees shall be exofficio members of the Committee.

(c) The regular members of the Advisory Committee shall be appointed by the President from persons who by virtue of their training or experience have special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, such as juvenile or family court judges; probation, correctional, or law enforcement personnel; and representatives of private voluntary organizations and community-based programs. The President shall designate the Chairman. A majority of the members of the Advisory Committee, including the Chairman, shall not be full-time employees of Federal, State, or local governments. At least seven members shall not have attained twenty-six years of age on the date of their appointment, of whom at least three shall have been under the jurisdiction of the juvenile justice system.

(d) Members appointed by the President to the Committee shall serve for terms of four years and shall be eligible for reappointment except that for the first composition of the Advisory Committee, one-third of these members shall be appointed to one-year terms, one-third to two-year terms, and one-third to three-year terms; thereafter each term shall be four years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term.

DUTIES OF THE ADVISORY COMMITTEE

SEC. 309. (a) The Advisory Committee shall meet at the call of the Chairman, but not less than four times a year.

(b) The Advisory Committee shall make recommendations to the Secretary at least annually with respect to planning, policy, priorities, operations, and management of all Federal juvenile delinquency programs.

(c) The Chairman may designate a subcommittee of the members of the Advisory Committee to advise the Secretary on particular functions or aspects of the work of the Administration.

(d) The Chairman shall designate a subcommittee of five members of the Committee to serve as members of an Advisory Committee for the National Institute of Juvenile Justice to perform the functions set forth in section 505.

(e) The Chairman shall designate a subcommittee of five members of the Committee to serve as an Advisory Committee to the Secretary on Standards for the Administration of Juvenile Justice to perform the functions set forth in section 507.

COMPENSATION AND EXPENSES

SEC. 310. (a) Members of the Advisory Committee who are employed by the Federal Government full time shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Advisory Committee.

(b) Members of the Advisory Committee not employed full time by the Federal Government shall receive compensation at a rate to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5 of the United States Code, including traveltime for each day they are engaged in the performance of their duties as members of the Advisory Committee. Members shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Advisory Committee.

TITLE IV—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

PART A—FORMULA GRANTS

The Secretary is authorized to make grants to States and local governments to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

ALLOCATION

SEC. 402. (a) In accordance with regulations promulgated under this title, funds shall be allocated annually among the States on the basis of relative population of people under age eighteen. No such allotment to any State shall be less than $200,000, except that for the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, no allotment shall be less than $50,000.

(b) Except for funds appropriated for FY 1974, if any amount so allotted remains unobligated at the end of the fiscal year, such funds shall be reallocated in a manner equitable and consistent with the purposes of this title. Funds appropriated for fiscal year 1974 may be obligated in accordance with Subsection (a) until June 30, 1976 after which time they may be reallocated. Any amount so reallocated shall be in addition to the amounts already allotted and available to the States, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands for the same period.

(c) In accordance with regulations promulgated under this title, a portion of any allotment to any State under this part shall be available to develop a State plan and to pay that portion of the expenditures which are necessary for efficient administration. Not more than 15 per centum of the total annual allotment of such State shall be available for such purposes. The State shall make available needed funds for planning and administration to local governments within the State on an equitable basis.

STATE PLANS

SEC. 504. (a) In order to receive part A formula grants, a State shall submit a plan for carrying out its purposes. In accordance with regulations established under this title, such plan must—

(1) designate a single State agency as the sole agency responsible for the preparation and administration of the plan, or designate an agency as the sole agency for supervising the preparation and administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter referred to in this Act as the "State agency") has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

(3) provide for supervision of the programs funded under this Act by the State agency by a board appointed by the Governor (or the Chief Executive) (A) which shall consist of not less than twenty-one and not more than thirty-three persons who have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, (B) which shall include representation of units of local government, law enforcement and juvenile justice agencies such as law enforcement, correction or probation personnel, and juvenile or family court judges, and public agencies concerned with delinquency prevention or treatment such a welfare, social services, mental health, education or youth services departments; (C) which shall include representatives of private organizations; concerned with delinquency prevention or treatment; concerned with neglected or dependent children; concerned with the quality of juvenile justice, education or social services for children; which utilize volunteers to work with delinquents or potential delinquents; community-based delinquency prevention or treatment programs; and organizations which represent employees affected by this Act, (D) a majority of whose members (including the Chairman) shall not be full-time employees of the Federal, State, or local government, and (E) at least one-third of whose members shall be under the age of twenty-six at the time of appointment and of whom at least three shall have been under the jurisdiction of the justice system;

(4) provide for the active consultation with and participation of local governments in the development of a State plan which adequately takes into account the needs and requests of local governments;

(5) provide that at least 50 per centum of the funds received by the State under section 401 shall be expended through programs of local government insofar as they are consistent with the State plan, except that this provision may be waived at the discretion of the Secretary for any State if the services for delinquent or potentially delinquent youth are organized primarily on a statewide basis;

(6) provide that the chief executive officer of the local government shall assign responsibility for the preparation and administration of the local government's part of the State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure (hereinafter in this Act referred to as the "local agency") which can most effectively carry out the purposes of this Act and shall provide for supervision of the programs funded under this Act by the local agency by a Board which meets the appropriate requirements of paragraph (3);

(7) provide for an equitable distribution of the assistance received under section 401 within the State;

(8) set forth a detailed study of the State needs for an effective, comprehensive, coordinated approach to juvenile delinquency prevention and treatment and the improvement of the juvenile justice system. This plan shall include itemized estimated costs for the development and implementation of such programs.

(9) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, health, and welfare within the State;

(10) provide that not less than 75 per centum of the funds available to such State under section 401, whether expended directly by the State or by the local government or through contracts with public or private agencies, shall be used for advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, to establish programs as set forth in section 403(11), and to provide community-based alternatives to juvenile detention and correctional facilities. The advanced techniques include but are not limited to—

(A) community-based programs and services for the prevention and treatment of juvenile delinquency through the development of foster-care and shelter-care homes, group homes, halfway houses, homemaker and home health services and any other designated community-based diagnostic, treatment, or rehabilitative service;

(B) community-based programs and services to work with parents and other family members to maintain and strengthen the family unit, so that the juvenile may be retained in his home;

(C) youth service bureaus and other community-based programs to divert youth from the juvenile court or to support, counsel, or provide work and recreational opportunities for delinquents and youth in danger of becoming delinquent;

(D) comprehensive programs of drug abuse education and prevention, and programs for the treatment and rehabilitation of drug addicted youth, and "drug dependent" youth (as defined in section 2(g) of the Public Health Service Act (42 U.S.C. 201(g));

(E) educational programs or supportive services designed to keep delinquents or youth in danger of becoming delinquent in elementary and secondary schools or in alternative learning situations;

(F) expanded use of probation and recruitment and training of probation officers, other professional and paraprofessional personnel and volunteers to work effectively with youth;

(11) provides for a statewide program through the use of probation subsidies, other subsidies, other financial incentives or disincentives to units of local government, or other effective means, that shall:

(A) reduce the number of commitments of juveniles to any form of juvenile facility as a percentage of the state juvenile population;

(B) increase the use of non-secure community-based facilities as a percentage of total commitments to juvenile facilities; and

(C) discourage the use of secure incarceration and detention.

(12) provides for the development of an adequate research, training, and evaluation capacity within the State;

(13) provide within two years after submission of the plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, shall not be placed in juvenile detention or correctional facilities, but must be placed in shelter facilities;

(14) provide that juveniles alleged to be or found to be delinquent shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges;

(15) provide for an adequate system of monitoring jails, detention facilities, and correctional facilities to insure that the requirements of section 403 (13) and (14) are met, and for annual reporting of the results of such monitoring to the Secretary;

(16) provide assurances that assistance will be available on an equitable basis to deal with all disadvantaged youth including, but not limited to, females, minority youth, and mentally retarded or emotionally handicapped youth:

(17) provide for procedures which will be established for protecting under Federal, State, and local law the rights of recipients of services and which will assure appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

(18) provide that fair and equitable arrangements are made, as determined by the Secretary of Labor, to protect the interests of employees affected by assistance under this Act. Such protective arrangements shall include, without being limited to, such provisions as may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements or otherwise;

(B) the continuation of collective-bargaining rights;

(C) the protection of individual employees against a worsening of their positions with respect to their employment;

(D) assurances of employment to employees of any State or political subdivision thereof who will be affected by any program funded in whole or part under provisions of this Act;

(E) training or retraining programs.

The State plan shall provide for the terms and conditions of the protective arrangements established pursuant to this section;

(19) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

(20) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event supply such State, local, and other non-Federal funds;

(21) provide that the State agency will from time to time, but not less often than annually, review its plan and submit to the Secretary an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary; and

(22) contain such other terms and conditions as the Secretary may reasonably prescribe to assure the effectiveness of the programs assisted under this title.

(b) The Board appointed pursuant to Sec. 403(a)(3) shall approve the State plan and any modification thereof prior to submission to the Secretary.

(c) The Secretary shall approve any State plan and any modification thereof that meets the requirements of subsection (a) of this section.

(d) In the event that any State fails to submit a plan, or submits a plan or any modification thereof, which the Secretary, after reasonable notice and opportunity for hearing determines does not meet the requirements of subsection (a), the Secretary shall make that state's allotment under the provisions of 402(9) available to the public and private agencies in that State for Part B—Special Emphasis Prevention and Treatment Programs.

PART B—SPECIAL EMPHASIS PREVENTION AND TREATMENT PROGRAMS

Sec. 411(a) The Secretary is authorized to make grants to and enter into contracts with public and private agencies, organizations, institutions, or individuals to—

(1) develop and implement new approaches, techniques, and methods with respect to juvenile delinquency programs (as defined in section 103(4));

(2) develop and maintain community-based alternatives to traditional forms of institutionalization;

(3) develop and implement effective means of diverting juveniles from the traditional juvenile justice and correctional system;

(4) improve the capability of public and private agencies and organizations to provide services for delinquents and youths in danger of becoming delinquent; and

(5) facilitate the adoption of the recommendations of the Advisory Committee on Standards for Juvenile Justice as set forth pursuant to section 507(b).

(b) Not less than twenty-five per centum of the funds appropriated for each fiscal year pursuant to this Title shall be available only for special emphasis prevention and treatment grants and contracts made pursuant to this part.

(c) Among applicants for grants under this part, priority shall be given to private organizations or instituitons who have had experience in dealing with youth.

CONSIDERATIONS FOR APPROVAL OF APPLICATIONS

Sec. 412. (a) Any agency, institution, or individual desiring to receive a grant, or enter into any contract under this part, shall submit an application at such time, in such manner, and containing or accompanied by such information as the Secretary may prescribe.

(b) In accordance with guidelines established by the Secretary, each such application shall—

(1) provide that the program for which assistance under this title is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out one or more of the purposes set forth in section 404;

(3) provide for the proper and efficient administration of such program;

(4) provide for regular evaluation of the program;

(5) indicate that the applicant has requested the review of the application from the State and local agency designated in section 403, when appropriate;

(6) indicate the response of such agency to the request for review and comment on the application;

(7) provide that regular reports on the program shall be sent to the Secretary and to the State and local agency, when appropriate; and

(8) provide for such fiscal control and fund accounting procedures as may be necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title.

(c) In determining whether or not to approve applications for grants under this title, the Secretary shall consider—

(1) the relative cost and effectiveness of the proposed program in effectuating the purposes of the Act;

(2) the extent to which the proposed program will incorporate new or innovative techniques;

(3) the extent to which the proposed program meets the objectives and priorities of the State plan, when a State plan has been approved by the Secretary under section 403 (b) and when the location and scope of the program make such consideration appropriate;

(4) the increase in capacity of the public and private agency, institution, or individual to provide services to delinquents or youths in danger of becoming delinquent;

(5) the extent to which the proposed project serves communities which have high rates of youth unemployment, school dropout, and delinquency; and

(6) the extent to which the proposed program facilitates the implementation of the recommendations of the Advisory Committee on Standards for Juvenile Justice as set forth pursuant to section 507(b).

PART C—GENERAL PROVISIONS

WITHHOLDING

Sec. 421. Whenever the Secretary, after giving reasonable notice and opportunity for hearing, to a recipient of financial assistance under this title, finds—

(1) that the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this title; or

(2) that in the operation of the program or activity there is failure to comply substantially with any such provision;

the Secretary shall notify such recipient of his findings and no further payments may be made to such recipient under this title (or in his discretion that the state agency shall not make further payments to specified programs affected by the failure) by the Secretary until he is satified that such noncompliance has been, or will promptly be, corrected.

USE OF FUNDS

Sec. 422. (a) Funds paid to any State public or private agency, institution, or individual (whether directly or through a State or local agency) may be used for:

(1) securing, developing, or operating the program designed to carry out the purposes of this Act;

(2) not more than 50 per centum of the cost of the construction of innovative community-based facilities for less than 20 persons (as defined in sections 103(1) and 103(2) of this Act) which, in the judgment of the Secretary, are necessary for carrying out the purposes of this Act.

(b) Except as provided in subsection (a) of this setcion, no funds paid to any public or private agency, institution, or individual under this Title (whether directly or through a State or local agency) may be used for construction as defined in Section 103(2) of this Act.

PAYMENTS

Sec. 423. (a) In accordance with criteria established by the Secretary, it is the policy of Congress that programs funded under this title shall continue to receive financial assistance providing that the yearly evaluation of such programs is satifactory.

(b) At the discretion of the Secretary, when there is no other way to fund an essential juvenile delinquency program, the State may utilize 25 per centum of the funds available to it under this Act to meet the non-Federal matching share requirement for any other Federal juvenile delinquency program grant.

(c) Whenever the Secretary determines that it will contribute to the purposes of the Act, he may require the recipient of any grant or contract to contribute money, facilities, or services up to 25 per centum of the cost of the project.

(d) Payments under this title, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursements, in such installments and on such conditions as the Secretary may determine.

TITLE V—NATIONAL INSTITUTE FOR JUVENILE JUSTICE

NATIONAL INSTITUTE

Sec. 501. (a) There is hereby established within the Juvenile Justice and Delinquency Prevention Administration a National Institute for Juvenile Justice (referred to in this Act as the "Institute").

(b) The Institute shall be under the general supervision and direction of the Secretary, and shall be headed by the Assistant Director of the Administration appointed under section 301(c).

INFORMATION FUNCTION

Sec. 502. The Institute is authorized to—

(1) serve as an information bank by collecting systematically and synthesizing the data and knowledge obtained from studies and research by public and private agencies, institutions, or individuals concerning all aspects of juvenile delinquency, including the prevention and treatment of juvenile delinquency;

(2) serve as a clearinghouse and information center for the preparation, publication, and dissemination of all information regarding juvenile delinquency, including State and local juvenile delinquency prevention and treatment programs and plans, availability of resources, training and educational programs, statistics, and other pertinent data and information.

RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS

Sec. 503. The Institute is authorized to—

(1) conduct, encourage, and coordinate research and evaluation into any aspect of juvenile delinquency, particularly with regard to new programs and methods which show promise of making a contribution toward the prevention and treatment of juvenile delinquency;

(2) encourage the development of demonstration projects in new, innovative techniques and methods to prevent and treat juvenile delinquency;

(3) provide for the evaluation of all programs assisted under this Act in order to determine the results and the effectiveness of such programs;

(4) provide for the evaluation of any other Federal, State, or local juvenile delinquency program, upon the request of the Secretary; and

(5) disseminate the results of such evaluations and research and demonstration activities particularly to persons actively working in the field of juvenile delinquency.

TRAINING FUNCTIONS

Sec. 504. The Institute is authorized to—

(1) develop, conduct, and provide for training programs for the training of professional, paraprofessional, and volunteer personnel, and other persons who are or who are preparing to work with juveniles and juvenile offenders;

(2) develop, conduct, and provide for seminars, workshops, and training programs in the latest proven effective techniques and methods of preventing and treating juvenile delinquency for law enforcement officers, juvenile judges and other court personnel, probation officers, correctional personnel, and other Federal, State, and local government personnel who are engaged in work relating to juvenile delinquency.

INSTITUTE ADVISORY COMMITTEE

Sec. 505. The Institute Advisory Committee established in section 309(d) shall advise, consult with, and make recommendations to the Assistant Director concerning the overall policy and operations of the Institute.

ANNUAL REPORT

SEC. 506. The Assistant Director shall develop annually and submit to the Secretary after the first year the legislation is enacted, prior to June 30, a report on research, demonstration, training and evaluation programs funded under this title, including a review of the results of such programs, an assessment of the application of such results to existing and to new juvenile delinquency programs, and detailed recommendations for future research, demonstration, training, and evaluation programs. The Secretary shall include a summary of these results and recommendations in his report to the President and Congress required by section 304(b) (5).

DEVELOPMENT OF STANDARDS FOR JUVENILE JUSTICE

SEC. 507. (a) The Institute, under the supervision of the Advisory Committee shall submit to the President and the Congress a report which—based on recommended standards for the administration of juvenile justice at the Federal, State and local level—

(1) recommended Federal action, including but not limited to administrative, bugetary, and legislative action required to facilitate the adoption of these standards throughout the United States; and

(2) recommends State and local action to facilitate the adoption of these standards for juvenile justice at the State and local level.

(c) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies is authorized and directed to furnish to the Advisory Committee such information as the Committee deems necessary to carry out its functions under this Act.

SEC. 508. Records containing the identity of individual juveniles gathered for purposes pursuant to this Title may under no circumstances be disclosed or transferred to any individual or other agency, public or private.

TITLE VI—AUTHORIZATION OF APPROPRIATION

SEC. 601. To carry out the purposes of this Act there are hereby authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1974; $200,000,000 for the fiscal year ending June 30, 1975; $300,000,000 for the fiscal year ending June 30, 1976; and $400,000,000 for the fiscal year ending June 30, 1977.

SEC. 602 (a) Not more than 5 percent of the funds appropriated annually for the purposes of this act shall be used for the purposes authorized under Title III.

(b) Not more than 15 percent of the funds appropriated annually for the purposes of this act shall be used for purposes authorized under Title V.

OUR FLIP-TOP, SNAP-TAB, THROWAWAY SOCIETY: CAN WE AFFORD IT?

Mr. HATFIELD. Mr. President, this morning the Washington Post carried an editorial discussing throwaway beverage containers. To me, I think that passage of a national law banning the sale of nonreturnable beverage containers should be a top priority for Congress. Not because it is the only environmental spoiler, for that is not so. Not because other problems are not equally compelling.

We should pass national legislation banning throwaways because it would signal one restraint on the snap-tab, flip-top, throwaway society that pervades too much of today's society. We must reverse this drift, and passage of such a bill would indicate that our society can pick out a definable area of environmental waste, attack it, and control it. We should enact such a law as S. 2062 envisions.

Mr. President, I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A REGIONAL ATTACK ON THROWAWAYS

A little more than two months ago, we recommended new legislative controls to deal with the nation's mounting mess of metal and glass from throwaway soft drink and beer containers. At the time, there were efforts both in Congress and in various Greater Washington jurisdictions to do something about this problem, despite continuing protestations and court actions on the part of the container industry. The idea of the proposed measure was to eliminate the nonreturnable beverage container.

The industry—which in the year before produced 60 billion of these throwaways—would like us all to believe that the answer lies in a better public attitude about litter and in new recycling methods. Certainly, the advertising campaign urging Americans to "pitch in" is constructive; but while you're helping to scoop up the additional 10 billion or so throwaways produced since our last editorial (or even some of the 17 million used in Montgomery County since then), it may relieve you somewhat to know that some lawmakers are still working to get rid of the "handy" throwaway.

Senators Mark O. Hatfield and Robert W. Packwood from Oregon—where a state law is already in effect—are among those pressing for enactment of S. 2062, a bill that would ban all nonreturnable beverage containers. Hearings before the Senate Commerce Committee are expected this spring. On the local level, Montgomery County has been studying proposals for months, and there is legislation pending in the city of Rockville. Loudoun County in Virginia and Bowie in Maryland's Prince Georges County already have passed legislation to require deposits on containers, but have been blocked from putting them into effect as a result of court actions by the container industry.

The most effective control, to be sure, would be a federal law, since attempts to control the sale of disposable bottles and cans on a county-by-county or town-by-town basis have limited impact in areas such as Greater Washington. In the meantime, however, there is encouraging news: Last week, representatives of 10 area jurisdictions—including the District of Columbia—agreed to ask the Metropolitan Washington Council of Governments to prepare model legislation that could lead to a regional tax or deposit on throwaway beverage containers.

Just as water and air pollution are regional problems that transcend political boundaries, the pollution from throwaways cries out for regional cooperation and action. We urge the Council of Governments to proceed promptly on this matter and to produce a uniform measure for Greater Washington before too many more billions of throwaways are foisted on the region.

GENEVA CONFERENCE ON THE HUMANITARIAN LAWS OF WAR

Mr. KENNEDY. Mr. President, the headlines in our newspapers daily remind us of the cruelty and indiscriminate character of so much of modern warfare. We need only think of yesterday's report of over 30 children killed in a mindless mortar attack on a school playground in South Vietnam, or the recent rocket attacks on Phnom Penh. Beyond the decade of carnage in Indochina, there has also been armed conflicts in the Middle East, in South Asia, and in Africa.

It is with these tragic memories of violence and conflict fresh in our minds, that the world meets today in Geneva in a crucial effort to update the Geneva Conventions of 1949 for the Protection of War Victims. In a conference called by the Swiss Government and the International Committee of the Red Cross, some 130 governments and other organizations are meeting today in a Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts.

Mr. President, it has been my privilege to be appointed as a congressional advisor to the U.S. delegation. As chairman of the Judiciary Subcommittee on Refugees I have long been concerned over the impact of modern warfare on civilians.

The conference in Geneva will continue over the next 2 to 3 months, during which considerable progress is anticipated in upgrading international standards for the protection of prisoners of war and for the accounting of missing and dead personnel, in expanding the laws of war to prohibit or restrain the use of certain weapons that are particularly cruel and indiscriminate in their effect, and to extend the protection of civilians in areas of armed conflict.

As a congressional advisor to the American delegation, I filed a statement with the conference this week to lend my support to some concerns of the American delegation, as well as to comment on some additional items of concern to me personally.

Over the coming weeks and months I will follow the work and progress of the conference and report to the Senate, for there can be no underestimation of the importance of this conference in advancing the humanitarian laws of war.

Mr. President, I ask unanimous consent that the full text of my statement submitted to the Geneva Conference be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT SUBMITTED TO THE GENEVA DIPLOMATIC CONFERENCE ON THE REAFFIRMATION AND DEVELOPMENT OF INTERNATIONAL HUMANITARIAN LAW APPLICABLE IN ARMED CONFLICT, BY SENATOR EDWARD M. KENNEDY, CONGRESSIONAL ADVISER TO THE U.S. DELEGATION

I welcome this opportunity to encourage and support the important work of this Conference.

Here in Geneva, talks are now underway between the United States and the Soviet Union to seek an end to the nuclear arms race. The Conference on European Security and Cooperation is meeting here to strengthen ties between East and West. In Vienna, the NATO and Warsaw Pact nations are negotiating the reduction of armed forces based in Europe. And at the United Nations, the Ad Hoc Committee on the Indian Ocean is discussing efforts to make that area a zone of peace.

All these efforts are critical in the effort to build a world that is not subject to the tyranny of war and the unrestricted competition in military arms.

But, as important as these efforts are, none of them is concerned with the human imperative of limiting the suffering of people both in conflict and as its result. None of them is concerned with the way in which wars are fought, with the tragic consequences of fighting, or with the need to promote the dignity of man despite man's continued resort to violence. That is the purpose of this conference, and as such its work will have an immediate impact on the human condition.

Nearly a decade ago—in 1965—the 20th International Conference of the Red Cross urged "The International Committee of the Red Cross to Pursue the Development of International Humanitarian Law." The International Committee of the Red Cross responded, and with the cooperation of individual governments, legal experts, the United Nations, and others, has presented two Draft Additional Protocols to the Geneva Conventions of 1949. These two Protocols are the outcome of a careful and realistic effort—earning our highest tribute for the ICRC, and for all those involved in the preparation of this Conference.

For today—after much pessimism—we finally have a good basis for deliberation. We have grounds to hope that the powers represented here will reach workable agreements: *First,* that will apply more broadly those principles and standards of human decency long associated with the Geneva Conventions—*Second,* that will increase protection for the victims of armed conflict—and *Third,* that will prohibit or restrain particularly cruel and indiscriminate weapons and means of warfare.

The urgency of our agenda is marked in the history of our generation. We meet in the aftermath of many conflicts and wars, under the spectre of continuing violence, and with the prospect of more to come. We meet in an age of rapid change in the power and destructiveness of weapons—when some wars are fought by remote control—or with weapons that often cause unnecessary suffering and are indiscriminate in their effects.

But nothing symbolizes more the urgency of our task, than the chain of ravaged populations which has stretched around the globe in recent years. With each new link in the chain, the physial destruction and toll of human misery and death has increasingly outpaced the efforts of peoples, governments, and humanitarian organizations to respond.

All over the world, people were on the move. Villages were leveled by mortars and bombs. Hospitals and schools, and houses were destroyed. Refugees poured into the countryside of their homelands or across international boundaries in unparalleled numbers. Children were orphaned or maimed or killed. Millions were injured—and millions died—and millions more—caught in the crunch of violent conflict and disaster—suffered stunted lives and crippled spirits.

This human tragedy brought forth efforts to stem the tide of suffering and to reaffirm and develop international humanitarian law. And the broad representation at this Conference testifies to the fact that these efforts are considered an urgent necessity by virtually all of the world's nations.

Ideally, we are here because of our personal and national moral commitment to the dignity and worth of human life. But at the very least, we are here to develop some new guidelines of enlightened self-interest. These guidelines can promote the interests of each party engaged in conflict because they promote the interests of all. And mankind as a whole—both today and in the future—will gain.

The Draft Protocols being considered in this Conference clearly reflect progress in the long effort to reaffirm and develop international humanitarian law. And I am hopeful that, after due deliberation, the Conference will approve separate protocols for the protection of victims of both international and non-international armed conflicts.

Today, I will not review each protocol in detail. But as a member of the United States Senate who has closely followed humanitarian issues, I would like to lend my support to some concerns of my government and would like to comment on some additional items of concern to me personally—which are shared by many of my colleagues in the Senate, and by millions of Americans.

First, the articles on wounded, sick and shipwrecked persons accomplish long-sought objectives, which will surely be sustained by the Conference. Some useful additions should be made for missing and dead persons. And the articles dealing with medical transport and related issues could usefully be expanded and refined. But the articles clearly help to afford wounded, sick and shipwrecked persons with modern means of transport and efficient medical care. They also help establish standards and procedures to ensure medical attention without discrimination for those in need.

Second, the objectives on prisoner of war status—contained in Article 42 of the first protocol—deserve the support of all participants in the Conference. Harsh experience in recent years requires us to find a reasonable formula for the broader application of the Third Geneva Convention—and to include, as prisoners of war, those "members of organized resistance movements who have fallen into the hands of the enemy."

Serious consideration should also be given to paragraph 3 of Article 42, which contains specific language for according prisoner of war status to "members of movements of armed struggle for self-determination". In light of continuing conflicts for this purpose—and the recognized right to self-determination by the United Nations—our concern for the treatment of prisoners cannot be limited by outdated definitions of warfare. We have a humanitarian obligation and responsibility to accord prisoner of war status to captured personnel in all organized armed conflicts—regardless of their label or place of combat.

Third, the Conference should consider strengthening the language on the "appointment of protecting powers and of their substitute",—especially in defining a more positive role for the ICRC, in cases where no protecting power is appointed.

Fourth, in broadening the scope of protection granted civilians, the Draft Protocols usefully supplement the existing convention. The Protocols suggest that enormous strides can be made in special measures for women and children; as well as—

In outlawing reprisals against all civilians;

In granting wider international recognition to refugees;

In providing humanitarian relief;

In providing general protection for civilian objects; and

In providing for non-defended and neutralized localities.

For some time, the issue of protecting civilian populations has been the subject of sharp controversy and debate—especially as it relates to the second protocol for non-international armed conflicts. And this is reflected in the deliberations of this conference. No one will deny the difficulty of defining who civilians are, and what the bounds of their protection and relief should be. And no one will deny the difficulty of implementing whatever new standards and procedures are agreed to by the powers represented here today.

But saying that the effort is difficult merely underscores the urgency of our work. That something more needs to be done can be seen in the recent history of military practices, in the changing character of warfare and weaponry, and in the expanding conception of the battlefield and armed conflict.

And given the nightmare of human misery and death the world has witnessed in Indochina, in South Asia and in other parts of the world—we are duty-bound to strengthen as much as possible the standards and means for the protection and relief of civilians. And we are duty-bound to avoid loopholes that only dilute our responsibilities and obligations under international convention and law.

In this connection, I am extremely hopeful that the Conference will consider strengthening the Provisions in the Draft Protocol protecting objects indispensable to the survival of the civilian population. Food, water, and livestock are among these objects. And the Conference should seriously consider proposals to prohibit starvation as a means of warfare.

In another area, the Conference will seek to define when military activity—and its collateral damage to civilians and civilian objects—is out of proportion to the concrete military advantage that is sought. Those provisions should be strengthened, and an effort must finally be made to define and restrict "zonal bombardment"—from the air, the land, or the sea.

We hold fresh in our minds the spectre of rocket attacks on Phnom Penh—the mindless slaughter in the "free-fire zones" of Indochina and elsewhere—and the impact on civilians of "area-type ordnance" and anti-personnel weapons. These images compel us to restrain "zonal bombardment" and the indiscriminate military practices that so tragically injure and kill civilians, and cause uncounted thousands to leave their homes as refugees.

Our concern with this terrible practice of war also highlights the need to go beyond restrictions on the methods and means of warfare—and on military practices affecting civilians. An important effort should also begin on prohibiting or restricting the use of *specific weapons,* which are particularly cruel or indiscriminate in their effect.

For too long the community of nations has left the sole judgment on these matters to individual governments and commanders in the field. But this reliance on the self-restraint of belligerents has clearly failed in conflict after conflict. The cruelty of many modern weapons is now beyond question—from incendiary weapons like napalm and phosphorus, to high velocity ordnance, high-explosive anti-personnel mines, and modern fragmentation bombs.

If we are to restrain the conduct of war—in the interests of everyone—we can no longer permit the makers of such weapons to judge whether their products avoid unnecessary suffering. And we can no longer permit the users of these weapons to decide by themselves whether the weapons are justified by military necessity. These judgments also concern the broader community of nations. And unless there are international standards for weapons, even those nations claiming the right of deciding for themselves will suffer from anarchy in the conduct of war.

I therefore strongly urge this conference and the ICRC, in the coming weeks and months, to pursue this issue—with the reasonable and proper goal of restricting or prohibiting specific weapons that are particularly cruel and indiscriminate in their effect.

Surely, if there is a single lesson of our time it is this: that technology—left alone—often outpaces man's ability to control it. Nowhere, perhaps, is this more evident than in the development of weapons and war. This technology feeds upon—and builds upon—the general scientific advance of society. The record is clear that general progress for the good of man carries with it changes in the technology of war—some of which could return our societies to the dark ages, and reduce man's progress to ashes.

We do not have to limit the general progress of our societies in order to limit the weapons of war. But we do have to strengthen self-restraint. We do have to act through international agreements, and through standards and procedures sanctioned by international convention and law.

Decades ago, the international community had the courage and capacity to ban the dum-dum bullet and to outlaw gas warfare. Today, we in our turn must have the courage and capacity to update standards of restraining conflict in the light of changed conditions. To do less is to abandon mankind's effort to curb the scourge of war.

The outside world now touches each of our countries as never before—more so, perhaps, than we ever thought possible. Everywhere new technology and communications bring men and nations closer together. More and more, the concerns of one become the concerns of all.

This can be of immense benefit to mankind. But it can also place us all in peril, as the pace of warfare becomes more intense; as the destructiveness of conventional weapons increases; and as military hardware is transported around the globe, fueling local wars and threatening serious confrontation among the major powers.

Even efforts to control the nuclear arms race, to reduce forces on both sides in Europe, and to end the threat of war in the Middle East, cannot in themselves end the danger posed for mankind by man's continuing resort to violence.

The future may lie beyond our vision; but it is not completely beyond our control. And given our common humanity, and our shared interest to reduce suffering and promote the well-being of people at home and abroad, there is much that we can do as a community of nations.

We can press for new controls on the production and deployment of weapons of mass destruction.

We can continue building peace in Indochina, the Middle East, and other troubled areas.

We can act to reduce the sources of conflict in the world, including the vast disparities in income between rich and poor countries, and the potential scramble for scarce resources.

And, at this Conference, we can also update the Geneva Conventions of 1949, and take a significant step towards reducing the horrors of violence and conflict—for civilians and soldiers alike—and advance humanitarian standards for the protection and care of all mankind.

Earlier in this century, the great Bengali philosopher-poet—Tagore—reminded us, that:

"Through the troubled history of man
Comes sweeping a blind fury of destruction . . .
Shatter this age-long shame of ours,
And raise our head into the boundless sky, into the generous light, into the air of freedom."

And in our own generation, Albert Camus has this to say:

"Perhaps we cannot prevent this world from being a world in which children are tortured. But we can reduce the number of tortured children. And if you don't help us, who else in the world can help us do this?"

THE REPUBLICAN CHALLENGE

Mr. STAFFORD. Mr. President, when so many negatives abound about the fate of the Republican Party it is refreshing indeed to have the positives accentuated. This is what my colleague, the distinguished Senator from Massachusetts, Senator Brooke did in a speech at the Dane County Republican Party Lincoln Day dinner in Madison, Wis., February 28. I commend Senator Brooke's remarks to my colleagues on both sides of the aisle as a stimulating and reflective analysis of the plight and prospects of the Republican Party and our Nation's political processes. I ask unanimous consent that Senator Brooke's remarks be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

The Republican Challenge

(By Senator Edward W. Brooke)

Traditionally, Lincoln Day Dinner speeches blend evocative reminiscences of Abraham Lincoln with provocative predictions of great days ahead for the Grand Old Party.

To follow this tradition at this time would show a callous disregard of the anxieties and concerns of Republicans, indeed of all Americans.

Similarly, it would not serve any useful purpose tonight for me to review in depth my reasoning as to what I consider the best course of action for the President to follow at this time.

Rather, I want to explore with you some thoughts and ideas as to how, I think, we as a Party can meet the perhaps unprecedented challenges of election years 1974 and 1976. But before I begin I want to sound a warning to my Party.

When I was a boy, I enjoyed reading Rudyard Kipling. He is probably as great a storyteller and spinner of yarns as has ever written in the English language.

I remember one of his stories about a lighthouse keeper who came both to hate and to fear the wakes from the ships that passed his solitary watch. One night, he rowed out into the ship channel and planted bell buoys so as to divert these ships away from his lighthouse. Needless to say, the results were disastrous for the next ships that came along.

And the results will be disastrous for us if we as Republicans attempt to shift our responsibilities and thus risk the consequences of a wrecked Party!

We must recognize the fact that millions of Republicans, who can in no way be considered responsible for the inept and illegal activities of "Watergate" are being blamed.

Look at the results of the special election in Michigan's Fifth Congressional District. This House seat was on the Republican side for 62 years. The former House Minority Leader, our Vice President, Gerald Ford, occupied the seat for twenty-five years. That seat has now shifted to the already crowded Democratic side of the House and the reason is obvious—Watergate. Analyses show that the Republican vote fell 55 per cent below the average GOP vote in the ten previous elections in the Fifth District while the Democratic vote was only seven per cent below this average. I could go on to analyze the results of the 12th Pennsylvania special congressional election, but the message is the same—Republicans stayed home on election day.

And the latest Gallup Poll is similarly ominous. It indicates the Democrats now have a 2 to 1 lead in the forthcoming Congressional races. The 29 per cent preference for Republicans is the lowest in 38 years of Gallup's polling. Only by facing up to these hard facts will our Party be able to withstand the inevitable torrents of reprehension and respond positively to our nation's problems.

First we Republicans must educate the American people to the fact that the Republican Party is not responsible for Watergate! Above all the Republican Party and Republican candidates should not be apologists for the misguided men who perpetrated criminal actions and abuse of powers against the American people.

Our courts of law will determine the guilt or innocence of those involved. The House of Representatives will decide whether our President has committed an impeachable offense. Meanwhile our Party can devote its energies to addressing the important foreign and domestic issues which confront our nation.

And we must begin at once to restore our Party's battered image, not through public relations gimmickry, but by setting an example of political propriety in politics. Toward this end I have some suggestions.

Without delay, Republican National Chairman George Bush and the State Chairmen should begin to develop campaign fundraising and spending standards that will serve as a model for Republican candidates at all levels of government.

There is a wealth of proposals and data from which such a code could promptly be drafted for the 1974 primary and general elections. And there are measures pending in Congress that provide clear guidelines for such reform. Whether or not comprehensive campaign funding and spending reforms are enacted by this Congress, we Republicans should have a code in force that would readily dovetail with any potential federal law.

Our code should include: stricter limits on the total contributions of an individual or family to candidates and committees; limits on the amounts wealthy candidates and their families can contribute to their own campaigns; compaign spending ceilings on a formula basis, which could be applied readily to every race—aldermanic to congressional; and full, precise and periodic disclosure of all campaign receipts and expenditures.

Where state laws dictate or Republican candidates choose, even more exacting standards should be adopted. But with a campaign funding and spending code all GOP candidates could seize the initiative; announce their intention to adhere; and demand their opponents to follow suit.

Such a code could be readily developed and easily disseminated. And as we Republicans in the Congress press for new, rigid federal campaign laws, we can point with pride to our voluntary Republican efforts nation-wide.

Another campaign initiative is imperative. We must assure that the campaign organizations of future Republican Presidential candidates are responsive to the Republican Party.

We Republicans, who worked hard in the wards and precincts for Richard Nixon, have been shocked at the revelations of certain activities of the Committee to Re-elect the President or "CREEP" as it has been called.

And many of us remember the jurisdictional hassles and confusion that this independent campaign organization caused in 1972. In far too many instances, loyal party regulars were ignored and by-passed, and our GOP workers divided. There was scant attention paid to the needs and resources of the Party. In effect, we Republicans gave the Presidential campaign committee a blank check in Miami Beach. And the President's committee went its separate way in too many cases, without even touching base with the regular Republican organizations. To be sure, requests came down to them from CREEP. But they asked for Party labor, not for Party advice. And too often these requests came from rank amateurs.

To be sure it is encouraging to have the energy, enthusiasm and inputs of young or inexperienced campaign workers. But in 1972 we saw what happens when you exclude the cautious, contemplative wisdom of the seasoned political veterans, who have battled in the front lines of countless campaigns.

Creep taught us many lessons. The most important of which is: let us Republicans tolerate no more creeps!

To be sure candidates at all levels need their own advisors and spokesmen. Obviously independent organizations are needed to reach out to Democrats and Independents. And, of course, some latitude is in order to respond to the varying personalities of candidates.

But we should rightfully demand consultation and cooperation with the Republican machinery at all levels. And, hence, I suggest that between now and 1976 as GOP Presidential aspirants move about the country, the state, county and local Republican organizations should demand of these aspirants a clear plan as to how, if nominated, they will structure their campaign organizations to provide for full consultation and cooperation with GOP organizations.

And once we nominate our candidate in convention, the Republican National Committee should, in concert with the candidate, devise an organizational structure that insures effective liaison and, give and take, among the Presidential campaign team, national, state, county and local Republican committees.

We Republicans thus will insure restraints, and prevent abuses. And through a well-coordinated, inclusive and open Presidential campaign effort we shall restore the people's confidence in the processes by which we elect our nation's highest elective official.

Yet, the process by which we select the nominee for our nation's second highest elective office falls far short of the significance of that office. Americans are mindful of George McGovern's embarrassing search for a running mate at the Democratic national convention.

Academic theories have been advanced as to the selection of Vice Presidential nominees. Some have suggested that aspirants for the Vice Presidency seek the nomination through state primaries. We Republicans should begin a search for new methods of selection, which would in effect make the selection of the Vice Presidential nominee a shared responsibility of the National Convention as well as the Presidential nominee. Traditionally, the Presidential nominee all but dictates to the Convention his choice of an individual, who will serve as his running mate and could well become the President of the United States.

And while I am not wedded to a particular method of selecting a Vice Presidential nominee I would like to stimulate Republican thought in this regard. Perhaps the Convention should require the Presidential nominee, once selected, to submit a slate of candidates for his running mate. These recommendations could in turn be reviewed by a panel which would screen the candidates and report its findings to the Convention as a whole. The Convention in turn would select the Vice Presidential nominee from the slate after reviewing the report of the panel.

Of *all* of the problems which beset America today, the crisis of confidence is the most-harmful for it impedes the resolution of all problems.

Various polls indicate that: only 30 per cent of the American people approve of the President's conduct; only 30 per cent express confidence in the press; and only 21 per cent of the people rate Congress favorably.

Skepticism, cynicism, and despair abound!

In our nation today, there is a yearning for a political system which is just, basically honest and which puts forth positive, practical programs and produces results. And I think the first Party to do this will receive the broad support of the American people.

I just don't believe Americans want their political Parties and leaders to exploit their fears. I believe Americans want their parties and their leaders to give hope to their ideals.

Of course we cannot escape the negatives in the election years 1974 and 1976. But neither can we ignore the positives. And the Republican Party does have positives! We have programs and a record of progress that Republican candidates can run on and, more importantly, build on!

The Nixon Administration's foreign policy initiatives and successes deserve the gratitude of the American people, who long for a permanent structure of peace.

We can point with pride to the new era of détente with the Soviet Union. We can find encouragement in the progress to date in the Strategic Arms Limitations Talks. We can find hope in the opening of channels of communications with the People's Republic of China.

Our diplomatic efforts in the Mideast averted the spread of hostilities beyond this explosive area and continue to provide the basis for a permanent end to the tensions that have so long threatened the world.

The mutual force reduction talks and our evolving relations with our European allies are positive steps toward European stability.

At home, we find positive Republican initiatives consistent with enduring Republican principles. Under the Nixon Administration the flow of power and decision making to Washington has been reversed. Regionalism and revenue sharing have rightly lowered decision-making powers to levels where individuals have more control over their own destiny.

The Nixon Administration has taken on the mammoth Federal bureaucracy and endeavored to make it less expensive and more responsive. It has trimmed our Defense establishment and ended conscription. It has advanced progressive programs in welfare reform, health and housing, which, though, I take exception to some specifics—are, in my opinion, conceptually worthy.

And by building on these initiatives, we shall discover the great Republican opportunity—to resurrect a Party from despair, to recommit ourselves the fundamental principles, and by applying these principles to the most perplexing issues of our time, to reconstruct a sound approach to government.

Afflicted with the burden and blame of an unfolding American tragedy, we must at once reach back for our strength and ahead of our future.

As the great President we honor tonight said in his time of national crisis: "the occasion is piled high with difficulty, and we must rise with the occasion."

We face an arduous task, but, I believe it is one, which, with dedication and determination, can be accomplished. Our present difficulties are not reasons to abandon the Republican Party. Indeed, they are the reason to stay on and save it.

THE OLDER AMERICANS TAX COUNSELING ASSISTANCE ACT

Mr. BURDICK. Mr. President, I am pleased to join the chairman of the Special Committee on Aging, Senator Frank Church, in sponsoring S. 2868, the Older Americans Tax Counseling Assistance Act.

This bill would build on an existing tax-aide-for-the-elderly project to insure that older Americans pay no more than their fair share of Federal taxes.

Regardless of age or intelligence, filling out a Federal tax form is rarely easy. Every time there is a change in one's income, family status or employment status, he or she must learn about new forms and new schedules. This maze of forms, schedules, and required copies is getting to be a serious problem with all Federal programs and is something Congress should be working to correct.

For the over-65 taxpayer, however, the Federal tax form presents unusually serious complexities. The older person faces new income credit schedules, taxes on pensions, estate taxes and a host of other new provisions which are often more complex than those utilized in pre-retirement years. Suddenly the elderly taxpayer is faced with a whole new set of rules. The impact can be mind-boggling. The effect can be even more disheartening for elderly widows. Often with a low or moderate income, they rarely have had any tax experience. It is hard enough to deal with the basic 1040 form, to say nothing about the legal jungle faced in trying to work through the retirement provisions in current tax law.

The results of these complexities are that many elderly people pay more income tax than they need to. Witnesses before the Senate Committee on Aging say up to 50 percent of all older citizens pay more than required by law.

One immediate solution is tax counseling. The Older Americans Tax Counseling Assistance Act would expand an already successful venture in this area. Last year the IRS trained 2,500 elderly counselors. They, in turn, assisted over 100,000 older men and women. Under the sponsorship of the NRTA and the AARP, this program has already shown its value. The Federal assistance proposed in S. 2868 would expand this by directing the IRS to train more volunteer counselors, most of whom would be over 60 themselves. The bill also provides reimbursements to the volunteers for their out-of-pocket expenses incurred during training and counseling.

This is a small but positive step, I believe. As our Government and its laws get bigger and more complicated, I think this kind of program will become more and more valuable. No one should be penalized for failing to understand laws and regulations that can boggle an expert. The tax aide program humanizes an otherwise overwhelming difficulty and makes it a little easier for older people to cope with today's big government.

TO FEED THE NATION

Mr. McGOVERN. Mr. President, on Monday, March 4, I was honored *with* an opportunity to make the keynote address to the Second Annual Legislative Conference of the American School Food Service Association.

As chairman of the Senate Select Committee on Nutrition and Human Needs, I have over the years developed a deep respect for and close working relationship with many of their members. They are a dedicated group, 65,000 strong, committed to feeding America's schoolchildren.

I was asked to speak to the issue of child nutrition and the problems we mutually share in insuring a continuation of our vital programs in this area.

The members of this group, like all

Americans, are deeply concerned about the ever increasing demands on our family food budgets. They, as well as I, are terribly worried that children from the middle-income homes are being priced out of the school lunch program. This is especially cruel since these parents pay taxes to support the program. Since just last year, half a million children have been lost to this program.

My remarks contain an analysis of this nutrition predicament.

I feel very strongly, as do the members of the American School Food Service Association, that our child feeding programs need to be preserved and kept intact, because healthy children are our best investment for a prosperous future.

Mr. President, I ask unanimous consent that the text of my remarks, as prepared for delivery at the American School Food Service Association conference opening, be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

To Feed the Nation

(By Senator George McGovern)

My friends with the American School Food Service Association: Once again, it is a pleasure for me to visit with you and work with you.

We have had some great successes over the past five years.

But we have never assembled together at a time of more potential difficulty for the Nation, or for the vital work of feeding the nation's schoolchildren.

Recently, I expressed deep concern because I learned of plans within the Administration to take away federally purchased commodities from the nation's schools.

Secretary of Agriculture Butz, reacting in his inimitable way, was reported as saying that I was "a cheap politician."

A gentleman from Rhode Island apparently saw a report of that in his local paper because he wrote me shortly afterwards.

One thing's for sure, he wrote, "There are no 'cheap' politicians, contributors, or friends in the Administration . . . and there are no 'cheap' policies or programs being promoted by the Administration."

In fact, he continued, "there's no 'cheap' fuel oil in New England and there's no 'cheap' gasoline in America."

Lastly, he said, referring to Russian Wheat Deal, "There's no 'cheap' food" either.

After I read that letter, I decided there really wasn't anything else to say—except that maybe that with the cost of everything else these days, it's probably better to be a "cheap" politician than an expensive one.

Secretary Butz is known for his sense of humor though.

But the American people keep on asking, "Why is that man laughing?"

Especially when the people are crying all the way home from the supermarket.

I heard a story of one man recently who went grocery shopping with his wife and was so upset, he had to stop at the doctor's for a sedative on the way home.

Then he saw the doctor's bill and went into a state of shock.

Which is just about the state the country's in today—psychological and economic shock.

What we need is a transfusion of national leadership to get us out of it.

Blind faith and optimism won't do anymore. The American people want action. They want a government that "can do" instead of one that "won't do."

People—all kinds of people are really hurting from the inflation and shortages.

They are hurting especially when it comes to food, paying more and getting less.

That is something the Government should care deeply about.

It should more than care. It should do something.

There are those who will say, "Look, the Government's not in such great shape itself. How can it do more? Where is it going to get the money?"

I appreciate that kind of concern. But if we will only get our priorities straight—and by that I mean putting human needs first—we can do more for ourselves.

For example, just this week, there have been front-page reports about the military budget to the effect that at least one and a half billion dollars—and I've heard that the real figure may be double that—has been added to that budget as a hedge against an economic slow-down and unemployment.

In other words, this extra money for the Pentagon is sheer padding.

A billion and a half dollars. Maybe three billion dollars.

Now, I'm not against the need for national defense or for the government to hedge against slow-down and unemployment. But why do we always have to do it in the defense budget which is already 85 billions of dollars or almost one-third of all federal spending.

Why can't we do a little hedging in the direction of the nation's human needs for a change.

Isn't it about time we put the human needs of the American people up front?

In my entire Congressional career, I have spent more time on food and nutrition than any other subject—trying to make sure that the farmer is encouraged to grow as much food as he can for a fair return and that the consumer is encouraged to buy a decent diet at a fair price.

In fact, I've probably spent more time on this subject than anybody else in the Congress—except perhaps for my old colleague Senator Humphrey . . . but then it's hard to spend more time than Senator Humphrey on anything . . . he's got the patent on the 25-hour day.

Based on my own experience, I believe the food crisis we now face was unnecessary.

The first step we need to take is to start telling the truth.

There is an old saying about the weather in New England to the effect that the only thing you can depend on is that it will change.

Well, the same thing is just about true when it comes to the Agriculture Department's predictions and estimates of the food production and food price situation.

Like the weather, they change all the time—only unlike the weather predictions, they are too frequently wrong.

In 1973 USDA predicted that food prices would go up about six percent.

Instead, those prices zoomed up 22 percent.

This year's prediction by USDA is that prices will go up another 14 to 15 percent—all other things being equal.

I don't want to frighten anybody unnecessarily today. But my best staff people tell me that instead of 14 to 15 percent, this year's increase will be at least as large as last year's—another 22%.

Unfortunately, as most Americans are only too aware these days, our luck isn't running very good and other things—meaning fuel in particular—are definitely not equal.

The fuel crisis isn't just keeping millions of motorists waiting in line for hours to get a couple of gallons of gas. It is striking at the very heart of our agricultural economy.

It is keeping thousands of farmers waiting in line—waiting for the fertilizer they need to run the equipment to harvest the crops—waiting for the trucks and trains to get those crops to market.

Just like everybody else the American farmer is waiting in line longer and paying more just to get his job done—paying a lot more in some cases.

That's why the price of food may go higher this year than last.

In fact, unless we begin to deal with this crisis, instead of somebody's passing fancy, this year's increase in the cost of food may go as high as 30 percent—or eight percent higher than last year.

Now, if this comes to pass, what is it going to mean to the American people? How are they going to take it? Can they take it? Another 30 percent over last year's 22 percent. A fifty percent increase in the *cost of food* in two years? On top of the doubling and tripling in the cost of fuel?

And these increases are taking place, mind you, while the real income of the average working family is dropping—last year by about three percent and, if a slow-down really hits this year, that drop could double to six percent.

What is it going to mean to the nutrition of the American people? What is it going to mean to the nutrition of children in the nation's schools?

Unfortunately, because the government doesn't collect enough information, nobody can say with any precision what this will mean to the average family.

But we can predict very accurately what it is going to mean to programs like school lunch—because the harm is already happening all around the country.

We are losing children by the hundreds of thousands and those children are losing the good nutrition they so badly need—especially because they may no longer be getting all they need at home.

Over the past year as the average price of lunches rose five to ten cents, a half-million children from middle-income homes dropped out of the program.

In effect, children of parents whose taxes go to support this vital program, are being deprived of its benefits.

If the Administration had had its way, the losses would have been even more severe.

They fought the congressionally enacted increase in reimbursement rates—the escalator clause—the special milk program and the increase in administrative expenses. Fortunately, thanks to your support and that of thousands of others, the positive forces in Congress prevailed.

It is still a mystery to me exactly what the administration, which is continually talking about the need for local control and power, expects local school districts to do with their budgets when costs are increasing and revenues decreasing.

If food prices and other costs do shoot up as badly or worse this year, then lunch prices may have to go up another five to ten cents.

If that happens and if sufficient extra federal support is not forthcoming, then the inevitable result will be the loss of another half-million children from middle-class families.

We cannot let that happen. We in Congress, and you in the Country, must prevent it. This vital program should be expanding, not contracting. More important, parents should be able to count on the Government to lend some stability to their living costs, so that they don't have to save at the expense of their children's diets.

No one planned this crisis. Like most accidents, it was more the result of the driver than road conditions or vehicle malfunction. The cause of last year's price increases can be traced to three basic decisions by the Administration: (1) the sale to the Russians in 1972 of one-fourth of our entire annual wheat crop; (2) devaluation of the dollar to stimulate export sales during a period of world-wide supply shortages and (3) the termination of the U.S. food reserves stockpiled in the commodity stabilization program.

Devaluation did, of course, stimulate export sales. Resulting competition for the supply of basic commodities was so tight that most of the U.S. fertilizer supply had been sold abroad by the end of 1973, and the U.S. now appears to have committed so much of present wheat reserves to foreign customers that a real shortage in grain is possible this spring.

Now even devaluation has been undercut by unstable world economic conditions. The falling price of the dollar relative to gold has more than canceled all the devaluations since 1971. The effort by the Administration to balance our export accounts has been at the expense of the American consumer who is paying the difference in high prices. And it is not non-competitive American business practices, or high wages that put our balance of payments in the red—it was our overextension in military commitments abroad.

Exporting our standard of living will not solve the present crisis of the world currency system, nor will it bring any tangible benefits to the American consumer. The farmer, while benefiting in the short-run by increased sales last year, now finds himself without fertilizer, fuel, pesticide and other vital inputs necessary to maintain agricultural output.

A major part of the problem is Mr. Butz's almost fanatical view of the so-called 'free-market economy' in food and agriculture.

Mr. Butz's philosophy serves the interests of the big international traders first and the interests of farmers and consumers a distant second.

The international traders know no nationality. They have no hesitation about breaking the price for farmers in one country with cheap surplus from another. Nor do they hesitate to short one country's consumers to turn a bigger profit someplace else.

Above all, they want the markets to stay 'free.' Free to bust most of the time. But free to boom too, when calamity strikes. For they, and only they, are able to play the angles and profiteer from wild swings in prices.

Playing the angles is what has been murdering the American consumer. The time is overdue to straighten those angles out.

The American government has to stand up for the American farmer and the American consumer.

The Government can start by establishing a National Nutrition Policy that makes sense.

That's why, as chairman of the Select Committee on Nutrition and Human Needs, I have called for the Senate to convene its own National Nutrition Policy Conference this June . . . to give the Congress the kind of expertise it needs to plan for the future instead of just patching up the mistakes of the past.

Even before the Conference convenes though, I know this: Our school feeding programs are and must continue to be a keystone in any National Nutrition Policy we may devise.

Just think what we could do with that billion and a half or three billion dollars of defense budget padding in the food area.

We could make sure that school lunch prices don't go sky high so that another half million children from working families can't afford to buy them any more.

We could buy more high-quality protein products so that every child would get the maximum nutrition out of his daily lunch.

We could buy the new equipment to replace the old equipment and give our children the most modern nutrition money can buy.

We could expand the school breakfast program so that parents who are sending the children off to school in the dark now can at least know they are going to get some hot food at the other end.

We could expand our nutrition services to the elderly, who are being especially hard-hit by these rising prices of all kinds.

We could do these things. We should do these things. But, instead, we keep on going along in the same old rut, making the same kinds of mistakes attending all the world, but neglecting our own health and well-being.

Second, to protect us against the market manipulators, the Government can finally establish something I have been proposing for a number of years—a National Food Reserve.

For some years, before the current Administration took office, we had the equivalent of a national food reserve in the form of stored surpluses.

But with little consideration of our needs, those stores have been sold off. Now the cupboard is bare.

We have to recreate the mechanisms that give maximum encouragement to the American farmer to grow as much as he can and enable the American Government to hold some in reserve against the time when the good years turn lean.

Beyond this, I think we have to begin facing up to the grim fact that free-trade internationally—no matter how desirable theoretically—may no longer be a principle upon which we can operate.

The Arab Oil Cartel—regardless of the Israeli-Arab War—may be a continuing thing and its example may spread through the world's economy.

If that should come to pass, we will no longer have a world-wide free economy but instead will have a world-wide controlled economy.

In such a world, we cannot afford to be the sheep among wolves. We will have to manage our own affairs accordingly.

We may be forced to establish a national supply council. Such a council would receive monthly statements from all sectors of the economy on the true state of commodity supplies of all kinds on hand.

The council should have the capability of monitoring supplies and reserves of basic resources world-wide and projecting those reserves against demand five years hence.

The world is changing and we must be prepared to change with it, or face the consequences of standing still.

We must be prepared to develop long-range national policies that serve the public interest, rather than short-range measures that benefit singular private interests.

One of the great public interests to be served is the nutrition of the American people, and especially the nutrition of the Nation's children.

I look forward to continuing our work on behalf of those children.

U.S. NEWS & WORLD REPORT INTERVIEW WITH NIKOLAY S. PATOLICHEV, SOVIET MINISTER OF FOREIGN TRADE

Mr. BUCKLEY. Mr. President, the Soviet Minister of Foreign Trade, Mr. Nikolay S. Patolichev, recently gave an interview to the U.S. News & World Report which was published in their edition of March 18, 1974, and subsequently in the March 11, 1974, edition of the Washington Post.

The interview raises some important policy issues that should not be overlooked in the current controversy over the terms—both political and economic—which will govern United States-Soviet trade in the future. While I expect to comment on these matters in more detail at a later date, I would like to call attention to both the tone and content of Minister Patolichev's comments. The tone was uncompromising, the content instructive.

He emphasized that the proposed large-scale trade deals, including the $20 billion natural gas development project—North Star in western Siberia and the Yakutsk development in eastern Siberia—would not be feasible in the absence of subsidized credit financing of the enterprise through Export-Import Bank guarantees to commercial lenders. As the interview emphasized, the Soviet's export earnings do not permit them to finance the importation of this technology on their own. Consequently, the decision to provide U.S. credit guarantees for the financing of this enterprise demands a great deal of careful study from the perspectives of resource dependency, long-term economic relations without traditional trading partners and our own political interests in the matter. Mr. Patolichev has raised more questions than he has answered.

Mr. President, I ask unanimous consent that the U.S. News & World Report interview and the Washington Post article on the interview be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RUSSIA SPELLS OUT THE TERMS FOR MORE TRADE WITH UNITED STATES—INTERVIEW WITH NIKOLAY S. PATOLICHEV, SOVIET MINISTER OF FOREIGN TRADE

Is there really a big, new market for U.S. businessmen in Russia? Mr. Patolichev, in a *rare* visit to this country, came to the conference room of "U.S. News & World Report" to lay out Moscow's terms for expanded trade:

Question. Mr. Minister, do you see a big increase in trade between the Soviet Union and the United States over the next few years?

Answer. The prospects of trade depend very much on the terms that are offered. The terms at present are not such that would enable us to develop trade on a very large scale. But it would be different if conditions changed.

Question, what changes are needed?

Answer. The obstacles that Soviet exports encounter in your country at present have to be eliminated. Trade cannot go on endlessly on a one-way basis in the favor of your country, Sooner or later trade must be bilateral, and if possible—I reiterate, if possible—it should be balanced.

Question. What sorts of obstacles do you face here?

Answer. Well, take an example. We are discussing the sale of the YAK 40 airplane, a commercial tri-jet for feeder airlines. Your customs tariff is 30 per cent of the cost of the aircraft. We can't accept that. It *is a pro*hibitive tariff. Competing airplanes from countries other than the U.S.S.R. don't face that high tariff when dealing with you.

Question. Is that why you want Congress to extend most-favored-nation treatment to Soviet trade?

Answer. Let me point out that MFN is not a special favor. It really involves nothing more than equal opportunity—treating one trading partner in the same manner as you treat all other trading partners.

Now, for almost two dozen years this market has been practically closed to us. We have other things to occupy ourselves with than sitting and thinking how to enter the U.S. market. Provided that the conditions are similar to those offered elsewhere, we will start to work on studying your market. But without these conditions there is no need to study it.

Question. How much could you increase your exports to the U.S. if Congress approved most-favored-nation treatment for your trade?

Answer. We are starting practically from scratch. Even if we doubled or trebled our exports at this time, it still would be very small. Eventually, it could be susbtantial.

Question. Is there danger that the whole trade relationship between the United States and the Soviet Union is going to turn sour?

Answer. Eliminate the discrimination against our exports, and the situation will be reversed. But you have to lift these restrictions.

Question. Do you see the Soviet Union continuing to import large amounts of grain from America?

Answer. If the restrictions on our exports were removed, under those circumstances our two countries could do business on a continuous basis. Of course, one year may differ from another—depending, for example, on the crop or other conditions—but a basis for continuous business will be there.

Nineteen seventy-two was a very unfortunate year in agriculture for us, and therefore we had to buy somewhat larger quantities of grain. But the American side was very interested in closing that deal at the time.

Question. Are you concerned by the fact that many Americans feel that the Soviet Union outsmarted the U.S. on that deal?

Answer. Don't say we outsmarted you—because the Americans are sea wolves on the ship of trade and we are just young sailors. What we did was to come to the United States and ask, "Do you have grain to sell to us?" And the Americans said, "Yes."

Of course, we didn't sound trumpets. We approached the grain companies we had dealt with in the past. They told us their price, and we paid it. We bought wheat in Canada and Australia at the same price. Everything was done according to the classical pattern of trade. I don't know who is telling these fairy tales about our outsmarting you.

Question. Would you be willing to sell some of that wheat back to the United States if we run short before our new harvest?

Answer. The American side already has asked us to reschedule their commitment to deliver grain until after June, when you start harvesting, and we have agreed.

Question. Aside from grain, what are you especially interested in buying here in the United States?

Answer. We will be interested in machinery and equipment for various branches of industry. We have been developing our chemical industry at a rapid pace and also light industry and textile manufacture.

We are working out ambitious plans to develop oil and gas processing. We already have made a deal with Occidental Petroleum in connection with a big chemical complex near Kuibyshev, where there is a natural-gas reserve.

American companies will supply equipment, and in exchange they will receive ammonia over a 20-year period. They also will deliver superphosphoric acid against ammonia. You see, the same ship that carries superphosphoric acid to our country can take back the ammonia. It will be a very efficient shuttle system.

Question. How big is that deal?

Answer. In terms of present prices, it would be worth about 20 billion dollars. Our investment to build this chemical complex in the U.S.S.R. amounts to 1.5 billion dollars, and we are going to purchase equipment from the U.S. in the amount of 700 million dollars.

Question. Some analysts say that people in the Soviet Union have more money than they can spend on available goods. Is there any reason why American consumer goods—such as appliances and autos—should not be exported to your country?

Answer. We already import a lot of consumer goods. I would say that 40 per cent of our total imports are made up of consumer goods and materials to produce consumer goods. We buy large quantities of garments, footwear, knitted wear and so on from the socialist countries. Also we are developing this kind of trade rapidly with Western countries such as France, Italy, Japan, Finland and others.

But in order to buy, one needs funds for it. Sometimes we wish to buy more consumer goods, but we must be sensible about whether we can afford it or not. That's why we need normal trade conditions to sell our goods. If we sell more to the U.S., we shall buy more from the U.S.

Question. What does Russia have to sell that would interest Americans?

Answer. We are very sophisticated in producing power-generation equipment. Without borrowing from anyone, we have developed our own sophisticated power-generation machinery. That holds true for atomic power plants as well as thermal and hydroelectrical power plants. The prospects in this field are great because we now are starting to produce on a large scale.

Power hydrofoil boats are another example. But here, without MFN, we face a U.S. tariff of around 35 per cent, and that is almost prohibitive.

Question. Didn't you submit a bid several years ago to supply generators for an addition to the Grand Coulee Dam in Washington State?

Answer. Yes, we made a joint bid together with Westinghouse Electric. You see, we are not very experienced in the niceties of participating in bidding of this sort. Perhaps we will be practicing it more widely in the future.

Question. What about consumer goods? What do you hope to sell in the U.S. in this category?

Answer. We can think about optics and precision instruments. We already have made some progress with jewelry, such as polished diamonds. We sell wrist watches—but we must sell them disassembled because of your high tariff. That is another problem caused by the fact that we do not enjoy most-favored-nation treatment.

We can find products that are suitable for your market—perhaps not in the quantities that we would wish, but in substantial quantities.

Question. There has been a lot of talk in the past several years about a deal with the United States and Japan to develop natural-gas fields in Siberia on a similar basis. What's happened to that?

Answer. We've been exploring a very big reserve at Yakutsk. The forecast is for 13 trillion cubic meters. What we are going to do now is to confirm the minimum quantities of gas in this field in co-operation with Japan—and perhaps with the United States in a very short period of time—in order to start building a project and start supplying gas from this area.

Question. How soon do you expect to sign an agreement with American companies for the development of this Siberian gas?

Answer. Active discussions are going on. Of course, there are a number of difficult problems.

Let us take, for example, our gas reserves in western Siberia, which is another gas project called North Star. This is not a simple technological challenge. And a substantial length of that pipeline must be laid on the bottom of the White Sea. So there are many questions that need very close scrutiny in order not to make a mistake in the future.

As for the gas in the area of Yakutsk, the first project I mentioned, the agreement with Americans and Japanese on additional exploration is nearing completion. Once the discovery is confirmed, there will be an agreement on the construction of the pipeline.

Question. Do you have an idea when gas might actually start flowing from the Soviet Union to the United States?

Answer. Well, I wouldn't wish to make irresponsible statements. I can only say that the pipelines that carry gas to Western Europe were laid very quickly. Each country built its own section. It was done very quickly.

Question. Would this deal be jeopardized if Congress passed a trade bill with restrictions on credits to the Soviet Union?

Answer. Yes, it would be, by all means.

Question. If American companies do reach an agreement with Russia for natural gas, what guarantees would there be that supplies might not be cut off in the future?

Answer. I don't know the reason for such fears. What are the grounds for such a question?

Question. Since the Arabs are using oil as a political weapon, isn't it possible that the Soviet Union might do the same if the political climate changed?

Answer. Well, if you want to co-operate on these things with us, you have to give that co-operation on the basis of trust and confidence. If there is some doubt about your partner, then you are not ripe for such cooperation.

As for us, we are quite prepared to go into it all the way pursuant to the understanding reached at the summit.

Question. Do you have a particular preference for this sort of barter arrangement—with American companies providing equipment and technology and taking raw materials or products in return?

Answer. This is true—not only with gas but also with lumber and lumber processing, paper and cardboard, as well as power-consuming industries such as ferroalloys and the production of offshore oil. In these particular areas, there are many proposals from U.S. companies, and they are being considered.

Question. What about the possibility of joint ventures that would bring American companies into partnership with Soviet state agencies?

Answer. We never have joint industrial ventures anywhere in other countries. We think that people can do without us, and we adhere to the same principle in our country.

Question. Last year your country ran a deficit of nearly 1 billion dollars in trade with the U.S. How do you expect to finance increased imports from this country in the future?

Answer. First of all, remember that our total borrowing worldwide is less than our lending. There is no problem of financial trade with other countries. On the contrary, these countries take the initiative in questions of financing because they want to sell things to us.

Question. Are any American banks reluctant to participate in credit arrangements without participation by the Export-Import Bank?

Answer. We are reliable in our repayment of credit, and so neither banks nor companies ask for additional Government guarantees. However, without participation of the Eximbank, your companies may not be competitive.

Question. Are you concerned about a possible congressional ban on Export-Import Bank credits to the Soviet Union?

Answer. Yes. But I think that your companies would be even more concerned. The absence of credits might well mean only that your banks and companies would become uncompetitive. And this might lead to a shrinkage in trade.

Question. Who do you feel would suffer more in this—the United States or the Soviet Union?

Answer. This is for you to judge. Let me say quite frankly that we would simply turn for the necessary credits and technology to other markets, such as Western Europe and Japan.

Question. A final question: Do you see any role for small or medium-size American businesses in trade with Russia, or will it be confined to the giants?

Answer. Yes, of course, there is a fair place for medium-size and small-size companies. An example of this is the contracts that have been made here for the Kama truck factory. Contracts have been signed with 80 companies, and some of them are small and medium-sized.

One of the tasks of the recently established U.S.-U.S.S.R. Trade and Economic Council is to help these firms develop business with us.

[From the Washington Post, Mar. 11, 1974]

Soviet Aide Cautions on Trade Curb

(By Tim O'Brien)

Russia's trade minister said in an interview published yesterday that restrictive U.S. trade policies toward the Soviet Union could jeopardize a pending multibillion-dollar deal to bring natural gas from the Soviet Union to the United States.

The Soviet official, Nikolay S. Patolichev, said the deal, which has been under discussion since 1972, could be blocked if Congress passes a foreign trade bill that restricts credits to the Soviet Union. The copyrighted interview was published in U.S. News & World Report.

Sen. Richard S. Schweiker (R-Pa.) said Friday he would introduce an amendment to block the natural gas deal, which would involve U.S. trade credits. Schweiker said it is not in the national interest to help finance energy exploration in the Soviet Union.

The House has already passed a trade bill that would deny credit and tariff concessions to countries that do not allow free emigration.

The language in the bill is aimed primarily at the Soviet Union's restrictive policy on emigration of Jews.

Patolichev said the natural gas deal would "by all means" be in jeopardy if Congress failed to approve trade credits and other concessions for the Soviet Union as proposed by the White House.

The agreement would bring into the United States more than $40 billion worth of Siberian gas over the course of 25 years. It calls for an investment of nearly $13 billion in plants, pipelines and other equipment in the Soviet Union. The U.S. and Japanese governments and a combine of American gas distributing companies would pay the costs, backed by Export-Import Bank credits.

Patolichev said the Soviet Union's trade with the United States "eventually . . . could be substantial," but he said that "for almost two dozen years this (U.S.) market has been practically closed to us. We have other things to occupy ourselves with than sitting and thinking how to enter the U.S. market."

"Provided that the conditions are similar to those offered elsewhere, we will start to work on-studying your market. But without these conditions there is no need to study it," he said.

Asked about the Soviet-American wheat deal in 1972, Patolichev said, "Don't say we outsmarted you—because the Americans are sea wolves on the ship of trade and we are just young sailors."

"We approached the grain companies we had dealt with in the past," he said. "They told us their price, and we paid it."

In a related development, deputy energy director John C. Sawhill said it will take "up to six weeks" for the effects of an end to the Arab oil embargo to be felt at retail gasoline pumps.

Even if the embargo is lifted, Sawhill said, the fuel allocation program "probably would remain in effect through the end of the summer," although it might be modified.

Last year, Sawhill said the lifting of the Arab embargo might be the occasion for the administration to end voluntary Sunday closings of gas stations.

BUILDING MATERIALS

Mr. HATFIELD. Mr. President, once again the Congress is in the position of reaffirming its goal of providing suitable housing for all Americans without taking the appropriate corresponding steps to provide the material to build the homes. Should this legislation become law, it would have the effect of providing additional assistance in the obtaining of funds for home construction and asking contractors to construct homes with materials that may not be available.

I am referring specifically to lumber. This is clearly the best material for home construction. In terms of energy consumption, wood is the most energy efficient material available. Energy requirements in manufacture for lumber, including logging, are only one-sixth that for steel and one-fortieth that for aluminum. Energy cost for lumber in the exterior walls of a typical house would be about one-fourth that for steel and one-ninth that for concrete block or aluminum. As for plastics, in addition to the heavy power requirements for their manufacture, the synthetic polymers are literally indestructible and, therefore, generate important, but often poorly understood, environmental impacts.

In contrast, the energy used in growing trees is solar and comes to us free of charge. With sound forest practices, the strain on the environment can be minimized. And wood is the only renewable building material available.

Yet, the Federal Government, which owns 22 percent of the total usable forest acreage, containing 58 percent of the Nation's inventory of softwood timber, has not managed those forests in such a manner as to provide the optimum level of wood products and of noncommodity benefits including recreation, wildlife, watershed, and wilderness. We have also failed to provide the incentives necessary to get the forest lands held in small private ownerships into production so that they can do their share in meeting these increasing demands. About 4.5 million individuals own 59 percent of our forests.

The budget request submitted by the administration for the Forest Service is, once again, inadequate if we are to meet our housing goals. Congress and the administration must face up to the fact that significant increases are necessary to do the job of reforesting the 3.3 million acres of national forest lands which are presently in need of reforestation and of upgrading the present yield on our national forests.

I support the legislation we are considering today, Mr. President. But we are fooling those who believe that it alone will provide housing. I urge the House of Representatives to act swiftly to approve the Forest and Rangeland Environmental Management Act of 1974, which the Senate recently passed and which provides a beginning in the effort to upgrade the quality of forest management in this Nation. I also urge my colleagues to support an increased level of funding for forestry programs this year in *considering* our overall spending priorities.

This problem is dealt with in more detail in a recent article from House Beautiful and I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Plenty of Trees; Not Enough Wood—Why?

In the wake of the energy crisis, we are faced with yet another crunch; a present and future shortage of wood products. As a nation, we should be building 2,500,000 dwellings each year merely to stay even with our housing needs. The average family consumes annually more than a ton of wood-derived paper products. And the furniture industry uses about 2 billion board feet of wood yearly. We are falling behind in meeting these demands. Does this mean that we are running out of trees? Is an assured wood supply becoming just another memory of the good old days? As we look out across our naked cities, burgeoning suburbia and acres of hard highways and paved parking lots, it is difficult not to accept a growing assumption that this might be the case.

But the fact is that one-third of our nation's land area is still covered with forest—comprising 75% as much forestland as existed when Columbus landed on our shores nearly 500 years ago. Of a total of 754 million acres of trees, 254 million have been set aside in national and regional parks, wilderness areas, watersheds or as unsuited for growing usable timber. The balance, an astronomical half billion acres, is our commercial forest. This aggregate acreage contains 2 trillion board feet of soft-wood timber alone—enough to build over three times the number of houses now standing in America. And, unlike our rapidly dwindling supplies of energy-providing fossil fuels, this wood is a renewable resource—an actual agricultural crop that can be replaced after every harvesting.

Why if we have so many trees, are we experiencing a wood crisis?

The reasons are varied and mostly interrelated—and tinged with ironies. But they are largely the effects of one overriding cause—an ever-pyramiding consumer demand. A recent 10-year survey of our timber resources by the U.S. Forest Service discloses that our national appetite for wood products has jumped 70% during the past 30 years. Demand-and-supply projections through the year 2,000, just one generation away, indicate that this trend will continue—and increase—during that period. The paradox of such an enormous inventory yielding such a limited supply can better be understood when we see how efficiently, or inefficiently, it is harvested.

The largest single owner is ourselves—the Federal Government. We, the people, own 22% of the total usable acreage, containing 58% of the nation's inventory of softwood timber—those species of wood (pine, Douglas fir, redwood, hemlock, spruce, cedar) commonly used by the construction industry and in the manufacture of plywood. The U.S. Forest Service, which manages these lands and sells a government-controlled flow of timber to private industry, produces 27% of the annual output of such timber. (Another 6% is owned by state and municipal governments and yields about 9% of the total harvest.)

Fifty-nine percent of the entire ownership belongs to some 4.5 million private individuals—farmers, ranchers, absentee landlords and other nonindustrial entities. These holdings are generally small and are scattered throughout the South, Midwest and Atlantic seaboard states. They account for about 30% of total national production, but this is a fragmented, inefficient output and falls far short of its ultimate potential output.

The remaining segment of commercial forest—located principally in the South and the West—belongs to the lumber industry itself. It owns a scant 13% of the total timberland. Yet, through unremitting scientific research and intensive management, the industry produces an incredible 34% of all the raw wood we use today—and is actually growing trees at a greater rate than it is cutting them.

But relative productivity of the Federal forests is lagging far behind that of private industry. The reason? The U.S. Forest Service—one of the most dedicated and respected public agencies—does not have enough money. Congressional funds have not been sufficient to increase its manpower, improve forest management levels or institute reforestation programs. (One of the ironies of the whole wood shortage issue is that some six billion board feet of softwood timber—half the annual government production and two-thirds as much as we must import from Canada to meet our building needs—die in the National Forests each year for lack of management. Most of this salvageable timber rots on the forest floor.)

In addition to inadequate funding, the beleaguered national foresters are being subjected to massive pressures from preservationist organizations who are lobbying to have increasing amounts of undeveloped Federal land brought into the Wilderness System (acreage to be used for limited public recreation only) and taken out of potential timber production. The Forest Service already observes strict, self-imposed environmental protection guidelines on about 25 million acres of government land that it has set aside for esthetic considerations or recreational purposes.

The government's contribution to the shortfall of wood supplies has been compounded even further by Congressional moves designed to establish long-range housing goals and the means to help achieve them—favorable monetary policies, subsidies and mortgage guarantees. These actions created a gigantic market for wood products and resulted in the record residential housing boom of 1971 and 1972, which—along with the government's failure to supply the necessary flow of raw materials—foreshadowed the present anomaly of high demand and an inadequate, artificially suppressed supply. In addition, the federal imposition of inconsistent and unrealistic price controls on the lumber industry during this period drove the prices of some wood products to all-time highs.

Hovering over this troubled sea of conflicting national priorities is the specter of the energy crisis. Fuel shortages are affecting timber processing at all stages—from the sawmill to the furniture factory—but one of the segments hardest hit is the plywood industry. Both the propane gas that fuels plywood drying machines and the phenolic resin glue that bonds plywood sheets together are extracted from crude oil. Shortages of these products have forced many plywood mills to close.

What lies ahead? Only immediate and drastic corrective action in the form of substantial financial investments of both private and public funds can forestall continuing wood supply shortages between now and the end of the century. It is entirely possible to double our timber yield from the national forests alone, without upsetting their native ecological balances, but we must remember it takes one generation to produce one crop of trees—and the clock is running.

SOLAR HEATING AND COOLING DEMONSTRATION ACT OF 1974

Mr. DOMENICI. Mr. President, today I witnessed an event which both displeased and confused me. As a member of the Aeronautical and Space Sciences Committee, we held executive sessions on H.R. 11864, which will be called "Solar Heating and Cooling Demonstration Act of 1974." This bill of which I have asked to cosponsor initiates prototype demonstrations of solar heating and cooling units in cooperation with NASA, HUD, NSF, GSA, the National Bureau of Standards, and other agencies.

I was very pleased with the sense of accomplishment with this bill in that I felt the committee had worked very hard with the appropriate agencies to determine the most suitable and appropriate method to accomplish the desired results. The committee heard testimony from all possible sources that would prove to be relevant to the subject and utilized their input in the final drafting of the bill. The committee worked closely with the National Science Foundation, NASA and HUD in devising a method for an effective cooperative effort to systematically test the solar prototype demonstrations. I expressed my concern upon hearing from Chairman Moss that this bill will be concurrently referred to four committees, that of Commerce; Interior; Banking, Housing and Urban Affairs; and Labor and Public Welfare. This decision appears to be very ironic in that we have continually voiced our concern regarding the immediacy of the energy crisis and the need for new sources of such energy but we, as Members of the U.S. Senate, are unable to decide among ourselves just who is to have jurisdiction over such legislation. It would seem that we cannot expect the cooperation of the general public and of Federal agencies until we establish a more effective solution to our own jurisdictional problems.

I voice these concerns because I feel the American public demands and deserves a more effective method of Government and it would seem that we have reached the point in time where such a solution can only begin within this body of Congress. It is hard for me to comprehend how this body will ever accomplish its goals if we continue to fight over jurisdictional matters and are unable to expeditiously enact our needed legislation.

INADEQUATE REFORM—NO REFORM AT ALL

Mr. CLARK. Mr. President, this morning's New York Times carried an excellent editorial on the various campaign reform proposals now before us, including President Nixon's reform package sent to the Congress last Friday. The Times notes:

> Events have overtaken the President's modest proposals and cast doubt on the motives behind his obfuscatory and negative language. The Senate Rules Committee under the chairmanship of Senator Howard Cannon, Democrat of Nevada, has already reached agreement on a broad, constructive reform bill.

Passage of the Rules Committee bill, with its comprehensive public financing provisions, is the best response Congress can make to the political scandals that have rocked the Nation over the past 18 months.

After all that has happened, the people of this country expect Congress to take the lead in campaign financing reform. The "usual" way of doing business is simply not satisfactory. And, as the Des Moines Tribune said in a recent editorial:

> Public financing offers a way to broaden voter participation in the electoral process, making it more representative of the American people.

I hope the Senate can take up this legislation at the earliest possible occasion, and I ask unanimous consent that the full texts of the Times and Tribune editorials be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the New York Times, Mar. 11, 1974]

INADEQUATE REFORM

In his message to Congress on campaign reform, President Nixon has offered a disappointing package of proposals that are not nearly adequate to meet the problem of election shortcomings and abuses as exposed once again by Watergate.

He even attacks the voter registration bill that passed the Senate last year and is now pending in the House. This bill would provide a small Federal subsidy to encourage states to adopt a uniform plan for registering voters by mail, a reform long overdue.

The President not only opposes making voter registration any easier but he is also against permanent personal registration, a reform achieved in New York and other states in the recent past after long years of struggle by the League of Women Voters and other citizen groups.

He directs heavy fire against the concept of public financing of campaigns, emphasizing that public financing would require taxpayers to pay for the cost of campaigns by candidates with whom they disagree. But that kind of conflict is inherent in almost every Government expenditure. Individuals who are childless or who send their children to private schools still pay taxes to support public schools; the taxes of pacifists help support the Pentagon and those of environmentalists help build highways. Political campaigns are not the private affair of politicians; public elections are public business.

Several of the proposals that the President recommends in his message are unexceptionable. Full disclosure, for example, is essential and it is desirable that candidates accept no donations from foreign sources and no cash except nominal sums.

But some of his recommendations for stricter control of fraudulent or disruptive campaign practices are either already covered by law or are, as the President recognizes, fraught with serious problems under the First Amendment. As for ballot box frauds on Election Day, it is paradoxical that Mr. Nixon is willing to intrude the Federal Government at this end of the electoral process while he worries about state's rights at the beginning of the process where the registration of voters is concerned.

If Election Day practices which Mr. Nixon rightly criticizes are to be completely cleaned up, it would probably be necessary to bring Federal elections under uniform Federal control. That is the only way, for example, to have a nationwide recount in a close Presidential election such as 1960 and to make certain that votes were honestly cast and counted whether in Vermont or Cook County, in rural Mississippi or urbanized Los Angeles.

Events have overtaken the President's modest proposals and cast doubt on the motives behind his obfuscatory and negative language. The Senate Rules Committee under the chairmanship of Senator Howard Cannon, Democrat of Nevada, has already reached agreement on a broad, constructive reform bill. It represents the thinking of a large number of Senators in both parties led by Alan Cranston, California Democrat, and Hugh Scott of Pennsylvania, the Republican floor leader.

The bill envisages a system of mixed public-and-private financing for Congressional and Presidential campaigns, including primaries. Although its details are open to argument, the bill in its broad outline represents the kind of response that Congress and the President ought to make to the Watergate scandals.

[From the Des Moines Tribune, Mar. 8, 1974]

NIXON ON CAMPAIGN FINANCE

President Nixon has once again voiced objections to public financing of election campaigns. His veto threats stymied legislative moves for campaign spending reforms in the past. Now he has prepared a measure to curtail the amounts of individual contributions as a substitute for public financing.

In his press conference Wednesday night, Nixon likened public financing plans to "taxation without representation." He said that paying for election campaigns from the treasury forces a taxpayer "to support a candidate or a party to whom he was opposed."

His comment distorts the mechanics as well as his purpose of public financing. Most plans permit taxpayers to contribute to designated political parties through income tax checkoffs, as both U.S. and Iowa tax forms do, in addition to limited individual contributions. Most plans also provide means for Congress to allocate general revenue funds to carry on political campaigns to acquaint the voters with the candidates and the issues.

Public financing plans are an attempt to neutralize the influence of wealth on elections. Money merely becomes a tool for campaigning, not a measure of support for a party or its candidates. Theoretically, in the democratic system, the voters show their support for candidates with ballots, not dollars.

Nixon said, "It is a healthy thing for people to contribute to campaigns and particularly in the smaller contribution areas." He mentioned that 300,000 persons contributed amounts of $100 or less to his 1972 campaign while about 700,000 did likewise for Democrat Georage McGovern.

Combined, that is 1.5 million. Hardly a remarkable showing considering, that 76.2 million voted for either Nixon or McGovern in 1972. Nixon's remarks duck the main problem which is the huge gifts made by special interests.

Public financing offers a way to broaden voter participation in the electoral process, making it more representative of the American people. In view of the scandals in his own election financing in 1972, you would think President Nixon would be the first to argue for public financing. He is in a weak position to defend the traditional system of private financing.

THE KGB

Mr. BUCKLEY. Mr. President, Mr. John Barron has recently written an authoritative book on the Soviet Committee on State Security, better known by its Russian initials, KGB. It seems that each Soviet secret police apparatus surpasses the reputation of its predecessors for ruthlessness—the Cheka, GPU, NKVD, and now the KGB. This valuable contribution to our understanding of the operations of the world's most conspicuous police state has been ably reviewed by Dr. Ernest Lefever, a member of the staff of the Brookings Institution, in the Washington Star-News. This review provides the reader with a helpful initiation into the workings and significance of the KGB, and I urge members of the Senate to read it.

Mr. President, I ask unanimous consent that Dr. Lefever's review of "KGB: The Secret Work of Secret Soviet Agents" be printed in the RECORD.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

[From the Washington Star-News, Feb. 24, 1974]

THE KGB REALITIES BEHIND SOLZHENITSYN'S PARABLES

(By Ernest W. Lefever)

(NOTE.—Dr. Lefever, a senior fellow in Foreign Policy Studies at the Brookings Institution, has written "Ethnics and U.S. Foreign Policy," "Spear and Scepter," and other books. This review also draws upon an interview with the author.)

Detente is a many-splintered thing. With one hand Moscow reaches out for American wheat and trade concessions. With the other it exiles Alexander Solzhenitsyn for telling the truth about Soviet repression. In one gesture it sends its artists and performers to the United States. In another it threatens to strip Valery Panov, former star of Leningrad's Kirov Ballet, of his citizenship because he wanted to migrate to Israel.

It may still be fashionable in some circles to overlook or downplay unpleasant realities that do not fit the illusion of detente. But after a great Soviet writer has been declared a nonperson and with almost daily reports of repression against other Soviet nonconformists, it is increasingly difficult to turn a blind eye to the moral and political schizophrenia of the Soviet regime.

Or perhaps it is not the Soviets who are afflicted with a split-level ethics, but we who are confused by split-level perception. Many of us want to believe that the era depicted in Solzhenitsyn's "The Gulag Archipelago" is in the distant past and that the post-Stalin leaders have moved toward a new and less repressive political order. We want to think of the Soviet Union as an ordinary state operating by ordinary rules. When the rules are dramatically broken we are shocked and disappointed.

What kind of a political system does Moscow have today? Is it significantly different from that of the Stalin era? Important light is thrown on this question by John Barron's impressive book on the KGB—the massive clandestine agency created by Lenin to be the "sword and shield" of the Communist party, the instrument of the Politburo to enforce its will and confound its opponents. The KGB is the current manifestation of the state security apparatus originally established in 1917 as Cheka. Today, says Barron, "the KGB has the same relationship to the Politburo under Brezhnev that the Cheka had with the Council of People's Commissars under Lenin."

Solzhenitsyn, Panov, and millions of other Soviet citizens have felt the brutal, often lethal, force of the KGB and its predecessors. The vast concentration camp system portrayed in ""The Gulag Archipelago" and the present system of exile are their handiwork. At least 20 million Soviet citizens have *died* in the ruthless pogroms of the secret police. But silencing or neutralizing troublemakers is only a small part of the KGB's far-flung assignments.

As an instrument of totalitarian control, the KGB has no peer, past or present. If the Soviet Communist Party is a state within a state, the KGB is in fact the "sword and shield" of the party. It penetrates every nook and cranny of Soviet life to control the words, actions, tastes, loyalties, and even thoughts of Soviet citizens.

As the obedient agent of the party, the KGB operates a Border Guard, an elite military force of 300,000 equipped with tanks, artillery, and armed ships. In 1965 KGB patrols captured more than 2,000 Soviet citizens attempting to escape. The KGB oversees the entire military establishment and has agents and informers assigned to the Ministry of Defense and in every military headquarters and unit down to the company level. "The slightest evidence of ideological deviation among the military can provoke swift KGB retribution." It was only in the late 1960s when "the military finally persuaded the leadership that it would be impractical to use atomic weapons in a future internal struggle" that the KGB relinguished custody of nuclear warheads.

Through its complex of directorates, the KGB penetrates the entire state bureaucracy, starting with the Politburo. "The KGB today probably has more officers and alumni in positions of power than at any other time in Soviet history."

Of the 17 Politburo members in 1973, three have spent "significant portions of their careers in the apparatus." While the full-time staff of the KGB may be as small as 100,000, its influence is vastly expanded by a network of informers—from the concierge in Kiev to the U.S. ambassador's chauffeur in Moscow—at home and abroad that may run into the millions.

The KGB controls job and housing permits, internal and external travel, and all forms of police activity. Former KGB chairman Shelepin runs the Soviet trade union organization. The KGB monitors industry and the economy to detect and bring to justice perpertrators of crimes such as "incorrect planning," unauthorized private enterprise, and blackmarketeering.

It keeps watch on education from kindergarten through the universities and on all academic and research institutes. In 1970 the KGB launched a large new division, the Fifth Chief Directorate, "to annihilate intellectual dissent, stop the upsurge in religious faith, suppress nationalism among ethnic minorities, and silence the *Chronicle of Currency Events*, an underground journal.

The following year it established a special Jewish Department to intensify infiltration in Jewish circles to curtail emigration of educated Jews and to silence protest. The KGB oversees 70,000 full-time censors who control the printed word. It works through the criminal justice system and operates special KGB "mental hospitals" where prominent citizens who do not conform to "official doctrine" are taken for forcible treatment, including the use of brain-washing drugs.

All foreigners in the U.S.S.R., including tourists, are placed under the surveillance of the KGB. In 1963, an American visitor, Prof. Frederick C. Barghoorn, who was on open academic business in Moscow, was drugged, falsely accused of espionage, arrested, and held hostage by the KGB for the release of a real Soviet spy, KGB agent Igor Ivanov, who was caught red handed by the FBI in New York. Prof. Barghoorn was released only after the public intervention of President Kennedy.

The long tentacles of the KGB reach out in support of Soviet objectives around the world. The clandestine service penetrates and uses the Foreign Ministry and all other official Soviet agencies overseas. KGB agents accompany all Soviet scientific and cultural groups abroad. As a rule, the KGB's harshest and most brutal coercion is directed against Soviet citizens at home. These tough professionals, says Barron, have a kind of respect for Americans and Northern Europeans, a respect not accorded Asians, Arabs, Latins, or Southern Europeans, though this did not prevent the abuse of Prof. Barghoorn or shooting with nitrogen mustard gas a German technician in Moscow who had just cleared his embassy of KGB microphones.

While there are superficial resemblances between the operations of the KGB abroad and those of the clandestine services of Western governments, there is one profound difference. The KGB is in the services of a totalitarian regime ideologically committed to the neutralization or destruction of non-communist governments. Soviet objectives are different from Western objectives, and the KGB often operates by different means. In dramatic detail, Barron relates several KGB operations, some successes and some failures.

"Officers of the KGB and its military subsidiary, the GRU (Chief Intelligence Directorate of the Soviet General Staff), ordinarily occupy a majority of embassy posts," as much as 80 percent in some Third World countries. In Washington, the FBI estimates that over 50 percent of Soviet representatives, including trade officials and Tass correspondents, work for the KGB. In addition, many agents use the U.N. headquarters and Mexico City for operations against the United States. For several years Secretary General U Thant had a personal assistant, Viktor Lessiovsky, a KGB agent. Probably half of the 207 Soviet citizens employed by the U.N. Secretariat, are KGB agents, and at least one was assigned to the division responsible for assassination and sabotage, described in Chapter 13 of the book.

In 1971 there were 108 official Americans in Moscow and 189 Soviet citizens with diplomatic immunity in Washington. "In Moscow the total number of accredited diplomats from 87 non-communist countries was 809, while the Soviet Union had 1,769 accredited diplomats in the same countries." A revealing, top-secret KGB textbook obtained by Western intelligence, *The Practice of Recruiting Americans in the U.S.A. and Third Countries*, is reproduced almost in its entirety in the book's appendix.

KGB operatives abroad have made their share of mistakes and many of them have been caught and expelled. In September, 1971 the British government publicly expelled 105 KGB and GRU officers, but only after Moscow had "contemptuously ignored" London's quiet request to desist from a campaign to "suborn politicians, scientists, businessmen, and civil servants." "Between 1970 and July 1973, 20 nations found it necessary to expel a total of 164 Soviet officials because of their illegal, clandestine actions." A list of some 1,400 "Soviet Citizens Engaged in Clandestine Operations" is carried in the book's appendix. It includes only names "postively identified by two or more responsible sources."

In earlier years, the Soviet Union followed a policy of supporting only those terrorist groups abroad which its agents controlled or thought they controlled. Today the KGB trains and materially supports many more terrorist organizations, including some operating against black and white regimes in Africa, several in Latin America, the Quebec Liberation Front in Canada, Palestine groups, and terrorists in Northern Ireland.

Many terrorist leaders are trained in the Soviet Union, but assistance to these groups is frequently assigned to the clandestine services of Cuba, Czechoslovakia, East Germany, Poland, and Hungary. At the KGB's behest, the Cubans have trained both Palestinian and Irish terrorists. KGB operatives are also active in encouraging, supporting, and organizing "peace demonstrations," riots, and other disturbances to discredit regimes whose character or policies Moscow opposses.

One of the lesser known KGB activities is the "disinformation" program designed to discredit individuals, institutions, and governments by disseminating forgeries, literary hoaxes, and false information and by committing acts such as murder for psychological political effects. The operations of a master disinformation specialist, known as Victor Louis, make interesting reading. "Twice Louis has been received at the White House; by Vice President Humphrey on Oct. 17, 1966, and by Presidential Adviser Henry A. Kissinger on Nov. 13, 1971."

The book is filled with demonstrably true stories that will fascinate the spy enthusiast. But precisely because it is interesting and well written, some people may be tempted to dismiss KGB as a romanticized thriller. That would be a mistake. John Barron has produced a harmonious blend of journalism and scholarship to the credit of both professions.

This a serious book on a serious subject and it is abundantly documented. For four years it has been painstakingly researched. Most of the facts came from former KGB agents, but in virtually all instances information was corroborated by independent sources cited in the chapter notes. "We believe we have interviewed or had access to reports from all postwar KGB defectors except two," says the author. Western intelligence services were consulted to verify data.

Barron had substantial research support from the *Reader's Digest*, of which he is a senior editor, including the monitoring of publications in 13 languages by various *Digest* offices abroad. The 331 pages of text and 131 pages of appended material make a significant contribution to literature on the Soviet Union. From beginning to end, the book rings true.

Coming at this time of intensified KGB efforts to suppress dissent, the book makes a singular contribution to understanding the limits of cooperation between the two superpowers. It lends valuable perspective to what appears to be current contradictions in the Soviet system.

The root problem is not the KGB, but the totalitarian character of the Soviet regime. And the evil in totalitarianism is its arrogance, its insistence that the party has the whole truth in all spheres of man's existence, the answer to all problems. Unlike Western political leaders, the men in the Kremlin are not constrained by a transcendent ethic, a code beyond the party and independent of it. The part is not only the state, but God. Soviet leaders invoke terms like "the rule of law" and "human rights," but they tend to be code words used to manipulate the masses and confuse adherents to Western values.

It is this spiritual arrogance that crushes the human spirit and aspirations of the people who live in a totalitarian state. This is why the KGB seeks to create spiritual isolation among Soviet citizens by making every person afraid of his neighbor or member of his family. This is why Pavlik Morozov, a 14-year-old boy who denounced his father in 1932 for giving refuge to fleeing peasants, was made a Hero of the Soviet Union. The father was summarily shot and enraged peasants lynched the boy. In 1965 a statue of Palvik was erected in his honor. The house where he betrayed his father is a Communist shrine, and today he is held up as an ideal for every worthy citizen to emulate.

Barron insists there can be no full "detente until there is an end to this massive KGB aggression" against the Soviet people and against persons, institutions, and governments around the world. The "deferential silence about KGB oppressions and depredations," he says, must be shattered. Governments, he adds, should refuse to accept known KGB agents in the guise of diplomats and should "summarily expel the legions of KGB officers entrenched in foreign capitals."

Barron acknowledges that some of the brutality of the Stalin era has passed. In those days Solzhenitsyn would not simply have been stripped of his citizenship and expelled. He would have been shot. But the basic moral (or immoral) foundation of the Soviet system has not changed. The spiritual pretention and political arrogance are still there. If this recognition means that anti-communism is becoming respectable again, all to the good.

Nevertheless, the Soviet Union is a superpower and the United States should continue to induce it to adopt those disciplines that will make nuclear war less likely without making nuclear blackmail more attractive.

It is precisely because the Soviet Union is a tyranny that we Americans should seek intellectual and cultural dialogue with Soviet citizens. "Our society," says Barron, "can survive the clandestine activities of the KGB, but their society cannot ultimately withstand the free flow of ideas."

IF THE KGB WERE TO VANISH

Were the KGB to vanish, with it would evaporate the basic means of regulating Soviet thought, speech, and behavior; of controlling the arts, science, religion, education, the press, police, and military. Gone too would be the most effective means of suppressing ethnic minorities of preventing the flight of Soviet citizens of keeping watch on individuals, of compelling the whole populace to subserve the interests of the Soviet rulers. The staffs of Soviet embassies all over the world would shrink drastically; in some capitals scarcely any Soviet representatives would remain. The Soviet Union would lose most of its capacity to commit espionage abroad—to subvert public officials; to plot sabotage and assassinations; to foment strikes, demonstrations, and riots; to nurture terrorism and guerrilla warfare; to clandestinely pollute public discourse with misinformation and calumny. It would be largely unable to seek surreptitiously what it has been unable to attain overtly.

Indeed, dismantlement of the KGB would remove the very foundation of Soviet Society, a foundation laid by Lenin more than half a century ago. "The scientific concept of dictatorship," Lenin declared in 1920, "means neither more nor less than unlimited power resting directly on force, not limited by anything, nor restrained by any laws or any absolute rules. Nothing else but that." Today the KGB primarily constitutes the force Lenin envisioned: the principal force by which Communist Party chieftains sustain their dictatorship over the Soviet people and try to project it into other societies. Hence, every person affected by the actions of the Soviet Union is affected by the KGB.—John Barron, KGB, Pages 1 and 2.

THE GREAT SOCIETY PROGRAMS

Mr. INOUYE. Mr. President, in recent years it has become fashionable among many liberal and conservative commentators and politicians to enumerate the failures of the Great Society programs that were designed to improve the life of citizens who live in the poorer areas of our country. The new mythology holds that because the expenditure of large sums of Federal dollars in poverty programs has failed to eradicate poverty and discrimination, Federal poverty programs should be eradicated.

As a U.S. Senator, a Democrat, an admirer and friend of President Lyndon B. Johnson, I voted for the Great Society programs that are now being questioned. I am proud of my support for those programs. When they were designed, legislated, and enacted, no supporter assumed that they would eradicate poverty overnight or that money alone would solve the problems of the poor. They were designed to alleviate the burden of poverty, to provide financial assistance through Federal programs which would bring people together in cooperative efforts to make life better for the disadvantaged and to examine if and how poverty might be ended in America.

The Vietnam war drained the Treasury of funds that would have otherwise gone into these programs. Then the Nixon administration undertook to emasculate the Federal role in this area. Despite these obstacles, millions of poor Americans have benefited under the Great Society programs and many innovative programs have been generated which can serve as models for future cooperative efforts in improving the life of the poor.

One such program is described in the February issue of the FBI Law Enforcement Bulletin. Sgt. Harry J. Chinn, of the police department of the city and county of Honolulu, writes of the successful law and justice awareness program that, as part of the Model Cities program, has greatly improved police-community relations and has been instrumental in lowering juvenile arrest rates in the neighborhoods where the program operates.

This kind of successful program was an integral part of the concepts embodied in the Great Society. The Honolulu Police Department and the other cooperating agencies deserve congratulations for their foresight and dedication in designing this program and making it work. And Sergeant Chinn deserves thanks for writing a story that provides an example for other communities who wish to improve police-citizen relations.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LAW AND JUSTICE AWARENESS PROGRAM

(By Sgt. Harry J. Chinn, police department, Honolulu, Hawaii)

Hawaii, the paradise of the Pacific and long considered the utopia of racial equality and harmony, suffers its share of crime and violence. Its capital city of Honolulu is constantly growing as new people arrive every day. Like other cities faced with rapid growth, we have increased problems of insufficient housing, unemployment, welfare, and racial disharmony. The manifestation of these sociological factors in crime and socially aberrant behavior ultimately has an influence on youth.

The Honolulu Police Department has recognized that youth are in turmoil about values and lifestyles, and since they reject many authorities, they may reject or resent even more the authority represented by those who enforce the law. The growing influence of youth permeates every aspect of our culture. The impact of youth on fashion, entertainment, political processes, and morals is inescapable. The course of action is quite apparent. Youth must be made aware of the necessity of the law and its total effect upon their environment. They need to be exposed to the truths and fallacies, not only of the police and the law, but of social and ethnic relations as well.

The Police Community Relations Division and the Model Cities Law and Justice Citizen Task Force agreed that a comprehensive plan for formal education in law and justice was needed to meet this challenge. As a result, the law and justice awareness program was implemented. In September of 1972, the law and justice awareness program, along with the college opportunities program, was recognized nationally as one of the outstanding Model Cities projects by the National Model Cities Directors Association.

The inception of the Model Cities police-community relations program in 1969 included two components: (1) the neighborhood safety community service aide program, and (2) the law and justice awareness program. These projects were established as an attempt to improve police-community relations and to reduce and prevent deviant or delinquent juvenile behavior. The neighborhood safety aide component was terminated in 1972 for several reasons; however, some of the experiences and ideas generated by the project were later utilized in developing an expanded community relations program.

THE PROGRAM

The law and justice awareness program was implemented through the public school system in the Model Neighborhood Areas. The school, as a cultural liaison between our society and our youth, is the best equipped resource to impress upon our youth, and the general public as well, the necessity for a lawful society. The program curriculum is designed to provide a comprehensive program of formal instruction for the three educational levels—elementary, intermediate, and high school.

Some objectives of the program are:

To develop an understanding of society based upon justice, the process by which laws are established, and why laws are necessary.

To develop a positive attitude toward upholding law and to strengthen the relationship between law enforcement and the community.

To provide students an opportunity to ask questions and express their views in a relaxed setting which promotes police-youth interaction.

Although the objectives parallel those of other school programs, the officer-instructor's approach and expectations of students differ considerably. The emphasis is primarily on creating the kind of atmospehre necessary to establish a genuine relationship between the officer-instructor and the student, rather than upon the academic phase of the lessons. The officer-instructor visits parents of all participating students to encourage and facilitate this relationship further.

In addition, followup counseling is extended to students with problems that could not be corrected either by the regular school guidance system or by parental direction. Once established, this rapport provides the avenues for the student to reach a level of awareness where he can appreciate the human aspect of the law and those who enforce it. The basic method involves discussions and dramatizations by the students of real-life situations involving citizens and law enforcement officials to sensitize them to the problems inherent in these situations. Students thus come to their own conclusions as to the role of the law in society.

The duration of the course is approximately 40 hours, and the highlights of the curriculum are as follows:

Introduction to the functions of law enforcement. Youth discussion of their own losses due to theft, and discussion regarding causes and prevention of theft.

Personal reponsibility. Problems of an individual's reputation as affected by friends' deviant activities; dangers of environment and character weakness which lead to negative labeling and trouble with the law.

Regulatory agencies and the law. Discussion of offenses resulting from unethical business and professional practices, as well as violations of municipal codes, such as sanitation regulations.

Meaningful community involvement. Discussion, with case histories and personal experiences of students, of apathy and unwillingness to become socially involved; discussion of heroes who did become involved; volunteer and charity programs.

Understanding the role of the police officer. The police officers' approach to groups, gangs, and individuals; dangers and other factors which affect the police officers' behavior: dramatizations.

The lawmaking process. Anarchism: how laws are established in other societies and how they differ from our own.

Understanding the administration of justice process. Mock courtroom situations with discussion of decisions; open discussions for creating new ideas and approaches to solve problems which face the community and the school; how we can help family and friends to understand the functions of law and order.

The learning process is further reinforced with field experiences to coincide with relevant lectures and discussions. Field experiences include tours of the district, family, and circuit courts; the State capitol; and even the military complex at Pearl Harbor. The trip to Pearl Harbor and the U.S.S. Arizona Memorial there is scheduled to focus upon the concept of "meaningful involvement and responsibility." This visit has the effect of dramatizing the point that maintenance of our free society has in the past required, and will in the future require, determined effort and sacrifice.

SPECIAL TECHNIQUES

Special classroom techniques are designed to increase program effectiveness. It is clear that words alone cannot make an individual aware of the problems of the police officer. To create a realistic approach to the problem through education, drama is utilized in the curriculum. The class is divided into three groups, and each group is given an assignment to dramatize a realistic conflict situation. For example, one group is instructed to act out a noisy party affair, another to portray a college student protest demonstration, and the third still another situation. The students are instructed that, during this performance, they will be confronted by the officer-teacher as if he were a patrolman on the beat. They in turn will react to the officer as they have seen adults reacting in similar situations.

During the presentation, emotions sometimes surface and occasionally get out of hand. Hostility toward the officer is unmasked. In such instances, one of the remaining classmates is asked to play the role of the police officer. The students take it from there.

This kind of confrontation through role playing often exposes prejudices and misconceptions to more meaningful examination. In one critique after a dramatization, a student who was known for his resentment toward the police was asked how he felt about the reenacted episode. He answered, "Now I know why the policeman had to use force to carry out his duties." These sessions have truly made it possible for the youth to empathize with the police officer and understand his problems. The students also enjoy this method of learning by exploring in simulated incidents the problems of living and relating to people.

As a spinoff of this classroom activity, students at one high school have developed a musical drama "Who's Guilty?" The play portrays the problems of law and justice and also provides an opportunity for the students to put their natural singing and dancing talents to positive, creative use. This drama has been performed widely throughout the State of Hawaii and also was performed in Chicago, Ill., at the national Model Cities conference. The play has been filmed by the State department of education and will be used as part of the department's government curriculum.

The experience has had noticeable impact upon the 100 or so young people who have participated in the musical drama. Previously, many were unable to communicate well with other people, and others were considered to be behavior problems. The changes in their ability to relate to others, their improved self-confidence, and their more positive outlook, particularly of the future, have been amazing.

At the conclusion of each class, the students are given the opportunity to evaluate the program in an anonymous manner. The question "What do you feel are the most important ideas gained in the course?" is asked. One student answered, "To try to get along with other people, and policemen, and also to get a better understanding of what's going on in this world. Today there are not too many people who have learned about this. And I hope they could have this course in every school . . . so that the younger students, and the older students would understand and wouldn't get into trouble in the future."

Several events have occurred which have demonstrated the worth of this program. One involved a former law and justice awareness student, then a 9th grader at Nanakuli High School, who was instrumental in the apprehension of two "drug pushers" on the school campus. The student commented, "I learned from the law and justice awareness class to get involved and help keep our community free of drugs."

A total of 4,321 young people from the Model Neighborhood Areas have participated in the program. The most encouraging indication of the program's success is the marked decline in the juvenile arrest rates in the two neighborhoods where the program operates. Comparing neighborhood statistics for fiscal year 1971–72 with those for 1969–70, which indicate the number of arrests per hundred population in ages 6–17, Waianae-Nanakuli has dropped from second to fifth place in the rate of juvenile crime for neighborhoods on the island. Kalihi-Palama, which was highest in the island's rate of crime in 1969, showed a decline in juvenile arrest of 21.1 percent. It is believed that this program has been a major factor in the decline. Of the students completing the course who had previous arrest records before enrolling in the law and justice awareness class, only 5.3 percent have been arrested again.

Like most new ideas, the program encountered stiff resistance at the outset. School officials and teachers tended to be highly skeptical about changes in the normal academic curriculum. Resistance to the program was strong. Insinuations were even made that the program was a form of propaganda rather than education. Some community members questioned police motives. However, with the aid of key individuals in the community, and the eventual success of the program, we have been able to overcome most negative attitudes. Overall, there has been a positive community response to the program. Many other school districts within the State of Hawaii have requested it for their schools.

EXPANSION OF PROGRAM

The Honolulu Police Department, in September of 1971, expanded the law and justice awareness program to schools, serving approximately 700 students annually, outside of the Model Neighborhood Areas. A unique phase of the expansion was the formation of classes for youngsters, both boys and girls, from the Hawaii Youth Correctional Facility. The results of these special classes have been gratifying in initiating constructive attitudinal changes among these young people.

Patrol beat officers with community relations training are now providing instruction in law and justice awareness classes for students.

Also a part of the expanded program is conflict intervention, which developed out of the experiences of the law and justice awareness program. Through a series of incidents and confrontations, the community relations specialists developed a dialogue with young gang leaders in the Waianae neighborhood concerning the future of youth in the community. As a result of these discussions, pushing of drugs in the schools, auto theft, and vandalism in the neighborhood were greatly decreased. Through increased awareness of their surroundings, positive involvement in community activities developed among many youth gang members.

Ongoing training sessions with community relations officer specialists are conducted during the 3-month rotation of beat officers into the community relations program. In addition to utilization of community relations programs, they are also assigned for purposes of orientation to other agencies and juvenile and adult probation counseling programs.

The officers who have so far participated in the program have responded positively. One of the officers who, prior to involvement in the program, had shown no interest in the community or youth problems, wrote this letter to the parents of youngsters involved in the law and justice summer youth program:

"Since our summer youth program is coming to an end, I just want to take this opportunity to say that it has been a pleasure and a great experience for me to work with your son (daughter).

"At the beginning of the program, the kids were a little reluctant to openly express themselves. In time, however, we all got to know one another and the kids learned from the experience as well as me learning from them.

"I hope all that we have shared together will remain with us through the years. Soon, everyone will be going their separate ways, and I will be returning to my regular duty as patrol officer, but I'm sure we won't forget each other. If there is anything I can do for your son (daughter) at any time, please feel free to call on me."

Creation of this change in atttiude in the patrol beat officer is, in itself, a major program achievement.

The significant aspect of this concept is the unique training interaction process of rotating beat personnel at the district level. This interaction creates an awareness in the individual officer of community relations objectives. More important, this program provides a practical setting for the police and community to explore and discuss mutual needs and goals.

The law and justice awareness program shows great promise; however, much work still is required to make it a permanent part of police operations. Perhaps, it will open the way for a more enlightened era of police-community relations.

COMMERCIAL AIR SERVICE BETWEEN JOHNSTOWN, PA., AND THE SURROUNDING AREA

Mr. HUGH SCOTT. Mr. President, I am delighted to report that commercial air service has been restored to serve the residents and businesses of Johnstown, Pa., and the surrounding area. Effective today, Allegheny Airlines has scheduled two flights daily with Convair aircraft. These planes replace those chartered by Air East whose certificate was revoked by the Federal Aviation Administration following a tragic multifatal accident.

Allegheny Airlines, the FAA, and the Civil Aeronautics Board should be commended for combined quick action in restoring this most important air service to Johnstown. In addition to Johnstown, I have learned, intermediate connecting flights also have been scheduled for the Altoona Airport, which further enhances the service for residents of Pennsylvania.

CONGRESS POWER TO ENHANCE THE CIVIL WAR AMENDMENTS

Mr. GOLDWATER. Mr. President, Mr. J. Terry Emerson who serves as my legal counsel, has done probably more extensive work in the field of war powers than any person in Washington. Many of his articles have appeared in prominent law journals across the country, his latest being published in the Notre Dame Lawyer entitled "Congress Power To Enhance the Civil War Amendments." It is excellent, which is typical of the work this young man has done in this field, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Congress Power To Enhance the Civil War Amendments*

(By J. Terry Emerson **)

INTRODUCTION

Seven years ago the Supreme Court began a fundamental reexamination of the power of Congress to expand upon the past interpretations of the Court defining what specific situations are covered by the thirteenth, fourteenth, and fifteenth amendments and what remedies Congress can use to enforce those amendments. This development has been accompanied by the related and growing trend of the Supreme Court to test the statutes and practices of state and local governments according to a much stricter standard of constitutionality generally known as the "compelling state interest" test.

Could the meteoric rise of the latter doctrine in the extensive field of equal protection and due process cases, combined with an expanded view of congressional power under the enforcement clauses of the above three Civil War amendments, engulf the very capacity of the states to govern themselves? It is the purpose of this article to test this fear against the actual trend of judicial and statutory developments and to suggest some guidelines by which the basic guarantees of the Civil War amendments can be effectively secured without danger of nullifying the separate political character of the states.

I. CONGRESS ACTS, THE COURT REACTS

A. Prologue: Ex parte Virginia

Though it was decided almost a century ago, the Supreme Court decision which enunciates the basic standard of judicial scrutiny called for in a modern case involving the en-

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Footnotes at end of article.

forcement powers of Congress under the Civil War amendments is *Ex parte Virginia*.[1] This landmark case, decided almost contemporaneously with the adoption of these amendments,[2] treats the specific question of whether an early congressional civil rights statute protecting the right of Negroes to serve as grand or petit jurors was warranted as appropriate legislation by the thirteenth and fourteenth amendments.[3] The Court held that the statute was indeed an appropriate exercise of Congress' enforcement power, saying that the Civil War amendments, "[w]ere intended to be, what they really are, limitations on the power of the states and enlargements of the power of Congress." [4] Redefining for purposes of the case the classic formulation by Chief Justice Marshall of the powers of Congress, as expressed in the necessary and proper clause of article I, § 8,[5] the Court described the reach of congressional power to enforce the Civil War amendments in broad terms:

> "Whatever legislation is appropriate, that is adapted to carry out the objects the amendments have in view, whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the enjoyment of perfect equality of civil rights and the equal protection of the laws against State denial or invasion, if not prohibited, is brought within the domain of congressional power." [6]

Either explicitly or implicitly, this analysis would prevail time and again throughout the Court's determination of a significant line of later cases initiated by the determined attack on racial discrimination which Congress launched in the 1960's.

B. Enforcing the Fifteenth Amendment

One branch of the rule of *Ex parte Virginia* flows through a group of cases decided over the past decade which sustained an increasing breadth of federal legislation designed to deal with the fifteenth amendment's ban on discrimination in voting on grounds of race or color. The first pair of these cases [7] upheld a fledgling start in this field by Congress, which in a provision of the Civil Rights Act of 1957 [8] had authorized the United States to obtain injunctions in the federal district courts against the continuation of discriminatory registration practices by state and local officials. Then, in *Hanah v. Larche* [9] the Court sustained the power of Congress in the same 1957 Act to create a Commission on Civil Rights to investigate alleged Negro voting deprivations.[10]

In *Alabama v. United States*,[11] the Court sustained the enactment by Congress of a totally new approach to its attack on racial discrimination with the Civil Rights Act of 1960.[12] The uniqueness of this law lay in its grant of authority to the United States Attorney General to apply for an order in a federal district court praying that the court should interpose itself in the state voter qualification process by affirmatively ordering registration of Negro voters.[13] Three years later, in *United States* v. *Mississippi*,[14] the Court sustained the power of Congress by the same Act to authorize the Attorney General to file proceedings against a state for preventive relief in advance of actual discrimination so long as there are reasonable grounds for belief that any official is about to engage in any act or practice of racial discrimination in voting.[15] Moreover, this provision allows the Attorney General to prevent the application of state laws allegedly used as devices to keep Negroes from voting on account of their race.[16] The Court held that these provisions were passed by Congress under its authority to enforce the fifteenth amendment's guarantee "against any discrimination by a State, its laws, its customs, or its officials, in any way." [17] The Civil Rights Act of 1960 was again upheld in *Louisiana v. United States*,[18] where the Attorney General successfully brought an action striking down a state "citizenship" test which the Court found had been applied as part of a scheme to deprive Negroes of their voting rights.[19]

The landmark of recent fifteenth amendment cases is *South Carolina v. Katzenbach*.[20] Here the Court reviewed legislation more encompassing than any Congress had previously passed in the voting field—the Voting Rights Act of 1965.[21] Disappointed with the pace of human rights progress through individual court cases initiated by the Justice Department, Congress laid down a comprehensive formula applying new and broad remedies to entire states and political subdivisions. One remedy suspended all literacy tests and similar voting qualifications of covered states and localities for a period of five years.[22] A second suspended all new voting regulations pending advance review by federal authorities.[23] A third assigned federal examiners to assume the normally exclusive state function of listing qualified voters.[24] The Court rejected the argument that to allow Congress to so strike down state statutes and procedures would rob the judiciary of its rightful constitutional role. By adding section 2 of the fifteenth amendment, the Court found, "[t]he Framers indicated that Congress was to be chiefly responsible for implementing the rights created in § 1." [25] Thus, the Court reaffirmed the conclusion reached in *Ex parte Virginia* that "[i]t is the power of Congress which has been enlarged." [26] The Court reasoned, "[a]ccordingly, in addition to the courts, Congress has full remedial powers to effectuate the constitutional prohibition against racial discrimination in voting." [27] The Court also repeated the fundamental ruling first announced in *Ex parte Virginia* that the basic test to be applied in a case involving the enforcement clause of the fifteenth amendment is the same as in all cases concerning the express powers of Congress with relation to the reserved powers of the states, the analysis of *McCulloch v. Maryland* tailored for the particular context of the fifteenth amendment.[28] Finding that the statutory scheme of Congress conformed to this criteria, the Court upheld the basic constitutionality of the 1965 Act and sustained the power of Congress to fashion specific remedies without any need for prior adjudication of state voting practices and legislation.[29]

The applicability of the 1965 Act to a broad range of state election laws, although not specified in the law itself, was established by the Court in *Allen v. State Bd. of Elections* [30] based on the mass of legislative history articulating the purposes of the Act.[31] The Court next sustained application of the ban on literacy tests against a county where there was no evidence the test had been openly administered in a discriminatory manner, but where it actually operated to disenfranchise racial minorities who had suffered previous governmental discrimination in education.[32]

Then in *Oregon v. Mitchell*,[33] the Court unanimously upheld Congress' latest effort in this field, section 201 of the Voting Rights Act Amendments of 1970.[34] This provision prohibits the use of any test or device resembling a literacy test in all federal, state or local elections across the entire United States, not just selectively in only a few states.

Thus, step-by-step, Congress had encouraged the Court by increasingly more expansive legislation to adopt increasingly broader interpretations of the scope of Congress' power under the enforcement clause of the fifteenth amendment. From the initiation of civil actions by the Attorney General and the utilization of court orders in specific cases and localities, Congress has moved to the supplanting of state laws and procedures on its own and the substitution of federal personnel for state voting officials. For all intents and purposes, Congress has over the past decade effectively caused the Supreme Court to expand its past interpretations of the situations which are covered by the fifteenth amendment, if, in the doing, Congress itself cannot be said to have expanded upon such judicial interpretations.

II. THE COURT GUIDES; CONGRESS FOLLOWS

A. The Rule of Katzenbach v. Morgan

If the Supreme Court has been moved to a more expansive view of congressional enforcement power under the fifteenth amendment by a progression of federal civil rights statutes, each broader than its predcessor, it is the Court who has encouraged Congress to take a view of its powers under the fourteenth amendment going beyond what past decisions have reached in specific factual situations. Congress was stirred into this action primarily by reason of a single decision, *Katzenbach v. Morgan*;[35] it also was influenced by a growing line of other fourteenth amendment cases which, for over a decade, have been steadily eroding the general authority of the states to legislate on subjects historically resting within their separate domain.

Morgan, which was the true catalyst for new departures in congressional protection of civil rights, will be discussed first. On the surface, *Morgan* treated the constitutionality of section 4(e) of the Voting Rights Act of 1965,[36] a provision which prohibits enforcement of the New York State English language literacy test against New York residents from Puerto Rico. It might have been regarded as just one more link in a chain of decisions overturning state practices with racially discriminatory overtones. But the decision was not so limited.[37] The Court repeated the well settled principle that Congress' power to enforce the fourteenth amendment can be measured by reference to its powers under the necessary and proper clause.[38] It then broke new ground of its own by holding: "Correctly viewed, § 5 is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment." [39] The Court applied this conclusion to the facts of the case in an equally broad manner. In determining whether the federal statute is "plainly adapted" to furthering the aims of the equal protection clause, as required by the reformulation of Chief Justice Marshall's analysis, the Court declared that it is for Congress to assess and weigh the various conflicting considerations involved in legislating.[40] The Court specifically included, among the considerations so reserved for Congress, an appraisal by it of the risk of discrimination that arose from the state statute and the effectiveness of the various remedies available by which Congress might eliminate this risk.[41] The Court also deferred to the judgment of Congress as to the nature and significance of the state interest that would be affected by the remedy Congress selected, stating, "It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did." [42]

Thus, *Morgan* verges on the brink of holding that Congress can be its own judge of what situations are prohibited by the equal protection clause of the fourteenth amendment and of what remedies are appropriate to enforce these prohibitions. In addition, the Court bodes close to saying that Congress can second-guess a state government with respect to the factual determinations which serve as the basis for a state's law and can make its own binding conclusions even as to how substantial a state's interest is in passing the law which Congress would regulate or contravene.

Footnotes at end of article.

B. The "Compelling State Interest" Text

Of equal importance with the scope of its ruling in *Morgan* is that the Court had applied to the New York literacy law a higher standard for review of state determinations than was traditional.[43] This more exacting standard has come to be known as the "compelling state interest" test although it has appeared under different labels. By whatever name it is called, it is directly related to the deference which the Court gives to congressional legislation under the enforcement clauses of the Civil War amendments and thereby to Congress' power to effectively expand the Court's interpretations of those amendments. Under this test Congress can override any state statute which affects important rights unless the state can demonstrate the statute is necessary to promote a compelling governmental interest.[44] In contrast, under traditional analysis a state legislative device or classification will be sustained unless it is patently "arbitrary" or "invidious" and bears no rational relationship to a legitimate governmental interest.[45]

The "compelling interest" test appears to stem from two kinds of cases, one in which the stricter standard is used because a state statute affects "fundamental rights" and the other in which it is used because the statute is based upon "suspect" criteria.[46] But there is a growing effort within the Court to explain its past cases, not on the basis of "two neat categories which dictate the appropriate standard of review-strict scrutiny or mere rationality." [47] but rather on the basis of the Court's judgment as to the relative importance of the right affected and invidiousness of the state action.[48] Whichever way the standard of review is cast its application will extend the possibilities for congressional intrusion on state interests. Under either test, the presumption of constitutionality normally afforded state statutory schemes is discarded and the burden is shifted to the state to show that there is no alternative which results in less impact upon the individual interest at stake, be it a "fundamental" constitutional right or an interest of constitutional "importance."

The strict standard of equal protection review appears prominently in the voting rights field. Since 1965 there have been at least seven decisions upsetting state or local election schemes based upon exacting judicial scrutiny under the fourteenth amendment of the state or local governmental objectives and methods.[49] A strict review is also dictated for state statutes providing for federal congressional redistricting, but the rationale of these decisions is founded upon article I, § 2, of the Constitution, not the equal protection clause of the fourteenth amendment.[50]

One may have thought the Court first developed a new formulation of the equal protection test in *Reynolds* v. *Sims* [51] where it disapproved of an apportionment scheme of Alabama; [52] but this reading has not been accepted by a majority of the Court.[53] Instead, the true forebearer of the new standard occurs not in the legislative redistricting field, where the Court has maintained a dichotomy between the two lines of congressional districting under article I and state legislative reapportionments under the fourteenth amendment,[54] but rather in the area of the selective distribution by a state of the franchise. Here the Court has unequivocally determined that state voter qualification laws which exclude otherwise qualified citizens from the franchise must be tested by the stricter standards.[55] Similarly, state administrative regulations which deny to citizens their right to participate in elections on an equal basis with other citizens must be examined by strict scrutiny.[56] Exceptions to these generalized rules for voting cases fall into four categories. The stricter "equal protection" standard is not applicable (1) if the Court finds the state statute cannot pass even the lenient traditional tests,[57] (2) where the state does not absolutely disenfranchise the members of any definable class,[58] (3) when a state elects functionaries whose duties are far removed from what might be thought of as "normal governmental" authority and whose actions disproportionately affect the delineated class accorded the vote,[59] and (4) in federal congressional redistricting situations which are governed under the special standards applicable to reapportionment of congressional seats.[60]

Perhaps the voting case in which the rule has been most fully articulated is *Kramer* v. *Union School Dist.* [61] where the Court held that the equal protection clause prohibited New York from limiting the vote in school district elections to parents or guardians of schoolchildren and property owners or lessees. The Court took pains to articulate why it was setting aside the normal presumption of constitutionality afforded state statutes:

"The presumption of constitutionality and the approval given 'rational' classifications in other types of enactments are based on an assumption that the institutions of state government are structured so as to represent fairly all the people. However, when the challenge to the statute is in effect a challenge of this basic assumption, the assumption can no longer serve as the basis for presuming constitutionality." [62]

A more recent case in which the stricter test appears, but under a different label, is *Bullock* v. *Carter*.[63] Here the Court openly discussed at length when the stricter standard applies and when it does not. The case arose out of the Texas filing fee scheme which prevented some potential candidates from seeking the nomination of their party due to their inability to pay the fee. Concluding that the Texas laws had a real and appreciable impact on the exercise of the franchise and that this impact was related to the resources of the voters supporting a particular candidate, the Court held "that the laws must be 'closely scrutinized' and found reasonably necessary to the accomplishment of legitimate state objectives in order to pass constitutional muster." [64] Given the exacting standard it required, the Court found the Texas laws unnecessary to pursue even the substantial state interest in financing the cost of its primaries.

Although the stricter equal protection test has most often been applied in the "fundamental right" area to state classifications which limit the franchise, the Court has also used the stricter standard of review in safeguarding other fundamental rights such as the right to travel,[65] freedom of speech,[66] and freedom to procreate.[67] Moreover, it is well settled that under the equal protection clause the basic presumption of the constitutional validity of a state law "disappears when a State has enacted legislation whose purpose or effect is to create classes based upon criteria that, in a constitutional sense, are inherently 'suspect.' " [68] Consistent with the central purpose of the fourteenth amendment to eliminate official racial discrimination, the Court has decided that a classification based upon race is one such "suspect" category.[69] Other classifications determined to create "suspect" categories include those based upon alienage,[70] national origin,[71] illegitimacy,[72] wealth,[73] and arguably, sex.[74]

The special standard for testing state laws also is found in fourteenth amendment due process cases dating back at least to *Schneider* v. *State*,[75] which upheld the freedoms of speech and press "as fundamental personal rights and liberties." Subsequent due process cases in which the Court has held that the state interest needed to justify the infringement of fundamental rights must be "compelling," and not merely rationally related, to the accomplishment of a legitimate governmental purpose fall into at least six subject areas: [76] (1) academic liberty and political freedom of the individual,[77] (2) the freedom of association,[78] (3) the free exercise of religion,[79] (4) the right of free expression,[80] (5) the right of personal privacy [81] and (6) the right to vote in both federal and state elections.[82] The extension of the "compelling interest" test to these several classes of fundamental rights, both in the equal protection and due process fields, and to the field of "suspect" classifications could foreshadow the supervision of the states by Congress in virtually every field where a state traditionally governs itself and its people. The question has been raised by members of the Court whether every state statute might not affect some basic human right [83] or create classifications permanent in duration which are less than perfect.[84]

III. THE COURT APPLIES A BRAKE

A. Congressional use of the "compelling interest" test

Oregon v. *Mitchell* [85] heralds the first strong brake by the Court on the "compelling interest" test and the intrepid slide toward making Congress the judge of its own enforcement powers under the Civil War amendments. In a near unanimous decision, but with no single rationale enjoying a majority, the Court's judgment upheld Congress' power in the Voting Rights Act Amendments of 1970 [86] to set uniform residency requirements and absentee balloting standards in elections for presidential and vice presidential electors. In the same decision and again with no single reasoning prevailing, the Court held that Congress cannot interfere with the age set for voters by the states for state and local elections but can control age qualifications in federal elections alone. The only reasoning supported by a majority of the Court was that Congress has ample power under the enforcement clause of the fifteenth amendment to prohibit the use of literacy tests or other devices to discriminate against voters on account of their race in all elections, state and national.

The previously discussed literacy test provision aside, the statutory schemes considered in *Oregon* represent the first legislative enactments by Congress to expressly utilize the "compelling interest" doctrine as a means for expanding Congress' power under the Civil War Amendments. Both section 202 of title II, setting presidential elector regulations,[87] and title III, providing for the 18-year-old vote,[88] include specific findings by Congress that the application of restrictive state laws does not bear a reasonable relationship to any compelling state interest.

B. Section 202—Presidential Election Reforms

Since § 202 was introduced first and literally served as a drafting model for the Congressional findings made in title III, this provision will be examined first. Section 202 clears away a broad range of technical barriers which had previously impeded the right to vote for President of nearly ten million Americans.[89] The incredible mishmash of disorganized state and local regulations that formerly had existed, kept fully-qualified citizens away from the polls for no reason other than their failure to meet some unwarranted and outmoded legal technicality,[90] Some citizens could not vote because they had been residents of the state for only eleven months and could not meet the one year residence requirement. Others were ineligible because they were traveling outside the state on election day and were not allowed to obtain absentee ballots. Another category of disenfranchised citizens included nearly a million visitors, students, civil service em-

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ployees, and businessmen who were overseas and found themselves among the three out of every five civilian citizens who could not register absentee.[91]

Section 202 made a dramatic overhauling of residency and absentee regulations in presidential elections. Enacted in substantive form exactly as introduced, the legislation abolished the durational residency requirement as a precondition to voting for President and Vice President, both for citizens who move from state-to-state or within the same state; [92] established a uniform national right of registering and voting by absentee process in presidential elections; [93] and mandated that the polls be kept open at reasonable times for registration by both new and long-time residents of a state until at least 30 days before the election.[94]

In making these sweeping changes in state laws and practices, Congress relied upon at least four distinct grounds for the exercise of congressional authority.[95] In *Oregon* the Supreme Court was to seize upon each of these justifications in upholding § 202. First, § 202 rested upon Congress' power to secure the rights inherent in national citizenship,[96] which include the right to vote for federal officers.[97] Since these rights adhere to United States citizenship, rather than citizenship of a state. Congress believed it could give them protection under the necessary and proper clause of article I.[98] A related basis for Congress' action was its design to protect the fundamental and national right or privilege of travel by a citizen, without sacrificing his right to vote.[99]

As an alternative ground, Congress used its reading of the then recent case of *Katzenbach v. Morgan* to assert an exercise of power under the fourteenth amendment.[100] Viewed as a fourteenth amendment matter. § 202 protected against a discriminatory classification in voting between citizens who were new or long-time residents and between those who were physically present or absent at the time of registration or voting.[101] In light of similar state laws which indicated states could satisfy their legitimate interests by the rules it was legislating, Congress saw no compelling reason why a state should condition the right to vote for President on the duration of a citizen's residence or a resident's physical presence or absence at the polls. For example, 40 states then allowed certain classes of their residents to register until 30 days or sooner before each presidential election. State practice itself had demonstrated that the 30-day rule of § 202 would not be administratively impractical.[102] Moreover, 37 states allowed application for absentee voting by certain persons within a week of the election, and 40 permitted the marked ballot of absentee voters to be returned as late as on election day;[103] both standards were incorporated into § 202 as national criteria.[104] The fact that so many states had been able to satisfy their administrative needs for part of their citizens by providing for these several exceptions from their general regulations demonstrated that more restrictive rules were not necessary to serve any compelling interest.[105]

The fourth basis of Congress' power to adopt legislation creating uniform standards for voting in presidential elections is its authority to enforce the privileges and immunities guaranteed to citizens of all the states. Here it was Congress' purpose of correcting the incredible system of conflicting state and local requirements applicable to presidential elections which created a serious inequality of treatment as among citizens of one state compared with citizens of other states.

Eight members of the Court upheld Congress' power to adopt the uniform regulations of § 202. Justice Brennan, joined by Justices Marshall and White, rested his opinion squarely upon the "compelling interest" doctrine and Congress' power to enforce the fourteenth amendment by "eliminating an unnecessary burden on the right of interstate migration." [106] Justice Douglas also upheld § 202 as a means to enforce the fourteenth amendment, but related his opinion to section 1 of that amendment, the privileges and immunities clause.[107] Justice Stewart, joined by Chief Justice Burger and Justice Blackmun, sustained § 202 on the ground of the authority of Congress to protect and facilitate the exercise of privileges of United States citizenship under the necessary and proper clause of article I without regard to section 5 of the fourteenth amendment.[108] He wrote that the freedom to travel from state to state without loss of the franchise is one of the privileges "that finds its protection in the Federal Government and is national in character." [109] Consequently, as against the reserved power of the states, it was enough for these Justices that the objective of § 202 to guarantee the privilege to travel was a legitimate one and that Congress had chosen a rational means to achieve that end.[110] Justice Black, who announced the judgment of the Court, also rejected the fourteenth amendment as a basis for Congress' action, but agreed that Congress could enact § 202 pursuant to the necessary and proper clause. He based his view on the final authority which Congress has to make laws over federal elections.[111] Only Justice Harlan believed § 202 was invalid on any ground.[112]

The precision with which § 202 was drafted may explain the broader support it received among the Court than did the voting age change. The three Justices who, as shall be discussed, ruled for the authority of Congress to enact the residence provision, but against its power to legislate an age qualification, remarked:

"The power that Congress has exercised in enacting § 202 is not a general power to prescribe qualifications for voters in either federal or state elections. It is confined to federal action against a particular problem clearly within the purview of congressional authority." [113]

In this sense, a majority of the Court united on the proposition that the power of the states over matters normally within their general jurisdiction is subject to the power of Congress to vindicate the personal rights or privileges which the Court has determined to be secured to the citizen by the Federal Constitution. If Congress acts with the objective of protecting these rights or privileges in a narrowly drawn manner, rather than with the purpose of passing general legislation over a state-reserved field, congressional power exists to establish specific regulations attacking a particular problem in the field.

But even the application of this conservative rule illustrates that Congress can "expand" the protection of the Civil War amendments previously defined by Supreme Court decisions. Section 202 abolished the durational waiting period for new residents in presidential elections two years before the Supreme Court narrowed the same practice in state and local elections [114] and six years after it had upheld the same requirements as applied in presidential elections absent an act of Congress.[115]

C. Title III—The 18-year-old vote

The major check on congressional power under the enforcement clauses was reached with the Court's consideration of title III of the Voting Rights Act of 1970, which sought to extend the vote to 18-year-olds in all elections. The holding was closely decided with four Justices agreeing that Congress could enforce the right of voting under the equal protection clause of the fourteenth amendment against limitations by state laws which Congress concluded were unfair or unnecessary voting restrictions; [116] but five members of the Court found no such power resting in Congress.[117]

Justices Brennan, Marshall, and White concluded that proper regard for the special function of Congress in making determinations of legislative fact compelled the Court to respect those determinations independent of any state finding argued in support of a given state discrimination. Under the doctrine of the supremacy clause, Congress could make its own determination of *whether or* not the factual basis necessary to support a state legislative discrimination actually exists. Thus, Congress could conclude on its own that 18-year-olds are not substantially less capable of a responsible exercise of the vote. Once having made this finding, it could remove the age discrimination under the enforcement clause of the fourteenth amendment so long as it could rationally find that the discrimination was unnecessary to promote any legitimate state interest.[118] Justice Douglas' separate opinion on the 18-year-old vote provision conforms with this same analysis.[119]

Three members of the Court, Justices Stewart and Blackmun, and Chief Justice Burger, sharply criticized the view "[t]hat Congress has the power to determine what are and what are not 'compelling state interests' for equal protection purposes." [120] These Justices worte that the voting age provision: is valid only if Congress has the power not only to provide the means of eradicating situations that amount to a violation of the Equal Protection Clause, but also to determine as a matter of substantive constitutional law what situations fall within the ambit of the clause, and what state interests are "compelling." [121]

And they wrote, "to test the power to establish an age qualification by the 'compelling interest' standard is really to deny a State any choice at all. . . ." [122] Even so, these members allowed in somewhat ambiguous language:

"That Congress could impose on the States a remedy for the denial of equal protection that elaborated upon the direct command of the Constitution, and that it could override state laws on the ground that they were in fact used as instruments of invidious discrimination *even though a court in an individual lawsuit might not have reached that factual conclusion.*[123] (Emphasis added.)

The swing Justice, Mr. Black, upheld the power of Congress to enfranchise 18-year-old citizens in national elections only on the ground that Congress can control voter qualifications in federal elections.[124] Justice Harlan disagreed that title III could be supported on any conceivable ground.[125]

That a conservative could comfortably adopt the stricter test as a means to support Congressional action over the age standard is evident in the position taken by Senator Goldwater in support of the uniform age provision. Arguing on the basis of *Texas v. United States,*[126] which had sustained the power of Congress to prohibit the use of the poll tax as a prerequisite to voting in state elections, the Senator contended the right to vote in both state and federal elections was a fundamental right which can be secured against any state law not promoting a compelling governmental interest.[127] From the outcome of *Oregon*, this view misjudged the Court's position by a single vote. While there is a right to vote in state elections "[o]n an equal basis with other citizens in the jurisdiction," [128] the right to vote in state elections itself has not become firmed in the law.[129] Nevertheless, it was a fair reading of the Court's past cases and one that may yet prevail.

IV. THE THIRTEENTH AMENDMENT REVISITED

Lest it be thought the thirteenth amendment is dormant, the Supreme Court has recently defined a new breadth of authority in Congress under this amendment. In *Jones*

Footnotes at end of article.

v. Mayer Co.[130] the Court held that a century-old act of Congress banning racial discrimination in the rental and sale of property could be enforced against private, as well as public, racial discrimination.[131] Applying the now standard reformation of the analysis of *McCulloch v. Maryland* to the question of the appropriateness of the measure, the Court ruled that the authority of Congress to enforce the thirteenth amendment "by appropriate legislation" includes the power to eliminate *all* racial barriers to the acquisition of real and personal property.[132] Heralding a vast and rejuvenated scope for independent judgment by Congress under the original Civil War amendment, the Court emphasized that Congress itself can determine what are the badges and incidents of slavery and can translate that determination into effective legislation.[133] The Court added that the badges and incidents of slavery which Congress may attack encompass restraints on all the fundamental rights which make up "the essence of civil freedom." [134] This language appears to foretell a broad area for future legislative enhancement of the Court's prior interpretations of what kinds of discrimination are reached by the thirteenth amendment, should Congress choose to act.[135]

V. POSTSCRIPT: CONGRESS MAY NOT DILUTE RIGHTS

The same standard of review which bodes an expanding role for Congress does not signal a like authority for Congress to weaken constitutional rights. The Supreme Court has not only forewarned Congress that the "compelling interest" doctrine in no way supports restrictions on human rights, but the Court has applied this very rule against the validity of congressional enactments which have infringed on personal freedoms. For example, in *Aptheker v. Secretary of State* [136] the Court was called upon for the first time to directly consider the constitutionality of a federal restriction upon the right to travel abroad. The Court held that the law, which effectively prohibited travel outside the Western Hemisphere by members of the Communist party, failed to satisfy the strict rule of necessity which was applicable to such restrictions. Even though the governmental interest asserted might be legitimate and substantial, the Court indicated, that purpose cannot be achieved by means which stifle fundamental personal liberties when the end can be more narrowly achieved.[137] Similarly, in *United States v. Jackson* [138] a provision of the Federal Kidnaping Act was invalidated because the element of necessity was absent.[139] And in *Shapiro v. Thompson* [140] the Court held that it would be unconstitutional for Congress to permit the states to impose a one-year waiting period which denied public assistance to poor persons otherwise eligible. Rejecting the dissent by Chief Justice Warren and Justice Black, the Court's majority stated, "Congress may not authorize the States to violate the Equal Protection Clause." [141] *Shapiro* squarely presented a situation where the Court used the "compelling interest" standard to invalidate a state regulation and yet in the identical case refused to give a federal statute any broader scope under that standard where to do so would have meant allowing Congress to infringe on human rights.

Thus, the Court has proven in practice the admonishment it gave by dictim in *Katzenbach v. Morgan*: the fourteenth amendment "does not grant Congress power to exercise discretion in the other direction and to enact 'statutes so as in effect to dilute equal protection and due process decisions of this court.' " [142] From this, it may be said that the Court will use the stricter standard and its more expansive view of Congressional power under the enforcement clauses only to protect personal rights and liberties, not in any way to restrict, abridge, or weaken these guarantees.[143]

VI. SOME PROPOSED LIMITS ON CONGRESSIONAL ACTION

The limits on Congressional sallies under the enforcement clauses of three Civil War amendments must stem from the good sense of Congress and a healthy respect by both Congress and the judiciary for the maintenance of the federal system as a viable feature of the unique American political experiment. Before venturing into new situations which abrogate long-standing state procedures which the judiciary itself has not been ready to judge improper, Congress should consciously and conscientiously examine the precedence for what it is proposing among the usage of the states themselves. Congress should ask itself whether a sizable body of states had ever put into practice the requirements Congress is about to ask all states to implement. Were these same rules proven feasible in the complex realities of everyday administration? Did the new rules actually achieve the remedies sought by Congress when they were tried among the states already living with them? Congress also should make a deliberate appraisal of the nature and significance of the interests which states may have in retaining their present procedures. This is not to say that Congress has power to make a constitutionally superior judgment on the matter, but that Congress ought to explore the subject out of a respect and fairness toward state governments as important institutions in their own right.

For its part, the Court should plainly recognize when it is applying the "compelling interest" standard to test a state statute and when it is not. It should not be sloppy in using the exacting test and should develop clearcut precedents for the guidance of Congress in this relatively new dimension of enforcement legislation. Merely by closely observing the difference between the standard test and the rigid one, as was done in *Bullock v. Carter*,[144] the Court may place some self-restraint on its exercise of the unusually stringent rule. Even more necessary, the Court, prodded by a lively discussion within the legal profession and in the public forum, must shape its own delimiting boundaries on using the stricter standard. In carrying on this review, it is suggested that the Court should pay more than lip service to the prominent theme which runs through all of these cases, the element of necessity. By examining whether a state law really is necessary—whether there truly is any other reasonable and practical means of accomplishing the goal of the statute under attack without infringing a protected freedom—the Court can guard against totally abrogating the authority of a state over a particular subject. Obviously, the states would retain a far greater scope for governing their own affairs if they were to be actually left with the choice of using an alternative means of pursuing their valid interests, instead of being left with no choice at all. More basically, the Court should make an effort to explain why the strict scrutiny test is applicable in the particular setting and to provide an analytic basis for the result reached. This is the prescription of Chief Justice Burger, joined by Justice Rehnquist, in the former's dissent in *Vlandis v. Kline*,[145] and it offers much food for thought. The Court's task, according to the Chief Justice, is not routinely to see whether there is some conceivably "less restrictive" alternative to the state statute under review, but to explain why the statute impairs a genuine constitutional interest truly worthy of the standard of close judicial scrutiny.

Though it did not involve an act of Congress and the distinct matter of congressional prerogative under the enforcement clauses, the recent case of *San Antonio School District v. Rodriguez* [146] provides exactly the kind of narrowed analysis advanced by the Chief Justice. This case involved the Texas system of financing public elementary and secondary education significantly out of locally assessed property taxes.[147] A majority of the Court rejected a class action brought by Mexican-American parents on behalf of members of minority groups and poor persons who reside in school districts with a low property tax base. For several reasons given in a lengthy analysis,[148] the Court's majority was unpersuaded that the case could be fitted into previous decisions in which strict scrutiny was required. The five member majority concluded that the Texas system does not discriminate against a "suspect" class [149] nor does it interfere with a "fundamental" constitutional right.[150] Probing the hard threshold questions which it indicated must be focused on before a state's laws are subjected to strict judicial scrutiny, the Court found that children in the poorer property districts were not denied an adequate education and could not be fairly defined in suffering the loss of such an education because of their indigency.[151] Therefore, the two distinguishing characteristics of wealth discrimination found in the Court's previous cases were not present. First, the Texas school financing system did not operate to the peculiar disadvantage of any definable category of "poor" people; and second, the lack of wealth did not result in an *absolute* deprivation of public education.[152]

Even if the case were to be examined from the standpoint of "district" wealth discrimination, rather than on the basis of "individual income characteristics," the Court declined to extend its most exacting scrutiny with respect to such "a large, diverse, and amorphous class," which had none of the traditional indicia of suspectness.[153] Justice Powell's opinion for the Court reasoned that:

"The system of alleged discrimination and the class it defines have none of the traditional indicia of suspectness: the class is not saddled with such disabilities, or subjected to such a history of purposeful unequal treatment, or relegated to such a position of political powerlessness as to command extraordinary protection from the majoritarian political process.[154]

Thus, the Court formulated an important guide for defining what nature of groups could claim the special protection accorded "suspect" classes and charted a new limit on the difficult "compelling interest" doctrine. Further, the Court refined its analysis of what constitutes a "fundamental" right and thereby sought to underline the limits of this part of the rationale employed in the Court's strict scrutiny decisions. Justice Powell's majority opinion expressly rejected the idea that the "importance" of a service or benefit provided by the state should determine whether it must be regarded as fundamental.[155] His statement argued that if the Court picked out particular human activities and characterized them as fundamental depending on a majority's view of the importance of the interest affected, it would indeed be assuming a legislative role and one for which it lacks both authority and competence.[156] On the contrary, all the Court had done in its earlier decisions was to recognize as being fundamental those rights which were already established constitutional rights, such as the right to interstate travel.[157]

The majority position held that the Court did not in its other strict scrutiny cases invoke an ad hoc determination as to the social or economic importance of human rights.[158] The lesson of its prior cases, stated Justice Powell, plainly revealed that "it is not the

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province of this Court to create substantive constitutional rights in the name of guaranteeing equal protection of the laws."[159] Rather, the key to discovering whether a service or interest is "fundamental" lies in assessing whether it is among the rights "explicitly or implicitly guaranteed by the Constitution."[160] Applying this principle to the Texas property tax situation, the Court held that there is no guarantee of a right to obtain more than a basic education.[161] Where the state law does not cause an absolute denial of educational opportunities to any of its children, the mere fact that education may be related to the effective exercise of first amendment freedoms and to the intelligent exercise of the vote does not mean that education is itself a fundamental personal right.[162] Justice Powell concluded that the Court does not possess "[t]he ability or the authority to guarantee to the citizenry the most effective speech or the most informed electoral choice."[163] These are goals to be pursued by legislatures, not by judicial intrusion.

Moreover, Justice Powell indicated the strict scrutiny rule was inappropriate to the property tax scheme because it differed in one further respect from the earlier fundamental right line of cases. Texas was not endeavoring to deprive anyone of a right to an education. Its system was utilized in an effort to *extend* public education and to improve its qualities. Since the thrust of the Texas system is affirmative, it "should be scrutinized under judicial principles sensitive to the nature of the State's efforts and to the rights reserved to the States under the Constitution."[164] Consistent with this theme, the Court also revealed that for once it was granting more than a rote genuflection to the principles of federalism. Justice Powell's admonition for judicial restraint against circumscribing or handicapping continued research and experimentation by the states in the educational financing area proves that a true respect for federalism contributed to the Court's determination not to apply the strict test.[165] In Justice Powell's words, "it would be difficult to imagine a case having a greater potential impact on our federal system than the one now before us, in which we are urged to abrogate systems of financing public education presently in existence in virtually every State."[166] Here is a strong indication the Court will pay more attention in the future to the actual degree to which feasible alternatives may exist and the extent to which precedents comparable to the practice being hoisted by Congress may have been successfully tested among the states before the Court applies the stricter judicial test.

CONCLUSION

A view is beginning to take shape among the Court which sets some rough but recognizable boundaries on the application of the strict test. Inherent in this trend is a distinct and serious concern for the survivability of the federal system. Both developments have an important nexus with the Court's disposition to uphold congressional enforcement legislation under the Civil War amendments and indicate that the pause in this area which the Court began with *Oregon v. Mitchell* is still very much alive. If, as seems likely,[167] the Court continues its recent inclination to consider questions of federalism closely and to draw a clearer analysis for its appplication of the stricter test, reliance on this test by the national Congress should not have the dire effects upon state power feared by some. The "compelling state interest" standard is a legitimate and useful tool which Congress may properly use in advancement of personal rights and liberties. Used wisely, Congress can, by tying this doctrine to its broad discretion for action under the Civil War amendments, further enhance the lives of millions of the nation's citizens, be they members of racial minority groups striving to achieve a more equal position in society or part of "middle America" seeking relief from archaic election disabilities. Bound by the strictures of a newly developing majority on the Court, the twin doctrines of stricter scrutiny and enforcement clause legislation raise hope and opportunity for disadvantaged Americans without doing violence to the fundamental division of power between the state and national governments.

FOOTNOTES

[*] This article is an extended and updated version of a shorter paper originally prepared for the Weaver Essay Program of the American Bar Foundation.

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[1] 100 U.S. 339 (1879).

[2] The thirteenth amendment was certified by Secretary of State Seward on December 18, 1865, the fourteenth amendment was certified without reservation on July 28, 1868, and the fifteenth amendment was certified on March 30, 1870.

[3] The statute provided that no citizen, otherwise qualified, shall be barred from service as grand or petit juror because of race, color, or previous condition of servitude. It imposed a penal sanction against any officer or person charged with any duty in the selection or summons of any citizen for such service who violated this mandate. 100 U.S. at 339.

[4] *Id.* at 345.

[5] "Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriated, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional." McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316, 421 (1819).

[6] 100 U.S. at 345–46.

[7] United States v. Raines, 362 U.S. 17 (1960); United States v. Thomas, 362 U.S. 58 (1960).

[8] Pub. L. 85–315, 71 Stat. 637 (Act of September 9, 1957), 42 U.S.C. §§ 1971 *et seq.* (1970).

[9] 363 U.S. 420 (1960).

[10] 42 U.S.C. § 1975 (1970).

[11] 371 U.S. 37 (1962).

[12] 42 U.S.C. §§ 1971 *et seq.* (1970).

[13] 42 U.S.C. §§ 1971(e) (f) (1970); *Cf.* Ex parte Siebold, 100 U.S. 371 (1879).

[14] 380 U.S. 128 (1965).

[15] 42 U.S.C. § 1971(c) (1970).

[16] 42 U.S.C. §§ 1971(a) (c) (1970).

[17] 380 U.S. at 138.

[18] 380 U.S. 145 (1965).

[19] *Id.* at 151–53.

[20] 383 U.S. 301 (1966).

[21] 42 U.S.C. §§ 1971 *et seq.* (1970).

[22] 42 U.S.C. § 1973(b) (1970).

[23] 42 U.S.C. § 1973(c) (1970).

[24] 42 U.S.C. §§ 1973(a) (d) (1970).

[25] 383 U.S. at 326.

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] *Id.* at 327–37.

[30] 393 U.S. 544 (1969). *Accord,* Perkins v. Matthews, 400 U.S. 379, 387 (1971), deciding that a change in the location of polling places constitutes a "standard, practice, or procedure with respect to voting," covered by the Voting Rights Act of 1965; Georgia v. United States, 411 U.S. 526 (1973), confirming the reach of such Act to state reapportionment statutes.

[31] *Id.* at 563–71.

[32] Gaston County v. United States, 395 U.S. 285 (1969).

[33] 400 U.S. 112 (1970).

[34] 42 U.S.C. § 1973b (1970).

[35] 384 U.S. 641 (1966).

[36] 42 U.S.C. § 1973b(e).

[37] *Morgan* has since been described by Justice Stewart, with Chief Justice Burger and Justice Blackmun, joining, as giving congressional power under section 5 of the fourteenth amendment "[t]he furthest possible legitimate reach." Oregon v. Mitchell, 400 U.S. 112, 296 (1970).

[38] Katzenbach v. Morgan, 384 U.S. 641, 650 (1966).

[39] *Id.* at 651.

[40] *Id.* at 653–56.

[41] *Id.* at 653.

[42] *Id.*

[43] *Id.* at 654 n.15; 660-61 (dissenting opinion of Harlan, J., with whom Stewart, J., joined.

[44] *E.g.,* statement of Justice Brennan that "[o]nce it be determined that a burden has been placed upon a constitutional right, the onus of demonstrating that no less intrusive means will adequately protect compelling state interests is upon the party seeking to justify the burden." Oregon v. Mitchell, 400 U.S. 112, 238 (1970) (dissenting in part and concurring in part).

[45] *E.g.,* United States Dept. of Agriculture v. Moreno, — U.S. —, 93 S. Ct. 2821, 2825 (1973); Jefferson v. Hackney, 406 U.S. 535, 546 (1972), both relating to the field of social welfare. The traditional equal protection analysis appears to have its origin in the context of commercial regulation cases which involved state regulation of business and industrial practices. *See, e.g.,* McGowan v. Maryland, 366 U.S. 420, 425–26 (1961); Williamson v. Lee Optical Co., 348 U.S. 483, 487–89 (1955).

[46] *See* Shapiro v. Thompson, 394 U.S. 618, 658–62 (1969) (opinion of Harlan, J., dissenting).

[47] San Antonio School Dist. v. Rodriguez, 411 U.S. 1, 70 (1973) (opinion of Marshall, J., with whom Douglas, J., concurs, dissenting); *id.* at 62 (opinion of Brennan J., dissenting).

[48] Vlandis v. Kline, 412 U.S. 441, 456 (1973) (opinion of White, J., concurring in the judgment).

[49] Bullock v. Carter, 405 U.S. 134, 144 (1972); Dunn v. Blumstein, 405 U.S. 330, 3377 (1972); Phoenix v. Kolodziejski, 399 U.S. 204, 205 (1970); Cipriano v. City of Houma, 395 U.S. 701, 704 (1969); Kramer v. Union School Dist., 395 U.S. 621, 628 (1969); Harper v. Virginia Bd. of Education, 383 U.S. 663, 670 (1966); Carrington v. Rash, 380 U.S. 89 (1965).

[50] Under the rigid standard of congressional districting cases, only those population variances among districts that are "unavoidable" are permitted. White v. Weiser, 412 U.S. 783 (1973); Wells v. Rockefeller, 394 U.S. 542, 546 (1969); Kirkpatrick v. Preiser, 394 U.S. 526, 531 (1969); Wesberry v. Sanders, 376 U.S. 1, 17–18 (1964).

[51] 377 U.S.C. 533 (1964).

[52] In striking down Alabama's plan the Court stressed that "the right of suffrage is a fundamental matter in a free and democratic society" and held that "any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized." *Id.* at 561–62.

[53] The test actually enunciated by the Court in *Reynolds* was the traditional "rational state policy" standard. *Id.* at 579. This more lenient standard has subsequently been applied in other state districting cases apparently on the basis that state legislative districts are so intertwined with strictly local interests that the rigor of the stricter standard is inappropriate to these predominately state matters. Moreover, there is a significantly larger number of seats in state legislative bodies to be distributed within each state than its congressional seats, and it may be feasible for a state to use political subdivision lines in drawing state districts

while still affording adequate statewide representation. White v. Register, 412 U.S. 755 (1973); Gaffney v. Cummings, 412 U.S. 735 (1973); Mahan v. Howell, 410 U.S. 315 (1973).

[54] Mahan v. Howell, 410 U.S. 315, 322 (1973).

[55] *E.g.* Carrington v. Rash, 380 U.S. 89 (1965). In *Carrington*, the Court overturned the use by Texas of an irrebuttable statutory presumption that absolutely excluded servicemen from the vote by classifying them as nonresidents. The Court tested the classification according to its necessity to carrying out a state purpose of substantial importance, rather than its merely serving a convenient state interest.

[56] Harper v. Virginia Bd. of Elections, 383 U.S. 663 (1966). The Court stressed the fundamental nature of the right to vote. *Id* at 670. Fifteen years earlier, using the traditional "rational basis" test, the Court had upheld the same Virginia poll tax it struck down under the new standard applied in *Harper*. Butler v. Thompson, 341 U.S. 937 (1951).

A parallel situation occurred in Dunn v. Blumstein, 405 U.S. 330 (1972) striking down the Tennessee one-year durational waiting period. Referring to Drueding v. Devlin, 380 U.S. 125 (1965), decided only seven years earlier, which had upheld Maryland's similar one-year residence requirement, the Court commented that "if it was not clear then, it is certainly clear now that a more exacting test is required for any statute that 'place[s] a condition on the exercise of the right to vote.' " 405 U.S. at 337.

[57] Included among the first category of exceptions should be William v. Rhodes, 393 U.S. 23 (1968). Here the Court struck down as creating an "invidious discrimination" Ohio's election laws which made it virtually impossible to be placed on the state ballot in presidential elections. *Id*. at 34. While the Court's opinion, written by Justice Black, would apply a "compelling interest" standard to the restrictions of Ohio law, five members of the Court, including two concurring and three dissenting, did not agree with this proposition. Thus, *Williams* correctly stands for no more than an application of the "invidious discrimination" test.

The same appears true of Evans v. Cornman, 398 U.S. 419 (1970), where a Maryland statute was overturned which created a presumption that persons living on a federal enclave within the state did not meet the residency requirement for voting in Maryland. The Court found no reasonable basis for accepting the state's contention that these residents were substantially less interested in state affairs than other residents of the state. *Id*. at 426. The Court did not openly reach the question of whether the stricter test should apply because the classification was plainly lacking in any rational justification.

Eisenstadt v. Baird, 405 U.S. 438 (1972), is akin to this principle in the area of personal privacy. In it the Court struck down a Massachusetts statute which denied unmarried persons access to contraceptive devices on the same basis as married persons, finding that the law failed "to satisfy even the more lenient equal protection standard." *Id* at 447 n.7.

[58] McDonald v. Bd. of Election, 394 U.S. 802 (1969); and Jenness v. Fortson, 403 U.S. 431 (1971), are instances of the second reason for declining to use the more rigid test. In *McDonald*, the right to vote in person was not absolutely precluded in fact or by law. 394 U.S. at 807. And in *Jenness*, the Georgia system of placing the names of candidates on the ballot was found not to have insulated a single potential voter from new political voices. 403 U.S. at 442.

A recent application of this rule is Rosario v. Rockefeller, 410 U.S. 752 (1973), where the Court upheld a provision of New York's election law imposing a time deadline on the enrollment of voters for primary elections. The Court concluded the statute did not prohibit any class from voting in any election had they chosen to meet the reasonable deadline established by the law. The complaining persons clearly could have registered and enrolled in the party of their choice before the deadline but chose not to do so by their own failure to take timely steps. *Id*. at 762.

[59] The third area in which the Court has declined to apply the strict test in franchise cases appears in Salyer Land Co. v. Tulare Water Dist., 410 U.S. 719. *Salyer* refused to extend the popular election of Kramer v. Union School Dist., 395 U.S. 621 (1969), discussed in notes 61–62 *infra*, to a California statute limiting the vote for directors of a water storage district to landowners. The exception was based on the fact that the water district has relatively limited authority far removed from normal governmental activities that its actions disproportionately affect landowners as a group. *Id*. at 728. By "affect" the Court appears to refer to the direct costs of district projects since under the state scheme landowners as a class were to bear the entire burden of the districts' costs. *Id*. The Court kept its decision within the guidelines of its general rule insofar as lessees who farm the land are concerned by noting that this group was not totally disenfranchised. The California law provides for voting by proxy and the lessee has a free opportunity to bargain for the right to vote at the time he negotiates his lease. *Id*. at 733.

[60] *See* notes 50 and 53, *supra*.

[61] 395 U.S. 621 (1969).

[62] *Id*. at 628.

[63] 405 U.S. 134 (1972).

[64] *Id*. at 144.

[65] Shapiro v. Thompson, 394 U.S. 618, 634 (1969).

[66] Police Dep't of Chicago v. Mosley, 408 U.S. 92, 101 (1972).

[67] Skinner v. Oklahoma, 316 U.S. 535, 538–42 (1942).

[68] San Antonio School Dist. v. Rodriguez, 411 U.S. 1, 59 (1973) (opinion of Stewart, J., concurring).

[69] Loving v. Virginia, 388 U.S. 1, 9, 11 (1967); McLaughlin v. Florida, 379 U.S. 184, 196 (1964); Bolling v. Sharpe, 347 U.S. 497, 499 (1954).

[70] Graham v. Richardson, 403 U.S. 365, 372 (1971).

[71] Oyama v. California, 332 U.S. 633, 646 (1948); Korematsu v. United States, 323 U.S. 214, 216 (1944).

[72] Gomez v. Perez, 409 U.S. 535 (1973); Weber v. Aetna Casualty & Surety Co., 406 U.S. 164, 173 (1972); Levy v. Louisiana, 391 U.S. 68 (1968).

[73] Harper v. Virginia Bd. of Elections, 383 U.S. 663, 668 (1966); Douglas v. California, 372 U.S. 353 (1963); Griffin v. Illinois, 351 U.S. 12, 17 (1956).

But according to the Court's majority opinion in San Antonio School Dist. v. Rodriguez, 411 U.S. 1, 29 (1973), wealth discrimination *alone* does not provide an adequate basis for invoking strict scrutiny. Rather, the precedents of the Court require that two distinguishing characteristics of wealth classification must be found: (1) because of their indigency, the persons discriminated against are completely unable to pay for some desired benefit, and (2) as a consequence, they sustain an absolute deprivation of a meaningful opportunity to enjoy that benefit. Justice Mashall, dissenting in the same case, contends these decisions are actually premised on the fundamental importance of the state service involved, but his analysis is clearly rejected by the Court's majority. *Id*. at 102 n.61.

[74] Frontiero v. Richardson, 411 U.S. 677 (1973), struck down the statutory distinction made by Federal law which deprived servicewomen of the right to claim their spouses as a "dependent" for purposes of obtaining certain allowances and benefits. Justice Brennan, joined by Justices Douglas, White, and Marshall, concluded that classifications based on sex are inherently suspect and must be subjected to strict judicial scrutiny. *Id*. at 682. They found at least "implicit support" for this approach in Reed v. Reed, 404 U.S. 71 (1971). Though *Frontiero* presented a question of a violation of the due process clause of the fifth amendment, this characterization is equally applicable to state classifications challenged under the equal protection clause of the fourteenth amendment.

Whether sex is indeed now included as a "suspect" classification is uncertain since Justice Stewart, concurring in the judgment, 411 U.S. at 691, reached only the point of agreeing the discrimination was "invidious," and Justice Powell, joined by Chief Justice Burger and Justice Blackmun, expressly reserved for the future any decision on adding sex to the suspect category. Justice Powell's opinion specifically argued *Reed* "did not add sex to the narrowly limited group of classifications which are inherently suspect." *Id*. Mr. Justice Rehnquist would have sustained the constitutionality of the statutes in question.

[75] 308 U.S. 147, 161 (1939).

[76] The minority in Vlandis v. Kline, 412 U.S. 441 (1973), would argue that the Court has applied the stricter test to a seventh area, the right of obtaining a higher education, but the Court's opinion, written by Justice Stewart, is narrowly drawn along the lines of past traditional due process cases. *Id*. (*Contra*, Burger, C. J., dissenting).

[77] Shelton v. Tucker, 364 U.S. 479, 488 (1960); Sweezy v. New Hampshire, 354 U.S. 234, 265 (1957) (opinion of Frankfurter, J.).

[78] Bates v. Little Rock, 361 U.S. 516, 524 (1960); NAACP v. Alabama, 357 U.S. 449, 463 (1958).

[79] Sherbert v. Verner, 374 U.S. 398, 406 (1963).

[80] NAACP v. Button, 371 U.S. 415, 438 (1963).

[81] As to marital privacy, *see* Griswold v. Connecticut, 381 U.S. 479, 497 (1965) (opinion of Goldberg, J., with whom Warren, C. J., and Brennan, J., joined). As to the right of a woman to decide whether or not to terminate her pregnancy by abortion, subject to compelling state interests with respect to protection of health, medical standards and potential life, *see* Roe v. Wade, 410 U.S. 113, 153–55. (1973).

[82] United States v. Texas, 252 F. Supp. 234, 251 (W.D. Tex.), *aff'd*, 384 U.S. 155 (1966).

[83] Justice Harlan, dissenting from the Court's application of strict scrutiny to a law penalizing the right of interstate travel, complained that "[v]irtually every state statute affects important rights." Shapiro v. Thompson, 394 U.S. 618, 661 (1969).

[84] Vlandis v. Kline, 412 U.S. 441, 459 (1973) (opinion of Chief Justice Burger, joined by Justice Rehnquist, dissenting).

[85] 400 U.S. 112 (1970). For a brief note on the development of the compelling state interest doctrine in voting rights cases and an analysis of *Oregon*, see Weller, *Oregon v. Mitchell and the Compelling State Interest Doctrine—The End of An Era?*, 22 Syracuse L. Rev. 1123 (1971).

[86] 42 U.S.C. §§ 1973 *et seq*. (1970).

[87] 42 U.S.C. § 1973aa-1 (1970), which reads in pertinent part:

"The Congress hereby finds that the imposition and application of the durational residency requirements as a precondition to voting for the offices of President and Vice President, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

"(1) denies or abridges the inherent constitutional right of citizens to vote for their President and Vice President;

"(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

"(3) denies or abridges the privileges and immunities guaranteed to the citizens of each State under article IV, section 2, clause 1, of the Constitution;

"(4) in some instances has the impermissible purpose or effects of denying citizens the right to vote for such officers because of the way they may vote;

"(5) has the effect of denying to citizens the equality of civil rights, and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment; and

"(6) *does not bear a reasonable relationship to any compelling State interest* in the conduct of presidential elections. (Emphasis added.)"

[88] 42 U.S.C. § 1973bb (1970), which reads in pertinent part:

"(a) The Congress finds and declares that the imposition and application of the requirement that a citizen be twenty-one years of age as a precondition to voting in any primary or in any election—

"(1) denies and abridges the inherent constitutional right of citizens eighteen years of age but not yet twenty-one years of age to vote—particularly unfair treatment of such citizens in view of the national defense responsibilities imposed upon such citizens;

"(2) has the effect of denying to citizens eighteen years of age but not yet twenty-one years of age the due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment of the Constitution; and

"(3) *does not bear a reasonable relationship to any compelling State interest.*"

For a pre-*Oregon* discussion of the relationship between the compelling interest test and title III, see Engdahl, ***Constitutionality of the Voting Age Statute,*** 39 Geo. Wash. L. Rev. 1 (1970).

[89] See detailed explanation cataloguing the numbers of citizens disqualified from voting in presidential elections, at 116 Cong. Rec. 6990–91 (1970). A survey by the author supports a high estimate of the prospective absentee voting population. Based on statistics from all states reporting absentee ballot totals, and replies from the office of the Secretary of State in selected states, 4,135,466 presidential absentee votes were cast in 1972. This is an increase of 26% over 1968.

[90] See tables of restrictive state laws applicable to registration and balloting procedures and eligibility in presidential elections at 116 Cong. Rec. 6994-96 (1970).

[91] A possible setback for overseas citizens seeking the vote under section 202 is Hardy v. Lomenzo, 349 F. Supp. 617 (S.D.N.Y. 1972). Hardy moved from New York to Brazil in 1964 because of business obligations, intending to return at some indefinite time in the future. His request for absentee registration was rejected on the basis of a New York law which requires "a fixed, permanent and principal home" in the state as a condition of "residence." The district court upheld New York's refusal to permit Hardy to register on the basis that each state can determine for itself who is a bona fide resident. *Id.* at 620.

On reargument, the court allowed Senator Goldwater to intervene amicus curiae and agreed that the Senator's purpose as author of section 202 shows "a clear intent to provide the broadest possible opportunity to citizens to register to vote in a Presidential election. . . ." Nevertheless, the Court held that in this case the state was "entitled to stronger evidence of allegiance than that here presented." *Id.* at 621-22.

To the extent the court's opinion means a state can go behind a citizen's application and insist on reasonable supporting evidence of his statements of facts and intent, section 202 permits each state to determine who is among its true residents. But to the extent the court's language leaves open the possibility that a state may require as a precondition of residence the maintenance of a fixed, physical home in the state, the court erred in its construction of the federal law.

Section 202 is intended to prohibit the discriminatory application of state laws against citizens on the basis of their physical presence or absence from a particular state or political subdivision. However, in the words of the Secretary of State of New York, the state "definition of residency demands that there be a claim to a specific physical location *before any* supporting indicia may be considered." (Emphasis added.) Letter from John P. Lomenzo to Barry Goldwater, Nov. 17, 1972. This means that regardless of the citizen's financial inability to maintain two separate physical homes, one abroad and one in the state, at the same time, the state forecloses alternative means of proving his residence. Thus, the test absolutely precludes some actual residents from voting on the basis of their wealth. Moreover, the state penalizes the right to travel by forcing upon a person, who wishes to travel and work abroad, the choice between travel and his basic right to vote, unless he is effluent enough to own or rent two homes. *See* Amicus Curiae Brief in Behalf of Overseas Voters of Senator Barry Goldwater, 118 Cong. Rec. 17894–99 (daily ed. Oct. 13, 1972).

The failure of the court in *Hardy* to reach this specific question leaves the matter in doubt and further congressional action will most surely be taken in the near future to erase that doubt. See *Hearings on S. 2102 and S. 2384, Before the Senate Subcomm. on Privileges and Elections of the Senate Comm. on Rules and Administration,* 93d Cong., 1st Sess. (1973).

[92] 42 U.S.C. § 1973aa-1(c) (1970), reads in pertinent part:

"No citizen of the United States who is otherwise qualified to vote in any election for President and Vice President shall be denied the right to vote for electors for President and Vice President . . . in such election because of the failure of such citizens to comply with any durational residency requirement of such State or political subdivision. . ."

[93] 42 U.S.C. § 1973aa–1(c) (1970), lays down the general prohibition:

"[Nor] shall any citizen of the United States be denied the right to vote for electors for President and Vice President . . . because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.

42 U.S.C. § 1973aa–1(d), (f) (1970), prescribes the minimum standards which a state shall put into practice:

"(d) For the purpose of this section . . . each State shall provide by law for the casting of absentee ballots for the choice of electors for President and Vice President . . . by all duly qualified residents of such State who may be absent from their election district or unit in such State on the day such election is held and who have applied therefor not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election. . . .

"(f) No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President shall be denied the right to vote for the choice of electors for President and Vice President . . . in such election because of any requirement of registration that does not include a provision for absentee registration."

That part of section 202(d) allowing the return of absentee ballots as late as the close of polls was upheld against a contrary provision of New York state law in *Hershcopf v. Lomenzo,* 350 F. Supp. 156 (S.D.N.Y. 1972).

[94] 42 U.S.C. § 1973aa-1(d) (1970), provides in pertinent part:

"(d) For the purposes of this section, each State shall provide by law for the registration or other means of qualification of all duly qualified residents of such State who apply, not later than thirty days immediately prior to any presidential election, for registration or qualification to vote for the choice of electors for President and Vice President . . . in such election. . . ."

This provision has correctly been construed to require that registration be provided at reasonable periods of time during crucial pre-election weeks, although the statute itself does not specify the precise number of days during which registration facilities should be kept open. Acting on the underlying concern of Congress "to provide the broadest possible opportunity to citizens to register to vote in a Presidential election," a three-judge Federal Court held that section 202 must prevail over a related section of the New York Election Act to the extent the latter would prohibit a voter from being afforded the opportunity to register personally at reasonable pre-election times. *Bishop v. Lomenzo,* 350 F. Supp. 576 (E.D.N.Y. 1972).

[95] Section 202(a) note 87 *supra.*

[96] Rights belonging to national citizenship "arise from the relationship of the individual with the Federal government" and are directly dependent on the Constitution: United States v. Williams, 341 U.S. 70, 77–80 (1951); Slaughter House Cases, 83 U.S. (16 Wall.) 36, 79 (1872); Ward v. Maryland, 79 U.S. (12 Wall.) 418, 430–31 (1870); Paul v. Virginia, 75 U.S. (8 Wall.) 168, 180 (1868).

[97] The right to vote for national elective officers, including members of Congress and presidential electors, has been expressly recognized as a right directly secured to citizens by the Constitution: United States v. Classic. 313 U.S. 299, 314, 315 (1941); Twining v. New Jersey, 211 U.S. 78, 97 (1908); Wiley v. Sinkler, 179 U.S. 58, 62 (1900); In Re Quarles, 158 U.S. 532, 538 (1895); Ex parte Yarbrough, 110 U.S. 651, 663 (1884).

[98] As stated by Chief Justice Waite in United States v. Reese, 92 U.S. 214, 217 (1875), the "rights and immunities created by or dependent upon the Constitution of the United States can be protected by Congress." *See also* Strauder v. West Virginia, 100 U.S. 303, 310 (1879).

[99] The freedom to travel across state lines has long been held to occupy a position fundamental to "the nature of our Federal union and our Constitutional concepts of personal liberty." Shapiro v. Thompson, 394 U.S. 618, 629 (1969); United States v. Guest, 383 U.S. 745, 757 (1966); Crandall v. Nevada, 73 U.S. (6 Wall.) 35, 47 (1967). Travel abroad has also been held to be a basic aspect of each citizen's liberty: Kent v. Dulles, 357 U.S. 116, 126 (1958); Aptheker v. Secretary of State, 378 U.S. 500, 505 (1964).

[100] It was noted that *Morgan* had upheld a congressional ban against an English language literacy test similar to one which the Court had found constitutional five years earlier in Lassister v. Northampton Election Bd., 360 U.S. 45 (1959).

[101] Oregon v. Mitchell, 400 U.S. 112, 284–89 (1970).

[102] *Id.* at 282, 291.

[103] *Id.* at 283, 292.

[104] Section at 202(d) note 94 *supra.*

[105] 400 U.S. at 238–39.

[106] *Id.* at 239.

[107] *Id.* at 147–50.

[108] *Id.* at 285–92.

[109] *Id.* at 287.

[110] *Id.* at 286.

[111] *Id.* at 120, 134.

[112] *Id.* at 213–16.

[113] *Id.* at 292 (opinion of Stewart, J., joined by Burger, C. J., and Blackmun, J.).

[114] Dunn v. Blumstein, 405 U.S. 330 (1972).

[115] Drueding v. Devlin, 30 U.S. 125 (1965).

[116] Oregon v. Mitchell, 400 U.S. 112, 134–44 (1970) (opinion of Douglas J.); *id* at 239–81 (Part III of opinion of Brennan, J., joined by White and Marshall, J. J.).

[117] *Id.* at 119–31 (opinion of Black, J.); *id* at 212–13 (opinion of Harlan, J.); *id* at 293–96 (opinion of Stewart, J., joined by Burger, C. J., and Blackmun, J.).

[118] *Id.* at 246–50 (opinion by Brennan, J.).

[119] *Id.* at 135–44 (opinion by Douglas, J.).

[120] *Id.* at 295.

[121] *Id.* at 296.

[122] *Id.* at 294.

[123] *Id.* at 296.

[124] *Id.* at 125–26. Justice Black argued that the case cannot be decided under the equal protection clause since this clause "was never intended to destroy the State's power to govern themselves. . . ." *Id.* at 126.

[125] *Id.* at 200–13 (opinion by Harlan, J.).

[126] 384 U.S. 155 (1966).

[127] *Hearings on S.J. Res. 7 and Others Before the Subcomm. on Constitutional Amendments of the Senate Comm. on the Judiciary,* 91st Cong., 2d Sess. 136–38 (1970).

[128] Dunn v. Blumstein, 405 U.S. 330, 336 (1972).

[129] Oregon v. Mitchell, 400 U.S. 112 (1970).

[130] 392 U.S. 409 (1968).

[131] *Id.* at 437–44. Another recent decision imbuing new vigor into the thirteenth amendment is Griffin v. Breckenridge, 403 U.S. 88 (1971). Here Negro citizens filed a damages action under a century-old statute, 42 U.S.C. § 1985(3) (1970), charging a private conspiracy to interfere with their rights as citizens. The Court held that the statute encompasses the conduct of private persons as well as conspiracies under color of state law and ruled that Congress may, by the thirteenth amendment, create a statutory cause of action for Negro citizens who have been the victims of conspiratorial, racially discriminatory private action aimed at depriving them of the basic rights of free men.

[132] 392 U.S. at 443–44.

Almost simultaneously with the Court's decision of *Jones,* Congress enacted title VIII of the Civil Rights Act of 1968, 42 U.S.C. §§ 3601 *et seq.* (1970), providing detailed means for securing fair housing throughout the United States. These provisions, applicable to a broad range of discriminatory practices, have been sustained under the thirteenth amendment by lower courts. *E.g.,* United States v. Mintzes, 304 F. Supp. 1305 (D. Md. 1969); United States v. Real Estate Dev. Corp., 347 F. Supp. 776 (N.D. Miss. 1972).

[133] 392 U.S. at 440.

[134] *Id.* at 441.

[135] *See also* United States v. Jefferson County Bd. of Educ., 372 F.2d 836 (5th Cir. 1966), *decree modified,* 380 F.2d 385 (1967, *cert. denied,* 389 U.S. 840 (1967). Title VI of the Civil Rights Act of 1964 was upheld as appropriate legislation under the thirteenth amendment in circumstances where the law constituted a plain congressional alternative to court desegregation remedies and in fact accelerated school desegregation beyond the pace theretofore set by the judicial branch itself.

[136] 378 U.S. 500 (1964).

[137] *Id.* at 508.

[138] 390 U.S. 570 (1968).

[139] *Id.* at 582.

[140] 394 U.S. 618 (1969).

[141] *Id.* at 641.

[142] 384 U.S. 641, 651 n.10 (1966).

[143] *See* Oregon v. Mitchell, 400 U.S. 112, 249 n.31 (1970) (opinion of Brennan, J.).

[144] 405 U.S. 134 (1972).

[145] 412 U.S. 441, 459 (1973).

[146] 411 U.S. 1 (1973).

[147] For the 1970–1971 school year local taxation contributed 41.1% of all public school funds.

[148] *San Antonio School Dist. v. Rodriguez,* 411 U.S. 1, 17–44 (1973) (Part II of opinion of Powell, J., joined by Burger, C. J., and Stewart, Blackmun, and Rehnquist, J. J.).

[149] *Id.* at 28.

[150] *Id.* at 37–38.

[151] *Id.* at 24. The Court found there was no basis on the record for assuming that the poorest people are concentrated in the poorest districts. In fact, it observed that the poor may be found to be clustered around commercial and industrial centers which provide the most attractive tax bases. *Id.*

[152] *Id.* at 25.

[153] *Id.* at 28.

[154] *Id.*

[155] *Id.* at 30.

[156] *Id.* at 31.

[157] *Id.* at 32.

[158] *Id.*

[159] *Id.* at 33.

[160] *Id.* The Court found support for its holding that social importance is not the critical determinant for subjecting state legislation to strict scrutiny in two of its recent decisions. In Lindsey v. Normet, 405 U.S. 56 (1972), the Court had decided against the claim by tenants in suits by landlords that the statute should be examined under "a more stringent standard than mere rationality." *Id.* at 73. While recognizing the importance of "decent, safe, and sanitary housing," the Court stated it was "unable to perceive any Constitutional guarantee of access to dwellings of a particular quality" or any recognition of the right of the poor to occupy housing beyond the term of their lease, without the payment of rent. *Id.* at 74.

Similarly, in Dandridge v. Williams, 397 U.S. 471 (1970), the Court had reversed the application by a federal district court of the stricter standard of review to Maryland's maximum family grant provision under its Aid to Families with Dependent Children program. Though the Court explicitly recognized that public welfare assistance "involves the most basic economic needs of impoverished human beings," *id.* at 485, it held this central importance of welfare benefits was *not* an adequate foundation for requiring the state to support its law by a compelling state interest. *See also* Jefferson v. Hackney, 406 U.S. 535 (1972); Richardson v. Belcher, 404 U.S. 78 (1971).

[161] 411 U.S. at 35.

[162] *Id.* at 36.

[163] *Id.*

[164] *Id.* at 39.

[165] *Id.* at 40.

[166] *Id.* at 44.

[167] Predictions as to how the Court's present membership would view future congressional enactments buttressed by the "compelling interest" principle are clouded by the fact that all Justices except for Mr. Rehnquist have endorsed the stricter standard in one or more settings.

OBSERVANCE OF VETERANS DAY

Mr. GOLDWATER. Mr. President, during the present session of the Arizona Legislature it passed a memorial urging Congress to enact legislation which would return observance of Veterans Day to November the 11th. As an Arizonan, I highly concur in this act, and as a veteran I would hope the Congress would do something to change a mistake they made years ago. I ask unanimous consent that the memorial be printed in the RECORD.

There being no objection, the memorial was ordered to be printed in the RECORD, as follows:

SENATE MEMORIAL 1002

A memorial relating to Veterans' Day; urging Congress to enact legislation returning Observance of Veterans' Day to November 11

To the Congress of the United States:

Your memorialist respectfully represents:

Whereas, the Congress of the United States enacted legislation which changed observance of Veterans' Day from November 11, the date of the armistice ending World War I and the traditional day of observance of that historical event, and

Whereas, the change of Veterans' Day to the fourth Monday in October for the sole purpose of adding a three-day weekend to the holidays of the year is not a sufficient reason for breaking with tradition, memories, sentiments and history, and the reduction which follows in participation in patriotic ceremonies.

Wherefore your memorialist, the Senator of the State of Arizona, prays:

1. That the President and Congress give their most earnest consideration to the prompt enactment of legislation which would result in the return of Veterans' Day to the traditional day of observance, November 11, of each year.

2. That the Honorable Wesley Bolin, Secretary of State of the State of Arizona, transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation.

SEMIANNUAL REPORT BY THE DEPARTMENT OF DEFENSE ON CHEMICAL AND BIOLOGICAL WARFARE ACTIVITIES

Mr. McINTYRE. Mr. President, in keeping with the past practice of the Armed Services Committee to advise the Senate and the public of the activities of the Department of Defense in chemical and biological warfare—CBW, I request unanimous consent to have printed in the RECORD at the conclusion of my remarks the semiannual report on funds obligated for CBW research during the first half of fiscal year 1974. It also updates the report for the previous months' period.

This report is submitted semi-annually pursuant to section 409, Public Law 91–121.

The report also includes explanatory comments on the purposes for which the funds provided have been used.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, D.C., February 27, 1974.

Hon. GERALD R. FORD,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: In accordance with the requirements of Section 409, Public Law 91–121, the semiannual report on funds obligated in the chemical warfare and biological research programs during the first half of fiscal year 1974 is attached.

The report provides actual obligations through 30 November 1973 and estimated obligations for the month of December 1973. The report for the second half of fiscal year 1974 will include appropriate remarks to adjust estimated obligations to actual for the month of December 1973.

Section 4 of the Department of the Army

and the Department of the Air Force segments of the report provide adjustment summaries which reflect change data to the report submitted for the second half of fiscal year 1973. These data reflect the net result of adjusting estimated obligations for the months of May and June 1973 to actual. The Department of the Navy reported no adjustments to its segment of the second half fiscal year 1973 report.

The attached report has also been sent to the Speaker of the House of Representatives.

Sincerely,

W. P. CLEMENT, Jr.,
Deputy.

DEPARTMENT OF DEFENSE—SEMIANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (JULY 1-DEC. 31, 1973), DEC. 31, 1973
RCS DD-D.R. & E. (SA) 1065 (actual dollars)

	Army	Navy and Marine Corps	Air Force	Total
Chemical warfare program	$24,989,000	$138,000	$85,000	$25,212,000
R.D.T. & E	(23,165,000)	(75,000)	(85,000)	(23,325,000)
Procurement	(1,824,000)	(63,000)	(0)	(1,887,000)
Biological research program	9,570,000	75,000	0	9,645,000
R.D.T. & E	(9,570,000)	(75,000)	(0)	(9,645,000)
Procurement	(0)	(0)	(0)	(0)
Other ordnance program	23,272,000	970,000	100,000	24,342,000
R.D.T. & E	(4,603,000)	(0)	(0)	(4,603,000)
Procurement	(18,669,000)	(970,000)	(100,000)	(19,739,000)
Total program	57,831,000	1,183,000	185,000	59,199,000
R.D.T. & E	(37,338,000)	(150,000)	(85,000)	(37,573,000)
Procurement	(20,493,000)	(1,033,000)	(100,000)	(21,626,000)

Note: In conducting the research described in this report, the investigators adhered to the "Guide for Laboratory Animal Facilities and Care" as promulgated by the Committee on the Guide for Laboratory Animal Resources, National Academy of Sciences—National Research Council.

OBLIGATION REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAM FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973, DEPARTMENT OF THE ARMY RSC DD-D.R. & E.(SA) 1065

SECTION 1.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E (SA) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE SEMIANNUAL PERIOD JULY 1, 1973 THROUGH DEC. 31, 1973, REPORTING SERVICE: DEPARTMENT OF THE ARMY

Description of R.D.T.E. effort	Funds obligated (millions) Amount	Funds obligated (millions) In-house/contract	Explanation of obligation
Chemical warfare program:			
Prior year	$0.930	$20.329	During the 1st half of fiscal year 1974, the Department of the Army obligated $23,165,000 for general research investigations, development and test of chemical warfare agents, weapons systems, and defensive equipment. Program areas of effort concerned with these obligations were as follows: Chemical research: Basic research in life sciences — $730,000 Exploratory development — 5,349,000 Total chemical research — 6,079,000 Lethal chemical program: Exploratory development — 820,000 Advanced development — 1,322,000 Engineering development — 1,099,000 Testing — 1,557,000 Total lethal chemical — 4,798,000 Incapacitating chemical program: Exploratory development — 645,000 Advanced development — 820,000 Engineering development — 000 Testing — 195,000 Total incapacitating chemical — 1,660,000 Defensive equipment program: Exploratory development — 6,265,000 Advanced development — 1,108,000 Engineering development — 2,410,000 Testing — 309,000 Total defensive equipment — 10,092,000 Simulant test support — 536,000
Current fiscal year	22.235	2.836	
1. Chemical research:			
Prior year	—.002	5.971	
Current fiscal year	6.081	.108	
a. Basic research in life sciences:			
Present year	(.000)	(.650)	Life sciences basic research in support of chemical materiel was conducted during the 1st half of fiscal year 1974. 1. The simultaneous detection of nitrogen, phosphorus, and sulfur in the multiple-detector gas chromatograph has been accomplished for the analysis of very small analytical chemical samples. Investigations were continued on the use of an infrared spectrophotometer as a detector in high-speed, high-pressure liquid chromatography for detecting and determining quantities of elements in agent samples. Basic research will continue on the detection and identification of metabolites, hydrolyzates, and other degradation products of chemical agents which is essential if the total quantities of agent initially present in a suspected contaminated area is to be determined. New adsorbent and solvent systems will be developed for chromatographic methods used to study the identity and quantitation of chemical agents, intermediates, and decomposition products. 2. In large-scale reaction studies of reaction temperatures among the components of a binary system, more complete isomerization occurs when the binary reaction is initiated at a low temperature. The thermal characteristics, oxidation products and degradation products for several volatile liquid irritants have been determined to aid in the further study of these potential chemical agents. Using a mathematical model, preliminary calculations have been run to determine the evaporative behavior of various size droplets of pure chemical agents falling from several different altitudes. This is significant in predicting the effect of known agents and those of interest from intelligence information. Time rate reaction studies of chemiluminescent materials have contributed to the elimination of background signals in an agent detector. Enzymes have been induced in microorganisms which can detect the presence of chemical agents that are glycolate esters. Studies will continue on induction of enzymes in soil bacteria which will be useful in the detection, identification, and decontamination of toxic agents. The limitations imposed by temperature and reactant quantities in binary munitions will be determined along with the mechanism of the interaction of the gas and liquid phases of these agents with munition materials. Theoretical and mathematical studies of agent droplets will attempt to determine the dynamic behavior of agents in lieu of open air testing. A systematic study of the thermal behavior of selected compounds will provide information on the stability of agents, and mechanism of decomposition and the influence of moisture, solvents, and stabilizers during storage.
Current fiscal year	(.730)	(.080)	

OBLIGATION REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAM FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973, DEPARTMENT OF THE ARMY RSC DD–D.R. & E.(SA) 1065—Continued

SECTION 1.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973, DEPARTMENT OF THE ARMY, RCS DD–D.R. & E.(SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE SEMIANNUAL PERIOD JULY 1, 1973 THROUGH DEC. 31, 1973, REPORTING SERVICE: DEPARTMENT OF THE ARMY—Continued

Description of R.D.T.E. effort	Funds obligated (millions) Amount	Funds obligated (millions) In-house/contract	Explanation of obligation
			3. Individual basic research studies in the various biological disciplines and related sciences have provided the bases for follow-on exploratory development investigations and more rigorous basic studies on physiologically-active chemical agents, biomedical defensive mechanisms, and the detection of or protection from such agents. Exemplary of the progress: a. Spin-labelled proteins have been used to elucidate the conformation of the active site of AChE. There appears to be no significant changes in circular dichroism and optical rotatory dispersion when the enzyme is partially inactivated by sodium dodecyl sulfate and similar compounds. b. Methylphenidate reverses the decrement in human performance which is caused by alcohol, whereas diszepam and alcohol have additive effects. c. Successful methods have been developed for producing and separating out sickled erythrocytes for use in studying the induction of mutations. d. Experimental techniques have been developed which show that the respiratory center, but not skeletal muscle, can be conditioned to function even after doses as high as 200 LD$_{50}$'s of GD. e. Efforts to identify the sites of action of anti-ChE compounds and morphine in primate brain have shown that active sites are located along the walls of the 3d and 4th ventricles and no more than 2 mm from the midline.
b. General chemical investigations: Prior year Current fiscal year	 (−$0.002) (5.351)	 ($5.321) (.028)	Exploratory development investigations were conducted in search for potential chemical agents, techniques of evaluating effects of chemicals, medical effects of chemical agents, chemical dissemination and dispersion technology, process technology, test and assessment technology, systems analysis, evaluation of foreign CW potential, training agents and equipment, and chemical safety. 1. Search for potential agents: Compounds have been submitted for initial toxicity screening and a variety of special studies on selected compounds have been conducted. Studies were carried out to determine temperature rises with time for GB binary reactions and for binary systems possibly useful as reaction simulants. Several studies have been completed on the reversibility of new bisquaternary ammonium compounds and nuclear magnetic resonance of phosphorous compounds and their isomerization. Routine screening to discover possible agents will continue with particular emphasis on new methods to make systemic incapacitant screening more predictive as to the possible effects in man. Compounds with high safety ratios will be tested for their ability to protect against nerve agents that are resistant to oxime prophylaxis. Chemical and instrumental methods will be used to determine the chemistry of agents and the sampling and identification of these materials which is highly important from the strategic and tactical, as well as the defensive viewpoint. 2. Evaluating effects of chemicals: a. A new method of testing drug effects in man is being evaluated. Evoked potential-EEG recordings from men who have received Valium and Ritalin have been made and are being analyzed by computer techniques. Both antimuscarinic (atropine-type) and antinicotinic (mecamylamine) compounds produce memory defects in rats but the results of operant studies show that different neuronal paths in the central nervous system (CNS) are involved. Other studies designed to identify and localize the neural circuits associated with drug effects have shown different pathways being affected by anticholinergic and anticholinesterase compounds such as physostigmine and incapacitating agents. Operant studies with rats on fixed time schedules showed that these agents can disrupt the timing ability of the animals. The effectiveness of physostigmine in reversing this specific effect has been subjected to further testing. b. Prior work has demonstrated that the wearing of a protective mask degrades military performance and it was hypothesized that further decrements would occur as the protective load increased. Studies were run incorporating both mask and hood. Upgrading of the experimental apparatus to improve (i.e., reduce) signature effects and increase accuracy was undertaken during the movement phase and has been completed. Work was continued to evaluate the effects of specific personality structures on human factors performance measures including military performance and training adaptability. A literature survey was performed and several computer programs were written and verified which are required to perform the data analysis. Several pilot trials have been run to establish basic efficacy of the proposed method. Initial analysis of the pilot data is very encouraging and work will continue. c. Amberlite XAD–2 resin has been found to be very effective in removing glycolates from samples of urine. Recovery of 85 percent of a known sample is possible when ethyl acetate-isoporpanol is an eluent. A radio immuno assay capable of detecting as little as 25 femtomoles (25×10^{-15}) of cyclic adenosinemonophosphate has been developed. Partition coefficients have been studied for 2–PAM C1, TMB–4 and LUH–6 in various solvents as a means of studying penetration into red blood cells. Automated systems have been devised for measuring hemoglobin-methemoglobin levels in blood as a part of the study of cyanide posioning and a similar automated method has been applied to measure cyanide in blood. As little as 1/ug/ml can be detected. Another application of the automated assay permits measurement of physostigmine in aqueous solutions when used as an inhibitor of ChE. A long-term study of ChE levels in man is underway to bring out deviations, if any occur, from the normal value which are assumed to be constant. Seasonal fluctuations and changes following use of drugs for any reason will be evaluated in terms of the reliability of the standard method. **3.** Medical effects of chemical agents: a. Long-term chronic toxicity exposures of laboratory animals to certain chemical compounds classified as class "B" poison by Department of Transportation (DOT) standards were completed during September 1973. Evaluations of results are still in progress. Acute ocular and cutaneous effects have also been evaluated. Final evaluation of acceptable limits will be made by the Human Estimates Committee. b. Cyclic adenosinemonophosphate levels are being studied to establish baseline levels and monitor drug effects. Recent results with the host-mediated assay to detect mutagenic activity of various compounds have shown that: some compounds require conversion in the liver before causing mutations leading to cancer. It has also been found that mutagenic compounds may not always penetrate test cells in this.assay. Thus, much better positive tests can be obtained from E. coli tests when ethylenediaminetetraacetic acid (EDTA) is added in the host so as to increase the permeability of the bacterial cell wall. A new rapid in vitro screening method for mutagens has been devised. Potential chemical agents and related compounds will be screened for effectiveness in animals by appropriate table pharmacology or operant techniques as needed. Anticholinergic and anticholinesterase agents will be evaluated for analgesic actions in the primate and rat. Emphasis will be placed on examining the interaction of cholinergic agents with morphine in the determination of *analgesia*. c. The percutaneous absorption of glycolates have been studied as the free base and the hydrochloride. The base form penetrates and can be recovered by urinalysis. Sensitization to the base has been obtained by giving a second patch test. Incapacitating glycolates in the free base form have been effective in a short time when applied to warm skin under an occlusion dressing. Resulting inhibition of local sweating provides a method of measuring penetration. Studies are in progress to determine predictive accuracy of the local sweating inhibition technique for estimating dose and onset time of central nervous system effects. The knowledge that glycolate agents penetrate *human skin* in significant amounts will be exploited in studies of factors which affect such penetration; i.e., temperature, humidity, structure of the compound, individual skin differences, and other factors which may be found to enhance or inhibit penetration. An important aim will be to define more exactly the dose-

Description of R.D.T.E. effort	Funds obligated (millions)		Explanation of obligation
	Amount	In-house/ contract	
			effect relationship. Scopolamine has been shown to block secretion of the lactogenic hormone in man. This work will be repeated with glycolates to ascertain whether they exert a similar anticholinergic effect. Confirmation of blocking action will add to knowledge of the effects of these compounds on the central nervous system. The results from preliminary investigations show the need for further research on spectral sensitivity changes in the eye following exposure to glycolate-type compounds. Flicker fusion frequencies and other visual parameters will be examined whenever possible. d. Disease-free colonies of sustained-barrier mice, rats, and guinea pigs have been reduced by 30 percent. The disease-free rabbit breeding colony will be eliminated. Numerous spontaneous diseases and pathological changes have been described and cataloged over the past years. The status of spontaneous lesions peculiar to animals of our breeding colonies have been identified and have been of great value in pathological interpretations of animals used on experimentation. Various surgical techniques were performed on experimental animals to create the optimum experimental models for experimentation. Genetic screening studies of selected chemical compounds were conducted and are currently under investigation in various animal hosts. 4. Chemical dissemination and dispersion technology. a. Aerodynamic studies of conventional and advance munition shapes continued for the design of extended range projectiles. Tailoring the lift, drag, and mass properties will optimize the desired range and trajectory. Chamber experiments were conducted with simulant filled scale models of a binary GB projectile. Ambient conditions were found to influence the vapor return due to changes in physical properties of the disseminated liquid. Submunitions of a VX projectile were studied in a chamber with a simulant fill, and the cloud was increased by use of a larger agent to burster ratio than previously considered. Aerodynamic studies will continue on a non-lethal projectile for chemical delivery. Submunition shapes for binary and incapacitant munitions will have aerodynamic data determined for their trajectory and dispersion characteristics. The feasibility of a rocket motor type dissemination for improved agent coverage will be determined with simulants *and* preliminary propellant charge designs. A study will determine whether modification of incapacitating agents and solid agents as stable solutions or suspensions can be used in rapid dispersion systems. b. Safety hazard studies of accidential release of chemical agents by detonation of scaled munition devices are being conducted. In the 2d half of fiscal year 1974, these studies will continue and data will be collected for input to a systems analysis type study. The systems analysis type study will define the hazard. 5. Process technology: Investigations on a laboratory scale and a prepilot plant engineering scale were continued where data was lacking on reactants for binary agent systems. The process study on binary VX components was continued with the objective to produce a stable high sulfur content compound. Development of analytical techniques is continuing. Candidate compounds were synthesized for evaluation in the research programs. Laboratory studies will be conducted on the synthesis of NM to evaluate process parameters to determine if a more stable compound can be produced. Parameters to be studied will include sulfur concentration, heating rate, catalyst, and purification of product. The reactants for these *systems will be synthesized for evaluation.* Analytical support and method development in required areas will continue. All process studies will include an evaluation of possible pollution problems which might be encountered if a plant is built. Process modifications to preclude pollution will be considered. Environmental pollution problems at Edgewood Arsenal connected with the mission operations were studied. 6. Test and assessment technology: Development continued on a test system required to investigate particle transport, diffusion and fallout. A coincident detection system was investigated as a means of achieving greater fluorescent particle detection and count capability. The automatic analyzer system detected down to the desired capability of five micrograms as demonstrated with cadmium sulfide. A spinning bowl particle disseminator was mated to the automatic particle feeder system and the device was calibrated and optimum operating conditions established This permits accurate studies of agent dispersion and dissemination. In another study, an original technique was devised to distinguish properties or agent simulants. Under contract sixteen chemical agent simulants were studied and recommendations made. The capability of the automatic sampler to detect and count small fluorescent particles on a dynamic basis will be determined and the effort concluded. The spinning bowl particle disseminator will continue to be compared to a commercial disseminator for the quality of aerosol generated. This monometric particle test system will be completed, and techniques to generate larger particles of 100–200 microgram diameter useful in applications to study liquid particle problems will be proposed and investigated. Ranking of flash potentials of simulants compared to agents will be studied in a *chamber using* an explosive device capable of controlled adjustments to increase or decrease flashing propensity Work will continue on a hot wire sensor for liquid particles. 7. Systems analysis: a. An effectiveness study was conducted for the binary VX system for the 8-inch projectile, considering a bulk-filled and a submunition design. There will be an update of the risk analysis and cost-effectiveness of the 155-mm howitzer binary GB projectile. A comparative cost effectiveness analysis and risk assessment analysis of the VT fuze requirement for the 8-inch VX system will be performed. b. An operational effectiveness study of the remote sensors were conducted. The purpose of this analysis is to determine whether either the CO^2 LASER or the LOPAIR alarms provide sufficient warning time, over and above existing systems. The study will be completed and is intended to show the distribution of warning times that are provided to elements of a typical target that has been attacked with chemicals, and casualties that would result, with and without the employment of the various alarms, both singly and in combination. 8. Evaluation of foreign chemical warfare potential: A review was made of literature to determine the applicability of remote sensing alarms to the detection of bulk liquid agent release and the resultant liquid aerosol cloud. Additional equipment and supplies were ordered in preparation for simulant field test planned for later in the year. Laboratory and chamber tests as necessary will be conducted on the usefulness of these alarms. An *assessment* will be made of the protective capability of protective clothing to the threat posed by the weapon system. Appropriate test procedures for field analysis of data will be developed. Detection items will be utilized in a field test with simulants. The program is continuing throughout fiscal year 1974 to determine potential enemy capabilities in the area of missile and aircraft situations. 9. Chemical training agents and equipment investigations: Dyes and marking substances useful in decontamination training and casualty recognition have been investigated. Of particular interest are three food dyes which have been screened for toxicity and effects upon eyes and skin. The investigation of volatile sensory irritants as training agents has continued since they could simulate a non-persistent agent, and formulations variously thickened offer a range of properties which simulate different types of chemical agents. Further guidance will be sought on requirements and acceptability of simulants already proposed as chemical training agents. When requirements are defined, synthetic, analytical, and physicochemical investigations of chemical compounds will proceed along guide lines. Investigation of marking dyes will continue as will the use of volatile sensory irritants as training agents. Work has been done on several visible and fluorescent dyes to ascertain their toxic hazard and the degree of exposure required for use as total intake simulants on the field. Compounds tested include fluorescein, tartrazine amaranth, erthrosin B, and chinoline yellow. The stability of these materials in propylene glycol (PG) and trioctyl phosphate (TOP) solvents was evaluated. All compounds present a relatively low toxic hazard and are stable in PG and TOP up to a period of four months. Ground burst and air burst training devices are being developed to provide the Army a capability for training in a simulated toxic agent environment. These efforts will be continued in the 2d half of fiscal year 1974.

OBLIGATION REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAM FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973, DEPARTMENT OF THE ARMY RSC DD–D.R. & E.(SA) 1065—Continued

SECTION 1.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973, DEPARTMENT OF THE ARMY, RCS DD–D.R. & E.(SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE SEMIANNUAL PERIOD JULY 1, 1973 THROUGH DEC. 31, 1973, REPORTING SERVICE: DEPARTMENT OF THE ARMY—Continued

Description of R.D.T.E. effort	Funds obligated (millions)		Explanation of obligation
	Amount	In-house/ contract	
			10. Chemical safety investigations: a. A series of VX samples were analyzed to determine the effectiveness of decontamination using bleach or chlorine. Chlorine was shown more effective under the conditions being used. Work was initiated to characterize and catalogue the decomposition products of agents and potential agents to permit identification of these and related compounds. Analytical procedures were developed for the detection and identification of incapacitants as pollutants in air and water samples. Analytical work will continue and expand to other classes of compounds. A data bank will be expanded to include analysis of environmental decomposition products and with computer aided analysis provide identification of chemical agents from properties of residues. b. The ecological survey of Carroll Island previously used as a test site, has resulted in a very large amount of exact data on animal and plant populations of the area. This information is being entered on punch cards. Rare species have been identified. Mammalian studies have been focused recently on squirrel densities and on bat populations. An inventory of woody plants has been completed. A good deal of effort is being put into study of the turtle population because they are slow to multiple and normally live in restricted habitats. This makes them especially good indicators of any serious environmental event. Results of this study will be utilized in other ecological evluations. c. Effort is being expended to develop alternate means of experimentation to eliminate the need for open air testing and to select and test agents and/or substitutes to achieve test objectives. During this report period a separate chamber was installed inside the toxic dissemination chamber to provide the capability for testing the gas life of various filter units. This system allows total containment of the toxic agents tested both the challenge concentration and the exhaust concentration through the filter are restricted to this smaller chamber. A field expedient method was provided for personnel decontamination at the explosion test chamber. This consists of portable showers and a change vehicle. Request for a permanent change house is planned for construction to be attached to the explosion test chamber to provide personnel decontaminating facilities.
2. Lethal chemical program:			
Prior year	$0.589	$4.656	
Current fiscal year	4.209	.142	
a. Agent investigations and weapons concepts:			
Prior year	(.000)	(.820)	Exploratory development funds were obligated as follows: 1. With a continuing need to study structure-activity relationships of quarternary carbamates, attempts were made to synthesize several possible metabolites of relatively lethal symmetrical and unsymmetrical bis-quarternary carbamates in order to learn more about their physiological action. Studies continued on potential enemy agents with emphasis directed toward defense against such agents and the exploitation of these binary agents in the deterrent/retaliatory role of the United States. Methods by which an enemy might use these agents were examined from a defensive point of view. Efforts continued to develop a binary GB simulant that could be used for all phases of munition testing: mixing, dissemination, and dispersion. Studies were completed on the penetration of fabric assemblies by an organophosphorus compound with high penetration characteristics. Chemical investigations of new binary agent systems will continue. Several significant leads will be followed in-depth including higher effectiveness through clothing as well as by inhalation. For each agent system proposed, analytical studies will characterize the components and define the required purity of constituents. 2. Speed of action comparisons of VX and similar compounds through clothed and bare skin of laboratory animals at various dose levels have been made. 3. Binary technology was advanced via extensive parametric reaction studies, successfully establishing the conditions for the practical generation of VX by a 2-liquid reaction system, and the effects of storage and other variable environments on the GB and VX reactants. Limited progress was made in the development of practical binary techniques for intermediate volatility agents (IVA). Simulant systems for both GB and VX were modified for closer approximation of reaction parameters. Effort will continue in the development of binary procedures for new agents; exploitation and/or optimization of techniques for existing binary processes; and development and/or improvement of binary simulants and reaction-simulation techniques. 4. Exploratory development of a 155 mm binary IVA projectile was continued. Analytical effectiveness studies have been performed to establish the agent of choice; however, development of a practical binary IVA system remains to be accomplished. Preliminary projectile designs were completed, and various aspects of these designs which are independent of the selected binary technique were successfully tested. Effort will continue on the development of design information which would be applicable regardless of the agent selected. Upon the selection of the binary IVA processes, the effort would become specific for that agent/munition system. 5. Parametric studies were continued to determine the relative effectiveness of missile warheads with massive, segmented, and bomblet configurations, considering binary GB, VX, and IVA. Compatibility studies were also performed to identify materials of construction suitable for the subsystems of this warhead. Studies will continue in an effort to identify the optimal agent/missile-warhead configuration. Exploratory development effort will be directed toward solving the problems surfaced by these trade-off analyses.
Current fiscal year	(.820)	(.000)	
b. Agent pilot plant investigations:			
Prior year	(.000)	(.250)	Advanced development effort was expended as follows: 1. Process/unit operation subpilot studies were conducted on laboratory improvements of the process for production of intermediates for the VX binary liquid/liquid system. Materials compatibility studies were conducted with this and other later generation binary agent components. Munition tests were supported by filling of test items. Semipilot scale study of process/operations for manufacture of intermediates for the 8-in-liquid-liquid VX binary will be initiated. Based upon laboratory and bench methods using glassware equipment prototype equipment will be assembled and operated. Data will be generated for pilot or production process design and material supplies for munition test purposes. Material disposal methods; e.g., incineration, will be investigated. 2. The prototype filling machines for the binary GB containers was made operational during the 1st quarter. Debugging procedures were completed during this period. The XM687 canisters (XM20 and XM21), required for development testing, were filled, sealed, leak tested and prepared for subsequent load, assemble and pack operations. Filling and closure studies are extended to 2d generation binary systems involving solid and liquid chemical intermediates contained in bulk canisters and in submunitions. These studies are aimed at developing automated processes for production of the 8-in binary projectile (XM736) and follow-on binary systems. Equipment for in-line difluoro detection will be further developed. The XM687 (155 mm) and the XM736 (8 in) canisters will be filled during this period. Filling and closures studies will be extended to second generation binary systems involving solid and liquid agents in bulk canisters and submunitions. These studies will be aimed at developing automated processes for production of the XM736 projectiles and follow-on binary systems. Design criteria from XM687 development tests will be provided for input to the production phase of the program. Bench model filling and sealing equipment will be designed for second generation binary lethal munitions. Basic engineering data will generated for design of prototype fillers for second generation binary munitions.
Current fiscal year	(.250)	(.000)	

	Funds obligated (millions)		
Description of R.D.T.E. effort	Amount	In-house/ contract	Explanation of obligation
c. Tactical weapons systems:			
(1) Advanced development:			
Prior year	(.052)	(.930)	Advanced development (AD) testing of the XM736 8-in. binary VX projectile was completed, and a development plan and concept formulation package prepared and staffed for approval to enter engineering development (ED) in 3d quarter fiscal year 1974. Based on a comparative evaluation of the competitive AD prototypes, the configuration recommended for ED formulated at the *validation* pre-in-process review conducted on Nov. 1, 1973, was the bulk expulsive liquid-liquid system with the modified XM732 proximity fuze. Commencement of AD of the 155 mm intermediate volatility agent (IVA) projectile is being deferred pending the development of a suitable binary process for an effective IVA. Currently it is anticipated that this phase will start in 1st quarter fiscal year 1975 with the initial effort directed toward the development of a test program and the initiation of test hardware procurement.
Current fiscal year	(1.020)	(.142)	
(2) Engineering development:			
Prior year	(−$0.001)	($1.009)	The primary effort was the manufacture of XM687 projectiles and ancillary components for the development testing phase of the 155 mm binary GB munition. Supplementary development efforts extending into this period included testing to validate design modifications subsequent to engineer-design test (EDT) and to estimate munition effectiveness via simulants/simulation techniques. The development testing effort for the XM687 projectile will commence 3d quarter fiscal year 1974 and will require one year for completion. The XM736 8-in binary VK projectile will undergo engineering development starting 3d quarter fiscal year 1974. During the ensuing semiannual period, plans and preparation for the EDT will be implemented, projectile design will be finalized, and hardware fabricated.
Current fiscal year	(1.100)	(.099)	
d. Materiel tests in support of joint operational plans and/or service requirements:			
Prior year	(.231)	(.341)	Obligations were incurred in planning, conducting and/or reporting 4 joint operational tests and 2 operations research studies in response to CINC and service requirements. The following tests and studies have been actively pursued during this report period: 1. Test 69–14 phase II: This effort was designed to provide the U.S. Air Force with data on the effectiveness of the MC–1 bomb employing current delivery modes. Testing was completed. 2 simulant dissemination trials were conducted during this report period. *Data were analyzed and* draft final reports published for coordination with the Air Force. Final reports will be published 3d quarter fiscal year 1974. Data from these trials are being used to develop methods required to correlate agent/simulant dissemination characteristics for chemical bursting munitions. 2. Test 69–14, phase III: This effort is designed to evaluate the hazards resulting from the disposal of damaged or leaking MC–1 bombs under current EOD handling procedures as outlined in Air Force technical orders. Test plan has been published and the laboratory is awaiting equipment. Laboratory investigations will be initiated 3d quarter, fiscal year 1974 for the purpose of candidate simulants selection, oxidation-pyrolysis products determination, and sampling methods development. 3. Test 73–11: This effort is designed to determine methods of destroying large scale USAF chemical munitions in a tactical environment. Laboratory and munitions investigations will start 3d quarter, fiscal year 1974 followed by field trials. Laboratory investigations will determine the feasibility of thermally decomposing agent in a closed system. Simulant selection and development of analytical and sampling techniques for the chemical neutralization technique are planned. 4. Test 71–14, phase II: This effort is designed to reevaluate the safety procedures associated with the MK–MOD–O filling van and to determine if deficiencies noted in earlier testing have been corrected. Planning meetings were held with USMC personnel during this period. Testing for 3d quarter, fiscal year 1974. 5. Study 73–111: This effort was in response to a request by the U.S. Army, Cinclant, and Cincpac for a computer assessment of downwind travel and hazard of nerve agents and to compare these estimates with predictions based on current manuals. During this period a quasi-continuous source model (a model accounting for agent deposition and subsequent evaporation in addition to the original instantaneous source) was developed. Plots were generated for various weapon systems containing cloud arrival time, safetime to mask and unmask as a function of downwind distance. Study report will be published by December 31, 1973. 6. Study 74–112: The USMC requested an evaluation of the effects of chemical agents and decontaminants on the continued integrity of spray tanks and hazards associated with use of tanks. Information in the munition system service directives, safety and operations report will be reviewed. A literature search for documents on all pertinent test programs has been completed. Study is scheduled for completion by June 1974.
Current fiscal year	(.110)	(.000)	
e. Army material development (suitability) tests:			
Prior year	(.307)	(1.216)	Obligations were incurred in the testing of binary weapon systems. Purpose of testing was to: (1) evaluate ballistics stability and accuracy of candidate projectile; (2) evaluate rough handling and sequential effect; and (3) identify simulant material that will duplicate the *reaction and dispersion* characteristics of agent fills including correlation of simulants-agents target effectiveness. During this period, approximately 18 tasks were conducted and reported. Major effort was on the 155-mm projectile and various configuration of the 8-in projectile. Eight simulant dissemination trials were conducted with the 155-mm projectile to compare dissemination characteristics prior to engineering testing. Nine simulant trials were conducted with the 8-in projectile to determine dissemination characteristics and estimate target effects using mathematical modeling techniques 32 155-mi simulant filled projectiles were subjected to rough handling and environmental sequential effects to insure inherent soundness and safety prior to engineering tests. 22 simulant filled projectiles were fired to determine mixing characteristics. 16 155-mm simulant filled projectiles were fired to evaluate cloud size and development. Ballistic firings were conducted with various configurations of the 8-in projectile. Five 8-in projectile hazard classification trials were conducted to evaluate hazard with shipment and storage of the item with associated accidental situations. A revised test plan on the engineering test of the 155-mm projectile has been completed and forwarded for coordination. Physical testing and simulant field trials are to be initiated 3d quarter, fiscal year 1974.
Current fiscal year	(.909)	(.000)	
3. Incapacitating chemical program:			
Prior year	.119	1.235	
Current fiscal year	1.541	.425	
a. Agent investigations and weapons concepts:			Exploratory development effort was expended as follows:
Prior year	(.000)	(.645)	1. Investigations continued into the preparation of intermediate compounds needed to synthesize incapacitating materials related to morphine. A change in experimental procedure has advanced this study significantly. Several new phenothiazine compounds were prepared and sufficient quantities are being obtained to begin biological investigations of these tranquilizing materials. Samples of these agents in a chamber were studied quantitatively for the effects of the thermal dissemination procedure. Less than 1 percent of the altered material was found indicating good agent dissemination. Physical chemical studies of this agent have begun to obtain storage compatibility data with candidate alloys for the submunitions. Research will continue along established lines currently underway. Further work will emphasize percutaneous activity of incapacitants, reduced onset time of effects, and increased effectiveness. Attempts will be made to formulate binary systems for the production and application of incapacitants. 2. Investigations are being conducted throughout fiscal year 1974 to study dissemination systems and to define system parameters that influence incapacitating agent dissemination time, efficiency and agent characteristics. A program is being conducted to develop methods that will minimize the hazard of agent release from incapacitating munitions involved in an accidental fire.
Current fiscal year	(.645)	(.000)	
b. Agent pilot plant investigations:			
Prior year	(.000)	(.250)	1. Laboratory studies were conducted to develop the process for incapacitating agent manufacture. Effects of solvent/reactant rations and catalyst were studied. An acceptable method for decontamination of the waste streams was obtained. Recycle studies on usable reactants and cleanup of waste streams were begun in the laboratory. Pilot plant manufacturing and agent drying studies were conducted which indicated that there were no major scale-up problems. Product was obtained in high yield (85 percent) and quality (95 percent). Alternate methods of agent filtration were screened and a Tolhurst centrifuge selected for further tests. Its operating characteristics and filter media performance were determined with a simulant. Alternate methods of separation of the agent hydrochloride from the mother liquor will be investigated. Simulant and agent runs will be conducted in a pilot plant-size centrifuge. Filter media types will be screened; separation characteristics and product recovery data will be obtained. The material of construction of this equipment will be evaluated.
Current fiscal year	(.250)	(.000)	

OBLIGATION REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAM FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973, DEPARTMENT OF THE ARMY RSC DD–D.R. & E.(SA) 1065—Continued

SECTION 1.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973, DEPARTMENT OF THE ARMY, RCS DD–D.R. & E.(SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE SEMIANNUAL PERIOD JULY 1, 1973 THROUGH DEC. 31, 1973, REPORTING SERVICE: DEPARTMENT OF THE ARMY—Continued

	Funds obligated (millions)		
Description of R.D.T.E. effort	Amount	In-house/ contract	Explanation of obligation
			2. Developmental studies have been initiated on loading requirements for polymer mixes into munitions systems. Filling and sealing equipment studies on prototype equipment were initiated. Cost estimates were developed for provision of complete rounds in support of AD, ED, and development testing programs. Loading and sealing problems anticipated with new munitions systems will be studied with emphasis on automated techniques. Studies will be made on loading of polymer-agent combinations into munitions. Prototype equipment will be evaluated for accurate metering, safe and reliable compacting and positive transferring into the munitions. Prototype equipment will be constructed and evaluated during AD filling. Candidate commercial equipment will also be procured and assessed.
c. Tactical weapons systems:			
Prior year	($0.070)	($0.145)	The advanced development program for the XM-723 incapacitating projectile is continuing and the engineering development phase is scheduled to be initiated early in the 2d half of fiscal year 1974. Current efforts include gathering information for an environmental assessment statement.
Current fiscal year	(.500)	(.425)	
d. Army materiel development (suitability) tests:			
Prior year	(.049)	(.195)	Obligations were incurred in conducting 2 tasks associated with incapacitating systems. Objectives were to evaluate ballistics stability and accuracy of a candidate projectile and to evaluate effects of set-back in flight ejection and target impact forces on the projectile. 13 simulant filled projectiles were fired by Dugway and data reports forwarded to the developer.
Current fiscal year	(.146)	(.000)	
4. Defense equipment program:			
Prior year	.096	7.931	
Current fiscal year	9.996	2.161	
a. Physical protection investigations:			
Prior year	(.040)	(3.775)	Exploratory development effort during this report period was expended as follows: 1. Decontamination studies of cyanogen chloride have determined reaction rates with different materials. The mechanism and kinetics of the reaction with metallic ions and oxidation reactions with iodide ions have been elucidated. The decontamination of mustard agents with ethanolamine has been studied and the reaction products isolated and identified. Studies will be conducted under contract to find optimum properties of aqueous decontamination of toxic agents on vehicles and equipment, and to find methods for agent destruction using oxygen and moisture in the air. If successful this would permit decontamination in the field with the lowest possible logistical load imposed. 2. To determine the effectiveness of the decontamination of exposed skin areas lethal area and time for a 50 percent mortality rate (LAT 50's) were developed for low, intermediate and highly volatile nerve agents. Using these data, it was determined that for all agents, a sorbent skin decontaminant offers the greatest promise. An agent insoluble urethane paint has been developed which is capable of being decontaminated by physical means or by the agents own volatility. Studies will be conducted on chemical agent insoluble paints, sorbent skin decontamination systems, and improvised materials and methods for decontamination in the field. Studies are continuing in proving the feasibility of chemical agent insoluble paints for vehicles and equipment to make them easily decontaminable by physical means. Studies will be instituted to develop and provide to the field improvised materials and methods for accomplishing decontamination. 3. Studies of dynamic gas adsorption on activated charcoal as used in protective filter elements has approached the goal or achieving a fully predictive equation for the protective life of the filter. Studies with benzene showed that not only could the kinetic adsorption capacity be predicted from equilibrium relationships but also the adsorption rate constant depending on linear velocity at any fixed temperature and granular mesh size. A contractual study showed that microwaves at relatively low power levels efficiently and irreversibly decomposed vapors of two phosphorous compounds. Experiments will continue to confirm the predictive equations for equilibrium vapor adsorption by activated charcoal using the vapors of various toxic compounds. Studies will continue on the kinetics of gas adsorption and the relationship to kinetic equations. 4. Feasibility studies were continued in removing toxic chemicals from air streams at elevated temperatures. A nerve gas simulant test has been developed for collective protection gas filters. Significant improvements (increased sensitivity, instantaneous read-out capability and computer/plotter graphing of test results) have been provided for chemical agent simulant testing of full collective protection systems under active challenge w/entry-exit. Improvements have been made in entry/exit procedures and shelter use technology based on an expolitation of the new collective protection system test technique. Cyanogin chloride (CK) tube test for gas sorbents has been reviewed and upgraded to provide substantially improved reproducibility. A mathematical expression for estimating CK life of whetlerite in terms of sealed aging time, temperature and water content has been derived. Data under open storage conditions is being developed to provide a means for estimating residual CK life under these conditions. It was found that a direct relationship exists between the degree of conversion of CO to CO_2 and residual CK life. It was determined that CK spent whetlerite has a very strong electron spin resonance (ESR) signal. Feasibility to develop a simplified, low-cost, light weight inflatable liner/shelter system with a self-powered filtered unit capable of use inside existing fiels shelters or as a separate complete collective protection system continued through the fabrication of an initial prototype. Emphasis will be placed on advancing the technology in measuring residual gas life of sorbents. Work will continue in improving simulant test techniques for collective protection equipment and in upgrading entry/exit and shelter use procedures. Efforts will continue to improve performance of gas sorbents. A low level effort will be continued in studying the feasibility of developing a simplified low cost, lightweight, inflatable liner/shelter system in anticipation of the increased effort planned for this item in fiscal year 1974. 5. Exploratory development efforts were directed toward the initiation of an advanced development effort for a new protective mask in fiscal year 1975. A draft proposed required operational capability (PROC) was prepared and staffed describing a new mask which will be capable of replacing the current inventory of Army field protective, tank protective, aircrew and special purpose protective masks by interchange of components with one basic facepiece. Experimental effort was directed toward development of improved sorbent systems, new design concepts, engineering design of components, and the initiation of the fabrication of preliminary models for design studies. Exploratory development studies leading to the new mask will be continued. Preparation of the 1st draft of the technical development plan will be completed for in-house review and modification. Design concepts for the new multipurpose mask will be reflected in preliminary prototype models. Limited testing will be conducted on the prototype models in order to establish feasibility of accomplishing the goals of the program. The development of optically clear elastomers for faceblank applications will be continued and a larger than laboratory quantity will be fabricated. Studies will continue to improve the optical and agent resistant characteristics of this material. Studies to improve the capacity and stability of sorbent systems will be extended and laboratory quantities will be fabricated for in-house testing. Preliminary wearing trials at Edgewood Arsenal and at other military installations will be initiated with prototype masks to obtain user reaction and recommendations for changes. Cost effectiveness studies will be continued to assure lowest cost and largest volume production rates with the new masks when type classified. 6. Studies were conducted on techniques for utilizing the physical properties of chemical agents to design a protective system which contains no chemical or sorbing impregnite. This work consisted of testing a concept whereby a highly permeable fabric was spaced approximately 1 cm from the skin on environmental clothing. The use of such a system gave greater than a
Current fiscal year	(4.475)	(.740)	

Description of R.D.T.E. effort	Funds obligated (millions)		Explanation of obligation
	Amount	In-house/ contract	
			one-order-of-magnitude increase in protection. A search was also instituted to develop a non-sweating degrading charcoal which might be used in a single layer protective clothing system. One such charcoal treatment was found which exhibited promise by showing *reduced seat* wet-ability without significant vapor capacity loss. Studies will be continued to determine if the spaced highly permeable protective clothing system will result in a substantial reduction of the heat burden imposed over that imposed by the current chemical protective clothing systems. Continue efforts to develop a nonsweat poisoning charcoal for use in a single layer protective clothing system. Studies will be conducted to determine the mechanisms of reaction which result in degradation of a standard impregnite under various conditions of storage and to prove the feasibility of the impregnite for the current clothing outfit chemical protective (liner system) which will not degrade in storage. 7. Studies on the ionization detector (ID) demonstrate good sensitivity and high speed of response to agents and a high degree of discrimination against plant and field interferences. Five prototype enzyme alarms were fabricated and subjected to extensive field and environmental testing. Data indicate the need for an improved enzyme immobilization technique. Automatic liquid agent detector (ALAD) studies on paint formulations were continued. Initial studies of a commercial luminous biosensor indicate some agent detection capability; however, largs responses to changes in relative humidity and field interferences were noted. Ionization detector investigations will continue, emphasizing the low-bias sensor cell which reduces power requiree ments to an acceptable level for Army use. An improved immobilized enzyme pad will be developed for the enzyme alarm and extensively evaluated. ALAD studies will be directed to providing a simple "add-on" device to the M8 alarm to provide it the added capability of detecting large particle liquid agent aerosols. Both static and dynamic ALAD approaches will be studied. 8. Computer programs were developed to optimize wavelength selection for reliable detection by passive LOPAIR and to then completely simulate field performance. Versatile field systems were fabricated and treated to verify computer-projected performance. Diffuse reflectance of topographic targets was measured using a CO_2 laser, confirming projections for field detection systems using isotopic CO_2 lasers. A breadboard system is being completed for field testing. a remote Raman system was tested at Edgewood Arsenal confirming the ability to dect atmosphertic contaminants in vapor and liquid aerosol states. Passive LOPAIR will be in early stages of Advanced Development during second half fiscal year 1974. The isopopic CO_2 laser breadboard will be evaluated, and efforts will be initiated on incorporating the newly developed capillary waveguide lasers into the breadboard system. Field testing of the present remote Raman will continue. Effortsto design and fabricate an improved, smaller remote Raman will be initiated. Testing of the ability to detect terrain contamination will be included in the studies. 9. Incapacitating alarm—Evaluation of 3 candidate systems, for possible use in detecting incapaciting agents in plants and storage areas was completed. Of the systems evaluated, the gas chromatograph and enzyme alarm were the post promising. Additional data are being developed for use in making the best approach decision for the follow-on development. The problems associated with representative air sampling of storage sites will be studied, including the use of blowers, concentrators, and separators. Maximum agent sensitivity and minimum inteferences will be the goal. All point sampling principles will be evaluated, and the best selected for integration into an efficient air sampling monitoring system. 10. Real time monitor—Several agent detection and concentration systems have been tested. Data on 3 systems (eel enzyme system, ionization detector, and hyfed alarm) have shown great promise to detect the low agent concentration requirements of the demilitarization operations. Liquid and solid concentrators have been extensively tested, during which increased sensitivities on the order of 10 to 50 times have been achieved. Gaseous compounds of demilitarization plant stacks and working areas have been identified. Generators have been developed capable of duplicating plant conditions in the laboratory. The investigative program will be completed and a decision will be made on the scope of a follow-on hardware design program. Candidate systems, under investigation, will be evaluated in pilot and operational demilitarization facilities and in-house. Studies to identify demilitarization plant contaminants will be conducted both in-house and contractually. 11. The major problems defined in the pollution survey were selected to be addressed in the initial instrumentation studies. These are oil-in-water, acid mist, effluents from explosives production facilities, and chemical agent demilitarization effluents. State-of-the-art surveys are being completed to identify those gaps which must be filled. The technical gaps identified will be addressed in active instrumentation programs, hopefully by modification of present developmental techniques. These will be tested under simulated and actual use conditions to verify performance. Additional priority problems will be addressed as they are identified. Coordination will be effected with EPA, NASA, and other DOD elements involved in related programs. 12. The detection sensitivity for an ion cluster mass spectrometry system has been shown to be better than 10 parts per billion for certain phosphorous compounds. Quantitative response data at various relative humidities have been obtained for a number of organic compounds and the data used to elucidate the mechanism of detection. Work will continue on the fundamental chemistry of agents with a view toward finding direct detection and identification end-item systems. New reagents will be prepared which directly yield color, fluorescence, or a physical change. Attempts will be made to effect conversion of V and G type agents by a suitable reaction to enhance reactivity toward detector reagents. New materials will be synthesized and studied for replacement of current alarm reagents and extend the present limited capability of the alarm. Studies will be carried out on new sources of thermostable enzymes possibly useful in detection and identification of new and unknown agents. 13. Dectors based on physical principles, such as the hydrogen-flame emission device (HyFED), were examined for intermittent use as a detector kit. The contractor designed and began fabrication of prototype models of the incapacitating agent kit. A series of buffers were studied to determine their effects on the wetability and stability of the enzyme system. Several additives to the reagent for mustard detection were investigated and some increase in sensitivity was obtained. Studies on physical principles, such as that utilized in ionization detector will continue to determine potential for kit applications. Additional buffers and other approaches will be investigated to improve the wetability of the enzyme system. The work on the incapacitating agent detector kit will be completed except for long term storage of reagents. Work will begin on *improved field* sampling procedures for field laboratory applications.
b. Advanced development of defensive systems:			
Prior year	(−$0.022)	($0.727)	Advanced development effort during this report period was expended as follows: 1. Fabrication and extensive testing was conducted on 2 designs of the XM256 chemical agent detector kit. Test data were analyzed and the results were used in the validation in-process review. The decision was made to advance the XM256 kit to engineering development. 2. A periodic development review was held on the liquid agent detector (LAD). Laboratory scale studies in the variables in the paper were initiated using the in-house developmental papermaking facilities. Colspan Corp., under contract, has studied dye-impregnated papers, camouflage as a human factors function and methods of attachment of the detectors to the individual. Studies on the variables in the paper fabrication will continue including dye contents, dye portile size, pulp type and paper additives. Aggravated storage testing will continue. Laboratory and field tests with troops performing a combat routine will be conducted to determine scuff resistance, weatherability and overall durability. 3. Advanced development of the remote sensing alarm will be initiated during 2d half, fiscal year 1974. Emphasis will be directed toward selection of the optimum prototype design, including reliability, maintainability, and consideration of human factors.
Current fiscal year	(1.130)	(.381)	
c. Collective protection systems:			
Prior year	(.000)	(.870)	Fabrication of DT II hardware for modular collective protection equipment (MCPE) is in progress. A 2-year program on producibility engineering and planning (PEP) has been initiated. The 1st year effort will provide descriptions of manufacture (DOM's); review design and methods of fabrication for improved reproducibility; and seek reduction in the number of sole source items. DT II testing under the intermediate temperature range will be initiated in 4th quarter fiscal year 1974. Action will be initiated to provide hardware fixes and technical data package upgrading in response to problems revealed in the tests. A 3-year program will be initiated to verify the effectiveness of the gas filter packaging to minimize deterioration in storage.
Current fiscal year	(1.410)	(.540)	

OBLIGATION REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAM FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973, DEPARTMENT OF THE ARMY RSC DD–D.R. & E.(SA) 1065—Continued

SECTION 1.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973, DEPARTMENT OF THE ARMY, RCS DD–D.R. & E.(SA) 1065—Continued

OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE SEMIANNUAL PERIOD JULY 1, 1973 THROUGH DEC. 31, 1973 REPORTING SERVICE: DEPARTMENT OF THE ARMY—Continued

Description of R.D.T.E. effort	Funds obligated (millions) Amount	Funds obligated (millions) In-House/ contract	Explanation of obligation
d. Warning and detection equipment:			
Prior year	($0.000)	($0.500)	Engineering development (ED) of the XM256 chemical agent detector kit was initiated. Because of the complexity of the item, much of the engineering design effort has been conducted in-house. A work scope was prepared and submitted to procurement for the preparation and submission of an engineering development bid package to industry. A development contract will be awarded to industry to complete the engineering design studies. The contractor will prepare a technical data package and produce ED hardware for test and evaluation. PEP will be conducted to provide an independent evaluation of the contractor's design and to develop production methods.
Current fiscal year	(1.000)	(.500)	
e. Medical defense against chemical agents:			
Prior year	(.000)	(1.750)	1. An extensive study of the role of the liver in the excretion of therapeutic drugs has been initiated by baseline studies with pentobarbital. indocyanine green (ICG) and antipyrine (AP). ICG is cleared rapidly by the liver but the clearance rate is decreased by exercise and a hot environment. AP, normally cleared more slowly, shows little change in clearance rate under stress but the plasma concentration and body water AP content increase under stress. Dehydration of men under test appears to be a factor in reducing ICG clearance. The physiological factors governing wearability of protective masks have been studied and ranked as follows: neuromuscular fatigue, respiratory impedence in heavy work, heat stress, metabolic limitation, mechanical trauma, psychological exhaustion. 2. A vaccine, prepared from O-p-aminophenyl, O-pinacolyl methylphosphonate and a protein carrier, has been developed. Laboratory animals immunized with this vaccine and challenged with GD die but survive longer than unprotected animals. Improved histological methods permit counting of binding sites on vaccine treated leucocytes, which provides a measure of antibody titer and identification of men who would not be protected by the vaccine. A newly developed immunoabsorbent column is being used to correlate protection with levels of circulating antibody. Injection of urea with 2–PAM into GB-poisoned laboratory animals increases reactivation of AChE in the brain nearly threefold. In vitro studies show that increasing pH from 8.4 to 9.1 doubles reactivation. Eel AChE is now being produced at 85- to 90-percent purity. Using this product, the complete amino acid sequence of the serine active site has been mapped out. Renal excretion of the 2–PAM Cl has been found to depend on base secreting mechanisms. 3. Preliminary studies have been carried out to examine the binding of an incapacitating agent to the resin XAD2 and to cholestyramine, both resins being effectively bound. The XAD2 resin has somewhat higher binding capacity and a wider pH range than the latter. Cholestyramine, which is an FDA approved drug, is being given to volunteer subjects with oral doses of an incapacitating agent. Clinical effectiveness of this treatment and the urinary excretion of the boundagent will be evaluated. The XAD2 resin cannot be used in man as it is not yet an accepted drug. Operant techniques with rats will be used to assess the behavioral actions of glycolate esters and their antagonists. The efficacy of various anticholinesterase and cholinomimetic compounds in reversing the behavioral effects of the glycolates will be evaluated. Emphasis will be placed on the duration of the antagonism and on establishing proper dosage relationships between the glycolates and their antagonists. The evaluation of the possible use of the item known as the Hypospray for mass injection of casualties incapacitated by glycolates or related compounds will be completed. The pharmaceutical parameters and factors involved in adapting the Hypospray to this use will be delineated. 4. The production of skin lesions due to HD exposure is attributable to an initial reaction of the alkylating agent with cellular DNA. The following studies will be conducted: (a) Effects of lysosomal stabilizers and labilizers on the severity and latency of skin lesions produced by HD exposure; (b) effect of inhibitors of lysosomal enzymes; (c) ability of chalones to inhibit unbalanced growth and extend the period of DNA repair and bring about enhanced recovery; and (d) light and electron microscopic evaluation of events associated with the aforementioned studies. 5. Experiments with a long series of polymer compounds and formulations has resulted in the selection of a DuPont compound, MPD 3856 as the best available material to form an impermeable skin film for protection against VX-type compounds. This fluoropolymer has been tested in various formulations. At first the difficulty of low solubility in ordinary solvents had to be overcome. When good solvents were found, aerosol preparations were made up for convenience in applying the film. The first attempts were unsuccessful because bubbles formed and weak spots in the film developed. Freon E finally proved to be suitable and films were produced which were adherent to animal skin, impermeable to VX and flexible enough to remain on skin for long periods. Studies on the degradation of VX by skin decontaminating ointments have continued at a low level.
Current fiscal year	(1.750)	(.000)	
f. Army materiel development (suitability) tests:			
Prior year	(.078)	(.309)	Obligations were incurred for the testing of the U.S. Army's defense equipment and material and for the long-range environmental storage and environmental effects testing. Four engineering tests are currently in either planning and/or reporting during this period and are as follows: 1. CB protective clothing for EOD personnel: This effort is designed to determine if the suit meets the approved small development requirements. Testing is complete except for 12 high temperature trials. Medical problems involved with these trials are currently being studied. Therefore, testing has been suspended. Completion is scheduled for 3d quarter fiscal year 1974. 2. CB protective handwear: This effort is designed to determine the physical durability and sizing characteristics and to evaluate the safety aspects of the hardware. Testing, including environmental storage, CB penetration studies, and handling trials, has been completed and a report published in December 1973. 3. 200 CFM modular collective protection equipment (MCPE): This effort is designed to perform an engineering and expanded service test and to determine the capability of the MCPE to meet protective requirements as outlined in requirements document. Test plan has been completed and has been forwarded for coordination. Testing is to be initiated in 4th quarter, fiscal year 1974. 4. M–51 CB shelter test: This effort is designed to evaluate the effects of intermediate cold climatic conditions on system reliability, durability, and suitability for additional Army use During this period the test plan has been prepared and forwarded for approval. Testing is to be initiated 3d quarter, fiscal year 1974. 5. Environmental surveillance: The environmental surveillance and long term storage program for the first half of fiscal year 1974 and a total of 12 items undergoing some phase of testing at 1 or more of the test sites. These items consist of protective masks, protective hoods, and chemical detector kits. 3 items are completed and reports published during this period
Current fiscal year	(.231)	(.000)	
5. Simulant Test Support:			
Prior year	.128	.536	
Current fiscal year	.408	.000	
a. Materiel Tests in Support of Joint Operational Plans and/or Service Requirements:			
Prior year	(.128)	(.536)	Obligations were incurred in planning, conducting, and/or reporting of 3 joint operational tests in response to CINC and service requirements and are as follows: 1. Test 70–11, phase I: This effort is in response to Army, Navy, and Air Force requirements and is concerned with the vulnerability of installations and equipment. During this period 2 large scale elevated line source releases of chemical simulant tagged with fluorescent particles were completed using the TMU–28–B spray system. Testing is complete. Data analysis has been initiated and the final report is scheduled for completion 3d quarter, fiscal year 1974. 2. Test 70–11, phase II: This test is a research effort with the aim of duplicating the contamination pattern of a toxic attack with the use of simulants and correlating simulant/agent data to permit hazard and vulnerability analyses. Laboratory investigations are in progress to obtain the data for the agent/simulant correlation. Investigation is to be completed 4th quarter, fiscal year 1974. 3. Test 74–010, phase I: The U.S. Marine Corps requested a test to evaluate the effectiveness of the LVTP–7 landing vehicle when subjected to a simulated massive chemical attack. 7 field trials were conducted wherein collective protection equipment and decontamination procedures were evaluated. Testing was completed. Data analyzed and a draft final report forwarded to the Marine Corps.
Current fiscal year	(.408)	(.000)	

	Funds obligated (millions)		
Description of R.D.T.E. effort	Amount	In-house/ contract	Explanation of obligation
Chemical warfare program:			
Prior year	$0.937	$0.476	During the first half of fiscal year 1974, the Department of the Army obligated $1,824,000 for procurement activities associated with chemical warfare agents, weapons systems, *defensive equipment*, and production base projects. Program areas of effort concerned with these obligations were as follows: Lethal chemical program: Materiel procurement: 0 Product on base projects: 0 Total lethal chemical: 0 Incapacitating chemical program: Material procurement: 0 Production base projects: 0 Total incapacitating chemical: 0 Defensive equipment program: Materiel procurement: $1,824,000 Production base projects: 0 Total defensive equipment: $1,824,000
Current fiscal year	.887	1.348	
1. Lethal chemical program:			
Prior year	.000	.000	No obligations were incurred for procurement of lethal chemicals or weapons systems.
Current fiscal year	.000	.000	
2. Incapacitating chemical program:			
Prior year	.000	.000	No obligations were incurred for procurement of chemical incapacitating agents or weapon systems.
Current fiscal year	.000	.000	
3. Defensive equipment program:			
Prior year	.937	.476	
Current fiscal year	.887	1.348	
a. Item procurements:			
(1) Mask, tank, M25A1:			
Prior year	(.237)	(.360)	Obligations incurred for procurement/production and in-house engineering support of protective mask used to provide CBR respiratory protection to the wearer in a combat vehicle.
Current fiscal year	(.521)	(.398)	
(2) Shelter system, M51:			
Prior year	(.181)	(.114)	Obligations incurred for procurement and engineering support of transportable collective protection equipment used to provide protection from toxic CB agents in the field.
Current fiscal year	(.000)	(.067)	
(3) Decontaminating apparatus, M12A1:			
Prior year	(.242)	(.000)	Obligations incurred for procurement of decontaminating apparatus.
Current fiscal year	(.000)	(.242)	
(4) Filter unit, M13A1:			
Prior year	(.002)	(.002)	Obligations incurred for procurement and in-house engineering *support of filter units which are installed* in armored vehicles to provide purified air to crew members.
Current fiscal year	(.366)	(.366)	
(5) Alarm, M8:			
Prior year	(.032)	(.000)	Obligations incurred for adjustments to previously awarded contracts as a result of engineering change orders.
Current fiscal year	(.000)	(.032)	
(6) Collective protection equipment, M10 Hawk:			
Prior year	(.243)	(.000)	Obligations incurred for modifications to M10 collective protection equipment for the Hawk battery control centrals.
Current fiscal year	(.000)	(.243)	

SECTION 2.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE SEMIANNUAL PERIOD JULY 1, 1973 THROUGH DEC. 31, 1973, DEPARTMENT OF THE ARMY, RCS DD-D.R.&E.(SA) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE SEMIANNUAL PERIOD JULY, 1 1973 THROUGH DEC. 31, 1973, REPORTING SERVICE: DEPARTMENT OF THE ARMY

	Funds obligated (millions)		
Description of R.D.T.E. effort	Amount	In-House/ contract	Explanation of obligation
Biological research program:			
Present year	$0.212	$7.318	During the first half fiscal year 1974, the Department of the Army obligated $9,570,000 for general biological research investigations and the development and test of physical and medical defensive systems. Program areas or effort were as follows: Biological research: Basic research in life sciences: $230,000 Exploratory development: 203,000 Total biological research: 433,000 Defensive systems: Exploratory development: 6,710,000 Advanced development: 1,775,000 Engineering development: 000 Testing: 320,000 Total defensive systems: 8,805,000 Simulant test support: 332,000
Current fiscal year	9.358	2.252	
1. Biological research:			
Prior year	.003	.433	Basic research and exploratory development effort during the report period was expended as follows:
Current fiscal year	.430	.000	
a. Basic research in life sciences:			
Prior year	(.000)	(.230)	Support of biological defense materiel has consisted of a theoretical analysis of biological detection concepts including evaluation of laser detection of man-made aerosols and examination of aerosol particle dynamics for characteristics detectable by optical methods. Biological aerosol investigations were initiated to determine the effects of relative humidity and dissemination as wet or dry particles on airborne decontamination of the aerosols with vaporized chemicals or air pollutants. Theoretical analysis and experimental studies on new concepts for biological detection will continue toward the
Current fiscal year	(.230)	(.000)	

SECTION 2.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE SEMIANNUAL PERIOD JULY 1, 1973 THROUGH DEC. 31, 1973, DEPARTMENT OF THE ARMY, RCS DD–D.R. & E.(SA) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE SEMIANNUAL PERIOD JULY 1, 1973 THROUGH DEC. 31, 1973, REPORTING SERVICE: DEPARTMENT OF THE ARMY—Continued

Description of R.D.T.E. effort	Funds obligated (millions)		Explanation of obligation
	Amount	In-House/ contract	
			selection of a recommended method. The approach must distinguish man-made microbiological aerosol particles from those present in the normal background of air. Feasibility studies will also begin on new biological approaches to rapid detection. Research will be conducted on sampling microorganisms from the atmosphere with emphasis on recovering the largest possible quantity of viable pathogenic species.
b. General biological investigations:			
Prior year	($0.003)	($0.203)	Work continued on the cost effectiveness of various techniques of using alarm applications. Data were collected for the purpose of calculating disease outbreaks.
Current fiscal year	(.200)	(.000)	
2. Defense equipment program:			
Prior year	.173	6.553	
Current fiscal year	8.632	2.252	
a. Physical defense against biological agents:			
Prior year	(.000)	(1.045)	Exploratory development effort during this report period was expended as follows: 1. Efforts were initiated to: (a) design and fabricate an improved breadboard model of the formaldehyde generator-neutralizer unit for the biological decontamination of enclosed areas, and (b) scale up the successful technique developed to neutralize residual surface paraformaldehyde following decontamination in a limited (18 ft^3) volume chamber using a hydrogen peroxide unit. The potential for use of nontoxic chemical decontamination of biological simulant aerosols has been demonstrated by using mists of lactic acid. A trailer has been modified and tested as a respirator evaluation facility. This will be used until the permanent man chamber facility is constructed in the Biological Medical Laboratory, building E3100. Continuing development will be performed on the method of formaldehyde generation and neutralization following decontamination of an enclosure. Improved breadboard models of the decontamination system for enclosed areas will be tested and evaluated. Protocol developed for the scavenging and neutralization of paraformaldehyde from surfaces will be tested in enclosures having volume equivalent to those of the enclosures in which the equipment might be used. The latic acid countercloud technology will be extended to the evaluation of other potential nontoxic chemicals, particularly propylene glycol. The mobile trailer used in biological tests will be operating and low level, sporadic testing will be performed. Work will begin on the design of a permanent man chamber facility in building E3100. 2. Potent antisera against three bacterial pathogens of military importance have been produced in a single animal in studies we have sponsored at the Naval Biomedical Laboratories, Oakland, Calif. High titer antisera to bacterial spores have also been produced as well as standard immunizing antigen factions. Investigation of chemiluminescence reactions observed in various environments continued. This information was used as a basis for design of a sample processing unit for separation of biological from background (ambient) particulates. Analyses of methods to obtain optimum benefits from the utilization of mobile alarms was completed. Experimental tests were performed in recent field tests at Dugway Proving Ground, Utah, using simulant, nonpathological aerosols. Work will continue on refining immunization methods for the production of purified polyvalent antisera in single host animals. Antisera will be tagged with iron containing labels. Investigations will continue of approaches for elimination of spurious response observed in chemiluminescence reactions. Data from the mobile alarm tests recently conducted at Dugway Proving Ground, Utah will be analyzed with particular emphasis on data collected via the airborne configuration.
Current fiscal year	(1.310)	(.265)	
b. Biological defense material concepts:			
Prior year	(.000)	(1.380)	Advanced development effort during this report period was expended as follows: 1. Improved prototype models of the automatic biological agent alarm, XM19, were desigred and fabricated by the contractor. Extensive testing was conducted on these devices at both Government and contractor facilities. Dugway Proving Ground facilities were utilized to obtain data on the detection capabilities of this design. Operations were conducted at a variety of locations within the United States to determine the stability of the prototypes in typical rural, urban and coastal environments. The data obtained were recorded on magnetic tape so that the performance of various design options available in the design of the signal processing electronics can be subsequently assessed on the Edgewood Arsenal IBM 1108 computer. The contractor has fabricated prototypes of two alternate designs of the XM2, biological sampler. One, a novel concept, has the potential of achieving the required sampling capability while requiring only a modest amount of reagents and thereby simplifying the logistics requirements. The other design, based upon the earlier approach, is under test and is performing well. Final prototypes of the XM19 alarm and XM2 sampler will be fabricated, incorporating the results of evaluation tests performed on the earlier models. Testing will continue and will provide the data needed to demonstrate that engineering development should be initiated in mid-fiscal year 1975. All of the needed documentation (drawings, manuals, etc.) will be completed. The preferred design of the XM2 will be identified and adequately documented. 2. Various models applicable to possible methods of deploying the biological alarm system have been examined in terms of operating cost and with respect to the number of alarms required to achieve the required detection capability. The formal requirements for this first generation alarm system continued to be reviewed. Factors contributing to maximizing the effectiveness of the total configuration of the alarm system were periodically reexamined. The data obtained in the developmental testing of the prototype hardware was successfully programed into the Edgewood Arsenal IBM 1108 computer. The data are being examined in a variety of programs, all designed to readily show the interrelationships which exist as design trade-offs and to also demonstrate the measured performance of the current prototype designs. The deployment models will continue to be studied and will lead to the formulation of a recommended approach for the planned engineering development program. These studies will be made available to the agency representing the user. From the computer studies of test data, which will continue to be collected, an optimum set of criteria for the reliable detection of biological aerosols will be identified. Suitable circuits will be fabricated for demonstrating the performance of the XM19 utilizing these criteria.
Current fiscal year	(1.775)	(.395)	
c. Medical Defense Against Biological Agents:			
Prior year	(.108)	(3.808)	Exploratory development effort during this report period was expended as follows: 1. The experimental program of the Institute is targeted toward: (a) infectious illnesses which pose special problems to our military forces; (b) medical defense against biological warfare; and (c) the safe study of infectious, highly dangerous microorganisms in the unique and special containment facilities of the Institute. A variety of experimental approaches is used to solve these problems as illustrated by: (a) infectious disease models are developed in laboratory animals and the resulting information is extrapolated and applied to man; (b) the defense mechanisms of the body are studied and stimulated in an effort either to prevent an infectious disease or to reduce its harmful effects among military personnel; (c) rapid accurate laboratory methods are developed for identifying causative microorganisms before, or soon after, illness begins thus permitting therapy to be instituted early in the disease process; (d) techniques are developed to measure subtle changes that occur at the molecular level in cells of the infected host. An understanding of these mechanisms is basic to establishing effective measures to combat disease. 2. Efforts will continue during fiscal year 1974 to exploit the information obtained previously. All aspects of the program will continue to emphasize infectious illnesses of military importance. None of these or future studies is directed toward offensive biological research and development. No portion of the program involves classified information.
d. Materiel tests in support of joint operational plans and/or service requirement:			
Prior year	(.000)	(.000)	No funds were obligated during the report period. A report covering the test effort designed to investigate the naturally occurring particulate materiel present in the marine atmosphere was forwarded to the U.S. Navy, June 29, 1973. Project is completed.
Current fiscal year	(.000)	(.000)	

Description of R.D.T.E. effort	Funds obligated (millions)		Explanation of obligation
	Amount	In-house/ contract	
e. Army materiel development (suitability) tests:			
Present year	($0.065)	($0.320)	Obligations were incurred for the advanced development testing of the biological detector systems. Safari operations were supported at Presidio, Treasure Island, Fort Richie, and Fort Carson to obtain detector reliability and background particulate data. 20 field trials were conducted wherein detector equipment was exposed to selected nonpathogenes to evaluate technical performance. 2 trials were conducted using an airborne mobile detector system to evaluate *detection capabilities* to biological aerosols. Chamber trials were conducted to evaluate the chemiluminescence detection system and its associated biological sampler and with the pattern acquisition and correlation technique (PACT) system. Testing will continue for approximately 2 years.
Current fiscal year	(.255)	(.000)	
3. Simulant test support:			
Prior year	.036	.322	
Current fiscal year	.296	.000	
Materiel tests in support of joint operational plans and/or service requirements:			
Present year	(.036)	(.332)	Obligations were incurred in planning, conducting, and/or reporting of 2 joint operational tests and 2 operations research studies. These efforts are in response to CINC and service requirements and are in consonance with the current national policy for CB, test and studies. 1. Test 73-30: This test was designed to obtain data in the effects of sunlight on biological material. Field testing was completed in June with the data evaluations and final report published October 1973. Data will be applicable for use in vulnerability studies. 2. Test 70-74, phase III: This test is designed to obtain comparison decay data between the mobile van/microfilament technique and free floating biological aerosols. Testing is required to finalize the design of the van and determine acceptability for field experimentation. Test plan was published, 2 field trials conducted to date, with completion of the test effort scheduled for the 4th quarter, fiscal year 1974. 3. Study 71-160, phase IV: Study was designed in response to a Cinclant requirement to evaluate the biological protective posture of several key/critical facilities and to make recommendations for minimizing the vulnerability of the facilities. Report has been published indicating the degree of vulnerability and recommendations as to reduce their vulnerability. 4. Study 73-115: This study effort was in response to an Army and Cinclant requirement to develop a rationale for establishing decontamination requirements. During the report period, the final report was organized and comments received during coordination was incorporated. Report was published December 1973.
Current fiscal year	(.296)	(.000)	

OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE SEMIANNUAL PERIOD JULY 1, 1973 THROUGH DEC. 31, 1973, REPORTING SERVICE: DEPARTMENT OF THE ARMY

Biological research program:			
Prior year	$0.000	$0.000	During the first half fiscal year 1974, the Department of the Army obligated $0 for procurement activities associated with biological defensive equipment and production base projects.
Current fiscal year	.000	.000	

SECTION 3.—OBLIGATION REPORT ON ORDNANCE PROGRAM FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE SEMIANNUAL PERIOD JULY 1, 1973 THROUGH DEC. 31, 1973, REPORTING SERVICE: DEPARTMENT OF THE ARMY

Description of R.D.T.E. effort	Funds obligated (millions)		Explanation of obligation	
	Amount	In-House contract		
Ordnance program:				
Prior year	$0.257	$4.272	During the 1st half fiscal year 1974, the Department of the Army obligated $4,603,000 for general research investigations, development and test of smoke, flame, incendiary, herbicide, riot control agents and weapons systems, and other support equipment. Program areas of effort concerned with these obligations were as follows:	
Current fiscal year	4.346	.331	Smoke, flame, and incendiary program	$716,000
			Herbicide program	383,000
			Riot control program	2,510,000
			Other support equipment program	400,000
			Test support	594,000

OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE SEMIANNUAL PERIOD JULY 1, 1973 THROUGH DEC. 31, 1973, REPORTING SERVICE: DEPARTMENT OF THE ARMY

Ordnance program:				
Prior year	$0.000	$9.733	During the 1st half of fiscal year 1974, the Department of the Army obligated $18,669,000 for procurement activities associated with smoke, flame, incendiary, herbicide, riot control agents, weapons systems, and other support equipment. Program areas of effort concerned with these obligations were as follows:	
Current fiscal year	18.669	8.936	Smoke, flame, and incendiary program	$16,001,000
			Herbicide program	
			Riot control program	6,000
			Other support equipment	2,662,000

SECTION 4.—OBLIGATION REPORT ON CHEMICAL WARFARE, BIOLOGICAL RESEARCH AND ORDNANCE PROGRAMS—ADJUSTMENT SUMMARY

[Sec. 4.—Adjustment summary—Adjustments result from basing the report for Jan. 1, 1973, through June 30, 1973, on actual obligations through Apr. 30, 1973, and estimated obligations for May and June 1973]

Page and description	From—	To—
SECTION 1—CHEMICAL WARFARE PROGRAM		
Under explanation of obligation, change amounts as follows:		
1 First line, "Department of the Army, obligated . . . "	$8,124,390	$7,791,340
Chemical research: Exploratory development	398,332	445,273

SECTION 4.—OBLIGATION REPORT ON CHEMICAL WARFARE, BIOLOGICAL RESEARCH AND ORDNANCE PROGRAMS—ADJUSTMENT SUMMARY—Continued

[Sec. 4.—Adjustment summary—Adjustments result from basing the report for Jan. 1, 1973, through June 30, 1973, on actual obligations through Apr. 30, 1973, and estimated obligations for May and June 1973]

Page and description	From—	To—
SECTION 1—CHEMICAL WARFARE PROGRAM—Continued		
Under explanation of obligation, change amounts as follows:—Continued		
Lethal chemical program:		
Exploratory development	$000	−$16,012
Advanced development	1,540,572	1,488,572
Engineering development	000	−23,200
Testing	2,270,000	2,239,000
Total lethal chemical	3,810,572	3,688,360
Incapacitating chemical program:		
Advanced development	660,000	630,000
Testing	25,000	1,000
Total incapacitating chemical	685,000	631,000
Defensive equipment program:		
Exploratory development	1,597,395	1,556,482
Advanced development	773,927	755,061
Total defensive equipment	2,781,486	2,721,70
Simulant test support	449,000	305,00

	From—		To—	
	Amount	In-house/ contract	Amount	In-house/ contract
Under Funds Obligated, change figures as follows:				
1 Chemical warfare program:				
Prior year	−.032	7.176	.014	6.843
Current fiscal year	81.156	.948	7.777	.948
2 1. Chemical research:				
Prior year	.122	.220	.169	.270
Current fiscal year	.276	.178	.276	.175
6 b. General chemical investigations:				
Prior year	(.122)	(.220)	(.169)	(.270)
Current year fiscal	(.276)	(.178)	(.276)	(.175)
14 2. Lethal chemical program:				
Prior year	.000	3.582	.000	3.409
Current fiscal year	3.811	.229	3.689	.280
14 a. Agent investigations and weapons concepts:				
Prior year	(.000)	(.000)	(.000)	(−.016)
Current fiscal year	(.000)	(.000)	(−.016)	(.000)
16 c. (1) Advanced development:				
Prior year	(.000)	(1.324)	(.000)	(1.220)
Current fiscal year	(1.541)	(.217)	(1.489)	(.269)
(2) Engineering development:				
Prior year	(.000)	(−.012)	(.000)	(−.034)
Current fiscal year	(.000)	(.012)	(−.023)	(.011)
17 d. Materiel tests in superintendent of joint operation plans and/or service requirements:				
Prior year	(.000)	(.928)	(.000)	(.819)
Current fiscal year	(.928)	(.000)	(.819)	(.000)
18 e. Army material development (suitability) tests:				
Prior year	(.000)	(1.342)	(.000)	(1.420)
Current fiscal year	(1.342)	(.000)	(1.420)	(.000)
19 3. Incapacitating chemical program:				
Prior year	.000	.655	.000	.631
Current fiscal year	.685	.030	.631	.000
20 c. Tactical weapons systems:				
Prior year	(.000)	(.530)	(.000)	(.530)
Current fiscal year	(.560)	(.030)	(.530)	(.000)
21 d. Army materiel development (suitability) tests:				
Prior year	(.000)	(.025)	(.000)	(.001)
Current fiscal year	(.025)	(.000)	(.001)	(.000)
22 4. Defense equipment program:				
Prior year	−.154	2.270	−.155	2.228
Current fiscal year	2.935	.511	2.876	.493
22 a. Physical protection investigations:				
Prior year	(−.002)	(.417)	(−.003)	(.377)
Current fiscal year	(.650)	(.231)	(.610)	(.230)
26 b. Advanced development of defensive systems:				
Prior year	(−.006)	(.748)	(−.006)	(.746)
Current fiscal year	(.780)	(.026)	(.761)	(.009)
32 5. Simulant test support:				
Prior year	.000	.449	.000	.305
Current fiscal year	.449	.000	.305	.000
32 a. Materiel tests in support of joint operation plans and/or service requirements:				
Prior year	(.000)	(.449)	(.000)	(.305)
Current fiscal year	(.449)	(.000)	(.305)	(.000)
Under explanation of obligation, change figures as follows:				
33 1st line, Department of the Army obligated. . . ."	$11,331,002		$11,552,002	
Defensive equipment program:				
Materiel procurement	8,931,002		9,152,002	
Total defensive equipment	8,931,002		9,152,002	
Under funds obligated, change figures as follows:				
33 Chemical warfare program:				
Prior year	4.291	3.912	4.425	3.929
Current fiscal year	7.040	7.419	7.127	7.560
35 3. Defensve equipment program:				
Prior year	2.291	1.512	2.425	1.592
Current fiscal year	6.640	7.419	6.727	7.560
a. (1) Mask, tank, M25A1:				
Prior year	(.020)	(.598)	(.020)	(.657)
Current fiscal year	(.951)	(.373)	(1.010)	(.373)
(2) Shelter systems, M51:				
Prior year	(.026)	(.000)	(.078)	(.000)
Current fiscal year	(2.952)	(2.978)	(2.959)	(3.037)
(3) Decontaminating apparatus, M12A1:				
Prior year	(.000)	(.110)	(.000)	(.131)
Current fiscal year	(.756)	(.646)	(.777)	(.646)
(5) Alarm, M8:				
Prior year	(2.245)	(.725)	(2.327)	(.725)
Current fiscal year	(1.470)	(2.990)	(1.470)	(3.072)

Calendar year	1973	1974	1975	1976	1977	1978	1979

	From—		To—	
Under Funds Obligated, change figures as follows:	Amount	In-house/ contract	Amount	In-house/ contract
SECTION 2—BIOLOGICAL RESEARCH PROGRAM				
Under explanation of obligation, change amounts as follows:				
1 Line 1, "Department of the Army obligated. . . ."	$4, 202, 000		$4, 259, 627	
Biological research:				
Exploratory development	000		−5, 373	
Total biological research	000		−5, 373	
Defensive systems:				
Testing	423, 000		457, 000	
Total defensive systems	3, 780, 000		3, 814, 000	
Simulant test support	422, 000		451, 000	
Under "Funds obligated," change amounts as follows:				
1 Biological research program:				
Prior year	.100	3.787	.100	3.786
Current fiscal year	4.102	.415	4.160	.474
2 1. Biological research:				
Prior year	.000	.000	.000	.000
Current fiscal year	.000	.000	−.005	−.005
b. General biological investigations:				
Prior year	(.000)	(.000)	.000	(.000)
Current fiscal year	(.000)	(.000)	(−.005)	(−.005)
2. Defensive equipment program:				
Prior year	.100	3.365	.100	3.335
Current fiscal year	3.680	.415	3.714	.479
3 b. Biological defense materiel concepts:				
Prior year	(.000)	(.430)	(.000)	(.365)
Current fiscal year	(.270)	(−.160)	(.270)	(−.096)
4 d. Material tests in support of joint operation plans and/or service requirements:				
Prior year	(.000)	(.139)	(.000)	(.109)
Current fiscal year	(.139)	(.000)	(.109)	(.000)
5 e. Army materiel development (suitability) tests:				
Prior year	(.000)	(.284)	(.000)	(.348)
Current fiscal year	(.284)	(.000)	(.348)	(.000)
3. Simulant test support:				
Prior year	.000	.422	.000	.451
Current fiscal year	.422	.000	.451	.000
a. Materiel tests in support of joint operation plans and/or service requirements:				
Prior year	(.000)	(.422)	(.000)	(.451)
Current fiscal year	(.422)	(.000)	(.451)	(.000)
SECTION 3—ORDNANCE PROGRAM				
Under explanation of obligation, change figures as follows:				
1 Line 1, "Department of the Army obligated. . . ."	1, 329, 328		1, 433, 232	
Smoke, flame and incendiary program	32, 000		8, 748	
Herbicide program	272, 458		241, 003	
Riot control program	91, 870		250, 481	
Under funds obligated, change figures as follows:				
1 Ordnance program:				
Prior year	.009	.856	.004	.990
Current fiscal year	1.320	.473	1.429	.443

SEC. 1.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973, DEPARTMENT OF THE NAVY, RCS DD-D.R. & E. (SA) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973, REPORTING SERVICE: DEPARTMENT OF THE NAVY

	Funds obligated (millions)		
Description of effort	Amount	In-house contract	Explanation of obligation
Chemical warfare program:			
Prior year	.000	.075	During the first half fiscal year 1974, the Department of the Navy obligated $75,000 for the R.D.T. & E. of chemical warfare weapons. Lethal chemical program: Exploratory development $75, 000
Current fiscal year	.075	.000	
1. Lethal chemical program:			
Prior year	.000	.075	
Current fiscal year	.075	.000	
a. Agent investigations and weapons concepts:			
Prior year	(.000)	(.075)	Exploratory development funds were obligated in support of the investigation and analysis of the logistical and safety aspects of binary technology.
Current fiscal year	(.075)	(.000)	
PROCUREMENT			
Chemical warfare program:			
Prior year	.034	.034	During the 1st half fiscal year 1974, the Department of the Navy obligated $63,000 for procurement activities associated with chemical warfare defensive equipment: Defensive equipment program: Materiel procurement $63, 000
Current fiscal year	.029	.029	
1. Defensive equipment program:			
Prior year	.034	.034	
Current fiscal year	.029	.029	
a. Protective clothing:			
Prior year	(.034)	(.034)	Obligations incurred in support of Navy and Marine Corps procurement of clothing outfits, chemical protective.
Current fiscal year	(.029)	(.029)	

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973, REPORTING SERVICE: DEPARTMENT OF THE NAVY

Description of effort	Funds obligated (millions)		Explanation of obligation
	Amount	In-house/ contract	
R.D.T. & E.			
Biological research program:			
Prior year	$0.000	$0.075	During the 1st half fiscal year 1974, the Department of the Navy obligated $75,000 for the R.D.T. & E. of biological defensive systems: Defensive systems: Exploratory development $75, 000
Current fiscal year	.075	.000	
1. Defensive equipment program:			
Prior year	.000	.075	
Current fiscal year	.075	.000	
a. Physical defense against biological agents:			
Prior year	(.000)	(.075)	Exploratory development funds were obligated in support of the investigation of biological detection and warning systems.
Current fiscal year	(.075)	(.000)	
PROCUREMENT			
Biological research program:			
Prior year	.000	.000	During the 1st half fiscal year 1974, the Department of the Navy obligated $0 for procurement activities associated with biological materiel.
Current fiscal year	.000	.000	

SECTION 3.—OBLIGATION REPORT ON ORDNANCE PROGRAM FOR THE SEMIANNUAL PERIOD JULY 1, 1973 THROUGH DEC. 31, 1973, DEPARTMENT OF THE NAVY, RCS DD–D.R. & E. (SA) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE SEMIANNUAL PERIOD JULY 1, 1973 THROUGH DEC. 31, 1973, REPORTING SERVICE: DEPARTMENT OF THE NAVY

Description of effort	Funds obligated (millions)		Explanation of obligation
	Amount	In-house/ contract	
R.D.T. & E.			
Ordnance program:			
Prior year	$0.000	$0.000	During the 1st half fiscal year 1974, the Department of the Navy obligated $0 for R.D.T. & E. activities associated with smoke, flame, incendiary, herbicide, riot control agents and weapons systems, and other support equipment.
Current fiscal year	.000	.000	
PROCUREMENT			
Ordnance program:			
Prior year	.008	.879	During the 1st half fiscal year 1974, the Department of the Navy obligated $970,000 for Marine Corps and Corps Navy procurement activities associated with smoke, flame, incendiary, herbicide riot control agents and weapons systems, and other support equipment: Smoke, flame, and incendiary program $962, 000 Riot control program 8, 000
Current fiscal year	.962	.091	

SECTION 4.—OBLIGATION REPORT ON CHEMICAL WARFARE, BIOLOGICAL RESEARCH AND ORDNANCE PROGRAMS—ADJUSTMENT SUMMARY TO REPORT FOR THE SEMIANNUAL PERIOD JAN. 1, 1973, THROUGH JUNE 30, 1973—DEPARTMENT OF THE NAVY, RCS DD–D.R. & E. (SA) 1065

[The Department of the Navy reports no adjustments to obligations of fiscal year 1973 funds reported in the 2d half fiscal year 1973 DD–D.R. & E. (SA) 1065 semiannual report.]

DEPARTMENT OF THE AIR FORCE—SEMIANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (JULY 1–DEC. 31, 1973)

SECTION 1.—OBLIGATION REPORT OF CHEMICAL WARFARE LETHAL AND INCAPACITATING AND DEFENSIVE EQUIPMENT PROGRAMS FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973 REPORTING SERVICE: DEPARTMENT OF THE AIR FORCE

Description of effort	Funds obligated (millions)		Explanation of obligation
	Amount	In-house/ contract	
Defensive equipment program:			
Exploratory development:			
Prior year	0	0	
Current fiscal year	0	0	
Engineering development:			
Prior year	0	0	Survey of existing Air Force collection structures and development of modification kits for collection structures.
Current fiscal year	$85.0	$85.0	
Total defensive:			
Prior year	0	0	
Current fiscal year	85.0	85.0	
Total R.D.T. & E. obligations:			
Prior year	0	0	
Current fiscal year	85.0	85.0	

SECTION 2.—OBLIGATION REPORT OF BIOLOGICAL RESEARCH PROGRAM FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973, DEPARTMENT OF THE AIR FORCE—NEGATIVE

SECTION 3.—OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS, AND PROCUREMENT FUNDS FOR THE SEMIANNUAL PERIOD JULY 1, 1973, THROUGH DEC. 31, 1973, FOR FLAME, SMOKE, INCENDIARY, RIOT CONTROL AGENT, AND HERBICIDE MUNITIONS AND AGENT/MUNITIONS SYSTEMS, AND OTHER SUPPORT EQUIPMENT

OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE SEMIANNUAL PERIOD: JULY 1, 1973, THROUGH DEC. 31, 1973, REPORTING SERVICE: DEPARTMENT OF THE AIR FORCE

Description of effort	Funds obligated (millions)		Explanation of obligation
	Amount	In-house/ contract	
Procurement:			
Anti-PAM 51. lb BLU–32:			
Prior year	0	0	In support of Air Force training requirements.
Current fiscal year	0	0	
Smoke bomb 100 lb PWP M47–A–4:			
Prior year	0	$100	
Current fiscal year	$100.0	0	
Total procurement obligations:			
Prior year	0	100	
Current fiscal year	100.0	0	

SECTION 4.—OBLIGATION REPORT ON CHEMICAL WARFARE BIOLOGICAL RESEARCH AND ORDNANCE PROGRAMS—ADJUSTMENT SUMMARY TO REPORT FOR THE SEMIANNUAL PERIOD JAN. 1 1973 THROUGH JUNE 30 1973

[The following adjustments are to be made to the second-half fiscal year 1973 report to convert estimated obligations to actual.]

SECTION 3.—FLAME, SMOKE, INCENDIARY, RIOT CONTROL AGENT, AND HERBICIDE MUNITIONS AND AGENT/MUNITION SYSTEMS AND OTHER SUPPORT EQUIPMENT

	From—		To—	
P. 5—Procurement (thousands of dollars):				
Anti-PAM 510 lb BLU-32:				
Prior year	−2.0	0	−2.0	0
Current year	222.0	220.0	−876.4	−878.4
Smoke Bomb 100 lb PWP M47-A-4:				
Prior year	0	70.0	0	−30.0
Current year	70.0	0	−30.0	0
Total procurement obligations:				
Prior year	−2.0	70.0	−2.0	−30.0
Current year	292.0	220.0	−906.4	−878.4

Note: Adjustments have resulted from the deobligation of funds due to changes in requirements/price decreases.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. ABOUREZK). Is there further morning business? If not, morning business is concluded.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of the unfinished business (S. 3066) which the clerk will state.

The legislative clerk read as follows:

S. 3066, to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance in support of community development activities, and for other purposes.

AUTHORIZATION OF APPROPRIATIONS FOR U.S. PARTICIPATION IN THE INTERNATIONAL OCEAN EXPOSITION OF 1975

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside and that the Senate proceed to the consideration of Calendar No. 677, S. 2662, with the understanding that the unfinished business will not be laid aside beyond the hour of 1:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

S. 2662, to authorize appropriations for United States participation in the International Ocean Exposition of 1975.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Rules and Administration with an amendment on page 2, beginning with line 1, after "*Provided,*" strike out "That not less than $2,500,000 of the amount authorized to be appropriated herein shall be paid in Japanese yen accrued under the Settlement on Post War Economic Assistance between the United States and Japan, dated January 9, 1962: *Provided further,*" so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Ocean Exposition Appropriations Authorization Act of 1973".

SEC. 2. There is authorized to be appropriated for the United States Information Agency for "Special International Exhibitions", for United States participation in the International Ocean Exposition to be held in Okinawa, Japan, in 1975, as authorized by the Mutual Educational and Cultrual Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), $5,600,000, to remain available until expended: *Provided,* That the amount authorized to be appropriated herein shall be available without regard to section 3108 of title 5, United States Code.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, it is my understanding that the pending business is S. 2662.

The PRESIDING OFFICER. The Senator is correct.

Mr. SPARKMAN. I yield to the Senator from Wisconsin such time as he may require.

Mr. PROXMIRE. Mr. President, I understand that the matter before the Senate is S. 2662, which would allow $5.6 million for U.S. participation in the International Ocean Exposition. I should like to raise some questions about these expenditures.

I do not object to our participation. In fact, I agree with Secretary of State Kissinger that U.S. participation is "very much in line with our own interests." What I do have real concern about is the price tag attached to this venture.

In the committee report on the bill, a financial plan is set forth which shows how the $5.6 million authorized by the bill is to be spent. Some of these items are entirely understandable. Obviously we will be involved in fabricating exhibits and providing a staff of guides. However, a few of these items give me real concern. They seem to involve excessive expense.

For example $727,500 would be spent on audiovisual materials. How in the world is this three-quarters of a million dollars to be spent? This would be an adequate budget for many Hollywood movies. The most successful film ever made by the U.S. Information Agency, which will have jurisdiction over these funds, cost $114,743. This was a remarkably moving film tribute to President Kennedy titled "Years of Lightning, Day of Drums." It was so successful that Congress permitted it to be shown in this country, where it played in commercial movie theaters to packed houses.

Yet this bill would permit the USIA to spend almost seven times as much as it cost to produce that fine film on audiovisual materials for an international ocean exposition.

I ask Senator SPARKMAN, the manager of the bill, how he justifies the expenditure of $727,000 for audiovisual materials, which seems to be a very large amount for one exposition in Japan, where we are just one participant.

Mr. SPARKMAN. I may say to the Senator from Wisconsin, if he will refer to the report of the committee, that that item is set out on page 3. Many different items are involved.

Mr. PROXMIRE. Yes; that is what I was referring to. For the audiovisual item, $727,500 is listed. Of that amount, $490,000 is for 1974 and $237,000 for 1975. The exposition will not take place until July 1975, but apparently most of the work on it will be done in advance. This seems to be rather a large amount, and I am very much surprised that it is being spent for this purpose.

Mr. SPARKMAN. The request came to us from the USIA. I cannot give the breakdown on it, because more than this is given in the report in the committee that approved it.

Frankly, I think the answer is: That this was the request that came in, and it was understood that all these matters would have to be taken up in the Appropriations Committee. Of course, it would be up to the Appropriations Committee to decide whether the amount was too much or too small. Furthermore, the bill will have to be acted upon by the House. I do not think there will be any particular difficulty, but I must say that I myself cannot explain it.

Mr. PROXMIRE. The Senator from

Wisconsin is a member of the Appropriations Committee. The difficulty is that when this item comes before the committee, and this amount has been authorized for an international purpose, and the Foreign Relations Committee looked into it and authorized, in this case, $727,500 for audiovisual purposes, we should be very careful about changing the amount the committee authorized.

Mr. SPARKMAN. First, let me say, speaking as a member of the Committee on Foreign Relations, that that certainly will not be my attitude when we go into this question. Let us go on and pass the item in the amount authorized; then when it is before the Appropriations Committee, I hope that that committee will look at it very carefully, examine the witnesses who will appear, and find out what the breakdown is. But I am sorry I am not able to give the Senator a complete explanation.

Mr. PROXMIRE. I understand. The Senator from Alabama has my great respect. He is certainly very much concerned, as I am, about excessive expenditures. The Senator must appreciate that we held the bill up deliberately so that answers could be procured from the appropriate agency. That was the reason for holding it up. I was willing to take the bill up at any time, but I had hoped that when we took it up, some justification would be given.

Mr. SPARKMAN. I had never heard of that before. The bill was introduced by the chairman of the committee, by request. It was acted upon, if I recall correctly, while he was still here. He has been away, now, for several days. I reported the bill as the committee had reported it. I mean that I had it placed on the Senate Calendar as it was reported by the committee.

I am not familiar with the individual items that would go in to make up one figure. If the Senator will let it go to the Appropriations Committee, I assure him that I will join in the request that it be examined carefully. I do not think that any member of the Foreign Relations Committee will be there urging that the full amount be approved because the committee had acted on it.

Mr. PROXMIRE. I should like to make a suggestion to the Senator. First, let me finish detailing a couple of other problems I have with the sums in the bill.

I should like to suggest that we make a moderate reduction in the bill. The item for brochure printing is pegged at $175,000. That ought to buy a great many brochures, especially if the people who work on them are already on the Government payroll. How was that figure arrived at, and how would the money be spent?

Then, $85,000 will be spent on other sorts of printing, such as invitations, manuscripts, magazine reprints and the purchase of books. This seems like a whale of a lot of money. I note that $38,500 will be spent on eight panelists at seminars. Again, a breakdown would be helpful. That should pay for enough panelists to fill the Senate Auditorium but if there were only eight they would get very high remuneration of expenses. It does seem like an extraordinarily large amount of money.

Would the Senator consider the possibility of reducing the size of the authorization by a half million dollars, or $500,000, at least as an indication that the Senate is concerned about the amounts, and that there does not seem in the report any justification for reason to spend this very large sum?

Mr. SPARKMAN. I would prefer to follow the other route. For instance, I am told that in the request that comes from USIA there is involved the printing of 1 million pamphlets, in order they may be distributed. That printing cost would be 14 cents a copy. That comes pretty close to $175,000, to which the Senator referred.

I wish very much that he would let the matter go to the Committee on Appropriations and by that time the request he said he has made can be taken up and we will get those figures, or they could come to him as a member of the Committee on Appropriations, and then adjust the figure that may be justified.

I am sorry I do not have the details. I know nothing about the request that the Senator stated.

Mr. PROXMIRE. I did not issue any request.

Mr. SPARKMAN. I thought the Senator said he had asked for it.

Mr. PROXMIRE. No, I put a hold on the bill with the understanding that when we did discuss it on the floor there would be an opportunity to secure answers on this particular item.

Mr. SPARKMAN. I knew nothing about that. We could call on the USIA to get it. If we are going to participate in this we have to get quick action because the time is here when we must let it be known that we are going to participate. I still believe the most satisfactory way of handling it would be to go the Committee on Appropriations route.

Mr. PROXMIRE. Let me say that I intend to write to both the chairman of the Committee on Appropriations and the chairman of the subcommittee that will handle this particular request and enclose a report on what we have discussed on the floor.

Mr. SPARKMAN. Fine.

Mr. PROXMIRE. And with the request that the Committee on Appropriations look into this and secure a clear justification for whatever spending we do eventually appropriate.

Mr. SPARKMAN. I would be very glad if the Senator would take that position. If we can be of assistance on the committee in getting the breakdown I should be very glad to cooperate.

Mr. PROXMIRE. I thank the Senator.

Mr. SPARKMAN. I thank the Senator from Wisconsin.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2662

An Act to authorize appropriations for United States participation in the International Ocean Exposition '75

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Ocean Exposition Appropriations Authorization Act of 1973".

SEC. 2. There is authorized to be appropriated for the United States Information Agency for "Special International Exhibitions", for United States participation in the International Ocean Exposition to be held in Okinawa, Japan, in 1975, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), $5,600,000, to remain available until expended: *Provided,* That the amount authorized to be appropriated herein shall be available without regard to section 3108 of title 5, United States Code.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

The Senate resumed the consideration of the bill (S. 3066) to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance in support of community development activities, and for other purposes.

The PRESIDING OFFICER. The question recurs on S. 3066.

Who yields time?

Mr. PROXMIRE. Mr. President, will the Senator from Alabama yield to me for 10 minutes?

Mr. SPARKMAN. Mr. President, I yield 10 minutes to the Senator from Wisconsin.

I also designate the Senator from Wisconsin to yield to any other Senator who wishes time.

Mr. PROXMIRE. I thank the Senator.

Mr. President, I wish to compliment the chairman and all members of the committee on Banking, Housing and Urban Affairs for working so long and so hard on the Housing and Urban Development Act of 1974. While the bill is by no means perfect, I believe it is a major achievement, particularly in view of the serious disagreements between the Congress and the administration on the future direction of the housing and urban development programs.

Mr. SPARKMAN. Mr. President, will the Senator yield to me for 1 minute?

Mr. PROXMIRE. I yield.

Mr. SPARKMAN. I thought it might be well at this time to call attention to two or three items in the bill that in the past might have been considered as backdoor financing. The Senator will remember that he had an amendment that proposed direct lending for certain types of housing, such as is done under section 202 now.

Then, the Senator from Connecticut (Mr. WEICKER) had an amendment that provided for assistance to State housing agencies that likewise would have been considered as backdoor financing.

Those are not so considered now and, in fact, the Treasury Department approved both because we had completed action on the Federal Financing Act.

The Senator will remember that while the Treasury Department first objected to the so-called backdoor financing and we probably would have dropped them because of that objection, when they came up next time for discussion the Treasury Department representative was at the committee meeting and announced to the committee that they had no objection to either of those two provisions because that could be handled through the Federal Finance Bank and did not call for paying out funds from the Treasury itself.

Due to the fact that there is a question of backdoor financing that comes up I thought it might be well to point out those two items.

There is one other item. The $300,000 that was added by the amendment of the Senator from Massachusetts (Mr. KENNEDY) for cooperatives appeared to be backdoor financing but that could be handled in the same way.

The Cooperative Association, or whatever the name of it is, could issue debentures and that could be handled through the bank.

I thought it might be well to call that to the attention of the Senate now so that if that question does arise we will know the answer.

Mr. PROXMIRE. I thank the Senator very much.

Mr. SPARKMAN. I yield to the Senator such time as he may require.

Mr. PROXMIRE. I thank the Senator.

Mr. President, we all should appreciate that housing has been tremendously handicapped because it has to yield to budget restraints. So much of the housing bill is not a matter of expenditure but a matter of good, solid investment in mortgages which are repaid with interest, on which the Federal Government loses nothing. It is like a business treating its borrowing exactly like its expenditures. A business that did that would not function efficiently or stay in business long.

Even a bank that lends to a householder who is building a house would not consider the loan it makes to the householder the same as the expenditure it makes when it hires people to work in that bank. This is what has brought about the confusion we have had in the housing field and in failing to move ahead as we should be doing.

The bill adopts those recommendations of the administration which made sense to the committee; at the same time it continues those programs which the committee believes are essential to meet the housing needs of the American people.

There are many good things in this bill, and I would like to highlight some of them.

First, the bill continues, with certain reforms and improvements, our existing low- and moderate-income housing subsidy programs. The committee just did not buy the administration argument that these programs are inherently unfair and unworkable. There are some legislative improvements reflected in the committee's bill, but as hearings before the Joint Economic Committee clearly revealed, the major problems lie not with the structure of these programs but with the way they were administered. The Department of Housing and Urban Development has been guilty of incredibly bad management and worse in the administration of these programs.

Second, the bill provides local government with a new, streamlined block grant program for community development which will replace 10 categorical grant programs. Under the block grant approach, it is anticipated that much of the redtape and delay associated with the present programs will be eliminated. Local governments will be given more flexibility and responsibility to deal with the problems of their own community. However, in providing for this increased flexibility, the committee did not go as far as the approach taken by the administration which in my opinion, would have removed virtually all Federal guidelines and converted our present urban development programs into a general revenue sharing program.

Third, the bill includes a new chapter directing the Secretary of Housing and Urban Development to establish Federal standards for mobile home safety and construction. This chapter is based on legislation introduced by the Senator from Tennessee and myself, and in my view, it makes a giant first step in protecting consumers from poorly constructed or unsafe mobile homes.

Fourth, the bill reaffirms the housing goals set forth in the Housing and Urban Development Act of 1968.

This has been a very controversial issue with the administration. These goals call for the construction of 26 million housing units over the 10-year period from 1968 to 1978 including 6 million units for low- and moderate-income families. The administration urged that these goals be repealed. Fortunately, the committee did not buy the administration's arguments. The passage of the Housing and Urban Development Act of 1974 will indicate a continuing commitment by the Congress to meeting the housing needs of the American people.

These are just some of the good things about the bill. However, I believe I would be remiss if I did not point out that there are some deficiencies as well.

First, the bill does not include a clear directive to the Secretary of Housing and Urban Development to act promptly to control excessive real estate closing costs. Housing and Urban Development has authority and responsibility under existing law to issue regulations to limit closing costs on FHA–VA transactions. Unfortunately, it has been dragging its feet on these regulations. I had introduced legislation requiring that the regulations be issued in 6 months and that HUD's authority be expanded to cover all mortgage transactions, both conventional and FHA–VA. The committee, however, could not agree on this legislation although I am hopeful that HUD will act in the near future. I estimate that homebuyers are being overcharged by at least $300 million a year because of excessive or unnecessary closing charges.

Second, the bill does not contain clear and unequivocal language overturning the illegal and unconstitutional moratorium established by the administration 1 year ago with respect to our housing subsidy programs. The passage of the Housing and Urban Development Act of 1974 in and of itself should be taken by any fairminded administrator as a congressional declaration to end the moratorium. Nonetheless, this administration has repeatedly ignored the laws enacted by the Congress. I only hope the administration will not be similarly remiss when Congress takes final action on the 1974 housing bill.

Third, the bill does nothing major to boost our present low level of home construction or to provide emergency relief to hundreds of thousands of homebuyers who have been priced out of the market because of high interest rates and the lack of mortgage credit. Housing experts are projecting only 1.6 million housing starts in 1974, a 30-percent drop from the 2.1 million starts in 1973.

There have been all kinds of discussion as to what we should do under present economic circumstances, with inflation, and also a recession threatening. We are all hopeful a recession does not develop, but there are considerable indications that it may develop. We know in the past 4 months there has been a sharp unemployment increase. It did not increase last month, but it did until January, and according to all forecasts, including the administration's forecast, it is expected to go higher in coming months. One way to cope with the situation without inflationary pressure is to provide for the kind of housing which is so badly needed and which provides so much in the way of employment opportunities.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PROXMIRE. I yield myself 3 minutes. The distinguished Senator from Alabama gave me authority to do so, I understand, before he left.

It takes roughly 2 man-years to produce a new house. Therefore, a reduction in home construction of 500,000 will take 1 million jobs out of the economy. Unemployment in the construction industry already stands at 9.6 percent, nearly double the national average. We can ill-afford the additional unemployment in construction generated by a housing slowdown.

This is why stimulating the housing industry, permitting the housing industry to go ahead, is not inflationary. We would be using otherwise idle resources and putting them to work. The materials for housing which were in short supply a year ago are no longer in short supply; they are available.

What we need is a Government program for making low-cost mortgage credit available to the hundreds of thousands of families who have been priced out of the housing market, because of high interest rates.

The fact is that 60 percent of the people in this country cannot afford to buy a new home today, because interest rates are so high and the cost of construction is so high that it is beyond those whose income is below $12,000 or $15,000 a year. There is a way to solve this, and the way is to use the authority Congress has given the President to make 7 percent mortgage loans to middle-income families during periods of tight money. Unfortunately, funds for this program were never requested, and the authority expired last June.

Despite these deficiencies, the Housing and Urban Development Act goes a long way toward meeting our housing needs and toward improving the conditions of our cities. I support the bill and recommend that it be adopted by the Senate.

I am very hopeful we can enact additional housing legislation later in the year and meet some of the objections many of us feel the bill has, but I do think the bill in its present form ought to be enacted.

Mr. TOWER. Mr. President, I ask unanimous consent that Mr. Pat Abshire, of the staff of the Committee on Banking, Housing and Urban Affairs, be permitted on the floor during consideration of S. 3066.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to read the amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 131, line 11, before "At least 30 per centum", insert the following new sentence: "For the purpose of the preceding sentence, the initial annual contribution for a project shall, notwithstanding any other provision of this Act, be equal to the difference between the sum of the total debt service payment plus operating costs, and the rental payments that tenants are required to make under section 3(1) of this Act."

Mr. STEVENS. Mr. President, it is my intention that the language be inserted right after the so-called Indian amendment that was offered by the Senator from New Mexico (Mr. MONTOYA), but which was really called up by the majority leader.

This is a simple amendment that provides for an initial contribution on the Indian housing in the instance where very, very poor native and Indian people cannot prove feasibility because of the amount of their income and welfare contributions.

I have discussed this amendment with the manager of the bill. It applies to what is a maximum subsidy payment of $10 a month per unit in the instance where operating costs are included.

This amendment would remove the $10 limit in the case of very poor in the Indian housing only.

Last January the Department of Housing and Urban Development established a maximum subsidy of $10 per month per unit to cover operating costs of the projects. This means that the rental income from the property, subject to the Brooke amendment, has to cover the costs of water, heat, electricity, and other utilities. If an application could not prove financial feasibility in this regard, it did not receive approval regardless of the need for safe, sanitary housing.

The State of Alaska presently has 1,100 program reservations pending at HUD. None of these will be approved under the present $10 maximum. I understand that my good friend, Senator METCALF, has experienced similar difficulties in his part of the country.

My amendment will effectively remove this $10 limit and, thus, enable Native Americans in all parts of the country to benefit from the action the Senate has already taken in this regard.

I have been informed by HUD that this amendment will not alter the number of units which can be produced with the $15 million. This is due to the fact that these problems exist in remote, cold areas of the country. In Alaska, at least, it will be impossible to do any construction this summer as the funds do not become available until July 1. The subsidy does not become a factor until the new homes are occupied. Therefore, it will be 2 years before additional funds are needed to carry out my amendment. However, we need the amendment now so that HUD will approve the program reservations it has on hand and issue new ones without regard for the $10 maximum subsidy.

Mr. President, I understand that the manager of the bill is prepared to accept the amendment.

Mr. TOWER. Mr. President, I yield myself as much time as I may require.

This is a meritorious amendment. It is consistent with what we did last Friday when we agreed to the amendment offered by Senator MONTOYA.

On behalf of the committee, I believe that we are prepared to accept the amendment. I have discussed this amendment with the manager of the bill.

Mr. STEVENS. Mr. President, I yield back the remainder of my time.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. HRUSKA. Mr. President, I send to the desk an amendment and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. HRUSKA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is as follows:

On page 175, line 23, after "(c)" insert "(1)".

On page 176, between lines 14 and 15, insert the following:

"(2) In addition, any community development agency which has been carrying out a locally-designed community development program during any of the five fiscal years ending on June 30, 1974, shall have an initial two-year entitlement for a grant in an amount equal to twice its basic grant entitlement determined under subsection (d), if the Secretary determines that such locally-designed program has substantially the same purposes as one or more of the programs referred to in paragraph (1). For the purpose of this paragraph, the Secretary shall—

"(A) prescribe such standards and cirteria as may be necessary in order to make the determinations referred to in the preceding sentence not later than 60 days following the date of enactment of this chapter;

"(B) make such determinations not later than 180 days following the date on which applications for assistance under this chapter are received for the first contract period; and

"(C) reserve for community development agencies which have an entitlement under this paragraph at least 5 per centum of the amount approved in appropriation Act under section 306 and available for obligation, for a period at least as long as the 180 day period during which his determinations must be made.

Any part of the funds reserved pursuant to clause (3) of the preceding sentence which are unobligated upon the expiration of the period referred to in such clause shall be reallocated in accordance with the other provisions of this section."

Mr. HRUSKA. Mr. President, this amendment would give the Secretary of Housing and Urban Development the authority to identify any community development agency which has been carrying out a locally designed community development program to achieve substantially the same purpose as one or more of the four programs used to establish eligibility under subsection 307(c), the grandfather clause. Any unused portion of the 5-percent set-aside amount authorized would be available after 6 months for reallocation to the specific purposes of the bill.

Mr. President, may I first commend the distinguished chairman of the committee, the distinguished ranking minority member and all the distinguished members of the committee who labored long and hard to forge this bill. Although I have never had the honor of serving on the Committee on Banking, Housing and Urban Affairs, it was my privilege for several years to serve on the Appropriations Subcommittee responsible for housing and community development programs. From that experience I know that these programs are extremely complex, that a great many interests have stakes in them, and that we face enormous problems in making congressional intent understood and effected at the local government level where these programs impact.

I share, Mr. President, the concerns expressed on March 8 by the distinguished senior Senator from Texas concerning the subsidized housing programs. As a member of the Appropriations Committee and of the Joint Study Committee on Budget Control, I am very much concerned about the heavy future costs of these programs and the relatively uncontrollable character of the spending from a budgetary viewpoint. Federal aid to support low- and moderate-income persons, and deserving persons without income, will require, of course, large sums. Whether we are talking of $65 to $85 billion over the next 30 to 40 years, or of $40 billion as suggested by the distinguished committee chairman in his remarks on March 8, it is clear that the Federal commitment will be large by any count.

The questions we have to ask are: Are we legislating in a fashion which will assure sound value received for every Federal dollar spent? Are we increasing the supply of adequate housing for those persons whom the law intends to help? Mr. President, my experience on the Appropriations Committee suggests that we are paying high, but not meeting well the needs of those who deserve help the most. That is why the subsidized housing moratorium was declared and the housing allowance experiment launched.

To the extent that the pending bill simplifies and consolidates the complicated housing laws now in force, we are making some good progress. I regret very much, however, that a majority of the committee apparently believes that we should not advance at this time beyond patching up old programs whose track record has been most disappointing.

In the provisions dealing with community development, Mr. President, I was most disappointed to find that a majority of the committee abandoned the effort to establish objective criteria such as population, substandard housing and poverty as the basis for allocating funds. This was the thrust of the administration's proposed Better Communities Act. The administration's plan struck many as fair, particularly because it included reasonable "hold harmless" features to assure a readjustment period for those cities which had been relatively more successful than others in securing categorical grants.

Mr. President, Senators on both sides of the aisle have expressed serious concern about the bill's community development grant criteria. The general objections are harsh but clear: Past performance at grantsmanship is the prime criterion for entitlement. It is my strong impression that the cities most likely to benefit under this bill will be those which secured categorical footholds in the mid- and late-1960's. As other Senators have pointed out, areas which recently have experienced rapid growth will be excluded from the favored grantsmanship category. They will have to scramble in the national melee for the approximately one-third of the total funds leftover after the Great Society winners take their cut.

It is to obviate and meet this difficulty, and so forth.

In my own State of Nebraska, Mr. President, we are just beginning to urbanize in a serious way after decades of upheaval in the agricultural sector. Our cities are not large by Seaboard and Great Lakes standards. But for the Great Plains they are markedly larger now than many of us expected 10 or 15 years ago. By 1990 it is likely that over 50 percent of Nebraskans will be living in cities of more than 25,000 population. These cities are now beginning to plan orderly renewal and development. Yet only 3 out of the 10 Nebraska cities with a 1970 population greater than 20,000 will enjoy preferred entitlement under this bill.

The city of Omaha fortunately had a code enforcement program as far back as 1967. The cities of Grand Island and North Platte launched neighborhood development programs just in time to secure entitlement under the pending bill. But Lincoln, our State capital, and all other cities in the State will have to scramble for the leftovers.

Mr. President, although I am not an expert on the legislation at hand, I can see in local situations familiar to me that the bill is likely to frustrate rather than help progress toward the purposes intended.

Since 1970, Mr. President, my constituents in the Omaha area have been working closely with their Iowa neighbors in Council Bluffs and adjoining Iowa counties to plan and carry out the development of some 54 miles of the Missouri River Valley above and below the Omaha-Council Bluffs metropolitan area. Six cities, six counties, the Nebraska and Iowa State governments, all agencies represented on the Kansas City Federal Regional Council, and numerous private organizations have all joined together in far-reaching development efforts to shape for generations to come the social and economic life and the ecology of the Upper Missouri Valley.

This riverfront development program was not spawned by model cities or urban renewal or by any of the other programs slated for consolidation in the pending bill. It was the result entirely of local initiative, a vision, if you will, conceived by local government officials and business leaders. Federal contributions to initial planning came not from the Department of Housing and Urban Development, but from the Missouri River Division and Omaha District of the Corps of Engineers and from the Economic Development Administration of the Department of Commerce.

Only after broad plans had been developed and local cooperation mechanisms were in place did the riverfront program make systematic overtures to the Federal Government to joint the partnership to develop the Valley. Full-scale Federal participation did not come through any of the programs mentioned in the pending bill, but through an experiment initiated by the Office of Management and Budget in early 1972, entitled the Integrated Grants Administration program.

Under this integrated grant program, a local group comes to the Federal Government and says, "This is our plan. Here is how we propose to carry it out. We have committed these local resources. In what ways is the Federal Government interested in participating and with what resources." Mr. President, the approach I have just described is the complete reverse of classic grantsmanship where the brass ring goes to the planners who can best gage the speed and rhythm of the merry-go-round of Federal laws and regulations.

I offer the experience of my Omaha area constituents, Mr. President, as a concrete example of the spirit of local initiative envisioned in the new federalism. It stands in sharp contrast to the dispiriting process of catering to the prejudices of staff of Federal agencies so evident in the old grantsmanship. But it is the practitioners of the old and discredited approach who stand to benefit most under the community development entitlement provisions of this bill.

Let me be specific, Mr. President, the cities of Omaha and Council Bluffs probably will qualify under the grandfather clause entitlement in subsection 307(c). The other four cities and the six counties participating in the riverfront program will not. Some of the latter have participated in one or more of the programs listed in subsection 307(d) for computation of the grandfather clause grant amount. This past participation gives them no advantage whatsoever because they fail to qualify under the grandfather clause in subsection 307(c). Furthermore, it appears that the combined value to the cities of Omaha and Council Bluffs of their grandfather clause entitlement may be less than the value of their entitlement under the proposed Better Communities Act where objective criteria entered into the formula.

Finally, Mr. President, the entire riverfront development program receives its Federal support under the Integrated Grants Administration program through a Metropolitan Council of Governments vehicle. This body, which serves to provide the collective expression of the wills of its member governments, is the Community Development Agency for the riverfront program. It appears, however, that the pending bill makes no allowance for grandfather clause entitlement for a consortium of this sort.

Thus, Mr. President, we see how this bill could seriously jeopardize a sound regional partnership able to act as a cooperative mechanism for effective use of Federal community development resources.

The cities of Omaha and Council Bluffs have lucked out, so to speak, under the grandfather clause. The other riverfront program cities and counties must now enter the mad scramble for leftover discretionary funds. There will be strong incentives for going it alone. In short, we are about to experience again the kind of "every man for himself" balkanizing of metropolitan areas which the categorical programs originally provoked. A sound, forward-looking, and locally conceived program, which has *stimulated* remarkable regional and intergovernmental cooperation of the kind envisoned by the advocates of special revenue sharing and block grants, may well be harmed rather than helped by this bill.

This possibility, Mr. President, should make us alert to the pattern developing in the other block grant legislation now on the books or pending. The law enforcement and manpower programs have cleared. Education and economic development are moving up rapidly. I regret to note that in the instant bill, while we are making some progress in consolidating categorical programs, we cannot shake off entirely such trappings of categorical legislation as tight Federal review, complex regulations, and interminable clearances. It seems inevitable to me that the bill's community development entitlement standards will generate a wild scramble for funds among those not protected by the grandfather clause. This in turn will necessarily force the Department of Housing and Urban Development into cautious application reviews in the interest of equity. Ultimately we will have even more elaborate defining of eligibility through the medium of Federal regulations.

To ease somewhat the burdens imposed by the entitlement standards and to respect the managers' wish not to rewrite the formula on the floor, I have offered a rather modest amendment to section 307.

Mr. President, this amendment would give the Secretary of the Department of Housing and Urban Development authority to identify any community development agency which has been carrying out a locally designed community development program to achieve substantially the same purposes as one or more of the four programs used to establish entitlement eligibility in subsection 307(c), the grandfather clause. It further provides a 6-month period after enactment to make the identification and a 5-percent set-aside of the amount authorized. After the 6-month period, any unused portion of the 5-percent set-aside would be available for reallocation according to the basic purposes of the bill.

The intent of the amendment is straightforward, Mr. President. To the extent that participation in the four programs listed in the grandfather clause establishes the substance of what we mean by community development in a preferred sense, those communities carrying out substantially similar locally conceived efforts should be included. This amendment would be of great benefit to the riverfront development program which I described and to many similar situations in the United States.

Mr. President, it is for the purpose of meeting this situation that I have offered the amendment.

It would be my hope that some progress would be possible toward a test of this approach to entitlement.

Mr. President, I yield to the Senator from Texas.

Mr. TOWER. Mr. President, I have listened with interest to the distinguished Senator from Nebraska. He actually raises some of the objections that I raised in an earlier speech on the same subject. These are the same objections which I mentioned in a colloquy with the distinguished Senator from Florida (Mr. CHILES) last Friday.

It is my hope that the objections dealt with by the Senator in his proposed amendment will be handled in the HUD bill as it moves through the House.

At the moment I would prefer that the Senator not press his amendment at this time, if he can see fit not to do so. We are informed by HUD that it would impose very serious administrative problems for HUD in its present form. However, I would like to inform the Senator of that and ask him if he would give us the opportunity to deal with that matter later.

Mr. HRUSKA. Mr. President, I am aware that there are administrative difficulties without some major and fundamental revision of the basic bill. However, I would suggest that, unless major adjustments are made in the entitlement formula, we would not only have administrative problems but also a complete collapse of the block grant program. Then we will again find ourselves engaging in the same exercise of trying to revise the basic legislation.

I have learned from reading the debate of last Friday that it is not the desire of the managers of the bill to try to rewrite the formula on the floor.

That is why the amendment I have submitted is designed as a modest amendment which gives plenty of discretion and plenty of latitude and flexibility to eliminate a lot of the administrative difficulties.

Considering the matter on balance, I comply with the request of the Senator from Texas. I will withdraw my amendment. However, I am pleased to hear him say that it will be uppermost in his thinking together with other vital points in the bill when the time comes for conference to reconcile the bills from the two Houses.

Mr. TOWER. Mr. President, I thank my friend, the Senator from Nebraska. HUD is now working with our counterparts on the House side and is trying to get the matter settled.

Mr. HRUSKA. Mr. President, I thank the Senator from Texas very much.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BROCK. Mr. President, the Housing and Community Development Act of 1974, S. 3066, is a monumental piece of legislation covering a broad range of Federal housing and urban development programs. The complexities of the bill reflect the fact that major housing and urban development legislation has been delayed many years, with the last comprehensive bill enacted in 1968. A range of subjects are covered including housing loan insurance and mortgage credit assistance, low-income housing assistance, community development, comprehensive planning, rural housing assistance, mobile home construction safety standards, and housing cooperative financing associations.

The distinguished chairman of the Subcommittee on Housing and Urban Affairs (Mr. SPARKMAN) and the distinguished ranking minority member of the subcommittee (Mr. TOWER) are to be commended for bringing this bill to the floor of the Senate. Their subcommittee worked long and hard for the better part of last year to put this important legislation together. The excellent craftsmanship of the professional staff of the subcommittee and the Senate Legislative Counsel's office can be seen in this legislation.

Other than the chapters dealing with community development and comprehensive planning, most of the bill deals in one way or another with housing.

The simplification of the mortgage credit provisions of the National Housing Act as contained in the bill is long overdue. The existing law is now characterized by a confusion of overlapping authorities, many of which are seldom used or completely obsolete.

Public housing should be aided by the new and simplified version of the U.S. Housing Act contained in chapter 2 of the bill, which grew out of the administration's recommendations submitted to the Congress in 1971.

I am particularly pleased that the committee saw fit to include as chapter 7 of the bill the National Mobile Home Construction and Safety Standards Act of 1974. Mobile homes are tremendously important in providing low-cost, decent housing for millions of American families. Although most manufacturers take great pride in producing a quality product at a reasonable cost, the need for national standards to insure safety has long been apparent. The National Mobile Home Construction and Safety Standards Act will go a long way toward reducing the number of personal injuries, deaths, and property damage resulting from mobile home accidents, plus reducing the amount of insurance costs.

Another important provision in the bill is section 810 designed to prevent discrimination on the basis of sex in housing. This section is patterned after the Fair Housing Opportunity Act which I introduced during the last session of Congress after it had come to my attention that in too many cases, women are discriminated against in housing transactions. For example, very often a wife's income is not counted toward a purchase of a home. Section 810 would amend the Civil Rights Act of 1968 to include as a prohibited activity discrimination on the basis of sex in housing transactions.

Although I strongly feel that the crisis in the housing area requires the early passage of housing and community development legislation, I do have some reservations over specific provisions in S. 3066.

The largest part of this bulky bill deals with housing. These provisions represent the product of 4 years of proposals, counter proposals, amendments to proposals, agreements, and debate. The provisions simplify the law we have now and make a number of specific desirable changes. Unfortunately, when it comes to the real problem areas, the bill does nothing—nothing that is, except to dredge up that same old remedy of pouring in more Federal dollars.

It is important that we be clear on this. The most obvious failures of Federal efforts to provide housing for lower income families are the multifamily subsidy programs, like section 236 and, in recent years, public housing. These are the programs which have tended to "warehouse" the poor, with high concentrations of problem families which result in unmanageable problems of maintenance and exacerbate social conditions, both in the project itself and too often in the surrounding neighborhoods as well. These are the programs where cost controls have been most glaringly absent, or have failed, where the Government's long-term 40-year subsidy comments are most troublesome, and where projects increasingly prove infeasible despite the assistance being provided. In the case of section 236, for example, the administration estimated in its housing study last year that 1 project in 5 would fail within 10 years. It has now begun to appear that even these estimates were conservative—more than 20 percent will come back to FHA and they will come back sooner than expected. In the case of public housing, the bottom has in effect dropped out of the program to the point where in many respects it is no longer even a housing program. It is a welfare program, with tenants often living rent free and the Federal taxpayer confronting an ever mounting, seemingly endless bill.

So far as these critical problem areas

are concerned the bill before you does little or nothing. The provisions of the bill make some amendments in the law. But by no stretch of the imagination are the resulting programs new. Rather, this body is being asked to approve the same old structure. The only really significant changes are to add on new potential Federal costs. Thus, in the successor to section 236, the committee has added to the existing mortgage payment and tax subsidies a new subsidy—an operating subsidy. In the public housing program which already has an operating subsidy, the committee has moved to make payments under that provision mandatory.

It has done so moreover without taking any step to improve incentives for sound project management or to increase project revenues and establish over a period of time some reasonable minimum rent.

To add to what the bill would do in retaining the old are some amendments it would make to the new. For the administration, to its credit, did present us with a new proposal for a multifamily subsidized program. This new approach was designed to deal with problems which had developed in public housing and the section 236 program. Various mechanisms were included for control of costs including, for example, use of objectively determined market rents and a requirement for a specific minimum rent. The use of mortgage insurance was limited so that lenders would have a real interest in project feasibility. And the problem of excessive concentrations of low income families was squarely faced with a provision limiting the number of subsidized units to 20 percent of those in a structure. Essentially, the idea was that subsidized projects would have to be projects that would also make the grade as conventional unsubsidized projects. No longer would it be possible, as it has been in the past, to build projects for low and moderate income families with higher costs but lower standards than characterize other housing being built in the community for higher income families.

The bill retains some of this proposal. But it has grafted on it so many characteristics of the old programs that it is hardly recognizable. The market rent limitation, for example, is eroded, the minimum rent provisions deleted, and the normal limit on subsidized units raised from 20 percent to 75 percent—a figure so high that as a matter of practice and economics projects are likely to be fully subsidized. Moreover, the bill would largely remove from the Secretary the power to deal directly with developers. Instead, he would generally be required to operate only through local housing authorities, some of which may have little interest in new ways of operating if not enough to do already with existing projects and programs.

In making these remarks, it is not my intention to suggest that we should now seek to rewrite what the committee has done. It is my intention, however, to put to rest any misapprehensions about what we are doing in this bill about the "housing mess" that some of the subsidized programs have become. We are doing very little, except possibly to aggravate the problem with new invitations—or mandates—for reliance upon Federal funds. We are not even adding to the old something new, except in a form which will substantially perpetuate the old problems. Let us hope that at some point, before this bill finally becomes law, the Congress will do better.

Mr. DOLE. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 189, between lines 16 and 17, insert the following: "Notwithstanding the provisions of paragraphs (1), (2) and (3), the Secretary shall accept in lieu of any other required local contribution under this chapter, an equivalent amount of local contribution credits allowable for those facilities which are currently eligible as such under title 1 of the Housing Act of 1949 where the facilities have been reflected in the financing plans of, and have already been constructed or are under construction in, an ongoing urban renewal project or neighborhood development program activity area as of the date of enactment of this chapter."

Mr. DOLE. Mr. President, I ask unanimous consent that during the consideration of this amendment and the following amendment, John Smith and Ken Benjamin of my staff may have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

NONCASH CREDIT ALLOWANCE

Mr. DOLE. Mr. President, it has come to my attention that the community development programs in many of our larger cities across the country may suffer serious setbacks through implementation of the section 309(a) requirement for 10-percent local cash contributions.

There is significant concern on the part of many local agencies that the virtual elimination of noncash credits for all except low-income housing projects would have a devastating impact on their ability to meet local participation cash requirements.

The problem arises in areas such as Kansas City, Kans., where the property tax structure is heavily committed to support of bond issues to meet the financial needs of their extensive urban renewal programs. With already the highest tax rate in the State, Kansas City is in no position to issue additional bonds to satisfy the proposed cash percentage requirement. And unless something is done to modify that requirement, they and others of our Nation's cities which have been so enthusiastically committed to renewal programs would face the loss of millions of investment dollars as well as virtual shutdown of their community development activities.

The specifics of the Kansas City situation were set forth in a letter to Senator PEARSON and myself by Mr. Miguel P. Madrigal, deputy executive director of the Kansas City, Kans., Urban Renewal Agency.

In the letter he said:

Under present regulations, communities have been allowed to provide their ⅓ share in either cash or noncash credits and excess noncash credits can be pooled from a completed conventional urban renewal project to the next succeeding project until they are expired. Also, under present regulations. It is possible to pool excess credits from conventional urban renewal projects that are being closed out or completed into the Neighborhood Development Program. In addition to this, under the Neighborhood Development Program, it is possible for agencies to "bank" un-utilized noncash credits into its accounting records after they are approved by HUD until such a time as it is necessary for a community to draw upon these credits to meet its financing needs. (See copy of NDP Handbook RHA 7386.1, Noncash Grants-in-Aid, Chapter 3, 2.D. pages 1 and 2).

Under the above regulations, presently Kansas City, Kansas has approximately $4.5 million already banked into its financing accounts to meet future financial needs under the present Neighborhood Development Program. In addition to this, the Agency filed, under Section ND-201, a list of other noncash credits which had either been completed or started during the last action year. This list amounted to approximately $17,948,633 (see list attached). Currently, the Agency has several of these noncash credits under review at the local HUD area office and several more than are currently under processing, which amount to approximately $12 million. Others on the list are either under construction or not yet completed.

In addition to this, the Agency has other noncash credits that are presently under construction in several of the conventional projects where we foresee excess amounts which can be pooled into the Neighborhood Development Program eventually as these projects are completed.

The City of Kansas City, Kansas and other local public entities, in the last few years (since approximately 1968) have added approximately $61 million to the ad valorem of this community in the form of a $15 million capital improvement bond issue, $24.5 million school bond issue, $16 million public building commission bond issue and a $5 million junior college bond issue. The majority of these facilities being provided by these bond issues are mainly in the inner city area and many are within our Neighborhood Development Program boundary."

Finally, Mr. President, to deal with this problem and assure a basic element of fairness in this program, I am offering an amendment to expand the noncash credits allowances for localities which wish to continue their progress through participation in Federal grant programs. I believe that it is essential to the future of many ongoing urban renewal and neighborhood development projects, and will contribute significantly to easing the transition to the new approach embodied in S. 3066.

I say that in cases such as that of Kansas City, where they are overextended now insofar as bond issues are concerned, where it will be almost impossible to continue in the program if the cash credit is required, the amendment will make an exception in these instances.

It does not apply just to Kansas City, but also to Wichita and to a great many other cities in similar situations across the country.

This amendment has been discussed with the distinguished Senator from Texas and members of the staffs of the Senator from Texas and the Senator from Alabama (Mr. SPARKMAN).

Mr. TOWER. Mr. President, may I say to the Senator that we are looking at his amendment at the moment and thinking in terms of perhaps asking him to modify it slightly, and therefore, if we could have just a few minutes' time, if the Senator will forbear and let me suggest the absence of a quorum on the bill's time, perhaps we can work it out.

Mr. DOLE. Let me suggest that I have thought about one modification to establish a limit of 2 years, and I am prepared to make that modification.

Mr. TOWER. Yes, that is one of the problems we have in going from a one-third/two-thirds situation to a 90–10 situation; there are a lot of unused cash credits that would string this matter out for some period of time. That was one of the problems we discussed in the committee. But we are now considering the matter, if the Senator is agreeable to suggesting the absence of a quorum.

Mr. DOLE. That is agreeable.

Mr. TOWER. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I send a modified amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the modification.

The second assistant legislative clerk proceeded to read the amendment as modified.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE's amendment, as modified, is as follows:

On page 189, line between lines 16 and 17, insert the following: "Notwithstanding the provisions of paragraphs (1), (2) and (3), the Secretary shall, during the two year period beginning on the date of enactment of this chapter, accept in lieu of any other required local contribution under this chapter, an equivalent amount of local contribution credits allowable for those facilities which are currently eligible as such under title 1 of the Housing Act of 1949, where the facilities have been reflected in the financing plans of, and have already been constructed or are under construction in, an on-going urban renewal project or neighborhood development program activity area as of the date of enactment of this chapter."

Mr. DOLE. Mr. President, let me state that this is identical to the amendment sent to the desk earlier, except that it is limited in application to 2 years, beginning at the date of enactment.

The amendment has been discussed with the distinguished Senator from Texas (Mr. TOWER), the distinguished Senator from New Jersey (Mr. WILLIAMS) and the distinguished Senator from Alabama (Mr. SPARKMAN). I think the modification meets any objection they might otherwise have. Is that correct?

Mr. TOWER. I am sorry; will the Senator repeat his question?

Mr. DOLE. I have modified the amendment to limit the application to 2 years, and with that modification it is my understanding that it is acceptable.

Mr. TOWER. Yes, it is certainly acceptable to me, because I have supported the Senator's amendment from the outset. As a matter of fact, I supported that concept in the committee. Unfortunately, others prevailed in the committee, but the committee was fairly evenly divided on the issue, and I think the other members of the committee probably support the Senator's present position.

With the modification, I think it eliminates what could be an abuse of the use of noncash credits. Therefore, I am prepared to accept the amendment, and I believe that the Senator from Alabama is likewise so prepared.

Mr. SPARKMAN. Mr. President, I have gone over the amendment with the Senator from Kansas and the Senator from Texas, and I am willing to accept it as modified.

The PRESIDING OFFICER. Do all sides yield back the remainder of their time?

Mr. SPARKMAN. I yield back the remainder of my time.

Mr. DOLE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. ABOUREZK). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Kansas, as modified.

The amendment, as modified, was agreed to.

AMENDMENT NO. 1009

Mr. DOLE. Mr. President, I call up my amendment No. 1009 and ask that it be stated.

The PRESIDING OFFICER (Mr. ABOUREZK). The amendment will be stated.

The legislative clerk read as follows:

AMENDMENT NO. 1009

At the end of the bill add the following new chapter:

Chapter .—HOUSING OPPORTUNITIES FOR THE HANDICAPPED

SECTION 1. This chapter may be cited as the "Housing Opportunities for the Handicapped Act".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to—

(1) promote alternatives to institutional living arrangements for severely handicapped adults;

(2) promote a more normal living experience and thereby provide an opportunity for the severely handicapped adult to choose how and where to live in order to reduce dependency, to maximize opportunities for vocational evaluation, training, and placement, integration into the community, and to utilize already obtained rehabilitation and educational experiences;

(3) focus attention on housing needs which are not already available;

(4) promote facility construction adequate for both handicapped and nonhandicapped at the most feasible cost;

(5) demonstrate models of housing and services for severely handicapped adults; and

(6) utilize existing supportive service systems.

AUTHORITY

SEC. 3. The Secretary of Health, Education, and Welfare (hereafter referred to as the "Secretary") is authorized to make grants to eligible sponsors to carry out a demonstration program to provide, in an efficient and innovative manner, housing and coordination of existing supportive services for severely handicapped adults. For the purposes of this Act, "severely handicapped adult" means a person, having attained the age of eighteen years, whose handicap is sufficiently severe to impair substantial gainful activity, and who requires multiple services to assist in adjusting to or overcoming such handicap.

ELIGIBILITY

SEC. 4. An eligible sponsor for a grant under section 3 is a public or private nonprofit agency or organization (other than a State institution) which—

(1) has demonstrated a commitment to serving and understanding the severely handicapped;

(2) is, at the time it applies for such a grant, supporting a continuing service delivery system for severely handicapped persons; and

(3) is a community-based agency or organization.

CONCLUSIONS

SEC. 5. (a) The Secretary shall not approve any application for a grant under this Act unless he determines—

(1) that such application was submitted to and approved by a sponsor's advisory council, which council is established for the purpose of furnishing advice to a sponsor with respect to the administration and design of a program to be carried out under this Act, and of which not less than 50 per centum of the members are handicapped persons, some of whom will reside in the housing to be operated by the sponsor, and for which not less than 25 per centum of the members are professionals experienced in providing services to severely handicapped persons;

(2) that the applicant has furnished assurances that its program will not serve fewer than six severely handicapped adults at a cost of not more than $10,000 per adult; and

(3) that the applicant has furnished such other assurances as the Secretary may by regulation require.

(b) In furnishing assistance under this Act, the Secretary shall encourage the conduct of demonstrations in both densely and sparsely populated areas in separate geographic regions of the United States.

REPORTS

SEC. 6. The Secretary shall report to the Congress not later than March 1 of each year on his activities under this Act and shall submit a final report to the Congress which report shall include recommendations for future legislation in the area of housing for severely handicapped adults based upon a comprehensive analysis and review of the projects funded under this Act.

PLANNING AND COORDINATION

SEC. 7. (a) Section 701(a) of the Housing Act of 1954 is amended by inserting before the last sentence the following: "Planning assisted under this section shall include a consideration of the design, construction, and location of housing, transportation facilities, and other facilities and services for the purpose of insuring ease of adaptability of such facilities and services for occupancy or use by handicapped persons."

(b) Section 4 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following:

"(d) There shall be in the Department a Special Assistant to the Secretary, designed by the Secretary, who shall be responsible for—

"(1) consultation and coordination with the Department of Health, Education, and Welfare and other agencies with respect to housing design and technology with respect to adaptability of housing for occupancy by handicapped persons; and

"(2) coordination and oversight within the Department of all housing and related programs to assure the maximum practicable application of design and technology which facilitates adaptability for occupancy or use by handicapped persons."

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1974, $1,500,000 for the fiscal year ending June 30, 1975, and $2,000,000 for the fiscal year ending June 30, 1976, to carry out the purposes of this Act. Any sums so appropriated shall remain available until expended.

Mr. DOLE. Mr. President, I would like to express my support for the goal of adequate, safe, and secure housing for every American—the basic objectives contained in this much-needed legislation for the betterment of our existing housing and community improvement programs. However, I am concerned that it does not go far enough in dealing directly with the particular problems encountered in this area by our Nation's handicapped citizens.

The only portion of the bill, as it was reported, which deals even remotely with this area is section 804 providing for creation of a special housing loan fund for the elderly and the handicapped. It is my firm belief that this fund alone would be insufficient to meet the critical needs of our physically and mentally disabled, especially with regard to their requirements for adaptability in their living facilities. I, therefore, propose an amendment to extend the scope of housing alternatives available to the severely handicapped.

Many problems, of course, uniquely afflict this segment of our population. They must contend with an almost limitless variety of economic difficulties, physical obstacles, social prejudices, and emotional uncertainties. It is to the great credit of our society that we have attempted—through public, private, and individual efforts—to respond to these problems in ways that will facilitate and enhance the lives of our fellow citizens who are physically or mentally handicapped. One only has to look back a few decades to appreciate the distance we in America have come—from regarding persons with physical and mental disabilities as less than human, to the point where we now devote major programs and resources toward assuring their fullest and most rewarding participation in the mainstream of life. But as anyone who is concerned with this field understands, there is still much to do.

HOUSING DIFFICULTIES

Housing has always been a subject of concern to the handicapped, for a variety of reasons relating to their unique physical, medical and financial requirements. Their living accommodations frequently must conform to special needs. Doorways may have to be widened to allow easy passage on crutches or in wheelchairs. Elevators and ramps may be required, too. The installation of handrails, grip-bars, lifting devices, and other equipment is often necessary. Appliances, fixtures, and floor plans frequently must be modified. These requirements, by virtue of their complexity, uniqueness, and cost, are seldom met by conventional living accommodations. Although, taken separately, they do not seem overly important or serious, together they often have meant the difference between institutionalization and life as a part of the so-called normal community. And as the severity of an individual's handicap or group of handicaps increases, so does the likelihood that this individual will be unable to escape life in an institution.

The result of this process has been an increasing emphasis on institutionalization as a way of life for the more severely handicapped, and it has given rise to an "institutional" mentality among the handicapped, themselves, as well as the professional, technical, and policymaking personnel who serve them. It seems most effort has been based on the proposition that severely handicapped individuals must by definition be maintained in institutions. Little thought, small energy, and few resources have been dedicated to deinstitutionalizing them and placing them physically in the environment of the communities to which they belong.

ESTABLISHED PATTERNS

Indeed, so far no broad-scale, concentrated efforts have been devoted to providing residential facilities designed specifically for severely handicapped adults. Except in rare instances, substantially handicapped persons have remained in their parents' houses until some emergency such as the death or physical incapacity of a parent has forced them into institutions, or they have been placed there from the outset. Little thought has been given by these parents or their handicapped children to alternative living accommodations. And no wonder.

Even such rehabilitative services as are available are usually institutionalized, and often they are set apart from similar programs for the rest of the population. For example, excellent special education programs are often segregated for no real reason, and thereby the contact between handicapped and nonhandicapped children—which in many cases might be beneficial to both groups—is limited. In similar fashion, vocational services, and sheltered employment are also often removed from the well-traveled paths of the community.

This continued separation produces a detrimental cycle. The handicapped person, segregated from his fellow citizens, finds his opportunities for personal interaction with others are limited. He finds it more difficult to enter community life when opportunities are presented. At the same time, opportunities for the remainder of the population to become acquainted with the disabled as individuals and fellow human beings with the same emotions, hopes, and personalities are also reduced. And the whole society is the poorer for it. Because of this institutional mentality among those responsible for providing services to people with special needs, the severely handicapped, themselves, are confined by their limited institutional terms. In effect the whole society is stifled.

A touching example of this institutional mentality arose out of a meeting not long ago in a large city where severely handicapped adults, their parents, volunteers, lay leaders, and State officials were discussing the kinds of living arrangements favored by the handicapped adults and their families. Everyone could mention already established institutional methods, but no one ever raised the possibility of a noninstitutional setting. They could not think of anything but large population categories—nursing homes, hospitals, and institutions for 50 or more, with 3 or 4 in a room. The idea of increased self-sufficiency and independence in a private residential setting was completely foreign to them all.

NEW DIRECTION

I believe the time has come to set aside this institutional mentality and introduce a new direction into the planning and programs for the severely handicapped—particularly where housing is concerned.

Of course, some handicaps are so severe that they absolutely necessitate the care and extensive facilities available only in modern hospitals and extended care centers. But many severely handicapped people—given the right facilities, training, and guidance—can live independent, productive lives away from the institutions to which they have been confined.

So from this point on, let us not make our first question, "What institution is best?" Rather let us first ask, "How can we make it possible for this person to live in the community? How can we make him or her as much a part of the everyday life of America as possible? How can we enable him or her to play a maximum role in the world?"

The modern directions in this Nation for treating and rehabilitating the handicapped are deinstitutionalization and decentralization. These trends should also be incorporated in approaches to living arrangements for the severly handicapped. The goal should be to integrate them into the community but still provide all the special services they require—through establishing a new emphasis in planning for future housing construction and utilizing available services and facilities more effectively, efficiently and, economically.

HOUSING OPPORTUNITIES FOR THE HANDICAPPED ACT

In April 1973, I proposed a two-phase national effort to redirect our approach to housing for the handicapped in America. It placed the focus on providing alternatives to institutional living arrangements by adapting present housing to meet the needs of the severely handicapped and by assuring that future housing will be constructed with the needs of all handicapped Americans clearly in mind. It was entitled the Housing Opportunities for the Handicapped Act of 1973, and forms the basis of the amendment I am offering today.

DEINSTITUTIONALIZING THE SEVERELY HANDICAPPED

With regard to existing housing, the amendment seeks to establish a demonstration grant program designed to break the pattern of the institution mentality which has grown up around the severely handicapped.

The administrator of this program would work in cooperation with the many fine public and private agencies and organizations which are already striving to supply service delivery systems for the handicapped. Grants would be provided to "sponsor" organizations to support plans which are specifically designed to provide housing and coordination of existing supportive services for at least six severely handicapped individuals. The grants would be limited to a total $10,000 for each person served by any single program, but there would be no limits on the innovations, new approaches, or fresh ideas which could be implemented by the programs. It is hoped these grants would lead to a broad range of experimentation in methods of equipping, adapting, or modifying private homes, apartments, hotels, and other nonspecialized facilities to meet the residential needs of the severely handicapped. It would be expected that some experiments would fail because they were impractical, too expensive, or too complicated. But I also believe that out of this experimentation by groups with established experience and demonstrated understanding in serving the handicapped, many good ideas and workable new approaches will emerge.

Over the 3-year period that these demonstration grants are authorized there will be ample time to thoroughly test ideas, to correct mistakes and to make improvements or promising developments. And at the end of the 3-year authorization, Congress would receive a report, with legislative recommendations based on the experience of the funded programs.

I believe this represents a sound approach to an important need. It starts on a small scale but provides wide flexibility and latitude for searching out and applying new ideas. It lays the foundation for thorough study of the various experimental approaches, and it holds the promise of showing us a clear path to successful broad-scale legislation to meet these needs on a national basis—and open millions of existing homes, apartments, and other residential facilities to the severely handicapped.

FUTURE HOUSING

Of course, if this goal is to be achieved we must work with housing which is in existence now. But if we are to have lasting success we must assure that in the housing which will be constructed in the future the needs of the handicapped are taken into consideration from the start of the initial planning process.

It would be wonderful if by making a speech or passing a law we could assure that the needs of the handicapped would occupy a prominent place in the mind of every architect, housing planner and residential developer in the country.

We all recognize the limits of our laws and our abilities, however. But we can also recognize the possibilities for achieving our goals on a more limited, though certainly significant scale. And if we cannot immediately impress our concerns on the entire housing industry, it is by all means possible to do so with respect to one of the most important sectors of the housing fraternity—the Federal Government's Department of Housing and Urban Development.

BASIC PLANNNING CONSIDERATION

Therefore, this amendment expands the authority of the Department of Housing and Urban Development to require that its comprehensive planning activities:

Include a consideration of the design, construction, and location of housing, transportation facilities, and other facilities and services for the purpose of insuring the ease of adaptability of such facilities and services for occupancy or use by handicapped persons.

CLEAR MANDATE

This language is intended as a clear mandate to our Federal housing authority that the needs of the handicapped—all handicapped persons—shall be given basic consideration in America's planning for future housing.

As anyone who has ever undertaken a home remodeling project knows, it is many times more difficult and more expensive to modify a house after it is built than to include the modifications in the original plans. And it is much more difficult and costly—often to the point of being prohibitive—for a handicapped individual to modify a house or apartment to his specific needs. And thus we get back to the vicious cycle of institutionalization because of physical, financial or personal limitations.

BASIC DESIGN CONSIDERATIONS

But what if these needs were considered in the beginning? For example, what if doorways were built wide enough for a wheelchair to pass through without difficulty? What if easy connections were made for converting sinks, lavatories, toilets, and bathtubs or showers to models readily utilized by an individual who is confined to a wheelchair? Countless other examples could be found—simple things, little things, inexpensive things, but some major items, too—that if included in original plans and specifications could make all the difference in the world for someone with a handicap.

And where could we find a better place to start than with the Federal Government and the Department which is concerned with the homes and communities in which we will all live in the future? With all the expertise and technical resources at its command, I believe the Department of Housing and Urban Development could produce great strides in a short time. And with the firm direction provided by this demonstration program, the Department would clearly be held accountable for achieving this progress.

SPECIAL ASSISTANT TO THE SECRETARY

To assure the maximum possible dedication to these objectives and to provide a central authority for directing departmental efforts toward it, the amendment creates a special assistant to the Secretary of Housing and Urban Development to have coordinating and oversight authority within the Department and to consult and coordinate efforts with the Department of Health, Education, and Welfare.

I believe this amendment to the Housing and Community Development Act is a vital requirement if America is to fulfill its responsibilities—its legitimate and clear responsibilities–to our handicapped citizens as we move into the third century of our independence. The handicapped have long been a slighted minority in this country in terms of the planning processes of Government. Perhaps the most glaring recent example of this inexcusable shortcoming is to be found right here in the District of Columbia, where a multibillion-dollar subway system was permitted to proceed without incorporating even the most basic facilities to promote access by even moderately handicapped people.

Such serious defaults of our clear and basic obligations cannot be permitted to continue. And the area of housing is—along with medical and transportation considerations—as critical a subject for the handicapped as any I know.

So this amendment I believe, takes on great importance in terms of determining what type of nation the United States is to become. And if we do not meet our responsibilities to those citizens who are afflicted by various physical and mental disabilities, I believe America will be unable to achieve the full realization of its ideals and greatness.

Now, Mr. President, amendment No. 1009 has been before the subcommittee. I appeared before the subcommittee and the Senator from Alabama (Mr. SPARKMAN) concerning this amendment which deals with housing opportunities for the handicapped.

It does seem to me, being active in the field of handicapped Americans, that for too long we have considered those who had serious handicaps as only being cases suitable for institutions. We have built housing of all kinds but really never considered those who were in wheel chairs or suffering other serious handicaps.

My amendment would provide the authorization, for fiscal year ending this June, of $1 million; $1.5 in fiscal 1975; and $2 million in fiscal 1976.

It does seem to me that with the limitations and restrictions I have placed in the legislation, it may be time to take a look at public housing and some of the expenditures, with handicapped adults in mind.

For these reasons, I am offering the amendment today. I think its consideration is long past due. I would hope that the amendment will be accepted by the committee. If not, perhaps it can be discussed and we can have a rollcall vote on it.

Mr. TOWER. Mr. President, I am sympathetic with what the distinguished Senator from Kansas seeks to do, but I would suggest to him that he not press this amendment because we already have a provision in the bill dealing with his concern. Additionally, there is a budget proposal that has been submitted by the administration for research and development, to determine the means for improving housing for special user groups such as the elderly and the handicapped. It is anticipated that the problem will be dealt with in their research and development program.

I think there will emerge something that will satisfy the desires of the Senator from Kansas—maybe not in the institutional sense but at least something which will enable his objective to be achieved.

Mr. DOLE. I am aware of the amendment adopted last Friday, the amendment of the Senator from California (Mr. CRANSTON), which does offer possibilities. It would perhaps satisfy the general objectives of my amendment as detailed in the colloquy with the distinguished Senator from Texas. I would hope there will be some scrutiny of amendment 1009, as well as the statement which I have made in support of the amendment; so that perhaps those responsible for the study and those who are otherwise in charge of disposition of the funds in this area will look specifically at what is suggested by the Senator from Kansas. I would hope that we can develop a program that will aid the elderly and the handicapped and anyone else who has a special problem.

Mr. TOWER. I can give my assurances to the Senator, and I am sure that my distinguished colleague from Alabama (Mr. Sparkman) will join me, in saying that the committee will maintain a continuing interest in special problems of the elderly and the handicapped. We will exercise great interest and careful oversight over what the department does in this field because I think we all share the concern of the Senator from Kansas, and a very humane concern it is. I think that the Senator can expect that the committee will manifest considerable interest in this matter.

Mr. TAFT. Mr. President, will the Senator from Kansas yield?

Mr. DOLE. I yield.

Mr. TAFT. I have listened with interest to the position of the Senator from Kansas and the assurances given to him. I am a cosponsor of legislation with him on this subject, and I want to commend the Senator for his initiative.

I, too, feel it is important that we keep something moving here, and not just give mere lip service, which is given at the very least in the bill. I hope that it will turn out to be more than that in the bill as it presently stands. It may be enough to get this moving, but if it is not I certainly would support the Senator's efforts to come back here with legislation and really push, because it is the kind of proposal on which we can get the support of Congress.

Mr. DOLE. I thank the Senator from Ohio very much. I know of his interest in this legislation. Frankly, I am concerned when it says that we direct the Secretary of HUD to undertake the research. I may not live long enough to see the results of that research, for I know how HUD operates. I have had many dealings with HUD, and I only have a life expectancy of 30-some years. So, based on that frailty, I would hope that someone at HUD will be brought to understand the problem and will pay particular attention to it and will undertake such a study in an effort to really do something about it.

I agree with the Senator from Texas that this may take some time but I hope it will happen in this century.

Mr. President, it seems to me that this is something that should not have to wait and should not require much research. If there is a choice between putting someone in a home because he may be an adult and handicapped, thus more or less institutionalizing that person, or making an effort to provide a more normal and productive living arrangement—then the path should be clear. There is every reason, and that person has every right to expect some significant benefits from housing and other programs where the Federal Government has some interest. It should be long past the research stage now.

I know the interest of the committee. I know the interest of the Senators on the committee. I would hope that they would make it known to HUD that this is a matter of some priority because of the people who may be affected.

Mr. SPARKMAN. Mr. President, I yield myself such time as I may require. I appreciate the attitude that has been expressed by the Senator from Kansas. I know his interest in this subject, but I want to call his attention to the fact that every time we mention the elderly in connection with housing, we couple it with the handicapped. In other words, all through the bill there are provisions for the elderly and the handicapped. So we have not been blind to the need for special service provisions for the handicapped.

The amendment of the Senator from California (Mr. Cranston) provides for research and study to discover improvements in the field of housing persons with special needs, including handicapped persons.

I think the Senator will recall that one day he was testifying before our committee on behalf of handicapped legislation and he called attention to—as I recall it—the fact that he was in the hospital recovering from an injury following World War II—it seems to me he said it was in 1947, when he was in the hospital—when he learned of the passage of legislation for handicapped veterans. He was in the hospital, as I recall, out in one of the far Northwest States. I said to him at that time, "I was privileged to be the author of that legislation," and I was. We wrote what I think was a very fine piece of legislation for handicapped veterans. It is true that it covered only those who were perhaps wheelchair cases or cases of that kind.

I mention that simply to say that down through the years—that was 25 years ago or more—we were working for handicapped persons, and we are still working for them. This is full of provisions for handicapped people.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. DOLE. As I tried to make clear, I understand the Senator from Alabama's commitment, and the Senator from Texas and the Senator from Ohio have demonstrated their commitment. I am not suggesting that there is a lack of concern on the part of the members of the committee. I am suggesting that, despite the commitment, and it has been on-going for the past 25 years or more—that the results have been less than many of us had hoped.

I think that now that the handicapped are coupled with the elderly in the bill, together with Senator Cranston's amendment to improve upon it—it demonstrates further commitment by the committee and by Congress. Hopefully, HUD now will understand that we mean business and will do something about it.

Mr. SPARKMAN. I agree completely with the Senator from Kansas as to that.

The thought just occurred to me that it might be helpful if the Senator would come up with some specific recommendations and let us, as a committee, get behind HUD and tell them to work on those matters.

Mr. DOLE. I have one specific suggestion, it is the amendment I have offered, which has been made a part of the Record.

I would be pleased to visit with the Senator or a representative of HUD. That is just one thing. I can think of a number of others that should be looked into.

Mr. SPARKMAN. I hope the Senator will give us those suggestions and let us see what we can do to push HUD into greater activity.

Mr. DOLE. I thank the Senator from Alabama.

Mr. President, based on the colloquy with the distinguished Senator from Texas and with the chairman of the committee, the distinguished Senator from Alabama, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. WILLIAMS. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

At the end of the bill, add the following new section:

ENERGY STATEMENT

Sec. —. In any case in which the Secretary of Housing and Urban Development is required to prepare a statement pursuant to section 102 of the National Environmental Policy Act of 1969 as a result of any action being taken or assistance being furnished under this Act, he shall include in the statement:

(1) his assessment of the long-term and short-term impact upon energy resources of the proposed assistance or action; and

(2) alternatives to the proposed assistance or action and their effects upon energy resources.

On page 6, at the bottom of the page, insert:

"Sec. —, Energy Statement".

Mr. WILLIAMS. Mr. President, this amendment has already been discussed with the manager of the bill, the distinguished chairman of the Committee on Banking, Housing, and Urban Affairs, and he assures me he has no objection to it.

The intent of my amendment is to stimulate at the Department of Housing and Urban Development, and within our private construction industry, thinking and planning for more efficient energy utilization.

The National Environmental Policy Act requires all Federal agencies to present an environmental impact statement whenever they propose a major Federal action that would significantly affect the human environment.

Our energy resources are as finite and precious as the other natural resources that we usually think of when we refer to our environment.

When we commit them to a project, it should be with the same thoughtfulness and consideration that we give to the commitment of our other natural resources.

My amendment would, therefore, direct the Secretary of Housing and Urban Development to include the impact upon energy resources as a component of his environmental impact statements.

In the context of the shortages of gasoline and other petroleum products which we are now experiencing, the need for energy conservation could not be clearer.

At the same time, the potential for conservation in this country is vast.

And much of that potential savings is in the type of projects with which HUD is concerned.

Estimates of the energy resources squandered in this country range up to 40 percent.

Residential energy consumption amounts to 22 percent of our total energy usage, and private homes offer energy savings possibilities second only to those projected in transportation.

For example, a Rand Corp. study shows that better insulation in new housing would cut heating and cooling requirements by 40 to 50 percent.

Extra construction costs could be recaptured in 4 to 7 years through reduced fuel and utility bills.

My amendment would require only that in a situation where HUD is engaging in a major undertaking, and is already required to file an environmental impact statement, that it include in that statement an exploration of the energy efficiency of the proposed project.

I believe this amendment would help to focus the Department's attention upon the need to conserve our finite energy resources.

The Secretary would be required to set out his assessment of the long-term and short-term impact the project would have upon energy resources, and his assessment of the impact alternative approaches would have upon energy resources.

I believe that this amendment would also help to draw the attention of the public to our vital concern for the conservation of energy.

Perhaps we would have thought twice about the plans for the 110-story World Trade Center if its staggering energy requirements had been fully and clearly set out.

That complex, with its enormous electrical requirements, will consume as much electricity as the entire city of Schenectady, N.Y., which has a population of 100,000 persons.

We have watched unquestioningly as glass-clad buildings have sprung up all across the country.

Glass, however, is a notoriously poor insulator, and heat loss could be cut in half by the use of double glazing.

Similarly, we have erected high rises with windows that do not open.

It has been estimated that the average office building is occupied 3,100 hours per year with 500 hours in the temperature range where untreated outdoor air could be used. Opening the windows could reduce the energy necessary for handling the air by about 19 percent.

Simply designing a building with the sun in mind can achieve substantial energy savings.

A building will require nearly 29 percent less energy for cooling if the broad sides face north and south.

Mr. President, my amendment merely requires HUD to explore these and other energy conservation opportunities along with the other environmental ramifications of a major Federal project.

I think all of us are now coming to the realization that we in the United States have been lavishly wasteful of energy resources.

The current fuel shortage has shown quite dramatically that such waste can have severe consequences.

In my judgment, we are now entering a new era, where the squandering of energy will no longer be acceptable.

We are moving toward a new "conservation ethic."

And one of the first steps we must take in that direction is to make energy conservation part of our day-to-day planning.

My amendment would require that kind of planning and I urge my colleagues to give it their support.

Mr. SPARKMAN. Mr. President, the Senator from New Jersey has discussed this amendment with me.

I point out that we do treat with energy problems through the bill. In fact, if the Senator will refer to section 105, on page 13, he will see that we require compliance with what needs to be done in the field of energy, conservation, and so forth.

I see nothing wrong with the amendment. I have not discussed it with the Senator from Texas.

Mr. TOWER. Mr. President, I believe the amendment is laudable. Opposing this amendment would be like opposing a resolution on motherhood, considering the current state of our energy problem.

Mr. SPARKMAN. It is in keeping with the times.

Mr. TOWER. Therefore, I am delighted to support the amendment of the Senator from New Jersey.

Mr. WILLIAMS. I am grateful to the managers of the bill.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BROOKE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> On page 154, line 16, insert after the word "income" the following: ", as determined by a review at intervals of two years (or at shorter intervals where the Secretary deems it desirable),".

Mr. BROOKE. Mr. President, this is a very simple technical amendment which applies to the new leasing program proposed under section 8(g) of the U.S. Housing Act of 1937, as amended.

As section 8(g) now stands, it has no provision for periodic review of tenants' income. This amendment would provide for a review every 2 years or at such shorter intervals as the Secretary of HUD shall determine. This is the same provision as is applied to all other subsidy programs under the bill.

I have discussed this matter with the chairman of the committee, the floor manager of the bill, and the ranking minority member, the Senator from Texas (Mr. TOWER), and it is my understanding that they will accept the amendment.

Mr. TOWER. Mr. President, I am prepared to accept the amendment. It is consistent with other provisions of the bill.

Mr. SPARKMAN. I accept it, also.

I yield back the remainder of my time.

Mr. BROOKE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. BROOKE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> On page 145 at the end of line 24 add the following new subsection and renumber the succeeding subsections in Section 8(a):
>
> (6) As used in this Section, the term "tenant" includes a member of a cooperative; the term "owner" includes a cooperative; and, with respect to members of a cooperative, the terms "rent" or "rental" mean the charges under the occupancy agreement between such members and the cooperative and the term "lease" means such an occupancy agreement.

Mr. BROOKE. Mr. President, this is another simple amendment which could be classified as a technical amendment.

There are other places in this bill where there is language which makes it clear that the rental housing provisions apply to cooperatives. I am offering this as a perfecting amendment, to add similar language to section 8 of chapter 2, under the leasing assistance program.

The amendment simply provides that the term "tenant" includes a member of a cooperative and that the term "rent" includes charges under an occupancy agreement.

It is my understanding that the chairman, the manager of the bill, and the ranking minority member, the Senator from Texas (Mr. TOWER) will accept the amendment.

Mr. SPARKMAN. Mr. President, I am in favor of the amendment. I think it is good language, in order to make clear what we already understand.

Mr. TOWER. Mr. President, I join in the remarks of the distinguished Senator from Alabama.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time on the amendment.

Mr. BROOKE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. TOWER. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time consumed be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I yield as much time as he may need to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, I thank my distinguished colleague from Texas. I am speaking primarily to commend the members of the Committee on Banking, Housing and Urban Affairs for bringing before this body an exceptionally fine bill. Surely this legislation will be viewed in the years to come as a major milestone in our efforts to provide decent housing for all Americans and to rebuild and revitalize our great cities.

I was privileged to serve as a member of the Banking Committee when it drafted another landmark piece of legislation, the Housing and Urban Development Act of 1968. I am extremely pleased that the committee, under the able leadership of the senior Senator from Alabama (Mr. SPARKMAN) and the senior Senator from Texas (Mr. TOWER), has preserved many of the bold and innovative and successful programs launched by that bill, some of which have been subjected to a fierce and, to some extent, unwarranted attack.

I have in mind particularly the section 235 program of homeownership assistance for low- and moderate-income families. This is now the section 402 program under the committee's bill.

It is a fact, Mr. President, that the program provided homeownership opportunities to 434,000 families between 1968 and June 1973, housing approximately 2 million people in homes of their own. I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a table showing the distribution by States of 235 units.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, I would hope that any Senators who have any doubts about the wisdom of this program and what it has been able to accomplish can visit some of the homes in their own States and their own communities that they are familiar with and talk to the families, as I have done. Obviously, there are imperfections in this program, but many of the imperfections could have been avoided if other provisions which were in the law had been implemented. There was adequate authorization for example, for the Department of Housing and Urban Development to move ahead in providing adequate counseling for homebuyers.

Despite the fact that many of the things that the Banking, Housing, and Urban Affairs Committee felt were necessary were not implemented, still today the success story told by 434,000 families in homes which provide decent housing for several million Americans is adequate testimony to the fact that we embarked upon a program that was a most suitable alternate to public housing. I feel, in the end, it will accomplish far more than simply providing the same amount of money for more high rise public housing.

It is a fact that with a median income of about $6,500, most of these families could not otherwise have enjoyed the benefits of home ownership.

It is a fact—as the administration's own housing study points out—that the program has resulted in "substantial benefits" for these families in terms of improved housing quality. It has provided an incentive to them today and hope for tomorrow. It has provided a hope for them that never would have been possible otherwise.

The wisdom of this principle, I know, was enunciated by the distinguished Senator from Texas when he, seeing the lack of concern by occupants of public housing for the facilities in which they were housed, and seeing also that their hope was to get out of these projects, offered an amendment which at least gave an opportunity for those people to buy their own units and thereby give them a sense of belonging and a sense of owning something of their own.

It is a fact—once again as the administration's study points out—that new construction under 235—or 402 as it is now called—costs no more than comparable privately produced units.

Now, Mr. President, I certainly do not deny that the program has been plagued by a number of problems. But I think the committee has done an outstanding job in modifying the authorizing legislation in such a manner as to promote strengthened management of an essentially strong and viable program.

I am particularly pleased that the committee has mandated homeownership counseling for 402 participants, as I suggested in my bill, S. 1614, the Home Buyers and Homeowners Protection Act. Counseling was authorized by the 1968 act, but tragically was never fully implemented by the Department. Evaluation studies of counseling programs where they have been in existence have shown them to be an exceptionally useful component of the homeownership assistance program.

Essentially, this is what we were attempting to accomplish; to provide, together with homeownership, the kind of counseling and expert advice that would enable families to manage their affairs and would enable them to become responsible citizens of their community and take pride in that community.

I also believe that authorizing the Secretary to draw upon the insurance funds of the FHA will allow some continuity in the maintenance of counseling programs.

I agree with the committee's action in tying eligibility for program participation to the median income in the area and in establishing flexible mortgage ceilings which are tied to "prototype cost for the area." I believe these features will go a long way toward better targeting the program on the neediest families and making it more uniformly available in all areas of the country.

Finally, it is not without a sense of personal satisfaction that I take note of the effort by the committee to link the provision of homeownership subsidy funds to a community's plan for orderly development. The thrust of my original proposal for a national homeownership foundation—a bill which enjoyed the cosponsorship of every single Republican Member of the Senate when it was introduced in 1967 and subsequently by 100 Members of the House—was to stimulate cooperative efforts by public and private agencies to rebuild and renew communities large and small in part through the provision of homeownership opportunities for low- and moderate-income families.

The absence in many cases of a relationship between provision of low-and moderate-income housing and a community's overall plans for development has handicapped the homeownership program in achieving its goals. Allocating all housing subsidy funds in a lump sum and then either reserving 402 funds specifically for communities to meet the objectives of their community development program or making them available only for use on sites which conform with housing plans of local governments generally moves in the direction of our original 1967 bill.

I applaud the committee's decision to retain the homeownership program, which has meant improved housing for so many Americans, and I applaud the committee's very useful revisions in the enabling legislation to make the program work better in the future.

Mr. President, I must confess some disappointments. The principal disappointment that I have goes back to the committee authorized this home ownership program and when adequate appropriations were authorized by the Congress for it. It was then that the administration saw fit to institute the program but to abandon the oversight authority delegated to the National Homeownership Foundation to make certain beneficaries would be properly counseled, to make certain that low income people, who had never owned anything of value in their lives, would be properly counseled, and to make certain that they would not be exploited by those who might attempt exploitation. The consequences of our inability to obtain a very modest amount of money for oversight and supervisory efforts, money which would have been matched by private foundation money if the Government had provided the original seed money and appointed the board of the Foundation, has now been testified to in the tragedy of grand jury investigations and indictments across the country for the very kind of abuses we knew might creep in if the program was not properly supervised. We spent millions and millions of dollars, which we were willing to spend, but we were not willing to spend the relatively few pennies required to oversee the program.

I am also disappointed that the committee in S. 3066 has not gone further in protecting the interests of the housing consumer. We have made great progress, but I feel that continued future progress in this direction will be very worthwhile.

I recognize that several features of the bill—the warranty provisions, the provisions for reimbursement of homeowners for defects, the extension of counseling programs—resemble the proposals included in my bill, S. 1614.

I nonetheless regret that the committee did not adopt other sections of my bill, provisions dealing with an Office of Consumer Affairs in HUD, authorization for "fair-dealing" requirements in marketing of FHA-backed homes, authorization of programs to protect homebuyers from the loss of their homes due to involuntary unemployment or unexpected expenses for home maintenance.

These were programs I felt private insurance would have been willing to underwrite in this country. We had testimony to that effect, and I feel we could have made more progress in this area.

On the whole, however, I believe the strengths of the legislation before us far outweigh any limitations that might be pointed out.

No piece of legislation is perfect. But tremendous progress has been made in the bill that is before us today, and again I commend our distinguished committee and its chairman and the ranking minority member and the staff—and it is a brilliant staff—who have worked together to put this bill in its present form.

I would like to take note briefly of some other aspects of this far-reaching piece of legislation:

First, I think the committee has done a fine job in its consolidation and revision of community development programs of balancing the benefits of revenue sharing for States and localities with the need for assurances that the funds will be directed toward achieving certain obtainable and worthwhile goals.

Second, the authorization for an expanded housing allowance experiment together with the authorization for an expanded urban homesteading program indicate that the committee is continuing to seek innovative ways of achieving our goals of decent housing for all Americans and a revitalization of our cities.

I am particularly intrigued by the potential of the urban homesteading concept.

Not only is this a means of disposing of basically sound housing in HUD's inventory, but it offers hope both to families who might not otherwise become howeowners and to neighborhoods which might otherwise be ravaged by the wrecker's ball. Moreover, it is in keeping with the basic values and spirit of the American heritage.

I cannot close without a word about the committee's heartening efforts on behalf of the elderly. I have in mind particularly the strengthening of the very useful section 202 program as well as the creation of an Office of Housing Security in HUD. The elderly and the handicapped do have special housing needs which cannot be met without Federal assistance. But perhaps the No. 1 problem of those elderly persons now living in federally financed developments is the problem of crime and vandalism.

I remember how one woman said to me one evening that crime was uppermost in her mind. Once dark comes, she said, she feels that she is a prisoner in the housing project. It is federally backed and we have local support for it. Yet she feels that she cannot go out of doors and go down to the street. It is a particularly frightening problem for the elderly. Elderly persons—all persons—should be secure on the grounds and in the lobbies, elevators, and hallways of their buildings. I know the Office of Housing Security will deal effectively with this problem.

Mr. President, I congratulate the committee for its sensitivity to the needs of the elderly. I enthusiastically support the principal provisions of this bill. And I hope that we will be able to do something about the problem.

EXHIBIT 1

Volume of FHA—Section 235—Insured new and existing home mortgages, by State location of property, 1968—June 1973

State:	*Number insured*
Alabama	12, 994
Alaska	688
Arizona	7, 521
Arkansas	6, 398
California	31, 439
Colorado	6, 719
Connecticut	1, 019
Delaware	434
District of Columbia	759
Florida	31, 361
Georgia	20, 397
Hawaii	1, 746
Idaho	2, 210
Illinois	16, 911
Indiana	9, 340
Iowa	7, 232
Kansas	3, 309
Kentucky	9, 258
Louisiana	23, 010
Maine	927
Maryland	1, 655
Massachusetts	4, 360
Michigan	20, 082
Minnesota	3, 220
Mississippi	11, 026
Missouri	6, 096
Montana	1, 652
Nebraska	4, 543
Nevada	5, 980
New Hampshire	1, 098
New Jersey	3, 293
New Mexico	5, 167
New York	4, 364
North Carolina	7, 244
North Dakota	811
Ohio	16, 676
Oklahoma	11, 455
Oregon	6, 326
Pennsylvania	5, 880
Rhode Island	744
South Carolina	16, 571
South Dakota	1, 498
Tennessee	17, 227
Texas	37, 755
Utah	6, 689
Vermont	340
Virginia	3, 777
Washington	13, 751
West Virginia	711
Wisconsin	10, 440
Wyoming	921
Puerto Rico	9, 661
Virgin Islands	0
Guam	129
U.S. total	434, 814

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. PERCY. I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I call the attention of the Senator to the committee report, page 4, paragraph (4) and subsection (a) under that paragraph which reads as follows:

> (a) Subsidy funds would be reserved for communities to meet the housing objectives contained in applications approved under the new Community Development Program or would be made available for developers only for use on sites which generally conform to housing plans of units of general local government.

Does that mean that all subsidy money would go for the two categories?

Mr. PERCY. I am not on the committee any longer. I have not been on it for 3 or 4 years. So I really feel that this question in detail on this particular legislation should be addressed to members of the committee. I was addressing myself to the principles involved.

Mr. CURTIS. Mr. President, I would like to point out that many small communities have neither a developer nor a community development program, and they probably never should have them. That is the reason why I wanted to know what the Senator means here on whether or not these subsidies are limited to these two categories.

Mr. PERCY. Under the original homeownership program this, of course, was not provided; there appeared to be no need for that. However, the committee since then has devised the new community development program. And I think that a member of the committee could best give the Senator the reason why they are tying these two programs together.

Mr. CURTIS. Mr. President, on another point, is it the Senator's understanding that eligibility for a subsidy will be determined by considering the relationship between the applicant's income and the price of the house?

Mr. PERCY. Eligibility—for assistance—according to the committee report, page 4, paragraph (4) (c) would be limited in general to families with income less than 80 percent of median to insure more coverage for lower-income families.

So, I think it relates first to the income of the family, and obviously there are ceilings placed on the cost of the housing that that particular family could be subsidized for under the provisions of the bill.

Mr. CURTIS. Mr. President, I ask that question because of circumstances where an individual, in the ordinary run of business, might be buying a home, say, for $15,000. They will look at his income and see that the price of the home is $15,000. They say then that he would not be eligible for a subsidy. However, if he decided to buy a home for $20,000 or $25,000, that would make him eligible for a subsidy. Is that situation still available?

Mr. PERCY. At the time I left the committee, I think the absolute ceiling was $24,000. I understand that that provision has now been amended. Also the Senate has increased the eligibility figure to 90 percent of median income. However, as to whether there is a direct relationship between the individual's income and the price of a house that that individual would be able to purchase, I would have to turn to the distinguished chairman of the committee and chief counsel for advice. The provisions have been changed since I actually worked on the legislation some years ago.

Mr. CURTIS. The Senator is not familiar with the program described in paragraph (7) at the top of page 5 of the report, a new program of Federal guarantee of State taxable bonds with an interest subsidy.

Mr. PERCY. The Senator said that is on page 5, paragraph (7).

Mr. CURTIS. The Senator is correct.

Mr. PERCY. Mr. President, this is a new provision of the bill, not part of the homeowners' bill that the distinguished Senator from Nebraska cosponsored back in 1967. This is a new provision. I would again have to turn to the committee, because through its hearings and its own deliberative processes, it decided that this particular feature was desirable as a new program.

Mr. SPARKMAN. Mr. President, I will be glad to give a brief explanation of it. I had something to say earlier in the day about this.

The Senator from Connecticut (Mr. Weicker) offered an amendment which, in effect, would have provided for this type of assistance to a State housing finance agency. And, by the way, there are 31 States today that have State housing finance agencies. The number is still growing. Objection was made at first on the ground that this would be one way of, shall we say, backdoor financing and it would be not be approved because of that.

There is another provision that is somewhat similar. The Senator from Wisconsin (Mr. Proxmire) offered an amendment to provide direct lending for housing and, again this would have called on the Treasury to purchase bonds and debentures that might be issued. That would have been backdoor financing.

The Treasury Department at first objected to the amendment offered by Senator Proxmire relative to borrowing authority and expressed some reservations relative to the State bonds as one would expect; but the next day, the next morning when we started talking about them again, the representative of the Treasury Department got up and said, "We have no objection to the borrowing authority provision."

What had happened in the meantime was that we had completed, in the Senate, action on the Federal Financing Bank, and his explanation was that we would not have to call on the Treasury to bear this burden, that it can be handled through the Federal Financing Bank and sold in the market like other debentures.

Mr. CURTIS. This is a new program?

Mr. SPARKMAN. Yes.

Mr. CURTIS. The subject of State and municipal tax-exempt bonds has been before Congress for a long time, and the tax writing committees have given it considerable consideration.

One of the suggestions made in reference to the question concerning the question of tax-exempt bonds was to make them taxable, and have the federal government pay an interest subsidy. Is that what is involved here?

Mr. SPARKMAN. That is correct. We were told that in their method of handling these bonds—and the Treasury representative was there with us—there actually would be—a "profit" made on handling the bonds.

Mr. CURTIS. This is the first time I have ever heard of a subsidy resulting in a profit.

Mr. SPARKMAN. Instead of calling it a "profit," I should say there would be less cost to the Federal Government. In other words, the real cost of financing the housing would be diminished.

Mr. CURTIS. It seems to me that this is a rather major change in our tax treatment. It could very well be that this section is so drawn that it does not amend any part of the Internal Revenue Code. That I would grant. But basically it is the beginning of a broad change in the tax policies concerning municipal and State bonds, and I wonder if the matter has been referred either to the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate.

Mr. SPARKMAN. No, it was not referred to either commtitee. As the Senator must know, the Treasury Department had a representative there and accepted the program with respect to taxable bonds. It is consistent with the latest Treasury policy

Mr. CURTIS. That does not satisfy the legislative prerogatives of the two committees, the fact that the Treasury was here. I think consulation with the Treasury and its approval on tax matters is very important; but they certainly cannot speak for Congress.

While the chairman of the committee is present, may I ask some other questions?

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. I yield myself 5 minutes.

Did the Senator understand that these were tax exempt bonds?

Mr. CURTIS. No, they are taxable bonds.

Mr. SPARKMAN. Taxable bonds?

Mr. CURTIS. According to what it says here.

Mr. SPARKMAN. That is right.

Mr. CURTIS. But I——

Mr. SPARKMAN. Is there anything illegal about the Treasury Department being willing to handle bonds through the Federal Financing Bank?

Mr. CURTIS. Is the Federal Financing Bank going to pay the subsidy? It says here "a new program with an interest subsidy."

Mr. SPARKMAN. No, the subsidy is paid just like all other subsidies are paid.

Mr. CURTIS. Will it be paid by this new bank, or will it come out of the Treasury?

Mr. SPARKMAN. It will come out of HUD; but the sale of these bonds which will yield taxes will compensate in part for the subsidy that is paid. We were told that as a result the Federal Government would pay less than otherwise it would have had to pay.

Mr. CURTIS. I still do not understand how bonds can be issued and the Federal Government pay a subsidy, subsidize the interest, and not get the money from some place. It will be appropriated funds, will it not?

Mr. SPARKMAN. Yes, that is true.

Mr. CURTIS. And how much will it be?

Mr. SPARKMAN. Let me find the bill and see what it says.

The provision is found on page 97. It says:

> The aggregate amount of payments committed to be made pursuant to contracts entered into under this subsection shall not exceed $50,000,000 per annum prior to July 1, 1975, which maximum dollar amount shall be increased $60,000,000 on July 1, 1975.

Mr. CURTIS. On a different subject, the Government has had to take possession of some housing, has it not, in recent years?

Mr. SPARKMAN. Yes; that is true.

Mr. CURTIS. How many single dwelling units do the various Federal housing agencies now have?

Mr. SPARKMAN. I do not know. I have a figure in my head that I have heard over the radio or read in the newspaper, but I am afraid to give it, because I could not vouch for it at all.

Mr. CURTIS. Could the Senator have the staff supply that?

Mr. SPARKMAN. Yes; I would be very glad to.

Mr. CURTIS. Then on multiple dwellings, I would like to know of how many projects possession has been taken by the Government and how many units are involved.

Mr. SPARKMAN. Yes; we will be glad to furnish that.

Mr. CURTIS. I thank the distinguished chairman.

Mr. SPARKMAN. I thank the Senator from Nebraska.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. I yield the Senator from Oklahoma such time as he may require.

AMENDMENT NO. 1008

Mr. BELLMON. Mr. President, I call up my amendment No. 1008 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> At the end of the bill, add the following:
>
> SEC. 823. The Secretary of Housing and Urban Development shall take action to secure the payment of any deficiency after foreclosure on a mortgage where the Secretary has reason to believe that mortgage proceeds have been fraudulently misappropriated by the mortgagor.

Mr. BELLMON. Mr. President, the omnibus housing bill we are now considering is a significant step toward fulfilling our national commitment of insuring that all Americans have access to adequate housing.

However, past policies to increase the availability of housing to those with low incomes have left the door open for abuse. Specifically, Mr. President, I refer to the following hypothetical situation. A contractor or developer desires to build an apartment project for low-income families often referred to as 235 or 236 projects. After becoming certified or qualified by the Secretary of Housing and Urban Development, the contractor submits his estimated costs of building the project to a regional HUD office. Based on these estimates, the Federal Government, through a local mortgage banker, insures the mortgage, thus advancing the contractor the necessary funds to build the apartment project. The first problem arises when the contractor "skims" money off the top of the advanced mortgage proceeds. As a result, the contractor does not purchase quality materials necessary for the construction of a good project and the apartment project is completed with substandard materials. Because of the poor quality of the workmanship and general unattractiveness of the overall project, the apartments fail to "rent up." Accordingly, the mortgage payments cannot be made and the Government is forced to buy up the mortgage and resells the project at a loss.

Similar results occur where the contractor grossly underestimates his costs and therefore builds a project with inferior material and poor workmanship. Accordingly, a sloppy project is built, it fails to rent up and eventually finds itself into the hands of the Government. As is usually the case, prior to construction of the project, various types of business entities are formed to take advantage of the tax shelters this type of investment offers. Everyone prospers, but the Government and the people intended to benefit by our housing programs.

The scenario I have outlined is costing taxpayers millions of dollars. As reported by the Washington Post on Sunday, March 10, 1974, the Department of Housing and Urban Development owns 29 apartment projects which it acquired at a cost of roughly $10 million as a result of default termination. This number is increasing rapidly. Reportedly, the rate of Government acquisitions is destroying funds set up to take care of mortgage defaults. According to HUD budgets reported by the Washington Post, one of these funds will be in default by $715 million in 1975 and another in deficit by $810 million.

Often the contractor, or owner, who grossly underestimates his costs and, or skims off the top of mortgage proceeds is protected from any personal liability on the Government insured loan. That is where the problem comes in. As is the case many times, the mortgage agreement itself contains provisions whereby the Secretary agrees that in the event of a default and resulting foreclosure, the Secretary will not pursue a deficiency judgment. Therefore, the only proceeds that go toward satisfaction of the outstanding indebtedness are those that come from the sale of property on which the apartment project was built. Hence the Government is saddled with losses amounting to millions of dollars.

Mr. President, the amendment I offer today is intended to restore integrity to our Federal housing program and potentially save the U.S. Government and its taxpayers large sums of money. I propose that the future policy of the Department of Housing and Urban Development be to take action to pursue deficiencies which results in foreclosure, in cases where fraud is suspected. With this added deterrent of potential personal liability, contractors will be more careful about the accuracy of the estimates they submit to the Government for approval, and he will think twice about "skimming" off the top of mortgage proceeds which siphon away funds needed for the construction of quality housing projects. Mr. President, the law needs to be changed so the owner, or contractor will be highly concerned with the quality and livability of these projects as with advantageous tax shelters such investment offers.

Mr. President, the U.S. Government has undertaken a noble cause in trying to increase the availability of adequate housing to every American. If we are to reach this objective, I submit that Congress should tighten up the regulations and the administration of the program to eliminate fraud.

Mr. President, I urge approval of my amendment to S. 3066.

Mr. President, this amendment would apply only to those cases where fraud is suspected. It is up to the Secretary to determine those cases, which would have a desirable effect in improving the quality of the projects and saving the Federal Government large sums of money.

Mr. SPARKMAN. Mr. President, of course, the purpose of the amendment is laudable if the purpose is to prevent fradulent misappropriation—those are the words used—where the Secretary has reason to believe that mortgage proceeds have been misappropriated or misused fraudulently.

I must say that I have not been able to determine just why or where this originated. I hope very much that the Senator will not press his amendment at this time but that he will give us a chance—in fact, I wish he would write us a letter suggesting the things that he has said, or perhaps we can take it from his remarks in the Congressional Record which will give us a chance to look into this thing. It comes as something completely new to me. That is all I can say about it.

Mr. TOWER. I would concur with the Senator from Alabama. I agree with the thrust of what the Senator from Oklahoma is trying to do. I think that perhaps a study might be advisable to determine what kind of additional legislation is needed.

There is already some authority in HUD to recover moneys as described in the amendment, but HUD would prefer not to have this mandated to them at this moment. If the Senator from Oklahoma would not press his amendment, it is something we will be vitally interested in looking into.

Mr. SPARKMAN. I wonder whether the Senator would withhold just a minute for me to make this further comment—and I yield myself such time as may be required to do so—but HUD has a regulation. It has an agreement with FHA which prescribes standards under which the rental receipts can be distributed. These receipts must first be applied to making the mortgage payments as well as payments for real estate taxes and hazard insurance. They then must be used for properly maintaining the project. Only after these obligations are met, may any other rental receipts be disposed of to the owners of the project.

In case of default or subsequent foreclosure, FHA will normally only look at the mortgage property to satisfy the mortgage indebtedness. However, if the owners of the project have used rental receipts contrary to the terms of their regulatory agreement with the FHA, FHA is empowered, pursuant to the agreement, to proceed against the project owners to recapture the misused receipts.

Mr. BELLMON. Mr. President, that applies to rental receipts. My amendment goes to the initial mortgage insurance, to the receipts of the construction funds which in many cases are skimmed off or misappropriated. In this case, there seems to be no authority under most agreements where the Federal Government comes back against a contractor to recover the funds misappropriated. So I am not talking about rental receipts but construction funds.

If I may say to the chairman, I can see no harm in taking the amendment. It has been printed and there has been time to study it. If he finds something wrong with it perhaps it can be straightened out in conference. My studies indicate that this is badly needed. There have been a whole series of scandals, particularly in section 235 and 236 projects.

The whole program will be seriously damaged unless Congress takes steps to clean it up, and that is the purpose of this amendment.

Mr. SPARKMAN. I am not sure that I get from the amendment the meaning that the Senator has just mentioned. That may be the intent, but the amendment says:

The Secretary of Housing and Urban Development shall take action to secure the payment of any deficiency after foreclosure on a mortgage where the Secretary has reason to believe that mortgage proceeds have been fraudulently misappropriated by the mortgagor.

Again, I will say that this is a matter of first impress, shall I say, on this thing. I hope the Senator will agree to withhold his amendment and let us have a chance to check into it later. We will welcome from him any suggestions and help that he can give us.

Mr. BELLMON. Would the Senator agree to take the amendment to conference and give his staff an opportunity to look at it? If the Senator finds some objection to it, it can be modified in conference.

Mr. SPARKMAN. Yes; I would agree to take it to conference, if the Senator from Texas will go along.

Mr. TOWER. That will be agreeable with me.

Mr. BELLMON. I thank the distinguished chairman.

Mr. President, I yield back the remainder of my time.

Mr. SPARKMAN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I call up my unprinted amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 231, between lines 13 and 14, insert the following:

(d) Section 521(c) of such Act is amended by adding at the end thereof the following new sentence: "In addition, there shall be reimbursed to the fund by annual appropriations such sums as may be necessary to carry out the provisions of paragraph (3) of subsection (a)."

Mr. HATHAWAY. Mr. President, this is a technical amendment which corrects an error that was made last week. An amendment I offered, which was accepted, vitiated part of a previous amendment I had offered and had accepted, and this straightens out that situation.

I understand that both the majority and minority agree that this amendment simply does that and that there is no question about it.

Mr. SPARKMAN. Mr. President, that is my understanding. I am willing to accept the amendment.

Mr. TOWER. I am prepared to accept it.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

Mr. HATHAWAY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. TAFT. Mr. President, will the Senator from Texas yield me 3 minutes on the bill?

Mr. TOWER. I yield.

Mr. TAFT. Mr. President, I should like to take this opportunity, in talking on the bill, to express my appreciation to the chairman and the ranking member and the staff of the Housing Subcommittee and the Committee on Banking, Housing and Urban Affairs, on which I had the privilege of serving during the time this bill was considered. I left the committee just before the bill was reported, but in the committee report I was permitted to make additional views and comments. I appreciated that especially. Also, I appreciated the great cooperation and help I received over the years in working on housing legislation with the distinguished members of that committee.

Mr. President, the proposed legislation now before the Senate is the most comprehensive rewrite ever attempted of our housing and community development laws.

In many respects it is a major step forward while in others it falls short. There are reforms which every Senator would support, while every Senator could find provisions which displease him.

As we continue the necessary process of debating individual amendments, however, I could not urge my colleagues too strongly to keep the debate in perspective.

There are two salient facts about this bill. First, it is in trouble, because of the deep-seated differences between our approach and that of the House and the administration. Second, we in Congress may not yet be charged with fiddling and the cities may not be burning. However, there is no question that each day the housing and community development situation continues to get bleaker in too many areas. Each day, the future of our communities' ongoing efforts in this field becomes more jeopardized.

The Senate bill is a strong reaffirmation of the importance and desirability of both federally subsidized housing and a locally based community development block grant approach, with adequate Federal direction and supervision. I generally support it and I am not suggesting that it be altered fundamentally. Nor am I calling for it to be enacted with undue haste and without working out as many as possible of the serious problems contained in both this bill and the other approaches.

Nevertheless, if we want a major bill everyone is going to have to compromise—the Senate, the House of Representatives and the administration. As the legislative process continues, let us keep in mind that the "perfect bill" is not going to help anyone if it ends up in the "also-rans" file. Let us do all in our power to bring about the maximum possible cooperation between the Senate, the House and the administration. And most importantly, let all of us in Congress and the administration attach the importance to enactment of this legislation which it deserves and conduct our negotiations accordingly.

Mr. President, one of the most controversial provisions of the community development chapter would require that in most cases at least 80 percent of a community's funding be spent for activities intended to be of direct and significant benefit to blighted or deteriorating areas or to families with low or moderate incomes. Because I sponsored that provision, I prepared suggested language for the committee report to explain more fully the intent of this requirement. The language was not included in the report because of its length. However, I believe it reflects the thinking of the provision's supporters and thus it would be a helpful addition to the legislative history. Accordingly, I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANALYSIS OF COMMUNITY DEVELOPMENT RESTRICTIONS (SEC. 305(b)(1) OF CHAPTER III)

The Committee bill requires that no more than 20 percent of a community development agency's grant funds be expended during any contract period for activities not intended to be of direct and significant benefit to blighted or deteriorating areas or to families with low and moderate incomes. An exception to this requirement could be made, however, if HUD certified that the exception is necessary to meet urgent community needs. HUD would include a list of all such certifications in its annual report to Congress on the community development program.

This limitation is necessary to ensure that the thrust of the community development effort is along the lines of that intended to be fostered by the major programs it would replace, of which urban renewal and Model Cities comprised 86% in terms of fiscal 1972 funding. The community development program is not intended to be another general revenue sharing program. Rather, such a program should be designed primarily to assist in the revitalization of a community's deteriorating and blighted areas and in providing additional facilities which will be of major benefit to families with low and moderate incomes. In the absence of a general but nonetheless clear requirement that most community development money be expended in this manner, local political pressures may dictate an inordinate amount of the funds for facilities which primarily serve upper income neighborhoods or families or for public works which are highly visible but do not fulfill more basic needs of the community. The specific percentage was felt to be necessary to make Congress' intent absolutely clear to participating communities and to HUD, which has indicated its extreme reluctance to place requirements, restrictions or demands on the expenditure of Federal community development funds.

On the other hand, the proposed limitation is broad enough so that local flexibility and decision-making would not be inhibited unduly. A community development activity would fall within the twenty percent limit only if it could not be adjudged to be of direct and significant benefit either to a blighted or deteriorated area or to families of low and moderate income. Activities which would nevertheless fall within the twenty percent limit are likely to fail rather obviously to address what are generally considered to be urgent needs of our communities.

The provision of an unimportant monument, a swimming pool or park in an upper income neighborhood or a sports arena in an area which is not blighted or deteriorating, are good examples. Such activities are also likely to be popular projects which communities should be able to support with private funds, local taxes and general revenue sharing funds.

While inevitably there will be some controversies relating to the administration of this 20% limitation, its administration should not become a major problem. Activities destined to take place in blighted or deteriorating neighborhoods should be easy to distinguish from other activities. Whether a neighborhood should be considered "deteriorating" can be determined partly by the activity proposed for it. For example, sensible activities along the lines of a code enforcement program normally would be proposed only for an area which could be classfied as "deteriorating" In general, a neighborhood should be considered to be deteriorating if its long-term stability is presently threatened. That is not by any means an enormously difficult judgment to make.

Similarly, the phrase "direct and significant benefit" should not prove excessively difficult to interpret. For example, the supporting facilities for a sizeable suburban housing project where 40% of the tenant families have low or moderate incomes (by the standards normally used for our housing programs) would be considered to be of "direct and significant benefit to families of low and moderate incomes". The facilities could not be considered in that light if the project happened to have only a few families in the low and moderate income range.

The possibility of obtaining an exception to the limitation was included in recognition that there will be "borderline cases" and to give the community development program additional flexibility. For example, a relatively new community which does not have blighted or deteriorating areas might be able to demonstrate that to fulfill urgent needs it must expend more than 20% of its funds on activities, such as water and sewer lines in certain areas of the community, which are not of direct and significant benefit to families of low and moderate incomes. Another community may be able to demonstrate that it has an urgent need for facilities (such as housing) designed specifically to attract middle and upper income groups back into the inner city and to the tax rolls, and that in support of this purpose more than 20 percent of the funds must be expended in areas which could not be classified as blighted or deteriorated. However, because the 20 percent limitation only restricts the expenditure of funds in ways generally not considered to be essential to the fulfillment of program purposes, such exceptions should be needed only in limited numbers.

The Committee expects that HUD will interpret the 20 percent restriction in a manner which respects communities' ability to determine their own needs, by giving them a reasonable "benefit of the doubt." It is not expected, therefore, that there will be a great number of cases where HUD will be forced to take disciplinary action by withholding funds to enforce the restriction. The committee expects the major benefit of the restriction to come not from enforcement efforts by HUD, but rather from an improved understanding of and response to the purposes of the community development program at the local level.

Mr. TAFT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

TAX INCENTIVES REVIEW

SEC. . Upon the enactment of this Act, the Secretary of Housing and Urban Development, in cooperation with the Secretary of the Treasury, shall conduct a thorough review of the effectiveness of existing tax incentives for investors in low and moderate income multifamily housing. Not later than 6 months after the date of enactment of this section, the Secretary of Housing and Urban Development shall submit to the Congress any recommendations for adjustments in such incentives—

(1) in order to facilitate increased efforts to reduce or stabilize construction or operating costs;

(2) in order to facilitate improved management practices which are more responsive to the needs of tenants; or

(3) for any other reason.

Any such recommendations shall include an estimate of the effect their implementation would have on the levels and costs of low and moderate income housing programs.

Mr. TAFT. Mr. President, this amendment would direct HUD and the Treasury Department to conduct a thorough review of the effects of present tax incentives for investment in multifamily low- and moderate-income housing. Within 6 months, HUD would submit to Congress any recommended changes in the incentives for the purpose of facilitating increased cost consciousness by investors, more sensitive management, or for any other reason. Any recommendations would have to be accompanied by an estimate of their effects on the volume and cost of the low- and moderate-income housing programs.

The major attraction for investors in the present subsidized multifamily housing program is the possibility of using the accelerated depreciation allowance and other losses as tax shelter for other income. Experts have alleged that the arrangement has contributed to insensitive management and unnecessarily high costs in some cases. When an investor's income is dependent upon tax sheltering rather than a healthy project cash flow, in a fundamental way the more expensive the development becomes the better off he is. Because the developer is often paid with a fee expected by investors to be extracted from the tax advantages rather than from profits upon sale, he also may have a lax attitude about cost control. Furthermore, because tax sheltering benefits are unrelated directly to the condition of the project or to full or nearly full occupancy levels, the investors may not always require, to the extent they should, that the property managers responsible to them be responsive to tenant and project needs.

It is generally agreed that the section 236 provisions generated private capital more successfully than any other low- and moderate-income housing program. Unquestionably, sizable incentives are needed to accomplish this task, and I am not suggesting definitely that the magnitude of the incentives be reduced, although HUD and Treasury should certainly evaluate that strategy because of the possibility of reducing per-unit costs. However, a restructuring rather than reduction of the incentives might encourage reduced costs and sounder management. For instance, an internal HUD paper has called the present incentives inappropriate for subsidized housing and instead recommended tax credits to apply separately to construction and management expenses. A HUD-Treasury review of such possibilities and formal recommendations from those agencies could only be beneficial.

Mr. President, I reserve the remainder of my time.

Mr. TOWER. Mr. President, I believe that the amendment of the Senator from Ohio has merit. The only question might be the time in which the study is required to be completed. Other than that, I think it is a meritorious idea; and for my part, I am willing to accept it.

Mr. SPARKMAN. Mr. President, I fully agree. I yield back the remainder of my time.

Mr. TAFT. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TAFT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 145, line 14, after the word "entity" insert the following: ", including a public housing agency,".

Mr. TAFT. Mr. President, I note that in this draft of the section 8 leased public housing program, dwelling units may be leased from an owner rather than specifically from a private owner. This leads one to question whether public housing agencies can participate in section 8(g) program as developers. I do not know whether this is clear. I think it should be clear.

We have talked with HUD about it, and our understanding of HUD's position is that the public owner, the housing authority, should be capable of going into these programs if it wishes to do so, just as a private owner could.

I do not know whether it is anticipated that public housing agencies could finance such development through federally guaranteed tax-exempt bonds or otherwise under the provisions of the bill, but I think that would be desirable also.

This provision, it seems to me, has not been clarified by the committee report. I would welcome any comment members of the committee might have in regard to the necessity of clarifying this matter so that the housing agencies can become sponsors or owners under the program.

Mr. SPARKMAN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, I am not sure I fully understand just what the question would be. Does it relate to the powers of housing authorities to be developers themselves?

Mr. TAFT. That is correct; under section 8(g).

Mr. SPARKMAN. How would that operate? Why are they not developers now?

Mr. TAFT. They have been their own developers.

Mr. SPARKMAN. Yes.

Mr. TAFT. Under this new language for the leased housing program they would have to go out and find an owner, as I see it, unless we specify clearly they can be owner and developer also, using the financing capability that they have.

Mr. SPARKMAN. Does not section 8 refer wholly to private accommodations and is this not completely different from what the housing authority ordinarily would have jurisdiction of? It would be completely contradictory to the purpose of public housing authorities.

The housing authority handles low-rent public housing and does not sponsor private housing. I do not see why their power should be extended to construct or develop private housing. This is a new program sponsored by the administration. I must say that it is open to interpretations by anyone who wants to read it, but this is low-income housing in private accommodations.

Mr. TAFT. Mr. President, if the Senator will yield, it seems to me to be basically following the section 23 approach that has been used in public housing. It seems to me if that is true, the people who have the most experience administering it and who should be authorized to be developers are local public housing agencies.

Mr. SPARKMAN. I feel it would be more or less in conflict; that it is a conflicting proposition because this relates to private accommodations. As I understand it, section 8 proposal was recommended by the administration with the intention that local authorities be allowed to go out and lease property from private owners so low-income people could be placed in those private accommodations.

On page 145 it is stated:

> As used in this section, the term "low income housing in private accommodations" means dwelling units leased from an owner (including an owner occupant), which provide decent, safe, and sanitary dwelling accommodations and which may include related facilities,

So it seems to me that the Senator's proposition runs completely contrary to the whole concept.

Mr. TAFT. Mr. President, if the chairman will yield, it seems to me that what the chairman said is undeniable. It applies to private accommodations because the statute says these are private accommodations. It is a bootstrap approach to the problem.

If the authority is given under the amendment I propose for the public housing agency to go out——

Mr. SPARKMAN. And build.

Mr. TAFT. To become a builder of this type facility, it will be a public facility just as it would be a private facility if a private owner develops it.

Mr. SPARKMAN. When the Senator suggested "bootstrap" I started to say it is moonlighting for the housing authority.

I have just stated my views. I would be glad to yield time to the Senator from Texas if he wishes to speak on this matter.

Mr. TOWER. I cannot add more than what the Senator from Alabama said. It occurs to me in this situation that if we adopt the amendment of the Senator from Ohio, conceivably there could be a conflict of interest because on page 147, line 10 it is stated:

> The Public Housing Agency shall conduct appropriate inspections over the units offered to be made available in any residential structure, and so forth.

In effect the housing agency would be inspecting its own development.

Mr. SPARKMAN. And would be accepting payments from itself.

Mr. TOWER. That is right.

Mr. SPARKMAN. May I suggest, if this is acceptable to the Senator from Texas, that we agree to take this amendment to conference.

Mr. TOWER. I would be willing to do so.

Mr. SPARKMAN. Not promising anything beyond that point.

Mr. TAFT. I would be glad to have that done. I will take it up with the House committee in the meantime. This question has not been resolved, I feel.

Mr. SPARKMAN. It is something I think we can thresh out in the conference meeting.

Mr. TAFT. I thank the Senator. I yield back my time.

Mr. SPARKMAN. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MOSS. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

> On page 206, delete lines 12 through 18, ending with period on line 18.

Mr. MOSS. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. MOSS. Mr. President, this is a very simple amendment. I think it can be readily disposed of.

This amendment would delete the earmarking of funds for comprehensive planning in metropolitan areas. It would allow appropriate regional, State, and local authorities to have the necessary flexibility to determine the best use of comprehensive planning moneys.

There has been no earmarking for funds in this area previously and funds are not earmarked in other areas, so why just metropolitan areas?

Local elected officials should make policy as to where the funds received for comprehensive planning are most needed. No percentage of one specific area should be mandatory.

The National Governors Conference supported the proposed deletion. The Utah State Planning Agency supports the deletion. The Governor of my State has indicated that he supports the deletion. The National Legislative Conference indicates that it supports this deletion.

The amendment has just the simple function of taking out the earmarking of a certain percentage of the funds for comprehensive planning in metropolitan areas. I think it would improve the bill if it were taken out. It certainly would accord with the views of the Governors and many others in this field if that were done.

I have had only a brief opportunity to discuss the amendment with members of the committee and the staff, and so I do not suppose they have had a great deal of time to consider it; but I do not know of any great opposition to it, and I would hope that it could be accepted.

I reserve the remainder of my time.

Mr. TOWER. Mr. President, I might say to the Senator from Utah that he does accurately reflect the views of the Governors in this matter. On the other hand, county and local units of government want this subsidy. So we have a conflict of action developing between the Governors and county and local officials as to whether or not there should be a set-aside of funds.

I have been advised by those who have been monitoring the actions of the House that the probability is that this provision will not occur in the House bill. Therefore, it would be discussed in conference. It might be a good idea for us to take this provision to conference, in the absence of a similar provision in the House bill, and see if there cannot be a reconciliation between the differences in this particular instance.

I have no strong views about it one way or another. It is just a situation where some people want it and some do not.

Mr. MOSS. Of course, it could be debated in conference. The point was brought to my attention by the National Legislative Conference, which is made up of State legislatures, or at least their executive directors, who indicated they were for it. The Governors were for the amendment, and the planning agencies are for it. It seemed to me that constituted sufficient weight that perhaps the provision relating to earmarking could be taken out, because it applies only to metropolitan areas. Comprehensive planning money does not apply elsewhere. So we have selected certain areas for earmarking, and I am not aware of the need to do so. I am a great believer in flexibility and local responsibility wherever it can be utilized.

Mr. SPARKMAN. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SPARKMAN. The Senator from Texas stated this proposition. It is something that some officials want and some do not want. So we have two great divisions.

I have had regional councils in my State objecting very strongly to the idea of having the money go to the Governor. That is what it amounts to. They think that we ought to establish some kind of formula that would assure that they all get their share. Of course, if all the States were as fairminded as mine is, this provision would operate all right, but a lot of them are afraid they are not going to get the money unless there is a formula for allocating it.

We tried to write a provision that

would give assurance to local regional bodies that they would get part of this money and have it come to them in a determined formula. That is what we have been trying to do.

I think it is fair. I think it is right. Do I understand that the Senator from Texas (Mr. Tower) is suggesting that we take it to conference?

Mr. TOWER. I was suggesting that we leave it in the bill, because the prospect is very strong that it will be in conference. If we take it out of the bill and there is no similar provision in the House bill when we go to conference, there will be nothing in conference. So we ought to leave it as it is and go to conference with it.

Mr. PASTORE. Mr. President, will the Senator from Alabama yield?

Mr. SPARKMAN. Yes, I yield to a former Governor.

Mr. PASTORE. Mr. President, this matter is an old chestnut. It all depends on whether one is a mayor of a large city or happens to be the Governor of a State. It also depends on the kind of State one comes from. I assume that when one does not come from a large city—of course, the Senator from Utah has Salt Lake City in his State—he has a different viewpoint. This has been a perennial problem between the State capital and city hall. Many metropolitan areas have felt that that is where the basic problem actually is. Yet they have been shortchanged only because Governors took it upon themselves to look at the political future and distribute the money in such a way as to make everybody happy; but most of the money goes where it is not needed.

This is not a new problem we have met from mayors and from housing officials. Conferences meet it in one way; Governors meet it in other ways. But I think there is a very, very splendid argument on either side.

I think that because, in all probability, the House will delete it, it might be well that the matter be taken to conference, to work it out there.

I tell Senators frankly that where I come from many of the largest cities have difficulty, and the rural areas do not. If we begin to spread the money out, we do not get as effective a product as if we did it this way. That is my judgment. But it does not necessarily make the Senator from Utah wrong or all the Governors wrong. If I were the Governor of my State today, it would not make any difference, one way or the other; but it does make a difference in the State of New York, where large cities feel they are not being treated properly at the State capitol.

The question is, Who is responsible for earmarking? But there, again, I think the matter ought to be kept open. I think it ought to go to conference. I think the conferees ought to thresh it out, and if they do not want it in the bill, they ought to knock it out.

Mr. MOSS. Mr. President, I yield myself an additional 2 or 3 minutes.

What occurs to me is that every State, I suppose, by now has a State planning agency. I know that Utah does. That is where the money would go—to the State planning agency, for a determination of where the money was needed. Presumably the State planning agency, being a professional organization, would have no political bias as to where the money was placed. The agency would try to place it in areas of need. Second, earmarking might constrain their judgment if they felt that they needed to allot it. That is the reason I was willing to bring the matter up. It seemed to me that we should keep the program as flexible as we could in providing planning money.

I am, however, willing to submit it. If the Senator wants to have a voice vote, I would be willing to do that. I do not care about pressing the matter for a rollcall vote.

Mr. SPARKMAN. Mr. President, I yield back my time.

Mr. MOSS. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Utah (putting the question).

The amendment was rejected.

Mr. TOWER. Mr. President, on my own time, I would like to remind the Senate that, under the unanimous-consent agreement, we are required to vote on final passage no later than 5 o'clock or on any amendment pending at that moment. So, I would like to serve notice that there is very limited time remaining.

I would suggest that both amendments are subject to a restriction of time. There obviously is not enough time left.

Mr. TAFT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is as follows:

On page 45, line 25, strike "$5,000,000" and insert in lieu thereof "$50,000,000"

At the appropriate place in the bill add the following new section:

"Sec. . Title V of the Housing and Urban Development Act of 1970 is amended by adding at the end thereof the following new section:

"DEMONSTRATION ASSISTANCE FOR HOME IMPROVEMENT LOANS

"Sec. 510. (a) In carrying out activities under Section 501, the Secretary may undertake on an experimental basis a program to demonstrate the feasibility of making grants or advances in connection with property improvement loans under title III of the Revised National Housing Act in order to enable homeowners to carry out home improvements with private capital to the extent feasible and without paying an excessive percentage of their monthly incomes for housing expenses, as determined by the Secretary. For this purpose, the Secretary is authorized to make grants or advances in connection with such property improvement loans upon such terms and conditions as he may prescribe, subject to the limitations of this section.

"(b) The combined amount of a home improvement loan under such title and any grant or advance made under this section may not exceed the applicable dollar limitation contained in section 302 of such title.

"(c) To the maximum extent practicable, the Secretary shall carry out the provisions of this section through the financial institution which makes the loan in connection with which the grant or advance is made. The Secretary is authorized to utilize local public and private agencies where feasible to assist in the administration of this section.

"(d) Grants or advances under this section may not be made after July 1, 1976. The aggregate amount of such grants may not exceed $20,000,000."

Mr. TAFT. Mr. President, my amendment would provide a method of exploring additional means of increasing our effort to preserve and improve the existing housing stock, and thus fulfilling a goal which the committee wisely has adopted in section 801 of the proposed bill. I am quite pleased that the committee already has taken so many constructive steps in this direction and my amendment is designed to improve upon the committee's fine work.

The first change would increase from $5 million to $50 million the aggregate amount of rehabilitation loans that could be outstanding in State and local rehabilitation loan funds which would be provided Federal portfolio coinsurance under section 309 of chapter I. I believe that the Federal portfolio coinsurance proposed could be a valuable incentive for encouraging State and local governments to enter into the housing rehabilitation field. However if each rehabilitation loan averages $5,000, which is lower than the average rehabilitation loan for single-family housing under the present section 312, 3-percent loan program, the total number of loans outstanding under the committee bill could not exceed 1,000 nationwide. This number is insufficient even for demonstration purposes. My amendment would raise the possible number of loans to 10,000.

Let me emphasize that this amendment would cost only the tiny fraction of the $50 million annually which actually results in loan losses insured by the Government. If the loss ratio is the same as under the section 312 program, the change would cost considerably less than $2 million annually, depending upon the level of insurance premiums and the coinsurance arrangements negotiated. Conceivably the change may not cost the taxpayers any money. It could result however, in an additional $45 million annually invested in housing rehabilitation.

The second change would provide up to $20 million in demonstration funds for the subsidization of FHA-insured home improvement loans, so that beneficiaries could undertake repairs without paying an excessive percentage of their monthly incomes for housing.

This type of program is an essential component of S. 971, the Home Preservation Act of 1973, introduced by Senator Cranston and myself over a year ago. Several witnesses during the committee's housing hearings testified favorably on this legislation and the provisions similar to this amendment specifically, while the only negative comments were from those who felt that our proposal merited more

Federal resources than we suggested. Furthermore, the FHA has already designed a research proposal along these lines, but that proposal has never been implemented.

Instead of adopting this approach to encourage housing rehabilitation, the committee adopted a Taft-Cranston amendment which retains and broadens the section 312, 3-percent Federal rehabilitation loan program, of course, I continue to support those provisions. However, because the section 312 program is Treasury-financed and therefore requires Government outlays for the entire loan interest and principal amount, adequate appropriations have never been obtained and unfortunately, may continue to be difficult to obtain. I believe it worth experimenting to determine whether a program which utilizes as much private capital as possible for moderate cost rehabilitation loans to citizens with low and moderate incomes is feasible.

One of the possible stumbling blocks to this approach is unquestionably the high interest rate charged for the FHA-insured home improvement loans which we would be subsidizing. However, the demonstration subsidies need not be interest subsidies. Front-end grants or advances with deferred repayment would be more cost-effective. The amendment is drawn up in a manner which will allow HUD to explore such possibilities fully.

Mr. President, I reserve the remainder of my time.

Mr. SPARKMAN. Mr. President, I yield myself such time as I may require.

I should like to ask the Senator from Ohio—who, by the way, is one of the finest housing workers we ever had serve on our committee, and it was a great loss to us when he changed committees—if it is not a fact that the Senator from Ohio actually offered the amendment containing the $5 million that he is now seeking to enlarge by 1,000 percent? Is that not the amount the Senator wrote into the bill himself in the committee?

Mr. TAFT. I do not recall whether that is correct.

Mr. SPARKMAN. Mr. President, I believe that if the Senator from Ohio will review the matter, he will find that he is the one who advanced the whole idea of rehabilitation. My recollection is that we accepted the figure that the Senator offered to us. It was $5 million. It seems to me that the $50 million is entirely too much. If the Senator would be willing to modify his amendment so as to double what he originally planned and make it $10 million, I would be willing to go along with that.

Mr. TAFT. Mr. President, I appreciate the chairman's feeling on this point. This would, of course, mean that insurance would probably be limited to about 2,000 loans nationwide, which would be a better demonstration.

Mr. SPARKMAN. It is a pretty good demonstration. It is a new program which is being started. It would show us over the ensuing year what could be done. Then, next year if it is felt that the field is so great as to need $50 million, we could increase it. However, I do not see any need of our jumping into it so deeply in the beginning.

Mr. TAFT. The Senator does understand that this is a coinsurance program.

Mr. SPARKMAN. Yes.

Mr. TAFT. While the total amount of loans which could be insured is a higher amount, it is not the amount of the Federal layout that would be involved.

Mr. SPARKMAN. I understand.

Mr. TAFT. I will defer to the Senator's desire. If he thinks he can take the amendment, we can continue to review it if the House takes it and perhaps next year raise the $10 million.

Mr. SPARKMAN. For my part, having discussed this with the Senator from Texas, I will gladly go along with the figure of $10 million for the first year.

Mr. TAFT. I would be glad to modify my amendment to that effect.

Mr. TOWER. Mr. President, I would prefer the modification.

Mr. TAFT. I modify my amendment to change the figure from $50 million to $10 million.

The PRESIDING OFFICER. The amendment is accordingly modified.

Mr. SPARKMAN. Mr. President, I am willing to accept the amendment as modified.

I yield back the remainder of my time.

Mr. TAFT. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment as modified.

The amendment, as modified, was agreed to.

The text of the amendment, as modified, is as follows:

On page 45, line 25, insert the following: strike "$5,000,000" and insert in lieu thereof "$10,000,000."

At the appropriate place in the bill add the following new section:

"SEC. . Title V of the Housing and Urban Development Act of 1970 is amended by adding at the end thereof the following new section:

"DEMONSTRATION ASSISTANCE FOR HOME IMPROVEMENT LOANS

"SEC. 510. (a) In carrying out activities under section 501, the Secretary may undertake on an experimental basis a program to demonstrate the feasibility of making grants or advances in connection with property improvement loans under title III of the Revised National Housing Act in order to enable homeowners to carry out home improvements with private capital to the extent feasible and without paying an excessive percentage of their monthly incomes for housing expenses, as determined by the Secretary. For this purpose, the Secretary is authorized to make grants or advances in connection with such property improvement loans upon such terms and conditions as he may prescribe, subject to the limitations of this section.

"(b) The combined amount of a home improvement loan under such title and any grant or advance made under this section may not exceed the applicable dollar limitation contained in section 302 of such title.

"(c) To the maximum extent practicable, the Secretary shall carry out the provisions of this section through the financial institution which makes the loan in connection with which the grant or advance is made. The Secretary is authorized to utilize local public and private agencies where feasible to assist in the administration of this section.

"(d) Grants or advances under this section may not be made after July 1, 1976. The aggregate amount of such grants may not exceed $20,000,000."

Mr. TAFT. Mr. President, I have one other amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is as follows:

On page 28, between lines 8 and 9, insert the following:

HOUSING ASSISTANCE PROGRAM CONDITIONS

SEC. 114. The Secretary may provide periodic assistance payments under sections 402 and 502 in connection with construction or substantial rehabilitation of housing for lower income families or tenants in housing areas with respect to which he has determined, taking into account any appropriate information submitted by community development agencies pursuant to the Community Development Assistance Act of 1974, (1) that there is not likely soon to be an adequate supply of decent, safe, and sanitary existing housing for such families or tenants of various household sizes, (2) that such construction or rehabilitation is necessary to expand housing opportunities for such families or tenants within reasonable proximity to places of employment, or (3) that such new construction is an essential component of a community development program. The Secretary may also designate housing areas in which it is permissible to provide such payments in such other circumstances as he deems necessary.

On page 134, strike out line 5 and insert in lieu thereof the following:

"(2) each public housing agency shall be authorized to provide assistance payments to assist in the construction or substantial rehabilitation of housing for low-income families in housing areas with respect to which a public housing agency has demonstrated to the satisfaction of the Secretary (1) that there is not likely soon to be an adequate supply of decent, safe, and sanitary existing housing for low-income families of various household sizes, (2) that such construction or rehabilitation is necessary to expand housing opportunities for low-income citizens within reasonable proximity to places of employment, or (3) that such new construction is an essential component of a community development porgram: *Provided*, That the Secretary may also designate housing areas in which it is permissible to locate newly constructed or substantially rehabilitated housing for low-income families as authorized by this Act in such other circumstances as he deems necessary; and",

On page 134, line 6, strike "(2)" and insert in lieu thereof "(3)".

On page 151, strike out lines 3 through 23 and insert in lieu thereof the following:

"(g) (1) Each public housing agency is authorized to provide assistance payments to assist in the construction or substantial rehabilitation of housing for low-income families. Assistance shall be provided pursuant to this subsection through contracts with owners or".

On page 178, line 4, after "needs" insert the following: "(taking into account situations in which the agency's basic grant entitlement does not accurately reflect recent levels of funding for the programs listed in subsection (d))".

At the appropriate place in the bill, insert the following:

STATISTICS

SEC. . The Secretary of Housing and Urban Development shall develop and maintain complete and current statistics and other information with respect to each housing mortgage insurance and housing assistance program under this Act, including but not limited to statistics and information relating to—

(1) financial market conditions, including the interest rates, payback periods, and other terms and conditions affecting such housing;

(2) the character, extent, and actual costs of construction or rehabilitation undertaken under each program;

(3) factors affecting and statistics showing the extent of utilization of each such program;

(4) factors affecting the processing time of applications and statistics showing processing times actually experienced for each program;

(5) mortgage arrearages, defaults, and foreclosures on insured mortgage loans and expenses incurred as a result of such arrearages, defaults, and foreclosures;

(6) abuses of the programs and actions taken in connection therewith;

(7) the income expenditure for housing, age, sex, other relevant characteristics as determined by the Secretary of those served by the programs; and

(8) the costs of administering the programs;

and shall submit to the Congress not later than February 15 of each year an annual report summarizing such information.

Mr. TAFT. Mr. President, this amendment would make several alterations in the bill which, I believe, are clearly consistent with the intent of the bill's present provisions.

The first change would apply substantially the same limitations on subsidized new construction and substantial rehabilitation contained in the proposed leased new housing subsection, which are designed to insure that such subsidies are used only where truly needed, to the spectrum of FHA subsidized and public housing programs. The limitations are more clearly worded to indicate that HUD would administer them, with due recognition and attention paid to information submitted by local public housing and community development agencies.

Such limitations make little sense when accompanying in legislation only one of several programs. Such an arrangement, therefore, may even give the impression that Congress expects leased new construction to be the major or only subsidized new construction program. The administration proposed that it be the only program but the committee very clearly disagreed.

The next change would direct HUD, when determining whether to increase a community's initial community development grant over its entitlement amount to meet urgent community needs, to consider situations in which the entitlement inaccurately reflects recent levels of program funding. The entitlement amount is presently based upon the funding which communities received for the various programs during the fiscal years 1968 through fiscal 1972. This base period is necessarily arbitrary and in some cases it not only fails to reflect community needs, but also recent past levels of funding. For example, fiscal 1973 rightly was not included in the base period because the moratorium resulted in such widespread and varied program cuts during that time. However, those few communities which received substantial funding during fiscal 1973 will not find that funding reflected in their entitlement, even though they were provided the funding more recently than the funding on which the entitlement is based. In my own State, the city of Cleveland, which has undisputedly an urgent need for community development funds, would find itself in this situation. Cities with extremely high funding levels in fiscal 1967 relative to fiscal 1968–72 would find themselves in similar situations.

My amendment would not change the base period or otherwise guarantee these communities relief. However, by directing HUD to consider such distortions in the composition of the entitlement amount, it should promote more rational determinations of the need to make exceptions and grant communities additional program funds.

The last change would direct HUD to keep various specific types of statistics for each housing program. Secretary Lynn pointed out in testimony that the Department did not have the data he felt was necessary in some cases for an adequate evaluation of the programs. This became painfully evident during the markups, particularly when the committee was grappling with the issue of public housing rent requirements.

I hope that these alterations will further the effort the committee has made to make our housing and community development laws more rational, more equitable, easier to understand and easier to evaluate.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I yield myself 5 minutes.

First, I would like to ask a question of the Senator from Ohio. A few minutes ago we agreed on the $10 million for the home rehabilitation program.

Mr. TAFT. Yes.

Mr. SPARKMAN. My attention has been called to the fact that there is another part, I think perhaps two other parts, that were not mentioned in the discussion at all, that I must say I was completely unaware of.

Mr. TAFT. Mr. President, my staff had told me that this matter has been raised. I did talk for 3 or 4 minutes, I thought, on the second portion, and I did not know that there was any question with regard to it.

I would be delighted to take whatever action the chairman would like to take to rescind on the second portion of the amendment that we just passed, if the chairman wishes to do that.

Mr. SPARKMAN. Frankly, I am somewhat uneasy about permitting grants and loans with respect to the old title I home improvement program. That is what that proposal amounts to, is it not?

Mr. TAFT. Yes; that is right.

Mr. SPARKMAN. Title I was a good program when it was first started, but it got to the point where we had to ride herd on it in order to keep it in line, and I would regret to see that program changed so drastically, particularly when we do have an alternative for rehabilitation.

Mr. TAFT. Of course, the coinsurance provision which was added years ago made the program work, I think, a lot better.

But by way of suggestion, if the Senator is agreeable, I would be very happy, as I say, to dispose of the current amendment before us, and then move to reconsider the other. We did not lay a motion to reconsider that on the table, so we could reconsider the other amendment if the Senator wishes.

Mr. SPARKMAN. What procedure does the Senator suggest?

Mr. TAFT. I was suggesting that we dispose of the current amendment that is before us, and then move to reconsider the amendment just passed, if the Senator would like to have that done.

The PRESIDING OFFICER. Is time yielded back on the pending amendment?

Mr. SPARKMAN. Just a moment.

I would suggest, with reference to the pending amendment, if it is agreeable to the Senator from Texas, that we take it to conference. It is rather complex, and I think we need to do some work on it. If the Senator from Texas will agree, I would say let us take it to conference.

Mr. TOWER. I am agreeable to that.

Mr. TAFT. I appreciate very much the Chairman's attitude. The community developer portion of the amendment does deal with a very serious problem in one particular case, and there may be others around the country with which I am not familiar that present the same problem.

I think the key to the community development amendment is to keep a degree of flexibility in there, so that if they encounter a problem because of the base period, they will be able to move from that.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time on the pending amendment.

Mr. TAFT. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. SPARKMAN. Now, Mr. President, I yield myself 5 minutes on the bill. If I may have the attention of the Senator from Ohio, we agreed a few minutes ago to an amendment pertaining to rehabilitation, and in that amendment we agreed to increase the sum of $5 million to $10 million.

I must say that at the time I was under the impression that that was really the substance of the whole amendment. I had not read it carefully. Therefore, Mr. President, I move to reconsider the vote by which that amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama.

The motion was agreed to.

Mr. TAFT. Mr. President, would the distinguished chairman like me to explain it again, with the same statement I made with regard to the controversial portion?

Mr. SPARKMAN. I thought the Senator said he would be willing to lay on the table the rest of the amendment.

Mr. TAFT. I would be perfectly willing to do so. As I understand it, the first portion of the amendment, with the $10 million figure, is agreeable to the chairman?

Mr. SPARKMAN. Yes.

Mr. TAFT. I think the best way to proceed is for me to modify my amendment by withdrawing the second portion.

Mr. SPARKMAN. Yes.

Mr. TAFT. Mr. President, I ask unanimous consent to modify my amendment, to delete the second portion of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered; and the modification is so made.

Mr. SPARKMAN. That leaves only the question of rehabilitation.

Mr. TAFT. The Senator is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Ohio.

The amendment, as modified, was agreed to as follows:

> On page 45, line 25, insert the following: strike "$5,000,000" and insert in lieu thereof "$10,000,000."

Mr. WILLIAMS. Mr. President, I would like to commend Chairman SPARKMAN for the direction and leadership he has given on this very comprehensive housing bill. S. 3066, the Housing and Community Development Act of 1974, is the product of many months of labor by the entire Committee on Banking, Housing, and Urban Affairs. In light of the history of housing legislation in this country, it is most fitting that significant contributions to this package have been made by members of both parties.

The need to provide adequate shelter has been one of our principal national priorities for most of the 20th century. Six Presidents and 19 Congresses have forged our Nation's response to the problems of housing and community development.

In 1937, President Franklin Roosevelt saw one-third of the Nation ill fed, ill clothed, and ill housed. He and the 75th Congress recognized that poor families could not, with their own resources, afford homes on the private market, and the result was the historic legislation which launched the public housing program.

Twelve years later, another bipartisan effort provided the Housing Act of 1949. Senator Robert Taft reversed his opposition to Federal assistance for housing, and he explained:

> That is the only way in which we can insure some equality of opportunity for all children born in the United States. As I see it, this is no departure in the principles of Americanism.

Senator Taft, the embodiment of conservative Republicanism, joined with Democrats Wagner, Ellender, and SPARKMAN to enact the legislation that pledged "a decent home and suitable living environment for every American family."

In 1968, President Johnson proposed a most ambitious housing package, and, again, a bipartisan effort in Congress resulted in enactment.

We established a goal of the construction of 26 million new homes and apartments over the next 10 years. Of that total, 6 million were intended to replace the shamefully substandard units where more than 20 million Americans still lived.

The Housing and Community Development Act of 1974 is a worthy step in this progression. The bill authorizes $9.048 billion for a broad range of housing and community development activities over the next 2 years.

I am particularly pleased that included in this omnibus bill is a measure which I introduced to expand the very successful section 202 program under which the Federal Government makes low-interest loans to sponsors of construction of housing for the elderly. This provision would also create a new funding mechanism under which the funds for these loans would be channeled through a special revolving fund, rather than through the annual Federal budget.

A severe shortage of housing specially designed for the elderly exists today, and I am encouraged that the bill we have before us makes a significant effort to meet that need.

The 1971 White House Conference on Aging called for an annual minimum of 120,000 units of new construction for low-income elderly. The bill we are now considering calls for 117,550 units for the elderly and comes very close to meeting that important recommendation.

The need for new construction is the No. 1 issue in the field of housing the aged, and this bill provides four major programs that would make new construction possible. The following is an outline of these programs and their benefits for the elderly for fiscal year 1975, but I should emphasize that these figures are only estimates based on the best available information.

First. Traditional public housing.—The bill calls for authorizations that would provide approximately 92,000 units of new construction through traditional public housing. In recent years, about 40 percent of all new public housing units have been occupied by the elderly. At that percentage, 36,800 units of new public housing would be available.

Second. Section 502 multifamily housing.—This new section revises the old section 236 housing and authorizes funds for approximately 150,000 new units. The bill specifically earmarks not less than 15 percent nor more than 25 percent of section 502 funding for the elderly. At 25 percent, 37,500 units would be available.

Third. The revised section 23 leased housing program.—The bill authorizes funding for 200,000 units of section 23, however not all these units will be new construction. It is not yet certain what percentage will be for new construction, but an stimate of two-thirds—or 133,000 units—is possible. Secretary Lynn has indicated that he will reserve 25 percent of section 23 funds for the elderly which, by this estimate, would provide 33,250 units.

Fourth. Section 202 as revised.—In addition to renewing and revising the successful section 202 program, the bill provides $100 million in authorization which would produce approximately 5,000 units. The old 202 revolving fund currently has another $100 million in its coffers which would produce another 5,000 units for a total of 10,000.

Here is a breakdown of the four programs in outline form:

UNITS OF NEW CONSTRUCTION FOR THE ELDERLY AS CONTAINED IN THE HOUSING AND URBAN DEVELOPMENT ACT OF 1974 (FISCAL YEAR 1975)

Program	Total units authorized	Units for the elderly
1. Traditional public housing	92,000	[1]36,800
2. Sec. 502 multifamily	[2]150,000	[3]37,500
3. Revised sec. 23 leased housing	133,000	[4]33,250
4. Sec. 202 (as revised)	5,000	5,000
Plus revolving fund		5,000
Total	380,000	117,550

[1] 40 percent of total units authorized.

[2] Includes carryover.

[3] 25 percent of total units authorized.

[4] 24 percent of total units authorized.

The Banking, Housing and Urban Affairs Committee has also approved my proposal to improve the conditions of security from crime and vandalism in HUD-assisted housing. While this provision does not limit its application to elderly persons, it would be a tremendous assist in providing improved security to the many elderly persons who are the frequent and easy victims of criminal attack.

This provision would establish an Office of Security at HUD, and would authorize $10 million for fiscal year 1975 to subsidize security programs, including the payment of salaries to tenant patrols and other security personnel. As chairman of the Subcommittee on Housing for the Elderly of the Special Committee on Aging, I have explored this issue in depth over the last 3 years. I am very pleased that the committee has approved by proposal.

As I have indicated the Housing and Community Development Act of 1974 covers a wide variety of housing and community development programs, and the following is a summary of some of its major provisions:

MORTGAGE CREDIT ASSISTANCE

First. A provision for flexible FHA mortgage ceilings based upon area prototype costs. The ceiling for assisted housing mortgages would be 120 percent of the prototype costs and for unassisted mortgages it would be 200 percent of prototype cost.

Second. A provision for an experimental dual interest rate system allowing HUD to insure mortgages at a higher rate of interest provided that no charges such as discount points are made in connection with the transaction.

Third. A provision establishing a lower down payment schedule for FHA insured housing.

Fourth. New homeownership assistance and rental assistance programs to replace the existing section 235 and 236 programs to provide housing for lower ited to families with income less than 80 income families. Eligibility would be lim- percent of median to insure more coverage for lower income families, and counseling would be mandatory for families participating in the homeownership program. Consumer protection would be increased by a warranty requirement and by provision for reimbursement for defective workmanship.

Fifth. A new demonstration program authorizing the Secretary to insure mortgage loans at less than their full value.

PUBLIC HOUSING ASSISTANCE PROGRAM

Important changes in existing law are:

First. The income requirement for continued occupancy, would be deleted.

Second. A new program of Federal contributions to finance certain deficiencies in operating costs would be authorized.

Third. A substantially revised and expanded leasing program for low-income housing in private accommodations would be authorized. With the exception of structures of fifty or fewer units, or units to be leased to the elderly, assistance payments could not be paid with respect to more than 75 percent of the units in a newly constructed or rehabilitated structure unless the requirement is waived by the Secretary.

COMMUNITY DEVELOPMENT

The bill would create a new community development program consolidating urban renewal, open space, and other community development programs into a single program. As a prerequisite for assistance, a locality would outline its plan to meet community housing needs, to prevent and eliminate slums and blight, and to upgrade community services. Federal contract authority at a level of $2.8 billion for the first year and $3.3 billion for the second year is included in the bill. Funds would be distributed basically at the discretion of the Secretary under a limitation that 75 percent of the funds are for SMSA's and 25 percent for communities outside SMSA's.

MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

The Secretary of HUD would be required to establish Federal mobile home construction and safety standards and he would be authorized to conduct inspections necessary to enforce the Federal standards. Manufactures of mobile homes would be required to issue warranties and to notify purchasers of construction or safety defects.

MISCELLANEOUS

First. The bill rewrites section 701 of the Housing Act of 1954—comprehensive planning assistance program—and in general only areawide agencies would be eligible for grants.

Second. The bill authorizes the establishment of a special financing association to provide financing for consumer-oriented housing cooperatives.

Third. The Secretaries of HUD and Treasury would be authorized to study the feasibility of various methods of financing multifamily housing, including the proper use of the newly established Federal Financing Bank.

Fourth. Authority would be given HUD to expand the experimental housing allowance program.

Fifth. The bill authorizes a program of rural housing assistance which would broaden the subsidy provisions for low-income families in rental housing built with the assistance of the Farmers Home Administration.

Mr. President, this bill represents another milestone in our national commitment to better housing for all Americans. It utilizes our three decades of experience in Federal involvement with housing by building upon the programs that have gone before. It preserves the best of what has been developed, while making needed improvements and inaugurating new initiatives. I certainly urge all of my colleagues to give it their wholehearted support.

Mr. President, I send to the desk an amendment and ask that it be stated.

The **PRESIDING OFFICER** (Mr. WILLIAM L. SCOTT). The amendment will be stated.

The second assistant legislative clerk read as follows:

> Strike lines 15 through 22 on page 155 and substitute the following:
>
> "(E) Any project for which assistance payments are contracted to be made under this section shall be eligible for insurance under title 501 of the Revised National Housing Act."

Mr. **WILLIAMS.** Mr. President, I offer an amendment which would permit the use of FHA project mortgage insurance in the construction or substantial rehabilitation of housing for low-income families under the revised public housing leasing program where more than 20 percent of the units would be receiving rental assistance payments.

The purpose of the leased housing program is to provide housing for those who could not otherwise afford it.

To achieve this end, the program is designed in large part to stimulate the construction of new housing.

Unfortunately, we have seen too often the unwillingness of lenders to make conventional loans without Federal insurance where low-income families are involved.

While this attitude is unjustified, it seems to be a fact of life.

HUD mortgage insurance has always been permitted in the past for the development of privately owned projects which receive assistance.

This should be continued.

My amendment would encourage developers and lenders to increase efforts toward construction of housing for low-income families.

This amendment realines the bill to conform to our existing policies in the section 23 program as well as other HUD efforts, and I urge my colleagues to support it.

I strongly feel that this will be needed and is essential if the purposes of the program, the encouragement of housing for lower income families, are going to be realized.

Mr. President, I have discussed this amendment at length with the distinguished chairman of the committee and the ranking minority member. The final version of the amendment reflects some of the judgments made in those discussions. We did not conclude our discussions to the point where I can say that this has been without any reservation satisfactory to the managers of the bill.

Mr. **TOWER.** Mr. President, when HUD proposed the section 8 program, it provided that not more than 20 percent of the units in any project would receive direct cash assistance payments. HUD thought that by having 80 percent or more of the tenants paying the market rent, the financial feasibility of the project would be enhanced and thereby greatly reduce the probability of future foreclosures. HUD also thought that these projects should be funded by conventional means and no FHA insurance should be allowed.

Because of builder and lender objections, the committee did not adopt the HUD proposal as presented. The committee thought that assistance payments could be made for up to 75 percent of the units in a project. Additionally, in elderly projects, or where there are 50 units or less, assistance payments could be made for up to 100 percent of the units.

The committee also thought that the availability of FHA insurance, in certain cases, would foster production. Therefore, the bill provides that FHA insurance could be available where up to 20 percent of the units in a project would receive section 8 assistance payments. This means that at least 80 percent of the units would be rented to market rate tenants. This would assure economic stability and protect against future foreclosures. The Secretary has discretion to allow FHA insurance, even if 75 percent of the tenants are receiving section 8 assistance, if he determines that the insurance is necessary to provide housing for lower income families. This discretion would be used when no lender would finance the project without backing from the FHA.

This whole area of whether or not to provide FHA insurance and how many units should receive section 8 cash assistance payments—whether or not there is FHA insurance—should not be disturbed. It was discussed at length by the committee in the committee makeup sessions and, therefore, in my view, should be left as is.

There are important reasons for retaining paragraph E.

While this paragraph states that there is to be no FHA insurance for a project, where more than 20 percent of the units receive section 8 assistance, it does give the Secretary the authority to insure any project if this is what is necessary to get housing built for low- and moderate-income families.

Additionally, the 20-percent limit is written into law, because it is the intent of Congress to avoid concentration of lower income families in a particular project or area. To allow FHA insurance for greater concentrations would be to authorize the Federal Government to encourage such concentrations.

The idea of avoiding a concentration of lower income families in a particular project would result, in effect, in having more balanced communities from the standpoint of their socioeconomic representation.

So I would regretfully urge that the amendment offered by my distinguished friend from New Jersey, who has been very supportive of housing legislation, be rejected.

Mr. WILLIAMS. Mr. President, I just want to say that the bill now provides FHA support for this kind of housing. There is a percentage cutoff and my amendment would remove that. It is not a matter of great principle. It is a matter of degree. The way it is done in the bill, without this amendment, runs against the objective of support for some lower income families in leased housing.

Mr. President, I yield back the remainder of my time.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

Mr. BROCK. Mr. President, I am not unsympathetic to the objectives of the Senator from New Jersey. I do have a concern with the effect of the amendment, because if we have identified a problem in Federal housing in the past several years, it is that there has been more than a tendency for that housing to concentrate low-income families in one project in one area where they simply do not have the management, or the support, or the community facilities to offer them an alternative to poverty and to disadvantaged circumstances.

The purpose of the committee's language, as presented to the Senate, is to place a 20-percent ceiling on participation in the FHA-supported housing, unless the Secretary makes a finding that it cannot be built without increasing that percentage. We do give the Secretary the option of increasing the percentage to 75 percent.

I think it should be very much the purpose of this body to encourage, in whatever fashion we can, a breaking up of these poverty cores and a dispersal of people who are in disadvantaged circumstance throughout the community, so that they can have the facilities, community and personal, that are available to those of more fortunate circumstance.

It seems to me that while the Senator's desire is to provide more housing for low-income people, the effect of his amendment may be to place that housing in such a concentrated, dense fashion that it will be available only to those people of very modest or inadequate means. This action would prove to be as counterproductive as some of the other measures which simply have not made a mark in providing shelter for the people who desperately need it.

It is imperative that the committee version, with all its flexibility, be kept, in order to encourage more people of moderate means to live in those communities where people of inadequate means are, because we simply have to provide these people with an alternative to captured poverty, with all the impediments that brings to the family in terms of getting out of the poverty circumstance.

The PRESIDING OFFICER. Does the Senator from Alabama yield back the remainder of his time?

Mr. SPARKMAN. If the Senator from New Jersey is ready to yield back his time.

Mr. WILLIAMS. I yielded back my time earlier.

The PRESIDING OFFICER. The Senator from New Jersey has yielded back his time.

Mr. WILLIAMS. Mr. President, will the Senator yield me 30 seconds on the bill?

Mr. SPARKMAN. I yield.

Mr. WILLIAMS. In response to the Senator from Tennessee, I appreciate the diffusion idea that is expressed; but the practical fact is that I am led to believe that this program will not work unless the FHA support is there. I have been told that the Tennessee Housing Authority requires FHA support; and if that is true, that supports what I am saying. Practically, if we are going to get the housing, we need the FHA support.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Jersey.

All those in favor will signify by saying "aye." All those opposed will signify by saying "no."

The Chair is in doubt.

Mr. TOWER. Mr. President, I ask for a division.

Mr. WILLIAMS. I ask for a division.

On a division, the amendment was agreed to.

URBAN HOUSING NEEDS

Mr. WEICKER. Mr. President, despite claims that the urban crisis has passed, America's cities continue to struggle for survival. The need for decent housing lies at the heart of the crisis. An analysis of housing needs by the Joint Center for Urban Studies of MIT and Harvard University indicates that 13.1 million households are deprived of decent or affordable housing. Of that total, 5.5 million face a serious financial burden by paying more than 25 percent of their income for shelter. In the Northeast, the inadequate supply of housing has driven costs to such a level that many families must pay 40 to 50 percent of their income for housing. The poor and elderly find it impossible to find suitable shelter within such a market.

Second, an estimated 7.6 million families are living in substandard housing and overcrowded conditions. According to a Task Force on Housing, commissioned by the Governor of Connecticut, over 60,000 families, of all income levels, are living in substandard units or in overcrowded conditions in Connecticut. Given this level of financial and physical housing need, it is estimated by both the joint center and the President in his third annual message, that over 23 million housing units must be constructed in the next decade.

In 1949, the Congress set forth a national housing goal of a decent home and a suitable living environment for every American. With the Nation's housing supply not increasing rapidly enough to meet this stated objective, in 1968, the Congress laid down a 10-year goal for the construction of 26 million units—6 million of those for low and moderate incomes. In the light of that congressional commitment, housing production for the poor is not making it.

To meet these housing goals will require a strong and active commitment by both the Federal and State government, as well as the private sector. The costs are considerable, the sacrifice will be great. America must rise and meet this challenge with a vigorous and innovative attack. The States can and must play a major role in providing a suitable living environment for all Americans.

In January 1973, the administration froze all subsidized housing programs, labeling them wasteful and inefficient. Since that time housing problems have increased, the backlog of need continues to grow, and the capability for producing housing diminishes. Housing starts in the later part of 1973 began to taper off. We are just beginning to feel the effects of the slowdown. I do not believe that the Nation can afford to wait until 1975, when the administration's promise of better programs is to commence.

I agree that certain deficiencies in the present programs are evident and demand reform. However, the programs did produce housing. Since 1969, of the 11.9 million units constructed, 1.7 million were specifically subsidized housing for low and moderate incomes. To eliminate these programs by executive fiat without replacing them with any constructive alternatives will prove to be a personal and social disaster.

After a 6-month study by the Department of Housing and Urban Development, the administration presented to the Congress, as a replacement to the present programs, a promise for a housing allowance program, to be implemented at the earliest in early 1975. The Secretary stated that housing for low-income families is not really a housing problem, rather an income problem. Wait long enough and the normal rise in living standards will take care of the problems. By supplementing their income, he assumes the housing market will respond with increased production.

In most metropolitan areas of the country, the housing supply is extremely limited. Therefore, increasing the purchasing power of the tenants or buyers will simply drive up rents and market prices. In Connecticut, with its extremely high land costs and low vacancy rates, there is a definite need for new construction and the continuation of production incentives.

Both housing allowance and section 23 leasing programs as revised by the committee can provide valuable tools to be used to meet the financial needs of low-income families. However, they will not stimulate the level of production required to meet our physical housing needs. Both approaches have their place in a national housing program by combating the problem of inadequate income and poverty. Perhaps a more consistent approach to this problem rests in a reform of the entire welfare system, with an income maintenance approach so as to insure that every American family has the financial resources to attain the basic necessities of life—food, clothing, and shelter. Though the President suggested such an approach in the State of the Union message, it is nowhere near reality in either the executive or legislative branches. It is important to note that in response to HUD's extensive experimental housing allowance programs, the committee's bill authorizes the Secretary to make contracts for housing assistance payments of up to $43 million per year for a 10-year period.

Thus, while I am sympathetic with certain aspects of the administration's approach and while I recognize certain weaknesses in the present programs. I am not convinced we will be able to meet our housing needs without some form of production incentives. The Housing and Community Development Act of 1974 represents a concerted effort by the committee to formulate effective housing policy and develop a constructive approach to meeting the housing problem in the United States. Though the committee reauthorized the existing subsidy programs, new and significant shifts in housing policy are incorporated in the omnibus housing bill. One new endeavor adopted by the committee was a program which I introduced designed to strengthen the activities of the State housing finance agencies. This proposal, which is title VI of the bill, would authorize Federal guarantees and interest subsidies on taxable bonds issued by approved State housing finance agencies. I commend the distinguished chairman of the committee for initially offering this financing approach in the original Housing bill, S. 2182.

At the present time, State agencies raise their money by floating these tax-exempt bonds and use the proceeds of these bond issues to make mortgage loans at below market interest rates. With the adoption of my amendment, State housing finance agencies will have additional financial muscle to stimulate housing production.

My principle concern was to carve a middle ground between construction oriented programs and the income maintenance approach. Title VI would provide some form of production subsidy, though a shallow one, while allowing the States flexibility to coordinate this form of assistance with other approaches, such as a housing allowance program.

The program would stimulate the housing industry with the potential infusion of $2 billion in "front-end" construction money. This would mean the development of approximately 100,000 housing units. With the unemployment figures constantly rising, the provision will mean the creation of roughly 100,000 jobs to the beleaguered home building industry.

I might note that, unlike the present Federal Housing program characterized by complicated and burdensome requirements and lengthy processing procedures, the program now contained in the Senate bill would be direct and straightforward. Federal assistance would be available to "approved" State housing finance agencies. HUD would make an initial finding—or approval—that the operations of State housing finance agency are consistent with stated national objectives: that it operates in a State where there is a need for housing; that it has a housing program emphasizing the needs of low and moderate income and of displaced families; that it has established priorities for housing assistance consistent with State and local plans and programs for community renewal; and that it has adequate administrative capabilities to use the federally guaranteed funds effectively.

Provided that a State housing finance agency continues to meet these national objectives, it would be eligible for Federal assistance. The decisions about specific loans and individual projects, the processing of applications, and all the other questions and approvals would be made at the State level. HUD's only role would be to assure that funds raised on the basis of Federal guarantees and bond interest subsidies were used consistent with these national objectives.

In conducting the annual audit and review procedures as outlined in section 601(d), the Secretary is free to perform his own financial audit of these agencies. However, for example, as in my own State of Connecticut, the State agency presently commissions an independent firm to conduct thorough independent audit with the findings presented to the Governor and legislature. If deemed appropriate, the Secretary could review the financial analysis already available from other independent sources in his determination of whether a State agency still complies with the requirements of subsection (d). Obviously, if the Secretary is not satisfied with the existing audit, he is empowered by this provision to conduct his own analysis of the financial condition of the agency.

I think that this approach, this emphasis on the State role and State decision and State administration of housing programs, will lead to the production of more housing, faster. Moreover, I believe that this approach is consistent with more responsive government, closer to the people.

This approach envisions a new partnership between the Federal and State governments—a partnership which gives the States the power to select the ways within broad categories that Federal resources will be effectively allocated in order to best meet the housing needs unique to their particular area. By entrusting this greater assistance and less interference—and by eliminating unneccessary redtape, more housing will be built with our limited funds.

While the adoption of this program of providing, for the first time the direct Federal assistance to State housing finance agencies represents a significant first step toward developing an effective Federal-State partnership in the housing field, there is much more to be done. I intend to continue to develop additional forms of Federal assistance to State housing agencies.

The present stalemate in housing has brought us to a point where a fundamental decision must be made concerning Government's future role and commitment to meeting the housing problem. The continuing need for housing production requires a continuing role for Government. Certainly, there is a need for reform in that role and for improvement in our housing programs. But, we cannot leave to the private sector alone the achievement of the national commitment that we made 25 years ago, to provide every American with a decent home and suitable living environment. Public leadership must work for a balanced national housing strategy, combining adequate income with appropriate production incentives.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

I am wondering whether there are any other amendments. I assume that there are not. I have one final amendment that I have already discussed with the person most interested, and I think it will not take much time.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BROCK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROCK. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 96, line 11, insert the following:

Insert between the words "thereon of" the words "by private and nonprofit developers unless the Secretary determines that such developers are not available".

Mr. BROCK. Mr. President, I would like to bring up a concern I have with title VI of the Revised National Housing Act in chapter 1 of the bill. This title would institute a new program to provide State housing finance agencies with an alternative means of acquiring funds through the issuance of taxable bonds guaranteed by the Federal Government. To encourage these agencies to use this route, grants to cover up to one-third of the interest cost also would be authorized. The function of making funds available through State housing finance agencies to encourage the development of housing has great potential benefit in helping this Nation meet its housing needs and is in line with the move to place greater reliance on the States.

My concern is not with the financing activities of the State housing finance agencies. However, I am concerned with something that is not clearly addressed in this bill and deals with those State agencies that have or may expand their powers to include the actual development of housing. The reason often given for this expansion has been that there are no nonprofit, cooperative, or private developers in certain market areas that can provide for the construction or rehabilitation of housing. Upon closer analysis, however, one sees that the reason there are no developers is simply because there are no funds available in that market for the housing sought. This, of course, is exactly the role that State housing finance agencies have been designed to fill. If funds are made available, the private market will be able to supply the residential construction and rehabilitation to meet that area's housing needs.

If, in a specific market situation, where the existing supply of housing is inadequate, a State agency decides to go beyond its financing role and utilize its funds for the actual development of housing, this could have some very serious effects on that housing market. I believe there are several principles not spelled out in the legislation which should have been made clear when our committee discussed the concept of State housing finance agencies and adopted this proposal.

First, there is a great deal of complexity involved in both the financing and development of housing and in the proper handling and utilization of public funds. This complexity requires a great deal of management talent. To create a bureaucracy at the State level, not just involved in the financing of housing but also in its actual development, may inhibit the effectiveness of any State agency. It is hard to believe that State agencies could match the expertise and cost efficiency of private developers.

Second, the resultant long-term effect of having a State agency with its competitive advantages, compete with private developers, may cause the private sector to abandon that market, thus making the State agency the sole developer in that area and inhibiting the reentry of private developers. I am confident that, in the formulation of this legislation, it was never intended that State housing finance agencies should be in direct competition with private developers, or private lenders for that matter. It is a basic goal of the Housing and Community Development Act of 1974 to encourage rather than discourage participation of the private sector in the implementation of our housing programs.

Therefore, I offer a very short amendment that will in no way decrease the new authority in this bill allowing State housing finance agencies to issue taxable bonds with Federal backing and contract to make grants and loans for the purposes of financing the development of housing for low and moderate and some middle-income families. My amendment simply makes it clear that, in the development of this housing, the responsibility for its construction should lie as much as possible with the nonprofit, cooperative, and private developers.

I believe the manager of the bill and the ranking minority members have found the amendment acceptable.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I have read the amendment, and I am willing to accept it, if the Senator from Texas is willing to do so.

Mr. TOWER. I am prepared to accept the amendment.

Mr. SPARKMAN. I yield back the remainder of my time.

Mr. BROCK. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. SPARKMAN. Mr. President, I have two technical amendments which I send to the desk.

The PRESIDING OFFICER. The amendments will be stated.

The second assistant legislative clerk read as follows:

On page 69, lines 12 and 15, insert before the period on each the following "or such lower per centum as may be established pursuant to the provisions of paragraph (1) (ii)".

On page 71, line 5, add at the end thereof the following: ", or such lower per centum not less than 25 per centum as shall reflect the reduction permitted in paragraph (1) (ii),".

The PRESIDING OFFICER. Without objection, the question is on agreeing en bloc to the technical amendments.

The amendments were agreed to en bloc.

Mr. TOWER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I call up my amendment which is at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

On page 164, between lines 16 and 17, insert the following:

LEASED HOUSING

Sec. 209(a). Nothing in this chapter or any other provision of law authorizes the Secretary of Housing and Urban Development to apply any policy or procedure established by him with respect to the rights of an owner under a lease entered into under a project which is subject to a contract for annual contributions under the provisions of the United States Housing Act of 1937 if such lease was entered into prior to the effective date of such policy or procedure.

Mr. TOWER. Mr. President, in the explanation by Senator Cranston of his amendment which inserted section 209(a) into the bill he stated that he wished to dispel "uncertainty and clarify that if owners exercise their option to renew contracts existing between themselves and local housing authorities, HUD cannot require the modification of the terms of those contracts to bring them into conformity with the new section 23 regulations or with regulations issued pursuant to this bill." The Senator stated that he had received information from the Office of General Counsel indicating that HUD could not waive the rights between owners and local housing authorities where the terms of their agreements have not been breached and where the owner has exercised his option to renew.

The General Counsel of HUD informs me that he has no objection to the clarification desired by the Senator but that the provisions of section 209(a) are ambiguous and will lead to confusion rather than clarification since they refer to annual contributions contracts and projects generally and do not refer to the appropriate document involved which is the lease between the owner and the housing authority. I therefore propose that section 209(a) be amended by inserting after the words "with respect to", the words, "the rights of an owner under a lease entered into under", and by deleting the words "if such contract" and inserting in lieu thereof the words "if such lease".

Therefore, I believe on the basis of my discussions with the distinguished Senator from California that he is amenable to this amendment.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. CRANSTON. Mr. President, I understand and appreciate what the Senator is doing. I think it is perfectly satisfactory. I want to clarify two points.

Is it the understanding of the distinguished ranking minority member that HUD could entertain the reapplication of leased housing contract funds to a new lease under the same terms and conditions as the old lease in order to preserve program continuity?

Mr. TOWER. Yes; as long as it was requested by the owner and not mandatory on HUD's part.

Mr. CRANSTON. I appreciate the Senator's clarification of the intent of my amendment to preserve the integrity of leases under the section 23 program. I also appreciate the Senator's assurance that it is his understanding that during the term of the annual contributions contract, local housing authorities could negotiate for leases that continue the same terms and conditions as the old leases, although there is nothing in this bill to mandate that HUD approve such reapplication of contract funds. I am encouraged by the understanding, however, that HUD is willing to entertain such requests.

Mr. TOWER. I cannot speak for HUD, but that is my understanding. Mr. President, I yield back the remainder of my time.

Mr. SPARKMAN. I yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. SPARKMAN. Mr. President, the Senator from Alaska (Mr. GRAVEL) has a proposed amendment which I think we can dispose of with a dialog.

Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceed to call the roll.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, I yield myself 10 minutes on the bill.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SPARKMAN. Mr. President, the Senator from Alaska has drafted a proposed amendment that I think is not necessary to write into law, but I think we can clarify the situation with a dialog on the floor of the Senate. May I say to the Senator from Alaska that this relates to high cost areas and would make a differential provision as far as Alaska is concerned.

May I say to him that, historically, we have provided a higher figure for Alaska, Hawaii, and Guam. There are in addition, some other high-cost areas, so if we just use the term "high-cost area," it becomes involved.

We discussed this matter quite at length in committee, and it was difficult to arrive at a formula or fixed figure to take account of higher costs, but I will say to the Senator that the law now provides for differentials in those areas, and we have always observed them, since the earliest days of housing legislation.

I do not believe any legislation is now necessary. I believe I can assure the Senator from Alaska of the fact that these high-cost areas will continue to be observed as they have been in the past.

Mr. GRAVEL. Mr. President, I wish to commend the chairman and the full committee for their awareness of these cost differentials. I appreciate the thrust of this new legislation, which allows cost determinations on a regional basis, so that Hawaii, Alaska, and other areas are given the special consideration they require. That covers 90 percent of the problem.

The bill contains certain specifics dealing with costs which were fixed at basic amounts, so that there has been a recognition that more money is required. What we intended to do in our proposal was to allow an increment to these specific dollar amounts—to permit the Secretary to have authority to increase this amount by some sum that he might judge necessary.

However, I can appreciate the committee's reluctance at this point, and I would certainly be satisfied if, in the language of the report, we could ask HUD, based on its experience in these specific areas, to report back its findings. Then the committee could be privy to this knowledge and could continue to exercise the good judgment it has in the past. It would be very beneficial to Alaska and other high-cost areas.

This is not the only major problem area. There are areas, like trailers—which is a common method of housing people in Alaska—other than conventional methods. If we could get something in the report in that respect, too, I would be satisfied.

Mr. SPARKMAN. Mr. President, I will say, for my part, to the Senator from Alaska that I think it would be a very fine thing to ask HUD to make a study of the high cost areas. I am sure we can have that made. I know that the Alaska-Hawaii-Guam areas will show up. There will be other areas. There are areas on the mainland. As the Senator has suggested, we have adopted a prototype system that will pretty well take care of the situation here, but there are these recognized high-cost areas, and I think it would be well to have HUD make a study of the differentials in those areas.

Mr. TOWER. Mr. President, I would certainly concur with the Senator from Alabama, because this is what we have done traditionally in the past. I have spent a great deal of time in the State of the distinguished Senator, and I have seen firsthand the cost problem that is involved there.

Mr. GRAVEL. Mr. President, I thank my colleagues from Texas and Alabama for agreeing to put this language in the report. We will watch to see it in the report, and I am sure it will be taken up at the proper time.

Mr. SPARKMAN. I thank the Senator.

Mr. BUCKLEY. Mr. President, I have long been profoundly skeptical about the merits and benefits of Federal housing legislation. In far too many well-documented cases, the net effect of Federal attempts to improve housing, especially for the poor in our central cities, has been to make a bad situation worse. You will recall, Mr. President, that shortly before he resigned as Secretary of Housing and Urban Development, Mr. Romney stated that after having reviewed Federal efforts to improve the conditions of our cities at a cost of more than $100 billion, he could find little if anything that had actually been accomplished despite the huge expenditures.

It is natural, therefore, that I should have approached the Housing and Community Development Act of 1974 with a large degree of caution. To my pleasant surprise, I find in it a number of innovations that I believe represent a substantial redirection of our traditional Federal attitudes in the housing field; and accordingly, in order to record my support for these new approaches and encourage their adoption in conference, I will be voting for the bill even though it also contains sins of omission and commission that are in themselves unacceptable.

One of the significant pluses in this legislation is its adoption of greater flexibility in the limitations placed on who may live in low-income housing. In the past, the rigid limitation of public housing units to families in the lowest income brackets has had the effect of isolating poor families from the rest of the community both geographically and sociologically. Social incentives are created when upward mobility can be observed within a community, as some families can be seen moving to better standards of living as a result of their own efforts.

This isolation has also deprived poor communities of the natural leadership that could help them cope with their own problems. S. 3066 overcomes these past difficulties by providing that as a family improves its income, that family can remain in the public housing unit thereby enabling them to offer encouragement and leadership to their neighbors.

One innovation that particularly pleases me is the provision for "urban homesteading." Pilot programs in Wilmington and other cities have demonstrated that in appropriate circumstances, the deterioration of neighborhoods can be halted by offering abandoned though structurally sound housing units at a nominal cost to individuals or families who are prepared to live on the properties for a minimum period of time while rehabilitating them. The individuals taking title to these abandoned houses have every incentive to restore and modernize them. Given the large and growing inventory of small homes now owned by HUD, this approach to Federal participation in the rehabilitation of derelict communities is not only a constructive one, but one that will cost the taxpayer relatively little.

I am naturally pleased that my own amendment to the urban homesteading provisions was adopted. This amendment, which was cosponsored by the Senator from Massachusetts, Mr. BROOKE, broadened the legislation to include two-, three-, and four-unit dwellings as well as single-family dwellings. Thus about 60 percent of the housing units in New York State will be eligible for deeding to an individual or family that will undertake to live in and restore one of the units while rehabilitating the balance for rental purposes. The net effect of this should be not only to save the building and provide a decent home for the owner-landlord, but to encourage him to provide low-cost housing for anywhere up to three additional families.

On the minus side, is the very large amount of spending that is mandated by this legislation over the next 2-year period. High levels of funding for programs that are anything but proven successes will add to the inflationary pressures already savaging the poor without any insurance that offsetting benefits will be proposed for poor in terms of better housing.

Another serious deficiency is the failure of the formula devised for the allocation of community development funds to treat equitably those living in urbanized counties. We in New York State have seven of these. The population of Erie County is 1,113,491; Monroe County, 711,917; Nassau County, 1,428,838; Onondaga, 472,835; Rockland County, 229,903; Suffolk County, 127,030; and Westchester County, 894,406, according to the 1970 census figures. These counties have been expanding rapidly in population, and they are experiencing many of the serious problems associated with our great cities. Any formula based on actual need and distributive justice would have to take into account the problems faced by New York's seven urban counties and their counterparts elsewhere in the country.

I also have serious reservations about the expanded role of FHA under the act and the hundreds of millions of dollars estimated by HUD that will be drained from FHA insurance reserves in order to sustain the new role, especially in light of the retroactive features. Having the FHA assume responsibility not only for an estimate of value but also requiring it to warrant its condition and to reimburse purchasers for any mistakes will not only prove costly, but is yet another example of the Federal paternalism we should be moving away from rather than encouraging.

Mr. President, although I will be voting for the bill for the reasons I cited earlier in my remarks, my final vote will depend on whether or not the conference retains and strengthens the positive features of the bill while eliminating or trimming the objectionable ones.

HOPE REKINDLED FOR AMERICAN COMMUNITIES

Mr. HUMPHREY. Mr. President, it is with a renewed sense of hope that our Nation shall improve the quality of life for all of its citizens—urban, rural, and suburban—that I applaud the comprehensive and far-reaching Housing and Community Development Act of 1974, reported by the Committee on Banking, Housing and Urban Affairs. I shall vote for it.

This bill represents the culmination of years of labor and the wisdom of people and organizations who have remained steadfast in their commitment to the well-being of our citizens in spite of official apathy and neglect. These people know that the basic programs of this Government to aid community development, urban renewal, and low- and moderate-income housing, while not perfect, are also not deserving of the failure tag with which this administration has attempted increasingly to label them.

The committee has done an excellent job translating the comments and suggestions of these citizens into legislation that will result in an even more effective urban and rural development program for this country. Our adoption of this legislation is particularly necessary in light of the default of leadership in community development and housing on the part of the President.

The Nixon administration has created chaos in renewal and community development. They have been insensitive to the needs and feelings of people who live in neighborhoods that must be rehabilitated.

A good example of what has happened is in my own State in the city of St. Paul. Over a year ago, the urban renewal agency worked extensively in areas designated for rehabilitation, helping hundreds of homeowners with plans for repairing their houses so that they would be safe and adequate. They helped them get bids for the work, and promised them the Federal assistance that was available to do this important job. But when it came time for the Federal Government to deliver, the administration impounded the funds and refused, in my opinion, illegally, to give the money to the city of St. Paul.

After all that work, the program was ruined and the neighborhood demoralized. Morale among the staff of the urban renewal agency was also seriously undermined. Now, the administration says that urban renewal can have some money, but it must be spent by June 30 of this year. How can there by any credibility when the St. Paul agency goes back into these same neighborhoods and asks the residents to start over again, and go through all the trouble of new plans and new bids? But the administration, incredibly, does not stop there. They say that after June 30 there will be no more money spent for any of these programs until the administration's special revenue sharing proposal is enacted.

Thus, at the present time there appears to be no alternative to termination of the St. Paul agency and others like it around the county. But such a drastic step would throw a group of dedicated, hard-working people out of work. The city would lose a group of uniquely trained and experienced people. All the valuable things they have learned, and the awareness that they have developed on crucial urban problems, will be dissipated. And when reason again prevails in community development at the Federal level, this human and institutional resource will have to be recreated.

The bill before us today will, I believe, return our national commitment to a reasonable program to help meet the community development needs of this country.

The principal elements of this new program would be:

Ten existing categorical programs will be consolidated into a single community development program;

Application requirements will be simplified to cut out red tape;

Application will be made on the basis of a 4-year plan;

Funding will be committed for 2-year periods to allow planning and staffing to proceed without disruption;

Funding for the next 2 years will be automatic unless the Government makes specific disapproval;

Decisions on approval or turndowns must be made within 90 days;

There will be $3.3 billion allocated for community development in fiscal year 1976—$2.3 billion will go to cities which have had urban renewal grants in the past; and an extra $1 billion will be allocated to cities which just now are preparing to do community development work;

No more than 30 percent of the funds may be used for items that do not benefit low-income families; and

Money goes to the cities and, while they will likely spend it through the existing agencies, the responsibility will lie with the elected officials.

This new community development program will give cities a new flexibility and responsibility in community development matters, one long overdue. And it will give them assurances of funding so that the disillusioning experience of the citizens and the urban renewal agencies in St. Paul will not be repeated.

However, while the administration has caused chaos in community development, it has produced pandemonium in the housing area. The administration has chosen to criticize and terminate existing programs, rather than propose constructive alternatives. The fault lies not with the programs but with this administration, which with all of its self-proclaimed "management expertise" has, in fact, exercised the worst management of housing programs in the history of public administration. There are many who believe that this has been done by design because the present administration never really believed it should or could do much to help provide low- and middle-income people with decent housing at a price they were able to pay.

This administration has chastised and harrassed the people in the local area offices to the point where the level of fear for their jobs is so bad that they cannot work effectively and confidently. They have talked of lifting the "moratoria" on housing programs.

Yet, the administration's latest sleight of hand is to discourage projects by requiring that a substantial fee be paid simply to get the FHA to take a first look at a project. Who in his right mind would spend several thousand dollars for FHA's first look when it is obvious that the administration does not want these projects at all?

The administration has refused to appoint permanent directors for local area offices. Everyone is "acting." Everyone is temporary. Not only has the administration succeeded in holding down subsidized housing, but it has discouraged all types of housing production. The need for housing is so pressing in our Nation today that we, in Congress, simply cannot tolerate the warped record of indifference and inaction which the administration has compiled in housing.

I believe that the Housing and Community Development Act of 1974 will get us back in the business of promoting the general welfare by encouraging the production of decent and safe housing. The bill is a major updating of housing legislation and demonstrates a thorough understanding of housing efforts over the past three decades.

Relief for the homeowner is provided in the revision of insurable mortgage limits on single family houses. Inflation has pushed the price of even modest homes well beyond the current mortgage limits. The bill provides that FHA can insure mortgages for 70 percent of the value of a house costing over $45,000. The assistance is even better for lower priced houses.

Subsidized housing programs, both rental and home ownership, are continued and significantly improved. Once again the mortgage limits are removed. The mortgage will now be related to value, not to restrictive limits that must be changed every year to keep pace with inflation.

Funds will be authorized to assist in paying the operating expenses of low income and public housing developments. This will assure that in no event will a low income family have to spend more than 25 percent of its income for renting decent housing.

The confusing income limits of these programs have been changed so that eligibility is decided by reference to the median income of an area. All this is done in a realistic recognition of the true costs of meeting our goal of a decent home for every American family.

This bill also will help solve one major and persistent problem by reserving 15 to 25 percent of the contracts for rental assistance for housing projects for elderly citizens.

I was particularly pleased to see the inclusion of two important amendments which I have cosponsored. The first, which I cosponsored with Senator MONTOYA, will provide $15 million annually to construct about 7,500 houses on Indian reservations each year. The second, which I cosponsored with Senator HATHAWAY, will permit the Secretary of Agriculture to undertake a major new demonstration effort designed to permit poor families in rural areas of our Nation to purchase their own homes. This latter amendment is an important addition to the list of significant rural housing program improvements provided in this legislation.

Mr. President, this Nation can ill afford the irresponsible policy of this administration which is doing nothing to halt the deterioration of our center cities or to promote the development of rural communities. The progress of the Kennedy and Johnson years must be resumed so that all the people in this country will have access to decent housing. Housing must be available that our citizens can afford, in communities which are clean and safe—communities that will provide the amenities of life, the quality of life, our citizens expect and desire. Passing this bill is a major step in that direction. The Housing and Community Development Act of 1974 provides a framework within which we can again move toward these goals.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 3066) was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. SPARKMAN. Mr. President, I yield myself such time as I may need on the bill.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, this is one of the largest, most comprehensive bills that we have ever reported to the Senate floor. In the 2 days that we have been on this bill numerous amendments have been accepted where it was felt that they improved the bill, and I think the bill was improved as it went through the course of debate and consideration here.

I believe it is a good bill. One thing that made it such a big bill was the fact that for 18 months or thereabouts we have had a moratorium on housing, particularly those types that were for the benefit of low-income people. There was a stay in other programs, there was an impoundment of funds, and various movements were made that brought housing and home construction in this country down from 2.4 million, in 1972 to only 2.0 million in 1973. So we had virtually to reconstruct the housing program.

I want to pay compliment to the members of our committee, who worked so long in developing this legislation, and to the staff, headed by Carl Coan who has been staff director for many, many years—I have often said that he probably knows as much about housing as anybody in the country, and more than most people in the country—and to other members of the Housing Subcommittee staff:

Robert Malakoff, Thomas Brooks, Jeremiah Buckley, Randall Higgins, Doris Thomas, Joyce Andrews, and Jacquie Steinbrenner.

I want to pay a compliment to all of those who have helped us work out this bill.

By the way, in that connection, I want to say that during the consideration and during the markup of the bill we received the very finest help and cooperation from HUD. I want to compliment Secretary Lynn and those who work with him for the help they gave us and the cooperation we received from them. That does not mean we agreed on all things. We did not. But at least we worked those matters out in an understanding way.

I simply wanted to say a few words before we went to a vote on the bill.

Of course, I am everlastingly grateful to the Senator from Texas (Mr. TOWER), who has been a bulwark in the arduous task we had in developing this legislation.

Mr. TOWER. Mr. President, I thank my distinguished friend from Alabama. It is always a pleasure to work under his leadership as chairman of the committee.

As far as the bill is concerned, I think it does represent a great deal of work by members of the committeee.

I have already expressed some rather serious reservations about some of the provisions of the bill. I think it could be substantially improved. I know that the administration is not entirely satisfied with the bill in its present form. However, I intend to vote for the bill despite my reservations and the bill will be taken to conference where hopefully whatever we have failed to do, or have not done in a satisfactory way, can perhaps be dealt with in the conference between the House and the Senate.

What is important is that we very much need a bill. Despite the reservations I have regarding many of the provisions in this bill, I intend to vote for the bill. It is my hope to be a participant in the conference after the House acts on a similar proposal.

Mr. HARRY F .BYRD, JR. Mr. President, would the Senator from Alabama yield for a question?

Mr. SPARKMAN. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, may I ask the Senator from Alabama on page 305 of the bill, under the caption "Housing Allowance" if the Senator would indicate how these cash payments would work. For instance, in the case of homeownership who would be eligible for the cash payments?

Mr. SPARKMAN. Mr. President, this is an experimental program that the administration has been carrying on now for about 2 years. HUD wants to carry this experiment on.

The Senator is familiar with the fact that last year the President suggested that we seriously examine what he called a direct cash assistance program, under which a housing allowance would be paid by the Government to a low-income person. It would be only for the low-income persons. It would operate under a formula which would determine when a person would need help in order to have safe, decent, and sanitary housing. The Government would set up a program whereby the payment would be made directly to the family.

HUD has already started the experimental program. The President said that it would be at least 1975 before they could start an operating program, based on the experiment.

There was a great deal of opposition to the idea of a housing allowance. However, in our committee, we agreed to HUD's request to provide for continuing the experiment already started. Some are concerned about the period of time involved, that the cash assistance contracts could be made for a period of 10 years. This was done because the officials of HUD testified at the hearing that in order to get people to agree to these contracts, in order to continue the experiment, they would have to make agreements for at least 10 years in order to get people to agree to go along with the experiment.

Over a short period of 2 or 3 or 4 years—we would not get anyone who would be willing to participate. That is the reason for the 10-year period. It is anticipated that the program will run that long as part of the experiment.

Mr. HARRY F. BYRD, JR. What is the criterion for getting cash assistance from the Government to obtain a home? Is it a man earning $10,000 a year? Would he get cash assistance to purchase a home?

Mr. SPARKMAN. I am certain it would not apply to a person earning $10,000 a year. As a matter of fact, it is a low-income person, one who might be at, or below the poverty level.

Mr. HARRY F. BYRD, JR. Does the bill specify what the cut-off point is?

Mr. SPARKMAN. It does not do so in dollars and cents, but I believe we should specify—not that we use the term "poverty level"—we should make certain that it is the low income, and the Secretary of HUD has, of necessity, the power and authority to determine what the poverty level is.

Mr. HARRY F. BYRD, JR. Could he put it at $10,000, or $6,000, or $4,000?

Mr. SPARKMAN. I do not think so; I do not know. I suppose he would take the poverty level as determined by the Department of Labor.

Mr. HARRY F. BYRD, JR. Does the bill specify a poverty level?

Mr. SPARKMAN. I do not think it does, in so many words. Let me see if I can find the language in the report. We have language in the report.

Mr. HARRY F. BYRD, JR. What I am wondering about is the group who are the real backbone of the country. It seems to me they are the middle economic group, individuals earning from $10,000 to $20,000, or from $7,500 to $15,000 or $20,000. This language does not in any way help that group, does it?

Mr. SPARKMAN. No, I do not think it does. We are asking that during the time this experiment, recommended by the administration and originated by the administration, is being carried on, the Secretary shall make studies to show the progress made under the program and to make a determination as to whether it should be instituted as an ongoing program as the President has recommended it. He is required to report to us in 18 months.

Mr. HARRY F. BYRD, JR. If the language applies only to those below the poverty level, what amount does the Government put up for the purchase of the home? Is that in the bill? Fifty percent?

Mr. SPARKMAN. This is primarily a rental program.

Mr. HARRY F. BYRD, JR. It says "homeownership."

Mr. SPARKMAN. It could be homeownership; but again, it depends on what the income of the family is. I am sorry that I cannot give the Senator the figures; but, for example, I assume a schedule would be worked out for persons making, say, $5,250 a year. There will be a certain amount that could be given toward that family's rental. I do not know whether it goes that high or not. But suppose a family is making $3,000 a year. That family would get higher rental payment than one who makes $4,000. The Secretary determines the figures based upon the income levels of the would-be tenants or would-be homeowners.

Mr. HARRY F. BYRD, JR. A great percentage of the poverty level earnings must go for food and clothing.

Mr. SPARKMAN. That is correct.

Mr. HARRY F. BYRD, JR. What I am trying to understand is whether the Federal Government itself is producing homes for those below the poverty level.

That is the purpose of this legislation, as I understand it.

Mr. SPARKMAN. It is possible to purchase, but this is supposed to be rental, leasing of premises for people. It does not exclude homeownership, but its purpose is rental.

Mr. HARRY F. BYRD, JR. Is its purpose to extend the rent supplement legislation that we have had in the past? Is it an extension of rent supplements?

Mr. SPARKMAN. I do not think it has the purpose of extending rent supplements.

Mr. HARRY F. BYRD, JR. This would be in addition to rent supplements?

Mr. SPARKMAN. Well it would be a different group of people who would receive the experimental payments.

Mr. HARRY F. BYRD, JR. How would it differ from the other?

Mr. SPARKMAN. It is experimental.

Mr. HARRY F. BYRD, JR. How would the class differ from those who are eligible for rent supplements?

Mr. SPARKMAN. I can recall that when the President proposed this program and the Secretary testified before our committee, it was pointed out that there were vacant houses in existence, and that if a family of lower income would find one of those homes and rent it, the Government would give assistance according to the income level.

Mr. HARRY F. BYRD, JR. Would that not be covered under the current rent supplement program?

Mr. SPARKMAN. No, no.

Mr. HARRY F. BYRD, JR. How do they differ?

Mr. SPARKMAN. The rent supplement program is an FHA program. The FHA project is built with the idea that the units will be rented with supplementary assistance at a certain figure that would be helpful to lower income people. It is insured like any other FHA program.

Mr. HARRY F. BYRD, JR. Then the Government, under that program, pays the owner of the property direct, does it?

Mr. SPARKMAN. Does the Senator mean pay the rent? Yes, and not to the individual tenants.

Mr. HARRY F. BYRD, JR. Under rent supplements, it pays the rent direct?

Mr. SPARKMAN. Yes.

Mr. HARRY F. BYRD, JR. And under this program the renter and the home purchaser would be given the cash, as I understand it.

Mr. SPARKMAN. A cash payment, supplementing what he can afford to pay on his own toward the rent.

Mr. HARRY F. BYRD, JR. A cash supplement?

Mr. SPARKMAN. Yes. A family allowance, I think they call it. The administration claims that this program will be cheaper than the various FHA programs, regardless of whether it is a rent supplement.

Mr. HARRY F. BYRD, JR. I am trying to visualize how a family below the poverty level will be in a position to purchase a home. The bill states right here on page 305, line 13, that it provides for homeownership.

Mr. SPARKMAN. Yes, it states it, but I am saying that under the prevailing conditions, the matter of homeownership would be very rare. It is possible that the low-income person might find a house that is favorable, that could be bought at a very low figure, and would get help in buying it, but that would be most unusual.

Mr. HARRY F. BYRD, JR. I wonder whether it is wise to keep that language in the legislation when we are not clear as to just how that matter is going to work.

Mr. SPARKMAN. Well, they have the program going now.

Mr. HARRY F. BYRD, JR. They have done it without congressional authority, then?

Mr. SPARKMAN. This is simply to allow the continuance of the program planned for the experiment.

Mr. HARRY F. BYRD, JR. If they have already done it without congressional authority—is that what they have done?

Mr. SPARKMAN. No, I do not say that is what they have done.

Mr. HARRY F. BYRD, JR. Well, they have the authority to do it now, do they?

Mr. SPARKMAN. They did it under existing program authority which they felt they could proceed with. I would not say it was against the law. We think probably the law was stretched somewhat, and so we decided——

Mr. HARRY F. BYRD, JR. Well, have they ever cited to the committee the law under which they are operating, under which they claim to have authority?

Mr. SPARKMAN. Yes. It is under section 23, which is the public housing program.

I had rather not try to construe this thing for them, but we had quite a hassle in the committee on that very point, and I think it was pretty well decided by the committee that they should have proceeded without congressional approval.

Mr. HARRY F. BYRD, JR. Then, if that is the case, I am wondering why we want to give them that authority now.

Mr. SPARKMAN. Well, it is not the authority under section 23. This is authority to carry on an experiment along the lines that the President had said he was going to recommend.

Mr. HARRY F. BYRD, JR. But the legislation does not set guidelines; it does not say what the criteria shall be.

Mr. SPARKMAN. It places that responsibility upon the Secretary.

Mr. HARRY F. BYRD, JR. And gives him a good bit of leeway, then?

Mr. SPARKMAN. He has considerable discretion, yes.

Mr. HARRY F. BYRD, JR. Then let us assume that these payments are made to individuals under this program; what assurance is there that the money will be used for the purpose of purchasing a home, or renting a home?

Mr. SPARKMAN. Let me be sure that I understand the Senator's question. As I gather, the Senator asks, if the money is paid to the tenant, how is there any assurance that the tenant will pay that money to the landlord. Is that correct?

Mr. HARRY F. BYRD, JR. That is right.

Mr. SPARKMAN. We just must assume that he will, knowing that if he does not, he will lose his house. What kind of followup plan HUD has, I do not know.

Mr. HARRY F. BYRD, JR. Where does the title to the home lie? Does it lie with the individual? Does it lie with the government?

Mr. SPARKMAN. Again let me say that it would be most unusual that this would involve the purchase of a home.

Mr. HARRY F. BYRD, JR. I am just following the language in the legislation.

Mr. SPARKMAN. I would guess that in 99 percent of the cases it would be rental, and there, of course, the title would be in the person who owned the property.

Mr. HARRY F. BYRD, JR. But I am speaking now——

Mr. SPARKMAN. If the man bought a house, of course, the title would rest with him, not in HUD. HUD would undoubtedly take a mortgage on it.

Mr. HARRY F. BYRD, JR. HUD, in effect, would guarantee the payments?

Mr. SPARKMAN. No FHA is involved here. Back up on what I said: HUD would not take title. Title would be in the man owning the house; just as if I bought a house from the Senator, title would be in me, and I could continue to live there as long as I paid the Senator the mortgage money.

The income of the family would have to be determined when the occupancy of the house takes place, and it would be subject to review from time to time, just the same.

Mr. HARRY F. BYRD, JR. I thank the Senator from Alabama. I have some difficulty with the bill——

Mr. SPARKMAN. I want to say this to the Senator from Virginia: I have never approved of this program of direct cash assistance.

In fact, I have said that if it went into effect, I think it would take a tremendous bureaucracy to enforce it. I am not satisfied with it, at all, as a going program but I was willing, as was the committee, to let HUD continue the experiment which they had started, under section 23 and would continue under section 23 authority provided by this bill.

Mr. HARRY F. BYRD, JR. Well, I am concerned about the entire bill.

There are desirable aspects to this bill and parts I would like to support. But there are also objectionable features and extremely costly ones.

I am inclined to vote against the proposal at the present time—its cost is huge. But if it comes back to the Senate from conference with the House of Representatives in a more reasonable form, then I probably would support the conference.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). The hour of 5 o'clock having arrived, under the previous order, the question is on final passage of S. 3066.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Montana (Mr. MANSFIELD), the Senator from Wisconsin (Mr. NELSON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from California (Mr. TUNNEY) would vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from New York (Mr. JAVITS) is absent on official business.

I further announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS) and the Senator from Colorado (Mr. DOMINICK) would each vote "yea."

The result was announced—yeas 76, nays 11, as follows:

[No. 64 Leg.]

YEAS—76

Abourezk
Aiken
Allen
Bartlett
Bayh
Beall
Bellmon
Bennett
Bible
Biden
Brock
Brooke
Buckley
Burdick
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Eagleton
Eastland
Fong
Gravel
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Johnston
Kennedy
Long
Magnuson
McClure
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Tower
Weicker
Williams
Young

NAYS—11

Byrd,
Harry F., Jr.
Byrd, Robert C.
Curtis
Ervin
Fannin
Goldwater
Helms
McClellan
Scott,
William L.
Stennis
Thurmond

NOT VOTING—13

Baker
Bentsen
Cotton
Dominick
Fulbright
Griffin
Hollings
Javits
Mansfield
Mathias
McGee
Nelson
Tunney

So the bill (S. 3066) was passed, as follows:

S. 3066

An act to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance in support of community development activities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Housing and Community Development Act of 1974".

TABLE OF CONTENTS

CHAPTER I—HOUSING LOAN INSURANCE AND MORTGAGE CREDIT ASSISTANCE

Sec. 101. Consolidation and revision of laws relating to housing loan insurance and mortgage credit assistance.

REVISED NATIONAL HOUSING ACT

TITLE I—GENERAL AUTHORITY

Sec. 101. Definitions.
Sec. 102. General insurance authority.
Sec. 103. Flexible mortgage ceilings.
Sec. 104. Interest rate ceilings.
Sec. 105. Energy conservation and water and sewer facilities.
Sec. 106. Technically suitable materials.
Sec. 107. Compensation for structural defects in mortgaged homes.
Sec. 108. Penalties.
Sec. 109. Insurance contract incontestability.
Sec. 110. Administration.
Sec. 111. Allocation of funds.
Sec. 112. Experimental and demonstration programs.
Sec. 113. Counseling.
Sec. 114. Housing assistance program conditions.

TITLE II—INSURANCE FUNDS, PREMIUMS, AND CHARGES

Sec. 201. Insurance funds.
Sec. 202. Insurance premiums and charges.
Sec. 203. Processing fees and service charges.

TITLE III—INSURANCE FOR PROPERTY IMPROVEMENT, HISTORIC STRUCTURE PRESERVATION, AND MOBILE HOME LOANS AND FOR REHABILITATION LOAN FUNDS

Sec. 301. Types of loans.
Sec. 302. Loan terms.
Sec. 303. Refinancing.
Sec. 304. Prohibitions.
Sec. 305. Property standards.
Sec. 306. Contract provisions.
Sec. 307. Waiver of requirements.
Sec. 308. Transfer of insurance.
Sec. 309. Insurance of State and local rehabilitation loan funds.

TITLE IV—HOME MORTGAGE CREDIT ASSISTANCE

Sec. 401. Home mortgage insurance.
Sec. 402. Homeownership assistance.

TITLE V—PROJECT MORTGAGE CREDIT ASSISTANCE

Sec. 501. Multifamily mortgage insurance.
Sec. 502. Multifamily housing assistance.
Sec. 503. Mortgage insurance for health facilities.
Sec. 504. Insurance of supplemental project loans.
Sec. 505. Mortgage insurance for land development.
Sec. 506. Cost certification.
Sec. 507. Labor standards.

TITLE VI—GUARANTEE OF STATE HOUSING BONDS

Sec. 601. Guarantee of State housing bonds.

TITLE VII—INSURANCE CLAIMS

Sec. 701. Home mortgage insurance claim settlement.
Sec. 702. Forebearance of payments.
Sec. 703. Acquisition of home mortgages to avoid foreclosure.
Sec. 704. Project mortgage insurance claim settlement.
Sec. 705. Modifications in terms of project mortgages.
Sec. 706. Settlement of insurance claims with debentures.

TITLE VIII—MISCELLANEOUS

Sec. 801. Holding and disposing of acquired property.
Sec. 802. Acquisition and disposition of title.
Sec. 803. Mortgage insurance for disposed property.
Sec. 102. Transition between the National Housing Act and the Revised National Housing Act.
Sec. 103. Experimental dual interest rate system.
Sec. 104. Conforming and technical amendments.

CHAPTER II—LOW-INCOME HOUSING ASSISTANCE

Sec. 201. Amendment to the United States Housing Act of 1937.
Sec. 1. Short title.
Sec. 2. Declaration of policy.
Sec. 3. Definitions.
Sec. 4. Loans for low-income housing projects.
Sec. 5. Annual contributions for low-income housing projects.
Sec. 6. Contract provisions and requirements.
Sec. 7. Congregate housing.
Sec. 8. Low-income housing in private accommodations.
Sec. 9. Annual contributions for operation of low-income housing projects.
Sec. 10. General provisions.
Sec. 11. Financing low-income housing projects.
Sec. 12. Labor standards.
Sec. 202. Applicability of rental requirements.
Sec. 203. Exemption of certain projects from rental formula.

Sec. 204. Repeal of specification requirements in construction contracts.
Sec. 205. Retroactive effect of repeal of section 10(j).
Sec. 206. Amendment to National Bank Act.
Sec. 207. Amendment to Lanham Act.
Sec. 208. Effective date of chapter II.
Sec. 209. Leased housing.

CHAPTER III—COMMUNITY DEVELOPMENT

Sec. 301. Short title.
Sec. 302. Findings.
Sec. 303. Objectives.
Sec. 304. Definitions.
Sec. 305. Community development activities eligible for assistance.
Sec. 306. Authorizations.
Sec. 307. Allocation.
Sec. 308. Application and review.
Sec. 309. Grants.
Sec. 310. Loans.
Sec. 311. Reporting requirements.
Sec. 312. Consultation.
Sec. 313. Technical assistance.
Sec. 314. Labor standards.
Sec. 315. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
Sec. 316. Interstate agreements.
Sec. 317. Effective date; transitional termination of existing programs.

CHAPTER IV—COMPRENHENSIVE PLANNING

Sec. 401. Comprehensive planning.
Sec. 402. Coordinating of Federal Aids in metropolitan areas.
Sec. 403. Training and fellowship.

CHAPTER V—RURAL HOUSING ASSISTANCE

Sec. 501. Extension of rural housing program to Guam.
Sec. 502. Refinancing of indebtedness.
Sec. 503. Loans to leasehold owners.
Sec. 504. Escrow accounts for taxes, insurance, and other expenses.
Sec. 505. Leasing.
Sec. 506. Rehabilitation loans and grants.
Sec. 507. Research and study programs.
Sec. 508. Veterans preference.
Sec. 509. Utilization of county committees.
Sec. 510. Assistance authorization.
Sec. 511. Maximum loan amount for rental housing.
Sec. 512. Definition of rural area.
Sec. 513. Subsidy and assistance payment for low-income families.
Sec. 514. Mutual and self-help housing.
Sec. 515. Site loans.
Sec. 516. Technical and supervisory assistance.
Sec. 517. Condominium housing.
Sec. 518. Legal services.
Sec. 519. Transfer of liabilities.
Sec. 520. Mobile homes.
Sec. 521. Technical amendments.
Sec. 522. State and local agencies.

CHAPTER VI—MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

Sec. 601. Short title.
Sec. 602. Statement of purpose.
Sec. 603. Definitions.
Sec. 604. Federal mobile home construction and safety standards.
Sec. 605. National Mobile Home Advisory Council.
Sec. 606. Judicial review of order.
Sec. 607. Public information.
Sec. 608. Research, testing, development, and training.
Sec. 609. Cooperation with public and private agencies.
Sec. 610. Prohibited acts.
Sec. 611. Civil and criminal penalty.
Sec. 612. Jurisdiction and venue.
Sec. 613. Noncompliance with standards.
Sec. 614. Inspection of mobile homes and records.
Sec. 615. Notification and correction of defects.
Sec. 616. Certification of conformity with construction and safety standards.
Sec. 617. Warranties.
Sec. 618. National Mobile Home Administration.
Sec. 619. Consumer information.
Sec. 620. Effect upon antitrust laws.
Sec. 621. Use of research and testing facilities of public agencies.
Sec. 622. Inspection fees.
Sec. 623. Penalties on inspections.
Sec. 624. Prohibition on waiver of rights.
Sec. 625. State plans.
Sec. 626. Grants to the States.
Sec. 627. Rules and regulations.
Sec. 628. Annual report to Congress.
Sec. 629. Authorization of appropriations.
Sec. 630. Effective date.

CHAPTER VII—HOUSING COOPERATIVE FINANCING ASSOCIATION

Sec. 701. Short title and statement of purpose.
Sec. 702. Housing Cooperative Financing Association.
Sec. 703. Board of directors.
Sec. 704. Capital stock.
Sec. 705. Obligations of the association.
Sec. 706. Guarantee of financial obligations.
Sec. 707. Authorized loans.
Sec. 708. Eligibility and regulatory requirements.
Sec. 709. Labor standards.
Sec. 710. Mutual fund, reserves and dividends.
Sec. 711. Insurance of loans made by the association.
Sec. 712. Participation in other cooperative housing programs.

CHAPTER VIII—MISCELLANEOUS

Sec. 801. National housing goal.
Sec. 802. Expansion of experimental housing allowance program.
Sec. 803. Direct financing study.
Sec. 804. Elderly and handicapped housing loan fund.
Sec. 805. Low rise construction.
Sec. 806. Housing security.
Sec. 807. Housing location.
Sec. 808. Solar energy.
Sec. 809. Housing design.
Sec. 810. Fair housing with respect to sex.
Sec. 811. National Institute of Building Sciences.
Sec. 812. Federal Home Loan Mortgage Corporation.
Sec. 813. Federal National Mortgage Association.
Sec. 814. Urban homesteading.
Sec. 815. Rehabilitation loans.
Sec. 816. Transitional extension of Federal Housing Administration insurance authority.
Sec. 817. Flexible interest rate authority.
Sec. 818. Temporary waiver of certain limitations applicable to Government National Mortgage Association.
Sec. 819. Interstate land sales.
Sec. 820. Advances from a State chartered central reserve institution including mortgage finance agencies.
Sec. 821. Program levels.
Sec. 822. Mass transportation.
Sec. 823. Transitional authorization for public housing.
Sec. 824. Transitional authorization for model cities.
Sec. 825. Transitional authorization for basic water and sewer facilities grant and neighborhood facility grant.
Sec. 826. Transitional authorization for rental housing assistance.
Sec. 827. Transitional authorization for rent supplements.
Sec. 828. Additional research authority.
Sec. 829. Energy statement.
Sec. 830. Tax incentives review.
Sec. 831. Mortgage proceeds fraudulently misappropriated by mortgagor.
Sec. 832. Statistics.

CHAPTER I—HOUSING LOAN INSURANCE AND MORTGAGE CREDIT ASSISTANCE

CONSOLIDATION AND REVISION OF LAWS RELATING TO HOUSING LOAN INSURANCE AND MORTGAGE CREDIT ASSISTANCE

SEC. 101. The provisions of this section which follow shall be effective as provided in section 102 of this chapter and may be cited as the "Revised National Housing Act".

TITLE I—GENERAL AUTHORITY

DEFINITIONS

SEC. 101. As used in this Act—

(a) The term "first mortgage" means such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State in which the real estate is located, together with the credit instruments, if any, secured thereby.

(b) The term "mortgage" means a first mortgage on real estate in fee simple, or on a leasehold (1) under a lease not less than ninety-nine years which is renewable or (2) under a lease having a period of not less than fifty years to run from the date the mortgage was executed.

(c) The term "mortgagor" includes the original lender under a mortgage, and its successors or assigns approved by the Secretary.

(d) The term "mortgagor" includes the original borrower under a mortgage, and its successors or assigns.

(e) The term "home mortgage" means a mortgage involving a one- to four-family residence or a one-family unit in a condominium, including a mortgage to cover a dwelling located outside built-up urban areas and a dwelling not designed for year-round occupancy.

(f) The term "project mortgage" means a mortgage involving multifamily housing, a land development project, or a health facility.

(g) The term "maturity date" means the date on which the mortgage indebtedness would be extinguished if paid in accordance with the payments provided for in the mortgage.

(h) The term "condominium" means a multiunit housing project which is subject to a plan of family unit ownership acceptable to the Secretary under which each dwelling unit is individually owned and each such owner holds an undivided interest in the common areas and facilities which serve the project.

(i) The term "cooperative" means any nonprofit corporation or nonprofit housing trust which has consumer-oriented sponsorship with no identity of interest with the builder, which is organized for the purpose of construction, rehabilitation, or acquisition of housing and related facilities which meet one of the following requirements:

(1) The permanent occupancy of the dwelling units will be restricted to members of the cooperative; or

(2) The individual dwelling units, upon completion of the construction or rehabilitation of the project, are to be sold to purchasers eligible for mortgage insurance or assistance under the provisions of section 401 or 402 of this Act, with the cooperative continuing to provide community facilities for the owners of such dwelling units.

(j) The term "experimental property" means property which involves the utilization and testing of advanced technology in property design, materials, or construction, or experimental property standards for neighborhood design which will provide data or experience which the Secretary deems to be significant in reducing building costs, operating costs, or improving building standards, quality, livability, or durability, or improving neighborhood design.

(k) The term "advances" means mortgage proceeds advanced during construction or rehabilitation or otherwise prior to final endorsement of a mortgage for insurance. In addition to being made for the purpose of financing improvements to the property and the purchase of materials and building components delivered to the property, such proceeds may, with the approval of the Secretary and with such security as the Secretary requires, be advanced for the purpose of providing funds to cover the cost of building components where such components have been assembled and specifically identified for incorporation into the mortgaged property, but which are located at a site other than the mortgaged property.

(l) The term "State" includes the several States and Puerto Rico, the District of Columbia, Guam, and the Virgin Islands. Such term may also include American Samoa, the Canal Zone, Midway Island, and the Trust Territory of the Pacific Islands where the Secretary determines the use of particular mortgage insurance programs is feasible and desirable.

(m) The term "Secretary" means the Secretary of Housing and Urban Development.

GENERAL INSURANCE AUTHORITY

SEC. 102. (a) To be eligible for insurance under this Act a mortgage or loan shall have been made by, and be held by, a mortgagee or lender approved by the Secretary as responsible and able to service the mortgage or loan properly.

(b) The Secretary is authorized, upon application by the mortgagee or lender, to insure mortgages and loans, upon such terms and conditions as he may prescribe, in accordance with the provisions of this Act, and to make commitments for the insuring of such mortgages and loans prior to the date of their execution or disbursement thereon. At any time prior to final endorsement for insurance, the Secretary may amend, extend, or increase the amount of any commitment in accordance with the applicable provisions of this Act.

(c) To be eligible for insurance under this Act, the mortgage transaction shall be determined by the Secretary to be an insurable risk, except that the Secretary may accept for insurance as a special risk a mortgage transaction involving assistance payments, experimental property, property located in an older and declining area where there is a reasonable prospect for revitalization (taking into account a community program of neighborhood preservation or rehabilitation), single-family housing for employees of research and development installations where it is established to the satisfaction of the Secretary that there is a special need for such housing, or a supplemental project loan where the Special Risk Insurance Fund is obligated for insurance of the original mortgage.

(d) No mortgage or loan shall be insured and no bond shall be guaranteed under this Act after June 30, 1977, except pursuant to a commitment to insure or guarantee before that date.

FLEXIBLE MORTGAGE CEILINGS

SEC. 103. (a) The Secretary shall not insure a mortgage covering property in any area which exceeds, for that part of the property attributable to dwelling use, the appropriate prototype cost for the area (1) by more than 20 per centum in the case of a mortgage insured under section 402 or section 502, or (2) by more than 100 per centum, or such lower per centum in any area as the Secretary determines to be appropriate to prevent the diversion of mortgage credit from moderate cost housing, in the case of a mortgage insured under section 401 or section 501.

(b) The Secretary shall determine prototype costs at least annually on the basis of (1) his estimate of the construction costs of new dwelling units (including units designed for elderly and handicapped families) of various types and sizes in the area suitable for occupancy by persons assisted under sections 402 and 502, and (2) his estimate of reasonable allowances for the cost of land and site improvements. In making his determination the Secretary shall take into account (A) the extra durability required for economical maintenance of such housing, (B) the provision of amenities designed to guarantee a safe and healthy family life and neighborhood environment, (C) the application of good design as an essential component of such housing and maintenance of quality in architecture to reflect the standards of the neighborhood and community, (D) the need for maximizing the conservation of energy for heating, lighting, and other purposes, (E) the effectiveness of existing mortgage limits in the area, and (F) the advice and recommendations of local housing producers. The prototype costs for any area shall become effective upon the date of publication in the Federal Register.

(c) As used in this section the term "construction costs" means those cost items which are normally reflected in the amount of a home mortgage or multifamily mortgage insured under section 402 or section 502, except the costs of land and site improvements.

INTEREST RATE CEILINGS

SEC. 104. The Secretary shall from time to time prescribe the maximum interest rates which mortgages or loans eligible for insurance under this Act may bear. The rates prescribed shall be those rates which the Secretary finds necessary to meet the mortgage or loan market.

ENERGY CONSERVATION AND WATER AND SEWER FACILITIES

SEC. 105. No mortgage shall be approved for insurance under this Act if the mortgaged property involves new construction and (1) does not make use, to the maximum extent feasible, of energy conservation techniques, or (2) includes housing which is not served by a public or adequate private community water and sewerage system, unless the property is situated in an area where the establishment of such a system is determined by the Secretary not to be economically feasible and where the Secretary determines that the absence of such a system will not create a significant environmental hazard. The economic feasibility of establishing such public or adequate private community water and sewerage systems shall be determined without regard to whether such establishment is authorized by law or is subject to approval by one or more local governments or public bodies.

TECHNICALLY SUITABLE MATERIALS

SEC. 106. The Secretary shall adopt a uniform procedure for the acceptance of materials and products to be used in structures approved for mortgages or loans insured under this Act. Under such procedure any material or product which the Secretary finds is technically suitable for the use proposed shall be accepted. Acceptance of a material or product as technically suitable shall not be deemed to restrict the discretion of the Secretary to determine that a structure, with respect to which a mortgage is executed, is an insurable or special risk. The Secretary shall encourage the use of materials and products which contribute to energy conservation, where appropriate.

COMPENSATION FOR STRUCTURAL DEFECTS IN MORTGAGED HOMES

SEC. 107. (a) The Secretary is authorized with respect to any property improved by one- to four-family dwelling approved for mortgage insurance prior to the beginning of construction, which he finds to have structural defects, to make expenditures for (1) correcting such defects, (2) paying the claims of the owner of the property arising from such defects, (3) acquiring title to the property: *Provided,* That such authority of the Secretary shall exist only (A) if the owner has requested assistance from the Secretary not later than four years (or such shorter time as the Secretary may prescribe) after the initial insurance of the mortgage, and (B) if the property is encumbered by a mortgage which is insured under this Act or under the National Housing Act.

(b) If the owner of any one- to four-family dwelling which is covered by a mortgage insured under section 203, 221, or 235 of the National Housing Act or under section 401 or 402 of this Act, and which is more than one year old on the date of the issuance of the insurance commitment, makes application to the Secretary not more than one year after the insurance of the mortgage (or, in the case of a dwelling covered by a mortgage the insurance commitment for which was issued on or after August 1, 1968, but prior to the effective date of this Act, not more than one year after such effective date) to correct any structural or other defect of the dwelling which seriously affects its use and livability or which constitutes a violation of the general acceptability standards promulgated by the Federal Housing Administration, the Secretary shall, with all reasonable promptness, make expenditures for any of the purposes specified in subsection (a), unless the defect is one that did not exist on the date of the issuance of the insurance commitment or is one that a proper inspection could not reasonably have been expected to disclose. The Secretary may require from the seller of any such dwelling an agreement to reimburse him for any payments made pursuant to this subsection with respect to such dwelling.

(c) The Secretary shall by regulations prescribe the terms and conditions under which expenditures and payments may be made under the provisions of this section.

(d) The Secretary shall take all steps necessary to notify owners of the provisions of this section, section 801 of the Housing Act of 1954, and section 401(g) of this Act, including notification by certified mail in the case of properties which may qualify under subsection (a) or (b) and which are covered by insurance commitments issued prior to the effective date of this Act. If an owner fails to make application for reimbursement within the time set by this section and if his failure is the result of his not having received notification from the Secretary, the deadline for his application shall be extended to include a reasonable period of time after he actually received notification from the Secretary.

PENALTIES

SEC. 108. (a) The Secretary is authorized to refuse the benefits of participation (either directly as an insured lender or as a borrower, or indirectly as a builder, contractor or dealer, or salesman or sales agent for a builder, contractor or dealer) under any of the provisions of this Act to any person or firm (including but not limited to any individual, partnership, association, trust, or corporation) if the Secretary has determined that such person or firm—

(1) has knowingly or willfully violated any provision of this Act, of the National Housing Act, or of title III of the Servicemen's Readjustment Act of 1944, or of chapter 37 of title 38, United States Code, or of any regulation issued by the Secretary under this Act or under the National Housing Act, or by the Administrator of Veterans' Affairs under said title III, or chapter 37; or

(2) has, in connection with any construction, alteration, repair or improvement work financed with assistance under this Act or under the National Housing Act, or under said title III, or chapter 37, or in connection

with contracts or financing relating to such work, violated any Federal or State penal statute; or

(3) has failed materially to carry out properly contractual obligations with respect to the completion of construction, alteration, repair, or improvement work financed with assistance under this Act or under the National Housing Act, or under title III of the Servicemen's Readjustment Act of 1944, or chapter 37 of title 38, United States Code.

(b) Before the determination prescribed in subsection (a) is made, any person or firm with respect to which a determination is proposed shall be notified in writing by the Secretary and shall be entitled (upon making a written request to the Secretary) to—

(1) a written notice specifying charges in reasonable detail; and

(2) an opportunity to be heard and to be represented by counsel.

(c) Any person aggrieved by a determination of the Secretary pursuant to this section may, within sixty days after notice of such determination, file a petition of review in the court of appeals for the circuit in which the property involved is located. Judical review shall be confined to the record made in the hearing before the Secretary and the Secretary's findings of fact shall be conclusive if supported by the preponderance of the evidence.

(d) For the purposes of compliance with this section, the Secretary's notice of a proposed determination or a determination under this section shall be considered to have been received by the interested person or firm if the notice is properly mailed to the last known address of such person or firm.

INSURANCE CONTRACT INCONTESTABILITY

SEC. 109. Any contract of insurance executed by the Secretary under the provisions of titles IV and V shall be conclusive evidence of the eligibility of the loan or mortgage for insurance. The validity of any contract of insurance so executed shall be incontestable in the hands of an approved financial institution or approved mortgage from the date of the execution of such contract, except for fraud or misrepresentation on the part of such financial institution or mortgagee.

ADMINISTRATION

SEC. 110. In carrying out the provisions of this Act, the Secretary is authorized to (1) make such expenditures as may be necessary, (2) sue and be sued, (3) make such rules and regulations as may be necessary, and (4) provide or obtain technical assistance in the planning for and construction of projects to be covered by mortgages insured under this Act.

ALLOCATION OF FUNDS

SEC. 111. (a) The aggregate of the sums approved in appropriation Acts under section 402(g) (1) and section 502(h) (1) of this Act, and under the United States Housing Act of 1937, and available for obligation in any fiscal year (other than sums available for operating subsidies) shall be allocated by the Secretary as follows:

(1) 75 per centum of such sums shall be allocated by the Secretary for use in metropolitan areas; and

(2) 25 per centum of such sums shall be allocated by the Secretary for use in nonmetropolitan areas.

(b) (1) The Secretary shall, to the extent feasible, reserve out of sums allocated under subsection (a) sufficient amounts to meet application approved under the Community Development Assistance Act of 1974.

(2) The Secretary shall reserve out of sums allocated under subsection (a) sufficient amounts to meet the housing objectives contained in any project agreement approved by the Secretary under title VII of the Housing and Urban Development Act of 1970 or under title IV of the Housing and Urban Development Act of 1968.

(3) The Secretary may, to the extent feasible, reserve out of sums allocated under subsection (a) sufficient amounts to meet the housing objectives contained in State housing agency programs, except as the Secretary may determine that any such program does not make adequate provision for the needs of low- and moderate-income families or is otherwise not consistent with basic objectives stated in this Act.

(c) Any amount allocated by the Secretary under this section shall be available for use by eligible mortgagors or public housing agencies in general conformity with the housing plans of the State and the units of general local government within such area, or in the case where there is no plan of either the State or unit of local government, or where the Secretary determines that neither such plan makes adequate provisions for the needs of low- and moderate-income families, in accordance with such terms and conditions as the Secretary may prescribe. If in any case where there are housing plans of both the State and the unit of local government, the Secretary finds significant inconsistency between such plans with respect to their provisions for meeting the needs of low- and moderate-income families, he may give priority to the plan which, in his judgment, best meets the housing needs of low- and moderate-income families

(d) Any portion of an allocation for metropolitan or nonmetropolitan areas which is expected to be unused or uncommitted at the end of the fiscal year for which it was allocated shall be available for reallocation by the Secretary prior to the end of such year in order to meet urgent housing needs in any area.

EXPERIMENTAL AND DEMONSTRATION PROGRAMS

SEC. 112. (a) Notwithstanding the provision of sections 701 and 704, the Secretary is authorized to provide mortgage or loan insurance prior to July 1, 1976, pursuant to a contract or agreement which obligates him to pay losses up to a specified amount or specified percentage of the mortgage or loan amount, or to pay losses in excess of a specified amount or percentage of the mortgage or loan amount, or to share in losses on a specified basis, or which involves a combination of the foregoing types of obligations, as the Secretary determines appropriate in particular programs or with respect to particular classes of risks in order to encourage the provision of needed housing opportunities or needed facilities, to protect his interests as insurer, to promote efficient and economical administration, and otherwise to further the objectives of this Act.

(b) Exercise of authority under subsection (a) to insure mortgages or loans at less than full value shall be accompanied by such transfer (subject to audit) to mortgagees or lenders of appraisal, credit approval, property inspection, commitment, or other mortgage or loan insurance application processing functions as the Secretary deems desirable, except that such authority shall not be exercised in any older or declining area where the Secretary determines that insurance on a full value basis is needed to insure the availability of housing credit consistent with the provisions and purposes of this Act, nor shall processing functions be delegated unless the Secretary is satisfied that there are adequate protection for consumers, including purchasers of older and lower cost housing.

(c) The authority under subsections (a) and (b) to insure mortgages or loans at less than their full value, and to delegate processing functions in conjunction with such coinsurance, shall be exercised only on a demonstration basis and the aggregate number of units insured on such basis during each fiscal year ending prior to July 1, 1976, under either title IV or title V of this Act, shall not exceed 20 per centum of the estimated total number of units processed for insurance under such title IV or V, as the case may be, during each such fiscal year. The demonstration program provided for by the preceding sentence shall be undertaken promptly and shall include arrangements providing for the transfer in appropriate situations of all or substantially all mortgage insurance processing functions and for the accumulation of experience on coinsurance and the delegation of varying processing functions in neighborhoods having different population, economic, and housing characteristics, subject to the provisions of subsection (b) for assuring an adequate supply of mortgage credit and protecting consumers. The Secretary shall also where appropriate encourage participation of State and local governments or agencies in demonstration activities carried on under this subsection. The Secretary shall exercise his authority under subsection (a) and (b) only to the extent that he finds that the continued exercise of such authority will not adversely affect the flow of mortgage credit by unduly discouraging the origination of mortgages to be insured under this Act or the purchase of such mortgages on the secondary market.

(d) (1) The Secretary shall determine the feasibility and desirability of transferring to mortgagees approved by the Secretary all or some of the functions now performed by the Department of Housing and Urban Development which relate to the processing of applications for mortgage insurance, including appraisal, property inspection, credit evaluations, and issuance of commitments. Upon the enactment of this section, the Secretary shall promptly undertake a demonstration program to provide further information with respect to the feasibility and desirability of transferring such functions for the various mortgage insurance programs authorized by this Act taking into account the need to encourage and facilitate the allocation of mortgage loans to persons of modest means in inner city and older neighborhoods and care in mortgagor selection, appraisal, and property inspection. Such demonstration program shall include the transfer of all or substantially all of such functions to a number of mortgagees in a number of areas sufficient for the purpose of the demonstration, coupled with such compensation for additional servicing by mortgagees as the Secretary deems appropriate.

(2) The Secretary shall also determine, using the demonstration program authorized by this subsection wherever practicable, the extent to which participation by State or local governments or agencies thereof with respect to the processing of applications for mortgage insurance should be allowed or encouraged, the form which any such participation should take, and any program changes needed to facilitate such participation. The Secretary shall encourage such participation where he deems appropriate and shall include his findings with respect to such participation in the report required by paragraph (1).

(e) The Secretary shall review operations under this section at least quarterly during fiscal year 1975 and the succeeding fiscal year, in order to make the findings required by the last sentence of subsection (c) and shall submit such findings to the Congress not later than forty-five days after the last day of each quarter. Such reports shall contain data on the number of mortgages insured by program, by type of coinsurance used, and by area office. Such reports shall also set forth a description of the transfer of functions and coinsurance actions taken and proposed to be taken with respect to each of the mortgage insurance programs authorized by this Act, together with estimates of the effects of such proposed actions on the availability of mortgage credit, the utilization of programs under this Act, and the volume and rates of foreclosures under such programs. The reports shall include specific findings and recommendations on (1) the types and levels of coinsurance authorized and to be authorized; (2) the application processing functions performed and to be performed by mortgagees or lenders or State or local governments or agencies thereof; (3) the need for particular safeguards to protect consumers and prevent mortgagees' or lenders' abuse of their increased responsibility, and the extent to which such safeguards may discourage mortgagees or lenders from participating in programs under this Act; (4) the extent to which variable levels of coinsurance could be used to provide incentives to mortgage lenders to exercise care in mortgagor selection and to channel funds to inner city and older neighborhoods; (5) the extent to which State and local government participation in the processing of applications for mortgage or loan insurance should be allowed or encouraged, and the form of any such participation; and (6) the need, if any, to provide compensation to mortgagees and lenders for performance of functions to be transferred and the estimated cost of and manner of paying such compensation.

(f) (1) Prior to July 1, 1977, the Secretary may also accept and insure as a special risk a transaction involving experimental financing, if such transaction would, except for the financing instrument or method involved and adjustments in loan to value ratios or other matters necessary to accommodate such instrument or method, qualify for insurance under any provision of this Act. The outstanding aggregate principal amount of instruments insured under this subsection may not exceed 1 per centum of the outstanding aggregate principal amount of mortgages and loans estimated to be insured during any fiscal year under titles IV and V of this Act.

(2) As used in this subsection, the term "experimental financing" means financing involving the use, on an experimental basis, of financing instruments which are not otherwise authorized or acceptable under this Act (including mortgages which combine variable interest rates with features designed to reflect the interests of mortgagors as well as those of mortgagees, and mortgages with provisions for varying rates of amortization corresponding to anticipated variations in family income) but which the Secretary determines (A) have promise for expanding housing opportunities or meeting special needs, (B) can be developed to include any safeguards for mortgagors or purchasers that may be necessary to offset special risks of such instruments, and (C) have a potential for acceptance in the private market.

COUNSELING

SEC. 113. The Secretary is authorized to furnish such counseling and advice, to the extent he deems useful and appropriate, to families assisted under any provision of this Act or any provision of the National Housing Act, with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and in meeting the responsibilities of homeownership or tenancy. For these purposes the Secretary is authorized to provide counseling, or to enter into contracts with, to make grants to, and to provide other types of assistance to private or public organizations with special competence and knowledge in counseling low and moderate income families to provide counseling and for such purposes, the Secretary is authorized to make expenditures from the fund obligated for the insurance of the mortgage covering the property.

HOUSING ASSISTANCE PROGRAM CONDITIONS

SEC. 114. The Secretary may provide periodic assistance payments under sections 402 and 502 in connection with construction or substantial rehabilitation of housing for lower income families or tenants in housing areas with respect to which he has determined, taking into account any appropriate information submitted by community development agencies pursuant to the Community Development Assistance Act of 1974, (1) that there is not likely soon to be an adequate supply of decent, safe, and sanitary existing housing for such families or tenants of various household sizes, (2) that such construction or rehabilitation is necessary to expand housing opportunities for such families or tenants within reasonable proximity to places of employment, or (3) that such new construction is an essential component of a community development program. The Secretary may also designate housing areas in which it is permissible to provide such payments in such other circumstances as he deems necessary.

TITLE II—INSURANCE FUNDS, PREMIUMS, AND CHARGES

INSURANCE FUNDS

SEB. 201. (a) The General Insurance Fund, created pursuant to section 519 of the National Housing Act, shall be used by the Secretary as a revolving fund for carrying out his obligations incurred pursuant to the National Housing Act, his obligations incurred pursuant to section 601 with respect to State housing finance agency bonds, and, except as otherwise provided in subsections (b), (c), and (d) of this section, his obligations with respect to mortgages and loans under titles III, IV, and V of this Act.

(b) The Special Risk Insurance Fund, created pursuant to section 238(b) of the National Housing Act, shall be used by the Secretary as a revolving fund for carrying out his obligations pursuant to the National Housing Act, his obligations with respect to mortgages and loans insured as special risks pursuant to section 102(c), and his obligations with respect to rehabilitation loan funds insured under section 309, and for carrying out his functions with respect to counseling under section 402.

(c) The Cooperative Management Housing Insurance Fund, created pursuant to section 213(k) of the National Housing Act, shall be used by the Secretary as a revolving fund for carrying out both his obligations incurred pursuant to the National Housing Act and his obligations with respect to (1) project mortgages insured under section 501 where the mortgagor is a cooperative, and (2) supplemental project loans insured under section 504 where the Cooperative Management Housing Insurance Fund is obligated for the insurance of the original mortgage or where the original project mortgage covering a cooperative housing project is uninsured.

(d) The Mutual Mortgage Insurance Fund, created by section 202 of the National Housing Act, shall be used by the Secretary as a revolving fund for carrying out his obligations incurred pursuant to sections 203(b), 203(h), and 203(i) of such Act and pursuant to section 401 of this Act.

(e) All premiums, fees, charges, and other income received by the Secretary in connection with the insurance of mortgages or loans shall be credited to the fund obligated for such insurance. All payments made pursuant to claims of mortgagees, cash adjustments, the principal of and interest paid on debentures, expenses incurred in connection with the acquisition and disposal of property, nonadministrative and administrative expenses, and all other authorized expenditures incurred pursuant to this Act and the National Housing Act shall be paid out of the fund obligated for such insurance.

(f) The Secretary is authorized to borrow from the Treasury from time to time such amounts as the Secretary shall determine are necessary to pay insurance claims in cash and in lieu of issuing debentures. Notes or other obligations issued by the Secretary for amounts borrowed under this subsection shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such notes or other obligations.

(g) Moneys in an insurance fund not needed for current operations of the fund shall be deposited with the Treasurer of the United States to the credit of the fund or invested in bonds or other obligations of, or in bonds or other obligations guaranteed by, the United States or any agency of the United States. The Secretary, with the approval of the Secretary of the Treasury, may purchase in the open market debentures which are the obligation of the fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtained from other investments authorized by this subsection. Debentures so purchased shall be canceled and not reissued.

(h) There are authorized to be appropriated such sums as may be needed from time to time to cover losses sustained by the Special Risk Insurance Fund.

INSURANCE PREMIUMS AND CHARGES

SEC. 202. (a) The Secretary is authorized to fix insurance premiums for the insurance of mortgages and loans under this Act. Insurance premiums for the insurance of mortgages under this Act (except under section 505) shall not exceed an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any one time. The Secretary may require the payment of the insurance premium on an advance or a deferred basis, except that with respect to any mortgage or loan insured under title V or with respect to any loan under title III, such insurance premium shall be payable annually in advance by the mortgagee or lender.

(b) In the event that the principal obligation of any mortgage or loan insured under title IV or title V is paid in full prior to the maturity date, the Secretary is authorized in his discretion to require the payment by the mortgagee or the lender of an adjusted premium charge in such amount as the Secretary determines to be equitable. Where such prepayment occurs, the Secretary is authorized to refund to the mortgagee or the lender for the account of the mortgagor or the borrower all, or such portion as he shall determine to be equitable, of the current unearned insurance premium theretofore paid.

(c) The Secretary is authorized to terminate any insurance contract upon request by the mortgagor or borrower and the mortgagee or lender. As a condition to terminating the insurance, the Secretary is authorized in his discretion to require the payment of a termination charge computed in such amount as he deems equitable.

(d) The payments specified in subsections (a), (b), and (c) shall be payable by the mortgagee or the lender either in cash or in debentures issued by the Secretary, except that the insurance premium for loans under title III shall be paid only in cash. The debentures presented for such payment shall represent obligations of the particular insurance fund to which such insurance premium is to be credited.

(e) (1) In the case of a mortgage insured under section 401 covering a single-family dwelling or a one-family unit in a condominium where the mortgagor is a serviceman who at the time of insurance or assumption of the mortgage is the owner of the property and either occupies the property or certifies that his failure to do so is the result of his service assignment, the Secretary of Defense, the Secretary of Transportation, or the Secretary of Commerce, as the case may be, shall, from the respective appropriations available for pay and allowances of servicemen, make such payments to the mortgagor, or (pursuant to an agreement) directly to the Secretary in the amounts required to cover the cost of the mortgage insurance premium fixed by the Secretary.

(2) As used in this subsection—

(A) The term "serviceman" means a person to whom the Secretary of Defense, the Secretary of Transportation, or the Secretary of Commerce, as the case may be, has issued a certificate indicating that such person requires housing, is serving on active duty in the Armed Forces of the United States, in the United States Coast Guard, or in the United States National Oceanic and Atmospheric Administration and has served on active duty for more than two years, but a certificate shall not be issued to any person ordered to active duty for training purposes only. The Secretary of Defense, the Secretary of Transportation, or the Secretary of Commerce, respectively, are authorized to prescibe rules and regulations governing the issuance of such certificate and may withhold issuance of more than one such certificate to a serviceman whenever in his discretion issuance is not justified due to circumstances resulting from his service assignment.

(B) The term "period of ownership" means the period, for which mortgage insurance premiums are fixed, prior to the date that the Secretary of Defense, the Secretary of Transportation, or the Secretary of Commerce, as the case may be, furnishes the Secretary with a certification that such ownership (as defined by the Secretary) has terminated.

(3) Where a serviceman dies while on active duty in the Armed Forces of the United States, in the United States Coast Guard, or in the United States National Oceanic and Atmospheric Administration leaving a surviving widow as owner of the property, the period of ownership shall extend for two years beyond the date of the serviceman's death or until the date the widow disposes of the property, whichever date occurs first. The Secretary of Defense, the Secretary of Transportation, or the Secretary of Commerce, as the case may be, shall notify such widow promptly following the serviceman's death of the additional costs to be borne by the mortgagor following termination of the two-year period.

PROCESSING FEES AND SERVICE CHARGES

SEC. 203. (a) The Secretary is authorized to charge and collect from the mortgagee or lender such amounts as he may deem reasonable for the processing of a mortgage or loan insurance application and for the appraisal and inspection of the property or project to be covered by the mortgage to be insured or for other services preformed by the Secretary, except that charges for appraisal and inspection with respect to multifamily housing shall not aggregate more than 1 per centum of the original principal face amount of the mortgage. All amounts received under this section shall be payable by the mortgagee or lender in cash at such times as the Secretary may require.

(b) The Secretary is authorized to include in any mortgage or loan insured under this Act or in any loan made payable to the Secretary a provision requiring the mortgagor or borrower to pay a service charge to the Secretary in the event the mortgage or loan is held by the Secretary. The service charge shall not exceed the amount prescribed by the Secretary for insurance premiums applicable to such mortgage or loan.

TITLE III—INSURANCE FOR PROPERTY IMPROVEMENT, HISTORIC STRUCTURE PRESERVATION, AND MOBILE HOME LOANS AND FOR REHABILITATION LOAN FUNDS

TYPES OF LOANS

SEC. 301. (a) The Secretary is authorized to insure financial institutions against losses which they may sustain as a result of making, advancing credit in connection with, or purchasing property improvement loans, historic structure preservation loans, mobile home loans, and mobile home lot loans meeting the requirements of this title.

(b) The property improvement loan shall be for the purpose of financing alterations, repairs, and improvements upon or in connection with existing structures or mobile homes, and the building of new structures, upon urban, suburban, or rural real property (including the restoration, rehabilitation, rebuilding, and replacement of such improvements which have been damaged or destroyed by earthquake, conflagration, tornado, hurricane, cyclone, flood, or other catastrophe), by the owners thereof or by the lessees of such real property or mobile homes under such conditions regarding length of lease or such other conditions as the Secretary may prescribe in order to protect his interest as an insurer. Alterations, repairs, and improvements upon, or in connection with, existing structures may include the provision of fire safety equipment or energy conserving improvements or the installation of solar energy systems. As used in this title—

(1) the term "fire safety equipment" means any device or facility which is designed to reduce the risk of personal injury or property damage resulting from fire and is in conformity with such criteria and standards as shall be prescribed by the Secretary;

(2) the term "energy conserving improvements" means any addition, alternation, or improvement to an existng or new structure which is designed to reduce the total energy requirements of that structure, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the National Bureau of Standards; and

(3) the term "solar energy system" means any addition, alteration, or improvement to an existing or new structure which is designed to utilize solar energy to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the National Bureau of Standards.

(c) The mobile home loan shall be for the purpose of financing the purchase of a mobile home to be used by the owner as his principal residence, and may include an amount to finance the acquisition of a lot on which to place such home and to pay expenses reasonably necessary for the appropriate preparation of such lot, including, but not limited to, the installation of utility connections, sanitary facilities and paving, and the construction of a suitable pad, or for the purpose of financing only the acquisition of such a lot either with or without such preparation by an owner of a mobile home.

(d) The historic structure preservation loan shall be for the purpose of financing the preservation of historic structures. As used in this title, the term "historic structures" means residential structures which are registered in the National Register of Historic Places or which are certified by the Secretary of the Interior to conform to National Register criteria; and the term "preservation" means restoration or rehabilitation undertaken for such purposes as are approved by the Secretary in regulations issued by him, after consulting with the Secretary of the Interior.

LOAN TERMS

SEC. 302. (a) Except as otherwise provided in this subsection, a loan financing property improvements shall—

(1) involve an amount not exceeding $10,000, except that, if the loan is made for the purpose of financing the alteration, repair, improvement, or conversion of an existing structure used or to be used as an apartment house or a dwelling for two or more families, the loan shall not exceed $30,000 nor an average amount of $5,000 per family unit; and

(2) have a maturity not exceeding twelve years and thirty-two days, except that such maturity limitation shall not apply if the loan is for the purpose of financing the construction of a new structure for use in whole or in part for agricultural purposes.

Notwithstanding the foregoing limitations, a loan to finance the provision of fire safety equipment for extended health care facilities, intermediate health care facilities, or other comparable health care facilities may involve such principal amount and have such maturity as the Secretary may prescribe.

(b) (1) A loan financing the purchase of a mobile home only shall—

(A) involve an amount not exceeding (i) $10,000 ($15,000 in the case of a mobile home composed of two or more modules), and (ii) such additional amount as the Secretary shall by regulation prescribe as appropriate to cover the cost of necessary site preparation for the lot on which the home is to be placed; and

(B) have a maturity not exceeding twelve years and thirty-two days (fifteen years and thirty-two days in the case of a mobile home composed of two or more modules).

(2) A loan financing the purchase of a mobile home and an undeveloped lot on which to place the home shall—

(A) involve an amount not exceeding (i) the maximum amount under paragraph (1) (A) of this subsection, and (ii) such amount not to exceed $5,000 as may be necessary to cover the cost of purchasing the lot; and

(B) have a maturity not exceeding fifteen years and thirty-two days (twenty years and thirty-two days in the case of a mobile home composed of two or more modules).

(3) A loan financing the purchase of a mobile home and a suitably developed lot on which to place the home shall—

(A) involve an amount not exceeding (i) the maximum amount under paragraph (1) (A) (i) of this subsection, and (ii) such amount not to exceed $7,500 as may be necessary to cover the cost of purchasing the lot; and

(B) have a maturity not exceeding fifteen years and thirty-two days (twenty years and thirty-two days in the case of a mobile home composed of two or more modules).

(4) A loan financing the purchase, by an owner of a mobil home which is the principal residence of that owner, of only a lot on which to place that mobil home shall—

(A) involve such an amount as may be necessary to cover the cost of purchasing the lot not exceeding (i) $5,000 in the case of an undeveloped lot, or (ii) $7,500 in the case of a developed lot; and

(B) have a maturity not exceeding ten years and thirty-two days.

No loan subject to the provisions of this paragraph may be made unless the owner certifies that he will place his mobile home on the lot acquired with such a loan within six months after the date of such loan.

(c) A loan financing the preservation of a historic structure shall—

(1) involve an amount not exceeding $15,000 per family unit; and

(2) have a maturity not exceeding fifteen years and thirty-two days.

REFINANCING

SEC. 303. Any loan with respect to which insurance is granted under this title may be refinanced and the maturity thereof extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term in excess of the maximum provided for in section 302.

PROHIBITIONS

SEC. 304. The Secretary is authorized to prevent the use of any financial assistance under this title—

(1) which would, through multiple loans, result in an outstanding aggregate loan bal-

ance with respect to the same property or mobile home exceeding the dollar amount limitation prescribed in this title for the type of loan involved; or

(2) which involves new residential structures (other than mobile homes) that have not been completed and occupied for at least six months, except where such requirement is waived by the Secretary.

PROPERTY STANDARDS

SEC. 305. (a) The Secretary may from time to time declare ineligible for financing under this title any item, product, alteration, repair, improvement, or class thereof, which he determines would not substantially protect or improve the basic liability or utility of properties which are to be improved by financing provided under this title. He may also declare ineligible for financing under this title any item which he determines is especially subject to selling abuses.

(b) The Secretary shall, with respect to mobile homes to be financed under this title—

(1) prescribe minimum property standards to assure the livability and durability of the mobile home and the suitability of the site on which the mobile home is to be located; and

(2) obtain assurances from the borrower that the mobile home will be placed on a site which complies with the standards prescribed by the Secretary and with local zoning and other applicable local requirements.

CONTRACT PROVISIONS

SEC. 306. (a) The insurance granted by the Secretary to any financial institution on loans, advances of credit, and purchases made by such financial institution shall not exceed either—

(1) 10 per centum of the total amount of such loans, advances of credit, and purchases made under and reported for insurance under this title and under section 2 of the National Housing Act after July 1, 1939; or

(2) 90 per centum of the amount of loss on any individual loan, advance of credit, or purchase.

(b) Any payment for loss made to an approved financial institution under this title shall be final and incontestable after two years from the date the claim was certified for payment by the Secretary, in the absence of fraud or misrepresentation on the part of such institution, unless a demand for repurchase of the obligation shall have been made on behalf of the United States prior to the expiration of such two-year period.

WAIVER OF REQUIREMENTS

SEC. 307. The Secretary is authorized to waive compliance with any regulations issued by him pursuant to this title, if the enforcement of such regulations would impose an injustice upon an insured financial institution that has substantially complied with the requirements of such regulations and has acted in good faith. Such waiver shall only be exercised where it does not involve an increase in the obligation of the Secretary beyond the obligation which would have been involved if the regulation had been fully complied with.

TRANSFER OF INSURANCE

SEC. 308. The Secretary is authorized to transfer to any approved financial institution the insurance in connection with any loan which is sold to it by another approved financial institution.

INSURANCE OF STATE AND LOCAL REHABILITATION LOAN FUNDS

SEC. 309. (a) The Secretary is authorized upon such terms and conditions as he may prescribe to insure any revolving rehabilitation loan fund administered by a State or local government for purposes of this section against part of the losses which such fund may sustain as a result of loans or advances of credit from the fund pursuant to a loan program which meets the requirements of this section.

(b) A loan program which meets the requirements of this section shall—

(1) involve significant financial participation in the rehabilitation program by a State or local government;

(2) involve loans to finance rehabilitation of predominantly residential property which meets the requirements of section 312(a)(1) of the Housing Act of 1964;

(3) provide loans to persons who cannot obtain or afford private financing; and

(4) meet such requirements concerning the nature of the loans involved as the Secretary determines necessary so that a guarantee pursuant to this section will meet special risk criteria.

(c) The Secretary is authorized to establish and collect such insurance premiums or other fees or charges as he determines to be necessary in connection with the administration of this section.

(d; The aggregate amount of outstanding loans in revolving funds partially insured against losses pursuant to the provisions of this section shall not exceed $10,000,000 at the beginning of any fiscal year.

TITLE IV—HOME MORTGAGE CREDIT ASSISTANCE

HOME MORTGAGE INSURANCE

SEC. 401. (a) The Secretary is authorized to insure a home mortgage (including open-end advances) meeting the requirements of this section.

(b) The mortgage shall—

(1) involve a principal obligation not to exceed an amount equal to the sum of (i) 97 per centum of $25,000 of the Secretary's appraised value of the property as of the date the mortgage is accepted for insurance, (ii) 90 per centum of such value in excess of $25,000 but not in excess of $35,000, (iii) 80 per centum of such value in excess of $35,000 but not in excess of $45,000, and (iv) 70 per centum of such value in excess of $45,000; except that in the case of rehabilitation, the foregoing limitations upon the amount of the mortgage shall be based on the Secretary's estimate of the appraised value of the property after rehabilitation (taking into account a community program of neighborhood preservation or rehabilitation), and in the case of refinancing, the amount of the mortgage shall be further limited to the sum of the existing indebtedness on the property plus the Secretary's estimate of the cost of rehabilitation, if any; and

(2) contain complete amortization provisions satisfactory to the Secretary requiring payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Secretary and within such term as the Secretary shall prescribe.

(c) Where th mortgage involves a dwelling unit in a cooperative housing project which is covered by a blanket mortgage insured under this Act—

(1) in the case of a dwelling unit in such a cooperative project where the unit, upon completion of construction or rehabilitation, is to be sold to a purchaser, the percentages specified in subsection (b)(1) shall be applied to the portion attributable to such dwelling unit of the amount which was the basis for computing the blanket mortgage; and

(2) in the case of a project of the type described in subsection (i)(1), the mortgage amount as determined under the other provisions of this section for purposes of subsection (b)(1) shall be reduced by an amount equal to the portion of the unpaid balance of the blanket mortgage covering the project which is attributable (as of the date the mortgage is accepted for insurance) to such unit.

(d) Where the mortgage involves a one-family unit in a condominium, the Secretary shall establish such requirements as he deems appropriate for the protection of the consumer. The mortgage covering the condominium unit shall contain such provisions as the Secretary determines to be necessary for the maintenance of the common areas and facilities and the condominium project. The Secretary may require that the rights and obligations of the mortgagor and the owners of the condominium units in the project shall be subject to such controls as he determines to be necessary and feasible to promote and protect individual owners, the condominium project, and its occupants.

(e) The mortgage shall have a principal obligation not in excess of an amount equal to 85 per centum of the amount computed under the provision of subsection (b)(1) if the mortgage involves—

(1) a newly constructed dwelling which the Secretary determines has been completed within twelve months of the sale being financed with a mortgage insured under this section but which has not been approved by the Secretary for mortgage insurance or approved by the Administrator of Veterans' Affairs for guaranty, insurance, or direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction; or

(2) a mortgagor (other than a nonprofit mortgagor) who is not the occupant of the property, except that this requirement for a reduction in the principal obligation of the mortgage shall not be applicable where—

(A) the mortgagor is in the military service and his failure to occupy the property is by reason of his service assignment;

(B) the mortgagor and mortgagee assume responsibility, in a manner satisfactory to the Secretary, for the reduction of the outstanding principal amount of the mortgage, in the event the mortgaged property is not (prior to the date of the eighteenth amortization payment of the mortgage) sold to a purchaser acceptable to the Secretary who is the occupant of the property and who assumes and agrees to pay the mortgage indebtedness; or

(C) the mortgage covers experimental property and the Secretary approves the waiver of such requirement.

(f) The seller, builder, or such other person as the Secretary may designate shall deliver to the mortgagor (prior to the completion of the sale) a written statement setting forth the amount of the appraised value of the property, as determined by the Secretary. Where the property is to be rehabilitated by the owner thereof and the amount of the mortgage is not based on the appraised value of the property, the Secretary shall furnish such owner a statement of the Secretary's estimate of the appraised value of the property after the proposed improvements are completed.

(g)(1) Where the mortgage involves a dwelling which is approved for mortgage insurance prior to the beginning of construction, the seller, or such other person as may be required by the Secretary, shall deliver to the mortgagor a warranty that the dwelling is constructed in substantial conformity with the plans and specifications (including any amendments thereof, or changes or variations therein approved in writing by the Secretary) on which the Secretary based his valuation of the dwelling. This warranty shall apply only with respect to such instances of substantial nonconformity to the plans and specifications approved by the Secretary as to which the mortgagor has given written notice to the warrantor within one year from the date of conveyance of title to, or initial occupancy of, the dwelling, whichever first occurs.

(2) The warranty required by this subsection shall be in addition to, and not in derogation of, all other rights and privileges which the mortgagor may have under any other law or instrument. The Secretary is

directed to permit copies of the plans and specifications (including any amendments or variations approved in writing by the Secretary) for the dwellings covered by warranties under this subsection to be made available in the appropriate local offices for inspection or for copying by any mortgagor or warantor during such periods of time as the Secretary deems reasonable.

(h) (1) The Secretary is authorized to insure under this section a home mortgage which is executed to refinance existing indebtedness and to finance any needed repairs and improvements to the property.

(2) The Secretary shall prescribe such terms and conditions as he deems necessary to assure that—

(A) refinancing pursuant to this subsection results in any moderate or substantial rehabilitation necessary to place the property in a decent, safe, and sanitary condition as required by applicable codes and may enable the mortgagor to pay off a ballon payment provision, if any, in the original mortgage; and

(B) in the case of a mortgage transaction under this subsection which the Secretary designates as a special risk because the property is located in an older and declining area, (i) the refinancing is not used primarily to reduce the monthly debt service payable by the mortgagor except in hardship cases determined by the Secretary, and (ii) the mortgagor or member of his immediate family shall have owned the property for a period of not less than three years prior to such refinancing unless the mortgagor shall be a nonprofit, limited profit, or cooperative certified by the Secretary as being eligible to participate in the refinancing program under criteria established by the Secretary.

(3) A mortgage insured as a special risk under this subsection may include closing costs and such service charges and appraisal, inspection, or other fees as the Secretary may approve.

(4) In any case where a mortgage insured as a special risk under this subsection covers property which is generating rental income, the Secretary may, in his discretion, require the mortgagor to meet the additional requirements of section 501(k) (2).

(i) As used in this section—

(1) The term "home mortgage" and "mortgage" include a first lien given (in accordance with the laws of the State where the property is located and accompanied by such security and other undertakings as may be required under regulations of the Secretary) to secure a loan made to finance the purchase of stock or membership in a nonprofit cooperative ownership housing corporation the permanent occupancy of the members of such corporation, where the purchase of such stock or membership will entitle the purchaser to the permanent occupancy of one of such units.

(2) The terms "appraised value of the property", "value of the property", and "value" include the appraised value of a dwelling unit in a cooperative housing project of the type described in paragraph (1) where the purchase of the stock or membership involved will entitle the purchaser to the permanent occupancy of that unit; and the term "property" includes a dwelling unit in such a cooperative project.

(3) The term "mortgagor" includes a person or persons giving a first lien (of the type described in paragraph (1)) to secure a loan to finance the purchase of stock or membership in a cooperative housing corporation.

HOMEOWNERSHIP ASSISTANCE

SEC. 402. (a) For the purpose of assisting lower income families in acquiring or maintaining howeownership, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of such homeowners. The assistance shall be accomplished through payments to mortgagees holding mortgages which meet the requirements of, and are insured under, this section or which mortgages are assisted under a State or local program providing assistance through loans, loan insurance or tax abatement.

(b) The assistance payments to a mortgagee by the Secretary on behalf of a mortgagor shall be made during such time as the mortgagor shall continue to occupy the property which secures the mortgage. Such payments may also be made on behalf of a homeowner who assumes a mortgage insured under this section with respect to which assistance payments have been made on behalf of the previous owner, if the new homeowner is approved by the Secretary as eligible for receiving such assistance. The Secretary is also authorized to continue making assistance payments where the mortgage has been assigned to the Secretary.

(c) The assistance payment shall be in an amount not exceeding the lesser of—

(1) the balance of the monthly payment for principal, interest, taxes, insurance, and mortgage insurance premium due under the mortgage remaining unpaid after applying 20 per centum of the mortgagor's income; or

(2) the difference between the monthly payment for principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum.

(d) The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (c), as he deems appropriate to reimburse the mortgagee for its additional expenses in handling the mortgage.

(e) Procedures shall be adopted by the Secretary for recertifications of the mortgagor's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of the assistance payments within the limits of the formula described in subsection (c).

(f) The Secretary shall take such steps as he deems necessary to assure that the sales price of, or other consideration paid in connection with, the property with respect to which assistance payments are to be made is not inflated or excessive.

(g) (1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make the assistance payments under contracts entered into under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts (and any contracts entered into under section 235 of the National Housing Act) shall not exceed $75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $125,000,000 on July 1, 1969, by $150,000,000 on July 1, 1970, by $200,000,000 on July 1, 1971, by $115,000,000 on July 1, 1972, and by $120,000,000 on July 1, 1975.

(2) Not more than 30 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts may be made with respect to existing dwellings or dwelling units in existing projects, including property described in subsection (h) (1) (B), as defined by the Secretary.

(3) Not less than 20 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after June 30, 1974, shall be available for use only with respect to dwellings, or dwelling units in projects, which are approved by the Secretary prior to substantial rehabilitation.

(h) The Secretary is authorized to insure a home mortgage (including advances with respect to property constructed or rehabilitated pursuant to a self-help program) which meets the requirements of section 401, except as such requirements are modified by this section. The mortgage shall—

(1) involve (A) a single-family dwelling, or a one-family unit in a condominium, or a one-family unit sold by a cooperative, or (B) a single family dwelling where the mortgage is executed by the owner-occupant to finance the rehabilitation of such dwelling; and

(2) have a principal obligation not to exceed the appraised value of the property as of the date the mortgage is accepted for insurance or, in the case of rehabilitation, the Secretary's estimate of the appraised value of the property after rehabilitation, taking into account a community program of neighborhood preservation or rehabilitation (in the case of rehabilitation by the owner-occupant, the principal obligation shall be further limited to the sum of the estimated cost of rehabilitation and the amount, as determined by the Secretary, required to refinance existing indebtedness secured by the property) plus such amount to cover closing costs and prepaid expenses, as the Secretary shall approve; and

(3) be executed by a mortgagor who shall have paid in cash or its equivalent, on account of the property, in the case of any family whose income is not in excess of 70 per centum of the median income for the area, at least $200, or in the case of any other family, at least an amount equal to 3 per centum of the Secretary's estimate of the cost of acquisition.

(i) No assistance payments shall be made under this section with respect to any mortgage securing a loan to finance the rehabilitation of any owner-occupied property, unless—

(1) the property is located in a neighborhood which is sufficiently stable to support long-term values or in which the community is carrying out or planning to carry out a program for neighborhood preservation, conservation, or rehabilitation;

(2) the property, without rehabilitation, does not conform to public standards for decent, safe, and sanitary housing as required by applicable codes; and

(3) the improvements to be undertaken in connection with such rehabilitation are reasonably required to provide decent, safe, and sanitary housing in accordance with criteria and standards prescribed by the Secretary.

(j) As used in this section the term "lower income families" means those families consisting of two or more persons, the income of which does not exceed 90 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 90 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low median family incomes, or other factors. As used in the preceding sentence, the term "families" includes elderly families as defined in section 502(j) (3).

(k) In determining the income of any family for the purpose of this section, there shall be deducted an amount equal to $300 for each minor person who is a member of the immediate family and living with such family, and the earnings of any such minor person shall not be included for the purpose of such determination.

(l) The Secretary shall from time to time allocate and transfer to the Secretary of Agriculture, for use (in accordance with the terms and conditions of this section) in rural areas and small towns, a reasonable portion of the total authority to contract to make assistance payments as approved in appropriation Acts under subsection (g).

(m) The Secretary shall furnish to homeowners assisted under this section counseling and advice with respect to household maintenance, financial management, and such other matters as may be appropriate to assist them in meeting the responsibilities of homeownership.

TITLE V—PROJECT MORTGAGE CREDIT ASSISTANCE

MULTIFAMILY MORTGAGE INSURANCE

SEC. 501. (a) For the purposes of this section—

(1) The term "multifamily housing" means (i) housing or a housing project in which the occupancy of the dwelling units is permitted by the owner thereof in consideration of the payment of agreed rental charges; (ii) housing or a housing project which is owned by a cooperative or which is constructed or rehabilitated by an investor-sponsor who meets such requirements as the Secretary may impose to assure that the consumer interest is protected, and who has an agreement for the sale of the project to a cooperative eligible for mortgage insurance under the provisions of this title; (iii) housing or a housing project in which the individual dwelling units are to be sold, on a condominium basis, by a cooperative, or otherwise, to purchasers eligible for mortgage insurance under the provisions of title IV; and (iv) a mobile home park.

(2) The term "replacement cost" means the Secretary's estimate of the value of the land, the cost of the proposed physical improvements, utilities within the boundaries of the property or project, architect's fees, taxes and interest during construction, other miscellaneous charges incident to construction and the initial operation or disposition of the project as may be approved by the Secretary, and a builder's and sponsor's profit and risk allowance of 10 per centum of all of the foregoing items except the land, or such lower percentage as the Secretary deems to be reasonable and prescribes by regulation, with respect to all or to particular categories of projects. In the case of a cooperative or nonprofit mortgagor, the foregoing profit and risk allowance shall be paid exclusively to the builder in lieu of any other fee.

(b) The Secretary is authorized to insure a mortgage (including advances) which covers property involving a multifamily housing project. The mortgage shall be executed by a mortgagor approved by the Secretary. The Secretary may require any such mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation. Such regulation and restriction shall remain in effect until the termination of all obligations of the Secretary under the mortgage insurance and during such further period of time as the Secretary shall be the owner, holder, or reinsurer of the mortgage.

(c) The mortgage may involve the financing of new construction, the rehabilitation of an existing structure or structures, or the purchase or refinancing of an existing project (as defined by the Secetary) which meets such standards as may be prescribed by the Secretary.

(d) If new construction is involved, the mortgage shall have a principal obligation not in excess of 90 per centum (98 per centum in the case of a cooperative mortgagor) of the estimated replacement cost of the property or project when the proposed improvements are completed.

(e) If rehabilitation is involved, the mortgage shall have a principal obligation not in excess of 90 per centum (98 per centum in the case of a cooperative mortgagor) of the Secretary's estimate of the appraised value of the property after rehabilitation (taking into account a community program of neighborhood preservation or rehabilitation), except that in the case of refinancing which involves rehabilitation, the principal obligation shall be further limited to the sum of the existing indebtedness on the property plus the Secretary's estimate of the cost of rehabilitation.

(f) If the purchase or refinancing of an existing property without rehabilitation is involved, the mortgage shall have a principal obligation not in excess of 90 per centum (98 per centum in the case of a cooperative mortgagor and 100 per centum in the case of a mortgage insured under subsection (k) (2) of the purchase price of or the existing indebtedness on the property, whichever is applicable, or the Secretary's estimate of the fair market value as of the date the mortgage is accepted for insurance, whichever is less.

(g) In the case of a cooperative or nonprofit mortgagor, the percentages otherwise applicable under subsection (d), (e), or (f) shall be increased to 100 per centum if the principal obligation of the mortgage does not exceed the amount which could be insured with respect to the project under section 502.

(h) If the dwelling units in a project are to be sold to individual purchasers, the principal obligation of the blanket mortgage shall be further limited to the sum of the individual mortgage amounts which could be insured for owner-occupants of the proposed individual dwellings or condominium units under title IV.

(i) The mortgage shall provide for complete amortization by periodic payments within such term as the Secretary shall prescribe.

(j) The property or project shall include five or more dwelling units (which, with the approval of the Secretary, need not be self-contained living units) or five or more spaces in a mobile home park, and may include such nondwelling facilities as the Secretary deems adequate and appropriate to serve the occupants and the surrounding neighborhood, except that the project shall be predominantly residential. Any nondwelling facility to be included in the project shall be found by the Secretary to contribute to the economic feasibility of the project (and the Secretary shall give due consideration to the possible effect of the nondwelling facilities on other business enterprises in the community). The requirements of the preceding sentence do not apply with respect to cafeterias, dining halls, workshops, infirmaries or other outpatient or inpatient facilities, or other essential service facilities included in a project designed primarily for the elderly or handicapped.

(k)(1) If the refinancing of an existing project is involved, the Secretary shall prescribe such terms and conditions as he deems necessary to assure that—

(A) refinancing results in any moderate or substantial rehabilitation necessary to place the property in a decent, safe, and sanitary condition as required by applicable codes and may enable the mortgagor to pay off a balloon payment provision, if any, in the original mortgage; and

(B) refinancing is used to lower the monthly debt service only to the extent necessary to assure the continued economic viability of the project, taking into account any rent reductions to be implemented by the mortgagor.

(2) In the case of any mortgage transaction under this subsection which the Secretary designates as a special risk because the property is located in an older and declining area, the Secretary shall prescribe such terms and conditions as he deems necessary to assure that—

(A) the mortgagor or member of his immediate family shall have owned the property for a period of not less than three years prior to such refinancing unless the mortgagor shall be a nonprofit, limited profit, or cooperative certified by the Secretary as being eligible to participate in the refinancing program under criteria established by the Secretary;

(B) the property will be continuously maintained in a decent, safe, and sanitary condition as required by applicable codes for the period of the loan, and the mortgagor shall commit to maintenance expenditures not less than that annual amount which the Secretary deems necessary or appropriate to maintain the property in such condition;

(C) during the mortgage term no rental increases shall be made except those which are necessary to offset actual and reasonable operating expense increases or debt service payment increases due to any loan provided under this subsection or section 504;

(D) before any rental increase takes effect, tenants shall be afforded reasonable notice of the proposed increase and a sufficient opportunity to present written objections to the Secretary and to be heard thereon; and

(E) no excessive rental increase has been made in anticipation of participation in the benefits provided by this subsection.

(3) A mortgage insured as a special risk pursuant to this subsection may include closing costs and such service charges and appraisal, inspection, or other fees as the Secretary shall approve.

MULTIFAMILY HOUSING ASSISTANCE

SEC. 502. (a) For the purpose of reducing rentals for lower income tenants, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of the owner of a multifamily housing project, which shall be accomplished through payments to mortgagees holding mortgages meeting the requirements specified in this section.

(b) Assistance payments with respect to a project shall only be made by the Secretary during such time as the project is operated as a multifamily housing project and (1) is subject to a mortgage which is insured under subsection (i), or in the case of a project for which the Secretary has issued a commitment to insure or guarantee upon completion, payments may be made at the time of endorsement for insurance to cover the period between the time the project was ready for occupancy and the time of such endorsement; (2) is subject to a mortgage which has been assigned to the Secretary; or (3) is owned by a private nonprofit corporation or other private nonprofit entity, a limited distribution corporation or other limited distribution entity, or a cooperative, and is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which prior to the completion of construction or rehabilitation is approved for receiving the benefits of this section with respect to all or a part of the project.

(c) The assistance payment to a mortgagee by the Secretary on behalf of a project owner shall be in an amount not exceeding the difference between the monthly payment for principal, interest, and mortgage insurance premium which the project owner as a mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest such project owner would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum.

(d) The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (c), as he deems appropriate to reimburse the mortgagee for its additional expenses in handling the mortgage.

(e) As a condition for receiving the benefits of assistance payments, the project owner shall operate the project in accordance with such requirements with respect to tenant eligibility and rents as the Secretary may prescribe. In prescribing such requirements the Secretary shall seek to assure, insofar as is practicable, that in each assisted project there is a reasonable range in the income levels of tenants. Procedures shall be adopted by the Secretary for review of tenant incomes at intervals of two years (or at shorter intervals where the Secretary deems it desirable).

(f)(1) For each dwelling unit there shall be established with the approval of the Secretary (A) a basic rental charge determined on the basis of operating the project with payments of principal and interest due under a mortgage bearing interest at the rate of 1 per centum per annum; and (B) a fair market rental charge determined on the basis of operating the project with payments of principal, interest, and mortgage insurance premium (or other comparable charges approved by the Secretary) which the mortgagor is obligated to pay under the mortgage covering the project. The rental for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the fair market rental charge, as represents 25 per centum of the tenant's income. With respect to those projects which the Secretary determines have separate utility metering for some or all dwelling units, the Secretary is authorized—

(i) to permit the basic rental charge and the fair market rental charge to be determined on the basis of operating the projects without the payment of the cost of utility services used by such dwelling units; and

(ii) to permit the charging of a rental for such dwelling units at such an amount less than 25 per centum of a tenant's income as the Secretary determines represents a proportionate decrease for the utility charges to be paid by such tenant, but in no case shall such rental be lower than 20 per centum of a tenant's income.

(2) In the case of any project involving the rehabilitation of an existing structure, families in possession shall have the right to continue in occupancy after completion of the rehabilitation except that—

(A) any family which is not a lower income tenant, as defined in this section, shall pay a rental equal to 25 per centum of its income or the fair market rental charge, whichever is less, but in no case shall such a family pay less than the basic rental charge; and

(B) any other family shall pay a rental determined in accordance with paragraph (1) or (3) of this subsection.

(3) With respect to 20 per centum of the dwelling units in any project, the Secretary shall make, and contract to make, additional assistance payments to the project owner on behalf of tenants whose incomes are too low for them to afford the basic rentals with 25 per centum of their income or such lower per centum as may be established pursuant to the provisions of paragraph (1)(ii). The additional assistance payments authorized by this paragraph with respect to any dwelling unit shall be the amount required to reduce the rental payment by the tenant to 25 per centum of the tenant's income or such lower per centum as may be established pursuant to the provisions of paragraph (1)(ii). In no case shall such rental payment be reduced below an amount equal to utility costs attributable to the unit occupied by the tenant, unless the Secretary determines that the application of this requirement in any area would result in undue hardship because of unusually high utility costs prevailing seasonally or otherwise in such area. Notwithstanding the foregoing provisions of this paragraph, the Secretary may—

(A) reduce such 20 per centum requirement in the case of any project if he determines that such action is necessary to assure the economic viability of the project;

(B) increase such 20 per centum requirement in the case of any project if he determines that such action is necessary and feasible having regard to the objective stated in subsection (e), or that such action is to be taken to meet the housing needs of elderly or handicapped families.

(4) For each project there shall be established an initial operating expense level, which shall be the sum of the cost of utilities, maintenance, and local property taxes payable by the project owner at the time the Secretary determines the property to be fully occupied, taking into account anticipated and customary vacancy rates. At any time subsequent to the establishment of an initial operating expense level, the Secretary is authorized to make, and contract to make, additional assistance payments to the project owner in an amount not to exceed either (A) the amount by which the sum of the cost of utilities, maintenance, and local property taxes exceeds the initial operating expense level, or (B) the amount required to maintain the basic rentals of any unit at levels not in excess of 30 per centum, or such lower per centum not less than 25 per centum as shall reflect the reduction permitted in paragraph (1)(ii), of the income of tenants occupying such units. Any contract to make additional assistance payments may be amended periodically to provide for appropriate adjustments in the amount of the assistance payments. Additional assistance payments shall be made pursuant to this paragraph only if the Secretary finds that the increase in the cost of utilities, maintenance, or local property taxes, is reasonable and is comparable to cost increases affecting other rental projects in the community.

(g) The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay to the Secretary all rental charges collected in excess of the basic rental charges. Such excess charges shall be credited to a reserve fund to be used by the Secretary to make additional assistance payments as provided in paragraph (4) of subsection (f) to meet reasonable increased costs above the initial operating expense level which are not offset by the rental increases required under that paragraph. During any period that the Secretary determines that the balance in the reserve fund is adequate to meet the estimated additional assistance payments, such excess shall be credited to the appropriation authorized by subsection (h) and shall be available until the end of the next fiscal year for the purpose of making assistance payments with respect to rental housing projects receiving assistance under this section. This subsection does not apply to the charges in excess of 25 per centum of a tenant's income which are required for the purposes of paragraph (4) of subsection (f). The provisions of this subsection and subsection (f) shall also be applicable to projects assisted under section 236 of the National Housing Act. For the purpose of the preceding sentence, the initial operating expense level for any project assisted under section 236 of the National Housing Act shall be established by the Secretary not later than 180 days after the effective date of this Act.

(h)(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make assistance payments under contracts entered into by the Secretary under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts (and any contracts entered into under section 236 of the National Housing Act) shall not exceed $75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $125,000,000 on July 1, 1969, by $150,000,000 on July 1, 1970, by $200,000,000 on July 1, 1971, by $225,000,000 on July 1, 1972, by $180,000,000 on July 1, 1974, and by $200,000,000 on July 1, 1975.

(2) Not less than 15 per centum nor more than 25 per centum of the total amount of contracts for assistance payments authorized in appropriation Acts to be made after June 30, 1974, shall be available for use only with respect to projects which are planned in whole or in part for occupancy by elderly or handicapped families. Not less than 5 per centum of the amount of contracts available for the use described in the preceding sentence shall be available for use only with respect to integrated projects. As used in this paragraph, the term "integrated projects" means any project in which not less than 10 per centum nor more than 50 per centum of the dwelling units are planned for occupancy by elderly or handicapped families.

(3) Not less than 10 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after June 30, 1974, shall be available for use only with respect to dwellings, or dwelling units in projects, which are approved by the Secretary prior to rehabilitation.

(i)(1) The Secretary is authorized to insure a mortgage (which meets the requirements of section 501, except as such requirements are modified by this section) upon a multifamily housing project to be occupied primarily by those who are lower income tenants at the time of initial occupancy.

(2) If the mortgage is executed by a mortgagor which is a cooperative, a private nonprofit corporation or association, a builder-seller, or a local public agency, as defined by the Secretary, the principal obligation of the mortgage shall not exceed—

(A) in the case of new construction, the Secretary's estimate of the replacement cost of the property or project when the proposed improvements are completed; or

(B) in the case of rehabilitation, the Secretary's estimate of the appraised value of the property after rehabilitation, taking into account a community program of neighborhood preservation or rehabilitation.

(3) If the mortgage is executed by a limited distribution corporation or other limited distribution entity, as defined by the Secretary, or by an investor-sponsor who agrees to sell the project to a cooperative, and who meets such requirements as the Secretary may prescribe to assure that the consumer interest is protected, the amount of the mortgage shall not exceed 90 per centum of the amount otherwise authorized under this section.

(4) In the case of a project financed with a mortgage insured under this subsection or under section 221(d)(3) of the National Housing Act bearing interest at the below-market interest rate prescribed in the proviso of section 221(d)(5) of the National Housing Act or under section 236 of such Act, which involves a mortgagor other than a cooperative or a private nonprofit corporation or association, and which is sold to a cooperative or a nonprofit corporation or association, the Secretary is further authorized to insure under this subsection a mortgage given by such purchaser in an amount not exceeding the appraised value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis, after payment of all operating expenses, taxes, and required reserves.

(j) As used in this section—

(1) The term "tenant" includes a member of a cooperative and the terms "rental" and "rental charge" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative.

(2) The term "lower income tenants"

means those tenants whose incomes do not exceed 90 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 90 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually higher or low family incomes, or other factors.

(3) The term "elderly families" means families which consist of two or more persons the head of which (or his spouse) is sixty-two years of age or over or is handicapped. Such term also means a single person who is sixty-two years of age or over or is handicapped. A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (A) is expected to be of long continued and indefinite duration, (B) substantially impedes his ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions.

(k) In determining the income of any family for the purpose of this section, there shall be deducted an amount equal to $300 for each minor person who is a member of the immediate family and living with such family, and the earnings of any such minor person shall not be included for the purpose of such determination.

(l) The Secretary is authorized to enter into agreements with any State or agency thereof under which such State or agency thereof contracts to make assistance payments, subject to the terms and conditions specified in this section and in rules, regulations, and procedures adopted by the Secretary under this section, with respect to a project which has been approved by the Secretary prior to the beginning of construction or rehabilitation. Any funds provided by a State or agency thereof for the purpose of making assistance payments shall be administered, disbursed, and accounted for by the Secretary in accordance with the agreements entered into by the Secretary with the State or agency thereof and for such fees as shall be specified therein. Before entering into any agreements pursuant to this subsection the Secretary shall require assurances satisfactory to him that the State or agency thereof is able to provide sufficient funds for the making of assistance payments for the full period specified in the assistance payment contract, and the Secretary shall undertake no obligation to make such assistance payments as surety, guarantor, or in any other similar capacity.

(m) The Secretary is authorized to enter into contracts with State or local agencies approved by him to provide for the monitoring and supervision by such agencies of the management by private sponsors of projects assisted under this section. Such contracts shall require that such agencies promptly report to the Secretary any inefficiencies in the management of such projects in order to enable the Secretary to take corrective action at the earliest practicable time.

MORTGAGE INSURANCE FOR HEALTH FACILITIES

SEC. 503. (a) For the purposes of this section—

(1) The term "hospital" means a proprietary facility, or facility of a private nonprofit corporation or association, which provides community service for inpatient medical care of the sick or injured (including obstetrical care).

(2) The term "nursing home" means a proprietary facility, or facility of a private nonprofit corporation or association, for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care but who require skilled nursing care and related medical services, in which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to provide such care or services in accordance with the laws of the State where the facility is located.

(3) The term "intermediate care facility" means a proprietary facility, or facility of a private nonprofit corporation or association, for the accommodation of persons who require minimum but continuous care but are not in need of continuous medical or nursing services.

(4) The term "group practice facility" means a facility of a private nonprofit corporation or association, for the provision of preventive, diagnostic, and treatment services to ambulatory patients in which patient care is under the professional supervision of persons licensed to practice medicine in the State or, in the case of optometric care or treatment, is under the professional supervision of persons licensed to practice optometry in the State or, in the case of dental diagnosis or treatment, is under the professional supervision of persons licensed to practice dentistry in the State or, in the case of podiatric care or treatment, is under the professional supervision of persons licensed to practice podiatry in the State.

(5) The term "medical practice facility" means an adequately equipped facility in which one or more (not to exceed four) persons licensed to practice medicine in the State where the facility is located can provide, as may be appropriate, preventive, diagnostic, and treatment services, and which is situated in a rural area or small town, or in a low-income section of an urban area, in which there exists, as determined by the Secretary, a critical shortage of physicians. As used in this paragraph, the term "small town" means any town, village, or city having a population of not more than 10,000 inhabitants according to the most recent available data compiled by the Bureau of the Census; and the term "low-income section of an urban area" means a section of a larger urban area in which the median family income is substantially lower, as determined by the Secretary, than the median family income for the area as a whole.

(6) The term "replacement cost" means the Secretary's estimate of the value of the land, the cost of the proposed physical improvements, major equipment to be installed and used in the operation of the health facility, utilities within the boundaries of the property, architect's and builder's fees, taxes and interest during construction, and other miscellaneous charges incident to construction and the initial operation of the project which are approved by the Secretary.

(b)(1) The Secretary is authorized to insure a mortgage (including advances) which covers a new or rehabilitated project designed for use as a hospital, nursing home, intermediate care facility, group practice facility, or medical practice facility (or any combination of the foregoing). The mortgage shall be executed by a mortgagor approved by the Secretary. The Secretary may require any such mortgagor to be regulated or restricted as to charges and methods of financing, and in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return.

(2) The mortgage shall involve a principal obligation in an amount not to exceed in the case of new construction, 90 per centum of the estimated replacement cost of the property or project when the proposd improvements are completed and the equipment installed; or, in the case of rehabilitation, 90 per centum of the sum of the estimated cost of rehabilitation (including the cost of any equipment to be installed or rehabilitated) and the Secretary's estimate of the value of the property before rehabilitation.

(3) The mortgage shall provide for complete amortization by periodic payments within such term as the Secretary shall prescribe

(c) The Secretary shall not insure a mortgage under this section unless—

(1) with respect to a hospital, the hospital shall be planned and operated so that not more than 50 per centum of the total patient days during any year shall customarily be assigned to the categories of chronic convalescent and rest, drug and alcoholic, epileptic, mentally deficient, mental, nervous and mental, and tuberculosis; and

(2) with respect to a health facility other than a group practice facility, the Secretary shall have received from the State agency designated in accordance with section 604(a)(1) of the Public Health Service Act for the State in which the facility would be located (A) a certification that there is a need for such facility, and there are in force in such State or the political subdivision of the State in which the facility would be located reasonable minimum standards governing the licensing and for methods of operation of that type of facility and (B) such assurance as he may deem satisfactory from the State agency that such standards will be applied and enforced with respect to any facility located in the State for which mortgage insurance is provided under this section.

(d) The Secretary shall prescribe such regulations as may be necessary to carry out this section, after consulting with the Secretary of Health, Education, and Welfare with respect to any health or medical aspects of the program under this section which may be involved in such regulations.

(e) The activities and functions provided for in this section with respect to the insurance of mortgages covering hospitals shall be carried out by the agencies involved so as to encourage programs that undertake responsibility to provide comprehensive health care, including outpatient and preventive care, as well as hospitalization, to a defined population.

INSURANCE OF SUPPLEMENTAL PROJECT LOANS

SEC. 504. (a) The Secretary is authorized to insure a supplemental project loan (including advances) with respect to a multifamily project or health facility covered by a mortgage insured under this title or under the National Housing Act, or covered by a mortgage held by the Secretary, or with respect to a cooperative housing project purchased from the Federal Government by a nonprofit corporation or trust if the property is covered by an uninsured mortgage representing a part of the purchase price, or with respect to a project or facility which is not covered by an insured mortgage as provided in subsection (e). A supplemental loan may be made—

(1) to cover operating losses, where the Secretary determines that the taxes, interest on the original mortgage debt covering the project, mortgage insurance premiums, and the expense of maintenance and operation of the project during the first two years following completion of the project exceed the income of such project;

(2) to finance repairs, improvements, or additions to such project; and

(3) to finance purchases and resales of cooperative memberships, but such loan shall be made on the condition on and agreement of the mortgagor of the cooperative housing project that on resales of membership, the downpayments by the new members shall not be proportionately less than those on the original sales of such memberships.

(b) A loan covering operating losses shall—

(1) be limited to a term not exceeding the

unexpired term of the original mortgage; and

(2) be in an amount not exceeding the operating loss, as determined by the Secretary.

(c) A loan financing repairs, improvements, or additions shall—

(1) where the project is covered by an insured mortgage, be in an amount which when added to the outstanding balance of the mortgage covering the project, does not exceed the maximum mortgage amount authorized by this Act for the type of project involved; and

(2) have a maturity satisfactory to the Secretary but not exceed the remaining term of the mortgage, except that in the case of a cooperative housing project covered by an uninsured mortgage the loan may, in the discretion of the Secretary, have a maturity date up to ten years in excess of the remaining term of the uninsured mortgage.

(d) A loan to a cooperative to finance the purchase and resale of memberships shall—

(1) be limited to an amount which when added to the outstanding balance of the mortgage covering the project does not exceed the maximum mortgage amount authorized by this Act for the type of project involved; and

(2) have a maturity satisfactory to the Secretary, but not exceed the remaining term of the mortgage.

(e) The Secretary may insure under this section a loan for repairs, improvements, or additions to a multifamily housing project, or a health facility, which is not covered by a mortgage insured under this Act or National Housing Act, if he finds that such a loan would assist in preserving, expanding, or improving housing opportunities, or in providing protection against fire or other hazards. Such loans shall have a maturity satisfactory to the Secretary and shall meet such other conditions as the Secretary may prescribe. In no event shall such a loan be insured if it is for an amount in excess of the maximum amount which could be approved under this subsection if the outstanding indebtedness, if any, covering the property were a mortgage insured under this Act or the National Housing Act.

(f) (1) The Secretary is authorized to insure a supplemental improvement loan (including advances) with respect to any multifamily project which is receiving assistance under section 502 and in which all or substantially all of the dwelling units are occupied by elderly families to finance such additions to or improvements of such project as may be necessary or appropriate to expand the nondwelling or common facilities of the project to enable elderly families which, while not residing in the project, are so situated in relation to its location as to be able to derive substantial benefits from such facilities. The Secretary shall by regulation establish criteria and standards in accordance with which it can be determined for any multifamily project eligible for assistance under this subsection the area (hereinafter referred to as the "outreach area") which can reasonably be served by the expansion of the nondwelling or common facilities of the project.

(2) For any project with respect to which a loan is insured pursuant to this subsection, the Secretary shall determine a subsidy factor for the project. In determining such factor the Secretary shall consider the cost of providing the expanded facilities and the charges which can fairly and equitably be assessed for the use thereof having regard to the incomes of the families in the outreach area which can be expected to use such facilities.

(3) The Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of the owner of any project assisted under this subsection. Such payments shall be made under such rules and regulations as the Secretary shall prescribe and shall be based on the subsidy factor established for the project under paragraph (2). The aggregate amount of contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $10,000,000 per annum prior to July 1, 1975, which amount shall be increased by $10,000,000 on July 1, 1975.

(4) Elderly families residing in the outreach area of a project who utilize additional facilities provided in connection with such project shall pay reasonable charges for the use thereof. Such charges shall be fixed with a view to assuring that the income derived therefrom will be sufficient, when added to the assistance payments made pursuant to paragraph (3), to pay interest, principal, and related charges accruing on the loan to provide such facilities.

(5) As used in this subsection, the term "elderly families" has the same meaning as in section 502(j) (3).

MORTGAGE INSURANCE FOR LAND DEVELOPMENT

SEC. 505. (a) For the purposes of this section—

(1) The term "land development" means the process of making, installing, or constructing improvements.

(2) The term "improvements" means waterlines and water supply installations, sewerlines and sewage disposal installations, steam, gas, and electric lines and installations, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or work, whether on or off the site, which the Secretary deems necessary or desirable to prepare land primarily for residential and related uses or to provide facilities for public or common use. Related uses may include industrial and commercial uses, with sites for such uses to be in proper proportion to the size and scope of the development. The term "improvements" shall not include any building unless it is (i) a building which is needed in connection with a water supply or sewage disposal installation or a steam, gas, or electric line or installation, or (ii) a building, other than a school, which is to be owned and maintained jointly by the property owners.

(b) The Secretary is authorized to insure a mortgage (including advances) which shall—

(1) cover the land to be developed and the improvements to be made, except facilities intended for public use and in public ownership;

(2) be executed by a mortgagor, other than a public body, approved by the Secretary;

(3) contain repayment provisions satisfactory to the Secretary within such term as the Secretary shall prescribe; and

(4) contain such terms and provisions with respect to protection of the security, payment of taxes, delinquency charges, prepayment, additional and secondary liens, and other matters as the Secretary may in his discretion prescribe.

(c) The principal obligation of the mortgage shall not exceed the sum of 80 per centum of the Secretary's estimate of the value of the land before development and 90 per centum of his estimate of the cost of such development.

(d) The land development shall involve improvements that comply with all applicable State and local governmental requirements and with minimum standards approved by the Secretary and shall be undertaken—

(1) pursuant to a schedule, conforming to such requirements and procedures as the Secretary may prescribe, that will assure the use of the land for the purposes for which it is to be developed within the shortest reasonable period consistent with the objectives of sound and economic community growth or urban development; and

(2) in accordance with an overall development plan which (i) has received all governmental approvals required by State or local law or by the Secretary, (ii) is acceptable to the Secretary as providing reasonable assurance that the land development will contribute to good living conditions in the area being developed, and (iii) is consistent with a comprehensive plan which covers, or with comprehensive planning being carried on for, the area in which the land is situated, and which meets criteria established by the Secretary for such plans or planning.

(e) The Secretary shall adopt such requirements as he deems necessary in connection with the land development to encourage the maintenance of a diversified local homebuilding industry, broad participation by builders, including small builders, and the inclusion of a proper balance of housing for families of moderate or low income.

(f) After development of the land, it shall be served by public or private systems for water and sewerage which are consistent with other existing or prospective systems within the area and which are approved by the Secretary.

(g) The Secretary may consent to the release or subordination of a part or parts of the mortgaged property from the lien of the mortgage.

(h) The Secretary shall adopt such requirements as he determines to be necessary to assure, at reasonable intervals of time during land development, that the amount of the mortgage loan outstanding at each such interval does not exceed with respect to that portion of the land remaining under the lien of the mortgage (1) 80 per centum of the Secretary's estimate of the value of such remaining land before development, plus (2) 90 per centum of the actual costs of the development allocated by the Secretary to such remaining land. As used in this section, the term "actual costs" means the costs (exclusive of rebates or discounts) to the mortgagor of the improvements involved. These costs include amounts paid for labor, materials, construction contracts, land planning, engineers' and architect's fees, surveys, taxes, and interest during development, organizational, and legal expenses, such allocation of general overhead expenses as are acceptable to the Secretary, and other items of expense incidental to development which may be approved by the Secretary. If the Secretary determines there is an identity of interest between the mortgagor and the contractor, there may be included an allowance for the contractor's profit in an amount deemed reasonable by the Secretary.

COST CERTIFICATION

SEC. 506. (a) The Secretary shall adopt such requirements as he determines necessary to assure that the amount of any mortgage, loan, or mortgage bond finally endorsed for insurance or for a guarantee under this Act which involves multifamily housing or a health facility does not exceed the approved percentage of (1) the Secretary's approved actual cost of such construction or rehabilitation, and (2) the amount of the allowances for the following:

(A) The Secretary's estimate of the value of the land or property prior to the beginning of construction; or in case the land included in the property or project is held by the mortgagor under leasehold or other interest less than a fee, such amount as the mortgagor paid for the acquisition of such leasehold or other interest but in no event in excess of the Secretary's estimate of the fair market value of such leasehold or other interest exclusive of the proposed improvements; or in the case of rehabilitation where the land and improvements are to be acquired by the mortgagor and the purchase price thereof is to be financed with part of the proceeds of the mortgage, the purchase price of such land and improvements prior to such repair or rehabilitation; or in case the land and improvements are owned by the mortgagor subject to an outstanding indebtedness to be refinanced with part of the proceeds of the mortgage, the amount of such outstanding indebtedness secured by such land and improvements.

(B) An amount for profit and risk as prescribed pursuant to section 501(a)(2), and an amount representing such allocation of general overhead items as are determined by the Secretary to be acceptable and reasonable (except where the amount of profit and risk and general overhead is included in a construction contract with a lump-sum price).

Where a factory manufactured house or major housing components are furnished by a subcontractor or supplier having an identity of interest with the mortgagor or builder, an amount representing the Secretary's estimate of the market value of such factory manufactured house or major housing components shall be included for purposes of clause (1) of this subsection in lieu of the actual cost of such factory manufactured house or major components.

(b) The Secretary shall require that the mortgagor certify as to the actual cost to the mortgagor of construction rehabilitation, and may require such additional certifications of actual cost by such other parties as he may consider necessary to carry out the intent of this section. The Secretary may exempt from the requirements of this section mortgagors under a mortgage on a property or project designed principally for residential use for twelve or fewer families or where the mortgage amount to be insured or guaranteed is less than $500,000. Certifications required pursuant to this section shall be accompanied by such data and records as the Secretary shall prescribe. Upon approval by the Secretary, the certification required by this section shall be final and incontestable, except for fraud or material misrepresentation on the part of the mortgagor.

(c) As used in this section—

(1) The term "approved percentage" means the percentage figure which, under applicable provisions of this Act, the Secretary is authorized to apply to his estimate of value, cost, or replacement cost, as the case may be, of the property or project to determine the maximum insurable or guaranteeable mortgage amount.

(2) The term "actual cost" means the costs (exclusive of rebates or discounts) to the mortgagor of the improvements involved. These costs may include amounts paid for labor, materials, construction contracts, engineer's and architects' fees, offsite public utilities, streets, organizational and legal expenses, taxes and interest during construction, and other items of expense approved by the Secretary.

LABOR STANDARDS

SEC. 507. (a) The Secretary shall not insure any mortgage or loan under this title, except a mortgage or loan covering multifamily housing designed for use by less than twelve families (or if rehabilitation is involved, for use by less than nine families), unless the principal contractor provides adequate assurances to the Secretary that all laborers and mechanics employed by contractors or subcontractors in the construction of the project or facility have been paid wages at not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5) prior to the beginning of construction and after the date of filing of the application for insurance. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267), and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(b) The Secretary may waive compliance with this section in any case where prospective owners of the dwellings involved, or other persons, voluntarily donate their services without compensation or where laborers or mechanics, not otherwise employed at any time on the project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction or rehabilitation, and the Secretary determines that any amounts thereby saved are fully credited to the mortgagor undertaking the construction or rehabilitation.

TITLE VI—GUARANTEE OF STATE HOUSING BONDS

GUARANTEE OF STATE HOUSING BONDS

SEC. 601. (a) The Secretary is authorized to guarantee, and to enter into commitments to guarantee, all or any portion of the payment of principal, interest, and premium, if any, to the holders of any bonds which are issued by or on behalf of State housing finance agencies approved by the Secretary pursuant to subsection (d) the purpose of which bond is to finance the acquisition of land and the construction or rehabilitation thereon by private and nonprofit developers, unless the Secretary determines that such developers are not available, of housing (including related facilities) for occupancy by low-, moderate-, and middle-income persons and families in accordance with applicable eligibility requirements of State law. The Secretary may make such guarantees and enter into such commitments upon such terms and conditions as he deems necessary for purposes of subsection (c), except that no bond shall be guaranteed under this section unless the interest income thereon is subject to Federal taxation as provided in subsection (b), and except that use of guarantees provided for in this subsection shall not be made a condition to nor preclude receipt of any other Federal assistance.

(b) The Secretary is authorized to make, and to contract to make, grants to or on behalf of the issuing State housing finance agency to cover not to exceed 33⅓ per centum of the interest payable on bonds guaranteed under subsection (a). There are authorized to be appropriated such sums as may be necessary to make payments as provided for in contracts entered into by the Secretary under this subsection. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts; and the aggregate amount of payments committed to be made pursuant to contracts entered into under to this subsection shall not exceed $50,000,000 per annum prior to July 1, 1975, which maximum dollar amount shall be increased $60,000,000 on July 1, 1975.

(c)(1) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal interest, and premium. And such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the bonds for such guarantee and the validity of any guarantee so made shall be incontestable in the hand of a holder of the guaranteed bond.

(2) The Secretary shall take such steps as he considers reasonable to assure that bonds guaranteed under this section will—

(A) be issued to investors approved by, or meeting requirements prescribed by, the Secretary, or, if offering to the public health is contemplated, be underwritten upon terms and conditions approved by, or conforming with requirements prescribed by, the Secretary;

(B) contain or be subject to repayment, maturity, and other provisions satisfactory to, or conforming with requirements prescribed by, the Secretary; and

(C) contain or be subject to provisions with respect to the protection of the security interests of the United States, including any provisions deemed appropriate by, or conforming with requirements prescribed by, the Secretary relating to subrogation, liens and releases of liens, payment of taxes, escrow or trusteeship requirements, or other matters.

(3) The Secretary is authorized to establish and collect fees for guarantees under this section, and may make such charges in connection with guarantees as he considers reasonable for the analysis of applications, appraisals, inspections, and other activities related to such assistance.

(4) The Secretary is authorized to utilize the General Insurance Fund to provide for the timely payment of any liabilities incurred pursuant to any guarantee made under this section and for the payment of any related administrative or nonadministrative expenses. Such fund shall be credited with (A) fees collected under paragraph (3), (B) recoveries under security, subrogation, and other rights, and (C) receipts from any other source in connection with guarantees made under this section.

(d) A State housing finance agency shall be approved for guarantees and grants under this section if such agency—

(1) operates in a State in which the Secretary has determined that the existing supply of housing in one or more market areas within such State is inadequate and the costs of development discourage the necessary housing construction by the private market;

(2) has formulated and is implementing a State housing program which takes into account the housing needs of all persons, particularly those of low and moderate incomes and those displaced by governmental action;

(3) has established priorities in providing housing assistance consistent with State, areawide, and local programs of community development, including programs of slum clearance, urban renewal, social and public services, transportation, and environmental protection;

(4) in providing housing assistance, seeks to avoid undue concentration of low-income families and to promote equal opportunities in housing;

(5) operates in a State in which public and private resources will be available to supplement its activities; and

(6) has the capability to carry out its program and to utilize effectively the proceeds of bonds guaranteed under this section.

(e) If the Secretary finds that any such agency has failed to comply substantially with the requirements of such subsection, the Secretary, until he is satisfied that there is no longer any such failure to comply, shall enter into no new guarantees, or commitments to guarantee, or contracts for grants under subsection (b).

(f) The Secretary shall conduct an annual audit and review of the activities of each State housing finance agency approved under subsection (d).

(g) (1) The first paragraph of section 24 of the Federal Reserve Act is amended by inserting the following before the period at the end of the fourth sentence thereof: "or under section 601 of the Revised National Housing Act".

(2) The twelfth paragraph of section 5(c) of the Homeowners' Loan Act of 1933 is amended by adding in the last sentence immediately after the words "or under part B of the Urban Growth and New Community Development Act of 1070" the following: "or under section 601 of the Revised National Housing Act".

(h) With respect to any bond issued by a State housing finance agency for which the issuer has elected to receive the benefit of a guarantee under this section, the interest paid on such bond and received by the purchaser (or his successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Act of 1954.

TITLE VII—INSURANCE CLAIMS

HOME MORTGAGE INSURANCE CLAIM SETTLEMENT

SEC. 701. (a) To be entitled to receive the benefits of the insurance, where there has been a default in mortgage payments by the mortgagee holding a home mortgage insured under one of the sections of title IV shall either foreclose the mortgage and take possession of the property within a period of time prescribed by the Secretary and in accordance with regulations issued by the Secretary or (with the consent of the Secretary) otherwise acquire title and possession of such property. Upon acquisition of the property, the mortgagee shall (1) promptly convey to the Secretary title to the property which meets the requirements of rules and regulations of the Secretary in force at the time the mortgage was insured, and which is evidenced in the manner prescribed by such rules and regulations, and (2) assign to him all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction or foreclosure proceedings, except such claims as may have been released with the consent of the Secretary. In lieu of obtaining title and conveying title to the Secretary, the mortgagee may (with the approval of the Secretary) tender title and transfer possession directly from the mortgagor or other appropriate grantor. The Secretary shall pay the mortgagee's insurance claim in an amount equal to the value of the mortgage.

(b) For the purposes of this section, the value of the mortgage shall be determined (in acocrdance with rules and regulations prescribed by the Secretary) by adding to and deducting from the original principal obligation of the mortgage which was unpaid on the date of the institution of foreclosure proceedings, or on the date of the acquisition of the property after default other than by foreclosure, certain items specified in subsections (c) through (e).

(c) There shall be added to such unpaid principal all payments which have been made by the mortgagee for—

(1) taxes, ground rents, and water rates, which are liens prior to the mortgage;

(2) special assessments which are noted on the application for commitment or which become liens after the insurance of the mortgage;

(3) charges for the administration, operation, maintenance, and repair of community-owned property or the maintenance and repair of the mortgaged property, the obligation for which arises out of a covenant filed for record and approved by the Secretary prior to the insurance of the mortgage;

(4) insurance on the property;

(5) mortgage insurance premium;

(6) foreclosure, acquisition, and conveyance costs to the extent allowed by the Secretary, including payments made by the mortgagee for the cost of acquiring the property and conveying and evidencing title to the property to the Secretary;

(7) the protection, operation, or preservation of the property (and the Secretary has approved such payments); and

(8) any taxes imposed upon any deed or any instrument by which the property was acquired by the mortgagee and transferred or conveyed to the Secretary.

(d) There shall be deducted from such unpaid principal any amounts received by the mortgagee, after the institution of foreclosure (or after the acquisition of the property by means other than foreclosure) which—

(1) were paid on account of the mortgage; or

(2) were collected as rental or other income from the property, less reasonable expenses incurred in handling the property.

(e) With respect to mortgages to which the provisions of sections 302 and 306 of the Soldiers' and Sailors' Civil Relief Act of 1940 apply, there shall be included in the insurance settlement an amount which the Secretary finds to be sufficient to compensate the mortgagee for any loss which it may have sustained on account of interest on debentures by reason of its having postponed the institution of foreclosure proceedings or the acquisition of the property by other means during any part or all of the period of military service and three months thereafter.

(f) Insurance claims shall be paid by the Secretary, in his discretion, with cash or debentures or by a combination of cash and debentures.

(g) Where the claim is paid in cash, it shall be in an amount equivalent to the face value of the debentures that would otherwise be issued plus an amount equivalent to the interest which the debentures would have earned, computed to the date to be established pursuant to regulations issued by the Secretary.

FOREBEARANCE OF PAYMENTS

SEC. 702. With respect to a home mortgage, if the Secretary finds, after notice of default, that the default was due to circumstances beyond the control of the mortgagor, he may—

(1) approve the request of the mortgagee for an extension of the time for the curing of the default and of the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property to such time as the Secretary may determine is necessary and desirable to enable the mortgagor to complete the mortgage payments. Such extension of time may be beyond the stated maturity of the mortgage. Where there has been an extension of time and there is a subsequent foreclosure (or acquisition of the property by other means), the Secretary is authorized to include in the insurance settlement an amount equal to any unpaid mortgage interest; or

(2) approve a modification of the terms of the mortgage for the purpose of changing the amortization provisions by recasting, over the remaining term of the mortgage or over such longer period as may be approved by the Secretary, the total unpaid amount then due, as determined by the Secretary. Such modification may become effective currently or become effective upon the termination of an agreed-upon extension of the period for curing the default. The principal amount of the mortgage, as modified, shall be considered to be the "original principal obligation of the mortgage" as that term is used in section 701 for the purpose of computing the total face value of the debentures to be issued or the cash payment to be made by the Secretary to a mortgagee.

ACQUISITION OF HOME MORTGAGES TO AVOID FORECLOSURE

SEC. 703. (a) Upon receiving notice of the default of a home mortgage, the Secretary (in his discretion and for the purpose of avoiding foreclosure of the mortgage) may consent to or require the assignment of the defaulted mortgage. Where such an assignment occurs, the mortgagee shall be entitled to receive (in lieu of the insurance benefits prescribed in section 701) an insurance payment in an amount equal to the unpaid principal balance of the mortgage plus—

(1) any unpaid mortgage interest;

(2) reimbursement for such costs and attorney's fees as the Secretary finds were properly incurred in connection with the defaulted mortgage and its assignment to the Secretary; and

(3) any proper advances of funds made by the mortgagee under the provisions of the mortgage.

After acquisition of the mortgage by the Secretary, the mortgagee shall have no further rights, liabilities, or obligations with respect to the mortgage. Where the Secretary has acquired a mortgage, he may, to the extent he deems appropriate, extend the time for the curing of default and for commencing foreclosure proceedings or modify the terms of the mortgage to recast the unpaid amount over the remaining terms of the mortgage or such longer period as he may approve.

PROJECT MORTGAGE INSURANCE CLAIM SETTLEMENT

SEC. 704. (a) The failure of the mortgagor to make any payment due under or provided to be paid by the terms of a project mortgage or loan insured under any section of title V shall be considered a default under such mortgage and, if such default continues for a period of thirty days, the mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided upon assignment, transfer, and delivery to the Secretary within a period and in accordance with rules and regulations to be prescribed by the Secretary of—

(1) all rights and interests arising under the mortgage so in default;

(2) all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction;

(3) all policies of title or other insurance or surety bonds or other guaranties and any and all claims thereunder;

(4) any balance of the mortgage loan not advanced to or for the account of the mortgagor;

(5) any cash or property held by the mortgagee, or to which it is entitled, as deposits made for the account of the mortgagor and which have not been applied in reduction of the principal of the mortgage indebtedness; and

(6) all records, documents, books, papers, and accounts relating to the mortgage transaction.

(b) Insurance claims shall be settled by the Secretary (1) by a payment to the mortgagee which, at the option of the Secretary, shall be in cash or debentures or a combination of cash and debentures having a total face value equal to the value of the mortgage and (2) by the issuance to the mortgagee of a certificate of claim as provided in subsection (e). Where the claim is paid in cash, it shall be in an amount equivalent to the face value of the debentures that would otherwise be issued plus an amount equivalent to the interest which the debenture would have earned, computed to a date to be established pursuant to regulations issued by the Secretary. For the purposes of this section, the value of the mortgage shall be determined by adding and deducting the items specified herein from the original principal face amount of the mortgage as follows:

(A) Items to be deducted from the original principal face amount of the mortgage shall be the sum of—

(i) that part of the original principal obligation that has been repaid;

(ii) 1 per centum of the unpaid balance of the original principal obligation, except that the Secretary may waive all or a part of the 1 per centum deduction, where the assignment is made at his request in lieu of foreclosure of the mortgage;

(iii) net income received by the mortgagee from the property; and

(iv) any balance of the mortgage loan not advanced to or for the account of the mortgagor and which is not delivered to the Secretary.

(B) Items to be added to the original principal face amount of the mortgage shall be the sum of such amounts as the mortgagee may have paid for—

(i) taxes, special assessments, and water rates, which are liens prior to the mortgage;

(ii) insurance on the property;

(iii) reasonable expenses for the completion and preservation of the property; and

(iv) mortgage insurance premium.

(c) At the option of the mortgagee, in the event of a default under the mortgage, and in a period to be established by regulations of the Secretary, the mortgagee may foreclose on and obtain possession of or otherwise acquire the mortgaged property and convey title to the property to the Secretary. The mortgagee shall also assign to him all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction or foreclosure proceeding, except such claims that may have been released with the consent of the Secretary. Upon such conveyance and assignment, the mortgagee shall be entitled to receive the benefits of the insurance as provided in subsection (b), except that the 1 per centum deduction, set out in subsection (b) (A) (ii), shall not apply.

(d) In lieu of the amount of insurance benefits computed pursuant to subsection (b), the Secretary, in his discretion, may (with respect to a mortgage loan acquired by him) compute and pay insurance benefits to the mortgagee in a total amount equal to the unpaid principal balance of the loan plus any accrued interest and any advances approved by the Secretary and made previously by the mortgagee under the provisions of the mortgage.

(e) The certificate of claim issued under this section shall be for an amount which the Secretary determines to be sufficient, when added to the face value of the debentures issued and the cash paid to the mortgagee, to equal the amount which the mortgagee would have received if, on the date of the assignment, transfer and delivery to the Secretary provided for in subsection (a), or conveyance as provided for in subsection (c), the mortgagor had extinguished the mortgage indebtedness by payment in full or all obligations under the mortgage and a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings (or the acquisition of the mortgaged property otherwise) and the conveyance thereof to the Secretary or incurred by the mortgagee in connection with the assignment of the mortgage to the Secretary. Each such certificate of claim shall provide that there shall accrue to the holder of such certificate with respect to the face amount of such certificate, an increment at the rate of 3 per centum per annum which shall not be compounded. If the net amount realized from the final liquidation of the mortgage, and all claims in connection therewith, so assigned, transferred, and delivered, and from the property covered by such mortgage and all claims in connection with such property and from any mortgage taken in the sale of such property (after deducting all expenses incurred by the Secretary in handling, dealing with, acquiring title to, and disposing of such mortgage and property and in collecting such claims) exceeds the face value of the debentures issued and the cash adjustment paid to the mortgagee plus all interest paid on such debentures, such excess shall be divided as follows:

(1) If such excess is greater than the total amount payable under the certificate of claim issued in connection with such property, the Secretary shall pay to the holder of such certificate the full amount so payable, and any excess remaining thereafter shall be retained by the Secretary and credited to the appropriate insurance fund.

(2) If such excess is equal to or less than the total amount payable under such certificate of claim, the Secretary shall pay to the holder of such certificate the full amount of such excess.

MODIFICATIONS IN TERMS OF PROJECT MORTGAGES

SEC. 705. (a) The Secretary shall not consent to any request for an extension of the time for curing a default under any insured project mortgage or project mortgage held by him or for a modification of the terms of such mortgage, except in conformity with regulations prescribed by the Secretary in accordance with the provisions of this section. Such regulations shall require, as a condition to the granting of any such request, that, during the period of such extension or modification, any part of the rents or other funds derived by the mortgagor from the property covered by the mortgage which is not required to meet actual and necessary expenses arising in connection with the operation of such property, including amortization charges under the mortgage, be held in trust by the mortgagor and distributed only with the consent of the Secretary; except that the Secretary may provide for the granting of consent to any request for an extension of the time for curing a default under any project mortgage or for a modification of the terms of such mortgage, without regard to the foregoing requirement, where an exemption from such requirement does not (as determined by the Secretary) jeopardize the interests of the United States.

(b) Whoever, as an owner of a property which is security for a mortgage described in subsection (a), or as a stockholder of a corporation owning such property, or as a beneficial owner under any business organization owning such property, or as an officer, director, or agent of any such owner, (1) willfully uses or authorizes the use of any part of the rents or other funds derived from property covered by such mortgage in violation of a regulation prescribed by the Secretary under subsection (a), or (2) if such mortgage is determined, as provided in subsection (a), to be exempt from the requirements of any such regulation or is not otherwise covered by such regulation, willfully uses or authorizes the use, while such mortgage is in default, of any part of the rents or other funds derived from the property covered by such mortgage for any purpose other than to meet actual and necessary expenses arising in connection with such property (including amortization charges under the mortgage), shall be fined not more than $5,000 or imprisoned not more than three years, or both.

SETTLEMENT OF INSURANCE CLAIMS WITH DEBENTURES

SEC. 706. (a) The debentures issued by the Secretary in settlement of insurance claims shall be in registered form and in denominations which are multiples of $50, shall be subject to such terms and conditions, and shall include such provisions for redemption, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury.

(b) The debentures shall be issued in the name of the applicable insurance fund carrying the insurance obligations with respect to the mortgage or loan. They shall be signed by the Secretary using either his written or engraved signature, and shall be negotiable.

(c) The debentures shall be dated as of the date of default or as of such later date as the Secretary, in his discretion, may establish by regulation.

(d) Debentures shall bear interest at the rate in effect on the date the commitment to insure the mortgage or loan was issued, or the date the mortgage or loan was endorsed for insurance, or (when there are two or more insurance endorsements) the date the mortgage or loan was initially endorsed for insurance, whichever rate is the highest.

(e) The interest rate to be used in debentures shall be established by the Secretary, from time to time, in an amount not in excess of an annual rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such debentures.

(f) The interest on debentures shall be payable semiannually on the 1st day of January and the 1st day of July of each year. They shall mature twenty years after the issuance date, except that debentures issued to pay claims under section 505 may, in the discretion of the Secretary, mature ten years after the issuance date.

(g) The principal and interest of the debentures shall be exempt from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by any territory, dependency, or possession of the United States, or local taxing authority.

(h) The debentures shall be reedeemed and paid out of the insurance fund under which they are issued and such fund shall be primarily liable for such payment. They shall be fully and unconditionally guaranteed as to principal and interest by the United States, and such guaranty shall be expressed on the face of the debentures. In the event payment of principal or interest due on any debenture is not made, upon demand, from the obligated insurance fund, the Secretary of the Treasury shall pay the holders the amount thereof. Such amount is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, and thereupon, to the extent of the amount so paid, the Secretary of the Treasury shall succeed all the rights of the holders of such debentures.

TITLE VIII—MISCELLANEOUS

HOLDING AND DISPOSING OF ACQUIRED PROPERTY

SEC. 801. (a) The Secretary shall have the power, under regulations to be prescribed by him and approved by the Secretary of the Treasury—

(1) to assign or sell at public or private sale, or otherwise dispose of, any evidence of debt, contract, claim, personal property, or security held by him pursuant to the provisions of this Act; and

(2) to collect or compromise all obligations assigned to or held by him and all legal or equitable rights accruing to him pursuant to the provisions of this Act until such time as such obligations may be referred to the Attorney General for suit or collection.

(b) The Secretary shall have the power to deal with, complete, rent, renovate, modernize, insure, or sell for cash or credit, in his discretion, any properties conveyed to him under the provisions of this Act. Section 3709 of the Revised Statutes shall not be construed to apply to any contact for hazard insurance, or to any purchase or contract for property if the amount thereof does not exceed $2,500.

(c) The power to convey and to execute in the name of the Secretary deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the Secretary pursuant to the provisions of this Act, may be exercised by an officer appointed by the Secretary, without the execution of any express delegation of power or power of attorney. The Secretary may delegate such power by order or by power of attorney, in his discretion, to any officer, agent, or employee he may appoint. A conveyance or transfer of title to real or personal property or an interest therein to the Secretary, his successors and assigns (without identifying the Secretary therein) shall be deemed a proper conveyance or transfer to the same extent and of like effect as if the Secretary were personally named in such conveyance or transfer.

(d) Nothing contained in this Act shall be construed to exempt any real property acquired and held by the Secretary under this Act from taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.

ACQUISITION AND DISPOSITION OF TITLE

SEC. 802. (a) The Secretary is authorized, with respect to any property covered by a mortgage held by him or security for a loan held by him, either (1) to acquire possession and title by voluntary conveyance in extinguishment of loan indebtedness, or (2) to institute proceedings for foreclosure and prosecute such proceedings to conclusion. The Secretary at any sale under foreclosure may, in his discretion for the protection of the appropriate insurance fund, bid any sum up to but not in excess of the total unpaid indebtedness secured by the mortgage or security, plus taxes, insurance, foreclosure costs, fees, and other expenses, and may become the purchaser of the property at such sale. Pending such acquisition by voluntary conveyance or by foreclosure, the Secretary is authorized, with respect to any mortgage or security assigned to him to exercise all the rights of a mortgagee or lender under such mortgage or security, including the right to sell such mortgage or security, and to take such action and advance such sums as may be necessary to preserve or protect the lien of such mortgage or security.

(b) In the case of the sale of a housing project by the Secretary to a cooperative which will operate it on a nonprofit basis and restrict permanent occupancy of its dwellings to members, the purchase money mortgage accepted by the Secretary may be in a principal amount equal to the sum of (1) the appraised value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis after payment of all operating expenses, taxes, and required reserves, and (2) the amount of prepaid expenses and costs involved in achieving cooperative ownership. Prior to such disposition of a project, funds may be expended by the Secretary for necessary repairs and improvements to make the housing suitable for cooperative ownership.

MORTGAGE INSURANCE FOR DISPOSED PROPERTY

SEC. 803. The Secretary is authorized to insure under any section of this Act any mortgage assigned to him in connection with payment under a contract of insurance which he subsequently sells or any mortgage executed in connection with the sale by him of any property acquired under any section of this Act or under any section or title of the National Housing Act. This authority may be exercised without regard to any limitations or requirements contained in this Act upon the eligibility of the mortgage for insurance, upon the payment of insurance premiums, or upon the terms and conditions of insurance settlement and the benefits of the insurance to be included in such settlement.

TRANSITION BETWEEN THE NATIONAL HOUSING ACT AND THE REVISED NATIONAL HOUSING ACT

SEC. 102. The provisions of this chapter shall be effective, in whole or in part, at such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than one year after the date of enactment of this Act, and the Secretary shall establish procedures for the orderly transfer of mortgage insurance operations from the authority of the National Housing Act to the authority of the Revised National Housing Act in order to assure continuity of efficient program activity and to provide adequate opportunity for necessary administrative and legislative revisions.

EXPERIMENTAL DUAL INTEREST RATE SYSTEM

SEC. 103. (a) Notwithstanding any maximum interest rate established by the Secretary of Housing and Urban Development pursuant to section 104 of the Revised National Housing Act, the Secretary is authorized, pursuant to commitments issued prior to July 1, 1977, to insure mortgages, under any provisions of such Act he deems appropriate, at whatever interest rate may be agreed upon by the mortgagor and mortgagee if the mortgagee establishes to the satisfaction of the Secretary that it has made no charges, either directly or indirectly, in the nature of discounts or points in connection with the mortgage transaction.

(b) The Secretary shall take appropriate steps to assure that prospective mortgagors have adequate information as to the alternative methods for establishing interest rates pursuant to this section and section 104 of the Revised National Housing Act.

CONFORMING AND TECHNICAL AMENDMENTS

SEC. 104. (a) Any reference in any Federal, State, or local law to the National Housing Act shall be construed to refer also to the Revised National Housing Act and any reference in such Federal, State, or local law to a particular provision of the National Housing Act shall be construed to refer also to the provision of the Revised National Housing Act which corresponds in purpose and function to such provision of the National Housing Act.

(b) Section 2(a) of the National Housing Act is amended by inserting "or under title III of the Revised National Housing Act" immediately after "under this section" in the second sentence of the first paragraph.

(c) Section 213(1) of the National Housing Act is amended by inserting "or under section 501 of the Revised National Housing Act where the mortgagor is a cooperative" immediately after "under this section" in the third sentence thereof.

CHAPTER II—LOW-INCOME HOUSING ASSISTANCE

AMENDMENT TO THE UNITED STATES HOUSING ACT OF 1937

SEC. 201. The United States Housing Act of 1937 is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'United States Housing Act of 1937'.

"DECLARATION OF POLICY

"SEC. 2. It is the policy of the United States to promote the general welfare of the Nation by employing its funds and credit, as provided in this Act, to assist the several States and their political subdivisions to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of low income and, consistent with the objectives of this Act, to vest in local public housing agencies the maximum amount of responsibility in the administration of their housing programs. No person should be barred from serving on the board of directors or similar governing body of a local public housing agency because of his tenancy in a low-income housing project.

"DEFINITIONS

"SEC. 3. When used in this Act—

"(1) The term 'low-income housing' means decent, safe, and sanitary dwellings within the financial reach of families of low income, and embraces all necessary appurtenances thereto. Except as otherwise provided in this section and section 8 of this Act, income limits for occupancy and rents shall be fixed by the public housing agency and approved by the Secretary. The rental for any dwelling unit shall not exceed one-fourth of the family's income as defined by the Secretary. At least 20 per centum of the dwelling units in any project placed under annual contributions contracts in any fiscal year after the effective date of this section (other than dwelling units subject to section 8) shall be occupied by very low-income families. In defining the income of any family for the purpose of this Act, the Secretary shall consider income from all sources of each member of the family residing in the household, except that there shall be excluded—

"(A) the income of any family member (other than the head of the household or his spouse) who is under eighteen years of age or is a full-time student;

"(B) the first $300 of the income of a secondary wage earner who is the spouse of the head of the household;

"(C) an amount equal to $300 for each member of the family residing in the household (other than the head of the household or his spouse) who is under eighteen years of age or who is eighteen years of age or older and is disabled or handicapped or a full-time student;

"(D) nonrecurring income, as determined by the Secretary;

"(E) 5 per centum of the family's gross income (10 per centum in the case of elderly families);

"(F) extraordinary medical or other expenses as the Secretary approves for exclusion; and

"(G) an amount equal to the sums received by the head of the household or his spouse from, or under the direction of, any public or private nonprofit child placing agency for the care and maintenance of one or more persons who are under eighteen years of age and were placed in the household by such agency.

Notwithstanding any other provision of Federal law or regulations thereunder, a public agency shall not reduce welfare assistance payments to any tenant or group of tenants in low-income housing as a result of any reduction in rent resulting from the application of the rent limitation set forth in this paragraph (1) and required by such limitation.

"(2) The term 'low-income families' means families of low income who cannot afford to pay enough to cause private enterprise in their locality or metropolitan area to build an adequate supply of decent, safe, and sanitary dwellings for their use. The term 'very low-income families' means families whose income do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families. The term 'families' includes families consisting of a single person in the case of a person who is at least fifty years of age and displaced persons and includes the remaining member of a tenant family. The term 'elderly families' means families whose heads (or their spouses), or whose sole members, are at least sixty-two years of age, or are under a disability as defined in section 223 of the Social Security Act, or are handicappd. A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. The term 'displaced families' means families displaced by governmental action, or families whose dwellings have been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

"(3) The term 'development' means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a low-income housing project. The term 'development cost' shall comprise the cost incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project. Construction activity in connection with a low-income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

"(4) The term 'operation' means any or all undertakings appropriate for management, operation, services, maintenance, security, or financing in connection with a low-income housing project. The term also means the financing of tenant programs and services for families residing in low-income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term 'tenant programs and services' includes the development and maintenance of tenant organizations which participate in the management of low-income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

"(5) The term 'acquisition cost' means the amount prudently required to be expended by a public housing agency in acquiring a low-income housing project.

"(6) The term 'public housing agency' means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing.

"(7) The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and Indian tribes, bands, groups, and Nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

"(8) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(9) The term 'low-income housing project' or 'project' mean (A) any low-income housing developed, acquired, or assisted by a public housing agency under this Act, and (B) the improvement of any such housing.

"LOANS FOR LOW-INCOME HOUSING PROJECTS

"SEC. 4. (a) The Secretary may make loans or commitments to make loans to public housing agencies to help finance or refinance the development, acquisition, or operation of low-income housing projects by such agencies. Any contract for such loans and any amendment to a contract for such loans shall provide that such loans shall bear interest at a rate specified by the Secretary which shall not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of 1 per centum. Such loans shall be secured in such manner and shall be repaid within such period not exceeding forty years or not exceeding forty years from the date of the bonds evidencing the loan, as the Secretary may determine. The Secretary may require loans or commitments to make loans under this section to be pledged as security for obligations issued by a public housing agency in connection with a low-income housing project.

"(b) The Secretary may issue and have outstanding at any one time notes and other obligations for purchase by the Secretary of the Treasury in an amount which will not, unless authorized by the President, exceed $1,500,000,000. For the purpose of determining obligations incurred to make loans pursuant to this Act against any limitation otherwise applicable with respect to such loans, the Secretary shall estimate the maximum amount to be loaned at any one time pursuant to loan agreements, then outstanding with public housing agencies. Such notes or other obligations shall be in such forms and denominations and shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The notes or other obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations of the Secretary issued hereunder and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"ANNUAL CONTRIBUTIONS FOR LOW-INCOME HOUSING PROJECTS

"SEC. 5. (a) The Secretary may make annual contributions to public housing agencies to assist in achieving and maintaining the low-income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the public housing agency to finance the development or acquisition cost of the low-income project involved. The amount of annual contributions which would be established for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established under this section for a project by such public housing agency which would provide housing for the comparable number, sizes, and kinds of families through the acquisition and rehabilitation, or use under lease of structures which are suitable for low-income housing use and obtained in the local market. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by a public housing agency to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed forty years.

"(b) The Secretary may prescribe regulations fixing the maximum contributions available under different circumstances, giving consideration to cost, location, size, rent-paying ability of prospective tenants, or other factors bearing upon the amounts and periods of assistance needed to achieve and maintain low rentals. Such regulations may provide for rates of contribution based upon development, acquisition, or operation costs, number of dwelling units, number of persons housed, interest charges, or other appropriate factors.

"(c) The Secretary is authorized to enter into contracts for annual contributions aggregating not more than $1,199,250,000 per annum, which limit shall be increased by $225,000,000 on July 1, 1971, by $150,000,000 on July 1, 1972, by $312,000,000 on July 1, 1973, by $795,000,000 on July 1, 1974, and by $720,000,000 on July 1, 1975. Of the aggregate amount of contracts for annual contributions authorized under this section to be entered into on or after July 1, 1974, not less than $15,000,000 per annum, which amount shall be increased by not less than $15,000,000 per annum on July 1, 1975, shall be available only for low-income housing for persons who are members of any Indian tribe, band, pueblo, group, or community of Indians or Alaska Natives which is recognized by the Federal Government as eligible for service from the Bureau of Indian Affairs, or who are wards of any State government, except that none of the funds made available under this sentence shall be available for housing in private accommodations under section 8. For the purpose of the preceding sentence, the initial annual contribution for a project shall, notwithstanding any other provision of this Act, be equal to the difference between the sum of the total debt service payment plus operating costs, and the rental payments that tenants are required to make under section 3(1) of this Act. At least 30 per centum of the dwelling units placed under annual contributions contracts in any fiscal year after the effective date of this section shall be units of low-income housing in private accommodations provided under setcion 8 of this Act. Of the aggregate amount of contracts for annual contributions authorized under this section to be entered into on or after July 1, 1974, the Secretary is authorized to enter into contracts for low-income housing in private accommodations aggregating not to exceed $440,000,000 per annum on and after July 1, 1974, which limit shall be increased by $440,000,000 on July 1, 1975. At least 20 per centum of the dwelling unit placed under annual contributions contracts in any fiscal year after the effective date of this section shall have at least three bedrooms, and the Secretary shall include in his annual report on the operations of the Department of Housing and Urban Development a statement of (1) the number of such units having three or more bedrooms which were placed under contracts during the year covered by the report, and (2) the ratio of such units to the total number of units placed under contracts during that year. Of the aggregate amount of contracts for annual contributions authorized in this subsection to be entered into on or after July 1, 1974, the Secretary is authorized to enter into contracts for annual contributions with respect to the modernization of low-income housing projects in an amount aggregating not more than $30,000,000 per annum on and after July 1, 1974, which limit shall be increased by $30,000,000 on July 1, 1975. The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into. The faith of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments. All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this Act when such payments are due, except that funds obtained through the issuance of obligations pursuant to section 4(b) (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions.

"(d) Any contract for loans or annual contributions, or both, entered into by the Secretary with a public housing agency, may cover one or more than one low-income housing project owned by said public housing agency; in the event such contract covers two or more projects, such projects may, for any of the purposes of this Act and of such contract (including, but not limit to, the determination of the amount of the loan, annual contributions, or payments in lieu of taxes, specified in such contract), be treated collectively as one project.

"(e) In recognition that there should be local determination of the need for low-income housing to meet needs not being adequately met by private enterprise—

"(1) the Secretary shall not make any contract with a public housing agency for preliminary loans (all of which shall be repaid out of any moneys which become available to such agency for the development of the projects involved) for surveys and planning in respect to any low-income housing projects (i) unless the governing body of the locality involved has by resolution approved the application of the public housing agency for such preliminary loan; and (ii) unless the public housing agency has demonstrated to the satisfaction of the Secretary that there is need for such low-income housing which is not being met by private enterprise;

"(2) each public housing agency shall be authorized to provide assistance payments to assist in the construction or substantial rehabilitation of housing for low-income families in housing areas with respect to which a public housing agency has demonstrated to the satisfaction of the Secretary (1) that there is not likely soon to be an adequate supply of decent, safe, and sanitary existing housing for low-income families of various household sizes, (2) that such construction or rehabilitation is necessary to expand housing opportunities for low-income citizens within reasonable proximity to places of employment, or (3) that such new construction is an essential component of a community development program: *Provided,* That the Secretary may also designate housing areas in which it is permissible to locate newly constructed or substantially rehabilitated housing for low-income families as authorized by this Act in such other circumstances as he deems necessary; and

"(3) the Secretary shall not make any contract for loans (other than preliminary loans) or for annual contributions pursuant to this Act unless the governing body of the locality involved has entered into an agreement with the public housing agency providing for the local cooperation required by the Secretary pursuant to this Act.

"(f) Subject to the specific limitations or standards in this Act governing the terms of sales, rentals, leases, loans, contracts for annual contributions, or other agreements, the Secretary may, whenever he deems it necessary or desirable in the fulfillment of the purposes of this Act, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of annual contribution, or any other term, of any contract or agreement of any kind to which the Secretary is a party. When the Secretary finds that it would promote economy or be in the financial interest of the Federal Government or is necessary to assure or maintain the low-income character of the project or projects involved, any contract heretofore or hereafter made for annual contributions, loans, or both, may be amended or superseded by a contract entered into by mutual agreement between the public housing agency and the Secretary. Contracts may not be amended or superseded in a manner which would impair the rights of the holders of any outstanding obligations of the public housing agency involved for which annual contributions have been pledged. Any rule of law contrary to this provision shall be deemed inapplicable.

"(g) In addition to the authority of the Secretary under subsection (a) to pledge annual contributions as security for obligations issued by a public housing agency, the Secretary is authorized to pledge annual contributions as a guarantee of payment by a public housing agency of all principal and interest on obligations issued by it to assist the development or acquisition of the project to which annual contributions relate, except that no obligation shall be guaranteed under this subsection if the income thereon is exempt from Federal taxation.

"(h) Notwithstanding any other provision of law, a public housing agency may sell a low-income housing project to its low-income tenants, on such terms and conditions as the agency may determine, without affecting the Secretary's commitment to pay annual contributions with respect to that project, but such contributions shall not exceed the maximum contributions authorized under subsection (a) of this section.

"CONTRACT PROVISIONS AND REQUIREMENTS

"SEC. 6. (a) The Secretary may include in any contract for loans, annual contributions, sale, lease, mortgage, or any other agreement or instrument made pursuant to this Act, such covenants, conditions, or provisions as he may deem necessary in order to insure the low-income character of the project involved. Any such contract may contain a condition requiring the maintenance of an open space or playground in connection with the housing project if deemed necessary by the Secretary for the safety or health of children. Any such contract shall require that, except in the case of housing predominantly for the elderly, high-rise elevator projects shall not be provided for families with children unless the Secretary makes a determination that there is no practical alternative.

"(b) Every contract made pursuant to this Act for loans (other than preliminary loans) and annual contributions shall provide that the cost of construction and equipment of the project (excluding land, demolition, and non-dwelling facilities) on which the computation of any annual contributions under this Act may be based shall not exceed by more than 10 per centum the appropriate prototype cost for the area. The prototype costs shall be determined at least annually by the Secretary on the basis of his estimate of the construction costs of new dwelling units of various types and sizes in the area suitable for occupancy by persons assisted under this Act. In making his determination the Secretary shall take into account (1) the extra durability required for safety and security and economical maintenance of such housing, (2) the provision of amenities designed to guarantee a safe and healthy family life and neighborhood environment, (3) the application of good design as an essential component of such housing for safety and security as well as other purposes, (4) the maintenance of quality in architecture to reflect the standards of the neighborhood and community, (5) the need for maximizing the conservation of energy for heating, lighting, and other purposes, (6) the effectiveness of existing cost limits in the area, and (7) the advice and recommendations of local housing producers. The prototype costs for any area shall become effective upon the date of publication in the Federal Register.

"(c) Every contract for annual contributions shall provide that—

"(1) the Secretary may require the public housing agency to review and revise its maximum income limits if the Secretary determines that changed conditions in the locality make such revision necessary in achieving the purposes of the Act;

"(2) the public housing agency shall determine, and so certify to the Secretary, that each family in the project was admitted in accordance with duly adopted regulations and approved income limits; and that the public housing agency shall review the incomes of families living in the project at intervals of two years (or at shorter intervals where the Secretary deems it desirable); and

"(3) the public housing agency shall promptly notify (i) any applicant determined to be ineligible for admission to the project of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination and (ii) any applicant determined to be eligible for admission to the project of the approximate date of occupancy insofar as such date can be reasonably determined.

"(d) Every contract for annual contributions with respect to a low-income housing project shall provide that no annual contributions by the Secretary shall be made available for such project unless such project (exclusive of any portion thereof which is not assisted by annual contributions under this Act) is exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivisions, and such contract shall require the public housing agency to make payments in lieu of taxes equal to 10 per centum of the sum of the annual shelter rents charged in such project, or such lesser amount as (i) is prescribed by State law, or (ii) is agreed to by the local governing body in its agreement for local cooperation with the public housing agency required under section 5(e)(2) of this Act, or (iii) is due to failure of a local public body or bodies other than the public housing agency to perform any obligation under such agreement. If any such project is not exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision, such contract shall provide, in lieu of the requirement for tax exemption and payments in lieu of taxes, that no annual contributions by the Secretary shall be made available for such project unless and until the State, city, county, or other political subdivision in which such project is situated shall contribute, in the form of cash or tax remission, the amount by which the taxes paid with respect to the project exceed 10 per centum of the annual shelter rents charged in such project.

"(e) Every contract for annual contributions shall provide that whenever in any year the receipts of a public housing agency in connection with a low-income project exceed its expenditures (including debt service, operation, maintenance, establishment of reserves, and other costs and charges), an amount equal to such excess shall be applied, or set aside for application, to purposes which, in the determination of the Secretary, will effect a reduction in the amount of subsequent annual contributions.

"(f) Every contract for annual contributions shall provide that when the public housing agency and the Secretary mutually agree that a housing project is obsolete as to physical condition, or location, or other factors, making it unusable for housing purposes, a program of modifications or close-out shall be prepared. If it is mutually determined that such a housing project can be returned to usual life, then the Secretary is authorized to utilize such annual contributions as are necessary to enable the local public housing agency to undertake an agreed-upon program of modifications. If it is mutually determined that no program of modification is feasible or that such a program would not return the housing to a useful life, then the Secretary is authorized to prepare a closeout program, utilizing such annual contributions as are necessary to accommodate the outstanding indebtedness on the project, the cost of demolition (if the physical improvements are not to be sold) and the cost of relocating displaced families into satisfactory replacement housing. The net close-out cost to the Federal Government shall take into consideration any receipts from the sale of physical improvements, land, or other assets, pursuant to the provisions of the annual contributions contract.

"(g) Every contract for annual contributions (including contracts which amend or supersede contracts previously made) may provide that—

"(1) upon the occurrence of a substantial default in respect to the covenants or conditions to which the public housing agency is subject (as such substantial default shall be defined in such contract), the public housing agency shall be obligated at the option of the Secretary, either to convey title in any case where, in the determination of the Secretary (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this Act, or to deliver possession to the Secretary of the project, as then constituted, to which such contract relates;

"(2) the Secretary shall be obligated to reconvey or to redeliver possession of the project, as constituted at the time of reconveyance or redelivery, to such public housing agency or to its successor (if such public housing agency or a successor exists) upon such terms as shall be prescribed in such contract and as soon as practicable: (i) after the Secretary shall be satisfied that all defaults with respect to the project have been cured, and that the project will, in order to fulfill the purposes of this Act, thereafter be operated in accordance with the terms of such contract; or (ii) after the termination of the obligation to make annual contributions available unless there are any obligations or covenants of the public housing agency to the Secretary which are then in default. Any prior conveyances and reconveyances, deliveries and redeliveries of possession shall not exhault the right to require a conveyance or delivery of possession of the project to the Secretary pursuant to subparagraph (1), upon the subsequent occurrence of a substantial default.

Whenever such contract for annual contributions shall include provisions which the Secretary in said contract determines are in accordance with this subsection, and the portion of annual contributions payable for debt service requirements, pursuant to such contract, have been pledged by the public housing agency as security for the payment of the principal and interest on any of its obligations, the Secretary (notwithstanding any other provisions of this Act) shall continue to make such annual contributions available for the project so long as any of such obligations remain outstanding, and may covenant in such contract that in any event such annual contributions shall in each year be at least equal to an amount which, together with such income or other funds as are actually available from the project for the purpose at the time such annual contribution is made, will suffice for the payment of all installments, falling due within the next succeeding twelve months, of principal and interest on the obligations for which the annual contributions provided for in the contract shall have been pledged as security. In no case shall such annual contributions be in excess of the maximum sum specified in the contract involved, nor for longer than the remainder of the maximum period fixed by the contract.

"CONGREGATE HOUSING

"SEC. 7. The Secretary shall encourage public housing agencies, in providing housing predominantly for displaced, elderly, or handicapped families, to design, develop, or otherwise acquire such housing to meet the special needs of the occupants and, wherever practicable, for use in whole or in part as congregate housing: *Provided*, That not more than 10 per centum of the total amount of contracts for annual contributions entered into in any fiscal year pursuant to the new authority granted under section 202 of the Housing and Urban Development Act of 1970 or under any law subsequently enacted shall be entered into with respect to units in congregate housing. As used in this paragraph the term 'congregate housing' means low-income housing (A) in which some or all of the dwelling units do not have kitchen facilities, and (B) connected with which there is a central dining facility to provide wholesome and economical meals for elderly and displaced families under terms and conditions prescribed by the public housing agency to permit a generally self-supporting operation. Expenditures incurred by a public agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered one of the costs of operation of the project.

"LOW-INCOME HOUSING IN PRIVATE ACCOMMODATIONS

"SEC. 8. (a) (1) For the purpose of providing a form of low-income housing which will aid in assuring a decent place to live for every citizen, which will take full advantage of vacancies in the private housing market, and which will provide economically mixed housing, each public housing agency, or the Secretary (as provided in paragraph (3)), may provide housing for low-income families in the form of low-income housing in private accommodations in accordance with this section.

"(2) The provisions of this section shall not apply to any locality unless the governing body of the locality has by resolution approved the application of such provisions to such locality, except where a public housing agency is empowered by State law to carry out activities permitted under this section without local approval.

"(3) In carrying out this section it is intended to vest in public housing agencies the maximum amount of responsibility in administration of this program, including responsibility for the establishment of rents and eligibility requirements. In areas where no public housing agency exists or where the Secretary determines that a public housing agency is unable to implement the provisions of this section, the Secretary is authorized to assume the responsibilities which would ordinarily be assigned to a public housing agency under this section.

"(4) As used in this section the term 'low-income housing in private accommodations' means dwelling units, leased from an owner (including an owner occupant), which provide decent safe and sanitary dwelling accommodations and which may include related facilities and the term 'owner' means any person or entity, including a public housing agency, having the legal right to lease or sublease property containing one or more dwelling units as described in this section.

"(5) As used in this section, the term 'low-income family' means any family which has been certified to have a gross annual income which is not more than four times the annual fair market rental as established by the Secretary or by a public housing agency for private housing in the housing area for a dwelling unit suitable in size to the housing needs of such family.

"(6) As used in this section, the term 'tenant' includes a member of a cooperative; the term 'owner' includes a cooperative; and, with respect to members of a cooperative, the terms 'rent' or 'rental' means the charge under the occupancy agreement between such members and the cooperative and the term 'lease' means such an occupancy agreement.

"(7) At least 20 per centum of the families assisted under this section in any market area shall be very low-income families.

"(8) The Secretary is authorized, at periodic intervals, to determine in the various housing areas the fair market rental required to obtain adequately maintained and managed private existing and newly constructed rental housing taking into account the need to provide housing with suitable amenities and sound architectural design and, on the basis of such determination, the Secretary or a public housing agency shall establish for each housing area in which the program authorized by the section operates, a fair market rental (including utilities and all maintenance and management services) for units by bedroom size for low-income housing in private accommodations.

"(b) Each public housing agency, by notification to the owners of housing suitable for use as low-income housing in private accommodations, or by publication or advertisement, or otherwise, shall from time to time make known to the public in the community or communities under its jurisdiction the availability of financial assistance to low-income families seeking low-income housing in private accommodations and the anticipated need for dwelling units in such community or communities under this section, inviting the owners of such dwelling units to make available for purposes of this section one or more of such units (not exceeding five units or 25 per centum of the units in any single existing structure, whichever is greater, except that up to 100 per centum of the units in a single structure may be made available to families receiving assistance under this section, in the case of a structure in which all or substantially all of the units are used to house the elderly or in the case of any other structure when so provided by a public housing agency). The public housing agency shall conduct appropriate inspections of the units offered to be made available in any residential structure by the owner thereof in response to such invitation or the solicitation of low-income families, and if (1) it finds that such units are, or may be made, suitable for use as low-income housing in private accommodations within the meaning of subsection (a)(4), and (2) the rentals to be charged for such units, as agreed to by the agency and the owner of the structure in a manner consistent with subsection (c) (2) are within the financial range of families of low income, such agency may approve such units for use in accordance with (and subject to the applicable limitations contained in) this section. Each public housing agency shall maintain and keep current a list of units approved by it under this subsection, including such information with respect to each such unit as it may consider necessary or appropriate.

"(c) To the extent of contracts for annual contributions entered into by the Secretary with a public housing agency under section 5(c) of this Act, each public housing agency in accordance with criteria established by the Secretary may enter into contracts to make assistance payments for the use of dwelling units in accordance with this section. Each such contract shall provide (with respect to any unit) that—

"(1) the selection of tenants for such unit shall be the function of the owner, subject to the provisions of the contract between the Secretary and the agency;

"(2) the contributions toward the rental and other charges agreed to by the agency and the owner to be made by the tenant shall be determined in accordance with the provisions of section 3(1) of this Act;

"(3) the amount of the monthly assistance payment with respect to any dwelling unit shall not exceed the difference between 25 per centum of one-twelfth of the annual income of the family occupying the dwelling unit and the maximum monthly rent which the contract provides that the owner is to receive for the unit;

"(4) the maximum monthly rent for units in existing housing shall not exceed the fair market rent for existing housing established by the Secretary, or a public housing agency in accordance with criteria established by the Secretary: *Provided,* That maximum rents not in excess of 10 per centum above the fair market rental may be contracted for when the Secretary, or a public housing agency in accordance with criteria established by the Secretary, determines that such additional amount is required to provide housing for low-income families;

"(5) maintenance and replacement (including redecoration) shall be in accordance with the standard practice for the building concerned as established by the owner and agreed to by the agency; and

"(6) the agency and the owner shall carry out such other appropriate terms and conditions as may be mutually agreed to by them. Each contract for an existing structure entered into under this subsection shall be for a term of not less than one month nor more than sixty months, except as otherwise provided by a public housing agency in accordance with criteria established by the Secretary.

"(d) The period over which payments will be made to a public housing agency for a project of low-income housing in private accommodations under this section, and the aggregate amount of such payments, under a contract for annual contributions, shall be determined on the basis of the number of units in the community or communities under the jurisdiction of such agency which are in use (or can reasonably be expected to be placed in use) as low-income housing in private accommodations under this section, taking into account the terms of the leases under which such units are (or will be) so used. In addition, contracts for financial assistance entered into by the Secretary with a public housing agency pursuant to this section shall provide for payments or reimbursement of reasonable and necessary expenses incurred by such agency in carrying out functions under this section.

"(e) To the extent authorized in contracts entered into by the Secretary with a public housing agency, such agency may purchase any structure containing one or more dwelling units leased to provide low-income housing in private accommodations under this section for the purpose of reselling the structure to the tenant or tenants occupying units aggregating in value at least 80 per centum of the structure's total value. Any such resale may be made on the terms and conditions prescribed under section 5(h) and subject to the limitation contained in such section.

"(f) The provisions of the third and fourth sentences of 5(a) and the provisions of section 5(e) and 6(d) of this Act shall not apply to (1) low-income housing in private accommodations provided under this section, or (2) housing purchased (or in the process of purchase) by the public agency for resale to tenants as provided in subsection (e).

"(g)(1) Each public housing agency is authorized to provide assistance payments to assist in the construction or substantial rehabilitation of housing for low-income families. Assistance shall be provided pursuant to this subsection through contracts with owners or prospective owners who agree to construct or substantially rehabilitate housing in which some or all of the units (as agreed to by the owner and a public housing agency) shall be available for occupancy by low-income families.

"(2) The Secretary is authorized to contract for and to enter into annual contributions contracts with public housing agencies pursuant to which public housing agencies may contract for and make assistance payments to owners in such amounts and under such circumstances as are prescribed in this subsection. Such payments shall be based upon applications for contracts for assistance payments submitted by owners to the public housing agencies designated by the Secretary to receive and evaluate such applications. Such public housing agencies shall be reimbursed by the Secretary in the amount of their reasonable administrative expenses incurred pursuant to this subsection.

"(3)(A) The contact between the public housing agency and the owner shall provide that all ownership, management, and maintenance responsibilities and expenses shall be assumed by the owner (except that the owner may subcontract with a public housing agency with respect to such responsibilities and expenses), and such contract shall establish the maximum monthly rent (including utilities and all maintenance and management service charges) which the owner shall receive per dwelling unit with respect to which such assistance payments are to be made pursuant to this subsection, the number and size (by bedrooms) of the dwelling units with respect to which such assistance payments are to be made, and the length of time for which such assistance payments are to be made.

"(B)(i) The maximum monthly rent shall not exceed the market rental for newly constructed rental housing in the housing area established by the Secretary or by a public housing agency pursuant to section 8(a)(7): *Provided,* That maximum rents not in excess of 20 per centum above the fair market rental may be contracted for when the Secretary, or a public housing agency, determines that such additional amount is required to provide housing for low-income families.

"(ii) Assistance payments shall not be made with respect to more than 75 per centum of the dwelling units in any single new or substantially rehabilitated structure. The above per centum limitations may be waived by the Secretary or a public housing agency in the following cases: (I) developments for the elderly, (II) developments of fifty or fewer units, and (III) cases in which the Secretary, or a public housing agency determines that a greater per centum is required in order to provide assistance to families of low income.

"(iii) A public housing agency shall not contract to make assistance payments with respect to a newly constructed or substantially rehabilitated dwelling unit for a term of less than one month or more than two hundred and forty months: *Provided, however,* That in the case of projects assisted or indirectly by loans or loan guarantees of State housing finance agencies, such term shall not exceed four hundred and eighty months.

"(C) The contract between the public housing agency and the owner shall provide that assistance payments may be made only with respect to a dwelling unit under lease for occupancy by a family certified as a low-income family at the time it entered into a dwelling unit and shall be made only as long as the family's annual income, as determined by a review at intervals of two years (or at shorter intervals where the Secretary deems it desirable), is not more than four times the annual rental of the dwelling unit occupied by it: *Provided,* That such payments may be made for a period not exceeding sixty days in the event that a family vacates a dwelling unit before the expiration date of the lease for occupancy or for a priod not exceeding sixty days when a public housing agency fails to certify a family eligible for housing assistance payments and when the owner is making a good faith effort to otherwise fill the vacancy.

"(D) The contract between the public housing agency and the owner shall provide for at least annual adjustment in the maximum monthly rents which the contract provides that the owner is to receive for the unit in amounts not greater than the amount of increases or decreases over the same period of time in the fair market rental established for the housing area for similar sizes and types of dwelling units to the extent such adjustments can be justified on the basis of the actual expense of owning and maintaining the dwelling units covered by the contract. If the Secretary so determines, on the basis of a reasonable formula, the aforesaid adjustments may be calculated, taking into consideration the average expenses of owning and maintaining dwelling units in the area. However, in no case shall the adjusted rents be less than the original rents set forth in the contract.

"(E) Any project for which assistance payments are contracted to be made under this section shall be eligible for insurance under section 501 of the Revised National Housing Act.

"(4) The amount of the monthly assistance payment with respect to any dwelling unit shall not exceed the difference between 25 per centum of one-twelfth of the annual income of the family occupying the dwelling unit and the maximum monthly rent which the contract provides that the owner is to receive for the unit.

"(5) The provisions of section 6 of this Act shall not apply to contracts for assistance entered into under this subsection.

"ANNUAL CONTRIBUTIONS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

"SEC. 9. (a) In addition to the contributions authorized to be made for the purposes specified in section 5 of this Act, the Secretary may make annual contributions to public housing agencies for the operation of low-income housing projects. The contribution payable annually under this section shall not exceed the amounts which the Secretary determines are required (1) to assure the low-income character of the projects involved, and (2) to achieve and maintain adequate operating services and reserve funds. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. At the initial stage of development of each new low-income housing project, or in the case of existing projects at the earliest practicable time after the date of enactment of this section, the public housing agency responsible for the project shall determine, with the approval of the Secretary, appropriate and required operating services and reserve funds, including tenant services, based on the character and location of the project and the characteristics of the families to be housed. Services so determined shall constitute the base level of operating services of a public housing agency. If income from a project of a public housing agency will not be sufficient in any year to meet the agency's base level of operating services at projected costs for that year, the Secretary shall make contributions to meet the residual cost. The Federal commitment to maintain a base level of operating services shall be incorporated in an annual contributions contract. A public housing agency shall signify its base level of operating services requirements at the beginning of its operating year at the time of the preparation of its annual budget. A public housing agency shall periodically (at least every two years) reexamine its base level of operating services in order to determine the adequacy of the services provided for in the light of changing conditions and standards, and submit recommendations for changes for the approval of the Secretary.

"(b) Of the aggregate amount of contracts authorized for annual contributions authorized in section 5(c) of this Act to be entered into on after July 1, 1974, the Secretary is authorized to enter into contracts for annual contributions under this section aggregating not more than $500,000,000 per annum on and after July 1, 1974, which amount shall be increased by $60,000,000 on July 1, 1975.

"GENERAL PROVISIONS

"SEC. 10. (a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this Act, the Secretary notwithstanding the provisions of any other law, shall—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act, as amended; and

"(2) maintain an integral set of accounts which shall be audited annually by the General Accounting Office in accordance with the principles and procedures applicable to commercial transactions as provided by the Government Corporation Control Act, as amended, and no other audit shall be required.

"(b) All receipts and assets of the Secretary under this Act shall be available for the purposes of this Act until expended.

"(c) The Federal Reserve banks are authorized and directed to act as depositories, custodians, and fiscal agents for the Secretary in the general exercise of his power under this Act, and the Secretary may reimburse any such bank for its services in such manner as may be agreed upon.

"FINANCING LOW-INCOME HOUSING PROJECTS

"SEC. 11. (a) Obligations issued by a public housing agency in connection with low-income housing projects which (1) are secured (A) by a pledge of a loan under any agreement between such public housing agency and the Secretary, or (B) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Secretary, or (C) by a pledge of both annual contributions under an annual contributions contract and a loan under an agreement between such public housing agency and the Secretary, and (2) bear, or are accompanied by, a certificate of the Secretary that such obligations are so secured, shall be incontestable in the hands of a bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

"(b) Except as provided in section 5(g), obligations, including interest thereon, issued by public housing agencies in connection with low-income housing projects shall be exempt from all taxation now or hereafter imposed by the United States whether paid by such agencies or by the Secretary. The income derived by such agencies from such projects shall be exempt from all taxation now or hereafter imposed by the United States.

"LABOR STANDARDS

"SEC. 12. Any contract for loans, annual contributions, sale, or lease pursuant to this Act shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development and to all maintenance laborers and mechanics employed in the operation of the low-income housing project involved; and shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (49 Stat. 1011), shall be paid to all laborers and mechanics employed in the development of the project involved (including a project for the use of privately built housing in any case, other than under the authority of section 8 of this Act, where the public housing agency and the builder or sponsor enter into an agreement for such use before construction or rehabilitation is commenced), and the Secrtary shall require certification as to compliance with the provisions of this section prior to making any payment under such contract."

APPLICABILITY OF RENTAL REQUIREMENTS

SEC. 202. If a contract for annual contributions entered into pursuant to this chapter would require the establishment of an increased rental charge for a family which occupies a low-income housing dwelling unit as of the effective date of such contract, the required adjustment in the family's rent will be accomplished as follows:

(1) when the public agency makes the first review of the family's income pursuant to section 6(c)(2) of the United States Housing Act of 1937 which occurs at least one year after the effective date of this chapter, the family's monthly rent will be increased by an amount equal to one-half the additional amount of rent which would then be required pursuant to section 9; and

(2) the family's monthly rental charge will be increased to the full amount of the rental charge required under section 9 when the public housing agency makes its next review of the family's income.

Increases in rentals for such families will be effective the first day of the month immediately following the month in which the public housing agency makes the review of family income.

EXEMPTION OF CERTAIN PROJECTS FROM RENTAL FORMULA

SEC. 203. The rental or income contribution provisions of the United States Housing Act of 1937, as amended by section 201 of this Act, shall not preclude the use of special schedules of required payments as approved by the Secretary for participants in mutual help housing projects who contribute labor, land or materials to the development of such projects.

REPEAL OF SPECIFICATION REQUIREMENTS IN CONSTRUCTION CONTRACTS

SEC. 204. Section 815 of the Housing Act of 1954 is repealed.

RETROACTIVE EFFECT OF REPEAL OF SECTION 10(j)

SEC. 205. Section 206(c) of the Housing Act of 1961 (Public Law 87–70, approved June 30, 1961, 75 Stat. 165) is amended by adding at the end thereof the following sentence: "The Secretary of Housing and Urban Development is authorized to agree with a public housing agency to the amendment of any annual contributions contract containing the provision prescribed in section 10(j), so as to delete such provision and waive any rights of the United States accrued or that may accrue under such provision."

AMENDMENT TO NATIONAL BANK ACT

SEC. 206. The sixth sentence of paragraph "Seventh" of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended—

(1) by striking out wherever it appears therein "1421a(b) of title 42" and inserting in lieu thereof "6(g) of the United States Housing Act of 1937";

(2) by deleting before clause (1) the word "either";

(3) by deleting in clause (1) the parenthetical phrase "(which obligations shall have a maturity of not more than eighteen months)";

(4) by deleting before clause (2) the word "or"; and

(5) by inserting before the colon before the first proviso the following: ", or (3) by a pledge of both annual contributions under an annual contributions contract containing the covenant by the Secretary which is authorized by section 6(g) of the United States Housing Act of 1937, and a loan under an agreement between the local public housing agency and the Secretary in which the public housing agency agrees to borrow from the Secretary, and the Secretary agrees to lend to the public housing agency, prior to the maturity of such obligations, moneys in an amount which (together with any other moneys irrevocably committed under the annual contributions contract to tbe payment of principal and interest on such obligations) will suffice to provide for the payment when due of all installments of principal and interest on such obligations, which moneys under the terms of said agreement are required to be used for the purpose of paying the principal and interest on such obligations at their maturity".

AMENDMENT TO LANHAM ACT

SEC. 207. (a) Section 606 of the Act of October 14, 1940, as amended (42 U.S.C. 1586), is amended by striking out in subsection (b) that part of the first sentence which follows the parenthetical phrase and *inserting in* lieu thereof a period and by striking out all of the second sentence.

(b) Section 606(c)(1) of such Act is amended by adding before the semicolon at the end thereof the following: ", or, with the Secretary's approval, used to finance the repair or rehabilitation of a project or part thereof conveyed to the public housing agency under this section".

EFFECTIVE DATE OF CHAPTER II

SEC. 208. The provisions of this chapter shall be effective at such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than six months after enactment thereof.

LEASED HOUSING

SEC. 209. Nothing in this chapter or any other provision of law authorizes the Secretary of Housing and Urban Development to apply any policy or procedure established by him with respect to a project which is subject to a contract for annual contributions under the provisions of the United States Housing Act of 1937 if such contract was entered into prior to the effective date of such policy or procedure.

CHAPTER III—COMMUNITY DEVELOPMENT

SHORT TITLE

SEC. 301. This chapter may be cited as the "Community Development Assistance Act of 1974".

FINDINGS

SEC. 302. (a) The Congress finds and declares that the Nation's cities, towns, and smaller urban communities face critical social, economic, and environmental problems arising from, in significant measure—

(A) the growth of population in metropolitan and other urban areas, and the concentration of persons of lower income in central cities; and

(B) inadequate public and private investment and reinvestment in housing and other physical facilities, and related public and social services, resulting in the growth and persistence of urban slums and blight, and the marked deterioration of the quality of the urban environment.

(b) The Congress further finds and declares that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable urban communities as social, economic, and political entities, and requires—

(A) systematic and sustained action by Federal, State, and local governments to eliminate blight, to conserve and renew older urban areas, to improve the living environment of low- and moderate-income families, and to develop new centers of population growth and economic activity;

(B) substantial expansion of and greater continuity in the scope and level of Federal assistance, together with increased private investment in support of community development activities; and

(C) continuing effort at all levels of government to streamline programs and improve the functioning of agencies responsible for planning, implementing, and evaluating community development efforts.

OBJECTIVES

SEC. 303 (a) The primary objective of this chapter is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this primary objective, the Federal assistance provided in this chapter is for the support of community development activities which are directed toward the following specific objectives—

(1) the elimination of slums and blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities of importance to the welfare of the community, principally to persons of low and moderate income;

(2) the elimination of conditions which are detrimental to health, safety, and public welfare, through code enforcement, demolition, interim rehabilitation assistance, and related activities;

(3) the conservation and expansion of the Nation's housing stock in order to provide a decent home and a suitable living environment for all persons, but principally those of low and moderate income;

(4) the expansion and improvement of the quantity and quality of community services, principally for persons of low and moderate income, which are essential for sound community development and for the development of viable urban communities;

(5) a more rational utilization of land and other natural resources and the better arrangement of residential, commercial, industrial, recreational, and other needed activity centers;

(6) the reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods to attract persons of higher income; and

(7) the restoration and preservation of properties of special value for historic, architectural, or esthetic reasons.

(b) It is the intent of Congress that the Federal assistance made available under this chapter not be utilized to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of assistance hereunder.

DEFINITIONS

SEC. 304. As used in this chapter—

(1) The term "Secretary" means the Secretary of Housing and Urban Development.

(2) The term "community development agency" means any State or unit of general local government.

(3) The term "State" means any State of the United States; the Commonwealth of Puerto Rico; the Trust Territory of the Pacific Islands; the territories and possessions of the United States; and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

(4) The term "unit of general local government" means any city, municipality, county, town, township, parish, village, or other general purpose political subdivision of a State; a consortium of such political subdivisions recognized by the Secretary; and the District of Columbia. Such term also includes a State or a local public body or agency as defined in section 711 of the Housing and Urban Development Act of 1970, a community association or other entity which is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 712 of the Housing and Urban Development Act of 1970 or title IV of the Housing and Urban Development Act of 1968. One or more agencies, including existing local public agencies, may be designated by a State or a unit of general local government to undertake the community development program in whole or in part.

(5) The term "metropolitan areas" means the standard metropolitan statistical areas, as established by the Office of Management and Budget.

(6) The term "population" means the total resident population based on data compiled by the Bureau of the Census and referable to the same point or period in time.

(7) The term "community development program" means the activities outlined in a community development agency's application prepared and submitted in accordance with section 308.

COMMUNITY DEVELOPMENT ACTIVITIES ELIGIBLE FOR ASSISTANCE

SEC. 305. Community development activities assisted under this chapter shall help meet the objectives set forth in section 303 and may include—

(1) acquisition in whole or in part by purchase, lease, donation, or otherwise, of real property (including air rights, and other interests therein) which is necessary to achieve the objectives set forth in the community development program and is (A) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth, (B) determined to be appropriate for rehabilitation or conservation activities, (C) necessary for the preservation of restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources and scenic areas, the provision of recreational opportunities, or the guidance of urban development, (D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this chapter, or (E) to be used for other public purposes, including the conversion of land to other uses where necessary to a community development program;

(2) disposition (through sale, lease, donation, or otherwise) at its fair value for uses in accordance with the community development program of any real property in whole or in part acquired pursuant to this chapter, or its retention for public purposes;

(3) clearance, demolition, and removal of buildings and improvements in whole or in part;

(4) acquisition, construction, reconstruction, or installation of community facilities and site or other improvements necessary to achieve the objectives of the community development program, including water and sewer facilities, neighborhood facilities, fire-protection services and facilities, historic properties and beautification areas, streets, utilities, street lights, foundations and platforms for air right sites, pedestrian malls and walkways, parks, playgrounds and recreation facilities, and other similar and necessary improvements required for the execution of a community development program;

(5) designing and providing interim financing for the construction of public facilities, other than facilities encompassed within the provisions of paragraph (4), which are necessary or appropriate to a community development program;

(6) relocation payments and assistance for individuals, families, business, nonprofit organizations, and farm operations displaced or temporarily dislocated by community development activities;

(7) conservation and rehabilitation of existing properties and facilities through code enforcement, interim assistance, or other programs of rehabilitation, or the elimination of slums and harmful physical conditions which constitute a danger to public health and safety through demolition or other activities;

(8) development or redevelopment of surplus real property within the meaning of the Federal Property and Administrative Services Act of 1949 acquired pursuant to section 414 of the Housing and Urban Development Act of 1969, or otherwise;

(9) payment of administrative costs and carrying charges related to the planning execution, and evaluation of community development programs;

(10) payment of the cost of completing a project funded under title I of the Housing Act of 1949;

(11) provision of technical or financial assistance to other units of general local government within the boundaries of the community development agency or to persons or organizations providing necessary or appropriate services, including advisory services, to the planning and execution of a community development program;

(12) provision, in areas where other activities assisted under this chapter are being carried out in a concentrated manner and where necessary or appropriate to the execution of a community development program, of grants or loans for the rehabilitation and conservation of properties; and

(13) provision of necessary or appropriate additional public services not otherwise available, in areas where other activities assisted under this chapter are being carried out in a concentrated manner, if such services are directed toward (A) improving the community's public services and facilities, including those concerned with the employment, crime prevention, child care, health, drug abuse, education, welfare, or recreation needs of persons residing in such areas, and (B) coordinating public and private development programs, except that not more than 20 per centum of the amount of grants under this chapter to a locality during any contract period shall be available for the provision of such public services.

AUTHORIZATIONS

SEC. 306. (a) To finance grants under this chapter, the Secretary is authorized to incur obligations on behalf of the United States in the form of contracts or otherwise in amounts aggregating such sum not exceeding $6,100,000,000 as is approved in an appropriation Act. The amount so approved shall become available for obligation on July 1, 1974 and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $2,800,000,000 prior to July 1, 1975, which amount may be increased to not to exceed an aggregate of $6,100,000,000 prior to July 1, 1976. Subject to the limitations contained in the preceding sentence, appropriations for—

(1) grants under title VII of the Housing Act of 1961;

(2) grants under sections 702 and 703 of the Housing and Urban Development Act of 1965; and

(3) supplemental grants under title I of the Demonstration Cities and Metropolitan Development Act of 1966,

may be used, to the extent not otherwise obligated prior to the expiration of one year following the date of enactment of this chapter, for the liquidation of contracts entered into pursuant to this section. Sums so appropriated shall remain available until expended.

(b) To assure program continuity and orderly planning, the Secretary shall submit to the Congress timely requests for increased authorizations for the fiscal years commencing after June 30, 1976, and concurrently with those authorization requests he shall submit his recommendations for any necessary adjustments in the schedule for liquidation of obligations.

ALLOCATION

SEC. 307. (a) Of the amount approved in an appropriation Act pursuant to section 306 and available for obligation, the Secretary shall allocate—

(1) 75 per centum of such amount for community development activities to be undertaken in metropolitan areas; and

(2) 25 per centum of such amount for community development activities to be undertaken in nonmetropolitan areas.

Amounts so allocated shall be available for use in localities within the respective areas where such use of funds is necessary to comply with the requirements of subsection (c) or (e). Any amounts remaining shall be available for use in localities within the respective areas where the community development agencies—

(A) have no basic grant entitlements; or

(B) have basic grant entitlements which are too low to meet urgent community development needs.

(b) Any amount which is allocated by the Secretary under subsection (a) but rejected by the recipient or disapproval by the Secretary shall be allocated for community development activities to be undertaken—

(1) by community development agencies serving localities outside or inside metropolitan areas which have no basic grant entitlements; or

(2) by community development agencies serving localities outside or inside metropolitan areas whose basic grant entitlements are too low to meet urgent community development needs.

(c) Each community development agency shall have an initial two-year entitlement for a grant in an amount equal to twice its basic grant entitlement determined under subsection (d) if, during any of the five fiscal years ending on June 30, 1972, one or more urban renewal projects or neighborhood development programs assisted under title I of the Housing Act of 1949 (or during the fiscal year ending June 30, 1973, or June 30, 1974, in the case of a community development agency serving a locality in which a neighborhood development program was first carried out in either such fiscal year, or with respect to which commitments for assistance have been made), or one or more federally assisted code enforcement programs, or programs under the Demonstration Cities and Metropolitan Development Act of 1966 were being carried out in the locality served by such agency (or with respect to which commitments for assistance have been made).

(d) The Secretary shall determine the basic grant entitlement for each community development agency eligible for such an entitlement under subsection (c) which shall be an amount equal to the sum of (1) the sum of the average, during the five fiscal years ending on June 30, 1972, of (A) loans pursuant to title II of the Housing Amendments of 1955, (B) grants pursuant to title VII of the Housing Act of 1961, (C) advances pursuant to section 702 of the Housing Act of 1954, (D) grants pursuant to title VII of the Housing and Urban Development Act of 1965; and (E) grants pursuant to part A of title I of the Housing Act of 1949; (2) the average annual grant made pursuant to section 105 of the Demonstration Cities and Metropolitan Development Act of 1966 during the five fiscal years ending on June 30, 1972; and (3) the average annual grant made in accordance with part B of title I of the Housing Act of 1949 during the five fiscal years ending in June 30, 1972, or during the fiscal year ending June 30, 1973, or June 30, 1974, in the case of a community development agency serving a locality which first received such a grant during such fiscal year. In determining the amount of such entitlement, the Secretary shall exclude any part of the amount of any such grant or loan which was made to assist in recovery from natural disasters.

(e) A grant under this chapter shall be made pursuant to a two-year contract entered into on the basis of an application submitted under section 308, except in the case of a locality which applies for assistance under section 308(c). The amount of the grant for a community development agency during the first two-year contract period after the date of enactment of this chapter shall—

(1) be twice the agency's basic grant entitlement if the agency has such an entitlement, unless (A) the agency applies for an amount which is less than its basic grant entitlement, (B) the Secretary disapproves all or any part of the application in accordance with the procedures set forth in section 308(a), or (C) the Secretary increases the amount of the grant to meet the agency's urgent community development needs (taking into account situations in which the agency's basic grant entitlement does not accurately reflect recent levels of funding for the programs listed in subsection (d)); or

(2) be the amount determined by the Secretary on the basis of an application submitted under section 308 for any community development agency which has no basic grant entitlement.

The amount of such grant during any immediately succeeding two-year contract period may not be less than 80 per centum nor more than 120 per centum of the amount of such grant (excluding any part of such grant which was rceived by the community development agency to assist in recovery from a natural disaster or to meet urgent community development needs) during the immediately preceding contract period, unless—

(i) the Secretary disapproves the application or any part thereof in accordance with the procedures set forth in section 308(e);

(ii) the agency applies for a grant which is less than 80 per centum of the grant during the immediately preceding contract period; or

(iii) the agency receives an additional amount to meet urgent community development needs.

In determining the amount of grants for succeeding contract periods, the Secretary shall consider the relationships of the proposed activities to the problems described in section 302 which assistance under this chapter should be directed toward and to the objectives of this chapter under section 303, whether the proposed program involves intergovernmental cooperation, and whether the applicant has demonstrated performance in community development activities.

(f)(1) If at the time the Secretary computes the amount of any allocation or the amount of any grant to which a community development agency is entitled under this chapter, the full amount of funds authorized to be appropriated is not available for obligation as prescribed in section 306(a), the Secretary may (notwithstanding any other provision of this chapter) make such adjustment in that computation as he deems desirable to assure a balance between metropolitan and nonmetropolitan areas in the distribution of funds to communities which have no basic grant entitlements and to communities whose basic grant entitlements are too low to meet their urgent development needs.

(2) If at the time the Secretary computes the amount of any allocation or the amount of any grant to which a community development agency is entitled under this chapter, the aggregate grants required pursuant to subsection (c) or (e) exceed the total amount of funds authorized and appropriated, the Secretary may (notwithstanding any other provision of this chapter) make such adjustment in that computation, including a ratable reduction in such grants, as may be necessary to provide an equitable distribution of funds in a manner consistent with the purposes of this chapter.

(g) The Secretary is authorized, as soon as practicable during any fiscal year, to reallocate amounts which are unobligated or which are expected to be unobligated during that fiscal year in such manner as he deems appropriate to carry out the objectives of this chapter.

(h) The Secretary shall, to the extent he deems feasible, reserve out of sums allocated under this section sufficient amounts to meet the community development objectives contained in any new community development program approved by the Secretary under title VII of the Housing and Urban Development Act of 1970 or to meet community development objectives of a new community development assisted under title IV of the Housing and Urban Development Act of 1968.

(i) The Secretary shall encourage and promote the submission of applications by combinations of two or more units of general local government (one of which is an urban county), which in the aggregate contain a significant portion of the population of the metropolitan area in which they are located. As used in this subsection, the term "urban county" means a county which is within a metropolitan area and which has (1) at least 75 per centum of the population of a multicounty metropolitan area, or (2) a population of two hundred thousand or more.

APPLICATION AND REVIEW

SEC. 308. (a) Financial assistance shall be granted under this chapter only upon the basis of a two-year application by a community development agency. Each application shall contain the following:

(1) SUMMARY PLAN.—A summary of a four-year community development plan which demonstrates a comprehensive strategy for meeting the community's development needs, and which shall include proposed programs—

(A) to meet the housing needs, including replacement and relocation needs (and needs arising from the installation or relocation of Government facilities), of families who may reasonably be expected to seek housing in the community, particularly those families with low or moderate income;

(B) to prevent and eliminate slums and blight, and upgrade deteriorating and deteriorated neighborhoods through renewal, code enforcement, and other community improvement programs; and

(C) to improve and upgrade community services and facilities and to provide increased economic opportunities for residents in areas affected by community development activities, particularly those residents with low or moderate incomes.

(2) ACTIVITIES PROGRAM.—A description of the activities to be undertaken with assistance under this chapter over the next two-year period which are designed to meet community development goals and their estimated costs, the general location of these activities, and any requirements for Federally assisted housing units and rehabilitation loans. Not more than 10 per centum of such estimated costs during any contract period may be designated for unspecified local option activities or to provide a contingency account for otherwise eligible activities.

(3) CERTIFICATIONS.—A certification that the applicant—

(A) has determined that activities to be carried out with assistance under this chapter are consistent with the objectives of this chapter and with local and areawide comprehensive development plans and national growth policies;

(B) has afforded or will afford an adequate opportunity for public hearings prior to any acquisition of private land included in the proposed development activities pursuant to reasonable prior notice;

(C) has afforded adequate opportunity for citizen participation in the development of the application and has provided for the meaningful involvement of the residents of areas in which community development activities are to be concentrated in the planning and execution of these activities, including the provision of adequate information and resources;

(D) has made provisions for the relocation of all families who are displaced as a result of the activities assisted under this chapter, and has provided in the housing market area (by construction or rehabilitation) standard housing units for occupancy for low and moderate income families at least equal in number to the number of units occupied by such families prior to the demolition or removal of any residential structure or structures, except that if the Secretary determines that the percentage of vacancies in existing housing in the area is 5 per centum or more, he may waive the requirement for such certification to the extent he determines there are existing standard housing units in such area which will be available for occupancy by low and moderate income families who are being displaced as a result of such activities; and

(E) has adopted or will adopt and will enforce such housing, building, and related codes as are necessary to assure that housing in the community will meet reasonable standards with respect to safety, sanitation, and habitability.

(4) PERFORMANCE REPORT.—A report concerning the community development activities which were carried out during the immediately preceding contract period, if any, and their costs, including an assessment of such activities in relation to the community's development goals and the objectives of this chapter.

(b) (1) A community development agency may not expend in the aggregate during any contract period more than 20 per centum of grants under this chapter for activities which are not intended to be of direct and significant benefit to families of low or moderate income or to areas which are blighted or deteriorating, except that the Secretary may alter or modify the requirements of this paragraph if he certifies that such alteration or modification is necessary to meet urgent community needs.

(2) Grants provided under this chapter may not be expended for the construction of community facilities which do not provide services principally intended to serve areas within the general location described in the application pursuant to subsection (a) (2), or for the construction of schools, libraries, city halls, civic auditoriums, police stations, hospitals, sports arenas, or parking garages.

(3) Notwithstanding any other provision of law but subject to the other provisions of this chapter, grants provided under this chapter may be used as a non-Federal contribution in connection with other Federal programs.

(c) The Secretary may waive all or part of the requirements contained in subsection (a) (1), if (1) the application for assistance is in behalf of a locality having a population of less than 25,000 according to the most recent data compiled by the Bureau of the Census which is located either (A) outside a standard metropolitan statistical area, or (B) inside such an area but outside an "urbanized area" as defined by the Bureau of the Census (or as such definition is modified by the Secretary for purposes of this chapter), (2) the application relates to the first community development activity to be carried out by such locality with assistance under this chapter, (3) the assistance requested is for a single development activity under this chapter of a type eligible for assistance under the provisions of law referred to in clauses (1) through (4) of section 317 (b), and (4) the Secretary determines that, having regard to the nature of the activity to be carried out, such waiver is not inconsistent with the purposes of this chapter.

(d) Unless a hearing has been held at least 30 days before the submission to the Secretary of an application under this section, the community development agency shall cause the application to be published at least 30 days before such submission, in such a manner as to afford affected citizens a reasonable opportunity to examine and comment upon the proposed application.

(e) (1) The Secretary shall make his determination with respect to any application and give written notice of his approval or disapproval within 90 days after submission of the application. Each application providing for continuation or revision of an ongoing community development program shall be deemed approval by the Secretary within 90 days after submission, unless the Secretary notifies the applicant in writing of his disapproval of the application or any part thereof, setting forth the reasons therefor.

(2) The Secretary may not approve any part of an application for assistance under this chapter for any community development activity if he determines—

(A) that such activity is not eligible for assistance under the provisions of this chapter; or

(B) that the applicant has not furnished adequate information under subsection (a) with respect to such activity.

(3) The Secretary shall disapprove an application (in whole or in part) if he determines that the applicant has not carried out its contractual commitments pursuant to any previous application, or has not carried out other obligations imposed by this chapter, including compliance with representations contained in the certifications required by subsection (a) (3) during the contract period immediately preceding the period for which assistance is being sought. In any case in which the Secretary disapproves all or part of an application under this paragraph, he may subsequently approve that application or part thereof only if the applicant furnishes such assurances and meets such other conditions as the Secretary may require to insure that such commitments and obligations will be carried out by the applicant in its community development activities during the contract period for which assistance is being sought.

(4) Upon approval of any application, the Secretary shall reserve funds, to the extent he deems it to be necessary and feasible, to meet the housing and rehabilitation requirements specified in the application.

GRANTS

SEC. 309. (a) The Secretary is authorized to make grants to assist community development agencies in carrying out community development activities. Such grants shall be made pursuant to contracts providing for payments with respect to activities to be carried out over a period of two years, except in the case of a contract entered into pursuant to an application under section 308(c). Except as otherwise herein provided, the amount of any such grant to any such agency shall not exceed 90 per centum of the total net program cost as determined by the Secretary, except that in cases of extreme hardship as determined by the Secretary such grant may be in an amount equal to the total net program cost. In any case where the execution of a community development program involves the making of rehabilitation grants or relocation payments, any grant made to any such agency may be increased, notwithstanding any other provision of law but subject to the limitations prescribed in section 307, to include the full costs of making such rehabilitation grants and, in the case of relocation payments, the full costs of making such payments but not to exceed $25,000 for any displaced person as such term is defined in section 101(6) of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970. The Secretary shall require that any part of the total net program cost which is to be provided by local or other non-Federal sources shall consist of cash grants, except that the Secretary shall accept in lieu of any other required local contribution under this chapter, an equivalent amount of local contribution credits which would have been allowable with respect to any project which was proposed for assistance under part *B of title* I of the Housing Act of 1949, if he finds that—

(1) the proposed project was designed to meet an unusual or exceptional need for housing for low-income families;

(2) an application for such proposed project was under active consideration on December 31, 1972, and such application had adequate prospects for approval under the law and policies applicable on such date; and

(3) the activities that will be carried out under this chapter by the community development agency receiving the benefit of such credits include activities whose purpose is similar to that of the proposed project.

Notwithstanding the provisions of paragraphs (1), (2) and (3), the Secretary shall, during the two year period beginning on the date of enactment of this chapter, accept in lieu of any other required local contribution under this chapter, an equivalent amount of local contribution credits allowable for those facilities which are currently eligible as such under title I of the Housing Act of 1949, where the facilities have been reflected in the financing plans of, and have already been constructed or are under construction in an ongoing urban renewal project or neighborhood development program activity area as of the date of enactment of this chapter.

(b) In determining the total cost of carrying out any community development activity there shall be excluded that part of such cost as is payable under any other Federal grant program.

(c) As used in subsection (a), the term "rehabilitation grant" means a grant not exceeding $4,000 made to a low-income individual or family who owns and occupies real property and only for the purpose of covering the cost of repairs and improvements necessary to make such real property conform to public standards for decent, safe, and sanitary housing as required by applicable codes or requirements of the community development program.

LOANS

SEC. 310. (a) To assist local communities in undertaking community development activities, including the provision of interim financing for activities authorized under section 304 (5), the Secretary may make loans to community development agencies in accordance with the provisions of this Act for the undertaking of community development programs. Such loans outstanding at any one time shall be in such amounts not exceeding the estimated expenditures to be made by the community development agency for such purposes, bear interest at such rate (not less than the applicable going Federal rate), be secured in such manner and be repaid within such period (which need not be limited to the two-year period referred to in section 309) as may be deemed advisable by the Secretary. The principal amount of any such loan which is outstanding at any one time shall not exceed the estimated expenditures to be made by the community development agency for its community development program.

(b) The Secretary is authorized to consent to a pledge by any community development agency of a loan contract entered into pursuant to this section, and of any or all of its rights thereunder, as security for the repayment of the principal of and the interest on loan funds obtained from sources other than the Federal Government for the purpose set forth in this subsection. In connection with any such pledge of a loan contract, including community development loan payments thereunder, as security for the repayment of obligations of the agency held by a lender other than the Federal Government, the Secretary is authorized to agree to pay, through operations of a paying agent or agents, and to pay or cause to be paid when due, from funds obtained pursuant to this section, to the holders of such obligations (or to their agents or designees) the principal of and the interest on such obligations, subject to such conditions as the Secretary may determine but without regard to any other condition or requirement. Notwithstanding any other provision of law, any contract or other instrument executed by the Secretary which, by its terms, includes an obligation of the Secretary to make payment pursuant to this subsection shall be construed by all officers of the United States separate and apart from the loan contract and shall be incontestable in the hands of a bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary pursuant to this subsection.

(c) The total amount of loan contracts outstanding at any one time under this chapter shall not exceed the aggregate of the estimated expenditures to be made by community development agencies as part of the cost of the community development activities assisted by such contracts. To obtain funds for loan disbursements under this chapter, the Secretary may issue and have outstanding at any one time notes and obligations for purchase by the Secretary of the Treasury in an amount which shall not, unless authorized by the President exceed $1,500,000,000. For the purpose of establishing unpaid obligations as of a given date against the authorization contained in the preceding sentence, the Secretary shall estimate the maximum amount to be required to be borrowed from the Treasury and outstanding at any one time with respect to loan commitments in effect on such date.

(d) Notes or other obligations issued by the Secretary under this chapter shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary issued under this chapter and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(e) Obligations, including interest thereon, issued by community development agencies for projects assisted pursuant to this chapter, and income derived by such agencies from such projects, shall be exempt from all taxation now or hereafter imposed by the United States.

REPORTING REQUIREMENTS

SEC. 311. (a) Not later than 180 days after the close of each fiscal year in which assistance under this chapter is furnished, the Secretary shall submit to the Congress a report which shall contain—

(1) a description of the progress made in accomplishing the objectives of this chapter;

(2) a summary of the use of such funds as approved by the Secretary during the preceding fiscal year; and

(3) a list of the certifications made by the Secretary with respect to alterations or modifications of the requirements of section 308(b)(1).

(b) The Secretary is authorized to require community development agencies assisted under this chapter to submit to him such reports and other information as may be necessary in order for the Secretary to make the report required by subsection (a).

(c) Not later than March 31, 1977, the Secretary shall make a report to the Congress setting forth such recommendations as he deems advisable, in furtherance of the purposes and policy of this chapter, for modifying or expanding the provisions of this chapter relating to the method of funding and the allocation of funds, and the determination of the basic grant entitlement, and for the application of such provisions in the future distribution of funds under this chapter.

CONSULTATION

SEC. 312. In carrying out the provisions of this chapter, including the issuance of regulations, the Secretary shall consult with other Federal departments and agencies administered Federal grant-in-aid programs.

TECHNICAL ASSISTANCE

SEC. 313. (a) The Secretary is authorized to undertake such activities as he determines to be desirable to provide technical assistance to smaller communities to assist such communities in planning, developing, and administering community development programs. Such assistance may be furnished either directly or by contracts or other arrangements, including contracts or arrangements with rural development and area planning agencies.

(b) As used in this section, the term "smaller communities" means any municipality or other political subdivision having a population of less than 25,000 according to the most recent census.

LABOR STANDARDS

SEC. 314. All laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction project financed in whole or in part with funds received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). This section shall apply to the rehabilitation of residential property only if such residential property is designed for residential use for more than eight families, and to the construction of residential property only if such residential property is designed for occupancy by twelve or more families. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c)).

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

SEC. 315. Section 217 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is amended—

(1) by striking out "or" after "Housing Act of 1949, as amended," and

(2) by adding after "Demonstration Cities and Metropolitan Development Act of 1966" the following: ", or as a direct result of any community development activity assisted under the Community Development Assistance Act of 1974".

INTERSTATE AGREEMENTS

SEC. 316. The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative effort and mutual assistance in support of community development planning and programs carried out under this chapter as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

EFFECTIVE DATE; TRANSITIONAL TERMINATION OF EXISTING PROGRAMS

SEC. 317. (a) This chapter takes effect on the date of its enactment.

(b) Upon the expiration of one year following the date of enactment of this chapter, no new grants or loans shall be made (except with respect to projects or programs for which funds have been committed on or before the expiration of such period) pursuant to—

(1) title II of the Housing Amendments of 1955;

(2) title VII of the Housing Act of 1961;

(3) section 702 of the Housing Act of 1954;

(4) title VII of the Housing and Urban Development Act of 1965;

(5) title I of the Housing Act of 1949; and

(6) title I of the Demonstration Cities and Metropolitan Development Act of 1966.

(c) Section 3689 of the Revised Statutes, as amended (31 U.S.C. 711), is amended by adding at the end thereof a new paragraph as follows:

"(22) For payments required from time to time under contracts entered into pursuant to section 103(b) of the Housing Act of 1949 with respect to projects or programs for which funds have been committed on or before June 30, 1974, and for which funds have not previously been appropriated."

(d) The Secretary is authorized to transfer the assets and liabilities of any superseded or nonactive program of housing or urban development to the revolving fund for liquidating programs established pursuant to title II of the Independent Officers Appropriation Act of 1955 (Public Law 81–428; 68 Stat. 272, 295).

TRANSITIONAL AUTHORIZATION FOR URBAN RENEWAL

SEC. 318. The first sentence of section 103(b) of the Housing Act of 1949 is amended by striking out "and by $664,000,000 on July 1, 1973" and inserting in lieu thereof "by $664,000,000 on July 1, 1973, by $300,000,000 on July 1, 1974, and by not to exceed $600,000,000 on the date of enactment of the Housing and Community Development Act of 1974, but such $600,000,000 shall be available only to the extent necessary for expenses incurred in the completion, during the one-year period commencing on the date of enactment of such Act, of programs and projects assisted under this title".

CHAPTER IV—COMPREHENSIVE PLANNING

COMPREHENSIVE PLANNING

SEC. 401. (a) Section 701(a) of the Housing Act of 1954 is amended—

(1) by striking out the part which precedes paragraph (1) and inserting in lieu thereof the following:

"SEC. 701. (a) In order to assist general purpose units of government and regional combinations thereof at the State and local level in solving planning problems and developing the management capacity to implement plans to solve these problems, including planning and related management problems resulting from an increasing concentration of population in metropolitan and other urban areas and the outmigration from and lack of coordinated development of resources and services in rural areas; to facilitate the comprehensive planning process for urban and rural developments; to encourage the development by such governments of a more rational process for setting policy objectives, designing, and overseeing programs for meeting these objectives, and evaluating the progress of such programs toward these objectives; and to help such governments to establish and improve the professional capabilities of staffs charged with carrying out activities permitted under this section and to engage private consultants where their professional services are deemed appropriate by the assisted governments, the Secretary, upon application and in accordance with the requirements of this section, is authorized to make grants to—";

(2) by striking out "State planning agencies" in paragraph (1) and inserting in lieu thereof "States", and by inserting after "Indian reservations" the following: "(E) any unit or units of local government or organizations which are eligible recipients under paragraphs (3), (4), and (5) of this subsection if the Secretary finds that the State and the unit or units of local government have mutually agreed to State administration of the program, except that no such unit of local government shall be denied funds because of failure to enter into such an agreement with the State".

(3) by striking out the numbered paragraphs following paragraph (1) and inserting in lieu thereof the following:

"(2) States for State and interstate activities which may be assisted under this section;

"(3) Cities (including the District of Columbia) having populations of at least 50,000 according to the latest decennial census for local activities which may be assisted under this section;

"(4) Counties within metropolitan areas which have a population of at least 50,000;

"(5) The areawide organization in any metropolitan area, or in any region or district, which is formally charged with carrying out the provisions of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and section 401 of the Intergovernmental Cooperation Act of 1968, and in the case of any area or district of a State which is not a metropolitan area and does not have an organization which is charged with carrying out the provisions of section 401 of the Intergovernmental Cooperation Act of 1968, that agency authorized by the Governor of the State to carry out comprehensive planning for the area, region, or district: *Provided*, That any such areawide organization, and any such agency to the extent practicable, shall (A) be composed of or responsible to the elected officials of the unit or units of general local government for the jurisdictions of which they are empowered to carry out the provisions of the acts referred to above, or (B) be composed of persons elected by the citizens of such jurisdictions;

"(6) Indian tribal groups or bodies; and

"(7) Other governmental units or agencies having special planning needs related to the purposes of this section, including but not limited to interstate regional planning commissions, and units or agencies for disaster areas, federally impacted areas, and local development districts, to the extent these needs cannot otherwise be adequately met."; and

(4) by striking out the part which follows the numbered paragraphs and inserting in lieu thereof the following:

"Activities assisted under this section shall, to the maximum extent feasible, cover entire areas having common or related development problems. The Secretary shall encourage cooperation in preparing and carrying out plans among all interested municipalities, political subdivisions, public agencies, and other parties in order to achieve coordinated development of entire areas. To the maximum extent feasible, pertinent plans and studies already made for areas shall be utilized so as to avoid unnecessary repetition of effort and expense. Activities assisted under this section shall be subject to the provisions of section 204 of the Demostration Cities and Metropolitan Development Act of 1966 and section 401 of the Intergovernmental Cooperation Act of 1968."

(b) Section 701 of such Act is further amended by striking out all that follows subsection (a) and inserting in lieu thereof the following:

"(b) Activities which may be assisted under this section include those necessary (1) to develop and carry out a comprehensive plan as part of an ongoing planning process, (2) to develop and improve the management capability directly necessary to implement such plan or part thereof, and (3) to develop a policy-planning-evaluation capacity so that the recipient may more rationally (A) determine its needs, (B) set long-term goals and short-term objectives, (C) devise programs and activities to meet these goals and objectives, and (D) evaluate the progress of such programs in accomplishing those goals and objectives. Activities assisted under this section shall be carried out by professionally competent persons. Procedures, guidelines, and regulations to implement this section shall be consistent with provisions of the Intergovernmental Cooperation Act of 1968.

"(c) Each recipient of assistance under this section shall carry out an ongoing comprehensive planning process which shall make provision for public hearings and the active participation of citizen groups. The process shall involve the development and subsequent modifications of a comprehensive plan which shall be reviewed at least biennially for necessary or desirable amendments. The review of any such plan shall include public hearings. Any such plan shall include, as a minimum, each of the following elements:

"(1) A housing element which shall take into account all available evidence of the assumptions and statistical bases upon which the projection of zoning, community facilities, and population growth is based, so that the housing needs of both the region and the local communities studied in the planning will be adequately covered in terms of existing and prospective population growth. The development and formulation of State and local goals pursuant to title XVI of the Housing and Urban Development Act of 1968 shall be a part of such a housing element.

"(2) A five-year-capital-programing element, including the scheduling of public facilities and capital improvements consistent wth other elements of the plan, and based on a determination of relative urgency.

"(3) A land-use element which shall include (A) studies, criteria, standards, and implementing procedures necessary for effectively guiding and controlling major decisions as to where growth shall take place within the recipient's boundaries, and (B) as a guide for governmental policies and activities, general plans with respect to the pattern and intensity of land use for residential, commercial, industrial, and other activities.

Each of the elements set forth above shall specify (i) broad goals and annual objectives (in measurable terms wherever possible), (ii) programs designed to accomplish these objectives, and (iii) procedures, including criteria set forth in advance, for evaluating programs and activities to determine whether they are meeting objectives. Such elements shall be consistent with each other and consistent with stated national growth policy.

"(d) After an initial application for assistance under this section has been approved, the Secretary may make grants on an annual basis, if—

"(1) the applicant submits to the Secretary annually a description of its work program designed to meet objectives for the next succeeding one-year period and setting forth any changes the applicant intends to undertake to achieve better progress; and

"(2) the applicant submits to the Secretary biennially (A) an evaluation of the progress made by it during the previous two years in meeting objectives set forth in its plan, and (B) a description of any changes in the plan's goals or objectives.

The Secretary shall make no grant—

"(i) to any applicant which has not made a good faith effort to implement its goals and objectives as set forth in its comprehensive plan; and

"(ii) after three years from the date of enactment of this provision, to any applicant (other than an applicant described in paragraph (6) or (7) of subsection (a)), unless the Secretary is satisfied that the comprehensive planning being carried out by the applicant includes the elements specified in paragraphs (1)–(3) of subsection (c).

"(e) A grant made under this section shall not exceed 80 per centum of the estimated cost of the work for which the grant is made. There are authorized to be appropriated for the purposes of this section not to exceed $265,000,000 prior to July 1, 1969, not to exceed $470,000,000 prior to July 1, 1972, not to exceed $580,000,000 prior to July 1, 1974, and not to exceed $800,000,000 prior to July 1, 1976. Of the sums appropriated for any fiscal year commencing after June 30, 1974, there shall be available solely for grants to applicants described in paragraph (5) of subsection (a) an amount equal to (1) 30 per centum of any sums so appropriated which do not exceed $125,000,000 in the aggregate, and (2) 25 per centum of any sums so appropriated which are in excess of such $125,000,000. Any amounts appropriated under this section shall remain available until expended and amounts authorized but not appropriated for any fiscal year shall be available for appropriation for any subsequent fiscal year ending on or before June 30, 1976.

"(f) It is the further intent of this section to encourage comprehensive planning on a unified basis for States, cities, counties, metropolitan areas, districts, regions, and Indian reservations and the establishment and development of the organizational units needed therefor. In extending financial assistance under this section, the Secretary may require such assurances as he deems adequate that the appropriate State and local agencies are making reasonable progress in the development of the elements of comprehensive planning. The Secretary is authorized by contract, grant, or otherwise to provide technical assistance to State and local governments, and interstate and regional combinations thereof, to Indian tribal bodies, and to governmental units or agencies described in subsection (a)(6), undertaking such planning and, by contract or otherwise, to make studies and publish information on comprehensive planning and related management problems.

"(g) The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative effort and mutual assistance in the comprehensive planning for the growth and development of interstate, metropolitan, or other urban areas, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts.

"(h) In addition to the planning grants authorized by subsection (a), the Secretary is further authorized to make grants to organizations composed of public officials representative of the political jurisdictions within the metropolitan area, region, or district for the purpose of assisting such organizations to undertake studies, collect data, develop metropolitan, regional, and district plans and programs, and engage in such other activities, including implementation of such plans, as the Secretary finds necessary or desirable for the solution of the metropolitan, regional, or district problems in such areas, regions, or districts. To the maximum extent feasible, all grants under this subsection shall be for activities relating to all the developmental aspects of the total metropolitan area, region, or district including, but not limited to, land use, transportation, housing, economic development, natural resources development, community facilities, and the general improvement of living environments.

"(i) In addition to the other grants authorized by this section, the Secretary is authorized to make grants to assist any city, other municipality, or county in making a survey of, or in acquiring, the structures and sites in such locality which are determined by its appropriate authorities to be of historic or architectural value. Any such survey shall be designed to identify the historic structures and sites in the locality, determine the cost of their rehabilitation or restoration, and provide such other information as may be necessary or appropriate to serve as a foundation for a balanced and effective program of historic preservation in such locality. The aspects of any such survey which relate to the identification of historic and architectural values shall be conducted in accordance with criteria found by the Secretary to be comparable to those used in establishing the national register maintained by the Secretary of the Interior under other provisions of law; and the results of each such survey shall be made available to the Secretary of the Interior. A grant under this subsection shall be made to the appropriate agency or entity specified in paragraphs (1) through (6) of subsection (a) or, if there is no such agency or entity which is qualified and willing to receive the grant and provide for its utilization in accordance with this subsection, directly to the city, other municipality, or county involved.

"(j) Grants made under this section may be used, subject to regulations and conditions prescribed by the Secretary, for any activities made eligible by the provisions of this section; but such regulations shall provide that grant assistance shall not be used to defray the cost of the acquisition (other than historic structures and sites as provided in subsection (i)), construction, repair, or rehabilitation of, or the preparation of engineering drawings or similar detailed specifications for, specific housing, capital facilities, or public works projects.

"(k) The Secretary shall consult with the heads of other Federal departments and agencies having responsibilities related to the purposes of this section, including responsibilities connected with the economic development of rural and depressed areas, and the protection and enhancement of the Nation's natural environment, with respect to (1) general standards, policies, and procedures to be followed in the administration of this section, and (2) particular grant actions or approvals which the Secretary believes to be of special interest or concern to one or more of such departments and agencies.

"(l) Funds made available under any Federal assistance program for projects or activities, approved as part of or in furtherance of a planning program or related management activities assisted under this section, may be used jointly with funds made available for such projects or activities under any other Federal assistance program, subject to regulations prescribed by the President. Such regulations may include provisions for common technical or administrative requirements where varying or conflicting provisions of law or regulations would otherwise apply, for establishing joint management funds and common non-Federal shares, and for special agreements or delegations of authority, among different Federal agencies in connection with the supervision or administration of assistance. Such regulations shall in any case include appropriate criteria and procedures to assure that any special authorities conferred, which are not otherwise provided for by law, shall be employed only as necessary to promote effective and efficient administration and in a manner consistent with the protection of the Federal interest and program purposes or statutory requirements of a substantive nature. For purposes of this subsection, the term 'Federal assistance program' has the same meaning as in the Intergovernmental Cooperation Act of 1968.

"(m) The Secretary may, as necessary or appropriate and with the approval of the President, delegate any of his powers under this section to the heads of other Federal agencies and authorize the redelegation thereof, subject to such conditions or provisions as may be appropriate to assure effective coordination between the powers so delegated and other powers or functions retained by the Secretary.

"(n) As used in this section—

"(1) The term 'metropolitan area' means a standard metropolitan statistical area, as established by the Office of Management and Budget, subject, however, to such modifications or extensions as the Secretary deems to be appropriate for the purposes of this section.

"(2) The term 'region' includes (A) all or part of the area of jurisdiction of one or more units of general local government, and (B) one or more metropolitan areas.

"(3) The term 'district' includes all or part of the area of jurisdiction of (A) one or more counties, and (B) one or more other units of general local government, but does not include any portion of a metropolitan area.

"(4) The term 'comprehensive planning' includes the following:

"(A) preparation, as a guide for governmental policies and action, of general plans with respect to (i) the pattern and intensity of land use, (ii) the provision of public facilities (including transportation facilities) and other government services, and (iii) the effective development and utilization of human and natural resources;

"(B) identification and evaluation of area needs (including housing, employment, education, and health) and formulation of specific programs for meeting the needs so identified;

"(C) surveys of structures and sites which are determined by the appropriate authorities to be of historic or architectural value;

"(D) long-range physical and fiscal plans for such action;

"(E) programing of capital improvements and other major expenditures, based on a determination of relative urgency, together with definite financing plans for such expenditures in the earlier years of the program;

"(F) coordination of all related plans and activities of the State and local governments and agencies concerned; and

"(G) preparation of regulatory and administrative measures in support of the foregoing.

Comprehensive planning for the purpose of districts shall not include planning for or assistance to establishments in relocating from one area to another or subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts theretofore customarily performed by them. The limitation set forth in the preceding sentence shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity, if the Secretary finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

"(o) In carrying out the provisions of this section relating to planning for States, regions, or other multijurisdictional areas whose development has significance for purposes of national growth and urban development objectives, the Secretary shall encourage the formulation of plans and programs which will include the studies, criteria, standards, and implementing procedures necessary for effectively guiding and controlling major decisions as to where growth should take place within such States, regions, or areas. Such plans and programs shall take account of the availability of and need for conserving land and other irreplaceable natural resources; of projected changes in size, movement, and composition of population; of the necessity for expanding housing and employment opportunities; of the opportunities, requirements, and possible locations for new communities and large-scale projects for expanding or revitalizing existing communities; and of the need for methods of achieving modernization, simplification, and improvements in government structures, systems, and procedures related to growth objectives. If the Secretary determines that activities otherwise eligible for assistance under this section are necessary to the development or implementation of such plans and programs, he may make grants in support of such activities to any governmental agency or organization of public officials which he determines is capable of carrying out the planning work involved in an effective and efficient manner and may make such grants in an amount equal to not more than 80 per centum of the cost of such activities."

COORDINATION OF FEDERAL AIDS IN METROPOLITAN AREAS

SEC. 402. (a) Section 204(a) of the Demonstration Cities and Metropolitan Development Act of 1966 is amended to read as follows:

"(a) All applications for Federal loans or grants to assist in carrying out open-space land projects or comprehensive planning activities or for the planning and construction of hospitals, airports, libraries, water supply and distribution facilities, sewerage facilities and waste treatment works, highways, transportation facilities, law enforcement facilities, water development and land conservation projects, and other community development activities within any metropolitan area shall be submitted for review—

"(1) to an areawide agency which has prepared or is in the process of preparing a metropolitan or regional plan for the area within which the assistance is to be used and which is (i) predominantly composed of or responsible to the elected officials of a unit of areawide government or of the units of general local government within the jurisdiction of which such agency is authorized to engage in such planning, or (ii) directly responsible to citizens of that area; except that if State laws do not provide for the establishment of agencies of the type described in clause (i) or (ii), the review herein required may be made by an areawide agency or other entity established under applicable State law which is, to the greatest extent practicable, composed of or responsible to the elected officials referred to in clause (i); and

"(2) if made by a special purpose unit of local government, to the unit or units of general local government with authority to operate in the area within which the project is to be located."

(b) Section 204 of such Act is further

amended by adding at the end thereof a new subsection as follows:

"(d) Federal agencies administering programs referred to in subsection (a), or specified in rules and regulations issued under subsection (c) of this section or section 401 of the Intergovernmental Cooperation Act of 1968, shall make a report to the Congress, not later than July 1, 1976, concerning their administration of this section and title IV of the Intergovernmental Cooperation Act. The report of any such agency shall include the agency's procedures for administering its responsibilities under rules and regulations so issued, and for each type of applicant—

"(1) the number of applications received by the agency which are subject to such rules and regulations;

"(2) the number (A) of such applications accompanied by comments from State, areawide, or regional agencies, (B) of such applications accompanied by certification under subsection (b)(2), and (C) of such applications which are not accompanied by either comments or such certifications; and

"(3) the number of applicants referred to in each of the clauses (A), (B), and (C) of paragraph (2) with respect to which (i) generally favorable comments, and (ii) generally adverse comments were received from agencies, and the number of such applications which were (A) approved, (B) disapproved, (C) returned to the applicant for further information or revision, and (D) not acted upon.

The report of any such agency shall also indicate the approximate length of time after the approval or disapproval of an application before the agency gives the required notice to the State, areawide, or regional agency making comments with respect to such application. Such report shall contain an evaluation by the reporting agency with respect to the effect of this section, and of rules and regulations prescribed pursuant to subsection (c), on its operations, together with recommendations for improvement."

TRAINING AND FELLOWSHIP PROGRAMS

SEC. 403. (a) Section 801(b) of the Housing and Urban Development Act of 1964 is amended to read as follows:

"(b) It is the purpose of this title to provide fellowships for the graduate training of professional city and regional planning, and management, and housing specialists, and professionally trained personnel with a general capacity in urban affairs and problems; to make grants to and contracts with institutions of higher education (or combinations of such institutions) to assist them in planning, developing, strengthening, improving, or carying out programs or projects for the preparation of graduate or professional students to enter the public service; and to assist and encourage the States and localities, in cooperation with public and private universities and colleges and urban centers and with business firms and associations, labor unions, and other interested associations and organizations, to (1) organize, initiate, develop, and expand programs which will provide special training in skills needed for economic and efficient community developments to those technical, professional, and other persons with the capacity to master and employ such skills who are, or are training to be, employed by a governmental or public body which has responsibility for community development, or by a private nonprofit organization which is conducting or has responsibility for housing and community development programs, and (2) support State and local research that is needed in connection with housing programs and needs, public improvement programing, code problems, efficient land use, urban transportation, and similar community development problems."

(b) Section 802(a) of such Act is amended to read as follows:

"(a) The Secretary is authorized to provide fellowships for the graduate training of professional city planning, management, and housing specialists, and other persons who wish to develop a general capacity in urban affairs and problems as herein provided. Persons shall be selected for such fellowships solely on the basis of ability and upon the recommendation of the Urban Studies Fellowship Advisory Board established pursuant to subsection (b). Fellowships shall be solely for training in public and private nonprofit institutions of higher education having programs of graduate study in the field of city planning or in related fields (including architecture, civil engineering, economics, municipal finance, public administration, urban affairs, and sociology) which programs are oriented to training for careers in city and regional planning, housing, urban renewal, and community development."

(c) Title VIII of such Act is further amended (1) by redesignating sections 804 through 807 as sections 805 through 808, respectively, and (2) by adding after section 803 a new section as follows:

"PROJECT GRANTS AND CONTRACTS

"SEC. 804. (a) The Secretary is authorized to make grants to or contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects (1) for the preparation of graduate or professional students in the fields of city and regional planning and management, housing, and urban affairs, or (2) for research into, or development or demonstration of, improved methods of education for these professions. Such grants or contracts may include payment of all or part of the cost of programs or projects.

"(b)(1) A grant or contract authorized by this section shall be made only upon application to the Secretary at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

"(A) sets forth programs, activities, research, or development for which a grant is authorized under this section;

"(B) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subsection; and

"(C) provides for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(2) Payments under this section may be used, in accordance with regulations of the Secretary, and subject to the terms and conditions set forth in an application approved under paragraph (1), to pay part of the compensation of students employed in professions referred to in subsection (a)(1), except students employed in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this subsection."

(d) Section 807 of such Act as redesignated by subsection (c) of this section, is amended by inserting before the period at the end of the first sentence a comma and the following: "which amount shall be increased by $3,500,000 on July 1, 1974, and by $3,500,000 on July 1, 1975".

CHAPTER V—RURAL HOUSING ASSISTANCE

EXTENSION OF RURAL HOUSING PROGRAM TO GUAM

SEC. 502. Section 501(a)(4) of the Housing Act of 1949 is amended—

(1) by inserting "and" after the comma in clause (A);

(2) by striking out the comma at the end of clause (B) and inserting in lieu thereof the following: "or, if combined with a loan for the improvement, rehabilitation, or repair and not refinanced, is likely to cause a hardship for the applicant."; and

(3) by striking out clauses (C) and (D).

LOANS TO LEASEHOLD OWNERS

SEC. 503. Section 501(b)(2) of the Housing Act of 1949 is amended by striking out "sections 502 and 504" and inserting in lieu thereof "this title".

ESCROW ACCOUNTS FOR TAXES, INSURANCE, AND OTHER EXPENSES

SEC. 504. (a) Section 501 of the Housing Act of 1949 is amended by adding at the end thereof the following new subsection:

"(e) The Secretary shall establish procedures whereby borrowers under this title may make periodic payments for the purposes of taxes, insurance, and such other necessary expenses as the Secretary may deem appropriate. Such payments shall be held in escrow by the Secretary and paid out by him at the appropriate time or times for the purposes for which such payments were made. The Secretary shall notify a borrower in writing when his loan payments are delinquent.".

(b) The second sentence of section 502(a) of such Act is amended by inserting before the period at the end thereof the following: "and on the borrower prepaying to the Secretary as escrow agent, on terms and conditions prescribed by him, such taxes, insurance, and other expenses as the Secretary may require in accordance with section 501(e)".

(c) Section 517 of such Act is amended—

(1) by striking out "as it becomes due" in the first sentence of subsection (d);

(2) by striking out "prepayment" and "prepayments" each place they appear in subsection (j)(1) and inserting in lieu thereof "payment" and "payments", respectively; and

(3) by inserting before the semicolon at the end of subsection (j)(1) the following: "or until the next agreed annual or semiannual remittance date".

LEASING

SEC. 505. Section 501(a) of the Housing Act of 1949 is amended by adding at the end thereof the following flush sentence:

"The Secretary may provide for the leasing of units financed under this section pursuant to section 8 of the United States Housing Act of 1937, as amended by chapter II of the Housing and Community Development Act of 1974, if he determines that such action would prevent a borrower from losing his home, or that such action would provide assistance necessary for a borrower under this section whose income is insufficient to meet other necessary expenses, as defined by the Secretary."

REHABILITATION LOANS AND GRANTS

SEC. 506. Section 504(a) of the Housing Act of 1949 is amended to read as follows:

"(a) In the event the Secretary determines that an eligible applicant cannot qualify for a loan under the provisions of sections 502 and 503 and that repairs or improvements should be made to a rural dwelling occupied by him in order to make such dwelling safe and sanitary and remove hazards to the health of the occupant, his family, or the community, and that repairs should be made to farm buildings in order to remove hazards and make such buildings safe, the Secretary may make a grant or a combined loan and grant to the applicant to cover the cost of improvements or additions, such as repairing roofs, providing toilet facilities, providing a convenient and sanitary water supply, supplying screens, repairing or providing structural supports, or making similar repairs, additions, or improvements, including all preliminary and installation costs in obtaining central water and sewer service. No assistance shall be extended to any one individual under this subsection in the form of a loan, grant, or combined loan and grant in excess of $5,000. Any portion of the sums advanced to the borrower treated as a loan shall be secured and be repayable within twenty years in accordance with the principles and conditions set forth in this title, except that a loan for less than $2,500 need be evidenced only by a promissory note. Sums made available by grant may be made subject to the conditions set forth in this title for the protection of the Government with respect to contributions made on loans made by the Secretary.".

RESEARCH AND STUDY PROGRAMS

SEC. 507. (a) Section 506(d) of the Housing Act of 1949 is amended to read as follows:

"(d) The Secretary may carry out the research and study programs authorized by subsections (b) and (c) through grants made by him, on such terms, conditions, and standards as he may prescribe, to land-grant colleges established pursuant to the Act of July 2, 1862 (7 U.S.C. 301–308), or (upon a finding by the Secretary that the research and study involved cannot feasibly be performed through the personnel and facilities of the Department of Agriculture or by land-grant colleges) to such other private or public organizations as he may select.".

(b) Section 506(e) of such Act is amended by striking out "farm housing" each place it appears and inserting in lieu thereof "rural housing".

VETERANS PREFERENCE

SEC. 508. Section 507 of the Housing Act of 1949 is amended—

(1) by inserting after "concurrent resolution of Congress" each place it appears a comma and the following: "or during the period beginning after January 31, 1955, and ending on August 4, 1964, or during the Vietnam era (as defined in section 101(29) of title 38, United States Code),"; and

(2) by inserting "or era" before the period at the end of the third sentence.

UTILIZATION OF COUNTY COMMITTEES

SEC. 509. Section 508(b) of the Housing Act of 1949 is amended to read as follows:

"(b) The committees utilized or appointed pursuant to this section may examine applications of persons desiring to obtain the benefits of section 501(a) (1) and (2) as they relate to the successful operation of a farm, and may submit recommendations to the Secretary with respect to each applicant as to whether the applicant is eligible to receive such benefits, whether by reason of his character, ability, and experience he is likely successfully to carry out undertakings required of him under a loan under such section, and whether the farm with respect to which the application is made is of such character that there is a reasonable likelihood that the making of the loan requested will carry out the purposes of this title. The committees may also certify to the Secretary with respect to the amount of any loan."

ASSISTANCE AUTHORIZATION

SEC. 510. Clauses (b), (c), and (d) of section 513 of the Housing Act of 1949 are amended to read as follows: "(b) not to exceed $50,000,000 for loans and grants pursuant to section 504 during the period beginning July 1, 1956, and ending October 1, 1974, which amount shall be increased by $25,000,000 on October 1, 1974, and by $25,000,000 on June 1, 1975; (c) not to exceed $50,000,000 for financial assistance pursuant to section 516 for the period ending October 1, 1974, which amount shall be increased by $25,000,000 on October 1, 1974, and by $25,000,000 on June 1, 1975; (d) not to exceed $250,000 per year for research and study programs pursuant to subsections (b), (c), and (d) of section 506 during the period beginning July 1, 1961, and ending October 1, 1974, and $50,000,000 for the period beginning October 1, 1974, and ending on October 1, 1975;".

MAXIMUM LOAN AMOUNT FOR RENTAL HOUSING

SEC. 511. (a) Section 515(b)(1) of the Housing Act of 1949 is amended—

(1) by striking out "$750,000 or"; and

(2) by striking out "least" and inserting in lieu thereof "less".

(b) Section 515(d)(4) of such Act is amended to read as follows:

"(4) the term 'development cost' means the costs of constructing, purchasing, improving, altering, or repairing new or existing housing and related facilities and purchasing and improving the necessary land, including necessary and appropriate fees and charges, including initial operating expenses up to 2 per centum of the aforementioned costs, approved by the Secretary. Such fees and charges may include payments of qualified consulting organizations or foundations which operate on a nonprofit basis and which render services or assistance to nonprofit corporations or consumer cooperatives who provide housing and related facilities."

DEFINITION OF RURAL AREA

SEC. 512. Section 520 of the Housing Act of 1949 is amended by inserting before the period at the end thereof a comma and the following: "or (3) has a population in excess of 10,000 but not in excess of 25,000, and (A) is not contained within a standard metropolitan statistical area, and (B) has a serious lack of mortgage credit, as determined by the Secretary and the Secretary of Housing and Urban Development".

SUBSIDY AND ASSISTANCE PAYMENT FOR LOW-INCOME FAMILIES

SEC. 513. (a) Section 521(a) of the Housing Act of 1949 is amended by inserting "(1)" after "SEC. 521. (a)" and by adding at the end thereof the following new paragraph:

"(2)(A) The Secretary may make and insure loans under this section and sections 514, 515, and 517 to provide rental or cooperative housing and related facilities for person and families of low income in multifamily housing projects, and may make, and contract to make, assistance payments to the owners of such rental housing in order to make available to low-income occupants at rates commensurate to income and not exceeding 25 per centum of income. Such supplemental assistance payments shall be made on a unit basis and shall not be made for more than 20 per centum of the units in any one project, except (i) when the project is financed by a loan under section 515 for elderly housing or by a loan under section 514 and a grant under section 516, such assistance may be made for up to 100 per centum of units, and (ii) when the Secretary determines such action is necessary or feasible, he may make such payments with respect to more than 20 per centum of the units.

"(B) The owner of any project assisted under this paragraph shall be required to provide at least annually a budget of operating expenses and record of tenants' income which shall be used to determine the amount of assistance for each project.

"(C) The project owner shall accumulate, safeguard, and periodically pay to the Secretary any rental charges collected in excess of basic rental charges. These funds may be credited to the appropriation and used by the Secretary for making such assistance payments through the end of the next fiscal year.

"(3)(A) When necessary in order to enable a person of low income to provide adequate housing and related facilities for himself and his family, the Secretary may make or insure a loan under section 502 or 517 or under paragraph (1) of this subsection in terms which, with respect to a portion of the loan not to exceed 50 per centum, shall—

"(i) bear interest after but not before it becomes due under clause (ii) or is reamortized under clause (iii) of this paragraph;

"(ii) become due upon expiration of the amortization period or upon full payment of the balance of the loan or in the event that without the Secretary's written consent or approval, the mortgaged property or any interest therein is transferred to or ceases to be occupied by the borrower or default occurs with respect to any obligation under the loan or mortgage, which ever occurs earliest; and

"(iii) on becoming due, be amortized for payment of principal and interest in installments over a period not exceeding thirty-three years.

"(B) In carrying out his functions under this subsection, the Secretary shall—

"(i) limit the benefits of this subsection to mortgagors able to meet the responsibilities under the mortgage and to maintain the housing acquired thereunder;

"(ii) require reasonable inspections to assure that the expected remaining life of a property subject to a mortgage under this subsection is equal to or exceeds the expected maximum term of such mortgage;

"(iii) review at intervals of one year the income of each mortgagor subject to this subsection for the purpose of making adjustments in the amount of principal which is currently amortized and payable; and

"(iv) report to the Congress not later than six months from the date of enactment of this paragraph (3) regarding the implementation of this paragraph, and not later than eighteen months from such date of enactment regarding the effectiveness of the program implemented under this paragraph, in meeting the housing needs of lower income rural families.

"(C) Not more than 10 per centum of the loans which are made in any fiscal year in accordance with paragraph (1) shall be available for the loan terms provided in this paragraph (3)."

(b) Subsection (c) of such section is amended to read as follows:

"(c) There shall be reimbursed to the Rural Housing Insurance Fund by annual appropriations (1) the amounts by which nonprincipal payments made from the fund during each fiscal year to the holders of insured loans described in subsection (a)(1) exceed interest due from the borrowers during each year, and (2) the amount of assistance payments described in subsection (a)(2). The Secretary may from time to time issue notes to the Secretary of the Treasury under section 517(h) to obtain amounts equal to such unreimbursed payments, pending the annual reimbursement by appropriation."

(c) Section 517(j) of such Act is amended—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(4) to make assistance payments authorized by section 521(a)(2)."

(d) Section 521(c) of such Act is amended by adding at the end thereof the following new sentence: "In addition, there shall be reimbursed to the fund by annual appropriations such sums as may be necessary to carry out the provisions of paragraph (3) of subsection (a)."

MUTUAL AND SELF-HELP HOUSING

SEC. 514. (a) Section 523(b)(1) of the Housing Act of 1949 is amended by inserting immediately before "; and" at the end thereof a colon and the following: "*Provided*, That the Secretary may advance funds under this paragraph to organizations receiving assistance under clause (A) to enable them to establish contingency land revolving accounts and any such advances shall be noninterest bearing and shall be repaid to the Secretary at the expiration of the period for which the grant to the organization involved was made".

(b) Section 523(f) of such Act is amended—

(1) by inserting after the first sentence the following new sentence: "In addition, there are authorized to be appropriated to carry out the provisions of this section not to exceed $10,000,000 for each fiscal year commencing after June 30, 1974, and ending prior to July 1, 1976."; and

(2) by striking out "1974" in the last sentence and inserting in lieu there of "1976".

(c) Section 523 of such Act is amended by adding at the end thereof the following new subsection:

"(h) The Secretary shall issue rules and regulations for the orderly processing and review of applications under this section and rules and regulations protecting the rights of grantees under this section in the event he determines to end grant assistance prior to the termination date of any grant agreement."

SITE LOANS

SEC. 515. Section 524(a) of the Housing Act of 1949 is amended to read as follows:

"(a) The Secretary may make loans, on such terms and conditions and in such amounts he deems necessary, to public or private nonprofit organizations for the acquisition and development of land as building sites to be subdivided and sold to families, nonprofit organizations, public agencies, and cooperatives eligible for assistance under any section of this title or any other law which provides for housing financial assistance. Such a loan shall bear interest at a rate not to exceed 5 per centum per annum and shall be repaid within such additional period as may be authorized by the Secretary in any case as being necessary to carry out the purposes of this section."

TECHNICAL AND SUPERVISORY ASSISTANCE

SEC. 516. Title V of the Housing Act of 1949 is amended by adding at the end thereof the following new section:

"PROGRAMS OF TECHNICAL AND SUPERVISORY ASSISTANCE FOR LOW-INCOME FAMILIES

"SEC. 525. (a) The Secretary may make grants to or enter into contracts with public or private nonprofit corporations, agencies, institutions, organizations, and other associations approved by him, to pay part or all the cost of developing, conducting, administering, or coordinating effective and comprehensive programs of technical and supervisory assistance which will aid needy low-income individuals and families in benefiting from Federal, State, and local housing programs in rural areas.

"(b) The Secretary is authorized to make loans to public or private nonprofit corporations, agencies, institutions, organizations, and other associations approved by him for the necessary expenses, prior to construction, of planning, and obtaining financing for, the rehabilitation or construction, of housing, the acquisition of land, and land banking for low-income individuals or families under any Federal, State, or local housing program which is or could be used in rural areas. Such loans shall be made without interest and shall be for the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing prior to the availability of financing, including but not limited to preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, and construction loan fees and discounts. The Secretary shall require repayment of loans made under this subsection, under such terms and conditions as he may require, upon completion of the housing or sooner, and may cancel any part or all of such a loan if he determines that it cannot be recovered from the proceeds of any permanent loan made to finance the rehabilitation or construction of the housing.

"(c) There are authorized to be appropriated for the fiscal years ending June 30, 1975, and June 30, 1976, not to exceed $5,000,000 for the purposes of subsection (a) and not to exceed $5,000,000 for the purposes of subsection (b), Any amounts so appropriated shall remain available until expended, and any amounts authorized for any fiscal year under this subsection but not appropriated may be appropriated for any succeeding fiscal year.

"(d) All funds appropriated for the purpose of subsection (b) shall be deposited in a fund which shall be known as the low-income sponsor fund, and which shall be available without fiscal year limitation and be administered by the Secretary as a revolving fund for carrying out the purposes of that subsection. Sums received in repayment of loans made under subsection (b) shall be deposited in such fund.".

CONDOMINIUM HOUSING

SEC. 517. (a) Title V of the Housing Act of 1949, as amended by section 516 of this chapter, is amended by adding at the end thereof the following new section:

"CONDOMINIUM HOUSING

"SEC. 526. (a) The Secretary is authorized, in his discretion and upon such terms and conditions (substantially identical insofar as may be feasible with those specified in section 502) as he may prescribe, to make loans to persons and families of low or moderate income, and to insure and make commitments to insure loans made to persons and families of low or moderate income, to assist them in purchasing dwelling units in condominiums located in rural areas.

"(b) Any loan made or insured under subsection (a) shall cover a one-family dwelling unit in a condominium, and shall be subject to such provisions as the Secretary determines to be necessary for the maintenance of the common areas and facilities of the condominium project and to such additional requirements as the Secretary deems appropriate for the protection of the consumer.

"(c) In addition to individual loans made or insured under subsection (a) the Secretary is authorized, in his discretion and upon such terms and conditions (substantially identical insofar as may be feasible with those specified in section 515) as he may prescribe, to make or insure blanket loans to a borrower who shall certify to the Secretary, as a condition of obtaining such loan or insurance, that upon completion of the multifamily project the ownership of the project will be committed to a plan of family unit ownership under which (1) each family unit will be eligible for a loan or insurance under subsection (a), and (2) the individual dwelling units in the project will be held only on a condominimum basis and only to purchasers eligible for a loan or insurance under subsection (a). The principal obligation of any blanket loan made or insured under this subsection shall in no case exceed the sum of the individual amounts of the loans which could be made or insured with respect to the individual dwelling units in the project under subsection (a).

"(d) As used in this section, the term 'condominium' means a multiunit housing project which is subject to a plan of family unit ownership acceptable to the Secretary under which each dwelling unit is individually owned and each such owner holds an undivided interest in the common areas and facilities which serve the project."

(b) Section 517(b) of such Act is amended by inserting "526," after "524,".

(c)(1) Section 521(a)(1) of such Act, as amended by section 513 of this chapter, is amended—

(A) by striking out "and loans under section 515" and inserting in lieu thereof "loans under section 515"; and

(B) by inserting after "elderly families," the following: "and loans under section 526 to provide condominium housing for persons and families of low or moderate income,".

(2) Section 521(b) of such Act is amended—

(A) by striking out "or 517(a)(1)" and inserting in lieu thereof ", 517(a)(1), or 526(a)"; and

(B) by inserting "or 526(c)" after "under section 515".

LEGAL SERVICES

SEC. 518. Section 510 of the Housing Act of 1949 is amended—

(1) by inserting "(a)" after SEC. 510.";

(2) by redesignating paragraphs (a) through (g) as paragraphs (1) through (7), respectively;

(3) by redesignating subparagraphs (1) and (2) of paragraph (3) (as redesignated) as subparagraphs (A) and (B), respectively; and

(4) by adding at the end thereof a new subsection as follows:

"(b) The Secretary shall accord to all qualified attorneys an equal opportunity to participate in providing such title, closing, or other legal services as may be required by persons receiving direct or insured loans under this title."

TRANSFER OF LIABILITIES

SEC. 519. Section 517(b) of the Housing Act of 1949 is amended by adding at the end thereof the following: "The notes held in the Agricultural Credit Insurance Fund (7 U.S.C. 1929) which evidence loans made or insured by the Secretary under section 514 or 515(b), the rights and liabilities of said fund under insurance contracts relating to such loans held by insured investors, the mortgages securing the obligations of the borrowers under such loans held in the fund or by insured investors, and all rights to subsequent collections on and proceeds of such notes, contracts, and mortgages, are hereby transferred to the Rural Housing Insurance Fund and for the purposes of this title and any other Act shall be subject to the provisions of this section as if created pursuant thereto. The Rural Housing Insurance Fund shall compensate the Agricultural Credit Insurance Fund for the aggregate unpaid principal balance plus accrued interest of the notes so transferred."

MOBILE HOMES

SEC. 520. Title V of the Housing Act of 1949, as amended by sections 516 and 517 of this chapter, is amended by adding at the end thereof a new section as follows:

"MOBILE HOMES

"SEC. 527. (a) As used in this title, the term 'housing' shall, notwithstanding any other provision of this title and to the extent deemed practicable by the Secretary, include mobile homes with mobile home sites.

"(b) With respect to mobile homes and mobile home sites financed under this title, the Secretary shall—

"(1) prescribe minimum property standards to assure the livability and durability of the mobile home and the suitability of the site on which it is to be located, and

"(2) obtain assurances from the borrower that the mobile home will be placed on a site which complies with standards prescribed by the Secretary and with applicable local requirements.

Loans under this title for the purchase of mobile homes and sites shall be made on the same terms and conditions as are applicable under section 2 of the National Housing Act or under title III of the Revised National Housing Act to obligations financing the purchase of mobile homes and lots on which to place such homes."

TECHNICAL AMENDMENTS

SEC. 521. Section 531(a)(1), section 523(b)(1)(B), and section 524(a) of title V of the Housing Act of 1949 are amended by inserting "or section 402 or 502 of the Revised

National Housing Act" after "the National Housing Act".

STATE AND LOCAL AGENCIES

SEC. 522. Section 501(c) of the Housing Act of 1949 is amended by adding at the end thereof the following: "If an applicant is a State or local public agency—

"(A) the provisions of clause (3) shall not apply to his application; and

"(B) the applicant shall be eligible to participate in any program under this title if the persons or families to be served by the applicant with the assistance being sought would be eligible to participate in such program."

CHAPTER VI—MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

SHORT TITLE

SEC. 601. This chapter may be cited as the "National Mobile Home Construction and Safety Standards Act of 1974".

STATEMENT OF PURPOSE

SEC. 602. The Congress declares that the purposes of this chapter are to reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from mobile home accidents and to improve the quality and durability of mobile homes. Therefore, Congress determines that it is necessary to establish Federal construction and safety standards for mobile homes, to authorize mobile home safety research and development, and to provide that mobile homes will be supplied with a minimum warranty to insure adequate levels of quality and durability in mobile homes.

DEFINITIONS

SEC. 603. As used in this chapter, the term—

(1) "mobile home construction" means all activities relating to the assembly and manufacture of a mobile home including but not limited to those relating to durability, quality, and safety;

(2) "dealer" means any person who is engaged in the sale, leasing, or distribution of new mobile homes primarily to persons who in good faith purchase or lease a mobile home for purposes other than resale;

(3) "defect" includes any defect in the performance, construction, components, or material of a mobile home that renders the home or any part thereof not fit for the ordinary use for which it was intended;

(4) "distributor" means any person who is engaged in the sale and distribution of mobile homes for resale;

(5) "manufacturer" means any person engaged in manufacturing or assembling mobile homes, including any person engaged in importing mobile homes for resale;

(6) "mobile home" means a structure, transportable in one or more sections, which is eight body feet or more in width and is thirty-two body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, and electrical systems contained therin;

(7) "mobile home construction standard" means a reasonable standard for the construction of a mobile home which meets the needs of the public including the need for quality, durability, and safety;

(8) "mobile home safety" means the performance of a mobile home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such mobile home, or any unreasonable risk of death or injury to the public if such accidents do occur;

(9) "mobile home safety standard" means a reasonable standard for mobile home performance which meets the need for mobile home safety;

(10) "purchaser" means the first person purchasing a mobile home in good faith for purposes other than resale;

(11) "Secretary" means the Secretary of Housing and Urban Development;

(12) 'State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa; and

(13) "United States district courts" means the Federal district courts of the United States and the United States courts of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

FEDERAL MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

SEC. 604. (a) The Secretary shall establish by order appropriate Federal mobile home construction and safety standards. Each such Federal mobile home standard shall be reasonable, shall meet the need for mobile home safety, durability, and quality, shall be stated in objective terms, and shall meet the highest standards of protection, taking into account existing State and local laws relating to mobile home safety and contruction.

(b) All orders issued under this section shall be issued on the record after an opportunity for an agency hearing. The provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to all orders establishing, amending, or revoking a Federal mobile home construction or safety standard under this chapter, except as otherwise specifically provided herein.

(c) Each order establishing a Federal mobile home construction or safety standard shall specify the date such standard is to take effect, which shall not be sooner than one hundred and eighty days nor later than one year after the date such order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reasons for such finding.

(d) Whenever a Federal mobile home construction or safety standard established under this chapter is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any mobile home, any construction or safety standard applicable to the same aspect of performance of such mobile home which is identical to the Federal standard.

(e) The Secretary may by order amend or revoke any Federal mobile home construction or safety standard established under this section. Such order shall specify the date on which such amendment or revocation is to take effect, which shall not be sooner than one hundred and eighty days or later than one year from the date the order is issued, unless the Secretary finds, for good cause shown, that an earlier or later date is in the public interest, and publishes his reasons for such finding.

(f) In establishing standards under this section, the Secretary shall—

(1) consider relevant available mobile home construction and safety data, including the results of the research, development, testing, and evaluation activities conducted pursuant to this chapter, and those activities conducted by private organizations and other governmental agencies to determine how to best protect the public;

(2) consult with such State or interstate agencies (including legislative committees) as he deems appropriate;

(3) consider whether any such proposed standard is reasonable for the particular type of mobile home or for the geographic region for which it is prescribed;

(4) consider whether any such standard increases the cost of the mobile home substantially beyond the value of the expected benefits to the public; and

(5) consider the extent to which any such standard will contribute to carrying out the purposes of this chapter.

(g) The Secretary shall issue an order establishing initial Federal mobile home construction and safety standards not later than one year after the date of enactment of this chapter. Additions and revisions of these initial standards as well as new standards may be issued by the Secretary at any time after the expiration of the one-year period beginning on the date of enactment of this chapter.

NATIONAL MOBILE HOME ADVISORY COUNCIL

SEC. 605. (a) The Secretary shall appoint a National Mobile Home Advisory Council with the following composition: eight members selected from among consumer organizations, community organizations, and recognized consumer leaders; eight from the mobile home industry and related groups including at least one representative of small business; and eight members selected from government agencies including Federal, State, and local governments. Appointments under this subsection shall be made without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service, classification, and General Schedule pay rates. The Secretary shall publish the names of the members of the Council annually and shall designate which members represent the general public.

(b) The Secretary shall, to the extent feasible, consult with the Advisory Council prior to establishing, amending, or revoking any mobile home construction or safety standard pursuant to the provisions of this chapter.

(c) Any member of the National Mobile Home Advisory Council who is appointed from outside the Federal Government may be compensated at a rate not to exceed $100 per diem (including traveltime) when engaged in the actual duties of the Advisory Council. Such members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

JUDICIAL REVIEW OF ORDER

SEC. 606. (a) (1) In a case of actual controversy as to the validity of any order under section 604, any person who will be adversely affected by such order when it is effective may at any time prior to the sixtieth day after such order is issued file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judicial review of such order. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28, United States Code.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(3) Upon the filing of the petition deferred to in paragraph (1) of this subsection, the court shall have jurisdiction to review the

order in accordance with the provisions of sections 701 through 706 of title 5, United States Code, and to grant appropriate relief.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(5) Any action instituted under this subsection shall survive, notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.

(b) A certified copy of the transcript of the record and proceedings under this section shall be furnished by the Secretary to any interested party at his request and payment of the costs thereof, and shall be admissible in any criminal, exclusion of imports, or other proceeding arising under or in respect of this chapter, irrespective of whether proceedings with respect to the order have previously been initiated or become final under subsection (a).

PUBLIC INFORMATION

SEC. 607. (a) Whenever any manufacturer is opposed to any action of the Secretary under section 604 or under any other provision of this chapter on the grounds of increased cost or for other reasons, the manufacturer shall submit such cost and other information (in such detail as the Secretary may by rule or order prescribe) as may be necessary in order to properly evaluate the manufacturer's statement.

(b) Such information shall be available to the public unless the manufacturer establishes that it contains a trade secret. Notice of the availability of such information shall be published promptly in the Federal Register. If the Secretary determines that any portion of such information contains a trade secret or that the disclosure of any portion of such information would put the manufacturer at a substantial competitive disadvantage, such portion may be disclosed to the public only in such manner as to preserve the confidentiality of such trade secret or in such combined or summary form so as not to disclose the identity of any individual manufacturer, except that any such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this subsection shall authorize the withholding of information by the Secretary or any officer or employee under his control from the duly authorized committees of the Congress.

(c) If the Secretary proposes to establish, amend, or revoke a Federal mobile home construction or safety standard under section 604 of this chapter on the basis of information submitted pursuant to subsection (a), he shall publish a notice of such proposed action, together with the reasons therefor, in the Federal Register at least thirty days in advance of making a final determination, in order to allow interested parties an opportunity to comment.

(d) For purposes of this section, "cost information" means information with respect to alleged cost increases resulting from action by the Secretary, in such a form as to permit the public and the Secretary to make an informed judgment on the validity of the manufacturer's statements. Such term includes both the manufacturer's cost and the cost to retail purchasers.

(e) The Secretary is authorized to establish rules and regulations prescribing forms and procedures for the submission of cost data under this section.

(f) Nothing in this section shall be construed to restrict the authority of the Secretary to obtain or require submission of information under any other provision of this chapter.

RESEARCH, TESTING, DEVELOPMENT, AND TRAINING

SEC. 608. (a) The Secretary shall conduct research, testing, development, and training necessary to carry out the purposes of this chapter, including, but not limited to—

(1) collecting data from any source for the purpose of determining the relationship between mobile home performance characteristics and (A) accidents involving mobile homes, and (B) the occurrence of death, personal injury or damage resulting from such accidents;

(2) procuring (by negotiation or otherwise) experimental and other mobile homes for research and testing purposes;

(3) selling or otherwise disposing of test mobile homes and reimbursing the proceeds of such sales or disposal into the current appropriation available for the purpose of carrying out this chapter.

(b) The Secretary is authorized to conduct research, testing, development, and training as authorized to be carried out by subsection (a) of this section by making grants for the conduct of such research, testing, development, and training to States, interstate agencies, and independent institutions.

(c) Whenever the Federal contribution for any research or development activity authorized by this chapter encouraging mobile home safety is more than minimal, the Secretary shall include in any contract, grant, or other arrangement for such research or development activity, provisions effective to insure that all information, uses, processes, patents, and other developments resulting from that activity will be made freely and fully available to the general public. Nothing herein shall be construed to deprive the owner of any background patent or any right which he may have thereunder.

COOPERATION WITH PUBLIC AND PRIVATE AGENCIES

SEC. 609. The Secretary is authorized to advise, assist, and cooperate with other Federal agencies and with State and other interested public and private agencies, in the planning and development of—

(1) mobile home construction and safety standards; and

(2) methods for inspecting and testing to determine compliance with mobile home standards.

PROHIBITED ACTS

SEC. 610. (a) No person shall—

(1) make use of any means of transportation or communication affecting interstate or foreign commerce or the mails to manufacture for sale, lease, sell, offer for sale or lease, or introduce or deliver, or import into the United States, any mobile home which is manufactured on or after the effective date of any applicable Federal mobile home construction and safety standard under this chapter and which does not comply with such standard, except as provided in subsection (b);

(2) fail or refuse access to or copying of records, or fail to make reports or provide information, or fail or refuse to permit entry or inspection, as required under section 614;

(3) fail to furnish notification of any defect as required by section 615;

(4) fail to issue a certification required by section 616, or issue a certification to the effect that a mobile home conforms to all applicable Federal mobile home construction and safety standards, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect; or

(5) fail to issue a warranty meeting the requirements set forth in section 617 or fail or refuse to perform duties owing under such a warranty, as determined by the Secretary under section 617(d).

(b)(1) Paragraph (1) of subsection (a) shall not apply to the sale, the offer for sale, or the introduction or delivery for introduction in interstate commerce of any mobile home after the first purchase of it in good faith for purposes other than resale.

(2) Paragraph (1) of subsection (a) shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that such mobile home is not in conformity with applicable Federal mobile home construction and safety standards, or to any person who, prior to such first purchase, holds a certificate issued by the manufacturer or importer of such mobile home, to the effect that such mobile home conforms to all applicable Federal mobile home construction and safety standards, unless such person knows that such mobile home does not so conform.

(3) A mobile home offered for importation in violation of paragraph (1) of subsection (a) shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary, except that the Secretary of the Treasury and the Secretary may, by such regulations, provide for authorizing the importation of such mobile home into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such mobile home will be brought into conformity with any applicable Federal mobile home construction or safety standard prescribed under this chapter, or will be exported from, or forfeited to, the United States.

(4) The Secretary of the Treasury and the Secretary may, by joint regulations, permit the importation of any mobile home after the first purchase of it in good faith for purposes other than resale.

(5) Paragraph (1) of subsection (a) shall not apply in the case of a mobile home intended solely for export, and so labeled or tagged on the mobile home itself and on the outside of the container, if any, which is exported.

(c) Compliance with any Federal mobile home construction or safety standard issued under this chapter does not exempt any person from any liability under common law.

CIVIL AND CRIMINAL PENALTY

SEC. 611. (a) Whoever violates any provision of section 610, or any regulation issued thereunder, shall be subject to a civil *penalty* of not to exceed $1,000 for each such violation. Each violation of a provision of section 610, or regulations issued thereunder, shall constitute a separate violation with respect to each mobile home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed $1,000,000 for any related series of violations occurring within one year from the date of the first violation.

(b) An individual director, officer, or agent of a corporation who knowingly and willfully violates section 610 in a manner which threatens the health or safety of any purchaser shall be fined not more than $1,000 or imprisoned not more than one year, or both.

JURISDICTION AND VENUE

SEC. 612. (a) The United States district courts shall have jurisdiction, for cause shown and subject to the provision of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this chapter, or to restrain the sale, offer for sale, or the importation into the United States, of any mobile home which is determined, prior to the first purchase of such mobile home in good faith for purposes other than resale, not to conform to applicable Federal mobile home construction and safety standards prescribed pursuant to this chapter, upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views and, except in the case of a knowing and willful violation, the failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

(b) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this chapter, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(c) Actions under subsection (a) of this section and section 611 may be brought in the district wherein any act or transacation constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

(d) In any action brought under subsection (a) of this section and section 611, subpenas for witnesses who are required to attend at United States district court may run into any other district.

(e) It shall be the duty of every manufacturer offering a mobile home for importation into the United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made for and on behalf of such manufacturer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made upon such manufacturer by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon such manufacturer, and in default of such designation of such agent, service of process, notice, order, requirements, or decision in any proceeding before the Secretary or in any judicial proceeding for enforcement of this chapter or any standards prescribed pursuant to this chapter may be made by posting such process, notice, order, requirement, or decision in the office of the Secretary.

NONCOMPLIANCE WITH STANDARDS

SEC. 613. (a) It the Secretary or a court of appropriate jurisdiction determines that any mobile home does not conform to applicable Federal mobile home construction and safety standards, or that it contains a defect which relates to mobile construction or safety, after the sale of such mobile home by a manufacturer to a distributor or a dealer and prior to the sale of such mobile home by such distributor or dealer to a purchaser—

(1) the manufacturer shall immediately repurchase such mobile home from such distributor or dealer at the price paid by such distributor or dealer, plus all transportation charges involved and a reasonable reimbursement of not less than 1 per centum per month of such price paid prorated from the date of receipt by certified mail of notice of such nonconformance to the date of repurchase by the manufacturer; or

(2) the manufacturer, at his own expense, shall immediately furnish the purchasing distributor or dealer the required conforming part or parts or equipment for installation by the distributor or dealer on or in such mobile home, and for the installation involved the manufacturer shall reimburse such distributor or dealer for the reasonable value of such installation plus a reasonable reimbursement of not less than 1 per centum per month of the manufacturer's or distributor's selling price prorated from the date of receipt by certified mail of notice of such nonconformance to the date such vehicle is brought into conformance with applicable Federal standards, so long as the distributor or dealer proceeds with reasonable diligence with the installation after the required part of equipment is received.

The value of such reasonable reimbursements as specified in paragraphs (1) and (2) of this subsection shall be fixed by mutual agreement of the parties, or failing such agreement, by the court pursuant to the provisions of subsection (b).

(b) If any manufacturer fails to comply with the requirements of subsection (a), then the distributor or dealer, as the case may be, to whom such nonconforming mobile home or mobile home containing a defect relating to construction or safety has been sold may bring an action seeking a court injunction compelling compliance with such requirements on the part of such manufacturer. Such action may be brought in any district court in the United States in the district in which such manufacturer resides, or is found, or has an agent, without respect to the amount in controversy, and the person bringing the action shall also be entitled to recover any damage sustained by him, as well as all court costs plus reasonable attorney's fees. Any action brought pursuant to this section shall be forever barred unless commenced within three years after the cause of action shall have accrued.

INSPECTION OF MOBILE HOMES AND RECORDS

SEC. 614. (a) The Secretary is authorized to conduct such inspections and investigations as may be necessary to enforce Federal mobile home construction and safety standards established under this chapter. He shall furnish the Attorney General and, when appropriate, the Secretary of the Treasury any information obtained indicating noncompliance with such standards for appropriate action.

(b)(1) For purposes of enforcement of this chapter, persons duly designated by the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized—

(A) to enter, at reasonable times and without advance notice, any factory, warehouse, or establishment in which mobile homes are manufactured, stored, or held for sale; and

(B) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, any such factory, warehouse, or establishment, and to inspect such books, papers, records, and documents as are set forth in subsection (c). Each such inspection shall be commenced and completed with reasonable promptness.

(2) The Secretary is authorized to contract with State and local governments and private inspection organizations to carry out his functions under this subsection.

(c) For the purpose of carrying out the provisions of this chapter, the Secretary is authorized—

(1) to hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary or such officer or employee, deems advisable. Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States;

(2) to examine and copy any documentary evidence of any person having materials or information relevant to any function of the Secretary under this chapter;

(3) to require, by general or special orders, any person to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary under this chapter. Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe.

(4) to request from any Federal agency any information he deems necessary to carry out his functions under this chapter, and each such agency is authorized and directed to cooperate with the Secretary and to furnish such information upon request made by the Secretary, and the head of any Federal agency is authorized to *detail, on a* reimbursable basis, any personnel of such agency or to assist in carrying out the duties of the Secretary under this chapter; and

(5) to make available to the public any information which may indicate the existence of a defect which relates to mobile home construction or safety or of the failure of a mobile home to comply with applicable mobile home construction and safety standards. The Secretary shall disclose so much of other information obtained under this subsection to the public as he determines will assist the purposes in carrying out this chapter; but he shall not (under the authority of this sentence) make available or disclose to the public any information which contains or relates to a trade secret or any information the disclosure of which would put the furnisher of such information at a substantial competitive disadvantage, unless he determines that it is necessary to carry out the purpose of this chapter.

(d) Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpena or order of the Secretary issued under paragraph (1) or paragraph (3) of subsection (c) of this section, issue an order requiring compliance therewith; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) For the purposes of carrying out the provisions of this chapter, each manufacturer of mobile homes shall submit the building plans for every model of mobile home to the Secretary for technical evaluation and approval which certifies that the building plan meets the Federal construction and safety standards in force at that time. The plans must be approved by the Secretary or his designee for the purpose of conducting inspections and determining compliance, before such model may be produced and sold.

(f) Each manufacturer, distributor, and dealer of mobile homes shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer, distributor, or dealer has acted or is acting in compliance with the chapter and mobile home safety standards prescribed pursuant to this chapter and shall, upon request of a person duly designated by the Secretary, permit such person to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer, distributor, or dealer has acted or is acting in compliance with this chapter and mobile home construction and safety standards prescribed pursuant to this chapter.

(g) Each manufacturer of mobile homes shall provide to the Secretary such performance data and other technical data related to performance and safety as may be required to carry out the purposes of this chapter. These shall include records of tests and test results which the Secretary may require to be performed. The Secretary is authorized to require the manufacturer to give such notification of such performance and technical data which the Secretary determines necessary to carry out the purpose of this chapter, to—

(1) each prospective purchaser of a mobile home before its first sale for purposes other than resale at each location where any such manufacturer's mobile homes are offered for sale by a person with whom such manufacturer has a contractual, proprietary, or other legal relationship in a manner determined by the Secretary to be appropriate, which may include, but is not limited to, printed matter (A) available for retention by such prospective purchaser, and (B) sent by mail to such prospective purchaser upon his request; and

(2) the first person who purchases a mobile home for purposes other than resale, at the time of such purchase, or in printed matter placed in the mobile home.

(h) All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (b), (c), (f), or (g), which contains or relates to a trade secret, or which, if disclosed, would put the person furnishing such information at a substantial competitive disadvantage, shall be considered confidential, except that such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control from the duly authorized committee of the Congress.

NOTIFICATION AND CORRECTION OF DEFECTS

SEC. 615. (a) Every manufacturer of mobile homes shall furnish notification of any defect in any mobile home produced by such manufacturer which he determines, in good faith, relates to mobile home construction or safety to the purchaser of such mobile homes, within reasonable time after such manufacturer has discovered such defect.

(b) The notification required by subsection (a) shall be accomplished—

(1) by mail to the first purchaser (not including any dealer or distributor of such manufacturer) of the mobile home containing such a defect, and to any subsequent purchaser to whom any warranty on such mobile home has been transferred;

(2) by mail to any other person who is a registered owner of such mobile home and whose name and address has been ascertained pursuant to procedures established under subsection (f); and

(3) by mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such mobile home was delivered.

(c) The notification required by subsection (a) shall contain a clear description of such defect or failure to comply, an evaluation of the risk to mobile home occupants' safety reasonably related to such defect, and a statement of the measures needed to repair such a defect. The notification shall also inform the owner whether the defect is a construction or safety defect which the manufacturer will have corrected at no cost to the homeowner under subsection (g) or is a defect which must be corrected at the expense of the homeowner.

(d) Every manufacturer of mobile homes shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturer or purchasers of mobile homes of such manufacturer regarding any defect in such mobile home produced by such manufacturer. The Secretary shall disclose so much of the information contained in such notice or other information obtained under section 614 to the public as he deems will assist in carrying out the purposes of this chapter, but he shall not disclose any information which contains or relates to a trade secret, or which, if disclosed, would put such manufacturer at a substantial competitive disadvantage, unless he determines that it is necessary to carry out the purposes of this chapter.

(e) If the Secretary determines that any mobile home—

(1) does not comply with an applicable Federal mobile home construction and safety standard prescribed pursuant to section 604; or

(2) contains a defect which relates to mobile home construction or safety,

then he shall immediately notify the manufacturer of such mobile home of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include all information upon which the findings are based. The Secretary shall afford such manufacturer an opportunity to present his views and evidence in support thereof, to establish that there is no failure of compliance. If after such presentation by the manufacturer the Secretary determines that such mobile home does not comply with applicable Federal construction or safety standards, or contains a defect which relates to mobile home safety, the Secretary shall direct the manufacturer to furnish the notification specified in subsections (a) and (b) of this section.

(f) Every manufacturer of mobile homes shall maintain a record of the name and address for the first purchaser of each mobile home (for purposes other than resale), and, to the maximum extent feasible, shall maintain procedures for ascertaining the name and address of any subsequent purchaser thereof and shall maintain a record of names and addresses so ascertained. Such records shall be kept for each home produced by a manufacturer. The Secretary may establish by order procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers to secure the information required by this subsection. Such procedures shall be reaonable for the particular type of mobile home for which they are prescribed.

(g) A manufacturer required to furnish notification of a defect under subsection (a) or (e) shall also correct the defect or have the defect corrected within a reasonable period of time at no expense to the owner, but only if—

(1) the defect presents an unreasonable risk of injury or death to occupants of affected mobile homes;

(2) the defect can be related to an error in design or assembly of the mobile home by the manufacturer; and

(3) the cost of correcting the defect is substantial.

The Secretary may direct the manufacturer to make such corrections after providing an opportunity for oral and written presentation of views by interested persons.

(h) The manufacturer shall submit his plan for notifying owners of the defect (if required under subsection (g)) and for repairing such defect to the Secretary for his approval before implementing such plan. Whenever a manufacturer is required under subsection (g) to correct a defect, the Secretary shall approve with or without modification after consultation with the manufacturer of such mobile home, such manufacturer's remedy plan including the date when, and the method by which, the notification and remedy required pursuant to this section shall be effectuated. Such date shall be the earliest practicable one but shall not be more than sixty days after the date of discovery or determination of the defect or failure to comply, unless the Secretary grants an extension of such period for good cause shown and publishes a notice of such extension in the Federal Register. Such manufacturer is bound to implement such remedy plan as approved by the Secretary.

(i) Where a defect or failure in a mobile home cannot be adequately repaired within thirty days from the date of discovery or determination of the defect, the Secretary may require that the mobile home be replaced with a new or equivalent home without charge, or that the purchase price be refunded in full, less a reasonable allowance for depreciation based on actual use (if the home has been in the possession of the owner more than one year).

CERTIFICATION OF CONFORMITY WITH CONSTRUCTION AND SAFETY STANDARDS

SEC. 616. Every manufacturer of a mobile home shall furnish to the distributor or dealer at the time of delivery of each such mobile home produced by such manufacturer certification that each such mobile home conforms to all applicable Federal construction and safety standards. Such certification shall be in the form of a label or tag permanently affixed to each such mobile home.

WARRANTIES

SEC. 617. (a) Every manufacturer and dealer shall furnish the first purchaser of a mobile home for purposes other than resale a written one-year warranty under which they agree jointly and severally to repair at the site of the mobile home, or replace if necessary, the mobile home or any part thereof in instances of noncompliance with all applicable standards under section 604 for which they are respectively responsible, as provided in subsection (b) of this section, which becomes evident within one year from the date of the delivery of the mobile home to the buyer, if the buyer gives written notice of such defects to the manufacturer or dealer at their business addresses not later than one year and ten days after date of delivery to the original buyer. Such corrective action shall be taken within forty-five days and without cost to such purchaser.

(b) The manufacturer shall warrant that the mobile home was delivered to the dealer's lot in compliance with all applicable standards under section 604; and the dealer shall warrant that the mobile home, when delivered to the buyer, is in compliance with all applicable standards under section 604 for which he is responsible including, by way of example, but not limited to the setup of the home, and the installation and connection of accessories and utilities. Neither manufacturer nor dealer shall be liable under such warranty for any defect in the mobile home which is the result of improper setup, move, materials furnished, or work done by persons other than the manufacturer or dealer unless such work was performed by persons under contract or connected by agency with such manufacturer or dealer.

(c) Every third party (other than a person under contract or connected by agency with such manufacturer or dealer) who sets up a mobile home shall give a written one-year warranty that the setup was in compliance with all applicable standards under section 604.

(d) In the event that the manufacturer, dealer, or third party under subsection (c) performing the setup, or the first purchaser of a mobile home with respect to which a warranty under this section is required do not agree whether such mobile home or part thereof does in fact comply with any such standard, either the manufacturer, dealer, such third party performing the setup, or the first purchaser may request in writing that the Secretary make a determination whether there has in fact been such compliance and make a determination of liability of the parties under the warranty agreement. Upon receipt of any such request, the Secretary shall make such determination in writing as soon as practicable. The warranty required by this section shall contain notification to the first purchaser of his right to request such a determination from the Secretary.

(e) Nothing in this section shall abrogate or in any way affect any rights the purchaser may have under the laws of the purchaser's State of residence.

NATIONAL MOBILE HOME ADMINISTRATION

SEC. 618. (a) The Secretary shall carry out the provisions of this chapter through a National Mobile Home Administration (hereinafter referred to as the "Administration"), which he shall establish in the Department of Housing and Urban Development. The Administration shall be headed by an Assistant Secretary who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall be a citizen of the United States, and shall be appointed with due regard for his fitness to discharge efficiently the powers and duties delegated to him pursuant to this chapter. The Assistant Secretary shall perform such duties as are delegated to him by the Secretary.

(b) The first sentence of section 4(a) of the Department of Housing and Urban Development Act is amended by striking out "six" and inserting in lieu thereof "seven".

CONSUMER INFORMATION

SEC. 619. The Secretary shall develop guidelines for a consumer's manual to be provided to mobile home purchasers by the manufacturer. These manuals should identify and explain the purchasers' responsibilities for operation, maintenance, and repair of their mobile home.

EFFECT UPON ANTITRUST LAWS

SEC. 620. Nothing contained in this chapter shall be deemed to exempt from the antitrust laws of the United States any conduct that would otherwise be unlawful under such laws, or to prohibit under the antitrust laws of the United States any conduct that would be lawful under such laws.

USE OF RESEARCH AND TESTING FACILITIES OF PUBLIC AGENCIES

SEC. 621. The Secretary, in exercising the authority under this chapter, shall utilize the services, research and testing facilities of public agencies and independent testing laboratories to the maximum extent practicable in order to avoid duplication.

INSPECTION FEES

SEC. 622. In carying out the inspections required under this chapter, the Secretary may establish and impose on mobile home manufacturers, distributors, and dealers such reasonable fees as may be necessary to offset the expenses incurred by him in conducting such inspections, except that this section shall not apply in any State which has in effect a State plan under section 625.

PENALTIES ON INSPECTIONS

SEC. 623. Any person, other than an officer or employee of the United States, or a person exercising inspection functions under a State plan pursuant to section 625, who knowingly and willfully fails to report a violation of any construction or safety standard established under section 604 may be fined up to $1,000 or imprisoned for up to one year, or both.

PROHIBITION ON WAIVER OF RIGHTS

SEC. 624. The rights afforded mobile home purchasers under this chapter may not be waived and any contract or agreement to the contrary shall be voidable.

STATE PLANS

SEC. 625. (a) Nothing in this chapter shall prevent any State agency or court from asserting jurisdiction under State law over any mobile home construction or safety issue with respect to which no standard has been established pursuant to the provisions of section 604.

(b) Any State which, at any time, desires to assume responsibility for enforcement of mobile home safety and construction standards relating to any issue with respect to which a Federal standard has been established under section 604, shall submit to the Secretary a State plan for enforcement of such standards.

(c) The Secretary shall approve the plan submitted by a State under subsection (b), or any modification thereof, if such plan in his judgment—

(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;

(2) provides for the enforcement of mobile home safety and construction standards promulgated under section 604;

(3) provides for a right of entry and inspection of all factories, warehouses, or establishments in such State in which mobile homes are manufactured and for the review of plans in a manner which is identical to that provided in section 614;

(4) provides for the imposition of the civil and criminal penalties under section 611;

(5) provides for the notification and correction procedures under section 615;

(6) provides for the payment of inspection fees by manufacturers in amounts adequate to cover the costs of inspections;

(7) contains satisfactory assurances that such agency has or will have the legal authority and qualified personnel necessary for the enforcement of such standards;

(8) give satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards;

(9) requires manufacturers, distributors, and dealers in such State to make reports to the Secretary in the same manner and to the same extent as if the State plan were not in effect;

(10) provides that the State agency will make such reports to the Secretary in such form and containing such information as the Secretary shall from time to time require; and

(11) complies with such other requirements as the Secretary may by regulation prescribe for the enforcement of this chapter.

(d) If the Secretary rejects a plan submitted under subsection (b), he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.

(e) After the Secretary approves a State plan submitted under subsection (b), he may, but shall not be required to, exercise his authority under this chapter with respect to enforcement of mobile home construction and safety standards.

(f) The Secretary shall, on the basis of reports submitted by the State agency and his own inspections, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan or that the State plan has become inadequate, he shall notify the State agency of his withdrawal of approval of such plan. Upon receipt of such notice by such State agency such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce mobile home standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

GRANTS TO THE STATES

SEC. 626. (a) The Secretary is authorized to make grants to the States which have designated a State agency under section 625 to assist them—

(1) in identifying their needs and responsibilities in the area of mobile home construction and safety standards; or

(2) in developing State plans under section 625.

(b) The Governor of each State shall designate the appropriate State agency for receipt of any grant made by the Secretary under this section.

(c) Any State agency designated by the Governor of the State desiring a grant under tihs section shall submit an application therefor to the Secretary. The Secretary shall review and either accept or respect such application.

(d) The Federal share for each State grant under subsection (a) of this section may not exceed 90 per centum of the total cost to the State in identifying its needs and developing its plan. In the event the Federal share for all States under such subsection is not the same, the difference among the States shall be established on the basis of objective criteria.

RULES AND REGULATIONS

SEC. 627. The Secretary is authorized to issue, amend, and revoke such rules and regulations as he deems necessary to carry out this chapter.

ANNUAL REPORT TO CONGRESS

SEC. 628. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on March 1 of each year a comprehensive report on the administration of this chapter for the preceding calendar year. Such report shall include but not be restricted to (1) a thorough statistical compilation of the accidents, injuries, deaths, and property losses occurring in mobile home in such year; (2) a list of Federal mobile home construction and safety standards prescribed or in effect in such year; (3) the level of compliance with all applicable Federal mobile home standards; (4) a summary of all current research grants and contracts together with a description of the problems to be studied in such research; (5) an analysis and evaluation, including relevant policy recommendations, of research activities completed and technological progress achieved during such year; (6) a statement of enforcement actions including judicial decisions, settlements, defect notifications, and pending litigation commenced during the year; and (7) the extent to which technical information was disseminated to the scientific community and consumer-oriented information was made available to mobile homeowners and prospective buyers.

(b) The report required by subsection (a) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary to promote the improvement of mobile home construction and safety and to strengthen the national mobile home program.

(c) In order to assure a continuing and effective national mobile home construction and safety program, it is the policy of Congress to encourage the adoption of State inspection of used mobile homes. Therefore, to that end the Secretary shall conduct a thorough study and investigation to determine the adequacy of mobile home construction and safety standards and mobile home inspection requirements and procedures applicable to used mobile homes in each State, and the effect of programs authorized by this chapter upon such standards, requirements, and procedures for used mobile homes, and report to Congress as soon as practicable, but not later than one year after the date of enactment of this chapter, the results of such study, and recommendations for such additional legislation as he deems necessary to carry out the purposes of this chapter. Such report shall also include recommendations by the Secretary relating to the problems of disposal of used mobile homes.

AUTHORIZATION OF APPROPRIATIONS

SEC. 629. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

EFFECTIVE DATE

SEC. 630. The provisions of this chapter shall take effect upon the expiration of 180 days following the date of enactment of this chapter.

CHAPTER VII—HOUSING COOPERATIVE FINANCING ASSOCIATION

SHORT TITLE AND STATEMENT OF PURPOSE

SEC. 701. (a) This chapter may be cited as the "Housing Cooperative Financing Association Act".

(b) It is the policy of the Congress and the purpose of this chapter to encourage and assist consumer-oriented groups in their efforts to improve housing conditions through the establishment of nonprofit cooperative corporations to construct, acquire, manage, and maintain housing projects for occupancy by the members of such corporations, thereby achieving economic savings and advantages which result from large-scale cooperative building and marketing and from self-maintenance by the members, who become owners instead of tenants. The Congress has determined that an appropriate method of providing such encouragement and assistance, with the utilization of private financing methods and in a manner consistent with the well-established precedent of specialized financing institutions for cooperatives, is the establishment of a special financing association which will provide the necessary financing for the cooperative corporations and their members or stockholders.

HOUSING COOPERATIVE FINANCING ASSOCIATION

SEC. 702. (a) To effectuate the purpose of this chapter, there is hereby created a body corporate to be known as the Housing Cooperative Financing Association (hereinafter referred to as the "Association") which shall be in the Department of Housing and Urban Development and which shall have authority to make and service loans, issue obligations within the limitations imposed by section 706 hereof in such amounts, at such times, and on such terms as the Association may determine, and to exercise the other powers and duties prescribed in this chapter. The Association shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. Agencies or offices may be established by the Association in such other place or places as it may deem necessary or appropriate in the conduct of its business.

(b) All the powers and duties of the Association shall initially be vested in the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") and the Association shall, except as hereinafter provided, be administered under the direction of the Secretary. Within the limitations of law, the Secretary shall determine the general policies which shall govern the operations of the Association, and shall have power to adopt, amend, and repeal bylaws governing the performance of the powers and duties granted to or imposed upon it by law. The Secretary shall select and effect the appointment of qualified persons to fill the offices of president and vice president, and such other offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Secretary, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties. The Secretary shall also—

(1) select and appoint such attorneys, employees, and agents of the Association, vest them with such powers and duties, and cause the Association to pay such compensation to them for their services as the Secretary may determine, subject to the provisions of title 5, United States Code, relating to appointments in the competitive service, classification, and General Schedule pay rates;

(2) utilize the services of other employees within the Department of Housing and Urban Development on a compensatory or other basis, as determined by the Secretary;

(3) to the extent deemed appropriate or desirable, utilize the services, and pay reasonable compensation therefor, of approved private lending institutions, the Federal National Mortgage Association and the Government National Mortgage Association for the processing of loan applications, the making of disbursements, the servicing of loans, and for other assistance in administering the functions of the Association;

(4) take such steps as he deems necessary or desirable to assure that the benefits provided by this chapter shall be made available only for the benefit of cooperatives (and the members thereof) whose housing projects have consumer-oriented sponsorship and that each of such projects will be owned by a nonprofit cooperative housing corporation, the permanent occupancy of the dwellings in which is restricted to members of such corporation;

(5) maintain an integral set of accounts which shall be audited annually by the General Accounting Office; and

(6) make an annual report to the Secretary, for transmission to the Congress, to be submitted as soon as practicable following the close of the year for which such report is made.

(c) In the performance of its functions, the association shall have the power to adopt, alter, and use a corporate seal, which shall be judicially noticed, to make loans as authorized by the provisions of this chapter, to enter into and perform contracts, leases, cooperative agreements, or other transactions, on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory, or possession, or the Commonwealth of Puerto Rico, or with any political subdivision thereof, or with any person, firm, association, or corporation; to execute, in accordance with its bylaws, all instruments necessary or appropriate in the exercise of any of its powers; in its corporate name to sue and be sued, and to complain and defend, in any court of competent jurisdiction, State or Federal, but no attachment, injunction, or similar process, mesne or final, shall be issued against the property of the Association or against the Association with respect to its property; and, notwithstanding the generality of the foregoing, may—

(1) enter into contracts without regard to section 3709 of the Revised Statutes and make advance, progress, or other payments with respect to such contracts without regard to the provisions of section 3648 of the Revised Statutes, and include in any contract or instrument made pursuant to this chapter such other provisions as the Association deems necessary to assure that the purposes of this chapter will be achieved;

(2) foreclose on any property or take any action to protect or enforce any right conferred upon it by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any project or part thereof in connection with which it has made a loan pursuant to this chapter;

(3) pay all expenses or charges in connection with, and deal with, complete, reconstruct, improve, rent, manage, make contracts for the management of, or establish suitable agencies for the management of, or sell for cash or credit, or lease in its discretion, in whole or in part, any project or property acquired pursuant to this chapter and to pursue to final collection by way of compromise or otherwise all claims acquired by, or assigned or transferred to it in connection with the acquisition or disposal of any project or property pursuant to this chapter, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real or personal property: *Provided,* That any such acquisition of real property shall not deprive the State or any political subdivision thereof of its civil or criminal jurisdiction in any over such property or impair the civil rights under State or local laws of the inhabitants on such property;

(4) acquire, hold, sell, or exchange at public or private sale, or lease, or otherwise dispose of, real or personal property, and sell or exchange any securities or obligations;

(5) obtain insurance against loss in connection with property and other assets held;

(6) subject to the specific limitations in this chapter, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, or any other term, of any contract or agreement to which it is a party or which has been transferred to it pursuant to this chapter;

(7) utilize and act through, without regard to section 3709 of the Revised Statutes, any Federal, State, or local public agency or instrumentality, or private agency or organization, with the consent of the agency or organization concerned, and contract with any such agency, instrumentality, or organization for the furnishing of any services or facilities; and may make advance, progress, or other payments with respect to such contracts without regard to the provisions of section 3648 of the Revised Statutes; and

(8) do all things which are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(d) The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(e) The stock or other securities or instruments issued by the Association shall to the same extent as securities which are the direct obligations of the United States be exempt securities within the meaning of laws administered by the Securities and Exchange Commission.

BOARD OF DIRECTORS

SEC. 703. The management of the Association shall be vested in a board of five directors, to be initially appointed by the Secretary and to serve at his pleasure. Three members of the Board shall be selected from among officers or employees of the Department of Housing and Urban Development, and two members shall be selected from among persons who are active in the initiation or representation of housing cooperatives. At such time as all of the preferred stock has been redeemed, all obligations to the United States have been paid in full, and all bonds or other obligations guaranteed by the United States pursuant to the provisions of this chapter have been paid in full, the holders of the common stock shall be entitled to elect all of the members of the board, whereupon the powers vested in the Secretary pursuant to section 702 of this chapter shall terminate and such powers shall thereafter be exercised by the board of directors.

CAPITAL STOCK

SEC. 704. (a) The Association may issue preferred capital stock from time to time which shall be subscribed for by the Secretary of the Treasury on behalf of the United States, and payments for such subscriptions shall be subject to call in whole or in part by the Association: *Provided*, That the total amount of such stock subscribed for and held by the Secretary of the Treasury at any time shall not exceed $5,000,000. Stock held by the Secretary of the Treasury shall be preferred as to dividends and assets of the Association and shall be entitled to cumulative dividends for each year equal to a return on the average amount, at par, of such stock outstanding during such fiscal year at a rate determined by the Secretary of the Treasury, taking into consideration the probable term of the stock investment and the current average rate on outstanding marketable obligations of the United States as of the last day of the sixth month of such fiscal year. The Association shall issue to the Secretary of the Treasury receipts for payments by him for or on account of such stock, and such receipts shall be evidence of the stock ownership of the United States. There are hereby authorized to be appropriated the amounts necessary to enable the Secretary of the Treasury to make payments on such stock when called. Such stock or any part thereof may be retired at any time by the Association.

(b) The Association shall issue common capital stock from time to time for subscription by eligible cooperatives in an amount not to exceed $50,000,000. In order to assure direct financial participation by cooperatives, each eligible cooperative shall, as a condition precedent to obtaining any loan from the Association as hereinafter provided (except loans made pursuant to the provisions of section 707(a)(4) of this chapter), subscribe for capital stock of the Association in an amount equal to 5 per centum of the original principal amount of such loan. Such stock subscriptions shall be paid for in cash from loan proceeds at the time of the initial closing of the loan. Dividends payable on stock paid in by a cooperative shall be credited to any payments subsequently due on the stock subscription of such cooperative.

(c) After the amount of capital of the Association paid by such subscribers, other than the United States, equals $5,000,000, the Association shall thereafter apply annually to the payment and retirement of the shares of the capital stock held by the Secretary of the Treasury, all sums paid in as capital until all such capital stock held by the Secretary of the Treasury is retired at par plus any dividends which shall have accrued on such stock: *Provided*, That no such capital stock held by the Secretary of the Treasury shall be retired if such retirement would reduce the net capital, reserves, and surplus of the Association to an amount less than $7,500,000.

(d) Upon any liquidation of the Association, all stockholders (including the United States if any of its stock has not been retired) shall share, in proportion to the stock held, in any assets of the Association, in excess of the amount necessary to retire all outstanding stock at par, to pay accrued dividends on preferred stock, and to retire, pay, or settle all outstanding obligations and claims.

OBLIGATIONS OF THE ASSOCIATION

SEC. 705. (a) To obtain additional funds for carrying out its functions, the Association may, with the appoval of the Secretary, issue and have outstanding at any one time bonds and other obligations for purchase by the Secretary of the Treasury in an amount not to exceed $50,000,000.

(b) Bonds or other obligations issued by the Association under this chapter shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Association, with the approval of the Secretary of the Treasury. Such bonds or other obligations shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any bonds and other obligations of the Association issued under this chapter and may at any time sell any of the bonds or other obligations acquired by him under this section. All purchases, sales, and redemptions by the Secretary of the Treasury of such bonds or other obligations shall be treated as public debt transactions of the United States.

(c) Funds made available to the Association pursuant to the provisions of this section shall be deposited in a checking account or accounts with the Treasurer of the United States. There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for administrative expenses of the Secretary and the Association in carrying cut their functions under this chapter.

(d) The Association shall, at such time as the Secretary may determine, issue bonds or other obligations to be guaranteed pursuant to the provisions of section 706 of this chapter and shall thereupon retire the bonds or other obligations initially issued to the Secretary of the Treasury.

(e) Except in the case of sums paid by the Secretary of the Treasury for preferred capital stock or bonds or other obligations of the Association pursuant to sections 704(a) and 705(a), the receipts and disbursements of the Association from stock subscriptions and the issuance of bonds or other obligations shall not be included in the total of the budget of the United States Government and shall be exempt from any limitation on annual expenditure or net lending.

GUARANTEE ON FINANCIAL OBLIGATIONS

SEC. 706. (a) The Association is authorized to issue and have outstanding bonds or other obligations not in excess of $1,000,000,000. The Secretary is authorized to guarantee, and enter into commitments to guarantee, such bonds or other obligations.

(b) The full faith and credit of the United States is pledged to the payment of all guarantees under this section with respect to both principal and interest. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the bonds or other obligations for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed bond or other obligation.

AUTHORIZED LOANS

SEC. 707. (a) To assist eligible cooperatives and their members in the production, rehabilitation, conversion, refinancing, management, and maintenance of housing projects, and the resale of memberships, the Association is authorized to make loans for the following purposes, upon such terms and conditions as may be approved by the Secretary—

(1) to finance the construction of new housing projects, including the making of advances as progress payments during the period of construction;

(2) to finance the acquisition of existing properties for conversion to cooperative ownership;

(3) supplemental loans to finance the rehabilitation, improvement, repair, or modernization of existing housing projects; and

(4) supplemental loans to finance a part of the down payments of purchasers acquiring membership interests from departing members of cooperatives which are stockholders of the Association; such loans may be made to cooperatives or to purchasers acquiring such membership interests in cooperatives:

Provided, That the Association may only make loans which the Secretary insures or makes commitments to insure.

(b) A loan described in subsection (a)(1) or(a)(2) of this section shall be secured by a first lien on the housing project or property (except as provided in subparagraph (2) hereof), shall have a maturity not in excess of 40 years under a principal repayment plan prescribed by the Association, shall bear interest at a rate to be determined by the Secretary, and shall be in an amount not to exceed—

(1) in the case of a loan described in subsection (a)(1) of this section, the Association's estimated replacement cost of the project when the proposed improvements are completed; which shall include the land, proposed physical improvements, utilities, architect fees, taxes and interest during construction, legal, marketing, and development services, working capital and contingency allowances, builders' and sponsors' profit and risk allowance, and such other miscellaneous charges as may be approved by the Association as incident to the development of the project, which shall include the subscription price of the stock in the Association (which shall be pledged as additional security for the loan); or

(2) in the case of a loan described in subsection (a)(2) of this section, the appraised value of the project or property at the time of purchase, which value shall be based upon an amount on which the debt service can be met from the income of the property when operated on a nonprofit basis, after payment of all operating expenses, taxes and required reserves, and the subscription price of the stock in the Association (which shall be pledged as additional security for the loan): *Provided*, That a loan for the purposes described in subsection (a)(2) may be secured by a lien on the housing project or property which is inferior to other liens thereon, at the time the purchase for cooperative ownership is consummated, where such other liens bear a lower interest rate than the Association's loan and where the Association's loan, when added to the outstanding balance of the existing liens, will not exceed the appraised value of the project or property determined in accordance with the provisions hereof.

(c) A loan described in subsection (a)(3) of this section shall be secured by a lien on the housing project or property, which may be inferior to other liens, shall have a maturity satisfactory to the Secretary, shall bear interest at a rate determined by the Secretary, and shall be in an amount not to exceed the amount which the Association estimates will be the cost of the improvements and the subscription price of the stock in the Association (which shall be pledged as additional security for the loan): *Provided*, That such amount when added to the outstanding balance of existing liens on the project or property shall not exceed the appraised value thereof determined in accordance with the provisions of subsection (b)(2) of this section.

(d) A loan to a cooperative described in subsection (a)(4) of this section shall be utilized by the borrowing cooperative to make loans to purchasers acquiring membership in such cooperative. The criteria, limitations, and requirements for such loans to purchasers acquiring memberships shall be prescribed by the Secretary and shall be secured by the borrower's membership and occupancy agreement in and with the cooperative, which shall, in turn, be pledged by the borrowing cooperative to the Association: *Provided*, That the borrowing purchaser of a cooperative membership be required to make a down payment in an amount computed in accordance with the provisions of section 708(3) of this chapter. Any loan made to a purchaser acquiring a membership in a cooperative shall be subject to the limitations and requirements set forth in this paragraph.

(e) The loans of the Association shall be at an interest rate at least sufficient to cover the Association's cost of financing, together with its estimated cost of administration and reserves against loan losses. In making loans, the Association shall retain the right to adjust the interest rate at periodic intervals (not less than annually) so it will not be less than the average interest rate paid by the Association on its outstanding bonds having a maturity of ten years or more, as of the last day of the preceding year.

(f) Housing projects to be financed by loans from the Association may include such nondwelling facilities as the Association deems necessary or desirable for the cooperative ownership and other purposes of this chapter.

(g) If taxes, utilities, operating expenses, or other costs increase or other contingencies occur which jeopardize the ability of a cooperative to meet its payments when due on a loan from the Association, the Association is authorized to enter into workout agreements with necessary extensions of time for repayment of principal and interest for such periods as the Association deems suitable under the circumstances, including the extension of the final maturity of the loan.

ELIGIBILITY AND REGULATORY REQUIREMENTS

SEC. 708. The Secretary shall require from each cooperative obtaining a loan pursuant to the provisions of this chapter an undertaking that—

(1) Monthly deposits shall be made by the cooperative into a mutual contingency reserve account (hereinafter referred to as the "Mutual Fund") to be administered by the Association and used, in the discretion of the Association, to avoid or cure any defaults or delinquencies in loan obligations of cooperatives receiving loans from the Association.

(2) Any advance made from the Mutual Fund for the purposes described in paragraph (1) of this section, shall be repaid by such cooperative at such times and on such terms and conditions as may be approved by the Association as suitable under the circumstances.

(3) Each purchaser of a membership in the cooperative shall be required to make a downpayment of not less than 2 per centum of the price attributable to the dwelling unit involved, which downpayment shall be applied toward the payment of closing costs and the member's proportionate share of working capital and the cooperative's subscription for stock in the Association.

(4) There shall be included in the monthly occupancy charges to be collected by the cooperative from each member an amount to pay the member's share (as determined by the cooperative and approved by the Association) of:

(A) payments on the cooperative's loan from the Association under subsection (a) (1), (a)(2), or (a)(3) of section 707;

(B) the cooperative's payments to the Mutual Fund of the Association;

(C) the cooperative's payments to any reserve for replacements and other reserves which the cooperative may be required to accumulate and deposit in its account with the Association; and

(D) the operating and maintenance expenses, taxes, insurance and other costs of the cooperative.

(5) The cooperative shall file annual financial and other reports with the Bank and submit to such audits by the Association and the General Accounting Office as either may find necessary or desirable.

LABOR STANDARDS

SEC. 709. All laborers and mechanics employed by contractors or subcontractors in construction, repair, or rehabilitation work financed with a loan made pursuant to the provisions of this chapter shall be paid wages at rates not less than those prevailing on similar work as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). No loan to finance such work shall be made without first obtaining adequate assurance that these labor standards will be maintained for and upon such work. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

MUTUAL FUND, RESERVES AND DIVIDENDS

SEC. 710. (a) In addition to the Mutual Fund, the Secretary shall require the establishment and maintenance of and the Association shall establish and maintain such reserve or reserves as he deems appropriate. Such reserves, including the Mutual Fund, shall be kept in cash or on deposit, invested in interim financing to cooperatives under the provisions of this chapter, or invested in bonds or other obligations of, or guaranteed as to principal and interest by, the United States.

(b) No dividends shall be paid on the common stock of the Association except out of net earnings remaining after all required reserves are provided for, and then only after the retirement of all preferred stock and the payment in full of all obligations to the Secretary of the Treasury.

(c) Upon the retirement of all of the capital stock of the Association held by the United States and after the payment in full of bonds or other obligations initially held by the United States or guaranteed by the Secretary pursuant to the provisions of this chapter, the Secretary is authorized to distribute to each of the cooperative borrowers which have obtained loans from the Association, which loans are in good standing, a share of the Mutual Fund in such manner and amounts as the Secretary shall determine to be equitable and in accordance with sound actuarial and accounting practice.

INSURANCE OF LOANS MADE BY THE ASSOCIATION

SEC. 711. Notwithstanding any other provisions of law, the Secretary is authorized to insure and to make commitments to insure any loan to be made pursuant to the provisions of this chapter. Consistent with the provisions of this chapter, the Secretary may issue rules and regulations for the insurance of loans and the issuance of commitments for loans to be made by the Association and to provide for insurance benefits on terms no less favorable than those available under any other insurance program administered by the Secretary, including the payment of insurance benefits in cash.

PARTICIPATION IN OTHER COOPERATIVE HOUSING PROGRAMS

SEC. 712. (a) The provisions of this chapter shall be construed as a supplement to, and not as a substitute for, other laws now existing or hereinafter enacted relating to financing and assistance for cooperative housing.

(b) The Association shall be an approved mortgagee under the provisions of laws, regulations, and programs administered by the Secretary, may participate in interest reduction or other subsidy programs, and may enter into contracts with the Secretary on the same basis as if it were an entity outside of the Department of Housing and Urban Development.

CHAPTER VIII—MISCELLANEOUS

NATIONAL HOUSING GOAL

SEC. 801. Title XVI of the Housing and Urban Development Act of 1968 is amended—

(1) by inserting "(a)" before "The Congress" in the first sentence of section 1601;

(2) by adding at the end of section 1601 the following subsections:

"(b) The Congress further finds that policies designed to contribute to the achievement of the national housing goal have not directed sufficient attention and resources to the preservation of existing housing and neighborhoods, that the deterioration and abandonment of housing for the Nation's lower income families has accelerated over the last decade, and that this acceleration has contributed to neighborhood disintegration and has partially negated the progress toward achieving the national housing goal which has been made primarily through new housing construction.

"(c) The Congress declares that if the national housing goal is to be achieved, a greater effort must be made to encourage the preservation of exisitng housing and neighborhoods through such measures as housing preservation, moderate rehabilitation, and improvements in housing management and maintenance, in conjunction with the provision of adequate municipal sedvices. Such an effort should concentrate, to a greater extent than it has in the past, on housing and neighborhoods where deterioration is evident but has not yet become acute."; and

(3) by redesignating clauses (3) through (6) of section 1603 as clauses (4) through (7), respectively, and by inserting after clause (2) the following new clause:

"(3) provide an assessment of developments and progress during the preceding fiscal year with respect to the preservation of deteriorating housing and neighborhoods and indicate the efforts to be undertaken in future years to encourage such action;".

EXPANSION OF EXPERIMENTAL HOUSING ALLOWANCE PROGRAM

SEC. 802. Section 504 of the Housing and Urban Development Act of 1970 is amended to read as follows:

"HOUSING ALLOWANCE

"SEC. 504. (a) The Secretary of Housing and Urban Development is authorized and directed through an expansion of the experimental housing allowance program to formulate, initiate, and operate, on a pilot basis, programs of cash assistance for rental or homeownership expense to determine whether a policy of direct cash assistance can be put into practical operation.

"(b)(1) In carrying out his responsibilities under subsection (a) of this section, the Secretary shall develop analyses, data, and experience necessary to permit determinations of (A) the attributes and composition of the group eligible to receive Federal assistance in a full-scale national cash assistance program, (B) appropriate methods for staging the implementation of a cash assistance program, (C) the defintiton of safe and sanitary housing, (D) the cost of obtaining safe and sanitary housing in the various housing market areas of the country, (E) the amount of contribution that should be required of a family receiving a Federal housing assistance payment toward the cost of the safe and sanitary housing it occupies, (F) the impact of a cash assistance program tied to housing on the welfare of low- and moderate-income families, (G) the characteristics of housing acquired through a cash assistance program with respect to quality, type, and location, (H) the effect of the cash assistance program in reducing residential concentrations of low-income families, (I) the cost of administering a full-scale national cash assistance program, and (J) the safeguards and administrative procedures necessary and appropriate to insure, to the maximum extent feasible, that (i) housing obtained with the use of the housing allowance is safe, sanitary, and reasonably priced, and (ii) that a cash assistance program results in increased preservation, maintenance, and improvement of the housing stock.

"(2) In addition the Secretary shall determine the effect that implementation of a housing assistance program, serving groups of varying sizes, attributes, and percentages of households in a housing market area would have on the cost of housing in housing markets with varying vacancy rates, and in stimulating the availability of additional safe and sanitary housing units of the housing stock.

"(c) The Secretary shall report his findings to the Congress not later than eighteen months after the date of enactment of the Housing and Community Development Act of 1974 and shall include with his report any proposed legislation that may be appropriate.

"(d) The Secretary (subject to limitations contained in appropriations Acts) may enter into contracts or agreements under which he will make payments to or on behalf of participating families pursuant to cash assistance programs authorized by this section. He may also contract with public or private agencies for performance of administrative functions in connection with such programs.

"(e) For the purpose of carrying out this section, the Secretary is authorized to make, and to contract to make, housing assistance payments to or on behalf of participating families. The aggregate amount of payments pursuant to such contracts shall not exceed $43,000,000 in any fiscal year, except that upon the enactment of the Housing and Community Development Act of 1974, the amount of contract authority conferred by this section shall be reduced by the aggregate amount of contracts under the United States Housing Act of 1937 which were entered into to carry out the purposes of this section. There are authorized to be appropriated such sums as may be necessary to carry out this section, including such amounts as may be necessary to cover administrative costs and to make payments as provided for in contracts entered into by the Secretary under this section. Contracts under this section shall not provide for payments to be made after July 1, 1985. During any period when funds are available for commitment under this subsection, the Secretary shall not enter into further contracts under the United States Housing Act of 1937 to carry out the purpose of this section."

DIRECT FINANCING STUDY

SEC. 803. The Secretary of Housing and Urban Development and the Secretary of the Treasury shall study the feasibility of financing the programs authorized under section 502 and section 601 of the Revised National Housing Act through various financing methods, including direct loans from the Federal Financing Bank, and if the Secretary of Housing and Urban Development and the Secretary of the Treasury determine that any such method would result in net savings to the Federal Government (after taking into account the direct and indirect effects of such method), it is the sense of the Congress that such method be adopted. The Secretary of Housing and Urban Development and the Secretary of the Treasury shall transmit to the Congress a report on the study required by this section not later than one year after the date of enactment of this Act.

ELDERLY AND HANDICAPPED HOUSING LOAN FUND

SEC. 804. Section 202 of the Housing Act of 1959 is amended by adding at the end thereof the following:

"(f) (1) There is established in the Treasury of the United States a trust fund to be known as the National Elderly and Handicapped Housing Loan Fund (hereinafter in this subsection referred to as the "fund"). The fund shall consist of—

"(A) amounts repaid by borrowers as principal and interest on loans from the fund;

"(B) proceeds credited to the fund under paragraph (3);

"(C) appropriations to the fund under paragraph (4);

"(D) all amounts repaid by borrowers as principal and interest on loans from the revolving fund established under subsection (a) (4); and

"(E) any amounts contained in the revolving fund established under subsection (a) (4) which are not committed on the date of enactment of this subsection; and

"(F) receipts from any other source.

All receipts, funds, or other assets and all liabilities of the revolving fund established under subsection (a) (4) (including liabilities arising under loans made under such subsection) shall become and be assets and liabilities of the fund established pursuant to this subsection, as if such assets and liabilities had been received or incurred pursuant to this subsection, and shall be paid over, held, and accounted for accordingly.

"(2) Amounts in the fund shall be available to the Secretary for the purpose of making loans under this section and for paying interest on obligations issued under paragraph (3). The aggregate loans made under this section in any fiscal year shall not exceed the limits on such lending authority established in the annual appropriations Act for such fiscal year.

"(3) To carry out the purposes of this subsection, the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations in an aggregate amount not to exceed $100,000,000, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorize and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as debt transactions of the United States.

"(4) There is authorized to be appropriated to the fund in each fiscal year an amount equal to the difference between the amount of interest paid on obligations issued under paragraph (3) and the amount of interest received on loans made from the fund, but not to exceed 3,000,000 in any fiscal year. Except in the case of sums appropriated under this subsection, the receipts and disbursements of the fund shall not be included in the total of the budget of the United States Government and shall be exempt from any limitation on annual expenditure or net lending.

"(5) To the maximum extent practicable, the Secretary shall use the services and facilities of the private mortgage industry in servicing mortgage loans made under this section."

LOW RISE CONSTRUCTION

SEC. 805. In the administration of section 202 of the Housing Act of 1959 and the United States Housing Act of 1937, the Secretary of Housing and Urban Development may enter into a contract or make a commitment after the date of enactment of this section with respect to a housing *project which is* designed primarily for occupancy by the elderly and which involves high rise construction only if he determines, on the basis of land costs, safety and security factors, or the availability of community services, that such construction is apppropriate.

HOUSING SECURITY

SEC. 806. (a) There is established in the Department of Housing and Urban Development an Office of Security which shall be headed by the Assistant Secretary for Housing Managament. The Office of Security shall be used by the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") to—

(1) make grants and enter into contracts in accordance with subsection (b);

(2) serve as a clearinghouse for information relating to the physical security of Federally insured or assisted housing projects and to Federal assistance for improved security of such projects; and

(3) cooperate and coordinate with the Law Enforcement Assistance Administration in developing improved methods for providing housing security.

(b) The Secretary, acting through the Office of Security, is authorized to make grants and enter into contracts with sponsors of Federally insured or assisted housing projects in order to pay the cost of—

(1) the planning and development of a security program for the project;

(2) capital improvements, such as design modification or remodeling or the installation of electronic security systems, improved lighting in common areas, and hardware, to improve the security of the project;

(3) the maintenance and equipment of a security force for the project, including salaries and benefits of security personnel and training programs, uniforms, weapons, and other equipment for such personnel; and

(4) research and technical assistance relating to project security.

As used in this section, the term "Federally insured or assisted housing project" means a multifamily housing project under a mortgage insured under any provision of the National Housing Act, a project subject to an annual contributions contract under the United States Housing Act of 1937, and a project subject to a loan under section 202 of the Housing Act of 1959.

(c) From the amounts authorized under section 9(b) of the United States Housing Act of 1937, as amended by chapter II of this Act, for annual contributions for the operation of low-income housing projects, the Secretary is authorized to enter into contracts and make grants in accordance with the provisions of this section in aggregate amounts not to exceed $10,000,000 per annum prior to July 1, 1976.

HOUSING LOCATION

SEC. 807. Title V of the Housing and Urban Development Act of 1970 is amended by adding at the end thereof the following:

"HOUSING LOCATION

"SEC. 506. (a) The Congress finds and declares that—

"(1) There is a continuing need to expand the supply of housing in standard condition which lower income families can afford.

"(2) Federally assisted efforts to expand the supply of such housing in the past have been concentrated to a great extent in a few neighborhoods located in or near urban core areas.

"(3) Such efforts, therefore, have not greatly expanded housing locational opportunities for lower income families, many of whom can afford housing only in such neighborhoods.

"(4) The concentration of lower income families in these neighborhoods, which was often been facilitated by governmental policies, has compounded social problems in the neighborhoods, hastened neighborhood deterioration, and overburdened public services.

"(5) Such concentration has also placed an enormous financial burden on cities and States by increasing greatly the need for social services in these neighborhoods.

"(6) In the case of new housing construction, suitable sites are difficult or impossible to find in many urban core areas and often can be utilized only after demolition and relocation expenses are incurred.

"(7) New employment opportunities in many metropolitan areas are being created more rapidly in the areas surrounding urban core areas than in the core areas themselves, and lower income families who can only afford to live in or near urban core areas often cannot take advantage of these opportunities, which would increase the income of such families and result in less dependence upon Federal assistance. Many lower income families who do take advantage of these employment opportunities in the areas surrounding urban core areas are not able to afford housing within reasonable proximity to their places of employment.

"(8) For all of these reasons, the Federal Government should encourage and assist metropolitan areas in undertaking programs designed to increase housing locational opportunities for families of lower income by conserving and expanding the supply of housing in standard condition affordable by such families, located within reasonable proximity to major employment opportunities and in a manner calculated to avoid excessive concentration in any particular neighborhood and to spread the financial responsibility for supporting necessary services among local jurisdictions.

"(b) Programs undertaken by the Secretary under section 501 may include grants by the Secretary in accordance with the provisions of this section to general purpose local governments, or to local public agencies designated by such governments or by regional combinations of such governments, to demonstrate the feasibility of providing assistance for the purpose of increasing housing locational opportunities for lower income families in the manner described in subsection (a)(8). Such grants may be made for the planning and implementation of the following activities:

"(1) The maintenance, improvement, or expansion of public services furnished by localities in order to serve adequately the increased supply of housing for lower income families and the families themselves, as well as the other residents of the localities.

"(2) Providing, upgrading, or improving social services related to housing for lower income families, including security and counseling services.

"(3) Increasing the efficiency and improving the management and supervision at the project, local, and regional levels of programs and services designed to provide increased housing opportunities for lower income families.

"(4) The payment of such portions of reasonable and necessary land acquisition, demolition, or relocation expenses as the Secretary deems appropriate.

"(5) Such other activities as the Secretary may approve, taking into account the purposes of this section.

"(c) The Secretary, in making grants under this section, shall—

"(1) give a preference to activities and demonstration programs designed to benefit substantially families whose incomes would make them eligible for housing assistance under the United States Housing Act of 1937;

"(2) require localities to carry out demonstrations designed to expand housing opportunities in such a manner that the needs of both the elderly and families are considered and accommodated to the extent practicable; and

"(3) require that demonstration programs undertaken pursuant to this section address rationally and effectively the housing needs of lower income families on a regional or areawide basis, consistent with any housing element of a comprehensive land use plan which has been developed pursuant to the provisions of section 701 of the Housing Act of 1954.

"(d)(1) The amount of any grant under this section may not exceed the actual cost incurred by a locality in carrying out the activities referred to in subsection (b).

"(2) Not more than one-third of the aggregate amount of grants made under this section in any fiscal year may be made to any one locality.

"(3) None of the funds available under this section may be used to make expenditures for which other Federal funds are available.

"(e) To the maximum extent practicable, the Secretary shall expedite the provision of such assistance authorized under other provisions of law administered by him as he deems necessary and appropriate to further the progress of demonstration programs undertaken pursuant to this section.

"(f) To carry out the purposes of this section, there are authorized to be appropriated not to exceed $20,000,000 for the fiscal year ending June 30, 1975. Any amount so appropriated shall remain available until expended. Any amount authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year.

"(g) The Secretary shall transmit to the Congress not later than six months following the close of any year in which he carries out a demonstration under this section a report on such demonstration, and shall include in such report such recommendations as he deems appropriate to further the purposes of this section."

SOLAR ENERGY

SEC. 808. Title V of the Housing and Urban Development Act of 1970, as amended by section 807 of this chapter, is amended by adding at the end thereof the following new section:

"SOLAR ENERGY

"SEC. 507. (a) In carrying out activities under section 501, the Secretary may, after consultation with the National Science Foundation, undertake demonstrations to determine the economic and technical feasibility of utilizing solar energy for heating or cooling residential housing (including demonstrations of new housing design or structure involving the use of solar energy). Demonstrations carried out under this section should involve both single family and multifamily housing located in areas having distinguishable climatic characteristics in urban as well as rural environments. To carry out the purposes of this section the Secretary is authorized—

"(1) to enter into contracts with, to make grants to, and to provide other types of assistance to individuals and entities with special competence and knowledge to contribute to the planning, design, development, and operation of such housing;

"(2) to utilize the contract, loan, or mortgage insurance authority of any Federally assisted housing program in the actual planning, development, and occupancy of such housing; and

"(3) to set aside any development, construction, design, or occupancy requirements for the purpose of any demonstration under this section if he determines that such requirements inhibit such demonstration.

"(b) The Secretary shall include in any demonstration under this section an evaluation of the demonstration to cover the full experience involved in all stages of the demonstration.

"(c) The Secretary shall transmit to the Congress not later than 6 months following the close of any year in which he carries out a demonstration under this section a full report on such demonstration. Such report may include an evaluation of the economic and technological feasibility of the widespread application of solar energy to residential housing.

"(d) To carry out the provisions of this section, there are authorized to be appropriated not to exceed $2,500,000 for the fiscal year ending June 30, 1975. Any amounts so appropriated shall remain available until expended.

HOUSING DESIGN

SEC. 809. Title V of the Housing and Urban Development Act of 1970, as amended by sections 807 and 808 of this chapter, is amended by adding at the end thereof the following new section:

"HOUSING DESIGN

"SEC. 508. Programs undertaken by the Secretary under section 501 may include research on, and the development of standards relating to, the social and environmental consequences of housing design and location in relation to other housing and neighborhood facilities."

FAIR HOUSING WITH RESPECT TO SEX

SEC. 810. (a) Subsections (a), (b), (c), (d), and (e) of section 804 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes", approved April 11, 1968 (42 U.S.C. 3604), are amended by inserting a comma and the word "sex" immediately after the word "religion" each time it appears in such subsections.

(b) Section 805 of such Act is amended by inserting a comma and the word "sex" immediately after the word "religion".

(c) Section 806 of such Act is amended by inserting a comma and the word "sex" immediately after the word "religion".

(b) Subsection (a), paragraph (1) of subsection (b), and subsection (c) of section 901 of such Act are amended by inserting a comma and the word "sex" immediately after the word "religion" each time it appears.

NATIONAL INSTITUTE OF BUILDING SCIENCES

SEC. 811. (a)(1) The Congress finds: (A) that the lack of an authoritative national source to make findings and to advise both the public and private sectors of the economy with respect to the use of building science and technology in achieving nationally acceptable standards and other technical provision for use in Federal, State, and local housing and building regulations is an obstacle to efforts by and imposes severe burdens upon all those who procure, design, construct, use, operate, maintain, and retire physical facilities, and frequently results in the failure to take full advantage of new and useful developments in technology which could improve our living environment; (B) that the establishment of model building codes or of a single national building code will not completely resolve the problem because of the difficulty at all levels of government in updating their housing and building regulations to reflect new developments in technology, as well as the irregularities and inconsistencies which arise in applying such requirements to particular localities or special local conditions; (C) that the lack of uniform housing and building regulatory provisions increases the costs of construction and thereby reduces the amount of housing, and other community facilities which can be provided; and (D) that the existence of a single authoritative nationally recognized institution to provide for the evaluation of new technology could facilitate introduction of such innovations and their acceptance at the Federal, State, and local levels.

(2) The Congress further finds, however, that while an authoritative source of technical findings is needed, various private organizations and institutions, private industry, labor, and Federal and other governmental agencies and entities are presently engaged in building research, technology development, testing, and evaluation, standards and model code development and promulgation, and information dissemination. These existing activities should be encouraged and these capabilities effectively utilized wherever possible and appropriate to the purposes of this section.

(3) The Congress declares that an authoritative nongovernmental instrument needs to be created to address the problems and issues described in paragraph (1), that the creation of such an instrument should be initiated by the Government, with the advice and assistance of the National Academy of Sciences-National Academy of Engineering-National Research Council (hereafter referred to as the "Academies-Research Council") and of the various sectors of the building community, including labor and management, technical experts in building science and technology, and the various levels of government.

(b)(1) There is authorized to be established, for the purposes described in subsection (a)(3), an appropriate nonprofit, nongovernmental instrument to be known as the National Institute of Building Sciences (hereinafter referred to as the "Institute"), which shall not be an agency or establishment of the United States Government. The Institute shall be subject to the provisions of this section and, to the extent consistent with this section, to a charter of the Congress if such a charter is requested and issued or to the District of Columbia Nonprofit Corporation Act if that is deemed preferable.

(2) The Academies-Research Council, along with other agencies and organizations which are knowledgeable in the field of building technology, shall advise and assist in (A) the establishment of the Institute; (B) the development of an organizational framework to encourage and provide for the maximum feasible participation of public and private scientific, technical, and financial organizations, institutions, and agencies now engaged in activities pertinent to the development, promulgation, and maintenance of performance criteria, standards, and other technical provisions for building codes and other regulations; and (C) the promulgation of appropriate organizational rules and procedures including those for the selection and operation of a technical staff, such rules and procedures to be based upon the primary object of promoting the public interest and insuring that the widest possible variety of interests and experience essential to the functions of the Institute are represented in the Institute's operations. Recommendations of the Academies-Research Council shall be based upon consultations with and recommendations from various private organizations and institutions, labor, private industry, and governmental agencies and entities operating in the field, and the Consultative Council as provided for under subsection (c)(8).

(3) Nothing in this section shall be construed as expressing the intent of the Congress that the Academies-Research Council itself be required to assume any function or operation vested in the Institute by or under this section.

(c)(1) The Institute shall have a Board of Directors (hereinafter referred to as the "Board") consisting of not less than fifteen nor more than twenty-one members, appointed by the President of the United States by and with the advice and consent of the Senate. The Board shall be representative of the various segments of the building community, of the various regions of the country, and of the consumers who are or would be affected by actions taken in the exercise of the functions and responsibilities of the Institute, and shall include (A) representatives of the construction industry, including representatives of construction labor organizations, product manufacturers, and builders, housing management experts, and experts in building standards, codes, and fire safety, and (B) members representative of the public interest in such numbers as may be necessary to assure that a majority of the members of the Board represent the public interest and that there is adequate consideration by the Institute of consumer interests in the exercise of its functions and responsibilities. Those representing the public interest on the Board shall include architects, professional engineers, officials of Federal, State, and local agencies, and representatives of consumer organizations. Such members of the Board shall hold no financial interest or membership in, nor be employed by, or receive other compensation from, any company, association, or other group associated with the manufacture, distribution, installation, or maintenance of specialized building products, equipment, systems, subsystems, or other construction material and techniques for which there are available substitutes.

(2) The members of the initial Board shall serve as incorporators and shall take whatever actions are necessary to establish the Institute as provided for under subsection (b)(1).

(3) The term of office of each member of the initial and succeeding Boards shall be three years; except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (B) the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment, one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years. No member shall be eligible to serve in excess of three consecutive terms of three years each. Notwithstanding the preceding provisions of this subsection, a member whose term has expired may serve until his successor has qualified.

(4) Any vacancy in the initial and succeeding Boards shall not affect its power, but shall be filled in the manner in which the original appointments were made, or, after the first five years of operation, as provided for by the organizational rules and procedures of the Institute.

(5) The President shall designate one of the members appointed to the initial Board as Chairman; thereafter, the members of the initial and succeeding Boards shall annually elect one of their number as Chairman. The members of the Board shall also elect one or more of their Members as Vice Chairman. Terms of the Chairman and Vice Chairman shall be for one year and no individual shall serve as Chairman or Vice Chairman for more than two consecutive terms.

(6) The members of the initial or succeeding Boards shall not, by reason of such membership, be deemed to be employees of the United States Government. They shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Board pursuant to this title, be entitled to receive compensation at the rate of $100 per day including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, equal to that authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(7) The Institute shall have a *president* and such other executive officers and employees as may be appointed by the Board at rates of compensation fixed by the Board. No such executive officer or employee may receive any salary or other compensation from any source other than the Institute during the period of his employment by the Institute:

(8) The Institute shall establish, with the advice and assistance of the Academies-Research Council and other agencies and organizations which are knowledgeable in the field of building technology, a Consultative Council, membership in which shall be available to representatives of all appropriate private trade, professional, and labor organizations, private and public standards, code, and testing bodies, public regulatory agencies, and consumer groups, so as to insure a direct line of communication between such groups and the Institute and a vehicle for representative hearings on matters before the Institute.

(d)(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall inure to the benefit of any Director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(3) The Institute shall not contribute to or otherwise support any political party or candidate for elective public office.

(e)(1) The Institute shall exercise its functions and responsibilities in four general areas, relating to building regulations, as follows:

(A) Development, promulgation, and maintenance of nationally recognized performance criteria, standards, and other technical provisions for maintenance of life, safety, health and public welfare suitable for adoption by building regulating jurisdictions and agencies, including test methods and other evaluative techniques relating to building systems, subsystems, components, products, and materials with due regard for consumer problems.

(B) Evaluation and prequalification of existing and new building technology in accordance with paragraph (A).

(C) Conduct of needed investigations in direct support of paragraphs (A) and (B).

(D) Assembly, storage, and dissemination of technical data and other information directly related to paragraphs (A), (B), and (C).

(2) The Institute in exercising its functions and responsibilities described in paragraph (1) shall assign and delegate, to the maximum extent possible, responsibility for conducting each of the needed activities described in paragraph (1) to one or more of the private organizations, institutions, agencies, and Federal and other governmental entities with a capacity to exercise or contribute to the exercise of such responsibility, monitor the performance achieved through assignment and delegation, and, when deemed necessary, reassign and delegate such responsibility.

(3) The Institute in exercising its functions and responsibilities under paragraphs (1) and (2) shall (A) give particular attention to the development of methods for en-

couraging all sectors of the economy to cooperate with the Institute and to accept and use its technical findings, and to accept and use the nationally recognized performance criteria, standards, and other technical provisions developed for use in Federal, State, and local building codes and other regulations which result from the program of the Institute; (B) seek to assure that its actions are coordinated with related requirements which are imposed in connection with community and environmental development generally; and (C) consult with the Department of Justice and other agencies of government to the extent necessary to insure that the national interest is protected and promoted in the exercise of its functions and responsibilities.

(f) (1) The Institute is authorized to accept contracts and grants from Federal, State, and local governmental agencies and other entities, and grants and donations from private organizations, institutions, and individuals.

(2) The Institute may, in accordance with rates and schedules establish with guidance as provided under subsection (b) (2), establish fees and other charges for services provided by the Institute or under its authorization.

(3) Amounts received by the Institute under this section shall be in addition to any amounts which may be appropriated to provide its initial operating capital under subsection (h).

(g) (1) Every department, agency, and establishment of the Federal Government, in carrying out any building or construction, of any building- or construction-related program, which involves direct expenditures, and in developing technical requirements for any such building or construction, shall be encouraged to accept the technical findings of the Institute, or any nationally recognized performance criteria, standards, and other technical provisions for building regulations brought about by the Institute, which may be applicable.

(2) All projects and programs involving Federal assistance in the form of loans, grants, guarantees, insurance, or technical aid, or in any other form, shall be encouraged to accept, use, and comply with any of the technical findings of the Institute, or any nationally recognized performance criteria, standards, and other technical provisions for building codes and other regulations brought about by the Institute, which may be applicable to the purposes for which the assistance is to be used.

(3) Every department, agency, and establishment of the Federal Government having responsibility for building or construction, or for building- or construction-related programs, is authorized and encouraged to request authorization and appropriations for grants to the Institute for its general support, and is authorized to contract with and accept contracts from the Institute for specific services where deemed appropriate by the responsible Federal official involved.

(4) The institute shall establish and carry on a specific and continuing program of cooperation with the States and their political subdivisions designed to encourage their acceptance and its technical findings and of nationally recognized performance criteria, standards, and other technical provisions for building regulations brought about by the Institute. Such program shall include (A) efforts to encourage any changes in existing State and local law to utilize or embody such findings and regulatory provisions; and (B) assistance to States in the development of inservice training programs for building officials, and in the establishment of fully staffed and qualified State technical agencies to advise local officials on questions of technical interpretation.

(h) There is authorized to be appropriated to the Institute, not to exceed $5,000,000 for the fiscal year ending June 30, 1975, and $5,000,000 for the fiscal year ending June 30, 1976 (with each appropriation to be available until expended), to provide the Institute with initial capital adequate for the exercise of its functions and responsibilities during such years; and thereafter the Institute shall be financially self-sustaining through the means described in subsection (f).

(i) The Institute shall submit an annual report for the proceeding fiscal year to the President for transmittal to the Congress within sixty days of its receipt. The report shall include a comprehensive and detailed report of the Institute's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as the Institute deems appropriate.

FEDERAL HOME LOAN MORTGAGE CORPORATION

SEC. 812. (a) Section 305(a) (2) of the Federal Home Loan Mortgage Corporation Act is amended—

(1) by striking out "75 per centum" each place it appears in the first sentence thereof and inserting in lieu thereof "80 per centum";

(2) by striking out in the third sentence thereof all that follows the word "activities" and inserting in lieu thereof, "and only if the seller warrants to the Corporation that for each dollar amount of mortgage loans purchased by the Corporation from the seller under a purchase contract, a dollar amount equal thereto will be advanced or committed in residential mortgage loans by the seller within one hundred and eighty days of the purchase contract date of funding by the Corporation: *Provided*, That the Corporation may waive this requirement whenever the enforcement thereof would adversely affect the liquidity requirements of financial institutions or impair the normal business operations of the seller, especially in periods of disintermediation or overbuilding."; and

(3) by striking out in the fourth sentence thereof "which would be applicable if the mortgage were insured by the Secretary of Housing and Urban Development under section 203(b) or 207 of the National Housing Act" and inserting in lieu thereof "contained in the first proviso to the first sentence of section 5(c) of the Home Owners' Loan Act of 1933, except that such limitations shall be increased by 25 per centum with respect to mortgages of property located in Alaska, Guam, and Hawaii".

(b) Section 5136 of the Revised Statutes is amended by inserting in paragraph Seventh thereof ", or mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or section 306 of the Federal Home Loan Mortgage Corporation Act" immediately after "Government National Mortgage Association".

(c) Section 11(h) of the Federal Home Loan Bank Act is amended by inserting ", in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or section 306 of the Federal Home Loan Mortgage Corporation Act" immediately after "Government National Mortgage Association".

(d) Section 16 of the Federal Home Loan Bank Act is amended by inserting ", in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or section 306 of the Federal Home Loan Mortgage Corporation Act" immediately after "Government National Mortgage Association".

(e) Section 5(c) of the Home Owners' Loan Act of 1933 is amended by inserting in the first paragraph thereof ", or in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act" immediately after "Federal Home Loan Bank".

(f) Section 107(8) (E) of the Federal Credit Union Act is amended by inserting "; or in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or section 306 of the Federal Home Loan Mortgage Corporation Act;" immediately after "Government National Mortgage Association".

FEDERAL NATIONAL MORTGAGE ASSOCIATION

SEC. 813. (a) Section 302(a) (2) of the Federal National Mortgage Association Charter Act is amended—

(1) by striking out "the effective date established pursuant to section 808 of the Housing and Urban Development Act of 1968" in the matter preceding subparagraph (A) and inserting in lieu thereof "September 1, 1968"; and

(2) by striking out "effective" in subparagraphs (A) and (B).

(b) The third sentence of section 302(a) (2) (B) of such Act is amended—

(1) by inserting "or the metropolitan area thereof" immediately after "District of Columbia";

(2) by inserting "jurisdiction and" immediately before "venue"; and

(3) by striking out "resident thereof" and inserting in lieu thereof "District of Columbia corporation".

(c) Section 302(b) (2) of such Act is amended by striking out "75 per centum" each place it appears and inserting in lieu thereof "80 per centum".

(d) Clause (C) of the second sentence of section 302(b) (2) of such Act is amended by striking out "private".

(e) The fourth sentence of section 302(b) (2) of such Act is amended by striking out all that follows the word "activities" and inserting in lieu thereof "and only if the seller warrants to the corporation that for each dollar amount of mortgage loans purchased by the corporation from the seller under a purchase contract, a dollar amount equal thereto will be advanced or committed in residential mortgage loans by the seller within one hundred and eighty days of the purchase contract date of funding by the corporation: *Provided*, That the corporation may waive this requirement whenever the enforcement thereof would adversely affect the liquidity requirements of financial institutions or impair the normal business operations of the seller, especially in periods of disintermediation or overbuilding."

(f) The last sentence of section 302(b) (2) of such Act is amended by striking out "which would be applicable if the mortgage were insured by the Secretary of Housing and Urban Development under section 203(b) or 207 of the National Housing Act" and inserting in lieu thereof "contained in the first proviso of the first sentence of section 5(c) of the Home Owners' Loan Act of 1933, except that such limitations shall be increased by 25 per centum with respect to mortgages of property located in Alaska, Guam, and Hawaii".

(g) Section 303(a) of such Act is amended—

(1) by striking out all of the first sentence which follows "directors" and inserting in lieu thereof a period; and

(2) by striking out everything after the second sentence.

(h) Section 303(c) of such Act is amended—

(1) by striking out "the effective date established pursuant to section 808 of the Housing and Urban Development Act of 1968" in the fourth sentence and inserting in lieu thereof "September 1, 1968."; and

(2) by striking out the proviso in the last sentence.

(i) Subsections (d) and (e) of section 303 of such Act are repealed.

(j) The last sentence of section 304(a) (1) of such Act is amended by striking out "section 502 of the Emergency Home Finance Act of 1970" and inserting in lieu thereof "section 243 of the National Housing Act".

(k) Except with respect to any person receiving an annuity on the date of the enactment of this Act, section 309(d)(2) of such Act is amended—

(1) by striking out "the termination of the transitional period referred to in section 810(b) of the Housing and Urban Development Act of 1968" and inserting in lieu thereof "January 31, 1972,"; and

(2) by inserting "positions listed" immediately before "in section 5312".

(l) Subsections (b) and (c) of section 810 of the Housing and Urban Development Act of 1968 are repealed.

URBAN HOMESTEADING

SEC. 814. (a) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to transfer without payment to a unit of general local government or a public agency designated by a unit of general local government any real property—

(1) which is improved by a one- to four-family residence;

(2) to which the Secretary holds title;

(3) which is not occupied;

(4) which is requested by such unit or agency for use in an urban homestead program; and

(5) which the Secretary determines is suitable for use in an urban homestead program which meets the requirements of subsection (b). In determining the suitability of such property for use in an urban homestead program, the Secretary shall consider—

(A) the difficulties and delays which would be involved in the sale of the property;

(B) the value of any repairs and improvements required by the program;

(C) the benefits of the community and the reduced administrative costs to the Federal Government which would accrue from the expedited occupancy of the unoccupied property; and

(D) the possible financial loss to the Federal Government which may result from the transfer of the property without payment.

(b) For the purposes of subsections (a) and (c), the Secretary shall approve an urban homestead program carried out by a unit of general local government or a public agency designated by a unit of general local government which provides for—

(1) the conditional conveyance of unoccupied residential property by the responsible administrative entity to an individual or a family without any substantial consideration;

(2) an equitable procedure for selecting the recipients of the unoccupied residential property, giving special consideration to the recipients' need for housing and capacity to make or cause to be made the repairs and improvements required under paragraph (3)(C) of this subsection;

(3) an agreement whereby the individual or family to whom such property is conveyed agrees to—

(A) occupy such property as a principal residence for a period of not less than three years;

(B) make repairs required to meet minimum health and safety standards for occupancy prior to occupying the property;

(C) make such repairs and improvements to the property as may be necessary to meet applicable local standards for decent, safe, and sanitary housing within eighteen months after occupying the property; and

(D) permit reasonable periodic inspections at reasonable times by employees of the unit of general local government or the public agency designated by the unit of general local government for the purpose of determining compliance with the agreement;

(4) the revocation of such conveyance upon any material breach of the agreement referred to in clause (3);

(5) the conveyance from the unit of general local government or the public agency designated by the unit of general local government of fee simple title in such property without consideration upon compliance with the agreement; and

(6) a coordinated approach toward neighborhood improvement through the homestead program and the upgrading of community services and facilities.

The Secretary may approve such other programs which reasonably fulfill these criteria.

(c) The Secretary is authorized to enter into agreements with units of general local government or public agencies designated by units of general local government to provide technical assistance for the administration of urban homestead programs which meet the requirements of subsection (b) and to individuals and families who are participants in such programs.

(d) The Secretary is authorized to issue such rules and regulations as may be necessary to carry out his functions under this section.

(e) The Secretary shall conduct a continuing evaluation of programs carried out pursuant to this section and, beginning with the third year following the date of enactment of this section, shall transmit to the Congress an annual report containing a summary of his evaluation of such programs and his recommendations for future conduct of such programs.

(f) To reimburse the housing loan funds for properties transferred pursuant to this section, and to carry out the provisions of subsection (c), there are authorized to be appropriated not to exceed $5,000,000 for the fiscal year ending June 30, 1975, and not to exceed $5,000,000 for the fiscal year ending June 30, 1976. Any amounts so appropriated shall remain available until expended.

REHABILITATION LOANS

SEC. 815. Section 312 of the Housing Act of 1964 is amended to read as follows:

"REHABILITATION LOANS

"SEC. 312. (a) The Secretary is authorized, through the utilization of local public and private agencies where feasible, to make loans to owners and tenants of property to finance the rehabilitation of such property. No loan shall be made under this section unless—

"(1) the property is determined to require rehabilitation and—

"(A) such rehabilitation is necessary or appropriate to the execution of an approved community development program under the Community Development Assistance Act of 1974;

"(B) the property is being occupied pursuant to an agreement entered into under section 814(b)(3) of the Housing and Community Development Act of 1974, and the loan is made to assist the occupant in carrying out his responsibilities under the agreement; or

"(C) the property is located in a neighborhood which is sufficiently stable to support long-term values and the rehabilitation is necessary to place the structure in a condition which meets applicable code standards;

"(2)(A) if the applicant owns and occupies a single family dwelling unit to be rehabilitated, the applicant is unable to secure the necessary funds from other sources without paying more than 25 per centum or such lower per centum as the Secretary deems appropriate of his average monthly income for housing expenses, taking into account the need to encourage rehabilitation, except that this limitation shall not be applied to an applicant whose income does not exceed 50 per centum of the median income for the area, as determined by the Secretary in the same manner as such income determinations are made pursuant to section 402 of the Revised National Housing Act; or

"(B) if the applicant proposes to undertake rehabilitation of multifamily housing, the Secretary is satisfied that the benefits of such rehabilitation will accrue substantially to tenants whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary in the same manner as such income determinations are made pursuant to section 502 of the Revised National Housing Act; and

"(3) the loan is an acceptable *risk* taking into consideration the need for the rehabilitation, the security available for the loan, and the ability of the applicant to repay the loan.

"(b) For the purpose of this section—

"(1) the term 'rehabilitation' means the improvement or repair of a structure or facilities in connection with a structure, and may include the provision of such sanitary or other facilities as are required by applicable codes to be provided by the owner or tenant of the property;

"(2) the term 'tenant' means a person or organization that meets such conditions regarding length of lease and such other conditions designed to protect the Secretary's interest as the Secretary may prescribe; and

"(3) the term 'Secretary' means the Secretary of Housing and Urban Development.

"(c) A rehabilitation loan made under this section shall be subject to the following limitations:

"(1) The loan shall be subject to such terms and conditions as may be prescribed by the Secretary.

"(2) The term of the loan may not exceed twenty years or three-fourths of the remaining economic life of the structure after rehabilitation, whichever is less.

"(3) The loan shall bear interest at such rate as the Secretary determines to be appropriate, but not to exceed 3 per centum per annum, of the amount of the principal outstanding at any time, and the Secretary may prescribe such other charges as he finds necessary, including service charges and appraisal, inspection, and other fees.

"(4) The amount of the loan may not exceed—

"(A) in the case of residential property, the Secretary's estimate of the cost of rehabilitation, or $8,000 per family unit, whichever is less: *Provided*, That (i) the Secretary may, by regulation, increase such $8,000 limitation by not to exceed 45 per centum in any geographical area where he finds that cost levels so require, (ii) notwithstanding the preceding limitation, the loan may exceed the cost of rehabilitation by up to $10,000 in order to include an amount approved by the Secretary to refinance existing indebtedness secured by the property if such refinancing is necessary to enable the owner occupant to afford rehabilitation without paying more than 25 per centum of his average monthly income or such lower per centum as the Secretary deems appropriate for housing expenses, and (iii) the amount of the total indebtedness on the property (including the loan) shall be limited to the Secretary's estimate of the appraised value of the property after rehabilitation, or $50,000, or the maximum principal obligation when rehabilitation is involved for a mortgage which could be insured for such property under section 402 of the Revised National Housing Act for structures containing four dwelling units or less or under section 502 of such Act for such property containing five or more dwelling units, whichever is least;

"(B) in the case of nonresidential property, whichever of the following is the least: the Secretary's estimate of the appraised value of the property after rehabilitation, or $50,000, or the cost of rehabilitation, or an amount which when added to any outstanding indebtedness related to the property securing the loan creates a total outstanding indebtedness that the Secretary determines could be reasonably secured by a first mortgage on the property.

"(d) There is authorized to be appropriated not to exceed $150,000,000 for each fiscal year which shall constitute a revolving fund to be used by the Secretary in carrying out this section. All moneys in such revolving fund shall be available for necessary expenses of servicing loans made pursuant to this section, including reimbursement or payment for services and facilities of the Government National Mortgage Association and of any public or private agency for the servicing of such loans.

"(e) The Secretary is authorized to delegate to or use as his agent any Federal or local public or private agency or organization to the extent he determines appropriate and desirable to carry out the objectives of this section in the area involved.

"(f) The Secretary is authorized to issue such rules and regulations and impose such requirements and conditions (in addition to those specified in this section) as he determines to be desirable to carry out the objectives of this section, including limitations on the amount of a loan and restrictions on the use of the property involved.

"(g) No loan shall be made under the authority of this section after July 1, 1976, except pursuant to a contract, commitment, or other obligation entered into pursuant to this section before that date.".

TRANSITIONAL EXTENSION OF FHA INSURANCE AUTHORITY

SEC. 816. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1974" in the first sentence and inserting in lieu thereof "June 30, 1975".

(b) Section 217 of such Act is amended by striking out "October 1, 1974" and inserting in lieu thereof "June 30, 1975".

(c) Section 221(f) of such Act is amended by striking out "October 1, 1974" in the fifth sentence and inserting in lieu thereof "June 30, 1975".

(d) Section 235(m) of such Act is amended by striking out "October 1, 1974" and inserting in lieu thereof "June 30, 1975".

(e) Section 236(n) of such Act is amended by striking out "October 1, 1974" and inserting in lieu thereof "June 30, 1975".

(f) Section 809(f) of such Act is amended by striking out "October 1, 1974" in the second sentence and inserting in lieu thereof "June 30, 1975".

(g) Section 810(k) of such Act is amended by striking out "October 1, 1974" in the second sentence and inserting in lieu thereof "June 30, 1975".

(h) Section 1002(a) of such Act is amended by striking out "October 1, 1974" in the second sentence and inserting in lieu thereof "June 30, 1975".

(i) Section 1101(a) of such Act is amended by striking out "October 1, 1974" in the second sentence and inserting in lieu thereof "June 30, 1975".

FLEXIBLE INTEREST RATE AUTHORITY

SEC. 817. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709-1), is amended by striking out "October 1, 1974" and inserting in lieu thereof "July 1, 1975".

TEMPORARY WAIVER OF CERTAIN LIMITATIONS APPLICABLE TO GNMA

SEC. 818. Section 3 of the joint resolution entitled "Joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to interest rates on insured mortgages, to extend and modify certain provisions of the National Flood Insurance Act of 1968, and for other purposes", approved December 22, 1971, as amended, is amended by striking out "October 1, 1974" and inserting in lieu thereof "July 1, 1975".

INTERSTATE LAND SALES

SEC. 819. (a) Section 1402 of the Housing and Urban Development Act of 1968 is amended—

(1) by inserting after "land" where it first appears in paragraph (3) the following: ", located in any State or in a foreign country,"; and

(2) by inserting before the semicolon at the end of paragraph (7) the following: "or between any foreign country and any State".

(b) Section 1403(a) of such Act is amended by striking out "or" at the end of paragraph (9), by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; or" and by adding after paragraph (10) the following new paragraph:

"(11) the sale or lease of real estate which is zoned by the appropriate governmental authority for industrial or commercial development, when—

"(A) local authorities have approved access from such real estate to a public street or highway;

"(B) the purchaser or lessee of such real estate is a duly organized corporation, partnership, trust, or business entity engaged in commercial or industrial business;

"(C) the purchaser or lessee of such real estate is represented in the transaction of sale or lease by a representative of its own selection;

"(D) the purchaser or lessee of said real estate affirms in writing to the seller that it is either (i) purchasing or leasing said real estate substantially for its own use or (ii) it has a binding commitment to sell, lease, or sublease said real estate to an entity which meets the requirements of (B) above, is engaged in commercial or industrial business, and is not affiliated with the seller or agent; and

"(E) a policy of title insurance or title opinion is issued in connection with the transaction showing that title to the real estate purchased or leased is vested in the seller or lessor, subject only to such exceptions as may be approved in writing by such purchaser or the lessee prior to recordation of the instrument of conveyance or execution of the lease, but nothing herein would require the recordation of a lease; except that any purchaser or lessee may waive, in writing in a separate document, the requirement of this subparagraph that a policy of title insurance or title opinion be issued in connection with the transaction."

(c)(1) The second sentence of section 1404(b) of such Act is amended—

(A) by striking out "within forty-eight hours" where it first appears and inserting in lieu thereof "until midnight of the third business day following the consummation of the transaction"; and

(B) by striking out all after "provide" and inserting in lieu thereof a period.

(2) The amendments made by paragraph (1) shall be effective sixty days after the date of the enactment of this Act.

ADVANCES FROM A STATE CHARTERED CENTRAL RESERVE INSTITUTION INCLUDING MORTGAGE FINANCE AGENCIES

SEC. 820. Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by adding at the end thereof the following new paragraph:

"Subject to regulation by the Board but without regard to any other provision of this subsection, any such association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to borrow funds from a State mortgage finance agency of the State in which the head office of such association is situated to the same extent as State law authorizes a savings and loan association organized under the laws of such State to borrow from the State mortgage finance agency, except that such an association may not make any loan of such funds at an interest rate which exceeds by more than 1¾ per centum per annum the interest rate paid by the State mortgage finance agency on the obligations issued to obtain the funds so borrowed."

PROGRAM LEVELS

SEC. 821. The President shall make such funds as may be appropriated or otherwise made available for obligation by the Congress for the programs authorized under this Act available in a timely manner for obligation in the year for which such funds have been appropriated or made available. The Secretary shall not withhold or delay or take away action which effectively precludes or delays the processing and approval of applications, and with respect to housing programs, the Secretary shall make available for commitment funds for the programs proportionate to the dollar amounts appropriated or otherwise made available for obligation by the Congress.

MASS TRANSPORTATION

SEC. 822. (a) Section 3 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof of the following new subsection:

"(f) No Federal financial assistance under this Act may be provided for the purchase of buses unless as a condition of such assistance the applicant or any public body receiving assistance for the purchase of buses under this Act or any publicly owned operator receiving such assistance shall as a condition of such assistance enter into an agreement with the Secretary that such public body, or any operator of mass transportation for the public body, shall not engage in charter bus operations outside of the urban area within which it provides regularly scheduled mass transportation service, except as provided in the agreement authorized by this subsection. Such agreement shall provide for fair and equitable arrangements, appropriate in the judgment of the Secretary, to assure that the financial assistance granted under this Act will not enable public bodies and publicly and privately owned operators for public bodies to *foreclose private* operators from the intercity charter bus industry where such operators are willing and able to provide such service. In addition to any other remedies specified in the agreements, the Secretary shall have the authority to bar a grantee or operator from the receipt of further financial assistance for mass transportation facilities and equipment where he determines that there has been a continuing pattern of violations of the terms of the agreement. Upon receiving a complaint regarding an alleged violation, the Secretary shall investigate and shall determine whether a violation has occurred. Upon determination that a violation has occurred, he shall take appropriate action to correct the violation under the terms and conditions of the agreement.".

(b) Section 164(a) of the Federal-Aid Highway Act is amended—

(1) by inserting "or" before "(2)" in the first sentence;

(2) by striking out "or (3) the Urban Mass Transportation Act of 1964," in the first sentence; and

(3) by striking out all after the word "operations" in the first sentence and all of the second sentence, and inserting in lieu thereof "outside of the urban area (or areas) within which it provides regularly scheduled mass transportation service, except as provided in an agreement authorized and required by section 3(f) of the Urban Mass

Transportation Act of 1964, which subsection shall apply to Federal financial assistance for the purchase of buses under such provisions of title 23, United States Code."

(c) The Secretary shall amend any agreements entered into pursuant to section 164 (a) of the Federal-Aid Highway Act of 1973, to conform to the requirements of the amendments made by this section. The effective date of such conformed agreements shall be the effective date of the original agreements entered into pursuant to such section 164(a).

TRANSITIONAL AUTHORIZATION FOR PUBLIC HOUSING

Housing Act of 1937 is amended by striking out "$140,000,000" and inserting in lieu thereof "$312,000,000".

SEC. 823. Section 10(e) of the United States

TRANSITIONAL AUTHORIZATION FOR MODEL CITIES

SEC. 824. (a) The first sentence of section 111(b) of the Demonstration Cities and Metropolitan Development Act of 1966 is amended by striking out "and not to exceed $200,000,000 for the fiscal year ending June 30, 1972" and inserting in lieu thereof "not to exceed $200,000,000 for the fiscal year ending June 30, 1972, and not to exceed $400,000,000 for the fiscal year ending June 30, 1975."

(b) Section 111(c) of such Act is amended by striking out "July 1, 1974" and inserting in lieu thereof "July 1, 1975".

TRANSITIONAL AUTHORIZATION FOR BASIC WATER AND SEWER FACILITIES GRANT AND NEIGHBORHOOD FACILITY GRANT

SEC. 825. Section 708(b) of the Housing and Urban Development Act of 1965 is amended by striking out "July 1, 1974" and inserting in lieu thereof "July 1, 1975".

TRANSITIONAL AUTHORIZATION FOR RENTAL HOUSING ASSISTANCE

SEC. 826. Section 236(i)(1) of the National Housing Act is amended by striking out "and by $200,000,000 on July 1, 1971" and inserting in lieu thereof "by $200,000,000 on July 1, 1971, and by $180,000,000 on July 1, 1974".

TRANSITIONAL AUTHORIZATION FOR RENT SUPPLEMENTS

SEC. 827. Section 101(a) of the Housing and Urban Development Act of 1965 is amended by striking out "and by $40,000,000 on July 1, 1971" and inserting in lieu thereof "by $40,000,000 on July 1, 1971, and by $50,000,000 on July 1, 1974".

ADDITIONAL RESEARCH AUTHORITY

SEC. 828. Title V of the Housing and Urban Development Act of 1970 is amended by adding at the end thereof the following:

"ADDITIONAL RESEARCH AUTHORITY

"SEC. 509. (a) In carrying out activities under section 501, the Secretary may undertake special demonstrations to determine the housing design, the housing structure, the housing-related facilities, services, and amenities most effective or appropriate to meet the needs of groups with special housing needs including the elderly, the handicapped, the displaced, single individuals, broken families, and large households. For this purpose, the Secretary is authorized to enter into contracts with, to make grants to, and to provide other types of assistance to individuals and entities with special competence and knowledge to contribute to the planning, development, design, and management of such housing.

"(b) In carrying out his functions under this section, the Secretary shall give preferential attention to demonstrations which in his judgment involve areas of housing user needs most neglected in past and current research and demonstration efforts.

"(c) The Secretary is authorized to undertake demonstrations involving the actual planning, development, and occupancy of housing, utilizing the contract and loan authority of any federally assisted housing program. He is also authorized to set aside any development, construction, design, and occupancy requirements, for the purposes of these demonstrations, if in his judgment they inhibit the testing of housing designed to meet the special housing needs.

"(d) In carrying out this section, the Secretary shall include, as part of any demonstration, an evaluation of the demonstration to cover the full experience involved in planning, development and occupancy.

"(e) In addition to any other contract or loan authority which the Secretary may utilize under subsection (c), not more than $10,000,000 from amounts approved in appropriations Acts shall be available for research under this section."

ENERGY STATEMENT

SEC. 829. In any case in which the Secretary of Housing and Urban Development is required to prepare a statement pursuant to section 102 of the National Environmental Policy Act of 1969 as a result of any action being taken or assistance being furnished under this Act, he shall include in the statement—

(1) his assessment of the long-term and short-term impact upon energy resources of the proposed assistance or action; and

(2) alternatives to the proposed assistance or action and their effects upon energy resources.

TAX INCENTIVES REVIEW

SEC. 830. Upon the enactment of this Act, the Secretary of Housing and Urban Development, in cooperation with the Secretary of the Treasury, shall conduct a thorough review of the effectiveness of existing tax incentives for investors in low and moderate income multifamily housing. Not later than six months after the date of enactment of this section, the Secretary of Housing and Urban Development shall submit to the Congress any recommendations for adjustments in such incentives—

(1) in order to facilitate increased efforts to reduce or stabilize construction or operating costs;

(2) in order to facilitate improved management practices which are more responsive to the needs of tenants; or

(3) for any other reason.

Any such recommendations shall include an estimate of the effect of their implementation would have on the levels and costs of low and moderate income housing programs.

MORTGAGE PROCEEDS FRAUDULENTLY MISAPPROPRIATED BY MORTGAGOR

SEC. 831. The Secretary of Housing and Urban Development shall take action to secure the payment of any deficiency after foreclosure on a mortgage where the Secretary has reason to believe that mortgage proceeds have been fraudulently misappropriated by the mortgagor.

STATISTICS

SEC. 832. The Secretary of Housing and Urban Development shall develop and maintain complete and current statistics and other information with respect to each housing mortgage insurance and housing assistanc program under this Act, including but not limited to, statistics and information relating to—

(1) financial market conditions, including the interest rates, payback periods, and other terms and conditions affecting such housing;

(2) the character, extent, and actual costs of construction or rehabilitation undertaken under each program;

(3) factors affecting and statistics showing the extent of utilization of each such program;

(4) factors affecting the processing time of applications and statistics showing processing times actually experienced for each program;

(5) mortgage arrearages, defaults, and foreclosures on insured mortgage loans and expenses incurred as a result of such arrearages, defaults, and foreclosures;

(6) abuses of the programs and actions taken in connection therewith;

(7) the income, expenditure for housing, age, sex, other relevant characteristics as determined by the Secretary of those served by the programs; and

(8) the costs of administering the programs;

and shall submit to the Congress not later than February 15 of each year an annual report summarizing such information.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SPARKMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the bill, S. 3066.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, passage of the omnibus housing, community development, and planning legislation today is a matter of great national importance. It is also a matter of great personal satisfaction.

For more than 2 years, we in the Banking Committee have worked hard to produce this bill. It will make major improvements in the Nation's ability to make decent housing available to all. It will help to make that housing available in balanced, well-planned, and attractive communities. It is the culmination of lengthy hearings, much hard thought, careful exploration of alternatives and, ultimately, compromise. I am proud to have been part of the effort.

S. 3066 contains many innovations. It recognizes the need for greater flexibility on the part of local communities to tailor their housing and development programs to their own needs. At the same time, it insures that Federal funds are used only for matters of high priority. Under broad and flexible guidelines, local communities will be in a position to act swiftly and imaginatively to deal with local problems while the American taxpayer will be assured that precious housing and community development resources are used wisely and where they are most needed.

I am particularly pleased that we were able to include in the bill a provision to require the Federal Government to face up to its responsibilities and correct serious housing defects which it fails to discover in the course of its mortgage insurance inspections. FHA's widespread failure to make adequate inspections in the past caused many unsuspecting homebuyers to be saddled with uninhabitable houses which they could not afford to repair and had no choice but to abandon. The cost to both the homeowner and the Federal Government was enormous. My reimbursement provision will help make up for the wrongs of the past and help insure they do not occur in the future, and ultimately save the taxpayers money.

I was also particularly pleased to have included in the bill provisions to make major improvements in the planning capabilities of State and local governments, focus greater attention on energy-saving techniques in new housing construction, permit child care and law enforcement activities in a community's development program, expand HUD's research authority to embrace attention to the social and environmental consequences of housing design and location, and provide adequate low-income housing in new communities.

Of great significance is the renewed commitment which S. 3066 represents, to better housing and improved communities for all. For too long our efforts to meet the Nation's pressing needs for a better living environment have been stymied. The administration's continued impoundment of badly needed funds for these purposes has inflicted suffering on all, not just the poor. Renewal plans have been shelved. Capable staffs are being disbanded. Uncertainty about the future is pervasive.

Passage of S. 3066 is a loud and clear signal that the Congress and the Nation will not tolerate further delay. S. 3066 gives the administration the tools to make major new strides—if only it will use them.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 5450) to amend the Marine Protection, Research, and Sanctuaries Act of 1972, in order to implement the provisions of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, and for other purposes.

ORDER FOR ADJOURNMENT TO 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered

ORDER OF BUSINESS

Mr. TOWER. Mr. President, may I ask the distinguished Senator from West Virginia what the Senate business will be for the remainder of the day and for tomorrow?

Mr. ROBERT C. BYRD. Mr. President, in response to the inquiry of the distinguished senior Senator from Texas, the Senate will convene at 10:30 tomorrow morning.

At approximately 11 a.m., the Senate will take up S. 872, a bill to facilitate prosecutions for certain crimes and offenses committed aboard aircraft.

It was earlier anticipated that following that measure, we would call up S. 1835, the servicemen's group life insurance bill; but I am given to understand now that certain problems in connection with that bill might be worked out so that it could pass by unanimous consent if another day or so were given.

Following the disposition of S. 872, the Senate would then proceed to the consideration of S. 1401, a bill to establish rational criteria for the mandatory imposition of the sentence of death. I am not sure that the Senate will complete action on S. 1401—it may or may not—but, in any event, it may be possible at some time during the day to take up Senate Resolution 240, a funding resolution for the Committee on Banking, Housing and Urban Affairs.

I would anticipate yea and nay votes on tomorrow, and I would daresay that the measures I have outlined will be sufficient to carry us through the day tomorrow.

Mr. TOWER. And the Senator anticipates no more record votes tonight?

Mr. ROBERT C. BYRD. There will be no more record votes today.

Mr. TOWER. I thank the Senator from West Virginia.

ORDER FOR RECOGNITION OF SENATOR ROTH TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, and prior to the period for the transaction of routine morning business which has already been ordered, the distinguished Senator from Delaware (Mr. ROTH) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AIRCRAFT PIRACY AMENDMENTS OF 1973

Mr. ROBERT C. BYRD. Mr. President, for the purpose of making it the pending business today and the unfinished business tomorrow, I ask unanimous consent that the Senate now proceed to the consideration of S. 872.

The PRESIDING OFFICER (Mr. HASKELL). The bill will be stated by title.

The second assistant legislative clerk read as folows:

A bill (S. 872) to facilitate prosecutions for certain crimes and offenses committed aboard aircraft, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments on page 2, after the word "chapter", where it appears the second time, strike out "11" and insert "111"; on page 3, after line 11, strike out:

"(1) (1) Whoever, while aboard, or while attempting to board, an aircraft being operated by an air carrier or a foreign air carrier in air transportation, has on or about his person a concealed deadly or dangerous weapon shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(2) Whoever willfully and without regard for the safety of human life or with reckless disregard for the safety of human life, while aboard, or while attempting to board, an aircraft being operated by an air carrier or a foreign air carrier in air transportation, has on or about his person a concealed deadly or dangerous weapon shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(3) This subsection shall not apply to law enforcement officers of any municipal or State government, or the Federal Government, who are authorized or required to carry arms, or persons as may be so authorized under regulations issued by the Secretary of Transportation, while acting within their official capacities."

And in lieu thereof insert:

"(1) (1) Whoever, while aboard, or while attempting to board, any aircraft in or intended for operation in air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, explosive, or other destructive substance, or has placed, attempted to place, or attempted to have placed aboard such aircraft any property containing a concealed deadly or dangerous weapon, explosive, or other destructive substance, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(2) Whoever willfully and without regard for the safety of human life or with reckless disregard for the safety of human life, while aboard, or while attempting to board, any aircraft in or intended for operation in air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, explosive, or other destructive substance, or has placed, attempted to place, or attempted to have placed aboard such aircraft any property containing a concealed deadly or dangerous weapon, explosive, or other destructive substance shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(3) This subsection shall not apply to law enforcement officers of any municipal or State government, or the Federal Government, while acting within their official capacities and who are authorized or required within their official capacities, to carry arms, or to persons who may be authorized, under regulations issued by the Administrator, to carry concealed deadly or dangerous weapons in air transportation or intrastate air transportation; nor shall it apply to persons transporting weapons for hunting or other sporting activities if the presence of such weapons is publicly declared prior to the time of boarding, checked as baggage which may not be opened within the airport confines, and not transported with such person in the passenger compartment of the aircraft.".

On page 5, line 21, after the word "or" where it appears the second time, strike out the word "conveys" and insert "conveyed"; on page 6, after line 17, insert a new section, as follows:

SEC. 7. Section 101 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301), is amended by adding after paragraph (21) the following:

"(22) 'Intrastate air transportation' means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States.".

And on page 7, after line 2, insert a new section, as follows:

SEC. 8. Section 1201(a) (3) of title 18 of the United States Code is amended by striking out "(32)" and inserting in lieu thereof "(33)".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Aircraft Piracy Amendments of 1973".

SEC. 2. (a) Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Imparting or conveying threats

"Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by section 32 or 33 of this chapter or section 1992 of chapter 97 or section 2275 of chapter 111 of this title with an apparent determination and will to carry the threat into execution, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

(b) The analysis of chapter 2 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"36. Imparting or conveying threats.".

SEC. 3. Subsection (a) of section 1395 of title 28, United States Code, is amended by striking the period at the end of such subsection and adding the following: ", and in any proceeding to recover a civil penalty under section 35(a) of title 18 of the United States Code or section 901(c) of the Federal Aviation Act of 1958 (72 Stat. 731; 49 U.S.C. 1471(c)), all process against any defendant or witness, otherwise not authorized under the Federal Rules of Civil Procedure, may be served in any judicial district of the United States upon an ex parte order for good cause shown."

SEC. 4. Section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471) is amended by adding at the end thereof the following new subsection:

"FALSE INFORMATION

"(c) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of section 902 of this title, shall be subject to a civil penalty of not more than $1,000 which shall be recoverable in a civil action brought in the name of the United States."

SEC. 5. Section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472) is amended as follows:

(a) Section 902(l) is amended to read as follows:

"CARRYING WEAPONS ABOARD AIRCRAFT

"(l) (1) Whoever, while aboard, or while attempting to board, any aircraft in or intended for operation in air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, explosive, or other destructive substance, or has placed, attempted to place, or attempted to have placed aboard such aircraft any property containing a concealed deadly or dangerous weapon, explosive, or other destructive substance, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(2) Whoever willfully and without regard for the safety of human life or with reckless disregard for the safety of human life, while aboard, or while attempting to board, any aircraft in or intended for operation in air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, explosive, or other destructive substance, or has placed, attempted to place, or attempted to have placed aboard such aircraft any property containing a concealed deadly or dangerous weapon, explosive, or other destructive substance shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(3) This subsection shall not apply to law enforcement officers of any municipal or State government, or the Federal Government, while acting within their official capacities and who are authorized or required within their official capacities, to carry arms, or to persons who may be authorized, under regulations issued by the Administrator, to carry concealed deadly or dangerous weapons in air transportation or intrastate air transportation; nor shall it apply to persons transporting weapons for hunting or other sporting activities if the presence of such weapons is publicly declared prior to the time of boarding, checked as baggage, which may not be opened within the airport confines, and not transported with such person in the passenger compartment of the aircraft.".

(b) Section 902(m) is amended to read as follows:

"FALSE INFORMATION AND THREATS

"(m) (1) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a felony prohibited by subsection (i), (j), or (l) (2) of this section, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(2) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by subsection (i), (j), or (l) (2) of this section, with an apparent determination and will to carry the threat into execution, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

(c) The table of contents of the Federal Aviation Act of 1958, in the matter of title IX (subchapter IX, chapter 20 of title 49, United States Code, section 1472(m)), is amended by redesignating

"(m) False information."

to read

"(m) False information and threats.".

SEC. 6. Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking "Such" at the beginning of the second sentence of subsection (b) (1) of that section, and substituting therefor, "Except with respect to civil penalties under section 901(c) of this title, such".

SEC. 7. Section 101 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301), is amended by adding after paragraph (21) the following:

"(22) 'Intrastate air transportation" means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States.".

SEC. 8. Section 1201(a) (3) of title 18 of the United States Code is amended by striking out "(32)" and inserting in lieu thereof "(33)".

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow, the Senate will convene at 10:30 a.m.

After the two leaders or their designees have been recognized under the standing order, the distinguished senior Senator from Delaware (Mr. ROTH) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each, at the conclusion of which the Senate will proceed to the consideration of S. 872, a bill to facilitate prosecutions for certain crimes and offenses committed aboard aircraft.

Upon the disposition of that measure, it is the present intention of the leadership to take up S. 1401, a bill establishing rational criteria for the mandatory imposition of the sentence of death.

As I have already indicated, the leadership may, at some time tomorrow, move to take up Senate Resolution 240, a resolution authorizing additional expenditures by the Committee on Banking, Housing and Urban Affairs for inquiries and investigations. Yea-and-nay votes are expected to occur on tomorrow.

ADJOURNMENT TO 10:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until the hour of 10:30 a.m. tomorrow.

The motion was agreed to; and at 5:21 p.m. the Senate adjourned until tomorrow, Tuesday, March 12, 1974, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 11, 1974:

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

John W. Warner, of Virginia, to be Administrator of the American Revolution Bicentennial Administration. (New Position)

IN THE MARINE CORPS

Lt. Col. Gerald P. Carr, U.S. Marine Corps, for permanent promotion to the grade of colonel in the U.S. Marine Corps, in accordance with article II, section 2, clause 2, *of the Constitution.*

IN THE AIR FORCE

The following persons for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

CHAPLAIN

To be captain

Andrews, Ralph E., [redacted].
Greco, Raymond W., [redacted].
Hansen, Peter M., [redacted].
Kerley, Clyde N. [redacted].
Mackey, James W., [redacted].
Predoehl, Theodore G., [redacted].
Renne, Eric S., [redacted].
Sumpter, Ronald K., [redacted].
Wawrzynski, Edward A., [redacted].

To be first lieutenant

Barton, David W., [redacted].
Chumley, Theodore R., Jr., [redacted].
Dendinger, William J., [redacted].
Donohue, James A., [redacted].
Koah, Timothy A., [redacted].
Pelesh, Gregory H., [redacted].
Qualtrough, John P., [redacted].
Stainman, Theodore H., [redacted].
Young, James L., [redacted].

JUDGE ADVOCATE

To be captain

Abelson, Steven J., [redacted].
Anderson, Lowell T., [redacted].
Babin, James C., [redacted].
Birkel, James L., [redacted].

Brancato, John R., [redacted].
Brasel, Jerry M., [redacted].
Brown, Thomas J., [redacted].
Brunke, Loren D., [redacted].
Caldwell, James E., [redacted].
Cannain, Lester C., [redacted].
Cole, Charles R., [redacted].
Denton, William J., [redacted].
Diaz, Robert L., [redacted].
Dickson, Bernard A., [redacted].
Engebretsen, David H., [redacted].
Farr, Richard L., [redacted].
Fiore, Joseph C., [redacted].
Geraci, Thomas A. [redacted].
Gray, Alfred A. [redacted].
Ingram, James E., Jr., [redacted].
Kretsinger, Carll J., [redacted].
Lasater, William R., Jr., [redacted].
Mahoney, James J., Jr., [redacted].
McAvoy, Roger J., [redacted].
Petherick, Michael J., [redacted].
Regan, Gilbert J., [redacted].
Romo, Peter E., Jr., [redacted].
Stoddard, William M. B., [redacted].
Summerfield, Ralph S., [redacted].
Walker, William C., [redacted].
Warren, Stephen A., [redacted].

To be first lieutenant

Aaron, Richard J., [redacted].
Allen, Russell G., [redacted].
Alsup, Philip F., [redacted].
Anderson, Mark S., [redacted].
Apgar, Kenneth E., [redacted].
Armstrong, James G., [redacted].
Baker, Gary E., [redacted].
Bearden, John H., [redacted].
Beck, Ralph A., [redacted].
Bennett, Gerald F., [redacted].
Bloomer, David A., [redacted].
Boswell, William P., [redacted].
Brewer, Lewis G., [redacted].
Brown, Don E., [redacted].
Bruinooge, Jon P., [redacted].
Burns, Harry A., III, [redacted].
Casper, John E., [redacted].
Cerha, Robert G., [redacted].
Cervizzi, Richard G., [redacted].
Champney, Richard K., [redacted].
Christian, Thomas R., [redacted].
Conover, Robert V., [redacted].
Conran, Joseph P., [redacted].
Cook, Jeffrey W., [redacted].
Corley, Dewey W., [redacted].
Crassweller, James R., [redacted].
Crowgey, Rodney G., [redacted].
Davidson, Kenneth L., [redacted].
Davis, Jay L., [redacted].
Debevec, Carl J., [redacted].
Dekat, Kenneth A., [redacted].
Denson, Jeffrey M., [redacted].
Diaz, Robert E., [redacted].
Dixon, Brendan M., [redacted].
Donovan, James P., [redacted].
Duncan, Farris A., [redacted].
Erickson, Richard J., [redacted].
Farry, Edward T., [redacted].
Fedak, Laurence S., [redacted].
Fletcher, Paul G., [redacted].
Flynn, Edmund G., [redacted].
Flynn, John T. [redacted].
Ford, Michael R., [redacted].
Freeman, Douglas K., [redacted].
Gamboa, Glenn J., [redacted].
Gibson, Robert G., Jr., [redacted].
Giovagnoni, Robert E., [redacted].
Goldsberry, Francis M., II, [redacted].
Greer, David E., [redacted].
Hall, Richard F., [redacted].
Hardee, James A., [redacted].
Henabray, William M., Jr. [redacted].
Heupel, James E., [redacted].
Hines, James H., [redacted].
Hotchkiss, Hervey A., [redacted].
Hourcle, Laurent R., [redacted].
Irwin, Robert C., Jr., [redacted].
Iverson, Kenneth A. [redacted].
Johnston, James D., [redacted].
Jones, Charles G., [redacted].
Jones, Thomas H., [redacted].
Karr, William H., [redacted].
Kinnan, David E., [redacted].
Lang, Robert E., [redacted].
Lawyer, Michael S., [redacted].
Lopez, Daniel F., [redacted].
Lowenberg, Timothy J., [redacted].
Mangin, Charles G., [redacted].
Massucci, Raymond R., [redacted].
McBride, Curtis W., [redacted].
McKelvey, Daniel E., Jr., [redacted].
McShane, Michael B., [redacted].
Meredith, James C., [redacted].
Moorman, William A., [redacted].
Muncaster, James R., [redacted].
Murphy, Timothy J., [redacted].
O'Brien, Gerald J., [redacted].
O'Loughlin, Peter J., Jr., [redacted].
Parker, Herbert B., [redacted].
Parvin, Cordell M. [redacted].
Paslick, Edward N., [redacted].
Peak, John A., [redacted].
Pedersen, Gary S., [redacted].
Peters, Robert W., [redacted].
Pettway, James R., [redacted].
Phillips, Walter D., [redacted].
Plevan, Kenneth A., [redacted].
Porter, Charles A., Jr., [redacted].
Railsback, Thomas C., [redacted].
Rasher, Donald C., [redacted].
Robinson, Thomas R., [redacted].
Rodriguez, Edward F., Jr., [redacted].
Schulze, Herbert R., [redacted].
Senander, Robert M., [redacted].
Shenefelt, Lloyd H., III, [redacted].
Smith, Gary A., [redacted].
Snyder, William T., [redacted].
Southam, Lynn W., [redacted].
Strobl, Edward J., Jr., [redacted].
Teague, Charles M., [redacted].
Throckmorton, Ralph R., [redacted].
Tison, John L., III [redacted].
Todd, Kenneth G., [redacted].
Vanbrakle, Bryant L., [redacted].
Vidal, James E., [redacted].
Whitehurst, William O., Jr., [redacted].
Whittington, Michael C., [redacted].
Wilson, Douglas D., [redacted].
Wims, Michael D., [redacted].
Woods, Donald E., [redacted].
Wright, Roger E., [redacted].

MEDICAL

To be captain

Alexander, Johnny B., [redacted].
Barrocas, Albert, [redacted].
Baskin, Harold F., [redacted].
Bedingfield, John R., Jr., [redacted].
Benning, Thomas R., [redacted].
Bills, Gary L., [redacted].
Bloom, Bernard H., [redacted].
Blumberg, Lawrence B., [redacted].
Bressinck, Renie E. [redacted].
Broadwell, Russell F., [redacted].
Buchanan, James R., [redacted].
Campbell, John S., [redacted].
Campbell, William W., Jr., [redacted].
Carretta, Robert F., [redacted].
Carter, Gary D., [redacted].
Clark, Kenneth H., [redacted].
Clark, Max A., [redacted].
Couch, Ellis P., [redacted].
Coudon, Wilson L., [redacted].
Coute, James A., [redacted].
Cwazka, Walter F., [redacted].
Davis, William M., [redacted].
Dugger, David L., [redacted].
Elliott, Paul T., [redacted].
Fisher, George H., [redacted].
Fisk, David E., [redacted].
Foshee, William S., [redacted].
Foster, William P., [redacted].
Friedrich, Eric W., [redacted].
Garcia, Raymond L., [redacted].
Gardner, Albert E., [redacted].
Gehring, Gordon G., [redacted].
Girod, Marvin G., [redacted].
Grant, William H., [redacted].
Greene, Jerry W., [redacted].
Griffin, John J., [redacted].
Guise, Charles W., [redacted].
Hafermann, David R., [redacted].
Halverson, James L., [redacted].
Hammonds, Max W., [redacted].
Hampton, John R., III, [redacted].
Hand, Stanley I., Jr., [redacted].
Harris, Melvin E., [redacted].
Heimburger, Steven L., [redacted].
Herpin, Daniel A., [redacted].
Hess, Randall G., [redacted].
Hickman, James R., Jr., [redacted].
Hoberman, Lawrence J., [redacted].
Hoffman, Gerald E., [redacted].
Hood, Royce E., Jr., [redacted].
Howiler, William E., Jr., [redacted].
Irizarry, Concepcion, Iomas, [redacted].
Isernamaral, Jesus H., [redacted].
Jackson, Bruce G., [redacted].
Jacobs, Robert L., Jr. [redacted].
James, Richard E., [redacted].
Jauch, Robert J., [redacted].
Jernigan, John F., [redacted].
Johnson, Benny D., [redacted].
Johnston, Thomas A., [redacted].
Jones, Al E., [redacted].
Jones, Dennis S., [redacted].
Kee, Jimmy W., [redacted].
Kippel, Eugene J., [redacted].
Kish, Karl K., [redacted].
Kloss, John G., [redacted].
Koop, Lamonte P., [redacted].
Krege, John W., [redacted].
Lee, Dennis R., [redacted].
Lehman, Craig A., [redacted].
Lindley, Ancil L., III, [redacted].
Luetje, Charles H., II, [redacted].
Lundquist, Jon E., [redacted].
Mack, Leo W., Jr., [redacted].
Magill, Hubert L., [redacted].
Mahoney, John T., [redacted].
Martin, Earl F., [redacted].
McCants, Edward G., Jr. [redacted].
McClusky, Oliver E., [redacted].
McGee, James W., IV, [redacted].
McLaughlin, Gary W., [redacted].
Meier, Walter L., [redacted].
Miller, James B., [redacted].
Molinaro, John R., [redacted].
Moore, Terence N., [redacted].
Morrow, Robert L., Jr., [redacted].
Mullins, James D. [redacted].
Niewodowski, Michael A., [redacted].
O'Connor, Patrick C., [redacted].
Orrison, William G., [redacted].
Patton, Clifton M., Jr. [redacted].
Paullus, Wayne S., Jr. [redacted].
Pedro, Steven D., [redacted].
Perezfigaredo, Rafael A., [redacted].
Pickett, James D., [redacted].
Plager, Stephan D., [redacted].
Player, David M., [redacted].
Podoloff, Donald A., [redacted].
Reider, Daner R., [redacted].
Richardson, Howard M. [redacted].
Rist, Toivo E. [redacted].
Rossof, Arthur H., [redacted].
Ruark, Glen W., [redacted].
Sanwick, Steven M., [redacted].
Savran, Stephen V., [redacted].
Schaberl, Karl N., [redacted].
Schriever, Gerry J., [redacted].
Schwartz, Burton W., [redacted].
Schwender, George E., [redacted].
Sepiol, James L., [redacted].
Shepard, Martin J., [redacted].
Siegel, Donald C. [redacted].
Sill, William F., [redacted].
Singer, Karl L., [redacted].
Smiley, William H., [redacted].
Smith, Wayne E., [redacted].
Snider, William J., [redacted].
Spence, Michael B., [redacted].
Spigel, Stuart C., [redacted].
Stewart, Ralph W., [redacted].
Stroble, Charles P., [redacted].
Stronach, Neil, [redacted].
Stump, Alfred L., [redacted].
Sykes, James D., [redacted].
Szpak, Michael W., [redacted].
Taylor, William M., [redacted].
Tremblay, Normand F. [redacted].
Trevino, Saul G., [redacted].
Tuggle, Allen Q., [redacted].
Vanbuskirk, Ronald, [redacted].

Vandersarl, Jules V., [redacted].
Vicik, Gary J., [redacted].
Walters, William E., II, [redacted].
Wardinsky, Terrance D., [redacted].
Wells, Thomas T., [redacted].
Wheeler, Ralph A., [redacted].
Whelchel, John D., Jr., [redacted].
Wilder, Thomas C., Jr., [redacted].
Wilson, James M., [redacted].
Wilson, Ralph S., [redacted].
Wilson, Robert O., [redacted].
Wooddell, William J., [redacted].
Yrizarryyunque, Jose M., [redacted].

To be first lieutenant

Andrassy, Richard J., [redacted].
Backe, Joseph T [redacted].
Beatty, Douglas C., [redacted].
Beaty, Clisto D., [redacted].
Biehl, Albert G., III, [redacted].
Bloom, John D., [redacted].
Brown, Thomas W., [redacted].
Buckley, Robert L., Jr., [redacted].
Carhart, Leroy H., Jr., [redacted].
Carte, Michael W., [redacted].
Charlesworth, Ernest N., [redacted].
Chilton, Robert J., [redacted].
Claflin, James R., [redacted].
Clarkson, James E., [redacted].
Cobb, Albert H., Jr., [redacted].
Coburn, Ernest L., Jr., [redacted].
Cole, Richard F., [redacted].
Collier, Harold W., [redacted].
Coutts, Glenn L., [redacted].
Crawford, Raymond S., III, [redacted].
Culver, William G., [redacted].
Damergis, John A., [redacted].
Davis, Walter D., [redacted].
Dobbs, Larry C., [redacted].
Donovan, William N., Jr., [redacted].
Ebner, Gerald D., [redacted].
Ferguson, Peter E., [redacted].
Foster, Delbert R., [redacted].
Fry, Michael B. [redacted].
Fuller, Philip S. B., [redacted].
Gano, Stephen E., [redacted].
Gebhart, Ronald J., [redacted].
Gremillion, David H., [redacted].
Hall, Ronald R., [redacted].
Harrell, Timothy C., [redacted].
Harrington, John A., [redacted].
Helms, Clyde A., [redacted].
Holeyfield, Roy W., [redacted].
Johnson, Randle C., [redacted].
Jordan, Robert W., [redacted].
Kaltenbaugh, Orie E., [redacted].
Keller, Harrison B., [redacted].
Kendall, Wayne F., Jr., [redacted].
Kimbrough, John L., [redacted].
Koppes, Gerald M., [redacted].
LePage, John C., [redacted].
Lichtenstein, Joel E., [redacted].
Lockman, David S., [redacted].
Long, Charles G., [redacted].
Love, Lawrence L., [redacted].
Mack, John W., Jr., [redacted].
Makarewycz, Bohdan A., [redacted].
Marsh, Royden W., [redacted].
McGinn, Richard C., [redacted].
Miller, Christopher R., [redacted].
Miller, Harold M., [redacted].
Mitchell, Louis A., [redacted].
Montgomery, Michael A., [redacted].
Moore, George W., [redacted].
Muller, Stephen P., [redacted].
Murray, James M., [redacted].
Neumann, James F., [redacted].
Newland, Earl F., [redacted].
Newman, Richard K., [redacted].
Otero, Lewis, [redacted].
Owens, Carol A., [redacted].
Parker, Samuel B., II, [redacted].
Perez, Rafael A., [redacted].
Perry, Clarence P., Jr., [redacted].
Philipp, Joseph T., [redacted].
Puras, Baez Antonio, [redacted].
Racek, Edward L., [redacted].
Randolph, Leonard M., Jr., [redacted].
Reeves, Jerry D., [redacted].
Ressmann, Ronald J., [redacted].
Richards, James F., [redacted].
Riley, Robert J., [redacted].
Roadman, Charles H., II, [redacted].
Rogers, James H., Jr., [redacted].
Rohrer, James F., [redacted].
Roman, Carlos R., [redacted].
Ruehle, Charles J., [redacted].
Saunders, Robert L., Jr., [redacted].
Shaw, James M., [redacted].
Shield, Charles F., III, [redacted].
Sipperley, Jack O., [redacted].
Smith, James M., [redacted].
Spitzer, Richard G., [redacted].
Staten, James R., [redacted].
Steele, Norman P., Jr., [redacted].
Stevens, Edwin A., [redacted].
Sturgeon, Carl L., Jr., [redacted].
Swanson, Marvin L., [redacted].
Toon, Richard S., [redacted].
Trujillo, Joel, [redacted].
Wall, Arthur A., Jr., [redacted].
Warren, Frederic H., [redacted].
Whitehurst, Fred D., [redacted].
Yockey, Charles C., [redacted].
Young, William B., [redacted].
Yunes, Earl L., [redacted].

DENTAL

To be captain

Cook, Gordon L. [redacted].
Dufort, Charles R., [redacted].
Eshelman, Enos G., Jr., [redacted].
Farhood, Vincent W., [redacted].
Farr, Stephen C., [redacted].
Finelli, Jerry L., [redacted].
Gossman, John R., Jr., [redacted].
Harmison, Elmer D., [redacted].
Harvey, Edward L., [redacted].
Hess, David S., [redacted].
Knowles, James W., Jr., [redacted].
Lagree, Jay D., [redacted].
Lee, Spencer, Jr., [redacted].
Leifeste, Ronald E., [redacted].
Lemen, Gary D., [redacted].
Leong, Richard W., Jr., [redacted].
Lewis, Jeffrey D., [redacted].
Mayhew, Robert B., [redacted].
McNerney, James M., [redacted].
Millar, Leslie C., [redacted].
Munford, Arthur G., [redacted].
O'Connor, John T., Jr., [redacted].
Scott, James R., [redacted].
Sherrill, Yowell M., [redacted].
Szana, James C., [redacted].
Thurmond, John W., [redacted].
Toillion, Bruce C., [redacted].
Walter, Robert G., [redacted].
Wells, Thomas J., [redacted].

To be first lieutenant

Abrahams, Lewis J., [redacted].
Allen, Robert H., [redacted].
Anderson, Ronald W., [redacted].
Antolin, Carlos M., [redacted].
Bogard, Robert H., Jr., [redacted].
Borsky, David, [redacted].
Brown, Arthur P., [redacted].
Brown, Frederic H., [redacted].
Buche, William A., [redacted].
Byers, Stephen W., [redacted].
Chickinell, Gene C., Jr., [redacted].
Corbett, John A., III, [redacted].
Crine, James D., [redacted].
Daly, Brian W., [redacted].
Dangelo, Daniel J., [redacted].
Deemer, James P., [redacted].
Fisher, George R., [redacted].
Fitzpatrick, Warren A., [redacted].
Fomby, Edward L., [redacted].
Frank, Charles A., [redacted].
Frostad, Kenneth B., [redacted].
Gabryl, Roy S., [redacted].
Gillespie, Edward S., [redacted].
Goaslind, Gary D., [redacted].
Green, Barry L., [redacted].
Hagarty, Timothy J., [redacted].
Harrison, Alan J., [redacted].
Hawley, Richard J., [redacted].
Hendrickson, Michael D., [redacted].
Hurd, Joseph J., [redacted].
Lind, Vernon W., Jr., [redacted].
Loftus, Ronald J., [redacted].
Lukosik, David R., [redacted].
Matiasevich, Laurie N., Jr., [redacted].
Matis, Bruce A., [redacted].
Matsumoto, Terry S., [redacted].
Matzek, Joe H., [redacted].
McGhee, Barton L., Jr., [redacted].
Nealis, Michael F., [redacted].
Nelimark, Van A., [redacted].
Nelson, James R., [redacted].
Nilsson, Dennis E., [redacted].
Niver, John R., [redacted].
Ortiz, Ramon F [redacted].
Orto, John R., [redacted].
Peluso, Joseph R., [redacted].
Proett, James B., [redacted].
Quinley, Philip D., [redacted].
Rennard, Donald L., [redacted].
Ruediger, Norman E., II, [redacted].
Schutte, Dale A., [redacted].
Simmons, Sam L., [redacted].
Snow, Norman R., [redacted].
Tebrock, Otto C., [redacted].
Vakay, Lloyd R., [redacted].
Vogel, Dari W., [redacted].
Walker, Robert C., Jr., [redacted].
Watkins, John F., III, [redacted].
Weiner, Bruce H., [redacted].
Wood, Richard H., [redacted].

NURSE

To be first lieutenant

Adams, Brenda G., [redacted].
Ambuster, Ellen K., [redacted].
Andrews, Miron A., [redacted].
Annie, Mary V., [redacted].
Baas, Doreen E., [redacted].
Baniak, Thomas G., [redacted].
Bast, Thomas A., [redacted].
Bauer, Rosemary, [redacted].
Baump, Karen L., [redacted].
Beadle, Claudia S., [redacted].
Beamer, Laura M., [redacted].
Bell, Susan L., [redacted].
Bell, Susan M., [redacted].
Bixby, Richard B., [redacted].
Bloom, Dale G., [redacted].
Bloomquist, Martha M., [redacted].
Bossley, Virginia C., [redacted].
Boyd, Marjorie S., [redacted].
Bozeman, Ruby A., [redacted].
Broadwater, Linda W., [redacted].
Burns, Geniva A., [redacted].
Carr, Mary L., [redacted].
Chambers, Rosalind A., [redacted].
Champion, Sharon A., [redacted].
Ciaccio, Lenora V., [redacted].
Coffey, Jean M., [redacted].
Cooley, Kathleen E., [redacted].
Cosby, Benjamin T., [redacted].
Czysz, Michael A., [redacted].
Davies, Griffith H., III, [redacted].
Demirjian, Pamela L., [redacted].
Dietzel, Donna M., [redacted].
Douglass, Cheryl A., [redacted].
Duffany, Lynn E., [redacted].
Eichin, Jane M., [redacted].
Elliott, Denis S., [redacted].
Engel, Connie J., [redacted].
Evans, Katherine J., [redacted].
Faddis, Mary R., [redacted].
Fester, Joyce M., [redacted].
Fielding, Barbara J., [redacted].
Flowe, Heather C., [redacted].
Ford, Linda K., [redacted].
Francis, Lynn A., [redacted].
Fretwell, Janet C., [redacted].
Friedman, Louise A., [redacted].
Garfield, Patricia A., [redacted].
Gill, Thomas M., [redacted].
Harper, Peggy J., [redacted].
Heinemeyer, Merry B., [redacted].
Herzog, Carolyn M., [redacted].
Jordan, Kathy D., [redacted].
Katz, Venita K., [redacted].
Kupchella, Diana L., [redacted].
Lach, Barbara A., [redacted].
Ladd, Walter A., Jr., [redacted].
Lane, Judith K [redacted].
Littell, Carol L., [redacted].
Maneggia, Nancy J., [redacted].
Martens, Susan M., [redacted].
Martin, Barbara D., [redacted].

McClarin, Sheila R., [redacted].
McIntosh, Emma E., [redacted].
McKeith, Laurel A., [redacted].
Minterfering, Jeri M., [redacted].
Moynihan, Sharon C., [redacted].
Newell, Deborah M., [redacted].
Newman, John J., [redacted].
Nurnberg, Robert C., [redacted].
Origer, Elisabeth B., [redacted].
Panora, Sandra L., [redacted].
Pavlick, Carol A., [redacted].
Pelch, John W., [redacted].
Perry, Catherine A., [redacted].
Perry, Virgil J., [redacted].
Pittman, Carolyn M., [redacted].
Pleasanton, Donna A., [redacted].
Pogue, Velta I., [redacted].
Quesada, Ana T., [redacted].
Ramsey, Delores A., [redacted].
Reed, Charles E., [redacted].
Richards, Janice N., [redacted].
Rivas, Bernice N., [redacted].
Rumpza, Patricia A., [redacted].
Soergel, Diana L., [redacted].
Strobel, Evelyn A., [redacted].
Stroup, Reeda M., Jr., [redacted].
Sturgeon, Paula A., [redacted].
Terrill, Marilynn J., [redacted].
Thomas, Jill M., [redacted].
Thompson, Esther A., [redacted].
Timer, Roseann D., [redacted].
Traum, Cecilia E., [redacted].
Trent, Joel I., [redacted].
Tuck, Karen F. [redacted].
Usel, Ruth A., [redacted].
Vallance, Carolyn G., [redacted].
Vallot, Harold J., Jr., [redacted].
Walker, Shirley J., [redacted].
Weir, Phyllis K., [redacted].
Wesolowski, Jean A., [redacted].
Wickland, Doralee, [redacted].
Williams, Joyce, [redacted].
Woehr, Elsie L., [redacted].
Wood, Sandra G., [redacted].
Wyatt, Sarah L., [redacted].
Yang, Carolyn A., [redacted].

To be second lieutenant

Cable, Damon W., [redacted].
Herrmann, David L., [redacted].
Spencer, Mary E., [redacted].

MEDICAL SERVICE

To be major

Coyne, Edna R., [redacted].

To be first lieutenant

Berry, Steve E., [redacted].
Capuano, Pasco C., [redacted].
Ferguson, Richard W., [redacted].
Flynn, Barry J., [redacted].
Grabfelder, Michael T. [redacted].
Hart, Gregory P., [redacted].
Hayes, Garry D., [redacted].
Henderson, Wayne F., [redacted].
Jennings, Jan R., [redacted].
Krause, William E., Jr., [redacted].
Marrs, Larry P., [redacted].
McKee, Timothy C., [redacted].
Oakes, James L., Jr., [redacted].
Oleson, John N., [redacted].
Paulsen, Norman W., [redacted].
Power, John D. [redacted].
Scott, Jerry L., [redacted].

To be second lieutenant

Barrett, John F., [redacted].
Barton, Donald E. [redacted].
Cary, Hunsdon, III, [redacted].
Chamberlain, Richard T. [redacted].
Deel, David I. [redacted].
Desmond, Clifford T., [redacted].
Didio, Nicholas, II, [redacted].
Evans, John E., [redacted].
Fescenmeyer, William K. [redacted].
Henderson, Robert B. [redacted].
Jones, Ronald D. [redacted].
Klingensmith, James M., [redacted].
Lamarine, David A., [redacted].
Lippert, Carl A., [redacted].
Noblett, Allan J., [redacted].
Paul, Samuel J., [redacted].
Peedin, Floyd R., [redacted].
Ray, Norman S., [redacted].
Rolfe, Randall H., [redacted].
Rupp, Joseph L., Jr., [redacted].
Rutherford, Randy J., [redacted].
Schmitt, Karl F., [redacted].
Shaw, William D., [redacted].
Snell, George C., [redacted].
Storey, Richard C., Jr., [redacted].
Young, Charles R., [redacted].

BIOMEDICAL SCIENCES

To be first lieutenant

Ashby, Willard E. [redacted].
Beres, Joseph J., [redacted].
Brenden, Lavene R., [redacted].
Burdick, Robert W., [redacted].
Koestline, William C., Jr. [redacted].
Sanders, Mary A., [redacted].
Tillman, Dale W., [redacted].

To be second lieutenant

Adams, Thomas R., [redacted].
Artiglia, Edward W., [redacted].
Binovi, Robert D., [redacted].
Bonillalinero, Francisco, [redacted].
Braendlein, Russell G., Jr., [redacted].
Carroll, George B., Jr., [redacted].
Clark, Dwight E., [redacted].
Crosby, Ray M., [redacted].
Dungan, Stephen L. [redacted].
Erickson, Bruce E. [redacted].
Fate, William H., [redacted].
Holmes, Emily D., [redacted].
Hunt, David B. [redacted].
Hunter, Dennis L. [redacted].
Jaeckle, Linda A. [redacted].
Kjorstad, Kathryn A., [redacted].
Kraft, Corinne A., [redacted].
Neill, Marvin W. [redacted].
Paepke, Charles W. [redacted].
Rawlings, Dennis A., [redacted].
Robertson, Richard T., Jr., [redacted].
Rogers, Earl D. [redacted].
Rose, Charles W. [redacted].
Sears, Robert R [redacted].
Shapiro, Charles R., [redacted].
Simmons, Jackie R., [redacted].
Stork, Roger L. [redacted].
Thornton, Roger D., [redacted].
Wandmacher, Gary A., [redacted].
Weingaertner, Mary A., [redacted].
Yoshioka, Doreen N. [redacted].

VETERINARY

To be major

Rychener, John H., [redacted].
Williams, Walter W., [redacted].

To be captain

Jones, Earl F. [redacted].

To be first lieutenant

Andersen, Gary L., [redacted].
Atkinson, George W., [redacted].
Baldwin, Charles H., Jr., [redacted].
Baskin, Gary B. [redacted].
Bradley, Michael J., [redacted].
Burrows, Richard E., [redacted].
Carpenter, Robert H., [redacted].
Carrier, Gary A., [redacted].
Clubb, Fred J., Jr., [redacted].
Dungan, Paul B., [redacted].
Garnett, Nelson L., [redacted].
Goetze, Jonathan B. [redacted].
Gunther, John D., [redacted].
Hanna, Thomas L., [redacted].
Harder, Joseph B. [redacted].
Harris, Alan M., [redacted].
Harvey, Roger C. [redacted].
Hill, Hugh R., III [redacted].
Horton, Michael L. [redacted].
Johnson, Jeffry L., [redacted].
Jordan, James S., [redacted].
Morrow, Leslie L., [redacted].
Parker, George A., [redacted].
Perdue, George E., III [redacted].
Phillips, John T., Jr., [redacted].
Poston, Mark, [redacted].
Roesler, Alexandra C., [redacted].
Spencer, James M., [redacted].
Stockham, Steven L., [redacted].
Struecker, Timothy J., [redacted].
Winderl, Edward J., Jr., [redacted].

MEDICAL SPECIALISTS

To be first lieutenant.

Kleinkort, Joseph A., [redacted].
Pauls, Bruce D. [redacted].

IN THE NAVY

The following-named (Naval *Reserve Officers*) to be permanent lieutenants junior grade and temporary lieutenants in the Dental Corps of the Navy, subject to the qualification therefor as provided by law:

*John M. Ambrose
*Paul L. Auclair
*Thomas P. Barton
*Geoffrey H. Beaver
*John J. Bial
*James K. Brown
*Thomas E. Comey
*Robert E. Eckstein
*Richard L. Frankel
*Joseph W. Lehman
*Lawrence S. Marchelya
*Steven D. Miller
*Theodore E. Rocha
*Robert J. Schwenk
*Cary A. Shapoff
*Robert L. Sherman
*David B. Trygstad

Edward W. Lambing, Chief Warrant Officer to be a lieutenant (junior grade) in the Navy, limited duty, for temporary service in the classification of aviation maintenance and a permanent Chief Warrant Officer W–2, subject to the qualification therefor as provided by law.

Edward L. Farrar, Jr., EX-USNR Officer to be a permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualification therefor as provided by law.

Larry W. Vincent (Naval Enlisted Scientific Education Program Candidate) to be a permanent ensign in the line or staff corps of the Navy, subject to the qualification therefor as provided by law.

The following-named U.S. Navy officers to be permanent commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualification therefor as provided by law.

Raymond E. Carr
Patrick M. McGuigan
Russell W. Baksic

The following-named U.S. Navy officers to be temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualification therefor as provided by law.

John W. Batcheller
Ralph F. Principe

Christopher H. Biser, Ex-USN officer to be a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualification therefor as provided by law.

*Billy C. Bradford, to be reappointed from the temporary disability retired list as a permanent Chief Warrant Officer W–2 and a temporary lieutenant (junior grade) in the Navy, limited Duty (electronics) in lieu of permanent Chief Warrant Officer W–2 and a temporary ensign, as previously nominated and confirmed to correct grade.

*William B. Morton, to be reappointed from the temporary disability retired list as a permanent captain in the line of the Navy, subject to the qualification therefor as provided by law.

*David L. Munns, to be reappointed from the temporary disability retired list as a permanent commander and a temporary captain in the line of the Navy, subject to the qualification therefor as provided by law.

The following-named (Naval Reserve Officers) to be permanent lieutenants and temporary lieutenant commanders in the Medical Corps of the Navy, subject to the qualification therefor as provided by law:

* James P. Gaharan, Sr.
*James P. Gaharan,
*Robert A. Margulies
*William J. Shanahan
*Robert B. Sigafoes

The following-named (Civilian College Graduates) to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualification therefor as provided by law:

*Robert H. Andrews, Jr.
*Gregory G. Dugger
*Richard L. Jorgensen

The following-named (Naval Reserve Officers' Training Corps) candidates to be permanent ensigns in the line or staff of the Navy, subject to the qualification therefor as provided by law:

Gordon B. Aaseng
Robert B. Abbott
John M. Abernathy III
William T. Abrams
Alton L. Absher, Jr.
Kenneth G. Adamitis
Henry A. S. Adams
Scott E. Adams
Kenneth O. Adamson
Lynn R. Adamson
Charles C. Adolphe
Stephen P. Agrati
Andrew J. Aicklen
Robert W. Albrecht
Edward M. Alden
David D. Alderson
Charles A. Allen
Stephen R. Allen
Thomas C. Alley, Jr.
Mark H. Allison, Jr.
Charles F. Amann
*Charles M. Amdahl
Alan D. Anderson
Dale N. Anderson
Robert J. Anderson
*Terroll J. Anderson
Thomas P. Anderson IV
Torger J. Anderson
Dale M. Andrew
Paul G. Anjeski
James S. Appelquist
Eldwood M. Armstrong, Jr.
Richard M. Arnberg II
Roger A. Arrowood
Eric Assion
Thomas B. Atkins
Tommy H. Atkins
Daniel L. Atwood
David P. Austin
Sean J. Austin
Richard J. Ayala
John R. Azud
Michael K. Babin, Jr.
Barney R. Bafford
Daniel H. Bailey
Joseph L. Bailey, Jr.
Robert R. Bailey III
Thomas W. Bailey
Edward D. Bain
Orlie G. Baird, Jr.
Daniel P. Baker
Lynn D. Baker
*Robert B. Baker
Thomas E. Balderrama
Charles R. Ballas
David W. Baltozer
Reed A. Banet
Daniel P. Barker
James L. Barnes, Jr.
Kenneth M. Barnett
Charles R. Barnette
Bruce T. Barnum
William D. Barron
Robert L. Barry
David H. Barthold
Stephen F. Barthold
Michael J. Barton
Vaughn E. Bateman
Howard J. Baumgardner
Scott L. Baxter
Gerald R. Beaman
Rockwell B. Bean
Robert A. Beavin
Donald F. Beck
William T. Beck, Jr.
Thomas L. Beetle
Carl T. Behr
Raymond G. Belanger
Frederic L. Bell
Richard G. Bell, Jr.
Ralph L. Benavidez, Jr.
Michael J. Bency
John K. Bennett
Charles O. Benz II
Dennis P. Beres
Douglas Berger
Arnold E. Bertsche
Paul A. Bielewicz
James R. Blaa, Jr.
Thomas M. Blackwell
John E. Blair
Stanley K. Blair
Brian W. Blanchfield
Mark S. Blumberg
Craig T. Boddington
David E. Boeckner
Thaddeus E. Boggs, Jr.
Edward W. Bogue
Frederick L. Bohlen III
John M. Bohn, Jr.
Robert T. Bohner
Charles B. Bolduc
Francis J. Boller
William V. Bollwerk
Daniel R. Bonin
Keith N. Bonnette
Brian R. Bonser
Phillip J. Boogaerts, Jr.
Kenneth W. Boren
Gregory H. Boscher
William M. Bostic
Hugh O. Bourque
Ronald E. Bowden
Michael J. Bowers
Gary H. Bradley
David A. Bradshaw
Joseph M. Braeckel
James J. Brand
Charles E. Brannan
James L. Breazeale
Gary L. Brender
Paul H. Brenner
William F. Bresee
Lawrence D. Breiten
James F. Brice
Randy W. Brickell
Jo Briley
Benjamin M. Brink
Michael W. Broadway
Forrest H. Brooks
Forrest B. Brown
Mark T. Brown
Michael G. Brown
Richard A. Brown
Robert C. Brown
Steven P. Brown
Eugene R. Browning
Thomas K. Brozovich
Glen R. Bruels
Andrew D. Brunhart
Fred W. Brunson, Jr.
Richard A. Bubula
Mark A. Buechler
William A. Buess
Terrence J. Burfield
John R. Burns
Ronald K. Burns
Donald R. Butcher
Mark A. Butz
Mark C. Buxton
Clifford M. Cagle
David E. Calkins
William J. Callahan, Jr.
Rudy Camarillo
Craig E. Camealy
John R. Campbell
James R. Cannon
Ronald C. Carlile
Jay A. Carlson
Lawrence R. Carlson
James K. Carmack III
James A. Carman, Jr.
James C. Carnahan
Edward J. Carpenter
Robert D. Carpenter
Larry D. Carr
Peter F. Carr
Robert T. Carrese
James T. Carroll III
Kevin J. Carroll
Michael Carthon
Gary F. Carver
Daniel D. Casad
Charles T. Castelli
Grant J. Caughey
Donald J. Centner
Ronald F. Centner
James Chi Chang
Gregory J. Chartier
Richard D. Chenette
Martin Chernitsky
Patrick G. Cherry
Daniel C. Chesman
Leroy Chevis
Richard F. Chew, Jr.
Gregg M. Chorebanian
Richard D. Christie
William E. Christman
Wayne A. Christmann
Gary G. Churan
George A. Cinney
Robert Clagett
Donald E. Clark
John E. Clark
John T. Clark III
Charles J. Clarke III
Steven R. Clarke
Billy J. Clarkson
John D. Clithero, Jr.
Robert H. Cochran
Steele C. Coddington, Jr.
Stacy N. Coggins II
Paul M. Cole, Jr.
David W. Coleman
*Craig M. Compiano
William D. Conklin
Michael B. Connally
David M. Conner
Robert J. Connolly
Louis R. Conover
Robert L. Conover
Thomas C. Conran
Philip L. Conroy
Daniel A. Conway
Patrick W. Conway
David B. Cook
Michael W. Cook
Terrence A. Cooke
William W. Coons, Jr.
James S. Cooper
Kevin D. Cooper
Terry R. Cooper
William S. Cooper
John C. Corbett
Michael J. Corcoran, Jr.
Tobias M. Cordek
Farrell W. Corley
Dennis M. Corrigan
Clark W. Crabbe
John H. Craig
Victor C. Crane
Johnny C. Crawford
Ronald D. Crawford
Carson H. Creecy III
William L. Creedon
David M. Crocker
William A. Cross
Mark H. Crouter II
Gilbert E. Crowell
Ronald J. Cuff
David R. Culver
Neal A. Cummings
Michael T. Cunio
Glenn K. Cunningham
Scott E. Cunningham
Andrew T. Curd
John M. Curran, Jr.
Timothy A. Curry
William B. Daley
Scott S. Darling
Frank W. Davey
David H. Davis
Larry S. Davis
Richard R. Davis, Jr.
Hugh C. Dawson, Jr.
Christopher R. Dean
Paul T. Debien
Donald S. Debragga
Kevin J. Deedy
Thierry Deegan
Richard J. De Lacour
James E. DeMartini
Russell E. Denman
Peter M. Depreter
Stephen W. Deutermar
David G. Devcich
Charles M. Deveaux II
Lawrence G. Dewberry III
Stephen P. Dexter
Gordon J. Dickey
Robert D. Dietz
Daniel D. Dietze
Thomas E. Digan
Robert G. Dillow
George D. Diltz
August S. Dittemore
William T. Dixon III
Andrew S. Dlinn
Robert K. Dobson, Jr.
Ryland T. Dodge III
Paul R. Dombrowski
John K. Donahue
Colin B. Donovan
Robert J. Donovan
Bruce M. Doucette
Rex R. Douglas
John M. Drabier
Tracy V. Drake
Steven P. Drefahl
Hugh H. DuBose, Jr.
Derek J. Duchein
Stephen B. Duffy
Mark S. Duke
Michael J. Dumler
William M. Durfee
Timothy A. Dusenbury
James J. Dyson
George A. Eberhart, Jr.
Edwin J. Eccleston III
Thomas E. Eckert
Ralph D. Eddy
Stephen S. Edmunds
Donn A. Eiler
Charles G. Elcock
Dale W. Eld
James M. Elliker
John M. Ellsworth
Benjamin R. Elm
Joseph S. Elmer, Jr.
Paul B. Elser
Stephen F. Embler
Charles D. Emerson
Carl J. Ericson, Jr.
Bobby J. Etherton
James E. Etter, Jr.
John D. Evans
Dabney M. Ewin, Jr.
Ronald J. Ewing
David J. Falvey
Robert S. Fanning III
John H. Feily
Fletcher W. Ferguson, Jr.
Raymond A. Fernandez
Rodger L. Fields
Steven F. Findley
Robert E. Finnegan
George M. Finnerty
Edward J. Fishburne
Charles D. Fisher, Jr.
David D. Fisher
Douglas P. Fitzgerald
Harold J. Flammang, Jr.
William A. Flowers
Patrick W. Flynn
Patrick J. Foley
William R. Foley III
William A. Ford
Terrence A. Forrester, Jr.
John I. Foster III
Harold E. Fowler, Jr.
James N. Fowler
Robert E. Fraile
Gary R. Francis
Douglas N. Frank
Lanney G. Franks
Donald L. Fraser
Daniel L. Frazier
Walter H. Freed
Michael J. Frenock
Bruce R. Freund
Kenneth P. Frey
Wayne K. Frey
Stephen A. Frick
Robert K. Friction
William G. Friedmann
James L. Fritsch
Douglas A. Fullaway
Quitman D. Fulmer
John C. Gahan
Shelley P. Gallup, Jr.
Christopher L. Galyean
Davis R. Gamble, Jr.
Robert R. Gannaway, Jr.
Gary C. Gardner
Stephen G. Gardner
John M. Garner
Walter E. Gaskin
James M. Geiger
Gary V. Gemoets
Donald E. Genereux
Steven G. Gentry
Mark A. Gerber
Bryan A. Gerbis
William S. Gerichten II
John J. Gersuk
Leonard L. Getrum
Frederick W. Ghio
Dennis J. Gibson
William C. Giesey
George F. Gilbert, Jr.
Timothy B. Gilchriest
Norman W. C. Gillette
Manuel A. Gilliland
William S. Ginn
John S. Ginovsky
Warren D. Given, Jr.
Riley J. Gladden
Richard T. Glaviano
Charles J. Glidden
Kevin J. Goeke
Lawrence W. Goff
David R. Goonen
Michael R. Gorbell
David R. Gott
Bruce R. Goulding
Richard B. Goulet
Robert L. Govett
Steven E. Graebner
Richard A. Granucci
Robert J. Graus
Richard S. Greabell
Douglas L. Green
Norman K. Green, Jr.
John W. Greene III
David R. Greenlee
Jim M. Greenlee
Bradley K. Greenway
Anthony D. Griffin
Charles D. Griffin
Phillip B. Griffin
Fred M. Grimes, Jr.
James T. Grimshaw
Robert F. Gross
Richard A. Gugeler
Stephen W. Guion
Kenneth J. Gunderson
Christopher J. Gunther
Theodore J. Gusman III
Gary D. Guttebo
Harold R. Hack, Jr.
Michael L. Hadley
Gregory G. Haefner
Thomas L. Hagen
Daniel K. Hagood
Mark K. Hall
Paul E. Hambrock
John B. Hamburger
Charles S. Hamilton II
Quentin T. Hamroy, Jr.
Eddie W. Hand, Jr.
Stephen P. Handwerk
Lee A. Hanna
Loring M. Hannah
David F. Hannum
Timothy L. Hansen
Eric T. Hanson
Roy D. Hanson
Mark S. Hardy
Dennis E. Harmon
David T. Harrell
James M. Harrell
Jeffery L. Harriman
Gregory W. Harris
Kurt J. Harris
Lary E. Harris
William D. Harsha
John B. Hart
Michael J. Hartmann
Gregory A. Hartnett
Thomas E. Hartzell
Edward P. Harvey, Jr.
Derrell B. Hauser, Jr.
Paul T. Hauser
Ernest N. Hayden
Clarence D. Hays, Jr.
Michael D. Hebert
Eugene V. Hein
Charles A. Heinrichs
Peter F. Helsell
Gregory S. Hempen
James R. Henderson, Jr.
Robert C. Hendrickson III
Jeffrey S. Hennings
Doyle W. Hensley II
Patrick H. Herd
Mark K. H. Herkert
Scott E. Herman
Craig B. Herold
John H. Hessey V
Thomas M. Hestle
*Eric C. Heublein
Jeffrey L. Hill
Roland S. Hill
Robert W. Hillery
Walter M. Hipsher
Chris D. Hobbs
Stephen L. Hobson
Robert A. Hoff
Carl W. Hoffman, Jr.
John P. Hogan
Richard D. Holmes
James E. Holzapfel
Arni T. Hopkins
Jeffrey W. Hopkins
Stephen E. Horowitt
Bruce M. Horton
Stephen S. Horton
Thomas H. Horton

John A. Houkom
Patrick J. Hovatter
David B. Huber
Stephen D. Huch
Donnie L. Hudgens
Richard S. Huebner
Randall J. Hume
Paul R. Hunter
Richard L. Hurley
Gregory B. Hutchison
Gordon J. Iiams
Edward A. Isajewicz, Jr.
Joseph B. Jaap
Neal L. Jackman
Kenneth D. Jackson
Paul J. Jackson
Jay A. Jacobowitz
Larry D. Jahnke
Stephen C. Jayjock
Charles A. Jedlicka
John R. Jepson
John B. Jeter II
Brian P. Jillson
Darrell J. Johnson
Douglas A. Johnson
Gerald D. Johnson
Howard A. Johnson, Jr.
Jeffrey B. Johnson
John A. Johnson, Jr.
Kirk E. Johnson
Willard C. Johnson
William W. Johnson
William D. Johnson
Randall L. Johnston
Robert E. Johnston
Fleming L. Jolley, Jr.
Calvin P. Jones, Jr.
Gregory A. Jones
James L. Jones III
James O. Jones
John E. Jones
Marc S. Jones
Steven A. Jones
Theodore B. Jones
Stephen E. Joyner
David A. Kalix
Raymond G. Kallman
James F. Kaminski
David L. Kapfhammer
Bradley J. Kaplan
Robert A. Katin
Paul F. Kautz
Edward J. Kay
Patrick M. Keally
Gary W. Kearl
James J. Keeley
Phillip D. Keener
Andrew M. Keith
*Clark T. Kelley
William H. Kelley, Jr.
Canice L. Kelly
Scott H. Kelly
Christopher S. Kelso
William F. Keltner
Roy H. Kemble III
Timothy A. Kenyon
Stephen C. Kepher
Ronald D. Kidder
Roger M. Kieckhafer
Richard L. Kiefer
Mark D. Kikta
Miles Y. Kikuta
Jeffrey L. Killen
Frederick T. King
Richard C. King
David J. Kirby
Richard N. Kirby, Jr.
George M. Kirkman
John B. Kishman
Donald J. Kissinger
Frederick M. Kist
Milton D. Kite
Edward C. Kittel
Richard M. Kittle
John C. Klein IV
Stephen J. Kloch
Marc K. Knapp
James A. Knox
John C. Knudsen
Daniel F. Knudson, Jr
Frank M. Kordziel
Martin S. Kosiek
Michael J. Kratovil
James J. Krimm
Stanley T. Krukowski
Keith L. Kuenzi
Jerome D. Kulenkamp
Kurt R. Kummer
George A. Kunberger, Jr.
Michael J. Labbe
Joel L. LaBuda
Robert P. Laclede, Jr.
Bruce J. Lagasa
Bevill F. Lambert, Jr.
Salvatore F. LaMesa
John J. Langer
Craig B. LaPorte
Mark W. Largess
James A. Larson
James W. Larue
Thomas C. Latsko
George S. Lauer
Jeffrey T. Lauer
Walter R. Lauderdale
Barry A. Lavigne
John V. Lawler
Ronald J. Lawrence
Jonathan D. Lea
William D. Leader, Jr.
Kevin B. Leahy
John M. Ledbetter
Kevin J. Ledford
Thomas H. Lee
Richard W. Leinster
Gary R. Lennon
Walter F. Loeffler, Jr.
David L. Leonard
Steven E. Lepkowski
Jeffery W. Levi
Garry W. Lewis
Michael J. Lievens
David E. Lincoln
Clifford W. Lindgren
Eric J. Linn
Keith S. Lisak
Stanley M. Liss
Robert D. Littlefield
Thomas H. Littlepage, Jr.
Mark B. Livas
David D. Livingstone
Blaik W. Llewellyn
Rodney M. Locke
Henry C. Loeffler
Craig J. Lokkins
Steven R. Loranger
Henry K. Lounsbery
Louis D. Lowe
Raymond Lowe
Marc A. Lucchesi
Kurt J. Ludwig
Michael E. Lundy
James R. Lussier
Frank A. Lutes
Ronald J. Luther
Raymond Lynch
*Michael E. U. Lyon
Thomas E. Lytle III
Randall R. Macala
James V. Maccarone
Ivor S. MacFarlane
James F. Mack
David B. Mackey
Gilbert A. Macklin
John F. Mader
Antoine S. Madere, Jr.
Leroy E. Madsen
James B. Mahoney III
Randy D. Majewski
Joseph V. Makoski
Thomas H. Malone
Michael T. Mandell
Joseph T. Mangeno, Jr.
Robert C. Manning
James R. Manship
John A. Marke
Bert Marsh
Clifton C. Martin, Jr.
David K. Martin
Michael T. Martin
William E. Martin II
Walter J. Masnyk
Leonard R. Matheny
Robert C. Mathison
Darrell L. Matthews
Richard H. Maurer
*Rod I. May
Frank M. Mayhue III
John F. McCann
Gregory J. McCannel
Dennis M. McCarley
Michael J. McCarthy
Thomas G. McCarthy
John M. McClane
Kevin V. McCloskey
Patrick M. McConnon
James V. McDaniel
James H. McDonald
Thomas W. McDonald
Llewellyn P. McEwan
Robert M. McGinnis
Douglas R. McGlashan
Michael P. McGrath
John D. McHenry
Chad P. McHugh
John J. McHugh III
Robert J. McHugh
Thomas J. McHugh
Michael T. McIntyre
William J. McKeever
Gary M. McKinley
Kevin P. McMahon
Joseph J. McMenamin
Jeffry L. McNair
Michael A. McQuade
Timothy W. McReynolds
James F. McSorley
Charles D. Meekins
*Malcolm M. Mehrer
John L. Meinhardt
Ronald R. Melin
Jeffrey T. Mendlin
Serafin G. Menocal
Jeffrey P. Merrill
Philip G. Meyer
Thomas W. Meyer
Ricky A. Meyerkorth
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Alfred E. Tisdale III
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Michael S. Tolf
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George P. Torsney
Maurice A. Tourville II
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Edward C. Trasoras
George J. Trautman III
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William L. Trewhitt
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Randy B. Turner
Ronald K. Turner
Douglas W. Ullmann
James E. Vaeth, Jr.
William D. Vanderford
George S. Vanduyne, Jr.
Jeffrey B. Vandyke
Mark W. Van Volinburg
Phillip D. Vaughn
James V. Veccia
Mark V. Veitch
David M. Velasquez
Aloysius P. Velliquette
Vincent J. Verdolini III
Gary W. Vernon
David M. Vickers-Koch
Glenn R. Viggiano
John H. Vreeland
Joel M. Wade
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Jay A. Wagner
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John J. Walsh, Jr.
Douglas P. Walters
Kevin T. Wand
Jay W. Ward
Reginald C. Ware
Charles H. Washington
Emmett T. Washington
Samuel C. Washington
Eugene F. Wasson
Jack A. Waters
Charles S. Watson
Stephen C. Watts
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William V. B. Webb
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Steven E. Wehmeyer
John C. Weimer
Edward J. Weinkam III
John R. Weiss
Gregory S. Weitzel
Michael R. Welch
Walter F. Welch
John W. Weldon, Jr.
Philip C. Welsh
Charles D. Welty II
Dean M. Wentworth
Jerry A. West
John R. Westmoreland
Edward W. Weston
Edward M. Whalon
Kelvin M. Wheeler
F. Roger White
Milton B. Whitfield
Richard A. Wible
George B. Wieman
Raymond P. Wiggers, Jr.
James T. Wiggins
Charles D. Wilder
David G. Williams
Harry T. Williams
Kirk B. Williams
Ondra L. A. Williams
John R. Williamson III
Benny W. Wilson
Fred W. Wilson
John S. Windley
Peter G. Winkel
Michael J. Winslow
Daniel G. Winter
James D. Winter
L. Joseph Wischerath
Michael J. Witte
Charles F. Wittenberg
Gary R. Wieklinski
Thomas S. Wojick
Bruce E. Wolbrette
Thomas A. Wolery
Lin H. Wong
William W. Woods III
Ray L. Wooten
Tom M. Wooten, Jr.
Robert O. Work
Terry J. Worst
Joseph Wozniak
Ronnie G. Wright
James P. Wurst
Robert C. Yakeley
Gary Yamamoto
Mark B. Yarosh
John R. York
Julius L. Young
Robert E. Young III
Steven P. Zambrano
Michael S. Ziebelman
Tracy M. Zimmerman
Richard A. Zink
Frederick J. Zoepfl
Kenneth Zolkoski
David A. Zusi

The following-named midshipmen (Naval Academy) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualification therefor as provided by law.

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Russell G. Acree, Jr.
Richard A. Adams
Rickey T. Adams
Gregory H. Adkisson
James D. Agnew
Thomas R. Ainsworth
William T. Aldinger, Jr.
James A. Aldon
Earl R. Alexander
David C. Alford
Lew E. Alleman
Morgan P. Ames, Jr.
Gary W. Andersen
Lance O. Anderson
Richard L. Anderson
Ross E. Anderson III
Raymond M. Anderson III
Thomas J. Anderson
James N. Andrews, Jr.
Eddie J. Angel
David J. Antanitus
John Antonelli
Raymond J. Ashcraft
Stuart A. Ashton, Jr.
Stephen S. Avery
Joseph P. Avveduti, Jr.
Ronnie L. Ayers
William T. Ayres, Jr.
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Stephen A. Bartek
Garry M. Basilone
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Joey D. Beaulieu
Robert M. Becker
Gary G. Behney
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Van L. Benedict
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James C. Boyer
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John R. Bramer
John L. Branchflower
Paul A. Brandon
Charles T. Brannon
Theodore J. Bregar
Stephen J. Brewer
William D. Bristow
Steven P. Brookman
James N. Brooks
Richard E. Brooks
David A. Brower
Kevin D. Brown
Martin S. Brown
Robert S. Brown
Robert C. Bruce, Jr.
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William D. Bruen, Jr.
Bruce H. Brunson
Jeffrey D. Buehrle
James L. Bullock
Barry G. Bumgarner
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Steven J. Busch
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Willard C. Butler, Jr.
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Benney C. Cagle
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James B. Campbell
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David D. Pattillo
Robert A. Payne
Gregory H. Pearsall
Marc P. Pearson
Scott T. Peecook
Peter M. Pembrooke
Robert A. Pennell
Christopher R. Perrien
John G. Peskuric
Harry J. Petersen
Mark D. Petersen
Frederic A. Petrie III
John J. Phelan
Mark A. Phillips
Michael R. Phillips
Lawrence J. Pierzchalski
Jeffrey E. Pinkel
Thomas J. Pinkl
Kenneth P. Pisel, Jr.
Dwight W. Pitman
Scott T. Place
Mark M. Plasket
Richard H. Plush
Phillip M. Polefrone
Ronald L. Polkowsky
Howard R. Rowe
Curtis N. Powley
Dane M. Pranke
John M. Price
Charles E. Primm
William S. Proal
Thomas A. Pruss
Guy R. Purser
Richard K. Pyell
Robert J. Quaranto
James J. Quinn
Brian J. Rabe
William A. Racette, Jr.
Ronald R. Rahn
Steven E. Rasin
Evar R. Rasmussen
Timothy J. Rastok
Thomas M. Rathbone
James R. Ratts
Douglas H. Rau
William F. Readdy
John V. Reader
Robert D. Reehm
Franklin T. Reese
Paul A. Reid
Robert C. Repp
Hobson Reynolds
Michael A. Ricci
Victor H. Richard
Charles H. Richner, Jr.
Pierre J. Richer
Gary A. Ricketts
Lawrence G. Rien
Richard C. Rigazio
James M. Ripley, Jr.
Anthony J. Rizzo, Jr.
Joel A. Robb
James G. Roberts
Charles Robinson
William T. Rogerson, Jr.
Paul A. Rollins
Neil E. Rondorf
Dana W. Rowland
Francis E. Rowley
Jerry A. Rudd
David E. Ruehlmann
Joseph M. Ruppert, Jr.
Edward J. Rutkowski, Jr.
Michael A. Ryder
David L. Saba
Paul L. Salerni
Rodney L. Sams
Steven G. Sanderson
David A. Sanford
Gary S. Santi
Robert M. Santos
Terry R. Sargent
Rodney W. Savage
Lloyd M. Sawyer, Jr.
Mark A. Sawyer
John C. Scherrer
Dean W. Schilling
Ralph L. Schindler
Terry E. Schlabaugh
Robert T. Schnoor
Larry W. Schofield
David M. Schorn
James E. Schreiber
Gerard P. Schrock
Jeffrey G. Schuller
Kelly F. Schultz
Stephen E. Schumacher
Dane T. Scofield
Andrew P. Scontras
George J. Scott III
John B. Scott, Jr.
George R. Seftas
James D. Selman III
Granville M. Semmes III
Frank M. Semple
Paul T. Serfass, Jr.
Joseph A. Sestak, Jr.
David A. Sharpe
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John J. Sheehan III
Peter W. Sherland
Douglas R. Sherman, Jr.
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Kenneth R. Showalter
Arthur V. Showers
Anthony F. Silakoski
Craig A. Smith
Herschel A. Smith III
Jay G. Smith
Jerry K. Smith
Mark S. Smith
Nathan E. Smith
Robert C. Smith III
Roderick F. Smith
Roger E. Smith
Shawn M. Smith
Steven W. Smith
William J. Smyth
William V. Snook
Duane L. Snyder
Gerald R. Sobeck
Michael J. Solger
Paul R. Sophy, Jr.
David L. Spickett, Jr.
Gregory J. Stachelczyk
Hugh R. Stahl
Elmer L. Standridge, Jr.
Marc T. Stanley
Thomas P. Staudt
Daniel J. Steele
Edward F. Steiner
Randall S. Stejskal
Donald E. Stell
Robert G. Stengle
Gerald M. Stenovec
John R. Stephens
John S. Stevens
John W. Stevens, Jr.
Daniel N. Steward
Walter A. Stocknick, Jr.
David M. Stone
Vincent C. Stone
William A. Storey
Hugh G. Story, Jr.
Robert E. Stumpf
John T. Sturdy
Mark D. Sullivan
Patrick J. Sullivan
Paul E. Sullivan
Timothy J. Supko
Don.W. Swailes
Claude D. Swaim
Thomas K. Swanson
Joseph E. Sweeney, Jr.
Mark J. Sweeney
Frank Sweigart
Harry W. Syer, Jr.
Clifford E. Szafran
John D. Tate
Robert J. Taylor
John G. Teixeira
David R. Teply
Richard P. Terpstra
Robert B. Thomas, Jr.
Robert W. Thome
John T. Thorn, Jr.
Wayne A. Thornton
Robert G. Thrasher
Thomas A. Tiffany
Christopher J. Timmes
Donald H. Tomlinson
David R. Topolewski
Thomas A. Treichel
Marshall D. Treppendahl, Jr.
John M. Tromba
Cecil A. Trosclair, Jr.
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Larry C. Turner
Michael I. Turner
Bruce D. Tyler
Arnulfo Valdez III
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Robert M. Ver Schure
Dean A. Vidal
Donald D. Villnow
Robert D. Vint
Christopher F. Virtue
Richard V. Viverito
Richard M. Vizzier
David J. Vogel
Wiley J. Voorhies
Miles B. Wachendorf
Ronald E. Wagner
Michael J. Wahl
John J. Waickwicz
Edward C. Waller, Jr.
John L. Walsh III
William A. Walsh
Robert F. Waltenbaugh, Jr.
John M. Walters
William M. Walters
John L. Ward
Leland H. Ward
James M. Warren
Michael J. Waters
Charles G. Wayne
Floyd R. Weaver
Thomas J. M. Weaver
Donald M. Webb
Steven T. Weir
Bryan T. Welch
Stanley C. Weliever
Marc P. Welker
John T. Wells IV
William G. Welstead
Ernest H. Werner
John J. Westerheid
Donald D. Wettlaufer
William E. Whitacre
Scott D. White
Barton W. Whitman
Robert D. Whitmire
Theodore R. Wieber, Jr.
Edward E. Wilber, Jr.
James D. Wilbur
William T. Wilde
William M. Wilder
Gehrig M. Wiles
John W. Wiles
Donald M. Wilhelm
Richard S. Willard
Jay D. Williams, Jr.
Vernon C. Williams
Gibson R. Willis
David J. Wilson
Richard A. Wilson
John M. Winston, Jr.
Ryan S. Wise
Paul D. Wohlers
Kriston P. Woolley
Allen B. Worley
William E. Wright
George M. Yacus
John W. Yaeger
Harry E. Yeiser III
David A. Zacharias
Joseph F. Zeni
Paul J. Zepp

Gene H. Porter, U.S. naval officer, to be a temporary commander in the line in the Reserve of the Navy, subject to the qualification therefor as provided by law.

Loye A. Ashton, U.S. Navy Officer, to be a temporary commander in the Dental Corps in the Reserve of the U.S. Navy, subject to the qualification therefor as provided by law.

Joseph P. Commette (Naval Reserve Officer) to be a permanent lieutenant and a temporary lieutenant commander in the Dental Corps of the Navy, subject to the qualification therefor as provided by law.

EXTENSIONS OF REMARKS

DEAFNESS AND BLINDNESS, AND PROGRAMS TO LESSEN THEIR IMPACT ARE STRESSED IN THE LIONS INTERNATIONAL MAGAZINE

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, March 11, 1974

Mr. RANDOLPH. Mr. President, the March 1974 issue of the Lion, the monthly publication of Lions International contains two excellent articles concerning two handicaping conditions—deafness and blindness.

The first, "America's Unadmitted Epidemic," points out that more than 14 million Americans suffer degrees of deafness—about 1 out of 10—that the problem is growing, and that many people with hearing loss refuse to take corrective measures. It also emphasizes the importance of early, correct diagnosis so that a deaf child will not be erroneously labeled autistic or retarded. Finally, it urges the average person to protect his hearing insofar as possible and gives practical suggestions to follow.

The second article, "A Week of Summer Fun," tells of New Jersey Lions support at the Helen V. Diller Vacation Home for Blind Children. This program has provided supervised outdoor activities for blind children for the past 2 years—activities such as basketball, fishing, and bike riding, which most of us take for granted.

Mr. President, I ask unanimous consent that the two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Lion magazine, March 1974]

AMERICA'S UNADMITTED EPIDEMIC

(By Roul Tunley)

More than 14 million Americans suffer degrees of deafness. The problem is growing and many people with hearing loss even refuse to take corrective measures.

It's silent. It's subtle. It's painless. It's invisible. It's America's biggest and least admitted ailment—loss of hearing. More people suffer from it than from heart disease, cancer, blindness, tuberculosis, venereal disease, multiple sclerosis, and kidney disease put together. At least one out of 10 Americans is affected, according to the National Institutes of Health.

Despite its size, however, we do less about this affliction than any other. Less than one per cent of the money spent on medical research goes for deafness. Even the legally deaf get no income tax exemption like the blind, although those who have experienced both (like Helen Keller) find loss of hearing far more serious. Says Dr. Robert Ruben, chairman of the otolaryngology department at the Albert Einstein College of Medicine and a researcher in the field, "We're hideously backward in our approach to deafness."

Even the afflicted seem unwilling to do much about their problem or even admit that they have one. Psychiatrists say this is because deafness is associated with old age, loss of sexual prowess or stupidity. Whatever the reason, the tendency to do nothing—by sufferers as well as doctors—amounts to an unconscious conspiracy. When you had your last checkup, did your doctor examine your hearing? Probably not. I've just had an annual physical by an internist connected with one of our top hospitals, and although he checked my eyesight, he did nothing to test my hearing. Only because I persisted did I have my hearing checked. Sure enough, I found myself among the unlucky "one out of 10."

What does a gradual hearing loss mean? Dr. William G. Hardy, Director of Johns Hopkins' Hearing and Speech Center, says, "You turn up the radio and TV louder. You can ask people to speak up. You accuse friends of mumbling. You find it more and more difficult to get the dialogue in movies and the theatre. At parties, where there's cross conversation, you have to concentrate harder and harder to hear what people are saying, and you end up exhausted. Eventually, you start to withdraw from social contacts, become more irritable and moody, and make life difficult for those around you. You miss much of the fun of living."

Although it's difficult to put a figure on the amount of money lost each year through defective hearing, the staff of the Hearing Aid Industries Conference estimates it to be at least one billion dollars. One woman was able to put a precise figure on what her hearing loss has cost her: $10,000. She was showing a prospective buyer through her house one day when he mentioned a price he would be willing to pay. "I won't take a penny less than $35,000," she said. The man quickly agreed. Only later did she learn he'd offered $45,000, but she'd heard the figure incorrectly. The experience made her go out and buy a hearing aid.

Despite medical and mechanical advances in the field, there are indications that the hearing problem is getting worse rather than better. For example:

—The number of the deaf among the elderly is growing. This is because loss of hearing is always more prevalent among the aged (nearly half of the 13.4 million needing attention are over 65) and because people are living longer.

—As we become more and more industrialized, more workers develop more hearing problems in middle age, their ears prematurely aged by occupational noise. A recent Industrial Noise Conference in New York reported one out of four job applicants in industry has a hearing handicap.

—Among the young, rising deafness statistics pose the most serious threat of all because hearing is crucial to language and learning. This is especially true among the very young. Studies of elementary school children have shown as many as 25 percent of them with a "meaningful" (but reversible) hearing loss. And among high school youngsters, especially those of rock music age, the situation may be worse. In 1968, researchers at the University of Tennessee gave a standard hearing test to incoming freshmen. High frequency impairment caused 33 percent of the students to fail it. A year later, another group of incoming freshmen were given the same test. This time 61 percent failed it.

The Deafness Research Foundation reports there are many reasons for these worsening statistics. Increased longevity, recent rubella (German measles) epidemics, hereditary factors (the "prelingually deaf" generally marry one another) and the greater use of powerful drugs in the treatment of illness undoubtedly account for much of it. But in the opinion of experts, ever-increasing noise pollution is the chief culprit. "Noise is the single greatest cause of hearing loss, and it's of epidemic proportions," says James McMahon, administrator of the prestigious New York League for the Hard of Hearing.

Government action has already accomplished some curtailment. Three years ago, for example, Congress passed a law limiting the number of hours workers may be exposed to high levels of occupational noise—for example, eight hours at 90 decibels and two hours at 95 decibels. Increasingly, cities are adopting anti-horn ordinances. In New York, Dr. Thomas H. Fay, one of the city's noise consultants who also heads the speech and hearing clinic at Columbia-Presbyterian Medical Center, has suggested to officials that they get rid of the old wailing sirens entirely ("they were highly damaging to ears") and is working with the city to change over to the European type hi-lo sirens on its emergency vehicles—fire engines, police cars and ambulances.

Despite these few heartening measures, however, most communities have a long way to go before they're hearing-safe. A passing motorcycle can still attack our ears with a 90-decibel roar, a diesel truck with 100, and a subway car as much as 16. A rock and roll band can assail us with 120 decibels, and a cheering crowd in an enclosed arena with 115. Even at home, we don't do much of a job protecting ourselves. A noisy power mower's 105 decibels is way above the level at which industrial compensation would begin in a factory. Even an electric shaver is 85 decibels next to the ear.

"As consumers, we must demand quieter appliances," says Fay.

Ironically, although conditions have never been worse to induce ear damage in our present-day society, they've also never been better to do something about it. If you have to have a hearing problem, this the best time in all history to have it. For, it's only in the last decade or two that medicine, surgery and electronic technology have reached a point where we can now say, "There is almost no one who can't be helped."

In the 1920's, thanks to Lee de Forest's vacuum tube, table model aids were available, but they were expensive and not very portable. Things got better in the 30's and 40's, when tubes, circuits and batteries became smaller, but wearers were still wired like telephone poles. It wasn't until the invention of the transistor in 1953 that technology found the miracle it needed. This, plus the miniaturization made possible by space technology, enabled manufacturers to produce smaller, tougher and more sensitive instruments. Today, the entire hearing aid system—microphone, amplifier, battery, receiver and controls—can be contained in a package no bigger than a small button and weighing no more than an ounce. It can fit in or behind the ear, in one's pocket, or in one's eyeglasses.

At the same time these strides were being made in mechanics, equal progress was being made in medicine. To understand them, one must realize that there are two kinds of hearing loss. One is *conductive*, and lies in the outer or middle ear. It can be caused by wax, by an infection, by a punctured eardrum, or the inability of the tiny bones in the middle ear to move properly. All can be treated medically or surgically today. The other loss is *sensori-neural*, or nerve loss, and it's in the inner ear. This is more serious because it is not surgically or medically correctable. It can be the result of noise, drugs, high fever, head injuries, a birth defect or simply aging. This is the type of loss most commonly helped by a hearing aid. Sometimes, of course, one's loss of hearing is a combination of both types of impairment.

Surgically, the first dramatic advance came in the thirties with the "fenestration" operation. This was the creation of a tiny window of sensitive membrane in the external canal of the inner ear which enabled sound waves to bypass the immobilized bones of the middle ear and travel on to the brain.

In the fifties, an even more important procedure became possible—the famous stapes operation. The stapes, or a stirrup, is the smallest bone in the body (one-eighth of an inch) and just about the most important. Its vibrations against the oval window" of the bone housing the inner ear is vital to hearing. When it "freezes," and no longer moves freely, the condition is called otosclerosis. Sound fades. Fortunately, surgeons found a way to remove the bone and replace it with an artificial device. Very often the other bones in the middle ear (the hammer and the anvil) are also locked. Surgeons today can reconstruct the whole chain of them, plus the eardrum, in what is known as a tympanoplasty. Although this operation was unknown a generation ago, procedures of this type are now successful in 90 per cent of the cases attempted.

Unfortunately only a small percentage of the 13.4 million Americans suffering from a significant hearing loss can be helped by medical means. The majority must depend on amplification (hearing aids), lip reading, sign language, or audio-therapy, a technique in listening by which one learns to identify hard-to-hear sounds by tapping one's residual hearing. Some use a combination of all these things. In practical terms, though, most people with a hearing problem must eventually turn to a hearing aid.

According to one study, though, it takes five years for a person to get a hearing aid after a doctor has told him to do so. According to industry calculations, only about two and a half million Americans wear them. About ten million more need them.

Illinois Senator Charles Percy's experience was typical. His hearing was impaired in World War II by the continuous noise of planes at a naval air base. He was advised to get an aid but did nothing about it. "I thought hearing aids were for old fogies," he said. I was sure I could get along without it." He went on for 20 years telling people to speak up, asking them to repeat, or pretending he'd heard when he hadn't. On the Senate floor, he was thought to be rude when he wouldn't "yield" to another speaker. The truth was he never heard the request. Several years ago, at the insistence of his wife, he bought a hearing aid. He hasn't been without it since!

"What a relief!" he said. "You can't believe how much pleasanter life has become—especially for my family."

Perhaps the most dramatic example of what a hearing aid can do concerns one of the nation's physical supermen, Larry Brown, star of the Washington Redskins, voted the National Football League's "most valuable player" in 1972. Back in 1969, however, he was an unknown, not-too-promising rookie from Kansas State University who had a hearing problem he didn't talk about.

His coach, the late Vincent Lombardi, noticed in playback films that Larry always got off the ball more slowly when signals were called from the left side. He suspected he was not hearing properly. When he asked Larry about it, the player equivocated. One day Vince made a test in the locker room that convinced him Larry had a hearing problem. He ordered a hearing aid installed in Larry's helmet. The result is something all fans know about. In the last three years, Larry has become one of the top ground gainers in professional football.

Experts agree that the most serious consequence of ignoring hearing problems concerns children. A child with an undetected and untreated hearing loss finds it all but impossible to learn and often ends up classified as retarded or autistic. Says Richard Israel, of the Alexander Graham Bell Association for the Deaf: "A hearing impairment that is not recognized until a child is two, three or even more years of age has the learning process disastrously delayed because the basis of language is laid the first two years of life."

In general, problems of the middle and outer ear have been largely solved by medical science, but the inner ear remains, almost mysterious and baffling to treat as it was in the 16th century. One reason is its inaccessibility. It's still almost impossible to go into the inner ear surgically without destroying a person's hearing. We do know that it contains a wondrous thing called the cochlea—a small, delicate, fluid-filled shell containing about 20,000 hair cells. These are set waving by the movement of the stapes on the "oval window," and in so doing, they send tiny impulses along the auditory nerve to the brain. The result is sound.

We also know that these 20,000 hairs which are so crucial to sound production are all we'll ever get. They are formed in the second or third month of pregnancy, and when they're destroyed by damaging noise, fever, drugs, or something else, they are never replaced.

Since the inner ear remains the chief stumbling block in the conquest of deafness, most research today is in this area, much of it funded by the Deafness Research Foundation.

In general, it follows two broad directions: One might be called *mechanical*. Experiments are taking place in the implantation of electrodes (in effect, hearing aids) to transmit auditory impulses to the brain. Some are in the cochlea, some in the auditory nerve, and some bypass the inner ear altogether and go directly to the brain. The problem at the moment seems not so much the transmission of sound as it is to make sense out of the jumble of noise received and distinguish exactly what is being heard.

Other reseachers are following a totally different route. They believe our greatest hope for better hearing is not mechanical but *biological*. They are working to discover the biochemical defect that produces deafness, as well as the whole genetic syndrome. They believe that when we understand, for example, exactly what process makes those 20,000 hair cells die, we may be able to do something to prevent it, or even restore them.

But neither of these goals is around the corner. Meanwhile, there is plenty the average person can do to protect what hearing he has or try to make up for what he has lost:

(1) Have your hearing checked regularly, at least once every two years and by an ear specialist, if possible. If you have a child, have him tested at birth and frequently thereafter.

(2) If you suspect you have a hearing loss, go *first* to a doctor, preferably an ear specialist, to see if anything can be done medically. If not, the examiner will measure the extent of your loss, as well as the type, and determine if your loss can be corrected surgically or by using a hearing aid. You can also contact a non-profit speech and hearing center which generally has audiologists on its staff. (Write to the National Association of Hearing and Speech Agencies, 814 Thayer Avenue, Silver Spring, Md. 20910, for the address of the one nearest you). Your last stop should be a hearing aid dealer, if one is recommended.

(3) Try to avoid unnecessary and prolonged exposure to noise. Gunfire, snowmobiles, power saws, motorcycles, subways and jet engines are particularly damaging. If you must expose yourself to them, wear proper-fitting ear plug or ear defenders. Dr. Jerome D. Schein, head of New York University's Deafness and Research Training Center, complains loudly to an airline if he's asked to board while the motors are running, and he won't fly at all if he has a cold. He takes buses rather than subways, and wears ear plugs if he must expose himself to loud noise.

Above all, it's important not to hide or be ashamed of a hearing loss. Admit it and *do something about it*. All too often people behave like a New Jerseyan who went *so far* as to have his hearing tested at the New York League for the Hard of Hearing but then did nothing about getting the hearing aid they recommended. Two years later, after complaining repeatedly to his wife that the birds never came around their house anymore, she insisted he have another checkup at the League. He did, and they found considerable deterioration in his hearing. This time, though, he got the aid they recommended. Two weeks later, the League got a one-sentence letter from the man.

"I just wanted you to know," he wrote, "that the birds have come back to the house."

A Week of Summer Fun

Summer is often long and tedious for blind children. Lack of proper facilities makes it difficult if not impossible for them to enjoy the months away from school. Their handicap prevents them from participating in sports and other outdoor activities enjoyed by sighted youngsters.

In Avalon, New Jersey, though, visually handicapped boys and girls have, for the past two years, taken part in a wide range of summertime activities. Every week during the summer, twenty blind youngsters are guests at the Helen V. Diller Vacation Home for Blind Children, a statewide project sponsored by the Lions clubs of New Jersey.

Here, under the supervision and guidance of a trained staff, the youngsters swim at the spacious beach, play basketball, hike to a community park, try their hand at deep sea fishing aboard a yacht, go on field trips, visit a lighthouse, attend concerts, bowl, visit the local fire station, ride tandem bikes and enjoy many other outdoor activities. They have a "dress-up night," a special treat, when they are taken to dinner at a restaurant whose proprietor donates the meals. Trips are also made to nearby vacation resorts such as Atlantic City, to a museum and to a popular garden. During this week, no child is left out or made to feel "handicapped." Many participate in activities they thought beyond their reach and abilities before coming to Avalon. Most of the children are totally blind, though some have partial vision.

The vacation home resulted from an idea proposed to the nearby Stone Harbor Lions Club by member Harry E. Arader. He had observed twin boys, both blind at play with sighted children and realized his club could help other blind youngsters who had no opportunity to enjoy outdoor activities in a sighted world. He brought the matter before his club in 1969 and was given the go-ahead to research the possibility of the club's purchasing, maintaining and operating a summer home for blind children to be located along the lengthy beach area.

In 1970, a separate, non-profit corporation was formed—the Stone Harbor Lions' Home for the Blind, Inc. The Stone Harbor Lions pledged $6,000 for implementation of the project and promised to conduct a sufficient number of fund-raising projects throughout the year to meet the annual operating costs estimated at $18,000.

A home in the seaside town of Avalon was purchased for $50,000. It was converted into a 40-room residence for blind children and named for Helen L. Diller, a woman who was active in local charitable work, particularly in programs that aided youth. After her death, her husband donated a sizable sum of money to the Stone Harbor Lions for use in a project to aid youngsters. The Lions earmarked the money for an eventual extensive renovation program for their newly purchased building. They memorialized the residence in Mrs. Diller's honor, though still officially retaining the organization name of Stone Harbor Lions' Home for the Blind, Inc.

The home opened its doors during the summer of 1972. Brochures had been sent to every Lions club in New Jersey and to several in eastern Pennsylvania informing them of the project and inviting them to participate by sending blind children in their areas to the home for a one-week fee of $150. The Stone Harbor Lions realized the appeal went out a bit late, but 27 children who attended that first year were sponsored by other clubs. In all, 146 children from New Jersey and eastern Pennsylvania enjoyed a one-week vacation in Avalon, the remainder financed by the Stone Harbor Lions.

Two women from the Overbrook School for the Blind in Philadelphia, Mrs. Margaret Armstrong and Miss Ruth Ottinger, were hired as supervisors. They were aided by a paid staff of five counselors, a cook and a housekeeper.

In June, 1973, the home was officially adopted at the Multiple District 16 Convention as a project of all New Jersey Lions. The home experienced an increased attendance in 1973 when 195 children were hosted, 55 sponsored by clubs other than Stone Harbor. Mrs. Armstrong and Miss Ottinger were again on hand to supervise the entire program. The five counselors, students majoring in special education for the visually handicapped, are recruited from local universities. Each is personally in charge of four youngsters for the week. The Lions see this personal contact as necessary both for the child's safety and so the boy or girl will not feel alone.

The annual costs in maintaining the home are over $21,000. The Stone Harbor Lions have, for the past two years, contributed approximately 75% of this total. In addition to the financial support of the Lions who help pay the costs through a raffle, a dinner and other projects, the Stone Harbor Club's Ladies Auxiliary also contributed hours in decorating and cleaning the home in preparation for its opening each year. The Stone Harbor Chamber of Commerce pledged $2,300 to bring 15 children to the home. Local officials cooperated with the Lions, and merchants helped equip the home. One contractor upon completing his work, submitted a bill to the home marked, "Paid in Full."

The Vacation Home is equipped with a library, chapel, roller skating rink, swings, and merry-go-round. Not only do the blind youngsters enjoy these facilities with their counselors, local children also often stop by to play with them. The blind children write home, too. Some use a stylus and slate, allowing the user to punch letters in braille. The other, more experienced children, use a braille writer.

It's an excellent experience for all concerned—children, counselors, supervisors and, of course, the Lions. The adults can see the changes in these blind boys and girls as they participate in many new activities, and in so doing, lose their fear or apprehension of doing things they thought reserved only for the sighted. Many children, for example, because they came from large cities, had never before heard the sounds of sea gulls and other birds found near the ocean. They were frightened until they became familiar with the sounds.

Lion Alfred Westhoff says some youngsters are also afraid of the roar of the surf pounding the beach. One child, he relates, was told what the sound was and, as he approached the beach for the first time, held the hand of his counselor very tightly saying, "How close are we to the water? Please don't let me fall in." Though he knew what a swimming pool was, he had no knowledge of the beach and the ocean. Soon, thanks to his counselor, he came to love the water and the sandy beach.

The Vacation Home is a busy place during the summer and after planned renovations are completed, the New Jersey Lions look forward to even greater participation in the years ahead.

CONGRESSMAN JACK KEMP MOVES TO INSURE STUDENT LOANS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. KEMP. Mr. Speaker, I would like to commend to the attention of my colleagues a bill of sizable significance which was reported out of the Education and Labor Committee last week. This bill, H.R. 12523, would amend both the Higher Education Act of 1965 and the Emergency Insured Student Loan Act of 1969 to insure that our Nation's students have access to the loans they need to meet their postsecondary education costs.

Last month the Special Education Subcommittee of which I am a member, held hearings on the unintended hardship the needs analysis test has wrought upon the middle-income student.

The emphatic thrust of testimony from schools, lenders, and teachers alike was upon the need to eliminate needs analysis for middle-income students.

Evidence showed that needs analysis, as currently practiced, functions to deny guaranteed loans to a large segment of intended beneficiaries, to wit, those students whose families are in the adjusted income bracket of $10,000 to $20,000. And, not only does the present needs analysis work against the interests of our middle-income students—but against the interests all intended beneficiaries because of much processing delay. Many students have been unable to begin a new semester because formalized needs analysis slowed their loans. Present law, in effect since March 1973, technically provides interest-subsidized guaranteed loans to students from families of any income level. However, the law requires educational institutions to determine whether a student from a family with an adjusted family income over $15,000 needs a loan, and if so, how much he needs.

The law presumes a student from a family with an adjusted family income over $15,000 needs a loan, but requires educational institutions to determine the amount of need.

A formalized needs analysis system has been used to determine need in both students' cases, with the result that: First, the distinction between applicants above and below the $15,000 adjusted income is no longer functional; second, many middle-income applicants record a "zero need" in the analysis; third, lenders and student financial assistance officers adhere too rigidly to the needs of analysis; and, fourth, the number and dollar volume of guaranteed loans has fallen sharply below predictions.

H.R. 12523 would help mitigate the needs analysis problem by eliminating needs analysis for students from families of adjusted family incomes of $15,000 or less. Students from families of adjusted incomes over $15,000, or students borrowing over $1,500 would require a needs test.

This bill is not a panacea. It is, however, vitally important to our students who need to know that next fall they will, in fact, have access to the loans to which they are entitled—and that these loans will be expeditiously processed.

The Special Education Subcommittee will begin hearings soon on comprehensive improvements in our entire Federal student assistance programs. We expect to have a responsible and long-range student assistance program prepared to function by July 1, 1975, when the present student assistance authority expires. Until that time, however, it is imperative that H.R. 12523 be enacted—and that our student population gain relief from an arbitrary needs analysis test.

ALL-LANGUAGE SERVICES FILLS VITAL NEED

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. MURPHY of New York. Mr. Speaker, I would like to call your attention to an organization in New York City that merits recognition for the important service it is performing for the community.

The organization is All-Language Services, which does translations for the Nation's major companies; it also has provided and is providing a service, without charge, to our citizens.

The company operates around the clock 24 hours a day, 7 days a week. On innumerable occasions, the company has been called upon by the police, by hospitals, and by the Travelers Aid Society to assist them in communicating with someone in difficulty who cannot speak English.

Because they translate into and from 58 different tongues, the company has been able to offer assistance at those times. On one occasion a translator with the company was instrumental in saving the life of a man who had been brought to a hospital and could not explain his ailment in English. Through the efforts of All-Language Services, the patient was able to detail the history of his sickness and received the proper emergency medical treatment.

On other occasions the translation company has given its assistance in the questioning of the victim of a crime in his native language, making it possible for the police to proceed with their investigation immediately.

The fact that the company has performed these services at all hours of the day and night in a wide variety of foreign languages without any cost to the city is to be commended. It is this spirit of "community interest and involvement" that enables a city to grow and prosper.

Although the company, through its expertise, is bringing the peoples of the world closer together through its professional translations and interpreting, it is also bringing the peoples of our city a little closer together, too, by its willingness to help without asking anything in return.

CONSUMER FEDERATION OF AMERICA SUPPORTS THE FEDERAL OIL AND GAS CORPORATION

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. BINGHAM. Mr. Speaker, Lee C. White, former Chairman of the Federal Power Commission, and now Chairman of the Energy Policy Task Force of the Consumer Federation of America, has endorsed wholeheartedly the concept of a Federal Oil and Gas Corporation. Mr. White states in the article, the United States can no longer be totally dependent on the private energy industry.

I commend the reprinted article, which appeared in the February 3 edition of the Los Angeles Times, to my colleagues:

A TVA-TYPE COMPETITOR FOR PETROLEUM INDUSTRY

(By Lee C. White)

The Tennessee Valley Authority, launched 40 years ago, has demonstrated that the federal government can operate efficiently in the energy field without destroying or weakening private enterprise in that industry. This country needs a counterpart of the TVA in finding, producing and managing oil and gas deposits on behalf of the people who own them. It is an idea whose time has come.

Geologists believe that 60% to 75% of all oil and gas yet to be discovered in the United States is on publicly owned land. There is no reason why at least part of these valuable resources should not be discovered and developed by a government corporation for use by their owners—the citizens.

Until now, the government has permitted privately owned corporations to exploit these resources by bidding for the right to go on public lands and explore for petroleum. Less than 5% of the petroleum areas on public lands has been thus leased.

Unfortunately, the administration of this program has been wretched. Leases requiring prompt development have been so loosely enforced that in the Gulf of Mexico there are tracts for which bidders paid the government more than $750 million, but from which not a drop of fuel has been marketed even though oil and gas in commercial quantities have been found.

A Federal Oil and Gas Corp., while no panacea, would make a significant contribution to easing our basic and continuing energy problem. Nor is the idea as novel as it seems: The United States is the only major industrial nation that leaves all the handling of petroleum to privately owned corporations, whose management must be responsive to stockholder, as distinguished from national, priorities.

A Federal Oil and Gas Corp., as proposed in pending legislation, would:

Explore for and develop petroleum resources to meet national needs, not to maximize profits.

Develop and use the most advanced methods to minimize damage to the environment in all phases of the petroleum process.

Provide, for the first time in our history, complete and accurate information for public and government on the costs of producing oil and gas, as well as other data on the petroleum business.

Manage discovered reserves to reduce U.S. reliance on foreign petroleum sources.

Sell petroleum in a way that insures that a fair share goes to independent refiners and distributors, thus promoting a truly competitive industry.

Provide a competitive spur to the privately owned oil industry.

There was comparatively little need to consider major alternatives to our privately operated petroleum industry as long as the country's needs were being met. However, when things go wrong, as they obviously have recently, the system must be reexamined.

The advantages of a government oil corporation are many. Energy shortages may exist for decades. In this situation, there should be an energy-producing organization motivated not by profits, but by national needs. There is nothing inherently wrong with the profit incentive, but where the product is as essential to national well-being and security as energy, at least part of the country's effort to provide it ought to be motivated by America's security, and the needs of the public.

Environmentally, a government corporation would help assure that trimming or delaying our goals is done in the most acceptable way. Residents along the Atlantic and Pacific coasts, where offshore drilling probably will be stepped up, should have more confidence in the operations of a public corporation required by law to use the most advanced protective techniques than in those of a profit-making oil company.

Protecting independents in the oil business could be insured by requiring the federal corporation to allocate a fair share of its crude oil to them. Private companies naturally find it difficult to do this themselves. As one oil executive said: "There's no place in our corporate charter, the Constitution, the law, or the Bible where it says we majors must protect and preserve our competitors." He's probably right, but Congress ought to change things so the independents can stay in business as competitors of the majors.

There undoubtedly will be opposition from the oil industry to the proposed government corporation. But the industry ought to welcome the competition and the chance to show it can do a better job than a government agency. This competitive spur to the oil industry may be the best feature of a government oil corporation.

Objections include the assertion that the Postal Service and Amtrak do not augur well for another big government corporation. Apart from the merits of that argument, the TVA is a closer analogy. Though still somewhat controversial, TVA has long since ended any dispute over its electric generating operations. It is among the country's leaders, and has worked harmoniously with private, municipal, and cooperatively owned utilities. The Bonneville Power Administration is another example of an efficient energy agency run by government. I am confident that a federal oil corporation could be as successful as TVA and Bonneville.

Nor would such a public corporation be the first step toward nationalizing the oil industry, any more than TVA meant the end of the private electric utility industry as predicted by some in the 1930s.

No one can claim that creation of a Federal Oil and Gas Corp. is the single, dramatic solution to this country's energy needs for the next 20 years. But I think it is a minimal step that should be taken without delay.

We can no longer permit ourselves to be totally dependent for basic energy supplies on private industry that has failed to develop our resources in a way that meets national needs and protects consumers.

THE PRESIDENCY AT STAKE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. MICHEL. Mr. Speaker, an editorial appearing in the March 3, 1974, edition of the Peoria Journal Star entitled, "The Presidency at Stake" makes some pointed reminders as to what all of us in this Congress should be thinking about as the House Judiciary Committee moves along with its impeachment inquiry.

I include the text of the editorial in the RECORD at this point:

[From the Peoria (Ill.) Journal Star, Mar. 3, 1974]

THE PRESIDENCY AT STAKE

The legal manipulations of the House judiciary committee make us realize how much the actual form of government itself really is at stake in this impeachment drive.

We do not pretend to know or give-a-hoot about the legalisms of mystic processes ininvolved in this decision. We do care about the actual, practical political effect—and in that the claim of the committee is revolutionary in nature.

They have decided that a noncriminal "abuse of power" by the President is proper grounds for impeachment, and no proof of criminal activity is required.

Note the key: Abuse of power.

Now, ever since George Washington refused to disclose confidential correspondence the Congress and the President have dueled over the proper powers of each. They have never agreed where discretionary power ends for either of them.

Now, Congress asserts that its impeachment process can be properly brought into play on the subject of "abuse of power" . . . which makes them the judge who is right in every argument as to their powers and the President's powers; makes them the judge of his limits; makes them the judge of what constitutes "abuse" if he exceeds what they think his limits should be; and empowers them to kick him out if he doesn't go along with their decisions on his powers.

They become both one of the players and now the referee, as well.

To pretend that this doesn't have a profound effect on the Presidency in the future is wrong.

In short, the present committee has said pretty much what they said in the impeachment proceedings against Andrew Johnson, except that in 1868, they were more honest about it. The House prosecution lawyer then said bluntly to Congress, "You are a law unto yourself!" He didn't fancy it up.

That may be the precedent, legally speaking, for the present more camouflaged "legal decision", but it certainly ignores other precedents.

Abraham Lincoln went a lot farther than any claim now made in rounding up suspected Southern sympathizers, and was repudiated by the Supreme Court.

Franklin Roosevelt violated the rights of thousands of Japanese-Americans by seizing them and interning them because they might have been risks to the national security.

Harry Truman seized the property of a million American citizens (not just one medical record) when he simply took over the steel industry. The Supreme Court repudiated the action—as an abuse of power—but it was never regarded as impeachable.

As for Lyndon Johnson, get a computer to count them!

So, this certainly is a departure from past practice!

Now, please note that a senator is elected only by the people of one state while the President is elected by all the people; and please note that a senator is elected for six years while a President is only elected for four.

Then, remember that Sen. Joseph McCarthy was found guilty of the abuse of power. He was only "censured" by the Senate.

If a President, also accused of a non-criminal abuse of power, can be impeached, then the state election of a senator is more sacred than the national election of a President—and the six-year term of a senator more inviolate than the four-year term of a President.

Does that make sense?

And this premise of theirs raises other questions. Is it not proof of an "abuse of power" by the Congress whenever one of THEIR acts is found unconstitutional by the U.S. Supreme Court? As frequently occurs?

"Abuse of power" is a can of worms.

We and many Democrats would just as soon have Gerry Ford as President as have Richard Nixon, and most conservative Republicans would rather.

But that is beside the point.

Not Nixon, alone, but The Presidency as an institution really is the big stake involved in these proceedings.

The abuse of power device exposes that fact. We are fiddling not with a one-man change but with a revolutionary change in the balance of government itself.

And that is what a good many folks involved really want!

THE UNITED STATES NEEDS RHODESIAN CHROME

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. ARCHER. Mr. Speaker, I have been concerned with the shortages of vital materials for U.S. industry. It has been this concern which has interested me in the issue of the importation of chrome from Rhodesia. The United States joined in the United Nations boycott against Rhodesia. The U.S. Congress wisely adopted the Byrd amendment in 1971 which made it possible for the United States to import Rhodesian chrome, an item which is vital in the manufacturing of stainless steel. A shortage of steel would cause severe economic problems for our industries and unemployment for our workers. I recently received an excellent letter from one of my constituents, Mr. Joseph S. Barbossa of Spring, Tex., who makes an effective and concise presentation why the United States should continue to import chrome from Rhodesia. I enter this letter into the CONGRESSIONAL RECORD:

SPRING, TEX., *February 26, 1974.*

Hon. WILLIAM ARCHER,
House Office Building,
Washington, D.C.

DEAR SIR: I am writing you about House Bill 8005 to place an embargo on Rhodesian chrome. As my representative, will you please vote "No" so the Byrd Amendment will not be repealed.

As an employee of the Trent Tube Division, Colt Industries, in East Troy, Wisconsin, I know the importance of chrome in the manufacture of stainless steel.

Ferrochrome is a vital ingredient in the making of stainless steel. Rhodesia has 67.3% of known world resources of metallurgical grade chromite. To place an embargo on Rhodesian chrome at this time would severely limit our ability to manufacture stainless tubing and pipe which is so vital in the Petro-Chemical industry, Power industry, and other allied industries.

My job and many others depends on this material.

I ask you, as my representative, to vote "No" so the Byrd Amendment will not be repealed.

Sincerely,

JOSEPH S. BARBOSSA,
District Manager Southwest Region.

TENTH ANNIVERSARY OF THE GOOSE

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. DE LUGO. Mr. Speaker, I would like to commemorate the 10th anniversary of Antilles Air Boats, a landmark of travel and tourism in the Virgin Islands.

It has been 10 years since Capt. Charles Blair first flew a Grumman "Goose" between the islands of St. Croix and St. Thomas. Since that time, his "Geese" have made close to 200,000 flights in the Virgin Islands. In 1974, the captain operates the world's largest seaplane airline, with a fleet of 18 planes.

Before Captain Blair's inaugural flight, three companies had failed to establish a profitable route between St. Croix and St. Thomas. His determination exemplifies the confident businessman who combines faith, optimism, and hard work to reach success. Recently, Antilles Air Boats increased its service by connecting the Virgin Islands' downtown harbors to San Juan's International Airport.

The following article describes in detail the accomplishments and anecdotes that form the history of the Antilles Goose:

[From the St. Croix Avis, Feb. 4, 1974]

FAITH IN AN AIRCRAFT, FAITH IN AN ISLAND

Ten years ago today, Captain Charles Blair flew a group of Cruzans from downtown Christiansted to downtown St. Thomas and marked the beginning of a unique commuter air service.

Some 1,439,981 passengers have substantiated his faith in these islands.

And his faith in his selection of aircraft has been substantiated by his fleet which grew from one ten-passenger Grumman Goose to eighteen. They have made 191,551 flights in this area.

After ten years of flying the Goose, it now is taken for granted as the only way to go. It is just the visitor who recognizes it as a unique aircraft performing a unique service.

It was just as Captain Blair now recalls his first trip to St. Thomas.

"I left early for the long drive to Hamilton Airport, boarded an aircraft coming up from down islands. My trip totaled four hours in cars and planes, plus waiting time. At the end of the day, I felt I had traveled a thousand miles rather than the forty between St. Croix and St. Thomas."

And that is really a statement from an airline captain who, as a senior pilot for Pan American and an advisor to the U.S. Air Force, averaged 2,000 miles a day for a number of years.

This is time to remember, too, that Captain Blair was not the first to try operating seaplanes in the V.I. Antilles Air Boats is the fourth island seaplane operation. What makes Captain Blair as unique as his aircraft is that he is the first to succeed.

The ten years since Captain Blair's inaugural flight have not been a long, easy take-off to the world's largest seaplane airline. Added to that essential faith and optimism have been more than a million man-hours of work contributed by the Blairs and their 145 employees—dozens of captains, scores of mechanics, sales agents, linemen, and other supportive personnel.

Again it goes back to faith coupled with a big, big dose of optimism. It is that optimism which makes the company work—and grow. It is that optimism which prompts Captain and Mrs. Blair to purchase this week a new large Grumman aircraft for the operation—a fifteen passenger Mallard.

This aircraft will initiate service between the Virgin Islands' downtown harbors and San Juan's International Airport—a demonstration of how two Crucians are facing the future with positive, decisive action. This will let more tourists know that V.I. welcomes them than with its own flagline at Isla Verde Airport.

Antilles Air Boats operated for an entire year and a half before the Virgin Islands government issued government travel requests for its personnel to utilize Antilles' services. Surprisingly, this type of travel represents a mere nine per cent of the line's total traffic picture.

The Blairs admit the work has not been easy, but it has been fun.

There are many amusing things to look back upon. For instance, the lady who walked up to the Goose's Pan Am Pavilion sales counter and asked what time the next Frog left for San Juan. She just had her amphibians confused.

Then there was the time before the St. Thomas seaplane ramp existed. Antilles' able boatman Fred Romney assisted an elderly lady to Veterans Drive from the line's Boston Whaler (some 65,000 Goose passengers used that boat). Fred thought she had gained her footing when suddenly she seemed to fall backwards. The reason: the lady looked up to find the face behind the hand assisting her ashore belonged to the handsome NBC-TV news commentator David Brinkley.

Sales Supervisor Helen Linde, you know her better as Helen of St. Croix, recalls receiving an inquiry from a passenger who wanted to know if he had to wade into the water to board the Goose.

Some of the busiest places at Antilles Air Boats are the cargo offices. This operation has grown from a captain carrying an incidental envelope to a full-time staff of seven agents handling three to four hundred individual envelopes and parcels daily.

An area of unending effort by Captain Blair is to maintain a staff of the world's most experienced seaplane pilots. Presently these captains, primarily retired military officers average twenty-five years flying in their experience.

Captain Blair's favorite co-pilot is a passenger of long standing, once the Commissioner of Health, and now Governor of the Virgin Islands. It is strongly suspected that Governor Evans has made more crossings between the islands than any other single passenger.

Another favorite with the Airboats staff is Eduardo Corneiro. He commuted daily for years. Now, on his occasional trips between the islands as president of the V.I. Bank, he is greeted as if it were a homecoming.

As Virgin Islanders we have many assets to share with those tourists whom we hope to once again attract—ourselves and our culture, our islands' natural beauty—and our Goose, which is ten years old today.

FEDERAL EMPLOYMENT PROBLEMS OF THE SPANISH SPEAKING

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. EDWARDS of California. Mr. Speaker, on Tuesday, March 5, 1974, the Washington Post carried an article by Mike Causey in the Federal Diary section under the headline "Minority Employment Up by 10,000." The article's optimism seems more a product of Civil Service Commission propaganda, however, than of any real improvement in the status of minority employees in the Federal Government.

In 1972, the Civil Rights and Constitutional Rights Subcommittee, which I chair in the House Committee on the Judiciary, had occasion to take a close look at the problems of Spanish-speaking persons in securing Federal employment. The Civil Service Commission testified at that time that minorities, and specifically Spanish-speaking persons, were making dramatic gains in Federal employment. Yet, when all the testimony was in, the subcommittee unanimously reported that the increase in Spanish-speaking Federal employment was not significant in the previous 2 years. Spanish-speaking persons, who numbered 6 percent of the population, made up 2.9 percent of the Federal work force at that time. Today, they number only 3.1 percent.

At the present rate of increase it will take Spanish-speaking persons until the year 2003 to reach parity between their percentage of the general population and their representation in the ranks of Federal employment. Surely, this is not cause for the unbridled optimism of Mr. Causey's article.

Despite the bipartisan efforts of the Civil Rights and Constitutional Rights Subcommittee, there has been little real improvement in the lot of minorities seeking Federal jobs. In 1970, President Nixon announced a 16-point program to aid Spanish-speaking persons in finding Federal employment. Yet that program has never been adequately enforced. As a result, the subcommittee will schedule hearings on April 8, 1974, to examine the efforts by Federal agencies to recruit and hire Spanish-speaking employees.

The article follows:

MINORITY EMPLOYMENT UP BY 10,000

(By Mike Causey)

Minority group employment in government went up by 10,000 during the 12 months ending last May 31, despite an overall decline in federal jobs of more than 50,000.

New figures released yesterday by the Civil Service Commission show that hiring of blacks, Spanish-Americans, Indians and Oriental Americans increased dramatically during the year even though most federal agencies were abolishing jobs and laying off workers.

CSC says that as of last May 31, minority group members (this does not include women) held 515,129 federal jobs, or 20.4 per cent of the total.

Biggest gains, the government says, came in middle and upper grade white collar federal jobs although there was a slight decrease in the number of workers in those clerical, professional and management positions.

Minority employment was up 3,704 jobs in Grades 1 through 4, which pay from $5,017 to $9,358, to 28.3 per cent of the total work force at those levels.

Minority workers in Grades 5 through 8 ($8,055 to $14,341) now represent 20.5 per cent of all employees at those grade levels.

Blacks, Hispanics and Oriental-Americans showed an increase of 2,169 persons in Grades 9 through 11 ($12,167 to $19,072) and now hold 10 per cent of the jobs at those grade levels.

Grade 12 and 13 minority representation increased 961 during the 12 month period, to 5.8 per cent of the total. Those grades pay from $17,497 to $26,878.

Grade 14 and 15 minority representation was up 416, or five per cent of the total and eight new minority "supergraders" in GS 16, 17 or 18 were added during the period. The top grades pay $36,000 and minority group members represent 3.5 per cent of the total as of last May 31.

Largest percentage gain of any minority group went to Spanish-surnamed employees, who accounted for 1,657 new jobs during the period, for a total of 78,243 or 3.1 per cent of federal employment.

HON. JULIA BUTLER HANSEN—A TRIBUTE

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. GIAIMO. Mr. Speaker, my heart was filled with sadness when I learned of JULIA BUTLER HANSEN's decision not to seek another term in the House. I speak with mixed emotion for while I wish her much happiness in her new role as private citizen, I know her retirement will result in a loss for the House and for the people she has served. Through all her years in Congress she has been a hard-working legislator, a valued associate on the Appropriations Committee, and a very warm and dear friend.

She is a true legislative pioneer, breaking new ground and leading the way for her colleagues to follow. She has done much to reform the House, to make it a more open and effective body. Her performance as the first woman chairman in either Chamber of an appropriations subcommittee has demonstrated to all that achievement is a reflection of ability and not of sex or other arbitrary criteria.

Her efforts for the arts and humanities, the environment and natural resources, the American Indian, and a host of other projects and concerns has established a record of achievement that any Member would be proud to call his own. Her services as chairman of the Democratic Committee on Organization, Study, and Review—the "Hansen committee"—will always be a landmark in the Democratic Party.

Though she is leaving the House, her achievements will remain as a lasting monument to what an effective legislator can do. JULIA is a powerful force in the House, the Appropriations Committee, and the Democratic Party. Her wisdom, directness, and sense of humor will be missed by all.

THE TROUBLE WITH AMTRAK

HON. ALAN STEELMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. STEELMAN. Mr. Speaker, although severe energy shortages will hopefully not plague us much longer, we do need to make careful plans for the future. Our energy needs and environmental responsibilities dictate that America can no longer afford to be just a nation of automobiles and this is where Amtrak can play an important role. However, Amtrak's success depends upon overcoming the problems of poor equipment and incompetent service cited in the following article.

The use of rail passenger service is increasing and Congress has provided Amtrak with the financial resources to purchase new equipment and contract with the railroads for new lines. It is now up to the Amtrak management to satisfy the public need as well as effectively carry out the congressional mandate of profitable and efficient rail passenger service.

I include the following editorial from the Chicago Daily News in the RECORD:

THE TROUBLE WITH AMTRAK

Some of the stories about holiday travel by train are enough to curl the hair—or freeze it. Stalled trains, stranded passengers, breakdowns and foulups add up to a dismal showing in the rail passenger service that must be increasingly relied upon as plane and auto traffic is cut back by the energy shortage.

The blame naturally falls on Amtrak, the government-financed National Railroad Passenger Corp. that now has the responsibility for running most of the passenger trains in the country. Weary travelers were unsparing in their criticism, and many understandably swore they would never try to travel by train again.

Amtrak can't be excused for such mistakes as overbooking trains so that passengers were standing in the aisles and vestibules. But there's another side that deserves attention, having to do with the mess Amtrak found itself in when it went into business in May, 1971, and to a large degree is still in.

Amtrak inherited some 30 years of railroad neglect of passenger service. It began operation with too few cars, all bought from the railroads in various stages of decline, and despite extensive refurbishing it still has too few to meet a demand like the once-a-year holiday rush, compounded this year by the energy crunch. Equipment that should have been retired years ago was recalled to service, and some of it clearly failed.

But the principal problem is that Amtrak is directly responsible only for passengers. For motive power, crews, and such important features as smooth roadbeds, it still depends almost entirely on its contracts with the railroads, which clearly don't give a hoot about passenger service.

Federal subsidies to Amtrak already run into the hundreds of millions, and there is no disposition to turn it into a separate, nationwide rail system for passengers only. Yet bringing back the long dormant rail passenger business must have a high priority, and to do that the service Amtrak provides must be better than most of the railroads offered when they were trying to shuck off the passenger business. Some way of holding the railroads to higher performance standards under their contracts must be found.

Holiday rushes, bad weather and plain bad luck can never be totally overcome. But incompetence, surly service and broken-down equipment can be. Amtrak has made some progress toward restoring passenger service, but this holiday setback indicates how much remains to be done. The effort clearly must be redoubled, for now more than ever Americans need a reliable, comfortable alternative to traveling by car or plane.

YORK DIVISION OF BORG-WARNER CORP.

HON. GEORGE A. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. GOODLING. Mr. Speaker, I feel certain there is not a person in this Chamber who has not, in one fashion or another, derived a benefit from the products manufactured by the York Division of Borg-Warner Corp., formally the York Manufacturing Corp. This division is the producer of superior air-conditioning and refrigeration products, and I am proud to say that it is located in the 19th Congressional District of Pennsylvania, a district I have the honor and privilege of representing in this U.S. House of Representatives.

It is interesting to observe that in 1897, this company elected Mr. P. H. Gladfelter to be its president. Mr. Gladfelter, in turn, immediately employed Mr. Thomas Shipley, a highly competent engineer, to serve as the company's manager. The company prospered and grew under this dynamic leadership and management, providing a mighty economic impact for the city of York in particular and the State of Pennsylvania in general. This company also performed vast services for the community of which it was a resident.

The York Division is concluding 100 years of service to the American public. I extend my sincere congratulations as it moves forward into its second century of such splendid service.

The history of the York Division exemplifies the strength and character of American industry. Because of this, I insert into the RECORD an historical perspective on this division and commend it to the attention of my colleagues:

A CONCISE HISTORY OF THE YORK DIVISION OF BORG-WARNER CORP., 1874–1974

Ulysses S. Grant was president of the United States, Thomas Edison had not yet invented the incandescent lightbulb and it would be another two years before General George Custer rode out to meet his destiny at Little Big Horn. It was autumn of 1874 and, in York, Pennsylvania six men met to sign the articles of agreement that marked the beginning of the York division of Borg-Warner Corporation.

In its early years, the York Manufacturing Company produced a variety of machine shop and foundry products in a 3,000-square-foot plant operated by 14 employees. The hours were long and the company's potential was ill-defined but the York group was inventive, meeting customer demands for such diverse products as water wheels, steam engines, agricultural equipment and paper-making machinery.

In 1885 they produced their first "ice machine," an innovative device for which little demand existed; ice was harvested annually from lakes and streams and held in ice houses for food preservation during the summer. The market for commercially-produced ice changed dramatically with the ice famine in 1890.

Food supplies dwindled, thousands fell ill, and ice houses scrambled frantically to install refrigeration equipment to freeze their own ice.

By 1904, York's fledgling marketing department listed hundreds of ice house installations, along with ice-making machinery for breweries, hotels, and meat-storage plants.

In 1897, P. H. Gladfelter was elected president of the company and promptly hired Thomas Shipley, a young engineer, to serve as general manager. Under Shipley's direction the company concentrated on production of ice machines, created a marketing department, and grew from a staff of 50 employees in 1897 to a roster of 1500 full time workers by 1910.

Even while concentrating its efforts on the burgeoning market for refrigeration equipment, the young company was willing to improvise in related fields. In 1903, York Manufacturing built and installed a machine to control humidity in a blast furnace area for Carnegie Steel Company at Aetna, Pennsylvania. In 1914, York engineers developed an innovative comfort system for the Empire Theater in Montgomery, Alabama. It was the first combination of "air washing" and ventilation with the new element of refrigeration: air conditioning.

Marketing changes were taking place as well under Shipley's direction. In 1907 the first of 14 "construction and supply" companies was formed to sell, install and service York equipment in the field. In 1927, York Manufacturing Company negotiated a merger of these and other ice machinery companies to create the York Ice Machinery Company, a major manufacturer with wholly-owned field subsidiaries.

By the early Thirties, however, refrigeration was moving into the home, and the ice houses began to close their doors. The market for commercial ice-making equipment was melting away, but air conditioning business was booming. York, with a history of change and innovation, changed to meet the shifting market. In 1942, with the company's primary focus moving away from commercial ice equipment, the company was re-incorporated as York Corporation. World War II created an urgent military demand for large refrigeration and food storage systems and temporarily delayed York's emergence as a major force in the air conditioning industry.

In the post-war period, York Corporation assumed its leadership role in the industry with a wide range of air conditioning products for homes, commerce and industry. In June, 1956, with more than 6,000 employees on its payroll, York merged with Borg-Warner Corporation, operating briefly as a subsidiary before becoming an independent operating division of the corporation.

"The Yorks," as the company has been known to four generations of employees, enters its second century with its reputation for quality and innovation firmly established, with a product line engineered and built to meet every conceivable demand for air conditioning and refrigeration and with the world as its marketplace.

YORK AT A GLANCE

York has a long history of technological contributions to the air conditioning and refrigeration industry. Here are some of the highlights:

1903—York installed a system to control the relative humidity of the air being fed into a blast furnance at the Carnegie Steel Company.

1914—York air conditioned the Empire Theater in Montgomery, Alabama.

1923—York air conditioned the office building of the San Joaquin Power and Light Company in Fresno, Calif.—believed to be the first completely air conditioned office building in the world.

1931—York air conditioned the famous "Columbian" for the Baltimore and Ohio Railroad.

1935—York built the first successful room air conditioner and introduced the first automatic ice cube maker.

1948—York introduced hermetically sealed cooling circuits for room air conditioners and introduced the first automatic ice cube maker for hotels, restaurants, hospitals and other places where food and beverages are served.

1954—York built the first single-stage, high-speed Centrifugal Refrigeration Compressor using Freon as the refrigerant.

1955—York adapted the technique of multi-stage compression to heat pumps, making this practical in cold climates. The development made it possible to keep large areas warm with heat extracted from sub-freezing air.

1958—The Yorkaire 3-pipe High Induction System, which provides individual room air conditioning control in multi-stage, multi-room buildings, was introduced. In the same year, York also introduced a small lightweight compressor for automobile air conditioning.

1962—York introduced the first commercial Thermoelectric Ice Cube Maker. (A thermoelectric system has no moving parts, only electronic circuits in a copper module.)

1964—York entered the field of hyperbaric medicine by assisting in the building of a small research chamber at Lutheran General Hospital in Park Ridge, Illinois. Subsequently York developed a portable hyperbaric treatment chamber.

1969—York supplied the major components—including the seven 7,000-ton multi-stage centrifugal compressors—for the world's largest chilled water air conditioning system, a 49,000-ton system, in the world's largest building, the World Trade Center in New York City.

1972—York furnished the entire 9,000-ton water chilling system for the $130-million Louisiana Superdome, an enclosed stadium that will dwarf the famed Astrodome.

U.S. HERBICIDES ABROAD

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. RANGEL. Mr. Speaker, over 6 months ago, I introduced legislation in Congress designed to halt the exportation of American herbicides.

H.R. 8574 would ban completely the exportation of all herbicides to Portugal and South Africa; nations that have used these poisons to perpetrate chemical warfare on the citizens of its African colonies, Angola and Mozambique. This type of aggression, being waged with American herbicides, is clearly despicable and should be ended.

Further, it is becoming increasingly evident that 2,4,5-T herbicides, which the United States is a chief exporter of, is a particularly useless and environmentally dangerous commodity. In a recent Washington Post article, under the headline "Animal Birth Defects Linked to Herbicide," it was reported that the Environmental Protection Agency has begun a study of the effect of 2,4,5-T herbicides on men and animals in causing birth deformities.

H.R. 8573, which I introduced with 19 of my colleagues, would ban all exportation of 2,4,5-T herbicides.

These two bills were referred to the House Banking and Currency Committee last June 11, where they continue to languish. I hope that these pieces of legislation will soon be given the thorough consideration they deserve.

SERVICE TO MANKIND AWARD

HON. WILEY MAYNE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. MAYNE. Mr. Speaker, on January 21, 1974, the Sertoma Club of Cedar Rapids-Marion, Iowa, gave its annual "Service to Mankind Award" to Cecil G. "Cy" Douglass of Marion. This award, the highest which a Sertoma Club may bestow upon a nonmember, was highly deserved. "Cy" Douglass had served as Associated Press bureau chief in Boston, Chicago, and Oklahoma City and at one time as editor of the Marion Sentinel, and has a wide circle of friends throughout the country who are interested in his continuing achievements. Since his "retirement" in Marion, he has served as executive director of the Iowa Division of the United Nations Association. He has served with high dedication, and the United Nations Association has gained daily from his continuous work, innovative ideas, and attentive service. He is known to me and to many other friends throughout Iowa as Iowa's "Mr. United Nations." I believe his unselfish and public spirited service in support of the principles stated in the Charter of the United Nations and on behalf of strengthening the United Nations organization as an instrument for peace and understanding between the nations merits being brought to the attention of the Congress.

At the Sertoma Club award ceremony, "Cy" Douglass was also presented a letter from Gov. Robert Ray, with whom he had worked closely over the years. I include Governor Ray's letter in my remarks and endorse wholeheartedly its sentiments:

DEAR "CY": I congratulate the Ced-Mar Sertoma Club of Marion for the keen sense of values which is has demonstrated in honoring you with its Service to Mankind Award. A worthier choice could not have been made.

Your commitment to human welfare began long before you took up residence in Marion, It was a salient characteristic of your long, truly distinguished career with Associated Press, during which your reporting of the Iowa scene consistently sustained the highest level of perceptive excellence.

But that was only the beginning. During the years of what could only euphemistically be called your "retirement", you have literally become "Mr. United Nations" in Iowa, by reason of your tireless, brilliant efforts in behalf of that organization. Much of the extraordinarily favorable attitude which Iowans hold toward the United Nations is directly attributable to your activity.

You and I share the good fortune of belonging to professions which measure the usefulness of their members not by the calendar but by vitality. In this respect, and hopefully in other ways, the whole society can learn from journalists and lawyers. Your own career provides inspiring proof that there are no limits to the potential of the human mind and spirit. I know that you will continue to provide us with this example for many years to come.

Sincerely,

ROBERT D. RAY, *Governor.*

RIGHT TO LIFE HEARINGS BEGIN

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. ZWACH. Mr. Speaker, last Wednesday, March 6, the Subcommittee on Constitutional Amendments of the Senate Judiciary Committee began its hearings on Senate Joint Resolution 119 and Senate Joint Resolution 130, legislation calling for a constitutional amendment prohibiting abortion.

I was pleased and honored to appear before Senator BAYH's subcommittee and present testimony in support of such a constitutional amendment. I am today, submitting my testimony for the RECORD to further advise my fellow House Members of my position:

STATEMENT OF HON. JOHN M. ZWACH

Mr. Chairman and Members of the Subcommittee: I want to commend the Subcommittee for calling these hearings and to express my appreciation for the opportunity to appear before you today to speak in behalf of S.J. Res. 119 and S.J. Res. 130.

I was shocked and dismayed that the Supreme Court decision of January 22, 1973, held that an unborn child was not a person, that therefore the Constitution, the supposedly greatest document ever struck by the pen of man, gave no protection to the unborn life.

The language of the ruling is clear. Significant limitations on abortions can be accomplished only through two recourses: (1) a reconsideration of last year's ruling by the Supreme Court, or, (2) a "Pro-Life" Constitutional Amendment. This latter course must be pursued.

In Minnesota, by more than a four to one margin, the House, by a vote of 98–21, and the Senate, by a vote of 51–12, expressed their desire to have Congress act on this matter. I am submitting a copy of this resoltuion endorsing a Constitutional Amendment for the record.

On February 1, 1973, shortly after the Supreme Court decision, I introduced in the House, H.J. Res. 284, a bill proposing an Amendment to the Constitution, "to insure that due process and equal protection are afforded to an individual from conception."

My bill, similar to S.J. Res. 130, provides the necessary mechanics for a Constitutional Amendment.

It is time to move. It already is too late for hundreds of thousands of so-called "legal" abortions that have been performed since the January 22 decision.

Americans have always held life to be precious. When our forefathers wrote the Declaration of Independence in 1776 they declared: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness."

You will note that they said, "created equal", not born equal.

Section I of Article 14 of the Constitution states:

"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The framers of the Declaration of Independence and the Constitution intended to protect all life not just life out of the womb.

In my forty years as a State and Federal Legislator, I have introduced, fought for, and supported billions of dollars of appropriations to build the best hospitals and medical schools to protect the lives of our people, but always, to preserve, lengthen and dignify life, and to educate the best medical personnel in the world.

Now we are asked to reverse this philosophy and train our doctors and nurses, and equip our hospitals to destroy life. Our hospitals are working in one room to preserve life while in another room they are working to destroy it.

Mr. Chairman, the 1857 Dred Scott decision resulted in a bloody Civil War and a constitutional amendment granting citizenship to slaves. Another bloody war is being fought daily in our hospitals and clinics. The victims are the unborn—too young, too silent, too innocent, to unknowing, to speak in their own self defense in the abortion decision. Billions of these unborn will never see the light of day. I here speak urgently in their defense and implore you to act in their behalf.

Look about this room, here, today. Just as every person here has a unique, individual character, so have the unborn. Not another individual in the world is exactly like it. It is a miracle of creation. Our intelligence, our skin color, our fingerprints, our personal characteristics, all are predetermined before we are born. All those characteristics are in the genes of the mother and father at the moment of conception. Who can deny that life starts at this precise moment?

The horrible act of taking the life of the helpless is a grave issue on which we must stand up and be heard.

I ask you to restore for all of our citizens that most important factor of all, the right to life.

Pope John XXIII said, "the Christian conception of life demands of all a spirit of moderation and sacrifice . . . There is abroad today, a spirit which beguiles man into thinking that life is nothing more than a quest for pleasure and the satisfaction of human passions. This view is disastrous. You see its evil effects on body and soul . . . the Gospels and the whole ascetic tradition of the Church demand a sense of mortification and penance which assures the rule of the spirit over the flesh. . . ."

We can all take a lesson from these words.

There are many families who want babies who cannot have them. As an alternative to abortion, I favor Pro-Life Centers, as advocated by Mrs. Marjory Mecklenburg, President of the Minnesota Citizens Concerned for Life, Inc., where expectant mothers could come for adequate medical care and other help so that they can have their babies rather than an abortion.

I am completing 40 years of public service and have been an advocate and fought hard for many worthwhile and landmark causes, but I would like to say to this subcommittee that I have never felt as strongly about any issue as I do about this matter, for, gentlemen, it is a matter of life or death.

RESOLUTION

A resolution memorializing the Congress of the United States to propose a Constitutional Amendment affirming and protecting the value of human life.

Whereas, the United States Supreme Court has recently put on the United States Constitution a construction that is contradictory to the convictions of the people of the United States about the value of human life; now, therefore,

Be it resolved, by the Legislature of the State of Minnesota that the Congress of the United States should speedily propose to the states for their ratification an amendment to the United States Constitution substantially in the following form:

ARTICLE —

Section 1. No person shall be deprived of life, liberty, or property, from conception until natural death without due process of law, nor denied the equal protection of the laws; provided that this article shall not prevent medical operations necessary to save the life of a mother.

Section 2. The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation.

Be it further resolved, that the Secretary of State of the State of Minnesota transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, the Chairmen of the Judiciary Committees of the United States House of Representatives and Senate and the Minnesota Representatives and Senators in Congress.

REGIONAL RAIL REORGANIZATION ACT OF 1973

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. BURKE of Massachusetts. Mr. Speaker, recently the Interstate Commerce Commission began its scheduled hearings across the Nation in reference to the Regional Rail Reorganization Act of 1973.

The purpose of these hearings is to provide a viable avenue of action through which individual States and their governing boards, local communities and their governing boards—specifically local rail systems in alliance with business firms—may begin to express their views on the proposals of the Department of Transportation to reorganize the Northeast and Midwest rail systems in the hope of providing adequate and efficient rail services to these areas.

The industries and citizens of these regions are fighting to continue their livlihood, and I, for one, must say that their complaints are very well founded in light of Secretary Brinegar's report. This report did not concern itself with the issue of how many employees would lose their jobs or how many employees would be inconvenienced by transfers. In my own home State of Massachusetts, the estimated number of jobs that are being placed in jeopardy by the Department of Transportation's proposals totals between 25,000 and 30,000. Because of this and coupled with remarks of President Nixon, I find myself in a paradoxical situation. Mr. Nixon has stated that—a healthy railroad industry is a great national asset for it strengthens the economy—and obviously he is correct in stating this, but how can we strengthen the economy and the railway industry, if, as I have pointed out, the predicted rise in the unemployment rate has not been taken into account in Secretary Brinegar's report.

We must not allow any further deterioration of our railway system nor of our economy to take place, therefore I suggest that a stringent review of the Department of Transportation's proposals be undertaken by every sector that will be affected by the proposals whether it be employment losses or the inability to expand because no rail facilities are available to ensure it as a worthwhile business venture.

We must not go about improving the railway system as haphazardly as a Civil War surgeon would operate on a wounded soldier. He would amputate with no regard to what the rest of the body would suffer due to unsanitary conditions, such as gangrene. Today our surgeons have progressed in skill and treatments due to advanced technology, and now they are able to handle nearly all situations capably. We must go about improving our rail system in the same progressive manner and not by severing it with total disregard to the probable side effects to the economy, but by seeing that our rail system is revitalized, rehabilitated, and restructured to ensure that the predicted side effects will be minimized.

The Interstate Commerce Commission has provided us with an avenue for action and now the task falls upon the State legislatures, local communities, business firms and railway systems to work within this avenue and produce a more acceptable solution.

Mr. Speaker, in order that the Members of the Congress may be better informed as to the nature of the effects of the Department of Transportation's proposals, I wish to submit into the Record an article from the March 3 issue of the Boston Globe. It clearly illustrates that the proposals need revision, and that the final plan will result only from a suitable agreement arranged through public hearings and negotiations.

The article follows:

Another Act in Northeast Railroad Drama Opens in Boston

(By A. S. Plotkin)

Another gripping act in the long-playing drama entitled "The Northeast Rail Crisis" opens in a hearing room in Boston's Government Center tomorrow.

The principals will play variations on the dominant theme, a plea to the Interstate Commerce Commission labeled "Don't Let Them Take it Away"—referring to hundreds of miles of freight track, some still used a little, some practically abandoned.

Gov. Francis Sargent of Massachusetts, Rhode Island Gov. Phillip Noel, a clutch of Congressmen and other notables, have been allotted 10 minutes each to make their pitch before an administrative judge sent here by the ICC.

The hearing in Boston gets underway at 9:30 a.m. in Room 607–A of the Hurley building, and is one of the many steps that must be taken before the Federal Transportation Department (DOT) can implement its plan to eliminate nearly a quarter of the track belonging to Northeastern railroads.

That proposal is contained in DOT's plan for restructuring the seven bankrupt roads in the Northeast—including the mammoth Penn Central and the Boston & Maine, both of whose fate is of vital concern to Massachusetts.

In the plan unveiled by Transportation Secretary Claude Brinegar on Feb. 1, about 475 of the 1430 miles of track in Massachusetts were labeled "potentially excess," and Sargent's major thrust tomorrow will be that this figure is not only grossly inflated but probably inaccurate as well.

With data collected in a telephone poll of hundreds of industrial shippers and receivers, the governor will tell the ICC *man that* 25,000 to 30,000 Massachusetts jobs would be affected, and many could in fact be lost, if DOT's abandonment scheme is adopted as it now stands.

There is no doubt that the outcome is important to the economy of the state and the region. There is also little doubt that some trackage could be surrendered, and substitute service rendered by trucks.

The states could, with Federal help, subsidize those lines which the final system plan says are to be excess.

In eastern Massachusetts some arrangement could be worked out where trackage bought by the MBTA for improved commuter service might be shared by occasional freight trains.

(Penn Central has already sold about 140 miles to the transit authority. The B&M which similarly disposed of its 17-mile Boston-Reading line to the MBTA, is currently negotiating with that agency for the sale of another 140–150 miles.)

A key issue behind the pleas and arguments will be the fate of the parallel east-west lines across Massachusetts, which carry the bulk of the cargo from the west and south.

The Penn Central's goes through Framingham, Worcester, Springfield and Pittsfield. Just over the New York state line, at Selkirk, near Albany, the Pennsy has a new electronic classification yard where thousands of cars are sorted out and reshuffled.

The B&M route goes via Ayer, Fitchburg, the Hoosac tunnel under the Berkshire hills, and North Adams. At Mechcanicville there is a connection via the Delaware & Hudson with other major carriers serving southern and western suppliers and markets.

The B&M doesn't want to be forced to join the Consolidated Rail Corp. (CRC) as the streamlined, pared-down core network covering 17 states would be called.

The B&M's trustees and president Paul Cherington say they are confident their road can be reorganized successfully, and will argue to that effect at a hearing before Federal District Court Judge Francis Murray in Boston on March 28.

The B&M fears that forced inclusion would make it a secondary carrier, dominated in fact by a Philadelphia-based Penn Central.

Cherington acknowledges, however, that the plan for getting out of bankruptcy hinges on receiving suitably large payment for the sale of its commuter lines to the MBTA—an accomplishment probably requiring a sizable long-term, low-interest loan from the Federal DOT.

Some kind of merger of a relatively solvent B&M with two others in northern New England, the Bangor & Aroostook and the Maine Central, is hinted as a desirable goal by Cherington and the trustees.

And not too far in the background is the still impressive figure of Frederick (Buck) Dumaine, who has substantial holdings in all three carriers.

Veteran railroaders see survival of such a northern New England partnership as dependent on its being part of a healthy trunk line system outside New England, one big enough to compete with the new giant CRC.

In a visit to Boston last week Federal Railway Administrator John W. Ingram reiterated that the government does indeed grant the need for competitive east-west freight service to Boston.

But this does not mean that the parallel Pennsy and B&M routes both have to be kept and upgraded. No doubt one would be picked for prime attention, and the hint is that the competing carriers would both use that track.

The ICC has scheduled similar hearings at Albany on Tuesday and at Hartford on March 11.

The session here will recess at 5 p.m., and then go on again from 7 to 9:30 p.m. It will resume for testimony Tuesday and probably through Friday.

The Regional Rail Reorganization Act of 1973, which required Secretary Brinegar to prepare his plan for restructuring the bankrupt carriers, also ordered creation of high-speed passenger service in the Boston-Washington corridor. And funds were provided to do the job.

But that matter, while of great interest to New England even before the fuel crisis hit home hard at year's end, is peripheral to the hearings starting tomorrow.

(Administrator Graham said that engineers will soon be hired to inspect the Penn Central right of way as a prelude to steps leading to passenger train speeds of 125 miles per hour and more.)

Expected to air their views at the ICC hearings here will be spokesmen for trade and industrial associations, labor unions, environmental groups. There will also probably be businessmen who fear they might be crushed in the juggernaut process now starting to rumble towards a resolution of the historic problem.

JULIA BUTLER HANSEN

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. SEIBERLING. Mr. Speaker, surely all those who know well our most distinguished colleague JULIA BUTLER HANSEN share the universal regret that she has chosen to make this her last term in Congress, and I am sure it comes as no great surprise that a new Member of the House would feel a special warmth toward her.

Even before I became a Member of Congress, I had already begun to learn of the high esteem in which she was held by her colleagues and particularly those on the Democratic side of the aisle. One of the early signs of constructive change in the Democratic caucus was the appointment of the so-called Hansen Committee, which had been charged under her chairmanship with updating the rules of the caucus and proposing changes in the rules of the House. Upon becoming a member of the caucus which considered and adopted the recommendations of her committee, I could not help but be impressed with both her fairness and the depth of her understanding of the legislative process.

But in the 3 short years of my service here, I have come to know another side of JULIA HANSEN. I have felt her warm heart and helping hand. I have found that JULIA was one of those people to whom I could go for counsel and help on legislative problems, and know that I would receive a thoughtful and wise response. But she did more than give advice. If she thought your ideas were sound, she would affirmatively help to carry them out.

I am grateful for the opportunity of joining with many others in singing her praises.

YESTERDAY THE SUEZ CANAL AND TOMORROW THE ELBE

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. WHITEHURST. Mr. Speaker, the following article, which originally appeared in Die Welt on February 1, 1974, was recently brought to my attention. Since it makes some very cogent points regarding the future of West Berlin, I would like to take this opportunity to bring it to the attention of my colleagues. It deserves a careful reading and serious thought by each one of us.

The article follows:

YESTERDAY THE SUEZ CANAL AND TOMORROW THE ELBE . . .

(By Axel Springer)

It is high time for Europe to learn the lessons of the war in the Middle East.

Those in the know were aware even before Christmas that the war of nerves against the free part of Berlin was soon to be stoked up again. Of course, as had happened so often before, such information could not be published. To do so would have brought the reproach of not letting sleeping dogs lie, i.e., of provoking hostility by publication.

So now there were protests from beyond the Wall against establishing in West Berlin a Federal office for the environment. And a week ago there came a relevant threat: sudden vexatious controls—once again—on the access routes to the old German capital. Who could believe the story of a search for Russian or East German deserters, especially as Allied vehicles were not interfered with at all? It was and is in reality all part of a carefully planned campaign.

Any remaining doubts must have disappeared last weekend when both the President of the State Council in East Germany, Willi Stoph, and the Prime Minister, Horst Sindermann, fell back into the vocabulary and the arguments of the Cold War.

These events, which will be repeated in all possible variations, show that one of the main aims of the entire West German "Ostpolitik," and especially of the Four-Power agreement and the bilateral agreements between Bonn and East Berlin, is fading ever further into the distance: the defusing of the critical situation of Berlin.

The Soviets' and their vassals' stranglehold on the vital arteries of free West Berlin is unbroken. It can be tightened and loosened at will—a game that has been demonstrated for a long time, and despite all treaties goes gaily on.

The campaign to disengage West Berlin entirely from the Federal Republic has never ceased, despite many promises, great hopes and fine speeches. Vexatious controls on the access routes and protests with an undertone of threats are not so much a temporary relapse into old habits as a sign that at bottom nothing has changed. Lenin's words still apply: "Whoever has Berlin, has Germany; whoever has Germany, has Europe."

If Lenin is not proof enough, just because he died 50 years ago, then a statement by the Soviet Ambassador in Bonn, Valentin Falin, may be recalled: "The compulsion of history—or natural gravity—will see to it that one day West Berlin will be part of 'German Democratic Republic'."

Translated into practical politics this means that Berlin remains an important stage in Soviet aims in their much further-reaching intention of becoming the dominant power in Europe. There is no sign at all that Russia has given up this plan, or ever would. On the contrary.

In the past month the Soviets have come several steps nearer to this goal. The best guarantee against the spread of Soviet power beyond its present sphere of influence is still the Atlantic Defense Alliance, accompanied by an optimally close community of economically strong and socially sound European countries.

On the way to this community of Europe, however, the recent past has seen not progress but a relapse into petty, selfish national thinking, which exactly meets the Kremlin's aims. In the military field the Communist states have increased their armaments to an extent hardly realised by the public, as against the weakening, if not actual decay, of and lack of confidence in NATO in the West.

In a great part it was economic problems which laid bare the cracks in the structure of the European Community. What years of effort by the Soviets and their auxiliaries in the West failed to achieve, the Arab oil boycott, or even the mere fear of a possible shortage, brought about: In many cases narrow national self-interest takes pride of place before considerations of the common weal. The community of European nations, from which a united Europe was to grow, has failed its first major trial. Oil provided the breaking strain.

"Have Machiavelli's works been translated into Arabic?", the French publicist Jean-Jacques Servan-Schreiber asks in an anxious analysis in the weekly L'EXPRESS. But translation was unnecessary. For at a decisive, secret, conference held in Bagdad late in 1972, when plans for an "oil war" against the industrial nations of the West were forged, Machiavelli was present in person—however under the name of A. S. Dasokow. His profession: Soviet oil expert; his superiors: the Soviet security police, the KGB. A message of greetings from the Soviet Government which Dasokow read out to his Arab hosts stated that the Kremlin would support the "important struggle by Arab oil against *imperialism*."

This strategy then worked out under Soviet guidance in Bagdad aims for one thing at driving the Western oil-producing concerns out of the Middle East; further at throwing sand in the works of the industrial countries' economies by arbitrary and rigorous price rises; and finally at impelling the Arab proprietors of gigantic oil-fortunes to coordinate their stock-exchange transactions so as to cause economic and currency difficulties for the West on a maximum scale.

This conference was ten months before the outbreak of the last Middle East war, which itself showed that the Soviets were supporting the Arabs not only with Machiavellian economic advice but with *supplies of* supermodern war materials and active assistance in world politics.

It was these highly developed weapons, especially the latest anti-aircraft and anti-tank weapons, together with an offensive tactic designed by the Soviets and precisely executed by the Arabs, which brought success to the Egyptians and Syrians in the first days of the October war.

What happened at the Suez Canal and on the Golan Heights must be a lesson to Europe. For in a certain sense the Middle East war last autumn was for the Soviets an important dress rehearsal just as the Spanish civil war was for Hitler's armies. For this reason the experiences of the Yom Kippur war are discussed in some detail.

From standing positions the Arabs launched a grand attack, on the holiest feast of the Jewish year. There was no logistic march beyond the scope of routine maneuvre, which would have resulted in a warning period; the Israelis existing defence strategy was thrown out of joint. They were taken by surprise by the new operative art in which the Warsaw Pact powers have been trained since the experiences gained in the invasion of Czechoslovakia.

At the Suez Canal Europe was given a first-hand demonstration of this art: supermodern pioneer units with telescopic bridges, submarine tracks and collapsible bridges effected a quick leap over the waterway obstacle. Amphibious tanks passed soundlessly and invisibly under water from bank to bank. Battle helicopters flying below the radar screen secured the first lines of communication. And the SAM 6 and easily handled SAM 7 rockets protected the bridges and bridgeheads successfully from the Israeli fighter aircraft.

Two Egyptian armies were thrown across the 150–200 yards wide Suez Canal in a few days. A thousand Soviet-type tanks with night-sights and large-calibre cannon stood, twelve hours after the attack began, ready for battle on the eastern bank.

The trick only failed to succeed by a hair's breadth. Had the Arabs, with their ten-times superior tank forces and their effective anti-aircraft and anti-tank weapons, struck a less experienced, less determined opponent, one less imbued with the archaic fighting spirit, they would have overrun the Sinai Peninsula, the Golan Heights and the Land of Israel.

The superbly equipped aggressors were only stopped by better soldiers. Contempt for death, nurtured by the certainty in every Israeli that his only choice is to hold out or to fall, saved the situation and with the aid of good weapons from American stocks averted catastrophe. Only that. That is the lesson to be learned.

The hot war for the stake of Israel was followed, in accordance with Soviet intentions, by economic war waged by most of the oil-exporting countries against the industrial nations of the West. Even though some oil potentates try to turn back, because heavy setbacks to the West would also harm them, and some of the statesmen among them took no part from the very beginning, this oil war is by no means over. And what is often forgotten: besides its economic repercussions felt by every citizen, it has grievous military significance.

Modern armed forces and their air cover cannot operate without fuel. NATO petrol reserves are enough for 56 days; by the 57th day, therefore, victory must be won. If not, what happens on Day 58? The question is legitimate.

The Warsaw Pact armies are at full war strength and without major preparation can mount a limited offensive across the Elbe within 24 hours. Only a few days are needed to start a grand offensive against western Europe.

There is food for thought when in the "GDR" the number of large-scale military maneuvres doubled last year: 16 in 1972, 32 in 1973.

Supplies and communications capability of the Soviet forces in the "GDR" has also been doubled by the introduction of new seven-ton trucks.

East Germany's air force, hitherto aligned to defence, has been converted to offensive strategy by the formation of new hunter-bomber division. Within an hour these aircraft can be converted to operate with tactical nuclear bombs.

Stocks of tactical nuclear weapons in the security area of each air force base where hunter-bomber formations are stationed have recently been increased. And transport battalions of the East German Army are continuously rehearsing—with dummies—the movement of tactical nuclear rockets from dumps to operational positions.

And the constantly increasing number of divisions between Elbe and Oder?

Besides six East German divisions, five Soviet armies, making 21 divisions, are stationed in the "GDR"; they include such elite formations as the 2nd Guards Army in the Fürstenberg area and the 3rd Thurst Army in the Magdeburg-Stendal area.

Further, in European Russia, in Czechoslovakia, Poland and Hungary, besides the national armed forces a further eight Soviet armies with at least 36 divisions are stationed, all of them being reequipped with improved offensive weapon systems; again, the USSR has prolonged conscription service for all the armed forces by a year. This makes it clear why leading NATO generals are now saying openly that for them the much praised programme word "detente" has acquired a different meaning from its original emotional connotation: for them it means a burden of concern and precariousness. Within a year a German election slogan has lost its glamour.

This means in figures: 70 divisions under Soviet command in forward positions face some 25 NATO divisions between Rhine and Elbe. Roughly 16,000 tanks against 5,500. The proportion is similar in the air forces, rocket units, parachute regiments and air-landing formations.

At the Suez Canal it was proved that Egyptian ground troops could overcome a wide waterway obstacle at speed and secure the air space above their attacking forces and bridgeheads. The tank divisions beyond the Elbe are equipped with the same amphibian vehicles which crossed the Suez Canal under water; at the Elbe the same supermodern bridging equipment is based; and some 10,000 T–26 tanks with large calibre cannon and infrared night sights stand ready for operations.

SAM rockets and FROG anti-tank rockets, which made military history at the Suez Canal, are waiting behind the Elbe; parachute brigades, helicopter fighter squadrons, single combat commandoes, are at war strength; hunter-bomber squadrons for supporting infantry operations wait in well concealed hangars ready to take off and can be in the air 30 minutes after an alarm.

On top of this the Soviets have of late greatly reinforced their pioneer troops in the "GDR" for crossing waterways. New pioneer regiments have been transferred to Wittenberg, Magdeburg, Rathenow and Frankfurt/Oder. Their slab-bridges for putting tanks and artillery across waterways were last year increased to a total length of 600 metres—and at Hamburg the Elbe is 500 metres wide.

In the climate of head-in-the-sand politics so revered in these times it is considered in bad taste to write or speak openly about plans and preparations for conquest by the USSR. To belittle is good form, to warn is shocking.

The interferences on the access routes to Berlin were internal security measures; the threats of "GDR" politicians are routine statements for domestic consumption, not to be taken seriously; the Middle East war broke out against the will and intentions of the USSR; and the increases in armaments are only made so that generous offers can be made at disarmament talks.

That is one way of looking at it. That or something like it was the way the nations for years looked at events in Germany after 1933—until it was too late.

Today we must see things properly before it is too late again. What does this mean?

It means watching that not one single further piece of West Berlin's viability is sliced off; we have already gone much too far. Over and above this the ties with West Germany must be built up as provided in the Four-Power agreement. The Federal Office for the Environment must not remain the only project.

To see things properly also means both to increase Europe's own defensive potential and to strengthen the bonds with America again. It must be said openly that everyone who advocates reducing or dismantling the American presence in Europe becomes an advocate for Russia's hegemony in Europe.

To see things properly means, finally, not to take neutral attitudes where, apparently remotely, ones own position is threatened and on the other hand one's heart is engaged, especially the hearts of the Germans in Israel.

To see things properly and to act accordingly is the way, the only way, to avert catastrophe.

Only if Berlin despite all objections by the ill-qualified is built up in close cooperation with Bonn, can it remain viable. Only if Europe turns away from the path of discord and self-seeking, can the continent resist the pressure from the East. Only if NATO is strong and operable will it prevent the Soviets from achieving its aims by threats or by the use of arms. And only if the entire free world is conscious of its great responsibility towards Israel, and acts accordingly, will a way to peace in the Middle East be found which leads all concerned into a better future.

It is very late—but not too late!

JULIA BUTLER HANSEN

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. ULLMAN. Mr. Speaker, one of our most gifted colleagues, and a very close friend of mine from the Northwest, Congresswoman JULIA BUTLER HANSEN, has decided to retire at the end of this Congress. She said that after 37 years of public service she wants to return to Cathlamet, Wash., and have some time to herself. She has done an outstanding job in her years here, and if there is anyone who can say "I have worked hard and now I am done," it is Mrs. HANSEN.

But that does not make me any happier about her decision. The Congress will miss her sharp mind and capable handling of appropriations matters. And we, in the Northwest, will greatly miss her leadership. Her grasp of the resource issues so vital to Washington and Oregon has been a major reason for the continued economic vitality and growth of that region. Her willingness to speak out resolutely and clearly on the difficult questions we must face all across the Nation has been a source of courage to many of her colleagues. And her patience and understanding in dealing with all of us in the Congress has few rivals.

Mr. Speaker, I very heartily salute Congresswoman HANSEN for her achievements and her years of dedicated public service. She deserves our praise and our thanks. The Nation could not have been better served.

AMERICAN MEDICINE: THE CLAMMY HAND OF BIG BROTHER

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. CRANE. Mr. Speaker, while many Americans are concerned about the current proposals for some form of multinationalized medicine, few seem aware of the fact that the existing Government medical programs—medicare and medicaid—are already well on their way to making participating physicians into mere Government bureaucrats and agents.

In December 1973, just prior to the congressional Christmas recess, Secretary of Health, Education, and Welfare Weinberger announced that the Government will no longer cover the cost of trade name prescription drugs under medicare and medicaid if lower priced generic medicines are available.

The new HEW policy is based upon the assumption that generic drugs are, in fact, the equivalent, in every respect, of prescription drugs. There is no real evidence to confirm this assumption.

What this ruling does, in effect, is institute a policy of first- and second-class medicine. Those patients who are not receiving assistance from the medicare and medicaid programs will be able to purchase the drugs which their doctors believe to be the best available. Those who are receiving Government assistance will receive such assistance only for the cheapest available drug, not necessarily the drug which the physician believes to be best. The Government, in effect, is telling doctors how they may practice medicine with regard to those receiving Federal assistance. If a nationalized plan is implemented, all of us will be subject to such arbitrary rulings.

Perhaps the most serious interference of Government in the practice of medicine comes with the professional standard review organizations. Under that program, the confidentiality of the doctor-patient relationship is eliminated, and doctors who treat patients under medicare and medicaid must turn all of their office records over to Government inspectors. As norms are established, they will be told when and whether a patient may be entered into a hospital, when and whether an operation may take place, and how long a patient who is admitted to a hospital will be able to remain there.

Discussing the PSRO program, columnist James J. Kilpatrick, notes that—

> These organizations, for all practical purposes, are to be agencies of the federal bureaucracy . . . they will be funded by federal funds and they will be staffed by federal civil servants.

Mr. Kilpatrick concludes that—

> My own observations of the bureaucratic virus persuade me that the PSRO plan is a wasting disease, insidious and destructive, demeaning and degrading. And sad to say, the bureaucratic disease is easy enough to diagnose, but almost impossible to cure.

I wish to share with my colleagues the column, "The Clammy Hand of Big Brother," by James J. Kilpatrick as it appeared in the January 2, 1974 edition of the Washington Star News and insert it into the RECORD at this time:

THE CLAMMY HAND OF BIG BROTHER

The practice of medicine in the United States enters a new and ominous phase this week, as Big Brother lays his clammy hand upon physicians across the country. Henceforth, doctors treating patients under Medicare and Medicaid must submit themselves to Professional Standards Review Organizations. The doctors have every right to be concerned at the prospect, and their patients should be concerned as well.

Such concepts as "professional standards" and "professional review" of course are not new. Every doctor, before he begins his practice, has to pass a board of medical examiners. If he is attached to a hospital, he regularly faces the judgment and criticism of his peers. For gross mistakes, he is subject to suit for malpractice. His license to practice can be revoked. No doctor operates with untrammeled freedom.

Yet the PSRO's involve a new form of regulation and supervision that is different not merely in degree, but in kind. These organizations, for all practical purposes, are to be agencies of the federal bureaucracy. To be sure, they will be composed of local physicians, drawn at the outset from local medical societies, but they will be funded by federal funds and they will be staffed by federal civil servants.

Until quite recently, little had been heard of the PSRO program. The review plan was authorized under a floor amendment to the Social Security Act of Oct. 30, 1972. Few members of Congress, eager to get home for elections, paid much attention. No public hearings were held. A considerable time elapsed before doctors discovered the 15 pages of fine type creating an elaborate, nationwide system of local, state and federal review of their professional medical decisions. Now many doctors belatedly are urging repeal of the PSRO amendment. They make a good case.

Under the law, each of the local PSRO's "shall apply professionally developed norms of care, diagnosis, and treatment, based upon typical patterns of practice in its regions." So long as a doctor stays within these "norms," he stays out of trouble; but if his PSRO disapproves one of his medical decisions, no funds appropriated under Medicare or Medicaid may be disbursed for payment of the particular claim.

The plan is subject to criticism at the outset merely in terms of the paperwork it must entail. In a case of elective surgery, the local PSRO may approve or disapprove in advance of a patient's admission to a hospital. If a doctor feels his patient should be hospitalized beyond the "norm," he must so certify, and his medical judgment will be reviewed. Agents of each PSRO may inspect a doctor's offices, go over his most confidential patient records, and second-guess his every diagnosis and prescription.

As the Wall Street Journal has observed, the doctor who submits to this smothering regulation will have little time left for his patients. The temptation, in any doubtful case, will be to abide by the omnipresent "norm"—to steer clear of innovation, to go strictly by the book. Perhaps this regimentation will benefit the poor and the elderly. It somehow seems unlikely.

Granted, the controversy has two sides. Medicaid and Medicare constitute a $17 billion drain upon the taxpayers every year. The people have a right to insist on some accountability. Beyond question, as doctors themselves freely acknowledge, thousands of operations are needlessly performed, and thousands of patients are hospitalized beyond the point at which they might be safely discharged. Why should the taxpayers be soaked for unnecessary expense?

The protesting doctors who have been flooding me with letters of anguish may be suffering a Chicken Little syndrome. Many of them tend to be political hypochondriacs anyhow. The system may not be as bad as they apprehend. But my own observations of the bureaucratic virus persuade me that the PSRO plan is a wasting disease, insidious and destructive, demeaning and degrading. And sad to say, the bureaucratic disease is easy enough to diagnose, but almost impossible to cure.

JOHNSTOWN, PA.

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. MURTHA. Mr. Speaker, the 12th Congressional District of Pennsylvania, which I represent, is looking for industry to employ its young people. Johnstown, the city in question, has long had a reputation for high productivity because the people of Johnstown are hard-working, enthusiastic citizens. Right now there is a sizable labor pool of skilled workers who are looking for industry.

Early in 1973, in recognition of its exemplary governance, renewal program, and community spirit, Johnstown was proclaimed a 1972 "All America City" by the Saturday Evening Post and the National Municipal League. In the entire United States, only 10 other cities were accorded this honor.

Johnstown had not always been a model of what an American city should be, or a source of pride to its residents. Prior to the 1960's, it was widely known principally for its disastrous floods of 1889 and 1936. Its distinguishing characteristics were rampant unemployment and hideous scars raised by the floods and urban decay.

In the 1940's, with one of the most ambitious flood control projects in history, Johnstown subdued nature's violence. Since completion of the project, the Stony Creek and Little Conemaugh Rivers have passively watched the city's resurgence.

Johnstown's revitalization began in the late 1950's with city council's establishment of the redevelopment authority. In just over a decade, the redevelopment program has excised the scars and replaced them with marks of beauty. Rustic parklets, sparkling, modern stores and refurbished houses, apartments, and office buildings have burgeoned on land once infested with ramshackle housing, dilapidated stores and shabby offices. In Johnstown, urban renewal has not been a euphemism for squandering taxes or forcing residents to flee the central city. Instead, it has created new jobs by bringing in industry, generated better housing, incerased the tax base, and significantly improved the quality of life.

The success of urban renewal in Johnstown derives from the involvement of the total community. Renewal has been a serious cooperative venture of government, industry, labor, and business, rather than a plan of government alone.

The people of Johnstown have directed their energies toward other areas of concern as well. In 1960, to eliminate the causes of high unemployment, the Johnstown Industrial Development Committee, composed of all segments of the community, launched a million-dollar fund campaign to promote industrial diversification.

Two years later, the committee purchased a 263-acre tract that now houses the $12 million-and-growing Johnstown Industrial Park. For business, industry, and other organizations, the industrial park offers carefully planned facilities, an excellent system of roads and complete facilities.

To assure more effective local government, the Greater Johnstown Committee recently helped to change the city's government from a relatively ineffectual commission to a strong mayor-council form. Like the redevelopment program, the change demonstrates the city's emphasis on efficiency in government.

Today, Johnstown is "alive," bustling with progress and serving as a source of pride to its own residents and to the entire Nation. Few cities have accomplished as much as Johnstown in the last 15 years. Because of these accomplishments, Johnstown is truly an "All American City."

THE PEOPLE

The history of Johnstown's resurgence is a tribute to its dedicated, determined people. Laborer, business executive, student, educator, housewife, government leader—each proud of the community and confident of his or her ability to overcome adversity—have worked side by side to guide Johnstown to a place of distinction among the Nation's cities.

If the people of Johnstown had abandoned their city, no one would have been critical of them. The floods and the unemployment would have forced less hearty, less devoted people to escape to other communities.

But the people of Johnstown stayed to solve their own problems, to rebuild their city and to establish a reputation for industrial productivity. Even though their unemployment rate sometimes grew higher than any other cities in the country, they stayed, and they donated more than $1 million to build the Cambria County War Memorial, a 5,000-seat arena honoring World War II veterans and providing a deluxe home for sports, exhibits, banquests, conventions, and town meetings.

They stayed, and they contributed more than $3 million to establish a new campus for the University of Pittsburgh at Johnstown—UPJ—the 4-year degree-granting regional college of the University of Pittsburgh.

Observes Dr. Theodore W. Biddle, retired UPJ president who now serves as the college's director of development and alumni affairs:

> I would not want to minimize the importance of business and industry in the campaign to raise money for our new campus; they were extremely generous. But our fund-raising efforts would have failed without grass-roots support among the people.
>
> In all my experience—and I have spent my life working with people—I have never encountered a community where the individual citizen takes greater interest in what is going on about him or is more willing to support worthwhile community projects actively. There is a general quest for excellence that is remarkable.

The quest for excellence among the people of Johnstown is equally apparent in the city's stores, offices and factories. Throughout the century, Johnstown workers have been among the most productive in the world. Says Dr. Biddle of Johnstowner's work ethics:

> I don't know of any area whose people work harder or have more collective skill. A recent occurrence at the UPJ campus is typical. During the summer, our maintenance staff—composed primarily of former miners—built a large, rustic log cabin for our students to use as a recreational area. They undertook the project on their own and completed it in their spare moments. Such dedication and industry, I believe, generally are rare today, but not in Johnstown.

In the steel mills, in the mines and in other business, and industrial endeavors, Johnstown workers continue to demonstrate their penchant for high productivity. Their ability to produce and their concern for the welfare of the community make Johnstown an ideal place for businesses, industries and other organizations to grow and to prosper.

LOCATION

Johnstown offers industry a central location in one of the world's largest coal-producing and coal using regions, yet conveniently situated near the major industrial, research, and governmental centers of the country.

Fifty percent of the Nation's industrial purchases are made, and 50 percent of its spendable income is generated, within 240 miles of the city. Seven of the 10 largest cities in the United States—with a population of more than 66 million—are within 300 miles. Seventy percent of the country's population is within 500 miles.

The city is in the general proximity of more than 150 research and testing laboratories in western Pennsylvania. These include the U.S. Bureau of Mines Coal Research Lab at Bruceton, the Consolidation Coal Research Center at Library, U.S. Steel Research Center at Monroeville and the engineering and scientific research facilities for the University of Pittsburgh and Carnegie-Mellon University in Pittsburgh. The expertise of these organizations is readily available to organizations located in Johnstown.

Johnstown is the primary market for more than 320,000 persons. Moreover, it is centrally located in western Pennsylvania, a market of more than 7 million persons. This regional market produces thousands of diversified products at almost 8,000 plants and employs more than 705,000 people who are paid more than $4.8 billion for their work. It includes 62,000 retail establishments with annual sales of more than $7 billion and 8,348 wholesale businesses with sales in excess of $8.3 billion annually.

TRANSPORTATION

Modern highways and complete airline services link Johnstown conveniently with the rest of the Nation.

The recently completed U.S. Route 219 expressway provides easy access to the new high-speed Interstate Highway System. To the south, the expressway connects the city with the Pennsylvania Turnpike—the Nation's first limited-access highway—and U.S. 30, two principal east-west routes. The turnpike connects with Interstate 70 and 85 for travel to Washington, D.C. and the South. Washington is about 4 hours and Pittsburgh is only about 1.5 hours by car. To the north, the expressway joins U.S. 22, and in the near future will extend north to meet Interstate 80.

The Johnstown-Cambria County Airport, within 10 minutes' drive of either downtown Johnstown or the UPJ campus, provides 9 daily departures for, and 11 daily arrivals from, Pittsburgh International Airport. These Allegheny commuter flights on jetpowered Beech 99 aircraft enable the busy executive to reach Pittsburgh International Airport in about the same time as persons traveling by car from downtown Pittsburgh but without the frustration of a traffic jam. From Pittsburgh International, more than 300 domestic and international flights are available daily. Johnstown-Cambria County Airport offers through ticketing and baggage checking on any scheduled flight to any destination. Other services include air express, air freight, charter flights, Hertz car rental, taxi service, special limousine rates, free parking, a restaurant and a lounge. The airport has three runways; the longest is 5,500 feet.

Freight service is maintained on a broad schedule by the Penn Central, Baltimore & Ohio, Conemaugh & Black Lick, and Johnstown & Stony Creek Railroads. Amtrak provides daily train passenger service from Johnstown to Baltimore, Chicago, Indianapolis, Kansas City, New York, Philadelphia, St. Louis, and Washington, D.C.

Three Greyhound buses leave the city daily for eastern and southern destinations such as Baltimore, Harrisburg, New York, Philadelphia, and Washington, D.C. There also are three west-bound departures.

Locally, a taxi company and several bus lines serve the city.

No matter what means of transportation is preferred or required, Johnstown can provide it conveniently and efficiently.

TRANSPORTATION TIMES TO MAJOR CITIES

By air:

Johnstown to Pittsburgh, 35 minutes.

Johnstown to Atlanta, 2 hours 20 minutes.

Johnstown to Boston, 1 hour 55 minutes.

Johnstown to Buffalo, 1 hour 20 minutes.

Johnstown to Chicago, 1 hour 45 minutes.

Johnstown to New York, 1 hour 40 minutes.

Johnstown to St. Louis, 1 hour 55 minutes.

Johnstown to Washington, D.C., 1 hour 25 minutes.

Johnstown to San Francisco.

By car:

Johnstown to Pittsburgh, 1 hour 30 minutes.

Johnstown to Harrisburg, 2 hours 30 minutes.

Johnstown to Philadelphia, 4 hours 30 minutes.

Johnstown to Washington, D.C., 4 hours.

FINANCING

Like other metropolitan centers, Johnstown is dependent upon the availability of financial support in order to grow and to prosper. Johnstown's nine major financial institutions already have played important roles in the city's redevelopment and in the development of its industrial park. They are now prepared to assist prospective businesses, industries, and other agencies in establishing facilities.

Together, these nine institutions have combined deposits of more than $561 million and assets exceeding $646 million. Their branch offices are conveniently located throughout Greater Johnstown, and they have ample mortgage money to finance housing purchases at favorable interest rates.

Special programs to aid new business and industry also are available.

The Pennsylvania Industrial Development Authority—PIDA—provides low-interest second mortgage money for up to 40 percent of land and buildings costs through local, non-profit industrial development corporations, as long as the first mortgage money is available through regular financial institutions and the business or industry supplies at least 10 percent of the required funds.

The Cambria County Industrial Development Authority—CCIDA—is empowered to issue revenue bonds or mortgages for up to 100 percent of the cost of industrial development or expansion. The cost may include land, buildings and installed equipment and machinery. Interest on the bonds or mortgages issued by the authority is exempt from Federal taxes.

Pennsylvania Development Credit, a group of Pennsylvania banks, makes high-risk credit loans generally at rates of 2 to 3 percent above the prime lending rate. The Appalachian Regional Commission funds access roads to industrial sites.

Johnstown's financial institutions are dedicated to making every effort to obtain sufficient funding for any business, industry or other organization wishing to establish facilities in Johnstown.

Financial institutions	Assets	Deposits
Cambria Savings & Loan Association	$130,982,882	$100,822,690
Citizens National Bank	26,222,313	24,327,150
Dale National Bank	30,905,255	28,144,972
Friendly City Federal Savings & Loan Association	32,139,237	28,526,403
Johnstown Bank and Trust Co	93,837,077	83,260,288
Johnstown Federal Savings & Loan Association	7,027,669	5,960,533
Johnstown Savings Bank	77,414,405	71,475,887
Moxham National Bank	36,177,441	32,493,402
United States National Bank	211,256,006	185,844,973

HOUSING

Johnstown is a pleasant place to live. Its crime rate—lowest in the Nation for a city of its size—outstanding schools and abundant recreational and cultural opportunities make it an excellent place to work and raise a family.

Homes are available in the Johnstown area in a broad range of styles, prices, and neighborhoods. Urban renewal has removed much of the substandard housing that once blighted sections of the city. As a result, property values in all neighborhoods are likely to increase. Tree-lined streets and parks abound in both the downtown area and in the suburbs.

Apartment construction has increased significantly in the past several years. Comfortable apartments are available in new high-rise buildings in the downtown area and in many townhouse-style developments in the suburbs.

For overnight guests, Johnstown has a new Sheraton Motor Inn in the heart of the city and a Holiday Inn in one of the suburbs. Many other excellent local accommodations are available.

All of Johnstown's housing is within minutes of the downtown shopping area or the many suburban shopping centers. The downtown features two major department stores and numerous specialty shops. In addition, a spacious new mall is under construction within 10 minutes drive of the city.

EDUCATION

The people of the Johnstown area recognize that an excellent education system is essential to development. As a result, the area offers facilities and diversified curricula of the highest quality, beginning at the elementary level and continuing beyond high school.

Thirty-one public schools, including a central high school and three junior high schools, and 14 parochial schools, including a high school, are located in the city. Four other school districts with 24 elementary and 11 secondary schools serve communities immediately surrounding the city. All are continually updating their curricula so that their students will be prepared to solve the problems of a rapidly changing world.

The Johnstown area is proud to have been one of the first in the Nation to develop a vocational-technical school. The Greater Johnstown Area Vocational-Technical School offers a secondary education program that prepares students to be skilled craftsmen and to continue their education in colleges and other institutions of advanced learning. It also provides adult postsecondary education in such fields as legal and medical secretarial practice, drafting, commercial art, and automotive, construction, data processing, design, electronics, and electrical technology.

The community is equally proud of the University of Pittsburgh at Johnstown, a 4-year regional college of the University of Pittsburgh. Established at Johnstown in 1927, UPJ was moved to a new 170-acre campus in suburban Johnstown in 1966. In 1971, 4-year degree programs were initiated in the arts and sciences, education, and engineering technology. Today, Johnstown area students have the option of completing a range of innovative degree programs at UPJ or of relocating to the main campus in Pittsburgh after 1 or 2 years for other programs. UPJ's status as a State-related university receiving tuition subsidies from the State puts a college education within the financial range of most families.

The area also is served by nearby St. Francis College of Loretto, which has provided education for the past century and a quarter, and Indiana University of Pennsylvania, with an enrollment of 9,000 students. One of the finest Catholic colleges in the East, St. Francis offers a broad range of degree programs in the liberal arts, as well as a graduate program in industrial relations. Indiana awards degrees in the liberal arts and education. Both UPJ and St. Francis offer adult evening education programs.

Many educational opportunities in the health field are available. Men and women interested in nursing may attend Conemaugh Valley Memorial Hospital School of Nursing, where a 34-month program leads to a diploma. An associate degree in nursing may be earned by completing a 2-year program at nearby Mount Aloysius Junior College. The local hospitals work with the Johnstown Area Vocational-Technical School in training practical nurses and laboratory assistants. High school graduates may also obtain training in X-ray and operating room technology.

Specialized educational needs also are met by the Cambria-Rowe Business College and the Johnstown College of Music.

Children of Johnstown area residents also may pursue study at a dozen other institutions in western Pennsylvania that enroll more than 45,000 students. Among them are Carnegie-Mellon University, Duquesne University, and Point Park College. These institutions offer various curricula ranging from 2-year associate degree programs to advanced programs leading to the doctorate in the arts and sciences.

Whatever a student's career choice, educational opportunities for pursuing it are plentiful in the Johnstown area.

MEDICAL CARE

With three hospitals in the city itself and several others in surrounding communities, Johnstown area residents receive high-quality medical care. Together, Conemaugh Valley Memorial, Lee and Mercy Hospitals can accommodate more than 1,200 patients at one time.

All accredited by the Joint Commission on Accreditation of Hospitals, these hospitals offer such specialized services as intensive care, X-ray, cobalt and radium therapy, a diagnostic and therapeutic radioisotope facility, an inhalation therapy department, a premature nursery, physical therapy, alcoholic rehabilitation and inpatient renal—kidney—dialysis. All three maintain modern, lifesaving emergency treatment facilities, and provide dental services.

Each of the Johnstown hospitals also provides inpatient psychiatric care. Specialized services are available nearby. Ebensburg State School and Hospital trains the mentally retarded between the ages of 3 and 15. At Cresson State School and Hospital, there are individually planned programs for mentally retarded of all ages, along with complete diagnostic services. Long-term psychiatric care is provided at Somerset State Hospital.

The Pennsylvania Rehabilitation Center in Johnstown is the largest facility of its kind in the world. The center encompasses 50 acres and operates a licensed training school for the handicapped.

Johnstown is fortunate in having produced many doctors and dentists who have returned to their community to practice. As a result, there are ample numbers of general practitioners and specialists in all fields.

Johnstown residents also have easy access to the health care facilities of Pittsburgh, one of the world's excellent medical centers. It was in Pittsburgh, which is less than 2 hours away by auto and only 35 minutes away by air, that the first polio vaccine was developed. Innovation remains the key to the city's approach to health care. Among its other medical facilities, Pittsburgh offers specialized care of boys and girls at Childrens' Hospital.

Because of its location in the heart of the Nation's coal industry, Johnstown has been selected as one of five centers in Pennsylvania to conduct a black lung screening program among active and inactive coal miners.

WORSHIP

Johnstown has been accurately described as a "City of Churches."

Regular worship and participation in religious fellowship experiences and social welfare projects are important to many residents. Newcomers are invited to share in the city's active religious life.

More than 150 churches minister to members of a broad spectrum of Christian faiths. The churches testify not only to the people's concern for religion, but also to the city's ethnic origins. There are churches with traditions rooted in Africa, Germany, Greece, Poland, Russia, Serbia, the Ukrain and other regions. The headquarters of the Greek Orthodox religion in the eastern half of the United States is located in the city.

A temple and two synagogues serve members of the Hebrew faith, and there are a number of independent and experimental churches.

Because of the broad range of faiths represented, Johnstown's churches span the entire architectural spectrum and contribute significantly to the beauty and diversity of the community.

Religious faiths active in the Johnstown area include: African Methodist Episcopal, Assemblies of God, Baptist, Brethern, Christian, Church of the Brethern, Church of Christ, Church of Christ Scientist, Church of God, Episcopal, Jehovah Witnesses, Lutheran, Church of Christ LDS, Congregational, Evangelical Congregational, First Born Church of the Living God, Faith Chapel, Hebrew Independent, Johnstown Bible Church, Mennonite Methodist, Nazarene, Orthodox, Pilgrim Church of God in Christ, Presbyterian, Roman Catholic, Seventh Day Adventist, United Church of Christ, United Methodist.

RECREATION

What Disney World is to amusement parks, the Johnstown area is to recreation. Hunting, fishing, camping, boating, sailing, sight-seeing, softball, basketball, football, golfing, hockey, ice skating, and skiing—Johnstown has them all, making it a sportsman's paradise.

Except for the fabled lands of some late-night movies, the hunting is unmatched. Deer, bear, and small game abound in the forests and fields within an hour's drive of the city. Numerous sportsmen's clubs, offering both shooting and archery, testify to Johnstown's interest in hunting. Meanwhile, trout and other game fish are plentiful in the area's mountain streams.

Nearby Prince Gallitzin State Park, Pennsylvania's largest, features a 1,640-acre mountain lake surrounded by 26 miles of forested shoreline and beaches. The ideal place for summer family fun, the park has areas for swimming, fishing, sailing, and power boating. For campers, tenting and trailer accommodations are available. Quiet coves and inlets, rustic picnic areas, and scenic trails are other top attractions.

In winter, the Johnstown area affords the finest skiing in the east at seven resorts, including the world famous Seven Springs, Blue, Knob, and Hidden Valley. Snowmobiling and ice skating are offered at many locations. Area residents may ice skate and take lessons at the Cambria County War Memorial.

For duffers and pros alike, the golfing is excellent. Ten golf courses and ranges serve the immediate Johnstown area, and 11 more are within an hour's drive.

Countless scenic and historical sites attract Johnstown residents and tourists alike. The Conemaugh Gap, the second deepest gorge east of the Rocky Mountains, provides a breath-taking panorama from the highest point in the United States between Johnstown and the Rockies. Johnstown boasts the world's steepest inclined plane. Within minutes of the city is Seldom Seen Valley Mine, which gives the public an opportunity to see a simulated coal mining operation. Among the other scenic and historical attractions are Fort Ligonier, the Johnstown Flood Museum, the Admiral E. Peary Monument, the gardens of St. Francis College, Forest Zoo, and Idlewild Amusement Park.

Through its Municipal Recreation Commission, Johnstown conducts an extensive summer recreation program for young people and adults. Thirty-six playgrounds and a staff of 65 instructors, including 9 supervisors, are utilized. In addition, the commission maintains 14 baseball fields and tennis courts in 6 areas. One of the highlights of the summer program is organized baseball for youngsters aged 7 through 19.

During the winter months, the city offers junior and senior league basketball, as well as swimming program for girls and bowling program for boys and girls in junior and senior high school. Hockey leagues are sponsored by business and industry. Thee YMCA, YWCA, Boy Scouts, Girl Scouts, and the Senior Citizens Organization also provide a varied recreation program.

Similar recreation programs are conducted in the suburbs.

Connoisseurs of excellent food will find Johnstown to their liking. American, European, and Oriental dishes are available at a variety of pleasant restaurants. Many of them provide entertainment.

Numerous fraternal organizations and social clubs sponsor a variety of activities.

For active persons who like fresh air and the outdoors, Johnstown has much to offer.

SPECTATOR SPORTS

Professional hockey and a wealth of amateur sports capture the interest of Johnstown's armchair coaches.

The importance of spectator sports to Johnstowners is indicated by their enthusiastic support of the Johnstown Jets, the city's entry in the North American Hockey League. Johnstown is the smallest city in the country to support a professional hockey team.

The Jets play their home games at the Cambria Country War Memorial, an all-purpose arena where each of the 5,000 seats is close to the action. The War Memorial also hosts the annual Holiday Basketball Tournament, which attracts the finest high school players in the Nation. Among the schoolboys who have participated in the holiday classic, Pennsylvania's first, are Wilt Chamberlain and Walt Frazier. Professional wrestling and roller derby are other popular War Memorial attractions.

Each spring, the amateur golf world converges on Johnstown's Sunnehanna Country Club for the Golf Tournament of Champions, the "World Series" of amateur golf. Golfing greats like Arnold Palmer and Jack Nicklaus played in the tournament.

For more than 25 years, Johnstown has hosted the All American Amateur Baseball Tournament, a weekend baseball extravaganza with at least 15 teams from thoughout the Eastern United States and Canada. Nine baseball fields, including the fully lighted, 17,000-seat Point Stadium in downtown Johnstown, are utilized. Almost 80 players who won positions on major league teams have played in the tournament.

High school and collegiate sports draw thousands of spectators annually. Forty high schools within 40 miles of the city field teams in football, basketball, baseball, golf, tennis, track, and other sports. Basketball is a major sport at the University of Pittsburgh at Johnstown and St. Francis, the two colleges nearest the city.

For professional sports enthusiasts, Pittsburgh is a brief drive away. The Pittsburgh Pirates baseball team and the Pittsburgh Steelers football team both have won divisional titles in recent years.

Johnstown's own spectator events and its proximity to Pittsburgh make it a great sports town.

CULTURAL LIFE

New awareness of the cultural world has accompanied Johnstown's resurgence. A multitude of activities satisfy all cultural tastes. Theater productions, art, and music entertain child and adult alike.

The Johnstown Symphony Orchestra performs an extensive series of concerts from October through May to standing room only audiences. The Symphony Society also sponsors a varied concert series. Future Van Cliburns and Sterns have an opportunity to develop their talents with the Johnstown Youth Symphony.

Each spring the Johnstown Area Arts Council conducts an arts festival and, with the Associates Community Art Center of Johnstown and other cultural organizations, sponsors concerts, shows, lectures, and educational programs. Through these organizations, courses for children and adults are offered in art appreciation, creative art, photography, and painting. Many cultural activities center around the David A. Glosser Memorial Library, a facility established in 1971 and three times larger than its predecessor.

To the war memorial come such attractions as indoor circuses, Holiday on Ice, Disney on Parade, the Royal Lipizzan Stallions, and a variety of music groups. Popular rock and jazz groups and distinguished lecturers also appear regularly at the University of Pittsburgh at Johnstown, St. Francis College, and other colleges and universities in the region.

Outstanding theater productions are staged at the Mountain Playhouse in Jennerstown and the Bedford Playhouse in Bedford. The area's high schools and colleges also present stage productions and orchestra and choral concerts.

Seven indoor movie theaters and seven drive-ins serve the immediate Johnstown area with the latest motion pictures. Numerous others are located in the surrounding communities.

Johnstown today is a culturally aware city with community-supported entertainment for every individual preference.

Why Johnstown? The answer is clear—because it offers a unique combination of physical and esthetic attractions not found anywhere else in the country, in a location exceptionally well suited to the needs of the industry which might locate here as well as the professional and personal needs of its staff.

AMENDMENT TO H.R. 69, ELEMENTARY AND SECONDARY EDUCATION ACT

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. HUBER. Mr. Speaker, when H.R. 69, the elementary and secondary education amendments, is considered by the House tomorrow or sometime thereafter, I propose to offer the following amendment:

Amendment to Public Law 874

Section 906. Section 403(3) of the act of September 30, 1950 (Public Law 874, 81st Cong.), is amended to read as follows:

"(3) The term 'parent' means any parent, stepparent, legal guardian, or other individual standing in loco parentis, whose income from employment on Federal property is more than 50 percent of the total combined income of such individual and the spouse of such individual."

If adopted, my amendment will at least eliminate from the impact aid program pupils whose parents in reality do not impact local educational agencies, since their residences and principal places of work are subject to local taxation.

I hope that my colleagues will join me in voting affirmatively on this amendment which, I believe, is a constructive and reasonable step in restructuring the impact aid program.

McKINNEY SCORES DOT PLAN FOR NORTHEAST RAIL

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. McKINNEY. Mr. Speaker, heeding the urgent pleas of Connecticut officials, industry, and concerned citizen transportation groups, the Interstate Commerce Commission scheduled hearings in Hartford this week on the Department of Transportation's recommendations for implementation of the Regional Rail Reorganization Act. The response to these hearings has been overwhelming, with the flood of witnesses necessitating weeklong hearings and limited time allotted for testimony. Certainly this outpouring attests to the concern of Connecticut citizens over DOT's proposals for rail service in New England and our State in particular.

It is good that we, in Congress, in enacting the Rail Reorganization Act, legislated a multilevel system for planning the final rail system plan, providing for input from various Federal agencies and public hearings on the proposals. DOT's recommendations attest to our foresight. If this Nation is ever to have a sound railroad system, geared to meeting the needs of our citizens for passenger service, for meeting the freight needs of industry and consumers, for meeting the needs of our national defense, we cannot accept DOT's drastic curtailment of rail service. The hearings being held by the ICC present an opportunity for our citizens in the Northeast and the Midwest to voice their objections to DOT's plan, to present data in support of maintenance of lines earmarked by DOT for abandonment, and to counteract the premises and operating concepts that guided DOT in its decision-making process.

At this time I would like to insert in the Record my testimony as presented to the ICC today in Hartford.

The testimony follows:

Statement of the Honorable Stewart B. McKinney, Interstate Commerce Commission Hearings, Regional Rail Reorganization Act, March 11, 1974

Gentlemen: When I issued the call to Connecticut officials, industry and concerned citizens to petition the Interstate Commerce Commission for hearings to be held in Connecticut, certainly I don't think any of us expected such a flood of witnesses at these hearings that were subsequently scheduled. Surely this outpouring is indicative of the interest of our citizens in the maintenance and improvement of our railroads and of their intense concern over the Department of Transportation's recommendations for the Northeast region and our State in particular.

I believe the Regional Rail Reorganization Act is good legislation which can be made to work. One of the purposes set out in the declaration of policy in the legislation provides for "the identification of a rail service system in the . . . northeast region which is adequate to meet the needs and service requirements of this region and of the national rail transportation system." While I don't believe anyone would take issue with the fact that in many areas we need slimmed-down and consolidated rail service, still I submit that the Rail Bill's declared purpose is not met in the Department of Transportation's recommendations for Connecticut. One quarter of Connecticut's total rail mileage, that is, 164 miles, is recommended for exclusion from the final rail system plan. Over half of Connecticut's stations would be discontinued for freight service should DOT's plan be effected.

DOT's recommendations are too harsh, too drastic, based as they are on a one dimensional analysis. On such a crucial transportation issue, we can not take a bookkeeper's approach, only examining carload figures for one year to determine those lines to be included in the final system plan. Social, economic and environmental factors must also be included in any evaluation process and hence I welcome the Interstate Commerce Commission members to Connecticut, for your presence indicates that you are responsive to the concerns of our citizens and that there will be no hasty and unjustified reduction in rail service.

In a statement to my colleagues last September 11, 1973, while introducing legislation of my own to address the rail crisis, I debated the question of which federal agency should have primary responsibility for identifying the core system: the Department of Transportation or the Interstate Commerce Commission. I stated that although I have had many objections to actions of the ICC, I believed that because that agency has had vast experience with railroad operations and the economies of the various sections of our States, it is better equipped than any other governmental body or group of experts to make the difficult decisions as to what services are essential to the public and what services can be dispensed with in the name of operating economy. I also favored the ICC because your proposal for reorganization of the rail system maintained more trackage than did DOT's plan and included provision for Federal-State subsidies for abandonment. And, finally, the ICC expressed the interest and willingness to designate the core system.

Hence, I want you to know that we are largely relying on you to correct the deficiencies of DOT's plan. I believe your first job is to revise the concept that must have been foremost in the DOT planners' minds, that is, cut back service to make the rail system financially sound. I reject that concept as erroneous. Cutting back service does not make for financial solvency. We in Connecticut know this for the story of the Penn Central in Connecticut is this concept in action and we can attest to it being untenable. In fact, that is why our passenger and freight service is so dismal. Discontinuing service means eliminating shippers which in turn means less income to the railroad. It's a vicious cycle for then the railroad discontinues more service to cut costs, entailing elimination of additional shippers, meaning less revenue to the railroad, etc.

I maintain the emphasis should be on improving service to attract business. By instituting new operating and management techniques for efficiency, by upgrading track conditions, by maintaining schedules and meeting delivery and pick-up timetables—these are some of the means by which our new railroad system will find itself in demand for services and can command the revenues need to be financially self-sustaining. The drastic curtailment envisioned by the DOT, if effected, will prove another death-blow to our nation's railroad system. For if safeguards are not instituted, once these tracks are abandoned it will be near to impossible to recoup them at a later date.

One stated purpose of the ICC hearings is to update the data which DOT programmed into its recommendations. State and local officials, Chambers of Commerce, and industry spokesmen will provide specific figures for this purpose, citing growth potential statistics and social, economic and environmental concerns that mandate maintenance of lines recommended for abandonment.

Attention will also focus on "backdating" the DOT data for a key problem in DOT's plan for Connecticut is its reliance on 1972 carload figures. This is a false index for action for, frankly speaking, ever since the Penn Central took over the New Haven railroad in 1968, the State has experienced poor service. A dramatic decline occurred in freight service in our State between 1968 and 1973, not because shippers didn't want to utilize the railroad but because the service was bad, because service was discontinued, because delivery dates were not met, because there was poor utilization of cars and deterioration of track and equipment. Industry was, in effect, forced to resort to motor carriers for service. Mention is made in DOT's report of internal factors that could be the cause of a region's rail problems. Those cited are operating inefficiencies, low service quality, resistance to change by management, and lack of innovations in marketing and pricing strategies and operating practices. I maintain that the Penn Central is guilty of all these "internal factors" and has been its own worst enemy in attracting and securing business. Hence, it was inevitable that Connecticut's 1972 freight carloads were low.

I know of one company which is serviced by 6 box cars a day. That firm would like 9 or 10 a day if they could get them. Now they find themselves located on a "potentially excess" line. If our industries had had the service they wanted and needed, I maintain there is a good chance that so much of our trackage would not be designated for elimination. Hence, the ICC can not depend on these grossly misleading 1972 figures but must carefully examine the potential for traffic, the number of shippers who would return to the railroads if quality service were provided.

It is also most important that the ICC go further than did DOT in assessing the economic importance of rail service to various communities. It is not enough to conclude that a rail line should be abandoned because it doesn't generate enough income. A narrow bookkeeper's approach is not what the Rail Bill calls for. The ICC must focus on maintaining the economic and social well-being of our communities through continuance of rail service.

At this time I will just touch on some areas which will be elaborated on by later witnesses, for undoubtedly you will be presented with marketing studies, traffic analyses, statistics with respect to industrial and employee dislocations, consumer needs, and other arguments to buttress opposition to line discontinuance.

As you surely know, Connecticut has suffered economic malaise in recent years, due largely to defense contract cutbacks. Many of our metropolitan cities are economically depressed, with over 6 per cent unemployment. Governor Meskill established a Strike Force for Employment to make recommendations to ease this situation and one of recommendations was improved rail freight service to stimulate and attract business. Now we are faced with the prospect of a drastic reduction in rail freight service as outlined in the DOT report. One hundred and twenty-six (126) sites designated as eligible for location of out-of-state plants in Connecticut are now located along "potentially excess" lines. Hw can we attract industry to these areas when they can no longer be assured of freight service? Moreover firms are in the process of constructing warehouses along existing railroad lines because of their proximity to rail service. Now they find themselves building along "potentially excess" lines.

For many of Connecticut's small and medium-sized manufacturers, the loss of rail service would be disastrous. The ICC must assess the impact of rail abandonments with respect to industry disclocations and the loss of jobs. Here I might mention that the ICC must carefully consider the Canal Line, running from New Haven to Springfield, Massachusetts. Statistics will be provided you by the State Department of Transportation and other authorities to prove that the lower portion of this line, that is, New Haven to Plainville, does indeed meet the ICC's "34-Carload Rule" and is close enough to the DOT Lower Criteria with respect to probability of financial viability to definitely warrant inclusion in the final system plan.

Since I am discussing particular rail lines, let me say that I am perplexed that DOT does not include the New Canaan and Danbury branch lines for freight service. Our commuter service will stay intact as per the agreements between the Connecticut Transportation Authority and New York's Metropolitan Transit Authority with the Penn Central. Therefore, if the commuter lines to to remain in service, and these tracks will undergo improvement, logic dictates continuance of freight service on these lines, including the New Canaan and Danbury branches. Why isolate these two communities from freight service while they continue to be provided passenger service?

I am also concerned that DOT's report does not recommend rail competition for our State. Lack of competition has precipitated many of the problems we face today with respect to freight service. For too long Connecticut shippers had but single line service which did not provide them enough leverage; hence, they were locked into resorting to motor carriers. I firmly believe the ICC must consider the feasibility of competition in our State, along the shoreline in particular but also elsewhere in the State.

Environmental factors must also be weighed by the ICC. The 1973 Master Transportation Plan of Connecticut speaks of "deficient expressway corridors." Indeed statistics make it apparent that the saturation point is being reached for truck freight movement on the Connecticut Turnpike and our interstate highways. By eliminating 26 per cent of the State's rail lines, more and more shippers will be forced to motor carriers which simply can not be accommodated by our highway system. Proposed extensions to our highways are opposed by active citizen groups who foresee increased congestion, pollution from trucking fumes, and devastation of our lands. Moreover, the costs of expressway construction are much higher than costs to modernize and rebuild tracks.

DOT's report simply does not reflect the urgent need to shift from highways to rail, particularly in light of our energy shortage. Railroads use relatively little fuel and less land than other modes of transport and have less negative impact on the environment. Shippers have a greater demand today for rail service due to higher fuel costs and consequent higher trucking costs. Trucker firms would like to ship trailers by rail for the cost of piggy-backing trailers is lower than any other method of getting freight into an area. We can not drastically cut back our rail lines at this crucial time.

Immediate initiation of increased rail freight movement has now become imperative. Hence, I am also disturbed that DOT's report does not recommend rail freight service along the Northeast Corridor. The DOT report does state that coordination of passenger traffic with freight service is one of the major problems that the Rail Association must deal with in its plan for the Northeast. Indeed it is. And because DOT does not give it the attention it deserves, we must turn to the ICC and ask that you give it priority attention. I reject the argument that freight trains can not run the Northeast Corridor because we need to improve passenger service. I maintain the two can operate together. We desperately need rail freight movement through the Northeast Corridor for our highways can not accommodate additional truck traffic. We must look to future expectations. We must have through freight service for our freight trains can not continue to travel the circuitous route from Washington to Boston.

At present practically all freight from or to the South and West enters and leaves New England through the Selkirk Yard near Albany. This may be reasonable for the West but certainly not for our Southern traffic. Abandonment of the float in New York Harbor and disuse of the Maybrook-Poughkeepsie Bridge left only Selkirk as a gateway to New England, hence forcing traffic from the South, including food from Florida, to spend upwards to a week longer in transit. The longer transit time, of course, magnifies the car shortage. The preservation and improvement of the Maybrook-Poughkeepsie Bridge gateway, with the Lehigh and Hudson line, as the most logical route for our Southern traffic is vital.

The Department of Transportation's report reads, "The resulting rail network should meet the region's future rail transportation needs." In conclusion, gentlemen, I submit that the DOT recommendations do not meet our present needs, much less our future needs. The final system plan can not be based solely on a profit-and-loss basis. The railroad today is a public utility, vital to the social, economic and environmental life for a region.

PREVENTIVE MEDICINE WEEK

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. ARCHER. Mr. Speaker, the International Academy of Preventive Medicine Board of Trustees in its midyear meeting in Phoenix, Ariz., April 1, 1973, voted unanimously that March 4–10, 1974, be declared International Preventive Medicine Week. This organization had its meeting March 8–10 in Washington, D.C. and presented an impressive program concerning preventive medical care. There is a special pride for me since this fine organization was first established in Houston, Tex. I enter a copy of the IAPM resolution in the CONGRESSIONAL RECORD.

RESOLUTION

Be it resolved that—

Whereas, the International Academy of Preventive Medicine objectives are broad in scope and principle, covering community medicine, epidemiology, environmental health, international health, health services administrations, maternal health, child health, applied nutrition and clinical preventive medicine, and believing that keeping patients healthy is preferable to crisis diagnosis and treatment, and

Whereas, the International Academy of Preventive Medicine, a professional organization dedicated to the principles of holistic medicine and highest ideals of the prevention of disease and the preservation of total health of peoples of the world, and

Whereas, every nation in the world is invited to be represented at the March 1970, meeting of the International Academy of Preventive Medicine in the nation's capital that they might participate in its educational seminar, involves in open discussion about preventive medical measures between physicians, dentists, and all health related professions from all geographical areas, from different medical and health related disciplines, and from different needs.

Be it therefore resolved that the week of March 4 to 10, 1974, be proclaimed International Preventive Medicine Week.

Be it further resolved that in subsequent years the observance of International Preventive Medicine Week shall be fixed each year to coincide with the dates of a meeting of the International Academy of Preventive Medicine, such determination to be made by its Board of Trustees.

GRIPING ABOUT CONGRESS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. WOLFF. Mr. Speaker, I would like to share with my colleagues an article written by Columnist Clayton Fritchey for the Long Island newspaper, Newsday. There is at least one citizen who has a good word to say about the Congress. Mr. Fritchey's article, "Griping About Congress," follows:

GRIPING ABOUT CONGRESS

(By Clayton Fritchey)

WASHINGTON.—The latest Harris poll, which shows only 30 per cent public approval of President Nixon, but even less—21 per cent—for Congress. The Harris poll is one of the most reliable, but it is far more difficult to test opinion about an entity composed of 535 parts (like Congress) than to measure reaction to an individual (like the President).

Americans have always griped about Congress. It's been a popular national pasttime since the republic was founded. The real test, however, is what happens on election day when the voters have the opportunity of throwing out the rascals. And this test shows the people reelecting the incumbents more than 95 per cent of the time. That hardly suggests deep dissatisfaction.

Regardless of what people tell the pollsters, Congress has steadily done better in recent years, especially in the last decade. It has, and perhaps always will have, serious shortcomings, but those whose job it is to observe Congress on a daily basis can testify that there has been a consistent improvement in both intelligence and performance.

Many of the aged committee chairmen have died, and many senior high-ranking members, encouraged by the generous congressional pension system, have resigned. Still other old-timers have lost out through long-overdue reapportionment reform.

Their places have largely been taken by much younger and better-educated persons, more attuned to the times and to a fast-changing America. Many of the dropouts were born in the 19th Century, grew up in rural America and seldom had much learning. They neither liked nor understood modern America.

The old guard still wields great power, but every year it is being forced to give ground. A reinvigorated Congress is making headway in reforming itself, in reining in a willful Chief Executive and in protecting the courts from presidential debasement. So all three branches of the government are benefiting from the change on Capitol Hill.

At last count, 38 House members had announced they would not seek reelection, nearly all of them high-ranking veterans. In the Senate, six are stepping down, four of whom range in age from 73 to 81.

Naturally, some good men are being lost, notably Rep. John Blatnik (D-Minn.), who at 62 has long been the highly respected chairman of the House Public Works Committee. In his time, Blatnik thinks "the quality of the members has enormously improved." He says they "are much more enlightened, broad-minded, tolerant and experienced men."

Congress has set about reforming itself, a more difficult task than reforming other branches of government. The House, for instance, has ended the secrecy of committee hearings, curtailed the old seniority system and set up a new Steering and Policy Committee. Moreover, both the Senate and House are working much harder than they used to.

Back in the '50s, Congress met only one day out of three, but the present 93rd Congress is just about the best on attendance and voting. The average member was present for 82 per cent of all votes in 1972, and last year this rose to 89 per cent, a record. There's still plenty of room for improvement, but Congress deserves better than that 21 per cent approval in the Harris poll. In the light of Watergate, it's painful to imagine what the U.S. would have done without Congress to fall back on.

GASOLINE SHORTAGE TO AFFECT THE TOURISM IN OUR NATIONAL PARKS

HON. LLOYD MEEDS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. MEEDS. Mr. Speaker, it is still unclear what effect the gasoline shortage will have on tourism in our national park system. While overcrowding in more popular parks may be lessened, it may also result in heavier pressure on lesser known parks that are closer to populated areas.

The National Park Service recently termed successful its experimental computer reservation system that operated in six parks last year. Campers bound for Arcadia, Everglades, Grand Canyon, Grand Teton, Yellowstone, and Yosemite could reserve camping space in advance. I am pleased to hear of the success of this program but it should not be allowed to obscure the basic problem: a lack of campgrounds and campsites. The main achievement of a reservation system is to rationalize an existing shortage by spreading the discomfort more fairly.

The administration's proposed fiscal 1975 budget shows belated but still inadequate recognition of the problem. Funds are still concentrated in the major parks—those that are 1,000 miles or more away from population centers. It would do nothing for closer-in parks that may be overrun this summer by energy conscious campers.

In my own State of Washington, for example, the North Cascades National Park is within relatively short driving distance of 8 million people—including many Canadians who do not have our gasoline problems. Yet no campground construction funds have been made available during the last 2 fiscal years. The result has been near chaos because a new cross-park highway is bringing in hundreds and thousands of additional visitors. No computerized reservation system can cope with such overwhelming demand.

I am, of course, working to see if additional funds can be found. The reason I am bringing this matter to my colleagues' attention is one we should all consider. The basic park problem—inadequate facilities—cannot be solved simply by developing a computerized reservations system.

JOHN J. BRUCE HONORED FOR PUBLIC SERVICE

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. GAYDOS. Mr. Speaker, it is with great pride I call the attention of my colleagues to a gentleman who is being honored by the citizens of his community after a lifetime of service in their behalf.

Mr. John J. Bruce has retired after 28 years as tax collector for South Park Township, a municipality in my 20th Congressional District of Pennsylvania, and he is to be feted at a testimonial on Sunday, March 31. However, that is just one of Mr. Bruce's numerous achievements. He is a man who has worn many hats in many areas of service, including civic, religious, education, government, athletics, and politics.

I would like to summarize some of his statistics over the past 46 years. Mr. Bruce was secretary to the South Park Board of Supervisors and School Board for 18 years, 1928–46; tax collector for 28 years; 1946–73; secretary to the Township School Authority for 23 years, 1950–73; Democratic Party chairman for a total of 18 years, from 1950 to 1962 and from 1964 to 1970, and Democratic vice chairman and financial secretary for 4 years, 1970–74.

In addition, Mr. Bruce found other ways to serve his community and his church. He is a past president of the Broughton Volunteer Fire Co. and an active member of the Broughton Veterans Service Association and the local Owls Club. He has been treasurer of the KSJK Lodge of St. Aloysius Society No. 95 for 50 years and is a faithful member of Nativity Parish where he served two terms on the church committee.

As a sports enthusiast, Mr. Bruce is former president of the Keystone Soccer League, manager and secretary of the Curry Soccer Association, and recording secretary of the West Penn Soccer League.

Mr. Bruce has been married for 48 years and he and his gracious wife, Ruth, have four children: three sons, John, Jr., Edward, and Charles, and a daughter, Ruth.

Mr. Speaker, I deem it an honor to join in the public tribute to Mr. John J. Bruce, a man who has nobly demonstrated his honesty, integrity, and love for his fellowmen.

COURT VACANCY NEEDS FILLING

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. DULSKI. Mr. Speaker, the untimely death of Federal Judge John O. Henderson was a great loss to the judiciary system as well as to his family and friends.

Justice in the western New York district's 17 counties is now approaching a crisis condition, with only two Federal judges for the normally heavy caseload. Prompt appointment of a successor is imperative, and I urge abandonment of political games so that a nominee can be expeditiously submitted and the vacancy filled. Simple justice requires action.

As part of my remarks, I am inserting two recent newspaper editorials on this subject.

[From the Buffalo Courier-Express, Feb. 26, 1974]

Get Moving on U.S. Judge Shortage Here

The fact that the 17-county Western District of New York State now has the services of but two federal judges is a situation which can only be regarded as critical. For Buffalo, the untimely death of Judge John O. Henderson meant that just one federal judge—John T. Curtin—remained to handle a very heavy caseload, including an estimated 250 cases pending from Judge Henderson's docket. (Judge Harold P. Burke has not been presiding in cases here.)

Even more distressing is the possibility that a successor to Judge Henderson might not be named for several months; that would be a grave disservice to the requirements of equal justice for all in this end of the state. Therefore it is essential that at least one appointment be made immediately for the federal bench here, and we urge area representatives and the state's two senators to press hard for a permanent selection to fill that seat.

Additionally, there is little question but that the 17-county district needs four federal judgeships. Although the U.S. Senate did not support creation of the fourth judgeship last year, Sens. Javits and Buckley have even-better arguments for it now and ought to mount another effort in the Senate to get it. We see no reason at all why this district should be short-changed in such an important matter.

[From the Buffalo Evening News, Feb. 26, 1974]

Act Fast on Court Vacancy

There has long been a pressing need to enlarge the federal bench in Western New York in order to keep up with the growing number and complexity of its cases—including those generated by the first and still one of the busiest of the special federal task forces probing organized crime. Now, however, far from getting a fourth federal judge, the 17-county Western district has suddenly been reduced to two judges with the unexpected death last week of Judge John Henderson of Buffalo.

This obviously creates a serious problem for the district and places a particularly heavy burden of added responsibility on the remaining Buffalo judge, John Curtin, since the district's other federal judge, Harold Burke of Rochester, has more than enough court work to keep him busy in that city.

In the circumstances one would expect the federal wheels to move speedily to appoint a successor to Judge Henderson. Yet political and judicial sources are predicting that the replacement process will take several months to complete.

Such a delay would clearly constitute a gross disservice to the administration of federal justice here—where cases were necessarily delayed or neglected even before Judge Henderson's death—and we urge Sens. Javits and Buckley to do everything in their power to advance the appointment of his successor.

By unwritten rule, agreement on a candidate by the two senators of the affected state is a prerequisite for appointment of a new federal judge. The worst fear, from the public viewpoint, must therefore be that the two senators, who are not exactly on the closest of terms though both are Republicans, might prove unable to agree on a successor.

It is true that the district can expect some temporary relief through the assignment of outside federal judges to handle some cases here, but that is strictly a stopgap solution. The only real answer to the present problem is the prompt appointment of a new judge.

Beyond that, Sens. Javits and Buckley would do well to renew last year's unsuccessful effort to create a fourth federal judgeship here. Of course, an even faster way of enlarging the district bench would simply be for Judge Burke—who is in his late 70s—to accept senior judge status; this would permit him to continue all his present work without loss of benefits, yet would automatically create another vacancy in the district. One by-product of such a step is that, with two court vacancies to fill between them, the two senators might find it a good deal easier to agree on whom to select than with just a single opening.

No one can doubt that the legal maxim—"justice delayed is justice denied"—applies just as much to federal courts as to state courts. Before the backlog of criminal and civil cases here gets any worse, Washington has an obligation to act expeditiously to fill the present court vacancy as a minimum step in meeting basic federal responsibilities.

BAN THE HANDGUN—XXIX

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. BINGHAM. Mr. Speaker, behind each senseless handgun murder there is an untold personal tragedy, as the following letter appearing in the "Advice" column of the March 8 edition of the Washington Post makes clear:

Advice—Ann Landers

Dear Ann Landers:

I've wanted to write this letter for months, but I just couldn't bring myself to do it. Now I must try. It's about your efforts to get some decent gun laws passed in this country.

My father bought a handgun when Mom filed for divorce. I was helping her pack to leave when my father walked in and shot her in the face. She died instantly. He then turned the gun on himself and blew his head off.

Two years ago, a dear friend of mine became depressed because she was afraid she might lose her job. She was a darling girl and no one who knew her suspected she was in such a state of depression. She bought a gun, drove to a wooded area and killed herself.

Now, the final blow. My husband became involved with a teen-age girl. He thought he had eased out of it, but last week she came to our home, pulled out a gun, and said she was going to kill him and then herself. He recovered the gun by lying, saying he really did love her and he'd find a way to marry her. The gun is now locked in the glove compartment of our car until we can decide what to do with it.

The people who are fighting gun laws don't realize that most bullet murders are performed by "friends" and relatives. If they didn't have guns they'd use their fists or a ball bat. Even a knife is a lot less dangerous than a gun.

Please, Ann, don't give up your fight—N.W.

Dear N.W.:

Don't worry, I won't. The problem is, what are we going to do about the *estimated 90* million guns that are loose now? I suggest the government pay a $10 bonus for every handgun turned in. Expensive? Of course, but well worth it. Think of the agony and grief that could be spared if we could get 50 or 60 million guns out of circulation.

LET US STOP TAXPAYER-FUNDED DEALS WITH RUSSIA

HON. JOHN B. CONLAN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. CONLAN. Mr. Speaker, I and other Members of Congress have expressed strong opposition to low-interest loans through the U.S. Export-Import Bank financing high-technology U.S. projects in the Soviet Union.

The General Accounting Office has just declared illegal procedures used to provide $255 million worth of taxpayer-funded low-interest credits for American exports to Russia. And we have just learned that a secret deal has been struck by several U.S. firms and the U.S. Export-Import Bank to finance two multibillion-dollar natural gas projects in Siberia.

There are reports that the Exim Bank has already tentatively agreed to provide an initial $500 million in credits for these two projects of Occidental Petroleum and a consortium of other U.S. companies, and for other trade deals. The natural gas projects in northeastern and western Siberia will need financing of around $12 billion.

Mr. Speaker, like many Americans I wonder why U.S. taxpayers should underwrite the sale of valuable American technology to the Soviet Union. Why should Americans pay to provide the Soviets their energy needs, steel and pipe mills, computers, auto and truck factories, atomic powerplants, and chemical complexes which fuel Soviet imperialist designs throughout the world?

Such loans in the past allowed U.S. firms to provide the Soviets with vital auto, truck, and engine technology, which needless to say they later used to provide Hanoi with trucks and tanks used against our troops in Vietnam. And now the Soviets are wooing us for everything from computer and communications technology to shipbuilding and aerospace.

Even if Occidental Petroleum and other companies go ahead with their multibillion-dollar investments in Siberia, there is still no guarantee the Soviets will allow Siberian natural gas to be liquefied and shipped to the United States, or that American citizens would get it at a fair price.

As we have learned from the Mideast oil embargo, these resources can be turned off no matter how much we have invested in their development, unless our foreign policy is tailored to suit the government controlling them—in the case of this natural gas, the Soviet Kremlin.

Congress should promptly stop loans and credits providing American technology to the Soviets, especially since the Communists have shown no willingness to provide freedom for Soviet citizens or turn away from aggressive goals worldwide.

Despite détente, the Soviet Union is still a major Communist force behind aggression in the Middle East and elsewhere. American companies helping Soviet technological innovation frozen amidst the vast Soviet paper-ridden bureaucracy are, in effect, feeding that aggression.

It is bad enough that the United States-Soviet wheat deal last year caused us such severe hardships at home. It is unconscionable, Mr. Speaker, that U.S. technology is being handed over to build up Soviet industrial and military might. Or that low-interest multibillion-dollar trade credits for that purpose are being underwritten by American taxpayers.

TRIBUTE TO HON. JULIA BUTLER HANSEN

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. EDWARDS of California. Mr. Speaker, I would like to join my colleagues in paying tribute to one of the finest Members of the House I have ever had the pleasure to work with. It was truly a sad day for me when I learned of the announced retirement of Congressperson JULIA BUTLER HANSEN.

Mrs. HANSEN has had a distinguished career of 37 years of public service. We, in the House of Representatives, know her as the first woman to serve on the House Committee on Appropriations and as the first woman to chair a subcommittee of that committee. However, her reknown went far beyond these honors. JULIA BUTLER HANSEN is an incredibly able and hardworking legislator, who won the admiration and respect of all her colleagues with her leadership capabilities. So outstanding was her work on the Democratic Committee on Organization, Study and Review, which instituted many important changes in some hallowed, but archaic House traditions, that the committee soon became known simply as the "Hansen committee."

I am especially indebted to Mrs. HANSEN for her unswerving cooperation in helping to establish the San Francisco Bay Wildlife Refuge. She gave her total support for this refuge, which helps protect many endangered birds and small animals that live in the South Bay of San Francisco, from the day the idea was conceived to the day of final passage into public law. This refuge is the only one in the United States near a large urban center, which enables many people to visit wildlife in its natural setting.

On behalf of my colleagues and the 3½ million people in the Bay area, I pay tribute to this great and courageous lady, who has served her district, the Nation, and this House with such complete dedication, skill and grace for so many years.

VERONICA HAUGE WINS CONNECTICUT VFW AWARD

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. McKINNEY. Mr. Speaker, as you know, each year the Veterans of Foreign Wars and its ladies auxiliaries sponsor a Voice of Democracy contest, an opportunity for our Nation's young people to comment on their heritage and offer a personal view on its special meaning.

This year's theme, "My Responsibility as a Citizen," allowed the youthful contestants to share with us their opinions not only on the rewards of democracy but its challenges.

I am proud to report to you, Mr. Speaker, that, of the thousands of Connecticut students who competed this year, the one who emerged victorious is a resident of the congressional district which I represent. She is Miss Veronica Kristi Hauge, the daughter of Mr. and Mrs. Olaf Hauge, of 48 West Parish Road, Westport. A student at Staples High School, she has long been involved in academic affairs, having served as American history club president; Latin club president; student government body staff assistant; treasurer, girls glee club; and English editor of the research publication, QED.

During her high school years, she has persistently maintained honor grades and been the recipient of a number of awards, including the Connecticut Women's Engineering Award for Math and Science; and a commendation from the National Merit Association.

In her award-winning essay, Mr. Speaker, she keys in on what I believe to be the very vitality of our Nation, and that is the responsibility of every citizen "to take an active, informed part in our Government" for, as she notes, "apathy" is the greatest danger to liberty and freedom at any level.

Mr. Speaker, I know you join with me in wishing Veronica well as she enters the final competition for the VFW national scholarship award. At this point in the RECORD, I include her incisive and award-winning essay and I commend her thoughts to my colleagues:

SCRIPT OF VERONICA HAUGE, 1973 VOICE OF DEMOCRACY WINNER, DEPARTMENT OF CONNECTICUT

I was born an American citizen, I was given this precious gift without even asking for it. People from all over the world have come to America seeking what I was given—to many others living today under communist tyranny, it is an unattainable ideal. To guard and preserve this precious gift is my first responsibility as an American citizen, to make sure I help America continue to be a great and strong democracy, truly "the light of the free world." What can I do, one person, to make sure this light is never put out?

Thomas Jefferson said that "eternal vigilance is the price of liberty." I, too, must be eternally vigilant of my duties, my responsibilities, my privileges as an American. Our Nation was founded upon the principles of liberty and justice for all, a justice to be administered without regard for color, race or creed. The founding fathers were honorable, decent men who believed in the simple values of thrift, hard work and justice, and who loved their country and wanted to make the United States of America the living proof of their ideals. It is up to me as a citizen to try to live up to these ideals in my daily life.

Being a good citizen begins at home, where respect for my parents and taking a willing share of my family responsibilities propares me for service in a larger world. It is a privilege to be part of a loving family, a privilege to be cherished. In the same way, joining in community organizations such as scouts or religious youth groups makes me, a young person, realize the importance of giving of myself to strengthen the community as a whole. At the high school level, I think it is very important for us to take an active part in student government and to encourage others to do so because in this way we learn a great deal about the give and take of our free democratic process. While at school, too, we must study the history of our country, our constitution and our political institutions and traditions. In this way we better understand the reasons we honor our flag, respect our president and remember the men who have died in so many wars fighting to protect our freedom and democratic way of life.

Now that we young people have the vote at 18, I think it is extremely important to register as soon as one is eligible, to be able to take an active, informed part in government at the local level A strong local Government is at the heart of the success of the American system; the stronger each rung of Government is, the stronger our Government will be at the top.

As I think about my responsibilities as a citizen and what my citizenship means to me, I wonder if the greatest danger we face today is not apathy—the feeling that an individual is powerless to affect the large impersonal forces that seem to threaten the world and our own country. I believe that this is the very opposite of what being an American stands for. I believe that by my own individual efforts I can and will influence the course of events, and help to make America an even stronger democracy for my children and my children's children to inherit and cherish in their turn.

As our bicentennial draws near, I echo the thoughts of President Kenedy and ask, "am I doing as much as I can for my country, or is my country doing more for me than I really deserve?" I know that my country has done more for me than I can ever hope to repay. Democracy, freedom, citizenship; on paper they are just words, but in my daily life and that of all Americans they are realities. Thus my responsibility as a citizen is my most important duty—to honor our country, our flag and our president, to remember the men who died fighting to preserve our liberty, to take an active part in our Government and to obey the law; by fulfilling my responsibilities as a citizen, I strengthen my country's place in the world so that the entire world may hear, in the words of Walt Whitman, "all America singing" and join in our song of freedom.

THE CITY SCHOOLS—A HANDICAP RACE

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. WHITEHURST. Mr. Speaker, Dr. Albert L. Ayars, superintendent of schools, Norfolk, Va., is a distinguished educator with many years of experience and considerable knowledge of the problems of city schools. With debate on H.R. 69 scheduled to begin on March 12, it seems to me that his article, which appeared in the February issue of the School Administrator, is particularly timely, and I am pleased to be able to share Dr. Ayar's thoughts with my colleagues.

Those of us who represent urban areas are keenly aware of the problems of city schools, and I commend Dr. Ayars for outlining some of the major issues confronting us so clearly and concisely.

The article follows:

The City Schools—A Handicap Race

(By Albert L. Ayars)

URBAN EDUCATION—A GROWING CRISIS

A national youth organization called "Up With People" has a theme song by the same name. The lyrics proclaim that, if we demonstrate honest concern for people, "there'll be a lot less people to worry about and a lot more people to care." Core city school systems all over America are experiencing the kind of population shifts and movements which leave them with "*more* people to worry about and fewer people to care."

The fate of cities and their schools and the children who attend them are intimately intertwined. Good schools mean healthy cities which can attract industry and people. And the quality of the schools is a reflection of the life in the community around them.

A number of trends and movements are observable in our cities nationwide which have significant impact on the quality of city life and education:

Middle class people are moving to the suburbs;

Business and industry are locating and/or moving to the outlying areas;

Poverty-stricken people replace the outgoing middle class;

Public assistance roles expand;

Problems of decay become more acute;

Property values tend to stagnate or shrink;

More people need services and fewer have the ability to pay for them; and

There are more people to generate problems, fewer to solve them.

As middle class people of all races move to the suburbs, they take with them a commodity more important than money—their leadership! They are typically replaced by people who lack the ability and interest to finance quality schools. Yet their children require an increasingly expensive kind of education to provide alternatives, options and choices to make up for environmental deficiencies.

THE GROWING FINANCIAL BURDEN

The challenge, obviously, is to equalize educational opportunities for city children and reverse city-damaging trends. The kind of education needed will cost more than is currently reachable on the legislative and tax levy horizons. The President's Commission on School Finance found that core city educational costs for doing what is done in schools away from the cities are 17% higher in grades 7–9 and 44% higher in grades 10–12. Providing the needed compensatory education for the cities' concentrations of handicapped, emotionally disturbed and learning disabled would reflect even greater percentage differentials. On top of these rising costs, the cities find overall school enrollment declining. This means less state financial aid.

Additionally, city school systems are encumbered with a number of specific kinds of costs factors created by their size and poverty levels.

School construction costs are higher in the cities. Single acre costs may reach as high as $200,000 and labor averages higher than in suburban areas. There is a greater need for new buildings in core cities, and urban concentrations of handicapped and disadvantaged students call for special programs requiring special facilities and equipment. Higher percentages of noncollege-bound students require greater efforts in providing alternate schools and other manual and experiential programs. Adding to city building costs are tensions, delays, legal encounters and the time of negotiators and arbitrators in securing sites, easements and authorizations.

Urban population concentrations and anonymity generate conditions demanding alarm systems, night lighting and watchmen. In addition there are added costs for security forces, hall monitors, social workers, ombudsmen and school-community workers.

With poverty goes additional need for attention to nutrition as an educational component. Not only are food service programs needed more in the cities; they're needed both at breakfast and lunch and, in some instances, at dinner time. High percentages of children cannot pay for these meals, which places an increased financial burden on the schools.

High absenteeism—both student and faculty—is another characterisic of city schools; and it is costly. Contributing to these costs are higher negotiated salary schedules, staffs predominantly at the top of the salary schedule and competition from the suburbs, causing boards to go along more readily with salary increases.

Urban schools are frequently called upon to assume added community responsibilities. In concentrated population centers, it is essential to keep young people occupied in the summer. Much of this responsibility falls to the schools, and costly summer programs are established to make up for environmental deficiencies.

Because of the large concentrations of poor Americans, many urban children entering normal school programs lack confidence, motivation, self-esteem and readiness. The education that should have taken place from birth to age five has not. When we consider that a child of five has achieved about 70% of his adult intellectual capacity, we become aware that early childhood education must not be neglected or there will be a greater and greater need for learning disability programs and making up for deficiencies, perhaps when it is too late.

By the same token, there is also a growing need for education programs for adults, such as basic education, occupational skills and family life education, which the cities must not neglect.

The need for special education for the disadvantaged and handicapped and the need for alternative schools and career and vocational education in the cities has been mentioned. It should be emphasized that there is a high positive correlation between achievement and socio-economic level. Thus, the concentration of the poor in the cities contributes in many ways to the need for special and alternative programs. A high percentage of city children don't go to college, but still must prepare for wholesome citizenship and family life, for making a living, and must receive help in finding a job. These costly responsibilities fall to the schools.

Other factors affecting rising urban school costs include increased city mobility both to and from and within the city; the need for in-service development programs for teachers in core city schools; and increased transportation costs brought about by integration, alternative schools, special learning centers and specialized programs.

Currently, the typical annual per-pupil difference in cost between educating children in the city and elsewhere is about $120.00. If we seriously believe it is important that core city children *be offered* educational programs which will truly *equalize* their opportunities with those of more fortunate boys and girls elsewhere, the cost (based on observance of programs which seem to be effective) is likely to be about 50% more.

One of the biggest challenges in American education today is to provide quality education in an integrated situation in our cities. If we don't, we may lose our system of public education and our way of life.

HANDICAPS NO WORK BARRIERS FOR EMPLOYEES OF TORCH

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. MINISH. Mr. Speaker, at a time when the bad news tends to crowd out the good news in our press, it is refreshing to find that tendency reversed by the inspirational story which follows.

It appeared under date of February 21 in the Worrall Publications which include the West Orange Chronicle, the Orange Transcript, the East Orange Record and the News-Record of Maplewood and South Orange.

Written by Marcy Levitch, it tells the story of one local firm in West Orange, N.J., under the leadership of a much-beloved American, Harold Russell, which has grown to national prominence by employing the severely handicapped in large numbers in good paying jobs.

Torch Products Corp. and its president, Mr. Russell, are constituents I proudly claim even though their good works now involve the welfare of some 600 employees in many other States besides New Jersey. But Marcy Levitch tells the story best and here it is:

Torch

(By Marcy Levitch)

The story of TORCH, a nationwide distribution type business, home based in West Orange, which employs only the handicapped, uniquely parallels the story of the life of its president, Harold Russell.

Russell, who lost his hands in a World War II training mishap, does not, however consider himself handicapped in any way, nor does anyone around him consider him so.

Volunteer chairman of the President's Committee on Employment of the Handicapped, Harold Russell become president of TORCH in August, 1972.

TORCH, now in its ninth year of operation, is situated on the entire second floor of the Cheers Building, Main Street, West Orange. Its beginnings were in Newark and later on Lakeside Avenue, West Orange.

Starting as a commercial enterprise in 1963 under another name and with 20 employees, the organization was purchased by a church and became, for a while, a distributor of rehabilitation funds, giving grants to the handicapped. The church sold it back to the business world and under the name of Brighter Homes, in 1963, the firm sold electric light bulbs, then, as now, strictly via telephone.

TORCH, as it is today, was created in 1968, changing its name to TORCH Products in 1970 and thus increasing its product variety to include other small household items.

Besides its West Orange home, TORCH has 26 outlets in a dozen states and employs close to 650 persons, all having a multitude of handicaps making it impossible for them to work at ordinary jobs.

All selling is done by telephone in sales offices or from the employee's home. Since the caller-salesperson cannot physically go out and deal with the public face to face, this electronic form of communication is ideal and not only works for the salesman, who never worked at a job before, but also is a rehabilitative feature that makes each TORCH employee a taxpayer rather than a receiver of tax monies.

Before coming to TORCH, for employment, workers were in sheltered workshops, institutions, confined to home and in most cases supported by welfare. TORCH made it possible for them to hold good paying self-supporting jobs. Take home pay is above the minimum wage and incentive bonuses are often added as earned.

Training is given in telephone selling as well as in packing and clerical work.

PRODUCTS AND SALES

Products sold by telephone consist of long life light bulbs in all sizes and colors, ironing board covers, toothbrushes and combs in combination packs. A special feature is a five year guarantee to replace an unsatisfactory product with no return being necessary.

A typical call from a TORCH salesperson might go something like this: The caller, because his handicap may effect his delivery and speech may not come through distinctly; may be a bit shakey of voice or sound nervous; but he is always courteous and taught to act "as a guest in your home." The salesman will introduce himself by giving his name and the name of the company. He will introduce his products, tell about the guarantee, tell costs and shipping charges if an order is forthcoming. Immediately after the order is taken, it is verified and rechecked for accuracy.

Selling by telephone is a peculiarly American technique and is rarely, if ever done in foreign lands. This is so because of the American characteristic of having care, patience and good will for his neighbor; of having a certain empathy for others, not found abroad. The pioneering spirit, perhaps, but this form of selling is rarely found outside our borders.

STAFF AND OPERATIONS

Besides president Russell, the TORCH executive staff includes an executive vice president, Michael Gabriel; a finance man, John Callery; an operations manager, Vincent Sodino, and a public relations man, Richard Harrison.

Of the physical plant itself, besides executive and clerical offices where data is compiled and orders processed, the main part of the floor is a packing plant. There workers fill orders and pack them for shipment.

One unifying element, bringing all branches of TORCH closer, is the Torchlighter, a four page bulletin-newspaper, published in West Orange under the editorship of Harrison. It gives news of all employees in all units throughout the country. It tells of success stories, gives encouragement and provides news of social and business happenings.

About six months ago, a program called JOB 70 had a graduation ceremony in the West Orange plant.

Under the direction of Sodino, the government sponsored program had run, for 18 months, a training school with faculty member of the West Orange school system, Len Gross, teaching academic subjects such as reading, math, spelling and psychology three hours, twice a week. Also taught were packing, key punch and clerical subjects. At classes' end, the program graduated six multiple-handicapped students. The program, unfortunately, will not be able to continue as it was a victim of the government's expense cutback.

How does TORCH get its employees? They come in many ways—through doctor's recommendations, from institutions and from ads placed in local papers. Persons who took home $6 a week or less in a sheltered workshop, now take home $60 or more as TORCH employees.

TORCH has opened a new life for many of its employees. There is Mike, who though blind, is an expert box folder and comes every day to West Orange from Jersey City to do his skilled job.

Joan, from West Orange, a young woman, afflicted with cerebral palsy, packs merchandise with efficiency and is happy as a lark doing a job and making money she never thought she had the capacity to earn.

THE BOSS

Inspiration for all employees of TORCH, from West Orange to the furthest plant in Houston, is its president, Harold Russell, a tall dignified cheerfully confident man, who has given the better part of his life to helping the physically and emotionally handicapped.

As chairman of the President's Committee, he travels extensively, always on the go, catching a plane to somewhere. He works to make life easier for those who have trouble getting along in a world which does not often accommodate their problems. Eliminating architectural barriers, finding conditions to ensure job success, encouraging the emotionally insecure, all these things in all states are part of his volunteer job.

Russell gained the national spotlight, as well as two Academy Awards, for his role in the post World War II motion picture, "The Best Years of Our Lives," in which he played the part of Homer Parrish, a handless sailor.

Russell's real life accident occurred while he was an Army sergeant and paratrooper instructor at Camp Mackall, North Carolina, on June 6, D-Day, 1944. A defective fuse cap unexpectedly set off an explosive charge he was holding. The following day his shattered hands were amputated three inches above the wrists.

Later he was transferred to Walter Reed Hospital, Washington, D.C., where he was fitted with artificial limbs. Through ceaseless practice, he became proficient in the use of his plier-like hooks.

While undergoing rehabilitation at Walter Reed, Russell was selected to make a 20-minute Signal Corps motion picture, "Diary of a Sergeant." Largely based on his accident, recovery and rehabilitation, the movie was widely used in rehabilitating amputees. This film came to the attention of Samuel Goldwyn and led to his motion picture role.

In 1949, Russell wrote an autobiographical book, "Victory in My Hands," which has been translated into 20 languages. It tells about his anguish during the long period of physical and psychological recovery after losing his hands.

Besides his voluntary commitments and presidency of TORCH, Russell, who after his movie making stint, graduated from Boston University's School of Business Administration, runs an insurance agency in Massachusetts, is a member of that state's Industrial Accident Rehabilitation Commission, the advisory council of Goodwill Industries, the People to People Committee for the Handicapped and is advisor to the Easter Seal Society.

His dedication to TORCH comes from his belief, which he expresses in a new book now in the writing; of the importance of hiring the handicapped. With this belief come the hard facts of breaking the "vicious circle" which these people find themselves being nonqualified, of having no self confidence, lacking initiative and a fear of confronting the public.

Russell understands the problems of the handicapped, has respect, admiration for, and the power to motivate them.

It is this power and belief that he carries with him from place to place, talking with those he feels need encouragement; to afflicted children and the elderly.

Through TORCH and its special selling technique, Russell feels that for the handicapped, the telephone is the ideal equalizer. It can bring all men together on one level, voice power; to communicate, to earn a living backed up by good products and service, making them useful, taxpaying members of society.

A HIGHER RESPONSIBILITY

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. SCHERLE. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

A HIGHER RESPONSIBILITY

Presently promenading piously through the plush paneled offices of the White House is a platoon of pompous pinheads. . . it must be possible for word to reach the President somehow that unless he casts out those on his staff who are unable or unwilling to toe the line of responsibility, grave consequences lie ahead.

Three years ago when we carried this warning in our February 3, 1971 newsletter, the question was overwhelmingly asked, "Who are these people?" Last week after a Federal grand jury indicted seven of the President's closest former aides—including Messrs. Ehrlichman and Haldeman, the infamous palace guard—the names became common knowledge. Through our published premonition, we tried to alert President Nixon and various political leaders to the inherent danger of political neophytes seizing power. Now this foreboding has taken on the visage of a nightmare come true.

After reviewing 20 months of testimony and stacks of documents, a weary grand jury indicted Haldeman, Ehrlichman and their associates of 45 acts of conspiracy and obstruction of justice. To date 29 people have been brought to a judicial reckoning for their Watergate involvement. With these indictments, accusations of a media and congressional conspiracy to "get" the President dissolved. It was clear that the Federal panel fostered no political bias and had scrupulously observed Judge Sirica's instructions to the jury and courtroom leaks were fastidiously plugged.

These formal charges mark a watershed in the year's political travesty. Much responsibility for this saga of scandals rests with those officials who were completely enraptured with membership in the inner sanctum of 1600 Pennsylvania Avenue. Their hunger for acceptance and fear of White House reprisals precluded speaking out against the permanently entrenched advisors. Political leaders, proven Ph. D.'s in their field, bowed to the demands of novices who failed elementary school politics.

Leaders from both in and out of Congress were routinely summoned to the White House where the Katzenjammer Kids would bark out marching orders and expect "good soldiers" to fall in line. "Tea and crumpets" were provided for the obedient, while those who challenged this autocracy fell victim to social ostracism and official displeasure. Anyone who refused to knuckle under was treated as a political liability, never to taste the forbidden fruit of the White House social whirl. Political and party leaders failed to maintain the courage of their convictions; few found the intestinal fortitude to say no. So dearly prized was the "ego trip" in the "White House limousine" that they completely ignored the precipice ahead. Any precinct worker could have cautioned against the arrogance and ineptitude of Nixon's aides. But party heads seemed blind to their blunders and deaf to the young turks and mavericks who rejected orders from the President's aides masquerading as politicians. By their silence, the leadership at all levels betrayed party stalwarts and diligent volunteers who relied on their guidance. But the fear of retribution was so overwhelming that political guardians refused to question the authority flaunted by the Chief Executive's subordinates.

The harsh judgment of history will view as political prostitutes those leaders mesmerized by a steady droning of CREEPism—Committee to Reelect the President. They compromised not only their own wisdom, but the entire future of American politics. Already the returns are pouring in from special elections. The voters' message is plain: they are disgusted by the havoc created from the failure of our leadership to take a position of integrity. That judgment could bring profound imbalance and division to our two-party system. Tremors in the state apparatus and membership ranks have become earthquakes in Washington, but party officials are still—inoperative—dredging up excuses, an attempt to explain away the unpleasant election results.

The indictment of White House assistants has come down, but the questions remain unanswered: why did so many stay silent until evidence showed the unmistakable destruction done to party and nation? Why was silence bought so cheaply? Was leadership so shallow that it valued captive acceptance above principle?

Particularly galling are party leaders who have suddenly joined the vogue of Monday-morning quarterbacks—the "I-told-you-so" crowd. Their newly found courage insults colleagues who spoke out years ago. Now, a quiet guilt has stolen over those who know they might have been able to forestall national calamity. Officials, who now blithely denounce Watergate culprits, must answer for this national disgrace. They abrogated their duty of political fidelity to become players on a team where the coaches were suspect and totally inexperienced. Now the game is over. To the leadership which now asks, "Who are these people?" we reply, if the shoe fits, wear it.

THE WAR IN SOUTHEAST ASIA, JANE FONDA AND TOM HAYDEN, AND THE ATTEMPTS TO STOP CRITICISM OF AMERICA'S CONTINUING INVOLVEMENT

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. DELLUMS. Mr. Speaker, the war in Indochina is not over.

Last year alone, more Vietnamese died than total American fatalities from 1963 on.

Last year, American taxpayers handed over billions of their dollars to corrupt, authoritarian and repressive regimes in Saigon, Cambodia, Laos, and Thailand.

Last year, Americans supported thousands of our troops stationed in Southeast Asia, at a cost of even more billions in tax dollars.

Yes, there may be a peace agreement—and, yes, American troops are no longer officially engaged in combat in Vietnam—but there is no peace today in Southeast Asia.

It took Congress 8 years to recover from the Tonkin Gulf Resolution. Now, how long will it take for us to finally halt all our funding of current war efforts waged by petty dictators like Thieu and his friends?

Yet, if we listen to Nixon, Kissinger and their cohorts, all we would hear is that this Nation achieved "peace with honor," that our POW's are home, and that American aid to Southeast Asia is imperative to combat the Red menace.

Nonsense.

Instead, it is continuing American adventurism that perpetuates "leaders" such as Thieu, and as long as American taxpayers are willing to let Thieu and his friends continue their ironhanded rule over South Vietnam, there never will be real peace to that beleaguered nation.

And the onus is on Congress for action.

When Congress finally prevented further U.S. military operations in Indochina, that action came after millions of citizens—individually and in groups—organized to tell us to "get out and stay out."

Now, that same pressure is building again.

Taxpayers are finally becoming aware that they may be asked this year—and next year and the year after that and the year after that and so on—to give dictators like Thieu up to $5 billion for his army and other activities.

Taxpayers are finally becoming aware that they are supporting a government in South Vietnam that is jailing an estimated 200,000 political prisoners—a total greater than all other countries' aggregate of political prisoners put together.

Taxpayers are finally becoming aware that their dollars are allowing the Saigon regime to break peace agreement terms over and over again.

One main source of this information for citizens is the Indochina Peace Campaign, a national organization with headquarters in Santa Monica, Calif. IPC was established last year as a coordinated grassroot network of citizens committed to stopping finally all U.S. intervention in Indochina, and has as goals these objectives:

First, demand that the 1973 Paris agreement be implemented;

Second, create friendship and understanding with the Indochinese people through medical aid to Indochina and other cultural programs;

Third, broaden and unite the antiwar movement, supporting amnesty and the rights of all Americans facing repression because of opposition to the war; and

Fourth, agitate around the Watergate crisis to wrench policymaking for Indochina out of the hands of the Executive.

I strongly support objectives and goals of the Indochina Peace Campaign and I have offered my services to assist them in these endeavors.

During the month of February, two IPC national staff members—Jane Fonda and Tom Hayden—were in Washington to meet firsthand with Members of Congress and discuss issues relating to current American involvement in Southeast Asia.

In the month they were here, Fonda and Hayden met with nearly 50 Representatives and Senators, usually members of specific committees which either deal with American military and foreign assistance programs or which oversee these programs.

Before Fonda and Hayden came to Washington, I introduced H.R. 12156, a bill which would halt American funding of Thieu and which is based on the "Indochina peace pledge" developed by peace groups including the American Friends Service Committee, the coalition to stop funding the war and the Indochina Peace Campaign. Information concerning H.R. 12156 can be found in the Congressional Record for February 4, 1974, on page 2032.

As part of the agenda for Fonda and Hayden during their month in Washington, I arranged for a legislative staff seminar to be conducted after working hours and to concentrate upon H.R. 12156 and other related measures.

For the record, this seminar was held in six sessions, in rooms supplied by two committees. Approximately 65 staff members attended seminar sessions; offices represented were from both Democratic and Republican Members, from philosophies ranging from conservative to progressive.

In all regards, these seminars constituted a completely legitimate utilization both of staff time and of the rooms involved. Hundreds of similar seminars—or meetings—take place in House office buildings each month.

Now, however, some remaining few supporters of our corrupt adventurism in Southeast Asia have decided to "exploit" these seminars in what I would term a last-gasp effort to deny the expressed will of the American people that we stay out of Indochina.

One national news magazine, after talking over 30 minutes with a member of my staff, invented the absured notion that Fonda and Hayden were teaching a tax-subsidized "class on American imperialism" to congressional aides.

That allegation is absolutely false.

Let me cite these factors:

First. There are no restrictions on the use of rooms as long as they are not employed for commercial reasons. Or, put another way, rooms in these buildings are here for legitimate legislative functions. These seminars dealt with proposals such as H.R. 12156 before this Congress. The subject of "American imperialism" exists only in the mind of the writer of the news magazine article.

Second. At the same time as these seminars were being held, other rooms in these buildings were used by oil companies, various military organizations, and antiabortion lobbyists among other groups. While I do not agree with political stands taken by those groups, I would never try and deny them the use of rooms for any valid legislative purpose.

Third. I would term any attempt to stop advocates such as Fonda and Hayden from meeting either with Members or their staffs anywhere in these buildings as a gross infringement of first amendment rights.

Fourth. Finally, any attempts to limit the use of rooms to persons with a specific political outlook would be absolute violations of the rights of citizens to petition Congress for a redress of grievances. Let me put this final point in perspective:

In January 1968, members of the Jeannette Rankin Brigade attempted to present Members of Congress a petition of redress based on opposition to American policies in Southeast Asia. They were prevented from carrying out their peaceful demonstration, and in a significant 1972 district court decision, the court held that such a prohibition "to be irretrievably in conflict with the Bill of Rights."

In 1969, when a group of Quakers attempted to read the names of American war dead in Vietnam on the Capitol steps, they were arrested and dragged away. Their arrests were later found to be in violation of the first amendment and were thrown out of court.

Three years ago, police made mass arrests of over a thousand citizens who had come to the Capitol to present Representatives with another petition of redress—in this case, the "Peoples Peace Treaty." Those arrests took place while Members of Congress were addressing the group. After a prolonged jury trial, the defendants were all found not guilty of trespassing upon the Capitol Grounds.

In 1972, while congressional aides were reading the names of both American and Indochinese war dead—and during a memorial service conducted in honor of all war casualties—the White House sent its "plumber" thugs to the Capitol steps to attempt to break up this peaceful gathering.

Now, the same old crowd of administration supporters and their fringe fanatics want to chastise Members and their staffs who met with Jane Fonda and Tom Hayden, or participated in the legislative seminar.

The tactic is a familiar one. Focus attention on a minuscule matter so as to obscure the main issue. For it is obvious that the issue is not Jane Fonda or Tom Hayden. And what the issue really is, is the fact that America today continues to support an immoral and insane war in Indochina.

If there is a question of illegitimacy here, let us be clear and realize that what is wrong is the discredited policies and philosophies that morally and economically disrupted this Nation for over a decade. And no matter how hard the proponents of those tired old cliches and ideas try to cloud over the real issue, they will fail as they have failed in the past and as they will fail in the future.

SCIENTIFIC FRONTIERS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. TEAGUE. Mr. Speaker, as the Skylab program draws to a successful close, it seems important to reflect on the contributions to new knowledge and Earth applications that this great program is making. A recent article in the Christian Science Monitor by David F. Salisbury describes a number of significant contributions that the Skylab program is already making. I encourage my colleagues and the general public to read Mr. Salisbury's article:

[From the Christian Science Monitor, Nov. 1, 1973]

SCIENTIFIC FRONTIERS

(By David F. Salisbury)

JOHNSON SPACE CENTER, TEX.—Strange holes in the sun's corona that affect earth's weather.

Futuristic metals that might help save energy on earth.

These are part of Skylab's world. A world where the final astronaut crew has begun its 2½-month stay in space—without the major problems that plagued the first Skylab crews.

As Astronauts Gerald Carr, Edward Gibson, and William Pogue floated back and forth, flipping switches to turn the lab back on, they found it in virtually the same condition as the second crew left it 54 days before.

REENERGIZING EQUIPMENT

Now the astronauts are beginning to warm up their scientific instruments. With the experience of past missions to draw upon, these astronauts hope to amass as much scientific information as possible from Skylab before it is abandoned.

[Meanwhile, space officials say that if a malfunctioning space station cooling system cannot be repaired, the astronauts' planned record flight might have to be cut short, reports the Associated Press.]

What Commander Carr has described as a special bonus is the chance to take pictures of the comet Kohoutek as it arcs across the sky. The comet will be visible from earth, and at its brightest will outshine all the stars in the sky. Some astronomers are predicting it will be brighter than the moon.

A number of new experiments have been added, ranging from growing rice seeds to seeing how waves move in a liquid without gravity. But most of the astronauts' time will be spent in experiments similar to those on the two previous missions.

Solar physicist Edward Gibson will be trying to discover more about holes in the sun's outer atmosphere that affect weather on earth. These holes—first discovered by Skylab—are the source of solar wind, a stream of charged particles blown outward from the sun.

AID TO WEATHER FORECASTS

By determining the positions of these coronal holes it is possible to predict periods of increased storm activity in the Northern Hemisphere, says Dr. Goetz K. Oertel, chief of solar physics for the U.S. National Aeronautics and Space Administration. Exactly how the sun's activity affects the weather is not known, except that it affects the earth's magnetic field which in turn influences atmospheric conditions.

Magnetic fields twisted in unbelievable ways, loops of fiery gases, eruptions with enough force to power the world for thousands of years, these are all part of the picture of the sun that the new astronauts will see on their consoles and record on film for earth-bound scientists. A third more solar observations are scheduled for this mission than were completed on the previous one.

In a small furnace, the astronauts will grow crystals and manufacture materials impossible to make on earth. Already samples from similar experiments done on the second mission are being studied.

On earth, molten liquids with different weights separate and will not combine. But on Skylab, with no gravity, exotic materials can be produced.

NEW MATERIAL TESTED

One such material already successfully formed and returned may be a superconductor. This is a substance that, when cooled to very low temperatures, will carry large amounts of electric current with almost no loss.

The major obstacle in making superconducting power lines a reality today is the difficulty of keeping them cool. If predictions are correct, the space-fabricating material will be superconducting at a higher temperature than other known materials, says Dr. Ernest Stuhlinger of Marshal Space Flight Center in Huntsville, Ala.

A crystal (of germanium-selenium) was grown on the first try in Skylab 10 times larger than can be grown on the ground. From this kind of crystal markedly more powerful and reliable electronic devices—from stereos to computers—could be made, scientists believe.

"SCENERY" A PRIME TARGET

Turning toward earth, Skylab's crew expects to spend as much time taking pictures of the scenery speeding below them as was spent during the first two missions combined.

In addition, the space agency has come up with a new experiment. Astronauts are going to see how much detail they can pick out with the naked eye.

Locating mineral resources, recording urban sprawl, counting agricultural and forest lands are several prime uses for satellite monitoring being explored by Skylab.

11500 BANANAS ON PIKE'S PEAK

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. HOSMER. Mr. Speaker, Under Secretary of the Interior John C. Whitaker says "enactment of H.R. 11500 would result in serious losses in coal supplies." You can bet your bottom dollar that Whitaker knows what he is talking about.

We do not need an environmental straitjacket like H.R. 11500. We need a surface coal mining bill which regulates a respect for the environment equally with other values, not exclusive of them.

Why, in the face of the current fuel shortages moving to incur serious losses in coal supplies, H.R. 11500 makes about as much sense as trying to grow bananas on Pike's Peak.

RESPONSES TO ENERGY INDUSTRY ADVERTISING CAMPAIGN

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. ROSENTHAL. Mr. Speaker, 16 colleagues have joined me today in writing to each of the Nation's 7,000 radio and television broadcasters to give those with divergent views an opportunity to respond to the multimillion-dollar advertising campaign being waged by the energy industry.

The Members of Congress are:

Senator James S. Abourezk, Senator Frank Moss, Bella Abzug, Brock Adams, Herman Badillo, George E. Brown, John Conyers, and Ronald V. Dellums.

Robert F. Drinan, Don Edwards, Michael Harrington, Henry Helstoski, Edward I. Koch, Joe Moakley, and Patricia Schroeder.

Joining us are five consumer and environmental groups. They are: Public Interest Communications, Inc.; Media Access Project, Inc.; Environmental Policy Center; Environmental Action Foundation and Consumer Federation of America.

We are asking the broadcasters to exercise their responsibility under the Federal Communications Commission's "fairness doctrine" to assure all sides of this controversial story are told.

This is particularly important in light of the industry's switch in advertising from product promotion to political advocacy aimed at convincing the public that oil companies are not responsible for the energy crisis.

The average consumer simply has not been afforded an equal opportunity to hear the other side. We must combat the gross imbalance created by the industry's energy advertising blitz if the public is to make intelligent and well-informed decisions about the current situation and future energy policy.

This appeal to the Nation's media is a follow-up to a petition five Representatives and Senators sent in January to the Federal Trade Commission asking that energy companies be required to substantiate their environmental and energy-related ads. The FTC has not yet responded to that petition. The two efforts are complementary and not in conflict.

We are asking the broadcast media to allow consumer and environmentist groups and others with divergent views on the energy crisis to utilize the most effective format possible, the short 30- or 60-second spot announcement during prime viewing time which has been used so heavily by the energy industry.

The Supreme Court has held that the "fairness doctrine" is designed to protect the paramount first amendment rights of viewers and listeners to be exposed to all sides of important public controversies. By providing public service air time for the spot announcements produced by organizations like Public Interest Communications—which we will be showing in a few moments—the broadcasters will not only be fulfilling their essential legal and constitutional obligation, but they also will be proving that broadcasters can truly serve the public interest.

Public Interest Communications is a media resource center which has produced several radio and television spots giving the consumer view of the energy crisis. These spots are to be made available for use by both local and national citizens groups who are seeking access to challenge oil companies advertising. Samples were shown at the press conference.

I am inserting in the Record at this point a copy of the letter we are sending to the 7,000 radio and television broadcasters plus the heads of the three major networks:

House of Representatives,
Washington, D.C., March 11, 1974.

Dear Broadcaster: The major oil companies are spending millions of advertising dollars to broadcast their views on "The Energy Crisis." We are appealing to the nation's broadcasters to exercise their responsibility under the "Fairness Doctrine" of the Federal Communications Act to assure that the public is fully and fairly exposed to all sides of the energy crisis controversy.

The Federal Communications Act requires that broadcasters present all divergent responsible viewpoints on controversial issues of public importance. Achieving this balance is especially crucial now, in light of the heavy volume of oil industry advertising which advocates a partisan position.

As energy industry advertising has turned from product promotion to political advocacy aimed at influencing public opinion, the citizen has not been afforded a fair opportunity to present the other side. We believe that adequate access for consumers, environmentalists, labor groups, and all concerned citizens is essential if the public is to make intelligent and well-informed decisions about the energy crisis and future energy policy. The ability of all segments of the national community to communicate their viewpoints on important public issues is fundamental to the workings of a democracy and is assured to all by the First Amendment. It is equally important that citizens have the right to communicate in the most effective format possible, the format that has been utilized so heavily by the oil industry: the short 30- or 60-secondspot announcement broadcast during prime viewing time.

We endorse the efforts of groups like Public Interest Communications who are endeavoring to make media resources and materials available to groups holding divergent views of the energy situation. We urge your cooperation with their efforts and with the efforts of many other citizen groups seeking access on both a local and national level.

The Supreme Court has held that the "Fairness Doctrine" is designed to protect the paramount First Amendment rights of viewers and listeners to be exposed to all sides of important public controversies. By providing public service air time for the spot announcements produced by organizations like Public Interest Communications, you will not only be fulfilling your essential legal and constitutional obligation, but you will also be proving that broadcasters can truly serve the public interest. You have a special opportunity, and a special responsibility, to provide access to the public air waves for citizens to participate in this crucial national debate. We hope you will respond favorably to their petition for public service air time.

Joining the Members of Congress sending this letter are Public Interest Communications, Inc.; Media Access Project, Inc.; Environmental Policy Center; Environmental Action Foundation, and Consumer Federation of America.

Sincerely,
Benjamin S. Rothenthal, M.C.

Other Members of Congress signing are: Bella Abzug, M.C.; Brock Adams, M.C.; Herman Badillo, M.C.; George E. Brown, Jr., M.C.; Ronald V. Dellums, M.C.; Robert F. Drinan, M.C.; Don Edwards, M.C.; Michael Harrington, M.C.; Henry Helstoski, M.C.; Elizabeth Holtzman, M.C.; Edward I. Koch, M.C.; Joe Moakley, M.C.; Patricia Schroeder, M.C.; John Conyers, Jr., M.C.; James G. Abourezk, U.S.S.; and Frank Moss, U.S.S.

CASE FOR A FEDERAL OIL AND GAS CORPORATION—NO. 8

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. HARRINGTON. Mr. Speaker, other than the United States, there is no major industrial nation in the world that leaves the entire handling of petroleum and petroleum products to privately owned corporations, where management must be responsive to stockholder priorities rather than national priorities.

Reserves held by the American Government, such as those in Elk Hills in California and Teapot Dome in Wyoming, illustrate this Nation's acceptance of the proposition that it is necessary to maintain petroleum reserves for military defense purposes. The Arab oil embargo has underlined our need to go even further, and prepare for emergencies which are not primarily of a military nature.

I have introduced legislation proposing to set up a Federal Oil and Gas Corporation. The Corporation would enter the producing segment of the petroleum industry and would thus have available oil and natural gas reserves capable of meeting shortages or emergencies this country might face.

The Corporation's ability to provide reserves of petroleum would decrease our dependence on foreign oil producers. For example, even though a relatively small amount of our total needs are now met by Arab oil, it is evident that to further increase this dependency in the absence of national reserves, would be foolhardy.

While we need emergency reserves, we should not encourage private corporations to hold back production in order to meet possible future needs, because they might reap windfall profits in doing so.

JULIA BUTLER HANSEN

HON. LLOYD MEEDS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. MEEDS. Mr. Speaker, I wish to insert at this point a profile of the Congresswoman which appeared in one of the newspapers of her district:

[From the Daily (Wash.) Olympian, Feb. 7, 1974]

THEY KNEW JULIA WAS THERE

(By John E. Simonds)

WASHINGTON.—Rep. Julia Butler Hansen, D-Wash., who said Wednesday she will quit Congress at the end of the year, controls the pursestrings of a $2.5 billion Interior Department budget with a grip that makes her one of the most powerful people in the Capitol.

Since 1967 Mrs. Hansen, a tough-talking veteran of the Northwest's lumberjack style of politics, has been chairman—not chairwoman or chairperson, but chairman—of the House Appropriations subcommittee on Interior and related agencies.

When it comes to money, the House has a lot more to say than the Senate, and even though Mrs. Hansen's name is not a household word, everyone with an interest in forests, conservation, oil and gas, fishing, Indians, water, coal, land use and natural resources of any kind knows who she is.

A giant of a man like Rogers C. B. Morton, Secretary of the Interior and a former House colleague, has to tiptoe up to Mrs. Hansen's subcommittee hearings, hat in hand, to petition "Madam Chairman" for his department's annual appropriations. And even the State of Washington's two power-heavy U.S. senators, Warren G. Magnuson and Henry M. Jackson, know where their home state reclamation and power projects get their money and try to be nice to "Julie," as they call her.

The committee she heads spends money in a lot of other areas ranging from the Smithsonian Institution to the Trust Territory of the Pacific, known as Micronesia. Mrs. Hansen's committee has something to do with almost everything in between Alaska and American Samoa and it keeps her busy.

Now, at 66, Mrs. Hansen, a woman with blue eyes, rosyroughed cheeks and short gray hair, is giving it all up to go back home to the little town of Cathlamet to live in a quiet country house overlooking the banks of the Columbia River.

She is the 19th member of Congress to announce in recent months that this will be their last term. Most, however, have been Republicans facing the burdens of running on the Nixon record. For Mrs. Hansen, a partisan old-fashioned Democrat, there were no such problems.

"I am a Westerner, and I want to return to the West. At the end of the year, when my term expires, I shall return to my home, with my husband, to write, garden, do as I please, hang up the telephone or take the damn telephone off the hook," Mrs. Hansen said in her formal announcement.

"And when people I don't know appear at my door and walk in without knocking, I'll have the great opportunity of telling them it is my private home," she said, adding later, "thirty-seven years is a long time to be pursued by an endless string of people who want everything from post offices to gasoline."

Unlike many tough committee chairmen who have gained influence in this city, Mrs. Hansen often used her power as a force for spending more money than the agencies wanted. She has continually railed at and badgered the Forestry Service, which is part of the Agriculture Department but still under her jurisdiction, for not spending enough on reforesting the burned-out woodlands it manages.

This year's budget is going to be no exception. Mrs. Hansen told a meeting of Washington State members, of whom she is the dean in House service, that she was going out fighting for another $150 million in the Forest Service budget.

Mrs. Hansen gives most of the bureaucrats coming before her subcommittee a bit of a going-over with her raspy Western twang, often following with a hoarse cackle at their discomfiture. But the people who work for the programs under her control have usually found themselves getting more help from her than from the White House Office of Management and the Budget, which in recent years has found ways to impound those appropriations.

Even the relatively obscure U.S. territories of the Pacific have gotten help from Mrs. Hansen when they needed it. She sees to it that the local legislators who come dressed in their native island garb to her hearings get as much chance to talk as the appointed officials from the mainland. A favorite target for her skepticism has been Gov. John M. Haydon of American Samoa, a controversial administrator, who also happened to be active in Seattle Republican politics before he went to the South Seas.

"I am probably one of the few people who didn't really ever want to come to Congress," said Mrs. Hansen, who had hinted often in recent months that she was growing weary of the grind here.

Her 37-year career began when she was elected to the Cathlamet City Council, the first woman ever to serve on it. A year later she was elected to the state legislature, where she served for 22 years until she was elected to Congress in 1960. She moved quickly up the seniority ladder, becoming the first woman member on the Democratic side of the House Appropriations Committee, and then in 1967 the first woman to become a subcommittee chairman.

Although the seniority system helped to advance her fortunes here, she was to become a leader of the effort to do away with it. She was chairman of the "Democratic Committee on Organization, Study and Review" in 1970 which recommended sweeping changes designed to dilute the concentration of House power that had accumulated in the hands of a few senior members with multiple chairmanships.

This was a blow right at the roots of power here, but hardly anyone uttered a public whimper about it. If it wasn't Chairman Julia's sharp tongue they feared, it may have been her sharp pencil going over the appropriations for those choice projects back home in their districts.

Mrs. Hansen understands public life even if she only got into it by accident. Her father was the sheriff of Wahkiakum County, and her mother, Maude Butler, was a county school superintendent as well as a talented artist whose watercolors cover one wall of the congresswoman's office here. Mrs. Hansen's husband, Henry, is a retired logger. They have a son and a new granddaughter.

"I am delighted," she said, "at the prospect of being Mrs. Julia Hansen again—Citizen of the U.S.A."

CIBOLO—A VITAL WATER PROJECT

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. GONZALEZ. Mr. Speaker, life as we know it depends on water. A human being is composed of, among other things, a large amount of water. He cannot survive more than a relatively few hours if he is deprived of water, or if his water is contaminated with salt or high levels of bacteria or noxious chemicals. Those who do not depend on rainfall for earning a living may not have a full appreciation of the importance of water, but historians like the great Walter Prescott Webb know that the shape and development of society itself may be influenced by water, or the lack of it.

My home city of San Antonio depends on underground water for its entire water supply. This is remarkably pure water—so pure that San Antonio has no plant for water purification. But no one really knows how much water there is in our underground reservoir, or how much can safely be taken out. We only know that some day San Antonio, like every other major city, must develop a surface water supply.

The Cibolo project has been initiated to provide the first stage of San Antonio's future surface water supply system. It is absolutely vital that this reservoir be built. For years, this project proposal has been under study by the State, Federal and local agencies concerned. They have concluded that it is a sound proposal and ought to be constructed. Congress is now considering legislation that would authorize Federal participation in the building of this reservoir.

If the Cibolo project is built to the optimum design, it will provide not just water supply but also flood protection, conservation, and recreation resources for the area it serves. But State and local sponsors of this project are faced with a severe dilemma: if there are significant delays in getting Federal funds for the project, its costs might get to the point that it would be less expensive for them to go ahead and pay for the whole thing themselves. The Federal design scheme provides for the best possible development; but these advantages cost money, and construction costs and inflation effects add every year to the amounts that State and local sponsors would have to pay; undue delays might in fact make it advantageous for these agencies simply to go ahead on their own and build a simple reservoir using 100 percent State and local funds.

Congress can help insure that this project is built to the highest possible standard by acting quickly to obtain authorization and funds for construction. But keeping the partnership will also require administrative cooperation. If Congress were to provide authorization and funding immediately, the project could still be jeopardized by slow administrative action.

There is no question that San Antonio urgently needs a surface water source. Such a source ought to be built before 1980, and Cibolo is the logical candidate. It is a vital project, in every sense of the word. I hope that, when the time comes for the House to authorize the Cibolo project, it will do so promptly. I and other sponsors of this project believe that your support is warranted and, speaking for myself, I believe it is urgently required.

PRAISE FOR DR. KING

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. DE LUGO. Mr. Speaker, I wish to share with my colleagues a letter published in the St. Croix Avis.

In this correspondence, Mr. Ulric Benjamin praises the efforts of Dr. Randall James in producing a radio program memorializing Dr. Martin Luther King, Jr. Dr. James creatively and effectively used the words of Virgin Islands students to describe memories, impressions, and effects of Dr. King's life.

But the radio program and this letter do more than just honor the memory of one of our greatest leaders; they recreate his message and purpose. In a world that is still not free of prejudice and fear, these are words worthy of our renewed attention.

Mr. Benjamin's letter follows:

[From the St. Croix (V.I.) Avis, Jan. 2, 1974]

MR. BENJAMIN'S LETTER

To the Editor:

Let us acknowledge and disseminate to our communities, the nation and perhaps the world the pride we share for the participants and their producer of that colorful radio program over WSTX Jan. 15 in Tribute to Martin Luther King. Indeed, the impression left by the participants revealed the extent to which their lives are affected by this great figure of the 20th Century, who dared to dream dreams that can and should be fulfilled.

The caustic acts of violence by the few of this community have reached the peoples of the nation and the world leaving a taint on the image of a beautiful people.

We are indeed indebted to Dr. Randall James, the producer and catalyst of the show, who provided the students of our schools, touched by the life of Dr. King, an opportunity to express themselves in their own manner, and here to this community their views of this great leader.

You can all be truly proud of the program presented in tribute to Dr. Martin Luther King. It was a performance of the highest quality. This tribute to Dr. King, the great national Black giant of the 20th Century, emblazes on the record of our history a mark of distinguished attainment for our students and for the schools responsible for their development.

Let all know that our students have proven by their insight of the purpose of Martin Luther King that we too as a people do appreciate and recognized the contributions of all our neighbors, near or far, black or white, native or non-native, Crucian, alien or mainlander. Yes, we are proud, gifted, some black, some white, but all a community of human beings with aspirations and convictions and the belief that all men are created equal and endowed with inalienable rights of life, liberty and the pursuit of happiness.

If we are to continue to succeed, then we must walk hand in hand no matter what our station in life, with the conviction to right wrong and to change this community in light of the vision of this great leader Martin Luther King. Only in this way can our community reflect the image we envision for it, to be recognized as the American Paradise of the West Indies.

Congratulations to the manager of WSTX, Dr. James the producer, and all the students of the Virgin Islands. The program was delightful, inspirational and merits our eternal gratitude and appreciation.

ULRIC E. BENJAMIN.

SOME HELPFUL HINTS TO SENIOR CITIZENS ON THEIR INCOME TAXES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. KEMP. Mr. Speaker, I have long been concerned that our society spends far too little time in helping our more senior citizens help themselves.

We have a special obligation to our senior citizens, for they have been at the task of helping to build this great Nation of ours for far longer than most. They want no handouts. But, often they need a hand—they want to know how to get through the maze of redtape which too often confronts them. Anything I can do to help them, I will. I am committed to that.

April 15, is close approaching—the day for the final filing of our Federal income tax statements for calendar year 1973. Few things, if any, could be more helpful to our senior citizens at such a time, therefore, than hints on how to take the maximum benefits allowed them under law on their income taxes.

For the benefit of our senior citizens, I offer some important suggestions on things to look for in computing their taxes:

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses are deductible to the extent that they exceed 3% of a taxpayer's adjusted gross income (line 15, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 15, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expense (subject to 3% limitation):

Abdominal supports.

Ambulance hire.

Anesthetist.

Arch supports.

Artificial limbs and teeth.

Back supports.

Braces.

Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.

Cardiographs.

Chiropodist.

Chiropractor.

Christian science practitioner, authorized.

Convalescent home (for medical treatment only).

Crutches.

Dental services (e.g., cleaning teeth, X-rays, filling teeth).

Dentures.

Dermatologist.

Eyeglasses.

Gynecologist.

Hearing aids and batteries.

Hospital expenses.

Insulin treatment.

Invalid chair.

Lab tests.

Lip reading lessons (designed to overcome a handicap).

Neurologist.

Nursing services (for medical care).

Ophthalmologist.

Optician.

Optometrist.

Oral surgery.

Osteopath, licensed.

Pediatrician.

Physical examinations.

Physician.

Physiotherapist.

Podiatrist.

Psychiatrist.

Psychoanalyst.

Psychologist.

Psychotherapy.

Radium therapy.

Sacroiliac belt.

Seeing-eye dog and maintenance.

Splints.

Supplementary Medical Insurance (Part B) under Medicare.

Surgeon.

Transportation expenses for medical purposes (6¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.).

Vaccines.

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).

Wheelchairs.

Whirlpool baths for medical purposes.

X-rays.

TAXES

Real estate.

State and local gasoline.

General sales.

State and local income.

Personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of 5 classes of items: automobiles, airplanes, boats, mobile homes and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security or Railroad Retirement Annuities).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, state or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g. clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 6¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g. postage, stationary, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.

Auto loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges or loan fees, credit investigation reports. If classified as service charge, may still deduct 6 percent of the average monthly balance (average monthly balance equals the total of the unpaid balance for all 12 months, divided by 12) limited to the portion of the total fee or service charge allocable to the year.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g. VA loan points are service charges and are not deductible as interest.) Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge acocunts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

CASUALTY OR THEFT LOSSES

Casualty (e.g. tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusinesses property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

CHILD AND DISABLED DEPENDENT CARE EXPENSES

The deduction for child dependent care expenses for employment related purposes has been expanded substantially. Now a taxpayer who maintains a household may claim a deduction for employment-related expenses incurred in obtaining care for a (1) dependent who is under 15, (2) physicaly or mentally disabled dependent, or (3) disabled spouse. The maximum allowable deduction is $400 a month ($4,800 a year). As a general rule, employment-related expenses are deductible only if incurred for services for a qualifying individual in the taxpayer's household. However, an exception exists for child care expenses (as distinguished from a disabled dependent or a disabled spouse). In this case, expenses outside the household (e.g., day care expenditures) are deductible, but the maximum deduction is $200 per month for one child, $300 per month for 2 children, and $400 per month for 3 or more children.

When a taxpayer's adjusted gross income (line 15, Form 1040) exceeds $18,000, his deduction is reduced by $1 for each $2 of income above this amount. For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

MISCELLANEOUS

Alimony and separate maintenance (periodic payments).

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Campaign contributions (up to $100 for joint returns and $50 for single persons).

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees for securing employment.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions: Taxpayers may now claim either a deduction (line 33, Schedule A. Form 1040) or a credit (line 52, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) state committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $50 ($100 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $12.50 ceiling ($25 for couples filing jointly).

Presidential Election Campaign Fund: Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) to help defray the costs of the 1976 presidential election campaign. If you failed to earmark $1 of your 1972 taxes ($2 in joint returns) to help defray the cost of the 1976 presidential election campaign, you may do so in the space provided above the signature line on your 1973 tax return.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

OTHER TAX RELIEF MEASURES FOR OLDER AMERICANS

Filing status:	*Required to file a tax return if gross income is at least*
Single (under age 65)	$2,050
Single (age 65 or older)	2,800
Married couple (both spouses under 65) filing jointly	2,800
Married couple (both spouses 65 or older) filing jointly	4,300
Married filing separately	750

Additional Personal Exemption for Age: In addition to the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1974, you will be entitled to the additional $750 personal exemption because of age for your 1973 Federal income tax return.

Multipile Support Agreement: In general a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) Gross Income, (3) Member of Household or Relationship, (4) Citizenship, and (5) Separate Return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support.

However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support.

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10 percent of the mutual dependent's support, *but only one of them* may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers: A taxpayer may elect to exclude from gross income part, or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least five years within the eight-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 or less. (This election can only be made once during a taxpayer's lifetime). If the adjusted sales price exceeds $20,000, an election may be made to exclude part of the gain based on a ratio of $20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within one year before or one year after the sale he buys and occupies another residence the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

Retirement Income Credit: To qualify for the retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received earned income in excess of $600 in each of any 10 calendar years before 1973, and (c) have certain types of qualifying "retirement income" Five types of income—pensions, annuities, interest, and dividends included on line 15, Form 1040, and gross rents from Schedule E, Part II, column (b)—qualify for the retirement income credit.

The credit is 15 percent of the lesser of:

1. A taxpayer's qualifying retirement income, or

2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxes pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62, he must reduce the $1,524 figure by the amount of earned income in excess of $900. For persons at least 62 years old but less than 72, this amount is reduced by one-half of the earned income in excess of $1,200 up to $1,700, plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer if he has requested that IRS compute his tax and he answers the questions for Columns A and B and completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayer should also write "RIC" on line 17, Form 1040.

Mr. Speaker, this information intended to be "helpful hints." It is not intended as specific advise on any particular tax problems for which one feels he should obtain specific advice from tax counsel; he should still do that, if necessary.

Mr. Speaker, the Senate Special Committee on Aging is to be commended for the excellent service it has performed in compiling this information. It will be of great benefit to our senior citizens.

VOICE OF DEMOCRACY CONTEST—ALASKA'S WINNER

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. YOUNG of Alaska. Mr. Speaker, as I am certain many of my colleagues know, each year the Veterans of Foreign Wars in the United States and its Ladies Auxiliary conduct a Voice of Democracy contest. Nearly 500,000 secondary school students participate in the contest competing for five national scholarships which are awarded as top prize. I am pleased and delighted to enter into the Record a copy of the speech written by Miss Sarah E. Longenbaugh who is the winner in Alaska. Miss Longenbaugh is the daughter of Dr. George and Iris Longenbaugh of Sitka, Alaska. In addition to having a fine talent for writing, Miss Longenbaugh is an honor student, is active in outdoor recreation, and enjoys painting as well. A copy of her speech follows:

MY RESPONSIBILITY AS A CITIZEN

(By Sarah E. Longenbaugh)

It is sometimes said that a citizen is like a bit of thread woven into the fabric of a nation.

I would rather say that the citizen is not part of a woven fabric, but instead, weaves his own. As the different pieces of fabric combine, a patchwork emerges; a nation, made up of many different fabrics and, likewise, many different people.

The individual begins his weaving with a basic thread, that of legal citizenship. From this simple beginning, his woven fabric grows, with his participation in school, local or national government.

As the individual grows older, this participation increases, as his needs and problems increase. He becomes more concerned with other people needing to communicate to them his decisions and difficulties.

At this point, however, the individual's first duty is to himself. He must be satisfied with himself as a responsible citizen before he ventures to convince others that he is one.

He must determine and be able to express what is most important to him as a citizen. Once he has done this, he may continue his weaving with a new thread, as a responsible citizen.

I believe my responsibility as a citizen means being informed. There are many different ways for me to become informed. And, all of these ways are equally important. If I were to ignore one the others would become ineffective. I would also become ineffective, not knowing enough about a subject to present it impartially.

These ways are reading, asking questions, working with a subject to better my knowledge of it and listening to informed people, not disregarding someone because I feel their views are wrong, but listening and judging fairly.

Especially important, however, is keeping the channels of communication open to other people.

Discussing how certain problems and decisions affect them and how these same problems affect me. Talking about possible arguments and solutions.

From there, I may go on to become more knowledgeable concerning these problems. Then, when the time comes, I may present my problems, defend my problems and finally, solve my problems with relative ease. At this time, I am an enlightened citizen. The goal of the ideal citizen and the citizen's responsibility towards himself and his nation. Able to understand, evaluate and act with complete fairness and confidence. Totally informed and able to inform. At this point, my fabric is woven and my responsibility developed to it's highest potential.

FLOOD DISASTER PROTECTION ACT

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. MOLLOHAN. Mr. Speaker, I wish to call to the attention of my colleagues the near tragic effects of the Federal Flood Disaster Protection Act of 1973 which was enacted into law in the waning hours of the first session of the 93d Congress.

The fact is that Congress, collectively, has made a mistake in the enactment of Public Law 93–234. It is time now to correct this mistake before full implementation causes widespread economic damages throughout the country—much of it upon the poverty or near poverty segment of our population.

Here is a partial summary of what this law has done:

It has imposed a form of highly restrictive land use policy upon unwilling communities and private citizens under the guise of more liberal federally subsidized flood insurance. I do not believe it was the desire of my colleagues to impose detailed zoning restrictions at the local level through Federal law.

It has denied federally regulated financial institutions the right to extend loans or to make loans for the construction, modernization, or resale of property located in the flood prone areas unless those properties have met the flood protection standards. Meeting the standards is in many cases prohibitively expensive. The effect of this provision will inevitably be to unrealistically depress the market value of these properties.

It has effectively taken a large percentage of the developable land in this country off the market.

In addition, this law has imposed a burden of enforcement upon local governments attempting to maintain eligibility for coverage under the act that is virtually impossible to carry out.

The following editorial summarizes very accurately the legitimate concerns of our citizens over this measure:

[From the Wheeling (W. Va.) News-Register, Mar. 6, 1974]

YOUR PROPERTY AT STAKE!

The public meeting to be held at city council chambers on March 12 to discuss the Federal Flood Disaster Protection Act of 1973 and its application to Wheeling will be highly important to the whole community.

Unless cities such as Wheeling in flood prone areas adopt stringent land use controls, zoning regulations and building codes as promulgated by the federal government, property owners will be ineligible for federally funded assistance such as flood insurance, disaster relief and loans.

The far-reaching impact this law would have on Wheeling can be found in a new directive issued Feb. 11, 1974, by the Federal Deposit Insurance Corporation dealing with loans in areas having special flood hazards. Lending institutions would be prevented from making, increasing, extending or renewing any loans secured by real estate located in the flood plain.

If this edict is to be enforced, it very well could deprive thousands of persons of their property without due process of law.

For example, a resident of Wheeling Island dies. His estate wishes to sell the property. However, a purchaser cannot get a mortgage on the property because it is in the flood plain. Thus it will be available only to a cash purchaser and obviously a substantial discount will be negotiated.

The new regulation states that a loan must not be extended on property in the flood plain. That means if a person encounters temporary financial difficulty and becomes delinquent the loan could not be extended and the bank would have no alternative but to foreclose.

Once again the poor property owner and the elderly are faced with a serious threat if the city does not go along with Washington's requirement that the community adopt the new land use laws and zoning regulations. But most of these laws would be difficult to implement in Wheeling where already the flood plains are in use. Costly flood control steps would be required of property owners wishing to modernize in the flood prone zones. And future development in many areas of the city would be greatly restricted.

So, unless this federal law is amended to provide more realistic regulations for older cities such as Wheeling, the city faces a real dilemma in deciding what it should do to protect the best interests of its citizens.

In light of this situation we believe First District Congressman Robert H. Mollohan should be invited to attend the public meeting here on the Flood Disaster Protection Act of 1973 so he can get a firsthand view of the confusion and difficulty confronting Wheeling as a result of congressional action.

In my congressional district alone, 127 commuuities have been advised, as the result of a preliminary survey conducted in 1973 by the Department of Housing and Urban Development, that they are susceptible to flooding or mudslides. These communities contain over half of the population in the district. Therefore, unless they enforce an unenforceable law and participate in the flood insurance program, they will become ineligible for Federal assistance.

I am today requesting the Banking and Currency Committee to undertake the amendment of this law. I urge each of you to evaluate the impact of Public Law 93-234 on your constituency and prepare to address this problem quickly and effectively.

THE GRAND RAPIDS ELECTION—A DIFFERENT PERSPECTIVE

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. HUBER. Mr. Speaker, as I pointed out on the House floor today, there is more in the election in Michigan's Fifth District than the matter of Richard Nixon's impeachment or resignation. The press, and the newly elected Member from that district, would have us believe that the election of a Democrat to succeed Vice President GERALD FORD is justification for the resignation of the President.

What has been ignored in most of the "instant analysis" of the election in Grand Rapids have been the economic issues involved, the record of the Republican candidate in the State legislature, which put him on the wrong side of several issues with the Michigan voters, and the huge personal following our Vice President has in the area that did not prove to be transferable. Two reporters have noted these items. I would now like to insert for the attention of my colleagues Allen Phillips' article that appeared in the Detroit News on February 27, 1974, and Harmon Cropsey's article that appeared in the February 20, 1974, edition of the Suburban News, which is published in Detroit, Mich.:

VANDER VEEN'S RACE HELD TOUGH TO BEAT

(By Allen Phillips)

In the recent special election in the 5th Congressional District, the people of Grand Rapids spoke with a roar heard around the nation and in the White House. But what did they say and why did they say it?

Conventional political wisdom has it that the good folk of Grand Rapids, all assumed to be upright Dutch descendants obediently clomping along in wooden shoes behind the GOP elephant, suddenly changed parties or surrendered deep loyalties over Watergate.

But is that a fair characterization of the voters who unexpectedly elected a Democrat, Richard VanderVeen, to occupy the chair in Congress so long warmed by Vice-President Gerald Ford?

Did the ballot missile launched from the heartland of America really have "Impeach Richard Nixon" written all over it? Or was it as much the triumph of a pleasing candidate and a slick campaign over an inferior opponent and technique?

VanderVeen, the nation's newest congressman, could not have been a more ideal choice for the race. And the loser, State Sen. Robert VanderLaan, could hardly have come up more deficient in what it takes to win in big politics these days, Watergate notwithstanding.

The two started as equals, ethnically speaking. Both have Dutch surnames, which still count for a lot in Grand Rapids, where many but not all voters have some Dutch background and training in the moral tenets of the Reformed Church. Even so, the voters there are not fully representative of Michigan, or middle America, although historically they have tended toward Republican orthodoxy.

For long years the voters sent Ford to Congress, although he is not Dutch or Calvinist, largely because he enjoys their tremendous respect and confidence. It may be that Ford, who structured his reelections around his personal qualities, diverted a partisan following into a personal one not transferable to others.

But even Ford's staff, and other watchers, perceived two years ago that fundamental changes were occurring in Grand Rapids, where 60 percent of the workers wear blue collars and unemployment has been a nagging problem even prior to the energy-related layoffs at the General Motors plants.

By some socio-economic measures, then, Grand Rapids is and has been potential Democratic turf, were it not for the fantastic amount of personal loyalty to Gerald Ford. Remove him from the picture, even suggest, as VanderVeen's advertisements did, that President Nixon's impeachment would make a hometown boy chief executive, and anything could happen.

Thus enters VanderVeen on Ford's elevation to national office. He's not your usual liberal-labor Michigan Democrat but a 51-year-old corporation lawyer personally worth $250,000. Then give him $70,000 for a campaign run by a swinging Boston political public relations firm headed by John Marttila, who engineered the upset victory there of Fr. Robert Drinan, the first Roman Catholic priest in Congress and a Nixon impeachment resolution author.

The Marttilla group quickly programed VanderVeen and reduced him to essentials; antiNixon but vocal on ethics, concerned about unemployment and inflation and having a corporate lawyer's understanding of public affairs. VanderVeen therefore was perfectly in tune with the times and the situation. He probably could have said less about Watergate and still been elected.

Speaking out in an attractive and credible way, even on impeachment, is better than saying nothing. The latter was Republican VanderLaan's style, the man on whose shoulders rests much of the heavy blame for defeat.

VanderLaan, like the pundits and confused politicos, claims he was beaten by the Watergate albatross. On closer examination it's likely he was beaten by himself as much as anything. In contrast to VanderVeen, he temporized and generally reflected those qualities which have made him one of the least effective State Senate majority leaders.

VanderLaan's campaigners, unlike the Boston imports, ran a low-profile, lackluster drive staged for Rotarians and polite audiences. About as relevant as VanderLaan got on any issue was to mutter something about a "new political ethic." How could he articulate whatever that is, given his role in the Senate, is hard to fathom.

Junkets to Florida and elsewhere, enormous freebie postage bills run up by the Senate and a generally arrogant state lawmaker attitude flourished without a murmur from VanderLaan. Indeed, he was foremost among the senators irritated by uncomplimentary press clippings who were eager to build a glass partition to fence inquisitive newsmen off the Senate floor.

So it was the Michigan GOP went to market with a dubious product not attractively packaged. Yet despite those factors favoring the Democrats, the mighty victory of VanderVeen claims over the Republicans, 53,000 votes to 46,000, did not attract as large a Democratic total as run up by Mrs. Jean McKee when she challenged Ford in 1972.

What really happened in Grand Rapids? Watergate surely was a factor. But in more concrete terms the Democrats spared no effort to obtain what amounted to their customary vote, while many usual GOP voters who would have gone for Ford, come Watergate or high water, stayed home.

It's hard to claim, really, that the Grand Rapids result signals Lexington or Concord for the GOP nationally. Yet panicky Republicans across the land are dashing like a flock of chickens for the security of the latest poll as protection against the sky falling. Their credibility, what the game may really be all about, is hardly enhanced.

VanderVeen, meanwhile has arrived in Washington with his mandate. He will be in demand at banquets, talk shows and wherever fellow Democrats need a coattail effect. Since he has won only a short term, he'll have to campaign all over again this fall and isn't apt to do much legislatively even if he casts one vote for impeachment.

The victory in Grand Rapids reflected not so much ideology as candidate and campaign. Many are still sifting the ashes of Ford's old camp for profound meaning and omens while the smart ones likely will hire the Marttilla outfit.

LAST WEEK IN LANSING: LEGISLATION AFFECTING YOU

(By Harmon Cropsey)

Will the voters ever learn?—If you ask the next 25 people you meet how many of them want to pay more taxes, you will find that 24 out of the 25 will say they have had enough!

This ratio was substantiated when the 2¢ gas tax increase was being challenged with a petition drive to bring it to a referendum so the citizens could decide. Petition circulators said that only one or two people out of a hundred refused to sign.

You would naturally think that every member of the legislature who voted for the increase in gas tax would be in jeopardy at the next election—but that didn't make any difference!

One Republican representative said, "Not one constituent in a thousand knows how we vote." This was the argument he used when encouraging his fellow Republicans to vote for one of the Governor's unpopular pieces of legislation.

Sad but true.—In the primary race in the Republican Party for the nomination in the special 5th Congressional District election January 15, 1974, there were four candidates—two of them state senators—so it wasn't a case of not having information available as to where they stood on most important issues. Senator VanderLaan got 55 per cent of the vote, receiving more Republican support than the other three candidates combined!

It is amazing how a newspaper like the Grand Rapids Press that should enlighten the citizens of the district about issues gave them a "snow job" and endorsed VanderLaan as being the best qualified to fill Gerry Ford's shoes in Congress.

VanderLaan vs. Zaagman—A fellow I worked with just after I finished college had an expression he used when we used selecting someone to fill a position or adding responsibility—"Let's take a look at the record." Vacancies were always filled by someone who had done a good job in the past.

In 1971 the state income tax was increased by 50%—and who do you suppose sponsored the bill to do this?? SENATOR VANDERLAAN! Senator Zaagman voted against it. The record is at your library on page 1297 of Senate Journal 87 of 1971, roll call #281.

The Senate Journal for this date (7-1-71) reveals some rather interesting information. The Senate recessed at 11:45 (p. 1296), and at 2:18 p.m. was called to order. The first action recorded was a motion by Senator VanderLaan to put on a "call of the Senate" which carried. A "Call of the Senate" means that every member, unless he is confined to a hospital or is physically unable to attend, is forced to be present even if the state police have to be dispatched to Houghton or Detroit to get him.

Next came a motion by Senator VANDERLAAN to dispatch the Sargent-at-Arms to get the absentees. The motion prevailed.

On June 30, 1971, the tax increase (SB.616 introduced by VANDERLAAN) was defeated and was re-referred to the taxation committee. This ordinarily would have been the end of SB.616, but Senator VANDERLAAN made a motion to reconsider the vote by which it was referred to the taxation committee and he was successful. SB.616 then passed by a 22 to 16 vote.

Vanderlaan's position on abortion.—On March 11, 1971, SB.3 to legalize abortions, was voted on and passed the Senate with the bare minimum of 20 votes. Both Senators VanderLaan and Zaagman voted against this bill. After it passed. Senator Byker made a motion to reconsider the vote—this being a tactic to hopefully defeat the bill. This time Senator VanderLaan voted with those senators who favored abortion, and Byker's motion was defeated.

What a contrast!—When you think of all the parliamentary maneuvering VanderLaan did to get the income tax passed after it had been defeated, then to see him desert Senator Byker and the other senators (including Zaagman) who were trying to get the abortion bill reconsidered and defeated, you can't help but wonder where does he really stand on the abortion issue.

Mass transit package.—In 1972 many citizens were up in arms about the gasoline tax increase and the diversion of 25% of this increase to mass transit to aid in the mass movement of school children to schools away from their homes. Senator VanderLaan played a key role in getting this package of bills passed in the Senate after they had passed the House.

If you want to study the official records, you will find it in Senate Journal 115 (12-12-72) on pages 2177 through 2181 and Senate Journal 117 (12-14-72) pp. 2236, and 2237.

In Senate Journal 115, page 2179, Senator VanderLaan made the motion to give HB5706 immediate effect after it passed 21 to 15. The immediate effect motion carried, so the collection of the extra 2¢ a gallon gas tax started 2 months earlier than it would otherwise. Thanks to Senator VanderLaan this motion he made cost Michigan motorists an additional $14 million in motor fuel taxes.

It still works.—Because Senator VanderLaan was a faithful servant of the Governor in getting his tax bills passed, he no doubt had the unofficial support of the Governor and the whole Republican apparatus right down to the precinct level.

Needless to say, VanderLaan's campaign funds were plentiful, exceeding the total of his three opponents combined. Those who benefit from looting the taxpayers' pockets put their money on the candidate who gives them the best return.

Harry Hopkins's formula for political success was: "Tax, tax, spend, spend, elect, elect." It works just as well today as it did back in FDR's hey day. I am beginning to believe the sheep like to be fleeced.

VFW 75TH ANNIVERSARY COMMEMORATIVE STAMP

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. DULSKI. Mr. Speaker, it was a great pleasure today for me to attend the ceremony marking the first day of issue of the VFW 75th Anniversary Commemorative Stamp.

The beautiful stamp was designed by Robert Hallock, who has been honored by the Art Directors Clubs of New York and San Francisco, American Institute of Graphic Arts, Society of Illustrators, Printing Industries of America, Society of Publications Designers, and the New York State Council on the Arts. The founder and art director of Lithopinion, he is also credited with the Oregon Centennial, Stone Mountain Memorial, and the United Nations Day stamps.

The Citizens Stamp Advisory Committee is to be commended for selecting the Veterans of Foreign Wars' anniversary as a worthy subject for commemoration. The VFW fulfills its objectives, stated as—

> Fraternal, patriotic, historical and educational; to preserve and strengthen comradeship among its members; to assist worthy comrades; to perpetuate the memory and history of our dead, and to assist their widows and orphans; to maintain true allegiance to the Government of the United States of America, and fidelity to its Constitution and laws; to foster true patriotism, to maintain and extend the institutions of American freedom, and to preserve and defend the United States from all her enemies, whomsoever.

This morning's program was most impressive. Executive Director Cooper T. Holt of the VFW Washington office presided; the VFW National Honor Guard made the Presentation of Colors; and VFW National Chaplain, Rev. Henry Reinewalk led the invocation.

I would like to take this opportunity to share with my colleagues some significant remarks of participants in the ceremonies:

INTRODUCTION TO STAMP CEREMONY

(Remarks of Executive Director Cooper T. Holt)

Comrades, we now come to the highlight of this general session. The Veterans of Foreign Wars of the United States has received a distinct honor which will be conferred upon us this morning. Each year hundreds of groups and individuals apply to the United States Postal Service for the distinction of having a stamp issued to commemorate a profession, part of the country, or anniversary. These requests are carefully weighed by a Committee and recommendations are submitted to the Postmaster General who also gives a great deal of study to the proposal. When approval is given to the request, the design is selected after, again, much study and deliberation so that the stamp will truly reflect the group it is to represent. From the hundreds of requests, only about 20 a year are approved and issued.

This morning the Veterans of Foreign Wars is being honored by the United States Postal Service with the issuance of a stamp commemorating the 75th anniversary of its founding. I wish to take this opportunity to thank the many people in the U. S. Postal Service with whom we have worked to reach this fine hour which will honor the V.F.W. I would like to commend the Citizens Stamp Advisory Committee who spent so many hours reaching the decision to recommend its issuance and in the selection of the design. And most importantly, I would like to extend my gratitude and appreciation to the Postmaster General of the United States for his approval. For without his guidance and assistance, the honor we are to receive today could not have taken place.

Today is the first day of issue of the United States stamp issued to commemorate the 75th anniversary of the V.F.W. Please join together in the ceremony to honor the veterans who have done so much for their country. Reverend Henry Reinewald will now deliver the invocation.

Natl. Honor Guard—Advance the Colors.
National Anthem.

REMARKS AND INTRODUCTION OF POSTMASTER GENERAL BY VEW COMMANDER-IN-CHIEF RAY R. SODEN

It is a special honor and privilege to take part in this ceremony marking the first day of issue of this stamp. I am proud to represent the members of this great organization and all veterans who are being honored by the issuance of this stamp.

Many of the people in this country who use a stamp to pay bills, send thoughts to one another, or request information through the mails, never give thought to the little piece of paper they place in the upper right hand corner of the envelope. There seems to be so many different designs and colors. The routine of licking and affixing a stamp may take away for many the meaning behind the stamp. The reason for issuing it can become lost in the repetition of using it.

But, I can assure you, there is one which will never lose its significance for this organization—the veterans of this nation, or to the people of America: The beautiful design—for which we have Robert Hallock, an artist from Newtown, Connecticut, to thank—cannot do less than bring to mind of every citizen the sacrifice made by America's veterans. The brilliant red and blue on the field of white, immediately calls to mind the red, white and blue of our country's flag and all that she stands for.

The big bright and outstanding V.F.W. will be known to all—members and nonmembers alike—as representing the Veterans of Foreign Wars of the United States— an organization of men who have fought overseas in defense of freedom and their country. Centered beneath the V.F.W. is the Cross of Malta, the emblem of the V.F.W. And, in blue—75th Anniversary—commemorating a major milestone in our history. This stamp honors also all veterans of all the foreign wars fought by the United States. And, in particular, those gallant men who fought in the Spanish-American War and who are the founders of the V.F.W.

The United States Postal Service could not have done more for the veterans of this country and the V.F.W. than to have issued this most fitting tribute. Those who use it cannot help but be stirred by its brilliance and by the devotion, sacrifice and call to duty given by this country's veterans who answered its need in time of peril.

It is now my pleasure to introduce to you the man who made possible this outstanding tribute.

Our distinguished guest became the 60th postmaster general of the United States in January 1972. He served as Deputy Postmaster General from February 1969 until January 1971, when he resigned upon appointment to the Board of Governors of the Postal Service. He is the only Deputy Postmaster General, since the nation was a Crown colony, who subsequently became Postmaster General.

At the time of his initial appointment, he had completed a 40 year career as President, Chief Operating Officer and Director of the American Can Company.

He played a prominent part in planning for postal reform and was instrumental in the enactment of the Postal Reorganization Act of 1970 which transformed the former Post Office Department to an independent establishment of the Federal Government.

He has been responsible for many significant steps in the modernization of the postal system. Under his guidance, high-speed equipment is being installed to help handle the 90 billion pieces of mail which flow through the system each year. By his direction, a continuing series of service improvement conferences are being held to pursue better methods of mail handling.

It is a privilege and honor to have this gentleman with us today to take part in the first day of issue ceremonies commemorating the 75th anniversary of the founding of the Veterans of Foreign Wars of the United States. May I present to you, the Postmaster General—the Honorable E. T. Klassen.

REMARKS OF POSTMASTER GENERAL E. T. KLASSEN

It is with a great deal of pride that we issue the VFW Stamp today in recognition of your organization's 75 years of service to America.

We also dedicate the stamp to the millions of men who fought in the front lines from San Juan Hill to the Ho Chi Minh Trail to keep democracy alive and free. No organization or individual can have a more noble mission than to serve flag and country.

Generations of Americans have served our country well. They served it with valor—with confidence—and with unsurpassed dedication. Theirs was the spirit that made America the strongest and most progressive nation on earth.

But in recent years our national sense of duty and pride seems to have diminished. We are just emerging from an era in which many Americans cut and ran when their country needed them. They sneered at patriotism. They evaded military service. They trampled on the stars and stripes. These people did not degrade the flag. They degraded themselves.

But we are faced now with another kind of "cop-out" that is far more ominous in its long-range potential. The American people are turning their backs on the institutions of business and government that—together—have made our country the envy of mankind. The Harris poll shows that only 29 percent of the people have confidence in business and industry. Only 40 percent respect the military. An overwhelming majority places greater trust in the garbage collector than in government.

Well, America does have problems. But what country and what people don't?

More than half of the world's population lives under the heel of communism. Two-thirds of the people alive today are condemmed to hopeless poverty. Inflation is bad here—but it is far worse nearly everywhere else.

Our form of government may not be perfect—but it is the same government that gave us the Constitution and the Bill of Rights. And I would remind the faint-hearted that they have prospered beyond imagination because business and industry created for them the highest standard of living the world has ever known.

The military has always been ready when the chips were down. And it is the only thing today that stands between the free world and enslavement. All of these institutions deserve our support and gratitude.

Our memories may tell us that America was better in years gone by. It was not. Each generation has been beset by great and grave problems. But each generation worked together and pulled together to leave a nation that was stronger than the one it inherited. The only question is whether this generation cares enough to do what is right for America.

No problem can ever be solved by running away from it. Nothing can be gained by condemning business and government just because we don't agree with everything they are doing. We would be damn poor Americans if we supported our institutions only when it suited our mood or self-interest.

I have been around for a long time. My country has been good to me. It has been good to all of us. I have great confidence in the future as long as we have organizations like the VFW that place duty and love of country ahead of all other considerations.

Now it is my privilege to present souvenir albums of the VFW stamp that we dedicate today.

By tradition, the first album is for the President. The next one is for Ray R. Soden, National Commander-in-Chief, VFW.

John J. Stang, Senior Vice Commander-in-Chief, VFW.

Thomas "Pete" Walker, Junior Vice Commander-in-Chief, VFW.

Julian Dickenson, Adjutant General, VFW.

J. A. Cheatham, Quartermaster General, VFW.

Congressman Dulski.

I now take particular pleasure in presenting an album to a man who really does "Remember the Maine." He is George S. Richey of Flint, Michigan. Mr. Richey is Junior Commander-in-Chief of the United Spanish War Veterans and a life member of the VFW.

RENEGOTIATION BOARD SHOULD BE EMPOWERED TO EXAMINE LEASES OF PUBLIC LANDS AND MINERAL RESOURCES

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. VANIK. Mr. Speaker, this spring, the Congress will be considering the extension of the Renegotiation Board, a small Government agency designed to recapture excess profits resulting from Government defense and space contracts.

During the consideration of this legislation, I intend to offer amendments which would empower the Board to examine leases of public lands and resources for recovery of oil or minerals. The amendment would require the Board to assess private companies additional sums in cases of windfall profits resulting from their use and recovery of resources from these public lands.

The spectacle of greed presented by profiteering American oil companies has given the Congress more stimulation than ever to consider means of oil industry regulation and recapture of excess profits. While citizens sacrifice because of reported petroleum shortages, oil companies have posted profit margin increases up to 90 percent over 1972. Despite a national attempt to conserve energy resources and maintain reasonable prices, oil companies are able to afford massive advertising campaigns because they "would like you to know." Despite the existence of large amounts of some refined oils purchased at low wholesale prices, oil retailers have not hesitated to double or triple their prices to the consumer.

The American oil industry has proven, quite conclusively, that the management of American energy resources cannot be left solely to the giant oil companies. Soaring profits, neglect of the public interest, monopoly control, and a general abuse of the consumer, are all results of the arrogance and corporate greed of big oil.

The Renegotiation Board—which over the past 20 years has recaptured over $1.16 billion in excess profits from Government contractors—is one tool which could be used to regulate the big oil companies. Primarily, the Board could be used to examine the profitability of leases which the oil companies obtain from the Federal Government and which permit them to drill offshore and to mine for oil shale in the public lands of the Rocky Mountains. By adding the Department of the Interior's mineral leasing programs to the activities subject to review by the Renegotiation Board, the public could possibly recover hundreds of millions of dollars. In this way, the public's interest in these national treasure deposits could be protected.

Oil deposits on public lands are a major source of future energy supplies. For example, leases were let early this year for $1.5 billion for almost half a million acres of offshore oil lands in the Gulf of Mexico.

Considering the current prices of crude oil and their rapid escalation upward, the public's interest may not be served by these bids, in spite of their seeming enormity. This is particularly true in offshore leases, where an extra large oil deposit can mean a financial windfall. In this time of energy crisis, I believe that the energy resource leases being made by the Department of the Interior deserve the same type of scrutiny as World War II defense contracts. The public should have the right to find out how many oil or mineral deposits are actually on their lands that are being leased away, and then be able to recover a fair amount from the use of the land. Profiteering through the use of public lands must not be permitted.

The first two leases of oil shale lands in Colorado have provided a classic example of how the public interest has been placed in jeopardy by the present bonus bid system. The first 5,100-acre lease—"C-a"—of Western slope oil shale lands—had an original Interior Department "minimum acceptable bid" valuation of between $5 and $9 million. Yet the bid results brought in over $210 million. While this seemed like—and is—an enormous sum of money, the yield to the Federal Government on some 4 billion barrels on the tract is only about 5.2 cents per barrel—and even this may be reduced through later adjustments.

A month later, the second tract was leased. The land involved was estimated to contain about 723 million barrels of shale oil. The mining method being used was more costly than the method used on the first tract, yet the bonus bid on this tract brought in $117 million, or about 16.3 cents per barrel.

In other words, if the same per barrel bid had been received on both tracts, the Federal Treasury would have received approximately half a billion dollars more. Yet now that these leases have been let, there appears to be little hope of any adjustment or recovery in favor of the public.

The mechanism of the Renegotiation

Board could have been used to protect the public's interest in this type of bid/lease.

In addition to protecting the American public from excessive profiteering, renegotiation of leases let on public lands will also serve to protect us from the incompetency of our own Government agencies. At the end of January of this year, I warned that the price the Department of the Interior was about to accept as bonus bids on Colorado oil shale lands was extremely low. In early February, I wrote Secretary of the Interior Morton asking his office to consider delaying the Federal prototype oil shale leasing program to allow time to reexamine the return that the public was receiving through bonus bids to the Government.

I told Secretary Morton that there was a threefold disparity between the first and second oil shale tract leases. To this date I still have not received a reply from the Secretary.

On January 23, I wrote to the U.S. Geological Survey asking them for their estimate of the value of these two tracts of land. Although the figure has been kept confidential despite an apparent lack of authority, it has been learned that the Department of the Interior would have been willing to lease the first oil shale tract for about one-twentieth of the ultimate high bid. The Washington Post of March 5 reports that Interior now recognizes that they made a large error in their estimation of that "minimum acceptable bid."

Renegotiation could help us assure the public that, in addition to preventing the riches of the public lands from being a windfall to private business, it will also stop them from being given away by the Government.

The Renegotiation Board was first started in 1943 with then-temporary authority to audit finances of defense contractors. The Board existed to insure that private business did not profit at the public's expense. Aggregate contractor profits are examined by the Board, with profits determined to be in excess returned to the Government. The authority, still temporary but extended every 2 years since 1945, has been amended to include space and aviation contracts let by the Federal Government. Under current legislation, the Board expires on June 30. This legislative opportunity of renewing the Board's life should be seized and used to provide greater protection to the American people.

I include a news release:

Vanik To Introduce Legislation To Renegotiate Resource Leases; Points to Possible $400 Million Loss to Treasury in Recent Oil Shale Lease

Congressman Charles A. Vanik, in a speech in the House of Representatives, today announced he would introduce legislation to allow a re-examination of leases and sales of public lands and resources to ensure that private companies do not reap extraordinary profits from them at the expense of the public.

The legislation, in the form of an amendment to a bill extending the authorization of the Renegotiation Board, would allow the Board to renegotiate profits that companies receive from public lands by recovery of oil and minerals or other natural resources.

The Renegotiation Board, an agent of the Federal government, was formed in 1943 and given authority to audit the finances of defense contractors to prevent them from realizing excess profits at the expense of the American public and the national war effort. Although given only temporary authority originally, the Congress has granted two year extensions to the Board since 1945. The Renegotiation Board's authority is currently limited to government defense and space contracts.

Vanik says that renegotiation of leases for public lands and resources is one way to help regulate the massive profits of American oil companies, while at the same time ensuring the American public a fair return for the use and consumption of their properties.

"The public should have the right to find out how much oil or mineral deposits are actually on the public lands that are being leased away," Vanik said, "and then be able to recover a fair amount for the use of the land."

Citing examples of disparities in recent leasings in the Federal Prototype oil shale program, Vanik said that renegotiation, "could help assure the public that, in addition to preventing the riches of the public lands from being a windfall to private business, it will also stop them from being given away by the government."

He was referring to a Department of the Interior official evaluation that would have allowed over 4 billion barrels of recoverable shale oil to be leased for as little as 9 million dollars, while it eventually brought a high bid of over $210 million—twenty times Interior's "minimum acceptable bid."

Vanik pointed out that if the first oil shale tract had been leased for the same per barrel price as the second lease, the Treasury would have received an extra $400 million. Renegotiation authority could help recover a substantial portion of this windfall.

The Ohio Congressman is concerned that the Department of the Interior, charged the responsibility for protection of trillions of dollars of public resources, is allowing those precious properties to be squandered away through either incompetency or too close cooperation with the companies. His legislation would allow an objective, independent third party to inspect the lease agreements.

GIRL SCOUTS OF AMERICA

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. NATCHER. Mr. Speaker, during the week of March 12 through March 18 the Girl Scouts of America will observe the 62d anniversary of their founding, and it is again my pleasure to pay tribute to this outstanding organization and to commend them for another year of service to girls and to our country.

Girl Scouts of the United States of America is the largest voluntary organization for girls in the free world and the ideals fostered by this organization inspires its members toward high ideals of character, conduct, patriotism, and service so that they may become happy and resourceful citizens. The organization gives a girl an opportunity to be herself; to grow in her own way, choose the personal values she wants to hold, and to lead the kind of life she wants to lead.

For 62 years Girl Scouting has grown and survived in the communities of our Nation, not as a self-centered group seeking its own virtues but as an organization which reaches out to other groups and individuals as partners in the business of making this a better world.

The activities of the Girl Scouts are truly innovative. They still hike, camp, and learn some basic home management skills, but they are also involved in programs which aid the disadvantaged children in the inner-city areas and migrant labor camps; they work with handicapped children and they assist the elderly. Their councils conduct drug education programs and enlist the aid of civic and service groups to make local communities aware of the opportunity and the need for effective action against drug abuse.

The cooperative effort between the Girl Scouts and communities takes as many different forms as there are Scout troops.

Some projects are national in scope and participation, and others meet a specific need on a local level.

One project which is currently having a national impact is "Education for Parenthood." A 1-year grant by the Department of Health, Education, and Welfare helped the Girl Scouts to set up this nationwide project for teenage boys and girls. The goal is to prepare teenagers for a more effective parenthood by helping them learn about child development and the role of parents.

In different areas of our country Girl Scout councils in the education for parenthood projects pull together a variety of community resources. Such joint efforts are very beneficial to the future parents inasmuch as it provides them with a practical education and at the same time gives child care agencies the extra help they often need to care for the children in their charge. Some teenagers are working with preschool children in day care centers, church nurseries, Headstart programs, and summer recreation camps.

Girl Scout community service projects are often undertaken without benefit of grants and the small projects carried out by the Scouts in their own local communities seldom make national headlines. But these projects that fill a specific need in one particular area are the very foundation of the Girl Scout tradition of service, and it is these services which are making a significant contribution to the future of our country.

In my home State of Kentucky, the Girl Scouts of the Kentuckiana Council cooperate with the local Salvation Army to sponsor an annual "Helping Hands Day." From 7-year-old Brownies to 17-year-old seniors, the Scouts provide helping hands to collect used clothing, household items, and small appliances, which are given to the men's social service centers of the Salvation Army. The repair of these items provide work and a small income for the men in the center.

Last year this project drew participation from 9,000 Girl Scouts and yielded 17,000 pounds of discarded items. The vehicle rental agencies provided trailers and trucks for the pickup effort, and the Teamsters Union donated trucks and drivers, which attests to the community support for this project.

Success stories like this are happening every day in large and small communities wherever there is Girl Scouting.

Mr. Speaker, as the Girl Scouts prepare to celebrate their 62d anniversary, I want to wish them every success and hope that they will continue to grow so that they can expand their influence to reach the lives of our young people who have not yet been exposed to their high ideals and many worthwhile programs.

A CLASH OF OIL PROFITS WITH THE NATIONAL GOOD

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. BADILLO. Mr. Speaker, a recent editorial by Leonard Silk in the New York Times poses the question of how far the American-based multinational oil companies can go in pursuit of short-term profit maximization and still remain oblivious to the social and economic consequences of their activities. Mr. Silk lays bare with a few incisive stokes of the pen the political manipulations of the oil industry that have succeeded in protecting its domestic market while leading to the shortage that such policies were ostensibly designed to avert.

In a somewhat prophetic vein, the author warns that the emphasis on profits to the exclusion of all other considerations may bring the companies into direct conflict with national interests, and he implies strongly that it could well be the corporate interests that will bend in any confrontation of public welfare versus private gains.

The case for coordination of energy development with public policy grows stronger by the day, and I believe that Mr. Silk has accurately gaged the result of the collision of purpose that the oil companies are unwilling to cushion by any actions that would reveal a sensitivity to the needs of the American people.

I include the editorial in full at this point in the Record:

Multinational Morals

(By Leonard Silk)

The dinosaur died out, they say, because it had a pea-sized brain. Could the gargantuan oil corporations expire for the same reason?

It is difficult to figure out how the corporate mind works. One oil industry executive has tartly remarked that security and growth can be added to profit as corporate goals "if you want three goals rather than one, but the first two are implicit in profits." And another executive, in his cups, once confessed to the writer: "When a business statesman makes public speeches, he has to talk in terms of social responsibility and long-term profit maximization, but the truth—the deep secret he can never admit to anyone except the lady who shares his pillow—is that he is a short-term profit maximizer."

Acceptance of this simple fact of life should spare one a great deal of moral indignation and surprise—surprise that after years of receiving huge tax breaks and oil import quotas allegedly to avoid a domestic oil shortage, there should be a horrendous domestic oil shortage, Surprise that the same oil companies that extracted those import quotas from Government to prevent foreign price competition should now attribute their failure to build domestic refineries to the uncertain supply of foreign crude oil. Or surprise—to take an event of recent weeks—that some oil companies, in the midst of an energy shortage that has millions frantic, should reduce the crude oil they are bringing into the United States, lest they have to share that oil, on allocation orders from the Federal Energy Office, with other companies at some cost to their own profits.

You might have thought that, with the enormous increase in oil profits, thanks to the run-up in prices after the Arab embargo, the multinational oil companies would have said to themselves: "Let's bring in the oil and share it, but protest the allocation rules as vigorously as we can, because they are costing us money. But we should act as though we are seriously concerned about the nation's problems, and recognize that the Government has to allocate oil somehow, since sectors of the country and the economy are suffering. After all, this big country is an important part of our market."

But if you thought so, you would be forgetting the simple and fundamental principle of short-term profit maximization. In fact, the Federal Energy office hastily changed the allocation rules so that the multinationals would no longer refuse to bring crude oil into the United States.

The multinational oil corporations have a special problem now, for which they may deserve some sympathy. They must obediently respond to the commands of such Governments as Saudi Arabia and Kuwait, over which they have much less influence than over the Government of the United States, even if this means helping the Arab countries to levy economic warfare against the United States.

The multinational corporations would like to be world citizens, but since there is no world government, no world community to which they are responsible, they must feign loyalty to every country where they do business, concealing the flag under which they really sail—a Jolly Roger emblazoned with the motto. "Shorten profit maximization."

But is that corporate flag really a Jolly Roger, or does it signify as legitimate and worthy a purpose as that pursued by most nation-states? "There are few ways in which a man can be more innocently employed than making money," said Dr. Samuel Johnson, and this may hold for corporations as well as individuals most of the time. In their quest for profits, corporations doubtless increase economic efficiency—and the multinationals do this on a global scale. But some American corporations were happy to do business with Hitler, or to subvert democratic Governments in Latin America and elsewhere, and there is nothing innocent about that.

In any case, economics is not everything, and the nation-state, when it is healthy and principled, is the appropriate institution for serving the broader social, political and psychological goals of its citizens. To safeguard the freedom of its citizens, a nation cannot be the instrument of corporations that have no other purpose than profit-maximization, however legitimate and useful that objective may be in a limited context.

The danger is not that corporations will pursue their pecuniary interests, especially if they do so within the constraints of competition, but that they will corrupt and capture the powers of government and transfigure national values and institutions to serve their corporate interests.

The multinational corporations would be wiser to cease trying to bend the political process to their own purposes, at home or abroad. That is a dangerous game, which is bound to provoke a social reaction in this country and others. Corporations that are insensitive to the needs and rights of any nation to determine its own social ends may be digging a grave for themselves.

THE FERTILIZER SHORTAGE: A GROWING PROBLEM OF SUPPLY AND DEMAND

HON. ORVAL HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. HANSEN of Idaho. Mr. Speaker, recent reports from the Department of Agriculture and from the fertilizer industry indicate a shortage of serious proportions of fertilizers that will be required by American farmers if they are to achieve their crop production goals this year.

The Idaho farmer, like his fellow farmers throughout the Nation, is confronted with a perplexing dilemma. He has been exhorted to "plant to the fenceposts" by the Secretary of Agriculture, and because of favorable economic conditions in the agricultural market, is enthusiastic to comply with this request. On the other hand, he is being informed by suppliers that fertilizer necessary to achieve this increased production will be in very short supply.

The Department of Agriculture has estimated that 1974 crop year demand for nitrogen, phosphate, and potash will be 12, 9, and 8 percent higher respectively than 1973 consumption levels. Demand for fertilizer has been rising over the years. In 1965 American farmers used 4½ million tons of nitrogen fertilizer; in 1970 the figure rose to 7¼ million tons, and in 1973, tonnage demand stood at 9 million tons. This increasing demand reflects certain basic factors. First, a release of 60 million additional acres from the farmland set-aside program, with nearly 20 million acres of this total being released this year. Increased yields are also planned for planted acres, and since most of the set-aside lands coming into production are of marginal quality, fertilizer need will be greater. Net farm income, at its highest level in history in 1973, will encourage and enable farmers to fund larger fertilizer purchases.

Even though domestic supplies of plant nutrients are projected to increase by nearly 9 percent this year, serious shortages are anticipated in nitrogen and phosphate fertilizers, and potash supplies could be adversely affected by rail transportation difficulties.

The Department of Agriculture estimates a 1 million ton shortage of nitrogen fertilizer, and a 700,000 ton shortage of phosphate. The Fertilizer Institute, however, believes that the actual shortages will be closer to 3 million tons of nitrogen and 1.5 million tons of phosphate. I understand that the National Council of Farm Cooperatives favors the Fertilizer Institute estimate.

The difference in these estimates could be based on differing factors of application rate. I believe that a review of the data utilized in arriving at these estimates should be conducted to determine which set of projections is closer to the truth. Obviously, the spread in the nitrogen shortage projection deserves special consideration because of the serious implications for wheat farmers requiring top dressing for crops and for the projected demand for nitrogen fertilizer by the Nation's corn farmers.

The shortages projected by the Fertilizer Institute could result in a loss of 22.5 million tons of grain production. When one considers the need to replenish our own grain inventories as well as the need to help fill the needs of a grain-hungry world, we can ill afford to lose this amount of production.

What economic implications do these projected shortages have for the American farmer? Obviously, yields would drop, as would farm income. Reduced fertilizer expenditures of $5 per acre can reduce gross income to the farmer by $10 to $15 per acre in grain value. This figure can rise to $20 to $30 per acre if grain is fed to animals. Of course, decreased livestock production will ultimately result in higher costs for the U.S. consumer.

How do we go about combating this problem? For the short term, economic incentives must be present in the domestic market to offset export demand. In return for decontrol of domestic fertilizer prices, producers agreed to curtail a significant portion of their export sales and to stabilize prices when an effective incentive level was achieved. This commitment is still being maintained despite the fact that world prices continue to spiral upward. For example, domestic ammonia is selling for around $120 a ton, whereas ammonia consigned for export is selling at between $200 and $210 a ton, with spot sales of as high as $300 a ton reported. A similar situation exists in urea and diammonium phosphate, with domestic prices trailing world prices by at least $100 a ton.

When the House Committee on Agriculture held hearings on the fertilizer shortage situation in September and October of 1973, certain suggestions were offered repeatedly. First, a decontrol of domestic prices was essential, and that has now been achieved. Second, domestic production, already running at nearly full capacity, must be increased. This increased production will require the construction of additional plants, with estimated costs ranging between $35 and $60 million apiece, and really efficient plants costing as much as $80 to $100 million. Lead times on construction run about 18 months, and actual construction can take as much as 3 years per plant. Most importantly, new construction will depend on long-term commitments from gas companies for adequate, uninterrupted supplies of natural gas. A minimum commitment of a 15-year supply is essential to initiate construction plans. Fertilizer plants already in existence also require guarantees of uninterrupted gas service if they are to maintain capacity levels.

A release from the Federal Power Commission dated January 31, 1974, projected that major interstate natural gas pipeline supply deficiencies are expected to be 53 percent higher during September 1973 through August 1974 than they were a year earlier. The FPC reported actual and projected curtailments of service by 18 of the 36 reporting companies.

Natural gas fuel and feedstock requirements of nitrogen fertilizer plants consumes only 2 percent of our Nation's total annual consumption, or 470 billion cubic feet out of a total consumption of 22 trillion cubic feet.

To meet the Department of Agriculture's projected shortage of nitrogen fertilizer this year, the industry will require an additional 43 billion cubic feet of natural gas, or about 1/500 of the total natural gas produced. Although the Federal Power Commission attempted to cut down on low priority usage, which accounts for 65 percent of our total consumption, through establishment of priority of service guidelines, curtailments through 1973 amounted to a loss of 300,000 tons of ammonia. Under the present priority system, plants with firm contracts receive a No. 2 priority, after residential requirements. In this category they compete with all other firm contract industrial users for supplies of gas. Plants with interruptible contracts, which account for 22 percent of our domestic fertilizer production capacity, fall into categories 6 to 9. It is estimated that curtailments under this system will result in a loss of 17.5 billion cubic feet for the crop year ending June 1974.

To maintain maximum production levels of existing plants, the Federal Power Commission should review the priority system and elevate all fertilizer plant requirements for fuel and feedstock to the No. 2 priority level, irregardless of the firm or interruptible nature of their contracts.

Long-range gas contracts, an important determinant in the construction of new plants, will require ample supplies of natural gas. The Federal Power Commission should review its present pricing structure to determine what adjustments will be required to increase domestic natural gas production, which has steadily declined from 16,000 wells to 8,000 wells in the years since 1956.

When the Federal Power Commission studies the pricing structure to determine if adjustments can be made to increase natural gas production, consideration should also be given to those companies that depend on gas supplies outside the United States. For instance, in the State of Idaho, Intermountain Gas takes two-thirds of its gas from Canadian sources and one-third from the United States. Over the past 3 or 4 months, Intermountain has been faced with considerable change in the prices paid for Canadian supply. In addition, Intermountain faced a disruption in service from Canada.

Fortunately, Intermountain's management were able to effectively coordinate their resources to serve their customers' needs with a minimum of disruption. Although British Columbia Premier David Barret has pledged that his Province will meet long-term gas commitments to supply the Pacific Northwest, including Idaho, he cannot guarantee prices. Curtailments and price uncertainties clearly point to the need to explore for new gas sources within the United States, and Intermountain and four other Northwest gas distributors are engaged in an exploration venture in the Rocky Mountain area. When companies such as these attempt to augment or expand supplies from domestic sources, thereby relieving a dependence on imported gas, I believe they should be encouraged and assisted in this effort by the expeditious handling of necessary documentation by regulatory agencies, and in favorable and timely consideration of nominal rate increases to meet exploration costs. Success in a venture of this nature produces supply and cost benefits not only to the fertilizer production sector, but also to all other gas consumers.

The current fuel shortages in this country clearly indicate the need to increase domestic production to the maximum extent possible to lessen our dependence on costly and uncertain energy sources from abroad. Such dependence leaves us highly vulnerable to rapidly increasing demand situations in other countries, as well as sudden changes in export policy based solely on self-serving economic considerations. A case in point is the recently announced intention of the Algerian Government to increase the cost of its natural gas exports by as much as 986 percent. American companies are now being requested to renegotiate long-term contracts. One American company, El Paso Gas, faces the possibility of a price increase from 30.5 cents per thousand cubic feet to 3 per thousand cubic feet. Algeria has indicated that Europe and Japan will be eager customers if the United States does not want Algerian gas at these new proposed prices.

If a pricing structure review is initiated by the Federal Power Commission, I hope that consideration will be given to the need for coordination of intrastate pricing policies, over which FPC presently lacks jurisdiction. Obviously, if the fertilizer industry is to be induced to expand production and commit long-term capital to new plants, coordination of Government policies must be achieved to insure ample supplies of natural gas at fair and reasonably stable prices.

The curtailment of electrical power to fertilizer plants should be explored by the Federal Energy Office. The perspective development by the FEO in its priority classification for food production does not currently include fertilizer production, and this disparity should be reviewed and corrected.

A measure of short-term relief can be extened to the fertilizer industry by adjustment of service priorities mentioned above. Another possibility to provide relief to the Pacific Northwest would be a temporary suspension of the Jones Act to allow the shipment of anhydrous ammonia and pelleted urea from Alaska to the west coast in foreign vessels. I understand the Federal Maritime Commission has this suggestion under review, and I would encourage prompt and favorable action to implement this temporary relief for this section of the country.

I have sponsored legislation, H.R. 13279, to suspend the provisions of section 27 of the Merchant Marine Act of 1920, to allow these fertilizer shipments on vessels of foreign registry.

Transportation difficulties continue to plague the American farmer and the fertilizer industry. According to the Fertilizer Institute, we lack 511 boxcars and 1,094 hopper cars for material now available for shipment. These car shortage figures were released for the week ending February 8. The Canadian boxcar situation portends possible potash shortages for many areas of the country, despite increases in production.

Consideration should be given to loan and tax incentives for the industry to increase its rolling stock. In the interim, an educational program must be launched to facilitate prompt unloading and release of badly needed cars. Too many small dealers are using freight cars as warehouses and this practice should be discouraged.

Branch line refurbishment should also be a priority item for rural areas, to relieve dependence on truck transport that is often unsuited for rural road conditions. Regional transportation planning, with possible computer utilization, could yield substantial improvement in the fertilizer and crop transportation problem area. A grain transportation study conducted by Iowa State University in conjunction with the U.S. Department of Transportation reveals the economic benefits and efficiency gains of a systems approach to grain transportation. This project should be reviewed to determine its applicability to other areas of the country and to ascertain whether the scope of such a system could be expanded to include fertilizer shipments. In Idaho, a study is now underway to explore the subterminal concept in agricultural transportation. This project, under the direction of the Idaho Transportation Council, could yield much valuable information about the feasibility of systems planning in an area that is currently plagued by transportation difficulties.

Some areas have been left without fertilizers due to withdrawal of suppliers. Northern Idaho farmers face difficulties because of the withdrawal of a Canadian supplier, based on economic considerations. Whereas these farmers had originally had planned to apply about 40 pounds of solid fertilizer per acre to obtain maximum yield, they are now being forced to cut back to 26 pounds, and filling the gap with liquid fertilizer.

However, farmers estimate that this method is only 80 percent effective, and yield losses will result. Although the suppliers in the area are exerting every effort to meet the needs of those farmers who have been cut off from supply, even former customers' are being allocated supplies, and it is extremely difficult, if not impossible to meet everyone's needs. Of course, shipments of Alaskan fertilizer should relieve this situation if the Jones Act can be temporarily amended.

A review of the fertilizer shortage situation will undoubtedly include some recommendations for export controls. My study of the implications of such a move has determined that embargoes would be counterproductive. First of all, we are dependent on shipments of Canadian potash, and certain areas of the country receive large tonnages of finished Canadian fertilizer. This arrangement is not one-sided, as Canada depends on this country for shipments of phosphate rock. Second, export trade is nearly balanced by imports. For example, while we exported 3.7 million tons of fertilizer in July to December of 1973, we imported 3.9 million tons during the same period. These imports include urea, ammonium nitrate, and anhydrous ammonia.

Finally, an embargo on the part of this country would prove a devastating blow to the Latin American countries who depend on us as a major supplier. I am sure we are all aware of the world public reaction to the Arab oil embargo. Emulating the Arab action in a commodity of this importance could only result in widespread animosity and could seriously hamper our trading position in the world market.

I will conclude my remarks by stressing the importance of utilizing a valuable service that is already available to the U.S. farmer through the Soil Conservation Service. I refer to the soil testing program. Such soil testing by every farmer will make good use of our available fertilizer supplies. While underutilization does not make good use of our resources, overutilization is neither good conservation nor good economics.

The world food crisis is seen by many authorities to be looming omniously on the horizon. Indeed, even the worldwide energy crisis pales in comparison with the prospect of widespread starvation in less developed countries. Whether or not this grim forecast becomes a reality depends largely on the response of the world community to increase agricultural production, tied so closely to fertilizer availability. This country has the ability to meet its own needs, and in this way we are very fortunate. We will probably pay higher prices for our food, but at least it will be available if we adopt the proper response now.

Delays in coordinating Government policies to assist the farm and fertilizer production sectors will preclude the achievement of our national agricultural production goals.

Decisive action must be taken now to help the American farmer meet the needs of American consumers.

Idaho farmers are ready and willing to do their share in meeting America's farm production goals this year. Idaho's fertilizer producers are working hard to meet increasing demand, both in Idaho and in other State markets. We need to address ourselves to policy implementation and adjustment that will enable Idaho's farm and fertilizer sectors, as well as those throughout the United States, to achieve production objectives. I am hopeful that such policy reviews will be forthcoming as a result of hearings on the fertilizer problem in both the House and the Senate.

JULIA BUTLER HANSEN

HON. LLOYD MEEDS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. MEEDS. Mr. Speaker, it gives me great pleasure at this point to include in the Record the views of the Senator from Washington (Mr. Jackson). Senator Jackson is a longtime friend and acquaintance of Mrs. Hansen and shares responsibility in the Congress for interior affairs:

Statement by Senator Henry M. Jackson: Tribute to Representative Julia Butler Hansen

Mr. Speaker: With her retirement Julia Butler Hansen, the dean of Washington State's delegation in the House of Representatives and Chairman of the House Interior Appropriations Subcommittee, will leave behind a legacy of accomplishment and permanent memories of her forthrightness and unwavering honesty.

Although I extend my best wishes to our distinguished colleague and bow to her desire to return to her home in the town of Cathlamet on the banks of the Columbia I must say that I will miss her as a colleague to whom I have looked for advice and most important as a warm personal friend.

The political career of Julia Butler Hansen, totaling 37 years in public office, began on the city council of Cathlamet in early 1938, progressed to the Washington State Legislature where she served for 22 years and culminated in her election as a Representative in Congress in 1960. The scope of her career makes it easy to understand why she is one of the most respected and influential members of Congress, one who knows the legislative process and the use of legislative power on behalf of the people as well as anyone who has served in public office. She is indeed a legislative craftsman with few her equal.

Mrs. Hansen has said, "I am a Westerner and I want to return to the West." In keeping with the Western tradition of an undaunted spirit she has blazed an impressive trial of firsts. It all began when she became the first woman to serve on the city council in her native Cathlamet. From there she went on to become the first woman to chair the County Democratic Central Committee and capped her career in state government as speaker pro tempore of the Washington State House of Representatives. When she arrived in Washington, D.C. she brought with her the savvy of a political veteran. She was the first democratic woman to serve on the House Appropriations Committee. She is also the first and only woman to serve on the House Democratic Steering Committee. Her record is one of substance, of which she can be justly proud, as we are of her.

And it is not over. "Life is not going to be long enough to do all the things that I want to do," she said. "I have so many interests." Along with her congressional colleagues I want to wish her well as she returns to private life, about which she said:

"At the end of the year, when my term expires, I shall return to my home in Cathlamet, Washington, with my husband, to write, garden, do as I please, hang up the telephone or take the damn telephone off the hook, and when people I do not know appear at my door and walk in without knocking, I will have the great opportunity of telling them it is my private home."

Even though she is retiring from public office to the life of a private citizen, the last thing I would expect her to do would be to disassociate herself from the career of public service she has so admirably led for so many years. I was not surprised when she said that "as a private citizen, I shall continue, as long as I live, to have a strong interest in my community, district, state and nation." Without a doubt this is what all of us in the Washington State delegation would expect from our distinguished Representative from the third district.

I will again wish her well when she returns home and will express to her the hope that she, as a concerned citizen and valued friend, will not put the telephone off the hook when I keep calling for advice and help.

INSIDE JERICHO

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. MICHEL. Mr. Speaker, after almost 1 solid year of close and sometimes fanatical reporting by the media on the Watergate issue, I think it is fair to state that there are some who appear to be obsessed by Watergate. In that connection, I have just read a sermon delivered by the Reverend Robert P. Gates of the First Presbyterian Church in my hometown of Peoria, Ill.

Entitled "Inside Jericho," the sermon compares the mood and attitudes of the people residing in Jericho, when that city was under siege by Joshua and his followers, with the mood and attitudes of national life in our own country today.

I commend the message of the sermon to my colleagues and also to my friends in the press galleries and that the text of the sermon be placed in the RECORD at this point:

INSIDE JERICHO

(By the Reverend Robert P. Gates)

Dr. Kenneth McFarland, one of America's favorite banquet speakers, tells of the time that a friend of his, a Rev. Mr. Cartwell, arrived at his new parish. He visited the Sunday School. In the halls he met a young boy, asked his name, and was told, "I'm David Mercer." "David, do you know who broke down the walls of Jericho?" David answered, "no, I don't know—but I didn't do it!" Rev. Cartwell went into David's classroom; where he met Mrs. Gilbert, the teacher. He said, "I just met David Mercer in the hall, Mrs. Gilbert—I asked him who broke the walls of Jericho and do you know what he said? He said he didn't know, but he assured me that he didn't." Mrs. Gilbert said, "Well, if David said he didn't know and if he said he didn't do it, you can be assured that he's telling the truth. David is a fine young man. The Mercer family is a great family in this church and if David said that he didn't do it, he didn't do it!" Rev. Cartwell went to Mary Bright, the Superintendent of the Sunday School and said, "Mary, I met David Mercer in the hall. I asked him who broke down the walls of Jericho. He said he didn't know, but he assured me that he didn't. So, I went to his teacher, Mrs. Gilbert, and told her what David had said and she assured me that David would not lie—that if he said he didn't do it, he didn't do it. So, I've come to you." Mary Bright said, "Dr. Cartwell, I'm utterly surprised and ashamed. I can vouch for everything that David and Mrs. Gilbert said. David Mercer and the whole Mercer family are responsible members of the church and if he says he didn't do it, he didn't do it. Why make a big issue of this thing? You'll only get yourself into trouble before you even begin your ministry here. I suggest you drop the whole matter as far as we're concerned. Why don't you simply go to those Jericho people and explain to them that no one in this church did it. If their walls were broken down no one around here knows how it happened. But, if they persist in their accusation that someone from this church did it, you should know we have a little fund here in the church school—just for such things. Offer to pay for the damage, it certainly cannot be very great."

Well, that's Dr. McFarland's story. David, Mrs. Gilbert and Mary Bright were clear on one matter—*"they didn't know how the walls of Jericho were broken."*

Let's see what the Bible tells us:

"Now Jericho was shut up from within and from without because of the people of Israel; none went out, and none came in. And the Lord said to Joshua, 'see, I have given into your hand Jericho, with its king and mighty men of valor. You shall march around the city, all the men of war going around the city once. Thus shall you do for six days. And seven priests shall bear seven trumpets of rams' horns before the ark; and on the seventh day you shall march around the city seven times, the priests blowing the trumpets. And when they make a long blast with the ram's horn, as soon as you hear the sound of the trumpet, then all the people shall shout with a great shout; and the wall of the city shall fall down flat, and the people shall go up every man straight before him.' So Joshua, the son of Nun, called the priests and said to them, 'take up the ark of the covenant, and let seven priests bear seven trumpets of rams' horns before the ark of the Lord.' And he said to the people, 'Go forward; march around the city, and let the armed men pass on before the ark of the Lord.' But Joshua commanded the people. 'You shall not shout or let your voice be heard, neither shall any word go out of your mouth, until the day I bid you shout; then you shall shout.' On the seventh day they rose early at the dawn of day, and marched around the city in the same manner seven times. And at the seventh time, when the priests had blown the trumpets, Joshua said to the people, 'Shout; for the Lord has given you the city.' So the people shouted, and the trumpets were blown. As soon as the people heard the sound of the trumpet, the people raised a great shout, and the wall fell down flat, so that the people went up into the city, every man straight before him, and they took the city. Then they utterly destroyed all in the city, both men and women, young and old, oxen, sheep, and asses, with the edge of the sword." (Joshua 6:1–7, 10–11, 15–16, 20–21).

Can't you see it? Here stands Jericho. On the wall were stationed men of war with bronze-tipped spears gleaming in the sun; the light infantry straightened the feathers of their arrows, and checked the tautness of their bows; and the artillery was piling huge stones alongside their giant catapults. Everything was ready—as the Bible says "Jericho was shut up from within and from without. None went in and none went out." The Sergeant and the G.I.'s jeered and sneered and cat-called and swore at the ragged swarm of wilderness men that marched out of arrow-shot around the Camp. Here they march, with seven peculiarly dressed men, carrying some horns, out ahead of a packingcase or a trunk of some sort, that was carried by four men (the ark of the covenant)—and that was all. No spears, no bows, no arrows, no catapults, no weapons of any sort as far as the men of Jericho could see. And around the city of Jericho the procession went—no sound, no word spoken, no eye turned toward the city—just every man looking straight at the back of the neck of the one in front of him.

As the poet has said:

> "Heel and toe, heel and toe,
> Around the wall of Jericho,
> Around the wall of Jericho,
> Past the haughty golden gate,
> Where the emperor in state,
> Smiles to see a ragged show,
> Round and round his city go.
> Heel and toe, heel and toe,
> Round the wall of Jericho."

Having circled the city of Jericho once the parade stopped. The Israelites sit down at sun-down. All is dark. All is still. The Israelites sleep.

The next morning, after tidying up camp, the Israelites fall into formation, the Ark of The Covenant is brought to the head of the line, the trumpeters take their place ahead of it, and off they march—silently and out of arrows reach:

> "Heel and toe, heel and toe,
> Round the wall they go,
> Where they watch with scornful eyes,
> Where the captain's bastion rise.
> Heel and toe, heel and toe,
> Round and round the wall they go."

At four o'clock the march is over, supper is had, the fires are put out, the Israelites sleep in quiet darkness. This goes on for six days. Then comes the seventh day. Seven times around the city of Jericho. The pace increases each time—faster and faster. The only sound is the scuffling of feet and the heavy breathing of men, when all of a sudden the trumpets blast! And the mob of Israelites let out a bloodcurdling shout. The city Falls! Not an arrow shot, a sword thrown, a spear arched at the enemy. The Israelites swarm over Jericho and, with their enemy's own tools of war, literally destroy every man, woman and child and animal shut up within the wall of Jericho.

How could this be? How could Jericho fall without a shot being fired, and only a shout being heard?

Well, Lloyd C. Douglas, who wrote *The Magnificent Obsession, The Robe, The Big Fisherman,* and other novels and stories, had this to say about the whole affair. Here's what he sees as happening on the *Inside of Jericho.*

"It was late afternoon. The Emperor sat, playing chess with the Prime Minister in the heavy silence, punctuated only by the rhythmic swish of peacock feather fans that a dozen sweating Nubian slaves used to avert the attention of the royal flies. The Captain of the Guard appeared at the door. The Prime Minister said, "Well, what?"

"A large number of Hebrews, my lord—a very large number—probably all the Hebrews in the world, are encamping 500 yards south of the golden gate."

"Hmmmm . . ." said the Prime Minister, "strange. Armed?"

"Apparently not, your majesty."

"Strange. We'll go and look . . . are the gates all shut?"

"Yes, my lord."

"Are they bolted?"

"Yes, my lord."

"Well, then, keep them shut. Nobody goes out, and nobody comes in. Is that clear to you?"

"Tis well, my lord."

So they went out to the Tower over the golden gate, and looked a long time and laughed boisterously. Word spread through the city and everyone who might presumably have any business on the southern wall, was, that late afternoon, on top of it watching that strange procession. The Army was called out; squirted a little more oil into the bearings of the catapults; counted their arrows; unlimbered their bows; examined the pyramids of rocks, piled at intervals, on the broad surface of the wall. The whole city was merry that night and much wine was drunk. But the Army was ordered to remain on top of the wall, ready for whatever might come to pass, though it was evident that this ragged, emaciated, weaponless mob of thorn-torn travelers were as powerless as they were numerous.

The Emperor spent a merry evening but did not sleep very well, and arose in the morning, groggy and perplexed. He went to the golden gate and watched the Hebrews fall into line, and his heart beat a little quicker as they moved forward, obviously confident of what *they* were going to do—and he wondered what they were going to do. He wished he knew! He asked everybody in the royal household and they all said they wished they knew! The marching continued. The Hebrews came no closer. Late afternoon, when the baffling pageant was over, the Israelites trailed back to their camp, put out their campfires and went to bed. Obviously, their strategy was to reconnoiter—probably the onslaught would be that night. The word was passed that *Nobody* in Jericho was to go to bed that night. The Army was to remain in full strength on top of the wall—and the civilians were to be up, with their clothes on, ready to make whatever defense they might in their own household.

Certain optimists in the Cabinet protested that the Emperor was taking this matter too seriously because the Israelites had no weapons—but he replied "That's just it . . . no weapons! If they had weapons, they would probably be weak weapons . . . stuff twisted out of trees in the forest, and tied together with thongs. If they had weapons, we could meet them for we are sure of our weapons. But you see, they're not proposing to fight us with weapons. They have something else in mind, and whatever that something else is, *they have confidence in it*. And the supreme danger that we are in, is that we don't know what their plan is. It's a new kind of battle, and our weapons are not built for it. When they come with such complete, unanimous confidence in their own strategy it means *they know exactly what they can do to us*."

Well, the next morning the Army was on the wall. Laughter was raucous and shrill today. But with spasmodic spurts of hysteria.

The merchants in the city nervously attempted to pursue their usual duties, but customers did not come to buy—they just wandered and whispered and asked questions which nobody answered. And that night *no one slept in Jericho*.

The next day the Army was unable to eat for worry and watching . . . but there was a certainty that an attack was imminent. So, that night, with redoubled vigilance they manned the parapets and sat, peering out into the blackness. The trouble was, *these beseigers had no weapons*. That meant that the ordinary processes of giving battle were of no use. Jericho must sit and watch and wait and worry.

Late Thursday afternoon some Jerichonians began to take to their sick-beds. Others had gone entirely out of their heads, and were raving maniacs (requiring the service of three strong men to keep them from running amuck). The slightly better balanced than the neurotics were racing about from house to house, waving their arms and enquiring "what are we going to do?" Nobody had any appetite. Nobody could sleep. The strain was rapidly winding them up tight and taut and tense. The nerves of the steadiest were tied in hard knots and the mere touch of a man's elbow would set off a shrill screech of pain.

So, by Saturday, Jericho was all set to collapse. That morning, early, a listless, crumpled army watched the Israelites moving at double-quick—it drove its persecuted muscles to obey its painful nerves, and rise to the everlasting business of following along the wall, clutching spears in cold hands that shook as with palsy. Faster and faster the marchers moved; so fast the Army was bewildered and dizzy with the efforts to keep abreast. On the wall . . . once around, twice three, four, five, six, seven . . . Jericho was all keyed up now for the breaking point. There was a piercing blast! And weary, nerve-frazzled, careworn, fear-harried Jericho collapsed!! The Hebrews rushed in. The city that was shut up from within and without, fell wide open, and was destroyed!!"

Well, what's the lesson in all this? To me, God is saying something to us about our National Life and our Personal Life that is as pertinent and relevant as anything that could be said to us in the year 1974.

I

Let's look first at our National Life:

The single, great issue facing us is not the gyrations of the stock market, the energy crisis, the massage parlors, the X-rated movies, our polluted streams and air, or even what's happening in our schools or on our golf courses. The single issue before us at this juncture in history is whether the Single Man, whom the Constitution charges with the sole responsibility of directing our foreign policy, can continue to function when the parade of folks who have waded across the Watergate, are now circling the Whitehouse daily blowing their horns. We live at a time when the delicate balance in international affairs leaves almost *no margin of error*. International currency is floating around, tied to no basic commodity like gold. The basis of its worth is purely psychological. The Mark, the Yen, the Rubel, the Pound, the Dollar, or the Franc will change in value upwards or downwards, based upon what dealers in real goods and commodities think will be their comparative value in the future, and what folks think will be the viability of each nation who print their own paper monies will be in the days to come.

(1) Politically and militarily the schism between the great powers of Russia and Red China widens and narrows with pulsating danger. (2) The Atlantic Alliance is criss-crossed by deep breaks and faults, making it appear to be only a "paper contract"—not a "people contact."

(3) Viet nam remains a Volcano . . . the main eruption subsided, but minor spurts and rumbles continue that may not be just a prelude to a major torrent to come.

(4) All the while one sees Kissinger as busy as a spider, trying to lace a web between the Temple of Jerusalem and the Pyramids of Egypt. Thin lines of single threads spread great distances, leaving them vulnerable to any shaking at either end . . . or attack in the middle. And the ground around the Temple shakes with the tread of armed vehicles, and Pyramids can easily slip on their oily foundations! The web can be so easily broken . . . and if it is, the spider will be left clinging by its own sticky thread, hung up on one end. The very position he does not want. (5) All this is gyrating while the engines of the industrial nations are running low on fuel and grease for their bearings, bringing them to the point of impotence.

What does one do about all this? What decisions must be made? What will be the posture and the position of the United States in this complex crisis?

The answer lies in the decisions made solely by the President of the United States. By law and by deliberate design, what the United States does as a nation internationally is the Exclusive Responsibility of the Presidency. The commands and the decisions in this area of national life are not those of the Congress, nor the Congressional Committees, nor the Courts, nor judges, nor the Pentagon, nor generals, nor stock brokers, nor merchants . . . and most especially, not the T.V., newspaper, nor radio columnists and editorialists, nor preachers, nor church pronouncements. Every one of these areas of influence has No Responsibility for making decisions that lead to action in the area of World Relationship. Every one of these seats of power . . . and each represents a seat of power . . . can afford to be wrong in its individual opinions or decisions. *But not* the President of the United States. If *He* makes a wrong move, we all move with him, and suffer the consequences!

Some commentators would have us believe that Secretary Kissinger, by his own brilliance, and negotiations, has brought some semblance of order out of chaos. The fact is, he makes no move, no concession, no deals, no proposals . . . he does not trail the line of the silky thread of his web without direct orders from the President regarding the direction to take. Were the President to permit it to be otherwise he would be in direct violation of the Constitution, for if he were to delegate this exclusive power it would be prima facie ground for the removal of the President from his office because of malfeasance. The point of this: I care not what your politics are. . . (whether you love or hate the President,) (whether you did formerly but do not now,) the President is the President, regardless of his personal name or political party. The Presidency *must function* and the man holding that office *must function*. One can destroy a Senator and 51 others are there to maintain the Senate. Or ruin a Congressman and you have hundreds of others to keep the Congress alive. But the President is only *One Man*, and each of us had better ask ourselves whether or not the President has done, or is doing, the *specific job* as the Constitution charges him to do—The Handling of the Foreign Affairs. (Let's not be confused that he is charged by the Constitution of handling national affairs. . . he's NOT. What he does in that area has been delegated to him by the Congress. For instance. . . the appointment of an Energy Czar could have been an arm of the Congress and not the Presidency if the Congress had preferred to handle this national problem itself rather than to delegate it to the Presidency.)

Surely many of us can see that the same folks who were formerly opposed to the Presidency in its handling of foreign policy, regardless of whether the President was Eisenhower, Kennedy, Johnson, Truman or Nixon, are the very ones who are opposed to the President for other reasons. Some of us may judge them to be good reasons. Some of us may judge them to be poor reasons. But, are those reasons based upon *how* the Presidency has and is functioning in foreign affairs? Has he failed there, or hasn't be? *That's the question!* Or have his antagonists failed in these judgments and prophecies? Does his success make them angry concerning foreign affairs?

Boris Pasternak had his major character, Dr. Zhivago, make this comment regarding the power-influences in Revolutionary Russia, "To conceal failure, people had to be cured, by every means of terror, of the habit of thinking and judging for themselves, . . . to assert the very opposite of what *their eyes* told them."

We have the Terror of the Watergate marching, as Israel of old, around the Jericho of our lives. And we need to ask ourselves whether the daily parade, the lock-step of the columnists is curing us, the American people, of the habit of thinking and judging for ourselves. Is the terror they describe leading us to assert "the very opposite of what our eyes tell us?"

Or worse still, will the Terror of the Watergate cause the President to cease thinking and judging on the basis of all the facts presented to him from sources all over the world and come to the place where he asserts and puts into action the very opposite of what his eyes tell him, because he has been so terrorized?

Should that occur, we who feel so secure inside our walls of the Atlantic on the East and the Pacific on the West, may find the tidal-wave of Watergate washing away the very foundations of our way of life. Will we fall without a shot being fired, because a trumpet blast and a mighty blood-curding shout is made by those who parade around the White house?

Is it not time you and I began to consider what's going on inside this Jericho of ours? How sick, how neurotic, how keyed up, how edgy are we becoming? Will an ear-piercing blast hit a weary and nerve-frazzled, careworn, and fear-harried people, and be so great we suffer a catastrophic collapse?

Or let's put ourselves on the other side of the wall. Here we are with a Presidency that is trying to break down walls of Nationalism that separate people into Armed Camps of Suspicion and Fear. American citizens prefer to live in a free world, a free people with no Iron curtain, Bamboo curtain, or Cartel curtain. The Presidency has been working toward that end, and do it without a bow and an arrow, a catapult or a bomb! To accomplish this it seems necessary for the folks inside the wall to see some sort of united effort on our parts, who are outside the wall. Don't you think some degree of discipline on our part, with respect to our international posture, is required?

Suppose that some time during those seven days some wise guy, full of bright ideas and sophisticated analysis, would have tried to superimpose his opinions upon the clear orders of Joshua. What would have happened if some pigmy-minded, beady-eyed man who knew too much to follow, but not enough to lead, would have shouted out, during those days of silence, and broken ranks, and run up to his sergeant and said that he and five other fellows had had enough of this stupid walking and keeping still and they were going to start slinging stones at the wall of Jericho. Don't you see that the campaign of Jericho was constantly at the mercy of every crank, every boaster, any pigmy-brained politician and super-egoist who thought more of his own wise opinions, than the facts before him. At Jericho, all the Hebrews kept their heads, and held their tongues, and obeyed orders and minded their business and followed their leader . . . and Jericho fell! Why we, on the home-front should have the luxury of weakening the Office of the President, with international affairs in so delicate a balance, is more than many can comprehend. Like it or not, Nixon can in no wise be President three years from now. The Constitution will not permit it. Can we not clear up our home-front politics which needs to be thoroughly cleaned without destroying the international power residing in the Presidency of the United States? Think about it.

II

Well, enough of this very emotional subject of national life. What happens inside Jericho not only speaks to our National life, but it speaks to our Personal lives as well. So let's lighten our blood-pressures for a moment and move on to this observation.

Many of us are like Jericho—shut up from within and without—with nothing going in and nothing going out. We look around at all that is happening to us and we get keyed up to the breaking point. One piercing blast and a weary, nerve-frazzled, careworn, fear-harried, Jerry or Colleen collapses like Jericho.

How shut up is your life, with nothing going in and nothing going out? Are we just one tight knot watching and worrying about all that's happening around us? The stock market is going down, so worry, even though you have no investments to speak of. There's going to be a plumbers strike, but you don't need a plumber. Living costs are going up, but you still haven't missed a meal. The National Debt is getting out of hand; young people are running wild; homes are being broken into; cars aren't safe anymore; and someplace in America gas stations are closed. Just sit there and look at it all on T. V., or read it in the morning newspaper, or catch it on the noon news; sit there and be alarmed and worried and perspire and expire and wonder what's going to happen in this world. You know, if enough people can believe we're going down the drain, then, down the drain our world will go. Jericho fell from the Inside, and so can any life. Most people fail in this life, through the gradual surrender to fears and obstacles and threats they don't understand. They neither go out to find out the real facts, nor let the positive facts of life come into their conscience. Nothing goes in—Nothing goes out. It's the failures among us who "Cross Bridges" before they come to them, who die at epidemics that have not struck yet, who lose their dividends from stock they never owned. They capitalize every worry, they take every anxiety to bed with them, every hurt and bitter word said to them they harbor and they nourish, and every disappointment becomes a ruin of what life may have felt. They read in Ann Landers of all the troubles in marriage and suppose that theirs is on the rocks.

If any here live in that sort of Jericho, beleaguered and afraid, distraught and anxious, fear-laden, all tight, with nothing going in or coming out . . . why not let Jesus' words of truth come in, and then you go out and live as though you really BELIEVED them. Jesus said, "Do not be anxious about your life, what you shall eat or what you shall drink, or about your body, what you shall put on. Do not be anxious about tomorrow for tomorrow will be anxious for itself. Let the day's own troubles be sufficient for one day. Can you add one inch to your height by worry? Not even a sparrow falls to the ground without God knowing it." "Let not your hearts be troubled, your heavenly Father is prepared to give you good things if you ask Him. Take my yoke upon you, learn of me, my yoke is easy . . . , my burden is light." "Ask and it will be given you, seek and you will find, knock and it will be opened." "God sent His son into the world, not to condemn the world, but that the world by Him might be saved."

"Fear not, it's your Father's good pleasure to give you the Kingdom."

God did not give us the spirit of timidity, but a spirit of power and love and self-control.

Well, having heard that—letting that come into our own little Jerichos—then we are to go out of our Jerichos, and start doing things for others. Getting busy. Leaving fears and doubts behind. (There is plenty of work to be done in this community . . . let's offer ourselves. Get so tired over working that we haven't time to worry and be frantic with the problems facing our own life and this world.) Leave Jericho. Don't stay shut up with nothing going in or going out. The longer one stays in his own Jericho, being shut up tight from within and without, sooner or later his Jericho is bound to fall.

Yes, Jericho fell because what was happening was inside. Some sage said long ago that "we are to keep our hearts with all vigilance for from it flows the springs of life." Let's not look at the weird march of events that are taking place outside our walls with worried eyes—let us see them as opportunities and problems to be solved and issues to be met. Let us send out scouts and probe the problems. For the longer we sit here weeping and wailing and wondering and worrying about the problems that beset us, the sooner we are setting ourselves up for a fall.

Yes, God's word to us is that we must open the gates of our Jerichos and cease to shut ourselves in. For the longer we're "shut up from within and without," the sooner will we fall. Long before Jericho fell from the outside, it crumbled from the inside.

David Mercer said he didn't do it . . . but he could have, and so can each of us. Isn't this true in our personal lives. Let us have faith in Jesus and live those lives in the orderly optimism of Jesus, and not be victims of propagandized pessimism inside Jericho. Amen.

LITERARY AND EDUCATIONAL CONTRIBUTIONS MADE IN THE VIRGIN ISLANDS

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. DE LUGO. Mr. Speaker, I wish to bring to the attention of my colleagues two newspaper articles that emphasize truly the literary and educational contributions made in the Virgin Islands.

The subject of the first article is the selection by the National Poetry Press of Judith Peets. Ms. Peets articulates through poetry many of the desires, dreams, fears, and frustrations, not only of the people of the Virgin Islands but the world at large. It is very heartening to see young people spreading hope and light during these times of social turmoil.

The second article profiles a beautiful woman strongly concerned with restoring educational equality for all people. Carmena Richards understands the need for progressive education which provides purpose and direction for many who had given up hope. Mrs. Richards exudes the strength and determination of one who strongly believes that her actions will bring about a brighter future for the people of the Virgin Islands.

I respectfully submit the following articles:

[From the Daily News of the Virgin Islands, Jan. 25, 1974]

JUDITH PEETS POEM SELECTION BY NATIONAL PRESS

Miss Judith Peets, a sophomore student on the St. Thomas campus of the College of the Virgin Islands, has received a considerable amount of recognition for her poetry.

Most recently, she was notified that her poem "The Sorriest of Times," written last May, has been selected by the board of judges of the National Poetry Press to be published in the Annual Anthology of College Poetry.

The Anthology is a compilation of the finest poetry written by the college men and women of America, representing every state in the country. Selections were made from many thousands of manuscripts submitted. Miss Peets, a graduate of Charlotte Amalie High School, has had other of her poems published by the National Poetry Press.

The following is the text of Miss Peet's poem:

THE SORRIEST OF TIMES

Is there no rest for the weary
Is there no rest for the poor
Is there no rest for the tortured
Lord, I can't take it no more
Why does the sky change its color
Why do the seasons make their call
Why does the earth seek the raindrops
Why do the raindrops have to fall
Won't there be death for the weary
As well as the wicked and rich

Won't there be rest for a tired man
In a confused and perished, love-lost land
Someday the sky will change
Someday there will be a new sun
Then there will be rest for the weary
And this old life will be done.

[From the Virgin Islands Post, Nov. 11, 1973]

CARMENA RICHARDS: LADIES FIRST

(By Judith Ottley Hoston)

"When I first came here, and was encouraged to teach, I was nervous. I had never taught before and the children knew I was different. My speech was different; they spoke so fast I couldn't understand, and they realized they were putting me on."

That is not the case any more. Mrs. Carmena Richards understands them and can talk like them if she has to. "I am interested in dialects," she said.

Carmena Richards is originally from Texas, but interestingly enough, she does not have, and never spoke in a Southern drawl.

When Mrs. Richards came to St. Thomas in 1965, she became a third grade teacher at Dober School. She taught there for three years. She found she liked the educational profession and returned to college to major in Education.

Her first degree was in Speech and Drama from Hampton Institute. She also has a Bachelor of Science Degree in English and History from the Jarvis Christian College in Texas.

She returned here in 1970, and is now teaching at the Joseph Sibily School in Mafolie.

Mrs. Richards comes from a family which distinguished itself in education. Her mother and brother have Master's in Education, and her father, Dr. John O. Perpener Jr., was president of Jarvis Christian College in Hawkins, Texas, for many years.

He is now Vice President of Washington Technical Institute.

You can say Mrs. Richards married into our islands. She is the wife of John A. Richards Jr. Director of the newly established Police Science Laboratory of the Virgin Islands. They have a daughter, Aisha, 8½ months old.

Education is Mrs. Richard's "pet peeve." And in talking about the Virgin Islands educational system she feels "there are too many hands in the fire."

She said, "I wish they would give the Department of Education a chance; let it sink or swim. There are too many dictators and purported experts on education.

"The Legislature and all dictating bodies should stay out. There are too many faults being found and no solutions being made. Let the parents and educators handle it. . . ."

Mrs. Richards has strong feelings not only on the subject of education, but on the matter of parenthood.

In recalling her childhood, she considered herself to be one of the fortunate ones "maybe born with a silver spoon in my mouth. I feel this way because my parents really brought me up and stood behind me."

She said: "Some parents are not aware of their children's needs. Bringing up children is no different today, except that today children are more exposed. Parent-child relationships have changed and are becoming more distant. Education cannot succeed without the influence of parents."

Mrs. Richards' contribution to the community has been "strictly vocal" She sings at Government House at Christmas and for other gala events. She has been singing at the Veterans Day ceremonies every year since 1970. She also does solo work for weddings and the Moravian and Catholic Churches.

Her parents were her source of encouragement. They felt that "if you had talent you should use it." Her father was her first voice teacher. In her first public appearance they sang a duet. She was eight years old at the time. Since then she received private tutoring.

Mr. Richards would classify herself as a "dramatic soprano". She sings mostly classical and conservative music. Her favorite works are "Arias" from "Madam Butterfly" and the soprano work in "The Messiah."

In 1960 she sang with the Austin Symphony Orchestra in Texas, and in 1968–69 with the East Texas Symphony.

In May 1972, Mrs. Richards gave her own concert at the College of the Virgin Islands, which was sponsored by the Virgin Islands Nurses Association.

This year she helped produce a musical program called "Festival of Song" with Leah Colker. It was a complete success and already they have been asked to put on another show.

Mrs. Richards received the "Community Service Through Talent Award" in 1970, presented by the American Legion. In Texas she received the Community Service Award for helping with the Community Chest and the Blood Bank.

Locally she is a member of the Caribbean Choral, the St. Thomas Arts Council, the Business and Professional Women's Club and the Women's League. She is also a non-active member of Delta Sigma Feta.

Besides singing and sewing, her hobbies include reading and planting. She spends about eight hours in her garden on the weekends.

A TRIBUTE TO DR. STEPHEN A. GREDEL, FOUNDER OF THE NIAGARA FRONTIER FOLK ART COUNCIL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. KEMP. Mr. Speaker, I wish to pay tribute to Dr. Stephen A. Gredel, senior research historian at the Buffalo and Erie County Historical Society, who passed away recently. Dr. Gredel's work with ethnic groups started in 1960 as a research associate of the historical society. His research led to the society's long-term exhibit, "People of Our City and County, "which opened in 1963. He founded the Niagara Frontier Folk Art Council in 1964 and served as its president until his untimely passing.

All western New Yorkers who knew him understand and appreciate his selfless contributions to ethnic history, the Buffalo and Erie County Historical Society, and the furtherance of the history and culture of ethnic peoples of western New York.

I was privileged to know him personally and to work with him to increase America's awareness and appreciation of our ethnic heritage. We can be proud that we live in a pluralistic society, in which many ethnic peoples have come together to live and work in peace, yet maintaining mutual respect for our separate heritages. America has long meant "out of many—one."

Dr. Gredel's brainchild, the Niagara Frontier Folk Art Council, will long live as a memory to him. His very accomplished and capable daughter, Dr. Zdenka Gredel-Manuele, will assume his responsibilities as president of the council. Certainly his memory can be no better served than by his own daughter and I am certainly looking forward to continuing to work with her and the council.

The Buffalo Evening News and Buffalo Courier Express each carried eulogies upon the passing of Dr. Gredel. I include them at this point.

[From the Buffalo Evening News, Jan. 15, 1974]

DR. STEPHEN A. GREDEL, SENIOR RESEARCH HISTORIAN

Dr. Stephen A. Gredel, 62, senior research historian at the Buffalo & Erie County Historical Society and a leader in revitalizing Western New York's ethnic heritage, died (Jan. 15, 1974).

He was a founder in 1964 of the Niagara Frontier Folk Art Council and served as its president until his death.

Dr. Gredel's work with ethnic groups began in 1960 when he joined the Historical Society staff and was assigned to study this area's ethnic mix.

His research led to the preparation of the society's longterm exhibit. "People of Our City and County," which opened in 1963.

After development of the ethnic exhibit, he served as chairman of the Historical Society's Festival of Nations program, a weekly series which provided a focus and revival of interest in many nationality groups.

A year later he helped found the Folk Art Council which took over sponsorship of these programs.

His studies also led him to the publication of two books. The first, "Eight People of Our City and County," was published in 1965 as part of the society's "Adventures in Western New York" series.

The second, "Pioneers of Buffalo, Its Growth and Development." was published in 1966 by the Buffalo Board of Community Relations of which he was a member.

Dr. Gredel served on the Erie County Sesquicentennial Committee and was a contributor to "History of Erie County, 1870–1970," published by the Historical Society.

He was the recipient of numerous commendations and awards from local ethnic groups and national organizations. In 1967 Mayor Sedita gave him a civic commendation.

He was a member of the Croatian Catholic Union and an honorary member of many ethnic organizations in the Buffalo area.

Born in Nova Gradiska, Croatia, now part of Yugoslavia, Dr. Gredel received his master's and doctor's degrees from the University of Zagreb in the mid-1930s.

He worked for the Yugoslav army for the Croatian foreign ministry in Zagreb from 1941–43 and was consul for Croatia in Vienna and Essen, Germany, from 1943–45.

Following World War II, he was a U.S. Army librarian and later an archivist for the Historical Society of Bamberg, Germany. He came to the U.S. in 1957 and worked for 3 years at Bethlehem Steel Corp. in Lackawanna.

Surviving are his wife, Lierka; 2 daughters, Dr. Zdenka Gredel-Manuele and Ksenia, both of Buffalo, and a grandson.

[From the Buffalo Courier-Express, Jan. 16, 1974]

DR. GREDEL, NOTED AREA HISTORIAN

Dr. Gredel died (Jan. 15, 1974). He was senior research historian at the Buffalo and Erie County Historical Society.

Dr. Gredel helped found the Niagara Frontier Folk Art Council in 1964 and was its president from then until his death.

His work with ethnic groups started in 1960 when he joined the Historical Society staff as a research associate. Then he was assigned to study the Buffalo area's ethnic mix.

Dr. Gredel's research led to the preparation of the society's long-term exhibit, "People of Our City and County," which opened in 1963.

After the development of the ethnic exhibit, Dr. Gredel was chairman of the Historical Society Festival of Nations program, a weekly series which provided a focus and revival of interest in many national groups. One year later he helped to establish the Folk Art Council, which took over sponsorship of those programs.

Dr. Gredel's studies led him to the publication of two books. The first volume, "People of Our City and County," was published in 1965 as part of the society's "Adventures in Western New York" series.

The second book, "Pioneers of Buffalo, Its Growth and Development," was published in 1966 by the Buffalo Commission on Human Relations, of which Dr. Gredel was a member.

Dr. Gredel was a contributor to "History of Erie County, 1870–1970," published by the Historical Society. He also served on the Erie County Sesquicentennial Committee.

Dr. Gredel was honored with many commendations and awards from local ethnic groups and national organizations, including the Community Leader of America Award in 1969 from the American Biographical Institute. Buffalo Mayor Frank A. Sedita presented him with a civic commendation in 1967.

The Buffalo Commission on Human Relations honored Dr. Gredel in 1966 for promoting the purposes of the commission "by fostering mutual understanding, a spirit of Americanism among all racial, religious and ethnic groups."

Dr. Gredel was a member of the Croatian Catholic Union and an honorary member of numerous ethnic organizations in the Buffalo area.

Dr. Gredel was born in 1911 in Nova Gradiska, Croatia, then in Austria-Hungary. Croatia now is part of Yugoslavia.

He received his master's and doctor of law degrees from the University of Zagreb in the mid-1930s.

At the outbreak of World War II Dr. Gredel was an artillery officer in the Yugoslav Army, and he was taken prisoner by the Germans in 1941. After a few months of imprisonment, he was released and appointed vice president of police headquarters in Zagreb.

In 1942 Dr. Gredel was named counselor of the Croatian Foreign Ministry in Zagreb. The next year he became consul of Croatia in Vienna. In 1944 he was appointed consul of Croatia in Essen, Germany.

After World War II, Dr. Gredel was a U.S. Army librarian and later was an archivist for the Historical Society of Bamberg, Germany.

Dr. Gredel came to the United States in 1957 and was an employe at the Bethlehem Steel Corp., Lackawanna plant for three years before joining the Historical Society staff in 1960.

Surviving are his wife, Ljerka; two daughters, Dr. Zdenka Gredel-Manuele and Miss Ksenia Gredel, both of Buffalo; and one grandson.

The magnitude of Dr. Gredel's accomplishments can only be understood by having an awareness of his extensive writings, the public offices he has held, and the honors he has received. Some of those accomplishments include:

DR. STEPHEN GREDEL

PUBLICATIONS

Indexes and Registers of the publication of the Bamberg Historical Society, "Fraenkische Blaetter", 1953–1956 (Germany).

"Early Polish pioneers in Buffalo" and "Immigration of ethnic groups to Buffalo" published by the Buffalo & Erie County Historical Society in the *Niagara Frontier*, Summer 1963.

"People of Our City and County," Adventures series in Western New York, Vol. XIII, 1965, published by the B.E.C.H.S.

"Pioneers of Buffalo—its growth and development," published by the City's Commission on Human Relations, 1966 (entered into the Congressional Record (May 8, 1972) in support of the national law (Ethnic Heritage S.P.)

PUBLIC OFFICES

Member of the Buffalo's Board of Community Relations (Jan. 1965); Member of the City's Commission on Human Relations (Aug. 1965–1970); Chairman of its Research & Public Information Committee (1965–1969); President & Festival Chairman of the Niagara Frontier Folk Art Council, Inc., (1968–); Member of the Advisory Council of the National Folk Festival Assoc., Inc., Washington, D.C. (Aug. 1971–); Member of the Erie County Sesquicentennial Committee (1970–1971).

HONORS

Recipient of the Honorary Membership presented by the German-American Federation of Buffalo & Vicinity (5.23.1965) and by the United Irish-American Assoc. of Erie County (2.25.1955) "in appreciation for extraordinary services rendered to this Association;" of Commendation by the German-American Federation (12.8.1966) "for his efforts on behalf on Buffalo and for his dedication to its people;" of a Plaque presented by the School Board of the Hellenic Orthodox Church of the Annunciation *(4.25.1966)* "in recognition of his interest and dedication to the promotion of the international friendship;" of a Commendation presented by the Commission on Human Relations (10.7.1966) "for his promotion of the purposes of the Commission by fostering mutual understanding and a spirit of Americanism among all racial, religious and ethnic groups;" of a Certificate of Merit presented by the Polish-American Citizens Organization (10.1.1967) in "appreciation for Participation and spirited Assistance in keeping with the finest tradition of Polish-American organization, Patriotism, Loyalty and Contribution to our Country"; Ukrainian Congress Committee of America, Buffalo Chapter's presentation of a Plaque (4.3.1967) "in recognition of his able leadership in organizing and conducting the Annual Folk Festival and appreciation of his great love toward various ethnic groups in the Buffalo area;" of a Medal of Honor presented by the Bulgarian National Front, Buffalo Chapter (2.22.1970).

Meritorious for the Award of Merit presented by the American Association for State and Local History to the Buffalo & Erie County Historical Society (10.15.1965) "for preserving the heritage and contributions made by those of foreign birth and parentage;" Recipient of the Civic Citation presented by Buffalo Mayor Hon. Frank A. Sedita (3,10,1967); Recipient of a Community Leader of America Award in 1969; Listed in "Who's Who in the East," 1968–1969, Vol. II and 12; (Recipient of the key to the City presented by Mayor Frank A. Sedita Feb. 21, 1971).

It is a privilege to pay tribute to Dr. Gredel; his memory and accomplishments will live with western New Yorkers for years to come.

HOUSE OF REPRESENTATIVES—*Tuesday, March 12, 1974*

The House met at 12 o'clock noon.

Rev. Boswell J. Clark, of the Clinton Presbyterian Church, Clinton, Md., offered the following prayer:

Eternal God, Creator and Ruler of the universe, Thou who hast led this Nation into freedom under the law, we thank Thee for this Government which provides the way that we may govern ourselves with equity and justice. Grant us wisdom and courage for the needs of this day as we perform the duties for which we have been elected. Where there is need for decision on matters of state, grant us the wisdom of Solomon and the courage of David to stand firm in that in which we believe; yet give us tolerant hearts to listen to the views of our fellow Representatives, that this democracy may function well "to establish justice, insure domestic tranquillity, promote the general welfare and secure the blessings of life, liberty, and the pursuit of happiness" for all. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Is there objection to dispensing with the reading of the Journal?

MOTION OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Speaker, I object to dispensing with the reading of the Journal, and I move that the Journal be read.

The SPEAKER. The question is, Shall the Journal be read?

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. WOLFF. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 16, nays 365, answered "present" 3, not voting 47, as follows:

[Roll No. 75]

YEAS—16

Abzug
Addabbo
Badillo
Bingham
Brown, Calif.
Dulski
Grasso
Grover
Holtzman
Koch
Lent
Mathis, Ga.
Rangel
Rosenthal
Stanton, James V.
Wolff

NAYS—365

Abdnor
Adams
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biester
Blackburn
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Camp
Carney, Ohio

Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Dorn
Downing
Drinan
Duncan
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flynt
Foley
Ford
Forsythe
Fountain
Fraser
Frenzel
Frey
Froehlich
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Green, Oreg.
Green, Pa.
Griffiths
Gross
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Hastings
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Hillis
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Kuykendall
Kyros
Landgrebe
Landrum
Latta
Leggett
Lehman
Litton
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Madden
Madigan
Mahon
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Mills
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murtha
Myers
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rarick
Regula
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Shipley
Shoup
Shriver
Shuster
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Spence
Staggers
Stanton, J. William
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

ANSWERED "PRESENT"—3

Fulton
Harrington
Poage

NOT VOTING—47

Alexander
Biaggi
Blatnik
Brasco
Breckinridge
Burke, Calif.
Butler
Carey, N.Y.
Clay
Conyers
Diggs
Eckhardt
Fisher
Flowers
Frelinghuysen
Gray
Hanna
Harsha
Hébert
Heinz
Henderson
Holifield
Howard
McEwen
Macdonald
Maraziti
Minshall, Ohio
Mizell
Montgomery
Morgan
Murphy, N.Y.
Nix
Patman
Podell
Rees
Reid
Robison, N.Y.
Rooney, N.Y.
Seiberling
Sikes
Smith, N.Y.
Stubblefield
Thornton
Vander Jagt
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Young, Alaska

So the motion was rejected.

The SPEAKER. Without objection, the Journal stands approved.

There was no objection.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 6119. An act for the relief of Arturo Robles.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2662. An act to authorize appropriations for U.S. participation in the International Ocean Exposition '75.

DISCHARGE PETITION TO RELEASE HOUSE JOINT RESOLUTION 846

(Mr. BELL asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. BELL. Mr. Speaker, I am taking this opportunity to remind you that a discharge petition to release House Joint Resolution 846 from the Armed Services Committee is at the desk.

House Joint Resolution 846 authorizes increased production of oil and gas from the Elk Hills Naval Reserve.

In my opinion this would be a substantial contributing factor in alleviating the present fuel shortage.

My colleagues, by signing this discharge petition, you will have contributed significantly to solving the Nation's energy shortage.

I will be happy to discuss this matter with you in greater length at your convenience.

Also, I refer you to my comments in the Congressional Record of March 6, 1974, on page 5462.

You are all aware of the long lines at the gasoline stations.

We cannot delay further.

The needs of our Nation call for action, and action now.

I urge you to put all obstacles aside and sign the discharge petition.

PERSONAL EXPLANATION

Mr. HUDNUT. Mr. Speaker, I was unavoidably detained on other congressional business with a constituent and did not reach the floor in time to record my position on roll No. 70 and roll No. 71 on March 7. However, I want the Record to show that I would have voted no on roll No. 70. I am against a rollback of prices on crude oil because, in my judgment, it would curtail incentives for further exploration, thereby leading to greater shortages and higher prices in the long run. I am glad that a majority of the House agreed with my position and voted down the amendment 163–216. On roll No. 71, the final passage of the act to establish the Federal Energy Administration, I would have voted aye because I believe that such an agency, established by statutory authority, will provide a more efficient and effective means to manage the energy crisis and to help the United States become self-sufficient in energy production.

SOVIET PROPAGANDA FAVORS OIL EMBARGO

(Mr. HAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HAYS. Mr. Speaker, I read in the morning paper that the Soviet Union is unleashing vast propaganda barrages to the Arab States asking them to keep the oil embargo on, and making all sorts of accusations against Sadat and others who want to lift it.

Mr. Speaker, I imagine the American motorist is going to be pretty interested in what Mr. Nixon's latest new-found friends, Mr. Brezhnev and company, are doing, and if we are going to continue the détente which is going to mean less and less fuel for Americans, then maybe détente is not such a great bargain.

Perhaps if Dr. Kissinger goes to Moscow this weekend, he ought to take Mr. Nixon with him and he can see what he can do with his buddies over there.

PROVIDING FOR CONSIDERATION OF H.R. 69, ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1974

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 963 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 963

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 69) to extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes. Three legislative days after the conclusion of general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. Notwithstanding the provisions of clause 7, rule XVI, it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. All points of order under clause 4, rule XXI, are hereby waived against title I and sections 305, 403, 605, 702, and 803 of said substitute, and said substitute shall be read for amendment by titles instead of by sections. No amendment shall be in order to title I of said substitute except germane amendments which have been printed in the Congressional Record at least two calendar days prior to their being offered during the consideration of said substitute for amendment, and amendments offered by the direction of the Committee on Education and Labor, and neither of said classes of amendments shall be subject to amendment. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON) pending which I yield myself such time as I may consume.

Mr. Speaker, this is an unusual rule. It occurs to me that the Members should want to know what is in the rule, because it is a modified rule which closes up an important title of this bill to any amendment except two kinds:

One type of amendment must be printed in the RECORD 2 days before it is brought up for consideration, and the rule provides for a gap between general debate and the amendment stage in order to insure the Members have a fair opportunity to have their amendments printed to title I in the CONGRESSIONAL RECORD in compliance with this rule; and the rule also makes in order committee amendments which are decided upon by the Committee on Education and Labor.

That does not mean that it makes in order amendments offered by members of the committee; it means that it makes in order committee amendments, amendments that are adopted by the committee. It also denies the right to any Member to amend either of those categories, either of those classes of amendments to title I.

Mr. Speaker, the rest of the bill is open. There are two waivers of points of order, which are necessary in the nature of the matter reported by the Committee on Education and Labor.

There is a waiver of points of order on germaneness, because the committee substitute which is made in order is a substitute that goes beyond the content of the originally introduced bill. And there is a waiver of points of order on the appropriations question. This is an authorization bill, and consequently no appropriation is in order, because there are a number of sections which in effect are, or appear to be, or may be, appropriations.

This, therefore, is a very complicated rule, and it is not only very important before the Members vote that they understand what they are limiting themselves to, but it is also important that they understand why the Committee on Rules reported the rule.

This is not exactly the rule that was requested by the Committee on Education and Labor. The Committee on Rules provided for that gap between general debate and the amendment stage in order to protect the rights of Members to comply with the limitation on their right to offer amendments to title I. The Committee on Rules agreed to the rule without dissent, as I remember it, because the House of Representatives in a whole series of different ways has found it extraordinarily difficult to know what it was doing when it was voting on the formulas that applied to this particular piece of legislation. I am not an expert on how many times this has come up in a different way, but I do know that it has been more than three or four times, and it has been very difficult and very controversial, and I am perfectly willing to say that there has been at least one occasion when I was not exactly sure what the consequences of my vote on the particular matter before the House—and I think it was on an appropriation bill—as to exactly what these consequences were going to be on my district as well as on the United States.

The whole purpose of providing for this particular kind of rule is to see to it that whatever else happens the Members of the House of Representatives will have an opportunity—a reasonable opportunity—to know what the meaning of an amendment to the committee provisions might be.

Ms. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I will be glad to yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Speaker, I appreciate the explanation given by the gentleman from Missouri, but I just wonder if that was so why is it the rule provides that there is no amendment permitted to an amendment?

Mr. BOLLING. For exactly the same reasons.

Ms. ABZUG. Does it not have the effect of locking in the formulas which are already in the committee bill, and in the same sense does this not prevent us, in the event there are amendments to really deal with those matters realistically by not allowing us to offer amendments to them?

Mr. BOLLING. Not in my judgment. I thought about this as carefully as I could so that that is not so. The 3-day gap is there, and the purpose of it is to see to it that there is plenty of time for Members, having been warned by the situation last week, to come up with an amendment.

The reason that it has to exclude amendments from the floor to amendments offered either after they have been published in the RECORD or to amendments offered by the committee, is for the same reason, to prevent Members from being blind-sided.

Ms. ABZUG. Mr. Speaker, will the gentleman yield further?

Mr. BOLLING. I will yield further to the gentlewoman for another question, but first I would like to complete my reply.

There is a question of whether or not one does or does not have confidence in what is said by the members of the committee when they offer an amendment. That is the one potential I wonder about and if, at that point, this gentleman is concerned about the effect on his district, having been through one experience, the effect on his district and on the country as a whole on the formula, this gentleman is going to vote against the bill.

I think the safeguard to the attempt to protect Members is the understanding that its purpose is to try to be fair to Members and to see that Members are informed. If there is any attempt to subvert that purpose then there should be a very clear effort to defeat the bill.

Ms. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentlewoman from New York.

Ms. ABZUG. I thank the gentleman for yielding.

The other question I have is, we are all familiar with the fact that these formulas are very unclear and that the data has never been either fully presented or consistent before the Committee on Education and Labor, as well as the Committee on Rules, let alone the Members of this House. If there are amendments proposed by any Members and printed in the RECORD, let us say, on Friday, it makes it very difficult for those of us who want to judge the national impact or the local impact to get the kind of computations from the appropriate departments of Government, National and State, over the weekend in order to determine whether or not those amendments do, indeed, reflect an improvement or an advantage or disadvantage.

So what the gentleman from Missouri really is doing is again freezing us to formulas which we again will be unable to assess. Until now the formulas have been based on very unclear, different, inconsistent, often conflicting tables. The gentleman is proposing by this rule only an apparent flexibility, but in fact it can only operate to produce the opposite effect.

Mr. BOLLING. In answer to the gentlewoman's question, I will merely state that I disagree with her statement.

Mr. Speaker, I reserve the balance of my time.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I thank the gentleman for yielding.

For purposes of clarification, I assume by definition the legislative day is a day that this body is actually in session, when we refer to the fact that the bill shall not be read for amendment under the 5-minute rule until 3 legislative days after the conclusion of general debate. In other words, to be more specific, if this House is not in session on Friday of this week, then the amending process would not be starting until Tuesday of next week.

Mr. BOLLING. That is my understanding, that a legislative day is a day that the House meets.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I should like to ask the gentleman from Misouri just one question, particularly in connection with the rule. The 3 legislative days' reference is specific in the text.

The gentleman meant at least 3 legislative days, I assume. Is that not correct?

Mr. BOLLING. At least 3 legislative days, because the Committee on Rules, and to a considerable degree the House, would leave anything that was a matter of final scheduling to the leadership.

Mr. DEL CLAWSON. The vote in the committee was not unanimous. There were four votes against the rule.

Mr. BOLLING. I apologize. I did not state the situation correctly. I apologize to the House. I am glad the gentleman corrected me.

Mr. DEL CLAWSON. I thank the gentleman.

Mr. Speaker, I am opposed to this bill, and the rule which makes it in order.

First, let me review the provisions of this most unusual rule. The rule provides for 4 hours of general debate on H.R. 69, the Elementary and Secondary Education Amendments of 1974. Then the rule provides for a gap of 3 legislative days, before the amending process begins. The purpose of the gap is to allow Members time to prepare amendments. The rule requires that any amendments to title I, which contains the formula for distributing the funds, must be printed in the CONGRESSIONAL RECORD at least 2 calendar days prior to their being offered. The only other amendments in order to title I would be amendments offered by the direction of the Committee on Education and Labor. None of the amendments offered to title I would be subject to further amendment on the floor. Unless an individual Member thinks of his amendment 2 days before the time of offering it, he will be precluded from offering an amendment to change title I.

In addition to these unusual provisions, this rule makes in order the committee substitute as an original bill for the purpose of amendment, and provides that the bill be read for amendment by titles instead of by sections. The rule provides a waiver of points of order against the committee substitute for failure to comply with the provisions of clause 7 of rule XVI, which is the germaneness rule.

Moreover, the rule waives points of order against title I and sections 305, 403, 605, 702, and 803 for failure to comply with the provisions of clause 4, rule XXI. This waiver is necessary because this bill takes effect immediately upon enactment and the effect on funds already in the pipeline may be to reappropriate them to a new purpose. Clause 4 of rule XXI is the clause which prohibits appropriations on a legislative bill, such as this one.

Mr. Speaker, I am opposed to this highly complex rule, because it restricts the freedom of a Member to offer amendments at the time the bill is being amended. In addition to my reservations about the provisions in this rule, Mr. Speaker, I am strongly opposed to the bill made in order under this rule.

H.R. 69 is not the answer to the Nation's educational problems. Once again Congress is throwing a huge sum of money at a problem and hoping that it will go away. This is the wrong approach.

My good friend from Oregon (Mrs. GREEN) stated the dilemma in a New York Times article on January 16, 1974. These conclusions are more significant because the gentlewoman from Oregon is a former advocate of this type of program. The article begins as follows:

> As a long-time supporter of Federal financial aid for education, I have come to realize with much pain that many billions of Federal tax dollars have not brought the significant improvement we anticipated. There are even signs that we may be losing ground.

At a later point in the same article the gentlewoman from Oregon observes as follows:

> Two years ago, my office did a study of O.E. contracts and grants. What we found was appalling. The General Accounting Office said the department was in absolute chaos. No one knew to whom the grants were given, for what purpose, or what were the results. More than 90 percent of all contracts and grants from 1967 to 1972 were awarded on a noncompetitive basis.

Finally, near the end of the article, Mrs. GREEN makes the following conclusions:

> It seems to me that the time has come for an "agonizing reappraisal." We can no longer afford another new program for each new problem, or another new agency for each old agency that has lost its vitality. We cannot tolerate more centralization and Federal control. We cannot afford to enlarge, or even to continue with, a huge administrative apparatus that operates out of public view and beyond public control.

The SPEAKER. The gentleman from California has consumed 6 minutes.

Mr. DEL CLAWSON. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, if 6 months ago or 7 months ago when we started working on the education bill in the committee anyone had told me I was going to rise on the floor in opposition to the rule, I would have said that he was certainly mistaken because I recognized the desperate need in this country for the Elementary and Secondary Education Act, but nevertheless today I am rising in opposition to the rule because in my opinion this bill—I am speaking now only on the title I section—is a disaster for the educationally deprived children in this country.

I do not want to get into the argument or discussion today of the merits, particularly, of the bill, as much as the reason for not granting a rule today and for the reasons for Members to vote down the rule. There are some real inaccuracies that have been put into the reports and into the charts, and I do not mean put in in the term that someone was trying to put them over on Members, but they are nevertheless in the RECORD.

I would like to take one chart that shows the values of title I to the various States. This chart does not show title I had $225 million of impounded money that was supposed to be paid in 1973 that has now been released by the court.

That title I money, $225 million, is not reflected in these tables. If it were reflected in the tables that the committee has printed we would then see a greater discrepancy in all areas in losses over what we now see.

People have said, this is a bill to protect New York, or the reason we are opposing this is to protect New York. Well, this is not true. Certainly, New York being the leading loser under title I in the country is certainly deeply concerned; but every major city area in this country where the biggest number of educationally deprived children are, are also going to be losers.

Even beyond that, I have a list, and it is just a partial list in front of me, of counties in Oklahoma, in Texas, a great many in Texas, a great many in Oklahoma, Mississippi, Tennessee, Nebraska, West Virginia, all over this country, who are going to be losers where the concentration of the disadvantaged children are. Now, this is wrong.

It seems to me that we are basically justified in defeating the rule so that we in the House can have time to get one other formula presented to the Members, so that we have the opportunity of looking at computer runouts on other formulas than just the one that is presented here.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from New York.

Mr. KEMP. Mr. Speaker, I congratulate the gentleman on the statement he has made and add that it took 13 months to come up with the title I formula in our Education and Labor Committee. I know how hard the committee worked, and serving on the committee, I appreciate the problems with which we wrestled. That is why I oppose this rule.

I agree with my friend that we should defeat the rule so that all Members can come up with a better understanding of the ramifications of this ESEA legislation. In Erie County, which I represent, we would lose almost $1 million in 1975. We need a more equitable formula for New York and the urban areas of America.

I associate myself with his remarks.

Mr. Speaker, the title I formula, as it now stands, is a product of incredibly poor research and preparation. Ms. Orshansky herself, testifying before the Special Education Subcommittee, recommended that "further analysis" of her poverty index be conducted before it is used for the purposes of this formula.

Mr. Speaker, I submit that the title I formula is outdated and biased against urban areas which are precisely the areas with the greatest concentration of educationally deprived children. Furthermore, this formula would penalize those States which are spending the most on their children's education. New York State would lose in the short run—but all States would lose in the long run if we legislate a formula with built-in disincentives to higher State funding of education.

Mr. Speaker, so many myths abound regarding New York State and the old and new title I to ESEA that New York State Education Commissioner Ewald B. Nyquist called a special meeting to discuss this entire subject. Speaking before various legislative staffers, Commissioner Nyquist expertly refuted charges that have been unjustly alleged against New York State. I commend his remarks to the attention of my colleagues:

As you know, the Education and Labor Commitee, after more than a year of deliberations, has finally reported HR 69, the Elementary and Secondary Education Amendments of 1974. This legislation contains changes in many of the federal programs for aid to elementary and secondary education, but we in New York are most concerned about the new formula for Title I of the Elementary and Secondary Education Act, Aid to Disadvantaged Children. The use of this formula will cause a reduction of approximately $50 million, or 20%, in the funds for New York, and a significant cut in funds for almost every urban center in this country. The unfortunate fact is that this severe reduction for New York was not the result of an oversight by the Committee but, rather, it was one of the central selling points for the new formula.

Throughout the Committee's consideration of HR 69, the proponents of the new formula created myths about New York in an attempt to shift everyone's attention from the substantive issues surrounding the formula they were proposing. Many inaccurate, even misleading, statements were made about New York, and these were used to convince Representatives from other states that they needed to cut New York's Title I allotment if they were to increase their own. Before discussing the Title I formula itself, I would like to take the time to clear up a number of the confusing points regarding New York.

First, in Committee it was argued that New York was getting more than its fair share of the program monies and that the reason for this was that our Average Per Pupil Expenditure, which is a factor of the formula, was inflated due to the size of the pension we pay our teachers. A distinguished member of the Committee, and a proponent of the new formula, said: "I tried to find out why New York is so high (our per pupil expenditure) and the best I could come up with is that they have an extremely high retirement program for the teachers which, of course, takes a lot of money." I do not know who this person contacted to try to find out why our per pupil expenditure is so high, but he never bothered to call me because I would have told him it wasn't due to our teachers' pensions. The reason is that New York is committed to providing quality education to all of our children, and to accomplish this we maintain a much higher ratio of instructional staff to students than anywhere else in the country. The staffing ratio of New York exceeds the national average by 25% in instructional staff and 18% in classroom teacher staffing. This is needed not only for quality education, but for dealing with problems in large urban centers. The "richness" of our teachers' pension that gained so much attention in Committee and has since been brought before the House only accounts for 5% of our average per pupil expenditure.

Myth number two was that New York was receiving far more money per Title I child than any other state. This argument was constantly used with members of the California delegation on the Committee to try to keep the two of us apart. Although we do receive a greater dollar per child grant than California, due to our higher average per pupil expenditure, New York and California both receive only 19.8% of their average per pupil expenditure for a Title I child, while such states as Minnesota and Mississippi are getting 25 and 89.5% of their per pupil expenditures respectively. In real terms, this means that if New York, California and Mississippi all wanted to reduce the size of their classes, New York and California could reduce class size only 29% while Mississippi could reduce class size by 46%. In this context it should also be noted that federal monies account for only 5.4% of the total expenditures made in New York for elementary and secondary education, while the federal share of Mississippi's expenditure is 26%.

It is clear that if there are any inequities in the present Title I formula they do not favor New York but, rather, they favor the Southern, less populated states. It is shocking that New York State, which according to the Advisory Commission on Intergovernmental Relations is making the highest tax effort of any state in the country and which has one of the lowest returns of monies that its citizens send to the federal government, should be singled out as getting too much money and is legislated against for its efforts to provide quality education. During the Committee mark-up of HR 69, Congressman Lloyd Meeds of Washington, not a New Yorker, said: "I think the people of New York, who are expending a lot of funds for education, are to be commended and we shouldn't place a stumbling block in their way to doing this." Unfortunately, too many other members of the Committee had been misled by the myths created by the new formula's proponents, and they voted in favor of a formula that clearly was written to reduce New York's allocation.

In 1965, when the Education and Labor Committee first wrote the Elementary and Secondary Education Act, the main purpose behind Title I was to provide substantial federal assistance to local school districts with high concentrations of low income families to help pay for the additional costs of providing special programs for educationally disadvantaged children. It was felt at that time, and subsequent studies have supported this theory, that there was a significant correlation between being economically and educationally disadvantaged. The formula the Committee wrote, at that time, permitted local school districts to count as eligible for Title I any child aged 5 to 17 from a family with an income under $2000 per year or a yearly income in excess of $2000 due to payments under Title IV of the Social Security Act, Aid to Families with Dependent Children (these are the AFDC children you will be hearing about for the next few weeks). The formula then multiplied the number of eligible children by 50% of the higher of the state or national average per pupil expenditure. Each part of this formula has been changed, and each section of the new Committee formula is detrimental to New York and most population centers.

First, the Committee has substituted the Orshansky Poverty Index for the $2000 poverty level of the old formula. Although there was a definite need to update the poverty level in this formula, there are numerous shortcomings in the Orshansky Formula that made its use in Title I impractical.

In considering Title I, you must realize that the funds appropriated for this program have never been sufficient to meet the needs of all of the eligible children. Under the old formula, it was estimated that $5 billion was needed to fully fund the program, but we never had more than $1.81 billion in appropriations.

As a result, and I quote one of the few accurate statements in the Committee's report to accompany HR 69: "Equal educational opportunity cannot possibly be achieved by providing the approximately 175 additional dollars a year for each Title I student, which has been the pattern of the program since its initiation." Rather than trying to correct this key failure of the program, which the Committee itself recognized, the Committee's use of the Orshansky poverty index will increase the number of children eligible for Title I under the census poverty cut-off from 5 million to over 7.7 million. Further, in most of the Southern states, an average of more than 30% of the children between the ages of 5 and 17 enrolled in the state's schools will be eligible for Title I assistance, while the number of children eligible in urban states increases slightly by an average of 13% of the enrolled children. In New York and California this figure is 12%, while North Carolina and Mississippi will have 40 and 42% of their total enrollment respectively. The Orshansky Poverty Index is out of date, and it does not accurately reflect the differences in poverty between urban and rural locals. The effect of its use in Title I will be a dispersion of funds, rendering the program less effective for many states and a general aid program for some others.

The second major change the Committee has made in Title I formula is to lift the number of children eligible for assistance due to AFDC to only 2/3 of those from families receiving AFDC payments exceeding the updated Orshansky poverty levels. For New York, and for most states since New York has relatively high AFDC payments, the count of children under this part of the formula is virtually eliminated. At this time, very few AFDC payment levels are higher than comparable updated Orshansky levels, and unless state legislatures are willing to increase welfare payments by up to 20 to 30% this year and 10% a year thereafter, to keep up with inflation, then there will be few children from families above the poverty criteria due to AFDC payments. In addition, this new AFDC section of the formula will create an administrative nightmare, and it has been estimated that it could take from 6 to 12 months before an adequate count of the eligible children could be completed.

The third part of this formula that adversely affects New York is the 120% of the national average per pupil expenditure limitation that the bill imposes. This limitation presently affects only New York, New Jersey, Connecticut, Alaska and the District of Columbia, but if Illinois, Michigan, Minnesota, Pennsylvania, Rhode Island, Wisconsin, and Maryland continue to increase their average per pupil expenditures at the present rate they will also exceed the ceiling. This part of the formula is in effect a penalty to states for trying to upgrade their educational efforts.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding and I associate myself with his remarks.

I would like to point out, this formula, the title I portion of it, has been discussed. I was a member of the committee, as was the gentleman in the well, to work for the overall interest of students over these many, many trying months.

On a statewide basis, three States appear to be the only losers; that is California, Michigan, and New York; however, a great number of counties in these and other States will lose funds. This is where I exhort all the Members to look at the computer printout to determine where respective counties stand.

The SPEAKER. The time of the gentleman from New York has expired.

(At the request of Mr. Peyser and by unanimous consent, Mr. Biaggi was allowed to proceed for 1 additional minute.)

Mr. BIAGGI. Mr. Speaker, I suggest a breakdown of all the counties will show an entirely different picture. There are many counties that will suffer a loss from this formula.

I suggest the rule be defeated, not for the purpose of defeating the bill, but for the purpose of dealing with this problem.

Mrs. CHISHOLM. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentlewoman from New York.

Mrs. CHISHOLM. Mr. Speaker, I thank my colleague from New York. He has indicated a point I wanted to raise; that is, that many Members of the House are under the impression because their States may have gotten more money on a statewide basis, that it behooves them to support the bill and support the rule.

But, if we break this down according to our counties, we will find in many, many instances that there have been tremendous losses of funds, particularly in those areas where we are serving the disadvantaged children of this nation.

Mr. Speaker, I have inserted into the Congressional Record about 2 weeks ago the real listing of what would happen in many cities of this country. I hope this rule will be voted down.

Mr. DELANEY. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. Mr. Speaker, I yield to the gentleman from New York.

Mr. DELANEY. Mr. Speaker, I wish to associate myself with the remarks of the gentleman from New York (Mr. Peyser). The gentleman was on the committee, and the formula was devised without having the facts or the figures; is that correct?

Mr. PEYSER. That is correct.

Mr. DELANEY. Mr. Speaker, what we are asking now is an opportunity to review and get the correct figures so that we can have a formula that is fair.

Mr. PEYSER. Mr. Speaker, I thank the gentleman for his comments.

Mr. DELANEY. Mr. Speaker, I urge the defeat of the rule under all the circumstances.

Mr. PEYSER. Mr. Speaker, I would like to make one point here which I think is very important. This is directly out of the record. When the committee met, one of the key parts of this formula was the so-called Orshansky formula. What is the Orshansky poverty level? It says:

> Orshansky is plus two-thirds AFDC above $4,000.

This is the thing the committee acted on, as though Orshansky was at $4,000. The facts are that today, in the month of March, the Orshansky formula now shows the poverty level to be $4,679.

Now, this effectively wipes out every bit of the so-called AFDC formula in this bill, which will produce a far greater loss for all urban areas and all population areas than is indicated in any of these tables.

Mr. WOLFF. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. Mr. Speaker, I yield to the gentleman from New York.

Mr. WOLFF. Mr. Speaker, I want to associate myself with the remarks of the gentleman from New York (Mr. Peyser).

Mr. Speaker, I ask the question, actually what we are faced with is a series of misleading, to put it mildly, figures that have been offered this body. Therefore, I join with the gentleman in asking for the defeat of this rule.

Mr. GROVER. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. Mr. Speaker, I yield to the gentleman from New York.

Mr. GROVER. Mr. Speaker, I join in voting against the rule. I would like to point out that there is a tremendous impact on the suburban counties as well as the city of New York. I think there is a great inequity in the formula, and I associate myself with the position of the gentleman from New York (Mr. Peyser).

Mr. BADILLO. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. Mr. Speaker, I yield to the gentleman from New York.

Mr. BADILLO. Mr. Speaker, I want to commend the gentleman and to point out to the Members of the House that this rule should be defeated because the argument that has been used by the proponents of the rule, that the reason why amendments are required is so that the Members may understand the impact on their particular districts, is not valid.

The argument is not valid because of the fact that there is nothing in the rule that requires the amendments to show a county by county breakdown, which is the only way by which the Members can see how the amendment would affect their districts.

Mr. DEL CLAWSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. Anderson).

Mr. ANDERSON of Illinois. Mr. Speaker, I take this time only for the reason that I believe everyone who has spoken thus far from this side of the aisle has indicated either opposition to the bill itself, and I think without exception to the rule as well, and have urged the defeat of the rule.

Mr. Speaker, I voted for this rule in the Committee on Rules, and I support it here on the floor this afternoon.

It is significant, I believe, that with a single exception, all of those who have risen in opposition to the rule this afternoon are from the State of New York. And, having listened to many of these same Members in appearances before the Committee on Rules, I can assure them that I am not unsympathetic to the concerns that they have expressed, that under the formula, title I of the committee bill, their State would suffer a certain financial loss.

Mr. Speaker, I simply want to urge, however, that we adopt this rule this afternoon. I see no advantage for them or for anyone else to be gained from further delay. I think, as the gentleman from Missouri (Mr. Bolling) pointed out, this rule was very purposely drafted to meet the objections of those who find fault with the formula.

In the 4 hours that are permitted for general debate and in the intervening 3 legislative days, which would bring us to Tuesday of next week, I think there is opportunity to explore what are the weaknesses and the strengths of the committee's recommendations and, if necessary, to frame appropriate alternative recommendations.

We were told, for example, by the distinguished chairman of the committee, the gentleman from Kentucky (Mr. Perkins) that it would be possible within 48 hours to obtain a computer printout as to the amounts that would be allocated on a county basis and to States, either under the formula in the committee bill or under the terms of alternative formulas that might be suggested.

So I, with full regard for the concerns that these Members have shown, would urge us to get on with the very important business of considering this legislation under the rule, as drafted and recommended by the Committee on Rules.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I am pleased to yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman for yielding.

I just wish to ask the gentleman whether he considers that the bill would meet the educational needs of this Nation if it severely undermines the educational requirements of the second largest State in the Nation, and the ability of that State to provide decent education to its children.

Mr. ANDERSON of Illinois. The answer to that question is very much in dispute. I realize that.

I merely suggest that under the terms of this rule, I think there is an appropriate and adequate amount of time to discuss our differences and to frame alternative recommendations and have them printed in the Record and considered, of course, by the Members of the Committee of the Whole.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Speaker, I wish to associate myself with the remarks of the distinguished gentleman from Illinois.

It makes absolutely no sense to me at all to defeat this rule.

Perhaps on the basis of fact there is some difficulty in working the formula out, but we should not ask the House to sit and wait and ask local school districts to sit and wait and ask States to sit and wait while the New York delegation attempts to work out some kind of formula which treats them on a better basis.

The way the rule is drafted, I suggest the House and every Member of the House is assured of an opportunity to find out what the alternatives are and to get alternative formulas printed in the RECORD and to give the House a basis upon which to make its judgment.

Mr. Speaker, I find absolutely no sense at all in attempting to defeat the rule and asking everybody to wait while we work on this matter for a longer period of time.

Mr. ANDERSON of Illinois. I thank the gentleman.

Mr. WOLFF. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Speaker, since the gentleman's remarks were directed toward New York, and we cannot seem to get information so far as the effect upon individual counties is concerned, I will ask the gentleman this question:

Does the gentleman have an idea of the formula's effect upon the counties in his area?

Mr. ANDERSON of Illinois. Yes. Mr. Speaker, under title I, under the formula that is now in the bill, there has been a computer printout furnished.

Mr. WOLFF. There has been a computer printout furnished. We have not been able to secure that.

Mr. ANDERSON of Illinois. Mr. Speaker, I will say again that I feel sure that in the intervening time that information can be made available. We have been very definitely assured by the distinguished gentleman from Kentucky, the chairman of the committee (Mr. PERKINS) that information will be made available.

Mr. WOLFF. So the gentleman's districts are all affected by this bill?

Mr. ANDERSON of Illinois. Mr. Speaker, I will say further, in response to the gentleman's initial question, that the chairman of the committee, the gentleman from Kentucky (Mr. PERKINS) has just informed me that through the post office here in the House of Representatives last evening, yesterday, the information which the gentleman is seeking was delivered to each and every congressional office.

Mr. WOLFF. Well, Mr. Speaker, through my post office, as in a number of other cases, we have not received delivery yet, and the bill is being considered now.

Mr. ANDERSON of Illinois. Mr. Speaker, I am afraid I cannot yield further to the gentleman, inasmuch as there are additional requests for time.

Mr. Speaker, I merely wish to conclude by urging the adoption of the rule so that we can proceed with the orderly dispatch of this very important business.

Mr. DEL CLAWSON. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Speaker, I just wish to ask a question of the gentleman who is handling the rule of the floor here today.

I ask a question, rather than just trying to concentrate on the weaknesses of this rule insofar as the payout formula might be concerned.

First, how did the Republican members on the Committee on Rules vote?

Mr. DEL CLAWSON. Mr. Speaker, in reply to the inquiry of the gentleman from New York, as I recall the vote in the Committee on Rules on the rule, there were three members from the Republican side who voted against the rule, one who voted for it, and one who was not in attendance.

Mr. WYDLER. Let me ask the gentleman this question: I understand that the gentleman from Indiana (Mr. LANDGREBE) was trying very hard to make in order and get under consideration his proposal for what the gentleman calls the Freer Schools Act. How did the Committee on Rules handle that gentleman's request?

Mr. DEL CLAWSON. The gentleman from Indiana (Mr. LANDGREBE) did appear before the Committee on Rules, and he did make a statement on behalf of his position and on behalf of his bill, and in the resolution that was adopted on the rule, as was adopted, no consideration was given to the gentleman from Indiana for his position or for his bill.

Mr. WYDLER. So under the rule that we have before us today we could not have voted on that proposal at all; is that correct?

Mr. DEL CLAWSON. That is not made in order. The gentleman from Indiana would have to offer his amendment through the amendment procedure provided in the resolution, and this would have to be done in each instance as the amendments are offered to the section.

Mr. WYDLER. I thank the gentleman.

Mr. DEL CLAWSON. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, I urge my colleagues to vote for this rule. I think it is an excellent rule. The Members have seen in this past year the problem that existed when we worked on continuing resolutions, and the appropriation bill, and we were just talking about the hold-harmless provision, and where the Membership was confused on the implication of any changes as they affected their districts, their States, and the Nation.

This rule is written so that the amendments are printed in the RECORD, then it is possible to secure the information and the implication of that amendment on one's district, or on one's State, or the Nation. That is our responsibility so that we will not be flying blind this year, or do not know what we are doing.

In the committee we had available to us not only the information from the Office of Education that the Members called into question heretofore, but now the Library of Congress has the capability of making computer runs so that we can check that which the Office of Education provides against what is provided by the Library of Congress and vice versa so that there is a doublecheck that is available.

The main objection here seems to be from the State of New York. The State of New York is not going to get as much money in 1975 as they did in 1974. We were not able to cut back the amount of money in 1974 because we were required to work on the hold-harmless provision in the appropriations bill. However, New York has 6.3 percent of the poverty children as listed in the Orshansky formula. This last year they got 15 percent of the money in title I and their entitlement was for 18 percent of the money. If you look at the total number of children you find that there are 8 percent of the children of the Nation in the State of New York, and yet they are getting 15 percent of the money this year, or 18 percent of the entitlement.

What will this bill do? It rolls them back to 11 percent of the money. They have about 6 percent of the poverty children and they will get 11 percent of the money. They do not think that is enough. If they get 11 percent of the money with 6 percent of the poverty children that means somebody else is not getting as much money.

There are other people who lose money aside from New York. The gentleman from New York (Mr. PEYSER) indicated there are some other counties in the Nation that lose money.

The chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS) is going to lose 19 percent in his congressional district, as compared to the 1974 money in a chart he showed me. Of course, the 85 percent hold formula provision will help the first year. Is that gentleman up here asking for us to defeat the rule, or to defeat the bill? No. That gentleman recognizes that there will be changes in the allocation of the money if we update the information on the census.

You see, last year, as well as all of the years since 1963, were based on the 1960 census information. As I say, last year, because the 1970 census information was not calculated, we left it as it was on the 1960 because of the hold-harmless provisions. Things have changed since 1960 when the information was based on the 1959 incomes, and where none of the people are in school anymore that were counted back then. The other factor was the AFDC, and there was a rapid change in the AFDC in some States, which we will get into later.

The gentleman from New York (Mr. PEYSER) says we ought to vote down the rule because the tables do not take into consideration the amount of money that was released that had been impounded. That was not 1974 money; that was 1973 money that is being released now. If we can get the amendment adopted finally that passed this House in January to let the school districts spend that money in fiscal year 1975 as well as 1974, that 1973 money will be available in 1975 as well and, therefore, those are arguments to try and confuse the issue to get the Members to defeat the rule.

Mr. Speaker, I urge that the Members support it.

The SPEAKER. The time of the gentleman has expired.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentlewoman from Oregon (Mrs. GREEN).

Mrs. GREEN of Oregon. Mr. Speaker, I request this time really to direct some questions to the distinguished gentleman on the Committee on Rules. Would he advise me in title I under the rule if there could be an amendment to the amendment?

Mr. BOLLING. Mr. Speaker, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Missouri.

Mr. BOLLING. I thank the gentlewoman. No, there could not be an amendment to an amendment under the rule.

Mrs. GREEN of Oregon. Under any circumstances or unless it were printed 2 days in advance?

Mr. BOLLING. The rule says that any amendments to title I must either be printed in the RECORD 2 days, 2 calendar days, in advance of consideration or be committee amendments. Then it says that those amendments will not be subject to amendment.

Mrs. GREEN of Oregon. If an amendment should be adopted and it would have an adverse effect—and no one would know that until after the vote occurred in the House—there would be absolutely no way that an amendment could be made at all to it to change it, as we are allowed to do under any other normal debate in the House.

Mr. BOLLING. That, of course, is the reason that no amendment to the amendment without publication can be made.

Mrs. GREEN of Oregon. But the gentleman told me even with publication we cannot have an amendment to an amendment.

Mr. BOLLING. I believe it would be stretching the rule a good deal if one did.

Mrs. GREEN of Oregon. It would be in violation of the rule?

Mr. BOLLING. I am not sure of that. The gentlewoman raises a very interesting point, because if there were an amendment offered, and it was in title I, and then it were published, and there were 2 days of delay, it might be in order, but I am not the person who would have to make that ruling.

Mrs. GREEN of Oregon. But I thought the gentleman told me that the rule said there could not be an amendment to an amendment.

Mr. BOLLING. That is correct.

Mrs. GREEN of Oregon. All right.

I suggest to the House that in this case if the Members vote for the rule, they may be voting blindly, because they may have an amendment adopted which from their standpoint, or the standpoint of their congressional districts, would be disastrous, and under normal debate they would have a chance to amend that amendment. Yet under the proposed rule—this would be denied.

Let me ask a second question, if I may.

Mr. BOLLING. Will the gentlewoman yield for a comment on what the gentlewoman has just said?

Mrs. GREEN of Oregon. I yield to the gentleman from Missouri.

Mr. BOLLING. I thank the gentlewoman for yielding.

I think what she says is conceivably accurate, but what the Committee on Rules is trying to do is to prevent at least a degree of unawareness of what is in a very complicated formula. While what the gentlewoman says is certainly possible, it is even more possible—in fact, it has happened I do not know how many times already under a free amendment situation—where Members simply had no way of finding out what the formula meant as far as their districts were concerned.

So what we are doing may not be perfect, but it is at least the first major attempt that I know of to address the problem that Members have had in the past by the total confusion that has existed on the floor on at least two of the occasions that I remember with regard to formula.

I am not disagreeing with the gentlewoman. We have not been able to construct the perfect solution, but I think we have made some progress in a special direction. Of course, I will yield the gentlewoman additional time to compensate for my long comment.

Mrs. GREEN of Oregon. I thank the gentleman.

I appreciate the efforts of the Committee on Rules to have alternative formulas printed at least 2 days in advance. I think this is good.

But some of the other things that result from the rule, it seems to me are very questionable in terms of allowing the House to know what the Members are voting on.

Let me ask the distinguished gentleman another question. Would an antibusing amendment be germane to title I or has that been ruled out?

Mr. BOLLING. I am not in a position to answer that question definitely. The gentleman from Missouri took the precaution of making inquiry of the committee as to whether the whole of title I was limited only to the formula and things pertaining to the formula, and he was initially informed that that was the case, it would only pertain to the formula and matters directly connected with the formula. That was corrected later and there were pointed out several other matters that appeared in other sections of the title.

I am not in a position to say flatly whether there is no parliamentary way in which an antibusing amendment could be offered. The gentleman from Missouri had the dilemma of having to rule on an antibusing amendment which was drawn in such a way that it turned out to be, in his opinion at least, in the Committee of the Whole germane to the bill under consideration. But it is simply impossible for the gentleman from Missouri to answer honestly the gentlewoman from Oregon. That would be a question that would be decided by whoever will be chairman of the Committee of the Whole at the time the matter comes up.

Mrs. GREEN of Oregon. But I would suggest to my colleagues in the House that I have gone to the Parliamentarian and he cannot tell me whether an antibusing amendment would be germane to title I, and the distinguished gentleman who is a member of the Rules Committee cannot tell me and, therefore, if we vote for this rule again we do not know for sure what amendments may or may not be offered—as the general rules of procedure of the House do provide for and would ordinarily be allowed.

If I may direct a third question to the gentleman from Missouri, would an antibusing amendment as a separate title to the entire bill be considered as a nongermane because it also pertained to title I and the rule may have been so written that it would not be applicable to title I?

Mr. BOLLING. Again the gentleman from Missouri is not in a position to give the gentlewoman from Oregon a definitive answer because there is only one person who is going to be able to give that definitive answer and nobody now knows, at least I do not know, who that person will be. It depends on the way the matter will be drafted. So I do not know whether it will be a yes or a no answer. It is my strong suspicion that in some parliamentary fashion an amendment to accomplish that purpose can be attached to the bill.

Mr. QUIE. Mr. Speaker, will the gentlewoman yield?

Mrs. GREEN of Oregon. Will the gentleman let me complete this please and then if I have time I will yield to him.

Mr. QUIE. I thank the gentlewoman from Oregon.

Mrs. GREEN of Oregon, Mr. Speaker, what really bothers me is this, because I served on the Education Committee and I was keenly aware of the manner in which certain things were done by a few members of that committee to preclude the House from exercising its will. If it required devious methods, even they were used. I would simply raise the question, and I do not know the answer, but maybe some people who are extremely clever planned to urge the drafting of the rule so that they could preclude Members of the House from offering certain amendments they opposed but amendments which the majority of the House have indicated time and time again that they approve.

If I could ask one other question, if a

substitute were to be offered does the rule require that the substitute be printed in the Record 2 days prior to its consideration?

Mr. BOLLING. I do not believe that the rule requires that and I think it would be very difficult to make the rule require that, but if I had such a substitute I would attempt to protect myself by putting it in the Record in advance just so there would not be any question.

Mrs. GREEN of Oregon. But if I may suggest to the gentleman, a situation where we are proceeding with the debate and various amendments have been offered; if the majority of the House feel that those amendments that have been adopted are pretty bad in terms of education in this country, then they may decide a substitute is the only way out but under this rule which we ordinarily do not operate under—we would be able to offer a substitute without having it printed 2 days in advance in the Record.

Mr. BOLLING. My own guess is that it would be possible to devise a substitute to accomplish the purpose anybody might have in mind and still have it be parliamentarily acceptable. I am not going to prejudge the situation.

There is one recourse that I suggested in the earlier discussion of the rule. I think it is a perfectly legitimate recourse. I wish the House had used it on a number of occasions here before when there was utter confusion. I am not talking just about the bill coming to the Committee on Education and Labor. I am talking about matters that have come from other committees.

I think it would be very smart of Members of the House when they are not satisfied, when they are not sure they know what is in a bill, to vote it down so that the committee could start over.

If anybody devised this rule, I suspect it would be the Committee on Rules and within the Committee on Rules I would have to take a good share of the responsibility. It initially came up in connection with a very complicated bill out of the Committee on the Judiciary.

The only purpose of the rule is to attempt to better protect the Members of the Committee of the Whole and the Congress from the kind of thing the gentlewoman fears.

Mr. Speaker, I will yield 5 additional minutes. I believe I have 10 remaining.

Mrs. GREEN of Oregon. Mr. Speaker, I am in complete agreement with the gentleman's argument that this House should not be required to vote on very complicated formulas without having seen them in advance; but it seems to me that under this rule in attempting to do that, they have also limited the parliamentary situation which now prevents other amendments from being offered; you have eliminated the chance of offering an amendment to an amendment, which under the rules of the House, in ordinary debate, the Members can do.

There is certainly a question as to whether or not an antibusing amendment can be offered to title I. There is a question as to whether or not an antibusing amendment could be offered as a separate amendment, because it might affect title I and be considered as nongermane and there is a question as to whether or not a substitute bill could be offered as we proceed with the debate and as new circumstances develop.

In those three areas in attempting to get the formula out, they are very, very seriously, limiting the possibility of the Members of this House working their will on one of the most important education bills that will come before us this year.

Now, let me add one other thing. I am in complete sympathy with the people who come from New York. In my judgment, this bill really does them in. I do not see how anybody from New York could possibily vote for this rule or could possibly vote for the bill if this formula stays in it.

I have heard around the floor, "well, New York had a ripoff on the funds for the last several years, so it is time they got cut back." If we just simply look at the way the funds have been distributed for the last 14 years, I suggest there are several States that had a ripoff because they have been paid for education of youngsters who had not been in attendance in those schools for 10 years and year after year we have doled out money to them for those empty desks.

I also suggest that those people who now believe, "well, we are really going to give it to New York," those people can give it to another State next time. If we are going to take it out on any State, it is a heck of a way to legislate.

I would join with those people who urge that this go back to the Committee on Rules, that there be a requirement for any new formula in title I to be printed 2 days in advance, but that the rule not place other limitations on the usual way in which we debate legislation and present amendments. I would support Congressman Clausen in his request.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Koch).

Mr. KOCH. Mr. Speaker, I would like to pursue one of the statements the gentlewoman from Oregon (Mrs. Green) made, which is that this rule and the legislation is an attempt to, as she phrased it quite correctly, "to do in New York."

Mr. Speaker, it is very troublesome for someone who comes from the city and State of New York to constantly see the animosity to New York that shows itself on the floor in legislation. I consider myself a national legislator. I have voted time and time again for legislation which provides moneys for other areas, when New York did not get a dime of the moneys that were legislated for the Midwest, the South, the farm areas, suburban areas, and rural areas. I did and do it with full knowledge that it is good for the country to meet their needs, so I did and do it without hesitation.

But, I do not find that same spirit responding to the needs of the cities such as New York or the other metropolitan areas. We had a bill on the floor the other day relating to propane gas. The people who use propane gas in my district primarily are those who use it in cigarette lighters, but it seemed to me only right that the many people who use propane gas for heat, that they be given some protection against the rising costs, and so I voted for the amendment, which benefits the rural areas of our country.

To take away about $50 million from the city of New York, from the education of its children, who are suffering now, children who are suffering because they live in poverty, because they have language problems, does not seem to me to be helping the country and a Member who is interested in the welfare of all the people should not allow himself to be a party to that.

So, what we are saying to the Members, not just because it is New York we are representing, but because we too are part of this great country as they are, that they respond to the problems of education in New York as well as those elsewhere, and that they vote down this rule, and that we come back with legislation which will provide an appropriate formula that will protect all of the children in this country, including the children that live in New York.

Mr. BOLLING. Mr. Speaker, I yield 4 minutes to the gentlewoman from New York (Ms. Abzug).

Ms. ABZUG. Mr. Speaker, we have in New York made great efforts to provide quality education for all our children. I am sure many other States have done the same. To accomplish this, we have maintained very low ratios of students to instructional staff, perhaps lower than in other parts of the country. We have done this because we believe it essential, with all the enormous problems of educating urban center children. Without devoting a substantial amount of staff time to each child, we could not begin to deal with these problems.

There have been a lot of myths spread here, and apparently before the Committee on Education and this House for many years. It has been said that New York is receiving far more money per title I child than any other State. As a matter of fact, this argument was used to divide New York from California. Although we do receive a greater dollar per child grant than California, due to our higher average per pupil expenditure, New York and California both receive only 19.8 percent of their average per pupil expenditure for title I children, while such States as Minnesota and Mississippi are getting 25 and 89.5 percent of their per pupil expenditure, respectively.

In this context, Federal moneys account for only 5.4 percent of the total expenditures made in New York for elementary education, while the Federal share of Mississippi's expenditures is 26 percent. There are tables which can demonstrate this all down the line.

The fact is that we have spent more

money in New York. The fact is that we have been more innovative in New York. The fact is that we pay an enormous amount of Federal taxes in New York to provide for the running of this Government. I think it is foolhardy to act as though this was a body of precincts instead of a national legislative body. I am very concerned that today, in the proposed formula for title I of H.R. 69, we find that perhaps only New York, New Jersey, Connecticut, Alaska, and the District of Columbia will be adversely affected by the 120-percent ceiling imposed on State per pupil expenditures.

But if Illinois, Michigan, Minnesota, Pennsylvania, Rhode Island, Wisconsin, and Maryland continue to increase their expenditures at the present rate, their averages may also soon exceed 120 percent of the national average per pupil expenditure.

This is only one part of the formula. We are not arguing the bill now. I just want to point out, however, that what we do here today penalizes not only New York State, but many other States as well. One by one, State after State—if they are really serious about upgrading their educational systems—are going to find themselves coming under that onerous formula which has been worked out for the benefit of a very small part of this Congress and this Nation—perhaps 11 or 12 southern and the border States.

Mr. Speaker, that is not the way a national legislative body should behave. The reason I object to the rule is that the rule freezes this formula and does not really give us a chance to amend it on the floor. We still do not know exactly how badly that formula will affect us.

I must inform the chairman of the committee, the gentleman from Kentucky (Mr. PERKINS) that we have not yet received that printout. I have also checked with the Library of Congress, without any success. None of us has been able to get the facts.

We are Members of a national body and we are called upon to act on the basis of facts that affect the whole country. It is entirely inappropriate to ignore the needs of States and cities like New York, because we have greater problems or because we can solve the needs of our own areas without regard to the total good.

Mr. Speaker, I urge that we defeat the rule.

Mr. BINGHAM. Mr. Speaker, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Speaker, I thank the gentlewoman for yielding.

I would like to commend the gentlewoman for her remarks and associate myself with those remarks, as well as with the remarks of the gentleman from New York (Mr. KOCH).

Mr. DEL CLAWSON. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. LANDGREBE).

Mr. LANDGREBE. Mr. Speaker, I will say to the Members of Congress that it is with no disrespect to my colleagues on the Education and Labor Committee that I rise to oppose the adoption of this rule. I wish to remind the Members of this House that there was bipartisan opposition to this bill as it was reported out of the committee. There were two Democratic votes and two Republican votes against it.

My main concern in this matter is that this rule limits the debate on the floor, and I am most concerned about the fact that the discussions in the Education and Labor Committee and the Committee on Rules and again here on the floor concerning the rule center around the formula for the distribution of money.

Mr. Speaker, I think it is time that we reject this rule, send it back to the Committee on Rules, and let the Committee on Rules come out with a completely open rule so that the Members of this Congress can take up the serious business of children and their education.

What is happening to the educational standards in our country? I have plenty of proof to show that they have sharply declined throughout our country, since the intervention of Federal support and control of elementary and secondary education.

I appreciate that I am appearing on the floor here in cooperation with some of my friends from the State of New York with whom I seldom vote. However, I think our reasons for approving the granting of this rule are somewhat different.

My main concern is, of course, that we act responsibly and stand up and see what we are doing to the education of the boys and girls of this country, and that we harken to the people in most of the States which have expressed concern about the testing, psychotherapeutic techniques, group therapy behavior modification, humanism, and other things that are happening to our boys and girls.

So, Mr. Speaker, for that reason I most respectfully ask that we reject this limited rule and send it back and insist upon an open rule so that the Members of this House can assert their responsibility and their wisdom in returning highest quality possible to the classrooms of America.

Mr. DEL CLAWSON. Mr. Speaker, I yield the remaining 1 minute to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, I join with the gentleman from California (Mr. DEL CLAWSON) and the gentlewoman from Oregon (Mrs. GREEN) in opposition to the adoption of this rule, not because of the arguments of the Members from New York or any other State, but because this is a bad, bad rule.

The gentleman from Missouri (Mr. BOLLING) says that the rule is designed to protect the Members from being blind-sided by certain provisions in the bill. Let me say, in answer to the gentleman from Missouri, that the Members very likely will get blind-sided if this rule is adopted.

The gentlewoman from Oregon (Mrs. GREEN) very wel pointed this out in her remarks to the House.

Mr. Speaker, if rules of this nature are to become standard procedure in the House, then clause 7 of rule XVI ought to be amended to provide that the House can debate the questions posed in the rules and sort out what they want, not what the Committee on Rules says they shall have.

Mr. BOLLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not believe *that* anyone should be confused by the situation. We can all cut to pieces even the best efforts to bring a little more reason to the consideration of complicated matters. This is, I believe, a legitimate step toward trying to protect the House and its Members from being blind-sided on a very complicated formula. If the House decides it does not want to deal with this matter on this basis, then it has every right to vote down the rule. I tried very hard to give the Members an opportunity to understand what the rule did, but I believe it is important to take this step toward a rational consideration of matters of this importance. The previous consideration of these matters has not in my judgment done any honor to the House.

The SPEAKER. All time has expired.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the resolution.

The question was taken, and the Speaker announced that the noes appeared to have it.

Mr. BOLLING. Mr. Speaker, I object to the vote on the ground a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 234, nays 163, not voting 34, as follows:

[Roll No. 76]

YEAS—234

Abdnor
Adams
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Ashley
Aspin
Bell
Bergland
Bevill
Biester
Blatnik
Boggs
Bolling
Bowen
Brademas
Breaux
Brinkley
Brooks
Brotzman
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Clark
Clausen, Don H.
Clay
Cochran
Cohen
Conte
Conyers
Corman
Coughlin
Cronin
Culver
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Dellenback
Denholm
Dent
Dickinson
Diggs
Dorn
Drinan
du Pont
Edwards, Ala.
Edwards, Calif.
Erlenborn
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Flood
Foley
Forsythe
Fountain
Frenzel
Froehlich
Fulton
Gaydos
Gettys
Gibbons
Ginn
Gonzalez
Guyer
Haley
Hamilton
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz

Henderson
Hicks
Hillis
Hinshaw
Hogan
Hungate
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kyros
Landrum
Latta
Leggett
Lehman
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McSpadden
Madden
Madigan
Mahon
Mallary
Mann
Martin, Nebr.
Mathis, Ga.
Matsunaga
Mayne
Meeds
Melcher
Mezvinsky
Michel
Miller
Mills
Mink
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murtha
Natcher
Nelsen
Nichols
Obey
O'Brien
O'Neill
Owens
Parris
Passman
Pepper
Perkins
Pettis
Pickle
Poage
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Randall
Regula
Reuss
Rhodes
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Roush
Roy
Roybal
Ryan
Sandman
Sarbanes
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sisk
Skubitz
Slack
Smith, Iowa
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stuckey
Studds
Symington
Talcott
Taylor, N.C.
Teague
Thomson, Wis.
Thone
Towell, Nev.
Ullman
Van Deerlin
Veysey
Vigorito
Waldie
Ware
White
Whitten
Widnall
Wiggins
Williams
Wilson, Charles H., Calif.
Winn
Wright
Wyatt
Yates
Yatron
Young, Alaska
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zwach

NAYS—163

Abzug
Addabbo
Annunzio
Archer
Arends
Armstrong
Ashbrook
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bennett
Biaggi
Bingham
Blackburn
Boland
Bray
Broomfield
Brown, Mich.
Broyhill, Va.
Burke, Fla.
Byron
Camp
Chappell
Chisholm
Clancy
Clawson, Del
Cleveland
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Cotter
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Wis.
Delaney
Dellums
Dennis
Derwinski
Devine
Dingell
Donohue
Dulski
Duncan
Eilberg
Esch
Fish
Flynt
Ford
Fraser
Frelinghuysen
Frey
Fuqua
Giaimo
Gilman
Goldwater
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gubser
Gude
Gunter
Hammerschmidt
Hanley
Helstoski
Holt
Holtzman
Horton
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Ichord
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Landgrebe
Lent
McKinney
Martin, N.C.
Mathias, Calif.
Mazzoli
Metcalfe
Milford
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moorhead, Calif.
Murphy, Ill.
Myers
Nedzi
O'Hara
Patten
Peyser
Pike
Powell, Ohio
Price, Tex.
Quillen
Rangel
Rarick
Riegle
Rinaldo
Roberts
Robinson, Va.
Rodino
Roe
Roncallo, N.Y.
Rosenthal
Rostenkowski
Rousselot
Runnels
Ruppe
Ruth
St Germain
Sarasin
Satterfield
Scherle
Shuster
Sikes
Smith, N.Y.
Snyder
Stanton, James V.
Steele
Steelman
Steiger, Ariz.
Stokes
Stratton
Symms
Taylor, Mo.
Thompson, N.J.
Tiernan
Treen
Udall
Vander Veen
Vanik
Waggonner
Walsh
Wampler
Whalen
Whitehurst
Wilson, Bob
Wolff
Wydler
Wylie
Wyman
Young, Fla.
Young, Ga.
Zion

NOT VOTING—34

Alexander
Brasco
Breckinridge
Butler
Carey, N.Y.
Downing
Eckhardt
Fisher
Flowers
Gray
Hanna
Harsha
Holifield
Howard
Luken
McEwen
Macdonald
Maraziti
Minshall, Ohio
Mizell
Montgomery
Murphy, N.Y.
Nix
Patman
Podell
Rees
Reid
Robison, N.Y.
Rooney, N.Y.
Stubblefield
Sullivan
Thornton
Vander Jagt
Wilson, Charles, Tex.

So the resolution was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Montgomery for, with Mr. Carey of New York against.

Mr. Breckinridge for, with Mr. Rooney of New York against.

Mr. Gray for, with Mr. Murphy of New York against.

Mr. Hanna for, with Mr. Brasco against.

Mr. Holifield for, with Mr. Nix against.

Mr. Rees for, with Mr. Reid against.

Mr. Fisher for, with Mr. Podell against.

Until further notice:

Mr. Macdonald with Mr. McEwen.

Mr. Howard with Mr. Butler.

Mr. Alexander with Mr. Maraziti.

Mrs. Sullivan with Mr. Mizell.

Mr. Downing with Mr. Harsha.

Mr. Patman with Mr. Minshall of Ohio.

Mr. Charles Wilson of Texas with Mr. Robison of New York.

Mr. Stubblefield with Mr. Vander Jagt.

Mr. Flowers with Mr. Luken.

Mr. Eckhardt with Mr. Thornton.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1974

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 69) to extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes.

Ms. ABZUG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

CALL OF THE HOUSE

Ms. ABZUG. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. One hundred and sixty-seven Members are present, not a quorum.

Mr. PERKINS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 77]

Alexander
Andrews, N.C.
Ashley
Beard
Blatnik
Brasco
Breckinridge
Broyhill, N.C.
Burleson, Tex.
Butler
Carey, N.Y.
Clark
Clay
Downing
Eckhardt
Edwards, Ala.
Erlenborn
Fisher
Flowers
Fountain
Goldwater
Gray
Hanna
Hansen, Wash.
Harsha
Holifield
Howard
McEwen
Macdonald
Maraziti
Minshall, Ohio
Mizell
Montgomery
Murphy, N.Y.
Nix
Parris
Patman
Podell
Rees
Reid
Robison, N.Y.
Rooney, N.Y.
Stubblefield
Sullivan
Thornton
Vander Jagt
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.

The SPEAKER. On this rollcall 382 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1974

The SPEAKER. When the point of order that a quorum was not present was raised, the House was about to resolve itself into the Committee of the Whole House on the State of the Union.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 69, with Mr. PRICE of Illinois in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Kentucky (Mr. PERKINS) will be recognized for 2 hours, and the gentleman from Minnesota (Mr. QUIE) will be recognized for 2 hours.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have tried to bring before this body the most equitable bill that could possibly be written by the House Committee on Education and Labor. I think we have done just that.

The Members heard in the debate this afternoon during the consideration of the rule the assertion that we have purportedly done something to the State of New York. New York State for fiscal 1975 will receive substantially as much money as it received for fiscal year 1973 for grants to local school districts.

Mr. Chairman, H.R. 69 comes to the House after weeks and months of intensive discussion and debate, as well as after full and serious consideration of hundreds of suggestions and proposals from members of the authorizing committee as well as from other Members of the Congress. The committee conducted 36 days of hearings on this legislation and heard from approximately 275 witnesses. We also had 21 markup sessions and numerous caucuses before reporting the bill.

This careful preparation of the legislation went on because we knew it was absolutely essential that we come to the floor with as fair and as equitable a bill as we or anyone else could prepare. That was our objective, and to my way of thinking, we have achieved it.

The committee bill basically extends most of the Federal elementary and secondary education laws for 3 years and consolidates seven of the categorical programs into two broad purpose programs. The impact aid programs are only extended for 1 more year, however.

The bill also extends and amends the Adult Education Act, the Education of the Handicapped Act, the Bilingual Education Act, and the General Education Provisions Act. In addition, a new community education program is established, and a White House Conference on Education is authorized to be called in 1975.

TITLE I

The title I formula for distributing funds is the heart of the ESEA bill. With this formula, the committee has made a scrupulous effort to treat all children fairly, regardless of the State or county in which they live. I believe we have come closer to equity in this new formula than at any time in recent years.

Frankly, there is a crisis in the title I program. This crisis was produced by distortions in the data which was available to us. For months, the committee has made a diligent search for ways to eliminate these distortions.

Obviously, we have not satisfied everyone. It may be that we have not satisfied anyone, entirely. But I am convinced that the formula we bring before the House today is the fairest that can presently be devised. We hope it will eliminate the distortions which have occurred in title I allocations within the last few years.

These distortions grew out of the use of the old poverty criteria of the mid-1960's, and the fact that we were obliged to use 1960 census figures in counting poor children for the years 1965 to 1973.

When we passed ESEA back in 1965, we devised a system that seemed adequate at the time for figuring the grant to which each school district was entitled.

At that time, $2,000 was considered an appropriate poverty level for a family of four. So we said we would count from the census the number of children from families earning less than $2,000 in each school district.

The census, of course, is taken only every 10 years. It was clear that we needed to have another figure that was more current. So we added to the census figure the number of children in families receiving AFDC—aid for families with dependent children—payment in excess of $2,000. The $2,000 floor under AFDC was supposed to prevent double counting.

That formula seemed to work well for 1965 and a few years after that. But by 1969, it was clear that the poverty level had changed, and the $2,000 family income as an index of poverty was completely out of date and unrealistic.

Use of this outdated figure was causing a distortion in the distribution of title I funds. The money just was not going in an equitable manner to the areas where the poor children were concentrated.

In the ESEA Amendments of 1967, we increased that poverty level to $3,000.

Four years ago, in the ESEA Amendments of 1970, we established a two-step increase in the poverty level: first to $3,000, and then to $4,000.

But Congress stipulated that before these increases could go into effect, the appropriations had to be sufficient to give every school district every dollar it was entitled to under the $2,000 level.

Unfortunately, we never reached that level. The President never asked, and the Congress never appropriated enough money to give each school district its full entitlement at the $2,000 level.

The distortions that began showing up in 1969 quickly became aggravated. I dwell on this at some length because it is the crux of the argument that exists today on the ESEA formula.

Remember, until 1973 we had only 1960 census data to go on—so the number of poor children remained stationary.

The children counted under AFDC simply mushroomed, because in some States and cities there was a rapid expansion of AFDC. And AFDC is counted every year, not every decade, as the census.

In 1966, only 10 percent of the children counted for title I fund distribution came from AFDC. Seven years later, in 1973, AFDC accounted for 60 percent of the title I count.

Now this would not have been too bad if the AFDC increases had occurred uniformly throughout the country. But they did not. They were concentrated in the wealthier States, the States with the higher per capita income.

This created great havoc in the title I program. It was almost as if we had tilted the country up on one end and let all the ESEA funds flow into those States with the highest per capita income. And this, Mr. Chairman, is not right. It perverts the entire purpose of ESEA—to provide funds for poor children, the poorest of the poor, who were not sharing equally in the educational bounty which this wealthy Nation is capable of providing.

School districts in wealthy States were adding more and more AFDC children into their total count for title I money, while school districts in poorer States were left with the same number of children they started out with—those counted as being from families earning less than $2,000 a year according to the 1960 census.

A logical question arises at this point—were not some of the poorer States increasing AFDC at least enough so that there was some equity?

The answer to that is simply the fact that when we held our hearings, and looked at the data on AFDC, we found several States with not one family receiving as much as $2,000 from AFDC. Unless those families were counted in the census—and they may or may not have been back in 1960—they were not counted for title I funds.

So we saw funds shifting from the poorer States to the wealthier States.

For example, New York State's percentage of the Nation's population dropped between 1960 and 1970 from 9.4 percent to 9 percent, while Texas increased its share of the population from 5.3 to 5.5 percent. But, because New York was wealthier, it was able to add seven times as many AFDC children to its total count of title I children as Texas between 1965 and 1973. This meant that New York, which was proportionately losing population as compared to Texas, was dramatically increasing its share of the title I money.

Now, another dimension of the distortion problem developed when we started using the 1970 census figures, and that occurred for the first time this year—1974.

The distortion was enormous, because we were still limited to only counting children from families with incomes under $2,000 as poor.

Under the 1970 census, using the $2,000 figure for poverty, the decline in the number of poor children was over 50 percent. We all know why the decline showed up the way it did—many of these poor families were earning a few dollars more a week than they had been when the 1960 census was taken, and so they showed up with incomes in the $2,000 to $3,000 or $4,000 category.

Those are absolutely subpoverty levels by current standards; but it did not help so far as title I was concerned, because the $2,000 factor was still the law, despite the fact that it was extremely out-of-date.

When that fact is tied in with the annual increase of AFDC children counted for title I, the dimensions of the distortion become apparent.

New York and Florida are an example of this distortion. New York State, with only 7 percent of the school attendance in the country, was eligible to receive 18 percent of the title I money during fiscal 1974. Florida, with 4 percent of the average daily attendance, was eligible to receive only 2 percent.

Congress tried to make at least some degree of correction in the distortion through "hold-harmless" provisions. After the protracted debate on the Labor-HEW appropriations bill for 1974, several "hold-harmless" provisions were inserted in the final measure in order to mitigate this distortion.

However, after applying the "hold-harmless" provisions, New York is still receiving 15.6 percent of the title I money for 1974, while Florida is receiving 1.8 percent.

There are dozens of additional examples showing that while the "hold-harmless" provisions were steps in the right direction, they were not anywhere near actual corrections of the distortion.

Therefore, it is very important to remember that allocations under the 1974 appropriations should not be considered a fair and equitable distribution of title I funds. All of the distortions which have been discussed exist in that allocation.

That is why the committee developed a new formula, which is current, and which is equitable and fair.

The committee has amended the formula in H.R. 69 by updating the definition of poverty used with the census data and limiting the number of AFDC children counted. The updated definition of poverty for the census will be the official Federal definition, the Orshansky index. That definition was adopted by the Bureau of the Budget in 1969 as the official Federal standard for determining poverty. It is now widely used in Federal domestic assistance programs, such as the manpower program and the school lunch program.

The allegation has been made that the Orshansky index has a rural bias. Well, I would like to point out that if anything it has an urban bias.

Under Orshansky, the poverty level for a farm family is set at 15 percent less than the level for a nonfarm family. The Office of Management and Budget in its study of the Orshansky index last year recommended the elimination of that lower level for a farm family because it could find no objective statistical evidence that it costs less to live in a rural area than in an urban area.

I would also like to point out to my colleagues that this conclusion is supported by data from the Bureau of Labor Statistics. That data shows that although it may cost less for some things in rural areas and small towns than it does in urban areas, it costs more for other things. For instance, transportation for a rural poor family was determined to be at 120 by BLS while it was only 96 for an urban family—100 is the national average.

In addition to counting children from poverty families in the 1970 census, two-thirds of all the children from families receiving AFDC payments in excess of the current Federal definition of poverty for a nonfarm family of four will also be counted. This definition is the same Orshansky index used for the census, and updated every year by increases in the Consumer Price Index.

The reason that the annually updated definition must be used in counting AFDC children above that definition is to prevent some of these AFDC children from being double-counted. If the poverty figure for counting AFDC children were any lower than the current Orshansky definition, then any AFDC children who were counted in the 1970 census as being in families below the poverty level would be counted again.

Since there has been some confusion about which current years Orshansky definition is to be used in determining AFDC children, I would like to clarify how these children will be counted. The present law, which is unamended by H.R. 69, requires the Department of Health, Education, and Welfare to collect AFDC data for title I purposes for the January preceding the fiscal year in which the information is to be used in distributing funds. In other words, the AFDC children who are to be counted during fiscal year 1975 have to be determined by HEW in January of 1974 since fiscal year 1975 begins on July 1, 1974.

Now, since the final Orshansky definition of poverty for calendar year 1973 will not be available until the end of March or beginning of April of 1974, the definition which HEW must use in collecting the AFDC data from January of 1974 will have to be the 1972 Orshansky definition of poverty.

In 1972 a nonfarm family of four was determined to be poor, using the updated Orshansky definition, if its income was less than $4,250. Therefore, two-thirds of all AFDC children whose families are receiving in excess of $4,250 in January of 1974 will be counted in determining that school district's entitlement.

I would like to point out that the committee's version of the title I formula still helps the wealthier States, because they will be the ones that will be able to add AFDC children every year to their total count of title I children. None of the poorer States will be able to make AFDC payments of more than $4,250 a year.

The other part of the formula which the committee bill changes is the payment rate for all title I children. Under present law, a school district is entitled to either 50 percent of the State or national average expenditure for every title I child.

The committee bill changes this payment rate by providing that every school district is entitled to 40 percent of the State per-pupil expenditure for education, except that if a State's expenditure is below 80 percent of the national average, it is raised to 80 percent of the national, and if it is in excess of 120 of the national average, it is limited to 120 percent of the national.

The effect of this amendment is to lower the payment rate for the poorer States and to put a ceiling on the payment rate for the wealthiest States. Thereby, payments for all title I children are grouped closer to a national average.

But I would like to point out that the ceiling—40 percent of 120 percent of the national average, instead of 50 percent of the State average—only affects four States, and they are among the wealthiest in the country. The lowering of the minimum—40 percent of 80 percent of the national average, instead of 50 percent of the national average—affects 32 States which include all the poorest States in the country.

The last amendment to the title I formula in H.R. 69 is a provision to guarantee every school district 85 percent of the previous year's allocation. This local "hold-harmless" is meant to cushion any adverse effects on local school districts of the new title I formula.

The title I formula which we adopted in H.R. 69 is the best that our committee could do to restore equity to the distribution of title I funds. We deliberated in committee for 21 days in formal markup sessions on H.R. 69, and most of those sessions were on the title I formula. Many members of the committee caucused privately many more times than the committee met. I know that elements of this formula will cause great debate, but I can say honestly that *no other title* I formula was able to marshal a majority of the committee.

If what we have done does not prove to be equitable over time, we can always return to a consideration of the formula. In fact, we have included several provisions in the bill which will insure consideration of the effects of this new formula very soon.

H.R. 69 mandates several studies and a survey to be conducted on title I by February 1, 1975. These studies and the survey are meant to supply us with the best information possible within the next year on various methods to update more promptly and accurately the statistics used in distributing title I assistance.

In addition to the updating of the formula, the committee adopted several other amendments to the title I program. One of these amendments allows local school districts to use educational disadvantagement as a means for choosing their title I target schools. Under present law, school districts are restricted to using poverty criteria in choosing eligible schools.

Another amendment adopted by the committee requires the target schools, once they are chosen—either according to poverty criteria or criteria of educational disadvantagement—must retain their eligibility for 3 years. The purpose of this amendment is to assure that educationally deprived children are included in title I program for a long enough period of time to achieve measurable gains. The committee heard testimony during our hearings on how some States were eliminating children from programs after only a year or two of participation.

The committee also adopted amendments allowing school districts to use title I funds for teacher training and requiring that school districts must use title I funds only for the excess costs of programs. The excess cost amendment is meant to reemphasize that title I services must be in addition to services provided from State and local money. That amendment also affects the comparability requirement under title I so that title I funds are not denied to schools if they are using State and local funds on programs for the handicapped, for the educationally deprived, and for those with limited English-speaking ability.

The committee also adopted an amendment requiring the Commissioner of Education to bypass any local school district if it cannot legally provide, or if it is substantially failing to provide, services for private school children in its title I programs. Since there has been considerable controversy concerning this provision, I would like to spend a minute giving an explanation of this amendment.

Since 1965, the law authorizing the

title I program has required that private school children must participate in local title I programs to the extent that they have needs to be met with title I funds. The amendment adopted by the committee does not change that requirement. It does not expand its scope, nor does it constrict it. Rather, it simply provides an administrative device for the enforcement of that provision of the original 1965 law.

The administrative device which is authorized is modeled on provisions which have been in Federal laws for 20 years in the school lunch program and in various other programs. In fact, the same provision has been in title III of ESEA since 1970.

Some concern has been expressed that this amendment will mean that the Department of Health, Education, and Welfare will have to begin immediately to examine each local school district's title I program to determine if private school children are participating adequately. This is not the purpose of the amendment. The amendment is simply meant to be invoked when there is a failure to a substantial degree on the part of the local school district to provide services. The burden in alleging that this failure exists rests with local people, such as the parents of private school children; and only when such an allegation has been made will the administrative procedures have to begin to invoke this provision.

The committee bill also contains several amendments to the State agency programs under title I. In the migrant program, the Commissioner is authorized to use the migrant student record transfer system if he determines that that system provides the most accurate data on the number of migrant students in the country. Since the use of that system may lead to a substantial increase in the number of migrant students counted and since the "full funding" requirement is retained from the present law for all the State agency programs, it is our intention that the Commissioner phase in the use of this data over several years—if he decides to use MSRTS data—in order to avoid any disruption in the other title I programs.

The committee also adopted several amendments to the State agency handicapped program. The principal amendment requires that State agencies actually provide programs for all handicapped children in their institutions who are counted for purposes of this title I assistance.

I am inserting two charts to explain the committee's formula. Chart No. 1 shows the total title I grants to each State under H.R. 69 and compares that to the total grants received during fiscal year 1974. These total title I grants are both grants to local school districts and grants for programs operated by the State educational agencies. Chart No. 2 shows a comparison for fiscal 1973, 1974, and under H.R. 69 of local school district grants only. Both of these charts are based on the amounts States and school districts actually received during fiscal years 1973 and 1974. They do not include the impounded funds for either one of those 2 years. As regards H.R. 69, they show the bill at the President's budget request for fiscal year 1975, $1.885 billion.

The charts follow:

CHART NO. 1

TITLE I GRANTS TO STATE AND LOCAL EDUCATIONAL AGENCIES FOR FISCAL 1974 AND UNDER H.R. 69

State	Fiscal year 1974 allocation (A)	H.R. 69 allocation (B)	Increase/decrease (A−B)	Percent increase, decrease
Alabama	$36, 498, 672	$46, 069, 880	$9, 571, 208	26. 2234
Alaska	4, 599, 584	4, 584, 737	−14, 846	−. 3228
Arizona	11, 326, 911	17, 604, 268	6, 277, 357	55. 4199
Arkansas	23, 394, 192	27, 097, 231	3, 703, 039	15. 8289
California	136, 486, 016	158, 460, 568	21, 974, 552	16. 1002
Colorado	14, 311, 073	17, 462, 127	3, 151, 054	22. 0183
Connecticut	16, 660, 632	19, 545, 836	2, 885, 204	17. 3175
Delaware	3, 689, 165	5, 606, 532	1, 917, 367	51. 9729
Florida	40, 146, 464	67, 324, 244	27, 177, 780	67. 6966
Georgia	43, 002, 496	50, 218, 655	7, 216, 159	16. 7808
Hawaii	4, 552, 617	5, 843, 309	1, 290, 692	28. 3506
Idaho	4, 063, 449	4, 951, 430	887, 981	21. 8529
Illinois	85, 305, 776	92, 887, 706	7, 581, 930	8. 8879
Indiana	22, 535, 584	27, 623, 346	5, 087, 762	22. 5766
Iowa	15, 830, 087	17, 177, 747	1, 347, 660	8. 5133
Kansas	11, 762, 936	14, 142, 536	2, 379, 600	20. 2296
Kentucky	33, 409, 408	35, 608, 290	2, 198, 882	6. 5816
Louisiana	34, 756, 000	57, 972, 394	23, 216, 394	66. 7982
Maine	6, 547, 142	7, 375, 441	828, 299	12. 6513
Maryland	25, 912, 208	32, 352, 734	6, 440, 526	24. 8552
Massachusetts	32, 268, 400	34, 239, 929	1, 971, 529	6. 1098
Michigan	69, 596, 528	81, 126, 454	11, 529, 926	16. 5668
Minnesota	22, 761, 440	28, 670, 350	5, 908, 910	25. 9602
Mississippi	38, 134, 032	44, 250, 347	6, 116, 315	16. 0390
Missouri	26, 074, 784	32, 926, 969	6, 852, 185	26. 2790
Montana	4, 355, 160	5, 863, 672	1, 508, 512	34. 6374
Nebraska	8, 068, 653	9, 726, 591	1, 657, 938	20. 5479
Nevada	$1, 548, 527	$2, 607, 489	$1, 058, 962	68. 3852
New Hampshire	2, 881, 740	3, 526, 094	644, 354	22. 3599
New Jersey	60, 575, 552	57, 995, 387	−2, 580, 164	−4. 2594
New Mexico	9, 083, 931	14, 736, 279	5, 652, 348	62. 2236
New York	235, 867, 520	206, 586, 717	−29, 280, 802	−12. 4141
North Carolina	56, 969, 632	55, 528, 579	−1, 441, 052	−2. 5295
North Dakota	5, 393, 937	5, 699, 719	305, 782	5. 6690
Ohio	53, 476, 816	59, 181, 545	5, 704, 729	10. 6677
Oklahoma	18, 889, 360	21, 833, 286	2, 943, 926	15. 5851
Oregon	12, 441, 113	17, 221, 871	4, 780, 758	38. 4271
Pennsylvania	78, 045, 120	88, 164, 738	10, 119, 618	12. 9664
Rhode Island	5, 771, 045	7, 453, 511	1, 682, 466	29. 1536
South Carolina	32, 812, 752	35, 985, 007	3, 172, 255	9. 6678
South Dakota	6, 049, 284	6, 463, 950	414, 666	6. 8548
Tennessee	33, 561, 968	42, 090, 442	8, 528, 474	25. 4111
Texas	95, 159, 456	122, 761, 154	27, 601, 698	29. 0057
Utah	5, 394, 049	6, 325, 710	931, 661	17. 2720
Vermont	3, 054, 045	3, 892, 729	838, 684	27. 4614
Virginia	34, 657, 008	41, 576, 422	6, 919, 414	19. 9654
Washington	19, 257, 392	23, 742, 190	4, 484, 798	23. 2887
West Virginia	18, 480, 096	18, 609, 299	129, 203	. 6992
Wisconsin	22, 167, 888	30, 903, 656	8, 735, 768	39. 4073
Wyoming	1, 800, 767	2, 783, 793	983, 026	54. 5893
District of Columbia	12, 639, 227	11, 468, 080	−1, 171, 146	−9. 2660
Puerto Rico	31, 837, 390	32, 897, 354	1, 059, 964	3. 3293
Total	1, 633, 865, 204	1, 866, 748, 355	232, 883, 331	

CHART NO. 2

COUNTY LEA ALLOTMENTS, FISCAL YEARS 1973, 1974, AND H.R. 69

	Fiscal year 1973	Fiscal year 1974	H.R. 69	Percent increase/decrease, 1973–74	Percent increase/decrease, 1974–H.R. 69
Alabama	$34, 549, 166	$34, 549, 132	$44, 597, 343	0	+29
Alaska	2, 415, 064	2, 898, 066	3, 567, 869	+20	+23
Arizona	8, 134, 242	8, 222, 684	15, 352, 487	+1	+87
Arkansas	20, 963, 618	20, 963, 686	25, 421, 619	0	+21
California	111, 618, 375	121, 364, 075	145, 922, 632	+9	+20
Colorado	10, 237, 378	10, 931, 380	14, 840, 333	+7	+36
Connecticut	11, 747, 931	14, 097, 513	17, 456, 707	+20	+24
Delaware	2, 323, 748	2, 323, 746	4, 484, 199	0	+93
Florida	24, 111, 072	25, 295, 553	56, 173, 071	+5	+122
Georgia	40, 573, 812	40, 573, 733	48, 439, 570	0	+19
Hawaii	3, 715, 263	4, 107, 062	5, 456, 868	+11	+33
Idaho	2, 719, 220	2, 719, 197	4, 037, 124	0	+48
Illinois	69, 554, 901	77, 374, 186	86, 298, 479	+11	+12
Indiana	18, 773, 439	18, 773, 393	24, 758, 413	0	+32
Iowa	14, 601, 661	14, 601, 612	16, 150, 316	0	+11
Kansas	9, 147, 430	9, 632, 718	12, 583, 564	+5	+31
Kentucky	32, 212, 778	32, 212, 725	34, 701, 603	0	+8
Louisiana	31, 322, 489	31, 322, 458	55, 238, 698	0	+76
Maine	5, 633, 673	5, 641, 857	6, 715, 073	0	+19
Maryland	19, 380, 669	22, 691, 077	29, 660, 776	+17	+31
Massachusetts	24, 893, 505	28, 110, 257	30, 830, 000	+13	+10
Michigan	51, 768, 916	58, 920, 723	72, 333, 877	+14	+23
Minnesota	20, 897, 155	20, 896, 111	27, 075, 344	0	+30
Mississippi	35, 922, 629	35, 922, 589	42, 638, 564	0	+19
Missouri	23, 367, 302	23, 367, 243	30, 924, 399	0	+32
Montana	$2, 865, 542	$2, 865, 506	$4, 742, 341	0	+65
Nebraska	7, 187, 530	7, 187, 485	9, 033, 851	0	+26
Nevada	923, 899	1, 108, 671	2, 235, 885	+10	+102
New Hampshire	2, 007, 413	2, 274, 204	3, 059, 334	+13	+35
New Jersey	44, 232, 287	52, 911, 392	52, 135, 686	+20	−1
New Mexico	7, 393, 185	7, 393, 165	13, 574, 993	0	+84
New York	196, 835, 764	218, 053, 696	195, 598, 825	+11	−10
North Carolina	51, 556, 663	51, 556, 617	51, 865, 486	0	+1
North Dakota	4, 101, 267	4, 101, 244	4, 808, 138	0	+17
Ohio	42, 248, 122	45, 285, 369	53, 183, 250	+7	+17
Oklahoma	16, 649, 246	16, 649, 203	20, 303, 138	0	+22
Oregon	8, 421, 321	8, 710, 584	14, 186, 947	+4	+63
Pennsylvania	64, 998, 125	69, 652, 264	81, 195, 750	+7	+17
Rhode Island	4, 873, 849	5, 032, 813	6, 837, 727	+3	+38
South Carolina	29, 853, 231	29, 853, 205	33, 942, 548	0	+16
South Dakota	5, 470, 551	5, 470, 522	6, 039, 561	0	+14
Tennessee	31, 273, 191	31, 273, 147	40, 421, 562	0	+20
Texas	67, 675, 754	67, 675, 627	104, 559, 118	0	+59
Utah	3, 894, 921	4, 462, 745	5, 675, 686	+15	+25
Vermont	2, 093, 957	2, 093, 948	3, 100, 714	0	+47
Virginia	31, 522, 692	31, 522, 626	39, 209, 398	0	+24
Washington	13, 449, 639	15, 136, 897	20, 363, 272	+13	+35
West Virginia	17, 319, 813	17, 319, 783	17, 799, 572	0	+3
Wisconsin	17, 340, 875	18, 711, 174	28, 007, 920	+8	+50
Wyoming	1, 170, 817	1, 186, 466	2, 262, 362	+1	+91
District of Columbia	10, 096, 368	11, 196, 398	10, 352, 661	+11	−8

CONSOLIDATION

The committee bill contains a conditional consolidation of seven categorical aid programs into two broad purpose aid programs. The title II, ESEA, program—library books—the title III, ESEA, program—guidance and counseling—and the title III, NDEA, program—equipment—are to be consolidated into a libraries and learning resources program. And the remainder of the title III, ESEA—innovation—the drop-out prevention and nutrition and health programs—both now in title VIII, ESEA—and title V, ESEA—aid to State departments of education—are to be consolidated into the new innovation and support services program.

The condition on these consolidations is that there must be at least the same level of funding for the consolidated programs as there was in the previous year for the separate categorical programs. This condition is meant to make clear that the administrative device of consolidation must not be used as an excuse for cutting back on the Federal commitment to education.

There are several particular features of these consolidated grants which I would like to mention. First, the consolidated program for libraries and learning resources requires local decision-making on the amount of money which is to be used for libraries, equipment, and guidance and counseling. Presently, those decisions are being made on the Federal and State levels.

Second, the funds for the libraries and learning resources program must be distributed by the States among local school districts according to a definite policy set forth in the law. This policy is that the enrollments of local districts must be the basis for allocation of funds and that substantial funds must be provided to those school districts exerting a great tax effort and to those districts which have substantial numbers of children whose education costs more. We have set out this policy in the law in order to set precise parameters for State decision-making on how to distribute these funds.

Third, in both consolidated programs approximately 95 percent of the funds must be passed through by the State educational agencies to local school districts. There have been too many instances in the past where State agencies have retained funds at the State level and refused to operate local programs with them. That type of administration is inappropriate for the programs which the committee proposes to consolidate. These funds must be spent on the local level.

IMPACT AID

The committee bill extends the two impact aid programs—the school construction and the school maintenance and operation assistance programs—for 1 additional year, through June 30, 1975. The committee bill also amends the impact aid programs in order to make all children who live on Federal land "a" children and to clarify the status of certain Indian children living in public housing projects in Oklahoma.

The maintenance and operation assistance program is also amended to count as one and one-half children, every federally connected handicapped child and to allow States to consider impact aid as local resources in distributing State aid if the State has adopted a school equalization program. The State can consider the impact aid payments as local resources to the same degree that the State is providing funds for education from its own sources.

COMMUNITY EDUCATION

The committee bill authorizes a new program for community education. This program would be phased in over several years. The purpose of this program is to encourage the States and local school districts to use their public buildings as much as possible for programs benefiting local communities.

During fiscal year 1975, planning for community education is authorized, and during fiscal 1976 and 1977 local programs can be funded.

ADULT EDUCATION

H.R. 69 extends the Adult Education Act for 3 years and amends it in order to remove the Commissioner's authorization to reserve 15 percent of the funds for projects to be funded at the national level. Instead, all funds under the act will be distributed to the States. Any programs approved by the Commissioner before the effective date of this amendment, however, must continue to be funded.

The committee bill also amends the Adult Education Act to allow the States to fund programs of high school equivalency from not to exceed 25 percent of each State's allotment which is in excess of its allotment for fiscal year 1973. Programs are also authorized to be funded by the States for institutionalized adults, and the States are permitted to establish State advisory councils on adult education.

EDUCATION OF THE HANDICAPPED

The committee bill extends for 2 additional years the programs authorized by the Education of the Handicapped Act. The committee bill also contains provisions strengthening the Bureau of the Handicapped within the Office of Education.

The State plan required under the act has been amended to require each State to identify and evaluate all children residing in the State who are handicapped and to indicate for each child the extent to which a free appropriate public education is being provided.

I am especially pleased that the committee adopted this amendment because I believe that we have been neglecting the needs of our handicapped children for far too long. We have made some progress, especially through Federal aid programs, but we must continue these programs and move toward the goal of educating every handicapped child.

BILINGUAL EDUCATION

The committee bill extends the Bilingual Education Act for 3 additional years and amends it to broaden the class of schools eligible for funding. The Commissioner is also permitted to fund research and demonstration programs.

Earlier today, the General Subcommittee on Education began hearings on bilingual education. We heard testimony from the Departments of Justice and Health, Education, and Welfare on the Supreme Court's decision in Lau against Nichols requiring that bilingual education must be provided to all children needing it in certain circumstances. The committee is beginning an extensive review of bilingual education in order to determine the Federal Government's best response to the challenge of this recent decision, but in the meantime we have proposed to continue the Bilingual Education Act basically as it exists now.

GENERAL EDUCATION PROVISIONS ACT

The committee bill also contains several amendments to the General Education Provisions Act, which is the Federal law containing provisions affecting all programs administered by the U.S. Commissioner of Education.

Among these amendments are the following:

A prohibition against the regionalization of the U.S. Office of Education unless such regionalization has been approved by the Congress;

An extension of the Tydings amendment allowing school districts and States to carry over appropriations from one fiscal year to the succeeding year;

Authorizing local school districts to appeal State actions in administering Federal education programs; and

The establishment of a procedure for the Congress to disapprove rules and regulations issued by the U.S. Office of Education.

MISCELLANEOUS AMENDMENTS

The committee bill also contains various miscellaneous amendments to Federal education laws.

The Commonwealth of Puerto Rico is included as a State under most Federal education laws for the purpose of allocating funds. A 5-year statute of limitations is set on HEW's right to demand repayment of expenditures made by States and local school districts from ESEA funds.

STUDIES

The committee bill directs three studies to be made. First of all, the Commissioner of Education must make a full and complete study of the extent to which late funding of Federal education programs impairs the operation of those programs. Second, the Secretary of Health, Education, and Welfare must undertake a study of the incidence of injuries occurring in scholastic athletic programs. Third, the Secretary must conduct a study on safety in the schools.

WHITE HOUSE CONFERENCE

The committee bill authorizes the President to call a White House Conference on Education in 1975. The purpose of the conference is to take a broad look at our Nation's educational system and to recommend improvements.

Mr. Chairman, I want to make one other assertion here about the formula. It is going to be argued that these figures we have on the county LEA allotments in the various States are incorrect.

The charts used by the committee show the amounts actually received by the States and local school districts in fiscal 1973 and 1974. They also show

H.R. 69 at an appropriation level of $1.885 billion since that is the amount contained in the President's budget request for 1975.

The impounded funds from fiscal 1973 and 1974 are not included because those funds were not received by States and local school districts in each of those years.

Now, Mr. Chairman, let me make one other statement with respect to the gentleman from New York (Mr. PEYSER). The gentleman states that we are going to jump up to $4,600 as the low-income factor this next year and wipe out most of the AFDC children. That is not the case and that will not happen, and it is not intended in this legislation to happen.

I say that for this reason: The present law requires that AFDC data be obtained for the month of January every year for tne following school year. We have now only the consumer price index, the Orshansky updated through 1972, that is, for the 1972 calendar year. The cost-of-living increase for 1973 has not yet been arrived at. It may be arrived at within the next few months, but the 1973 cost-of-living increase will not be the basis for the formula commencing in the next fiscal year. It will be the Orshansky $4,200 and above for this school year and fiscal year commencing July 1, 1974.

Ms. HOLTZMAN. Will the gentleman yield?

Mr. PERKINS. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I would like to ask a question of the chairman precisely on that point, because I notice on page 34 of the legislation that the Orshansky formula for determining the additional two-thirds of the AFDC children to be counted is to be updated by increases in the consumer price index. There is nothing in this legislation that says the Secretary could not use the updating in the consumer price index that would be received at the end of this March—for the year 1973—in computing his formula. If he does that, then you would have a $4,600 cut-off, not the $4,200 that you refer to. Am I not correct, Mr. Chairman?

Mr. PERKINS. Since there has been some confusion about which current year's Orshansky definition is to be used in determining AFDC children, I would like to clarify how these children will be counted.

The present law, which is in H.R. 69, requires the Department of HEW to collect AFDC data for title I purposes for the January preceding the fiscal year in which the information is to be used in distributing funds. In other words, the AFDC children who are to be counted during fiscal year 1974 have to be determined by HEW in January 1974, since fiscal year 1975 begins on July 1, 1974. Now, since the final Orshansky definition of poverty for calendar year 1973 will not be available until the end of March or the beginning of April of 1974, the definition which HEW must use in collecting the AFDC data in January 1974 will have to be the 1972 Orshansky definition of poverty.

In 1972 a nonfarm family of four was determined to be poor, using the updated Orshansky definition, if its income was less than $4,250. Therefore, two-thirds of all AFDC children whose families are receiving in excess of $4,250 in January 1974, will be counted in determining that school district's entitlement.

Further answering to the question posed by the gentlewoman from New York (Ms. HOLTZMAN), the answer is "No." The Secretary will not make any such addition to the formula, and will not use the 1973 updater until fiscal year 1976.

Ms. HOLTZMAN. Mr. Chairman, if the gentleman will yield further, I am troubled by the answer given by the gentleman from Kentucky. In my reading of the bill itself there is no such language that would support the statement made by the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, in response to the inquiry of the gentlewoman from New York (Ms. HOLTZMAN) let me say that that is the reason we are attempting to clarify the language by this legislative history. It is clear to me that the Secretary has to have the other data simultaneously as he has the AFDC under the present law in order to notify the various local educational agencies in the country in time. This is the attitude of the Department, and that is the legislative history that we are establishing here.

Ms. HOLTZMAN. Mr. Chairman, if the gentleman would yield still further, I take it, then, from the gentleman's answer that the language I referred to on line 8 of page 34 does not specifically preclude the Secretary from using the updated figures that would come out in March on the 1973 cost-of-living increase. The gentleman is only relying at this point on the legislative history, and I am not sure that that will be sufficient so far as construction of the statute itself is concerned.

Mr. PERKINS. In reply to the gentlewoman from New York, let me say that we have to have updated data here, or we will find ourselves in the same dilemma that we are presently confronting with the Orshansky definition. But the updating will not take effect, that is, the 1973 cost-of-living increase, on top of the present Orshansky 1972, until the school year of fiscal year 1976. That is a year from this coming July first.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Chairman, just to add to what the chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS) has stated, in commenting on the concern of the gentlewoman from New York (Ms. HOLTZMAN) I believe that the gentleman in the well (Mr. PERKINS) pointed out that the present law, which is not amended by H.R. 69, requires the Department of Health, Education, and Welfare to collect AFDC data for title I purposes on the January preceding the fiscal year in which the information is to be used for distributing the moneys. That being the case, and in relying on the interpretation which the gentleman from Kentucky (Mr. PERKINS) has made, the language to which the gentlewoman from New York (Ms. HOLTZMAN) has drawn the attention of the Committee should not pose a problem.

Ms. HOLTZMAN. Mr. Chairman, if the gentleman from Kentucky would yield still further, I would just like to clarify my question again in a different way. I do appreciate the gentleman's yielding further to me. The significance of my question is that if the Secretary can use the most recent, or the March cost-of-living increase, that would mean that fewer AFDC children would be counted in the formula. That was the reason that the chairman has stated, in answer to my question, that the Secretary could not take the March increase into account. And that troubles me because that means that we were not relying on the language of the statute, and I would appreciate clarification.

Mr. BRADEMAS. Mr. Chairman, if the gentleman will yield further to me, perhaps I can further clarify this question. The point raised by the gentlewoman from New York (Ms. HOLTZMAN) is moot in view of the fact that the present law requires, it does not permit, it requires the data to be collected in January, and therefore the Orshansky index, which may be updated in March, may not be used in relation to data collected in January.

Mr. PERKINS. The gentleman from Indiana has answered the question. I know none of us want to double count. The reason we have the language that the gentlewoman from New York has referred to in this bill is to keep children from being double counted. But the 1973 cost of living index will not take effect until the fiscal year 1976.

Ms. HOLTZMAN. I thank the gentleman.

Mr. PERKINS. Mr. Chairman, I want to compliment all of the members of the General Subcommittee on Education and the members of the Committee on Education and Labor, particularly Mr. QUIE, who has done an outstanding job, the gentleman from Indiana (Mr. BRADEMAS), the gentleman from Washington (Mr. MEEDS), and the gentleman from California (Mr. BELL). I do not know of any member on the General Subcommittee on Education and Labor who has not contributed immensely.

This formula was worked out after trying day in and day out to find some way to bring an equitable bill to this Chamber. As I stated at the outset, it would seem easier to pay each child over the country $300, or something to that effect, or use a uniform definition, a $4,000 low-income factor, a $5,000, or $3,000 low-income factor. I would have been perfectly willing to take a $2,000 low-income factor with all AFDC off of it, a $3,000 low-income factor with AFDC eliminated, a $4,000 low-income factor with AFDC eliminated, but we could not come up with anything of that nature.

I believe in the children in this country being treated alike, as much so as possible. It is not fair to count a family of 6 or 7 children in 1 State with an income from AFDC of $7,000, and that same family in other sections of the country with $2,001 not being counted. There is no equity to that.

This formula and this bill have a semblance of equity, and there are still advantages for the wealthier States of this Union, which is diametrically opposite to the true purposes of the bill.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentlewoman from New York.

Ms. ABZUG. I thank the gentleman for yielding.

Would the gentleman explain to me how AFDC children under the Orshansky formula will ever be taken care of under the proposal that the gentleman has made here today?

Mr. PERKINS. I will be delighted to explain that.

Ms. ABZUG. I want to clarify my question. I do not know if the gentleman has any AFDC children in Kentucky. Does he?

Mr. PERKINS. Yes.

Ms. ABZUG. How many?

Mr. PERKINS. We do not have any payments above $4,200.

Ms. ABZUG. Yes. Mr. Chairman, I really think that it is time that we stop calling States wealthy and poor. The fact is it would be much more equitable, Mr. Chairman, to talk about the kind of money it costs us for rent, which is not even counted in the Orshansky formula. I know Ms. Orshansky is a nice lady, and all of that, but her formula, even though she comes from New York City, happens not to contemplate the realities of poverty.

The gentleman has determined his own realities of poverty which have no impact in certain areas, which he incorrectly and erroneously calls wealthy States. I did not realize the gentleman had such an antipathy toward wealth, Mr. Chairman, and I did not realize until today how much of a wealthy State I come from. I am merely trying to find out when poor children, who find themselves living in New York instead of Kentucky, are ever going to be able to be included in this education formula that the gentleman is trying to pass off as an equitable formula. Contrary to what the chairman is saying the chart makes it quite clear that New York is being penalized by 10 percent over all other States in this country.

Tell me when, Mr. Chairman, when?

Mr. PERKINS. I will answer the gentlewoman briefly, and then I will take a seat. I have taken too much time.

First, let me state that as the current definition of poverty goes up, I am sure that the AFDC payments in New York State will go up. And two-thirds of those children will be counted. In my State there will not be any AFDC on top of the $4,250 to a family of four and none of those children will be counted. That is where I say we are fair in treating New York equitably as we should treat all States equitably. Those children will be counted this year, next year, two-thirds of them, and right on into the future as long as we provide for counting two-thirds of the AFDC above Orshansky.

Ms. ABZUG. Might we be clarified as to our figures. What would that amount to—$4,600, Mr. Chairman?

Mr. PERKINS. What the amount will be for the fiscal year beginning July 1, 1975, when the new Orshansky definition will be updated I do not know. It may be $4,400 or $4,500, but I can tell the gentlewoman this——

Ms. ABZUG. The gentleman does not even know what the basis of the formula is.

Mr. PERKINS. Maybe I do not.

Ms. ABZUG. The gentleman just said it.

Mr. PERKINS. Let me say this to the gentlewoman. The basis for the formula is the cost of living, primarily food. But in 1972 it has only risen in the 3 years, which is too much, from $3,700 up to $4,250. I do not know whether the inflation will make it jump more in the next year or 2 years than it has in the past year, but I want to state that the allegation has been made that, by increasing the income floor every year above which AFDC children will be counted, there will be a gradual elimination of AFDC children from the formula. That will be true in the South but probably not in other sections of the country.

Ms. ABZUG. But how many AFDC children does the gentleman have in the South? In some States they do not pay a dime of AFDC, and we all know that.

Mr. PERKINS. Let me make two observations. First if the floor is not increased every year the AFDC children will be double counted. They will have been counted once in the census and then again on AFDC. Secondly, some States have a cost of living escalator built into the schedule of AFDC payments with the effect that AFDC children in those States will continue to be counted. In States without this escalator there will be great pressure to increase AFDC payments in light of inflation. This will be true especially because many States now have large surpluses in their treasury. The HEW has established the fact that payments have increased.

The CHAIRMAN. The gentleman from Kentucky consumed 45 minutes.

Ms. ABZUG. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Fifty-two Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 78]

Alexander
Barrett
Blatnik
Bolling
Brasco
Breckinridge
Broomfield
Broyhill, N.C.
Butler
Carey, N.Y.
Clark
Clay
Conyers
Diggs
Dingell
Downing
Drinan
Dulski
Eckhardt
Findley
Fisher
Flowers
Gray
Hanna
Hansen, Wash.
Harsha
Hébert
Hicks
Holifield
Horton
Howard
Jarman
Kuykendall
Long, Md.
McDade
McEwen
McFall
McSpadden
Macdonald
Maraziti
Minshall, Ohio
Mitchell, Md.
Montgomery
Murphy, N.Y.
Nix
Patman
Podell
Reid
Robison, N.Y.
Roncalio, Wyo.
Rooney, N.Y.
Satterfield
Skubitz
Staggers
Stanton, James V.
Steed
Steiger, Wis.
Stuckey
Thompson, N.J.
Thornton
Vander Jagt
Wiggins
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Young, Alaska

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Price of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 69, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 366 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The gentleman from Minnesota is recognized.

Mr. QUIE. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, I am in full support of H.R. 69. There may be amendments that are offered that will have merit and that will be adopted, but I would be happy if the bill were passed just as it is. I have no intention of offering any amendments myself. I think the committee has done a good job on this legislation.

It is very difficult, as we know from experiences last year and on the continuing resolution, to write a formula on title I which is acceptable to everyone. We note from the proceedings thus far it has not been acceptable to a few. The bill was put together in the true spirit of compromise and negotiation which is the hallmark of the legislative process. I want to commend the chairman, Mr. Perkins, not only for the good presentation he made to the House in the last hour but also for the masterful job of working out all of the different parts of this legislation so as to fashion the bill reported out of our committee with only four negative votes. For as controversial a piece of legislation as this appears to be on the floor of the House, it shows that good work was done in the committee.

Others on both sides of the aisle were also instrumental in writing this truly historic bill. On my own side of the aisle Congressman Al Bell, the ranking Republican on the General Education Subcommittee, played a very key role. Without his hard work and dedication this bill would have never emerged in a fashion acceptable to so many parties. His role of fashioning a consolidation of programs aiding elementary and secondary schools was particularly important. That consolidation was so artfully drawn that it has earned the support of both my colleagues on the other side of the aisle and of the administration.

Other colleagues of mine on the Republican side of the committee also deserve special mention, particularly Bill Steiger and Ed Forsythe who worked long and hard on the bill.

On the other side of the aisle John Brademas was also very instrumental in fashioning the final product from our committee. Without his assistance in negotiating a formula for title I we might still be sitting in the committee room arguing over charts.

Let me say that undoubtedly Members will look at charts on how these formulas that are proposed with any amendments will affect their districts. Our committee started out looking at tables on how any changes in the present law would affect their districts or States. In the period of time we spent working on this legislation the members were educated sufficiently so that they could back off from that parochial interest and look at the needs for compensatory education for the Nation as a whole and from that vantage point adopted the amendments which turned out to be the formula that we bring before you in H.R. 69.

We made some other changes as well, probably the most significant of which from the point of view of the administration and for many of us who worked on consolidation for a number of years were those which were presented first in the subcommittee and then in the full committee by AL BELL in fashioning a consolidation which I think will enable us to meet the approval of the administration.

I note that there is indication that the President would sign this bill. It has that kind of support.

There have been other provisions offered by other members of the committee. I am personally sorry that we were not able to correct impact aid and some of the inequities that exist there.

The gentleman from Washington (Mr. MEEDS), I felt presented excellent amendments in the subcommittee which were not adopted in the full committee. So the full committee instead accepted an amendment which I had offered to extend impact aid for only 1 year as a signal to the people who were receiving impact aid that something needs to be done to make it more equitable. Therefore we will consider it in another year instead of in this legislation.

So those who are concerned about impact aid will not have to worry about whether it was extended or not.

Now, as I have said there are some things which this bill could have done in the way of reforms that were not done. While I may support some amendments to the bill they will be in the nature of amendments designed to perfect the legislation. I do not intend to support any amendments which make major changes in the legislation before us. The place to make major changes in impact aid and in other sections of the bill will be when that legislation again comes before the committee. In view of the time and effort which has gone into this legislation in the 93d Congress, and in view of the fact that the Appropriations Committee must have a law before it can appropriate money for the next fiscal year, I urge the Members to expedite consideration of the bill.

I would also like to take this opportunity to extend thanks to the administration for having adopted in the past few months a conciliatory mood which enabled us to work together and to gain approval of a number of objections which they have sought and which the committee believed were in the best interests of education. After 2½ years of no action on a 1971 bill to create special revenue sharing for education the administration did abandon that effort and last fall began to work with us in a very cooperative way to gain enactment of what was realistic, not merely idealistic. That spirit of cooperation owes much to the political acumen of people like HEW Under Secretary Frank Carlucci, Domestic Counsel Associate Director Jim Cavenaugh, OMB Assistant Director Paul O'Neill, and HEW legislative officers Charles Cooke and Judy Pitney. Our former colleague, Mel Laird, was, of course, a key factor in achieving this spirit of compromise.

Before relinquishing time to my colleagues let me take a few minutes to describe several key features of the bill. For the sake of clarity I will speak to the items as they appear in the bill.

Title I of H.R. 69 includes amendments to title I of the 1965 Elementary and Secondary Education Act, known as the major program which provides compensatory education. Since 1966 more than $12 billion have been appropriated for this program. The amendments accepted by the committee this year will hopefully ensure even more support for this program in the future and will also insure that the funds are spent in a way which will provide better services to children.

Let us look at the title I formula. I have agreed with people who are saying that the title I formula is unfair, and it is unfair. Anything else, however, that was proposed, was more unfair than this bill. Any time you use economic information it is going to bring about unfairness because there is no way to completely correlate the distribution of money based on the income of the parents of the children with the educational deprivations as exist in the schools.

As the Members know, we use low-income figures in the formula, and we use in the school when the money finally arrives at the school, assessments in determining the educational disadvantagement rather than the income. So at one end of the spectrum the local school income is not taken into consideration, and at the other end of the spectrum, the distribution of the money from the Federal level, we use only income information. I wish that it were possible that we could go to some other factors that would make the formula more equitable and more fair, but we do not have them at our disposal now, at this time, so obviously we will have to wait. We will have to wait for the 3 years, and at the end of that time, hopefully, we will have additional information that will enable us to write a formula that would be written in such a way that the money will go to the schools and for the advantage of the educationally disadvantaged children.

There is a specific directive in the bill to the Secretaries of Commerce and HEW to devise methods to update title I counts of children in a timely fashion to prevent the 10-year shock that occurred last fall when the results of the 1970 census became known and applicable to the distribution of funds. The new bill incorporates provisions for the Bureau of Census to expand its current population survey to enable it to determine the number of children below the poverty line in each State and directs the Secretaries of HEW and Commerce to report back to the committee within a year on devising a way to update allocation methods within States. This should allow the executive branch a chance to update allocation in a regular fashion and not wait to find out the results of a new census in 1980. No updating technique would become effective unless sanctioned by the Congress.

Let us look at those two areas or factors that are used in title I, and explain the reason why that, even though the formula is not fair, it is just more fair than anything else that has been proposed.

Let us first look at the census information.

As the Members know, we used the 1960 census information in determining the distribution of money in 1973, which is the school year 1972–73, and we still used the 1960 census information for that, but as the Members also know, no one is in school now who was counted way back in 1960. Moving to the present year, which is the school year 1973–74, we moved to the new census information; however, because of the hold-harmless provision in the appropriation bill this has kept the 1960 census information pretty much intact. We want to prevent this kind of 10-year shock that occurs when the new census information comes out. So in H.R. 69 there is specific direction to the Secretary of Commerce, and he is to devise methods to update title I counts of children in a timely fashion so as to prevent this sort of a shock, and that will be presented to the Congress to view before it is put into effect. There will also be a study for updating the information within the States, intrastate. Hopefully we will be able to secure some additional information.

The new bill will incorporate the so-called Orshansky definition of poverty. That definition was utilized by the Bureau of the Census at the time of the 1970 census and is now regularly used by almost all Federal agencies concerned with programs in the human resources area. It is this definition which is used when one hears reports that last year so many million people were below the poverty line or that a certain program is directed to assist those in poverty.

At the time the 1970 census was taken, the index ranged from $1,632 for a farm family of one to $5,820 for an urban family of eight. The committee intends that $4,250, the current Orshansky index for a nonfarm family of four, shall be used as the cutoff point above which two-thirds of AFDC shall be counted for fiscal year 1975. This figure is adjusted annually to reflect changes in the Consumer Price Index; $4,250 is the base figure which will be used for distribution for fiscal year 1975. Any changes brought about by CPI changes will be reflected in the fiscal year 1976 distribution when new AFDC data is available. All updating will use January figures for the following fiscal year.

Besides improving the low-income information the new bill reduces the reliance of the formula on the AFDC caseloads in a particular area or State. In the past as much as 70 percent of the money a given State has received has been because of the size of the AFDC caseload and the payments which are made under that program. Counting two-thirds of AFDC above the poverty line helped do away with the former double counting of AFDC recipients. Some people were counted in the census and then again in the annual AFDC survey. The two-thirds count will be more accurate than the current full count.

The new law proposes to pay each State 40 percent of its actual per pupil costs with a proviso that no State would receive less than 80 percent of 40 percent of the national average nor more than 120 percent of 40 percent of the national average. What this means is that under the new formula Alabama will be entitled to $310, Illinois $430, and New York $465. Since the current law is only funded at 36 percent of entitlement, the actual difference to any State is not as great as might be indicated by these figures.

The use of a payment rate of 40 percent instead of the former 50-percent rate also decreases the authorizations for the program to a more realistic level. Under the old authorizations in fiscal 1974 there were more than $5 billion for title I. Under the new law the title I authorization is reduced to $3.2 billion, a figure 40 percent greater than the President's 1975 budget request.

The new formula adopted by the committee will determine a local school district's grant in 1975 fiscal year by multiplying the number of children from families with incomes below the Orshansky poverty level plus two-thirds of the number of children from families with incomes over $4,250 from AFDC payments by 40 percent of the State per pupil expenditure, but the State per pupil expenditure cannot exceed 120 percent or be less than 80 percent of the national per pupil expenditure. No local educational agency, however, can receive less than 85 percent of its grant for the preceding year.

This formula with the updating mechanisms promises to better reflect the distribution of needy students in the country and focus money on those most deprived than did the old formula in the latter years. I support it for these reasons. The bill provides that we extend it for 3 years so that we can review it and make any adjustments necessary before too much time passes.

The amount of change we can expect is made clear by the Census Bureau when they estimate that between 1970 and 1973 central cities lost over 4 million people and suburban areas gained over 3 million in the same period. These population shifts go on constantly. The population of the United States is not a very stable factor. People move regularly and oftentimes in unpredictable ways. I don't believe any of us are wise enough to look ahead for 10 years and guess where the population will be distributed. I hope that the census updates we are asking for help us improve our aim if this method is retained for distributing title I money.

Not only does the use of census data tend to freeze us into the past but there is an initial 2-percent error factor in counting 5- to 17-year-olds. That error factor may get larger when you look at substate and subcounty level data. Poor neighborhoods tend to be miscounted more than the well-to-do. The miscount rate for black children is estimated to be 10.1 percent by the Bureau of the Census. Certainly neighborhoods which are non-English speaking are not counted as thoroughly as neighborhoods with English-speaking residents.

The conclusion that one draws is that census data gets worse as time passes and it gets worse as you use smaller units of analysis such as counties and school districts. It does not have the reliability we need to focus title I, nor does it have the validity necessary to even insure that poor children are receiving the services that we intend them to receive.

A factor which makes AFDC awkward is its rapid expansion. From 1966 to 1972 the number of public assistance recipients jumped from about 7 million to over 14 million. AFDC represents about 77 percent of this total. New York has shown a 319-percent increase in AFDC children from 1960 to 1970. California has shown 384 percent for the same period. The State showing the least change was West Virginia at 9 percent. The average was 206 percent for all the States. This growth gives urban title I schools a decided advantage. AFDC counts are taken annually and always seem to increase. Poor States with low AFDC payments but growing populations must wait several years before they receive title I payments which reflect that growth.

The amount of error in AFDC reports is stunning. In New York this figure was 60.5 percent. My point is not to be critical of AFDC programs or their administration, but to indicate their inappropriateness for our purposes. There is, however, a strong movement to change AFDC radically. Most suspect it will not be recognizable as the same program in another 10 years.

AFDC is a hard program to administer. The rules are complicated and unclear. To make things worse, the rules change frequently. An overworked welfare staff turns over quickly. It is reported that 50 percent of the caseworker level staff has less than 2 years' experience. The obvious chance for errors increases under these conditions.

Those factors taken as a total, make it impossible to use AFDC as a good index of educational need. When AFDC is linked with outdated census data, an awkward formula is created to become the mechanism for distribuiton of title I funds.

The gentleman from Kentucky (Mr. PERKINS) when he explained title I, described the Orshansky definition of poverty. It is true that it is not as refined as some people would like. I noted the colloquy held with the gentleman from Kentucky (Mr. PERKINS) that the difference in a certain income in New York as compared to, we will say, in Mississippi, does vary. But there is no way of finding that information out right now.

Those who do not like the Orshansky formula wish to go to some fixed sum, $3,000, $4,000, $3,500, or what-have-you, and that is less equitable than the Orshansky formula because the Orshansky formula at least takes into consideration the differences in *poverty* between the size of the families and also brings in the factor of farm-nonfarm.

I personally do not agree that there is that vast difference between farm and nonfarm as the Orshansky formula puts into practice, but anyone from the city who claims that there is unfair treatment in that the farm families are considered at too high an income is just not accurate, farm and nonfarm families with respect to the Orshansky formula, and you have a lower figure for a farm family.

The updating, then, is an attempt to try and make that census information as equitable as possible. However, we should bear in mind that when this goes into effect in the school year of 1974–75, already children who were counted in the 1970 census will no longer be in school because we will have been 5 years past that date when the income information was secured.

The gentleman from New York (Mr. PEYSER) and some others have indicated that we should wait because in March there will be new information on the Orshansky updating, which Mr. PEYSER has indicated, I believe, would be $4,629. But there is no sense in waiting for that, because in updating the Orshansky formula, in determining who is receiving AFDC payments above that, it will not be until later in the year when we learn the AFDC payments, and it will not be until January 1975, that that information will be made available to us.

For the next school year, the $4,250 is the figure of updated Orshansky average for a nonfamily of four that is going to be used. So we would wait forever if we were going to wait for all of the information that is going to be necessary to determine what is going to be made available in fiscal year 1976. We just do not know. There is no way of weighing it. We have all the information now that will be utilized in determining the distribution of money in fiscal year 1975. That is what is ahead of us.

The old law also is different, as the chairman of the committee, the gentleman from Kentucky (Mr. PERKINS) indicated, where we used one-half of the State costs, or one-half of the national costs, whichever was the highest. This led to situations where some very low-spending States, particularly in the South, were utilizing the national average and getting a much greater payment rate than anyone else. Alabama, with a 1971–72 per-pupil cost of $563, was using the national cost of $970, and therefore was eligible for a payment of $485 per child.

Illinois, on the other hand, with a per-pupil cost of $1,075, was using one-half of its cost or $537.50, which was only $52 more than Alabama, even though the actual differences in cost were more than $500 per child.

On the other extreme, New York was using one-half of its total cost of $1,513 and, therefore, becoming eligible for a per-pupil entitlement of almost $756.

With regard to the last point, it is interesting to note that although New York's average per-pupil cost is more than 150 percent of the national average, its average salary for classroom teachers is only about 120 percent of the national average. The extra costs in New York are apparently due to a large degree to the very rich pension system and smaller class size which that State maintains, and that is the reason why we use 120 percent of the national average as the limit beyond which a State cannot go. Instead of bringing a State up to the national average, of the poorer States, we are bringing them up to 80 percent of the national average, if they happen to be at a figure below that.

If we think that problems exist with the census information, and that data is shaky, the AFDC is a seismic catastrophe in comparison. The AFDC figures vary, depending on the wealth of the State. The wealthier States pay much higher AFDC payments. In fact, 7 of the richest States are also in the top 10 States relying on AFDC in title I.

AFDC also varies within the States. The urban areas are more likely to provide higher AFDC payments and more AFDC than the nonurban areas.

Also, some minority groups do not go on AFDC the way other minority groups do and the majority race does. I mention here particularly Chicanos and Orientals. The indication in California is that a very low percentage of them are on AFDC in comparison to both the educational disadvantagement and the income of the individual.

There seems to be a feeling that if a person has higher income on AFDC he is more poor than a person who is not on AFDC with a lower income. I do not think that is right. The income a person receives is important as to whether a person is low income or not.

AFDC is very difficult to administer. It is interesting that nationally about 40 percent of the AFDC recipients are not receiving the proper amount, that is, some above receive more than they should and some receive less than they should and some are ineligible entirely. It is interesting that in the State of New York this amounts to 60 percent. As far as those ineligible, 10 percent of those on AFDC in the Nation are ineligible under an HEW study but 17.5 percent in New York and 16.7 percent in Pennsylvania are estimated to be ineligible, while on the other side 2.2 percent in Arkansas and 1.9 percent in North Dakota are all that are ineligible in those States, indicating that they evidently are more careful in how they hand out AFDC payments in those States.

All those inequities and changes affect the title I formula. So to the extent that the census information is inaccurate this makes for an inequitable title I formula. To the extent AFDC is inaccurate, this causes a title I formula that is inappropriate or inequitable.

As I indicated, however, this is all we have available to us now. There was a presumption that there was a high correlation between low income and educational disadvantagement in 1965. We continue on that presumption, not having adequate studies available to us to show how far off the mark that really is. I think it is possible, however, to use other information. An assessment is one that I think is available to us which presently has been going on in the Nation and it has been for a few years, the national assessment for educational processes, which is conducted by the educational commissions of the States. Dr. Stan Ahmann of the National Assessment of Educational Progress, says that—

> Technical problems associated with the development of achievement exercises and the gathering and analysis of data they yield have either been solved or can be solved with proper effort.

So, hopefully, with the NIE study that is proposed in this legislation, we can have that information at our disposal when this law is to be continued again, which will enable us to determine who is educationally disadvantaged and get the money there.

In my estimation not more than 25 percent of the children with severe learning problems are actually receiving help under title I. I think that is actually a little high and I think the program would be much better accepted if anyone who is educationally disadvantaged would be able to receive the benefit of assistance from title I.

Criterion reference tests are now available to a large extent which were not available in some years past. They have been used primarily as a teaching tool. Dr. James Popham of UCLA, one of the early developers of criterion-referenced testing makes the following analogy to explain the method:

> The dog owner who wants to keep his dog in the back yard may give the dog a fence jumping test. The owner wants to find out how high the dog can jump so that the owner can build a fence high enough to keep the dog in the yard. How the dog compares with other dogs is irrelevant.

Largely in an effort to remedy some of the weaknesses of norm-referenced measures, criterion-referenced tests are designed in such a way as to be more accurately interpretable, detect the effects of good instruction, and allow us to make more accurate diagnoses of individual learners' capabilities. What I am talking about here is finding out what it is a child has achieved and what can be accomplished in a particular period of time. It is my feeling that tests, especially in reading and math, give us the best information on who is educationally disadvantaged or not. The State of Michigan already is utilizing that system of criterion and reference testing to distribute the money for educationally disadvantaged in Michigan.

Other States have developed this mechanism and are moving toward that. So in this 3 years we will not only have the NIE study available to us, but also experience by some other States besides Michigan.

It is interesting to note from the two studies, all that I have been able to find, which is the Dr. Eugene Glass of the University of Colorado study and the Fortune study by Dr. Simmin Fortune, indicate there are more disadvantaged children from families above the poverty level than there are from families who are below the poverty level. That is not to say that the same percentage of educationally disadvantaged exist in families above the poverty level. That is not true. They have a smaller percentage than the families in the poverty level; however, there are many more families above the poverty level that they give us a total number of children who have severe learning problems to be greater in the above-poverty-level families.

So, Mr. Chairman, I think that we have made some substantial progress in this legislation. They are also going to give more flexibility to the school districts, the school districts with the approval of the parent advisory councils who are presently set up and established under present law.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. QUIE. Mr. Chairman, I yield myself 2 additional minutes.

Mr. Chairman, there will have to be approval for any change in the present operation, here now in determining where the part of the school's responsibility exists, only low-income information is utilized. The local school district will be able to use additional information, including assessments, including where the educationally disadvantaged are attending and provide title I assistance wherever there is a concentration of educationally disadvantaged in an area.

This kind of flexibility will enable them to reach children who are most educationally disadvantaged.

There are standards, methods of determining who is educationally disadvantaged within a school district. We will be able to learn from that also, selecting the children. States who do not have contributions of their own money to the extent that Michigan has, use educational assessments now in distributing their State-appropriated money. California is an example of that.

So there is a host of information that is available to us now. I believe that the experience we will have under title I in the next 3 years will enable this Congress to write even a far better piece of legislation in years from now than we have before us now.

USE OF ASSESSMENT AS A MECHANISM FOR DISTRIBUTING TITLE I MONEY

There are two amendments to title I which I believe will allow us to investigate more fully the effectiveness of distributing compensatory education money by the use of assessment techniques. I do not believe we should arbitrarily lock local school districts into one procedure by which they are allowed to distribute title I money.

The first amendment simply gives the local school district a chance to use alternative methods to distribute title I money to schools and students. California, for example, uses measures of poverty, bilingualism, transitoriness and educational assessment to target State-appropriated compensatory money. Under this amendment any method used by a local district shall be designed to meet the needs of educationally disadvantaged children. Funds must be used in schools with concentrations of educationally disadvantaged children. Any method elected must be acceptable to the parent advisory councils. These councils were authorized in 1970 and are designed to act as a group to involve parents in the school and disseminate information about the schools to the community.

This amendment would help a community like Oakland, Calif., where they found that the schools containing children with the greatest educational deficits were not the school with the financially poorest students. Under current law they are required to continue to use title I money in the areas of less intense educational need. Another advantage of this amendment is that it gives a specific task to the parent advisory groups.

The second amendment which is being introduced charges NIE to undertake a thorough evaluation and study of compensatory education programs. The study shall include: First, an examination of the fundamental purposes of such programs, and the effectiveness of such programs in attaining such purposes; second, an analysis of means to accurately identify the children who have the greatest need for such programs; third, an analysis of the effectiveness of methods and procedures for meeting the educational needs of children, including the use of individualized written educational plans for children, and programs for training the teachers of children; fourth, an exploration of alternative methods, including the use of procedures to assess educational disadvantage, for distributing funds under such programs to States, to State educational agencies, and to local educational agencies in an equitable and efficient manner, which will insure that such funds reach the areas of greatest current need, and fifth, NIE will carry out experimental programs where it is determined that such experimental programs are necessary to carry out these investigations.

The Institute will make an interim report to Congress and the President by December 1976, and a final report 9 months later. This report will include findings and recommendations for changes in title I and for new legislation. NIE will be advised by the National Advisory Council on the Education of Disadvantaged Children with the respect to the design and execution of any such study.

I believe this research is necessary in order to insure that we are doing the best possible job for children with educational need. The knowledge we might gain from such a study will have influence far beyond the question posed. Without this basic knowledge we will continue to struggle blindly with the issues, never satisfied that we are doing the best that we can do. Research has helped us go to the Moon, find a cure for polio, and provide new sources of food for the world. Without an organized research base we have little hope of solving the staggering problems in education. This is one small step in solving one of the major problems of our time.

The amendment providing for local options as to how title I money can be distributed and the amendment providing for a broad investigation of compensatory education by NIE should provide some basic information which will allow us to address the basic issue of title I. That question is whether title I is a program to help redistribute income or a program to help educationally disadvantaged children. I believe we are best served by a program which addresses itself to educational need.

ASSESSMENT

I believe that we will eventually be better able to distribute compensatory education money by using assessment procedures as a basis instead of economic factors. I hope I have made you aware of the problems inherent in any economic formula used to distribute educational money to students. The alternative to that is assessment. All I mean by this is that each school district should be required to individually diagnose and assess both the educational deficiencies and the educational potential of each student requiring remedial assistance.

I do not want people to believe that I am suggesting the use of traditional normed tests. I believe that criterion-referenced tests provide relief from the tyranny of testing we have all experienced. Criterion-referenced measures are used to ascertain an individual's status with respect to some criterion, that is, an explicitly described type of learner competence. These assessments should be limited to the areas of mathematics and reading.

I would hope that following this assessment, goals could be determined for each student. This could be done in a cooperative manner involving the teacher, the parents, and the student. The objective would be to raise the skill level of each student as rapidly as possible, in a manner which reinforces learning in the home and makes the school an integral part of the community.

This technique is widely accepted. It makes such good sense. It is not foolproof or perfect, as many have pointed out, but it is not evident that putting more money into the current system is going to improve the chances for learning.

Dr. Dale Parnell, superintendent of public instruction for the State of Oregon, stated the problem very aptly when he said that the plan I am proposing today—

> Would do for educational problems what penicillin does for medical problems: it would strike directly at the source of the infection of nonachievement in the specific and absolutely crucial area of reading and mathematics. The original Title I of ESEA was more similar to aspirin in its approach to student nonachievement. It diffused medicine in terms of doses of dollars about the same unspecific way in which aspirin works—sometimes it gets to the source of the pain and sometimes it doesn't, and nobody really knows why or how.

We do have the technology for assessment. Since 1968 the actual level of educational skill of American young people has been assessed in a wide variety of subject areas. The results of each of those annual assessments have been reported and are available through the Government Printing Office. The current operation known as the National Assessment of Educational Progress has chosen to compare students by region rather than by State.

States are well into the use of assessment. Each of the 54 States and territories has reported assessment action. Thirty of the programs are operational and 24 are emerging. The information gathered is used for decisionmaking at the State and local level. In eight of the States, assessment data is used to allocate educational funds. These States are: Arizona, California, Colorado, Maine, Michigan, New York, South Carolina, and Texas. In 10 other States, the intentions are to use assessment information to distribute funds. These States are: Connecticut, Illinois, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, New Jersey, and Ohio. Educational Testing Service reports that there is a definite trend toward the use of criterion-referenced testing. The amazing thing about these State programs is the rapidity with which they have been developed. Five years ago there was only a handful of States that had ongoing State assessment programs, in a few years all will have an assessment program of some type.

We have been told that to improve the delivery of census data so that we could get update information every 3 years would cost $32 million just to start. People I have contacted among assessment firms estimate that a program using criterion-referenced instruments to allocate funds among the States utilizing results from children tested at three age levels could be conducted for about $5.3 million annual cost. Total cost would be less if we took a sample every other year.

I believe that by moving toward an education definition of academic deprivation instead of an economic definition we can broaden the constituency for title I. There are many hard-working people in our country who are not poor and whose children are having real difficulty in school. There are more children having problems in basic skills from families above the poverty level than below. This statistic makes my point that we are missing a sizable number of children who need help and are not poor. It should be remembered that if an assessment program were introduced we would still focus educational services on communities which have low income.

Dr. John Porter, superintendent of schools in Michigan, contends that Michigan's compensatory education program was increased when they enlarged the number of students who were potentially eligible for the extra help. Communities receive help which never did under strict economic guidelines. The districts in communities heavily populated by poor and minorities are very pleased with the new program since they not only continue to receive the largest share of the money, but will also benefit from increases in appropriations as public support pushes the funding of the program higher.

There is such need for education across this country. I am sure that if all the parents whose children were having difficulty in school know that the Government was attempting to do something for them that we would have the constituency needed to increase funding to the levels that really could make a difference. As it stands now 6.6 million schoolchildren out of 50 million are counted for title I money. This is in face of the fact that 15 million children are having severe learning problems in school.

People become dissatisfied if children are having trouble in school and the school does not seem to be able to cope with the difficulties. The NAACP has launched an investigation of reading programs in our Nation's schools and will report their findings to the 1974 national convention. The Lau court case in San Francisco indicates the need of our schools to respond to unique problems of bilingual children in our communities. The Mexican-American community sued schools because so many of their children had been put in classes for the retarded. The indications that we need to improve our education system are strong. People are not as willing as they used to be to let the schools make decisions about their child which might keep that child out of the mainstream of American life. People want their children to have the skills and abilities to deal in a world where 95 percent of the jobs require a high school education. That just does not mean a degree but an ability to deal with symbols and abstractions. Inasmuch as our schools fail to do this parents and taxpayers are angry, most especially the poor are angry because their children are the ones who are most dependent on the schools for their future.

Much of this anger is focused on tests because tests seem to be the magic wand by which some children are tracked into less demanding and more limiting programs. I want to make clear that criterion-referenced tests are not nationally normed tests by which 50 percent of the takers have to be below average. They only help local districts identify children who cannot perform tasks deemed important at certain levels of development. An analogy might be training someone to be a lifeguard. If the person passes all the subtests he is qualified to be a lifeguard. The concern is not with how well a person does in relation to all others taking lifeguard training, but in relation to what is necessary to save lives.

Surely we need to do everything we can to help us assess the needs of children in our schools. Doctors order tests before they prescribe therapy and examinations are continued to monitor how well the patient is responding to treatment. Doctors do not give the same tests to everyone but there are a couple so basic to any analysis that anyone who has been to a doctor has had them. I think the analogy holds in education. Mathematics and reading are so fundamental to life in our culture that we cannot afford to miss them. After we ascertain the needs of children we need to prescribe the proper program to assure their success. We certainly need to assess their progress from time to time to make sure the program is having any effect. To have education without assessment is akin to prescribing drugs to a patient without first trying to ascertain what is wrong.

If people are angry at schools for not helping children, I hope that they do not become angry at the instruments which many schools have used badly. Our schools need some resurrecting and I believe that assessment is necessary to that end.

I would like to summarize this section by quoting Dr. John Porter, of Michigan. He says:

> The ultimate performance objective, of course, is to provide students with the minimum skills necessary to take full advantage of the adult choices that will be available to them after their schooling has been completed.

OTHER AMENDMENTS

There are several shorter amendments that have been added to H.R. 69 which will help improve the law.

The first group of these are related to title I. First, and, in many people's eyes, most importantly, local school districts are required to make schools eligible for these funds for 3-year periods. All of us have received complaints about title I programs because they do not have the permanency necessary to make them effective.

Another amendment helps make clear the fact that title I grants are limited to providing the "excess costs" of education. Local and State compensatory education programs, bilingual education programs, and programs for handicaped children are encouraged by excluding the funds spent on such programs from local determinations of comparability. This will insure that States and LEA's are not penalized for using their own dollars for special programs for the handicapped, the disadvantaged and those with need.

The amendment repeals part B of title I which was an incentive grant given to States which exceeded the national effort index. Part C is also to be repealed. This is labeled "Special Grants for Urban and Rural Schools Serving Areas With the Highest Concentrations of Children From Low-Income Families." Both have been repealed in line with evaluation reports which call them inefficient and cumbersome and suggest the dollars could be better spent in part A grants to LEA's.

CONSOLIDATION

This amendment, authored by the gentleman from California (Mr. BELL), consolidates various existing categorical programs into two larger programs. The new programs are: libraries and instructional resources and support and innovation.

The libraries and instructional resources program will contain ESEA II which is money for school library resources. This includes textbooks and other printed and published instructional materials. The part of ESEA III will be included which provides money for guidance and counseling. The last grant category to be included is title III of NDEA which provides money for laboratory and other special equipment. Local districts are given discretion in how they spend this money as long as it falls into the broad categories.

The second large program, support services and educational innovation, will include title III of ESEA which is money earmarked for innovation. There is a special stipulation in this section which directs that not less than 15 percent of this category funds be used for special programs and projects for the education of children with specific learning disabilities and handicapped children. This stipulation also provides program authority for gifted and talented children. The next title to be included is title V of ESEA which provides money for the strengthening of State departments of education. Only 15 percent of the overall category can be used for this purpose. The last sections to be included are the dropout prevention and school health and nutrition programs of title I.

Another provision of the amendment is that 95 percent of the funds in both of the categories must go to local educational agencies. The remaining 5 percent may be spent for administration of the programs at the State level. This, of course, is exclusive of the money which is provided specifically for strengthening State departments of education.

The libraries and instructional resources program is authorized to spend $395 million and the support and innovation program is authorized at $350 million.

In order for the consolidation to take effect, the appropriations for each of the consolidation programs must at least equal the aggregate amount appropriated in the last fiscal year that the constituent programs operated as separate categorical authorities. The separate authorities will be extended on a contingency basis if the appropriation requirement is not met.

We stipulated that local educational agencies applying for funds under any or all programs authorized by this title shall be required to submit only one application for such funds for any fiscal year for all of the funds so applied for. This will be a big help in simplifying office work at the State and local level. I am sure that the States and local education agencies will be grateful for this freedom from paperwork.

It is a move which will help give local schools a chance to assess their own needs and get Federal help in meeting those needs. In many cases, under the old law, schools would apply for funds under a narrow grant not because they needed or wanted the program, but because the money was there. I believe the time is here to allow those people who are responsible for education at the local and State level make the decisions in light of their needs.

I want to emphasize the fact that this program will not take effect unless funds are appropriated which are equal to fiscal year 1974. This protects recipients of these programs from a loss of funds during the change.

IMPACT AID

The subcommittee version of H.R. 69 contained several significant amendments to the impact aid program including: First, a phaseout of payments for "B-out" children; second, a 3-percent absorption requirement; third, payment of "A" children at full cost of instruction, and fourth, elimination of the "C" category. By a 21-to-15 vote, the committee struck these amendments from the bill. This virtually returns the program to its original form with the exception of the following provisions:

A program of special assistance for handicapped children providing that each impact-eligible handicapped child can earn 1.5 times the normal payment rate as long as the district has a special education program of sufficient "size, scope, and quality to give reasonable promise of substantial progress." All children in such a program would receive benefits from the funds earned by the impact-eligible participants.

The section—5(d)(2)—governing the treatment of impact funds as local resources is amended to permit such funds to be considered as local resources in computations under a State equalization formula for State aid to LEA's if the Secretary determines the formula provides "appropriate recognition" to the relative resources of the LEA's.

All children who live on Federal property are counted as "A" children. This affects mainly families who live on Indian reservations but make their income working off of the reservation or unemployed. Previously these children have been counted as "B's."

We extended impact aid for only 1 year, the program is authorized only until June 30, 1974. I believe this short authorization period indicates Congress concern with the problems inherent in the program. It indicates our desire to sit down with people who are intimately involved in HEW and in local impact aid districts to work out a new formula which is just and equitable. All of us are well aware of the problems in impact aid. The main problem is due to the money given to schools for children whose parents work on Federal land but live in a school district that does not contain the Federal property. This results in a few commuter districts reaping a windfall of Federal money.

ADULT EDUCATION

Adult education is a program that has proven itself. So many people need a second chance as adults to become literate, functioning members of society.

This amendment helps clarify the relationship of adult education programs with manpower development and occupational programs. The bill also provides for coordination with right to read programs. The amendment makes clear that institutionalized adults can benefit from this program. That includes people in mental hospitals, homes for the aged, and prisons. It specifies that community school programs can qualify for adult education programs. The amendment allows State advisory councils to be appointed if the State decides they are desired. This amendment will put more responsibility on State departments of education to work with local education agencies on programs for adults.

These changes will help make the adult education program more effective by improving the coordination between the several programs aimed at adults. At a time when it is reported that nearly 19 million adults in America are not literate enough to read the simplest signs and directions, we cannot do less.

The consolidation amendment had influence on portions of the adult education program. It allows 100 percent of adult education money to go to the States to be distributed under current law. A portion of adult education money is distributed by the Commissioner on a grant basis.

COMMUNITY SCHOOLS

Community schools have a long history in the United States, thanks mainly to the Mott Foundation in Michigan. They developed staff and paid for demonstration projects in Flint, Mich. The idea is a simple one and has grown across the country. You merely open the doors of the schools after hours and on weekends. The community uses the facilities for any purposes they might have. Most communities have recreation programs for adults and children. These are classes ranging from crafts to basic literacy; there are seminars on income tax problems and community meetings. In short, the school becomes a true center of the community and that community defines the purposes of that program.

We have seen some districts really start to make important changes in how they think about schools and the schools relationship to the community as a result of starting a community school program. The legislation we pass shouldn't restrict local level options, in fact it should act as a stimulus to thinking through the new resolution of old problems.

HANDICAPPED

This amendment authorizes the continuation of the Bureau of Education for the Handicapped and the National Advisory Committee on Handicapped Children.

This program has provided grant money to States and territories to help initiate, expand, and improve programs for educating the handicapped. Support is included for experimental preschool and early education programs and regional resource centers for the handicapped. It also provides grants to institutions of higher learning to assist in improving and training special education personnel.

One of the amendments included requires each State that receives funds under this title to submit to the Commissioner for approval 1 year after the enactment of this bill a State plan which will identify handicapped children and evaluate their needs. States currently submit a plan providing descriptions and policies of current programs; this amendment directs them to make estimates about the future. On the basis of this information a timetable will be established for providing educational opportunities for handicapped children. This report will include details on the kind and number of facilities and personnel required to provide the necessary services. The State shall make this information available to the parents of handicapped children and other members of the general public at least 30 days prior to the submission of the Commissioner. These reports will protect the confidentiality of the information provided by individual students.

This amendment does not mandate a State program for the handicapped. Hopefully it will help awaken them to the scope of the problem and sense of the things that can be done at the State level. It is estimated that there are 7 million handicapped children. We are only reaching 40 percent of those children with organized educational programs. This amendment will help us ascertain what needs to be done, how long it might take, and who is needed to do the job. This is an important task and one which has not been undertaken.

BILINGUAL EDUCATION ACT

This amendment provides broader flexibility for bilingual programs without involving additional funds. The changes include: First, authority given to the Commissioner of Education to establish criteria for bilingual education programs in schools having a major need for them. This can be done after the needs in the poverty concentration areas have been adequately met; second, permissiveness in allowing more than one local educational agency to join with other local school districts or with an institution of higher education in an application for a grant; third, specifically underscore the fact that junior and community colleges are included in the definition of "institutions of higher education," and forth, permit public or nonprofit private agencies to be eligible for research and development grants and projects to disseminate bilingual educational materials.

These changes introduced in the committee by Mr. BELL and Ms. CHISHOLM should allow greater economy and efficiency in the bilingual education program. Bilingual education is an idea which has made a difference in our schools. This amendment can help improve the legislation.

TYDINGS AMENDMENT

This amendment, which allows States and local school districts to carry over appropriaated funds from one year to the next year is extended through 1977. This will allow schools an extra year to organize so that they can use the money effectively in next year's programs rather than uneffectively in this year's program. One of the frequent complaints school people have about Federal money is that the timing is bad. Money comes after hiring cycles end, or has to be spent before a school year starts. These faults in timing make for inefficient use of money at the local level. This amendment gives LEA's the time they need to make proper plans for spending.

ATHLETIC INJURY

I would like to draw your attention to an amendment introduced in the committee by Mr. FORSYTHE which mandates the study of accidents due to interscholastic sports. The sum of $75,000 is appropriated for this purpose. The results of this study will be helpful in deciding what, if any, legislation is needed to cope with sports-related accidents in our Nation's high schools and colleges.

SAFE SCHOOLS

Crime and violence seems to be on the increase in our Nation's schools. The safe schools study amendment directs the Secretary of Health, Education, and Welfare to make a full and complete study to determine if the incidence of crime and violence in elementary and secondary schools is changing. This study will also include trends and projections based on the 5-year period ended on June 31, 1974.

This study should give us not only much-needed information about this problem, but information regarding associated economic and educational issues which are correlated with school crime.

Hopefully we will be able to identify school programs, especially federally funded ones, which are successful in deterring crime. In hope that the study is helpful because it is obvious that crime and the fear of crime diminishes the effectiveness of our schools at the same time it increases the social problems. By passing this amendment I believe that we can begin to address this problem in a most judicious manner.

WHITE HOUSE CONFERENCE ON EDUCATION

This amendment authorizes a White House Conference on Education in 1975. It will involve participants in conference activities at local and State levels as well as the national. I believe that a broad spectrum of citizens along with educators in an intense debate about some central issues in education can help infuse our policies with new ideas and excitement. This participation of the public in the most public activity of the Government is appropriate and necessary. I hope that each community and State can pursue the issues that are of concern to them and move the debate to new levels of meaningfulness.

I am sure that the knowledge gained from this conference will be of great help in our committees' deliberations as well as in State houses across the country. We have not had such a conference for 10 years and the problems and challenges we face today have changed. We need to address these new problems in the fullest and most meaningful way possible. I believe a White House Conference on Education is the best way to do this.

CONCLUDING STATEMENT

I would like to summarize this long and rather involved presentation by hoping and urging. I hope that we can come to quick agreement with the other body on this important legislation and I urge the Appropriations Committee to act quickly on the President's fiscal year 1975 budget for elementary and secondary education. All of us are aware of the difficulties local districts have operating on late funding and continuing resolutions. In order to get the most out of our education dollar, it should be delivered in a timely and predictable fashion.

We owe thanks to the administration for working in a coopeartive manner with us on this legislation. We have moved toward agreement on consolidation of programs and changes in impact aid in this bill. The administration was helpful in their desire to develop the best legislation possible.

Second, I would like to address the need for a closer congruence between the authorizing of funds for education and the appropriations. The authorization for all the education programs in 1973 was $8.7 billion. The final appropriation figure was $6.3 billion. I grant that it was a very confusing year with the continuing resolution and the impoundment question, but the final appropriation was 72 percent of the authorization. This works a hardship on local school districts trying to estimate their budgets for the next year in their federally funded programs. We have authorized a lower figure this year for title I and many other titles, not because we expect a lower appropriation but because it should help the process at the local level of estimating budgets and planning ahead.

My plea is that we should increase Federal aid to education. Currently the Federal Government is paying less than 8 percent of the Nation's education costs. We can increase that share to 25 percent. This will help take the load off local districts which pay 51 percent of the cost and States which pay about 41 percent.

The importance of education is a national importance. As a national priority we need to help every child reach his potential as a citizen and as a person. In order to do this with limited Federal dollars we should focus money on compensatory education, education of the handicapped and vocational education. H.R. 69 is a bill which helps do this. By supporting this legislation we can move one small step forward in the unfinished work of the Nation. Education is central to this country's ideas and promises. It is the one avenue that all of our children can use to realize their dreams and goals.

In closing, let me say that I believe, I am confident that this bill we have before us is the best we can devise for the country now. I believe if we study it well, we will have it pretty much intact when we report this bill to the other body.

I believe that comes from the long study that was conducted by the Members of the Committee on Education and Labor, who set aside their own personal preferences in many cases to reach an agreement, because they put the interests of the children of this country No. 1, rather than just retaining the amount of money for their States or retaining the amount of money for their school districts in the congressional districts; rather, the children of the country are the most important.

Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. Bell).

Mr. BELL. Mr. Chairman, I rise in support of H.R. 69, a bill to amend and extend the Elementary and Secondary Education Act of 1965.

Our committee spent over a year on hearings and markup of this comprehensive and complex bill, and I sincerely believe, Mr. Chairman, that this piece of legislation will serve well to improve the quality of education and expand the opportunities of millions of our Nation's educationally disadvantaged children.

The bill we debate today is the product of bipartisan effort and cooperation.

I wish to commend the chairman of the Committee on Education and Labor (Mr. Perkins) for his long and diligent hours spent in efforts to work out the provisions of this bill in accordance with the experiences from which we have learned so much since ESEA was first enacted in 1965.

I also wish to commend my colleague and ranking minority member of the full committee (Mr. Quie) for the thoughtfulness of his significant contributions to this bill.

Mr. Perkins and Mr. Quie deserve high praise for the leadership they provided in establishing the bipartisan atmosphere in which the bill was developed.

I believe that H.R. 69, "the elementary and secondary education amendments of 1974" will go far to continue and extend the good work begun in 1965 by that landmark legislation. The Elementary and Secondary Education Act.

At that time, Congress acted on its highest instinct—to invest in the greatest resource of our country—in the future generation—in the children, whom the system had too long overlooked, the economically and educationally disadvantaged children of this great country.

Future years will show us what our legislation has accomplished—the future will show us how many useful, fulfilled, taxpaying citizens are sharing the benefits this country has to offer—citizens who through education broke the syndrome of poverty—citizens of tomorrow whose opportunities were created by citizens here today.

Mr. Chairman, I fully support H.R. 69 and its improvements over provisions of existing legislation.

I would like to call your attention to one of the important improvements of this bill.

The consolidation provision combines seven categorical programs into two broad purpose programs: one for library and instructional resources, and the other for innovation and support services

The program for library and instructional resources consolidates the existing school library program, title 2, ESEA, the equipment program, title 3, NDEA—and the guidance and counseling program, part of title 3 of ESEA.

The program for innovation and support services consolidates the remainder of title 3, ESEA for innovation—the dropout prevention and the health and nutrition programs, title 8, of ESEA—and the program of aid to State departments of education, title 5 of ESEA.

Without withdrawing any Federal commitment to any of the existing categorical programs, this consolidation provision will mean increased flexibility for local school districts.

These districts will be able to use moneys in accordance with local needs and priorities.

Another important addition to H.R. 69 is the provision for a safe schools study.

The study it authorizes will, for the first time, provide Congress with comprehensive and nationwide information—information on the nature and extent of crime and violence in our schools—information we may use to seek solutions which are based on actual and unmet needs of our children and their teachers.

H.R. 69 represents the best efforts and highest motivations of our committee members on both sides of the aisle.

I urge my colleagues here today to join me in support of this bill and in the investment it makes in the future of our Nation's children.

Mr. PERKINS. Mr. Chairman, I yield to the gentleman from Washington (Mr. MEEDS) such time as he may consume.

Mr. MOAKLEY. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. Mr. Chairman, I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Chairman, if someone wanted to put a highway, a high-rise, or even a jack-in-the-box in your neighborhood, your State or local government would surely grant you and your neighbors a say in the matter.

And, if a majority of your neighbors objected to such a project, that project would be abandoned.

Such is the democratic tradition.

Mr. Chairman, because of a law passed by Congress, building developers must now draw up an environmental impact statement before being allowed to lay the first brick of a construction project.

This environmental impact statement must show that no significant harm to the physical landscape or ecology of the neighborhood involved would result from construction of the proposed buildings. Sometimes, hundreds of thousands of dollars are spent on these environmental impact statements. And all this before the first brick may be laid.

Why then is the question of the location of our children's education handled differently?

Why then do we not take the same rational, careful and sensitive approach when it comes to "people projects"?

Why do those who want to implement plans that involve people not have to first prepare a social impact statement? Why do they not have to offer social impact statements that show that their "people project" will not harm the human landscape and ecology of the neighborhood involved?

Why, Mr. Chairman, do we seem to place a greater value on those things created by man than we do on those things created by God?

Mr. Chairman, next week the House of Representatives has another opportunity to legislate an end to forced busing in America. We must not fail. And, for a reason I believe deserves the support of every Congressman in this Chamber.

Attempting to achieve desegregation through forced busing will lead only to even greater and more permanent resegregation, not the meaningful, integrated, and equal educational opportunity we seek for our children.

In my own city of Boston, implementation of forced busing could lead counterproductively to an 80-percent nonwhite public school system by 1984.

In the past 8 years alone, Boston's nonwhite public school population rose from 23 percent to 38.7 percent. In the United States against Indianapolis, an August 1971 desegregation case, the court pointed out that when the percentage of black pupils in a given school approaches 40, the white exodus becomes accelerated and irreversible.

When the Federal judge made this finding, Indianapolis' public schools were only eight-tenths of a percentage point more filled with black pupils than are Boston's right now. And that is without court-ordered busing.

In San Francisco, after court-ordered busing, there was a 13-percent drop in white student population in 1 year. Interestingly, probusing advocates had argued that there would be only a 3-percent drop.

In Norfolk, Va., court-imposed busing brought a drop of 20 percent.

In Pasadena, Calif., there was a 2-year drop of 22 percent.

Ironically enough, if, as it seems probable, it is the somewhat better off and more mobile who leave the public school system when busing is imposed, the already virtually negligible effect on the achievement of black children will be even further reduced.

The danger of resegregation is real. Last year, both the Federal district and appeals courts hearing the judges admitted freely that the Detroit plan—such as is now proposed for Boston—would lead to a single, segregated nonwhite Detroit school system in a State which is 87 percent white and 13 percent black.

Mr. Chairman, recently the voters of Durham, N.H., voted to keep out the proposed Onassis oil refinery. Because of the energy crisis, the Durham decision affected every New Englander. But the proposed refinery would have affected the people of Durham most of all.

So the people of Durham made their decision, and the rest of us, whether we agree or disagree with the result, must accept that decision and adapt accordingly. That is the democratic way.

Mr. Chairman, I think the people of Boston should have the same rights as the people of Durham.

The people of Boston do not want forced busing. That is their feeling. And, if they are given the chance to register that feeling through the political process, that will be their decision.

And the rest of the country, whether they agree or disagree with the people of Boston, should respect their right to decide upon a matter that affects them most directly.

To those who favor forced busing, I ask you to reconsider where your action would lead. I ask that you recognize that desegregation through forced busing will lead to greater and more permanent resegregation. Obviously, this would be counterproductive.

To those who intend to join me next week in attempting again to legislate an end to forced busing, I urge you to stand firm in your belief that every man and woman in America has at least the same right to be heard over the location of his child's education as they do to be heard over the location of a proposed hamburger stand.

Mr. MEEDS. Mr. Chairman, I rise in support of H.R. 69—not because I believe it is perfect—we will never achieve that—but because I think it represents substantial change for the good in numerous areas of concern.

Obviously the most important change is that effecting the distribution of title I funds under the Elementary and Secondary Education Act. If I could paraphrase Winston Churchill, I would say this is the worst possible formula—except all others. For far too long we have been sending money where the problems were in 1959—the year statistics were gathered for the 1960 census. In some instances, the problem areas are the same in 1974, but in many others both the problems and the areas have changed. The new formula in H.R. 69 attempts to reallocate Federal dollars so that the greatest problem areas will receive the most funds and the most attention. Rather than the old formula's flat amount, poverty levels will now be determined under the Orshansky formula's varying basis. Most importantly, the new formula takes into account the number of children in a family. Under the old formula it made no difference how many school-age children there were as long as the breadwinner earned less than $2,000. Thus, if a family with one child earned $1,999, that child was counted. But in another family with six school-age children and a family income of $2,001 not one child was counted. Under the new formula a sliding scale based on the number of children will allow a much more equitable distribution.

The Orshansky formula also resembles the cost of living scale in differentiating between farm and nonfarm families. There is no perfect measure of poverty in all areas of this Nation. But the new system of distribution under the Orshansky formula in H.R. 69 is far superior to the old.

We have known for some time that under the old formula funds were sent to problem areas designated by 1959 statistics. In some instances these allocations were made with little relationship to present conditions. To prevent this happening under the new formula, this bill provides for a study of ways to update the formula without experiencing the distortion of 10-year-old census statistics.

Mr. Chairman, title IV of H.R. 69 is an amendment and extension of the Adult Education Act. This title is actually H.R. 7818, as introduced by 40 colleagues and myself in May of 1973. A similar bill was introduced by Senator JAVITS and colleagues in the other body.

Census figures tell us that nearly one-third of the adults in the United States—64 million—have less than a high school education. Of these, 22 million have less than a full elementary school education. From a purely practical point of view we cannot afford to ignore the education needs of the adult population. The latest income statistics available indicate that a high school graduate earns nearly double the amount earned by someone with less than an 8th grade education. What this means to our national economy is significant. What it means to the individuals in terms of enriched lives is even more important.

Title IV extends the Adult Education Act of 1966 for 3 years. It takes the 15 percent discretionary funds of the Commissioner and requires that all funds be distributed to the States. The States then reserve up to 15 percent for special projects and teacher training. Cooperation between programs under this title and manpower programs within the States is required. For the first time, States are given the discretion of using up to 25 percent of their funds in excess of the 1973 allotment for high school equivalency programs. Institutionalized adults are included in the program for the first time.

There are also additional important provisions that, when combined to those set out, will have the effect of continuing and expanding our commitment to provide that second chance for the illiterate, the poorly educated, the adult with yesterday's training for today's jobs.

Mr. Chairman, there are in this bill important changes and advances for the most disadvantaged Americans, the American Indian, the migrant, and the handicapped. Additional funds and emphasis are placed on bilingual education. Anyone who has experienced the frightening experience of trying to learn in other than one's mother tongue can really appreciate the value of these programs. We also take an important new step in community education in this bill.

Mr. Chairman, we have debated on the floor of this House for a number of years the impact aid program. Let me say at the outset that I feel the impact aid program has been and should continue to be a vital and helpful part of Federal aid to education. There is overwhelming evidence of the special problems of school districts impacted by Federal activities—especially the military. But there are inequities in the impact aid program which may be the death knell of the entire program if they are not corrected.

One of the inequities in the impact aid law not dealt with in this bill is inadequate Federal funding in some instances—"3-A" children whose parents live and work on Federal property—and Federal funds are paid to some school districts for which there is absolutely no justification—where children attend schools in one school district and their parent is employed as a civilian on Federal property in another taxing district.

Both the Johnson and the Nixon administrations have sought to cut funds for all so-called "B" children and have justified these recommendations on the basis that there is no justification for payment to a school district in which the child attends school when the Federal facility is not located there. While the illustration is correct, it does not apply to all "B" children. Clearly one of the original reasons for the impact aid program was that children of our uniformed services should be guaranteed adequate funding for whatever schools they attend. Also, just as clearly, there is an impact on the school district where a Federal facility is located. To abolish funding in the latter two illustrations because of the inequity in the first would be wrong. But until this program is corrected by those of us who respect it, the program is in great danger from the budget cutters who have never liked it.

That is why, Mr. Chairman, I shall support only a 1-year extension of the impact aid legislation. I feel the supporters of this program should be required to keep their shoulders to the wheel in an around-the-clock effort to provide answers to the legitimate complaints against impact aid. I pledge to work with anyone who is seriously interested in remedying these problems so that we can continue, on a permanent basis, legislation which responds to the actual impact of Federal activities on local school districts.

Another issue which the committee bill deals with is whether States may count impact aid payments in determining equalization payments to local school districts. In 1966, the gentleman from Michigan (Mr. WILLIAM D. FORD) and I were successful in amending the impact aid law so as to prohibit the States from counting impact funds in their equalization formulas. We did this because States were taking advantage of impact aid districts, taking more Federal impact aid money than they returned in State equalized payments. I was opposed to that then and I am opposed to it today.

But we do not want this prohibition to be used to deter States who honestly and earnestly are attempting to devise good equalization formulas. Therefore, we propose to once more allow the States to count these funds in a reasonable manner, but only when they have first established: first, that they do have a meaningful equalization formula and, second, they do not take into account more of impact aid funds than they actually provide from State sources. The committee expects that the Secretary, in adopting his criteria, attempt to achieve a formula which would allow the States to count impact aid funds in their equalization formulas in the same ratio as those States provide funds for local education.

The equalization situation is a further reason why I favor only a 1-year extension. If the States abuse these provisions, it may again be necessary to prohibit the use of impact aid in State equalization formulas.

On balance, H.R. 69 is an important and progressive piece of legislation which merits our support. And this bill shall have my support, even though I am critical of parts of it.

Mr. BELL. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana (Mr. LANDGREBE).

Mr. LANDGREBE. Mr. Chairman, I, of course, rise to speak against this legislation, and will try to cover at least part of my amendments in the 10 minutes that have been allotted to me.

Mr. Chairman, a popular speaker told me some years ago that if you want to get across a point, you must first tell the people what you are going to tell them, and then tell them what you are telling them, and then tell them what you have told them. That is sort of the way I feel about this education bill.

It seems that I have been hammering away at it for so long, and with some success and a great deal of disappointment. But I do really believe that it is a mistake for us to continue this H.R. 69, the funding of elementary and secondary education, under present circumstances. In fact, there is much evidence that the supposedly educationally disadvantaged really are disadvantaged after treatment by or exposure to our Government's education plans.

In the first place, we have spent a great deal of money, some $14 or $15 billions on this experiment in Federal support over the past few years since 1965, when this idea first became part of law. All of the studies and evaluations that I have seen indicate a lowering of the standard of the quality of education in our country during that time. That is why I am particularly concerned that we have spent so much time in a committee effort, in the Committee on Rules, and here again today on the rule and then the debate on how we are going to rearrange the dollars.

I know that there were some votes gotten for the rule by an explanation to the Members of Congress that their districts would not be losing money but actually would be gaining a few dollars. I tried to reason with some of these people myself about the quality of education and not only that but, of course, the involvement in the personal lives of their children that is even more of concern to me than the money that is being expended.

President Nixon said, and rightfully so, that just throwing money at a problem does not necessarily make it go away. No doubt, we need some improvements in education in our country today. Very frankly, I think the best way to get improvements in education is to get the Federal Government out of it.

I have some good friends in Indiana and in the school systems down there, even the townships, who seem to be quite sensitive to good education and are doing an extremely good job. I think they could get along without the dictates that come along with the controls that they are getting in their education with this Federal money.

Of course, I would remind the Members of Congress that our national debt now exceeds $470 billion, and it seems rather irresponsible to continue to throw money at something where we are getting less quality, paying 10 percent for that money, and seeing our interest become one of the big items on our budget. But

I will try to move along, because I wanted to cover as much as I could of this in 10 minutes.

Title III, of course, permits the sensitivity testing, behavior modification, humanism, psychological testing, group therapy, and sex education. These things have become of great concern to the mothers and dads of our country. To take little children 5 years old and show them pictures of animals in the act of sex, and then by the time they are 13, teach them the different methods of contraception, and then, of course, by age 15 teach them the merits of abortion when all else fails, are of concern to moms and dads across the country. I have received letters from many of them and petitions and personal phone calls. I think that any reasonable person who qualifies for election to the Congress should be terribly concerned, seriously concerned, about these matters.

I could use a good bit of my time on humanism alone, which I am inclined to compare with witchcraft or certainly something other than the Christian beliefs of our forefathers and of our responsible people today.

Anyway, there have been in the papers across our land a great number of editorials and articles. The Cincinnati Enquirer had a top editorial some months ago. The New York Times quoted Edith Green, our colleague, who served on Education and Labor Committee for some 18 years. I understand even Patrick Moynihan, who was an architect of this ESEA now realizes that we perhaps made a mistake. One of the lead articles in the April Reader's Digest will be a critical analysis of our education systems today.

Even Time magazine in December carried a very extensive article with a graph showing the marked decline in the quality of education of our boys and girls. In fact, apparently in response to this declining quality, over 800 new private schools were started last year.

There are several other things though that have not been discussed at length. One is the new section in this bill providing for a $15 million evaluation by the new National Institute of Education. As I understand it their instructions will be to study the purposes and effectiveness of compensatory educational programs. These programs have been in effect since 1965. Are we serious in asking the NIE to study the purposes of Federal aid to education at this late date?

It is really rather interesting. Again I ask do we have the $15 million to spend and was NIE set up to do this sort of thing—to study the effectiveness of Government programs? And are they qualified to take on this chore to spend another $15 million on another study, because I can show NIE in at least six studies that already prove the program is not getting satisfactory results.

One additional matter, Mr. Chairman, I would like to touch on is on page 49 of the bill, section 132. Perhaps this has been covered by one of the other speakers, but I think it is very important for the people of America, the mothers and fathers and the patriotic Americans to become aware of this provision. This section says under the heading "Participation of Children Enrolled in Private Schools" the following:

> (b) (1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

I know I have some good Catholic friends in my district who are going to be unhappy about my revealing this section and I am sure there are some people who helped to put this in who are not going to be happy about my mentioning it either, but I will say to my good constituents: If the receipt of Federal funds through this questionable means is going to bring to your schools the same kind of involvement as we now see in our public schools, such as psychological testing, humanism, group therapy, sex training, and behavioral modification, then the few dollars that you receive from the Federal Treasury through this questionable method will prove to be very, very expensive and destructive dollars in the long run.

In conclusion Mr. Chairman, the deliberate omission of this prohibition against mandatory busing of students to achieve racial balance is probably the most undesirable aspect of this very undesirable bill. For this Congress to permit the unrestricted busing of students in those yellow prisons on wheels is in my opinion the greatest intrusion on the rights and freedoms of our young people. I am opposed to H.R. 69 in its present form.

Mr. PERKINS. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Indiana.

Mr. BRADEMAS. Mr. Chairman, I rise in support of H.R. 69. At the outset I would like to take this opportunity to congratulate my colleagues on the Committee on Education and Labor for their energy and dedication in respect to this bill.

The General Education Subcommittee first began hearings on this bill over a year ago in January 1973. The full committee began markups on September 11 and the bill was finally reported on February 5, 1974 by a strong bipartisan vote of 31 to 4.

This bill is one of the most difficult and complex measures ever to have been considered by our committee. It has been one which has required the full attention and concentration of all the members of the committee.

I want also, Mr. Chairman, to pay particular tribute to the distinguished chairman of our committee, the gentleman from Kentucky (Mr. Perkins) without whose tenacious leadership it would not have been possible to bring to the floor of the House the bill today with such widespread support from both sides of the aisle.

I want as well to say that, having served on that committee for now over 15 years, I can speak from experience when I say there is no other Member of the House more committed to the support of education and in particular to the support of elementary and secondary education than the gentleman from Kentucky (Mr. Perkins).

I want as well to commend the distinguished ranking minority member of the committee, the gentleman from Minnesota (Mr. Quie) who has worked with equal devotion on this legislation, as well as the ranking minority member of the General Subcommittee on Education, the gentleman from California (Mr. Bell), as well as all of the other members of that subcommittee who worked so hard on this measure.

Mr. Chairman, H.R. 69 is likely to be the most important piece of education legislation that will be considered by this Congress. It authorizes programs of Federal support for our Nation's elementary and secondary schools. It includes the largest Federal aid to education program, the so-called title I program of ESEA.

It is important that we act expeditiously and responsibly on this bill for the Nation's schools and the children who attend them need the assistance H.R. 69 makes possible.

I want at the outset to list the principal provisions of H.R. 69 as reported. They are:

First, an extension of the title I program for 3 more years, with an updating of the formula for distributing its moneys.

Second, consolidation of several categorical aid programs into two programs.

Third, extension of the impact aid program for 1 year.

Fourth, extension of the Adult Education Act.

Fifth, due in large part to the leadership of the gentleman from Florida (Mr. Lehman) the creation of a new community education program.

Sixth, extension of the Education of the Handicapped Act. In this respect, I want to pay tribute to the Members of the Select Education Subcommittee, which I have the privilege of chairing, which produced this title, title 6.

Seventh, extension of the Bilingual Education Act.

Eighth, a study of the need for early funding educational programs.

Ninth, authorization for a White House Conference on Education in 1976.

Mr. Chairman, I would like now to focus my remarks on two areas that I believe are of special importance—the updated formula for title I, and the programs for the handicapped.

Clearly one of the most significant features of the bill in the minds of the public and of educators and, obviously, Members of this body, is the new, updated formula for title I.

Title I was first enacted in 1965 as a response to what was then widely perceived to be a very serious national problem of educational deprivation among low-income persons. Studies and reports had demonstrated a high correlation between poverty and educational achievement. The problem was felt to be particularly acute in school districts with concentrations of poor—districts which had difficulty in financing adequate education programs.

I think it appropriate, Mr. Chairman, that we take a moment to recall the language that underscores and expresses the original intent of Congress with respect to title I, which language is to be found in the first section of the 1965 act, which reads as follows:

> In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means which contribute particularly to meeting the special educational needs of the educationally deprived children.

Mr. Chairman, studies of the impact of title I indicate that it has indeed provided a substantial amount of assistance to school districts with the greatest financial need.

Title I had not only provided additional resources to financially distressed school districts, but also to pupils in the districts most in need of additional educational assistance, those who suffer from the most severe educational disadvantages.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. Mr. Chairman, I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I appreciate the gentleman yielding to me.

Last year I conducted hearings in my city of Baltimore on the effectiveness of title I. At those hearings the State superintendent of schools with his personnel, the city superintendent of schools with his personnel, and the parents and teachers involved in title I activities all had an opportunity to testify over that 2-day period.

There was, of course, some criticism of title I, but there was an overwhelming response that title I had been the most effective educational project yet designed to help their disadvantaged children.

Mr. Chairman, I merely wanted to put that into the Record as of this point. I thank the gentleman from Indiana for yielding to me.

Mr. BRADEMAS. Mr. Chairman, I thank my colleague from Maryland for having made that point, because I think the point the gentleman has made is a terribly important one and gives some emphasis to the point that the gentleman from Minnesota (Mr. Quie) made earlier when he was discussing title I and pointed out that title I is linked to a correlation between educational deprivation and economic deprivation.

Mr. FORD. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. Mr. Chairman, I yield to the gentleman from Michigan.

Mr. FORD. Mr. Chairman, the gentleman from Indiana knows that he and I have had some disagreement about that question. He says correlation works one way, but not the other. But, educational data indicates that in the State of Maryland, while the expenditure of additional funds will increase the funds for title I to the city of Baltimore, which has a considerable population at the poverty level, there will be a 9-percent increase.

The increase in expenditures produces a 44-percent increase in Montgomery County, the highest per capita income county in the United States. I see the gentleman from Minnesota (Mr. Quie) who usually gets excited when we talk about money going into Montgomery County on impact funds.

Mr. Chairman, I wonder, at a time with this bill placed in the hands of those who would cut Montgomery County impact aid because it already has too much money, how they will explain how the increase in the richest county is responded to by a 44-percent increase in this bill.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. Mr. Chairman, I yield to the distinguished chairman of the committee (Mr. Perkins).

Mr. PERKINS. Mr. Chairman, let me say to my distinguished friend from Michigan that, under the 1974 appropriation bill, Fairfax County doubled, and maybe tripled, but that all came from the rural southern counties, the southwestern counties of Virginia, because they did not have AFDC.

That is the answer to the gentleman from Michigan.

In the States and in the counties, the wealthier counties, where we had the $2,000 low-income factor and the high AFDC count, we will not find that same situation existing in H.R. 69. But as the gentleman from Michigan stated, that state of facts exists under the present law and under the present appropriation bill, only moderated by certain limitations.

Mr. FORD. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. Mr. Chairman, if my friend, the gentleman from Michigan, does not mind, I would like to finish my statement. Then I will be very glad to yield to the gentleman. I would like to work through the logic of my statement, and I am sure there will be some time for the gentleman after that.

Mr. Chairman, following what I was saying with respect to the point that I think was made—and it is a very important point—by the gentleman from Maryland (Mr. Mitchell), although it is still early to fully evaluate the impact nationally of title I programs on the educational achievement of individual children who participated in the programs, witness after witness who appeared before the General Subcommittee on Education spoke of the significant positive results of title I within their respective school districts.

Although progress can be cited, we have not yet achieved the purposes and goals that Congress established when title I was first enacted into law. We must, therefore, in my view continue to provide compensatory education for educationally deprived children who live in school districts with concentrations of low-income families.

In my judgment, the updated formula adopted by the committee will enable us much more effectively and equitably to provide this assistance.

The task of our committee, Mr. Chairman, and indeed the task of the House as it considers this legislation to extend title I, was and is very difficult. It was difficult because the present formula which has been used to allocate title I moneys since the program was first enacted in 1965 has become out of date and has created serious distortions and imbalances in the allocations of title I moneys. The updated formula adopted by the committee was aimed at correcting these problems.

Because, Mr. Chairman, I think it is important to gain a full understanding of the updated formula, I would like to talk briefly about some of the factors which have contributed to what a majority of the members of the committee judged to be an inequitable pattern of distribution under the present formula.

If some of what I say has been said earlier, Mr. Chairman, I hope that the Members will be forgiving. But this is a complicated matter, and I hope it will bear some repetition.

Mr. Chairman, to reiterate, present law provides that local school districts receive title I grants based on two factors, first, the number of children in the districts from families with incomes under $2,000 a year, according to the decennial census, and second, on the number of children from families with incomes over $2,000 from payments under the Federal program of Aid to Families with Dependent Children—AFDC.

Each school district's entitlement is computed by multiplying the total number of children from these two categories by one-half the State or National average per pupil expenditure for elementary and secondary education, whichever is higher.

Mr. Chairman, when the title I formula was written 9 years ago, it was thought that the best method for distributing funds would be to use the census data to determine numbers of children from poverty families since those data were thought to be the most nationally uniform and generally reliable.

But since the census data are collected only once a decade, there was a need for any updating factor to be annually applied to the data, and that updater was written into the original law as the portion of the formula which counts AFDC children.

Originally, AFDC children accounted for approximately 10 percent of the total title I children or about 600,000 out of a total 5.5 million.

But over the years, the AFDC children counted under the formula have grown to such an extent that they have overwhelmed the children counted from the census to the point where AFDC has become the predominant element in the formula. This problem was compounded last year with the shift to 1970 census data which resulted in nearly a 50-percent reduction of the number of children counted under the $2,000 low-income level. As a result, AFDC children now account for over 60 percent of the total number of children eligible for title I—

about 3.6 million children out of a total of 6.2 million title I children.

Thus, title I is now being principally distributed not on a basis of nationally uniform census data but on the basis of AFDC caseload counts. The AFDC program in its present state does not provide an accurate and reliable basis for comparing poverty throughout the country, as previous speakers have made clear.

Mr. Chairman, as Members well know, there are great varieties in the levels of AFDC benefits across the country, as well as varieties in the methods used administer these programs. For example, studies have shown that the wealthier a State, the more likely it is that its level of AFDC benefits will be high and that it will therefore be able to add AFDC children under title I. Since the title I formula has come to rely more heavily on AFDC as a basis for allocation, title I funds have therefore tended to go to wealthier States which have been able to afford larger AFDC programs.

Further, the AFDC program leaves great discretion to the States in its actual administration. These differences clearly make AFDC statistics unsuitable for use as a major determinant in the distribution of Federal aid.

Mr. Chairman, a look at allocations under title I for last year, I think, amply demonstrates how allocations under the present formula have tended heavily to favor wealthier States with high AFDC benefits.

Let us look, for example, at the State that has been the subject of most of the conversation here today, New York. My friends from New York have on more than one occasion drawn to my attention their concern about the impact of the formula change on their State, but I would like to make the point that New York, which ranks first in per capita income among the States and ranks near the top of the States in AFDC benefits paid, received nearly 18 percent of the title I funds in 1974, while it has only 7.4 percent of the schoolchildren in the country. Compare this with Texas which received 4.5 percent of the title I funds for 1974, although it had 5.9 percent of the total schoolchildren in the country. The reason for this disparity is that Texas was able to add only 81,854 AFDC children to its total count of title I eligible children while New York was able to add 564,248 AFDC children.

Mr. Chairman, I am perfectly aware that we are not here discussing a general aid formula, but I think it nonetheless true these figures give you some ideas of the distortions created by the present formula.

Mr. Chairman, the problems with the present formula are by no means limited to its heavy reliance on AFDC as a basis of allocation. In addition, the present formula utilizes a static low-income factor in counting census children. A figure of this kind is too inflexible because it does not reflect certain elemental variables necessary in measuring poverty. For example, under the present formula, children from a family of three earning $1,995 would be counted, yet children from a family of six earning $2,005 would not.

There is another difficulty. The present title I formula also has a problem with the payment rate as applied to the title I eligible children, and this problem has produced substantial inequities as well. Let me explain:

Under the present law, school districts are eligible to receive for each title I child, either one-half the State or one-half the national average expenditure for education, whichever is higher.

Since there is no ceiling on the payment rate which a State can receive, this aspect of the formula has also contributed to a distortion of the distribution of title I funds among the States.

Here again I note the example which is obviously of most concern.

New York State is eligible to receive $772 per title I child while California is eligible to receive only $465 per child.

Yet I think there would be few who would contend that it costs that much more to live in New York than to live in California.

So the result of this part of the formula, if you look at it in dollars and cents terms, is that New York is this year receiving nearly twice as much money as California—$218 million as compared to $121 million—although the two States have approximately the same number of title I children.

Mr. Chairman, in view of these considerations, our committee amended the title I formula to provide what we think to be a more equitable distribution of funds, one which will rely on census data, data which are uniform nationwide, as a basis of allocating compensatory education funds.

Mr. Chairman, under the committee formula, each school district will be able to count the number of children within the school district who are from families considered poor according to the decennial census using the official Federal definition of poverty known as the "Orshansky" index.

School districts will also be able to add each year two-thirds of those children from families receiving an income from payments under the AFDC program in excess of the current Federal definition of poverty for a nonfarm family of four—that figure being presently $4,250, and this figure is to be updated annually by the Consumer Price Index.

To continue, each school district's total number of children is to be multiplied by 40 percent of the State average per pupil expenditure for education except that if any State's average expenditure is less than 80 percent of the national average expenditure, school districts in that State will be entitled to 80 percent of the national average per pupil expenditure. If the State's average per pupil expenditure is in excess of 120 percent of the national average expenditure, school districts within the State will be entitled to a payment equal to 40 percent of 120 percent of the national per pupil expenditure.

Mr. Chairman, the purpose of shifting to an updated definition of poverty for counting children and in diminishing the importance of the AFDC figures is to restore the balance that was present in the original title I program and to provide for the most equitable possible nationwide distribution of Federal compensatory education funds.

Using the Orshansky index of poverty and by reducing reliance on AFDC, more accurate and uniform national census data will again be the principal basis for the distribution of title I money. And the rather erratic AFDC data will be used as a less important modifier of those data.

The reason the committee adopted the Orshansky index of poverty for counting the number of title I children is that it is the most accurate measure of poverty providing data at the county, State, and national levels. The Orshansky index varies according to three factors: First, the number of children in the family; second, the sex of the head of the household; and third, the farm or nonfarm status of the family.

Moreover, the Orshansky index is a measure of poverty adopted by the Federal Government in 1969 as the official definition of poverty and is now widely used in various Government programs. In addition, last year the Office of Management and Budget after a 6-month review of this index concluded that Orshansky is still the best index of poverty currently available.

Mr. Chairman, the formula adopted by the committee has been criticized by many as moving toward a general aid approach and away from a poverty-related program. These critics argue that the use of Orshansky dilutes the concentration of money from urban areas and spreads it into suburban and rural sections of the country.

Mr. Chairman, speaking as one who has been a strong supporter of the original title I program and one of its original cosponsors, and as one who continues to subscribe fully to its concept as a poverty-related program, I want to say that this charge is just not true. Title I money will be still distributed on the basis of poverty, and will still serve poor children in areas of concentrations of poor families, wherever they may be.

Under the updated formula, approximately 8.8 million children would qualify as title I children—8.3 million children as "Orshansky" children, and approximately 565,000 as "AFDC" children.

This compares with 8.1 million title I children counted in 1973 under the present formula—4.9 million "census children" and 3.2 million "AFDC children." Although the number of eligible title I children dropped to 6.2 million in 1974 due to the shift to 1970 census data, the number of eligible title I children under the updated committee formula is not significantly more than the number of children served in previous years.

Mr. Chairman, critics further charge that the updated formula would shift money away from certain States and urban areas which received special attention in 1965 when title I was first enacted. However, a look at the allocations under the updated formula for these areas shows that most urban States and counties have a greater share of title I children under the updated formula than they did in 1965, the first year of title I. For example, in fiscal 1966, California had 5.6 percent of the eligible title I children; under the committee formula, it will have 8.4 of the eligible children. Los Angeles in 1966 had 1.9 percent of the eligible title I children; under the committee formula, it will have 3.4 percent. San Francisco in 1965 had 0.25 percent of the children; under the committee formula, it would have 0.28 percent.

New York State in fiscal 1966 had 5.4 percent of the eligible children; under the committee formula, it would have 8.6 percent. New York City in 1966 had 3.20 percent of the total title I children and under the committee formula it will have 5.62 percent.

Mr. Chairman, clearly, title I remains the program which serves the poor, who are underachievers, and who reside in areas of concentrations of poor families.

Critics have also charged that the formula adopted by the committee hurts every major city and urban area in the United States. In this regard, Mr. Chairman, I would have to make two points. One of them echoes what the gentleman from Minnesota said earlier, for, of course, Mr. Chairman, the title I program was not designed to help or hurt any city, or area, or State; rather, the program was intended to help educationally deprived children.

I can well understand how every Member of the House wants to see the effect of any change in any formula on his district or his State. But I think that the gentleman from Minnesota was right on target when he pointed out that our fundamental concern as we look at title I must be children and the kinds of children who are to be served by the purposes of title I. Even putting that argument to one side for the moment, an analysis of the projected allocations under the updated formula indicates that although a few cities may lose some money, a comparison of allocations under the committee formula with allocations in fiscal 1973 and fiscal 1974 shows that most cities can expect to receive significant increases in title I funds.

I must point out, however, Mr. Chairman, that even the few cities that do lose money under the new formula do so only when compared to fiscal 1974 allocations. The reason for this result is that most of these cities experienced significant increases in title I funds between fiscal 1973 and fiscal 1974 as a consequence of the shift from 1960 to 1970 census data. This shift in census data resulted in great distortions in the allocations under the formula because there was a significant decline in the number of census children counted under the $2,000 low-income level while at the same time the number of AFDC children count remained constant. As a result, some school districts whose allocations were based predominantly on AFDC children experienced very significant increases in title I funds in fiscal 1974. A comparison of the projected allocations for these cities with 1973 allocations shows that title I funds for most of these districts will not drop below the fiscal 1973 levels.

Finally, Mr. Chairman, the committee has been criticized for using misleading charts and statistics by not comparing allocations under the updated formula with allocations in previous fiscal years at comparable appropriations levels.

Mr. Chairman, as I have attempted to point out during my remarks, the allocation under the old formula in previous fiscal years has been so distorted and so inequitable that it cannot even be used as a reliable basis for comparing title I allocations. As I have shown, in the last year, allocations have been skewed heavily in favor of urban areas which are able to pay high AFDC benefits. It seems to me, therefore, that the only legitimate basis for comparing allocations under the updated formula with allocations received in previous years is to measure the extent of dislocation a State or local jurisdiction may actually experience as a result of the shift to the updated committee formula. For this reason, allocations were projected under the committee formula at a level of appropriations requested by the President in his 1975 budget request. These estimates were then compared with allocations that States and counties actually received in fiscal 1973 and with allocations which these jurisdictions may expect to receive in 1974 under the fiscal 1974 appropriations bill. Thus, the committee charts will compare what jurisdictions may reasonably expect to receive next year with the amount of money they have been receiving or were estimated to receive in the past.

Mr. Chairman, finally I would like to say a word about another important section of H.R. 69, which I believe can prove most helpful to Congress and the educational community in our understanding of title I programs and other similar compensatory education programs.

That section would authorize the National Institute of Education to conduct a comprehensive review of compensatory education programs and to study alternative methods for distributing such funds.

In addition, the provision authorizes NIE to conduct experiments for the purpose of evaluating these alternative methods.

One of the real problems our committee encountered in considering H.R. 69 was the difficulty in obtaining reliable and useful information about compensatory education programs, especially about their effectiveness and about alternative methods for distributing such money.

The study provided in the committee bill would call for an examination of all such programs, not only those provided under title I, but State programs as well.

The NIE is directed to study the fundamental purposes of compensatory education programs, evaluate their effectiveness in attaining these purposes and review as well the effect of concentrating such funds in the areas of reading and mathematics.

This section also authorizes NIE to look at alternative methods for distributing the moneys, including methods based on poverty and methods based on procedures to assess educational disadvantage.

The bill provides a separate authorization of $15 million for the NIE to meet the research costs of the study and to submit an interim report to Congress no later than December 31, 1976, 6 months before the expiration of title I, with a final report due no later than 9 months thereafter.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, first I wish to compliment the distinguished gentleman from Indiana (Mr. BRADEMAS) for a most detailed and clear analysis of the entire legislation reported from the committee. No Member in the Congress in past years has contributed more to bringing before this Chamber outstanding legislation for the benefit of the schoolchildren of America than the gentleman from Indiana. Here he is running true to form. I think he deserves the compliments of the entire Chamber especially for helping us work out a most difficult part of the bill, the formula which provides a balanced formula and which in my opinion is the best possible way to allocate funds on a most equitable basis as devised in the committee.

I take my hat off to the gentleman from Indiana (Mr. BRADEMAS). He has made a great contribution to the schoolchildren of America.

Mr. BRADEMAS. I thank the chairman very much for his gracious remarks.

Just to offer one final generalization, Mr. Chairman, I would like to say what at least I have tried to have in mind in thinking about the title I formula and in particular in trying to discuss it with my colleagues, because when some of my colleagues argue that the impact of the formula will be to take away money from disadvantaged children, I feel constrained to respond.

First of all, we must define what we mean by disadvantaged children, because it is the definition of poverty, if you will, that determines the flow of the money. And if the definition of poverty that is contained in the present law is one that produces a significant flow of money to one's State or district, then is it understandably, humanly, easier to contend that that particular definition of poverty is the best definition of poverty.

What we in effect are saying in trying to modify the title I formula is that in fact, the present formula does not result in a fair definition of poverty, and for this reason, we are not fully complying with the purpose of this particular program. I have sat with the distinguished and very able Commissioner of Education in New York, Mr. Nyquist and have said to him that were I in his situation and charged with the responsibility of seeing to it that my State got as much money as possible, I could understand his point of view. That does not happen to be my responsibility, however. It seems to me that my responsibility on this bill, and, I like to think, the responsibility of all of us as U.S. Representatives, in addition to being concerned about our own particular districts, is to do the fairest job we can for all of the children of the country.

This is not, to reiterate, a State-aid bill or a city-aid bill. I think it is very important that we have that in mind at the outset. Otherwise, we are going to do nothing but base our judgments on looking at a piece of paper to see how much money our district or State receives.

I think that the gentleman from Minnesota (Mr. Quie) made a very important point that I hope will be helpful to Members in understanding what we on the committee tried to do. Mr. Quie noted that we had been wrestling with various formulas and looking at the impact of various formulas in terms of dollar allocations to our districts and States.

We finally realized that maybe was not the best way to go about our task, that that was not the way to come to grips with the problem. We stood back and took another look at the problem and tried to approach it from the other end; namely, by asking what would be the fairest way to meet the purposes of the program; that is, to provide compensatory education funds to districts where there are concentrations of low-income families for the purpose of improving the education of children in those districts.

I think that none of us claims that the title I formula in H.R. 69 is perfect, but it goes a long way toward redressing what I believe a fair-minded reading of the report will agree was not a fair pattern of distribution of the money.

I spoke on this subject the other day to a group of big city school leaders, and I explained why we wrote an updated title I formula. One of them, from New York City, came up to me afterward and said, "I would like to disagree with you. I would like to quarrel with you," but he said, "In terms of fairness and equity, I cannot in good conscience do so."

Now, Mr. Chairman, I want to say a word about one other aspect of the bill; but before I do, because I know there are several other speakers on my side, I want only to say just a word about the importance of two sections in the bill that refer to handicapped children in the United States and simply to point out that title VI of H.R. 69 extends the Education of the Handicapped Act for 3 years beginning July 1, 1973, and Public Law 89-313, which amended title I of the Elementary and Secondary Education Act to provide grants for State agencies serving handicapped children in State institutions and State-operated institutions.

THE ELEMENTARY AND SECONDARY EDUCATION ACT AND WHAT IT MEANS FOR THE EDUCATION OF HANDICAPPED CHILDREN

Mr. Chairman, there is another part of the secondary education bill to which I would like to address myself, a provision of enormous importance for millions of handicapped children.

I refer, Mr. Chairman, to two sections of the bill in particular.

First, Mr. Chairman, I should point out that title VI of H.R. 69 extends the Education of the Handicapped Act (Public Law 91-230) for 3 years beginning July 1, 1973.

But I want to stress that H.R. 69 also extends Public Law 89-313, which amended title I of the Elementary and Secondary Education Act to provide grants for State agencies serving handicapped children in State-supported or State-operated institutions.

EDUCATION OF THE HANDICAPPED ACT

Mr. Chairman, let me say just a word about the importance of each of these programs for the handicapped children of America.

Mr. Chairman, in 1966 Congress recognized the speical needs of America's then 5.5 million handicapped children and added a new title VI to the Elementary and Secondary Eduction Act which provided a program of grants to States for the education of handicapped children, establishing a National Advisory Committee on Handicapped Children, and created within the Office of Education a Bureau of Education for the Handicapped.

The 91st Congress, Mr. Chairman, realizing that handicapped children deserved greater visibility in the Federal legislative process, repealed title VI effective July 1, 1971, and created a separate Education of the Handicapped Act.

PROVISIONS OF THE NEW EDUCATION OF THE HANDICAPPED ACT

The 1970 act, Mr. Chairman, continued to provide for a Bureau of Education for the Handicapped as well as the National Advisory Committee on Handicapped Children.

And it continued as well the authorization of grants to States and outlying areas to assist them in initiating, expanding, and improving programs for the education of handicapped children.

But I want to speak briefly of other programs to better the services available for the education of disabled children funded under the Education of the Handicapped Act.

Part C authorizes grants for regional resource centers, for deaf-blind children, experimental preschool and early education programs, as well as research, innovation, and training and dissemination with respect to these activities.

In fiscal 1974, $7,243,000 were spent for regional resource centers under part C and approximately 40,000 handicapped children received comprehensive services from the centers which also provided training to 200 State education agency personnel and 6,000 local education agency personnel.

In addition, Mr. Chairman, under part C, $14,795,000 will be spent in fiscal 1974 on deaf-blind children, and $12 million will be spent on early childhood education.

Indeed, I shoud tell my colleagues that approximately 3,500 deaf-blind children and 3,000 of their parents are receiving assistance under these provisions, and that an estimated 7,500,000 other children have received comprehensive services early in their childhood years since 1970 under part C.

Mr. Chairman, the Education of the Handicapped Act also authorizes under part D grants to institutions of higher education for the recruitment and training of special education personnel, including physical education personnel.

The $42,400,000 will be spent for the manpower training provisions of part D in 1974 to support 6,300 students full time, 19,500 part time and possibly another 56,700 students indirectly.

Recruitment and information services under part D, which received $500,000 in fiscal 1973 unfortunately received no funds in fiscal 1974.

The 1970 amendments also expanded research into education of the handicapped and in this fiscal year $9,916,000 will be spent on this purpose.

I should tell my colleagues as well that in 1974 we are spending $13 million for media services and captioned films to make available video, tapes, records, and captioned films to the handicapped under part F of the Education of the Handicapped Act.

Finally, under part G of the act we are this year spending $3,250,000 to provide for children with special learning disabilities. Part G now assists 8,500 children directly, and possibly another 58,000 children with special learning disabilities receive educational benefits through the impact of teacher training, curriculum development, and other products.

AUTHORIZATIONS FOR THE EDUCATION OF THE HANDICAPPED ACT

We are speaking then, Mr. Chairman, of an act which provides over $152 million in fiscal 1974 for a wide variety of programs and services to better the lives of handicapped children.

And one of the reasons, Mr. Chairman, that this measure received broad bipartisan support in the Select Subcommittee on Education, which I have the honor to chair, as well as the Committee on Education and Labor, is that the bill provides a very modest extension of the Education of the Handicapped Act and the important activities I have just described.

Evidence for that assertion, Mr. Chairman, lies in the authorizing figures for fiscal year 1975. For while we have been spending over $152 million on these programs in fiscal 1974, the fiscal 1975 authorization contained in H.R. 69 represents only a modest increase to $204,500,000.

And the fiscal 1976 authorization continues this prudent increase in funding by authorizing appropriations of $268,500,000.

BUREAU OF EDUCATION FOR THE HANDICAPPED

Mr. Chairman, let me take just a word to note one of the more distressing facts with respect to the implementation of the Education of the Handicapped Act which came to light during our hearings.

I refer, Mr. Chairman, to the fact that the Bureau of Education for the Handicapped, first created in 1966, and headed by an Associate Commissioner who was to report directly to the Commissioner of Education, has been downgraded within the Office of Education.

Yet although the Bureau of Education for the Handicapped has been cited repeatedly to the Committee on Education and Labor as showing leadership and effective administration with respect to improving the lives of handicapped children, I regret to tell my colleagues that the administration, defying the intent of Congress, has gradually weakened the strength of the Bureau.

I recall in this respect, Mr. Chairman, that our distinguished former colleague who is now a Member of the other body, the gentleman from South Dakota, the Honorable James Abourezk, recently commented upon what he termed "Operation Mangle" which is now being conducted by the administration.

And he meant to imply by this colorful term that the current administration appears to be intent on mangling good programs by suffocating them in redtape, regionalization, and, if all else fails, bureaucratic reorganization.

And the Bureau of Education for the Handicapped appears to be a case in point.

For, notwithstanding the excellent record of this Bureau, the administration has interposed a layer of bureaucracy between the Commissioner of Education and the Associate Commissioner for Education of the Handicapped and, consequently, removed the Bureau of Education for the Handicapped from the top policymaking level of the Office of Education.

The Committee on Education and Labor, Mr. Chairman, has insisted that the original design for the Bureau of Education for the Handicapped remain intact; namely, that the principal officer of the Bureau report directly to the Commissioner of Education without interference.

That is why, Mr. Chairman, H.R. 69 creates a new Deputy Commissioner to direct the Bureau of Education for the Handicapped—a Deputy Commissioner directly responsible to the Commissioner of Education.

TITLE I "SETASIDE" FOR THE HANDICAPPED

Mr. Chairman, let me now turn my attention to another program continued by H.R. 69 which also means a great deal for the education of handicapped children.

I refer, Mr. Chairman, to what is commonly termed the "Title I Setaside for the Handicapped" in the Elementary and Secondary Education Act.

As you know, Mr. Speaker, Public Law 89–313, enacted in 1965, extended title I authority to include handicapped children attending State-supported schools.

And the 89th Congress took that action, Mr. Chairman, because we realized that, although the Education of the Handicapped Act and title I did an excellent job of providing financial support for disadvantaged and handicapped children attending local schools—which received the title I moneys—that title I funds were not, as the law was originally written, available for handicapped children attending State-supported institutions.

The 90th Congress, Mr. Chairman, went a step further and approved a perfecting amendment under Public Law 90–247 which guaranteed the full funding of the earlier provisions of Public Law 89–313.

And we took that action because we knew that it costs far more to provide educational services to those children so severely handicapped that local educational agencies are often unable to meet their needs, than it does to educate a handicapped or nonhandicapped child attending a local school.

Mr. Chairman, H.R. 69 continues the full setaside for handicapped children in State-operated or State-supported schools, which the 89th, and then the 90th, Congress endorsed.

The bill adds a new provision which would also allow each State, for the purposes of determining its allotment, to count children who leave the educational institutions supported by the State, provided that the special educational services continue to be provided. It is the committee's hope, Mr. Chairman, that this new provision will afford the greatest encouragement to the States to initiate and accelerate programs designed to deinstitutionalize as many of these children as possible.

Mr. Chairman, let me remind my colleagues that we are discussing the funding of programs for those children with the most severe and tragic physical, mental, and emotional problems.

And the educational services required by these children do not always focus on reading, writing, and arithmetic.

In some instances, the services require, first, that the child be taught to speak.

In others, he must be taught to walk, or to bathe himself.

Mr. Chairman, these kinds of programs require enormous expense, frequently involving costly equipment and 1-to-1 teacher-student ratios.

Indeed, the Bureau of Education for the Handicapped, Mr. Chairman, estimates that it costs at least $2,000 annually to provide the services these children need.

And some States are reporting expenditures as high as $6,000.

Mr. Chairman, reasonable men may differ in how best to provide funding for those children with the most severe handicaps in State-supported institutions.

The committee has stressed its conviction that Public Laws 89–313 and 90–247 have well and effectively served children and parents, as well as State and Federal governments.

Let us not now abandon this program to assist the mentally retarded and other severely handicaped children in State institutions.

It is a well-conceived program, endorsed by our predecessors in both the 89th and the 90th Congresses.

It is a program that we in the 93d should support.

LANDMARK LEGISLATION

Mr. Chairman, it is my view that passage of the bill before us today will be seen in the years ahead as landmark legislation.

For H.R. 69 reaffirms the Federal commitment to equalizing educational opportunity for what we might term the "vulnerable" among our young children—the poor, the disabled, and the handicapped preschooler.

And the bill provides, as well, for a significant consolidation program which will, we hope, make easier the obtaining of Federal funds on the part of local school districts.

It provides, also, for a study of the best means of allocating title I funds for disadvantaged youngsters, as well as for a White House Conference on Education—provisions which will be seen as seminal with respect to the Federal role in education in the years ahead.

But in stressing today, Mr. Chairman, the provisions to assist handicapped youngsters contained in H.R. 69, I do so because today only 40 percent of the 7 million handicapped children in America are receiving the special educational services they need.

Mr. Chairman, until the State and Federal Governments begin to act to assist the 60 percent of the handicapped not now being served, we must continue the Federal commitments already enacted into law.

For we cannot afford to do less.

Mr. Chairman, let me conclude. I believe that H.R. 69 is a bill which deserves the support of all of the Members of the House. I hope that it will in the House receive the same strong support from Members of both the majority and minority which it received in the Committee on Education and Labor.

I yield back the balance of my time.

Mr. QUIE. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. Esch).

Mr. ESCH. Mr. Chairman, I rise today to indicate my intention to offer an amendment next week to strictly limit the use of schoolbusing and to clearly reaffirm congressional intent. My amendment will be the same as that which passed this House last year. It will be printed in the Record tomorrow.

As I noted in my additional views to the committee report on H.R. 69, it has long been my view that busing is disastrous educational policy, and constitutes little more than a massive and risky experiment using children as the cutting edge.

It is risky, in my view, and totally unjustified because there simply is no evidence that busing has improved educational opportunity and there is some evidence to the contrary. Instead of promoting better race relations, it is resulting in more bitterness and polarization.

Those who favor busing do so on the basis of a false theoretical assumption that our schools can make up for the failures of the home. As Pat Moynihan often pointed out, and as many who teach in our inner-city schools will testify, family is the critical factor in educational achievement, and no amount of busing or medical education can resolve the problems of family, be they inner city or in the suburbs. Only better job opportunities and better housing can.

For years the people of Michigan have been nearly unanimous in their opposition to forced busing on the basis of race, and have been living under the threat of a Federal judge's order which would force busing across the boundary lines of 53 different school districts in the metropolitan Detroit area. They are tired of the threat, and they, like many Americans, both black and white, are tired of having their children used in poorly-thought-out social experimentation. I do not blame them, and I urge the Congress to adopt this amendment. This will be a bipartisan effort, and I am joined in this amendment by my colleagues on the committee, Congressmen O'Hara, William Ford, and Huber, as well as other Members from Michigan such as Congressmen Dingell, Nedzi, and William Broomfield who have shown such leadership in this area in the past.

I would like also to speak today in

favor of the amendments being introduced to improve the Adult Education Act.

This program has been an important stimulus to adult education in our country. It was first introduced in 1964 as part of the larger war on poverty. It was included as title III of the Elementary and Secondary Education Act in 1966. There were some minor amendments in 1970. The time has come to make further changes.

I think this has been the type of legislation of which we should be proud. It is the kind of social investment which has shown positive economic returns. Leonard Hill, Chairman of the National Advisory Council on Adult Education, estimates that for every dollar spent in adult basic education, a cost-benefit return amounts to $11.20. In 1972 we spent a little over $51 million on this program. We reach 812,000 enrollees. That works out to a cost of less than $60 per student.

Most of the students enrolled in the program report that when they originally left school they wanted to continue. Most of the students enroll in order to improve their reading and numerical skills. This stress is important in a country where it is estimated that 2.4 million adults have never learned to read well enough to function on a daily basis. That means that they cannot get a drivers license, register to vote, read a Bible, or take advantage of supermarket sales. Thirty-two percent of the adults in America have less than a high school diploma. This takes on significant meaning when it is reported that 95 percent of the jobs in our country now demand a high school degree as a condition for employment. These facts indicate the continued need for a program of adult education.

We have made progress on these problems. In 1959 1 person is 45 was illiterate. In 1969 that ratio had improved to 1 in 100. In 1959 there were 3.5 million people enrolled in public school adult education classes. In 1972 there were 6 million enrolled. I believe that much of the improvement has come about due to the Federal effort.

There is now a State director of adult education in all the States and territories. There are more than 100 colleges which grant a professional degree in adult education. There are successful programs in rural and urban areas. There are programs for the young and the old. We now have the trained personnel and the materials which are specifically aimed at adults.

Adult education programs have come to have some unique features which make them effective. First, instruction and instructional materials are provided at no cost to the adult student; second classes are small and utilize individualized instructional techniques and materials; third, students may enter the program at any time and progress at a rate commensurate with the student's time and effort; fourth, the program is taken to the people—classes may be held in churches, civic centers, housing projects, prisons, industrial plants, and migrant camps, as well as in the facilities of all types of educational institutions. In sum we currently have the basis for a strong adult basic education program.

This amendment will introduce six changes in the current law. These changes should help improve the availability and efficiency of adult education.

The first change specifies that community school programs will be eligible to receive adult education money. The community school program is a rapidly growing movement which makes public school buildings available for all types of community programs. The inclusion of this language will help these schools present basic education classes in the community.

The second change will help improve the efficiency of the program by avoiding duplication with "right to read programs" and manpower training programs. The language indicates that there will be coordination between these programs and adult education programs.

The third change would allow up to 5 percent of the money to be used for institutionalized adults. For purposes of this amendment institutionalized adults are defined as persons who are patients, inmates, residents of penal institutions, reformatories, residential training schools, or general institutions, special institutions or hospitals.

The fourth change in the law would allow not more than 25 percent of any States allocation in excess of its allocation for fiscal year 1973 to be used for secondary level programs. This will help expand the focus of the program to primary grade level work. As the law stands now there is no direction as to what level of adult basic education should receive priority.

The fifth change suggested permits the establishment of State advisory councils. The council may be the State education board or a special board appointed by the Governor of the State.

The last change will allow States approxmiately $12.75 million set aside for adult education under the proposed consolidation plan. This money will be used for special experimental demonstration projects and teacher training which are necessary for the continued growth of effective adult education programs.

I have enjoyed working with Mr. Meeds on this amendment because I believe that the legislation will improve the delivery of lifelong educational opportunities for every American citizen.

Our Nation must be as vitally concerned with the education of its adults as it is with the education of its children. Adult education can pay rich personal and social dividends—not 20 years from now—but immediately. Our Nation must provide the second opportunity for the partially educated, the uninvolved, the illiterate, the adult with yesterday's tools who are in need of marketable skills for today. This amendment will help us take a step toward more comprehensive lifelong learning programs.

Mr. QUIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. Steiger).

Mr. STEIGER of Wisconsin. Mr. Chairman, I rise in support of H.R. 69 as reported by the Committee on Education and Labor. This has not been an easy matter for the committee to handle. It has been tough and complex. I want to applaud the gentleman from Indiana for his extraordinary statement, which I concur; the distinguished leadership of the gentleman from Kentucky, the gentleman from Indiana, the gentleman from Minnesota, and the gentleman from California (Mr. Bell).

Mr. Chairman, others have talked at length about title I and the formula and the effect of the formula, the reason why the committee adopted the formula that it did. I think all of those have been well covered.

I might make one brief comment, Mr. Chairman, about a matter that I have contemplated offering which would provide for a major change in impact aid. I would at this time like to present the outline of that idea to the members of the committee.

It seems reasonable to me that the Department of Defense should pay the cost of educating children whose parents are members of the armed services. The reason for this is quite simple; about 97 or 98 percent of the A impact aid children are Department of Defense children for whom HEW has had to pay the educational costs. My proposal would merely put the burden where it belongs, with the Department of Defense. I am not at all clear why HEW is required to underwrite what is clearly a Defense-related cost. The Defense Department pays for the educational costs of children when they are with their parents stationed overseas.

This suggestion is very much like the Carey amendment to the legal services bill we adopted several years ago to provide for legal services for military personnel in and around military bases. This resulted in each of the military services adopting a legal services program of their own to serve people in uniform.

If we were to do this some day, we could decrease the HEW budget by about $200 million. It might be a wise and efficient thing to do. I urge the members of the committee to consider this for possible future action.

Mr. BELL. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan (Mr. Huber).

Mr. HUBER. Mr. Chairman, as a freshman member of the Committee on Education and Labor, I have had a very difficult time living with this bill, because of the complications of it. But some things are rather simple, which this bill deals with. One of them was touched on by the distinguished member of the committee from Michigan as regards the busing question.

I watched the antics here on the floor when we were discussing energy, and we did amend the energy bill to contain an antibusing amendment. There was a rather bitter debate. After the antibusing amendment was passed, it was taken off in conference.

It is incredible to me that when a country shows in public opinion surveys that 95 percent of the people are opposed to busing, we still talk about it and do nothing. It was somewhat obvious today from the comments of the distinguished gentlewoman from Oregon that we were going to have a difficult, if not impossible, chance of amending the bill with an antibusing amendment because of the provisions of the parliamentary rules under which we operate. But we will see about that when the time comes.

It seems incredible to me that when 95 percent of the people in the United States are opposed to busing, this Congress has not passed something in the last 15 months dealing with that subject. And we have not.

Now, another part of the act that is of great concern to me is the impact aid portion.

I believe that it is the prerogative of this great body to legislate the necessary changes that would lead to an equitable and viable impact aid program. Allegations that this program is wrought with abuses and inequities will be answered in due time upon completion of a full audit of Public Law 874 by the General Accounting Office. This audit, currently underway, was requested on January 30, 1974, by a number of my colleagues on both sides of the aisle on my initiative.

This became a rather complicated action, though it was started by a rather innocuous letter I sent to the members of the Education and Labor Committee in December stating that we ought to have a general accounting of the impact aid program since the program had been in effect for many years.

The accounting we have previously had seems to have been very superficial. We have had accounting by HEW but never a full audit. At least I have never been able to find where there was one.

That little innocuous letter which I sent triggered a tremendous response out in the country from coast to coast. Many districts were suddenly protesting their innocence of any violation of the intent of the act.

In any event, we are going to have an accounting of it, and we will know whether the impact aid performs as it was intended to.

Mr. Chairman, I have an amendment which I had printed in the CONGRESSIONAL RECORD, which I will introduce at the appropriate time and which will eliminate at least one area of controversy, namely, the overcompensation of school districts educating children of parents employed on Federal property by whose principal income is derived from employment on private taxable property.

The intent and spirit of Public Law 874 was to compensate local educational agencies for providing free education for children who "while in attendance at such schools—resided with a parent employed on Federal property."

When this law was enacted the term "employed on Federal property" definitely implied a continuous concurrence of the parent's employment on Federal property and the pupil's attendance at such schools. In order to ascertain this continuous concurrence the Administrator of Public Law 874 (U.S. Commissioner of Education) required, in the past, two membership surveys per school year, the first one at the beginning of the year and the second during the fourth quarter of the school year. These surveys, whose principal objectives were to determine the parent's place of employment and thus to average out the daily attendance of federally connected pupils, no doubt served their purpose until 1968, when by an administrative rule, the Secretary of HEW and the Commissioner of Education decided that beginning July 1, 1968, the first membership survey would remain mandatory, while the second survey would be entirely optional.

It is my impression that without a second survey local educational agencies—LAE's—have no way of determining if a parent is no longer employed on Federal property in a given school year, and these LEA's continue to count the average daily attendance of each child.

If my amendment is adopted, at least it eliminates from the aid program pupils whose parents in reality do not impact the agencies since their residences and principal places of work are subject to local taxation. I hope that I can receive the assistance of my fellow Congressmen in voting for such an amendment because I believe it is a constructive and reasonable step in constructing impact aid as such.

The amendment itself says that the term "parent means any parent, stepparent, local guardian, or other individual standing in loco parentis whose income from employment on Federal property is more than 50 percent of the total combined income of such individual and spouse."

What I am trying to say is why should taxpayers have to subsidize parents who are working, and the greatest percentage of whose income, does not come from Federal sources. When you try to assume any percentage, whether it is 1 percent or 50 percent or 99 percent, it is an arbitrary assumption. I picked 50 percent as a rather reasonable figure. It seems to me if the family earns more than 50 percent from private sources, there is no obligation on the part of the taxpayers to pay for the education of their children because of the other 49 percent that may be incurred from working on a Federal project.

In my own office my own staff live in homes in public school districts, and yet they have impact aid. It seems to me their salaries are adjusted to qualify to pay taxes the same as any other private citizen. I cannot see the advantage or the need for that sort of an expenditure of taxpayers funds.

When you talk to the members of the Office of Management and Budget they indicate that maybe there is as much as 20 percent or more of this type of aid in the impact aid figure, which amounts to approximately $600 million; 20 percent of that is $120 million of questionable value.

The distinguished minority leader of our committee said that we will postpone this decision for 1 year. Why worry about that? It is only $120 million. We should not postpone this for 1 year. Also there is another group of our committee which is going to try to amend the bill so that it will not be 1 year, but 3 years before we review impact aid. That will probably carry and we will probably not do anything about impact aid.

There has been some indication in the minority reports that we should not touch it at all. I think we have to, and it will be interesting to see what the survey of the General Accounting Office does show, because we are throwing millions and millions of dollars around here without adequate studies as though they were funds not important in terms of how hard people work to earn the money with which they pay these taxes.

We ought to be doing something about this bill. I do not think we did it in our committee, and I do not know whether we will have a chance to do it on the floor in the way of amendments, but there is certainly a great amount of area that needs further exploring. Certainly, if we do not change some of these things like busing and impact aid, we can generate enough opposition to the bill to send it back to the Education and Labor Committee.

Mr. MITCHELL of Maryland. Will the gentleman yield for a question?

Mr. HUBER. I am delighted to yield.

Mr. MITCHELL of Maryland. I am just curious. The gentleman cited a statistic that said 95 percent of the American people opposed busing. What was the source of that statistic?

Mr. HUBER. To cross-district busing for racial balances?

Mr. MITCHELL of Maryland. Yes. What was the source of that statistic?

Mr. HUBER. I will be very glad to get you those statistics. I have a busing file that I have carried around for 5 years. I want to be very accurate on your question, because obviously it will be a part of the record, but I will be glad to get it for you.

Mr. MITCHELL of Maryland. Will the gentleman yield for a further question or observation?

Mr. HUBER. I yield to the gentleman.

Mr. MITCHELL of Maryland. While you are digging into your sources will you see whether or not that particular source indicated any public feeling toward the matter of busing of black children to black schools and whether that is covered anywhere in your file or source material?

Mr. HUBER. The specific answer to the question, of course, is that this is a problem of using busing for racial balances.

Mr. MITCHELL of Maryland. I understand that.

Mr. HUBER. You have to be specific on this.

Mr. MITCHELL of Maryland. I understand that, but my point is there is also enough, and I am curious as to whether or not your file data and resource data cover this item of busing addressed to that problem.

Mr. HUBER. It addresses itself to every aspect of the busing situation, I have been able to uncover.

I think it is very interesting to note that I attended the Supreme Court session that was held this past 10 days or so ago, on the cross-district busing case and it was brought out that the city of Detroit has 310,000 children who will be bused across districts for the purpose of racial balance. As I say, that came out in the testimony before the Supreme Court, and the gentleman can check that one out if the gentleman would like to do so.

But 310,000 children are to be bused at a time when we do not have a sufficient amount of gas to even get to our own places of business, and when, in addition to that, we do not have funds to take care of all the other aid problems that are necessary. To me this is absolutely ridiculous.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield further.

Mr. HUBER. Yes, I will be delighted to yield further to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I am not certain that I will find the opportunity later on down the line to address myself to this particular subject, so I want the record to be very clear that what I was asking for was, No. 1, the source of the statistics quoted by the gentleman from Michigan, and whether that same source addressed itself to another category of busing.

Mr. HUBER. I am sure that the gentleman from Maryland can also check the Supreme Court records where that 95 percent statistic was brought out either by Mr. Saxton, the attorney for the schools, or by the attorney general for the State of Michigan, and made a part of the permanent Record.

Mr. BELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. Quie).

Mr. QUIE. Mr. Chairman, there was one particular colloquy that I wanted to enter into with the Chairman, the gentleman from Kentucky (Mr. Perkins) and I neglected to do so when I took the floor earlier.

So, Mr. Chairman, for the purposes of clarification and legislative history, there is one point which I would like to establish on the floor. It has to do with the States-funded programs for the handicapped operated under title I of ESEA. An important change has been made to this section which in my view now will only permit States to count handicapped children in State institutions if in fact the State is actually providing a program for that child. No longer would the State be permitted to count the so-called "backward" children unless those children, too, are provided with an educational program. I would like to confirm with the chairman of the full committee, the gentleman from Kentucky (Mr. Perkins) that this is also his understanding.

Mr. PERKINS. Mr. Chairman, if the gentleman will yield, the gentleman from Minnesota is exactly right. Only children who are served may be counted. So the answer to the question propounded by the genteman from Minnesota is "yes."

Mr. QUIE. I thank the gentleman.

Mr. BELL. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. Veysey).

Mr. VEYSEY. Mr. Chairman, I thank the gentleman from California for yielding to me for the purpose of making a statement with respect to H.R. 69, and I wish to announce my intention to propose an amendment to title I at the right time, and it will be printed in the Record in accordance with the rule.

It is my intense desire to improve education throughout the United States, not only because of the opportunity which our schools furnish for individual Americans to develop their knowledge and their talents, but also because good education greatly increases the potential and capability of America as a nation.

I have consistently supported major Federal funding of our schools, and I will continue to do so. Just as consistently, I have sought to require effective use and management of those funds to overcome identified educational needs and problems.

Federal education dollars have little beneficial impact just because we spend them; their significance comes if they produce real educational improvements.

Mr. Chairman, it is one of the very sad aspects of the title I program, going back for 7 years, and for perhaps $10 billion dished out by the Federal Government, that we do not know which programs have produced better education and which programs have produced little or no improvement. Overall, we suspect that much of the money has been wasted in terms of real educational improvement.

That is a sharp condemnation of the Congress in its oversight role, as well as a condemnation of the Office of Education and the education departments of many States which have permitted this to go on and on.

I intend to propose an amendment to title I which will make it entirely clear that the Congress wants a dramatic change. We want to know the results obtained under these programs, and we want assurances that the money will be spent in the most cost-effective manner.

My amendment will require the Commissioner to spend a little—actually, less than 1 percent—of the funds to determine what educational effectiveness the programs have. Thus we will not be shooting in the dark in the future.

The Commissioner would be required to state in advance the criteria by which the programs would be judged. He will be required to develop models for the evaluation of each program in each State. He will be required to report back on the results of the evaluation to the Congress and to reflect success and failure in future approvals.

If we adopt this amendment, we can clear an enormous doubt which now hangs over title I, and we can purge ourselves of the very valid accusations that we have continued to pour out taxpayers' dollars without knowing whether the desired objectives are accomplished.

I would ask the Members' careful consideration of this amendment when it is presented to the Committee, Mr. Chairman.

Mr. PERKINS. Mr. Chairman, I yield 8 minutes to the gentleman from New York (Mr. Badillo).

Mrs. CHISHOLM. Mr. Chairman, I make the point of order that a quorum is not present

The CHAIRMAN. Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 79]

Abzug
Alexander
Arends
Barrett
Bolling
Brasco
Broomfield
Buchanan
Burke, Calif.
Butler
Carey, N.Y.
Casey, Tex.
Chappell
Clark
Conyers
Dickinson
Diggs
Dingell
Eckhardt
Edwards, Calif.
Evans, Colo.
Evins, Tenn.
Fish
Fisher
Flowers
Fraser
Fulton
Gibbons
Gray
Griffiths
Gubser
Gunter
Hansen, Wash.
Harsha
Hébert
Henderson
Hillis
Holifield
Howard
Johnson, Colo.
Kastenmeier
King
Kuykendall
Landrum
McEwen
Macdonald
Maraziti
Martin, Nebr.
Minshall, Ohio
Montgomery
Morgan
Murphy, N.Y.
Nix
Patman
Podell
Powell, Ohio
Pritchard
Quillen
Reid
Robison, N.Y.
Rooney, N.Y.
Rosenthal
Sandman
Shoup
Sisk
Steele
Stuckey
Symington
Teague
Thompson, N.J.
Thornton
Tiernan
Udall
Vander Jagt
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Yates
Young, Alaska
Zion
Zwach

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Price of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 69, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 351 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Badillo).

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I wish to associate my remarks with the gentleman in the well.

Mr. Chairman, the Elementary and Secondary Education Act Extension, H.R. 69, is the most important Federal effort to help children below the college level. It is comprehensive and serves the whole range of problems in this area. My colleagues and I on the Education and Labor Committee who considered this measure for over a year, believe it is a necessary and worthy effort and deserves support.

There are several major programs which are continued and expanded under the bill, which are well worth the support of Congress. H.R. 69 extends authorization authority through 1977 to two particularly important programs: The Education of the Handicapped Act, and the Bi-Lingual Education Act.

These are two of the most critical concerns in American education. Vast numbers of children possess learning disabilities varying from difficulty in reading to the most severe physical handicaps a human being can face. Only recently has it been recognized by the courts—and by the Congress—that every child has a right to an education, regardless of his physical or mental condition.

This is not simple commitment. We must provide special services for those children whose disabilities prevent them from gaining very much from the ordinary classroom. Special programs and the money to pay for them is what education for the handicapped is all about. H.R. 69 goes a significant distance toward meeting this need. For the first time, we require States to write education plans to insure instruction for every handicapped child. Education research and special teacher training to provide the particular methods and skills necessary for the handicapped child to learn are also underwritten. Special centers will be set up for those children who cannot benefit from special techniques being imported to the regular classroom. The bill's provisions are a significant step.

In bilingual education, H.R. 69 recognizes education to be of little value if the child is not in a position to take advantage of it. Children who come from households where English is not the spoken language have significant problems in English language schools. It is the obligation of society to help these children integrate into the mainstream of American education and obtain the advantages and opportunities which are given to all other children in our schools. H.R. 69 funds the programs which will accomplish this.

A third major commitment made in H.R. 69 is to adult education, particularly by using our existing school resources to a maximum degree. America has thousands of school buildings which go unused a good part of the year—for that matter, a good part of the day. There is, at the same time, an urgent need in our rapidly changing world for continuing education for adults whose knowledge requires updating, or for those who did not have full educational advantage when they were in school. H.R. 69 provides an opportunity for schools to be used for the purposes of adult education in what is named the community education program, and extends existing funding for adult education programs.

H.R. 69 also mandates fairness and equality of opportunity in all education programs. It is required that children from private schools are to be allowed to participate in all of the education services offered under this bill. There is no equality of education if children not in the public school systems are to be deprived of what the Government is offering to local and State public units of education.

In addition, H.R. 69 recognizes the need for more efficient use of Federal moneys and so institutes a measure of consolidation of existing programs. The school library and equipment programs, including audio and visual aids, are to be consolidated into one broad category: Library and instructional resources. The educational innovation program, dropout prevention, health and nutrition programs, and aid to State departments of education are consolidated into a second broad category: Innovation and support services.

However, we will not risk the security of any of the categorical grant programs consolidated here. We require the total consolidated grant appropriation to be equal to the sum of past categorical grant appropriations before the consolidation takes effect.

H.R. 69 carries on and initiates several other worthy programs. Impact aid, so necessary to school systems overburdened by Federal installations, is continued. Special aid to Indian children is continued, critical if we are to give every group in our society an even break. Studies of the problems of athletic safety are begun, to protect our children from poorly cared for athletic injuries. Most significantly, a major study is mandated of the appalling problem of crime in the Nation's schools, a crisis we are barely controlling, and which threatens every student and teacher in the educational process if not corrected. Finally, a White House Conference on Education in 1975 is authorized to continue to examine and improve the Federal effort to assist American education.

The most important element of the bill, and of Federal aid to education, is title I, aid to the educationally disadvantaged. The key provision of title I is the formula for distribution of the moneys, for it is through the formula that the most serious cases of educational disadvantage are attacked. Thus, the amount of money, and more important, the way in which it is allotted, is crucial.

I must state here that I am not happy with the title I formula in H.R. 69. I hope and trust the whole House will take a careful look at the formula and will amend it before passing the bill.

Since I believe the formula to be so important, I must reserve my support for the whole bill until the House has decided on this provision. For if the basic purpose of Elementary and Secondary Education aid is to attack educational disadvantage and such disadvantage is found most prevalent in our poorer areas, the bill must successfully address itself to this problem. If it does not, then all of the other good programs in the bill are put into question. The bill, without a good title I formula, risks being a fraud on the poor and the needy people of America.

Let me state, briefly, my concerns with the formula. It is the declared purpose of the Elementary and Secondary Education Act, as stated in the original bill in 1965, to help poor children with their education on a priority basis. The section on purpose states:

> In recognition of the special education needs of children on low-income families and the impact that concentrations of low income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance . . . to local educational agencies serving areas with concentrations of children from low income families.

The emphasis is clearly on poverty. Unfortunately, while nearly $5 billion is authorized annually for this program, only $1.8 billion is routinely appropriated. This means a limited amount of money to deal with a very serious problem, one which requires resources to be committed way beyond what we are actually committing. This faces Congress with the difficult problem of priorities. The statement of purpose makes it clear what they should be. It has not been amended in this bill.

It has thus been recognized that for the money to do any real good in such a limited quantity, it must be concentrated in the relatively poorer districts of the country. And that is exactly what has been done in the last 7 years under the old law. It has not been done without mistakes and inefficiency on an occasional basis. It has not always been completely fair and up to date. But the emphasis has been right.

The new formula, however, is wrong in its emphasis. It developes a standard of poverty which is misleading and inaccurate, and which does the very opposite of what needs to be done: It disperses the money. The new formula increases the number of children eligible by nearly 50 percent, from 4,800,000 to approximately 7,700,000. With no increase in funding, this will produce dispersion of an enormous nature, and end the priority we have given to poverty.

It is all very well to argue Federal aid should be as broad as possible, and that educational disadvantage needs to be attacked wherever found. But the argument makes no sense when being made by those who do not offer to spend the additional money necessary. It is, simply, a method of diluting our attack on the worst areas of educational disadvantage in the name of a handout for everyone who can possibly, somehow, claim a share. It overlooks the problem of priorities.

Let us look at the new formula's definition of poverty in some detail. It is argued the formula raises the dollar level of poverty. This is sensible, of course because the price level has gone up drastically since 1965. Instead of the old $2,000 level of the bill, we have the so-called Orshansky index, which sets a variable level that can run as high as $5,820 for a family of eight in an urban area. Along wtih this higher level, which all of us want, it is argued we need an increased flexibility in our definition of poverty, because poverty is not the same in every section of the country. The Orshansky index is said to do this. But the fact is that it does not do so in any sensible manner.

The index is based on two main false premises: One, that the cost of food can be the total measure of the cost of living, and two, that the difference between farm and nonfarm families is the only significant difference in poverty costs between different geographic regions.

It is transparent that in urban areas the cost of living includes rent and transportation, as well as higher taxes, even for the relatively poor. The index does not reflect this at all. It is confined to food costs alone. Moreover, the Orshansky index distinguishes between rural and urban regions only through the category of "farm" family, which calls for a 30-percent reduction in cost-of-living measure for farm families as against all others because they grow some of their own food. Urban families are grouped with nonfood growing rural families with no distinction between them. This does not seriously reflect the real difference between rural and urban centers; namely, the well known and undeniable fact that all costs are lower in rural than in an urban area. In sum, this formula will cheat cities twice: first by not taking account of the true range of costs of living in a city because only food is counted, and second, by not taking account of the higher cost for everything in a city, even food.

Finally, the Orshansky index is wrong even in its own terms. The food consumption survey it is based on comes from a 1955 Agriculture Department survey. 1963 prices and income were used, and the only modification since then has been to add the consumer price index to update prices. The definition of consumption levels remains nearly 20 years out of date. Mrs. Mollie Orshansky of the Department of Health, Education, and Welfare, the originator of the poverty index, told the Education and Labor Committee herself:

> It (the index) concentrates on the income-food relationship although for urban families, particularly those handicapped not only by lack of money but by minority status and large families, the cost of housing may be critical . . . further analysis of the formula (should be) conducted before it (is) used as a poverty index . . .

That ought to be enough for the Congress. But it is argued that this is the index used by most Government agencies and thus we should be consistent and use it for education. I say if this is the generally used index, we should find a new one. I am not impressed that most of the Federal Government has made a mistake and that therefore we should make one, too. I say we should disestablish this index here and now, starting with education.

There is a better index to use: The count of AFDC children in a district in conjunction with a poverty level, as was used in the old formula. The Orshansky formula, for practical purposes, drops AFDC children from consideration. The formula allows a count of only two-thirds of AFDC children above the Orshansky index level. This does not accurately reflect the number of children whose families are poor, whose neighborhoods are poor and therefore whose schools are poor. The Social Services Administration, in response to a question concerning AFDC's capacity to accurately reflect regional variation in cost of living and so serve as a good index to distribute education money, said:

> . . . we are unaware of any other more adequate data which is provided county by county which could be used for an equitable distribution of funds . . .

Let us see what this formula does to New York City, a representative case of concentrated poverty. As a whole, the city will lose 15 percent of its funds next year, $23,156,030. This means, according to Dr. Seymour Lachman, the president of the Board of Education of New York City, a loss of 1,000 teachers and 3,000 paraprofessionals. It means 90,000 children out of 290,000 being serviced in reading and math will not be serviced next year. And the total number of children eligible for the program to begin with is 414,681. We are proposing to move backward.

In my own district alone, this means a loss of $6,935,131 in the Bronx and a loss of $1,918,006 in Queens, making a total loss of $8,853,137 for the two boroughs as a whole. What am I to tell my people, who desperately need and rely on these Federal moneys?

I will not tell them that this is a good formula, but that unfortunately New York happens to lose a little while most other States gain. That is what the figures appear to show. But the question really is, where are the moneys going which New York loses? They are not going to other big cities and concentrations of poverty and educational disadvantage. The increases for most of the top 100 cities in the country are small. The increases for pockets of poverty in rural areas are small. The big increases are going to the suburbs which do not have the serious poverty problems the cities do. The big increases are going to those who say "if there is a pot of money somewhere I want my share, never mind what the money is for, and never mind that there is not enough money to solve the problem. The cities of America have been cheated long enough with this kind of refrain. If you want to convert poverty programs to general aid, then where is the money to give the cities their fair share of general aid?

It is clear that even here the cities are cheated. While aid under the formula is adjusted in relation to a State's average per pupil expenditure as in the past, the new procedure harms the cities. A State will get no less than 80 percent of the national average per pupil expenditure, or more than 120 percent added on in relation to its own costs. But New York spends 150 percent of the national average. This means we will now get $465 per pupil. Under the old law, which allowed the State to use the higher of either the national average or its own State average, New York got $756. Once again, the cities are the losers.

And there should be a note of warning here, lest there be any doubt concerning what the authors of the new formula intend for the attack on educational disadvantage through priority spending on the poverty districts which are known to produce the worst disadvantage. There is a small amendment in title I which allows the local educational agencies to use "criteria other than poverty" for distribution of moneys. This is a clear violation of the statement of purpose in the bill. The criterion they have in mind, the only one possible, is educational testing, an uncertain and discriminatory art at best.

We were able in committee to narrowly prevent this small amendment from being applied as the sole basis for the distribution of title I moneys, and instead confined it within local educational agencies. But it is clear what they want. Be warned, the poverty nature of this program is being attacked, and this amendment, along with the inequitable formula to which it is attached, can be the beginning of the end for aid to the really needy in our poor educational areas and especially in our cities.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I wish to associate my remarks with the gentleman in the well.

Mr. Chairman, I rise to voice my strong opposition to the formula for distributing title I funds under the Elementary and Secondary Education Act amendments, H.R. 69, now before this body. The proposed title I formula would not only discriminate against New York City schools and other metropolitan areas but would add to the already serious financial problems facing our inner cities.

The unfair title I formula was the reason I voted against the rule on H.R. 69 and it remains the reason I may vote against this legislation unless we are able to pass amendments to correct the inequities in H.R. 69.

Mr. Chairman, the Borough of Queens, New York, stands to lose approximately $6 million in title I funding if the legislation is passed in its present form, a reduction over last year's title I budget which is unjustifiable. The average funding reduction in all New York State school districts under the bill as proposed is 15 percent, a result which is totally inconsistent with the educational needs of New York State and New York City. Our metropolitan area is one which provides educational services to children of all backgrounds and must be flexible and progressive enough to meet those differing educational needs without the disruption caused by a sudden reduction in Federal funding.

Mr. Chairman, I have always supported and voted for education bills in this Chamber. I have cosponsored aid to elementary and secondary education bills and I have supported increased appropriations for education programs authorized by the Congress. Title I funding, in particular, has been a program to which I would assign the highest priority.

The bill before this Chamber, H.R. 69, would extend the elementary and secondary education programs for 3 years at an authorization of $15 billion, a general goal I can enthusiastically endorse; however, the proposed changes in title I fund distribution are so drastic and inequitable that I find myself in a position where I may have to cast my first vote against an aid to education bill.

In order to avoid that necessity, I will join those of my colleagues who plan to offer and support amendments to the title I distribution formula. I urge my colleagues to vote for these amendments and save the education programs needed to meet the challenges which face our school districts, particularly those with large numbers of disadvantaged children.

The title I distribution formula under H.R. 69 as now drafted would destroy the national effort to upgrade our elementary and secondary school programs in inner cities and create a gap in those programs which would be impossible to repair given the existing financial situation in our large cities. We must reject that kind of shift in title I fund distribution. We must say no to those who would rape the school systems of Queens, New York, and other major metropolitan school systems and substitute for their distorted priorities a reaffirmation of congressional intent to serve the disadvantaged schoolchildren of the United States by rejecting any reduction in the Federal commitment to date. There should be no reduction in any school system's funding under title I but rather there should be increasing assistance where needed and where increased funding can improve the educational effort.

For these reasons I urge my colleagues to support amendments to change the title I distribution formula in order to correct inequities and assure full funding for New York and other large cities.

Mr. LEHMAN. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from Florida.

Mr. LEHMAN. Mr. Chairman, I rise in support of the bill.

Mr. Chairman, the Committee on Education and Labor worked for many, many months on this legislation, and I think we have brought a good bill to the floor.

Although much of the discussion in the next few days will center on the allocation formula in title I, I would like to address my remarks to another portion of the bill, the new title IX, Community Education Development, which I offered during the Committee's consideration of H.R. 69.

During these past few months of oil shortages, meat shortages and now fertilizer shortages, we have all come to realize that we must make the most use of all our resources.

Title IX goes in that direction, by helping communities to get the most use out of their school buildings, which are in many cases the biggest public capital expenditure in the community. It just does not make sense for a community to heavily tax itself to build schools, and then have that building used for 7 or 8 hours only 5 days a week. Why not open up the school after regular hours to the rest of the people in the community, and use the facilities for community activities? This is the essence of title IX.

When the bells ring at 3:00, instead of everyone leaving all the schools, some people will leave, and some will come in.

The community education program in my district offers many activities, from upholstery to guitar to basketball to chess. What is offered depends on what the community would like to participate in.

Mr. Chairman, this beginning program can lead to the full use of our public school buildings to stabilize and upgrade neighborhoods and communities during these times of transition and deterioration.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I rise in support of the legislation.

Mr. Chairman, I rise in support of extension of the Elementary and Secondary Education Act. I certainly appreciate the long hours and hard work put in by our colleagues on the Education and Labor Committee on this legislation, and the extent to which this bill represents bipartisan cooperation. In general, I am indeed supportive of the provisions—certainly, the principles behind—H.R. 69 and the Federal commitment to elementary and secondary education.

I have personally witnessed the fruits of ESEA in my district, and would cite, in particular, the worth of such programs as the project on Early Childhood Services for Visually Impaired Children which is located at Rock Creek Palisades School in Kensington, Md. It is indeed inspirational to witness the good use to which Federal moneys are being put here, under title III, ESEA. Preschoolers with severe visual problems and multiple handicaps are learning improved motor development and coordination, visual perception and basic educational skills. Several are being readied for transferral to the regular classroom—a goal which perhaps may never have been attained without title III assistance of this nature. This particular project in Marland's 8th District is a fine example of the kind of program we wish to see continued under the Elementary and Secondary Education Act.

However, I do wish to address myself at this time to certain concerns of mine, shared with several of my constituents, in this discussion of Federal aid to education. In any Federal effort involving the education of young children—our most precious resource for the future—we must at all time inject elements of responsibility and accountability to the parents and the children themselves.

Perhaps I am addressing an age-old dilemma, but it is one which I know to be of concern to several of my colleagues here in the House. We must take the time to carefully examine the role of schools and to protect the right and proper role of parents and legal guardians in a child's moral, emotional, and physical development. At a time when the Federal Government imposes itself into more and more areas of our daily lives, at a time when we speak out against invasions of privacy and for individual rights, we are certainly compelled to reflect upon this most basic of all rights and relationships involving the parent and the education of the young child.

There are two fundamental areas, in my opinion, which demand our attention. So that we do not infringe upon the responsibilities of parents or guardians in this respect, it becomes imperative that we insure meaningful, prior consent on their part to the participation of their child in a research or experimental program, or any pilot project assisted under this act. By meaningful consent, I do not mean simply a signature on a form letter which informs the parents that Janie or Johnny has been selected for a particular program—as has been documented to me—but rather, consent based upon ample information and discussion as to the project and its goals. Insofar as possible, instructional materials, including films, tapes or other supplementary material which will be used by any child in connection with any such project under ESEA should be available for review upon the requests of parents, prior to the enrollment of the child.

Involvement of the parents of participating children from the inception throughout the development of a particular program which involves new or untried teaching methods or techniques is vital. I know that HEW insures that for each title III project there shall be a parent advisory board composed of the parents of participating children. I am most pleased at this, and encourage the growth of such panels. For this reason, I am gratified at the committee's amendment of the title I program requiring the establishment of a parental advisory council for each public school participating in a title I program, in addition to the districtwide councils presently mandated. These advisory councils would have a majority of their memberships composed of parents of the children to be served, and the entire membership must be persons selected by the parents. I would reiterate the importance of meaningful participation in planning and programing—not just lipservice. As the committee has pointed out in its report:

> To be effective, these councils must be provided by school administrators with appropriate information concerning programs and projects.

In further protection of the rights of parents, I would stress the applicability of the "sunshine" principle to meetings of local educational agencies—that is, meetings of local agencies at which any research or experimentation programs or pilot projects assisted under ESEA will be considered, should be open to the public. Furthermore, local educational bodies should provide, after reasonable notice of time and place of such meeting, an opportunity for all interested members of the public to testify with respect to such program or project. I have supported the concept of open meetings in the Congress and the executive branch. We should expect no less from the local government agency, particularly one which deals with so crucial an issue as the education of young children.

Mr. Chairman, I do not think we can stress too much the importance of parental rights in this area. True participation on the part of the public is fundamental. Let us extend the Elementary and Secondary Education Act, and thereby, the Federal Government's commitment to education, but at all times, let us maintain a proper perspective on responsibility and accountability with respect to the child's development.

Mr. BADILLO. Mr. Chairman, I will say to the Members of the House that I think it is time in this debate that we go back and remember the purposes of the particular bill that we are discussing. We are discussing the Elementary and Secondary Education Act, and we are discussing title I, and when this bill was passed, in 1965, many of the Members will remember that the intent of this bill was to provide for the education of poor children, not for children as a whole in our society, which would be a general aid bill, but for the poor children of this country.

The reason we are in difficulty now is because there are some Members who were then against having special educational provisions for poor children and who are still against it now, and they want to change the formula. And then there are those who want to change the formula from a program to help poor children to a general aid program.

They feel that the particular revision under discussion will move us along the way toward having a general aid formula.

Now, when the bill was originally passed, it was the major urban centers of this country that received the largest proportion of funds under the title I programs. This came about because the major urban centers were the chief areas that had provided aid to families with dependent children.

Many parts of the country did not choose to take advantage of the AFDC program, and for that reason they did not receive any title I aid.

That is the reason why New York City happens to get a larger share of title I funds, because New York City took advantage of the provisions in the law that enable a district to provide for aid to families with dependent children.

Now, the fact is that the programs of title I are proving successful. Even though the programs have not been adequately funded, because less than $175 per child is received, even in New York City, we see that this year for the first time there is a gradual improvement in the reading level of the children in the major cities, beginning with New York City and covering the other cities in the country.

More specifically, the reading scores in New York's public schools are now showing their first improvement in a decade. In 1965, 45.8 percent of the city's pupils were reading at or above their grade level. The scores dropped steadily each year to a low of 32 percent in 1972. But finally, helped along by the infusion of Federal funds, the 1973 tests indicated that nearly 34 percent of New York's students had reached or surpassed the norm for their grade. More importantly, serious reading retardation dropped from 26 percent to 21.7 percent of those being tested. And the proportion of students 1 year behind or less also rose.

We from New York City and from the urban centers are concerned about maintaining the kind of assistance we have now, because we feel that if we are able to continue, in the years to come, to get the same kind of assistance we have received in years past, there will be a significant improvement in the educational achievement of the children from poor families. This is why we object to a revision of the formula which will result in a net loss of funds to urban centers at this time.

What is happening in 1974 is that many parts of the country recognize the value of title I programs and want to take advantage of that program in their communities as well. For that reason a new formula called the Orshansky formula is being provided, so that many of these other parts of the country will be able to develop the same kind of programs that we have developed in the city of New York and in major urban centers. We are not against that. We welcome the recognition, belated though it may be, in many parts of the country that these programs are important and useful.

We want to support Kentucky and other areas in getting these programs underway, but we say that while we would like to enlarge the programs, we would not want the major centers to be deprived of the benefit of the programs that exist now. It is for that reason we are seeking the help of all the Members of Congress to see to it that our programs are not cut off but at the same time see to it that the other areas who want to have the programs may be able to do so.

It can be done. There is no need in the House of Representatives to create a division between the poor children of New York City and those of Kentucky or any other part of the country. We can devise a formula and we will be proposing a formula that will enable the poor children of New York City to continue to get title I aid and at the same time enable the poor children of other parts of the country to get the benefit of the same types of programs.

We hope you will look at these amendments as they are printed in the RECORD and you will consider them from the point of view of the country as a whole and support the amendments that we will offer.

I want to point out why it is that entire formula works to the disadvantage of the major centers. The formula does not just include an index of poverty but also includes a percentage of the total educational cost in a particular part of the country. It so happens that in the city of New York the costs of education are higher because we provide more benefits and because teachers' salaries cost more. We are not saying that we want to have additional funds to squander or to use for any purpose that is not related to education. We are saying that if in the city of New York or in the city of Chicago there is an educational expenditure per pupil approved by the governing bodies of those localities that that particular locality should not be penalized. We are asking that the formula be revised so that instead of having a limitation of 120 percent of the national average the city of New York, for example, may be allowed to claim title I payments on the basis of actual expenditures. We feel that is a fair request to the Members of Congress, because you can be sure that even in New York City there would not be any money appropriated unless it were justified on the basis of educational need.

I think you will know that we have a serious crisis in New York in housing, in manpower, in health, and in other areas as well as in education. What many Members are really talking about is expanding the program. We feel the way the debate has gone it has become a question of taking away from the areas that sought to develop the programs in the first instance to give to those who have never had it. We welcome everyone having it, but at the same time we feel we should be able to continue the program as well.

For that reason we ask your support in the amendments that will be provided in order to insure that we may be able to continue the program in the areas where the benefits are just beginning to be derived as well as to provide those benefits to areas which have never had them.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PERKINS Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. BADILLO. I would like to ask the chairman a clarifying question. On page 20 of the committee report there appears the statement that it is the committee's intent that "priority attention should be given to basic cognitive skills and to related support activities to eliminate physical, emotional, or social problems that impede the ability to acquire such skills." As I understand this language, it would include programs in which paraprofessionals serve as liaison between the student, family, and school to deal with such problems as truancy, absenteeism, lack of home discipline, and inadequate health care. Such services have been recognized by many as indispensable to the success of basic instructional activities.

Am I correct in my reading of the report?

Mr. PERKINS. The gentleman is exactly correct. The answer is "Yes." It all depends. If that is a priority of the appropriate educational agency, the answer is "Yes."

Mr. BADILLO. Thank you.

Mr. PERKINS. Mr. Chairman, I yield 10 minutes to the gentlewoman from New York (Mrs. CHISHOLM).

Mrs. CHISHOLM. Mr. Chairman and members of the committee, I know that by now the majority of the members may be quite tired. We have gone through a great deal of debate today. I know that perhaps many of us are just as confused, or more confused, than when we came here earlier today. But, Mr. Chairman, I do want to raise just a few points.

It was only about a decade ago that poverty in America was acknowledged to be a blight on the national image. It was about a decade ago when this country became aware that those people who were not self-sufficient for reasons of poor education, lack of skills and resulting unemployment were not only leading undignified, unskilled lives, but also were not contributing to this society through their productivity and their tax dollars.

The Great Society programs were designed to assist these impoverished people, a high proportion of whom were from minority groups.

But it seems that after less than a decade of effort—effort which has been far short of adequate and thus incapable of contributing to any substantial or permanent change—after only a few years, this Congress is ready to abandon the poor again. We see it in such things as the absence of any move to counteract the administration's illegal dismantling of OEO, and the emasculation on this very floor of the Legal Services program. Why do you have to repeatedly knuckle under to an administration that cares nothing for people, and least of all for the poor? What happened to the professed concern of the sixties for all Americans regardless of race or economic level? Was it a mirage?

The enactment in 1965 of title I of the Elementary and Secondary Education Act signaled a new sense of responsibility for children in need of a special assistance in learning the basic skills of reading, writing, and computing. Congress at that time also recognized that these special needs or educational disadvantages as it has come to be called was highly correlated with poverty among elementary and secondary school students. This congressional responsibility for the economically disadvantaged children of this Nation filtered down to reach every school board in every school district where poor children live. Public educators were, for the first time, required to address themselves to the problems of disadvantaged students and to plan and implement programs that would lift them from those problems.

During the years since the enactment of title I, there has been a gradual refocusing of concern away from those students who are the most economically disadvantaged. Members of Congress are beginning to hear from their working class and lower and middle class constituents who ask why are those poor folk always getting the programs and the assistance. "We need help too," they say. And so they do. I cannot deny that. And I believe that the more vocal working class workers who can be very influential at election time deserve the benefits of programs such as title I also, but not until all the most poverty stricken, most socially, educationally and economically disadvantaged children in this Nation are served first.

A major study was done of all the children born in Britain in a given week in 1958. The report of this study, called "Born to Fail" describes how the combined hardships of low income, poor housing, a one-parent family, and a family of five or more children work together to work against the children studied. Socially disadvantaged children are compared with ordinary children in the study and the results are striking. They show how combined adversities reinforce each other and affect every aspect of a child's life. They show the enormous inequalities of life for the disadvantaged compared with ordinary children. This excerpt from the report called "Born to Fail" illustrates the devastating effect of multiple misfortunes on children:

> By the age of eleven, one in 14 of the disadvantaged children was either receiving or was waiting to receive special education compared with only one in 80 ordinary children. This wide difference is accounted for almost entirely by the high proportion of disadvantaged children said to be educationally subnormal (one in 20); among ordinary children there was only one in 150. Disadvantaged children are thus over-represented in special schools in general, and in schools for the educationally subnormal in particular. Some of this subnormality might have been avoided if parents had been more free of the stress associated with poor health, crowded living conditions, low income, unemployment, and so on.

Did you hear that? Among so-called ordinary children, 1 in 150 was deemed educationally subnormal. But 1 of every 20 disadvantaged children needed special education services.

This report supports and illustrates my conviction that those most severely disadvantaged children must be reached first because for them it is a matter not merely of social mobility or future employability but a matter of survival.

The formula for distribution of title I funds as adopted by the House Education and Labor Committee violates the declaration of policy for title I as described in section 101 of the current law. I quote from this section:

> Congress hereby declares it to be the policy of the United States to provide financial assistance to local education agencies serving areas with concentrations of children from low income families.

Through the use and misuse of the three main components of title I formula, funds previously designated for school districts with concentrations of poor students now are diffused away from those areas with the highest concentrations of the poor, where families with multiple hardships, such as those I referred to earlier, are predominant.

Mr. Chairman, I think most of the Members of the House are by now sick and tired of hearing about poor old Molly Orshansky. I think one of the reasons perhaps that many more Members were not on the floor today during this continuous debate was due to the fact that this subject is so complicated and the formulas are so complex, and when they do not understand, they are not going to stay around and listen.

But, the Orshansky poverty index is the major factor that determines where the dollars will go among States, and within States, in the committee formula. I would like to point out some of the weaknesses of this index of poverty.

The Orshansky poverty index was developed in 1963. It contains at least two elements which weigh against metropolitan areas: The derivation of the income levels and the farm-nonfarm distinction. The basis of the formula was established by studies made 10 years ago on family food expenditures. Although food expenditures then only accounted for 30 percent of a person's income, it was felt that by comparing food expenditures, the relative poverty of different groups could be found. However, using food costs alone excludes the important consideration of such expenses as housing, transportation, or a person's assets. Molly Orshansky, the developer of the index, stated at a hearing before the special education subcommittee:

> It (the index) concentrates on the income-food relationship, although for urban families, particularly those handicapped not only by lack of money but by minority status and large families, the cost of housing may be critical.

The second major weakness in the Orshansky poverty index is the absence of any variation that takes into account the differences in cost of living between an urban and a rural area, or between a central city and a suburban area. The farm-nonfarm differentiation in the formula is often misconstrued to represent a rural-urban differentiation, when it only reflects the cost-of-living difference due to the value of food produced and consumed by the farm family. The result of this absence of an urban-rural distinction is that the poverty levels tend to understate poverty conditions in high cost-of-living areas such as rural areas and small towns.

The net effect of the Orshansky formula is a shift of funds out of urban areas into farm areas. This dislocation of moneys goes directly counter to the continuing migration of people, especially the poor, away from the most rural areas into population centers. The people are coming in and the money is going out, leaving the ugly prospect of drastically cut title I programs in metropolitan areas across the country.

In addition to counting all children under the Orshansky poverty index, the committee formula counts two-thirds of the children from AFDC families with incomes above the median Orshansky income cut-off level for a nonfarm family of four, which for 1974 will soon become approximately $4,600.

Commonsense, as well as documented evidence, tells us that there are few if any families on AFDC with incomes above $4,600 per year in any State. The oft-made accusation that New York State and California have rapidly increasing welfare rolls is no longer true. The number of families receiving AFDC payments in both states has leveled off and is beginning to decline.

As the Orshansky poverty levels undergo their annual cost-of-living update, the median poverty level will be raised from its current 1973 level of $4,254. As the median is raised, the number of previously eligible AFDC children is reduced. I predict that within 3 years there will be in effect no AFDC counted at all under this title I formula.

The third important part of the new formula is a limitation of 120 percent on per pupil expenditure above the national average and a floor of 80 percent of the national per pupil expenditure for States below the national average. The 120 percent ceiling works against Alaska, Connecticut, New Jersey, New York, and the District of Columbia. Their allocations are in effect reduced by the ceiling.

A recent study projects that the following additional States could potentially be limited by the ceiling if their State per pupil expenditures continue to grow at present rates: Illinois, Michigan, Minnesota, Pennsylvania, Rhode Island, Wisconsin, and Maryland. The 120 percent ceiling on per pupil expenditures penalizes those States which have made a greater contribution in their spending for education.

The consequence of the use of the rural-biased Orshansky index, plus the decrease in AFDC and the limit on per pupil expenditure, is a redistribution of funds away from the most densely populated jurisdictions. Although the total number of eligible children increases under this formula as compared with the present formula, the percent of the total for population centers decreases as compared with the present. Since the appropriation level for title I is not expected to increase to the level necessary to serve all the eligibles, the relative amount that will be made available to metropolitan areas will decrease. The result is a dispersion of title I funds around the country. To put it another way, the new formula must be applied to the same sized pie, with smaller slices as the end result.

This is of important consequence to the Federal role in elementary and secondary education in this Nation. It represents a retreat from the intent of title I to assist those areas with large concentrations of need. For heavily populated States, the implications are profoundly negative.

An unfortunate side effect of the committee's title I formula is the reduction of funding for programs for the education of handicapped children by more than $20 million nationally. It is said that H.R. 70, an aid to the handicapped bill now in subcommittee, would replace these lost funds. However, it is not possible to enact H.R. 70 in time to offset the loss of moneys in fiscal year 1975, and even when it is enacted, its allocations would not be great enough to make up for the losses resulting from the committee's title I formula.

The process of considering and adopting the committee's new title I formula was hampered by the absence of information on how the funds would be distributed within the States, among counties or among school districts. The formula was adopted on the basis of estimated State allocation totals, with no data available that would have in any way indicated the actual impact of the formula at the county level. The State allocation tables made available were both inaccurate and misleading. It appeared that some States would gain more and others would gain less than would actually be the case.

Since the committee report was filed on February 21, the proponents of the formula have continued to issue uninformed rhetoric and misleading data while focusing their attacks on the State of New York. They have put forth a series of so-called accurate tables, each different from the other. Almost every State—except New York—can be shown as gaining funds under the new formula depending on which "accurate" table based on which "latest" Orshansky or AFDC count is referred to.

Please do not misunderstand me—I am not assigning any intentional obfuscation nor any malicious purposes to anyone. I am only telling you that the unsophisticated manipulation of data which has gone on would cause amusement if its effects were not so potentially damaging to disadvantaged children.

I would also, in closing, like to tell you that I do believe we need a new title I formula. The current formula no longer is either adequate or equitable. However, I propose that we develop a formula that does not so severely cut into diminishing city school budgets. Let's share this small amount of money in a democratic way.

The most equitable formula proposal I have heard thus far would count all children from families earning $3,500 or less and all the children on AFDC above $3,500. The elimination of Orshansky as the primary factor is imperative. Cities cannot live with any formula that is based on the Orshansky poverty index.

Another direction to be aware and wary of is the general aid thrust. I understand that Congresspersons Edith Green and James O'Hara each plan to offer substitute formulas that would turn the title I program into general aid. It would be shameful to turn this assistance away from severely disadvantaged children.

I hope that the remainder of this debate will be characterized by rationality and concern, not for the number of dollars a Member's district will receive so much as a concern for the children across this Nation who are most desperately in need of compensatory education services.

Mr. QUIE. Mr. Chairman, I yield myself such time as I may consume.

The gentlewoman raised a question of Montgomery County. I just made a quick check, because New York State has a county that is quite wealthy, too, Westchester County. I note that Westchester County was receiving $6,225,000 and was cut back to $5,200,000. Montgomery County was getting $994,000, and they were raised to $1,427,000. So it seems to me we are talking about two wealthy counties in these United States, Westchester County and Montgomery County. Westchester County has got Montgomery County beat all hollow as far as getting money is concerned, and they have the same competence to pay for their own education as does Montgomery County. It depends on the number of poor children under the Orshansky formula and the number of AFDC, and that is why there is a discrepancy.

As I said earlier, New York is not getting as much as they got last year, but they are getting way more than anybody else is in the Nation.

Mr. Chairman, in order that we might hear from another New Yorker, I yield 5 minutes to the gentleman from New York (Mr. Peyser).

Mr. PEYSER. I thank the gentleman and our minority leader (Mr. Quie), for giving me this time. What I am going to cover now very briefly in the time allotted is a statement of what we really are trying to deal within this formula, and in a small part to tell the Members the impact of the formula on title I and H.R. 69.

My claim is, and I can back this up, that the formula that is prepared in the legislation and in the record which uses the so-called Orshansky method of definition of poverty, and two-thirds of AFDC, is, in effect, not correct.

I have just received from the Library of Congress an outline showing the impact of the formula in H.R. 69 on 100 major cities in this country.

What I have asked the Library to do is to take the same level of funding that is in H.R. 69 and to apply the Orshansky poverty level against this formula, forgetting AFDC completely. It has long been the aim of the Education and Labor Committee, or at least of some members, to eliminate AFDC completely, and this has been resisted by the majority of the committee. So when this so-called compromise formula was reached on title I—adding two-thirds AFDC to Orshansky—it looked like there was a compromise. In reality there was no compromise because this formula using Orshansky—and the key word is "updated"—means that the Orshansky level of poverty will be redefined each year, and that word "updated," in effect, eliminates AFDC completely because the updated Orshansky as of March of this year is $4,679.

I can tell the Members there is not any AFDC, or I will stand slightly corrected. Right now in California in a family of seven people AFDC is up to $4,700, but with that exception, there is no AFDC for incomes over $4,600. So what we really have is simply the Orshansky formula.

Since I have just received the libraries' figures less than 1 hour ago, I have not had a chance to review them completely. However, I have looked at one or two areas. I looked at Los Angeles County. Under H.R. 69, Los Angeles would get $52 million under title I. Under straight Orshansky, which is what I claim is the only thing that they will really be under, they will get $46 million, or a drop of $6 million.

In another area I took Oglethorpe County in Georgia and they will get $120,000 under the committee print. Under the Orshansky they will get $105,000 or a drop of $15,000. Providence, R.I., goes from $4.6 million to $4 million. Philadelphia, Pa., goes from $24.8 million down to $23 million.

I will have a run of 100 cities showing the impact of this Orshansky on them. I think it is vital that the Members recognize what they are really doing here is the AFDC will be eliminated as a basis for title I.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, the gentleman keeps using that figure of $4,629, which he says in the month of March is going to be established as the updated Orshansky for the non-farm family of four. The gentleman knows that figure will not be used until fiscal year 1976. The figure for fiscal year 1975 is $4,250. Why does the gentleman keep persisting in talking about $4,600?

Mr. PEYSER. I spoke to legislative counsel because I was under the clear understanding as I heard the gentleman from Minnesota say that this would date back to January and therefore be at the $4,200 level. Legislative counsel indicated he would not give any such opinion. This was subject to further interpretation.

But assuming the gentleman from Minnesota is correct and it is going to be the $4,200 for the first year, is it not then equally correct that in the second year it would be the $4,679 which it now is?

Mr. QUIE. The gentleman is correct that in the second year if $4,629 is the figure they give that would be the figure used. However, between last year and this year if AFDC payments increased, we would expect by the same token that AFDC payments would increase for 1976.

Mr. PEYSER. To discuss that point briefly, I have avoided getting New York into this discussion up to now. Naturally, New York City is not affected one iota in this Orshansky chain, because they are at the maximum down anyway. They do not get affected by this.

I could say it does not make any difference to me if we go on pure Orshansky, because according to these figures we will not lose a penny more than we are now; but New York State indicated they are still under AFDC at the 1969 level of purchasing power. At this time there is proposed legislation in the Assembly of New York State to bring it up to 1972. However, this is just a proposal, and no action has been taken on it to this time.

So I do not think there is anything that guarantees the States will keep up with the Orshansky level of poverty.

Mr. QUIE. Mr. Chairman, will the gentleman yield further?

Mr. PEYSER. I will be glad to yield.

Mr. QUIE. I know that New York has 143,444 children whose AFDC payments are above $5,000; 72,027 whose payments are between $4,500 and $4,999; and 38,043 whose payments are between $4,250 and $4,500. That is the amount that the formula is based on.

Mr. PERKINS. Mr. Chairman, before I yield the remainder of my time on this side to the gentleman from Michigan (Mr. O'Hara) I do want to state that Mr. Brademas, on March 6, 1974, already placed in the Record at 5473 the amounts that the 100 largest cities in the Nation will receive and only 23 of the top largest cities could receive less under H.R. 69 than they will receive during the present fiscal year. So if the Members will look at the charts already printed. We delivered 450 copies of charts which show county allocations under title I yesterday through the Postmaster, with the express instruction to deliver between 12 o'clock and 3 o'clock to every Member of the House of Representatives a breakdown so that they would know just what was taking place in their own congressional district under H.R. 69. If any Member failed to get a chart, please let the House Committee on Education and Labor know about it and we will see that another chart is delivered to his office.

Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. O'Hara).

Mr. O'HARA. Mr. Chairman, will the gentleman from Minnesota yield me some time?

Mr. QUIE. I yield 6 additional minutes to the gentleman from Michigan.

Mr. O'HARA. Mr. Chairman, we have heard a great deal of discussion already about the formula. The gentleman from New York (Mr. Badillo) and the gentlewoman from New York (Mrs. Chisholm) and the gentleman from New York (Mr. Peyser) find themselves in sharp disagreement with the chairman of the committee, the gentleman from Kentucky.

The fact of the matter is that they are quibbling over details. Both of them, all of them, want to see the money for title I distributed on the basis of low income, the number of children who have been classified as being from families living in poverty.

The difference between them is that they disagree over the way they count those kids. The gentleman from Kentucky, quite understandably, prefers a method of counting that does full justice to the rural poor; and the gentlewoman from New York (Mrs. Chisholm) quite understandably wants to have those children counted on a basis that does full justice to the urban poor. The differences between them have to do with how we determine who is poor for the purposes of this bill.

Mr. Chairman, the trouble with that argument is that it is based on a false premise. Mr. Chairman, this is not the poverty bill. It is the Elementary and Secondary Education Act. This is not a bill intended to do something to lift people out of poverty. This is a bill intended to do something to help youngsters who are not achieving a proper education to get a good education.

Instead of looking at how much money their parents make, we ought to be looking at what kinds of problems they have in school. We ought to be concerned, Mr. Chairman, not with the economic status of the children, but with their educational status.

Now, the gentleman from Minnesota (Mr. Quie) pointed out, although he supports this poverty based formula, that under studies that have been done by the Office of Education it can be established that two-thirds of all the children having persistent reading problems in school are from families making more than $3,000 a year; and three-quarters of the children having persistent academic problems other than reading are from families making more than $3,000 a year.

Mr. Chairman, there is no way that we can work out an equitable formula as long as we are going to base the distribution of funds on the number of poor families within the jurisdiction of a local educational agency. There is no way we can measure that which does justice both by the rural poor of Mr. Perkins' district and the urban poor of Mrs. Chisholm's district. If the Members have been worrying about how to find a formula that does justice to both of them in those terms, they can forget it. The committee worried about it for 6 months and could not come up with a formula that could satisfy all of them.

It is obvious from the debate that we have not come up with a formula that satisfies all, so I would propose and will propose, Mr. Chairman, when the time comes, that we start worrying about the educational progress rather than the economic progress of the beneficiaries of this act; that we recognize here in the U.S. Congress that the children of working people might have problems and that those problems are worthy of our consideration.

Until now, we have said, "We do not care if you are working and making the average wage and your kid has a problem in school; tough luck. You will have to take care of that on your own, buddy. We have not got anything in our programs that will do you any good. Sure, your kid may have the worst problem in the school, but it is too bad. You have got a job. We are not going to worry about your child."

Mr. Chairman, I think we have to stop our studied neglect of the problems of the children of people who work for a living. I would propose that we start distributing this money so it will be used strictly for the educational improvement of children who are having problems in school without regard to the income of their families.

I would propose that this title I money be used to improve the chances of children who are not achieving up to the level of their age group or up to the level of their class. These are the children we are trying to help, the children who are having particular academic problems, and we are going to help each and every one of them without regard to the income of their families.

That is what the amendment which I shall offer to title I, and which will be printed in the Record at the appropriate time, will provide.

My amendment will call upon the Office of Education and the local educational agencies to administer the program in such a way as to help underachieving children, without regard to family income, and it will distribute the funds among the local educational agencies in a manner that will permit carrying out that purpose.

I have already sent to the Members of the House material indicating how their States would fare and how the counties would fare under my formula.

Mr. Chairman, I hope that we can agree that this ought to be an education program and not a poverty program. If we do, I am confident that my amendment will be adopted.

Mr. SMITH of New York. Mr. Chairman, will the gentleman yield?

Mr. O'HARA. I yield to the gentleman from New York.

Mr. SMITH of New York. Mr. Chairman, I am not an expert as to this educational matter, and I was just wondering what the answer to this would be:

What kind of a count is there of children who are underachieving, and how reliable is such a count?

Mr. O'HARA. There is no way of counting the precise number of underachieving children. Based on the results of surveys that have been shown to us which establish that two-thirds to three-quarters of the underachieving children are from families with income over $3,000, I simply make the assumption that underachieving children are more or less evenly distributed throughout the population. My formula, therefore, distributes two-thirds of the title I money, on the basis of school-age population.

So two-thirds of the money would be distributed that way. There would still, however, be a poverty factor in my formula. Recognizing that there is a higher underachievement rate among the lowest income children, the other one-third of the money under my proposal would be distributed according to the same income based factors which are found in the committee bill.

Mr. SMITH of New York. I thank the gentleman.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. O'HARA. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, the only information I have seen relative to the question that the gentleman from New York raised was an extrapolation from the Glass study, which, of course, was not a complete survey of the country. It comes out to a figure of 16,394,000 with severe reading difficulties and a figure of 14,578,000 with severe math difficulty.

I know the gentleman has those figures, and it is just an estimate that somebody made rather than anything based on a complete survey. At least that is one estimate which they have made.

Mr. Chairman, I would like to ask the gentleman one question: What would the total authorization be under the gentleman's amendment?

Mr. O'HARA. Mr. Chairman, as far as the authorization is concerned, I had not really considered what the total authorization should be, because it would not come out to a formula figure in the way that the committee bill provides.

I think that is sort of academic, because we are never going to reach the authorization figure, under any circumstances, I do not believe. I would probably just approximate the current authorization figures and give it as a dollar amount.

Mr. QUIE. Mr. Chairman, the reason I asked the gentleman from Michigan that question is that we have in times past seen occasions where amendments have been offered for increasing the appropriation, and one of the arguments was that we were only appropriating a certain percentage of the authorization.

One of the reasons why we moved from 50 percent of the State average to 40 percent of the State average is that at least we now have the authorization a little closer to what has currently been the appropriation. The authorization in H.R. 69 is about $1,200,000,000 over the budget request for 1975.

Your amendment then adds to it all of the school-age children for two-thirds of it. That is why I wondered.

Mr. O'HARA. My total authorization figure will be in line with the total.

Mrs. CHISHOLM. Mr. Chairman, will the gentleman yield?

Mr. O'HARA. I yield to the gentlewoman.

Mrs. CHISHOLM. I am wondering, in the light of the intent of title I as stated by the Congress in this legislation, would you say that we are violating that intent as it was written and that we are moving in the direction of a general aid bill for all youngsters in our country and, if you are doing so, why do you not name it a general aid bill and let us forget about title I?

The CHAIRMAN. The time of the gentleman has expired.

Mr. QUIE. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. O'HARA. In the first place, I do not try to move in the direction of general aid. My bill very carefully directs the school system to use the funds only for those children within the system who are unable to keep up with their peers.

On the other hand, the way the committee bill operates in many rural school districts where there is much poverty every school in the school system is a target school. Therefore, the funds are used for all purposes in every school in the system. That is a little bit closer to general aid than my proposal, which would say that in any system you can only use the money on those kids who have special difficulties in school.

So I am not proposing general aid. Some day I think we ought to have a general aid bill, but this is not the time and place to propose it.

Mrs. CHISHOLM. One more brief question. Since there is a correlation in terms of all the statistics that have been compiled between poverty and educational advantages, realizing that we do not secure the appropriations necessary to do all of the things that all of us in the U.S. Congress would like to do, would you say we have to talk about priority educational concerns?

Mr. O'HARA. I permit school districts to set the priorities and to assist those having the greatest difficulty to achieve economies of scale. But if we are going to have a priority, it ought to be for those who have the most difficulty.

Mr. QUIE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I ask for this time in order that I may ask the chairman of the committee a question.

I represent three counties; none of them are completely in distress. In fact, I have probably the lowest unemployment rate of any district in the entire United States. I notice that Adams County received an increase of 91 percent and Cumberland County an increase of 74 percent and York County, *my home* county, an increase of 40 percent. Moneywise that amounts to an increase over this year of $935,437.

My question to you, Mr. Chairman, is this: Where do you propose to get this additional money?

Mr. PERKINS. Let me say to my distinguished friend we are operating in reality under this formula with $1.885 billion which is in the President's budget.

Mr. GOODLING. I thank the gentleman.

Mr. QUIE. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. I thank the gentleman for yielding.

I would just like to rise in support of this measure with full cognizance that the formula that we struggled finally to draft will not solve all of the problems.

But at the same time it does represent the very best efforts of a hardworking committee. It represents the distilled efforts of some 6 months of intense work. Therefore, Mr. Chairman, I would like to commend the chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS) and the gentleman from Minnesota (Mr. QUIE) the ranking minority member on our committee, on a job very well done, given the nature of the subject matter, and given the intricacies of the work.

I would hope that, when the Members have an opportunity next week to discuss the amendments that will be brought up to the bill, they will do so in full realization that there is no way to make a perfect bill, it is impossible and, accordingly, that this bill represents the strong efforts of a lot of experts in the field of education, and is the best that they can come up with, as I say, given the tight time frame in which we are operating.

Mr. QUIE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, next week when H.R. 69 is read for amendments, I plan to offer an amendment providing that Federal buildings taken over by the Postal Service as a result of the Postal Reorganization Act still be considered eligible for impacted aid funding, as they house other Federal agencies.

In 1971, a bill was passed that allowed these buildings to continue to be treated as Federal property for 2 years. These 2 years are now up, and I have learned from the Office of Education that there are 130 buildings across the country that will no longer be considered Federal buildings for impacted aid purposes.

I am sure that many of my colleagues will find that their school districts will be receiving less funds because of this expiration.

The purpose of impacted aid is to provide Federal financial assistance for the maintenance and operation of local school districts in which enrollments are affected by Federal activities. If we allow these buildings to lose their status we will not be following this principle. Just because a change is made on paper—a building is switched from GSA control to Postal Service Control—does not change the local tax situation. The loss of a tax base on these buildings still exists, and the school districts still need these funds.

I hope my colleagues whose districts will be affected and those who believe in the principle of impacted aid, will support me in my efforts next week.

Amendment to H.R. 69, as reported offered by Mr. Gonzalez:

Page 87, strike out line 22, and insert in lieu thereof the following:

Sec. 305. (a) (1) The last sentence of section 403(1) of such Act of September 30, 1950, is amended by inserting before the period at the end thereof the following: "or any real property which was transferred to the United States Postal Service and was, prior to such transfer, treated as Federal property for purposes of title II".

(2) Effective from July 1, 1973, section —.

Page 87, line 21, insert "Certain United States Postal Service Property; before "Counting".

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman from Texas for yielding to me.

Mr. Chairman, I simply want to indicate my opposition to the bill in its present form, especially to the formula under title I.

Mr. Chairman, the future of America lies in its children, and there are few things more important than seeing that every child receives a decent education. This bill, H.R. 69, however, does not accomplish that result. While it expands educational aid to areas of the country which have not benefited from Federal education funds in the past—a result I wholeheartedly support—it does so at the expense of New York State. A bill that seeks to address the problem of education on a national basis cannot do so if it drastically undercuts educational funding in one State, in this instance, the second largest State in the country.

Perhaps the problem lies with the fact that the education budget is small to begin with and that we are carving up, into little pieces, a very small pie. But whatever the reason, it seems clear that if this Congress can afford a $90 billion defense bill, a $5.5 billion foreign aid bill, a $21 billion weapons procurement bill, it surely can afford adequate educational funding throughout this country, and it can afford $50 million that will be lost by New York under H.R. 69.

Mr. Chairman, I do not see how Congress can consider approving a bill which reflects such sectional bias and such shoddy investigation.

Let me give some examples of what I mean by shoddy investigation. The committee argues that its allocation is equitable nationally—although the loss of $50 million to New York makes this claim absurd on its face. But the county allocation formula was approved by the committee without any data showing the impact of the formula on a county-by-county basis.

Furthermore, to support its claim of equitableness on a State-by-State basis, the committee had to resort to comparing apples and oranges in arriving at its figures. In addition, the central criterion for allocation—the Orshansky Poverty Index—is of dubious validity as a national standard, even according to the author of that index.

Finally, States with high per pupil expenditures, such as New York, are penalized under this formula by having their allocations reduced, while States with low per pupil expenditures are rewarded by having their allocations increased. In addition to the loss of title I funds, these areas will also lose funds for the education of the handicapped, most of whom are concentrated in urban centers. Funds for these children will be reduced from $85 million to $65 million.

H.R. 69 abolishes two title I programs: Incentive grants to States with per pupil averages above the national average, and grants to areas of high population concentrations. New York will lose $11 million by the discontinuance of these programs alone.

New York City stands to lose between $40 and $50 million in title I funds. The number of children eligible to receive title I funds in New York City will be reduced by 91,000 from the current number—this in light of the city's increasing number as well as proportion of poor people. Seventy-four percent of the State's welfare children live in New York City; 37.5 percent of the State's handicapped children live in New York City.

How can any reasonable person consider as equitable a formula which determines that only 8 percent of New York's children, 8 percent of Massachusetts' children, and 7 percent of Connecticut's children are eligible for title I aid, while 42 percent of children in Mississippi are eligible.

How long will Congress continue to pretend that the problems of New York City are not the concern of the Nation? The number of impoverished families that migrate to New York from other areas of the Nation and swell our State's welfare rolls is legion. Yet Congress has refused to set general welfare standards which would discourage this migration.

Not only must New York absorb and provide a minimum standard of living for people whom other States refuse to sustain at basic levels, but now we are being told that we must reach further into the State's resources to provide education for the children abandoned by other States.

I am tired of hearing statements to the effect that New York is bulging with wealth and has no need for Federal funds. The fact is that New York makes the highest tax effort of any State in the Nation. If 13 of the Southern States made the same tax effort as New York, they would increase their current revenues by an average of 62.8 percent. And for this we are being penalized.

It is hard to believe that the House would approve a bill which will reduce educational aid to New York City's poor children—and I am sure you are all well aware of the living conditions of our city's poor—by $40 to $50 million, when it approves $58 million for the western wall of the Capitol and $30 million for the bicentennial celebration.

How can any Member of Congress—whether from New York or not—support such a bill in all good conscience?

Finally, I would like to clarify points made in a colloquy which I had earlier today with the chairman of the Education and Labor Committee regarding the use of the Consumer Price Index in determining the number of AFDC children who will be counted for purposes of a State's share in title I funds in fiscal year 1975.

H.R. 69 requires that the Secretary of Health, Education, and Welfare determine the number of these children by using the caseload data for the month of January 1974. The bill also requires use of the updated Orshansky figure—which is available right now. This figure is $4,540. Since the language does not prevent the Secretary from using this figure—as opposed to the $4,200 figure cited by Mr. Perkins—this means that fewer AFDC children will be counted for the fiscal year starting this July.

I was told that the Secretary cannot use this updated figure because Mr. Perkins does not intend him to do so. With all due respect to the chairman, the clear language of the bill would overrule even his best intentions. Mr. Brademas' position is that the Secretary cannot use the updated figure because prior law requires him to make his determination in January of 1974 when the presently updated figures were not yet available. Unfortunately, there is no such requirement in the prior law.

Both the prior law and the present bill do not require the Secretary to make any determination in January. In fact, H.R. 69 explicitly contemplates that he would make his determination after April 1, when certain data would become available to him. Since using the $4,540 figure will substantially affect allocations for the coming fiscal year, I earnestly urge all Members to review the actual impact of this bill on their districts.

Mr. QUIE. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. Preyer).

Mr. PREYER. Mr. Chairman, last July

I joined with five Congressmen in a bipartisan statement of principles relating to education and busing.

The statement is as follows:

> STATEMENT FOR RELEASE JULY 31, 1973
>
> Our purpose today is to call for a new approach to the nation's educational problems . . . problems that are continually inflamed by court-ordered busing.
>
> We meet as a group of Republicans and Democrats, White and Black, from all sections of the country. After some 25 years' experience with desegregation and its many difficulties, the time has come for a broad-based, national approach to our educational problems. While we may not all agree on every detail and may differ on specific provisions in various bills, we share a common goal.
>
> We accept and support the objectives of integration and of the equalization of educational opportunities.
>
> We are convinced that the vehicle adopted by the Supreme Court to achieve these goals—that of massive cross-busing to achieve racial balance—is often disruptive to society (and can undermine the quality of education.)
>
> We recognize that the courts have neither the practical capability nor the constitutional responsibility to resolve issues of social policy.
>
> We point to the forfeiture of responsibility on the part of the Executive and the Congress as a primary reason for many school systems being administered under judicial decree.
>
> We derive very little encouragement from recent court decisions that the Supreme Court will point the way out of the busing dilemma.
>
> We reject the sweeping solution of a constitutional amendment to prohibit busing designed to achieve racial balance as unnecessary, unduly drastic, and of dubious consistency with the basic moral commitments of our nation.
>
> We question both the constitutionality and effectiveness of legislation designed to limit the remedies which courts may employ to enforce constitutional rights.
>
> We feel that by addressing the underlying problems—rather than the judicial remedies—we can reduce the need for those remedies.
>
> We do not believe that there is a simple or even a single answer to our educational problems.
>
> We recognize that only Congress has the power and, indeed, the duty to establish a legislative framework within which fresh approaches to our difficulties can be attempted.
>
> We believe that alternative solutions will appear only when local communities and school officials are given the means and incentives to develop them.
>
> We are confident that, with the help of Congress, Americans have the ability to overcome racial segregation and unequal educational opportunities without submitting to disruptive judicial interference.

Mr. Chairman, we felt that it was time for a new approach; that we ought to do something different, and that a new coalition could be formed of Republicans and Democrats, whites and blacks from all sections of the country. I think that we were a little wrong on our timing, or on our thinking that there was going to be a great rush to form this coalition.

But we ran the idea up the flagpole, and not many people saluted, to be frank about it. I still believe that the Congress still has the power and the duty to establish a legislative framework for addressing the underlying problems rather than just addressing remedies that the courts supply in the busing area.

So, next week, parliamentary procedure permitting, some of us will offer an amendment to carry out these principles.

I realize that under the 5-minute rule it is a very difficult thing to explain a fairly complex amendment.

I do want to point out that this amendment has not sprung full-bloom from my brow this week. It has been introduced, in the form of bills, in the past two sessions of the Congress by the gentleman from Arizona (Mr. UDALL) and myself, and in various other bills introduced by the gentleman from Illinois, Mr. JOHN B. ANDERSON. It was drafted by Alexander Bickel, a constitutional law expert, at Yale University. It has been long discussed, and it has been approved editorially by such desparate organs of opinion as the magazine of the Ripon Society, the Village Voice, and it has been discussed with many small groups, including civil rights groups. It has the approval of some distinguished black authorities such as Charles Hamilton of Columbia University. And, in fairness, I will say that it has been condemned by the gentleman from Maryland, Mr. CLARENCE MITCHELL, and by the NAACP. It has been discussed by Mr. Bickel in numerous colloquial colloquies of the New Republic magazine, and in numerous forums such as the Duke Law School.

So I invite the attention of the Members next week to this amendment when it is introduced.

The polls all indicate two important things. I think, first, that the great majority of the people in this country are in favor of school desegregation, or integrated schools. We do not often find that part presented, that the polls do so show.

The polls also show, as has been cited quite a bit here, that the public strongly opposes the use of busing to implement this. That is, our people do favor integrated schools. They absolutely oppose busing as the way to achieve that.

So how can we harmonize these two things—this belief in integrated or desegregated schools—with the desire for the best possible education of their children? This is what our amendment will be addressed to, and our bill does not solve the problem by setting out some single, categorical answer, but it does set the stage for local communities to solve the problem.

I invite the Members' attention to the bill. We will be coming in on it before next week as to the details of it.

Mrs. GRASSO. Mr. Chairman, long ago Daniel Webster said:

> On the diffusion of education among the people rests the preservation and perpetuation of our free institutions.

Throughout our history, Americans have wisely placed a special emphasis on education. In fact, we have come to regard education as the people's right. Formerly the prerogative of the State and local government, education has required increasing Federal assistance to help finance the growing costs of elementary and secondary, higher, and special instruction.

Today, the House begins consideration of legislation to extend one of the most important education bills ever adopted by any legislature—the Elementary and Secondary Education Act of 1966.

We need not catalog again the achievements of the various programs conducted with ESEA funds. To many children who have had to labor under economic and educational disadvantage, title I of ESEA has meant an opportunity to turn their dreams of a better life into reality. To the States ESEA has meant Federal assistance to help plan and coordinate programs and policies which have improved education for all children. To our major urban communities, ESEA has provided financial assistance needed to maintain and improve education programs in the face of rising costs and a declining tax base.

The bill before us—H.R. 69, the Elementary and Secondary Education Amendments of 1974—is the product of many months of deliberation by the Education and Labor Committee. It contains many important provisions, most of which have been thoroughly debated and considered by the committee.

However, the bill contains a major flaw. The committee formula for distributing title I funds is unacceptable because it would alter the present flow of funds and change the scope of ESEA.

Supporters of the new formula contend that it represents an improvement over the existing formula. The committee report contains a table showing that various States will receive more title I funds in fiscal 1975 than they are presently receiving.

A closer examination of these figures, however, reveals the deceptive nature of the committee formula. Under the existing formula, Connecticut is receiving $14.1 million in local education agency—LEA—grants under title I. Proponents of the new title I formula show that in fiscal 1975, Connecticut would receive $17.4 million in LEA grants, an increase of 24 percent.

The deception in this analysis rests in comparing actual appropriations for one year with a budget request for another year. When the old and new formulas are applied to an identical level of appropriations, Connecticut loses money. According to the Library of Congress, if fiscal 1975 funds were to equal the fiscal 1974 level, H.R. 69 would give Connecticut $13.9 million—a decrease of 2 percent from the current level.

Apart from the misleading statistics used to support the new formula, the adoption of the Orshansky formula and a limitation on the number of AFDC children represents a regression from the original intent of the Elementary and Secondary Education Act. The committee formula will redistribute title I funds away from the tax-burdened urban centers to the rural States. Also, the committee formula places a ceiling on the amount of funds any one State may receive under title I. Consequently, a State which spends less than the national average per pupil cost for education will have a greater percentage of its total education expenses paid by the Federal Government than those States which spend more than the national average. In effect, States like Connecticut which help support the education of their children are penalized for supplying this assistance.

In a letter to Gov. Thomas J. Meskill, Connecticut's Acting Commissioner of Education Maurice J. Ross wrote that the adoption of the committee formula would "severely affect the support of title I programs for the disadvantaged children in this State." I agree with this analysis. Therefore, I cannot support the present formula for title I and will vote at the appropriate time to improve it.

On the other hand, the bill continues valuable existing education programs and authorizes new programs of far-reaching potential.

For example, the bill amends and extends the Adult Education Act of 1966. At this time, an estimated 70 million Americans over the age of 16 have less than a high school education. Since the inception of the act, an estimated 3.7 million adults have taken advantage of this program to help complete their high school education. The Office of Education has discovered that adult education participants showed steady gains in employment, increased their earnings, and generally became more productive citizens. Extension of the Adult Education Act will continue this vital program to help many more Americans get the education they might not otherwise have received.

If H.R. 69 becomes law, it would also provide needed education assistance for handicapped children. Too often these children are denied the quality education that is their birthright as Americans. Although 7 million handicapped children in our country represent about 10 percent of the school age population, less than 40 percent of them are receiving an adequate education.

Last year, under the leadership of the gentleman from Indiana (Mr. BRADEMAS), the Select Education Subcommittee, on which I am proud to serve, developed legislation to extend the Education for the Handicapped Act. The subcommittee's bill has been incorporated into H.R. 69 and its provisions should lead to a growth and strengthening of educational programs and opportunities for handicapped children on the local and State level.

Finally, the committee, recognizing the importance of the school as a focal point of neighborhood activity, has included a new title authorizing funds for the establishment of community education programs. In brief, these programs would utilize schools and other available public buildings after regular school hours as centers for community learning and recreation activities. Along with expanding educational opportunities to the community as a whole, community education programs will help bring together the people of a neighborhood or community while, at the same time, utilizing all available resources for the improvement of the people in the area.

Mr. Chairman, I am confident that those provisions of H.R. 69 which are sound will receive the support of the House. Those parts of the bill which are deficient, however, must be amended and improved.

Mr. CRANE. Mr. Chairman, in recent years we have observed an increasing militancy on the part of public school teachers and their unions. Nationwide strikes which have caused hundreds of thousands of children to miss weeks and even months of schooling provides us with unfortunate evidence of the fact that the American people—parents and taxpayers—are losing control of their own schools.

In fact, the Michigan Education Association has circulated a "battle plan" to help stimulate militancy prior to the strikes which kept more than 400,000 children out of school. Known as the "Final Recommendations of the Michigan Education Task Force in a Statewide Bargaining Strategy," the union plan describes means for pressuring school districts until they give in to teacher demands.

An editorial in the Flint Journal responded to the strike by stating that—

> Not until the teachers are answerable to a popular election and are obligated to meet a balanced budget based upon a set income are we prepared to consider turning over management of our schools to them.

The fact is that in a number of States teachers are compelled to join the National Education Association, the American Federation of Teachers or some other bargaining agent as a condition of employment. They are deprived of free choice in this matter and it is difficult for me to understand how teachers who are themselves subjected to such coercion will be able to teach young people the virtues of a free and open society.

Unfortunately, the Congress has been assisting the coercive policies of certain labor unions and State and local government jurisdictions by providing Federal funds and not at the same time insisting upon freedom of choice on the part of teachers concerning whether or not they wish to join such an organization.

To correct this situation I am going to propose an amendment of title X of the Elementary and Secondary Education Act of 1965 to come on page 131 immediately after line 15. The new section, 1010, would read as follows:

> No local education agency shall be eligible to receive assistance under this Act, or under title I of the Elementary and Secondary Education Act of 1965, if the employment or continued employment of any teacher or administrator in its schools is conditioned upon membership in, or payment of fees to, any organization, including any labor organization or professional organization.

It is only reasonable and fair to expect that the freedom of choice being presented to young people by their teachers as a fundamental element in the American way of life be applied to the teachers as well. Anything else would be an act of most extreme hypocrisy and to provide Federal funds to aid and abet such hypocrisy is something which we should not countenance.

It must also be made clear that the National Education Association, which often refers to itself as a professional organization, has become little more than a labor union and one which is deeply involved in the most partisan kinds of politics.

The recent transformation of the NEA has reduced that organization to a coercive pressure group bent upon bargaining for higher salaries and spreading of partisan political material. This fact is made clear in an article which appeared in the bulletin of the Council for Basic Education of September 1973, entitled "Education as Trade Unionism." The NEA's new executive director, Terry Herndon, for example, refers to teacher accountability as a "fad" and expresses an intense interest not in education, but in increasing the union clout of the NEA.

The goal of the NEA, it seems clear, is to control all of American education. Discussing "The Labor Crisis In Education" in the November 24, 1973 issue of Human Events, Solveig Eggerz notes that—

> In order to gain the desired grip on the public school system, the NEA must first snap teachers in line with a variety of tactics. This includes insidious pressures to join the local union, often exerted by principals or superintendents. Then there are the usual coercive union tactics such as the union shop and check-off dues. In some states the unions even have political contribution check-offs in addition to dues. In California teachers pay $5 annually for political purposes. Michigan has a similar system.

An indication of the kind of programs we are supporting with Federal funds is the compulsory unionism instituted in Hawaii. In that State, the Hawaii State Teachers Association—HSTA—an NEA affiliate, is the sole bargaining agent for teachers. All Hawaii teachers have been notified by the State comptroller that "a service fee will be deducted from the payroll," which amounts to $77 per teacher and goes straight to the coffers in the HSTA.

In Wisconsin, which has compulsory unionism, Madison Teachers, Inc., is suing school district 8 for permitting an individual teacher to engage in an "unfair labor practice," such as negotiations on his own with the school board.

Such coercive practices violate all of our principles of individual freedom and free choice. To support such practices with Federal funds is to make a mockery of the goals we seek to achieve through the Elementary and Secondary Education Act.

In this respect, the amendment which I will propose will restore such freedom of choice or, if school districts refuse to provide it, deny such districts any further Federal assistance.

Amendment to H.R. 69, as Reported

Page 131, immediately after line 15, insert the following new section:

AMENDMENT OF TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 906. Title X of the Act, as redesignated by section 201(a) of this Act, is amended by adding at the end thereof the following new section:

"FREEDOM OF CHOICE

"SEC. 1010. No local education agency shall be eligible to receive assistance under this Act, or under title I of the Elementary and Secondary Education Act of 1965, if the employment or continued employment of any teacher or administrator in its schools is conditioned upon membership in, or payment of fees to, any organization, including any labor organization or professional association.".

Mrs. COLLINS of Illinois. Mr. Chairman, the 93d Congress began debate today on H.R. 69—ESEA of 1974, one of the most important education bills to come before us.

At this time, I would like to state my opposition to the distribution of Federal education funds under the proposed formula in title I.

The new title I formula, as reported by the Education and Labor Committee, does not provide for the most equitable distribution of Federal funds for education at the elementary and secondary school level. In fact, this new formula undermines the original intent of the title I program: To provide economic assistance to the educationally disadvantaged youth of this Nation. The proposed formula transforms a program of educational assistance from counties and cities which have a large concentration of poverty and disadvantaged to the rural areas. By doing this, populous counties, such as Cook in Illinois, will lose up to 15 percent of last year's funds and stand to lose even more because of growth-rate expectations in Federal education funds. More specifically, according to the Office of the Illinois Superintendent of Public Instruction, Cook County stands to lose up to $13 million under the new title I. This plan would nullify for large numbers of children who are now being served by this Federal program of compensatory education the chance to ascertain a decent education.

The financing of our urban educational systems are in, at best, a sad but curable state of affairs. Title I, as proposed, only adds to the deterioration of our cities' educational programs by allowing already insufficient funding levels to be further reduced. Urban development and redevelopment have caused cities and counties to spend more State and local funds on other high priority demands such as health, housing, welfare, and sanitation. Thus, smaller proportions of State and local funds will be spent on the education of disadvantaged children.

We all know of the exceedingly high correlation of economically disadvantaged children to educationally disadvantaged children. It is universally known, too, that there is a higher concentration of economically, educationally disadvantaged children in our urban areas than in our rural areas. I contend, therefore, that the proposed title I formula for distribution of Federal funds for education, based on the Orshansky poverty index of 1963, which was published more than a decade ago, contains a bias in favor of the rural areas of this Nation. This bias is created because the Orshansky index contains elements which discriminate against the metropolitan centers. These elements are twofold: First, the index is partially based on the derivation of income levels on food only and does not take into consideration costs of housing, transportation, and other family needs; second, the index is partially based on a farm-nonfarm distinction which omits the urban centers of this country. These two weaknesses negate the purported merits of the formula and discriminate against urban area children who sorely need quality education.

Therefore, I submit that the proposed title I formula discriminates against the heart of the economically educationally disadvantaged in this Nation and that it favors the few rather than the many.

Mr. DULSKI. Mr. Chairman, the title I provisions of H.R. 69 are totally unacceptable, and the rule is unacceptable in its limitation on amendments.

In its efforts to devise a new, more equitable formula for distribution of funds under title I, the committee has unfortunately arrived at an already outdated, inequitable formula that works against the intent of the act.

In its overzealous attempts to balance the weight of AFDA in the old formula, it will virtually eliminate use of AFDA families in urban areas. If the need for AFDA payments is not a measure of poverty, what is?

The committee's answer seems to be the Orshansky index, which even its developer admits is inadequate. The reliance on 19-year-old data, and many other shortcomings have been pointed out here in great detail, and are outlined in the committee report, so there is no need to analyze them again.

We are all aware of migrations of the past years of lower income families from rural to urban areas, and of the increasingly greater cost of living in large cities. Yet the proposed title I formula, instead of taking this into account, actually cuts millions of dollars from the largest cities' budgets for educational assistance to disadvantaged children.

Further, the 120 percent ceiling of national average per pupil expenditure is both capricious and unjust. It makes no sense to penalize States willing to place a higher-than-national-average emphasis on education; it appears to me that those States who do "try harder" will lose that incentive as well as losing funds.

There is a great deal of shrugging off these objections as only affecting New York—in fact, a good many other States are affected by various factors in the formula, and the inadequacies of those factors will become more evident as time goes on.

There will be alternatives offered to title I when H.R. 69 is read for amendment. I urge you to oppose the committee version and to adopt a reasonable, workable, fair formula.

Mr. DELLUMS. Mr. Chairman, I would like to congratulate the Education and Labor Committee for adding title XI of this measure, a step I regard as vital if we are to accord the millions of young Americans who participate in scholastic sports competition the safety and health standards they require.

The study of athletic injuries and of the need for qualified athletic trainers represents a significant advance toward the ultimate objective of providing both Federal standards and assistance in the sports safety field.

Each year, hundreds of thousands of young Americans are injured participating in sports activities at all educational levels. For example, a study published in the Journal of the American Medical Association indicates that every year one of every two high school football players is injured; since there are about 1.2 million high school football players, it means that there are 600,000 football injuries in high schools alone. And the rate of injuries for other sports—contact and noncontact—is just as alarming. Over the past few years, as a result of rising concern about such injuries, some major steps have been taken by educational and health groups to bring about major reductions in the probability of injuries occurring.

Still, most sports injuries are not properly treated. According to an article in the fall 1973 Family Safety magazine—which I inserted into the Record on October 29, 1973—there is a critical nationwide shortage of qualified high school athletic trainers. All sports-medicine authorities agree, moreover, that the shortage of qualified high school athletic trainers relates directly to the surplus of high school athletic injuries—many of which are serious, some of which are permanent, a few of which are fatal. At the college level, the problem is equally distressing.

In response to this need, I and 30 of my colleagues have sponsored H.R. 11140, "The Athletic Care Act," which amends both ESEA and the Higher Education Act to require over an 8-year period that all schools which engage in or sponsor interscholastic athletic competition must employ qualified athletic trainers. The bill also contains provisions for Federal assistance for training programs for athletic trainers.

Title XI of this bill will provide much of the detailed statistical material needed by the Congress when we give serious consideration to "The Athletic Care Act." This title of the bill is a critical step if we are going to be able to assure those young Americans who want to participate in school sports that their safety is given high priority.

At this time, I would like to insert into the debate some articles and letters concerning sports safety that I have received and which relate to title XI:

[From the Washington Star-News, Dec. 18, 1973]

When the Patient Is a Jock—Team Doctor: Ethics, Orders?

(Note.—The relations between physician and patient and physician, patient and team can be very complex. Is the doctor to follow the dictates of the Hippocratic Oath or the teams owner or coach? In this three-part series, the first of which appears today, Star-News Staff Writer Mike Roberts delves into the perplexing problem.)

(By Mike Roberts)

It would be more than a mild understatement to say there are divergent opinions on the practice of medicine upon athletes in this country. Consider, for instance, how one prominent physician evaluates the care of sports elite class:

"The people who get the worst medicine in this country," Dr. John Knowles said in a recent interview, "are the very rich, the very poor and the billion-dollar beef trust of professional sports."

The plight of the poor is clear enough, but the disadvantage shared by the beef trust and the jet set is not quite so obvious.

Knowles, former director of Massachusetts General Hospital and now head of the Rockefeller Foundation, blames what he calls the "crony system", an inclination among the wealthy to choose their friends in the profession to doctor themselves and the athletic teams they own.

Not surprisingly, some of the big names in sports medicine snort at the idea, among them Dr. Robert Kerlan, made a household word by Sandy Koufax' elbow, and Dr. James Nicholas, regular repairman for Joe Namath's knees.

"If anything, I've got to take the opposite view," agrees Dr. Stanford Lavine, healer to the Capital Bullets, the University of Maryland football and basketball teams and an orthopedic surgeon of glowing reputation. "I think the pros, and the colleges, have the best medical assistance".

So, who is to say whether jocks are being short-changed on quality? Given the inexact nature of the science, much can be said on both sides. For the athlete, as for any other layman, every question is a matter of degree, nuance, professional opinion.

Yet, apart from rating individual abilities, there are several not-so-imponderable issues still in the process of resolution, with more questions raised lately than answered.

At a recent meeting, baseball team physicians and player representatives pondered a dilemma: How to direct the primary responsibility of the doctors toward the patient, rather than to management.

The National Football League Players Association, with the same worry in mind, is considering the simple expedient of hiring its own doctor in each franchise city.

More and more athletes have been going to court to test claims that injuries were worsened because of poor advice, negligence or the administration of drugs. Houston Ridge made headlines with his $300,000 settlement against the San Diego Chargers, but other players have also been quietly settling similar cases.

In a related action, Jim (Yazoo) Smith is suing the Redskins for negligence and careless treatment when he was dragged off the field by teammates after suffering a broken neck during a 1968 game. Smith is asking $4.2 million.

The National Basketball Association has hired as a consultant a physician whose specialty is drug abuse, his function clearly being to police the league. His first act was to request each team to submit an inventory of its stock of drugs.

The team physician of the Oakland A's, Dr. Harry Walker, is under investigation by the California Board of Medical Examiners on a matter that does not concern his professional capabilities.

The case stems from an incident during the World Series two months ago and it focuses sharply on the perils of dual responsibility.

At the request of A's owner Charles O. Finley, Walker examined second-baseman Mike Andrews after the second game, in which Andrews committed two decisive errors. Walker's subsequent report, declared Andrews disabled with a shoulder injury, thus opening a spot on the A's roster for a new player.

Events that followed raised a fuss that upstaged the Series itself. Andrews' teammates claimed openly he'd been fired. While they grumbled threats of a strike. Commissioner Bowie Kuhn investigated, overruled the roster switch and reinstated Andrews. Upon his return the infielder held a press conference at which he termed the injury report a "lie".

That term is debatable. The disability report said Andrews had a chronic injury (which was true), not a new one, so Walker could not be accused of inventing something.

But the implication was obvious: That a player who had just taken part in a game and had pitched batting practice the day before had suddenly been rendered unfit to play, Kuhn's retort was that he saw no evidence to support the implication.

As matters stand now, Finley and Kuhn are engaged in a quarrel over fines for Finley's assorted indiscretions, and state officials, at the request of a California assemblyman, are looking for evidence of wrongdoing by Walker.

The questions left to ponder are whether the standard doctor-patient relationship can be distorted in a sports-team setting by a physican's obligation to management and whether a team doctor can be compromised to favor the interests of his employer over those of his patient.

Not likely in this case, ventures Dr. James Nicholas, doctor to the New York Jets and founder of the Institute of Sports Medicine and Athletic Trauma.

"I know Harry Walker," Nicholas says, "and he's a very outstanding, strong-minded, aggressive, hard nosed orthopedic surgeon, and I think he'd say 'Go shove it.'"

(Getting corroboration from Walker proved difficult. When reached by phone he said, "I don't give interviews," and hung up.)

Not that Nicholas believes in a fairy-tale world. "Now, you get characters sometimes like a Charlie Finley," he says. "You may get a dynamic type of owner who says this is my ball-club and I can do what I want with it. I think there the likelihood for a doctor to be in a stable environment and be uncompromised is much more difficult.

"Now you get a young doctor who's just coming into football, you get a Pat Palumbo, who's a nice boy and really very capable, and he's got a George Allen to cope with—that's a far different cry than I was exposed to with Weeb Ewbank. His (Palumbo's) team is made a winner by a dynamic coach and the pressures on the younger man can be very seriously contradictory."

(The young man who has a George Allen to cope with says he has not been subjected to contradictory pressures. "Coach Allen is just as concerned as I am about the welfare of the players," Dr. P. M. Palumbo, Jr., Redskins' team physician, says.)

At any rate, Nicholas concludes, "There are very few physicians right now that I know of that are being compromised."

Jack Scott, who runs the Institute for the Study of Sport in Society from his post as Oberlin College's athletic director, approaches the subject less delicately.

"You'll get a lot of sanctimonious bull from team physicians about medical ethics," he says. "You know, 'Regardless of who hires us we would treat someone the same way.' My God, I think that anyone who isn't totally naive knows that that is not true. Those sanctimonious utterances about 'We treat everyone the same and it doesn't matter who pays us'—it matters and they know it."

His view is shared by Dr. Harry Edwards, the University of California sociologist associated with the black protests of the sixties, and Phil Shinnick, former Olympic long-jumper and now athletic director at Rutgers' Livingston College. In lengthy interviews they delved into the sociological forces at work on anyone involved in big-time athletics in this country.

"It's not a thing of bad guys or corrupt guys," Edwards says. "It is a bunch of guys who are caught up in a system of doing things that bring about all kinds of cross-pressures from the various demands being made on them in their roles.

"Almost every decision is between a rock and a hard spot. The doctor who does not dispense the painkiller in order to get the athlete ready to play is not doing his utmost for the team, but if he does, to a certain extent he's betraying his Hippocratic Oath."

Shinnick spoke of "value-laden things that are being reinforced in the athletic arena, some of which are predictability of performance and obedience to authority. Doctors are just as suspectible to those values as anyone."

Nevertheless, it perplexes Dr. Robert Kerlan, who treats several pro teams in Los Angeles, that an owner or coach could find a flexible doctor tolerable. "I think they'd lose faith in them in a relatively short period of time," he says. "Who wants to have people like that around?"

One who could answer him is Dr. Donald Spencer, who was in the employ of the Kansas City Chiefs when they were preparing for the 1970 Super Bowl. Spencer felt that quarterback Len Dawson's knee needed an immediate operation. Coach Hank Stram, however, diagnosed it differently. Stram went shopping for a doctor who would see things his way and severed the relationship with Spencer who now quips, "I was put on waivers."

[From the Washington Star-News]

When the Patient Is a Jock—Anxiety Syndrome

(Note.—The team doctor's decision—whether a player's injury is serious enough for him to miss a game—is not an easy one. There is pressure from all sides and the anxiety builds. Star-News Staff Writer Mike Roberts takes a long look at this today in the second of a three-part series.)

(By Mike Roberts)

Football isn't very big at Oberlin College, which treats athletics in general with a rare sense of perspective. The schedule is small-time, the team usually nothing for alumni to brag about. Admission to games is free.

Still, last season started out as something a little special. There was a freshman quarterback who looked capable of reversing the team's streak of 14 losing seasons. Even the townspeople knew Willie Martinez was the kid who had broken Jim Plunkett's high school passing records.

The freshman whiz was for real. He threw six touchdown passes as Oberlin clobbered an old rival 53–20. Trouble was, Willie also broke his hand in that game.

"I remember taking him over to the hospital after the game to have a man come in and take an X-ray," Jack Scott, the Oberlin athletic director, recalled.

"This was just a regular doctor, but he knew who the kid was. As soon as he saw the fracture on the X ray, I could see him getting increasingly nervous. He didn't know what to tell me and he didn't know what to tell Willie.

"Finally he said to Willie, 'Where is it sore?' Willie pointed right at the crack on the X ray, and the doctor said, 'Oh, Jesus! It has to go in a cast.'"

In telling the story, Scott, a widely consulted student of the sociology of sport, was merely trying to illustrate the ambivalence created when the patient is a jock. It can be troubling enough to be the bearer of bad tidings, harder to be responsible for the sidelining of a hero, even when the financial considerations are minimal.

"It was just a very human thing that his doctor went through a lot of anxiety," Scott said. "But this is just little old Oberlin College. If that exists on our level, imagine what it's like when you're talking about a man with a $75,000 salary."

The spontaneous anxiety, moreover, rarely exists in a vacuum. More often it is coupled with external pressures when to play, or not play is the question.

The source can be an owner, a coach, or a player himself, confronted with the twin challenges of protecting his job and living up to the play-with-pain manhood ethic. It can be attrition—as Tom Kenting of the Pittsburgh Steelers pointed out, more players are in questionable health toward the end of a football season than at the beginning. Or it can be a sudden concurrence of catastrophes.

"Once when we were playing Philadelphia, three of our defensive backs were knocked unconscious," recalled Bernie Parrish, author of "They Call It A Game," a chronicle of his disillusionments with the Cleveland Browns. "To decide which one goes back in, the doctor held up some of his fingers and asked us to tell him how many. I came the closest and I was back in.

"Your own thoughts are not exactly rational, but you would expect a physician to remain rational. It turned out there were no permanent injuries, but there might have been. If this had happened out on the street somewhere all those people would probably have been hospitalized for observation."

Dr. George Resta, former Redskins team physician, elaborated on another obstacle. "One of the biggest difficulties you have with some of these coaches is that they like to play doctor," he said.

"Vince Lombardi and I had some heated discussions. Once in a game at Jacksonville a man hurt his ankle. I was telling the man 'You may have a fractured ankle,' and he (Lombardi) happened to be coming by there.

"And he said, 'What was that word you said?' I said, 'I think this boy's got a fractured ankle.' He said, 'You know, you should never use that word.'

"Then I said, 'What if it is a fracture?' He said, 'You should never use it.' I went ahead and took him to a hospital, and it was a fracture."

There are subtler ways for a coach to exercise influence. Jack Scott described one method: Within a day or two of an injury, the coach gets himself quoted saying the athlete will be ready to play next Sunday. "How the hell does he know?" Scott asked rhetorically. "He's not a medical man. But it puts tremendous pressure on the physician and the trainer to make sure the guy is ready regardless of what the consequences might be."

Conceivably that might have been what Redskins Coach George Allen was unconsciously trying to achieve with his comments against a similar backdrop two weeks ago, with quarterback Bill Kilmer hospitalized with an intestinal blockage before the Dallas game.

Never one to chat with the media just to pass the time of day, Allen issued daily assessments of the necessities as he saw them: "I hope he can be back tomorrow . . . I was hoping he'd be here today . . . This is a championship game. Whatever anyone's physical condition is, they've got to be ready to play."

In ever so subtle a way, such oratory can become a challenge to the courage and manhood of physicians as well as of players.

"It was the doctors' way of vicariously participating," said Gary Shaw, whose book, "Meat on the Hoof," exposed the brutal sidelights of football at the University of Texas. "They had the same mentality as the coaches as far as people's injuries were concerned.

"One of them told my roommate when he went to see him, 'Look, you and I know you're hurt but, you know, Coach (Darrell) Royal likes you to play when you're hurt.' And so his advice was to go on out there and play. If they could show that they were kind of tough-minded with us, well, it was somehow showing that they were tough-minded themselves."

What happens to the player caught in the middle? Dr. Harry Edwards, a sociology professor at the University of California, has done some research on the subject. One interviewee who had a damaged knee drained three times in three days was accused of malingering when he judged himself unready to play. He was given pills for his "psychological" problems and sent out to play.

Nor are football players the only ones to complain. Phil Shinnick, now athletic director at Rutgers' Livingston College, was once a world-class long jumper.

"There was a hell of a lot of mistrust between the doctors and the athletes," he said, "because there was so damn much subjective judgment. I mean I used to pray when I was in college that the blood would surface on my hamstring pulls, so I could say, 'See, I'm injured.' It could be hurting like hell and the doctor says, 'I don't see anything'."

Naturally there are athletes who see base motives in such actions. The egonourishment of associating with the famous and the emoluments of publicity are widely considered the rewards of seeing nothing or adopting the philosophy of Darrell Royal.

"Some of them are in it mainly for the prestige," said defensive back Kermit Alexander of the Philadelphia Eagles, echoing what a number of others asked not to be quoted on. "They use whatever pull they have to get the job, and it enhances their practice."

The upshot, he concluded, can be a willingness to compromise that destroys the confidence of the players.

Dr. Donald Spencer, who was fired by the Kansas City Chiefs three years ago for refusing to budge on a diagnosis, supports Alexander.

"It depends on why you're team physician," Spencer said, "to help or because it's a neat job—whether they want you or you want them. It's a pretty neat thing to be a team doctor, and the idol-worshippers tend to bend themselves a little bit."

He added, "There's a great economic gain to people who do this. Everybody turns to them. People say if the Chiefs use him, he's got to be the best there is."

This is not a unanimous position—Dr. Stanford Lavine, physician to the Capital Bullets, said, "When you figure in the time you spend, it actually costs you money to do it"—but a fairly common one.

"It's free advertising," said Dr. John Knowles, who used to coordinate medical care for the Boston Bruins. "If I fixed Carl Yastrzemski's boil on his right buttock, I'd have them lined up from here to Canada."

Knowles has never had a chance to test that proposition, but he does have some figures that indicate the potency of a jock's endorsement. When he was running Massachusetts General Hospital in Boston, one of his chief duties was raising public donations. In a stroke of genius he put the town's hockey heroes, Bobby Orr, Phil Esposito and John McKenzie, on television commercials to talk about their injuries.

"You got a million people watching these birds," Knowles said, and they say, " 'Aw, I'm telling you, man, that Mass General is the best place, the doctors and the nurses took such wonderful care of me.'

"It was the truth about the place, but these guys were getting the word around. It gave the public great confidence in us and, by god, they'd send money hand over fist if Bobby Orr said the place was beautiful.

"We started out raising a quarter-million dollars a year from about 10,000 people, and by the time I left we were raising about $4 million and we were getting it from 100,000 people. And let me promise you this: A certain percentage of those folks were hockey fans."

[From the Washington Star-News]

When the Patient Is a Jock—Team Doctors Pressed for a Double Standard

(Note.—The question of a team doctor's loyalty—is it owed to the team or to the patient?—is a perplexing one, with no simple answer. Star-News Staff Writer Mike Roberts takes a look at this dual-loyalty dilemma and explores possible alternatives.)

(By Mike Roberts)

In his book, "Meat on the Hoof," Gary Shaw described practice drills labeled with an Anglo-Saxon expletive by his University of Texas football teammates.

Exercises of this sort were designed to persuade less-talented players to quit and relinquish their scholarship—the precious mother's-milk of a college coach's survival—so that new studs could be recruited.

Typically these drills required helmet-to-helmet collisions of two men running full speed at each other or the simultaneous compression of a stationary ballcarrier by two or more tackles coming from different directions. Gruesome wounds were often the result.

Parallel tales, moreover, have, from time to time, filtered out of other campuses, most recently Florida State, where 28 players were scared off last summer.

One question that immediately comes to mind is whether the trainer or doctor who witnesses the outright, purposeless destruction of bodies has an affirmative duty to intervene.

"There's is no question about it, if you feel a specific activity is detrimental," said Dr. Stanford Lavine, who is associated with the University of Maryland and the Capital Bullets. "But we are there only as advisers. We can't set policy.

Shaw, when interviewed, said the team doctors at Texas turned a blind eye to the drills rather than challenge the supreme authority of Coach Darrell Royal. Phil Shinnick, athletic director at Rutgers' Livingston College, told of a physician friend faced with a similar dilemma at a major university. The doctor chose to suggest certain drills be eliminated. Instead he was eliminated.

This was a logical solution, of course, judged dispassionately against the realities of contact sports. As activities that necessarily involve the battering of the body, they create a unique demand for a second standard of medical care, a standard based on relative fitness to compete rather than restoration of complete health.

"What most people don't realize is that we never get an individual well during the season," Pinky Newell, head athletic trainer at Purdue University, was quoted recently in a Wall Street Journal profile. "What we do is get him back to activity."

Few persons interviewed argued with Newell's neat summation. "There can be no double standard," said Dr. Joe Godfrey, a rock of indignation, who believes he should treat his Buffalo athletes as he does his own children. He is outnumbered by those who support different rules at least for pro and college scholarship athletes, whose bodies are the tools of their trade, although many physicians draw the lines at drugs that mask pain in an injury that could be worsened.

Lavine suggested the media sometimes create false impressions: "It's a question of what you're injecting something for, as to whether it may be done for minor things that may be a little uncomfortable like bursitis or tendinitis. It comes out, 'So-and-so was injected so he could play.' I have tendinitis in my shoulder and I've taken injections so I could play golf. Say Sonny Jurgensen gets the same thing—if I were to give a guy like that butazolidin, it would come out 'DRUGGED!' "

The limits on the double standard, on painkillers as well as on other issues, have been in a gradual process of definition over the past few years. Change develops through periodic jolts like the Houston Ridge case, in which the former San Diego Charger won a $300,000 settlement for the negligent aggravation of his injuries.

The ill use of *Ridge*, like all similar instances, according to Dr. Donald Spencer, was the byproduct of conflicting pressures.

"It's industrial medicine, really," the former doctor of the Kansas City Chiefs said. "They have to have the corporation in mind. I can't treat by the way of the coach. There's enough confusion without the middleman."

Dr. John D. Ziegler, an Olney, Md., physician who has treated some of the Redskins as well as some top amateur athletes, agrees. Ziegler sees insurmountable obstacles standing in the way of the team-hired doctor.

"I know damn well," he said, "that you're going to cure the patient better if he goes to a doctor he chooses, because right off the top of the level, you've got rapport, cooperation, and I'm sure that, say, on emotional problems some players may have, they're not going to tell the team physician that.

"It limits the practice of good medicine. They're not going to tell a company doctor they're starting to get a bleeding ulcer because they're afraid somebody might bump them out of a job, and you only have rapport when the doctor is totally independent and not influenced by anyone."

Ziegler's point appears to be borne out among the Redskins, a number of whom, for whatever reasons, perfer not to be treated by the team physician, Dr. P. M. Palumbo, Jr. Some players use doctors who have no affiliation with the team, and some have been openly derisive of Palumbo.

To a degree, management exercises control of the situation. Last summer Coach George Allen sent his players a memo requiring them to ask permission to use the services of a nonteam doctor. Allen explained his intent was to keep players from "just going all over the country just to see any type of doctor." As for the aversion of some of his employees to Palumbo, he said, "Oh, you'll always have someone that wants to get another opinion."

(Concerning the need to request permission, Allen said: "Every team in the league has the same policy." Kermit Alexander of the Philadelphia Eagles said he has heard of no such policy while playing for three National Football League teams, including the Allen-coached Los Angeles Rams.)

Among the parties looking for a better way are the officials of the NFL Players Association. One idea they are kicking around is to hire a physician in each city directly responsible to the team there. Meanwhile, the union has asked the management of each club to supply data on contractual arrangements with its physician: Whether he shares in championship money or whether his compensation is connected with the number of operations he performs.

Likewise, the Major League Baseball Players Association has begun thinking about reorienting its relationships with team-hired doctors.

Alternatives do exist. Ziegler suggested "a return to the private practice of medicine. There should be a Blue Cross type of athletic insurance policy to let the player go to the physician of his own choice."

Dr. John Knowles, who used to run Massachusetts General Hospital, sees to it that the Boston Bruins make use of the orthopedic talent of that institution. According to Knowles, teams at all levels could upgrade the quality of their care by contracting with local teaching and research centers.

Research in sports medicine has been gathering a head of steam for the past few years. Clinics devoted to the athlete have sprung up around the country, in places such as Seattle, Cleveland and Atlanta. In New York, the Institute of Sports Medicine and Athletic Trauma is using sophisticated movie equipment to analyze the causes of sports injuries. A few months ago a magazine was born: The Physician and Sportsmedicine.

Also in recent years, there has been a burgeoning interest in the psyche of the jock. Motivational research, autosuggestion and hypnosis are the new tools of success.

Does this mean more attention to the individual humanity of the athlete, less inclination to treat him as a tool that needs repair? An article that appeared not long ago in Sports Illustrated gives a peek at the future.

The subject was the work of Dr. William J. Beausay, a Bluffton (Ohio) College psychologist who is in the process of perfecting "Super Psyching." By increasing an athlete's hostility and self-confidence, Beausay believes, he can improve his performances.

He discovered the phenomenon through his autosuggestion treatments on Bill Glass, the former Cleveland Browns defensive lineman. "It was incredible," Beausay reported. "Bill Glass, a completely warm, outgoing and friendly guy, ceased to be a human being. He played like a carefully programmed machine."

Sports and Safety

(By Mike Roberts)

When Congress reconvenes and settles down to pursuing its leading item of old business, namely running Richard Nixon out of town, you can expect the representative from Oakland to be in the thick of things.

Rep. Ron Dellums, D-Calif., will be right there shoulder to shoulder with the Abzugs and Rodinos and Waldies, laboring on an enterprise dear to their respective hearts.

Those activities will earn him a substantial amount of ink. Actually, he deserves it more for a couple of other projects, which are consigned to back-burner status for the time being, but have the potential to benefit nearly every school and college athlete in the country. Every parent with a jock-child ought to needle his congressman about these two pieces of legislation.

The Athletic Safety Act would bring school and college athletes under the protection of the Occupational Safety and Health Act (OSHA), thus providing the uniform standards the act entitles employes to expect from employers.

The Athletic Care Act would require every institution that engages in interscholastic competition to hire a certified trainer, with funding provisions included.

To the surprise of no one, our lawmakers are not knocking each other over in their haste to enact these two measures. It's not too hard to become cynical about the way priorities are established, especially where sports are concerned. If you want something to move fast it's got to be sexy, and the stuff Dellums is pushing obviously doesn't have the sure-fire, immediate voter appeal of, say, an anti-blackout bill.

Both sides of the Hill keep adding to a growing stack of sports-reform bills, most of them permeated by a common theme. In the halls of Congress an athlete is not just a citizen who deserves the fairest treatment he can get, legislated or otherwise. No, he is more than that. He is an instrument of American prestige.

In contrast, chauvinism doesn't seem to figure into Dellums' projects. He does not appear to be trying to show the Commies how many medals we can win, or trying to show his constituents that he cares about showing the Commies.

Dellums claims, instead, to be motivated by dismay at the routine acceptance of incredible injury rates.

"The bills are not perfectly drawn but they're enough to trigger some interest in this issue," he said in a recent interview. "While it's not front-page news unless some young athlete gets killed, there's a serious problem. There are 600,000 injuries a year in high school football alone."

It happened that one of those front-pagers caught Dellums' attention. In 1971 Bill Arnold died after being stricken during a summer football session at the University of North Carolina. There had been no trainer or doctor present. Some of Arnold's angered schoolmates went looking for an avenger on Capitol Hill and found one in Dellums.

Since then his office has become a repository for horror stories about incompetent or nonexistent treatment on high school and college fields.

One couple from Ohio wrote in with a harrowing tale about their son, a 15-year-old football player. The boy broke his neck hitting a tackling machine, falling face down. The "trainer" on the scene suggested he turn over, which the boy accomplished after several tries. Spurred by the trainer's encouragement, he tried to get to his feet several times. Ultimately the trainer helped the player up, wrenched his helmet off, walked him a distance to a car and drove him over bumpy road to a hospital.

There was a happy ending, sort of. After traction, surgery and a bone graft the boy recovered. The question is, how many others, every year, aren't so lucky?

"There are millions of young people around this country whose futures have been jeopardized because they have no competent trainers on the staff," Dellums said. "It's a problem of priorities. There are a lot of schools with very sophisticated hardware. They pay $4,000 for a blocking machine but won't appropriate $800 or $1,000 added to a salary to employ a certified trainer."

He concedes that the federal government is not the ideal instrument of redress. "But can we afford these injury rates in sports because of a philosophical belief that only states should act in certain areas?"

[From the Washington Star-News, Nov. 4, 1973]

High School Injuries

(By Joan Ryan)

The statistics on high school football injuries are staggering. According to a study published in the Journal of the American Medical Association, one out of every two high school players is injured each season. Of the 1.2 million boys who play, 600,000 will limp home at the end of at least one game.

Spot studies indicate there were 40,000 knee surgeries performed last year. Had the initial injury been treated properly, 30,000 of those operations would not have been necessary. But most high schools lack the funds for hiring a physician, much less a trainer, for both practices and games.

Rep. Ronald Dellums (D-Cal.) has introduced a bill entitled, "The Athletic Care Act," which has just received a gentle push up the ladder of legislation. The Athletic Care Act will require that all educational institutions engaged in interscholastic athletic competition employ certified athletic trainers within eight years of the bill's passage.

Michael Duberstein, an aide to Dellums, expects the bill to become law within two years. "This all came about two years ago," Duberstein said. "Bill Arnold, a lineman at the University of North Carolina, died of exhaustion on the field. Some players and former players who felt they couldn't get a fair hearing in the school came to Washington with their cause.

"They went up and down the hall, knocking on doors. They finally called our office, and I met with them on Thanksgiving Day. It's the first time in the history of Congress that the question of athletic safety is being considered."

The bill has 30 co-sponsors, one of whom is former pro football player, Jack Kemp (R-N.Y.). "We are concerned with what we can do immediately," Kemp said. "We need trainers for the teams and adequate medical care. The bill points up the need for safety, but

I would imagine that requiring teams to have trainers would end 70 percent of the athletic programs in the country. Basically, I'm against federal intervention. It should be in the hands of local and state government."

Texas is one state that has acted upon the need for proper trainers already. Each team has a physician and most schools have licensed trainers. Those that don't use student trainers share a pool of certified trainers who have their treatment rooms in the several stadiums.

Money is always a problem in education, but the Houston independent school district funds its trainer program through ticket sales. Other parts of the country are less supportive of high school football, though. Bethesda-Chevy Chase High School has already felt the crunch. Athletic director Harry Botsford was enthusiastic about the need for professional trainers, but he was realistic about the lack of money available.

"Last year we had $8,300 in gate receipts, but our budget was $12,000 and the board gave us only $1,100. Our football field is in the middle of a one-fifth mile asphalt track, and a boy running into the corner of the end zone runs right up on a 10 foot square of blacktop. They told me it would cost $60,000 to reposition our field."

With Botsford and many others, it will be a case of first-things-first. But a genuine need is there. "We don't even have a doctor on the field," Botsford said.

"We just call the rescue squad. I even tried to get a pool doctor but there are so many legal implications. Doctors don't want to get involved. We have some good coaches, though. They fit the equipment on the boys, and when we start out practicing we give the boys breaks for Gatorade to replace the liquid. We have a clinic about heat exhaustion."

Not all coaches are that compassionate. The legend of Vince Lombardi has been misinterpreted by too many in the profession who think that driving a team is the sure way to win.

The Lombardi theory dominates today to the detriment of sports," Kemp said. "That the end justifies the means is wrong. Participation is more important than just winning."

I'll go Jack Kemp one further. Participation and surviving the contact sport without injury is more important than winning.

[From the Los Angeles Times, Mar. 6, 1974]

TALK OF THE TOWN

(By John Hall)

To Your Health: The statistics are grim . . . "Over 66% of all high school football participants are injured seriously enough each season to require medical attention," says a report from the National Athletic Health Institute . . . In California alone last season, nearly 60,000 prep footballers were injured. More than 18,000 needed medical attention.

Why doesn't somebody do something? . . . Well, somebody is. "We think many injuries could be prevented if the student trainers and coaches were better prepared," said Dr. Robert Kerlan, orthopedic surgeon and team doctor of the Lakers, Kings, Rams and Angels.

"The need for training in this area is critical and long overdue," said Dr. Kerlan. "Too often a student is designated team trainer, given a first aid box and turned loose on the athletes. He tapes ankles, wraps sprains, applies ointments and moves injured players around at will, often without the slightest knowledge of correct procedures."

More than merely concerned, Dr. Kerlan is one of the founders of the National Athletic Health Institute, which tackles these problems with the first annual "Student Trainers' Emergency Sports Medicine Seminar" here Friday and Saturday at the International Hotel.

"This seminar will provide the incentives and resources for similar programs throughout the United States. It is being funded by the Institute as we believe the need is too important to limit this to only those who could pay for it themselves," said Dr. Kerlan.

Some 300 student trainers from the L.A. City and CIF high schools are to attend. The sessions are open to anybody involved with high school athletics . . . Besides Dr. Kerlan, 19 physicians and specialists will lecture.

[From the Baltimore Evening Sun, Dec. 6, 1971]

REGULATIONS REQUIRE PRESENCE—PLAYERS BANG HEADS ON FIELD WITHOUT A DOCTOR ON SIDELINES

(By David Lightman)

Scholastic football players throughout the Baltimore metropolitan area went onto the field numerous times this fall without a doctor being on the sidelines, a survey of local schools has revealed.

Public schools in the city and the five surrounding counties have athletic regulations requiring doctors to be present at all varsity games.

Most coaches and athletic directors interviewed said they want a doctor on hand in case of serious injury.

But when game times comes the game goes on with or without a doctor present.

No figures are kept on the number of football injuries in games and practices.

The last football related death in Maryland was September 30, 1970, when Franze Rober Miller, 15, a player for the Havre de Grace junior varsity team died after a game in Elkton.

The boy had been hit, recalled Coach Jim Marron, and he came off the field saying his neck hurt. He sat down "and five plays later, he dropped off the bench backward."

DRIVEN TO HOSPITAL

There was no doctor on the scene; the boy was driven to a hospital where he died the same day.

A study of the National Commission on Product Safety has found that more than 250,000 football players suffer brain concussions annually. Of these, 5,000 to 10,000 have serious effects at once.

Last year, 29 players were killed in football games: 3 in college, 23 in high school and 3 in sandlot action. In addition, 14 football deaths were associated with indirect causes, such as heat fatigue or heart failure, a survey has revealed.

While in the city and all five counties—Anne Arundel, Baltimore, Carroll, Harford and Howard—doctors are required at all varsity games.

The city and Anne Arundel and Baltimore counties require doctors at junior varsity games.

There are no regulations anywhere in the metro area pertaining to practice sessions.

The Archdiocese of Baltimore requires doctors at games and the rule is enforced to the letter, officials said.

SOME ON SIDELINES

Private schools belonging to the Tri-County League have no regulations pertaining to the presence of doctors, although league officials claim that doctors are on the sidelines at most games.

The Baltimore Colts always have two doctors at every game, home and away. They don't have doctors at practices because there is no contact work, such as you have in high schools, an official said.

A doctor is always present at University of Maryland home and away games.

High school officials say the expense $50 per game for a private doctor—and a lack of available physicians is the reason for not always having doctors present.

"Having them there is a hit or miss proposition," William Callahan, Anne Arundel county's director of athletics, said. "It's really the doctor himself who determines where he's present.

"I really don't know how to relieve this," the 16-year county veteran said.

DUTY FOR COMMUNITY

At Anne Arundel school health council meetings, Dr. Sherman Robinson, a Severna Park physician, has suggested that the high school communities furnish doctors at games.

Mr. Callahan likes the idea, but so far it has not been put to widespread use.

"The problem is that doctors and ambulances never give us first priority," he said. "If there's a car accident and the game is starting, the doctor will go to the accident. Really, they don't have much choice."

The situation isn't much different in Baltimore county, where Joshua R. Wheeler, superintendent of schools, calls doctors' attendance "really a voluntary thing on the part of the doctor."

He said the county never has postponed a game because a doctor was not present.

Mr. Wheeler said, "I would not be upset if a game was played without a doctor. The chance exists in any activity around school that someone will be injured." He pointed out that many teachers have first aid training.

The county's director of athletics, Harold (Peck) Martin, however, claimed, "a doctor is in attendance at every football game, varsity and J.V."

A poll of the county coaches refuted the claim, although most coaches said doctors are "usually" present.

"Of course, we don't have doctors at practice sessions, and there probably are more injuries there than at games," he said.

Most metro teams hold practices four times a week. Mr. Martin said lack of money prevents having doctors at these sessions.

Elmon Verneer, director of physical education in city schools, claims, "Frankly the need for a doctor at a game comes about because of the impact of football on the spectators.

"They really can't treat more than first aid out there on the field. We really need doctors more during the week, during practices.

SOME FIRST AID

Mr. Verneer said most city coaches or trainers qualify for first aid, and they will put in calls for ambulances if serious injuries occur.

"At times," he added, "doctors tend to go overboard."

"I'd like to have a doctor everywhere, though, but there just aren't enough to go around."

Earl Hersh, supervisor of health and physical education in Carroll county, said that of the more than 50 varsity games in the county this year, only 2 did not have doctors present.

In one case, the physician was called away to deliver a baby. In the other, he had a meeting out of town.

"We try to have doctors at all varsity games," Mr. Hersh said, "and we try to have doctors there or on call at JV games. There are none at practice sessions, however."

Of the four county high schools, Francis Scott Key J.V. has a doctor at all games, Westminster at half the games, South Carroll "sometimes," and North Carroll none.

NO MAJOR INJURIES

"We are lucky we've had no major injuries," he said. "I feel there should be doctors at all games, but there's a shortage on doctors in some communities."

South Carroll and Westminster pay its varsity doctors between $10 and $15 a game, while those at Key and North Carroll contests are volunteers.

In Howard county, all doctors are paid $30 a game when they show up.

Walter D. Phelan, supervisor of physical education for the county, said "We had some games this year where doctors didn't show up," but said he would not have figures until principal's reports on their football programs come in later this month.

"For 15 years no one ever cared," Mr. Phelan said. "No one has doctors in the state except in Baltimore city. We're trying to get them here, but most of them are interns at Hopkins and they just can't come." "We're very fortunate" that no serious injuries have occurred this year.

But, he added, "It's like being on the desert and having the money for water" in trying to get doctors.

MONEY IN BUDGET

"We recognize the doctor problem does exist," M. Thomas Goedeke said. "We'll put a budget in for fiscal 1973 to have doctors at J.V. games.

"But money is just a part of the problem. The other part is obtaining the services of medical people."

Howard J. V. games are on Thursday afternoons, which Mr. Goedeke said is an extremely bad time to keep either doctors or ambulances on call.

Blessed with a doctor and a trainer of its own, Edgewood Senior High School fields a football team that is the best protected in Harford county.

Dr. Emory Linder, of Joppatowne, not only is with the team for its game but he also visits two or three practice sessions a week, according to Bud Coakley, who is in his 1st year as the school's athletic director and his 14th year as its head football coach.

YEARS OF SERVICE

Dr. Linder has been providing his services for 4 years, which, while impressive, comes nowhere near matching the 17 years William (Doc) McShane, a retired Army medic, has worked as the team's trainer.

"He's here every day from 3 o'clock until we get through, and he's here for all the games," Mr. Coakley said.

"Our entire outlook on injuries is very much brighter so far as worrying is concerned," he continued.

"And it's all free, thank goodness."

The only money the school must spend for major safety measures is a $125 donation to the local volunteer fire department that provides an ambulance at each of Edgewood's five home games.

Although its football team established itself as one of the best in the state this fall, Bel Air Senior High School has, at best, only makeshift safety precautions.

No local doctor can afford to spend the time Dr. Linder does at Edgewood—a fact Pat Hennessy, Bel Air's football coach, attributes to the heavy population concentration in the area.

Hence, the school pays $20 a game to the Harford County Medical Society which handles the chore of hunting down an available doctor.

Practice injuries are avoided mainly because Bel Air rarely scrimmages once the season has started.

The remaining schools in Harford—Aberdeen, Havre de Grace and North Harford—operate somewhere between Edgewood and Bel Air as far as safety precautions are concerned.

Dr. Linder also attends North Harford's games regularly as a team physician.

USUALLY A PARENT

Private schools have similar problems. In the Tri-County League, there is no regulation concerning doctors at games.

However, most schools try to provide medical aid. At Boys Latin, Hugh Gelston, assistant athletic director, said his school has a doctor at each game, usually a parent.

The eight Catholic high schools in the area are required to have physicians at all varsity and J.V. games.

Lawrence Callahan, director of secondary education, claimed the rule is enforced and said he has received no word that doctors are not present at some games.

The physicians usually are parents or volunteers, he said, adding that paid physicians soon volunteer their services after they've been with the team for a few years.

"They work in with the program," he said, "They become a part of the school."

EMERGENCY SET-UP

Doctors are not mandatory at practices, Mr. Callahan added, but schools are required to have "proper set-up" in case of emergency. That usually involves an agreement with a local rescue squad or fire department that can be called in case of serious injury.

Throughout the area, Mr. Callahan's attitude is typical of how school officials view the doctor dilemma.

"We've all been very fortunate," he said. "In Anne Arundel, we have had nothing in the nature of a serious accident for 8 or 10 years. There's been nothing to really endanger the life of any kids.

"But the solution is a two-way street. You can't force doctors into coming. We used to think it was just a case of not having enough money to attract them, but it's not that."

MORE AT PRACTICE

And officials recognize the practice problem. "You have four times as many of those," Mr. Martin said. "I'd say you need doctors four times as much there."

Their fear, too, is the one presented to the Howard county school board recently by Mrs. Evelyn Hawkins, a county parent seeking to have a J.V. regulation implemented.

She has had three sons play football in the county.

"One of these days someone's going to get hit with a hell of a big lawsuit," she said. "Everyone agrees something should be done, but everytime I sit on one of those practice sessions it looks like they're hitting harder."

IS THERE A DOCTOR IN THE HOUSE? NO ONE KNOWS WHAT HIT HIM

When Mount Hebron High's tackle threw a hard block at a Glenelg's fullback, the back staggered around. He fell, dazed, in the middle of the field.

He laid there for 15 to 30 minutes, coming out of his unconscious state twice.

As the Glenelg vice principal, J.V. football coach, and his big brother encircled 14-year-old Billy Thomas, he blinked his eyes to ask, "Did anyone call an ambulance?"

No one ever did, because no one could decide what had felled Billy Thomas. After a delay in the game for nearly half an hour, they carried him off the field on a stretcher.

There was apparently no serious injury, and the lay medical team decided it was either the heat—temperature in the 90's—or the hit—first game of the season; Billy not in top shape. But no one knows yet what or how Billy was hit that day.

He was back in the Glenelg J.V. lineup the next week, and was there for every game the rest of the season.

Mrs. Augusta L. Thomas, Billy's mother, still doesn't know what came over her son. "I was in the stands," she said. "We believe it was the heat. I didn't go down there because kids just don't like to admit they're hurt, especially to their mothers."

SEMI-CONSCIOUS STATE

In Glenelg's game against Wilde Lake's JV, David Carroll was hit hard. He came back to the bench semi-conscious.

"My son walked over to him and he asked 'Where am I?' " according to Mrs. Evelyn Hawkins, whose son Lee plays for Glenelg. "You know how kids are. David would have sat there 5 or 10 minutes and probably would have gone in."

Instead, Mrs. Carroll drove her son to a hospital, where he was given medication and released.

Vernon Siebert, Glenelg's director of athletics, admitted the school's football program could be dangerous because doctors and ambulances no longer come to varsity or J.V. games, despite a county requirement that they be present at varsity contests.

"We haven't had a doctor at the last three games," he said. "In the past, we always had either a doctor or ambulance.

"Now, it's very rare they'll stay for the entire game. The county's growing and we just do the best we can. We try to observe the county requirement, but sometimes it's out of our hands."

[From the Charlottesville (Va.) Daily Progress, December 19, 1972]

CARE FOR WOUNDED PLAYERS

Bubba Smith, Bob Griese, Sonny Jurgensen, Roger Staubach—these are only a few of the National Football League players who have suffered serious injuries this season. It is estimated that around one-half of the nation's football players, from the high school through professional levels, suffer some sort of injury every year.

Most of the injuries are minor, but the major ones often require the services of specialists in sports medicine.

The number of doctors involved in sports medicine evidently is growing rapidly. No one knows for sure how many are active in the specialty, but the AMA estimates that 20,000 practice either full- or part-time and that 20,000 others volunteer their services by attending games.

During a season, the Wall Street Journal reports a typical pro football team will spend around $120,000 for doctor and hospital bills and $20,000 for tape, bandages and other medical supplies. That represents a total medical bill of $3.6 million for the National Football League's 26 teams. And disabled players continue to draw full salary.

The most common form of serious football injury involves damage to the knee. As a result, great advances in treating knees have been made in recent years. Gale Sayers, the former Chicago Bears halfback, came back from 1968 knee surgery to lead the NFL in rushing in 1969 with 1,032 yards.

Dr. Theodore Fox, who performed the operation, said that 10 years earlier "we would have put a brace on his leg, and he would have been finished." Early diagnosis and repair are essential, according to Fox. If the operation is delayed too long, he says the job is "like sewing wet noodles together."

The trouble is that high-quality medical care often is lacking at the high school level. In a paper submitted to last year's AMA conference on sports injuries, Dr. L. W. Coombs wrote:

"Of approximately 25,000 high schools in this country, of which about 60 per cent sponsor football programs, only about 100 schools employ the services of a full-time teacher-athletic trainer.

It is unfortunate indeed that the fewest athletic trainers are to be found where the need is greatest."

[From the Athens (Ga.) Banner-Herald and Daily News, Jan. 21, 1973]

SMALL PRICE TO PAY . . .

(By Johnny Futch)

"How safe are school sports?", wonders a recent Sports Trail Magazine issue. The answer, apparently, is "not very!".

Something like 64 per cent of all participants in high school sports will wind up on someone's injury list, many with ailments that could have been avoided or reduced in seriousness had they been recognized in time.

Attempts to improve the situation so far have centered around convincing athletic programs to include a training room in their setup and the training of student-trainers through courses co-sponsored by schools like the University of Georgia and the training supplies companies.

The magazine staff surveyed 450 secondary schools, 59 per cent with less than 1000 enrollment and found that two-thirds of them had training room facilities. Only six per cent of the schools polled employed certified trainers although 56 per cent had qualified student trainers. The responsibility usually fell on the shoulders of an assistant coach, who had only rudimentary knowledge of athletic injuries and sport medicine.

The National Association of Athletic Trainers (NATA) decided at its annual meeting last week in Chicago that the situation had become critical. The NATA, hoping to turn the flood tide of prep injuries, is asking Congress to require all schools receiving aid under the Elementary and Secondary Education Act of 1965 and participating in interscholastic competition to employ a qualified trainer.

Certification as a trainer would be accomplished by one of three methods: (1) by meeting the athletic training curriculum requirements of one of the 20-odd schools currently approved by the NATA; (2) by holding a degree in physical therapy or corrective therapy and spending at least two academic years working under the supervision of an athletic trainer or (3) having completed at least four years beyond the secondary school level as an apprentice athletic trainer serving under the direct supervision of a certified athletic trainer.

The big problem, of course, will be funding, but with the growing participation in prep sports, it's difficult to argue against a bigger expenditure for student-athlete health and safety.

One look at a prep injury survey is enough to convince you that something must be done. The NATA bill is a giant step in the right direction.

ASSOCIATED INTERNISTS, P.S.,
Spokane, Wash., June 21, 1973.

Hon. RONALD B. DELLUMS,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DELLUMS: My most sincere congratulations to you for introducing bill H.R. 2575, "The Athletic Safety Act of 1973". I certainly agree 100% with your thinking that too many schools and colleges do not follow sound safety practices, and certainly we can do a great deal about preventing injuries. I think that the bill that you plan to introduce entitled, "The Athletic Care Act of 1973", will be very effective in getting our highschools to employ a qualified athletic trainer. It is too bad you put in eight years as a deadline time. It should be within the next two years.

We have been trying to get a fulltime athletic trainer for our school district in Spokane for many years, but it is a matter of money since our school budget is very, very limited for things like this, and at times runs a little bit dry. But this is the only way to go, and certainly one of the great steps forward in preventing athletic injuries. I think funding of such a bill would certainly have to be aided by the federal government.

Under separate cover I am sending you a complimentary copy of a book which I recently had published entitled, *The Prevention of Football Injuries—Protecting the Health of the Student Athlete.* You may enjoy reading it, and certainly I realize that our goals are similar. More power to you, and I hope that both your bills have no trouble in being passed.

Sincerely,

O. CHARLES OLSON, M.D.

OCTOBER 29, 1973.

DEAR SIRS: Even though several weeks have passed since we were told of your appearance on the "Today Show" pertaining to the game of football, injuries, trainers and coaches, we want you to know that we are with you 100%. Much to our regrets we did not get to see the program, but had numerous calls telling us about it. Even one of the calls was long distance.

The reason for our deep concern is because of a very serious accident that happened to our son. We feel that with the proper training our son's injury could have been much less. Only with God's power is he now called a "Miracle".

Our son's name is Brian. His accident happened on August 16th, 1972. At that time he was 15 years old. He is 6′5½″ and weighs 206 lbs. He lived for sports and lived a wonderful clean life. Never did he think he was good enough to stop working harder and stronger. The year prior to his accident he had been captain of the football team, captain of the basketball team, voted the best catcher on the baseball teams and an outstanding snow skier. Due to the negligence in his accident he no longer can participate in any contact sports. To look at him today (particularly the last month) he looks like he could tackle a team single handed. He has achieved this look again through determination and the right attitude.

Brian tackled a Hooker Tack-L-Matic Machine on the first day of practice without any padding on except a helmet. Upon contact he hit and broke his neck. He dropped forward and told the coach in charge he was hurt. Because the coach saw that he could move his feet he told him to turn over and after several trys he flipped over only to be unable to move thereafter. He was left to lay on the field approx. 45 minutes. The trainer was called during this time and he took a pencil and scratched the palms of Brian's hands and pinched him in areas to see if he had any feeling. He could feel nothing and told them he felt weird. After about 35 minutes he could move the lower part of his body still with pain. At this time they asked him if he could get up and he said he didn't think so. They told him to keep trying. During this time he was lying on the field the trainer pulled his helmet off his head. Finally he got up and the trainer walked him to the parking lot (approx. a short city block) to a car and drove him to a hospital. About half way there the trainer turned the car around and drove him back to the school. My son asked where he was going and he said, "I think we better go back and get an ice pack for your neck."

He then proceeded to turn into an area where large trucks had been delivering cement blocks for building purposes at the school. Large ruts had been formed by these trucks because of rain. The trainer drove Brian right over these ruts then parked the car and left him in it while he went and got an ice pack. He returned and told him to hold it on his neck. Upon arrival at the hospital he told the emergency desk he had a boy with a pinched nerve and wanted it X-rayed. Upon X-rays they found the neck was broken and told our son not to move. They then told the trainer who was in the waiting room. He did not even go in to our son but left him there alone and returned to the high school. When I reached the hospital our son was lying alone in a room with a neck collar protector on. An ambulance had been called to transfer him to another hospital. The coach came the first night he was in the hospital and we have never heard from him since. The trainer never did contact us. We have taken our son to football and basketball games during recovery stages and the trainer and coach has been there and never approached us as to Brian's condition.

Brian went through 40 days of neck traction, then into a minerva jacket cast (weighing 30 lbs.), then had to learn to walk, stand, go up and down steps again, then into a cervical steel four poster neck brace. After 3½ months we found this did not do the trick and we had to start all over again. He returned to a different hospital to have surgery. They found a chip of bone had broken away from the neck and without the brace his neck would hang on his chest. A mylogram was done, followed by surgery the next day. A bone from the hip was taken and replaced in the neck by the Orthopedic Dr. then three wires were wrapped about the 3, 4, and 5th vertabraes by the Neuro-Surgeon. Our son was taken from his room at 11:45 a.m. and surgery was over at 6:00 p.m.

The Doctors feel that if he had been handled in a more proper way, his injury could have been much less. The pulling off of the helmet was extremely dangerous, walking and driving him in an automobile was dangerous. Of course they say not being on the field to examine him they could never prove this, but it only stands to reason, the care was neglectful, but thank God we have our son alive and not paralyzed today.

Please do not feel we are looking for sympathy. We only feel that from what we have heard from the people that heard you gentlemen on the Today Show, that what you are trying to do and say is proof here in our accident. Please do not give up on enforcing what you so rightly believe.

Our son is alive but without God he would be gone. If you can save another child from something like this, believe me, the reward will be everlasting.

Good luck and god bless you for being concerned about all the children in the athletic world.

If we can be any help to you, please, please contact us.

Sincerely,

——— ———.

Mr. BINGHAM. Mr. Chairman, if H.R. 69, the Elementary and Secondary Education Amendments of 1974, is passed by the House in its present form, the Congress would be slashing Federal fiancial assistance in areas where it is needed most—those school districts unable to provide the educational tools and programs necessary to break the education deprivation-economic deprivation cycle. For millions of city youngsters with hopes of climbing out of poverty, this bill could threaten a lifelong sentence to the bottom of the ladder, all in the name of reform. H.R. 69, as reported by the Education and Labor Committee, does contain several worthy reforms. But the formula for sharing the bulk of this Federal aid would reverse the progress that thousands of urban school districts have made in improving the ability of ghetto children to compete and achieve on equal terms with their peers.

This is a complex and tricky matter, but its implications are of disastrous importance.

The present title I formula calculates the Federal grant to be received by each school district on the basis first of the number of children age 5–17 from families with incomes under $2,000 a year according to the decennial census, and second, on the number of children age 5–17 from families with incomes over $2,000 a year from AFDC payments. Each school district's entitlement is thereafter computed by multiplying the total number of children from these two categories by the greater of one-half the State or national average per pupil elementary and secondary education expenditure.

The proposed revision of the formula would substitute the Orshansky poverty index for the $2,000 poverty level, decrease the amount of AFDC children counted over the poverty index by one-third, and set a 120-percent ceiling on the per pupil expenditure used to compute the formula. Thus, if a State's per pupil expenditure is greater than 120 percent of the national average, State expenditures above that figure would not be rewarded by increased Federal financial support.

This method of calculating how 82 percent of Federal school dollars are to be spent is neither rational nor fair.

Imposing a 120-percent ceiling on per pupil expenditures to compute the title I allocation formula would effectively punish States with the most advanced education programs and would serve to encourage a decrease in State education funding supplanted by increased Federal funding. This policy is contradictory to the professed philosophy of the administration to encourage increased independence of the States from the Federal Government.

The Orshansky poverty index figures are outdated. The consumer information analysis in the original computation of the index was supplied by a 1955 Department of Agriculture food consumption survey, and a 1961 study of family expenditures conducted by the Departments of Labor and Agriculture. Revision of those figures to update the formula would take from 6 to 12 months, and it would have to be done annually to be the accurate up-to-date reflection of poverty that the formula claims to represent.

In addition, no provision is made in the index for housing costs, transportation costs, medical expenses, or a person's assets. Ms. Molly Orshansky, the index's originator, stated before the Special Education Subcommittee:

> (The index) concentrates on the income-food relationship, although for urban families, particularly those handicapped not only by lack of money but by minority status and large families, the cost of housing may be critical.

She recommended that further analysis of the formula be conducted before it be used as a poverty index.

The committee's rationale for the title I formula reform was that the wealthier States, particularly New York, were receiving too much of the Federal pie. Although New York does receive a greater dollar per child grant than California, for example, due to their higher average per pupil expenditure, New York and California both receive only 19.8 percent of their average per pupil expenditure for a title I child, while States such as Minnesota and Mississippi receive 25 and 89 percent of their per pupil expenditures, respectively. It should also be noted that Federal moneys account for only 5.4 percent of the total expenditures made by New York for elementary and secondary education, while the Federal share of Mississippi's expenditure is 26 percent.

One example cited by the committee to justify the revision of the title I formula as it pertains to the AFDC factor compared New York's share of the 1974 title I assistance to Texas' share. New York, it was argued, received 4 times the financial assistance Texas received even though the school age population of the two States were nearly similar. This result was obtained, the argument went, solely because New York's AFDC payments were substantially higher than those of Texas, thereby causing a larger number of AFDC recipients to be added to the New York base for purposes of computing its Federal share. Not just New York, but most States would be adversely affected by the reduced emphasis placed on AFDC children inasmuch as only a very few States make AFDC payments at levels sufficiently high to exceed the Orshansky poverty index thereby qualifying for Federal aid.

According to the Social Services Administration, AFDC data used to allocate funds is the most accurate data which can be provided on a county-by-county basis, and is the way title I funds are presently allocated.

The hold-harmless provision included in the new title I formula is misleading. Although it appears to prevent any State from having its Federal share reduced by more than 15 percent, it means, as I read it, a State's Federal share shall not be reduced by more than 15 percent in any 1 year. Indeed, if this formula is adopted some States could expect reductions in Federal assistance far beyond the so-called hold-harmless limit. Unless the formula is amended it would dilute the application of title I moneys, creating a general aid formula deemphasizing urban needs in favor of rural ones. This is directly opposed to the trend of the population flow that the United States is experiencing from rural to urban areas.

Title I funds are to be allocated on a county-by-county basis. If the title I formula adopted by the committee and presented to the House for approval is consistent with the intent of the original allocation policy, why did the tables that were prepared for the committee only show the estimated State allotments? As I understand it, there is no definitive set of statistics showing the effect the proposed title I formula would have on each of the thousands of counties in the country. In addition, the House Education and Labor Committee was forced to vote on the formula change for title I without the benefit of ample reflection prior to its being offered as an amendment. So too, there was no data presented to the committee indicating its effect on different areas of the country. I must echo the objections of the dissenting members of the committee that the chart that was made available to the committee just prior to the final vote was invalid because it did not make statistically proper comparisons. Why, for the three different fiscal years shown were three different portions of the title I allotments used, calculated at three different appropriation levels? Such statistically invalid comparisons void the entire basis for supporting the new formula.

The committee's proposed change in the title I formula would cut New York State's allocation approximately $50 million. Time is needed to study the effect of any formula on a county by county basis, keeping in mind the original intention of the formula of aiding poor children's schools, and to evaluate thoroughly alternative proposals.

Moreover, inasmuch as the committee's proposed replacement for the present title I formula does not address the needs of the educationally disadvantaged, but rather appears to simply be a punitive measure aimed at large metropolitan school systems such as New York City's, many Representatives may have no choice but to oppose the passage of title I in its present form.

I am amazed and disappointed that the Education and Labor Committee, with its long record for drafting forward looking, meaningful legislation designed to meet the special education needs of the disadvantaged has now reversed its course. I urge my colleagues not to be misled by the prose of the committee report. Under the guise of reform the proposed title I formula, stripped of all surplusage, is regressive legislation that would undo nearly 10 years of Federal efforts to improve the educational skills of the children most in need of such aid.

While title I leaves much to be desired, there is much in this legislation worthy of House approval. The committee has rejected the extreme no strings, revenue sharing approach which the administration originally requested. Many excellent categorical programs have been continued. H.R. 69 would continue to fund the school library resources program, which during its lifetime has been responsible for the establishment of nearly 10,000 new school libraries, and assisted approximately 94 percent of the Nation's schools purchase additional books or other library resource materials.

Education for the handicapped, all too often overlooked by State aid to education programs, would be continued under this legislation. Regional resource centers, centers for children with sight or hearing disabilities, experimental preschool and early education programs could all receive funding. As contemplated, the States would receive $617 million in Federal funds to initiate, expand, and improve facilities designed to enable members of the school age population with special problems to compete with their more fortunate counterparts. While we have made tremendous strides to meet the special education needs of impaired youngsters it is unfortunate that despite increased authorizations less than half of these children are receiving any benefits from the Federal program. I would hope that increased emphasis would be given in the future to insure that this program reach a far greater number of deserving children.

I hold the same hope for bilingual education programs, which will continue to have a separate, categorical authorization of $135 million for each of the next 4 fiscal years. As the committee points out, the principal problem with this title of the Elementary and Secondary Education Act is that it has never been blessed with adequate funding. The fiscal year 1974 appropriation was only $53 million, and as a result only a small fraction of the children who desperately need to get some teaching in their mother tongue are reached by this program. A recent Supreme Court decision has underscored the responsibility of the Nation's educational system to provide bilingual help, and the Federal Government must help meet that responsibility. I hope HEW is equally responsive to the language of the committee report and allows bilingual education to reach its intended goals.

Title XII, the Safe Schools Study Act is also of special interest. Originally introduced by myself and Congressman BELL as separate legislation, this provision would require the Department of Health, Education and Welfare to conduct a full and complete study of the problem of crime and violence in our Nation's schools, and evaluate the most practicable and effective solutions to school crime. The study would measure the cost, in both dollars and learning atmosphere, of crime in the Nation's schools, and the real and potential effectiveness of methods schools can use or are already using to conduct it.

I have been urging Federal help to schools disrupted by crime and violence for 3 years. I recommended this study only when it became clear an operational program was not possible. The problem is real and serious.

Crime and violence in our Nation's schools continues to increase at an unprecedented rate. In New York City alone, the number of reported assaults upon teachers has almost doubled during the first 5 months of this school year as compared to the first 5 months of the 1972–73 school year. The number of assaults upon students has also increased in the same time period. When the Safe Schools Study Amendment was introduced I reported that 12 cities concurred with the aim of the bill as well as with the urgency of the problem. The number of jurisdictions of that list has grown steadily. My office has been deluged with letters of support from local boards of education, from teachers unions, and from concerned public interest groups and parents. There have been articles on the problem of school crime and the need for safer schools in the latest issues of several leading education trade magazines such as School Management and the American School Board Journal.

The problem of crime and violence in our Nation's schools can no longer be ignored. Abe Levine, vice president and spokesman for the United Federation of Teachers in New York; and the National Commission for Reform of Secondary Education, which conducted a study for the Kettering Foundation, are just two of the many people and groups which share this conviction. Dr. Frank Brown, chairman of the commission, argued that the major concern confronting secondary schools today is the climate of fear where the majority of students are afraid for their safety.

The safe schools study amendment, as part of H.R. 69, is an essential part of this legislation and should be wholeheartedly accepted as such by this body.

I hope that the House will, as we begin to consider this legislation section by section regain its sense of balance and direction in order to continue the remarkable progress that has been made to end the education injustice that befalls all too many of our children.

Mr. VANIK. Mr. Chairman, I would like to comment on aspects of title VI, Amendments to and Extension of the Education of the Handicapped Act.

As the committee report points out, there have been some recent court decisions—such as the one in Pennsylvania—requiring the provision of educational services to all handicapped.

The language of H.R. 69 on page 107 appears to support the position of the courts in the Pennsylvania case in requiring a State plan "setting forth in detail the policies and procedures which the State will undertake to insure the education of all handicapped children."

Again, as the committee report states:

> In recent years federal and state courts, state legislatures and state executives have been increasingly upholding the principle that these children are legally and morally entitled to a free appropriate public education. It is to this end that this amendment is addressed. For it establishes for the first time in federal policy that handicapped children are entitled to an appropriate free public education.

The committee is to be commended for its inclusion of this language. This is an important beginning. But I would like to call the attention of the committee to the language of the Vocational Rehabilitation Act, Public Law 93–112, section 504, which states that:

> No otherwise qualified handicapped individual in the United States . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

In essence, this is an extension of title VI of the Civil Rights Act of 1964 to the handicapped.

Mr. Chairman, in my opinion, the language of section 504 of Public Law 93–112, the Vocational Rehabilitation Act extends the right to the handicapped to participate in education programs. It is not fair to tax the parents of these children for Federal programs of aid to education, yet deny the children of these parents the right to participate. I hope that this earlier congressional action, coupled with the language in the committee report, will make it clear—once and for all—that it is the intent of the Congress that all children receive attention and educational assistance.

I would like to point out, however, that when all handicapped children receive what is their civil right, there will be a tremendous increase in certain educational agencies. While H.R. 69 makes some new efforts to provide funding for the handicapped, that funding is woefully inadequate.

Millions of physically and mentally handicapped have been neglected, and H.R. 69 and the administration's budget request for fiscal year 1975 fail in providing even the comparable education offered other students.

The administration's proposed budget requests are particularly unconscionable. The new budget proposes to cut 43 percent from previous expenditures for the handicapped, with most of the cuts occurring in the State grant program. The termination of the State grant program eliminates the minimal funding currently provided to some 200,000 educable and trainable handicapped. On a per capita basis, these funds provided some $427 per person, even though the estimates by the regents of the University of the State of New York on conditions of the handicapped estimate that as much as $3,000 to $5,000 per person is needed for adequate educational facilities and personnel. In comparison the amount spent on other children generally falls between $700 and $1,300 per year—about twice the amount spent on the handicapped.

In addition to the low level of funding provided to those who are assisted, only about 32 percent of the handicapped are receiving any assistance at all. Out of 7 million handicapped children, only about 2.4 million are being provided any educational assistance.

Not only is the level of assistance inadequate, but most handicapped are simply unnoticed or uncared for.

It is my understanding, Mr. Chairman, that the Education and Labor Committee is proceeding with additional legislation, H.R. 70, to provide special financial assistance to aid in the education of the handicapped. As originally introduced, this bill will provide $600 per handicapped student with a special bonus payment to States which make an extra effort to provide educational services to their handicapped children.

Because of the recent legal decisions, the language in the Vocational Rehabilitation Act, and the language in the bill before us today, I believe that a State will soon be required to provide proper educational services to all the children of the State. It is imperative, therefore, that the committee and the Congress proceed as rapidly as possible with the consideration of additional and more adequate legislation to aid in the education of handicapped children.

Ms. ABZUG. Mr. Chairman, like so many other pieces of legislation I have been involved with during my brief tenure in this House, this bill, H.R. 69, represents a crushing defeat for every step of progress we have made during the past half century. Starting with our earliest grant-in-aid programs in education more than 50 years ago, the Federal Government has played a large and vital role in encouraging States—and, more recently, local educational areas—to deal adequately with the myriad of problems involved in educating their children.

Now, however, we are attempting to reverse the entire philosophy of our grant programs. We are proceeding on a new theory. Instead of providing funds on the basis of contributions which the States or local areas make—the Nixon administration self-help theory, we have determined that those localities which contribute the least should receive the largest proportion of Federal aid. The rationale behind this is that, in order to assist all educationally deprived children, we must provide a larger proportion of help to those localities that cannot afford to educate their children, and give a smaller proportion to those which are already devoting substantial moneys to education. On its face, this may be persuasive, but the theory as applied in H.R. 69 does not survive analysis.

I do not deny that there may well be States or local areas so poor that they cannot afford to pay the price of providing a decent education even for their average children, let alone for those with special needs. But this bill—with its new formula—does not really correct this situation. What it does is measure the amount of Federal funds on the basis, with some qualifications, of what the local area is actually spending, not on the basis of what it could afford to spend. Little attempt has been made to set forth any incentive to encourage spending by these poorer localities—to require them to devote at least a certain percentage of their budgets to education. This, to my mind, is one of the great weaknesses in this bill. It is hypocritical. It claims to effect a more equitable distribution of funds—helping those children in poor, rural areas and giving less help to those in communities with larger budgets. But what it actually does is grossly inequitable. It permits those local areas which have shown little or no concern for their educationally deprived—who have preferred to spend their tax dollars elsewhere—to sit back and enjoy an almost free ride. And this is being done at the expense of other communities—such as New York City and other large urban areas which have almost bankrupted themselves in trying to solve the problems of educating their young.

How unjust can any piece of legislation be? Can anyone who has any familiarity with the problems of the educationally deprived deny that the problems are multiplied for those living in large urban areas? All one need do is look at the numbers requiring special education services or those appearing before juvenile courts to realize that educational programs for inner city children present challenges far beyond those confronted in educating rural children, no matter how poor. And because of all the crucial supplemental services which should be a part of any decent inner city program for the educationally deprived, the per-pupil expenditure must be larger for the city child.

The needs of New York's ghetto children, as in many other urban areas, are indeed special. The per-pupil expenditure in urban areas reflects more than simple teacher-pupil costs; it represents urgent supplemental services such as guidance, health maintenance, security, and dozens of other instructional services which are necessary to keep the student in school, healthy, and to prepare him to remove himself from the cycle of poverty in which his whole family exists.

The challenges in educating our youth are tremendous. It is difficult enough, in today's world, to cope with all the problems of the average school-aged child. But the task of educating the educationally disadvantaged child, with all that entails, is overwhelming—not only in terms of financial costs but in terms of finding viable educational techniques.

I will not deny that we still do not have all the answers. Our school programs are still far from perfect. But, unlike some of my colleagues, I am not willing to give up. Our children are the most valuable resource this country has. What better investment can we make of the taxpayer's dollar than to provide adequate funding to insure that these youngsters will become the economically self-sufficient law-abiding citizens of the future rather than end up as more statistics in our crime data banks or on our welfare rolls?

The CHAIRMAN. All time has expired.

Mr. PERKINS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PRICE of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 69) to extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill under consideration (H.R. 69).

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AMENDING THE GENERAL EDUCATION PROVISIONS ACT

Mr. O'HARA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12253) to amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year and that such funds for fiscal year 1973 shall remain available during fiscal years 1974 and 1975, with Senate amendments thereto, and concur in the Senate amendments with an amendment.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert: That, (a) as used in this section, the term "applicable program" means any program to which the General Education Provisions Act applies.

(b) (1) Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section—

(A) any funds appropriated to carry out any applicable program for the fiscal year 1973; and

(B) any funds appropriated to carry out any applicable program for fiscal year 1974;

shall remain available for obligation and expenditure until June 30, 1975.

(2) Nothing in this section shall be construed to approve of the withholding from expenditure or the delay in expenditure of any funds appropriated to carry out any applicable program for fiscal year 1973 beyond the period allowed for apportionment under subsection (d) of section 3679 of the Revised Statutes (31 U.S.C. 665).

Sec. 2. (a) Clause (I) of the first sentence of paragraph (1) of subsection (a) of section 428 of the Higher Education Act of 1965 is amended to read as follows:

"(I) less than $15,000 and has been accepted for enrollment at an eligible institution or, in the case of a student who is attending such an institution, is in good standing at such institution as determined by such institution; or".

(b) The amendment made by this section shall be effective thirty days after the enactment of this Act.

Amend the title so as to read: "An Act to make certain appropriations available for obligation and expenditure until June 30, 1975, and for other purposes."

The Clerk read the amendment to the Senate amendments.

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That section 414(b) of the General Education Provisions Act is amended by inserting "(1)" before "Notwithstanding", by striking out "subsection" and inserting in lieu thereof "paragraph", by striking out "1973" and inserting in lieu thereof "1974", and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this paragraph, any funds from appropriations for the fiscal year ending June 30, 1973, to carry out programs to which this title is applicable which are made available during the fiscal year ending June 30, 1974, shall remain available for obligation and expenditure during the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975.".

Sec. 2 clauses I and II of the first sentence of paragraph (1) of subsection (a) of section 428 of the Higher Education Act of 1965 are amended to read as follows:

"(I) less than $15,000, the amount of such loan would not cause the total amount of the student's loans under this part to exceed $1,500 in any academic year or its equivalent (as determined under regulations of the Commissioner), and the eligible institution at which he has been accepted for enrollment (or, in the case of a student who is attending such an institution, at which he is in good standing, as determined by such institution) has provided the lender with a statement which sets forth the estimated cost of his attendance at such institution (which, for purposes of this paragraph, means, for the period for which the loan is sought, the tuition and fees applicable to such student together with its estimate of other expenses reasonably related to attendance at such institution for such a student, including, but not limited to, the cost of room and board, reasonable commuting costs, and costs for books), and its estimate of the amount of assistance such student will receive (for the period for which the loan is sought) under parts A, C, and E of this title and under any other scholarship, grant, or loan assistance; or

"(II) less than $15,000 and the amount of such loan would cause the total amount of the student's loans under this part to exceed $1,500 in any academic year or its equivalent (as determined under regulations of the Commissioner), or equal to or more than $15,000, and the eligible institution at which the student has been accepted for enrollment, or in the case of a student who is attending such an institution, at which the student is in good standing (as determined by the institution) has determined that the student is in need of a loan to attend such institution; has determined, by means other than one formulated by the Commissioner of Education under part A, subpart 1, of this title, the amount of such need by subtracting from the estimated cost of attendance at such institution the expected family contribution with respect to such student plus any other resources or student aid reasonably available to such student; and has provided the lender with a statement evidencing the determinations made under this clause and recommending a loan in the amount determined to be needed.".

SEC. 3. Paragraph (1) of subsection (a) of section 428 of the Higher Education Act of 1965 is amended by inserting before the second sentence thereof "Nothing in this or any other Act shall be construed to prohibit a lender from evaluating the total financial situation of a student making application for a loan under this part, or from counseling a student with respect to any such loan, or from making a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.".

SEC. 4. Subparagraph (H) of paragraph 428(b)(1) of the Higher Education Act of 1965 is amended to read as follows:

"(H) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under section 428(a)(1) except in the case of loans made by an instrumentality of a State or eligible institution;".

SEC. 5. Section 2(a)(7) of the Emergency Insured Student Loan Act of 1969 is amended by striking out "July 1, 1974" and inserting in lieu thereof "July 1, 1975".

SEC. 6. The amendments made by section 2 shall be effective sixty days after enactment of this Act and be applicable to a loan for which a guarantee commitment is made on or after that date.

The Senate amendments as amended were agreed to.

A motion to reconsider was laid on the table.

THE LATE HOPE CHAMBERLIN, AUTHOR OF THE MOST COMPREHENSIVE WORK ON WOMEN IN THE U.S. CONGRESS

(Mrs. SULLIVAN asked and was given permission to address the House for 1 minute, to revise and extend her remarks and include extraneous matter.)

Mrs. SULLIVAN. Mr. Speaker, it is with a deep sense of personal loss that I announce to the House the death yesterday of Hope Chamberlin, an outstanding journalist and author of Washington, D.C., who completed in December 1972, the most comprehensive book ever written about the 80 women who served in the Congress of the United States from 1917, when Montana sent Jeannette Rankin to the House, until the close of the 92d Congress on January 3, 1973.

Her book, entitled "A Minority of Members—Women in the U.S. Congress," was published last year by Praeger Publishers. It will stand for many years, I am sure, as the definitive work on the lives and political careers of the courageous women who broke the "male only" barrier to service in the Congress and of all of the four-score women who were elected to the House or elected or appointed to the Senate prior to this Congress. In a November 7, 1972 postscript, she was able to include only brief references to the five new women Members elected that day to the 93d Congress.

I came to know Hope Chamberlin as a friend during the arduous years she spent researching this monumental volume and know how hard and how imaginatively she worked to dig out little known facts about her 80 subjects. She pursued every lead with the enthusiasm of a cub reporter on a first assignment, but she brought to her task, in addition to enthusiasm, great skill as a writer and editor, and a veteran journalist's respect for truth and fairness.

Hope Chamberlin was a reporter-photographer for the Portland Oregonian, an information and editorial specialist with the U.S. Military Government in Germany and Austria after World War II, and director of information for the National Broadcasting Co.'s "Continental Classroom" television program before coming to Washington as a freelance writer.

She was recently commissioned by the Business and Professional Women's Foundation to research and write a new work on women who have blazed trails or made significant contributions to the major professions, and she had mapped out an extensive schedule of travel and interviews on which she was already engaged when she fell ill and died within a week after the illness was diagnosed as cancer.

WON 1974 CHRISTOPHER AWARD

Shortly before her death, she was signally honored by having her book on women in Congress designated by the Christophers for the coveted 1974 Christopher Award for adult nonfiction as representative of the best efforts of the industry in its technical and artistic merits. It was 1 of only 10 awards—2 for motion pictures, 4 for television, and 4 for books, including 1 each for adult nonfiction, adult fiction, juvenile nonfiction, and juvenile fiction. Decisions of the judges are based on these three considerations: The work must affirm the highest human and spiritual values; it must be artistically and technically proficient; and it must have received a significant degree of public acceptance. Winners received bronze medallions inscribed with the Christopher motto: "It is better to light one candle than to curse the darkness."

Every present and former woman Member of Congress who was interviewed by Hope Chamberlin for her book will, I am sure, share my sense of loss in the death of this vital and useful and delightful person.

Mr. Speaker, under unanimous consent I submit for inclusion in the RECORD as part of my remarks an excellent review of the book which will now stand as Hope Chamberlin's last major literary work, an article by Lucia Johnson Leith in the Christian Science Monitor of August 31, 1973, as follows:

[From the Christian Science Monitor—Aug. 31, 1973]

A NEW STUDY OF THE WOMEN IN CONGRESS

(By Lucia Johnson Leith)

WASHINGTON.—"There is no question in this world that women make outstanding members of Congress," says author Hope Chamberlin. Her book, "A Minority of Members: Women in the U.S. Congress" (Praeger, $10), presents what she calls "word portraits" of each of the 80 women who have served the U.S. Congress, starting with Jeannette Rankin of Montana, who in 1917 became the first woman elected to Congress, through 1972. A brief postscript discusses the five women elected last November.

"One thing that surprised me was that for years the myth has persisted that women in Congress confine themselves to so-called social issues," she said in a recent interview here. "I made a list of some of their contributions," and she ticked off the following:

THE ACHIEVERS

Rep. Florence P. Kahn (R) of California in the 1930's drafted legislation strengthening the Federal Bureau of Investigation.

The landmark Fair Labor Standards Act of 1938, setting a minimum wage and limiting work hours, became law after Rep. Mary T. Norton (D) of New Jersey twice forced the bill out of a resistant House committee via discharge petition. This was the same method Rep. Martha W. Griffiths (D) of Michigan used in recent years to get the Equal Rights Amendment onto the House floor.

Rep. Edith Nourse Rogers (R) of Massachusetts, who served more years (35) in Congress than any other woman, was largely responsible for the GI Bill of Rights in 1944.

"These are the barest highlights," Miss Chamberlin said. "I was really surprised they had done so much and received so little credit."

It was one reason she wanted to do this carefully researched, readable book.

FEW REFERENCES

"I felt a great deal of credit was owed these women, yet nobody had had a chance to learn about them. I looked into books on Montana political history, for example, and if Jeannette Rankin was in them at all, it was as a one- or two-liner. So I wanted to set the record straight.

"Then I hoped that by setting forth the record, that it might inspire more women to run for Congress, after seeing all the obstacles that these women have endured and conquered."

Of the 85 women discussed in the book, 11 served in the Senate, 75 in the House. (Republican Margaret Chase Smith of Maine, who served in both the House and Senate, is counted twice.) The book includes eight pages of black-and-white photographs.

BEYOND REPROACH

"The most revealing thing I found—and I was not surprised to find it—was how conscientious the women are," Hope Chamberlin said. "This is not to say that men aren't," she quickly added. "Of the 85 women who have served in Congress, not one of them has been implicated for doing anything illegal. Their high visibility has almost made it mandatory that they be beyond reproach."

Since the book was written, two women have been elected to Congress in special elections, Rep. Corinne (Lindy) Boggs (D) of Louisiana and Rep. Cardiss R. Collins (D) of Illinois.

"If the time should ever come when there are a great many more women in Congress—and I don't think it will ever reach *half, not* in this century—if there were more of them so their visibility were not so high, there might be women not so full of integrity as I found these 85 to be."

She also found that women incumbents

are generally re-elected with a higher percentage of the votes than male incumbents.

ROUTES DIFFER

Many women have been elected to Congress after their husbands passed on in office.

"Men have used women to fill unexpired terms to avoid facing a sticky situation, like internecine party strife, or to buy time. Yes, some widows in Congress were little more than seat-warmers," Miss Chamberlin admits.

"But what is overlooked in all this more or less derogatory pooh-poohing—oh, they were widows—is the number who went on to carve outstanding careers for themselves."

She points, for example, to Rep. Leonor K. Sullivan (D) of Missouri, former Representatives Kahn, Rogers, and Frances P. Bolton (R) of Ohio, and former Senators Smith and Maurine B. Neuberger (D) of Oregon.

CHILEAN SITUATION DESERVES IMMEDIATE ATTENTION

(Mr. BROWN of California asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BROWN of California. Mr. Speaker, increasing public outcry against the abuses of civil liberties in Chile makes it imperative that I once again formally protest. It is clear that abominable conditions exist; we learn of executions, mass imprisonment and exile even amongst former members of the Chilean congress. Many people are being detained and imprisoned without being informed of the charges against them. Civil courts are being circumscribed by military courts; justice is military justice. Human dignity and civil liberties have little meaning; redress of grievances is unthinkable. Americans certainly cannot be proud of the U.S.tacit consent policy with respect to Chile.

In a recent congressional conference, "Chile: Implications for U.S. Foreign Policy," an attempt was made to shed light on the political and economic situation in Chile since the military coup in September. I think the conference was instructive and informative in this regard—it underscored the urgency of the situation, a situation deserving immediate attention. It was the sense of the conference that hearings begin in the Senate to investigate the state of Chile, the extent and validity of the junta's control, and ultimately to determine what the official U.S. policy should be regarding Chile. I would now like to add my wholehearted support to this endeavor.

Spokesmen for the junta, including the Chilean Ambassador to the United States, Gen. Walter Heitmann, have stated that free elections will not be held for at least 5 years. This poses an additional moral problem to the United States that I would like to briefly address myself to. That is, Chilean citizens temporarily residing in the United States. Over 4,000 Chilean citizens are here temporarily on student or work visas, many of whom have visas that expire very shortly. We should now consider the possible persecution that many will face upon their return to Chile. It is my intention to introduce legislation to permit an extension of visas for a period of 5 years or until free elections are held, to those citizens now residing in the United States. It is my sincere hope and expectation that the broader question of asylum for political prisoners will be entertained in the Senate committee investigating the implications of U.S. policy toward Chile.

A COSTLY MISTAKE BY THE AGRICULTURE DEPARTMENT

(Mr. WRIGHT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WRIGHT. Mr. Speaker, the U.S. Department of Agriculture is about to make a tremendously costly mistake unless something dramatic is done to head it off.

It is a predictable mistake—one the Department has made before and should in commonsense be able to avoid. And the tragedy is that American consumers will pay for the mistake in higher grocery prices unless the present administrative intention is quickly reversed.

The Department is about to sanction and permit the massive exporting of so much American grain—again—that domestic shortages will be the inevitable result.

So strongly do I feel about the folly of this course that I wrote a personal memorandum to the President last week pleading with him to intervene before it is too late.

Let us briefly recapitulate what has happened. It started a couple of years ago, in the summer of 1972, when the Agriculture and Commerce Departments negotiated the sale of an enormous amount of American wheat to Russia. It came to some 400 million bushels, the biggest single grain transaction since the days of the Pharaohs.

The Russians paid the going market price. Administration officials explained that it would help our international balance of payments. It also would help, they said, in promoting other beneficial agreements with the Soviet Union.

All of this was fine—up to a point. That point was passed the moment administrative officialdom allowed eager grain dealers to sell too much of the American product. The Russian sale set off a chain reaction among other nations. During the crop year ending June 30, 1973, every 1 of the top 12 foreign destinations for American wheat took more grain than in the previous year.

The result we all remember—a domestic shortage, higher prices, fewer cattle being fed, less beef on the market, and higher retail prices for meat and milk as well as for bread and cereals.

One mistake can be forgiven, no doubt. But if that very same mistake is repeated, it breaches the bounds of tolerance.

Tragically, the Agriculture Department is again permitting the export sale of too much grain. During the week ending February 22, we shipped 22 million bushels. This makes 872 million bushels since last July 1. At this rate, it will be 1.3 billion bushels by next July 1.

In my memorandums, I have asked the President—and Agriculture Secretary Butz, to whom I have also written—to consider the American consumer first; to determine the minimum supply required to meet domestic needs and set this aside plus a reasonable reserve for contingencies before allowing any more sales in export.

The Russians, noting our difficulties, have announced a deferral in the taking of some of the wheat for which they have contracted. Now they offer to sell us back some of our own wheat, but not at the price at which we sold it to them—at the present market price, which is considerably higher. I am darned if that makes any sense for us.

Only through a monstrous miscalculation could the United States, which annually produces nearly three times more wheat than we consume, get into a position of dependence upon the good will of foreign governments for the maintenance of our domestic supply.

And only by a mistake bordering upon utter stupidity could American negotiators repeat the same costly error a second time.

There is still time to avert this tragedy. But unless the Agriculture Department acts decisively to stem the outflow, there could be a domestic bread shortage by late spring or early summer. Just a little bad weather—or one more miscalculation—and people may have to stand in line to buy a loaf of bread, at much higher prices.

The President has announced a national goal of energy independence by 1980. I am with him on that. But it is every bit as important that America's families be independent of foreign nations for our supply of basic foods, particularly since this country produces much more than it consumes.

That is why I am trying to blow a whistle as loudly as I can on this impending disaster while it still can be avoided. I earnestly hope that the President and the Secretary of Agriculture will heed this call to caution and commonsense.

DISCRIMINATORY FOOD STAMP PROGRAM IN PUERTO RICO

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. MITCHELL of Maryland. Mr. Speaker, the recent announcement by the Agricultural Department establishing a timetable for implementing the food stamp program in Puerto Rico and its announcement of the coupon allotment levels that it has set for the island, indicate clearly that, once again, the Department has decided to flout the will of Congress in matters concerning Federal efforts for feeding needy people.

The timetable for implementation of the program across the island calls for providing stamps in only five small island municipalities by June 30, 1974, not reaching San Juan until March 1975. This incredible decision was made in total disregard of the statute's mandate that the program be implemented in every political subdivision in the Nation by June 30, 1974, unless it is impossible or impracticable to do so.

The U.S. Department of Agriculture has made no statement concerning the impossibility or impracticability preventing it from an island-wide implementation by the statutory deadline. Accordingly, one must assume that the Department has made no such determination. If it does so subsequently, it should be put on notice that any such finding must be affirmatively made, specific and detailed—for the burden of proof is quite clearly upon the Department in this regard. Moreover, such a showing must prove why it is that the USDA and the Commonwealth cannot meet the deadline by using such agencies as municipal governments to speed up the implementation. Such, for example, would seem to be particularly appropriate in the case of San Juan.

Even if the USDA does find lawful cause for delay, let it be advised that that does not allow for lengthy delay by any means. The Department in such case would remain under an obligation to implement the program at the first possible time.

The other matter of urgent concern is the question of how large the food stamp allotment will be for each family. According to the announcement, a Puerto Rican family of four will receive only $122 worth of stamps monthly, while the same family could receive $142 monthly in any place on the mainland United States. In light of the fact that food prices are higher in Puerto Rico than in many places in the United States, it would seem that the Department of Agriculture has chosen to discriminate against the island's poor in a way contrary to the act. Because the Food Stamp Act requires the allotment level in Puerto Rico to be based upon the cost of food there, that can only be determined in the same manner as is done on the mainland. That is, the food items in the USDA's economy diet plan are costed out and the monthly coupon allotment is then set at an amount that will allow a family to buy these items.

The USDA should immediately undertake a survey of food prices on the island being careful to use the same items as are in the mainland economy diet plan. The use of any other foods by the Department, which argues that such other foods have been traditionally used by poor Puerto Ricans, would clearly be erroneous because such foods have been used by an impoverished people to maintain a chronically inadequate diet. Now that food stamps permit truly decent diets, the Puerto Ricans must, as a matter of law, receive coupon allotments in amounts sufficient to purchase food as healthful as is purchased on the mainland. The only legal limit in the size of the Puerto Rican food stamp allotment would be the statutory rule that the allotments could not exceed those prevailing on the mainland.

Finally, as to income-eligibility regulations, the Secretary has announced that he intends to set eligibility at a point some 14 percent lower than that prevailing on the mainland—despite the fact that, as is well known, Puerto Rico is as poor or poorer than the most impoverished places on the mainland. These discriminatorily low guidelines must be revised upward at once according to the formula we provided in the 1971 amendments to the act. That is, the USDA must multiply that per capita income figure for the island by the number of persons in each household to determine the maximum permissible income for such household.

I urge the Secretary not to delay in these matters.

OEO BIAS AGAINST PRIVATE LAWYERS

(Mr. BLACKBURN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous matter.)

Mr. BLACKBURN. Mr. Speaker, I am dismayed by the cool disregard for facts with which support is being generated for the Senate Legal Services bill, now known as H.R. 7824.

My experience, and present communication with numerous people on the subject, suggests a definite bias by OEO Legal Services attorneys against private lawyers.

I understand that OEO is now evaluating its Legal Services projects with a view to verifying or disproving this claim. The fact that OEO officials feel the need for such evaluation strongly suggests that they, themselves, suspect such bias.

Part of this OEO bias against private attorneys is found in refusal to give serious examination to the Judicicare principle. Judicare, of course, is the code word for a variety of plans for insuring legal care when needed via some sort of prepayment or insurance plan.

Judicare would permit the client freedom of choice in selecting a lawyer from among lawyers at large in his area. Thus, the whole legal profession would benefit from Judicare; not just the profession's federally subsidized segment.

The tendency to make the profession dependent on Federal handouts would thereby be counterbalanced.

Advocates of the Senate Legal Services bill and its counterparts act as if judicare was an unrealistic proposal. Consequently, it suffers from bad press, to say the least. I have here something that should change this condition. It is a memo from Mr. Samuel Brakel, a research attorney with the American Bar Foundation. The memo demonstrates not only that judicare is not an unrealistic idea, but that it is, in fact a well-researched and workable proposal.

Mr. Brakel's memo does much to clear some of the doubts heaped upon it. It does much, therefore, to substantiate my position that judicare is, in fact, an excellent and desirable idea.

I note, in particular, that Mr. Brakel is frank to state the biases existent against the judicare concept. I wish, therefore, to share with my colleagues this significant exposé of these biases which Legal Services activists have fostered in service of their own peculiar, narrow special interests.

I submit the Brakel memo for the Record.

Urban Institute Work on the California Judicare Project

(By Samuel J. Brakel, Research Attorney, American Bar Foundation)

On February 4, 1974, representatives of OEO Legal Services met in Washington, D.C. with representatives of the Urban Institute and with several researchers, including myself, who have done work in the area of legal services to the poor. The meeting was announced to be "for the purpose of exchanging ideas on methodology, data collection and evaluation" of the proposed California Judicare programs.

The following are my comments on that meeting which lasted from about 10:00 A.M. to 12:15 P.M.

Rather than an exchange of ideas, the meeting turned out to have the predetermined format of a presentation by the Urban Institute of its Proposed Evaluation Design or its progress in that direction.

First, those present at the meeting were subjected to a visual-effects display of charts; during this time were passed around the Urban Institute's "proposal", another chart on the "functional relations of a legal service program", and a summary of "measures" and "hypotheses".

The comments will relate to each of these items.

The charts contained a series of banalities in print of overwhelming size on what presumably was thought to be the essence of the "research process" or "evaluation design process". One wondered at times whether one was being subjected to an eyesight test or whether a salestalk was in progress. At its best, it was an insult to the intelligence.

The "proposal" which one could glance at during the display turned out to be a typically padded substanceless job containing many superfluous "steps" and redundant "phases" designed to give the false impression that the work proposed is very important and complex and that much thought has gone into it already. Predictably also, there were lengthy appendices in the nature of advertisement for the Urban Institute—endless "Resumes of Key Personnel" and many pages on earlier projects and past performances under labels such as "General Qualifications and Relevant Experience of the Urban Institute" or "Brief Description of the Urban Institute Approach to Evaluation Design."

The "functional relations" chart only added injury to insult. It presented various boxes, circles and arrows apparently designed to clarify the less than astounding proposition that the legal service process can be seen as moving from a potential client to a closed case.

Finally came the summary of "measures" and "hypotheses"—27 of the latter, thrown at those present at the meeting without any warning. It is difficult to see how one could expect meaningful discussion to ensue on that basis. As it turned out, it is doubtful that the "measures" and "hypotheticals" would have led to meaningful discussion even if they had been sent out months ahead.

The "measures" were in outline form and included such baffling and obscure conceptualizations as the heading "CLIENT CHARACTERISTICS" under which came "Weight of Problems in 'Non-Legal' Parameters" the sub-issues to which turned out to be "Economic Assets" and "Economic Liabilities."

The "hypotheticals" were equally problematic. They were of all levels and all orders of importance, measurability and comprehensibility—mixed together in grand confusion. Often it was clear that some major antecedent hypothesis or assumption was implied, but was missing. Similarly, many subsidiary assumptions were implied but not stated. One could easily conjure up to 27 to 54 more "hypotheses" and/or throw out the original 27.

Most fundamentally, however, the "hypotheticals" were not really hypotheticals at all, but simply statements of some people's biases on the issues passed off as hypotheticals because one can't after all do studies or appease funders without hypotheticals. Some statements were so obvious and elementary as to make one wonder why they were stated at all. For example, the first item under "HYPOTHESES PRIMARILY ABOUT PROCESS MEASURES" was "Costs will be [greater/less] for Judicare." The research problem of course is not in uncovering these simplistic statements, but in determining how to measure, analyze and evaluate the items. On that the Urban Institute offered nothing other than the promise that it would try. Finally, in sum, the "hypotheticals" simply had no significance in terms of producing an "evaluation design" or whatever the purpose of the process the Urban Institute is going through might be.

A sampling of few of the other "hypotheses" reveals their dubiousness and lack of utility:

"Judicare clients [can/cannot] shop wisely for a lawyer." What does this mean? What is a "wise" selection—the opposite of a "stupid" one? How does one determine which is what? By what criteria? Subjective, objective, whose? Is the issue important vis-a-vis other issues that take time, effort and money to research?

"Clients will form opinions about attorneys based [more/less] on competency of attorney than on win/loss." What is the level and the significance sought here? How does one find out the answer? What is "competency"? Is it separable from win/loss? Does it matter what the client bases his opinion on?

"Legal service programs [will/will not] channel many disputes 'out of the street' and into the courts?" What does "out of the street", or for that matter "in the street", mean? Do the problems or some or all belong in the street or out of them? Is it "desirable" to channel all disputes into courts? How many, what percentage of, disputes channeled into courts by a legal service program would be O.K. performance?

"Demand for service will increase [faster/slower] for a staff attorney program compared to Judicare." Is a faster increase "better" or "worse?" Demand for what kind of service? Superfluous service? Significant service? Costly service? Cheap service?

"Legal service programs [will/will not] produce economic benefits for the poor that are less than the costs." What does one intend to measure here? How in the world does one measure it?

"Law reform and preventive education will do [well/poorly] under Judicare." What is law reform? What is preventive education? When is it done "well"? How much is it worth in terms of money, time, other service aspects neglected?

"Private attorneys in Judicare [will be/will not be] marginal in terms of quality and income." Bias?

"Clients [will/will not] perceive Judicare lawyers as less 'sensitive' to needs of poor." Bias?

"Judicare [will/will not] become the major source of income for inexperienced lawyers." Bias?

The above are only some of the "hypotheticals" proposed and only some of the questions that can be raised with respect to them.

CONGRESSIONAL COUNTDOWN ON CONTROLS

(Mr. STEELMAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. STEELMAN. Mr. Speaker, the temporary security of a controlled economy only leads to higher prices in the long run. The effect of keeping the "lid" on for a sustained period of time is that the pressure builds to the breaking point and when controls are ended, we see the "balloon" effect of escalating prices. Instead of continuing this disastrous policy, we must return to the free market economy now and allow the marketplace to make the necessary adjustments. The long-term results of this will be more stable wage and price levels.

The following article which appeared in the Wall Street Journal, March 12, exemplifies this process:

[From the Wall Street Journal, Mar. 12, 1974]

U.S. PAPER INDUSTRY ACTS TO BOOST PRICES; THREE CANADIAN PULP FIRMS LIFT QUOTAS

The paper industry is moving fast to boost prices, following the Cost of Living Council's decision Friday to end controls on the industry.

Meanwhile, prices for Canadian pulp sold in the U.S. and Canada will rise up to $35 a ton April 1, the fifth boost in the past 15 months.

Three producers, Anglo-Canadian Pulp & Paper Mills Ltd., Toronto; Domtar Ltd., Montreal, and Canadian Cellulose Co., Vancouver, have publicly announced price changes so far. Most other producers are expected to follow soon. MacMillan Bloedel Ltd., Vancouver, said it's studying the situation.

Although the Cost Council's action was labeled a surprise by some in the U.S. paper industry, St. Regis Paper Co., New York, said it's preparing to post increases early this week. William Haselton, president, said the company has signed the government's "voluntary" commitment plan, which removes Phase 4 controls from companies that agree to it. St. Regis said it will raise some products' prices immediately.

International Paper Co., New York, said it also signed the plan, which allows increases in pulp, newsprint, containerboard, bleached board, kraft paper, groundwood papers, consumer tissues, milk cartons, and other converted products and papers. The company said it will move its prices to the allowed levels "as soon as possible."

SOME BIG JUMPS LOOM

Kimberly-Clark Corp., Neenah, Wis., said it prenotified the Cost Council and expects to announce price rises on many products later this week. Donald Hibbert, executive vice president, said increases will range from 4% to 6%.

The lifting of price controls will mean big jumps for some products. Linerboard, the outer walls of corrugated boxes, is currently selling at about $145 a ton. St. Regis Paper said it plans an incerase to the allowed $165 "very soon."

Continental Can Co., New York, recently increased its price of linerboard to $161.17 and is "studying" the Cost Council decision. The company "hasn't signed" the voluntary agreement, a spokeman said.

Increases for printing papers, consumers tissues and grocery bags are expected. St. Regis said its price is below the $185 a ton allowed for grocery bag paper and will likely increase it soon.

Mead Corp., Dayton, Ohio, said its paper division has already notified customers of a price increase in printing, writing and other paper grades. Under the accord, the concern plans a weighted average increase of about 10%. The company said commodity-type grades that go to converters for greeting cards, envelopes and business forms will rise 10% to 13%. Book publishing grades will rise 5% to 7%, the company said. The inincreases are effective immediately. Pulp prices will be boosted "as quickly as possible," the company said.

Also in New York, Champion International Corp.'s Champion Papers Inc., division said it boosted prices within the decontrol guidelines. The rises "amount to a weighted average of just under 10% for the aggregate" of its line, it stated.

Decontrol is "the beginnings of a free market," said St. Regis Paper's Mr. Haselton. He said the industry's prices "haven't reflected its higher costs." He added that despite the increases allowed, some paper areas are still below market levels.

CANADIAN PULP BOOSTS

The latest Canadian increase of $30 a ton for bleached softwood pulp brings the price for this most common grade to $295 a ton, up from $165 at the beginning of 1973.

The U.S. decontrol action, which set specific price lids for some products, set a lid of $265 a ton for bleached softwood pulp through July 1. That's up about 35% from the average Phase 4 price of $195 a ton, but only matches the pre-April price charged by Canadian producers.

Both U.S. and Canadian pulp producers have been running near full capacity for the past 18 months in an attempt to meet strong demand.

Although both Anglo-Canadian and Domtar raised their U.S. price for bleached softwood pulp $30 a ton, Domtar said it's raising its Canadian price only $25, to $290 a ton, "to reflect the exchange rate on the Canadian dollar." Canadian Cellulose, indirectly controlled by the Province of British Columbia, said its price will rise $30 in most categories.

Anglo-Canadian's price in all markets for semibleached kraft pulp will be increased $30 a ton, to $293, and for unbleached pulp $25 a ton, to $280.

Domtar's new prices for bleached hardwood pulp will be $285 a ton for U.S. consumers and $280 a ton in Canada, both up $35. Unbleached sulphite pulp will rise $35 a ton, to $270, in the U.S. and $30 a ton, to $270, in Canada.

Domtar attributed the increases to higher costs of wood and labor.

Anglo-Canadian is the largest Canadian seller of pulp, with most of its production sold in the U.S. Many Canadian pulp producers consume most of their own production. Pulp is used in the manufacture of white printing paper, tissue, envelopes and fine paper products where strength is required.

REGIONAL RAIL REORGANIZATION ACT OF 1973

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. ADAMS) is recognized for 30 minutes.

Mr. ADAMS. Mr. Speaker, I want my colleagues to be aware that we are at a most critical time in the reorganization of the railroads involved in the Regional Rail Reorganization Act of 1973. The Department of Transportation set forth its core system plan required by Public Law 93-236 last month and public hearings and consideration by the ICC are now going forward with 17 separate hearings being held throughout the area in order that the ICC can make recommendations on the final system.

As the one who originally introduced H.R. 9069 and later joined in supporting a similar bill, H.R. 9142, which was introduced by Representative Shoup of Montana I have followed the progress of this legislation for many months.

These two bills, H.R. 9069 and 9142, after lengthy work in both the House Committee on Interstate and Foreign Commerce and the Senate Commerce Committee, and later a lengthy conference, emerged finally as the Regional Rail Reorganization Act of 1973, Public Law 93–236.

As this legislation was being drafted, and debated, there was a continuing struggle between the original position of the DOT and many of us because originally that Department wanted to completely design and plan this system and base such design solely on profitability. This was shown by the original DOT proposal, H.R. 8526. The bill that finally became the basis of the legislation was Representative Shoup's bill, H.R. 9142, as amended by many provisions of my bill, H.R. 9069 and the later compromises involving several Senate bills.

LEGISLATIVE GOALS

The legislation did not contemplate using solely a profitability test. This approach was rejected by the Congress and instead the following goals were set forth in section 206(a) of the act:

FINAL SYSTEM PLAN

Sec. 206. (a) Goals.—The final system plan shall be formulated in such a way as to effectuate the following goals:

(1) the creation, through a process of reorganization, of a financially self-sustaining rail service system in the region;

(2) the establishment and maintenance of a rail services system adequate to meet the rail transportation needs and service requirements of the region;

(3) the establishment of improved high-speed rail passenger service, consonant with the recommendations of the Secretary in his report of September 1971, entitled "Recommendations for Northeast Corridor Transportation";

(4) the preservation to the extent consistent with other goals, of existing patterns of service by railroads (including short-line and terminal railroads), and of existing railroad trackage in areas in which fossil fuel natural resources are located, and the utilization of those modes of transportation in the region which require the smallest amount of scarce energy resources and which can most efficiently transport energy resources;

(5) the retention and promotion of competition in the provision of rail and other transportation services in the region;

(6) the attainment and maintenance of any environmental standards, particularly the applicable national ambient air quality standards and plans established under the Clean Air Act Amendments of 1970, taking into consideration the environmental impact of alternative choices of action;

(7) the movement of passengers and freight in rail transportation in the region in the most efficient manner consistent with safe operation, including the requirements of commuter and intercity rail passenger service; the extent to which there should be coordination with the National Railroad Passenger Corporation and similar entities; and the identification of all short-to-medium-distance corridors in densely populated areas in which the major upgrading of rail lines for high-speed passenger operation would return substantial public benefits; and

(8) the minimization of job losses and associated increases in unemployment and community benefit costs in areas in the region presently served by rail service.

DEPARTMENT OF TRANSPORTATION PRELIMINARY PLAN

Apparently the officials of the DOT have continued to use only a test of profitability in their original position proposals and I therefore have not been surprised by the articles which have been appearing recently indicating the objections of local officials and shippers to the DOT preliminary plan.

For example, the Wall Street Journal on March 5, 1974, started its article as follows:

Local People Protest Move To Cut Service on Northeast Railroads

(By Albert R. Karr)

Washington.—Rep. Gerry Studds of Massachusetts finds he's losing ground in a prized project.

He has been plumping for Amtrak passenger-train service to Cape Cod along Penn Central railroad track now used only for freight. But he discovered the track linking Middleboro with Falmouth, Hyannis and South Dennis is in danger of abandonment; the Transportation Department says even the freight service should be dropped.

"Suddenly from behind me comes a new threat: I'm going to have to fight a holding action" just to keep the freight service, the Bay State Democrat says.

Mr. Studds and allies will start the fighting in Boston this week when the Interstate Commerce Commission begins hearings on the government plan for paring away "marginal" freight service of railroads in the northeast quadrant of the U.S. The department's preliminary recommendations were detailed a month ago in a report of nearly 1,000 pages, and they'll be used by the new U.S. Railway Association (USRA) as a basis for revamping Northeast rail operations. Ultimately, Congress will approve or reject the USRA-planned system.

DESIGNED TO REVERSE LOSSES

That restructing, mandated by the recently enacted Regional Rail Reorganization Act, is designed to reverse the deep losses of the Penn Central and six other lines now in reorganization under federal bankruptcy law. The planners acknowledge that a lot of track (more than 15,000 miles) would be abandoned, but they contend that only a small amount (4%) of rail freight tonnage would be lost.

That argument isn't going to convince a lot of people that the plan is a good one. Witness was for ICC hearings to be held during the next two weeks in 17 cities from Boston and Albany to Chicago and St. Louis are fast filling up with woes of abandonment plans. In Scranton, Pa., where hearings began yesterday, some 200 are scheduled to testify in three days (see story on page 6). Along with Congressmen like Rep. Studds will appear city fathers, governors and other state officials, Chamber of Commerce executives, local shippers, union leaders and environmentalists. All hope to influence the ICC, which is due to give its views on the organization plan, and the USRA decision-makers.

* * * Low-fuel train service to trucks, that the environmental consequences would be wicked, and that dropping all that freight service would badly hurt local industries and cost thousands of jobs. Witnesses will urge that specific stretches of track earmarked for abandonment be kept in use. (Abandonment opponents also are expected to get their licks in by writing letters to the Transportation Department, the ICC and Congress, and by lobbying personally in Washington.)

* * * * *

A further example showing the effects in other States appeared in the Washington Post on March 5, 1974:

Nixon Rail Proposal Comes Under Attack

(By William H. Jones)

Businessmen, environmentalists, local government officials, union leaders and consumer spokesmen joined voices yesterday to pour verbal cold water on the Nixon administration's recent suggestion that about one-fourth of all railroad tracks in the Midwest and Northeast could be abandoned as unprofitable.

As the Interstate Comerce Commission began public hearings, to be conducted eventually in more than a dozen cities, the Department of Transportation restructuring plan of Feb. 1 was roundly condemned for not considering potential future rail freight business in an era when fuel costs are soaring.

Several Washington area officials, testifying at the ICC headquarters, outlined their proposals for expanding railroad business here.

Reflecting a growing maelstrom of conflicts over the reorganization plan of bankrupt railroads, passed by Congress late last year, these were among the major statements yesterday:

At the ICC hearing near Scranton and Wilkes-Barre, Pa., which attracted a large number of angry shippers, the Erie Lackawanna Railway Co. became the second of six major northeastern bankrupt railroads to argue against inclusion in the plan.

President Gregory W. Maxwell told an ICC administrative law judge that the Erie will recommend to its bankruptcy court that the line be reorganized as a private firm. Earlier, Boston & Maine said it would follow a similar path. In both instances, however, judges must make the final decisions.

At the ICC hearing in Washington, which resumes at 9:30 a.m. today, Lehigh Valley trustee and chief operating officer John F. Nash proposed creation of a new Mid-atlantic Railroad Co., by combining his company and the Reading, Central of New Jersey and several smaller lines with routes to New England.

In addition, Nash proposed permitting solvent railroads—including Chesie System and Norfolk & Western—access to northeastern cities by end-to-end mergers with some of the bankrupt main lines. He forecast increased rail business throughout the region.

Speaking for organized rail labor, William G. Mahoney of the Congress of Railway Unions, criticized "vital flaws" and "basic and significant" errors which he said were included in DOT's report.

Mahoney told ICC judge Robert Wallace that if a 25 per cent cutback in tracks took place, competition would be stifled and current levels couldn't be maintained, although the DOT said 96 per cent of existing freight traffic would be maintained in its slimmed-down network.

Leonard Lane of the Sierra Club, a conservation group, asked the ICC to consider relative costs; on an annual basis, he said, it would cost $42 million to subsidize unprofitable branch lines while "misregulation" by ICC costs consumers $450–$500 million a year.

Mayor Walter E. Washington, in a statement presented to the ICC here, said the area economy depends on "good rail transportation." He vowed to press for industrial development along New York Avenue NE., where freight lines are concentrated.

Sen. Harry F. Byrd Jr. (Ind.-Va.) asked the ICC to take into account the necessity for rail transport in the Delmarva Peninsula, where the agriculture industries rely on rail shipping for fertilizer, feed for poultry and delivery of produce. The DOT said all rail lines south of Salisbury, Md., were "potentially excess" because of their low business volume.

To prevent massive distortions of service we carefully designed into the bill an ICC hearing procedure, a later review by the directors of the financing entity—U.S. Railway Association—and if the whole system is still faulty, there is a final safeguard providing for congressional review of the final system plan. This is set forth in section 208 of the law, which provides that either House of Congress may by resolution within 60 days reject the plan and return it to the designers.

I am pleased to see from these articles that local officials and shippers are taking advantage of the ICC hearings to offset the desire of certain officials in the DOT to abandon service based solely on 1972 profit figures. In the first place, we should use present figures, and in the second place, when we are faced with a fuel shortage that will make truck transportation more difficult we should be using new projections regarding abandonment of track.

In reading the press reports, however, I find that some public officials have not studied the act and are blaming the Congress for the preliminary decisions that have been made by the DOT. I am inserting an article from West Virginia in which one William Loy not only misconstrues who was the author of the bill, but also places blame for proposed abandonments on Chairman Staggers of the House Interstate and Foreign Commerce Committee rather than properly labeling it as the Department of Transportation proposal. This creates a further credibility gap at the local level during these trying times when truth and integrity are desperately needed, and I would hope that this is not repeated in other sections of the country. Instead, I would hope that local officials concerned about the design of the system would concentrate on the presentation of evidence to the ICC which will make the very intricate design and planning system produce the best possible new rail service.

The article follows:

West Virginia Acts To Halt ICC Rail Hearing

The West Virginia Senate yesterday adopted a resolution asking the Interstate Commere Commission to postpone a sheduled hearing on a railroad re-organization plan that would affect the state.

At the same time, West Virginia gubernatorial aide, William Loy, a Romney Republian, who is seeking to unseat Congressman Harley O. Staggers (D-W. Va.) of Keyser, vowed he would seek a delay in the hearings which aim to abandon several stops in the West Virginia Second District.

The ICC has scheduled hearings tomorrow and Tuesday on the plan designed to "revitalize" freight rail service in northeastern part and midwestern states. The hearing is one of 17 being held in the eastern part of the country.

In West Virginia, about 200 miles of track would be withdrawn from use under the initial outline of the plan. However, an ICC attorney said total mileage involved may only be 120.

The West Virginia resolution was to be presented to ICC officials prior to Monday's session.

The Senate said only 17 days had been allotted for notice of the hearing and this was not sufficient for all interested persons to be informed. It also said the plan would create "a great hardship" if adopted.

Mr. Loy criticized a 1973 law drafted by Rep. Staggers to permit the ICC to eliminate certain rail lines in the Second District.

He said the Staggers' measure would allow railroads to erase tracks between Green Spring in Hampshire County, and Petersburg in Grant County, and between Martinsburg and Inwood in Berkeley County.

He said last year, the Chessie System tried to omit the Green Spring and Petersburg lines but that he and Gov. Arch Moore persuaded the railroad to discard its proposal.

Mr. Loy charged that the Staggers' bill would allow the railroad to proceed with abandonment "unless we act now to stop that action."

He said the bill is a "step backwards," threatened the area's growth and impaired progress "in the time of an energy shortage when we really need the railroads."

ICC officials have said the number of requests to testify at hearings on the new Northeastern railroad system has been "absolutely phenomenal."

In addition to Charleston, W. Va., other hearings tomorrow are scheduled in Washington, Boston, Detroit, Pittsburgh, Columbus, Ohio and Scranton with other cities later.

The Department of Transportation has recommended 25 per cent of eastern and midwestern railroad lines be considered for abandonment. It is the final step in a two-year planning process designed to combine the best lines of seven bankrupt railroads into one trimmed down system for the East.

IMPLEMENTATION OF THE NORTHEAST PLAN

The legislative process can only produce a vehicle for action which must then be implemented by Executive action. I have always been concerned that excellent design and operating personnel be appointed to carry out the design of this system and that all involved parties present their views. Immediately after enactment of this statute I wrote to President Nixon, Secretary Brinegar of DOT, and Chairman Stafford of the ICC and urged the appointment of the best possible people to the board of the U.S. Railway Association and to the Consolidated Rail Corp.

The act also provided for assistance to the public in presenting its case. I am pleased to note that the ICC has taken seriously its responsibility under this act and pursuant to this new feature the ICC is making public counsel available to be certain that all views are properly presented. An excellent press report on this activity appeared in the Wall Street Journal of March 5, 1974, which I am inserting at this point in the Record:

ICC Gets an Unusual Job: Assisting Rail Plan Foes

Washington.—Regional hearings on the Northeast-rail consolidation are putting the Interstate Commerce Commission in an unusual role: giving protesters legal assistance in voicing their gripes.

The law providing for the reorganization directs the ICC to furnish counsel to witnesses. And the agency, long criticized for neglecting public views in favor of industry interests, is going at the task with zeal. A newly hired force of 30 lawyers is helping witnesses prepare their testimony.

Some advice given to prospective complainants by Cliff Curtis, assigned to the Albany, N.Y., hearing:

Bring in new figures to improve upon the Transportation Department report, which "relies on a lot of outdated data." That study is based on 1972, so witnesses are urged to add 1973 information and even 1974 projections.

Cite local industrial and recreation expansion plans that would require rail service.

Hammer at points little mentioned in the government study, such as the need to keep lines in use for passenger services, the environmental benefits of rail service and its energy efficiency.

I want to urge my colleagues from the States involved to participate with local officials and other members of the public in the development of this system. In my opinion, the legislation provides an excellent method for utilization of the best talent we have in the United States to create a revitalized railroad system, but we must be certain that it works.

We all know that we cannot continue every mile of track in every State so we have provided in the bill for abandonment of redundant main line service and branch line service that is no longer of value. However, the bill also provides that local governments can continue to maintain lines that would otherwise be abandoned by using continuing service through a 70 to 30-percent Federal subsidy program. This will give an additional period of time for local communities to determine whether the service is necessary and allow shippers and the public to plan for their needs.

CONCLUSION

The plan has started exactly as was outlined in the congressional debate. The DOT has offered a preliminary plan and now ICC hearings are being held. I believe the DOT proposal is titled too much toward a sole test of profitability but the press reports indicate that the ICC is receiving responses that will emphasize service to the public. I hope this continues.

I have also noted the criticism by some that the plan is too generous to creditors or too attractive to bankrupt railroads. At the same time we are informed that the creditors filed suit against the legislation and some railroads such as the Erie-Lackawanna and the Boston and Maine, want to stay out of the system. This indicates to me that we have created a well-balanced approach between the public need for rail service and the constitutional rights of the private enterprise groups involved. There will be many more difficult days ahead in trying to revitalize railroad service in the United States, but all indications are that the process is working as was contemplated when we passed the legislation.

THE PEOPLE HAVE HAD ENOUGH OF THE HIGH COST OF LIVING: CONGRESS MUST HEED THE PEOPLES' MESSAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Kemp) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, the American people are sending a message to the Congress. That message is that they have had enough of the high cost of living. And, I believe this mood will permeate virtually every action of the people at the voting booths this year, unless we get a handle on the problem.

The people have had enough of the inflation which eats away the purchasing power of their hard earned dollars.

They have had enough of the high

taxes required to pay for programs which are too often wasteful or of dubious benefit.

They have had enough of the gigantic Federal bureaucracy which consumes more and more tax dollars, goes further into debt, yet seems to accomplish less and less.

They have had enough of Government regulation of wages and prices—regulation which has driven down supplies, driven up prices, and produced shortage after shortage.

They have had enough of the careless issuance of paper money without any additional productivity to reinforce it.

My mail, responses to my questionnaires, telephone calls, town meetings, and personal exchanges convince me of the swelling chorus of discontent over rising prices, decreasing purchasing power, excessive Government spending, strangling controls. No wonder the people are angered at even the mention of new taxes. And, no wonder they are bent on taking out their hostility on one of the institutions they feel has contributed to the economic turmoil: I speak of the Congress.

The ray of hope in all of this is that the inherent capacity of the American people to know—often far better than those whose tasks they are to know—what is wrong and what to do about it. The people do know what is wrong, and they know what to do about it—put the pressure on the Congress—you and me—to do our fair share of holding down the high cost of living by putting an immediate halt to those measures which contribute to it.

THE CAUSES OF INFLATION

Inflation is not an act of God: It is an act of politicians. And, since politicians created the problem, they possess the capacity to solve it, that is, stops inflating the people's money. We must exercise the type of fiscal restraint that alone can assure this Nation that we are willing to face up to the challenge of halting this inflation.

The high cost of living which we have experienced in recent years is a product of several factors, all interrelated; but, in summary constituting an unnecessary interference by Government in the people's welfare and economic livelihood. In a well-intentioned attempt to solve the peoples' problems, Congress overlooked the most basic of all economic and political lessons: The people can solve many of their problems far better than Government can solve those problems for them.

The high cost of living is a result of Government policies which too often have backfired. No matter how well-intentioned, the actions of the Congress and the bureaucracy can never duplicate the diversity of the economic interplay of the marketplace. When Government interferes with the laws of supply and demand, jobs are jeopardized, purchasing power goes down, shortages go up, and the threat of recession even looms on the horizon.

What are the principal policies which have backfired?

First, the wage and price control program has backfired. This program—the extension of which I opposed last April—has had the effect of holding down wages, while at the same time permitting prices to far outpace them. Before the controls were imposed in 1971, the consumer price index was growing at an annual rate of 3.3 percent. Everyone was so alarmed at that growth that wage and price controls seemed the only answer. Since their imposition, however, the percentage has jumped up and up. In 1973 it was an astonishing 8.8 percent.

The answer is not more controls. Controls only delay the day in which the laws of supply and demand will be reinstituted and as supplies go back up, prices go down. The only alternative to decontrol is more control, more inflation, less purchasing power, and the actual danger of the entire economy eventually beginning to fall apart.

History's lessons are clear: As controls are lifted, prices will rise slightly, then production is accelerated, supplies then go up, and the prices decline—sometimes even drastically. This is certainly preferable to a Government in "far away Washington" trying to control the economy and the individual economic choices of our people.

Second, Government spending policies have backfired, and in a variety of ways. Too much Government spending initially overheated our economy, which alone contributed heavily to the causes of inflation. Because Government spending outpaced Government revenue, and because two few had the fortitude to insist that we pay our own way rather than insisting our children and grandchildren pay our way, the Government went further into debt. This too contributed to inflation, for Government simply printed more money to pay its debts—which put more money into circulation—and Government borrowed funds at ever-increasing interest rates—which channeled funds away from the private sector to the public sector.

Third, the failure of both the Executive and the Congress to impose self-restraint on its spending proclivities contributed to inflation. Congress is only now getting around to insisting on budget control mechanisms to insure that we establish priorities among various spending alternatives and that we hold the line against deficits. This is a step in the right direction, but it is years too late. And, instead of helping us to hold down Federal spending, the President has submitted the largest budget request in our Nation's history, calling for vast new Federal expenditures. The failure of the Congress to hold the line and the failure of the President to recommend that it hold the line only fuels the fires of inflation.

Coupled with such measures as devaluation, international currency adjustments, et cetera, these misdirected policies have contributed to the increase in the cost of living which the people are rejecting.

WHAT IS TO BE DONE

This problem is subject to being overcome not by controls as much as by their absence. Only when we adopt and enforce a sound and consistent monetary and fiscal policy will we start to climb out of this morass.

What am I trying to do to overcome the problem? Several things.

First, we must insure the elimination of arbitrary wage and price controls. Labor supports this elimination. Industry supports it. And, the consumers support it. It makes one wonder why some in the Congress do not. I hope that it is not because they put a higher priority on Government control than they do on the people's welfare.

Second, we must hold down the issuance of money that has no support behind it. Every new dollar printed—for which nothing stands behind it—robs each of us of what little money we have by destroying our purchasing power.

Third, Congress must stop voting for programs that will be financed by borrowed money. We must stop excessive Federal spending. Federal spending must not exceed its income. That is the only way to avoid either taxes or deficits, both of which rob us of our livelihood and our posterity. We must establish priorities among competitors for the people's dollars, not trying to satisfy all of them, for many are less deserving than others. The people's dollars must be judiciously spent; to do otherwise is to breach faith with the people.

Fourth, the Congress must exercise tighter restraint on the authorization and spending processes. We should look at every program in an established time frame to insist that it is successful; otherwise, cut it off. We must disclose the true anticipated cost of new programs being proposed at the time they are proposed—not later. And, we must take greater responsibility for the formulation of the budget.

Fifth, we must show the people that we too are willing to sacrifice. Every Member of this Congress feels the same pinch of every citizen. We pay higher prices too; we use devalued dollars too; we pay taxes too. But when such reckless acts as proposed pay increases for Members—Members attempting to raise their own salary—which I strongly oppose—come to the people's attention, can we doubt why they feel the way they do?

Mr. Speaker, the ability to hold down the cost of living is within our reach. We must make that reach. I am committed to holding down the cost of living, and I challenge my colleagues to join with me.

DR. BOSWELL J. CLARK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 5 minutes.

Mr. HANSEN of Idaho. Mr. Speaker, Dr. Boswell J. Clark, who has today honored us with his presence and favored us with an eloquent and inspiring opening prayer for the House of Representatives, is pastor at the Clinton, Md., United Presbyterian Church which he founded 9 years ago. "Bos," as he is affectionately known by his parishioners, has the distinction of having been a student of the revered Peter Marshall; in fact, had it not been for the inspiration of that inimitable Presbyterian minister, Dr. Clark would undoubtedly have still been following the successful engineering career which was his original calling.

Dr. Clark continues his studies, encouraged throughout by Mrs. Clark, while serving an exceptionally warm, friendly congregation. The Peter Marshall influence remains, however, and is reflected in mannerisms, delivery, intonation and, most importantly, sincerity. An abiding sense of the need for renewed love of country often surfaces in the Sunday sermons in the Presbyterian Church in Clinton and Dr. Clark has written an article about today's patriotism which I want to share with my colleagues. I include it as part of my remarks:

LEADERSHIP FOR THESE TIMES

(By Dr. Boswell J. Clark)

"These are the times that try men's souls," says the famous quotation. It seems every generation has felt that indeed their times were such, and we no less than they repeat this quotation as indicative of today. If such is the case then what is important is not the events which cause us to feel this truth, but what we do in response to these stimuli. Many say there is no hope, no use trying, the whole world has gone bad and there is nothing left to do but to isolate one's self in introversion of living under the intoxicated idea that is expressed by the anonymous Quaker quotation: "Everyone is evil but me and thee and I have my doubts about thee."

But man is a social being. He can only find true fulfillment of his basic needs of life by social relationships with others. Those who wrote our Declaration of Independence, our Constitution and formed this free nation were well aware of this fact. They did not withdraw from society nor resign from the human race but instead they were challenged by the problems and troubles of their day to find a social system wherein freedom could provide the way for men to constantly seek a better life "to secure for ourselves and our posterity the right of . . . the pursuit of happiness." Our response to the troubles and problems of our day can do the same. These times that try our souls can overwhelm us or they can stimulate us to stand up and gird our loins like warriors who will lead us into better days for ourselves and our posterity, both men and women. Too frequently we say to ourselves: "I am only one person. What can I do to change America or change the world community?" Joan of Arc was only one woman and yet her deeds still live in the annals of history. Patrick Henry was only one voice when he stood up in Richmond, Virginia and said "Give me liberty or give me death," and yet those words continue to echo down through the halls of time in every State of the Union.

We stand at a crossroad in our nation where we can either join the chorus of hopelessness and go down the road of despair or we can be that "one voice crying in the wilderness make straight the highways," that lead to joy and the pursuit of happiness. I am only one small insignificant citizen of this United States who had the honor of being invited to open the House of Representatives this morning with prayer. As I walked across the parking plaza one day recently to speak at a prayer breakfast in the Capitol I looked up at the flag flying over our Capitol. It was one of those crisp clear mornings when the sky was its most brilliant blue and I felt a tingle in my spine as I viewed the flag which represents the nation for which I had fought in World War II and millions of other unknown citizens had done the same to preserve this nation in all of the wars of our country. I was immediately reminded of the words: "Breathes there a man with soul so dead who never to himself has said this is my own, my native land!" The thrill is not gone. There are those who will fight in peace as they did in war to lead this nation down the road of truth, honesty, and integrity of character. Their name is legion.

The Congress of the United States has such men and women in its chambers even now. Men and women who are capable of hearing the charismatic call to stand firm in what we believe and by their words and their deeds to demonstrate the strength of leadership which will lead this nation down that road upon which we embark when we founded this nation, that highway made straight by the virtue which men can and do have within their grasp. My prayer therefore for this nation is: "God give us men and women who will meet the challenge of these times!" And He will. You may be one such person needed at this moment. "Whom shall I send, and who will go for me?" "Here am I Lord, send me!" (Isaiah 6: 8)

FEO NOT ENFORCING RULES; AGRICULTURE, PUBLIC SUFFER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. McFALL) is recognized for 5 minutes.

Mr. McFALL. Mr. Speaker, nearly 2 months after the Federal Energy Office issued regulations to carry out a clear mandate from Congress, agriculture still finds itself without sufficient fuel to perform its vital task.

After receiving continued reports from farmers, Department of Agriculture officials and local fuel distributors, in my district in California's San Joaquin Valley that oil companies are refusing to obey FEO's regulations, I asked FEO Regional Administrator William Arntz in San Francisco to enforce the rules.

In my airmail letter of February 15 to Mr. Arntz, I reported my discussions indicated "that agriculture is not receiving 100 percent of current requirements in either motor gasoline or middle distillate fuel."

I urged the Administrator to "take immediate and effective action to obtain compliance from oil companies with the regulations established in accordance with provisions of the Emergency Petroleum Allocation Act of 1973."

A followup telegram to Mr. Arntz on March 7 pointed out that there had been "no response from your office to date concerning this critical situation involving California agriculture."

This finally prompted a response from the Administrator, which by coincidence was also dated March 7, in which Mr. Arntz admitted that compliance with the regulations had not been obtained.

Mr. Arntz' letter stated, in part:

> We are very much aware of the situation and have been meeting with suppliers and ASCS representatives (of the Department of Agriculture) to assure an adequate supply of product for agricultural users, especially for the purposes of frost prevention which you mentioned. As you know, the regulations stipulate that those involved in agriculture are to receive 100 percent of current requirements.

Unfortunately, the FEO has been attempting to obtain voluntary compliance from the oil companies rather than use the enforcement power the agency possesses. "It may be encouraging to note that most suppliers have made every attempt to cooperate with us," the Administrator advised me. "You have my assurance, however, that we will move against those violating the regulations in the event that our efforts to achieve voluntary compliance are not successful," he promised.

From past experience, Mr. Speaker, the FEO should know by now that depending upon the good will of the oil companies simply will not protect the American people.

When the fuel shortage pinch became serious a year ago, through the Office of Oil and Gas—which was then in charge of the administration's efforts to meet a mounting problem—a voluntary effort to obtain equitable distribution of dwindling petroleum supplies failed.

Most oil companies turned a deaf ear to the requests from FEO's predecessor, claiming that they feared antitrust actions or civil suits from long-established customers. They asked for mandatory allocation legislation which would enable them to divert petroleum supplies to uses which had greater bearing on the national interest than uses which were not so essential to the well-being of the country.

This legislation was enacted by Congress with full expectation that priorities would be established and enforced in certain vital areas.

While voluntary compliance with the law is desirable, the time for kid glove treatment of the major oil companies has long since passed.

Almost without exception, the companies in my district are telling the farmers that they are limited to a certain percentage of gasoline and diesel fuel that they used in 1972, not 100 percent of requirements.

In my letter to Mr. Arntz, I pointed out:

> As a consequence, serious impairment of agriculture's ability to produce is threatened in the San Joaquin Valley. Farmers who are now making plans concerning the types of crops to be planted and quantities will be greatly influenced by their ability to obtain sufficient fuel to continue their operations through the planting, growing and harvesting periods.

Of great concern to me also are the consequences in other segments of our economy if FEO allows the oil companies to proceed in their own fashion. Are the long lines at service stations the result of FEO's failure to get compliance from the oil companies? Based upon the experience of harassed farmers, it would be reasonable to draw this conclusion.

FEO has the enforcement power necessary to obtain compliance with other regulations designed to protect the general public and must exercise this authority. The public has cooperated very well in curtailing the use of energy, but it must receive the cooperation it deserves in assuring that fuel is available to minimize dislocations and hardships it is called upon to endure. FEO certainly will have the backing of Congress and the people in requiring oil companies to carry out its responsibilities under the law. I urge FEO to use all its powers to achieve this essential cooperation.

ANNUAL REPORT OF THE IMMIGRATION AND NATURALIZATION SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, the 1973 annual report of the Immigration and Naturalization Service has just been released. This informative document, replete with tables and statistics, illustrates the tremendous responsibilities of the Immigration and Naturalization Service.

I invite the attention of all Members of Congress to read this document and to study the attendant tables. In fiscal year 1973 there were 400,063 new immigrants admitted to the United States, an increase of 4 percent over the 1972 total. During this same period, there were 5,977,324 nonimmigrants of various nonimmigrant categories of aliens inspected and admitted to the United States. Of this number, the largest group were temporary visitors for pleasure, an increase of 17.6 percent over the previous year. Furthermore, visitors for business increased 21.8 percent over the previous year. The most staggering statistic is revealed in the arrival of over 250 million passengers during 1973, an increase of 5 percent over 1972, again setting a new record. Needless to say, this large number of people visiting our shores imposes an awsome duty on the Immigration Service to inspect such individuals prior to their admission. In addition, the Service must monitor the whereabouts and departures of these people, simultaneously recording accurate statistics.

The annual report contains a very significant section on the ability of the Service to locate deportable aliens. A total of 655,968 deportable aliens were located by Service officers, an increase of 30 percent over fiscal year 1972. A total of 84 percent of the illegal aliens ascertained made surreptitious entries at other than ports of entry. To achieve effectiveness, the Service must remove illegal aliens quickly, and 55 percent were removed within 72 hours of entry. In an effort to better detect illegal entries, a modern enforcement tool, known as an electronic intrusion alarm system, has been installed along the northern and southern borders.

There is a high concentration of illegal aliens in urban centers of this country who often unfairly compete with American workers and who often surface on welfare rolls. In the past year, the Service sought to improve the methods of detection of illegal entrants by seeking the cooperation of employers to discontinue the hiring of illegal aliens. In addition, an effort was made to expand the recruitment and training of Immigration and Naturalization officers in an attempt to strengthen area control forces in New York City, Los Angeles and Chicago.

During the previous year there was an alarming continued upward trend in alien-smuggling operations, particularly in large urban areas. Such smugglers charge an alien anywhere from $200 to $650. They also provide him with a variety of forged and counterfeit documents, transportation, and temporary housing in private homes or motels where the alien awaits relocation. Despite the dangers and hazards of crossing the border in such fashion, aliens continue to pay large fees for assistance. The Service in 1973 secured an agreement to prosecute 30 major commercial smuggling operators in Chicago and a $3,000,000 smuggling ring, the largest operation ever uncovered by the United States, was disbanded after a successful 3-year probe and investigation by Service officers. Though the primary purpose of the Service is immigration law enforcement, the past year saw Service officers responding to public emergencies. For example, officers assisted local authorities in California in evacuating a section of a city which was faced with a munitions explosion. Furthermore, officers seized over 98 tons of marijuana valued at more than $19.6 million. Due to the Service's cooperation with Federal, State, local, and foreign country law enforcement agencies, illegal firearms, merchandise, contraband, and, most important, hard drugs such as heroin and cocaine were seized by officers of the Service.

The Immigration Service must be complimented for diligent efforts in enforcing the law. Though the Service is understaffed and sufficient funds have not been appropriated, the Immigration and Naturalization Service, even under these circumstances, continues to effectively monitor, administer and enforce the immigration laws.

Extensive hearings and investigations were conducted by the Subcommittee on Immigration, Citizenship, and International Law regarding illegal aliens. The data collected led us to the conclusion that even with the inadequate manpower and available facilities of the Service, it is doing a remarkable job. Nevertheless, it becomes obvious when reviewing the facts as highlighted by this report, that additional personnel and appropriations are badly needed.

The enactment of H.R. 982, a bill which provides a penalty on employers who knowingly employ illegal aliens, will assist enormously in preventing the surreptitious entry of many aliens into the United States and will assist the Immigration and Naturalization Service in combating the vexing illegal alien problem. This bill is designed to remove the incentives for aliens to illegally enter the United States in search of employment and for employers to exploit this source of labor.

I would like to compliment the Immigration and Naturalization Service for this thorough report. I would also like to welcome Gen. Leonard Chapman as Commissioner of the Immigration Service. I am very impressed with the way that General Chapman has assumed his new duties and I look forward to working with him and with the Service in a new era of cooperation and dedication.

ONE HUNDRED AND SEVEN CONGRESSMEN JOIN IN SPONSORING BILL TO PROTECT VETERANS' PENSIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. HARRINGTON) is recognized for 5 minutes.

Mr. HARRINGTON. Mr. Speaker, today I am reintroducing, with 106 sponsors, legislation I first offered on February 13, H.R. 12787, to prevent veterans, their dependents and widows, from losing their eligibility for veterans' benefits or suffering a decrease in the amount of such benefits because of increases in monthly social security payments. This legislation would "pass-through" social security benefit increases enacted in 1973, totaling 16.9 percent, to all veterans who are recipients of social security. Veterans and their families would also be protected against adverse effects on VA benefits from future cost-of-living social security increases.

Mr. Speaker, I hope that the sponsorship of nearly one-quarter of the Members of this House will speed action on this important legislation by the Veterans' Affairs Committee. The many bills introduced in this and previous Congresses to "pass-through" social security benefits to veterans—of which my bill is only the latest but hardly unique—demonstrate convincingly that hearings should be held soon on the need to protect veterans and their dependents from financial harm arising from social security benefit increases. I would hope that within a few months, the House will have the opportunity to pass legislation along the lines of that which I have introduced with the sponsorship of 106 of my colleagues. We have allowed this problem of inadequate coordination between the social security and veterans' pension systems to go on too long.

As most of my colleagues know, the need for this kind of legislation is caused by the feature of current law linking a veteran's eligibility for a pension or compensation, and the amount of his benefits, to his income. Income from social security is included in computations for the purpose of determining eligibility and benefit amounts. Thus, every time social security benefits go up, some veterans receiving social security checks find that their pension goes down—and, in some cases, stops altogether. An estimated 17,000 veterans and their dependents will be cut completely from the VA rolls this year because of social security increases, while another 1⅓ million veterans and their dependents will have the amount of their benefits reduced.

This undesirable situation can be easily remedied. Future increases in social security benefits should not be computed as part of a veteran's earnings for the purpose of determining eligibility or benefit amount for VA pensions and compensation. Veterans have earned and deserve their pensions. Their VA pensions should not be linked with social security in a way that works to the detriment of the veteran and his family.

The urgent character of this legislation is heightened by the economic realities of our time. It seems obvious to me that the high inflation rates of the last couple of years strike hardest at those living on fixed incomes—particularly the elderly. Last year, food prices rose by 16 percent, more in some places, and even the Administration predicts sharp increases in the coming year. This is no time for financial sleight-of-hand with the security of elderly and disabled veterans. They need real help, not just promises. They need the full assistance of the social security benefits totaling 16.9 percent that the Congress passed last year—plus future cost-of-living increases. The legislation I have introduced would accomplish this.

In the coming weeks, I will be speaking again on the issues raised by this legislation to protect veterans' pensions. I commend those of my colleagues who have joined to sponsor H.R. 12787, and urge those who as yet have not, to join in this good cause.

Mr. Speaker, at this point I include names of the current sponsors of H.R. 12787 in the RECORD:

Ms. Abzug, Mr. Addabbo, Mr. Badillo, Mr. Bergland, Mr. Bingham, Mr. Boland, Mr. Brasco, Mr. Brinkley, Mr. Broomfield, Mr. Brown (Calif.), Mr. Burke (Mass.), Mrs. Burke (Calif.), Mr. Byron, Mr. Carney, Mrs. Chisholm.

Mr. Clay, Mrs. Collins (Ill.), Mr. Conte, Mr. Conyers, Mr. Corman, Mr. Culver, Mr. Daniels (N.J.), Mr. Dellums, Mr. de Lugo, Mr. Denholm, Mr. Diggs, Mr. Donohue, Mr. Drinan.

Mr. du Pont, Mr. Edwards (Calif.), Mr. Eilberg, Mr. Fauntroy, Mr. Flowers, Mr. Ford, Mr. Fraser, Mr. Gaydos, Mr. Gilman, Mr. Ginn, Mr. Gray, Mr. Green (Pa.), Mr. Gude, Mr. Gunter, Mr. Hawkins.

Mr. Hechler (W. Va.), Mr. Helstoski, Mrs. Holtzman, Mr. Horton, Mr. Hungate, Mr. Johnson (Pa.), Mr. Jones (N.C.), Mr. Kemp, Mr. Kyros, Mr. Leggett, Mr. Long (La.), Mr. McCloskey, Mr. McDale, Mr. McSpadden.

Mr. Mathis, Mr. Matsunaga, Mr. Mazzoli, Mr. Meeds, Mr. Metcalfe, Mr. Mezvinsky, Mr. Mitchell (Md.), Mr. Moakley, Mr. Moorhead (Pa.), Mr. Morgan, Mr. Moss, Mr. Murtha, Mr. Nedzi, Mr. Nix.

Mr. Patten, Mr. Pepper, Mr. Podell, Mr. Preyer, Mr. Price (Ill.), Mr. Rangel, Mr. Rees, Mr. Reid, Mr. Reuss, Mr. Riegle, Mr. Rodino Mr. Roncalio (Wyo.), Mr. Roncallo (N.Y.).

Mr. Rose, Mr. Rosenthal, Mr. Roush, Mr. Seiberling, Mr. Stark, Mr. Steele, Mr. Stokes, Mr. Stuckey, Mr. Studds, Mr. Thompson (N.J.), Mr. Thone.

Mr. Tiernan, Mr. Van Deerlin (Calif.), Mr. Vanik, Mr. Vigorito, Mr. Waldie, Mr. Charles Wilson (Tex.), Mr. Charles Wilson (Calif.), Mr. Wolff, Mr. Won Pat, Mr. Yatron, Mr. Young (Ga.).

LABOR—FAIR WEATHER FRIEND—VIII

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, when I was attacked by the Labor Council for Latin American Advancement, I was surprised to learn that Maclovio Barraza was a member of the executive committee, an officer and guiding light in the efforts of that budding new institution.

I was surprised because while it might be expected that the LCLAA as an organization might be so crude as to fail to send me a message, and then claim that it had, or that it would be so eccentric as to attack its own friends, I never dreamed that Maclovio Barraza would be a party to it or fail to protest it.

Yet when this sordid business came up, I did not hear from Barraza. He did not call me to ask what the truth was. He did not write to ask me for any facts. He did not insist that the LCLAA be honest with me. Yet he knows me well, and knows that I have defended him.

When Barraza's union was under a cloud of suspicion, so was he. His whole union and all its board officers were being called Communists, because one of their number might have been. This shadow of doubt hampered Barraza's union and it hampered him personally.

Shortly after I was elected, Barraza asked me to speak out, to do something about the situation that was so tormenting his union, and affecting his own life. Here I was, a freshman looking at the problem of getting reelected after serving half a term; I had no influence or power. But here was Maclovio Barraza asking for help in resolving an injustice.

Barraza expected me to presume that he was innocent.

Barraza expected me to act on that presumption of his innocence, and help take away the doubt that had been cast over him and his union.

He expected me to run substantial political risks in his behalf, even though I had never met him before, and even though he was not, never had been, and may never be a constituent of mine. I did this gladly, because I believe in righting injustices, and had some reason to believe that Barraza was not working for any Communist organization. So he was cleared.

Today, years later, this same Barraza is a witness and participant in an attempt to cast doubts about me, even smear me. Do I have a right to expect him to presume my innocence? Do I have a reason to expect him to defend me against an unfair attack? I think so.

Maclovio Barraza is in a powerful position to see that his LCLAA does what is right and honest. He is a founding member and a member of its executive committee. But now that the organization has done me a gross injustice, I do not hear from him; I have no indication that he has made any effort to tell the truth about me, or find it out if he has any doubts. Yet he expected me to defend him, though I was in a much less favored position.

Does this man believe in justice only for himself? Where is he now, when he has an opportunity to help one who defended him in the past? I wonder, where are you, Maclovio?

TRIBUTE TO HON. JOHN E. NIDECKER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. GRAY) is recognized for 5 minutes.

Mr. GRAY. Mr. Speaker, on Sunday, January 27, 1974 an honor was accorded to a Special Assistant to the President which I would like to bring to the attention of the Congress. The basic reason, is a recognition of 45 years of service to God and the Episcopal Church. There is another reason, however, of import to this body, which is that John Nidecker is known by most of its Members and those of the Senate as a friend in need and in deed.

The services he has rendered to all Members of the Congress have been of inestimable value in relationships with our constituencies and with the White House. This dedicated public servant is always willing to help any Member or his staff at any hour of the day or night. Few, if any, tasks given to him have not been accomplished. His personality is that of a happy man who enjoys helping his fellow man.

The Honorable John E. Nidecker preached a sermon at two services in Christ Episcopal Church in Rockville, Md., on that day as he began his 45th year as a licensed lay-reader in his church. To a congregation of hundreds, including many of his friends, the Rector, the Reverend Elwyn D. Brown stated that John's service extended over a period longer than most ordained clergymen.

Reverend Brown read to the congregation the attached letters from the President of the United States and the bishops and clergy with whom John served. Also, attached is a very interesting letter from a little girl who heard his sermon.

The sermon itself is a chronicle of service in many dioceses and parishes and I feel it deserves recognition by John's friends in the Congress. Ralph E. Becker, Esq. a prominent attorney well known to many of us has obtained a copy of that sermon and the commendatory letters from bishops and priests as well as the President of the United States which were read at the services and I would like to include them at this point in the RECORD, because they are a well deserved tribute:

MR. NIDECKER

(By Kane Codus)

Mr. and Mrs. Nidecker are very nice people. All his friends, today, gathered under the steeple. They sang their psalms and said their prayers. Heard his sermon and ran down-stairs. The Codus kids did not squawk which proves how much they liked your talk Billy, Julie and Katie say thank you so much for inviting us today.

THE WHITE HOUSE,
Washington, January 18, 1974.

Mr. JOHN NIDECKER,
Christ Episcopal Church,
Rockville, Md.

DEAR JOHN: Your forty-five years as a Lay Reader and Leader in the Episcopal Church are understandably a source of inspiration for all who know you. But more than this, they bespeak an unfailing adherence in your daily life to the tenets of your Faith.

As a friend who has also been fortunate to draw upon your talents and counsel in the work of my Administration, I wholeheartedly share in the sentiments that will be expressed for you on this happy occasion. I know of no one who has better upheld both the letter and the spirit of religion in service to his fellowman.

My best wishes go out to you as always.

Sincerely,

RICHARD NIXON.

SAINT ANDREWS CHURCH IN
WILLISTON PARK, N.Y.,
Williston Park, N.Y., January 22, 1974.

DEAR JOHN: I note that you are now commemorating 45 years continuous service as a Lay Reader in the Episcopal Church. Since you spent part of that internship here at Saint Andrew's, I want to take this opportunity to send my congratulations, and the assurance of my continuing prayers.

With every good wish, I am

Always most faithfully,

HENRY R. KUPSH.

THE BISHOP OF NEW YORK,
New York, N.Y., January 24, 1974.

Mr. JOHN NIDECKER,
Christ Church, Rockville, Md.

DEAR MR. NIDECKER: I just heard of your 45th anniversary as a layreader in the church. I don't know of anyone with a longer record.

In this day of renewed emphasis on the lay ministry and a renewed concern that the church be a part of every day life, it is wonderful to be able to hold up the record of someone like yourself who has been deeply centered in the life of the church for so many, many years.

God bless you in the years to come. We are all grateful to you.

Affectionately,
The Rt. Rev. Paul Moore, Jr.,
Bishop of New York.

New York, N.Y., *January 22, 1974.*
Mr. John Nidecker,
Rockville, Md.

My Dear Mr. Nidecker: I join with so many of your friends in congratulating you and the Church upon your splendid record of achievement as a Lay Reader in the Church for forty-five years. Furthermore, you have been an active Lay Reader in some of the most distinguished parishes in this country. It is a noble ministry, affecting more people than either you or I could estimate, and done to the glory of God—as it should be.

The mission of this Church has been greatly aided by dedicated people like yourself and, therefore, has been strengthened for its tremendously important task because you have volunteered in Christ's Name.

May God continue to uphold your hand as you continue to be obedient to his commands.

Faithfully yours,
John E. Hines,
Presiding Bishop.

Diocese of Washington,
Washington, D.C., January 23, 1974.
Rev. Elwyn Brown,
Christ Church, Rockville, Md.

Dear Elwyn: Please do express to Mr. John Nidecker my very great appreciation of his years of service as a lay reader. The devoted ministry of such a layman is an inspiration to us all, and an example of the service to Christ and His Church that continues faithful through all the chances and changes of a lifetime.

With all good wishes to Mr. Nidecker and to the people of Christ Church,

Faithfully yours,
William F. Creighton,
Bishop of Washington.

The Diocese of Pennsylvania,
Philadelphia, Pa., January 3, 1974.
Mr. John Nidecker,
c/o Christ Church,
Rockville, Md.

Dear Mr. Nidecker: I have been appropriately informed that you are completing forty-five years of continuous service as a faithful layreader and lay leader in the Church of God. I know that you were formerly associated with St. George's Church, Venango, and Good Shepherd, Philadelphia, in this diocese. Latterly you have been associated with Christ Church, Rockville, in the diocese of Washington.

On this occasion it gives me great pleasure to send you this greeting from the Diocese of Pennsylvania, as we are eager to express our gratitude to God for your faithful service. May His Holy Spirit enfold you with His love and engrace you with His power now and in the years ahead.

Faithfully,
Lyman C. Ogilby,
Bishop of Pennsylvania.

Diocese of Newark,
Newark, N.J., January 24, 1974.
Mr. John Nidecker,
Rockville, Md.

Dear Mr. Nidecker: I understand that the Rector and members of the congregation of Christ Church intend to recognize your forty-five years of service as a Lay Reader. I wish it were possible for me to join them in person to express my own deep appreciation and gratitude for these years and, especially, for the years during which you served in the Diocese of Newark at Grace Episcopal Church, Van Vorst, in Jersey City. The life of the Church is always enriched by the faithful service of laymen and laywomen. You may be sure that your ministry has been and will continue to be deeply appreciated.

Faithfully yours,
George E. Rath,
Bishop.

The Diocese of Bethlehem,
January 23, 1974.
Mr. John Nidecker,
Rockville, Md.

Dear Mr. Nidecker: I have learned that you are being honored for forty-five years of service as a Lay Reader. At some time this included service in the Diocese of Bethlehem. You have taken the ministry of Lay Reader very seriously and wherever you have been you have functioned in this capacity. What a service you have performed for the Church and what a service you have done for Christ. Forty-five years as a Lay Reader is five years beyond the normal ministry of an ordained clergyman, according to the figures of The Church Pension Fund. You have thereby eclipsed and supported the ministries of many ordained clergymen by your devoted service.

I salute you, and I wish you many more years of service in the Lord's work.

With every good wish to you, I remain
Faithfully yours,
The Rt. Rev. Lloyd E. Gressle,
Bishop of Bethlehem.

Diocese of Long Island,
Garden City, N.Y., January 22, 1974.

Dear Mr. Nidecker: I understand that you are now completing forty-five years as a Lay Reader in the Episcopal Church and I realize that you served in our Diocese at St. Andrew's in Williston Park. I feel that Congratulations to you for your faithfulness are now in order.

With this I send every good wish and my blessings.

Faithfully yours,
Jonathan G. Sherman,
Bishop of Long Island.

Sermon for the Fourth Sunday After Epiphany, January 27, 1974

When Fr. Brown conferred on me the honor of preaching the Sermon on this day, a theme or text kept running through my mind that can be found in the Gospel of St. Matthew and which is appointed in the 1928 Prayer Book as part of the Gospel for this day.

It is: Lord I am not worthy that Thou shouldst come under my roof but speak the word only and my servant shall be healed. It was first said at Capernaum when an officer asked Christ to heal his servant who was sick of the palsy. Christ said He would go to do so. The Centurian replied in the words of the text which have now become a part of the Priest's prayers before he partakes of the Eucharist. They have been paraphrased to say, "Lord, I am not worthy that Thou shouldst come under my roof but to speak the word only and my soul shall be healed.

These words are a foundation stone in the life of a Lay Reader. In addition to this foundation, there are other stones—building stones—which are found in the letters of St. Paul to Timothy and Titus and in his letters of instruction to the many Churches he established. In those letters, Paul was persistent in his admonitions to the people that, to serve, one must love and to love one must serve. These two ideals are set forth in the summary of the law on which hang all the law and the prophets. First one must love God and secondly one's neighbor as ones self. And if a person loves in this manner he will serve.

Some forty-five years ago a priest gave of his love for me, in that he started me along the road which has brought me to this pulpit today. It was then that I began a Lay ministry of which I am proud and for which I am deeply grateful. Grateful for the opportunity. Grateful for the guidance and understanding of the Priests and Bishops who have given me permission to serve—and—grateful to the congregations for their forebearance with my frailties.

Beng a LayReader has brought me joy in many ways. Joy in service in tiny salt-box churches with almost no room in the sanctuary to huge gothic edifices with chancels almost as large in size as one half of this church. It all began in a small mission called St. George's, Venango in Philadelphia and has culminated in this beautiful church home in which I now live.

Since that beginning, there have been many experiences. There were times when I had to put on the whole armor of faith to withstand the flaming darts of fellow Episcopalians in order to prevent a rise in problems founded on false rumor. There were times when the attitude of "let George do it" prevailed and some parishioners felt that others' pledges would provide sufficient funds for the operation of a church. There were also times when I served in the capacity of a summer supply reader and preacher, when contrary to my best efforts, the people called me Brother or Father and brought their marital and psychological problems as their offertory.

Thinking back over those forty-five years, however, the most prevalent thoughts are joyous ones. Such as being a proxy sponsor in Baptism for many children, as well as the times when I was an actual sponsor. On one occasion it was for an entire family that was baptized. Man, wife, and seven children. It is also pleasant to think of some hundreds I prepared for confirmation. It is still great to recall the voices responding to the catechetical questions, "What is your name" and "Who gave you this name?"

All of this, for me, was an escalation in my life in the church, from the day when the Bishop placed his hands on my head and recited the prayer which I have never forgotten, 'Defend, O Lord, this thy child with thy heavenly grace, that he may continue thine forever and daily increase in thy Holy Spirit more and more until he come into thy everlasting kingdom." It was so that others may thrill at that feeling of the power of the Holy Spirit—when the Bishop confirmed them—that I spent many hours in teaching.

I recall the thrill I had when the first license was issued to me in 1929, and in each succeeding year granting me the right to read the daily offices and to assist at the Altar as Epistoler and SubDeacon in the Queen of all services—the Eucharist. This is a source of exquisite joy that could not have come from any other experience in life.

Having spoken of some of the things—seen—which comprise the duties of a Lay-Reader, let us look at some of the unseen. At one time I was an almost permanent funeral crucifer in a large church because my office was only two blocks away and they could call me for most of the funerals. Many times the call came to act as Miter Bearer for a Bishop and there were many Bishops who visited that Parish. There were other unseen things like cleaning Altar vessels and polishing brass in a small church. Working in a city mission amongst derelicts who came there for a meal and a bed. Preaching to them, listening to their woes and holding on to them when they thought that they just couldn't go on. Making house calls to assist a lone Priest in a parish which could not afford assistance. Begging for that Priest's subsistance was an experience to be remembered.

Visitations to hospitals are also a part of the layreader's life as well as offering consolations—as feeble as they might be—to those who are bereaved. Assisting priests and deacons when they took communions to the sick in their homes. Virtually living with a group of teenagers from the age of sixteen until they left for college or marriage. Going on retreats with them; listening to their problems and helping them over the hurdles of life. Writing, acting and stage managing as well as directing plays to earn money for homes for the aged, hospitals and other institutions occupied many late hours of preparation and work. There were multiple benefits from this work since the plays earned a great deal of money—helped place some of our actors in Broadway shows and provided a means for entertaining shut-ins. These and other means of being a servant in the house of the Lord, have brought me many precious hours of peace and happiness.

As time moved on in my life in the Church, I came to a greater realization of the movement of God in it and today, as I stand here, I hope that no one will think that I have reason to boast—no—rather this is in a measure a thanksgiving to God that I have had these opportunities.

None of them could have come about without the kindness and forbearance of some great men of God. The bishops were Garland and Tait of Pennsylvania, Sterrett and Warnecke of Bethlehem, DeWolfe of Long Island, Donegan of New York, Washburn of Newark and Dun and Creighton of Washington. Some of the priests were Fathers Hord, Fulforth, Trumbore Kupsh, Paul Moore (now Bishop of New York), Canon Newman and Dr. John Butler. There were also various deacons, priests and brothers of the Oratory of the Good Shepherd, the Orders of St. Francis and Holy Cross, the Sisters of St. Margaret and others.

In terms of the opportunities, I have been attached to sundry church homes. Buildings that were lighted with gas and poorly heated; where the organ bellows sometimes failed to work, great gothic churches where the lights were plentiful; the organs were fine instruments and the people failed to work. On some occasions I served in buildings converted to house derelicts or in huge convention halls that were temporarily furnished as churches. There was even a period when we used the 1892 Prayer Book because the Parish was poor and we could not afford the green book of its day—the 1928 Prayer Book.

Some of the most interesting educational experiences which intrigued me were service with ecumenical commissions, working with young people as they wrote their own litanies or and helping them to prepare Jazz and guitar Masses. Studying liturgies and reading hosts of books to prepare for service in the church.

There were also experiences in performing the deeds of parochial responsibilities. Serving with Priests who said the early Eucharist in twenty minutes flat and with others who stretched it out to almost an hour. I have heard many kinds of sermons, some very long and very bad ones and many that were excellent. The shortest one I ever heard took exactly two minutes.

It is quite obvious that I have not emphasized my tenure here at home, but I wanted to save the best until the last. This home which I call possessively—My parish—Christ Church in Rockville, Maryland. My life here began with Father Black who had once served as a Curate in the Chapel of the Intercession of Trinity Parish, New York. He had attended Seminary with the Vicar of Trinity Church who had written to him about my move to Maryland. Within a short period after I arrived here, Fr. Black asked me to assume some duties as a Lay Reader. Within a month, I was called one morning and asked if I would Officiate at the 9:15 Service and preach a sermon written by Father Peters. That was quite an experience as anyone can attest who has had to decipher Fr. Peters almost illegible penmanship. A Lay Reader who can join me in that thought is Mr. Hopkins who had the same duties for the 11:00 a.m. Service on that day.

Although I had served on other Vestries, service on this Vestry was a marvelous education. As a result, a nomination was made for additional service but I was not elected. At first, I was disappointed not realizing what God had in store for me. Time proved God's point since my inability to serve came along in three months when I went into the hospital. This proves that God knew what He was doing—I didn't. His plan did something else—it brought home to me the love of the people of this Parish—the prayers—flowers—letters—visits—cards and communions each gave me an evidence of His love through your love.

It must be obvious to all of you that I feel a great sense of joy in now working with Fr. Brown and Fr. Rose. It is also a wonderful feeling to be a part of this congregation of friendly active members who are my brothers and sisters in Christ. Hearing the voices of our choirs under the direction of our Minister of Music, Mr. Preston, is the source of additional joy. Being a part of the fellowship of Lay Readers is another area for which I have great feeling.

The young people of this parish never cease to amaze me in their zeal and in their service. Our acolytes do so much for all of us who serve at the Altar and sometimes straighten us out when we seem to fail or forget a point in our activities in the Eucharist.

From Fr. Hord who started me on this road, to Fr. Brown who now walks it with me, I have been most fortunate. The ways in which God has shown me error in my use of the life, He has given me and the happy experiences have made me a willing wearer of the whole armor of faith.

It is with joyful humility that I begin this forty-fifth year as a Lay Reader. It is my hope that I can continue to serve and with a fervent prayer that I look forward to the coming years of service in the church. And now my prayer of thanks:

Thank you, Lord, for this great life, which
You have given me.
For all my friends, here gathered, and for
my family.
For serving our great Nation, in a very special way.
For serving at the Altar, on this, Your Holy
Day.

For tempering adversity, for joy in the success,
Which brought me here to this great church
and for my happiness.
For places you have sent me, to do your
bidding there,
And for the many ways You've shown, that
for me You do care.

May I continue on, O Lord, to work within
Your plan,
To do the things which I should do to help
my fellowman.
I know I am not worthy Lord, yet hopefully
I pray,
That I may serve You well, O Lord, until
my dying day.

Amen.

TEAPOT DOME SCANDAL GROWS ON OIL SHALE LEASING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, the third tract in the Federal prototype oil shale leasing program was offered for bid this morning in Salt Lake City. Of the three bidders, a joint bid by Phillips Oil and Sun Oil Cos. was the highest at $75,586,800.

Mr. Speaker, I have said before that this latest oil shale leasing would provide us with an opportunity to make a better comparison of the first two tracts. It does indeed, and these are the results:

Amount of oil identified by DOI as "recoverable"; high bonus bid; and per barrel bonus bid yield to Federal Government

Colorado Tract:

C–a, January 8, 1974, 4,070 million barrels, $210,305,000, 5.2 cents per barrel.

C–b, February 12, 1974, 723 million barrels, $75,596,800, 16.3 cents per barrel.

Utah Tract:

U–a, March 12, 1974, 244.4 million barrels, $75,596,800, 30.9 cents per barrel.

Mr. Speaker, the disparity in the per-barrel yields to the Federal Government from the leasing of these public lands is simply outrageous. The second tract brought three times as much as the first, but the leasing today of the third tract, brought twice as much as the second tract. This amounts to six times as much as the first tract: 30 cents per barrel compared to 5 cents per barrel.

If the C–a and C–b tracts have brought per barrel bonus bids similar to today's, the Public Treasury would be over $1 billion richer. Instead, public petroleum resources appear to be going for peanuts, to be eventually resold by a private industry that has already recorded unprecedented annual profit levels.

After learning of the results of the second tract leasing, I wrote Secretary of the Interior Morton asking that he delay the prototype program until a complete, emergency reexamination was completed. How much was the public receiving for the sale of their precious natural resources? Why did one sale bring a nickel per barrel, while another, in more difficult mining conditions, brought 16 cents per barrel?

That letter was written on February 13. I have not received a reply as of this date.

I asked Secretary Morton why those leases should not be renegotiated to assure a fair and equitable treatment of the public's interest. If there was any indication that the public's interest was not being served, then the programs should be delayed.

Mr. Speaker, I think the results of today's leasing make all the more clear the urgent need for an agency to revive and reexamine Government leases of the public's lands and resources. Although the Department of the Interior stands guard over trillions of dollars of public property, it has a startling lack of secondary oversight: Once land is leased or minerals are authorized for recovery, there is no second effort to insure the public that they are indeed receiving bonus bids or royalty payments, truly commensurate with the value of the resources.

For this reason, Mr. Speaker, I intend to offer amendments to the upcoming extension of authorization for the Renegotiation Board, to allow the Board to renegotiate leases let for recovery of resources from public lands. Such an oversight mechanism could help prevent the apparent abuses of the public's interest that we are seeing today.

GUARANTEED STUDENT LOANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. O'HARA) is recognized for 10 minutes.

Mr. O'HARA. Mr. Speaker, let me expand briefly on the substance of the unanimous-consent request which I made earlier.

H.R. 12523 is a bill relating to the continued availability of funds appropriated in earlier fiscal years. It is a noncontroversial bill which earlier passed the House unanimously and subsequently passed the Senate, in a somewhat amended form, also unanimously.

One of the Senate amendments to H.R. 12253 dealt with the guaranteed student loan program, and sought to make such loans more readily available to students from middle-income families.

At the same time the Senate was amending H.R. 12253 and attaching its amendment thereto, the Special Subcommittee on Education of this body began hearings on a similar bill with an unfortunately similar number, vis H.R. 12523.

The Committee on Education and Labor has today reported H.R. 12523 to the House, and I requested unanimous consent, in effect, that the House language on the guaranteed loan program as embodied in H.R. 12523, be substituted for the Senate amendment to H.R. 12253.

GUARANTEED STUDENT LOANS

In 1972, when the Congress enacted Public Law 92–318, the massive Education Amendments of 1972, we changed the formula for eligibility for guaranteed loans and for the interest subsidy that had long been a feature of that loan program. Prior to the 1972 amendments, any student whose adjusted family income was $15,000 or less could apply for a guaranteed loan and for interest subsidy. The Federal or State Governments would assure the lender against default on the loan, and the United States would, for eligible students, pay the loan interest during the period while the student was in school.

In 1972, we removed the income test for eligibility, believing, quite rightly, that $15,000 was not what it had been. But, at the same time, in an effort to avoid abuses of the program, we required the institutions of higher education to make a determination that the student was in need of a loan, and the amount of that need.

The resulting performance has not been encouraging. The number of loans has fallen off substantially from the figures originally predicted, and, while there has been some recovery, we are still denying interest benefits, and in many cases, denying access to college, to a great many young people on the dubious grounds that they are "too affluent to need a subsidy."

In January 1973, the President's budget estimated that the number of loans would rise from 1,256,000 in 1971–72 to 1,533,000 in 1973–74, and 1,673,000 in 1974–75. The most recent budget shows those estimates reduced to 1,088,000 in 1972–73, 890,000 in 1973–74, and 979,000 in 1974–75.

The reasons for this decline in the number of guaranteed loans are several, but almost without exception, the witnesses before my subcommittee and the observers who have written me have placed the major share of the blame on the requirement that the individual loan applicant's need be "analyzed" through the use of analysis techniques that were designed to ration out scarce grant funds and scholarships.

The result has been that middle-income families have become virtually "analyzed out" of the loan market at the same time that increased tuitions and fees are beginning to price them out of the opportunity to pay their kids' college costs from current income.

In the 14 months that I have chaired the Special Subcommittee on Education, there has been no more persistent theme underlying the testimony before my subcommittee, and the correspondence I have recevied from parents, students, college financial assistance officers, banks, and my colleagues, than the plea that something be done to stop this notion that a family with an income slightly in excess of $10,000 can "reasonably be expected to contribute" 30 percent or more of its total income in order to keep its kids in college—and the notion that the entire panoply of student financial assistance, including loans, must be confined to kids coming from the bottom of the economic spectrum.

In the course of the past several months, my subcommittee has conducted field studies of the loan problem, and 7 days of open hearings on its scope and on proposed remedies. The legislation the subcommittee and the full committee have developed will not solve all the problems of the loan program. But it will make a healthy beginning back toward a situation in which young Americans of middle-income families will not be told, in effect, that their parents ought to take out a third mortgage or sell the family farm in order to qualify for a guaranteed loan.

The Committee on Education and Labor, Mr. Speaker, agreed unanimously to this resolution of this problem for the immediate future. But I have repeatedly stated and I will reiterate again today, that it is my intention, as chairman of the Special Subcommittee on Education, to complete, this year, a thorough-going study of the entire student assistance program, including the loan program, and to seek to present to the House an entirely new student assistance package well before the existing law expires on June 30, 1975.

Let me describe the legislation we reported today.

Under H.R. 12523, as reported to the House, the requirement for formal needs analysis, would be removed altogether from the program for borrowers whose adjusted family income is less than $15,000, and who are borrowing no more than $1,500 in a given year. For students with adjusted family incomes of $15,000 or more, or for students who seek to borrow in excess of $1,500, appropriate needs analysis would still be required though the bill does ban the use, in this context only of the very stringent needs analysis system worked out for the basic opportunity grant program.

In addition, H.R. 12523 extends for 1 more year the special allowance provisions of existing law, under which the Secretary of Health, Education, and Welfare can prescribe a special allowance to be paid to lenders under this program to help make up the difference between the 7-percent interest chargeable to the borrower and the market interest rate.

H.R. 12523's proposed changes in the guaranteed loan program would affect loans on which guarantees are made after 60 days subsequent to its enactment. In effect, these would mostly be loans made to meet expenses for this fall, though some might be applicable in summer school.

It is my opinion, and I am joined in this opinion by the distinguished ranking minority member of the Committee on Education and Labor (Mr. QUIE) and by the able ranking minority member of my subcommittee, the gentleman from Oregon (Mr. DELLENBACK) that this amendment will help meet the immediate problem. We are agreed, too, that it will not cure all the ills of the program, and that the subcommittee's intention to press on to a rewriting of the entire student assistance package should not and will not be slowed down by expeditious House action on this proposal.

KEEPING A STRONG NATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. CHAPPELL) is recognized for 5 minutes.

Mr. CHAPPELL. Mr. Speaker, one of the outstanding contributions of the Veterans of Foreign Wars organization is their great Voice of Democracy contest for high school students. Their efforts have, without doubt, influenced thousands of young people to think more deeply about our country and its needs, as well as their own ability to help the Nation.

This year's theme is "My Responsibilities as a Citizen" and I am very proud that the State winner is from my own district. His name is James Frederick H. Holmes from Daytona Beach, Fla. Jim has been active in his school—President of Mainland Forensic League and captain of the debate team. He has won numerous awards in speaking and we are indeed pleased he has received recognition from the VFW as Florida State winner.

Mr. Speaker, Jim's thoughts in his speech are some that we all can benefit by and I present his speech here for everyone to read:

MY RESPONSIBILITIES AS A CITIZEN

(By James F. H. Holmes)

Almost two centuries ago, a small group of Americans gathered to cast their votes for a new experiment. An experiment in Freedom, Liberty, and Self-government. Never before in the history of the world has any political experiment been so successful, never before have so many people been so free.

Through the decades the United States has grown and prospered. We have become the strongest, richest, and most successful country in the world.

Today, two hundred million Americans, all of us free. Living and working according to our beliefs and our desires.

I hear so often what's wrong with America, but seldom do I hear anyone admit that in order to preserve our way of life and in order to improve America, Americans must first meet their responsibilities as citizens.

What are my responsibilities as a citizen? What are your responsibilities as a citizen?

Our foremost responsibility, is to exercise our rights as granted us by the constitution and work to protect and preserve those rights.

We can not afford to be apathetic toward our government. We must exercise our right to vote. So often I've heard people say their one vote doesn't really count. But they are so very wrong, History has shown us that one vote does count. One vote made Oliver Cromwell lord protector of the Common Wealth, One vote decided that Americans would speak English rather than German, One vote kept Arron Burr later charged with Treason from becoming President, One vote made Texas part of our country, One vote saved Andrew Johnson from impeachment, One vote changed France from a monarchy to a republic, and One vote made Adolph Hitler head of the Nazi Party.

One vote does count, Our Democracy, our Freedom, hinges on our vote.

Register to vote, participate in government and political campaigns, and vote on every election day.

We must also stand ready to defend our country. Both from Foreign Aggression, and undue criticisms from within.

Lately the Institutions and principles which have made our nation great have been under attack; The Supreme Court, The Congress, The Presidency, The Flag, The Home, The Educational System, and even the Church.

We must respond with loud voices that in spite of their faults and failures, we believe in these institutions. Let us point out what's right with America as well as what's wrong.

We should all recognize that with our freedom some two centuries ago came certain responsibilities and obligations which have been passed down generation to generation. The cost of Freedom has been high. High in the pocketbooks, on the battle fields and in the hearts of our ancestors.

As Benjamin Franklin left the Constitutional Convention a Woman ask him "Sir what type of government do we have?" He responded "Madam we have a Democracy, if you can keep it." He was really telling us that Freedom is everybodies job and as a young American I'm striving to meet my responsibilities as a citizen. If we meet our responsibilities, and with God's help we will overcome the crises of our time and ensure a Strong, healthy America for our children.

As we near our two-hundredth anniversary as a nation, let us answer Benjamin Franklin. Let us tell him "Yes we have a Democracy and we shall keep it".

Mr. Speaker, I want to again thank the VFW for its continuing work with our young people—and a special thanks to Jim for a fine speech.

HOW SOCAL PLANNED THE LATEST ELK HILLS RAID

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Moss) is recognized for 30 minutes.

Mr. MOSS. Mr. Speaker, some 16 Members of the House have signed a discharge petition seeking a 1-year open up of Navy's Elk Hills, Calif., oil reserve. As constructed, the legislation this petition seeks to discharge would benefit Standard Oil of California by several hundred millions of dollars. I have warned of this, offering to provide any member definitive documentation of the dimensions of this blossoming giveaway. Curiously, the President, warned in 1970 and 1973 of this affair, has maintained support of the open up attempt.

Nor is this the only dimension of the overall effort to take Elk Hills for commercial exploitation and massive private profit. For years, immediate boundaries of Elk Hills and other Navy reserves have been the scenes of raids by private interests, seeking to drain Federal oil pools by abuse of leases and Government permits. This has been accomplished through the Bureau of Land Management and U.S. Geological Survey.

Private companies have attempted to invade Navy's oil pools by drilling on their own fee lands next to reserves. This has been especially true at Elk Hills, twice resulting in law suits against Standard Oil of California by Navy through the Justice Department.

The most recent case, known as Tule Elk, after the oil field in question, resulted in victory for Government, as the court decided Socal was illegally draining oil reserved for national defense. However, this case is unique because I have come into possession of internal Socal documents, giving us a rare glimpse into how a giant oil company works as it prepares and calculates a raid on public resources. These papers indicate the company was aware its drilling would take Government oil, and carefully examined projections on how much oil it could extract before Government found out and acted. The only reason Socal informed Navy of its drilling program was because of its fear that Congress and the press would discover its activity and make it public.

Socal spokesmen have admitted the papers are genuine. The most fascinating twist here is that in spite of these revelations, the President continues to press ahead with plans to open Elk Hills for Socal's benefit. Such a position becomes increasingly untenable when an observer peruses these internal documents, which I now offer for inclusion in the RECORD in the hope Members will find them useful and enlightening:

San Francisco, Calif.,
October 14, 1970.

Exploratory Prospects Near Elk Hills

Mr. A. V. Martini: On October 9, 1970 you requested our comment on possible involvement with Naval Petroleum Reserve No. 1 if certain exploratory prospects outlined by your staff were to be drilled. We have studied the map which you provided and have discussed the matter briefly with counsel. (It seems to us that each of the prospects will eventually arouse the interest of the Navy and will necessarily bring about negotiations for joint production of the pools that are found to extend into NPR #1.)

SECTIONS 7–R

In our position, Prospect *7R and* offers the most favorable conditions for normal commercial exploitation of oil pools found at these locations. We would expect that the accumulations would be produced in the same manner as the existing 14B pool that extends from Navy Section 14B in NPR #1 to areas in Sections 15B, 22B and 23B.

SECTIONS 7–R

It should be noted that Prospect 7R lies within the proposed extended area established by the Amendatory and Supplemental Agreement (NOd–8477). Within the proposed extended area inclusion is mandatory for a Stevens Zone accumulation which is found to be connected with a Stevens Zone reservoir now productive within NPR #1. If such connection does not exist, the accumulation does not have to be included under the Unit Plan Contract (decision is by the Secretary of the Navy). The reservoir could be produced in the manner employed for the 14B pool. It appears that lack of connection with a reservoir now productive within NPR #1 could be proved for Prospects 7R.

We believe that the probability of becoming involved with Navy to some extent if oil is discovered, is very nearly 100% for each of the prospects. However, the probable physical situation indicated by you for Prospects 7R lead us to believe that commercial exploitation of reservoirs discovered in these areas could be arranged.

J. H. Thacher.

7–R—Production and Exploration Program

PRINCIPLE

Begin exploration on North half of Section—away from Unit Boundary.

Thus, minimize immediate threat to Reserve and resulting early Navy action to include.

ADVANTAGES

Could allow considerable production before Government reacts.

If limited extension into Reserve, could result in Standard's ability to produce commercially.

DISADVANTAGES

May instigate Government legal attack on 15(b) ("mutually desirable") interpretation.

May cause Armed Services Committee to request shut-in until facts determined.

End result could be condemnation of land for dollars, no oil.

San Francisco, Calif.,
June 21, 1973.

Elk Hills Exploration

Mr. J. H. Silcox: Pursuant to our discussions with Messrs. Gosline and McBaine on June 19, we have prepared the attached summary position paper in an attempt to focus attention on the key factors that must be evaluated in regard to each prospect.

We would appreciate your review of this summary and your particular comments regarding the technical questions raised in the recommendations outlined regarding the 7–R prospect.

When you have had an opportunity to consider this material and your technical data, we would like to review the entire matter with you preparatory to further discussion with Mr. McBaine and in preparation of a mutually agreed-upon report to Mr. Gosline.

Position Paper: Exploration by Standard on Periphery of Elk Hills

OBJECTIVE

To consider the advisability of initiating current exploration at one or more locations around the boundary of Elk Hills. There are legal questions involved which dictate a cautious approach, but current oil shortages also support proceeding with the program even though some risk is entailed.

AREAS OF POTENTIAL EXPLORATION

The attached map indicates the various possible exploratory plays. Of these, only three appear of sufficient merit currently to be included in this analysis. They are the 7-R area, the   area and the   area. Other plays are more speculative from a technical standpoint and face at least the same legal problems.

POSITION SUMMARY—INDIVIDUAL EXPLORATORY LOCATIONS

The 7-R location is the most attractive from a geological standpoint, thus carrying the least risk of proving unproductive. (Unfortunately its location is within the Extended Area, delineated by the Amendatory Agreement, and there are no properties owned by others than Navy and Standard in the immediate area.)

An issue of major importance is involved in the present Elk Hills litigation. In this case, the trial judge has ruled that paragraph 15(b) of the Unit Plan Contract can only be invoked on a basis of "mutual desirability." This is in contrast to the position that Navy has previously taken that inclusion could be initiated under 15(b) at the discretion of the Secretary, in which event the Secretary would also have the ultimate power to determine the terms of inclusion.

Drilling of an exploratory play in 7-R could cause Navy attorneys to challenge the trial court's interpretation on the grounds that, without 15(b), Navy has only the recourse of condemnation to protect the Reserve against drainage. In such event, Navy attorneys could cite the well being drilled by Standard and the time factors involved in satisfactory condemnation procedures to argue that the 15(b) interpretation must be overruled in the interest of the protection of the Reserve.

Because of this problem, the only drilling that should be considered currently in the 7-R area should be as far as possible from the present Unit boundaries. For example, if the initial well is drilled at least in the northern half of Section 7-R (early activity in exploration and development of the 7-R play might not cause Navy sufficient concern to give rise to a challenge of the trial court's interpretation of 15(b).)

While current geology indicates no connection to a pool that is commercially productive within the Reserve boundary in 1948, the possibility of some Navy action built around the provisions of the Amendatory Agreement must be kept in mind in view of the fact that the 7-R play lies within the Extended Area.

Recommendation: This play should be given further detailed review from an operating standpoint to determine how far away from the boundary of the Reserve drilling and production could be kept and how long a time might go by before evidence of potential drainage of the Reserve might become evident. On the basis of these determinations, final review of the risks relative to 15(b) can be undertaken with the attorneys.

A brief chart summarizing the advantages and disadvantages of the 7-R play is attached.

Principle: Begin exploration on North half of Section—away from Unit boundary.

Thus, minimize immediate threat to Reserve and resulting early Navy action to include.

Advantages: Could allow considerable production *before* Government reacts.

If limited extension into Reserve, could result in Standard's ability to produce commercially.

Present geology indicates this is a "separate structure" from those within Unit and only limited extension within Unit boundaries.

Disadvantages: May initiate Government legal attack on 15(b) ("mutually desirable") interpretation.

May cause Navy or Armed Services Committee to request shut-in until facts determined.

End result could be condemnation of land for dollars, *no* oil.

SAN FRANCISCO, CALIF.
June 29, 1973.

ELK HILLS EXPLORATION

Mr. J. E. GOSLINE: Subsequent to our recent discussion with you and Messrs. McBaine and Silcox, we have reviewed in detail the various technical, legal and policy aspects affecting exploration prospects around the boundary of the Elk Hills Unit.

We have discussed these questions with both Messrs. McBaine and Silcox, and this memorandum is consistent with their views.

In summary, we recommend consideration of a two-well drilling program to test the 7-R prospects. We suggest approval for budgetary purposes with the provision that the 7-R prospect be drilled first.

Summary material regarding each individual prospect is attached.

We would appreciate an opportunity to discuss this at your convenience.

J. H. THACHER.

POSITION PAPER

EXPLORATION BY STANDARD ON PERIPHERY OF ELK HILLS

OBJECTIVE

To consider the advisability of initiating current exploration at one or more locations around the boundary of Elk Hills. There are legal questions involved which dictate a cautious approach, but current oil shortages support proceeding with the program even though some risk is entailed.

AREAS OF POTENTIAL EXPLORATION

The attached map indicates the various possible exploratory plays. Of these, only three appear of sufficient merit currently to be included in this analysis. They are the 7-R area. Other plays are more speculative from a technical standpoint and face at least the same legal problems.

POSITION SUMMARY—INDIVIDUAL EXPLORATORY LOCATIONS: 1. 7-R AREA

The 7-R location is attractive (1 in 5) from a geological standpoint, thus carrying the least risk of proving unproductive. While its location is within the Extended Area delineated by the Amendatory Agreement, current geology indicates no connection to a pool that was commercially productive within the Reserve boundary in 1948. Thus, the possible application of the Amendatory Agreement is remote as long as the present subsurface picture is reasonably correct.

Of the three plays under consideration, the 7-R prospect is the only prospect which now appears to lie almost entirely outside of the present boundaries of the Unit. Initial drilling would be about two miles from the limiting line of commercial productivity of the Stevens Zone within the Unit. Action in this location by Standard can be justified, if necessary, on the basis that drilling is being conducted where, according to our geology, it is least likely to involve reserves within the Unit.

An issue of major importance is involved in the present Elk Hills litigation. In this case, the trial judge has ruled that paragraph 15(b) of the Unit Plan Contract can only be invoked on a basis of "mutual desirability." This is in contrast to the position that Navy has previously taken that inclusion could be initiated under 15(b) at the discretion of the Secretary, in which event the Secretary would also have the ultimate power to determine the terms of inclusion.

Drilling of an exploratory play in 7-R could cause Navy attorneys to challenge the trial court's interpretation on the grounds that, without 15(b), Navy has only the recourse of condemnation to protect the Reserve against drainage. In such event, Navy attorneys could cite the well being drilled by Standard and the time factors involved in satisfactory condemnation procedures to argue that the 15(b) interpretation must be overruled in the interest of the protection of the Reserve.

Navy attorneys may be more inclined to ask for reversal of the 15(b) interpretation in the 7-R situation than in some others because this prospect lies entirely on Standard and Navy lands, and actions related to application of 15(b) can be conducted largely "in-house" between Navy and the House Armed Services Committee. In situations that involve other landowners, application of 15(b) would not solve a drainage problem because it applies only to Standard's land and not to that of outsiders. Thus, the independence of action available to Navy in consultation with the Armed Services Committee is markedly reduced when outside landowners are involved and the overall policy reaction of Congress becomes a matter of greater significance.

Because of this problem, the only drilling that should be considered currently in the 7-R area should be as far as possible from the present Unit boundaries. For example, if the initial well is drilled at least in the northern half of Section 7-R, early activity in exploration and development of the 7-R play might not cause Navy sufficient concern to give rise to a challenge of the trial court's interpretation of 15(b). Exploration advises this can be done.

Recommendation: Exploration is prepared to recommend drilling this prospect and believes early development can be kept at least one-half mile away from the Reserve boundary. On this basis, we recommend this prospect for immediate approval and drilling.

A brief chart summarizing the advantages and disadvantages of the 7-R play is attached.

SAN FRANCISCO, CALIF.,
July 3, 1973.

ELK HILLS

MEMORANDUM TO THE FILE:

On July 3, 1973, Mr. Gosline met with Messrs, McBaine, Silcox, Hartsook and myself to review Mr. McBaine's memorandum of June 29, 1973 and our memorandum of June 29, 1973.

He questioned Mr. McBaine closely on the paragraph 15(b) issue on condemnation. He received the assurance of Mr. Silcox that in view of a fault just south of the south line of Section 7-R, Exploration for there would be minimum intrusion into the Unit of the 7-R accumulation.

I called Mr. Gosline's attention to the 7-R production and exploration program attachment to our memorandum as to disadvantages, which states, "May cause Navy or Armed Services Committee to request shut-in until facts determined." I told him I thought we were very likely to receive such request if the 7-R well were productive. Mr. Gosline felt the Company was in a position to decline to shut-in wells in the north half of Section 7. We reviewed a number of other facets of the problem and Mr. Gosline retained the memoranda and will advise us his wishes shortly.

I reported the above to Mr. Mims and gave him a copy of the McBaine memorandum.

J. H. THACHER.

SAN FRANCISCO, CALIF.,
July 12, 1973.

ELK HILLS DRILLING 7–R

Memorandum to file: At the Executive Committee today, Mr. John Silcox presented the Exploration Department proposal for a well on 7–R. He explained in some detail the geology, the structure, and the intrusion into the Unit of each of such plays. He also indicated better control technologically on 7–R. He had a map and a payout and rate of return chart to supplement the economics.

Mr. Gosline had told me not to get into the technicalities of the contract and the lawsuit if it could possibly be avoided. Mr. Miller asked me our view of the proposal. I told him that this was a matter of management judgment. Mr. Gosline had consulted extensively with Mr. Turner McBaine and, with us, had considered the risks of inclusion and had recommended to top management that the wells should be drilled.

In his presentation, Mr. Silcox stated that Bill Bristow and I plan to call on the Navy and tell them about the well at an appropriate time before information reached the public. I told Mr. Miller in my very brief remarks that I felt this essential to avoid misinformation getting to the Navy from Jack Anderson, the Bakersfield paper, or another outside source. Mr. Miller remarked that this was our fee property and that we plan to drill and that we should tell the Navy that we plan to do so as a courtesy, but we were not, of course, seeking any permissions from the Government. I added that as the Committee well knew we were a participant in the Unit and the Operator for the Unit and that I felt informing the Navy of our plans would facilitate the continuance of our present good relations with the Government.

In short, Mr. Miller and Mr. Haynes concurred in our plan to advise the Navy personally at the appropriate time. I will coordinate this with Mr. Bristow.

In considering our advice to the Navy, I stated that as to 7–R we could indicate that it was selected because of its minimum possible intrusion into the Unit. (Mr. Haynes questioned the desirability of making such statement since, he indicated, management might later desire to drill other locations which penetrated deeper into the Unit than 7–R. I responded by withdrawing the suggestion in light of such management's possible future desires.) I did not say so at the meeting because of Mr. Gosline's wishes not to get into contractual points, but I feel very strongly that if Mr. Haynes' position materializes, he will multiply the risk manyfold of inclusion or condemnation of Standard's lands.

Mr. Miller remarked at the end that he and Mr. Haynes had favored drilling these wells for some time and, unless there was objection from the Committee, it was approved. He made one further remark along the lines that if the 7–R well was commercially productive, we might want to go ahead and drill up Section 7–R. I think the latter step should be approached with great caution, but it was not appropriate to raise any objections thereto at this meeting. If the first well is successful, then we can assemble further technical facts, receive the Navy comment, and management can judge what further drilling should take place. I did indicate that the Navy would undoubtedly drill a well on the north line of the Unit and possibly on Sections 8 and 12.

The proposal was approved.

Present at the meeting were: Mr. O. N. Miller, Mr. H. J. Haynes, Mr. G. M. Keller, Mr. H. W. Bell, Mr. D. L. Bower, Mr. H. L. Severance, and, as a guest, Mr. L. W. Funkhouser.

J. H. THACHER.

SAN FRANCISCO, CALIF.,
July 16, 1973.

ELK HILLS, 7–R

Mr. J. F. GOSLINE: Toward the end of the Executive Committee Meeting on Thursday, July 12, concerning exploratory wells, one on 7–R two comments were made:

(1) Mr. Miller commented that if the 7–R well were commercial, we might desire to drill up the balance of the property.

(2) Mr. Haynes commented that we might at a later date desire to drill exploration plays on our land that gave evidence of extending further into the Unit than either 7–R.

As to the first, if we drill a successful well in the north half of Section 7–R, the Unit will probably drill a well on the north side of Section 18, which adjoins 7–R on the south. If this well is non-productive and the evidence indicates that there is no significant intrusion into the Unit, then it would seem we could proceed to drill locations south of the initial well with small risk of involving the Unit. If, on the other hand, the Section 18 well is commercially productive in the zone from which the 7–R well is producing, I think we should exercise extreme caution before drilling locations to the south of the initial well in 7–R. (Mr. Bristow's engineers have estimated that cumulative production from the first two 7–R wells in three years might be on the order of 520,000 barrels of oil. The effect of such withdrawal on the Unit Section 18 well would be drawdown on the order of six pounds per square inch, which is within the accuracy of present pressure instruments.) (In short, it might cause no alarm in the Navy.) To drill additional producing wells southward in 7–R would result in additional withdrawal from the reservoir and further evidence of drawdown on the Unit well in Section 18. Assuming no connection between the 7–R accumulation and a Unit pool known to be productive in 1948, the Navy can pursue the remedies outlined by Mr. McBaine in his letter of June 29, 1973: Use of Section 15(b) in the Unit Plan Contract, offset production, or a compensatory drainage agreement.

(As to the second comment that the Company might wish later to drill wells on a prospect that extends substantially into the Unit.) (If the Standard well or wells outside the Unit produce from a pool that lies 40 to 50 percent in Unit and Unit wells so demonstrate, I think we can assume that Navy will attempt to negotiate inclusion of the pool pursuant to Section 15(b) of the Contract. This means that our land within the estimated limiting line of production of this pool might be included in the Unit, but on a negotiated basis that would give us compensation.)

(I am sure you are aware that Western drilled two wells, No. 12 and No. 22, on Section 25Z offsetting the Unit in 24Z in 1964. These wells initially had a combined production capacity of about 330 barrels a day and they have since produced a cumulative 867,000 barrels of oil to May 31, 1973. I suggested to Mr. Soileau at the time that he shut the wells in until the Engineering Committee or other agency could determine whether these wells would drain the Unit. Mr. Soileau's answer was that he was confident that our wells did not drain the Unit. As a result of the skillful presentations by Dr. Paulsel, Mr. Soileau's position was upheld in the trial court. However, we should recognize that the Navy vigorously protested these wells, filed a suit in the fall of 1967, and the litigation will continue through the appeal, a period of perhaps two more years to 1975. The Navy added additional items to the complaint, which in themselves had to be researched and answered. In short, the Company has spent thousands and thousands of dollars of Engineering time, management time, and legal fees to defend the continued production of two small wells and our interpretation of the A & S Agreement. I doubt we can estimate the total cost, but I am sure Mr. O'Brien can give you a figure on the cost of preparation for and legal representation during the trial.)

In this memorandum, I have not touched on the effect of the above two drilling programs on the Ninth Circuit Court affirmance of the District Court's ruling on Section 15 (b) of the Unit Contract, as this is covered in Mr. McBaine's memorandum of June 29. Nor have I discussed the possible effect of the 7–R full development on the two Navy Sections 8 and 12 east and west respectively of 7–R, as I have covered this in a separate memorandum to you.

(In summary, as I am sure you are aware, Navy will never permit the situation to arise which they believe will bring criticism on the Navy from the House Armed Services Committee or the GAO.)

I outlined the above so that you may keep these points in mind in your discussions with Messrs. Miller and Haynes as to the comments which they made in the Thursday, July 12, Executive Committee meeting.

J. H. THACHER.

REDUCING REGRESSIVE SOCIAL SECURITY TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE), is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I take this opportunity to announce to the Members of the U.S. Congress that today I filed an additional 25 cosponsors to my bill that would reduce the regressive social security tax on our American citizens. This legislation would reduce the tax on the employee from 5.85 to 3.9 percent and would reduce the tax on the employer by the same amount. This regressive tax that resulted in our wage earners in America receiving a lower paycheck as of January 1, 1974, must be lowered in order to end penalizing the American worker and also to end the practice of placing a heavy tax burden on American industry. This is the system of taxation that prevails in most European countries where one-third of the tax is paid by the employee, one-third by the employer and the balance comes out of general revenue.

Our social security system has been freighted down with many of the burdens formerly paid for out of local, county, State, and Federal revenues.

I include in the RECORD at this time the "Social Security Honor Roll" that contains the names of all those who have joined me and some of my colleagues on the House Ways and Means Committee in cosponsoring this much needed legislation:

SOCIAL SECURITY HONOR ROLL

Bella Abzug of New York.

Joseph P. Addabbo of New York.
Frank Annunzio of Illinois.
Herman Badillo of New York.
Jonathan B. Bingham of New York.
Edward P. Boland of Massachusetts.
Frank J. Brasco of New York.
George E. Brown, Jr. of California.
James A. Burke of Massachusetts.
Yvonne Brathwaite Burke of California.
Phillip Burton of California.
Charles J. Carney of Ohio.
Shirley Chisholm of New York.
Frank M. Clark of Pennsylvania.
William Clay of Missouri.
Cardiss Collins of Illinois.
Silvio O. Conte of Massachusetts.
John Conyers, Jr., of Michigan.
James C. Corman of California.
William R. Cotter of Connecticut.
Paul W. Cronin of Massachusetts.
Dominick V. Daniels of New Jersey.
James J. Delaney of New York.
Ronald V. Dellums of California.
Ron de Lugo of Virgin Islands.
Frank E. Denholm of South Dakota.
John H. Dent of Pennsylvania.
Charles C. Diggs of Michigan.
Harold D. Donohue of Massachusetts.
Robert F. Drinan of Massachusetts.
Don Edwards of California.
Joshua Eilberg of Pennsylvania.
Walter E. Fauntroy of District of Columbia.
Daniel J. Flood of Pennsylvania.
William D. Ford of Michigan.
Donald M. Fraser of Minnesota.
Joseph M. Gaydos of Pennsylvania.
Benjamin A. Gilman of New York.
Kenneth J. Gray of Illinois.
William J. Green of Pennsylvania.
Bill Gunter of Florida.
Michael Harrington of Massachusetts.
Augustus F. Hawkins of California.
Wayne L. Hays of Ohio.
Ken Hechler of West Virginia.
Margaret M. Heckler of Massachusetts.
Henry Helstoski of New Jersey.
Floyd V. Hicks of Washington.
Elizabeth Holtzman of New York.
Harold T. Johnson of California.
Barbara Jordan of Texas.
Joseph E. Karth of Minnesota.
John C. Kluczynski of Illinois.
Peter N. Kyros of Maine.
William Lehman of Florida.
Mike McCormack of Washington.
Stewart B. McKinney of Connecticut.
Torbert H. Macdonald of Massachusetts.
Ralph H. Metcalfe of Illinois.
Parren J. Mitchell of Maryland.
Joe Moakley of Massachusetts.
William S. Moorhead of Pennsylvania.
Thomas E. Morgan of Pennsylvania.
Morgan F. Murphy of Illinois.
Robert N. C. Nix of Pennsylvania.
James G. O'Hara of Michigan.
Claude Pepper of Florida.
Carl D. Perkins of Kentucky.
Bertram L. Podell of New York.
Melvin Price of Illinois.
William J. Randall of Missouri.
Charles B. Rangel of New York.
Ogden R. Reid of New York.
Henry S. Reuss of Wisconsin.
Donald W. Riegle, Jr., of Wisconsin.
Peter W. Rodino, Jr., of New Jersey.
Robert A. Roe of New Jersey.
Fred B. Rooney of Pennsylvania.
Charles Rose of North Carolina.
Benjamin S. Rosenthal of New York.
Fernand J. St Germain of Rhode Island.
Charles W. Sandman, Jr., of New Jersey.
Paul S. Sarbanes of Maryland.
Patricia Schroeder of Colorado.
John F. Seiberling of Ohio.
James V. Stanton of Ohio.
Fortney H. Stark of California.
Louis Stokes of Ohio.
Frank A. Stubblefield of Kentucky.
Gerry E. Studds of Massachusetts.
Robert O. Tiernan of Rhode Island.
Richard Vander Veen of Michigan.
Charles A. Vanik of Ohio.
Jerome R. Waldie of California.
Charles H. Wilson of California.
Lester L. Wolff of New York.
Antonio Borja Won Pat of Guam.
Gus Yatron of Pennsylvania.
Andrew Young of Georgia.
Clement J. Zablocki of Wisconsin.

EQUITY FOR THE SINGLE TAXPAYER

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I would like at this time to urge the distinguished Chairman Wilbur Mills and his colleagues on the Ways and Means Committee to move expeditiously in executive session with the markup of H.R. 2701. I testified before that committee last year supporting the passage of H.R. 2701; again I call the House's attention to the necessity of passing this legislation without waiting another year.

As we all know, millions of Americans are now in the process of filing their 1973 tax returns. Unfortunately, approximately 38 million people; namely, those who are not married, will be discriminated against when they pay their taxes. H.R. 2701 would remove this discriminatory inequity faced by single people by establishing a uniform rate structure for all taxpayers, whether they be married, widowed, divorced or single. This means that after the allowable deductions and exemptions are taken, the same graduated tax rate would be applied to an individual's taxable income, regardless of one's marital status, thus allowing persons to compute their taxes by using the same tax table currently reserved for use by married couples filing jointly. H.R. 2701 has 163 cosponsors and has passed the Senate—S. 650, introduced by Senator Packwood—by an overwhelming majority of 53 to 19.

The single taxpayer pays up to 20 percent more in taxes than a taxpayer filing a joint return. The actual cost can best be illustrated by a few examples. A single taxpayer whose taxable income is $12,000 pays $2,630 in taxes; if he or she were married and filing a joint return, he or she would pay $2,260—a difference of $370. And the rate on any income in excess of $12,000—up to $14,000—increases; for example, 20 percent for the single return and 25 percent for the joint return. The tax penalty for being single at $16,000 is $570; at $20,000, $850; at $50,000, $3,130.

I believe that taxes should reflect differences in a taxpayer's responsibilities for dependent support, but the way to do this is through exemptions for dependents, not through different tax schedules for the same incomes. To that end, I have proposed legislation to increase the personal exemption and the exemption for dependents to $1,200. Requiring as we do today that single persons pay at a higher rate is simply arbitrary. The joint tax return rate for married taxpayers does not reflect the different financial responsibilities in supporting six dependents as opposed to say, one dependent. Furthermore, under the present rate structure a divorcee or widow with three dependents, using the head of household schedule, pays taxes at a higher rate than a married couple with no children. In fact, widows and divorcees who are heads of households on the average are required to pay 10 percent more taxes than they would had their marriages continued or their spouses lived.

The failure by Congress to act on this legislation would be unconscionable. Only six other countries tax their unmarried people more heavily than their married couples. Five of these six, Russia, three of her satellites and Spain, are dictatorships. We all realize that our tax code contains a number of tax preferences. What H.R. 2701 calls for is not another preference, but simple equity for the unmarried taxpayer. Moreover, this equity is not for the benefit of a few, but rather for the benefit of most, for almost everyone must face the prospect of one day being single and, unless this bill is passed, being confronted with discriminatory taxation.

STATE OR FEDERAL CONTROL?

(Mr. DOMINICK V. DANIELS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DOMINICK V. DANIELS. Mr. Speaker, "protection furnished by workmen's compensation to American workers presently is, in general, inadequate and inequitable. Significant improvements in workmen's compensation are necessary if the program is to fulfill its potential."

Much has happened in the realm of workmen's compensation since July of 1972 when this statement was made by the National Commission on State Workmen's Compensation Laws. The Nation's oldest social insurance scheme, workmen's compensation, is presently facing a major overhaul, at both the State and Federal levels.

As cosponsor of the bill (H.R. 8771) which would force States to upgrade their compensation laws or face the imposition of Federal standards, this flurry of activity has been of great interest to me. In the face of Federal action, State legislators are hurriedly enacting changes in their individual compensation laws. The number of bills passed in fact, has tripled in relation to the output of a few years back. This new surge of interest however, has failed to alleviate the enormous disparity of compensation rates between individual States.

The hop-scotch form of State legislating that has existed since the early days of this century has produced the fragmented system of workmen's compensation that we are faced with today. The theory behind the enactment of the original law was that work accidents and deaths were the responsibility of employers, one of the many costs of production, therefore, employers, not society should bear the burden of compensation.

Unfortunately for today's workers, these regional rates of compensation have failed to keep pace with the runaway inflation of the past two decades. The maximum weekly benefit for disabled workers in 23 or almost half of our States, is now below the official U.S. poverty level for a family of four. Numerous other inequities in medical and rehabilitation payments simply add insult to injury, in the literal sense of the phrase.

The "National Workers' Compensation Standards Act of 1973" which the Honorable Carl D. Perkins and I cosponsored on June 18 of last year would demand the relief of these deficiencies. It would guarantee weekly death or disability benefits of at least two-thirds of an employees wage. Coverage for all employees would be compulsory. Medical and rehabilitation service payments would be unlimited.

Senators Jacob Javits and Harrison Williams have introduced an identical bill, S. 2008, which is presently before the Senate Labor and Public Welfare Committee. It is my intent in the House, as chairman of the Select Subcommittee on Labor, to hold hearings on the issue of workmen's compensation in an effort to correct the injustices experienced by the American worker under the present disparate State laws.

The following article from the January 22 issue of the Washington Star News further depicts the inequities faced by millions of Americans:

Your Money's Worth: Workman's Compensation

(By Sylvia Porter)

Our 65-year-old state workmen's compensation system—the nation's oldest form of social insurance, covering more than eight out of ten of us—is heading for dramatic expansion.

The long overdue overhaul will come either as a result of a federal takeover of the patchwork state comp laws—or it will come because the threat of this takeover will force the states to act on their own to erase the painful inequities, plug the gaps, help equalize the now wildly varying benefits from state to state.

Behind the accelerating drive for reform are the recommendations of a special National Commission on State Workmen's Compensation Laws, which last year completed the nation's first exhaustive study of the system. Its proposals flash a preview of the shape of the system to come and the scope of protection you can expect to have on your job within the next two years:

Extend coverage to employes who are now excluded—without regard to occupation or number of workers employed by a given firm—and make this coverage mandatory.

Reason: in 15 states, the commission found less than 70 percent of the work force was covered, and in many states those least likely to be covered were those most in need of protection, such as domestic workers and farm workers. In all, the Insurance Information Institute estimates, 10.5 million U.S. workers are not covered today—an appalling inequity.

Pay cash benefits for temporary total disability and death to at least two-thirds of the worker's gross weekly wage as of 1973 to 100 percent of the state's average weekly wage by mid-1975 and up to a maximum of 200 percent of each state's average weekly wage by 1981.

Reason: in a majority of states, the maximum benefit a disabled worker could get was under the poverty line for a family of four. Most workers were getting less than two-thirds of their lost wages and benefit ceilings were, in most states, utterly unrealistic for higher paid workers.

Pay permanent total disability benefits for the entire duration of a worker's disability and upgrade benefit amounts.

Reason: the commission found that 19 states fell short of this standard. In 15 states, payments stopped after 10 years, and in 11 states the maximum benefits to cover wage losses were less than $25,000—less than the amount most full-time workers can expect to earn in just two or three years.

Remove all existing legal limits on the length of time and the dollar total to be spent on medical care and/or rehabilitation for any work-related injury.

Reason: in 14 states, medical benefits were limited—even though additional benefits might be desperately needed and might spell the difference between a worker's regaining ability to work or remaining dependent and disabled.

Provide full coverage for work-related diseases and illnesses (as well as injuries) and drop the frequently found requirement that an "accident" must have occurred in order for a disability to be eligible for compensation.

Reason: several states failed to provide such coverage even though occupational diseases are now in a frightening uptrend and in many of the states which did offer such coverage, only certain diseases were covered. Others that were not covered included some only recently associated with hazardous working conditions.

The pressure on the states to move to comply with the new standards is on. Under a bill to be before the 1974 Congress, the states would have only until July 1, 1975, to act.

And if they do not? Then the prospect will clearly be a federal law—and still another layer of bureaucracy and centralization in Washington.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1974

(Mr. YOUNG of Georgia asked and was given permission to extend his remarks at this point in the Record and include extraneous matter.)

Mr. YOUNG of Georgia. Mr. Speaker, today we will be discussing the provisions of H.R. 69, the Elementary and Secondary Education Amendments of 1974. The new title I allocation formula contained in this legislation will profoundly affect local education agencies in every American community in the coming years.

In the past several years, I have seen conflicting data regarding the effects of this new allocation method. The use of different appropriation levels, for example, makes any meaningful comparison difficult. Furthermore, the requirement that any amendments to title I must be printed in the Record 2 days prior to their consideration makes a thorough understanding of this formula all the more crucial.

For these reasons, I think it is important that every Member be familiar with the dissenting views on H.R. 69, offered by five of our colleagues who serve on the Education and Labor Committee, Representatives Chisholm, Badillo, Biaggi, Daniels, and Peyser:

Dissenting Views on H.R. 69 of Mr. Badillo, Mr. Biaggi, Mrs. Chisholm, Mr. Daniels, and Mr. Peyser

After more than one year of hearings and mark-up sessions held by the General Education Subcommittee and the full Committee on Education and Labor, H.R. 69 has been reported. We are compelled to submit dissenting views on numerous points of grave concern that contain important ramifications for the federal role in elementary and secondary education. At issue are not only substantive items that seriously undermine the intent of the legislation, but also the process through which these very items were considered and adopted by the Committee. Because of these various concerns, these views are submitted by Committee Members who voted for some of the provisions in question, as well as Members who voted against them.

THE PROCESS OF ADOPTING THE TITLE I FORMULA

During the past six months, the full Committee had been considering the distribution formula for the Title I program of aid to the disadvantaged through a process that can at best be described as haphazard and cursory. A multitude of formula alternatives were offered, including many that would effect radical changes in the program. Some proposals were accompanied with allocation estimates and some were not. Yet, despite the fact that Title I is a county allocation formula, accompanying tables at all times showed only estimated state allotment totals. No county estimates were ever made available. Even the formula that was finally adopted by the Committee was approved solely on the basis of estimated state allocation totals, with no data available that would have in any way illustrated the actual impact at the county level. Thus, although it may have been shown that a state would gain in total through the new formula, it was not shown that many heavily populated counties within that "gaining" state would lose. This was allowed to occur despite the objections of Members of the Committee, and despite the testimony of several witnesses who appeared before the Committee recommending that the decision on the new formula be based on county data.

Further, the chart showing state totals that was made available just prior to the final vote on the formula did not illustrate comparable items. Specifically, for three different fiscal years, three different portions of Title I were shown, calculated at three different appropriation levels. For Fiscal Year 1975, the new formula showed all parts of Title I at the President's budget request of $1.885 billion. For Fiscal Year 1974, only Part A was shown at the lower appropriation level of $1.719 billion. For Fiscal Year 1973, only the local education agency portion of Part A was shown at the impoundment level of $1.585 billion. The actual amount allocated for Fiscal Year 1973 was $1.810 billion, as a result of a court suit which forced the release of the impounded amount. Ample data were available showing allocations at the increased amount which the Committee was not presented. The net result was the appearance that some states would gain more and others would lose less than would actually be the case.

Finally, the actual data used to calculate the estimated state totals for the new formula was not the data the new legislation would dictate. The new formula requires the use of the Orshansky poverty index and two-thirds of the AFDC count over the Orshansky poverty index. In the Orshansky index there are many different income levels based on a variety of factors. Thus, the AFDC count must be made on a case by case basis that will undoubtedly create administrative chaos. These counts are presently not available anywhere.

The tables made available to the Committee used the AFDC count over an income level of $4000 for illustrative purposes. The income level of $4000 was selected because it was closest to the median Orshansky income level ($4200) above which an estimated AFDC count exists. However, since the higher the income level used, the lower the AFDC count, the actual AFDC count was overrepresented. Hence, the estimated state allocations for states with large AFDC populations were shown to be higher than will actually be the case.

Thus, Committee Members who had been deliberating 30 to 40 Title I formulas for several months summarily adopted a formula on the basis of limited and inaccurate information. Thus far, the damage that would be brought by this radical change in Title I programs in large population centers has been camouflaged by uninformed rhetoric and misleading data.

After H.R. 69 was reported from the Committee, the Library of Congress was asked to produce a table that eliminates two of the problems addressed above. The table shows allocations by county for local education agencies in Fiscal Year 1974 at $1.396 billion (out of a total appropriation of $1.719 billion). The new formula is applied to $1.396 billion in order to achieve a comparison of like amounts for local education agencies. The following figures are taken from this table. They show the amount lost and the percentage decrease in allocations for 44 of the most heavily populated counties in the country. A hold harmless of 85 percent of the previous year limits to 15 percent the amount any individual county can lose in any given year. Of the 44 counties listed, 35 show 15 percent reductions, the maximum possible. In spite of the 15 percent hold harmless to the previous year, most of the counties that show a 15 percent decrease on the table below will continue to lose additional funds because their entitlements will decrease with the application of the new formula. It is important to reemphasize the negative effect of the increase in eligibles on heavily populated areas as a result of the use of the Orshansky poverty index:

DOLLAR DIFFERENCE BETWEEN FISCAL YEAR 1974 ALLOCATION UNDER CURRENT FORMULA AND FISCAL YEAR 1974 ALLOCATION UNDER NEW FORMULA (LEA'S ONLY) APPROPRIATION LEVEL: $1,396,000,000

County	Difference	Percent loss
California:		
Alameda (Oakland)	−$705,120	−12
Los Angeles	−7,480,150	−15
San Francisco	−646,808	−15
Colorado: Denver	−515,345	−15
Connecticut:		
New Haven	−628,143	−15
Hartford	−631,070	−15
Georgia: Fulton (Atlanta)	−735,572	−15
Illinois: Cook (Chicago)	−7,779,999	−15
Indiana:		
Lake (Gary-East Chicago)	−534,906	−15
St. Joseph (South Bend)	−133,687	−15
Kansas:		
Wyandotte (Kansas City)	−238,806	−15
Sedgewick (Wichita)	−290,686	−15
Kentucky: Jefferson (Louisville)	−754,738	−15
Maryland: Baltimore City	−1,938,183	−15
Massachusetts: Suffolk (Boston)	−1,112,079	−13
Michigan: Wayne (Detroit)	−3,890,005	−15
Minnesota: Hennepin (Minneapolis)	−772,417	−15
Missouri: St. Louis City	−365,833	−6
Nebraska: Douglas (Omaha)	−336,689	−15
New Jersey:		
Hudson (Jersey City)	−$811,318	−13
Passaic (Patterson)	−624,907	−15
Essex (Newark)	−1,983,153	−15
Mercer (Trenton)	−370,627	−15
New York:		
Erie (Buffalo)	−1,309,828	−15
New York City	−23,156,030	−15
Monroe (Rochester)	−849,801	−15
Onondaga (Syracuse)	−395,771	−14
Westchester (Yonkers)	−930,194	−15
North Carolina:		
Mecklenburg (Charlotte)	−367,220	−15
Forsyth (Winston-Salem)	−274,953	−15
Ohio:		
Summit (Akron)	−334,438	−15
Cuyahoga (Cleveland)	−1,867,259	−15
Franklin (Columbus)	−614,977	−15
Montgomery (Dayton)	−342,917	−15
Oklahoma: Oklahoma (Oklahoma City)	−424,038	−15
Oregon: Multnomah (Portland)	−68,950	−3
Pennsylvania: Philadelphia City	−4,069,704	−15
Rhode Island: Providence	−531,741	−15
South Carolina: Charleston	−423,359	−14
Utah: Salt Lake	−260,352	−13
Virginia:		
Richmond	−367,555	−15
Norfolk	−465,062	−15
Washington	−425,807	−10
Wisconsin: Milwaukee	−952,407	−15

EFFECTS OF THE COMMITTEE FORMULA

With respect to substance, the factors that comprise the formula will cause a serious undermining of the original intent of the Title I program, and will transform a program of assistance to areas with large concentrations of poverty children to one more akin to general assistance to the school-age population at large.

WEAKNESSES OF THE ORSHANSKY POVERTY INDEX

First, the formula is based in part on the Orshansky poverty index developed in 1963. It contains at least two elements which weigh against metropolitan areas: the derivation of the income levels and the farm-non-farm distinction. The basis of the formula was established by studies made ten years ago on family food expenditures. Although food expenditures then only accounted for 30 percent of a person's income, it was felt that by comparing food expenditures, the relative poverty of different groups could be found. However, using food costs alone excludes the important consideration of such expenses as housing, transportation, or a person's assets. Mollie Orshansky, the developer of the index, stated before the Special Education Subcommittee, "It (the index) concentrates on the income-food relationship, although for urban families, particularly those handicapped not only by lack of money but by minority status and large families, the cost of housing may be critical."

Further criteria of the index include sex of the head of the household; number of children under 18 in the household and total number of persons in the family; and farm or non-farm residence. The farm-non-farm distinction is not to be construed as an urban-rural differentiation. We quote here a Library of Congress research report:

"The poverty levels are not varied according to the different costs of living in different parts of the United States. Nor are they varied according to rural/urban residence or suburban/central city residence. The farm/nonfarm variation should not be construed as an urban-rural differentiation since it is based on assumed cost-of-living differences due to the value of food produced on a farm and consumed by the farm family and since the persons counted under the farm family poverty levels are, generally, only farmers, not the rest of the "rural" population.

The result of this lack of "cost-of-living" differentiation is that, relatively speaking, when used to determine minimum income needs of the poverty population, the poverty levels tend to understate poverty conditions in high-cost-of-living areas (such as large metropolitan areas) and overstate poverty conditions in low-cost-of-living areas (such as rural areas and small towns.) This is in relation to what might be found if the poverty levels were adjusted to cost-of-living differences actually maintaining in given areas.

Another weakness in the actual dollar poverty levels is that they are criticized as being too narrowly based (on food expenditures alone) and do not take into account the other claims on a family's budget such as housing, medical care, and income taxes."

Thus, it is our contention that the weaknesses of the Orshansky poverty index outweigh its merits. As Ms. Orshansky went on to outline other shortcomings in her formula before the Special Education Subcommittee, she recommended that "further analysis of the formula be conducted before it is used as a poverty index."

There is another aspect of the index which, in combination with other factors in the new Title I formula, compounds the anti-metropolitan bias. The Orshansky index calls for the use of the Consumer Price Index to update income levels. As the Committee formula requires a yearly update, the income levels in the Orshansky index will increase yearly with inflation.

AFDC COUNT TO BE ELIMINATED

In addition to counting those children from families under the Orshansky index, the Committee formula counts only two-thirds of the children from AFDC families with incomes above the index. As noted earlier, the higher the income level used, the lower the AFDC count. Thus, as the Orshansky poverty levels increase yearly, the AFDC count above these levels will not increase at the same pace and will therefore decline. It can be projected that in a short time the AFDC count in the formula will be effectively eliminated in total.

During the Committee's debate, the use of AFDC in the formula was discussed at length. Some Members expressed the view that the number of AFDC children in the larger states is exploding and would continue to expand, therefore should be eliminated as a formula factor. Questions addressed to the Social and Rehabilitative Service of HEW by the Chairman of the Committee elicited the following information regarding the trends in the number of AFDC recipients nationally and the average payment to AFDC families nationally:

"January (1974) was the tenth consecutive month for which the change in number of (AFDC) recipients was less than 0.7 percent, decreases occurring in three of those months. 1971 figures had already shown a marked decrease in percentage rise of recipients over 1970. Statistics for 1972 indicate a further substantial decline in percentage growth over 1971. The actual increase in 1972 was less than 400,000.

This same leveling effect is also reflected in the national statistics for average (monthly) money payments to AFDC families:

January 1968	$162.95
January 1969	171.70
January 1970	178.55
January 1971	186.55
January 1972	189.40
January 1973	188.90

The same document, quoted above, asserted that AFDC data was best available on which to base distribution of funds:

"Although there are variations in AFDC eligibility and payment levels which do favor states with less restrictive eligibility rules and higher payment levels in AFDC data are used to allocate funds, we are unaware of any other more adequate data which is provided county-by-county on a relatively current basis (yearly) which could be used for an equitable distribution of funds."

It is true, however, that while in large states such as California and New York welfare rolls are leveling off or decreasing, in certain Southern states such as Alabama and Louisiana the number of AFDC families is continuing to increase at a rapid rate. However, since the payments received by the latter group will probably not climb fast enough to keep up with the Orshansky up-date, the additional AFDC children will not add to the number eligible for Title I in those states.

THE PER PUPIL EXPENDITURE PENALTY

The third important part of the new formula is a limitation of 120 percent on her pupil expenditures above the national average and a floor of 80 percent of the national per pupil expenditure for states below the national average. The 120 percent ceiling works against Alaska, Connecticut, New Jersey, New York, and the District of Columbia. Their allocations are in effect reduced by the ceiling.

A recent study projects that the following additional states could potentially be limited by the ceiling if their state per pupil expenditures continue to grow at present rates: Illinois, Michigan, Minnesota, Pennsylvania, Rhode Island, Wisconsin and Maryland. The 120 percent ceiling on per pupil expenditures penalizes those states which have made a greater contribution in their spending for education.

THE "WEALTHIER" STATE MISCONCEPTION

States with per pupil expenditures above the national average are often referred to by proponents of the new formula as "wealthier" than those with lower per pupil expenditures. The following will demonstrate one of the reasons why that label is inappropriate.

The State of Mississippi's Title I maximum Federal payment per low-income student for Fiscal Year 1971 was $504, or 91 percent of the state per pupil expenditure. In contrast, New York's maximum Federal payment per low-income student was $780.50 or 50 percent of the state per pupil expenditure. If both states had decided to use their money to reduce class size for low-income students, Mississippi would have been able to reduce class size by 46 percent, while New York would have been able to make only a 29 percent reduction! This is a measure of the variance in the cost of education between regions, as well as an argument against the use of the term "wealthy" state. Thus, the new formula would perpetuate the phenomenon whereby those states spending less than the national average per pupil expenditure will still receive more per student than they are actually contributing (state and local effort combined) while those states with higher per pupil expenditures than the national average will not be rewarded for increased effort.

SAME SIZED PIE, SMALLER SLICES

The consequence of the use of the rural-biased Orshansky index, plus the decrease in AFDC and the limit on payment rate, is a redistribution of funds away from the most densely populated jurisdictions. Although the total number of eligible children increases under this formula as compared with the present formula, the percent of the total for population centers decreases as compared with the present. Since the appropriation level for Title I is not expected to increase to the level necessary to serve all the eligibles, the relative amount that will be made available to metropolitan areas will decrease. The result is a dispersion of the funds around the country. To put it another way, the new formula must be applied to the same sized pie, with smaller slices as the end result.

This is of important consequence to the federal role in elementary and secondary education in this Nation. It represents a retreat from the intent of Title I to assist those areas with large concentrations of need. For population centers, the implications are profoundly negative.

THE METROPOLITAN CRISIS IN EDUCATION FINANCE

It is well documented that the financing of education in our largest cities is in a state of crisis. The trend in metropolitan development has left the cities with a highly concentrated and less affluent population and with economic resources that are not increasing at a rate that can match the cities' burgeoning needs. As a result of the greater need and demand for increased health, housing, transportation, welfare, sanitation and other services, a smaller proportion of the typical city budget can be spent on education, despite the higher tax rates which exist in metropolitan areas.

New York City, for example, collects revenues at a per capita rate that is 22 percent greater than the State average. But of those tax dollars, the amount spent for education is eight percent less than the state average. New York's revenues are burdened by per capita spending for public safety and assistance that is 2.5 times the state average and for health and sanitation that is over 2 times the state average. These services cut deeply into the education resources of the city. This fiscal overburden is easily recognized when data from urban centers is compared with similar data from outside urban centers. The Senate Select Committee on Equal Educational Opportunity, in their Committee Print entitled "Issues in School Finance," present the following data:

Education as a percent of total expenditures:

	Percent
Washington, D.C	26
Outside Washington, D.C	57
New York City	24
Outside New York City	52
Chicago, Ill	33
Outside Chicago, Ill	57
Atlanta, Ga	39
Outside Atlanta, Ga	61
Louisville, Ky	40
Outside Louisville, Ky	70

Taxes as a percent of personal income:

	Percent
Washington, D.C	9.7
Outside Washington, D.C	4.2
New York City	10.2
Outside New York City	6.7
Chicago, Ill	7.4
Outside Chicago, Ill	4.0
Atlanta, Ga	5.2
Outside Atlanta, Ga	4.0
Louisville, Ky	5.2
Outside Louisville, Ky	3.5

Per capita taxes for total expenditures:

Washington, D.C	$1006
Outside Washington, D.C	425
New York City	894
Outside New York City	644
Chicago, Ill	473
Outside Chicago, Ill	352
Atlanta, Ga	554
Outside Atlanta, Ga	315
Louisville, Ky	508
Outside Louisville, Ky	302

These tables are another indication of the inappropriateness of the term "wealthy" as applied to areas with a higher than average per capita income. Those areas are usually the ones that must spend more for services other than education, and can buy less with each dollar spent.

Fiscal problems are increased for New York by the effect of the tax rate on the formula for state aid to education. Higher assessed valuation of property equals less money from the state in New York, thus the city is short-changed again.

In addition to the wide range of service demands on every tax dollar, cities must pay more for education, and simultaneously, because of the nature of their populations, provide expensive supplementary services such as bilingual education, programs for the mentally and physically handicapped summer recreation programs, supplementary nutrition programs, vocational and adult education programs, and many others. Of all the children enrolled in school in the state, New York City has 33 percent. But 74 percent of the state's welfare children live in that city, along with 37.5 percent of the state's handicapped children and 55 to 65 percent of those who are educationally disadvantaged. The following data from an Urban Coalition Report entitled, "Urban Schools and School Finance Reform: Promise and Reality," showed the needs were equally as demanding in other urban centers:

SHARE OF TOTAL ENROLLMENT BY SPECIAL NEED CATEGORY, SELECTED URBAN SCHOOL DISTRICTS, 1971–72

[In percent]

	Physically or mentally handicapped	With a special learning disorder	Title I eligible	Vocational technical	Total
Northeast:					
Boston, Mass	3.7	4.7	36.1	1.5	47.0
Buffalo, N.Y	4.0	NA	31.4	9.0	44.4
Pittsburgh, Pa	3.8	.5	48.9	7.2	60.4
Midwest:					
Chicago, Ill	2.5	.1	60.8	27.1	90.5
Detroit, Mich	2.6	.3	32.7	.6	36.2
Minneapolis, Minn	3.8	7.8	16.8	2.9	31.3
St. Louis, Mo	5.2	.2	29.8	7.0	42.2
Cleveland, Ohio	1.3	.1	43.1	6.7	51.2
Milwaukee, Wis	2.7	NA	37.2	NA	39.9
South:					
Atlanta, Ga	0.8	0.1	7.3	4.9	13.1
Houston, Tex	2.2	NA	25.7	7.3	35.2
West:					
Los Angeles, Calif	1.9	5.2	34.6	12.9	54.6
San Diego, Calif	1.5	.5	9.5	6.1	17.6
San Francisco-Oakland, Calif	2.2	.8	32.4	1.9	37.3
Denver, Colo	3.6	.9	16.4	5.2	26.1
Portland, Oreg	5.2	2.3	52.7	10.2	70.4
Average	2.8	1.6	30.3	6.9	41.6

As we have pointed out earlier, non-education needs are much greater in non-rural than in rural areas. Services like public safety, transportation and health care are more costly. While the federal government pays an average of 7.1 percent for elementary and secondary education among the states, individually state receipts vary greatly from 2.5 percent to 26 percent. Mississippi received more than ten times the federal to state proportion than did Iowa in 1971–72. While the national average federal contribution is 7.1 per state the average for states more than 30 percent rural is 10.8 percent; for states less than 30 percent rural, 6.5 percent. Rural states already receive the greater proportion of federal aid to elementary/secondary education. Any formula which widens this gap will present non-rural states, and some rural states which have large urban centers within them, with very acute revenue problems.

ANOTHER ATTACK ON THE PURPOSE OF TITLE I

The Committee bill contains yet another attack on the relationship between poverty and the purpose of Title I. First let us quote the Elementary and Secondary Education Act of 1965. Section 101 of Title I states:

"In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance . . . to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means . . . which contribute particularly to meeting the special educational needs of educationally deprived children."

There can be no question of what this declaration of policy means. The emphasis is on poverty.

The Committee's version of H.R. 69 allows the local school district the option of using criteria other than poverty as a basis for distributing Title I funds among schools. The only other method discussed by the Committee during its consideration of this bill was the measurement of educational disadvantage through testing. To compound the loss of funds to the population centers under the Committee's formula with the inevitable dilution of programs and services a shift to testing would bring, would even more severely truncate compensatory education programs for New York and many other large cities where poverty is abundant.

We will not go into the many objections to measurement of educational disadvantage for Title I eligibility that have been aired by Members of this Committee as well as renowned and distinguished scholars and educators across the country. It is acknowledged that the technology of assessment is far from perfect; that tests label and mislabel and classify children; and that there is a definite cultural bias in the tests most commonly used to measure educational disadvantage.

The Committee's Title I formula hits New York State, and especially New York City particularly hard. A decision to use educational disadvantage rather than poverty to distribute Title I funds among schools within a school district would dilute limited funds even more.

One Committee Member was heard to remark, "there are 49 other states" (other than New York). What was not clear at the time is the fact that not only will New York incur a loss, but many other states as well. If the formula became law, in New York City alone, as many as 100,000 children could lose the benefits of Title I services. It is for those children and the others like them from states and counties "with concentrations of low-income families" that we submit these dissenting views.

SMALL BUSINESS TAX SIMPLIFICATION AND REFORM ACT OF 1974

(Mr. HAMMERSCHMIDT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HAMMERSCHMIDT. Mr. Speaker, I am introducing today legislation designed to provide long overdue and strongly warranted tax simplification and reform for our Nation's small business. Similar legislation was introduced in the first session of the 93d Congress by my distinguished colleague, Representative EVINS of Tennessee, and I wish to add to my efforts in this important endeavor.

There is no question that the small business community in the United States plays a vital role in the perpetuation of our free enterprise system; it is particularly attuned to the needs of the local area, it makes contributions of inestimable value in stimulating competition, and it constitutes a substantial base of America's past and future prosperity.

One of the existing inequities in the Internal Revenue Code of 1954 serves to place a greater proportionate tax burden on small businesses. The current tax rates applicable to corporations do not distinguish between small and big business corporations. The resulting effect is that large enterprises pay a lower effective rate of tax than small businesses. According to Federal Trade Commission figures, small- and medium-sized businesses pay taxes of around 50 to 51 percent of their incomes, while our largest firms pay taxes on about 35 percent of incomes.

Section 201 of the legislation I have introduced would establish eight different tax brackets. Under the lowest such bracket, a corporation whose taxable income is not over $50,000 would be subject to 20 percent normal tax and the surtax, if any, would be the same. The amount of normal tax would increase bracket by bracket as the taxable income increases, but any corporation earning up to $1 million would have the benefit of the lower tax rates. For example, if taxable income falls between $500,000 and $1 million, the normal tax would be $105,750, plus 22 percent of any excess over $500,000. Corporations earning over the $1 million mark would be subject to slightly higher rates and, therefore, there would be no overall loss of Federal revenue. The shift in corporate taxes afforded by this legislation of around 1 percent would give a substantial break to small enterprises without significantly impacting the larger corporations. In effect, the bill would allow the smaller concerns to retain more working capital and thereby stimulate growth and expansion capabilities which are now stifled by our somewhat regressive corporate tax structure.

The small business community in our Nation today is faced with intense competition and slender financial resources. The proposal I am introducing takes several constructive steps to protect the viability of the American business system. It establishes an Intergovernmental Committee on Tax Simplification for Small Businesses and it requires the submission to Congress by the Secretary of the Treasury recommendations for structural changes in the Internal Revenue Code of 1954 which would consolidate into one chapter those provisions relating primarily to new and small business enterprises. It takes into account the need for a revision of depreciation policy and the increasingly important need for small businesses to be able to take advantage of rapid technological advances. It would relieve small enterprises of the inconvenience and time involved in having to make payments of various employment and excise taxes more frequently than on a monthly basis.

In an era where the complexities and costs of doing business are thwarting the formation of new enterprises, title III of this bill would establish special treatment provisions for net operating income for the first 3 years of new and small corporations.

To assist the growth of existing small businesses, the legislation would increase the additional first-year depreciation allowance, eliminate the reserve ratio test for small business, and provide for a 10-year carryover of net operating losses for those concerns which fall within the meaning of the Small Business Act. Additionally, a new section would be added to part I of subchapter G of chapter 1 providing for dividend distributions to reduce tax liability.

This bill would not only benefit the incorporated business, but also includes provisions designed to aid partnerships and subchapter S corporations. For the latter, it would increase the number of permissible shareholders and broaden the classes of permissible shareholders.

In view of the possibility that this session of Congress will actively address tax reform, I urge the attention of my colleagues to the special need for income tax simplification reform, and relief for small businesses.

REESTABLISHING NOVEMBER 11 AS VETERANS DAY

(Mr. SEBELIUS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEBELIUS. Mr. Speaker, I would like to take this opportunity to discuss legislation to reestablish November 11 each year as Veterans Day, House Joint Resolution 126.

Many veterans of World War I recall the emotion and feeling in their hearts when the Armistice was announced on the 11th month, the 11th day, and the 11th hour in 1918. It seems to me the decision to change our Nation's observance of Veterans Day to the fourth Monday in October, while convenient, was a great disservice to our Nation's veterans and our Nation's heritage.

The fact of the matter is that one of the Nation's sacred holidays has been sacrificed for materialism and convenience. Rather than another convenient holiday, November 11 should be a day for reflection and personal rededication to peace and our American freedoms and ideals. Already, 33 State legislatures have passed legislation to reestablish November 11 as Veterans Day.

This action is especially urgent as we

prepare to celebrate our Nation's bicentennial. To expedite consideration, I am today filing a discharge petition to bring up House Joint Resolution 126 for immediate consideration in the House of Representatives. I urge my colleagues to sign this petition.

This week, individual delegations from the Veterans of Foreign Wars are visiting Washington. I think it would be especially appropriate if we could indicate to these veterans that we intend to make the observance of Veterans Day something more than a convenient holiday. I am not opposed to convenience and practical considerations, as such, but I feel quite strongly this particular national holiday should be observed in such a way that we can rededicate ourselves to establishing a permanent framework for peace throughout the world.

In memory of our fallen comrades, we should do no less.

HUMAN GOALS: VALUES FOR LIVING

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, for the third consecutive year, Maj. Jim D. Sullivan of Wilburton, Okla., executive officer of the McAlester battalion of the 95th Division—Army Reserve—and a member of the faculty at Eastern State College, Wilburton, Okla., has won a George Washington Honor Medal in the annual Freedoms Foundation of Valley Forge writing competition. His winning paper this year was entitled "Human Goals: Values for Living." In it he urges us all to "stop allowing everyone to bad-mouth America and start looking on the positive side." I am happy to share with my colleagues Major Sullivan's winning letter as it appeared in the Latimer County News-Tribune, Wilburton, Okla.:

To the Editor: America will remain the world's leading power only if Americans begin now to rededicate themselves to keeping America great. If America has slipped a little in recent years, it's because we as individuals and as a nation have failed to live by established human goals converted into marching orders for daily living. These values for living have been provided us, both as a nation and as individuals, in the Constitution, the Bible and from examples set by the resoluteness of early-day Americans.

It's ironic and sad that on the eve of America's 200th birthday that our great country should be so embroiled by conflict, scandal and turmoil. Never has there been a time when apparent breakdown has been so evident in governmental integrity.

America must cultivate a larger number of leaders—at all levels—who have the statesman-like moral fiber to rise above what might be called the "selfishness of leadership," which allows the drive for power, wealth and popularity all too often to get in the way of what's best for America.

Gone are the days—it seems—when a man's word or handshake is sufficient, and this has to be the result of our living day-to-day with only selfish thoughts without values for living that benefit others as well.

Human goals are really nothing more than a game plan for life and many of our statesmen have revealed that early-day goals nourished to fruition have led to their success. No good athletic team will go into a contest without having determined a plan to achieve victory.

Very likely these human goals may interfere with your comfort and even your selfish interests: you just may have to start talking the American way of life to your kids and the people on the block; you may have to jump in and take a stand on local issues; you may have to spend some time working in local government, your church and schools, your professional and civic organization. Yes, you may have to start doing more than just sitting back waiting for the evening news to see what crisis "they" have got "us" in today.

Americans should settle for no less than the best and this must include all elected officials, plus community, state and federal activities and programs. Thousands of examples are recorded—with fascinating results—of instances where citizens in a community have really become interested and involved in changing intolerable situations. Our government can shift toward totalitarianism only if you continue to claim you're too busy and to ignore your inherent responsibilities accompanying freedom.

How about it, editor? If the mass media, as well as our leaders, will grab hold of their responsibilities, wave the flag, a little, stop allowing everyone to bad-mouth America, and start looking on the positive side—I'll stand up and help you put the greatness back in America so America will be around to celebrate its 300th birthday!

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Young of Illinois (at the request of Mr. Rhodes), for March 13–14, on account of official business.

Mr. Carey of New York (at the request of Mr. O'Neill), for this week, on account of death in his immediate family.

Mr. Butler (at the request of Mr. Rhodes), for March 11 and 12, 1974, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Beard), to revise and extend their remarks, and to include extraneous matter:)

Mr. Kemp, for 15 minutes, today.

Mr. Hansen of Idaho, for 5 minutes, today.

Mr. Frelinghuysen, for 1 hour, on Thursday.

(The following Members (at the request of Mr. Rose) to revise and extend their remarks and include extraneous material:)

Mr. McFall, for 5 minutes, today.
Mr. Eilberg, for 5 minutes, today.
Mr. Harrington, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Gray, for 5 minutes, today.
Mr. Matsunaga, for 30 minutes, today.
Mr. Vanik, for 5 minutes, today
Mr. O'Hara, for 10 minutes, today.
Mr. Ford, for 5 minutes, today.
Mr. Chappell, for 5 minutes, today.
Mr. Moss, for 30 minutes, today.
Mr. Burke of Massachusetts, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Young of Georgia and to include extraneous matter, notwithstanding the fact that it exceeds 2½ pages of the Congressional Record and is estimated by the Public Printer to cost $522.50.

(The following Members (at the request of Mr. Beard) and to include extraneous matter:)

Mr. Wyatt.
Mr. Steiger of Wisconsin.
Mr. Broyhill of Virginia.
Mr. Veysey in two instances.
Mr. Kemp in three instances.
Mr. Forsythe.
Mr. Walsh.
Mr. Hosmer in three instances.
Mr. Mallary.
Mr. Sarasin.
Mrs. Heckler of Massachusetts.
Mr. McKinney.
Mr. Wyman in two instances.
Mr. Lujan.
Mr. Shriver.
Mr. Frenzel in three instances.
Mr. Landgrebe in 10 instances.
Mr. Huber in two instances.
Mr. Hanrahan in three instances.
Mr. Derwinski in three instances.
Mr. Whalen.
Mr. Martin of Nebraska.
Mr. Hogan in eight instances.
Mr. Gude.
Mr. Archer.
Mr. Crane in six instances.
Mr. Dellenback.
Mr. Cohen.
Mr. Hillis.
Mr. Smith of New York.
Mr. Brown of Michigan.
Mr. Findley in two instances.
Mr. Steele.
Mr. McClory.
Mr. Horton.
Mr. Michel in five instances.
Mr. Broyhill of North Carolina.
Mr. Abdnor.
Mr. Bauman.

(The following Members (at the request of Mr. Rose) and to include extraneous material:)

Mr. Dominick V. Daniels.
Mr. Rangel in 10 instances.
Mr. Mathis of Georgia in two instances.
Mr. Matsunaga in 10 instances.
Mr. Stokes in six instances.
Mr. Badillo in three instances.
Mr. McKay.
Mr. Harrington in four instances.
Mr. O'Neill.
Mrs. Boggs.
Mr. Ginn.
Mr. Mollohan.
Mr. Diggs in two instances.
Mr. Edwards of California in two instances.
Mr. Gonzalez in three instances.
Mr. Rarick in three instances.
Mr. Litton.
Mr. Won Pat.
Mr. Ford.
Mrs. Mink.
Mr. Studds.
Mr. Aspin in 10 instances.
Mr. Fulton.
Mr. Burke of Massachusetts.
Mr. Evins of Tennessee.
Mr. Waldie in two instances.
Mr. Bingham in five instances.

SENATE BILL REFERRED

A bill of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2662. An act to authorize appropriations for U.S. participation in the International Ocean Exposition '75; to the Committee on Foreign Affairs.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 6119. An act for the relief of Arturo Robles.

ADJOURNMENT

Mr. ROSE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 24 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 13, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2034. A letter from the President, National Railroad Passenger Corporation, transmitting a request for a supplemental appropriation for fiscal year 1974 for Amtrak; to the Committee on Appropriations.

2035. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various facilities projects proposed to be undertaken for the Army Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

2036. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report of the Commissioner of Education on financial assistance for maintenance and operation of schools in federally affected areas and for school construction in federally affected areas, pursuant to 20 U.S.C. 242(c) and 20 U.S.C. 642(c), respectively; to the Committee on Education and Labor.

2037. A letter from the Chairman, Cabinet Committee on Opportunities for Spanish-Speaking People, transmitting a draft of proposed legislation to extend the expiration date and the authorization of appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People; to the Committee on Government Operations.

2038. A letter from the Acting Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Public Health Service Act to revise and extend programs of Federal assistance for comprehensive health resources planning, and to assist the States in regulating the costs of health care; to the Committee on Interstate and Foreign Commerce.

RECEIVED FROM THE COMPTROLLER GENERAL

2039. A letter from the Comptroller General of the United States, transmitting a report on the progress and problems in providing health services to Indians; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLATNIK: Committee on Public Works. H.R. 11929. A bill to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments; with amendment (Rept. No. 93-891). Referred to the Committee of the Whole House on the State of the Union.

Mr. HENDERSON: Committee on Post Office and Civil Service. H.R. 8660. A bill to amend title 5 of the United States Code (relating to Government organization and employees) to assist Federal employees in meeting their tax obligations under city ordinances; with amendment (Rept. No. 93-892). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 12523. A bill to amend section 428(a) of the Higher Education Act of 1965, as amended, and section 2(a)(7) of the Emergency Insured Student Loan Act of 1969, to better assure that students will have reasonable access to loans to meet their postsecondary education costs, and for other purposes; with amendment (Rept. No. 93-893). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 12417. A bill to require the development of a long-range plan to advance the national attack on diabetes mellitus, and for other purposes; with amendment (Rept. No. 93-894). Referred to the Committee of the Whole House on the State of the Union.

Mr. MATSUNAGA: Committee on Rules. House Resolution 977. Resolution providing for the consideration of H.R. 12471. A bill to amend section 552 of title 5, United States Code, known as the Freedom of Information Act; with amendment (Rept. No. 93-900). Referred to the House Calendar.

Mr. DELANEY: Committee on Rules. House Resolution 978. Resolution providing for the consideration of H.R. 3858. A bill to amend sections 101 and 902 of the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to amend title XI of such act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft; and to authorize the Secretary of Transportation to suspend the operating authority of foreign air carriers under certain circumstances; with amendment (Rept. No. 93-901). Referred to the House Calendar.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 11559. A bill to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes. (Rept. No. 93-902). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 11573. A bill to amend the Organic Act of Guam to place certain lands within the jurisdiction of the Government of Guam, and for other purposes; with amendment (Rept. No. 93-903). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EILBERG: Committee on the Judiciary. H.R. 3190. A bill for the relief of Gabriel Edgar Buchowiecki; with amendment (Rept. No. 93-895). Referred to the Committee of the Whole House.

Mr. RAILSBACK: Committee on the Judiciary. H.R. 5011. A bill for the relief of James Lennon; with amendment (Rept. No. 93-896). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 5477. A bill for the relief of Josephine Gonzalo (nee Charito Fernandez Bautista); with amendment (Rept. No. 93-897). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 5667. A bill for the relief of Linda Julie Dickson (nee Waters) (Rept. No. 93-898). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 280. An act for the relief of Leonor Lopez; with amendment (Rept. No. 93-899). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO (for himself, Mr. DULSKI, Mr. ZABLOCKI, Mr. DOMINICK V. DANIELS, Mr. HELSTOSKI, Mrs. GRASSO, Mr. KLUCZYNSKI, Mr. STRATTON, Mr. NEDZI, Mr. DERWINSKI, Mr. DINGELL, Mr. ROSTENKOWSKI, and Mr. ROE):

H.R. 13377. A bill to amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II; to the Committee on Veterans' Affairs.

By Mr. STEELE:

H.R. 13378. A bill to amend the Social Security Act to extend entitlement to health care benefits on the basis of age under the Federal medical insurance program (medicare) to all persons who are citizens or residents of the United States aged 65 or more; to add additional categories of benefits under the program (including health maintenance and preventive services, dental services, outpatient drugs, eyeglasses, hearing aids, and prosthetic devices) for all persons entitled (whether on the basis of age or disability) to the benefits of the program; to extend the duration of benefits under the program where now limited; to eliminate the premiums now required under the supplementary medical insurance benefits part of the medicare program and merge that part with the hospital insurance part; to eliminate all deductibles; to eliminate copayments for low-income persons under the program, and to provide, for others, copayments for certain services or items but only up to a variable income-related out-of-pocket expense limit (catastrophic expense limit); to provide for prospective review and approval of the rates of charges of hospitals and other institutions under the program, and for prospective establishment (on a negotiated basis when feasible) of fee schedules for physicians and other practitioners; to revise the tax provisions for financing the medicare program and increase the Government contribution to the program, and for other purposes; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 13379. A bill to provide financial assistance to the States for improved educational services for handicapped children; to the Committee on Education and Labor.

By Mr. BINGHAM (for himself and Mr. KOCH):

H.R. 13380. A bill to amend section 4(a) of the Agriculture and Consumer Protection Act of 1973, and for other purposes; to the Committee on Agriculture.

By Mr. BINGHAM:

H.R. 13381. A bill to amend the Internal Revenue Code of 1954 to eliminate, in the case of any oil or gas well located outside the United States, the percentage depletion allowance and the option to deduct intangible drilling and development costs, and to deny a foreign tax credit with respect to the income derived from any such well; to the Committee on Ways and Means.

By Mr. BOWEN:

H.R. 13382. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. BROWN of California:

H.R. 13383. A bill to terminate the Airlines Mutual Aid Agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. BURKE of Massachusetts (for himself, Ms. Abzug, Mr. Badillo, Mr. Conte, Mr. Cotter, Mr. de Lugo, Mr. Denholm, Mr. Flood, Mr. Ford, Mr. Gray, Mr. Hays, Mrs. Heckler of Massachusetts, Mr. Kluczynski, Mr. Murphy of Illinois, Mr. Perkins, Mr. Price of Illinois, Mr. Randall, Mr. Rodino, Mr. Stubblefield, Mr. Waldie, Mr. Charles H. Wilson of California, Mr. Vander Veen, Mr. Gilman, Mr. Zablocki, and Mr. Burton):

H.R. 13384. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the social security program, with a substantial increase in the contribution and benefit base and with appropriate reductions in social security taxes to reflect the Federal Government's participation in such costs; to the Committee on Ways and Means.

By Mr. CAREY of New York:

H.R. 13385. A bill to amend the Social Security Act to extend entitlement to health care benefits on the basis of age under the Federal medical insurance program (medicare) to all persons who are citizens or residents of the United States aged 65 or more; to add additional categories of benefits under the program (including health maintenance and preventive services, dental services, outpatient drugs, eyeglasses, hearing aids, and prosthetic devices) for all persons entitled (whether on the basis of age or disability) to the benefits of the program; to extend the duration of benefits under the program where now limited; to eliminate the premiums now required under the supplementary medical insurance benefits part of the medicare program and merge that part with the hospital insurance part; to eliminate all deductibles; to eliminate copayments for low-income persons under the program, and to provide, for others, copayments for certain services or items but only up to a variable income-related out-of-pocket expense limit (catastrophic expense limit); to provide for prospective review and approval of the rates of charges of hospitals and other institutions under the program, and for prospective establishment (on a negotiated basis when feasible) of fee schedules for physicians and other practitioners; to revise the tax provisions for financing the medicare program and increase the Government contribution to the program; and for other purposes; to the Committee on Ways and Means.

By Mr. CARTER:

H.R. 13386. A bill to amend the Railroad Retirement Act of 1937 so as to increase the amount of the annuities payable thereunder to widows and widowers; to the Committee on Interstate and Foreign Commerce.

By Mr. COHEN:

H.R. 13387. A bill to amend the Truth-in-Lending Act to prohibit discrimination on account of age in credit card transactions; to the Committee on Banking and Currency.

H.R. 13388. A bill to amend title 18 of the United States Code to permit the transportation, mailing, and broadcasting of advertising, information, and materials concerning lotteries authorized by law and conducted by a State, and for other purposes; to the Committee on the Judiciary.

By Mr. COTTER:

H.R. 13389. A bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of United States energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 13390. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 13391. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. COTTER (for himself and Mr. Giaimo):

H.R. 13392. A bill to provide an additional 5-year period before States must begin repayment of outstanding advances to their unemployment compensation accounts; to the Committee on Ways and Means.

By Mr. DELLENBACK:

H.R. 13393. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. ERLENBORN:

H.R. 13394. A bill to amend section 218 of the Social Security Act to provide that a policeman or fireman who has social security coverage pursuant to State agreement as an individual employee and not as a member of a State or local retirement system may elect to terminate such coverage if he is subsequently required to become a member of such a retirement system; to the Committee on Ways and Means.

By Mr. FUQUA:

H.R. 13395. A bill to provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries; to the Committee on Interior and Insular Affairs.

H.R. 13396. A bill to amend chapter 34 of title 38, United States Code, to provide additional educational benefits to Vietnam era veterans; to the Committee on Veterans' Affairs.

By Mrs. GRASSO:

H.R. 13397. A bill to delay the repayment of an advance or advances to the unemployment account of a State under title XII of the Social Security Act; to the Committee on Ways and Means.

H.R. 13398. A bill to amend the Federal-State Extended Unemployment Compensation Act of 1970; to the Committee on Ways and Means.

By Mr. HAMMERSCHMIDT:

H.R. 13399. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform and relief for small business; to the Committee on Ways and Means.

By Mr. HARRINGTON (for himself, Mr. Reid, Mr. Conte, Ms. Abzug, Mr. Addabbo, Mr. Badillo, Mr. Bergland, Mr. Bingham, Mr. Boland, Mr. Brasco, Mr. Brinkley, Mr. Broomfield, Mr. Brown of California, Mr. Burke of Massachusetts, Mrs. Burke of California, Mr. Byron, Mr. Carney of Ohio, Mrs. Chisholm, Mr. Clay, Mrs. Collins of Illinois, Mr. Conyers, Mr. Corman, Mr. Culver, Mr. Dominick V. Daniels, and Mr. Dellums):

H.R. 13400. A bill to insure that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. HARRINGTON (for himself, Mr. Reid, Mr. Conte, Mr. de Lugo, Mr. Denholm, Mr. Diggs, Mr. Donohue, Mr. Drinan, Mr. du Pont, Mr. Edwards of California, Mr. Eilberg, Mr. Fauntroy, Mr. Flowers, Mr. Ford, Mr. Fraser, Mr. Gaydos, Mr. Gilman, Mr. Ginn, Mr. Gray, Mr. Green of Pennsylvania, Mr. Gude, Mr. Gunter, Mr. Hawkins, Mr. Hechler of West Virginia, and Mr. Helstoski):

H.R. 13401. A bill to insure that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. HARRINGTON (for himself, Mr. Reid, Mr. Conte, Miss Holtzman, Mr. Horton, Mr. Hungate, Mr. Johnson of Pennsylvania, Mr. Jones of North Carolina, Mr. Kemp, Mr. Kyros, Mr. Leggett, Mr. Long of Louisiana, Mr. McCloskey, Mr. McDade, Mr. McSpadden, Mr. Mathis of Georgia, Mr. Matsunaga, Mr. Mazzoli, Mr. Meeds, Mr. Murtha, Mr. Metcalfe, Mr. Mezvinsky, Mr. Mitchell of Maryland, and Mr. Moakley):

H.R. 13402. A bill to insure that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. HARRINGTON (for himself, Mr. Reid, Mr. Conte, Mr. Moorhead of Pennsylvania, Mr. Morgan, Mr. Moss, Mr. Nedzi, Mr. Nix, Mr. Patten, Mr, Pepper, Mr. Podell, Mr. Preyer, Mr. Price of Illinois, Mr. Rangel, Mr. Rees, Mr. Reuss, Mr. Riegle, Mr. Rodino, Mr. Roncalio of Wyoming, Mr. Roncallo of New York, Mr. Rose, Mr. Rosenthal, Mr. Roush, Mr. Seiberling, and Mr. Stark):

H.R. 13403. A bill to insure that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. HARRINGTON (for himself, Mr. Reid, Mr. Conte, Mr. Steele, Mr. Stokes, Mr. Stuckey, Mr. Studds, Mr. Thompson of New Jersey, Mr. Thone, Mr. Tiernan, Mr. Van Deerlin, Mr. Vanik, Mr. Vigorito, Mr. Waldie, Mr. Charles Wilson of Texas, Mr. Charles H. Wilson of California, Mr. Wolff, Mr. Won Pat, Mr. Yatron, and Mr. Young of Georgia):

H.R. 13404. A bill to insure that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. KYROS (for himself, Mr. Rogers, Mr. Satterfield, Mr. Preyer, Mr. Symington, Mr. Roy, Mr. Nelsen, Mr. Carter, Mr. Hastings, Mr. Heinz, and Mr. Hudnut):

H.R. 13405. A bill to provide for the establishment of a national advisory commission to develop a national plan for the control of epilepsy and its consequences; to the Committee on Interstate and Foreign Commerce.

By Mr. LITTON (for himself, Mr. Chappell, and Mr. Waggonner):

H.R. 13406. A bill to amend the National

Emissions Standards Act in order to conserve fuel; to the Committee on Interstate and Foreign Commerce.

By Mr. LITTON: (for himself and Mrs. Burke of California):

H.R. 13407. A bill to provide an excise tax on every new automobile in an amount relating to the portion of such automobile's fuel consumption rate which falls below certain standards, to provide an energy research and development trust fund, and for other purposes; to the Committee on Ways and Means.

By Mr. LITTON (for himself, Mr. Bowen, Mr. Conlan, Mr. Fulton, Mr. Gunter, and Mr. Matsunaga):

H.R. 13408. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes; to the Committee on Ways and Means.

By Mr. McDADE:

H.R. 13409. A bill to amend the Internal Revenue Code of 1954 to provide that percentage depletion shall not be allowed in the case of mines, wells, and other natural deposits located in foreign territory; to the Committee on Ways and Means.

By Mr. MEZVINSKY (for himself, Mrs. Boggs, Mr. Frey, Mr. Moakley, Mr. Rosenthal, Mr. Roybal, and Mr. Wolff):

H.R. 13410. A bill to provide for tax counseling to the elderly in the preparation of their Federal income tax returns; to the Committee on Ways and Means.

By Mr. MILLS:

H.R. 13411. A bill to amend titles II, VII, XI, XVI, XVIII, and X of the Social Security Act to provide for the administration of the old age, survivors, and disability insurance program, the supplemental security income program, and the medicare program by a newly established independent Social Security Administration, to separate social security trust fund items from the general Federal budget, to prohibit the mailing of certain notices with social security and supplemental security income benefit checks, and for other purposes; to the Committee on Ways and Means.

By Mr. OBEY:

H.R. 13412. A bill to declare that certain federally owned land is held by the United States in trust for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, and to make such lands part of the reservation involved; to the Committee on Interior and Insular Affairs.

By Mr. PARRIS:

H.R. 13413. A bill to authorize the Secretary of the Interior to transfer certain lands of the United States to the city of Alexandria, Va., to facilitate the establishment of parks and recreation areas, and for other purposes; to the Committee on the District of Columbia.

By Mr. PEPPER:

H.R. 13414. A bill to amend the National Housing Act to provide a statutory basis for the continuing administration by Federal Housing Administration of the standard risk programs under such act; to the Committee on Banking and Currency.

By Mr. PRICE of Illinois (for himself and Mr. Hosmer) (by request):

H.R. 13415. A bill to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. ROE:

H.R. 13416. A bill to authorize the Secretary of Agriculture to make grants to cities and park districts to encourage the increased planting of trees and shrubs and to encourage other urban forestry programs; to the Committee on Agriculture.

H.R. 13417. A bill to amend section 4a, the commodity distribution program of the Agriculture and Consumer Protection Act of 1973; to the Committee on Agriculture.

H.R. 13418. A bill to amend the National School Lunch and Child Nutrition Act Amendments of 1973 and for other purposes; to the Committee on Education and Labor.

H.R. 13419. A bill to amend title II of the Comprehensive Employment and Training Act of 1973, to provide that an area is deemed an area of substantial unemployment for purposes of such title if such area has a rate of unemployment of at least 6 percent; to the Committee on Education and Labor.

H.R. 13420. A bill to amend the Internal Revenue Code of 1954 to increase to $1,200 the personal income tax exemptions of a taxpayer (including the exemption for a spouse, the exemptions for dependents, and the additional exemptions for old age and blindness); to the Committee on Ways and Means.

By Mr. ROGERS:

H.R. 13421. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans by 20 percent, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. RONCALLO of New York:

H.R. 13422. A bill to direct the Secretary of the Treasury to compensate States and units of local government for the loss of real property tax revenues due to the tax exempt status of certain real property owned or occupied by foreign countries and international organizations; to the Committee on Foreign Affairs.

By Mr. RYAN:

H.R. 13423. A bill to terminate the Airlines Mutual Aid Agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. SANDMAN:

H.R. 13424. A bill to amend the tariff schedules of the United States to provide duty-free treatment of any aircraft engine used as a temporary replacement for an aircraft engine being overhauled within the United States if duty was paid on such replacement engine during a previous importation; to the Committee on Ways and Means.

By Mr. STEIGER of Wisconsin (for himself, Mr. Quie, Mr. Erlenborn, Mr. Dellenback, Mr. Eshleman, Mr. Hansen of Idaho, Mr. Forsythe, and Mr. Towell of Nevada):

H.R. 13425. A bill to extend the authority for the program known as "Project Headstart" to provide comprehensive services to aid disadvantaged preschool children in order to enable such children to attain their full potential; to the Committee on Education and Labor.

By Mr. STUDDS (for himself and Mr. Dominick V. Daniels):

H.R. 13426. A bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. TAYLOR of North Carolina (for himself, Mr. Haley, Mr. Hosmer, Mr. Skubitz, Mr. King, and Mr. Don H. Clausen):

H.R. 13427. A bill to provide for the establishment of the Clara Barton National Historic Site, Md.; John Day Fossil Beds National Monument, Oreg.; Knife River Indian Villages National Historic Site, N. Dak.; Springfield Armory National Historic Site, Mass.; Tuskegee Institute National Historic Site, Ala.; and Martin Van Buren National Historic Site, N.Y., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. THOMPSON of New Jersey:

H.R. 13428. A bill to prohibit commercial fishing in the waters located in the national seashore recreation areas; to the Committee on Interior and Insular Affairs.

By Mr. TIERNAN (for himself, Mr. Badillo, Mr. Buchanan, Ms. Collins of Illinois, Mr. Corman, Mr. Edwards of California, Mr. Hogan, Mr. Metcalfe, Mr. Pepper, Mr. Riegle, Mr. St Germain, Mr. Sarbanes, Ms. Schroeder, Mr. Symington, and Mr. Vigorito):

H.R. 13429. A bill to protect the environment and conserve natural resources by stimulating the use of recycled or recyclable materials by effecting rate changes in the movement of these materials by common carrier, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WHITE:

H.R. 13430. A bill to amend the Uniform Code of Military Justice to require that all notation relating to the arrest, charge, and trial of any person under such code be expunged from all military records if the charge is dismissed or the person is found not guilty of the charge, and for other purposes; to the Committee on Armed Services.

By Mr. CHARLES H. WILSON of California:

H.R. 13431. A bill to amend the Public Health Service Act to provide for greater and more effective efforts in research and public education with regard to diabetes mellitus; to the Committee on Interstate and Foreign Commerce.

H.R. 13432. A bill to amend the Public Health Service Act to provide for greater and more effective efforts in research and public education with regard to diabetes mellitus; to the Committee on Interstate and Foreign Commerce.

By Mr. WOLFF (for himself, Mr. Walsh, Mrs. Heckler of Massachusetts, Mr. Helstoski, Mr. Carney of Ohio, Mr. Ford, Mr. Gunter, Mr. Mallary, Mr. Moorhead of Pennsylvania, Mr. Sandman, Mr. Sarasin, Mr. Seiberling, and Mr. Thompson of New Jersey):

H.R. 13433. A bill to amend chapter 34 of title 38, United States Code, to authorize additional payments to eligible veterans to partially defray the cost of tuition; to the Committee on Veterans' Affairs.

By Mr. WON PAT (for himself, Mr. Benitez, Mr. de Lugo, and Mr. Fauntroy):

H.R. 13434. A bill to amend section 216(b) of the Merchant Marine Act, 1936, to entitle the Delegates in Congress from Guam and the Virgin Islands to make nominations for appointments to the Merchant Marine Academy; to the Committee on Merchant Marine and Fisheries.

By Mr. HANLEY:

H.R. 13435. A bill to amend title 5 United States Code relating to retirement computation for law enforcement officials; to the Committee on Post Office and Civil Service.

By Mr. HÉBERT (for himself and Mr. Bray) (by request):

H.R. 13436. A bill to amend title 10, United States Code, to authorize the negotiated sale by the Department of Defense of certain equipment, materials, and obsolete spare parts to U.S. purchasers, and for other purposes; to the Committee on Armed Services.

By Mr. HUBER:

H.R. 13437. A bill to amend section 105(d) of the Internal Revenue Code of 1954 to provide that the excludability from gross income of disability pension payments to an individual shall be continued when such individual reaches statutory retirement age; to the Committee on Ways and Means.

By Ms. JORDAN (for herself, Mr. Price of Illinois, Mr. Seiberling, and Mr. Stokes):

H.R. 13438. A bill to amend the Internal Revenue Code of 1954 so as to reduce by 8 percent the amount of individual income tax withheld at the source; to the Committee on Ways and Means.

By Mr. KOCH (for himself and Mr. Fraser):

H.R. 13439. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. MYERS:

H.R. 13440. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, and for other purposes; to the Committee on Veterans affairs.

By Mr. RINALDO:

H.R. 13441. A bill to amend title 5 of the United States Code with respect to the observance of Veterans Day; to the Committee on the Judiciary.

By Mr. SHIPLEY:

H.J. Res. 935. Joint resolution authorizing the President to proclaim the first Sunday in May as "Chaplains' Sunday"; to the Committee on the Judiciary.

By Mr. SNYDER:

H.J. Res. 936. Joint resolution proposing an amendment to the Constitution relating to the continuance in office of judges of the Supreme Court and of inferior courts; to the Committee on the Judiciary.

By Mr. WOLFF (for himself, Mr. Derwinski, Mr. Rose, Mr. Biaggi, Mr. Baker, Mr. Edwards of California, Mr. Dent, and Mr. Burgener):

H.J. Res. 937. Joint resolution regarding the status of negotiations with foreign governments in relation to debts owed the United States, and for other purposes; to the Committee on Foreign Affairs.

By Mr. McEWEN (for himself, Ms. Abzug, Mr. Addabbo, Mr. Badillo, Mr. Biaggi, Mr. Bingham, Mr. Brasco, Mr. Carey of New York, Mrs. Chisholm, Mr. Conable, Mr. Delaney, Mr. Dulski, Mr. Fish, Mr. Gilman, Mr. Grover, Mr. Hanley, Mr. Hastings, Miss Holtzman, Mr. Horton, Mr. Kemp, Mr. King, Mr. Koch, Mr. Lent, Mr. Mitchell of New York, and Mr. Peyser):

H. Con. Res. 443. Concurrent resolution expressing the sense of Congress that the United States invites the International Olympic Committee to select Lake Placid, N.Y., as the site of the 1980 Winter Olympic Games; to the Committee on Foreign Affairs.

By Mr. McEWEN (for himself, Mr. Pike, Mr. Podell, Mr. Rangel, Mr. Robison of New York, Mr. Roncallo of New York, Mr. Rosenthal, Mr. Smith of New York, Mr. Stratton, Mr. Walsh, Mr. Wolff, Mr. Wydler, and Mr. Murphy of New York):

H. Con. Res. 444. Concurrent resolution expressing the sense of Congress that the United States invites the International Olympic Committee to select Lake Placid, N.Y., as the site of the 1980 Winter Olympic Games; to the Committee on Foreign Affairs.

By Mr. O'HARA:

H. Con. Res. 445. Concurrent resolution authorizing additional copies of Oversight Hearings entitled "State Post-Secondary Education Commissions"; to the Committee on House Administration.

By Mr. ESHLEMAN:

H. Res. 972. Resolution relating to the serious nature of the supply, demand, and price situation of fertilizer; to the Committee on Agriculture.

By Mr. HANRAHAN:

H. Res. 973. Resolution declaring the sense of the House with respect to the prohibition of extension of credit by the Export-Import Bank of the United States; to the Committee on Banking and Currency.

By Mr. PEPPER:

H. Res. 974. Resolution amending the Rules of the House of Representatives to provide equal coverage of House Committee meetings by all media and for other purposes; to the Committee on Rules.

By Mr. PRICE of Texas (for himself, Mr. Hunt, Mr. Rarick, Mr. Lujan, Mr. Cochran, Mr. Collins of Texas, Mr. Kemp, Mr. Devine, Mr. Miller, Mr. Breaux, Mr. Robert W. Daniel, Jr., and Mr. Michel):

H. Res. 975. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

By Mr. VANDER JAGT:

H. Res. 976. Resolution to express the sense of the House with respect to the allocation of necessary energy sources to the tourism industry; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

376. By the SPEAKER: Memorial of the Senate of the State of Arizona, relative to construction of the Hualapai hydroelectric dam in the Colarodo River; to the Committee on Interior and Insular Affairs.

377. Also, memorial of the Legislature of the State of Georgia, relative to research into eye diseases; to the Committee on Interstate and Foreign Commerce.

378. Also, memorial of the Legislature of the Commonwealth of Massachusetts, relative to establishment of a national cemetery in Massachusetts; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ROYBAL introduced a bill (H.R. 13442) for the relief of Fidel Grosso-Padilla, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

403. The SPEAKER presented a petition of Herbert A. Wilson, Baltimore, Md., relative to redress of grievances, which was referred to the Committee on the Judiciary.

SENATE—*Tuesday, March 12, 1974*

The Senate met at 10:30 a.m. and was called to order by Hon. William Proxmire, a Senator from the State of Wisconsin.

PRAYER

The Reverend Henry L. Reinewald, national chaplain, Veterans of Foreign Wars of the United States, offered the following prayer:

Almighty God, we invoke Your presence and grace upon the United States of America, upon those who are called to govern, especially the Senate of the United States.

Grant to us in this hour the blessing of Your Holy Spirit, that the need of this time may be met in accord with Your will and Your word.

Thank You, Lord, that we as a nation under God seek in all ways to serve You, and to provide for ourselves and our posterity the blessings of life, liberty, and the pursuit of happiness.

By faith, Lord, our forefathers brought into being these United States of America. By faith, Lord, all things are possible for us in this day. In such faith, Lord, guide the Senate of the United States, and all of the people of these United States now and evermore. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read the communication to the Senate from the President pro tempore (Mr. Eastland).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., March 12, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. William Proxmire, a Senator from the State of Wisconsin, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. PROXMIRE thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, March 11, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Delaware (Mr. Roth) is recognized for not to exceed 15 minutes.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the time heretofore allotted to the distinguished Senator from Delaware (Mr. Roth) be canceled.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended to 30 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HUGH SCOTT. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESCISSION OF ORDER FOR CONSIDERATION OF S. 1835

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order entered yesterday for the consideration of Calendar 700, S. 1835, immediately following the disposition of S. 872 be vacated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. This will mean, then, that upon the disposition of S. 872, which will come up immediately upon the completion of morning business today, the Senate will proceed to the consideration of S. 1401, a bill to establish appropriate criteria for the mandatory imposition of death sentences.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 10:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until the hour of 10:30 a.m. tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. HUGH SCOTT. Mr. President, for the sake of the record, do I correctly understand that at about 11 o'clock today we are going to consider the so-called aircraft piracy amendments, S. 872, and when that is completed, we will proceed to consider the bill, S. 1401, to establish rational criteria for the mandatory imposition of the sentence of death and for other purposes?

I inquire if that is not about all the legislation we contemplate this week.

Mr. ROBERT C. BYRD. Mr. President, as far as I can see, that is correct. There may be one or two other measures on the calendar which could be cleared for action possibly by unanimous consent.

Mr. HUGH SCOTT. I thank the Senator. I think that will be helpful to all Senators in making their plans.

ORDER FOR CONSIDERATION OF AIRCRAFT PIRACY AMENDMENTS OF 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 11 o'clock this morning the Senate proceed to the consideration of S. 872.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. PROXMIRE) today signed the enrolled bill (H.R. 5450) to amend the Marine Protection, Research, and Sanctuaries Act of 1972, in order to implement the provisions of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, and for other purposes, which had previously been signed by the Speaker of the House of Representatives.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. PROXMIRE) laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION BY NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to amend section 203(b) of the National Aeronautics and Space Act of 1958, (with accompanying papers). Referred to the Committee on Aeronautical and Space Sciences.

REPORT OF FEDERAL CROP INSURANCE CORPORATION

A letter from the Secretary of Agriculture, transmitting, pursuant to law, a report of the Federal Crop Insurance Corporation for the 1973 crop year (with an accompanying report). Referred to the Committee on Agriculture and Forestry.

REPORT OF OVEROBLIGATION OF AN APPROPRIATION

A letter from the Assistant Secretary for Management, Department of the Interior and the Acting Administrator, American Revolution Bicentennial Administration, reporting, pursuant to law, on the overobligation of an appropriation to the American Revolution Bicentennial Administration. Referred to the Committee on Appropriations.

DONATION BY NAVY OF CERTAIN RAILWAY ROLLING STOCK AND EQUIPMENT

A letter from the Chief of Legislative Affairs, Department of the Navy, Office of Legislative Affairs, transmitting pursuant to law, the intention of the Department of the Navy to donate certain surplus property to the Warren County Chapter of the National Railway Historical Society, Warrenton, N.C. Referred to the Committee on Armed Services.

REPORT ON WORKING CAPITAL FUNDS OF DEPARTMENT OF DEFENSE

A letter from the Deputy Secretary of Defense, transmitting a report on the working capital funds of the Department of Defense for fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on Armed Services.

PROPOSED LEGISLATION BY DEPARTMENT OF AIR FORCE

A letter from the Acting Assistant Secretary, Manpower and Reserve Affairs, Department of the Air Force, transmitting a draft of proposed legislation to amend Public Law 92-477, authorizing, at Government expense, the transportation of house trailers or mobile dwellings, in place of household and personal effects, of members in a missing status, and the additional movement of dependents and effects, or trailers, of those members in such status for more than 1 year, to make it retroactive to February 28, 1961. Referred to the Committee on Armed Services.

REPORT OF DISTRICT OF COLUMBIA GOVERNMENT

A letter from the Mayor-Commissioner, District of Columbia, transmitting, pursuant to law, a report of action by the District of Columbia government on recommendations of the Commission on Organization of the Government of the District of Columbia (with an accompanying report). Referred to the Committee on the District of Columbia.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States (with accompanying papers). Referred to the Committee on Foreign Relations.

PROPOSED LEGISLATION BY FEDERAL ENERGY OFFICE

A letter from the Administrator, Federal Energy Office, transmitting a draft of proposed legislation to authorize energy conservation programs and end use rationing of fuel (with an accompanying paper). Referred to the Committee on Interior and Insular Affairs.

TEMPORARY ADMISSION INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders granting temporary admission into the United States of certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

REVENUE MECHANISMS FOR FINANCING URBAN MASS TRANSPORTATION

A letter from the Secretary of Transportation, transmitting, pursuant to law, a study of Revenue Mechanisms for Financing Urban Mass Transportation, dated February 1974 (with an accompanying study). Referred to the Committee on Public Works.

PROPOSED LEGISLATION BY ATOMIC ENERGY COMMISSION

A letter from the chairman, Atomic Energy Commission, transmitting a draft of proposed legislation to amend the Atomic Energy Act of 1954, as amended, to provide for approval of sites for production and utilization facilities, and for other purposes. Referred to the Joint Committee on Atomic Energy.

REPORT ENTITLED "DISCLOSURE OF CORPORATE OWNERSHIP"

A letter from the chairman, Committe on Government Operations, transmitting, pursuant to Senate Concurrent Resolution 59, a report to be printed as a Senate document entitled "Disclosure of Corporate Ownership" (with an accompanying report). Ordered to be printed.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Proxmire):

Resolutions of the Legislature of the Commonwealth of Massachusetts. Referred to the Committee on Post Office and Civil Service:

[The Commonwealth of Massachusetts]

"RESOLUTIONS MEMORIALIZING THE POSTMASTER GENERAL OF THE UNITED STATES TO SUPPORT A BICENTENNIAL COMMEMORATIVE STAMP DEPICTING THE TOWN OF MARBLEHEAD PAINTING 'SPIRIT OF '76'

"Whereas, Bicentennial stamps depicting courageous and patriotic scenes of the American Revolution will be issued in commemoration of the Birthday of our Nation; and

"Whereas, One of the most stirring of these scenes hangs in the Town Hall of Marblehead, Massachusetts, the painting by Archibald M. Willard of patriots bravely marching to 'Yankee Doodle' entitled 'The Spirit of '76'; and

"Whereas, Hundreds of thousands of Americans have visited the Town of Marblehead to view this inspiring painting, presented to the Town after an enthusiastic showing at the Philadelphia Exposition in celebration of the eighteen hundred and seventy-six Centennial; and

"Whereas, Many brave and fearless Marbleheaders took an active role in the Fight for Independence at Bunker Hill, Long Island, Trenton and on the high seas, greatly contributing to the success of the American Revolution; and

"Whereas, The Marblehead painting 'The Spirit of '76' demonstrates to the Nation and the World the spirit of adventure, patriotism, loyalty and dedication of the original revolutionary Marbleheaders; therefore be it

"*Resolved,* That the General Court of Massachusetts hereby respectfully memorializes the Postmaster General of the United States to support the application of the Marblehead Bicentennial Commission for the issuance of a Bicentennial stamp depicting the Marblehead 'Spirit of '76' painting; and be it further

"*Resolved,* That copies of these resolutions be sent forthwith by the Clerk of the House of Representatives to Postmaster General E. T. Klassen, Director of Stamps Gordon Morison, the Citizens Stamp Advisory Committee, the presiding officer of each branch of Congress and to each member thereof from this Commonwealth.

"House of Representatives, adopted, February 20, 1974."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce, with amendments:

S. 1353. A bill to deduct from gross tonnage in determining not tonnage those spaces on board vessels used for waste materials (Rept. No. 93-730).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. METCALF, from the Committee on Interior and Insular Affairs:

Royston C. Hughes, of Maryland, to be an Assistant Secretary of the Interior.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BELLMON:

S. 3153. A bill to amend the Emergency Petroleum Allocation Act of 1973. Referred to the Committee on Interior and Insular Affairs.

By Mr. RIBICOFF:

S. 3154. A bill to amend the Social Security Act to extend entitlement to health care benefits on the basis of age under the Federal medical insurance program (medicare) to all persons who are citizens or residents of the United States aged 65 or more; to add additional categories of benefits under the program (including health maintenance and preventive services, dental services, outpatient drugs, eyeglasses, hearing aids, and prosthetic devices) for all persons entitled (whether on the basis of age or disability) to the benefits of the program; to extend the duration of benefits under the program where now limited; to eliminate the premiums now required under the supplementary medical insurance benefits part of the medicare program and merge that part with the hospital insurance part; to eliminate all deductibles; to eliminate copayments for low-income persons under the program, and to provide, for others, copayments for certain services or items but only pocket expense limit (catastrophic expense limit): to provide for prospective review and approval of the rates of charges of hospitals and other institutions under the program, and for prospective establishment (on a negotiated basis when feasible) of the schedules for physicians and other practitioners; to revise the coverage of the tax provisions for financing the medicare program and increase the Government contribution to the program; and for other purposes. Referred to the Committee on Finance.

By Mr. YOUNG:

S. 3155. A bill to amend the wheat and feed grain program for the 1975, 1976, and 1977 crops in order to provide for the apportionment of acreage allotments on the basis of more recent acreage histories for such commodities. Referred to the Committee on Agriculture and Forestry.

By Mr. TOWER (for himself and Mr. Dominick):

S. 3156. A bill to amend the Vocational Education Act of 1963 to provide for a bilingual vocational training program; and

S. 3157. A bill to amend the Higher Education Act of 1965 with respect to developing institutions. Referred to the Committee on Labor and Public Welfare.

By Mr. SPARKMAN (by request):

S. 3158. A bill to make technical amendments to the Federal Credit Union Act. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BUCKLEY (for himself and Mr. Mathias):

S. 3159. A bill to authorize the Secretary of Transportation to make grants for the construction of bikeways in urbanized areas. Referred to the Committee on Public Works.

By Mr. HATFIELD:

S. 3160. A bill to designate certain lands for inclusion in the national wilderness preservation system. Referred to the Committee on Interior and Insular Affairs.

By Mr. BENTSEN:

S. 3161. A bill to amend the provisions of title 23, United States Code, dealing with highway beautification, and for other purposes. Referred to the Committee on Public Works.

By Mr. MONDALE:

S. 3162. A bill for the relief of Suk Hee Yoo. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BELLMON:

S. 3153. A bill to amend the Emergency Petroleum Allocation Act of 1973. Referred to the Committee on Interior and Insular Affairs.

Mr. BELLMON. Mr. President, a great inequity presently exists in connection with this Nation's effort to meet our energy needs. By passage of the Emergency Petroleum Allocation Act of 1973, Congress has endeavored to equitably distribute the limited supplies of petroleum products among consumers in every State in the Union. However, at the same time, several States presently are enforcing prohibition against the development of potential petroleum resources within areas under their jurisdiction and also the construction of petroleum processing facilities.

This Nation can ill afford such a double standard. It makes no sense to say to the citizens of one State that the petroleum resources of that State shall be developed and processed and transfered into another State which will not allow similar development and processing.

I am today introducing legislation which is intended to end this inequity and in this way hasten the day when the energy needs of citizens of every section of this country can be adequately met.

By Mr. RIBICOFF:

S. 3154. A bill to amend the Social Security Act to extend entitlement to health care benefits on the basis of age under the Federal medical insurance program, medicare, to all persons who are citizens or residents of the United States aged 65 or more; to add additional categories of benefits under the program—including health maintenance and preventive services, dental services, outpatient drugs, eyeglasses, hearing aids, and prosthetic devices—for all persons entitled—whether on the basis of age or disability—to the benefits of the program; to extend the duration of benefits under the program where now limited; to eliminate the premiums now required under the supplementary medical insurance benefits part of the medicare program and merge that part with the hospital insurance part; to eliminate all deductibles; to eliminate copayments for low-income persons under the program, and to provide, for others, copayments for certain services or items but only up to a variable income-related out-of-pocket expense limit, catastrophic expense limit, to provide for prospective review and approval of the rates of charges of hospitals and other institutions under the program, and for prospective establishment—on a negotiated basis when feasible—of fee schedules for physicians and other practitioners; to revise the coverage of the tax provisions for financing the medicare program and increase the Government contribution to the program; and for other purposes. Referred to the Committee on Finance.

COMPREHENSIVE MEDICAL REFORM ACT OF 1974

Mr. RIBICOFF. Mr. President, Today, I am introducing the Comprehensive Medicare Reform Act of 1974. This legislation is the culmination of two decades of efforts to provide full health insurance protection for older Americans.

In 1961, following a decade of debate on health insurance for the aged, the new Kennedy administration took an active leadership role in bringing the medicare debate to legislative reality. As Secretary of Health, Education, and Welfare, I headed a task force to draft a medicare bill. While Congress rejected it in the early 1960's, medicare became law in 1965. As a Senator and a member of the Senate Finance Committee which shapes such legislation I was proud to play a role in developing and supporting medicare.

Medicare was a major breakthrough in assuring a measure of health protection for one segment of the population. Because it was a new concept, however, Congress limited its coverage. It was, in fact, a financial program to help meet some of the costs of short-term and acute medical care.

Since its enactment in 1965 we have found that the program should be improved and expanded. I have suggested expanding its coverage in a number of ways. Since 1965 we have expanded medicare to cover all disabled persons, those who have chronic kidney conditions and many more. Its services have likewise been expanded to cover a wider range of nonhospital items.

At the same time we have found a need to curb costs and abuses under medicare. Major oversight hearings which we held in 1969 led to improvements in the administration and cost control mechanisms of medicare.

Since medicare's inception in 1965, I have watched its progress and participated in its development at every stage of the way.

It is time to change to medicare from a limited financial program to the program which we originally envisioned—comprehensive national health insurance for all older Americans.

The medicare program I envision is one in which provides a range of care from preventative and diagnostic physician's services to the most acute hospital care. Nursing home, home health care, dental care, eye care, hearing care, prescription drug coverage are just a few of the areas which should be covered. In short, medicare should be a balanced program which encourages the best kind of care with the greatest possible freedom of choice for the patient. And it should be a program that provides reasonably for all the providers in the system—hospitals, doctors and others and at the same time is efficiently administered at the smallest possible cost to the Government.

The American Association of Retired Persons/National Retired Teachers Association has played a leading role in the development of this legislation. The legislation, which has been developed over the past two years, reflects their tireless efforts. The proposal also reflects the recommendations of the 1971 White House Conference on Aging and recommendations made in recent years by one of America's leaders on issues affecting older Americans, Nelson Cruikshank.

PRIORITY ON HEALTH CARE PROTECTION FOR AGED

In dealing with programs to provide comprehensive health coverage for all Americans at a cost which the taxpayers can afford, priorities must be established as to who should be covered.

The population over 65 is in most need of protection. For the most part their income is limited and the costs of illness for them is higher than for the population as a whole.

At the turn of the century there were only 3 million older persons every 25th American. Since that time, the older population has grown faster than the rest of the population. Today there are over 20 million senior citizens—every 10th American. By the year 2000, every ninth American will be over the age 65. It is not a static population. Every day, 4,000 Americans reach age 65.

Unfortunately, however, the median income of older families and individuals is less than half that of their younger counterparts. While the social security benefit increases of recent years have had a dramatic impact in reducing poverty for older Americans, over 2 million older Americans were living below the poverty threshold in 1973.

Most older Americans depend on social security. But social security benefit increases are too often negated by the tide of inflation. Thus, while the Department of Labor estimates that a minimum low budget for a retired couple is $3,442 a year, social security benefits are $118 a year under that bare bones minimum budget.

There are also an estimated additional 2 million aged persons who while not classified as poor because they live in families with incomes above the poverty line, are in fact poor. In sum, while the aged make up 10 percent of the population, they make up 20 percent of the poor. If you are old, you are twice as likely to be poor.

As might be expected, older people, because they have half as much income as younger people, are forced to spend half as much. They must stretch their food, clothing, rent, and medical dollars much farther than the nonpoor. Proportionately, 'older consumers spend more of their income on these items than do those under 65.

The problems of income are complicated by problems of health. Older Americans have less money but more health problems. Eighty-five percent of those who are over 65 and have at least one chronic condition. Eighty percent have some degree of arthritis. Dental problems, hearing and eye problems and the need for prescription drugs all increase with old age. Drug costs for older Americans, for example, run three times higher than for the younger population. Charges for prescriptions range up to 67 cents higher per prescription for older people, mainly because they often need expensive maintenance drugs.

The major chronic diseases among older persons—heart disease, cancer, strokes, arthritis, diabetes—are costly to older Americans not only in terms of invalidism and pain but also in financial terms.

At the same time that older Americans need more health care, real growth in health care utilization for the elderly has not kept pace with other age groups in recent years. The elderly in America are not utilizing the full range of health services they need because they can't afford to. They are economically forced to wait until they need acute inpatient hospital care. The economically disadvantaged aged population is further discouraged from obtaining health care because they are concentrated in urban centers and rural areas—often geographically distant from health service areas.

MEDICARE PERFORMANCE

Until 1965 older Americans had to depend almost exclusively on their own resources for health care. Since the enactment of medicare, the Federal Government has assumed a portion of the medical costs of older Americans.

During fiscal year 1973, the Nation spent $94.1 billion for personal health care. Persons aged 65 and over accounted for 28 percent of this cost, although they make up only 10 percent of the population.

The average personal health care outlay for the total population was $441 in fiscal 1973. For the senior citizen it was $1,000.

Despite increases in Government and other third party sources such as medicare, average out-of-pocket payment by aged persons was $276 in fiscal 1972, three times the amount paid out of pocket by nonsenior citizens. This $276 out-of-pocket cost is higher than the amount paid for health care by older Americans at the start of 1966, $234, before medicare was enacted. As costs have risen then, medicare is picking up an ever smaller amount of the older Americans' health costs. In 1969, Medicare paid 46 percent of their health bill. Today it pays 42 percent.

The decline in medicare's share of the health bill of the aging is related not only to inflationary factors but to basic problems in the medicare structure.

The time has come to reshape the medicare program—building on its strengths and eliminating its weaknesses.

THE COMPREHENSIVE MEDICARE REFORM ACT OF 1974—PURPOSE

The legislation I am proposing today would restructure the medicare program to provide health care benefits to all older Americans as a matter of entitlement. The bill would broaden the medicare benefit package to meet the full range of medical services needed by older Americans and extend the duration of those benefits which are limited under the present program. It would reduce the out-of-pocket personal health care expenditures of those eligible for medicare coverage, establish a program of income-related catastrophic health insurance protection for senior citizens. And it would improve the administration of medicare while it attempts to *control* increases in health care costs

STRUCTURE

The bill establishes a single integrated program of comprehensive health insurance for the aged and disabled financed out of general revenues. Parts A and B of the medicare program are combined into a single, expanded benefit structure with a single trust fund.

Requirements for premium payments and deductible are eliminated. Minimal coinsurance provisions are designed so that while persons who can afford to pay will do so up to a predetermined maximum level, cost will not be a deterrent to quality health care.

The act also provides coverage for all care and services for the aged presently covered by the medicaid program.

ENTITLEMENT

The new medicare program is expanded to all persons 65 years of age of older regardless of insured status under the social security or railroad retirement cash benefit program. The only requirement is that the individual be a citizen or national of the United States or a legal resident alien. This means that for the first time all public employees, including teachers, policemen and firemen will be automatically eligible for medicare.

The medicare program also provides eligibility to all those who are now eligible for medicare because of special circumstances such as disability.

REIMBURSING SERVICES

The Medicare Reform Act provides a comprehensive range of benefits:

Unlimited inpatient hospital coverage:

Includes pathology and radiology services; and

Includes 150 days of care during a benefit period for a psychiatric inpatient undergoing active diagnosis or treatment of an emotional or mental disorder.

Unlimited outpatient hospital coverage.

Unlimited skilled nursing facility services with no requirement for prior hospitalization.

Unlimited intermediate care facility services, effective July 1, 1978.

Unlimited home health services with no requirements for prior hospitalization.

Certain services offered by public or non-profit private rehabilitation agencies or centers and public or nonprofit private health agencies.

Unlimited physicians' services, including major surgery by a qualified specialist and certain psychiatric services.

Unlimited dental services.

Outpatient prescription drugs—including biologicals such as blood, immunizing agents, etc.—subject to certain limitations to insure quality control.

Medically necessary devices, appliances, equipment and supplies, such as: eyeglasses, hearing aids, prosthetic devices, walking aids. Also included are any items covered under present law.

Services of optometrists, podiatrists and chiropractors.

Diagnostic services of independent pathology laboratories and diagnostic and therapeutic radiology by independent radiology services.

Certain mental health day care services.

Ambulances and other emergency transportation services as well as non-emergency transportation services where essential because of difficulty of access.

Psychological services; physical, occupational or speech therapy; nutrition, health education, and social services; and other supportive services.

COST SHARING

Under this proposal there are no periodic premium payments or deductibles.

There are, however, minimum initial coinsurance payments—based on the type of service—as follows:

Initial coinsurance payments—based upon type of service—are as follows:

TYPE OF SERVICE

First, inpatient hospital services;

Second, skilled nursing facility;

Third, home health services;

Fourth, physicians' services;

Fifth, dentist services;

Sixth, mental health day care;

Seventh, diagnostic outpatient services of independent laboratory or of independent radiology services;

Eighth, devices, appliances, equipment, and supplies;

Ninth, drugs; and

Tenth, ambulance services.

COINSURANCE PAYMENTS

First, $5 per day;

Second, $2.50 per day;

Third, $2 per visit;

Fourth, $2 per visit;

Fifth, 20 percent of approved charges;

Sixth, $2 per day;

Seventh, 20 percent of approved charges;

Eighth, 20 percent of approved charges;

Ninth, $1 per each filling or refilling; and

Tenth, 20 percent approved charges.

CATASTROPHIC HEALTH INSURANCE

While the features of the bill already outlined are designed to deal with the basic health costs, older Americans are more likely than any other segment of the population to incur extraordinarily large costs. Therefore, this legislation also includes a catastrophic health insurance section for older Americans.

Senator RUSSELL LONG and I have already introduced legislation which establishes a catastrophic health insurance program for the nonaged. This provision is complementary in a sense to that proposal. At the same time it contains a novel feature which, while equitable, should be tried out on a smaller scale before being implemented on a full national health insurance program.

I refer to an income-related catastrophic ceiling. Essentially, health costs which are catastrophic to one family may not be as burdensome to a more affluent family. For that reason, families should be able to bear differing burdens of cost for health care depending on their income. This income-related feature will present an administration challenge and should be tested.

REIMBURSEMENT AND COST CONTAINMENT POLICIES

While medicare reimbursement is continuing to grow, some of the new cost containment features in medicare are holding down increased costs. My legislation incorporates all present medicare cost control and utilization review provisions.

Payments will be made only to a "participating provider"—one who has filed a participation agreement with the Secretary of HEW—except for emergency services. Providers will include not only institutions but independent practitioners and suppliers of drugs and medical appliances.

Reimbursement will be made to a participating institutional provider based upon a predetermined schedule of patient care charges. The schedule must be based on a system of accounting and cost analysis in conformity with prescribed standards. Periodic interim payments will be made to institutions during the accounting year on the basis of cost projections, with final adjustments based on the approved schedule of charges.

Reimbursement for services of physicians, dentists, optometrists, podiatrists, chiropractors and other noninstitutional services of licensed professional practitioners will be made in accordance with annually predetermined fee schedules for their local areas. These schedules will be worked out in negotiation with the providers and it is intended that the fees will be reasonable and equitable for provider and patient alike.

One of the problems in the present Medicare program is that physicians are increasingly refusing to accept Medicare assignment because medicare does not provide adequate compensation to them. In fiscal year 1969, the net assignment rate was only 61 percent. In 1972, it declined so that only 56.4 percent of the claims were direct payments to doctors on an assignment basis. Doctors increasingly preferred to bill the patient and have medicare bill the patient directly. this way, the doctors could collect more from the patient above the medicare payment.

While the payment mechanism in this bill requires participating doctors to accept assignment or not participate at all, it also establishes a fair way to set fees.

Fee schedules will be established through negotiation among representatives of government, providers and consumers. Final fee schedules will be established only after public hearing. And the Secretary of HEW is required to make public for each local area the established fee schedules and the names, professional fields, and business addresses of participating practitioners.

To make medicare a full success it must not only provide adequate benefits to beneficiaries but it must adequately compensate those who provide the services under that program. I am hopeful that this legislation will make adequate provisions for all providers.

SUMMARY

The proposal I am making today must be considered together with other Congressional initiatives in the field of national health insurance. Senator KENNEDY, a leader in the health field has proposed legislation which would cost some $80 billion. The President's package would cost $40 billion.

The American taxpayers cannot afford to pay these additional costs. Social security taxes are already as high as they should go. I and Senator LONG, joined by 23 other Senators of both parties, have introduced health insurance legislation which recognizes both that certain priority health needs must be met—but at a cost which the taxpayer can afford. The Long-Ribicoff bill's cost is less than that of any other health insurance proposal. In part this is because our legislation builds on the existing medicare program and would not create a new Government bureaucracy. It is also less costly because it recognizes that there are certain health care needs which are of a priority nature and it provides coverage for those areas—catastrophic costs, for example, which can financially destroy the average family.

This legislation I am introducing today is likewise designed to meet priority needs of the elderly at the lowest possible cost. It too builds upon the expertise, experience, and mechanisms of the medicare program. And it provides an important and meaningful role for providers of health care—the doctors, hospitals, and insurers.

Passage of this legislation will reduce the cost of national health insurance legislation by billions of dollars. Costs under the Long-Ribicoff bill would be reduced by as much as $4 billion if this legislation is enacted.

The medicare program in 1973 paid out $9.5 billion. The additional costs of this program will be approximately $3 billion in induced Federal costs.

These extra costs should be met by general revenues. In his health message to Congress, the President indicated that the $6 billion Federal cost of the Federal part of his program could be financed out of general revenues with no additional taxes. New induced Federal costs of this proposal can likewise be met by general revenues.

As congressional debate on national health insurance progresses, I hope the concepts embodied in this Comprehensive Medicare Reform Act of 1974 will be considered.

By lowering the price tag for initial health care, older persons will be encouraged to seek the basic medical checkups needed to diagnose and stop an illness before it becomes critical.

Older Americans who have worked their entire lives deserve a measure of security. This legislation will provide them with the assurance that their health needs will be provided for.

I ask unanimous consent that descriptions describing the bill in detail and comparing it with present law be inserted at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF HIGHLIGHTS OF PROPOSED COMPREHENSIVE MEDICARE REFORM ACT OF 1974

TITLE I. REVISION OF MEDICARE STRUCTURE, ENTITLEMENT, BENEFITS, AND FINANCE

A. Replacement of dual insurance program by single program

Instead of two programs—i.e. (1) a hospital insurance program financed only through special wage, payroll, and self-employment taxes, with automatic entitlement for all eligible persons (coupled with a voluntary buy-in provision at full cost for aged persons not otherwise eligible for hospital insurance), and (2) a supplementary medical insurance benefit program, financed by premiums from enrollees and by Government contributions from general revenues, with enrollment by eligible enrollees being voluntary—there would be a single, integrated, comprehensive health insurance program financed from such present social security taxes and from Government contributions, to the benefits of which all eligible persons would be automatically entitled without periodic premium payments.

B. Broadened entitlement based on age

For persons 65 years of age or older, entitlement to health insurance benefits (even with respect to inpatient institutional services) would no longer be conditioned on entitlement to monthly social security (or railroad retirement) cash benefits, so long as the individual is a citizen (or national) of the United States, or is an alien lawfully living here for 30 days. (For disabled persons under 65, the provisions of the recent amendments that condition entitlement to health insurance benefits on prior entitlement to social security (or railroad retirement) disability insurance cash benefits for 24 months or, in the case of persons with chronic renal disease, on insured status or current entitlement under the cash benefit programs or on being a spouse or dependent child of such an insured person, would continue in effect, but such persons would enjoy the benefit of the same extended coverage of services and the same relief from premium payments and deductibles (see below) as aged beneficiaries.)

C. Coverage

1. Covered Institutional Services.[1]

a. Unlimited *inpatient* hospital coverage (except for limit of 150 days of care in a benefit period for a psychiatric inpatient, and then only for active diagnosis or treatment of an emotional or mental disorder).

b. Unlimited outpatient hospital coverage. For psychiatric day care, see #2 and #6 below.

c. Skilled-nursing facility services on unlimited durational basis. No requirement of prior hospital stay.

d. Starting July 1, 1978, care on unlimited durational basis in intermediate-care facilities.

e. Home health services, without limitation as to the number of visits, and without requirement of prior hospital stay.

f. To the extent specified in regulations, if not otherwise covered—

(a) health and health-related services of public or nonprofit private rehabilitation agencies or centers;

(b) health and health-related services of a public health agency or nonprofit private health agency.

g. To the extent specified in regulations, inpatient services of a Christian Science sanatorium.

2. Physicians' Services (not otherwise covered), except that—

(1) major surgery and other specialized services designated in regulations are covered only if furnished by a qualified specialist, and then only if, to the extent specified in regulations, furnished on referral by a general or family practitioner or if they are emergency services.

(2) psychiatric (mental health) services to patients other than inpatients are covered only if furnished by an approved HMO, a hospital, or a mental health center, or (up to 160 days during or following a benefit period) otherwise furnished to a patient of a mental health day care service affiliated with a hospital or approved by the Secretary, or (up to 20 consultations a year) furnished in a psychiatrist's office.

3. Dental Services (not otherwise covered), on unlimited basis, including preventive, diagnostic, therapeutic, and restorative services and items (dentures, etc.).

4. Drugs (including biologicals, such as blood, immunization products, etc.).

a. Covered without limit if furnished to an enrollee of an HMO, or if administered in a hospital's inpatient or outpatient department, or to an inpatient of a skilled nursing facility, or (to the extent provided in regulations) in a facility of a rehabilitation agency or center.

b. Covered if furnished (with or without separate charge) in a physician's or dentist's office as an incident to his professional service, but only if the drug is on a general list, established by the Secretary, designed to provide practitioners with an armamentarium sufficient for rational drug therapy.

c. Drugs otherwise furnished (on prescription), but only if included in a special list established by the Secretary and then only if prescribed for a disease or condition for the treatment of which the drug is specified on that list; except that drugs furnished after June 30, 1981 (beginning with the 6th fiscal year of outpatient drug coverage under the bill) would be covered (without regard to the condition for which they are prescribed) if listed on the Secretary's general list of drugs referred to in the preceding paragraph. (The special list would be primarily for chronic conditions *for which* drug therapy, because of duration and cost, commonly imposes substantial financial hardship.)

5. Devices, Appliances, Equipment and Supplies (prescribed, or certified as medically necessary, by a professional practitioner) if on a list established by the Secretary or if otherwise covered as an institutional service or as an incident to professional services. The list must include, among other items, eyeglasses, hearing aids, prosthetic devices, walking aids, and any article covered under present law. For coverage of dentures, see "Dental Services" above.

6. Other Professional and Supporting Services (if not otherwise covered).

a. Services of optometrists.

b. Services of podiatrists.

c. Chiropractors' services (with respect to manual manipulation of the spine to correct a subluxation demonstrated by X-ray).

d. Diagnostic services of independent pathology laboratories, and diagnostic and therapeutic radiology by independent radiology services.

e. Care (other than psychiatist's services above covered) in a mental health day care service, if furnished by—

(1) a hospital,

(2) an approved HMO,

(3) a community mental health center or other mental health center that furnishes comprehensive mental health services, or

(4) a service affiliated with a hospital or a day care service approved for that purpose by the Secretary. Limited to 160 full days during or following a benefit period if provided under clause (4).

(f) Ambulance and other emergency transportation services, and nonemergency transportation services found essential by the Secretary to overcome special difficulty of access to covered services.

g. When not otherwise covered (e.g., as institutional services or as physician's services), supporting services (such as psychological services, physical, occupational, or speech therapy, and nutrition, social work, and health education services) when, with

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[1] The term "institutional services" is defined in the bill as including all services that are furnished, or held out as available, generally to patients or classes of patients of the institution involved and are furnished by the institution or by others under arrangements with them made by the institution, including pathology and radiology services and all other professional and nonprofessional services so furnished or held out as available; except that the term does not include medical, surgical, or dental services by an independent physician or dentist, or podiatry services by an independent podiatrist, furnished to an individual as the practitioner's private patient (as defined by regulation).

Secretary's approval, furnished by an approved HMO, or another organization, institution, or agency. Outpatient physical therapy services are covered only if they meet requirements of existing law, i.e., § 1861 (p) of Social Security Act (as amended by the bill). (Outpatient physical therapy services (other than those in a physician's office) furnished by an independent physiotherapist in his office or the patient's home, are covered only as under the 1972 Amendments, i.e. to the extent of incurred charges therefor not exceeding $100 per calendar year.) Screening services not otherwise covered are covered when furnished in accordance with regulations.

7. Excluded from Coverage (and not abovementioned as excluded are, inter alia:

a. Services furnished outside the U.S., with certain across-the-border exceptions for hospital services and for professional services incident to the hospital services and for professional services incident to the hospital services. (sec. 1819(a) of bill).

b. Services not medically necessary or reasonable or, in the case of health maintenance, not appropriate. However, the bill preserves section 1879, added by the 1972 Amendments, providing for payment for such services under certain circumstances.

c. Personal comfort items.

d. Purely custodial care. However, the bill preserves section 1879, added by the 1972 Amendments, providing for payment for such services under certain circumstances.

e. Cosmetic surgery (with cetrain exceptions).

f. Services furnished or paid for, or required to be furnished of paid for, under a workmen's compensation law. (They may be provisionally treated as covered until a determination has been made under that law, upon which determination payment under Medicare is to be treated as an overpayment.)

g. Services for which the individual has no legal obligation to pay and which no one else (whether by reason of the individual's membership in a prepayment plan or otherwise) has a legal obligation to provide or pay for.

h. Services furnished by a Federal provider, except emergency services, and except (1) services that the provider is providing generally to the public as a community institution (e.g., St. Elizabeths Hospital) or (2) to the extent provided in regulations, services of Public Health Service personnel assigned (under sec. 329(b) of the PHS Act) to an area with a critical health manpower shortage.

i. Services that the provider is obligated by a law or contract with the U.S. to render wholly at public expense.

j. Services paid for directly or indirectly by any governmental entity, except (1) services for which payment is made under any provision of the Social Security Act other than Title XVIII; (2) services paid for under a health insurance plan for the entity's employees (or retired employees) or their families; (3) services provided by a participating State or local government-operated hospital (including a mental or tuberculosis hospital) that serves the general community; (4) services paid for by a State or local agency and furnished as a means of controlling infectious diseases or because the patient is medically indigent; and (5) services provided in such other cases as the Secretary may specify.

D. Payment for covered services (other than payment to an HMO contracting with the Secretary).

1. Payment is made only to a "participating provider" (i.e., one that has filed, and has in effect, a participation agreement with the Secretary under sec. 1866, except in the case of emergency services and covered across-the-U.S. border hospital and related services. The term "provider", under the bill, includes not only institutions but also independent practitioners with respect to their private patients, suppliers who furnish items (e.g., drugs or prostheses or appliances), to an individual in **their own right and not** on behalf of another, etc.

2. An institutional provider is to be treated as the provider of services to its patients with respect to all institutional services(as above defined), regardless of the legal or financial arrangement between the institution and the person furnishing the services. (Under present law, physicians' services (other than those of interns and residents-in-training under an approved teaching program and (generally) those of teaching physicians in such a hospital) are not covered under part A, but are covered under part B at the "reasonable charge" (or 80% of it) even if the hospital bills and collects for those services and even if the physician is on a salary.)

3. The amount of reimbursement to a participating institutional provider for institutional services is to be made on the basis of a predetermined schedule of patient care charges approved, for an accounting year of the institution, by the Secretary (through a review mechanism under which the fiscal intermediary for the institution generally makes the initial determination) or, in a State that has a State rate review and approval agency operating under equivalent standards, approved by that State agency. (Capitation charges, if submitted by a provider and if meeting standards, may also be approved.) The schedule of charges must be based on a system of accounting and cost finding in conformity with standards prescribed or approved by the Secretary, and on the institution's budget for the accounting year involved, which budget must also be approved by the Secretary or the State rate review and approval agency, as the case may be. A schedule of charges may be approved only if they do not exceed the estimated reasonable cost for the efficient delivery of services, as determined under the definition of "reasonable cost" and implementing regulations. (A revision of an approved schedule of charges during an accounting year would be permitted only under exceptional circumstances, described in the bill.) The bill provides for periodic interim payments to the institution during the institution's accounting year on the basis of projections, with final adjustment (after the close of the accounting year) based on the approved schedule of charges.

A hospital that is not a participating institutional provider, if eligible for reimbursement (see paragraph 1, above), would be paid on a reasonable cost basis (or, if less, in the case of a private hospital, its customary charges). In the case of such a hospital that elects not to claim payment under the program but to collect from the individual, payment would be made to the individual at the reasonable charge rate (less copayment).

4. With respect to noninstitutional services of physicians, dentists, optometrists, podiatrists, and chiropractors, and such other noninstitutional services of licensed professional practitioners as may be specified in regulations, the bill provides for payment in accordance with annually predetermined fee schedules for their local areas and for establishing these schedules, to the extent feasible, on the basis of negotiations with representatives of their professional societies and representatives of associations of retired persons (or associations otherwise representative of Medicare beneficiaries). The final schedule could, however, be established only after public hearing. (This system would apply only to services in the United States and not to the exceptional cases of covered across-the-border services.) The schedules are to be based on a forecast of what would be fair and equitable compensation (not exceeding "reasonable charges") in the area in the applicable fiscal year. Inasmuch as the legislation requires that payment for services in the United States be made only to a participating provider (except in emergency cases) and not to the individual, and a participating practitioner must agree to accept the Medicare payment (plus any copayment) as the full charge for the service, such a practitioner could no longer, by refusing to accept an assignment from the patient and billing the patient directly, require the patient to pay fees in excess of the Medicare reimbursement (plus copayment). A patient of a nonparticipating practitioner in the United States, except in the case of emergency services, would no longer be able to obtain any reimbursement from Medicare. (Even such a practitioner, if he accepts an assignment from the individual for the emergency services, could be paid only the abovementioned established Medicare charge and would be precluded from collecting an added fee from the patient, except the copayment if one applies.) The Secretary would be required to make public, for each local area, the established fee schedules for the area and the names, professional fields, and professional addresses of participating practitioners in the area.

5. In other cases, a participating noninstitutional provider (pharmacy, etc.) is to be paid on a "reasonable charge" basis, except that a nonprofit organization that operates on a prepayment basis may, at its request, be reimbursed under the provisions for payment to institutional providers. In emergencies, if the service in the United States is furnished by such a nonparticipating provider, i.e., one that has not filed a participation agreement with the Secretary, payment of the reasonable charge may be made either to the patient on the basis of an itemized bill, or to the provider on an assignment from the patient if the provider agrees that the reasonable charge is his full charge.

6. *Payment to Health Maintenance Organizations (HMO's)*. The bill basically retains (as section 1838), the provisions of section 1876, enacted in 1972, for contracts between the Secretary and HMO's for reimbursement either on a risk-sharing or cost-reimbursement basis, with interim per capita payments during the contract year. In addition to technical corrections, the bill makes a number of clarifying amendments, including amendments to make clear that a medical foundation may qualify as an HMO and provisions somewhat amplifying and clarifying the provision relating to HMO's that arrange with a group or groups of professional practitioners for services to enrollees.

E. Use of carriers, etc., for making determinations, etc., for payment purposes

The bill merges the present part A provisions for use of fiscal intermediaries and part B provisions for use of carriers into a single section providing for use of carriers (including the type of organization which under the present system is a fiscal intermediary under part A) in administering the program, but adding the above-noted new functions relating to budgets and predetermined rates of institutional providers and to the negotiation and establishment of fee schedules for noninstitutional professional services. The Secretary must give priority to the fiscal-intermediary type of organization in selecting "carriers" to act for him with respect to covered services provided by institutional providers for which payment is to be made on an approved charge basis.

F. Cost sharing

1. Periodic Premium Payments would no longer be required for any part of the program.

2. Deductibles. All deductibles would be eliminated.

3. Copayments and Catastrophic Expense Benefits.

a. The bill would establish 5 income classes, with income class 1 being the one for low-income individuals and families. The income ranges for the different income classes would be subject to automatic annual revision in accordance with the Consumer Price Index (CPI), but initially the income ranges would be set as follows:

TABLE OF INCOME CLASSES

Income class	Family size and income ranges			
	Single individual	Family of 2	Family of 3	Family of 4 or more
1	0 to $2,110	0 to $2,730	0 to $3,340	0 to $4,280.
2	$2,111 to $3,160	$2,731 to $4,090	$3,341 to $4,460	$4,281 to $5,340.
3	$3,161 to $4,740	$4,091 to $5,450	$4,461 to $5,570	$5,341 to $6,410.
4	$4,741 to $6,330	$5,541 to $6,810	$5,571 to $6,980	$6,411 to $7,480.
5	Above $6,330	Above $6,810	Above $6,980	Above $7,480.

b. Persons in income class 1 would never be subject to copayments or be subject to coverage limits on certain services referred to below. Persons in income classes 2, 3, 4, and 5 would initially be subject to certain copayments (listed below). (Any copayment amount expressed as a flat dollar amount, rather than a percentage of charges, would be subject to automatic annual revision in accordance with the CPI.) However, copayments would cease when, in a given year and the preceding calendar quarter, a specified out-of-pocket expenditure limit is reached. For income classes 2, 3, and 4, that limit would initially be set at $125, $250, and $375, respectively (but subject to annual revision in accordance with the CPI). In the case of income class 5, the out-of-pocket expenditure limit would be 6 per cent of annual income, or, if lower, $750 (subject to annual revision of the dollar limit in accordance with the CPI). Credited toward the out-of-pocket limits would be not only expenditures incurred for copayments, but also any expenditures incurred for services furnished in excess of the coverage limit in the case of certain psychiatric services; moreover, when the out-of-pocket expenditure limit had been reached, these coverage limits would cease to apply for the rest of the year. These expenditure limits, with consequent termination of copayments and coverage limits, are referred to as catastrophic expense benefits in the bill.

List of Copayments

Type of service

1. Inpatient hospital services covered under section 1813(a)(1).

Copayment

1. $5 per day, unless higher under section 1824.[1]

Type of service

2. Skilled nursing facility services covered under section 1813(a)(2).

Copayment

2. $2.50 per day, unless higher under section 1824.

Type of service

3. Home health services covered under section 1813(a)(4).

Copayment

3. $2.00 per visit (as defined by regulations), unless higher under section 1824.

Type of service

4. Physicians' services covered under section 1814(a) and (c)(3).

Copayment

4. $2.00 per visit unless higher under section 1824; except that 10% of approved combined multivisit charge (when authorized by regulation), as in cases of surgery or obstetrical care, shall apply.

Type of service

5. Dentists' services covered under section 1815.

Copayment

5. 20% of approved charges; except no copayment for oral examination and prophylaxis, including fluoride application, X-rays, and (in accordance with regulations) other preventive procedures.

Type of service

6. Mental health day care (including physicians' services) covered under sections 1816 (a)(4) and 1814(c)(1) or (2).

Copayment

6. $2 per day unless higher under section 1824.

Type of service

7. Diagnostic outpatient services of independent laboratories, or of independent radiology services, covered under section 1816 (a)(3) and not part of covered institutional services.

Copayment

7. 20% of approved charges, except when a negotiated rate agreement under section 1836(b)(4) precludes copayment.

Type of service

8. Devices, appliances, equipment, and supplies covered under section 1818.

Copayment

8. 20% of approved charges, except no copayment for examination for glasses or when copayment is waived under section 183(b) (3).

Type of service

9. Drugs covered under section 1817(b)(3).

Copayment

9. $1 per each filling or refilling of a prescription unless higher under section 1824.

Type of service

10. Ambulance services covered by section 1816(a)(6).

Copayment

10. 20% of approved charges.

G. Financing of program

1. The two Medicare trust funds would be merged into a single Medicare Trust Fund. In addition to the special taxes collected under the Internal Revenue Code (see below), and to returns from investment of the fund, a Government contribution would be authorized to be appropriated in whatever amount is necessary as estimated from time to time by the Board of Trustees of the Trust Fund, so that there can be prompt payment of benefits and administrative expenses plus an adequate contingency reserve.

2. If at any time the Board of Trustees reports to the Congress that the Trust Fund is insufficient to make promptly all payments from the Fund required in the next 3 months, and if a request for a Government contribution that would correct the insufficiency is then pending in Congress but an appropriation to make the contribution has not been finally acted on by the Congress, the Managing Trustee (Secretary of the Treasury) would, if the Board so directed be required to borrow (through issuance of Trust Fund notes or other obligations) from the Treasury, which would be empowered to utilize the Second Liberty Loan Act for the purpose.

H. Changes in other law

1. Amends sec. 226 of Social Security Act to establish the broadened entitlement for age referred to under paragraph (B) above. (Repeals sec. 103 of Social Security Amendments of 1965 which contains transitional provisions on Medicare entitlement that would be unnecessary in view of the amendments to section 226.)

2. Limits Railroad Retirement Board's functions for administration of Medicare with respect to railroad retirement annuitants to those annuitants with respect to whom certification to HEW is necessary in order to establish their entitlement to Medicare. Such certification would no longer be necessary in the case of most individuals whose entitlement is based on attainment of age 65. (Continues Railroad Retirement Board's functions for comparable payments to Railroad Retirement annuitants in Canada out of the Railroad Retirement Account.)

3. Repeals provisions in the Railroad Retirement Tax Act (secs. 3201, 3211, and 3221) insofar as they include under that Act the equivalent of the present hospital insurance taxes under the Federal Insurance Contributions Act.

(Reason: These railroad taxes, under another provision of law, now go into the Railroad Retirement Account, on the premise that the Medicare system will get its equitable share under the financial-interchange provisions of the Railroad Retirement Act. However, under the bill, railroad employment will now be taxed for Medicare purposes under the Federal Insurance Contributions Act).

4. Amends Title XIX (Medicaid) of Social Security Act to make Medicaid for the elderly supplemental to Medicare. Makes conforming changes that eliminate provision for the Medicaid agency's payment of premiums and copayments under Medicare (in view of above-stated changes in Medicare).

5. The 1972 enactment of Section 1862(c) of Title XVIII of the Social Security Act, intended to coordinate the federal employee health benefit (FEHB) program with Medicare effective 1/1/75, would be replaced with amendments to the provisions of the FEHB program designed to (a) take account of the above-mentioned structural changes and elimination of premiums in the Medicare program, (b) clarify the intent of the 1972 Amendment, (c) require each FEHB plan to offer to eligible enrollees, under a distinct part of the carrier's overall plan, the option of benefits supplementary to Medicare at a subscription rate actuarially commensurate with that option, and (d) deal with situations where a Federal employee or annuitant is enrolled under the FEHB program for self and family but only some members of the family unit (and possibly excluding the enrollee himself) are entitled to Medicare benefits and the others should be covered under the carrier's overall plan.

TITLE II. CHANGES IN TAX LAW

The present medicare tax remains at its present level. All additional funds come out of general revenues.

Tax rates

Specific rates are to be decided on

Covered services for wage and payroll taxes

Same as present law, except that Federal employment, railroad employment, foreign agricultural workers, and charitable (etc.) organizations would be covered. As to repeal of railroad retirement taxes, see para. H. 3, above.

Note: State and local governmental entities and employees, to the extent covered by Federal-State agreements under the Social Security Act, would be paying the equivalent of these taxes.

DESCRIPTION OF THE COMPREHENSIVE MEDICARE REFORM ACT OF 1974 AND A DETAILED COMPARISON OF THAT BILL WITH CURRENT LAW

A. DESCRIPTION OF THE COMPREHENSIVE MEDICARE REFORM ACT OF 1974

Medicare, known officially as Health Insurance for the Aged and Disabled, has major deficiencies. It is divided into two distinct programs—Hospital Insurance Benefits for the Aged and Disabled and Supplementary Medical Insurance Benefits for the Aged and Disabled. The basis for this division is historical rather than rational; the result is an uneven distribution among the intended beneficiaries of the intended degree of health care protection.

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[1] Section 1824 contains the above-mentioned provisions for adjustment in accordance with the CPI.

Eligibility for benefits under the Hospital Insurance program is based on insured status under the social security and railroad retirement cash benefit programs, while eligibility under the voluntary Supplemental Medical Insurance program is based on residence or, alternatively, entitlement to Hospital Insurance. The deductibles (inpatient hospital deductible per spell of illness, the annual deductible, and the blood deductibles), coinsurance (with respect to inpatient hospital care and skilled nursing care under Hospital Insurance, and 20% coinsurance under Supplementary Medical Insurance), and premiums (for voluntary enrollees under both programs) reflect rising health care cost and now constitute a substantial burden on low and relatively fixed income aged and disabled persons. The limitations on inpatient hospital and skilled nursing facility care, on home health services, and on the amounts of inpatient and outpatient psychiatric care, and the limitation of skilled nursing facility care and home health services to post-hospital care under the Hospital Insurance program severely restrict the degree of health care protection. Moreover, the exclusion of intermediate facility care, the exclusion of dental care and dentures, of eye glasses and examinations for prescribing them, of hearing aids and examinations therefore, and certain other professional services, and of orthopedic shoes and certain other walking aids, and outpatient drugs (except injectibles when administered to an outpatient in a physician's office or hospital) further limit the protection available under the programs.

Certainly Medicaid, known officially as Grants to States for Medical Assistance Programs, is not a suitable means of compensating for the indefinite future for the deficiencies of the Medicare programs. First, Medicaid imposes, as a condition for eligibility, a means test which should not be imposed for health care of the aged. Also, being a federally-aided rather than a federal program, it is not in effect in every state. Furthermore, many states have not extended the Medicare program to those whose income is above the cash public assistance level but who are medically indigent. Many states, even among those that do not cover the medically indigent, have had great difficulty in meeting their share of costs and have cut back on eligibility and services. Finally, Medicaid varies widely among the states in its benefit coverage and in its eligibility requirements, thus aggravating inequitable distribution of national health care resources among those in need of its benefits.

The Comprehensive Medicare Reform Act of 1974 would revise and expand the Medicare program and would build upon the Medicare cost experience by, among other things, integrating the Hospital and Supplementary Medical Insurance programs into a single benefit structure, with a single trust fund. The program would be financed in full through health insurance taxes on wages and payroll, self-employment income, and unearned income, through government contributions from general revenues, and through earnings from investment of proceeds of these taxes and government contributions.

With respect to eligibility and coverage, this Act would extend the benefits of the program to all aged United States citizens, and to most aged non-citizens living in the United States, without requiring that they be entitled to social security cash benefits and would keep under the program the disabled persons under age 65 added by the 1972 Social Security Amendments but with the benefit of all the new and enlarged services added by these amendments to the same extent as in the case of the aged.

With respect to benefits, this act would preserve the types of benefits presently available under Medicare but would abolish the requirement of prior hospital stay with respect to skilled nursing care and home health services. This act would also provide coverage of intermediate care facility services under the program beginning July 1, 1978, greatly expanded psychiatric care benefits including inpatient, day care patient, and outpatient, dental services on an unlimited basis including preventive, diagnostic, therapeutic, and restorative services and other professional and supportive services such as professional services of optometrists and podiatrists, diagnostic services of independent pathology laboratories and diagnostic and therapeutic radiology furnished by independent radiology services, mental health day care services provided by an HMO, a hospital, or community mental health center, or, to the extent of not more than 160 full days during or following a benefit period, when provided by a service affiliated with a hospital or when provided by a day care service approved by the Secretary of HEW for this purpose, professional services of chiropractors and ambulance and other emergency transportation services.

The legislation would expand the coverage of drugs (including biologicals) so as to include, in addition to those furnished to hospital and skilled nursing facility inpatients or in a physician's or dentist's office, drugs furnished to enrollees of a participating HMO and prescribed drugs dispensed by pharmacies, except that during the first five years, a drug in the last category would be covered only if prescribed for a disease or condition for which it is listed as appropriate in a list, established by the Secretary, designed to provide practitioners with an armamentarium necessary and sufficient for rational drug therapy incident to comprehensive care. Moreover, the present coverage under Medicare of prosthetic and other devices, appliances, and equipment would be extended by these amendments to all others (including eye glasses and hearing aids) listed by the Secretary as important for the maintenance or restoration of health or employability or self-management of individuals.

The comprehensive Medicare Reform Act of 1974 would confront directly the problem of benefit durational limitations under existing law. Present limitations on duration of general inpatient hospital care, skilled nursing facility care, and home health services would be abolished.

The S. 11 would eliminate all requirements for premium-payments, and so-called deductibles and coinsurance. Instead, a system of copayments with respect to inpatient hospital services, skilled nursing services, home health services, physician's and dentist's services, mental health day care, diagnostic outpatient sservices and independent laboratory or independent radiology services, devices, appliances and equipment, certain drugs, and ambulance services would be established. However, these copayments and any remaining limitations on benefits would be subject to a catastrophic protection feature pursuant to which such copayments or limitations would be eliminated in the case of low-income persons and in the case of other persons, would be eliminated after such persons have incurred out-of-pocket expenses in a maximum amount related to their income.

All providers of services, not merely institutional providers as under present law, would be required to qualify as participating providers (except in emergencies and certain cross-the-United States-border hospital services). The term "provider" would be defined to include independent practitioners with respect to their private patients and suppliers who furnish items (e.g., drugs, or prostheses or appliances) to an individual in their own right and not in behalf of another.

Pursuant to this Act, participating hospitals and other institutional providers would be required to submit annually a budget and schedule of proposed rates and charges, based on the cost of efficient delivery of services, for approval to the Secretary of HEW or to the state rate review agency in any state that has an equivalent institutional rate review and approval law; reimbursement for services to such providers would be based on the predetermined approved rates, thus providing incentives for efficiency and economy for such providers. Moreover, physician and other services generally available to institution patients, whether performed by employed staff or under arrangements made by the institution, would be treated as institutional services, except for services by physicians, dentists, or podiatrists with respect to their private patients.

With respect to non-institutional services of independently practicing physicians, dentists, podiatrists, or other licensed professional practitioners, payment would be provided in accordance with annually predetermined fee schedules for local areas. These schedules would be established, to the extent feasible and subject to public hearing, through negotiations of representatives of appropriate professional societies and representatives of associations of retired persons (or associations otherwise representative of Medicare beneficiaries) and based on a forecast of fair and equitable compensation (not exceeding "reasonable charges") in the area in the applicable fiscal year.

Finally, with respect to reimbursement procedures, a provider would be required, as a condition precedent to participation, to agree to accept the Medicare payment (plus any copayment) as the full charge for the services.

Under this proposal beneficiaries would have the option of having all covered care provided (or, in the case of emergencies or urgent out-of-area services paid for) by an HMO, including within the definition thereof a medical foundation, with which the Secretary would contract and which, as under present law, would be reimbursed either on a risk-sharing or cost reimbursement basis, with interim per capita payments during the contract year.

This Act would also amend the present Medicaid program to make it, in the case of those entitled to health care benefits under this Act, supplementary to Medicare on a transitional basis, primarily for long-term care, until all durational limitations in Medicare have expired or been appealed.

Finally, under Title III of this Act, studies and reports to Congress would be required with respect to a comprehensive plan or plans for making long-term health and health-related institutional care readily and appropriately available to all who need such care. Studies would also be required with respect to the need for, and the most equitable means of meeting the cost of, additional facilities of various kinds for the long-term institutional care of persons who, because of age or disability or other cause, are unable to live at home without assistance as well as with respect to the need for additional services to enable such persons (if possible) to live in their own homes and the best way to provide and finance such services.

B. DETAILED COMPARISON OF THE COMPREHENSIVE MEDICARE REFORM ACT OF 1974 WITH CURRENT LAW

1. In general

a. Present Law

Title XVIII of the Social Security Act, known officially as Health Insurance for the Aged and Disabled, contains two programs of medical care—Hospital Insurance Benefits for the Aged and Disabled and Supplementary Medical Insurance Benefits for the Aged and Disabled. Each of these programs has its own eligibility requirements, benefit package, limitation and cost-sharing features, reimbursement procedures, financing mechanism, and trust fund.

b. The Comprehensive Medicare Reform Act of 1974

The propsal would repeal Parts A and B of Title XVIII, except Section 1817 (provisions governing the Federal Hospital Insurance Trust Fund) and replace the two Medicare programs with a single, comprehensive health insurance program for the aged and for those persons who are disabled and presently covered for purposes of Medicare.

2. Entitlement and duration of entitlement

a. Present Law

Under Section 226 of the Social Security Act, Hospital Insurance benefits are provided for an individual who is age 65 or over and who is entitled to monthly Old Age or Survivors Insurance benefits under Section 202 of Title II of the Social Security Act or who is a "qualified railroad retirement beneficiary." Entitlement to Hospital Insurance benefits begins with the first day of the month in which he reaches age 65 and ends with the month he ceases to be entitled to social security section 202 benefits or ceases to be a qualified railroad retirement beneficiary. In the case of an individual who is not or ceases to be entitled to social security 202 cash benefits and is not or ceases to be a qualified railroad retirement beneficiary, entitlement to Hospital Insurance benefits will depend upon his meeting the requirements for "transitional entitlement" or, failing that, the requirements for voluntary enrollment.

An uninsured individual will be deemed entitled to social security 202 benefits for purposes of entitlement to Hospital Insurance benefits (transitional entitlement) provided he attained the age of 65 before 1968 or attained the age of 65 after 1967 and has not less than three social security or railroad retirement quarters of coverage for each year elapsing after 1966 and before the year in which he reached age 65. Hospital insurance protection begins with the month in which the requirements are met and ends with the month before the first month in which the individual is entitled to social security 202 benefits, or becomes certifiable as a qualified railroad retirement beneficiary, or with the month of his death.

Hospital insurance is available to an individual under the age of 65 who has been entitled for not less than 24 consecutive months to social security or railroad retirement benefits on the basis of a disability. In this case, Hospital Insurance protection would begin with the 25th consecutive month of entitlement to social security or railroad retirement disability benefits or July, 1973 whichever is later. Entitlement continues until the end of the month following the month of which notice of termination of disability status is mailed or, with the end of the month before the month of attainment of age 65, whichever is earlier.

Hospital Insurance benefits are also available to an individual under age 65 and medically determined to have chronic renal disease and to require hemodialysis or renal transplantation, who is either fully or currently insured for social security benefits or entitled to monthly social security benefits or is the spouse or dependent child of an individual who is so insured or so entitled. Eligibility begins with the third month after the month in which a course of renal dialysis is initiated and ends with the twelfth month after the month in which the individual has a renal transplant or the course of dialysis is terminated.

Finally, Hospital Insurance protection is available on a voluntary basis to an individual who is 65 or over, and not otherwise entitled under the regular or transitional provisions of the law. However, he must be a resident of the United States, a citizen of the United States or an alien lawfully admitted for permanent residence who has continuously resided here for not less than five years immediately preceding the month of application. In addition, he must also be enrolled under the Supplementary Medical Insurance program. In general, the provisions governing enrollment and coverage under the Supplementary Medical Insurance program are also applicable to enrollment in the Hospital Insurance program.

An individual eligible to enroll in the Supplementary Medical Insurance program or deemed to have automatically enrolled is limited to an individual entitled to Hospital Insurance benefits or to one age 65 or over who is a resident of the United States and a citizen of the United States or an alien lawfully admitted for permanent residence or a resident for a five year period immediately preceding the month of application.

Except in the case of enrollment under a federal-state agreement, an individual may enroll in the Supplementary Medical Insurance program, only during an enrollment period. In the case of an individual meeting the enrollment requirements before March 1, 1966, the "initial general enrollment period" began on September 1, 1965 and ended May 31, 1966. Otherwise, the "initial enrollment period" for an individual begins with the third month before the month in which the eligibility requirements are met and ends seven months later. In the case of an individual who failed to enroll in the "initial general enrollment period" or in his "initial enrollment period" or in the case of an individual who wants to reenroll, there was "a general enrollment period" from October 1, 1967, to March 31, 1968, and beginning with 1969 there was and will be a general enrollment period from July 1 to March 31 of each year.

In the case of an individual who voluntarily enrolls, or is automatically enrolled in the Supplemental Medical Insurance program, coverage begins in accordance with the provisions of Section 1837 of the Social Security Act, but in no event before July 1, 1966 (or July 1, 1973 in the case of a disabled individual).

Entitlement to benefits under the Supplementary Medical Insurance program continues until the individual's enrollment is terminated. Such termination will be effected by the death of the individual, the filing of a termination notice, or as a result of nonpayment of premiums, whichever first occurs. The termination of coverage by notice will take effect at the close of the calendar quarter following the calendar quarter in which such notice is filed. Termination for non-payment of premiums will take effect with the end "of the grace period" during which overdue premiums may be paid and coverage continued.

In the case of an individual entitled to Hospital Insurance benefits and consequently Supplementary Medical Insurance benefits, on the basis of disability, coverage ends with the close of the last month for which he is entitled to Hospital Insurance benefits.

b. The Comprehensive Medicare Reform Act of 1974

The Act would greatly simplify the confusing network of eligibility and coverage requirements of present law. Under these Amendments, every individual who, at the time any service covered under Title XVIII is furnished to him, has attained the age of 65 and is a citizen or national of the United States, or is an alien lawfully admitted for permanent residence and is living in the United States, or is an alien and has been on a continuing basis, for a period of not less than 30 days immediately preceding the furnishing of that service, lawfully present in the United States, or is an alien entitled to social security section 202 benefits or qualified as a railroad retirement beneficiary would be entitled to Health Insurance benefits with respect to that service. The provisions of current law with respect to entitlement and duration of coverage of disabled individuals are retained.

With respect to an individual who is under age 65 and who is medically determined to have chronic renal disease requiring renal dialysis or kidney transplantation, such an individual would be entitled to Health Insurance benefits provided that he is entitled to monthly cash benefits under Title II of the Social Security Act or to an annuity under the Railroad Retirement Act of 1937 or is a fully or currently insured individual or is the spouse or dependent child of such a person. Coverage would begin with the third month after the month in which eligibility requirements are met and a course of renal dialysis is initiated and would end with the twelfth month after the month in which the individual receives a kidney transplant or in which the course of renal dialysis terminated.

3. Health care benefits and durational limitations

a. Present Law

The benefits provided to an individual by the Hospital Insurance program of present law consist of entitlement to have payment made on his behalf for inpatient hospital services (including psychiatric and tuberculosis hospitals), post-hospital extended care services provided by a skilled nursing facility and post-hospital home health services. These services are limited in duration, however, in accordance with the beginning or ending of a "spell of illness."

Inpatient hospital services are covered for up to 90 days per spell of illness. In addition, each beneficiary has a lifetime reserve of 60 days of additional coverage after exhaustion of the 90-day period. Post hospital extended care services furnished by a skilled nursing facility are covered for only 100 days during a spell of illness. Post hospital health services are covered for up to 100 visits provided during a one-year period beginning after the commencement of a spell of illness and ending before the commencement of the next spell. Finally, services provided by a qualified Christian Science Sanitorium are covered for up to 180 days in the same spell of illness—up to 150 days of hospital services, and up to 30 days of extended care services.

Supplementary Medical Insurance, as a separate program, has its own package of covered services which builds upon, reinforces, and to some extent, duplicates Hospital Insurance benefits. The benefits provided to an enrolled individual consist of entitlement to have payment made to him or on his behalf for "medical and other health services" (including physician's services) and entitlement to have payment made on his behalf for home health services for up to 100 visits per year (no prior hospital stay requirement), "medical and other health services" furnished by a provider of services (hospital, skilled nursing facility or home health agency), excluding, however, most physician's services and outpatient physical therapy services.

b. The Comprehensive Medicare Reform Act of 1974

Health care protection would be far more comprehensive under the new proposal. New services would be covered and limitations on services already covered would be reduced or eliminated.

Under the Medicare amendments of 1974, entitlement of an individual to benefits would consist of the right to have payment made on his behalf or to him when so specified, for covered institutional services including inpatient and outpatient hospital services and including such services in a psychiatric or tuberculosis hospital or other specialized hospital, skilled nursing facility services, intermediate care facility services (furnished after June 30, 1978), home health services, health and health-related services and items for the rehabilitation of handicapped individuals, inpatient services of a Christian Science sanitorium, and health, health-related services and items that are furnished to an individual by an institution that is a public health agency or non-profit private health agency or furnished by others under arrangements.

Covered non-institutional services for purposes of the Medicare Amendments of 1974 include the following: professional services of a physician (when not covered as institutional services), services, materials, and supplies (including drugs), furnished as an incident to a physician's professional services and commonly furnished in the physician's office with or without separate charge, psychiatric (mental health) services to patients other than inpatients, but only if furnished by an approved HMO, a hospital, or a mental health center or (up to 60 days) by a mental health day care service affiliated with a hospital or approved by the Secretary, or (up to 20 consultations a year) by a psychiatrist in his office, dental services (when not covered in institutional services) including preventive, diagnostic, therapeutic, and restorative services, professional services of an optometrist and podiatrist, diagnostic services of independent pathology laboratories and diagnostic and therapeutic radiology furnished by independent radiology services, chiropractor services, ambulance and other emergency transportation services, and non-emergency transportation services found essential by the Secretary to overcome special difficulty of access to covered services, and supporting services not otherwise covered (such as inpatient and outpatient psychological, physical, occupational, or speech therapy services, and nutrition, social work, and health education services).

Drugs are covered under the Medicare Amendments of 1974 as an institutional or non-institutional service as the case may be when furnished, in the manner hereinafter set forth, by or on prescription of a physician or dentist participating as a provider or acting on behalf of a participating provider. However, the drug must be furnished to an enrollee of an HMO or administered by a hospital's inpatient or outpatient department or administered to an inpatient of a skilled nursing facility or to a patient in a rehabilitation agency or center. A drug may also be furnished in a physician's or dentist's office as an incident to his professional service (with or without separate charge) but only if the drug is on a general list, established by the Secretary, designed to provide practitioners with an armamentarium sufficient for rational drug therapy, or if furnished (on prescription) but only if included in a special list established by the Secretary and then only if prescribed for a disease or condition for the treatment of which the drug is specified on that list, except that a drug furnished after June 30, 1981 (beginning with the sixth fiscal year of outpatient coverage under the law) would be covered (without regard to the condition for which it is prescribed) if listed on the Secretary's general list of drugs.

Devices, appliances, equipment and supplies, not otherwise covered, would be covered under these Amendments if prescribed or certified as medically necessary by a professional practitioner participating as a provider or acting on behalf of a participating provider and if included on a list estabilshed by the Secretary. This list must include, among other items, eyeglasses, hearing aids, prosthetic devices, walking aids, and durable medical equipment.

The only durational limits applicable to benefits under the Medicare Amendments of 1974 are a limit of 150 days of care in a benefit period for psychiatric inpatient care, a 160-day limit on psychiatric (mental health) services furnished to a patient of mental health day care service affiliated with the hospital or approved by the Secretary, and a 20 consultation a year limit on psychiatric (mental health) services furnished in a psychiatrist's office.

The services which are excluded under current law and which would continue to be excluded under the act include services furnished outside the United States (with certain across-the-border exceptions for hospital services and for professional services incident to the hospital services), services not medically necessary, reasonable or appropriate, personal comfort items, custodial care, cosmetic surgery, services furnished or paid for under workmen's compensation laws, services for which the individual has no legal obligation to pay, and most services furnished by a federal provider.

4. Cost sharing

a. Present Law

Under the Hospital Insurance program, inpatient hospital services are subject to an inpatient hospital deductible for each spell of illness. The amount of the deductible (presently $84) is determined by the year in which the spell of illness begins.

Inpatient hospital services after the 60th day and before the 91st day during a spell of illness, are subject to daily coinsurance equal to one-fourth of the inpatient hospital deductible. Inpatient hospital service after the 90th day and through the 150th day during a spell of illness are subject to daily coinsurance equal to one-half of the inpatient hospital deductible.

Whole blood or packed red blood cells received by a beneficiary as part of the services furnished to him under the Hospital Insurance program during any spell of illness are subject to a deductible equal to the cost of the first three pints. However, the patient may not be charged for these first three pints if he arranges for their replacement on a pint-for-pint basis.

Post-hospital extended care services after the 20th day during a spell of illness are under the Hospital Insurance program subject to daily coinsurance equal to one-eighth of the inpatient hospital deductible.

Persons who voluntarily enroll in the Hospital Insurance program must pay monthly premiums. The premium is set at $33.00 a month for each month before July 1974 subject, however, to subsequent adjustment. The amount of this premium will be increased for delinquent enrollment in the same manner and to the same extent as it is for premiums under the Supplementary Medical Insurance program (see below).

Coverage under the Supplementary Medical Insurance program is contingent upon the payment of a monthly premium (presently $6.30). In the case of an individual whose Supplementary Insurance coverage period begins pursuant to enrollment after his "initial enrollment period" or who re-enrolls after a termination of coverage, the monthly premium amount otherwise applicable will be increased by ten percent for each full twelve months in which he could have been, but was not enrolled.

Under the Supplementary Medical Insurance program, there is also an annual deductible of $60.00 and a 20 percent coinsurance feature that requires a sharing of expenses above the deductible amount. *This* annual deductible and coinsurance amounts are not, however, applicable to cover expenses incurred each year for radiology or pathological services furnished to a hospital inpatient by a physician. After October 30, 1972 they are not applicable with respect to diagnostic tests performed in a laboratory for which payment is made to the laboratory at a negotiated rate. Finally, there is no 20 percent coinsurance amount imposed in respect to home health benefits, effective with respect to services furnished in accounting periods beginning after 1972.

Like the Hospital Insurance program, the Supplementary Medical Insurance program imposes a deductible equal to the expenses incurred for the first three pints of whole blood or packed red blood cells.

b. The Comprehensive Medicare Reform Act of 1974

The Act would eliminate completely premium payments and all deductibles. However, these Amendments would establish a system of copayments with respect to inpatient hospital services ($5.00 per day), skilled nursing facility services ($5.00 per day), home health services ($2.00 per visit), physician's services ($2.00 per visit), dentist's services (20% of approved charges except no copayment for certain services), mental health day care ($2.00 per day), diagnostic outpatient services of independent laboratories or independent radiology services not otherwise covered as institutional services (20% of approved charges except when a negotiated rate agreement precludes copayment), devices, appliances, equipment and supplies (20% of approved charges except no copayment for examination for glasses or when copayment is waived), drugs ($1.00 per filling or refilling of a prescription), and ambulance services (20% of approved charges).

The incurring of copayments by an individual entitled to health insurance protection under the Medicare Amendments of 1974 would be subject to a catastrophic protection feature related to income. These Amendments would establish five income classes, with income class I including all low income individuals and families. The income ranges for the different income classes would be subject to automatic annual revision in accordance with the consumer price index, but initially the income ranges would be set as follows;

TABLE OF INCOME CLASSES

Income class	Family size and income ranges			
	Single individual	Family of 2	Family of 3	Family of 4 or more
1	$0 to $2,110	$0 to $2,730	$0 to $3,340	$0 to $4,280.
2	$2,111 to $3,160	$2,731 to $4,090	$3,351 to $4,460	$4,281 to $5,340.
3	$3,161 to $4,740	$4,091 to $5,450	$4,461 to $5,570	$5,341 to $6,410.
4	$4,741 to $6,330	$5,451 to $6,810	$5,571 to $6,980	$6,411 to $7,480.
5	Above $6,330	Above $6,810	Above $6,980	Above $7,480.

Persons in income class 1 would never be subject to copayments (or be subject to coverage limits, to the extent there are any, on services). Persons in income class 2, 3, 4 and 5 would initially be subject to the copayments described above. However, copayments would cease when, in a given year and the preceding calendar quarter, a specified out-of-pocket expenditure limit is reached. For income classes 2, 3 and 4, that limit would initially be set at $125, $250, and $375 respectively (but subject to annual revision in accordance with the CPI). In the case of income class 5, the out-of-pocket expenditure limit would be 6 per cent of annual income or, if lower, $750 (subject to annual revision of dollar limit in accordance with the CPI). Credit towards the out-of-pocket limits would be made for expenditures incurred for copayments, and any expenditures incurred for services furnished in excess of the coverage limits (in case of certain psychiatric services). Moreover, when the out-of-pocket expenditure limit has been reached, these coverage limits would cease to apply for the rest of the year.

5. Conditions of and limitations on payment for services

a. Present Law

Under the hospital insurance program, payments for services furnished an individual may be made only to providers of services and only if a written request for payment has been made by the individual (or in certain cases, by someone acting on such individual's behalf), a physician certifies (recertifies where such services are furnished over a period of time) the necessity for certain services covered under the program, and, in the case of inpatient hospital services and post hospital extended care services, such services were not found to be medically unnecessary under the system of utilization review.

The amount paid to any provider with respect to services for which payment may be made under the program is the lesser of the "reasonable cost" of such services, the customary charges with respect to such services, or (if such services are furnished by a public provider of services free of charge or at nominal charge to the public), fair compensation.

Existing law provides, in general, that the reasonable cost of any service is the cost actually incurred and is to be determined under regulations establishing the method or methods to be used and the items to be included in determining such cost for various types and classes of institutions, agencies and services. These regulations must take into account the principles developed and generally applied by national organizations or established prepayment organizations in computing the amount of payment to be made by third parties to providers of service. These regulations must also take into account direct and indirect cost to providers in order that costs incurred with respect to individuals covered by the Hospital Insurance and Supplementary Medical Insurance programs will not be borne by individuals not so covered, and the costs incurred with respect to individuals not covered will not be borne by the Insurance programs. Also, the regulations must provide for making retroactive corrective adjustments where reimbursement during a fiscal period proves to be less than or more than reasonable cost.

The Social Security Amendments of 1972 introduced important limitations in determining reasonable cost. These limitations require the exclusion from the recognition of "reasonable cost", any cost in excess of that actually incurred and incurred cost "found to be unnecessary in the efficient delivery of health care services."

Important provisions designed to avoid the use of federal funds to support unjustified capital expenditures and to encourage planning activities for health facilities and services in the various states were also added. Under these provisions, the Secretary of HEW is authorized to withhold or reduce amounts otherwise reimbursable to providers of services and HMO's under Health Insurance for depreciation, interest and, in the case of proprietary providers, the return on equity capital when certain capital expenditures are determined to be inconsistent with state or local health facility plans.

These Amendments also added provisions for demonstration projects to determine the feasibility of prospective reimbursement under Health Insurance. These projects are to develop methods and techniques to provide positive financial incentives for providers to use their facilities and personnel more efficiently, thereby reducing their own as well as Health Insurance costs while maintaining or improving the quality of the health care. Both capital planning and the demonstration projects should be facilitated by additional requirements which are also added to the law. After March 1973, a hospital and other participating providers of services must have, as a condition of participation of the Hospital Insurance program, a written overall plan and budget reflecting an annual operating budget and capital expenditures plan.

As general rule, the Hospital Insurance program will pay only for semi-private accommodations in connection with inpatient hospital or skilled nursing care. Payment will be made for more expensive accommodations only when medically necessary. Finally, effective for periods beginning after final regulations are adopted, present law contains special provisions concerning the amount a provider may be paid as reasonable cost with respect to the services of a physical, occupational, or speech therapist or the services of another health specialist. Under these provisions, payment for the reasonable cost of these services, furnished under arrangements with the provider, may not exceed an amount equal to the salary and other cost that would reasonably have been payable if the services had been performed in an employment relationship plus the cost of such other incidental expenses.

As a general rule, reimbursement under the Supplementary Medical Insurance program is on the basis of "reasonable charges". Payment will generally be made to the extent of 80 per cent of the reasonable charges amount. and will be made on the basis of an itemized list to the individual or on the basis of an assignment to the one who furnished the services. In the case of expenses incurred in any calendar year for physician's services and items and supplies in connection with the treatment of mental, psychonumerologic, and personality disorders of an individual who is not an inpatient at the time the expenses are incurred, payment under the program will take into account only the lesser of $312.50 or 62½ per cent of such expenses.

With respect to services for which an enrolled individual is entitled to have payment made on his behalf (home health services, medical and other health services) furnished by a provider of services or by others under arrangement (except most physician services and outpatient physical therapy services), payment will be in amounts equal to, in the case of home health services, 100 per cent, and with respect to other services, 80 per cent of the lesser of the reasonable cost of such services, the customary charges with respect to such services, or (in a case where the services are provided by a public provider of services free of charge or a nominal charge to the public) fair compensation.

Certain limitations also apply with respect to payments under the program. No payment will be made with respect to any service furnished individuals to the extent that such individuals are entitled to have payment made with respect to such services under the Hospital Insurance program. No payment will be made where information and records necessary to determine the amount of payment has not been provided. In the case of the purchase or rental of durable medical equipment, special provisions and procedures apply for purposes of payment. In the case of covered outpatient physical therapy services furnished by a physical therapist in his office or in the individual enrollee's home, no more than $100 per year will be considered incurred expenses for purposes of determining payment under the program.

Under the Supplementary Medical Insurance program, payment will be made to providers (hospital, skilled nursing facility, and certain clinics, rehabilitation agencies, and public health agencies) for services provided to enrolled individuals pursuant to written request and physician's certification procedures similar to those applicable under the Hospital Insurance program.

The law governing the determination of "reasonable charges" for purposes of the Supplementary Medical Insurance program, requires that a carrier administrating the program take necessary action to assure that, where payment is to be made for services on a cost basis, cost is reasonable cost and where payment is to be made on a charge basis, such charge will be reasonable and not higher than the charge applicable, for a comparable service and under comparable circumstances, to the policyholders and subscribers of the carrier. In determining the reasonable charges for services, the "customary charges" for similar services as well as the "prevailing charges" in locality "for similar services" must be taken into account. The 1972 Social Security Amendments expanded these requirements so that no charge may be determined to be reasonable after December 31, 1970 if it exceeds the higher of the prevailing charge recognized by the carrier for similar services in the same locality in administrating the program on December 31, 1970 or the prevailing charge leveled that would cover 75 per cent of the customary charges made for similar services in the same locality during the calendar year preceding the start of the fiscal year in which the bill is submitted or request for payment is made. The prevailing charge levels determined for this latter purpose for fiscal years beginning after June 1973 may not exceed in the aggregate the levels for fiscal year 1973 except to the extent justified by economic changes reflected in the appropriate economic index data.

The 1972 Social Security Amendments also added a provision under which, in the case of medical services, supplies, and equipment that do not generally vary significantly in quality from one supplier to another, the charges incurred after 1972 and determined to be reasonable may not exceed the lowest charge level at which these services, supplies, and equipment are widely and consistently available in a locality except under the circumstances specified by the Secretary.

b. The Comprehensive Medicare Reform Act of 1974

The proposed Act in order to better restrain using health care costs, would build upon the conditions and limitations on payment for services under current law. While existing features such as utilization review, professional standards review organizations, and institutional planning would be retained, there would be superimposed on this existing structure a prospective reimbursement procedure to a participating institutional provider (with reimbursement based on a prospectively approved budget and derived schedule of charges) and to a participating non-institutional provider (with reimbursement based on negotiated rates). Such positive stimulation should lead to more rational and efficient utilization of health care facilities and personnel.

Under these Amendments, payment is to be made only to "a participating provider" (when it has filed and has in effect, a participation agreement with the Secretary). The term "provider" includes not only institutions but also independent practitioners with respect to their private patients, suppliers of who furnish items (drugs or prosthetics), to individuals in their own right and not on behalf of another. Inasmuch as the legislation requires that payment for services in the United States be made only to a participating provider (except in emergency cases) and not to the individual, a participating practitioner must agree to accept the Medicare payment (plus any copayment) as the full charge for the service, such that the practitioner could no longer, by refusing to accept an assignment, bill the patient directly and thus require the patient to pay fees in excess of the Medicare reimbursement (plus copayment). A patient of a nonparticipating practitioner in the United States except in the case of emergency services, could no longer be able to obtain any reimbursement from Medicare (even such a practitioner, if he accepts an assignment from an individual for emergency services, could be paid on the "reasonable charge" basis and would be precluded from collecting additional amounts from the patient except the copayment if one applies).

An institutional provider is to be treated as a provider of services to his patients with respect to all institutional services OSC is to be made on the basis of a predetermined schedule of patient care charges approved for an account year of the institution by the Secretary (or a review mechanism under which fiscal intermediary for the institution generally makes the initial determination) or, in a state that has a state review and approval agency operating under equivalent standards, approved by that state agency. (Capitation charges if submitted by a provider and if meeting standards, may also be approved.) The schedule of charges must be based upon a system of accounting and cost finding in conformity with standards described or approved by the Secretary, and on the institution's operating and capital budget in the accounting year involved, which budget must also be approved by the Secretary or the state rate review and approval agency, as the case may be. A schedule of charges may be approved only if they do not exceed the estimated reasonable cost for the efficient delivery of services as determined under the definition of "reasonable cost" and implementing regulations. A revision of the approved schedule of charges during an accounting year would be permitted only under exceptional circumstances. Periodic interim payments would be made to the institution during the institution's accounting year on the basis of projections, with final adjustments (after the close of the accounting year) based on the approved schedule of charges.

A hospital that is not a participating institutional provider, if eligible for reimbursement, would be paid on a reasonable cost basis or, if less, in the case of a private hospital, its customary charges. In the case of a non-participating hospital that elects not to claim payment under the program but to collect from the individual, payment would be made to the individual at the reasonable charge rate (less copayment).

With respect to non-institutional services of a physician, dentist, optometrist, podiatrist and chiropractor and such other non-institutional services of a licensed professional practitioner as may be specified in regulations, the Medicare Amendments of 1974 provide for payment in accordance with annually predetermined fee schedule for the local areas and provide for establishing these schedules, to the extent feasible, on the basis of negotiations with representatives of the professional societies and representatives of associations of retired persons or associations otherwise representative of Medicare beneficiaries. The final schedule could, however, be established only after public hearing. This system would apply only to services in the United States and not to exceptional cases of across-the-border services. These schedules are to be based on a forecast of what would be fair and equitable compensation not exceeding "reasonable charges" in the area in the applicable fiscal year.

The Secretary of HEW would be required to make public for each local area the established fee schedule for the area, and the names, professional fields and professional addresses of the participating practitioners in the area.

In other cases, a participating non-institutional provider (pharmacy, etc.) is to be paid on a "reasonable charge" basis, except that a non-profit organization that runs on a prepayment basis may on its request be reimbursed under the provisions for payments to institutional providers. In emergencies, if the service in the United States is furnished by a non-participating provider, (one that has not filed a participation agreement with the Secretary), payment of the "reasonable charge" may be made either to the patient on the basis of an itemized bill, or to the provider on assignment from the patient if the provider agrees that the reasonable charge is his full charge.

The legislation merges the present Hospital Insurance provisions for use of fiscal intermediaries and the Supplementary Medical Insurance provisions for the use of carriers into a single section providing for use of carriers, "including the type of organization which under the present system is a fiscal intermediary under Hospital Insurance in the administration of the program, but adding the above-noted new functions relating to budgets and predetermined, approved rates for institutional providers and the negotiation and establishment of fee schedules for non-institutional services. The Secretary must give priority to the fiscal intermediary types of organizations in selecting "carriers" to act for him with respect to covered services provided by institutional providers for which payment is to be made on an approved charge basis.

6. Payments to health maintenance organizations

a. Present Law

Under present law, as amended by the Social Security Amendments of 1972, the reimbursement to health maintenance organizations is made either on a risk-sharing or cost reimbursement basis, with interim per capita payments during the contract year.

b. The Comprehensive Medicare Reform Act of 1974

Under the legislation, the provisions of present law are retained. However, in addition to technical corrections, these Amendments make a number of clarifying changes, including amendments to make clear that a medical foundation may qualify as an HMO and provisions somewhat amplifying and clarifying the provisions relating to an HMO that arranges with a group or groups of professional practitioners for services to enrollees.

7. Other changes to coordinate the availability and delivery of health care protection to the aged and disabled (Federal employee health benefit plans)

a. Present Law

With the enactment of the Health Insurance for the Aged and Disabled in 1965, it was intended that the Hospital Insurance and Supplementary Medical Insurance programs would provide basic health protection for the aged and that it would pay its beneficiaries, or on their behalf without regard to any other benefits that might be payable under an employee health benefits plan. Such plans were expected to adjust their benefit policies to supplement and compliment the protection provided under Medicare, rather than duplicate benefits.

Under present law, federal employees and annuitants who enroll for federal employee health benefits may also be covered under the Health Insurance for the Aged and Disabled programs.

The Federal Government has not adjusted the health insurance protection it makes available to its employees and annuitants to make such protection supplementary to Hospital and Supplementary Medical Insurance. The FEHB plans consequently duplicate many benefits. In cases where health care expenses are covered under Hospital and/or Supplementary Medical Insurance and an FEHB plan, the Hospital and/or Supplementary Medical Insurance benefits are paid first and the FEHB plan then pays in an amount which, when added to the benefit amounts already payable, may not exceed 10 per cent of the expenses allowable under the FEHB.

The law was amended, effective after 1974, to assure that no payment will be made under Hospital Insurance or Supplementary Medical Insurance, for any item or service that is also covered and furnished under an FEHB program. This provision will not apply if, prior to date, an item or service is furnished, the Secretary of HEW determines and certifies that the FEHB program has been modified to assure that there is available to federal employees or annuitants one or more FEHB plans that supplement the combined protection of both the Hospital and Supplementary Medical Insurance program, the Hospital Insurance program alone, and the Supplementary Medical Insurance program alone. Moreover, the FEHB program must be found to be making a contribution towards the health insurance of each federal employee or annuitant that equals its contribution for high option coverage under the government-wide FEHB plans. The contribution, whether by the federal government or by the individual plan, may be in the form of a contribution towards the supplementary FEHB program or a payment to or on behalf of the individual employee or annuitant to offset the cost of his purchase of Medicare protection, or a combination of the two.

The new act would replace the 1972 provisions to take into account the structural changes in the law and the elimination of premiums under the Health Insurance program and clarify the intent of the 1972 Amendments. Specifically, each FEHB plan would be required to offer to eligible enrollees, under a distinct part of the carrier's overall plan, the option of benefits supplementary to Health Insurance at a subscription rate actuarially commensurate with that option, and to deal with situations where a federal employee or annuitant is enrolled under the FEHB program for himself and family but only some members of the family unit (and possibly excluding the enrollee himself) are entitled to Health Insurance benefits and others should be covered under the carrier's overall plan.

8. The financing of health care benefits

a. Present Law

Under the Hospital Insurance program, Hospital Insurance benefits available to individuals who are entitled to monthly social security benefits or who are qualified railroad retirement beneficiaries, are financed from taxes imposed under Internal Revenue Code §§ 3101(b), 3111(b) and 4101(b). In the case of uninsured individuals who are transitionally entitled to Hospital Insurance protection, benefits are financed out of appropriations from the Federal Government. In the case of voluntary enrollees under the Hospital Insurance program, benefits are financed from the payment of premiums.

Under the Supplementary Medical Insurance program, benefits to voluntary enrollees are financed from premium payments by the enrollees, together with contributions from funds appropriated by the Federal Government.

b. The Comprehensive Medicare Reform Act of 1974

Under the proposal, health care benefits would be continued to be financed by taxes imposed by Internal Revenue Code §§ 3101 (b), 3111(b) and 4101(b), except that the taxes would be called health insurance taxes and in the case of the taxes imposed under Internal Revenue §§ 3101(b), such taxes would be imposed on the amount of the social security tax base for that particular year.

To supplement the revenue which would be generated through the present medicare tax, the proposal would provide for a Federal Government contribution to the Medicare Trust Fund out of general revenues.

By Mr. TOWER (for himself and Mr. Dominick):

S. 3156. A bill to amend the Vocational Education Act of 1963 to provide for a bilingual vocational training program. Referred to the Committee on Labor and Public Welfare.

Mr. TOWER. Mr. President, I am today introducing a bill entitled the Bilingual Vocational Training Act of 1974. The distinguished Senator from Colorado (Mr. Dominick) has joined me in authoring this bill and presenting it to the Senate for its consideration. The bill represents a modification of S. 414, the Bilingual Job Training Act, which we introduced last year with the cosponsorship of 18 other Senators. Since that time we have continued our efforts to promote Federal support to increase opportunities for Spanish-speaking peoples. Through these efforts we have determined that the Vocational Education Act offers a tremendous resource to achieve our goal of equal educational and employment opportunities for all of our citizens.

This is not to say that either Senator Dominick or myself are dissatisfied with the provisions relating to bilingual job training in the Concentrated Employment and Training Act that was recently enacted into law. That piece of legislation represented a progressive step forward in the field of manpower training. The bill contains a number of important provisions that will promote the goal of employment opportunities for Americans with limited English-speaking ability. I supported the legislation and am confident its implementation will result in more employment opportunities for bilingual citizens.

Nevertheless, vocational education represents another means at approaching the problem. While the Bilingual Education Act has proved to be successful in those areas where it has been funded it has not come close to eliminating the educational problems faced by Spanish-speaking Americans in a predominantly Anglo society. Education is the key to advancement in our society and if equal educational opportunity is to be a national goal, we cannot tolerate the high dropout rate that exists among our Spanish-speaking community and which is directly related to the fact that their average family median income is nearly $3,000 below that of the general population as a whole.

The legislation offered today is intended to build a bold new partnership between vocational education and bilingual education. It is primarily focused upon the disadvantaged bilingual person who, for variety of reasons, finds himself outside the confines of the traditional educational establishment. The bill provides for three primary types of funding: bilingual vocational training programs to be targeted at persons who are not currently enrolled in an elementary or secondary school and who may or may not have already entered the labor market but who desire additional vocational training; instructor vocational training programs which are desperately needed to fill the current void in this kind of educational endeavor; and instructional material programs which, as is in the case of instructional personnel, is currently in great need of development to meet the unique needs of bilingual persons in the United States.

Mr. President, as in the case of my previous proposal, there will no doubt be some questions raised about my proposing a federally directed categorical program. However, due to the enormous problems facing the bilingual community in achieving a position of equality of opportunity, some kind of Federal direction is needed to get the kind of program I am proposing off the ground.

Furthermore, Mr. President, I am confident that State and local communities and community based organizations will play the major role in the vocational job training program. A number of State vocational education agencies have already brought to my attention their interest in this kind of program. Naturally, such community based organizations as Operation SER, Jobs for Progress, will provide the needed expertise that would be required. It must be kept in mind that the purpose of this legislation is to provide equal opportunity for bilingual persons while allowing them and their communities the opportunity to thrive within their own cultural background and heritage. The Spanish-speaking American's culture is a rich one, and without its recognition this kind of program could not be successful.

Mr. President, this bill will soon be offered in the Senate Labor and Public Welfare Committee as an amendment to S. 1539, the Education Amendments of 1974. I am confident that the committee, which has worked tirelessly in developing a reform of our Federal education efforts last year and this year in conjunction with S. 1539, will approve this proposal.

Senator Dominick, a distinguished member of that committee, has done a great deal to advance this legislation in the committee. He was particularly helpful in developing the proper formula so that the necessary coordination between the Secretary of Labor, responsible for the Concentrated Employment and Training Act, and the Commissioner of Education is achieved.

I urge my colleagues to give this most important proposal their utmost consideration. I ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bilingual Vocational Training Act".

Sec. 2. (a)(1) Section 120 of the Vocational Education Act of 1963 is amended by adding at the end thereof the following new paragraphs:

"(14) The term 'vocational training' means training or retraining which is conducted as part of a program designed to prepare individuals for gainful employment as semiskilled or skilled workers or technicians or subprofessionals in recognized occupations and in new and emerging occupations, but excluding any program to prepare individuals for employment in occupations which the Commissioner determines, and specifies by regulation, to be generally considered professional which requires a baccalaureate or higher degree; such term includes guidance and counseling (either individually or through group instruction) in connection with such training or for the purpose of facilitating occupational choices; instruction related to the occupation or occupations to which the students are in training or instruction necessary for students to benefit from such training; the training of persons engaged as, or preparing to become instructors in a vocational training program; travel of students and vocational training personnel while engaged in a training program; and the acquisition, maintenance, and repair of instructional supplies, aids, and equipment, but such term does not include the construction, acquisition, or initial equipment of buildings or the acquisition or rental of land.

"(15) The term "postsecondary educational institution' means an institution legally authorized to provide postsecondary education within a State for persons 16 years of age or older, who have graduated from or left elementary or secondary school."

Sec. 3. (a) Section 191 of the Vocational Education Act of 1963, and all references thereto, is redesignated as section 189.

(b) Title I of such Act is amended by adding at the end thereof the following new part:

"Part J—BILINGUAL VOCATIONAL TRAINING

"Subpart 1—GENERAL PROVISIONS

"STATEMENT OF FINDINGS

"Sec. 191. The Congress hereby finds that one of the most acute problems in the United States is that which involves millions of citizens, both children and adults, whose efforts to profit from job training is severely restricted by their limited English-speaking ability because they come from environments where the dominant language is other than English; that such persons are therefore unable to help fill the critical need for more and better trained personnel in vital occupational categories; and that such persons are unable to make their maximum contribution to the Nation's economy and must, in fact, suffer the hardships of unemployment or underemployment. The Congress further finds that there is a critical shortage of instructors possessing both the job knowledge and skills and the dual language capabilities required for adequate vocational instruction of such language-handicapped persons, and a corresponding shortage of instructional materials and of instructional methods and techniques suitable for such instruction.

"GENERAL RESPONSIBILITIES OF THE COMMISSIONER

"Sec. 192. (a) The Commissioner and the Secretary of Labor together shall—

"(1) develop and disseminate accurate information on the status of bilingual vocational training in all parts of the United States;

"(2) evaluate the impact of such bilingual vocational training on the shortages of well-trained personnel, the unemployment or underemployment of persons with limited English-speaking ability, and the ability of such persons to contribute fully to the economy of the United States; and

"(3) report their findings annually to the President and the Congress.

"(b) The Commissioner shall consult with the Secretary of Labor with respect to the administration of this part. Regulations and guidelines promulgated by the Commissioner to carry out subpart 2 of this part shall be consistent with those promulgated by the Secretary of Labor pursuant to section 301(b) of the Comprehensive Employment and Training Act of 1973 and shall be approved by the Secretary of Labor before issuance.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 193. There are authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1975; $60,000,000 for the fiscal year ending June 30, 1976; and $80,000,000 for the fiscal year ending June 30, 1977, to carry out the provisions of subparts 2, 3, and 4, of this part, except that 65 per centum of such amounts shall be available only for grants and contracts under subpart 2 of this part, 25 per centum shall be available only for grants and contracts under subpart 3 of this part, and 10 per centum shall be available only for grants and contracts under subpart 4 of this part.

"Subpart 2—BILINGUAL TRAINING PROGRAMS

"AUTHORIZATION OF GRANTS

"SEC. 194. (a) From the sums made available for grants under this part pursuant to section 193, the Commissioner is authorized to make grants to and enter into contracts with appropriate State agencies, local educational agencies, postsecondary educational institutions, private non-profit vocational training institutions, and to other non-profit community-based organizations especially created to serve a group whose language as normally used is other than English in supplying training and employment in recognized occupations and new and emerging occupations, and to enter into contracts with private for-profit agencies and organizations, to assist them in conducting bilingual vocational training programs for persons of all ages in all communities of the United States which are designed to insure that vocational training programs are available to all individuals who desire and need such bilingual vocational training.

"(b) The Secretary shall pay to each applicant which has an application approved under this part an amount equal to the total sums expended by the applicant for the purposes set forth in that application.

"USE OF FEDERAL FUNDS

"SEC. 195. Grants and contracts under this part may be used, in accordance with applications approved under section 199B, for—

"(1) bilingual vocational training programs for persons who have completed or left elementary or secondary school and who are available for training by a postsecondary educational institution;

"(2) bilingual vocational training programs for persons who have completed or left the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing manpower needs, expand their range of skills, or advance in employment; and

"(3) training allowances for participants in bilingual vocational training programs subject to the same conditions and limitations as are set forth in section 111 of the Comprehensive Employment and Training Act of 1973.

"Subpart 3—INSTRUCTOR TRAINING PROGRAMS

"AUTHORIZATION OF GRANTS

"SEC. 196. (a) From the sums made available for grants and contracts under this part pursuant to section 193, the Commissioner is authorized to make grants to and enter into contracts with States, or educational institutions, either public or private, to assist them in conducting training for instructors of bilingual vocational training programs, and whenever the Commission determines that it will contribute to carrying out the purposes of this part, to make grants to, and enter into contracts with, States or educational institutions, either public or private, to assist them in conducting training for instructors in bilingual vocational educational programs.

"(b) The Commissioner shall pay to each applicant which has an application approved under this part an amount equal to the total sums expended by the applicant for purposes set forth in that application.

"USE OF FEDERAL FUNDS

"SEC. 197. Grants and contracts under this subpart may be used, in accordance with applications approved under section 199B, for—

"(1) providing preservice training designed to prepare persons to participate in bilingual vocational training or vocational education programs as instructors, aides, or other ancillary personnel such as counselors, and inservice and development programs designed to enable such personnel to continue to improve their qualifications while participating in such programs; and

"(2) fellowships or traineeships for persons engaged in such preservice or inservice training.

"Subpart 4—DEVELOPMENT OF INSTRUCTIONAL MATERIALS, METHODS, AND TECHNIQUES

"AUTHORIZATION OF GRANTS

"SEC. 198. (a) From the sums made available for grants and contracts under this part pursuant to section 193, the Commissioner is authorized to make grants and enter into contracts with States, public and private educational institutions, and to other appropriate non-profit organizations, and to enter into contracts with private for-profit individuals and organizations, to assist them in developing instructional material, methods, or techniques for bilingual vocational training.

"(b) The Commissioner shall pay to each applicant which has an application approved under this part an amount equal to the total sums expended by the applicant for the purposes set forth in that application.

"USE OF FEDERAL FUNDS

"SEC. 199. Grants and contracts under this part may be used, in accordance with applications approved under section 199B, for—

"(1) research in bilingual vocational training;

"(2) training programs designed to familiarize State agencies and training institutions with research findings and successful pilot and demonstration projects in bilingual vocational training;

"(3) experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings; and

"(4) other demonstration and dissemination projects.

"Subpart 5—APPLICATIONS FOR ASSISTANCE

"APPLICATIONS

"SEC. 199A. (a) A grant or contract for assistance under this part may be made only upon application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary. Each such application shall—

"(1) provide that the activities and services for which assistance under this part is sought will be administered by or under the supervision of the applicant;

"(2) (A) in the case of assistance under subpart 2, set forth a program for carrying out the purposes described in section 195,

"(B) in the case of assistance under subpart 3, set forth a program for carrying out the purposes described in section 197, and

"(C) in the case of assistance under subpart 4, set forth a program for carrying out the purposes described in section 199;

"(3) (A) in the case of assistance under subpart 2, set forth a program of such size, scope, and design as will make a substantial contribution toward carrying out the purposes of this part;

"(B) in the case of assistance under subpart 3—

"(A) describe the capabilities of the applicant institution, including a listing of the vocational training or vocational education courses offered by that institution, together with appropriate accreditation by regional or national associations, if any, and approval by appropriate State agencies of the courses offered,

"(B) set forth the qualifications of the principal staff who will be responsible for the training program, and

"(C) contain a statement of the minimum qualifications of the persons to be enrolled in the training program, a description of the selection process for such persons, and the amounts of the fellowships or traineeships, if any, to be granted to persons so enrolled; and

"(5) in the case of assistance under subpart 4, set forth the qualifications of the staff who will be responsible for the program for which assistance is sought.

"(b) No grant or contract may be made under subpart 2 directly to a local educational agency or a postsecondary educational institution or a private vocational training institution, or any other eligible agency or organization unless that agency, institution, or organization has submitted the application to the State board established under part B of this title, or in the case of a State that does not have such a board, the similar State agency, for comment and includes the comment of that board or agency with the application.

"APPLICATION APPROVAL BY THE COMMISSIONER

"SEC. 199B. (a) The Commissioner may approve an application for assistance under this part only if—

"(1) the application meets the requirements set forth in subsection (a) of the previous section;

"(2) in the case of an application submitted for assistance under subpart 2 to an agency, institution, or organization other than the State board established under part B of this title, the requirement of subsection (b) of the previous section is met;

"(3) in the case of an application submitted for assistance under subpart 3—

"(A) the Commissioner determines that bilingual vocational training or vocational educational programs requiring the services of the persons to be trained have been or will be actually conducted in any State being served and that enrollees will be selected from or for such programs;

"(B) the Commissioner determines that the applicant institution actually has an ongoing vocational training program in the field for which persons are being trained; and that the applicant institution can provide instructors with adequate language capabilities in the language other than English to be used in the bilingual job training program for which the persons are being trained; and

"(4) in the case of an application submitted for assistance under subpart 2 or subpart 3, the Commissioner determines that the program is consistent with criteria established by him, where feasible, after consultation with the State board established under part B of this title, for achieving equitable distribution of assistance under the appropriate subpart within that State.

"(b) An amendment to an application shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as the original application."

By Mr. TOWER (for himself and Mr. DOMINICK):

S. 3157. A bill to amend the Higher Education Act of 1965 with respect to developing institutions. Referred to the Committee on Labor and Public Welfare.

Mr. TOWER. Mr. President, I am today introducing much needed legislation to improve title III of the Higher Education Act relating to Developing Institutions. The distinguished Senator from Colorado, Senator Dominick, joins me as a coauthor of this legislation.

Title III of the Higher Education Act provides Federal support for institutions truly in a developing stage of existence—"struggling for survival and isolated from the main currents of academic life." Basically, the Federal support assists 4-year colleges awarding bachelors degrees and junior and community colleges for projects that could not ordinarily be started and financed without Federal support. There are many of these developing institutions in Texas and the funds have been used effectively to improve the caliber of education. To a great extent these funds have assisted a great number of schools that have large minority enrollments. Nevertheless, the program's funds have not been equitably distributed in a manner that benefits postsecondary institutions serving large Spanish-speaking populations.

I do not believe this problem has been caused by inadequate administration of the program. Instead, I have concluded there is a legislative deficiency which needs to be cured. Since title III program began in 1966 only 4 percent of the funds have been channeled to Spanish-speaking students. The program needs to serve a broader base of the student population.

The bill I am today introducing would reduce from 5 to 3 years the operational requirement which an institution must meet in order to qualify for funding. I have concluded that this requirement is counterproductive and restricts those institutions which are struggling to stay alive, but, at the same time, have given evidence through their educational development in their first year or so that they are deserving of Federal support and are in fact most representative of the type of school Congress intended to assist.

Allowing schools to obtain funding eligibility after 3 years instead of 5 will broaden the base of the program. In the Southwest, it will particularly allow greater access for community and junior colleges serving large numbers of Spanish-speaking students. Additionally, it should benefit many developing, predominantly black schools that, like the institutions in the general category, face enormous financial constraints in their beginning years.

The second change I propose in the title III program would authorize the Commissioner of Education to waive the term of years requirement in toto in the case of institutions located in or near communities with a large Spanish-speaking population if he determines that such action will increase higher education for Spanish-speaking students. Naturally, this proposed change is directly related to the program's current failure to serve this Nation's Spanish-speaking community.

I believe that the statistical fact by itself that such a small amount of funding has served Spanish-speaking students demands that this waiver provision be made part of the title III program. This waiver provision is nearly identical to the Indian waiver provision which Congress enacted in 1972.

Mr. President, as the Federal Government enlarges its commitment to bilingual education at the elementary and secondary level, there is a need to carry forth this commitment at the postsecondary level. This bill I am introducing today will serve to advance this goal without enlarging the Federal bureaucracy nor authorizing additional expenditures. Instead, the proposal calls for further improvement of a proven program for all developing institutions with particular attention given to Spanish-speaking students.

I urge my colleagues to give this legislation their most careful consideration. I ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 302(a)(1)(B) of the Higher Education Act of 1965 is amended by striking out "five" and inserting in lieu thereof "three".

(b) Section 302(a)(2) of such Act is amended by adding at the end thereof the following new sentence: "The Commissioner is authorized to waive the requirements set forth in clause (C) of paragraph (1) in the case of applications for grants under this title by institutions located in or near communities with large numbers of Spanish-speaking people if the Commissioner determines such action will increase higher education for Spanish-speaking people."

By Mr. SPARKMAN (by request):

S. 3158. A bill to make technical amendments to the Federal Credit Union Act. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. SPARKMAN. Mr. President, I introduce, by request, a bill entitled "Federal Credit Union Act Amendments of 1974." This bill would broaden the operation of Federal Credit Unions. I ask unanimous consent that a summary of the bill be printed in the Record at this point.

There being no objection, the summary was ordered to be printed in the Record, as follows:

SUMMARY OF FEDERAL CREDIT UNION AMENDMENTS ACT OF 1974

1. Permits Federal credit unions to purchase conditional sales contracts and similar instruments of their members. (Sec. 1).

2. Permits overseas sub-offices of military Federal credit unions to maintain checking accounts in foreign banks that have a correspondent relationship with a U.S. bank. (Sec. 2).

3. Removes the mandatory entrance fee requirement while vesting the board of directors with discretion to determine whether an entrance fee and an annual membership fee shall be paid. (Sec. 3).

4. Permits the executive committee to act for the board in all respects and not just for the purchase and sale of securities, the borrowing of funds, and the making of loans to other credit unions.

5. Permits the board of directors to appoint an investment committee or an investment officer to have charge of making investments. (Sec. 4).

6. Permits the board of directors to appoint more than one membership officer. (Sec. 4).

7. Changes the requirement for the supervisory committee to make a semi-annual audit to a requirement for an annual audit. (Sec. 5).

8. Makes the Federal Credit Union Act applicable to the trust territories of the United States. (Sec. 6).

9. Exempts federally insured credit union funds invested in federally insured *credit* unions from the premium charge for federal share insurance. (Sec. 7).

10. Permit a federally insured state chartered credit union to convert to nonfederal insured status. (Sec. 8).

11. Permits the Administrator to assist in the voluntary liquidation of a solvent credit union to the same extent as a credit union in danger of involuntary liquidation. (Sec. 9).

By Mr. BUCKLEY (for himself and Mr. Mathias):

S. 3159. A bill to authorize the Secretary of Transportation to make grants for the construction of bikeways in urbanized areas. Referred to the Committee on Public Works.

BICYCLE STATEMENT

Mr. BUCKLEY. Mr. President, I am introducing a bill to demonstrate Federal support for the bicycle as a realistic means of easing transportation problems in our urban areas.

In the Federal-Aid Highway Act of 1973, Congress provided for substantial Federal assistance to States and cities wishing to design and build bikeway systems and for Federal study of ways to improve bicycle safety. Those provisions reflected congressional recognition of the potentially important role of the bicycle as a means of transportation, as well as recreation.

The bill I am introducing is designed to complement last year's action, and to provide an incentive to States to seriously consider bicycles as one way to satisfy transportation demands.

Existing Federal provisions for bikeway planning and construction are primarily tied to the Federal-aid highway program. In most instances this means that funds available for bikeways must come out of a State's highway apportionment so that money spent for a bikeway is not available for road work. Sometimes State law regulating use of the State's highway funds and sometimes reluctance on the part of State officials blocks a city's efforts to gain approval of a bikeway project.

Also, existing law requires that bikeways funded with highway funds serve traffic which otherwise would have used a Federal-aid route. This requirement could thwart a city's or State's development of a rational areawide bikeway system.

In a recent hearing before the Transportation Subcommittee of the Senate, the Commissioner of Transportation of my own State of New York testified that a more liberal Federal program, giving the State more flexibility in use of funds for bikeways, was desirable, especially in light of the current drive to conserve energy.

The bill I am introducing would, to a large degree, overcome these obstacles to a community or State's inclusion of bicycles in its transportation planning. I propose a $20 million fund specifically for bikeway construction, to be available to States or municipalities in urbanized areas until expended. Bikeway projects funded under my proposal would not have to be directly related to a Federal-aid route. I do, however, believe it is important to assure that bicycle projects financed with Federal money be an integrated part of an area's comprehensive transportation program, and it is for this reason that I propose to require that any project submitted to the Secretary for his approval be shown to have been developed in accordance with the overall transportation planning process currently required by law to be carried on in each urbanized area.

Mr. President, I do not envision the program I am proposing today as a permanent Federal undertaking. Rather, I urge that this is the opportune moment to discover if there is a significant place for the bicycle in our urban transportation picture. The funding I propose is in the nature of "seed" money to encourage bicycle planning and use in those areas ripe for such development. I ask unanimous consent to have printed in the RECORD the text of the bill.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of this Act the term—

(1) "Secretary" means the Secretary of Transportation;

(2) "bikeway" means a bicycle lane or path, or support facility, a bicycle traffic control device, a shelter or a parking facility to serve bicycles and persons using bicycles;

(3) "urbanized area" means an area so designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census; and

(4) "State" means any one of the fifty States, the District of Columbia, or Puerto Rico.

SEC. 2. (a) The Secretary is authorized to make grants to States and to municipalities wholly or partly within urbanized areas for projects for the construction of bikeways. Such bikeways shall be for commuting and for recreational purposes and shall be located in urbanized areas.

(b) The Federal share of any project for the construction of a bikeway shall be 80 percent of the total cost of such project. The remaining 20 percent of such cost shall be paid by the grantee.

(c) No grant shall be made under authority of this Act unless such bikeway project is in accordance with continuing comprehensive transportation planning process carried on cooperatively by States and local communities in accordance with section 134 of title 23 of the United States Code.

(d) The Secretary shall establish by regulation, construction standards for bikeway projects for which grants are authorized by this Act, and shall establish by regulation such other requirements as may be necessary to carry out this Act.

SEC. 3. Grants made under this Act shall be in addition to, and not in lieu of, any sums available for bicycle projects under section 217 of title 23, United States Code.

SEC. 4. There is authorized to be appropriated to the Secretary to carry out this Act, $10,000,000 per fiscal year out of the Highway Trust Fund, and $10,000,000 per fiscal year out of any other money in the Treasury not otherwise appropriated.

By Mr. HATFIELD:

S. 3160. A bill to designate certain lands for inclusion in the national wilderness preservation system. Referred to the Committee on Interior and Insular Affairs.

Mr. HATFIELD. Mr. President, today I am introducing the Oregon Omnibus Wilderness Act. Included in this legislation are about 465,070 acres of forest land in Oregon and about 127,500 acres in the State of Washington.

Introduction of this legislation follows many months of study and consultation with the various individuals and groups who are concerned about the future of our forests. I first began circulating a list of proposed areas in the fall of 1972.

Mr. President, I believe that we must examine wilderness issues in a more comprehensive manner than we have in the past. Moving only on an area-by-area basis often has resulted in a failure to consider any single wilderness proposal in the larger perspective of our overall needs: economic, recreational, wildlife, and even spirituals.

I want to caution all of those concerned about this legislation that final decisions on specific boundaries and areas will not be made until after thorough hearings are held on the bill. I do believe that each of the general areas included deserves special consideration and the introduction of this proposal insures that they will receive such a review.

Mr. PACKWOOD. Mr. President, today Senator HATFIELD is introducing his Omnibus Wilderness bill. A great deal of time and effort has gone into this proposal, and it is a product which I know is being met with enthusiasm on the part of Oregon's environmentalists and conservation-minded citizens. While I would very much like to join with Senator HATFIELD in cosponsoring his bill, I will not be doing so at this time for the simple reason that I have not seen some of the areas embodied in the proposal. My decision not to cosponsor this proposal now does not, however, foreclose my support later on after I have had the opportunity to gain some firsthand knowledge of those areas with which I am not familiar. I want to stress my own enthusiasm for the concept behind this omnibus effort; it is a recognition that Oregon has many unique and scenic areas which are unheralded in their beauty, yet Oregon in the past has had a very small percentage of its acreage designated as wilderness compared to other States. It is time that such recognition be embodied in an omnibus proposal such as that which Senator HATFIELD has brought forward today, and I look forward in the weeks and months ahead to becoming better acquainted with the areas his measure encompasses.

By Mr. BENTSEN:

S. 3161. A bill to amend the provisions of title 23, United States Code, dealing with highway beautification, and for other purposes. Referred to the Committee on Public Works.

Mr. BENTSEN. Mr. President, I am today introducing the Highway Beautification Act of 1974. This is essentially the same legislation that passed the *Senate* last year.

During the protracted conference on the highway bill, the conferees were unable to agree on language concerning highway beautification. Hopefully, that matter can be resolved this year.

The Highway Beautification Act originally passed Congress in 1965, largely due to the efforts of Mrs. Lyndon Johnson. Its purpose was to remove the unsightly clutter of billboards and junkyards along our highways and to provide Federal funds for landscaping and scenic enhancement.

However, progress under the law has been slow. Because of the reluctance of Congress to provide funds, the sign removal program never really got off the ground until 1971. Confusing Federal directives led many States to complain that the law was unworkable, and that bureaucratic interpretations violated the intent of Congress. The end result has been that neither the business community nor the States nor the environmentalists believe that the law has been effective.

This year, we intend to clarify the Highway Beautification Act and to move the program back on course. The bill I introduce today extends effective control of billboards beyond the 660 foot limit now in law, a limit which has led to the erection of thousands of "jumbo" signs just over 660 feet from the highways.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

It also guarantees just compensation for all signs erected under State law prior to the enactment of this bill. Moreover, it removes the so-called "moratorium" on sign removal in previous bills, which would have slowed the program down unacceptably.

My Subcommittee on Transportation will receive written and oral statements on this bill and on the administration's proposal, when it is submitted. I might add that I have been seeking the administration bill for some time, so that we can discuss it in the hearings. Again today, I ask that it be promptly submitted to my subcommittee.

Now that the Commission on Highway Beautification has completed its report, there is little excuse for further delay in moving this legislation. The bill I introduce today can serve as the basis for our discussions.

Mr. President, I believe the American people want a highway system known for its beauty as well as its utility. With the enactment of this bill, we can accelerate the process of making American highways safer and more pleasing to the American public.

At this point, I ask unanimous consent to insert the text of the Highway Beautification Act of 1974 in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Highway Beautification Act of 1974".

CONTROL OF OUTDOOR ADVERTISING

SEC. (2). (a) The first sentence of subsection (b) of section 131 of title 23, United States Code, is amended by inserting after "main traveled way of the system," the following: "and Federal-aid highway funds apportioned on or after January 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than six hundred and sixty feet off the nearest edge of the right-of-way, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way,".

(b) Subsection (c) of section 131 of title 23, United States Code, is amended to read as follows:

"(c) Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall, pursuant to this section, be limited to (1) directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section, (2) signs, displays, and devices advertising the sale or lease of property upon which they are located, and (3) signs, displays, and devices advertising activities conducted on the property on which they are located."

(c) Subsection (d) of section 131 of title 23, United States Code, is amended by striking out the first sentence thereof and inserting the following in lieu thereof:

"In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary."

(d) Subsection (e) of section 131 of title 23, United States Code, is amended to read as follows:

"(e) Any nonconforming sign under State law enacted to comply with this section shall be removed no later than the end of the fifth year after it becomes nonconforming, except as determined by the Secretary."

(e) Subsection (f) of section 131 of title 23, United States Code, is amended by inserting the following after the first sentence: "The Secretary may also, in consultation with the States, provide within the rights-of-way of the primary system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained."

(f) Subsection (g) of section 131 of title 23, United States Code, is amended by striking out the first sentence and inserting the following in lieu thereof:

"Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law prior to the date of enactment of the Highway Beautification Act of 1974."

(g) Subsection (m) of section 131 of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be apportioned to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for each of the fiscal years 1966 and 1967, not to exceed $2,000,000 for the fiscal year 1970, not to exceed $27,000,000 for the fiscal year 1971, not to exceed $20,500,000 for the fiscal year 1972, and not to exceed $50,000,000 for the fiscal year ending June 30, 1973, and, out of the Highway Trust Fund, $50,000,000 for the fiscal year ending June 30, 1974, $50,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967."

CONTROL OF JUNKYARDS

SEC. 3. (a) Subsection (j) of section 136 of title 23, United States Code, is amended by striking out the first sentence and inserting in lieu thereof the following:

"(j) Just compensation shall be paid the owner for the relocation, removal, or disposal of junkyards lawfully in existence at the effective date of State legislation enacted to comply with this section."

(b) Subsection (m) of section 136 of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be appropriated to carry out this section out of any money in the Treasury not otherwise appropriated not to exceed $20,000,000 for each of the fiscal years 1966 and 1967, not to exceed $3,000,000 for each of fiscal years 1970, 1971, and 1972, not to exceed $5,000,000 for the fiscal year ending June 30, 1973, and, out of the Highway Trust Fund, not to exceed $15,000,000 for the fiscal year ending June 30, 1974, $15,000,000 for the fiscal year ending June 30, 1975, and $15,000,000 for the fiscal year ending June 30, 1976. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967."

AUTHORIZATIONS

SEC. 4. There are authorized to be appropriated for the purpose of carrying out section 319(b) of title 23, United States Code (relating to landscaping and scenic enhancement), out of the Highway Trust Fund, $15,000,000 for the fiscal year ending June 30, 1974, $15,000,000 for the fiscal year ending June 30, 1975, and $15,000,000 for the fiscal year ending June 30, 1976.

ADDITIONAL COSPONSORS OF BILLS

S. 2900

At the request of Mr. MONTOYA, the Senator from Iowa (Mr. HUGHES), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 2900, to improve the safety of motor vehicle fuel systems.

S. 3006

At the request of Mr. PROXMIRE, the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Idaho (Mr. CHURCH) were added as cosponsors of S. 3006, the Fiscal Note Act.

S. 3073

At the request of Mr. Moss, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 3073, to amend the Higher Education Act of 1965 with respect to certain determinations concerning expected family contributions for basic educational opportunity grants.

S. 3096

At the request of Mr. CRANSTON, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 3096, a bill to amend the Small Business Act to provide for loans to small business concerns affected by the energy shortage.

S. 3098

At the request of Mr. DOLE, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of S. 3098, to amend the Emergency Petroleum Allocation Act of 1973 to provide for the mandatory allocation of plastic feedstocks.

S. 3140

At the request of Mr. MCCLURE, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 3140, to prohibit increases in rates of pay to Members of Congress until fiscal balance is achieved.

LIVESTOCK EXPORT HEALTH AND SAFETY ACT OF 1973—AMENDMENTS

AMENDMENT NO. 1018

(Ordered to be printed, and referred to the Committee on Agriculture and Forestry.)

Mr. BELLMON submitted amendments, intended to be proposed by him, to the bill (S. 2522) to extend the application of the act of March 3, 1891, relating to accommodations for the export of animals by vessels, to aircraft and other means of conveyance, and for other purposes.

CAPITAL PUNISHMENT—AMENDMENTS

AMENDMENT NO. 1019

(Ordered to be printed.)

Mr. HASKELL proposed an amendment to the bill (S. 1401) to establish a rational criteria for the mandatory imposition of the sentence of death, and for other purposes.

AMENDMENT NO. 1020

(Ordered to be printed, and to lie on the table.)

Mr. KENNEDY (for himself and Mr. JAVITS) submitted an amendment, intended to be proposed by them, jointly, to Senate bill 1401, supra.

ADDITIONAL COSPONSOR OF AMENDMENT

AMENDMENT NO. 1003

At the request of Mr. MONTOYA, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of amendment No. 1003 to S. 3066.

ANNOUNCEMENT OF HEARINGS ON S. 6, THE EDUCATION OF ALL HANDICAPPED CHILDREN ACT

Mr. RANDOLPH. Mr. President, as chairman of the Senate Subcommittee on the Handicapped, I announce that our subcommittee has scheduled hearings on S. 6, the Education for All Handicapped Children Act. The hearing will be held on Monday, March 18, in Hearing Room 1, Pennsylvania Public Utility Commission, ground floor of the North Office Building, Harrisburg, Pa.; it will begin at 10 a.m. Senator SCHWEIKER will chair this hearing.

Persons wishing to testify should contact Mrs. Patria Forsythe, professional staff member of the Subcommittee on the Handicapped, 202—225-9077.

NOTICE OF AN EXECUTIVE HEARING

Mr. MAGNUSON. Mr. President, I wish to announce that the Special Joint Subcommittee on Deepwater Port Legislation, composed of five members each from the Senate Committees on Commerce, Interior and Insular Affairs, and Public Works, has scheduled a meeting in closed executive session for April 2, 1974. The meeting will begin at 10 a.m. in room 6202 of the Dirksen Senate Office Building.

This Special Joint Subcommittee was established early last year by the three committees to facilitate consideration of legislation that is needed before deepwater port facilities proposed beyond 3 miles offshore can be built. This membership of the subcommittee is as follows: Senators MAGNUSON, LONG, HOLLINGS, STEVENS, and BEALL from the Commerce Committee; Senators JACKSON, METCALF, JOHNSTON, FANNIN, and HATFIELD from the Senate Interior Committee; and Senators GRAVEL, BENTSEN, BIDEN, BUCKLEY, and SCOTT from the Committee on Public Works.

To date, the subcommittee has conducted 6 days of hearings, heard testimony from approximately 65 witnesses, and compiled a hearing record of 1,400 pages. We are now in a position to assess the record already made, and to determine if further hearings are warranted or whether the subcommittee should proceed to the markup of legislation. For further information, please contact Bud Walsh, staff counsel for the Senate Commerce Committee, at 225-9347.

ADDITIONAL STATEMENTS

ALFRED SELBY'S 60TH ANNIVERSARY IN THE SENATE

Mr. MONTOYA. Mr. President, we in the Senate are great venerators of seniority. We select as our President pro tempore he of the majority party who has weathered the greatest number of campaigns. We award the chairs of committees and the best seats in this Chamber to those who have sat in them, or near them, the longest. We even use seniority as the basis on which to allocate the privilege of choosing the most junior of people found around here—the pages.

Therefore, it is especially fitting that all 100 Senators should today pay special respect to the man with by far the greatest seniority in and about this Chamber, Mr. Alfred Selby, who today celebrates the 60th anniversary of his employment in the Senate.

Mr. Selby first came here in March 12, 1914, under the patronage of Francis G. Newlands of Nevada. Henry Cabot Lodge was a Senator in that year, the 2d session of the 63d Congress, as were Robert LaFollette, George Norris, William Borah, and Elihu Root.

They are all gone, but Mr. Selby is still here.

One can hardly imagine all the effort which Mr. Selby has put into making this Senate a pleasant place to be. Mr. Selby makes things easier for us, and we need people like that.

Mr. President, I have spoken in a somewhat lighthearted manner, but I do not want this manner to disguise in any way the affection in which all of us hold Mr. Selby and the gratitude which all of us owe him.

I hear rumors that Mr. Selby may retire in several months. He surely deserves his retirement, but I cannot help feeling a little saddened to think that he will no longer be here. He has been a great friend and a great help to all of us, and, if these rumors are true, we certainly will miss him.

Until that time, however, all of us might profitably look at Mr. Selby and his work here and draw a lesson from what we see. Mr. Selby has been here for 30 Congresses, and in those years he has more than satisfied this hard-to-please constituency. I think that is one reason he has attained so much seniority. His constituents just do not want him to leave.

Mr. President, if any of us were half as popular with our constituencies as Mr. Selby is with his, we would all be here for 30 Congresses, too. But, of course, none of us is. That is a distinction for Mr. Selby to enjoy, and for the rest of us to honor.

Mr. McCLELLAN. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from New Mexico. I have nothing to add to his remarks; I think he covered it sufficiently. I am proud to associate myself with his sentiments.

Mr. BIBLE. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from New Mexico. If memory serves me correctly, I believe Mr. Selby came here under the auspices of Senator Newlands of my State. Is that correct?

Mr. MONTOYA. The Senator is correct.

Mr. BIBLE. I congratulate Mr. Selby on his many years of service.

Mr. HART. Mr. President, I welcome this opportunity to wish well one who has been friend to many of us, Alfred Selby. Senator MONTOYA spoke for me in expressing thanks. And having been fortunate enough to meet and know Mrs. Selby, I would want her to know we realize the enormous strength and help she has given her husband over these many years. So, to wish Mr. and Mrs. Selby: all best wishes.

Mr. HUGH SCOTT. Mr. President, today begins the 61st year our good friend Alfred Selby has worked for the U.S. Senate.

I am particularly pleased to offer these comments because Mr. Selby was born in South Philadelphia and has so diligently and faithfully served this body.

Mr. Selby came to Washington as a young lad. He went to Armstrong High School and in 1941 was appointed to the Senate staff by the late Senator Francis G. Newlin of Nevada.

We know Alfred Selby as a kind man, a generous man and a quiet man.

Those who have enjoyed his friendship over the years have been touched by a warm human being.

With my colleagues I extend the warmest wishes of good health to Mr. Selby and his wife Mary as they journey together friends of the U.S. Senate.

THE ENERGY BILL

Mr. HUGH SCOTT. Mr. President, today's editorial in the Philadelphia Inquirer recounts with perception the recent congressional action on the rollback provision of the energy bill. The editorial puts in perspective our need for constructive, responsive legislation, as opposed to hasty measures enacted solely for public relations purposes.

I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, Mar. 12, 1974]

ROLLBACK BILL DESERVED DEFEAT

It was something of a shame that abandonment by the House of Representatives of the die-hard scheme to roll back domestic crude oil prices had to have the appearance of capitulation to a veto threat by the Nixon Administration. For in the vote last Thursday, a welcome breath of reason swept the House.

Mr. Nixon on Wednesday had properly vetoed an emergency energy bill which reflected the theory that legislative popularity is better served by doing something in the face of serious problems—even if the something is the wrong thing. A Senate attempt to override the veto failed. In killing another attempt—one to tack a crude rollback provision on an energy office housekeeping bill—the House stepped back from a dangerous momentum.

Public resentment is high, for the fuel shortages are grossly inconvenient. Resentment, like pigeons, tends to find a roost in the most visible public place.

The two most obvious roosting places right now are the major oil companies, which have reported astronomically increased profits, and the government—for failing to do something about the mess, or perhaps just because it's the government.

A great number of people in Congress have been urgently trying to prove to their constituents that they don't belong to the government on which public blame will fall. This, we believe, accounts for much of the enthusiasm for the rollback—which would have only exacerbated an already crippled market, but could give the appearance of slapping the industry.

With the veto and the House vote now behind us, there is substantial encouragement to believe that passions are cooling, and attention may begin to turn to the job of constructive legislation.

House passage Thursday of the bill pulling together the authority of the Federal Energy Office was an undramatic step in that direction. It now goes to conference and then, we hope smoothly, to the White House.

Then, with the foundations for regulating authority laid, Congress and the administration must press on to fill the still yawning gaps in petroleum information reporting and auditing. Firm facts will then become available to attack the entire tax and incentive structure, the failure of which must be primarily held to account for America's energy woes.

THE FAIRNESS DOCTRINE

Mr. THURMOND. Mr. President, I would like to call to the attention of my colleagues in the Senate an application by the Federal Communications Commission of the so-called fairness doctrine in a manner that appears to be grossly unfair.

Several years ago, the Faith Theological Seminary purchased radio station WXUR in Media, Pa. Transfer of the station to the seminary, which is headed by Dr. Carl McIntire, was approved by the FCC in 1965, and the station began operation in spite of the objections of many individuals who opposed Dr. McIntire because of his outspoken views on a number of controversial issues.

The license came up for its regular renewal a little more than a year later, and the station came under renewed criticism. Hearings on the license renewal began in October 1967, and continued through June 1968, with more than 15,000 pages of testimony being taken during the course of the proceedings. At the end of the hearings, the FCC examiner ruled that the license of WXUR should be renewed. This decision was taken to the full Commission and was reversed on July 1, 1970.

Basic to the Commission's denial of the license renewal was its opinion that the station had not abided by the Commission's concept of the fairness doctrine—for example, WXUR had failed, in the Commission's estimation, to present both sides of controversial issues to the public. However, the Commission also held that the station had failed to satisfy promises made to the Commission to abide by the fairness doctrine in that it failed to present specifically named programs designed to balance the station's religious and public programing.

These alleged "misrepresentations" on the part of WXUR with regard to its program planning—again, basically, alleged breach of promises made pursuant to the Commission's own interpretation of the fairness doctrine—proved to be the only common ground on which the two concurring judges could base their opinion in the ensuing court appeal by WXUR of the Commission's decision to deny its license. The Supreme Court subsequently denied certiorari.

It is clear from the facts in this case that the FCC chose to apply highly technical rules to this single station, and that the courts chose to uphold the Commission's decision in what amounts to a callous disregard of the first amendment rights of this radio station and its listeners.

Mr. President, in my opinion, the fairness doctrine must be reexamined in view of this decision. If it is to remain with us, it must be restructured to remedy its serious constitutional defects. Its chilling effect on broadcast journalism must be removed, at least in the area of radio broadcasting. We must not allow any group desiring to deny a radio station its license, the ability to do so simply because that group does not agree with the station's approach to the issues, or because of the controversial nature of the station's programing.

The fairness doctrine had as its rationale the assumption that since broadcast outlets are so scarce, they must be regulated to insure balanced presentations of controversial issues. This assumption may have had some validity in 1949, when there were only 2,777 radio stations in this country, but it is of questionable validity today, when there are some 7,549 stations operating.

Competition among radio stations is great—competition for advertisers as well as listeners. Most listeners are able to receive numerous radio signals in their locale, and they can hear competing views concerning controversial issues. It is, therefore, the entire media market in any given locale, rather than any given radio station in that market area, to which we should look in order to determine whether there is an adequate presentation of competing viewpoints.

This is a crucial point, Mr. President. The fairness doctrine as it is now applied, and as it was applied to radio station WXUR, requires no such examination of the entire marketplace in which any given radio station competes and puts forth its ideas and opinions. The doctrine now looks solely to individual stations.

There must be a reconsideration of this concept if freedoms that this Nation cherishes—freedom of speech, of expression, of the press—are to be preserved and protected from bureaucratic manipulation. As the fairness doctrine now is applied, it has a chilling effect on a radio station's inclination to present controversial listening matter to the public.

Mr. President, in my opinion the "fairness doctrine" must be reexamined.

THE FUTURE OF NEW HAMPSHIRE'S RAILS

Mr. McINTYRE. Mr. President, last week the Interstate Commerce Commission held public hearings in Boston to receive comments on the Department of Transportation's Preliminary Report for Reorganizing Rail Service in the Midwest and Northeast regions. These hearings represent the second phase of a year long process to determine the most expeditious and economical means of improving rail service in the Northeast corridor.

New Hampshire is greatly affected by this reorganization. The preliminary report recommended a cut of 49 percent in rail service in the Granite State. The Rail Reorganization, as passed in January, set up criteria for judging future rail service. Had each of these guidelines been given equal weight, I feel New Hampshire would never have been slashed to a mere 400 miles of rail service.

Many representatives of State and local governments, industries, and public interest groups in New Hampshire offered their views at the Boston hearings. I was pleased at the response and know that this will add to the success of the reorganization.

Mr. President, I, therefore, ask unanimous consent that my testimony at the ICC hearings in Boston be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT BY U.S. SENATOR THOMAS J. MCINTYRE

Mr. Chandler:

I am very pleased to see the Interstate Commerce Commission actively assume the role developed for them by the "Regional Rail Reorganization Act." The hearings in Boston have afforded an opportunity for interested parties in New Hampshire and in the entire New England region to speak on the future of rail transportation in the Northeast. Since this reorganization will play a vital role in determining economic and social growth patterns for the next several decades, it is vital that all potential avenues of information be investigated and an integrated review be made, including not only economic feasibility of rail service but also potential impact on the state's economy, environmental quality, and rail and employment maintenance wherever possible.

I was saddened and dismayed to read Secretary Brinegar's report on Rail Service in the Midwest and Northeast Region particularly as it pertains to New Hampshire. The proposed 49% cut in rail service is greater than in any other state in the entire report. With a total of 830 miles of existing rail track in New Hampshire, it is impossible for me to understand this proposal which attempts to reduce New Hampshire to a rail system of more than 400 miles.

The report states that the economic impact of this reorganization will be minimal. I view this as a complete disregard for the impact on New Hampshire. If the proposed plan is implemented, it could cause industrial relocation—working havoc with growth patterns which originally grew around transportation lines. In terms of the entire project New Hampshire's rail lines may seem small, however, considering the impact on the state and local economy insurmountable problems are presented.

Many industries in New Hampshire cannot exist without rail service. In New Hampshire, at least 12,000 industrial jobs producing a $187 million payroll and 5,000 farm-related jobs producing a $65 million payroll are dependent on railroads. The loss of these jobs would cost state and local governments at least $20 million in lost taxes and welfare payments. A loss of Boston and Maine service in New Hampshire would increase the prices of essential consumer goods 1–5%, hiking fertilizers, grain and feed prices even higher. New Hampshire farmers are already paying more in areas that have experienced cutbacks in rail service.

The proposed cutbacks would leave many areas completely dependent on highway transportation for freight and passenger service. At a time when our energy situation is so extremely unpredictable, the reliability of highway transportation each day becomes more and more tenuous. It would force more trucks on our overburdened highways and retard the growth of high wage industries in my state. Fuel costs, rationing and shortages may sooner or later curtail the immense volume of long-haul highway trucking which has played such an important role in the distribution of goods. The advantages of rail over motor carrier are lower costs, the alternative of converting to non-petroleum electric motor power, and the potential of fast long-haul transit times. Energy efficiency in rails is 2 to 5 times that of motor carriers in long-haul service. Yet this preliminary report, if enacted, would deny these energy-saving economic incentives to my home state.

The Department of Transportation claims that "alternative means of transportation by motor carrier/rail combinations will be available for those few shippers who could no longer be located on a direct rail line." Yet nowhere do I see any guarantees that such service would be a reality. Lines abandoned now will probably never be reactivated, leaving many areas forever dependent on gasoline transportation—a situation directly opposed to present goals of curtailing our energy dependency.

At a time when the recreation industry in New Hampshire needs a shot in the arm due to the drastic effect of gasoline shortages, we are instead adding another potential barricade to this industry. The long term effects of this reorganization will hopefully lead to improved rail passenger service as well. To leave rural sections of New Hampshire heavily used for recreational purposes and visited by over 60 million people last year alone without rail service is inconceivable. Improved rail service offers not only energy savings but a positive environmental impact by drastically reducing the auto emission levels. This should be a consideration in the decision making process.

The Department of Transportation has chosen an arbitrary carload level to determine feasibility of service. Many of the short-haul, lower carload lines are profitable—a fact not reflected in the report. This is a major oversight. An arbitrary calculation of this kind reflects the neglect that New Hampshire's rail situation has received in the Department's evaluation.

Far more disturbing, however, was the realization that the eight goals established by section 206 of P.L. 93–236 could not possibly have been given equal consideration in the formulation of New Hampshire's plan. Five of these goals were neglected in determining New Hampshire's future rail system. They are:

The establishment and maintenance of a rail service system adequate to meet the rail transportation needs and service requirements of the region;

The preservation, to the extent consistent with other goals of existing patterns of service by railroads, and of existing railroad trackage in areas in which fossil fuel natural resources are located, and the utilization of those modes of transportation in the region which require the smallest amount of scarce energy resources and which can most efficiently transport energy resources;

The attainment and maintenance of any environmental standards, particularly the applicable national ambient air quality standards and plans established under the Clean Air Act Amendments of 1970, taking into consideration the environmental impact of alternative choices of action;

The movement of passengers and freight in rail transportation in the region in the most efficient manner consistent with safe operation, including the requirements of commuter and intercity rail passenger service; the extent to which there should be coordination with the National Railroad Passenger Corporation and similar entities; and the identification of all short-to-medium distance corridors in densely populated areas in which the major upgrading of rail lines for high-speed passenger operation would return substantial public benefits; and

The minimization of job losses and associated increases in unemployment and community benefit costs in areas in the region presently served by rail service.

The New Hampshire Department of Resources and Economic Development identified the core rail system in New Hampshire as North-South service along the Merrimack River to the base of the White Mountains serving Nashua, Manchester, Concord, and Laconia; North-South service out of Dover for industrial areas of Strafford County and lower Carroll County; East-West service out of Portsmouth through Rockingham County to Manchester; service tying the Keene industrial area into main line service along the Connecticut River; and North Country service along lines serving Woodsville, Littleton, Lancaster, Groveton and Berlin.

The North-South line along the Merrimack is the main commuter line to Boston. Parts of Southern New Hampshire have recently been included in the greater Boston metropolitan area identifying many of these southern cities and towns as residences for workers in Massachusetts. What better opportunity to take these people from the highways and transport them by mass transit. This line also represents a major link to the White Mountain National Forest; accessible to over 60 million people. The Bretton Woods Development in North Woodstock seeks to service numerous visitors for recreation and convention purposes.

The North-South Dover line bisects the fastest growing area in the country, according to the last census. This is not the time to deprive this southeastern corner of New Hampshire of a modern, efficient transportation system. The East-West link between Portsmouth and Manchester is a vital link between two of the most populated areas in the State.

The Connecticut River has played a major role as a transportation line for all of New England. Shipping on the Connecticut River is no longer a modern means of transportation yet this North-South corridor is a natural transportation line allowing a link between the New England seacoast and the interior section of five states.

Highway transportation through the White Mountains has long been a source of great concern. Seasonal weather conditions as well as topographical limitations have served as very real barricides to providing efficient links to New Hampshire's northern most cities and towns. As these areas struggle to keep abreast with our National economic growth, a denial of rail service would plunge this area into a serious economic depression.

I will not presume to be able to make specific rail line recommendations for New Hampshire's future rail service. However, I think we can both agree that the plan as it was presented in February is unacceptable to New Hampshire. My recommendation today is that a new look be given to New Hampshire with a clear understanding of the economic threat this plan proposes and with equal importance given to the eight goals set forth in the Reorganization Act. Only after both of these criteria are met could a feasible, and acceptable plan be proposed for New Hampshire.

DR. MORTIMER J. ADLER

Mr. PERCY. Mr. President, 34 years ago while attending the University of Chicago, I participated for 1 year in the Robert Hutchins-Mortimer J. Adler course in Humanities on the Great Books. This began a friendship with two remarkable educators who have continued to contribute immensely to man's better understanding of the world in which we live and the civilization from which we have sprung.

Both have been active for years with Encyclopaedia Britannica, among many other significant activities. Working over the past 15 years, Dr. Adler has designed the new 15th edition of this popular work. Divided into three parts, a Macropaedia, Micropaedia, and Propaedia, the 30-volume edition is no ordinary encyclopaedia. These three sections, each approach educational material from a different viewpoint and scale to provide an easier and more complete access to information.

It was, therefore, with great pleasure that I read of Dr. Adler's more recent efforts toward revitalizing one aspect of the educational process, making learning more interesting and enjoyable for all.

I ask unanimous consent that an article by Diana McLellan of the Washington Star-News, March 2, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"A" IS FOR ADLER IN THIS BRITANNICA

(By Diana McLellan)

Nobody could blame Dr. Mortimer J. Adler for looking a little smug. It suits his face, which combines elements of Alfred Hitchcock and Robert Morley. Besides, he has a lot to be smug about.

Dr. Mortimer J. Adler has, over the past 15 years, fathered, mothered, midwifed and reared the brand-new, all-new, totally revolutionary 15th edition of the Encyclopaedia Britannica, the first completely new edition of that revered reference work since 1929.

He was in his room at the Madison yesterday, expansively assessing the impact of his 32-million-dollar baby on the world, and explaining how this 30-volume edition of the E.B. is completely unlike any of its forerunners, or anything else for that matter, anytime, anywhere, anyhow.

Dr. Adler, you should know, has not only been on the Britannica Board of Editors since 1947, but heads the Institute for Philosophical Research in Chicago, helped put together the Great Books of the Western World project, including its famous Syntopicon, and has been director of planning and chief coordinator for this Britannica project for 15 years, as well as being Chairman of its editorial executive committee, and has dreamed of it since 1948.

He is a man accustomed to booming to a packed lecture hall. His gestures could easily be observed by craning standers-in-the-back of a crowd, and he exudes confidence in great rolling waves, which churn toward and crash over a lone listener like Atlantic breakers,

"Now," he said sonorously, transfixing a reporter in her chair with a wagging finger and a bird-bright glare, "We have completely reconstructured the whole thing. Look, if you will, at the three different functions of an encyclopaedia."

His audience of one essayed an alert, willing expression.

"First, it's a look it up book. Suppose you want to know the date Napoleon crowned himself Emperor, or the parturition period for an elephant. In an ordinary encyclopaedia, what do you do?"

The reporter began a faint gesture to indicate thumbing through a large book, but the question had been rhetorical.

"In an ordinary encyclopaedia, you'd thumb down the article on Napoleon or elephants, hoping to find exactly what you're after. And you'd be irritated as hell if you didn't find it the first time. And rightly so!" he cried.

Not with the "Britannica 3," which is the name of the new encyclopedia.

"No. Ten complete volumes of Britannica 3 are called the Micropaedia. As you well know, 'encyclopaedia' comes from the Greek, and means 'circle of learning.' So Micropaedia means small-learning. So you'd turn to the Micropaedia article on Napoleon or Elephants, as the case may be. And there, in one of 102,000 articles perhaps 750 words long, you'd find any facts you might wish to know, arranged for simple reference.

"Now, should you want to know a great deal about Napoleon or elephants, you turn to the proper reference in the 19-volume Macropaedia. Macro, large or great. This is the second function of an encyclopedia complete essays on major subjects. Knowledge in depth.

"The third purpose of an encyclopaedia is, or should be, as a tool to educate oneself. But how can one, for example, educate oneself completely on a topic such as music in an ordinary alphabetical encyclopaedia?"

It was a stern query.

There was no answer from the floor. Dr. Adler settled back with a beatific beam, steepled his fingers triumphantly and pronounced: "Now, there is the Propaedia."

The Propaedia ("Pro." of course, is "before,") is, as Dr. Adler said as modestly as he could under the circumstances, seeing he invented it, "a remarkable invention."

"It is," he said, his features bathed in the glow one saw on Mark Spitz's father's face after the Olympics, Bella Abzug's husband's after the last Congressional race, "a systematic, topical outline of the whole of human knowledge."

Without pausing to let the claim settle in the charged air, he went on, counting on his fingers.

"First, Matter and Energy. Then, The Earth. Life on Earth. Human Life. Human Society. Art. Technology. Religion. The History of Mankind. And, finally, the Branches of Knowledge."

In the one-volume Propaedia, which Dr. Adler happened to have with him, one looks in the appropriate section of the ten-part volume and finds, among the 15,000 major or minor subjects, more than 45,000 references to articles in the Macropaedia or the Micropaedia.

"This, of course, is radically different from any other encyclopaedia in the way it is constructed." Before a single article was written, the Outline of Knowledge, or Propaedia, was written. "This took two years, with all the editors working together. Then we were able to tell the writers, not what to write, but exactly what to write about. A complete reversal of the usual haphazard, not-quite-rational procedures usually employed. And then the actual work took another five years or so."

If it's radically different from the last Encyclopaedia Britannica—the one put out in 1929 and simply revised annually since then—it's staggeringly different from the very first one that was published by "a Society of Gentlemen" in Edinburgh, Scotland in 1771, after three years of labor.

The editor, William Smellie, assembled several hundred alphabetically-arranged, dictionary-like entries and 44 major treaties on subjects considered important at the time, into a 2,718-page, three-volume work with 160 copperplate illustrations.

"Utility ought to be the principal intention of every publication," Smellie proclaimed in his preface. To that end, he included a 40-page article on midwifery, which was promptly censored: King George III's Royal Chamberlain ordered all citizens to rip the offending pages from their volumes, and the engraving plates were destroyed. About 3,000 bound sets were sold.

The 10-volume Second Edition, (1777–1784) included history and biography. The 18-volume Third Edition began the practice of using authors outside the small staff—specialists in their fields, who were to include, in later editions, Sir Walter Scott (on chivalry,) Malthus on population, and, later still, Albert Einstein, Sigmund Freud, Leon Trotski, George Bernard Shaw, and H. L. Mencken.

It wasn't until 1911 that the Encyclopaedia Britannica was published in both the United States and England, and it was this now-famous 11th Edition, often called the Scholars' Edition, that was first dedicated not only to the king of England but to the president of the United States as well.

It was with the 1929 14th edition that the continuous revision program, which has been operating annually, began. It's now published with editorial advice of faculties of the University of Chicago, committees from Oxford, Cambridge, London, Edinburg, Toronto, Tokyo and Australian National Universities.

"The first printing of the 15th Edition," says Dr. Alder with his beatific smile, "Looks as though it just might be sold out already. Quite recently, some 370 editors, working week after week for 26 months, were working on as many as 400,000 words a week. I understand that Time Magazine only processes 60,000 words a week.

"For a short time there, back in last March, the production problems were so severe we were far from sure that we were going to make it."

There will be, he said, an annual Britannica yearbook.

"But another edition?" For a brief moment, the labor and setbacks of the last 15 years hung in front of Dr. Adler's confident eyes.

"Oh, lady," he cried. "Not in this century."

THE 250TH ANNIVERSARY OF THE BIRTH OF HENRY LAURENS

Mr. HOLLINGS. Mr. President, as we approach the 200th anniversary of the United States, the interests of our people are being increasingly drawn to the history of the early years of our Nation.

One milestone that was recently recalled in South Carolina is the 250th anniversary of the birth of Henry Laurens, the distinguished South Carolinian who was President of the Continental Congress in 1777 and 1778. The date was celebrated at a reception held in the National Archives Building here in Washington on February 25.

At the same time, an exhibition containing documents illustrating Henry Laurens' distinguished career as President of the new United States and as one of the negotiators of the Treaty of Peace with Great Britain in 1783 was opened by the Archivist of the United States, Mr. James B. Rhoads, and by the executive director of the National Historical Publications Commission, E. Berkeley Tompkins. The occasion also marked the 40th anniversary of the establishment of the National Historical Publications Commission, which has done such splendid work in bringing a knowledge of our Nation's past to millions of American citizens.

Mr. Rhoads and Mr. Tompkins have both encouraged the project to publish the "Papers of Henry Laurens," and special mention ought also be made of Mrs. Elizabeth Hamer Kegan, the widow of Dr. Philip M. Hamer—a distinguished scholar and the first editor of the "Papers of Henry Laurens." Today the project continues, under the capable editorship of George C. Rogers, Jr., and David R. Chesnutt, the assistant editor, and Peggy J. Clark, editorial assistant. Their work is a signal contribution to American history, and on this occasion of the 250th birthday anniversary of Henry Laurens, we join in recalling his contributions to our Nation, and his chroniclers public service in keeping those contributions before the public eye.

CREATION OF THE OFFICE OF FEDERAL PROCUREMENT POLICY

Mr. ROTH. Mr. President, I rise to compliment the Senate on the passage of S. 2510, a bill to create the Office of Federal Procurement Policy. This bill, which I was happy to cosponsor, will give Congress a necessary "foot in the door" toward the enactment of a full slate of procurement reform measures which will be of great benefit to the American people through a greater return for the moneys expended in the purchase of the vast amounts of goods and services required by the Federal Government.

On March 4, 1974, the distinguished Senator from Florida (Mr. Chiles) addressed a briefing conference on Government contracts sponsored by the Federal Bar Association in cooperation with the Bureau of National Affairs in Philadelphia, and eloquently explained some of the problems inherent in procurement reform.

As ranking member of the Ad Hoc Subcommittee on Federal Procurement, I share the concern of the Senator from Florida (Mr. Chiles) who serves as the chairman. Like the chairman, I deplore the fact that wasteful procurement practices all too often drain away not only tax dollars but also public confidence in the way the Government does business.

I think my colleague touched on some matters that will be of primary significance to Members of the House of Representatives as they now consider S. 2510 and also to Members of this great body.

Mr. President, I ask unanimous consent that the speech by the Senator from Florida (Mr. Chiles) be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Speech by Senator Lawton Chiles of Florida Before the Briefing Conference on Government Contracts

First off I want to thank you for rearranging the schedule of the program so that I could speak a little earlier. It's important for me to get back to Washington for some votes this afternoon on Federal pay raises and I didn't think there would be enough of you in the audience from Florida to explain to all the voters back home why I missed the vote.

Let me also thank you for inviting me to speak here today on Federal Procurement and Government Contracting. It's a subject that, for the most part, strikes people as being purely in the realm of bureaucrats and Government specialists and has been looked at this way for many years.

But I think we're seeing a basic change in how we regard Federal Procurement and some new thinking on how important the process for spending $60 billion a year really is to the country, not just in providing the goods and services for the Federal government to do its daily chores but also in some larger perspectives:

The ability of the American taxpayer to get a dollar's worth for every dollar the government spends;

The heavy impact procurement policies have on the character of business in this country, the growth of stagnant industries and the ability of business—both large and small—to *do* business with their government;

The impact of procurement practices on the free enterprise system that we've always thought we've enjoyed in this country;

The realization that the Congress has not been playing its full role in shaping and executing of the procurement function; and

The realization that perhaps the time has already passed when we should be taking a brand new, fresh look at just how the government goes about meeting public needs through the procurement process.

All these vital issues are now starting, I hope, to come to mind to Congressmen when they hear the word "procurement." In other words, procurement is far more important to far more people than contract negotiators and lawyers debating a particular contract clause. I think that realization is coming in full force to the Congress and I would encourage procurement specialists to continue to constantly think in terms of the larger implications their actions have on the economic and political climate of the nation.

Another reason why I particularly appreciate having the opportunity to be here today—and why I would like to congratulate you all on having this Briefing Conference—is that when you consider what's at stake, there's a particularly urgent need to communicate the importance of procurement to the general public.

Just last Wednesday, the Joint Committee on Congressional Operations held hearings on the problem of communicating the business of Congress to the public. Senator Muskie, in the course of his testimony, cited our legislation to create an Office of Federal Procurement Policy as a prime example of important legislation developing in the Congress which somehow manages to escape the attention of the press and the public despite its far-reaching effects on the expenditure of billions and billions of dollars of taxpayers' money.

One of the difficulties in maintaining an informed and interested body of public opinion, outside professional circles, is that any movement, such as this one to reform procurement, that is initiated and sponsored by the Congress, is often a slow, stuttering and invisible process.

As all of you know, where we're at today stems all the way back to where we were in 1966 when the Government Operations Committees began investigation hearings into what was wrong with procurement and what needed to be done to fix it.

It wasn't until 1969 that we had a public law to create the Commission on Government Procurement and it wasn't until December of 1972 that the Commission delivered its report and recommendations.

It wasn't until July last year that the Senate decided to create a special Subcommittee on Federal Procurement, which I was fortunate to have the opportunity to chair. You can't expect many people to have an attention span that long, but the important point is that now we're at a position to put into effect the changes that all this thorough research has told us is necessary.

I'd like to be able to say that the new Procurement Subcommittee will be moving out immediately on a broad front to bring the legislative process to work on all the separate items on the agenda for procurement reforms. But—for many reasons—we will have to be selective about the number of areas we concentrate on and follow-through sequentially.

The prime reason is that we are trying to move procurement reform through a Congress that so badly needs reform itself.

First off, we simply do not have the resources in Congress to do many things at once and do them all well. That applies to the Procurement Subcommittee, the Government Operations Committee and the Congress in general. As a matter of fact, I sometimes wonder whether the Congress has the resources to do the things it *must* do and do them well.

Another factor that constrains how fast we can move on how many fronts is the problem of Committee jurisdictions. Procurement, in all its many facets, touches directly on the bread and butter business of many committees, in particular the Armed Services Committee and also Judiciary and Labor and Public Welfare when it comes to socio-economic programs. If we're going to have effective procurement reform, it's going to have to be done in conjunction with these other Committees and this is the way we intended to proceed from the outset. This is only proper but it does add an extra burden in terms of additional coordination, consultation and joint reviews.

Now, these are some of the conditions we will have to work within, the ground rules that determine how far and fast we move. But I mention them only to give you a better appreciation for the fact that we *are* going to sustain the momentum for procurement reform which the Congress started years ago. We've already started the ball rolling in several areas and will be adding to them.

OFFICE OF FEDERAL PROCUREMENT POLICY

I don't have to tell you that the number one task to be accomplished right now is to create—by law—a central Office of Federal Procurement Policy, the linch pin and the fulcrum for more specific statutory and regulatory reform that will follow.

It would be nice if, by this time, all the concerned parties would be in agreement with the Commission's conclusion that the OFPP is an essential prerequisite for overhauling procurement.

But, as you know, that's not the case.

When legislation was considered to establish a Procurement Commission in the first place, back in 1969, spurred by Congressman Chet Holifield the Father of the Commission, the Department of Defense stated that the Commission studies would unquestionably result in an objective overview which could provide a basis for further improvement.

Apparently, when it comes to the Commission's #1 recommendation on how to *achieve* that further improvement, the Department of Defense, and Office of Management and Budget along with them, have had some second-thoughts.

Quite frankly, I don't believe that the Defense Department has given much thought to *why* they should oppose the legislation *or* given much attention to the provisions of the bill that are designed to protect the legitimate interests of the procuring agencies.

The OFPP is clearly constituted to focus its attention on the Government-wide direction of Federal procurement, *not* to be an investigatory body or an appeals court for the individual actions and contracts of the executive agencies. Specific language in the bill should have dispelled any misunderstanding on this score by now.

The fact remains that procurement reform is sorely needed. The problems are there, wasting money every day and they are not just Defense Department problems, they are Government-wide problems that Defense couldn't solve if they wanted to. A central procurement authority, with statutory backing is what is needed, and nothing less will do any more than massage the status quo.

All these considerations make me confident that, with the strong leadership of Chet Holifield in the House, we are going to have procurement legislation out of the Congress this year. The arguments are simply too strong. They're based on one of the most thorough jobs of legislative history the Congress has put together in any area. And we're not just preaching to the choir. You know action is well-founded when you gain bipartisan support from men like Senators Jackson and Muskie; Percy and Javits; Roth and Brock; Nunn and Huddleston; and others who have joined in co-sponsoring the legislation in the Senate.

If we don't have OFPP legislation now, if we become lulled by the constant drone of the executive branch chanting that all we have to do is wait and see, then we condemn reform to another Congress, another time, another year, and once again we abdicate to administrative powers.

BUDGET REFORM: S. 1414

Another example of positive Congressional action is the current move for budget reform, to modernize the way the Congress controls Federal spending and the way it sees to it that spending effectively meets public needs. Here, too, procurement reform enters because, in essence, the government's ability to meet public needs hinges on buying the goods and services in the most effective and economical way.

Budget reform legislation should reach the Senate floor soon and a bill derived from the Procurement Commission's analysis of major systems acquisition, S. 1414, will be considered.

Ever since I served on the Commission, I've been struck by the message developed in that part of the report, not just in terms of Defense Department weapon programs but in terms of organizing modern programs to meet national needs across the board.

New programs don't spring full-blown from executive agencies or from legislation. There is a natural evolution of steps: establishing the need for a new problem in the first place; exploring alternative approaches; choosing a preferred approach; and program implementation.

All of these steps are crucial to program success and budget control. If Congress can't review and judge the first two, it's been futile to try to control the last two. Only 5 percent of the program cost may be spent early but it determines how the remaining 95 percent will be used.

The most effective way to control program funds is to control the early steps which lock in the levels of spending that Congress becomes concerned with later. From weapons to social welfare programs, Congress becomes locked-in by not having a clear chance to confirm needs, goals and the search for alternatives.

The legislation will require that information come to the Congress at all stages of program development—from the time the goals are set and while alternative means of achieving those goals are being explored. This will be the first time the Congress will receive such information on a regular basis for all agencies, all programs before they are committed.

This is absolutely essential for achieving Congressional control of the budget and to stimulate the widest possible application of new technology to meet program goals. Without this type of information, the agencies come to the Congress with pre-cooked solutions and programs that are already under way and pre-determined in all their essential characteristics.

On top of this program control information, the legislation would also link all programs and program goals to human needs and national priorities rather than government agencies. I think it can be a major step in making our government efforts more visible to the public and more manageable for the Congress.

FUTURE PLANS

Over the coming year, we hope to broaden the agenda for procurement reform to go beyond the OFPP and budget reform legislation that has already moved out of Committee to the Senate. At the present time, I would like to plan to lay the groundwork for:

1. Consolidating the maze of procurement statutes that have grown up on the books over the years;
2. Clearly defining the government's policy of reliance on the private sector for goods and services.
3. Implementing the recommendations of the Commission that deal directly on major systems acquisition;
4. Clarifying the distinction between contracts, grants and cooperative agreements; and finally
5. Passing legislation on specific statutory changes that can gain immediate dollar savings, such as multi-year leases of automatic data processing equipment.

CONCLUSION

I can't help having it come to mind that perhaps the most important aspect of this movement toward reforming the procurement process is bolstering the confidence the American people have in their government which, I don't have to tell you, has reached an all-time low.

Quite aside from the assault on public confidence to come out of this administration and the series of shocks that have come under the Watergate heading, there's been, over the years, a record of questionable procurement transaction that has undermined the confidence of the American people in the way their governemnt spends their money.

This is why I can say, as a former Commissioner, emphasis should be placed on the Procurement Commission's conclusion that perhaps one of the largest benefits that would accrue from over-hauling procurement would be a reestablishment of public confidence in the process.

To my mind, just this reestablishment of public confidence is reason enough to move foward, not tomorrow, not after more studies, but now. I appreciate the valuable contributions that each of you are making to help see change in procurement become a reality and appreciate also the chance to be with you today.

Thank you.

THE PROPOSED CONSTITUTIONAL AMENDMENT TO LOWER AGE REQUIREMENT FOR CONGRESS

Mr. THURMOND. Mr. President, recently Mr. Karl Rove, who is chairman of the College Republican National Committee, made a statement in favor of a constitutional amendment to lower the age of eligibility for membership in the two bodies of the Congress.

Mr. Rove is a junior at George Mason University, and recently left the office of Congressman Richard Mallary, of Vermont, where he served as legislative assistant. He is now special assistant to the Republican National Committee chairman, the Honorable George Bush. Mr. Rove is the youngest person ever to become a member of the Republican National Committee.

Mr. President, I ask unanimous consent that Mr. Rove's statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Testimony of Karl Rove

Mr. Chairman: My name is Karl Rove and I serve as chairman of the College Republican National Committee, the student auxiliary of the Republican Party. The College Republican movement, organized in all fifty states on over 1,000 campuses, is the nation's largest student political group with over 150,000 members. From its ranks have come many of the young leaders of the Republican Party including Congressman Bill Steiger of Wisconsin, a former national chairman.

I appreciate the opportunity to testify today in support of S.J. Resolution 5, which proposes a Constitutional Amendment to lower the age of eligibility for the House of Representatives from 25 to 22 and the age of eligibility for the United States Senate from 30 to 27.

Unlike other portions of the Constitution, the age clauses did not inspire lengthy exchanges in the Constitutional Convention of 1787 or the Federalist essayist published in the New York papers during 1787–1788.

The only direct reference to the age requirement came on June 22, 1787 during action by the Constitutional Convention on a resolution dealing with the House of Representatives.

George Mason of Virginia, after whom my college, George Mason University, is named, proposed an amendment adding "twenty-five years of age as a qualification for members of the first branch." In the records of the Convention, Mason is quoted as saying that he "thought it absurd that a man today should not be permitted by the law to make a bargain for himself, and tomorrow should be authorized to manage the affairs of a great nation.

It was the more extraordinary as every man carried with him in his own experience a scale for measuring the deficiency of young politicians; since he would if interrogated be obliged to declare that his political opinions at the age of 21 were too crude and erroneous to merit an influence on public measures. It had been said that Congress had proved a good school for our young men. It might be so for anything he knew but if it were, he chose that they should bear the expense of their own education.

Mason was answered by George Wilson, who argued that he "was against abridging the rights of election in any shape. It was the same thing whether this were done by disqualifying the objects of choice, or the persons choosing. The motion tended to damp the efforts of genius, and of laudable ambition. There was no more reason for incapacitating youth than age, when the requisite qualifications were found."

Mason's amendment was carried that same day by a vote of seven states to three, with one, New York, divided.

There is no discussion at all concerning the age requirement of thirty for membership in the Senate.

The Federalist Papers contain only a few oblique references to the necessity for a high degree of maturity in the representatives of the people.

Mason's arguments have not stood the test of time. Where once the legal age of majority—the ability to enter into contractual agreements and be classified as an adult in legal proceedings—was almost uniformly pegged in state statutes at twenty-one years or more, today only nine states have a legal age of majority greater than 18. This coupled with the recent enfranchisement of 18, 19, and 20 year olds, is a general recognition that America's young are mature enough to shoulder the burdens of citizenship.

It seems strange at the same time we are extending the franchise and lowering the age of majority because of a recognition of the maturity of young people, that the Constitutional age requirements for Congress are retained. The retention of these requirements is a further abridgement of the "rights of election" that Wilson refered to.

The Constitutional Amendment proposed by Senate Joint Resolution 5 would be a signal that the Constitution is not an arbitrary document, constructed for a time and a set of circumstances long past, but instead capable of rational change.

Karl Rove, chairman of the College Republican National Committee, is the youngest person ever to be a member of the Republican National Committee. Prior to his election as chairman, he served as CRNC Executive Director.

Rove, a junior at George Mason University, recently left the office of Congressman Richard Mallory of Vermont, where he served as Legislative Assistant to the Congressman. He has taken on the job of Special Assistant to Republican National Committee Chairman George Bush.

The following is the testimony given by Mr. Rove before the Senate Joint Subcommittee on Constitutional Amendments.

NOAA REDUCED PRICES FOR MANY AERONAUTICAL CHARTS

Mr. HOLLINGS. Mr. President, this is an unusual occasion. As chairman of the Commerce Subcommittee on Oceans and Atmosphere, I have a deep interest in the National Oceanic and Atmospheric Administration. I am convinced that this Nation must turn to the oceans increasingly in the years to come, and that we have made our beginnings none *too soon*. I am pleased to have played a part in the development of NOAA, and I watch its performance and its problems closely and continually.

One of the finest organizations within this Commerce Department Administration is the National Ocean Survey, which began its life in 1807 as the Survey of the Coast, at the instigation of President Thomas Jefferson.

Among the Survey's mission is the mapping and charting of our oceans, coastlines, and airways. These charts are indispensable to shipping, to exploration, and to aviation.

In these inflationary days, I take no little pleasure in calling to your attention an announcement of February 18 by the Survey that the prices of many of its charts have been reduced, and I ask unanimous consent that it be printed in the Record.

There being no objection, the announcement was ordered to be printed in the Record, as follows:

NOAA Reduces Prices for Many Aeronautical Charts

A price reduction for many government aeronautical charts was announced today by the U.S. Department of Commerce.

The cuts, which range from 2½ to 41 percent, are in the charts produced by the National Ocean Survey, an agency of the Commerce Department's National Oceanic and Atmospheric Administration. A 50 percent reduction was also announced in the $4 price of bathymetric nautical charts of ocean bottom topography.

The price reductions are in subscriptions for aeronautical instrument navigational charts, primarily radio facility and instrument approach procedure charts. The instrument charts make up about 80 percent of the 35 million aeronautical charts sold each year by this government agency.

The price reductions follow several years of substantial price increases in navigational charts. The law requires that prices charged for charts cover printing and distribution costs. The price cuts were made possible by the institution of more efficient printing, finishing, and distribution methods, said Frederick O. Diercks, head of the National Ocean Survey's Office of Aeronautical Charting and Cartography.

The price reductions in subscriptions ranged from 25 cents for some high altitude radio facility charts to $17 for the Instrument Approach Procedure Charts for the conterminous (48) United States. The price cuts for the Radio Facility Chart subscriptions ranged from 2½ to 26 percent and those for Instrument Approach Procedure chart subscriptions from 7 to 20 percent.

The reductions covered all Radio Facility Chart subscriptions for enroute conterminous United States charts and all Instrument Approach Procedure Chart subscriptions. A 20 percent reduction was also announced in the price of Standard Terminal Arrival Route Chart subscriptions.

The new price list, which is issued annually, also included a 41 percent reduction for the Standard Instrument Departure Chart subscription for Alaska. Those for the coterminous United States were increased 16 to 20 percent

Prices for aeronautical Visual Navigation Charts remained unchanged, as did those for nautical charts, with the exception of the bathymetric charts.

Copies of the new price list can be obtained from the Distribution Division (C44), National Ocean Survey, Riverdale, Md. 20840.

CHAOS IN THE CALIFORNIA-ARIZONA CITRUS INDUSTRY

Mr. FANNIN. Mr. President, I would like to point out to my colleagues how an unjustifiable and unreasonable decision of the Cost of Living Council has caused chaos in the California-Arizona citrus industry.

Mr. President, this action goes beyond mere bureaucratic bungling and points up a very serious problem which confronts all of us in both houses of Congress today. That problem is the manner in which the Congress can keep the administrative branch of Government from expanding its role when there is no statutory authority to support the administrative action being taken.

A case in point is the Cost of Living Council. It has, without statutory authority, determined that it will eliminate marketing orders in existence pursuant to the Agricultural Marketing Agreements Act of 1937, as amended. Dr. Dunlop has determined that he does not like marketing orders and therefore he personally will repeal this act of Congress. He is well on his way to succeeding.

Farmers producing navel oranges in my State of Arizona and in California have done so for the last 25 years pursuant to a marketing order for navel oranges which they voluntarily adopted. This has enabled these farmers to supply good fresh navel oranges to consumers over a 6-month period.

Dr. Dunlop has determined to bring about the practical end of the navel orange marketing order. His actions in setting arbitrary and unreasonable shipment rates have resulted in totally disrupting the marketplace. The actions taken by the Cost of Living Council have forced the f.o.b. price level for a carton of navel oranges to approximately $3.40. This compares with the growers' cost of producing that carton of oranges of $3.54 to $3.66. In other words, the growers are being forced to sell their oranges at a loss which amounts to approximately $750,000 per week on an industry basis. There is absolutely no justification for this since there has been no corresponding significant decline of the retail price for navel oranges.

In addition, the disruption of the navel market through surplus supplies has virtually eliminated the domestic market for early valencia oranges produced in Arizona. Growers in Arizona report to me that there is no demand and approximately 3 weeks supply back up in the packinghouses.

It can be clearly seen from this that Dr. Dunlop's actions have caused growers to lose considerable sums of money which eventually may lead to reduced supplies which will lead to higher prices. At the same time farmers are being forced to sell their goods at below cost, consumers are being required to pay the same price for navel oranges. This means that someone in the middle is making an increased profit thanks to the Cost of Living Council. This is totally unjustifiable.

This action becomes even more unjustifiable when the Cost of Living Council admits that it has no statutory authority to interfere with the operation of the marketing order. We must all be certain to see that the Cost of Living Council will exist no longer than April 30 when its statutory power expires. Then we must be certain that it is promptly abolished.

THE LATE ADM. LEWIS STRAUSS

Mr. THURMOND. Mr. President, in January of this year, the United States lost an outstanding citizen in the death of Rear Adm. Lewis L. Strauss, former Chairman of the Atomic Energy Commission.

Admiral Strauss had a long and successful career which was highlighted by his expertise in high finance, as well as many years of dedicated public service. He was born in Charleston, W. Va., but grew up and attended schools in Richmond, Va., and was too poor to attend college. He became vice president of his father's shoe company and moved from there in 1917 to work for 2 years as Mr. Herbert Hoover's secretary. At that time, Mr. Hoover was U.S. Food Administrator and Chairman of the Commission for Relief of Belgium.

In recognition of his demonstrated capability, he was appointed a member of a U.S. Delegation for the Commission to Negotiate Peace, which ended World War I. Afterwards, he became a member of the U.S. Delegation to the final Armistice Convention in Brussels.

In 1919, he joined the banking firm of Kuhn, Loeb & Co. of Wall Street and rose in that company to become a partner, as well as a member of the board of directors of many prominent business firms.

Since he was a member of the U.S. Naval Reserve, he was called to active duty in 1941 to serve with the Navy's Bureau of Ordnance in World War II. He had a distinguished war career and was given many decorations, which included three awards of the Legion of Merit—two by the Navy and one by the Army. He also received a number of awards from foreign governments.

After President Eisenhower was elected, Mr. Strauss became a Special Assistant to the President, and in 1953 was confirmed for a 5-year term as Chairman of the Atomic Energy Commission. In recognition for his outstanding service in that high post, he was given the Medal of Freedom in 1958.

Admiral Strauss was an unusual man who rendered distinguished service to his country. He was public spirited, patriotic, and set an example of devotion to country that should be emulated by his fellow Americans. He was a man of great accomplishment, impeccable honor and his service to his country should never be forgotten.

Mr. President, I ask unanimous consent that an article by Richard Slusser which appeared in the Washington Star-News on January 22, 1974 be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ADM. LEWIS STRAUSS DIES; FINANCIER HEADED THE AEC

(By Richard Slusser)

Rear Adm. Lewis Lichtenstein Strauss, 77, a former chairman of the Atomic Energy Commission, died of cancer yesterday at his home in Brandy Station in Virginia's Culpeper County.

Mr. Strauss—pronounced "Straws"—for many years was a partner in a leading Wall Street banking house. He first was appointed to the then-new five member AEC by President Truman in 1946.

In 1959 the Senate rejected Mr. Strauss as Eisenhower's nominee for Secretary of Commerce, an event that was one of the leading political incidents of the Eisenhower years. He was the eighth Cabinet nominee rejected by the Senate in U.S. history.

Mr. Strauss was born in Charleston, W. Va., but grew up and attended schools in his parents, native Richmond, Va. His father was president of a wholesale shoe company and his mother was an artist.

He became interested in the new field of radioactivity while reading a high school physics textbook and wanted to be a physicist, but could not afford to attend college. He became a salesman and then vice president of his father's company.

From 1917 to 1919 Mr. Strauss was secretary to Herbert Hoover, then the U.S. food administrator and chairman of the Commission for Relief of Belgium, in relief operations in Belgium and elsewhere overseas.

In 1919 he was a member in Paris of the U.S. delegation of the Commission to Negotiate Peace, ending World War I. Later that year he was a member of the U.S. delegation to the final armistice convention in Brussels.

While in Paris he was offered a job by the head of Kuhn, Loeb and Co. of Wall Street and returned to the United States later in 1919 to join the firm.

From 1929 to 1941 he was a partner of Kuhn, Loeb & Co., as well as a director of the United States Leather Co., Hudson-Manhattan Railroad Co., Commercial Investment Trust General American Transportation Corp., United States Rubber Co. and other corporations. He began active support of research in nuclear physics in New York and California in 1938.

A member of the Naval Reserve, Mr. Strauss was ordered to active duty in early 1941 as a lieutenant commander. He organized the inspection service for Navy ordnance originated a plan for consolidation of all Navy inspection, and conducted an ammunition survey for an undersecretary of the Navy.

Mr. Strauss also was principal staff assistant to the chief of the ordnance bureau of procurement and materiel; he was in charge of formulating policies for contract termination. He was appointed as the Navy member of the executive committee of the Army-Navy Munitions Board.

Mr. Strauss also participated in the development of certain secret ordnance items, and made inspection tours of ordnance performance under combat conditions in the Pacific theater.

In 1945 he became the Navy's member of the Interdepartmental Committee on Atomic Energy and was nominated by Truman and confirmed in the rank of rear admiral, one of the few Reservists to attain flag rank.

His decorations include three awards of the Legion of Merit—two by the Navy and one by the Army. He received many awards from foreign governments.

After Eisenhower's election, Mr. Strauss became a special assistant to the president in 1953 and was confirmed that June for a five-year term as chairman of the AEC.

He retired at the end of the term and in October 1958 received the interim appointment as secretary of commerce, succeeding Sinclair Weeks.

Aside from being a rarity, the Senate rejection also was unusual because Mr. Strauss had been a public servant of unquestioned integrity for many years. No one had thought Mr. Strauss would have difficulty in being confirmed.

The principle that appeared to weigh most heavily in the outcome of the tight confirmation vote was that of executive privilege and the extent to which it had been abused by Mr. Strauss, in the eyes of his critics, in his relations with Congress. He stood accused—and in the vote convicted—of "deceit and deception" of the legislative branch.

Lyndon B. Johnson, then Senate majority leader, and other senators were antagonized by lobbying by high Eisenhower administration figures.

Many senators were against Mr. Strauss' advocacy of public power as against private power during the Dixon-Yates controversy and opposed him because he had withdrawn the security clearance of nuclear physicist J. Robert Oppenheimer in 1954.

Two Republican senators, William Langer of North Dakota and Margaret Chase Smith of Maine, cast decisive votes in the balloting in which Mr. Strauss was rejected by 49 to 46.

In 1958 President Eisenhower awarded Mr. Strauss the Medal of Freedom.

He leaves his wife, the former Alice Hanauer; a son, Lewis H., of Bethesda, and three grandchildren.

Services will be held in New York.

LAW OF THE SEA: ENERGY, ECONOMY SPUR SECRET REVIEW OF U.S. STANCE

Mr. HOLLINGS. Mr. President, the U.S. Government will sit down at the bargaining table in June of this year to begin substantive work on a new Convention on Law of the Sea, an international treaty which will govern the more than 70 percent of our planet which is composed of the sea. The meeting in Caracas, Venezuela, will be important to every man, woman, and child in the United States. The reason is that we as a nation are looking ever increasingly to the oceans to supply us with energy and materials to meet our future needs. The potential for good and harm exist to a great degree at this stage of our negotiations in Law of the Sea. Recently, Science magazine published an article entitled, "Law of the Sea: Energy, Economy Spur Secret Review of U.S. Stance," by Ms. Deborah Shapley. The article points out, correctly I might add, that there has never been a thorough examination of the economic issues involved in our current posture toward law of the sea. I commend this article to the attention of all my colleagues who are concerned about the ability of our Nation to have access to the minerals and resources of the sea and seabed.

Mr. President, I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LAW OF THE SEA

At the urging of the Treasury Department, U.S. officials preparing for the United Nations Law of the Sea conference are conducting a drastic reassessment of previously stated United States positions on issues ranging from offshore oil and gas development to international environmental policy.

The classified studies, begun last April, can best be described as an eleventh-hour reexamination of what this country stands to gain or lose economically in the conference. Officials close to the review acknowledge that it has been spurred in part by concern over the energy situation and the economic instability that has accompanied it.

This June, substantive negotiations toward an international treaty will get under way in Caracas; in fact, the Law of the Sea conference officially opened with an organizing session in New York last December. The reviews are looking at the stances put forth by the United States in preliminary negotiating sessions in New York and Geneva during the past 3 years.

The intense new examination of the economic and energy aspects of the Law of the Sea is said by several sources to have been urged principally by Treasury Secretary George Shultz and William E. Simon, Shultz's deputy secretary and the Administration's new energy czar. Officials stress that the reviews are not intended to scrap present U.S. negotiating positions and could merely turn into an exercise in "filling in the blanks" in these positions. But they do not rule out the possibility that, after close analysis, some tenets in the U.S. position could be discarded.

The Law of the Sea conference, if successful, will resolve fundamental questions of national and international jurisdiction in the oceans. The conferees are expected to extend the territorial sea, which is that narrow band of ocean along the shoreline over which the adjacent country has complete control, from 3 to 12 miles. Doing this, however, would place under purely national control approximately 100 straits which the United States deems vital to its military and commercial interests.

The U.S. position has favored the 12-mile territorial sea only on the condition that those straits remain open.

In addition, the conference will attempt to reach a balance of national versus international rights in a wider offshore area that would be called the "coastal economic zone." This zone would start at the outer edge of the territorial sea, and extend to some still undefined limit—perhaps 200 miles offshore, perhaps to the edge of the continental shelf. The extent of coastal nation control over oil and gas resource exploitation, fishing, and scientific research is a major issue, since these zones are believed to contain most of the wealth of the world's oceans. Finally, the Law of the Sea conference will have to decide how to regulate pollution, fishing, and seabed mining in the fully international waters beyond the coastal economic zone.

The United States has tried to assume a role of world leadership in the conference since 1970, when it proposed a draft treaty for discussion. The draft, in the words of one expert, represented what was thought then to be "the best possible deal" for the developing countries, which constitute a majority of nations. Some of the provisions that were regarded as benefiting these nations, and thus came to be characterized as "internationalist," included two U.S. proposals: one, for a strong organization to control the international seas; and so-called revenue-sharing proposals that would spread the income from ocean activities among all nations. The draft treaty also tried to minimize coastal state control over the offshore economic areas—thus giving other nations more access to them—through a complicated "trusteeship" arrangement that has since been dropped.

Since 1970, these so-called international proposals have been gradually eroded by the twin forces of militant nationalism among the developing countries—many of which are coastal states—and bickering among affected U.S. industries and government agencies.

The current Treasury-inspired economic reviews are part of this ongoing evolution, and ultimately they could help kill some of the remaining "internationalist U.S. positions. For one thing, the reviews are reconsidering the feasibility of international revenue sharing. For another, they include the question of whether a strong international organization supervising development of seabed minerals is in the U.S. economic interest. Questions like these, coming only a matter of months before the Caracas meeting, have clearly angered veteran officials who are dealing with the U.S. role in the conference. "I think they're grossly incompetent and ill-informed," one official said of some Treasury reviewers. "They really didn't understand the kinds of things that went on in the last 3 years. When they jumped in, it turned into an education program for Treasury."

But other sources say that, in all the years of preparation, the government has never taken a hard look at the economic impact of the proposals of the United States and of other countries. Such a review, they say, is needed, especially in view of the energy situation. "We're looking at questions which just haven't been asked," said one official. "Let's face it. The world is not the same as it was in 1970."

According to sources both in and out of the Treasury, Shultz, Simon, and deputy assistant secretary Howard Worthington became aware in March of the possible economic problems that could arise from the Law of the Sea conference. They then succeeded in obtaining a place on the key steering group for the U.S. delegation, the executive committee of the 100-man Interagency Task Force on the Law of the Sea. The one Treasury lawyer who had been working with the big task force was reassigned to other, unrelated duties. Treasury then appointed four economists to work full time on Law of the Sea, and three administrators to work part time.

The reviews themselves were ordered as a result of an early summer meeting of the committee that arbitrates interagency disputes on Law of the Sea matters, the Undersecretaries' Committee of the National Security Council. In addition to Treasury participation, the Council of Economic Advisers, Peter Flanigan's Council on International Economic Policy in the White House, and the Office of Management and Budget are said to be involved. Also, some outside academic economists have contributed along with specialists in other federal agencies.

At first the studies were conducted publicly, like many other projects generated in connection with the conference. But sometime during the summer the chairman of the interagency task force, John N. Moore of the State Department, decided they should be classified.

One of the major issues being studied is the question of how the Law of the Sea conference could affect future U.S. energy supplies. A central dispute concerns the amount of control a nation will have over development of the oil and gas resources within the proposed coastal economic zone on the continental shelf. Although only a handful of nations have continental shelves extending beyond 200 miles, most nations, as a matter of self-interest, favor a coastal economic zone boundary of 200 miles offshore. The United States, whose continental shelf is even wider in some places, has remained ambivalent as to whether it favors a 200-mile limit or one including the entire continental shelf. Meanwhile, the Soviet Union favors an economic zone limit at a water depth of 500 meters or to a distance of 100 miles—a proposal that would favor the Soviet Union but few other countries. Some nations favor a much narrower economic zone limit—for example, one extending to only 40 miles, which would leave as much as 60 percent of the estimated offshore oil and gas reserves in international waters.

According to a recent United Nations study, the U.S. continental shelf is estimated to have approximately 400 billion barrels of potentially recoverable oil, or as much as ten times the proven reserves of the United States and three times those of Saudi Arabia. Under many of the proposals before the conference, some of those U.S. reserves could go to other nations—either through direct exploitation or through international sharing mechanisms. These are the kinds of questions under review.

A further complication is the issue of what would become of the income from offshore oil and gas development. In 1970, U.S. officials mentioned—but did not formally propose—that as much as 50 to 60 percent of the revenues from ocean resource development be directed to developing countries, in accord with the principle that the ocean's resources are the "common heritage" of mankind. Since then, U.S. officials have avoided naming percentages, but have continued to back the revenue-sharing proposal in principle.

Revenue sharing also enters into negotiations because the United States and several other countries have said that they favor some revenue sharing from deep seabed mining activities. Although the preliminary negotiations have focused on what kind of international organization should license deep-sea development and divide up the spoils, the current economic reviews are said to be looking at revenue sharing. Treasury officials are said to be skeptical of the concept's feasibility, and to be trying to figure out how much revenue might be involved.

Should it conclude that the notion is unsound, the United States may have jettison an important element of its position in the conference. Hitherto the revenue-sharing proposals have helped the U.S. in its role as purported world leader; moreover, they are a bargaining chip in dealing with some developing countries who, under revenue sharing, would stand to benefit.

The list of other issues involved in the Law of the Sea is long, and the present economic review is said to cover many parts of it. Fisheries and environmental questions are said to be included. Military considerations are said not to be. Officials would neither confirm nor deny that scientific research—or some aspect of the U.S. position on that issue—is included in the reviews.

Even if the current interest of Shultz and Simon in the Law of the Sea ends with the economists altering existing U.S. positions, the reviews will have achieved one other thing. The architects* of the new Federal Energy Office, set up in response to the fuel shortage, were sufficiently aware of the conference to include a Law of the Sea office among those reporting to the FEO's Assistant Administrator for International Policy and Programs. This is a contrast to the other agencies concerned with sea law: even in the State Department, those working on the meeting operate out of a temporary branch of the legal affairs office. By and large, in other agencies, those involved are on a temporary assignment, on loan from some other, permanent office.

A less concrete but perhaps more important result of the recent burst of activity spurred by Shultz and Simon is that, in the course of it all, both these officials got their feet wet on oceans issues and became interested in the conference outcome. Even those bureaucrats who grumble about the new entrants concede that the review exercise has also drawn attention to the conference in their own agencies. "They [Treasury] took it to the top, and in the long run that will bring Law of the Sea to the attention of the other Secretaries." Among them is Henry Kissinger, who, so far, is said to have paid little attention to Law of the Sea matters.

REQUEST THAT GAO LOOK INTO PRODUCTION OF GAS AND OIL FROM PUBLIC LEASES

Mr. ROTH. Mr. President, recent reports that the oil and gas industry are withholding the production of gas and oil from public lands are serious, disturbing, and require investigation. For instance, a story in the Wilmington Evening Journal reported that 900 wells are being kept out of production in the Gulf of Mexico, reputedly one of the richest natural gas producing areas in the world. I feel that these allegations must be investigated and that we must get at the truth.

It is important from the standpoint of the credibility of our entire energy program and the peace of mind of our citizens that we determine the facts. If these reports are untrue, they should be publicly refuted by an objective authority. If an investigation by such an authority shows that there is even some truth to the disturbing things we read and hear, then this becomes a most serious situation and corrective measures should be taken immediately.

It would be morally wrong for any oil or gas company to hold back on the production of oil or gas from public lands with the expectation of higher prices. Should this be the case in any instance, the company involved should be ordered to begin production immediately. A penalty for refusing to comply should be cancellation of the lease.

To get to the bottom of the matter, I am taking steps to obtain answers to a number of very important questions raised by the current reports about the withholding of production from the public domain by oil and gas companies. I have today requested and gotten the agreement of the Government Accounting Office to obtain answers to the following questions and to report back to me as quickly as the information can be gathered:

First. What provisions are currently contained in the regulations and leases requiring development of the lease within a certain time frame, and production of oil and gas by the lessee?

Second. What are the number of nonproducing leases and acreage involved, royalties paid on the production in cash or in kind during 1972, and bonus and rentals received?

Third. What are all leases producing in calendar year 1973 and the amount of oil and gas produced by each in that period?

Fourth. What are the number of shut-in oil and gas wells on public lands and what are the reasons for the shut-ins?

Just as soon as this information is obtained, I will ask the Congress to take appropriate action to protect the rights of the American public and to be sure that they are being treated fairly and equitably in both the leasing of the public domain and in assuring the production and distribution of any oil and gas discovered.

I ask unanimous consent that this story from the Wilmington Evening Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WELLS IN GULF IDLE IN WAIT FOR PRICE INCREASE

(By Al Kramer)

The nation's oil companies are keeping hundreds of wells shut down in the natural gas-rich Gulf of Mexico while spending millions to advertise claims they are working overtime to end the fuel crisis.

The advertising is one of the most intensive campaigns ever waged by the industry and is aimed at countering public reaction to huge oil company profits at a time when consumers are waiting in long lines to pay record high prices for gasoline—when they can find it.

The main thrust of the advertising is that astronomical profits are needed by the industry in order to finance the costly development of new fuel sources.

But behind this advertising barrage is the fact the industry is keeping at least 900 wells out of production in the Gulf of Mexico, one of the richest natural gas-producing areas in the world.

The total number of closed wells may be much higher, possibly running into the thousands. This is because of a loophole in the federal law on reporting them.

The industry term for these wells is "producing shut-in." This means that a well has been drilled and found able to produce gas in commercial quantities but instead has been capped.

Oil companies are only required to report shut-in wells by a block system. Each block represents 5,000 acres of their federal domain oil leases. Each block is considered a single shut-in whether it contains one or several non-producing wells.

Why are oil companies keeping this gas from the market at a time when it is desperately needed to ease the energy crisis?

The answer is simple: They are holding out for higher profits.

David S. Schwartz, veteran economist with the Federal Power Commission (FPC), has put it this way in testimony before Congress:

"There are strong indications that the present gas supply shortage is related to speculative anticipation of significantly higher prices for producers and they are pursuing a strategy of aggravating the current shortage in order to create pressure for deregulation."

Schwartz says his views are personal and do not necessarily reflect the view of the Federal Power Commission.

The American Petroleum Institute, spokesman for the industry, calls charges oil companies are keeping wells shut to drive up prices "unfounded."

It cites a U.S. Geological Survey (USGS) report giving reasons for the shutdowns. The institute also claims companies who fail to produce within a time limit can have their federal leaves revoked.

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*Among whom were Shultz and Simon.

But the reasons given in the USGS study are provided by the industry without details. The most common reason was temporarily abandoned—a reason given without explanation. Other reasons cited problems generally considered easy to solve in the industry.

And the time limit for production isn't very confining. A company has five years to drill a well and can get an almost automatic five-year extension.

The FPC regulates the price of natural gas. Schwartz and many other observers believe the day oil companies get the power to put through whopping price hikes those shutdown wells will suddenly begin gushing.

The Nixon Administration is pushing hard for legislation that would end FPC regulation of the natural gas industry and "free" the wellhead price of gas.

What would this mean to the consumer? Schwartz figures a price increase along industry lines would hike the cost of natural gas to the nation's users from $4.5 to $9 billion a year.

Most observers believe the industry wants a blastoff in natural gas prices until oil companies are able to reap the same towering profits from it as from other fuels.

The nation's major consumer groups are bitterly opposed to ending regulation.

So is Schwartz. "It's one thing for the industry to rape the public but it's another thing for it to ravage the public," he says.

Natural gas is the only part of the oil industry long regulated by the government. The regulation has always rankled and the industry fought it hard.

The oil industry has constantly complained that federal regulation has kept the cost of natural gas artificially low. So low, in fact, that it hasn't been profitable to explore for it and develop it.

But the facts don't do much for the industry's case.

Between 1963 and 1972 the ceiling price for raw natural gas supplies went up by 40 per cent.

And a recent decision by the FPC set an industry return on investment of 15 per cent. This took into consideration the cost of exploring, developing and producing natural gas and included an allowance for dry holes—wells that are drilled but produce nothing.

In comparison, passbook savings—the kind of bank account most average persons have—are limited by federal law to a 5 per cent return on investment at commercial banks and 5.25 per cent at savings institutions.

On top of this, Schwartz points out, the oil industry has developed a technique for jacking up the cost of natural gas.

The FPC only has the power to set gas prices in interstate sales. But it must take into consideration the price of gas sold and used inside a single state in setting the cost for interstate sales—and this forces the cost up even further.

Major producers pay higher prices for gas purchased in states such as Louisiana or Texas, often from firms they have close ties with. Then they use these costs to demand higher prices for interstate sales.

Nobody but the oil industry knows exactly how big an impact the shutdown of natural gas wells has had on the nation's energy crisis. That's because only the industry has the detailed information that can tell the full story, says Schwartz.

But one thing is certain. It has to be big.

There are 838,000 acres of federal domain oil and gas leases in the Gulf of Mexico that are idle—classified as producing shut-in.

Oil companies paid nearly $1.5 billion for those leases, a sure indication they expected them to be highly productive and return a sum far higher than their investment.

Someday, that is,

Right now the natural gas on those leases is just sitting there. Waiting.

The relationship between oil companies holding leases is closer than between families at a Cosa Nostra wedding. That's why it's impossible to single out individual companies as behind the move to keep natural gas from the market.

Here, for example, is how it works: Atlantic-Richfield has 94 producing federal offshore leases in the Louisiana area, but owns only three of them independently. In the others its partners are Cities Service, Getty, Continental, Tenneco, Standard Oil of California and El Paso Gas.

Cities Service has 101 leases, owns only one independently. Its partners are Atlantic Richfield, Getty, Continental, Mobil, Tenneco and Standard Oil of California.

Meanwhile, Getty has 100 leases, owns two of them independently. Its partners are Atlantic Richfield, Cities Service, Continental, Mobil, Tenneco, Standard of California, Phillips and several smaller companies.

The pattern remains the same for the rest of offshore holdings in the Gulf. It has also seen, in recent years, the largest share of lease sales go to a handful of the biggest companies.

This pattern, along with the fact major producers have interlocking relationships with pipelines, proves a virtual monopoly exists in the industry, according to Schwartz.

Schwartz agrees with a call in Congress for creation of a federal petroleum corporation that would explore for and develop oil and natural gas on government-owned land.

He would also like to see the present cash bid system for buying oil leases, that allows giant companies to squeeze out smaller competitors, changed to a system where lease buyers would pay a royalty based on production.

Natural gas should be providing a brighter side to the energy crisis.

A conservative study shows that the nation has enough potential reserves of natural gas to meet increasing demands for 32 years. A U.S. Geological Survey report puts the figure at 65 years.

But for the moment much of that gas is going to stay put while oil companies push for a price that will bring them a lot higher profit than 15 per cent.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it seems strange that a nation, so dedicated to the strengthening of human rights as ours, can be hesitant in affirming that dedication in action. Yet the International Convention on the Prevention and Punishment of the Crime of Genocide has been awaiting ratification by this body for some 25 years.

The convention makes the intended destruction, in whole or in part, of national, racial, ethnic, or religious groups an international crime; and it further provides for the punishment of those convicted of genocide. Since its unanimous adoption by the General Assembly of the United Nations in 1948, 75 nations have become parties to the treaty. It is a treaty designed to implement the principles of human rights, and yet the United States has not signed it.

Mr. President, we in the United States claim to be believers in human rights. In the words of the late John Kennedy:

> There is no society so advanced that it no longer needs periodic recommitment to human rights. The United States cannot afford to renounce responsibility for support of the very fundamentals which distinguish our concept of Government from all forms of tyranny.

I once again ask my colleagues in the Senate to affirm this belief and advise and consent to the treaty.

PUBLIC FINANCING OF ELECTIONS

Mr. BUCKLEY. Mr. President, in the not-too-distant future, we are going to be asked once again to consider and vote on the question of whether the Federal Government should take over the financing of Presidential, senatorial, and congressional elections in this country. It is my hope that at the time this comes before us we will discuss the possible defects such a drastic change in the functioning of our political system might have on that system itself. In the past I am afraid some proponents of Federal financing have ignored these possible consequences and attempted to get us to accept radical changes without full consideration of the effect those changes might have on our system.

It is encouraging to note that many elected officials are beginning to analyze these proposals in some depth and ask the questions that I feel must be answered before we move into an area that could prove exceedingly dangerous. Representative WILLIAM KETCHUM of California's 36th District raises some of the questions inherent in these proposals in an article printed in the January issue of Battle Line, a monthly publication of the American Conservative Union. Representative KETCHUM's analysis of the difficulties that might be raised by such legislation is well worth reading, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TAXPAYERS BANKROLLING ELECTIONS A BAD IDEA, SAYS REPRESENTATIVE KETCHUM

(Because legislation to finance elections with taxpayer's money will undoubtedly be introduced again this session of Congress, the following facts put out by Republican Rep. William Ketchum of California are of particular interest.)

In my opinion, federal financing of elections will not guarantee honesty and purity in politics. What it *will* do is: (1) greatly assist the re-election of incumbents, (2) lead to marked decrease in voter participation and responsibility, (3) transfer a considerable amount of power over our political process from private citizens to government officials, and (4) upset, perhaps drastically, the delicate balance worked out over 360 years of American political history between the government and the individual, between politicians and voters, between political parties and members of those parties, and between the federal government and the states.

The following are serious difficulties inherent in all of the financing proposals.

1. Centralization of Power. If election campaigns are financed wholly or even in large part from Washington, this will greatly increase the potential power of the federal government.

2. Power Over Minority Parties. Since the amount of money and the rules for apportionment of funds will inevitably be set by the majority party in Congress this will give the majority party considerable power over the funding of the other parties.

3. Discouragement of Third Parties. Most of these proposals would tie the amount of money granted to each party to a formula based on the number of votes that party received in the last election. This would obviously give the party which had a majority at the last election a tremendous advantage over the second party and even more of an advantage over a third party, especially a new party which was not in existence at the last election. This would gravely distort the democratic process . . . to say the least.

4. Discouragement of Challengers and Protection of Incumbents. Since 1954, only 10% of all Members of the House of Representatives who have run for re-election have been defeated. There is no doubt that an incumbent Congressman (or President; since 1912 only one President running for re-election has been defeated, Herbert Hoover) has a great advantage under the present system. As an incumbent, he has already access to the media, the use of the franking privilege to publicize his work, the benefits of seniority, etc. In order to compensate for these natural advantages and to have a chance of defeating an incumbent, a challenger has to start campaigning early and has to spend at least as much in advertising (usually more) to catch up with a well-known office-holder. A system which apportions funds according to the number of votes garnered in the last election amounts to an Incumbent's Re-Election Act.

5. Infringement of Freedom of Speech. An Act which denies a private citizen the right to use some of his money to propagate his political views is simply an infringement of his freedom of speech. It would also be impossible to enforce in practice. There is no Constitutional way in which the AMA, for instance, can be prohibited from advertising its views opposing socialized medicine and thereby indirectly aiding Candidate A who also opposes socialized medicine and hurting Candidate B who wants to fly a Red flag in front of every home. Nor can COPE be prevented from campaigning against what they view as the hated Right-to-Work Law and thereby aiding some candidates and taking votes away from others.

6. Difficulty of Distinguishing Between Cash and Non-Cash Contributions. If the executives of the Wojunk Works, Inc. favor Candidate A and give him a total of $10,000 in contributions, that would be recorded under present law and forbidden under many of the new proposals. However, if the Labor Political Education Committee of Wojunk Works, Inc. rounds up 1,000 of their members who work 20 hours a week manning telephones and distributing leaflets on Candidate B's behalf, that is *not* counted as a "contribution" under present law and would presumably *not* be forbidden in an era of federal financing. As we saw in Point 5, to date would be unconstitutional.

7. Discouragement of Popular Interest and Participation. Americans have traditionally been great "joiners" and have promoted many enterprises (schools, museums, charities, opera houses, sports, etc.) by "community action." It would be against our traditions to deny Americans the right to put their money where their mouth is and participate in election campaigns. Making campaign funds dependent on a subsidy from the federal government would tend to discourage popular interest and participation in campaigns and in government.

8. Oversupply of Minor Candidates. As with all other attempts by government to control the economy, the market for political candidates is bound to be distorted. Depending upon the wording of specific proposals, some current bills would grant federal money to anyone who can get his name on the ballot. This would unduly encourage frivolous candidates who will not have to prove their ability to raise at least some funds in order to wage a campaign.

9. Low-Voter Turnout. If campaigns are financed by the government there will be a tendency among many voters to "Let George Do It." If they believe they are not needed and not involved many will stay home on election day. A plethora of amateurish minor candidates will also provide a boring or even frivolous campaign and thereby alienate many voters. These trends would also have the effect of increasing the chances for victory of the incumbent. The end result of this will be to make incumbents less responsive to the people.

10. Weakening of Party Responsibility. If parties no longer have the responsibility of raising funds (and persuading a substantial number of people that they merit financial support) our traditional political party system will inevitably be weakened. If politicians receive their campaign money directly from the federal government they will be less responsive to their colleagues and the elected officials of their party. Party responsibility (allowing for independence, of course, on matters of conscience) is an important element in insuring political and national stability.

11. Problem of Funding Local Candidates. Most of the current proposals provide government finance for federal candidates. However, if most people have the impression that the government is now financing elections, it will be more difficult to raise money to fund local campaigns.

12. Ironically, More Money Would Be Spent on Federal Elections. Many of the proposers of these campaign reforms believe that too much money is being spent on electioneering. Yet, as a general rule, whenever the federal government begins to spend money (for medical care for the aged, for a new weapon, etc.) the costs almost always are far higher than the original estimates. The supply of federal money will encourage candidates to obtain and to spend as much as they possibly can. At the present time only about 50 House races are hotly contested; if candidates are able to obtain "free" federal money for the asking, however, they will be tempted to use it whether they really need it or not.

13. The Increasing Cost to the Taxpayers. All of the disadvantages mentioned above will come about at the expense of the taxpayer. His money will be used, whether he likes it or not, to support candidates that do not interest him or even those to which he may be strongly opposed. The taxpayer will be forced to pay for the campaigns of increasing numbers of minor candidates who might not have been able to raise any significant amount of funds in "the open market."

14. Federal Financing Will Not (In Itself) Prevent Corruption. Unless one of these bills includes a section to repeal Original Sin within the territory of the United States, federal financing will be just as subject to possible corruption as private financing is now. Illegal, "under-the-table" gifts of cash *or of manpower* (especially from Union groups) will still be possible. As many have said, guns do not kill people, people kill people. Any system is open to misuse. It is not clear how federal financing will make honest elections more likely; it is clear, however, that it will introduce a host of new dangers and difficulties.

REPLENISHMENT OF THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. McGEE. Mr. President, last week I placed in the RECORD a sampling of editorial opinion from around the Nation expressing strong and unequivocal support for the U.S. contribution to the fourth replenishment of the International Development Association.

Today, I am placing additional editorial comment in the RECORD in the hope the Senate will learn something from the mistake made by the House in defeating IDA in January.

From the Torrington, Conn., Reporter:

> They (the Congress) should meditate upon a few statistics. The United States, the richest nation in the world, enjoys a per capita income 30 to 40 times as great as the nations of Africa and Asia. Yet it ranks 14th among the 16 principal World Bank member nations in its per-capita contributions to economic development. And its contributions in terms of national income are now only 10 percent of what they were 25 years ago.

From the Fort Wayne, Ind., Journal Gazette:

> . . . the 248–155 vote did far more to hurt the innocent than to achieve its goal of putting the world on notice that U.S. largess no longer is unlimited.

From the Cleveland Press:

> If the U.S. reneges on its promised contribution to IDA, so will other wealthy nations. Thus the total cost to poor countries will be some unknown multiple of $1.5 billion, and it is going to hurt them cruelly.

From the Memphis, Tenn., Press-Scimitar:

> More than the oil imports they (the developing nations) need, it will deprive them of public health services, improved agriculture, power and water projects, roads and bridges—in short, everything they need to lift their people out of the hopeless morass of poverty into which they were born.

From the Memphis, Tenn., Commercial Appeal:

> Above and beyond the abdication of leadership shown by the House majority, it was a cold, selfish stand for the legislators of the world's wealthiest nation to take.

From the Houston Post:

> . . . are we really helping ourselves by denying help to nations in desperate need? Intense and pervasive poverty in developing nations inevitably creates emergency situations that we cannot ignore.

From the Little Rock, Ark., Democrat:

> In rich countries like the United States, the problem for most people is simply doing without a few luxuries. But for the poor, it means being hungry and not keeping warm.

From the Fresno, Calif., Bee:

> The House of Representatives' recent vote to kill a bill to aid the world's most underdeveloped countries through the World Bank's International Development Association is a disaster for millions of poor people.

From the San Diego Union:

> . . . suspending IDA aid would hasten the collapse of Third World economies.

From the Newark, N.J., Star-Ledger:

> It should be apparent—but it wasn't on Capitol Hill—that this is not a "give-away"

program but an enlightened, reasonable approach to foreign aid.

From the Garden City, N.Y., Newsday:

. . . the richest nation on earth has reneged even on this modest commitment to the poorest.

From the Hartford, Conn., Times:

There is a moral obligation to help needy nations help themselves—and IDA does that well.

From the Salt Lake City, Utah, Tribune:

None of these or other excuses mitigate the cruel fact that a wealthy nation, once distinguished for its humanitarian generosity, has turned its well-fed back on starving, sick, uneducated and hopeless masses of fellow human beings.

From the Salem, Oreg., Journal:

The U.S. accepted a moral obligation to help developing nations, though in recent years the U.S. share of its gross national product allocated to foreign aid is only a fraction of what it used to be. Many other advanced countries are now contributing more on a per capita basis than the U.S.

From the Rochester, N.Y., Times-Union:

Countries that receive aid often use it to buy American products, helping create jobs and improve the economy. And American industry depends on raw materials which come from many underdeveloped nations.

From the Roanoke, Va., World-News:

. . . what the House displayed was not national pride, but national arrogance and stupidity.

I ask unanimous consent that these editorials, and others from which I have not quoted, be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Fort Wayne (Ind.) Journal-Gazette, Feb. 4, 1974]

Aid: Victim of Frustration

The recent House vote to withhold further U.S. contributions to the World Bank was the undeniable result of frustration and long years of disillusionment with foreign aid. As with most actions taken out of frustration, however, the 248–155 vote did far more to hurt the innocent than to achieve its goal of putting the world on notice that U.S. largess no longer is unlimited.

In the first place, the proposed $1.5 billion contribution to the World Bank's International Development Association represented a major departure from traditional foreign-aid patterns. The association, which makes low-cost loans for development projects in the world's 21 poorest nations, would be funded multilaterally under terms of an agreement that was negotiated among the world's 25 richest nations in Kenya last fall.

The sharing agreement provided for $4.5 billion in aid to finance development projects of direct assistance to the poorest segments of the least-developed countries, particularly in the drought-plagued Sahel region of western Africa. The U.S. share of this amount would have been the $1.5 billion that the House voted to kill. Unlike the other rich nations, which are required to pay their shares within three years, the United States could have spread its contribution over four years.

The now-endangered agreement was a genuine effort to distribute the load for assisting poor nations, and would have cut the 40 per cent share the United States has been paying to 33 per cent. This is in contrast to Japan, which would have tripled its contribution, and to Germany, which would have doubled its share. An American refusal to fulfill its part of the bargain will give the other 24 signatories an excuse to back out too.

The dimensions of such a catastrophic blow to the ideal of international assistance for the poorest of the poor would be hard to calculate. The World Bank has forsaken the notion prevalent in recent U.S. aid programs, that strengthening national economies somehow will rescue the poor from the morass of starvation and denial. This idea seldom has worked, and the present agreement is an attempt to aid the poor directly. Most of the nations involved are small and struggling for survival. Larger countries also are aided, however—last year 30 per cent of all aid received by India came from the World Bank association.

The agreement, then, and the U.S. share of the assistance, meets every argument offered against foreign-aid "giveaways" of the past. International burden-sharing would remove the majority of the load from the United States; people, not governments, would be the recipients; the prestigious World Bank would insure the aid is used as intended; and the U.S. for the first time in history would pay less in international assistance while seeing a greater return in terms of human misery relieved.

Every effort now should be made to gain Senate approval of the agreement, and to return it to the House where perhaps it would fare better now that understandable frustrations with past foreign aid programs have been relieved.

[From the Torrington (Conn.) Register, Jan. 28, 1974]

Are These the "Americans"?

Last week The Register for the umpteenth time was requested to reprint an item called "Americans" written by 73-year-old Canadian named Gordon Sinclair. Apparently many readers didn't notice it when it was printed last month, and it has been making the rounds in other publications similar to that patriotic eulogy several years ago called, "I am a tired American." Anyway "Americans" is an impassioned sermon dedicated to the citizens of the United States whom it describes as "the most generous and probably the most least-appreciated people in all the earth."

Maybe the description is accurate. But you'd have a hard time proving it by the first major action in the U.S. House of Representatives after the members returned from six weeks with their constituents during the holiday recess.

By a resounding vote of 248 to 155, the people's representatives killed a bill authorizing the appropriation of $1.5 billion over the next four years as America's share of a World Bank fund for lending desperately needed aid to the underdeveloped nations of the world.

It was a shabby performance. Robert S. McNamara, president of the World Bank and a man who normally refrains from candid comment on such matters, termed it "an unmitigated disaster for hundreds of millions of people in the poorest nations." Even Secretary of the Treasury George Shultz, often pictured as the Nixon administration's Scrooge-in-residence, had worked vigorously for the bill's passage and is now seeking some way to "give the House another chance to do the right thing."

No doubt most of the 248 congressmen who flubbed the first chance last week would justify their votes on the grounds that the United States has already done more than its share to lift up the poor. Like Gordon Sinclair, they presumably feel that this nation's charitable instincts have too often been rewarded with criticism rather than gratitude.

They should mediate upon a few statistics. The United States, the richest nation in the world, enjoys a per capita income 30 to 40 times as great as the nations of Africa and Asia. Yet it ranks 14th among the 16 principal World Bank member-nations in its per-capita contributions to economic development. And its contributions in terms of national income are now only 10 per cent of what they were 25 years ago.

This doesn't negate the claim that Americans as individuals have a long tradition of compassion and concern for the needs of fellow human beings both at home and abroad. They do. But it does suggest that as a nation we are hardly justified in being smug about our beneficiaries.

Rich nations, like rich individuals, have an obligation to be charitable. It is not an obligation that can be repealed on the grounds that the recipients of our charity have failed to bow and scrape in return.

[From the Memphis (Tenn.) Press-Scimitar, Feb. 4, 1974]

An Ill-Considered Vote

The House should reconsider its lopsided 248–156 vote against a new $1,500,000,000 U.S. contribution to the IDA, the branch of the World Bank that makes "soft" loans to the poorest of the world's poor nations.

The administration bill to fund the IDA was beaten by a combination of circumstances, chief among which was the oil price squeeze and the widespread suspicion in the House that a great deal of the $1,500,000,000 would ultimately find its way into the treasuries of extortionate Arab oil princes.

Lending credence to this theory is a World Bank calculation that, for 41 of the have-not nations, the increases in the price of the oil they must import would more than eat up the total foreign aid they will receive from all sources this year. Hence, the House reasoned, the U.S. contribution to IDA would do no more than further enrich oil-producing nations that are plucking the industrial Western world like a helpless chicken.

As tempting as the theory is, it won't stand analysis. If the U.S. reneges on its promised contribution to IDA, so will other wealthy nations. Thus $1,500,000,000 the total cost to poor countries will be some unknown multiple of $1,500,000,000, and it is going to hurt them cruelly. More than the oil imports they need, it will deprive them of public health services, improved agriculture, power and water projects and bridges—in short, everything they need to lift their people out of the hopeless morass of poverty into which they were born.

If the poor nations of the earth conclude that there is no compassion left among the wealthy countries, and no hope of further help in improving the lot of their woefully needy people, the ultimate price to the United States and the rest of the western world might be very high indeed. The Marshall Plan foreign aid has been firmly based on the enlightened self-interest of the United States. It would be a pity to abandon this philosophy now in an attempt to strike back at oil blackmail.

The administration promises to resubmit a scaled-down request for new IDA funds. We hope it does so. We hope, too, that the White House will support the new request with more vigor and purpose than it showed during the House debate over the original request.

[From the Memphis (Tenn.) Commercial Appeal, Feb. 4, 1974]

HOUSE TURNS ISOLATIONIST

There is a kind of wisdom—the sort gained by burning one's hand—in the post-Vietnam recognition that the United States cannot be the world's policeman. Nor can this country rush to the aid of every country in need. It is obvious that within this federation there are needs which are not being fully met.

But it would be a tragic mistake to become so isolationist that we turn our backs completely on the underdeveloped countries. That is just what the House did last week when it voted 248 to 155 against a $1.5-billion contribution to the International Development Association (IDA), the soft-loan subsidiary of the World Bank.

Unfortunately, the bill is also in trouble in the Senate.

The purpose of IDA is to make long-term loans with no interest other than an annual service charge of three-fourths of one per cent to governments of countries with a per capita annual income of $375 or less.

Contributions to IDA are made every three years. The United States' third replenishment period is due to run out June 30. The U.S. share of IDA's funds has been 40 per cent, but it was cut to 33.3 per cent at the meeting of the World Bank and International Monetary Fund in Kenya last September.

Up to 55 per cent of supportive loans for India, Pakistan and Bangladesh come from IDA. It is the financial buttress of the sub-Sahara countries of Africa, now suffering from drouth and starvation.

The position taken by those in the House who defeated this American loan contribution is that this nation somehow can look away from the poverty, disease and collapse of helpless countries. We have tried for years to convince the other industrial nations that they should share with the United States a portion of this humane out-reach. If we suddenly play Scrooge, that marks the end of IDA and chaos for suffering nations.

Secretary of State Henry Kissinger and Treasury Secretary George Schultz called the Jan. 23 House vote "a major setback to our efforts of cooperation and in the ability of the United States to provide leadership in a world where there is an increasingly serious tendency for nations to believe that their best interest lies in going it alone."

The Nixon administration requested replenishment funds for IDA. But majorities in both parties voted no. Surprisingly, the only representative from the Tennessee-Arkansas-Mississippi area to vote for the IDA funds was Dan Kuykendall, Memphis Republican.

Above and beyond the abdication of leadership shown by the House majority, it was a cold, selfish stand for the legislators of the world's wealthiest nation to take. We hope before it is too late the funds will be reconsidered and approved.

[From the Houston Post, Feb. 10, 1974]

BANNED AID

The vote by the U.S. House of Representatives to deny the proposed $1.5-billion contribution to the World Bank's International Development Association (IDA) is a serious blow to efforts to improve the lot of millions in the poor nations. Unfortunately, the request for funds came while the U.S. is struggling with the energy crisis and battling inflation at home. As a result, it was easy for congressmen to feel that charity begins at home.

But are we really helping ourselves by denying help to nations in desperate need? Intense and pervasive poverty in developing nations inevitably creates emergency situations that we cannot ignore. Unilateral aid to Bangladesh, India and areas of Africa where starvation is rampant is costing us millions of dollars. By refusing to appropriate the $1.5 billion, which is our share of a $4.5 billion package negotiated among the industrial nations, we threaten an entire concept of multilateral aid to the poorest of the poor countries.

If we fail to contribute our share to this international loan pool, other participating nations, some in deeper crisis than we, may be tempted to back off and the carefully laid plans of last year's World Bank meeting in Nairobi could crumble. It was through American efforts, with the help of the World Bank President Robert McNamara, that the U.S. share of the loan pool was reduced from 40 per cent of the total to one-third and that of the other industrialized nations was raised to two-thirds. For example, Japan agreed to triple its contribution and Germany's would be more than double under the Nairobi plan.

Even at the old rate we were in an advantageous position. In terms of percentages of gross national product, the U.S. was contributing less than were 14 of the 16 most prosperous nations. By turning our backs on even this reduced participation, we remove the American leadership on which IDA depends and threaten to reverse the world's strongest trend toward international burden-sharing. The alternative is a return to the system of bilateral, string-attached aid from large countries to small countries in the hope that some of it will trickle down to the poor people for whom it is intended. That is a hope that has often been futile in the past.

In addition to humanitarian reasons for participating in the IDA loan pool, there are mutual economic benefits in increasing the productivity and improving the welfare of poor populaces. There is also the matter of cooperating with our traditional trading partners. As Secretary of State Henry Kissinger asked, "How can we expect cooperation on oil if we will not cooperate to relieve hunger?"

[From the Little Rock (Ark.) Democrat, Feb. 6, 1974]

STARVING PEOPLE IGNORED

The House voted 155 to 248 against an administration-sponsored bill last week that would have committed the U.S. to a $1.5 billion loan to the International Development Association. The money goes to increase the production of energy and to improve agriculture in the world's poorest countries—places like sub-Sahara Africa, Bangladesh and India where people are literally starving to death.

The World Bank dispenses this money to the poor countries in the form of "soft loans," which have no interest other than an annual service charge of three-fourths of 1 per cent. The terms include a 50-year maturity period with a 10-year grace period.

The proposal represented a reduction from the United States' regular contribution, from 40 per cent to 33 and one-third per cent. Even at 40 per cent, the United States was contributing less of its gross national product than 14 of the 16 most prosperous nations. Furthermore, inflation has reduced the value of the money available considerably during the past few years.

President Nixon anticipated that Congress might oppose the aid, so, with the help of World Bank President Robert McNamara, he persuaded the other industrial nations of the world to increase their "soft loans" to the poorest countries from 40 per cent to 66 per cent, which allowed the United States to reduce its contribution from 40 to 33 per cent.

But he obviously underestimated the amount of opposition he had in Congress. It seems to be a combination of things, not the least of them Watergate. Others are the growing isolationism resulting from Vietnam, other setbacks abroad, concern about the oil shortage and the dollar. Another factor is the growing opposition in Congress to all kinds of foreign aid. Mr. Nixon marshalled support from only 47 Republicans, while 137 opposed the bill.

It is unfortunate that such matters have to result in cruelty toward poor countries that are being hurt much more than the United States by energy and economic conditions. In rich countries like the United States, the problem for most people is simply doing without a few luxuries. But for the poor, it means being hungry and not keeping warm.

It is especially disturbing that Arkansas Representatives Hammerschmidt, Alexander and Thornton all voted against the assistance and that Representative Mills didn't vote.

This aid is desperately needed. The bill should be brought back to life and approved, in the interest of this country's historic commitment to helping the less fortunate. It is not just charity. A world with fewer unfortunates is a safer and more stable world to live in.

The administration is devoting its attention now to the Senate, hoping that it will pass the bill and thereby keep it alive for another hearing by the House. Although Arkansas Sens. J. William Fulbright and John McClellan have recently been voting against foreign aid proposals, we hope that in this instance they will reconsider.

[From the Fresno (Calif.) Bee, Jan. 30, 1974]

[Identical editorial in Sacramento Bee, Sacramento, Calif.]

TURNDOWN OF WORLD BANK AID HURTS THE POOREST ON EARTH

The House of Representatives' recent vote to kill a bill to aid the world's most underdeveloped countries through the World Bank's International Development Association is a disaster for millions of poor people.

In its shortsighted action the House defeated a $1.5 billion contribution by the United States, a part of a larger sharing agreement negotiated last September in Nairobi, Kenya, at the annual meeting of the World Bank.

The agreement provides for $4.5 billion over three years, with the United States' share $1.5 billion. This is the smallest share ever for the United States, which, unlike the other countries, would be allowed to spread its contribution over four years instead of three.

Most of the countries affected by the House turndown are small and most are in Africa. These nations, which rely on the World Bank for much of their outside assistance, include such countries as Niger, Upper Volta, Mali, Mauritania, Senegal and Chad, which have been undergoing one of the worst droughts in history.

Other large recipients of these funds, such as India, Pakistan and Bangladesh, also recently have been hit by drought and the cost of imported food grain has tripled.

As The Wall Street Journal, no friend of foreign aid, commented editorially: ". . . the House vote reflects a general disillusionment with the US world role, a disinterest in handouts to people who cannot vote in a US congressional election, and a disintegration of leadership both on Capitol Hill and in the White House."

Although it is not likely the House will reverse itself in the next fortnight, it is not too late to undo the damage. An administration-backed bill could be introduced into the Senate and go before the House later this year, giving the administration time to muster Republican support.

Congress and the administration should do everything in their power to clear the funds and help the poorest people on the earth while maintaining American leadership throughout the world.

[From the San Diego Union, Feb. 1, 1974]

MISPLACED "BACKLASH"

The vote in the House of Representatives last week cutting off U.S. funds for the International Development Association is interpreted as "backlash" against the exorbitant prices being charged by the Arab states for their oil. It takes some circuitous logic to see the connection.

The IDA provides low-interest loans for poor countries to develop their economies. Few if any countries selling oil to the United States of America—or currently refusing to sell it to us—are prospective clients for IDA loans. House members decided, however, that since the most urgent economic problem of undeveloped countries is paying the new high price for the oil they import, the funds appropriated for IDA would eventually wind up in Arab pockets.

It is true that as long as the oil-consuming nations are willing and able to pay whatever the oil-producing nations demand, there is less likelihood that the price will come down to a more reasonable level. The problem is that suspending IDA aid could hasten the collapse of Third World economies.

The scope and complexity of the impact of Arab oil-pricing policies is so great that there should be a long agenda for the international energy conference President Nixon has called Feb. 11 in Washington. The advanced nations which support IDA need to decide how that agency and its economic aid can best be used to avert economic catastrophe in the Third World from which they receive many of their natural resources,

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[From the Newark (N.J.) Star-Ledger, Feb. 2, 1974]

POOR CHOICE

In a period of rampant global inflation, the harshest impact is on the poor of the world, a fact that apparently escaped the House of Representatives in its insensitive denial of new U.S. contributions to the World Bank's International Development Association.

The funds are desperately needed for alleviating the plight of hundreds of millions of people in the poorest nations of the world, some of them facing mass starvation in Bangladesh, in sub-Saraha Africa and in India.

Ironically, this country was being called on to give a smaller share than it had in the past—a reduction from 40 per cent to a third of the $4.5 billion fund that would underwrite subsistence and development grants over a three-year period. And even at the higher rate, the U.S. would have been putting up less of its gross national product than 14 of the 16 most prosperous industrial nations. Inflation has sharply reduced the value of IDA loans by 30 per cent in recent years.

None of this, unfortunately, was sufficient to impress House members with the urgency of an affirmative action. The unthinking rejection no doubt reflects growing disillusionment with foreign aid and the lack of influence of a weakened Presidency. It should be apparent—but it wasn't on Capitol Hill—that this is not a "give away" program but an enlightened, reasonable approach to foreign aid.

Under its broadened structure, the IDA is now able to enlist the resources of oil-rich countries as well as the traditional donors for redistribution among countries still in need of investment capital. These projects provide direct benefits to the impoverished elements in less developed countries, rather than pumping funds into institutions at the top, as was the practice in the past when there was the unrealized hope that these benefits would filter through to the poor.

There is a practical aspect to this type of foreign aid—a constructive economic rapport between prosperous and poor nations that has long-range advantages that no longer can be ignored in the face of the economic confrontation generated by self-serving Mideast oil countries. The ill-advised House action should be reversed if at all possible—before it is too late.

[From the Garden City (N.Y.) Newsday, February 5, 1974]

BUT NO GENEROSITY IN CONGRESS

A Canadian broadcaster named Gordon Sinclair has attracted a lot of attention recently with a fervent declaration that Americans are "the most generous and possibly the least appreciated people on all the earth." He may be right about appreciation, but we're not so sure anymore about generosity.

Rated according to their government's current commitment to the International Development Authority, Americans would rank no higher than 14th most generous people on all the earth. That's because 13 other rich nations have pledged a greater share of their gross national product to IDA, which makes unsecured loans—for long terms, at low interest—to the world's poorest underdeveloped countries. The United States share is supposed to be $1.5 billion, which is less than two-tenths of one per cent of the American GNP.

But the richest nation on earth has reneged even on this modest commitment to the poorest. The House of Representatives voted last month to kill the bill that would have authorized the $1.5 billion. Despite the President's backing, the bill found fewer supporters in his own party than among the Democrats. Within the Long Island Republican delegation in the House only Representative John Wydler of Garden City, one of the party whips, voted for the bill.

Fortunately the Senate Foreign Relations Committee is still considering an IDA bill, which the Senate could pass and send to the House. New York's senior senator, Republican Jacob Javits, is a member of that committee. We hope the kind of mail he gets on this issue in the next few weeks will make it clear that the richest nation on earth isn't too stingy to spare two-tenths of one per cent of its total output to help the poorest help themselves.

[From the Fort Worth Press, Jan. 28, 1974]

A WRONG VOTE

The House should reconsider its lopsided 248–156 vote against a new $1.5 billion U.S. contribution on the International Development Association (IDA), the branch of the World Bank that makes "soft" loans to the poorest of the world's poor nations.

The administration bill to fund the IDA was beaten by a combination of circumstances, chief among which was the oil price squeeze and the widespread suspicion in the House that a great deal of the $1.5 billion would ultimately find its way into the treasuries of extortionate Arab oil prices.

Lending credence to this theory was a World Bank calculation that for 41 of the have-not nations the increases in the price of the oil they must import would more than eat up the total foreign aid they will receive from all sources this year. Hence, the House reasoned, the U.S. contribution to IDA would do no more than further enrich oil-producing nations that are plucking the industrial western world like a helpless chicken.

As tempting as the theory is, it won't stand analysis. If the U.S. reneges on its promised contribution to IDA, so will other wealthy nations, thus the total cost to poor countries will be some unknown multiple of $1.5 billion, and it is going to hurt them cruelly. More than the oil imports they need, it will deprive them of public health services, improved agriculture, power and water projects, roads and bridges—in short, everything they need to lift their people out of the hopeless morass of poverty into which they were born.

[From the Hartford (Conn.) Times, Jan. 27, 1974]

HOUSE MUST REVERSE "SOFT LOAN" VOTE

The House of Representatives last week rejected, by a 248–155 vote, a $1.5 billion American contribution to the International Development Association, sometimes called the "soft loan window" of the World Bank.

That vote should be reversed. The United States is not so hard-pressed economically that we must turn our backs on needs elsewhere.

IDA's program of long-term loans has developed since 1960 an admirable track record for effective projects to help developing nations build up their own economies toward self-sufficiency.

And as other nations grow more prosperous, the United States is being asked in this fourth "replenishment" of IDA's lending reserves to give only 33 per cent, rather than the 40 per cent of past years; others increasingly share the burden.

This is no time for us to hold back.

One reason for generous American participation was spelled out in testimony before a House committee by C. Fred Bergsten, a senior fellow at the Brookings Institution: Our increasing need for friends around the world.

The oil crisis has brought home to us the fact that we no longer dominate international trade and finance; the recurring crisis of floating currencies reminds us that complex international monetary relationships can no longer be skewed to meet our needs in disregard of others' problems.

And the oil crisis is a warning that many of the resources that we and other industrial nations need can no longer be taken for granted. It is increasingly a seller's market that governs the price of raw materials; cartelization and nationalization are possibilities in most of the resources we need to import to keep our economy going.

Simply accepting helplessly the demands of raw-material producing nations, the Arab oil embargo has taught us, is not an attractive option. Nor is retaliation—even financial and trade retaliation, when those weapons are available. Military retaliation is even less attractive.

The better course, Mr. Bergsten suggests, is "pre-emption": Helping the developing nations toward self-sufficiency through generous multilateral programs like that of the World Bank's IDA, providing them the wherewithal of growth without making more coercive approaches necessary.

But buying insurance against escalating demands by the "Third World" ought not be the only or even the primary reason for American support of the IDA program.

There is a moral obligation to help needy nations help themselves—and IDA does that well.

Its development credits are for a term of 50 years, repayable beginning in the tenth year of a loan, with only a small service charge to cover administrative costs. The World Bank has been exceptionally successful in seeing that loans are used for worthwhile projects and in providing technical assistance that assures the projects will be carried through.

The United States can be proud to have played the major role in IDA's program over more than a decade. The fact that others are now helping carry more of the load is added reason to continue our own support.

[From the Salt Lake Tribune, Jan. 26, 1974]

House Shames United States by Denying Vital Aid Through World Bank

We refuse to believe that even a bare majority of the American people want to cut out U.S. contributions to the World Bank, a major source of vital aid for deprived millions all over the globe. Yet the House of Representatives did just that Wednesday.

At the time of the House vote the world's wealthiest country was contributing only a tiny fraction of its national production to aid underdeveloped countries. Total U.S. aid, including that to the World Bank, was less percentagewise than that of Australia, Belgium, Canada, Denmark, France, Germany, the Netherlands, Norway, Sweden and Great Britain.

Prior to the House vote the U.S. Agency for International Development reported that in 1971 (latest year for which figures were then available) all forms of U.S. economic assistance combined totaled but three-tenths of one percent of the gross national product (GNP).

Put another way, the Department of Defense spends more in 14 hours than the entire United Nations World Food Program spends in a year. Other comparisons published by Paul and Arthur Simon in their book, "The Politics of World Hunger," reveal that in the same 14 hours the Defense Department spends more than the World Health Organization and the Food and Agriculture Organization combined. U.S. allocations for military purposes are 60 times greater than those for economic assistance.

This is not to say that a certain, even large percentage of U.S. expenditures should not go to defense. But the figures underscore the pathetically small amounts going to humanitarian purposes. And, if the House action is not reversed, the comparison will become even more shameful.

While the people back home can be forgiven for not understanding the broad scope of the World Bank's life and death work in underdeveloped areas, the members of the House of Representatives cannot be forgiven. They knew, or should have known, what denial of World Bank funds would mean to the miserable millions in the world's poorer countries.

The sorry House response to a modest plea from the bank is attributed to many influences and trends afoot in America. Disenchantment with foreign aid in general is one. Belt-tightening in the face of predicted shortages at home is another. And a gathering cloud of isolationism figured in the House reaction, too. None of these or other excuses mitigate the cruel fact that a wealthy nation, once distinguished for its humanitarian generosity, has turned its well-fed back on starving, sick, uneducated and hopeless masses of fellow humans.

Has the United States really sunk that low? We think not. But until the House is made to realize the enormity of the disaster it has invited, the answer must be a regretful, yes.

[From the San Juan (P.R.) Star, Jan. 27, 1974]

An Ill-Considered Vote

The House should reconsider its lopsided 248–156 vote against a new $1.5 billion U.S. contribution to the International Development Association (IDA), the branch of the World Bank that makes "soft" loans to the poorest of the world's poor nations.

The administration bill to fund the IDA was beaten by a combination of circumstances, chief among which was the oil price squeeze and the widespread suspicion in the House that a great deal of the $1.5 billion would ultimately find its way into the treasuries of extortionate Arab oil princes.

Lending credence to this theory was a World Bank calculation that for 41 of the have-not nations the increases in the price of the oil they must import would more than eat up the total foreign aid they will receive from all sources this year. Hence, the House reasoned, the U.S. contribution to IDA would do no more than further enrich oil-producing nations that are plucking the industrial Western world like a helpless chicken.

As tempting as the theory is, it won't stand analysis. If the U.S. reneges on its promised contribution to IDA, so will other wealthy nations. Thus total cost to poor countries will be some unknown multiples of $1.5 billion, and it is going to hurt them cruelly. More than the oil imports they need it will deprive them of public health services, improved agriculture, power and water projects, roads and bridges—in short, everything they need to lift their people out of the hopeless morass of poverty into which they were born.

If the poor nations of the earth conclude that there is no compassion left among the wealthy countries, and no hope of further help in improving the lot of their woefully needy people, the ultimate price to the United States and the rest of the Western world might be very high indeed. Ever since the Marshall Plan foreign aid has been firmly based on the enlightened self interest of the United States. It would be a pity to abandon this philosophy now in an attempt to strike back at oil blackmail.

The administration promises to resubmit a scaled-down request for new IDA funds. We hope it does so. We hope too that the White House will support the new request with more vigor and purpose than it showed during the House debate over the original request.

[From the San Francisco Chronicle, Jan. 25, 1974]

Blow to IDA

The rich nations of the world channel some of their help to the poor nations through IDA, the International Development Association, an agency of the World Bank. Its low-interest loans for development have helped immensely to improve the lot of the most disadvantaged people. But IDA's funds will run out in June if they are not replenished, and it has been expecting a total of $4.5 billion in new funds from the industrial countries, of which $1.5 billion was to come from the United States.

Wednesday the House knocked IDA galley west by the vote of 248 to 155 and so negated a commitment for the United States to pay this one-third share. The administration had evidently expected the authorization to go through, but Republican congressmen were the chief defectors. This fact heightened the administration's embarrassment. Secretaries Shultz of Treasury and Kissinger of State, denouncing the House's failure to live up to an internationally negotiated commitment, have promised to try again to find a way to get something for IDA. They are right to persist.

[From the Salem (Oreg.) Journal, Jan. 26, 1974]

Commitment United States Must Fill

The International Development Association (IDA) is an affiliate of the World Bank. It was created in the late 1950s, partly through the initiative of the U.S. Congress, to become a channel for development loans and technical assistance to developing countries not financially able to meet the terms of loans from the World Bank itself.

IDA obtains its fundings through commitments from its richer member countries, of which the U.S. is one; special contributions made by some members; transfers of funds from the World Bank's net earnings and IDA's own accumulated net income.

Twenty-four member nations and Switzerland have recommended a $4.5 billion increase in IDA's resources in a fourth replenishment and, subject to approval by Congress, the U.S. has agreed to provide $1.5 billion. This is a decrease from the 40 per cent U.S. share in the third replenishment, but other industrial countries such as Japan and Germany are taking on larger parts of the burden.

The Nixon administration has asked for authorization of the latest commitment in HR 11354, which has been approved unanimously by the House Committee on Banking and Currency. A similar bill, S 2665, is under consideration in the Senate Committee on Foreign Relations.

The U.S. accepted a moral obligation to help developing nations, though in recent years the U.S. share of its gross national product allocated to foreign aid is only a fraction of what it used to be. Many other advanced countries are now contributing more on a per capita basis than the U.S.

There are practical as well as moral reasons why we ought to accept our full share of responsibility as an industrialized nation. We are dependent on a great many raw materials imported from Third World nations. Events of recent months and years prove they have growing power to control events and, if their legitimate aspirations are denied, to react in ways we may consider irrational.

In the long run, the enormous gulf between the rich and poor nations will be detrimental to our own best interests. For the sake of humanity and in the interests of the kind of world our grandchildren will inherit, we ought to be full participants in the kind of work IDA is doing.

[From the Rochester (N.Y.) Times-Union, Feb. 5, 1974]

World Bank Deserves Support

With Americans' own wallets getting thinner, the idea of sending money overseas as foreign aid is getting less and less popular.

So perhaps members of the House of Representatives were thinking about the voters back home recently when they stopped a new United States contribution to the International Development Association of the World Bank.

The association is the major source of aid for the 21 countries classified by the United Nations as the "least developed" in the world.

It supplied 30 per cent of all the aid to India in the last year, for example. Some of its African clients are suffering from one of the worst famines in history.

There have been serious abuses of foreign aid in the past.

One is that money given to some governments never seemed to benefit the people who needed help most. But the association programs were designed to make sure that doesn't happen.

Another has been that the United States has sometimes contributed more than its share, compared with other wealthy countries.

But this year the U.S. was to cut its percentage of the total $4.5 billion in donations from about 40 per cent to 33 per cent. Japan's contribution was to triple and West Germany's was to double.

Under the World Bank agreement, if the U.S. or any other country withholds its contribution, all others will withhold theirs too.

The U.S., the world's richest nation, has a moral responsibility to help the poorest nations. But in addition to that, foreign aid is in this country's own best interest.

Countries that receive aid often use it to buy American products, helping create jobs and improve the economy. And American industry depends on raw materials which come from many underdeveloped countries.

The Administration, which was surprised by the defeat of the aid bill in the House now plans to take its request to the Senate.

The Senate should approve. Then the House, as one Administration official put it, will get another chance to do the right thing.

[From the Roanoke (Va.) World-News, Jan. 31, 1974]

Thumbing Our Nose a Bit Early

The House vote the other day on the World Bank's International Development Association might have been set to the tune of "America" and accompanied by the recording of Gordon Sinclair's stirring words. Sinclair, the Canadian broadcaster, is booming from every radio in the country, with such words as: "They (the Americans) will come out of this with with their flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over their present troubles."

However, the members of the House who voted against a modest U.S. contribution to the World Bank's development arm didn't even wait for us to "come out of this thing." They are telling the rest of the world to go to hell too early, according to the Sinclair scenario. The contribution, $1.5 billion, was negotiated by the administration within a package that included increased contributions by the other industrial nations, allowing the U.S. to reduce its contribution by one third and spread it out over four years. Even at the former, higher level, the U.S. was putting up a smaller share of its gross national product than 14 of the 16 most prosperous nations.

N.Y. Timesman James Reston pointed out in a recent column what an embarrassing position the administration is placed in by the House vote. Washington is trying to get the industrial nations to present a united front in dealing with the Arab oil crisis. Sec. of State Henry Kissinger, reacting to the vote, asked the legitimate question: "How can we expect cooperation on oil if we will not cooperate to relieve hunger?"

It is a difficult question to answer. The House has thumbed its nose, and in doing so has potentially punished poor nations who have already been hurt substantially by the oil crisis and who are absolutely powerless to do anything about it. There is a chance that the Senate can come up with legislation of its own and toss the issue back to the House for reconsideration. We hope that happens, because what the House displayed was not national pride but national arrogance and stupidity.

[From the New York Post, Feb. 12, 1974]

"The Only War We Seek . . ."

The U. S. government has done a great deal in the past two years for survivors of the merciless drought that has seared thousands of lives and parched tens of thousands of square miles in East and West Africa. It has more to do, there are many ways of irrigating desolate land and one of them is with a flow of capital.

Over the shorter term, Washington's contributions have been generous.

But this country's reluctance to take part in any long-term investment in the regions' development has been equally conspicuous. It was most recently—and shamefully—demonstrated by the House vote last month against meeting a request for $1.5 billion from the World Bank's International Development Assn.

No one disputes the importance of feed grains to a starving village. It is equally important that land be reclaimed to grow seed, pasture livestock and raise children, and that a nation's resources be exploited for its people. This is the enterprise in which development assistance is vital. These are things the late Harry Truman had in mind when he launched Point IV aid and declared "the only war we seek" was against hunger and misery. Secretary of the Treasury Shultz says the White House will mount a campaign for the IDA grant. It deserves support in Congress.

VETO OF THE ENERGY EMERGENCY ACT

Mr. TAFT. Mr. President, I would like to submit for the Record a recent editorial from the Columbus Dispatch, a Columbus, Ohio, newspaper. This editorial supports the President's veto of the emergency energy legislation, stating that a rollback in prices as provided in the bill would not guarantee one additional barrel of oil, and that it most certainly would not provide the energy industries with incentives to either increase production or to explore for new sources of energy. I share this view.

The lower prices for gasoline and other petroleum products would lead citizens to demand greater quantities of these products even though these supplies are unavailable because of the Arab oil embargo. This would make present shortages seem worse and increase both the length of gas station lines and the pressures for gasoline rationing. In voting against the emergency energy legislation and in sustaining the veto, I held these views, and I was pleased to see that the Columbus Dispatch agreed.

I commend this editorial to my colleagues for their information and ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Veto of Energy Bill Rap at Expediency

President Nixon's veto of the congressional energy emergency bill was less a rejection of efforts to solve an important problem than it was a condemnation of shortsighted political expediency.

That shortages of vehicle gasoline and home heating oil have high political impact goes without saying. That emphasis on such factors in an election year can harvest an extra vote here and there also is expectable.

However, what too many officials concerned with this nation's energy problem have been doing is to focus attention on today with little regard to tomorrow.

America's energy problem must be approached in phases and the measure Congress sent to the President barely touched on what America must do in the energy field after current shortages are either corrected or minimized.

No one relishes the thought of automobile gasoline selling at 75 cents or $1 a gallon for it would be great not to have to pay more than two bits a gallon, as in the good old days.

That is the primary thrust of the bill Mr. Nixon said he was forced to veto—a rollback in prices.

The veto message envisioned steps backward rather than forward movement. It saw gasoline rationing as a direct result of lower production.

What Congress was voting for when it passed the measure was not a solution to the energy shortage but a greater shortage.

Additionally, Congress obviously was not as concerned with solving the energy problem as it was in keeping domestic political temperaments cool until after the November election.

The vote in Congress represented more fear than courage, more posturing than common sense.

One thing is certain, even to those who advocate fuel prices at a low level: a rollback in consumer costs will not guarantee one additional barrel of fuel.

It most certainly will not provide energy companies with incentive to either increase production in existing facilities or to explore for new sources of energy.

One thing Congress has given too little attention is the question of energy company profits, whether excessive or windfall, and how these profits can excite needed incentive.

What Congress should now be doing, rather than trying to muster votes to override a presidential veto, is to again tackle the whole energy problem, devoid of the distraction embodied in the price rollback feature.

This nation's energy crunch is too important to be bogged down in shortsightedness or even political posturing with more eyes on the ballot box than on the gasoline tank.

The country needs a remedy for the present shortage problem. But more importantly, it needs a master plan which addresses itself to the future, to the years 1980 and 2000.

The vetoed measure fell far short of what is important.

GOVERNMENT CREDIBILITY

Mr. MUSKIE. Mr. President, in a timely column appearing in the Outlook section of the Washington Post yesterday, David Broder has addressed a subject which all of us should begin to think about as our Nation approaches its Bicentennial Anniversary.

The issue, put quite simply, is the need to restore to good health a Federal system which is not functioning as well as it should in the eyes of those whom it is supposed to serve.

The implications of this issue are profound indeed. If we are going to address it seriously, we must be prepared to challenge some of the most basic premises upon which Government—particularly at the Federal level—has come to function in the postwar years.

Yet, if we are to make the most of the unique opportunity offered by our Nation's 200th birthday, we cannot afford not to ask ourselves these kinds of questions. From all around us, we hear that the American people have lost confidence in the way their Government operates. We must ask ourselves "Why?"

We also hear that the American people believe that the system can be run better, and that they are willing to participate in a system more responsive to them. We must ask ourselves "How can we meet such a fair and reasonable expectation?"

I intend to explore such questions as these during the present session of Congress, through the Subcommittee on Intergovernmental Relations. And I am glad to learn from Mr. Broder's column that others are planning to ask similar questions.

I commend Mr. Broder's article, entitled "The States Step Forward," to my colleagues. I trust you will find it as timely and thought-provoking as I did. I ask unanimous consent that Mr. Broder's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The States Step Forward

(By David S. Broder)

The mayors and the governors were in Washington last week for their winter meetings, and next week a group of scholars will assemble here for two days to discuss "Using the Federal System More Effectively."

The meetings come as a healthy reminder to Washington that this is not a one-dimensional government but one in which most of the decisions are made at the state and local levels.

Much of the visiting mayors' and governors' time was taken up with a pastime familiar to permanent Washington residents—grousing at Congress and the administration, whose sluggard habits of procrastination are beginning to wear on everyone.

There were chuckles of instant recognition when Norfolk, Va., Mayor Roy B. Martin, Jr., the president of the U.S. Conference of Mayors, said the national government is beginning to look "like a slow student . . . to whom each new problem comes as an overwhelming surprise."

To the local officeholders, those problems are not abstractions or statistical deviations. They are all too real—whether they are discussing the doubling of unemployment in some cities, the tripling of propane prices, or the looming shortage of fertilizers.

But the mayors and governors brought more than complaints to Washington. They also brought a sense of their growing capability to cope—with a sense they expressed in accents as different as the cities and states they represent.

The new confidence came through most clearly in the keynote speech of the governors' chairman, Daniel J. Evans of Washington state. After a generation marked by multiple attempts from Washington "to poke and prod and mold us into a homogeneous mass," he said. Americans have come to realize that "national progress must lie in a shared experience" derived from the experiments in the "50 working models of representative democracy" that are the states.

Evans argued that to the degree the states and cities redefine their relationship with the national government as "a partnership essentially of equals . . . the years just ahead of us can be the years when the balance is restruck and the federal system reassumes the form envisioned by the founders of our Republic."

Whether that 18th-century notion of a deliberately divided and layered government makes sense in the late 20th century is one question very much on the mind of those who will gather here this week to discuss the state of the federal system as America approaches its bicentennial.

In a volume of essays distributed to conference participants by the Center for the Study of Federalism at Temple University in Philadelphia, Vincent Ostrom, an Indiana University political scientist, lists no less than 10 major advantages in a federal system of government.

They range from the claim that "citizens in a highly federalized political system will be able to exercise greater voice in the conduct of public affairs" than those in a large unitary government, to the reiteration of Hamilton's and Madison's arguments, in the original Federalist Papers, that a federal republic is less susceptible to military coups.

In reality, the reputation and the viability of American federalism will depend less on the acceptance of such abstract arguments as these than on a demonstration by state and local governments that they are dealing with the problems and needs of America's citizens.

That is why it is welcome news that the National Governors' Conference has decided to revise the format of its annual summer meeting to make it a showcase for the efforts and accomplishments of state government.

Dan Evans, who will be host to the meeting in Seattle in June, announced that the governors have been invited to present—both as written papers and in exhibits, displays and convention booths—programs exemplifying "state leadership in the federal system."

Later this month, he is launching an ambitious citizens' program in his own state to outline alternative future growths options for Washington state, as a guide to needed planning decisions. Evans says he hopes the effort will "persuade people to lift their eyes" beyond the current malaise.

The papers received from other states, he said, show state innovations "in such varied fields as land use planning, school finance, energy, emergency medical services, social services delivery, inmate education and training, management improvement, productivity, volunteers in state government service, regionalism, tax relief and long-range investments."

Nothing could do more to restore Americans' battered sense of self-confidence than a convincing demonstration that government is working—somewhere. In undertaking to prove that it does, the governors are making the right move at the right time in the right way.

THE FERTILIZER SHORTAGE

Mr. BARTLETT. Mr. President, in the past few weeks there have been repeated warnings of the increasing severity of the fertilizer shortage. We are rapidly approaching the point where food supplies for late this year will be seriously threatened because the necessary steps have not been taken to increase fertilizer supplies.

This matter must be of concern to all Americans and indeed to the entire world, because everyone will be affected. Since Oklahoma is a large producer of agricultural products, the shortage will have a more immediate and direct effect on the people of my State.

One fact about fertilizer which has been mentioned frequently, but which many people seem to ignore is that one of the essential raw materials for the most commonly used fertilizer is natural gas. Our shortage of fertilizer can be traced in large part to our shortage of natural gas which results from the shortsighted low prices imposed by the FPC. Other price controls, imposed until recently by the Cost of Living Council, on fertilizer have further exacerbated the problem.

Both of these examples clearly demonstrate the falacy of Government attempting to regulate our economy. Every such attempt in recent history has resulted in shortages of one commodity or another and not until we take action to permit the return to a free market economy will the situation be corrected.

The grave concern of the people of Oklahoma about this situation is evidenced by a resolution adopted recently by the Legislature of the State of Oklahoma. I concur in this expression of concern by my fellow Okies and ask unanimous consent that the resolution be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Resolution

A concurrent resolution memorializing the Congress of the United States to take such action as is necessary directing appropriate Federal agencies to assure the availability of adequate supplies of fertilizers for the needs of agriculture in Oklahoma and other States; and directing distribution

Whereas, agriculture is Oklahoma's largest single industry, producing almost two billion dollars in sales in 1973; and

Whereas, the agricultural industry in Oklahoma and throughout the nation is heavily dependent upon the use of fertilizer in order to increase yields of productivity, enhance quality and replenish the fertility of the soil; and

Whereas, a critical shortage of fertilizer for agricultural use has developed, with fertilizer stocks on February 1, 1974, being 43 percent below the level of a year earlier, raising dire portents for the 1974 crop year and thus contributing further to the spiraling inflation threatening the economy of this nation with catastrophe;

Whereas, a number of factors have converged to create the critical shortage of fertilizer, including the reduction of natural gas supplied to domestic fertilizer producers; the diversion of nitrogen to explosives manufacturers; difficulties in transportation resulting from shortages of fuel and contributing to inflated prices for available fertilizers; the failure of responsible federal officials to recognize the devastating ramifications to the American economy of an energy shortage and to plan for such a contingent emergency several years ago when danger signals of the impending crisis first began to be recognized; action by the federal Cost of Living Council placing a ceiling price on domestic sales of fertilizer, thus encouraging producers to take advantage of higher export prices, with 15 percent of all fertilizer production diverted to meet foreign demand; increased crop acreage for 1974 production due to high domestic and export demand; higher farm prices providing an incentive to produce more with higher fertilizer utilization; and closings of fertilizer plants and curtailment of planned expansions because of the uncertainty of energy supplies and regulations of the Environmental Protection Agency; and

Whereas, Oklahoma's farmers have planted 6,800,000 acres of wheat, a 13 percent increase over the 6,000,000 acres seeded for the 1973 harvest, and the acres planted to cotton, corn and other crops have been increased over 1973 plantings; and

Whereas, in order for fertilizer to have a beneficial effect on crop productivity it must be applied within limited time periods and under specific conditions; and

Whereas, in order for fertilizer to benefit the 1974 wheat crop it must be applied within the next 15 days, and without application of nitrogen top dressing within this period it is possible wheat yields will decline by as much as one-third; and

Whereas, total tonnage of fertilizers available is not adequate to meet the needs of farmers for the 1974 grain crop, with supplies being critically short in Oklahoma Panhandle counties, and this shortage will be worsened when row crops are planted; and

Whereas, it is predicted that supplies of nitrogen, which is the predominant fertilizer used in Oklahoma, will be short for the next two or three years unless remedial action is taken immediately to insure the production of more fertilizer for agricultural use; and

Whereas, unless steps are taken immediately to insure the availability of adequate supplies of fertilizer to meet the needs of farmers in Oklahoma and elsewhere throughout the nation, reduced crop yields will be a certainty, thus creating further shortages of food and fiber and intensifying the spiral of inflation threatening the foundations of the American economy.

Now, therefore, be it resolved by the Senate of the 2nd session of the 34th Oklahoma Legislature, the House of Representatives concurring therein:

Section 1. That the Congress of the United States be and hereby is respectfully requested to take such action as may be necessary to direct the federal Cost of Living Council, the Environmental Protection Agency, the federal Energy Office and other appropriate agencies to assure adequate supplies of fertilizer to the farmers of Oklahoma and the nation for the 1974 and succeeding crop years.

Section 2. That duly authenticated copies of this resolution be forwarded to all members of the Oklahoma delegation in the Congress of the United States at their offices in Washington, D.C., for their immediate consideration and action.

U.S. TROOPS IN EUROPE

Mr. MANSFIELD. Mr. President, an outstanding editorial entitled "Who Needs U.S. Troops in Europe" appeared in the March 8, 1974, edition of Newsday. It raises the basic questions with respect to the apparent lack of credibility on the part of the Europeans as reflected by their present attitudes toward the American commitment of 300,000 U.S. forces stationed in Europe. It comments on the waste of $11 billion of U.S. taxpayers for so little in return. It comments on the go-it-alone attitude of the Europeans with respect to the Middle East.

I believe the questions raised by this editorial are extremely perceptive and I ask unanimous consent that the text of the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Who Needs U.S. Troops in Europe?

The United States keeps 300,000 troops in Europe to defend its NATO allies against a Soviet attack that no one really expects will ever come. The direct cost of this huge garrison is about $4 billion a year, and supporting it requires another $7 billion. That's a fairly solid commitment to the idea that America's fate is closely dependent on Europe's.

Europeans, on the other hand, rarely miss an opportunity to demonstrate their independence. When the Arabs attacked Israel last fall, Europe wouldn't help out with the U.S. arms airlift. When the Arabs cut back on oil production, our allies started trying to make their own deals for fuel. When the U.S. tried to promote measures to prevent oil prices from going even higher, the French refused to cooperate. And this week the nine Common Market countries quietly put out a feeler to the Arabs for long-term economic, technical and cultural cooperation. They were too discreet to mention oil.

So the question arises: If Europe is so determined to be independent of the U.S., why is the U.S. spending $11 billion a year to demonstrate its commitment to Atlantic interdependence? Why shouldn't the Europeans defend themselves?

Those 300,000 Americans in Europe are supposed to be a tripwire for nuclear retaliation if the Russians take leave of their senses and invade Western Europe. The French are constantly warning that the U.S. won't come through when the chips are down. If the tripwire isn't credible to our own allies, why should the Russians worry about it? Why not bring the troops home?

A substantial reduction of U.S. forces in Europe would not only reduce defense expenditures in the federal budget; it would also strengthen the dollar by improving our balance of payments. Properly executed, it could mesh neatly with Defense Secretary James Schlesinger's declared ambition to improve the Pentagon's teeth-to-tail ratio; the U.S. might not have to provide for 250,000 military dependents in Europe if combat troops were rotated out after six-month tours and all but the most essential support units remained on this side of the Atlantic.

Also, such a cutback would force the Europeans to face up to their own defense responsibilities and perhaps thereby drive them closer to the political unity.

We happen to think Atlantic cooperation is important—not only to Americans but to Europeans as well. But if the Europeans don't think so, that's their right. What's not their right is a free ride on the backs of 300,000 American soldiers in Europe and millions of American citizens who pay to keep them there.

SALARY INCREASES FOR GOVERNMENT EMPLOYEES

Mr. McGEE. Mr. President, there continues to be a serious problem involving the compensation, not only of this Government's top officers but also its senior career employees. Some of these people are suffering what one of my recent correspondents has termed a "quiet rage" because of the inequitable situation imposed on them by the workings of the law and by our recent action disapproving all salary increases as proposed by the President for those on the executive pay schedule.

An excellent presentation of just how this situation affects senior career employees, those in the so-called supergrade positions, is contained in a letter I recently received from an employee in Massachusetts, who forwarded me a copy of an earlier letter he had written to his Representative, the Honorable Margaret M. Heckler. I ask unanimous consent that this letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

October 3, 1973.

Hon. Margaret M. Heckler,
House of Representatives,
Washington, D.C.

Dear Congresswoman Heckler: For some time now I have been intending to see you to discuss a problem that has been getting progressively worse but I have not found it convenient to visit your office; therefore, I am taking the liberty of writing you and furnishing you data to point out the problem. The problem is the freezing of salaries of those employees in super-grades and PL-313 positions.

Since 1970 there have been five salary increases for government employees in the General Schedule. Tabulated below are examples of increases for Grades eleven, thirteen, and fifteen:

Date of increase	Percent increase	Typical salaries (4th step) GS-11	GS-13	GS-15
Prior to 1970		$12,355	$17,393	$23,749
Jan. 1, 1970	5.9	13,096	18,437	25,174
Jan. 10, 1971	5.9	13,878	19,537	26,675
Jan. 9, 1972	5.4	14,641	20,612	28,142
Jan. 7, 1973	5.1	15,394	21,671	29,589
Oct. 1, 1973	4.8	16,138	22,744	31,089
Increase summation	[1] 27.1	3,783	5,351	7,340

[1] Actually 30 percent when compounded.

These increases reflect a normal cost-of-living adjustment as well as the principle of comparability with non-government positions of the same kind. The principle of comparability was established by the Congress in 1969.

With the super-grade GS-16, 17 and 18 and PL-313 in the same salary schedule the limitations imposed by Section 5308 of Title 5 of the US Code create some serious inequities that impact on key personnel here and elsewhere. The data listed below show how these limitations cause employees to fall behind in real salaries because they have not received increases in some cases during the time that all other civilian and military have had cumulative increases of over 30%. You will note that for the first time the GS-16 has also moved into the zone of salary freeze.

		Salary scheduled versus salary received					
		GS-16, 4th step		GS-17, 4th step		GS-18 (only step)	
Date of increase	Percent increase	Scheduled salary	Actual salary	Scheduled salary	Actual salary	Scheduled salary	Actual salary
Prior to 1970		27,549	27,549	31,874	31,874	33,495	33,495
Jan. 1, 1970	5.9	29,202	29,202	33,786	33,786	35,505	35,505
Jan. 10, 1971	5.9	30,943	30,943	35,801	35,801	37,624	36,000
Jan. 9, 1972	5.4	32,645	32,645	37,770	36,000	39,693	36,000
Jan. 7, 1973	5.1	34,323	34,323	39,712	36,000	41,734	36,000
Oct. 1, 1973	4.8	36,085	36,000	41,774	36,000	43,926	36,000
Increase summation	[1] 27.1	8,536	8,451	9,900	4,126	10,431	2,505

[1] Actually 30 percent when compounded.

> These repetitive losses of actual salary compared to scheduled salary have a dual effect. First, the employee is denied comparable salary growth compared to other government employees and secondly he may be penalized in his retirement annuity because his annuity is based on the average of high three years of actual salary *not* on scheduled salary. In some cases this latter penalty may be more severe than the first because it affects his annuity for the rest of his life. For example: a retiring GS–18 with 22 years of service would receive approximately 40% of his high three years based on the actual salary of $36,000 for an annuity of $14,400. The annuity which he would be entitled to if he were paid the salary of $43,926 would be $17,570. This $3,170 penalty in his annuity could create severe hardships for him in the years to come.
>
> It seems to me that the key people here and elsewhere are paying an extremely high penalty for being leaders in their field. When it was a salary deficit of $1,624 in 1971 for the GS–18 one could brush it aside as being only temporary and "that's the way the ball bounces". But when one adds it all up for the four years it comes to $18,977 actual salary deficit plus the potential $3,170 in annuity which multiplied by life expectancy of 13 years for a man of 65 totals another $41,210. It is no longer possible then just to smile and like it. The fact is that this is so unfair that one would not believe it could happen if it hadn't. For example: a key employee GS–18 has received an actual salary increase since 1 January 1970 of $2,505 while a very junior journeyman GS–11 has received $3,783 and the senior GS–15 has received $7,340.
>
> Your colleague, Representative Gilbert Gude of Maryland, has introduced Legislation to correct the inequities of the present system. I hope that my letter may stimulate you to help him get this Legislation enacted or some Legislation which will correct the problem described in this letter. Here at ——— there are seven employees affected by this salary penalty. I'm sure there are many other employees in Federal Agencies located in Massachusetts that have the same problem. Although this number of persons is small the impact that this discrimination is having on the leadership of these organizations is tremendous.
>
> Since not all of the people affected are from your District you may wish to get the assistance of other members of the Massachusetts delegation to help in solving this important problem. I would be glad to furnish additional information if what I have said is not clear. All of the figures are quoted from Salary Schedules and can be verified.
>
> Sincerely,
>
> ———. ———.

ECONOMISTS COMMENT ON MONDALE $200 OPTIONAL TAX CREDIT PROPOSAL

Mr. MONDALE. Mr. President, on January 28, I introduced S. 2906, which would cut nearly $200 a year from the average family's tax bill by allowing taxpayers to take a $200 credit for themselves and each of their dependents instead of the existing $750 personal exemption.

This bill would increase the purchasing power of low- and middle-income Americans by nearly $6.5 billion, and help to head off the growing threat of recession.

I am very pleased that the Senator from Minnesota (Mr. HUMPHREY), the Senators from Iowa (Mr. CLARK and Mr. HUGHES), the Senator from Louisiana (Mr. JOHNSON), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Utah (Mr. MOSS) have joined me in cosponsoring S. 2906.

I am pleased also that the distinguished Congresswoman from Michigan (Mrs. GRIFFITHS), a senior member of the House Ways and Means Committee, has introduced companion legislation in the House (H.R. 13197).

Shortly after introducing this legislation, I wrote to a number of distinguished economists seeking their views on the proposal. I have now received a number of responses, and I would like to share them with my colleagues.

I am very encouraged by the support shown in these letters. While some of those responding had reservations about the proposal, they all contained extremely helpful suggestions and thoughtful comments.

It is clear from the comments I have received that there are differences of opinion on the need for a tax cut at this time. There are also differences—although fewer—on the form such a tax cut should take.

This underlines the importance of the hearings Chairman LONG has scheduled for next Tuesday, March 19, on tax cut proposals. There should be a full airing of views on such an important matter. The chairman's decision is a welcome and constructive response to the deteriorating economic outlook.

I suggested hearings along these lines in a letter to Chairman LONG last month, and I am extremely pleased that time has been found for them on the very full Finance Committee schedule.

There are three important justifications for the $200 optional tax credit.

It will help make up for the inflation and higher taxes that are imposing such a cruel burden on the average family.

It will help to head off the impending recession.

It will make our tax system more equitable.

Most of the comments I received dealt with some or all of these points.

COMPENSATION FOR INFLATION AND HIGHER TAXES

Inflation is accelerating. Prices rose 8.8 percent last year, but the rate was nearly 10 percent in the last 3 months, and consumer prices in January of this year rose at an annual rate of 12 percent.

Taxes too are going up, as inflation pushes taxpayers into higher brackets, and as payroll tax rates apply to higher levels of income.

A $200 optional tax credit would compensate—at least in part—for this erosion in workers' incomes.

Walter Heller, Chairman of the Council of Economic Advisers under Presidents Kennedy and Johnson, emphasized this justification for the $200 credit in his letter:

> Inflation has eroded and is eroding the real purchasing power of the $750 exemption at a rapid rate. The boosting of that exemption to restore its previous value, therefore, ought to have a high priority. Since inflation has taken a particularly heavy toll at the modest and low income levels (especially because of the leap in food and oil prices), it is appropriate that more of the benefits of any tax adjustment today should be concentrated in the low income groups. The shift to a credit option serves this purpose.

George Perry, senior fellow at the Brookings Institution, made the same point:

> Consumers real incomes have declined in 1973 as a result of soaring food prices and will decline further in 1974 as a result of soaring fuel costs. Your tax proposal would restore some of these real income losses.

Arthur Okun, Chairman of the Council of Economic Advisers under President Johnson:

> In 1974 the American consumer will be spending directly and indirectly for fuel about $20 billion more than last year to get less product. This drain on the budget is bound to have serious effects on the experience of other consumer industries—what the consumer spends on oil is not available for speinding on other discretionary items ranging from movie tickets to television sets. Indeed, if the oil embargo ends and the availability of gasoline increases while its price remains high, the drain on the consumer budget will be even greater. . . .
>
> In the present context, the provision of a consumer tax cut may help prevent the kind of retrenching in consumer living standards that might otherwise take place in response to layoffs and fuel and food inflation.

AN ANTIDOTE TO RECESSION

In a column in the March 3 Washington Post, Hobart Rowen reported that key Nixon administration advisers have concluded that the downturn in real GNP for the first quarter of this year "could be over 3 percent, and possibly as much as 4 percent."

The respected economic forecasters at the Wharton School at the University of Pennsylvania have made a similar prediction.

This is decidedly more gloomy than even the relatively cheerless report of the Council of Economic Advisers a month ago. And, of course, it can scarcely be squared at all with the Canute-like pronouncements of President Nixon that—

> There will be no recession in the United States of America.

When industrial production is declining, unemployment is growing, and the growth rate is negative, it takes more than verbal legerdemain to convince people that we are not in a recession.

So far, the administration's principal method of attacking the recession has been to try to define it away.

The budget it has proposed for the 1975 fiscal year can only make things worse. It is highly restrictive, with a full employment surplus of $8 billion. This means spending will be $8 billion less than it would have to be to pump up the economy and bring unemployment down to the "full employment" level of 4 percent. This will clamp down on growth and employment even more than this year's estimated $4 billion full employment surplus, which has already served to bring the economy to a standstill.

The $200 optional tax credit would put an additional $6.5 billion in the hands of consumers, and give the economy a badly needed shot in the arm.

Most of the economists who wrote commented on this justification for the $200 credit:

Walter Heller put it this way:

> Under present circumstances, with the economy sliding toward a recession, and

> with the President's budget projecting an increase in the full-employment budget surplus (in NIA, or National Income Accounting terms) between fiscal 1974 and fiscal 1975, the $6.5 billion of fiscal stimulus implicit in your plan would be a welcome stimulus to a lagging economy. Moreover, it is the kind of a boost that could be translated into the withholding system and therefore into higher paychecks very quickly.

George Perry wrote:

> By all available evidence, the economy is already in another recession. A boost to consumer purchasing power will help fight the downturn, lessening the rise in unemployment that is in store and improving the probability of a prompt recovery.

Robert Eisner, professor of economics at Northwestern University:

> I believe that your proposed legislation for an optional $200 per dependent credit is an excellent step in the direction of stimulating the economy. . . .

Arthur Okun:

> In view of the bleak outlook for consumer expenditures (which represent nearly two-thirds of our GNP), the prospects for an early upturn are very speculative. There is considerable risk that the sag could continue all year in the absence of policies to bolster activity. On the other hand, there is little risk of a self-generating upsurge in the economy that would make additional fiscal support inappropriate. Thus, a well-timed cut in consumer taxes would be an important insurance policy against a prolonged and sharp slide in employment and output. . . .
>
> The vast bulk of the additional consumer spending will go into areas where the economy has available labor and plant capacity to meet and greet added demand. In the present situation, one can feel particularly confident that the response will increase output and employment rather than add to inflation. While a number of shortage areas remain in our economy, those except for food and fuel will be vanishing during the first half of 1974 as rapidly as they emerged during the first half of 1973. The economy's operating rates will be lower by mid-year than they were late in 1972, when lumber was the only significant product with a shortage. In the case of food, only a trivial part of additional consumer income adds to the demand for food and thus a tax cut will have virtually no effect on food prices. In the case of petroleum, the system of price controls should ensure that any increment in demand is not converted into additional inflation. Indeed, by evidencing concern and effort by the government to make up for the acute cost-of-living squeeze on the worker, a tax cut could have beneficial effects in preserving the recent moderate behavior of wages.

Others who responded were not certain that a tax cut was the right economic medicine at this point. However, most said that if a tax cut was decided upon, the $200 optional credit was preferable to an across-the-board cut or an increase in the $750 exemption.

Otto Eckstein, professor of economics at Harvard and a member of the Council of Economic Advisers under President Johnson wrote:

> The economy is headed for a recession, but a tax cut would come too late. The economy is likely to be moving up at a pretty good rate by the end of the year. The economic impact of a tax cut, even if action were taken immediately, would barely be felt before then. . .
>
> If a tax cut is undertaken, it should be in the general form of your proposal. An across-the-board tax cut would mainly benefit middle income families; it would have a very low multiplier because they are not likely to spend the cuts on automobiles and other durables.

Gardner Ackley of the University of Michigan, Chairman of the Council of Economic Advisers under President Johnson:

> I am not sure that further stimulus—which could certainly not be effective for a number of months—is needed. However, there is enough uncertainty about that, that it is probably useful for tax-cut proposals to begin to be discussed and warmed up for use if extra stimulus should become necessary.

Robert R. Nathan, head of Robert R. Nathan Associates, Inc. in Washington:

> I think we are definitely in a recession and I have grave doubts about the basis for believing, as many of my good friends and liberal economists believe, that the economy will pick up in the second half of the year. . . . Therefore, something ought to be done about stimulating the levels of economic activity. . . .
>
> A tax cut always worries me as a measure for stimulation of economic activity. Almost every time we get a tax cut we end up with a less progressive system. If we are going to have a general tax cut I think your proposal is excellent because it really does help the lower income groups much more than the middle or higher income groups, and that is very necessary.

John Kenneth Galbraith of Harvard:

> Certainly yours is the right way to reduce taxes. The effect on lower income families is more favorable than to raise the exemption.
>
> However, I am very doubtful about a tax reduction. Inflation is still a major problem. It's a tough fact that tax reduction is the wrong medicine for that. And were there need for more fiscal stimulation, I would respond to the pressure of social need with higher spending and public service employment.

The following table illustrates the point made by many of those who responded; that is, that the $200 optional credit gives proportionately more relief to low- and middle-income taxpayers than do alternative proposals to raise the $750 exemption to $850, or to add a $25 per-person credit on top of the $750 exemption:

Adjusted gross income class	Percent of taxable returns	Percent of tax relief: $200 optional credit	$850 exemption	Additional $25 credit
0 to $3,000	5.3	2.6	1.3	1.7
$3,000 to $5,000	12.7	9.7	5.2	6.6
$5,000 to $7,000	14.3	15.2	8.8	10.6
$7,000 to $10,000	20.1	27.2	17.4	19.9
$10,000 to $15,000	25.6	35.3	30.0	31.7
$15,000 to $20,000	12.4	9.3	17.7	16.3
$20,000 to $50,000	8.7	.8	16.5	11.8
$50,000 to $100,000	.7	------	2.5	1.1
$100,000 plus	.2	------	.1	.2

Source: Joint Committee on Internal Revenue Taxation Based on calendar year 1972 income levels.

The $200 optional tax credit gives 78 percent of the relief to those in the $5,000 to $15,000 bracket, and 99 percent to those making less than $20,000.

Increasing the $750 exemption by $100, however gives only 56 percent of the relief to those in the $5,000 to $15,000 brackets, even though they make up 60 percent of all taxpayers. Furthermore, it gives nearly 20 percent of the relief to those making more than $20,000, even though they represent less than 10 percent of all taxpayers.

The proposal for an additional $25 per person credit falls roughly between the $200 optional credit and the $850 exemption in the percentage of relief it provides to each income category.

Joseph Pechman, director of economic studies at the Brookings Institution, has prepared an enormously helpful analysis of the $200 credit, the $850 exemption, and two other options, which carries the comparison forward using 1974 and 1975 income levels.

His analysis generally coincides with that prepared for me by the Joint Committee on Internal Revenue Taxation using 1972 income levels. However, Pechman's analysis shows that as income levels rise, a substantially greater percentage of the benefits from the $850 exemption go to those with incomes over $20,000.

I ask unanimous consent that the full text of Dr. Pechman's excellent analysis, and the accompanying tables, be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

TAX EQUITY

Mr. MONDALE. Mr. President, a $200 optional tax credit would be a significant step toward tax equity and fairness.

Hearings on American families before the Subcommittee on Children and Youth—which I chair—have demonstrated the unfairness of the existing $750 exemption. While it is designed in large part to help families raise their children, it discriminates strongly against low- and moderate-income families.

The $750 exemption for dependents is much more valuable for the wealthy than it is for average Americans. It provides the most help to those who need it least, and the least help to those who need it most.

For those in the highest 70-percent bracket—making $200,000 a year or more—each $750 exemption is worth $525 in reduced taxes. But for someone in the lowest 14-percent bracket making around $5,000 a year, each $750 exemption is worth only $105 in reduced taxes.

The new optional $200 credit would be worth the same amount in reduced taxes—$200—to everyone who used it, and would make a real start toward reducing the inequity inherent in the $750 exemption.

A number of the economists I wrote stressed the greater equity of credits as opposed to deductions.

Murray Weidenbaum of Washington University, formerly Assistant Secretary of the Treasury for Economic Policy in the Nixon administration:

> I have been urging the substitution of credits for deductions on the personal income

> tax as a way of increasing the progressivity of the Federal tax structure. The enclosed article presents some of the reasoning.

Otto Eckstein:

> Your tax credit proposal would improve the fairness of our tax system. There is little reason why the value of an exemption—which is meant to help defray the living costs of each family member—should rise with income. Indeed, at the low tax rates of the lower brackets, the tax benefit of the exemption has become so small that it no longer bears any relation ot the cost of supporting a dependent.

Robert Eisner:

> [Your proposal] is an excellent step in the direction of . . . redressing inequities in the tax law. As you point out, the $750 exemption offers large tax savings to the rich and little or nothing to the poor.

James Tobin of Yale University, a member of the Council of Economic Advisers under President Kennedy:

> I very much favor conversion of exemptions into credits, and I am glad you are sponsoring such legislation.

Walter Heller:

> The shift [to a credit option] also serves the longer-run purpose of recasting the exemption into a form that makes better sense in terms of a distribution of tax burdens that is fairer to the low income groups.

Wilbur Cohen, dean of the School of Education at the University of Michigan and Secretary of Health, Education, and Welfare in the Johnson administration:

> I strongly support the idea of a tax credit for the personal exemptions. A tax credit is an important tax reform which should have extremely high priority.

Arthur Okun:

> The best type of tax cut would put income rapidly into the hands of lower income and middle-income groups. From that point of view, the $200 credit option for the personal exemption seems ideally suited to meet the economy's needs. It could be promptly reflected in withholding schedules and would provide relief to those who have suffered most as a result of the food and fuel price explosion of the past year. By concentrating the benefits in the tax cut in income groups with marginal tax rates under 26 percent, it improves the progressivity and equity of the tax system.

Many people have trouble understanding why a $200 credit saves low- and middle-income taxpayers more in taxes than a $750 deduction. An example might help.

Suppose a family has an income of $10,000. If there are four people in the family, that means four exemptions worth $750 each, for a total of $3,000. This $3,000—plus the $1,500 standard deduction—is then subtracted from $10,000, and the tax is figured on what is left—$5,500. The statutory tax rate on that is just under 17 percent, and the tax is $905.

Under a system of $200 tax credits, however, only the $1,500 standard deduction is substracted from the $10,000 of income before the tax is figured. The statutory tax rate on this $8,500 of income is just under 18 percent, and the tax would be $1,490.

However, the four $200 tax credits—worth a total of $800—are then subtracted from that $1,490, leaving a final tax due of only $690. This amounts to a saving of $215 over the $905 that would be due using four $750 exemptions.

HELP FOR NONTAXPAYERS

Many of the economists who wrote expressed concern that the $200 optional tax credit would not help those with very low incomes who pay no tax.

Walter Heller, for example, said:

> [The] proposal should be accompanied by other measures that will be of particular benefit to those who fall below the exemption limits and are badly in need of income support from the Federal Government.

James Tobin wrote:

> I believe the credits should be cashable, for families that do not have sufficient tax liability to use the credits aganist.

Robert Eisner:

> I do believe, however, that there is a serious deficiency in your proposal in failing to provide tax relief for really low income earners whose *income* taxes are less than $200 per dependent or who pay no income taxes at all. . . . I should like to see your proposal enlarged to let the income tax credit be taken against social security taxes to the extent the taxpayer does not have income tax liabilities equal to the amount of the credit.

Robert Nathan:

> I know most of the people pay some income taxes but there are still quite a number at the lower levels who do not pay and they would not be benefited. Therefore, from an equity point of view your proposal goes quite a long way but I don't think it would be quite as helpful to the really low income groups as some moderation in the payroll tax.

Stanley Surrey of the Harvard Law School, Assistant Secretary of the Treasury for Tax Policy under Presidents Kennedy and Johnson, raised a related, but somewhat different, issue:

> [In] 1969 and 1971 the Congress, mainly through the low income allowance, made sure that the income tax would not dip below the poverty level. With inflation and price rises, we now have people below the poverty line being required to pay income tax. I think the first order of business is to restore the prior policy.

The $200 optional tax credit would assure that no one with an income below the poverty line would have to pay Federal income taxes. The following table shows the current poverty line for nonfarm individuals and families, and the level of income below which no tax would be due using a $200 credit:

Family size	Poverty line	Income below which no tax is due using $200 credit
1	$2, 409	$2, 648
2	3, 101	3, 984
3	3, 807	5 187
4	4, 871	6, 247
5	5, 748	7, 300
6	6, 461	8, 353

Joseph Pechman's letter contains an excellent comparison of the impact of three other options on poverty level taxation. It is reprinted at the conclusion of my remarks.

It is true that those who pay no income tax at all would not benefit from the $200 optional tax credit. As many of those who wrote suggested, cuts in the Federal income tax should be accompanied by other measures aimed at helping those with incomes so low they pay no tax.

The Senate has already acted on one such measure, the imaginative and constructive proposal by the distinguished chairman of the Senate Finance Committee, RUSSELL LONG, for a "work bonus" for low-income workers. Under the LONG "work bonus" plan—approved by the Senate on November 30 by an overwhelming 57 to 21 vote—each low-income worker with one or more children would receive a credit equal to 10 percent of his income up to $4,000. The credit would be gradually phased out for those with incomes over $4,000, so that no one with an income of over $5,600 would receive the credit. The credit would be paid whether or not the worker paid any income tax, and would, therefore, benefit those not helped by the $200 optional tax credit I have proposed.

The "work bonus" is in fact an excellent complement to the $200 optional tax credit, since its benefits phase out at just about the income levels where the benefits from the $200 credit begin. The "work bonus" establishes a strong beginning toward helping working Americans with low incomes. It is now in conference as part of H.R. 3153, and I hope the House conferees will agree to accept it.

Many of the economists who wrote me have urged that social security payroll tax reform be given high priority. I have advocated this for a number of years, and I hope we can move in this Congress to ease the heavy burden of the payroll tax on low- and moderate-income wage earners and their families. The Long "work bonus" is one step in this direction, and I hope we can build on that to achieve fundamental reform in this very important area.

The excellent work done by Representative MARTHA GRIFFITHS' Subcommittee on Fiscal Policy over the last 2 years has laid the groundwork for thoroughgoing reform of the whole range of Federal income and "in-kind" transfer programs that are intended to benefit low-income Americans. As Representative GRIFFITHS' subcommittee has demonstrated, these programs have so many overlaps and differing eligibility formulas that they all must be considered together in devising an effective reform program. Changing just one aspect of the system can often lead to unforeseen and unwanted consequences elsewhere. For example, when a family benefits from a number of programs simultaneously—such as AFDC, food stamps, medicaid, and public housing—it often happens that the family is penalized severely for earning just a little bit of extra money. This entire area stands in need of reform, and I hope we can move on it in the near future.

In addition, we must retain and

strengthen the existing social services program—which provides child day care, special help to the mentally retarded, services to help the elderly stay in their own homes—and other services to help low-income families, the disabled, the blind, and the elderly to achieve and retain independence. And we need to enact strong child development legislation, along the lines adopted by the Congress and vetoed by the President years ago. I will soon be reintroducing my child development bill, and I intend to push for early action on it.

Mr. President, I ask that the full text of the excellent letters I have received appear in the RECORD at this point. In addition, I ask that a column by Walter Heller in yesterday's Wall Street Journal entitled "The Case for Fiscal Stimulus," and a column by Hobart Rowen from the March 10 Washington Post, also be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNIVERSITY OF MINNESOTA,
Minneapolis, Minn., February 5, 1974.
Senator WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR FRITZ: In response to your inquiry of January 31 concerning your proposal for an optional $200 tax credit, I find it attractive for the following important reasons:

Inflation has eroded and is eroding the real purchasing power of the $750 exemption at a rapid rate. The boosting of that exemption to restore its previous value, therefore, ought to have a high priority.

Since inflation has taken a particularly heavy toll at the modest and low income levels (especially because of the leap in food and oil prices), it is appropriate that more of the benefits of any tax adjustment today should be concentrated in the low income groups. The shift to a credit option serves this purpose.

The shift also serves the longer-run purpose of re-casting the exemption into a form that makes better sense in terms of a distribution of tax burdens that is fairer to the low income groups. At the same time, it preserves the existing family differentiation for tax purposes in the higher income groups. So it recognizes both the need for a fair distribution of taxes by size of income and the need for reasonable differentiation of tax burdens according to family obligations.

Under present circumstances, with the economy sliding toward recession, and with the President's budget projecting an increase in the full-employment budget surplus (in NIA, or National Income Accounting terms) between fiscal 1974 and fiscal 1975, the $6.5 billion of fiscal stimulus implicit in your plan would be a welcome stimulus to a sagging economy. Moreover, it is the kind of boost that could be translated into the withholding system and therefore into higher paychecks very quickly.

Needless to say, the exemption proposal should be accompanied by other measures that will be of particular benefit to those who fall below the exemption limits and are badly in need of income support from the Federal Government. It should also be accompanied or quickly followed by measures of tax reform to cut back or end the many unjustified tax preferences that erode our tax system and give unfair tax breaks to the upper income groups. A simple and significant increase in the minimum tax would be a good place to start.

Sincerely,

WALTER W. HELLER,
Regents' Professor of Economics.

THE BROOKINGS INSTITUTION,
Washington, D.C., February 5, 1974.
SENATOR WALTER F. MONDALE,
Russell Senate Office Building,
Washington, D.C.

DEAR FRITZ: Your proposal to allow taxpayers the option of $200 tax credits in place of the $750 exemptions now available to them on their income taxes is a constructive one and is particularly timely in today's economy. By providing some tax relief for almost all families earning $20,000 or less, the measure responds to the two great problems of 1974—inflation and recession.

Consumers' real incomes have declined in 1973 as a result of soaring food prices and will decline further in 1974 as a result of soaring fuel costs. Your tax proposal would restore some of these real income losses.

By all available evidence, the economy is already in another recession. A boost to consumer purchasing power will help fight the downturn, lessening the rise in unemployment that is in store and improving the probability of a prompt recovery.

A tax reduction of $6.5 billion, which is approximately the revenue loss from your proposal, is fiscally sound. The economy needs a push from the budget and an equitable tax reduction would be a desirable part of a stimulative program. Looking further ahead, even if the economy recovers from the present recession promptly, inflation will have accelerated the normal growth of income tax liabilities, making some permanent tax reduction desirable for the longer run.

In short, your proposal has significant merits on all important fronts. I am pleased to endorse it and hope it is enacted.

With best regards.

Sincerely,

GEORGE L. PERRY,
Senior Fellow.

YALE UNIVERSITY,
New Haven, Conn., February 6, 1974.
Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: Thank you for your letter of January 31st. I very much favor conversion of exemptions into credits, and I am glad you are sponsoring such legislation. However, I believe the credits should be cashable, for families that do not have sufficient tax liability to use the credits against.

I enclose a paper which may be of interest.

Sincerely,

JAMES TOBIN.

(The paper referred to is entitled "Reflections on Recent History", and was given by Professor Tobin on December 28, 1973 before the American Statistical Association.)

LAW SCHOOL OF HARVARD UNIVERSITY,
Cambridge, Mass, February 7, 1974.
Hon. WALTER F. MONDALE,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR FRITZ: This is in reply to your letter regarding the $200 tax credit as an alternative to the $750 personal exemption. This is an interesting approach and certainly deserves consideration.

My initial thought is that I would like to see somebody score it out with respect to the possible competing alternatives. For example, in 1969 and 1971 the Congress, mainly through the low income allowance, made sure that the income tax would not dip below the poverty level. With inflation and price rises, we now have people below the poverty line being required to pay income tax. I think the first order of business is to restore the prior policy. My guess is that this could be accomplished by increasing the low income allowance. Most of the revenue involved would go to people around and above the poverty level.

The next question is whether income tax relief should be given to people with up to $15,000 income or so because inflation has pushed them into higher brackets and thus increased their tax burdens. If the answer is "yes", then we come down to a choice of method. One way is granting a vanishing credit as an alternative to the exemption, which is your apporach. Another way is to raise the exemption itself. The second way is simpler and more traditional. The credit approach may be in a sense too generous to large families. I gather the economists feel that each additional child is not entitled to the same tax offset as the preceding child. On the other hand, I can understand that large families have problems and you may want to do something about that. Once we have straightened out the starting point of the income tax, the real utility of personal exemptions (or credits) is to achieve the proper tax relationship among different households—single people, married couples, married couples with one child, two children, etc. It is possible that the personal exemption does this better than the tax credit.

Of course the tax credit approach does cut off tax reduction at some point whereas an increase in the personal exemption runs all the way up the scale. The choice may thus come down to what one desires to focus on—stopping tax reduction at some point or, on the other hand, giving more attention to the relative tax burdens among different family compositions at the same income tax level.

I would suggest that you ask the people at Brookings to score out three alternatives—an increase in the low income allowance (and perhaps a change in exemption) to get the starting point back to the poverty level; after that, comparing your credit approach with any straight increase in exemptions. If this is done one can see the differences among income groups and the choice would become somewhat easier.

This obviously is a hasty letter. If you do get further information from Brookings I would be glad to look it over.

Sincerely,

STANLEY S. SURREY.

NORTHWESTERN UNIVERSITY,
Evanston, Ill., February 8, 1974.
Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: I believe that your proposed legislation for an optional $200 per dependent credit is an excellent step in the direction of stimulating the economy and redressing inequities in the tax law. As you point out, the $750 exemption offers large tax savings to the rich and little or nothing to the poor. Ideally, the exemption should be replaced entirely by a flat credit. I can understand, though, that the credit will prove politically more acceptable if it is made optional so that no opposition need develop from upper income taxpayers who would find themselves worse off with the credit than the exemption.

I do believe, however, that there is a serious deficiency in your proposal in failing to provide tax relief for really low income earners whose *income* taxes are less than $200 per dependent or who pay no income taxes at all. For many of these individuals and families lose substantial parts of their income in social security taxes. I shoud like to see your proposal enlarged to let the income tax credit be taken against social security taxes to the extent the taxpayer does not have income tax liabilities equal to the amount of the credit. This could presumably be done by having the social security account credited with the amount of the income tax credit and the taxpayer in turn refunded the amount that has been withheld for social security.

Even this amendment would not offer relief to the very poor who are not earning income on which social security payments are made. However, it would move a considerable way in the direction in which you are headed of eliminating tax benefits that help the rich and give much lesser relief if any to middle and low income households.

On the matter of where to make up the revenue loss when this proves necessary, I would urge that the "long-overdue reform of foreign and domestic tax loopholes," to which you refer is much better than a tax directed towards excess profits. I think it folly to try to take away more in direct profits taxes while refusing to eliminate the huge give-aways in tax credits for foreign payments for oil, along with the benefits from depletion allowances, current charging of development and drilling costs, and equipment tax credits and accelerated depreciation throughout the economy.

Sincerely,

Robert Eisner,
Professor of Economics.

Washington University,
St. Louis, Mo., February 11, 1974.
Hon. Walter F. Mondale,
U.S. Senate,
Washington, D.C.

Dear Senator Mondale: This is in reply to your letter of January 31, with reference to your proposal for a $200 tax credit. As you may know, I have been urging the substitution of credits for deductions on the personal income tax as a way of increasing the progressivity of the Federal tax structure. The enclosed article presents some of the reasoning.

However, I am concerned that the $6.5 billion estimated revenue loss would add to inflationary pressures which remain so very strong. In this environment, I would suggest that a more effective way of combatting unemployment would be to redirect government spending to the creation of jobs for the unemployed.

Perhaps your approach can be combined with a more comprehensive tax reform proposal that would not yield a large net loss of revenue.

With all best wishes.

Sincerely,

Murray L. Weidenbaum.

(The article referred to is entitled "Shifting From Income Tax Deductions to Credits", and appears in the August, 1973, issue of TAXES—The Tax Magazine.)

Harvard University,
Cambridge, Mass., February 11, 1974.
Senator Walter F. Mondale,
U.S. Senate,
Washington, D.C.

Dear Senator Mondale: Thank you for the opportunity to take a look at your proposal of a $200 personal income tax credit for each dependent as an alternative option to the existing $750 exemptions. Here is my reaction.

(1) Is the tax cut needed now?

The economy is headed for recession but a tax cut would come too late. The economy is likely to be moving up at a pretty good rate by the end of the year. The economic impact of a tax cut, even if action were taken immediately, would barely be felt before then. This has always been the problem with using taxes to fight recession—it is just too slow. The major current problems of policy are not to find a fiscal stimulus, but to handle the energy situation more skillfully. If the driving situation remains in its present state, there wil be major damage to retail sales and to the housing industry.

If a tax cut is undertaken, it should be in the general form of your proposal. An across-the-board tax cut would mainly benefit middle income families; it would have a very low multiplier because they are not likely to spend the cuts on automobiles and other durables.

My feeling against a tax cut is mainly based on the longer-term needs for resources by the federal government. We have cut taxes too much in the last four years, and we will need the taxbase to meet future social goals.

Also, the current flush financial condition of the states and localities will be short-lived. Strong income growth and revenue sharing have been of tremendous benefit to local governments. But there is no plan to expand revenue sharing, and the economy will soon be producing less revenue growth. In one way or another, the federal government will be asked to pick up more of the financial burdens.

(2) Pros and Cons of the proposal

Your tax credit proposal would improve the fairness of our tax system. There is little reason why the value of an exemption—which is meant to help defray the living costs of each family member—should rise with income. Indeed, at the low tax rates of the lower brackets, the tax benefit of the exemption has become so small that it no longer bears any relation to the cost of supporting a dependent.

I would not make the tax credit an optional feature. While I recognize that this approach assures that no family will have to pay more, the use of optional features in the tax system hurts taxpayer morale. We now have options for income averaging, for itemized versus standardized deductions, and for other features. Each option leads to extra calculations and opportunities for the tax services. The present proposal would create this kind of option for the entire low- and lower-middle income taxpaying population.

While there are other tax changes that could accomplish the same goal, particularly the "vanishing exemption" or changes in rate structure, there is a simplicity to the optional tax credit which may make it more acceptable. Given the choice of the present system versus the Mondale proposal, I would favor the Mondale proposal.

I am very pleased to see that you are taking initiatives in the tax and economic policy areas.

With best wishes.

Sincerely,

Otto Eckstein.

University of Michigan,
Ann Arbor, Mich., February 19, 1974.
Hon. Walter F. Mondale,
U.S. Senate,
Washington, D.C.

Dear Fritz: I am certainly sympathetic with the purposes of your proposal for an optional $200 tax credit as an alternative to the existing personal exemption.

My reservations are essentialy three. First, the Budget presented by the President is a fairly stimulative one, in my judgment. Moreover, I tend to be more optimistic than some others about the prospects for the economy. My own forecast sees a quite healthy expansion occurring beginning about mid-year and continuing through at least the first half of 1975. I am not sure that further stimulus—which could certainly not be effective for a number of months—is needed. However, there is enough uncertainty about that, that it is probably useful for tax-cut proposals to begin to be discussed and warmed up for use if extra stimulus should become necessary.

Second, I find it difficult to become committed to individual pieces of a tax reform program without knowing what the other pieces will be. While I favor making the personal tax more progressive, especially at the lower end, there are many other variables, including rate structure, standard deductions, credit for payroll taxes, etc. which could achieve this and which could be even more useful elements in a total tax reform package. However, I assume that the various elements need to be traded off against each other in the effort to secure a balanced and enactable package. Giving away the goodies of tax reductions one at a time, may not be the best way to achieve an effective reform, which needs to include a great many tax increase elements.

My feeling is that for the long run we are going to need a Federal tax system which will take at least as much out of the economy as our present system. I therefore would not support other than temporary and easily reversible tax cuts for fiscal policy reasons unless there were no alternative. You, of course, are in a far better position than I am to know what is feasible.

In any case, I congratulate you for getting some of these issues on the fire, and wish you every success in this as in your other endeavors.

Sincerely,

Gardner Ackley,
Professor of Economics.

Harvard University,
Cambridge, Mass., February 20, 1974.
Senator Walter F. Mondale,
U.S. Senate,
Washington, D.C.

Dear Fritz: I am away in Switzerland composing a book—appropriately on money and its history. Do forgive me for not commenting at length on your proposal. Certainly yours is the right way to reduce taxes. The effect on lower income families is more favorable than to raise the exemption.

However, I am very doubtful about a tax reduction. Inflation is still a major problem. It's a tough fact that tax reduction is the wrong medicine for that. And were there need for more fiscal stimulation, I would respond to the pressure of social need with higher spending and public service employment.

All the best.

Yours faithfully,

John Kenneth Galbraith.

Robert R. Nathan Associates, Inc.,
Washington, D.C., February 25, 1974.
Hon. Walter F. Mondale,
U.S. Senate,
Washington, D.C.

Dear Fritz: Please forgive me for not replying promptly to your letter of January 31st. I have been away from the office quite a bit lately.

I have read the statement you made in the Congressional Record on January 28th and have looked through the tables and comments very carefully. There are several questions, one which relates to the desirability of a tax cut as compared with an increase in expenditures as a means of stimulating the economy. The second concerns the question of the kind of tax cut which will be most equitable and which would have the greatest economic impact. The third question relates to basic tax reforms and the element of progressivity. Let me take these up in some separate but related order.

I think we are definitely in a recession and I have grave doubts about the basis for believing, as many of my good friends and liberal economists believe, that the economy will pick up in the second half of the year. Maybe it will but I do not see the basis for such optimism as yet. Therefore, something ought to be done about stimulating the levels of economic activity. I personally would prefer at least some increase in expenditures for mass transit and for improved rail transit and for rapidly exploring and exploiting alternative sources of energy. I do think we could spend an awful lot of money on buses and the Federal Government could give these buses to local transit authorities on the understanding that the fares would be maintained where they are, or preferably reduced. We would be a lot better off if we subsidized bus fares and railroad cars for the transportation of coal and the like. Such expenditures could, I think, be stimulating to recovery or they would at least cushion the declines in business activity that appear to be imminent.

There are other expenditures in terms of public employment, which was the subject of proposal you submitted some weeks ago, and that would make a lot of sense.

A tax cut always worries me as a measure for stimulation of economic activity. Almost every time we get a tax cut we end up with a less progressive system. If we are going to have a general tax cut I think your proposal is excellent because it really does help the lower income groups much more than the middle or higher income groups, and that is very necessary. I know most of the people pay some income taxes but there are still quite a number at the lower levels who do not pay and they would not be benefitted. Therefore, from an equity point of view your proposal goes quite a long way but I don't think it woud be quite as helpful to the really low income groups as some moderation in the payroll tax. As far as stimulating the economy is concerned, I am sure some of the tax savings which would be achieved through your measure would be spent, but we haven't much of an idea of what the marginal spending habits are going to be in a recession that is generated by shortages of an input which is as pervasive as power and fuels. It is hard for the economist to figure just how to stimulate this economy to get us back toward full employment without accelerating the rate of inflation and also with some sense of confidence that certain measures are going to really be effective. This is one of the reasons why any stimulating activity should, in my judgment, include expenditures such as mass transit because this well know would be helpful to the middle and lower income groups because it would keep their transit fares down and they do ride a great deal.

As far as alternatives in tax reductions are concerned, I still would like to see some of the reduction in the payroll taxes. In my judgment we have worshiped the concept of actuarial purity for much too long because social security really is not a true actuarial system and I think we should have had a third source of revenue in addition to the payroll taxes on employers and on employees and that the third source should be general revenues. Just to placate those who keep wrapping themselves up in the actuarial mythology, we could have general revenue contributions for cost of living adjustments and for improvement factors in social security benefits. I can't think of another tax which is as regressive as the payroll tax because the higher the income the lower the proportion subject to the payroll tax. I would love to see us put some general revenue into the reserve and reduce payroll taxes in employees by a similar amount, and that would certainly be the biggest help one could give to the lower income groups.

Again, I do like the principle you are pursuing and it certainly is one devil of a lot more equitable than raising the exemptions. I suspect what I would push for would be a part of the stimulation in the form of increases that would be spent quickly and would help the nation's economy and a part through your method and then another part in the form of reduced payroll taxes. Of course this then raises a political question as to which is the more feasible or more salable. I don't like to go for pure proposals which have no chance of achievement and I think that if the increased spending or the cut in payroll taxes were unlikely to succeed then I would go overboard on your proposal. I would at least like to see us start part way with that and part in the other direction.

I hope these observations are of some interest. If you ever have a few moments and would like to talk about them let me know and I will be glad to come down.

Best wishes.

Sincerely,

ROBERT R. NATHAN.

UNIVERSITY OF MICHIGAN,
March 4, 1974.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR FRITZ: I have your letter of February 21 concerning your Bill S. 2906 to convert the present deduction for personal exemptions to a tax credit.

I strongly support the idea of a tax credit for the personal exemptions. A tax credit is an important tax reform which should have extremely high priority.

In my opinion, the tax credit should be limited to three children and two adults. Moreover, I believe that there should be a higher credit for the first child.

These suggestions would fit very appropriately into your ideas concerning strengthening family and child life.

I do not see why we should continue to give deductions or credits for more than three children except in the case where the child was not a natural child and was adopted. I believe that it would strengthen our family planning policies to limit any tax credits normally to three children. I would, however, continue to permit credits for a natural or adopted child who was totally disabled (utilizing the definition of disability under title II of the Social Security Act) irrespective of the age of the child.

My justification for a higher amount for the first child is that this is where the major financial burden arises for a young family. In the case of the first child there is usually a need for additional space and expenditures which are somewhat less per person for the second and third child. My preference is a $300 tax credit for the first child; $200 for the second child; and $100 for the third child.

In passing, I would also like to bring to your attention that the federal matching payment to the states for dependent children under title IV of the Social Security Act has not been increased since 1965. There has been approximately a 50 percent increase in the price level since that date without any additional federal financing of the cost. I believe it is important that a cost of living adjustment be added to the program so that these children will not be penalized by inflation.

Quite frankly, I would like to see you couple these two ideas together so that families with children would be helped whether they were children in families where the parent was an earner or was on welfare. This would truly be a program that would improve family life and the welfare of children.

With best personal wishes,

Sincerely,

WILBUR J. COHEN,
Dean.

ARTHUR M. OKUN,
Washington, D.C., March 11, 1974.

Hon. WALTER F. MONDALE,
U.S. Senate, Washington, D.C.

DEAR SENATOR MONDALE: In response to some questions you raised, I should like to explain my position on the general desirability of a tax cut for consumers in 1974, and my views on the particular proposal for a $200 tax credit in lieu of the usual personal exemption.

Output and employment in the U.S. economy are sagging today. Our real GNP for this quarter is registering a market decline—one of the sharpest declines in sixteen years. Many initial features of the decline—such as the collapse of new car sales—are just beginning to exert their damaging secondary effects on other industries. The outlook for consumer demand is particularly bleak, reflecting the anxieties of American families associated with the combination of job layoffs and rapid inflation, and the drain on their budgets from food and fuel inflation. In 1974 the American consumer will be spending directly and indirectly for fuel about $20 billion more than last year to get less product. This drain on the budget is bound to have serious effects on the experience of other consumer industries—what the consumer spends on oil is not available for spending on other discretionary items ranging from movie tickets to television sets. Indeed, if the oil embargo ends and the availability of gasoline increases while its price remains high, the drain on the consumer budget will be even greater. This spending will not create jobs or output in the United States for the foreseeable future.

In view of the bleak outlook for consumer expenditures (which represent nearly two-thirds of our GNP), the prospects for an early upturn are very speculative. There is considerable risk that the sag could continue all year in the absence of policies to bolster activity. On the other hand, there is little risk of a self-generating upsurge in the economy that would make additional fiscal support inappropriate. Thus, a well-timed cut in consumer taxes would be an important insurance policy against a prolonged and sharp slide in employment and output.

According to the best historical evidence, widespread small increases in consumer take-home pay get into the spending stream. The excellent results in stimulating economic growth that followed the 1964 tax cut demonstrates that. In the present context, the provision of a consumer tax cut may help prevent the kind of retrenching in consumer living standards that might otherwise take place in response to layoffs and fuel and food inflation.

The vast bulk of the additional consumer spending will go into areas where the economy has available labor and plant capacity to meet and greet added demand. In the present situation, one can feel particularly confident that the response will increase output and employment rather than add to inflation. While a number of shortage areas remain in our economy, those except for food and fuel will be vanishing during the first half of 1974 as rapidly as they emerged during the first half of 1973. The economy's operating rates will be lower by mid-year than they were late in 1972, when lumber was the only significant product with a shortage. In the case of food, only a trivial part of additional consumer income adds to the demand for food and thus a tax cut will have virtually no effect on food prices. In the case of petroleum, the system of price controls should ensure that any increment in demand is not converted into additional inflation. Indeed, by evidencing concern and effort by the government to make up for the acute cost-of-living squeeze on the worker, a tax cut could have beneficial effects in preserving the recent moderate behavior of wages.

The best type of tax cut would put income rapidly into the hands of lower income and middle-income groups. From that point of view, the $200 credit option for the personal exemption seems ideally suited to meet the economy's needs. It could be promptly reflected in withholding schedules and would provide relief to those who have suffered most as a result of the food and fuel price explosion of the past year. By concentrating the benefits in the tax cut in income groups with marginal tax rates under 26 percent, it improves the progressivity and equity of the tax system.

I do hope that the Congress will give serious and prompt consideration to this constructive measure.

Sincerely,

Arthur M. Okun.

[From the Wall Street Journal, Mar. 11, 1974]

The Case for Fiscal Stimulus

(By Walter W. Heller)

Once again, the battle between anti-recessionists and anti-inflationists is joined. Without differing very much on the 1974 economic scenario—downturn and double-digit inflation in the first half followed by an upturn and some ebbing of inflationary pressures in the second—the antagonists run the gamut from "ease up" to "hold tight" in their prescriptions for fiscal-monetary policy in 1974.

Part of this division reflects conflicting diagnoses of the nature of this year's recession and inflation. Partly, it grows out of divergent appraisals of how much of any given demand stimulus will translate into jobs and output and how much into more inflation (either now or later). And in no small part, it goes beyond positive economics to a conflict of values.

Nothing throws the issues into bolder relief than the proposal for a quick income tax cut in the form of an increase in personal exemption. A tax reduction of $5 billion to $6 billion a year could be effected either by boosting the per capita exemption from $750 to $900 or by adopting Senator Mondale's proposal to give the taxpayer the option of taking a $200 credit against tax or continuing to deduct $750 from income.

The equity case for this move is obvious:

Before the year is out, inflation will have eroded the real value of the $750 exemption by more than 20% since it went into effect at the beginning of 1972.

Even more important, boosting exemptions would concentrate the bulk of the tax benefits at the middle and lower end of the income scale where recent inflation, especially in the form of surging food and fuel prices, has exacted a particularly heavy toll. (To reach the lowest incomes calls for further action, e.g., a step-up in social service programs and relief from Social Security payroll taxes on the poor.)

Indeed, the social rationale for income and payroll tax relief in the lower brackets is so compelling that it would make sense even if it were matched by simultaneous tax increases elsewhere.

But equity aside, can a broad-based income tax cut stand on its economic merits? Those who say it can't—Messrs. Shultz, Burns, Fellner, McCracken and Stein somehow come to mind—cite such arguments as these:

Our current economic downturn is mainly the result of supply restraints, of shortages and bottlenecks; such demand deficiencies as exist will soon correct themselves.

Any further stimulus will simply increase the ferocity and tenacity of inflation.

Mr. Nixon's fiscal 1975 budget already contains all the stimulus the economy can stand. And besides, cutting income taxes today robs us of vital revenue-raising power we need for tomorrow.

Straw men? Hardly. But neither are they holy writ.

SOME UNMISTAKABLE SIGNS

First, as to the nature of recession. Though supply shortages get the headlines, a close look reveals unmistakable signs of a shortage of demand. The weary consumer, whiplashed by tight money and fiscal restraint and whipsawed by runaway food and fuel prices, has pulled in his horns:

For nearly a year, his consumption of durables other than autos has fallen in real terms, while his consumption of non-durables and services has kept only a trifle ahead of inflation.

As to autos, the gasoline shortage has converted an expected decline into an actual disaster. Lying behind the 27% drop in overall sales of domestic cars last month was a plunge of nearly 50% in demand for standard and larger models.

Tight money has cut the rate of residential construction outlays from $60 billion a year ago to around $47 billion today.

For consumers, January was perhaps the cruelest month. While personal income dropped $4 billion, consumer prices raced upward at a 12% annual rate. Real spendable earnings of non-farm workers, after taxes, were down 4% from a year earlier, the largest drop in 10 years.

Nor is any early rebound in sight. It will be months before exploding oil prices have worked their way through the economy, soaking up $15 billion to $20 billion of consumer purchasing power in the process. For that's the amount of tribute the American consumer has to pay foreign and domestic producers of oil—and in the shortrun, very little of the funds thus siphoned off will reappear in the economy as demand for exports or increased dividends and capital spending by the U.S. oil industry. So even with an end to the Arab embargo, the U.S. economy will continue to suffer the paradox of "oil drag"—a cost-inflation of prices and a tax-like deflation of demand.

Contrary to the Alice-in-Wonderland reasoning in Mr. Nixon's veto message on the energy bill, a rollback in domestic crude oil prices could materially ease that drag. For example, a cutback in new oil prices to $8 and old oil prices to $4.25 (as against $7.09 and $5.25 in the energy bill), while maintaining strong incentives for boosting output of new oil and oil substitutes, would serve to:

Cut oil-cost inflation by $5 billion.

Restore $5 billion of real purchasing power to consumers.

Stop that amount of excess profits at the source.

It isn't often that a single measure promises to cut cost inflation, bolster aggregate demand, curb profiteering, and still maintain vital incentives. Yet doctrinaire pursuit of market ideology coupled with a paralyzing fear of further inflation seems to be blinding policy makers to the opportunities for simultaneously serving different objectives of policy. Not all demand stimulants aggravate inflation on net balance.

That brings us to the second major charge against the proposed tax relief, namely, that much or even most of it will run off into added inflation. No one can deny that added dollars in consumers' hands will elicit some price increases. But in 1974, a year in which deficient demand will persist even after recovery replaces recession, the trade-off will be highly favorable. Consider the nature of today's inflation:

Above all, it reflects price pressures born of the food and fuel shortages of yesteryear which, as Arthur Burns cogently pointed out last fall, "hardly represent either the basic trend in prices or the response of prices to previous monetary or fiscal policies." After this year, those pressures will begin to burn themselves out, leaving a legacy of high but less rapidly rising prices.

In part, it is a lagged response to the boom in world commodity prices in general. And these pressures too will ebb even as demand recovers, much as they did after the price explosion set off by the Korean boom in 1951.

Further, it is a result of a sharp rise in unit labor costs, which moved ahead at a 9% annual rate in the last quarter of 1973 and will get worse in recession before getting better in recovery.

Upward price adjustments as industries are freed from controls will also give inflation a jolt, largely a one-shot phenomenon.

In other words, inflation in 1974 has a life of its own, nourished not by excess demand but mainly by a variety of cost factors beyond the reach of fiscal and monetary management. The great bulk of the stimulus of a prompt tax cut would therefore express itself in higher output, jobs, and income, not in higher prices.

It can be argued—indeed, George Perry of Brookings has argued—that a well-tempered tax cut can help relieve cost-push pressure by redressing labor's cost-of-living grievances in part through tax relief rather than wage escalation. Labor leaders keep an eye closely cocked on that critical barometer, "real spendable earnings *after* taxes." Cut income and payroll taxes and real earnings rise. If a fiscal bargain could be struck with labor to substitute this paycheck sweetener in part for wage hikes, less of the 1973–74 food and fuel price upsurge will be built into wage bargains.

But what about the legacy of a weakened tax system in 1975 and later years? Won't the inflationary chickens come home to roost? Not if responsive fiscal and monetary policies head off renewed excess demand when it again threatens the economy.

For that matter, the Congress should build in a large part of the protection by coupling its exemption boost with a firm commitment to enact compensating revenue-raising tax reforms to become effective in and beyond 1975. The necessary funds could be raised simply by a substantial hike in the minimum tax plus a phasing out of most of the tax shelters for petroleum as oil price curbs are progressively relaxed. (It is worth noting that with appropriate pricing policies, one can both avoid punitive excess profits taxes and phase out the distorting and inequitable tax preferences for petroleum—thus serving both equity and efficiency.)

THE THIRD QUESTION

But one still has to confront the third question: Isn't Mr. Nixon's new budget already offering plenty of stimulus to a sagging economy? And besides, shouldn't we be reassured by Mr. Ash's promise to "bust the budget" if Mr. Nixon's exercise in exorcism fails and the economy is by recession repossessed? The answer is "no" on both counts.

True, the fiscal 1975 budget gives the *appearance* of stimulus. Spending is scheduled to rise $30 billion, and the deficit to double from $4.7 billion to $9.4 billion. But as this most realistic of Mr. Nixon's budget messages makes clear, "the recommended budget totals continue [the] policy of fiscal restraint as part of a continuing anti-inflation program." Indeed, the unified budget surplus on a full-employment basis would rise from $4 billion to $8 billion.

On a national income accounts basis, the rise in the full-employment surplus would be even greater. Even without fully accepting the St. Louis Federal Reserve Bank numbers showing a rise in the full-employment surplus from a rate of $2 billion in the first half of 1974 to nearly $13 billion in the first half of 1975, and even allowing for the inevitable slippage in the budget process, one can safely conclude that the fiscal 1975 budget, contrary to surface appearances, offers no substantial stimulus to the economy.

But what of the assurances that contingency plans will be rolled out to step up spending in case recession rears its ugly head? Given the typical lags in policy action and economic reaction, one can only say that the time to act is now. When a man is drowning, one should not deny him a life preserver on grounds that one can always resort to mouth-to-mouth resuscitation.

[From the Washington Post, Mar. 10, 1974]

Recession Charade

President Nixon keeps reiterating, in his stubborn way, that "there will not be a recession in 1974," as if the repetition of that hopeful thought will, like magic, wash all the nation's economic troubles away.

The hard fact is that the economy is suffering a contradiction which is clearly evident in rising unemployment, lower factory output and rising prices. Whether, in the end, it qualifies for the technical definition of a recession is not much of a point.

However, many reputable economists believe that the nation is already in at least the third month of a recession which will lower real gross national product for the first half of 1974.

A survey of 62 leading forecasters, as reported in the Washington Post Friday, sees at least a mild decline in real GNP for the first half of 1974. The Wharton School, and Prof. Otto Eckstein's Data Resources Institute, among others, see a somewhat sharper dip, with inflation a serious problem.

The more serious fall-off could arise if the first-quarter slide reaches the annual rate of 3 to 4 per cent now considered possible by statisticians within the Nixon administration itself, as was reported in this space last week.

The recession charade Mr. Nixon has been playing could be ignored as the natural reflex of a politician already in deep trouble if it did not imply the absence of a program to contain the damage.

By saying that there will be no recession, that, if everyone is patient, food and fuel prices will come down, leading to a recovery by the end of 1974, Mr. Nixon is also saying that his government isn't called on to take positive steps to stimulate the economy.

Economic Council Chairman Herbert Stein, a perennial optimist, reassured the Governors' Conference here the other day that although there is "no prospect of instant relief" from unemployment and inflation problems, there will be "a strong revival" around mid-year.

Stein expects a resurgence of auto sales, a "clarification" of the gasoline situation, a gain in new housing starts, a strong expansion of private capital investment, and boosted federal, state and local spending.

In an interview with The Washington Post, Treasury Secretary George Shultz adds that he expects a break in inflated world commodity market prices, and counts once again on the maturity of union leadership to keep wages from going through the roof.

A series of questions put to Stein at the Governors' Conference indicates that the chief executives of the states are much more concerned about inflation, fuel allocation problems, oil company profits, and high unemployment than the government here in Washington appears to be.

The problem with the Stein-Shultz analysis—on which Mr. Nixon bases his "no-recession" promise—is that it is predicated on getting all the breaks in a very uncertain and unstable world.

Not the least of current anxieties relates to the continuing Watergate mess. Although they know that an impeachment process would be a traumatic experience for the nation, big businessmen (Republicans as well as Democrats) now say openly that the best course now would be an impeachment proceeding that will settle the issue as quickly as possible.

Avoiding a significant recession will require good and plentiful crops to hold down food prices, the absence of a protracted decline in the rest of the industrialized countries, a reduction in the extortionate oil prices set by the cartel, a rapid conversion of the auto industry to smaller cars, assurance of steady gasoline supplies so that consumers are willing to buy cars, a good flow of funds to the savings institutions that finance private housing, a reduction of general inflationary pressures which already have reached the highest levels since the first World War, actual wage settlements which do not generate a new wage-price push and, above all, a reversal of consumer uneasiness about the health of the economy which will make them spenders instead of savers.

And beyond that, it will require an active federal government policy designed to give the economy a well-timed monetary and fiscal push.

But as Stein indicated, the administration will be cautious about "pumping up the economy" too far. To Republican Gov. Jack Williams of Arizona, worried about rising unemployment, Stein said that "we must endure a period of restraint in our ambitions" to cut back the jobless rate because inflation is such an overwhelming problem.

The contrary point of view was presented by Arthur Okun, former chairman of the Johnson Council of Economic Advisers. Okun, who believes we are several months into a real recession, told the governors that counter-recession moves should be made now, even though he agrees that the economic slide will be modest, rather than 1930s style.

Okun would roll back domestic crude oil prices which, along with other inflated prices, "have been draining some $20 billion from consumer budgets." He also would cut income and payroll taxes in a way designed to benefit lower- and middle-income groups by $5 billion to $6 billion a year. Sen. Edward F. Kennedy (D-Mass.) and Walter F. Mondale (D-Minn.), among others, have proposed legislation along such lines.

"The time to act is now," Okun says. "A little preventive medicine would go a long way."

Nixon, Shultz and Stein aren't convinced. They fear an oil price rollback would be costly in the long run, and argue that a tax cut should be the last medicine to be prescribed. But if the economists' reading as shown by the ASA poll turns out to be right, tax cutting may gain a popularity that crosses party lines by mid-summer.

Exhibit 1

THE BROOKINGS INSTITUTION,
ECONOMIC STUDIES PROGRAM,
Washington, D.C., February 28, 1974.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR FRITZ: In response to your recent request, I have examined the revenue loss and distributional impact of four alternative tax credit or exemption reform plans, including your proposal. The findings are summarized in the five tables accompanying this letter. The revenue estimates are based on a projection to the years 1974 and 1975 of data in the Brookings 1970 federal income tax file.

Plan I in the enclosed table, which is provided for comparison purposes, is present law (that is, $750 per capita exemption plus the $1,300 low-income allowance). Plan II is your proposal to offer a $200 tax credit in lieu of the usual personal exemption. Plan III would raise the personal exemption to $850 in 1974 and $900 in 1975 and later years. Plan IV, which would reduce revenues by as much as Plan II, would maintain the current $750 exemption and add an across-the-board tax credit of $22 in 1974 and $33 in 1975 and later years. Plan V would raise the low income allowance to $1,400 and personal exemptions to $850 in 1974, and to $1,500 and $900, respectively, in 1975.

Table 1 compares each plan with estimated poverty levels for 1974 and 1975. The results indicate that Plan V is the most successful in approximating the poverty levels for 1974 and 1975 if the poverty lines are assumed to be the standard. Plan II would be excessively generous in raising the minimum taxable levels (particularly for large families). Plans III and IV are much closer to the poverty levels than Plan II, but they do not do nearly as well as Plan V.

The revenue loss under the various proposals and their distributions by income levels are given in Tables 2–5. All of the plans concentrate the tax reductions largely in the adjusted gross incomes below $25,000. Under Plan II, however, over one-half of the 1974 tax reduction accrues to persons with incomes below $10,000 and almost all of the deduction goes to taxpayers with incomes below $25,000. At the other end (though the distance is not very far) only about one-quarter of the 1974 tax reduction under Plan III accrues to the under $10,000 group and over 80 percent goes to taxpayers with AGI below $25,000. Plan IV is more nearly similar to Plan II in its distributional effect, while Plan V is more nearly similar to Plan III.

On balance, my preference is for Plan V which approximates the 1974 and 1975 poverty lines most closely, but I am sure that judgments will differ on the relative merits of the various approaches.

Sincerely,

JOSEPH A. PECHMAN,
Director of Economic Studies.

PS.—These calculations were supported by a grant from the RANN program of the National Science Foundation.

TABLE 1.—LEVEL AT WHICH INCOME BECOMES TAXABLE UNDER VARIOUS EXEMPTION AND TAX CREDIT PLANS COMPARED WITH POVERTY LEVELS IN 1974 AND 1975[1]

Family size	Projected poverty level budget[2]	Plan I[3] (Present law)		Plan II[4]		Plan III[5]		Plan IV[6]		Plan V[7]	
		Income level	Difference	Income level	Difference	Income level	Difference	Income level	Difference	Income level	Difference
1974:											
1	$2,409	$2,050	−$359	$2,644	+$235	$2,150	−$259	$2,207	−$202	$2,250	−$159
2	3,101	2,800	−301	3,988	+887	3,000	−101	2,957	−144	3,100	−1
3	3,807	3,550	−257	5,182	+1,375	3,850	+43	3,707	−100	3,950	+143
4	4,871	4,300	−571	6,247	+1,376	4,700	−171	4,457	−414	4,800	−71
5	5,748	5,050	−698	7,300	+1,552	5,550	−198	5,207	−541	5,650	−98
6	6,461	5,800	−661	8,353	+1,892	6,400	−61	5,957	−504	6,500	+39
1975:											
1	2,554	2,050	−504	2,644	+90	2,200	−354	2,286	−268	2,400	−154
2	3,287	2,800	−487	3,988	+701	3,100	−187	3,036	−251	3,300	+13
3	4,035	3,550	−485	5,182	+1,147	4,000	−35	3,786	−249	4,200	+165
4	5,163	4,300	−863	6,247	+1,084	4,900	−263	4,536	−627	5,100	−63
5	6,093	5,050	−1,043	7,300	+1,207	5,800	−293	5,286	−807	6,000	−93
6	6,849	5,800	−1,049	8,353	+1,504	6,700	−149	6,036	−813	6,900	+51

[1] Assumes joint returns are filed by families of 2 or more persons.

[2] Projected from the official poverty lines for 1972 on the basis of the actual increase in the Consumer Price Index from 1972 to 1973 and assumed increases of 8 percent for 1973–74 and 6 percent for 1974–75.

[3] Plan I: Present law (i.e., $750 exemption and $1,300 low-income allowance).

[4] Plan II: Option to elect either a $200 credit for each exemption or $750 exemption, whichever yields the lower tax.

[5] Plan III: $850 personal exemption for 1974, $900 for 1975.

[6] Plan IV: For 1974: $22 credit, which has the same revenue effect as an $850 exemption for 1975: a $33 credit, which has the same revenue effect as a $900 exemption.

[7] Plan V: For 1974: low income allowance of $1,400 and personal exemption of $850; for 1975: low income allowance of $1,500 and personal exemption of $900.

TABLE 2.—TAX REDUCTION UNDER PLAN II: OPTION TO ELECT EITHER A $200 TAX CREDIT OR A $750 EXEMPTION, WHICHEVER PRODUCES THE LOWER TAX

Adjusted gross income class	1974			1975		
	Number of returns (thousands)	Tax reduction due to plan (millions)	Distribution of reduction (percent of total reduction)	Number of returns (thousands)	Tax reduction due to plan (millions)	Distribution of reduction (percent of total reduction)
Less than 0	392.6			393.7		
0 to $5,000	22,198.9	$718.4	12.2	21,189.8	$702.9	12.4
$5,000 to $10,000	18,794.5	2,304.0	39.1	18,393.8	2,198.6	38.8
$10,000 to $15,000	16,532.0	2,113.8	35.9	15,474.0	1,916.2	33.9
$15,000 to $20,000	9,773.1	684.1	11.6	10,783.0	747.4	13.2
$20,000 to $25,000	4,807.1	58.7	1.0	5,823.8	90.2	1.6
$25,000 to $50,000	4,279.1	6.4	.1	5,439.7	5.0	.1
$50,000 and over	863.9	.2	0	997.4	.2	0
Total	77,641.3	5,885.6	100.0	78,495.3	5,660.6	100.0

TABLE 3.—TAX REDUCTION UNDER PLAN III: $850 PERSONAL EXEMPTION IN 1974, $900 IN 1975

Adjusted gross income class	1974			1975		
	Number of returns (thousands)	Tax reduction due to plan (millions)	Distribution of reduction (percent of total reduction)	Number of returns (thousands)	Tax reduction due to plan (millions)	Distribution of reduction (percent of total reduction)
Less than 0	392.6			393.7		
0 to $5,000	22,198.9	$207.2	5.2	21,189.8	$296.8	4.7
$5,000 to $10,000	18,794.5	792.3	19.9	18,393.8	1,132.0	18.1
$10,000 to $15,000	16,532.0	1,051.4	26.4	15,474.0	1,440.6	23.0
$15,000 to $20,000	9,773.1	789.9	19.9	10,783.0	1,284.6	20.5
$20,000 to $25,000	4,807.1	448.5	11.3	5,823.8	819.1	13.1
$25,000 to $50,000	4,279.1	516.6	13.0	5,439.7	980.4	15.7
$50,000 and over	863.9	172.1	4.3	997.4	299.5	4.8
Total	77,641.3	3,978.0	100.0	79,495.3	6,253.1	100.0

TABLE 4.—TAX REDUCTION UNDER PLAN IV: $22 CREDIT IN 1974, $33 IN 1975

Adjusted gross income class	1974			1975		
	Number of returns (thousands)	Tax reduction due to plan (millions)	Distribution of reduction (percent of total reduction)	Number of returns (thousands)	Tax reduction due to plan (millions)	Distribution of reduction (percent of total reduction)
Less than 0	392.6			393.7		
0 to $5,000	22,198.9	$285.8	7.2	21,189.8	$404.8	6.6
$5,000 to $10,000	18,794.5	982.4	24.6	18,393.8	1,386.8	22.7
$10,000 to $15,000	16,532.0	1,157.6	29.0	15,474.0	1,588.5	26.0
$15,000 to $20,000	9,773.1	762.3	19.1	10,783.0	1,245.0	20.4
$20,000 to $25,000	4,807.1	380.1	9.5	5,823.8	700.9	11.5
$25,000 to $50,000	4,279.1	346.1	8.7	5,439.7	656.5	10.7
$50,000 and over	863.9	72.7	1.8	997.4	126.0	2.1
Total	77,641.3	3,987.0	100.0	78,495.3	6,108.6	100.0

TABLE 5. TAX REDUCTION UNDER PLAN V: LOW INCOME ALLOWANCE OF $1,400, PERSONAL EXEMPTION OF $850 IN 1974; LOW INCOME ALLOWANCE OF $1,500, PERSONAL EXEMPTION OF $900 IN 1975

Adjusted gross income class	1974			1975		
	Number of returns (thousands)	Tax reduction due to plan (millions)	Distribution of reduction (percent of total reduction)	Number of returns (thousands)	Tax reduction due to plan (millions)	Distribution of reduction (percent of total reduction)
Less than 0	392.6			393.7		
0 to $5,000	22,198.9	$330.4	7.7	21,189.8	$530.3	7.7
$5,000 to $10,000	18,794.5	973.6	22.7	18,393.8	1,504.6	21.9
$10,000 to $15,000	16,532.0	1,051.4	24.6	15,474.0	1,440.6	21.0
$15,000 to $20,000	9,773.1	789.9	18.4	10,783.0	1,284.6	18.7
$20,000 to $25,000	4,807.1	448.5	10.5	5,823.8	819.1	11.9
$25,000 to $50,000	4,279.1	516.6	12.1	5,439.7	980.4	14.3
$50,000 and over	863.9	172.1	4.0	997.4	299.5	4.4
Total	77,641.3	4,282.5	100.0	78,495.3	6,859.1	100.0

COLUMBIA CELEBRATES 60 YEARS OF SERVICE TO NATION'S SCHOOL EDITORS

Mr. HARRY F. BYRD, JR. Mr. President, Mr. Charles H. Savedge, headmaster of the Augusta Military Academy in Verona, Va., is presently president of the Columbia Scholastic Press Advisers Association. He has been kind enough to bring to my attention the fact that the Columbia Scholastic Press Association is holding its 50th anniversary celebration and convention this month.

The Columbia Scholastic Press Association is the world's largest journalism association and has had over the years a profound influence on Virginia's journalists as well as journalists throughout the country. More than 5,000 young journalists will attend this year's convention and they deserve every recognition.

Columbia University recently announced this year's CSPA's convention, and I ask unanimous consent that this article entitled "Columbia Celebrates 60 Years of Service to Nation's School Editors" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Columbia Celebrates 60 Years of Service to Nation's School Editors

Each March, thousands of young student editors from all parts of the nation fill Columbia University's campus to participate in the three-day convention of the country's largest, most widely known school press organization.

The Columbia Scholastic Press Association, now celebrating its 50th anniversary, is devoted to helping young editors excel in their tasks through educational workshops, seminars, lectures, critical evaluation and a national competition.

Throughout its half-century history, the CSPA convention has been acclaimed by participants as the outstanding event in their careers as elementary, junior high school, high school and college student editors, particularly for the critical review it offers their publications and the practical how-to seminars it conducts.

This year's convention, whose theme is "Looking Forward," will be held Thursday, Friday and Saturday, March 14, 15 and 16, on the Columbia campus. There, in University classrooms and lecture halls, professional journalists and journalism educators will conduct more than 260 meetings, conferences, workshops, shortcourses and laboratory sessions on various aspects of scholastic journalism.

Capping the yearly conference is a traditional massive Saturday luncheon, featuring nationally prominent speakers and attended by all the conferees. This year's luncheon is set for March 16 in the New York Hilton, with television newsman Walter Cronkite as the principal speaker. Others who have addressed past luncheons have included Edward Murrow, Eleanor Roosevelt, Edward Kennedy, Harry Truman, Hubert Humphrey, Dwight Eisenhower and Barbara Ward. The luncheon is the largest one held under one hotel roof in the world, says CSPA Director Charles O'Malley.

Some 5,000 student editors and faculty advisers are expected to attend the 1974 convention, representing 1,500 newspapers and magazines entered in competition for CSPA medals and ratings. There are also 1,000 yearbooks in the competition, but yearbook editors meet in a separate convention in the fall.

The first CSPA convention, in 1925, had 308 delegates attending, with 179 publications competing for awards. Altogether 158,089 students and advisers have attended the March conventions and 29,077 have attended the fall yearbook sessions, for a total of 187,166 participants. Entered in the competitions have been 60,204 newspapers and magazines, as well as 34,147 yearbooks, for a total of 94,351 publications.

Many of the nation's leading journalists received some of their early training as CSPA speakers and workshop leaders.

The founder and driving force behind the CSPA for 45 years was Colonel Joseph M. Murphy, now 75 and director emeritus. He became widely known as "dean of the school press field." Until Charles O'Malley became associate director in 1968, Colonel Murphy had directed CSPA activities with only the help of part-time Columbia College students. Mr. O'Malley assumed the directorship in 1969.

Through Colonel Murphy's efforts, CSPA is a self-supporting organization which has never had a deficit. A scholarship fund named for him and established in 1940 provides full tuition and a living allowance for the Columbia College students CSPA employs. More than 300 students have earned all or part of their college expenses in this way.

Previous milestones in CSPA history have been marked in newspaper editorials, a mayoral proclamation and commendations from prominent persons throughout the nation.

ANNALS OF INDUSTRY: CASUALTY OF THE WORKPLACE

Mr. MONDALE. Mr. President, I wish to call the Senate's attention to part III of Mr. Paul Brodeur's series of articles entitled "Annals of Industry: Casualty of the Workplace." The November 12, 1973, issue of New Yorker magazine contains the third installment in his revealing documentary on the manufacture of asbestos. The article is especially noteworthy and deserves the attention of my colleagues for it brings to light some of the ways in which Government has compromised the well-being of the Nation's workers for the interests of industry. This installment of Mr. Brodeur's article deals with the Government's issuance of safety standards in the asbestos industry.

Medical research has indicated that asbestos is a health hazard both to the workers who deal with it, and to the community at large. Investigations have revealed that cancer accounts for approximately 75 percent of the excess deaths among asbestos-industrial workers. Furthermore, exposure to even the slightest amount of asbestos places the worker in jeopardy from asbestosis—pulmonary scaring resulting from the inhalation of asbestos fibres—mesothelioma, and other malignant tumors. Because of these startling findings, advocates of stronger regulation consider asbestos dust "the most devastating environmental disaster yet perpetuated by any industrial nation."

However, despite these known hazards, industry has frequently sought to perpetuate lax governmental enforcement. Industry representatives maintain that death due to asbestos exposure is nominal and that, if all safety standards were met, it would mean financial suicide for the asbestos industry. Strict regulation, they argue, would price the American asbestos product out of the market, ruin the industry in America, and, consequently, eliminate thousands of jobs. The issue seems to have become, as Sheldon Samuels of the AFL–CIO's Industrial Union Department has said—

> Whether a human life can be traded off in the marketplace and whether workers must really face death on the job.

Throughout Mr. Brodeur's article are frightening examples of industry's efforts to hamper the development of safe working conditions, to hide the facts about asbestos disease, and to prevent State job safety agencies from taking effective action. One soon learns, in Mr. Brodeur's words—

> How deeply the medical-industrial complex has succeeded in penetrating the workings of the government in matters relating to the prevention of industrial disease.

Mr. President, I ask unanimous consent that the article entitled "Annals of Industry: Casualty of the Workplace" by Mr. Paul Brodeur from the November 12, 1973, issue of New Yorker be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Annals of Industry: Casualties of the Workplace

When the Pittsburgh Corning Corporation shut down its asbestos-insulation plant in Tyler, Texas, in February of 1972, it did so because of determined and courageous action taken by Dr. William M. Johnson and Dr. Joseph K. Wagoner, who had joined the Division of Field Studies and Clinical Investigations of the Department of Health, Education, and Welfare's National Institute for Occupational Safety and Health in the summer of 1971. Shortly after coming to the division as its chief medical officer, Dr. Johnson discovered data showing grossly excessive and dangerous levels of asbestos dust in the Tyler plant—data that had been buried in the files of Dr. Lewis J. Cralley, the former director of the division, for years. Dr. Johnson and Dr. Wagoner, the new director, set out to make sure that this information would be properly disseminated and used to benefit the workers, whose terrible jeopardy from asbestosis (pulmonary scarring resulting from the inhalation of asbestos fibres), lung cancer, mesothelioma, and other malignant tumors it described. By daring to release the government's dust counts at the Tyler factory to Anthony Mazzocchi and Steven Wodka, of the Oil, Chemical, and Atomic Workers International Union; by expressing their concern to Dr. Lee B. Grant, the medical consultant to Pittsburgh Corning, for the plight of the men who worked in the plant; by inspecting the factory and writing a report stating that a critical occupational-health situation existed there; and by insisting to their superiors in the National Institute for Occupational Safety and Health or NIOSH—that action must be taken to remedy it, and that pressure be brought to bear upon Secretary of Labor James D. Hodgson to promulgate a safe standard for industrial exposure to asbestos, Dr. Johnson and Dr. Wagoner had done something almost unheard of in the annals of occupational medicine in the United States: They had taken steps to force the federal government from its position of self-imposed neutrality and had placed the well-being of workers before the self-interests of industry. In so doing, not only had they become apostates against the old policy of suppressing occupational-health data that were embarrassing to industry but they had also introduced a revolutionary new concept at NIOSH by showing how the organization could actively carry out the primary mission assigned to it by Congress in the Occupational Safety and Health Act of 1970—that of preventing occupational disease. In addition, they had helped to crack the cornerstone of the medical-industrial complex of company doctors and industry consultants, whose triangular structure had come to rest largely upon an unspoken alliance with a number of key occupational-health officials at various levels of state and federal government.

For several years, Mazzocchi had been gathering evidence to show that industrial disease was rampant in the United States and that knowledge of it was being suppressed by the medical-industrial complex, and since the situation at the Tyler plant provided a quintessential example of the workings of this complex, he decided to draw public attention to it. In the meantime, he and Sheldon W. Samuels, who is the director of Health, Safety, and Environmental Affairs for the A.F.L.–C.I.O.'s Industrial Union Department, had aroused the concern of other trade-union leaders over the asbestos hazard, and had been urging Secretary Hodgson to declare an emergency standard for occupational exposure to asbestos of two asbestos fibres per cubic centimeter of air, which would replace the totally inadequate twelve-fibre standard then in effect. The unions were strongly supported in this effort by Dr. Irving J. Selikoff, who is the director of the Mount Sinai School of Medicine's Environmental Sciences Laboratory and a pioneer in the field of modern asbestos epidemiology. However, in spite of the fact that Dr. Selikoff and Dr. E. Cuyler Hammond, vice-president for epidemiology and statistics of the American Cancer Society, had provided indisputable evidence that one out of five asbestos-insulation workers was dying of lung cancer and that almost half of these men were dying of some form of asbestos-related disease, Secretary Hodgson, apparently searching for some middle ground that might be satisfactory to both industry and labor, declared a temporary emergency standard of five fibres per cubic centimetre. A further indication that the government was seeking a compromise between the well-being of the nation's asbestos workers and the interests of industry came late in November of 1971, when the Department of Labor's Occupational Safety and Health Administration, which has the responsibility of enforcing the provisions of the 1970 Act, inspected the Tyler plant as a result of Dr. Johnson's report that a critical occupational-health situation existed there. Although major deficiences in the factory's ventilation system constituted serious violations of the Act—those likely to result in disability or death—the Administration chose to consider them nonserious and fined Pittsburgh Corning just two hundred and ten dollars. At the same time, it gave the company a deadline for making extensive improvements in the ventilation system—improvements that were considered too costly by Pittsburgh Corning's managers, who decided to shut the plant.

All this provided a tense buildup for the public hearings that the Occupational Safety and Health Administration was required by law to hold as part of the process of replacing the temporary emergency standard for asbestos with a permanent standard. Since the permanent standard for asbestos was to be the Administration's first ruling under its mandate to redefine occupational-health regulations, industry and labor were prepared to look upon the ruling as an indication of whether the Administration would be determined or lenient in setting new standards for other hazardous substances. Thus, the public hearings on asbestos, which were scheduled for the middle of March, loomed as a crucial contest between the independent medical and scientific community, most of whose members were backing labor's demand for a two-fibre standard, and that part of the medical-industrial complex supported by the asbestos industry, whose members were preparing testimony to contend that a five-fibre standard was adequate to protect workers. In weighing the evidence and deciding upon a safe level of exposure, the Administration obviously needed to approach the problem impartially. The way things stood, however, the Administration's impartiality was open to question, because of its previous failure to enforce even the inadequate twelve-fibre standard at the Tyler plant and at hundreds of other factories across the land. Speaking at a press conference in Washington, D.C., on February 10, 1972, Mazzocchi condemned this failure as bitterly as he did the blatant disregard shown by the managers of Pittsburgh Corning and its medical consultant, Dr. Grant, who, he claimed, had for years known about and ignored the excessive dust in the Tyler plant and the awful peril it held for the workers.

During the first week in March, I spent several days in Tyler talking with men who had been employed at the plant and with other people who were involved in the situation that had developed there. Shortly after I returned to New York, I arranged to fly to Cincinnati and spend a day with Dr. Johnson and Dr. Wagoner. I also telephoned Dr. Grant, who, in addition to being the medical consultant to Pittsburgh Corning, is the medical director of PPG Industries (formerly known as the Pittsburgh Plate Glass Company), which, together with the Corning Glass Works, had established Pittsburgh Corning. When I reached him, at his office at PPG Industries, in Pittsburgh, I ask him if he could spare an hour or so to talk with me about the Tyler plant. Dr. Grant was extremely cordial, but he declined to give me an interview unless I first obtained the permission of James H. Bierer, the president of Pittsburgh Corning. I then called Bierer, and he, too, was very cordial, but was somewhat hesitant regarding my request. He said that he would have to look into the matter before giving me permission to talk with Dr. Grant. "I'll get back to you as soon as possible," he said.

On Monday, March 13th, I took a morning flight to Cincinnati, and arrived at the offices of the NIOSH Division of Field Studies and Clincial Investigations shortly before noon. Dr. Johnson turned out to be a tall, pale, bespectacled man of thirty-one, with a quiet way of speaking and a serious demeanor. His boss, Dr. Wagoner, was a boyish-looking blue-eyed man of thirty-six; like Johnson, he is extremely soft-spoken, but his manner is more intense. I had a lot of questions for them about the survey they had conducted at the Tyler plant, in October of 1971, and by the time we had finished with these we were in the middle of lunch at a nearby restaurant. At that point, I told them something about my recent trip to Tyler, and how I had met several men who had become ill and stopped working in the plant even before it was shut down. When I finished giving them my impressions of these men, Dr. Johnson put down his fork and shook his head.

"As you know, Dr. Selikoff and Dr. Hammond have conducted a study of the mortality experience of nine hundred and thirty-three men who worked between 1941 and 1945 at the Union Asbestos & Rubber Company's plant in Paterson, New Jersey, which was the predecessor factory to the one in Tyler," he said. "Because of their findings, we're awfully depressed about the future of many of the eight hundred and ninety-five men who worked at the Tyler plant during the seventeen years it was in operation. And what is even more depressing is that the Paterson and Tyler tragedies are being repeated over and over, from one end of this country to the other. Last summer, as Joe and I were unearthing the environmental data on Tyler, we came across some mortality data on men who had worked in asbestos-textile plants throughout the United States. Like the Tyler data, this information had been accumulating willy-nilly in the division for years, and, incredible as it may sound, no one had seen fit to do anything about it. Just from the most cursory look at those data, almost anyone would know there had been a tragedy of immense proportions in many, if not all, of those factories. Why, the men working in them were dying of asbestosis and cor pulmonale—a form of heart failure that often accompanies the disease—right on the job! Men in their fifties! And some only in their *forties!* Recently, Joe and I pulled together the figures on just one of those plants and analyzed them. It manufactures asbestos-textile, friction, and packing products, predominantly from chrysotile asbestos, and that's interesting, because the segment of the asbestos industry that mines and uses this particular variety of asbestos has been trying to claim that chrysotile is not as biologically harmful as other types of asbestos, including amosite, which was the type the Tyler men worked with.

Between January 1, 1940, and December 31, 1962, thirty-three hundred and sixty-seven men and women worked in the chrysotile-asbestos plant, and, using the data that we found in the files, and more that we developed, we made a followup study of them from the time their employment ceased until January of 1968. As of that date, twenty-four hundred and eighty-one of these workers were known to be alive, six hundred and fifty-five were known to have died, and two hundred and thirty-one could not be traced. Death certificates were obtained for six hundred and twenty-six of the dead. According to the standard mortality tables, there should have been approximately five hundred and twenty-seven deaths among these thirty-three hundred and sixty-seven people instead of six hundred and fifty-five. Of the excess of a hundred and twenty-eight deaths, the vast majority—one hundred, to be exact—were caused by diseases of the cardiopulmonary system. Approximately nineteen deaths from lung cancer were to be expected, but there were actually forty-six. Seventy-two deaths occurred from chronic lung disease, mostly asbestosis, whereas there should have been only about thirty-five. Two hundred and thirty-nine of the workers died of heart disease—many with cor pulmonale and congestive heart failure—as opposed to two hundred and two expected deaths from these causes. Among the eighty-three other deaths whose causes were known, sixteen resulted from malignancies of the lymphatic and blood systems."

Dr. Wagoner told me that he and Dr. Johnson had also evaluated the distribution of the cardiopulmonary deaths according to the elapsed time since termination of employment. "We did this partly to shed light on the consequences of a common practice in the asbestos industry, as well as in many other industries, of using respirators in the absence of strict environmental controls," he said. "Our findings tell a depressing story. The majority of the lung-cancer and asbestosis deaths occurred within five years of termination of employment. In fact, fourteen of the forty-six lung-cancer deaths occurred within six months of termination of employment, and the average age of those fourteen people was only fifty-three and a half. And of the forty-one asbestos deaths that occurred within five years after termination of employment, a majority took place within the first year, including seventeen deaths that happened within six months, at an average age of fifty-four."

Dr. Johnson broke in to say, "Which means that a lot, if not most, of these people had advanced lung disease, malignant or nonmalignant, even as they were working. Now, what kind of medical program did that factory have, to allow men to be dying of pulmonary disease *right on the job?"*

Dr. Wagoner then continued, "During our medical survey of the Tyler plant, we found that almost fifty per cent of the men with ten or more years of employment showed X-ray, pulmonary-function, and clinical findings consistent with asbestosis. The routine use of respirators, which are often difficult to breathe through, in such a population of men is extremely hazardous, because it puts them at an excess risk of cardiopulmonary death. For that reason, the Secretary of Labor's Advisory Committee on the Asbestos Standard, of which I am a member, has recommended that the use of respirators during periods of excessive asbestos dust be preceded by strict medical evaluation."

I had heard previously of the existence of the Advisory Committee on the Asbestos Standard, and when we returned to the office at NIOSH, I asked Dr. Wagoner to tell me about it. He explained that the committee was part of a long and complicated procedure by which criteria are developed for the recommendation of occupational-health standards. "The primary source of medical evidence and information about asbestos was provided in the NIOSH asbestos-criteria document, which I helped to write," Dr. Wagoner said. "This document included a critical evaluation of all known research on asbestos disease and a recommended standard based on this evaluation, and it was sent to Secretary Hodgson on February 1st. The document recommends that airborne asbestos dust be controlled so that no worker is exposed over an eight-hour working day to an average of more than two fibres greater than five microns in length per cubic centimetre of air. It proposes that the two-fibre standard become effective two years after its promulgation, in order to permit manufacturers of asbestos products to install the necessary engineering controls, and that in the meantime the temporary emergency standard of five fibres remain in effect. It urges that medical surveillance, including periodic pulmonary-function tests and X-rays, be required for all workers exposed to more than one asbestos fibre per cubic centimetre of air, and that these examinations be conducted at the employer's expense. It also recommends that warning labels be affixed to containers of raw asbestos and to finished asbestos products stating that asbestos is harmful, that it may cause delayed lung injury, including asbestosis and cancer, that its dust should not be inhaled, and that it should be used only with adequate ventilation and approved respiratory devices."

Dr. Wagoner went on to tell me that in proposing a permanent two-fibre standard for asbestos dust he and the other authors of the NIOSH document gave great weight to the fact that that standard had been recommended in 1968 by the British Occupational Hygiene Society and had been adopted by Her Majesty's Inspectorate of Factories the same year. "However, we took care to point out that the British standard was designed only to reduce the early signs of asbestosis, and not to prevent asbestos-induced cancer, which may occur after exposure to levels of asbestos dust that are low enough to prevent lung scarring," he added.

Continuing, Dr. Wagoner said that the Advisory Committee on the Asbestos Standard had been set up by Secretary Hodgson two months before, in January, to provide additional evidence and information as to what the permanent standard should be. "The committee has five members, representing industry, labor, government, and the independent medical and scientific community," Dr. Wagoner said. "In addition to me, it includes Isaac H. Weaver, corporate director for environmental control of Raybestos-Manhattan, Inc.; Andrew Haas, the president of the International Association of Heat and Frost Insulators and Asbestos Workers; Jack Baliff, the chief engineer of the Division of Industrial Hygiene of the State of New York's Department of Labor; and Edwin Hyatt, of the University of California's Los Alamos Scientific Laboratory, who is the chairman. We held meetings in Washington for five days in February, and, by majority vote, we supported the two-fibre standard and all the recommendations of the NIOSH criteria document. In fact, in certain areas we made recommendations to the Secretary of Labor that were even stronger than those of the criteria document. For example, as I said, we recommended that before respirators could be issued to workers for any reason, each worker must have a complete physical examination to determine whether he could wear a respirator without endangering his health. We took this action to avoid the recurrence of conditions like those at Tyler, where respirators were slapped onto men who already had pulmonary problems as a result of exposure to asbestos."

That night, I had dinner with Dr. Johnson and his wife, who lived, with their two children, in an apartment in the suburbs of Cincinnati. I had been told that Dr. Johnson was fulfilling his military obligation by serving with NIOSH, and as he was driving me to my hotel later in the evening I asked him if he intended to remain there when his two-year tour of duty was over.

For a few moments, Dr. Johnson was silent; then he shook his head and said he really didn't know. "I am greatly troubled by the question of respectability in the field of occupational medicine," he told me. "There's very little peer pressure among the doctors who are in it, either in industry or in government, and now that I find myself faced with the problem of defining myself professionally for the next thirty years or so, I'm afraid of becoming frustrated and fatigued in this field, and of becoming part of the fabric of how things are done in a huge bureaucracy. You see, the way things are set up in occupational health these days, it's all too easy for a man to look at the welter of problems awaiting solution, to realize the lack of any real intention on the part of many people in government and in industry to take any significant action to remedy them, and to say to himself, 'Well, I can't do anything on my own, so I might just as well sit back and fit into the mold.' "

"But you did do something about it," I said. "You and Dr. Wagoner did something that could be the beginning of turning the whole thing around."

"Yes, we did something," Dr. Johnson replied quietly. "But will they let us keep on doing it?"

Early the next morning, I flew to Washington to attend the opening session of the Department of Labor's public hearings on the proposed permanent standard for occupational exposure to asbestos. They were held in a large conference room in the Interdepartmental Auditorium, at Twelfth Street and Constitution Avenue, and when I arrived there, shortly after nine o'clock, the place was filling up with some hundred-odd representatives of industry, labor, government, and the independent medical and scientific community.

The morning was given over to scheduling and rescheduling appearances of people wishing to give testimony during the rest of the week, and this complicated business was accomplished with wit and dispatch by Arthur M. Goldberg, a diminutive, bearded man, who was a hearing examiner for the Department of Labor.

After Goldberg had arranged the agenda for the four days of hearings, a tall man in his early forties, with dark hair and white sideburns, got to his feet, introduced himself as Bradley Walls, and said he represented the Asbestos Information Association of North America. "We have a number of questions asking for rulings from you, Mr. Goldberg," he said. "I preface them by saying that, in light of the number of witnesses, we concur with you that cross-examination might delay the hearings beyond our endurance and possibly yours, and that if clarifying questions be required they best come from you, sir. Secondly, we would like your ruling on your position with regard to physical evidence, either living or photographic. We would prefer that it not be presented, inasmuch as we do not think it would be helpful to this hearing."

With a puzzled frown, Goldberg inquired, "May I ask what you mean?"

"Either basket cases or X-rays," Walls said, with a grin. "We feel that their introduction would turn the hearings into a circus."

"The only thing I can say now is that evidence must be submitted in duplicate," Goldberg said dryly.

Walls grinned again. "Thank you, sir," he replied. "We will accept that."

When Mr. Walls sat down, a slight man in his early thirties rose at the rear of the room and, in a voice full of emotion, introduced himself as Colin D. Neal, the administrative assistant to the president of the United Papermakers and Paperworkers Union, which represents twenty-one hundred workers at the Johns-Manville Corporation's asbestos plant in Manville, New Jersey. "Sir, the United Papermakers and Paperworkers would like to express our indignation at Mr. Wall's characterization of those who may suffer the effects of asbestos-dust disease as 'basket cases,' " he said. "Using his terminology, however, we have a 'basket case' we would like to present to you sometime today."

Goldberg looked at Neal and nodded slightly. Then he said, in a quiet voice, "We will hear all witnesses who are presented, sir," and adjourned for lunch.

On my way out, I encountered Sheldon Samuels of the A.F.L.–C.I.O.'s Industrial Union Department, whom I had previously met and talked with on several occasions. Samuels, a stocky man in his middle forties, is ordinarily mild-mannered, but he was now flushed with anger. When I asked him to explain what had happened between Walls and Neal, he shook his head grimly. "We're holding a press conference at the Hotel Washington in a few minutes," he said. "Come on over and you'll find out."

The press conference was conducted by the Industrial Union Department in conjunction with the United Papermakers and Paperworkers, and was attended by a dozen or so journalists from various newspapers and magazines and by a Metromedia television camera team. Seated from left to right behind a long table at the front of the room were Samuels; Dr. William J. Nicholson, assistant professor of community medicine at the Mount Sinai School of Medicine and a member of the Mount Sinai Environmental Sciences Laboratory; Dr. Maxwell Borow, a thoracic surgeon from Bound Brook, New Jersey, which is near Manville; Jacob Clayman, administrative director of the Industrial Union Department; Colin Neal; Joseph Mondrone, president of Local 800 of the Papermakers' union in Manville; Robert Klinger, Local 800's vice-president and the chairman of its Health and Safety Committee; Daniel Maciborski, a member of the local; and Marshal Smith, the local's international representative.

Samuels got the press conference under way by reminding his listeners that it had long been known that the inhalation of asbestos dust could scar and destroy the lungs. "For the past thirty years, asbestos has been a proven cause of cancer of the lungs, and of the stomach and intestines of the workers who breathe it," he went on. "Usually, exposure over a long period of time is necessary to produce asbestos-related disease, but there is now evidence that even a single day of breathing large amounts of asbestos dust will harm the lungs. Contamination in the community, especially in the homes of asbestos workers, has been shown to cause cancer in women and children who have never been in an asbestos factory. Indeed, no one who has been or who is being exposed is safe from the effects of asbestos, and tens of thousands of workers and their families may already have had their lives shortened by exposure to asbestos dust."

Samuels went on to say that the development of safe methods of working with asbestos had been hampered for years by the efforts of management to hide the facts about asbestos disease, to suppress government and private studies of the subject, and to prevent state job-safety agencies from taking effective action. He then declared the temporary emergency standard of five fibres per cubic centimetre of air to be totally inadequate. "The Industrial Union Department will recommend at the hearings this week that a standard of two asbestos fibres per cubic centimetre of air go into effect within six months, and that within two years the standard be lowered to one fibre per cubic centimetre," he said. "Moreover, since constant monitoring of fibre levels in hundreds of plants is obviously impossible, we are calling for the installation of engineering controls and work practices designed to bring asbestos exposures ultimately to a zero level."

Samuels then introduced Clayman, who has been with the Industrial Union Department since its formation, in 1956, and had been its administrative director since 1960. Clayman, a soft-spoken man in his middle sixties, has spent a lifetime in the labor movement, first as a steelworker, then as a member of the Ohio state legislature fighting for improved workmen's-compensation laws, and, just before joining the Industrial Union Department, as secretary-treasurer of the Congress of Industrial Organizations in Ohio. Speaking in measured tones, Clayman told his audience that the press conference had been called to bring to public attention what might well be the most devasting environmental disaster yet perpetrated by any industrial nation. "Today, millions of American workers, their families, and their neighbors may be exposed to toxic concentrations of asbestos," Clayman said. "God only knows how many thousands of workers have died, and how many will die or be terribly sick, because of the routine way this country has dealt with the problem of occupational exposure to asbestos for so many years. We cannot bring dead workers back to life or prevent pain long since experienced, but we can and must bring an end to this inexcusable environmental crime of huge proportions that afflicts workers and totally unaware victims in the plant community."

Dr. Borow was then introduced, and he described the cases of malignant mesothelioma that he and his associates at the Somerset Hospital, in Somerville, New Jersey, had begun to find in 1964, and said that he had witnessed a sharp rise in the incidence of the disease since then. He quoted from a letter he had written on October 12, 1967, to Marshall Smith, then president of the Papermakers' Local 800. The letter stated that Dr. Borow and his associates were planning an exhibit on the rising incidence of mesothelioma in the Manville area, which they had hoped to display in 1968 at four major medical conventions throughout the country and at various hospitals in New Jersey, but that, though they had applied to forty different sources for funding, they had been unable to obtain money for this purpose. "We were told frankly that local industry would not support this project for fear of upsetting the Johns-Manville Corporation," the letter continued. "Johns-Manville themselves, after six weeks of deliberation, refused support, as they were not ready to acknowledge the association between asbestosis and mesothelioma."

Dr. Borow's letter to Smith concluded by asking the union to provide the three thousand dollars that would be necessary to assemble and transport the exhibit, and after he had finished reading it. Dr. Borow said that the union had supplied the money and the exhibit had been widely displayed.

Dr. Borow then introduced Daniel Maciborski, a patient in whom he had discovered an abdominal mesothelioma a few months earlier. Maciborski, a gaunt man in his middle fifties, told the audience with calm and dignity that he had contracted mesothelioma while working for Johns-Manville, and that he hoped his personal misfortune would encourage government officials to act promptly so that it would not be shared by other workers.

The hearings had begun by the time I had had some lunch and returned to the conference room. As I took a seat, I saw that Maciborski and Dr. Borow had been giving testimony at a witness table at the front of the room—to the right of Goldberg, the hearing examiner, and directly opposite a cross-examination panel consisting of Nicholas DeGregorio, an attorney with the Department of Labor's Office of the Solicitor, and Gerald Scannell, acting director of the Occupational Safety and Health Administration's Office of Standards. Toward the end of his remarks, Dr. Borow said that he had now encountered fifty-two cases of mesothelioma in the Manville area, and that all the victims of the disease had worked for Johns-Manville with the exception of two, who had simply lived in the community.

Dr. Borow and Maciborski were followed at the witness table by Dr. Nicholson, of the Mount Sinai Environmental Sciences Laboratory, who began his testimony by stating that the health experience of American asbestos workers could be described only as a national tragedy. Referring to a mortality study Dr. Selikoff and Dr. Hammond had made of insulation workers in the Newark-New York area, Dr. Nicholson reminded his listeners that two in ten of those men had died of lung cancer, one in ten of gastro-intestinal cancer, nearly one in ten of mesothelioma, one in ten of other cancers, and almost one in ten of asbestosis. "Past standards are not an appropriate reference in setting a new permanent standard for occupational exposure to asbestos, simply because all past standards were conceived only for the purpose of preventing asbestosis," Dr. Nicholson continued.

"But asbestosis is obviously not the major problem among asbestos workers. Cancer is the major problem. Cancer accounts for seventy-five per cent of the excess deaths among the asbestos-insulation workers studied by Dr. Selikoff and Dr. Hammond, and this asbestos-cancer hazard is not appropriately covered by the proposed asbestos standard." Dr. Nicholson went on to say that no knowledge now existed of a safe working level of exposure to asbestos which would prevent the occurrence of cancer, and he urged that asbestos not be used in the workplace except with approved techniques and methods designed to remove asbestos dust from the working environment. "There is evidence that a standard of two fibres per cubic centimetre of air will be inadequate for the prevention of asbestos disease," he said. "The recently measured long-term exposure of the asbestos-insulation workers, whose disastrous disease experience has been documented by Dr. Selikoff and Dr. Hammond, was approximately three fibres per cubic centimetre, even prior to the implementation of improved control measures."

Another of the afternoon's witnesses was Dr. Sidney Wolfe, who is the director of Ralph Nader's Health Research Group and a former medical researcher on the staff of the National Institutes of Health. Dr. Wolfe testified that "if workers were guinea pigs and asbestos were a food additive, the Delaney Clause of the Food and Drug Act [which prevents the introduction into the marketplace of any substance known to cause cancer in test animals] would have mandated the elimination of this carcinogenic dust from the environment long ago. However, in 1972, twelve years after the publication of data showing the relationship between asbestos exposure and mesothelioma in humans, and at a time when there are now hundreds of cases of this cancer in workers exposed to asbestos, the slaughter continues. Under these circumstances, regulations which do not ultimately reduce the fibre count to zero fail to comply with the Occupational Safety and Health Act of 1970, which clearly states that 'no employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience.'"

Dr. Wolfe was succeeded at the witness table by Anthony Mazzocchi, who was accompanied by his assistant, Steven Wodka, and who stated the position of the Oil, Chemical, and Atomic Workers International Union in blunt language.

"The proposed Labor Department standard for exposure to asbestos dust is a very sad document," he said. "It serves to confirm what many members of our international union already fear—that the [Occupational Safety and Health] Administration is frivolous with the health and rights of working people." Mazzochi went on to say that there were far more people exposed to asbestos in the workplace than one was usually led to believe. "The often quoted Labor Department figure of two hundred thousand workers isn't conservative, it's ridiculous," he declared. "In our international union, which represents one hundred and eighty thousand workers in the oil, chemical, and atomic-energy industries alone, almost every shop and plant uses asbestos in one form or another. For example, in a major oil refinery on the East Coast—Mobil Oil in Paulsboro, New Jersey—asbestos has captured our concern as the single most serious industrial-health hazard in that facility. We had nineteen workers who handle asbestos-insulation materials in that refinery examined by Dr. Irving Selikoff, of the Mount Sinai School of Medicine. Dr. Selikoff's tests revealed a very serious occupational-health problem resulting from their exposure to asbestos. Now our concern is that two to three hundred other workers—pipefitters, boilermakers, welders, bricklayers, and others who work in and around this insulation—may also have been overexposed. Asbestos turns up in the most unexpected situations. Recently, I was touring a plant in northern New Jersey where Prestone antifreeze is made. At one point in the tour, I caught a completely unprotected worker dumping asbestos into a vat of antifreeze. He told me that asbestos is what gives Prestone its anti-leak quality. If that was an unexpected situation, then what has been our experience in a primary asbestos plant—for example, one that manufactures asbestos-insulation products? Up until recently, the O.C.A.W. [Oil, Chemical, and Atomic Workers International Union] represented workers at the Pittsburgh Corning Corporation's asbestos plant in Tyler, Texas. This plant was the sister to the Union Asbestos & Rubber Company's factory in Paterson, New Jersey, where Dr. Selikoff conducted his now famous mortality study of amosite-asbestos workers.

At the Paterson plant, Dr. Selikoff found that total deaths were more than twice the number anticipated, and now at the Tyler plant the National Institute for Occupational Safety and Health has already found that seven out of eighteen workers with ten or more years of employment meet at least three of four criteria for asbestosis. Worse yet, H.E.W. studies of the plant dating back to 1967 have found grossly excessive levels of asbestos dust throughout the plant. While this particular factory employed only sixty or so people at its peak, the turnover was such that nearly nine hundred men had worked there for varying periods of time from 1954 to 1972. The story of Tyler is sadly filled with episodes of corporate indifference and governmental secrecy."

Mazzocchi went on to say that, because even very small quantities of asbestos were known to cause cancer, the union was recommending that all exposure to asbestos ultimately be reduced to zero by the enforcement of strict equipment-performance standards. "All manufacturing, maintenance, and other industrial and construction processes using asbestos must be reengineered so that they perform at zero exposure," he declared. "We propose that industry be put on notice, as soon as possible, that within six months of the effective date of this standard, no worker shall be exposed to more than two fibres per cubic centimetre of air; that within two years this level shall be reduced to one fibre; and that within three years of June of 1972 zero exposure shall be the law. As for respirators, they should be authorized only when the employer has a definite abatement plan to reduce the exposure to asbestos through engineering means. The other situation in which respirators would be allowed is where there is no feasible technology for controlling asbestos dust." Mazzocchi added that the Occupational Safety and Health Administration's proposed standard on medical examinations of asbestos workers would truly allow the fox to guard the chickens. "The medical community, like many other professional groups in this country, has physicians that industry can rely on to deny valid occupational-disease claims of workers," he said. "Therefore, we recommend that workers be allowed to have annual physical examinations performed on them by doctors of their own choice, but at the employer's expense. Furthermore, the records of these examinations should not be sent to the employer but to a central record-keeping facility at NIOSH, where such records could be kept intact and confidential. NIOSH would then send each employer an annual statistical summary on the examinations of all his employees. It has been our sad experience, in case after case, that as soon as management finds out how badly it has injured the health of a worker, management does its best to get rid of him. Thus these records need to be kept intact for at least forty years." Mazzocchi concluded by declaring that a deficient standard for protection from the hazards of asbestos would legislate sickness and an early death for thousands of people. "Faced with this prospect, I would seek no new rule at all, rather than be held responsible for the cases of asbestos disease that will surface thirty years from now," he said.

One of the final witnesses of the afternoon was Alex Kuzmuk, a governor of the Asbestos Textile Institute—which in 1964 had sent a letter to the New York Academy of Sciences urging caution in the public discussion of medical research into asbestos disease in order "to avoid providing the basis for possibly damaging and misleading news stories." Kuzmuk now testified that the Asbestos Textile Institute was opposed to the NIOSH criteria document and to the recommendations of the Secretary of Labor's Advisory Committee on the Asbestos Standard. "We find that even the five-fibre standard is not feasible for us," he said. "Indeed, it will price American-made asbestos-textile products right out of the world and domestic markets, with the result that imports from nations where workers are under no such protection will flood the country. We feel that the proposed standard is based upon incomplete studies and that new evaluations are needed. Pending more comprehensive studies, we respectfully urge the Secretary of Labor to reconsider the establishment of asbestos standards, to reinstate the threshold limit value for asbestos dust at twelve fibres per cubic centimetre, and to provide for representation of the Asbestos Textile Institute on future advisory and study committees."

When Goldberg recessed the first day's session, I flew back to New York, where business kept me during the second day of the hearings. The day after that—Thursday, March 16th—I took an early plane to Washington to be present for what Goldberg had referred to previously in the proceedings as the Johns-Manville "scenario."

The conference room of the Interdepartmental Auditorium was almost full when I arrived, just before 9 A.M., and the hearings got underway promptly, with John B. Jobe, Johns-Manville's executive vice-president for operations, sitting down at the witness table and stating that the asbestos industry had first supported research on asbestos disease during the nineteen-twenties, at the Saranac Laboratory of the Trudeau Foundation, in Saranac Lake, New York, and was at present supporting such research at more than half a dozen medical schools in the United States and Canada. He went on to say that although the asbestos industry recognized its responsibility to support the intent of the Occupational Safety and Health Act, there was no credible evidence demonstrating the necessity for a standard lower than five fibres per cubic centimetre of air.

Jobe was followed by Dr. George W. Wright, a longtime paid medical consultant for Johns-Manville, who was also director of medical research of the Department of Medicine of St. Luke's Hospital in Cleveland. Dr. Wright began his testimony by saying that he had been conducting research on asbestosis since 1939, first as a member of the Saranac Laboratory of the Trudeau Foundation and then, since 1953, at St. Luke's Hospital. After reviewing the various standards for occupational exposure to asbestos that had been in effect over the years, Mr. Wright told the hearings that no evidence had been found to indicate that the present asbestos standard should be changed. "Moreover, since I believe that the five-fibre standard will certainly prevent asbestosis, I am in complete disagreement with the NIOSH criteria document with respect to its expressed opinion that the data relating asbestos exposure to biological reaction are inadequate to establish a meaningful standard at this time," he said. "While the evidence may not be as far-reaching as we would like, it is scientifically valid, and adequate to support as a first approximation the opinion that the present standard of five fibres per cubic centimetre should not be lowered, but left as it is."

According to Dr. Wright, a recent study conducted by Dr. John Corbett McDonald, of the Department of Epidemiology and Health of McGill University, in Montreal, furnished strong support for not lowering the asbestos standard below five fibres per cubic centimetre of air, and proof that mesothelioma was virtually absent in people who were exposed only to chrysotile asbestos—a type of the mineral that accounts for ninety-five per cent of the world's production, and the type that Johns-Manville mines, uses, and sells almost exclusively. "Mesothelioma appears to be predominantly linked with exposure to crocidolite or amosite," Dr. Wright declared. "Therefore, both of these types of asbestos should be controlled more stringently than is chrysotile."

Dr. Wright then criticized certain aspects of Dr. Selikoff's and Dr. Hammond's mortality studies of the asbestos-insulation workers; the studies did not include adequate control populations, he said, and the incidence of mesothelioma among these workers was caused not by their exposure to chrysotile but by their dual exposure to chrysotile and amosite. He ended by reiterating his support of the five-fibre standard, because, as he put it, "This is a correct standard and constitutes a level of exposure that will protect against the development of asbestosis and bronchogenic cancer."

Thus far in the hearings, there had been very little cross-examination, but when Dr. Wright concluded his remarks a number of people made it known that they had questions to ask and points to make concerning his testimony. Among them was Nicholas DeGregorio, of the Department of Labor, who pointed out with some asperity that he had never heard the validity of Dr. Selikoff's and Dr. Hammond's study of the asbestos-insulation workers questioned by any of the leading epidemiologists in the field.

After a short recess, the Johns-Manville testimony continued with the appearance at the witness table of Dr. Thomas H. Davison, who introduced himself as the medical director of the corporation. Dr. Davison's testimony was very brief, and was chiefly concerned with his objections to the proposed frequency of medical examinations for asbestos workers. When he completed his remarks, he was succeeded at the witness table by Edmund M. Fenner, the corporation's director of environmental control. Fenner testified that Johns-Manville had worked diligently to lower dust levels in all its plants. He also criticized the two-fibre standard proposed in the document, on the ground that adequate monitoring and dust-sampling equipment was not available to measure such a level.

Then Dr. Fred L. Pundsack, Johns-Manville's vice-president for research and development, came to the witness table. "Perhaps nowhere else in the asbestos standards being considered today is the opportunity to bring about bad changes so clearly evident as it is in some of the proposed label requirements," Dr. Pundsack said. "If these label requirements are adopted in their proposed form, they will in our opinion destroy large amounts of the industry and eliminate thousands of jobs."

Dr. Pundsack went on to declare that warning labels need only indicate that precautionary steps should be taken when handling asbetos, and that labels need not contain terrifying language, such as the word "cancer." He pointed out that asbestos is not an acutely toxic chemical or drug that reacts in minutes or hours, nor is it an explosive, nor can it be absorbed through the skin. "Therefore, the application of frightening labels to asbestos is inappropriate," he said. "Instead, we recommend that a caution or warning label with the following type of text be used on bags or containers of asbestos fibre: 'Caution—This bag contains chrysotile asbestos fibre. Inhalation of asbestos in excessive quantities over long periods of time may be harmful. If proper dust control cannot be provided, respirators approved by the United States Bureau of Mines for protection against pneumoconiosis-producing dusts should be worn.' "

When Dr. Pundsack finished his remarks, there was an hour's recess for lunch. The first afternoon witness was Henry B. Moreno, senior vice-president for the industrial and international divisions of Johns-Manville, who said that the *company's dust-control* programs had already cost twenty million dollars. "For us to achieve a standard of two fibres per cubic centimetre would require capital expenditures of twelve million dollars, and additional dollars per year," Moreno declared. "It would simply not be economically feasible to operate at this level in five of our plants, which, if closed down, would put sixteen hundred employees out of work. This and similar closings across the country would have a substantial effect upon the nation's economy, and would result in higher costs reflected all across the board. In addition, Japan, Taiwan, India, other Asian countries, and nations in South America would come on strong and flood the American market with asbestos products. For these reasons, we believe that it would be nothing less than complete social irresponsibility to adopt a two-fibre standard for occupational exposure to asbestos without stronger medical evidence than that which presently exists."

When questioned by Dr. Nicholson, Moreno, like Dr. Wright before him, sought to place chrysotile asbestos above suspicion as a cause of mesothelioma, and, like Dr. Wright, he implicated amosite. Moreno declared that from 1930 until 1960 all high-temperature-insulation materials contained amosite, that since 1960 there had been a trend away from amosite, and that for the past five years almost no amosite had been used.

Knowing that Johns-Manville had long been attempting to absolve chrysotile by blaming crocidolite and amosite asbestos for the occurrence of mesothelioma, and that most members of the independent medical and scientific comunity consider such efforts to be self-serving, I was not surprised to hear Dr. Nicholson strongly question Moreno about his statement that amosite asbestos had been a major constituent of insulation materials between 1930 and 1960. Later, I learned that Dr. Nicholson reinforced this refutation by sending an addendum to Goldberg on March 24th for inclusion in the record of the hearings. Dr. Nicholson's accompanying letter referred Goldberg to two tables of information he had included in his addendum. The first table, which *listed* the quantity of asbestos used in the manufacture of insulation materials in the United States between 1920 and 1965, had been furnished by Dr. Pundsack himself to Dr. Selikoff for presentation at the Fourth International Pneumoconiosis Conference of the International Labor Office, held in Bucharest, on September 29, 1971. The second table, compiled from the *United States Minerals Yearbook*, listed imports of amosite asbestos into the United States during those same years. Since a comparison of the two tables showed that only a few hundred tons of amosite was imported each year between 1920 and 1940, and that this amount was only a small fraction of the total amount of asbestos used in the manufacture of insulation materials during that period, Dr. Nicholson pointed out, "clearly, amosite could have been only a minor constituent of insulation material until World War II," and even through 1950 "it could only represent a small fraction of the asbestos used in non-marine commercial and industrial insulation, if one considers the extensive use in shipbuilding." Dr. Nicholson concluded his letter by calling Goldberg's attention to a table showing that the disease experience (including mesothelioma) of shipyard insulation workers was not significantly different from the disease experience of non-shipyard insulation workers. "It is not possible to assign an important role to amosite in the insulation workers' experience," he wrote.

After Dr. Nicholson's cross-examination of Moreno, the seat at the witness table was taken by Dr. McDonald, who stated at the outset that he was a professor of epidemiology and the chairman of the Department of Epidemiology and Health of McGill University, and that he had specialized in epidemiology for twenty-four years. "I would now like to add one or two points not in my written submission, in order to clarify my position here," Dr. McDonald continued. "The first point is that I am a full-time employee at McGill University, and an independent research worker. I do not work, nor am I associated, with any asbestos producer or manufacturer. The research I shall be describing is supported by grants, not to me but to McGill University, from a number of sources—the Institute of Occupational and Environmental Health, the Canadian government, the British Medical Research Council, and the United States Public Health Service. I am not here to support the testimony or position of Johns-Manville or any other body affected by the proposed regulations."

Dr. McDonald went on to quote at length from a report entitled "The Health of Chrysotile Asbestos Mine and Mill Workers of Quebec," which he and some colleagues were preparing for publication in the near future. Dr. McDonald said that he and his associates had begun an epidemiological study of miners and millers in 1966, using records of the Quebec asbestos-mining companies to identify all persons known to have worked in the industry since its inception, in 1878. He explained that the mortality aspect of the study was limited to those men who had worked for a month or more, and who were born between 1891 and 1920, adding that he and his colleagues had already published an initial analysis of the mortality experience of these workers. Dr. McDonald then said that about eighty-seven per cent of the 11,572 persons included in the mortality study had been traced by the end of December, 1969, and that 3,270 of them had died. "Cancer of the lung showed a rising death rate with increasing dust exposure, particularly in the two highest dust-exposure groups," he continued. "Of one hundred and thirty-four deaths from respiratory cancer, there were five from pleural mesothelioma. These cases, however, showed no clear relationship with dust exposure."

Later in his presentation, Dr. McDonald assessed the results of his mortality study by declaring that the number of excess deaths related to asbestos exposure among the workers he had investigated probably constituted no more than two per cent of the total of 3,270 deaths; that most of these deaths were caused by lung cancer and pneumoconiosis (by which he presumably meant asbestosis); and that almost all of these excess asbestos-related deaths occurred among workers employed in the highest dust-exposure categories. After pointing out that the death rates from cancer and mesothelioma among the chrysotile-asbestos miners and millers he had studied were very low compared with the death rates from those diseases found among the insulation workers studied by Dr. Selikoff and Dr. Hammond, Dr. McDonald concluded that only high levels of exposure to chrysotile asbestos during mining and milling operations had an appreciable effect on mortality. Dr. McDonald ended his presentation by further concluding, from the findings of his study, that a reasonable standard for chrysotile mines and mills would be somewhere between five and nine fibres per cubic centimetre.

When Dr. McDonald finished his testimony, he was questioned at some length by Dr. Nicholson and by DeGregorio. Dr. Nicholson's questioning elicited a statement from Dr. McDonald that in a previously published report on mortality among the Quebec asbestos miners and millers, he had concluded that among those workers in his cohort who were exposed to the highest level of chrysotile dust the incidence of lung cancer was five times that of the workers exposed to the lowest level. He also obtained an admission from Dr. McDonald that his recommendation of a standard of between five and nine fibres was based upon a total of only thirty-two fibre counts made in mines and mills of Quebec in the summer of 1971. DeGregorio, too, asked Dr. McDonald a series of pointed questions about the scientific validity of his study. He expressed open skepticism of Dr. McDonald's ability to substantiate the accuracy of chrysotile-exposure levels that workers were exposure to during the nineteen-fifties and the nineteen-sixties. He also obtained an admission from him that not all the effects of whatever exposures there may have been were observed directly by Dr. McDonald and his associates—through, for example, the examination of autopsy material—but that they had been observed by other people and recorded by them in reports and death certificates, which he and his associates had then included in their study as valid.

I was not surprised to hear Dr. McDonald questioned in this manner, for several members of the independent medical and scientific community had previously expressed grave reservations to me about the accuracy of the conclusions he and his colleagues had drawn in a report of their study which had appeared in June of 1971, in Volume XXII of the *Archives of Environmental Health*, under the title "Mortality in the Chrysotile Asbestos Mines and Mills of Quebec." Some people had pointed out that many, if not most, of the workers studied by Dr. McDonald could have had little or no exposure to airborne asbestos fibres, because they had worked in open-air pits, extracting asbestos in wet-rock form. Others deplored the fact that Dr. McDonald and his associates had conducted very little pathological review, such as the examination of autospy material and lung-tissue slides, in arriving at their conclusions. Still others pointed out that ninety per cent of the lung cancers and mesotheliomas found in insulation workers occurred twenty years or more after the onset of exposure to asbestos—as, for example, in the cases of men who began working with asbestos at the age of twenty, and who died of cancer at fifty—and that by omitting persons born before 1891 Dr. McDonald and his associates had excluded from their calculations precisely the people who might be expected to show the effects of asbestos inhalation. (It was as if in studying the total occurrence of gray hair one refused to look at anyone born more than forty or fifty years ago.) In addition, a number of people pointed out that by including only deaths that occurred twenty years or less after the onset of exposure, Dr. McDonald had perforce diluted the major disease effect of asbestos in his study. Perhaps the most telling criticism of Dr. McDonald's study, however, was made in a letter sent to Dr. Selikoff on January 7, 1972, by Herbert Seidman, who is chief of statistical analysis in the Department of Epidemiology and Statistics of the American Cancer Society. Seidman's critique was included in the addendum for the hearing record that was submitted by Dr. Nicholson. It described some of Dr. McDonald's methods of computing death rates as "ill-advised." It pointed out the lack of consideration that Dr. McDonald and his associates had given to the importance of the long latency period in the development of asbestos tumors, and it described the methodology used in the study to assess separately the importance of cumulative dust exposure and duration of exposure in relation to lung cancer as "inappropriate," because of the "paucity of basic data." In conclusion, Seidman wrote, "I think that the data have been collected fairly well but analyzed quite poorly."

As a layman, I had little way of judging the scientific validity of Dr. McDonald's work except through the observations of those members of the independent medical community who had communicated their opinions of it to me. However, I had brought with me to the hearings a copy of Volume XXII of the *Archives of Environmental Health*, containing Dr. McDonald's article on mortality among the chrysotile-asbestos miners and millers of Quebec, which had been sent to me some months earlier by William P. Raines, a vice-president and director of public affairs for Johns-Manville. Since Dr. McDonald had referred to this mortality study during the course of his testimony, and since anyone attending the public hearings had the right to cross-examine witnesses, including members of the press, I decided to ask him some questions about it. After receiving permission from Goldberg to address Dr. McDonald, I reminded him that in his opening remarks he had declared that all his research had been performed independently.

"That is correct," Dr. McDonald replied. "All things are relative."

I then reminded Dr. McDonald that John Jobe, the executive vice-president for operations of Johns-Manville, had testified at the morning session that his company was supporting research on asbestos disease, and asked him if that was research other than what he had performed.

"I guess what Mr. Jobe is referring to is the fact that Johns-Manville, together with other mining companies, helps support the Institute of Occupational and Environmental Health, which is granting body that receives research applications, and which therefore indirectly supports our research," Dr. McDonald replied. "Now, it is a very indirect relationship."

I then pointed out to Dr. McDonald that at the end of his article in the *Archives of Environmental Health*, a credit was listed in small type: "This work was undertaken with the assistance of a grant from the Institute of Occupational and Environmental Health of the Quebec Asbestos Mining Association."

"That is correct," Dr. McDonald said.

With that, I took my seat. Dr. McDonald had just indirectly admitted that Johns-Manville, together with other asbestos-mining companies, supported the Institute of Occupational and Environmental Health, and that the institute, in turn, had helped support his study. Moreover, the credits at the end of his article, which listed no financial support other than that supplied by the institute, had given the full and correct title of this organization—the Institute of Occupational and Environmental Health of the Quebec Asbestos Mining Association. It seemed unnecessary to point out to the representatives of industry, labor, government, and the independent medical and scientific community who were gathered in the conference room something that many of them already knew—that Johns-Manville is, and for the past quarter of a century has been, the dominant member of the Quebec Asbestos Mining Association.

When the hearings were adjourned that afternoon, Ivan Sabourin, former attorney for the Quebec Asbestos Mining Association, came up to me and introduced himself. We talked briefly, and then I took a plane back to New York. I had never met Sabourin before, but I remembered reading something about him in connection with McGill University in a copy of the minutes of a 1965 meeting of the Asbestos Textile Institute. The following day, I took the minutes from my files and read them again. They informed me that a meeting was held on June 4, 1965, at the Motel Le Provence, in Thetford Mines, Canada, and they quoted Sabourin as saying that a recent article associating asbestos and cancer in the *Journal of the American Medical Association* was not convincing, and expressing regret over the adverse publicity that resulted from such articles. Sabourin then told the meeting that the Quebec Asbestos Mining Association wished to study respiratory diseases related to chrysotile asbestos, and that it was seeking "alliance with some university, such as McGill, for example, so that authoritative background for publicity can be had."

According to the minutes, the next speaker at the meeting was Dr. Lewis J. Cralley, of the United States Public Health Service, "who for the past several years has been supervising the extensive environmental study of asbestos employees in textile plants in the U.S.A." Dr. Cralley told the meeting that "the study was going well," that the Public Health Service was now extending its work into other asbestos industries, and that "the results to date certainly justify the program and its further expansion."

Dr. Cralley did not elaborate on what these results had been, nor, for that matter, did he ever see fit to officially warn any segment of the asbestos industry, least of all the workers, that the data he was collecting showed that men employed in asbestos factories across the land were being exposed to grossly excessive levels of asbestos dust, and that excess mortality from asbestos disease among workers in asbestos-textile factories had reached tragic proportions. (Indeed, six years passed before Dr. Johnson and Dr. Wagoner unearthed the data buried in Dr. Cralley's files and undertook to do something to rectify the appalling situation they discovered.) In this connection, I found it interesting to note that out of the seventy-odd people listed in the minutes as attending the 1965 meeting of the Asbestos Textile Institute, Dr. Cralley was the only invitee from any government, and the only one who did not represent an asbestos company or a related organization.

At the same time, I also reread a paper sent to me some months before by Johns-Manville, which gave a history of the company's health-research programs. Referring to Dr. McDonald's study of the Quebec asbestos miners and millers, the paper had this to say:

"This study is being funded by the Institute of Occupational and Environmental Health, the scientific research arm of the Quebec Asbestos Mining Association (QAMA). As mentioned before, Johns-Manville is a principal member of the QAMA. The Institute of Occupational and Environmental Health plays a vital role in the Johns-Manville health research effort. Besides allocating QAMA funds for research projects, the seven-man scientific advisory committee of the Institute also reviews requests J-M receives from scientists and scientific organizations for money to conduct research in the asbestos/health field."

The paper then listed the chairman of the Institute's seven-man scientific advisory committee as Dr. George W. Wright, Director of Medical Research, St. Luke's Hospital, Cleveland, Ohio.

I did not return to Washington for the final day of the hearings, but during the following week, thanks to Gershon Fishbein, editor of the *Occupational Health & Safety Letter*, and as a result of reading the *Occupational Safety & Health Reporter*, a newsletter published by the Bureau of National Affairs, Inc., I was able to keep abreast of most of the testimony that had been delivered during the two days of hearings I missed. By and large, this testimony ran true to form, in that it reflected the beliefs and self-interest of those who delivered it. Representatives of the asbestos industry, on the one hand, stated that an asbestos standard of two fibres per cubic centimetre of air either could not be achieved technically or would be prohibitive in cost, and that it would surely result in the shutting down of many asbestos-manufacturing plants, with an attendant loss of jobs and an influx of foreign asbestos products into the United States. Representatives of labor unions, on the other hand, urged that the safety and health of workers be placed ahead of any economic considerations, that the two-fibre standard be adopted, and that efforts be made to reduce occupational exposure to asbestos to zero. In a way, much of this testimony tended to be misleading, for the hearings on the asbestos standard had become far more than just a disagreement between industry and labor over whether the standard should be five or two fibres. The introduction—by Dr. Selikoff and his associates at the Mount Sinai Environmental Sciences Laboratory, by the authors of the NIOSH criteria document, and by the Secretary of Labor's Advisory Committee on the Asbestos Standard—of proposals for performance standards that would a priori reduce dust levels in the manufacturing and installation of asbestos products by requiring the use of proper equipment, efficient exhaust and ventilation systems, and safe work practices was of crucial importance, for the carrying out of performance standards would obviously put the horse before the cart, where it belonged. In short, effective performance standards would be bound to lessen the importance of and reliance upon the laborious and time-consuming process of taking air samples and counting asbestos fibres beneath a microscope in order to determine whether the asbestos standard was being complied with. Thus, performance standards would go a long way toward obviating the kind of cooperation between industry and government that in factories such as Pittsburgh Corning's Tyler plant had for so many years reduced the taking of air samples and the counting of asbestos particles and fibres to a farce of tragic proportions and fatal consequences.

Two pieces of testimony delivered at the sessions I had missed were of particular interest to me in this respect, so a few days after the hearings were concluded I obtained full texts from the men who had presented them. The first was given on the second day by Duncan A. Holaday, research associate professor at the Mount Sinai Environmental Sciences Laboratory and formerly a senior industrial-hygiene engineer with the United States Public Health Service, where he had been instrumental in developing standards for protecting uranium miners against radiation exposure. (For this work, he had been given the Distinguished Service Award of the Health Physics Society.) Holaday addressed himself at the hearings to the problem of how best to control asbestos dust:

"The use of procedural standards, by which I mean regulations requiring the use of specified methods of treating and packing material, and work rules that reduce dust production and dispersion, is the best means of preventing overexposures to harmful substances. It is based upon the knowledge that certain operations and processes will release contaminants in the work area unless they are controlled. It is also known from experience that certain control measures will markedly reduce or eliminate these emissions. Therefore, the prudent course is to require that control procedures be instituted without waiting for information obtained by air samples and dust counts to demonstrate that contamination has, in fact, occurred."

The second piece of testimony that I found of special interest was delivered on the final day of the hearings by Sheldon Samuels. He began by saying that there were certain advantages in appearing at the end of the prolonged hearings. "As you know, Mr. Goldberg, I did not plan it that way, but it has provided me with an important overview, which I intend to exploit," he declared. "The basic issue before us was made crystal clear at your prehearing conference, when Mr. Walls, of the Asbestos Information Association, attempted to prevent Daniel Maciborski from being heard, and referred to him in a disgustingly unmentionable manner. Daniel Maciborski did not ask to be heard at these hearings for dramatic effect. He was trying to tell you that more than the company's admittedly advanced environmental-control and medical-surveillance programs were needed to reduce the risk to other workers. The issue before us is whether human life can be traded off in the marketplace, and whether workers must really face death on the job."

Samuels continued his testimony by urging the adoption of performance standards that would require equipment and work practices designed for zero emission of asbestos. "For a six-month transitional period the Industrial Union Department recommends a two-fibre level," he said. "Within two years, this level should be lowered to one fibre per cubic centimetre of air, and, ultimately, there should be a zero exposure to asbestos dust." Samuels also urged the adoption and strengthening of the NIOSH recommendations for labelling asbestos, for monitoring airborne asbestos dust, for conducting periodic medical examinations of asbestos workers, and for guaranteeing that the records of such examinations be the property of the employee, and not the employer. "Most important of all, any employee who lacks confidence in the judgment of a physician who is directly responsible to the employer should have the right to choose another source of medical service," Samuels declared, adding that Daniel Maciborski had passed a medical examination provided by a Johns-Manville physician only a few weeks before his own physician had diagnosed him as suffering from terminal mesothelioma.

Most of the members of the independent medical and scientific community with whom I spoke seemed pleased by what had taken place at the hearings, and thought it likely that a two-fibre level would be adopted by the Occupational Safety and Health Administration as a permanent standard for occupational exposure to asbestos. Their optimism was based largely upon the reasoning that except for the testimony of Dr. Wright and Dr. McDonald—neither of whom could be considered completely independent medical researchers—the asbestos industry had set forth no real data to refute the conclusions and recommendations of the NIOSH criteria document and the Secretary of Labor's Advisory Committee on the Asbestos Standard. Mazzocchi, Samuels, and other union people, however, expressed a skepticism concerning the Department of Labor's motives and intent which was based upon long and bitter experience. In any event, once the hearings were concluded, nobody involved in the matter could do much but wait until June 6th, when, having presumably weighed all the evidence, the Department of Labor was required by law to promulgate a permanent standard for asbestos.

On Monday morning, March 20th, I received a long-distance call from James Bierer, the president of Pittsburgh Corning. Bierer started out by apologizing for not getting back to me sooner concerning my request to interview Dr. Grant about the Tyler plant. Then he told me that, upon the advice of legal counsel—because of the recent hearings in Washington and on account of possible litigation inherent in the Tyler situation—Pittsburgh Corning could not authorize me to conduct an interview with Dr. Grant, or, for that matter, with anyone else in its employ.

During the first week of April, I drove out to Paterson, New Jersey, and spent a day at the offices of the Mount Sinai School of Medicine's Paterson Asbestos Control Program, where Dorothy Perron and several aides (among them Shirley S. Levine, Rayla Margoles, and Charles Nolan) have been working since 1968 to trace the nine hundred and thirty-three men who had worked for at least a year between 1941 and 1945 at the Union Asbesto & Rubber Company's plant there. I learned that, pressed by its insurance company, Union Asbestos had paid its workers five cents an hour extra to wear respirators, and had threatened in editorials published in the plant newspaper to fire them if they refused. I also discovered that the workers had lodged numerous complaints about the respirators, saying that they were difficult to breathe through. Indeed, some of the men had complained that, unable to work with the respirators, they had coated their nostrils with Vaseline and drunk large quantities of milk in an attempt to protect their respiratory tracts from the irritating amounts of airborne asbestos dust that filled the plant. (Obviously, such measures were pitiful protection against the pervasive nature of asbestos fibres, for when Dr. Selikoff and Dr. Hammond conducted their study of mortality among the men who had worked in the plant, they found a gross number of excess deaths resulting from asbestosis, lung cancer, mesothelioma, and other malignant tumors. Moreover, the asbestos-disease hazard extended far beyond workers directly involved in the production of insulation materials. For example, Rudolph Wild, the engineer who had developed the product manufactured in the Paterson and Tyler plants, died of mesothelioma. He may have had ample occupational exposure to asbestos, but his daughter also died of mesothelioma, and her only known exposure to asbestos had occurred when as a child she had played with samples of asbestos products her father had brought home from work.

In addition to the engineer and his daughter, Robert E. Cryor, who had been manager of the Paterson plant between 1941 and 1944, died of mesothelioma in April of 1970. During my visit to the Paterson Asbestos Control Program, I went through nearly fifty separate reports of medical examinations conducted by the company's physician which either told of abnormal lung X-rays or contained such notations as "This man is a poor risk" and "This man should not be put into a dusty area." I also discovered that during the war all blacks hired at the Union Asbestos plant in Paterson were automatically assigned to the shipping department, where dust levels were considerably lower than on the production lines, because of a belief—widely held at the time—that the lungs of black people were somehow more susceptible to dust than the lungs of whites.

While I was in Paterson, I called Thomas Callahan, of Waldwick, New Jersey, who had been a foreman in charge of the asbestos-block department of the Paterson plant. Callahan had been sent to Tyler in October of 1954 to help set up machinery for the new factory that Union Asbestos was opening there and that was later purchased by Pittsburgh Corning. "I stayed a couple of months in Tyler, and then I was sent to the Union Asbestos plant in Bloomington, Illinois, where I worked for the next eight years," Callahan told me. "As far as I was concerned, our biggest problem was health. I always wore a respirator at Paterson, at Tyler, and up in Bloomington, and on one occasion I discharged a man who refused to wear his. A lot of men hated to wear them, you know. None of them seemed to understand the hazard."

Callahan went on to tell me that he felt that the Union Asbestos people had been concerned about the safety and health of the workers in the Paterson plant. "The company doctor X-rayed all the men continually to detect asbestosis, and, once he suspected it, he would always tell a fellow to get himself a job out-of-doors," Callahan said. "In addition, the company used to pay its workers an extra five cents an hour to wear their masks, but the men were human beings, you see, and a lot of them wouldn't conform to regulations. Believe me, the company did everything it could in those days, but there was no way it could improve the ventilation system. In any case, we were a lot more humane than other people in the business. I remember going one day in the early fifties with Edward Shuman—he was then the general manager of the plant—to see some Johns-Manville people in New York. We asked them if they knew of any way we could improve the dust situation in our factory.

My God, they were brutal bastards! Why, they practically laughed in our faces! They told us that workmen's-compensation payments were the same for death as for disability. In effect, they told us to let the men *work themselves to death!* Afterward, we went to the Metropolitan Life Insurance people. Only one doctor over there knew anything about asbestosis. He told us that the only solution was to spot it early and tell the guy to run for his life. We did our best, you understand, but a lot of the men wouldn't wear their respirators, and our engineers told us it was impossible to improve the ventilation."

The next day, I dropped by the Mount Sinai Environmental Sciences Laboratory to see what progress Dr. Selikoff and Dr. Hammond had made in their investigation into the mortality experience of the Paterson workers. Dr. Selikoff told me that as of December 31, 1971, Mrs. Perron and her associates had been able to trace eight hundred and seventy-seven of the nine hundred and thirty-three men who had worked at the Paterson plant during the war years. "It was a remarkable job of detective work, and Charles Nolan in particular has been incredibly adept at tracking down men who appeared to have dropped from sight," Dr. Selikoff said. "On the basis of the standard mortality tables, Dr. Hammond has calculated that in a normal population of that size, two hundred and ninety-nine deaths were to be expected. Instead, there were four hundred and eighty-four. As with the studies we conducted of the asbestos-insulation workers, the reason for the excess deaths—eight hundred and eighty-five, in this case—was not hard to come by. There should have been about fifty deaths from cancer of all sites. Instead, there were a hundred and forty-three. Only eleven of the men could have been expected to die of lung cancer, but there were actually seventy-three—a rate that is almost seven times as high as that of the general population. And though virtually none of these workers could have been expected to die of mesothelioma according to the mortality tables for the general population, there were seven deaths from the disease. Moreover, in this group of men the death rate from cancers of the stomach, colon, and esophagus were twice as high as they should have been. And though none of the men could have been expected to die of asbestosis, twenty-seven of them did."

When I asked Dr. Selikoff how he felt these statistics for the Paterson workers applied to the eight hundred and ninety-five men who had worked at the Tyler factory between 1954 and 1972, he shook his head. "I can only say that for the younger men—those who could be expected to live from twenty to fifty years after their first exposure to asbestos—the future looks awfully dismal," he replied.

Dr. Selikoff then told me that in 1971 Local 800 of the United Papermakers and Paperworkers Union had asked him and Dr. Hammond to review the medical histories of its members to help evaluate the effectiveness of Johns-Manville's dust-control measures at its Manville plant. "We have since completed this study, which, sadly, serves to corroborate our previous findings," he said, adding that he would call Dr. Nicholson in and let him describe the actual results, since he had headed the field team that developed the information.

Dr. Nicholson told me that out of a total of three thousand and seven employees at the Manville complex of factories, Dr. Selikoff and Dr. Hammond had decided to review the histories of the six hundred and eighty-nine production workers who were actively at work on January 1, 1959, and had by that time had at least twenty years' exposure to asbestos. "We studied the mortality experience of these men from January 1, 1959, until December 31, 1971," Dr. Nicholson said. "Unhappily, the results were at least as depressing as those for the Newark-New York asbestos-insulation workers and for the men employed in the Paterson plant. Using standard mortality tables of the National Center for Health Statistics, Dr. Hammond calculated that one hundred and thirty-four deaths were to be expected in this group of people. Instead, there were a hundred and ninety-nine."

Dr. Nicholson went on to say that the reasons for this large number of excess deaths among the Johns-Manville workers were, unfortunately, all too familiar. "Only eight deaths from lung cancer should have occurred, but there were twenty-seven," he told me. "And though no deaths from mesothelioma could normally be expected, there were fifteen. Cancers of the stomach, colon, and rectum were two and a half times what they should have been. In addition, though virtually no deaths from asbestosis would have been expected among the general population, twenty-four of the Johns-Manville employees died of this disease."

When I asked Dr. Selikoff if he thought it likely that the proposed two-fibre level would be adopted by the Department of Labor as a permanent standard for occupational exposure to absestos, he shrugged. "I have no idea," he replied. "There has been a strange development in the past week that leads me to wonder, but before I tell you about it, I'd like Dr. Nicholson to give you his outlook on number standards in general, for I wholeheartedly concur with it."

"I tend to think of number standards in this way," Dr. Nicholson said. "A standard specified as two fibres per cubic centimetre of air or five fibres per cubic centimetre of air sounds fairly innocuous. However, it is well to remember that a worker may inhale eight cubic metres, or eight million cubic centimetres, of air in a working day. Leaving aside the fact that there are many more fibres smaller than five microns in length in any environment containing airborne asbestos dust, a five-fibres-per-cubic-centimetre standard thus becomes, in terms of a man's lungs, a forty-million-fibre-a-day standard, and by the same token the proposed two-fibre standard would allow a worker to inhale sixteen million fibres a day. This, you see, is why we testified at the hearings in favor of performance standards designed not only to control asbestos emissions but to reduce them as close as possible to zero."

When Dr. Nicholson had concluded, I asked Dr. Selikoff to tell me about the recent development that had caused him to wonder whether the Department of Labor would promulgate the proposed two-fibre standard. By way of reply, he handed me a set of documents that included a page with this heading:

"Enclosure A

"Expert Judgments: Asbestos

"Medical & Industrial Hygiene

Beneath this was a request: *"Return as soon as possible to Arthur D. Little, Inc., 35 Acorn Park, Cambridge, Massachusetts, 02140, Retain a copy for reference during Phase II."* Beneath the request was a space for the name and affiliation of the person to whom the documents were sent, and beneath that, under the words "Exposure-Response Judgments," was a table of boxes that asked the recipient to estimate what might be the incidence of asbestosis, lung cancer, and mesothelioma in a hundred workers after forty years of exposure, on the basis of an eight-hour working day, to two, five, twelve, and thirty asbestos fibres per cubic centimetre of air. Dr. Selikoff had filled in the boxes, and these were his estimates: At two fibres per cubic centimetre, fifty-five of a hundred workers would contract asbestosis, twelve of a hundred would develop lung cancer, and four of a hundred would be afflicted with mesothelioma.

At five fibres per cubic centimetre (basing his judgment on what had happened to the asbestos-insulation workers), eighty-five of a hundred would develop asbestosis, twenty of a hundred would contract lung cancer, and seven of a hundred would develop mesothelioma. Dr. Selikoff's estimates were, of course, higher for workers exposed to twelve fibres per cubic centimetre of air, and for workers exposed to thirty fibres he estimated that ninety-five of a hundred would be afflicted with asbestosis, twenty of a hundred would be afflicted with lung cancer, and five of a hundred would develop mesothelioma. The reason Dr. Selikoff estimated fewer mesotheliomas at the highest level of exposure to asbestos dust was simply that previous study had indicated that there would be more early deaths from asbestosis at such levels, and that fewer individuals would, therefore, survive long enough to develop mesothelioma.

The Arthur D. Little Phase I questionnaire also asked for a judgment on how frequently asbestos workers should be examined, and it stated that all the estimates and judgments solicited would be synthesized and included in a Phase II questionnaire, which would be sent out later. The front page of the questionnaire, which was headed "Health & Asbestos, Phase I Judgments, Background," explained what the Arthur D. Little people had in mind:

"The formulation of public policy for coping with an occupational hazard such as asbestos will necessarily rely upon judgment until a great deal more research evidence is available than now exists. In particular, judgment concerning the relationship between exposure and response will be implicit in health standards for asbestos established by the Occupational Safety and Health Administration in the near future. But judgments, possibly different ones, on the same issue will be implicit in the response of labor and of industry to the proposed standards. As long as judgments on the response to exposure relationships are implicit rather than explicit and as long as groups affected by the standard lack needed data to buttress their judgments, protracted conflicts are inevitable and difficult to resolve. Moreover, the absence of a clearly defined and credible set of judgments makes it difficult, if not impossible, to identify the various costs and benefits associated with policies for reducing the hazard. This is so because the benefits of candidate standards depend upon projections of lives saved or illnesses eliminated at various exposure levels.

"So crucial a matter should not depend upon implicit judgment or even the explicit view of a single expert. We are led to a search for a consensus that will make explicit and credible the necessary judgments on the exposure-response relationship for asbestos. Such a consensus is sought through the participation of 12 to 15 qualified experts whose judgments will be obtained, combined, and refined in a systematic way—a variant of the Delphi process that has been used extensively to apply expertise to important issues not yet open to analysis."

When I told Dr. Selikoff that I had never heard of the Delphi process, and asked him what it meant, he shook his head and smiled. "I've never heard of it, either," he said. "But I'm pretty sure I know what it means. It means guesswork. And what's the point of guessing about the biological effects of asbestos when mortality studies of asbestos workers have already shown exactly what the effect has been?"

Dr. Selikoff now handed me a letter he had written on April 3rd to Mrs. Sonja T. Strong, of Arthur D. Little, Inc., concerning the Phase I questionnaire. Regarding the effectiveness of dust-counting as a method of insuring safe working conditions, Dr. Selikoff wrote:

"As matters now stand, meager use of performance standards seems to be intended. In this case, nothing in our experience indicates that the threshold limit values listed in your questionnaire will provide any effective safeguard against the occurrence of disease.

"An obvious rejoinder might be: "Yes, but what if they were enforced? How much disease might then occur?" Following you into this never-never land, in which one-tenth of the workmen wear personal samplers on their coveralls and the rest of us are at the phase microscopes in the laboratory, the results would still not be very much different, although perhaps somewhat better, since peak excursions would not necessarily have been engineered out.

"I have previously commented on the sorry state our nuclear-reactor industry would be in if radiation control had depended upon "threshold limit value" rather than engineering criteria. Can you imagine such regulation depending upon an army of inspectors with Geiger counters?"

After describing some of the data developed in his studies of absestos disease, Dr. Selikoff told Mrs. Strong that it was impossible to answer with any degree of accuracy the questions posed by her firm. He went on to point out that the weight of medical and scientific evidence concerning the occurrence of mesothelioma in non-occupational cirsumstances, such as in families of asbestos workers and in people living in the vicinity of asbestos factories, bore heavily on the advisability of reaching a level of exposure as close to zero as possible. "The numerous instances of mesothelioma among workmen presumably exposed to asbestos as a result of indirect occupational exposure in shipyards, even in the absence of fibre counts thirty years ago, strongly points to asbestos disease at low levels of exposure," his letter continued. "Literally hundreds of cases of mesothelioma are now known to have occurred in such circumstanecs."

When I had finished reading the letter, I asked Dr. Selikoff why the Arthur D. Little company should be soliciting exposure-response judgments at this time.

"It is my understanding that A. D. Little has been awarded a contract by the Occupational Safety and Health Administration to formulate a consensus regarding exposure-response for asbestos disease," Dr. Selikoff replied.

"But the NIOSH criteria document and the Advisory Committee on the Asbestos Standard have already covered this ground by reviewing all the literature concerning asbestos disease," I said. "Not to mention the testimony given during four days of public hearings."

"True enough," Dr. Selikoff replied. "However, the A. D. Little people appear to have been specifically charged with determining the economic impact of the proposed permanent standard for occupational exposure to asbestos."

"Then why a questionnaire focussed solely upon medical judgments?" I asked.

"That is a question I have been asking myself," Dr. Selikoff dryly. "I don't know the answer. If you find out, please tell me."

During the next few days, I made dozens of telephone calls to people in various agencies of the Department of Health, Education, and Welfare, in the independent medical community, and in a number of labor unions, trying to ascertain what lay behind the involvement of Arthur D. Little, Inc., in the process of promulgating a permanent standard for occupational exposure to asbestos. The people I spoke with at NIOSH were clearly unhappy over the fact that a private consulting firm had been asked, in effect, to duplicate (if not amend) in the space of a few weeks all the effort that over a period of years had gone into the assessments, conclusions, and recommendations of the NIOSH document.

"Look," one of them told me. "Our recommendation for a two-fibre standard and our conclusion that it is technically feasible were upheld by the Secretary of Labor's own Advisory Committee on the Asbestos Standard. However, A. D. Little is up to something that has no basis in science and no specific authorization in the Occupational Safety and Health Act. It's trying to form a consensus for what is sometimes called the 'socially acceptable risk' involved in occupational exposure to hazardous substances. In other words, it's trying to determine how much society is, or should be, willing to pay to avoid the loss of lives. The Act, however, clearly states that 'each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards, that are causing or are likely to cause death or serious physical harm to his employees.' "

When I called Sheldon Samuels, at the Industrial Union Department, however, I was able to gain a new perspective on the matter. "The whole concept of economic-impact studies, as they now exist, began back in 1968 with the President's Task Force on Government Reorganization, which was headed by Roy L. Ash," Samuels told me. "The Ash commission called for an assessment of all government programs in terms of their effectiveness, and this has since been made by the Nixon Administration's Office of Management and Budget through a whole series of cost-benefit analyses that are conducted under the guise of environmental-impact studies. The present A. D. Little study has some extremely serious ramifications. Congress to the contrary, and throwing its Occupational Safety and Health Act to the winds, the executive branch of government has decided on its own that the cost to the employer of meeting any new occupational-health standard must fall within an economic range that is acceptable to industry. The major point, of course, is the government's order of priorities in this whole matter. I mean, how in the name of God can a serious, in-depth cost-benefit study of the proposed asbestos standard fail to assess as one of its first priorities, the cost to the worker and the whole community of the terrible incidence of asbestos disease?"

When I ask Samuels if the Industrial Union Department had heard from the Arthur D. Little people, he told me that two representatives of the firm had visited him the previous week. "A Dr. Donald W. Meals and an engineer spend a whole day here," Samuels said. "They indicated that they had been brought into the picture to mediate between labor and industry, and to come up with a standard for occupational exposure to asbestos that would make everybody happy, and they asked for our help. During the past few days, I polled the members of our ad-hoc Committee on the Asbestos Hazard, and we have decided to stand firm on the recommendations we made at the public hearings, and not to participate in the A. D. Little economic-impact study. We have good reasons for believing that the A. D. Little people were brought into the standard-setting process not just to satisfy the Office of Management and Budget but to justify the asbestos industry's position. We have learned, for example, that in the economic-feasibility part of their study the A. D. Little people are relying almost entirely on guess-estimates from the asbestos industry—particularly from the shipbuilding industry, in which the government has an enormous stake."

I asked Samuels if he was aware that the A. D. Little study was also seeking medical judgments on the incidence of asbestos disease.

"Indeed I am," he replied. "In fact, just the other day I heard that A. D. Little's so-called panel of medical experts is loaded with doctors who are or have been connected with the asbestos industry. It'll be interesting to see this roster when the final report of the study comes out."

In the second week of May, I visited Dr. Selikoff again and asked if he knew of any further developments in the involvement of Arthur D. Little in the standard-setting process. He told me that the firm had sent him the Phase II questionnaire of its economic-impact study. He also showed me a letter he had written on May 9th to Dr. Meals. The letter said, in part, "I have carefully considered the asbestos data forms sent me and am returning them to you unanswered. To have completed them, in my opinion, would only contribute further to an inappropriate exercise; my original misgivings (see my letter of April 3, 1972) are now amplified." In conclusion, Dr. Selikoff told Dr. Meals that the methodology upon which the A. D. Little study was based "could lead to serious misconceptions and misdirected advice."

The following morning, I telephoned Samuels to find out if he had any new information about the Arthur D. Little study, and he said he did.

"Have you looked at your mail today?" he asked.

I told him that I had not yet had time to do so.

"Well, see if there's a letter from me."

I went through the envelopes on my desk and saw that there was.

"Well, open it up and talk to me later," Samuels said. "You aren't going to believe what's inside."

After hanging up, I opened Samuel's letter and pulled out three documents that had been stapled together. The first was a press release for Monday, May 8th, sent out by the Connecticut Development Commission, in Hartford. The second was a letter written on May 4th by Mark Feinberg, managing director of the Commission, to Jack Cawthorne, executive director of the National Association of State Development Agencies, in Washington, D.C. The third document was a letter written on Arthur D. Little stationery on January 25, 1972, by one John E. Kent. The letter from Feinberg to Cawthorne read:

"Dear Jack: We have learned that a Massachusetts-based consulting firm, Arthur D. Little Inc., is attempting to sell a Connecticut manufacturer on moving its plant to Mexico. That information in itself is not startling, but what is startling is the fact that Arthur D. Little Inc. has a consulting contract from the U.S. Department of Labor to measure the impact of the standards being set for the asbestos industry under the recently enacted Occupational Safety and Health Act. And the company which Arthur D. Little is trying to move from Connecticut to Mexico is also in the asbestos industry. Thus it appears to me that at the same time as Arthur D. Little is carrying out a federal contract dealing with the asbestos industry and its problems, Arthur D. Little is also attempting to take one of our companies in that same industry to Mexico.

"This activity by Arthur D. Little in my opinion looks like a Trojan horse which I feel is highly improper. On the one hand, Arthur D. Little is accepting federal funds and on the other hand, it is attempting to help Mexico attract a firm directly involved in the federal project. Furthermore, it is shocking to me that a New England consulting company which has so frequently put forth the doctrine of helping economic development here would "raid" a company in our state. As you know, we are certainly advocates of competition, free enterprise, and profit, but when a consultant presumably making a profit with federal dollars is at the same time attempting to take jobs away from our state and out of the country, it is a most serious matter.

"I do not know what other companies in other states are being approached as our company was, and I feel strongly that the development directors of the other states should be warned about this Trojan-horse operation which certainly seems to be against the best interest of the people in the various states which may have similar situations. This operation by Arthur D. Little also seems to be contrary to all the efforts which we state development directors are making in cooperation with the U.S. Government to improve the national balance of payments and the economic development of our individual states.

"Therefore, I am enclosing, for your use, the copy of the letter on Arthur D. Little stationery which was sent to the Connecticut company being "raided." I have taken out the company name and address in order to avoid embarrassment for the firm. I strongly urge you to send a bulletin to all our members alerting them to this serious problem as soon as possible.

"Sincerely yours,

"Mark Feinberg,
"*Managing Director*.

"P.S. You don't suppose there could be a relationship between the health and safety standards Arthur D. Little sets and the success of efforts to relocate American asbestos companies to Mexico?"

After several phone calls, I learned that the corporation Arthur D. Little had attempted to relocate in Mexico was Raybestos-Manhattan, Inc., whose factory in Stratford, Connecticut, is a major producer of asbestos brake linings, clutch facings, and gaskets. A few weeks later, when I was able to examine a copy of Arthur D. Little's first report to the Department of Labor, which was entitled "Impact of Proposed O.S.H.A. Standard for Asbestos," I saw listed among its panel of experts John H. Marsh, who is the director of planning for Raybestos-Manhattan, and who had testified at the public hearings in Washington against the NIOSH recommendation requiring warning labels on asbestos products. Meanwhile, I had discovered that the asbestos industry was taking a hard look at the feasibility of moving some of its plants and facilities to Taiwan and Korea, where, presumably, it could operate unhindered by occupational-safety-and-health regulations. It was already becoming clear, however, that by involving Arthur D. Little, Inc., in the standard-setting process, the Department of Labor was attempting to counter the recommendations of the NIOSH criteria document, of the Secretary of Labor's Advisory Committee on the Asbestos Standard, and of the members of the independent medical and scientific community who had testified at the public hearings. It was also becoming clear how deeply the medical-industrial complex had succeeded in penetrating the working of the government in matters relating to the prevention of industrial disease.

RECESS UNTIL 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 11 a.m. today.

The motion was agreed to; and at 10:41 a.m. the Senate took a recess until 11 a.m. today.

The Senate reassembled at 11 a.m. when called to order by the Presiding Officer (Mr. Allen).

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. Allen). Is there further morning business? If not, morning business is concluded.

AIRCRAFT PIRACY AMENDMENTS OF 1973

The PRESIDING OFFICER. In accordance with the previous order, the Chair now lays before the Senate S. 872, which the clerk will please state.

The assistant legislative clerk read as follows:

S. 872, to facilitate prosecutions for certain crimes and offenses committed aboard aircraft, and for other purposes.

The Senate resumed the consideration of the bill.

ORDER FOR CONSIDERATION OF CERTAIN MEASURES NEXT WEEK

Mr. MANSFIELD. Mr. President, I ask unanimous consent to speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Thursday, March 14, 1974, just before the Senate goes out for its recess, to return on March 19, it be in order that Calendar No. 664, S. 1541, be made the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. So that when the Senate meets on Tuesday next, that bill will be the pending business.

Now, Mr. President, I ask unanimous consent that it be in order also, at the discretion of the leadership, to call up Calendar No. 665, S. 3044 any time when circumstances permit it.

Mr. GRIFFIN. Mr. President, reserving the right to object—what bill is that?

Mr. MANSFIELD. That is the bill to amend the Federal Election Campaign Act. There will be plenty of notice given before it is done. What we are trying to do is to work out a schedule so that the Senate will be aware of what will confront it upon its return next week.

Mr. GRIFFIN. Well, if the distinguished majority leader would make it upon the disposition of the other bill, I think that would be an orderly process, but otherwise——

Mr. MANSFIELD. That is what I had in mind.

Mr. GRIFFIN. Then I will not object.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, to reiterate the consent request which the Senate has already given, it will be in order any time after March 18 to call up Calendar No. 662, S. 354, the so-called no-fault insurance bill.

The acting Republican leader may recall that an informal agreement was reached between the chairman of the Commerce Committee, Senator Magnuson, and the chairman of the Judiciary Committee, Senator Eastland, that it would be kept in the Judiciary Committee for a month longer.

Before I made my unanimous consent request last week, which the Senate granted, I contacted those two Senators, and also the ranking Republican member, the Senator from Nebraska (Mr. Hruska).

Mr. GRIFFIN. With regard to the no-fault insurance bill, that would be after the other two bills are disposed of at some point and then it would be in order?

Mr. MANSFIELD. Either that or I would like to have permission, if circumstances dictated it, to operate on a two-track system, after budget reform.

Mr. GRIFFIN. I will not object. I would assume, as the distinguished majority leader knows, and I personally have no objection with regard to either one of them in regard to bringing them up, but both bills are very controversial——

Mr. MANSFIELD. All three.

Mr. GRIFFIN. All three. I do not want to waive anyone's rights if there were some disposition on anyone's part to contest the matter of motioning up a bill, but since no one has asked me to do so, and certainly these matters have been pending for a long time, I will not object.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, may I say that we did get the consent for the no-fault insurance bill last week based on the informal extension. Our purpose, I reiterate, is to serve notice to the Senate that very important and controversial legislation lies ahead. Of course, the leadership on this side will do nothing without consulting the leadership on the Republican side.

THE SPIRIT OF TLATELOLCO—THE INTER-AMERICAN CONFERENCE IN MEXICO CITY

Mr. MANSFIELD. Mr. President, in the latter days of last month, the distinguished Secretary of State, Dr. Henry Kissinger, invited the Republican leader, the Senator from Pennsylvania (Mr. Hugh Scott), the Democratic leader, the Senator from Montana now speaking, and the Senator from Wyoming (Mr. McGee), the chairman of the Latin American Subcommittee, to accompany him to an Inter-American Conference held in Mexico City.

The group from the House of Representatives was composed of Speaker Carl Albert, Representative Dante Fascell of Florida, and Representative William Mailliard of California.

In attendance during portions of these proceedings and helping the delegation, were Mr. Pat Holt, the chief of staff of the Committee on Foreign Relations, and Mr. Frank Valeo, the Secretary of the Senate, who accompanied me at my request.

Frankly, I thought the meeting was most successful, even though there were differences, as was to be expected; but the ground work has been laid, based on the initiatives of Secretary Kissinger last year at the United Nations, followed by a meeting of the Foreign Ministers of the Latin American States at Bogotá, culminating in the conference at Tlatelolco which included, I would point out, a pledge made by the Secretary of State to his fellow Foreign Ministers on behalf of this country, as follows:

> We will not impose our political preferences. We will not intervene in the domestic affairs of others. We will seek the free association of proud people.

I ask unanimous consent that a commentary written by Mr. Ben F. Meyer, published in the Baltimore Sun on March 6, 1974, entitled "Kissinger's Latin American Venture—The Spirit of Tlatelolco," be printed in the Record.

There being no objection, the commentary was ordered to be printed in the Record, as follows:

KISSINGER'S LATIN AMERICAN VENTURE: THE SPIRIT OF TLATELOLCO

(By Ben F. Meyer)

WASHINGTON.—The recent inter-American conference in Mexico City was extraordinary because it tackled basic problems in a friendly fashion.

True, there were no spectacular agreements such as were adopted at previous meetings (often to become the source of controversy later). Instead there seemed to be a better understanding of the real issues and a resolve to avoid an angry confrontation between the United States and 24 nations of Latin America and the Caribbean.

Great credit goes to Secretary of State Henry A. Kissinger for his careful groundwork in setting such a tone for the "new dialogue." His colleagues in the hemisphere contributed much to the idea of working out problems on a friendly, co-operative basis. One notable achievement was to carry forward the detailed work on promising projects and to review progress regularly.

The foreign ministers are to meet next in Atlanta, Ga., on April 17, two days before the start of the sessions of the General Assembly of the Organization of American States (OAS).

It would be unreasonable to suppose that there were no differences among the 25 nations attending the Mexico City meeting. Secretary Kissinger, for example, walked into one problem quite innocently. Stressing the mood for hard work, rather than oratory or eloquent declarations, he observed:

"We are not here to write a communique, but to start a course." He was overruled because Latin Americans dearly love communiques and declarations. He was proven correct. The wording of the conference declaration produced such a dispute that it was one day late in emerging.

The careful Dr. Kissinger walked into another issue also. He told the foreign ministers the United States is "rededicating itself to a new era of Western Hemisphere relationships" and invited their views "so that together we can make the Western Hemisphere community a reality." Here the community idea produced sparks. Some envisioned it as a sort of bloc in which the United States might seek dominance—the very thing Secretary Kissinger listed as one of the past sins of U.S. policy. It did sound as if that was what he had in mind, but he explained he was opposed to blocs, was merely "talking about an attitude, a spirit, a sense of cooperation."

He disarmed critics by reeling off a list of past sins of U.S. policy and promised not to sin again.

"We were prone to set standards for the political, economic and social structures of our sister republics," he said.

He yielded no ground, however, on the U.S. stance that nations which expropriate properties of U.S. firms should make adequate and prompt compensation. One approach, he said, might be to keep governments out of such controversies by setting up neutral machinery for adjudicating them. In an important, even if limited, concession, the other countries agreed to examine the proposal. They may have been influenced to some degree by the presence of the highest ranking delegation of U.S. congressional leaders ever to attend a conference of its kind. Secretary Kissinger said he would do everything he could to get Congress to come through with trade concessions and to carry forward "the spirit of Tlatelolco," a section of Mexico City where the conference was held.

It was surprising that other countries represented at the conference did not reciprocate Secretary Kissinger's confession of his country's errors of omission or commission. Nor was there any mention of the fact that after many months of meetings and haggling, almost nothing has been accomplished in an effort at restructuring the Organization of American States—a task under direct management of the foreign ministers.

The general atmosphere of the conference, however, permits one to hope that all 25 nations represented at the conference, or at least a majority of them, are going to strive for better understanding, and for concrete results. The Mexico City meeting, indeed, could produce a great deal of new thinking and, hopefully, some action on the reforms of the inter-American system.

Mr. HUGH SCOTT. Mr. President, together with the distinguished majority leader and other Members of Congress, I attended the conference of Tlatelolco, as an adviser or observer, with the Secretary of State. This was a conference of foreign ministers of the countries of the Americas, and it was a most useful exchange of ideas.

I think that perhaps our colleagues from Latin American countries probably had not experienced in the past quite the same feeling, that we were dealing in a spirit of complete candor and realism, that we were not there to act as a senior partner or to present the appearance of one who sought to give unsought advice to our friends and neighbors; but we were there in a spirit of mutual solicitation, of beneficial exchange of views.

We were privately congratulated on the fact that we had brought a senior delegation, which I think caused a good impression generally. The delegation consisted of the majority leader and the minority leader of the Senate; the distinguished representative of the Committee on Foreign Relations and an expert on Latin American relations, the Senator from Wyoming (Mr. McGee): the Ambassador-designate to the Organization of American States, Representative Maillard, of California; the chairman of the Inter-American Subcommittee of the House Committee on Foreign Affairs, Representative Fascell, of Florida; and of course the person who probably created the warmest feelings toward the United States, our distinguished Speaker of the House of Representatives.

I say this because of the Speaker's command of the Spanish language. He had been a student at the University of Madrid. He still retains a fluency in Spanish. I think the remarkable thing about the delegation was that most of them did have a command of Spanish in various degrees, which presented an opportunity for discussions on a bilingual basis.

The general feeling of the conference was that the United States should be openminded to the problems of all the Americas; that we should avoid anything which smacks of economic and certainly of military aggression; that our system should be offered, where it is offered, on a basis of mutually satisfactory agreement; that we take no action, either in this hemisphere or elsewhere, which would be inimical to the relations of any country of the Americas, without prior consultation. All these matters and others were discussed at some length.

The United States made several specific proposals, and we were willing to implement them if the other countries so desired. They included the formation of a task force on science and technology, a task force that would be influential in the health and education fields, a task force that might go into matters of the economy. But these nations, understandably, must consult their own governments. There was a general agreement, unofficially and not included in the communique, that a number of these matters could well be taken up at the next meeting of the Organization of American States, which will take place shortly—I believe in May—at Atlanta, Ga.

So I think this was the kind of trip where the distinguished majority leader and I should have been, and we were glad we went. We are unhappy to note that we missed one vote in the time we were gone, which was the first time this year I had missed a vote. I think I have missed one since. It was in no sense a junket. Many essential visits are lumped with the unessential ones when our activities are publicly reported. If ever there was an essential trip, I think this was it.

I am particularly impressed with the leadership given by the distinguished majority leader, who, with the exception of the Speaker of the House of Representatives, perhaps, has been to Mexico more often than any of us, who often has led the U.S. delegation in the United States-Mexico parliamentary session, and who personally knows many people there. I was much impressed by his personal and friendly contacts not only with our Mexican friends but also with friends from many of the other countries.

In short, I believe it was a very useful trip. I am very glad that the distinguished majority leader has brought up the matter here and that, as he has undoubtedly said, the committee print on the Inter-American Conference of Tlatelolco, in Mexico City—or what we have referred to as "The Spirit of Tlatelolco"—is contained in his report to the Committee on Foreign Relations of the Senate. I congratulate him.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee report, entitled the Inter-American Conference of Tlatelolco in Mexico City, be printed in the Record.

There being no objection, the excerpt from the committee report was ordered to be printed in the Record, as follows:

Spirit of Tlatelolco

A REPORT ON THE CONFERENCE OF TLATELOLCO

I. Introduction

At the request of the Secretary of State, Dr. Henry A. Kissinger, several Members of the Congress served with the United States delegation at the Inter-American Conference of Tlatelolco which was held in Mexico City, February 21–23, 1974. For the first time in memory the Leadership of both Houses of the Congress joined with the Secretary of State in a meeting of this kind with regard to Latin-American and Caribbean policy.

The House group was led by Speaker Albert and included Representatives Dante Fascell and William Mailliard. In attendance from the Senate were the Republican Leader (Senator Hugh Scott of Pennsylvania), the Chairman of the Subcommittee on Western Hemisphere Affairs (Senator Gale McGee of Wyoming) and myself. The Secretary of the Senate (Mr. Frank Valeo) accompanied the group. All Members of the Congressional delegation had had substantial prior experience in inter-American affairs.

II. Procedure

Legislative-Executive communication during the course of this Conference was frank and friendly and, in accord with separate Constitutional responsibilities in foreign relations. The Congressional Members met with the Secretary of State en route and at frequent intervals in Mexico City for discussions of issues and U.S. policy. We were kept fully informed of developments as they were unfolding and we were able to make advisory contributions with regard thereto. In turn, the Secretary of State derived from us an estimate of Congressional attitudes on positions which were assumed by this government at the Conference, some of which could be sustained only with some assurance of subsequent legislative concurrence.

Together, then, the Secretary of State and the Congressional group presented to the other participating countries a valid impression of U.S. unity on inter-American policy. Frequent joint appearances at formal meetings, before the press and at public gatherings, symbolized a shared viewpoint. On an individual basis, moreover, the Members sustained the formal positions taken by the Secretary of State on behalf of the United States government. We were able to do so freely and in good conscience on the basis of common understanding and mutual accommodation.

III. The Conference of Tlatelolco

At the very outset of the Conference, Secretary Kissinger made clear to his colleagues from Latin America and the Caribbean that he was not interested in a war of words or in a grandiloquent cover-up of difficulties in the relations of the nations of the Western Hemisphere. He sought, rather, to give a new tone to these relations. In taking this approach the Secretary was on sound grounds.

Too often, in recent years, rhetoric has substituted for reality in our dealings with the other American States. Too often, too, there has been surface cooperation but subsurface confrontation between the United States and the nations to the South. Periodic bursts of U.S. interest in Latin America and the Caribbean have alternated with prolonged periods of disinterest. The words of equality, friendship and mutuality have blurred a certain persisting anxiety among the American States to the South. It is an anxiety which oscillates between fear of the enormous power of this nation on the one hand and a concern lest the needs of the Hemisphere be ignored in a U.S. preoccupation with Europe and Asia on the other. There has also been, in all frankness, an ambivalence in our attitude towards the Latin American States. A readiness to move in genuine concert with them has alternated, historically, with unilateral and precipitous assertions of our power.

For a decade, the Alliance for Progress served to conceal difficulties of this kind. So, too, did the Good Neighbor Policy before it, as did other dictums at still earlier times, going back to the Monroe Doctrine. Notwithstanding the constructive aspects of our various Latin American policies, divisive tendecies have been a persistent undercurrent of Hemispheric relations. In recent years, the cement of the most recent U.S. policy, the Alliance for Progress, has worn thin and these tendencies have been coming closer and closer to the surface.

The fact is that the circumstances of Latin America and the Caribbean and, indeed, of our own country have changed since the Alliance was undertaken in the Kennedy Administration. When we deal with Brazil, for example, we now confront a nation which in area and in population is larger than any in Western Europe. It is a nation, moreover, which shows in its major cities and elsewhere a dynamic modernization. The same may be said for Mexico and other of the Latin American countries. Elsewhere the pace of change is slower or scarcely perceptible. In some basic materials, we are becoming more a "have not" nation whereas many of our neighbors are in the category of "have." In short, we should bear in mind in our approach to the other American Republics that there are many graduations of "developed and undeveloped," of "have and have not." The terms are relative. There are pockets of underdevelopment and wealth in every country, and of development and poverty, side by side, in every country, including the United States. In this situation, it is clear that the Alliance for Progress, whatever its original thrust has been overweighted on the side of dependency on U.S. aid activities and insufficiently concerned with other needs and aspirations of the Americas. Our policies, nevertheless, have tended to cling to its patterns. So, too, have our attitudes. As such, both have lost much of their relevance to current realities in this Hemisphere.

It was in an effort to deal with this timelag that, last October, the President and the Secretary of State called for a new approach to the common affairs of the Western Hemisphere. The other American Republics responded at a meeting which was held in Bogota the following month. At that time, a united Latin American Caribbean agenda was drawn up for a "dialogue" with the United States. It represented, in considerable part, a scarcely concealed catalogue of dissatisfactions in regard to the existing state of inter-American affairs.

It was on this note, then, that the delegates to the Conference of Tlatelolco assembled in Mexico City on February 21. Rather than evade the issues posed by the Bogota agenda, the United States concurred, at the outset, in the need for change. The position of the other American States was treated not as a compliant to be answered but as an invitation to face up, together, to a new situation. The Secretary of State called for an era of concrete cooperation in the Americas and, to that end, set forth specific U.S. proposals on a range of specific questions Some of these were responses to certain of the Bogota proposals. Others were added as U.S. initiatives.

One such initiative, for example, was for a cooperative American effort to relieve situations of disaster and emergency in the Hemisphere. This proposal was of particular interest to me since thirteen years ago, on returning from an extended visit in Latin America, I had suggested that:

"An opportunity may exist for a major advance in Hemispheric cooperation in connection with a most important humanitarian endeavor. For some time now, the Defense Department has been developing and expanding techniques for air and sea rescue work throughout the Americas. On a less organized basis, this nation has participated in * * * relief work in connection with disasters.

"It would be desirable to explore the possibilities of consolidating these and related functions in a permanent hemispheric rescue and relief unit under the Organization of the American States. Such an organization could stockpile food and other emergency supplies at strategic points and otherwise plan and prepare in advance for cooperative and immediate action whenever and wherever disaster strikes in the Western Hemisphere. An organization of this kind would not only have the highest practical utility but would be a symbol of the humanistic potential of hemispheric cooperation.* "

As the statements of the Secretary of State which are appended make clear, this nation is on record as being ready to act on a cooperative basis, not merely in humanistic undertakings but on questions of trade, science and technology, reform of the Organization of the American States, energy and resources, the problem of seized assets, mutual aid and many other subjects. These proposals follow on the progress in negotiations regarding the status of the Panama Canal and on the issue of compensation for nationalized U.S. firms in Peru, both of which were precursors of the stress which the Secretary of State placed, at the Conference, on the need for "community" in the Western Hemisphere. At the outset, the pledge was made by the Secretary of State that—

* * * We will not impose our political preferences;

* * * We will not intervene in the domestic affairs of others;

* * * We will seek a free association of proud people.

Together, these initiatives reflected the kind of national restraint which this country is prepared to exercise in dealing with the American States. It is a restraint which is sought by them but is also in our national interests because it is an essential ingredient in a satisfactory transition of inter-American relations into a new era of close hemispheric cooperation.

Ancient anxieties do not disappear overnight, of course, but the initial response of the Latin American and Caribbean nations was generally favorable to the new approach offered by the United States. As the Conference progressed, moreover, the opening position of the United States was elaborated with candor and erudition by the Secretary of State. There was a perceptible growth in acceptance of the fact that the United States did intend to move into a new era of active cooperation on the basis of equality and mutuality. Expressions of concurrence with Secretary Kissinger's analyses and proposals began to be heard with increasing frequency. In the end, the Conference subscribed, unanimously, to a pledge, to work in cooperation rather than confrontation to try to develop a new sense of inter-American community. This, in essence, was the "Spirit of Tlatelolco" the final note of the Conference of Tlatelolco.

IV. Concluding Comments

The spirit of community engendered at the Conference in my judgment, was genuine and substantial, if not necessarily universal. From the point of view of the United States, the Conference served the highly useful purpose of checking what had been a growing aversion to aspects of this nation's policies and practices. The durability of the new spirit, of course, is another matter. Foreign Ministers meeting face-to-face, can agree on grand designs. It remains for foreign ministries, however, to spell out the details of their agreement. How effectively the conversion is made depends on many functionaries in twenty-four of the capitals of the Western Hemisphere.

The test of the new spirit may come as soon as the next meeting of O.A.S. Foreign Ministers which is scheduled to take place next month in Atlanta, Georgia. In the interim, it is anticipated that substantial progress will have been made by the foreign ministries on questions involving aid, trade, the rights and responsibilities of foreign corporations, and other specific issues. Also to be faced sooner or later are the questions of Cuban ostracism and the still unresolved status of the Panama Canal.

On the initiative of this nation, Cuba was excluded form O.A.S. affairs in 1962. Other American States followed our example of breaking diplomatic relations with Cuba until at one time only Mexico continued to retain contact. Now, however, seven American States have established diplomatic ties with Havana and it would appear to be only a matter of time until others follow suit. Through the intercession of Switzerland, moreover, this nation has reached a satisfactory understanding with the Cuban government on what had been a major source of friction, the handling of hi-jacked airlines. Furthermore, resettlement and attrition have eased the refugee problem and the more bloodly and ruthless aspects of revolution have shifted elsewhere in the Hemisphere.

There is the likelihood of increasing support in the Hemisphere for re-inclusion of Cuba in the over-all affairs of the Americans and the Caribbean. In anticipation of that time, this nation would be well advised to consider its present non-policies on Cuba as they relate to over-all Hemispheric needs.

Insofar as the Panama Canal is concerned, special Ambassador Ellsworth Bunker, did find common grounds with the Panamanian government for considering a new status for the Zone. However, there is still a great deal to be negotiated before that status, in fact, can be redefined. In the best of circumstances, these negotiations would be difficult because the problem is highly complex in a technical and judicial sense. But there are also historic emotions enmeshed in the situation and vested political and other interests, not only in Panama and the United States but elsewhere in Latin America and the Caribbean. If there is restraint on all sides, it may be that an acceptable solution can be devised in due course. Certainly, it would be most undesirable from the point of view of Hemispheric unity, if the avenue for the consideration of this issue were to be shifted to the United Nations or some other international setting.

These, then, are some of the lesser and greater shoals on which the newly-emerging sense of inter-American community could come to grief. If they are to be avoided, a great deal of restraint will have to be shown on all sides. It would be well to remember that this is not the first attempt to breathe new life into the Organization of the American States. For a long time to come, it may be the last, if the momentum which was generated at the Conference of Tlatelolco is not maintained in the months ahead.

It cannot be emphasized too much that our interests in regard to Latin America and the Caribbean are much wider than a Cuban problem or the status of the Canal Zone or any other particular aspect of our present policies. The sum is far greater than any of the parts. Before all else, it should be noted that the existence of generally nonhostile neighbors to the South is of incalculable value to a nation which must also look both East and West at a vast complex of unknowns in its international relations. Friendly Southern borders, to say the least, mean greatly reduced costs in maintaining the nation's military security. The several thousand military forces assigned for defense purposes in the Southern regions are negligible. In contrast a garrison of over 300,000 is maintained in Western Europe and some 200,000 in Southeast Asia and the Pacific.

Complimentary economies with the other Americas yield a total U.S.-Latin American trade of over $12 billion annually, the third largest regional component in our overseas commerce. U.S. investments in Latin America are estimated to be $13.5 billion. There are recreational, educational, social and other ties between this nation and the diverse cultures to the South which enrich the lives of people and which can yield increasing satisfactions to all of the peoples of the Western Hemisphere in a world of growing interdependency.

This vast sweep of interests is the appropriate background against which to consider specific points of friction, whether the Canal Zone or some other. It would be well in the Congress, therefore, to keep an open mind on the efforts of the President and the Secretary of State to negotiate a path through the many pit-falls of inter-American relations and to give them such support and cooperation as can be given in the light of the separate constitutional responsibilities of the two Branches. It is essential for this nation's present well-being and for its future that the common bonds of the Hemisphere are maintained in satisfactory condition. Not only the Executive Branch but Members of Congress and of the Senate, in particular, have responsibilities in this connection.

V. A note on United States-Mexico parliamentary relations

The Congressional Members of the United States delegation to the Conference of Tlateloco took the occasion of their presence in Mexico City to meet with colleagues of the Mexican Congress (including the Chairman of the Mexican delegation, Senator Olivares Santana) to the coming 14th U.S.-Mexico Parliamentary Meeting. We discussed arrangements for the meeting which will take place in this country in the spring in a spirit of cordiality and accommodation. Indeed, that is the attitude which has characterized all of the previous thirteen meetings of this bi-national Parliamentary institution and it has contributed greatly to the maintenance of beneficial relations between the two nations. These meetings have led not only to greater understanding and tolerance between legislators of the two countries, they have also been a principal instrument in resolving such complex issues, for example, as the Chamizal question and the salinization of the Colorado River waters.

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* U.S. Committee on Foreign Relations. Latin American and United States Polices. Report of Senator Mike Mansfield, Jan. 13, 1962, p. 15.

In a meeting with the President of Mexico, Luis Echeverria Alvarez, we discussed the future of these Parliamentary meetings. Among the suggestions which emerged were the desirability of joint parliamentary consideration of issues which are presently before the Foreign Ministers of the O.A.S. This proposal seems particularly appropriate since the resolution of some of these issues will require legislative concurrence. Viewpoints which emerge at the next Parliamentary meeting may also have relevance to the work of the Foreign Ministers of the two countries. Reference was also made to the desirability of considering the question of promoting greater exchanges of students, teachers and others on a mutual basis between Mexico and the United States. It would seem to me that the Parliamentary meetings should be prepared to explore any issue or proposals which relates to the possibility of developing greater harmony in Mexico-United States relations to the end that each nation may contribute to the other's well-being and both, more fully, to the progress of the Hemisphere and the stability of international peace.

APPENDIX

1. THE INITIAL PROPOSAL

(Toast by Secretary Kissinger at a luncheon honoring Western Hemisphere delegations to the United Nations General Assembly, October 5, 1973)

President Benites [Leopoldo Benites, of Ecuador, President of the 28th U.N. General Assembly], Excellencies, ladies and gentlemen: There is a story of an Englishman who visited Sweden, and when he was going through passport control, he was confronted with two lines. One was marked for Swedes; the other one was marked for foreigners. After a while an official came by and found him sitting between these two lines. And the official said, "Sir, will you please go into one line or the other?" And he said, "That's just my problem. I am not a Swede, and I am obviously not a foreigner." [Laughter.]

I think that story is symbolic of our meeting today. We obviously do not belong all to one country, but we obviously are also not foreigners in this room.

I am grateful that you came and for this opportunity to tell you that we are serious about starting a new dialogue with our friends in the Americas.

As we look back at the history of relationships of the United States to its neighbors to the south, it has been characterized by alternating periods of what some of you have considered intervention with periods of neglect.

We are proposing to you a friendship based on equality and on respect for mutual dignity.

And such a relationship is needed for all of us, and I believe it is needed also for the rest of the world.

In the United States in the last decade, we have experienced many dramatic changes. Throughout most of our history we could overpower most of our foreign policy problems, and we could also substitute resources for thought. Today, without understanding, can meet world needs.

Throughout much of our history, indeed throughout much of this administration, we used to believe with respect to agriculture, for example, that our primary problem was how to get rid of seemingly inexhaustible surpluses. We have now learned that we share the world's problem: how to allocate scarce food resources in relation to world needs.

When I came to Washington, the discussions with respect to energy concerned means of restricting production and allocating it among various allies. Today the problem is to find energy sources around the world that can meet world needs.

So we in this country are going through a revolution of sorts, and the whole world is undergoing a revolution in its patterns. And the basic problem we face is whether we will chose the road of nationalism or the road of cooperation, whether we will approach it from the perspective of each party trying to get the maximum benefit for itself, or whether we can take a common view based on our common needs. And this is why our relations in this hemisphere are so crucial for all of us in this room and for all the rest of the world as well. We in this room, with all the ups and downs of our relationships, share a common history and similar values and many similar experiences. The value of human dignity is nowhere better understood than in the countries of our friends to the south of us.

So if the technically advanced nations can ever cooperate with the developing nations, if people with similar aspirations can ever achieve common goals, then it must start here in the Western Hemisphere.

We in the United States will approach this dialogue with an open mind. We do not believe that any institution or any treaty arrangements is beyond examination. We want to see whether free peoples, emphasizing and respecting their diversity but united by similar aspirations and values, can achieve great goals on the basis of equality.

So we are starting an urgent examination of our Western Hemisphere policy within our government. But such a policy makes no sense if it is a U.S. prescription handed over to Latin Americans for your acceptance or rejection. It shouldn't be a policy designed in Washington for Latin America. It should be a policy designed by all of Latin America for the Americas.

And so as we examine our own policy, we must also ask for your help. We know that there isn't one Latin America, but many different countries. We know also that there are certain subregional groups. But it isn't for us to say with whom to conduct the dialogue. That has to come from our guests here in this room.

And so as we form our policy, I would like to invite your suggestions, whatever form you think appropriate, as groups or subgroups of individual nations.

And when our final policy emerges, we will all have a sense that we had a share in its making, and we will all have a stake in maintaining it.

So, President Benites and Excellencies, I would like to propose a toast to what can be an adventure of free peoples working together to establish a new relationship that can be an example to many other nations. I would like to propose a toast to Western Hemisphere relationships, to our distinguished guest of honor, President Benites.

2. BASES FOR A NEW DIALOGUE BETWEEN LATIN AMERICA AND THE UNITED STATES ADOPTED AT THE CONFERENCE OF CHANCELLORS OF LATIN AMERICA FOR CONTINENTAL COOPERATION HELD IN BOGOTA, COLOMBIA, IN NOVEMBER OF 1973

During the Conference, the validity of the principles and concepts—which the Latin American countries have consecrated in different well-known documents such as the Consensus of Viña del Mar of 1969 and others which have consequently been approved—were reiterated as was the need to take essential measures to effectively enforce them.

Bearing in mind that during the "new dialogue" to be held soon with the Secretary of State it will not be possible to extensively examine all and each of the present problems which interest Latin America, the Conference reached the conclusion that it would be profitable to begin an exchange.

Cooperation for development

Inter-American cooperation for development should effectively contribute to integral development; therefore, it should be applied to all fields—economic, commercial, financial, social, technological, scientific, educational and cultural. Cooperation through the multilateral mechanism of the inter-American system should be integral and not be made conditional unilaterally by the assisting country, nor should it be discriminatory.

It is necessary to establish a system of collective economic security to *protect the* conditions inherent in the intergal development of the countries.

There is a pressing need to take measures for the free access of Latin American products to the United States market where they are subject to various kinds of unjustified restrictions such as tariff, non-tariff, health, quota and other similar restrictions.

Bases for a new dialog between Latin America and the United States

On October 5, 1973, by invitation of the Secretary of State of the United States of America, Mr. Henry A. Kissinger, a meeting was held of the representatives of the Latin American countries attending the Twenty-Eighth Session of the United Nations General Assembly.

On that occasion, the Secretary of State on proposing to Latin America a "friendship based on equality and respect for individual dignity," offered to initiate a "new dialog" with the Latin American countries to deal with matters which interest the hemisphere.

In view of this initiative, the Government of Colombia issued an invitation to the Secretary of State, Mr. Henry A. Kissinger who stated that "he hopes to be able to participate actively and in person in such a dialog at an opportune moment". The Government of Colombia then convened a conference of Ministers of Foreign Affairs to exchange opinions on the best way to set the bases for a new dialog.

The conference was held in Bogota from November 14th through 16th, 1973, with the attendance of the Ministers of Foreign Affairs of Barbados, Chile, Peru, Venezuela, Ecuador, Honduras, El Salvador, Costa Rica, Nicaragua, Guatemala, Panama, Mexico, Dominican Republic, Trinidad and Tobago, Guyana, Colombia and the Special Representatives appointed for that purpose by the Ministers of Foreign Affairs of Jamaica, Bolivia, Haiti, Brazil, Uruguay, Paraguay, and Argentina.[1]

Coercive economic measures

It is necessary to establish an effective mechanism of protection against the proposal, adoption or implementation of this type of measures.

Restructuring the Inter-American system

It is necessary to intensify the work of restructuring the inter-American system so as to adapt it to new political, economic, technological, social and cultural conditions of the American States and to hemispheric and world circumstances. Likewise, it is necessary for the United States to share the aspirations and join the Latin American efforts to achieve the deep changes which the system requires.

Solution to the question of the Panama Canal

In view of the information that the bilateral negotiations which began in 1964 between the Republic of Panama and the United States of America on the question of the Panama Canal shall soon be resumed, all the other countries of Latin America, reaffirming their solidarity with the Republic of Panama, manifest that the resolution of that matter is of common and urgent interest for Latin America and they hope that the already extensive negotiations shall culminate in a solution which satisfies the just aspiration of the Republic of Panama.

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[1] Order of precedence established by lot.

International trade structure and monetary system

The Latin American countries are determined to contribute to the correction of the existing economic distortions and to ensure their right to prosperity and peace. Therefore, their total effective participation in the multilateral trade negotiations and in the reform of the international monetary system is essential so that their efforts for development may not be injured by decisions in which they do not participate. Likewise, particularly in trade negotiations, it is necessary to abide by the principle that each country's obligations should be in accordance with its economic capacity; and therefore, the developing countries should receive differential treatment.

The United States should urgently put in force its general preference system and apply it without reciprocity and discrimination of any type. Standing preference should not be impaired during multilateral trade negotiations; they should be expanded. The preferences given within the general system should have the character of an international legal obligation.

During multilateral trade negotiations or independent of them, agreements and mechanisms relating to basic commodities of regional interest must be reestablished or created to contribute to the attainment of just and remunerative prices and their long-term stability.

Transnational enterprises

There is a deep concern in the Latin American sphere due to the attitude of transnational enterprises which interfere in domestic questions of countries where they carry out their activities and try to elude the legislation and jurisdiction of competent national tribunals.

Transitional enterprises constitute an adequate factor of Latin American development, as long as they respect the sovereignty of the countries in which they operate and adjust to their development programs.

Latin America considers that the United States' cooperation is necessary to overcome the resulting difficulties of frictions and avoid those that could originate from the conduct of transnational enterprises which violate the principles mentioned herein.

Technology transfer

Integral development of the Latin American countries requires an adequate technology. To comply with that objective and as a supplement to national efforts, technology transfer should be obtained from the different world sources among which the United States plays an important role. In this matter, Latin America hopes to obtain maximum coperation from the United States government.

Technology transfer should contribute to improve the economic, social and cultural levels in fields such as those of education, health, housing, nutrition, agriculture and industry. This transfer should be adapted to the needs, possibilities and characteristics of the Latin American countries, bearing in mind their development projects and programs.

General panorama of the relations between Latin America and the United States of America

Consideration of the political problems of hemispheric interest in the light of the present world and regional situation.

The selection of the above subjects obeys a criterion of priority, and consequently, does not mean that other problems cannot be discussed on another occasion.

The Conference likewise expresses the willingness of the participating countries to discuss any other matters which the United States of America may wish to propose.

Finally, it is considered advisable to jointly agree, as soon as possible, on the date for the proposed meeting that is to be held in Mexico.

3. DOCUMENT OF BOGOTÁ ADOPTED BY THE CONFERENCE OF CHANCELLORS OF LATIN AMERICA FOR CONTINENTAL COOPERATION HELD IN BOGOTÁ, COLOMBIA, IN NOVEMBER OF 1973

Document of Bogotá

The Ministers of Foreign Affairs and the Special Representatives of the Latin American States, meeting in Bogotá from November 14 through 16th, 1973.

After having analyzed the circumstances under which a new dialogue could be held between Latin America and the United States, in response to the invitation of the Secretary of State of the United States, Mr. Henry A. Kissinger.

Aware that deep changes have occurred in the international situation and that it is necessary to establish a new direction for Continental Cooperation.

Desiring to promote this new Cooperation based, among others, on the principles of solidarity, non-intervention, respect for national sovereignties as well as the self-determination of peoples and the legal equality among states.

Have decided on the bases for the "new dialogue" between Latin America and the United States to be presented to the Secretary of State by the Minister of Foreign Affairs of Colombia, Dr. Alfredo Vásquez Carrizosa, and, likewise,

Have agreed on the following:

1. Latin America is aware of its new situation which allows it to use and encourage the elements of international cooperation as a support to the necessary national efforts to accelerate its own development, improve the economic, social and cultural levels of its peoples and contribute to universal peace and coexistence, pursuant to the lofty objective corresponding to a continent of considerable economy potential, vast natural resources and high human values.

2. The increasing and positive Latin American nationalism constitutes a substantial element in Latin American unity and implies the common will of strengthening its personality and of jointly developing its historical destiny, since it is a community of free and sovereign states, with its own values derived from historic, cultural and social evolution.

3. The economic and social development is mainly the responsibility of each of the Latin American peoples and imposes upon the states integral, shared and solidary cooperation as a necessary condition for their effective progress.

4. On this occasion, the Ministers of Foreign Affairs want to reaffirm their governments' desire to reach the objectives of integration and of an integral, harmonic and self-supporting development, aiming at the realization of the individual and of international social justice.

5. On this occasion we should reiterate the will of the States for CECLA to continue its positive work as an agency of coordination and joint Latin American action, both on a continental and world scale; and the decision that all should contribute to its strengthening in order to make it more effective.

6. Likewise, it is necessary to promote, together with the other developing countries, the establishment of different Latin American coordination mechanisms in order to efficiently utilize their basic commodities and natural resources, in accordance with their sovereign rights. In that sense, the adoption of the Agreement Establishing the Latin American Power Organization (OLADE) is a cause for deep satisfaction.

7. The Ministers of Foreign Affairs reaffirm the need to intensify the work of restructuring the Inter-American system in order to adapt it to the new political, economic, social and cultural conditions of the American States and hemispheric and world circumstances. They express their confidence in the success of the Special Committee established by Resolution 127 of the General Assembly of the Organization of American States.

8. The Ministers of Foreign Affairs reiterate the urgent need to draw up a draft of the Charter of Economic Rights and Duties of States to be analyzed and approved by the Twenty-Ninth Session of the United Nations General Assembly.

9. The Ministers of Foreign Affairs, on expressing their pleasure with the effort made by the Latin American representatives in the specialized subregional, regional and international agencies, exhort them to intensify the work tending to encourage adequate Latin American and world corporation.

10. The ministers of Foreign Affairs reiterate the need to intensify common action in continental and world spheres so as to obtain the establishment of just and equitable conditions in the international economic structure. They stress the urgency of attaining an increase in their participation in world trade; just and remunerative prices for their basic commodities and favorable terms of trade; adequate financial support for their exports; elimination of tariff and non-tariff barriers; the exercise and perfecting of a General Preference System, legally guaranteed; access to adequate technology and the creation of favorable conditions in international loans.

11. Likewise, with a view to achieving some of the common Latin American objectives, the Ministers of Foreign Affairs recommend:

(a) That the representatives of the member countries of LAFTA, Cartagena Agreement, Caribbean Community (CARICOM) and the Organization of Central American States (ODECA), study the means of perfecting their mechanisms so as to speed up these processes; the possibility that those countries which still do not belong to any of these groups may participate; the way to establish permanent contacts among those entities to exchange information and cooperate with each other in order to facilitate progress in the integration processes which are so important in the Latin American countries' development.

(b) That the possibility of harmonizing the methods and procedures to increase trade among the Latin American countries be studied.

(c) That the system of conventions drawn up among the Central Banks of Latin America be completed to improve the system of payments and reciprocal credits.

(d) That the studies being made as regards air, maritime and land transportation be accelerated.

12. The Ministers of Foreign Affairs ratify the basic principles and concepts of the declarations and other instruments adopted by Latin America in different forums where the common political will of their countries is expressed.

13. In conclusion, the Ministers of Foreign Affairs declare that Latin America's constant purpose is to intensify its action within the context of the developing world so as to struggle against the dependence which, in several ways, opposes the just aspirations of its peoples intended to eradicate once and for all the obstacles restricting and conditioning the progress of their respective nations.

4. SPEECH DELIVERED BY MR. LUIS ECHEVERRIA ALVAREZ, PRESIDENT OF MEXICO, DURING THE INAUGURAL CEREMONY OF THE CONFERENCE OF TLATELOLCO

Your Excellencies, Ministers of Foreign Relations, Ambassadors, Ladies and Gentlemen: I extend to you most cordial welcome on behalf of the people and the government of Mexico. It is a source of particular pleasure to me to be able to offer you our hospitality and it is a great honor that this Conference, which is significant for so many reasons, is being held in our capital city.

The meeting which today brings you together is evidence of a common desire to begin a different stage of coexistence in our hemisphere. However, neither the objectives of this gathering nor the problems which will be presented are new. Some appeared at the very moment in which our countries became independent. Most of them have been the subject of countless studies, discussions, and agreements during the decades of existence of our regional organization.

The troubled history of hemispheric relations records many attempts at renewed understanding and announcements of promising eras which never materialized. In fact, the channels of communication between our countries have almost never been closed. What has happened is that they have been inoperative and that events have too often belied our purposes and commitments.

The nature of this Conference and the unanimous interest it has aroused reveal, however, the urgency of restating the assumptions and methods of the inter-American system. For this reason, executives of the nations here represented gave their consent for our Ministers of Foreign Affairs to participate in this unusual procedure for consultation.

We believe, despite everything, in the efficacy of dialogue, but we also know that true solutions require persevering action. Diplomatic styles are transitory and the only thing that endures are the efforts which, followed by concerted decisions, succeed in modifying reality. Let us not confuse history with anecdotes or good intentions. The problems which hemispheric relations pose are structural ones and we must confront them as such.

Even the best doctrines and programs of Pan Americanism, those which were inspired by the ideal of Bolivar, were frustrated by the effect of the correlation of real forces in the hemisphere. Territorial plundering; armed aggressions; intervention in the political affairs of our peoples and in their processes for democratic liberation; restrictions to the exercise of sovereignty over our natural resources; as well as the barriers raised against our active participation in world affairs were features, which in different forms, were part of an economic and geopolitical design for hemispheric domination.

Today, effective possibilities for change in hemispheric relations exist, on the one hand, because the widespread economic crisis makes a more equitable interdependence necessary and implies a revision both of prevailing economic patterns and of the political strategies on which they are based, and on the other hand, because of the explosive nature of problems that have accumulated throughout vast areas of Latin America which demands an acceleration of internal changes and solidarity action to reorganize our exchanges with industrialized countries.

The terms for coexistence in this hemisphere can only be reformulated within the broader framework of world politics. The problems we are facing are not exclusive to our region. They have their own characteristics but to restrict our vision to them alone would be to fall into a narrow view which would conceal true solutions from us. We need to apply to our case an analysis of the real causes and the true alternatives to the world problem of underdevelopment.

Latin America forms part of the Third World. Its struggles are coincident with and parallel to those being made by other nations against colonialism, modern attempts at subjugation, injustice in international transactions, and the concentration of political power, of wealth and of their means of multiplication.

The historical cycle which began at the end of World War II is coming to an end and we must forever eradicate its ideological, political, and economic sequels. The schemes for hegemony which led to a provincial division of the world, closed spheres of influence, intolerance and neo-colonial wars, traditional systems of exploitation, and an economy at the service of excessive waste are being transcended by a series of problems which herald the advent of the twenty-first century.

The current energy crisis, together with other equally acute phenomena, is but a symptom of profound imbalances in the international economy. The scarcity of food, the dramatic prospects of unemployment, monetary disorders, overpopulation, pollution, and the relative exhaustion of natural resources all constitute reasons for serious concern by all thinking persons of our time.

Taken separately, none of these phenomena can be controlled. They only acquire meaning within a global perspective which in turn includes and conditions them. It is the system of international coexistence itself and not the special contradictions it generates which we must change. A centuries-old stratification of relationships based on domination is what sustains the world of affluence and expands the boundaries of the underprivileged in a marginal position.

What is needed, consequently, is to find replies in depth, capable of subjecting the irrational forces of history to the demands for the security, well-being and survival of mankind.

These which until only recently were used to support vanguard attitudes are today recognized as proven scientific evidence. In the light of the magnitude of the problems of our era, failure to act, skepticism or routine acceptance would be unpardonable. On the other hand, times of crisis often provide fertile soil for negotiations and long-term reforms.

In these days, many different sectors have been insisting, with a revealing emphasis, on the need to restate the objectives and methods of world economy. A group of representatives of forty countries is at present studying, in accordance with the mandate of the General Assembly of the United Nations, the creation of an instrument which, through compulsory norms for economic behavior, will provide a framework of cooperation for equitable development.

The project currently being drafted is a serious effort to define, through the consensus of sovereign states, the real possibilities for transforming international life. It raises to the status of rights demands for justice which have been denied many times. It indicates ways to complement interests and so establishes the indispensable general framework for dealing with each problem through specific rules and mechanisms of operation which are both practical and just.

The Charter will contain the essence of the historical aspirations of Latin America. It will redefine the attributes of sovereignty in the contemporary world and will determine, in the economic sphere, the principles of self-determination and nonintervention. It will consecrate the right of every state to choose the social and economic system in accordance with its desires and peculiarities, free from any kind of external coercion.

It will recognize that a State's jurisdiction includes the free right to dispose of its natural resources and that since expropriations and nationalizations are expressions of this jurisdiction, all controversies arising therefrom are to be considered as exclusively within the competence of the courts of the State in question.

All nations will acknowledge the rights of all other nations to regulate foreign investment, in order to adjust it to the needs of their own development; to participate fairly in international trade; to receive a fair price for their products, to enjoy nonreciprocal preferences according to their individual degree of development; and to receive the benefits of a broad and adequate transfer financial, scientific and technological resources.

The activities of transnational corporations will also be the object of specific regulations which proscribe at the same time the exercise of economic pressures and interference in the political affairs of our countries.

The channeling of resources used at present for the stockpiling of arms toward tasks for economic progress; the preservation of the environment through an effort to be made primarily by those countries mainly responsible for its deterioration; the exploitation of marine and ocean beds for the benefit of all mankind and the recognition of sovereignty over the patrimonial sea, all problems which vitally affect the future of Latin America, will also be subject to legal provisions.

The adequate application of these principles will favor internal and external conditions so that our countries may satisfy their own needs and assure, on equitable bases, the supply of products which are indispensable to maintain the economic growth of the industrialized societies themselves. It will lead, finally, to a modification of the structure of the international division of labor and take advances made in economic life to areas which possess greater natural resources and manpower.

It is irrational to continue to restrict our peoples to a role as punctual producers of raw materials. Neither would this make real development possible becuse it would favor an internal concentration of wealth and would distort the economic apparatus converting our peoples into passive receptors of models of production and consumption foreign to their needs and interests.

Latin America finds itself in the antechamber of an imminent process of internal mutations: either its ruling classes take the initiative to accelerate and lead this process of demands for justice or they will be inevitably overwhelmed by the direct action of their growing marginal social groups.

Attitudes responsible for change in the area of underdevelopment, therefore, deserve the determined support of the community of nations. In a period ruled by the imagination, all internal efforts designed to safeguard the essential dignity of man and incorporate it as a feature of social and economic life demand the greatest understanding and should never be obstructed from abroad. They presuppose a tight and progressive equilibrium between the forces of stability and those of renewal. They nearly always imply the strengthening of civic spirit capable of overcoming regressive tendencies and the effective participation of the people as a creative force in history.

These same efforts require the coordinated action, within a constitutional framework, of all individual and collective energies; of laborers and modern entrepreneurs; of farm workers and the middle class; of the intelligentsia and of the younger generation. They definitely signify transcending that recurrent cycle between dictatorship and anarchy which during more than a century obstructed the viability of the national State in Latin America.

In the search for elements to promote its modernization, Latin America should not confine itself to the inertia of its hemispheric relations which often prolong ancient servitudes and decrease the multiple choices offered by open exchanges with the whole world.

Let us strike out assumed geopolitical determinism which is anachronic in the complexity of contemporary economics. Let us consolidate, in this hemisphere, bonds based on autonomy, equality and justice. Let us establish the bases for sincere cooperation and let us exercise the militant solidarity of the peoples of the Third World in our own hemispheric home.

At the beginning of the last third of the past century we Mexicans learned from Benito Juárez that the guarantee of peace resides in the respect for the rights of others. Now, together with all the developing countries, we demand that same respect as a basic formula for coexistence.

5. SPEECH BY THE MINISTER OF FOREIGN RELATIONS OF COLOMBIA, DR. ALFREDO VASQUEZ CARRIZOSA, DURING THE OPENING MEETING OF THE CONFERENCE OF TLATELOLCO

The Americans are truly represented in this hall where the Foreign Ministers of twenty-five countries of this hemisphere have come together. We are a group of persons with long and ancient experience. We have proposed to create in this part of the world a rule of law based on a series of values that are our very own; outstanding among which are the integrity of sovereignty and the equality of rank of all States. But we find ourselves on the threshold of a new era in which the economic uncertainties of countries are predominant issues. The subject of poverty occupies a principal place in international meetings and we cannot hope to escape this sign of the new era.

The deliberations which are now beginning, and the dialogue which is about to commence between Latin America and the United States, may well signify a fundamental turning point in hemisphere politics, as a start for a new orientation in the relations between the United States and the other countries of this hemisphere. It is a task, we realize, of historic proportions to which we promise to dedicate the best efforts of our respective countries. Latin America and the United States cannot elude the need to review the whole context of their relations in order to place them on a clearer multilateral plan of equality based on economic justice and the elimination of every vestige of colonialism.

In the beginning of this new chapter of our history, the Latin American Foreign Ministers have entrusted me, in the first place, with the high and honorable mission of thanking His Excellency the President of Mexico, Mr. Luis Echeverria, for his eloquent words and attendance at this opening ceremony. It is fortunate for all that this hemispheric Conference is being held in Mexico, a country which symbolizes today, as it has throughout its great past, the greatest human striving of any people and race for their liberty and a perennial sacrifice to maintain the Mexican national spirit.

The cry of *"Viva Mexico!"* has sounded in many different corners of America as a permanent evocation of Hidalgo and Morelos, the true heroes of the dawn of liberty in the Americas; of Juárez, Madero and Zapata, those immortal leaders of a country whose people in bitter days learned to shoulder a rifle along with farm tools and carry in their knapsacks the bill of rights with which to challenge the dangers which threatened their historic destiny. This great tradition of Mexico is built of legend, music and heroism and Your Excellency has worthily represented it when as Chief of State of Mexico you made pilgrimages of friendship to other countries to defend the urgent needs of developing countries and when you carried out your policy of direct dealing in your contacts with other nations and stated high principles at international conferences.

This is the objective pursued by the Charter of the Economic Rights and Duties of States which is destined to be the code of moral conduct in the contemporary economy of an international community consisting of countries with different levels of development and organized according to different ideologies and political, economic and social systems. "The sign of our times", Your Excellency has said, "is that of a world battle for development", and this phrase sums up the expectations which are harbored at this Conference.

The problems which bring us together here are derived from a fundamental imbalance between the more powerful nations and those which have suffered centuries-old poverty. Since the close of World War II in 1945 an unstable and fragile peace has been constantly threatened by the ravages of poverty which lies latent in three-fourths of mankind without our having yet glimpsed that so-often proclaimed and promised new international economic order. To power rivalries and shifting borders, which are the consequences of every war, have been added—and certainly to a great extent—the yearnings of the inhabitants of the underdeveloped world.

There is no region of the earth where there is not an awareness of the so-called development gap which separates the wealthy, rapidly-industrialized societies from those where the average per capita income is still insufficient. The emancipation of the colonial peoples of Africa and Asia has only confirmed the existence of mass societies which demand the enforcement of economic and social justice within their countries and on the international scene; which is one of the most outstanding historical and political phenomena of our time. This is a situation which recalls the old struggles of labor to change an unjust distribution of income, put an end to inequality and fight monopolies.

The coexistence of these two areas of wealth and poverty definitely threaten world peace. The new incentive for proletarian solidarity among nations is called underdevelopment and it is important to modify the trade structure that has given rise to this situation which has come down from ancient and well-entrenched privileges in the international community. It is a chronic economic and social inequality which has not been corrected by the procedures followed until now through a deficient system of international collaboration and selfish attitudes on the part of the nations with the most power, technological capacity and wealth.

A few statements of this theory have not been enough to remedy the situation. The First United Nations Development Decade, for example, only established a modest growth rate of 5 per cent for the income of the poor countries.

That experience became the First United Nations Disappointment Decade for the poor countries. The greatly negative results of that period demonstrated that it was essential to convince the big countries to open their markets and in such event the 5 per cent growth rate of the poor countries should be accompanied by corresponding measures by the rich countries to admit a proportional increase of the exports of the former and to accept a new international division of labor in which an economic system inherited from the previous centuries—in which the rich countries grew richer and the poor ones poorer—would not be continued.

Latin America has agreed with these demands of the Third World countries and our problems, in addition to their political aspects, can also be examined in their economic and social context. Several periods of confrontation have occurred until Latin America finally obtained from the United States its acceptance of the principle of non-intervention in the internal affairs of every independent state. It was a long and hard struggle, because the countries south of the Rio Grande never accepted that models of governments acceptable to other countries be imposed on them from the capital of another country nor would they accept patterns for economic and social development imposed from abroad. Such intervention has always signified for us the exercise of a foreign tutelage over the destiny of free countries. Nonintervention and free determination are truly the cornerstones in the structure of our

In the field of hemispheric politics we have accepted general principles common to other areas. It is no longer novel to speak of the rights of states and of the obligation to refrain from threats and the use of force against the territorial intergrity of political independence of any country. Now we must look to see if in the economical and social fields conditions of justice and cooperation exist which will satisfy our peoples and it is in this aspect that we have to confess to the lack of a policy of inter-American social and economic cooperation.

The principal problem of Latin American economic policy is that none exists. We say this without passion but with friendly frankness toward the United States. The regional system is equally in crisis and only a theoretical level have we studied formulas for reciprocal acceleration of trade only slightly based on reality. We have had programs for cooperation which were not intended at the time to meet the development requirements of Latin America or programs for cooperation surrounded by solemn declarations which evaded, in their concrete applications, the appropriate solutions to problems originating in the inequalities of trade conditions.

The self-evident and abysmal result of that situation in our hemisphere is that in the early seventies Latin America still has no continental policy of a broad, progressive, and generous economic and social nature. It must be admitted once and for all that we have avoided finding solutions to the basic problems. This occurred in 1934 with the Good Neighbor policy of Franklin Delano Roosevelt, which marked the beginning of a new age of political collaboration in the Americas but lacked an economic concept. It was only when deep rifts had appeared in the regional system that, twelve years later, we were to hear of cooperation for progress; but the Alliance proclaimed in 1961 by another President of the United States, John F. Kennedy, began to pale and decline following the immense tragedy that forever ended the promise to mankind of a youthful spirit so imbued with intelligence.

The Alliance for Progress signified an unquestionable step forward, but it soon lost its original meaning and was not employed to implement fully the fourth point of the Charter of Punta del Este, which deals with the position of basic products. For ten years, the war in Viet Nam held the attention of the United States to such an extent that it was impossible to carry out any far-reaching examination of the measures intended to facilitate the expansion of Latin American trade or to demand that the industrialized countries, particularly the United States, fulfill the obligations assumed in the United Nations Conferences on Trade and Development.

Latin America has had occasion in recent years to ask itself just what is its so-called "special relationship" with the United States, although we do understand that a world power has obligations to all continents, and not just to one of them. But what is wrong in the Americas is not simply one aspect or another nor even the end of the Alliance for Progress, which is a well-known factor, nor the decline of the assistance policy, whose crisis was noted in the 1967 Pearson Report to the World Bank. What is wrong is the whole of hemispheric economic relations, which must undergo a fundamental and positive change if we are to prevent frustration and discontent from growing even more acute.

Latin America could take no satisfaction from mere repetition of well-known principles. In coming years, relations with the United States should be based on a policy of participation by all the countries of this hemisphere in every decision that affects their vital interests or their political or economic situation in the world. The developing countries of this hemisphere cannot continue to be mere distant spectators of discussions concerning the balance of peace and securtiy in its many political and economic aspects. We are living in an era of such close interdependence that any abnormal situation in the areas of peace or economics affects all countries.

These new relations between Latin America and the United States also call for a concept of regional security that is not simply based on or limited to the bare facts that we have included in existing treaties but rather takes into account the factor of the economic insecurity that results when acts of one nation vitally affect the economies of other developing countries. Similarly, these relations imply the detachment of the interests of private foreign capital from a multilateral inter-American policy whose dimensions surpass those of the great transnational enterprises and whose direction corresponds in purity to the governments of the sovereign States that compose our hemisphere.

The clear and undeniable fact recorded by the United Nations Economic Commission for Latin America in its last yearly report is the enormous trade deficit—more than 1.2 billion dollars—of the poor countries of this hemisphere, which results from the fact that United States exports to Latin America are far greater than its imports from those same countries. The industrial progress of Latin America has been almost miraculous. It has meant overcoming the difficulties implicit in the limited domestic markets and the tariff barriers encountered in foreign markets. All of this has occurred within an accelerated process of urbanization that restricts the amount of domestic funds available for attending to the needs of depressed areas, hunger zones, and poverty belts.

What will be the policy of the United States of America toward Latin America in the coming years of this decade? In recent years we have attended innumerable regional and world conferences. We have attended all the United Nations Conferences on Trade and Development and have come away as disappointed as other Third World countries. What can be done to lighten the burden of Latin American farmers and workers? How can we achieve true transfer of technology to Latin America and offset growing urbanization with greater production? We have forgotten the goals set by the Presidents of the American States at the Punta del Este Conference in 1967 regarding Latin America's economic integration and industrial development and consequently the agreements reached on multinational integration to improve Latin America's international trade conditions have remained as mere words on paper.

In 1967, the President of the United States declared his firm support of the promises made. But the focus of international problems has most certainly changed since then. Negotiating mechanisms of a global type have been created that include more than one hundred and thirty nations; regionalism in the economic and political fields has lost much of its reason for being because of the inclination shown by Latin American countries to be heard at world forums in order to solve their most urgent problems, closely related to those occurring in other hemispheres. We are still convinced that it is necessary to preserve our regional organizations while basically reforming their structures and procedures. Nevertheless, we live in a world of close global relationships.

Because of this, we have searched for a new form of dialogue that will set aside artificial forms of diplomatic protocol, the prefabricated phrases contained in declarations and repeated with different city names, in short, the repetition of useless things. Together with His Excellency, Dr. Henry Kissinger, Secretary of State of the United States, of whose capacity, universal vision of international problems, knowledge and tact we are convinced, we wish to attempt a diplomacy of reality and truth, of an acknowledgement of facts, because we are certain that it will be less detrimental for our countries to be aware of the true state of hemispheric relationships, than to deceive each other by manifestations of artificial solidarity. [Applause.]

The era of conference rhetoric is over for Latin America, and more particularly the period of general statements on economic and social development which so interested the economists in the 1960's. From the time of the Act of Bogotá of 1960 to the Viña del Mar Declaration in 1969 an enormous amount of basic texts was accumulated, each representing a step forward in the crystallization of collective thought realized on the occasion of the 1960 Declaration. The decade came to a close in Viña del Mar with a substantial text defining all aspects of inter-American and international cooperation.

All these declarations reflect the firm and unequivocal affirmation of the Latin American personality, a personality with its own criteria and values which, as was defined at Viña del Mar, has contributed to growing and justified continental nationalism. This is supported by Latin America's unfailing rejection of all kinds of intervention and pressures both in the political and economic fields. Latin America accepts no form of colonialism nor even attenuated paternalism inasmuch as one of the fundamental rights of a nation is that of choosing its political and social system. [Light applause.]

The policy of plurality of ideologies is one of the bases for hemispheric cooperation. The framework for the principles of inter-American cooperation has been delineated many times.

What has been lacking are the necessary mechanisms for incorporating such principles into the everyday life of countries of the hemisphere, and to ensure that these principles do not remain static, alien to the anxieties of development. The Declaration of Vina del Mar, as previous ones, did not further them with a subsequent dialogue as is now envisioned. The result was that shortly thereafter, the noble principles found their way back into the file of good intentions which, according to popular saying, pave the way to Hell.

On the other hand, we now find ourselves in a time of dialogue and negotiations between great powers, between continents and even between economic groups. Confrontation was the strategy of the Cold War, in the same manner in which dialogue is an institution characteristic of the "Detente", an institution which has found in His Excellency Dr. Henry Kissinger, a statesman imbued with faith and an unfaltering determination to obtain results based on reality. Dialogue is, furthermore, very much in keeping with this time of change and uncertainty in the international economic scene. We do not know what position will be reserved for poor countries and what to the rich.

A deeply-rooted monetary disturbance has been affecting highly industrialized nations to the point where the precepts established in the Bretton Woods Agreement of 1944 have been found to be inadequate. At that time, the possibility of establishing fixed parities was considered. And what we have been asking for insistently is that at least the effects of the devaluations in rich countries not rebound on the weak economies of poor countries. That is why we believe that the monetary problem is closely linked to other aspects of international economy such as commerce and the transfer of real resources.

Without considering the energy crisis, which erupted unexpectedly as one more issue in the field already eroded by the crisis suffered by strong currencies, we now face the most uncertain moment in the field of international economy since the beginning of the postwar period. We, then, cannot resort to rigid and intransigent texts for any of the two parties to the dialogue—the United States and Latin America—nor can we be carried away by the juridicial habit of our culture which seeks in solemn, multilateral treaties of an almost evangelical nature, the solutions for myriad problems which require the constant and patient effort of our countries, Latin America and the United States, together with other countries of the world.

No region can resolve all of its problems by itself. But we have wanted to be precise and this dialogue, which began in the fall of 1973 with the improvisation of easy and spontaneous things but with pressing matters in mind, was formalized during the Conference of Foreign Ministers of Latin America convened by my country, the Republic of Colombia. This step was taken by Colombia with the best wish to serve as the instrument for united and free action of Latin America. We felt we should think as a continent and act with the assurance and self-possession of mature societies, without useless discord or rhetorical verbosity, with new formulas to further progress and economic justice.

The eight points of the Bogota Document are a general framework, almost an index, of the issues of greatest concern to us which we submitted to His Excellency Dr. Henry Kissinger. What we had in mind for this conference was a new style in which we would use the simple forms of political dialogue, eliminating the antiquated procedures of an international bureaucratic system. The Secretary of State of the United States has, in turn, suggested other issues. In every instance, we are determined to bring to the conference table the central theme of Latin America, redemption of its poverty and the application of economic justice for this part of the world.

Colombia is proud of the fact that it promoted this dialogue, together with other nations of the hemisphere. It was our wish that there be no exceptions to Latin American unity, that in the future it should include all sovereign nations of this continent, each with its own way of life and its own economic or political system, but all united by that great goal of redeeming Latin American man from poverty, sickness and ignorance. The final objective of this policy which Latin America supports with fervor, enthusiasm and great expectations, is man, in an America where economic disparities still prevail.

Our thesis—the greatest among all—is that of the human being who suffers the rigors of cold in the mountains and the intensity of heat in the plains and which, day by day, creates the future of his country, with his hands, sinking tools in the soil or striking metals on the forge, as did the men of ancient Hellas when service to their city was a constant task. Man has suffered the stigma of later forms of slavery and submission. His spirit is nurtured by the sun, air, rain and murmuring streams. He is the living image of the countries towards which this dialogue must be directed.

It could well be that Latin America and the United are not fully identified in all of their international political and economic concepts. Each has a special situation; we are part of the underdeveloped world and the United States is the most prosperous nation in the world. We do not hold to a candid vision of international order which would lead us to confuse juridical equality with economic equality. But, we do feel that we can coexist within a mutual respect for our sovereignties and the free self-determination of our peoples. Not even the wealthiest nations can overlook the obligation of solidarity with the poor countries.

We aspire to an era of full economic and social justice for the nations of this hemisphere, for our peoples and for Latin American man. But behind simple words, we perceive reality. The challenge to poverty has become a solidarity of poverty. And there will be no peace without a new economic and social order in the world which implies a better distribution of wealth among nations.

Our thesis is peace through justice for the hungry peoples of all continents.

6. ADDRESS OF SECRETARY OF STATE HENRY A. KISSINGER TO THE CONFERENCE OF TLATELOLCO, MEXICO CITY

Mr. President, distinguished colleagues and friends. When I listened to the previous speakers, I was seized by an uncharacterized feeling of humility. It became clear to me that in the art of epic oratory, the United States is an underdeveloped country.

We owe our host country and its leaders a profound debt of gratitude for sponsoring this meeting and for the excellence of the arrangements which they have made. Personally, I have spent many happy days in this great country. And I have had the privilege of the advice, wisdom and on occasion the tenacious opposition of the President of Mexico and his Foreign Minister who defend their concept of justice and their national interest with passion. I look forward to an equally frank, friendly, intense and constructive dialogue with all my colleagues at this conference.

On a plaque in Mexico's imposing Museum of Anthropology are etched phrases which carry a special meaning for this occasion:

"Nations find courage and confidence to face the future by looking to the greatness of their past. Mexican, seek yourself in the mirror of this greatness. Stranger, confirm here the unity of human destiny. Civilizations pass; but men will always reflect the glory of the struggle to build them."

We assemble in the splendid shadow of history's monuments. They remind us of what can be achieved by inspiration and of what can be lost when peoples miss their opportunity. We in the Americas now have a great opportunity to vindicate our old dream of building a new world of justice and peace, to assure the well-being of our peoples—and to leave what we achieve as a monument to our striving.

Our common inpulse in meeting here is to fulfill the promise of America as the continent which beckoned men to fulfill what was best in them. Our common reality is the recognition of our diversity. Our common determination is to derive strength from that diversity, and forge our historical and geographical links into shared purpose and endeavor.

In this spirit the United States offered a new dialogue last October.

In this spirit the countries of the Americas responded in Bogota last November.

We meet here as equals—representatives of our individual modes of life, but united by one aspiration—to build a new community.

We have an historic foundation on which to build; we live in a world that gives our enterprise a special meaning and urgency.

On behalf of President Nixon, I commit the United States to undertake this venture with dedication and energy.

The U.S. commitment

Our concern has dominated all others as I have met privately with some of my colleagues in this room. Does the United States really care? Is this another exercise of high-sounding declarations followed by long periods of neglect?

These questions—not unrelated to historical experience—define our task. On behalf of my colleagues of the American delegation and myself let me stress that we are here to give effect to a new attitude and to help shape a new policy. The presence of so many distinguished leaders from the United States Congress underlines the depth of the United States concern for its neighbors and the determination of our government to implement our agreements through a partnership between the Executive and Legislative branches.

The time has come to infuse the Western Hemisphere relationships with a new spirit. In the nineteenth and early twentieth centuries, the United States declared what those outside this hemisphere should not do within it. In the 1930's we stipulated what the United States would not do.

Today we meet on the basis of our agenda and our common needs. I agree with one of my distinguished colleagues who said on arrival that the time had come to meet as brothers, not as sons. Today—together—we can begin giving expression to our common aspirations and start shaping our common future.

In my view, our fundamental task at this meeting—more important even than the specifics of our agenda—is to set a common direction and infuse our efforts with new purpose. Let us therefore avoid both condescension and confrontation. If the United States is not to presume to supply all the answers, neither should it be asked to bear all the responsibilities. Let us together bring about a new commitment to the inter-American community.

Let us not be satisfied with proclamations but chart a program of work worthy of the challenge before us.

Let us create a new spirit in our relations—the spirit of Tlatelolco.

An interdependent world

A century ago a U.S. President described to the Congress of his time the difficulties facing the country: "It is a condition which confronts us—not a theory."

The condition we confront today is a world where interdependence is a fact, not a choice.

The products of man's technical genius—weapons of incalculable power, a global economic system, instantaneous communications, a technology that consumes finite resources at an ever spreading rate—have compressed this planet and multiplied our mutual dependence. The problems of peace, of justice, of human dignity, of hunger and inflation and pollution, of the scarcity of physical materials and the surplus of spiritual despair, cannot be resolved on a national basis. All are now caught up in the tides of world events—consumers and producers, the affluent and the poor, the free and the oppressed, the mighty and the weak.

The world and this Hemisphere can respond in one of two ways.

There is the path of autarchy. Each nation can try to exploit its particular advantages and skills, and bargain bilaterally for what it needs. Each nation can try to look after itself and shrug its shoulders at the plight of those less well endowed.

But history tells us that this leads to ever more vicious competition, the waste of resources, the stunting of technological advance, and—most fundamentally—growing political tensions which unravel the fabric of global stability. If we take this route, we and our children will pay a terrible price.

Or we can take the path of collaboration. Nations can recognize that only in working with others can they most effectively work for themselves. A cooperative world reflects the imperatives of technical and economic necessity, but above all the sweep of human aspirations.

The United States is pledged to this second course. We believe that we of the Americas should undertake it together. This Hemisphere is a reflection of mankind. Its diversity of the globe. It knows the afflictions and frustrations of the impoverished. At the same time, many of its members are leaders among modernizing societies. Much has been done to overcome high mortality rates, widespread illiteracy, and grinding poverty. This Hemisphere uniquely includes the perceptions of the post-industrial societies, of those who are only beginning to sample the benefits of modernization and of those who are in mid-passage.

The Americas reach out to other constellations as well. The nations of Latin America and the Caribbean share much of the stirrings of the Third World. The United States is engaged in the maintenance of peace on a global basis. Pursuing our separate ways narrowly, we could drift apart toward different poles. Working together, we can reinforce our well-being and strengthen the prospects for global cooperation.

So let us begin in this Hemisphere. If we, here in this room, fail to grasp the consequences of interdependence, if we cannot make the multiplicity of our ties a source of unity and strength, then the prospects for success elsewhere are dim indeed. The world community which we seek to build should have a Western Hemisphere community as one of its central pillars.

President Echeverria foresaw the gathering force of interdependence in 1972 when he set forth his Charter of the Economic Rights and Duties of States as a guide for the conduct of relations among countries at different levels of economic development. Last September before the United Nations General Assembly I endorsed that concept. At first, some were concerned because they saw the Charter as a set of unilateral demands; it has since become clear that it is a farsighted concept of mutual obligations. In the emerging world of interdependence, the weak as well as the strong have responsibilities, and the world's interest is each nation's interest.

We can start by making the concept of the Charter a reality in the Western Hemisphere.

THE U.S. VIEW OF THE AMERICAN COMMUNITY

The United States will do its full part to see that our enterprise succeeds. We can make a major contribution, but it would be in nobody's interest if we raised impossible expectations, leaving our peoples frustrated and our community empty.

We will promise only what we can deliver. We will make what we can deliver count.

I have carefully studied the agenda for this meeting you prepared in Bogota. I will respond in detail to its specifics in our private sessions. But I will say here that I have come to a greater understanding of the deeply felt motivations behind the phrases of this agenda.

You are concerned—

That the United States has put aside its special commitment to the Hemisphere;

That we will allow old issues to go unresolved while new ones are created;

That we seek not community but dominance;

That our relationship does not adequately contribute to human welfare in the hemisphere, that it is often irrelevant to your needs and an obstacle to their fulfillment.

In response let me outline the direction the United States proposes to its friends in rededicating itself to a new era of Western Hemisphere relationships. I look forward to hearing your own views so that together we can make the Western Hemisphere Community a reality.

The United States will do its utmost to settle outstanding differences. During the past year, the United States and Mexico solved the long-standing Colorado River salinity dispute. Two weeks ago Panama and the United States—taking account of the advice of their partners at Bogota—signed a document that foreshadows a new relationship. And just 48 hours ago, Peru and the United States settled a dispute over compensation for the exercise of Peru's sovereign right to nationalize property for public purposes.

The United States is prepared to work with the other nations of this hemisphere on methods to eliminate new disputes or to mitigate their effect.

Some of our most troublesome problems have arisen over differences concerning the respective rights and obligations of private United States firms operating in foreign countries, and the countries which host them.

On the one hand, in keeping with the Calvo Doctrine, most nations of this hemisphere affirm that a foreign investor has no right to invoke the protection of his home government. On the other hand, the United States has held that nations have the right to espouse the cause of their investors. This conviction is reflected in the legislative provisions of the Gonzales and Hickenlooper Amendments.

Realistically, we must admit that these two conceptions cannot be quickly reconciled. But the United States is prepared to begin a process to this end immediately and to mitigate their effects. Even before a final resolution of the philosophical and legal issues, we are ready to explore means by which disputes can be removed from the forefront of our inter-governmental relations.

In our private meetings I shall make specific proposals to establish agreed machinery which might narrow the scope of disputes. We might consider the establishment of a working group to examine various procedures for fact finding, conciliation, or the settlement of disputes. Other approaches are possible, and I shall welcome the views of my colleagues. Let me affirm here that a procedure acceptable to all the parties would remove these disputes as factors in United States decisions respecting assistance relationships with host countries. We would be prepared to discuss with our Congress appropriate modification of our legislation.

* * * * *

But we cannot achieve our goals simply by remedying specific grievances. A special community can only emerge if we infuse it with life and substance.

We must renew our political commitment to a Western Hemisphere system. Thomas Macaulay once observed, "It is not the machinery we employ, but the spirit we are of that binds men together." We are here because we recognize the need for cooperation. Yet we can only cooperate if our people truly believe that we are united by common purposes and a sense of common destiny.

The United States will be guided by these principles:

We will not impose our political preferences;

We will not intervene in the domestic affairs of others;

We will seek a free association of proud peoples.

In this way, the Western Hemisphere community can make its voice and interests felt in the world.

We realize that United States global interests sometimes lead to actions that have a major effect on our sister republics. We understand, too, that there is no wholly satisfactory solution to this problem.

However, to contribute to the sense of community we all seek, the United States here commits itself to close and constant consultation with its hemispheric associates on political and economic issues of common interest—particularly when these issues vitally affect the interests of our partners in the Western Hemisphere.

In my view, the best way to coordinate policies is to make a systematic attempt to shape the future. I therefore recommend that today's meeting be considered the first of a series. The foreign ministers assembled here should meet periodically for an informal review of the international situation and of common Hemispheric problems. In the interval between our meetings, the heads of our planning staffs or senior officials with similar responsibilities should meet on a regular basis to assess progress on a common agenda. The principle of consultation on matters affecting each other's interests should be applied to the fullest extent possible.

Specifically:

The United States is prepared to consult and adjust its positions on the basis of reciprocity, in the multilateral trade negotiations.

The United States also recognizes a fundamental congruity of interests among the countries of the Hemisphere in global monetary matters. We favor a strong voice for Latin America in the management of a new monetary system—just as we favor its effective participation in the reform of this system.

The United States is ready to undertake prior consultation in other international negotiations such as the Law of the Sea Conference, the World Food Conference and the World Population Conference.

The Western Hemisphere should promote a decent life for all its citizens.

No community is worthy of its name that does not actively foster the dignity and prosperity of its peoples. The United States as the richest and most powerful country in the Hemisphere recognizes a special obligation in this regard.

Let me sketch here the program which President Nixon has authorized and which I shall discuss in greater detail with my colleague this afternoon.

First, in trade. During the period of great conomic uncertainty arising from the energy situation, it is essential that nations behave cooperatively and not take protective or restrictive action. I pledge to you today that the United States will do its utmost to avoid placing any new limitations on access by Latin America to its domestic market.

In the same spirit we renew our commitment to the system of Generalized Tariff Preferences. We shall strongly support this legislation. Once it is enacted, we will consult closely with you on how it can be most beneficial to your needs.

Second, in science and technology. We want to improve our private and governmental efforts to make available needed technology, suited to varying stages of development in such vital areas as education, housing and agriculture. Private enterprise is the most effective carrier of technology across national borders, but government can usefully apraise the overall needs and spur progress. The United States therefore recommends that we establish an Inter-American Commission on Science and Technology. It should be composed of leading scientists and experts from all the Americas and report to governments on the basis of regular meetings.

Third, in energy. This Hemisphere, linking oil-producing and oil-consuming countries, is uniquely situated for cooperative solutions of this problem. The United States is prepared to share research for the development of energy sources. We will encourage the Inter-American Development Bank to adapt its lending and fund-raising activities to cushion the current strains. We are also prepared to explore ways of financing oil deficits, including the removal of remaining institutional impediments to your access to United States capital markets.

Fourth, in development assistance. The United States government in its Executive Branch is committed to maintain our aid levels, despite rising energy costs. On the other hand, the development problem can no longer be resolved simply by accelerating official assistance. We need a comprehensive review and recommendations on how all flows of capital and technology—whether from concessional assistance, world capital markets or export credits—can contribute most effectively to hemispheric needs. I recommend charging an inter-American body with these tasks.

Fifth, in reshaping the inter-American system. We must identify and preserve those aspects of the Rio Treaty and the Organization of American States which have shielded the Hemisphere from outside conflict and helped preserve regional peace.

Some form of institutional structure for peace and cooperation is clearly necessary. However, we must reinforce the formal structure of the OAS by modernizing its institutions and agreeing on the principles of inter-American relations. The United States is prepared to cooperate in creative adjustments to meet new conditions.

Next steps

A Spanish poet once wrote: "Traveler, there is no path; paths are made by walking."

This is our most immediate need. We are not here to write a communique but to chart a course. Our success will be measured by whether we in fact start a journey. I suggest we move ahead in three ways:

First, let us make clear to our peoples that we do have a common destiny and a modern framework for effective cooperation.

Second, let us agree on an agenda for the Americas, a course of actions that will give substance to our consensus and inspiration to our peoples.

Third, let us define a program that brings that agenda to life.

Mr. President, my distinguished colleagues, four centuries ago totally alien cultures met for the first time near here. We are moving toward a world whose demands upon us are nearly as alien to our experience as were the Spaniards and the Aztecs to each other.

Today, if we are to meet the unprecedented challenge of an interdependent world, we will also have to summon courage, faith, and dedication. The United States believes we can build a world worthy of the best in us in concert with our friends and neighbors. We want future generations to say that in 1974, in Mexico, the Nations of the Western Hemisphere took a new road and proclaimed a common destiny.

I am reminded of the closing words of the remarkable book by an author whose human insight we recognize in spite of very real and very deep political differences. People condemned to a hundred years of solitude do not have a second opportunity on earth. We are meeting in a moment of opportunity for the Americas. We can choose community or solitude, fulfillment or frustration. One hundred years hence, let men say we chose community.

7. ADDRESS BY DR. ARISTIDES CALVANI, MINISTER OF FOREIGN AFFAIRS OF VENEZUELA, AT THE CLOSING SESSION OF THE CONFERENCE OF TLATELOLCO

Mr. Chairman of the Conference, and Minister of Foreign Affairs of Mexico; my colleagues, the Ministers of Foreign Affairs; Distinguished Ambassadors; Delegates; Ladies and Gentlemen: Through the kindness and affection of my colleagues, the Foreign Ministers, I have been selected to act as their spokesman and express their sentiments at this closing session. I firmly desire to act as the faithful interpreter of all that each one of them would undoubtedly like to say, which I must reduce to a bare synthesis in these remarks.

Something has occurred in recent years: To use the terminology of today, in the last two decades our Hemisphere has become clearly aware of the progressive emergence of a Latin American consciousness. The countries of Latin American are going through a long process that is leading them, first, to the realization that they possess a personality of their own, and second, to the affirmation of that personality, the personality of the Latin American community. Something else has taken place in our Hemisphere during the last twenty years: The independence of the British territories of the Caribbean and their integration into the Latin American community.

And when we try to express the significance that this new apportionment has for this community, words fail us, because, on the one hand they constitute—as they themselves have said—the Caribbean Community; but on the other, there are other territories in the Caribbean area that were already independent when these new nations were born.

This event is already showing us how those who make up this community are enriched by the very fact of their membership in it; but, by having been so enriched, they complicate the very composition of the community.

Latin America aspires to dialogue, as Latin America; another—the third—decisive and fundamental fact.

Latin America as a whole—they tell us—cannot be considered a valid participant in such a dialogue, and books have even been written about "The 21 Latin Americas." In reality, there have been effective attempts at dialogue, attempts that, like all attempts, are at first wavering and unsteady, but which are progressively affirming the Latin American personality and its aspiration to the role of valid participant. Attempts at Santiago: We met at Santiago, Chile in 1969; we had been asked to express our will and aspirations to the United States. From this meeting came the consensus of Viña del Mar. Through CECLA, we presented the consensus: Silence.

The following year, in Buenos Aires, we tried again to establish a dialogue—on this occasion, with Europe; once again, CECLA served as our forum for the coordination of our opinions. We were speaking to Europe, but Europe was not listening. And it was only after a number of such efforts that the first working commissions appeared.

The attempt was also made with other areas, but in such cases it was more as the traditional Latin American group than as an actual Latin American personality that we carried on our conversations.

At the end of that decade—that is, at the beginning of the seventies, there was one criticism that was constantly directed at the United States.—"They have no Latin American policy", it was said at various meetings and on many occasions. "Rather", others said, "it is not that they have no Latin American policy, but that their policy is not to have one".

It was under these conditions that President Nixon, through his Secretary of State, issued an invitation to us on the occasion of the October session of the United Nations General Assembly. The United States invited Latin America to determine the procedure for establishing a dialogue between the North and the South.

This invitation resulted in another, this time a Latin American one. Colombia's Foreign Minister, Doctor Alfredo Vázquez Carrizosa, took up the idea and invited us to hold the first stage of the dialogue in Bogotá. In this meeting, we Latin American Foreign Ministers were to draw up the bases for establishing a dialogue with the United States.

The Conference was held in the month of November and during its course we Latin American Foreign Ministers did, indeed, draw up the bases for a dialogue, setting them forth in an Agenda which we presented to the Secretary of State of the United States.

The Secretary of State agreed to the Agenda, and added two more points.

And so was born the Conference of Mexico—the Conference of Tlatelolco.

The Conference of Tlatelolco marks the final step in the preparations. Through it the dialogue will become reality; the word will become flesh.

For the first time the United States and Latin America, Latin America and the United States, are sitting down together at a table, but this time in a different manner. We are faced with a new type of dialogue, which we are bound to analyze and study because the nature of this dialogue will determine the special historical importance of this Conference. A dialogue implies two participants, but in this case the two participants are not analogous: One of them, the United States, is individual in nature; the other, plural as it is constituted by a group of countries.

Therefore, a new type of diplomacy is actually being formed. The traditional diplomacy with which we are familiar is of two types: bilateral diplomacy, that is, country to country; and multilateral diplomacy, as practiced in conferences.

To use the same language of frankness and loyalty which has prevailed in our talks these past few days, I would say that in the dialogue of bilateral diplomacy the relationship of the stronger to the weaker is much more apparent. And in multilateral diplomacy the strength of the strong makes the strong even stronger, while the division of the weak makes the weak even weaker.

But this diplomacy is different. Latin America speaks with a single personality; it is attempting to unify its points of view. For this reason at no time have I dared to call this new diplomacy of inter-correlation, because it is taking place in two different dialectical times. In the first stage the Latin American countries coordinated their points of view—the first correlation of opinions and viewpoints; and in the second stage, the participants from the United States and their Latin American counterparts began their dialogue. What were the characteristics of this dialogue?: Directness, frankness, cordiality, respect. What was the content of this dialogue?: limited by the agenda we have drawn up because we wanted the dialogue to be realistic, and to be realistic both participants understood that it was not possible to encompass all subjects, but rather a few subjects in order to be able to analyze them in fitting, frank, cordial and respectful dialogue. It dealt with political and economic aspects in ordinary language, but in reality all the subjects were political, inasmuch as international relations are always political even though the emphasis may vary accord- to the nature of the relation and the subject matter of the relations.

Cooperation for Development, International Trade, Transnational Enterprises, Foreign Investment, Transfer of Technology, the Panama Canal, Reform of the Inter-American System, etc.—all these topics were approached in the form of dialogue. New procedures had to be created because we were dealing with a new matter and in private meetings had to agree on the means of framing it. Secretary of State Kissinger was amenable to the general agenda and the dialogue was subseqently initiated on the different topics. However, I would like to emphasize a point: Latin America spoke with a single voice; the dialogue took place as a perfect dialogue with two participants. In other words, we achieved in Latin America an expression of collective will and in this manner were able to coordinate our point of view in order to constitute a Latin American personality. The dialogue was profoundly realistic. We were aware that we had to create the conditions for a new economic order as the best means of arriving at a new political order. At the same time we understood that it was necessary to create conditions for a new type of political relations as the best means of achieving a new economic order.

Structures and spirit. A new spirit prevailed a new dialogue; a spirit, the spirit of Tlatelolco. Why? Because in this new spirit both participants wish to affirm the mutual respect and autonomy of each, and at the same time their firm desire to cooperate in common goals: Mutual respect, confidence fortified by the facts of history, equality, a vision of the future. Some, perhaps dazzled by the glitter usually characteristic of these conferences, thought this was just an ordinary conference and that specific conclusions would emerge from it. The question was repeatedly asked: What are the concrete points you seek agreement on? They were forgetting that this was a dialogue and that dialogue does not necessarily result in precise and concrete conclusions. Dialogue is of value in itself, because dialogue allows us to speak the same language, and this is fundamental to clear communication in political relations.

With regard to impressions of the Conference, I am reminded of the optimists who see the glass as half full and the pessimists who see it as half empty. I would say that it is neither half full nor half empty; rather, it is exactly as it should be at this point in history: the beginning of a new dialogue.

What, then are the prospects? Hopes. Hopes, you say. Yes, true and well-founded hopes. There is already a *perceptible change* in the dynamics of the world. Just as the poor workers of times past became aware of their misery and united, today the developing countries have become aware of their situation and have joined hands to achieve more equitable international order in which the new awareness of great socioeconomic, sociopolitical and sociocultural gaps will lead the world to narrow them.

This Latin American personality, this emergence, is not a thing of chance but the result of profound changes in the international situation. The inversion of balances and the very power of modern weapons have transformed the world; and prudence and equilibrium to redress the imbalance, coupled with dissuasion from the use of such weapons have become an absolute necessity.

However, spirit is not enough. The President of Mexico told us so in the inaugural speech in phrases which I take the liberty of quoting because they are admirably well turned, as was all the poetic oratory which he delivered at the opening session of this Conference. President Echeverria said: "We believe, despite everything, in the efficacy of dialogue, but we also know that true solutions require persevering action. Diplomatic styles are transitory, leaving in their wake only impulses which followed by well-funded decisions, actually modify reality. Let us not confuse history with anecdotes nor with good wishes. The problems which arise from hemispheric relations are structural and must be confronted as such".

For this reason we must continue the dialogue institutionalizing it and implementing its results. That is, to the extent that dialogue by its own dialectics produces and engenders conclusions which are worth following up, such conclusions must be implemented in the political field to be duly acted upon. It is necessary to continue with our dialogue. It is up to us, the United States and Latin America: Latin America and the United States.

And apropos of this, ladies and gentlemen, let us see at this moment how these relationships present themselves and what is our analysis of the two participants.

The United States is part of the Western Hemisphere and as such is a member of its regional organization. But at the same time it is the greatest world power and as such exerts not only regional but worldwide influence.

Although sharing a common base, Latin America, with its diversity of countries and individual conditions, has internal conflicts. Why deny them? Within this diversity, however, a unity and a personality which is affirmed in a clear and evident manner.

At the same time, to the extent that it asserts its personality, it understands that its destiny is not just an American affair but is linked to that of other developing countries. This is to say that Latin American relations have a worldwide aspect which includes all developing countries, even as these relations have a universal and international aspect with regard to the United States as a world power.

Obviously, this shows us that in our dialogue dialectically difficult and complex situations will arise because of dissimilar interests. But this is the great challenge, we face in the dialogue we have commenced; it is the great challenge of the decade in which we live. We must strengthen everything we have in common, and on the basis of this dialogue we must create the machinery to overcome our differences.

In effect, today we speak of the interdependence of all countries on earth, which is true, but we have also been interdependent in the past as well as in the present. We were interdependent because the developed countries received raw materials from developing countries, but now a series of events has occurred to make the developed countries realize that their own growth may be threatened if there is no coordination on a worldwide and international level.

This already existing interdependence which is now perceived by the great powers, also gives added dimension to this challenge, because our great political objective is not to conceal an old situation under a new name. Our high political objective must be, for both great and small countries, to break down the barriers of domination in order to create the new world of tomorrow, to create a new dimension of history which must not be based on relationships of strength but rather on justice, a new kind of a relationship developed, in the words of Secretary of State Kissinger, "through a new, direct, and frank dialogue."

Today's world shows that we are all part of one humanity, and that problems are worldwide and require solutions on a worldwide scale, as President Echeverria has so correctly pointed out. The injustice lies in the system, and therefore it is the system itself which we must reorganize and reorient.

We find ourselves in the hour of great decisions. Latin America has received a challenge: to overcome past differences; to progress from national to international concerns, which is to say to pass from individual affairs to matters involving the Latin American personality in order for Latin America to occupy the place it deserves in the vanguard of developing countries. It is for the United States, like the great nation it is when it wants to be, to accept this reality of the new world, the Lain American dimension; to take up the new diplomacy, and, through a new dialogue, build the new dimension of history which is required.

And now, gentlemen, let us speak from the heart. On behalf of my colleagues, I wish to express our deep-felt, sincere and profound appreciation to the President and to the Government of Mexico and to the Mexican people who have welcomed us with unrivaled hospitality, for as the popular song has it, "There is no other land like Mexico"; to Minister of Foreign Affairs Rabasa, who has taken such pains during all these and preceding days to organize this complex conference; to Minister of Foreign Affairs Váquez Carrizosa, who laid the groundwork in the Conference of Bogotá (I have coupled their names in this public testimonial because it is due to their efforts and long hours of work that this conference has become a positive reality in the history of this hemisphere); to the General Secretariat under the able direction of Ambassador Manuel Tello which has had to suffer and endure all the papers we have requested, the translations we have asked for, and the urgency with which we have demanded them; the staff of the Foreign Ministry and, most especially, the Protocol Section which is always held responsible when things go wrong but never appreciated when they go well, as they have on this occasion; the secretaries and all secretarial personnel, the receptionists and the doormen; to all who have contributed to the development of this Conference and to the extraordinary manner in which it has been carried out; to our experts and Ambassadors for the aid they have rendered; to the Secretary of State of the United States who has broken down old barriers between the North and the South and invited us to a new dialogue where together with him we have asserted the personality of Latin America in our relationship with the United States.

I also thank my colleagues, the Foreign Ministers, who have accompanied us and have permitted us to enjoy the essence of this Latin American personality which, though born in pain like any child is a constant source of pleasure to the mother which has borne it.

Finally, there can be no changes without changed names nor new policies without true renewal. We must create a new kind of man and renew our very selves in a soul-rending probe of our failings.

We must report to our peoples; we cannot accentuate what is negative; rather, we must accentuate what is positive. This Conference is definitely positive and we must maintain our faith in our hemisphere.

We must also have hope, because man also lives by hope. Nor must we mock it, but rather say, as the French say of illusion, that there is no falser illusion than to believe that one has none. In reality, hope moves men and moves our hearts, and the days we have spent here and the new situation created by the spirit of Tlatelolco have shown us that there is hope in every heart that beats and that we too, can continue to hope. Because in the final instance hope is based on the solidarity of mankind, on understanding among men, and up to now we have found no better instrument, for if it is utopian to speak of hope it would be more utopian still to believe that the way marked by lack of faith, negative criticism, despair, selfish national pride, and the reign of force and violence will lead us to more promising results.

I would like to close my remarks with a children's tale. I believe these tales can always take us back to our true childish innocence. The story is a Bavarian folk tale by father Coloma. It tells of a little girl living in the high mountains of Bavaria. Christmas was near an her father, a woodcutter, went to the woods to cut a Christmas tree and was swept away by an avalanche. Soon the family was reduced to abject poverty.

The following Christmas came, and the ragged little girl had only a necklace made of string with three simple glass beads.

On Christmas Eve her mother was too weak to go to church with her and the little girl trudged through the snow until she met a boy who said: "Tread in my footsteps, and you will feel new warmth and life will stir again in your heart." She did so, and followed him as the boy began to climb the mountain. And presently they came to a place where there was an old man who was saying: "I have lost faith; I have lost everything; I do not believe in men; I do not believe in myself," And at that moment he saw the girl and—Lo!—the glass beads on her breast were suddenly transformed into pearls. He saw that one was a beautiful blue pearl and he said: "Little girl, give me that pearl. Give it to me so that I can smile again." And the girl took off the pearl and gave it to him, and the man smiled and once more had faith in men.

They continued their climb and soon met an even older man who moaned and cried because he had lost hope. He had believed in his children and had great hopes for them; he had lost his fortune—everything. And when he saw the green pearl gleaming on the girl's breast he asked her for it. She gave it to him, and he smiled again, and there was hope in his heart.

And finally, at the top of the mountain, they came upon an ancient man whom the world had forgotten, and when he saw the little girl he asked for the last pearl that was left—a red pearl, red for love. The little girl gave it to him but at that moment, weakened by his struggles, he died. And the legend says that in spite of the winter cold and the snow, fountains gushed forth and flowers covered his grave.

Ladies and gentlemen: this children's tale tells us that there are three things that move mankind, whether we choose to admit it or not: faith in men, hope for a better world and human solidarity. For this reason we, the Foreign Ministers of this hemisphere, must proclaim this spirit of Tlatelolco which, like the blue, green and red pearls stands for faith, hope and human solidarity.

I thank you.

8. SPEECH MADE BY THE SECRETARY OF FOREIGN RELATIONS, EMILIO O. RABASA, AT THE CONFERENCE OF TLATELOLCO

Foreign Ministers, Ambassadors, Ladies and Gentlemen: We have reached the end of a journey. We are starting another. It would not be fitting to consider this Tlatelolco Conference as an event that has solved all our concerns and problems. I feel that it is more realistic to consider it as a starting point. The great tasks—the effective implementation of the points of agreement—are yet to be carried out. We must start to do so from today.

When we affirm the above, we do not mean that our efforts of these days have been in vain. In my opinion, if one may speak of the spirit of Tlatelolco it is in the sense that here, for the first time in many years we meet on a level of absolute equality, of mutual respect and of friendly frankness to examine, in a critical manner, what it is that has separated us and what may now bring us together.

This Conference has used—and perhaps used too much—the word dialogue. But it is a true fact that, as has been said, we have progressed from political speeches to political dialogue. And what is more, I would like to add that we now engage in political consultation. The United States of America has pledged its word on it. It must be done in advance and for all areas. As a matter of course, and this should be clearly understood, when dealing with the large interests that affect Latin-America.

Our relationship with the United States of America has fluctuated hopelessly between subordination and confrontation. At Tlatelolco we have solved the dilemma and replaced it with a concept of solidary cooperation based on the following premises: that the country that lies North of the Rio Grande will not attempt to impose its political preferences; that it will not intervene in the internal matters of others; that it will try to find formulas of accommodation precisely at the point where our interests may be divergent, and that through consultation it will cordinate efforts for our mutual benefit.

Throughout our deliberations, we have confirmed the existence of a new approach of the United States of America toward the Hemisphere and we are certain that bases have been laid for what must be—if to the sincerity of purpose we add the will to take action—a mutually respectful, working and effective cooperation.

Even while we recognize the need for, and the benefits of such cooperation, we maintain that it is the responsibility of Latin America and of each and every one of our countries to safeguard our rights to defend our interests in any forum we choose.

It has been said of Latin-America that we do not march in step with history. The eight Bogota points that at least united us in the same common cause, and the Tlatelolco Conference prove precisely the opposite. We did not come here to review past grievances nor did we wish to bury past history, since history must remain a constant lesson for the future.

We are not lowering our flag, and we still believe that the legal equality of the States, the economic equality that we are now seeking, and the self-determination of the peoples, constitute the base for peace, freedom and human dignity.

We are well aware that two hundred and eighty million human beings have not only the right, but demand to know the truth. Weary as they are of hearing unkept promises, they impatiently demand food, housing, health, education and other age-old requirements that we must satisfy now.

We are all equal. However, in a well ordered society, the weak must be protected by law, lest they be oppressed by the strong. This is one of the intentions of the Letter on the Economic Rights and Duties of the States, a document that not only Mexico but many nations are anxious to put into effect as soon as possible.

We must be fully conscious of the fact that a certain era is over and another begins. International order, as established at the end of the Second World War, has become disrupted and must accept a new regulation of international relations. we demand—in all justice—to participate in the drawing up of the new norms. We must take part in the decisions that are to be made on the monetary system, international trade, the energy crisis, the population explosion and other grave matters that affect the daily lives of hundreds of millions of human beings. And we cannot agree the road to progress can be allowed to bypass the sovereignty of each State.

Internal Democracy and external peace are indispensable bases for man's happiness. Democracy is not merely a system that puts into operation the formal mechanisms that permit the acts of the government to be controlled by the people. Democracy is social justice. Democracy is economic equality and equal opportunity. Democracy is peace, not only as an absence of armed conflict but as international harmony and cooperation to achieve a more just distribution of wealth among the peoples.

Alfonso Reyes, an illustrious Mexican writer, said "The destiny of America lies in continuing to afford protection to all attempts to improve mankind and also in serving as a setting for the grand adventure of good."

This, and this alone, is the intent of the Tlatelolco Conference.

9. DECLARATION OF TLATELOLCO

I

At the request of President Nixon, Secretary of State Kissinger, invited the Foreign Ministers and other representatives of Latin America and the Caribbean attending the Twenty-Eighth Session of the United Nations General Assembly to meet with him on October 5, 1973. At that time the Secretary of State suggested the initiation of a new dialogue to deal with matters of concern to the Americas.

Mindful of this important initiative, the Government of Colombia extended an invitation to Dr. Kissinger to participate actively and personally in such a dialogue at an opportune time. Dr. Kissinger immediately accepted this invitation. Thereafter, the Government of Colombia convoked the "Conference of Foreign Ministers of Latin America for Continental Cooperation", held in Bogota from November 14–16, 1973. On that occasion the Foreign Ministers of Latin America and the Caribbean agreed it would be advantageous to initiate a dialogue on the following topics:

Cooperation for Development;

Coercive measures of an Economic Nature;

Restructuring of the Inter-American System;

Solution of the Panama Canal Question;

Structure of International Trade and the Monetary System;

Transfer of Technology; and

General Panorama of the Relations between Latin America and the United States of America.

In accordance with the agreement reached at the "Conference of Foreign Ministers of Latin America for Continental Cooperation", and with the concurrence of the Government of the United States of America, the Government of the United Mexican States convoked the Conference of Tlatelolco. This Conference took place in Mexico City from February 18–23, 1974.

The Agenda of the Conference of Tlatelolco comprised the eight items listed above, with the addition of two others suggested by the Secretary of State in accordance with the agreement reached in Bogota regarding "the willingness of the participating countries to discuss any other matters the United States of America wishes to propose". The topics suggested by the Government of the United States were "Review of the International Situation" and "the Energy Crisis".

Attending the Conference of Tlatelolco were the Foreign Ministers of Argentina, Bahamas, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, the United States of America, Uruguay and Venezuela.

The Conference was held in two parts, one with exclusively Latin American participation, from February 18–20, and the other from February 21–23, with the participation of Secretary of State Kissinger. In the first phase of the Conference of Tlatelolco, the Latin American and Caribbean Foreign Ministers agreed on procedures for the initiation of the new dialogue, which Secretary Kissinger had proposed be founded on "friendship based on equality and respect for the dignity of all", and upon methods for delineating the "Bases for a New Dialogue between Latin America and the United States". The Secretary of State agreed to these procedures.

II

The Conference took place in an atmosphere of cordiality, free from the old rigidities which have so often obstructed our dialogues in more traditional forums. The participants met as equals, conscious that the policy initiated here may be of deep historical significance. But for it to be so we must recognize that we are at a turning point, and be prepared to dedicate ourselves to new horizons of understanding and cooperation.

The Foreign Ministers agreed that the Americas have arrived at an historic moment—a time of unprecedented opportunity for achieving the goals of justice, peace and human dignity which have for so long been the essential promise of the New World.

They recognized that in the modern age the demands of technology and the drive of human aspirations make impossible the narrow pursuit of purely national interests.

They agreed, as well, that interdependence has become a physical and moral imperative, and that a new, vigorous spirit of Inter-American solidarity is therefore essential.

Relations between the countries of the Americas must be placed in the context of today's world; a world characterized by interdependence, the emergence onto the world stage of the developing countries, and the need to overcome inequalities. The existence of a modern inter-American System; the affirmation of the reality of Latin American unity; and the similarity of the problems of Latin America and those of other developing countries are the foundation for a dialogue and a frank and realistic relationship with the United States.

Inter-American relations should be based on an effective equality between States; on non-intervention; on the renunciation of the use of force and coercion and on the respect for the right of countries to choose their own political, economic and social systems. Inter-American relationships, thus redefined by an authentic political will, would create the necessary conditions for living together in harmony and working cooperatively for expanded and self-sustaining economic development.

The Foreign Ministers reaffirmed the principle that every State has the right to choose its own political, economic and social system without foreign interference and that it is the duty of every State to refrain from intervening in the affairs of another.

The new opportunities for cooperative development call for a revision of the concept of regional security, which cannot, and should not, be based solely on political-military criteria, but must also encompass a practical commitment to peaceful relations, cooperation and solidarity among States.

To this end, inter-American cooperation should be supplemented by the establishment of a system of collective economic security that protects the essential requirements of integral development: that is to say parallel progress in the social, economic and cultural fields.

By mandate of the United Nations General Assembly, a group of countries representing diverse economic systems is engaged in examining the possibilities of restructuring international economic relations, through the preparation of a Draft Charter on the Economic Rights and Duties of States. This Charter can create the general framework for facing specific problems through practical and fair regulations and mechanisms.

The Conference of Tlatelolco agreed that a just application of the principles of the Charter can foster the internal and external conditions necessary for the American nations to satisfy their own needs and ensure their full development on an equitable basis. The Conference also recognized that peace and progress, in order to be solid and enduring, must always be based on respect for the rights of others, and the recognition of reciprocal responsibilities and obligations among developed and developing countries.

III

In the course of permanent dialogue that has been successfully initiated at the Conference of Tlatelolco, a continuing effort should be made to reach, as soon as possible, joint solutions to the pending questions included in the Bogota Document, which served as the basis for this Conference.

IV

The Conference goes on record as follows:

(1) The Foreign Ministers recognized that the success of the Conference of Tlatelolco emphasizes the value of the new dialogue of the Americas. Mindful of the growing interaction between themselves and the rest of the world and that their countries have different needs and different approaches on foreign policy, the Foreign Ministers were nevertheless agreed that the relations between their countries, which history, geography and sentiment have produced and continued to sustain, call for an expansion of the processes of consultation between their Governments.

As an initial step in this continuing process of consultation they agreed to continue on April 17, 1974 at Atlanta, Georgia, in the United States of America, the dialogue initiated in Mexico. In the same spirit they agreed to consult with the view to seeking, as far as possible, common positions in appropriate international consultations, including multilateral trade negotiations.

(2) The Conference welcomes the agreement reached in Panama City on February 7, 1974 by the Governments of Panama and the United States of America, by which they established the guiding principles for their current negotiations leading to a new Canal treaty. The Conference holds that this agreement is a significant step forward on the road to a definitive solution of that question.

(3) The Foreign Minister agreed that, if progress toward a new Inter-American solidarity is to be made, solutions must be found not only to existing differences, but means must also be provided for the solution of problems that may arise.

(4) In this spirit, the Foreign Ministers of Latin America have taken due note and will continue to examine the suggestion advanced by the Secretary of State of the United States of America with respect to the controversies that may arise from matters involving private foreign investment.

The Secretary of State of the United States proposed the establishment of a fact-finding or conciliation procedure that would limit the scope of such controversies by separating the issues of fact from those of law. This could provide an objective basis for the solution of disputes without detriment to sovereignty.

He further proposed the creation of an inter-American working group to study the appropriate procedures that might be adopted.

(5) With regard to the problems of transnational corporations, the Foreign Ministers discussed the different aspects of their operation in Latin America and have agreed to continue the examination of the matter at a later meeting.

(6) The Foreign Ministers agreed on the need for intensifying work on the restructuring of the Inter-American system.

(7) The Foreign Ministers agreed that one of the principal objectives is the accelerated development of the countries of the Americas and the promotion of the welfare of all their peoples. In this regard, the United States accepts a special responsibility; and the more developed countries of the Americas recognize that special attention should be paid to the needs of the lesser developed.

They further agreed that development should be integral, covering the economic, social and cultural life of their nations.

(8) The United States offered to promote the integral development of the region in the following fields:

Trade

(*a*) Make maximum efforts to secure passage of the legislation on the System of Generalized Preferences during the present session of Congress, and then work with the other countries of the hemisphere to apply these preferences in the most beneficial manner.

(*b*) Avoid, as far as possible, the implementation of any new measures that would restrict access to the United States market.

Loans for development

(*a*) Maintain, as a minimum, present aid levels despite growing costs.

(*b*) Cooperate throughout the region and in international institutions to facilitate the flow of new concessional and conventional resources toward those countries most affected by growing energy costs.

(*c*) Examine with others in the Committee of Twenty and the IADB all restrictions on the entry of hemispheric countries to capital markets in the United States and other industrialized countries.

(9) The Foreign Ministers further declare:

(*a*) They reaffirm the need of Latin American and Caribbean countries for an effective participation of their countries in an international monetary reform.

It was acknowledged that the net transfer of real resources is basic, and that ways to institutionalize transfers through adequate mechanisms should be considered.

It was reaffirmed that external financial cooperation should preferably be channeled through multilateral agencies and respect the priorities established for each country, without political ties or conditions.

(*b*) With respect to "Transfers of Technology", the Foreign Ministers agreed to promote policies facilitating transfer of both patented and unpatented technical knowledge among the respective countries in the fields of industry as well as education, housing and agriculture, taking into account conditions prevailing in each country and in particular the needs of the Latin American and Caribbean countries for introduction of new manufactures, for greater utilization of the human and material resources available in each country, for increased local technical development and for creation of products for export. It was further agreed that transfers of technology should be on fair and equitable terms without restraint upon the recipient country. Particular emphasis is to be placed upon sharing knowledge and technology for development of new sources of energy and possible alternatives.

(10) The Foreign Ministers agreed that it would be desirable to establish an Inter-American Commission of Science and Technology. They left over for later decision whether this commission should be adapted from existing institutions or whether a new body should be formed.

V

In adopting this document, the Foreign Ministers expressed their confidence that the spirit of Tlatelolco will inspire a new creative effort in their relations. They recognized that they are at the beginning of a road that will acquire greater significance through regular meetings and constant attention to the matters under study.

The Conference expresses its satisfaction over the fact that the mutual understanding which has prevailed throughout encourages the hope that future conferences of a similar nature, within a permanent framework devoid of all rigid formality, will produce fruitful results for the benefit of the peoples of the Americas.

Mr. MANSFIELD. Mr. President, there are two items of significance which we ought to emphasize.

One is the appreciation on the part of the Latin American foreign ministers—and that includes the foreign ministers of the Caribbean states—in the fact that Secretary of State Kissinger, who had been spending much time, of necessity, in Asia and Africa, was the initiator of this Conference, in effect, and by his presence and his participation made a tremendous impression on the representatives of the nations to the south of us.

The second significant factor, from our point of view, was the meeting we had with President Luis Echeverria at Los Pinos, a 1½-hour meeting which consisted of give-and-take conversation, a frank discussion of matters of mutual interest to Mexico and the United States, and one which I believe indicates the candor which now marks the relations between our two countries. Not only have Mexican Presidents seen fit to meet with U.S. parliamentarians and to discuss matters with the utmost frankness, but by the same token U.S. Presidents have met with Mexican parliamentarians and discussed questions with the utmost frankness, questions such as the Chamizal, which was settled after many decades, and the Colorado River problem, which hopefully is in the process of being settled at the present time.

Mr. HUGH SCOTT. As well as economic relations with Peru.

Mr. MANSFIELD. That is correct. That was also brought out in that Conference. While the Conference results are not clear in a way that would definitively set out what we did or did not do, I think the foundation has been laid for the meeting in Atlanta next month and future meetings, and that once again we are beginning to recognize the importance of Latin America in relation to the United States. We hope this time it is not a hop-skip-and-jump affair, but something which will endure, be permanent, and bring to all nations of the hemisphere a greater degree of understanding, a better degree of stability, and economic independence.

Mr. HUGH SCOTT. I thank the majority leader. The Senator has made several important points.

The nations of the hemisphere will be watching this to satisfy themselves whether this was a one-shot effort of good will or whether we really make progress toward better and better relations. In that regard the contribution of our own distinguished Secretary of State was remarkable. There is no question he made a great and favorable impression on the foreign ministers of other nations; there is no question that his candor was a refreshing innovation in diplomatic affairs, and I believe he convinced many of the diplomats there, foreign ministers, that the United States is genuinely interested in the affairs of our friends and neighbors in this hemisphere. I hope that at some future time the Secretary of State will be able to return to similar meetings in Latin America or in the Caribbean so that there will be visible evidence of this continuity.

I, too, was much impressed with the meeting with Luis Echeverria, the President of Mexico. We spoke very candidly to him and, I might add, the distinguished Speaker discussed matters with Luis Echeverria in Spanish as well as in English. I am told he reacted very well toward the friendly meeting with our American delegation and I do believe something very good will come out of it. In other words, it is up to the United States now to prove by its actions, by its restraint, and by its policy of frankness and understanding of the problems of our friends in this hemisphere that we can, indeed, coexist in a harmonious manner without causing any of the other nations to feel that we are in any way impinging on their sovereignty or on their own rights and responsibilities as a nation.

Mr. McGEE. Mr. President, I want to take this opportunity to express my agreement with the observations offered by the distinguished majority leader (Mr. MANSFIELD) and the distinguished minority leader (Mr. HUGH SCOTT) in their colloquy on the Inter-American Conference in Mexico City last month.

As a member of the congressional delegation attending the Conference of Tlatelolco in my capacity as chairman of the Western Hemisphere Affairs Subcommittee of the Senate Committee on Foreign Relations, I, too, was impressed with the openness and the positive atmosphere which permeated the 3-day gathering.

Indeed, I believe the presence of the congressional group with the Secretary of State represented a united commitment by the United States to seek a greater understanding and cooperation in our Inter-American efforts. This presence was tangible evidence that the citizens of this Nation are sensitive to their Latin American and Caribbean neighbors and are willing to explore all avenues in an effort to achieve closer and more constructive relations.

Secretary of State Henry Kissinger deserves tremendous credit for laying the groundwork for the Mexico City meeting. It was evident, from the atmosphere of the Conference, that all the participants were seeking a common understanding and a mutual accommodation on the basis of equality. It was also strongly evident that the presence of Secretary Kissinger was deeply appreciated by the 24 Foreign Ministers of the Latin American and Caribbean States.

I believe the Conference has laid the foundation for a realistic approach to our relations. In the past, we have often been guilty of allowing our rhetoric to obscure reality. However, I believe we are in the process of establishing a process whereby mutual understanding and mutual respect will allow us to avoid confrontation.

In no small part, Secretary Kissinger is responsible for the new dialog in United States-Latin American and Caribbean relations. His openness and candor were deeply appreciated.

I agree with the distinguished majority leader in the conclusion of his report when he states:

> The spirit of community engendered at the Conference, in my judgment, was genuine and substantial, if not necessarily universal. From the point of view of the United States, the Conference served the highly useful purpose of checking what had been a growing aversion to aspects of this nation's policies and practices.

I also strongly support the distinguished majority leader in his appeal to Members of Congress to exercise responsibility and to:

> Keep an open mind on the efforts of the President and the Secretary of State to negotiate a path through the many pit-falls of inter-American relations and to give them such support and cooperation as can be given in the light of the separate constitutional responsibilities of the two Branches.

The time is for responsibility in the Congress, and not the pursuit of political ends which could destroy the delicate groundwork being laid in an effort to enhance relations with our fellow members of the Western Hemisphere. These relations must be based upon the realities of the 1970's and not the outmoded and impractical self-deceptions of the past.

AIRCRAFT PIRACY AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 872) to facilitate prosecutions for certain crimes and offenses committed aboard aircraft, and for other purposes.

Mr. McCLELLAN. Mr President, I ask unanimous consent that the following members of the staff of the Subcommittee on Criminal Laws and Procedures be allowed on the floor for the duration of the consideration and votes on S. 872 and S. 1401: Paul Summitt and Dennis Thelen.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. HRUSKA. Mr. President, I ask unanimous consent that Mr. Kenneth Lazarus, minority counsel to the Committee on the Judiciary, and Mr. Douglas Marvin, minority counsel to the Subcommittee on Criminal Laws and Procedures, be granted the privileges of the floor during the debate and votes which might occur on S. 872 and S. 1401.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, crimes directed against aircraft or other mass transportation systems are acts that cause danger and fear to multitudes of people in a single incident. They affect the confidence of every traveler in interstate commerce and make apprehension a constant companion for those using public air carrier facilities. Since the rash of aircraft hijackings began a number of years ago, progress has been made in airport control and prevention of hijacking opportunities. But we have not reached the point of preventing air piracy because only yesterday a plane was hijacked with a hundred or more passengers.

The bill being considered today (S. 872) corrects some deficiencies and closes some loopholes in the protection afforded air and other transportation systems.

Mr. President, in relation to present aircraft destruction and related offenses in title 18, United States Code, hoaxes are punished on two levels: First, a civil penalty for conveying false statements concerning attempts to commit such offenses; and second, felony penalties for conveying such statements willfully and maliciously, or with reckless disregard for the safety of human life. There is no provision to punish a threat to destroy an aircraft, or commit other enumerated offenses, even where the person fully intends to carry it out.

S. 872 would add a "threats" provision by making it a felony to threaten to commit a felony prohibited by 18 U.S.C. 32, 33, 1992, or 2275 "with an apparent determination and will to carry the threat into execution."

When we turn to title 49 of the United States Code for present aircraft hijacking offenses, any false statement concerning attempts being made or to be made to commit aircraft piracy (sec. 1472(i)), interference with flightcrew member (sec. 1472(j)), certain crimes of violence aboard aircraft (sec. 1472 (k)), and carrying weapons aboard aircraft (sec. 1572(l), is punished as a 1-year misdemeanor (sec. 1472(m) (1)). False statements concerning such attempts are raised to the felony level when made willfully and maliciously, or with reckless disregard for the safety of human life (sec. 1472(m)(2)). There is no provision to punish threats to commit such offenses. S. 872 would change the simple false statement misdemeanor to a civil penalty; eliminate the anomalous situation of imposing felony penalties for false statements concerning acts which, if actually committed, would be misdemeanors; and add a threats provision to make it a felony to threaten to commit acts constituting felonies under section 1472(i) [aircraft piracy], section 1472(j), interference with flightcrew, or section 1472(l)(2) endangerment of human life by boarding or attempting to board an aircraft in possession of weapons, explosives, et cetera.

Mr. President, the bill makes some improvements in provisions involving dangerous weapons aboard aircraft. With certain law enforcement officer exceptions, present law punishes as a misdemeanor possession of a concealed deadly or dangerous weapon while aboard or attempting to board an aircraft (49 U.S.C. 1472(l)). S. 872 creates two offenses for possession of weapons and explosives while on board an aircraft or attempting to board an aircraft. Identical provisions passed the Senate on February 21, 1973, as a part of S. 39, which is still pending in the House. They are included in S. 872 simply to enhance eventual enactment into law. Simple possession is retained as a misdemeanor and clarified in its coverage to clearly include explosives or other destructive devices on or about the person or his property. Possession of such items "willfully and without regard for the safety of human life or with reckless disregard for the safety of human life" is made a 5-year felony. The felony also extends to placing or attempting to place such devices aboard an aircraft.

Exceptions are expanded to include persons transporting weapons for sporting or hunting purposes, provided the weapons are publicly declared prior to boarding, checked as baggage, and not transported with the person in the passenger compartment.

Mr. President, S. 872 also amends 28 U.S.C. 1395 to provide that process may be served against any defendant or witness in civil proceedings to recover a penalty under 18 U.S.C. 35(a) and 49 U.S.C. 1471(c) in any judicial district of the United States upon a showing of good cause. This provision recognizes the transit status of the usual defendant or witness in such cases.

Mr. President, the Senate approved all of these provisions in the 92d Congress. The House failed to act. I believe they are sound improvements on present law protecting air transportation. I urge immediate enactment of this legislation.

Mr. HRUSKA. Mr. President, if the Senator will yield, I should like to take this opportunity to applaud the efforts of the distinguished chairman of the Criminal Laws Subcommittee (Mr. McClellan) in acting on S. 872, the bill which is currently before the Senate.

This measure passed the Senate unanimously in the identical form during the 92d Congress. It is intended to close some current loopholes in Federal criminal law by proscribing threats to commit aircraft hijacking and the unauthorized possession of weapons aboard aircraft. Hopefully, it will be of utility to Federal law enforcement agencies in their efforts to reduce the incidence of aircraft piracy, and I, therefore, urge the support of my colleagues.

The chairman of the subcommittee has well and thoroughly detailed the substance of the bill and its several provisions. It will not be my purpose to duplicate those remarks.

Essentially, the object of the measure is to facilitate and implement prosecutorial and adjudication responsibilities in order to more effectively deal with the problems of piracy in aircraft as well as other means of transportation systems.

Mr. President, that concludes my remarks with respect to the bill.

Mr. GURNEY. Mr. President, on behalf of myself and the Senator from Idaho (McClure) I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Metzenbaum). The amendment is not in order until all committee amendments have been acted on.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be considered as original text for purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr President, have all the committee amendments been agreed to?

The PRESIDING OFFICER. The committee amendments have been agreed to.

Mr. McCLELLAN. Now the bill is open to amendment.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GURNEY. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read the amendment, as follows:

> On page 5, line 12, after the word "activities", add a comma and insert the words "or for gun collecting, or for other lawful purposes".

Mr. GURNEY. Mr. President, first of all, I want to congratulate the distinguished Senator from Nebraska (Mr. Hruska) for offering this bill, which is badly needed, and I certainly want to congratulate the distinguished chairman of the Criminal Laws and Procedures Subcommittee for bringing the bill out so promptly. Surely, it is a welcome addition to the Federal laws on criminal procedures, and ought to be another nail in the plan to aid against highjacking and bombing which seem to be so prevalent in or time so far as airplanes are concerned.

While I agree with the purpose of the bill and its language, I have offered language which I think somewhat clarifies the language on page 5, line 12. The language as it is now says that the bill shall not apply to persons transporting weapons for hunting or other sporting activities. My amendment would simply add two other categories. One is gun collectors. Sometimes they go to places, purchase guns, and bring them back. They, of course, can declare them and bring them back in the cargo of an airship with this additional language.

Then there are other people who do occasionally carry personal weapons for their self-protection. This amendment would enable them to be exempted from the law, too. The words are "or for other lawful purposes."

I have checked the language with the distinguished chairman of the subcommittee who is handling the bill on the floor as well as the ranking minority member who authored the bill, and, as far as I know, this language is acceptable to both.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. McCLELLAN. Mr. President, will the Senator state again what falls in the category of "other lawful purposes"?

Mr. GURNEY. Yes. I will say to the distinguished Senator from Arkansas that all I intend here is simply to permit people who do carry weapons with them for self-protection—and there are a few—to be able to fit into this same category as those who are going hunting, for sporting activity, or for gun collecting. That is the sole purpose of this language "for other lawful purposes."

Mr. McCLELLAN. Would that mean that a person could carry it with him on his person?

Mr. GURNEY. No, indeed.

Mr. McCLELLAN. He would have to check it as baggage until he got to his destination.

Mr. GURNEY. That is precisely so, as the language applies to other people.

Mr. McCLELLAN. Can the Senator give me some specific case where one would be carrying a gun for a lawful purpose?

Mr. GURNEY. Yes. I can think of a case. I have talked to a couple of ladies in Florida in past years who make a general effort to carry along weapons with them in their purses for self-defense purposes these days. And I think that probably other people fit into the same category.

Mr. McCLELLAN. Are they carrying these guns with a lawful permit?

Mr. GURNEY. The Senator is correct.

Mr. McCLELLAN. In other words, they would have to have a lawful permit to carry them in order to come within the category of "other lawful purposes."

Mr. GURNEY. That is the exact intent.

Mr. McCLELLAN. It is not the intent to open this provision to anyone who might want to carry a gun for his own protection?

Mr. GURNEY. No, indeed. They would have to be carrying the gun with a permit and under the law.

Mr. McCLELLAN. It would have to be under a lawful permit issue for some lawful purpose.

Mr. GURNEY. The Senator is correct.

Mr. McCLELLAN. They could not carry the weapon on the plane. They would have to check it with their luggage and declare it.

Mr. GURNEY. The Senator is correct.

Mr. McCLELLAN. I am trying to make a legislative history of what we are trying to do.

Mr. GURNEY. That is exactly correct. We do not want to loosen up the bill in any respect.

Mr. McCLELLAN. I have no objection to the amendment. The only thing is that we want to make certain that we reflect the precise purpose of the amendment and that it does not open up the law in any way so that one having some illegal motive could be shielded or protected by this provision.

The amendment is only intended to extend this provision to those who lawfully have the right to possess a weapon and to transport it under some legal authority that has been conferred upon them by law. Is that correct?

Mr. GURNEY. I would answer the distinguished Senator by saying that is precisely the narrow confines under which the language is intended.

Mr. GRIFFIN. Mr. President, will the Senator yield for a question?

Mr. GURNEY. I yield.

Mr. GRIFFIN. Mr. President, I am not on the committee. However, like others on the floor, I am very interested in making sure that we are tightening up the laws against skyjacking. We would not want to do anything that would in anywise loosen the laws or make them easier to circumvent.

I want to make a point clear, too, although I think the chairman has put his finger on what I am about to inquire into. Let me ask, insofar as any weapons for hunting purposes or sporting activities are concerned—and I guess my inquiry would be directed to the chairman of the committee—there would be no violation if a person having a weapon for sporting activities or for hunting purposes publicly declared that he had such a weapon at the airport terminal.

Mr. McCLELLAN. As I understand it, he would have to declare it. It would be subject to inspection if they wanted to inspect it. He would have to declare that he was transporting it for hunting purposes or for sporting activities or for some lawful purpose and do so before he got on the plane. Otherwise, he would be in violation of the law.

Mr. GRIFFIN. Even though it were a weapon for hunting purposes or for other lawful purposes, if he failed to declare it in advance, he would be liable.

Mr. McCLELLAN. He would certainly be technically guilty under the statute.

Mr. GRIFFIN. I thank the chairman. I think it is very important that that point is understood.

As I understand, the amendment of the Senator from Florida (Mr. Gurney) would add to other categories and exempt weapons carried for the purpose of gun collecting, or some other lawful purpose. I, like the chairman, am a little bit concerned about whether they would have to be publicly declared in order to be exempt. That is where protection, primarily, would come into play.

Mr. McCLELLAN. Taking the language already in the bill which would also qualify this amendment—the coverage exemption from the criminal sanctions would apply only:

> If the presence of such weapons is publicly declared prior to the time of boarding, checked as baggage which may not be opened within the airport confines, and not transported with such person in the passenger compartment of the aircraft.

It is a restriction fully applicable to the amendment offered by the Senator from Florida.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. HRUSKA. In that same connection, and supplementing what the Senator from Michigan (Mr. GRIFFIN) has said, the situation does arise where one who is desirous of transporting a weapon for hunting purposes carries a gun and checks it at the counter of the anti-skyjack guards.

He hands him the gun, which is in a case, and the gun is carried on board by an official of the airline. It is placed in the pilot's compartment, or elsewhere, where it is secure. The question I ask is this: Would not that confirm that the weapon has been publicly declared and checked as baggage, and is being transported with the person? Would not that be sufficient to comply with the law?

Mr. McCLELLAN. If it is presented in a case, as the Senator said, it would be inspected and then carried onto the plane. In my judgment, that would be a public declaration. If he is acting under the direction of a statute, in order to comply with the statute, in order to give the official an opportunity to perform his public duty, that is a public declaration. That is certainly what the statute intends. It does not mean that the person has to publish a notice in a newspaper or to stand on a housetop somewhere with a megaphone to announce that he is going to carry a gun. I would interpret that to mean—and I am sure that is the intent—that this is a public statement, that the carrier knows about it, and has an opportunity to handle it in the manner prescribed by law.

Mr. HRUSKA. The procedure I have outlined has been the practice for a long time and has been found to be satisfactory, without objection. The reason I have raised the question is to make a legislative history, to the effect that such a practice is not proscribed by the subject bill. This history we have now made.

Mr. McCLURE. Mr. President. I welcome the opportunity to support Senator GURNEY's amendment. This change in the law will give those Americans with legitimate and lawful reasons for transporting weapons on air carriers every assurance that their rights will not be infringed upon.

The constitutional right to bear arms is not limited to "hunting and other sporting activities" alone, and neither should the lawful transport of arms by individuals be so limited. I am sure this amendment clears the law of any confusion and will insure that there will be no opportunity of misinterpretation or narrow interpretation that twists congressional intent. We must guarantee that in the future, those rights that we define today will remain intact.

It is especially important that in a measure dealing with air piracy, the language be clear so that law-abiding citizens are not liable to technical violations of laws against air piracy.

I have prepared an amendment to the bill which would accomplish the same thing. I am glad to have the help of the Senator from Florida and support his amendment in lieu of my own.

Mr. GURNEY. I thank the Senators.

Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of Mr. GURNEY.

The amendment was agreed to.

Mr. McCLELLAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. HRUSKA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATHAWAY. Mr. President, I call up my amendment to the desk and ask for its consideration.

The amendment reads as follows:

> On page 4, line 9, after the comma insert the word "knowingly".

Mr. HATHAWAY. Mr. President, this amendment corrects what I believe is an oversight, and I am sure it complies with the intention of the committee with respect to subsection (1) of section (l). The committee must certainly have intended that the person who has the weapon in his possession would have to know about it.

It is conceivable that as a passenger was boarding an aircraft, someone else might secrete in the passenger's purse or in the pocket of her coat or his coat a weapon that he or she would not know about. With the possibility of this situation in mind, I am simply asking that the word "knowingly" be inserted at the appropriate place in that particular subsection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I have considered the amendment offered by the distinguished Senator from Maine, and I personally am glad to accept the amendment. It is a technical amendment that strengthens the bill and actually says what is intended with respect to this particular section of the bill. I am glad to accept it, and I do not think there will be any objection.

Mr. HRUSKA. Mr. President, I can perceive, in the insertion of the word "knowingly" pursuant to the amendment proposed by the Senator, both good points and bad points about it.

Imagine a man walking down a corridor of an airport, and he has his overcost draped over his arm in such a fashion that the pocket opening is exposed. Someone comes along and slips into that pocket a Saturday night special, and the man presents himself at the counter, presents his ticket, and goes through. The guard finds that gun there. He did not place it there, and it is not knowingly a transgression.

On the other hand, suppose that same man knew it was there, he put it there, he walked through, and he got caught at it. He could assert that he did not know about it, but the prosecutor would have the opportunity to prove that he knowingly had it and thereby obtain a conviction.

I wonder if the danger that someone could be convicted under the bill for innocent conduct is not something which we should consider in this regard.

I call attention to the language in the following subsection, which says, beginning on line 17:

> (2) Whoever willfully and without regard for the safety of human life or with reckless disregard for the safety of human life.

and so on, and then it names the same elements of an offense. Would that not cover the situation of "knowingly"? I direct that question to the Senator from Maine.

Mr. HATHAWAY. The Senator refers to subsection (2)?

Mr. HRUSKA. Yes.

Mr. HATHAWAY. I assume, since "willfully" denotes "knowingly" also, the person would have to be aware of the fact in that situation.

I might add that the second part of subsection (1), the part which deals with placing such a weapon in a package, does very definitely connote the fact that he knows about it. My amendment would simply bring the first part of that subsection into line with the second part.

Mr. HRUSKA. Mr. President, I suggest this further thought, in addition to the others I have already expressed: In subsection (1) there is provided a penalty of a $1,000 fine, or imprisonment for 1 year, or both, for knowingly doing something which is considered illegal—assuming the amendment is accepted. In the next subsection, there is a $5,000 penalty and 5 years imprisonment for one who acts willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life.

So we have that discrepancy in penalties. I wonder if that is sufficient discrepancy in the tests that we set forth in the bill, under the amendment proposed by the Senator from Maine.

Mr. HATHAWAY. I assume that the second one involves a more severe penalty because the person who is involved has a reckless disregard for human life aboard the aircraft. In the first case, although it may be the same person, it may be impossible to prove that reckless disregard; nevertheless, we have a section that can be used to punish that person to some extent.

Mr. McCLELLAN. Mr. President, if the Senator will yield, I do not see how adding "knowingly" in section (l)(1) detracts in any way from the crime that we are undertaking to cover. Without the word "knowingly" or a similar term—something to charge the offender with knowing what he was doing—if we just left it as it is, "Whoever, while aboard, or while attempting to board, any aircraft in or intended for operation in air transportation or intrastate air transportation, has on or about his person," he could be convicted with complete ignorance of the fact that a weapon was in his possession. It seems to me that the word "knowingly" simply clarifies that he must know what he was doing, and that he would be violating the law if he attempted to board. Without the word "knowingly" you could undertake here to establish a crime where the person was wholly innocent and had no knowledge of what was happening, or that circumstances were present which constituted a crime.

I do not think "knowingly" hurts it. The Senator may have some technical explanation or justification for questioning it, but it seems to me it simply does what we really want to do.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

Mr. GRIFFIN. Mr. President, once again I speak as one who is not on the committee. But, frankly, as one who is very concerned, as I know all Senators are, about skyjacking, it seems to me that we ought to be as strict as possible and impose as serious a penalty as is reasonable under the circumstances.

I notice that in subsection (2), beginning on line 17, there is already a provision which covers a person who "willfully and with reckless disregard for the safety of human life" goes aboard an aircraft with a concealed weapon. In that case, the penalty is a fine of not to exceed $5,000 or imprisonment for not more than 5 years, or both.

To me, that does not seem to be an excessive penalty, when you consider the circumstances and the danger implied for an airplane full of passengers.

Then, there is another case—kind of case—a case which I think the committee was trying to deal with in the first section—the case when it is difficult to prove what is in a person's mind as he goes aboard a plane with a concealed weapon. How can it be established what his intent is? Should he go completely free? Or should there be strict liability with a lesser penalty in a situation like that, where the lives of so many people are involved? I realize that under the traditional concepts of criminal law the matter of scienter is important. Yet, the law does impose criminal liability in some instances where there is only gross negligence—and even though no willful intent can be proved. I would think that one who goes aboard a plane carrying a dangerous weapon would at least be grossly negligent if he did not know it.

To impose a criminal penalty to the extent of not more than $1,000 or not more than 1 year in prison does not seem unreasonable to me. After all, the judge and jury can take into account extenuating circumstances. If the accused should be completely free of any liability or any negligence of any kind, I am sure that would be taken into account.

Mr. McCLELLAN. Mr. President, will the Senator from Michigan yield?

Mr. GRIFFIN. I am delighted to yield to the distinguished chairman.

Mr. McCLELLAN. Well, traditionally, the fact is, there is no other way to prove what is in a person's mind except by what he does. We have got a circumstance here where he is boarding a plane and has got the weapon on him, so we presume he knows what he is carrying. As the Senator from Nebraska (Mr. Hruska) pointed out a few minutes ago, there can be circumstances which might well be that one is planning to try to sneak a weapon on the plane by the process of slipping it into someone's pocket or into someone's briefcase and, in that way, an innocent person could board the plan, or try to board the plane, without knowing he had a weapon on him. Certainly we do not intend the law to reach a circumstance like that. I doubt the wisdom of leaving it without being required to establish that the man knew. He should not be charged with violating the law if he did not know it was happening.

Mr. HRUSKA. Mr. President, in that connection—and I agree with what the Senator from Arkansas has said—but in that subsection (1), the knowledge has to do with the offense of having a concealed weapon. That is a lesser offense and therefore warrants the sanction of a $1,000 fine or 1 year in jail or both.

In subsection (2) we have the element of having a gun with reckless disregard for the safety of human life, or who willfully disregards the safety of human life. If it can be proven that he recklessly or willfully disregarded the safety of human life, as opposed to knowingly concealing a weapon which is the subject of subsection 1, then he should suffer the potential of a greater penalty—to wit, $5,000 or 5 years in jail, or both.

Mr. McCLELLAN. The Senator is correct in his analysis. Where the fellow has purchased a gun and is carrying it home or carrying it back to his State, he would be violating the law if he undertook to board the plane in that fashion, whether he intended to commit a crime with the gun or not. But the second section carries with it the circumstances where obviously he intended to commit a crime or to intimidate or use the gun for an illegal purpose on the plane.

Mr. GRIFFIN. I am not going to make a big battle out of this point. My purpose, however, is to make this provision as strict as we can make it. It may be that a judge trying the case would instruct the jury that there would have to be knowledge in order to convict the accused. I do not know. But I would think there could be circumstances of gross negligence——

Mr. McCLELLAN. I would agree, if he is found with a gun on him under the circumstances he would be presumed to have knowledge, and the burden would shift to him to show that he had no knowledge of it.

Mr. GRIFFIN. It is conceivable that there could be negligent circumstances when a person should be held criminally responsible. I wish, myself—and I say this most respectfully—that the committee drafting the language had considered the question whether knowledge should be an element of the crime. I assume since the word "knowingly" is not there, that the committee concluded it was not necessary, especially since the penalty is only $1,000 or 1 year in jail.

Mr. McCLELLAN. I hope the Senator does not regard committees as being perfect. Otherwise we would never have any amendments on the floor to any bill. We do overlook things in committee. Sometimes technical amendments are not only necessary, they are essential.

Mr. GRIFFIN. I thank and commend the able Chairman who has been so effective in this field. However, I do regret that we appear to be in the position on the floor weakening a bill to deal with skyjacking. If anything, I would like to make it stronger.

Mr. McCLELLAN. I think we are all in accord on what we are trying to do but there are certain requirements of the law that the innocent need to be protected as well as the guilty punished.

If a person is found to be going on a plane innocently with a gun on him, and he had no knowledge that he had a gun on him, I do not think he should be held amenable to this section of the bill. I might say with respect to some of the penalties here, maybe they do not appear to be enough. But, after all, we do not get everything we want in legislation. Certainly this would have some effect and would serve, in my judgment, as a deterrent.

Mr. HRUSKA. Mr. President, may I say, as one who had a part in drafting this language, that I would have no objection to the amendment proposed, by inserting the word "knowingly." I have raised a number of questions. The purpose has been to bring out the precise impact of the bill and the precise meaning. I believe that purpose has been served. So I want to be on record as not being in opposition to the amendment.

The PRESIDING OFFICER (Mr. Nunn). The question is on agreeing to the amendment of the Senator from Maine (Mr. Hathaway).

The amendment was agreed to.

Mr. McCLELLAN. Mr. President, I know of no further amendments to be proposed to the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 872

An act to facilitate prosecutions for certain crimes and offenses committed aboard aircraft, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Aircraft Piracy Amendments of 1974".

SEC. 2. (a) Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Imparting or conveying threats

"Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by section 32 or 33 of this chapter or section 1992 of chapter 97 or section 2275 of chapter 111 of this title with an apparent determination and will to carry the threat into execution, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

(b) The analysis of chapter 2 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"36. Imparting or conveying threats.".

SEC. 3. Subsection (a) of section 1395 of title 28, United States Code, is amended by striking the period at the end of such subsection and adding the following: ", and in any proceeding to recover a civil penalty under section 35(a) of title 18 of the United States Code or section 901(c) of the Federal Aviation Act of 1958 (72 Stat. 731; 49 U.S.C. 1471 (c)), all process against any defendant or witness, otherwise not authorized under the Federal Rules of Civil Procedure, may be served in any judicial district of the United States upon an ex parte order for good cause shown."

SEC. 4. Section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471) is amended by adding at the end thereof the following new subsection:

"FALSE INFORMATION

"(c) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of section 902 of this title, shall be subject to a civil penalty of not more than $1,000 which shall be recoverable in a civil action brought in the name of the United States."

SEC. 5. Section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472) is amended as follows:

(a) Section 902(l) is amended to read as follows:

"CARRYING WEAPONS ABOARD AIRCRAFT

"(1) (1) Whoever, while aboard, or while attempting to board, any aircraft in or intended for operation in air transportation or intrastate air transportation, knowingly has on or about his person or his property a concealed deadly or dangerous weapon, explosive, or other destructive substance, or has placed, attempted to place, or attempted to have placed aboard such aircraft any property containing a concealed deadly or dangerous weapon, explosive, or other destructive substance, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(2) Whoever willfully and without regard for the safety of human life or with reckless disregard for the safety of human life, while aboard, or while attempting to board, any aircraft in or intended for operation in air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, explosive, or other destructive substance, or has placed, attempted to place, or attempted to have placed aboard such aircraft any property containing a concealed deadly or dangerous weapon, explosive, or other destructive substance shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(3) This subsection shall not apply to law enforcement officers of any municipal or State government, or the Federal Government, while acting within their official capacities and who are authorized or required within their official capacities, to carry arms, or to persons who may be authorized, under regulations issued by the Administrator, to carry concealed deadly or dangerous weapons in air transportation or intrastate air transportation; nor shall it apply to persons transporting weapons for hunting or other sporting activities, or for gun collecting, or for other lawful purposes if the presence of such weapons is publicly declared prior to the time of boarding, checked as baggage which may not be opened within the airport confines, and not transported with such person in the passenger compartment of the aircraft.".

(b) Section 902(m) is amended to read as follows:

"FALSE INFORMATION AND THREATS

"(m) (1) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a felony prohibited by subsection (i), (j), or (l) (2) of this section, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(2) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by subsection (i), (j), or (l) (2) of this section, with an apparent determination and will to carry the threat into execution, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

(c) The table of contents of the Federal Aviation Act of 1958, in the matter of title IX (subchapter IX, chapter 20 of title 49, United States Code, section 1472(m)), is amended by redesignating

"(m) False information."

to read

"(m) False information and threats.".

SEC. 6. Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking "Such" at the beginning of the second sentence of subsection (b) (1) of that section, and substituting therefor, "Except with respect to civil penalties under section 901(c) of this title, such".

SEC. 7. Section 101 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301), is amended by adding after paragraph (21) the following:

"(22) 'Intrastate air transportation' means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States.".

SEC. 8. Section 1201(a) (3) of title 18 of the United States Code is amended by striking out "(32)" and inserting in lieu thereof "(33)".

Mr. McCLELLAN. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. HRUSKA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make such technical and clerical corrections as may be necessary in the engrossment of S. 872.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAPITAL PUNISHMENT

The PRESIDING OFFICER (Mr. NUNN). Under the previous order, following the disposition of S. 872, the Senate will now proceed to the consideration of S. 1401, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1401) to establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That chapter 227 of title 18 of the United States Code is amended by adding after section 3562 a new section 3562A, to read as follows:

"§ 3562A. Sentencing for capital offenses

"(a) A person shall be subjected to the penalty of death for any offense prohibited by the laws of the United States only if a hearing is held in accordance with this section.

"(b) When a defendant is found guilty of or pleads guilty to an offense for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered shall conduct a separate sentencing hearing to determine the existence or nonexistence of the factors set forth in subsections (f), (g), and (h) for the purpose of determining the sentence to be imposed. The hearing shall not be held if the government stipulates that none of the applicable aggravating factors set forth in subsections (g) and (h) exists or that one or more of the mitigating factors set forth in subsection (f) exists. The hearing shall be conducted—

"(1) before the jury which determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury which determined the defendant's guilt has been discharged by the court for good cause; or

"(D) appeal of the original imposition of the death penalty has resulted in a remand for redetermination of sentence under this section; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the court and of the government.

"(c) In the sentencing hearing the court shall disclose to the defendant or his counsel all material contained in any presentence report, if one has been prepared, except such material as the court determines is required to be withheld for the protection of human life or for the protection of the national security. Any presentence information withheld from the defendant shall not be considered in determining the existence of the factors set forth in subsections (g) and (h) or the nonexistence of factors set forth in subsection (f). Any information relevant to any of the mitigating factors set forth in subsection (f) may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials; but the admissibility of information relevant to any of the aggravating factors set forth in subsections (g) and (h) shall be governed by the rules governing the admission of evidence at criminal trials. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the factors set forth in subsections (f), (g), and (h). The burden of establishing the existence of any of the factors set forth in subsections (g) and (h) is on the government. The burden of establishing the existence of any of the factors set forth in subsection (f) is on the defendant.

"(d) The jury or, if there is no jury, the court shall return a special verdict setting forth its findings as to the existence or nonexistence of each of the factors set forth in subsection (f) and as to the existence or nonexistence of each of the applicable factors set forth in subsections (g) and (h).

"(e) If the jury or, if there is no jury, the court finds by a preponderance of the information that one or more of the applicable factors set forth in subsections (g) and (h) exists and that none of the factors set forth in subsection (f) exists, the court shall sentence the defendant to death. If the jury, or if there is no jury, the court finds that one of the applicable aggravating factors set forth in subsections (g) and (h) exists, or finds that one or more of the mitigating factors set forth in subsection (f) exists, the court shall not sentence the defendant to death but shall impose any other sentence provided for the offense for which the defendant was convicted.

"(f) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in subsection (d) that at the time of the offense—

"(1) he was under the age of eighteen;

"(2) his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution;

"(3) he was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution;

"(4) he was a principal, as defined in section 2(a) of this title, in the offense, which was committed by another, but his participation was relatively minor, although not so minor as to constitute a defense to prosecution; or

"(5) he could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which he was convicted would cause, or would create a grave risk of causing, death to any person.

"(g) If the defendant is found guilty of or pleads guilty to an offense under section 794 or section 2381 of this title and if no mitigating factor set forth in subsection (f) is present, the court shall impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in subsection (d) that—

"(1) the defendant has been convicted of another offense under one of such sections, committed before the time of the offense, for which a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; or

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

Provided, That if the charge is under section 794(a) of this title, the sentence of death shall not be imposed unless the jury or, if there is no jury, the court further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack, war plans, communications intelligence or cryptographic information or any other major weapons system or major element of defense strategy.

"(h) If the defendant is found guilty of or pleads guilty to murder or any other offense for which the death penalty is available because death resulted and if no mitigating factor set forth in subsection (f) is present, the court shall impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in subsection (d) that—

"(1) the death or injury resulting in death occurred during the commission or attempted commission of or during the immediate flight from the commission or attempted commission of an offense under section 751 (Prisoners in custody of institution or officer), section 794 (Gathering or delivering defense information to aid foreign government), section 844(d) (Transportation of explosives in interstate commerce for certain purposes), section 844(f) (Destruction of government property by explosives), section 844(i) (Destruction of property in interstate commerce by explosives), section 1201 (Kidnaping), or section 2381 (Treason) of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i)) (Aircraft piracy);

"(2) the defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, committed either before or at the time of the offense, for which a sentence of life imprisonment or death was authorized by statute;

"(3) the defendant has previously been convicted of two or more State or Federal offenses with a penalty of more than one year imprisonment, committed on different occasions before the time of the offense, involving the infliction of serious bodily injury upon another person;

"(4) in the commission of the offense the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value; or

"(8) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, or if there is no Vice President, the officer next in order of succession to the office of the President of the United States, the Vice-President-elect, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent of a foreign nation;

"(C) a foreign official listed in section 1116(b)(1) of this title, if he is in the United States because of his official duties; or

"(D) a Justice of the Supreme Court, a Federal law-enforcement officer, or an employee of a United States penal or correctional institution, while performing his official duties or because of his status as a public servant. For purposes of this subsection a 'law-enforcement officer' is a public servant authorized by law or by a government agency to conduct or engage in the prevention, investigation, or prosecution of an offense."

SEC. 2. Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 3. Section 844(d) of title 18 of the United States Code is amended by striking therefrom the words "as provided in section 34 of this title".

SEC. 4. Section 844(f) of title 18 of the United States Code is amended by striking therefrom the words "as provided in section 34 of this title".

SEC. 5. Section 844(i) of title 18 of the United States Code is amended by striking therefrom the words "as provided in section 34 of this title".

SEC. 6. The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life."

SEC. 7. Section 1116(a) of title 18 of the United States Code is amended by striking the words "except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life".

SEC. 8. Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and if the death of any person results, shall be punished by death or life imprisonment".

SEC. 9. The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. 10. The fifth paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 11. Section 2031 of title 18 of the United States Code is amended by deleting the words "death, or".

SEC. 12. Section 2113(e) of title 18 of the United States Code is amended by striking therefrom the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof the words "or may be punished by death if death results".

Section 902(i)(1) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(i)(1)), is amended to read as follows:

"(1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished—

"(A) by imprisonment for not less than twenty years; or

"(B) if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life."

SEC. 14. The analysis of chapter 227 of title 18 of the United States Code is amended by inserting after item 3562 the following new item:

"3562A. Sentencing for capital offenses.".

SEC. 15. Chapter 235 of title 18 of the United States Code is amended by inserting immediately after section 3741 thereof the following new section:

"§ 3742. Appeal from sentence of death

"In any case in which the sentence of death is imposed after a proceeding under section 3562A of chapter 227 of this title, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Such review shall have priority over all other cases. On review of the sentence, the court of appeals shall consider the record, including the entire presentence report, if any, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the findings under section 3563A(d). If the court of appeals finds that: (1) the procedures employed in the sentencing hearing were not contrary to law, or were contrary to law only in a manner constituting harmless error, and (2) the findings under section 3562A(d) were not clearly erroneous, or were clearly erroneous but the sentence was not affected, it shall affirm the sentence. If the court of appeals finds that the procedures employed in the sentencing hearing were contrary to law in a manner not constituting harmless error, it shall set aside the sentence and remand the case for redetermination of sentence in accordance with section 3562A. If the court of appeals finds that a finding under section 3562A(d) was clearly erroneous and that the sentence was affected by such clearly erroneous finding, it shall set aside the sentence and remand the case for imposition of a sentence other than death. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.

SEC. 16. The analysis of chapter 235 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3742. Appeal from sentence of death.".

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:30 P.M.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:30 p.m. today.

There being no objection, at 12:15 p.m. the Senate took a recess until 1:30 p.m.; whereupon, the Senate reassembled when called to order by Mr. HATHAWAY.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER (Mr. NUNN) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

CAPITAL PUNISHMENT

The Senate continued with the consideration of the bill (S. 1401) to establish a rational criteria for the mandatory imposition of the sentence of death, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The pending business is S. 1401.

Mr. ROBERT C. BYRD. Is that the death penalty bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, in June of 1972, the Supreme Court handed down its decision in the case of Furman against Georgia, one of the Court's most significant decisions in recent years. It was in the Furman decision that a bare majority of the Court—five of the nine Justices—determined that the death penalty could not constitutionally be imposed as administered in the cases before it. The effect of that decision was to eliminate capital punishment throughout the country as an authorized deterrent and punishment for even the most violent and brutal crimes.

It is most important to note that the Furman decision did not declare that the death penalty itself was unconstitutional. There was no majority opinion. Each of the five Justices in the majority filed his own opinion in which none of the others joined. Justices Marshall and Brennan felt that the death penalty is per se unconstitutional. Justices Douglas, Stewart, and White were unwilling to reach that conclusion but focused on the discretion given to judge and jury under present statutes. The essence of their opinions, particularly those of Justices Stewart and White, was not that the death penalty itself was unconstitutional, but rather that it had come to be imposed so arbitrarily as to constitute cruel and unusual punishment in violation of the eighth amendment.

Mr. President, if a procedure can be devised where the death penalty will be imposed in a more rational manner, it seems clear that Justices White and Stewart would join with the minority in Furman in upholding its constitutionality.

S. 1401 is intended to provide such a procedure. It does so through its use of the two-stage trial and by specifically listing the factors that are to be considered in determining whether or not the death penalty should be imposed.

Under the bill's provisions, capital offenses are limited to treason, espionage, and offenses resulting in the death of another person. A prosecution for a capital offense would involve a two-stage trial. During the first stage, the jury would deal solely with the question of guilt and only hear evidence on that question. Only if the defendant were found guilty of the specified offense would the second stage of the trial be entered. In the second stage, the jury would then find the facts that would determine whether or not the death penalty was to be imposed.

The bill then sets out a list of "aggravating" factors and a separate list of "mitigating" factors that apply to all capital offenses. If one or more of the "aggravating" factors is found to exist and there is an absence of all the "mitigating" factors, the death penalty must be imposed. If, on the other hand, none of the "aggravating" factors is found to exist or one or more of the "mitigating" factors is present, the death penalty cannot be imposed. The "mitigating" factors are broad enough to insure that only those deserving of the death penalty would be executed. Finally, S. 1401 provides the defendant with the right to appeal to the court of appeals whenever the death penalty is imposed.

S. 1401 meets the constitutional requirements set out by the Supreme Court in the Furman decision. It is not an ideal bill. I will be the first to admit it. It is a compromise measure that represents many concessions in an effort to draft a constitutionally acceptable statute. The bill does not go as far as I would like. What it will do, however, is reestablish once again the constitutional acceptability of the death penalty and make it applicable to at least the most aggravated violent crimes. I think it is the very minimum and not the maximum of what should be enacted. It can serve as a minimum model for those States that have not yet passed legislation to reinstitute the penalty in their own jurisdictions.

I recognize that we are not only faced with the question of whether or not legislation can be drafted that will meet the requirement of Furman. We are also faced with a much more basic question—whether or not this country should have a death penalty at all.

The answer to that question becomes clearer and clearer with every new kidnaping, with every new hijacking of a plane filled with innocent people, with every new murder by the Symbionese Liberation Army, with every murder committed for hire. The death penalty must be restored if our criminal justice system is to combat effectively the ever-increasing tide of violent crimes—crimes of terror—that threaten to engulf our Nation and if the confidence of the American people in our system of justice is to be restored.

Mr. President, those who argue against the death penalty claim that it serves no useful purpose and should therefore be eliminated. Perhaps most importantly, they say that there is no proof that it deters crime.

I simply do not agree with that.

I can recall from my youth that the knowledge that I would be punished for doing wrong was indeed a deterrent. And the more severe I thought the punishment was likely to be, the less likely was it that I would misbehave. I would suggest that everyone in this Chamber has had a comparable experience.

To say that the death penalty, the severest penalty society can impose, does not deter is to say that no punishment deters—and with that I believe no one here can agree.

Some will say that the real issue is not whether the death penalty deters, but whether it deters more than life imprisonment. To me the answer to that question is obvious.

Life is our most precious possession. So long as the premeditated murderer has his life there is the chance for parole, for freedom, for escape. There is often the opportunity and the temptation for one convicted of murder or imprisoned for some crime to kill a guard or a fellow prisoner—there are many instances of such tragic occurrences. If a criminal knows that he will forfeit his own life if he commits one of the crimes enumerated in this bill, he will certainly be much less likely to commit that act than if all he had facing him was a prison sentence and eventual parole.

What better example of this do we have than the case of the man robbing a bank with a gun when the police get the drop on him. The robber is told to drop his gun or he will be killed. What does he do? If he believes he is going to be killed, he drops his gun. If the police told him to drop his gun or he would be slapped in the face, or kicked, or even put in prison, it might not be enough to stop him.

Where the criminal—the murderer—knows that he is going to pay a price for his crimes and that price is death, he will be deterred.

Mr. President, it is here that the problem exists. The criminal must be made to realize that he is going to die himself if he chooses to murderously deprive someone else of his life. If penalties are not imposed, the mere prescribing of them by law will not deter. We can be sure of that. A punishment is only going to be effective as long as it is imposed. Once it stops being applied, it loses its potency.

The death penalty is a perfect example. The last execution in this country took place in 1967—not because the country disapproved of the penalty, but out of a desire to let the Supreme Court rule on the question. In the 5 years between 1967 and 1971 the number of murders in this country rose 61 percent. More importantly, the rate of murder for every 100,000 persons rose 52 percent in that same 5-year period of time. Can anyone seriously argue that this was a mere coincidence?

Not only our law enforcement officers but even criminals themselves have told us that it was not. Very shortly after the Furman decision was handed down a bank robbery took place in New York City. Hostages were taken and threats were made. The Washington Star-News quoted one of the robbers as saying:

> I'll shoot everyone in the bank. The Supreme Court will let me get away with this. There's no death penalty. It's ridiculous. I can shoot everyone here, then throw my gun down and walk out and they can't put me in the electric chair. You have to have a death penalty, otherwise this can happen every day. [The Washington Star-News, Aug. 23, 1972, p. 1, col. 1.]

I agree completely.

Mr. President, when all is said and done, when all the talking about deterrence and retribution and incapacitation is finished, what it all boils down to is whether it is ever "just" to impose the death penalty. Can a man ever be found to have acted so viciously, so cruelly, so much like an animal as to justify society in imposing upon him the ultimate punishment? I firmly believe he can.

What other punishment is "just" for a man, found to be sane, who would stab, strangle, and mutilate eight student nurses?

What other punishment is "just" for men who would invade the home of members of a rival religious sect and shoot to death men, women, and children, after forcing a mother to watch as her three young children were drowned before her eyes?

What other punishment is "just" for a band of social misfits who would invade the homes of people they had never even met and stab and hack to death a woman 8½ months pregnant and her guests?

What other punishment is "just" for people who would force a 24-year-old woman to douse herself with gasoline so that they could turn her into a human torch and watch as she burned to death?

There are other current cases that I could cite that we would all recognize, that come within the category of those I have just described. But since some of the defendants are now in the process of being tried for their crimes I will not mention or identify them in my remarks today. But, Mr. President, pick up almost any newspaper, today, yesterday, or the day before, or pick one up tomorrow, and you can read about some of these current cases to which I am now referring.

Mr. President, human justice is not feeding and clothing such people for a few years and then returning them to society on parole to do what they wish.

People who commit crimes like these have forfeited their own right to life. They have merited the clearest statement that such inhuman action cannot and will not be tolerated and that people who perform such acts will not be allowed to do so again. Justice demands no less.

It is indeed a great tragedy that a Nation, a civilized Nation, such as ours, that offers so much to so many, needs the death penalty to protect its citizens. Althought it is sad and lamentable, there is no other course that squares with equal justice under the law. Nothing less will provide ample protection for the innocent, or insure a safe society.

Mr. President, as I conclude, I ask unanimous consent to have printed in the Record at this point the following exhibits:

A memorandum prepared by the staff of the Subcommittee on Criminal Laws and Procedures outlining the provisions of S. 1401.

Next, a letter from former Attorney General Elliot Richardson to Senator Eastland, dated October 8, 1973, expressing his support for S. 1401, as amended by the Committee on the Judiciary.

Third, a Department of Justice summary of the nine opinions rendered in the case of Furman against Georgia.

Then, I ask unanimous consent to have printed in the Record a summary of recent public opinion polls prepared by the Library of Congress, indicating that the majority of the American people favor the death penalty as a punishment for certain serious crimes.

I note, the last item to be inserted in the Record are polls showing that public sentiment in favor of the death penalty has steadily risen from 47 percent in 1970 to 59 percent in 1973, in one instance; and from 49 percent in 1971 to 57 percent in November 1972, in another poll; 42 percent were opposed in 1970, in one instance, with 11 percent undecided; and in the other case, 40 percent were opposed in 1971, and 32 percent in November 1972, with 11 percent undecided at those two times.

Obviously, these statistics indicate that in the last 3, 4, or 5 years, after the experience of a rise in the number of murders for crimes occurring during the 5-year period since the last execution in this country, the American people have sensed, however lamentable it may be, that the death penalty is essential to protecting society in this country.

As a consequence of the Supreme Court decision which I must assert again is complex, with nine Justices expressing divergent views—it becomes imperative, if we are to restore the death penalty, that we follow the guidance indicated in that decision to set up standards by which the death penalty, when imposed, will be imposed under proper guidance from the Congress. It should be applicable to all, not leaving anything in the imposition of the death penalty to the mere whim of a jury, court, or judge. It should set sound standards by which all persons charged and found guilty of such serious crimes shall be judged alike, and that equal justice will be administered to all.

There being no objection, the items were ordered to be printed in the Record, as follows:

MEMORANDUM

To: Senator McClellan.
From: Paul Summitt.
Re: S. 1401—Reinstatement of Capital Punishment as an Authorized Sentence for Certain Crimes.

It was in June of 1972 that the Supreme Court decided *Furman* v. *Georgia* (408 U.S. 238) and declared that capital punishment, *as then applied and administered* in the United States was unconstitutional. The punishment itself, then, was not declared unconstitutional—merely the manner in which it was being imposed. Crucial to the decision in this case were the opinions of Justices Stewart and White, two of the five justices making up the majority. (There was no majority opinion in the case. The five justices constituting the majority handed down five separate opinions in which none of the other justices joined.) Mr. Justice Stewart objected to the imposition of the death penalty in "so wantonly and freakishly" a manner. Mr. Justice White complained of the jury's complete discretion in imposing the penalty regardless of the circumstances of the particular case. The conclusion derived from these opinions is that, if a procedure could be devised for the imposition of capital punishment in a manner that would not be "wanton and freakish" and would not leave the jury totally unfettered in its sentencing decision, the votes of Justice Stewart and White could be joined with the minority in *Furman* to restore the death penalty as a constitutional sentence.

S. 1401, as amended by the Subcommittee, should provide a procedure that will meet the requirements set out in *Furman*, one that will be both fair to the individual and result in a rational and consistent sentencing policy. The provisions of the Subcommittee amendment are set out below:

I. CAPITAL PUNISHMENT CRIMES

Basically, S. 1401 would make those crimes under current Federal law which can be broadly characterized as treason, espionage, or murder, offenses for which the death penalty would be an available sanction. Attached is a specific list of the crimes for which the death penalty would be an authorized sentence under the bill.

II. PROCEDURE

A prosecution for treason, (espionage,) or murder would involve a "bifurcated" or two-stage trial. In the first stage, the judge or jury (depending upon the circumstances) would deal solely with the question of guilt and only hear evidence relevant to that question. Only if the defendant were found guilty of the offense would the second stage of the trial be entered. It is at this stage that the judge or jury (again depending upon the circumstances of the case) would make the factual determinations that would determine whether or not the death penalty was to be imposed.

III. AUTOMATIC APPLICATION

The bill sets out a list of "aggravating factors" with respect to the treason and espionage offenses and a separate list of "aggravating factors" with respect to the murder offenses. It also contains a list of "mitigating factors" applicable to all three crimes. If one or more of the relevant "aggravating factors" is found to exist and there is an absence of all the "mitigating factors," the death penalty *must* be imposed. If, on the other hand, either none of the "aggravating factors" is found to exist or one or more of the "mitigating factors" is found to exist, the death penalty *cannot* be imposed. The various factors are set out below.

IV. AGGRAVATING FACTORS

A. Treason and Espionage[1]

1. Defendant has been convicted of another such offense, for which a sentence of death or life imprisonment was authorized.
2. Defendant created grave risk of substantial danger to the national security.
3. Defendant created a grave risk of death to another person.

B. Murder

1. The death, or injury resulting in death, occurs during the commission, attempted commission, or flight from eight specified offenses: escape, espionage, three explosive offenses involving personal injury or property damage, kidnapping, treason, and aircraft hijacking.
2. Conviction of another offense, either State or Federal, for which the sentence of death or life imprisonment was authorized by statute.
3. Previous conviction of two or more separate offenses involving serious bodily harm.
4. Defendant created grave risk of death to another person in addition to the victim.
5. Crime was committed in an especially heinous, cruel, or depraved manner.
6. Defendant paid for the crime to be committed.
7. Defendant was paid to commit the crime.
8. The victim was the President, Vice President, or another listed Government official.

V. MITIGATING FACTORS—APPLICABLE TO ALL COVERED OFFENSES: MURDER, TREASON, AND ESPIONAGE

1. Defendant was under the age of 18 at the time of the commission of the offense.
2. Defendant's mental capacity was significantly impaired.
3. Defendant acted under unusual and substantial duress.
4. Defendant had a relatively minor part in the crime in which the killing was committed by another participant.
5. The Defendant could not reasonably have foreseen that his conduct would cause or create a great risk of causing death.

VI. APPELLATE REVIEW BY COURT OF APPEALS

If a capital punishment is imposed in a case, the death sentence shall be reviewed by the court of appeals upon appeal by the defendant. Upon review, the court of appeals shall affirm the sentence if the procedures employed below were proper (or improper, but only in a manner constituting harmless error) and the findings of aggravating factors were not clearly erroneous (or, if erroneous, the sentence was not affected by the error. E.g. If the court found that two "aggravating factors" existed, but only one actually existed, the sentence would not be affected because the death penalty is mandated by the presence of just one aggravating factor.) If the court finds that the procedures employed were erroneous to the point of being more than merely harmless error, it shall remand the case for redetermination of the sentence. Finally, if the court finds that the finding of the presence of aggravating factors was clearly erroneous and the sentence was affected thereby (e.g. no "aggravating factors" actually existed), it shall set aside the death sentence and remand the case for the imposition of a sentence other than death. The court shall state in writing the reasons for its disposition of a case.

CRIMES FOR WHICH DEATH PENALTY IMPOSABLE UNDER S. 1401

18 U.S.C. § 34—Destruction of aircraft or aircraft facilities or motor vehicles or motor vehicle facilities where death results.

18 U.S.C. § 351—Assassination or kidnapping (where death results) of members of Congress.

18 U.S.C. § 751—Escape from custody—when the defendant is convicted of murder or any other capital offense and the murder or other capital offense occurred during an escape from custody.

18 U.S.C. § 794—Gathering or delivering defense information to aid a foreign government (espionage).

18 U.S.C. § 844(d)—Transportation of explosives in interstate commerce with knowledge they will be used to injure any person or destroy any property—where death results.

18 U.S.C. § 844(f)—Malicious damage by explosives of property owned or used by the United States or any organization receiving Federal financial assistance—where death results.

18 U.S.C. § 844(i)—Malicious damage by explosives of property in interstate commerce—where death results.

18 U.S.C. § 1111—Murder in the first degree.

18 U.S.C. § 1114—Murder of certain officers and employees of the United States.

18 U.S.C. § 1116—Murder of foreign officials or official guests.

18 U.S.C. § 1201—Kidnapping—where the defendant is convicted of murder or any other offense for which the death penalty is available if death results and he committed that offense during the commission, attempted commission, or immediate flight from the commission or attempted commission of a kidnapping.

18 U.S.C. § 1716—Mailing nonmailable injurious articles where death results.

18 U.S.C. § 1751—Presidential and Vice-Presidential assassination and kidnapping (where death results).

18 U.S.C. § 1992—Wrecking or disabling trains or other railroad property where death results.

18 U.S.C. § 2113(e)—Bank robbery and incidental crimes where kidnapping occurs during the commission or flight therefrom and death results.

18 U.S.C. § 2381—Treason.

49 U.S.C. 1472(i)—Aircraft piracy where death results from the commission or attempted commission.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., October 8, 1973.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I appreciate your sending me the Subcommittee version of S. 1401, a bill "To establish rational criteria for the imposition of the sentence of death, and for other purposes."

The reported version is the result of close cooperation between the staffs of the Subcommittee on Criminal Laws and Procedures and the Department of Justice.

I fully support this legislation, and I urge prompt consideration of the bill by your committee and early passage by the Congress. I believe that, as the ultimate penalty, the death sentence is an important deterrent to the most serious crimes. Further, the legislation before you has been carefully drawn to avoid the constitutional problems cited by the Supreme Court in *Furman* v. *Georgia*, 408 U.S. 238 (1972).

I have enclosed for your information a copy of the September 28 letter to me from Senators Hart and Kennedy concerning this legislation and a copy of my reply.

Sincerely,

ELLIOT RICHARDSON,
Attorney General.

THE SUPREME COURT DECISION ON THE DEATH PENALTY

A Summary of the Opinions of the Individual Justices in Furman v. *Georgia.*

In three cases that will collectively go on the books as *Furman* v. *Georgia*, the United States Supreme Court on June 29, 1972, declared that under certain circumstances the imposition of the death penalty violates the Eighth and Fourteenth Amendments of the United States Constitution. In two of the cases the defendants were sentenced for rape; in the other case the sentence was for murder. Below is a summary of the nine separate opinions produced by this decision.

I. MAJORITY OPINIONS

Justices Marshall and Brennan felt that the imposition of the death penalty was unconstitutional under all circumstances.

A. Justice Marshall

Justice Marshall dwelt a great deal on the historical aspects of the question. He felt the legislative history of the Eighth Amendment showed that the provision was intended to prohibit cruel punishments. He went on to describe how the provision had been interpreted in the courts (emphasizing *Weems* v. *United States*, 217 U.S. 349 (1910), in which the Court "invalidated a penalty prescribed by a legislature for a particular offense") and deduced certain principles from these decisions. Citing *Trop* v. *Dulles*, 356 U.S. 86 (1958), he stated that the "most important principle" was that the Court, in assessing the constitutionality of a punishment, "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society."

Marshall discussed the faltering progress of the legislative movement to abolish the death penalty in America. He then asserted that the Eighth and Fourteenth Amendments dictated abolition of the death penalty for two separate reasons.

First, Marshall found that the death penalty accomplished no legitimate legislative purpose that could not be accomplished equally well by a lesser penalty. Justice Marshall listed six purposes "conceivably served" by the imposition of the death penalty; retribution, deterrance, prevention of repetitive criminal acts, encouragement of guilty pleas and confessions, eugenics, and economy. He found that some of these purposes (e.g., retribution) failed to justify the existence of any punishment and that the legitimate purposes of the death penalty (e.g., deterrence) were served equally well by less severe punishments.

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[1] If the Defendant is convicted of espionage, before the death sentence can be imposed, the court or jury must additionally find that the offense concerned a major weapons system or major element of defense strategy.

Second, Marsall felt that abolition of the death penalty was alternately justified by the fact that it was "morally unacceptable to the people of the United States at this time in their history." He argued that the test of whether the penalty was morally unacceptable was whether American citizens would find it so "in the light of all information presently available." He stated that the average citizen would find capital punishment "shocking to his conscience" were he aware of the following facts: first, as mentioned earlier, that the death penalty accomplished no legitimate legislative purpose; second, that the penalty was imposed discriminately against "certain identifiable classes" such as racial minorities and the poor.

B. Justice Brennan

Justice Brennan felt that the legislative and judicial history of the clause demonstrated that "the Framers concern was directed specifically to the exercise of the legislative power." He asserted that in previous decisions the Court not only adopted this view but also took the position that the clause was not limited to penalties which the Framers intended to proscribe.

Brennan, like Marshall, stated that the constitutionality of the death penalty must be assessed in terms of society's evolving standards. However, he felt that the test of whether a punishment was "cruel and unusual" was whether or not it comported with human dignity.

Brennan argued that the issue of whether a punishment comported with human dignity turned on four questions: whether it was inflicted in an arbitrary manner; whether it was unacceptable to contemporary society; and whether it accomplished any legitimate purpose that was not accomplished equally well by a less severe punishment. He said that a review of past judicial interpretations of the Eighth Amendment demonstrated that no punishment adjudged cruel and unusual was fatally offensive under a single principle; indeed, it was unlikely that any legislature would enact such a statute. He felt, however, that the four principles were interrelated and that if a punishment "seriously implicated" several of the principles, the Court would be justified in concluding that the punishment failed to comport with human dignity.

Brennan felt that the death penalty in view of its "enormity and finality" was so severe as to be degrading to human dignity. He argued that the infrequent infliction of the death penalty gave rise to a strong presumption of arbitrariness. Our system of giving judges and juries discretion as to the imposition of the penalty failed to guard against the likelihood that the penalty was being inflicted arbitrarily. Brennan felt that the growing debate on the death penalty, the decrease of crimes for which the penalty was inflicted, and the current rarity of infliction for any crime, indicated that the penalty had been virtually rejected by society. He also argued that capital punishment accomplished no legislative purpose that could not be equally well accomplished by some less severe penalty. He felt that the retributive value of the penalty was undemonstrated, and that the manner in which the penalty was "currently administered" kept it from being a superior deterrent.

Since the death penalty was inconsistent to some degree with all four principles, Brennan concluded that it failed to comport with human dignity and thus violated the Eighth and Fourteenth Amendments.

C. Justice Douglas

Justices Douglas, Stewart and White did not find the death penalty to be unconstitutional in all instances, rather, they focused upon the discretion granted judge and jury under current death penalty statutes.

Justice Douglas asserted that the Fourtenth Amendment prohibited "cruel and unusual" punishment prohibited in the Eighth Amendment regardless of whether that prohibition was carried out under the privileges and immunities clause or the due process clause.

Like Marshall and Brennan, Douglas felt that the validity of the death penalty should be assessed in terms of the evolving standards of society. He felt that the legislative history of the Eighth Amendment indicated an intent on the behalf of the framers to prohibit the selective and discriminatory imposition of any penalty.

Douglas recognized the argument, put forth by Ernest van den Haag, that if a penalty was being inflicted unequally, the process by which the penalty was inflicted should be altered rather than the penalty itself. However, Douglas seemed to feel that the Court's previous decision of *McGautha* v. *California,* 402 U.S. 183 (1971), in which the Court allowed the jury "practically untrammeled discretion" in its imposition of the death penalty precluded such an approach. The Court in *McGautha* had noted that juries in the past, when confronted by statutes requiring mandatory death sentences, had exercised a sort of *de facto* discretion by acquitting defendants they did not wish to execute.

Douglas surveyed evidence that the death penalty had been inflicted in a discriminatory manner and noted that all the defendants in the instant cases were black. He did not feel ready to assert that discrimination had played a part in the imposition of any of the sentences. Rather, he emphasized that the system provided no standards to govern the imposition of the death penalty, leaving the fate of the defendants committing such offenses to the "uncontrolled discretion of judges or juries."

He felt that a function of the cruel and unusual punishment clause was to insure the even-handed application of all penalties and that equal protection was "implicit in the ban on 'cruel and unusual' punishments."

In striking down the discretionary death penalty statutes, Douglas noted that a statutory scheme employing the death penalty might be constitutional on its face, but unconstitutional in its use. He cited the example of a mandatory death penalty, only imposed upon minorities or members of the lower classes. He concluded with the statement that he did not reach the question whether or not a mandatory death sentence would be otherwise constitutional.

D. Justice Stewart

Justice Stewart emphasized the finality of the death penalty and expressed sympathy with arguments advocating prohibition of the death penalty in all circumstances. However, he found it "unnecessary to reach the ultimate question they would decide."

Stewart cited various examples of mandatory death sentences and stated that review of death sentences under such penalties would require the court to decide whether capital punishment was unconstitutional under all circumstances. More precisely, the question would be whether "a legislature could constitutionally determine that certain criminal conduct" was "so atrocious that society's interest in deterrence and retribution" outweighed "any considerations of reform or rehabilitation of the perpetrator. . . ."

On this question Stewart felt that "empirical evidence" that an "automatic death penalty" would provide "maximum deterrence" was "inconclusive." However, he did not feel that retribution was a "constitutionally impermissible ingredient in the imposition of punishment." He noted that retribution was instinctive in man and that the channelling of that instinct in the administration of criminal justice helped to prevent certain destructive manifestations of "self-help."

In the case at hand Stewart observed that none of the death sentences imposed were mandatory. The legislature, in other words, had not determined that the imposition of the death penalty was necessary to deter the respective crimes committed. The imposition of the death sentence was "cruel" *because* it went beyond what the state legislatures determined to be necessary; it was "unusual" because the imposition of the death sentence for either of the crimes involved was infrequent. Justice Stewart further stated that the defendants were among a "capriciously selected random handful" upon whom the sentence of death had been imposed. There were many others who, though convicted of the same crimes and "just as reprehensible" as the defendants, were, nevertheless, not sentenced to death. He concluded that the Eighth and Fourteenth Amendments cannot tolerate infliction of the death penalty under legal systems that permit this unique penalty to be so wantonly and so freakishly imposed."

E. Justice White

Justice White emphasized that he was not taking the position that the imposition of the death penalty was unconstitutional in all circumstances; however, he felt that that position had been "ably argued." White addressed himself to the constitutionality of a statute which left the ultimate imposition of the sentence to judge and jury.

He noted that in the instant cases the legislature had authorized the imposition of the death penalty for murder or rape without mandating it, and that the penalty had been imposed so infrequently that the odds were now "very much against imposition and execution of the penalty with respect to any convicted murderer or rapist."

White reasoned that under these statutes the legislative will is not frustrated if the death penalty is never imposed. He also asserted that the death penalty was so infrequently imposed under the statutes before the Court that the punishment failed to satisfy any general need for retribution and, more important, ceased to function as a credible deterrent. He thus concluded that the penalty was "patently excessive." He also noted that there was "no meaningful basis for distinguishing the few cases" in which it was imposed from "the many cases" in which it was not.

White stated that "for present purposes" he accepted the "morality and utility" of punishing one person to influence another. At one point he stated that he did not feel the need to reject the death penalty "as a more effective deterrent than a lesser penalty." Later, however, he stated that it was "difficult to prove . . . that capital punishment, however administered, more effectively serves the ends of criminal law than does imprisonment."

He felt that the Eighth Amendment obligated the judiciary to review certain penalties whether legislatively approved or not. In the present case, the claims for legislative judgment were particularly inappropriate because the legislature had delegated the ultimate imposition of the death penalty to judges and juries which, in their own discretion and without violating their trust or any statutory policy, could refuse to impose the death penalty no matter what the circumstances of the crime.

II. DISSENTING OPINIONS

Justices Burger and Blackmun, while expressing personal disapproval of the death penalty, did not feel that it was appropriate for the judiciary to overrule the legislature in the present cases.

A. Chief Justice Burger

Chief Justice Burger repudiated the argument that capital punishment had always been "cruel" and that it was "unusual" as well because of infrequent use. He stated that both the legislative history and subsequent judicial interpretation of the Eighth Amendment indicated that the provision was directed at inhuman punishment "regardless of how frequently or infrequently imposed." He felt that the adjective "unusual," whatever its function, was certainly not directed at a longstanding punishment such as the death penalty.

Surveying judicial interpretation of the Eighth Amendment, Burger noted that the Court had never held a punishment to be impermissibly cruel because of a shift in social values. More important, he observed, the Court had never held "that a mode of punishment authorized by a domestic legislature was so cruel as to be fundamentally at odds with our basic notions of decency."

The Chief Justice felt that in a democracy the presumption that the legislature embodied the prevailing standards of decency could be disproven only by showing a nationwide repudiation of the death penalty. He then cited the nationwide legislative endorsement of the penalty and noted that polls on the question fell far short of showing universal condemnation.

Burger admitted that juries imposed the death sentence infrequently. However, he felt that to characterize such imposition as "freakishly" rare was "unwarranted hyperbole." He further said that the conclusion that juries imposing the death penalty were acting arbitrarily ran against the Court's past endorsement of jury responsibility and had no empirical basis. Later in the opinion he asserted that the jury's infrequent imposition of the death penalty demonstrated that body's serious attitude towards its responsibility.

Burger felt that the argument that the death penalty accomplished no legitimate purpose was invalid; just as the approval of a punishment involving extreme cruelty could not be justified on the basis of its efficacy, the disapproval of a particular punishment could not properly be predicated on its inefficacy. In any event, the Chief Justice disagreed with the majority's repudiation of retribution as a legitimate end of punishment, and noted that the question of the deterrent value of capital punishment was "beyond the pale of judicial inquiry."

Burger asserted that the majority erred in depriving judges and juries of discretion to impose the death penalty. The actual scope of the Court's ruling, which he presumed to be embodied in the "pivotal" opinions of Justices Stewart and White, would demand a rigid system of sentencing in capital cases which "if possible of achievement, cannot be regarded as a welcome change." The Chief Justice argued that the Eighth Amendment was directed towards punishments, not sentencing processes, and that the issue had been foreclosed, at any rate, by the Court's earlier decision of *McGautha* v. *California, supra*. He further asserted that legislatures would have a difficult time establishing guidelines for judges and juries in imposing of the death penalty. Such attempts had not been successful in the past, and, even if guidelines could be established, juries might well retain *de facto* discretion by returning verdicts to lesser offenses in certain cases. If the only constitutional statutory scheme remaining is one in which judges and juries are faced with a choice between imposition of the death sentence, and acquittal, Burger would have preferred that the penalty be abolished altogether.

Burger, nevertheless, was somewhat pleased that the Court's decision gave the legislatures "the opportunity, and indeed the unavoidable responsibility," to re-evaluate the question of capital punishment. He felt the legislatures are far better forums than the courts for evaluation of such an issue, since the basic questions are factual rather than legal. Though the Court went "beyond the limits of judicial power," it "fortunately" left "some room for legislative judgment."

B. Justice Blackmun

Justice Blackmun felt that the death penalty should not be overturned judicially although he would vote against its retention were he a legislator. He noted that past decisions of the Court had implicitly recognized the constitutional validity of the penalty. Blackmun also observed that in recently enacted federal statutes the death penalty had been included by the "elected representatives of the people [who are] far more conscious of the temper of the times, of the maturing of society, and of the contemporary demands for man's dignity, than are we who sit cloistered on this Court."

Blackmun felt that legislatures would reenact statutes with mandatory death penalties. Such legislation, bereft of mercy, would be "regressive" in his opinion.

C. Justice Powell

Justice Powell generally endorsed Justice Burger's comments on the qualified nature of the majority repudiation of the death penalty. Powell's opinion was directed at the majority opinions advocating abolition of the death penalty in all circumstances.

Powell felt that the legislative history of the Eighth Amendment demonstrated that it was not the intent of the framers to prohibit the death penalty. Powell admitted that the Court was not barred from examining the imposition of the death penalty on a case-by-case basis, but felt it highly inappropriate to seek "total abolition of capital punishment by judicial fiat."

He noted that the Court had tacitly approved the existence of the death penalty in a long line of decisions. While acknowledging that notions of cruel and unusual punishment do evolve, Powell felt that this fact only justified a case-by-case examination of the death penalty. To abolish the death penalty altogether was to assert that "the evolutionary process" had come "suddenly to an end."

Powell argued that judicial restraint was especially required in deciding the instant cases. The issues presented a temptation to read personal opinions into the Constitution. Furthermore, the Court decision would affect numerous federal and state statutes.

He felt that legislative action, state referenda, and jury action through the country refuted the argument that contemporary society rejected the death penalty. Furthermore, the argument that contemporary society only tolerated the death penalty because of its infrequent and discriminatory imposition was speculative. The fact that the death penalty fell more frequently on the impoverished was not due to an evil inherent in the penalty, but rather to long-standing social and economic problems. Powell felt that Justice Harlan's opinion in *McGautha* v. *California, supra*, had disposed of the majority's assertion that the death penalty should be abolished where arbitrarily and/or discriminatorily applied. Powell felt that there were other ways to attack discrimatory imposition of the death penalty and that, at any rate, the problem was no longer one of great magnitude.

Powell then rejected the argument that the death penalty, because it served no rational legislative purpose, was unconstitutional. He noted that there was no justification in the legislative or judicial history of the Eighth Amendment for the proposition that the Court could strike down a statutory punishment because it found the same purposes served by a lesser penalty, that decisions in this area lie within the special competence of the legislatures and hence are entitled to a presumption of validity, and that it was at least arguable that retribution was a legitimate aim of deterrence.

Powell asserted that the Court should not strike down a punishment unless the punishment was "greatly" or "grossly" disproportionate to the crime. He asserted that the death penalty was not a disproportionate punishment for the crime of rape, particularly when the effects of that crime on the victim were considered.

Powell felt that in foreclosing future discussions—legislative or judicial—of the death penalty, the Court was overreaching itself. A case-by-case approach, though tedious, would have been far more desirable.

D. Justice Rehnquist

Justice Rehnquist argued that the Court was overreaching itself in striking down legislatively enacted death penalties. Advocating judicial restraint, he asserted that overreaching by the judiciary interfered with the "right of the people to govern themselves." He felt it particularly important that the judiciary restrain itself, because there was no truly effective outside restraint on that body. He observed that it was better for the Judiciary to err on the side of restraint since the result, at worst, was to leave standing a duly enacted law.

[The following letter was subsequently received.]

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 9, 1973.

To: Criminal Laws Subcommittee, Attn: Mr. Thelen

From: Education and Public Welfare Division

Subject: Public Opinion surveys on the death penalty

In response to your request regarding public opinion surveys on the death penalty, we have compiled the following charts on recent Gallup Polls and Harris Surveys. We have no records of Harris Surveys on this topic before 1969.

GALLUP POLL

Question. "Are you in favor of the death penalty for persons convicted of murder?"

[In percent]

	Yes	No	No opinion
November 1972	57	32	11
March 1972	50	41	9
1971	49	40	11
1969	51	40	9
1966	42	47	11
1965	45	43	12
1960	51	36	13
1953	68	25	7

HARRIS SURVEY

Question. "Do you believe in capital punishment (death penalty) or are you opposed to it?"

[In percent]

	Believe in	Opposed	Not sure
1973	59	31	10
1970	47	42	11
1969	48	38	14

We are enclosing the original releases on most of these surveys and some newspaper articles on them in case you would like more detail.

On June 15, 1973, just a few days after the most recent general Harris Survey listed above was released, another more specialized Harris Survey on the death penalty came out. This survey (enclosed) revealed that, despite the fact that 59% of the American people believe in the death penalty, only 39%, as jurors, could say, "If guilt were proven, I would always vote guilty even though the defendant would automatically receive the death penalty". This finding suggests a reluctance to make imposition of the death penalty automatic or, similarly, a reluctance to convict if upon conviction imposition of the death penalty would be automatic.

We hope this information will be helpful to you. If we can assist you further, please let us know.

JENNIFER CLAPP.

Mr. HRUSKA. Mr. President, my mind goes back to a presentation of the same kind of case by the Senator from Arkansas (Mr. MCCLELLAN) some 3 or 4 years ago when there was before this body an amendment to a pending bill to eliminate or to abolish the death penalty. I wished then and I wish now that more of our colleagues could have heard the presentation of that case opposing abolition of the death penalty as set out by the Senator from Arkansas than the few who actually did witness the event because it was a logically presented argument. It was presented in a dramatic and effective fashion. I am confident that if more had heard that argument and considered it, they would have been impelled to the same conclusion regarding the subject as actually prevailed here in this body 4 years ago, in October 1970, when the vote was a little more than 2 to 1 against abolition of the death penalty.

Mr. President, before getting into my prepared statement, I should like to suggest that when we consider the pending legislation, the bill that is now the business of the Senate, we should remember a couple of matters and bear them in mind.

First, the occasion for this bill and the occasion for our debate today is the decision of the Supreme Court in the case of Furman against the State of Georgia rendered in 1972. That decision, however, did not hold that the death penalty was unconstitutional per se. It did not hold that the death penalty is something cruel and unusual to a degree that it violates the constitutional provision, that in America there shall be no infliction of penalties that are cruel and unusual.

The basis of the Supreme Court decision was that in the matter of sentencing, the method and the result were so freakishly seldom inflicted that in the process of sentencing there was a violation of at least two of the articles in the Constitution—articles 8 and 14. Because of the unusual fashion in which the penalty was imposed, or in which there was a failure to impose it under the circumstances and conditions which were nearly comparable or even identical, the application of the penalty, not the penalty itself, constituted cruel and unusual punishment. It is for this reason that we must conform to the standards and procedures which the Supreme Court believes must be followed in order to comply with the Federal Constitution.

Second, we should bear in mind that the pending bill pertains only to the infliction of the death penalty for Federal criminal offenses that qualify under it. It does not apply to State penalties or State judicial systems.

Mr. President, almost 1 year ago today, I introduced for myself and the distinguished senior Senator from Arkansas (Mr. MCCLELLAN) S. 1401, a bill to establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes.

During the past year alone, we have witnessed the commission of some of the most heinous and shocking crimes in our history. Early last year, the worst massacre in the history of Washington, D.C., occurred. Seven people were killed and several more injured, including 5 innocent children, in a murder of horrid proportions both for the number of killed and the process of execution. In the summer of last year, the Nation was shocked by one of the largest mass murders in our history. Twenty-seven young boys were killed in brutal murders in Texas. No one is yet certain whether all of the bodies have been accounted for.

Just recently an offender killed a pilot and security guard at Baltimore-Washington Airport in an attempted hijack of a commercial airliner. According to newspaper accounts, the hijacker intended to crash the airliner into the White House in an assassination attempt on the life of the President of the United States.

And in just the past few weeks, we have all become weary, I am sure, of reading about the raft of kidnapings that have struck the Nation. It seems as though kidnapings have almost become a daily occurrence to the consternation of the public and the Nation.

These cases cry out desperately for tough, realistic new efforts to curb lawlessness and violence. And, particularly, they underscore the need to restore the death penalty to our laws.

Mr. President, the figurative statement that "a person can get away with murder nowadays" has all too often been the case in fact. Certainly, the offenders may be apprehended and even sentenced to prison. But, in the minds of peaceful citizens, the offenders have not received the punishment they deserve. The death penalty is the only punishment that can adequately reflect society's revulsion for particularly heinous crimes. It is the only punishment that fits the crime.

Nothing can undermine more the common citizen's respect for the law than the failure to impose upon criminals the punishment they justly deserve. Justice Stewart considered the circumstance of such failure to punish offenders adequately in Furman against Georgia. He said that—

> [W]hen people begin to believe that organized society is unwilling or unable to impose upon criminal offenders the punishment they "deserve" then there are sown the seeds of anarchy—of self-help, vigilante justice, and lynch law.

S. 1401 is designed to reinstate capital punishment precisely because some crimes are so heinous as to justly merit the forfeiture of the offender's life.

Just as important, S. 1401 is intended to restore the death penalty because of its value as a deterrent. I am convinced that the death penalty can be an effective deterrent against specific crimes.

If this bill is enacted, the potential kidnaper will know that if his intended victim dies, he may die. The potential hijacker will realize that if he kills a person during the course of a hijacking, he may forfeit his own life. The man who throws a firebomb to destroy governmental property, the convict who assaults a prison guard, the person who attacks a law enforcement officer, all will know that if they take a life, they may pay with their own life.

Mr. President, I have listened to the social theorists talking about the "inhumanity" of tough punishment and have heard them question the deterrent value of the death penalty. My answer is to cite one actual case where 5 armed men held hostage about 25 employees during which time they beat, kicked, pistol-whipped and shot their victims in an apparent exercise of terror. Just for the hell of it, to put it very bluntly. In the midst of this mayhem, the victims were told by one of the criminals, and I quote:

> There's no death penalty—what do I have to lose.

Tell these victims that there is no merit in restoring the death penalty.

S. 1401, if enacted, will restore the death penalty. It will cure the constitutional defects inherent in present law as revealed by the Supreme Court in Furman against Georgia. In that case, the Court did not hold that capital punishment per se is unconstitutional. Instead, the pivoted opinions of the Court found that "as presently applied and administered" capital punishment violated the 8th amendment. The system of discretionary sentencing in capital cases failed to produce evenhanded justice.

This bill squarely meets the Supreme Court's objection and narowly limits the offenses and circumstances in which the death penalty may be imposed, with full guarantees for judicial review.

Generally, S. 1401 would make those crimes under current Federal law which can be broadly characterized as treason, espionage, or murder, offenses for which the death penalty would be an available sanction. Prosecution for such crimes would be a two-step procedure.

In the first instance, a jury would be impaneled or, if there is no jury, a judge would hear the question of guilt. In the event the defendant were found guilty of the offense, a second proceeding would be held to determine whether or not the death penalty should be imposed.

In order for the sentence of death to be imposed, the jury impaneled for the second proceeding or the judge would have to find that one or more aggravating factors are present and all of the designated mitigating factors absent. The death penalty is mandatory if one or more of the "aggravating factors" is found to exist and there is an absence of all of the "mitigating factors." If, on the other hand, either no "aggravating factor" is found to exist or one or more "mitigating factors" is found to exist, the death penalty cannot be imposed.

Under the provisions of S. 1401 the number of crimes for which the death penalty can be imposed is reduced. The possibility of this sentence will now arise only upon conviction of treason, espionage, murder, and certain extremely serious offenses, such as aircraft hijacking and kidnaping, where death results, and only when one or more of the designated aggravating circumstances and none of the specified mitigating circumstances are found to be present. Different sets of aggravating circumstances apply with respect to the two types of crimes. With respect to the national security offenses, for example, the death penalty might be imposed if the defendant knowingly created a grave risk of substantial danger to the national security. Upon conviction of murder, this sentence might be imposed if the defendant were shown to be a hired killer, if the murder occurred during a kidnaping or if the victim was the President, Vice President or certain other high Government officials or the offender was a recidivist in violent crime.

The bill also sets forth five circumstances under which imposition of the death penalty would be precluded, regardless of the existence of one or more of the specified aggravating circumstances in a particular case. It is felt that these circumstances are such as to merit more lenient treatment of a convicted defendant in those cases where they occur. Thus a convicted defendant will not suffer the death penalty: If he was under the age of 18 at the time of the crime; if his mental capacity was significantly impaired; if he was under unusual and substantial duress; if his participation in the crime was relatively minor; or if he could not reasonably have foreseen that his conduct would cause or create a great risk of causing death to another person.

Finally, as another safeguard, S. 1401 provides that the case is reviewable at the option of the defendant in the event the sanction of capital punishment is imposed in a particular case. The court would be empowered to remand the case for a second sentencing hearing on the death penalty issue in the event the procedures set forth in the bill are not complied with. Additionally, if the jury's finding of fact which was the basis for the imposition of the death penalty was "clearly erroneous," the sentence of death would be vacated and the defendant's case would then be remanded to the district court for the imposition of a life sentence or a term of years, as appropriate. In the event procedures are complied with and there is no "clearly erroneous" finding of fact, the sentence of death will be affirmed.

Mr. President, a number of arguments are used against the imposition of the death penalty. During the hearings on this subject, we heard witnesses testify as to the permanence of the penalty that is imposed, testify as to the degrading impact it has upon the conscience and upon the feelings of the public when the event is made known, and testify right down the long list of horrible mental and moral feelings that are adversely affected. But the answer to these arguments in every instance is that that permanence or punishment is also imposed upon a victim, or many victims. The same debasement of the human spirit and of the human soul results from the reading of a cold-blooded murder of an individual or 27 or 11 or 5, as the case may be. This is also a degrading proposition.

The same argument and the same answer could be given right straight up and down the line. There is a way of avoiding the death penalty, and that is to obey the commandment which says, "Thou shalt not kill." It is an old saying. It is one that not even this great body in Congress would be able to repeal. It is those arguments that we will debate during the consideration of this bill. We will review them again, and it is well that we do so.

It is my hope that the net result in this instance, when we vote on the bill, will be the same as it has been heretofore—that it will be a very substantial vote for the passage of the bill and the adoption of its substance, modified as occasion will require to meet such sensible and acceptable amendments as the Senate, in its judgment, deems wise.

Mr. President, I yield the floor.

Mr. HART. Mr. President, as the able Senator from Arkansas and the able Senator from Nebraska have indicated, we are now taking up the consideration and the possible adoption of S. 1401. This is the administration's bill to revive the Federal death penalties, which penalties presumably have been made unconstitutional by the Supreme Court decision several times referred to—the Furman case.

I rise to urge my colleagues not to take this backward step, and I hope they will join me in opposing this bill as bad legislation. It is bad legislation whether or not one believes there is any present justification for some instances of capital punishment.

As my earlier votes in this body have indicated, and as I state again, I find capital punishment unjustified, period. I have introduced bills for abolition of the Federal death penalty in previous Congresses. Before the Furman decision, I offered a bill to stay all Federal and State executions for a 2-year period, while determination was made as to whether capital punishment was unconstitutional.

Before turning to the present bill, let me make clear again that I have not changed my own view one whit that the death penalty is wrong.

We are approaching the 200th anniversary of the establishment of this Republic. I would like to think that one goal would be the permanent relegation to the museum of criminal justice that capital punishment concept, where it can take its place with other things we have relegated to those museums—mutilation by branding and trial by torture—other reminders of a less-civilized time.

This is not to question in the least the depths of the beliefs held by those who differ with my view in this matter. All of us have been outraged and sickened by brutal murders in recent years, some very widely publicized, some called to our attention by hometown papers or by letters from bereaved constituents. We also seek ways to prevent new outbreaks of terror and kidnaping and skyjacking.

I have had letters from citizens in Michigan, anguished letters, written by those who have lost loved ones in a killing. They asked me how I could possibly seek any leniency for someone who would commit so gross a crime.

My answer, Mr. President, is this: Were it possible to bring back lost loved ones by killing other human beings, I would feel differently. Were there any significant evidence that further killing deters potential murderers if they are rational enough to be deterred at all, more than life imprisonment, I would feel differently.

Were there not the danger of error, if not in some of the most recent cases, than in others—as long as human fallibility continues—I would feel differently.

If I thought we had really come down the road to the point that racial and class prejudice would not inevitably affect many decisions on which murderers shall live and which shall die—I would feel differently.

But none of these "if's" is true, in my view. Therefore, no matter how much I join in condemning brutal and often senseless acts—and how do you deter a "senseless act" Mr. President?—no matter how much I condemn them, I must also urge Americans to restrain the impulse for vengeance which can brutalize us all.

What do we know about capital punishment, Mr. President? Well, we know mistakes are made through human error and innocent men are condemned to die. There are documented instances of persons condemned and then pardoned at the last minute when it was shown that someone else actually committed the murder for which he was sentenced to die. It is not easy to document a case in America of someone clearly killed in error. Once dead, the victim loses his incentive and his ability to redress the record. So do his friends and family. But a documented case in England did lead to a posthumous pardon, for what good that was worth and to the abolition of capital punishment.

As an aside, if someone like you, Mr. President, or someone like me was sentenced to capital punishment and the sentence executed, there might be friends remaining or families of sufficient means to continue to pursue and establish the proposition that we were innocent; but the people who society elects to kill do not have that kind of family nor do they have those kinds of friends. So it is pretty tough to establish our error with regard to the fellow we kill by mistake once he is dead. We know that about capital punishment.

Second, we know that those sentenced to death have been overwhelmingly the poor, the minority member, or the unpopular. Rich, white Americans simply do not get condemned to death. It will be argued, I know, that the ordered operation of S. 1401 will eliminate the play of racial, or other invidious prejudice. It is true that the jury will no longer have complete discretion. But, in America, racial, and economic prejudices are tragically intertwined with anxiety over personal security, by both events and design. My colleagues will have to ask themselves whether they honestly believe that discriminatory imposition, in actual practice, would be eliminated under a bill where the prosecution recide charged and whether to stipulate the existence of mitigating factors or seek a finding of aggravating factors? Would it be eliminated under a bill which still lets the jury decide elusive factual determinations regarding states of mind and motive?

Finally, the act of premeditated execution by the State cannot help but corrode our efforts to teach the sanctity of life. This Nation is supposed to stand for the proposition that all human life is to be cherished—no matter what a person's background, station, creed or color. That tenet has been strained and tested often in our history. It is strained whenever we take a life without clear justification. To do so—perhaps to execute innocent men, and always to force people to play God with the lives of their fellows, is to cheapen the value of all life. If the violent events of the past decade teach anything, it is that we can afford such debasement no longer.

In light of these considerations, I believe the burden should be on those who seek to execute other people. Surely they should be required to come forth with some significant demonstration that the death penalty is needed to protect human life when all else would fail.

But those of us who oppose capital punishment need not ask our opponents for conclusive proof—as they demand of us. We need only ask for any substantial evidence that the death penalty is necessary; none can be provided.

The single source of greatest confusion in debate over capital punishment is the framing of the question of deterrence.

For undeniably, the principal reason offered in support of the bill is that it is needed to deter potential murderers.

It is obvious that people fear death, perhaps most of all, and that death is an effective deterrent. But that is simply not the right question. The pertinent inquiry is whether capital punishment has a sufficiently greater deterrent effect than life imprisonment to justify its use. In other words are there a substantial number of murderers who would be deterred by capital punishment but would not be deterred by life imprisonment? The uniformity of all the statistical studies is discussed at length in the appendix to my separate views in the committee report. The results are all the same. There is no indication the death penalty affects the rate of criminal homicide, whether we compare contiguous States of similar economic and social condition, or whether we look at a single State before and after abolition or restoration of the death penalty.

In the absence of any solid evidence, the committee report relies heavily on so-called studies made by police officers interviewing captured criminals who allegedly said they do not carry guns for fear of being executed. But these statements are ambiguous. Do they exclude the possibility that the same persons would have been deterred from carrying guns or taking life by the threat of life imprisonment if that had been the highest penalty in the State? Moreover, many of these kinds of interviewees have told seasoned correctional officials, like Warden Duffy of San Quentin, that they gave such responses to police because they thought that was what they wanted to hear.

Mr. President, the subcommittee cites an interesting example, which some of my colleagues may remember. Shortly after the Furman case, there was a holdup in the metropolitan area. One man made a dramatic threat to throw a grenade at hostages. He supposedly said:

> There is no death penalty, what do I have to lose?

Pretty dramatic, but let us think about the end of the story. He never threw the grenade. Why not? Apparently he realized he had a lot to lose—something like 20 to 30 years rotting away in prison. He did not throw it. He was deterred.

The second main reason given to justify these official killings is that there is a modern sophisticated function for the age-old desire for retribution. Some argue that only by reserving the society's more extreme penalty for particularly heinous crimes can we show our extreme revulsion and condemnation. They argue that this reinforces internalized moral restraints against commiting murder.

I agree. But it does not follow that the most extreme penalty imposed must be death. If it were a life sentence, that would show our maximum condemnation, if that were the maximum punishment society concluded should be imposed.

These, then, are the reasons why I remain firmly convinced that we should abandon the effort to revive a Federal death penalty.

Nonetheless, I realize that some of my colleagues do support retaining a narrowly-drawn death penalty, and it is to those Senators which I particularly address this portion of my remarks. Even assuming that a well-drafted bill might be capable of imposing death only in appropriate circumstances, S. 1401 is not such a bill. It is likely to produce both unjust executions, in some cases, and jury acquittals of guilty murderers, in others. Moreover, it would weaken the ability of police to rescue hostages.

The administration has tried to straddle the constitutional problem raised in Furman. There, the Supreme Court found that the jury had too much discretion in imposing death. This was the focus of the concern for two Justices regarded by most observers as the swing votes in this decision.

Accordingly, the Justice Department bill tries to restrict the jury's discretion on the one hand, while avoiding the barbarity of an absolutely mandatory death penalty regardless of mitigating conditions on the other hand.

I suggest the bill does not achieve either of these goals. How would the bill work?

The bill specifies a list of mitigating factors and aggravating factors. The jury may consider whether any exist, but the jury does not have discretion to weigh the various factors it considers. If any mitigating factor is found, death is precluded. If no mitigating factors are found, and any one aggravating factor is found, death is automatic.

S. 1401 permits consideration of only five mitigating circumstances: the offender is under 18 years of age; his participation was peripheral; his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the law is "significantly impaired;" he acted under unusual and substantial duress; or—where death actually results—the risk of death was not foreseeable.

Two groups of aggravating circumstances are enumerated.

In the case of "national security" crimes, they are that the defendant has been convicted of a similar capital crime; or knowingly created a grave risk of substantial danger to the national security; or knowingly created a grave risk of death to another person.

For other capital offenses, there must be a homicide and a finding that—

The homicide was committed in the course of committing treason, espionage, sabotage, skyjacking, kidnaping, arson, escape from custody; or

The homicide was committed in an especially "heinous, cruel or depraved manner;"

The homicide was committed for gain;

The victim was a President, Vice President, President-elect or Vice-President-elect, Supreme Court Justice, visiting head of state or high foreign official, Federal law enforcement officer—broadly defined—or Federal corrections officer, killed while performing his duties or because of his official status.

In short, the death penalty can be imposed for almost every Federal crime which now calls for the death penalty—a few have been eliminated—if any one of these aggravating factors is present. This is hardly a narrowly defined death penalty reserved for only one or two extreme classes of homicide.

Despite this rather complex and bulky system for determining who will die and who will live, S. 1401 also falls short of the flexibility needed to insure that appropriate mitigating circumstances might always be considered.

The committee states that—

> To preclude the consideration of any mitigating circumstances which might justify a lesser punishment in a particular case [would be] clearly unacceptable.

The bill's statement of mitigating factors is, on its face, fairly limited. There is little apparent room for a defendant to offer evidence of provocation, momentary passion or emotional disturbance, or a reasonable belief that his action was morally justified according to ordinary moral standards. There is some suggestion in the legislative history—specifically in former Attorney General Richardson's statement of the Justice Department position on the intent of their work product—that these factors could be considered under one of the other aggravating factors expressly listed in the statute.

In several earlier bills, some of these mitigating factors were spelled out more explicitly.

I would like to refer the manager of this bill, the senior Senator from Arkansas (Mr. McCLELLAN) to the correspondence which former Attorney General Richardson sent to the Senator from Massachusetts (Mr. KENNEDY) and myself on October 8, 1973. It appears at page 52 of the report in the appendix to my separate views. In that letter, stating the Justice Department's position on its bill, Mr. Richardson discussed the issue of what factors could be considered in mitigation. We find that at pages 55, 56, and 57.

Mr. Richardson indicated that a variety of considerations, such as alcoholic or drug intoxication, extreme provocation, severe emotional stress, and belief that the offender's conduct was morally justified, "could be found by a jury to fall within the mitigating circumstances in S. 1401 relating to impairment of capacity to appreciate the wrongfulness of conduct. I would like to ask the distinguished chairman of our subcommittee if this is his understanding, too, of the way in which section 3562A(f)(2) would operate.

Mr. McCLELLAN. Mr. President, am I correct that the Senator is referring to the language on page 14 of the bill in subparagraph (2), subsection (f), which begins on line 8 and continues through line 11 of the same page of the printed bill?

Mr. HART. The Senator is correct. It is that language that my question was directed to.

Mr. McCLELLAN. And is the Senator referring to the response that is given by former Attorney General Richardson to this language, which appears on page 6 of his letter to the distinguished Senator from Michigan and the distinguished Senator from Massachusetts, the date of which is October 8, 1973? I will read the language that I think the Senator refers to from the former Attorney General's letter:

> The language in subsection (f)(2) is not intended to connote an ongoing or chronic mental condition; it would allow the jury to find the presence of mitigating circumstance in an appropriate case where there was extreme provocation or other severe emotional stress at the time of the offense if that provacation or stress was sufficient, in the opinion of the jury, that the defendant's "capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired".

Is that the language the Senator refers to?

Mr. HART. The Senator from Arkansas refers correctly to the language, the language in the bill itself which was part of my question. And the Senator is correct in his reference just made to the language in the letter from the former Attorney General to Senator KENNEDY and me. That appears on page 56 of the committee report.

Additionally, I had included in my question the language which is contained in the former Attorney General Richardson's answer which is three pages further down in the Richardson letter under the caption "Question 6" which appears on page 57 of the committee report, which is the first sentence of the answer and reads:

> In appropriate circumstances, the quoted mitigating circumstance from S. 1 could be found by a jury to fall within the mitigating circumstance in S. 1401 relating to impairment of capacity to appreciate the wrongfulness of conduct.

Mr. McCLELLAN. Mr. President, from what the Senator read from the report, it seems to me to be the same quotation from the letter of the former Attorney General.

Mr. HART. I think the Senator from Arkansas read the language from the Richardson letter, the text of the Richardson letter having been repeated in the report. However, there is also a sentence in the Richardson letter which we find a couple of paragraphs beyond that portion of the Richardson letter from which I think the Senator from Arkansas read.

Mr. McCLELLAN. Yes; what I read from is also from his answer. The answer continues on over to the next page of the letter. Then we come to question 6. What I read was in the answer to question 5.

Mr. HART. Yes.

Mr. McCLELLAN. Mr. President, what I have already read is from his answer to question 5. The Senator now refers to the first sentence in his answer to question 6.

Mr. HART. The Senator is correct.

Mr. McCLELLAN. And that first sentence in his answer to question 6 reads:

> In appropriate circumstances, the quoted mitigating circumstance from S. 1 could be found by a jury to fall within the mitigating circumstance in S. 1401 relating to impairment of capacity to appreciate the wrongfulness of conduct.

Is that the part that the Senator thinks is pertinent?

Mr. HART. I believe, Mr. President, that if this reflects the view of our distinguished chairman as to his understanding of this particular section of the act, it will help clarify our reservations.

Mr. McCLELLAN. Mr. President, I am sure that former Attorney General Richardson—whom we all respect for his ability and dedication to duty in the performance of his official functions—reviewed this most carefully. This is an opinion which he came to in his capacity as former Attorney General. I have no reason to doubt that he gave it the correct interpretation according to his best judgment.

I am not prepared to dispute the correctness of his interpretation. Of course, if the law is enacted, whatever we interpret here would not be binding other than as a court might look to this record in trying to get some knowledge of the history of the legislation as to what we intend.

I might say to the distinguished Senator that it appears to me that this is not trying to limit this mitigating fact as to the case where a man is mentally incompetent or has a chronic lack of capacity to conform his conduct to the law. The former Attorney General is relating it to conditions, as I understand it, that are present in the attendant circumstances that have an influence on the actions that take place at the time.

That is the way I interpret it, and I think that is what the Attorney General meant to say.

Mr. HART. Mr. President, I appreciate very much the clarification that we have just had from our able chairman, the manager of the bill.

Mr. McCLELLAN. I do not claim to be any expert in this field, but I am trying to state what I think the Attorney General meant, and what I think the language of the bill means and what was intended by it.

Mr. HART. I agree; this is the meaning given to it by the Attorney General and the meaning we understand.

Mr. McCLELLAN. At least that is the meaning I understand.

Mr. HART. Mr. President, I appreciate very much the help of our able chairman.

Mr. McCLELLAN. I think he would already have a defense under present law if he were mentally incompetent. The law already provides for that. Under my interpretation of the circumstances that could well be present, this factor would not necessarily require one to have a permanent mental affliction that deprived him of his capacity to reason, and so forth.

Mr. HART. I thank the Senator from Arkansas. I am almost embarrassed, now, to go on and say that even though he has clarified that for me, there remains a fundamental question of whether any enumeration can exhaust in advance the factors which may be relevant in a given case. In Chief Justice Burger's dissenting option in Furman, he emphasized the impossibility of trying to encapsulate in a set list or formula:

> All past efforts "to identify before the fact" the cases in which the penalty is to be imposed have been "uniformly unsuccessful". 408 U.S. at 401.

Finally there is a serious possibility under this bill that someone will be executed, because of a jury finding which is erroneous. There is no requirement that the aggravating factors be proved beyond a reasonable doubt. A mere preponderance of the evidence suffices. Do we really want to execute a man or woman because of a certain consideration if we are not darn sure that consideration exists?

Mr. President for these reasons, I hope that even those Senators who feel they would support a narrow, carefully drawn bill would oppose S. 1401.

I hope those colleagues as they review this measure will consider carefully the advice of a witness at the hearings who is in favor of capital punishment and is an expert draftsman in the capital punishment area. He concluded that S. 1401 would not accomplish its professed aims and suggested that the committee "go back to the drawing boards" to see if a better bill was not possible.

If I may, Mr. President, I shall furnish the name of that witness for the RECORD later; momentarily it escapes me.

Thus, whether one is clearly opposed to capital punishment, or is unsure whether he can support it, or even if one favors a narrowly circumscribed death penalty, S. 1401 is a bad bill and should be defeated.

The witness before the subcommittee who testified as I have just commented is Prof. L. Harold Levinson.

In conclusion, Mr. President, I ask unanimous consent to have printed in the RECORD at this point a communication addressed to me, dated March 8, 1974, from the Board of Church and Society of the United Methodist Church, signed by John P. Adams, Director of the

Department of Law, Justice, and Community Relations. I also ask unanimous consent to have printed in the Record an editorial entitled "The Too Final Penalty," published in the New York Times of Tuesday, March 5, 1974.

There being no objection, the letter and the editorial were ordered to be printed in the Record, as follows:

March 8, 1974.

Dear Senator Hart: You and your staff will undoubtedly be giving close attention and careful consideration to S. 1401 in the near future. It is our understanding that this proposed legislation would provide for a mandatory death penalty for selected categories of crime under specific conditions.

The United Methodist Church, through its highest legislative body, has repeatedly voiced its opposition to capital punishment in any form or under any circumstance. In 1968, the General Conference of the church urged all states and the federal government to abolish capital punishment.

In 1972, in its most recent General Conference, the United Methodist Church stated in its Social Principles, "In the love of Christ who came to save those who are lost and vulnerable, we urge the creation of genuinely new systems of rehabilitation that will restore, preserve and nurture the humanity of the imprisoned. For the same reason, we oppose capital punishment and urge its elimination from all criminal codes."

We believe that the serious issue of capital punishment necessitates a deep moral consideration and ultimately requires our strong opposition. We ask you, therefore, to vote negatively on S. 1401 when it comes to the floor of the Senate.

Thank you for your consideration of our view.

Sincerely,

John P. Adams,
Director, Department of Law, Justice and Community Relations.

[From the New York Times, Mar. 5, 1974]

The Too Final Penalty

In approving the Administration's bill to restore the death penalty, the Senate Judiciary Committee has succumbed to President Nixon's appeal thus to attack crime "without pity." The Supreme Court argues, on the contrary, that the death penalty constitutes cruel and unusual punishment in violation of the Eighth Amendment.

In urging Congress to restore the death penalty in the case of certain Federal crimes, Mr. Nixon said: "Contrary to the views of some social theorists, I am convinced that the death penalty can be an effective deterrent against specific crimes." Testimony that contradicts Mr. Nixon, however, is far more impressive than his Presidential hunch. The National Commission on Reform of Federal Criminal Laws in 1971 recommended abolition of capital punishment. The Vatican revoked the death penalty in 1969. South Africa is virtually alone among Western industrial nations in having failed to eliminate the death penalty either by law or in practice.

When the House of Commons last year turned back the "hanging lobby's" effort to restore capital punishment, Roy Jenkins, a former Home Secretary, said: "The penalty is too final to be controlled by the frailty of human judgment." In the United States, the same scruples are illustrated by the fact that, though still permissible in many states, no execution has been carried out since 1967.

Severity of the penalty is less important as a deterrent than fear of arrest and conviction. At present, the probability of apprehension and trial is dangerously low. Effective action against crime depends on efficiency in the law-enforcement and judicial systems rather than on a return to official barbarism. Rebecca West, author of "The Meaning of Treason," has quoted a former Prime Minister in an assessment of capital punishment: "Nobody wants to be a hangman, even by the remote control." Congress would do well to consider that humane judgment before it joins Mr. Nixon in his simplistic and misleading search for law and order.

Mr. HUGHES. Mr. President, for the information of the Senate, I am about to suggest the absence of a quorum and to let it go live.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 65 Leg.]

Allen
Bayh
Burdick
Byrd, Robert C.
Dole
Griffin
Hart
Haskell
Helms
Hruska
Huddleston
Hughes
Kennedy
Magnuson
Mathias
McClellan
Metzenbaum
Montoya
Talmadge

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER (Mr. Helms). The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Abourezk
Aiken
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Byrd, Harry F., Jr.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Curtis
Domenici
Eagleton
Eastland
Ervin
Fannin
Fong
Gravel
Gurney
Hansen
Hartke
Hatfield
Hathaway
Hollings
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Mansfield
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Tower
Weicker
Williams
Young

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from California (Mr. Tunney), and the Senator from Rhode Island (Mr. Pastore) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. Cotton) and the Senator from Colorado (Mr. Dominick) are necessarily absent.

The Senator from South Carolina (Mr. Thurmond) is absent to attend the funeral of a relative.

The Senator from Arizona (Mr. Goldwater) is absent on official business.

The PRESIDING OFFICER. A quorum is present.

CAPITAL PUNISHMENT

The Senate continued with the consideration of the bill (S. 1401) to establish a rational criteria for the mandatory imposition of the sentence of death, and for other purposes.

Mr. HARTKE. Mr. President, I am unalterably opposed to the *bill now before* us which establishes the death penalty for the commission of certain crimes.

Life is our most precious possession. It must be cherished, honored, and protected at all costs. God alone gives life; in His infinite wisdom, He determines the length of that life and the means of its end. No man must tread upon the Divine prerogative, be he a murderer lurking behind the shadows of a dark street or a public executioner hiding behind the cloak of law. No man has the right to make the conscious decision to take away the life of another.

As we approach a vote on this most important piece of legislation, I cannot forget God's teaching to love our fellow man—love him for his strengths and his faults, provide understanding and a helping hand in need—for life is too precious to be taken away by other men and death is too final, too irrevocable to be willed by man. Vengeance is within the province of the Lord; it should not be a substitute for justice.

Mr. JAVITS. Mr. President, will the Senator from Iowa yield?

Mr. HUGHES. I yield to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I was so moved by what the Senator from Indiana (Mr. Hartke) said that I wish to express my deep thanks to him for that very humane sentiment that he has expressed.

Mr. President, I ask unanimous consent that Brian Conboy may have the privilege of the floor during the debate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGHES. Mr. President, the question before us today is symbolic and overriding—whether it is morally right and socially defensible for the State, under our system of criminal justice, to destroy a human life for any crime.

The legislation before us would restore the death penalty that was ruled unconstitutional by the Supreme Court in 1972.

How is it that a nation that has not suffered the brutality of a public execution for 8 years is now deliberately considering going back to the hangman's noose, the electric chair, and the gas chamber?

Primarily, public support for the restitution of the death penalty, as reflected in some public opinion polls, is a reflex response to fear.

One of the great tragedies of our time is that law-abiding citizens of this great land are spellbound from day to day by the fear of crime and violence.

The situation calls for remedial action. But what action?

Is the morbid trip back to the death penalty the right way to go to protect society from violence and to keep faith with our moral purpose as a people? Is ultimate violence the antidote for violence?

For me, the answer must be "No."

I cannot be brought to believe that the way to conquer crime in America is to revert to institutional killings in the name of justice.

It is true that I am one of those who, for deeply religious reasons, believes in the absolute sanctity of human life.

"Thou shalt not kill" is the shortest of the Ten Commandments, uncomplicated by qualification or exception. I recognize that there are other passages of Scripture that are cited to justify the death penalty.

To me, the Sixth Commandment is overriding.

It is as clear and awesomely commanding as the powerful thrust of chain lightning out of a dark summer sky.

But I oppose the restitution of capital punishment for good and sufficient reasons in addition to my basic religious conviction.

I oppose the death penalty because it demeans human society without protecting it. The weight of the evidence is that capital punishment does not deter serious crime. The weight of history is that judicial killing brutalizes the nations who practice it.

I oppose the death penalty because, as the Supreme Court has ruled, it is cruel and unusual punishment, in violation of the 8th and 14th amendments.

It is capricious and unjust in its application. It discriminates against the luckless, the poor, and the racial minorities.

As a former three-term Governor, I oppose the death penalty because it clogs and confuses the administration of justice.

Any qualified penologist will tell you that it is not the severity of the sentences that deters crime, but the swiftness and certainty of the punishment. The irrevocable nature of the death penalty inevitably results in long, costly trials and appeals.

Moreover, in the case of mandatory death sentences, the jury that deliberates guilt or innocence is burdened and slowed down by the realization that to convict is also to sentence to death.

I oppose the death penalty because it cannot undo or rectify any crime that was committed, however brutal, and because there is no road back if the convicted man is later proven innocent.

As Lafayette said:

> I shall ask for the abolition of the penalty of death until I have the infallibility of human judgment demonstrated to me.

Finally, I oppose the death penalty because it is grossly destructive of human hopes for a society more amenable to peace and less dependent on violence for the solution of its problems.

I would like to set this great issue in its proper perspective.

The question of the death penalty is not just another matter relating to the administration of criminal justice in this country—not by any means.

It is not merely a legal matter for the lawyers and corrections officials.

It is the most profound of all moral judgments for the Nation.

It is argued that we are not going all of the way in surrendering to the ultimate violence in our justice system. The death penalty is to be restored for only a few selected crimes we are told.

But once we have regressed to the point of legalizing institutional killing again, we have slunk back over the continental divide—into the dark era of barbarism from which we were so recently delivered. History offers innumerable examples of how public executions coarsen and brutalize society.

One hundred men will decide here about the legalizing of public executions—the question of life or death of their fellow human beings.

There is no middle ground, no neutral zone.

The choice is either life or death.

If we say death, then, in my judgment, we have relinquished our responsibility for moral leadership at a time when it was never more desperately needed in our own troubled country and in a violence-prone world.

Consider the state of the world at the present time and our challenge for moral leadership.

The democracies of the Western World are floundering in a period of economic chaos, political drift, and moral dilemma.

Britain, France, Italy, Germany, Belgium, the Netherlands, Denmark, and others face far worse crises than we do in this country. Japan's triumphant economic march has fallen into difficult days.

More Vietnamese have been killed in the year since the cease-fire than our country lost in 8 years of war in Indochina. The peaceful Cambodians are devastated by tragic, continuing war. Chile is undergoing an era of harsh repression and political executions. The tense situation in the Mideast remains despite the miracles of Dr. Kissinger's shuttle diplomacy.

Iowa's Dr. Norman Borlaug, father of the green revolution, predicts that as many as 20 million people may die as the result of crop failures occurring in the coming year. In Spain, there is serious political dissent and we have seen the return of the hideous medieval use of the garrote for public executions. Even in China and the Soviet Union, there are serious rumblings of political dissent and economic problems.

Never was there a more opportune time for the United States, beset with its own problems, but still the leader of the free world, to assert its moral leadership for peaceful diplomacy and humanitarian policies.

Is our response to the call for moral leadership to be a regression to public hangings?

Mr. President, I have said that the death penalty demeans society without protecting it.

Obviously, there are statistics and opinions on both sides of the question of whether or not legalized public killing is a deterrent to serious crime.

I do not want to belabor the point, but I submit that the majority of the professionals in the penal field and most of the professional studies discredit the assumption that the death penalty is an effective deterrent.

President Nixon and others hold a differing view. "Contrary to the views of some social theorists," Mr. Nixon said in a recent radio message to the Nation, "I am convinced that the death penalty can be an effective deterrent against specific crimes."

I would point out that those who believe the death penalty has failed to deter include more than some social theorists. They include wardens, judges, criminal psychiatrists, lawyers, Governors, and other public officials who have had years of close experience with the administration of justice. Prestigious study groups, such as the National Commission on Reform of Federal Criminal Laws, in 1971 have recommended the abolition of the death penalty.

It should be made clear that we are not talking about capital punishment versus no punishment at all. We are not talking about being soft on crime here today.

I know of no responsible member of either political party who takes a permissive attitude on crime.

The question is what to do about it in terms of realistic, practical problem-solving.

The bill before us to reinstate the death penalty is, in my judgment, founded primarily on an appeal to the public fear of crime. It represents a long voyage into the night of the past—an incredible retreat to a barbaric mode of punishment that has long since been professionally discredited, so far as deterring criminal acts or correcting criminal tendencies are concerned.

In general, you do not strengthen a criminal justice system simply by increasing the harshness of penalties and by limiting the discretion of judges in imposing sentences.

This all goes into the face of professional judgment and world experience. Let me repeat that any qualified penologist will tell you that it is not the severity of the sentence that deters crime but the swiftness and certainty of the punishment.

For the good of all, it is the protection of society we must rationally seek in our criminal justice system, not public vengeance against those who commit crimes.

The call to restore the death penalty is, I believe, a simplistic and illusory way to sidestep the real problems of deterrence and corrections. It may satisfy our anger to take a life for a life, but what does it solve?

In a limited context, focusing our righteous outrage on a heinous crime perpetrated against an innocent victim, a case can be made for capital punishment that seems superficially logical. An eye for an eye, a life for a life.

But objectively, and in a larger context, what good has been accomplished for the victim, the perpetrator, and society itself?

George Bernard Shaw said:

> Murder and capital punishment are not opposites that cancel one another, but similars that breed their kind.

In 1960, a New York Herald Tribune editorial stated:

> Whenever the state takes life, it cheapens life. Capital punishment panders to man's basic instincts, cloaking retribution in the mantle of the law, coloring vengeance with respectability, setting a public example for private violence.

Arthur Koestler commented, in his "Reflections on Hanging":

> Yet though easy to dismiss in reasoned argument on both moral and logical grounds, the desire for vengeance has deep, unconscious roots and is roused when we feel strong indignation or revulsion—whether the reasoning mind approves or not.
>
> Deep inside every civilized being there lurks a tiny Stone Age man, dangling a club to rob and rape, and screaming an eye for an eye. But we would rather not have that little fur-clad figure dictate the law of the land.

Mr. President, the notions of retribution that have conditioned our system of crime and punishment since the Hammurabi Code are simply no longer justifiable in light of our present understanding of human behavior.

I deeply believe that violence solves nothing, but only breeds more violence. I believe our reverence for human life—even that of the lowliest and most depraved—must transcend our atavistic passions for revenge if the human family is not going to go back to the caves.

Mr. President, as Governor of Iowa for three terms, I can speak from personal experience that life imprisonment is a real and effective alternative to capital punishment.

Capital punishment was abolished in Iowa at my request by the Iowa Legislature in 1965. An analysis of crime index offense and murder rates in States with and without capital punishment in 1970 shows Iowa at 1.9—the fourth lowest rate in the Nation.

Prior to the Supreme Court's decision in Furman against Georgia, some 14 States had abolished capital punishment. The murder rate in 10 of those States in 1970 was far below the national rate of 7.8.

Mr. President, I ask unanimous consent that this analysis of all the States be printed at this point in the RECORD.

(There being no objection, the analysis was ordered to be printed in the RECORD, as follows:)

CRIME INDEX OFFENSE AND MURDER RATES IN STATES WITH AND WITHOUT CAPITAL PUNISHMENT, 1970 [1]

Jurisdiction	Maximum penalty for murder [2]	Total crime index offenses per 100,000 [3]	Murder and nonnegligent manslaughter per 100,000 [3]
Alabama	Electrocution	1,865.4	11.7
Alaska	Life imprisonment	2,690.5	12.2
Arizona	Lethal gas	3,445.2	9.5
Arkansas	Electrocution	1,603.8	10.1
California	Lethal gas	4,307.0	6.9
Colorado	do	3,662.2	6.2
Connecticut	Electrocution	2,574.9	3.5
Delaware	Hanging	2,716.1	6.9
Florida	Electrocution	3,599.7	12.7
Georgia	do	2,206.7	15.3
Hawaii	Life imprisonment	3,396.2	3.6
Idaho	Hanging	1,785.1	4.6
Illinois	Electrocution	2,347.1	9.6
Indiana	do	2,270.5	4.8
Iowa	Life imprisonment	1,435.3	1.9
Kansas	Hanging	2,143.8	4.8
Kentucky	Electrocution	1,924.5	11.1
Louisiana	do	2,404.7	11.7
Maine	Life imprisonment	1,141.6	1.5
Maryland	Lethal gas	3,347.0	9.2
Massachusetts	Electrocution	3,004.0	3.5
Michigan	Life imprisonment	3,659.0	8.9
Minnesota	do	2,103.4	2.0
Mississippi	Lethal gas	863.4	11.5
Missouri	do	2,765.0	10.7
Montana	Hanging	1,636.8	3.2
Nebraska	Electrocution	1,517.2	3.0
Nevada	Lethal gas	3,996.2	8.8
New Hampshire	Hanging	1,192.7	2.0
New Jersey	Electrocution	2,744.2	5.7
New Mexico	Life imprisonment [4]	2,865.5	9.4
New York	do [4]	3,922.1	7.9
North Carolina	Lethal gas	1,861.4	11.1
North Dakota	Life imprisonment	846.1	.5
Ohio	Electrocution	2,376.6	6.6
Oklahoma	do	1,950.9	5.9
Oregon	Life imprisonment	2,987.3	4.6
Pennsylvania	Electrocution	1,541.3	5.3
Rhode Island	Life imprisonment [4]	2,925.8	3.2
South Carolina	Electrocution	2,066.8	14.6
South Dakota	do	1,152.1	3.8
Tennessee	do	1,888.3	8.8
Texas	do	2,705.8	11.6
Utah	Shooting or hanging	2,372.8	3.4
Vermont	Life imprisonment [4]	1,269.1	1.3
Virginia	Electrocution	2,149.2	8.4
Washington	Hanging	3,156.6	3.5
West Virginia	Life imprisonment	958.7	6.2
Wisconsin	do	1,514.4	2.0
Wyoming	Lethal gas	1,745.1	5.7
U.S. Government	Death [5]		
Total U.S. rate		2,750.5	7.8

[1] "Crime index" offenses are those considered by the FBI to afford the best indication, when taken as a whole, of the degree of significant lawlessness in the community. They are divided into crimes of violence and crimes against property. The crimes of violence are murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault. Crimes against property are burglary, larceny $50 and over, and auto theft.

[2] Except for special cases such as those listed below, all jurisdictions have abolished the mandatory death penalty for murder, leaving the decision between death or life imprisonment to the discretion of the jury or the court: Alabama—murder by a life term prisoner; Massachusetts—murder during the commission of rape; Ohio—killing a Federal or State chief of state; and Rhode Island—murder by a life term prisoner.

[3] Source: Federal Bureau of Investigation, "Uniform Crime Reports for the United States, 1970."

[4] The death penalty is retained for murder by the following States only for the special cases indicated: New Mexico—killing a police officer or prison guard acting in the line of duty, and second conviction for first degree murder (lethal gas); New York—killing a peace officer or prison employee acting in the line of duty, and murder committed by a prisoner under sentence of life imprisonment (electrocution); North Dakota—murder in the 1st degree committed by a prisoner already serving a sentence for murder in the 1st degree, and treason (hanging); Rhode Island—murder committed by a prisoner under sentence of life imprisonment (hanging); and Vermont—second conviction of murder, provided the 2 cases are not related, and 1st-degree murder of a police officer or prison guard who is on duty (electrocution).

[5] See the State in which the execution occurs; the U.S. Government does not maintain its own facilities for execution.

Mr. HUGHES. Mr. President, the dean of the New York Institute of Criminology, Donald E. Macnamara, has observed in this regard:

> The record in abolition jurisdictions, some without the death penalty for more than one hundred years, both in the United States and abroad, in which imprisonment for indeterminate or stated terms has been substituted for the penalty of death, is a clear demonstration that alternative penalties are of equal or greater protective value to society than is capital punishment.

Mr. President, the report of the Judiciary Committee on the bill we are now considering states that:

> It was necessary for the Committee to consider, in drafting a post-Furman statute, whether or not to retain the death penalty as one of society's available remedies against those who commit the most serious breaches of its laws. The Committee was faced with the basic issue of whether or not such a punishment is any longer appropriate to our society.

My reading of S. 1401 indicates that support for the proposed statute is based not so much on satisfying the constitutional requirements of Furman—which, incidentally, I do not believe it does—but, rather, on its conclusion that "capital punishment is indeed a valid and necessary social remedy against certain dangerous types of criminal offenders."

The report cites need for deterrence, need to incapacitate, need for retribution, and support of recent public opinion polls for its conclusions that "Society must do what is necessary to deter those who would break its laws and punish those who do so in an appropriate manner."

I have dealt with all of the points here cited except for the support of recent public opinion polls.

To convey my reaction to this, let me quote the statement of Adrien Duport, during the first parliamentary debate on the abolition of the death penalty in the French Constituent Assembly in 1791.

Duport cautioned:

> It is not always by a servile obedience to the demand of public opinion that legislators pass the most useful laws for their countries.

Mr. President, I have been an elective official for a good number of years and fully recognize the need to be responsive to the will of the electorate.

But, again, let us put this issue in proper perspective.

Are we to make this historic life and death decision—in opposition to our Supreme Court and the trend of the civilized nations of the world—on the basis of the most recent public opinion polls?

If we are to be this responsive to the polls, then I would suggest that we Members of Congress should pack our bags and go home, for our rating in the most recent public opinion polls is lower than the proverbial snake's belly.

This, Mr. President, is a moral decision that will affect the lives of people in our country and throughout the world for generations to come.

Public opinion polls move up and move down in response to fears and crises, but when a human life is blotted out, this is for eternity.

The executioner waits our decision.

In his concurring opinion in Furman, Mr. Justice Brennan based his judgment primarily on the thesis that the death penalty "does not comport with human dignity." Brennan pointed to the decision of the California Supreme Court in People against Anderson, that—

> The process of carrying out a verdict of death is often so degrading and brutalizing to the human spirit as to constitute psychological torture.

Justice Brennan continues:

> Death is today an unusually severe punishment, unusual in its pain, in its finality, and in its enormity. No other existing punishment is comparable to death in terms of physical and mental suffering. There is no method available that guarantees an immediate and painless death.

Mr. President, I am deeply grateful to my distinguished colleague and good friend, the senior Senator from Michigan, for including in his additional views to the report of the Judiciary Committee on S. 1401, a detailed description of exactly what manner of punishment we are being asked to impose on our fellow man.

No Member of this body should be spared the agonizing knowledge of the suffering he has been asked to sanction.

Listen to the words of men who have been face to face with the manner of death imposed by the State:

In his novel, "The Idiot," Fyodor Dostoevski, who actually faced a firing squad only to be reprieved at the last instant, described it thus:

> The chief and the worst pain may not be in the bodily suffering but in one's knowing for certain that in an hour, and then in ten minutes, and then in half a minute, and now, at the very moment, the soul will leave the body and that one will cease to be a man and that that's bound to happen; the worst part of it is that it's certain. When you lay your head down under the knife and hear the knife slide over your head, that quarter of a second is the most terrible of all.

Albert Camus has also summarized the brutalizing psychological cruelty of capital punishment:

> Execution is not simply death. It is just as different, in essence, from the privation of life as a concentration camp is from prison . . . it adds to death a rule, a public premeditation known to the future victim, an organization, in short, which is in itself a source of moral sufferings more terrible than death . . .
>
> For there to be equivalence, the death penalty would have to punish a criminal who had warned his victim of the date on which he would inflict a horrible death on him and who, from that moment onward, had confined him at his mercy for months. Such a monster is not encountered in private life.

The classic form of execution, still used by several States prior to the Furman decision, was hanging. Warden Clinton Duffy of San Quentin, a frequent witness, describes the process of hanging:

> The day before an execution the prisoner goes through a harrowing experience of being weighed, measured for length of drop to assure breaking of the neck, the size of the neck, body measurements, etc. When the trap springs he dangles at the end of the rope. There are times when the neck has not been broken and the prisoner strangles to death. His eyes pop almost out of his head, his tongue swells and protrudes from his mouth, his neck may be broken, and the rope many times takes large portions of skin and flesh from the side of the face that the noose is on. He urinates, he defecates, and droppings fall to the floor while witnesses look on, and at almost all executions one or more faint or have to be helped out of the witness room. The prisoner remains dangling from the end of the rope for from 8 to 14 minutes before the doctor, who has climbed up a small ladder and listens to his heart beat with a stethoscope, pronounces him dead. A prison guard stands at the feet of the hanged person and holds the body steady, because during the first few minutes there is usually considerable struggling in an effort to breathe.

The first major substitute for hanging was electrocution, the most widely used form of execution, before the 1972 Supreme Court decision. The prisoner's hair is cropped short, and a pants leg is slit. He or she is led—or dragged—into the death chamber, strapped securely in the chair, and electrodes are fastened to the leg and head. Then, as Warden Lawes of Sing Sing describes it:

> As the switch is thrown into its sockets there is a sputtering drone, and the body leaps as if to break the strong leather straps that hold it. Sometimes a thin gray wisp of smoke pushes itself out from under the helmet that holds the head electrode, followed by the faint odor of burning flesh. The hands turn red, then white, and the cords of the neck stand out like steel bands. After what seems an age, but is, in fact, only two minutes, during which time the initial voltage of 2,000 to 2,200 and amperage of 7 to 12 are lowered and reapplied at various intervals, the switch is pulled and the body sags and relaxes, somewhat as a very tired man would do.

A third major method of execution used in the United States was the application of lethal gas. Warden Duffy, who has seen many gassings, reports that the prisoner is strapped in a chair, the chamber is sealed, and the cyanide gas eggs are dropped into sulfuric acid. When the gas reaches the prisoner, "At first there is extreme evidence of horror, pain, strangling. The eyes pop, they turn purple, they drool. It is a horrible sight. Witnesses faint. It finally is as though he has gone to sleep."

The last execution in the United States, the gassing of Luis Jose Monge in Colorado in June of 1967, produced this eyewitness account:

> According to the official execution log, unconsciousness came more than five minutes after the cyanide splashed down into the sulphuric acid. And to those of us who watched, this five minute interlude seemed interminable. Even after unconsciousness is declared officially, the prisoner's body continues to fight for life. He coughs and groans. The lips make little pouting motions resembling the motions made by goldfish in his bowl. The head strains back and then slowly sinks down to the chest. And in Monge's case, the arms, although tightly bound to the chair, strained at the straps, and the hands clawed torturously as if the prisoner were struggling for air.

Mr. President, we are being asked to reinstate capital punishment because "society must do what it must to deter others, to incapacitate the offenders and to provide retribution." When this same argument was put to Caesar in ancient Rome, he cried out: "But, by the immortal gods! Why did you not add the recommendation that they first be scourged?"

Clarence Darrow put the question even more graphically:

> But why not do a good job of it? If you want to get rid of killings by hanging people or electrocuting them because these are so terrible, why not make a punishment that is terrible? . . . Why not boil them in oil, as they used to do? Why not burn them at the stake? Why not sew them in a bag with serpents and throw them out to sea? . . . Why not break every bone in their body on the rack, as has often been done for such serious offenses as heresy, witchcraft and adultery?

There is no such thing as being half dead. Death inflicted by the State is not painless or instantaneous.

Our vote today is a signal to the world of the true regard we as a nation have for the value and dignity of human life everywhere.

In the larger context, what spiritual damage have we done to ourselves, our civilized society, and to the hope for peace and civil order within and among nations, if we backtrack to the ancient savagery of judicial murder in our system of criminal justice?

We live in a world that has made enormous technological and scientific advancements, but that is still being drawn, as in medieval times, to the vortex of the blood bath of violence.

We look around the world and we see an unending kaleidoscope of violence—assassinations, insurgencies, insurrections, coups, juntas, dictators, suppression, jailings and executions of political dissidents, homeless refugees by the millions, innocent civilian casualties, people condemned by violence to starvation, people in our own country suffering the violence of neglect and discrimination.

Is it not possible for us, as the inheritors from our Founding Fathers of a nation of high moral purpose, to rise above the failures and savagery of the past by asserting leadership along humanitarian lines?

I deeply believe that it is possible.

But I also believe that the restoration of public executions in our country runs counter to these potential initiatives of moral leadership.

It would be an admission of national failure, a regression to the barbarism of the past, a sign to the world that we, too, believe that the only solution to violence by individual citizens is violence by the state.

In the name of God, cannot we, in a time in our world such as today, in a position of moral leadership in that world, realize that inflicting death is a symbol of taking revenge, and that an execution, by whatever means used, is a heinous death?

Every witness has said that it has not been a deterrent to crime. Cannot we, at this point in our national life, look forward instead of looking back? Cannot we, after 8 years of no capital punishment in this country, look ahead and not look back, realize we can separate the guilty from the innocent, and that we can prevent these crimes, by other means than by simply destroying and killing in the name of the Government or the name of a State?

Surely, at a time when we face so

many breaches in our political structure, when we face so many problems as this country faces today, can we not hold high the lighted torch, proclaiming that we no longer believe in the taking of life? We have gone against every law and every precept that is Biblical. We are commanded to seek for peace on Earth, to go the second mile, to turn the other cheek, but our answer has been to build bigger engines of death and destruction.

What did the Master tell us when the woman taken in adultery was brought before Him, and it was a capital crime to be punished accordingly? He looked up and said, "Let him who is without sin cast the first stone."

Today is the time. There can be no alternative. It is life or death. It is not just a matter of a few simple crimes. It is not just a matter of applying it to remove someone from society. Certainly, with the technology we have and the ability we have, we can remove such persons from society without killing them.

For killing does brutalize us. After 10 long years of war, after savagery reaching all over the world and in our own political processes, after watching our own leaders struck down in violence, and noting the effects on television, do we now have to tell this country again that we are going to resort, in the name of the State, to killing, because there is no other way to proceed, because in our day and age and time there is no other way?

In the name of God, I pray there is another way, and I ask my colleagues to join me in rejecting death, in affirming life; in rejecting vengeance, in affirming redemption.

Who can deny that the death penalty is cruel and unusual punishment?

Has anyone ever described any execution, to say that by premeditation it is not cruel and unusual punishment? Let us stand behind the Constitution, the Supreme Court and the Sixth Commandment.

Many years ago, the poet, John Donne, wrote:

> No man is an island entire of itself, every man is a piece of the continent, a part of the main . . .
>
> Any man's death diminishes me, because I am involved in mankind, and therefore never send to know for whom the bell tolls, it tolls for thee.

We have seen humankind diminished enough by the ways of violence. Let our decision be not to return to the primitive darkness, but to move forward into the light of day.

For whom the bell tolls? It tolls for us.

Mr. President, the issue cannot be avoided today, tomorrow, or whenever this vote comes. It is a vote for life or a vote for death. A vote for life is a torch for a more humane and understanding way for humanity, a symbol to the world that people can see; but, in my opinion, a vote for death is a step backward into the primitive world of the past.

Mr. McCLELLAN. Mr. President, I am moved to make one observation. It is life or death. And the question is, shall we sacrifice the lives of future victims in order to spare the life of a murderer? Yes, there is life and death involved. He who demonstrates that he has no respect for life and is willing to set himself up as a judge and a god, to wantonly take the life of his fellow man, makes that decision, and makes it with sanity, when he carries out the act. If he does it once, he will do it again.

It is easy to describe the agony of death, either by hanging or in a gas chamber. It is also easy to describe the agony of a mother, 8½ months pregnant with child, begging strangers whom she has never seen, whom she does not know, who stand over her with a dagger to take her life and that of her unborn child, begging for her life.

Yes, you can describe horrors, but shall the murderer be permitted to live and have another opportunity to commit such a horrible crime, or shall we protect society and the next innocent victim against his dastardly deed?

Innocent people are entitled to live. He who commits the act condemns himself, and the law says that if he does it, that is his penalty.

Even the Bible, if I recall correctly, condemns to the eternal punishment. It is punishment that is sanctioned. We may want to forgive but we also want to protect the innocent. They must be protected, otherwise we do not have a civilization. A society that cannot protect its people from violent death, that refuses to take the precautions which are necessary, even if it does take the life of a murderer in order to protect the innocent, invites a repetition of the dastardly act by him who is so callous as to commit it in the first instance.

Mr. BIDEN. Mr. President, will the Senator from Arkansas yield me 2 minutes?

Mr. McCLELLAN. I do not have the floor. I yield the floor to whoever has it.

Mr. HASKELL. Mr. President, I am glad to yield to the Senator from Delaware.

Mr. BIDEN. Mr. President, I have just a few comments to make. I had no intention to speak today. I was delighted there was a live quorum otherwise I would not have had the opportunity to listen to the distinguished Senator from Iowa (Mr. Hughes).

Since I am most likely to be voting with him, depending on amendments to the legislation, and after hearing his eloquent speech, I feel compelled to stand up and say why I shall be voting with him, lest I be given credit that he deserves.

I am not the man the Senator from Iowa is. The Senate will be a worse place as a consequence of his departure. There are few men whom I have met in my life who have the dignity and the conviction that he has.

I would like very much to be able to say that I am as much a Christian and as concerned as my fellow Senator from Iowa, but the reason I am going to vote with him is not that I am one who does not have that "little man" hiding in me, or one who does not feel that retribution under certain circumstances is warranted, but the horror the Senator describes could happen to an innocent person I also feel.

I do not vote today against the death penalty because I feel it is an immoral act for society to have such a penalty, as the Senator from Iowa so fervently believes, but because I am afraid it will be imposed on the wrong person, as has happened in the past.

It seems to me that if only one innocent person is spared the agony described, it is a little price for society to pay. Assuming that we in fact keep those persons incarcerated, there is always the opportunity to open up the case again and to have the innocent victim, in this case a person who is accused and convicted of a crime, eventually cleared.

From the bottom of my heart, I admire the Senator from Iowa as much as any man I ever met. It takes quite a man to be able to stand up and not only say what he said here today, but also to believe it as strongly as he does. In my short stay in the Senate so far, I shall be able to recount to my children that I was proud to have served in the Senate with the distinguished Senator from Iowa (Mr. Hughes). I only wish I had the compassion, the conviction and the concern that he does.

But, quite bluntly, I just wanted to state the reasons why I am going to vote with the Senator. Perhaps I am one of those "little men," but I am afraid of what might happen if someone were innocent and they would have the horror of dangling at the end of a rope, or anticipating it. Those are the reasons, not wishing to bare my soul in public. I do not wish to serve any other purpose. I am not going to convince anyone to vote one way or the other. I only say this so that I will not be given any credit for being a better person than I really am, when I say to the Senator from Iowa that I compliment him on the stand he has taken here today. The Senate will be less of a place as a consequence of his leaving.

Thank you, Mr. President.

Mr. HUGHES. Mr. President, I want to thank the Senator from Delaware for speaking on my behalf. I would ask primarily that the issue not be confused. No one is defending murderers here today. All of us believe they must be separated from society by one means or another. The question is, What do we do when we make a mistake?

Our hearts go out in agony to all the bereaved, the injured, and the lost.

Regardless of what happens, "Vengeance is mine, sayeth the Lord."

Mr. HASKELL. Mr. President, I have an amendment at the desk that I should like to call up, but before I do so I should like to ask unanimous consent that the vote on the amendment take place when the bill is called up as the pending business tomorrow morning, if that is satisfactory to the floor manager of the bill.

Mr. McCLELLAN. Mr. President, while reserving the right to object, I should like to hear the Senators' discussion this afternoon and then have a brief opportunity to reply tomorrow before the bill is voted on. The amendment was not printed and I did not know about it until a few minutes ago. I would like not to set the time to vote the minute we convene tomorrow, but after we have convened certainly it will not take long. I have no objection to the amendment being voted on tomorrow, but I do not want to set a definite time.

Mr. HASKELL. Mr. President, let me modify my unanimous-consent request to ask unanimous consent that the vote take place tomorrow after the distinguished Senator from Arkansas (Mr. McClellan) has had an opportunity to make such remarks as he desires.

Mr. HART. Mr. President, I should like to make inquiry of the Senator from Colorado and the Senator from Arkansas, is it fair to say that, as of now, we have not agreed on a time certain for a vote on the amendment?

The PRESIDING OFFICER (Mr. Helms). The Senator is correct.

Mr. McCLELLAN. That would be my understanding. Other Senators might want to speak to it. I am not trying to preclude anyone from speaking, of course, but the Senator from Colorado just acquainted us with his amendment a few moments ago, and I did not want to vote at a time certain tomorrow, to be determined by exhausting any comments I wished to make.

The PRESIDING OFFICER. Does the Senator from Colorado withdraw his unanimous-consent request or modify it?

Mr. HASKELL. I believe I have done so, but let me remodify it, after reviewing the comments the Senator from Michigan just made.

Mr. McCLELLAN. I should like to make the suggestion that the Senator ask permission to offer his amendment and that it not be voted on until tomorrow, without setting a time or making any reference to time, but that it be subject to being called up for a vote and discussion at any time.

Mr. HASKELL. It would be helpful, I say to the Senator from Arkansas, if we could discuss it now, and the Senator can discuss it, or any other Senator, but I want to make certain that we could take it up as the first amendment to be presented tomorrow.

Mr. McCLELLAN. But be voted on as the first amendment, without setting any time. Let it be the amendment that would be voted on first tomorrow.

The PRESIDING OFFICER. The Chair would advise that when the Senate returns tomorrow to the unfinished business under the request the amendment of the Senator from Colorado would automatically be the pending question unless an amendment is offered to it in the interim and not acted on.

Mr. McCLELLAN. That will be the pending question?

The PRESIDING OFFICER. That is correct.

Mr. McCLELLAN. But the vote will not be fixed at this time?

The PRESIDING OFFICER. That is correct.

Mr. HASKELL. Mr. President, I might ask for the yeas and nays on the amendment now.

The PRESIDING OFFICER. The amendment has not yet been presented.

Mr. HASKELL. Mr. President, I ask that the amendment, which is now at the desk, be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 15, line 3, delete "shall" and insert "may".

On page 16, line 2, delete "shall" and insert "may".

Mr. HASKELL. Mr. President, the reason I propose this amendment is that I feel vesting in a court the right to impose the death penalty is a necessary——

The PRESIDING OFFICER. The Chair dislikes to interrupt the Senator from Colorado, but we have a unanimous-consent request pending and we should at least——

Mr. HRUSKA. Mr. President, reserving the right to object, what is the request?

The PRESIDING OFFICER. The unanimous-consent request is that the vote on the amendment of the Senator from Colorado (Mr. Haskell) be put off until tomorrow.

Mr. HRUSKA. Is the amendment the pending business?

The PRESIDING OFFICER. It is pending.

Mr. HRUSKA. Mr. President, does that mean that if we conclude the debate on this amendment, no other amendments can be offered for the vote of the Senate until after the disposition of that amendment?

The PRESIDING OFFICER. That is correct, except for an amendment to the pending amendment. After the Senator from Arkansas speaks tomorrow, this amendment would be voted on.

Mr. HRUSKA. Mr. President, if we are going to have a pending amendment, and if the debate is completed on it and there is nothing further to say before we have any further business, I would say it is a delaying tactic that we should not suffer.

Mr. HASKELL. Mr. President, the reason I made the unanimous-consent request to vote on it tomorrow is not to delay, not to prevent anything from coming in between, but merely so that I can express my opinion and position now. The distinguished Senator from Arkansas can be heard. The amendment can be printed in the Record. It can be read, hopefully by Members of the Senate, who will then have a better idea of what they are voting on. So far as I am concerned, intervening matters this afternoon can certainly take place. I would not intend to stop that at all.

Mr. HRUSKA. Except that it would require unanimous consent. The Senator, worthy as he is and distinguished as he is, has 99 colleagues. Some other Senators might raise objection, and we would be stymied. We have some amendments on which we are ready to proceed.

Mr. HASKELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HASKELL. Would it not be possible for me to state my position on the amendment, then for anyone else who wished to state his position to do so, and then lay it aside and take up any other amendments the distinguished Senator from Nebraska might wish, and then tomorrow, when we reconvene, have my amendment the pending business?

The PRESIDING OFFICER. Yes; except that it would require unanimous consent to take up any other amendment except an amendment to this amendment.

Mr. HRUSKA. Mr. President, I am not going to object. I say that it is a very unusual procedure and puts the Senate in a false position. Time is somewhat of the essence, unless we are not going to go on vacation next week. Perhaps we can forgo our recess and continue the discussion. I shall not object, but I shall note that it is a rather unusual way of doing business.

The PRESIDING OFFICER. The Chair suggests that the Senator from Colorado consider requesting unanimous consent that action on his amendment be deferred until tomorrow, and that other amendments could be called up for action today.

Mr. HASKELL. Certainly. In other words, Mr. President, all I want is to have my amendment be discussed, be voted on tomorrow. So far as today is concerned, any other amendments can be taken up and voted on in the interim. Is that the Chair's suggestion?

The PRESIDING OFFICER. Yes; that is the Chair's suggestion.

Mr. McCLELLAN. Mr. President, reserving the right to object, my understanding is that this amendment becomes and is now the pending business.

The PRESIDING OFFICER. That is correct.

Mr. McCLELLAN. After discussion of it, if any other Senator wishes to offer an amendment, by the unanimous-consent request now proposed, this amendment would automatically be set aside temporarily so that the other amendment could be considered, and we would not have to make another unanimous-consent request.

The PRESIDING OFFICER. That is correct.

Mr. McCLELLAN. That is included in this request.

The PRESIDING OFFICER. That is correct.

Mr. McCLELLAN. After the discussion of this amendment, any other Senator can offer an amendment and have it acted on in the interim.

The PRESIDING OFFICER. That is correct.

Is there objection to the unanimous-consent request?

Mr. HART. Mr. President, reserving the right to object, to make it clear, the Senator from Massachusetts and I have two amendments. I have had an opportunity to discuss those two amendments very briefly with the Senator from Arkansas. I have not been able to reach Senator Kennedy. Hence, I am not in a position to make a formal request. But I inquire particularly of the Senator from Nebraska. So far as those two amendments are concerned, I would anticipate that we could act on them tomorrow. It would be my preference that we not act on either of them tonight.

I would not want my silence to be construed as an offering of our amendments tonight. That was one of the reasons I rose.

The PRESIDING OFFICER (Mr. HELMS). Is there objection? The Chair hears none, and it is so ordered.

The Senator from Colorado is recognized.

Mr. HASKELL. The bill before us proceeds to affirm the decision of Furman against the United States of America. I personally feel that under certain circumstances, and for deterrent purposes, the courts should have the capacity to impose the death penalty. I think, however, that to provide a legislative mandate which says that a court must impose the death penalty leads to some very bad results. For this reason, I have substituted "may" for "shall" and have made the imposition of the penalty a prerogative of the court. The amendment provides that the court "may" impose rather than that the court "shall" impose.

S. 1401, page 14, subsection (f), provides some very excellent criteria to determine when the death penalty cannot under any circumstances be imposed. On pages 15 and 16, however, circumstances are set forth under which the death penalty must be imposed.

I am going to give what is, I realize, a "way out" illustration, but still an illustration as to why we cannot deal with this subject mechanically. I refer to line 14 on page 16. That line provides the court with directed authority to impose the death penalty for "Destruction of Government Property by Explosives."

The bill reads that if an individual destroys Government property by explosives and death results, the death penalty must be imposed by the court.

To take a perfectly absurd situation, suppose someone destroyed a picnic table in a public park, and death resulted. Under the language of this statute, the court must impose the death sentence if there had been a prior conviction. I am sure there are other examples I could give, but this is why I think the word "shall," should be changed to "may" in order to give the court discretion. Such discretion is extremely necessary to the viability of the act.

I should like to ask the distinguished Senator from Arkansas, the manager of the bill, to consider during the evening whether he would not be able to accept my amendment tomorrow.

Mr. McCLELLAN. I respond to the distinguished Senator from Colorado by saying that I would not be able to accept it at this time. My recollection is, and I am so persuaded, that that is one of the problems that was before the Supreme Court in Furman. Under the amendment, the judge would be given unguided discretion to impose the death penalty or not on the same set of facts. The purpose of the bill is to establish criteria, with each case to be measured by the criteria.

I wonder—and I say this sincerely to the Senator—if it would not destroy the whole potency of the bill. I do not think he wants to do that. Maybe he opposes the legislation.

Mr. HASKELL. No, I do not.

Mr. McCLELLAN. The point I make is that I want to use some care in agreeing to amendments or discussing amendments. That is why I am perfectly willing to let the amendment go over until tomorrow for a vote.

Mr. HASKELL. I would point out that the Furman decision is really a difficult one to understand what the Court did decide, because there are so many different opinions.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. HASKELL. I yield.

Mr. NUNN. I wish to ask the Senator about the example he gave about explosives, and someone being killed by an explosive set off on a picnic table.

First of all, there would have to be a conviction of murder; and if there was such a determination, there would have to be a separate determination of either aggravating circumstances or mitigating circumstances.

Am I correct in that?

Mr. McCLELLAN. The Senator is correct. Then, we go to the mitigating circumstances and aggravating circumstances to determine whether a death penalty should be imposed.

Mr. NUNN. Under the example the Senator from Colorado gave, it would be difficult for me to conceive there being a conviction for murder in the first place by the very definition of murder. If there had been no intent to kill anyone as a result of the explosive under the picnic table, then the conviction for murder can be set aside because there was no malice of forethought.

I ask the Senator if he is presuming that the murder definition would still stand and after the conviction of murder whether there were mitigating circumstances.

Mr. HASKELL. As I read the bill, the mere death resulting from destruction of Government property was sufficient so that the court would have to impose the death penalty. If I have read the bill incorrectly, I would be happy to be corrected.

Mr. NUNN. Perhaps one of the committee members could clarify that, but as I read the bill the circumstances the Senator referred to will be appropriate but I think there would first of all have to be an adjudication of guilt for murder before we would get to the question of how the circumstances took place and if there is no intent to kill they would never get to the point of determining that question. I would think that voluntary manslaughter would be an offense for that example.

Mr. HASKELL. I think the Senator from Georgia has pointed something out that is very worthwhile. I will be glad to look at the bill this evening with that in mind to see whether his interpretation, at least in my opinion, is correct. But in any event, it seems the human element of discretion must be in the bill. But the Senator brought up a very good point and I will look at it tonight.

Mr. President, I yield the floor. I have nothing further at this time.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. HASKELL. I certainly will.

Mr. HRUSKA. It is my understanding that on page 14 of the bill, in line 3, the Senator proposes to change the word "shall" to "may."

Mr. HASKELL. No. It is on page 15, line 3, and on page 16, line 2.

Mr. HRUSKA. Yes. May I read from the report of the committee on page 6, the language of Mr. Justice White who objected to the present laws and the situation as it now exits. The report reads as follows:

> Mr. Justice White objected specifically to—
>
> The recurring practice of delegating the sentencing authority to the jury and the fact that a jury in its own discretion and without violating its trust or any statutory policy may refuse to impose the death penalty no matter what the circumstances of the crime.

That is the basis on which Justice White felt the present penalty to be unconstitutional.

Going to the bottom of the page in the ninth line from the bottom we read what the Chief Justice said on that proposition:

> The decisive grievance of the opinions—not translated into Eighth Amendment terms—is that the present system of discretionary sentencing in capital cases has failed to produce even-handed justice; the problem is not that too few have been sentenced to die, but that the selection process has followed no rational pattern.

My concern with the Senator's proposed amendment is that we get right into that area of no rational pattern and that it would be fatally unconstitutional for that reason. There would be no even-handed justice. One jury under very heinous circumstances would say, "No, we will not punish him, in our discretion." For a like-heinous offense that jury or another jury might say, "Yes, we shall." There we fall into areas of objection, in the opinion of the Supreme Court.

Mr. HASKELL. First, my amendment does not affect the jury finding in any way. The distinguished Senator read Mr. Justice White's opinion, which refers to the jury finding. Second, with my amendment there are standards in the bill which will not permit the death penalty; there are standards in the bill which will permit the penalty. The distinguished Senator was a chief sponsor of S. 1, the Revised Criminal Code, which was introduced after the Furman decision. S. 1 has a death penalty, which just sets up standards and these standards are even less structured than the standards in this bill. The standards in this bill are far more structured than those set forth in S. 1.

My amendment keeps the standards. It merely provides that in imposing the death penalty, assuming a standard has been reached, the judge has discretion whether to do so or not. He cannot impose the death penalty unless a standard is met.

Furthermore, on page 14 of the distinguished Senator's bill there are circumstances under which he would have absolutely no discretion to impose the death penalty whatever.

So I submit to the Senator that the standards are there and meet the constitutional thrust of the Supreme Court decision.

Mr. HRUSKA. Except the Supreme Court did not think so.

Mr. HASKELL. Then I would have to say the Supreme Court would not think S. 1 would be constitutional.

I say to the distinguished Senator from Nebraska it is awfully hard to know what the Supreme Court said. But my reading was that the Chief Justice said if some standards are set up to be followed, then the constitutional test is met. But frankly I think we will have to have another decision by the Supreme Court to determine the final outcome of the controversy.

Mr. HRUSKA. First, it is with the sentencing that Justice White found fault; it is not the jury verdict; it is the sentencing. On page 16 we are dealing with sentences.

Mr. HASKELL. After the jury has made a definitive finding.

Mr. HRUSKA. In either case. In the opinion as well as here it is the imposition of the sentence which is discretionary and if it is discretionary it is fatally defective under the Constitution.

Mr. HASKELL. This is a different reading than the Supreme Court decision.

Mr. HRUSKA. Well, I thought I would call the Senator's attention to that. I shall be glad to study it overnight. I hope the Senator will do likewise.

Mr. HASKELL. I certainly will.

Mr. NUNN. Mr. President, will the Senator yield for an observation?

Mr. HASKELL. I yield.

Mr. NUNN. Pursuant to the previous colloquy relating to the hypothetical example, as I read page 15, section (h), of the bill, it states that—

> If the defendant is found guilty of or pleads guilty to murder or any other offense for which the death penalty is available because death resulted and if no mitigating factor set forth in subsection (f) is present . . .

And then it goes on to say that if any of these special circumstances are found, there shall be a death penalty.

That is the provision, I believe, that relates to prisoners in custody or transportation of explosives in interstate commerce or destruction of Government property by explosives.

I believe the Senator would have to look at the definition of "murder" because that adjudication would have had to have taken place, meaning that there would have had to be some malice, certainly as a part of the death or the murder, before we could ever arrive at the point whether one of the aggravating circumstances was the transportation of explosives.

Mr. HASKELL. I would agree with the Senator from Georgia, who pointed this out to me. Then we would have to find out whether it was murder in the first degree or murder in the second degree or what type of offense we were dealing with under law, and then to impose the death penalty there would have to be one of the factors contained on page 15.

Mr. NUNN. To get a definition under the Federal code I think probably would be a pretty good answer to that.

Mr. HUGHES. Mr. President, I would like to bring up a point that crosses my mind. The Senator from Iowa knows this is an attempt to structure the law so that it affects punishment which may be rendered by a court or by a jury, but as I understand the Constitution and the process of executive clemency, having been a Governor when executive clemency appeals were made to me as Governor, I understand executive clemency is available even if this bill becomes the law of the land.

What I would like to point out to this body is that the very decision they are trying to reach could be nullified by the election of a particular President, because if the Senator from Iowa were elected President, there would be no executions in this land during that term, and if another man were elected under certain conditions, every man brought forward would be executed just as certainly.

So the final applicability of the law would be determined on the basis of executive clemency in respect to the question of execution. This itself shows the fallacy of the application of the argument of the equal protection of the law. I think Members of this body should bear that in mind in determining that this is not infallible, regardless of what we do.

Mr. NUNN. Mr. President, I would first like to join the Senator from Delaware (Mr. BIDEN) in his laudatory comments about the Senator from Iowa. I was not here when the Senator from Iowa made his presentation, and I wish I had been here, because I have the greatest respect for him as a person and as a U.S. Senator. I do not come to the same conclusion he does on this legislation, but I have total respect for his sincerity and judgment in coming to that conclusion.

I would like to commend the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Nebraska (Mr. HRUSKA), and the other Senators who worked so hard on this legislation.

I would also have to admit that there is never going to be any perfect legislation in this difficult area, but I feel there is one part of this particular legislation that perhaps will not be discussed very much that I think is very, very important, and that is the portion that really, in effect, says any appeal on the question of a death sentence to the court of appeals shall have priority over all other appeals.

I believe when we are talking about capital punishment or the death penalty, we really have to distinguish as to whether we are talking about punishment as such or we really have to distinguish as to whether we are talking about deterrence. I happen to be one of those who can understand most of the arguments being made against capital punishment. At the same time, I have to conclude that our civilization has not reached the point of sophistication where we can really afford to be without it, so I am in favor of this legislation.

Nevertheless, I think all of us would have to search our souls as to whether we favor this legislation if we felt the delay in the adjudication of the final judgment in capital cases is going to continue as it has in the past.

I would submit that if it takes 7 or 8 years from the time a jury or judge pronounces sentence on most of the capital cases for the appellate process to work its course, then, in effect, we do not have a deterrent for punishment. I do not think we can justify capital punishment as punishment unless we are going to deter others from committing other similar horrible crimes.

So I commend the Senator from Arkansas, the Senator from Nebraska, and the other Senators who worked on this bill for putting in this accelerated appeal process which, hopefully, will enable us to begin to reach the point in capital cases, and perhaps later in other cases, where there is some connection between the crime and the punishment, not only in the minds of the defendants who have committed the crimes, but in letting the public observe that process. When it takes 7 or 8 years for the final capital punishment to be meted out, most of the persons observing the process cannot even remember what the crime was that the man is being punished for.

So I think, unless we can accelerate the judicial process, unless we can think of other ways to make sure there is a connection between the crime and the punishment, then indeed we cannot justify this or any other capital punishment law. So I do feel that all of us perhaps have no more important task than to find this way and other ways to speed up the process. I read, not many months ago, that in England it takes something like one-fourth of the time from the time of conviction until the time of final adjudication.

So, then, in these cases, we have indeed lost the deterrent power of our criminal law system, and I hope this body can deal with this question, not only in capital cases, but in other cases, so we can begin to restore, not only in capital cases but all other cases, the deterrent power of the criminal system. I do submit to this body that we do not have that deterrent power now. I believe, as one Senator, this is one of the reasons why we have so many horrible crimes in this Nation.

Mr. President, I have a more complete statement which I now wish to make.

Mr. President, I wish to commend the distinguished Senator from Arkansas (Mr. MCCLELLAN) and the other members of the Judiciary Committee for their efforts in reporting S. 1401 which establishes rational criteria for the mandatory imposition of the death sentence.

I am personally convinced that the death penalty can be an effective deterrent against certain specific crimes. However, after the 1972 decision of *Furman v. Georgia*, 408 U.S. 238 (1972), it appears that death penalty provisions in existing Federal laws have been invalidated. This court opinion, decided by a 5 to 4 vote, held that it was a violation of the 8th and 14th amendments to allow a judge or jury unbridled discretion to impose the death sentence. Only two of the nine Justices argued that the death sentence is absolutely prohibited by the Constitution.

S. 1401 is intended to meet the constitutional requirements set forth by the Supreme Court by providing reasonable and definite standards for imposing a capital sentence.

First, the trial court would hold a hearing to determine a defendant's guilt or innocence. A defendant who is convicted of murder, treason, espionage, and certain other serious crimes causing death, such as kidnaping and skyjacking, would then be given a separate sentencing hearing.

The sentencing proceeding would determine whether mitigating or aggravating circumstances exist. If the court finds that one or more aggravating factors are present, and that there are no mitigating circumstances, then it is mandatory that the death sentence be imposed. However, if any mitigating circumstances exist, the death penalty may not be imposed despite the existence of aggravating circumstances.

Mitigating factors include: The defendants' being under 18 years of age at the time of the crime; significant impairment of mental capacity; unusual and substantial duress; relatively minor participation by the defendant in the crime; and the defendant's being unable to reasonably foresee that his conduct would cause or create a grave risk of death to any person.

The bill clearly specifies aggravating factors. When the defendant has been convicted of murder, these factors include that the homicide occurred during an attempt to escape from custody; or to obtain or deliver classified defense information to aid a foreign government; or while transporting explosives in interstate commerce; or the destruction of Government property or property in interstate commerce by explosives; or relating to treason, aircraft piracy or kidnaping. It would also be considered an aggravating factor if: The defendant had been previously convicted of an offense resulting in the death of a person and for which a sentence of life imprisonment or death was authorized by statute; or if he had been previously convicted of one or more felonies involving the infliction of serious bodily harm; or if he knowingly created a grave risk of death to another person in addition to the victim; or if he committed the offense in an especially heinous, cruel, or depraved manner; or if he were paid or paid another to commit the offense; or if the victim is the President or Vice President, a Supreme Court Justice, a foreign chief of state or official, or a Federal law-enforcement official engaged in performing his official duties.

In addition, there are specific aggravating circumstances set forth in the bill relating to convictions for treason and other national security crimes.

This legislation also provided that a defendant may appeal his death sentence to the Federal Court of Appeals and that his appeal shall have priority over all other appeals.

It should be remembered that in the wake of the Furman case at least 15 States have enacted new State laws designed to overcome the Court's objections to earlier laws allowing capital punishment. Nine of these fifteen, including the State of Georgia, have adopted a two-part trial procedure whereby a first proceeding determines the guilt or innocence of the accused and a second proceeding determines the sentence to be imposed.

There is good reason for these States' actions, and for the passage of the pending bill by the Congress. Our peaceful citizens must be protected from violent and heinous crimes. We are all aware of the wave of kidnapings which have been reported in the national press in recent weeks, and it is a rare day that one does not read of a serious crime in the daily newspaper. Few Americans can feel completely safe from being the victim of a violent crime. Indeed, one of the most distinguished and respected Members of this body was brutally attacked and nearly lost his life at his own home.

Recent statistics from the Federal Bureau of Investigation show that the crime rate has increased at a rate of 57 percent on a national scale since 1967. Violent crimes, such as murder, forcible rape, aggravated assault, and robbery, have increased 67 percent on a national scale since 1967. In my own State of Georgia, the latest figures show a crime rate per 100,000 inhabitants of 2,468.9, which includes 377.6 in the violent crime area. The city of Atlanta shows a crime rate per 100,000 inhabitants of 4,024.5, including 553.9 of the violent nature. In 1973 the city of Atlanta experienced an 83-percent increase in the incidence of rape over 1972. The city incurred a 35-percent increase in robbery over the same period; a 24-percent increase in assault. In 1964, there were 106 homicides in Atlanta; in 1973, this number had grown to 263. With the exception of homicide, of which there were four less cases in January 1974, the incidence of violent crimes in Atlanta has shown an increase as compared to January 1973.

While I agree with those who argue that capital punishment should not be imposed lightly, I strongly believe that our citizens will be far less often the victims of serious crimes due to the deterrent value of the death penalty if we pass the present bill.

I wish that the day had arrived when it would no longer be necessary to employ capital punishment. Unfortunately, this time has not come and thousands of Americans are still the innocent victims of brutal and unnecessary lawlessness. In supporting and cosponsoring S. 1401, I do so with the belief that many of tomorrow's potential victims will be spared from violence and perhaps death because the latent criminal is effectively dissuaded from his otherwise violent and dangerous conduct since he is aware of the clear likelihood that he may receive the death sentence when apprehended. To have this deterrent effect, however, our judicial system, aided by any necessary legislation, must see that justice is done quickly. In the past, our criminal justice system has frequently become backlogged and a felon's punishment has been far removed from his trial and sentencing.

The criminal must be tried and sentenced, and the sentence must be carried out in a relatively short period of time. I am not advocating that a criminal defendant receive a summary trial. What I am supporting is a just and speedy trial followed by the swift execution of the death sentence if this is imposed by the court. Deterrence has little effect if the convicted capital felon lingers in prison for 7 or 8 years before the sentence is carried out. The person who commits a capital crime, as well as the public at large, must be able to readily associate the unlawful actions with the punishment if the capital sentence is to have a substantial deterrent value. I believe that the provisions in S. 1401 relating to an expedited appeal procedure from the death sentence will be a significant improvement in insuring that justice is done swiftly.

While much more must be done to expedite the criminal process, particularly in capital cases, at least this is a beginning.

Mr. HASKELL. Mr. President, I believe I omitted to ask for the yeas and nays on my amendment. May I ask for them now?

The PRESIDING OFFICER. There is not a sufficient second.

The yeas and nays were not ordered.

Mr. HRUSKA. Mr. President, I send an amendment to the desk and ask for its immediate consideration, and I ask unanimous consent to set aside the pending question for a long enough time to achieve that purpose.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

On Page 22, add a new section 17.

"SEC. 17. The provision of Sections 3562A and 3742 of this title shall not apply to prosecution under the Uniform Code of Military Justice (10 U.S.C. 801).

Mr. HRUSKA. Mr. President, the amendment is offered to clarify a potential ambiguity which is presented by the language of the bill.

I may say in advance that I discussed this amendment with the chairman of our subcommittee, who will, in due time, speak his judgment upon it.

There has arisen the question of the impact of S. 1401 on the Uniform Code of Military Justice. It was clearly the intent of the Committee on the Judiciary to leave the Military Code undisturbed. This amendment is intended to clarify that intent.

Under the Uniform Code of Military Justice the President generally is empowerd to prescribe regulations setting forth the penalty levels to be utilized in prosecutions under the Code.

With respect to any crimes where the death penalty is to be an available sanction, however, specific legislative authorization is required. There are currently about 10 such provisions in the Code of Military Justice, which authorize the imposition of the sentence of death. Any questions with respect to the death penalty in the military context deserve separate consideration and are best left to another day, and perhaps another method, and another fashion.

This approach has a long tradition in Federal law and has not met with any resistance from congressional quarters.

It would, therefore, not be desirable to have the instant measure carry any potential for disturbing this current scheme of things.

Mr. President, it is for that reason that I have offerd the amendment.

Mr. President, I have cleared this amendment with the chairman of the subcommittee. I yield to him at this time.

Mr. McCLELLAN. Mr. President, I ask the Senator from Nebraska again if this is what could be termed a clarifying amendment to make certain to establish that this bill is not intended to interfere with, repeal, modify, or in any way to change the existing military justice law.

Mr. HRUSKA. The Senator is correct.

Mr. McCLELLAN. That is the purpose of this amendment, to make that very clear in this legislation.

Mr. HRUSKA. The Senator is correct.

Mr. McCLELLAN. I have no objection to the amendment. I think that it should be accepted.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask the Senator from Nebraska, the sponsor of the amendment, if I correctly understand that this amendment would have absolutely no impact on the Uniform Code of Military Justice. Is that correct?

Mr. HRUSKA. The Senator is correct.

Mr. KENNEDY. That is the only purpose?

Mr. HRUSKA. That is the only purpose of the amendment It reflects the historical pattern that has been established in considering military law proceedings separate from the criminal law to which all citizens are subject.

Mr. KENNEDY. Mr. President, I appreciate the explanation of the Senator from Nebraska.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska (putting the question).

The amendment was agreed to.

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLELLAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HRUSKA. Mr. President, I ask unanimous consent that there be printed at this point in the Record an article from the Philadelphia Inquirer under date of March 12, 1974. The article is entitled "Death Penalty Passes." It is written by William Ecenbarger, for the Inquirer, Harrisburg bureau. It pertains to an act of the Commonwealth of Pennsylvania and illustrates another instance where the people believe that the death penalty should be reinstated.

I make this request, Mr. President, at the instance of the leader for the majority.

There being no objection, the article was ordered to be printed in the Record, as follows:

Death Penalty Passes

(By William Ecenbarger)

Harrisburg.—The Senate gave final legislative approval Monday to a bill restoring the death penalty in Pennsylvania, but Gov. Milton J. Shapp was undecided on whether to sign it into law.

The measure, approved without debate on a 44–44 vote, prescribes capital punishment for nine specific types of intentional murder. Persons convicted of these crimes would be executed unless they could prove that certain "mitigating circumstances" had existed.

Ricrard Doran, special assistant to the governor, said Shapp wanted to study the legislation thoroughly before deciding whether to sign it.

A veto by Shapp would make capital punishment an issue in this year's gubernatorial campaign. Drew Lewis, his probable Republican opponent, has supported the bill.

Moreover, there appears to be sufficient support to override a Shapp veto.

There has been no death penalty in Pennsylvania since June 1972, when the U.S. Supreme Court struck down most state capital-punishment laws because, it said, they had been unfairly administered. There were 27 Pennsylvanians under the death sentence at that time, none of whom could be executed under the new law.

Under House Bill 1060, murder would be punishable by death if:

The victim was a fireman, policeman or public servant killed while performing his duties.

The murder was a contract killing.

The victim was being held hostage by the defendant for ransom or reward or as a shield.

The killing was connected with the hijacking of an aircraft.

The victim was killed to prevent him from testifying against a defendant.

The killing was committed in the course of another felony.

The defendant knowingly created a risk of death to another in the course of killing the victim.

The murder was by torture.

The defendant was under life sentence when he committed the crime.

Among the mitigating circumstances that could warrant reduction of the penalty to life imprisonment would be youth or lack of maturity of the defendant, consent to or participation in the killing by the victim, and the defendant acting under duress.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. I ask unanimous consent that Mr. Henderson and Mr. Bates be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I rise in opposition to S. 1401, the death penalty bill. The death penalty is incomparably the harshest punishment known to our law.

The issue over the death penalty cannot be resolved by noting that capital punishment was accepted at the time that the eighth amendment was drafted. The framers deliberately chose broad language in order that, as the Supreme Court has held, the scope of the prohibition could develop with the growth of civilized principles of penology, and "draw its meaning from the evolving standards of decency that mark the progress of a maturing society."

My views on the death penalty have not changed since I recommended clemency in the Sirhan case in 1969. As I stated then:

> "My brother, [Robert Kennedy], was a man of love and sentiment and compassion. He would not have wanted his death to be a cause for the taking of another life. You may recall his pleas when he learned of the death of Martin Luther King. He said that "what we need in the United States is not division; what we need in the United States is not hatred; what we need in the United States is not violence or lawlessness, but love and wisdom and compassion towards one another."

Not only is the death penalty wrong in principle, in my view, but its imposition has resulted in the execution of a disproportionate number of poor people and minority members, a situation which I believe to be untenable and unavoidable as long as the death penalty remains in existence. Even under S. 1401, I believe the danger exists that a jury would make a different interpretation of what facts constitute a mitigating or an aggravating factor when a rich white person was involved than when a poor black person was the defendant.

In June of 1972, the Supreme Court decided the case of Furman against Georgia. The Court decided the case by a 5-to-4 vote and each of the nine Justices wrote a separate opinion. In the majority only Justice Brennan and Marshall thought the death penalty per se cruel and unusual punishment. Justice Douglas found the death penalty discriminatory and therefore violative of the 14th amendment's guarantee of "equal protection of the laws." The opinions considered to be the swing votes in the case and therefore controlling, were those of Justices Stewart and White who held that the death penalty statutes before them were unconstitutional because they were applied in an arbitrary and infrequent manner.

Since Furman, it has been the last opinions which have led to what I believe to be unreasonable "mandatory" State death penalty statutes which impose the death penalty automatically for certain offenses. As an example, North Carolina law, after Furman, mandated the death penalty for certain crimes, even where no death or grave bodily injury resulted. Under that statute, a person was recently convicted in a case involving no death or grave bodily injury. Upon conviction, under the statute, he automatically received the death penalty and he now sits on death row awaiting execution.

It is under circumstances such as these that the results of statutes enacted with little regard to narrowing the possibility of error in view of the finality of the death penalty, can be most clearly seen.

In my opinion, such mandatory death penalty statutes constitute cruel and unusual punishment in violation of the eighth amendment. However, bills such as S. 1401, which provide for discretion in determining what facts constitute mitigating and aggravating factors, also raise serious constitutional questions. The provisions in S. 1401 may be in violation of those opinions in Furman against Georgia which forbid such discretion in imposing the death penalty. Though I oppose the institution of the death penalty in principle and believe that S. 1401 presents serious constitutional questions, in view of the sentiment for restoration of the death penalty which I perceive among my colleagues, and on the possibility that S. 1401 will be declared constitutional, I am offering these amendments in the hope of diminishing the possibility of error in imposing the death penalty and in the hope of saving the lives of individuals held as hostages in the commission of kidnapings and skyjackings. For those who feel as I do, I urge you to vote in favor of my amendments.

For those of you who are not opposed to the death penalty in principle, I also urge you to vote in favor of my amendments, both to save the lives of hostages and to narrow what I believe to be an over-broad bill in order to avoid the possibility of imposing an irrevocable punishment on an innocent person.

Mr. HELMS. Mr. President, the Senator from Massachusetts (Mr. KENNEDY) just referred to a matter in North Carolina which he indicated was an injustice. Would he care to state the details regarding the person who is now on death row?

Mr. KENNEDY. Mr. President, I will be glad to do so after I have made my formal statement.

Mr. President, the amendments I have submitted are the following:

First. An amendment to require that the aggravating factors enumerated in sections (g) and (h) of the bill be proved beyond a reasonable doubt rather than by a preponderance of the evidence as the bill provides.

Second. An amendment that would provide for a directive that the words used in section (f) to describe the mitigating factors be "liberally construed."

I believe that both of these amendments will serve to diminish the possibility of error thereby reducing the likelihood that an innocent person would be executed.

Mr. President, my final amendment would provide for an additional mitigating factor which, subject to the consent of the Attorney General, would preclude imposition of the death penalty if, after killing one or more individuals, the defendant released the remaining hostages being held by him. This provision would allow law enforcement officials, in appropriate cases, to offer a guarantee to the defendant that he would not get the death penalty if he released his hostages. At a time when we are confronted almost daily with kidnapings, skyjackings, and other crimes involving hostages, I believe that this amendment would provide law enforcement officials with an indispensable tool with which to save lives.

It seems to me that this would provide an additional degree of flexibility to the law enforcement officials. It would be completely discretionary and could be used as they felt would be in the best interests in each case in obtaining the freedom of and preserving the lives of the individuals affected.

I would like to point out that I have submitted these amendments on behalf of Senator HART and myself.

Regardless of Senators' position on S. 1401, I urge Senators to vote for my amendments in the interest of diminishing error in the imposition of so final a measure as the death penalty and in the interest of saving the lives of hostages.

Mr. President, I also take this opportunity to send to the desk an amendment on behalf of myself and the distinguished Senator from New York (Mr. JAVITS) dealing with the banning of cheap handguns, requiring the registration of all handguns, and establishing a nationwide system to license all handgun owners.

The PRESIDING OFFICER. Without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

AMENDMENT No. 1020

On page 11, before line 1, insert the following:

"TITLE I—AMENDMENTS TO TITLE 18, UNITED STATES CODE, RELATING TO THE MANDATORY IMPOSITION OF THE SENTENCE OF DEATH"

On page 11, line 1, strike out the words "That chapter" and insert in lieu thereof the following:

"Section 1. Chapter".

On page 22, after the matter following line 3 add the following new titles:

"TITLE II—REGULATION OF HANDGUNS

"Sec. 201. (a) Titles II, III, IV, and V of this Act may be cited as the 'Personal Safety Handguns Act of 1974'.

"(b) Title 18, United States Code, is amended by inserting after chapter 44 the following new chapters:

" 'Chapter 44A.—FIREARM LICENSING

" 'Sec.
" '931. Definitions.
" '932. Registration.
" '933. Sales of firearms and ammunition.
" '934. Penalties.
" 935. Disposition of handguns to Secretary.
" '936. Rules and regulations; periods of amnesty.
" '937. Disclosure of information.
" '938. Assistance to Secretary.

" '§ 931. Definitions

" 'As used in this chapter—

" '(2) The term "handgun" means any weapon designed or redesigned to be fired while held in one hand; having a barrel less than ten inches in length and designed or redesigned or made or remade to use the energy of an explosive to expel a projectile or projectiles through smooth or rifled bore.

" '(2) The term "Secretary" means the Secretary of the Treasury.

" '(3) The term "licensed dealer" means any importer, manufacturer, or dealer licensed under the provisions of chapter 44 of this title.

" '(4) The term "ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any handgun.

" '(5) The term "sell" means give, bequeath, or otherwise transfer ownership.

" '(6) The term "possess" means asserting ownership or having custody and control not subject to termination by another or after a fixed period of time.

" '§ 932. Registration.

" '(a) It is unlawful for a person knowingly to possess a handgun not registered in accordance with the provisions of this section. This subsection shall not apply with respect to—

" '(1) a handgun, previously not registered, if such a handgun is held by a certified dealer for purposes of sale; *Provided,* That records of such handguns are kept as may be required by the Secretary;

" '(2) a handgun possessed by a person on the effective date of this chapter and continuously by such person thereafter for a period not to exceed one hundred and eighty days;

" '(3) a handgun, previously not registered possessed by (A) the United States or any department or agency thereof, or (B) any State or political subdivision thereof.

" '(b)(1) A certified dealer who sells a handgun to a person in whose possession the handgun must be registered shall require from the purchaser a completed application for registering the handgun and shall file the application with the Secretary at the time of sale.

" '(2) When a person other than a certified dealer sells a handgun, the purchaser shall file an application for its registration with the Secretary prior to receipt of the handgun;

" '(3) A person who possesses a handgun on the effective date of this chapter shall, unless he sooner sells the handgun, file an application for registration of the handgun with the Secretary within one hundred and eighty days.

" '(c) An application for registration of a handgun shall be in a form to be prescribed by the Secretary, which shall include at least the following:

" '(1) the name, address, date, and place of birth, photograph and social security or taxpayer identification number of the applicant;

" '(2) the name of the manufacturer, the caliber or gage, the model and the type, and the serial number of the handgun; and

" '(3) the date, the place, and the name and address of the person from whom the handgun was obtained, the number of such person's certificate of registration of such handgun, if any, and, if such person is a licensed dealer, his license number.

" '(d) An application for registration of a handgun shall be in duplicate. The original application shall be signed by the applicant and filed with the Secretary, either in person or by certified mail, return receipt requested, in such place as the Secretary by regulation may provide. The duplicate shall be retained by the applicant as temporary evidence of registration. The Secretary, after receipt of a duly filed completed application for registration, shall send to the applicant a numbered registration certificate identifying such person as the registered owner of such handgun.

" '(c) The certified record of a handgun shall expire upon any change of the name of the registered owner or residence unless the Secretary is notified within thirty days of such change.

"'(f) It is unlawful for a person to carry a handgun required to be registered by this chapter without having a registration certificate, or, if such certificate has not been received, temporary evidence of registration, or to refuse to exhibit such certificate or temporary evidence upon demand of a law enforcement officer.

"'§ 933. Sales of handguns and ammunition

"'(a) A registrant of a handgun who sells the handgun, shall, within five days of the sale, return to the Secretary his registration certificate, noting on it the name and residence address of the transferee, and the date of delivery.

"'(b) Whoever acquires a handgun required to be registered by this chapter shall require the seller to exhibit a registration certificate and shall note the number of the certificate on his application for registration.

"'(c) A licensed dealer shall not take or receive a handgun by way of pledge or pawn without also taking and retaining during the term of such pledge or pawn the registration certificate.

"'If such pledge or pawn is not redeemed the dealer shall return the registration certificate to the Secretary and record the handgun in his own name.

"'(d) The executor or administrator of an estate containing a registered handgun shall promptly notify the Secretary of the death of the registered owner and shall, at the time of any transfer of the handgun, return the certificate of registration to the Secretary as provided in subsection (c) of this section. The executor or administrator of an estate containing an unrecorded handgun shall promptly record the handgun without penalty for any prior failure to record it.

"'(e) Whoever possesses a handgun shall within ten days notify the Secretary of a loss, theft, or destruction of the handgun and, after such notice, of any recovery.

"'(f) A licensed dealer shall not sell ammunition to a person for use in a handgun required to be registered without requiring the purchaser to exhibit a certificate of registration or temporary evidence of registration of a handgun which uses such ammunition, and noting the certificate number or date of the temporary evidence of registration on the records required to be maintained by the dealer pursuant to section 923(g) of this title.

"'§ 934. Penalties

"'(a) Whoever violates a provision of section 932 or section 933 shall be punished by imprisonment not to exceed five years, or by a fine not to exceed $5,000, or both.

"'(b) Whoever knowingly falsifies any information required to be filed with the Secretary pursuant to this chapter, or forges or alters any certificate of registration or temporary evidence of registration, shall be punished by imprisonment not to exceed five years or a fine not to exceed $10,000 or both.

"'(c) Except as provided in subsection (b), no information or evidence obtained from an application or certificate of registration required to be submitted or retained by a natural person in order to comply with any provision of this chapter, or regulations issued by the Secretary, shall be used as evidence against that person in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application for registration containing the information or evidence.

"'§ 935. Deposition of handguns to Secretary

"'(a) The Secretary is authorized to pay reasonable value for handguns voluntarily relinquished to him.

"'(b) A person who lawfully possessed a handgun prior to the operative effect of any provision of this chapter, and who becomes ineligible to possess such handgun by virtue of such provision, shall receive reasonable compensation for the handgun upon its surrender to the Secretary.

"'§ 936. Rules and regulations; periods of amnesty

"'The Secretary may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter, including reasonable requirements for the marking of handguns that do not have serial numbers, and may declare periods of amnesty for the registration of handguns.

"'§ 937. Disclosure of information

"'Information contained on any certificate of registration or application therefore shall not be disclosed except to the National Crime Information Center established by the Federal Bureau of Investigation, and to law enforcement officers requiring such information in pursuit of their official duties.

"'§ 938. Assistance to the Secretary

"'When requested by the Secretary, Federal departments and agencies shall assist the Secretary in the administration of the chapter.'

"TITLE III—LICENSING

"SEC. 301. Chapter 44 of title 18, United States Code, is amended by inserting after section 923 the following new section:

"'§ 923A. State permit systems; Federal handguns licensing

"'(a) The Secretary shall determine which States or political subdivisions of States have enacted or adopted adequate permit systems for the possession of handguns and shall publish in the Federal Register the names of such States and political subdivisions.

"'(b) An adequate permit system shall include provisions for:

"'(1) identification of the permit holder appearing on the permit including name, address, age, signature, and photograph;

"'(2) restrictions on issuance of a permit to a person who is under indictment or who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, or who is a fugitive from justice;

"'(3) restrictions on issuance of a permit to a person who, by reason of age, mental condition, alcoholism, drug addiction or previous violations of handguns laws cannot be relied upon to possess or use handguns safely and responsibly;

"'(4) means of investigation of applicants for permits to determine their eligibility under subparagraphs (2) and (3), including filing with the issuing agency a complete set of fingerprints and a recent photograph of the applicant; and

"'(5) prohibition of possessions of handguns or ammunition by any person who has not been issued such a permit.

"'(c) It shall be unlawful for any person to sell or otherwise transfer any handgun or ammunition to any person (other than a licensed importer, licensed manufacturer, or licensed dealer) unless:

"'(1) the sale or transfer is not prohibited by any other provision of this chapter; and

"'(2) the purchaser or transferee exhibits a valid permit issued to him by a State or political subdivision having an adequate permit system, or the purchaser or transferee exhibits a valid Federal gun license issued in accordance with subsections (d) and (c) of this section.

"'(d) A licensed dealer shall issue a Federal gun license to a person upon presentation of—

"'(1) a valid official document issued by the person's State or political subdivision, showing his name, current address, age, signature, and photograph.

"'(2) a statement, in a form to be prescribed by the Secretary and dated within six months and signed by the chief law enforcement officer (or his delegate) of the locality of residence of the person, that to the best of that officer's knowledge that person is not under indictment, has not been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, is not a fugitive from justice, and is not otherwise prohibited by any provision of Federal, State, or local law from possessing handgun and ammunition;

"'(3) a statement in a form to be prescribed by the Secretary, dated within six months and signed by a licensed physician, that in his professional opinion such person is mentally and physically capable of possessing and using a handgun safely and responsibly;

"'(4) a statement signed by the person in a form to be prescribed by the Secretary, that he may lawfully possess handguns and ammunitions under the laws of the United States and of the State and political subdivision of his residence;

"'(5) a complete set of such person's fingerprints certified to by a Federal, State, or local law enforcement officer, and a photograph reasonably identifying the person.

"'(e) Federal gun licenses shall be issued in such form as the Secretary may prescribe, and shall be valid for a period not to exceed three years. A dealer shall maintain a record of all licenses issued by him as part of the records required to be maintained by section 923(G) of this chapter, and shall forward to the Secretary the documents described in subparagraphs (d)(2)–(d)(5).

"'(f) Any person denied a Federal gun license under subsection (d) may apply directly to the Secretary for the issuance of a Federal gun license.

"'(g) Unless otherwise prohibited by this chapter, a licensed dealer may ship a handgun or ammunition to a person only if the dealer confirms that the purchaser has been issued a valid permit pursuant to an adequate State permit system, a Federal gun license, or a Federal dealer's license, and notes the number of such permit or license in the records required to be kept by section 923 of this chapter.

"'(h) No person may possess a handgun or ammunition without a valid State or local permit, if he is resident of a State or locality having an adequate permit system, or a Federal gun license.

"'(i) Determinations of adequate permit systems and denials by the Secretary of Federal gun licenses shall not be subject to the provisions of chapter 5, title 5, United States Code, but actions of the Secretary shall be reviewable de novo pursuant to chapter 7, title 5, United States Code, in an action instituted by any person, State or political subdivision adversely affected.'

"(b) The analysis of chapter 44 of title 18, United States Code, is amended by inserting immediately after item 923 the following:

"'923A. State permit systems; Federal handgun licenses.'.

"TITLE IV—HAND HELD HANDGUNS

"SEC. 401. Section 922 of title 18, United States Code, is amended by adding at the end thereof the following subsection:

"'(n)(1) It shall be unlawful for any person to import, manufacture, sell, buy, transfer, receive, or transport any hand held handgun which the Secretary determines to be unsuitable for such lawful purposes as law enforcement, military and protective uses, hunting, and sport shooting, based upon standards established by him.

"'(2) The Secretary may, consistent with public safety and necessity, exempt from the operation of paragraph (1) of this subsection such importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns by importers, manufacturers, or dealers licensed under this chapter.

"'Such exemptions may take into consideration not only the needs of police officers and security guards, sportsmen, target shooters, and handgun collectors but also, small businesses in high crime areas and others who can demonstrate a special need for self-protection.

"'(3) As used in this subsection, the term "handgun" means any weapon designed or redesigned and intended to be fired while held in one hand; having a barrel less than ten inches in length and designed, redesigned or made or remade to use the energy of an explosive to expel a projectile or projectiles through a smooth or rifled bore."

"TITLE V—GENERAL PROVISIONS

"SEC. 501. If the provisions of any part of titles II, III, or IV of this Act or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other part and their application to other persons or circumstances shall not be affected thereby.

"SEC. 502. No provision of titles II, III, or IV of this Act shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provisions operate to the exclusion of the law of a State or possession or political subdivision thereof, on the same subject matter, or to relieve any person of any obligation imposed by any law of any State, possession, or political subdivision thereof.

"SEC. 503. The provisions of titles II, III, and IV of this Act shall become effective ninety days after the date of its enactment."

Mr. KENNEDY. At an appropriate time, I intend to call the amendment up for a vote.

The first provision of the proposal requires the registration of all civilian owned handguns.

The second provision of the amendment directs the Secretary of the Treasury to establish a nationwide system to license all gun owners.

And the third provision bans the domestic output of cheap handguns.

With this amendment we shall produce substantial progress toward the realization of a standardized, nationwide system to control the widespread abuse of cheap handguns. The provisions in this amendment authorize the Secretary of the Treasury to establish controls on handguns that will greatly reduce the number of names on the annual list of 24,000 gun deaths—a list that grows longer each year.

Legislative history makes it clear that neither the Senate nor the House need more hearings on gun control.

I do not think any subject which Congress considers has had more study than the gun control legislation.

I have served on the Judiciary Committee since I came to the U.S. Senate, and at that time, in the early 1960's, we had Attorneys General of the United States to appear before the committee—Attorneys General Kennedy, Katzenbach, and Clark—who testified about the importance of gun control legislation.

All we have had in the period of the last 5 years is silence by the administration. Any time we have had an Attorney General appear before the Judiciary Committee on the question of gun control, he says, "Don't talk to us about it. Talk to Treasury about it."

This is against the background of at least four Presidential Commissions that were established in the early, middle, and late 1960's, which were charged with the requirement to recommend to Congress and to the American people the most effective means to do something about crime and violence in this country. They recommended uniformly that we have strong gun control legislation.

We find in the 1967 Crime Commission report the suggestion that what we need is to give the States a reasonable period of time in which to act. A number of the members of the Crime Commission felt that we should not usurp the function of the States. We have been waiting from 1967, 1968, all the way up to 1974, and we have not found action taken by the several States. So we are going to give the opportunity to the Members of the Senate to speak on this issue, which has such significant impact on the lives, the well-being, the safety, and the security of the American people.

We hear the arguments with regard to the death penalty, that by passing the death penalty we will be sending a message to the criminals that they had better behave or they will suffer death. I say that if we are really interested in doing something about crime, let us do something that has been recommended by Presidential Commissions made up of law enforcement personnel, criminologists, other legal experts, and distinguished citizens. These Commissions have all been balanced in terms of partisanship. They recommended that we take strong steps to control the abuse of guns. Let us send a message as well to the criminals.

We are going to hear debate on the floor of the Senate that we cannot really impose a licensing and registration system upon people who have handguns; that we do not want to impose this type of restriction on those individuals. Yet, we recognize in our society that if we are going to drive a vehicle, we have to register it; that if we are going to drive an automobile, we have to be licensed, and we accept that. That is not too big a burden. Yet, somehow this body has refused to come to grips with the issue of controlling handguns. We say it is too much of a burden on people who use handguns. We cannot find any of the experts who will present testimony—at least, I have not heard any, as a member of the Juvenile Delinquency Subcommittee, and I have attended those hearings for many hours—that those handguns can be used for anything other than shooting people.

We are not talking about target pistols. We are talking about handguns that are used for shooting people, and that is what we are going to have a chance to vote on. My amendment gives this Senate a chance to vote on the vital issue of controlling handguns.

We can already hear the arguments being made that here is a proposition on which we have not had sufficient hearings. The time for hearings has passed. It is now time for the Congress to act. During my 12 years in the Senate, the judiciary committee in this body has held 43 days of public hearings; committee members have convened in 12 days of executive session; and committee records bulge with thousands of pages of testimony from 186 witnesses.

During hearings in 1968 distinguished witnesses clearly made the case for registering guns and licensing gun owners. At least five Commissions appointed by the President have recommended the enactment of Federal firearms, licensing, and registration systems. Thus, the amendment I am offering today does not present any newly constructed proposals. It does not confront the Senate with ideas or plans that have yet to be studied or investigated. Today I am presenting the Senate with a renewed opportunity to establish its commitment to end the unbridled assault of gun violence in America. I am offering to the Senate an amendment that requires no extensive explanation to understand its purpose. For, if ever there was a legislative proposal offered to Senators that was readily understood—banning handguns and requiring the registration and licensing of existing handguns is such a proposal.

Of the 24,000 people who are killed by guns in 1 year, the statistics are clear that 11,000 are murdered, 10,000 use guns to commit suicide, and 3,000 die because of gun accidents. If we are effectively able to ban those guns, we will be able to save those lives. Yet, we will hear that we will not be able to keep the gun out of the hands of the criminal, and therefore other citizens ought to be able to hold them. If we are able to ban them right away, we will save those lives every year, let alone so many others.

Under this amendment, registration information on all handguns will be referred by local registration offices to the National Crime Information Center maintained by the Federal Bureau of Investigation. In this way, enforcement officers throughout the country can trace the ownership of any handgun.

A person who carries a handgun must have with him a certificate of registration, which he must exhibit upon the demand of any law-enforcement officer.

A violation of the registration provision is punishable by imprisonment for up to 5 years, a fine of up to $5,000, or both. Any purposeful falsification or forgery of registration information is punishable by by imprisonment for up to 5 years, or a fine of up to $10,000 or both.

President Johnson said if it makes sense to register automobiles, boats, bicycles, and dogs, why then do we not register the guns in our Nation's homes?

Handgun registration will tell us how many handguns there are, where they are, and in whose hands they are held. I am convinced that it makes no sense for handguns to remain as free floating in our society as flashlights or ballpoint ink pens. Any restriction imposed by firearms registration that prevents even one gun killing fully justifies the development and maintenance of a handgun registration system.

My proposal for legislation to enact restraints against the misuse of handguns authorizes the Secretary of the Treasury to establish periods of amnesty for all handgun owners to voluntarily turn in any weapons they wish to give up, and to receive reasonable compensation for the surrender of such weapons. Authorities know that handgun owners want to safely remove firearms from homes or places where they may be stolen or where accidents may occur.

After the city of San Francisco enacted a gun licensing statute in 1968, at least 1,500 guns of every description were voluntarily turned in to the San Francisco police department. City officials confirmed the public commitment to the elimination of gun violence by forging the metal from these guns into a 9-foot statute of St. Francis of Assissi.

The Second provision of my amendment requires every handgun owner to obtain a license before he may be entrusted with a gun.

Under the provisions of my amendment, if a State does not adopt a firearms permit system that meets minimum specified standards, Federal licensing will become effective until the State adopts an adequate permit system. No person, whether a licensed dealer or a private individual, may sell handguns or ammunition to an individual who does not have either an adequate State permit or a Federal hand gun license. In addition, no one may possess a handgun or ammunition unless he has either an adequate State permit or a Federal gun license. To qualify as having an adequate permit system, a State must restrict the issuance of permits applied for by convicted felons, fugitives from justice, mental defectives, alcoholics, juveniles, and drug addicts, and must adequately investigate applicants prior to the issuance of permits.

In States that do not enact an adequate permit system, Federal gun licenses, valid for up to 3 years, will be issued by federally licensed dealers upon receipt—from both the chief law enforcement officer of an applicant's locality and a licensed physician—or information bearing upon his eligibility for a Federal handgun license.

The purpose of the third provision of my amendment—banning the domestic output of cheap hand-held firearms—is to get at the heart of the problem of those guns used in crime. The handgun's role in crime is disproportionate to its number in comparison with long guns, in the commission of homicide, aggravated assault, and armed robbery.

Over 50 percent of the 19,000 homicides in 1973 were committed with handguns. Virtually every robbery involving a firearm takes place with a handgun. The percentage of violent crimes in which handguns are used is increasing. At least 73 percent of the weapons used in police murders were handguns.

Mr. President, the statistics issued by the Commissioner of Public Safety in our State of Massachusetts, and we have strong gun legislation in Massachusetts, go back 3 years and they show that 84 percent of the guns used in crimes of violence in Massachusetts were obtained and purchased outside the State.

So even if a State is willing to have effective legislation, if bordering States refuse to take this into account, it is easy to circumvent the purpose of the legislation in any given State.

Obviously it is necessary to have a nationwide program that has some basic and fundamental means for considering and dealing with the problem. If the States want to provide stricter penalties, that would be permitted under the legislation.

From the working papers of the National Commission on Reform of Federal Criminal Laws, Prof. Franklin Zimring explains why it is vital that we have a nationwide system for the control of hand-held firearms.

> In Massachusetts, where restrictive handgun licensing has been in effect for many years, a study showed that 87 percent of the firearms confiscated as a result of use in crime came from other States, and similar studies by the task force on firearms of the Eisenhower Commission show a similar pattern to be true in New York City, with restrictive handgun licensing, and Detroit, Michigan, with a permissive handgun licensing system and a geographic vulnerability to the inflow of weapons from Toledo, Ohio.

Based on an exhaustive examination of patterns of firearms crime, the Brown Commission recommended "a ban on the production and possession of the trafficking in handguns . . ."

A majority of the members of that Commission know that State control of hand-held firearms is ineffective because of different policies and leakage between the States. Only a comprehensive and uniform system of controls of hand-held firearms will aid in suppressing the crimes of violence caused by these weapons.

In its report to President Nixon last year, the National Advisory Commission on Criminal Standards and Goals recommended that by January 1, 1983, each State take the following action: the private possession of handguns should be prohibited for all persons other than law enforcement and military personnel.

Manufacture and sale of handguns should be terminated. Existing handguns should be acquired by States. Handguns held by private citizens as collector's items should be modified and rendered inoperative.

The bill I have offered to control handguns is a substantial first step in achieving the goals described by the President's Advisory Commission on Criminal Standards.

Let us begin now to provide effective legislation to curb the tragedies caused by too many handguns in our society.

I might mention that each of the highly regarded panels calls for restraint on handguns which have caused the devastating killing that has been inflicted on the American public each year. They are the National Commission on Criminal Standards and Goals; the Commission on Crime in the District of Columbia; the Katzenbach Commission on Law Enforcement and the Administration of Justice; the Eisenhower Commission on the Causes and Prevention of Violence; the Kerner Commission on Civil Disorders; and the Brown Commission on Reform of Federal Criminal Laws.

Mr. HELMS. Mr. President, before the distinguished Senator from Massachusetts leaves the floor, would he mind repeating his statement concerning my State, as contained in his transcript, or describe to me what were the implications of his statement?

Mr. KENNEDY. The situation I intend to refer to—and I ask unanimous consent that excerpts from the article be printed in the RECORD, in response to the Senator.

There being no objection, the materials are ordered to be printed in the RECORD, as follows:

RAPE CONVICTION STIRS PROTEST—WASHINGTON BLACK IS SENTENCED TO DEATH IN NORTH CAROLINA

(By Linda Newton Jones)

Last August, while visiting his mother in Tarboro, N.C., Jesse Lee Walston, a 23-year-old driver for the Hecht Company, took a midnight ride with two companions.

Just outside of Tarboro, they offered a ride to a woman they saw walking along the road and, by all accounts, the men had sexual relations with her.

After Walston returned to Washington, he heard from his mother that the Tarboro police wanted him for rape. He talked the matter over with his brother—should he return to Tarboro? His brother advised him to go back to North Carolina and try to square things, and he did.

That was Aug. 12. Since then, Walston and his two companions—all of whom are black—have been tried and convicted for the rape of the woman—who is white—and have been sentenced to die in a North Carolina gas chamber. . . .

Since the sentencing of the men Dec. 9 under North Carolina's reinstituted capital punishment statute, there have been a series of protests in North Carolina by civil rights activists who claim the convictions were racially motivated.

And the NAACP Legal Defense Fund, which opposes capital punishment and feels it is imposed on the black and the poor more than anyone else, has entered the case.

"They weren't convicted on evidence," said Leroy Walston, shaking his head. "They could have had Perry Mason himself and it wasn't going to turn out any different."

How it will all turn out ultimately is yet to be seen. The men were to have been put to death Jan. 10, but a stay of execution has been granted pending an appeal.

And while family members wait, they recall a Jesse Lee Walston who did not seem to them to be the type to be sitting on death row.

Walston, who like his two companions had no previous police record, has lived in Washington since his graduation from high school in Tarboro in 1969. He was married 2½ years ago, is the father of two children and lives in Northeast D.C.

"Deborah (his wife) got Jesse to go to church, and he's singing in the choir and everything," said Leroy Walston.

Walston's wife could not be reached for comment, but according to Leroy Walston, she's "behind him all the way."

Leroy recalled his advice to his brother to return to Tarboro and his brother's conviction that he had committed no crime.

"He went down there because he is innocent," said Leroy. "He didn't know he was going to get this thing thrown at him." . . .

The conviction of the three men put them on North Carolina's death row with 19 other persons. Of the 22, 15 are black and one is an American Indian. According to the North Carolina Department of Corrections, five are on death row for rape, 13 for first-degree murder, two for rape and murder and two for first degree burglary.

There are 22 other prisoners under death sentences in seven other states, according to a report, and 29 of the 44 inmates on death rows in the U.S. are black.

The NAACP Legal Defense fund is looking into about half of the cases across the country, including the Tarboro rape case.

A defense fund lawyer familiar with the case said that though nearly half of the

9,425 Tarboro residents are black, only one black sat on the jury that heard the rape case.

"Most of the blacks on the jury panel were rejected by the prosecutor because of their views on the case and capital punishment," said David Kendall, an NAACP Legal Defense Fund attorney in New York. Defense fund lawyers are assisting Hopkins in the appeal of the three men.

"I'm incredibly impressed by their courage," Kendall said of his new clients. "They all testified in their own defense, and each of them refused plea-bargaining." The three men given a chance to plead guilty to a lesser offense for which they would have been eligible for parole after serving 3 years of a 15-year sentence.

"We're against capital punishment, period, but mainly in the way that it's handled," Kendall said. "One of the main things that's wrong with it is that it is placed on blacks and poor whites more than others."

The North Carolina law, one of the strongest capital punishment laws written since the U.S. Supreme Court struck down such statutes in 1972, makes death a mandatory penalty for anyone convicted of first-degree murder, rape, arson or first-degree burglary —entering a residence after dark, when with the intent to commit a felony.

On June 29, 1972, the Supreme Court, by a 5-to-4 margin, ruled that the death penalty as written and administered in the cases before it constituted cruel and unusual punishment. The court did not say it was unconstitutional to execute felons but that all state laws, as written, were unconstitutional because they were so haphazardly imposed.

The justices who were in the majority could not agree on all points of the ruling so each wrote separate opinions. Crucial rulings were given by Justices Byron White and Potter Stewart who ruled that it was unconstitutional to sentence some defendants to death while allowing others, convicted of almost identical crimes, to live.

Thus the North Carolina Supreme Court decided that the state's capital punishment law would satisfy the ruling of the higher court if death were made a mandatory sentence for certain crimes. So Walston, Hines and Brown were sentenced to death because, according to Holdford, "the jury had no choice other than guilty or not guilty, and the judge had no choice other than death."

Twenty-two other states have reinstituted the death penalty since the high court's ruling.

The conviction of Walston and his two companions has brought the whole question of capital punishment home to Tarboro, N.C., a growing area for tobacco, peanuts, corn and cotton located in Edgecombe County about 70 miles from the state capital in Raleigh.

Marches and rallies were staged in Tarboro and Raleigh soon after the convictions. The protests were initiated by a coalition of church and civil rights groups headed by Leon White, director of the Carolina and Virginia Commission on Racial Justice.

"If it (the protests) hadn't started, then we would've becoming a hanging state," said the Rev. W. W. Finlator, pastor of the Pullen Memorial Baptist Church in Raleigh and one of the leaders of the coalition.

"It so happens that in North Carolina everyone who is waiting (on death row) is poor or black or illiterate and disadvantaged," said Mr. Finlator. "People who have money or influence never get the death penalty here."

But Prosecuting Attorney Holdford said he doubts the men will ever be executed.

"The governor will just commute the sentence to life imprisonment, and they'll only serve 10 years anyway," said Holdford.

Fred Morrison, legal adviser to Gov. James E. Holshouser Jr., said the governor has not taken a stand on capital punishment because no case has been appealed to his office. Morrison noted that while Holshouser was a member of the North Carolina state legislature he voted for the repeal of capital punishment whenever the question reached the floor.

The first decision on the constitutionality of the state's new law is expected soon from the state's Supreme Court.

Prosecutor Holdford characterized the protests as the acts of civil rights groups who only protest when a black man is "sent away for a crime against whites . . . These civil rights groups go from one district to another starting trouble whenever a white is involved," he said.

Mr. HELMS. The Senator is talking or reading so fast, I cannot understand him.

Mr. KENNEDY. I am reading from an article. If the Senator cannot hear me, he is welcome to come closer.

Let me read:

> The conviction of the three men put them on North Carolina's death row with 19 other persons. Of the 22, 15 are black and one is an American Indian. According to the North Carolina Department of Corrections, five are on death row for rape, 13 for first-degree murder, two for rape and murder and two for first-degree burglary.
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> There are 22 other prisoners under death sentences in seven other states, according to a report, and 29 of the 44 inmates on death rows in the U.S. are black.
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>
> "We're against capital punishment period, but mainly in the way that it's handled," Kendall said. "One of the main things things that's wrong with it is that it is placed on blacks."

Mr. HELMS. Is the Senator——

Mr. KENNEDY. I will not be much longer.

Mr. HELMS. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Massachusetts had the floor.

Mr. HELMS. I beg the Chair's pardon. The Senator from Massachusetts yielded the floor, and I gained the floor in my own right.

Mr. KENNEDY. Mr. President, I think the Senator from North Carolina is correct.

The PRESIDING OFFICER. The Chair stands corrected.

Mr. HELMS. I thank the Chair.

Mr. KENNEDY. It is not that much further. Then I will be glad to respond.

Mr. HELMS. If the Senator is going to put the item in the Record——

Mr. KENNEDY. The materials to which I am returning will be put in the Record.

Mr. HELMS. Mr. President, I will not yield further at this point. I want to ask the Senator, if he will tell me, what he is reading from.

Mr. KENNEDY. I am reading from the Washington Post of January 14, 1974, by Linda Newton Jones.

Mr. HELMS. I am not surprised. Does the Senator have any documents from the judicial system of North Carolina? Has he any other information with respect to this case, or did he take the word of the Washington Post?

Mr. KENNEDY. I am presently reading from the Washington Post article. If the Senator from North Carolina has any judicial document or any statement that shows to the contrary, I would welcome that and would be glad to be corrected. Does the Senator from North Carolina have any such material?

Mr. HELMS. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. I thank the Chair.

Mr. KENNEDY. Will the Senator from North Carolina answer this question?

Mr. HELMS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from North Carolina has the floor, but the Senator from North Carolina has no right to interrogate the Senator, or vice versa, unless the Senator yields for a question.

Mr. HELMS. I am not trying to interrogate the distinguished Senator. I just want to know the basis for his charge against my State and its judicial system. I will say to the distinguished Senator from Massachusetts that it is certainly my intent to get the official judicial record and put it in the Record alongside of the Washington Post report.

Mr. KENNEDY. Mr. President, in no sense whatever am I making a charge against the Senator's State or against its judicial system. What I am using is an example of the serious problems that arise in situations involving a mandatory death sentence, where the judicial system has no choice.

The PRESIDING OFFICER. Does the Senator yield?

Mr. HELMS. I will yield briefly to the Senator from Massachusetts.

Mr. KENNEDY. I will let the Senator from North Carolina continue and wait to get the floor in my own right.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I will simply comment that the distinguished Senator from Massachusetts made the flat statement which seemed to me to be derogatory to my State and its judicial system. I would hope that any Senator, when discussing another State, would have more valid evidence to support such a statement than a clipping from the Washington Post, or any other newspaper for that matter, and I sincerely regret the implications by the Senator. I bear no malice or hard feelings, but I do believe, in making such a statement, that he should have secured some official documents from the court records. I do not apologize for the judicial system of my State. It is a fine judicial system, and I think it is at least equal to that of the State of Massachusetts. Any inference or any implication that the judicial system of the State of North Carolina would willfully permit a man to go to death row and stay there without justification is a charge that I am surprised to hear in this Chamber, particularly when based on evidence no more substantial than a clipping from the Washington Post.

With that, Mr. President, I yield the floor.

The **PRESIDING OFFICER**. The Senator from Massachusetts.

Mr. **KENNEDY**. Mr. President, I have put the materials in the RECORD, and I welcome, of course, the suggestions or comments the Senator from North Carolina has made. I also have a high respect for the people of North Carolina and for the fine judicial system of the State. The point that was being raised by the Senator from Massachusetts was in reference only to the issue of the mandatory death sentence. In the case I cited, we have a crime where there was no serious bodily harm. Yet an individual is on death row, under mandatory sentence of death.

We are voting in the Senate on a Federal law. I am using an example—it is an example from North Carolina, but it might be from another State—of what happens when there is a mandatory requirement for the death penalty. The point is used to illustrate that under a law with a mandatory death requirement, an individual, on whose jury only one member of his race was sitting, could be executed under that law, even though his crime did not involve death and did not even involve serious bodily harm. This is the impact of the mandatory death sentence.

The question is whether we are going to have this kind of statute at the Federal level. The point I was illustrating is what can happen when such a statute is applied. There are a number of States that have a mandatory requirement. This was a practical example.

Mr. President, I have no other remarks to make at this time. I yield the floor.

Mr. **HATHAWAY**. Mr. President, I want to associate myself with the remarks of the Senators from Massachusetts, Iowa, and Michigan, and others who have risen in opposition to this legislation.

Mr. President, there are both philosophical and practical reasons to oppose S. 1401.

The unmistakable trend of history is toward the abolition of capital punishment. Once widely used, it is today widely abolished in law and even more widely abandoned in practice. The last execution in the United States occurred in 1967—5 years before the Supreme Court struck down existing capital punishment statutes in *Furman* v. *Georgia*, 408 U.S. 238 (1972), and the number of annual executions had been dropping steadily for years before pending Supreme Court action halted the death penalty for the present.

There are several good reasons for the timely demise of the death penalty. Contrary to the weight of uninformed opinion, the evidence of experience—and of studies of capital punishment—in the United States and elsewhere shows that it does not deter violent crime. It does not save the lives of innocent victims. It serves no social purpose that cannot be as well or better served by prison sentences, and by efforts to understand the causes of violent crimes and eradicate them from our society. Its barbarity degrades our claim to moral progress. Its example, as Clarence Darrow noted 50 years ago, only teaches our people that human life is not considered sacred by the State that takes it.

There is no empirical evidence that the death penalty discourages homicides in general, or even the killing of police officers in particular. Studies have shown no significant difference between the rate of police homicides in cities and States where capital punishment is retained and those where it has been abolished.

There is no evidence that abolishing the death penalty increases the rate of violent killings. In Delaware, where the death penalty was abolished and then restored in the 1960's, the homicide rate was lower during the period of abolition than before or after.

But there is evidence that in the United States, capital punishment has traditionally been reserved for the poor, for racial minorities, for the mentally defective, for those without education, friends or families—in short, for society's outcasts. The rich—who can afford skilled lawyers and protracted litigation—do not die in the electric chair. Women are far less frequently condemned to death than men. Whites are proportionally a much smaller percentage than blacks of the inhabitants of death row.

The Supreme Court in Furman against Georgia took note of the racial and economic discrimination evident on death row under the statutes it struck down. At that time, some 53 percent of those awaiting sentences of death were black. Since then, 71 new death sentences have been pronounced in States which have passed new capital punishment statutes designed to make death mandatory for certain offenses. Twenty-nine of those newly sentenced to die are white. One is an American Indian. And 41, or 57 percent, are black.

The continued predominance of blacks among those selected to suffer capital punishment indicates that it is not easy to remove racial prejudice from the criminal justice system. The bias may be traced to prosecutorial discretion in determining charges, to jury discretion exercised through failure to convict or conviction on lesser included offenses, or other administrative factors. But its persistence should warn us to go slow—to be careful lest we authorize mandatory death penalties on the grounds that our procedures are neutral—only to find that the results are once again discriminatory and unconstitutional.

Indeed, Chief Justice Burger, dissenting in Furman, nonetheless urged legislatures to grasp the opportunity for thoughtful reassessment of the death penalty's effects on law enforcement—on the victims of violent crime, on society as a whole, and on the criminals. We should not pass such legislation hastily without gathering further informed opinion and using it to form reasoned judgments.

It is ironic at a time when violent kidnapings fill the headlines that we should be asked to pass a bill which by its terms can only result in the murder of innocent victims of kidnapings and hijackings. S. 1401 does nothing to protect these victims. Instead it encourages wholesale killing by criminals whose own lives are already forfeit under the bill's provisions, regardless of whether they kill their hostages or set them free.

In addition, S. 1401 poses a substantial risk of unjust executions. The five mitigating factors which would prevent capital punishment—youth, duress, mental incapacity, peripheral participation, or, where death results, the fact that risk of death was not foreseeable—are exclusive of any others. Yet it is easy to imagine defendants who would not quite meet the mitigating standards of S. 1401 and yet ought not, by any civilized standard, be put to death—the emotionally immature, the borderline mentally retarded, those psychologically dominated—but not physically coerced—by another, first offenders misled by companions and too inexperienced in the ways of crime to foresee the risk of death.

Indeed, with the exception of the age qualification—under 18—the mitigating factors are so worded as to invite jury discretion and thereby produce the same random, discriminatory, and unjust pattern of executions that the Supreme Court has said constitutes cruel and unusual punishment in violation of the eighth amendment. As Chief Justice Burger's dissenting opinion in Furman against Georgia emphasized:

> The factors which determine whether the sentence of death is the appropriate penalty in particular cases are too complex to be compressed within the limits of a simple formula. 408 U.S. at 401.

Similarly, S. 1401 invites jury nullification. Jurors sitting to determine guilt may vote for acquittal, because of their lack of control over the penalty and their belief that a defendant, though guilty, does not deserve to die.

Recent descriptions of capital punishment as it is practiced in the United States have destroyed the comforting assumption that modern methods of killing are somehow more humane than the rack and the thumbscrew.

Witnesses of electrocutions and hangings have described the agonized final struggle for life, often lasting for several minutes. As Warden Lewis Lawes of Sing Sing said:

> The body leaps as if to break the strong leather starps that hold it. Sometimes a thin gray wisp of smoke pushes itself out from under the helmet that holds the head electrode, followed by the faint odour of burning flesh . . . the cords of the neck stand out like steel bands.

Prison wardens like Lawes and Clinton Duffy of San Quentin, have led the fight against the death penalty partly because they have seen it inflicted, and know that all of us are ultimately the victims of its barbarity. One wonders how many juries would sentence a man to death—and how many legislators would vote for capital punishment—if they were required to watch or take part in the execution.

Defending the perpetrators of one of the most vicious murders in our history 50 years ago, Clarence Darrow assigned capital punishment to the cruel past. He could not know that one of the lives he saved would later be dedicated to helping others, as a subject for medical experiments, as a hospital worker, and as an organizer of prison education and rehabilitation. Darrow said:

> I am pleading for the future. I am pleading for a time when hatred and cruelty will not control the hearts of men, when we can learn by reason and judgment and understanding and faith that all life is worth saving, and that mercy is the highest atribute of man.

I ask all Members of the Senate to legislate for that future, to work against and vote against S. 1401, and to defeat any attempt to restore the death penalty for Federal crimes.

Mr. HELMS. Mr. President, what we are talking about here today, I believe, is deterrent to crime. I want briefly to discuss another aspect which I think, while ancillary to the issue at hand, is also equally important.

Mr. President, as Senators are aware, the daughter of Mr. Randolph Hearst has been kidnaped and is currently being held for ransom. By the terms of the ransom, Mr. Hearst has given away more than $2 million worth of food.

Everyone sympathizes with Mr. Hearst, and we understand his wish to exhaust every possibility in his efforts to procure the return of his daughter. Nonetheless, his actions, aimed solely at saving his daughter, will not prevent further abductions of this nature and may, in fact, encourage them.

I am deeply concerned that this kidnaping could serve as a prototype for a rash of similar crimes. The Senate can, and in my view, should vote to increase the punishment for this crime. However, there is additional action that could be taken which would serve as an effective deterrent to future incidents similar to the Hearst kidnaping. This action would substantially remove the motivation for such crimes.

Title 18, section 1202 of the United States Code entitled "Ransom Money" provides as follows:

> Whoever receives, possesses, or disposes of any money or other property, or any portion thereof, which has at any time been delivered as ransom or reward in connection with a violation of section 1201 of this title (kidnaping), knowing the same to be money or property which has been at any time delivered as such ransom or reward, shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

I have this day sent a letter to the Attorney General inquiring as to whether he considers this criminal statute applicable to those who accepted the food distributed by Mr. Hearst knowing it to be ransom property. If the Attorney General considers this statute applicable to these people, I have asked him to advise me as to what action he plans to take with regard to enforcing it.

It appears obvious that if the law is applied as the statute seems to have been intended, then the so-called poor persons designated to receive the food would be actively prohibited from accepting it. It is patently obvious that this food distribution scheme does not have as its main purpose the feeding of the needy. No test of "need" was applied to the recipients. It is a radical political demand intended to wage propaganda warfare against the social system of our country. At the same time, it imposes a terrible financial penalty against a law-abiding family, not to speak of the emotional and physical risks involved. Those who accept food that is paid out in ransom are degrading themselves and this Nation. It appears to me that they are also breaking the law and should be prosecuted.

Application of the statute I have cited would make such extortion demands impracticable and would make future attempts less likely. Our sympathies go out for the Hearst family, and I am sure that the greatest comfort in their suffering would be the realization that every possibility in the effort to deter future tragedies is being pursued.

Mr. President, I ask unanimous consent that a copy of the aforementioned letter to the Attorney General be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 12, 1974.

Hon. WILLIAM B. SAXBE,
The Attorney General,
Washington, D.C.

DEAR BILL: As I am certain you are well aware, the daughter of Mr. Randolph Hearst is currently being held for ransom. The terms of the ransom provide that large amounts of food be given by Mr. Hearst to certain persons. Reportedly, more than two million dollars worth of food has been distributed to date.

I am deeply concerned about the possibility of this tragic kidnaping serving as a protoype for a rash of similar crimes across the country. However, it appears that there are certain criminal sanctions available which, to my knowledge, have not been enforced in this case. It would seem that if this criminal statute were applicable to the Hearst case, and if it were enforced, it would serve as an effective deterrent to future incidents of this nature.

18 U.S.C.A. § 1202, Ransom money, provides as follows:

"Whoever receives, possesses, or disposes of any money or other property, or any portion thereof, which has at any time been delivered as ransom or reward in connection with a violation of section 1201 of this title (kidnaping), knowing the same to be money or property which has been at any time delivered as such ransom or reward, shall be fined not more than $10,000 or imprisoned not more than ten years, or both."

I would appreciate your considering the above statute and advising me as to whether, in your estimation, it is applicable to those who have knowingly accepted the food distributed by Mr. Hearst. If you consider the statute to be applicable, I would also appreciate your advising me as to what action you plan to take with regard to enforcing it.

Thank you for your attention to this matter.

Sincerely,

JESSE.

Mr. HELMS. Mr. President, I yield the floor.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 6119) for the relief of Arturo Robles.

ORDER FOR CONSIDERATION OF CERTAIN BILLS NEXT WEEK

Mr. MANSFIELD. Mr. President, earlier today, the Senate gave unanimous consent to a schedule which was laid down to begin on Tuesday next, March 19, at which time the pending business would have been the campaign finance bill.

In view of the circumstances which have developed since, and with the concurrence of the Republican leadership, I ask unanimous consent that at the conclusion of the disposition of the pending bill, that S. 1541, a bill to provide for the reform of congressional procedures with respect to the enactment of fiscal measures; to provide ceilings on Federal expenditures and the national debt, and so forth, be laid before the Senate and made the pending business.

The PRESIDING OFFICER (Mr. METZENBAUM). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, following the disposition of S. 1541, the Senate proceed to the consideration of S. 354, the so-called no-fault insurance bill, provided it is ready and the reports are available.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, if the reports are available and the bill is ready for discussion, I ask unanimous consent that that in turn be followed by S. 3044, a bill to amend the Federal Election Campaign Act of 1971, and so forth.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I would ask that the Senate give the leadership a little flexibility so that if difficulties occur which we cannot foresee at this time, we may be able to shift the bills around in a fashion which will keep the Senate busy facing up to its responsibilities.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS HARRY F. BYRD, JR., BUCKLEY, AND ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized, the following Senators be recognized each for 15 minutes and in the order stated: Senators Harry F. Byrd, Jr., Buckley, and Robert C. Byrd.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF CAPITAL PUNISHMENT BILL, S. 1401, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the aforementioned orders, the Senate resume the consideration of S. 1401.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 10 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Senators Harry F. Byrd, Jr., Buckley, and Robert C. Byrd.

At the conclusion of the aforementioned orders, the Senate will resume the consideration of S. 1401, the mandatory death penalty bill. Yea-and-nay votes are expected on tomorrow.

Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Colorado to S. 1401.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. HARRY F. BYRD, JR. Mr. President, I move in accordance with the previous order of the Senate that the Senate stand in adjournment until the hour of 10 a.m., tomorrow.

The motion was agreed to; and at 5:49 p.m., the Senate adjourned until tomorrow, Wednesday, March 13, 1974, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 12, 1974:

Department of Justice

John T. Pierpont, Jr., of Missouri, to be U.S. marshal for the western district of Missouri for the term of 4 years. (Reappointment.)

John L. Buck, of Pennsylvania, to be U.S. marshal for the middle district of Pennsylvania for the term of 4 years. (Reappointment.)

EXTENSIONS OF REMARKS

JAMES E. WELLS, OF DETROIT, TESTIFIES AGAINST FORCED BUSING

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. HUBER. Mr. Speaker, in February, I had the privilege of testifying before the Senate Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary relative to constitutional amendments to prohibit forced busing of schoolchildren. James Wells, of Detroit, also testified during those hearings and made a very good statement on behalf of Liberty Lobby on this topic:

Forced Busing of Schoolchildren

Mr. Chairman and Members of the Committee: I am James E. Wells, an attorney from Detroit, Mich. I have represented Neighborhood Academies, Pontiac, Mich., the so-called freedom-of-choice schools. I am also a special consultant for Liberty Lobby, and appreciate this opportunity to present the views of Liberty Lobby's 20,000-member Board of Policy, and also to appear on behalf of the approximately quarter million readers of its monthly legislative report, Liberty Letter.

The Pontiac School District was vitally affected by a school busing decision in 1971. Enrollment in the public school district dropped dramatically that year, while private school enrollment increased substantially. The white population began to move from within the school boundaries to other districts. NAACP predicted that within five years, the city of Pontiac would revert to a substantially segregated school system by reason of "white flight." Enrollment in the Neighborhood Academies totaled 400 at the height of the busing dispute in Pontiac, and by the fall of 1972, the enrollment had diminished to 10. This fact was reflected in a survey of the children in the Pontiac Neighborhood Academies. It indicated that 73% of the enrollees had moved with their families or had been transferred by their families to other school districts, often in other states.

The busing situation in Pontiac (and many other communities) has been further complicated by gasoline shortages. The Board of Education required an additional 106 buses to transport students for racial integration within the district. These buses use more than 1,500 gallons of gasoline daily. When stored gas supplies fell short recently, the school buses were filled at local service stations with consequent line-ups, delays, and frustrations to the schools and citizens in the area. Thus, in thousands of school districts, there is some basis, in fact, for the popular opinion that conservation of desperately needed gasoline has not been allowed to interfere with the socially-orientated goals of the Nation's social planners. It is further noteworthy that on Jan. 6, 1974, the Director of Transportation of the Pontiac School District announced that supplies of gasoline to the schools were exhausted, and that the school buses would be filled by local filling stations in competition with the public, since the school would pay the prevailing retail gas price.

S. 1737, to amend the Civil Rights Act of 1964, tends to answer the questions raised by the U.S. Supreme Court in *Swann v. Charlotte-Mecklenburg—Board of Education.* There was some confusion on the part of the Court as to whether the plain language of the proviso in Sec. 2000c(b) and 2000c–6 said what it meant, or meant what it said. Congress there said:

"Desegregation means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but 'desegregation' shall not mean the assignment of students to public schools in order to overcome racial imbalance. . . . Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards."

This bill should clarify the matter for the Court. It will be recalled that the Court interpreted the legislative history of the Act to indicate "that Congress was concerned that the Act might be read as creating a right of action under the 14th Amendment in the situation of so-called defacto-segregation. . . ." The legislative history of this bill, together with its reference in S. 1737 to the Court's jurisdiction, should leave no room for doubt of the bill's intent. Nevertheless, discussion on this point is necessary in the history of S. 1737, since the Court previously has questioned whether the Civil Rights Act did "withdraw from courts historic equitable remedial powers."

The Supreme Court, in reviewing cases involving the Emergency Price Control Act of 1942, announced the following doctrine "unless a statute in so many words, or by a necessary and inescapable inference, restricts the scope of equity that jurisdiction is to be recognized and applied." This doctrine was based upon a dictum casually written in an 1836 opinion, *Brown v. Swann,* 10 Peters 497, 503. The extension of this doctrine of doubtful origin into school busing has been disastrous. School busing has become punitive in character, since its benefits have been considered negligible or non-existent by educational authorities. The 1836 opinion also stated that "equity will be converted by the section into an assistant for the enforcement of a penalty; which has never been its province." In order that our traditional check and balance system shall not be discarded by judicial misunderstanding, this amendment to the Civil Rights Act of 1964 (S. 1737) seems appropriate.

This bill should further remedy not only the wastage of gasoline in the transportation of students to achieve social policy by judicial decree, but may well prevent further resegregation of existing desegregated districts by eliminating the need felt by some parents to remove from the community. Those who have taken the view that they will not conserve the fuel in this critical time, when school buses are running, may alter their views upon passage of this bill.

It seems clear to me that national policy in a time of crisis must override far-reaching social planning schemes where reinforced by judicial edict based upon judicial "misunderstanding."

It is the combined judgment of Liberty Lobby and the vast majority of citizens as shown in all polls that busing of school children to create a racial balance has proved to be a punitive act against the best education of children. We believe that the passage of S. 1737 or similar legislation will take care of Congressional opposition to a Constitutional Amendment against busing, and yet fill the legal vacuum needed to stop the useless and unnecessary busing of children away from their neighborhood schools—and against their parents' wishes.

Thank you again for the opportunity to appear today and to present our views.

SENATOR MOSS ADDRESSES MONTANA DEMOCRATIC CENTRAL COMMITTEE

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 12, 1974

Mr. METCALF. Mr. President, on February 23, Montanans honored the Democratic members of their legislative assembly.

They were privileged to have as their speaker the junior Senator from Utah, Mr. Moss.

TED Moss is one of Montana's best friends in the Senate. As a member of the Senate Committee on Interior and Insular Affairs, he has demonstrated an effective interest in the problems of Montana, concerned as we are with energy and our land and water resources.

I respect him. I am proud to be one of his colleagues. I know my colleagues will be interested, as I was, to read his address: "It's Good To Be a Democrat." Mr. President, I ask unanimous consent that his address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

IT'S GOOD TO BE A DEMOCRAT

(Speech of Senator FRANK E. MOSS, Legislative Dinner, Montana Democratic Central Committee, Helena, Mont., February 23, 1974)

It is a pleasure to be here in what I, from my vantage point in the United States Senate, think of as Mansfield-Metcalf land. No State has sent to the Senate two more respected Members—nor two men whose friendship I value more highly. Mike, Lee and I work practically in tandem.

I marvel every day at the breadth of vision and spirit of the majority leader. He is in there, quietly and firmly moving through the Senate, measure after measure of enormous importance to the entire country—often of the entire world—and at the same time he does not forget for a moment what is happening in Helena, Butte and Billings. When the day is done we find that some of the Nation's most crucial problems have been solved, and we find also that the Forest Service regional headquarters will not be moved out of Missoula. Sometimes, it seems almost like sleight of hand.

As for Lee Metcalf—I can best tell you how highly I regard him by saying that the Moss-Metcalf voting record is almost identical. Lee and I find ourselves on the same side of almost every issue.

There is no better way to get to know a man than to fight shoulder to shoulder with him for something which you both feel is important. I can tell you from firsthand experience that Lee Metcalf is a fine human being and a fine public servant.

He was protecting the little man from large corporate control back when even to talk of regulating windfall profits was to risk censure as a subversive. He was pushing bills to protect our environment when the word "ecology" was almost unknown. He was fighting for decent health protection and improved social security benefits and better working conditions long before they became so obviously necessary that even the Nixon administration is espousing some of them. Lee Metcalf is a man who has always been ahead of his times, and who will stay ahead.

I've worked on some of our western problems with your energetic young Democratic Congressman—John Melcher—the third man whose name begins with the letter "M" in the Montana delegation. And let me tell you, he is someone of whom Montana can be proud. He continues the great Montana tradition.

As for Governor Judge (Governor, how did you ever get elected in a State which specializes in electing only people whose name begins with an "M"?), Governor Judge is proving that despite his name handicap, he is running well—and running the State well—and I want to extend to him a special greeting tonight not only for myself, but from Utah's great Democratic Governor, Cal Rampton. In his tenth year Rampton has had 2 years with both Houses. I wish I could call the roll of Democrats in the State government so long as this in Utah.

Mr. President and Members of the Senate. Mr. Speaker and Members of the House—in whose honor we meet tonight—I also extend warm greetings from Utah, and from the Utah State legislature, to you the members of the Montana State legislature who are here this evening. It is appropriate that for you this dinner is being given. I know well the kind of problems you are wrestling with, because they are so much like those with which we wrestle in Utah.

And finally, may I mention how glad I am to meet all of the Democratic State party leaders who are here—State chairman John Bartlett, State vice chairman, Ruth Carrington, national committeewoman Gladys Makela and national committeeman, Leif Erickson, and members of the central committee, county chairmen, district chairmen, and democratic workers. I know that without your efforts, Montana would not be so superbly represented in both Washington and Helena.

This is a good time to be a Democrat. I've always been very satisfied with my choice of a political party, but I am even more satisfied today?

How about you?

I cannot believe that the Democratic party with its philosophy of government for the benefit of all, and its love of justice and human decency, could ever have chosen and elected a president who would preside over the "mission incredible" that we call Watergate.

Many Republicans are still in a state of shock—and I don't blame them. Already 18 of the top Republican members of the House of Representatives in Washington—men with seven, eight, nine terms of service—have announced they would not run again. Resignations are running far ahead of 1972—and there are probably more to come. Last week the 5th Congressional District in Michigan—Jerry Ford's old district—went Democratic for the first time since 1910!

Some of my Republican colleagues in the Senate express their misgivings in one way or another almost every day. Even Barry Goldwater has been losing the faith—Republican faith, that is. That thin-reedy whistling you may have heard last week emanated from Republican headquarters as, like the small boy passing the graveyard, bolstered his spirits after the Michigan returns of last week!

But we Democrats cannot afford one moment of smugness. Watergate has splashed over on everyone who holds public office.

As Senator Biden of Delaware so aptly put it:

"Watergate has done for politicians what the Boston strangler did for door-to-door salesmen."

The misuse of public institutions for private power, the corruption, the meanness of spirit, the violation of public trust which has occurred in the Nixon administration on a scale large enough to very nearly become, standard operating procedure, has shaken the American people to the point that all too many of them are shrugging their shoulders and saying:

"Oh, well, all politicians do it."

First of all, you and I know all politicians don't do it.

And secondly, all politicians are not the President of the United States or the Vice President of the United States.

But these responses fall on deaf ears.

Furthermore, it is not enough to point out that not one elected official has been indicted in the Watergate scandals—that all of the culprits so far are men appointed by President Nixon.

This distinction means a great deal to elected officials and those who work with us in politics, but it is lost on far too many other people.

Watergate is a challenge—it throws down the gauntlet to every man and woman who holds public office, to so conduct himself, to so motivate his every action, that the American people will again come to trust and support us as they did before the Watergate horror descended upon us. Being a United States Senator, or a member of the Montana State legislature, has always been a hazardous occupation. It's a high trapeze act today.

One thing democrats can and should do is insist that we reach all sides and the bottom of this unprecedented political scandal. Only then can our political process be fully cleansed and our system of government preserved, because only then can we take the necessary action to insure that Watergate can never happen again.

We must not, however, allow the Vice President, or angry young men in the White House who have been writing his speeches for him, to foist upon the public the idea that Watergate is being kept alive only by a small and inspired group of "political grudge fighters" who seek to exploit the President's troubles for partisanship advantage. This facile allegation ignores the fact that the Watergate crimes have brought into play a number of irreversible constitutional processes, and that the Justice Department and tax courts and criminal courts and the impeachment machinery of the House of Representatives must run the course that the constitution requires.

The White House is also playing the insistent theme: "It's popular to finish quickly with Watergate".

Or the event more insistent one: "Get off the President's back".

We Democrats are just as tired of Watergate as anybody else.

And the courts and Congress will get off the President's back when he releases the Watergate-related tapes and other documents which they need to decide whether anybody should have been on the President's back in the first place.

The President himself can bring an end to much of the Watergate nightmare whenever he wishes.

These are indeed the times which "try men's souls."

Everything seems to be coming apart at the seams.

After going through one year of Watergate (which we all agree is more than enough) and being well launched into a second year, we are now facing a year, at least, of an energy crisis.

The energy crisis—and the Nixon administration's plans for dealing with the long-term problems of providing an adequate energy supply—has a special significance for Montana. The administration is placing heavy reliance on vast increases in coal production to achieve what is regarded by many as an unrealistic goal of domestic self-sufficiency in energy by the year 1980.

Montana has an estimated 43 billion tons of strippable low-sulphur coal and an apparent surplus of water nearby. That is a vision to set spinning the heads of those looking for an easy way out of the energy crisis. However, proponents of vast increases in strip mining either haven't learned the old truth that there is no such thing as a free lunch, or are trying cynically to manipulate public opinion, knowing full well that someone else will be picking up the tab.

Who will pay the costs of strip mining coal? The people of Montana and the people of other states which have strippable coal reserves?

The true costs of such a program are immense.

First, consider the expense of converting Montana's agricultural economy to dependence on coal and then consider the fact that coal is, after all, an exhaustible resource.

Next, consider the problems inherent in full-scale development of these coal reserves—development which would bring a great influx of industrial plants seeking sites closer to energy sources.

And finally, consider the effect on the environment of the coal mining operation.

Montana legislators have had the foresight to enact one of the strongest state surface mining laws in the country. The good work of Lee Metcalf, as chairman of the fuels subcommittee and manager of the federal surface mining bill enacted last year by the Senate, is a triumph that I enjoyed sharing. The federal bill on surface mining is the first such bill to pass in the history of the Senate. It may not be the best bill in the world—but it is a start at correcting a national wrong. And, as you know, the Montana Senators led the fight.

This Federal bill would help enormously to protect Montana's environment, but it is clear that we really know very little of the total picture of the effects of surface mining in the west. There is a great need for more information on the hydrologic consequences of mining and reclamation operations. I congratulate Governor Judge on the great foresight and commitment to orderly planning, which he showed in seeking from the legislature a 3-year moratorium on all allocations of water from the Yellowstone River Basin. The moratorium will give you time to plan the future of an even more valuable resource, water.

The energy crisis has been lowering its skies upon us for some time, but the Arab embargo focused attention upon the shortage with startling speed. That suddenness plus indications that the crisis is bringing vast increases in the profits of the major oil companies have raised the question in the minds of many people whether the "crisis" is real.

Let me tell you it is—as I understand Montana discovered first hand, in the recent trucker's strike.

There are two aspects of what is loosely called the "energy crisis" which need to be examined separately.

The first is the shortage of crude oil and refined petroleum products which the country is now engulfed. You people here in Montana have been lucky, as have the people in my state of Utah, to be self-sufficient in terms of fuel and total energy requirements. But, although most of the rest of the country has not actually been cold, because of a mild winter, the lines into the gas stations have been intolerably long in many places these past few weeks.

The Federal Energy Office has begun an independent audit of oil company price, profit, and supply records, which hopefully will give us more adequate and accurate assessment of the current situation. We must assure the government of independent energy information.

The current shortage is the result of a number of factors. Even without the Arab oil embargo, it appears that there would have been serious spot shortages this winter. Moreover, over the course of the year a shortage of natural gas led to a jump in the demand for oil and environmental regulations forced some industries to convert from coal to oil as an energy source. Meanwhile, the government failed to plan adequately for the existence of shortages or the development of new sources of energy.

As recently as last May the President declared that although we have some energy problems, there would be no crisis until the 1980's. Imports, mostly from the Mideast, were expected to make up the needed extra supply. Thus, the embargo by the Arabs turned a serious problem into the present crisis.

And now, even in the crunch of an energy crisis, the administration can't get together on how serious it is, or what should be done.

Last week, within 24 hours, Roy Ash, the budget director said the energy crisis is a "one time" crisis and will end this year—and Herbert Stein, the economic council chairman, was publicly critical of the pricing policies of Bill Simon—the energy czar—then both Ash and Stein disputed Simon's assertions, that there is an energy crisis. As I see it, not only do we suffer from an energy crisis, but we suffer a leadership crisis in an executive branch totally unable to cope.

The rising cost of gasoline at the pump does not enrich the service station operators, but is simply a reflection of higher costs which operators are paying for gasoline. No one seems to have an adequate explanation, however, of how such steep price increases are justified for the oil companies who are refining and distributing the gasoline. Many of us in Congress are not convinced that the rising price of foreign oil, necessitates a noncomitant rising price in domestic oil. We are already inquiring more deeply into the economics of the oil and gas industry.

The second aspect of the energy crisis is the long-term problem of finding new energy sources and further developing existing ones in order to meet the constantly growing demand for energy. Various parts of the country will continue to suffer shortages of petroleum products for at least the next 4 or 5 years, even if supplies of oil are increased, because of insufficient refinery capacity.

Unfortunately, refineries cannot be built in a day. Due to population growth, rising incomes, and environmental controls, total energy requirements are rising at a rate of 4 to 5 percent a year. Therefore, in order to achieve self-sufficiency in energy, we must find new techniques to increase recovery rates of oil and gas, build more refineries; and we must expand and develop new technologies to develop new kinds of energy.

Then too, the consequences of the energy conversion processes which accompany those increased energy producing activities must be carefully scrutinized. For example, the National Academy of Sciences report concludes that "water consumption and related on- and off-site environmental impacts that would result from conversion of coal by gasification, liquefaction, or its use for electricity generation could far exceed the impacts from coal mining alone." (End of quote).

Equally important as the question of environmental impacts, are the issues of social and economic impacts. The construction of a coal gasification plant in a small community brings with it enormous and difficult problems. Population increases precede increases in tax revenues to the community. Sooner or later there comes the question of how to find the capital required to expand sewage and water treatment plants, schools, firefighting capabilities, and the whole range of governmental services.

The population increases also bring inflation, and the social problems experienced in boom towns.

In the end, I am confident, we will find responsible ways to use Montana's great coal reserves, and Utah's great coal reserves, and to use other sources of energy in a responsible way to meet our needs. We have in America the sources of power to make our Nation self-sufficient in energy, and we will develop them with typical American skill and determination.

We have learned (and learned the hard way) the pitfalls of energy dependence. But we will, of course, work through this whole era of crises. Even this will end!

And so with Watergate! It will be with us for some time yet. However, as trials are completed, verdicts are rendered, and appeals completed, Nixon men will march off to jail!

By May or June we should know whether the House will have an impeachment resolution before it. The House Judiciary Committee is working now, on its onerous assignment, and should be able, in a couple of months, to decide whether the impeachment resolution should be sent to the House floor. If the impeachment resolution comes out of committee—and I think it may—then the whole House will debate and vote on the issue. Should the House vote impeachment—and there is no reliable head count on this—then the Senate would have to sit as a court in judgment. This could take the rest of the congressional session.

But regardless of what happens, no exorcist will ever be able to purge Watergate completely from our consciousness. Its scars will be on the body politic for all time to come.

So, I reiterate, these are "times that try men's souls", but we will work out of them as we have worked out of all other hard times in the history of our republic. It will take the best we all have to give—but surely we are all willing to give our best.

Those of us who are public officials—who have asked for the public trust—have to give more than our best—the people ask it of us, and they have the right to.

As we clean the Augean stables in the White House, we Democrats must *collectively* be Hercules. Our party as it had in desperate depression 30's and the World War II holocaust, will arise to this very demanding occasion.

May I say that Montana is showing the way with a great Democratic Governor, Democratic Senate and House, and three out of four Democrats in Congress!

JULIA BUTLER HANSEN

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. DIGGS. Mr. Speaker, at the end of the 93d Congress, the House of Representatives will be diminished by the loss of one of its most dedicated and conscientious Members, the Honorable Julia Butler Hansen of Washington State. Mrs. Hansen has decided to retire after almost four decades of service to her country in Federal, State and city positions.

Mrs. Hansen has been a pioneer in the Congress, attaining positions of authority previously unheard of for a woman. She has represented the interests of her constituents not only in matters of local interest, but in the long-range needs of environmental concern, energy resources, education and others vital to the welfare of all Americans.

It has been an honor to serve with Congresswoman Hansen during her 14 years in the House of Representatives, and I wish her every happiness in the years ahead. I know the people of Washington State will continue to benefit from her wisdom and experience in public affairs.

LEGISLATION TO AMEND TITLE XI OF THE SOCIAL SECURITY ACT

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. MATHIS of Georgia. Mr. Speaker, on January 29 I introduced legislation which would amend title XI of the Social Security Act to repeal the provision for the establishment of the Professional Standards Review Organizations.

I am submitting for the RECORD a letter I received from the president of the Medical Association of Georgia which outlines the dangers of this law and why it should be repealed:

MEDICAL ASSOCIATION OF GEORGIA,
Atlanta, Ga., February 28, 1974.

Hon. DAWSON MATHIS,
Member of Congress, Cannon House Office Building, Washington, D.C.

DEAR REPRESENTATIVE MATHIS: In the discussions with you recently, the Medical Association of Georgia delegation indicated to you our interest in seeking your support for the repeal of Section 249F of P.L. 92-603 (the PSRO law). As you can well understand, considerable time and thoughtful study has gone into our decision to seek repeal of the PSRO law. In the comments that follow, we wish to briefly describe to you our basis for opposing implementation of this onerous law.

Although medical records have been made available to insurors, peer review organizations and others on a selective basis and ordinarily with the consent of the patient, the wholesale intrusion of government into confidential medical records is now threatened. The PSRO law (Section 1155(b) (3-4), Title 11 of the Social Security Act) provides for an unprecedented invasion of privacy. There is even an implication that private patients records may be scrutinized to assure that the same quality of care is being provided to them as to Medicare and Medicaid patients. No protection is available to the unsuspecting patient. He is neither consulted nor allowed the privilege of refusing to release his personal medical records.

In establishing certain criteria (Sec. 1155 (a) (1) (A&C)) and requring the development of norms (Sec. 1155(a) (1) (b)), the PSRO law places physicians into an intellectual straight jacket. No longer will the practicing physician be able to use his own best judgment, based on years of study and clinical experience, to determine a patient's condition and the treatment necessary for cure. The physician must now face the intimidation of retroactive review of his judgment—Monday morning quarter-backing at its worst. The reviewer bases his judgment not on observation and examination of the patient, but on whether there was compliance with community standards of health care, a meeting of the norms required for a particular diagnosis, and a satisfaction of criteria more concerned with the cost of care than the needs of the patient.

Physicians will be encouraged to practice medicine by the PSRO "cookbook" in order that they can be assured of payment for their services and of protection from malpractice suit. Either malpractice actions will be greatly stimulated or an increased practice of "defensive medicine" will occur as physicians are forced to work under the PSRO's standards, norms and criteria.

Implicit in the tremendous scientific advances made by American medicine over the past several decades has been the dedicated effort of physicians working in their laboratory, hospital or office unfettered by government guidelines, rules and regulations. Unfortunately, the imposition of PSRO on practicing physicians will severely limit their ability and their interest in advancing new techniques or innovative therapy. Peer pressure resulting from the imposition of community standards, the necessity to conform with HEW's PSRO criteria, and the admonition to comply with PSRO developed norms will all serve to inhibit the physician's willingness to consider new concepts in medical practice. Not only would the incentive be lost, but, indeed, there might be a disincentive or even a penalty attached to medieal practice not complying with HEW's and the PSRO's standards, criteria and norms. Not only the threat of financial loss due to denial of payment for claims, but a threat of malpractice would hang over any physician attempting innovative methods in his practice. Acceptance of change is difficult for any organization but imagine the resistance of a governmental organization such as a PSRO to changes in medical treatment. History records many instances of medical discoveries being ridiculed and rejected by the discoverer's fellow physicians. What could be expected from a bureaucracy the likes of HEW and PSRO?

There will obviously be a significant increase in the overall cost of health care delivery with the advent o. PSRO's just in the increased HEW central and regional state and local bureaucracies required. However, a more subtle factor will also be at work among the medical community. Physicians, today, are very often accused of practicing "defensive medicine" in their attempt to protect themselves from a malpractice suit. This most often is exemplified by the ordering of lab and other test procedures to assure themselves, as much as possible, of the accuracy of their diagnosis. If, in addition to this, medical doctors comply with all the norms of PSRO in order to assure that they practice medicine acceptable to HEW, there will undoubtedly occur a significant increase in the cost of medical care. The PSRO's norms will serve as a minimum base for patient care regardless of a particular patient's need for the services, thereby causing physicians to order tests and procedures which they ordinarily would not.

As the cost of medical care is driven up by the increased bureaucracy and forced compliance with the PSRO's norms, a point will be reached at which the question of fund allocation will be raised. If limited funds are available for medical care, and its cost has been driven up, then following HEW logic, which can be currently seen in Medicare and Medicaid practices, cost control will have to be imposed. This type of control would probably be in the areas of limitations on elective hospital admissions and restrictions on physician-patient encounters. Such limitations and restrictions are already in effect in California and other areas where the cost of Medicaid has strained the state budget. This sort of rationing of medical services will be greatly detrimental to those under the Medicare and Medicaid programs, since the aged and the poor are the ones who are usually in greatest need of medical care.

Another factor which may well reduce the availability of physicians to provide medical care is the massive input of physician time that the PSRO's will require in order to function. Medical doctors will be spending a great deal of time reviewing medical services rather than being on the firing line providing care to their patients.

In conclusion, we would point out that the physicians' concern is not so much for the effect that it will have on us but rather on the damaging effect the PSRO law will have on patient care. The threat of loss of confidentiality of medical records, of forced compliance to a "medical cookbook," disincentives for medical innovations, of increasing rather than controlled costs and of rationing of medical services is very real. Action by Congress is needed now before it is too late, before our private enterprise system of medicine is destroyed. The dangers of PSRO are dangers for every American. I urge you to help us, not just the physicians, but all Americans.

PSRO is a bad law. It should be repealed.

Thank you for your help.

Sincerely,

CHARLES E. BOHLER, M.D.,
President.

THE GREAT PROTEIN ROBBERY: NO. 15

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. STUDDS. Mr. Speaker, support continues to grow for legislation to establish a 200-mile interim fish conservation zone off our shores to preserve and protect our valuable marine resources. The Studds-Magnuson bill, H.R. 8665, now has 72 cosponsors in the House and I hope to be able to announce the date of hearings soon. Many people in both the public and private sectors believe that we must begin to conserve and protect our marine resources because they represent a valuable source of protein. We all need the protection of a 200-mile fish conservation zone so that we can regulate the taking of these resources to insure the continuation of the individual species for generations to come. I am encouraged by the reaffirmation by the New England Governors' Conference of support for this 200-mile legislation at their February meeting. I include in the RECORD at this point the text of the Governors' resolution:

RESOLUTION

Whereas, the virtual extinction of New England's offshore fisheries resources by foreign factory vessels is a clear and present danger to the region's commercial fishing industry; and

Whereas, the continued exploitation of this irreplacable natural resource threatens the stability of the region's marine environment; and

Whereas, the need for intelligent management of New England's marine resources requires the extension of jurisdiction over living marine resources beyond the present 12-mile limit;

Now therefore be it resolved that the New England Governors' Conference hereby urges the New England Congressional Delegation and the Executive Branch of the Federal Government to lend their full support to passage of emergency legislation which would extend fisheries jurisdiction 200 miles from our nation's shoreline or to the one hundred fathom curve. We are convinced this policy is essential to both the health of our regional maritime economy and our nation's ecological balance.

Kennth M. Curtis, Governor of Maine; Deance C. Davis, Governor of Vermont; Frank Licht, Governor of

> Rhode Island; Thomas J. Meskill, Governor of Connecticut; Walter R. Peterson, Governor of New Hampshire; Francis W. Sargent; Governor of Massachusetts.

JULIA BUTLER HANSEN

HON. GUNN McKAY

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. McKAY. Mr. Speaker, last week I had a pleasant visit in my office with Mr. Marvin Franklin, former acting commissioner at the Bureau of Indian Affairs. Mr. Franklin has been involved with the Indians most of his life, and there are few men in Washington more familiar with their needs and problems. During the course of our discussion, we talked about the announced retirement of Representative JULIA BUTLER HANSEN, and I thought Mr. Franklin's remarks were especially pertinent.

Mr. Franklin told me:

> The Indians trusted JULIA HANSEN more than anyone in Congress, they knew her word was good, and they hate to see her go.

Mr. Speaker, the respect which the Indians have for Mrs. HANSEN is typical of the support she has. Her thoroughness and dedication on the Interior Appropriations Subcommittee have earned her the respect of every department within the subcommittee's vast responsibilities.

When I became a member of Mrs. HANSEN's subcommittee a little more than a year ago, I was not sure what to expect. One thing immediately became clear: witnesses should never assume that Mrs. HANSEN is a frail or a weak chairman. I know no other subcommittee chairman with a better knowledge of his jurisdiction, and JULIA is not one of the Tuesday-Thursday chairmen. She works early and late, and has a genuine concern that the viewpoint of every single concerned Member of Congress is heard.

In my association with Mrs. HANSEN, she has been a helpful and a considerate colleague. If there has been a single thrust of her leadership in the Interior Subcommittee, it has been her concentration on planning for the future. She was very serious about the direction of the committee, and examination of testimony during her tenure as chairman evidences her overriding concern and concentration on planning. Witnesses learned to come prepared for her probing questions about program impacts in the next year, the next decade, or even the next century.

One example, Mr. Speaker, was Mrs. HANSEN's guidance during the energy crisis. Besides the testimony we have heard this year, during the most acute shortages, Mrs. HANSEN was urging more fully developed energy resources as long as 8 years ago.

Mr. Speaker, my colleague from Washington, Mrs. HANSEN, leaves a powerful legacy of leadership in the Interior Appropriations Subcommittee. Her firm and sure guidance there will be missed, as will her counsel and her association. I am grateful to have served with Mrs. HANSEN on the subcommittee and in Congress, and I am hopeful that her retirement will bring her all of the peace and satisfaction she desires.

OIL AND FOOD—A TWO-EDGED SWORD

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. LUJAN. Mr. Speaker, the events surrounding the tragic hostilities in the Middle East throw light on a vitally important domestic policy dilemma.

The Arabs have cut off oil exports to this country to protest American foreign policy in the Arab-Israeli conflict. Without going into the why and wherefores of American policy in the Middle East, I would like to point out that this situation illustrates the dangers of our being dependent upon any foreign power for vital resources.

America currently imports about 10 percent of her petroleum needs from the Middle East. In the next decade, our imports from that region are expected to climb to about 25 percent of our total petroleum consumption. This is a precarious position for our country to be in. Equally serious, this situation generates a financial imbalance that may unravel the fabric of the international monetary system. We simply cannot function as a nation if we allow this situation to continue.

A factor making this dilemma worse is America's relative weakness in the international marketplace for manufactured goods. Among other factors, we have made the basic decision that American workers should have their rightful share in the abundance of the American way of life. As a consequence, American manufactured goods are of high quality, but are too expensive to compete with those of the low-wage industrial countries like Japan and Taiwan. Thus, the market for American televisions, automobiles, and other manufactured goods is simply too weak to offset our need for Arab oil.

It would be politically and ethically unsound for us to expect American workers to absorb a relatively smaller piece of the economic pie, so we must now identify those strengths in American economic society that will permit us to compete in the world's marketplace with confidence and strength.

Without a doubt, America's greatest physical resources is our ability to produce food. We are the only Nation that can consistently produce large export quantities of the protein-rich foodstuffs that the rest of the world so desperately needs. In the past, this simple truth has been a source of embarrassment and difficulty. During the post World War II era, we have literally expended billions of dollars and millions of manhours to depress food production and to dispose of excess crop yields. We have given vast stores of food away and we have even destroyed some of it. We have done all this while producing food at what reliable experts believe to be one-third to one-half of our optimal production capacity.

What does this mean to Americans and to our 3 billion other riders on spaceship-earth? It means that the world will become increasingly dependent upon American food exports even while demands for our manufactured products diminish. It means that many nations seeking to blackmail us with raw materials are themselves vulnerable to reciprocal blackmail via American foodstuffs. It means that America does not have to act like the proverbial "pitiful, helpless giant" when other nations try to put the screws to us.

Mr. Speaker, I do not mean to suggest that we should enforce a "pax Americana" on mankind by starving the children of the third world. Such a policy would run counter to our heritage and would violate the principles of humanitarianism and generosity that we have long sought to embody as a people.

I do suggest, however, that American agricultural potential represents a significant untapped resource that can be used to better the lives of untold millions of people while furthering the interests of our own people. Realizing this, it is important that we give serious consideration to programs and policies aimed at taking advantage of this new situation.

Specifically, we should investigate the possibility of catalyzing massive increases in agricultural output. We should identify the physical impediments to increased output and, perhaps even more importantly, we should pinpoint those factors in our political and economic structure that impede production of agricultural products. We should recognize that our domestic market for foodstuffs is built on the assumption that output will not swamp demand and that a new market system may be needed to see that large scale exporting will not dump new economic burdens on American producers or consumers.

An almost unlimited demand for American foodstuffs would be a situation that we have little or no experience with. Even the great economist-demographer, Thomas Malthus, never foresaw a situation in which an agriculturally prolific nation would experience a tapering off of population growth while the agriculturally poor nations suffer unparalleled population growth.

This reality has crystallized with such amazing speed that many of our attitudes and policies toward food production are already outmoded. An example of this can be seen in the report of the National Water Commission, which was released only a few months ago. This report states that we already have too much arable land and that we should end programs to increase arable acreage, such as the 70-year-old Bureau of Reclamation program to turn millions of arid acres in the West into productive agricultural land.

The NWC report was written with great sincerity. But the compounding realities of a new era obviated many of its conclusions before the ink was dry. Just as copies were being distributed, American consumers were jolted by unprecedented food price increases partially caused by foreign exports too large for the domestic market to absorb. Today the National Water Commission's report stands as a relic of an era passed and a symbol of the pressing need to rethink the assumptions that have underlined national agricultural policy for generations.

Mr. Speaker, we stand at the doorway of a new era in which a pesty stepchild is becoming a favored son. The agricultural abundance that has been a problem to us in the past now turns out to be our trump card in the future. If we face this new era with seriousness and deliberation, we can reap enormous political advantage. If we fail to grasp its importance and potential, we will have squandered an irretrievable opportunity.

NEW JERSEY TAKES A BIG STEP

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. DOMINICK V. DANIELS. Mr. Speaker, as one of the strongest advocates of youth camp safety legislation in the Congress, I am pleased to report to my colleagues, that my home State of New Jersey has just recently passed the "New Jersey Youth Camp Safety Act."

The purpose of the act is to "promote, protect, and safeguard the health and well-being of the youth of the State attending day camps and resident camps." I am extremely proud that New Jersey has taken the initiative that few other States have taken toward protecting our youngsters. Presently, only six other States have adequate, enforced safety laws pertaining to youth camps. There are only 28 States in the entire Nation that have even the barest sanitation and/or safety regulations applicable to summer camps. This is, indeed, a sad commentary upon State priorities.

New Jersey's newly passed legislation is one of, if not the strongest in the Nation, in terms of requiring high standards for the protection of youth attending camps. This law makes it impossible for a camp in New Jersey to be organized or operated without the authority of a valid certificate of approval, valid for only one year, issued by the Commissioner of Health. In addition, the Commissioner is responsible for the enforcement of the State youth camp safety standards and to implement this responsibility he may hold hearings, enter and inspect youth camps and their records, question employees, investigate facts, conditions, and practices and otherwise investigate charges of violations. All camps operating in the State must report annually all accidents resulting in death, injury, and illness other than minor first aid treatment. The Commissioner must subsequently summarize these statistics in his annual report to the Governor.

Under the recently passed law, the Commissioner may revoke the certificate of approval thereby making a camp's operation illegal and he may also impose a penalty not exceeding $1,000 for any violation of a rule or regulation pursuant to the act.

The New Jersey Youth Camp Safety Act establishes within the Department of Health and Advisory Council on Youth Camp Safety to advise and consult on policy matters relating to youth camp safety, particularly in the promulgation of standards.

I am delighted that the State of New Jersey has moved to the forefront in passing legislation which is so responsive to the needs of our children. It is my fervent hope that this action on the part of my home State will convince other States to follow suit, and enact further protective legislation. As chairman of the House Select Labor Subcommittee, it is my intent to hold Congressional hearings in the near future for the purpose of passing legislation to provide for minimum Federal standards in our Nation's youth camps.

Those of my colleagues who may be interested in reviewing New Jersey's "Youth Camp Safety Act" may obtain a copy from my subcommittee office, B345A Rayburn House Office Building.

NEED FOR THE 200 MILE FISHING LIMIT

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 11, 1974

Mr. HOWARD. Mr. Speaker, I am today inserting into the RECORD, a series of articles on the problems facing American fishermen off the east coast of our country, because of overfishing by foreign fleets.

The authors of this series, Bruce Bailey and James McQueeny, have done an excellent job of researching these problems, and I feel their presentation effectively describes current conditions. Most assuredly they have pointed out the need for full congressional discussion on this subject—before we find that there is no discussion necessary, because the overfishing which is presently going on has destroyed the entire fish population.

I believe this is a subject which requires the attention of all Members of Congress—not just those representing coastal districts. Whether our constituency includes fishermen or not, our constituency does use the products of their labor as a relatively inexpensive, high-quality protein source. It is the responsibility of this body, I feel, to protect that source for all Americans.

I have introduced legislation to deal with this problem. This bill, while immediately extending our fishing limits to 197 miles outside the territorial sea, would also allow for consideration and adaptation of any decisions arising from the Law of the Sea Conference. It has been my view that none of us would want to prevent other countries from obtaining a supply of fish, particularly fish which are not available off their own coastlines. We must, however, take care to insure that all fishing is done with great consideration for the continuing supply of such fish for the future. In the waters off the coast of New Jersey, this has simply not been the case. The foreign fishing fleets have been literally scraping the bottom of the ocean, leaving no fish at all and no means for the fish to regenerate and procreate for the coming seasons.

It is my hope that those who have had the opportunity to read the Star-Ledger series will contact their representatives and will urge their friends to do so, to demonstrate the great interest in this subject.

I also heartily commend this excellent series to my colleagues:

RED FISHING FLEET TAKING HUGE HAUL OFF JERSEY COAST

(By James McQueeny and Bruce Bailey)

Foreign fishing fleets—the majority flying the Soviet flag—prowl the Atlantic Ocean off New Jersey in massive fish harvests that have depleted the edible stock by 65 per cent in the last 10 years.

The East Coast fisherman has been left bobbing in the wake of the modern foreign flotillas whose catch this year will be approximately 780,900 metric tons compared to any 195,000 for the domestic market.

More than 75 long-range foreign trawlers, each capable of remaining at sea the year-round, are presently sweeping the Atlantic between Long Branch and Barnegat Light as they move toward another harvest off the North Carolina coast in mid-April and May.

Thirty-six Russian trawlers, accompanied by six "mother" factory ships, have established an ocean-going processing center 14 miles out of Brielle and are ravaging the "Mud Hole" for a distance of 18 miles where the silver hake (whiting) and red hake (ling) spawn this time of the year.

During January, there were 269 foreign trawlers off New Jersey and Long Island, hauling in tons of fish in quarter-mile mid-water stern nets regardless of specie, size or age—far out-distancing the smaller American draggers whose skippers are forced to watch the depletion of the stock with bitterness.

Before the end of the year, it is expected some 800 foreign fishing vessels will have served as a "giant rake" from Cape Cod to Cape Hatteras with only a few restrictions placed on them by the U.S. Coast Guard and the Department of Commerce.

Every living creature in the ocean is fair prey for the foreign trawlers and those fish and crustaceans not wanted for the "home" market are sorted out and ground up for fertilizer.

The foreign trawlers, some 400 feet in length and 80 per cent mechanized in fish processing, are capable of bringing aboard three metric tons of fish in a 15-minute period and while they operate outside of the international 12-mile limit, they are easily seen from the Jersey Shore.

The foreign craft, most of which are subsidized by their governments, are equipped with the latest electronic tracking gear and can follow schools of fish until the last is hauled into the nets.

Their presence is resented by the economically hurt New Jersey fishermen—but tacitly accepted by the United States government even though other nations have unilaterally extended the 12-mile limit for fishing purposes.

Ecuador, Chile and Peru have set 200-mile limits to protect their tuna industries while Iceland has established a 50-mile limit aimed particularly at the fishing fleets of England and Scandinavian countries.

However, the United States has not shown an inclination to change its 12-mile limit for fishing although it adheres to an 95-mile continental shelf limit for oil rights.

The United States will be one of 135 nations scheduled to attend a Law of the Sea Conference in Venezuela next June but a State Department spokesman, queried by The Star-Ledger, said:

"There is no intention on the part of the United States to seek an extension of the present internationally recognized 12-mile limit."

But, William Gordon, regional director of the National Marine Fisheries Service of the U.S. Department of Commerce, said the "State Department plays diplomatic games in regard to the 12-mile limit and fishing quotas."

"Our fishing banks have been over-fished for the last five years," he said.

Gordon explained that in the interests of conservation a quota system for threatened species of fish has been established and while United States fishermen face severe fines if they fish beyond their quotas, the foreign trawler captains are more or less on the "honor" system.

"True," Gordon said, "our inspectors and the U.S. Coast Guard make random checks, but it is very easy for a foreign trawler captain to dispose of evidence of over-catches. Right into the fish grinders they go when our boats approach and since they are banned from United States ports, there can never be an accurate check on their tonnage."

Gordon said strict enforcement of the 12-mile limit means very little in the way of protecting the fish stock off New Jersey because most of the large hauls are made between 20 and 50 miles at sea.

Fishing grounds off the New Jersey and New England coasts are said to be the most lucrative in the world, with a multitude of edible species attracted to the area by the confluence of currents and ready food sources.

When Communist bloc countries began to experience crop failures a decade ago, the attack on East Coast fishing grounds by foreign trawlers began in earnest and the fleets of the intruders expanded 1,000 per cent in a five-year period.

"As a result," Gordon said, "juvenile fish, females carrying eggs—the whole lot has fallen victim to the relentless tracking by the foreign trawlers equipped with the most sophisticated sensing devices known in the industry."

Charles L. Philbroko, chief marine enforcement agent for the Division of Foreign Fisheries, said that by mid-January of each year the foreign trawlers begin sweeping the Atlantic Ocean from Montank Point, L.I. to Cape May and the Delaware Bay.

During this past January, Philbrook said of the 269 foreign trawlers sighted, 122 were Russian, 35 were Polish, 28 were East German, 10 were Bulgarian, three were Romanian, 44 were Spanish, 16 were Japanese and 11 were Italian.

Philbrook said the Spanish, Japanese and Italian craft are relatively new to the New Jersey coast and they are seeking mainly squid "although they undoubtedly take anything they can haul from the ocean bottom, including lobsters which is an illegal catch for anyone."

The fish taken off the Jersey Coast, according to Philbrook, include mackerel, silver hake (whiting), flounder, blues, hadden, cod, black bass, fluke, ling and porgies. Porgies are now all but extinct.

Philbrook said some of the foreign fishing trawlers are guilty of violating the 12-mile limit, the temptation is there:

"If a trawler captain is chasing a large school of fish and they get within the 12-mile limit, the temptation is there to pursue them further and we are sure this is being done."

"In fact," he added, "a Russian skipper once boasted that when he is able to slip inside the 12-mile limit he is able to go home that much sooner."

Philbrook said the 75 foreign trawlers off the New Jersey coast now will grow to be at least 125 before mid-April "for the final sweep to the Delaware Bay and then to the coasts of Maryland, Virginia and North Carolina."

"Once they are finished down there," he said, "they will return to New England waters and the whole thing begins over again."

"Where we once had an ample supply of fish for the American market," Philbrook added, "the unrestricted numbers of foreign trawlers are pushing our stock to the brink of extinction."

Dr. Bradford Brown, head of fishery management and biology investigations for the National Oceanic and Atmospheric Administration, said the overall fish stock off the East Coast is now down 65 per cent and some species are rapidly being depleted.

Brown said that during the last three years, the flounder stock has been depleted by 45 percent.

"And this specie," he said, "has been a constant source of fish for both the American sport fisherman and the commercial fisherman."

Brown said that prior to 1960, the average metric tonnage of flounder taken aboard United States vessels was 16,000 tons.

"The foreign fleets moved in," he said, "and with the Russians leading the way the flounder catch was more than doubled."

"As a result," he added, "herring, mackerel and flounder off the New Jersey coast are becoming extinct because they just do not have the opportunity to reproduce themselves fast enough."

Brown said the most "crippled" specie has been the haddock, which has been depleted by 90 per cent since 1962.

The federal official said it's inadvisable for any specie to drop off by more than 50 per cent in a given year to permit its resurgence the following season.

"When the depletion rate exceeds 50 per cent and reaches the 65 per cent rate of today, there will be total depletion of fish within a matter of a few short years," he said.

Brown said the high depletion rate, for instance, of the haddock has so hampered reproduction of the specie that, even with the current "honor system" ban on catching it during certain periods of the year, it will take up to 10 years for the specie to flourish again.

"American fishermen, far out-numbered by their foreign rivals in most areas of the East Coast, were already fishing close to the limit of depletion prior to the large-scale appearance of the foreign fishing fleets," Brown said.

William Beers, an inspector for the International Commission for the Northwest Atlantic Fisheries (ICNAF), said Russia and the Communist bloc nations entered the New Jersey waters to fish when their economic planners envisioned a cheap source of high protein.

"They decided the ocean could answer a lot of protein problems and this was a source that couldn't be exhausted. How wrong they were," Beers said.

Beers said of enforcement under the "honor system" for quotas: "It's still an honor system and we're basically taking each nation's word for what is being caught and how much."

However, Beers conceded that when the average American fisherman only spends two or three days at sea at a time before returning to port and yet is expected to meet the Atlantic quota of 195,000 metric tons well before the year's end, the foreign trawlers will probably exceed the 780,900 metric ton quota set for them.

Quotas are established through international agreement according to the population of a nation, the availability of fish to that nation and the geographic area which would permit commercial fishing.

Of the foreign metric ton quota, Russia will take the lion's share with 342,000 tons. Poland will follow with 152,200 tons and Romania and Bulgaria will take a combined total of 33,900.

Beers pointed out that a quota of 850,000 tons has been set for foreign trawlers for 1975 and it is hoped the Law of the Sea Conference in June will iron out agreements to make this quota a working fact.

Beers said the Communist bloc nations have given ground a little and have agreed not to "bottom fish" off New England between July and December to allow the yellowtail flounder and the young haddock to mature.

However, Beers said New Jersey "is still fair game and not a hell of a lot has been agreed upon to protect the fish there. It's bottom fishing all the way along the coast."

U.S. Secretary of Commerce Frederick B. Dent, who has urged greater conservation restrictions for East Coast fishing banks, pointed out that of the nearly 2,000 fishing vessels off the Atlantic Coast, only 15 per cent are from the United States.

"Last year," he said, "the total fishing effort generated by foreign countries was 80 percent while the United States effort decreased by 30 per cent.

Last June, Dent, disturbed at foreign overfishing and lack of progress in the IGNAF called in urgent terms for major reductions in foreign fishing off the Coast, particularly in New Jersey.

Dent said this past week that if ICNAF is not strenthened "the United States should seriously reconsider whether it should retain ICNAF membership."

The secretary said he hoped the up-coming June conference, which will be sponsored by the United Nations, "will give us the answers we need to halt the further depletion of our fish."

Whether or not the conference will succeed in limiting the size of foreign fishing fleets off New Jersey remains to be seen, but concerning those trawlers working the coast now, a Coast Guard pilot said:

"I wonder sometimes how they do it without bumping into each other. They look, at times, as though you could just jump from one ship to the other."

"Honor Code" Governs High-Seas Fishing—Arm of U.S. Law Reaches Only 12 Miles Off Jersey

(By James McQueeny and Bruce Bailey)

The prevailing "law" on the conservation of fish beyond 12 miles at sea is little more than an industry honor code that has been unable to stem the reaper-like harvests by foreign fleets.

The code is regulated by an international body reluctant to step on any toes and risk upsetting delicately negotiated fishing quotas and seasonal bans it hopes are not too late to check the further depletion of fish stocks.

The present 12-mile contiguous offshore limit is the outermost reach of national law and its rigid penalties, though the United States claims rights to oil, mineral, and some shall creatures on the continental shelf, which extends up to 95 miles offshore.

A Bulgarian trawler felt the sting of U.S. law last month when it was caught fishing within the 12-mile boundary and fined $125,000.

There are no such punitive sanctions for those who disregard fishing restrictions outside the limit set by the International Commission for the Northwest Atlantic Fisheries (ICNAF), which has had jurisdiction over the region since 1949.

"The only law we have (beyond 12 miles) is that which these (ICNAF)) members agree to have among themselves," claims William Beers, an ICNAF inspector.

A laissez-faire, club atmosphere of the 15-nation organization was shattered after the mid-1960s when the dimension of Soviet and Polish fishing activities within the region surfaced in their periodical reports.

A steady and alarming decrease in the region's biomass—the estimated weight of all commercially exploited fish—and the near annihilation of some species spurred the organization into action.

A grudging cooperation was extended by member nations partly out of economic necessity with heavy state investments resting with some nationalized fleets.

Limited quotas were initiated in 1970, scaled lower each year, with 14 fish stocks covered last year. This year, virtually every species is covered.

"What we've done is this: Instead of going from the weakest measures to the strongest measures, they are going from the weakest to slightly better," said Beers, who doubles as a U.S. marine enforcement agent for the National Marine Fisheries Service.

"In fact, back at Enforcement and Surveillance (division) we say 'enforcement is 12 miles inward, and surveillance, 12 miles outward." We're cops inside the limit and reporters outside.' "

In addition to ICNAF agreements, the Soviet Union, Poland, and Romania have entered into bilateral agreements with the United States promising not to fish in a banana-shaped spawning area off Long Island and New Jersey for several months.

The pact went into effect last month in exchange for leeward "loading zones" located within the 12-mile limit near Barnegat Inlet and Great Egg Inlet and offshore Long Island.

The loading zones, several miles square, are used for logistical, non-fishing, purposes such as cargo transfers, repairs, and storm refuge.

ICNAF, in cooperation with the U.S. Coast Guard, has conducted seven to 12 surveillance flights monthly over the region since 1961, and makes regular sea patrols and inspections from aboard cutters.

Last year, ICNAF made 125 routine inspection boardings, with 48 made on Russian ships, 24 Polish vessels, and 21 U.S. boats, and the remainder among East Bloc, European, and Japanese trawlers.

Some 15 shipboard violations, ranging from improper netting to quota violations, were registered by the 10 ICNAF inspectors working from Virginia to Portland, Maine. An ICNAF spokesman said the agency also noted 15 violations, mostly for fishing within "closed" spawning areas, from aircraft observations.

The violators are "written up," according to Beers with a copy of the violation kept by ICNAF, another sent to the State Department and forwarded to the government of the offending vessel—who is expected to face unspecified sanctions but apparently never do.

"When you catch someone under a bilateral or ICNAF . . . you are not authorized to hang the guy. You are authorized to fill out a form . . . and it's up to their enforcement officials to enforce that case and to investigate it," said Beers.

"Basically, it's an honor system," he said.

"We can't hold him, we can't do anything, we can't confiscate anything," said Beers, who added the agency has "no enforcement powers at all."

The limits of ICNAF authority are apparent to many agents, said Beers. "If you get a (ICNAF) guy who's a real hard cop and he starts pushing his weight around out there . . . he's still only a guest aboard that vessel.

"They can throw you off," he said. "It's a frustrating job, a damn frustrating job. What it calls for out there is tact.

"What we're generally looking for is to see that they're not catching anything they're not supposed to be catching, making sure of their log book records and writing in their fishing trawl book all the species they're supposed to have," he said.

Countries, however, use the violation statistics for negotiation leverage, he said, with offenders allegedly holding a weaker bargaining position when it comes to quota-talks.

The next ICNAF meeting will be held in Halifax, Nova Scotia, in June.

The flight patrols by ICNAF inspectors serve another purpose besides enforcement as a deterrent. The National Marine Fisheries Service in Woods Hole, Mass., uses the data collected on the concentration of fishing ships to update a computer estimate on the existing biomass within the sea.

On one such flight last week, two concentrations of Russian fishing vessels were spotted offshore Long Island and some 50 miles east of Atlantic City.

The routine patrol in an HU 16, twin-engine "flying albatross," left Otis Air Force Base on Cape Cod at 8:30 a.m., heading south along the coastline.

A little over an hour into the flight, the captain Lt. Commander James Cornell, radioed a message that a small fleet of two-dozen Russian trawlers were a few miles ahead in the so-called Moriches (Long Island) loading zone.

A low-level pass showed little activity aboard the ships which were marked by a distinctive hammer-and-sickle on their smokestacks.

The names and numbers of the vessels were noted by the crew on forms to be sent to ICNAF which did not post an inspector on the flight since an agent's two previous flights were cancelled due to poor weather.

After cruising at a low altitude along the Jersey coast for about an hour without spotting one of the larger Russian fleets which was last reported days ago to have been operating offshore, Captain Cornell swung over Cape May in an arcing 180-degree turn back to base.

"I guess we're out of luck," he kidded the crew of four.

About 15 minutes later, the captain's voice echoed through the ship's radio headsets—"we've got a message from another (Coast Guard) patrol, we've found them . . . just east of here."

The plane banked eastward and in a few minutes the pilot pointed to the right side of the cockpit. On the horizon, the dark group of dots stood out in the silver-reflected sea.

"That's them—the protein hunters," the captain laughed.

Two crewmen took the names and numbers of the ships radioed back from the cockpit by the captain and copilot. The ships, from the low altitude of 200 feet loomed past an opened bay-door in the rear of the plane.

The fleet was comprised of some 50 to 60 vessels, many with their aft smokestacks billowing wispy strands of white smoke indicating the shipboard "factories" were in operation.

Some of the fishing fleets, notably the Soviet and the Polish fleets, may number as many as 100 trawlers controlled by a base chief on board one of two base ships.

The Soviet fleets usually post a picket ship a mile or two from the 12-mile limit to mark the boundary, according to ICNAF officials "Generally, they're pretty good about that," said Commander Cornell. "If they're within the 12-mile limit, it's usually an accident."

The vessels used in the Soviet fleets were built in the late-1950s or later and are of two types: Side-trawlers, which range in size from 125 to 200 feet long, and fish-factory trawlers, with range up to 300 feet long and carry crews of 96 to 102.

The mammoth fish transports, of which there are relatively few, are refrigerated passenger-freighters about 500 feet long. They occasionally act as base ships.

On side-trawlers, which have crews averaging a dozen, the catches are usually delivered to the base ships though the larger side-trawlers can process and refrigerate part of the catches.

The fish-factory-trawlers are more efficient in retrieving their catches and can make large hauls of more than 15 tons per set. Depending on the size of the vessel, daily quotas can range from 25 to 50 tons.

They can process their own fish and deliver it to a transport without further handling required. In addition to processing frozen and salted fish, they may manufacture fish meal and oil from by-catch and are equipped with filleting machines for handling haddock, ocean perch, and cod.

The transports are manned by a crew of about 200 including 40 women. It has doctors, well-equipped medical and dental facilities, two 12-bed hospital wards, and an out-patient cinic.

The Soviets eat four meals a day and entertainment includes movies shown twice daily on most of the larger vessels. They earn up to one and-a-half times the salary of an equal landside occupation.

In addition, under ICNAF *regulations* where each country is urged to supply inspectors, the Soviets' ocean-going tugs, which range up to 200 feet long, carry Soviet ICNAF agents on board.

The fishing vessels may be operated continuously for six months or more before being sent home for repairs and maintenance.

The ships off New Jersey were mostly stern trawlers according to the Coast Guard captain who piloted his craft up and down the staggered rows of vessels for about 15 minutes.

A few minutes after banking north toward Otis Air Force Base, the captain pointed to the orange-and-white Coast Guard cutter Unimac which was heading toward the Soviet concentration on routine patrol.

Near the end of the air patrol, the radar operator picked up a vessel near the 12-mile limit and the captain took the plane to the scene, about five minutes off course, near Montauk Point, Long Island.

"Is he Russian?" the captain asked the co-pilot, who remained silent staring for a few monents out his window.

"Yep," he said to the pilot, who dropped the plane to an altitude of a few hundred feet.

"How far out?" he asked.

"About 15 miles," a crewman shot back.

"O.K., well let's keep him honest," said the captain, who circled the stern trawler, apparently part of the fleet off Moriches spotted earlier in the flight, for a few minutes.

Another ICNAF inspector, Fred Wheeler, said that violators of the 12-mile limit tend to be "lone raiders."

"There are some penetrations in the continuous fishing zone that are spasmodic . . . this time of year off New Jersey and the backside of Long Island," he said.

According to Charles L. Philbrook, chief enforcement and surveillance (division) of the National Marine Fisheries Service in Gloucester, Mass., said the temptation to fish within the limit is apparent.

"I wouldn't say they don't, the temptation is there. For example, when they fish for mackerel, the mackerel run very fast, and when they move within the 12-mile limit who's to say they don't follow them?"

As for the surveillance, Russell T. Norris, the service's regional director, said "certainty it's not perfect."

But, he said it has added importance because "the critical issue has become survival of fish stocks at levels capable of supporting viable U.S. fisheries."

"The increasing levels of foreign fishing . . . appear to reflect a reckless and irresponsible attitude toward conservation on the part of foreign nations."

POLONIA CONDEMNS COMMUNIST ATTACK ON RELIGIOUS FREEDOM IN POLAND

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. ANNUNZIO. Mr. Speaker, I rise to call to the attention of my colleagues in the Congress two articles, "Statement of the Polish American Executive Committee," and "Foreign Policy—The Art of Possible," both printed in the Polish-American Congress Newsletter.

The Polish-American Executive Committee, in resounding terms, has denounced the Communist attack on religious freedom in Poland. The Communist dictatorship continues its brutal attempts to erase from the minds of the Polish people the traditional concepts of Christianity.

Our own Nation was founded on the principles of freedom of religion and expression, and many emigrants came from Poland and other nations to exercise and enjoy this liberty. The Communist attacks on religious liberty must be condemned and I can tell you that the American Polonia will continue to speak out in defense of this precious freedom and to remind all Americans that no compromise can be made with totalitarianism.

The other article is a commentary representing the views of Polonia on a speech by Secretary of State Henry Kissinger on the substance and practical application of U.S. foreign policy. This article also merits the attention of every Member of Congress since it reemphasizes that despite a climate of détente our own foreign policy must always incorporate the ideals of peace and freedom, which are indivisible, and freedom in Poland means "independence from the dictates of the Kremlin."

At this point in the RECORD, I insert the articles from the Polish-American Congress Newsletter:

POLONIA CONDEMNS COMMUNIST ATTACK ON RELIGIOUS FREEDOM IN POLAND—STATEMENT OF THE PAC EXECUTIVE COMMITTEE

The Executive Committee of the Polish American Congress severely castigated the Communist government of Poland for its continuous efforts to restrict religious freedom and eliminate religious education. "We protest the continued repression of human rights and freedoms in Poland—concludes the statement—and strongly urge the Communist regime in Poland to desist in its campaign to intimidate and coerce the Polish people away from their strongly held ideals of Christian faith, freedom and independence."

The PAC statement was prompted by recent development in Poland where the Polish Sejm, the rubber-stamp parliament, passed a law introducing new educational system, which virtually eliminates any opportunity to provide Catholic instruction to Poland's youth. In fact, the effect of the new system is to establish the monopoly of Communist, atheistic influence upon the education of Poland's youth to the exclusion of parental and religious influences.

PAC statement quotes John, Cardinal Krol's recent critical report on the situation of the Catholic Church in Poland: "Poland is an arena in which the two ideologies of theism and atheism are locked in a mortal struggle—declared Card. Krol. The forces of atheism neither conceal nor disguise their ultimate goal. These forces do not risk the danger of advancing their cause on the merits of logic and reason. They make use of administrative and military power to improve their views. They control the mass media, the process of education and the means of social and economic coercion. The odds are against the forces of theism—religion."

DEMOCRATIC FACADE VERSUS COMMUNIST PRACTICE

While noting that Poland's constitution theoretically guarantees its people all the democratic freedoms, and that Poland is a signatory of the United Nations Declaration of Human Rights, the statements observes that "it is a fact that the actual practice of the Communist dictatorship makes both these documents a sham relative to the people of Poland."

"Thus, the Communist dictatorship of land—reads the statement—rigidly controls and censors all media of communications, including even private letters.

It denies the Poles the freedom of expression.

Secret police methods including closed-door trials are widely used to suppress even minor acts of dissent.

Political freedom is non-existent in Poland. Single electoral lists make a mockery of the much heralded by Communist propagandists "people's democracy."

Ever since its political power was thrust upon the people of Poland by the brutal power of Soviet Russia in 1944, the Communist party wages a relentless struggle to erase from the minds of the Polish people the traditional concepts of Christianity.

Yet, after 30 years of incessant coercion, intimidation and indoctrination the Polish nation, led by its spiritual leaders: Cardinals Stefan Wyszynski and Karol Wojtyla, stand proudly by its millienial ideas fo Christianity."

DÉTENTE MUST BE A TWO-WAY STREET

The statement expresses the concern, that the continuous denial of basic human rights to the people of Poland may adversely affect the increasing economic, cultural and scientific cooperation between this country and Poland. As is well known, PAC is supporting and encouraging these developments on the premise that the detente with the Communist dictatorships will eventually help evolve the rigid political systems into more open societies.

But "the detente must be a two-way street." Yet "it is obvious by now, that while bidding for western commerce and technological assistance to bail out their economic failures, the Communists are actually tightening their ideological grip on their captive peoples."

The important document was signed by all members of the National Executive Committee: Aloysius Mazewski, President; Helen Zielinska and Kazimierz Lukomski, Vice Presidents; Valentine Janicki, Secretary; and Joseph Osajda, Treasurer.

FOREIGN POLICY—THE ART OF POSSIBLE

At the recent Pacem in Terris conference in Washington, D.C., Secretary of State Dr. Kissinger delivered an important address, which provides valuable insights into the substance and practical application of the U.S. foreign policy.

"This country has always had a sense of mission. Americans have always held the view that America stood for something above and beyond its material achievements. . . . America cannot be true to itself without moral purpose," he maintained. The moral purpose of U.S. foreign policy is to promote and work for the establishment of universal freedom and fundamental liberties and application of humane principles in relations between men as well as between nations.

With this ultimate objectives in mind, Dr. Kissinger warns that while "a nation's values define what is just, its strength determines what is possible. . . . Progress will always be measured in partial steps. . . . Tension is unavoidable between values, which are invariably cast in maximum terms, and efforts to promote them, which of necessity involve compromise. . . . The policy maker must be concerned with the best that can be achieved, not the best that can be imagined." This is so Dr. Kissinger explains, because "foreign policy involves two partially conflicting endeavors: defining the interests, purposes and values of a society and relating them to the interests, purposes and values of others."

Understandably, the main concern of the U.S. foreign policy is its relations with Russia. Dr. Kissinger thus sums up U.S. policy relative to this crucial problem;

"This Administration has never had any illusions about the Soviet system. We have always insisted that progress in technical fields, such as trade, had to follow—and reflect—progress toward more stable international relations. We have maintained a strong military balance and a flexible defense posture as a buttress to stability. We have insisted that disarmament had to be mutual.

We have judged movement in our relations with the Soviet Union, not by atmospherics, but by how well concrete problems are resolved and by whether there is responsible international conduct.

Coexistence to us continues to have a very precise meaning:

We will oppose the attempt by any country to achieve a position of predominance either globally or regionally.

We will resist any attempt to exploit a policy of detente to weaken our alliances.

We will react if relaxation of tensions is used as a cover to exacerbate conflicts in international trouble spots.

The Soviet Union cannot disregard these principles in any area of the world without imperilling its entire relationship with the United States."

He then concluded with this statement:

"Our policy with respect to detente is clear: We shall resist aggressive foreign policies. Detente cannot survive irresponsibility in any area, including the Middle East. As for the internal policies of closed systems the United States will never forget that the antagonism between freedom and its enemies is part of the reality of the modern age. We are not neutral in that struggle.

"As long as we are powerful we will use our influence to promote freedom, as we always have. But in the nuclear age we are obliged to recognize that the issue of war and peace also involves human lives and that the attainment of peace is a profound moral concern."

U.S. foreign policy is of particular interest to Polonia because of our abiding concern for freedom and independence of Poland and all other East-Central European nations. The PAC has often reiterated the position that this remains our unalterable objective, which must be resolutely pursued throughout the forthcoming negotiations, and never abandoned. The PAC position incorporates an idealistic attitude—the "nation's values" of which Dr. Kissinger spoke—with a pragmatic approach based on a truism that "peace and freedom are indivisible." In plain English it means that universal freedom must be established before universal peace can be achieved and perpetuated.

Freedom in Poland means independence from the dictates of Kremlin; it requires that the people, rather than the Politburo of the Communist party, decide their own internal and external policies; that freedom of expression is restored and all the rigid, state-controlled censorship of all media of communications, including even private letters, is abolished; that political freedom replaces Communist dictatorship hiding behind the mockery of single electoral list "free elections;" that the educational system is freed from forced attempts to impose on Poland's youth the atheistic concepts of marxism; and that the rule by secret police methods used to supress any symptoms of dissent is abandoned.

There will be no peace and security in Europe until these conditions are met in Poland, Czechoslovakia, Hungary, Romania and Bulgaria, but also in Lithuania, Latvia and Estonia, and indeed within Russia itself.

As Sen. Henry Jackson (D.-Wash.) rightly pointed out, the detente with the Communist block cannot be meaningful and stable as long as Russia maintains its population in ignorance of world affairs, uses repression to stifle dissent of its intellectuals and resists open, bilateral cultural exchanges with the West.

Unfortunately, whether we like it or not, and even whether they like it or not, Polish Communist regime is obliged to fall in step and to actively support these Russian adventures, like the latest Russian intrusion into the Middle East. Such are the facts of political realities.

The PAC pursues a two-pronged policy relative to Poland: encouragement and support of the economic, technology and cultural exchanges but at the same time strict opposition to the Communist dictatorship.

It designed to promote conditions which will assist the Polish people to gradually win back, and then enlarge, the areas of freedom now drastically restricted by the Communist government. It is not an easy course to follow, but certainly the only one which considering current political realities best serves the interest of Poland within the framework of U.S. foreign policy.

BUDGET

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. PRICE of Texas. Mr. Speaker, in the face of almost certain attempts by neoisolationist and other elements to further reduce the defense budget and our military establishment, I feel it high time some of us speak out to the problem.

The defense budget proposed for fiscal year 1975 represents a smaller relative burden on our national economy than at any time in the past two decades, and as a percent of the total Federal spending, our defense budget is the lowest since fiscal year 1950, before the Korean war. Our uniformed force levels have gone from 3,547,000 in 1968 to an end fiscal year 1974 strength of below 2 million.

Were it not for the Israeli-Egyptian war, it is possible that further reductions of alarming proportions would have occurred.

While we should be pleased that world conditions allow us a period of peace, we must not forget that a strong national defense is our best hope for preserving that peace. Our defense must remain so strong that no nation will dare attack us. My fear is that we are falling behind in our defense capabilities.

Organized efforts are deliberately working to further reduce our already trimmed military force, and an ax-wielding Congress seems willing to oblige. Why? A unilateral reduction of our Armed Forces in the face of the tremendous momentum of Soviet military expansion could be literally devastating.

We stand at the door to a possible break-through in arms control measures through a series of highly complex, carefully planned and empirically conceived negotiations with the Soviet Union and the Warsaw Pact. These negotiations include the strategic arms limitation talks—SALT—between the United States and the Soviet Union; the Conference on Security and Cooperation, Europe—CSCE—between NATO members and the Warsaw Pact, and the Mutual and Balanced Force Reductions—MBFR—between seven NATO members—the United States, Canada, Great Britain, West Germany, the Netherlands, Belgium and Luxembourg—and the Warsaw Pact countries of Poland, East Germany, Czechoslovakia and the Soviet Union. The fact that the two traditional antagonist camps have agreed to talk is significant, and promises of success, however limited, are optimistic.

What has brought about this atmosphere we call détente? And, what is the algebra in the negotiation equation which permits a perception by the Soviet Union that they should begin talking seriously about arms control if, in fact, that is an accurate characterization of the Soviet Union's intention? The answer to both questions stems from the fact that the United States has maintained a large and powerful military machine, capable of defending the United States and U.S. interests through the entire spectrum of warfare. What is more, we have demonstrated throughout the years a willingness to use that force ples, the Korean war, the Cuban missile when it became obvious that diplomatic efforts were to no avail. I cite as exam- crisis, the Vietnam war, and more recently the Israeli-Egyptian war. We can be successful in a negotiation process with the Soviets only when we can deal from a position of strength. This indisputable fact is certainly not new. It has been a fact throughout history.

Questions such as "Why do we keep troops in Europe 25 years after World War II, why do we need such expensive and sophisticated weapons systems, and why do we need such a large standing military force in peacetime especially in this time described as an era of detente? are headlined across the front and editorial pages of our newspapers and, therefore, echo through the halls of Congress. These questions are asked so persistently and noisily, and the answers published so quietly that the questions have become, in some measure, rhetorical. The answer to all of these, and like, questions reveals somewhat of a paradox, which tracks something like this: Since World War II, we have continued to maintain a military force posture sufficient in size and power to deter any nation or group of nations from an outright attack upon us. We have not been attacked. Why, therefore, do we need such a large and powerful force, and especially why do we need to modernize and improve this force? Herein lies the paradox. We have not been attacked precisely because of our deterrent forces, not because the threat has diminished. We have demonstrated our capability and determination to uphold our commitments through the use of force if necessary. West of the Iron Curtain in Europe is NATO, armed with conventional and tactical nuclear weapons, including U.S. military forces—4⅓ Army divisions and 17 squadrons of tactical fighter aircraft. This NATO force is precisely why we have not had an extension of Communist influence into Western Europe, and precisely why we have troops in Europe 25 years after World War II.

During the 1960's, as more of our resources were committed to Vietnam, our modernization of weapons systems was curtailed in order to pay the cost of the war. Our spending was for attrition rather than modernization. During the past 15 years, while the Soviets have developed 12 new fighter prototypes—at least 3 of them now operational—we have only developed the F–14 and F–15. In the strategic bomber field, our current bread-and-butter is the B–52, designed in the late 1940's and built in the 1950's and early 1960's. The Soviets have built a new generation bomber called the Backfire, a product of current technology. It is time now to catch up, but this effort is significantly influenced by a combination of factors to include reduced defense spending, increased manpower costs and inflated weapon cost.

Events since the end of World War II should have sensitized the need for a strong defense establishment. The painful experience of the isolationists wave before World War II is well established and need not be recounted here.

Immediately after the war, the calls went up, metaphorically and physically, to "bring our boys home," "demobilize," "disarm," and get on with the business of building a better place in which to live. While we were still busy disarming, we were told that access to Berlin was cut off. This resulted in our reliance on a poorly manned armed forces to replenish and bring substance to the beleaguered citizens of Berlin by air. This we did, to be awakened again almost immediatley to the news that the Communist forces of Mao Tse-tung had driven our old war ally, Chiang Kai-shek, and his Nationalist party, the Kuomintang, from mainland China. We worried and wrung our hands, but did little. About this same time, however, we established formal ties with our European allies in the North Atlantic Treaty Organization—NATO—a formidable alliance set up to counter the Communist bloc in Eastern Europe.

Soon thereafter we were surprised by the invasion by North Korea of the South. Again we began mobilizing, and in a united front fought with our allies to an accommodation, although not conclusive. In this war we not only fought the North Koreans but got a taste of the Chinese Red army as well. Following Korea, we again demobilized, but not so drastically as we did after World War II. Hungary was next on the menu. As James A. Michener described in "The Bridge at Andau:"

> Russian communism showed its true character to the world. With a ferocity and barbarianism unmatched in recent history, it moved its brutal tanks against a defenseless population seeking escape from the terrors of communism, and destroyed it.

The Cuban missile crisis was the first real litmus-paper test of the muscle of our military forces. Backed to the wall, the U.S. alerted its nuclear forces and proclaimed an ultimatum. A threat to use force is a mighty deterrent in itself if you have the military muscle to back it up should it become necessary.

Following this tense microsecond in the clock of history, direct confrontation between the United States and the U.S.S.R. relaxed somewhat. The Soviets, suffering a loss of prestige by the affair, regrouped. They began to build military forces with a momentum unparalleled in peacetime. This momentum continues today.

And then comes Vietnam. The Vietnam war extracted from the United States the most damning and damaging experience. It brought out the worst in us. All the ills of the present were blamed on Vietnam, and much of that blame was laid to the Pentagon. Defense critics found a windfall of specific targets to aim their blasts, and they lost little time pulling the trigger.

Adm. Thomas Moorer, Chairman of the Joint Chiefs of Staff, recently stated, and I totally agree, that the military was fighting a war less than half dressed. Policy formulation which drove the rules of engagement was so restricted that the application of military force was piecemeal and thus ineffective. Not until the 1972 bombing, culminating in the so-called Christmas bombing, was the force applied in such a way as to force at least some accommodations at the tables in Paris.

More recently the Middle East problem exploded once again, but with a flurry and with intensities never before observed. We witnessed once again an alert of our Armed Forces in direct confrontation with the Soviet Union over the possibility of intervention in the Middle East. Once again the Soviets backed down.

As we attempt to bring peace to the area, it is necessary to remember that there is a fundamental ideological difference between the Soviet Union and the United States, notwithstanding short-term objectives manifested by an agreement to talk. The Middle East remains the most potentially explosive contemporary issue.

What is next on the menu of East-West confrontation? As the intoxication of détente turns into a slight hangover the morning after, our clear-eyed good sense tells us we must proceed with some caution. Sobering thoughts are screaming like voices in the wilderness to exercise some constraint in our rush to extend open invitations to the Communist world. Some of the most sobering thoughts are coming from—of all places—within the Soviet Union, witness testimony of Alexander Solzhenitsyn and Andrei Sakharov. As I have said, their methods of achieving these objectives may change, but their ultimate, long-range objectives remain fixed in the ideology of Communist doctrine.

Certainly we should not see a "Red under every bed," nor should we worry excessively that the "Red Hordes" will begin a race to the Rhine at any given moment, nor should we live in constant fear that the Soviets will salvo nuclear weapons aimed at the heart of the United States. Why? We need not worry excessively because we have built a credible military deterrent over the years and have demonstrated our willingness to use this force if necessary. Under this deterrent, the initiatives of this administration have gone far in establishing the necessary framework for peaceful coexistence, recognizing the difference in ideology. Some of these initiatives are those carefully conceived negotiations called CSCE, SALT, and MBFR. Others include making difficult decisions, left untouched by previous administrations as too controversial, such as permitting the Peoples' Republic of China—PRC—in the United Nations and clearing roadblocks that permit closer relations with the PRC. None of these initiatives can be fulfilled without a strong military force. You simply cannot negotiate without a strong hand.

VOICE OF DEMOCRACY CONTEST

HON. DAVE MARTIN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. MARTIN of Nebraska. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies' Auxiliary sponsor a nationwide Voice of Democracy Contest in our secondary schools. I have the great pleasure to announce that the winner for our State of Nebraska is Mr. Raymond Christian Bentzen, Jr., of Naper, Nebr., which is in my congressional district.

Raymond is 18 and a senior in the Naper Public High School. His winning speech, entitled "My Responsibility as a Citizen," provides much food for thought and is a tribute to the fine youth of our country. I commend it to the reading of my colleagues.

I ask that the text of Raymond Bentzen's speech be included in the RECORD:

VOICE OF DEMOCRACY

(By Raymond C. Bentzen)

With the advent of the two-hundreth anniversary of our nation rapidly approaching, now is a good time to take stock of what has happened, and what will happen in the future. In general, our nation's history has been good, and of more than a little benefit to the world. In the future, it can and should be of even more benefit.

More important is the fact that now is the time for each of us, as citizens of the United States of America to come to terms with ourselves, and our role in our government. Many of us now feel shocked, appalled, and disillusioned by the current political scandal. We feel that in some way our government has let us down. Nothing could be more untrue. Our government has not failed us, we have failed ourselves.

As citizens, we must realize that our government is merely a reflection of the citizenry which it governs. When that citizenry fails to live up to its responsibilities, a republican nation such as ours, founded on democratic principles cannot long survive. The French political philosopher, Rosseau, probably summed it up best when he said, "As soon as any man says of the affairs of the State, 'What does it matter to me?" the state may then be given up for lost."

But before we can live up to our responsibilities we must realize just what they entail. Basically, our responsibilities fall into two categories. They are: believing in our nation and principles upon which it is based, and finally the responsibility of participating in our system.

First, let me discuss what I mean by believing in our nation. There has never before been, and perhaps never again will there be a nation such as ours, founded upon the principles that all men are created equal, and that all men should enjoy almost unlimited freedom. We, as citizens, have the responsibility to believe in these principles, and by believing we ensure the continuation of democracy.

However, I am not advocating a flag-waving, "my country right or wrong" stance. Such a stand could prove to be immeasurably disastrous. Rather, we must realize that we will not always be right, and that we must then learn by our mistakes. For thereby can we prove the merits of democracy.

We must, everyone of us, be willing to actively participate in our system. The most obvious way in which we can do this is by voting. Anyone who is 18 years of age, or older, can do this; providing of course that he is a citizen. Voter registration is a simple process, one which is of little trouble to anyone. Yet with all of this, this making it so easy to vote, only one-half of all those eligible to vote in 1972 actually did so. When the irresponsibility of a nation's citizenry becomes so great that fully one half cease to care, can one then expect anymore from the government?

But how do we get people involved? How do we get them to vote, and get them interested in what's happening to their country? I, for one, am a staunch supporter of the political party system. It has many faults, agreed. But it still remains the best vehicle for getting people involved in the affairs of the state, and making them realize the true meaning of what it is to be a citizen.

We citizens should make frequent use of letters and petitions to our Senators and Representatives. This enables us to keep in touch with the reality of governmental happenings. It also helps us keep much better control of our government.

In short, we, the citizens of the United States of America must never forget that a government of the people, for the people, and by the people cannot long survive without the people.

ULTIMATE IN BUSING

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. HUBER. Mr. Speaker, with the Detroit busing case now pending before the Supreme Court, it is terrifying to contemplate that the future of 780,000 children in the Detroit area may be adversely affected by this forthcoming decision. However, when one thinks of applying the same possibility of forced busing to the city of New York, the mind boggles. The Richmond Times-Dispatch, in an editorial on Thursday, March 7, 1974, pointed out that this could become a reality. I commend the editorial to the attention of my colleagues.

The editorial follows:

Ultimate in Busing

The New York City public schools enroll more pupils than do 39 of the American states. There are member-nations of the United Nations that do not have as many citizens as New York City has schoolchildren. As the epitome of a coldly-impersonal system, New York's elementary schools are assigned numbers rather than names.

One would suppose that, for the sake of the children held within, custodians of this Leviathan of a school system would be seeking ways to break up the monster into smaller, more compact school districts drawn to a human scale. But, no, the Central Board of Education in New York is amusing itself these days by dreaming of expanding its empire by forcing in pupils from the area's suburban districts.

The purpose would be the oh, so benign one of achieving "meaningful integration." The result would no doubt be more heartbreak, dislocation and bitterness, only on a more massive scale than ever.

The board declared in a report last week to the State Board of Regents that "state and national officials and lawmakers cannot ignore the fact that the correction of the growing isolation of our poor minority groups in urban schools is each year becoming less and less a condition which large city boards of education can deal with alone."

It's true that collaboration with city school boards would be required to try to force city-suburb busing, as well we know in Richmond. But what the would-be Rearrangers of Humanity ought to do is to cut the tearful rhetoric about the "growing isolation" of so-called minority groups in urban schools—yes, to "ignore" it, if you will. Alternatively, our esteemed educationists and overlords ought to try treating children as children rather than as manipulatable statistics.

Instead of, for instance, bewailing the fact that New York presently has 731,302 children in the "minority" and 397,694 in the "other" category, the school board ought to consider that it has entrusted to it 1,128,996 children—each a different human being, but all having a common need to become literate so as to be able to rise as high in life as natural ability will permit.

In short, the public schools ought to be places of education for the individual, not laboratories of mass social experimentation. When the schools are deflected from their main job of teaching necessary skills by bizarre schemes such as racial-balance busing, it is frequently the education of poor and minority-group children that suffers the most, thus actually impeding their progress.

Of course, a Southerner can derive perverse delight in the thought of Northern cities sampling some of the unwise humanity-juggling that has been routinely forced upon this region. Should the U.S. Supreme Court be willing to "buy" forced city-suburb busing in the Detroit area involving 780,000 children in 53 school districts, then New York's ultimate busing plan may not be far down the road. Why by then maybe even Sen. Jacob Javits will be ready to vote for antibusing legislation! But in consideration of the welfare of all those children, one can really not reveal in the prospect of such massive educational disruption.

MILITARY PRESENCE ON GUAM

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. WON PAT. Mr. Speaker, as many of my colleagues know, the territory of Guam has been an important military outpost since the Spanish-American War of 1899 and has become increasingly important since World War II. During these times of stress and strain in our relations with many Asian nations, including a few who until recently were pleased to have the protection provided by U.S. military might, Guam stands as the one place where our armed forces can be assured of a safe haven and a friendly greeting.

As a member of this august body from Guam and as an American citizen, I am proud of the role Guam plays in this country's defense posture. Although we, on Guam, have had our differences with the local military policies, as has almost every other American community in the vicinity of a military post, we fully recognize the importance of the military to Guam as well as the legitimate aspirations of the civilians to be viable and autonomous.

Economic, political, and social growth and demands inevitably bring about changing attitudes on Guam, thus requiring mutual accommodation between the military and civilian communities. The local military commanders have wisely instituted a program to enhance the military's image among the civilian population as well as to orient military personnel to the ways of Guam.

A strong supporter of the civilian-military partnership program is the Navy League's Guam Council and the Air Force Advisory Council. Rear Adm. George S. Morrison, commander, U.S. Naval Forces, Marianas, is to be commended for his dedicated efforts to bring about better understanding between the civilian and military communities on Guam. As a member of the Navy League of the United States and of the Air Force Association I am pleased with the role that these organizations are playing in making this cooperative effort a success.

A recent article in the magazine Sea Power outlined the role of the Guam Council, and I include the text of the article in the RECORD at this time.

Council of the Month—Guam

During World War II Guam was the only inhabited U.S. possession to be occupied by the enemy. This experience left no doubt in the minds of most people on Guam as to the need for a strong U.S. Navy in order to retain a competitive edge on the world scene. Beyond this historical experience, the importance to the native economy of the many shore and fleet activities on Guam—headquarters of the Commander, U.S. Naval Forces, Marianas—contributes to a community feeling among islanders and naval personnel and their dependents.

In 1958 some 45 charter members founded the Guam Council, which now numbers nearly 200 and looks forward to continuing growth. The council is aware it has an ever-expanding role to play on the island, particularly when Navy and community needs—for example, where land use is concerned—do not coincide.

In its earlier days the council's activities were on an essentially social level, but now it is turning to projects that contribute support to Navy goals and Navy people. This change of direction, or broadening of council objectives, as it were, has received the strongest support from Rear Admiral George S. Morrison, Commander, U.S. Naval Forces, Marianas, who emphasized the oneness of Guam's civilian and naval communities in his address at the council's 1973 Navy Day banquet.

As a thank you from the Navy for a job well done, Admiral Morrison has initiated a year-round "Navy Day for Navy Leaguers" program. Commanding officers of the various shore and fleet activities on Guam invite council members to spend a day or part of a day touring their command. Navy Leaguers can observe firsthand the Navy in action.

A new project undertaken last year by the council was raising support for Guam's first Navy Junior ROTC program, now well established at Father Duenas School. Beyond the obvious benefits to the 50 participating cadets, the Guam Council hopes the young men will be encouraged to seek careers in the Navy. The council also sponsors an annual "Silver Plate Dinner" at which enlisted personnel and their wives are the invited guests of Navy Leaguerers.

Through the forum provided by the council, Guam's civilian and naval communities better understand their interdependence and are able to work together to solve their common problems.

TRIBUTE TO MRS. HANSEN

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. VEYSEY. Mr. Speaker, I am pleased to have this opportunity to join my colleagues in paying tribute to the distinguished Congresswoman from Washington, JULIA BUTLER HANSEN. JULIA's decision not to seek reelection is a great loss to this congressional body, for we who have served with Julia have come to have a deep appreciation for the keen insight and exceptional leadership abilities that she has so ably demonstrated. While we will be saddened by her absence, we will be pleased to know that Julia will, at last, have the opportunity to enjoy the quiet solitude of her beloved West.

Now that it is more customary for women to participate equally with men in the day-to-day flurry of legislative matters, there is a tendency to overlook the unique accomplishment of her first election to public office. In the 1930's and in subsequent years, there were many hazards that a young woman or young mother faced in holding public office, but Julia carefully overcame each stumbling block in the path to her success and blazed a historic trail for countless others to follow in public life. Consistently, she has demonstrated that she has the ability to be a leader among the Nation's leaders. Those who follow her footsteps in public service will find that many of the obstacles that previously blocked the participation of women in politics have been pushed aside by Julia Hansen's record during her 14 years on Capitol Hill.

Julia was the first woman Democrat to be named to the Appropriations Committee, and later when she became chairman of the Interior and Related Agencies Subcommittee she was the first woman to chair a subcommittee in either House of Congress. She is also the first and only woman to serve on the House Democratic Steering Committee. The appropriations for 28 agencies fall under the jurisdiction of the Interior Subcommittee. These agencies include national parks, minerals, fossil energy resources, pollution abatement, Federal lands and roads, and timber rights. Julia has labored diligently to help rescue the American Indian from his status as the "forgotten man" of American culture. During appropriations hearings, she has consistently sought increased funding for hospitals and schools and employment opportunities for American Indians. She has championed the panorama of natural resources while maintaining a balanced viewpoint between conservation and utilization. Frequently she has called for long range planning to determine the most efficient means to manage our recreation and energy resources. By establishing priorities and funding levels the subcommittee has helped promote research and development of our resources while observing the principles of sound fiscal management.

Julia Hansen is a woman of remarkable accomplishments and tastes. Her interests range from the history of the Pacific Northwest to a deep love for the fine arts. Her expertise and experience will be sorely missed during the next session of Congress, and those of us who served with her on committees will miss her friendship even more. I extend to her my sincere best wishes for many years of success and contentment in the years that lie ahead.

PRIDE IN AMERICA

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. MATHIS of Georgia. Mr. Speaker, I recently received a letter from the president of the U.S. Jaycees, Rick Clayton, Jr., regarding the attitude of America. I think the letter, and the open letter enclosed, merit the attention of this House. The Jaycees have long been favorably known for their willingness to speak out for this Nation and its institutions, and I am proud to be a Jaycee. I ask that I be allowed to make president Clayton's letter and his enclosed "open letter" a part of the Congressional Record in order that all those who read the Record might be aware of their firm pro-American attitude.

The material follows:

March 1, 1974.

Hon. Dawson Mathis,
House of Representatives,
Washington, D.C.

Dear Congressman Mathis: I have enclosed an open letter unanimously adopted by the Executive Board of Directors of The United States Jaycees on February 16, 1974. The sentiments expressed are genuine and reflect a deep concern on the part of the 325,000 Jaycees throughout this nation for the cynicism and pessimism that is so prevalent and "popular" today. Regretfully, some of our elected leaders seem to be mental victims of these negative attitudes.

At the same meeting, The United States Jaycees adopted a program we call Pride in America. Through this program, Jaycees will rekindle and reestablish pride in the 6,600 communities that have Jaycee chapters. This pride will spread throughout the states, and throughout this nation. We will build an attitude of pride—pride in our country; our institutions; our leaders; pride in our people; pride that we are Americans.

Please feel free to use the enclosed open letter in any fashion you wish. The United States Jaycees will be the force which turns this country's attitude around and we will reestablish that patriotic spirit for which America was once famous.

Sincerely,

Rick Clayton, Jr.,
President.

Pride in America

It is becoming increasingly difficult to appreciate that our country offers more opportunity than any nation in the world . . . because—

Today this country's detractors show little regard for our institutions.

Most Americans *have* strong convictions in these institutions that are the cornerstones of our great country:

Faith in God
Brotherhood of Man
Free Enterprise
Government by the People
Individualism
Service to Humanity

Constantly it is repeated that Americans no longer enjoy individual expression.

The United States Jaycees know better because of their affiliations in 6,700 communities throughout this great country.

History has proven that the American people *can* unite when threatened! Once again we *are* threatened but *not* by outside forces. Our new threat is one of self-doubt reinforced daily by the repetition of negative examples.

The United States Jaycess are *tired* of those who daily condemn our society as deteriorating!

The time is now for the sleeping giant of public "Pride" and positive individual participation to awaken.

Unite with the United States Jaycees in rekindling our "Pride in America"—the key is YOU!

FOREIGN DIRECT INVESTMENT WELCOMED IN MINNESOTA

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. FRENZEL. Mr. Speaker, Minnesota's Commissioner of Economic Development, Mr. James Heltzer, today briefed the Minnseota congressional delegation and staffs on Minnesota's expanding role in the area of reverse investment.

Minnesota is a late comer in the field of trying to attract foreign capital investment to build jobs and prosperity. Foreign direct investment throughout the United States is small. In Minnesota it is miniscule. Nevertheless, Chairman Heltzer, building on Minnesota's existing assets, has assembled a special group within the State department of economic development. Under this group's leadership, Commissioner Heltzer and the department are aggressively seeking foreign direct capital investment within the State of Minnesota.

I personally am most enthusiastic about Minnesota's new efforts in this field. Foreign direct investment in our State means more jobs and more prosperity. It is consistent with our State's desire to fully develop all of its resources for the maximum benefit of all of its people. Our State is late in getting started in this activity, but we are becoming more aggressive and more willing to compete for foreign investment.

Commissioner Heltzer's remarks, with some editing for reason of space economy only, follow:

Minnesota's Expanding Role in the Area of Reverse Investment

(By James R. Heltzer)

The Department of Economic Development's Division of Finance and International Trade has expanded to its current 3-man size in March, 1973. Prior to that time, the only international position was that of International Trade Representative, responsible mainly for export promotion and assisting Minnesota companies increase their markets by expanding overseas. Due to the increasing interest in attracting foreign capital into the United States, as well as greatly increased interest on the part of foreign companies in investment opportunities, we decided to incorporate reverse investment into the operations of the Department. The staff was increased to two at that time, and the responsibilities of the Director of Finance also increased to cover also international trade.

In late May and early June of last year, the Department participated in two reverse investment seminars in Tokyo and Osaka.

These conferences, sponsored by the National Association of State Development Agencies, in conjunction with the U.S. Department of Commerce, represented the largest effort ever launched to attract Japanese technology and capital to the United States.

The Minnesota delegation consisted of 4 members, 2 from the Department; Don Risk, President of the Minnesota Industrial Development Association, and Executive Director of the Minneapolis Industrial Commission; and James A. Weller, former Department Director of Finance & Trade, organizer of the mission, and after April 28, Vice President of Miller and Schroeder Municipals, Inc.

Interest in the seminar was stimulated by the recent realignment of the yen and dollar, the growing U.S. consumer market, the fact that Japan is the largest capital surplus nation in the world. Investment in U.S. facilities has become more attractive and perhaps essential to many Japanese businessmen. The overall purpose of the conference was to induce Japanese investment in manufacturing and assembly facilities in the United States. Over 1400 Japanese companies were represented at the two conferences. These conferences gave Japanese business executives an opportunity to speak directly with State officials involved in economic development, who could answer questions in regard to State policies, general feeling of the public, etc.

The State of Minnesota participated in this conference to attract Japanese investments in industries complimenting or supporting our industry base. Our specific objectives were threefold: (1) Introduce and define the State of Minnesota as an area welcoming and offering Japanese investment opportunities. (2) Investigate in depth the Japanese business community to effectively target our marketing approach. (3) Observe the activities of other states and private efforts to perfect an effective marketing approach.

Having established the fact that reverse investment represents an opportunity for the State of Minnesota, the Department began the task of formulating a plan, consulting with international experts, writing and printing detailed factual information about the Minnesota economy.

We attempted to select only those Japanese industries which were capable of being supported by existing labor, support manufacturers, etc. These industries included the following: food processing and packaging, computer equipment and services, electronic assembly, medical-dental equipment and test apparatus, recreational vehicles, lumber, and mining and taconite processing.

We then personally contacted approximately 25 Minnesota multinational companies, with interests in Japan. These companies included the Donaldson Company, Munsingwear, Economics Laboratories, G. H. Tennant, Cargill, International Multifoods, Control Data, Honeywell, General Mills, 3M, and International Dairy Queen. The purpose of these interviews was to solicit the support of Minnesota business and gain insight into current workings of the Japanese economy, as the State of Minnesota does not have an office overseas. These Minnesota companies wrote letters of introduction to approximately 30 of their overseas staffs, attorneys, and bankers. In addition, banks in Minneapolis helped to arrange meetings for members of the commission with major Japanese banks which assist firms in expanding to the U.S.

Total foreign direct investment in industrial facilities at this time, is estimated to be approximately 5 million dollars. Since we began this program last spring, however, we have received a great deal of interest, not only from Japan, but from Canada and Western Europe as well. To date, we have opened approximately 50 files on companies which we are communicating with and which have expressed a very real interest in setting up some sort of operation within the State.

Currently, we have been able to identify five noteworthy reverse investments. The eldest is Buhler-MIAG, Inc. headquartered on Wayzata Boulevard here in Minneapolis. On June 20, 1968 Baragens Vademecum, Incorporated, a Swedish based company, began manufacturing its internationally known dental care products from a site in the new community of Jonathan. On July 16 of this year, the Fromagerie Bongrain, a subsidiary of Bongrain-Gerard of Versailles, France began a joint venture with the Le Sueur Creamery Co. of Le Sueur to manufacture two "soft cheeses"—Camembert and Brie. In September, Monarch Machinery Ltd. a Winnipeg, Manitoba, Canada-based manufacturer began the production of machine tools in Mountain Lake, Minnesota. Kawasaki Motors Corp. began construction in October of a $2.5 million research and development center in Shakopee. The company's engine division will develop and test engines for exclusive distribution to Arctic Enterprises, Inc., our Thief River Falls snowmobile and leisure products manufacturer.

We are working with a major Japanese trading company with a possibility of joint ventures in electronics and in metal reclamation. We are very hopeful of a possibility of a joint venture with a Japanese steel company to construct an 80 million dollar direct-reduction steel facility in Duluth.

Our most recent joint venture involves the tourism industry. Carlson Companies and the Radisson Hotel Corp. recently announced that they would join the Japanese-owned MTK Corp. of America and the Toppan Printing Co. of Japan in the construction of a 152-room hotel in Plymouth. The Radisson Inn Plymouth is thought to be the first hotel in the United States to be owned jointly by Japanese and American corporations. The Inn is scheduled to open in late 1974. Add to this the Scorpion deal and the good possibility of a Japanese joint venture in Northern Minnesota to produce chopsticks, and other wood products for Minnesota Aspen.

Just prior to their separation from the parent company, Fuqua Industries, out of Atlanta. Scorpion executives contacted our department to see if we could assist them in finding additional uses for their facilities in Crosby, Minnesota. Their objectives were not only to expand their product line, but to attempt to find a way to keep their 300 employees working 12 months a year, rather than 6 or 7 for the snowmobile manufacturing. We are happy to say at this time that they are expected to sign an agreement with a German engine manufacturer for the assembly of approximately 5,000 engines in Crosby, initially, and with some plant expansion for several years to come.

We are extremely optimistic of our planned foreign investment program and are very fortunate to have such well-kown multinational companies in the State backing our efforts. In September, 1973, we made a follow-up trip to Japan with Ole Olson, Gene Graves and myself, and were aided tremendously by the cooperation of Control Data Corporation. The results of this follow-up trip were even more impressive than the results of the first visit. We were well-received, had done a great deal of preparation in the way of putting together additional information and specific answers to previous questions. We again visited the Japanese banks, which resulted immediately in a joint investment seminar at the Northwestern National Bank in cooperation with our Department and the Sumitomo Bank of Osaka.

As a result I think we uncovered a potential relationship between the Japanese Chemical-Fertilizer Company, and a Minnesota peat supplier. We were very happy to be able to represent Minnesota companies, and I think it can accomplish a great deal of good in this area, as well.

Let me stress at this point, that while we have tended to focus primarily on direct foreign investment, we are continuously stressing the increasing importance of joint venture arrangements, particularly in light of the unkown fuel situation. This is one way whereby smaller companies can readily benefit from foreign resources, when they would not otherwise be able to directly generate those resources themselves.

I might point out at this point that we have a long way to go in our reverse investment program. Since 1960, South Carolina has attracted more than one billion dollars in international investments. And, the South Carolina Development Board has recently opened an office in Tokyo. Certainly an enviable record and a good target for Minnesota to attempt to exceed.

Last year our activity in promoting reverse investment was at an all-time high. In March, members of my staff were in Winnipeg prospecting for new companies. In late May and early June, my reverse investment task force was in Japan. In October, I joined my international trade and investment representatives on a second visit to Japan. And, recently, my Director of International Trade and Finance, Orvin Olson, spent four days in Winnipeg following up on the earlier visit and making new contacts.

I am pleased to report that within the next six to eight months, we hope to be jointly announcing the locating of additional international companies within our state.

Let me review the forms of assistance we can provide them. In order to assist in financing, our Industrial Revenue Bonding program is open to them. We have a close working relationship with our state's public and private industrial development parks. We are continually updating information on them and have it available for ready use.

We produce numerous Community Profiles which help site planners quickly and easily review what types of energy, work force, and other necessary information is available to them. Our staff also helps companies locate markets for their products.

Two other important areas where we are striving to make significant inroads are in the area of creating a climate of tax stability and providing the necessary liaison with regulatory agencies of local, state and the federal government. We feel it is extremely important for our business community to be able to plug directly in to its government. It is critical that problems be heard in a timely manner and acted upon honestly, systematically and promptly.

I would conclude with a quote from a recent Minneapolis Tribune citing the positive aspects of reverse investments.

"We hope Minnesota makes the Japanese and all other foreign investors welcome."

UKRANIANS FIGHT FOR INDEPENDENCE

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. WALSH. Mr. Speaker, Americans of Ukranian descent are once again asking the U.S. Government to address itself to the intolerable living conditions to which Ukranians in the Soviet Union are being subjected.

This latest attempt to alleviate the suffering of their friends and relatives takes the form of a petition to the U.S. Ambassador to the United Nations, John Scali, and is prompted by a change in the Soviet Code of Rules toward political prisoners.

This change allows Soviet authorities to abolish the personal freedom of these prisoners; it permits them to use psychological methods to force political prisoners to spy on each other; and it allows mass arrests of Ukrainian farmers and youth and their deportation to the far east territories—Siberia—for slave labor.

The petition speaks for itself:

Hon. JOHN SCALI,
U.S. Ambassador to the United Nations,
United Nations Plaza,
New York, N.Y.:

In the Matter of Violations of the Universal Declaration of Human Rights of the United Nations and the Persecution and Imprisonment of Innocent People in the Ukraine.

Because the nation of Ukraine is imprisoned and those who purport to represent Ukraine in the United Nations, in international, external and internal affairs and who wear its badges of civil authority are enemies of the people of Ukraine and cannot possibly represent their welfare or best interests, and,

Because of the long standing, continuous and present intolerable violations of the United Nations' Declaration of Human Rights, including the current increased persecution and imprisonment by agents of the government of the USSR of innocent people, and,

Because of the eloquent silence of the leaders of all other nations effectively to speak in behalf of the people of Ukraine,

Now Therefore, I Ulana Celewych, supported by the signatures of 5,000 Americans of Ukranian background, and as president of Women's Association for the Defense of Four Freedoms for Ukraine, Inc., petition you, Mr. Ambassador, as follows:

1. Women's Association for the Defense of Four Freedoms for Ukraine, Inc., is a duly authorized non-profit corporation in the State of New York with more than 3,000 members in 30 branches in major cities of the United States. There are more than two million citizens of the United States of Ukrainian descent with strong ties of family and blood with the people of Ukraine.

2. Ukraine is the largest of the non-Russian nations of the USSR with a population of forty-eight million. Historically, Ukraine was a free state and played an important role in the life of Eastern Europe as early as the ninth century. Russia's desire for expansion and the invasion of Ukraine by the tzar's armed forces was the cause of the Ukraine's downfall.

The Ukranian people now, as in the past, are determined to be free, to guide their own destiny in their sovereign state.

In this spirit, in the year 1917, when the revolution broke out in Russia, Ukranian leaders called a Ukrainian National Congress in March, 1917, in Kiev, the capitol of Ukraine, which elected a Ukrainian National Council (Ukranian National Rada). The Ukranian National Council was recognized as the Ukranian government by a majority of the people of Ukraine (by the Congress of Ukranian Armed Forces, by the Congress of the Ukranian Peasant Party, and by the Congress of the Ukranian Labor Party). On January 22, 1918, the Ukranian National Council proclaimed Ukraine as an Independent State.

Russia immediately thereupon sent her armies into Ukraine and the Ukranian government faced a bloody war with Russia, completely unarmed and unprepared. At this time, the Ukranian government was recognized by approximately thirty-five foreign powers, England and France being the first to grant recognition.

On February 9, 1918, a Peace Treaty of Brest Litovsk was signed between the Ukranian government and the Central Powers. On September 10, 1918, in Kiev, the Russian government under Lenin's leadership recognized Ukraine as a Sovereign State and signed an Armistice. Under this document, Russia agreed to withdraw her armies from Ukranian territory and further agreed to respect the right of Ukranian sovereignty. As in the past, Russia did not respect the Kiev agreement. The war continued. After three years of fighting and subversive activities, Russia conquered the Ukranian armies and occupied the territory of the Ukranian State.

Against the will of the overwhelming majority of its people Ukraine was forcibly incorporated into the USSR as the Ukranian Soviet Socialistic Republic with a Soviet-type government and parliament. The Soviet Constitution gave Ukraine the right to withdraw from the "federation" upon its own volition. During the past fifty years the people of Ukraine have repeatedly made heroic efforts to be free and independent of the government of USSR.

These efforts were ruthlessly crushed by the USSR despite Article XVII of Chapter II of the Constitution of the USSR which gives the right "freely to secede" to any nation of the Soviet Union.

3. During the past fifty years millions of innocent people in Ukraine, for the "offense" of not accepting the Communist way of life, have been persecuted and imprisoned by the agents of the government of the USSR. Ukraine, a nation which accepted Christianity in the year 988 and with 1,000 years of a deep Christian tradition, opposed the forcible imposition of Atheism. Russia retaliated with mass arrests of Ukranian Orthodox church hierarchy (28 archbishops and bishops) in the years 1926–1929. In the years 1945–46 the Ukranian Catholic Church was liquidated and its hierarchy arrested (10 archbishops and bishops). Churches, monasteries, theological seminaries were closed and religious life suppressed.

In 1932–33, the Ukranian farmers faced forced Collective Farming. When they protested, Russia retaliated confiscating most of the grain and imposing a famine which took the lives of seven million Ukranians.

In 1937–38, Ukranian intellectuals rejected the Russification of Ukraine and because of this thousands were arrested, persecuted and brutally murdered. Many were imprisoned for expressing their objections to injustice and to the ruthless destruction of human rights in Ukraine by the USSR despite the Soviet Constitution (Chapter X, Article 125) which guarantees every citizen "freedom of speech" and "of the press" and also Article 127 of the same chapter which states, "citizens of the USSR are guaranteed inviolability of their person."

The Ukranian Insurgent Army and Organization of Ukranian Nationalists opposing Russian domination, fought Russia during World War II and for five years thereafter. Here again, over three million Ukranians were committed to concentration camps, murdered or deported to Siberia.

4. Although from 1963 to the present, alarming numbers of arrests were made, new waves of arrests in Ukraine by agents of the government of the USSR have been increasing in this current year of 1973. Arrests of Ukranian intellectuals, writers, literary critics, professors, students, scientists and representatives of every strata of society were made for "anti-soviet agitation and propaganda." In reality this "propaganda" consisted of petitions, appeals and letters submitted from concentration camps by prominent political prisoners and prominent Ukranians at home to the Communist party and government officials of Ukraine and USSR bringing to their attention the question of terror, Russification and *violation of* constitutional and human rights. Since there is no free press in Ukraine, the above mentioned arrests and persecutions were published in the self-sponsored (samvydav) magazine, the Ukranian Herald. The Ukranian Herald can be compared to the Chronicle of Human Events published in Russia.

Among the victims of this new wave of arrests who have tried to live under Soviet law are Vyacheslav Chornovil, writer and author who protested to the Presidium of the Supreme Soviet of UKR, SSR against the barbarous desecration of cemeteries in Ukraine and in the city of Lviv (Western Ukraine) the demolition of military graves with a bulldozer (tried in February, 1973, sentenced to seven years at hard labor, five years of exile); Ivan Dziuba, author Internationalism or Russification (tried in March, 1973, sentenced to 5 years imprisonment); Ivan Switlychnyj, literary critic (tried in camera in April, 1973, sentenced to 7 years imprisonment and 5 years of exile); Wasyl Stus, poet (tried September, 1972, sentenced to 5 years hard regime labor camp and 3 years exile); Ihor Kalynec, poet (tried behind closed doors in November, 1972, sentenced to 9 years imprisonment and 3 years exile from Ukraine); Irene Stasiv-Kalynec, poetess (tried July, 1972, sentenced to 6 years imprisonment, 3 years exile); Stephany Shabatura, artist and designer (tried in July, 1972, sentenced to 5 years general regime labor camp and 3 years exile); Stephanie Hulyk, mother of an eight month old infant and member of the association to preserve historical documents; Nina A. Strokata-Karavanskyj, Mrs., arrested December 8, 1971, in Odessa for refusing to divorce her husband, Sviatoslav Karavanskyj, and for supporting him and refusing to condemn him (tried May, 1972, and was sentenced to 4 years hard regime labor camp); Yuriy Shukhevych, the son of the former commander-in-chief of the Ukranian Insurgent Army (APA), Roman Shukhevych-Taras Chuprynka, for not condemning his father in 1948, he was sentenced to 20 years of imprisonment at the age of 15. He was released and arrested again on January 11, 1972, tried September, 1972, and sentenced to 5 years in prison, five years regime labor camp, 5 years exile by the Soviet court; Dr. Leonid Pliushch, Ukranian mathematician and cyberneticist, arrested and sentenced to a psychiatric asylum in Dnipropetrovske.

Among the practices of the agents of the USSR against innocent people in these various categories are the following:

(a) Soviet authorities are using torture and psychiatric methods of inhuman treatment to people of Ukraine who have been unjustly imprisoned such as poisoning their food and using other methods so that they will not survive the period of their sentence.

Revolutionary Voices (pp. 168, 169–170) Press Bureau ABN, Munich, 1971.

(b) Secret trials are conducted of such innocent persons and not even members of the family are allowed to be present and the accused may not have the attorney of his choice;

The Trial of Valentyn Moroz, idem, pp. 1–21.

Idem Karavansky, pp. 186–195.

(c) Many such innocent persons are convicted of actions which are specifically permitted by the provisions of the constitution of the USSR;

As Lev Lukianenko, Ivan Kandyba, Stepan Virun, Oleksander Libovych, Vavil Lutskiv, Yosyp Borovnytskyj, Ivan Kypysh, idem pp. 151–170; Ferment in the Ukraine, pp. 56–93.

(d) After the sentences of such innocent persons who have been imprisoned have been served and completed they are not permitted to return to their homes to work. They are given no protection of the laws and they are rearrested for not working.

Case of Yuriy Shukhevych, idem pp. 236–39, 250.

(e) Not only are such persons prosecuted and persecuted but members of their family, and in many instances the whole family of such persecuted persons and also their relatives are prosecuted and imprisoned. When such innocent people are imprisoned, although prison rules allow only one letter per month, they are actually only permitted one or two letters per year;

Idem pp. 188–190.

(f) There have been many instances of completely normal persons who have been arrested by Soviet authorities and thereafter such Soviet authorities have contrived to produce a psychiatric evaluation of such normal persons as being "insane" and thereafter such normal and innocent person is incarcerated in an insane asylum and no trial of his is permitted.

Cases of Gen. Hrehorenko and Wasly Stus—pp. 127. Uncensored Russia by Peter Reddaway, American Heritage Press (1972).

Idem, pp. H9180–81, Congressional Record, 93rd Congress, First Session, Vol. 119, No. 156, October 16, 1973.

5. This petitioner avers that such wholesale denial by the government of the USSR of human rights of innocent people in Ukraine controverts the principles of the Universal Declaration of Human Rights of the United Nations, which reads in part:

"Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

"Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law."

6. From the facts set forth above it is clear that the present government of the so-called Ukrainian Soviet Socialist Republic does not truly represent the people of Ukraine but said government would in fact prevent them from appealing to the United Nations in behalf of their fundamental rights.

It is essential to the dignity of the human race that an oppressed nation of forty-eight million people such as Ukraine should have a voice in the United Nations.

Wherefore your petitioner as president of the Women's Association for the Defense of Four Freedoms for Ukraine, Inc., and on behalf of the signators of this petition, prays that the United Nations take jurisdiction of the matter herein set forth and take such steps and measures which will bring the above facts to the attention of world opinion and to the Member Nations of the organization of the United Nations and do such other things and make such orders as it deems equitable and just to aid in the release of political prisoners from concentration camps, psychiatric institutions, mental wards and prisons.

MONTHLY CALENDAR OF THE SMITHSONIAN INSTITUTION

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. SMITH of New York. Mr. Speaker, it is my privilege to insert in the RECORD each month the monthly calendar of the Smithsonian Institution. The March calendar of events follows:

MARCH AT THE SMITHSONIAN

Friday, 1.—Exhibition: *Bhutan: The Land of Dragons*. Anthropological specimens depicting the diversity of the culture and way of life of Bhutan. Objects and photographs represent the religion, transportation, money, music, architecture and day-to-day utensils of the people of this small country in the heart of the eastern Himalays. Objects were selected from three private collections as well as from those of the Smithsonian. A slide presentation is included. Museum of Natural History.

Film festival. First day in a three-day festival that includes ten award-winning films by the greatest Czechoslovakian filmmakers, seminars and a reception with the artists. Friday's program: Introduction of artists and discussion, *Fireman's Ball* by Forman, and *Intimate Lighting*, by Passer. See also March 2 and 3. Series tickets $10 general, $8 Associates. Tickets are also available for one or multiple afternoon or evening sections. Reception is included for subscribers of three or more sections. Co-sponsored by the Smithsonian Resident Associate Program. For ticket information call 381–5157. Showings will be at Marvin Theater, George Washington University.

Saturday, 2.—Ascent of man: *The long Childhood*. Hourly 12:30 through 3:30 p.m. Carmichael Auditorium, History and Technology Building.

Czechoslovakian film festival. Afternoon: *Taking Off*, by Forman; Seminar with Milos Forman and Ivan Passer; *Closely Watched Trains*, by Menzel, 1 p.m. Evening: Seminar with Jiri Weiss, Jan Kadar; Adrift, by Kadar, and *Murder Czech Style*, by Weiss, 8 p.m. See March 1 for further details.

Music from Marlboro: Seven distinguished artists from the celebrated Marlboro Music Festival will perform *String Quintet in F Major* (1879) by Bruckner; *Contrasts for Clarinet, Violin and Piano (1938)* by Bartok; and *String Quintet in D. Major, K. 593*, by Mozart. Performers are David Levine, piano, James Buswell and Eugene Drucker, violin, Nobuko Imai and Heiichiro Ohyama, viola; Madeline Foley, cello and Frank Cohen, clarinet. They will be directed by Rudolph Serkin. 5:30 p.m., Baird Auditorium, Natural History Building. $5 general, $4 students, senior citizens and Associates. For reservations, call 381–5395. Sponsored by the Divisions of Performing Arts and Musical Instruments.

Sunday, 3.—Czechoslovakian film festival. Afternoon: *Loves of a Blonde*, by Forman; Seminar with Milos Forman, Ivan Passer and Arnost Lustig, *Diamonds of the Night* by Nemec, 1 p.m. Reception: 6 p.m. Evening: Seminar with Arnost Lustig;*Premier: Dita Saxova*, by Moskalyk; *All My Good Countrymen*, by Jasny, 7 p.m. See March 1 for further details.

Illustrated lecture: *American Self-Portraits*. Speaker: Ann Van Devanter, co-organizer of the exhibition currently on display, 3 p.m., National Portrait Gallery.

Monday, 4.—Fashion career seminar: *Fashion: The Sum Total*. Noted experts from the world of fashion discuss fashion's historical evolution, current trends and future directions. 9 a.m. to noon, 2 to 4 p.m. Carmichael Audtiorium, History and Technology Building, $10. For ticket information, call 381-5157. Sponsored by the Smithsonian Resident Associate Program.

The citizen: Power and/or powerlessness. *The Citizen and His City*. Speaker: Thomas Bradley, Mayor of Los Angeles, and President, National League of Cities. 8:10 p.m., History and Technology Building auditorium. Sponsored by the Smithsonian resident Associate Program, $7 general; $5 Associates. For ticket information call 381–5157.

Tuesday, 5.—Film: *Introduction to Analog Computers*. Courtesy of the Atomic Energy Commission. Sponsored by the Section of Mathematics. 2:30 p.m., Carmichael Auitorium, History and Technology Building.

Museum talk: *General James Wilkinson: Patriot in War, Traitor in Peace*. Speaker: Patricia Watlington, Post-Doctoral Research Fellow, 12:30 p.m., Carmichael Auditorium, History and Technology Building.

Discovery room: An area where visitors of all ages can touch, handle and smell a wide variety of natural history specimens of all shapes and sizes ranging from whale fossils to petrified wood. Monday through Thursday, 12 noon-2:30 p.m.; Friday through Sunday, 11 a.m.-3 p.m. Museum of Natural History.

Giants of architecture: Robert Venturi and Denise Scott Brown will discuss their work. 8:10 p.m., Baird Auditorium, Natural History Building. $8 general, $6 Associates. Sponsored by the Smithsonian Resident Associate Program. For ticket information call 381–5157.

Wednesday, 6.—Free film theatre: *The Mysterious Mr. Eliot*. A comprehensive film portrait of T. S. Eliot, one of the greatest poets of the modern age, including discussions with his wife and friends, and selections of poetry read by Eliot. 12:30 p.m. History and Technology Building auditorium.

Beyond the planets: Second series of Guggenheim Lectures in Astronomy presented by the Smithsonian Institution National Air and Space Museum and the Smithsonian Astrophysical Observatory, with the support of the Daniel and Florence Guggenheim Foundation. The series offers a comprehensive summary of man's current knowledge of the creation, evolution, and extent of the physical universe. Lectures will be held eight consecutive Wednesday evenings at 7:30 p.m., in the Leonard Carmichael Auditorium, History and Technology Building. Each program is followed by a question period. The first lecture is entitled *The Scale of the Universe*, with Dr. Myron Lecar, speaker.

Thursday, 7.—Free film theatre: *The Mysterious Mr. Eliot*. Repeat. See March 6 for details.

Lecture: *A Scientist's Responsibility Toward a Society in Crisis*. A public seminar, by Dr. Barry Commoner, educator and biologist, on energy conservation, cooperation between the scientific community and community—action groups. 8 p.m., Baird Auditorium, National History Building.—Free tickets are required. For information call 381–5157.

Sunday, 10.—Sunday shorts: *Liberty*. Laurel and Hardy; *The Dispossessed*, George Ballis; *Young Goodman Brown*, Donald Fox. A variety of short films selected for both adults and teenagers. 3 p.m., Carmichael Auditorium, History and Technology Building. $1.25 general, $1 students, $.75 Associates. For ticket information call 381–5157. Sponsored by the Smithsonian Resident Associate Program.

Oriental rug lecture: *Introduction to Islamic Rug Weaving*, by Anthony Landreau, Director of The Textile Museum, and an expert in the fields of Turkish, Turkoman and Islamic rugs. First in a three-part lecture series on the design characteristics, historical traditions, trends, and construction of the rugs, as well as the life styles of the tribesmen who weave them. 11 a.m., Place, The Textile Museum. Remaining lectures: March 17 and 31. Series tickets $10 general, $7.50 Associates. Individual lectures: $4 general, $2.75 Associates. For ticket information call 381–5157.

Music workshop: 18th century arrangements presented by the Smithsonian Social Orchestra and Quadrlile Band and discussion of the historical background of the dances and music, by Shirley Wynne, dance historian. Ohio State University, and Cynthia Hoover, Division of Musical Instruments. 2:30 p.m., Grand Salon, Renwick Gallery. Free. Being held in conjunction with the special program March 11 entitled *There's a Good Time Coming! American Music and Ballroom Dance, 1840–1860.*

String bands old and new: Ralph Stanley and the Clinch Mountain Boys. 8 p.m., Baird Auditorium, Natural History Building. $5.50 general, $5 Associates, $4 students and senior citizens. For reservations call 381–5395. Sponsored by the Smithsonian Division of Performing Arts. A free workshop/demonstration will also be held at 4:30 p.m., Hall of Musical Instruments, History and Technology Building. The evening program will be broadcast live over National Public Radio.

Monday, 11.—The citizen: Power and/or powerlessness: *The Citizen and the Labor Movement,* by Jerry Wurf, Vice President, AFL–CIO, and President, American Federation of State, County and Municipal Workers. 8:10 p.m., Carmichael Auditorium, History and Technology Building. $7 general, $5 Associates. Call 381–5157 for further information.

Concert: *There's a Good Time Coming! American Music and Ballroom Dance, 1840–1860.* Mid-19th century American music and dance, arranged by leading 19th century bandsmen and played on original instruments from the Smithsonian collections. Under the direction of Shirley Wynne, choreographer and dance historian from Ohio State University. Dances include polka, mazurka, quadrille, contradance, Cachuca and Five Step Waltz, performed in period costume. Musicians include members of the National Symphony Orchestra and the Musical Instruments Division staff. Grand Salon, Renwick Gallery, $3.50 general, $3 Associates. For reservations call 381–5395.

Tuesday, 12.—Lunchtime talk: *The Job Jungle: How To Survive and Enjoy It as a Woman,* by Alexander Methven, Department of Agriculture Graduate School. Sponsored by the Smithsonian Women's Council. 12:30, Carmichael Auditorium, History and Technology Building.

Museum talk: *Life of Lincoln,* by Herbert Collins, Associate Curator of Political History. 12:30 p.m., Room B–1048, History and Technology Building.

Lecture: *Non-Euclidean Geometry,* by Dr. Elaine Koppelman, Research Fellow, Section of Mathematics. 2:30 p.m. Carmichael Auditorium, History and Technology Building.

Oriental art lecture: *Ise-Shu, the Heian Perfection of Visual Poetry.* Speaker: Julia Meech-Pekarik, Metropolitan Museum of Art. 8:30 p.m., the Freer Gallery. Exhibition galleries open at 6:30 p.m. prior to the lecture.

Wednesday, 13.—Giants of architecture: The work of Buckminster Fuller, discussed by William Marlin, archietct and urban design critic and Editor-in-Chief Architectural Forum. 8:10 p.m., Baird Auditorium, Natural History Building. $8 general, $6 Associates. Sponsored by the Smithsonian Resident Associate Program. For ticket information call 381–5157.

American aviation historical society. 8 p.m., Conference Room, National Air and Space Museum. The public is welcome to attend.

Free film theatre: *Whoosh, An Outline of H. G. Wells.* Scenes from his life, interviews with his sons and friends depict this exuberant novelist, historian and utopian visionary. 12:30 p.m. Carmichael Auditorium, History and Technology Building.

Beyond the planets: *Galaxies,* by Morton Roberts, National Radio Astronomy Observatory. See March 6 for further details.

Thursday, 14.—Free film threatre: *Whoosh, An Outline of H. G. Wells.* Repeat. See March 13 for details.

Luncheon talk: Roy Slade, Director, Corcoran Gallery of Art, will discuss collections, history and activities of the Corcoran Gallery. Mr. Slade will be introduced by Harry Lowe, Assistant Director for operations, National Collection of Fine Arts. 12 noon. $12.50 general, $11.50 Associates. Cocktails and buffet are included in the admission price. Sponsored by the Smithsonian Resident Associate Program. For ticket information call 381–5157.

Young people's festival of the arts: *American Black Comedy,* presented by the Shepherd Elementary School. 10 a.m., Anacostia Neighborhood Museum, 2405 Martin Luther King Jr., Ave., S.E. The Festival will continue through April 11.

Friday, 15.—Young people's festival of the arts: The Anacostia Senior High School Band in a special young people's concert, featuring a demonstration of all of the instruments used. 10 a.m., Anacostia Neighborhood Museum. See March 14 for further details.

Saturday, 16.—Exhibition: *Santos: Popular Forms of Faith in Latin America.* Fifty folk representations of religious personages carved of wood, painted on plaster, and printed. The santos are from the Smithsonian's collections of religious folk art from New Mexico, Puerto Rico, Guatemala, Ecuador, Bolivia and Brazil and range in date from late 18th century to the present. Different sections are devoted to the images of Jesus, St. Anthony of Padua, Mary and Women of Faith. The Renwick Gallery, through April 14.

Sunday, 17.—Traditional Irish festivities: Folksongs, ancient tales, poetry, music and dances of Ireland performed by members of the Irish-American community of Washington. Francis X. Gannon discusses the myths, legends, history and culture of Ireland. 11 a.m., Carmichael Auditorium, History and Technology Building. $2 general, $1 Associates. Call 381–5157 for details. Planned for children.

Oriental rug lecture: *Turkish and Turkoman Rugs,* by Anthony Landreau, Director, Textile Museum. 11 a.m. See March 10 for series details.

Band concert: *Port Authority,* the nine-piece rock/soul band of the U.S. Navy Band. 3 p.m., Anacostia Neighborhood Museum.

Sunday shorts: *Fatal Glass of Beer,* W. C. Fields, *Chakra,* Jordan Belson; *French Lunch,* Nell Cox; *Running, Standing, and Jumping Film,* Richard Lester; *Entr-Acte,* Rene Clair: *Navaho Rain Chant,* Susan Dyal; *Captain Mom,* Chuck Menville and Les Jensen. Short films selected for both teenagers and adults. 3 p.m., Carmichael Auditorium, History and Technology Building. $1.25 general, $1 students $.75 Associates. Sponsored by the Smithsonian Resident Associates Program. For ticket information call 381–5157.

Jazz heritage concert: Carmen McRae, one of the great women jazz vocalists, in concert. 8 p.m., Baird Auditorium, Natural History Building. $4.50 general, $3.50 students and senior citizens, $4 Associates. Sponsored by the Divisions of Performing Arts and Musical Instruments. For reservations call 381–5395. A FREE workshop/demonstration is also scheduled for 4:30 p.m. The evening program will be broadcast live over National Public Radio.

Monday, 18.—London profile: A seminar on the diverse, historic architecture of London, with W. R. Dalzell, one of England's foremost architectural historians. Subjects are: *Roman Londonium and Medieval London to the Tudors; 17th century London, the London of Wren and Pepys; 18 century London; and Regency and Victorian London.* 10 a.m. to 5 p.m., Carmichael Auditorium, History and Technology Building. $20 general, $5 Associates. For ticket information call 381–5157.

Tuesday, 19.—Giants of architecture: The works of Paul Rudolph, discussed by architect. 8:10 p.m. Baird Auditorium, Natural History Building. $8 general, $6 Associates. For ticket information call 831–5157. Sponsored by the Smithsonian Resident Associate Program.

Illustrated lecture: *John Gellatly: The Collector and the Man of Mystery,* by Robert Tyler Davis, Special Assistant for the Collections at NCFA. Besides the man himself, Mr. Tyler will discuss the 1600-object collection presented to the Smithsonian by John Gellatly—including the fine glass, furniture, porcelains, Renaissance jewelry and outstanding American paintings. Free. 12:30 p.m., National Collection of Fine Arts.

Museum talk: *Mythology on Stamps,* by Reidar Norby, Associate Curator, Postal History. 12:30 p.m., Carmichael Auditorium, History and Technology Building.

Film: *Introduction to Analog Computers.* See March 5.

Wednesday, 20.—Lunchbox forum: *The Art and Sport of Boomerangs,* by Benjamin Ruhe, Art Information Officer, Smithsonian Institution. 12 noon, Room 449, Smithsonian Institution Castle Building.

Young people's festival of the arts: Instrumental and gospel music presented by the Bruce-Monroe Community School. 10 a.m., Anacostia Neighborhood Museum.

Free film theatre: *The Life and Times of Bertrand Russell.* A film profile of the great 20th century philosopher, including interviews with his contemporaries in the worlds of science, art and literature. 12:30 p.m., Carmichael Auditorium, History and Technology Building.

Creative screen: *The Shakers* (35 min.)—directed by award-winning filmmaker Tom Davenport and depicting the two remaining Shaker communities at Sabbothday Lake, Maine, and Canterbury, New Hampshire, 8 p.m., Grand Salon, The Renwick Gallery.

Beyond the planets: *Interacting Galaxies,* by Alan Toomre, Massachusetts Institute of Technology. See March 6 for further details.

Thursday, 21.—Free film theatre: *The Life and Times of Bertrand Russell.* Repeat. See March 20 for details.

Creative screen: *The Shakers* (see March 20) and Shaker Dance (10 Min.)—a dance interpretation of an early meeting of Shakers. 11 a.m., 12 noon, 1 p.m., and 2 p.m. The Renwick Gallery. Tours of the Shaker exhibit will be conducted following each program.

The cosmic connection: Dr. Richard Berendzen, Department of Astronomy, Boston University, discusses provocative questions concerning the other civilizations in the universe, 8 p.m., Carmichael Auditorium, History and Technology Building. Sponsored by the Smithsonian Resident Associates. $3 general, $2 members. Call 381-5157.

Friday, 22—Young people's festival of the arts: *Hart Junior High School*—Band, Gospel Choir and Dance Group, 10 a.m., Johnson Junior High School—Band, Concert Choir and Gospel Choir, 1:30 p.m. Anacostia Neighborhood Museum.

Saturday, 23—Kite carnival: 8th Annual Kite Flying Competition co-sponsored by the Smithsonian Resident Associates Program and the National Park Service. 12 noon to 2 p.m. Washington Monument grounds, west side. Kites must be constructed by entrants and must fly to be eligible. Awards will be given at 2:30 p.m. Raindate March 30—call 381–5157.

Sunday, 24—Young people's festival of the arts: Dance Program by local teenagers enrolled in Georgetown University's Upward Bound program. 3 p.m., Anacostia Neighborhood Museum.

An evening of baroque music and dance: Presented by the *Baroque Ensemble* of the Julliard School, directed by Albert Fuller, and the *Barouque Dance Ensemble* directed by Shirley Wynne. Program includes Scarlatti's *Salve Regina* and the final entree of Rameau's *Les Indes Galantes*. 8:30 p.m., Baird Auditorium, Natural History Building. $3.50 general, $1 students and senior citizens, $3 Associates. Sponsored by the Division of Performing Arts and Musical Instruments. For reservations call 381–5395.

Monday, 25—Audubon lecture: *The Living Jungle*. Greg McMillan, Smithsonian Tropical Research Institute, will present his film showing the cycle of survival and death, continuation and growth of the tropical wilderness. Co-sponsored by the Audubon Naturalist Society and the Smithsonian Resident Associate Program. 5:30 and 8:30 p.m., Baird Auditorium, Natural History Building. $2.50 general, $1.50 members; children $1.50 and $1. For ticket information call 381–5157.

Tuesday, 26—Museum talk: *Rebuilding an Early American Printing Press in the Smithsonian*. Speaker: Elizabeth M. Harris, Associate Curator, Printing and Graphic Arts. 12:30 p.m., Room B–1048 History and Technology Building.

Giants of architecture: The work of Moshe Safdie discussed by the architect. 8:10 p.m., Baird Auditorium, Natural History Building. $8 general, $6 Associates. Call 381–5157 for further information.

Wednesday, 27.—Free film theatre: *Shaw and Women*—George Bernard Shaw as seen through one of his favorite themes—in his life and in his plays. 12:30 p.m., Carmichael Auditorium, History and Technology Building.

Beyond the planets: *The Local Group*—a lecture by Vera Rubin, Carnegie Institute of Washington. 7:30 p.m. Carmichael Auditorium. History and Technology Building. See March 6 for further details.

Thursday, 28.—Free film theatre: *Shaw and Women*. Repeat. See March 27 for details.

National Capital Shell Club: Monthly meeting and program. 8 p.m. Room 43, Natural History Building. The public is invited to attend.

Young people's fesitval of the arts: *We Shall Overcome*. Presented by Draper Elementary School. 10 a.m., Anacostia Neighgorhood Museum.

Luncheon talk: *Michael Collins*, Director, National Air and Space Museum, will discuss the collections, history and activity of the museum. Introduction by David Challinor, Smithsonian Assistant Secretary for Science. Sponsored by the Resident Associate Program. $12.50 general, $11.50 members. Cocktails and buffet included. Call 381–5157 for ticket information.

Film: *Introduction to Analog Computers*. Repeat. See March 5 for details.

Sunday, 31.—Concert: American Music performed by pianist Michael Boriskin. Program includes selections of nearly a 100-year period. Among the diverse styles represented are those of George Gershwin, Scott Joplin, Roy Harris, and Louis Moreau Gottschalk, America's first prominent composer for piano. 2 p.m. Lincoln Gallery, National Collection of Fine Arts.

Oriental rug lecture: *Caucasian and Persian Rugs*. Speaker, Harold Keshishian, distinguished Oriental rug merchant. His talk will include how to recognize designs from specific areas and how to distinguishd quallity. 11 a.m. See March 10 for details.

Young people's festival of the arts: *The Young, Gifted and Black*—a program of poetry, dance and gospel singing presented by Mrs. Ambrosia Shepherd of the People's Poets, Mrs. Joan Hillsman and Mrs. Doris Thomas. 4 p.m. Anacostia Neighborhood Museum.

Sunday shorts: *Let There be Light*, light and sound presentation by the Lumia Company. 3 p.m. Baird Auditorium, Natural History Building. Sponsored by the Smithsonian Resident Associates. $1.25 general, $1 students, $.75 members. Call 381–5157 for information.

PINOCCHIO

Smithsonian Puppet Theatre

The popular fantasy performed with music in commedia style by Allan Stevens and Company, using 15 rod puppets and four puppeteers. The new production was created by Allan Stevens and Vera Hughes, and is presented by the Division of Performing Arts. Wednesday through Friday, 10:30 and 11:30; Saturday and Sunday, 11 a.m., 12:30 and 2:30 p.m. Admission—$1.25. Discounts are available for groups or members of the Smithsonian Associates. Arts and Industries Building. Call 381–5395 for reservations.

DEMONSTRATIONS

Museum of History and Technoloy

Spinning and Weaving—Tuesday through Thursday, 10 a.m.–2 p.m. 1st floor, and Sunday, Feb. 10 and 24, 1–4 p.m.

Printing and Typefounding: Monday, Tuesday, Thursday, Friday, 2–4 p.m., 3rd floor.

Musical Instruments. A selection of 18th and 19th century instruments, and American folk instruments, Hall of Musical Instruments, 3rd floor, 1:30 p.m., Mondays and Fridays—keyboard; Wednesdays—lute and guitar; Thursdays—folk.

RADIO SMITHSONIAN

Radio Smithsonian, a program of music and conversation growing out of the Institution's many activities, is broadcast every Sunday on WGMS–AM (570) and FM (103.5) from 9–9:30 p.m. The program schedule for March:

3rd—*String Bands: Two Traditions*. Old-time mountain music, performed by Creed, Cockerham, and Patterson, and Louisiana Cajun music, played by the Balfa Brothers.

10th—*Anthropology for Today*. Dr. Sam Stanley, Program Coordinator for the Smithsonian's Center for the Study of Man, describes how the Center works on current human problems. *Pacific Northwest Art*. A lively and diverse art scene, explored by Rachael Griffin of the Portland Art Museum and Dr. Martha Kingsbury of the University of Washington.

17th—*Concert*, featuring harpsichord and organ works of Bach, performed by James Weaver.

24th—*A Conversation with Barry Commoner*.

31st—*Looking at Television*. A British perspective on the uses of television, with Huw Wheldon, Managing Director of the BBC.

MUSEUM TOURS

Museum of History and Technology

Highlights: Weekdays, 10:30 and 11:30 a.m., 1:30 p.m. Weekends, 10:30 a.m., 12 noon, 1:30 and 3 p.m.

First Ladies' Gowns: Monday–Friday, 10:30 and 11:30 a.m.

200 Years of Needlework: Tuesdays only, 10:15 a.m. Begins at the Star Spangled Banner exhibit.

Ceramics and Glass: Highlights of the Smithsonian collections. 3rd floor, Ceramics Hall entrance. Tuesdays and Fridays 10:15 a.m. Other days by appointment—call 381–5030.

Museum of Natural History

Highlights: Weekdays, 10:30 a.m., 12 noon (noon tour may be delayed)

Renwick Gallery

The Smithsonian's design and crafts museum: Shaker furniture exhibition—tours for groups of 10 or more, on a pre-arranged basis. Through April 7. Call 381–6541 for scheduling.

HOURS

Open 7 days a week

Arts and Industries Building, Freer Gallery of Art, National Collection of Fine Arts, National Air and Space Museum, National Museum of History and Technology, National Museum of Natural History, National Portrait Gallery, The Renwick Gallery, Smithsonian Institution Building—10 a.m.–5:30 p.m.

Anacostia Neighborhood Museum—10 a.m.–6 p.m. Monday through Friday; 1–6 p.m. weekends.

National Zoo Buildings—9 a.m.–4:30 p.m.

Dial-A-Museum—737–8811 for daily announcements on new exhibits and special events.

Dial-A-Phenomenon—737–8855 for weekly announcements on stars, planets and world-wide occurrences of short-lived natural phenomena.

EXPERIMENTARIUM

National Air and Space Museum

New Born Babe—a demonstration show that introduces the spacearium concept. Included in the program is a simulated Apollo launch, a look at the different colors of stars, a description of pulsars and an imaginary closeup look at a quasar on the edge of the universe. Tuesdays through Fridays 4:30 p.m.; Saturdays and Sundays, 11 a.m., 12 noon, 2:30, 3:30 and 4:30 p.m.

REHABILITATION MEDICINE FILMS & LECTURE

Shown each Friday at 12:30 p.m., History and Technology Building auditorium, in connection with the current exhibition: triumphing Over Disability—200 years of Rehabilitation Medicine in the United States.

March 1—*Second Chance*, Washington Heart; *Harlem Hospital Center*, Columbia University; and *Lights Out—No Sound*, Schmidler.

March 8—*Wonder Engine of the Body*, Washington Heart; *Heart to Heart*, Washington Heart; and *The Person Within*, Clark School for the Deaf.

March 15—*Modern Medicine Looks at the Heart*, Washington Heart; *Day Hospital (Home for Supper)*, Burke Rehabilitation; and *Everything but Hear*, Clark School for the Deaf.

March 22—*Within Our Grasp*, Veterans Administration; *What Goes Up . . .* , Washington Heart; *and Smoking and Heart Disease*, Washington Heart.

March 29—*Arteriosclerosis*, Washington Heart; *Smokescreen*, Washington Heart; *Kevin is Four*, Ohio State; and *So They May Walk*, by Sister Kenny Institute.

RENEWAL OF SCHOOL OPERATING MILLAGE PROPOSITION

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. DIGGS. Mr. Speaker, this year, perhaps more than most, the individual participation of voters in questions of local, State, and Federal government is crucial. Apathy on the part of citizens can only mean a less representative, less accountable government. For this reason, I am urging my constituents to participate in the vote in Detroit on March 19 on renewal of school operating millage proposition. The text of my message follows:

> Your vote is your direct weapon of control over matters of the highest importance to you and your family.
>
> Too often, many people overlook a special election, even though it involves questions which are critical. On March 19th, Detroiters have an opportunity to vote on a key tax question, shown as Proposition A at the top of your ballot.
>
> This vote has a direct effect on about one-third of your present city school taxes.
>
> Use your voter power. Make your own decision on the method of financing Detroit schools. Be sure you vote on Tuesday, March 19 on Proposition A at the top of your ballot.

POST PINPOINTS PRIVACY PROBLEM

HON. JERRY LITTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. LITTON. Mr. Speaker, in recent years governmental encroachment on the individual's right of privacy has increasingly concerned all who value personal freedom. Although President Nixon has called personal privacy a "cardinal principle of American liberty," his administration has been guilty of numerous actions calculated to undermine that principle.

One of the most serious of these was Executive Order 11697. Issued early in 1973 by President Nixon, it authorized the Agriculture Department to examine the tax returns of America's 3 million farmers. Moreover, according to a Justice Department opinion, it was to serve as a model for future Executive orders opening up the tax returns of whole groups of citizens for inspection by other Federal agencies.

Congressman William Moorhead, chairman of the Government Operations Subcommittee on Foreign Operations and Government Information, which held hearings on this matter, and Congressman Bill Alexander, a member of that subcommittee, both deserve commendation for pursuing this matter with diligence and perseverance during the congressional inquiry.

Considering the enormous potential for abuse of individual tax return information, I would like to commend Alan Emory for focusing public attention on the problem in his excellent article in yesterday's Washington Post. Mr. Emory is an outstanding reporter, and I believe that his coverage of this blatant Executive invasion of privacy ought to receive the widest possible circulation. I am therefore submitting it for publication in the Record along with a related editorial from the March 7 edition of the Watertown, N.Y., Daily Times.

[From the Washington Post, Mar. 11, 1974]

ADMINISTRATION ORDER PERILS PRIVACY OF TAX RETURNS

The Nixon administration has laid down a policy that could open the individual tax returns of almost every citizen to a broad range of federal departments. It runs contrary to the President's own policy of confidentiality of certain White House documents and conflicts with his new program designed to protect individual privacy.

The policy centers on an executive order, once modified, which President Nixon issued early in 1973, allowing the Agriculture Department to examine the tax returns of the country's 3 million farmers. At the time, there was no press announcement from the White House or the Agriculture Department. The order was published in the Federal Register, which, as one farm spokesman has observed, "is not everyday reading for the average farm family."

Don Paarlberg, director of agricultural economics for the department, says the order is "inoperative" but it is still in effect.

Mr. Nixon told a questioner at his Feb. 25 news conference that he thought the order should be considered by a new privacy committee headed by Vice President Ford.

Rep. Jerry Litton (D-Mo.), who discovered the order and held hearings on it, called it "strange" that Ford should be assigned to determine whether Mr. Nixon's action had been proper.

The real impact of the Nixon order is contained in an advisory opinion written by Assistant Attorney General Robert G. Dixon Jr., who says it was drawn up as a model so that tax returns could be used for statistical purposes by other federal agencies.

The order was "prepared by the Department of the Treasury . . . as a prototype for future tax-return inspection orders," Dixon said. This comment prompted Rep. Bill Alexander (D-Ark.) to observe that it constitutes a "frightening prospect that the administration is attempting to begin the process of making personal income information of whole classes of people available to various departments and agencies without regard to the private nature of the information."

Litton recalled that former Nixon aide John D. Ehrlichman had promoted a policy of making the Internal Revenue Service "more politically responsive" and wondered if the administration favored the order on farmers' returns because "if they could get away with that they could try another field later."

Actually, the IRS was dead set against the Nixon order all the way.

In a recent letter to Rep. William S. Moorhead (D-Pa.), chairman of a House Government Operations subcommittee that looked into the order, IRS Commissioner Donald C. Alexander declared that he insists his agency "guard the taxpayer's right of privacy."

He says he will not allow the Agriculture Department to obtain anything more than "a mailing list of names and addresses of farmers." The commissioner says he supports legislation to make tax returns "explicitly confidential" except for tax administration and enforcement.

Alexander says tax returns should be "confidential and private" unless Congress "clearly specifies" to the contrary.

The House Ways and Means Committee is preparing to hold hearings on legislation, sponsored by Reps. Litton, Alexander, Jack F. Kemp (R-N.Y.), and Barber B. Conable, Jr. (R., N.Y.), and others, designed to tighten the rules of privacy on individual tax returns.

The stand of IRS' Alexander puts him at odds with Agriculture Secretary Earl L. Butz, who twice rebuffed congressional requests to put the Nixon executive order in deep storage.

Butz says it is "essentially a matter of judgment" whether his department's inspection of individual farmers' tax returns amounts to an "invasion of privacy."

"The list development procedure we have in mind is clearly in the public interest," he told Moorhead.

Coincidentally, when former Agriculture Secretary Clifford M. Hardin originally requested, in 1970, certain farm data that could be matched with the names of farm operators obtained from sources outside the IRS he said he specifically was not seeking an examination of individual tax records.

Butz told Moorhead last year "no employee" of his department would examine an individual return under the Nixon order's authority, but he refused to ask that the order be scrapped. He said, instead, that the "effectiveness of the security handling of data" by the staff of his Statistical Reporting Service "has not been challenged."

Paarlberg maintains the department never sought the tax-return inspection authority, but that Treasury and Justice Department reviews had broadened it.

"We understand the first order was designed as a model to be used by other departments," he said.

When Rep. Charles Thone, (R-Neb.), asked why the Agriculture Department could not obtain its statistics from the Census Bureau as authorized by the White House, Paarlberg replied, "We do not care which department they come from."

"I do very much," Thone snapped back.

Paarlberg said he was not sure whether the decision not to announce the order publicly had come in a phone call from the Treasury Department "or whether it came from the Persident's staff men." He had been in touch with both, but he did say he had not talked to indicted Nixon aides Ehrlichman and H. R. Haldeman.

When John W. Dean III was Mr. Nixon's counsel he recommended that the IRS zero in on political targets by making a requested audit "of a group of individuals having the same occupation."

Congressman Alexander says blanket authority to inspect individual tax returns of any group "clearly constitutes an invasion of the right of privacy of that group."

He raises the possibility that the Commerce Department might inspect returns of businessmen it deals with; those of homeowners getting Federal Housing Administration-insured loans; union members dealing with the Labor Department, and those of individuals receiving grants or aid from the Department of Health, Education, and Welfare.

In fact, in the first half of 1970 the IRS made available 14,000 tax returns to the Justice and Labor departments. Federal Communications and Securities and Exchange commissions, Federal Home Loan Bank, Renegotiation and National Labor Relations boards, Small Business and Social Security administrations and the old Post Office Department.

At one point Litton sponsored a bill to kill the Nixon order and allow the Agriculture Department just farmers' names and addresses. The department cold-shouldered the measure and refused comment.

After Litton introduced another bill to tighten IRS rules about who could see the returns, the department indicated an interest in the earlier legislation.

The congressman said he had asked why farm census funds were stricken from last year's budget and "I have yet to get an answer. The census form goes to every farmer. A tax return sampling would not be as complete. Either they need the information or they don't.

According to Litton, the question of farm information came up when George P. Shultz was budget director in 1970, but nothing happened. Three years later the order was drafted at the Treasury Department, where Shultz was secretary.

Former IRS disclosure staff chief Donald O. Virdin, says there would be no problem giving Agriculture the names and addresses of farmers quickly "if that is all Agriculture wants."

Assistant Attorney General Dixon says the Justice Department was never asked to express a "policy judgment" on the Nixon order so it didn't.

IRS Commissioner Alexander says his agency is working toward a goal of "ensuring the confidentiality of federal tax return data."

Against a backdrop of IRS investigations of tax returns of White House "enemies" and the President's strong defense of confidentiality on White House documents and tapes, the continued existence of his 1973 executive order has Congress and the IRS worried.

The Paarlberg "inoperative" comment does not satisfy them.

Litton says he listened to President Nixon's State of the Union message and was surprised to hear "a man who proposed opening up 3 million tax returns talking about privacy."

[From the Watertown (N.Y.) Daily Times, Mar. 7, 1974]

INVADING FARMERS' PRIVACY

More than a year ago, President Nixon issued an order, reportedly at the request of the Department of Agriculture, permitting the department to inspect the individual income tax returns of 3,000,000 farmers. Fortunately, reaction was so sharp that the department last fall temporarily abandoned its plan. Now into the picture enters Secretary Earl Butz. In his typically insensitive way, the secretary says that whether or not his department's inspection of returns is an invasion of privacy is "essentially a matter of judgment."

Americans who have always assumed that their income tax returns were matters between them and the Internal Revenue Service, and no one else, are learning from this governmental effort that such is not the case. Indeed, conflicting reports on how the executive order came about raises questions of intent and purpose. Furthermore, by the time the final draft of the order was ready, the Departments of Treasury and Justice had also played a role.

Apparently the Agriculture Department's Statistical Reporting Service wanted the names, address and gross income or product sales of farmers from the Internal Revenue Service in order to obtain better data. The order, it turns out, was to serve as a model for other agencies. Puzzling, however, is the statement by an Agriculture Department official that the department had never sought the authority to inspect income tax returns.

The auhor of a bill to tighten procedures to safeguard the privacy of income tax returns is right when he says that the Nixon order leaves a farmer's return an open book.

Other peculiarities about this long episode relate to the way the order was presented and whose judgment was the more understanding and sympathetic.

Anything as important as the examination of 3,000,000 tax returns should be cause for complete and candid announcement where the public could see it. Official compliance came through publication in the Federal Register. But how many farmers have access to the Register? In fact, how many who are supposed to even read the Register?

As for genuine sensitivity, the one agency which has conducted itself with understanding has been the Internal Revenue Service. The Department has said it will not enforce the executive order. On the other hand, Secretary Butz insists on infuriating and alienating the farmers by refusing to comply with a congressional request that the orders be shelved until a House Government Operations subcommittee completes its inquiry into this issue.

Finally, why would not the Census Bureau be the more appropriate agency to approach in obtaining the data the Agriculture Department wants? And if the statistics are so terribly vital, why shouldn't the administration support funds for a special farm census from which the desired information could be derived?

From inspecting farmers' returns, it is a short step to inspecting the tax details of businessmen and anyone else, no matter how he earns a living. This executive order should be scrapped immediately and legislation passed assuring that income tax returns are as confidential as Americans have been led to believe.

ARTICLE BY FORMER CONGRESSMAN HALE

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. COHEN. Mr. Speaker, Robert Hale, a Member of this body from my State from 1943 to 1958, has written a lucid article for the January issue of the American Bar Association Journal on the problems encountered by foundations because of some of the provisions of the 1969 Tax Reform Act.

Mr. Hale, a distinguished member of the bar since 1914, argues that trying to understand the laws governing foundations is a bit like trying to fight one's way out of a jungle. Compliance, he says, represents a herculean task. Indeed, for some foundations, the struggle to comply may prove fatal.

In order to bring Mr. Hale's observations to the attention of my colleagues, I am inserting the full text of his article, "How Firm a Foundation?", in the RECORD at this point:

HOW FIRM A FOUNDATION?

(By Robert Hale)

John D. Hypothetical lived in the middle and latter part of the nineteenth century. He was a highly successful manufacturer and the founder of Hypothetical Corporation, whose principal plant and still is in the small city of Eastchester, population 15,000.

John died, leaving a widow, Mary, a benevolent lady concerned for the people in the city where her husband built his mill and his fortune. She in turn died in the 1890s, leaving an elaborate will that, among other things, established a trust fund "as a permanent foundation for educational purposes, including therein the fine arts, preferably but not necessarily in the City of Eastchester," the foundation to be a memorial to her late husband, the source of her fortune. The will also provided, wisely as it then seemed, that the trustees named thereunder might pay over any principal or income of the trust fund "to any corporation or persons organized or associated, to carry out the purposes of the trust."

So, in November, 1929, "the trustees, perhaps rather belatedly, organized Hypothetical Foundation under the applicable laws of the state relating to charitable corporations and turned over to it the corpus of the trust fund then invested entirely in bonds having a face value of about $130,000. By that time the trustees had admitted their trust to running a small public library in a large, ungainly frame building they had acquired on Eastchester's Main Street.

November, 1929, was not an easy time to start a new foundation, or anything else for that matter. The crash had come the previous month. The depression, which gave signs of slackening in the spring of 1930, got worse. It didn't really end until World War II pushed industry back into profitable activity. The foundation, like everyone else, had losses, but it pulled through. By 1944 it had about $110,000 in bonds (almost as much as in 1929), and it had $100,000 in stocks—quite a few of which were very blue, blue chips. By July, 1945, the assets were worth well over $225,000. The increase in value was caused mostly by appreciation of the stocks but was also furthered by savings of $5,000 to $10,000 in good years. In 1950 and 1951 the directors, as they then were, spent $80,000 remodeling the library building, now a distinguished structure. The assets reached $880,000 by mid-1968. Since then they have gone off slightly, but the appraisal shows around $840,000 at the end of 1972.

Up to this point we seem to have a success story. The trustees were not molested by anyone. There was at one time a question of taxation of the land by the city of Eastchester, but this was resolved in the foundtion's favor. There was, of course, no federal taxation of any kind, and the trustees, up to 1939, could legally save and set aside as much money as they wished. Since World War II, under the influence of economic trends familiar to everyone, the trustees gave frequent salary increases to the staff of four women and a janitor. They also found enough extra money to make donations to local charitable organizations. They bought a house for the District Nursing Association. They built bleachers in the school gymnasium. They helped the Boy Scouts. They contributed to the local society of art, the local symphony orchestra, and the local children's theater. They contributed heavily to an educational television station. These donations were welcomed and encouraged other charities to solicit aid.

Is there anything wrong with this picture? John D. Hypothetical's industrial achievement was a source of pride to everyone. He created thousands of jobs. His name is honored by his descendants and by generations of his successors in the industry. And Mary was a worthy helpmate.

The foundation solicited no contributions and received none, not wishing to mingle its testatrix's money with that of others. It abstained from any participation in politics. It loaned money to no one, engaged in no "seal-dealing." It behaved in all respects as a good foundation should. No one could accuse Mary Hypothetical of setting up a trust to evade federal income taxes. There were none at the time of her death and for some twenty years thereafter.

But in the 1950s Congress began to get jittery about foundations. Stories were circulated about the misdeeds of this one and that one. By this time, of course, there were foundation giants—Ford, Rockefeller, Carnegie, Kresge, and many more—with assets aggregating billions and a potential to do almost unlimited good and obviously a corresponding potential to do great harm.

The Revenue Code of 1939 provided that foundations should be taxed on their "unrelated" business income (now Section 511) as defined in Sections 512 and 513. Section 501 and the notes thereto take up forty-four pages in one of the red books that comprise the United States Code Annotated. Any organization described in Section 501 (c) or (d) is tax exempt unless exemption is denied in Sections 502 or 503, which exclude from exemption "feeder organizations" and organizations that engage in prohibited transactions—of which there are many.

Section 504 of the 1939 code provided that exemption under 501 might be denied for the taxable year if "the amounts accumulated out of income during the taxable year or any prior taxable year and not paid out by the end of the taxable year" were (1) unreasonable in amount or duration to carry out the purpose which is the basis for exemption, or (2) were used to a substantial degree for purposes alien to those for which the foundation was created, or (3) were invested in such a manner as to jeopardize its purposes.

CONGRESS OVERHAULS FOUNDATION LEGISLATION

Under the 1939 code, it was held that a foundation might accumulate to pay a debt, *Akron Clinic Foundation* v. *United States*, 226 F.Supp. 515 (N. D. Ohio 1964), but might not accumulate to increase its capital to an arbitrary figure of $10 million, *Erie Endowment* v. *United States*, 202 F.Supp. 580 (W. D. Pa. 1961), affirmed 316 F.2d 151 (3d Cir. 1963), and that the test was whether the foundation had a concrete program for which it was accumulating, *Danforth Foundation* v. *United States*, 347 F. 2d 673 (8th Cir. 1965). These decisions are now out of date. Anyone who wants to indulge his taste in this field of judicial literature may read *Oklahoma Cattlemen's Association* v. *United States*, 310 F.Supp. 320 (W. D. Okla. 1969), *Thompson* v. *United States*, 430 F. 2d 388 (5th Cir. 1970), *Fides Publishers Association* v. *United States*, 263 F.Supp. 924 (N. D. Ind. 1967) and *United States* v. *Myra Foundation*, 382 F. 2d 107 (8th Cir. 1967).

In 1969 Congress did a major overhaul of the foundation legislation, amending Sections 501, 502, and 503 and repealing Section 504. Section 501 now starts out blithely:

(a) An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502, or 503.

(b) An organization exempt from taxation under subsection (a) shall be subject to tax to the extent provided in parts II and III of this subchapter, but (notwithstanding Parts II and III of this subchapter) shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

All just as jolly as can be. But, when you plunge into the rain forest to find out what your tax position is, scarcely a ray of sunlight pierces the tropical verbiage. First it must be determined whether the foundation is a public foundation, a private foundation, or a private operating foundation. Section 509 defines a private foundation in about three hundred and fifty carefully, but not well-chosen words that principally explain what a private foundation is not.

Almost as succinctly the section defines "support" and "gross investment income," Section 512 defines "unrelated business taxable income", and Section 514 defines "debt financed property," "acquisition indebtedness," and so on.

Subsection 507(c) provides that the tax on a private foundation that has lost its status as a private foundation is the lower of: "(1) the amount which the private foundation substantiates by adequate records or other corroborating evidence as the aggregate tax benefit resulting from the section 501(c)(3) status of such foundation, or (2) the value of the net assets of such foundation." Is that clear?

After romping about in Sections 501 through 514 you should be strong enough to plunge ahead into Sections 4940 through 4948, which constitute Chapter 42, "Private Foundations." It is painfully clear from 4940 that the private foundation exempt from taxation under 501(a) has to pay a tax of 4 per cent on its net investment income. Private foundations not so exempt pay a tax equal to—

(1) the amount (if any) by which the sum of (A) the tax imposed under subsection (a) (computed as if such subsection applied to such private foundation for the taxable year) plus (B) the amount of the tax which would have been imposed under Section 511 for the taxable year if such private foundation had been exempt from tax under Section 501(a), exceeds (2) the tax imposed under subtitle A on such private foundation for the taxable year.

This language may prove readily intelligible to some readers, but it's not particularly lucid to this writer, who has met up with quite a few statutes in nearly sixty years of practice.

Under Section 4942, there is also a 15 per cent tax on "the undistributed income of a private foundation for any taxable year, which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year." If this income isn't paid out at the close of the "correction period," there is a tax of 100 per cent on the undistributed income. Severe penalties attach to all violations of these statutes.

These provisions against accumulation manifest a hostility and an apprehension not displayed in the earlier enactments.

Getting back to Hypothetical Foundation, this writer questions whether, if the 1969 law had been in effect in 1929 and in subsequent years, the foundation could have run its library or survived at all. Certainly the possibility of running the library in the indefinite future is, to say the least, clouded. To be sure, if Hypothetical is determined to be a private operating foundation, instead of merely a private foundation, then the prospect brightens since the "operating" foundation is exempted from the Section 4942 tax. But to date, it has not been determined to be a private operating foundation and, particularly because it does not limit its charitable activity exclusively to running the library, it cannot count on this determination. Furthermore, the distinction between a private foundation and private operating foundation is too finespun for a practical world. The Internal Revenue Service agents often confess themselves bewildered in making the distinction.

This is only a short sightseeing tour of the statutory foundation forest. It doesn't attempt to describe the strange, protectively colored beasts that hide in dark subsections everywhere.

PRIVATE FOUNDATIONS SHOULD STICK TO CHARITY

Presumably the tax provisions above mentioned are not primarily for revenue but to make private foundations behave. Private foundations should stick to their charitable purposes and the government might well keep a stick in the closet for those who don't. But the highly punitive, not to say sadistic provisions against accumulations seems to me against the public interest if private charities are to be encouraged as used to be universally conceded.

It also seems to me that private foundations with an annual income of under, say, $50,000, shouldn't have to file the burdensome disclosures exacted of foundation giants. The Form 990 family of returns that private foundations are required to file is so big, so diverse, and so complicated that only the most highly initiated and sophisticated lawyers and accountants can hope to cope with them. Hypothetical's treasurer worked quite happily for years on a $500 salary. He wouldn't be overpaid today at $5,000 a year. In fact, he is now paying out thousands of Mary Hypothetical's money to hire accountants.

Behind the lush verbiage of the statutes, and the seven pages of Form 990PF may we not try to catch a glimpse of that benevolent nineteenth century testatrix and of scores of little children reading books in the library which her beneficence made possible? This country is deeply committed to the policy of having an educated citizenry. And a library has almost universally been regarded, both here and abroad, as an instrument of education. Would it not be well to preserve the libraries even if some foundations are now known or hereafter determined to be sinners? Surely after nearly two hundred years of encouraging philanthropy, we ought to turn against it.

The Forty-First American Assembly met at Harriman, New York, in November, 1972, to consider the future of foundations. Seventy-two participants, including many of great eminence and from all sections of the country, discussed "the rationale for foundations, their structure and operation." They produced a report containing seventeen recommendations of which I quote, in part, the twelfth and the fifteenth. The former recites:

"We question the soundness of the differences in tax incentives between foundations and other charities established by the 1969 tax legislation. The Treasury Department should collect data to permit an evaluation of the 1969 amendments on total philanthropic giving and on gifts to foundations as compared with gifts to other types of charitable organizations."

The fifteenth recommendation reads:

"The tax on foundation income reduces the flow of funds for charitable programs and represents an inappropriate diversion of philanthropic funds to the Government (over $50 million in fiscal year 1972). The tax is unsound in principal and should be repealed."

These recommendations also embody the thinking of many excellent and knowledgeable citizens who testified at the Congressional hearings while the 1969 law was in committee.

I heartily endorse both these recommendations and respectfully suggest redrafts in other statutory areas to clarify the government's policy and the obligations of the foundations. Someone on the staff of the Ways and Means Committee should be able to do a little better. Verbosity is generally the enemy of lucidity. It scarcely seems cynical to say that the obscurity of some of the 1969 sections represents a calculated attempt to drive private foundations out of business from the almost insuperable difficulty of ascertaining what the law means, or what its effect is on any particular foundation.

CASE FOR A FEDERAL OIL AND GAS CORPORATION—NO. 9

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. HARRINGTON. Mr. Speaker, on March 4, 1974, in Extensions of Remarks discussing the proposed Federal Oil and Gas Corporation, I outlined a few of the corporate interlocks existing among directors of major domestic oil firms, other industrial entities, and financial institutions. I said that these numerous interlocks clearly suggest that these oil companies work cooperatively together, frustrating hopes of a genuinely competitive market system.

Today, an article appeared in the New York Times citing additional evidence of direct and indirect ties among the large petroleum corporations. The Times analysis makes clear the need for creation of a competitive impetus in the oil industry.

With this goal in mind, I have introduced legislation to establish a Federal Oil and Gas Corporation. The legislation provides that no member of the board of directors of the Corporation would be allowed to participate in any types of direct or indirect interlocks, engage in any other business, have any financial interest in any business entity involved in the transportation of oil or natural gas, and avoid all contacts which may create an apparent or actual conflict of interest with its intended goals.

These provisions insure that the Oil and Gas Corporation would not become involved in interlocking and anticompetitive corporate relationships.

At this point, Mr. Speaker, I would like to insert as a part of the RECORD the article which appeared in today's issue of the New York Times:

TWENTY-FIVE ON BOARDS OF OIL COMPANIES ARE SCRUTINIZED IN FEDERAL ANTITRUST INQUIRIES

(By Richard D. Lyons)

WASHINGTON, March 11.—Federal officials and members of Congress have for the last three months been quietly investigating possible antitrust violations by business executives who simultaneously sit on the boards of directors of several oil companies.

The Justice Department, the Federal Trade Commission and the Securities and Exchange Commission are scrutinizing the directorship activities of at least 25 executives * * * have been identified as having contributed about a total of $300,000 to President Nixon's re-election campaign.

Among the directors of two or more oil companies under scrutiny are John L. Loeb, Sr., New York investment banker; John D. Murchison, Houston oilman; Adm. Arleigh A. Burke of Washington, retired Chief of Naval Operations; Louis Marx Jr., New York businessman, and Benno C. Schmidt, managing partner of J. H. Whitney & Co., Wall Street investment firm.

At issue is whether the executives could possibly be violating part of the Clayton Act prohibiting interlocking corporate directorships. The point is that through such links behind-the-scenes deals might be made between the companies that could lessen competition and thus possibly increase prices of fuel to consumers.

The law states in part that no person at the same time shall be a director in any two or more corporations . . . so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws."

Federal officials say the * * * that they must allow interlocikng directorships if the companies seat directors who are not United States citizens or residents, if the companies are not in direct geographic competition, and if the companies compete outside the United States but not in it.

For example, while it is obvious that two gasoline stations next to each other are in competition, Federal law is not clear about two companies seeking the same oil lease in an area 5,000 miles from American territory two companies seeking the same oil lease in Gulf of Mexico but planning to market their refined products hundreds if not thousands of miles from each other.

CHARTERED IN CANADA

Many interlocks under investigation involve Americans sitting on the boards of directors of companies chartered in Canada, where antitrust laws are considerably looser than they are in the United States.

Aside from direct interlocks, a survey made public here this year found that the directors of the 18 largest American oil companies interlocked 132 times with the boards of banks and other financial institutions.

A direct interlock is one in which a person sits on the boards of two companies in the same industry. An indirect interlock is one in which a company, such as a bank, has on its board two persons who sit on the boards of companies in the same industry.

Proposals to tighten Federal law to prohibit both direct and indirect interlocks were made by the Department of Justice in the Johnson Administration. But these efforts have been stalled, according to department officials, by "a political climate favorable to big oil."

OVERHAUL OF ACT URGED

"Clayton needs an overhaul to determine what is permissible, but Justice has neither had the staff capability nor the clout with the White House to get the legislation to Congress," said one former departmental attorney.

Some of the executives whose activities are being examined have firmly denied possible violations of the antitrust laws, although one resigned one directorship when members of Congress questioned the propriety of his sitting on the boards of two oil companies.

He is George R. Brown of Houston, chairman of the board of Brown and Root, Inc., the huge engineering and construction company. Mr. Brown is a director of the Texas Eastern Transmission Corporation, which controls the La Gloria Oil Company, and until November was a director of the Louisiana Land and Exploration Corporation, which is the 20th largest oil producing company in the United States.

In a letter to the special Senate Subcommittee on Integrated Oil Operations, Mr. Brown said, "I do not view L.L.&E. and Texas Eastern as being true competitors in the petroleum industry," and asserted that he was resigning his directorship of the former "to avoid any misunderstanding of my actions by anyone."

Mr. Schmidt, the J. H. Whitney partner, is a director of three oil and gas groups: Transco Companies, Inc., which is conducting exploration in the Gulf of Mexico; Global Marine, which has exploration properties in the Arctic, and the Freeport Minerals Company, which owns the Freeport Oil Company, which itself has production on the Gulf Coast and in Oklahoma.

CANADIAN ON THREE BOARDS

In testimony before the Senate subcommittee, Mr. Schmidt said, "There is no conflict between any of the above companies of which I am a director, and the impact of my 'interlocking directorates' on actual or potential restraint of competition in the petroleum industry is zero."

Marsh A. Cooper, a Toronto entrepreneur, sits on the boards of directors of the Texas Eastern Transmission Corporation (La Gloria Oil), the Home Oil Company, Ltd., and Canadian Superior Oil.

Asked in a telephone interview how many directorships he held in oil companies, Mr. Cooper said: "I don't know, I haven't counted lately." Asked if he considered it ethical to sit on more than one, he answered: "I have no comment whatsoever."

Mr. Marx, who helped found Pan Ocean Oil, sits on the boards of both that company and the Marline Oil Corporation. Mr. Marx declined comment on whether a conflict of interest was involved but said in a telephone interview that Pan Ocean was "primarily a global operation" while Marline operated mainly in the United States and Canada.

Vernon F. Neuhaus of Mission, Tex., sits on the boards of both Kirby Industries, which controls Kirby Petroleum and the Houston Natural Gas Corporation. Mr. Neuhaus said the two companies operated in different oil and gas fields, but added that "they are in competition for offshore leases" in the Gulf of Mexico.

F. Allen Calvert Jr. of Tulsa, Okla., directs the Calvert Exploration Company and is also a board member of Mapco, Inc. "I don't think we've ever run into one another on a deal," Mr. Calvert said. "Once or twice we've taken a deal too big for us to handle to Mapco, and if anything [between the two companies] comes up I don't vote."

A "WHISPERING INTEREST"

Willard M. Johnson of Houston is a director of the Austral Oil Company, which operates in eight states and Australia, and the Dixilyn Corporation, which has, as he put it, a "whispering interest" in production in the Gulf of Mexico.

Asked about dual directorships, Mr. Johnson said, "I think there may have been some abuse in the past, but if there is I don't see how it could apply to me." He explained that Dixilyn was primarily a drilling company and that the petroleum production it did have came as a result of drilling for other companies.

Mr. Loeb, the investment banker, sits on the boards of Dome Petroleum, Ltd., a Canadian company, and Distillers Corporation-Seagrams, Ltd., another Canadian company, which owns the Texas Pacific Oil Company.

Asked in a telephone interview if he thought the dual directorships might be either a violation of the Clayton Act or unethical, Mr. Loeb said, "No it never occurred to me."

John A. Crichton of Dallas sits on the boards of four petroleum companies: Dorchester Gas Producing, Clark Oil and Refining, Inlet Oil and Dallas Resources. He said in a telephone interview that he did not consider them to be in competition, and that he would resign "if they were in competition."

OWNER OF THREE COMPANIES

Franz Schneider of New York is a director of two companies mainly in the pipeline business, the El Paso Natural Gas Corporation and the Transco Corporation, but which also have subsidiaries that produce oil, as well as of Canadian export Oil and Gas, Ltd. He said in a telephone interview that since the three companies were geographically separated he considered his serving as a director neither illegal nor unethical.

H. Neil Mallon of Dallas serves on the boards of the Dorchester Gas Corporation and Scurry-Rainbow, Ltd., a Canadian company. Asked about the potential anti-competitive aspects of dual directorships, he said, "I haven't given it a thought, but I do not think it is unethical."

Perry R. Bass of Fort Worth owns three small oil companies and is a director of the Delhi International Oil Corporation. He said Delhi did business in Australia "and since I personally don't do business there there's no conflict of interest."

The head of Delhi is Mr. Murchison, the

Houston oilman, who is also a director of Hamilton Brothers Petroleum and Kirby Industries, which has as a subsidiary Kirby Petroleum.

Mr. Murchison said that he had heard that his dual directorships had come under scrutiny and that "it really tickled me." He said the companies had "a very small area of overlap, if any," because while Hamilton bids on offshore leases in the Gulf of Mexico, Kirby does not, and Delhi operates in Australia.

Alfred C. Glassel Jr. of Houston is president of an oil producing company and sits on the boards of the Transco Corporation and the El Paso Natural Gas Company, both of which have subsidiaries that produce oil.

Through his attorney, Mr. Glassell said he thought it perfectly legal and ethical to sit on the boards of directors of the companies.

T. B. Pickens Jr. of Amarillo, Tex., is chairman and a director of Mesa Petroleum and a director of Wainoco Oil, Ltd., of Calgary, Alberta. Mr. Pickens said, "I don't see any conflict of interest at all."

Clifford W. Michel of New York is a director of both the Cities Service Company and Dome Petroleum, Ltd., which, he said, "compete like hell in seeking leases." Mr. Michel said in a telephone interview that he saw no conflict of interest because, "in the case of Cities, I'm just one of 16 directors."

Dean A. McGee of Oklahoma City is chairman and a director of the Kerr-McGee Corporation, a major independent oil and gas company, and a director of the Oklahome Natural Gas Company. Mr. McGee said through a corporation spokesman that he considered it "entirely legitimate and ethical" to serve on the boards of the two companies, since they are not in competition.

ADMIRAL BURKE'S VIEW

Admiral Burke sits on the boards of both Texaco and the Freeport Minerals Company, which controls the Freeport Oil Company. Admiral Burke said he has abstained from voting "on the few occasions when something comes up" that might involve both companies.

He said he would retire next month from the Texaco board and observed that "it's very difficult to get good people to become board members because they're catching hell all the time."

"If you're going to be investigated it's just no fun," he said.

Eight other executives who apparently sit on the boards of directors of more than one oil or gas company could not be reached for comment. They are included in lists of names compiled either by the Securities and Exchange Commission, Senator Adlai E. Stevenson, 3d, Democrat of Illinois, or Representative Bill Gunter, Democrat of Florida.

Four of these eight were out of the country on business or otherwise unreachable by telephone. Four others declined to return telephone inquiries regarding their directorships. They are:

Paul A. Conley of New York: the General American Oil Company of Texas and Pauley Petroleum, Inc.

Toddie Lee Wynne Jr. of Dallas: American Liberty Oil and the New Zealand Petroleum Company.

Horance A. Shepard of Cleveland: the Standard Oil Company of Ohio and the Diamond Shamrock Corporation.

Harry C. Hagerty of New York: the Amerada Hess Corporation and the W. R. Grace Company, which has two petroleum subsidiaries.

In discussing the problems of interlocking directorates, Representative Gunter said he was curious as to why there had been so little opposition from the stockholders of the companies involved.

"If I were a stockholder I would want to know how a director is fighting for my interest, but sitting on the board of another company," he said in an interview.

"A larger question that bothers me is whether or not in fact interlocking directorates stifle competition to one degree or another," Mr. Gunter continued. "If there is no meaningful competition in the oil and gas industry, then it follows there is inadequate incentive to provide the nation with the needed energy resources."

In a letter to Mr. Gunter last December, Thomas E. Kauper, Assistant Attorney general in charge of the Antitrust Division, said an investigation of interlocking directorates "is underway."

Yet sources here knowledgeable in antitrust matters said the Department of Justice had been making inquiries of only a few persons and had turned most of the investigation over to the Federal Trade Commission, which is expected to make public its findings this month.

In January the F.T.C. forced the Chrysler Corporation and the General Electric Company, which compete in the manufacture and sale of air conditioners, to remove Edmund W. Littlefield, who was a director of both companies. Mr. Littlefield is chairman of Utah International, Inc., of San Francisco.

The F.T.C. refused comment on its current efforts, but Lewis A. Engman, the commission's chairman, has said it is conducting a general investigation of interlocking directorates in several industries as well as oil.

Lawyers familiar with antitrust matters here say that in the last two decades there has been relatively little impetus to stimulate compeition in the oil industry, in part because of the large numbers of Congressmen who come from oil-producing states and because of campaign contributions.

Representative Les Aspin, Democrat of Wisconsin, compiled a list this year showing that, as he put it, "413 individuals directly involved in the oil industry contributed over $5.7-million to the President's war chest."

CONTRIBUTIONS LISTED

"People who give that kind of money to someone's political campaign are not doing it because they think he's a great guy—they want something, maybe personal, maybe something for their business," Mr. Aspin said. "The obvious implication here is that they want the President to be favorable toward the oil industry."

Those named by Mr. Aspin included Mr. Michel, said to have given $2,000; Mr. McGee, $4,000; Mr. Glassel, $1,000; Mr. Loeb, $109,000; Mr. Murchison, $52,000; Mr. Bass, $30,000; Mr. Wynne, $50,000; Mr. Marx, $8,000; Mr. Conley, $1,000; Mr. Calvert, $1,500; Mr. Pickens, $1,000, and Mr. Shepard, $550.

Common Cause, the self-styled citizens' lobby, has identified Mr. Brown of Brown & Root as having contributed $9,889 to Mr. Nixon's campaign.

In addition to looking into direct interlocks, the Justice Department is also investigating the indirect interlock between oil companies and banks.

Earlier this year Angus McDonald, working for the Center for Science in the Public Interest here, published a report titled "Interlocking Oil: Big Oil Ties With Other Corporations," which said that banks and other financial concerns had 132 indirect interlocks with oil companies. In addition, there were 31 indirect interlocks with insurance companies. The center recommended that this be made illegal.

Dr. John W. Wilson, formerly chief of the Division of Economic Studies at the Federal Power Commission, said of the links to banks that "this situation is a threat to effective competition among these petroleum companies not only because the interlocks create a commonality between their boards, but even more so because of the critical role of the financial community in providing the capital which will be needed to expand energy production to meet future needs."

"Simply put," he added, "vigorous economic competition would be better served if the same banks were not represented on the boards of rival oil companies."

LOSING A LOT OF FRIENDS

Proposals to stop both direct and indirect interlocks are coming at a time of increasing public and political pressure to reduce the economic power to the oil companies.

"When John Mitchell was Attorney General it was well understood that oil was not a highly favored subject for litigation," said one former lawyer at the Justice Department.

But he and other lawyers say the times may be changing as a reflection of the public mood. Said one: "The oil lobby is the largest and most powerful in Washington, but tighter legislation really has a chance because oil is losing a lot of friends on Capitol Hill."

A TRIBUTE TO JULIA BUTLER HANSEN

HON. WENDELL WYATT

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. WYATT. Mr. Speaker, for 14 years, the congressional district across the Columbia River from my own Oregon district has been most ably represented by Congresswoman JULIA BUTLER HANSEN of Cathlamet, Wash.

When I arrived in Washington in January 1965, I met Mrs. HANSEN and soon found that her help and cooperation were invaluable.

She first added money to her Interior budget to start work on the Williamette Falls fish ladder. Each year thereafter until it was completed, she added necessary funds to the appropriations bill to permit continuation of the work. Today, we have an entire new supply of salmon and steelhead in the Willamette River system by reason of the passage now available at Willamette Falls.

This is just one of the specific contributions made by JULIA HANSEN to Oregon and to America in her 14 years in Congress.

She has actively promoted the construction of the Forest Sciences Laboratory at Oregon State University, the resurrection of Timberline Lodge, and numerous other people-oriented projects throughout Oregon.

Her devotion to the cause of reforestation and the wise management of our woods fiber resource has been a real beacon light in her career, and her dedication to necessary research is widely acknowledged by everyone.

Mrs. HANSEN had a total grasp of every small detail of every agency she funded. She has been relentless in ferreting out waste and mismanagement, and in insisting on properly funding the necessities. She has had a particular interest and great knowledge of the problems of the American Indian, particularly in connection with their problems of health, education, and housing.

To say that her dedication and expertise will be missed is a real understatement.

JULIA BUTLER HANSEN deserves the recognition of a grateful nation for her many accomplishments. She also richly deserves the comforts and rewards of a satisfying retirement.

As an Oregonian, I salute JULIA HANSEN and wish her well as she returns to her native Cathlamet.

KAKE IMPEACHMENT TELEVOTE

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. SHRIVER. Mr. Speaker, KAKE TV and Radio, Inc., of Wichita, Kans., has just completed a televote study of sentiment of Kansans on the question of impeachment of the President. Significantly, it should be pointed out that the KAKE televote has a record of accuracy which has been singled out by Congressional Quarterly.

Under leave to extend my remarks in the RECORD, I include the following report on the KAKE impeachment televote:

IMPEACHMENT TELEVOTE—MARCH 7, 1974

Several thousand double postal cards were mailed throughout the state Tuesday, February 26 (several days before the announcement of the grand jury indictments), to randomly-selected Kansans. The return of 40% shows the composite state vote on impeachment:

For—42%.
Against—52%.
Undecided—6%.

The western areas of the state voted most heavily against impeachment:

Northwest—34% for, 60% against.
Southwest—39% for, 56% against.

Areas of the state with a majority of the respondents voting for impeachment are in the east:

Southeast—49% for, 45% against.
Topeka—48% for, 46% against.

Wichita and Kansas City residents voted as follows:

Wichita—44% for, 51% against.
Kansas City—41% for, 53% against.

The central area of Kansas (excluding Wichita) voted:

Central—41% for, 52% against.

Northeast Kansans (excluding those in Kansas City and Topeka) were against impeachment:

Northeast—42% for, 54% against.

The remainder of votes in each area (ranging from 4% to 7%) were undecided.

Over the twelve years of its use, the KAKE TeleVote has predicted all general election winners within two to three percent of the actual vote. The closer the race, the more precise is the TeleVote prediction; i.e., the 1970 0.3% prediction of Governor Docking's re-election in a very tight race.

"TRAMPING TOGETHER"—REAFFIRMATION OF SOLIDARITY

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. DE LUGO. Mr. Speaker, in response to the negative national publicity that has recently burdened the image of the Virgin Islands, I would like to share the following editorial with my colleagues.

Henry U. Wheatley describes the "Tramp Together," a simple but vital gesture by the citizens of St. Thomas to emphasize that they form a unified community. This act is an affirmation of community confidence that says:

> We recognize our problems, but we are united to solve them.

The determination of such a citizenry cannot be deterred by individuals who wish to convince it that it is in the grasp of a divisive and debilitating crisis.

The article follows:

[From the Daily News of the Virgin Islands, Mar. 1, 1974]

OVERVIEW: TRAMPING TOGETHER IS FOR US

(By Henry U. Wheatley)

It might make a difference to people living on the Mainland and elsewhere that a whole lot of Virgin Islanders are going to get together and tramp up the streets of St. Thomas. At least some who learn of this display of community friendliness will re-evaluate what they have heard about the racial climate of the Virgin Islands. If the "Tramp Together" does not have a significant effect in this way, it will be primarily because the public is more interested in bad news than in finding out that something good is going on somewhere.

The most important benefit to be derived from tramping together is the reaffirmation to ourselves, those of us who live right here, that our very diverse community includes large numbers of people who are committed to living together in harmony. Whether or not this message gets through to anyone is not nearly as meaningful.

To many people of all backgrounds have become despondent about the state of race relations in these Islands over the last two years. They have been frightened by the actions of some people, mostly young people, whose inability to find constructive and rewarding roles in our community have led them to vent their frustration in the context of race and place of origin. Unfortunately, when we accept the idea that this is a community divided along the lines of what color your skin is, where you were born, what language group your parents belonged to, and other similar superficial distinctions, we are also inclined to react passively to what seems to be an inevitable degradation in the quality of our relations with each other. If tramping together shows us that there are many, many of us who share the desire for a happy multi-racial society, that the possibility of strengthening such a society has not as yet eluded our abilities, it will be the most important thing we will do this year.

We must not tolerate the destruction of our community values by a troubled minority. It will be useful to show that minority how unrepresentative it is of the peoples of the Virgin Islands. It will also be good for us to take heart from the realization that there are enough—more of us than there are of them—that we can insist on and work for a community where everyone is treated decently, fairly—and where we have an obligation to do all we can to improve the quality of life for all Virgin Islanders.

We are going to tramp together. After that, first on the list of priorities should be a more sincere effort than has been made to date to bring those Virgin Islanders who have been left behind in the development of our economy into the mainstream of the progress that can be ours for years to come. That is going to take a lot of dedication and a lot of unselfishness, but those are the minimum dues payable for membership in a good community.

FERTILIZER AND FOOD

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. FINDLEY. Mr. Speaker, the critical shortage of fertilizer and feed phosphates threatens not only thousands of American farmers, but virtually every consumer who will soon be facing higher prices at the supermarket if action is not taken immediately to ease the crisis.

Although farmers have been given top priority by the Federal Energy Office, the fertilizer and feed phosphate industries have not been given that priority for all their energy needs. This is the major reason for the shortages of these vital farm needs.

For this reason, I have introduced a resolution calling on all Government agencies which are responsible for establishing priorities for fertilizer and feed phosphate materials and facilities to give top priority to these essentials.

Twenty-three Congressmen have joined me in cosponsoring the resolution, demonstrating Capitol Hill's appreciation for the severity of this problem. These men, some of them representing urban districts, have united with me in calling on the Federal Energy Office, Federal Power Commission, Departments of Agriculture and Commerce and similar Federal and State agencies to give the highest priority to the production of fertilizer and feed phosphates.

I hope that the House will expedite the passage of this resolution to demonstrate its desire to solve immediately the fertilizer shortage.

The text of the resolution follows:

H. RES. 967

Mr. Findley (for himself, Mr. Abdnor, Mr. Andrews of North Dakota, Mr. Arends, Mr. Bauman, Mr. Burlison of Missouri, Mr. Carter, Mr. Cohen, Mr. Guyer, Mr. Henderson, Mr. Hutchinson, Mr. Jones of North Carolina Mr. Litton, Mr. McKay, Mr. Madigan, Mr. Mayne, Mr. Quie, Mr. Railsback, Mr. Scherle, Mr. Sebelius, Mr. Shoup, Mr. Shuster, Mr. Taylor of North Carolina, and Mr. Thone) submitted the following resolution; which was referred to the Committee on Agriculture.

RESOLUTION

Whereas a substantial amount of the 1974–1975 food and fiber supply for the world and the United States is either planted or about to be planted; and

Whereas nearly 30 per centum of the production of food and fiber in the United States is directly attributable to the application of fertilizer; and

Whereas the 1974 agricultural production goals of the United States cannot be achieved unless sufficient quantities of fertilizer are made available; and

Whereas the current productive capacity of the Nation's fertilizer industry is insufficient to meet existing and future demands; and

Whereas some of the current productive capacity of the Nation's fertilizer industry is being unrealized due to limited availabilities of natural gas and other liquid- and middle-distillate fuels; and

Whereas these factors are contributing to a supply of fertilizers this year short of what farmers want and need for application on increased acreage; and

Whereas such shortages are not only limiting the farmers' ability to produce food and fiber in 1974 at maximum levels, but also are contributing to further escalation of prices paid by farmers for fertilizer; Now, therefore, be it

Resolved, That it is hereby declared to be the sense of the House that—

(1) all agencies of the Federal Government, which have any responsibility for establishing priorities for the allocation of materials and facilities utilized in the production or distribution of fertilizer, give the highest priority to the fertilizer industry regarding the allocation of such materials and facilities. The fertilizer industry, in turn, is urged to do its utmost in making these essential fertilizer supplies available to farmers in a timely and equitable manner, and at reasonable price levels;

(2) the Federal Power Commission and appropriate State regulatory agencies do everything within their power, in the establishment of priorities for the allocation of natural gas (including gas sold under interruptible contracts) to insure producers of "synthetic anhydrous ammonia and defluorated phosphate" with supplies of natural gas sufficient to maintain maximum production levels;

(3) the Federal Energy Office include all of the energy and fuel requirements of the fertilizer industry—including local dealer requirements—in its highest priority category regarding allocation of gasoline, middle-distillates, and other liquid fuels utilized by this industry in the production, distribution, and application of fertilizer supplies;

(4) the Cost of Living Council and the Departments of Agriculture and Commerce continue their monitoring and reporting of fertilizer supply availabilities, wholesale and retail prices, and export shipments;

(5) the Cost of Living Council establish an investigatory program through the field offices of the Internal Revenue Service to monitor and analyze any reports of fertilizer price gouging at either wholesale or retail levels, and any changes in manufacturer marketing operations or relationships between manufacturers and local dealers and between local dealers and their customers which may affect continued availability or pricing of fertilizer supplies to farmers; and

(6) the manufacturers of phosphate acid give the highest priority to supplying such material to producers and users of feed phosphate, which is essential to livestock and poultry and to the production of meat, milk, and eggs.

SUPPORT FOR THE PRESIDENT

HON. RICHARD H. FULTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. FULTON. Mr. Speaker, I would like to commend to the attention of my colleagues the names of a number of citizens of the Fifth District of Tennessee who have expressed their support for the President of the United States. As participants in the activities of the National Citizens' Committee for Fairness to the Presidency, they are exercising their right, indeed their duty, to speak out, to voice their views on the issues of concern to all of us.

I therefore submit for the RECORD the following: Mrs. Doug Underwood, Mrs. Jack K. Reese, Mrs. James A. Medley, Mrs. John W. Kendle, Mrs. Edwin B. Davie, Mrs. Edward L. Thackston, Mrs. L. D. Simms, Mrs. Elvin Woodroof, Mrs. Carl D. Prentice, Mrs. Ann R. Tuck, Mrs. Virginia Anderson, Mrs. Lew Crow, Mrs. R. J. Phillips, Mrs. James McLean, Mrs. Richard J. Martin, Mr. and Mrs. William H. Jarrett, Mr. and Mrs. Garrett Brundige, Lyla Mackey, Mr. and Mrs. S. Briggs Burkhalter, Beatrice Dale, Lucille Vickers, Frances S. Gunn, Mr. and Mrs. Edward J. Bynum, Mrs. Wilma Inman, Mr. and Mrs. Lonzo Byars.

THE DEATH OF MR. BILLY DeWOLFE

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. BURKE of Massachusetts. Mr. Speaker, today I join with the citizens of Quincy, Mass., in mourning the death of Mr. Billy DeWolfe. A man of immense talent in the area of entertainment, Mr. DeWolfe was born in Quincy and rose to international fame as a dancer, mimic, comic, and actor.

A man like Billy DeWolfe, who brought happiness to all of those who enjoyed his talents, will certainly be missed. Mr. Speaker, at this time I would like to submit for my distinguished colleagues, an article taken from the Quincy Patriot Ledger, a daily newspaper, which so aptly describes the sentiments of all those who experienced the warmth of Billy DeWolfe:

BILLY DEWOLFE

Each community takes a certain amount of pride in its home-grown celebrities, and so Quincy followed the wide-ranging career of comedian-entertainer Billy DeWolfe with more than casual interest.

William Andrew Jones grew up and went to school here, and began his climb in show business on a Quincy stage. As a high school boy he worked as an usher at the old Quincy Theater on Hancock Street, where his gifts for mimicry were discovered, and within eight months he was on the stage. He took the stagename Billy DeWolfe from the manager of the Quincy Theater and began his career as a dancer in vaudeville, later turning to comedy.

He appeared in all the entertainment media—theaters and night clubs, films, radio, TV and recordings—and in several big-time hits. Mr. DeWolfe was a natural comedian with a gift for characterization drawn from his observations of persons he encountered, caricaturing without meanness the foibles of real people—like Mrs. Murgatroyd, his best-known character.

Mr. DeWolfe returned often to his native city and his friends here. To them, Mr. DeWolfe was agreeable and modest, always appreciative of the attention and kindnesses of others.

Billy DeWolfe died Tuesday in California, at the age of 67, and he will be coming home to be buried in Mt. Wollaston Cemetery.

OUR COOPERATIVE PRESIDENT

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. HANRAHAN. Mr. Speaker, I was very pleased to read in last week's Chicago Tribune that the President is anxious for "the cloud over the White House" to be removed, concerning the Watergate affair. I think my colleagues may be interested in the editorial from that newspaper:

[From the Chicago Tribune, Mar. 8, 1974]

OUR COOPERATIVE PRESIDENT

"At all times it had been my goal to have a complete disclosure of this whole situation," President Nixon told a press conference Wednesday evening, speaking of the durable Watergate scandals. "There can be no cloud over the White House. I want that cloud removed; that's one of the reasons we have cooperated as we have with the special prosecutor. We will also cooperate with the Rodino committee [the House Judiciary Committee]. The facts will come out."

The country can rejoice to hear these words from President Nixon. In response to earlier, lesser challenges, the President claimed executive privilege and separation of powers as a basis for being uncooperative with investigators. He said he was "going to fight like hell." He appeared determined to "tough it out." But now, faced with the Constitutionally defined processes for the consideration of impeachment, he acknowledges that even his high office is accountable in this ultimate forum.

More than that, he states that he wants "complete disclosure." In unequivocal terms, he says that in his earliest discussion of the Watergate scandals with his aides he took the position that the coverup was "wrong," and that at no time did he authorize clemency for or payment of money to any of the persons who committed Watergate crimes.

President Nixon's present course meets a long-standing need in the country for an accommodation among the different branches of the federal government on the Watergate issues and for Presidential action for disclosure of what occurred. At this most recent press conference, the President's more conciliatory approach was matched by his questioners. Tho the questioning was vigorous and incisive, the rancorous disrespect painfully evident at some earlier meetings between the President and the press was mercifully absent.

The possibility of conflict between Congress and the executive is not wholly removed. President Nixon still seeks to define the nature of his responsiveness to the House Judiciary Committee, which may well seek more evidence than he has yet shown willingness to provide. But whether out of deference to the Constitutional processes involving consideration of impeachment, or out of recognition that defiance in the present context would increase his vulnerability to those who want to see him out of office before the end of his term, or both, President Nixon has moved a long way towards accommodation with Congress and the public.

Everyone who values public confidence in our national leadership and orderly teamwork between the different branches of government can only rejoice that this is so. There has been a cloud over the White House. Every patriot wants that cloud removed, tho not all patriots will agree on what is needed to do it. By stating and demonstrating a desire for cooperation with Congress and for disclosure of the facts, the President can help as no one else can.

VOTERS' ANGER

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. WALDIE. Mr. Speaker, we are all amply aware of the generally low esteem with which the American people view their Government. Prices are rising, real income is declining, unemployment is increasing, there is an energy shortage, an environmental crisis, and a constitutional imbroglio. In all of these cases the Government has demonstrated a seeming inability to cope with the problem, and this has engendered in the people a crisis of confidence in the country's leadership.

I have received many letters from constituents enunciating this pervasive lack of confidence in the Government, and emphasizing that this extends to a complete dissatisfaction with the Congress.

The following letter, from Mr. and Mrs. Allan Martin of El Cerrito, Calif., is an example of the current voter anger at the seeming indecisiveness and weakness of the Congress. It is an anger which will evidence itself at the polls this fall.

The letter follows:

DEAR MR. LEGISLATOR: As one of your constituents, and as one who has written to you previously I want to take this time to express my feelings about the actions of all of you, collectively, and individually.

First off, so you won't feel the need of reading further, My wife and I do not intend to vote for one single Incumbent. Now, I realize that this is not going to send fear through your veins, but I do intend to throw my support financially, and otherwise, to any one of the good individuals who will be running.

My dear Mother, God rest her Soul, had the habit of saying when she was frustrated, "I just feel like saying Damn!" I feel like saying much worse.

I hope that this will be some indication of the under current of sickening distrust surfacing among the great masses of the people.

Respectfully,

Mr. and Mrs. ALLAN A. MARTIN.

NORTH VIETNAM SHOULD ACCOUNT FOR AMERICANS STILL MISSING

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. ABDNOR. Mr. Speaker, with all the recent turmoil in the Middle East, it would seem that other world matters have taken precedence over the MIA's plight. The families of these men are desperately awaiting action by our Government to provide them with the news of their loved ones. It has been over a year since the prisoners of war started to return, and it seems long overdue that definitive action be taken to compel North Vietnam to comply with the agreement. Although this article from the Rapid City Journal is a few months old, I feel that it raises some very significant points:

[From the Rapid City Journal, Dec. 10, 1973]

NORTH VIETNAM SHOULD ACCOUNT FOR AMERICANS STILL MISSING

It has been almost 11 months since the United States signed the Paris Peace Conference agreement.

When the agreement was signed on Jan. 27, 1973, almost 2,000 Americans were missing in action or were being held as prisoners of war in Southeast Asia. Today more than two-thirds of these men are still missing and there has been no information of any kind concerning their fate.

Wives, parents and children of these men continue to be plagued with the question of whether any of these men are alive and in Communist hands.

Some of the men who are missing were known to be alive and in enemy hands at one time. Some were even photographed in captivity. Names of others who were captured were used in propaganda broadcasts. Yet when lists of those POW's who were to be repatriated and those who died in captivity were furnished to our government, more than 50 men previously identified as prisoners of war did not appear on either list. No information has since been provided about any of them.

In fact, less than four per cent of the 1,334 men listed as missing in action and never classified as POW's have been accounted for.

These men are either alive or dead. If alive they are still being held captive. If dead, why were they not among the 60 Americans Hanoi admitted died in captivity?

In the Paris Agreement, North Vietnam agreed to assume responsibility for the release and accounting of all missing and captured Americans. The agreement also stipulated that all parties would help each other to obtain information about the missing, determine location of graves of the dead and facilitate the exhumation and repatriation of remains of the dead. To date, no information about the missing men has been provided and not one body has been returned.

The return of American prisoners of war was one of the bright spots of the past year. But those who came home were few compared to those whose fate remains a mystery.

As the anniversary date of the Paris Conference nears, it is time for the American government to firmly demand an accounting from North Vietnam.

The 1,200 families who live in doubt deserve to have those doubts resolved.

After talking with the State Department about the status of the Joint Casualty Resolution Center, I was informed that although the teams are in full readiness they have not conducted any missions since the December 15 ambush in which one American was killed. Currently the State Department is seeking through diplomatic channels to acquire permission for further missions and assurances of the safety of these men. I am encouraged that the North Vietnamese have allowed the recovery of 12 men who died in captivity and are planning to allow the recovery of another 11. However, much needs to be done.

Many Congressman, including myself, have introduced legislation that will prevent aid or accommodation with the North Vietnamese or Vietcong until all of the Paris Agreements have been fulfilled. Henry Kissinger has also stated that because of their noncompliance with the agreement the administration is not seeking aid for North Vietnam. I currently feel, however, that a new diplomatic initiative should be instigated to resolve the issue and answer questions of all Americans concerning the fate of our valient missing in action.

WOULD AFFECT US ALL

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. LONG of Maryland. Mr. Speaker, the following editorial from a Maryland newspaper, the Towson Jeffersonian, accurately describes the difficult decisions facing Members serving in the 93d Congress. I hereby submit the article for the RECORD:

WOULD AFFECT US ALL

Your Congressman faces some tough decision making in the next few months when he will need to come to grips with the energy crisis, burgeoning inflation, and higher federal spending.

Key issues before Congress include wage-price controls, metric conversion, budgets and foreign trade.

One of the first items to be considered should be the immediate end to the wage-price straitjacket. Controls have failed to halt inflation. Instead, they have caused shortages and disruptions of industrial production. They have hindered foreign trade. They have lowered corporate spending for new manufacturing facilities, making business operations more expensive, which in turn costs people jobs and keeps prices high.

If Congress would lift certain price controls such as the ones on natural gas, industry could function better in finding the answers to the energy shortage in this nation. Industry could then explore new ways to find additional energy sources.

Congress should also pass the Budget Control Bill, which will provide better control of federal spending. The proposed bill would set firm and enforceable spending ceilings that will not be subject to haphazard or easy adjustment by big spenders.

Amendments should be made to the Occupational Safety Act so that certain restrictions are no longer such a burden to the small businessmen who are the bulwark of our economy and provide many jobs.

By acting now, Congress could provide the atmosphere in which industry could continue to provide the nation with the best possible standard of living.

THE MEDICARE AMENDMENTS OF 1974

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. STEELE. Mr. Speaker, today I am introducing legislation that will fulfill a promise that Congres made to elderly and disabled Americans when it passed medicare in 1965, the promise of comprehensive and coordinated health care services.

The medicare program, as presently constituted, involves the payment of ever-increasing premiums, deductibles, and incomplete coverage. The result is that medicare only pays 42 cents out of every dollar of health care expenses incurred by the elderly. In order to remedy these grave defects, I offer the "Medicare Amendments of 1974" for consideration.

Although this bill is long and complex, I would like to point out what I feel are its most vital provisions. First, the bill broadens the benefit package to meet the full range of medical services needed by older Americans. This includes such vital needs as hospital and nursing home care as well as eyeglasses, hearing aids, and dental care. Second, the bill extends the duration of those benefits which are limited under the present program. Third, the bill will reduce out-of-pocket personal health care expenditures and will do away entirely with premiums and deductibles. Catastrophic coverage is also included to prevent serious economic hardship if modest copayments rise to a significant level.

Mr. Speaker, a serious health care problem exists now for the Nation's older and disabled citizens. During fiscal 1972, 27 percent of the Nation's total health care expenditure of nearly $72 billion was spent on the elderly, who represent only 10 percent of the population. And despite the fact that two-thirds of all personal health care spending for the elderly came from public funds, the total average out-of-pocket health care expenditure by those over age 65 was still more than twice that of persons under 65.

This situation is aggravated by the generally low incomes that the elderly and disabled receive. Thus, the rapid inflation in health costs during the past decade has hit hardest at those with the greatest need for health care and the least ability to pay.

The elderly and disabled need help now, not 10 years from now. The Medicare Amendments of 1974 provide the immediate help which is needed to those who need it most. It is a realistic step toward the objective of adequate health care for all, regardless of age or the ability to pay.

I include a detailed summary of the provisions of this bill in the RECORD:

MAJOR FEATURES OF THE MEDICARE AMENDMENTS OF 1974

I. PURPOSE

To improve and restructure the Medicare program so as to:

Provide health care benefits to all older Americans as a matter of entitlement;

Broaden the benefit package to meet the full range of medical services needed by older Americans;

Extend the duration of those benefits which are limited under the present program;

Reduce the out-of-pocket personal health care expenditures of those eligible for Medicare coverage;

Establish a program of income-related catastrophic protection;

Improve the administration of Medicare; and

Control increases in health care costs.

II. STRUCTURE

A single, integrated program of comprehensive health insurance for the aged and disabled, fully financed through social insurance taxes, comparable taxes on unearned income, and general revenues.

A single, expanded benefit structure (combining Parts A and B of Medicare) with a single trust fund. Requirements for premium payments and deductibles are eliminated. Coinsurance provisions are adjusted so that while persons who can afford to pay will do so up to a predetermined maximum level, cost will not be a deterrent to quality health care.

Provision under the expanded Medicare program of all care and services for the aged presently covered by the Medicaid program.

III. ENTITLEMENT

Extended to all persons 65 years of age or older regardless of insured status under the Social Security or Railroad Retirement cash benefit programs, so long as the individual is a citizen (or national) of the United States or a legal resident alien.

Allows all individuals presently covered under Medicare because of special circumstances (such as disability) the full benefits of the expended program.

IV. REIMBURSABLE SERVICES

Unlimited *inpatient* hospital coverage:

Includes pathology and radiology services;

Includes 150 days of care during a benefit period for a psychiatric inpatient undergoing active diagnosis or treatment of an emotional or mental disorder.

Unlimited outpatient hospital coverage.

Unlimited skilled nursing facility services with no requirement for prior hospitalization.

Unlimited intermediate care facility services, effective July 1, 1978.

Unlimited home health services with no requirement for prior hospitalization.

Certain services offered by public or nonprofit private rehabilitation agencies or centers and public or non-profit private health agencies.

Unlimited physicians' services, including major surgery by a qualified specialist and certain psychiatric services.

Unlimited dental services.

Outpatient prescription drugs—including biologicals such as blood, immunizing agents, etc.—subject to certain limitations to insure quality control.

Medically necessary devices, appliances, equipment and supplies, such as: eyeglasses, hearing aids, prosthetic devices, walking aids. Also included are any items covered under present law.

Services of optometrists, podiatrists and chiropractors.

Diagnostic services of independent pathology laboratories and diagnostic and therapeutic radiology by independent radiology services.

Certain mental health day care services.

Ambulance and other emergency transportation services as well as non-emergency transportation services where essential because of difficulty of access.

Psychological services; physical, occupational or speech therapy; nutrition, health education and social services; and other supportive services.

Cost sharing

No periodic premium payments.

No deductibles.

Initial co-insurance payments (based upon type of service) are as follows:

Type of Service [1] and Co-insurance Payments [2]

1. Inpatient hospital services; $5 per day.
2. Skilled nursing facility; $2.50 per day.
3. Home health services; $2. per visit.
4. Physicians' services; $2. per visit.[3]
5. Dentist services; 20% of approved charge.[4]
6. Mental health day care; $2. per day.
7. Diagnostic out-patient services of independent laboratory or of independent radiology services; 20% of approved charges.
8. Devices, appliances, equipment and supplies; 20% of approved charges.
9. Drugs; $1 per each filling or refilling.
10. Ambulance services; 20% of approved charges.

VI. CATASTROPHIC PROTECTION

The co-insurance payments are subject to a catastrophic protection feature related to family income categories. Initial income ranges are as follows:

Income class	Single individual	Family of 2	Family of 3	Family of 4 or more
1[1]	0 to $2,110	0 to $2,730	0 to $3,340	0 to $4,280.
2[2]	$2,111 to $3,160	$2,731 to $4,090	$3,341 to $4,460	$4,281 to $5,340.
3	$3,161 to $4,740	$4,091 to $5,450	$4,461 to $5,570	$5,341 to $6,410.
4	$4,741 to $6,330	$5,451 to $6,810	$5,571 to $6,980	$6,411 to $7,480.
5	Above $6,330	Above $6,810	Above $6,980	Above $7,480.

[1] Persons in income class 1 not subject to coinsurance.

[2] Persons in income classes 2 through 5 subject to nominal coinsurance payments (based on type of covered service) up to determined out-of-pocket expenditure limit for each income class.

Initial maximum liability limits are as follows:

Income class and out-of-pocket expenditure limit

1—no payment.

2—$125.

3—$250.

4—$375.

5—6% of annual income or $750 whichever is less.

Individual can claim out-of-pocket payments for the last quarter of the preceding year in calculating the annual out-of-pocket expenditure limit for the current year.

Any expenditures incurred for services furnished in excess of the coverage limit for certain psychiatric and skilled nursing facility services can be credited, along with coinsurance payments, in determining an individual's out-of-pocket expenditures.

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[1] Subject to statutory definition.

[2] Recomputed each year on formula cited in section 1824.

[3] Payment for combined multivist as in the case of surgery or obstetrical care would be 10% of approved charge.

[4] No payment for oral examination and prophylaxis including fluoride application, X-rays and other preventive procedures.

NOTE.—Income ranges for the different income classes and out-of-pocket expenditure limits are subject to annual revision in accordance with the Consumer Price Index.

VII. REIMBURSEMENT POLICIES

Payments are made only to a "participating provider" (one that has filed a participation agreement with the Secretary of HEW) except for emergency services.

"Providers" include not only institutions but also independent practitioners and suppliers of drugs or medical appliances.

An institutional provider is treated as the provider of all institutional services to its patients.

Reimbursement to a participation institutional provider based upon a predetermined schedule of patient care charges.

Schedule of charges must be based on a system of accounting and cost analysis in conformity with prescribed standards.

Periodic interim payments will be made to institutions during the accounting year on the basis of cost projections, with final adjustments based on the approved schedule of charges.

Reimbursement for services of physicians, dentists, optometrists, podiatrist, chiropractors and other non-institutional services of licensed professional practitioners will be paid in accordance with annually predetermined fee schedules for their local areas.

Fee schedules will be established through negotiating among representatives of government, providers and consumer interests.

Final fee schedules to be established only after hearings.

Participating providers must agree to accept the Medicare payment (plus any co-insurance payment) as the full charge for their service.

The Secretary of HEW is required to make public for each local area the established fee schedules and the names, professional fields and business addresses of participating practitioners.

Payments to health maintenance organizations are retained as provided for in the 1972 Social Security Amendments.

The definition of HMO is broadened to include medical foundations.

VIII. FINANCING

A single trust fund will be established by merging the two trust funds under the present program.

A government contribution is authorized for whatever amount necessary to keep the Trust Fund solvent.

BAN THE HANDGUN—XXX

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. BINGHAM. Mr. Speaker, it is a common and deadly misconception that the injuries and deaths attributable to handguns are chiefly the result of activity by criminals. In 1972, for example, two-thirds of all handgun shootings occurred during squabbles between close friends or family members. One such tragic example was reported in the March 11 edition of the Washington Post and is reprinted herewith:

Wife Charged in Man's Death

Thomas Edward Powell, a 24-year-old construction worker, was fatally shot yesterday during an argument at his home, 12605 Tobytown Dr., Potomac, Montgomery County police said.

Police said that Powell apparently was shot during an argument with his wife, Pearl Augustus Powell. Mrs. Powell, 21, has been charged with murder.

During the argument, police said, Powell is alleged to have pulled a gun from under a bed and pointed it at his wife. Police said that according to accounts available a struggle followed and Powell was shot in the shoulder with the bullet entering the chest.

LINDA MILLINER GETS OVATION AT RECITAL

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. DE LUGO. Mr. Speaker, I wish to bring to the attention of my colleagues the following article describing soprano Linda Milliner's debut recital.

Miss Milliner is a study in determination and courage: she has responded to her blindness by beautifully developing her vocal sense. She graduated from the New York Institute for the Blind, and subsequently attended Oberlin College and Howard University. During the past 7 years, this 24-year-old St. Thomian has studied voice with Mr. Emmary K. McIvor. The ovation at her recital is both an acknowledgment of her talent and the harbinger of a promising musical career.

The article follows:

[From the Virgin Islands Post, Mar. 5, 1974]

Linda Milliner Gets Ovation at Recital

Soprano Linda Milliner received an enthusiastic reception as she appeared in her debut recital Saturday night at the Charlotte Amalie High School auditorium under the sponsorship of the School of Creative Learning and the Volunteers for the Visually Handicapped.

Miss Milliner displayed her vocal talents in a varied and intricate program which ranged from selections by Bach, Handel, Schumann, Debussy, Strauss, and Verdi to Spirituals. In every selection she captivated the audience wtih her rich voice which has delighted teachers and critics and led to the prediction that she has a brilliant future as a soprano ahead of her.

Enthusiastic applause greeted every number and at the conclusion of the program the audience refused to end its ovation until Miss Milliner provided an encore. After the program she was congratulated by scores who went backstage to greet her.

The 24-year-old St. Thomas soprano who was graduated from the New York Institute for the Blind in 1968, attended Oberlin College and Howard University. She is also an accomplished pianist and organist. She has been studying voice for the past seven years and is currently being taught by Mr. Emmary K. McIvor, of the faculty of the School of Music of Howard University.

Miss Milliner was accompanied by Miss Carole Coles, a music teacher at Lockhart Elementary School. Miss Coles, who was also applauded for her superb performance on the piano, has a B.A. Degree in Music Education and taught music in Washington, D.C. before accepting a position here.

Proceeds from the concert will be used for the scholarship fund of the School of Creative Learning to provide instruction in the arts to underprivileged children, and for programs of the Volunteers for the Visually Handicapped.

THE BUYING PUBLIC NEEDS A FEDERAL CONSUMER PROTECTION AGENCY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. ROSENTHAL. Mr. Speaker, in the March 4, 1974, issue of the Wall Street Journal, the Council on Economic Priorities endorsed the establishment of a Consumer Protection Agency. Citing its recent study on retailing, the council concluded that "Government agencies are not successfully protecting consumers." Consequently, the consumer is being shortchanged.

In examining the procedures of the FTC and the Consumer Product Safety Commission in relation to five chain stores, the council found:

> Not only did Federal regulations cover only a narrow range of goods, but Federal enforcement of those regulations wasn't stringent.

Out of 214 cases initiated against these chains, only 32 were concluded by the FTC; 15 of these 32 cases were resolved in assurances of voluntary compliance. The remaining 182 cases were closed investigations which never resulted in a decision.

Referring to the Consumer Product Safety Commission, the council stated that:

> Even though the agency can threaten violators with penalties of up to a year in jail and a $50,000 fine, so far it has done little more than threaten.

The council's conclusions are further evidence of the crucial need for an agency which will truly have the interests of the consumer at heart. The Legislation and Military Operations Subcommittee of the Government Operations Committee has just reported a bill which would create such a Consumer Protection Agency. I am inserting this article as further documentation of the failure of existing Government agencies to properly protect the interests of the buying public:

Private Study of Five Retail Chains Concludes FTC, Safety Panel Don't Protect Consumers

NEW YORK.—A study of retailing has concluded that government agencies aren't successfully protecting consumers and has thrown its support behind creating a new consumer protection agency.

The study was made by the Council on Economic Priorities, a private nonprofit watchdog group that tries to assess business response to broad social issues.

Its latest 35-page study covers such categories as children's sleepwear that aren't labeled flame-retardant, hazardous lawn mowers, power tools without double insulation, mattresses that aren't labeled flame-retardant, and dangerous toys. It also discussed computing finance charges for credit.

The five chains studied are Sears, Roebuck & Co., J. C. Penney Co., Marcor Inc's Montgomery Ward & Co. division, S. S. Kresge Co.'s K-mart division, and W. T. Grant Co.

The council study charged that the Federal Trade Commission has ineffectively enforced regulations against the five chains studied.

In 1973, it said, the FTC disclosed that of 214 cases initiated against the five chains, only 32 were concluded. "Fifteen of those 32 resulted in assurances of voluntary compliances. The other 182 cases were closed investigations, which never resulted in a decision," the study said.

"Not only did federal regulations of consumer products cover only a narrow range of goods," it said, "but federal enforcement of those regulations wasn't stringent."

The study treats the Consumer Product Safety Commission, created by Congress in 1972, in much the same fashion.

It says that even though the agency can threaten violators with penalties of up to a year in jail and a $50,000 fine, "so far it has done little more than threaten." The study notes that the commission can enforce its standards by banning products that don't meet them.

In advocating a new consumer protection agency, the study says that of the five chains surveyed, only Montgomery Ward has supported both the concept of such an agency and congressional bills that might create one.

Spokesmen for the FTC and Consumer Product Safety Commission said they couldn't comment on the charges until they have seen the council's report.

The FTC spokesman said that in the past when it conducted investigations and didn't find any wrongdoing, it didn't make any public announcement. However, under new public information guidelines the FTC will reveal any investigation after they are completed.

A Consumer Product Safety Commission spokesman noted the agency has banned several products from the market including bicycles, ovens, and butane lighters that were deemed hazardous.

"Of course, we wouldn't be in a position to directly react to the report without having seen it," said Ronald A. Eisenberg, the commission's public affairs director. He added that the commission encourages the public to "follow our actions and criticize us if it disagrees with us."

In the study, Penney's led in both product safety and overall consumer-oriented lending practices. Sears Roebuck came in a close second in product safety.

The study said that K-mart had the weakest product-safety record, Grant had the next worst, and Montgomery Ward ranked in the middle.

It said, however, that Ward had the best record for labeling mattresses as flame-retardant and had the clearest credit agreement. It was in the middle range in safe toys and flame-retardant labeling of children's sleepwear.

It said Penney's was most cognizant of its responsibility to offer safe products in the lines surveyed, leading in offering the most children's sleepwear labeled flame-retardant, predominantly safe toys, and power lawn mowers with the most safety features. Penney's power tool selection was largely double insulated, the study said.

However, on mattress labeling for flame-retardancy, Penney's and Sears ranked worst.

A Penney's spokesman said that while labeling perhaps didn't pass, the quality of the mattresses wasn't questioned. It declined to label the flame-retardancy of the mattresses, he said, because when a law to that regard took effect, several bedding manufacturers had filed suit involving such information. It hasn't been resolved, he said.

The K-mart stores surveyed by the council didn't offer mattresses, but in each of the four other product categories this chain ranked worst.

A Kresge spokeswoman retorted that Kresge has been a leader in toy-safety improvements and that much of its children's sleepwear is flame retardant, with required labels that meet government regulations.

Further, she said, lawn mowers sold in K-mart stores comply with the Outdoor Power Equipment Institute and American National Standard Institute's standards.

She added that in K-mart's private-label power tools, half the circular saws and all of the sander buffers, drills and saber saws are double insulated.

The study said Grant's offered a relatively safe selection of toys and that half its mattresses were inconspicuously labeled flame-retardant. In children's sleepwear, power lawn mowers and power tools, it ranked fourth.

A Grant's spokesman replied that the chain had anticipated the sleepwear-labeling law months before it took effect. On those items that weren't flame-retardant, a negative label was used, but all future purchases were labeled as flame-retardant according to regulations, he said.

Concerning the poor showing of power lawn mowers and power tools, the spokesman said Grant's quality control practices were good.

Sears Roebuck offered only double-insulated power tools, the report said. It ranked best in power tools and a close second in flame-retardant labeled children's sleepwear and offerings of power lawn mowers with many safety features.

NORRIS GREGORY NAMED BLACK MAN OF THE YEAR

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. BROWN of California. Mr. Speaker, a recent issue of the Precinct Reporter, a weekly newspaper serving many of my constituents, announced the choice of San Bernardino City Councilman Norris P. Gregory, Jr., as Black Man of the Year. I congratulate Mr. Gregory on this latest honor in his already distinguished career, and I will be happy to convey to Mr. Gregory the congratulations and best wishes of our colleagues. The article in the Precinct Reporter reads as follows:

BLACK MAN-OF-THE-YEAR: NORRIS P. GREGORY, JR.

The overwhelming choice for Black Man-of-the-Year from public poll results is Sixth Ward Councilman Norris P. Gregory, Jr. He is currently an announced candidate for the new 66th Assembly District Seat. A seven year veteran on the city council, Gregory left his position as an educator and administrator with the San Bernardino Unified School District to better serve his constituents and to devote time to his own business. He has consistently been an advocate for community, social and legislative progress within his area of influence.

Born on the army post at Fort Riley, Kansas, Gregory used a combination of part-time jobs and the G.I. Bill to graduate from Washburn University in Topeka, Kansas with a B.A. Degree in Sociology and minor course work in Education and Psychology. Gregory's post-graduate work has included completion of master's degree courses in Educational Psychology and additional studies at the University of California, Riverside and California State College at Los Angeles.

Gregory, in his councilmanic duties, serves upon the Ways and Means Committee and the Legislative Review Committee, in addition to his role as Chairman of the Council Personnel Committee. He is a member of many civic clubs and serves upon the boards of directors of some of the most active organizations within the San Bernardino area.

Gregory, and his wife, Salena, reside at 1540 West Sixteenth Street in San Bernardino. The Gregorys' son, Norris III graduated from Harvard University and is currently employed in San Francisco.

Citizens of the inland empire congratulate Mr. Gregory and wish for him continued success.

JOHN D. WORTHINGTON ELECTED TO NEWSPAPER HALL OF FAME

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. BAUMAN. Mr. Speaker, one of the most prominent and civic minded families in Harford County, Md., which I have the honor to represent, is the Worthington family.

I am pleased to see that the Maryland-Delaware-D.C. Press Association at its recent winter convention has elected the late John D. Worthington to its "Newspaper Hall of Fame." Mr. Worthington served for 51 years as editor of the Aegis in Bel Air, Md., and was one of the most respected journalists in our State.

I am pleased to share the news of this well deserved recognition with the House, and I include at this point an article detailing the many accomplishments of this outstanding Maryland leader of journalism:

JOHN D. WORTHINGTON ELECTED TO MARYLAND NEWSPAPER HALL OF FAME

The late John D. Worthington, who for 51 years was editor and owner of The Aegis, was among four new journalists elected to the "Maryland Newspaper Hall of Fame" at last weekend's 65th winter convention of the Maryand-Delaware-D.C. Press Association held in Baltimore.

The induction ceremony will be held later this year at the University of Maryland's College of Journalism at a luncheon to be attended by Gov. Marvin Mandel and members of the inductees' families. Pictures of the four deceased newspaper men will be officially hung at the time.

Only nine journalists have been chosen for the honor in previous years and association rules require that in order to be eligible for consideration, a nominee must be deceased for a minimum of three years. A three member committee makes the selections and recommendations for approval by the association's membership.

Mr. Worthington was born in Bel Air on June 21, 1893 and died on Sept. 14, 1964.

In making the selection for the Hall of Fame, the committee released the following information on Mr. Worthington as reasons for their choice:

After attending Washington and Lee University, he became associated with his father in the publication of The Aegis in 1913 and remained owner and editor for 51 years except for a two year period of service in the U.S. Army during World War I.

Mr. Worthington was one of the pillars in the formation of the Md.-Del.-D.C. Press Association and served as its 12th president from 1932–34, before the president's term was limited to one year. At the March 10, 1962 winter convention in Annapolis he was presented an engraved plaque by association members which reads "Among Maryland's

Most Influential Publishers" and "Presented by his colleagues in commemoration of more than a half century's service."

When he began his newspaper career in 1913, he was a typical rural editor with a paper of less than 1,500 circulation; a plant with poor equipment; a handful of employees and financial troubles. At his death in 1964, he had provided those to follow with a great community institution; an ultra-modern off-set printing plant; the latest and finest equipment available and a solid financial position with an ABC circulation of 14,500.

On Sept. 24, 1964 Md. Senate President William James said, "Harford County has lost a good citizen, but his legacy of good works is a foundation upon which we can build a better community to which he was completely dedicated."

His efforts and support of honest and progressive government in Harford county, through The Aegis, are still legendary and he editorially supported only those candidates of the utmost ability and integrity. He attracted the attention of numerous Md. governors and was asked and did serve, without pay, on many special commissions over the years. In political affairs he never sought a favor or gave one in his newspaper.

His support of finer public education was superb and twice he was asked to address the Maryland State Teachers convention because of his strong stands on education matters. He was devoted to better medical care for citizens of his native county and gave freely of his time and money to the expansion of Harford Memorial Hospital and served for years as its president.

Mr. Worthington was an authority and spoke out on agriculture matters of Maryland and was awarded the University of Maryland's outstanding man of agriculture award at the 1947 commencement. He was a national figure in the dairy industry.

He was a great American patriot and during his lifetime assisted in the promotion of those things which make for an informed and progressive people by his ardent work in the newspaper field. A man of firm convictions, he weighed carefully the facts and arguments on both sides of every controversial question and after making a decision, he stood firmly for what he believed to be right.

Many of his knowledgeable writings on government, politics, education, health and agriculture were reprinted in national publications.

His wife continues to reside in Bel Air, and The Aegis is now operated by his sons, Richard and John. His grandson John IV, has now become associated with the newspaper and represents the fourth generation of the family to be in the business.

11500 BANANAS ON PIKE'S PEAK

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. HOSMER. Mr. Speaker, H.R. 11500 is a crazy mixed up bill in which environmental extremists run wild at the expense of the energy this country needs. It seeks to abolish surface coal mining under the pretext of regulating it. In the process it swings a haymaker at farmers.

Example: H.R. 11500 requires mined land be return to approximate original contour; the only exceptions are if it is to be used for industrial, commercial, residential or public facility purposes.

Agricultural use is not an exception. Any farmer who owns a rocky and unproductive hillside can be assured that a benevolent Congress will see to it that after his land is mined, he gets back a rocky and unproductive hillside. Hurrah.

The farmer might want level land for forage crops or alfalfa. But H.R. 11500 will effectively protect him from this benefit while it also makes it tough for him to get the energy he needs to run his farm.

This is as crazy as trying to grow bananas on Pike's Peak.

Let us dump H.R. 11500 and get us a strip mine regulation bill that makes sense.

LEASING FEDERAL OIL LAND

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. BROYHILL of Virginia. Mr. Speaker, I have been requested by Mr. Oscar E. Kiessling to insert into the RECORD an article written by him which appeared in the Washington Post on February 24, 1974. I, therefore, insert these remarks into the RECORD:

[From the Washington Post, Feb. 24, 1974]

LEASING FEDERAL OIL LAND

(By Oscar Kiessling)

Responding to the need for increased oil supplies, the government recently has announced a stepped-up program for leasing federal oil lands. These are mainly in the continental shelves of the East, West and Gulf coasts. They have enormous reserves, according to the U.S. Geological Survey.

Up to the present, the economic impact of the present leasing system has received little attention. The time has come, however, to determine whether it functions adequately in the light of changing conditions and probable future needs. If modification is in order, it should be made before extensive new leases are negotiated for lands that have the bulk of the nation's total petroleum reserves.

The present leasing procedure is basically an auction in which potential developers submit cash bids for the right to explore and develop limited tracts. Developers pay hundreds of millions of dollars for this privilege without assurance of adequate return or, possibly, any at all. In addition to meeting high initial lease expense, they must finance deep-water drilling rigs which may cost up to $50 million or more each, plus large capital outlays for operating expenses.

This arrangement generates a huge front-end financial load for what is a high-risk operation. Obviously, to survive, developers confine bids to tracts where success is most likely. Less attractive areas may not be explored owing to the great financial hazard although such areas ultimately might contribute substantial production if developed.

The present procedure does produce a one-shot surge of cash for the Treasury where it disappears quickly and forever into the giant maw of the current annual budget.

The serious business of obtaining much-needed oil production is not an area where we should continue big time roulette. The method of leasing should now be changed to reduce initial exploration costs, encourage maximum development, and produce longer-term and greater benefits for the nation. This can be done by eliminating cash-cost leases and substituting compensation on the basis of attained production. Thus, developers would pay nothing down for the right to explore and develop, but would obtain this privilege through competitive bids on the percentage of attained output they would turn over to the government.

Oil delivered to the government can be handled readily in the public interest. Part of it (received at virtually no cost) could be refined into products needed by defense agencies—a big saving in what is now a sizable factor in all annual budgets. The remainder could be sold in the open market under a program aimed at stabilizing prices and keeping them at reasonable levels, thus benefiting consumers.

It is also likely that the aggregate return to the government under the proposed change would be materially greater than under the cash-lease method. This is because production from developed fields is generally much larger than the initial estimates of geologists, which are the basis for cash-lease bids under the present system.

Since oil development is a moderately long-term operation, benefits under the changed procedure would flow annually over a long period—possibly indefinitely as new areas on public lands are developed. This, by itself, gives the government an inflation hedge with regard to compensation ultimately received from leases. With inflation expected to continue indefinitely, for example, a barrel of oil delivered to the government in 1984 or 1994 should be much more valuable than cash paid to the Treasury in 1974, even if we kept it.

Clearly, the bonus cash-lease method is archaic and no longer compatible with current realities and future national needs. Delay in making the needed change would seriously impair our ability to win the struggle to become fully self-sufficient in oil.

JULIA BUTLER HANSEN

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I am extremely proud to join my colleagues in expressing our respect, admiration, and warm feelings for our retiring colleague, JULIA BUTLER HANSEN.

Congresswoman HANSEN has dedicated 37 years of service to the public, 14 in this Chamber. She has compiled an enviable record.

She has employed maximum effort on such national problems as transportation, energy conservation, and natural resource preservation. And this body will forever be in her debt for her concentrated efforts seeking equal rights for the American Indian.

Given these laudable activities, I want to single out JULIA HANSEN'S work on House internal reform for special mention. It was the Hansen committee which reported recommendations that resulted in dozens of subcommittee chairmenships being opened to younger House Members.

The retirement of JULIA BUTLER HANSEN will cost the House one of its most valuable Members.

But I believe that we can look past our own feelings of loss to those hopes for a little rest and relaxation that JULIA expressed when she announced her retirement.

I am sure that each and every Member of the House wishes JULIA not only her well-deserved solitude but in addition we also hope her impending "civilian" life will be as productive as her many years of service to the American people.

THE DOORS SWING WIDE AT PARK MANOR

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. McKINNEY. Mr. Speaker, Christmas is long since past but there is one event that occurred during the last holiday season that the people of Stamford, Conn., are still talking about and they will probably continue to do so for a long time to come.

Actually, I think it best I relate this event to my colleagues at this time long after the best aspects of the spirit of good fellowship have faded for its telling has that kind of quality which can rekindle that feeling, a feeling of brotherhood which should last all year around.

On the night of December 16, the State of Connecticut was hit by a severe snow and ice storm, the worst in many, many years. The resultant damage—especially as it related to utilities—left many people without heat, light, and running water. As is usually the case in instances of this nature, our elderly citizens are those hardest hit and this was the thought uppermost in the minds of Joan and Bill Fitzpatrick.

The Fitzpatricks operate Park Manor, a downtown Stamford hotel which specializes in the care of the elderly. Fortunately, the Park Manor and its 43 regular occupants were spared the worst effects of the storm and the Fitzpatricks decided to share this blessing with others. The word was passed to the residents of Stamford Manor, Pilgrim Towers, and the Quintard Center—all housing for the elderly—that the Park Manor would open its doors to those in need. As you can well imagine, Mr. Speaker, the response was overwhelming and within the next few days, more than 200 elderly residents were being housed at Park Manor.

Undaunted, the Fitzpatricks saw to it that everyone was well fed, made warm, provided with proper bedding and if that was not enough—entertainment was on hand.

The entire story is best told in a moving account written by Felicity Hoffecker for the Stamford Weekly Mail and Shopper which I include in its entirety in the RECORD.

Before that, however, I would like to single out for special commendation some of those who were instrumental in making this act of charity the meaningful event it was.

First, of course, Joan and Bill Fitzpatrick and their children, Allison and Scott. Also, Margery Green, who was described as "invaluable" by someone who should know—Bill Fitzpatrick; and Nat Wasserman, Helen Ryba, Joan Scutelli, former Mayor Julius Wilensky, Wilbur Parham, the Girl Scouts, and a singing group from New Canaan, the Lavender Blues.

All these people—and more—are worthy of the highest commendation for they not only know the true spirit of humanity but they put it into practice. Mr. Speaker, the article follows:

A CHRISTMAS CAROL 1973

(By Felicity Hoffecker)

The true spirit of Christmas came through this past week in Stamford when two people opened up a shelter for two hundred refugees from the storm and showed others a wonderful example of human love and concern.

As everyone remembers only too well, the storm descended on Stamford Sunday night, December 16, and most people in Connecticut woke next morning to cold houses, no electricity, warmth, or water. On that dark Monday morning, when so many were filled with despair and were hanging over their transistor radios trying to get any word they could on the progress of the men working on the lines, a message came through from Stamford, from Joan and Bill Fitzpatrick who, together, run a hotel for the elderly, Park Manor, in the downtown area. The message informed all the elderly in the area that a warm place, with beds and food, was awaiting them if they could manage transportation to get there. On a cold bleak day, it was a very moving message. Someone obviously cared . . .

The big influx, according to Bill Fitzpatrick, came on Tuesday. It was Tuesday when the cars began to arrive. Stamford Manor and Pilgrim Towers, the Quintard Center, all housing for the elderly, were all without electricity and the police and the housing people started bringing in the residents.

"It was lucky Joanie had just been to the store," observes Bill, "We had enough food for everyone. Most of the rooms needed a little refreshing but that didn't take long. Our kids were wonderful. Allison, aged 12 and Scott, aged 11, made up 80 beds. As soon as anyone vacated a room, they were up there remaking the beds for the next occupants. We have 43 people here living regularly, but we had 200 extras all told. As soon as some people got up from the table, others sat down in their places. We had people doubled and tripled in rooms, many on couches and chairs. We cleared out the chapel and put mattresses down on the floor. It was nice and warm in there."

"Fortunately," breaks in Joan, "We had nice new clean sheets and pillowcases—flowered, too! One man said he wanted red, white and blue stripes! We borrowed 14 cots. We didn't have time to get to sleep ourselves, just lay on the floor for a few hours. We really didn't get any sleep for 40 hours."

"We had entertainment during the storm. Pilgrim Manor sent over a 20-piece orchestra they had scheduled for their place and they gave a two hour concert. There wasn't a night or day that something wasn't happening. We were really having a gay old time!"

"The Lavender Blues came over from New Canaan," adds Bill. "They are a singing group of young girls from New Canaan and they are really good!

"The Mayor was fabulous. What a man! He is a really compassionate man. He came in on Wednesday and offered to help. I was so busy, I took him up on it and set him to stirring the soup and he went right to work—he had really meant it! He came back for the party Sunday and spoke to everyone individually. You would think it was before elections, not after!"

Perhaps the funniest story of the whole adventure and one which Bill enjoys telling, was the room mixup.

"I did my best to keep all the rooms straight," he says with a twinkle in his eye. "It was like a hotel though we really didn't have time to register them all. Two women from Pilgrim were in adjoining rooms, an open door between, left over from the days when this was a real hotel and parents wanted to be in touch with their children. Well, we thought one had moved out and we forgot the one left was a female, but anyway we moved a man into the other, and he was so delighted he went right up and went to bed. One woman went up later and found him and came rushing down the stairs calling "There is a man in my room!" The comments below were wonderful. Everyone was laughing. Some remarked "She's bundling again," and others "Get in there fast and lock the door before he escapes!" In any case, the man refused to budge and other rooms had to be found for the ladies."

"Bill was worried about the Christmas party," says Joan, "But he needn't have. It was a great success. We baked over three thousand cookies and people came in and offered to wait on tables. We had Nat Wasserman, Helen Ryba, and the Girl Scouts and Joan Scutelli and my parents, too. Bill did some entertaining by reading an account of the Twelve Days of Christmas in the form of pretended letters between us when we were courting."

"It wasn't original," says Bill quickly. "I had seen it in a magazine and then lost the copy so I wrote one out just like it only making the couple into us to make it more fun. I kept sending her all the presents listed and her final letter to me is from an attorney . . . Anyway the folks all loved it."

"Someone sent us a bottle of liquor but we gave it to our handyman, Wilbur Parham. He had been so wonderful all during the storm and he wasn't feeling too well himself, either."

By Friday the couches in the halls were vacated and Monday the last refugee had left. Many wanted to pay the Fitzpatricks for their time and trouble as well as the food and shelter but the couple would take nothing. Eventually they talked about the idea of putting money into a fund to help those who have trouble paying the very small amount charged at the Park Manor.

And when were they going to get some rest themselves?

"Perhaps now," smiles Joan, red-eyed and pale. "But you know you don't really get tired when something like this happens. You just keep going. It seems God gives you strength when you need it."

Bill agrees, and adds: "It is just afterwards that the slump comes."

ANNOUNCEMENT OF HEARINGS ON THE EQUAL EMPLOYMENT OPPORTUNITY PROGRAM OF THE DRUG ENFORCEMENT ADMINISTRATION

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. EDWARDS of California. Mr. Speaker, the Subcommittee on Civil Rights and Constitutional Rights of the House Committee on the Judiciary has scheduled civil rights oversight hearings on March 18, 1974, room 2226, Rayburn House Office Building, at 10 a.m. in order to review the equal employment opportunity program of the Drug Enforcement Administration—DEA—of the Department of Justice.

Prior to implementation of the Reorganization Plan No. 2, the subcommittee received testimony on this subject from the various Federal drug agencies including the Bureau of Narcotics and Dangerous Drugs, the Bureau of Customs, and the Office for Drug Abuse Law Enforcement. Presently, the subcommittee wishes to review the equal employment opportunity program of the new agency to determine if equal opportunity remains a priority.

Appearing as witnesses will be Mr. John Bartels, Director of DEA, and Mr. Vincent Oliver, Deputy Personnel Officer at DEA.

Persons wishing to submit a statement for the record should address their request to House Judiciary Committee, 2137 Rayburn House Office Building, Washington, D.C. 20515.

INTERNATIONAL UNDERSTANDING AND FOREIGN MEDICAL GRADUATES

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. McCLORY. Mr. Speaker, it is most fortunate that the Office of Deputy Assistant Secretary for Educational and Cultural Affairs is held by Alan A. Reich. Mr. Reich is a graduate of Dartmouth College, and exceedingly knowledgeable on the subject of educational and cultural exchange programs. Like many of my colleagues here in the Congress, and as is the case with every student who has enjoyed an overseas educational experience, the opportunity for learning and appreciating the language and culture of those from other parts of the world is most vital to the long-range goal of human understanding.

Mr. Speaker, Mr. Reich delivered remarks recently before the 70th Annual Convention on Medical Education of the American Medical Association in Chicago. His talk entitled, "International Understanding and Foreign Medical Graduates," throws much-needed light on this particular area of educational interchange—and is backed up by factual information and some sound advice of significant value to all Americans.

In addition to congratulating Mr. Reich, I am attaching hereto the text of his remarks:

INTERNATIONAL UNDERSTANDING AND FOREIGN MEDICAL GRADUATES

INTRODUCTION

International understanding is everybody's business. Foreign medical graduates in the United States, some 70,000 strong, are a potent force for furthering international understanding. The Department of State has a direct concern for FMG's and therefore I welcome the opportunity to speak to you on this important subject.

My remarks today will concern people-to-people communication in furthering international mutual understanding, the interest of the State Department, and the relevant problems of foreign medical graduates in the United States. I shall offer several suggestions for further action.

Technological advances have made nuclear war a threat to mankind's existence. Fortunately, new initiatives and agreements in the disarmament field offer hope that the deadly cycle of weapons build-up may be broken. Prospects for increased government-to-government cooperation look better now than at any time since World War II. The great powers are now focusing not only on their differences but also on areas of common concern.

While technology has made nuclear annihilation possible, it also has sparked a revolution in communication and transportation which brings increasing numbers of people in all walks of life into direct, open, and immediate contact. International diplomacy, traditionally the task of men behind closed doors, has gone public. Many foreign offices no longer confine themselves to speaking with other foreign offices for peoples; they help and encourage their peoples to speak for themselves across national boundaries. People-to-people communication has become a dominant force in international relations throughout the world.

THE RELEVANCE OF NONOFFICIAL CROSS-CULTURAL COMMUNICATION

The geometric increase in citizen involvement in world affairs has special significance for the diplomat. When people-to-people bonds and communications networks are fully developed, there will be a greater readiness to seek accommodation, and to negotiate. When people know and understand each other and appreciate their differences, the likelihood of confrontation diminishes, and prospects for peaceful solutions are enhanced. This rationale governs the interest of the State Department in the furtherance of meaningful people-to-people interchange.

In the past few years, social scientists have increasingly studied the relevance of informal non-governmental communications activities to matters of war and peace. Research scholars, such as Dr. Herbert Kelman at Harvard University, are developing a more scientific base for these transnational cross-cultural communications activities. Their research suggests that existence of informal communications tends to reduce the level of tension when conflicts of interest occur; they contribute to a climate of opinion in which conflicts may be negotiated more effectively. Second, their research indicates that informal relationships create a greater openness in individual attitudes toward other nations, peoples, and cultures; these predispositions lead to greater readiness to communicate and to resolve differences peaceably. Third, social scientists tell us that international cooperation and exchange contribute to world-mindedness and to an internationalist or global perspective on what otherwise might be viewed either as purely national or essentially alien problems. Finally, international people-to-people relationships help develop enduring networks of communication which cut across boundaries and reduce the likelihood of polarization along purely political or nationalist lines.

DEPARTMENT-SPONSORED EXCHANGES

When you think of the State Department's conduct of our international affairs, the exchange-of-persons program and people-to-people diplomacy do not come immediately to mind. It is, however, a significant activity of the Bureau of Educational and Cultural Affairs which works constantly to improve the climate for diplomacy and international cooperation. The exciting, challenging job of the Bureau is to utilize its modest funds and manpower to reinforce the work of American individuals and organizations who want to help construct, a little at a time, the foundation of better relationships with the rest of the world. It also provides policy guidance, as necessary, for other government agencies with international exchange programs in substantive fields such as health, education, social welfare, transportation, agriculture, military training, and urban planning. The Bureau of Educational and Cultural Affairs:

1. Helps present and potential opinion leaders and decision-makers to gain through first-hand experience more accurate perceptions and a deeper understanding of political, economic and cultural realities in each others' societies.

2. Encourages a wide variety of institutions, including the mass and specialized media, to strengthen their capacity to cultivate both an understanding of cultural, social, economic, and ideological differences and an awareness of similarities and interdependencies.

3. Helps develop transnational linkages based on shared intellectual, artistic, social, humanitarian, professional and economic concerns.

4. Helps to increase the quality and efficiency of intercultural dialogue by various means including strengthening the role of English as an international language.

The Bureau of Educational and Cultural Affairs seeks through its own program to demonstrate the Department of State commitment to two-way communication and people-to-people diplomacy. This funded program includes the Fulbright-Hays academic exchange to and from the United States, bringing some 1,500 international visitors to the United States for orientation visits of several weeks duration, sending performing arts and athletic groups abroad, and sending professionals and scholars abroad for short lecture tours each year. The Bureau also seeks to stimulate and encourage non-governmental activities which further constructive people-to-people dialogue as a means of improving the climate for international understanding.

The interchange of doctors to and from the United States makes an important contribution. Foreign medical graduates in the United States are influential interpreters of our society and our way of life and help strengthen ties with their respective countries.

THE STATE DEPARTMENT AND FOREIGN MEDICAL GRADUATES

There are at present approximately 70,000 foreign medical graduates in the United States. They represent about one-fifth of all physician manpower in our country. Many Americans owe their lives and good health to foreign medical graduates. In some specialties the doctors from abroad represent more than half the total number. Roughly three-quarters of the total number are doctors who have immigrated to the United States. The remainder includes 8,000 exchange visitor physicians providing patient care, exchange visitors carrying out research or teaching, persons of distinguished merit or temporary workers, and American doctors who have trained abroad and returned to the United States to practice.

The exchange visitor physicians, including both those providing patient care and those conducting research or teaching, currently are coming to the United States at the rate of about 5,000 per year. They are admitted under the Mutual Educational and Cultural Exchange Act of 1961 for the purpose of furthering mutual understanding between the United States and their home countries. By returning to their homelands they enhance the appreciation and comprehension of American values and the American way of life as a means of improving the overall climate for cooperation between nations. This Act requires, with some exceptions, the physicians, along with the approximately 50,000 other "exchange visitors" coming to the

United States annually, to return to their home countries for a period of at least two years before applying for immigration to the United States. Waivers to permit them to remain in this country are granted only if the exchange visitor meets certain statutory requirements. The word "exchange" in the title of this program is not meant to imply equality of numbers of participants to and from the United States. It should connote the two-way exchange of ideas, impressions, sharing of experiences, and two-way communication between participants, whether American or foreign, and counterparts in the host countries.

There are three major problems relating to foreign medical graduates in the United States and the possible impact on international understanding. They are the so-called "brain drain" or loss of much-needed medical manpower in other countries to the United States; the failure of exchange visitor physicians to return to their home countries in fulfillment of the purpose of the Mutual Educational and Cultural Exchange Act; and our failure to provide many foreign medical graduates in the United States with proper orientation, exposure to the American way of life, and meaningful cross-cultural experiences with Americans. I shall comment briefly on each of these problems.

As Dr. Thomas Dublin has pointed out, as many as 40,000 physicians may now be migrating annually from one country to another, and primarily from the less-developed to the more affluent countries. He further states the responsibility for this movement of physicians internationally must be borne both by the donor countries as well as by the recipient countries. Although they are aware of the problem, many countries of origin fail to provide adequate incentives to retain their doctors or to have them return following training abroad. We do not seek to entice medical manpower from other countries or to deprive them of this much-needed human resource. However, the United States, as well as some other advanced countries which have medical training facilities, pursues the policy of freedom of movement across national borders and therefore does not discriminate against doctors or any other groups who may choose to leave their countries. Countries of origin frequently do not prevent their doctors from leaving. In this situation, then, with the receiving country not opposing the entry of doctors and their own countries not providing adequate encouragement for them to practice at home, it is difficult to reduce the number of foreign physicians taking up attractive positions in the United States and other developed nations. I cannot deny that at times this problem creates embarrassment for the United States Government. We are cooperating with other concerned governments in an attempt to alleviate the problem.

The second problem concerns the exchange visitor program, which was not designed to fill the staffing needs of U.S. institutions. Nor was it intended to be used as a springboard for immigration to the United States. The program was designed to improve and strengthen the international relations of the United States by promoting better mutual understanding and two-way communication between Americans and other peoples of the world. During the four-year period, 1967–1970, approximately 20,000 physicians were admitted to the United States under this program. Roughly 2,300 physicians in this period obtained waivers of the two-year foreign residence requirement. This represents an 11% fallout among physicians as compared with only 3% of all exchange visitors. We consider the 11% rate high but not alarming.

In April 1970, however, the foreign residence requirement for non-government sponsored exchange visitors was relaxed and the fallout rate, especially among physicians, increased dramatically. In 1972, in cooperation with other nations, we put into effect a "skills list," specifying skills critical to each country. Cooperative efforts between the United States and other nations in adhering to the "skills lists" requirements are excepted to result in a sharp reduction in the number of adjustment cases. Hence, in the future most FMG's will be subject to the two-year foreign residence requirement upon completion of their programs.

The Commission for Foreign Medical Graduates should be commended for their work to help solve this problem. Their continuing efforts with the concerned medical organizations and hospital administrators and their computerized information program on the foreign medical exchange visitors are important elements in this process. The CFMG now maintains a continuing review of all exchange visitor physicians providing patient care in the United States. Prior to the development of this computerized program. very little hard statistical data was available.

The third problem affecting our relations with other countries has to do with the cross-cultural experience of the foreign medical graduates in the United States and their exposure to the American way of life and the American people. As important foreign nationals in our midst, doctors from other nations influence the ways in which we and other nations understand each other and relate to each other. I regret to say many foreign doctors in the United States are not receiving what we like to consider traditional American hospitality and friendly exposure to our way of life. Many of them never meet Americans outside the hospitals. Many of them never have an opportunity to visit in an American home and meet an American family in an informal setting. Many of them are not afforded the opportunity to participate in their respective professional conferences and meetings with American colleagues, Many of them do not have the opportunity to learn the English language as they would like and as they should. Frequently their wives receive little or no friendly attention from their American counterparts; many wives do not speak Engish and are bound to small, uncomfortable apartments day after day while their husbands are serving long hours in their hospitals. These doctors are serving Americans and, indeed, keeping them alive.

Yet, we show very little gratitude in many cases and the foreign medical graduates frequently feel alienated. This is a problem for which we all are accountable and which we all can help correct.

If they are not already doing so, I would urge concerned American organizations and individuals, in cooperation with the Commission for Foreign Medical Graduates, to undertake the following 10-point program:

1. Provide FMG's with opportunities for English-language training upon arrival in the United States.

2. Provide continuing English-language training opportunities for FMG's.

3. Provide orientations for FMG's on the hospital and the community.

4. Provide home hospitality and family stays for FMG's.

5. Invite FMG's to participate in cultural and educational activities in the local community.

6. Assist FMG's with administrative matters with which they may not be familiar, such as immigration and visa details, financial matters, and housing.

7. Invite FMG's to meetings and conferences of professional societies and ensure they receive appropriate medical journals.

8. Arrange for FMG's, as appropriate, to enrich the lives of American individuals and organizations who might benefit from the cross-cultural interchange and experiences these educated foreign nationals can offer.

9. Invite wives of FMG's to participate in the above opportunities as appropriate.

10. Provide for or arrange individual counseling services as necessary.

I realize in a number of communities such programs for foreign medical graduates are now underway. The Philadelphia Intermed city-wide program and the St. John's Hospital program in Detroit are models for the nation. The National Council for Service to International Visitors (COSERV) in Baltimore and Cleveland have outstanding programs of this kind. In some *communities* YMCA's, Rotary and Kiwanis Clubs and women's groups have active programs. The Experiment in International Living has initiated English-language training and orientation activities for FMG's; the Institute of International Education has assisted with orientation programs; professional societies in a number of communities have shown leadership in these areas.

However, these efforts are not being carried out nationwide and are reaching only a small portion of these important individuals who are doing so much for us. Many other organizations could take an active role, both at the national and local levels, in carrying out such a program; they would include the American Medical Association, the American Hospital Association, national, state, and local medical society members and their wives, the binational societies headquartered in the United States, people-to-people organizations, the Association of Hospitals Directors of Medical Education, the American Association of Foreign Medical Graduates, the Student American Medical Association, the Physicians National House Staff Association, and the National Association of Residents and Interns.

There has been insufficient research and study of the FMG problems. More research should be directed to the international and cross-cultural implications of the problems of the foreign medical graduates. It would be of great benefit to the private and government organizations concerned.

We recognize there has been a lack of effective coordination between interested U.S. Government agencies and the medical community in identifying and coming to grips with the key problems affecting the foreign medical graduates. In an endeavor to improve government coordination on these matters, the relevant federal agencies (HEW, VA, INS, Department of Labor and the Department of State) should work more closely together. We are convening the first in a series of such meetings of these agencies next month.

I hope the American medical community, and especially the Commission for Foreign Medical Graduates will provide leadership in a coordinated private-public effort to resolve the FMG problems. The Department of State stands ready to cooperate.

I realize a number of these suggestions go beyond exchange visitors and physicians returning to their own countries. Nevertheless, all foreign medical graduates retain their ties to their home countries, and, aside from the consideration we owe these people who are serving us so well, they all are important to us in helping to build the human foundations of the structure of peace.

Thank you.

JULIA BUTLER HANSEN

HON. LINDY BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mrs. BOGGS. Mr. Speaker, it was with sincere regret that I learned of my friend and colleague, Julia Butler Hansen's decision to retire from Congress after having served an illustrious 37-year career in elected offices. I am especially grateful to Julia for her years of helpful support and friendship to Hale, and I am personally indebted to her for the wise counsel and thoughtful consideration she has offered during my freshman year in Congress. I feel that her previous years of leadership and ability are certainly a model any Congressperson would do well following.

Having served her State and the Nation with dedication and sincerity, Julia has compiled to her credit an outstanding list of legislative innovations. She was the first women to hold a subcommittee chairmanship in either the House or Senate when she was selected in 1967 to head the Subcommittee on Interior Appropriations. In that capacity, she vigorously demonstrated her concern for the environment and emerged as an effective voice in establishing environmental protection safeguards and natural resources conservation measures.

Being both friend and colleague to Julia has been a rewarding experience, and I know her presence will be greatly missed in the Halls of Congress. I want to wish her much happiness and success in any endeavor she chooses to pursue when she resumes her role as a private citizen.

TRIBUTE TO CHET HOLIFIELD—CHAMPION OF THE PUBLIC INTEREST

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. EVINS of Tennessee. Mr. Speaker, the announcement of the retirement of our colleague, Congressman Chet Holifield of the 19th District of California, is a great loss to the Congress, his district, State, and the Nation.

Chet Holifield is a giant among men, an able Congressman, a great chairman, a skilled legislator, and indeed, a statesman whose services in the Congress and to the Nation will be greatly missed.

Chet Holifield has served in the Congress for 32 years. He has served as chairman and is a member of the Joint Committee on Atomic Energy and is a recognized authority on atomic energy and nuclear power—and he is the present chairman of the highly active and important Committee on Government Operations.

The able leadership which Congressman Holifield has provided in the application of nuclear energy, both for defense and for peacetime purposes, has resulted in significant advances in the development of nuclear power too numerous to be listed. For example, he is generally regarded as the father of the fast breeder reactor concept, including the liquid metal fast breeder reactor, among others, which is regarded currently by scientists as the best source of fuel for nuclear power because of the high efficiency this technology promises in the production of enriched uranium.

Congressman Holifield has authored much legislation in this general field, and as chairman of the Committee on Government Operations, has been concerned with improving the efficiency of operation of our Federal Government.

He was a member of the Commission on Organization of the Executive Branch of the Government, often referred to as the Hoover Commission, and in his capacity as chairman of the Committee on Government Operations, put into effect numerous reorganizations recommended by the Commission to eliminate duplication and provide for more efficient career service in the Federal Government.

Chet Holifield, in addition to his great abilities and his brilliant mind, is also a wonderful person, a warm, genial individual with depth and understanding of people and of the Nation's problems, which is perhaps unparalleled in the House. He has consistently been a champion of the public interest, and in matters related to the development of atomic energy. He has worked to protect the public interest.

Chet has a wonderful family—his wife Cam serves as his efficient secretary and loyal companion.

Chet has often visited Oak Ridge, Tenn., where many of the Atomic Energy Commission facilities are located, in his capacity as chairman and member of the Joint Committee on Atomic Energy. He is highly regarded in Tennessee.

Chet Holifield will be missed in the House and certainly we all join in wishing for him and his family the very best of good luck and success as he contemplates his richly deserved retirement from the labors of Congress.

WLW–D TELEVISION: 25 YEARS OF SERVICE

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. WHALEN. Mr. Speaker, I am pleased to note for the record that television station WLW–D in Dayton, Ohio, is now 25 years old.

The standard-bearer of Avco Broadcasting in our community, WLW–D has served the public well in presenting entertainment, sports, news, and public affairs programs. As the first licensed television station in Dayton, WLW–D is among the leaders in the Nation in the many other "firsts" it has achieved. It was, for example, the first television station in the country to sign a color telecasting agreement with the NBC television network, the first to televise live from a moving helicopter, and the first to present live telecasts of many kinds of sporting activities, including such unusual events as the National Air Show.

These are but a few of the commendable achievements of this highly responsible television station which means so much to the citizens of southwestern Ohio and the Dayton metropolitan area.

I am proud to number WLW–D as one of my constituents and extend my congratulations to the staff and management on this auspicious occasion.

WHY HERBERT O. REID DOESN'T SERVE CHITLINS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. RANGEL. Mr. Speaker, here in Washington, D.C., we have one of the Nation's outstanding law schools.

An existing new chapter to this law school's proud history is being written by its dynamic acting dean, Herbert O. Reid. Historically in the forefront of black legal education, Dean Reid is moving Howard Law School forcefully into the forefront of legal education in the United States, black or white. An interesting personality profile of Dean Reid appeared in a recent edition of Judicature magazine. I commend this article to the attention of my colleagues:

WHY HERBERT O. REID DOESN'T SERVE CHITLINS

(By Alice Lynn Booth)

"If we served chitlins every Saturday night, we'd offer our students something they couldn't get at Harvard," says Herbert O. Reid, the outspoken dean of Howard Law School in Washington, D.C. But he doesn't intend to do it.

"There is no black or white law," says Reid, a large, imposing man. "There is no chitlin law. There is one legal system. A lawyer is an advocate in that system and must train to articulate the needs and aspirations of a client of that system."

As acting dean of Howard, the only predominantly black law school that has won both approval from the American Bar Association and accreditation from the Association of American Law Schools, Reid has a philosophy that contrasts sharply with schools where courses on social problems are emphasized and where deans worry about the "cultural bias" of bar exams, Howard, says Herbert O. Reid, can't afford such luxuries.

I talked with Reid recently in his office in Washington, where he sat surrounded by stacks of papers and fidgeted with his Ben Franklin glasses. There is no room in Reid's life for the rhetoric so common today in discussions about the availability of a legal education to minority students. He insists that a classical, traditional legal education is best for his 470 students, roughly two-thirds of whom are black. He doesn't believe in coddling his students, excusing their failures, or offering a "black perspective" on the law.

"The black community needs an untrained lawyer like it needs a hole in the head," Reid told me. Black lawyers can't be merely qualified, he said; they must be more qualified. "It's still a reality of society that if you are black, you have to be better. The legal profession is highly competitive."

During the 1960s, Reid says, black students—like white ones—tended to be more interested in causes than courses. "The political mood of that decade taught blacks some hard lessons. Blacks suffered more than whites from the student militancy of those years. The 'do your own thing' sentiment left many black students blowing their education."

The 60s also created what Reid chidingly calls "the law school of social work," and the political mood caused doubts about the legal system. "People weren't motivated to practice in traditional ways. We began training policy makers and leaders rather than lawyers. But the bar is concerned with a cross section of knowledge. Blacks who lacked this background," said Reid with a tone of obvious regret, "suffered more than whites." The scars of that chaotic decade showed up later in the number of black students, particularly those who attended black colleges, who failed to pass the bar (see "Taking the Bar Exam to Court" on page 27.)

Reid particularly disapproved of black students' demands for special grading systems. They were asking for compensation, he says, for cultural biases working against them at both black and white schools. "The result was disastrous. Now black students know they better go sit in a corner and study and get themselves ready."

Many of Howard's students seem to share his views. "The first thing I want to do is make sure I'm competent," John Landon, the student bar president, told me. "I must be very strong and equip myself with the skills necessary to deal with anything white society places before me. Once I satisfy myself that I am competent, I can deal with anything." A fellow student, Warren Young, said, "Being black means you have to know all there is to know and then some. You can't know less and make it. You must know all and then more." Their devotion to getting a solid legal education is almost evangelical.

Reid also thinks that black law students suffered when white law schools began accepting them in the late 1960s. While Reid understands why they went—"In our racially motivated society, the prestige of attending a white school has been far greater than attending Howard"—he also knows the difficulties they encountered. "The white schools showed little interest or sensitivity to the problems of these students," Reid contends. The combination of blacks asking for special treatment and a lack of interest in the black students produced an attitude of defeat. "White schools, such as Harvard, never displayed an awareness of the students' problems and never used their great resources to attack them. Blacks suffered less from poor academic achievement than from a lack of sociability and acceptance."

Today Reid thinks that black students are more wary of attending white law schools. They have learned that the prestige of graduating from a white school can't make up for their feeling of isolation.

This may partly explain why Howard's enrollment has doubled in the last 10 years, even though getting into Howard, like most law schools, is far more difficult today than it was a decade ago. This year the admissions committee began accepting only students with a 3.0 grade point average (out of 4.0). And next year, Howard will probably require the Law School Admission Test, which is now only recommended. "With 10 applicants for every spot, we have to have a means of screening people," Constance Rotan, the admissions committee head, explains.

With the intensification of competition for admission has also come an influx of white students at Howard. Ten years ago a white face was a rarity; today, nearly a third of the student body is white. Some people fear this trend, and although Reid is adamant that a black school can't and shouldn't discriminate, he admits a preference for Southern and inner-city students who lack traditional educational opportunities. And even these students must be qualified. "We're not going to lower our standards for someone who swears he's going back to Mississippi," Reid says.

Once accepted, students are kept busy. The school discourages students from all outside work, even part-time, so they can concentrate on their studies. (About 55 percent of the students are on scholarship.) Class attendance is compulsory and students receive special help in writing techniques.

Unlike other schools, Howard structures its first year and a half solely with required courses. A more flexible curriculum, adopted this year, permits electives at the end of the second year. There are seven clinical courses, all closely supervised, offered in the third year, one of which entails working with the Black Caucus in Congress.

Despite Howard's more selective admissions policy, Reid doesn't think the school is difficult enough once people are accepted. "It's harder to get in but it's not harder to get out. We can't take high-risk students and graduate more lawyers than Yale," he says. The dean threatened to resign last year if the school didn't eliminate its policy of automatic reexamination of students who failed a course. The policy, which had been instituted in the late 60s, was eliminated. (Since then, for example, 37 students out of 188 in a second-year class have left the school.)

Students, however, feel that the school demands more work than white schools. "If you make it through Howard, you can make it through any school. The instructors want you to succeed, but the requirements are very stringent," says third-year student Edward Dixon.

Reid's emphasis on "training our students by the same standards and measurements as the best schools in the nation" raises a question about the role of a black law school in the 1970s. Will a Howard graduate view the law any differently than a Harvard graduate? Will he have a special "black perspective" on the law?

Reid insists that the study of law is a universal discipline. "Howard can create an awareness that the legal system doesn't afford full protection to blacks and other excluded persons. But most blacks who come here are familiar with the system. Our students know that the system doesn't work fairly. What they have to learn is how to get it to work fairly. They have to get qualified and fight."

Are black graduates having trouble getting jobs? Placement Director Lafrances Johnson says firms aren't "knocking down any doors or beating any paths looking for black lawyers." The largest percentage of Howard graduates take jobs with government agencies.

Many black students believe they can serve the black community and make money at the same time. Some students say that a black working on Wall Street or for General Motors has a greater challenge than a black working for neighborhood legal services. "But if a black lawyer is going to sit back and not influence the power structure, then he might as well be at legal services. A black in a white firm requires a stronger commitment and a lot more personal strength," says John Landon.

Professor Spencer H. Boyer, who has demonstrated his commitment to educating blacks by refusing offers for higher-paying positions at white law schools, argues that blacks should have the same equality of choice as whites. But he insists that attending Howard instills a "community of interest in its students and the common goal of advancing black America." "Our perspective isn't just limited to civil rights anymore," he says. "I believe black lawyers will continue to be the fulcrum for change in every area of our society."

Reid is a little more cynical, although he's pleased that blacks have more options. He hopes a black tax specialist working on Wall Street will someday be called upon to plan a new tax structure. "I believe he would be concerned about the fairness of the tax structure coming from a different background than a white lawyer," says Reid.

Still, these opportunities have drained black lawyers from the ghetto which is "more deprived as a result of this progress. Students are less oriented to use the law as a tool for social change because they aren't fighting for their survival," he says.

"Our students still have a commitment, but like everyone else, they've been affected by our affluent society," Reid says. "They are lawyers of the people but they drive into the ghetto in Corvettes wearing $200 suits. Their standard of living is kind of high these days."

S. W. MELIDOSIAN

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. EILBERG. Mr. Speaker, S. W. Melidosian, Director of the Veterans' Administration Center has been awarded the VA's highest honor, the Administrator's Exceptional Service Award which was presented to him recently at the Administrator's Conference in Washington.

The veterans residing in the Philadelphia area are extremely fortunate to have S. W. Melidosian as the Director of the Veterans' Administration Center.

I can vouch personally for Mr. Melidosian's service to the veterans of Philadelphia. He is a man who is dedicated to his work and I have often reached him at his office on Saturdays and Sundays to discuss the problem of an individual veteran.

But, perhaps Mr. Melidosian's greatest asset is that he treats each case and each veteran as a person rather than as a number on a file jacket.

At this time, I enter into the Record an article published in the February 25 edition of the American Legion News lauding S. W. Melidosian for his many contributions to veterans and society as a whole.

PHILA. VA DIRECTOR RECEIVES HIGH HONOR

S. W. Melidosian, director of the Veterans Administration Center in Philadelphia, has received the VA's highest honor, the Administrator's Exceptional Service Award. VA Administrator Donald E. Johnson presented the coveted award at the annual Administrator's Conference in Washington, D.C.

Melidosian, head of the largest regional administratice office in VA, was recognized for his outstanding leadership, skill and capability in executing the responsibilities as director of the VA Center. Those responsibilities include the administration of VA compensation, pension, education and home loan programs for veterans who reside in 40 counties of Eastern Pennsylvania. He also oversees the operation of VA's GI Insurance program, maintaining more than 5,246,000 insurance accounts for veterans and beneficiaries residing both in the U.S. and other countries.

Melidosian has been with the Veterans Administration since 1946, serving both at the Central Office in Washington and in the field. He has been director of the Philadelphia Center since January 1961.

The director is a graduate of Temple University School of Business and Public Administration and is a veteran of World War II and the Korean Conflict.

Active in community affairs, Melidosian currently serves on the Board of Governors, Heart Association of South Eastern Pennsylvania; as chairman of the Standing Development Committee and as member of the Executive Committee, Philadelphia Division of the American Cancer Society; Advisory Board of the Salvation Army of Greater Philadelphia; and the Board of Advisors, Medical College of Pennsylvania.

Melidosian served as chairman of the Philadelphia Federal Executive Board from June 1969 to June 1970, and earlier from June 1964 to June 1966. He also served two terms as president of the Philadelphia Federal Business Association, June 1967 to June 1969.

In 1966, he was nominated by the VA for the National Civil Service League Career Service Award. Among other awards, Melidosian has received Philadelphia's Distinguished Citizen Award.

Melidosian is a 27-year member of the Russell C. Gross American Legion Post 562, Philadelphia.

THE POST CARD REGISTRATION BILL

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. FRENZEL. Mr. Speaker, soon the House will be considering H.R. 8053, the post card registration bill. Under the terms of that bill, post cards are required to be mailed out prior to all Federal elections, including primaries.

Assuming that States holding Presidential and congressional primaries and conventions will be about the same in 1976, and assuming there is a standard 30-day registration book closing procedure before the general election in 1976, the following table describes the general timetable for the mailing of post cards throughout the United States.

A quick glance at the table describes the chaos of the system. The fact that more Presidential primaries are expected by 1976 makes the post card bill even more ridiculous:

State	1st Federal election in 1976	Election type (Pres. Pref. or Cong)	Forms must be mailed between:	Time lag between last day for mailing of forms and November 1976 general election
New Hampshire	Mar. 7	Pres. Pref	Oct. 7, 1975 and Dec. 7, 1975	11 mo.
Florida	Mar. 14	Pres. Pref	Oct. 14, 1975 and Dec. 14, 1975	11 mo.
Illinois	Mar. 21	Pres. Pref./Cong	Oct. 21, 1975 and Dec. 21, 1975	10½ mo.
Wisconsin	Apr. 4	Pres. Pref	Nov. 4, 1975 and Jan. 4, 1976	10 mo.
Pennsylvania	Apr. 25	Pres. Pref./Cong	Nov. 25, 1975 and Jan. 25, 1975	9½ mo.
Massachusetts	do	Pres. Pref	do	9½ mo.
Alabama	May 2	Pres. Pref./Cong	Dec. 2, 1975 and Feb. 2, 1976	9 mo.
Indiana	do	do	do	9 mo.
Ohio	do	do	do	9 mo.
District of Columbia	do	do	do	9 mo.
Tennessee	May 4	Pres. Pref	Dec. 4, 1975 and Feb. 4, 1976	9 mo.
North Carolina	May 6	Pres. Pref./Cong	Dec. 6, 1975 and Feb. 6, 1976	9 mo.
Texas	do	Cong	do	9 mo.
West Virginia	May 9	Pres. Pref./Cong	Dec. 9, 1975 and Feb. 9, 1976	9 mo.
Nebraska	do	do	do	9 mo.
Michigan	May 16	do	Dec. 16, 1975 and Feb. 16, 1975	9 mo.
Maryland	do	do	do	9 mo.
Rhode Island	May 23	Pres. Pref./Cong	Dec. 23, 1975 and Feb. 23, 1975	8½ mo.
Oregon	do	do	do	9 mo.
Kentucky	May 23	Cong	Dec. 23, 1975 and Feb. 23, 1975	8½ mo.
California	June 6	Pres. Pref./Cong	Jan. 6, 1976 and Mar. 6, 1976	8 mo.
New Mexico	do	do	do	8 mo.
Iowa	do	Cong	do	8 mo.
Mississippi	do	do	do	8 mo.
New Jersey	do	Pres. Pref./Cong	do	8 mo.
South Dakota	do	do	do	8 mo.
Montana	do	Cong	do	8 mo.
South Carolina	June 13	do	Jan. 13, 1976 and Mar. 13, 1976	8 mo.
Virginia	do	do	do	8 mo.
Maine	June 19	do	Jan. 19, 1976 and Mar. 19, 1976	8 mo.
New York	June 20	Pres. Pref./Cong	Jan. 20, 1976 and Mar. 20, 1976	8 mo.
Arkansas	June 27	do	Jan. 27, 1976 and Mar. 27, 1976	7½ mo.
Kansas	Aug. 1	Cong	Mar. 1, 1976 and May 1, 1976	6 mo.
Georgia	Aug. 8	do	Mar. 8, 1976 and May 8, 1976	6 mo.
Idaho	do	do	do	6 mo.
Missouri	do	do	do	6 mo.
Louisiana	Aug. 19	do	Mar. 19, 1976 and May 19, 1976	6 mo.
Alaska	Aug. 22	do	Mar. 22, 1976 and May 22, 1976	5½ mo.
Wyoming	do	do	do	9½ mo.
Oklahoma	do	do	do	5½ mo.
North Dakota	Sept. 5	Cong	Apr. 5, 1976 and June 5, 1976	5 mo.
Nevada	do	do	do	5 mo.
Delaware	Sept. 9	do	Apr. 9, 1976 and June 9, 1976	5 mo.
Arizona	Sept. 12	do	Apr. 12, 1976 and June 12, 1976	5 mo.
Colorado	do	do	do	5 mo.
Minnesota	do	do	do	5 mo.
Utah	do	do	do	5 mo.
Washington	Sept. 19	do	Apr. 19, 1976 and June 19, 1976	4½ mo.
Hawaii	Oct. 7	do	May 7, 1976 and July 7, 1976	4 mo.

THE HAZARD OF IMPEACHMENT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. MICHEL. Mr. Speaker, an editorial from the February 17, 1974 edition of the Peoria Journal Star reflects upon what happened during the elections following the impeachment of President Andrew Johnson and I include the text of the editorial in the RECORD at this point:

THE HAZARD OF IMPEACHMENT

Sen. Hudson Sours sent me some detailed records about the impeachment of Andrew Johnson, a subject on which he knows I had done some study over a year ago and written up a couple of times.

Doing some figures from those details makes it clear why some of the newsmen these days are a lot more eager to keep kicking around the subject of possible impeachment than are the sober, responsible members of the U.S. Senate.

Just the other day, the Democratic Leader of the U.S. Senate, Mike Mansfield, said flatly that Richard Nixon still "has the capacity to govern"—something a good many people have kept questioning for some time whenever they could find a peg to hang it on.

Mansfield isn't eager to be a juror at a presidential impeachment.

I don't blame him.

I find that more than two out of three of the senators who took part in the other presidential impeachment—regardless of how they voted—ended their senatorial careers very quickly one way or another.

Only 15 senators, total, survived to remain in the Senate for another term after the impeachment process, while 39 disappeared from the scene.

Three actually resigned before the end of their terms and a whopping 22 "retired" at the end of theirs. Of those left who ran again, 11 were beaten!

That alone would be a spectacular change even in today's 100-man Senate—if 11 incumbents were defeated! You don't have to even count the other 25 who quit while the quitting was good.

Note: Three others died.

In each of these categories there was no significant difference between the figures for those who voted "Yes" and those who voted "No."

This ultimate result after the whole thing was over—in the cold light of dawn, so to speak, suggests to us that no preliminaries can possibly attract the dramatic attention and intense spotlight examination that come to the nation if a President is actually put on trial before the Senate.

And it suggests to senators that such a spotlight is a killer for them, whether they vote Yea or Nay when the time comes.

That has to be a sobering demonstration from right out of our history. The lessen would seem to be: Either get the goods on a President cold, or don't fool around with conclusatory "proof."

Otherwise, the impeachment package is clearly labelled much like the present law on cigarette packages:

"Use may be hazardous to your (political) health."

With the usual line-up of senators with an eye on the White House, itself, as their own ultimate goal—the chilling political repercussions of the Andrew Johnson experience must blow even colder.

Anyone who doesn't perceive the hazard isn't smart enough to be President, anyway.

MY RESPONSIBILITY AS A CITIZEN

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. BROYHILL of North Carolina. Mr. Speaker, I would like to call the attention of Members of the House of Representatives to the outstanding accomplishment of a talented young lady from the 10th Congressional District of North Carolina, Miss Monta Mackie of Hickory.

Miss Mackie is the winner of the annual Voice of Democracy Contest sponsored by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary. She has written an outstanding essay, entitled "My Responsibility As a Citizen," which I would like all Members to have the opportunity to read.

In addition to this achievement, Miss Mackie last year was selected as Miss North Carolina Teenager and was also named first runner-up in the Miss National Teenager Pageant. At that time, she authored another inspired essay, "What's Right About America."

I would like to insert both of Miss Mackie's essays in the RECORD at this point:

MY RESPONSIBILITY AS A CITIZEN

Young men dream dreams, old men see visions. Recently, I had the opportunity of meeting a W.W. I veteran. He had been gate keeper at a neighboring fair for sixteen years. Much to my surprise, he was wearing an old W.W. I medal of which he was extremely proud.

So old and bent, was this man of eighty-one. Gazing into his kind eyes convinced me of how proud he was for having fought for freedom, but of even greater importance, was the love he showed me for his America. What an impact he made upon my life, when I discovered that he had traced his heritage back to the earliest days of America, and within twenty-three years had built and hand carved, in wood, his family's history—log cabins, primitive plows, covered wagons—his reminiscence of an earlier America in simpler, less complicated times.

Old men see visions, and his vision has influenced me to examine my America—over-analyzed, over-criticized—and to realize, that I can carve in words my appreciation of America today. His vision has challenged me to accept my responsibility. Yet, I am awed by the responsibility I hold as an American citizen. I am no Pollyanna, for I realize that my responsibility goes deeper than standing up for our national anthem or pledging allegiance to the flag. All Americans have certain inherited obligations, but the concerned citizen welcomes a personal responsibility, if it is fighting for one's country or tracing his heritage.

Proclaiming to all people "what is right about America" and encouraging them to respond to what is right . . . *this is my innermost dream!!!* It is a difficult task for we live in a complicated and cynical time, a trying decade for democracy. The responsibility I accept, is to speak out against this cynicism. Yet, many of my fellow citizens are asking "just what is right with this country?"

"What's right about America?" How wonderful are the often forgotten, soft fragrances of freedom that mingle within our lives! To sleep in a safe, soft bed each evening rather than a rat-ridden bamboo cage; to awaken each dawn to the twitter of red-breasted robins rather than to the thunder of maiming mortars; to eat twenty-eight flavors of ice cream instead of weed rice soup; to speak without fear of persecuting punishment; to see the stars and stripes saddened, in the breeze by a long war, and then to swell to the glorious sound of marching footsteps from the hell our young men have endured; after all this— to hear them say "God Bless America!" This is what's right about America, so forgotten yet so free!

Remembering America's forgotten freedoms . . . this is my responsibility . . . and greater still, my dream!

America has weathered troubled times before. She has met and conquered corruption in her house and she has known lean times during the great depression. Responsible citizens will lead America through her current crisis and will rely upon their resourcefulness. I will try to teach others to remember the fragrance of America rather than the faults; . . . and maybe, with the help of God, I too will become a more responsible American!

Yes, America, I will dream my dreams and enact my visions . . . as one great dreamer did when he said "some men see things as they are, and ask why . . . I dream things that never were, and ask why not!"

WHAT'S RIGHT ABOUT AMERICA

(Dedicated to Captain Clack; Retired)

While serving in Vietnam Captain Clack was wounded, the results being the loss of his legs and right arm. Yet, after all his misfortune, Tommy's love for America was not lost. Having met Tommy at the Miss North Carolina Teen-ager Pageant, I understood why the everlasting love flourished between this bitterless man and his country. Thanks Tommy for helping me to remember the little things we Americans so often forget.

How wonderful are the often forgotten soft fragrances of freedom that mingle within our lives. To sleep in a safe, soft bed each evening rather than a rat-ridden bamboo cage; to awaken each dawn to the twitter of red-brested robins rather than to the thunder of maiming mortars; to eat twenty-eight flavors of ice cream instead of weed rice soup; to speak without fear of persecuting punishment; to see the stars and stripes saddened in the breeze by a long war and then to swell to the glorious sound of marching footsteps from the hell our young men have endured; after all this—to hear them say, "God Bless America!"

This is what's right about America, so forgotten yet so free!

ON PUBLIC STREAKING

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. HANRAHAN. Mr. Speaker, in contrast to all the "heavy" issues we must discuss here daily, I would like to offer the following article from the Chicago Tribune for the amusement of my colleagues:

ON PUBLIC STREAKING

Boys will be boys, and this year you can tell they are that at a glance. They are racing around without a stitch in a procedure called streaking. Actually, in a few cases, the streakers are girls, and you can tell this, too, at a glance. Perhaps two glances.

The purpose of a "streak" is to proceed thru some public and reasonably respectable place like the campus library—slowly enough to wake everyone, yet fast enough to avoid capture. The thing has become a national craze, and the streakers have received extensive newspaper . . . exposure. Some fraternities have turned out every able-bodied member to gain exceptional journalistic display. It's a case of using all the nudes fit to sprint.

Actually, the practice of public nudity appears to be quite ancient. Remember Lady Godiva? One authority on the subject sniffs that some modern practitioners have debauched the art with compromises. For example, anyone who wears tennis shoes is a mere sneaker streaker. Classical streaking was practiced only in the dead of winter, as a test of hardihood while the limbs became varicolored with cold. The term "blue streak" fits such occasions.

Editorially, we must deplore public nudity, but the sport actually is not much zanier than swallowing goldfish or cramming 22 torsos into a telephone booth. And, as one streaker remarked [in passing], it's better than burning down the administration building.

OUTSTANDING CITIZEN AWARD

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mrs. HECKLER of Massachusetts. Mr. Speaker, I was recently delighted to participate in a testimonial dinner honoring Russ Harmon of Fall River, Mass. The chamber of commerce of Fall River chose Mr. Harmon as the recipient of the group's "Outstanding Citizen Award." A more deserving beneficiary would be impossible to find. Russ Harmon's extensive community and charitable activities, his naval leadership as well as his position of importance within the business sector more than qualify him for this coveted honor.

It is my distinct privilege to place in the CONGRESSIONAL RECORD a resolution presented to "Outstanding Citizen" Russ Harmon in behalf of the Massachusetts Senate.

The resolution is followed by a speech delivered to those attending the dinner by John G. Winters, president of the Fall River Chamber of Commerce. His remarks eloquently express the driving spirit of the citizens of Fall River, the largest city in the 10th Congressional District which I am privileged to represent. The vitality of the community, the strong chamber leadership and its desire for self-improvement are impressive indeed.

The resolution follows:

RESOLUTIONS CONGRATULATING RUSSELL R. HARMON OF FALL RIVER UPON HIS SELECTION BY THE FALL RIVER AREA CHAMBER OF COMMERCE AS RECIPIENT OF THE OUTSTANDING CITIZEN AWARD FOR 1974

Whereas, Russell R. Harmon, Senior Vice President of the Fall River National Bank, has been selected by the Fall River Area Chamber of Commerce as recipient of the Outstanding Citizen Award; and

Whereas, This great honor awarded to Mr. Harmon is in recognition of thirty years of unselfish involvement in community affairs and dedicated leadership for the good of the Greater Fall River area; and

Whereas, Mr. Harmon is Director of the Young Mens Christian Association, commonly known as the YMCA, for fifteen years after having served three years as Vice President and four years as President; and

Whereas, Among the many organizations and activities to which Mr. Harmon has contributed his time, energy, and leadership are not only the YMCA, but the Diman Regional Technical Vocational High School, of which he has been Chairman of the Board, the Fall River Development Corporation, of which he is Director, the Exchange Club, of which he is President, and the U.S.S. Massachusetts of which he is Director and Assistant Treasurer; and

Whereas, Mr. Harmon was Vice President and campaign chairman and is presently President of the United Fund of Greater Fall River, past Director of the Chamber of Commerce, Chairman, President and Vice President of the New England Association of Sales Finance Companies, Inc., and was a charter organizer in 1952 of the Fall River Twilight Junior Baseball League and is now Director; and

Whereas, Mr. Harmon has also served the City of Fall River as chief election officer and has served the nation as Commander in the United States Navy Reserve; and

Whereas, Mr. Harmon has not only been the recipient of numerous civic commendations and awards for his leadership and selflessness in community service, but was recommended in Nineteen Hundred and Sixty-Four for the Navy and Marine Corps medal for saving the lives of three fishermen adrift in a life boat one hundred miles at sea; and

Whereas, Mr. Russell R. Harmon, by his continued interest and activities on behalf of all the people of the Greater Fall River area is an example of what one outstanding citizen can contribute to the well-being of his fellow man; now therefore, be it

Resolved, That the Massachusetts Senate hereby extends its heartiest congratulations and commendations to Russel R. Harmon and wishes him continuing success in his efforts to improve the community of Fall River; and be it further

Resolved, That a copy of these resolutions be transmitted forthwith by the Clerk of the Senate to Russell R. Harmon of Fall River, congratulating Russell R. Harmon of Fall River upon his selection by the Fall River Area Chamber of Commerce as recipient of the Nineteen Hundred and Seventy-Four Outstanding Citizen Award.

REMARKS OF JOHN G. WINTERS

Distinguished guests at the head table—ladies and gentlemen:

Your presence here tonight . . . eleven hundred community leaders . . . is indeed a tribute to our "outstanding citizen" Russ Harmon . . . and evidence of the growth and influence of the chamber within the area.

I wish to take this opportunity to emphasize some of your chamber's programs for the current year.

The brochure placed at your table outlines the wide areas of involvement that your chamber intends to pursue. These programs will require the cooperation of all who are willing to contribute to the goals of community advancement.

Tonight, I would like to give special emphasis to two activities that your chamber board of directors has designated as high priority. They are: community attitude . . . and economic planning for development of the area, considered by the board to be necessary goals for the progression of greater Fall River.

Under the banner of "Think Proud", we shall accentuate the positive. The time has come when the community must be convinced that the adversities of the past have, to a large degree, been overcome, that there exists today, a diversity of firms lending stability to the employment of thousands. That the area has resources for tremendous potential growth.

None will deny that the area has its problems . . . but they are not unique to Fall River alone. And, in contrast to many metropolitan cities throughout the country, we have much to be thankful for, much to be optimistic about and to be proud of.

But the story needs telling. Better than in the past . . . by all of us. To the people in the street . . . to the children in schools . . . to the business community . . . to government and to all outside our area who are looking for a community that is progressive, highly motivated . . . and . . . on the move.

And there's a lot of story to tell. We have several of the largest firms in the world located within our city limits. We have many other companies in the area whose names are household words throughout the country and who are noted for quality merchandise.

Fall River is no longer "just a textile mill town" but a burgeoning, diversified industrial city. We have a dedicated, conscientious labor force. We have a progressive municipal program underway with a new city hall, new high school, new incinerator, improved water system, expanded recreational facilities, an active redevelopment program. . . .

And from the private sector, construction of a multi-million dollar bank office building . . . newly constructed apartment units . . . and an active industrial park.

And there is a lot more to tell . . . but it's a big undertaking, and to have a successful impact, it will require an effort from more than the members of the chamber. Every resident who has a commitment in Greater Fall River needs to contribute to the effort. Let's have bumper stickers, signs, slogans, buttons, news editorials and public service announcements. And brochures and billboards too. . . . All proclaiming what is good about the area. That's what the community attitude program is all about. . . . Counting our blessings and letting everyone know about them.

Won't you please join with us in building a new sense of confidence . . . self assurance and pride? It's a great asset for a community to have.

Not far removed from community attitude, is the priority for community development . . . planning by objectives.

We must decide where the city is going and how we are going to get there. We are aware of much of the city's natural resources and potential. But how do we capitalize on these resources?

A planned strategy is needed to attract new capital, new industry, assist in the expansion and retention of existing business, provide for land development, create new housing, broaden the tax base, and ultimately . . . raise the standard of living within the community.

These and other objectives are recognized by most of this audience as obvious areas of concern that if solved would do much in furthering the development of the area's potential.

To accomplish these objectives, the chamber will provide the forum to harness the energy and brains throughout the community, including . . . but not limited to industry, finance, business, labor and government, assured that much more can be achieved faster through a combined effort of planning than we have been able to accomplish through singular, splintered groups.

The purpose of the Greater Fall River area chamber of commerce to advance the economic, industrial, professional, cultural and civic welfare of the Fall River area and is really in the self interest of every one of us here tonight. *If* we want our sons and daughters to have the opportunity to maintain a good standard of living within the area . . . *if* we don't want them forced to live in New York . . . or Chicago . . . or the West Coast where we go to visit them once in a while . . . then we have to provide them with opportunity right here in Fall River.

If we don't get moving now . . . it's going to be too late for your children and mine . . . and we will have lost one of life's greatest pleasures . . . living our lives together as a family.

The chamber has adopted a program that has real merit . . . all it really needs to get moving is a lot more involvement from a lot more people.

There is an open invitation for all to join in the effort . . . but we can only invite . . . or attempt to persuade. We cannot coerce.

Progress is no accident. People involved make the difference. If we can get together this year . . . then next year, we can change the slogan of Fall River from: "We'll try" . . . to:

"We're doing it."

SECRECY, MONEY, AND POWER

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. HAMILTON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include a recent statement I made on the topic "Secrecy, Money, and Power":

"SECRECY, MONEY AND POWER"

INTRODUCTION

In the 1972 elections, when both presidential candidates were saying the election presented the clearest ideological choice between candidates in history, 55 percent of the eligible voters went to the polls—the lowest percentage in a quarter of a century.

Pollster George Gallup says that "it is doubtful that at any time in this century politics has commanded so little respect." "Two persons out of three express the belief that there are elected federal officials who won election by using 'unethical and illegal procedures in their campaigns.' "

Only one adult in four, the lowest ratio in 20 years, would like to have a son go into politics as a career.

A Washington newspaper poll, taken nationwide in late 1971—pre-Watergate—reported that the political system faces a crisis in confidence with voters complaining that public officials are unresponsive, unpredictable and untrustworthy.

These surveys of American public opinion suggest that this loss of confidence may be the most serious problem facing government today. There is rising frustration with government as usual, and increasing disillusionment with the way in which the government functions.

You do not need a poll to tell you the mood of the public toward politics and government.

"I would not believe a politician if he told me the sun rose in the east," a man said to me recently.

Even the word "politician" is used by many people with a trace of scorn or derision in their voice.

The gravity of this deterioration in public trust is that our democratic system depends upon people who believe in it. Without an attitude of trust, a government based on the consent of the governed will not work. The danger signals are apparent, and no task is more urgent than to deal with the public distrust and cynicism which are eroding the democratic system.

I have thought much about what can be done to restore confidence in government. It is a complex subject, and solutions to it come hard. Most of us have at least a partial solution; none of us has the complete solution.

May I share with you today several suggestions I have to make things better. I don't present them as a panacea, or a surefire remedy for all that ails us.

I have concluded that most—not all, but most—of our difficulties in government and politics stem from three basic errors:

Secrecy in doing the people's business.

The inappropriate, even illegal, use of money in campaigns.

And the concentration of too much political power in too few hands.

Let me, then, submit to you several suggestions on how to correct these errors:

SECRECY

1. We must conduct the public's business in public.

One reason people do not have confidence in government today is because the government operates too secretly.

Any reasonable person recognizes the necessity of secrecy in government in a number of situations, including:

Intelligence information, diplomatic negotiations, military plans, and secret weapons.

But secrecy has become an accepted way of doing business in Washington, with a presumption of non-disclosure of government papers and an absurd classification system.

The people don't like secrecy or a government that practices it. A government that prefers to do its business in secret will not have the public's confidence. The public's business ought to be done in public.

The sad fact is that since World War II successive administrations have been addicted to secrecy:

President Roosevelt's secret Yalta agreements;

President Eisenhower's secret U-2 flights;

President Kennedy's secret invasion of Cuba; secret involvement in overthrow of Diem government;

President Johnson's secret moves at Gulf of Tonkin and in Vietnam;

President Nixon's secret bombing of Cambodia, and civilian areas in Hanoi—secret surveillance of civilian politics.

Somewhere along the line, recent Presidents have become entranced with what General deGaulle called the "mystique of high office," holding information from the people, treating them with condescension. One high official, when asked about secrets in government, responded by saying, "Those who needed to know were told." Such an attitude expresses contempt for the democratic process.

As former Attorney General Katzenbach has noted, secrecy has increasingly become a way "to avoid the difficulties inherent in our political system and hopefully to present the public with triumphant *faits accomplis.*"

The Congress has had a long history of doing the public's business in secret—but some reforms are occurring. Congress is beginning to open up the legislative—and especially the appropriations—process to public examination, and to record publicly more of its floor votes.

But secrecy still cloaks too much of the decision-making processes in government.

I support legislation to require all meetings of Federal Government agencies at which official action is taken, considered or discussed to be open to the public, with few exceptions, and to require that all meetings of congressional committees, including conference committees, be open to the public.

Many steps are needed—and I shall not list them—but the common theme in all of them is greater openness to discussion and criticism and more candor with the conduct of the people's business.

The distinctive marks of a democracy are its commitment to an open society and the assumption that policy can be improved by steady public examination and debate. At the very least, disclosure should be the rule, not the exception, and the burden should always be placed on the government to justify denying information to the people.

MONEY

2. The influence of money in politics should be reduced.

People will have confidence in their government only when they have confidence in the manner in which their governmental leaders are chosen.

Money has become critically important in American politics. The most important fact about political campaigns today is that they are frightfully expensive. Campaign costs have reached the stage where they threaten the lifeblood of the democratic system. They simply must be gotten under control. It is estimated that the 1972 campaign cost over $400 million, a large increase over the 1968 level. In 1970, 15 candidates ran in Senate races in 7 large States. 11 of the 15 were millionaires and all of the seven winners were millionaires. Millionaires should not have an edge.

The presence of mountains of cash, unreported, and spent with no accounting, was a common element in almost every aspect of Watergate.

Today, 90 percent of the contributions made to political candidates come from only one percent of the population. This means, of course, that a small number of wealthy people have the potential to exert disproportionate influence.

The new campaign finance reform law of 1972 has helped reduce the excesses of our campaign spending practices, but a whole new series of steps must be taken to protect the integrity of American elections, including:

Sharp limitations on the size of individual gifts,

Overall limits on expenditures for a given race,

Complete reporting of contributions and expenditures,

The creation of a tough, independent enforcement agency to insure compliance,

And the use of public financing—perhaps to match private contributions up to $50—to absorb some of the tremendous costs of running for public office.

Only with these reforms will the influence of money in politics be reduced.

POWER

3. The concentration of power in the President should be reduced, and Congress should be restored to a co-equal branch of government.

Americans instinctively dislike placing all power in one person. They believe that governmental power should be jointly possessed. A mood of anxiety has gripped this country about the expansion of Presidential Power at the expense of the Congress.

I do not make this charge in a partisan sense. It is a simple fact of American political history that over a period of decades more and more power has concentrated in the Presidency. There are many reasons for this; not the least is the passivity of the Congress. Whatever the reasons, the results are apparent:

Presidents assert that they have the right to spend or not to spend money that the Congress appropriates if they believe it is in the national interest.

Presidents assert an executive privilege as a shield for information to keep information from the people—a privilege not mentioned in the U.S. Constitution.

Without consulting the Congress, Presidents commit American troops to Korea, Cuba, Lebanon, Dominican Republic, Vietnam.

Presidents make commitments pledging the money and lives of Americans, and conclude a ten-year war by executive agreement.

This concentration of power in the Presidency is not what the Founding Fathers intended. They intended for the Congress to play an important role in shaping the foreign and domestic policies of the nation. In the most important decisions of government, those involving war and peace, the Founding Fathers clearly intended to deny the President unrestrained power.

The concern over the amount of power concentrated in the Executive cuts across party and ideological lines. Liberals and conservatives are concerned, Democrats and Republicans are concerned.

The present imbalance in our system of government must be corrected, not alone because it makes a sham of the Constitution—although that is sufficient reason—but also because a strong and independent role for the Congress is the best hope to prevent one-man rule in the most important decisions government makes.

We must set about the difficult task of restoring the balance. Congress must use fully the tools it has long possessed:

The power to oversee and investigate;

The power to confirm or deny appointments of certain officials;

The power of the purse;

The power to be informed.

The essential step is to support a government of shared power.

CONCLUSION

Theodore Roosevelt said that "The government is us; we are the government, you and I."

Because we are the government in a democracy:

We should not be deprived of power because we can't make enormous campaign contributions;

We should not be subject to one man rule;

We should not be denied information.

Thomas Jefferson said: "The will of the people is the only legitimate foundation of any government, and to protect its free expression should be our first object." He was right in 1801, and he is still right in 1973.

INTRODUCTION OF A BILL TO INCREASE VETERAN'S DISABILITY COMPENSATION RATES BY 20 PERCENT

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. ROGERS. Mr. Speaker, today I have introduced legislation to increase the rates of compensation for service-connected disabled veterans and their wives and children by 20 percent.

There are currently over 2.2 million veterans who have been disabled while fighting our Nation's wars and who receive disability payments compensation for the loss or reduction of their earning capacities resulting from their service-connected injuries. The Vietnam war has added 364,500 wounded veterans with disabilities to those of prior wars, so there is renewed need to emphasize and continue this program.

Service-connected disabled veterans received their last increase in compensation on August 1, 1972. Unfortunately since that date, the Consumer Price Index has reflected a continual cost-of-living increase. I am proposing a 20-percent increase in benefits to compensate the disabled veteran for his past losses in buying power due to inflation plus additional amounts to reflect future consumer price increases likely to occur before legislation such as this is enacted. It is not always possible for the Congress to legislate increases rapidly enough to keep pace with inflation, so I believe it is wise to provide a "cushion" to protect our disabled veterans, who are already war casualties, from also becoming economic casualties.

The bill which I introduced today provides for a 20-percent increase in the basic disability compensation rates. In addition, it provides for a 20-percent increase in dependence and indemnity allowances to veterans with service-connected disabilities of 50 percent or more. Finally, my bill provides for a 20-percent increase in awards for the loss of one organ or extremity under section 314 of title 38, United States Code, which has not been increased since 1952. My bill also amends section 314(k) to provide additional compensation for loss of use of a lung and for kidney failure requiring regularly scheduled dialysis.

Mr. Speaker, it is vitally important that we do not neglect our disabled veterans who have so valiantly fought for our Nation during times of war. We should increase their benefits to keep pace with the spiraling inflation which particularly is injurious to persons on fixed incomes such as many of our disabled veterans.

I urge the Members of the Congress to join me in support of this legislation.

SUPPORT FOR BILINGUAL EDUCATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mrs. SCHROEDER. Mr. Speaker, I am very disturbed that, at a time when our Nation is becoming increasingly aware of our failures in meeting the educational needs of our non-English-speaking children, the administration is trying to cut back funding for bilingual education. Only $35 million has been requested under title VII of the Elementary and Secondary Education Act, the main source of bilingual education moneys, and no funding has been requested for the bilingual provisions of the Emergency School Assistance Act and none for bilingual teacher training under the Educational Professions Development Act.

This Nation has come a long way since the days when several States had laws expressly prohibiting the use of any language other than English as media for classroom instruction. A growing awareness of the value of other cultures, culminating in the enactment of the Bilingual Education Act of 1968, has given impetus in recent years to efforts to provide our non-English speaking students with equal educational opportunities. We made a firm commitment in that act, which amended title VII of the Elementary and Secondary Education Act, to meet the needs of children 3 to 18 years of age who have limited English-speaking ability and who come from homes where English is not the dominant language. Title VII provides money in the form of grants to local educational agencies for the implementation and development of bilingual programs, and its guidelines encourage the instruction of the history and cultural heritage which reflects the value systems of speakers of both languages in order to develop the child's self-esteem and a legitimate pride in both cultures.

Although Congress clearly intended more than a token effort, authorizing $400 million to be spent over a 6-year period, only a small proportion of the authorized funds have been expended by the administration.

I am greatly encouraged, however, by two recent steps the Congress is taking to meet the Federal responsibility to assist States in coping with this special educational need. Both the House and Senate Education Committees, in their consideration of renewal legislation for the Elementary and Secondary Education Act, have added provisions to strengthen the title VII bilingual education effort. H.R. 69 has set the fiscal year 1975 authorization level for title VII at $135 million. This effort is for naught, though, unless we can insure that the programs are administered effectively.

For this reason, I especially want to commend Chairman Carl Perkins and the General Education Subcommittee for today beginning oversight hearings on Federal bilingual programs. I have submitted testimony for consideration in these hearings prepared by the Chicano education project, a coalition of some of the many groups which are seeking through legal and legislative action to improve the lot of Chicano children in Colorado.

The effectiveness of Federal bilingual programs is of great concern to me because of their impact on the large number of Spanish-speaking children in Colorado. It is estimated that there are 8,000 Chicano students in my State who do not speak English, and at least double that number who lack proficiency in English for their grade level. Less than 5 percent of the non-English-speaking students are being reached by bilingual education projects on the elementary level and only 2 percent at the high school level. The dropout rate for Chicano high school pupils is reported at 34.9 percent.

The Civil Rights Commission in a recent report found similar dismal statistics throughout the Southwest. The Commission found, for example, that Spanish language and Chicano culture are often excluded from the curriculums of schools; that there is a severe scarcity of Chicanos as school board members, superintendents, teachers, and other professional staff; and tragically that Chicano students far too often find themselves retained in grade, placed in low-ability groupings or designated for educable mentally retarded classes as a result of language or cultural bias in the schools. A very sad example of the latter is recounted by the project in their testimony:

> We met with some Chicano high school students in Montrose last week. All of them were special education students. One of them had been a special education student since first grade. For all of these students special education was a road to failure. We asked them why they were in special education and they said, "Because we are slow, because we are dumber than the Anglos."

There can be no doubt that an educational system geared only to English pushes these Spanish-speaking youngsters further and further behind, undermining their self-respect and confidence, and their ability to function successfully in our society.

That the problem is not limited to Spanish-speaking Americans was underscored by the now-famous decision in *Lau* v. *Nichols* where the Supreme Court found that the San Francisco school system had violated the national origins provision of the 1964 Civil Rights Act by failing to equip its nearly 1,800 Chinese children who do not speak English with language skills which would enable them to profit from their required attendance at school. The far-reaching implications of this decision are obvious.

I take this opportunity to urge my colleagues to give favorable consideration and full funding for all legislation that would help local educational agencies provide a meaningful education for the non-English-speaking students of our Nation.

UNITED STATES HARMED BY BAN ON RHODESIAN CHROME

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. ARCHER. Mr. Speaker, the U.S. refusal to import chrome from Rhodesia made this country rely on Soviet Russia as its major supplier of this vital material. Fortunately, the Congress repealed this ban in 1971 with the adoption of the Byrd amendment. The Senate voted recently to reinstitute this ban and the issue may soon come before the House of Representatives. The United States needs chrome for its key manufacturing industries and we should not allow ourselves to become dependent on the Soviet Union for our supply. A very informative article revealing how a policy of banning Rhodesian chrome has been detrimental to the best interests of the United States appeared in the March 9, 1974, issue of Human Events. I enter the article by columnist Robert S. Allen entitled "Soviets Profit by Boycott of Rhodesian Chrome" in the Congressional Record:

SOVIETS PROFIT BY BOYCOTT OF RHODESIAN CHROME

(By Robert S. Allen)

The détente-obsessed State Department is exerting heavy backstage pressure on the House Foreign Affairs Committee to report out a bill that would restore Russia's monopoly of the U.S. supply of metallurgical chrome—vital in the production of planes, missiles and other key weapons.

The measure was unobstrusively approved several months ago by a Foreign Affairs subcommittee headed by Rep. Donald Fraser (D.-Minn.), and the State Department is vigorously trying to force consideration by the full House.

Forcefully resisting this undercover drive are a number of House leaders—foremost among them Representatives Wayne Hays (D.-Ohio), chairman of the Administration Committee and a ranking member of the Foreign Affairs Committee, and Robert Sikes (D.-Fla.), Appropriations subcommittee chairman.

Both are scathingly blasting the legislation as a highly profitable windfall to the Soviets.

Says Hays: "The only thing this bill will do is force us to buy chrome from Russia, which will get it from Rhodesia and charge us an exorbitant price for it. The Soviet Union has been getting chrome from Rhodesia for a long time and totally disregarding the United Nations sanctions."

Sikes, making the same charge, declares: "While the U.N. sanctions were in effect, we paid a costly premium for chrome, much of which was transshipped from Rhodesia through Russia to the U.S. at a handsome profit to the Russians. It makes no sense to put an embargo on ourselves. It makes no sense to pay a costly premium out of the pockets of the American taxpayer. Yet that is exactly what this legislation will do if enacted into law."

The State Department détente-motivated bill would repeal the measure put through Congress by Sen. Harry Byrd (Ind.-Va.), in 1971 abolishing the punitive U.N. embargo against Rhodesia. The department strenuously opposed Byrd's precedent-setting legislation.

Sponsors of the State Department's repeal bill are two leading supporters of the détente policy—Sen. Hubert Humphrey (D.-Minn.), and Rep. Donald Fraser (D.-Minn.), chairman of the Foreign Affairs subcommittee that quietly approved the measure.

Fraser, an ardent McGovernite and, like Humphrey, an ultra-liberal and zealous internationalist, is now head of the New-Left Americans for Democratic Action.

Outcome of the tense backstage struggle over this little-noticed but far-reaching legislation will be decided in the House.

After a long battle and strenuous lobbying, it was rammed through the Senate last December in the closing days of the 1973 session. The State Department is now aggressively trying to repeat these tactics in the House.

Directly zeroing in on that, Rep. Sikes bluntly warned that if the bill is to be defeated, that will have to be done in the House.

"It has already been approved by the Senate," he pointed out, "so if we are to prevent the reinstatement of sanctions imposed by the U.N., which had adverse and highly costly effect upon our country and which would serve no useful purpose whatever, we will have to do it in the House.

"We must have no illusions about exactly what this legislation does. Under it, we would again become dependent on Russia for our chrome supply. I know of no nation on earth that would cut off its supply of a vital and strategic material from a friendly country and place itself at the mercy of an enemy country for essential defense metals. Yet that is exactly what this measure will do.

"It makes no sense to punish our friends and reward our enemies. It makes no sense to place ourselves in a position of dependence for chrome on Soviet whims. The House of Representatives must make forcefully clear to the U.N. and to the world that the United States knows how to place its own interests above the interests of others."

Just how lucrative the United Nations embargo was to Russia is graphically shown by the following:

Prior to these sanctions—put through by the votes of the Soviet bloc, black African and Arab countries—Rhodesia was the largest U.S. source of metallurgical chrome. This country has no production of this indispensable ore needed for the manufacture of military aircraft, missiles and nuclear submarines.

Following the embargo, Russia became the principal U.S. supplier, with exports soaring to 60 per cent of this country's chrome requirements. Simultaneously, the price skyrocketed from $30 to $72 a ton.

In 1971, the year Sen. Byrd's measure repealing the sanctions was enacted, Russian shipments amounted to more than 400,000 tons—at an increase in cost to U.S. taxpayers of more than $15 million.

Since adoption of the Byrd bill, Rhodesia has again become this country's main supplier of chrome—upwards of 500,000 tons have been imported.

Sen. Byrd, citing the indisputable fact that many U.N. member countries are flagrantly disregarding the U.N. embargo, declared that reimposing it would be "senseless and self-destructive."

"That just wouldn't be sound judgment," maintains the Virginian. "By observing the U.N. sanctions, the U.S. would be forced to import Russian chrome—a perfectly ridiculous situation in view of the fact that the USSR is our major military threat. Congress decisively put an end to that ridiculous and untenable situation, and now to undo that would be the height of folly."

Foreign Affairs committeemen report they are being literally buttonholed by State Department lobbyists to bring out the chrome bill for a House vote.

If that does happen, it's possible the department may be in for a jarring surprise.

The House might defeat the measure.

To the stunned astonishment of both the White House and the State Department, that's what happened on the bill to give a $1.5-billion "replenishment" to the International Development Agency—the "soft loan" branch of the World Bank.

In 1972, the Administration had no difficulty putting through Congress a $900-million "replenishment" for IDA. To date, the U.S. has provided approximately 40 per cent of its more than $4-billion capital—which is loaned to so-called undeveloped countries on 40-year terms at minuscule interest rates.

But this time, under the vigorous leadership of Rep. H. R. Gross (R.-Iowa), the House revolted and killed the measure by a margin of more than 100 votes.

It's entirely within the realm of possibility that the same upheaval may happen on the chrome bill. In the House, unlike the Senate, there is widespread bipartisan distrust of the policy of détente with Russia.

SIMAS KUDIRKA

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. HANRAHAN. Mr. Speaker, on several occasions recently I have stood on the House floor and spoken of the plight of Soviet Lithuanian Seaman Simas Kudirka, imprisoned in Russia for seeking freedom from tyranny. The success of my efforts to free Kudirka depends largely on the publicity I am able to originate, and thus the amount of attention brought to bear upon the Soviet Government. In this behalf, I am pleased to submit for the RECORD the following article concerning our legislative efforts to free the seaman, published by the Chicago Today newspaper:

KREMLIN'S FEAR

Alexander Solzhenitsyn's arrest and subsequent deportation clearly reveals the Kremlin's fear of anyone having the courage to speak out against the injustices of the Soviet state.

The case of the Lithuanian would-be defector Simas Kudirka ended differently. During his trial Kudirka, in an eloquent appeal for the freedom of his homeland, denounced the court as an instrument of a foreign government responsible for the murder of many innocent individuals. He was sentenced to 10 years at hard labor.

His crime? The desire to leave Soviet tyranny. As you recall Kudirka jumped to an American ship from a Soviet one with the intention of receiving political asylum.

His attempted defection was frustrated by our own bureacratic bungling. Soviet seamen were permitted to board the American ship and after beating Simas senseless, took him away.

The State Department, which was deeply involved in the incident, apparently hasn't taken any affirmative action to right this wrong. Finally Congress is taking the initiative.

Sen. Charles Percy in the Senate and Rep. Bob Hanrahan in the House have introduced Resolution 420, which directs the President and the State Department to take all possible steps to attain the release of Simas Kudirka and his family.

The passing of this resolution will show both to the world community in general and to the Kremlin specifically that the American people stand firmly behind the commitment to uphold the Universal Declaration of Human Rights.

JONAS KUPRYS.

MR. CACCESE

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. FORSYTHE. Mr. Speaker, I recently had the honor of presenting the Engineer of the Year Award to Louis A. Caccese, Palmyra, N.J., on behalf of President Nixon. This is the second year in a row that a resident of the Sixth District of New Jersey has received this high distinction. Mr. Caccese was honored for his efforts to preserve ecology and for his method of dredging the Delaware River, which saves taxpayers $1 million annually.

Mr. Caccese's acceptance speech made February 15 during Engineers' Week in the Delaware Valley was, I believe, most timely and of interest to us all. I am pleased to share these comments with my colleagues:

COMMENTS OF MR. CACCESE

Thank you, Mr. Chairman—distinguished guests on the dais—ladies and gentlemen—needless to say, I am delighted to have been selected as engineer of the year by the engineering community of this area.

Engineers' week is a time in the year when we engineers point proudly to our technological accomplishments. It is also a time when we do some soul searching among ourselves for the true measure of the discharge of our social responsibility to society, our community and our neighbors.

It is easy to point proudly to our technological progress during Engineers' Week in 1974. We all know that more technological progress has been made in this 20th century than was achieved in all prior recorded times. We know that with modern medicine, with recent advancement in biomedical engineering and with engineers' escalating man's environment by providing more water supply, more sanitary facilities, more hospitals, more housing in this century than in all previous time, that diseases which killed monarchs in former years have now been eradicated. Life expectancy has been increased by 20 years during the last 50 years. This is a bonus we are all enjoying.

We know that through science, engineering, and technology we have learned to fly like birds during this century and can now travel through space at 25,000 miles per hour and land on the moon. We have—through technology—created a wondrous new energy source—namely—nuclear power. We have created radio, TV, and the motor vehicle. The list is endless. (pause).

We have had a veritable technological explosion in this 20th century. An explosion which has given each of us, in this generation, a quality of life which surpasses the expectations of the kings of former generations.

But while we point with pride to technological accomplishments—the realization exists that many problems have been created along the way which cry for solution—(pause) so complacency because of past achievement is not sufficient.

We have the very real and present problem of supplementing our energy sources. We have not properly developed our coal resources.

We have not solved the problems of solids waste.

We have not solved sewage sludge problems, and many pollution problems. We have not learned to significantly recycle and reuse natural resources. The extent of the natural resource problems is illustrated by the fact that, we in America with 6% of the world's population have been responsible for ⅓ of the world's annual consumption of natural resources. The very morality—or immorality—of such consumption rates is cause for concern. (pause)

Of considerable concern to economists, and a challenge to engineers as well as to labor and industry, is the fact that our per capita production in the U.S. has slipped to 5th place amongst the nations of the world. As you know, per capita production is the true measure of a society's economic health. (pause)

Despite our progress and achievements and despite the problems to be solved we have gone through a period where engineers, scientists, and technology in general have been in disrepute. In fact, this view was very well summarized in the National Observer recently when they quoted Dr. William Walsh Hagerty, president of Drexel university and one of our engineers of the year, when he said *"at the very time that a new and more highly sophisticated level of technology is needed—a great wave of disillusionment about the application of scientific knowledge has swept the country,"* similarly Senator Frank Moss who is chairman of a technological committee in the Senate expressed the same view when he said last December *"there is now a powerful anti-science and anti-technology movement in American society and to some degree in Congress."*

This declining popularity of technology has had its effect on engineering school enrollment—enrollments have declined in recent years despite the fact that the engineering graduate consistently receives more job offers—and higher pay—than his fellow graduates. The engineering societies address themselves to this problem during engineers' week.

There are engineer week activities which are designed to make young people and high school guidance counsellors aware of the challenges and the opportunities in the field of engineering. These activities are listed in the flyers at your place. (wave flyer)

Time does not permit me to discuss the year round ETSCO program for young people and sundry other activities. However, as typical of the endeavors for our young people, I recently was privileged to participate in the creation of a non-profit corporation by the Philadelphia Chapter of the American Society of Civil Engineers. The purpose of this corporation is to place and train the disadvantaged youth who otherwise cannot get a start in a technical career. *I refer to these activities to confirm that we can rightly and proudly conclude that our engineering community is working hard at discharging their social responsibility to the youth of our community.*

However, during this engineers' week, I want to propound the question as to whether our technical societies and engineering community have responded sufficiently to the other challenges in our region. To use one example—I, as an engineer associated with public works despair at our public works dilemma and our increasing inability to bring many needed and worthwhile projects in the public works field to completion. I refer to such delayed projects as:

I–95—here—despite the expenditures of over two hundred million dollars—this expressway through the city still is not complete. Controversy has brought segments of I–95 to a standstill. Its full completion is years away and cannot now be forecast. The failure to complete I–95 has had the second generation affect of suspending further progress on the Great Penns Landing. Financial institutions won't provide financing until I–95 completion in acceptable form can be foreseen. Consequently it is almost a certainty that a complete Penns Landing—despite the expenditure of millions of dollars of public funds—will not be available for the Bicentennial. I compliment the recent steps of Highway Commissioner Kassab and Mayor Rizzo to at least move this project through the Society Hill area.

The lack of I–95 is also having a second generation affect on Philadelphia International Airport. The $150,000,000 airport expansion is well underway but the potential benefits therefrom are threatened because of the inability to complete I–95 and thereby provide proper access to the airport.

In the field of *bridges*—we see the completed Betsy Ross Bridge at Bridesburg—a fine structure—built at the cost of approximately a hundred million dollars of public funds but destined to be of no use for a number of years because of unresolved approach problems. Similarly, the much needed Girard Point Bridge which would relieve some of the congestion on the Penrose Avenue Bridge and which has cost millions of dollars—is practically complete—but cannot be of any use because of unresolved approach problems.

We have a limerick nuclear generating station which has been engineered and sited. However, never ending impediments to its completion are occurring while the energy crisis is ever ascending. I am pleased to applaud the recent efforts of Mayor Rizzo and his energy committee to get this project off dead center.

You know Lee Everett, president of Philadelphia Electric Company and our engineer of the year in 1972, has promised that if he is permitted to complete limerick—and institute his other plans—that he will free this area of any dependence on petroleum within the next ten years. This will also save approximately 25,000,000 bbls of petroleum per year which is more than enough petroleum to heat all the homes in the Delaware Valley. This is proof that—"engineering—is our greatest energy resource"—this is the engineers' week slogan for 1974.

In the field of water resources, I can point to the inability to initiate construction of a project such as Tocks Island Dam which will be so important to this region when the flood as occurred in 1955 repeats itself, in that instance, lives were lost. This was far more important than the 35 millions of dollars of flood damage which resulted.

Similarly, a repetition of the drought of the summer of 1965, which caused the President of the United States to declare an emergency because of the threat to Delaware Valley's water supply will have a more severe impact in today's situation.

It will be an unnecessary tragedy if construction of this Tocks Island Dam will only take place on the basis of a natural disaster such as a major flood or drought. The failure to promptly construct Tocks Island Dam may be a contribution to a future "water crisis" just as past complacency contributed to our present "energy crisis."

If time permitted—I could add other important projects in this region to the list of delayed projects, for example, the Chesapeake and Delaware Canal enlargement, a project with which I am associated. $100,000,000 of public funds has been spent on this project. Its completion is now 5 years late and the date upon which the full project may be used cannot be accurately predicted.

It is worthwhile to ask how have we managed to so frustrate our efforts despite expenditures of vast sums of money. First, we have our bureaucratic problems to contend with. Our bureaucracy has gotten so large that we have lost decisiveness and have lost accountability—and our bureaucracy is getting larger. During the last 10 years the total national work force increased by 12% while the government work force increased by 19%. The Wall Street Journal reports that at this rate of growth everyone will be working for the government within 75 years. (Pause.)

Secondly, we have those who are dedicated to zero progress and who capitalize on any disfavor with a project—or with technology—to create controversy and stop progress. These people seem to believe that if progress can be halted—the quality of their life will be assured—and that life on their plateau will continue to be enjoyable. Such a viewpoint ignores the realities of the social consequences of insufficient goods, insufficient energy, economic recession and unemployment.

And thirdly—in our concern for environment we permit ourselves to forget that there is more to environment than just land, sea and air. Environment includes progress, power plants, public works, jobs—and all those things that are still paramount to the quality of life of the mass of our citizens.

The problems of controversy, suspended completion, and deferred progress on projects important to our region require resolution. I suggest that our technical societies and engineering community are:

a. Well equipped to understand the problems and issues involved, are

b. Well equipped to propose solutions, and

c. That we therefore have an obligation to inject ourselves into the decision making process to force progress. It is not a sufficient discharge of responsibility to our community to be complacent with engineering expertise, while we abdicate responsibilities to influence final decisions on important works to those who are less informed.

We engineers must be effective as citizens as well as professionals. We must be more effective at the decision making levels whether they be corporate, political, or legislative. We must become more involved with the social consequnces of our engineering projects. Our engineering societies urge this.

The American Society of Civil Engineers are urging their chapters to have meetings on controversial matters with the public present—rather than having meetings where *engineers talk only to engineers.*

Last month the National Society of Professional Engineers stated that "*Engineer involvement—at highly visible levels—is the name of the game for 1974.*"

The consulting engineers council have expressed the same view and Fortune magazine summed it all up when they said "*Engineers have to adopt a grander vision of their jobs.*"

We engineers should all join in the goal of developing a program of involvement of our technical societies and engineering community to bring our expertise, efforts, and influence to bear to attain completion of projects which are of vital import to our region.

1974 is the year for involvement. The "energy crisis" has made us all sensitive to the fact that we do not *have limitless wealth.* The "energy crisis" has been a *sobering influence.* We realize now that progress must be made. *Progress must be made with* a proper appreciation of community interest and the environment.

We cannot indulge ourselves with the complacency of past achievements nor the luxury of permitting progress to come to a halt because controversy is encountered. *Progress is essential!* (pause)

I know that the task may be difficult—the time may be short—the task may not be ours to complete—but nevertheless, we are not free to refrain from the attempt.

VERMONT TAKES A NOVEL APPROACH TO HEALTH INSURANCE

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. O'NEILL. Mr. Speaker, while the Congress carefully considers various alternative proposals for a nationwide health insurance policy, the Green Mountain State of Vermont looks at a State-financed compulsory health insurance for all its residents.

I heartily recommend to my colleagues the following article as it appeared in the Boston Globe:

[From the Boston Globe, Jan. 27, 1974]

VERMONT WEIGHS COMPULSORY HEALTH INSURANCE

(By Richard A. Knox)

MONTPELIER.—Up here in the Green Mountain State, a panel of citizens and health leaders is currently mulling over a far-out, radical idea: state-financed compulsory health insurance of all Vermonters.

Are they serious? Yes, indeed. Impatient with what is referred to hereabouts as Federal foot-dragging on national health insurance, and armed with a disarming "why-not" attitude, the governor's Commission on Medical Care is apparently taking the idea in all earnestness.

This is not to say there aren't those who retain a healthy Yankee skepticism about the probable financial burden. After the treasury-busting inflation touched off by Medicaid and Medicare, does any state have the wherewithal to finance universal health coverage for its citizens?

Then, too, Vermont is not exactly a California—where Sen. George Mosconi, a San Francisco Democrat, introduced a compulsory health insurance bill that inspired the governor's commission here.

Vermont is small (population 444,000) and has little native industry to fortify its tax base. Moreover, the individual Vermonter is already heavily burdened with taxes.

Lee Webb, a faculty member at Goddard College, in a recent monograph on "The Swindling of the Average Taxpayer," notes that "Vermonters pay the highest combined state and local taxes per $1000 of personal income of any other state." (Massachusetts doesn't even make the top 10 states in terms of per capita tax burden.)

Eric Holt, an economist working on the compulsory health insurance proposal for the commission, thinks that the state's tax system is so regressive—meaning that the poor and middle-class pay a higher percentage of their income in taxes than the wealthy—that top-to-bottom tax reform would have to precede any health insurance scheme.

All this doesn't dishearten Dr. Robert B. Aiken, Vermont's forceful former health commissioner, who urged the health insurance idea on the commission several weeks ago.

After sending copies of Mosconi's California bill to the 18 other commission members, Aiken delivered them a challenge: "If I asked everybody in this room whether every Vermont citizen has a right to adequate health coverage, you'd all say yes," he said. "Well, let's put our money where our mouth is. If we don't believe in such a right, then let's say so."

In an interview last week Aiken, who is now health adviser to Gov. Thomas P. Salmon, explained that his intent was "not so much to endorse compulsory health insurance as to force the issue of discussing it. This is the kind of thing we ought to be discussing."

A subcommittee was duly appointed, and the commission's staff set to work trying to figure out how much money currently flows through the Vermont's health care system, and where it comes from.

The figures are enlightening. The staff estimates that Vermonters now spend a whopping $135 million annually for health care.

As a "very conservative" estimate, at least one out of every four Vermont health care dollars comes not from health insurance companies, Medicaid, Medicare, Workmen's Compensation, Veterans Administration or other third-party coverage—but directly from the patients' own pockets. This is the part that no insurance plan or government program currently covers.

Taken altogether the $185 million aggregate cost means that 11 percent of Vermonters' disposable income is spent on medical care.

Out of every dollar of disposable income in Vermont, about four cents find their way to hospitals and three cents to the state's 978 doctors. The rest is split among nursing homes, dentists, drugs, insurance company profits and expenses, and so forth.

Nationally the average citizen spends eight cents out of every dollar in health care.

The citizens of Vermont already appear to be spending a portion of their income on health substantial enough—about $413 per person per year—to buy them all a handsome comprehensive health insurance package.

Another selling point of a state-funded health insurance program is that, well-designed, it would give the state control over the flow of those 185 million health care dollars. Basically, this is what the governor's commission is supposed to be about: suggesting new mechanisms to regulate and curb health costs.

But there is a small problem getting from here to there. As long as health care is financed piecemeal out of commercial insurance, Blue Cross and Blue Shield, Medicaid, Medicare, other government programs and individual consumers' pockets, the total cost is well-hidden. This gives the individual Vermonter the illusion that the total is not so burdensome—though this is a vanishing illusion.

Funneling all health expenditures through a state insurance program, however, would make the true cost visible in the most painful possible way—through the tax system.

According to the "rough and dirty" calculations made by the commission staff, financing the state's health system at its current level would require an increase in state taxes averaging seven percent.

As the story goes, when these figures were presented to the subcommittee, the members—a collection mostly of lawyers and doctors who represent Vermont's small upper-middle class—did some fast mental figuring and were horrified at what seven percent in additional taxes might mean on the basis of their incomes.

One observer says the compulsory insurance idea died "right then and there."

Aiken, its perpetrator, concedes that "the figures are shocking."

The former health commissioner was only momentarily shaken, however. "This doesn't discourage me," he said. "My reaction is that if this is so expensive, then alright, what we're really saying is that we can't afford the current health care system. So you see what you can afford and water it (the plan) down to that level. Or you go the other way and set up a structure that reduces the costs and then see what you can afford."

This may appear to put the governor's commission back to square one—but with the difference that it may be more enlightened as to what its task is. Said James Guest, a commission member and the state's 33-year-old insurance commissioner: "This health insurance proposal isn't a fruitless exercise if it helps us get a better focus on what needs to be controlled."

In getting control of health costs, the current thinking here is that the commission will recommend creation of a state health authority—a superagency that would create and consolidate Vermont's regulatory powers over hospitals, doctors, nursing homes and the rest of the health industry. The authority's broad mandate would include controls on health care cost and quality, and the construction of new facilities or expansion of old ones.

Something along these lines is the subject of recently introduced Federal legislation that would pull together health planning, price controls and perhaps even quality-control measures into state or regional health "commissions."

Fortunately for Vermont, the state already has a running start on identifying its most serious medical care problems, to a degree unmatched elsewhere in the nation. In 1969 a statewide data system was set up to monitor detailed aspects of health care in 13 hospital service areas encompassing the state's 251 towns.

The data system has uncovered some startling discrepancies in the amount of medical care delivered to different regions. For instance, some areas consume twice as much medical care per person than others—with the most care going to the highest-income areas.

Native Vermonters see physicians only half as often as non-natives—which may reflect in part the state's incomes, class and urban-rural cleavages.

The cost of an X-ray in Vermont can vary as much as 400 percent, the cost of an electrocardiogram by 600 percent, laboratory tests by 700 percent.

Rates of specific kinds of surgery vary enormously: the probability that an individual will have had a tonsillectomy ranges from 16 percent in one area to 66 percent in another not far away.

Such wide variations in medical care accessibility and cost and in physician behavior clearly imply that some Vermonters are receiving too much of some kinds of medical care, while others receive far too little.

Furthermore, Vermont's poorer counties are subsidizing the medical care of its richer ones.

As one commission member remarked, it may be that through such data Vermont has a better idea of what its health delivery problems are than virtually any other state in the union.

The problem now is to decide what the state can do about those problems—and what it can rely on the Federal government to do.

CONGRESSMAN BOLLING WRITES ON "COMMITTEES IN THE HOUSE"

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. STEIGER of Wisconsin. Mr. Speaker, as a member of the Select Committee on Committees, I would like to bring to the attention of the House an excellent compendium of articles on "Changing Congress: The Committee System," from the January 1974 issue of the Annals of the American Academy of Political Science. Among this compendium is "Committees in the House" by the distinguished chairman of the Select Committee on Committees, Mr. BOLLING of Missouri. It has been my distinct pleasure and honor to work with Chairman BOLLING on the select committee and I am pleased to place excerpts from his very knowledgeable and perceptive article in the RECORD. His article is both an example of the excellence of this compendium and is in itself a first-rate discussion of the history and role of the House committees.

The article follows:

[Reprinted from the Annals of the American Academy of Political and Social Science, Philadelphia, vol. 411 (January 1974)]

COMMITTEES IN THE HOUSE

(By RICHARD BOLLING)

The United States House of Representatives should be the most vigorous institution of the federal government. Its election every two years provides a representative form of government. Its Constitutional authority to raise revenues offers a means of control over federal activity and keeps the historic power to tax in a body responsive to the people. Its legislative responsibilities enable the House to set national policy objectives and to determine that which is legal or illegal. Its large membership enables the country's legislature to develop the issue expertise a smaller body cannot. Finally, the diversity and humanity of the House—its common touch—provide citizens with access to the federal establishment and remind us all that our national government is made up of real people, not simply white buildings and tax returns. The House of Representatives should be the forge of democracy.[1]

Yet, today, the House is not the vigorous institution it should be. It does not occupy, as it once did, a commanding place in the American scheme of government. Hampered by decentralized authority, lacking informational resources, stymied by obsolete rules and denying the Speaker his rightful tools, the House of Representatives cannot do its job. It is still, sadly, out of order.

THE COMMITTEES

Central to the operation of the House is the committee system. The ranking Republican member of the Rules Committee and Vice-Chairman of the Select Committee on Committees, Representative Dave Martin of Nebraska, called committees "the heart and soul of the legislative process."[2] Woodrow Wilson's famous dictum that the House of Representatives sits not for serious discussion, but to sanction the conclusions of its committees, remains generally true.[3] At present the House conducts its business via twenty-one standing committees. These committees—which vary in size but average thirty-three members—enable the House to split up its work and concentrate on a variety of issues. Such division of labor and its accompanying specialization have helped the House meet modern legislative demands. They also have helped to keep the institution from becoming captive of the executive branch. In addition, committees have created entry points or gateways to the House of Representatives for those wishing to affect government. They have become vehicles for the advancement of members' interests and careers.

As does the House, itself, committees have had a long and fascinating history. In the earliest Congresses the House relied upon select committees for the consideration of legislation. At that time the House would resolve itself into the Committee of the Whole to decide upon a bill's general principles, whereupon a select committee would be established to settle details and draft the final product. By 1800, after five Congresses had met, only four standing committees existed; of these, only one was a legislative committee. This committee—Interstate and Foreign Commerce—was established in 1795 and is now the oldest standing committee in the House of Representatives.

The Ways and Means Committee was created in 1802, the Judiciary Committee in 1813 and the Agriculture Committee in 1820. The Appropriations Committee was not established until 1865, nor the modern Rules Committee until 1885. By 1900 the House had fifty-eight standing committees; by 1930 it had sixty-seven such committees. Some of these, such as the Commitee on Pacific Railroads and the Committee on Woman Suffrage, have disappeared. Others, such as the Committee on Public Buildings and Grounds and the Committee on Naval Affairs, have become subcommittees of committees or have merged with other committees. In 1946, when the House last reorganized its commitee system, forty-eight committees were reduced in number to nineteen. In 1958 the Committee on Science and Astronautics was created; nine years later the Committee on Standards of Official Conduct was established. This raised the number of standing committees in the House to twenty-one.

The present committee system, however, fails the House of Representatives in four ways: (1) the system cripples the Speaker by denying him operational leadership of the House; (2) the system neither receives, utilizes nor generates adequate information; (3) the committee system does not consider the economy from a macroeconomic point of view; and (4) it does not facilitate coordinated policies, nor does it coordinate emerging issues, because the jurisdictions of House committees are outdated. The failure of the modern House to provide vigorous national leadership stems directly from these four shortcomings. No corporate board of directors would permit a company to operate with outmoded organization or without central direction, adequate information or economic integrity. Yet, that is what the House of Representatives is doing. Who is to blame for the disarray? The 435 men and women who sit in the House as representatives. They are responsible for the resulting drift and decay of the House. These individuals—who, by and large, are honest, diligent and capable people—must now restore the institution in which they serve. What is needed is self-discipline and hard work.

A HOUSE IN TRANSITION

The House of Representatives has changed before; it can do so again. No immutable rules or customs exist, because the House is a dynamic institution. In times past Speakers have appointed committee chairmen; legislative committees have appropriated funds; seniority has been discarded—indeed, the system of seniority was not fully developed until after the turn of the century; a freshman member has been named Speaker;[4] and party caucuses have ruled supreme. Precedents such as these indicate that the House is capable of significant changes.

For example, the Speaker, when a Democrat, now sits on his party's committee which makes committee assignments for Democratic members. This party committee is a focus of power in the House. Moreover, the Committee on Rules no longer obstructs the Speaker, who also benefits from new Democratic Caucus rules which strengthen subcommittees at the expense of full committees and their chairmen. Thus, the present Speaker, Carl Albert of Oklahoma, occupies a stronger post than his predecessor, Representative John McCormack of Massachusetts.

The Speaker

A strong Speaker is necessary if the House of Representatives is to regain its proper place in government. The only officer of the House mentioned in the Constitution, the Speaker is both coach and quarterback. Under such Speakers as Henry Clay, Thomas Reed, Nicholas Longworth and Sam Rayburn, the House of Representatives received firm leadership. Goals wer set, strategy devised and tactics employed. The result was a record of achievement, a sense of purpose and public recognition for the whole House. No institution can obtain these results without such leadership.

Currently, the Speaker lacks the institutional tools of leadership. He must rely upon personal persuasiveness, as Longworth and Rayburn did. The Speaker cannot establish an agenda for the House. He cannot nominate—much less designate—its lieutenants, the committee chairmen. He cannot discipline the unfaithful, and he has little with which to reward the deserving. The Speaker is but titular head of the organization. His power is personal; thus, House leadership is dependent upon the rare fortune of finding an exceptional man.

Informational resources

In the area of informational resources, the House of Representatives operates at a disadvantage in comparison with the executive branch and the business community. The treatment of information by the House is archaic. An appropriate anlaogy is one of quill pens versus electronic computers. The House has overtaxed its committee staffs, misused its slender research facilities, distrusted automatic data processing systems and ignored the potential for contract research. Most important of all, the House has not realized that, in a society dependent upon technology, information must necessarily be viewed as a valued resource. Solutions to a legislative problem depend on the right kind of information; so, in fact, does the very perception of the problem.

Quite recently the House has shown signs of recognizing the importance of informational resources. It has established an office

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for automatic data processing and an office for contract research with the Senate. The first office, the House Information Systems, has installed an electronic voting device and is supporting the Clerk of the House with administrative services. It has also developed a bill status system and is planning a system for the preparation of committee calendars. The second office, the Office of Technology Assessment, will hopefully increase the congressional evaluation of technology's impact on society. While neither office is comparable to the informational resources of the executive branch, nor equal to the House's potential, they are a start.

Macroeconomic role

The House of Representatives has also been operating at a disadvantage in the area of macroeconomics. The president and his advisers, the Office of Management and Budget and the Council of Economic Advisers are in charge. The federal budget is called the president's budget, and it is he who determines the amounts to be spent. The House does not coordinate the work of its taxing and spending committees. Its Appropriations Committee reviews less than half of the annual federal expenditures and does not report legislation on time—often because the authorizing committees fail to act in time in authorizing appropriations. Its members have no means of debating economic priorities. For a body with macroeconomic responsibilities, the situation is absurd. Unless the House of Representatives gets a handle on the federal budget, it will continue to be the economic mistress of the executive branch.

Late in 1972 the House began at last to reform the committees' consideration of the federal budget.[5] In cooperation with the Senate, the House established a Joint Study Committee on Budget Control to recommend procedures which would improve "Congressional control of budgetary outlay and receipt totals" and would assure "an overall view of each year's budgetary outlays."[6] Spurred on by the president's unprecedented impoundment of appropriated funds in 1972 and 1973, the joint study committee met and recommended additional committee structure: new House and Senate committees which would set a budgetary ceiling and attempt to sponsor a true debate over priorities. These proposed budget committees would be comprised of members from the respective taxing and appropriating committees, with additional members appointed by the majority leadership—in the case of the House, by the Speaker. Moreover, the new committees would have an enlarged professional staff with access to more data without which the House of Representatives simply cannot regain its macroeconomic role.

Unfortunately, the recommendations of the joint study committee had serious defects. For example, no provision was made for committee consideration of tax expenditures; no safeguards existed to prevent the new budget committees from predetermining the priorities debate; and, of great significance, no potentially powerful committee should be created in the House without greater participation of the Speaker.

Jurisdiction

The last area in which the committee system fails the House is jurisdiction. At present, the jurisdiction of the twenty-one standing committees is spelled out in Rule XI of the House rules. Last revised more than twenty-five years ago in the Legislative Reorganization Act of 1946, Rule XI is now unsatisfactory. House committee jurisdictions are unclear and duplicative. They are also full of omissions and antiquated or irrelevant listings.

Rule XI is unclear as to which committee in the House of Representatives has jurisdiction over the control of dangerous drugs; several committees have claimed jurisdiction.[7] Clarity is also lacking in the area of water resources, in which three committees of the House are involved.[8] The rule is also duplicative. For example, it designates two committees with jurisdiction over national forests, the Committee on Agriculture and the Committee on Interior and Insular Affairs. Rule XI is particularly deficient in omitting some subject categories. In 1946 these subjects were not national issues, thus, understandably, they were not covered by the rule. Today, categories such as energy and crime need a focal point within the House of Representatives. This is possible only by explicit designation of committee jurisdiction. As Representative John Culver of Iowa stated on the House floor:

"Our first obligation is to see that there is a coherent, realistic, and contemporary setting for the consideration of all legislation and to be sure that the most commanding and imminent issues of public policy are mirrored and realized in the organizational structure of Congress."[9]

The inadequacies of Rule XI, however, have not meant that the House fails to act in areas of jurisdictional uncertainty. Acting on behalf of the Speaker, the Office of the Parliamentarian refers all bills to committee, whether or not the subject is specifically listed in the rule. When Rule XI is silent or unclear, the office is guided by precedent, logic or political advantage. Over a period of time such a process inevitably leads to confusion and inconsistency. House committees acquire jurisdiction by accretion. Different committees receive similar subject matter. Procedural uncertainty frequently results. Public policy often suffers.

The same outcome sometimes occurs when House committees compete with one another for jurisdiction over emerging national issues. Often, bills are drafted so that they will reach a certain committee. Different committees sometimes end up with similar legislation and identical jurisdiction. Take, for example, the current fascination with energy. Three committees of the House have created subcommittees on energy, while a fourth committee considers itself the appropriate site of energy legislation.[10] A coherent, sensible national energy policy is difficult to achieve under the best of circumstances; when several committees vie for control, it is next to impossible. At times, of course, overlapping jurisdiction is desirable because differing points of view which may be surpressed in one committee receive fair consideration in another. However, a diversity in communication patterns does not warrant conflicting legislation and this, too, can result from such overlap.

A further disadvantage with the present system of committee jurisdiction is imbalanced workload. Some House committees do not have much to do. Others are so busy that they must neglect urgent public business within their jurisdiction. In 1973 a member of the Committee on Ways and Means indictated that the committee had to postpone consideration of tax reform in order to take up trade legislation.[11] A critical issue was delayed because Ways and Means which has jurisdiction, under Rule XI and the precedents of the House, over taxes and the public debt, social security, national health programs, such as medicare and medicaid, revenue sharing and trade was too busy.

A final disadvantage of the present configuration of committee jurisdiction is that subject areas or issues without a committee to call their own lose focus and protection. Committees in the House afford a subject a sense of place, a home in which its constituency can centralize strategy, develop friends and rebuff foes. Issues which are orphans usually do not fair well in the House. Prestige is involved too. National issues need a legislative point of convergence which only committees can provide.

THE SELECT COMMITTEE ON COMMITTEES

In January of 1973 the House acted to remedy the problem of committee jurisdictions. At the initiation of the Speaker and with the support and encouragement of the minority leader, Representative Gerald Ford of Michigan, the House approved creation of a select committee to recommend changes in Rule XI, as well as in Rule X which designates the names and numbers of standing committees.[12] The Select Committee on Committees, as the new body is called, consists of ten members of the House, five Democrats and five Republicans. The balance between Democrats and Republicans is unusual because the makeup of congressional committees traditionally reflects the ratio of the majority and minority parties in each house. An exception was made in this case because the success of the Select Committee is dependent upon bipartisan support.

During the debate on the resolution creating the Select Committee, the question of why a select committee was required was raised. Could not the Joint Committee on Congressional Organization, the Committee on House Administration or the Rules Committee—which had legislative jurisdiction over changes in House rules—examine Rules X and XI? Any of these alternatives, it was argued, could do the job and save the time and expense of assembling a new committee and staff.

However, each of these alternatives presented serious difficulties. The Joint Committee on Congressional Operations would involve United States senators in the determination of House committees—an involvement for which they were neither qualified nor welcome. The Senate and the House are fundamentally different and need not be involved in each other's internal organization. Moreover, the joint committee is specifically prohibited from recommending changes in the rules, parliamentary procedures or precedents of either house.[13] Also, it is not a bipartisan committee, but one in which Democrats currently outnumber Republicans. The absence of bipartisanship was again compelling in considering the Committee on House Administration as an alternate to the select committee. In addition, an obvious need existed for the body conducting the study to be free as possible of present committee structure. As one of the twenty-one standing committees of the House, the Committee on House Administration could not be neutral. It would have had an unfair advantage were it responsible for the study. A similar conflict of interest would occur were the Rules Committee to conduct the study of Rules X and XI. Moreover, the partisanship could be acute, as the majority outnumbers the minority on Rules two to one. Furthermore, the committee's staff is small and would be unable to assume the necessary added responsibilities. The legislative recommendations of the select committee, however, will be subject to clearance by the Rules Committee before they are debated and acted upon in the House, itself. Finally, the Select Committee on Committees is a nonexclusive body whose members serve on ten of the other standing committees. Such diversity gives the select committee to useful perspective on various aspects of the committee system.

CRITERIA FOR CHANGE

In examining Rules X and XI the select committee must keep in mind that any operating process in the House of Representatives must be democratic. This means that any reorganization of committees must be consistent with the underlying values of our political system. Committees in the House, regardless of their number or jurisdiction, must therefore function openly and with

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deliberation. The legislative process must be visible to the public. Moreover, democracy does not always operate best behind closed doors, and neither do committees. The process must also be deliberative. Committees are a place to think things through. Goals should be stated, premises revealed, alternatives explored and conclusions questioned. After all, the House is a legislative body, and the unique function of a legislature is to provide a forum for the debate of public issues.

To be democratic, House committees must also function responsibly. Here, again, a constraint has been placed upon the select committee. Its recommendations must enable the committees of the House to be held accountable for their actions; this means, simply, that credit or blame can be affixed. Such responsibility is vital to the political integrity of the House, particularly now when Americans' faith in their institutions of government is unusually low.

Another criterion for the reorganization of committees is representation, which means that affected interests are given an opportunity to be heard. The House of Representatives should not operate without hearing those who wish to be heard, as some committees have at times done. Representation means that committees must listen to those upon whom committee actions have an impact. Such listening is essential to fair play.

A further requirement for the democratic operation of committees is responsiveness. The House and its committees must be responsive to national needs. The criterion is an illusive one, of course, because people's perceptions of problems and remedies vary greatly. Yet, committees should not ignore that which generally seems to be a real problem, and committee structure should not prevent the House from working its will.

Two other criteria serve as additional guidelines for the select committee in reorganizing the committee structure of the House. The first is to maintain the relative equality of all members. A committee system should not make some members of the House feel that they are backbenchers. Every member of the House is important. Each has a vote equal to the other, and each should have a committee role of some importance. While the need for leadership in the House and the quirks of personality mean that some representatives are more influential than others, House committees should be structured to give all 435 a piece of the action.

QUESTIONS ABOUT COMMITTEES

In contemplating significant changes in Rule X and XI, the Select Committee on Committees—or anyone else planning a reorganization of House committees—must first ask some basic questions about the committee system. These questions should precede any rearrangement of committee jurisdictions. Their answers will comprise a necessary framework upon which to base reorganization. They also will heavily influence the committee arrangement which occurs. Four of these basic questions are discussed below.

An appropriate first question concerns the budget. Will reorganization include committee consideration of the federal budget? If so, several questions follow: (1) should the appropriation and authorization functions continue to be separated? Is the setting of a budget ceiling by the House desirable or practical? At what level of funding, and where in the committee process, does the priorities debate occur? Does a budget ceiling make an appropriations committee superfluous? What mechanism will guarantee coordination between spending and taxing?

A second basic question concerns the scope of jurisdiction. Should the jurisdiction of committees in the House cover several different areas of public policy or be limited to one such area? Are single interest committees, such as the Committee on Agriculture whose jurisdiction is pretty much confined to agriculture, preferable to multiple interest committees, such as the Committee on Public Works whose jurisdiction includes water resources, transportation and public buildings? Additional questions include: do single interest committees develop greater expertise than multiple interest ones; do multiple interest committees become less susceptible to capture by lobbying groups; do single interest committees really function as a single unit rather than as a grouping of subcommittees? Should the interests of multiple interest committees be related or deliberately different?

Another basic question to ask before reorganizing committee jurisdictions concerns oversight—the monitoring of the executive branch. Is the oversight function best served by having a separate committee in the House perform most, or nearly all, of the oversight or should oversight be divided among the legislative committees, the Appropriations Committee and a Government Operations Committee, as is now the case? Should the party not in the White House direct oversight in the House? What mechanism will guarantee coordination of oversight activity with the House's appropriation of funds?

A fourth basic question concerns the size of committees. How many members should House committees have? Currently, the average size of the twenty-one standing committees is thirty-three members. Committee size, of course, affects a committee's jurisdiction and internal procedures. Committees of thirty-three members tend to be unwieldy if everyone attends, to discourage equal participation of members and to encourage the use of subcommittees. They also allow committees to have multiple interest jurisdictions, although the House presently has two larger committees which are single interest: the Committee on Agriculture and the Committee on Foreign Affairs. Committees smaller than thirty-three members would most likely increase the number of single interest committees in the House. Larger committees would enhance the subcommittee system and enable members to serve on several committees. Whether House committees should be exclusive assignments is itself another basic question which directly relates to the size of committees.

Having answered basic questions such as these and, thus, devising a framework upon which to base a reorganization of House committees, the next step is to restructure committee jurisdiction. This is not easy, because policy areas are interrelated. It is not usual either, because those scholars and other observers who have commented on the committee system have neglected to present alternatives.

FOOTNOTES

[1] The phrase is Neil McNeil's; see his *Forge of Democracy: The House of Representatives* (New York: David McKay Company, 1963); and Richard Bolling, *Power in the House* (New York: E. P. Dutton, 1968).

[2] U.S., Congress, House, *Congressional Record*, 93rd Cong., 1st sess., 31 January 1973, daily ed., H 592.

[3] Woodrow Wilson, *Congressional Government* (Cleveland, Ohio: Meridian Books, 1956, originally published in 1885), p. 69.

[4] Representative Henry Clay, in 1811.

[5] On December 5, 1973 the House of Representatives passed a budget reform measure, "The Budget and Impoundment Act of 1973."

[6] See, U.S., Congress, Joint Study Committee on Budget Control, *Improving Congressional Control Over Budgetary Outlay and Receipt Totals: Interim Report* (Washington, D.C.: Government Printing Office, 7 February 1973), p. 1.

[7] The Committee on Education and Labor, the Committee on Interstate and Foreign Commerce and the Committee on Judiciary.

[8] The Committee on Interior and Insular Affairs, the Committee on Merchant Marine and Fisheries and the Committee on Public Works.

[9] U.S., Congress, House, *Congressional Record*, 93rd Cong., 1st sess., 31 January 1973, daily ed., H 602.

[10] The Committee on Interstate and Foreign Commerce, the Committee on Public Works and the Committee on Science and Astronautics have created subcommittees on energy. The Committee on Interior and Insular Affairs considers itself to be the logical focus of energy legislation in the House.

[11] U.S., Congress, House, Select Committee on Committees, *Committee Organization in the House, Hearings*, 93rd Cong., 1st sess., volume 1 of 3, part 1 of 2, May and June, 1973, p. 283.

[12] House Resolution 132, 93rd Cong., 1st sess., 15 January 1973.

[13] P.L. 91-510, section 402(d).

SCHOOL OFFICIALS DISPLAY OUTSTANDING LEADERSHIP DURING CRISIS

HON. JOHN DELLENBACK

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. DELLENBACK. Mr. Speaker, on January 24 of this year, the Bandon High School in Bandon, Oreg., burned to the ground. During this crisis two men—the superintendent of schools and the high school principal—were called on to make quick decisions on how to keep the school in operation. The following story of their outstanding leadership in crisis was written by Warren Strycker, editor of the Bandon Western World.

It is a moving story and a fine testimony to Otis Murray, superintendent of Bandon schools, and Robert Stolz, principal of Bandon High School, and I am glad to share it with my colleagues:

SCHOOL OFFICIALS DISPLAY OUTSTANDING LEADERSHIP DURING CRISIS

On January 24, 1974, the Bandon High School burned to the ground at the hands of arsonists. Everything went up in smoke including the band and shop facilities. Only the school buses were saved . . . and because of the gas shortage, even they were hampered in their operation.

During the middle of the night and before the building was yet gone, two men began making plans to reconstruct the school. First, the reconstruction would involve the traditional and spiritual aspects of the school. "We must keep the school together," these men reasoned to each other.

As January 25 began to grow light under smokey Bandon skies, these two men, Otis Murray, Supt. of Schools and Robert Stolz, Bandon High School principal . . . began putting the finishing touches on their night's thinking. Neither man was heard to complain to anyone. Tasks like this needed strong men. They would be strong.

Before the day was out, Stolz had met with teachers and instituted a plan to double-shift the schools using the remaining scorched junior high building as a base. Church basements, city council chambers, city libraries would be utilized, but the school would be running again soon. No one thought they could get it going in only five days. There were no school books other than those taken home the night before by energetic students.

No desks were saved. Grade books were lost. A grading period was due.

Several things happened that day. Two very tired men contacted architects, ordered desks, cleared rubbish, directed the building of houses over remaining boilers, and a score of other nearly impossible tasks for such a short time. But the one thing needed most, was provided in ample supply, strength. Stolz and Murray inspired the entire teaching staff as well as the town to get back to the task at hand.

This inspiration was responsible for over $6000 worth of donated labor to clear the site. By Monday, the site was nearly level again.

The next few days would continue to be hectic. These two men would be called to meetings to discuss plans for the rebuilding, to talk about losses, to give out figures, to answer to unknowing patrons of the district. Offers of help came from every quarter.

As the weeks passed after the fire, Murray would lead the school board through the trying problems of insurance settlements, new school plans, problems of keeping a district going by having to guard the buildings against further attempts of destruction. Some indication of more acts of such a nature were made.

It would be Murray's task now to provide the board with a plan for new buildings. Under his leadership, the board voted to "go ahead" with a building concept based on a square foot cost figure. The work of the administration began to pay off now. Some work had already been done to reevaluate the district's needs.

The operation of the school under the double-shift arrangement was problematical. High school students were being hauled all over town. Some were missing buses, some were walking. The high school principal kept his cool, administrating as an understanding man with a firm hand. Athletic contests would not be canceled, the administration said. "It will hold us together". It did too! An ailing basketball team began showing signs of team spirit and began to win some ball games.

Plans were being made to ask for support of the new bond issue. Everyone knew taxes were already too high. At this time, the outcome of this election is unknown . . . but one thing is known . . .

Bob Stolz and Otis Murray will not soon be forgotten as the men who pulled a disaster into teamwork in a community where leadership was needed. The call was made and two men made a cool decision. The town of Bandon will always be grateful!

THE NEED FOR ADDITIONAL EMPLOYMENT PROGRAMS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. HARRINGTON. Mr. Speaker, our Nation today is facing an impending recession: unemployment is rising and inflation is entirely out of hand. This year alone, the unemployment rate is expected to jump to between 8 and 10 percent, gravely affecting thousands of more Americans. Moreover, in Massachusetts, the percentage of unemployed workers is considerably higher than in other industrial States. It has become increasingly evident that this situation is in urgent need of remedy.

The administration must recognize its obligation to provide some measure of compensation for those Americans who are losing their jobs. It seems to me that the Government has a positive responsibility toward the unemployed. The administration and the Congress would be wise to take another look at the public works projects which, under Presidents Roosevelt and Johnson, were created to insure additional employment and a relatively secure income.

In 1935, the Works Project Administration—WPA—was established requiring local governments to sponsor programs that would meet requirements for Federal funds. Roads, bridges, public buildings, and so forth, were built under this program. What is more important each person employed in these projects received between $20 and $100 monthly.

The 1968 amendments to the Housing Act authorized new interim assistance funding to municipal and county governments. The interim assistance program was designed to alleviate detrimental conditions in slum areas by repairing streets, sidewalks, publicly owned utilities and the like. If reinstated, this program could create thousands of jobs—jobs that are desperately needed today—as well as help protect our urban areas from decay in a period of tight Federal moneys.

It is time that the Federal Government take a fresh look at essential employment programs. I believe programs are necessary to provide jobs and begin to solve other problems posed by our weakening economy. The Library of Congress has provided me with background on the Work Project Administration and the interim assistance program which I would like to insert in the RECORD at this time for the information of my colleagues. It seems to me that they indicate a useful direction for us to begin to take. The text follows:

[From the Library of Congress Congressional Research Service]

NEW DEAL PUBLIC WORKS EMPLOYMENT PROGRAMS—SOME SALIENT DATA

(By Nelson Rimensnyder, Analyst in American National Government, Government and General Research Division, December 14, 1973)

WORKS PROJECT ADMINISTRATION (WPA)

The WPA was established by Executive Order 7034 of May 6, 1935, under authority of the Emergency Relief Appropriation Act of 1935. Its liquidation was authorized effective June 30, 1943. The WPA was created to operate programs of useful public works projects and to aid the unemployed by providing work on such projects. WPA projects were funded through Federal-State-Local matching grant formulas. By February 1936, 3.3 million persons were employed in WPA projects. Monthly wages ranged from $20 to $100 per person. Average employment was over two million per year through the termination of all WPA funding in 1943. Generally, local governments were required to "sponsor" a project in order to qualify for Federal funds. This sponsorship included the designation and planning of a project and guaranteeing partial local funding. WPA projects were labor intensive and ranged in cost from small projects of $1000 or less to New York's La Guardia Airport which cost $40,000,000.

What did the WPA accomplish in terms of completed projects? WPA built 651,000 miles of new roads, 124,000 bridges or viaducts, and 85,000 public buildings while reconditioning 35,000 other buildings. Additional construction included: 62,000 sidewalk and curbing projects, 3100 stadiums, 7800 parks, 7500 playgrounds and athletic fields, 1100 swimming pools, 3500 utility plants, 19,600 water distribution system projects, and 700 landing field projects. WPA projects also supported garment repair programs, school lunch programs, and food canning and distribution programs. Numerous WPA projects also supported the work of thousands of artists, musicians, and writers.

It is estimated that $11 billion of Federal, State, and local revenues were expended on WPA projects over an eight year period.

CIVILIAN CONSERVATION CORPS (CCC)

The CCC was established by Executive Order 6101 of April 5, 1933 and was originally called the Emergency Conservation Works Program. It was reorganized by an act of June 28, 1937 (50 Stat. 314) as the CCC and functioned until June 30, 1943 when it was terminaated by a provision of the Labor-Federal Security Appropriation Act of 1943 (56 Stat. 569).

The CCC programs were developed especially for youth. These programs employed, on the average, 250,000 to 300,000 youth annually who lived in work camps and built trails, roads, cabins, firebreaks and planted millions of trees. The yearly cost of each enrollee approximated an expenditure of $1000. Enrollees were paid a basic cash allowance of $30 per month. Total Federal obligations for a period of nine years approached $3 billion.

NATIONAL YOUTH ADMINISTRATION (NYA)

The NYA was established by Executive Order 7086 of June 26, 1935, under authority of the Emergency Relief Appropriation Act of 1935 (48 Stat. 1055). The NYA was terminated under an act of July 12, 1943 (57 Stat. 539).

NYA employed annually an average of 150,000 to 190,000 in-school and out-of-school youth in parttime jobs or job training programs. Funding information is not immediately available.

INFORMATION ON THE INTERIM ASSISTANCE PROGRAM

(By Marion Schlefer, Analyst in Housing and Urban Affairs)

The enclosed description of the Interim Assistance program was duplicated from the National Urban Coalition's 1971 "Guide to Federal Low- and Moderate-Income Housing and Community Development Programs". Pages are also duplicated from the 5th and 6th Annual Reports of the U.S. Department of Housing and Urban Development, giving the numbers of communities assisted and the funding amounts. The Program is not mentioned in later Annual Reports of HUD which eliminated the old program oriented format. After fiscal year 1971, the program was not separately listed in the budget. However, in fiscal year 1973 the program was revived and funded from Urban Renewal Title I funds to assist in alleviating the problems resulting from flood disasters. These new interim assistance programs were all located in Pennsylvania with one exception which was located in Ohio.

The Report of Urban Renewal Operations dated December 31, 1972, gives a cumulative total of 54 programs in 50 localities of which 10 programs had been completed. As of that date there were 44 active programs in 41 locations. The cumulative table on page 2 of that report lists the amount of $36,130,000 for cumulative program approval. For fiscal year 1973 $13,100,000 of Title I funds for the flood disaster programs was approved. As of December 31, 1972 total disbursements by HUD were listed at $28,586,000 and for fiscal year 1973 an additional $10,825,000 of Title I funds was also disbursed.

No HUD evaluations of these programs are available.

Interim Assistance for Blighted Areas

The 1968 amendments authorize new "interim assistance" grants to municipalities and counties.

The program is intended to assist localities in carrying out activities to alleviate harmful conditions in any slum or blighted area of the community for which substantial clearance, rehabilitation, or federally assisted code enforcement is planned in the near future but which needs some immediate public action.

Under the program such immediate short-term actions could be taken as: (1) repairing serious deficiencies in streets, sidewalks, parks, playgrounds, publicly owned utilities, and public buildings to the extent needed to maintain or restore decent conditions until permanent action can be taken (no new construction or major capital improvements are permitted); (2) the improvement of private properties to the extent needed to eliminate the most immediate dangers to public health and safety; (3) the demolition of structures deemed structurally unsound or unfit for human habitation and which are a public nuisance and a serious health and safety hazard; (4) establishment of a temporary public playgrounds on vacant land; and (5) improvement of such public services as garbage and trash collection and street cleaning.

Grants may not exceed two-thirds of the cost of planning and carrying out an interim assistance program (three-fourths of the cost in communities with populations of 50,000 or less).

Those displaced by interim assistance activities are eligible for federal relocation payments and assistance to the same extent as if they were displaced by urban renewal activities.

A locality must have a workable program for community improvement.

TURTLE CREEK WATERSHED ASSOCIATION, INC.

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. GAYDOS. Mr. Speaker, recent events in the energy field have catapulted our Nation's need to preserve and properly utilize its natural resources into national prominence. We know now, we must use these resources to obtain maximum benefit with minimum waste.

Several years ago, however, this need was recognized by several concerned and responsible citizens of western Pennsylvania, who foresaw the problems to be encountered through the misuse of land and water. To combat these problems, they formed the Turtle Creek Watershed Association, Inc., which serves a part of my 20th Congressional District.

Since 1970, TCWA has compiled an enviable record in this fight. Under the leadership of Mr. John L. Schwartz, Jr., chairman, and John M. Mores, executive director, TCWA's conservation efforts have brought it statewide recognition and now it is a candidate for "Watershed of the Year." This is an award presented by the National Watershed Congress for outstanding efforts to improve environmental conditions for people and industry.

I believe TCWA is worthy of such recognition. Its past record includes adoption of strong watershed erosion controls, acid mine drainage study and abatement, sewage and solid waste problems identification and the establishment of a data bank of information to combat environmental problems through planning, public awareness and proper municipal land use.

The Turtle Creek watershed includes portions of Allegheny and Westmoreland counties, comprising 147 square miles of territory, 218,000 people, and 28 municipalities. Most of the area is open space, and farmland with approximately 30 percent consisting of urban development.

It has strong ties with our Nation's colonial and industrial history. It was part of the transportation corridor followed by General Braddock on his ill-fated march toward Pittsburgh in 1755. The general's troops were ambushed by French and Indians. General Braddock was mortally wounded and a young aide, George Washington, assumed command and with the French at his heels, led the troops east to a site where he constructed a temporary stockade, aptly named Fort Necessity, where he fought until his ammunition was exhausted and he was forced to surender.

The watershed was the scene of another major battle in 1763. A vast alliance of Indians, led by the famous Chief Pontiac, was crushed by combined British and American troops led by General Bouquet.

It made industrial history when it was selected by George Westinghouse as the location for his plants which produced the first equipment generating and transporting alternate electrical currents. In 1894, the Westinghouse Corp. constructed three gigantic waterwheel generators there for use at Niagara Falls.

Today the watershed's industrial complex includes the East Pittsburgh Works of Westinghouse Electric Corp., one of the Nation's two largest facilities for producing large electric generators; several United States Steel Corp. facilities, including a research center with the world's largest electronic microscope used in the analysis of moon rocks, and the Westinghouse Air Brake Co. In all, the complex provides job opportunities for more than 21,000 people.

Mr. Speaker, the work and results of the TCWA is far too vast to be mentioned in detail here today. It is sufficient to say the organization has dedicated itself to the objectives of the National Watershed Congress and has proven itself worthy of national recognition.

DEMOCRACIES IN A MUDDLE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. DERWINSKI. Mr. Speaker, I direct to the attention of the Members a very thoughtful and, I believe, very sound lead editorial in the Chicago Daily News of March 5, which comments on the political crisis not only in the United States but in so many other countries in the free world.

I especially emphasize my concurrence with the closing paragraph of this editorial.

The editorial follows:

Democracies in a Muddle

When Prime Minister Edward Heath tried to strengthen his hand by calling an early election, he put the question in the stark terms of "Who rules Britain?" The answer wasn't what he expected, for the vote was so indecisive that it boiled down to the proposition that nobody rules Britain. A shaky government by minority or coalition is the best that can be hoped for until another election is called or forced.

But Britain is far from alone in its dilemma. There is hardly a nation in what used to be fondly described as the "free world" that isn't in the same boat of division and indecision, beginning of course with the free-world superpower, the United States. Confidence in government is at an all-time low wherever it has been openly tested, and the last two elections—in Britain and in Israel—brought weakness instead of strength.

France has just been through a cabinet shakeup, Italy's government has fallen, and of the other Common Market nations only tiny Luxembourg and perhaps Ireland have stable leadership. In West Germany, Chancellor Willy Brandt is in increasing trouble, and his party suffered a bad setback in state elections over the weekend.

Nor is the malaise confined to Europe. In Japan, Premier Tanaka faces burgeoning opposition. Canada has a minority government under Prime Minister Trudeau. In Latin America, nations not under dictatorships exhibit signs of instability.

The energy crisis appears to be a common denominator, but the causes go deeper. The Arab oil embargo and the drastic hike in oil prices triggered one crisis, but it is linked to many others, including a world food shortage that is sending prices skyrocketing everywhere.

National leaders get the blame for economic woes, naturally, yet the sort of inflation that is raging now can hardly be contained within national borders. And what is most needed—co-operation among the democratic nations—is falling into ever shorter supply as political leaders try desperately to shore up their strength at home.

Some observers are already speaking of a "crisis of democracy," and others of a "crisis of leadership." Nowhere in sight is there a leader with the stature to issue a clarion call that would bring order out of the increasing disorder. President Nixon tried it, with his appeal for a united front of Western Europe, Japan and the United States in the oil bind, but his own leadership capacity is so badly undermined he got nowhere.

The Communist nations, where rule by minority through fear and repression is the rule, are doubtless chortling over the evidence of the "breakdown" of democracy, but they would be wrong to predict its demise. That the world is at some kind of watershed in its history may be true. Rapid advances in technology, communication and affluence have converged at a point where a leveling-off process must take place while the gains are being absorbed. The readjustment, by all indications, will be painful.

But we would not bet against the collective wisdom of the people to make the right choices as the muddled facts become clearer and the realities come into focus. And the cries for strong leadership now being heard aren't necessarily the answer—in that direction also lie the demagogs and the dictators. Democracy may be in a passing state of confusion, but no better mechanism for pulling through to cooperation in an interdependent world is likely to be found.

WHITE HOUSE CONFERENCE ON EDUCATION

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. ERLENBORN. Mr. Speaker, I wish to speak in favor of title XIII of H.R. 69, which proposes a White House Conference on Education in 1975.

This conference would be patterned after a similar one held in 1955. Nearly 1,500 meetings were held across the country that year, and then representatives from these sessions met in Washington. The members of that 1955 Illinois conference are still an active group with a strong interest in education. It was a member of that group which originally brought to my attention the fact that there seems to be a precedent for holding a conference every 10 years. According to that calendar, we should have such a conference in 1975.

There was a White House Conference on Education in 1965. It differed from the 1955 conference in that it was not preceded by State and local sessions.

It is interesting to read the reports from 10 and 20 years ago. They give one a good sense of the national problems we faced in education at those times. In 1955, the conference stressed the need for new buildings and hiring enough teachers to keep up with growth. It is interesting to note that there was nothing written about higher education.

This was just the opposite of 1965 where higher education was a major topic along with urban education. There were recommendations on preschool education, special education, and educating students for the world of work in 1965. The point is that the major social conditions which shape education shift from decade to decade. The White House conferences helped increase understanding and awareness in former times. I believe that the same thing could happen in 1975.

The purpose of this conference is to draw attention to some of the problems of today's education and hopefully to offer some solutions. The conferees are free to address any problems they feel are important; but they should give special consideration to preschool education, the adequacy of primary education in providing children with skills in communication and arithmetic, career and occupational preparation, problems of higher education, and finally the educational needs of special students. Examples of this last item include education of mentally retarded, physically handicapped, and exceptional students.

These topics should be considered at local and State level conferences before the national conference is held. Each State and territory will receive between $25,000 and $75,000 to defray the costs of the conferences. We intend that the conferees will be representative of all aspects of American life and that educators not be allowed to predominate. In this way, policymakers should get the broadest vision that the American people have on education. I believe that this is an effective way for us to involve the intelligence of the people of this country in a concern that is vital to everyone.

The National Conference Committee supervising the conference will have 35 members. Not more than 12 of these people shall be educators. The remainder should be broadly representative of the public interest in education. Fifteen are to be appointed by the President, 10 by the President pro tempore of the other body, and 10 by the Speaker of the House. Let me emphasize that the President pro tempore and the Speaker must consult with the minority leaders in their respective Houses before they make their appointments. The National Committee will be required to make a final report on the findings and suggestions of the conference.

Such sums as necessary are authorized. We estimate the total cost of the program to be $5 million.

I think a conference scheduled at this time is appropriate. There are unresolved questions about tuition in higher education which have major implications for the future of post secondary education in this country. We have groups in the Nation concerned with ways to expand and upgrade the quality of vocational education in our schools. We face a major problem due to the decreasing enrollment in all of our schools. And we have parents across the country wondering whether their children are getting the education they need to become purposeful, well-adjusted, responsible adults.

These are just a few of the many critical issues that are upon us. A White House Conference will help draw attention to the problems and to resolutions. Certainly professional educators will welcome the report. We in Congress would be well served by the organized reports from our local districts and States. And most hopefully the children in our schools will be the beneficiaries of this program.

LAND USE PLANNING ACT OF 1974

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. GUDE. Mr. Speaker, several days ago, the Rules Committee determined that H.R. 10294, the Land Use Planning Act of 1974, should not be brought up for consideration by the House at this time. I am convinced that this decision was a mistake, and I would hope that the committee would be willing to reconsider its action.

There is a great need in this Nation for the kind of planning for the use of our land to best advantage that this measure would encourage. In essence, H.R. 10294 offered to the States Federal assistance in developing land use plans consistent with the needs and desires of their own area.

To those who contend that this measure represents the end of private property rights, and is a Federal zoning law, I can only suggest that they reread the bill. It does not establish substantive Federal standards for land use decisions. It does create a grant-in-aid program to help States develop and administer their own plans and regulations.

Participation in the program would be completely voluntary. Any State which does not want to participate is free to do what it wishes—without facing the loss of Federal funds in other existing programs. The hope of those who have worked so hard preparing this legislation is that the funds made available under it—$800 million over 8 years—would serve as a meaningful incentive for States to participate.

On February 27, 1974, the American Institute of Planners, during their meeting in Washington, approved a resolution in strong support of congressional action on this land use legislation. I would like to include the text of that resolution for the consideration of my colleagues at this point:

RESOLUTION

The American Institute of Planners is gravely disturbed by the recent action of the Rules Committee of the House of Representatives relative to the National Land Use Planning Act. This legislation has received thorough and deliberate consideration by both Houses of Congress for the last four years. Early in the first session of the 93rd Congress, the Senate, by an overwhelming vote, adopted its version of this Land Use Legislation. The House in order to allow just and thorough consideration for final disposition of this act must allow a full vote of the House.

We of the American Institute of Planners working at all levels of government as professional public employees bear the responsibility for planning and implementing land use programs in all of our 50 states.

We currently are struggling with the complex problems of striking a balance between the environmental and energy needs of our country as they impact on our respective jurisdictions.

We currently are struggling with the immediate and pressing problems of guiding the processes of urbanization in large cities and small communities alike.

We currently are struggling with the urgent problems of maintaining and restoring the economic vitality of our rural countryside while protecting its natural resources.

We are struggling, as a delegate assembly of the planners of this nation, to formulate policy recommendations which would enable us to perform these vital planning functions efficiently and effectively. High on this priority list is the enactment of the National Land Use Planning Act which furthers our ability to plan and implement for our elected policy makers at each level of State and local government. This is particularly vital as the "New Federalism" places increasing responsibility on all jurisdictions of government to build the capacity to plan and implement programs of their own making.

Therefore, be it resolved: That we the delegates of the Planning Policy and Government Relations Conference of the American Institute of Planners urgently request the leadership of the House of Representatives to insist that open and deliberate consideration of the National Land Use Planning Act be allowed on the Floor of the United States House of Representatives by the Rules Committee of that Body.

I urge the Rules Committee to reconsider their action on this measure. The House should have the opportunity to debate this vital measure, and to vote on it. The people of this Nation have a right to know what the Congress will do in this area, and to expect the Congress to take action.

NEWSMEN'S PRIVILEGE

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. OWENS. Mr. Speaker, few would deny that Watergate is the press' finest hour. The Watergate scandal was uncovered by the best efforts of American journalism. Corruption and illegality in the highest places have been exposed—not by lawyers or prosecutors or police, but by persistent journalists on newspapers and network television, and by a very tough Federal judge.

A number of men received worldwide recognition for their instrumental role in the investigation of the past year's dominant news topic, but two virtually unknown reporters were the principal agents in precipitating disclosure of the tragic Watergate story. In 1735, a New York jury refused to convict John Peter Zenger for publishing "scandalous, virulant, false, and seditious reflections" about the British Governor of that State. And in 1973, Karl Bernstein and Robert Woodward of the Washington Post demonstrated anew why freedom of the press has been revered as one of the sacred cornerstones of our liberty since that time.

Interest in Watergate has been so consuming that many have forgotten that it was slightly more than a year ago that the press was trying to convince the public that it could not survive without a shield law. Two years ago the Supreme Court struck a hard blow at a vital element in news gathering by ruling that a reporter has no right to protect his confidential relationship with news sources. The news media in recent years has been showered with subpenas from both prosecutors and defense lawyers in both civil and criminal cases. Federal, State, and local grand juries not preoccupied with Watergate have continued to serve reporters with subpenas.

The press came to Congress with a strong argument for a shield law. Without such protection, courts would force disclosure, and confidential news sources would refuse to talk to reporters, and the press could not fulfill its constitutional role of informing the public about matters that the guilty want to hide.

Then came Watergate, which has provided a windfall of news, obtained from confidential, unidentified sources. And somehow the urgent necessity for a shield law has fallen away. But, ironically, the press' instrumental role in Watergate may well make a shield law more necessary than ever.

Newsmen are obligated by the practical necessities of their profession not to disclose confidential information which comes into their possession. When the Government seeks to compel such disclosures by threat of imprisonment, it is in effect sentencing the newsman for being a newsman. This treatment is totally incompatible with the great tradition of free press in this country. Federal shield legislation is an appropriate and desirable method of dealing with this matter. The following views represent my best judgment on how to reconcile the public interest in the free flow of information with the fair administration of justice.

I am satisfied that there is justification for legislation to define and establish a shield or privilege for those who disseminate news and information to the public. The detrimental effect of threatened imprisonment for refusal to reveal confidential news sources is widely attested to by members of the working press. Extensive congressional hearings have established the nature and extent of the impairment of news gathering.

Representatives of the news media have testified that they have been unable to conduct interviews with news sources because of inability to assure the source of confidentiality.

Newsmen should not be required to practice their profession under the hazard of loss of their personal liberty. Newsmen seek no protection for themselves but protection for their function. The first amendment's guarantee of freedom of the press protects the public's right to know the facts about their government and the functioning of its institutions, as well as business and other private abuses. The shield is not intended to create a privileged class of newsmen. Any privilege which is recognized must serve the purpose of protecting the public interest in freedom of access to news and information and must not impose conditions upon that free access.

The coverage of such legislation should be sufficiently flexible to include all individuals who gather and disseminate news to the American public. Protection should not be limited to employees of large daily newspapers or established broadcast media. Authors of material generally available to the public should be protected regardless of the regularity of publication or size of distribution.

The need for shield legislation relates primarily to the preservation of confidential sources of news and information. The protection of these relationships is justifiable, to facilitate the uncovering of official malfeasance and corruption in both the public and private sectors. Several types of information must be protected.

First is the identity of a confidential source. A newsman's ability to protect the confidentiality of his sources is critical to his ability to obtain information about matters of urgent public importance. Unless the newsman can offer assurance of confidentiality, sources will, I am convinced, dry up and the public will be deprived of crucial information.

A second matter the shield should protect is the content of communication imparted to the newsman in confidence. As a practical matter, there is a substantial risk that revelation of the contents of a confidential communication would lead to disclosure of the identity of the source. Thus, in order to protect the confidentiality of the source, privilege for confidentiality of the communication is also justified.

Finally, a degree of protection should be recognized for information or materials obtained by the newsman in the course of gathering the news—whether inside or outside the context of a confidential relationship. This category could include such diverse items as a newsman's draft of an account of a public meeting, the "outtakes" of a television camera crew, or the tapes of a radio newsman's interview. Such matters, comparable to the concept of an attorney's work products, are the result of a newsman's performance in his newsgathering function. Newsmen, like lawyers, might be reluctant to commit their thoughts to writing or to make notes on what they observe if their memorandums, drafts, or notes were available on demand to outsiders.

Congress will consider a bill this year which would provide that no newsman could be required to disclose confidential information or its source to a Federal or State grand jury or to any pretrial proceeding. But, in an actual trial, such disclosure could be required, if the information sought was indispensable to the prosecution or defense and could not be obtained from any other source and if there was a compelling public interest in disclosure.

The bill is supported by Representative ROBERT KASTENMEIER, chairman of the House Judiciary Subcommittee on Civil Liberties, and by others including some news organizations whose devotion to freedom of the press is unquestioned. I am a member of that subcommittee but voted against the bill. I call for even more protection—the bill falls short of an absolute privilege. We should simply restate the guarantees of a free press, or do nothing at all.

The bill does protect, up to a point, the confidential relationship that must exist between the press and its news sources. But it still concedes the courts the authority to compel a newsman to betray his news source. Such a concession will give, for the first time, statutory approval to the trend to bind the press as an agent of the court, the prosecution, or the defense in civil as well as criminal cases. Confidential sources would not fail to understand the implications of this, and as a result, there would be a chilling effect on the sources. If an employee or a source comes forward to report corruption, he must know he will be protected or he will not come forward at all.

Many news sources are actuated by a variety of motives, and they might communicate their information even without the guarantee of absolute privilege. However, some sources will communicate only if they can rely on the assurance that their confidences will be maintained. It is impossible to say how many news sources fall into this category, but as Watergate has illustrated, those who do may have information of vital public importance to reveal.

The sanctions imposed on the press are penalties imposed on this Nation, against a tradition of two centuries of freedom under an unwritten, absolute privilege that was commonly thought to be essential to an effective press until very recent years. If reporters can be forced to testify for or against one side or the other in court, the ability of the press to continue its function as an independent gatherer of news will be gravely diminished.

An independent press—independent of judicial censorship, secure from the power of courts to compel testimony that breaks down the confidentiality of news sources—is indispensable to democratic government. The past year has exposed the desperate need for the investigative force of the press to serve as a viable check on abuses by Government. The dramatic revelations of Watergate demonstrate more than anything else that we must eliminate, once and for all, the practice of jailing newsmen for doing their job.

HELPFUL HINTS FOR SENIOR CITIZEN TAXPAYERS

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. YOUNG of Florida. Mr. Speaker, the Senate Special Committee on Aging has recently published some helpful hints for senior citizen taxpayers. I draw my colleagues' attention to this timely and useful report:

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses are deductible to the extent that they exceed 3% of a taxpayer's adjusted gross income (line 15, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 15, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expense (subject to 3% limitation):

Abdominal supports.

Ambulance hire.

Anesthetist.

Arch supports.

Artificial limbs and teeth.

Back supports.

Braces.

Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.

Cardiographs.

Chiropodist.

Chiropractor.

Christian science practitioner, authorized.

Convalescent home (for medical treatment only).

Crutches.

Dental services (e.g., cleaning teeth, X-rays, filling teeth).

Dentures.

Dermatologist.

Eyeglasses.

Gynecologist.

Hearing aids and batteries.

Hospital expenses.

Insulin treatment.

Invalid chair.

Lab tests.

Lip reading lessons (designed to overcome a handicap).

Neurologist.

Nursing services (for medical care).

Ophthalmologist.

Optician.

Optometrist.

Oral surgery.

Osteopath, licensed.

Pediatrician.

Physical examinations.

Physician.

Physiotherapist.

Podiatrist.

Psychiatrist.

Psychoanalyst.

Psychologist.

Psychotherapy.

Radium therapy.

Sacroiliac belt.

Seeing-eye dog and maintenance.

Splints.

Supplementary Medical Insurance (Part B) under Medicare.

Surgeon.

Transportation expenses for medical purposes (6¢ per mile plus parking and tolls or actual fares for taxi, busses, etc.).

Vaccines.

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).

Wheelchairs.

Whirlpool baths for medical purposes.

X-rays.

TAXES

Real estate.

State and local gasoline.

General sales.

State and local income.

Personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of 5 classes of items: automobiles, airplanes, boats, mobile homes and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security or Railroad Retirement Annuities).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, state or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g. clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 6¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g. postage, stationary, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.

Auto loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges or loan fees, credit investigation reports. If classified as service charge, may still deduct 6 percent of the average monthly balance (average monthly balance equals the total of the unpaid balance for all 12 months, divided by 12) limited to the portion of the total fee or service charge allocable to the year.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g. VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

CASUALTY OR THEFT LOSSES

Casualty (e.g. tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusinesses property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

CHILD AND DISABLED DEPENDENT CARE EXPENSES

The deduction for child dependent care expenses for employment related purposes has been expanded substantially. Now a taxpayer who maintains a household may claim a deduction for employment-related expenses incurred in obtaining care for a (1) dependent who is under 15, (2) physically or mentally disabled dependent, or (3) disabled spouse. The maximum allowable deduction is $400 a month ($4,800 a year). As a general rule, employment-related expenses are deductible only if incurred for services for a qualifying individual in the taxpayer's household. However, an exception exists for child care expenses (as distinguished from a disabled dependent or a disabled spouse). In this case, expenses outside the household (e.g., day care expenditures) are deductible but the maximum deduction is $200 per month for one child, $300 per month for 2 children, and $400 per month for 3 or more children.

When a taxpayer's adjusted gross income (line 15, Form 1040) exceeds $18,000, his deduction is reduced by $1 for each $2 of income above this amount, For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

MISCELLANEOUS

Alimony and separate maintenance (periodic payments).

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Campaign contributions (up to $100 for joint returns and $50 for single persons).

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees for securing employment.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions: Taxpayers may now claim either a deduction (line 33, Schedule A, Form 1040) or a credit (line 52, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) state committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $50 ($100 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $12.50 ceiling ($25 for couples filing jointly).

Presidential Election Campaign Fund: Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns), to help defray the costs of the 1976 presidential election campaign. If you failed to earmark $1 of your 1972 taxes ($2 in joint returns) to help defray the cost of the 1976 presidential election campaign, you may do so in the space provided above the signature line on your 1973 tax return.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

OTHER TAX RELIEF MEASURES FOR OLDER AMERICANS

Filing status:	*Required to file a tax return if gross income is at least*
Single (under age 65)	$2, 050
Single (age 65 or older)	2, 800
Married couple (both spouses under 65) filing jointly	2, 800
Married couple (1 spouse 65 or older) filing jointly	3, 550
Married couple (both spouses 65 or older) filing jointly	4, 300
Married filing separately	750

Additional Personal Exemption for Age: In addition to the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1974, you will be entitled to the additional $750 personal exemption because of age for your 1973 Federal income tax return.

Multiple Support Agreement: In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) Gross Income, (3) Member of Household or Relationship, (4) Citizenship, and (5) Separate Return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support.

However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10 percent of the mutual dependent's support, *but only one of them,* may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers: A taxpayer may elect to exclude from gross income part, or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least five years within the eight-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $20,000, an election may be made to exclude part of the gain based on a ratio of $20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within one year before or one year after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (tax Information on Selling Your Home) may also be helpful.

Retirement Income Credit: To qualify for the retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received earned income in excess of $600 in each of any 10 calendar years before 1973, and (c) have certain types of qualifying "retirement income". Five types of income—pensions, annuities, interest, and dividends included on line 15, Form 1040, and gross rents from Schedule E, Part II, column (b)—qualify for the retirement income credit.

The credit is 15 percent of the lesser of:

1. A taxpayer's qualifying retirement income, or

2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxable pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62, he must reduce the $1,524 figure by the amount of earned income in excess of $900. For persons at least 62 years old but less than 72, this amount is reduced by one-half of the earned income in excess of $1,200 up to $1,700, plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer if he has requested that IRS compute his tax and he answers the questions for Columns A and B and completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayer should also write "RIC" on line 17, Form 1040.

BUILDING THE SOVIET MILITARY MACHINE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. ASHBROOK. Mr. Speaker, the Soviet Union recently completed a fourth launching in its current series of ICBM tests. The technology for such advanced missiles includes the use of computers. Anthony Sutton, probably the foremost expert on Soviet technology, has written:

> All modern technology, including modern military technology, depends on the use of computers. To make any progress in weapons systems the Soviets have to utilize modern high-speed computers. These computers and the necessary computer technology have come from the West and still comes from the West, almost exclusively from the United States.

Stefan Possony, senior fellow at the Hoover Institute, Stanford University, writes:

> One of the main Soviet purposes in following a detente policy is to obtain much needed computer equipment.

He also states that:

> Computers are very necessary for modern weapon systems to "be built, integrated, tested, deployed, kept combat ready and operated."

On a number of occasions I have informed this body of new deals with the Soviet Union—deals that have definite strategic value. The Soviets buildup of their military forces is growing rapidly. What sense does it make to help the Soviets build up their armed forces in order that they may be more of a threat to us?

Are the Soviets expanding their military power in order that they may have protection against American aggression? While certain American leftists may answer yes to that last question, the vast majority of Americans know that the truth is the exact opposite. I cannot understand how a policy of so-called détente that is supposed to be helping form a more peaceful world is providing the technology to the Soviets that will make the world a place where war and disturbances will be more prevalent because of a Soviet military superiority made possible by Western technology. It is time for the administration to realize that the providing of advanced technology to the Soviets does have costs to American national security—costs which are not being compensated by any Soviet moves.

The Soviets need American technology. We do not need a more powerful Soviet Union. The construction of Soviet industry and armaments with American technology serves neither the cause of peace nor of free men. If President Nixon is serious about building a peaceful future for our children and grandchildren, I urge him to cut off trade with the Soviet Union. Helping the Soviets build weapons does not help the United States build peace.

At this point I include in the Record two articles entitled "Russia Fires Fourth Missile in Pacific Ocean Test Series" and "Détente Linked To Soviet Need For Computer Technology" from the February 28, 1974 issue of Aerospace Daily and a Joseph Alsop column "The Missile Scoreboard" from the March 4, 1974, issue of the Washington Post.

Russia Fires Fourth Missile in Pacific Ocean Test Series

The Soviet Union Tuesday carried out the fourth in a current series of ICBM tests. It was the first launch of an SS–X–17 missile into the Pacific Ocean from the Tyuratam launch site in central Russia.

The SS–X–17, along with the SS–X–19, is expected to be a replacement for the present SS–11. In Tuesday's test, it carried only one inert warhead. Pentagon spokesman Jerry W. Friedheim noted that it is credited with being able to carry up to four MIRV warheads.

The test brings to three the number of new Russian ICBMs fired over their full ranges. The others, tested in January and eariler this month, are the SS–X–18 and SS–X–19.

Détente Linked to Soviet Need for Computer Technology

"One of the main Soviet purposes in following a detente policy is to obtain much needed computer equipment," according to Stefan Possony, senior fellow at the Hoover Institution, Stanford University.

"Without computers, modern weapon systems could not be built, integrated, tested, deployed, kept combat ready and operated," he said. "In fact weapons such as missiles, aircraft, tanks and submarines incorporate computers as part of their armament."

If the West were not to sell computers to the USSR, Possony observes, ". . . Soviet bloc research and development structures will be able to solve the problem by themselves, but only after considerable time and after their approach to computer design and production has been reorganized.

"For the time being they will continue to trail, but as they move forward, presently insoluble military problems will be solved . . . It should be kept in mind that the Soviets have no difficulty with the mathematics and the other scientific bases of the computer sciences. Their difficulties are of an industrial nature, and they also seem to lack the personnel to carry out extensive software programs. The industry appears to be inefficiently organized."

Finally, Possony notes, "According to Secretary of Defense James Schlesinger, the Soviet MIRV force could reach parity with the U.S. force by 1980. As a planning factor it must be assumed that by that time the MIRV technology available to the USSR battle order will have been perfected.

"The U.S. must anticipate the danger and take suitable precautionary actions which may include among other improvements the stepping up of the technological development of thermal lasers, the construction of site defenses for missile launchers, the acceleration of Trident and B–1 and the building of more modern and improved missiles to replace the Minuteman warhorse which, though still useful and even vital, is aging."

His views are detailed in the current issue of Orbis, a quarterly journal of world affairs published by the Foreign Policy Research Institute in association with the Fletcher School of Law and Diplomacy at Tufts University.

The New Missile Scoreboard

(By Joseph Alsop)

If we go on as we are now, the scoreboard at the end of this decade will show the Soviets with 7,000 land-based, long-range nuclear warheads averaging about one megaton apiece. Meanwhile, the United States will have no more than 3,000 nuclear warheads averaging about 170 kilotons apiece.

Thus we shall have only three-sevenths of the Soviet number of warheads. And each U.S. warhead will have much less than one-fifth of the Soviet warheads' power to destroy, per warhead!

Those are the stark figures indicated by the new series of Soviet long-range missile tests in the Pacific. One must add, of course, what these figures leave out. Above all, they leave out proportional strengths in other weapons systems, not having to do with land-based missile of intercontinental range.

That means, first of all, that the figures omit the relative U.S. and Soviet strengths in "SLBMs." This simply means ballistic missiles of a submarine-launch. But the first SALT agreement permits the Soviet to build up to above 900 submarine-launched nuclear missiles, against approximately two-thirds of that number for the United States.

The Soviets are rapidly proceeding with the permitted buildup of SLBMs. The buildup includes new submarines with extra-long-range missiles that can lurk in the Sea of Okhotsk, for example, where they will be all but immune from U.S. antisubmarine warfare. Because the submarines will be virtually beyond danger, this new submarine-missile combination should be at least as good if not better than the U.S. "Trident" system.

Secondly, the above-cited figures for proportional strengths in land-based, long-range nuclear missiles also omit the capabilities of the two powers in manned bombers. The Soviets, to begin with, are building a long-range bomber known as the "Backfire," which is intercontinental, however you may look at it.

The Backfire, much like a slightly smaller version of the projected U.S. B–1, can do a one-way mission to U.S. targets. Or it can fly one way and refuel, for instance, in Cuba, or it can fly two ways with air refueling, if the Soviets build the needed fleet of aerial tankers. (The Backfire has machinery for air refueling.)

These facts are rather vividly interesting because of the almost total dismantling of U.S. air defenses. This is now close to completion. This dismantling, furthermore, enormously multiplies the destructive potential of every Backfire.

Meanwhile, the Soviets are spending unimaginable fortunes on strengthening and maintaining the most dense and costly air defense that the world has ever seen. Thereby, they are casting legitimate doubts on the power to penetrate to major Soviet targets of both the U.S. B–52s and the B–1s the United States will have later—if Congress will pay for them.

So there you have it in a nutshell. The Soviet tests of long-range, land-based nuclear missiles were conducted from the Tyuratam Missile Development Center all the way to the mid-Pacific. These tests therefore traversed a range of at least 5,000 miles. They indicate, as briefly noted, that this country can be at a hopeless disadvantage by 1980, unless the United States promptly makes great efforts to improve its strategic power.

The Soviet tests conducted to date have been: First, two tests of one of the two Soviet follow-ons from their SS–11 missile (of which they have about 1,000, with an existing power comparable to that of our 1,000 Minuteman missiles). Both these tests of the new, far more powerful SSX–19 missile showed that this follow-on was MIRVed with multiple reentry warheads. Also MIRVed were the two more recent tests of the second SS–11 follow-on, the SSX–17, with no less than four warheads of at least a megaton apiece.

Then there was the follow-on of the SS–9, the supergiant Soviet intercontinental missile. Two of the new SSX–18s showed no MIRVing. They are therefore being interpreted in some quarters as a happy "signal" for the SALT talks. But there has already been one SSX–18 test with five MIRVed warheads of well above a megaton apiece. In short, the one bright spot is the probable fact that the Soviets are still having trouble with their new solid-propellant missile, the SSX–16.

So two questions now confront us: First, what is the value of our official strategic concept of "assured destruction" in the light of the foregoing grim facts? And, second, what to do about the next round of SALT?

CYRUS JOHNSON, JR.

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. FINDLEY. Mr. Speaker, Friday evening, March 8, Cyrus Johnson, Jr., a hometown boy made good, returned to Alton, Ill., as the speaker at the first annual recognition dinner sponsored by the Alton Advisory Committee of the Madison-St. Clair County Urban League. Mr. Johnson, son of Mr. and Mrs. Cyrus Johnson, Sr., and one of the Nation's outstanding blacks in business leadership, attended Alton schools and graduated with bachelor and master degrees from the University of Illinois. He swiftly became an executive with Illinois Bell Telephone Co. and was invited by the leadership of General Mills to become corporate vice president, a capacity in which he now serves. He holds directorships on the Board of General Mills Foundation, Abbott-Northwestern Hospitals, and serves on the allocation committee of the United Way of Minneapolis and the advisory committee to the National Board of Directors—YMCA. He and his wife reside in Minneapolis.

In his address to the Urban League, Mr. Johnson made an eloquent defense of the profit system in economic life. Here is the text of his statement:

ALTON URBAN LEAGUE FIRST ANNUAL RECOGNITION DINNER—MARCH 8, 1974: ALTON REVISITED

This, I consider a rare occasion, a distinct honor and an opportunity you have afforded me and my company, General Mills. When your President, Mr. Pitts, invited me to be here he suggested that I might talk about my experience in urban affairs or management; the Black man in business or the social responsibilities of corporations. All of these topics are of consuming interest to me and I would like to briefly touch on each of them.

You will discover with very little effort that I thoroughly enjoy business, industry and the free enterprise system even with all of its ills. I simpy know of no other system which has provided a comparable standard of living. Our societal problems have continued through history and involve the political and social implications of the distribution of wealth and the consumption of our resources. That, however, is not one of the topics Mr. Pitts suggested I speak on.

I think it will also help you to appreciate the things I shall say if you know that I have never had a job which I didn't enjoy or on which I didn't learn. Those job experiences go something like this: farmer, military service, student, waiter, many management assignments in operations and staff of the telephone company and, now, an officer of General Mills—but always a product of Alton.

Many of you know that this is a homecoming experience for me. I hope you realize how nice it is to come home to friends like you and to share your thrill of honoring your awards recipients for their distinguished service to people. This audience vividly reminds me of that one unique ability I have—that of finding myself with wonderful people and organizations. The people of Alton and the Urban League are, I think, second to none. I congratulate the Urban League for its achievements, dedication and its local and national leadership. Vernon Jordan, the National Urban League Executive Director is, as you know, an outstanding leader, lawyer, gentleman and a friend.

Certainly some of you have never heard of me, but you perhaps know my parents or some other member of the Johnson or Keen families. I hope you can share with us the pleasure of your invitation and the subtle requirement to voluntarily give an accounting for the some 23 years of my absence from Alton as a full-time resident.

I am reminded of those of somewhat similar heritage whose report, if given and completed, would include personal misfortunes—like drug dependency, incarceration, ill health, unemployment, severe poverty and the many other ills of our society which are disproportionately identified in the ranks of the poor and minority people, particularly black people.

Thus I want to believe and you to consider that your attendance here tonight is a significant indication that you and some of the companies you represent recognize the importance of the Urban League and the service it can provide this community and its citizens. You, as informed citizens are perhaps more aware than I that there remains, even in Alton, some unfinished social business, too serious to ignore and delay. I shall not attempt to list them all, but just as a reminder, those social issues include the age-old burdens of poverty, hunger, disease, illiteracy, unemployment, poor housing, etc. Much of the leadership necessary to deal with these problems in Alton is in this room, and it will require your best efforts. Nationally, the problems in the black community are of this approximate size as compared with the majority population:

Infant mortality rate—2X.
Male life expectancy—10 years less.
School dropouts—2X.
Teenage unemployment—4X.
Male unemployment—2X.
Average income—lower approximately $2,000.
Juvenile delinquency—higher.

From what I could learn of the 1969–70 census data, the national figures are fairly applicable to Alton. I think that the Urban League, business and indutry, educators, religious leaders, government and just plain concerned citizens can and will direct themselves more vigorously to solving these people problems. Some of these have legal requirements with financial penalties to hopefully hasten the time of more equitable treatment. However, more importantly, the solutions make good common sense and the results are mutually beneficial, particularly considering the alternatives.

I think I would be remiss in my responsibility if I did not ask this entire audience to each, individually, provide as much influence and motivation as you can to young people to stay in school and continue their education or training as far as possible. I do not mean to indicate that I think it necessary or possible that everyone pursue a college degree. They do, however, need to expand their minds and develop skills to be able to productively function in our society. You can help them to understand that education and training are not absolutes, finite or a burden identified only with youth. In business, as in other fields, we find it necessary from time to time to update ourselves by taking additional training or even returning to a University for supplemental education.

Tell them also, to learn the system—use the system and that you can't use the system if you don't understand the system. One learns that you don't need to use an axe to open a door if you have the key to the door.

From a self-interest point of view, I know of no short term investment which yields such a high rate of return over such a long term with the added flexibility to exercise the alternative choice. The training of a mind is a fantastic investment in self and country. To waste a mind is a criminal disaster.

Let me share with you some personal experiences which I consider to be attributable to two basic fundamentals; one—being blessed with outstanding, Christian parents who believe in hard work, and secondly—my having acquired some education. Although one can plan his life, much occurs by chance or luck, given some minimum standards like education, interest or involvement. I am reminded of occasions like a conference at the White House with President Johnson, meeting with Senator Paul Douglas and Congressman Adam Clayton Powell to get release of poverty program funds for Chicago.

Last summer I had an experience I think you would be interested in for it, too, speaks to the point of preparation, the confidence of other people, and luck. My boss, James A. Summer, Vice Chairman of the Board and Chief Financial Officer of General Mills, advised me that he had been requested to participate in a two-day meeting with Palo Alto, California, but that other business commitments would not permit him to attend. My schedule permitting, he wanted me to represent him. He explained that he didn't like to disappoint John D. Rockefeller, or for us to miss the follow-up on the issue and the need for increased dialogue between youth and business. You guessed it—I went! While several of us were discussing our concerns and suggestions, I realized that my discussion was with A. W. Clausen, President of Bank of America—the largest U.S. bank, and John D. Rockefeller III. My immediate thought was what is the route one can plan that leads to such an experience with these giants of business and finance; one from the West Coast, and the other from the East Coast, yet well-known around the globe. Although I knew that my boss and General Mills had to be represented well, I had that additional motivation that I could not embarrass Alton.

During my 13 years in Illinois Bell, my work experience was in the three major operations departments (commercial plant and traffic) and, also, the general staff in developing rates, preparing the tariffs and some work with the Illinois Commerce Commission staff.

I have told you these things about my experience in management—not that they are important or particularly representative, but perhaps through this explanation you will appreciate why I perceive what I shall say on the topic of a Black man working in business.

I think that a Black person (male or female) who wishes to experience average or better success working in business, must prepare themselves the same as their competition, and when they are hired, they must deliver performance comparable or better than their competition. They should seek initial assignments in the main stream of that business and learn as many facets of it as is possible. This is no small order, for it will require a great deal more perspiration than inspiration. As a manager, realize that you will probably no longer have the luxury of an 8 hour work day. Considering that one's success has some luck and contributions from others, black people seeking business careers can, as the competition, expect that there are no short cuts and success can elude us for reasons other than race or sex. As McGeorge Bundy, Executive Director, Ford Foundation, recently said, "Competition is not the most agreeable of human phenomena but it is one of the most clearly inevitable."

While I don't want to bore you with detail about Corporate Social Responsibility, history fairly accurately records that the American corporations have provided varying levels of social responsiveness from their early days—usually as philanthropy.

For a more contemporary view, the period of the mid-60's to the present is when America first became interested in the quality of life instead of just the quantity of life. Students on college campuses began to ask why we did things as we did, who is responsible and even dared to ask isn't there a better way. Students were persistent and society and business reacted mostly by resisting change.

One can observe confusion, frustration, alienation and a lack of trust in this country. This does not merely affect the Archie Bunkers, hard hats and blue collar workers; it reaches into higher occupational levels as well, A new climate is recognizable in the environment of American business and a new phrase describes management's response: Corporate Social Responsibility. Is this phrase mere rhetoric? Is it substance? Is it a little bit of both? What is it?

General Mills has expressed its feelings on the subject and set its corporate course thusly:

"As a major corporation enjoying the rights and responsibilities of the American free enterprise system, General Mills believes its existence and success depend upon the competitive excellence, value and satisfaction we consistently provide consumers through goods and services. Our objective of serving the wants and needs of the consumer guides our day-to-day decisions and is consistent with our obligations to shareholders, employees and society. In our view profits measure and reward effective and efficient performance in meeting consumer wants and needs. Through profits, we thus satisfy our obligation to shareholders and implement the growth of the corporation, thereby assuring a dynamic, challenging environment for employees. We also gain the means to discharge our broader responsibilities to society."

General Mills does not consider that statement to be mere rhetoric but a creed which affects our decisionmaking.

The what is it or a definition which I consider applicable is: Corporate social responsibility means a willingness on the part of the corporate manager (acting not only as an individual but as a decision-maker implicating his firm) actively and with moral concern to confront certain social problems he deems urgent and to bend the influence of his company toward the solution of those problems insofar as the firm is able to do so. Such responsibility requires that the manager balance intelligently the needs of the many groups affected by the firm so as best to achieve both profitable production and the common good, especially in situations in which he is not required to do so by law or by external pressures which the company cannot easily resist.

There can be no doubt that Americans are becoming acutely aware of social needs and irresponsibility on the part of anyone—be it business, government, church or any other institution. One will naturally observe that obviously business cannot do it all alone. I think that business will give a good account of itself because of its goal orientation and sensitivity to the needs and desires of those it serves, customers, stockholders and employees—its society.

It is interesting to consider that this new climate concerned with the quality of life occurred after America had achieved a very high quality of life. I hope that you share my concept that a nation can enjoy both a high quality and quantity of life.

While it would appear that the American corporation has historically been considered as an economic entity, I think a closer examination certainly will permit one to agree that providing goods, services and employment in a free economy are at least socioeconomic endeavors.

Even with this enlightened self-interest of corporations, we citizens must continue to ask ourselves do we want corporations to have the dominant responsibility for the delivery and be the vehicle through which social services are provided? Should they, therefore, decide the services, issues and priorities? Is government a viable alternative?

I, for one, see great strength in our system and am confident that our corporations are becoming more sensitive to customer and societal desires beyond the specific product or service.

And so it is rewarding to observe your involvement and commitment to make a better Alton for all of its sons and daughters.

CUYAHOGA VALLEY HISTORICAL PARK AND RECREATION AREA

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. JAMES V. STANTON. Mr. Speaker, I rise today to join with Members of the Ohio delegation, and other Members of Congress, in support of legislation to establish the Cuyahoga Valley Historical Park and Recreation Area.

The purpose of this legislation is twofold: First, to protect a unique and valuable national resource from encroaching urban development and environmental deterioration; and second, to develop an area rich in natural beauty as a recreation area for the American people.

The Cuyahoga Valley area is steeped in historical significance. Archeological remains of Indian tribes date back to the period of 600 B.C. to A.D. 800. The region served as an important communication and transportation link for the famous Erie Indian nation. During the 18th century, the valley area was the home for many displaced tribes, including the Shawnees, Delawares, Mohicans, Ottawas, Miamis, and Hurons—tribes whose legacies to this country can be found in the names of numerous towns, villages, and geographical regions. In addition, during the settlement of the Northwest Territory and the new lands to the West, the Cuyahoga Valley and River were the passageways to new lands and homes for thousands of settlers. Finally, with the construction of the Ohio Canal, this region played a vital, if not the key, role in the industrial development of northeast Ohio.

Encroaching urban and commercial development now threaten these historical sites. In addition to the archeological finds, there are preserved in this region portions of the historic Ohio Canal as well as numerous structures from the 19th century. It would be a black mark on the history of not only Ohio, but also the American people, if these genuine relics of our historical past should fall victim, as so much else has, to the unrelenting advance of urban and commercial sprawl.

Besides its history, the Cuyahoga Valley is a land richly endowed with natural beauty and breathtaking landscapes. The area possesses a unique variety of wildlife and foliage, because it is, as my colleague Mr. SEIBERLING has pointed out, a botanical crossroads. Needless to say, once urbanization invades this virgin territory, the accompanying environmental impact of commercial development would have a devastating effect upon the wildlife and foliage of the valley.

At this point, Mr. Speaker, I wish to point out to my colleagues that we also have an obligation to future generations to preserve the natural beauty of this region. As President Kennedy correctly said:

> It is our task in our time and in our generation to hand down undiminished to those who come after us, as was handed down to us by those who went before, the national wealth and beauty which is ours.

The establishment of the Cuyahoga Valley Park would preserve this extraordinary natural resource as a recreational facility for present and future generations of Americans. Presently, 73 percent of the American people live in urban areas. Yet only 8 percent of all Federal recreation areas are located in urban areas. In Ohio there are no national parks or Federal recreation areas.

In 1971, President Nixon asked us "to put the parks where the people are." This bill is consistent with that policy. It would give all citizens access to recreational facilities in the area. If enacted, this legislation would provide the opportunity to enjoy such facilities to 4 million inhabitants of the Cleveland-Akron region. Indeed, I am confident that many more people, from both within and outside of Ohio, will enjoy the splendors of this valley. Similar Federal assistance was provided in the last Congress when Gateway National Recreation Area in New York Harbor and Golden Gate National Recreation Area near San Francisco were established as urban area parks. Consistent with that expression of congressional policy, this legislation seeks to establish a similar recreational area in a highly urbanized region within the interior of the United States where the need for recreational facilities is particularly acute.

Critics have argued that Federal funds should be limited, if not prohibited, for the establishment of this park because it is "regional" in nature. Quite frankly, I fail to understand this position. Indeed, all national parks are "regional" in the sense that they are located in one of the 50 States. Moreover, it seems only logical that those citizens closest to a national park will use it more frequently than those who must come from a greater distance. But if one were to prevent the establishment of national parks on the ground that they are "regional" in the sense I have just noted—and this is the only basis I can perceive for declaring the proposed park "regional"—then I submit, Mr. Speaker, there would be no national parks.

One of the truly impressive aspects of this bill is the degree of State and local cooperation it contemplates, and which it has already engendered. The State of Ohio has designated the preservation of Cuyahoga Valley as its No. 1 recreational goal. A recent comprehensive study of northern Ohio by the Northern Ohio Urban System Corp. has endorsed the acquisition of such land in Cuyahoga County. The plan has also been endorsed by some 46 State and local organizations in Ohio, including major newspapers, city councils, historical and conservation groups, and regional planning commissions. Already the Cleveland and Akron metropolitan park districts have purchased 1,625 acres of land within the valley for preservation.

Why then the need for Federal legislation?

First of all, the legislation contemplates the establishment of a national park for use and enjoyment of all citizens in an area rich in natural beauties and national history.

Second, Federal legislation would be consistent with both previous congressional practice as well as administration policy statements.

Third, and most importantly, the State of Ohio simply cannot do it alone. The fact of the matter is, Mr. Speaker, that unless Federal funds are forthcoming, there will be no Cuyahoga Valley Historical Park and Recreation Area. The State of Ohio estimates that it will take approximately 20 years to purchase the necessary lands. During this period, many valuable parcels of land will be lost to commercial development while the State attempts to raise sufficient funds to purchase the additional 14,500 acres. Moreover, with the passage of time and the spread of commercial development into the region, the cost of the additional acreage will inevitably increase.

We must act now if we are to preserve these lands. If we fail to act, we will be dooming much of this land to commercial development. There comes a point when citizens must stand up and insist that enough is enough. There comes a point where development becomes destructive. I submit, Mr. Speaker, that this is such an instance.

COMING TO GRIPS WITH THE WELFARE CRISIS

HON. JOHN B. CONLAN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. CONLAN. Mr. Speaker, the fact that American taxpayers are pumping more than $100 billion a year into more than 100 different welfare and income maintenance programs, with chaotic duplication of effort and waste, is a great concern to me and my Arizona constituents.

Our concern is compounded by the widespread realization that costly bureaucratic welfare programs have not only failed to fully help less-fortunate Americans or to get at the root causes of poverty. They have encouraged cheaters, loafers, and high birth rates among people who can ill-afford large families. And they have destroyed motivation for most welfare recipients to find regular work in a positive effort to become economically self-sufficient.

Mr. Speaker, my worst fears about the chaotic state of Government welfare programs have been confirmed by the Joint Subcommittee on Fiscal Policy's 2-year scientific study of welfare programs nationwide.

Chaired by the able Mrs. MARTHA GRIFFITHS, our colleague from Michigan, the subcommittee has so far completed 13 lenthy reports in its studies on public welfare. Among the subcommittee's findings, researched and tabulated by an impressive group of scholars and government experts, are these salient facts:

While Government statistics show that 119 million beneficiaries received public assistance from welfare-related programs in 1972, it was 60 million different individuals who actually received benefits. This was because the current system allows a single person to receive overlapping benefits from any number of many different welfare programs.

Twenty percent of families receiving assistance in 1972 were enrolled in five or more programs, with tax-free incomes ranging from $3,672 to $8,112—substantially above the after-taxes median wage levels for full-time working people in the same areas studied.

On this point, the subcommittee noted:

> The sizeable average benefits going to these households indicate that many of them are better off now than they would be if they derived all of their income from wages, given the wage level at which their members would find employment and the Social Security and income taxes that would have to be paid from those wages.

Generous welfare benefits alone thus constitute a substantial work disincentive, especially for families of four or more. In the words of one subcommittee report:

> In combination and sometimes even individually, these programs can make it extraordinarily unprofitable to work.

Error or fraud occurs in at least one out of every four welfare payments. This costs taxpayers an estimated $4 billion a year. Both administrative bungling and the difficulty in recouping fraudulent claims or overpayments make this high cheating rate possible under the current welfare system. According to one subcommittee report:

> The present welfare system is an administrative nightmare.

When "in-kind" benefits—food stamps, day care, job training, medicaid, medicare, and so forth—are counted along with actual cash welfare payments to beneficiaries, more than 60 percent of those considered "poor" actually move past the poverty level.

One typical household of five people studied by the subcommittee at one point was receiving tax-free benefits from 11 different programs totaling $691 a month, of which $599 was in cash.

The combination of benefits received from different programs is rarely the same among beneficiaries receiving more than one kind of public assistance, indicating that overlap is encouraged by the current welfare system. Of 1,059 households sampled for one study, benefits received were scattered among 144 different combinations of benefit categories. Only 130 households were receiving just one type of assistance.

More than 3 million families are currently receiving welfare under aid for dependent children, which requires that such families be headed by the mother or an incapacitated father. Since family size determines the amount of benefits received, one subcommittee report noted, illegitimacy is encouraged and children are often reared in totally immoral environments.

Family instability is thus encouraged. Illegitimacy has now soared to 10 percent of all U.S. births. Failure of welfare administrators to establish paternity and to enforce the father's duty of financial support not only substantially adds to the taxpayer's burden, but also deprives children of their right to social security survivor's benefits, life insurance, and health insurance.

Between 1963 and 1971, according to the subcommittee, Congress approved $6.8 billion for manpower training programs to help the poor. Despite this large expenditure, trainees leaving programs funded under the Manpower Development and Training Act, according to the most optimistic studies, still averaged only $3,100 in post-training annual earnings—more than $800 below their poverty line.

The subcommittee points out that current Federal data gathering makes it impossible to determine whether trainees have much access in retaining jobs following such training.

Mr. Speaker, my own analysis of the subcommittee's 13 reports to date has convinced me that our current welfare system, deeply entangled in a hopeless sea of bureaucratic redtape, will remain a ludicrous farce of inefficiency and fraud unless it is dramatically reformed from top to bottom.

Before such total reform is possible, the subcommittee's findings suggest several necessary first steps that Congress must write into law to pave the way.

A uniform residency requirement nationwide must be established. The present lack of such a residency requirement encourages migration of welfare recipients from State to State, threatening to disrupt economies in whole areas of the country.

Concepts of employment, self-sufficiency, and social responsibility must be written into law through job-training and work requirements for adult welfare recipients. However, work programs should not take priority over regular jobs in the public or private sectors. And welfare administrators should not become employment agents for welfare recipients.

Welfare mothers must be required to supply information about the fathers of their children before they can get public assistance of any kind. Welfare payments for fatherless households should be frozen at current levels so that women receiving welfare realize that more children will not get them more money.

Welfare rules and regulations governing welfare payments and benefits nationwide must be tightly enforced to the letter—applied equally and fairly to all welfare recipients without interference from politicians and pressure groups. Otherwise, fraud and inefficiency will continue.

Once this has been done, Congress should perhaps consider abolishing all categorical welfare grants to profligate States whose per capita resources exceed the States' average of $3,894. There seems to be no apparent good reason why large, big-spending States with per capita resources should receive Federal Welfare grants to supplement their own programs. And it seems especially ludicrous that many large, profligate States receive more Federal dollars back from Washington than their own citizens pay in Federal taxes, while smaller, frugal States receive less.

Federal welfare funds are supposed to help the poor. It seems unnecessary for dollars to make the round trip from States to Washington and back, when with their own available resources they could adequately maintain their own welfare programs without Federal involvement.

Mr. Speaker, our welfare crisis is not insurmountable. But we must meet the challenge head-on with sensible reforms to eliminate fraud and inefficiency, and to promote the work ethic and social responsibility.

THE LONG OVERDUE NEED FOR PAROLE REFORMS

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. BADILLO. Mr. Speaker, last week a group of well-known and highly qualified citizens, headed by former U.S. Attorney General Ramsey Clark and Prof. Herman Schwartz of the State University of New York at Buffalo Law School, issued a report on its penetrating and in-depth investigation into New York State's parole system. After a year and a half study the Citizens' Inquiry Into Parole and Criminal Justice condemned the parole system as poorly conceived, inefficiently implemented, and arbitrarily administered. The group's report concluded that the parole system does little or no good and revealed the startling fact that those who are released on parole return to prison in the same year at a rate just a little better than those who serve the entire length of their sentences.

Clearly the issue of parole is one which is hotly debated but which generally receives far too little attention. It is an imperfect system at best and, at its very worst, is one of the prime factors underlying the high rate of recidivism in our Nation's prisons and jails. It is an area in which substantive and meaningful reforms are long overdue.

Shortly after the release of the Citizens' Inquiry report two very timely and perceptive followup articles appeared in the Washington Post and the New York Times. Written by William Raspberry and Tom Wicker, respectively, these articles examine some of those serious shortcomings and gaps investigated by the citizens' group and comment on some of those factors which plague the parole system and make it largely unworkable in its present form.

I commend these articles to the attention of our colleagues and urge that they give this long-ignored issue their careful consideration and attention.

The articles follow:

[From the Washington Post, Mar. 6, 1974]

Parole: The Image and the Reality

(By William Raspberry)

Parole is "a tragic failure" and ought to be (a) drastically reformed AND (b) abolished.

That, in a sentence, is the conclusion of a Citizens' Inquiry into Parole and Criminal Justice after a year and a half of looking into parole as practiced in New York State.

Nearly every finding of the group, headed by former Attorney General Ramsey Clark, can be applied to parole systems in every state as well as to the federal system.

In a 47-page summary of its 300-page study, released yesterday, the Citizens' Inquiry condemns parole as poorly conceived, inefficiently implemented and arbitrarily administered and contends that it does little or no discernible good.

But you can't just wipe it out. "To abolish parole because of its demonstrated irrationality and harm and leave the rest of the process as it presently exists would cause even more harm," the report concludes.

The major fault of parole is the fault of "corrections" theory generally: the notion that criminality is treatable on a medical model.

It begins with the assumption that criminality is the result of personality defects or disorders in the individual criminal. Correctional institutions (which turn out to look very much like prisons) are established to diagnose and treat those disorders. And at the optimum moment in that treatment process—the moment at which an offender is least likely to commit new offenses—the offender is paroled—that is, he is released into the community, but under benevolent supervision in order to help him complete his readjustment to good citizenship.

Everybody knows it doesn't work that way, but as the report summary observes, "The usual response to the gap between the image and the reality of parole is to assume the validity of the theory and to recommend reforms in the practice."

It is the theory that is wrong. The truth is, we don't know what personality flaws turn people to crime in the first place, so we don't know what kind of treatment program is likely to work, or when we are close enough to cure that we can rely on the "out-patient" services of parole to finish the job.

We don't know much of anything, really, except that the rearrest rates for former inmates released on parole is not encouragingly different from those released after full service of sentence.

Let me offer a quickie test for those confused over the applicability of medical models for criminals: Would the "patient" pay for the services being offered if he had the money?

Send a man to a hospital for treatment of, say, tuberculosis; then retain him as an outpatient during his rehabilitation, and he is likely to suppose that you are doing it for his good as well as for society's. And if he could afford it, he would pay for the service, or something very close to it.

But make the "disease" a predisposition to criminality; transform the sanitarium into a "correctional" institution, and substitute parole for outpatient care. Would anybody in his right mind buy it?

Of course not, and not for the reasons that most parole reform efforts address. There *are* good people on parole boards. There *are* attempts at making the granting of parole less arbitrary—by spelling out reasons for denial, for instance. There *are* efforts to weed racial and political considerations out of the parole process. There *are* moves to increase the amount of investigation and record-keeping and responsiveness so that an inmate's freedom doesn't turn solely on one 10-minute interview.

Those are reforms that the Citizens' Inquiry concluded ought to be made—pending abolishment of the parole system.

For what is basically wrong is the utter inability of parole board members—however well-meaning and intelligent—to predict who will and who will not commit new offenses. As the report puts it:

"The similarity between defendants granted parole and those denied is striking enough to suggest that, despite its attempts at professionalism and competence, the [New York] parole board is unable to distinguish the rehabilitated from the nonrehabilitated. The community supervision program, instead of helping parolees adjust to nonprison society, is usually irrelevant and sometimes harmful."

That would be argument enough for ending the practice of parole. But parole has other burdens that would first have to be disposed of.

One of the chief functions of parole in practice is to modify draconian sentences. Legislators frequently enact super-harsh penalties for certain categories of crime but soften their effect by providing for "indeterminate" sentences. Judges sometimes hand down unduly long sentences for infamous crimes and leave it to the parole boards to moderate the penalties. Prison officials use parole as an additional means of maintaining discipline.

To get rid of parole before setting these other things right is simply to make bad matters worse, as the report concluded.

The 70-member task force included Herman Schwartz of the Buffalo University Law School, as executive vice chairman; Coretta King, William Vanden Heuvel, Kenneth B. Clark, Victor Navasky and Arthur Miller.

[From the New York Times, Mar. 8, 1974]

The Lessons of Parole

(By Tom Wicker)

The idea of parole is that if an offender's degree of rehabilitation can be judged and found sufficient, he or she can safely be released from prison; and with that promising start, a program of close supervision can help the offender find a useful place in society. Most of the time, unfortunately, this idea proves to be an illusion—primarily because nobody knows how to bring about "rehabilitation" or whether it has occurred.

The unfortunate results in New York State have just been pointed out by a Citizens' Inquiry on Parole and Criminal Justice. Headed by former Attorney General Ramsey Clark and Prof. Herman Schwartz of the State University at Buffalo, the inquiry learned that offenders released on parole return to prison *in the same year* at only a slightly better rate than those who serve out their terms. Over a typical five-year period, 50 per cent of those paroled are found delinquent, either for committing a crime or for violating parole rules, and of those about 80 per cent are returned to prison.

Parolees, that is, do little better in the community than those who are not paroled, which suggests that "discretionary release" is really pot-luck, and those who decide who gets paroled have only the sketchiest idea of who has been "rehabilitated." And even if they could decide that elusive question, the facts of life for parolees work strongly against them. Here is the way the New York Citizens' Inquiry described those facts:

"[The parolee] is given only a suit, $40, the name and address of a community supervision parole officer to whom he must report within 24 hours, and a list of rules that he must follow, on pain of losing his freedom. He is generally qualified only for unskilled or semi-skilled work, and he faces other major problems in getting and keeping a job. Although the parole service recognizes employment as a major goal of each parolee, the parole officers provide little assistance in finding jobs. In 1970, New York parole officers helped obtain only 506 jobs, although over 16,000 people were on parole at some time during the year, 5,680 of them employed full-time.

"Similarly, the Department of Correctional Services does next to nothing to help the penniless parolee with financial problems. 'Gate money' of $40 is inadequate, the parole service has no loan fund, and New York parolees are not eligible for unemployment benefits."

How arbitrary and harassing such a system can be is suggested by the facts that, for example, a parolee can be searched or visited at home or at work at any time, and without notice, by his or her parole officer (who has the impossible task of being both law-enforcement officer and social worker); and that a parolee cannot even drive or own a car without the permission of that officer. Explaining the driving rule, Russell G. Oswald, a former chairman of the New York Board of Parole, has written, "The purchase and the driving of automobiles after confinement in prison can sometimes be a heady experience. And in order to get money for cars, or for payments on cars, there might be a temptation to steal."

But that is to assume that the parolee is in need of watching every minute lest he or she commit a crime, which is hardly the way to reintegrate anyone into ordinary life. The prohibition on driving sharply reduces, moreover, a parolee's employment opportunities—even the ability to hunt for a job.

Parole has many faults—arbitrary, generally unreviewed, and unexplained decisions on when people get out of prison and when they have to go back, as well as oversupervision of, but little real help for, the parolee. Yet, parole is a logical outgrowth of the idea of rehabilitation, upon which the American corrections system is based; and it can hardly be abolished unless that corrections system itself is substantially changed.

The great contribution of the Citizens' Inquiry report, therefore, is that, rather than merely recommending "improvements" in current parole practice (which it does), the report attacks the root of the correctional problem—the idea of rehabilitation—asserting flatly that "future human conduct cannot be predicted and even basic changes in personality and character cannot usually be assessed."

That being the case, "decisions as to length of sentence and timing of release based on an assessment of an inmate's rehabilitation" often are incorrect and frequently are irrational, even cruel. Shorter sentences, with more certainty for the offender of his or her exact date of release, alternatives in most cases to imprisonment, a wider variety of educational and job training programs for those who do go behind bars, less restriction upon and more assistance for those coming back into the community—all make more sense for offenders and the public alike than the uncertainties and inequities of parole as now administered.

ANTIABORTION AMENDMENTS ATTEMPT TO SUBVERT WOMEN'S RIGHTS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. DELLUMS. Mr. Speaker, the protection of women's rights insured by the Supreme Court decision on abortion is being threatened by "Right to Life" forces pushing for a constitutional amendment outlawing abortions. The Washington Post of March 8 reported on the appearance of four cardinals of the Roman Catholic Church at the Senate Judiciary Subcommittee hearings on anti-abortion amendments as "spearheading a mounting campaign" to pass such amendments.

In a country that prides itself on religious freedom and that attempts to maintain a separation between church and state, proponents of one religious belief are trying to force their beliefs on the country as a whole. This point was eloquently raised by Bishop James Armstrong of the Dakotas area of the United Methodist Chugrch at the Senate hearings:

> A church that proclaims celibacy to reflect the highest levels of excellence and that takes the dimmest possible view of scientific methods of birth control is not in a logical position to impose its view on abortion on the remainder of the citizenry.

Yet it would also be blatantly undemocratic for men, ultimately unable to identify with many of the feelings and experiences of women, to force their convictions on women. As Bishop Armstrong pointed out, this is presently being attempted:

> With all due respect, should a male dominated religious hierarchy determine the moral posture and legal status of the opposite sex when the woman in question is caught up in a dilemma no man can fully understand?

In light of these crucial human rights issues, I wish to include two letters in the RECORD. One letter contains a resolution that was adopted by the Professional Woman's Caucus at its annual convention in September of 1973. The resolution is an eloquent, poignant defense of women's rights, a defense that all Members of Congress should take into careful consideration when they view the present efforts to outlaw abortion.

The second letter contains a resolution passed by the California Democratic Council in February that urges opposition to any attempts such as the anti-abortion constitutional amendments to infringe on personal rights.

The letters follow:

CALIFORNIA DEMOCRATIC COUNCIL,
February 25, 1974.

ALICE TRAVIS,
Women's Caucus Chairperson, CDC,
Los Angeles, Calif.

DEAR REPRESENTATIVE DELLUMS: Enclosed is a copy of the "Resolution Re-affirming CDC's Position on Abortion" which was overwhelmingly passed by the California Democratic Council at the statewide convention this month.

We feel it is extremely important that you be aware of our position regarding any constitutional amendments limiting the right of a woman to have an abortion on demand. We stand now, as before, as always, diametrically opposed to any governmental infringement of this personal right.

In view of the proposed hearings in the Senate by Senator Birch Bayh's subcommittee on Constitutional Amendments which will concern itself with previously tabled anti-abortion amendments, we seek your support on this matter now. These amendments must go no further. The Supreme Court has ruled, and we believe correctly. In a recent poll approximately 80% of the Californians asked agreed.

Please act on the California Democratic Council's resolution.

Sincerely,

ALICE TRAVIS.

RESOLUTION REAFFIRMING CDC'S POSITION ON ABORTION

Content: Reaffirms CDC position on a woman's right to obtain an abortion, in light of the present pressures in Congress on this matter.

Submitted by: Alice Travis, Women's Caucus Chairperson, and Barbara Hewitt, President—Westside Democratic Forum.

Whereas, The CDC passed a resolution in March 1972 stating that "the inalienable right to custody of one's own body is violated when a woman is compelled by the state to bear an unwanted child", and the Supreme Court's decision on abortion effectively supports this position; and

Whereas, Certain groups are lobbying, with some apparent effect, the Congress of the United States to move a constitutional amendment prohibiting abortion under any circumstances except to save the mother's life;

Therefore, be it resolved, That the California Democratic Council reaffirms its position on a woman's right to abortion on demand and does not support any constitutional amendment limiting this right, and that the CDC is in full support of the Supreme Court's ruling on abortion; and

Be it further resolved, That all California congresspersons and all members of the House Judiciary Committee be informed of CDC's position.

PROFESSIONAL WOMEN'S CAUCUS,
January 22, 1974.

DEAR REPRESENTATIVE DELLUMS: The Professional Women's Caucus is a national organization of women in over fifty professions, including art, architecture, academia, engineering, law, media, medicine, government and science.

We are convinced that the right of every woman to control her reproductive processes is an elementary Constitutional Right upon which all of her other efforts and aspirations toward equality are based. We would like you to know that at our annual convention held in New York City at the end of September, 1973, the following resolution was adopted:

Since control over our bodies is the very cornerstone of any equality for women, passage of the so-called "Right to Life Amendment" to the Constitution, which is now in the Judiciary Committee of the United States House of Representatives, would be an unmitigated disaster to the cause of women in the United States. It is an anomaly indeed, that while we still lack a Constitutional Amendment giving equal protection to women, we are now faced with the very real prospect of passage of a Constitutional Amendment granting greater rights to the fetus. Accordingly, defeat of the proposed "Right to Life Amendment" now in the Judiciary Committee in the House of Representatives in the United States Congress is imperative.

Respectfully yours,

SUE WIMMERSHOFF-CAPLAN, *President,*

THE 15TH ANNIVERSARY OF STATEHOOD FOR HAWAII

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mrs. MINK. Mr. Speaker, today marks the 15th anniversary of statehood for

Hawaii. When word that Congress voted for our statehood reached the islands there was jubilant celebration. However, many people stopped to give thanks and to offer prayers of thanksgiving.

One such memorable message came from the Reverend Abraham Kahikina Akaka, one of Hawaii's most beloved and respected citizens. In a ceremony at historic Kawaiahao Church the following morning, he eloquently expressed the thoughts of his fellow Americans, which I would like to share with you:

ALOHA KE AKUA

(By Rev. Abraham Kahikina Akaka)

"One nation under God, indivisible, with liberty and justice for all"—these words have a fuller meaning for us this morning in Hawaii. And we have gathered here at Kawaiahao Church to give thanks to God, and to pray for his guidance and protection in the years ahead.

Our newspapers lately have been full of much valuable historical data concerning Hawaii's development, growth, and aspirations. I will keep these stories as long as I live, for my children and their children, for they call to mind the long train of those whose sacrifices were accepted, whose prayers and hopes through the years were fulfilled yesterday. There yet remains the formal expression of our people for statehood, and the entrance of our Islands into the Union as a full-fledged member.

I would like today to speak the message of self-affirmation: that we take courage to be what we truly are, the Aloha State.

On April 25, 1820, one hundred and thirty-nine years ago, the first Christian service conducted in Honolulu was held on this very ground. Like our Pilgrim Fathers who arrived at Plymouth, Massachusetts, in 1620, so did the fathers of a new era in Hawaii kneel in prayer after a long and trying voyage to give thanks to God who had seen them safely on their way.

Gathered around the Reverend Hiram Bingham on that day were a few of our "kupunas" who had come out of curiosity. The text of the sermon that day, though it was April and near Easter time, was from the Christmas Story. And there our people heard these words for the first time: "Mai maka'u 'oukou, no ka mea, eia ho'i, ke ha'i aku nei au ia 'oukou i ka mea maika'i, e 'oli'oli nui ai e lilo ana no na kanaka apau. No ka mea, i keia la i hanau ai, ma ke kulanakauhale o Davida, he ola no 'oukou, aia ka Mesia ka Haku"—"Fear not, for behold, I bring you good tidings of great joy which shall be to all people. For unto you is born this day in the city of David a Saviour which is Christ the Lord."

Although our grandfathers did not realize it fully then, the hopes and fears of all their years through the next century and more were to be met in the meaning and power of those words, for, from that beginning, a new Hawaii was born. For through those words, our missionaries and people following them under God became the greatest single influence in Hawaii's whole development—politically, economically, educationally, socially, religiously. Hawaii's real preparation for statehood can be said to have truly begun on that day and on this spot one hundred and thirty-nine years ago.

Yesterday, when the first sound of firecrackers and sirens reached my ears, I was with the members of our Territorial Senate in the middle of the morning prayer for the day's session. How strange it was, and yet how fitting, that the news should burst forth while we were in prayer together. Things had moved so fast. Our mayor, a few minutes before, had asked if the church could be kept open, because he and others wanted to walk across the street for prayer when the news came. By the time I got back from the Senate, this sanctuary was well filled with people who happened to be around, people from our government buildings nearby. And as we sang the great hymns of Hawaii and our nation, it seemed that the very walls of this church spoke of God's dealing with Hawaii in the past, of great events both spontaneous and planned.

There are some of us to whom statehood brings great hopes, and there are some to whom statehood brings silent fears. One might say that the hopes and fears of Hawaii are met in statehood today. There are fears that Hawaii as a state will be motivated by economic greed; that statehood will turn Hawaii (as someone has said) into a great big spiritual junkyard filled with smashed dreams, worn-out illusions; that it will make the Hawaiian people lonely, confused, insecure, empty, anxious, restless, disillusioned—a wistful people.

There is an old "mele" that reminds me of such fears as these, and of the way God leads us out of our fears. "Haku'i i ka uahi o ka lua, pa i ka lani, ha'aha'a Hawai'i moku o Keawe i hanau'ia ... po Puna, po Hilo, po i ku uahi o ku'u'aina . . . . ola ia kini, ke 'a mai la ke ahi"—"There is a fire underground, but the firepit gives forth only smoke, smoke that bursts upward, touching the skies, and Hawaii is humbled beneath its darkness . . . it is night over Hawaii, night from the smoke of my land . . . but there is salvation for the people, for now the land is being lit by a great flame."

We need to see statehood as the lifting of the clouds of smoke, as the opportunity to affirm positively the basic Gospel of the fatherhood of God and the brotherhood of man. We need to see that Hawaii has potential moral and spiritual contributions to make to our nation and to our world. The fears Hawaii may have are to be met by men and women who are living witnesses of what we really are in Hawaii, of the spirit of Aloha, men and women who can help unlock the doors to the future by the guidance and grace of God.

This kind of self-affirmation is the need of the hour. And we can affirm our being, as the Aloha State, by full participation in our nation and in our world. For any collective anxiety, the answer is collective courage. And the ground of that courage is God.

We do not understand the meaning of Aloha until we realize its foundation in the power of God at work in the world. Since the coming of our missionaries in 1820, the name for God to our people has been Aloha. One of the first sentences I learned from my mother in my childhood was this from Holy Scripture: "Aloha ke Akua"—in other words, "God is Aloha." Aloha is the power of God seeking to unite what is separated in the world—the power that unites heart with heart, soul with soul, life with life, culture with culture, race with race, nation with nation. Aloha is the power that can reunite when a quarrel has brought separation; aloha is the power that reunites a man with himself when he has become separated from the image of God within.

Thus, when a person or a people live in the spirit of Aloha they live in the spirit of God. And among such a people, whose lives so affirm their inner being, we see the working of the Scripture: "All things work together for good to them who love God . . . from the Aloha of God came his Son that we might have life and that we might have it more abundantly."

Aloha consists of this new attitude of heart, above negativism, above legalism. It is the unconditional desire to promote the true good of other people in a friendly spirit, out of a sense of kinship. Aloha seeks to do good, with no conditions attached. We do not do good only to those who do good to us. One of the sweetest things about the love of God, about Aloha, is that it welcomes the stranger and seeks his good. A person who has the spirit of Aloha loves even when the love is not returned. And such is the love of God.

This is the meaning of Aloha. I feel especially grateful that the discovery and development of our Islands long ago was not couched in the context of an imperialistic and exploitive national power, but in this context of Aloha. There is a correlation between the charter under which the missionaries came—namely, "to preach the Gospel of Jesus Christ, to cover these islands with productive green fields, and to lift the people to a high state of civilization"—a correlation between this and the fact that Hawaii is not one of the trouble spots in the world today but one of the spots of great hope. Aloha does not exploit a people or keep them in ignorance and subservience. Rather, it shares the sorrows and joys of people; it seeks to promote the true good of others.

Today, one of the deepest needs of mankind is the need to feel a sense of kinship with one another. Truly all mankind belongs together; from the beginning all mankind has been called into being, nourished, watched over by the love of God. So that the real Golden Rule is Aloha. This is the way of life we shall affirm.

Let us affirm ever what we really are—for Aloha is the spirit of God at work in you and in me and in the world, uniting what it separated, overcoming darkness and death, bringing new light and life to all who sit in the darkness of fear, guiding the feet of mankind into the way of peace.

Thus, may our becoming a State mean to our nation and the world, and may it reaffirm that which was planted in us one hundred and thirty-nine years ago: "Fear not, for behold I bring you good tidings of great joy, which shall be to all people."

A MESSAGE TO U.S. BUSINESSES: YOUR WORTHY SEARCH FOR ADDITIONAL MARKETS SHOULD NEVER JEOPARDIZE EFFORTS TO ENHANCE INDIVIDUAL LIBERTY IN FOREIGN LANDS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. KEMP. Mr. Speaker, to those who act consciously, virtually everything in life is a matter of establishing priorities—what things are more important than others and what ought we to do first.

Certainly, Members of Congress are faced with such priority determinations on a daily basis—what bills to hold hearings on, what bills to bring to the floor, what meetings to attend, what issues to be vocal upon, how much money to authorize or appropriate for a particular program. Making these decisions is not always easy. No one expects it to be.

American business—the private sector of our economy—must also determine its priorities—what new product lines to promote, how much profit to reinvest, what new markets to explore, what social responsibilities to exercise. And, like in the Congress, making these decisions is seldom easy.

One of the top priorities for several major American firms is the expansion of markets in countries controlled by Communist governments.

There are a number of reasons why those businesses are seeking these markets, and I can understand some of them—which, of course, does not mean that I necessarily agree with all of them.

The opening of a new market, by definition, expands the number of consumers to which one can sell a product, potentially generating more jobs and income for workers—there and here. When profit margins in the home market are falling because of rising costs, price controls, and Government regulatory policies, a search to expand production by expanding markets abroad is understandable.

But, I have been disturbed during the past weeks over several major articles which have appeared in newspapers and magazines on the expansion of U.S. business activity in Communist countries, even when today, UPI reported that the Soviet Union is beaming radio broadcasts in Arabic to the Middle East urging Arab nations to resist American pressure and not to lift the oil embargo.

One is left with an almost inescapable conclusion that some businessmen by far, not all—and I do not intend, here today, to talk about particular executives or particular companies—have placed the search for new markets and profits to be derived from those markets above other and more important considerations. In essence, while their search for markets may be worthy and understandable, it loses those qualities when measured against a higher purpose: The use of American economic power as a weapon for freedom.

I believe strongly—both practically and philosophically—in the private enterprise system. Based upon a market economy and sustained by the time-proved laws of supply and demand, that system has produced the highest standard of living in the long history of civilized man. I am not, therefore, here today to denigrate that system. I am here, however, to discourage by argument the establishment of any priorities by business which would jeopardize, in any way, the many commendable efforts being made to enhance individual liberty through the use of our economic power.

American economic power can be, and should be, a weapon for freedom. It can not be such a weapon if such a search for markets for markets' sake undercuts efforts on behalf of freedom.

As equally antithetical to the free market philosophy is the use of Government regulation and loan guarantees to foster such foreign business ventures. If a corporation wants to invest in a foreign land, it is hypocritical for business to say, on the one hand, that is is doing it to further the causes of capitalism, yet, on the other hand, take funds from Government—from the taxpayers—with which to do it. Loan guarantees—such as those made through the Export-Import Bank—constitute subsidies borne by the American taxpayers when U.S. funds are used to make up the difference in interest rates which can sometimes result in millions of dollars of subsidy.

It is said by some, including the President, that recent thaws in United States-Soviet economic relations contributed mightily to Alexander Solzhenitsyn being exiled to Western Europe instead of being executed or exiled to the Soviet Union. I agree with that. But instead of such an argument buttressing a position that we should use our leverage less and not try to encourage further a relaxation in the Soviet Union of its repression of individual liberty, the argument, quite to the contrary, supports a position for using our economic power even more.

Look at the official Soviet trade delegations which have come to this country, seeking greater trade. Look at Andrei Gromyko's personal trip, on his way back from Cuba, to Washington to try to persuade the White House to take a tougher line against Members of Congress who support the Jackson-Vanik amendments to precondition a relaxation of trade upon their relaxation—first—of repression against their own citizens.

Look at the Soviet officials who, only this week, made personal appearances and held press conferences asking Members, particular Senators, to put aside their considerations for the rights and liberties of Soviet citizens and approve better trade terms for the Soviets. Does not all this effort by the Soviets reflect how badly they need our economic help, not how less? And does not that, in turn, indicate to us how much we can use that strength as leverage to help those Soviet citizens obtain more freedom?

I have spoken, Mr. Speaker, on a number of occasions during the past 3 years on the dangers of trade for trade's sake. Trade needs to be on certain conditions—that we are paid in cash or gold and not through long-term, low-interest credits subsidized in part by the American taxpayers; that such trade is not in strategic or potentially strategic goods or commodities; and, of course, that such trade be preconditioned on a relaxation of restraints on freedom. I am not here today to recount all of my previous remarks.

I call upon American businessmen—and their names are in the press almost daily now—to place a higher purpose above the search for markets. You owe it to yourself, your corporation, your shareholders, and most of all, you owe it to those who live in your potential markets to place freedom above profit. They—these people of other lands—would rather have freedom than a cola.

GREAT PAPER MONEY FLOOD

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. LANDGREBE. Mr. Speaker, today I would like to include in the RECORD an article from the January 1974 issue of Dun's Review, entitled "The Great Paper Money Flood." The article begins with a brief recapitulation of the shenanigans of one John Law, who today would undoubtedly hold a major university chair in economics. After persuading the Duke of Orleans to print paper money, Law perceived the consequences of monetary inflation, and admitted before he died:

> Money created in great quantities brings destruction. Unless it is issued with restraint, it will ruin confidence; it will ruin a government; it will ruin society.

The consequences of the 18th century paper money inflation in France were shortages "as sellers withheld goods to obtain a better price a week later. Paper money began to sell at a discount from coin."

Today we are seeing in this country the consequences of monetary inflation that have occurred many times throughout history. I fear for the future of this country if our leaders persist in following a path to destruction.

The article follows:

THE GREAT PAPER MONEY FLOOD

(By Max Shapiro)

In 1714, an obscure Scottish economist named John Law went to Paris with a heretical notion. "The Government," Law wrote to the Comptroller of Finance, "should introduce paper currency. This will surely augment trade and general well being."

With his realm reeling under a crushing debt, and unemployed beggars marauding in the nation's large cities, Louis XIV, the reigning monarch, was certainly in need of financial advice. But he rejected Law's proposal, calling it "against the rule of reason and fraught with dangers to our State."

A year later the king was dead, but the economic problems of France lived on. Hunger riots broke out in Marseilles, Paris and Lyon. Holders of government bonds besieged Parliament, clamoring for payment on the long overdue debt. In the face of these events, Law continued to publish pamphlets advocating the inauguration of a government-backed paper currency. Finally in 1716, the Duke of Orleans, who had become regent of France after Louis' death, gave Law and several other investors permission to organize a private commercial bank that could issue paper money. While this currency would not have the guaranty of the government, it would be redeemable into coin at the bank upon request.

At first, business in the new paper money was dishearteningly slow. But as the bank continued to meet its obligations to redeem paper into coin, demand for the new, convenient currency began to grow. Soon French and foreign depositors were pouring their hoarded coins into the bank and exchanging them for paper. A minor boom developed, and Law, recognized as its architect, became the hero of France. He was lauded and lionized. His bank became one of the leading financial institutions on the Continent. Eventually, because it had become so crucial to the economy of the nation, it was nationalized by the regent.

Law and his associates were paid 3.5 million livres (approximately $875,000) for their stock—in newly printed paper money. Law objected to the manner of payment (although he later accepted it), pointing out that while he could readily accept compensation in paper money if it were issued with proper backing, no government could use its power to issue paper at will simply by cranking up the printing presses. That, he argued, was the road to economic ruin. But the regent, who had no experience or interest in economics, waved the objections aside, and advised Law that the government was at that very moment contemplating the print-up of many millions of livres for the redemption of at least part of the nation's long overdue obligations. The alternative was an immediate declaration of bankruptcy.

Within hours, Law proposed an alternate plan that might extricate the government. He and several associates had previously formed the Mississippi Company, a private corporation for the purpose of "engaging in Commerce along the Mississippi River in the Royal Territory of Louisiana." If the Corporation were granted the exclusive rights "to all trading, hunting, fishing, foresting and mining in the Louisiana Territory." Law would make a public offering of stock in the company. Payment for the stock could be made in coin or in government bonds purchased on the open market. Moreover, a subscriber paying in bonds would be given full credit at par value, even though most bonds were selling for less than 20% of par; this meant that each share issued at 500 livres could be bought for an outlay of 100 livres. Hopefully, thousands of new investors would buy up government bonds to take advantage of the "bargain" method of payment for their Mississippi stock, and a substantial portion of the national debt would therefore wind up in the treasury of the Mississippi Company—relieving the government, at least temporarily, of its obligations.

The regent grasped at the plan with the desperation of a drowning man. The Mississippi Company was granted all the rights it requested and—to sweeten the pot—also was given sole privileges "to trade in the East Indies, China and the South Seas." With such munificent prospects, Law decided that the company would guarantee the payment of a yearly dividend of 100 livres, assuring investors of a 100% return annually.

News of the stock offering swept through Paris like wildfire. Thousands of investors rushed to Law's house, where orders for the impending issue were to be recorded. Day after day they queued up, waiting their turn. One afternoon violence broke out, forcing Law to flee. The Place Vendome was barred to traffic and equipped with makeshift booths. There, the subscription process was resumed. By the time the order books were closed, over 200,000 investors had submitted purchase orders for the 50,000 shares offered. In anticipation of making payment, they had bought up a considerable part of the overdue government debt.

Trading in the Mississippi issue began in August 1717. A great, wild roar rose in the Place Vendome as speculators rushed in to buy the stock. By nightfall, the price of the stock had soared to 1,125 livres a share. Within a few months, it had climbed to 4,373 livres, more than nine times the issue price. Fortunes were made in the stock, sometimes within a few hours. Members of the nobility and the royal family—who were among the heaviest speculators—reflected their new opulence. Conditions also visibly improved for the populace. Farmers and merchants ordered new clothes; bakery shops, recently empty, were now crowded; old establishments were refurbished and new houses built. Wages were rising, and—slowly at first—so were prices.

While most Frenchmen attributed the heightened prosperity to the phenomenal rise of the Mississippi shares and to Law's genius, actually there was a more mundane explanation. With his government beset by mounting expenses, the regent had surreptitiously ordered the print-up of close to a half-billion livres. As this new stimulant coursed through the economy, it produced the inevitable result: a sharp rise in demand, production and standard of living.

John Law suspected that the money supply had been swelled by an input of new paper currency, but he no longer objected. He had succumbed to adulation and political ambition, and was awaiting his promised appointment as Comptroller of Finance.

During 1718, the government engraving presses spewed out almost 1 billion additional livres. As the effect of this massive injection made itself felt, Paris became the most opulent capital in Europe—a bulging warehouse of foods, silks, jewelry, gold and art objects. And the cost of living continued to rise. The price of the Mississippi Company stock roared upward to 9,700 livres. Early in 1719, 200,000 new shares were offered at 10,000 livres each, for a total value of 2 billion livres. To assure the success of the new offering, the regent surreptitiously ordered the printing of another half-billion livres; a considerable part of this new money supply was made available to brokers for margin requirements. The new issue was oversubscribed, with a sizable portion taken up by foreign investors. And the stock resumed its ascent into the stratosphere.

So did the cost of living. By the beginning of 1720, tallow sold at three times its 1717 price; butter was four times as high, and a chateau in the Loire Valley that had been bought for 30,000 livres three years earlier now brought 265,000 livres. The holders of bank notes, seeing their purchasing power deteriorate overnight, scrambled to get rid of their money by buying anything in sight that was not perishable. This propelled prices higher, and shortages began to appear as sellers withheld goods to obtain a better price a week later. Paper money began to sell at a discount from coin.

In an attempt to shore up the value of bank notes, the government passed an edict making it a crime to carry more than 140 livres in coins. This accelerated the hoarding of metal money and the depreciation of paper, riots broke out as crowds beseiged banks to exchange bank notes into coins.

With faith in paper money destroyed, the charisma of John Law and the stock of the Mississippi Company dissolved. From its incredible high of 19,000, at which it was selling in May 1720, the stock plummeted, amid scenes of wild disorder, to 3,000 by October. By that time, living costs were rising as sharply as the Mississippi shares were falling (a pair of boots cost 7,000 livres, or $1,750 in today's money), and paper money was being converted into coin at an 80% discount. By November, bank notes had become virtually worthless and were being thrown away or used to light fires. By December, the Mississippi shares were worthless. Thousands of desperate sellers roamed the streets looking for buyers. There were none, at any price.

In subsequent hearings before Parliament, the regent admitted that he had ordered the secret print-up of over 2.7 billion livres in a three-year period. (In the preceding 1775 years, the French nation had been able to accumulate a coin money supply worth less than 2.6 billion livres.) With the printing and circulation of paper money outlawed and with coin money withheld through hoarding, purchasing power in France was severely reduced and a decade-long depression set in.

As for John Law, he escaped from France when a lynch mob of hundreds of ruined Mississippi shareholders descended on his house. He died eight years later in Venice, in poverty—a broken man. A friend who visited him shortly before his death, asked him what he had learned from his experience. Law sighed and finally replied: "Money created in great quantities brings destruction. Unless it is issued with restraint, it will ruin confidence; it will ruin a government; it will ruin society."

Our country has not learned this lesson. During the past decade, the government of the United States has produced new money at a dangerous pace. We are now experiencing the inevitable consequence: a galloping inflation. But the architects of our dangerous policy—disregarding the lessons of history—continue to overlook the obvious warning signals.

In the decade from 1962 to 1972, our money supply (known formally as M^2, and consisting of currency in circulation, demand deposits and time deposits of less than $100,000) soared by more than 100% from less than $246 billion to more than $525 billion. The immensity of this money growth can best be appreciated when put into historical perspective.

During the 186 years prior to 1962, the United States had experienced the need for a growing stock of money for the waging of five major, costly wars (and a number of smaller military actions) and for the funding of a vast expansion. During much of that period, the adherence to convertibility had restrained the creation of new money; our national treasury lacked a sufficient offsetting supply of gold and silver against which a large quantity of bank notes might be issued.

In 1933, however, the printing presses began whirring after Congress passed an act abrogating convertibility. From 1933 to 1942, the money supply rose by $48 billion to $79 billion. Much of this newly created money was used by the New Deal for pump-priming during the Depression of the 1930's. During the 1943–1952 decade, the money supply advanced by $89 billion to $168 billion, with the nation forced to print huge sums for the waging of World War II and the Korean War. In the next ten years (1953–1962), the creation of new money was more gradual; the supply rose by $78 billion.

By the end of 1962, we had already established the world's greatest industrial complex, the most formidable military force ever assembled, the most prolific agricultural system, the most extensive and powerful banking apparatus yet created, and our population of 186 million enjoyed the highest living standard achieved by any nation until that time. The attainment of such power and growth had required a vast, accelerating supply of money. Nevertheless, the money stock had grown by less than $246 billion during a 186-year period. But in the next ten years (1963-1972), it jumped by more than $279 billion.

This massive infusion of new money during the 1963-1972 period fueled an unprecedented demand for goods and services by all sectors of the economy (private consumers, business and government). After eighteen decades, annual expenditures in the United States had reached a level of $619 billion by 1962. But in the following decade they almost doubled, surging by an additional $547 billion to an all-time high of $1,156 billion in 1972.

As this unparalleled demand spread through the economy, it had a traditional forest-fire effect, with one price rise igniting another. Producers raised prices to offset increased wages. Consumers, upon receiving expanded wages, bought an increasing amount of higher priced goods and services. Manufacturers and farmers responding to this new demand, borrowed money at high interest rates to expand output. Their plant and inventory expansion raised the consumption of materials, raising prices additionally. Meanwhile, government agencies also exercised upward pressure on prices by services. Then came yet another round of wage increases, touching off further cost-of-living hikes and creating fresh buying power for goods selling at peak prices.

In this fashion, the most tenacious inflation in our history was created. In November, the Consumer Price Index (CPI) posted its fifty-ninth consecutive monthly advance. Unbroken since January 1967, this string of month-to-month cost-of-living increases is by far the longest in the sixty-year history of the Index. Since 1913, there have been only eleven cycles in which consecutive rises in living costs went beyond six months. The longest previous interval, created by the pressures of World War II, lasted 22 months, and was terminated by the imposition of wage-price controls. Similar controls have failed in the present crisis.

The tenacity of our inflation is matched by its erosive force. The cost of living as, measured by the CPI, advanced by 38% during the ten years between 1963 and 1972, with an average annual rise of 2.6% prevailing during the five years between 1963 and 1967, and an average rate of 5% during third quarter of 1973, inflation was racing ahead at a disturbing 7.4% annual rate. The upward rush of living costs—especially in 1973—is evident in the price changes that have occurred in ten key items since the end of 1962 (see bottom table, page 50).

As yet, we are not paying $1,750 for a pair of boots, but we are on our way. All indications point to a substantial acceleration in the rate of inflation in 1974, and beyond. The chart on page 51 (not shown) which shows the past course taken by inflation as well as its likely future course, substantiates the conclusion that we are passing into more dangerous territory. . . .

Finally, when out-of-control inflation begins to cause unbearable distress, destabilization and social unrest, governments will be forced to call a halt. The exponential growth of money will be throttled for a considerable period. In all likelihood, a major, long-run, worldwide recession will set in until the fire is taken out of international economies. Then, after inflation has died down, perhaps we will attempt to manage our money supply more prudently and to look for stability rather than breakneck growth.

WHO IS TO BLAME?

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. SARASIN. Mr. Speaker, I wish to bring to the attention of my colleagues in the House of Representatives this thought-provoking letter which appeared recently in The Evening Sentinel, a daily newspaper which is published in the city of Ansonia in my Connecticut district.

I also wish to thank the Honorable Francis X. Kelley, mayor of the neighboring city of Shelton, Conn., who first brought this letter to my attention and suggested that it be read into the CONGRESSIONAL RECORD.

While we may not be in complete agreement on all issues, I feel there are some extremely good points, particularly in regard to the need for citizens to let their representatives know just where they stand on the critical issues of the day. This also includes a responsibility on the part of the representatives to actively seek out such opinions and to establish and maintain open avenues of communication with constituents, a practice I have followed.

I commend Mr. Tortora's letter to your attention:

WHO IS TO BLAME?

To the Editor:

Many people would like the answer to what is now an old question: How real is the energy crisis in the United States, and who is to blame for this crisis?

Being fairly intelligent people we would be safe to assume that our federal government and the major oil corporations are responsible for the energy crisis in this country. American technology is second to none, and is known to be the best in the world. An energy crisis in the United States could only have been planned and plotted by persons presently unknown, for reasons that are very obvious, and which, if allowed to continue unchecked, will prove disastrous.

But the real crisis where energy is concerned, and the blame for it, lies with the middle-income, apathetic and complacement American. Human energy, or the lack of it, is the real reason for the crisis we are faced with today.

The average American has been sitting on his backside since the end of World War II and has falsely convinced himself that someone else would take care of the everyday problems that have confronted the United States. He comfortably viewed television newsfilm of NROTC buildings burning. He watched young so-called "peacemakers" burn their draft cards. He watched and saw the youth of America step on, spit upon and burn the red, white and blue of our American flag. He saw our Supreme Court make rulings that benefit few Americans and insult the intelligence of those who remain. He has without question allowed the federal government to rape his income with exorbitant wage deductions, and has allowed import and export legislation to betray the very livelihood of his country.

Oh yes, he was moved by all this, he expressed disgust and was at times furious. But what did he as a good American do about it? After watching the evening newscast, this great American flipped the TV channel to view his favorite comedy show where some celebrated comedian would belittle and scorn the moral, political, social and spiritual attitudes of the United States. He soon forgot what made him furious in the newscast and began laughing, along with millions of other viewers, about some remark made by the comedian regarding racial discrimination, or Watergate or perhaps the Jewish or Catholic faith. There he sat night after night, laughing at himself.

This same wonderful American not too long ago was elated and overjoyed because a Canadian news commentator, in an open letter, asked the world to come to the assistance of the United States in their "time of need." I say, Shame on America, that a Canadian had to say anything of the sort! Why didn't we as Americans speak up for ourselves? Why didn't Mr. and Mrs. America tell the people they voted for what it was they wanted? The number one infamous excuse of the complacent American is: "Because they (the elected) won't do anything about it."

The person who makes that statement is dead wrong. People like Ron Sarasin, Abe Ribicoff, Lowell Weicker or any elected official will never do a solitary thing unless they know how the people feel, unless they know to some degree what it is the majority of people want . . . remember I said, majority, the middle-income American is by number the majority.

The very rich and the very poor are the majority today, self-appointed, but nevertheless the majority, they are the real benefactors of our laws as they are written today because they go to all extremes to inform their elected officials. They have to, to survive, and they have survived well at the expense of the middle-income American.

If you don't believe that, take a good look at only a few of our laws. How does the oil depletion allowance benefit you? How does welfare assistance to those not worthy benefit the middle-income person? What of the $1,404, the middle-income worker and his employer will have to pay to Social Security this year. Isn't that a good deal of money to pay without question?

There are many such questions, some of which need to be answered. How many of us have taken the time to ask the persons who have the answers? How many have expressed their opinion where it counts? Where it would really do some good?

During the last two decades we have allowed prayer in school to be a thing of the past . . . filth to run rampant in our communities . . . and we have watched our courts handcuff our law-enforcement officers. Our church attendance indicates we have forgotten there is a Supreme Being, and the banking business is a sure sign we have inflated our pocketbooks. We have become a "talk too much," "take everything for granted," "Do-nothing society." We are a disgrace to our forefathers who fought, prayed and worked hard to make the United States the greatest country in the world.

Our problems today are the product of apathy and nothing else. No country can be strong with weak minded, undisciplined, poorly guided, do-nothing citizens. Isn't it time we stand up? Suppose, Mr. and Mrs. America, that the next time you find yourself sitting in a block-long line waiting for high-price, limited-purchase gasoline, that you think of what you would like to tell people like Ron Sarasin, Abe Ribicoff or Lowell Weicker. Stop telling the gasoline station attendant or your coworker, he may be as complacent as you were. And when you finally leave the gas station and reach your 68-degree home perhaps you can put your frustrations into letter form and mail them to your favorite (or not so favorite) elected official.

Somewhere in your letter be sure to ask for an immediate roll-back of prices on our everyday necessities. If you don't do it soon you may wish you did. Yes, bread may cost 95 cents per loaf as some have predicted, but only if you allow it to be, only if you don't care, and if you continue to sit back and think your neighbor will do something about it, the price for that loaf of bread may be one dollar.

In closing I would like to ask the Editor of the Evening Sentinel to publish as a service to the public, the names and addresses of all congressmen and senators in the state of Connecticut. I further request that the Editor continue this practice until something definite is done with the present crisis in energy– human or otherwise.

ALFRED M. TORTORA,
Shelton.

BENEFITS TO CONSCIENTIOUS OBJECTORS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. WALDIE. Mr. Speaker, the conscientious objector has had a most difficult time in this country of freedom.

A man can follow his conscience, but often a price is demanded of him.

Certain men chose—according to law and a duly established legal procedure—not to serve their country by participating in a war. They chose to serve their country instead and according to law, by "alternate" service.

Now they are denied certain benefits offered to those who served in the military; almost as if alternate service is no service at all.

Perhaps there is an inequity here, as is so well pointed out in the following letter I received from a constituent:

THE SUPREME COURT JUSTICES*,
Supreme Court,
Washington, D.C.

DEAR SIRS: I have recently read of your decision regarding the withholding of benefits from conscientious objectors who have fulfilled their two years of alternative service. According to the account I read, you said that the aim of the benefit law is "to make military service more attractive and to aid in readjustments after the disruptive effects of active duty in the service."

It seems to me that there is no need

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* With the exception of Justice William O. Douglas, who was the one dissenter.

to make the military any more "attractive" than it already is. Aside from the obvious post-service benefits, the military person can look forward to (a) equal or better pay than most C.O.s will receive, (b) free room and board for the duration of their service, (c) free clothing, (d) free medical, dental, optical and psychiatric care, (e) use of commissary and PX facilities all over the world for themselves and their family members, (f) cut rates on airlines and trains, (g) allotments for wives, children, and other dependents, and (h) career training. Not bad for someone who doesn't even have to pay union dues.

As to the need for military people to readjust after the "disruptive effects" of active duty: may I remind you that thousands and thousands of military people never experience anything which might even remotely resemble combat. A friend spent three years in Germany, typing for six hours a day. A teacher of literature I know spent two years in France, chauffeuring a general from officers' clubs to night clubs to beaches to spas. A schoolmate of mine spent four years in England, making out payroll checks. Let us not be too ready to assume that every ex-military person is suffering from shell shock and terrible memories.

Now, what about the disruptive effects of having been a conscientious objector? Some of these effects are: (a) being ostracized by pre-military people, (b) being relocated for one's alternate service in a place as far from one's home as possible, (c) working for little or no money for two years, (d) being considered A.W.O.L. if one is fired from one's job for any reason, or if one quits an intolerable job before the two years are completed, and (e) being jeopardized in the job market because one was a "peace creep" instead of a soldier.

The main point of all this is that the United States Government says that two years alternative service performed by a conscientious objector in connection with the health, education or welfare of the United States is *equal* to two years military service, and yet C.O.s are *punished* for their religious and moral beliefs, despite performance of this supposedly "equal" service, by being denied their rightful benefits.

This is just another example of the government talking out of both sides of its mouth, and another example of peaceful, passive people being made targets for ridicule and theft of legal rights. I know whereof I speak since I have been living with a conscientious objector for six years.

VOTER REGISTRATION ACT OF 1974

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. RANGEL. Mr. Speaker, this morning the Congressional Black Caucus held a press conference to announce our unqualified support of H.R. 8053, the bill which will establish a system of post card registration for Federal elections.

Joining with the Congressional Black Caucus at this conference was Mr. Angel Almedina the Washington representative of the National Association for Puerto Rican Civil Rights. Mr. Almedina's statement was so noteworthy and eloquent in its support for this new registration system that I feel compelled to share it with my colleagues. I commend his statement to your attention:

COMMENTS ON THE REGISTRATION ACT OF 1974

(By Mr. Angel Almedina)

American voter participation in the electoral processes ranks among the lowest in the democratic nations of the world. The most advanced technological country of the world is also one of the most backward with regard to voter registration. Without an actively participating and well-informed electorate, this Nation is deprived of the foundation of the democratic spirit. The greater the participation and education of the electorate, the closer we come to the ideal of democracy.

It is highly appropriate that each session of Congress give birth to new reforms in the voter registration laws of this country. No session of Congress should pass without a review of these laws and the manner of their administration. If our national government does not set an example, we can hardly expect state and local governments to do better. If voter registration and participation is not a priority concern during the agenda of each Congress, the electorate will undoubtedly know that their active participation is a "non-priority."

Great strides have been made over the past generation towards the inclusion of the nation's adult population in the electoral processes. The youth vote and the voter rights of minorities indicates some of the advances. Nevertheless, as successive elections have demonstrated, voter registration of these sectors, as well as of the general electorate, continues to remain low. There are clearly many reasons and explanations for this circumstance.

One of the fundamental reasons rests in the manner, and in the quantity of eligible constituents that we reach through existing voter registration mechanisms. These mechanisms, like many other services, have not been able to keep up with the pace of urbanization and of the population explosion, as well as of the participation by new constitutents. In many areas of the country, voter registration laws, procedures, and administration, are extremely complex. In some instances, the laws, procedures, and administration are so entrenched, that the ordinary or average working man or woman, is confronted with unnecessary barriers, rather than needed opportunities.

The simplification of the voter registration procedures for federal elections through the establishment of a *supplementary* system whereby the electorate can *also* register to vote through the postal service, can make an effective contribution to increased participation.

Such a system needs to be viewed in the context of a supplementary system! Equally important is the need for modernizing the existing voter registration mechanisms. There appears to be a drastic need for expanding the number of registrars, and an equally drastic need for providing access to working people for registration during nonworking hours and during weekends. There is a need for increased information dissemination to the constitutents, to remind them of their rights and obligations as citizens, as well as of the appropriate deadlines for registration.

Both the proposed supplementary mass registration approach through the postal services, as well as the existing systems, are in need of requirements that would insure that peoples of non-English speaking origins and backgrounds are appropriately informed of their rights and obligations in their home language. The inclusion of appropriate language in the public law to insure that bilingual registration forms, instructions, and related information are provided in postal areas where there are high concentrations of non-English-speaking people, is highly desirable. Perhaps the Postal Services and the Bureau of Census should become involved in the selection of the neighborhoods on an annual basis, to determine the areas of high concentrations of the non-English-speaking. Similarily the establishment of appropriate advisory committees concerned with reviewing of and recommending changes in approaches towards implementing effective bilingual * * * an annual report to Congress, relative to this matter. A thorough system analysis of the management of the voter registration through the postal service should accompany the first few years of operation, to aid the postal service, as well as provide Congress with needed information.

As a Vietnam veteran, I believe it is appropriate to suggest that careful attention be given to the effective registration of servicemen, and that this matter be carefully studied, towards insuring within the next Congres, that all of our young servicemen have an opportunity to register and to receive extensive information.

Finally, it is our hope, that the proposed voter registeration changes be instituted at the earliest convenient date. The issue presented has been before us for quite some time now, and action is thus long overdue. The implementation of these changes will—we hope—open the doors for equally long overdue changes of benefit to the American citizens in general, and to particular groups.

We express our appreciation to the many dedicated people, including members of the Congressional Black Caucus, for their efforts to help reform the voter registration laws of the federal government. Likewise, we wish to note our appreciation to members of both parties for their dedication to these ends.

THE CASE FOR GUN CONTROL

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1974

Mr. HARRINGTON. Mr. Speaker, over the past few months, I have been receiving articles on gun control by Mr. James B. Sullivan, who is a board member of the National Council for a Responsible Firearms Policy.

Today, I would like to insert his paper entitled, "Public Protection From Weapons and Ammunition," which outlines and emphasizes the hazards handguns create in our society. Mr. Sullivan's paper reflects my own reasons for introducing the bill, H.R. 12989, which would effectively eliminate the handgun from public circulation.

It is only to be hoped that Congress will take action on this bill as swiftly as possible, before more people are needlessly killed by handguns.

Mr. Sullivan's paper follows:

PUBLIC PROTECTION FROM WEAPONS AND AMMUNITION

TRAGEDY

From 1964 through 1973 America suffered more than 95,000 gun murders, 100,000 gun suicides, 700,000 gun woundings and 800,000 gun robberies. In the last half of that decade gun murders rose 50 per cent over the first half, as did gun assaults; gun robberies rose 75 per cent. Gun murders of policemen rose 90 per cent. Our firearms violence rates are incomparably higher than the rates in Great Britain, West Germany, France, Sweden, Italy, and Canada—all of which require handgun licenses, which are not required in 42 of our states. United States overall murder rates are also much higher, and at least a third of thefts are found to be unreported.

COST

Gun owners share the unique American tax burden resulting from weapons crime and sometimes endure the death or disability therefrom. America pays up to $10,000 a year to jail a person for the misuse of an easily available $10 gun. Weapons crime also accounts for much of the cost of enforcement, justice, federal grants—now $900 million a year—welfare, insurance premiums, medical expenses, recuperation time waste, and business and personal property losses. The annual cost of weapons crime probably is well over $10 billion. It could be cut easier than the cost of food or fuel. Mostly hidden, crime taxes are not comprehended by taxpayers; they do know that the criminal pays his debt to society with their money.

OBLIGATION

Through government and a small minority, our society is heavily responsible for weapons crime by mental incompetents, drug addicts, alcoholics, former felons, convicted threateners, subversives, juveniles, etc., because it leaves guns, knives, etc., freely accessible to them. Safe owners should go with safe guns. Mankind is commanded not to kill or to steal. Normal people must try to remove the means for such misdeeds from abnormal people. Influential and public-spirited people must seek legislation to lighten the tax burden largely for the middle class and to lessen death and disability largely for the lower class. America must account for its slaughtering in steel—guns, knives, abortion instruments, carelessly driven vehicles. America must account for the fact that 40 per cent of its firearms fatalities are children aged one to 19. America must account for the loss of health, the use of blood plasma due to avoidable shootings and stabbings, and the waste of metals that provide weapons for the unfit.

PROTECTION

Society must be protected from the commission of crime as well as by the committal of convicts. A gun in dangerous hands in the home is as lethal as a concealed weapon on a dangerous person in the street. The range of reasons for Americans shooting and stabbing one another is appalling and barbaric. Protection from weapons in dangerous hands is as rightful as protection from bad or harmful drugs. The property right to own a gun must not nullify the right to life or other property. Many ex-felons and other unfit persons could be curtailed in the commercial or private purchase of weapons or ammunition or made liable for illegal possession, through licensing. Their sources in illegal transfers would risk prosecution. The gun group overestimates the cleverness and the education of the average criminal. Most criminals are small-timers without contacts or resources. To protect itself, the United States has greater need for controls due to weapons numbers, racial strife, crowded cities, ghetto life and para-military arsenals.

REGULATION

Regulating the ownership of lethal weapons should be parallel with gun-carrying permits and with accepted controls on poisons, narcotics, explosives, etc., as well as prosaic activities that involve fellow citizens. Fifty types of United States licensing have been counted. Independent polls show that 60 per cent of gun owners favor licensing.

FEDERAL CONTROL

The United States Supreme Court and the American Bar Association have said that there is no Constitutional barrier against federal firearms control. Federal cover is as legal and as appropriate as federal sentences for certain types of crimes. Open borders obviate a state's control of weapons from other states. State and local governments could go outside of a federal umbrella with their own restrictions.

CRIME EXPERTS

America should heed the counsel of its criminologists, police commissioners and psychologists, most of whom champion controls. Psychologists and crime experts say guns lead some types to crime. They say guns are more deadly, accurate, sensitive and impersonal than other weapons and are used illegally most often. Psychiatrists say that guns stimulate violent behavior.

SHORT-TERM REMEDIES

Short-term alternatives to weapons control—swift justice, mandatory penalties, stiffer sentences—overlook enforcement problems, preventive difficulties (murder in the home), the mental state of violators, the specter of ghetto life, current punishment in contrast with foreign moderacy, deterrent shortcomings, frequent withdrawals of charges, and justice and incarceration costs. Sentences harden rather than deter. Murder sentences are the most severe but potential murderers are generally unmindful of them. Only 20 per cent of serious crimes are cleared but prisoners are overcrowded. Juveniles need help, not isolation. In any case, there can be other reforms in addition to weapons control.

LONG-TERM REMEDIES

Long-term solutions for weapons crime—better social conditions, reformed rehabilitation programs, more mental treatment, more responsible child training—would delay the reduction of weapons crime for years.

SECURITY

Safeguarding of lethal weapons is more important than recording and protecting securities and automobiles. Guns unserviced, neglected and carelessly stored lead to fatal accidents, injuries and thefts. The home is the chief source of stolen weapons. Keeping of guns for protection or as heirlooms should be discouraged. They cause far more deaths and injuries to occupants by design or accident than apprehension of intruders. The frequent shootings of armed, alert policemen in public underscores the dubious defense provided by home weapons. Life is seldom in danger from intruders, who normally cannot be shot legally if there is no life threat. Losing property—especially if insured—is better than suffering wounds or death. Gun violence has increased with private arming. Reduced possession would be reflected in reduced violence, just as fewer vehicles on the highway due to fuel shortage has reduced accidents.

INCONVENIENCE

A minimum of inconvenience and a few dollars' worth of fees by hunters and others accustomed to regulations and form-filling would be a small sacrifice compared with years of misery, impairment of health, or death itself. Weapons control would be a blessing not a burden. Controls are not considered a burden around the world. Controls that some Americans think they can't live with would be better than the lack of controls that some of us may have to die with. We cannot isolate the dangerous unless we pass on all license applicants. The pledge of eligibility under the Gun Control Act of 1968 should be solidified with the proof of eligibility under licensing. Obtaining a permanent weapons-ammunition ownership license and presenting it for purchases or transfers would be more convenient than self-clearance, detailed recording or go-between mail orders for every commercial purchase.

CIVIL DEFENSE

The small arms civil defense designated in the Second Amendment has long since been superseded by state militias and modern military power. The Second Amendment reflects fear of a central standing army, not gun regulation, which was part of the colonies' European heritage. The Amendment has no qualifications for personal ownership. No President, Attorney General or Secretary of Defense has ever advocated citizen arming for protection, civil or private. The Bill of Rights does not provide absolute rights in speech, press, house privacy or real estate ownership.

LEGISLATION

I propose federal ownership requisites for state licensing to purchase, borrow or sell lethal weapons or transfer ammunition in person or by mail; state and local prerogatives on procurement procedures; a federal ban on cheap, non-sporting handguns; states' decision on the registration of guns and any participation in the FBI computer center for gun recoverability; state action on gun familiarity and safekeeping; a federal 30-day wait for all weapons acquisition; federal compensation for submitted handguns and for all guns of the disqualified; and a federal guarantee against arbitrary confiscation. These recommendations do not represent any other council board member.

CRIME WAR

Warring on weapons crime is even more important than fighting organized crime. Anything short of weapons control would be surrender on weapons crime. Without weapons control our citizens would continue to pay, bleed and die from such violence far more frequently than the rest of the industrialized world. Any American who does not live to see the day of weapons control will die as excessive weapons crime endures.

JAMES B. SULLIVAN,
Board Member, National Council for a Responsible Firearms Policy, Inc.

HOUSE OF REPRESENTATIVES—*Wednesday, March 13, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Come ye and let us go up to the mountain of the Lord; and He will teach us His ways and we will walk in His paths.— Isaiah 2: 3.

Eternal God, our Father, who hast opened the gates of a new day—we lift our hearts unto Thee in grateful praise for Thy goodness to us. We confess that in our enjoyment of Thy gifts we often forget the giver and because of the abundance of Thy blessings we fail to appreciate the greatness of Thy goodness. Help us to keep alive within us a continuous spirit of gratitude and to remember that though at times we do forsake Thee, Thou dost never forsake us.

Grant unto us and unto our people the realization that in these dark days of discouragement and disillusionment Thou art with us endeavoring to lead us in the ways of truth and give to each one of us the firm faith that right will triumph over wrong, goodness over evil, and love over hate.

Therefore, let us run with patience the

race that is set before us, looking unto Thee who art the God and Father of us all.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on March 7, 1974, the President approved and signed a bill of the House of the following title:

H.R. 10203. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 872. An act to facilitate prosecutions for certain crimes and offenses committed aboard aircraft, and for other purposes; and

S. 3066. An act to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance in support of community development activities, and for other purposes.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 80]

Alexander
Blatnik
Bolling
Brasco
Breckinridge
Burke, Calif.
Carey, N.Y.
Chisholm
Clark
Clay
Collier
Conyers
Derwinski
Diggs
Dingell
Esch
Fisher
Fraser
Gibbons
Gray
Hanna
Hansen, Wash.
Harsha
Hébert
Hogan
Holifield
Jarman
Kuykendall
McEwen
McKinney
Macdonald
Matsunaga
Mitchell, Md.
Mollohan
Murphy, N.Y.
Patman
Podell
Reid
Robison, N.Y.
Rooney, N.Y.
Staggers
Stark
Steiger, Ariz.
Stephens
Teague
Thompson, N.J.
Wilson, Charles, Tex.
Young, Ill.
Young, Tex.

The SPEAKER. On this rollcall 382 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

HON. ROBERT J. LAGOMARSINO

Mr. BOB WILSON. Mr. Speaker, I ask unanimous consent that the gentleman from California, Mr. ROBERT J. LAGOMARSINO, be permitted to take the oath of office today. His certificate of election has not arrived but there is no contest and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LAGOMARSINO appeared at the bar of the House and took the oath of office.

COMPOSITION OF COMMITTEE ON ARMED SERVICES AND COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. O'NEILL. Mr. Speaker, I offer a resolution (H. Res. 979) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 979

Resolved, That during the remainder of the Ninety-third Congress, the Committee on Armed Services shall be composed of forty-four members; and

The Committee on Interstate and Foreign Commerce shall be composed of forty-four members.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LET US NOT GRANT AMNESTY

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, in view of the current congressional hearings on proposals to grant amnesty to the draft evaders and deserters during the Vietnam war, I would like to reemphasize my own personal views on this matter.

In fairness to those who served in answer to their Nation's call, many of whom were seriously wounded, many of whom were held prisoner, and many who gave their life, I just do not understand how we can even consider the granting of amnesty. This is especially true in light of the fact that over 1,000 U.S. servicemen are still listed as missing in action in Southeast Asia.

A person who breaks the law must answer for his actions. This is the firm principle upon which our system of justice in America is based. Those who fled America must understand that if they return, they will still be subject to military service or prison, depending on the outcome of their trials.

MAJORITY LEADER THOMAS P. O'NEILL, JR., SAYS WINDFALL PROFITS TAX IS NEEDED

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, the gasoline lines may be diminishing, but the Nation still badly needs a windfall profits tax.

The fact is that although the supply pinch has eased, the price of gasoline at the pumps has doubled.

President Nixon vetoed a bill with an oil price rollback. That makes it all the more important that Congress act promptly on a windfall profits tax. We need to make sure that, first, the oil companies put their extra income into new oil exploration and development, and, second, that producers do not benefit enormously and unfairly at the expense of the people.

The oil companies have been spending a lot of money on advertising, trying to put across the idea that they are not to blame for the gasoline shortage. But the big squeeze on supply followed by the steady easing up can only give ammunition to those who think the oil companies are manipulating the fuel crisis to their own advantage.

That would be a serious matter because the Nation has taken a lot of punishment—long lines at the gas pumps, people worried about losing their jobs, States fighting each other to get fuel, truckers striking.

We need to make sure that there is no profiteering out of a situation like that, and the best way is a windfall profits tax and perhaps some other revisions in tax law.

The Ways and Means Committee is working on such legislation, and I eagerly await the report of that committee.

THE ECONOMIC STABILIZATION ACT'S DEATH CERTIFICATE

(Mr. GUYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUYER. Mr. Speaker, I rise to sign the death certificate for the Economic Stabilization Act which will expire on April 30, 1974. I will not only be willing to certify the demise of this unfortunate creature, but will volunteer to attend the funeral services and act as a pallbearer.

I can speak for the people of my district and join in the sentiments of our neighbors across this country in reaching the conclusion that now is the time for the end of this agonizing program—now is the time for phaseout.

These well-intended economic controls have not only not worked, they have led to shortages, disruptions, business and consumer hardships, and devastating aggravations of our Nation's economy.

America stands first in the world today because we have a system of free enterprise that provides greater blessings to more people than any other in the history of mankind.

It is time to take Government's hand out of our pockets and business and consign the body of the Economic Stabilization Act to eternal rest.

FOOD STAMPS GIVE STRIKERS UNFAIR ADVANTAGE

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKINSON. Mr. Speaker, we are all aware of the West Virginia coal miner's strike and the effect it is beginning to have on other segments of our economy such as the steel industry. The coal miners feel they should be exempt from a law prohibiting motorists from buying gasoline if their gas tanks are more than one-quarter full. Although I understand the hardship these coal miners are facing, they are not unlike a number of people in this country who have been inconvenienced by the energy crisis, and I do not feel their cause is worth sacrificing the economy of our Nation.

On the news this morning, there was a very interesting item on the coal strike which should be brought to the attention of every Member of this House. ABC Reporter Steven Geer talked to a striking miner, Cledith White, in Madison, W. Va., and Mr. White said in answer to a question about how long the strikers would stay out:

> As long as they put out food stamps and we can get them, we'll stay right out.

I have stated in the past and will continue to hold to the belief that the giving of food stamps to strikers interferes with the collective bargaining system and gives the strikers an unfair advantage in the process. This is a prime example of the unbalance that exists because of the availability of food stamps to strikers. Our Nation, in essence, is on the other side of the bargaining table from these strikers, and in the words of one of the strikers himself, they will wait us out—no matter what the cost to the Nation as a whole—in order to get what they want as long as they can get food stamps.

BOB LAGOMARSINO

(Mr. DON H. CLAUSEN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. DON H. CLAUSEN. Mr. Speaker, I take this opportunity to welcome BOB LAGOMARSINO to the House and express my congratulations for his recent victory in a special election.

He certainly has a big pair of shoes to fill for the legacy left by Chuck Teague is large indeed. However, I know BOB has all the qualifications, experience, and talent to become an outstanding Member of this body.

I look forward to working closely with him and to the contributions he is going to make.

TECHNOLOGY IN THE NUCLEAR AGE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93–239)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

Technology in the Nuclear Age has become capable of virtually global devastation. We are thus called upon as never before in the history of American diplomacy—both by our traditions and by unprecedented responsibilities—to assume a role of leadership in seeking international arms restraints. This is a most important element of that structure of peace which is the broader goal of our foreign policy.

The coordinating instrument for this effort within our Government is the U.S. Arms Control and Disarmament Agency, now entering its fourteenth year. It has been the policy of my Administration to strengthen this Agency and to equip it for the essential role it must play in promoting our national security.

The year 1973 was a time of sustained effort and continued progress in arms control, building upon earlier achievements and laying the ground for future agreements which will be of utmost importance for our security and well-being.

It is with deep satisfaction in our continuing progress that I transmit to the Congress this thirteenth annual report of the U.S. Arms Control and Disarmament Agency.

RICHARD NIXON.

THE WHITE HOUSE, *March 13, 1974.*

PROVIDING FOR CONSIDERATION OF H.R. 12341, SPECIAL AUTHORIZATION FOR TRANSFER OF STATE DEPARTMENT PROPERTY IN VENICE

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 954 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 954

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12341) to amend the Foreign Service Buildings Act, 1926, to authorize sale of a property in Venice to Wake Forest University. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 954 provides for an open rule with 1 hour of general debate on H.R. 12341, a bill to amend the Foreign Service Buildings Act of 1926.

H.R. 12341 permits the Department of State to sell to Wake Forest University the former consulate office and residence in Venice, Italy.

The consular office building in Venice was acquired in 1952 at a cost of $76,912. During its occupancy by the United States capital improvements amounting to $60,085 were made to the property, bringing the total U.S. investment to $136,997. The consulate was closed in 1963 and its functions transferred to the consulate in Milan. Since 1971 the property has been leased to Wake Forest University for a nominal sum.

Wake Forest operates a regular two-semester academic term in Venice. The Department of State foresees no reopening of the consulate in the near future and, therefore, has no need to retain the property. The bill provides that should Wake Forest University wish to dispose of the property, it must first be offered to the Secretary of State with the right to repurchase it at the original sale price of $250,000, plus the cost of any improvements.

Mr. Speaker, I urge the adoption of House Resolution 954 in order that we may discuss and debate H.R. 12341.

Mr. DEL CLAWSON. Mr. Speaker, House Resolution 954 is the rule on H.R. 12341, special authorization for transfer of State Department property in Venice. This bill will be considered under an open rule with 1 hour of general debate.

The purpose of H.R. 12341 is to authorize the State Department to sell to Wake Forest University the former consulate office and residence in Venice, Italy.

The bill will result in a return to the United States of $250,000. The building was acquired in 1952 at a cost of $76,912 and capital improvements costing $60,085 were made to the property. The consulate was closed in 1963.

Mr. Speaker, I urge the adoption of this rule.

Mr. Speaker, I have no further requests for time.

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 12465, FOREIGN SERVICE BUILDINGS ACT SUPPLEMENTAL AUTHORIZATION

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 955 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 955

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12465) to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations for the fiscal year 1974. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from California (Mr. DEL CLAWSON) pending which I yield myself such time as I may consume.

I now yield such time as he may consume to the able majority leader.

EASTER RECESS

(By unanimous consent, Mr. O'NEILL was allowed to proceed out of order.)

Mr. O'NEILL. Mr. Speaker, the House will be in adjournment from the close of business on Thursday, April 11, until noontime Monday, April 22, for the annual Easter holidays. This has been discussed with the leadership on the Republican side and the Speaker has also spoken with the chairman of the Committee on the Judiciary and has been assured that in no way will this vacation or these holidays prevent the work of the Committee on the Judiciary. In other words, the Committee on the Judiciary will continue its proceedings.

The resolution for these holidays will include the right of the leaders to call the House back into session in the same manner as we have been doing in the recent past. The minority leader of the House and the minority leader of the Senate, the majority leader of the House and the majority leader of the Senate or any two combinations will be able to call the House back in session if there is any emergency.

So I do want to announce that we will leave at the conclusion of business Thursday, April 11 and we will return at noontime Monday, April 22.

Mr. PEPPER. Mr. Speaker, House Resolution 955 provides for an open rule with 1 hour of general debate on H.R. 12465, a bill to amend the Foreign Service Buildings Act of 1926.

The bill authorizes an additional sum for the buildings program for the fiscal year 1974. The additional appropriation is required, because of inflation and the devaluation of the dollar.

H.R. 12465 authorizes the appropriation of $1,366,000 for each of the fiscal years 1974 and 1975 for the operating account and $154,000 in local currency equivalent under the capital account for fiscal year 1974.

Mr. Speaker, I urge adoption of House Resolution 955 in order that we may discuss and debate H.R. 12465.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rule on H.R. 12465, the Foreign Service Building Act, is an open rule with 1 hour of general debate.

The purpose of H.R. 12465 is to authorize an additional $1,366,000 for each of the fiscal years 1974 and 1975 for the Foreign Service buildings program.

This extra funding is necessary because of inflation and the devaluation of the dollar.

Mr. Speaker, I urge the adoption of this rule.

I have no further requests for time and I yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 12466, STATE DEPARTMENT SUPPLEMENTAL AUTHORIZATION

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 956 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 956

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12466) to amend the Department of State Appropriations Authorization Act of 1973 to authorize additional appropriations for the fiscal year 1974, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment recommended by the Committee on Foreign Affairs now printed in the bill on page 3 beginning at line 4, and all points of order against said amendment for failure to comply with the provisions of clause 7, Rule XVI, are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may be adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Florida is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 956 provides for an open rule with 1 hour of general debate on H.R. 12466, a bill to amend the Department of State Appropriations Authorization Act of 1973 to authorize additional appropriations for the fiscal year 1974.

House Resolution 956 provides that it shall be in order to consider the amendment recommended by the Committee on Foreign Affairs now printed in the bill on page 3 at line 4, and all points of order against the amendment for failure to comply with the provisions of clause 7, rule XVI of the Rules of the House of Representatives are waived—the germaness provision.

H.R. 12466 provides a new authorization in the amount of $15.7 million. It will be allocated and devoted to the areas of administration of foreign affairs, openings of diplomatic missions, allowance costs for the Law of the Sea Office, and increases in the salary, pay, retirement and other employee benefits.

Mr. Speaker, I urge the adoption of House Resolution 956 in order that we may discuss and debate H.R. 12466.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 956 provides for the consideration of H.R. 12406, State Department supplemental authorization for fiscal year 1974, under an open rule with 1 hour of general debate. In addition, the rule waives points of order against the committee amendment for failure to comply with clause 7, rule XVI, which is the rule dealing with germaneness.

The purpose of H.R. 12466 is to provide a supplemental authorization for the State Department for the balance of fiscal year 1974.

This bill authorizes $15,700,000 which will be used, among other things, to open diplomatic missions in East Berlin and the Mongolia Peoples Republic and offset extraordinary costs incurred as a result of the Middle East crisis.

The committee report includes a letter from the Department of State proposing legislation similar to this.

Mr. Speaker, I urge the adoption of this rule.

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SPECIAL AUTHORIZATION FOR TRANSFER OF STATE DEPARTMENT PROPERTY IN VENICE

Mr. HAYS. Mr. Speaker, I call up the bill (H.R. 12341) to amend the Foreign Service Buildings Act, 1926, to authorize sale of a property in Venice to Wake Forest University, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 12341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Foreign Service Buildings Act

1926 (22 U.S.C. 295), is amended by adding the following paragraph as subsection (i):

"(i) The Secretary of State is hereby authorized to sell, by quitclaim deed, to Wake Forest University the former consulate office building and residence at Rio Torre Selle and Canal Grande, in Venice, for the sum of $250,000, subject to such terms and conditions as the Secretary shall prescribe not inconsistent with the provisions of this Act.".

(a) Wake Forest University shall not lease or otherwise alienate this property except in accordance with the terms of this subsection.

(b) If the university determines that the property is no longer required and wishes to dispose of it, the university will offer the property, by quitclaim deed, to the Secretary of State at a price of $250,000, granting a one-year option at that price, and may only dispose of the property to a third party after written notice from the Secretary of State that the Department of State does not wish to exercise the option, or after the expiration of the year's option without its being exercised by the Secretary of State. In the event the Secretary of State shall exercise the option, the Secretary shall have one year from the date of exercise in which to make settlement. If the university has made capital improvements to the property during its ownership, such improvements shall be evaluated by the Department of State, and paid to the university in addition to the $250,000 price stated above in compensation therefor.

(c) Wake Forest University shall provide suitable office space for United States Government employees on official business in Venice at any time such space is requested by the American Embassy in Rome or the American Consulate in Milan, in accordance with arrangements to be determined by the parties prior to transfer of title to the aforesaid property.

With the following Committee amendment:

1. Strike out all after the enacting clause and insert in lieu thereof the following:
That (a) the Secretary of State is hereby authorized to sell, by quitclaim deed, to Wake Forest University the former consulate office building and residence at Rio Torre-Selle and Canal Grande, in Venice, for the sum of $250,000, subject to such terms and conditions as the Secretary shall prescribe not inconsistent with the provisions of the Foreign Service Buildings Act, 1926. Such $250,000 shall be applied or held pursuant to section 9(b) of such Act of 1926.

(b) Wake Forest University shall not lease or otherwise alienate this property except in accordance with the terms of this Act.

(c) If the university determines that the property is no longer required and wishes to dispose of it, the university will offer the property, by quitclaim deed, to the Secretary of State at a price of $250,000, granting a one-year option at that price, and may only dispose of the property to a third party after written notice from the Secretary of State that he does not wish to exercise the option, or after the expiration of the year's option without its being exercised by him. In the event the Secretary shall exercise the option, he shall have one year from the date of exercise in which to make settlement. If the university has made capital improvements to the property during its ownership, such improvements shall be evaluated by the Secretary, and paid to the university in addition to the $250,000 price stated above in compensation therefor.

(d) Wake Forest University shall provide suitable office space for United States Government employees on official business in Venice at any time such space is requested by the American Embassy in Rome or the American Consulate in Milan, in accordance with arrangements to be determined by the parties prior to transfer of title under this Act.

Mr. HAYS (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read, and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAYS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, it is not often that this body has an opportunity to vote on a bill that will return money to the United States.

H.R. 12341 does just that. It is a simple measure. In 1952, our Government purchased a building in Venice to be used as the residence and office of our consul. It cost the Government $76,912. During the 11 years that it was used for a Government facility we spent an additional $60,085 to improve the property. In total, we invested $136,997 in that property.

In 1963, the consulate in Venice was closed and its functions were transferred to the consulate in Milan. The property was unoccupied until 1971 when Wake Forest University, an outstanding American educational institution, leased it.

The Government has no plans to reopen a consulate in Venice. Wake Forest has made an attractive offer of $250,000 to purchase the property. This bill authorizes the sale to the university. As a protection to the Government it is stipulated that should Wake Forest wish to dispose of the property, it must first offer it to the United States at the original sale price of $250,000 plus the cost of any improvements it may have made during the time it occupied the property. Only after a rejection by our Government can it offer the property to a third party. During the period that the university occupies the property it will make available to our embassy in Rome or our consulate in Milan adequate office space for our diplomatic or consular officials who must conduct business in Venice.

Wake Forest University has been using the property, and will continue to use it, for its programs in art history and criticism, Renaissance history, and international relations. I can think of no more suitable place to conduct such studies than in Venice with its rich cultural and intellectual history. While I have not had an opportunity to visit Venice, I have had enthusiastic letters from prominent Italian scholars who endorse the program that Wake Forest is carrying out there. These letters, along with letters and statements from prominent North Carolinians, have been included in the hearings.

Mr. Speaker, I urge the House to pass H.R. 12341.

Mr. Speaker, the gentleman from Wisconsin (Mr. THOMSON), the ranking member of the subcommittee, may wish to say a word on the bill.

Mr. THOMSON of Wisconsin. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I understand that in addition to the profit the Government will make on this transaction, arrangements have been made with Wake Forest University so that the State Department will have offices available in this building at any time they desire to make use of them.

Mr. Speaker, I support this legislation to authorize sale of the former consulate office building and residence in Venice, Italy to Wake Forest University.

The consulate was closed in 1963 and its functions transferred to the consulate in Milan. Since 1971 the property has been leased to Wake Forest University, which operates a regular academic program, emphasizing art history and criticism, international relations, and Renaissance history.

Since the Department of State foresees no need to retain the property, its sale to Wake Forest University is a wise decision, both for the U.S. Government and the university.

I urge passage of H.R. 12341.

Mr. BROYHILL of North Carolina. Mr. Speaker, I rise in support of H.R. 12341, authorizing sale of a State Department property in Venice to Wake Forest University.

This bill would be of great benefit to the U.S. Government, as well as to Wake Forest University. The university has used and maintained this facility for a number of years and has added substantial improvements to the property. I feel it is appropriate to allow the sale of the property to the university under the terms stated in the bill. By this action, the interests of the U.S. Government would be maintained, as the Government would have first right of refusal should Wake Forest decide to sell the property. In addition, the university would be required to provide office space for U.S. Government employees on official business as needed.

As a North Carolinian, I am most familiar with the high academic standing and educational achievements of Wake Forest University and its Venice program. I feel the United States has been well represented in Italy by Wake Forest students and faculty. Passage of H.R. 12341 would allow this fine relationship to continue, and I urge its approval by the House of Representatives.

Mr. PREYER. Mr. Speaker, I rise today to speak in favor of H.R. 12341—an act to facilitate the sale of the former Foreign Service consulate building in Venice to Wake Forest University of North Carolina. Until 1966, this building well served the United States as a bridge between Italy and America. It was vacated in 1966 when its work was moved to Milan. Since 1971 Wake Forest University has been using the building for their overseas study program. Once again this building represents our country in the best of ways: Expansion of knowledge and awareness between people.

Venice is a beautiful city of pivotal historical significance in art, renaissance history, and international relations. Wake Forest now operates a regular two-semester academic term in Venice, presently with 97 students and 5 faculty. A summer study program for faculty members is offered to supplement their education. The program is also open to other colleges and universities; four institutions have already participated. The students and faculty have made significant contributions to basic Italo-American relations. H.R. 12341 allows Wake Forest to continue this exchange of knowledge.

I ask that H.R. 12341 be approved. In doing so, we will reaffirm our high dedication to education and especially to the strengthening of ties between our country and others. My congratulations go to Wake Forest University for their program in Venice. I hope they will have an even more successful program in the years to come.

Mr. DERWINSKI. Mr. Speaker, I, too, support H.R. 12341. The proposal of the Department of State to sell its former consulate office building and residence in Venice to Wake Forest University makes sense.

The consulate building is no longer used by the Department of State. It has been leased by Wake Forest University which now wishes to buy the property, while agreeing to provide suitable office space for U.S. Government employees on official business.

This proposal will save money for the taxpayer while assuring any future needs we may have for space.

We should approve this legislation.

Mr. MIZELL. Mr. Speaker, I rise in support of H.R. 12341, which authorizes the sale of the former consulate office building and residence in Venice to Wake Forest University.

As stated in the committee report, the consular office building in Venice was acquired by the Government in 1952 at a cost of $76,912. During its occupancy by the United States, capital improvements amounting to $60,085 were made to the property. Thus, the United States has invested $136,997. The consulate was closed in 1963, and since 1971 the property has been leased to Wake Forest University for a nominal sum.

The legislation provides that Wake Forest University will purchase the building for $250,000, and the university has already invested $42,000 in improvements and furnishings.

Wake Forest University is in the city of Winston-Salem, which I represent, and I urge my colleagues to vote for passage of this legislation.

The **SPEAKER** pro tempore (Mr. ROSTENKOWSKI). The question is on the committee amendment.

The committee amendment was agreed to.

Mr. HAYS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The **SPEAKER** pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER** pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MONTGOMERY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 402, nays 0, answered "present" 1, not voting 29, as follows:

[Roll No. 81]

YEAS—402

Abdnor
Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Boggs
Bolling
Bowen
Brademas
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Devine
Dickinson
Diggs
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Harrington
Harsha
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
Kluczynski
Koch
Kuykendall
Kyros
Lagomarsino
Landgrebe
Landrum
Latta
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Mills
Minish
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murtha
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stokes
Stratton
Stubblefield
Studds
Sullivan
Symington
Symms
Talcott
Taylor, N.C.
Teague
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—0

ANSWERED "PRESENT"—1

Broyhill, N.C.

NOT VOTING—29

Alexander
Blatnik
Boland
Brasco
Breckinridge
Carey, N.Y.
Collier
Derwinski
Dingell
Fisher
Fraser
Hansen, Wash.
King
Leggett
Lujan
McEwen
Mitchell, Md.
Moss
Murphy, N.Y.
Patman
Podell
Robison, N.Y.
Rooney, N.Y.
Stephens
Stuckey
Taylor, Mo.
Thompson, N.J.
Wilson, Charles, Tex.
Young, Ill.

So the bill was passed.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Fraser.

Mr. Rooney of New York with Mr. Blatnik.

Mr. Stephens with Mr. Collier.

Mr. Carey of New York with Mr. Stuckey.

Mr. Moss with Mr. Dingell.

Mr. Mitchell of Maryland with Mr. Lujan.

Mr. Murphy of New York with Mr. Robison of New York.

Mr. Breckinridge with Mr. Fisher.

Mr. Brasco with Mr. McEwen.

Mr. Boland with Mr. King.

Mrs. Hansen of Washington with Mr. Podell.

Mr. Charles Wilson of Texas with Mr. Taylor of Missouri.

Mr. Leggett with Mr. Young of Illinois.

Mr. Alexander with Mr. Derwinski.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to authorize sale of a former Foreign Service consulate building in Venice to Wake Forest University."

A motion to reconsider was laid on the table.

FOREIGN SERVICE BUILDINGS ACT SUPPLEMENTAL APPROPRIATION

Mr. HAYS. Mr. Speaker, I call up the bill (H.R. 12465) to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations for the fiscal year 1974, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 12465

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (g) of section 4 of the Foreign Service Buildings Act, 1926 (22 U.S.C. 295), is amended—

(1) by striking out "$590,000" in subparagraph (1)(A) and inserting in lieu thereof "$631,000";

(2) by striking out "$160,000" in subparagraph (1)(C) and inserting in lieu thereof "$204,000";

(3) by striking out "$2,218,000" in subparagraph (1)(E) and inserting in lieu thereof "$2,287,000";

(4) by striking out "$45,800,000" and "$21,700,000" in paragraph (2) and inserting in lieu thereof "$48,532,000" and "$23,066,000", respectively.

Mr. HAYS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, when I became chairman of the Subcommittee on State Department Organization and Foreign Operations in 1957, one of the first items that concerned me was the casual way that the Executive and the Congress handled the properties owned or leased by the Government overseas.

I have directed my efforts since then to bringing some kind of order and organization to this situation. Today we have some 1,600 pieces of property—houses, office buildings, apartments, garages, and warehouses—scattered in 270 posts. Some we own and some we lease. As old buildings deteriorate beyond repair or new posts are opened that require facilities, the Department of State has to meet the needs not only of the Department but of other civilian agencies of the Government. I can say without contradiction that over the last decade both the Executive and the Congress have cooperated to achieve maximum results at minimum expenditures of public funds.

The buildings program has two accounts, both of which are amended by this bill. The first is the capital account that deals with the acquisition of properties. The second is the operating account that is used for repairs, improvements, and maintenance of properties we have.

Instead of a blanket authorization for these accounts, I have always insisted on a 2-year authorization. That is a period long enough to permit the Department to do some advanced planning and enable Congress to keep abreast of how the funds are being used.

Last year Congress passed a 2-year authorization. We voted the funds for the capital account on a geographic basis. Paragraphs 1, 2, and 3 of this bill permit the Department to use some of the fiscal year 1975 authorizations this fiscal year—specifically $154,000—not for the expenditure of dollars abroad but for the purchase of local currency that we own. This is a bookkeeping transaction that Congress devised to keep some control over the use of our local currencies. The shift of authorization from fiscal year 1975 to fiscal year 1974 will enable the Department to complete residences and staff housing in Tunis, Yugoslavia, Poland, and India, all countries where the United States owns excess local currencies.

The only additional authorization provided by this bill is for the operating account. When the Department presented its case last year, it was aware that inflation abroad and devaluation would require an increase but it was not then prepared to give the committee specific amounts. Rather than authorize a blanket sum, I told them to come back. Since then it has made a post-by-post survey and is requesting in this bill additional authorizations of $1,366,000 for each of the 2 fiscal years. The costs of local materials and of local salaries have been mounting more rapidly abroad than at home.

These funds, as I indicated earlier, are to maintain, repair, and improve the property we have abroad. Last year it was estimated that such property had a capital value of $310 million but the current market value would be at least double, more likely triple, that figure. Anyone familiar with home maintenance or repairs in this country knows the importance of keeping real property in first-rate condition.

Mr. Speaker, I urge the House to pass H.R. 12465.

Mr. THOMSON of Wisconsin. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, this legislation is needed by the Foreign Service buildings program as a result of inflation and devaluation of the dollar.

An additional authorization of $1,366,000 is required for the operating account for each of the fiscal years 1974 and 1975, if the Department of State is to maintain and operate the hundreds of pieces of property owned by our Government abroad both efficiently and in a way that will maintain and increase their value.

This legislation is a good investment in our Foreign Service buildings program. It should be approved.

Mr. DERWINSKI. Mr. Speaker, I would like to join in the expression of support for H.R. 12465. This legislation is obviously needed if the Foreign Service buildings program of the Department of State is to continue to represent the United States abroad in an effective and efficient manner. Our Government owns a great deal of valuable property which must be maintained properly so that it will not depreciate.

We should approve this legislation.

Mr. HAYS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time and passed and a motion to reconsider was laid on the table.

STATE DEPARTMENT SUPPLEMENTAL AUTHORIZATION

Mr. HAYS. Mr. Speaker, I call up the bill (H.R. 12466) to amend the Department of State Appropriations Authorization Act of 1973 to authorize additional appropriations for the fiscal year 1974, and for other purposes, and ask unanimous consent that the bill will be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 12466

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORIZATION OF APPROPRIATIONS

SECTION 1. Section 2(a)(1) of the Department of State Appropriations Authorization Act of 1973 (87 Stat. 451), providing authorization of appropriations for the Administration of Foreign Affairs, is amended by striking out "$282,565,000" and inserting in lieu thereof "$288,968,000".

SEC. 2. Section 2(a)(2) of such Act (87 Stat. 451), providing authorization of appropriations for International Organizations and Conferences, is amended by striking out "$211,279,000" and inserting in lieu thereof "$212,777,000".

SEC. 3. Section 2(a)(3) of such Act (87 Stat. 451), providing authorization of appropriations for International Commissions, is amended by striking out "$15,568,000" and inserting in lieu thereof "$12,528,000".

SEC. 4. Section 2(a)(4) of such Act (87 Stat. 451), providing authorization of appropriations for Educational Exchange, is amended by striking out "$59,800,000" and inserting in lieu thereof "$57,170,000".

SEC. 5. Section 2(b)(1) of such Act (87 Stat. 451), providing authorization of appropriations for increases in salary, pay, retirement, or other employee benefits authorized by law, is amended by striking out "$9,328,000" and inserting in lieu thereof "$16,711,000".

SEC. 6. Section 2(b)(2) of such Act (87 Stat. 451), providing authorization of appropriations for additional overseas costs resulting from the devaluation of the dollar, is amended by striking out "$12,307,000" and inserting in lieu thereof "$9,905,000".

SEC. 7. Section 2(c) of such Act (87 Stat. 451), providing authorization of appropriations for protection of personnel and facilities from threats or acts of terrorism, is amended by striking out "$40,000,000" and inserting in lieu thereof "$20,000,000".

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

SEC. 8. Section 9 of such Act (87 Stat. 453), providing for an additional Assistant Secretary to head the Bureau of Oceans and International Environmental and Scientific Affairs, is amended by inserting "(a)" immediately after "SEC. 9." and by adding at the end thereof the following new subsections:

"(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

" '(99) Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State.'

"(c) Paragraph (109) of section 5316 of title 5, United States Code, relating to the Director of International Scientific Affairs, Department of State, is repealed.".

With the following committee amendments:

1. Page 3, immediately after line 4, insert the following:

INTERNATIONAL COMMITTEE OF THE RED CROSS

SEC. 8. (a) The Act entitled "An Act to authorize a contribution by the United States to the International Committee of the Red Cross", approved October 1, 1965 (79 Stat. 901), is amended by striking out "$50,000" and inserting in lieu thereof "$500,000".

(b) The amendment made by subsection (a) shall apply with respect to contributions to be made commencing in 1974.

2. Page 3, line 14, strike out "SEC. 8." and insert in lieu thereof "SEC. 9."

The committee amendments were agreed to.

Mr. HAYS. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, H.R. 12466, a bill for a supplemental authorization for the Department of State, is an unusual bill in that it reduces some authorization already given the Department and increases others.

As Members know, 2 years ago Congress took away the open-ended authorization for the Department and insisted on "periodic" authorizations—which actually have been annual authorizations. The authorizations are on a line-item basis for the principal programs and activities of the Department. But the line-items in the authorization bill are not the same as the line-items in the State appropriation bill. A number are funded under other authorization or appropriation measures. Hence a simple comparison of the two acts is not possible.

Comparing only those items in the authorization law with those that also appear in the appropriation law for State shows that for the current fiscal year the authorizations exceeded the appropriations by $41.2 million. What the Department is doing in this bill is rescinding those authorizations that are in excess of the appropriations and that are not needed for the current fiscal year. These recissions amount to $28 million.

On the other hand, the Department does need $15.3 million to meet requirements that have arisen since the original authorization bill was passed last fall. The result of these modifications is a net reduction of $12.7 million in authorizations. The two major increases are in the category called administraiton of foreign affairs and in salary benefits.

Our Government has taken a number of new initiatives that come under the heading administration of foreign affairs. Chief among these is the planned opening of three new posts in East Berlin, Mongolia, and New Guinea. Events in the Middle East have also necessitated new obligations. It is planned to increase our representation in the lower Persian Gulf states. The Middle East crisis has not only called for large outlays for travel to support the efforts of the Secretary of State but has resulted in increased per diem and overtime for clerks, communicators, and security personnel. In that area we have set up special interest sections in Cairo and Damascus to facilitate the work of the Secretary. In fact, in the last few days we have resumed diplomatic relations with Egypt. In Vietnam the various civilian agencies have sharply reduced their personnel. The Department has had to take up the slack in economic activities, and in continued reporting on the ceasefire agreements. This increase in State responsibilities has resulted in the need for additional personnel in that country. All of these developments add $6.4 million to this bill.

Last October the salaries of Government employees were increased by Executive order. For the Department this means an additional $7.4 million which is included in this bill. This is a matter over which the Department has no control.

The committee made one addition to the Executive request. It increased the authorization for the International Committee of the Red Cross from $50,000 to $500,000—an increase of $450,000. For more than a century this organization has devoted its efforts to humanitarian enterprises. It was of particular assistance to our government in Vietnam where it aided and protected American POW's and civilians detained by Communist forces in Indochina. In many situations it is the only agency permitted to enter and provide timely relief in politically sensitive areas. The modest increase in funds which this bill provides represents a sound investment in promoting its international activities.

Mr. SPEAKER. I urge the Members to support the passage of H.R. 12466.

Mr. THOMSON of Wisconsin. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I support this supplemental authorization of appropriations for the Department of State for fiscal year 1974.

As noted in the committee report, it adjusts sums in the various categories of authorizations contained in the Department of State Appropriations Authorization Act of 1973. Some of the categories are increased; others are decreased. For example, an increased authorization is provided for administration of foreign affairs, including the opening of several diplomatic missions and expanded commercial representation. Increased authorizations are also needed for international organizations and conferences and to cover the costs of pay increases.

At the same time reductions were authorized for international commissions, and the category providing for additional overseas costs.

These amended authorizations will permit the Department to request supplemental appropriations of $15.7 million.

Mr. Speaker, I urge approval of this legislation.

Mr. GROSS. Mr. Speaker, I move to strike the necessary number of words.

Mr. Speaker, this bill is something of a now-you-see-it and now-you-don't presentation. Evidently the State Department was overfunded in the matter of authorizations in previous authorization bills, so we are told that this is a decrease in spending. If it is a decrease, it is a paper cut and nothing else, because the bill, according to the report, on page 3 calls for an additional $28,800,000 as a supplemental appropriation. No matter how the figures are juggled with respect to previous authorization of funding, this is how it comes out.

Mr. HAYS. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. HAYS. Let me say to the gentleman that as chairman of the subcommittee I could plead guilty to the fact we gave them more money in the authorization than they were given in the appropriations bill and apparently more money than they are able to get by with. The gentleman is right. It is a paper cut, but the actual increase over the appropriation will be $15.7 million and the decrease is still less than was authorized last year. In short it is an increase over the appropriation but a decrease over last year's authorization.

Mr. GROSS. Mr. Speaker, I will say to my friend from Ohio that we ought to be more careful in the future about authorizing legislation. This money could very well have gone down the drain somewhere. I am glad it has not vanished, but it could have.

Mr. HAYS. Mr. Speaker, will the gentleman yield further?

Mr. GROSS. I am glad to yield to the gentleman.

Mr. HAYS. I think the gentleman knows I have a reputation around here for being a little bit on the miserly side. Some national magazine wrote an article—I am not bragging about it—but they called me Chairman Skinflint, which seems to indicate that I am a little cautious.

I have found in my years as a subcommittee chairman that sometimes if we have people on whom we can rely and we give them the amount of money they ask for on the understanding they will be careful with it and return some, that we get better cooperation than we do trying to cut them down to the very marrow of the bone.

I might say to the gentleman that I had such assurance from the previous Secretary of State, Mr. ROGERS, whom I consider one of the most honorable men to serve in any capacity.

I have a continuing assurance from the present Secretary of State, Mr. Kissinger, whom I also find is a man of his word.

Let me say to the gentleman, if it had been the gentleman from the U.S. Information Agency I would not have this confidence, because I would not believe they would use this money so carefully and properly.

As the gentleman knows, we did cut down substantially last year, so the only excuse I can say is that we have some confidence in the Department and they have proved by their husbanding of the money they have spent, they have been careful and spent less than they were authorized.

Mr. GROSS. Mr. Speaker, I am glad it turned out that way, but this stingy individual would much prefer that in the future we whittle them down to what we think they ought to have and not rely upon their assurance that they will not spend the money.

In all too many instances in the departments and agencies of this Government, as the gentleman well knows, that is the fate of overabundant authorizations.

Mr. HAYS. Mr. Speaker, I am aware of that. I will say to the gentleman that his reprimand will be taken to heart and I will try to do better in the future.

Mr. GROSS. Mr. Speaker, I thank the gentleman. This legislation also points up the cost of devaluation of the dollar. There is a substantial amount of money in this bill to take care of the devaluation of the dollar.

Mr. Speaker, let me say to the Members of the House again that unless—unless the House and the other body across the way do something to stop inflation, we will have another devaluation of the dollar that will cost us more billions in our improvident spending overseas.

But you had better believe the taxpayers of this country are not going to be compensated for the shortfall in the value of their dollars. We take care of the foreigners in our operations overseas, but the hell with the people in this country.

The SPEAKER. The time of the gentleman from Iowa has expired.

(By unanimous consent, Mr. GROSS was allowed to proceed for an additional 2 minutes.)

Mr. HAYS. Mr. Speaker, will the gentleman yield further?

Mr. GROSS. Mr. Speaker, I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Speaker, let me say to the gentleman that I am not going to get into any argument with him about devaluation because I feel exactly the way he does about it.

When the Secretary of the Treasury, Mr. Connally, was going around the country saying what a great thing devaluation was going to be and that it would enable us to sell more products abroad and would not cost Americans anything, I said then that he was wrong. He was wrong. It is costing the American taxpayer higher taxes, higher prices in the marketplace, and it is giving him a beating in every respect.

Mr. Speaker, I was up in Canada at the time Mr. Connally was preaching devaluation. I was on the Canadian national network on television, and I criticized him. The moderator said, "Well, you know, are you sure Mr. Connally does not know what he is doing?"

I said, "In international finance he is not out of kindergarten yet."

He said, "But he is a millionaire."

I said, "That is one thing you Canadians do not understand. In Texas, you can get to be a millionaire without knowing anything if you know somebody."

Mr. GROSS. Mr. Speaker, I certainly agree with the gentleman with regard to devaluation.

Mr. DERWINSKI. Mr. Speaker, I support H.R. 12466. This legislation adjusts the sums in the various categories of the Department of State Appropriations Authorization Act of 1973. The legislation will enable the Department to meet certain costs resulting from expanded foreign service operations overseas, as well as higher personnel-related costs including the pay raise granted in October 1973 by Executive order.

Mr. Speaker, I urge approval of this bill.

Ms. ABZUG. Mr. Speaker, I question the authorization of $338,000 for increased personnel in Vietnam. I am told that these new people will be reporting on economic conditions and cease-fire violations, not in Saigon but in various outlying areas of the country. I question the propriety of increasing the American presence in Vietnamese villages, when international monitoring teams are provided for by the Paris agreements.

In the light of history a bit of skepticism is justified. What are these people really going to do? Will they actually be serving as "advisers" to the Thieu regime?—reminding the villagers, however subtly, that billions of dollars from the United States keep their economy going? If fighting increases, will they be needing the "protection" of American troops? Does their presence threaten us with reinvolvement in Asia?

The American Embassy in Saigon is already the largest embassy we maintain anywhere in the world. Considering the size of Vietnam, this is baffling. It is even stranger when we consider that military troops have been withdrawn and personnel for such agencies as AID has been cut back.

Why, then, should we expand our State Department personnel? I would like some reassurance that these people are not to be military advisers in civilian clothing, nor pressure agents for the long-discredited dictatorship of President Thieu.

For this reason I will vote against this bill.

Mr. HAYS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GOODLING. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 331, nays 75, not voting 26, as follows:

[Roll No. 82]

YEAS—331

Abdnor
Adams
Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Armstrong
Ashley
Aspin
Badillo
Bafalis
Barrett
Bell
Bennett
Bergland
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Bowen
Brademas
Breaux
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton
Butler
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clark
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Dennis
Dent
Derwinski
Dickinson
Diggs
Donohue
Dorn
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gubser
Gude
Gunter
Guyer
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Harrington
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holtzman
Horton
Hosmer
Howard
Huber
Hungate
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Latta
Leggett
Lehman
Litton
Long, La.
Long, Md.
Lujan
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Martin, Nebr.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Mills
Minish
Mink
Minshall, Ohio
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murtha
Natcher
Nedzi
Nelsen
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Reuss
Riegle
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Schneebeli
Schroeder
Seiberling
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Wis.
Stokes
Stratton
Stubblefield
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thomson, Wis.
Thone
Thornton
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wolff
Wright
Wyatt
Wydler
Wyman
Yates
Yatron
Young, Ga.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—75

Abzug
Anderson, Calif.
Archer
Ashbrook
Baker
Bauman
Beard
Bevill
Blackburn
Bray
Brinkley
Burlison, Mo.
Byron
Camp
Chappell
Clancy
Collins, Tex.
Conlan
Conyers
Crane
Daniel, Dan
Daniel, Robert W., Jr.

Denholm
Devine
Duncan
Froehlich
Goldwater
Goodling
Gross
Grover
Haley
Hanrahan
Harsha
Holt
Hudnut
Hunt
Hutchinson
Ichord
Ketchum
King
Lagomarsino
Landgrebe
Lent
Lott
Maraziti
Martin, N.C.
Miller
Mizell
Moorhead, Calif.
Myers
Nichols
Powell, Ohio
Price, Tex.
Rarick
Regula
Robinson, Va.
Roncallo, N.Y.
Rousselot
Satterfield
Scherle
Sebelius
Shipley
Shoup
Shuster
Snyder
Spence
Steiger, Ariz.
Symms
Taylor, Mo.
Towell, Nev.
Treen
Wampler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—26

Blatnik
Brasco
Breckinridge
Carey, N.Y.
Clausen, Don H.
Collier
Dingell
Fisher
Fraser
Hansen, Wash.
McEwen
Mitchell, Md.
Murphy, N.Y.
Patman
Podell
Reid
Rhodes
Robison, N.Y.
Rooney, N.Y.
Sarbanes
Stephens
Stuckey
Teague
Thompson, N.J.
Wilson, Charles, Tex.
Young, Ill.

So the bill was passed.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Rhodes.

Mr. Rooney of New York with Mr. Patman.

Mr. Teague with Mr. Stuckey.

Mr. Sarbanes with Mr. Charles Wilson of Texas.

Mr. Mitchell of Maryland with Mr. Fraser.

Mr. Brasco with Mr. Fisher.

Mr. Breckinridge with Mr. Don H. Clausen.

Mr. Podell with Mr. Stephens.

Mr. Blatnik with Mr. Collier.

Mr. Carey of New York with Mr. Young of Illinois.

Mr. Dingell with Mr. McEwen.

Mr. Murphy of New York with Mr. Reid.

Mrs. Hansen of Washington with Mr. Robison of New York.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three bills just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANTIHIJACKING ACT OF 1974

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 978 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 978

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3858) to amend sections 101 and 902 of the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to amend title XI of such Act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft; and to authorize the Secretary of Transportation to suspend the operating authority of foreign air carriers under certain circumstances. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived, and said substitute shall be read for amendment by titles instead of by sections. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from New York (Mr. Delaney) is recognized for 1 hour.

Mr. DELANEY. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. Quillen), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 978 provides for an open rule with 1 hour of general debate on H.R. 3858, the Antihijacking Act of 1974.

House Resolution 978 provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment.

House Resolution 978 also provides that all points of order against the substitute for failure to comply with the provisions of clause 7, rule XVI of the Rules of the House of Representatives—the germaneness provision—are waived.

House Resolution 978 also provides that the substitute shall be read for amendment by titles instead of by sections.

H.R. 3858 amends the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft—Hague Convention. It also amends the 1958 act to authorize the President to suspend air service to any foreign nation which he determines is encouraging air hijackng by acting in a manner inconsistent with the Hague Convention.

H.R. 3858 also limits the circumstances under which the death penalty may be imposed for aircraft piracy, and deals with security provisions at airports in the United States. Mr. Speaker, I urge the adoption of House Resolution 978 in order that we may discuss and debate H.R. 3858.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 978 provides for the consideration of H.R. 3858, the Antihijacking Act of 1974, under an open rule with 1 hour of general debate. This rule has several other provisions. It makes the committee substitute in order as an original bill for the purpose of amendment, and waives points of order against that substitute for failure to comply with the provision of clause 7, rule XVI, which deals with germaneness. The rule also provides that the bill be read for amendment by titles instead of by sections.

The primary purpose of H.R. 3858 is to provide additional protection against hijacking.

Title I implements the provisions of the Convention for the Suppression of Unlawful Seizure of Aircraft signed at the Hague. Among other things the Hague convention requires states to establish jurisdiction over hijackers to agree to extradition or to prosecute offenders. In addition, title I allows the President to suspend air service to any foreign nation which he determines is encouraging hijacking. Title I modifies the circumstances under which the death penalty can be imposed for aircraft hijacking in order to conform with recent U.S. Supreme Court decisions.

Title II provides, in legislation, security against acts of criminal violence against air transportation through the imposition of such measures as the screening of passengers and requiring the presence of adequate enforcement personnel at U.S. airports.

Mr. Speaker, I urge the adoption of this rule.

Mr. Speaker, I have no requests for time, but I reserve the balance of my time.

Mr. DELANEY. Mr. Speaker, I have no further requests for time, and, Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3858) to amend sections 101 and 902 of the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to amend title XI of such act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft; and to authorize the Secretary of Transportation to suspend the operating authority of foreign air carriers under certain circumstances.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. Staggers).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 3858, with Mr. ANNUNZIO in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes and the gentleman from Tennessee (Mr. KUYKENDALL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill H.R. 3858, the Anti-Hijacking Act of 1974 under title I implements the Hague Convention;

Expands jurisdiction of hijacking to include aircraft landing in the United States on which a hijacking or hijacking attempt has occurred, and aircraft leased by an individual having principal place of business or permanent residence in the United States;

Establishes jurisdiction over the hijacker who is found in the United States; and

Provides a limited death penalty for hijacking.

The death penalty or life imprisonment is possible only if death of another person results from hijacking; otherwise imprisonment for not less than 20 years.

The death penalty may be imposed only after separate sentencing hearing.

The President can suspend air service to and from any country that provides sanctuary for any terrorist organization which engages in hijacking.

The President can suspend service to and from any country which maintains air service between itself and a country harboring hijackers.

The bill authorizes the Secretary of DOT to revoke operating authority of any foreign air carrier which fails to meet security standards established by the International Civil Aviation Organization.

The bill under title II, the Air Transportation Security Act, provides for airlines to screen passengers pursuant to FAA regulations;

For airport operators to maintain security programs at airports using qualified law enforcement personnel; for use of personnel from other Federal agencies or FAA-employed personnel if operator certifies, and FAA agrees, that State, local, and private officers not available;

For uniform training of law enforcement personnel required;

For FAA to conduct R. & D. on procedures, systems, devices, and so forth;

For FAA to have exclusive jurisdiction over hijacking incidents;

That airlines need not carry persons who refuse to be searched; and

That airlines must provide reasonable insurance for property that cannot lawfully be carried in the aircraft cabin.

Mr. Chairman, I reserve the balance of my time.

Mr. KUYKENDALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Tennessee (Mr. QUILLEN), said earlier this is a piece of legislation that is long overdue.

I want to congratulate the chairman of the subcommittee and the chairman of the full committee for having both the wisdom and I think in some cases the good luck of having been able to bring this bill out in the timely manner that it is today.

The chairman covered the international parts of the bill, I think, as fully as need to be covered. It has to do with the ratification of conventions and so forth, so I shall dwell on title II of the bill which deals primarily with domestic hijacking and the prevention thereof.

We were fortunate that we were able in the full committee to reintroduce title II to the bill, because we had expected to bring out a separate domestic hijacking bill later in the year, but because of recent activities it became incumbent upon the committee for the sake of the safety of our country that we get to the domestic matter at this time.

Something else happened week before last which also made this bill most timely; that is, that a Federal court had questioned in two instances the standing system that has worked so well in the country today preventing a successful hijacking for something like I think 15 or 16 months. A Federal judge had ruled in two matters against the X-ray surveillance apparatus being used. He also questioned whether or not the legislative mandate given by the Congress was sufficient for the Administrator of FAA.

I am happy to say that title II takes care of both of those things in the committee bill, the present existing force which has been so successful in preventing hijackings for these many months, and I always knock on wood when I say this, because this phenomenon can happen at any time. Inspection is mandated and put into full operation and financed under present law and regulations.

Mr. Chairman, I know that the chairman of the committee and I are both very happy to bring such an important piece of legislation in here and be able to say that it already being paid for. Usually we have a big bill attached to it, as the gentleman from Iowa (Mr. GROSS) knows; but the checkoff, the surcharge that is being collected in the airline passenger ticket is paying both the airport operators for their policing personnel and is paying the airlines for the cost of the search equipment.

The CAB has given permission for both these surcharges. It is also conducting an audit with the airlines to see that these charges are proper, to see that the airlines are not making a windfall profit, and to see that the charges are adequate.

Most of the information we have based on experience so far is that we were fortunate enough and, hopefully, wise enough to have made the charges almost exactly right. This enables us to have a bill with no appropriations or authorization in it.

Mr. DEVINE. Mr. Chairman, will the gentleman yield?

Mr. KUYKENDALL. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. DEVINE. Mr. Chairman, I would like to ask the gentleman to yield to answer a question in the interests of the legislative history of this matter.

Mr. Chairman, I would invite the gentleman's attention to section 316, subsection (e) of the bill. I have been led to believe that there is some concern by the Federal Bureau of Investigation relative to the jurisdiction over investigations in matters of this nature; that under the present arrangement, the Federal Aviation Agency does not need that jurisdiction as long as the aircraft is in the air, on the taxi strips or on the runways.

However, there is some type of agreement existing between the Department of Transportation and the Justice Department as to jurisdiction other than in the air or on the runways or on taxi strips.

Will the gentleman clarify that section?

Mr. KUYKENDALL. Mr. Chairman, I shall be happy to. The gentleman from Ohio has asked possibly one of the most important questions we have discussed in this bill. That is actually, not so much what the jurisdiction of the FBI and FAA may be, but what the jurisdiction of the air crew is.

There have been many disagreements as to when the pilot is in charge and when he ceases to be in charge. A few months ago they had a rule that the pilot was not in charge until the tires left the runway, and lost his responsibility as soon as the tires touched the runway, even though the landing run was not actually complete. To us, this might have been right in discussing runway construction or something like that, but when it came to the safety of the passengers, this simply made no sense at all. Therefore, the committee probably discussed and debated this issue as long as any other when we decided that the pilot—from the moment he boards the aircraft until the moment he departs, is in charge. The passengers or the crew may be gone during that period.

This is in the report, it is not in the law, but unless the ground forces have reason to know that this pilot is disabled and is unable to operate the aircraft, then he is in charge and the aircraft cannot be disabled from outside unless permission is given.

The question of who is in charge on the ground arises, because we have here a new style of crime that has come into being in the last few years. I suppose that kidnaping was the only crime prior to this that could have lengthy duration. For instance, I cannot imagine that in a kidnaping there would be anyone in total charge of a kidnaping, a regular interstate kidnaping, but the FBI, because it is a clear-cut case of having to have one central, responsible force.

In the case of a hijacking, from the moment of its inception—and this means from the moment the hijacker sets foot on that airplane regardless of whether it is on the ramp, halfway down the runway, or in the air—until that hijacker or the captain are off that aircraft, there has to be some one agency in charge to coordinate the efforts.

Mr. Chairman, I am very happy to say that presently there is a gentleman's agreement—it is not in force of law—there is a gentleman's agreement between the FAA and the FBI which is working perfectly and which this law in now way interferes with. These two will work together and they have an understanding. The understanding is almost exactly what we have written in here. However, after lengthy discussions in executive session with the FBI, with the Justice Department, with air crew members and others, we think it is absolutely essential that some one agency be in charge during the act of a hijacking, just as some one agency is in charge during the act of a kidnaping.

If the Members think about it, those are about the only two crimes committed against society that may have lengthy duration. A bank robbery is over within a matter of minutes.

A killing is over with in a matter of seconds.

So I will say to the gentleman from Ohio (Mr. Devine) that I hope this explains the point. Does the gentleman wish to ask any other questions?

Mr. DEVINE. Yes. I thank the gentleman for yielding further.

I think it is very important again from a legislative history standpoint that this be clarified, because the gentleman knows how sensitive and how delicate this matter is and how many emergency situations develop when there is a hijacking or an attempted hijacking. We just cannot afford to have anyone get into a jurisdictional dispute while lives are in danger as to whether it is the FAA or the FBI or some other agency that is going to be in charge.

Mr. Chairman, I think the procedure should be made quite clear as to this particular matter.

Mr. KUYKENDALL. Mr. Chairman, I wish to reply to the gentleman from Ohio (Mr. Devine) that I want to make it clear in this colloquy that this in no way casts any reflection on the future willingness of any agency to cooperate.

Some person has to be designated, and this bill does just that.

The bill covers, as we have said, the matter of mandating and paying for the force that is now in place. It does reinstitute the death penalty in a very limited way, which was worked out carefully with the Justice Department, to coordinate with the objections raised against the death penalty by the two judges on the Supreme Court who did not totally eliminate the death penalty, but said that application of it must be applied in a much closer manner.

We have carefully tried to write the bill, taking into consideration the opinions of the four minority judges and the two swing judges, in conjunction with our staff and the Justice Department, and we have supplied a totally constitutional death penalty, a death penalty that is not couched in such language as to encourage suicidal hijacking attempts.

Now, an absolutely mandatory death penalty, with no contributing circumstances and no mitigating circumstances, encourages suicidal hijackings. The psychiatrists in the development of this fact have proven that.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. KUYKENDALL. I am happy to yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I thank the gentleman for yielding.

If I understand the gentleman's explanation, what he has done in this bill, as I look at it rather quickly—because, as the gentleman knows, the bill was not scheduled until tomorrow—is this: The bill does take up the subject of the death penalty which, as the gentleman knows, is an exceedingly important and controversial subject.

It attempts to meet the standards of the decision in the case of Furman against Georgia, which held that the death penalty was unconstitutional under certain circumstances, and it does that by saying that if a death results from the air piracy, then the death penalty can be applied; and it says it must be applied in those situations, if none of certain listed mitigating circumstances, as listed in the act exist, and if any one of the aggravating circumstances, as listed, do exist, without any mitigating circumstances; then the death penalty is mandatory, as I understand it.

Mr. KUYKENDALL. Mr. Chairman, the gentleman is correct.

Mr. DENNIS. Now, that is an attempt to meet the standards of the court in Furman against Georgia.

I think the gentleman will agree that no one really knows whether that does it or not. But this is an approach which is taken in general legislation pending before the Committee on the Judiciary which revises the entire U.S. Criminal Code in all the cases where the death penalty might be applied, and the proposed legislation would follow this same scheme.

Now, the gentleman is lifting that out of the code, in his committee, and is trying to do it for air piracy in this one particular case. That is the situation, is it not?

Mr. KUYKENDALL. Mr. Chairman, the gentleman is exactly correct.

Mr. DENNIS. Mr. Chairman, I would have to say to the gentleman—and I know, of course, that people have varying views on this matter and they usually hold them very strongly—that while I was never able to see, personally, where the death penalty was unconstitutional, as the court said, inasmuch as we have been applying it for 200 years, I personally disapprove of the death penalty on moral and practical grounds.

One of the grounds is that when we make a mistake, as we do now and then, it is not possible to correct it; and I do not like to play God in that fashion, so I proceed from that bias to begin with.

In addition to that, it seems to me that if we are going to go into such an important and highly controversial business and try to circumvent this court decision in this rather complicated way, it would be far preferable to wait until we do get to the subject of the general legislation on the criminal code which is pending in this Congress rather than trying to get into this very technical, difficult, and controversial matter in this particular bill, most of which we would all be for, but this section, which gives me great pause and probably will make me vote against the measure.

Mr. KUYKENDALL. I would like to respond to the gentleman if I may have some further colloquy with him.

In the committee we discussed at length the fact that in the Federal Aviation Act on the books there is a death penalty. This death penalty provision, as the gentleman very accurately stated, is an exact word-for-word repetition of the legislation being considered before the Committee on the Judiciary. We knew absolutely, without a question of doubt, that there would be a death penalty introduced into this bill on the floor if not in the committee. The fact is that there will be an amendment offered in a few moments that says this death penalty is much too weak and is not proper and that an amendment for a much stronger one will be offered.

There will also be an amendment offered by the gentleman from Illinois (Mr. Metcalfe) totally against the death penalty. So you will have a choice to vote to eliminate it entirely and you will have a choice to make it much stronger.

We knew we were not going to have the privilege of doing nothing in this House. Frankly, I would have liked to have waited for your committee to have operated, but we knew we did not have that privilege. So the gentleman from Indiana will have the privilege of voting with the gentleman from Illinois (Mr. Metcalfe's) amendment to strike this section out. The gentleman will also have the privilege of voting with the gentleman from Georgia (Mr. Mathias) to strengthen this section, or else the gentleman will have the privilege of voting for this section.

Mr. DENNIS. Will the gentleman yield further?

Mr. KUYKENDALL. Yes, but may I yeld first to a member of the committee, the gentleman from Texas (Mr. Eckhardt).

Mr. ECKHARDT. I thank the gentleman for yielding.

As a matter of fact, if the gentleman will permit me to, I should like through him to engage in some colloquy with the gentleman from Indiana.

Mr. KUYKENDALL. Yes.

Mr. ECKHARDT. I rather share the gentleman's view that if one should attempt to get around the Georgia case, it should be on a general proposition, well thought out, with regard to all offenses that might carry the death penalty.

One thing that troubles me a great deal about treating this separately is that this particular kind of offense is one in which perhaps, at least for a period of time, a certain degree of flexibility with respect to whether or not a crime will result in the death penalty is desirable. That is the time when the hijackers are being sought to be persuaded to give up. Suppose there are 250 people in an airplane. The hijacker has someone with him, let us say, who has killed the copilot but the hijacker in control has not. He is in charge, and he is talking to someone on the ground. It is not possible for them honestly to say, "Come down. You will have at least the chance of a hearing and a trial" Under these circumstances, which would exist if there is a compulsory death penalty from his sole and personal standpoint, he might just as well blow up the plane.

Mr. KUYKENDALL. I would like to respond to that point.

Mr. ECKHARDT. Certainly.

Mr. KUYKENDALL. I will yield further to the gentleman as soon as I respond.

On this point I think it is one of the five circumstances. On this point you set up a circumstance whereby a man had not killed but one of his colleagues had killed and finally he changed his mind and decided to bring in the airplane. One of those five mitigating circumstances clearly covers the particular situation of the person that was not the one directly involved in the aggravating circumstances, which is the death itself.

The person who did the killing, if he is sane and not under age, yes, the death penalty is for all practical purposes mandatory. In other words, if a person murdered someone, and he is not under age, and if he is sane, that death penalty is practically mandatory.

Any Member who does not think that the man up at Friendship Airport the other day, if he is proven sane, if they do not think that he ought to be executed then should vote for the Metcalfe amendment. If they think he should be executed, if he is sane, then they should vote for the committee amendment.

Mr. DENNIS. Mr. Chairman, if the gentleman will yield further, I cannot agree with what the gentleman says. If there are no mitigating circumstances as listed in the bill and any one of the aggravating circumstances exists the death penalty is mandatory. Relatively minor participation may be a mitigating circumstance, but that would not necessarily mean that the fellow who did not happen to pull the trigger, but where he might have been an active principal in every other respect, would enjoy any mitigating circumstance. Under this bill you might not personally kill anyone, or mean to kill anyone, and yet the death penalty might be mandatory.

Another thing I might point out, and these are not the only mitigating circumstances that are in the bill, but if you are 18 years and one-half hour old, and everything else is the same, you do not get the mitigating circumstances under this bill. So I do not believe it amounts to what the gentleman says it does.

Mr. KUYKENDALL. I would say this, again. I know the gentleman from Indiana is going to vote for the Metcalfe amendment, and that the gentleman from Texas (Mr. ECKHARDT) also is going to vote for the Metcalfe amendment, and I know that there are many others who will vote for the Metcalfe amendment, and I know that I will stick to the position adopted by the committee.

So that I know that on this matter everyone will vote their own conscience.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield further?

Mr. KUYKENDALL. I will yield 1 more minute to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. I am not sure if I would vote for the Metcalfe amendment if I thought the matter could be taken care of otherwise. I am troubled by this proposition, and I would like, if the gentleman from Tennessee would permit me to, to pose a question to the gentleman from Indiana.

Mr. KUYKENDALL. Please do.

Mr. ECKHARDT. Instead of to the gentleman in the well.

Mr. KUYKENDALL. Certainly. Please do.

Mr. ECKHARDT. Mr. Chairman, I understand that the theory of this bill and the bill in the Committee on the Judiciary is that some device should be effectuated by which standards are set for the application of the death penalty in certain cases and a lesser penalty in others, a devise which reduces the possibility of disparate penalties applied indiscriminately to very similar facts. It is postulated that if those standards are sufficiently detailed to result in more uniform treatment respecting the death penalty in some way a majority might be gathered on the Supreme Court to uphold the death penalty. But I also understand it is not at all clear that this process will avoid the constitutional problem.

The question is whether such an approach will swing a sufficient number of votes on the Court to support the imposition of the death penalty as constitutional. Is that what the gentleman from Indiana understands?

Mr. DENNIS. Mr. Chairman, if the gentleman will yield, I think that the gentleman from Texas has made a very fair and excellent and accurate statement of that opinion, as I understand it.

Mr. ECKHARDT. Mr. Chairman, I have one followthrough question.

Mr. Chairman, I am not at all certain in the first place that such an approach would cure the defect—and I know that those who propose an absolute mandatory death penalty under defined standards have argued that that is the only way that imposition of the death penalty can be supported constitutionally. I have proposed that after setting up the area in which mitigating circumstances will militate against the death penalty, that the other area of activities, that makes the death penalty mandatory might well be made permissive.

Some of those who disagree with me on that point say it would run right into the unconstitutionality problem, but does the gentleman from Indiana see any more reason why that would be attacked as unconstitutional than the original language?

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. KUYKENDALL. Certainly I yield. I will yield an additional 30 seconds.

Mr. DENNIS. I am not sure that I do. I am not sure that either one will meet the standard in this opinion which is pretty hard to understand, but certainly the suggestion of the gentleman from Texas makes better sense, and it is more humanitarian. I object violently to writing a bill that is going to impose a death penalty as a mandatory matter under these circumstances as set out here, or practically under any circumstances.

I imagine the gentleman's version will have as good a chance of getting by the court as would the committee's.

Mr. KUYKENDALL. Mr. Chairman, I yield to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, I should just like to say that I support the death penalty on this air piracy as outlined in the bill. In effect piracy is really a form of kidnaping. If it could really even be considered germane, as it probably would not be in the House, I should like to see attached to this the mandatory death penalty in dealing with kidnaping where the kidnaping victim himself or herself is killed. I understand it probably is not germane, but I would certainly support that if it could possibly be put in this bill.

Mr. KUYKENDALL. Under the 5-minute rule on the amendment that will be offered later, this subject will be covered in great length and in great detail, and the Members will hear discussion concerning the mandatory provision. In the debate under the 5-minute rule, the Members will hear discussed that there were certain requirements imposed by the two swing judges. For example, as far as the hearing by the jury concerning the sentence itself is concerned, the penalty must be mandatory to prevent capricious action against minorities and against the poor who have not been able to afford massive appeals, and this type of thing.

So the matter of the mandatory provision, instead of making it go away from possible constitutionality, brings it much closer to it under a very difficult thing to understand.

The two learned attorneys, both of whom I respect very much, say that there is no way to determine this. Certainly there is no way to determine it, but I will tell the Members one way to find out is to pass this bill. The death penalty might be contested immediately in the Baltimore case, and we will find out what is constitutional. But if the Members do not think it strong enough, then they are going to get a chance to vote for something stronger.

Mr. STAGGERS. Mr. Chairman, I yield whatever time he may consume to the chairman of the subcommittee from which this legislation came, the gentleman from Oklahoma (Mr. JARMAN).

Mr. JARMAN. Mr. Chairman, the basic purpose for this legislation was to implement the Hague Convention which expands U.S. jurisdiction over hijacking to include aircraft which lands in the United States on which a hijacking has occurred, or aircraft leased by a business having a place of business or permanent residence in the United States.

The legislation also empowers the President to suspend air service to and from countries providing sanctuary for hijackers and it authorizes the Secretary of the Department of Transportation to revoke the authority of any foreign air carrier which does not meet prescribed minimum security standards. You may recall that very similar legislation was passed in the 92d Congress, but the Senate version went much further than the House version and would have established a permanent national security for a police force and we were unable to reconcile our differences in conference. This time the committee added a title II which, in substance, ratifies existing security measures which are now provided by the FAA with the participation of the airlines and the airport operators.

The cost to support the present security practices are obtained by passenger ticket surcharges which have the approval of the CAB.

Title II also provides for increased uniform training of security personnel and calls for improvement in research and development with the participation of the FAA and the entire aviation industry. Since the costs are now being obtained through the ticket surcharges, we do not recommend any new authorizations. I might add that the surcharges are now under review by the CAB and it is my belief that they have the authority and statutory flexibility to make adjustments to assure that the moneys collected are sufficient to meet the needs of a complete security system and that these moneys are properly allocated to the airlines and airport operators who incur the actual expenses.

Finally, I would like to highlight one particular area of concern over the complex hijacking problem. While there is much evidence of general responsibility on the part of the news media including radio, television and the press, there have been unfortunate examples of irresponsibility where the on-the-scene coverage of hijacking and later reports of hijackings have complicated and undercut the efforts of the responsible agencies to abort hijacking and in some of the reporting, our hearings disclose that additional hijackings were stimulated by the live coverage of an existing hijacking. I would encourage the news media to study carefully its role in coverage of crimes of this type and to work closely—as I know many representatives are now doing—with the Federal, State, and local agencies and the airlines and airport operators to assure that there is no interference with all of the efforts to prevent and to curtail aircraft hijackings.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. KUYKENDALL. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Chairman, I may have missed a portion of the debate but in reading the bill under the penalty it says "if the death of another person results from the commission or attempted commission of the offense" the death penalty shall be imposed.

I did not read the court's decision but did not the Supreme Court say that the death penalty statutes were unconstitutional because of discretion in the hands of the jury?

Mr. KUYKENDALL. The gentleman is correct. I am glad he brought this up because the way this language is written, the judge has no choice in the case of the death penalty. The jury determines that conditions exist for the death penalty, that is, that there were no mitigating circumstance and there were one or more aggravating circumstances which must exist. If they do, the judge does not have capricious or other discretion as to the death penalty.

Mr. WHITE. What the gentleman is saying is the jury determines whether mitigating circumstances exist.

Mr. KUYKENDALL. In a separate hearing after the jury verdict of guilty, they have the determination as to if there are mitigating circumstances and if there are aggravating circumstances, one of which is that death of another person resulted.

Mr. WHITE. As I understand, the bill says the death penalty or life imprisonment, if there is a death. The gentleman is saying the jury must determine whether or not the death penalty must be invoked.

Mr. KUYKENDALL. The jury must determine it.

Mr. WHITE. I am afraid I have not read that far into the bill.

Mr. KUYKENDALL. It is on page 15, starting at line 3. I assure the gentleman that the circumstances I describe are there.

Mr. WHITE. The point I am saying is that if we still leave it to the jury to determine what penalty is to be invoked, then I am afraid the Supreme Court will say this is discretionary power in the hands of the jury and it will start the question all over again.

Mr. KUYKENDALL. The only authority we had was the majority of our committee and the majority of the full committee and the best experts in the Justice Department tried to arrive at this. According to the Justice Department, this is constitutional based primarily on the opinions of Justice White and Justice Stewart, who were the swing votes, who did not outlaw society's right to take a life but who said primarily it was the capricious use of the death penalty against the poor and minorities which was one of the great evils of this capricious use.

So one of those two Justices, and I do not know which one, made it very clear that this capricious use of the death penalty must be eliminated, and this attempts to do that.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. ECKHARDT) a member of the subcommittee.

Mr. ECKHARDT. Mr. Chairman, I have not asked time until the gentleman from Texas (Mr. WHITE) asked his question, but I think it ought to be clarified.

Justices Stewart and White were the concurring members who made the difference in making up the majority. I read the decision of Justice Stewart and what he is saying is that if the death penalty were compulsory in the cases of all matters of murder or rape such would be within the power of the legislature without constitutional inhibition.

Justice White said about the same thing but of course neither of these Justices I think for a moment thought that every case of murder or every case of rape should simply bring about the death penalty without any question of mitigating circumstances. They were posing this as more or less an extreme hypothetical case in which the death penalty could be applied constitutionally.

However, actually, Justice White seemed to me to make his case totally upon the proposition that such wide discretion as is permitted under existing laws, such as in Georgia and Texas, and the manner in which it has been applied constituted a situation which he described as similar to the possibility of one being struck by lightning.

He says:

> These death sentences are cruel and unusual in the same way that being struck by lightning is cruel and unusual. For, of all the people convicted of rapes and murders in 1967 and 1968, many just as reprehensible as these, the petitioners are among a capriciously selected random handful upon whom the sentence of death has in fact been imposed.

That is in the decision, 408 U.S. 309-310. Justice Wright makes similar remarks on page 314.

It seems absolutely obvious that the objections here leveled could as well be answered by defining standards by which the death penalty could never be applied and, on the other hand, standards under which the death penalty could be permissibly applied. If this be true, then we are creating a structure of law that would well be described by Mr. Bumble in Dickens' novel; that is, "if the law says that, the law is a ass, a idiot."

Certainly it could not be reasonably argued that the death penalty can only be constitutionally justified when a judge and a jury are deprived of the authority to make a decision upon the merits of the case before it.

Mr. OWENS. Mr. Chairman, I regret that I must oppose the bill under consideration today. The Antihijacking Act of 1974, H.R. 3858, contains some important and necessary measures to deal with a serious international problem. Though we have experienced a welcome relief from the rash of hijackings several years ago, the problem still exists, and legislation is needed to insure United States and foreign government cooperation in this area. For example, the act would implement the Hague Convention under which participating nations are obligated to establish jurisdiction over hijackers and agree to extradite or prosecute offenders. The President is authorized to suspend air services with any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the convention, and the Secretary of Transportation is authorized to suspend the operating authority of foreign air carriers whose government does not maintain security measures relating to foreign air transportation equal to the minimum standards established under the Convention on International Civil Aviation. I support these measures.

But the bill also contains a provision mandating the death penalty for hijackers who cause a death under certain conditions. The inclusion of the death penalty in this bill would have pernicious consequences and make a serious problem worse.

I realize the committee has attempted to meet the special requirements of the

Supreme Court's Furman against Georgia decision.

No legislatively determined factors, however, can meet the unique problem posed by the crime of hijacking. Hijacking itself is illegal, and law enforcement officers are already dealing with a criminal when they attempt to regain control of a plane. If the hijacker kills, even accidentally kills, the act as written would require the death penalty in most cases. This means bluntly that the hijacker whose activities have led to a death, even accidental, has no incentive at all to give up in this situation. He would have everything to gain by attempting any dangerous escape; he would have nothing to lose if the plane was destroyed. This bill would decrease possibilities of a safe return of passengers and crew by cutting off all hope for the hijacker.

The committee's bill tried to deal specifically with the accidental death issue, the situation where a hijacker does not plan to kill anyone, but does so during the course of the crime. The bill states that presence of a mitigating factor would stop the death penalty. One of these would be that the defendant could not reasonably have foreseen that his conduct would cause death to another or create a grave risk of causing death. But it is impossible to conceive, to me at least, that any hijacking would not be interpreted by the courts as such a situation. The hijacker brandishes a gun, knife, or bomb, near innocent bystanders in his crime. Can anyone really believe that he could not reasonably foresee his actions would seriously imperil the lives of others? The death penalty will become required in nearly every case of a hijacking death, accidental or not, if this bill is enacted.

The bill's death penalty provisions were added without hearings, I am told, and without proper jurisdiction, which rests in the Judiciary Committee. This could be a very dangerous error and I regret that I must oppose this well-intentioned, but unwise, bill.

Mr. DULSKI. Mr. Chairman, I rise in support of H.R. 3858, the Antihijacking/Air Transportation Security Act of 1974.

I am a sponsor of H.R. 3470, which contains many of the same provisions as this bill, but I want to commend the committee members for their work on the more comprehensive measure which was reported.

We are apparently experiencing a new wave of international aircraft hijacking, and I believe an important part of this measure is the incentive for firm action by foreign governments. We must take greater strides toward security on our own aircraft, but increasing foreign travel around the globe makes it imperative for all nations to cooperate to protect passengers and crews. Implementing the Hague Convention will give our Government the means to apply pressure to formerly uncooperative nations in hijacking incidents.

The provisions for statutory authority of airport security are also worthwhile. The public deserves protection from the occasional deranged individual, and stiff screening regulations, backed up by enforcement personnel and legal penalties are essential to that protection.

This is good legislation, Mr. Chairman, and it is needed. I urge passage of H.R. 3858.

Mr. KOCH. Mr. Chairman, I am voting for the bill.

Earlier today I voted against the amendment to strike the provision from the bill providing the death penalty under certain circumstances. While I believe that there are certain mitigating circumstances that should bar the application of the death penalty—and I voted to retain five such circumstances in the bill—I do not object categorically to the death penalty. I am not one who objects to the use of the death penalty for philosophical or religious reasons. But, I believe that its application should be limited; it should be used only when it can act as a deterrent. Furthermore, it is essential that the penalty conform with the Supreme Court decision outlawing the death penalty under existing State and Federal laws which allow for its prejudicial application.

The question before us today involves the use of the death penalty for conviction of hijacking when people are killed as a result of this criminal act.

The great majority of cases of murder are crimes of passion. They involve family members and are committed without forethought and thus the death penalty cannot act as a deterrent. The death penalty should not be used in these cases.

However, there are crimes in which the criminal pursues his criminal act with deliberation and foresight and he has within his discretion whether it is committed with the loss of life. I believe that in such limited cases—and kidnaping is another example—where the criminal has the choice of returning the victim or killing him, the death penalty can act as a deterrent. That is why I support the provisions in the bill which relate to the death penalty under very special circumstances. I opposed the amendment which would have struck all of the mitigating factors with the exception of age and would have made the death penalty mandatory in every case. In my judgment this would be morally wrong and I am pleased that this amendment was not accepted by the House. The death penalty should be available in very limited, appropriate cases which this bill provides.

Mr. BADILLO. Mr. Chairman, I believe that the legislation before us this afernoon must be enacted in an effort to bring an end to international indifference toward the long reign of terror perpetrated by such organizations as the Popular Front for the Liberation of Palestine and to the casual attitude of airlines and other officials toward the safety of international—and in some instances domestic—travelers. There can be no question but that the seemingly unending reign of terror against airline passengers, especially by Arab terrorists and their misguided allies, which has plagued the world during recent years demands the sternest possible measures by the United States and the community of nations. Only firm and concerted action by responsible members of the world community can bring an end to this terror campaign and H.R. 3858 represents such action.

While I intend to support this legislation, I want to express my concern over and opposition to the provisions for the imposition of the death penalty. Leaving aside a lengthy discussion of the constitutionality of the issue, I believe that the circumstances under which the death penalty would be imposed under this measure are unrealistic and are contrary to our basic traditions and values. Also, I believe it is important to note that the measure enacted last year by the Senate, S. 39, has no provision for the death penalty and the civil rights of defendants charged under the act are well protected. I intend to vote for the amendment to be offered by the gentleman from Illinois (Mr. METCALFE), which would make this bill conform to the Senate one. However, should that amendment fail, I urge that the House-Senate conferees give this particular issue their most careful consideration and attention and adopt the Senate language which provides for adequate and just penalties for violators.

Mr. Chairman, the time for empty rhetoric has long ended and we must move decisively to guarantee air travelers throughout the world that they can fly without fear of some terrorist hijacking the aircraft. We cannot afford any more Lod Airport massacres or disasters such as occurred a few short months ago in Rome. Meaningful and effective action can be taken—without the imposition of the death penalty—and we must act today to insure that innocent civilians are no longer jeopardized by terrorists allowed to ply their vicious trade by uncaring governments.

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 3858, the Antihijacking Act of 1974, providing for implementing Articles of the Hague Convention on Aircraft Piracy and establishing severe penalties for aircraft hijackers.

Last year more than 173 million passengers traveled to the remotest corners of the world by air. It is estimated that within the next 10 years we will be transporting 800 million passengers annually. Each year we transport billions of tons of commodities. With air travel becoming such a significant part of our economy and our daily lives, it is essential that we have freedom from oppression in the skies.

While the past 5 years has seen a decrease in the numbers of successful hijackings, it is evident that we have not yet fully come to grips with this public offense.

The advent of screening devices in all of our airports has thwarted some hijacking attempts—the constant awareness of those people in charge of our Nation's skyways has also helped to deter would-be hijackers. However, we have not yet attacked this problem with sufficient force.

Evidence of this is the recent hijacking attempt at nearby Friendship Airport in Baltimore. While the hijacking was averted, it was not without sacrifice—the loss of two lives.

While we have come some distance in preventing the actual hijacking, we have a real need to defuse hijacking attempts during their contemplation—before the hijacker approaches the gate.

The criminal provisions of this bill as reported from committee—stipulating that the hijacker is subject to the death penalty if the death of another person is involved—should help to remedy the situation.

I am not fully convinced that threat of death always fulfills its role as a crime deterrent. However, the incredible risks of the many lives involved in any hijacking attempt warrants the severity of this proposed penalty. Imposition of the death penalty may very well be the only way in which we can assure that a hijacker would seriously consider the consequences before embarking on his acts of piracy.

Accordingly, Mr. Chairman, I intend to support the provisions of the Anti-Hijacking Act of 1974 and urge my colleagues to vote in favor of this measure.

Mr. DRINAN. Mr. Chairman, I am compelled to cast a vote against the Anti-Hijacking Act of 1974 because it contains, in title I, the provision for the death penalty. I believe, at the same time, that the United States should act to provide the international cooperation required to implement the principles of the 1971 Hague Convention for the Suppression of Unlawful Seizure of Aircraft.

Title I of the bill purports to create a procedure for the application of the death penalty to reflect the Supreme Court's decision in Furman against Georgia, June 29, 1972. The bill provides that following the determination of guilt in a skyjacking for which the death penalty is provided, a separate sentencing hearing would be held at which the court or jury would consider mitigating and aggravating factors. The formula proposed provides if any of the aggravating factors exist and none of the mitigating factors exist, the court is required to impose the death penalty. Similarly, if none of the aggravating factors are present or if any one of the mitigating factors is present, the death penalty cannot be imposed. Not only do I believe that the factors are vague and difficult to administer, but also, I believe this bill controverts the explicit rule of the Supreme Court in Furman against Georgia.

In *Furman* v. *Georgia* (408 U.S. 238) the Supreme Court held that infliction of capital punishment is unconstitutional under the cruel and unusual punishment clause of the eighth amendment. I, along with many others, read the Court's decision as prohibiting the death penalty under all circumstances.

I have introduced a bill in the House with 26 of my colleagues, to abolish the death penalty under all Federal laws. I believe this legislation to be consistent with and a codification of the opinion in Furman against Georgia. President Nixon transmitted on March 14, 1973, his state of the Union message on criminal justice, calling upon Congress to reinstate the death penalty in certain circumstances as a means of combating serious crime. In that message, the President outlined his attempt to avoid the constitutional limitations on the death penalty by authorizing the sentencing judge or jury to automatically impose the death penalty where it is warranted. After the trial and prior to sentencing, a hearing would be held to consider either aggravating or mitigating factors in the case. If one mitigating factor is found, then the death penalty could not be imposed. In the absence of mitigating factors and in the presence of aggravating factors, imposition of the death penalty would be mandatory. This is precisely the scheme which appears in the legislation before us.

Mr. Chairman, I believe the fallacy of the President's plan is that there is no evidence whatever that capital punishment as a sanction for skyjacking will reduce the number of skyjackings.

It is highly doubtful whether the arbitrary and cruel penalty prescribed in this legislation would survive constitutional scrutiny by the courts. The overwhelming evidence presented by eminent jurists and dedicated students of justice suggests that the death penalty has virtually no effect in deterring serious and violent crimes.

The criteria provided in title I of this bill are so difficult of judicial administration that I can imagine little other than a death penalty applied randomly and discriminatorily. The manner in which the death penalty is administered also undermines its effectiveness as a deterrent. In order to be effective, punishment must be administered immediately, consistently, and relentlessly, and the public must expect this to happen in all cases. The actual practice of capital punishment does not satisfy any of these conditions. Nor do the criteria enunciated under title I of this bill provide any assistance. By remaining sporadic and random, capital punishment has no status as a regular and rational part of criminal justice. The trend of history is toward the abolition of capital punishment. While it was once in use everywhere for a great variety of crimes, the death penalty has been virtually abandoned in practice. The move toward disuse of the death penalty in America, culminating in the decision in Furman against Georgia, has been paralleled and largely outstripped by the rest of the world.

My reasons for introducing legislation to abolish the death penalty are the very same reasons which compel me to cast my vote against this legislation today. I have summed up these reasons as follows: In my view, the taking of a human life is morally unacceptable; capital punishment does not serve as a corrective measure because it does not provide for the rehabilitation of criminals; capital punishment is not a deterrent to crimes and is ineffective, because of long delays of sentencing execution; capital punishment allows discrimination by race and class; capital punishment violates the mark of a civilized society because it contradicts the ideal of human dignity; capital punishment is a cruel and excessive and irrevocable punishment, which serves society less adequate than life imprisonment.

Mr. Chairman, I am also troubled, though to a lesser extent, by the fact that this legislation would overrule the U.S. District Court decision in Nader against Butterfield. The committee, in its report, notes its disagreement with that decision which banned the use of X-ray devices at airports, and argues that the provisions of the Administrative Procedure Act and the National Environmental Policy Act are not applicable to the FAA memorandum authorizing the use of X-ray devices for screening. Despite the presence of congressional authority to do so, I, like the plaintiffs in the court case, would prefer to see a complete record of hearings developed on any possible side effects of X-ray examinations prior to their implementation.

For the foregoing reasons, Mr. Chairman, I cast my vote against the Anti-hijacking Act of 1974.

Mr. SEIBERLING. Mr. Chairman, much as I desire to see enactment into law of effective legislation to curb air hijacking, I have reluctantly decided to vote against H.R. 3858 in its present form. I am hopeful that the House-Senate conferees will take the opportunity to eliminate what I consider to be the principal infirmity of the bill.

The infirmity lies in the provisions which would impose a mandatory death penalty, if so-called aggravating factors exist and no mitigating factors exist.

In my opinion, the definitions of aggravating factors and mitigating factors contain such vague phraseology that they allow the imposition of the death penalty to be based on subjective and even emotional considerations. For this reason, it seems to me that the death penalty provision is likely to suffer from the same constitutional infirmities as brought about the Supreme Court's decision in Furman against Georgia.

But there is an even more serious practical objection to imposing a mandatory death penalty in air hijacking situations, and that is this: Many hijackers are unstable or even unbalanced persons. If a hijacker believes, whether correctly or incorrectly, that he is going to be subject to the death penalty once the hijacking has taken place, he no longer has an incentive to exercise restraint. In fact, it is entirely possible that he may decide that, since he is subject to a death sentence anyway, he will take all the rest of the passengers and crew down to destruction with him.

A strong case can be made that the death penalty is ineffective for deterring crimes of the type involved in air hijacking. Certainly, the burden should be on those who would impose the death penalty to demonstrate the likelihood of its deterrent effect. But where the penalty may even have the opposite effect, as I believe it would in this case, then the proposed legislation becomes not merely useless but positively dangerous. I would hope that the conferees appointed by the House will use the opportunity to reflect further on the very serious risks that the death penalty provisions of this bill create.

To the extent that this bill expands the measures that the Government may take to curtail aircraft hijacking and strengthens the ability of the Government to impose security measures, it is highly desirable legislation. It seems obvious that such measures have already drastically curbed air hijacking and that they are the most effective way to bring it further under control. It is, therefore, doubly unfortunate that these good features of the bill have been mixed in with the misconceived and counterproductive provisions on the death penalty.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Chairman, we have no further requests for time.

The CHAIRMAN. If there are no further requests for time, pursuant to the rule the Clerk will now read by title the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ANTIHIJACKING ACT OF 1974

SEC. 101. This title may be cited as the "Antihijacking Act of 1974".

SEC. 102. Section 101(32) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(32)), relating to the definition of the term "special aircraft jurisdiction of the United States", is amended to read as follows:

"(32) The term 'special aircraft jurisdiction of the United States' includes—

"(a) civil aircraft of the United States;

"(b) aircraft of the national defense forces of the United States;

"(c) any other aircraft within the United States;

"(d) any other aircraft outside the United States—

"(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; or

"(ii) having 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; and

"(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States;

while that aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard.".

SEC. 103. (a) Paragraph (2) of subsection (i) of section 902 of such Act (49 U.S.C. 1472), relating to the definition of the term "aircraft piracy", is amended by striking out "threat of force or violence and" and inserting in lieu thereof "threat of force or violence, or by any other form of intimidation, and".

(b) Section 902 of such Act is further amended by redesignating subsections (n) and (o) as subsection (o) and (p), respectively, and by inserting immediately after subsection (m) the following new subsection:

"AIRCRAFT PIRACY OUTSIDE SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

"(n)(1) Whoever aboard an aircraft in flight outside the special aircraft jurisdiction of the United States commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, and is afterward found in the United States shall be punished—

"(A) by imprisonment for not less than twenty years; or

"(B) if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.

"(2) A person commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft when, while aboard an aircraft in flight, he—

"(A) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act; or

"(B) is an accomplice of a person who performs or attempts to perform any such act.

"(3) This subsection shall only be applicable if the place of takeoff or the place of actual landing of the aircraft on board which the offense, as defined in paragraph (2) of this subsection, is committed is situated outside the territory of the State of registration of that aircraft.

"(4) For purposes of this subsection an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over responsibility for the aircraft and for the persons and property aboard.".

(c) Subsection (o) of such section 902, as so redesignated by subsection (b) of this section, is amended by striking out "subsections (i) through (m)" and inserting in lieu thereof "subsections (i) through (n)".

SEC. 104. (a) Section 902(i)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)(1)) is amended to read as follows:

"(1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished—

"(A) by imprisonment for not less than twenty years; or

"(B) if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.".

(b) Section 902(i) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3) An attempt to commit aircraft piracy shall be within the special aircraft jurisdiction of the United States even though the aircraft is not in flight at the time of such attempt if the aircraft would have been within the special aircraft jurisdiction of the United States had the offense of aircraft piracy been completed.".

SEC. 105. Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473), relating to venue and prosecution of offenses, is amended by adding at the end thereof the following new subsection:

"PROCEDURE IN RESPECT OF PENALTY FOR AIRCRAFT PIRACY

"(c)(1) A person shall be subjected to the penalty of death for any offense prohibited by section 902 (i) or 902 (n) of this Act only if a hearing is held in accordance with this subsection.

"(2) When a defendant is found guilty of or pleads guilty to an offense under section 902(i) or 902(n) of this Act for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered shall conduct a separate sentencing hearing to determine the existence or nonexistence of the factors set forth in paragraphs (6) and (7), for the purpose of determining the sentence to be imposed. The hearing shall not be held if the Government stipulates that none of the aggravating factors set forth in paragraph (7) exists or that one or more of the mitigating factors set forth in paragraph (6) exists. The hearings shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury; or

"(iii) the jury which determined the defendant's guilt has been discharged by the court for good cause; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the court and of the Government.

"(3) In the sentencing hearing the court shall disclose to the defendant or his counsel all material contained in any presentence report, if one has been prepared, except such material as the court determines is required to be withheld for the protection of human life or for the protection of the national security. Any presentence information withheld from the defendant shall not be considered in determining the existence or the nonexistence of the factors set forth in paragraph (6) or (7). Any information relevant to any of the mitigating factors set forth in paragraph (6) may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials; but the admissibility of information relevant to any of the aggravating factors set forth in paragraph (7) shall be governed by the rules governing the admission of evidence at criminal trials. The Government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the factors set forth in paragraph (6) or (7). The burden of establishing the existence of any of the factors set forth in paragraph (7) is on the Government. The burden of establishing the existence of any of the factors set forth in paragraph (6) is on the defendant.

"(4) The jury or, if there is no jury, the court shall return a special verdict setting forth its findings as to the existence or nonexistence of each of the factors set forth in paragraph (6) and as to the existence or nonexistence of each of the factors set forth in paragraph (7).

"(5) If the jury or, if there is no jury, the court finds by a preponderance of the information that one or more of the factors set forth in paragraph (7) exists and that none of the factors set forth in paragraph (6) exists, the court shall sentence the defendant to death. If the jury or, if there is no jury, the court finds that none of the aggravating factors set forth in paragraph (7) exists, or finds that one or more of the mitigating factors set forth in paragraph (6) exists, the court shall not sentence the defendant to death but shall impose any other sentence provided for the offense for which the defendant was convicted.

"(6) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that at the time of the offense—

"(A) he was under the age of eighteen;

"(B) his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution;

"(C) he was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution;

"(D) he was a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but his participation was relatively minor, although not so minor as to constitute a defense to prosecution; or

"(E) he could not reasonably have foreseen that his conduct in the course of the commission of the offense for which he was convicted would cause, or would create a grave risk of causing death to another person.

"(7) If no factor set forth in paragraph (6) is present, the court shall impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that—

"(A) the death of another person resulted from the commission of the offense but after the defendant had seized or exercised control of the aircraft; or

"(B) the death of another person resulted from the commission or attempted commission of the offense, and—

"(i) the defendant has been convicted of another Federal or State offense (committed either before or at the time of the commission or attempted commission of the offense) for which a sentence of life imprisonment or death was imposable;

"(ii) the defendant has previously been convicted of two or more State or Federal offenses with a penalty of more than one year imprisonment (committed on different occasions before the time of the commission or attempted commission of the offense), involving the infliction of serious bodily injury upon another person;

"(iii) in the commission or attempted commission of the offense, the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense or attempted offense; or

"(iv) the defendant committed or attempted to commit the offense in an especially heinous, cruel, or depraved manner.".

SEC. 106. Title XI of such Act (49 U.S.C. 1501–1513) is amended by adding at the end thereof the following new sections:

"SUSPENSION OF AIR SERVICES

"SEC. 1114. (a) Whenever the President determines that a foreign nation is acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft, or if he determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training or as a sanctuary for, or in any way arms, aids, or abets, any terrorist organization which knowingly uses the illegal seizure of aircraft or the threat thereof as an instrument of policy, he may, without notice or hearing and for as long as he determines necessary to assure the security of aircraft against unlawful seizure, suspend (1) the right of any air carrier or foreign air carrier to engage in foreign air transportation, and the right of any person to operate aircraft in foreign air commerce, to and from that foreign nation, and (2) the right of any foreign air carrier to engage in foreign air transportation, and the right of any foreign person to operate aircraft in foreign air commerce, between the United States and any foreign nation which maintains air service between itself and that foreign nation. Notwithstanding section 1102 of this Act, the President's authority to suspend rights under this section shall be deemed to be a condition to any certificate of public convenience and necessity or foreign air carrier or foreign aircraft permit issued by the Civil Aeronautics Board and any air carrier operating certificate or foreign air carrier operating specification issued by the Secretary of Transportation.

"(b) It shall be unlawful for any air carrier or foreign air carrier to engage in foreign air transportation, or for any person to operate aircraft in foreign air commerce, in violation of the suspension of rights by the President under this section.

"SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

SEC. 1115. (a) Not later than 30 days after the date of enactment of this section, the Secretary of State shall notify each nation with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of this Act, of the provisions of subsection (b) of this section.

"(b) In any case where the Secretary of Transportation, after consultation with the competent aeronautical authorities of a foreign nation with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a nation whose airline or airlines holds a foreign air carrier permit or permits issued pursuant to section 402 of this Act, finds that such nation does not effectively maintain and administer security measures relating to transportation of persons or property or mail in foreign air transportation that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation or, prior to a date when such standards are adopted and enter into force pursuant to such convention, the specifications and practices set out in appendix A to Resolution A17–10 of the Seventeenth Assembly of the International Civil Aviation Organization, he shall notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such convention or such specifications and practices of such resolution. In the event of failure of that nation to take such steps, the Secretary of Transportation, with the approval of the Secretary of State, may withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation.".

SEC. 107. The first sentence of section 901 (a)(1) of such Act (49 U.S.C. 1471(a)(1)), relating to civil penalties, is amended by inserting ", or of section 1114," immediately before "of this Act".

SEC. 108. Subsection (a) of section 1007 of such Act (49 U.S.C. 1487), relating to judicial enforcement, is amended by inserting "or, in the case of a violation of section 1114 of this Act, the Attorney General," immediately after "duly authorized agents,".

SEC. 109. (a) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties."

is amended by striking out—

"(n) Investigations by Federal Bureau of Investigation.

"(o) Interference with aircraft accident investigation."

and inserting in lieu thereof—

"(n) Aircraft piracy outside special aircraft jurisdiction of the United States.

"(o) Investigations by Federal Bureau of Investigation.

"(p) Interference with aircraft accident investigation.".

(b) That portion of such table of contents which appears under the side heading

"Sec. 903. Venue and prosecution of offenses."

is amended by adding at the end thereof the following new item:

"(c) Procedure in respect of penalty for aircraft piracy.".

(c) That portion of such table of contents which appears under the center heading "TITLE XI—MISCELLANEOUS" is amended by adding at the end thereof the following new items:

"Sec. 1114. Suspension of air services.
"Sec. 1115. Security standards in foreign air transportation.".

TITLE II—AIR TRANSPORTATION SECURITY ACT OF 1974

SEC. 201. This title may be cited as the "Air Transportation Security Act of 1974".

SEC. 202. Title III of the Federal Aviation Act of 1958 (49 U.S.C. 1341–1355), relating to organization of the Federal Aviation Administration and the powers and duties of the Administrator, is amended by adding at the end thereof the following new sections:

"SCREENING OF PASSENGERS

"PROCEDURES AND FACILITIES

"SEC. 315. (a) The Administrator shall prescribe or continue in effect reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation or intrastate air transportation be screened by weapon-detecting procedures or facilities employed or operated by employees of the air carrier, intrastate air carrier, or foreign air carrier prior to boarding the aircraft for such transportation. Such regulations shall include such provisions as the Administrator may deem necessary to assure that persons traveling in air transportation or intrastate air transpotration will receive courteous and efficient treatment in connection with the administration of any provision of this Act involving the screening of persons and property to assure safety in air transportation or intrastate air transportation. One year after the date of enactment of this section or after the effective date of such regulations, whichever is later, the Administrator may alter or amend such regulations, requiring a continuation of such screening only to the extent deemed necessary to assure security against acts of criminal violence and aircraft piracy in air transportation and intrastate air transportation. The Administrator shall submit semiannual reports to the Congress concerning the effectiveness of screening procedures under this subsection and shall advise the Congress of any regulations or amendments thereto to be prescribed pursuant to this subsection at least thirty days in advance of their effective date, unless he determines that an emergency exists which requires that such regulations or amendments take effect in less than thirty days and notifies the Congress of his determination. Notwithstanding any other provision of law, the memorandum of the Federal Aviation Administrator, dated March 29, 1973, regarding the use of X-ray systems in airport terminal areas, shall remain in full force and effect until modified, terminated, superseded, set aside, or repealed after the date of enactment of this section by the Administrator.

"EXEMPTION AUTHORITY

"(b) The Administrator may exempt, in whole or in part, air transportation operations, other than those scheduled passenger operations performed by air carriers engaging in interstate, overseas, or foreign air transportation under a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401 of this Act, from the provisions of this section.

"AIR TRANSPORTATION SECURITY

"RULES AND REGULATIONS

"SEC. 316. (a)(1) The Administrator of the Federal Aviation Administration shall prescribe such reasonable rules and regulations requiring such practices, methods, and procedures, or governing the design, materials, and construction of aircraft, as he may deem necessary to protect persons and property aboard aircraft operating in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy.

"(2) In prescribing and amending rules and regulations under paragraph (1) of this subsection, the Administrator shall—

"(A) consult with the Secretary of Transportation, the Attorney General, and such other Federal, State, and local agencies as he may deem appropriate;

"(B) consider whether any proposed rule or regulation is consistent with protection of passengers in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy and the public interest in the promotion of air transportation and intrastate air transportation;

"(C) to the maximum extent practicable, require uniform procedures for the inspection, detention, and search of persons and property in air transportation and intrastate air transportation to assure their safety and to assure that they will receive courteous and efficient treatment, by air carriers, their agents and employees, and by Federal, State, and local law enforcement personnel engaged in carrying out any air transportation security program established under this section; and

"(D) consider the extent to which any proposed rule or regulation will contribute to carrying out the purposes of this section.

"PERSONNEL

"(b) Regulations prescribed under subsection (a) of this section shall require operators of airports regularly serving air carriers certificated by the Civil Aeronautics Board to establish air transportation security programs providing a law enforcement presence and capability at such airports adequate to insure the safety of persons traveling in air transportation or intrastate air transportation from acts of criminal violence and aircraft piracy. Such regulations shall authorize such airport operators to utilize the services of qualified State, local, and private law enforcement personnel whose services are made available by their employers on a cost reimbursable basis. In any case in which the Administrator determines, after receipt of notification from an airport operator in such form as the Administrator may prescribe that qualified State, local, and private law enforcement personnel are not available in sufficient numbers to carry out the provisions of subsection (a) of this section, the Administrator may, by order, authorize such airport operator to utilize, on a reimbursable basis, the services of—

"(1) personnel employed by any other Federal department or agency, with the consent of the head of such department or agency; and

"(2) personnel employed directly by the Administrator;

at the airport concerned in such numbers and for such period of time as the Administrator may deem necessary to supplement such State, local, and private law enforcement personnel. In making the determination referred to in the preceding sentence the Administrator shall take into consideration—

"(A) the number of passengers enplaned at such airport;

"(B) the extent of anticipated risk of criminal violence and aircraft piracy at such airport or to the air carrier aircraft operations at such airport; and

"(C) the availability at such airport of qualified State or local law enforcement personnel.

"TRAINING

"(c) The Administrator shall provide training for personnel employed by him to carry out any air transportation security program established under this section and for other personnel, including State, local, and private law enforcement personnel, whose services may be utilized in carrying out any such air transportation security program. The Administrator shall prescribe uniform standards with respect to training required to be provided personnel whose services are utilized to enforce any such air transportation security program, including State, local, and private law enforcement personnel, and uniform standards with respect to minimum qualifications for personnel eligible to receive such training.

"RESEARCH AND DEVELOPMENT; CONFIDENTIAL INFORMATION

"(d)(1) The Administrator shall conduct such research (including behavioral research) and development as he may deem appropriate to develop, modify, test, and evaluate systems, procedures, facilities, and devices to protect persons and property aboard aircraft in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy. Contracts may be entered into under this subsection without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) or any other provision of law requiring advertising, and without regard to section 3643 of the Revised Statutes of the United States (31 U.S.C. 529), relating to advances of public money.

"(2) Notwithstanding section 552 of title 5, United States Code, relating to freedom of information, the Administrator shall prescribe such regulations as he may deem necessary to prohibit disclosure of any information obtained or developed in the conduct of research and development activities under this subsection if, in the opinion of the Administrator, the disclosure of such information—

"(A) would constitute an unwarranted invasion of personal privacy (including, but not limited to, information contained in any personnel, medical, or similar file);

"(B) would reveal trade secrets or privileged or confidential commercial or financial information obtained from any person; or

"(C) would be detrimental to the safety of persons traveling in air transportation. Nothing in this subsection shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

"OVERALL FEDERAL RESPONSIBILITY

"(e)(1) Except as otherwise specifically provided by law, no power, function, or duty of the Administrator of the Federal Aviation Administration under this section shall be assigned or transferred to any other Federal department or agency.

"(2) Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration shall have exclusive responsibility for the direction of any law enforcement activity affecting the safety of persons aboard aircraft involved in the commission of an offense under section 901(i) or 902(n) of this Act. Other Federal departments and agencies shall, upon request by the Administrator, provide such assistance as may be necessary to carry out the purposes of this paragraph.

"DEFINITION

"(f) For the purposes of this section, the term 'law enforcement personnel' means individuals—

"(1) authorized to carry and use firearms,

"(2) vested with such police power of arrest as the Administrator deems necessary to carry out this section, and

"(3) identifiable by appropriate indicia of authority.".

SEC. 203. Section 1111 of the Federal Aviation Act of 1958 (49 U.S.C. 1511), relating to authority to refuse transportation, is amended to read as follows:

"AUTHORITY TO REFUSE TRANSPORTATION

"SEC. 1111. (a) The Administrator shall, by regulation, require any air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

"(1) any person who does not consent to a search of his person, as prescribed in section 315(a) of this Act, to determine whether he is unlawfully carrying a dangerous weapon, explosive, or other destructive substance, or

"(2) any property of any person who does not consent to a search or inspection of such property to determine whether it unlawfully contains a dangerous weapon, explosive, or other destructive substance.

Subject to reasonable rules and regulations prescribed by the Administrator, any such carrier may also refuse transportation of a passenger or property when, in the opinion of the carrier, such transportation would or might be inimical to safety of flight.

"(b) Any agreement for the carriage of persons or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier for compensation or hire shall be deemed to include an agreement that such carriage shall be refused when consent to search such persons or inspect such property for the purposes enumerated in subsection (a) of this section is not given.".

SEC. 204. Title XI of the Federal Aviation Act of 1958 (49 U.S.C. 1501–1513) is amended by adding at the end thereof the following new section:

"LIABILITY FOR CERTAIN PROPERTY

"SEC. 1116. The Civil Aeronautics Board shall issue such regulations or orders as may be necessary to require that any air carrier receiving for transportation as baggage any property of a person traveling in air transportation, which property cannot lawfully be carried by such person in the aircraft cabin by reason of section 902(l) of this Act, must make available to such person, at a reasonable charge, a policy of insurance conditioned to pay, within the amount of such insurance, amounts for which such air carrier may become liable for the full actual loss or damage to such property caused by such air carrier.".

SEC. 205. Section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301), relating to definitions, is amended by redesignating paragraphs (22) through (36) as paragraphs (24) through (38), respectively, and by inserting immediately after paragraph (21) the following new paragraphs:

"(22) 'Intrastate air carrier' means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage solely in intrastate air transportation.

"(23) 'Intrastate air transportation' means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States.".

SEC. 206. (a) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading: "TITLE III—ORGANIZATION OF AGENCY AND POWERS AND DUTIES OF ADMINISTRATOR" is amended by adding at the end thereof the following new items:

"Sec. 315. Screening of passengers in air transportation.
  "(a) Procedures and facilities.
  "(b) Exemption authority.
"Sec. 316. Air transportation security.
  "(a) Rules and regulations.
  "(b) Personnel.
  "(c) Training.
  "(d) Research and development; confidential information.
  "(e) Overall Federal responsibility.
  "(f) Definition.

(b) That portion of such table of contents which appears under the center heading "TITLE XI—MISCELLANEOUS" is amended by adding at the end thereof the following new item:

"Sec. 1116. Liability for certain property.".

Mr. STAGGERS. (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

AMENDMENTS OFFERED BY MR. METCALFE

Mr. METCALFE. Mr. Chairman, I have several amendments at the Clerk's desk, and I ask unanimous consent that they may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. METCALFE: Page 10, beginning in line 14, strike out "shall be punished" and all that follows down through line 19, and insert in lieu thereof the following: "shall be punished by imprisonment for not less than twenty years or for more than life."

Page 11, beginning in line 23, strike out "shall be punished" and all that follows down through page 12, line 3, and insert in lieu thereof the following: "shall be punished by imprisonment for not less than twenty years or for more than life.".

Page 12, strike out line 12 and all that follows down through page 17, line 11.

And renumber the following sections accordingly.

Page 20, strike out line 20 and all that follows down through page 21, line 2 and the matter following line 2.

And redesignate the following subsection accordingly.

The CHAIRMAN. The gentleman from Illinois (Mr. METCALFE) is recognized in support of his amendments.

Mr. SNYDER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Sixty-seven Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 83]

Blatnik
Bolling
Brasco
Breckinridge
Carey, N.Y.
Carney, Ohio
Cederberg
Clark
Collier
Conyers
Davis, Ga.
Dennis
Diggs
Dingell
Erlenborn
Esch
Gettys
Gray
Hanna
Hébert
Heckler, Mass.
Horton
Long, Md.
McEwen
Martin, Nebr.
Mathias, Calif.
Minshall, Ohio
Moorhead, Pa.
Murphy, N.Y.
Nichols
Patman
Pepper
Pike
Podell
Railsback
Reid
Robison, N.Y.
Rooney, N.Y.
Rosenthal
Satterfield
Smith, N.Y.
Steed
Steiger, Ariz.
Stuckey
Thompson, N.J.
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wyatt
Wydler
Young, Alaska
Young, Ill.
Zion

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ANNUNZIO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 3858, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 380 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the point of no quorum was made the Chair had recognized the gentleman from Illinois (Mr. METCALFE) for 5 minutes in support of his amendments.

Mr. METCALFE. Mr. Chairman, I have four amendments—basically, I am making one amendment to the committee print and the three additional amendments are conforming amendments.

The amendments, Mr. Chairman, eliminate the death penalty provisions of the bill and substitute in lieu thereof, a sentence of from 20 years to life. This is identical to the Senate bill, S. 39, which passed the Senate on February 21, 1973.

The death penalty provision contained in H.R. 3858 will have one of two purposes: it is either a deterrent or a punishment.

The death penalty as a valid deterrent is open to question. There is no proof that there is a direct cause effect relationship between the imposition of the death penalty and a decrease in the type of crime for which the death penalty is imposed.

To elaborate further on this point, as regards aircraft piracy: Dr. Hubbard, a psychiatrist from Dallas in testimony before our subcommittee stated that his studies showed that other factors were involved in the hijackers' decision to hijack a plane, a decision which, in all probability, would not have been altered by the threat of the death penalty.

Further, it is my opinion that if the death penalty were adopted a hijacker would have no incentive to surrender to the authorities without injuring or killing additional innocent passengers if he was going to face the possibility of the death penalty.

As to the recent tragedy in Baltimore, Special FBI Agent Farrow, is quoted in the Washington Post of Saturday, February 23, as saying that:

> This was an act by one person, a man who must have had a tremendous weight on his mind, if he was not mentally disturbed.

If the death penalty is not a deterrent, and I submit that it is not, then it is punishment. However, I do not think that this body at this time in history, wants to put another human being to death only as a punishment. I shall pursue this point no further.

Historically, those who have been put to death have been the poor and members of minority groups who were not in a position to retain adequate counsel.

Mr. Chairman, I can find no logical reason for the retention of this section of the bill. It should be stricken and that the provision of the Senate be adopted. I urge the Members to adopt these amendments taht 20 year to life be placed in lieu of the stricken sections.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. METCALFE. I yield to the gentleman from California.

Mr. EDWARDS of California. I want to compliment the gentleman for yielding this amendment, and I most certainly urge the Members' support. I think it is regrettable that we would have a provision like this in our bill when the Senate would have a more enlightened provision.

Mr. Chairman, I encourage an "aye" vote on the amendment.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. METCALFE. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

If the gentleman's contention is correct that the death penalty would be a deterrent to the hijacker's surrender to the authorities, is it also true that the death penalty would be a deterrent to hijacking in the first place?

Mr. METCALFE. No, I do not think it follows logically, because, first, we have to understand what type of people have been hijacking these planes. From the testimony before our subcommittee we have found them to be abnormal people, to be modest in my appraisal of them. Many of these people want to die at the hands of someone else and to die a heroic death.

Mr. SNYDER. Whatever type of person they are, based upon the gentleman's argument, if they are the type of person who might be deterred from surrendering, if they knew they were going to face death, they might also be deterred from hijacking the plane in the first place.

Mr. DENNIS. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, the matter now before us has to do with the infliction of the death penalty for air piracy or hijacking under certain circumstances as set forth under the rather complicated provisions of this particular legislation. The amendment offered by the gentleman from Illinois, as I understand it, would strike out the death sentence provision and provide for 20 years to life. I support that amendment.

I should like to preface my remarks by simply reading briefly from Mr. Justice Stewart's opinion in the case of Furman against Georgia, which is the case in which the Court held the infliction of the death penalty unconstitutional under certain circumstances, which circumstances there is an attempt to meet in the provisions of the current bill.

Mr. Justice Stewart said:

> The penalty of death differs from all other forms of criminal punishment not in degree but in kind. It is unique in its irrevocability. It is unique in its rejection of rehabilitation as a basic purpose of criminal justice. And it is unique finally in its absolute renunciation of all that is embodied in our concept of humanity.

Although I am not personally a subscriber to the constitutional views of the Court in that particular opinion, I am personally a subscriber to the sentiments expressed by Mr. Justice Stewart in that passage.

Mr. KUYKENDALL. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Mr. Chairman, would the gentleman not agree that in the same opinion of the same judge he did confirm that there were circumstances under which society had the right to impose the death penalty?

Mr. DENNIS. I would say to the gentleman that what Mr. Justice Stewart actually said was that a couple of his colleagues had said it was always unconstitutional and that he did not think he needed to face that question in this case and therefore was not deciding it because he thought that it was unconstitutional under the statutes and the facts of the situation then under consideration. He would save the broader question for sometime when he had to decide that.

Now the question is why do we ever want to impose the death penalty? That is the first broad question, because I think all of us would agree with the things that Mr. Justice Stewart says about it. It is irrevocable. It is done when we do it. It does not have anything to do with rehabilitation, and it is not a very humane thing in and of itself. So why do we do it?

The main argument is deterrence. The trouble with that argument is that it is not so. I have done some reading and study on this thing, and the figures just do not support anything one way or the other. We have a State on one side of the line that has the death penalty and another State on the other side of the line that does not have the death penalty, and we cannot prove from the figures in any case whether the death penalty acts as a deterrence or does not. It seems to depend on other factors, such as the types of cities, whether the area is urban or rural, and on other things. The death penalty itself does not cut any ice one way or the other.

If we really think the death penalty deters anybody, we ought to have public executions such as we used to have. Maybe some Members agree, and that is logical, if we are deterring anybody. We used to do it in the courthouse square in my hometown, and probably in the hometown of some of the other Members, but the last time was in 1892, I think, in my hometown, and I will bet it was longer ago in the home towns of others, and the reason is we are ashamed to act that way any more. We know it debases society when we do it, and we will not do it publicly for deterrence. We do it back in the closet somewhere where nobody can see it and we hope everybody will forget about it. So the deterrence thing is out.

It has usually been inflicted on the poor and the helpless, not because the law wanted it that way. No. It is because the poor cannot get good enough lawyers, ordinarily, to beat the death penalty, and that is why the incidence falls there. That is another thing wrong with the deterrence argument.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(By unanimous consent, Mr. DENNIS was allowed to proceed for 5 additional minutes.)

Mr. DENNIS. That is why we do not get any deterrence, because we do not get a death penalty once in 100 times, so it does not work that way, either.

Now let us look at this particular law. We had this decision in Furman against Georgia a couple of years ago in which the court held that the death penalty under the circumstances in that case was unconstitutional. It is pretty hard to tell exactly what the court meant because a couple of the judges said it always would be unconstitutional and the others said well, no, they would not necessarily say that, and they did not have to decide that.

It was unconstitutional in this case, because there were no standards given to the jury, in effect, to say when it should be imposed and when it should not; so in this legislation here they try to set standards and they list five of what they call mitigating standards and seven things which they call aggravating standards, which are by no means exclusive. Either way one could think of plenty of other things which might be aggravating or mitigating factors, and they say if none of the mitigating standards are present and if any one of the aggravating standards are present, then the death penalty is mandatory; no discretion. They think that gets around the constitutional point in the Furman case.

On the other hand, if any one of these mitigating standards are present, then the death penalty cannot be imposed. Now, obviously, that is a very complicated proposition. If one is 18 years old, that is a mitigating standard, for instance. If he is 18 years and 3 hours, it does not do him any good; he is out as far as mitigation is concerned. If he is in a hijacking and somebody else kills a fellow and he helps him commander the plane, he is just as guilty under the law. It does not leave the judge any discretion if the circumstances are such that no stautory mitigating factor is present and one aggravating factor is.

If there are to be any statutory standards at all, at least they ought to guide the court's discretion, not tell him that under certain legislatively prescribed standards he has got to impose the death penalty.

This legislation, which is Justice Department legislation in an effort to get around the Furman decision, is pending before the Committee on the Judiciary in general bills dealing with revision of the whole criminal code. This subject needs hearings and it needs testimony and it needs careful consideration to see whether, in fact, the Furman case has not been met, whether this complicated scheme makes any sense. It has not yet had any hearings and it should not be brought out here as a part of a bill on a single crime, which is a bill we would all like to support, if it was not marred by this particular section.

Mr. Chairman, I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I thank the gentleman for yielding. I hesitate to interrupt the very excellent argument he is making. I do want to associate myself with him.

I agree with the substantive arguments he has raised against the effectiveness of the death penalty as a deterrent. I say that with some experience as a former prosecutor myself.

I also fundamentally agree that with no less than three bills pending on this very important question now before the House Committee on the Judiciary, the Subcommittee on Criminal Justice, we should not under the guise of enacting a general statute dealing, admittedly, with a very important subject, that of aircraft piracy, we should not plunge ourselves into the legal thicket of whether or not the definition of the standards and the procedures set forth in this bill do meet the objections in the Furman against Georgia case. That was a 5-to-4 decision. If I am not incorrect, there were at least seven concurring opinions in this case.

This is an enormously complicated issue, one that is fundamentally important as far as human rights are concerned.

I hope that this House will accept the amendment of the gentleman from Illinois (Mr. METCALFE) and not permit the error of going in and accepting this penalty under the circumstances that it was adopted.

Mr. DENNIS. Mr. Chairman, the gentleman is absolutely correct. We are going to have hearings on this matter. We need hearings on this matter.

I am a former prosecuting attorney, too. I think I know something about this subject myself. This is not the place or the time to bring this matter up.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. KUYKENDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, after listening to the remarks of the gentlemen from Indiana, Illinois, and Texas concerning the matter of the placing of this very important provision in this act, may I first in good humor toward the gentleman from Indiana kid him just a little bit? I never knew lawyers to do anything but profit by complicated language.

Yes, this language is complicated because the court decision was complicated, but six of the Members of the Supreme Court—not four—six of the Members of the Supreme Court did say that there were certain heinous crimes under which society had the right to exact the death penalty. If this does not qualify, the crime of murder in the act of an aircraft hijacking, then there is no such thing and those six Justices are wrong. I would like to quote from the same Justice Stewart concerning society and its right to keep order. He says, and I quote:

> When people begin to believe that organized society is unwilling or unable to impose upon criminal offenders the punishment they deserve, then there are sown the seeds of anarchy, of self-help, vigilante justice and lynch law.

Mr. Chairman, we are not speaking of the type of crime that has in the past produced the injustices and unjust use of the death penalty so much against the poor and the minorities, because if the Members will examine the offenders in the many scores of hijackings, this is not the type of criminal that is involved.

As far as deterrence is concerned, this section is carefully couched by those of us who have studied this issue very, very thoroughly; in hour after hour of discussion with Dr. Hubbard and others; that if this were an absolutely blind, mandatory, no strings attached, death penalty, yes, the ability to bargain and bring that airplane to the ground would be destroyed. Such is not the case in the committee position.

As I said earlier in general debate, and we did give this subject about 25 minutes in general debate, that we will have our choice of the position that has been carefully couched in the language by the Justice Department, with the concurrence of the subcommittee, to be constitutional.

The Members can vote for this amendment, which I am urging them to vote against, or they can vote for a much stronger amendment later on which I shall oppose because I do not think it is constitutional.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. KUYKENDALL. Mr. Chairman, I am happy to yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, the gentleman from Illinois (Mr. METCALF) who introduced this amendment, said in effect in his remarks that only poor and oppressed people commit hijackings of aircraft. I wonder how much richer today are the widow and the children of the copilot of the plane who was killed in the recent attempted hijacking at Baltimore.

Mr. KUYKENDALL. Mr. Chairman, I agree with the gentleman from Iowa.

Mr. Chairman, the point I wanted to make here is that one of the reasons for testing the constitutionality with this particular vehicle is because we have here the type of crime, if the Members will study the records clearly, that the offenders in this crime have not been the poor and oppressed, generally speaking.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment. I do so reluctantly, because I respect and admire the gentleman who offered the amendment. I think that he is a valuable Member of this body, a distinguished Member, and he is doing a great job.

In times and years gone by, he carried the colors of this Nation abroad high and in glory, and we respect him for that. Tomorrow, I understand, he is to be recognized and given an award in New York for what he has done for America.

Now, when we had the general debate on the bill, the gentleman from Tennessee (Mr. KUYKENDALL) yielded to the distinguished gentleman, and I believe they had 20 minutes debate on this issue at that time. I think it has been debated enough. I hope we can get a vote on the issue. Really, in fact, it is an issue that has been debated down through the history of man, since the beginning of historical time, as to whether it is right or whether it is wrong or whether it is a deterrent or not. So we are just carrying on a debate that mankind has engaged in eternally.

There are to be amendments offered in a few moments which will strike out even the mitigating circumstances that we have in the bill now, and those amendments would make the death penalty more mandatory.

We have tried to be reasonable and take an inbetween approach in order to provide every safeguard that this will not be done and that everybody involved will have protection.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman, the chairman of the committee, for yielding.

I would like to make the following inquiry:

Under the proposed bill, as the committee has recommended it, would the death penalty be limited to those cases where death occurs as a result of a hijacking?

Mr. STAGGERS. Mr. Chairman, the gentleman is correct.

Mr. BINGHAM. There is no question about that?

Mr. STAGGERS. That is in the law.

Mr. BINGHAM. Mr. Chairman, the reason I have asked the question is that we have listed several cases where the death penalty is mandatory. The gentleman has listed certain cases where the death penalty is mandatory, and those instances clearly are listed where death has occurred as a result of a hijacking.

But can the gentleman explain to me just what the relationship is?

The gentleman has said that under the proposal the death penalty can be imposed only if death has occurred as a result of the hijacking.

Mr. STAGGERS. The gentleman is correct.

Mr. BINGHAM. Mr. Chairman, does that not meet at least part of the argument presented by the gentleman from Illinois that there is no incentive for the hijacker, once he has committed the hijacking, not to proceed to blow up the plane or do whatever he intends to do?

If the death penalty is not imposed, if the hijacking does not result in death, it seems to me there is still an incentive.

Mr. STAGGERS. No, because we have other mitigating circumstances.

Mr. BINGHAM. Mr. Chairman, I believe the gentleman misunderstood my question.

It seems to me that the gentleman from Illinois was arguing that there was no incentive under the committee's bill for a hijacker, let us say, to give up.

Mr. STAGGERS. Mr. Chairman, the gentleman is correct.

Mr. BINGHAM. That would be true, because he has already committed the hijacking. But if the death penalty is imposed only if the hijacking has resulted in death, then it seems to me there is an incentive in that instance.

Mr. STAGGERS. Of course, Mr. Chairman, if there is a death which occurred and he did not cause it directly but is only a part of it, then the death penalty may not be imposed upon him.

We have several other deterrents in the bill. That would be one deterrent in my opinion.

Mr. ECKHARDT. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the point before us here is a very difficult constitutional question. Of course, it involves the case of Furman against Georgia, and it purports to answer that question by satisfying the decisions of a majority of the judges in that case.

Let me point out first that Furman against Georgia, including the brief per curiam decision that appears at the commencement of it, is such a short case that it can be read almost faster than it can be explained:

It says as follows:

> The question was, does the imposition and carrying out of the death penalty in these cases constitute cruel and unusual punishment in violation of the 8th and 14th amendments?
>
> The court holds that the imposition of the death penalty in these cases constitutes cruel and unusual punishment, in violation of the 8th and 14th amendments.

That is virtually the whole of the per curiam decision. In other words, the case simply says that the death penalty is, under the facts of these cases, cruel and unusual punishment.

Mr. ICHORD. Will the gentleman yield?

Mr. ECKHARDT. Certainly. I yield to the gentleman.

Mr. ICHORD. I think the gentleman should point out that there were separate concurring and dissenting opinions delivered all over the lot in that case you are referring to.

Mr. ECKHARDT. That is precisely what I was commencing to do, and I will go forward with that, if the gentleman will permit me to.

The first opinion was that of Justice Douglas in which he pointed out that the application had been so wanton, with respect to the imposition of the death penalty, that it fell unfairly and discriminatorily as between persons. He pointed out, in fact, that there had been discrimination against the poor and the minorities.

On page 247 of that decision he referred to a previous case of the Supreme Court, the case of McGantha against California, in which it was said in the light of the history, experience, and the present limitations of human knowledge we find it quite impossible to say that committing the untrammeled discretion of the jury the power to pronounce life or death in capital cases is "offensive to anything in the Constitution."

Justice Douglas then said:

> The Court refused to find constitutional dimensions in the argument that those who exercise their discretion to send a person to death should be given standards by which that discretion should be exercised.

The Court then quoted from the testimony of Ernest van den Haag before the House Committee on the Judiciary during the 92d Congress as follows:

> Any penalty, a fine, imprisonment or the death penalty could be unfairly or unjustly applied. The vice in this case is not in the penalty but in the process by which it is inflicted. It is unfair to inflict unequal penalties on equally guilty parties, or on any innocent parties, *regardless of what the penalty is.*

The Court then remarked:

> We are now imprisoned in the *McGautha* holding. Indeed, the seeds of the present cases are in *McGautha*. Juries (or judges, as the case may be) have practically untrammeled discretion to let an accused live or insist that he die.

Thus, it is the "untrammeled discretion" of the judge or jury that is condemned.

It is true that Justice Douglas expressly stated that the question of whether a mandatory death penalty would be constitutional if indiscriminately applied is a question he did not reach, but the Georgia statutes were stricken down because practically untrammeled discretion was granted to the trier of fact in determining whether, under widely varying circumstances, the death penalty should be applied and it was also shown that, in the actual application of the death penalty, minorities and the poor had been discriminated against.

Justice Brennan likewise said that the death penalty under the circumstances of the Georgia and Texas cases before the Court constituted cruel and unusual punishment.

On page 268, Justice Brennan said that this Court finally adopted the framers' view of the clause as a constitutional check to insure that "when we come to punishments, no latitude ought to have been left or dependence put on the virtue of representatives."

Mr. STAGGERS. Will the gentleman yield briefly?

Mr. ECKHARDT. I yield to the gentleman.

Mr. STAGGERS. I would like to say to the House that the chairman made a mistake a while ago in saying that this was the original act. It was put in in 1961, but I know of no one being executed or killed because of this act since it has been in effect, and we have had a lot of hijackings since then.

Mr. ECKHARDT. As I pointed out, the first concurring opinion supporting the per curiam decision takes the position that there is too much leeway and there is too much opportunity on the part of judge or the jury to apply the death penalty discriminatorily. The majority do not say, of course, that the death penalty would not be cruel and unusual in all cases. They do what careful judges usually do: refrain from deciding any more than they have to decide in this particular case. Of course, that does not mean that the court would not determine, in every case, that the death penalty is cruel and unusual, but the concurring judges state that the death penalty does afford too wide a leeway for discrimination as applied in Texas and Georgia.

Now let us examine this statute to see if it answers these questions. Let us look first at those who are relieved from the death penalty.

One ameliorating circumstance militating against the death penalty is that a person's appreciation of wrongfulness is "significantly impaired"——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 3 additional minutes.)

Mr. ECKHARDT. Now, what is "significant"? Does that not assume wide leeway to determination? One not represented by a competent attorney may not be able to show his understanding of the events was too dim to appropriately apply the death penalty to him. Another with a move skillful attorney, or more money to move diligently and extensively pursue his defense, might thereby be able to show this. So under the language of this bill we are right back where we were in Furman against Georgia.

The mitigating circumstance listed as "(C)" refers to "unusual and substantial duress". Does that not leave the same broad leeway in determining in favor of the death penalty in one case, and against it in another?

Another section "(D)" on page 16 provides that where a person was not a principal and his action was "relatively minor" that he shall be in the classification to which the death penalty shall not be applied. How does one measure how "relatively minor" the hijacker's offense must be in order to avoid the application of the death penalty? I simply submit that the language of this statute in no wise narrows the standards to the point which was described in the decisions of both Justice White and Justice Stewart.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, does not the gentleman in the well feel that this business about being relatively minor would necessarily excuse a man, as the Chairman indicated, simply because someone else pulled the trigger?

Mr. ECKHARDT. No. As a matter of fact, he may not have been the one who pulled the trigger, and, indeed, the death may not even have occurred as a result of the pulling of a trigger at all; it might have resulted because of a heart attack, or what-have-you. The point is we cannot anticipate all of the mitigating circumstances.

Mr. MATHIS of Georgia. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. Surely I will yield to the gentleman from Georgia.

Mr. MATHIS of Georgia. Mr. Chairman, if I might suggest, the gentleman in the well has made as good a presentation for the amendment as I have.

Mr. ECKHARDT. I have. I understand that if the gentleman would go all the way, if he says the death penalty is absolutely mandatory except in those cases where the person is 18 years of age or younger, perhaps the gentleman meets the constitutional standard. But as the gentleman from Indiana (Mr. DENNIS) has pointed out, do we want to take from the Court the power to make the decision as to whether one approaching his 18th birthday or one past his 18th birthday shall merely, for that reason, be removed from possible application or be subjected to mandatory application of the death penalty? I think not.

The point is simply this: One cannot anticipate every probability or possibility of the conditions under which an offense occurs. When we attempt to do that we write bad law.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. ICHORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and members of the Committee, I rise in opposition to the amendment. I do not propose to discuss the Supreme Court decision. I think that the gentleman from Texas (Mr. ECKHARDT) and the gentleman from Indiana (Mr. DENNIS) and all of the other Members of the House could spend all day discussing the decision of Furman against Georgia, and we would still not know what it means. There is only one thing clear from the case of Furman against Georgia. The Court was neatly divided. Marshall and Brennan did make their views clear. They were opposed to the imposition of the death penalty under the eighth amendment on the ground that it was a cruel and unusual punishment. Burger, Rehnquist, Powell, and Blackmun were in the minority. Douglas, Stewart, and White were writing decisions all over the place, and on this particular case they were with Marshall and Brennan, but for different reasons.

We could dismiss the Supreme Court case all day long and we would still not know what the Court meant as a collective body.

But, Mr. Chairman, I do want to commend the gentleman from West Virginia, the Chairman of the full committee (Mr. STAGGERS) and his committee, for the job that they have done in approaching this very difficult problem.

We could argue all day long, and they have been arguing throughout the pages of history as to whether the death penalty is a deterrent or not. Personally, commonsense tells me that some place, somewhere, there is a potential criminal who will commit murder that will be deterred if there is a possibility of his life being taken in return.

This is the deterrence the committee has accomplished in this legislation. They have made it possible that the death penalty be imposed by the jury.

I want to discuss with my good friend, the gentleman from Illinois, the reference that he made to Dr. Hubbard, a member of the FAA study team, in his discussion. I appreciate the position of the gentleman from Illinois.

There are some who are opposed to the imposition of the death penalty on ethical grounds, but the study team which the gentleman referred to also appeared before my committee.

This is Dr. Harris' testimony specifically in regard to the problem we are discussing now. Let me read my question and the answers of Dr. Harris:

> The CHAIRMAN. Dr. Harris, you state on page 7 that your group questioned the wisdom of a mandatory death penalty, and personally I think I would agree with your conclusion questioning the wisdom of a mandatory death penalty. I think we have to consider this conclusion in light of the Supreme Court decision. Let me ask you this question. Would you at the same time question the wisdom of prohibiting a discretionary death penalty?
>
> Dr. HARRIS. In general, or as related to this specific problem?
>
> The CHAIRMAN. I will restrict it to the specific problem of skyjacking. Do you question the wisdom of prohibiting a discretionary death penalty?
>
> Dr. HARRIS. I would say offhand, yes. I would question the wisdom of prohibiting the death penalty.

Prohibition is what the gentleman from Illinois seeks to do by his amendment. He is prohibiting the discretionary death penalty.

I commend the gentleman from West Virginia again. I think he has conceived a very wise approach to this very difficult problem.

Mr. METCALFE. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Illinois.

Mr. METCALFE. I thank the gentleman very much for yielding. I simply would like to ask him one question in light of the general discussion and also debate on my amendment. The question is whether or not the gentleman in his good wisdom and judgment thinks that we at this point in time ought to resolve the total question of the death penalty, when that matter is presently before the Committee on the Judiciary in which there have been factors and testimony indicating that in the application of the death penalty where skyjacking is concerned, it fits into an entirely different category, because there you have a chance to argue.

Mr. ICHORD. Unequivocally I would say yes, we should resolve it, because the gentleman is aiming his amendment at a mandatory death penalty. The Chairman of the Interstate and Foreign Commerce Committee has brought before this body the discretionary death penalty. I do not think that the argument of the gentleman is applicable.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ECKHARDT, and by unanimous consent, Mr. ICHORD was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

Perhaps the gentleman and I are not using language in exactly the same way. If I understand his statement to be correct, does he not understand—as I understand—that under the framework of this act, unless the mitigating factors set out with respect to the offense are shown——

Mr. ICHORD. Read the language of the bill. It says that the death penalty shall be imposed unless the jury finds mitigating circumstances. The court shall not impose the sentence of death on the defendant if it finds certain mitigating circumstances.

Mr. ECKHARDT. That is correct, but if the jury does not find those listed mitigating circumstances, the jury must impose the death penalty mandatorily. Is that the way the gentleman understands it?

Mr. ICHORD. I think there may be some ambiguity in the language. Read the language up above, and then read the language down below.

I think a discretionary finding remains in the province of the jury.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is troublesome legislation. There is probably no more delicate nor more uncertain area in the law right now than the ability of any legislative body to impose under any circumstances the death penalty.

This proposal is in the nature of middle ground. It has received the endorsement of the Department of Justice, but nevertheless I am not persuaded that it is a very good job of draftsmanship if we are going to meet the test of Furman against Georgia, and, more importantly, if we are going to meet the test of commonsense.

I ask the indulgence of the chairman of the committee for a moment to discuss just two of many possible fact situations.

The first fact situation is this: Assume a hijacking occurs and a passenger is killed by a police officer in the course of apprehending the skyjacker. I invite the chairman to go over the mitigating circumstances carefully and advise me whether or not it could conceivably be a mitigating fact that the defendant did not himself commit the killing, but rather the killing was accomplished by a police officer.

If the chairman is not prepared to answer, just let me ask the general question. Does the gentleman intend this statute to put a defendant to death when the killing was performed by a police officer?

Mr. STAGGERS. If the gentleman will yield, I do not quite understand the gentleman's question, but I can say to the gentleman we have nothing in this law about the police officer killing anyone. That is under the general law of the land and will be taken care of there. We are talking about an air piracy where other individuals are concerned.

Mr. WIGGINS. Mr. Chairman, I cannot yield further.

I have not made my point to the gentleman. Let me just make this simple statement: If a defendant is on trial under this statute and he is subjected to the death penalty because a death occurred he risks being sentenced to death even though he, himself, did not kill the victim.

If the chairman does not understand that, I think the chairman does not fully perceive the reach of this statute. This body ought to make a judgment as to whether or not the Members want to impose the death penalty when the victim was not killed by the defendant directly.

It is true that the death must result from the crime but there is no question but that many consequential but unintended deaths result from the criminal action of the defendant.

It is to be noted that the situation which I have just described is probably not one of the mitigating factors. It arguably might be covered under 6(E) but it would be so easily argued by a prosecutor that a person who hijacked an aircraft could reasonably foresee the course of that criminal conduct might lead to the death of an individual.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield.?

Mr. WIGGINS. I yield to the gentleman from West Virginia to permit him to respond.

Mr. STAGGERS. I think if the gentleman reads that, it is self-explanatory, and I think everybody in the Chamber can read and can understand it.

Mr. WIGGINS. All right. The committee may take the view that the situation I described is covered on pages 16, lines 6 through 9. The logical import of that language is in my opinion to the contrary. It would not be covered by mitigating factor 6(E).

The second situation, Mr. Chairman, is this: What if the victim dies of a heart attack? Is it the intent of the chairman that a skyjacker who literally may have scared an old lady to death should be sentenced to death by reason of that act?

Mr. STAGGERS. The judge has discretion here in instructing this jury, and certainly he would not say that. We have all kinds of mitigating circumstances here.

Mr. KUYKENDALL. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I will yield to the gentleman if he will answer that question.

Mr. KUYKENDALL. Let me say what my intent is. If an accident causes a skyjacker to be executed I think society would be better off.

Mr. WIGGINS. I think the gentleman does not intend to say that.

This statute is drafted in such a way that the defendant could be put to death although the death was not intended by him although it may have been the result of, as that term is legally understood, his criminal act. Such a consequence is undesirable.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Alabama.

Mr. FLOWERS. I am concerned, as the gentleman from California is concerned, about the application in any circumstance—take another circumstance, and these kinds of things have happened, the gun that the hijacker is using goes off and kills one passenger during the hijacking. He would still be out of business as far as negotiating with him on the whole aircraft. We have a mandatory death penalty.

The CHAIRMAN. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 1 additional minute.)

Mr. FLOWERS. Does the gentleman see that as a problem?

Mr. WIGGINS. Yes, I do. Let me clarify my own attitude on the death penalty. I am convinced there is a place in our law for a properly drafted death penalty. I am not against it on conceptual or moral grounds. I think this is a right society should have in a very narrow type of case under a very narrow type of procedure; but the thing that disturbs me is that the procedure embodied in this act is not carefully drafted to exclude very real circumstances which are apt to occur in the enforcement of the act.

The language of the statute if it becomes law is going to produce a result which was never intended.

I think prudence would dictate that

this entire section be stricken and let the Committee on the Judiciary deal with it in a more careful manner.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from West Virginia.

Mr. STAGGERS. The Department of Justice has spent thousands of man-hours in investigating this and they are competent to do it. Does the gentleman think they are not competent to do it?

Mr. WIGGINS. I understand that, but I do not agree with their conclusions.

Mr. HUNGATE. Mr. Chairman, I rise in support of the amendments.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman.

Mr. STAGGERS. I wonder if we could get a time limitation on these amendments? They have been discussed a long time and everybody here knows what they are going to do. Would the Members go along with the suggestion that all debate on these amendments and all amendments thereto close in 15 minutes?

Mr. HUNGATE. There are only one or two more customers waiting.

Mr. STAGGERS. Well, how about 12 more minutes?

Mr. Chairman, I ask unanimous consent that all debate on these amendments and all amendments thereto close in 12 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. DENNIS. Mr. Chairman, I object.

Mr. STAGGERS. Does the gentleman want further time?

Mr. DENNIS. No.

The CHAIRMAN. Objection is heard.

Mr. STAGGERS. Can we let the discussion go on for 4 or 5 minutes and see how it goes? I do think this has been discussed enough and everybody has had a chance on this.

Mr. HUNGATE. Mr. Chairman, I think we have a pretty high quality of debate here. The question, as someone has said, is, "What is justice?" That is what we seek. What is justice? Someone has said it is the greatest good to the greatest number.

Then someone else says, "What is the greatest number?"

The reply was, "No. 1."

We want to be careful that we do not just think of "No. 1." The No. 1 consideration here politically, if we have hijackers, and we can kill them, that is a good deal politically; but we will think more carefully into this, I hope.

I would like respectfully to ask the gentleman, what hearings were held on this?

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman.

Mr. STAGGERS. There were several days of hearings. I cannot tell the gentleman exactly. We can check in the report.

Mr. HUNGATE. On the question of the death penalty, I wonder how many witnesses were heard?

Mr. STAGGERS. Not specifically on that; but let me ask, how many people have ever been executed under this section? Not one.

Mr. HUNGATE. I am still seeking an answer to my first question.

Mr. STAGGERS. Seven days of hearings.

Mr. HUNGATE. On the death penalty question, how many witnesses were called?

Mr. STAGGERS. I do not know. There was overall discussion of the bill, including the death penalty.

Mr. HUNGATE. I appreciate the contribution of the gentleman.

Mr. Chairman, this is a matter of great seriousness, the Subcommittee on Criminal Justice of the Committee on the Judiciary, and we have heard from Members of all parts of the spectrum on the Committee on the Judiciary, and I am proud that they are concerned for human rights.

I would say a word of explanation is due from me as to why the Judiciary Subcommittee, which I chair, did not seek hearings on the question. As Members may know, we just completed work last month on the evidence code on which we worked for 1 year. There were before the Committee on the Judiciary the criminal law bill on the revision of the entire criminal code, including the death penalty, including pornography and many other things.

There is a provision before us, in addition to the administration bill, one prepared by Senator McCLELLAN dealing with criminal law revision. Some say it is the longest bill ever introduced in Congress, consisting of hundreds of pages. Also before us, introduced, I believe, by the gentleman from Wisconsin (Mr. KASTENMEIER) and the gentleman from California (Mr. EDWARDS) is what is known as the Brown Commission Report, a distinguished study by several outstanding scholars of a proposed criminal code. We have had about 3 to 4 days overview and briefing by the Justice Department on this matter, and we find at this time that, as it is explained to us, Senator McCLELLAN and the administration are in the process of reworking their bills to introduce a bill on which they may come to some agreement.

It is for this reason that we have not proceeded in the hearings, but the matter is before the committee. I have discussed this with minority Members present today and with the majority Members. I am convinced that the chairman would have no objection, and this specific question could be gone into in detail and hearings held so that all those in favor of and opposed to taking a human life under these conditions could be heard.

Mr. Chairman, I would suggest, with no criticism of the committee handling this bill, because we have to have penalties, and like the gentleman from California (Mr. WIGGINS) I am not sure I have moral scruples enough or whatever else it is, I am not against the death penalty in all circumstances, but I think it is to be very carefully approached.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I just want to say to the Members of the Committee that the gentleman in the well, the chairman of this subcommittee, moved this code of evidence out, which was a gargantuan task, in a very efficient manner. He, as the chairman of the subcommittee, moved the bill.

If he tells us he is going to have hearings on this matter, he will, and that is exactly what ought to be done with this subject.

Mr. KUYDENDALL. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. Mr. Chairman, I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Mr. Chairman, I would like to comment on the comments just made. I have great faith in the gentleman from Missouri's willingness to bring this bill up, but after listening to the debate of the members of that great, honored committee, I will let this House judge what they will bring up once they bring it up.

Mr. HUNGATE. Mr. Chairman, this House will be judging a lot of things, I expect and I hope it will do a good job.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. Mr. Chairman, I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, there seems to be some division on the Committee on Interstate and Foreign Commerce here.

Mr. HUNGATE. Mr. Chairman, let me hasten to add that this is an even numbered year, and while I am a lawyer, I want the Members to know that I am not too much of a lawyer.

Mr. METCALFE. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. METCALFE. Mr. Chairman, I am a member of the subcommittee, and my attendance has been very good. But I think we are not going to give the impression that we had any hearings on the death penalty. We did have extensive hearings on the bill itself.

(By unanimous consent, Mr. HUNGATE was allowed to proceed for 1 additional minute.)

Mr. HUNGATE. Mr. Chairman, there is an old saying that in a home where there has been a hanging, you do not talk about rope. That may be part of the problem around here. We are pretty far removed from the severity of some of this punishment. We can imagine ourselves in an airplane. The Chairman asked if we had ever flown.

Mr. Chairman, I agree with my colleague from Missouri that somewhere there is a would-be hijacker who would be deterred by this bill. I say to the Members also that my concern is that somewhere there is an innocent man that could be condemned to death by this bill.

Mr. PREYER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am not rising to talk about the merits or demerits of capital punishment, but I would like to mention just a few things about the effectiveness of capital punishment, mandatory or discretionary, as it relates to deterring hijackers.

Chairman Ichord spoke earlier about Dr. Harris in some hearings we had in our Internal Security Committee dealing with skyjacking, and the gentleman from Illinois (Mr. Metcalfe) spoke of Dr. Hubbard's testimony in those hearings.

I do not recall Dr. Harris' testimony in any detail, but the gentleman from Missouri (Mr. Ichord) pointed this out.

Apparently Dr. Harris felt that a discretionary death penalty would be a desirable solution. However, I looked up my notes to find out what Dr. Hubbard said, and I would like to bring out the arguments he made on the subject.

Dr. Hubbard certainly is the authority on this subject of hijacking. He has written the definitive book on it. The New York Times and Time Magazine have referred to him a number of times as the world's greatest authority on the subject.

I have forgotten the exact number, but he has interviewed in depth around 50 hijackers.

Here is what he has said to our committee about death sentences as they apply to skyjacking.

He said that the death penalty, whether mandatory or discretionary, was not wise in skyjacking cases because of several practical reasons: first, it blocked negotiations for the return of skyjackers from some other countries because these countries would not extradite someone back to this country where we have a death penalty involved. And we know that extraditing skyjackers back to this county is the single most important thing we can do to deter skyjacking. He cited Italy as a classic example. The romantic young hijacker, whose name I have forgotten, was the prime example. We could not get him back to this country because Italy objected to capital punishment or the possibility of it.

Another practical reason is that it is hard for the pilot to "talk a man down" to face a death penalty. As Dr. Hubbard said, the death penalty will not deter one from starting a crime, but it can complicate resolving a crime once one gets into it.

But, most importantly, what he insisted on most basically, was this point: This falls in the field of psychiatry and is, therefore, foreign to me, and, I think, to most of us—Dr. Hubbard said this, and I think he deserves listening to on this subject. He said that almost all of these offenders he has examined are people who wish to die, but they lack the guts to kill themselves.

He says that most of them "intend to be dead." Therefore, it is not a deterrent to impose capital punishment on them; it is even an encouragement, if anything.

He says that:

> They are people who manipulate society into the position of killing them, since they lack the courage to do it themselves.

He pointed out that the two skyjackers who were killed on the runway recently—I believe it was in Dallas, Tex.—set off other skyjackings, and he predicted that this would happen. Sure enough, it did happen as he said it would. It set off four similar skyjackings, one right after another, by men who wanted to be killed, and in the same fashion as those men who were killed on the runway in Texas.

When Dr. Hubbard interviewed them, it developed that that is what they wanted to happen.

So Dr. Hubbard says that our commonsense approach to this problem is just not effective. The commonsense approach says that death is a deterrent, and it will stop skyjackers. He is saying, referring to the kind of people who commit hijackings, that it does not stop them, no matter what commonsense says.

Dr. Hubbard says that the public, in matters of this sort, is always ready to go to one extreme or the other; we are either ready to ransom without limit, or we are ready to kill. We will give ransom or death, and the truth actually lies somewhere in between, and techniques can be worked out to handle these people better than either extreme.

Mr. Chairman, I believe we should pay attention to this expert in the field and vote to approve this amendment.

Mr. KUYKENDALL. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Mr. Chairman, the gentleman has brought up the name of Dr. Hubbard. I suppose the gentleman from Michigan (Mr. Dingell) and I have probably spent more time with Dr. Hubbard than any other Members of this body.

I spent 2 hours with him this very day, I had lunch with him today, and I discussed this bill with him today.

Actually when we get in great depth into Dr. Hubbard's points about hijacking, we find the matter of the death penalty is rather irrelevant one way or the other. He says in one instance that he feels that society has the right to exact the death penalty. He said that for the record.

I believe the gentleman repeated that. However, Dr. Hubbard also said that it is not a deterrent.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. Preyer) has expired.

(On request to Mr. Kuykendall and by unanimous consent (Mr. Preyer was allowed to proceed for 1 additional minute.)

Mr. KUYKENDALL. Mr. Chairman, will the gentleman yield further?

Mr. PREYER. I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Mr. Chairman, Dr. Hubbard also said it is not a deterrent, because it is his determination that it relates to the hijacker himself and the psychiatric involvement.

So the matter of Dr. Hubbard's opinion, vis-a-vis the death penalty and its effect on skyjacking, goes deeper than the gentleman's study of Dr. Hubbard's belief on hijacking.

I guess I spent 15 hours with him in the last 2 years, including today, and his depth of study here is quite irrelevant to the whole matter of the death penalty either way.

Mr. PREYER. If I have any time left, I think that one might draw that conclusion from Dr. Hubbard's studies. I gather that is your conclusion. But is it not true that Dr. Hubbard has personally concluded that it is not wise as a policy matter to include a mandatory or a discretionary death penalty?

Mr. KUYKENDALL. As I said, I had lunch with him today, knowing we were taking this matter up, and he in no way criticized this provision of the bill to me at 12:30 today.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this has been an extraordinarily high level debate.

I want to say, first that I am not opposed to the death penalty as a matter of principle. I think there are cases where it is needed and certainly there are cases involving skyjacking where the death penalty would be appropriate. However, after listening to the debate and the remarks made by a number of the gentlemen here, such as the gentleman from California (Mr. Wiggins), the gentleman from Missouri (Mr. Hungate), and the gentleman from North Carolina (Mr. Preyer) who just spoke and others, I am persuaded that it would be a mistake to go ahead with the bill in its present form.

Since the alternative seems to be to support the amendment offered by the gentleman from Illinois, I am prepared to support his amendment. I believe the chairman wanted some time to respond, and I will be glad to yield to him.

Mr. STAGGERS. I thank the gentleman for yielding.

I certainly do respect the gentleman's opinion and all those who have spoken against the bill, because that is our right to do that. I would just like to give an example to this House of what happened back in 1960, as I recall it, when over 90 servicemen were killed because a nonscheduled plane went down in Richmond, and an accident occurred in Philadelphia which wiped out a whole planeload of people.

The reason I bring these things up is we had a bill passed here and we were in conference, and that conference lasted over 3 months. As far as I know, I believe I am practically the only Member of the House today still remaining from that group, although maybe not. But I insisted that those unsafe planes had to be eliminated from the sky, and we had to set standards to quit killing people in America. I said to that conference,

> If you let this go through, I will get up at the next conference and name the Member and say, "You contributed to the death of those people who went down," unless we get these unsafe planes out of the sky.

I will say to the Members of this House that if there is a skyjacking and a great number of people get killed, we will all have something on our own consciences if we do not do something about it here.

I think we have acted with discretion and taken the best course we could. I know there will be some amendments offered in a few moments to make this harsh and mandatory. We tried to take the solid, middle ground between too much and not enough.

I thank the gentleman for yielding, because I believe we have endorsed in the committee the most acceptable route.

Mr. BINGHAM. I would like to say merely that in my judgment the way to stop hijackings is to provide the kind of precautionary procedures that have been followed in this country. The chairman and his committee have encouraged those procedures. We have had very few, if any, skyjackings since they started. Unfortunately, we still have international hijackings, which are a terribly serious problem.

Mr. ECKHARDT. Will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman.

Mr. ECKHARDT. I agree with the gentleman in the well.

I want to say I shall vote for this bill whether or not the amendment passes.

I agree something should be done, but I think this is the wrong time to write a complicated provision with respect to capital punishment.

I thank the gentleman for yielding.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. Metcalfe).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 121, noes 286, answered "present" 1, not voting 24, as follows:

[Roll No. 84]

AYES—121

Abzug
Adams
Anderson, Ill.
Ashley
Aspin
Badillo
Bergland
Biester
Bingham
Bolling
Bowen
Brademas
Brown, Calif.
Buchanan
Burke, Calif.
Burton
Chisholm
Clay
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Culver
Danielson
Davis, S.C.
Dellenback
Dellums
Dennis
Diggs
Drinan
Eckhardt
Edwards, Calif.
Erlenborn
Evans, Colo.
Findley
Foley
Ford
Forsythe
Fraser

Frenzel
Griffiths
Gubser
Gude
Hamilton
Hansen, Idaho
Hansen, Wash.
Harrington
Hawkins
Hechler, W. Va.
Heckler, Mass.
Hicks
Holt
Holtzman
Howard
Hungate
Johnson, Colo.
Jones, Okla.
Jordan
Kastenmeier
Leggett
Lehman
Litton
Long, La.
Long, Md.
Luken
McCloskey
McCollister
McFall
Macdonald
Mallary
Matsunaga
Melcher
Metcalfe
Mezvinsky
Mink
Minshall, Ohio
Mitchell, Md.
Moakley
Mollohan
Mosher

Nedzi
Obey
O'Hara
O'Neill
Owens
Patten
Preyer
Quie
Rees
Reid
Reuss
Riegle
Rodino
Roncalio, Wyo.
Rosenthal
Roush
Roybal
Ruppe
Sarbanes
Schroeder
Seiberling
Smith, Iowa
Stanton, James V.
Stark
Steiger, Wis.
Stokes
Studds
Talcott
Thone
Thornton
Tiernan
Van Deerlin
Vanik
Waldie
Whalen
Wiggins
Yates
Young, Ga.
Zwach

NOES—286

Abdnor
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bevill
Biaggi
Blackburn
Blatnik
Boland
Bray
Breaux
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Collins, Tex.
Conable
Conlan
Cotter
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Denholm
Dent
Derwinski
Devine
Dickinson
Donohue
Dorn
Downing
Dulski
Duncan
du Pont
Edwards, Ala.
Eilberg
Esch
Eshleman
Evins, Tenn.
Fascell
Fish
Fisher
Flood
Flowers
Flynt
Fountain
Frelinghuysen
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys

Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Gross
Grover
Gunter
Guyer
Haley
Hammerschmidt
Hanley
Hanrahan
Harsha
Hastings
Hays
Hébert
Heinz
Helstoski
Henderson
Hillis
Hinshaw
Hogan
Holifield
Horton
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Lagomarsino
Landgrebe
Landrum
Latta
Lent
Lott
Lujan
McClory
McCormack
McDade
McKinney
McSpadden
Madden
Madigan
Mahon
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Meeds
Milford
Miller
Mills
Minish
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Murphy, Ill.
Murtha
Myers
Natcher
Nelsen
Nichols
Nix
O'Brien
Parris
Passman
Perkins
Pettis

Peyser
Pickle
Pike
Poage
Powell, Ohio
Price, Ill.
Price, Tex.
Pritchard
Quillen
Railsback
Randall
Rarick
Regula
Rhodes
Rinaldo
Roberts
Robinson, Va.
Roe
Rogers
Roncallo, N.Y.
Rooney, Pa.
Rose
Rostenkowski
Rousselot
Roy
Runnels
Ruth
Ryan
St Germain
Sandman
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Steed
Steele
Steelman
Steiger, Ariz.
Stephens
Stratton
Stubblefield
Stuckey
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thomson, Wis.
Towell, Nev.
Treen
Udall
Ullman
Vander Jagt
Vander Veen
Veysey
Vigorito
Waggonner
Walsh
Wampler
Ware
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, S.C.
Young, Tex.
Zablocki
Zion

ANSWERED "PRESENT"—1

Thompson, N.J.

NOT VOTING—24

Boggs
Brasco
Breckinridge
Brooks
Carey, N.Y.
Collier
Coughlin
Dingell
Gray

Hanna
McEwen
McKay
Michel
Moss
Murphy, N.Y.
Patman
Pepper
Podell

Rangel
Robison, N.Y.
Rooney, N.Y.
Wilson, Charles, Tex.
Wolff
Young, Ill.

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. MATHIS OF GEORGIA

Mr. MATHIS of Georgia. Mr. Chairman, I offer a series of amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Mathis of Georgia: Page 10, strike out lines 15 through 19 and insert in lieu thereof the following:

"(A) by death, if the death penalty is required to be imposed under section 903(c) of this title; or

"(B) by imprisonment for not less than twenty years, if the death penalty is not imposed.".

Page 11, strike out line 24 and all that follows down through page 12, line 3, and insert in lieu thereof the following:

"(A) by death, if the death penalty is required to be imposed under section 903(c) of this title; or

"(B) by imprisonment for not less than twenty years, if the death penalty is not imposed.".

Page 13, line 7, strike out "one or more of the mitigating factors" and insert in lieu thereof the following: "the mitigating factor".

Page 14, beginning in line 6, strike out "Any information" and all that follows down through line 10, and insert in lieu thereof the following: "The admissibility".

Page 14, line 21, strike out "any *of* the factors" and insert in lieu thereof the following: "the factor".

Page 14, line 25, strike out "each of the factors" and insert in lieu thereof the following: "the factor".

Page 15, strike out line 17, and all that follows down through page 16, line 9, and insert in lieu thereof the following: "at the time of the offense he was under the age of eighteen".

Page 15, beginning in line 5, strike out "none of the factors set forth in paragraph (6) exists" and insert in lieu thereof the following: "the factor set forth in paragraph (6) does not exist".

Page 15, beginning in line 9, strike out "one or more of the mitigating factors" and insert in lieu thereof the following: "the mitigating factor".

Page 16, strike out line 10, and all that follows down through line 13, and insert in lieu thereof the following:

"(7) If the factor set forth in paragraph (6) is not present, the court shall impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that—

Mr. MATHIS of Georgia (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. MATHIS of Georgia. Mr. Chairman, I do not think we are ever going to be able to obtain a successful conviction under the provisions of this law. Those Members who have not had an opportunity to look at the committee report, I call their attention to the mitigating factors listed on page 16 and ask them to consider them just for a moment with me. These are the mitigating factors I am trying to strike by my amendments:

> 2. His capacity to appreciate the wrongfulness of his conduct or to conform it to the requirements of law was significantly impaired, but not enough to constitute a defense.
>
> 3. He was under unusual and substantial duress, but not enough to constitute a defense.
>
> 4. He was a principal in an offense committed by another, but his participation was relatively minor, although not so minor as to constitute a defense. (Section 2(a) of title 18 of the U.S. Code defines a "principal" as anyone who commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission.)
>
> 5. He could not reasonably have foreseen that his conduct in the commission of the offense would cause death to another or create a grave risk of causing death.

Mr. Chairman, I would like for someone on the committee, the chairman or the distinguished ranking minority Member, to please give what would constitute, for example, unusual and substantial duress. If this hijacker was being chased by the FBI or by the police in Detroit, Mich., would he be under duress then? Is there anyone who can answer that question for me?

Mr. KUYKENDALL. Mr. Chairman, the gentleman yield?

Mr. MATHIS of Georgia. Mr. Chairman, I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Mr. Chairman, would the gentleman repeat the question?

Mr. MATHIS of Georgia. If the hijacker were being chased; he was a fugitive from the FBI or being chased by the police department of Memphis, Tenn., would he be considered to have been under duress at the time he hijacked the aircraft?

Mr. KUYKENDALL. Mr. Chairman, I want to make this clear, that if he was being chased by the police department of Memphis, Tenn., he would be caught. I am glad we get that correctly.

Mr. Chairman, I am of the definite opinion that it would continue to be an act taking place in the continuing part of the felony, and this would be an aggravated circumstance and not a mitigating circumstance. That is my opinion.

Mr. MATHIS of Georgia. Mr. Chairman, would the Chairman care to respond to my question?

Mr. STAGGERS. Mr. Chairman, is the gentleman referring to some police department out in West Virginia or not?

Mr. MATHIS of Georgia. Mr. Chairman, I would be glad to.

Mr. STAGGERS. No. Let me just say to the gentleman that I think we are going a little far afield when we get over to this supposition, because we are talking about an actual thing happening on the plane. I do not think anything happening afterward would have anything to do with it.

Mr. MATHIS of Georgia. Mr. Chairman, we are only talking about things that occurred before the hijacking took place, talking about mitigating factors which the committee has listed. I think a second year law student could come through with a successful defense.

My amendment is very simple, Mr. Chairman. I do not want to prolong this debate because the Members have heard the pros and cons on the other amendment. My amendments simply make it a little tighter, make it a little tougher, a little more likely that these hijackers who have been convicted of the crime will face the death penalty.

Mr. Chairman, I also call the attention of the Members to the eloquent argument given by the gentleman from Texas (Mr. ECKHARDT) who said that these amendments which I have offered come closer to meeting the test of constitutionality than either the committee bill or the amendments offered by the gentleman from Illinois (Mr. METCALFE). I agree with the gentleman from Texas, so I would simply urge the adoption of my amendments.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MATHIS of Georgia. Mr. Chairman, I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I did not include the Metcalfe amendments, because it would not obviate the Constitution.

Mr. MATHIS of Georgia. Mr. Chairman, I beg the pardon of the gentleman from Texas, but the gentleman does feel that my amendments would come closer to meeting the test of constitutionality than does the committee bill, so I urge support of my amendments.

Mr. RANDALL. Mr. Chairman, will the gentleman yield?

Mr. MATHIS of Georgia. Mr. Chairman, I yield to the gentleman from Missouri.

Mr. RANDALL. Mr. Chairman, does the gentleman's amendments remove all of these mitigating circumstances?

Mr. MATHIS of Georgia. All except the one concerning being under 18 years of age.

Mr. RANDALL. Mr. Chairman, I appreciate the clarification. I support the gentleman's amendments.

Mr. KUYKENDALL. Mr. Chairman, I rise in opposition to the amendments. I reluctantly oppose the amendments of my good friend from Georgia. My opposition to the amendments is based entirely on the lengthy discussions we have had with the Justice Department and our subcommittee staff on the matter of constitutionality.

Mr. Chairman, I prefer that the subcommittee and the committee version of the death penalty provision be accepted, because I feel that it will pass the constitutional test and will, therefore, stand as part of this much-needed legislation.

Mr. CONLAN. Mr. Chairman, will the gentleman yield?

Mr. KUYKENDALL. I yield to the gentleman from Arizona.

Mr. CONLAN. Mr. Chairman, I thank the gentleman for yielding.

I appreciate the concern of having the normal mitigating circumstances be allowed as a defense, as they are under our present criminal law, but I respectfully feel that the gentleman from Georgia is quite correct, in that what has happened here is that we have a whole new area of mitigating circumstances which have been written into the code and which go far above and beyond what we have normally had and what the public has normally expected in this area.

This says that at the time of the offense "* * * he was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution."

I think all of us would recognize unusual and substantial duress as a defense to prosecution, but not that duress which stems from some other type of nebulous thing.

Mr. Chairman, I believe the terminology here is not only grossly inappropriate and unreasonable, but I believe it is extremely vague. Due to those circumstances, I respectfully must disagree with my gracious friend, the gentleman from Tennessee (Mr. KUYKENDALL) and I support the amendments offered by the gentleman from Georgia (Mr. MATHIS).

Mr. FLYNT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I strongly urge support of the amendments offered by my colleague, the gentleman from Georgia (Mr. MATHIS).

I am always reluctant to oppose the position taken by the chairman of the great Committee on Interstate and Foreign Commerce. I remember a week or so ago we had a very important conference report which the gentleman from West Virginia (Mr. STAGGERS), the chairman of this great committee, urged us to adopt.

The gentleman will recall, as will the Members of this side of the aisle who are on that committee, that I strongly supported the conference report, and I did so with great pleasure. I served on the great Committee on Interstate and Foreign Commerce for the first 7 years of my service in this body. I count within my circle of friends not only the members of that committee who were there when I served on it, but the entire membership of it.

I know of no greater committee in the House of Representatives than the Committee on Interstate and Foreign Commerce.

This time, however, I think that I must support the amendments that strike out the language which the gentleman from Georgia seeks to strike. When this committee put that language in the bill, they effectively emasculated the death penalty provision. If this language stays in, we will have no death penalty provision in this bill, and I will tell the Members why.

The people who hijack aircraft of any kind, especially commercial aircraft, where they endanger the lives of everybody on board, the passengers and crew alike, are not rational people; they are irresponsible people, they are irrational people. And irrationality and irresponsibility are the key to the language which the committee wrote in this bill.

Mr. Chairman, I dare say that any person who hijacks an airplane of any kind, especially a commercial airliner, could successfully plead one of these provisions and avoid the handing down of the death penalty.

Mr. Chairman, I urge the adoption of the amendments offered by my colleague, the gentleman from Georgia (Mr. Mathis).

Mr. KYROS. Mr. Chairman, will the gentleman yield for a question?

Mr. FLYNT. I yield to the gentleman from Maine.

Mr. KYROS. Mr. Chairman, I will ask the gentleman this:

If the people who hijack airplanes are really irrational or irresponsible, how would the death penalty ever be a deterrent?

Mr. FLYNT. It would still be a deterrent. They might not be responsible for their actions; they might be very irresponsible and irrational people, but even people who plead irrationality and irresponsibility would give a little more thought to their actions before they go out and commit a crime for which they thought the death penalty might be mandatory or reasonably mandatory.

Mr. Chairman, I think the gentleman has asked a good question. However, in asking the question, I think he has answered it. The answer is that it would be a deterrent, but not without the amendments offered by the gentleman from Georgia.

If you leave the committee language as it is, you would have no death penalty in the bill at all, because it could never be applied to anyone because anyone could successfully claim that they fall under these exempting provisions.

Mr. BRINKLEY. Will the gentleman yield?

Mr. FLYNT. I yield to the gentleman.

Mr. BRINKLEY. The answer to the question is that it is impractical as a deterrent insofar as their actions towards others are concerned but it is a deterrent or might be a deterrent to them if they know that those actions will result in injury to themselves, by way of the death penalty.

Mr. JOHNSON of Colorado. Will the gentleman yield?

Mr. FLYNT. I yield to my colleague.

Mr. JOHNSON of Colorado. Does the gentleman say that if the Mathis amendment is adopted, we are in effect removing the defense of mental illness?

Mr. FLYNT. No, not at all. It stays in because if it is a defense of mental incapacity, the Mathis amendment does not go to the defense or mental incapacity, because the language in the bill provides that a type of mental instability which would not constitute a defense to the crime would of itself be sufficient to eliminate the possibility of imposing the death penalty. I think the defense of insanity or mental incapacity would still be there, but if you expect to have a death penalty provision in this bill, you must adopt the amendment offered by the gentleman from Georgia.

Mr. KYROS. Will the gentleman yield?

Mr. FLYNT. I will be glad to yield to the gentleman.

Mr. KYROS. Is it not a fact that the Mathis amendment on page 15 would remove section 6(b) which says "his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired," which would mean to any court a defense of mental incapacity would be definitively removed by this body and the death penalty would be absolutely mandatory.

Mr. FLYNT. I do not read that in the language of the bill.

I think mental incapacity amounting to a successful defense of insanity, of being not guilty by reason of insanity, would still remain available because we would not be changing any act.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Flynt was allowed to proceed for 3 additional minutes.)

Mr. KYROS. Will the gentleman yield further?

Mr. FLYNT. I yield to the gentleman.

Mr. KYROS. May I call the gentleman's attention respectfully to section 6(B), which says "his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired." That would mean that if the man had a mental incapacity or he could not tell what was wrong——

Mr. FLYNT. If the gentleman will read the remainder of the sentence, it says "but not so impaired as to constitute a defense to prosecution."

Mr. KYROS. I would like to find a psychiatrist who can split that hair.

Mr. FLYNT. We are talking about two different interpretations of the same language.

Mr. YATES. Will the gentleman yield?

Mr. FLYNT. I yield to the gentleman.

Mr. YATES. In view of the fact that there is a misinterpretation of what the amendment says and the amendment has not been read, I ask unanimous consent that the Clerk may read the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. ECKHARDT. Mr. Chairman, I object.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment, because as I said before, the committee tried to find a fair, but solid middle ground. This goes to the extreme, because under the amendment, a person who has been convicted of two aggravated assaults, Federal or State, who then commits a hijacking would find that it would be mandatory he be put to death. I do not believe the House wants to do this. If he had been convicted of a felony in which he could get 3 or 4 years of imprisonment, he still might be willing to negotiate, but this would make it mandatory that he receive the death penalty.

Mr. MATHIS of Georgia. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman.

Mr. MATHIS of Georgia. That is the language contained in the committee bill. I do not go into that language at all. It deals with aggravating factors. We are talking about removing mitigating factors here.

Mr. STAGGERS. I understand that.

Mr. Chairman, I am opposed to the amendment because I believe the committee worked hard and long in trying to come up with a bill that would find a middle ground.

Mr. KYROS. Will the gentleman yield further?

Mr. STAGGERS. I yield to the gentleman.

Mr. KYROS. Would it not mean that if you had someone with the mental age of 12 who had not gotten beyond that age, he could cause the hijacking and be killed under this bill, but someone under 18 years of age would not be killed under this bill?

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendments offered by the gentleman from Georgia (Mr. Mathis).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MATHIS of Georgia. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 102, noes 302, not voting 28, as follows:

[Roll No. 85]

AYES—102

Archer
Bafalis
Baker
Bauman
Beard
Bevill
Blackburn
Bray
Breaux
Brinkley
Burleson, Tex.
Burlison, Mo.
Chappell
Clancy
Clark
Clawson, Del
Collins, Tex.
Conlan
Crane
Cronin
Davis, Ga.
de la Garza
Denholm
Devine
Duncan
Evins, Tenn.
Flowers
Flynt
Fountain
Fulton
Gaydos
Gettys
Giaimo
Gilman
Ginn
Gross
Grover
Hanrahan
Hays
Henderson
Hogan
Huber
Hudnut
Hunt
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Ketchum
King
Lagomarsino
Landgrebe
Landrum
Lent
Lott
Lujan
McSpadden
Maraziti
Martin, Nebr.
Mathis, Ga.
Michel
Milford
Mitchell, N.Y.
Mizell
Montgomery
Murtha
Myers
Nedzi
Nichols
Passman
Peyser
Pike
Poage
Powell, Ohio
Price, Tex.
Randall
Rarick
Rinaldo
Roncallo, N.Y.
Rousselot
Runnels
Ruth
Scherle
Shipley
Shuster
Sikes
Slack
Snyder
Spence
Steiger, Ariz.
Stratton
Symms
Taylor, Mo.
Taylor, N.C.
Treen
Vander Veen
Veysey
Waggonner
Wyatt
Wyman
Young, Alaska
Young, Fla.
Young, S.C.

NOES—302

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Barrett
Bell
Bennett
Bergland
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Bowen
Brademas
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Dellums
Dennis
Dent
Derwinski
Dickinson
Diggs
Donohue
Dorn
Downing
Drinan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Fascell
Findley
Fish
Fisher
Flood
Foley
Ford
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gibbons
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammer-schmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hillis
Hinshaw
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Hungate
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Kluczynski
Koch
Kuykendall
Kyros
Latta
Leggett
Lehman
Litton
Long, La.
Long, Md.
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKinney
Macdonald
Madden
Mahon
Mallary
Mann
Martin, N.C.
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mezvinsky
Miller
Mills
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Natcher
Nelsen
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Patten
Perkins
Pettis
Pickle
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Rees
Regula
Reuss
Rhodes
Riegle
Roberts
Robinson, Va.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Sebelius
Seiberling
Shoup
Shriver
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Wis.
Stephens
Stokes
Stubblefield
Stuckey
Studds
Sullivan
Symington
Talcott
Teague
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wright
Wydler
Wylie
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zion
Zwach

NOT VOTING—28

Blatnik
Brasco
Breckinridge
Carey, N.Y.
Collier
Dingell
Dulski
Eshleman
Gray
Hébert
McEwen
McKay
Madigan
Metcalfe
Minshall, Ohio
Moss
Murphy, N.Y.
Patman
Pepper
Podell
Rangel
Reid
Robison, N.Y.
Rooney, N.Y.
Thompson, N.J.
Wilson, Charles, Tex.
Wolff
Young, Ill.

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. **ECKHARDT**. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: On page 15, line 7, strike the word "shall" and substitute the word "may" and on page 16, line 11, strike the word "shall" and substitute the word "may."

Mr. **ECKHARDT**. Mr. Chairman, because I have a certain juridical audacity above and beyond the more restrained and judicious Members of this body, I have been thought by some to have constitutional knowledge beyond my real abilities. I do not believe anyone here can say that my amendment is any more or any less constitutional than the bill which it seeks to amend.

I will say, though, that my amendment makes a good deal more sense than this bill without amendment. I do not think we ought to engage in a pretended prescience about what the Supreme Court will do. I do not know what they will do. They have done a lot of things I have thought were wrong. They have done more things that I thought were right. But we should not do something we think is wrong, and I want to explain why I think my amendment is better than the provision in the bill.

The gentleman from California (Mr. WIGGINS) got right to the point a minute ago. When we look at the exceptions with respect to what will never permit a death penalty, we can have cases in which the conduct of a person accused is a far more reprehensible, but does not carry the death penalty, than that of another in which the death penalty is mandatory.

Suppose that in the course of unloading the airplane after a hijacking an elderly woman falls, hits her head and dies.

In a circumstance like that, if the hijacker is over 18 and none of the listed ameliorating circumstances exist, the court or jury simply have to give him the death penalty. In another case where the facts are exactly parallel the mere fact that the hijacker is 17½ years old, perhaps a bright young student disgusted with the American system who wants to go to Cuba, and as a result of this someone is killed—or perhaps a whole airplane load of persons are killed—he cannot get the death penalty because he comes in one of the mandatory exemptions. Had he been just over 18 he would have to get the death penalty.

All I suggest to the Members is, leave the bill as it is with respect to the mitigating offenses. If the mitigating offenses are found by the jury to exist, then do not permit the death penalty. There is still a 20-year penalty connected with the offense, and that could be multiplied if several offenses occur. On the other hand, with respect to the death penalty, let us put in the death penalty section the word "may" instead of the word "shall."

Mr. Chairman, I suggest that we cannot play God in Congress. We cannot anticipate the facts which may occur. Suppose, for instance, under the section that mitigates against the death penalty, a man approaches the pilot. The pilot draws a gun from his pocket and the hijacker at that point kills the pilot. I ask the Members, is that the kind of extreme duress that relieves him from the death penalty under the first section? Is he any less reprehensible than another hijacker in a situation in which the pilot did not draw the gun and a policeman kills the pilot, as the example given by the gentleman from California (Mr. WIGGINS)?

Mr. Chairman, I urge an aye vote on the amendment.

Mr. **STAGGERS**. Mr. Chairman, I rise in opposition to the amendment. I will not take the 5 minutes, I promise the House.

Mr. Chairman, as to the procedures which must be met by imposition of the death penalty, changing "shall" to "may" would give the judge an arbitrary discretion. This is what the committee decided not to do when it said the death penalty would not be discretionary or arbitrary.

I would say this is probably just the thing which is unconstitutional.

Mr. **KYROS**. Mr. Chairman, will the gentleman yield?

Mr. **STAGGERS**. Mr. Chairman, I yield to the gentleman from Maine.

Mr. **KYROS**. Mr. Chairman, although I would certainly want to agree with my distinguished chairman, for whom I have the highest respect, on page 14 of the committee report it states specifically:

> The committee does agree with the proposition that the Furman case holds unconstitutional the imposition of the death penalty when it is available as a nonmandatory penalty which may be imposed at the complete discretion of the Judge or jury.

In this case, it cannot be imposed at the complete discretion of the judge or jury because of the qualifications that are already put into the bill. By permitting discretion to the judge, we have then written a bill, it seems to me, that will provide for all the thousands of kinds of cases that may arise in skyjacking and still take care of the qualms of the committee.

Mr. **JOHNSON** of Colorado. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish the gentleman from West Virginia, the chairman of the committee, could give me an example—and I am asking this because I do not know, although I do not think it is true—where the death penalty is mandated for any offense.

I do not think there is another example in the history of American law where we have mandated the death penalty for any offense. Can the gentleman give me an example of a mandatory death sentence, thereby removing the deliberations on the death sentence from the jury?

Mr. STAGGERS. Mr. Chairman, I do not know specifically, but I believe there might be something along that line in kidnapping cases where certain events have happened, and perhaps in conspiracy trails.

Mr. JOHNSON of California. Does the gentleman mean it is mandatory?

I would like to point out that the whole thrust of our system of jurisprudence has been to leave the discretion with the jury, and I understand it is the Supreme Court's decision that we should go into a mandatory death penalty, relative to this bill from the Committee on Interstate and Foreign Commerce of the U.S. Congress, and it seems to me this is totally injudicious in history, and we would be making a radical departure to insist on a mandatory death penalty.

Mr. STAGGERS. Mr. Chairman, let me say to the gentleman that it is in the law now, and it has been in the law since 1961.

Mr. JOHNSON of Colorado. A mandatory death penalty?

Mr. STAGGERS. It is far stricter than this would be.

Mr. JOHNSON of Colorado. Without leaving any discretion with the jury or with the judge?

Mr. STAGGERS. Well, there would be discretion, but it is far more mandatory and far stronger than this is, because we give them here all kinds of mitigating circumstances that can prevent them from receiving the death penalty. Even after that, after getting a conviction, the jury has to come back and vote the death penalty.

Mr. JOHNSON of Colorado. Yes, but the language says, "shall." That is mandatory; it leaves no discretion.

Mr. Chairman, I wish to state I am against the amendment. I will say that I do not believe it belongs in this legislation.

Mr. DENNIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I understand the amendment which has been offered by the gentleman from Texas, he is accepting these aggravating circumstances under which a death penalty can be imposed, but he is saying that if those aggravating circumstances are present and no mitigating circumstances are present, then the court, if it sees fit, can or may impose a death penalty—then, and only then, instead of saying, "If that situation exists," then the court must impose a death penalty.

What the court argued about in the Furman case was the lack of standards. But in this amendment we still keep the standards, and while no one can be sure what would satisfy the Furman rule, I think it makes just about as good sense to argue that this amendment will satisfy it as that the committee bill will satisfy it.

Furthermore, it is a lot sounder in general, because it makes some sense, maybe, to say that if certain aggravating circumstances are present, the court can consider them, and the court can impose a death penalty if it then sees fit. But it takes away the whole judicial process when we tell the court that if there are certain circumstances which we consider aggravating ahead of time, then the court must do it.

Mr. Chairman, that is not sound, and I support the gentleman's amendment.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman has construed the amendment exactly correctly.

One must consider this against the decision in McGautha against California, a U.S. Supreme Court case cited by Judge Douglas, in which he said as follows:

> In light of history, experience, and the present limitations of human knowledge, we find it quite impossible to say that committing to the untrammeled discretion of the jury the power to pronounce life or death in capital cases is offensive to anything in the Constitution.

Thus, the Court found untrammeled discretion not enough to result in unconstitutionality. In Furman against Georgia untrammeled discretion was the crux of the decision holding the Georgia and Texas statutes unconstitutional. But the wide scope of jury or court discretion was central in this case.

This is not the untrammeled power; this is the controlled power, and it is exactly the way the gentleman has described it. If the bill itself is constitutional, the amendment is constitutional.

Mr. DENNIS. Mr. Chairman, I think the gentleman is correct in that statement.

Mr. KUYKENDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this goes to the constitutionality of this provision. In the opinion of the majority of the committee and in the opinion of the Department of Justice, this is a matter where there can be no capricious action by the judge and we eliminate the possibility that he could be discriminatory in the matter of the death penalty. This provision of the act is justified; however, one of the features that would make it constitutional is eliminated by the Eckhardt amendment.

So, Mr. Chairman, this is legislation as written by the committee and as upheld by two previous votes. It clearly states what the position of the Department of Justice and the majority of our committee is. In two previous votes by this House it has been upheld.

I hope we can vote on this amendment immediately and that the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ECKHARDT. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 239, answered "present" 2, not voting 29, as follows:

[Roll No. 86]

AYES—162

Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Armstrong
Ashley
Aspin
Badillo
Bell
Bennett
Bergland
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brotzman
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Calif.
Burke, Mass.
Burton
Chisholm
Clay
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Culver
Danielson
Davis, S.C.
de la Garza
Dellenback
Dellums
Denholm
Dennis
Diggs
Donohue
Drinan
Eckhardt
Edwards, Calif.
Erlenborn
Evans, Colo.
Findley
Foley
Ford
Forsythe
Fraser
Frenzel
Giaimo
Gibbons
Gonzalez
Grasso
Green, Pa.
Griffiths
Gude
Hamilton
Hansen, Idaho
Harrington
Hawkins
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Hinshaw
Holifield
Holtzman
Howard
Hungate
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kluczynski
Koch
Kyros
Lehman
Litton
Long, La.
Long, Md.
Luken
McClory
McCloskey
McFall
McKinney
Madigan
Mallary
Mann
Matsunaga
Meeds
Melcher
Mezvinsky
Mink
Moakley
Mollohan
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Rees
Reid
Reuss
Riegle
Rodino
Roncalio, Wyo.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Smith, Iowa
Smith, N.Y.
Stanton, J. William
Stanton, James V.
Stark
Steelman
Steiger, Wis.
Stokes
Studds
Symington
Thone
Thornton
Tiernan
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Waldie
Whalen
Whitten
Wiggins
Wilson, Charles H., Calif.
Wright
Yates
Young, Ga.
Zwach

NOES—239

Abdnor
Alexander
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashbrook
Bafalis
Baker
Barrett
Bauman
Beard
Bevill
Biaggi
Blackburn
Bray
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, Wis.
Delaney
Dent
Derwinski
Devine
Dorn
Downing
Dulski
Duncan
du Pont
Edwards, Ala.
Eilberg
Esch
Evins, Tenn.
Fascell
Fish
Fisher
Flood
Flowers
Flynt
Fountain
Frelinghuysen
Frey
Froehlich
Fuqua
Gaydos
Gettys
Gilman
Ginn
Goldwater
Goodling
Green, Oreg.
Gross
Grover
Gunter
Guyer
Haley
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Wash.
Harsha

Hastings
Hays
Hébert
Heinz
Henderson
Hillis
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kazen
Kemp
Ketchum
King
Kuykendall
Lagomarsino
Landgrebe
Landrum
Latta
Lent
Lott
Lujan
McCollister
McCormack
McDade
McSpadden
Macdonald
Madden
Mahon
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Michel

Milford
Miller
Mills
Minish
Mitchell, Md.
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Morgan
Murtha
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Passman
Patten
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Quillen
Randall
Rarick
Regula
Rhodes
Rinaldo
Roberts
Robinson, Va.
Roe
Rogers
Roncallo, N.Y.
Rooney, Pa.
Rose
Rousselot
Runnels
Ruth
Ryan
Sandman
Satterfield
Scherle
Schneebeli
Sebelius

Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Snyder
Spence
Staggers
Steed
Steele
Steiger, Ariz.
Stephens
Stratton
Stubblefield
Stuckey
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thomson, Wis.
Towell, Nev.
Treen
Veysey
Vigorito
Waggonner
Walsh
Wampler
Ware
White
Whitehurst
Widnall
Wilson, Bob
Winn
Wyatt
Wydler
Wylie
Wyman
Yatron
Young, Fla.
Young, S.C.
Young, Tex.
Zablocki
Zion

ANSWERED "PRESENT"—2

Leggett
Vander Jagt

NOT VOTING—29

Brasco
Breckinridge
Carey, N.Y.
Collier
Dickinson
Dingell
Eshleman
Fulton
Gray
Gubser

Ichord
McEwen
McKay
Metcalfe
Minshall, Ohio
Murphy, N.Y.
Patman
Pepper
Podell
Price, Tex.

Rangel
Robison, N.Y.
Rooney, N.Y.
Thompson, N.J.
Williams
Wilson, Charles, Tex.
Wolff
Young, Alaska
Young, Ill.

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KUYKENDALL

Mr. **KUYKENDALL**. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KUYKENDALL: Pages 19, 20, Amend subsection (b) of proposed section 1115 of the Federal Aviation Act of 1958 by placing a comma after the word "Aviation" on line 17 on page 19, striking the remainder of that line and all of lines 18–21, and inserting in lieu thereof "He" placing a period following the word "convention" on line 25, and striking the remainder of that line and the words "such resolution." on page 20.

Mr. **KUYKENDALL** (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Tennessee?

Mr. **PICKLE**. Mr. Chairman, I object.

The **CHAIRMAN**. Objection is heard.

Mr. **KUYKENDALL**. Mr. Chairman, if I may have a colloquy with the chairman of the committee, this is a housekeeping amendment based on the fact that the Senate bill was passed early in 1973, at which time there had been some recommendations in interim standards that had been made by the International Civil Aviation Organization. Since that time these interim standards has become totally superfluous, and final standards will soon be in effect and will be statutorily dealt with by other provisions in this section.

I think the chairman of the committee will agree.

Mr. **STAGGERS**. Mr. Chairman, if the gentleman will yield, I certainly do agree with the ranking minority member of the committee, and we accept the amendment on this side of the aisle.

The **CHAIRMAN**. The question is on the amendment offered by the gentleman from Tennessee (Mr. KUYKENDALL).

The amendment was agreed to.

Mr. **STAGGERS**. Mr. Chairman, I move to strike the requisite number of words, and I do so to see if we can reach some agreement on time.

I think the House is becoming restless, and perhaps we ought to set a time limit here.

Most of the important amendments have been discussed. I hope we can set a time limit. I understand there are several amendments at the desk and I do not want to reduce the time of the Members too much. Some are suggesting 20 minutes; but I would suggest that we close at 5:45.

Therefore, Mr. Chairman, I ask unanimous consent, that all debate on this bill and all amendments thereto close at 5:45.

The **CHAIRMAN**. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The **CHAIRMAN**. The Chair recognizes the gentleman from California (Mr. WIGGINS).

AMENDMENTS OFFERED BY MR. WIGGINS

Mr. **WIGGINS**. Mr. Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc.

The **CHAIRMAN**. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. WIGGINS: Page 16, line 14, after the word "person", strike out "resulted" and insert "was intended by the defendant and did result".

Page 16, line 17, after the word "person", strike out "resulted" and insert "was intended by the defendant and did result.".

Mr. **WIGGINS**. Mr. Chairman, my two amendments deal with the problem of unintended deaths for which a defendant may be put to death himself. Several fact situations have been discussed with Members of the House previously. This legislation is overboard in that it requires the imposition of the death penalty, even though the death of the victim was not caused by any direct act of the defendant himself, and even though that consequence was unintended by him.

Now, let me set the stage for this amendment. For the death penalty to be imposed, the defendant first must be guilty of the substantive act of hijacking.

Second, a death most occur as a result of hijacking. There must be an absence of mitigating circumstances and there must be finding of aggravating circumstances. If the above are found to occur, the death penalty is mandatory.

These fact situations are called into order by my amendments:

First, let us suppose that a police officer in the course of apprehending the defendant shoots and accidentally kills a passenger in the plane. Under this legislation, I represent to the gentlemen present that a defendant could be put to death. I suggest that such a consequence is not probably the intent of this body, nor should it be our intent.

Another fact situation has been described. During emergency evacuation procedures following a skyjacking, a woman may fall and may die as a result of her emergency evacuation attempt of the airplane. The defendant may be subject to the death penalty under those circumstances. I represent to the Members that such a consequence is not what is intended.

Another fact situation is that of a skyjacker who may induce a heart attack in a passenger.

The defendant is subject to being put to death on a mandatory basis by reason of such an unintended result. My amendment only adds a few words. It says that the death must be intended by the defendant as well as result of the commission of the criminal act. The defendant must intend the consequences for which he is put to death. That clearly is what we are talking about in this legislation, and a bill which puts a man to death by reason of an unintentional and consequential death of another is not, I hope, what this House is willing to accept.

Mr. **KUYKENDALL**. Mr. Chairman, will the gentleman yield?

Mr. **WIGGINS**. Mr. Chairman, I yield to the gentleman from Tennessee.

Mr. **KUYKENDALL**. Mr. Chairman, if I could have the committee's attention, is it the intention of the gentleman in the well to wipe out in this case the felony murder as a first degree murder?

Mr. **WIGGINS**. Mr. Chairman, by analogy only that would be correct.

Mr. **KUYKENDALL**. In other words, normally a felony murder is a first degree murder, correct?

Mr. **WIGGINS**. Yes.

Mr. **KUYKENDALL**. And in this case, declaration that the felony murder is not in the same category as the premeditated murder?

Mr. **WIGGINS**. That is true, by analogy.

Mr. Chairman, I ask support of my worthwhile amendments.

Mr. **STAGGERS**. Mr. Chairman, I rise to oppose the amendment. Under section (E), as the Members will read in the bill, it says:

He could not reasonably have foreseen that his conduct in the course of the commission of the offense for which he was convicted would cause, or would create a grave risk of causing death to another person.

Mr. DENNIS. Mr. Chairman, I rise in support of the amendments.

Mr. Chairman, I just want to point out to the committee that in this amendment we are dealing, to begin with, with a situation where the death penalty is mandatory—no discretion. All the gentleman from California is saying is that it should not be mandatory unless the man intended to kill somebody. That is the whole proposition, and I just suggest that a Member cannot be against this kind of an amendment if he has good sense, or humanity, or any of the things most Members have got.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. WIGGINS).

The amendments were rejected.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to address my remarks to the chairman of the committee. A section that has been added to this bill which is very important has not been commented upon, and that is title II which creates the Air Transportation Security Act of 1974. I would refer the Members to page 20 of the report. The committee report says:

> No funds are provided for the screening requirements imposed by this section because the Committee feels that the current procedure, whereby a $.34 surcharge is added to each passenger ticket (Civil Aeronautics Board, Docket 25315) to cover the carrier's screening costs is working effectively.

Similarly, when we get to that portion of the bill which refers to the personnel being employed for security purposes, the report points out on page 21 that there is a 25-cent security surcharge.

The Members will remember that we had before us a couple of years ago, a bill where the administration was going to impose a $25 million or a $30 million bill, which funds were to come out of the airway and airport trust fund. It was contended that some of those funds ought to come out of the general Treasury, as well. That bill was finally laid aside.

Now, inasmuch as the CAB has actually levied a 34-cent surcharge for screening and a 25-cent surcharge for security purposes, I want to be certain that the committee is not saying to the CAB that "You may automatically raise these sums to any level you wish, without full hearings," because that is not the intent of the committee.

Mr. Chairman, I understand they have this matter under review now, according to the report. I do not want to give the CAB the license to obtain from the passengers the entire amount of money that is being used for both screening and for security purposes. That was not our intent when this bill came before the committee.

I will ask the chairman of the committee, is that correct? Is that the message the committee has given to the membership?

Mr. STAGGERS. Mr. Chairman, the point is that they could raise these prices without showing this. They have had these rates in effect, and they are doing the job quite well under these rates.

Mr. PICKLE. Mr. Chairman, it is to be expected some of this money might come from the surcharge, a small amount perhaps, and some from the general Treasury. Actually the FAA and/or the CAB contended they were spending some $3 million on this now, and I suppose that the money comes from the general Treasury. This money ought not to come solely from the user, those members of the public who use airports and who use planes, any more than it would come from those who use buses or trains or any other means of transportation.

Mr. Chairman, I want to be certain that the CAB understands that this is not an open invitation to the carriers or the operators that they can raise this surcharge to any figure they wish.

Mr. STAGGERS. That is correct, and we spell out how much shall go to the airports and also how much shall go to the airlines for training personnel.

AMENDMENT OFFERED BY MR. WHITE

Mr. WHITE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. WHITE: Page 16, subsection (D), line 3, strike the balance of the sentence after the comma, and substitute in lieu thereof the words: "but took no active part in holding any weapon or explosive device or facsimilies thereof, nor placed any passenger or member of a crew under duress or confinement; or".

Mr. WHITE. Mr. Chairman, if I may have the attention of the House, I will point out that this amendment goes to the section concerning mitigating circumstances, under which the jury would not impose the death sentence.

The bill, on page 16, says that the court shall not impose the death sentence if "he was a principal—but his participation was relatively minor, although not so minor as to constitute a defense to prosecution." This means that then he would not then get the death sentence.

Mr. Chairman, this language "relatively minor" is very vague. We have just had a situation where the Supreme Court struck down a State statute because they said the sentence was imposed capriciously, in that it was not mandatory, but was discretionary with the jury.

My amendment spells out the ultimate of what is meant by "relatively minor." I will read my amendment to the Members again. It says as follows:

> but took no active part in holding any weapon or explosive device or facsimiles thereof, nor placed any passenger or member of a crew under duress or confinement.

Now, are these not the elements of hijacking, and is this not spelling it out so that we do not have a problem of having this specific statute struck down because it allows too much discretion to the jury?

It may be said that a bunch of jurists have devised the language that is in the bill, but what I say to the Members is that what we want to do is to develop and include specific language that will stand up under review, and convict persons who deserve to be convicted. If a person is not holding a weapon or is not holding an explosive device, has not tied up a passenger or put him under duress in any way, then perhaps mitigation of sentence should be applied to him. But if he has held a weapon or an explosive device or tied up someone or confined them in some way, then I say that the mitigating relief should not apply. This amendment clarifies the language, "relatively minor."

Mr. STAGGERS. Mr. Chairman, I will use just 1 minute of my time in opposition to the amendment.

This makes it very restrictive in its language. It would not give the court or the jury any leeway at all. I have great faith in the courts of our land and in our jury system. I believe we have to have some leeway, and this would restrict them completely.

I oppose the amendment for that reason.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WHITE).

The amendment was rejected.

AMENDMENT OFFERED BY MR. O'HARA

Mr. O'HARA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. O'HARA: Page 10, line 19 and on page 12, line 3, strike out "by death or by imprisonment for life," and insert "by imprisonment for life or by imprisonment for life without possibility of parole".
>
> And strike out all of section 105.

Mr. STAGGERS. I would like to ask the gentleman if he has a copy of his amendment? We have not seen it.

Mr. O'HARA. I am sorry. I do not. I just scribbled it out on an amendment form.

Mr. Chairman, it will just take a minute or two to explain the amendment.

What I do is substitute for the death penalty the penalty of "imprisonment for life without possibility of parole." The State can be justified in taking a human life only if there is no other feasible way of protecting the State or its citizens from a grave harm.

The question here is whether there is some penalty other than the death sentence, that will adequately protect society. I suggest that society would be adequately protected by the imposition of a sentence of life imprisonment without the possibility of parole. It would assure that the heinous offender could not repeat his offense and I believe it would be just as effective as a deterrent as is the death penalty.

Mr. HUTCHINSON. Will the gentleman yield?

Mr. O'HARA. I yield to the gentleman from Michigan.

Mr. HUTCHINSON. I thank the gentleman for yielding.

I would like to ask the gentleman this question: If the question of the power of pardon does not also encompass the whole system of parole and whether, if the statute says a man must be put in prison without a possibility of parole, whether that could actually be effective in view of the fact that the President of the United States has the constitutional power of pardon.

Mr. O'HARA. Under my amendment the only way in which a person sentenced to life imprisonment without the possibility of parole could be released from prison would be by Presidential pardon.

Mr. HUTCHINSON. I thank the gentleman.

Mr. STAGGERS. Mr. Chairman, I will just take a minute of my time in order to oppose the amendment.

Mr. Chairman, we voted on this matter before, and it was firmly rejected. I say this ought to be rejected, too, because we have considered about everything we can with regard to making a harsh death penalty or repealing it entirely. Again I say that the committee had the help of the Department of Justice who helped to write the legislation, and I believe the committee should be upheld and the amendment voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. O'HARA).

The amendment was rejected.

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the committee rose; and the Speaker having resumed the chair (Mr. ANNUNZIO) Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 3858) to amend sections 101 and 902 of the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to amend title XI of such act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft; and to authorize the Secretary of Transportation to suspend the operating authority of foreign air carriers under certain circumstances pursuant to House Resolution 978, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. SCHERLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 361, nays 47, not voting 24, as follows:

[Roll No. 87]

YEAS—361

Abdnor
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Cotter
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Denholm
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Gross
Grover
Gubser
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harsha
Hastings
Hays
Hébert
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Lagomarsino
Landgrebe
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Meeds
Melcher
Michel
Milford
Miller
Mills
Minish
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murtha
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
O'Brien
O'Hara
O'Neill
Parris
Passman
Patten
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rarick
Regula
Reid
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steelman
Steiger, Ariz.
Stephens
Stratton
Stubblefield
Stuckey
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thomson, Wis.
Thone
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Veysey
Vigorito
Waggonner
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, S.C.
Young, Tex.
Zablocki
Zion

NAYS—47

Abzug
Brown, Mich.
Burke, Calif.
Burton
Clay
Cochran
Conyers
Corman
Culver
Dellenback
Dellums
Dennis
Drinan
Edwards, Calif.
Findley
Fraser
Griffiths
Gude
Harrington
Hawkins
Hechler, W. Va.
Holtzman
Johnson, Colo.
Kastenmeier
Matsunaga
Mezvinsky
Mink
Mitchell, Md.
Moakley
Moss
Obey
Owens
Rees
Reuss
Roybal
Seiberling
Smith, Iowa
Stark
Steiger, Wis.
Stokes
Studds
Thornton
Waldie
Wiggins
Yates
Young, Ga.
Zwach

NOT VOTING—24

Brasco
Breckinridge
Carey, N.Y.
Collier
Eshleman
Gray
McEwen
McKay
Martin, Nebr.
Metcalfe
Minshall, Ohio
Murphy, N.Y.
Patman
Pepper
Podell
Price, Tex.
Rangel
Robison, N.Y.
Rooney, N.Y.
Thompson, N.J.
Williams
Wilson, Charles, Tex.
Wolff
Young, Ill.

So the bill was passed.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Patman.

Mr. Breckinridge with Mr. Metcalfe.

Mr. Rangel with Mr. Charles Wilson of Texas.

Mr. Carey of New York with Mr. Minshall of Ohio.

Mr. McKay with Mr. Martin of Nebraska.

Mr. Murphy of New York with Mr. Williams.

Mr. Thompson of New Jersey with Mr. Eshleman.

Mr. Wolff with Mr. Price of Texas.

Mr. Podell with Mr. Collier.

Mr. Gray with Mr. McEwen.

Mr. Brasco with Mr. Young of Illinois.

Mr. Pepper with Mr. Robison of New York.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to provide a more effective program to prevent aircraft piracy; and for other purposes.".

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 39) to amend the Federal Aviation Act of 1958 to provide a more effective program to prevent aircraft piracy, and for other purposes, a bill similar to H.R. 3858, just passed by the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection?

The Clerk read the Senate bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ANTIHIJACKING ACT OF 1973

SECTION 1. This title may be cited as the "Antihijacking Act of 1973".

SEC. 2. Section 101(32) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 (32)), is amended to read as follows:

"(32) The term 'special aircraft jurisdiction of the United States' includes—

"(a) civil aircraft of the United States;

"(b) aircraft of the national defense forces of the United States;

"(c) any other aircraft within the United States;

"(d) any other aircraft outside the United States—

"(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; or

"(ii) having 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; and

"(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States;

while that aircraft is in flight, which is from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or, in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard."

SEC. 3. Section 902 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472), is amended as follows:

(a) By striking out the words "violence and" in subsection (1)(2) thereof, and by inserting the words "violence, or by any other form of intimidation, and" in place thereof.

(b) By redesignating subsections (n) and (o) thereof as "(o)" and "(p)", respectively, and by adding the following new subsection:

"AIRCRAFT PIRACY OUTSIDE SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

"(n)(1) Whoever aboard an aircraft in flight outside the special aircraft jurisdiction of the United States commits 'an offense', as defined in the Convention of the Suppression of Unlawful Seizure of Aircraft, and is afterward found in the United States shall be punished by imprisonment for not less than twenty years or for more than life.

"(2) A person commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, when, while aboard an aircraft in flight, he—

"(A) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act; or

"(B) is an accomplice of a person who performs or attempts to perform any such act.

"(3) This subsection shall only be applicable if the place of takeoff or the place of actual landing of the aircraft on board which the offense as defined in paragraph 2 of this subsection is committed is situated outside the territory of the State of registration of that aircraft.

"(4) For purposes of this subsection an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over responsibility for the aircraft and for the persons and property aboard."

(c) By amending redesignated subsection (o) thereof by striking out the reference "(m)", and by inserting the reference "(n)" in place thereof.

SEC. 4. (a) Title XI of the Federal Aviation Act of 1958 is amended by adding a new section 1114 as follows:

"SUSPENSION OF AIR SERVICES

"SEC. 1114. (a) Whenever the President determines that a foreign nation is acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft, or if he determines that a foreign nation is used as a base of operations or training or as a sanctuary or which arms, aids or abets in any way terrorist organizations which knowingly use the illegal seizure of aircraft or the threat thereof as an instrument of policy, he may, without notice or hearing and for as long as he determines necessary to assure the security of aircraft against unlawful seizure, suspend (1) the right of any air carrier and foreign air carrier to engage in foreign air transportation, and any persons to operate aircraft in foreign air commerce, to and from that foreign nation, and (2) the right of any foreign air carrier to engage in foreign air transportation, and any foreign person to operate aircraft in foreign air commerce, between the United States and any foreign nation which maintains air service between itself and that foreign nation. Notwithstanding section 1102 of this Act, the President's authority to suspend rights in this manner shall be deemed to be a condition to any certificate of public convenience and necessity or foreign air carrier or foreign aircraft permit issued by the Civil Aeronautics Board and any air carrier operating certificate or foreign air carrier operating specification issued by the Secretary of Transportation.

"(b) It shall be unlawful for any air carrier or foreign air carrier to engage in foreign air transportation, or any person to operate aircraft in foreign air commerce, in violation of the suspension of rights by the President under this section.".

(b) Title XI of the Federal Aviation Act of 1958 is amended by adding a new section 1115 as follows:

"SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

"SEC. 1115. (a) Not later than thirty days after the date of enactment of this Act the Secretary of State shall notify each nation with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of the Federal Aviation Act of 1958, of the provisions of subsection (b) of this section.

"(b) In any case where the Secretary of Transportation, after consultation with the competent aeronautical authorities of a foreign nation with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to such section 402, finds that such nation does not effectively maintain and administer security measures relating to transportation of persons or property or mail in foreign air transportation that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation or, prior to a date when such standards are adopted and enter into force pursuant to such convention, the specifications and practices set out in appendix A to Resolution A17–10 of the 17th Assembly of the International Civil Aviation Organization, he shall notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such convention or such specifications and practices of such resolution. In the event of failure of that nation to take such steps, the Secretary of Transportation, with the approval of the Secretary of State, may withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation."

SEC. 5. Section 901(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1471(a)) is amended by inserting the words "or section 1114" before the words "of this Act" when those words first appear in this section.

SEC. 6. Section 1007(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1487(a)) is amended by inserting the words "or, in the case of a violation of section 1114 of this Act, the Attorney General," after the words "duly authorized agents,".

SEC. 7. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading

"Sec. 902. Criminal penalties.",

is amended by striking out the following items:

"(n) Investigations by Federal Bureau of Investigation.
"(o) Interference with aircraft accident investigation.";

and by inserting the following items in place thereof:

"(n) Aircraft piracy outside special aircraft jurisdiction of the United States.
"(o) Investigations by Federal Bureau of Investigation.
"(p) Interference with aircraft accident investigation.";

and that portion which appears under the heading

"TITLE XI—MISCELLANEOUS"

is amended by adding at the end thereof the following:

"Sec. 1114. Suspension of air services.
"Sec. 1115. Security standards in foreign air transportation.".

TITLE II—AIR TRANSPORTATION SECURITY ACT OF 1973

SEC. 21. This title may be cited as the "Air Transportation Security Act of 1973".

SEC. 22. The Congress hereby finds and declares that—

(1) the United States air transportation system which is vital to the citizens of the United States is threatened by acts of criminal violence and air piracy;

(2) the United States air transportation system continues to be vulnerable to violence and air piracy because of inadequate security and a continuing failure to properly identify and arrest persons attempting to violate Federal law relating to crimes against air transportation;

(3) the United States Government has the primary responsibility to guarantee and insure safety to the millions of passengers who use air transportation and intrastate air transportation and to enforce the laws of the United States relating to air transportation security; and

(4) the United States Government must establish and maintain an air transportation security program and an air transportation security-law enforcement force under the direction of the Administrator of the Federal Aviation Administration in order to adequately assure the safety of passengers in air transportation.

SEC. 23. (a) Title III of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new section:

"SCREENING OF PASSENGERS IN AIR TRANSPORTATION

"SEC. 315. (a) The Administrator shall as soon as practicable prescribe reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation or intrastate air transportation be screened by weapon-detecting devices operated by employees of the air carrier, intrastate air carrier, or foreign air carrier prior to boarding the aircraft for such transportation. One year after the effective date of such regulation the Administrator may alter or amend such regulations, requiring a continuation of such screening by weapon-detecting devices only to the extent deemed necessary to assure security against acts of criminal violence and air piracy in air transportation and intrastate air transportation. The Administrator shall submit semiannual reports to the Congress concerning the effectiveness of this screening program and shall advise the Congress of any regulations or amendments thereto to be prescribed pursuant to this subsection at least thirty days in advance of their effective date.

"(b) The Administrator shall acquire and furnish for the use by air carriers and intrastate air carriers, at domestic and foreign airports, and for foreign air carriers for use at airports within the United States, sufficient devices necessary for the purpose of subsection (a) of this section, which devices shall remain the property of the United States.

"(c) The Administrator may exempt, from provisions of this section, air transportation operations performed by air carriers operating pursuant to part 135, title 14 of the Code of Federal Regulations."

(b) Notwithstanding any other provision of law, there are authorized to be appropriated from the Airport and Airway Trust Fund established by the Airport and Airway Revenue Act of 1970 such amounts, not to exceed $5,500,000, to acquire the devices required by the amendment made by this section.

SEC. 24. Title III of the Federal Aviation Act of 1958 is further amended by adding at the end thereof the following additional new section:

"AIR TRANSPORTATION SECURITY FORCE

"POWERS AND RESPONSIBILITIES

"SEC. 316. (a) The Administrator of the Federal Aviation Administration in administering the air transportation security program shall establish and maintain an air transportation security force of sufficient size to provide a law enforcement presence and capability at airports in the United States adequate to insure the safety from criminal violence and air piracy of persons traveling in air transportation or intrastate air transportation: *Provided, however,* That notwithstanding any other provision of law to the contrary, the Administrator may not require, by regulation or otherwise, the presence at airports in the United States of State or local law enforcement personnel to assist in or support the screening of passengers and property prior to boarding, or to enforce, or to act as a deterrent against acts which are prohibited by, United States statutes other than as authorized by this subsection. He shall be empowered, and designate each employee of the force who shall be empowered, pursuant to this title, to—

"(1) detain and search any person aboard, or any person attempting to board, any aircraft in, or intended for operation in, air transportation or intrastate air transportation to determine whether such person is unlawfully carrying a dangerous weapon, explosive, or other destructive substance: *Provided, however,* That no person shall be frisked or searched unless he has been identified by a weapons detection device as a person who is reasonably likely to be carrying, unlawfully, a concealed weapon and before he has been given an opportunity to remove from his person or clothing, objects which could have evoked a positive response from the weapons detection device, and unless he consents to such search. If consent for such search is denied, such person shall be denied boarding and shall forfeit his opportunity to be transported in air transportation, intrastate air transportation, and foreign air transportation;

"(2) search or inspect any property, at any airport, which is aboard, or which is intended to be placed aboard, any aircraft in, or intended for operation in, air transportation or intrastate air transportation to determine whether such property unlawfully contains any dangerous weapon, explosive, or other destructive substance;

(3) arrest any person whom he has reasonable cause to believe has (A) violated or has attempted to violate section 902 (i), (j), (k), (l), or (m) of the Federal Aviation Act of 1958, as amended, or (B) violated, or has attempted to violate, section 32, title 18, United States Code, relating to crimes against aircraft or aircraft facilities; and

"(4) carry firearms when deemed by the Administrator to be necessary to carry out the provisions of this section,

and, at his discretion, he may deputize State and local law enforcement personnel whose services may be made available by their employers, on a cost-reimbursable basis, to exercise the authority conveyed in this subsection.

"TRAINING AND ASSISTANCE

"(b) In administering the air transportation security program, the Administrator may—

"(1) provide training for State and local law enforcement personnel whose services may be made available by their employers to assist in carrying out the air transportation security program, and

"(2) utilize the air transportation security force to furnish assistance to an airport operator, or any air carrier, intrastate air carrier, or foreign air carrier engaged in air transportation or intrastate air transportation to carry out the purposes of the air transportation security progam.

"OVERALL RESPONSIBILITY

"(c) Except as otherwise expressly provided by law, the responsibility for the administration of the air transportation security program, and security force functions specifically set forth in this section, shall be vested exclusively in the Administrator of the Federal Aviation Administration and shall not be assigned or transferred to any other department or agency."

SEC. 25. Section 1111 of the Federal Aviation Act of 1958 is amended to read as follows:

"AUTHORITY TO REFUSE TRANSPORTATION

"(a) The Administrator shall, by regulation, require any air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

"(1) any person who does not consent to a search of his person to determine whether he is unlawfully carrying a dangerous weapon, explosive, or other destructive substance as prescribed in section 316(a) of this Act, or

"(2) any property of any person who does not consent to a search or inspection of such property to determine whether it unlawfully contains a dangerous weapon, explosive, or other destructive substance.

Subject to reasonable rules and regulations prescribed by the Administrator, any such carrier may also refuse transportation of a passenger or property when, in the opinion of the carrier, such transportation would or might be inimical to safety of flight.

"(b) Any agreement for the carriage of persons or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier for compensation or hire shall be deemed to include an agreement that such carriage shall be refused when consent to search persons or inspect such property for the purposes enumerated in subsection (a) of this section is not given."

SEC. 26. Section 902(l) of the Federal Aviation Act of 1958 is amended to read as follows:

"CARRYING WEAPONS ABOARD AIRCRAFT

"(l)(1) Whoever, while aboard, or while attempting to board, any aircraft in or intended for operation in air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, explosive, or other destructive substance, or has placed, attempted to place, or attempted to have placed aboard such aircraft any property containing a concealed deadly or dangerous weapon, explosive, or other destructive substance, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(2) Whoever willfully and without regard for the safety of human life or with reckless disregard for the safety of human life, while aboard, or while attempting to board, any aircraft in or intended for operation in air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, explosive, or other destructive substance, or has placed, attempted to place, or attempted to have placed abroad such aircraft any property containing a concealed deadly or dangerous weapon, explosive, or other destructive substance shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(3) This subsection shall not apply to law enforcement officers of any municipal or State government, or the Federal Government, while acting within their official capacities and who are authorized or required within their official capacities, to carry arms, or to persons who may be authorized, under regulations issued by the Administrator, to carry concealed deadly or dangerous weapons in air transportation or intrastate air transportation; nor shall it apply to persons transporting weapons for hunting or other sporting activities if the presence of such weapons is publicly declared prior to the time of boarding, checked as baggage which may not be opened within the airport confines, and not transported with such person in the passenger compartment of the aircraft."

SEC. 27. To establish, administer, and maintain the air transportation security force provided in section 316 of the Federal Aviation Act of 1958, there is hereby authorized to be appropriated for fiscal years 1973 and 1974 the sum of $35,000,000.

SEC. 28. Section 101 of the Federal Aviation Act of 1958, as amended, is amended by adding after paragraph (21) the following:

"(22) 'Intrastate air carrier' means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, solely to engage in intrastate air transportation.

"(23) 'Intrastate air transportation' means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States."

and is further amended by redesignating paragraph (22) as paragraph (24) and redesignating the remaining paragraphs accordingly.

SEC. 29. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading: "TITLE III—ORGANIZATION OF AGENCY AND POWERS AND DUTIES OF ADMINISTRATOR", is amended by adding at the end thereof the following:

"Sec. 315. Screening of passengers in air transportation.
"Sec. 316. Air transportation security force.
"(a) Powers and responsibilities.
"(b) Training and assistance.
"(c) Overall responsibility.".

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the bill, S. 39, and insert in lieu thereof the provisions of H.R. 3858, as passed, as follows:

Strike out all after the enacting clause, and insert:

TITLE I—ANTIHIJACKING ACT OF 1974

SEC. 101. This title may be cited as the "Antihijacking Act of 1974".

SEC. 102. Section 101(32) of the Federal Act of 1958 (49 U.S.C. 1301(32)), relating to the definition of the term "special aircraft jurisdiction of the United States, is amended to read as follows:

"(32) The term 'special aircraft jurisdiction of the United States' includes—

"(a) civil aircraft of the United States;

"(b) aircraft of the national defense forces of the United States;

"(c) any other aircraft within the United States;

"(d) any other aircraft outside the United States—

"(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; or

"(ii) having 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; and

"(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States;

while that aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard.".

SEC. 103. (a) Paragraph (2) of subsection (i) of section 902 of such Act (49 U.S.C. 1472), relating to the definition of the term "aircraft piracy", is amended by striking out "threat of force or violence and" inserting in lieu thereof "threat of force or violence or by any other form of intimidation, and".

(b) Section 902 of such Act is further amended by redesignating subsections (n) and (o) as subsections (o) and (p), respectively, and by inserting immediately after subsection (m) the following new subsection:

"AIRCRAFT PIRACY OUTSIDE SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

"(n)(1) Whoever aboard an aircraft in flight outside the special aircraft jurisdiction of the United States commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, and is afterward found in the United States shall be punished—

"(A) by imprisonment for not less than twenty years; or

"(B) if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.

"(2) A person commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft when, while aboard an aircraft in flight, he—

"(A) unlawfully, by force or threat thereof, or by any other form of intimidation, seizures, or exercises control of, that aircraft, or attempts to perform any such act; or

"(B) is an accomplice of a person who performs or attempts to perform any such act.

"(3) This subsection shall only be applicable if the place of takeoff or the place of actual landing of the aircraft on board which the offense, as defined in paragraph (2) of this subsection, is committed is situated outside the territory of the State of registration of that aircraft.

"(4) For purposes of this subsection an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over responsibility for the aircraft and for the persons and property aboard.".

(c) Subsection (o) of such section 902, as so redesignated by subsection (b) of this section, is amended by striking out "subsections (i) through (m)" and inserting in lieu thereof "subsections (i) through (n)".

SEC. 104. (a) Section 902(i)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i)(1)) is amended to read as follows:

"(1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished—

"(A) by imprisonment for not less than twenty years; or

"(B) if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.".

(b) Section 902(i) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3) An attempt to commit aircraft piracy shall be within the special aircraft jurisdiction of the United States even though the aircraft is not in flight at the time of such attempt if the aircraft would have been within the special aircraft jurisdiction of the United States had the offense of aircraft piracy been completed.".

SEC. 105. Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473), relating to venue and prosecution of offenses, is amended by adding at the end thereof the following new subsection:

"PROCEDURE IN RESPECT OF PENALTY FOR AIRCRAFT PIRACY

"(c)(1)(I) A person shall be subjected to the penalty of death for any offense prohibited by section 902(i) or 902(n) of this Act only if a hearing is held in accordance with this subsection.

"(2) When a defendant is found guilty of or pleads guilty to an offense under section 902(i) or 902(n) of this Act for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered shall conduct a separate sentencing hearing to determine the existence or nonexistence of the factors set forth in paragraphs (6) and (7), for the purpose of determining the sentence to be imposed. The hearing shall not be held if the Government stipulates that none of the aggravating factors set forth in paragraph (7) exists or that one or more of the mitigating factors set forth in paragraph (6) exists. The hearings shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury; or

"(iii) the jury which determined the defendant's guilt has been discharged by the court for good cause; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the court and of the Government.

"(3) In the sentencing hearing the court shall disclose to the defendant or his counsel all material contained in any presentence report, if one has been prepared, except such material as the court determines is required to be withheld for the protection of human life or for the protection of the national security. Any presentence information withheld from the defendant shall not be considered in determining the existence or the nonexistence of the factors set forth in paragraph (6) or (7). Any information relevant to any of the mitigating factors set forth in paragraph (6) may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials; but the admissibility of information relevant to any of the aggravating factors set forth in paragraph (7) shall be governed by the rules governing the admission of evidence at criminal trials. The Government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the factors set forth in paragraph (6) or (7). The burden of establishing the existence of any of the factors set forth in paragraph (7) is on the Government. The burden of establishing the existence of any of the factors set forth in paragraph (6) is on the defendant.

"(4) The jury, or if there is no jury, the court shall return a special verdict setting forth its findings as to the existence or nonexistence of each of the factors set forth in paragraph (6) and as to the existence or nonexistence of each of the factors set forth in paragraph (7).

"(5) If the jury or, if there is no jury, the court finds by a preponderance of the information that one or more of the factors set forth in paragraph (7) exists and that none of the factors set forth in paragraph (6) exists, the court shall sentence the defendant to death. If the jury or, if there is no jury, the court finds that none of the aggravating factors set forth in paragraph (7) exists, or finds that one or more of the mitigating factors set forth in paragraph (6) exists, the court shall not sentence the defendant to death but shall impose any other sentence provided for the offense for which the defendant was convicted.

"(6) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that at the time of the offense—

"(A) he was under the age of eighteen;

"(B) his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution;

"(C) he was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution;

"(D) he was a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but his participation was relatively minor, although not so minor as to constitute a defense to prosecution; or

"(E) he could not reasonably have foreseen that his conduct in the course of the commission of the offense for which he was convicted would cause, or would create a grave risk of causing death to another person.

"(7) If no factor set forth in paragraph (6) is present, the court shall impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that—

"(A) the death of another person resulted from the commission of the offense but after the defendant had seized or exercised control of the aircraft; or

"(B) the death of another person resulted from the commission or attempted commission of the offense, and—

"(i) the defendant has been convicted of another Federal or State offense (committed either before or at the time of the commission or attempted commission of the offense) for which a sentence of life imprisonment or death was imposable;

"(ii) the defendant has previously been convicted of two or more State or Federal offenses with a penalty of more than one year imprisonment (committed on different occasions before the time of the commission or attempted commission of the offense), involving the infliction of serious bodily injury upon another person;

"(iii) in the commission or attempted commission of the offense, the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense or attempted offense; or

"(iv) the defendant committed or attempted to commit the offense in an especially heinous, cruel, or depraved manner.".

SEC. 106. Title XI of such Act (49 U.S.C. 1501–1513) is amended by adding at the end thereof the following new sections:

"SUSPENSION OF AIR SERVICES

"SEC. 1114. (a) Whenever the President determines that a foreign nation is acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft, or if he determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training or as a sanctuary for, or in any way arms, aids, or abets, any terrorist organization which knowingly uses the illegal seizure of aircraft or the threat thereof as an instrument of policy, he may, without notice or hearing and for as long as he determines necessary to assure the security of aircraft against unlawful seizure, suspend (1) the right of any air carrier or foreign air carrier to engage in foreign air transportation, and the right of any person to operate aircraft in foreign air commerce, to and from that foreign nation, and (2) the right of any foreign air carrier to engage in foreign air transportation, and the right of any foreign person to operate aircraft in foreign air commerce, between the United States and any foreign nation which maintains air service between itself and that foreign nation. Notwithstanding section 1102 of this Act, the President's authority to suspend rights under this section shall be deemed to be a condition to any certificate of public convenience and necessity or foreign air carrier or foreign aircraft permit issued by the Civil Aeronautics Board and any air carrier operating certificate or foreign air carrier operating specification issued by the Secretary of Transportation.

"(b) It shall be unlawful for any air carrier or foreign air carrier to engage in foreign air transportation, or for any person to operate aircraft in foreign air commerce, in violation of the suspension of rights by the President under this section.

"SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

"SEC. 1115. (a) Not later than 30 days after the date of enactment of this section, the Secretary of State shall notify each nation with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of this Act, of the provisions of subsection (b) of this section.

"(b) In any case where the Secretary of Transportation, after consultation with the competent aeronautical authorities of a foreign nation with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of this Act, finds that such nation does not effectively maintain and administer security measures relating to transportation of persons or property or mail in foreign air transportation that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation, he shall notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such convention. In the event of failure of that nation to take such steps, the Secretary of Transportation, with the approval of the Secretary of State, may withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation.".

SEC. 107. The first sentence of section 901 (a)(1) of such Act (49 U.S.C. 1471(a)(1)), relating to civil penalties, is amended by inserting ", or of section 1114," immediately before "of this Act".

SEC. 108. Subsection (a) of section 1007 of such Act (49 U.S.C. 1487), relating to judicial enforcement, is amended by inserting "or, in the case of a violation of section 1114 of this Act, the Attorney General," immediately after "duly authorized agents,".

SEC. 109. (a) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties."

is amended by striking out—

"(n) Investigations by Federal Bureau of Investigation.

"(o) Interference with aircraft accident investigation."

and inserting in lieu thereof—

"(n) Aircraft piracy outside special aircraft jurisdiction of the United States.

"(o) Investigations by Federal Bureau of Investigation.

"(p) Interference with aircraft accident investigation.".

(b) That portion of such table of contents which appears under the side heading

"Sec. 903. Venue and prosecution of offenses."

is amended by adding at the end thereof the following new item:

"(c) Procedure in respect of penalty for aircraft piracy.".

(c) That portion of such table of contents which appears under the center heading "TITLE XI—MISCELLANEOUS" is amended by adding at the end therof the following new items:

"Sec. 1114. Suspension of air services.

"Sec. 1115. Security standards in foreign air transportation.".

TITLE II—AIR TRANSPORTATION SECURITY ACT OF 1974

SEC. 201. This title may be cited as the "Air Transportation Security Act of 1974".

SEC. 202. Title III of the Federal Aviation Act of 1958 (49 U.S.C. 1341–1355), relating to organization of the Federal Aviation Administration and the powers and duties of the Administrator, is amended by adding at the end thereof the following new sections:

"SCREENING OF PASSENGERS

"PROCEDURES AND FACILITIES

"SEC. 315. (a) The Administrator shall prescribe or continue in effect reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation or intrastate air transportation be screened by weapon-detecting procedures of facilities employed or operated by employees of the air carrier, intrastate air carrier, or foreign air carrier prior to boarding the aircraft for such transportation. Such regulations shall include such provisions as the Administrator may deem necessary to assure that persons traveling in air transportation or intrastate air transportation will receive courteous and efficient treatment in connection with the administration of any provision of this Act involving the screening of presons and property to assure safety in air transportation or intrastate air transportation. One year after the date of enactment of this section or after the effective date of such regulations, whichever is later, the Administrator may alter or amend such regulations, requiring a continuation of such screening only to the extent deemed necessary to assure security against acts of criminal violence and aircraft piracy in air transportation and intrastate air transportation. The Administrator shall submit semiannual reports to the Congress concerning the effectiveness of screening procedures under this subsection and shall advise the Congress of any regulations or amendments thereto to be prescribed pursuant to this subsection at least thirty days in advance of their effective date, unless he determines that an emergency exists which requires that such regulations or amendments take effect in less than thirty days and notifies the Congress of his determination. Notwithstanding any other provision of law, the memorandum of the Federal Aviation Administrator, dated March 29, 1973, regarding the use of X-ray systems in airport terminal areas, shall remain in full force and effect until modified, terminated, superseded, set aside, or repealed after the date of enactment of this section by the Administrator.

"EXEMPTION AUTHORITY

"(b) The Administrator may exempt, in whole or in part, air transportation operations, other than those scheduled passenger operations performed by air carriers engaging in interstate, overseas, or foreign air transportation under a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401 of this Act, from the provisions of this section.

"AIR TRANSPORTATION SECURITY

"RULES AND REGULATIONS

"SEC. 316. (a)(1) The Administrator of the Federal Aviation Administration shall prescribe such reasonable rules and regulations requiring such practices, methods, and procedures, or governing the design, materials, and construction of aircraft, as he may deem necessary to protect persons and property aboard aircraft operating in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy.

"(2) In prescribing and amending rules and regulations under paragraph (1) of this subsection, the Administrator shall—

"(A) consult with the Secretary of Transportation, the Attorney General, and such other Federal, State, and local agencies as he may deem appropriate;

"(B) consider whether any proposed rule or regulation is consistent with protection of passengers in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy and the public interest in the promotion of air transportation and intrastate air transportation;

"(C) to the maximum extent practicable, require uniform procedures for the inspection, detention, and search of persons and property in air transportation and intrastate air transportation to assure their safety and to assure that they will receive courteous and efficient treatment, by air carriers, their agents and employees, and by Federal, State, and local law enforcement personnel engaged in carrying out any air transportation security program established under this section; and

"(D) consider the extent to which any proposed rule or regulation will contribute to carrying out the purposes of this section.

"PERSONNEL

"(b) Regulations prescribed under section (a) of this section shall require operators of airports regularly serving air carriers certificated by the Civil Aeronautics Board to establish air transportation security programs providing a law enforcement presence and capability at such airports adequate to insure the safety of persons traveling in air transportation of intrastate air transportation from acts of criminal violence and aircraft piracy. Such regulations shall authorize such airport operators to utilize the services of qualified State, local, and private law enforcement personnel whose services are made available by their employers on a cost reimbursable basis. In any case in which the Administrator determines, after receipt of notification from an airport operator in such form as the Administrator may prescribe, that qualified State, local, and private law enforcement personnel are not available in sufficient numbers to carry out the provisions of subsection (a) of this section, the Administrator may, by order, authorize such airport operator to utilize, on a reimbursable basis, the services of—

"(1) personnel employed by any other Federal department or agency, with the consent of the head of such department or agency; and

"(2) personnel employed directly by the Administrator;

at the airport concerned in such numbers and for such period of time as the Administrator may deem necessary to supplement such State, local, and private law enforcement personnel. In making the determination referred to in the preceding sentence the Administrator shall take into consideration—

"(A) the number of passengers enplaned at such airport;

"(B) the extent of anticipated risk of criminal violence and aircraft piracy at such airport or to the air carrier aircraft operations at such airport; and

"(C) the availability at such airport of qualified State or local law enforcement personnel.

"TRAINING

"(c) The Administrator shall provide training for personnel employed by him to carry out any air transportation security program established under this section and for other personnel, including State, local, and private law enforcement personnel, whose services may be utilized in carrying out any such air transportation security program. The Administrator shall prescribe uniform standards with respect to training required to be provided personnel whose services are utilized to enforce any such air transportation security program, including State, local, and private law enforcement personnel, and uniform standards will respect to minimum qualifications for personnel eligible to receive such training.

"RESEARCH AND DEVELOPMENT; CONFIDENTIAL INFORMATION

"(d) (1) The Administrator shall conduct such research (including behavioral research) and development as he may deem appropriate to develop, modify, test, and evaluate systems, procedures, facilities, and devices to protect persons and property aboard aircraft in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy. Contracts may be entered into under this subsection without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) or any other provision of law requiring advertising, and without regard to section 3643 of the Revised Statutes of the United States (31 U.S.C. 529), relating to advances of public money.

"(2) Notwithstanding section 552 of title 5, United States Code, relating to freedom of information, the Administrator shall prescribe such regulations as he may deem necessary to prohibit disclosure of any information obtained or developed in the conduct of research and development activities under this subsection if, in the opinion of the Administrator, the disclosure of such information—

"(A) would constitute an unwarranted invasion of personal privacy (including, but not limited to, information contained in any personnel, medical, or similar file);

"(B) would reveal trade secrets or privileged or confidential commercial or financial information obtained from any person; or

"(C) would be detrimental to the safety of persons traveling in air transportation. Nothing in this subsection shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

"OVERALL FEDERAL RESPONSIBILITY

"(e) (1) Except as otherwise specifically provided by law, no power, function, or duty of the Administrator of the Federal Aviation Administration under this section shall be assigned or transferred to any other Federal department or agency.

"(2) Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration shall have exclusive responsibility for the direction of any law enforcement activity affecting the safety of persons aboard aircraft involved in the commission of an offense under section 901(i) and 902(n) of this Act. Other Federal departments and agencies shall, upon request by the Administrator, provide such assistance as may be necessary to carry out the purposes of this paragraph.

"DEFINITION

"(f) For the purposes of this section, the term 'law enforcement personnel' means individuals—

"(1) authorized to carry and use firearms,

"(2) vested with such police power of arrest as the Administrator deems necessary to carry out this section, and

"(3) identifiable by appropriate indicia of authority.".

SEC. 203. Section 1111 of the Federal Aviation Act of 1958 (49 U.S.C. 1511), relating to authority to refuse transportation, is amended to read as follows:

"AUTHORITY TO REFUSE TRANSPORTATION

"SEC. 1111. (a) The Administrator shall, by regulation, require any air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

"(1) any person who does not consent to a search of his person, as prescribed in section 315(a) of this Act, to determine whether he is unlawfully carrying a dangerous weapon, explosive, or other destructive substance, or

"(2) any property of any person who does not consent to a search or inspection of such property to determine whether it unlawfully contains a dangerous weapon, explosive, or other destructive substance.

Subject to reasonable rules and regulations prescribed by the Administrator, any such carrier may also refuse transportation of a passenger or property when, in the opinion of the carrier, such transportation would or might be inimical to safety of flight.

"(b) Any agreement for the carriage of persons or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier for compensation or hire shall be deemed to include an agreement that such carriage shall be refused when consent to search such persons or inspect such property for the purposes enumerated in subsection (a) of this section is not given.".

SEC. 204. Title XI of the Federal Aviation Act of 1958 (49 U.S.C. 1501–1513) is amended by adding at the end thereof the following new section:

"LIABILITY FOR CERTAIN PROPERTY

"SEC. 1116. The Civil Aeronautics Board shall issue such regulations or orders as may be necessary to require that any air carrier receiving for transportation as baggage any property of a person traveling in air transportation, which property cannot lawfully be carried by such person in the aircraft cabin by reason of section 902(1) of this Act, must make available to such person, at a reasonable charge, a policy of insurance conditioned to pay, within the amount of such insurance, amounts for which such air carrier may become liable for the full actual loss or damage to such property caused by such air carrier.".

SEC. 205. Section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301), relating to definitions, is amended by redesignating paragraphs (22) through (36) as paragraphs (24) through (38), respectively, and by inserting immediately after paragraph (21) the following new paragraphs:

"(22) 'Intrastate air carrier' means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage solely in intrastate air transportation.

"(23) 'Intrastate air transportation' means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States.".

SEC. 206. (a) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading: "TITLE III—ORGANIZATION OF AGENCY AND POWERS AND DUTIES OF ADMINISTRATOR" is amended by adding at the end thereof the following new items:

"Sec. 315. Screening of passengers in air transportation.
"(a) Procedures and facilities.
"(b) Exemption authority.
"Sec. 316. Air transportation security.
"(a) Rules and regulations.
"(b) Personnel.
"(c) Training.
"(d) Research and development; confidential information.
"(e) Overall Federal responsibility.
"(f) Definition.

(b) That portion of such table of contents which appears under the center heading "TITLE XI—MISCELLANEOUS" is amended by adding at the end thereof the following new item:

"Sec. 1116. Liability for certain property.".

Amend the title so as to read: "An Act to amend the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to provide a more effective program to prevent aircraft piracy; and for other purposes."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to provide a more effective program to prevent aircraft piracy; and for other purposes.".

A motion to reconsider the bill was laid on the table.

A similar House bill (H.R. 3858) was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested.

S. Con. Res. 75. Concurrent resolution providing for an adjournment of the Senate from March 13, 1974, until March 19, 1974.

ELECTION OF MEMBERS TO STANDING COMMITTEES OF THE HOUSE

Mr. O'NEILL. Mr. Speaker, on behalf of the gentleman from Arkansas (Mr. MILLS) I offer a privileged resolution (H. Res. 980) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 980

Resolved, That the following-named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Armed Services: John P. Murtha, of Pennsylvania;

Committee on Interstate and Foreign Commerce: Thomas A. Luken, of Ohio;

Committee on Public Works: Richard F. Vander Veen, of Michigan.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ADJOURNMENT OF THE SENATE FROM MARCH 13 THROUGH MARCH 19, 1974

The **SPEAKER** laid before the House the Senate concurrent resolution (S. Con. Res. 75) providing for an adjournment of the Senate from Wednesday, March 13, 1974, to Tuesday, March 19, 1974.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 75

Resolved by the Senate (the House of Representatives concurring), That when the Senate completes its busines today, Wednesday, March 13, 1974, it stand adjourned until noon, Tuesday, March 19, 1974.

PARLIAMENTARY INQUIRY

Mr. **GROSS.** Mr. Speaker, a parliamentary inquiry.

The **SPEAKER.** The gentleman will state it.

Mr. **GROSS.** Mr. Speaker, does this require unanimous consent for consideration of this resolution?

The **SPEAKER.** It is a privileged resolution.

Mr. **GROSS.** Mr. Speaker, what is the import of the resolution?

The **SPEAKER.** It is an adjournment resolution enacted by the Senate, for the Senate only, until Tuesday next. The Senate is asking the consent of the House.

Mr. **GROSS.** This is a recess resolution?

The **SPEAKER.** For the Senate.

Mr. **GROSS.** Is it subject to amendment, Mr. Speaker?

The **SPEAKER.** It is a privileged resolution.

Mr. **GROSS.** Mr. Speaker, I would be constrained to make it a sine die adjournment for the other body.

The **SPEAKER.** The Chair feels that that is not germane.

Mr. **GROSS.** It would be germane?

The **SPEAKER.** The Chair is not sure if that would be ruled germane.

Mr. **GROSS.** I thank the Speaker.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

WHAT DECLINE IN AFDC?

(Mrs. **GRIFFITHS** asked and was given permission to address the House for 1 minute to revise and extend her remarks and include extraneous matter.)

Mrs. **GRIFFITHS.** Mr. Speaker, last week, HEW Secretary Weinberger announced in a press release that the number of persons receiving aid for families with dependent children (AFDC) decreased by 335,000 since March 1973. He predicted that December 1973 data, when available, would show the first annual decline in the rolls in at least 15 years; and he attributed the reduction largely to Federal and State efforts begun in early 1973 to close loopholes and reduce errors in eligibility and payment.

I am not disparaging efforts to improve the administration of the AFDC program. Certainly there is much room for improvement. But I question whether improved management efficiency is a primary cause of this year's reduction. I question this because the Secretary gave the press only those figures that suited his explanation. He did not mention, for instance, that the number of families receiving AFDC increased somewhat—1.1 percent—from November 1972 to November 1973. This is a big change from the dramatic increases in previous years, but it cannot yet be called a decrease. Since the number of persons receiving AFDC declined by 2 percent during this time, it is evident that the decline reflects a decrease in average family size. There has been no decrease in the number of parents or other relatives receiving assistance for children in their care.

Neither did Secretary Weinberger mention the decline since March 1973 in the number of families with unemployed fathers receiving AFDC. And he did not provide the press with data that would give them a clue that a large part of the overall decrease is explained simply by a decline in this relatively small but distinct segment of the AFDC program. The facts are that the number of persons in families with unemployed fathers decreased by 191,000 between March and November 1973, accounting for more than half of the total decrease in AFDC numbers since March. To some extent the smaller proportion of welfare families with an unemployed father also accounts for the drop in average family size. Such families usually have both parents in the home, and they have more children, on the average, than the broken families which dominate AFDC enrollment.

When the unemployed father segment is subtracted from the overall AFDC program, it is seen that the number of families in the regular caseload increased by 2.2 percent in the past year, and the number of persons decreased by less than 1 percent. This relatively low rate of increase continues a trend of declining rates of increase that commenced in 1971, long befoe HEW's new program to reduce errors and fraud. In 1970, the AFDC caseload increased by 36 percent, but in 1971 by only 14 percent, and by 7 percent in 1972. How does HEW explain this sharp reduction in program growth which preceded their tightened rules on deciding eligibility? There is a good explanation, provided by analysts outside of HEW. The fact is that by 1970 the rate of participation of potentially eligible families had increased so that few families remained to be added to welfare.

In a sophisticated analysis in which census data was compared to State eligibility income levels, Barbara Boland of the Urban Institute found that in 1967 only 63 percent of eligible families headed by a woman actually received AFDC assistance. By 1970, this participation rate had increased to 91 percent nationally, and in some areas, such as the west coast, was close to 100 percent. In this period the AFDC rolls doubled. If eligible male-headed families are included, the participation rate increased from 56 to 78 percent during this time. Mrs. Boland found that the population of eligible families also increased during this period, partly because of some increase in the number of female-headed families in the population, but largely because most States raised their eligibility income levels during this time. States have not raised their eligibility income levels so much since 1970, so the pool of eligible families would not have continued to increase as much as before for this reason. Thus, since most eligible families already were in the program, the rate of increase had to decline, and this has occurred each year since the peak increase of 1970.

There is an additional explanation for the decrease in the number of families with unemployed fathers between March and November 1973. This segment of AFDC is much more subject to seasonal fluctuations than the rest of the program. HEW's published data shows that in both 1971 and 1972, this segment reached its highest point in March and its low point in October or November. The decline was 27 percent in 1971, 20 percent in 1972, and 32 percent in 1973. The number of recipients in these families in November 1973 was the lowest since 1970. The unemployment rate in October 1973 was also the lowest since 1970. It seems reasonable to expect that the rising unemployment rates since October 1973 could result in a more than normal increase of recipients in the unemployed father segment in 1974. If that happens, you can be sure that HEW will not explain it by saying they are again doing a poor job of eligibility determination.

Another factor which may have reduced the number of AFDC recipients last fall was the effort in some States, particularly New York, to transfer incapacitated people on AFDC to the disability assistance program. These transfers were made in anticipation of a new Federal program for the aged, blind, and disabled that went into effect in January 1974.

It is no wonder that this administration has credibility problems. What we need from HEW is not limited data used for propaganda. Congress—and the public—cannot make informed decisions if we do not have more complete information and an honest evaluation of this complex program.

"VOICE OF DEMOCRACY" CONTEST WINNER

(Mr. **WHITTEN** asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. **WHITTEN.** Mr. Speaker, each year the Veterans of Foreign Wars and its Ladies Auxiliary sponsors a "Voice of Democracy" contest in the secondary schools across the Nation.

I take much pride in the fact that the winner of the statewide competition in Mississippi is a young lady from my congressional district, Miss Chrysanthia A. Mathis, and was our entry in the National Contest, where she made a fine showing. Christy is the daughter of Mr. and Mrs. John T. Mathis of Tupelo, Miss., and a senior at Tupelo High School.

At this time when our Nation, its government, and entire political process is under criticism from within and abroad, I feel it is particularly fitting to call to the attention of my colleagues Christy's expressions, which we all need to take to heart.

Mr. Speaker, I am highly honored indeed to present Christy's speech entitled, "I Am Proud To Be an American," for the RECORD, for to such fine youngsters we can trust the future direction of our Nation.

Christy has my congratulations and best wishes during the years ahead.

I AM PROUD TO BE AN AMERICAN

(By Miss Chrysanthia A. Mathis)

In 1776, in a land called America, a new nation was painfully being born. The people of that baby nation gave a lot of things that could never be returned to them. They gave their time; they gave their blood; they gave the most priceless possession men can offer: their lives. And they gave them willingly. Like Nathan Hale, who was executed by the British in the Revolutionary War, they gave their all. They wouldn't be there to share in the glory of a war well-fought and won. They would never know the sheer joy of the freedoms and privileges for which they had died. So why did they do it? These patriots didn't give their lives just because they felt it was their responsibility; they gave their lives out of love for their United States of America. And they were proud to be called Americans.

As a young citizen of the United States today, my life has not been required of me. I can feel safe, without the fear of being executed for treason against a mother country. Precious human rights have been handed to me on a silver platter. And I am also proud to be an American.

But, you know, there isn't any reason why I shouldn't love my country just as much as these people did. I feel that this is my greatest responsibility as an American citizen: to love my country. And out of this love springs a desire to fulfill my many responsibilities as a citizen.

I choose to obey my country's laws, because I value my freedom highly. For without laws, there can be no government.

And where there is no government, there is no freedom. And if a change is needed, I have the responsibility to help that change come about. There are many things I can do without making a career of politics. For example: writing letters to my Congressmen, or just by word-of-mouth.

In less than a year, I will be qualified to vote, and I fully intend to do so. It is also my responsibility to learn just as much as I possibly can about my government and its leaders.

If I were called to serve my country full-time for a few years, I would consider it my duty to do so. And whatever I have to give, it can be no more than what certain other Americans have had to give.

A seldom-talked-about responsibility of United States citizens is one that is essential. I must believe in America and Americans. I believe in my fellow countrymen, and I know that no matter how great the crisis, Americans will overcome, as long as God is with us.

"One nation under God." The patriots knew what they were doing when they dedicated this nation to Him. For without God, this nation would never have risen. Without Him, it can only fall. But if we put our trust in Him, and our country in His able hands, we will be the great nation He intended for us to be.

There are many more responsibilities I have not mentioned. To think of fulfilling them all, we might become discouraged, thinking it's just too much. But if we fulfill that one greatest responsibility to our country, to love it, then all these other things will be—not from a sense of responsibility, but from a sense of pride, and joy, and love.

I love my country; and I love God. And I am proud to be an American.

INTRODUCTION OF LEGISLATION TO EQUALIZE GASOLINE ALLOCATIONS

(Mr. BADILLO asked and was given permission to address the House for 1 minute, to revise, and extend his remarks and include extraneous matter.)

Mr. BADILLO. Mr. Speaker, I am today introducing legislation designed to put the nationwide distribution of gasoline supplies to the States on a more equitable basis.

For the past few months the Federal Energy Office has been allocating gas among the States on what amounts to an ad hoc basis, shifting supplies around the country in response to hardships called to its attention. Under this system, if it can be called that, there has been considerable imbalance in the supplies received. In February, for example, one State received only 61 percent of what its base period consumption entitled it to while others received more gas than they used in the corresponding month of 1972.

FEO has announced the allocations for March, and though there is improvement, some States will still receive only 85 percent of their entitlement while eight States will get 100 percent or more of their allotment. New York, New Jersey, Pennsylvania, Massachusetts, Florida, Louisiana, Delaware, and Rhode Island are actually slated to get less gasoline on a daily basis than they did in February despite the fact that national gasoline inventories are higher than they were a year ago.

I am not accusing FEO of deliberate discrimination. Energy Chief Simon acknowledged the problem on February 19 when he said that:

> Some States have gotten more than the national average, and others less, and we're going to continue to work with these figures to make sure that all States are bearing the brunt of this thing equitably.

I believe that we should put that equity into the law. My bill amends the Emergency Petroleum Allocation Act of 1973 to require that no State in any month receives more than 4 percent of its entitlement above what any other State receives. I realize that it would be virtually impossible to equalize apportionments to each State precisely. But legislation like this should spur FEO to greater efforts to achieve fairness, and it seems to me that the target range is a realistic one.

To insure continued public support for any conservation program, it is critical that people know that they are being treated fairly and not being required to sacrifice more than people in other parts of the country. My bill is an attempt to reduce the inequities in the present informal system of shifting gasoline supplies between the various States. It is intended to provide a guarantee that the Government does not intend to tolerate long lines for limited purchases in one State while rivers in another experience no inconvenience in obtaining gas. Simple justice requires that we move as rapidly as possible to narrow the gap in shortfalls from one State to another.

The bill is as follows:

A bill to amend the Emergency Petroleum Allocation Act of 1973 to assure more equitable distribution of gasoline supplies on a State-by-State basis.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by inserting at the end thereof the following new subsection:

"(h) To the greatest extent practicable, the President shall exercise his authority under the Emergency Petroleum Allocation Act of 1973 and any other law which authorizes him to allocate gasoline within the United States, so as to assure that the percentage of base period supply for any State for any calendar month does not exceed the percentage of base period supply for any other State for such month by more than 4 percentage points. For purposes of this subsection, the term "percentage of base period supply" with respect to a State for a calendar month means the aggregate amount allocated of gasoline for use in such State for a calendar month as a percentage of the aggregate amounts of gasoline supplied for use in such State during the corresponding month of 1972."

MILITARY REDUCTIONS IN FORCE AND ITS EFFECT ON CAREER ENLISTED

(Mr. DOWNING asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. DOWNING. Mr. Speaker, I am privileged to introduce legislation that will, if enacted, correct an injustice that exists in the Federal laws. This measure will at long last provide severance pay for Regular enlisted members of the U.S. Armed Forces.

A review of statutes pursuant to Federal employment indicates that Congress has seen fit, and rightfully so, to enact legislation that offers varied payments, severance and readjustment, to Government employees, railroad workers, and to most of the active duty military, including reservists and guardsmen.

Unfortunately, we have overlooked the men and women of the Regular enlisted components in the Army, Marine Corps, Navy, Air Force, and Coast Guard.

Under title 10, United States Code, all Regular commissioned and warrant officers past their third year of active service are entitled to severance pay equal to an amount not to exceed 1 year of their basic pay if they are dismissed from the service honorably. Reserve officers and even Reserve enlisted members having a minimum of 5 years of active service are entitled to readjustment pay not to exceed $15,000 if they are returned to an inactive status. Temporary commissioned officers and Army and Air Force members without component are entitled to readjustment pay, and the former group may reenlist as a Regular enlisted member and receive a reenlistment bonus on top of the readjustment pay.

I might add that a commissioned or warrant officer may be removed from active duty for cause; that is, substandard performance of duty, moral turpitude, and other. But if he or she is entitled to an honorable discharge, severance or readjustment payments may be made under the law.

It is not the intent of this remark to demean the officer corps because they have this advantage over the enlisted corps. We are all aware that these men and women have served their country in war and peace. They deserve the support of a grateful Nation. Should we hand them their walking papers, our system of government provides them with some financial aid for readjustment in the civilian communities.

On the other hand, the Armed Forces, because of a congressional edict to reduce forces, release thousands of noncommissioned and petty officers and offer them not 1 cent for their service to the United States. We have done this following World War II, the Korean conflict, and now the Vietnam conflict—without sympathy, without concern and without offering them anymore than their normal pay up to the date of their discharge.

There is one group, however, that is concerned, the Non-Commissioned Officers Association of the United States of America—NCOA. They brought this inequity to my attention, and I in turn to my colleagues in the Congress. It is time to act now, and I have urged my colleagues in the House to properly and gratefully acknowledge the contributions of our noncommissioned officers and petty officers by passing this legislation at the earliest.

NATIONAL HEALTH AND ENVIRONMENTAL LAW PROGRAM

(Mr. CRANE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CRANE. Mr. Speaker, there is no substitute for prudence and common sense. That sounds trite, but applied to the situation of legal services-funded activities, it is a novel idea.

There is an information clearinghouse known as the National Health and Environmental Law Program. The sole function of this project is to involve itself in legal matters concerning health law and the environment. That is a very generally worded statement, and one would naturally expect the areas of involvement to be limited: Say, to medicare and medicaid matters, perhaps to concern with something as obvious a health threat as rodent infestation or improper garbage removal, maybe even health programs in the schools or communities. I remind you that OEO legal services funds are antipoverty funds. They are not Health, Education, and Welfare funds.

Health, Education, and Welfare spends millions, if not more, on health and its related areas, just as there are numbers of Federal, State, local, and private organizations concerning themselves with the environment. Such duplication of effort makes the existence of a supposedly antipoverty effort on health and the environment almost supernumerary, unless specifically applied to the needs of the poor.

What does the health and environmental law project involve itself with? Prison health, abortions, sterilizations—as if those were the greatest concerns of the poor. And until recently, the position of this administration was to discourage agitation for and performance of abortions. Yet OEO's grantees blithely continued such activities.

An interoffice memo from the Office of Economic Opportunity details some of the uses which the National Health and Environmental Law Program was using its funds for. This memo is dated September 29, 1972. I think it is still important, because the health law program, and others like it, will be guaranteed funding under the legal services corporation bill as passed by the Senate.

Any legal services bill passed by this Chamber must make sure that automatic refunding of problem grantees will be eliminated, and judgmental, case-by-case procedures of refunding set up instead.

OFFICE OF ECONOMIC OPPORTUNITY,
Washington, D.C., September 29, 1972.

Memorandum for Ted Tetzlaff, Acting Associate Director, Office of Legal Services.
From: J. Alan Mackay, Director, Program Analysis and Policy, Development Division, OPR.
Subject: National Health & Environmental Law Program Grant.

My staff has reviewed the above captioned grant. We recommend that the work program embodied in the NHELP Proposal for Refunding be modified (i) to delete activities relating to prison health (ii) to delete activities relating to the environment, and further (iii) to delete authorized activities relating to abortion and sterilizaton. We also have concern over the composition of the policy advisory board.

Prison Health. The improvement of health care and services for the benefit of any individuals or group thereof is commendable. In making determinations, however, with respect to where a small amount of available dollars ought to be expended, it is questionable to provide services for the benefit of those who (by definition of the act which they committed having been a voluntary one) are voluntarily incarcerated, before those who are involuntarily poor.

Environment. The improvement of our nation's environment is a worthwhile goal. Numerous Federal, state, and local agencies, and a plethora of private organizations, are deeply involved in this issue, including the preparation of remedial legislation and regulations. There can also be little doubt but that the environment relates directly to matters of health.

Nonetheless, we question the use of OEO anti-poverty dollars for involvement in environmental activities. Because of heavy involvement by other governmental and private agencies, it should be regarded as a peripheral activity of the legal services program, one not to be engaged in when other activities should have higher priority.

We recommend that the funds being used presently for the environmental component of this grant be diverted fully to other health matters.

Abortion and Sterilization. It is clear policy that Federal funds are not to be expended for therapeutic abortions and sterilizations, even if voluntarily agreed to by the patient. This policy, expressed by the President, has found expression in OEO regulations which proscribe the use of program dollars for therapeutic abortions. As an outgrowth of this same basic policy, and as a clarification of OEO's posture, no legal services program dollars (from the same Treasury as health affairs dollars) should be used to provide assistance, counsel, and other forms of legal services to facilitate abortion and sterilization.

We note the intent to use program dollars to lobby, an activity authorized by Item R-Legislation. We feel, as we have expressed with respect to grant after grant, that the use of Federal dollars to promote legislative activity is improper.

We are also deeply concerned about the presence of Michael Tiger on the policy advisory board of the grantee, who as he has long been associated with extreme-left wing activities, inasmuch as this may reflect the make-up of this board. We recommend that steps be taken at once to insure that the board is comprised of responsible individuals who are more accountable to the present Administration and leadership of this agency.

AMENDMENTS TO H.R. 69

(Mr. LANDGREBE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. LANDGREBE. Mr. Speaker, the following amendments to H.R. 69, as reported, may be offered by myself or other Members when that bill is read for amendments:

Amendment in the nature of a substitute to H.R. 69, as reported:

Page 25, strike out line 22 and all that follows through page 141, line 24, and insert in lieu thereof the following:

That this Act may be cited as the "Freer Schools Act of 1974".

SEC. 2. Section 102 of title I of the Elementary and Secondary Education Act of 1965 is amended by striking out "1973" and inserting in lieu thereof "1977".

(b) Section 143(a)(1) of title I of such Act is amended by adding at the end thereof the following new sentence: "There is authorized to be appropriated to carry out this title, not to exceed $1,810,000,000 for the fiscal year ending June 30, 1974, $1,357,500,000 for the fiscal year ending June 30, 1975, $905,000,000 for the fiscal year ending June 30, 1976, and $452,500,000 for the fiscal year ending June 30, 1977."

SEC. 3. Section 141(a)(1)(A) of title I of the Elementary and Secondary Education Act of 1965 is amended to read as follows: "(A) which are designed to improve the basic cognitive skills (particularly in reading and mathematics or reading readiness and mathematics readiness) of students who have a marked deficiency in such skills and".

SEC. 4. Section 303(b) of the Elementary and Secondary Education Act of 1965 is amended by inserting after "section 301 shall" the following: ", subject to subsection (d),".

(b) Section 303 of such Act is further amended by adding at the end thereof the following:

"(d) Funds appropriated pursuant to section 301 shall be available only for the support of programs or projects designed to assist in the cognitive development of students, as opposed to their social development or behavioral modification."

SEC. 5. Title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sections:

"PROTECTION OF PUPIL RIGHTS

"SEC. 812. (a) Nothing in this Act, or in title I of the Elementary and Secondary Education Act of 1965, shall be construed or applied in such a manner as to infringe upon or usurp the moral or legal rights or responsibilities of parents or guardians with respect to the moral, emotional, or physical development of their children.

"(b) Nothing in this Act, or in title I of the Elementary and Secondary Education Act of 1965, shall be construed or applied in such a way as to authorize the participation or use of any child in any research or experimentation program or project, or in any pilot project, without the prior, informed, written consent of the parents or legal guardians of such child. All instructional material, including teachers' manuals, films, tapes, or other supplementary instructional materials which will be used in connection with any such program or project shall be available for review by the parents or guardians upon verified request prior to a child's being enrolled or participating in such program or project. As used in this subsection, 'research or experimentation program or project, or pilot project' means any program or project designed to explore or develop new or unproven teaching methods or techniques.

"(c) No program shall be assisted under this Act, or under title I of the Elementary and Secondary Education Act of 1965, under which teachers or other school employees, or other persons brought into the school, use psychotherapy techniques such as group therapy or sensitivity training. As used in this subsection, group therapy and sensitivity training mean group processes where the student's intimate and personal feelings, emotions, values, or beliefs are openly exposed to the group or where emotions, feelings, or attitudes are directed by one or more members of the group toward another member of the group or where roles are assigned to pupils for the purpose of classifying, controlling, or predicting behavior.

"FREEDOM OF CHOICE

"Sec. 813. No local education agency shall be eligible to receive assistance under this Act if employment, or continued employment, of any teacher or administrator in its schools is conditioned upon membership in, or upon payment of fees to any organization including, but not limited to, labor organizations and professional associations."

Sec. 6. The first sentence of section 301(b) of the Elementary and Secondary Education Act of 1965 is amended by inserting before the period at the end thereof the following: ", $171,393,000 for the fiscal year ending June 30, 1974, and $86,696,500 for the fiscal year ending June 30, 1975".

Page 54, strike out line 3 and all that follows through page 57, line 7.

Page 57, line 10, strike out "113" and insert in lieu thereof "112".

Page 28, line 9, strike out "1977" and insert in lieu thereof "1976".

Page 50, line 25, insert "(1)" immediately after "(d)".

Page 51, immediately after line 2, insert the following new paragraph:

(2) Section 144(a)(1) (as redesignated by section 109 of this Act) of title I of the Act is amended by adding at the end thereof the following new sentence: "There is authorized to be appropriated to carry out this title, not to exceed $1,810,000,000 for the fiscal year ending June 30, 1974, $1,357,500,000 for the fiscal year ending June 30, 1975, $905,000,000 for the fiscal year ending June 30, 1976, and $452,500,000 for the fiscal year ending June 30, 1977.".

Page 48, strike out line 19 and all that follows through page 50, line 7.

Page 45, line 8, strike out "meet the special educational" and all that follows through "families and" and insert in lieu thereof the following: "improve the basic cognitive skills (particularly in reading and mathematics or reading readiness and mathematics readiness) of students who have a marked deficiency in such skills and".

Page 28, line 9, strike out "1977" and insert in lieu thereof "1975".

SOME REFLECTIONS ON THE SPIRIT OF THE AMERICAN PEOPLE: IT'S 1776 ALL OVER AGAIN

The SPEAKER pro tempore (Mr. McFall). Under a previous order of the House, the gentleman from New York (Mr. Kemp) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, I have asked for this time this afternoon, because I want to share with my colleagues some of my reflections on a subject of much widespread concern—the disorder of our time and how that disorder is disspiriting the American people. And, this disspiritment is, in my opinion, beginning to render us less capable of overcoming the very problems which gave rise to our disorder in the first place.

THE DISORDER OF OUR TIMES

Before anyone begins to call attention to the disorder which exists in our society, I think he owes it to his audience to set forth a conclusion which is too often overlooked: The 'times" are always in a state of disorder; it is merely the degree of that disorder which is transient. If we do not believe this, we need look simply to the recorded history of all other times.

How, then, is the disorder of our day and age any distinct from that of any other period of our Nation's history?

The very meaning of disorder presupposes a value or set of values—a hypothetical order—from which standpoint we assess our state of affairs.

Until recently, there seemed to be a rough consensus on these values and ideals in American life, even when we differed on the program, political parties, and means to achieve them. That consensus was expressed principally as a commitment to the democratic process and its procedural mechanisms of registering freely given consent—a consent freely given because it included the right to dissent. It was a commitment to the rights of individuals, and where rights conflicted—as they always do—to their resolution in the light of the common good—collectively, through the legislative process, and, individually, through the judicial process.

The disorder of our time is largely the consequence of the gradual erosion of our basic values and ideals, and the inescapable and resulting consequence of abandoning the rational processes of debate and reform, the resort to means that subvert the moral and legal ends of a free society, and the emergency not only of violence but of attitudes that encourage resort to violence and to threats of same.

Relativism is borne from a search for relevance itself, and in a quest to be relevant, too many in our age have succumbed to the greatest irrelevancy of all—being irrelevant in the name of relevance. What more appropriate example could be cited than our age's constant struggle to aright those easily perceived imbalances which are no more than fleeting results of our problems, totally failing in the process to address themselves to the real causes of our long-term problems. People who suffer from this malady are so busy fighting the problems of the moment—from their desire to be relevant—that they fail to solve the basic, long-term problems giving rise to the daily ones.

In no small measure, one of the principal causes for the misdirection and misemphasis of these souls is their failure to comprehend adequately by the realities of human existence.

At any given time, there is always a disparity between worthy moral and social ideals and the status quo, between our goals and our achievements—particularly if we have raised our sights in the course of our struggle toward those goals and ideals.

If an unhistorical approach is taken—the focusing of attention solely on the ideal—one becomes fixated with how far society has fallen short, disregarding in the process the great progress already made and being made. The mind set then focuses on the negative, not the positive, and from this fixation comes despair, discouragement, and disspiritment. And, when that collective depression is given voice to a wide audience, such depression is spread.

There is nothing wrong with being idealistic—without it, we would be in even more severe trouble—but there is something wrong with an inability to have a balanced focus and second, to spread carelessly a discouraging word to all from one's own inabilities to cope with reality.

Those without historical perspective too often think in terms of either-or, not more-or-less. Thus, the all important direction of the progress of change, and its mechanics, can be lost, for impatience with attainment of the ideal can easily lead to an abandoning of the processes for such attainment. The processes of a free society become short circuited; that is when the sparks fly. And, unfortunately, history's lessons tell us that progress is lost, not gained, by such short circuiting.

The eminent professor, Sidney Hook, has written that "with respect to every major area and institution in American life, an historical approach will show that incremental reforms have carried us closer to the ideals to which this Nation was originally dedicated than has been the case in the vaunted revolutionary regimes" of any other nation, or, for that matter, the revolutionary intellectual radicalism of American society. Such a recognition can be no cause for complacency, argues Dr. Hook, but it does help the young idealist from crossing the line into irrational and unproductive radicalism. I agree with Dr. Hook's observations.

Why does this problem concern me so much?

To the degree that we permit the demoralization of our spirit, we tend to acquiesce in the continuation of those wrongs which ought to be addressed, because that demoralization diminishes our resolve to insure that good does ultimately triumph. The results should be obvious: We weaken further the fibre of our society. We weaken the resolve of those placed in positions to have significant impact upon our problems. We weaken the resolve of the people to buttress those committed to such courses of action.

It becomes a downward spiral of despair and wrong, feeding upon each other as they descend.

WHAT ARE WE TO DO?

I believe strongly that the American people have both the patience and the fortitude to face up to any problem, once they understand the nature of the problem.

That is one of the wonders of a free society: Given the facts and based upon accurate premises, a free society has an innate capability to come to the right conclusions. Where this characteristic can be thrown asunder is where that society is not given all the facts, or acts from improper premises. For this reason alone, a press which reports information fully, accurately, and in a balanced manner is essential to a free society. If a large number within the press has a bias, they can distort the perceptions of truth and cause the formulation of an erroneous conclusion.

The choice before us in our time is between further powers of the State on the one hand or a growing of the self-discipline of a responsible people on the other. It is a dichotomy central to the questions facing not only our Nation but our sister Western democracies as well. And freedom is not the easier of the two disciplines. Quite to the contrary, history shows that periods of true freedom are rare. Why? Probably because men put security ahead of freedom; letting "Uncle Sam" or whomever make the decision is a lot easier than having to make it for ones' self History shows that freedom is lost when too many—or too few, strategically placed—opt for security and are unwilling to bear the self-discipline requisite to freedom's preservation.

We need also to look at the strengths of our political system. In these days of disclosure of wrongdoing by men in Government or in political parties, it is easy to conclude that our system is not working.

Nothing could be further from the truth, for the very fact that disclosures of wrongdoing are being publicly made shows that our system is working. When such wrongdoing goes undetected or when detected, it goes undisclosed, then, at that point, not now, such a conclusion that our system is not working would be valid.

Justice, in practice, is not an end product of the 100-percent triumph of good over evil. Rather, justice is the process through which a society determines the relative weight it wants to give between good and evil, truth and untruth. Thus, when there is evil, it is because that society is not sufficiently committed to the eradication of evil. Our task, therefore, is to insure the movement of society toward the placing of greater resolve upon that side of the scale known as good or truth.

As a foundation for this resolve, we must shore up our ethical convictions. From an ethical standpoint, one must never remain silent when permissiveness, hypocrisy, or corruption threaten to weaken or destroy our system. And, one of the most prevalent and frightening attitudes today is the absence of deep convictions on anything among many, or an increasing lack of conviction among others, giving glory to compromise and approval to passivity. Yet, it is a fact that whenever people become noncommital, they open the door to manipulation of their lives and their destinies by the few who seek power and dominion over others.

It seems that at other times and in other places, other civilizations that advanced far failed to make it to the next step of human achievement because they were unwilling to discipline themselves and to dedicate themselves to purposes of the spirit. When ethics, honesty, integrity, and self-discipline perish, the inevitable result is imposed discipline—we know that as totalitarianism. This we must never permit to happen.

Mr. Speaker, I am optimistic about the future. I am concerned about our present crisis, but I am not dismayed by it. I see the future as a challenge to our Nation, a challenge to restore the optimism that pervaded the original Spirit of 1776. As we approach our 200th anniversary, let each of us pledge to himself and to his fellow citizens that the spirit of our next 100 years will be borne with the same dedication to tomorrow that prevailed at Independence Hall, because I believe it's 1776 all over again.

JUDGE PHILIP NEVILLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 15 minutes.

Mr. FRENZEL. Mr. Speaker, Judge Philip Neville of the Minnesota Federal District Court died on February 15 after a courageous battle with leukemia.

Judge Neville was born in Minneapolis in 1909 and was graduated from the University of Minnesota Law School and admitted to the bar in 1933.

He was married to Maureen Morton in 1934. The Nevilles enjoyed a family-centered life with their three children, Laura, James, and Philip, Jr., and with their grandchildren.

Judge Neville clerked for the Chief Justice of the Minnesota Supreme Court. He taught at the Minneapolis School of Law and at the University of Minnesota School of Business Administration.

He was a past president of the Hennepin County and State of Minnesota Bar Associations and served as secretary of the State Board of Law Examiners. He was also a U.S. district attorney for Minnesota. Prior to his appointment as judge, he was the senior partner in the firm of Neville, Johnson, and Thompson.

Judge Neville was a long-time resident of Edina, a village in my district and served for 3 years as its municipal judge. He often joked that he might not have been the only Democrat in the village, but he certainly was the only one in his neighborhood.

A member of St. Steven's Church in Edina, he was active for many years in the Episcopal Diocese of Minnesota. He also served on the board of St. Mary's Hall in Faribault.

Judge Phil Neville's life was filled with high achievement from the strong scholarship of academic life through his multiple careers of teaching, law practice and the bench, and in his family life.

I had the good fortune to be present when he was sworn in as Federal judge. The American Bar Association had rated him as "exceptionally well qualified" for the position. At the swearing-in ceremony such praise was heaped upon him as would turn an ordinary man's head, but Phil Neville responded simply by living up to, or overreaching, the success predicted for his judicial career. Surely no L.B.J. appointment was ever so warmly received in Republican circles in Minnesota.

Typical of his thoughtful decisions was a well-known one which required a highly skilled surgeon convicted of tax evasion to practice his profession without pay. Not all of his decisions were so well publicized, but all were made with the same thoughtfulness, imagination, sensitivity and care. Not all of the people he sentenced sent him holiday greetings, but some did, including one of the "Minnesota 8" draft resisters. Phil was that kind of man. He inspired admiration, respect, and affection.

Phil Neville was an out-going, gregarious person who showed the same jest in his social relationships as he did in his vocation. He was friendly, full of fun, a sometime piano player, a fine singer, a good golfer and the life of every party he attended. He played and sang with the best and the worst endowed, with equal enjoyment. The Neville rendition of "Mauvorneen" was always a special treat.

The whole State of Minnesota shares, with the Neville family, the deep sense of loss in the passing of an extraordinary human being. Minnesota will sorely miss Phil Neville. We can find other capable judges, but we will never find another Phil Neville. But our grief will be lessened by the knowledge of our good fortunes in having known him, enjoyed him, and benefited from his service and inspiration.

THE PANAMA CANAL—MAINTAIN U.S. SOVEREIGNTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER. Mr. Speaker, although Secretary of State Kissinger has been hailed for his work in achieving world peace, he has been involved in some unfortunate negotiations in the past few weeks that can bring no gain to the United States. Mr. Speaker, I am referring to the projected giveaway of the Panama Canal.

Under the treaty of 1903, the United States acquired the rights to the Canal Zone in perpetuity. In return, we were to operate and maintain the canal. In fact, at the time of the signing of the treaty, the canal was not even completed. The United States took over construction from the French, who had all but failed in overcoming the many obstacles. It was good old American ingenuity and sweat that finally accomplished this great engineering feat. Now the Panamanians want it back.

Since the day the canal opened in 1914 it has been accessible to all nations of the world. It has not been operated as an exclusive passage way for American ships. The brief 7-hour trip through the canal's locks saves world shipping millions of hours of travel around South America each year. Subjecting the operation of the canal to Panamanian domination would end this guarantee of stability to world shipping that has endured for 60 years.

It is not enough that we are considering giving the Panama Canal away. It seems we must pay for this privilege as well. The United States paid Panama $10 million initially for the canal rights in 1903. In addition, we have paid Panama an annual fee now totaling almost $2 million each year. Now it is proposed that as we withdraw we add insult to our self-inflicted injury by continuing to pay for operation and maintenance. Added to this is the inevitable chaos that results when a complicated operation such as the canal is turned over to inexperienced hands. The world has seen this time and again, whether it be mines, industry, railroads—or the Panama Canal. We cannot afford to let such a vital passageway as the canal be run incompetently.

If the Canal Zone was given away to Panama, the effect on our defensive posture in the world would be felt immediately. Panama would no doubt guarantee our access to use of the canal, but hopefully this country has learned that today's guarantees are often tomorrow's empty promises. In the past few months we have seen the devastating effect that boycott and blackmail can have on this country. Allowing Panama to take control of the Canal Zone would only open us up to a squeeze of the most critical kind in the years ahead—crippling our seagoing commerce and undercutting our defensive posture. The Soviet Union, now the premier seapower in the world, would be overjoyed at this further blow to our naval strength and strategic power.

America must not surrender its right to the Panama Canal. We have been fair and efficient in our administration. The canal is vital to our national interests. To turn over sovereignty to another nation would defeat all that we have worked for and achieved since the turn of the century. The House of Representatives must guard its constitutional prerogative to have a say in the disposition of U.S. territory. To achieve that goal I have cosponsored House Resolutions 211 and 975 to maintain the sovereign rights of the United States over the Canal Zone and the Panama Canal.

EMERGENCY URBAN MASS TRANSPORTATION ASSISTANCE ACT CONFERENCE REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Minish) is recognized for 10 minutes.

Mr. MINISH. Mr. Speaker, in Monday's Record the distinguished chairman of the House Rules Committee gave his reasons why he and the House Rules Committee decided to defer further consideration of the conference report on S. 386, the Emergency Urban Mass Transportation Assistance Act.

I would like this opportunity, Mr. Speaker, to address myself to some of the issues raised by the distinguished chairman of the Rules Committee's statement in Monday's Record. First, with regard to the table that Mr. Madden included in the Record as part of his statement comparing the dollar amounts going to cities in S. 386 with those contained in the administration's so-called unified transportation assistance program, the figures of the administration's unified transportation assistance program are, to put it mildly, nothing but a mixing of apples and oranges. These dollar figures do not represent direct urban mass transportation assistance. They are a combination of Federal highway funds and urban mass transportation funds already authorized by the Congress. With regard to this table that the administration circulated to the members of the House Rules Committee, they did not have the courtesy to submit a copy to me at the same time. To this date, I, myself, have not received a copy. The dollar amounts of S. 386 are solely urban mass transportation funds, new funds, not the use of existing funds that the Congress has already provided for. So, Mr. Speaker, I would urge the Members of the House not to be deluded by this table. If cities feel that building urban highway extensions is urban mass transportation, then let them support the administraion's proposal.

The second matter, Mr. Speaker, that I wish to address, is the reason that we requested a rule waiving points of order. Prior to the filing of the conference report, I consulted the House Parliamentarian regarding the problems raised by this conference report. I was advised that in one instance the conference report contained a matter that went beyond the scope of the conference in violation of clause 3, rule XXVIII of the Rules of the House of Representatives. I would certainly rely, Mr. Speaker, on the House Parliamentarian in this matter rather than some so-called parliamentary expert on matters that involve the Rules of the House.

Finally, Mr. Speaker, I wish to address myself to the claim made by some of the members of the Committee on Public Works that the administration's Unified Transportation Assistance Act, title II of which falls within the jurisdiction of the Banking and Currency Committee, will be shortly acted upon. The members of the Committee on Public Works are aware, even more than I am, of the complexity and controversial nature of the administration's proposal. What has been proposed in that package by the administration is a complete reworking of the Federal-aid highway program. We all remember the fight on the Federal highway bill in previous years and how long it took the Congress to enact even minor changes in those previous bills. I doubt whether the Committee on Public Works will have anything to present to either the Rules Committee or the full House in the immediate future. Mr. Speaker, I include following my remarks a letter sent to Chairman Madden by my distinguished Senator from New Jersey, Harrison A. Williams, regarding prospects for early Senate action on the so-called Unified Transportation Assistance Act. As the Members can see in Senator Williams' letter, the Senate Committee on Public Works will not be getting around to marking up their bill much before the middle of summer.

Mr. Speaker, the conference report on S. 386 is an emergency matter, and I feel that the Committee on Rules should permit the House to work its will on this vitally needed legislation. I also include at this point in the Record three editorials relating to this vital legislation:

U.S. Senate, Committee on Banking, Housing and Urban Affairs,
Washington, D.C., March 11, 1974.

Hon. Ray J. Madden,
Chairman, Committee on Rules, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: I am writing to urge you to reconsider the decision of the House Committee on Rules taken on Tuesday, March 6, to defer further action on S. 386, "The Emergency Energy Mass Transportation Assistance Act," until the House Committee on Public Works reports the "Unified Transportation Assistance Act."

In my opinion, the "Unified Transportation Assistance Act" is a complicated piece of legislation requiring extensive hearings. In fact, I have been informed by Senator Bentsen, Chairman of the Subcommittee on Transportation of the Senate Public Works Committee, that the Subcommittee has begun hearings on this proposal and intends to continue these hearings through July. After these hearings are completed, Subcommittee Executive Sessions along with Full Committee Executive Sessions will be required before the Senate Public Works Committee will be able to recommend a legislative proposal to the full Senate. In addition, the Senate Committee on Banking, Housing and Urban Affairs, which has jurisdiction over Title II of this legislation, does not plan to begin hearings until May of this year and, of course, Executive Sessions of the Banking Committee will also be necessary.

This proposal may offer a long-term solution to our Nation's mass transit problems. However, in the meantime, mass transit has reached a crisis situation due to ever-increasing deficits and the need for increased ridership as a result of the energy crisis. The Conference Report on S. 386 which is currently pending before your Committee offers, in my opinion, the best possible short-range solution to this immediate problem. I would, therefore, urge you to reconsider your decision not to grant a rule waiving points of order on the Conference Report on S. 386.

I would like to again stress that the authorization provisions of S. 386 expire at the end of fiscal year 1975. Therefore, if the House Public Works Committee or the Senate Committees on Banking, Housing and Urban Affairs and Public Works in the interim devise a better alternative solution to the emergency mass transit crisis and to the problem of operating deficits, that proposal could, of course, always supersede the provisions contained in S. 386.

In my opinion, the need to act now is imperative. Additional delay will only heighten the crisis and result in further loss of confidence by our Nation's citizens in their government.

With every good wish,
Sincerely,
HARRISON A. WILLIAMS,
Committee on Banking, Housing and Urban Affairs.

[From the Washington Star-News, Mar. 8, 1974]

A BAD WEEK FOR TRANSIT

While it is nothing new for constructive legislation to come suddenly unraveled, what's happened on the public transit front during the last few days has left urban officials here, and around the country, shaking their heads in dismay.

In Richmond, where the Virginia General Assembly is staggering toward adjournment, the House of Delegates had delighted everyone in Northern Virginia by voting to send some $15.2 million in urgently needed transit-aid funds to the Washington suburbs. But the state Senate seems bent on revising and watering down that grant substantially, and the outcome at this writing is uncertain.

Capitol Hill, meanwhile, is the scene of a more grievous and far-reaching setback. The House Rules Committee, at the administration's urging, has virtually buried a House-Senate compromise which would provide—for the first time in history—early federal subsidies to help defray the pyramiding transit operating deficits that are plaguing Washington and most big cities.

The ramifications of that setback to the District, which is counting on federal subsidies to meet its mounting Metrobus-deficit commitments this year, are severe enough. But the impact in other cities is worse. What it means in New York, its officials say, is that that city's basic 35-cent transit fare will collapse, possibly rising to as high as 60 cents by summer. While it seems incredible that anything of that magnitude will be allowed to occur, the seriousness of the problem nationwide can hardly be overstated. And the most depressing thing is the fact that a further indefinite delay in obtaining federal transit operating subsidies comes on the very heels of President Nixon's concession—at long last—that the concept is valid and necessary.

There is doubt, to be sure, that the subsidy bill before the Rules Committee would have survived a presidential veto even in the event of its enactment. Mr. Nixon has his own version of transit subsidies in the omnibus administration transportation bill just introduced, which treats the largest cities less favorably than the compromise hammered out by the House-Senate conference. The President wants his own formula (as a lot of small-town congressmen obviously do, too) and he wants it considered in concert with other transportation issues.

We think he is wrong on both counts. The urgency of the need for transit subsidies justifies their consideration on an emergency basis, without awaiting the tortuous progress of the omnibus bill as a whole. The House-Senate bill's heavy emphasis on large cities, furthermore, is simply a matter of common sense. That's where the transit problems happen to be.

If there is no hope of a reversal by the Rules Committee, however, and we suspect that is the case, all that remains now is to get to the President's bill as fast as possible. His aides talk hopefully of enactment by fall. Congress should make certain of it.

[From the New York Times, Mar. 7, 1974]

FLAILING THE CITIES

The Nixon Administration has delivered a blow to New York and the nation's other major cities by manipulating a subservient House Rules Committee to sidetrack a bill that would have provided immediate operating aid to hard-pressed transit systems, throughout the country.

Transportation Secretary Claude S. Brinegar has charged that the bill, which would have given New York $166 million it urgently needs to help preserve the 35-cent fare, was "heavily weighted to a handful of big cities." Of course it was, because that is where the most desperate need is.

As reported by a House-Senate conference committee, the bill would have distributed funds nationwide according to a compromise formula which takes into consideration population (50 per cent), the number of passengers carried (25 per cent) and the number of miles they travel (25 per cent). This is much more reasonable than an Administration proposal which would distribute transit operating aid solely on the basis of population, an arrangement that allocates to New York only 9 per cent of total funds although this city accounts for 40 per cent of the nation's transit passengers. Only last month, the President himself promised to try to work out a more equable formula that would meet the "unique problems of some of our largest cities." He has not yet kept that promise.

The Congressional bill, sponsored by Senator Harrison A. Williams and Representative Joseph G. Minish, both of New Jersey, is an emergency measure. Its adoption would have helped prevent further deterioration of the nation's public transportation systems while the President's proposals received the careful Congressional consideration they obviously will require.

Yesterday's tabling by the Rules Committee, a sorry repetition of its recent action on the Land Use bill, virtually destroys hope for saving the 35-cent fare here. The Administration role in engineering this denouncement suggests the futility of expecting sympathetic urban aid from a President who—to quote Representative Edward Koch of Manhattan—appears bent on "flailing the cities."

[From the Washington Post, Mar. 9, 1974]

DERAILING THE TRANSIT BILL

Once again the House Rules Committee has acted arbitrarily and denied the full House a chance to work its will on an important piece of domestic legislation. Last week the victim was the land use bill. This week the Rules panel, egged on by the Nixon administration, refused to approve a resolution to facilitate debate on the conference report on emergency urban mass transit aid. Unless the committee reconsiders, struggling transit systems in many cities may have to wait many months for any federal support in the effort to provide vital public services at reasonable fares.

One might think the energy problem would make operating aid for mass transit more popular, or at least more palatable, than before. But the conference report brought out by Sen. Harrison A. Williams and Rep. Joseph G. Minish, Democrats of New Jersey, ran into several roadblocks. One was the Nixon administration's opposition to any mass transit measure different from its own. Another was persistent congressional hostility to focusing federal transit aid on the big cities where the largest, most immediate transit problems are. A third was the apparent desire of some Rules Committee members to avoid antagonizing the House Public Works Committee, which is embroiled in a jurisdictional dispute with Rep. Minish's subcommittee.

In strategic terms, the difference between the Williams-Minish bill and the administration's approach is essentially the difference between a short-term rescue mission and the administration's long-range reforms in the structure of federal transportation aid. The Williams-Minish bill would simply authorize $800 million in the next two years for cities to use for any combination of transit operating subsidies and capital improvements. In contrast, the complex Unified Transportation Assistance Act recently unveiled by President Nixon would provide slightly less money, spread more widely and channeled through the states, as a prelude to creating a single urban highway-transit fund supported from general revenues, in 1977.

The goals of the administration's plan—more comprehensive transportation planning and flexible funding—are laudable; Congress should have moved further in these directions long ago. But like any ambitious bill, the Nixon plan reopens some points of perennial controversy, such as how the aid should be distributed and how much control state governments, as opposed to cities, should enjoy. The administration's measure also finesses entirely the most sensitive issue of transportation-aid reform: what should be done about the highway trust fund when the current law expires in 1977?

The issue of allotment also plagues the Williams-Minish bill, since there is widespread congressional resistance to sending almost 20 per cent of the total funds to New York City, where 40 per cent of the nation's transit riders live. From a political standpoint, the funds might have been apportioned somewhat differently. Still, if the aim is to bolster mass transit, it is hard to argue against the notion that the money should go, in general, where the urgent problems are—just as agricultural subsidies tend to flow to agricultural states, and flood protection aid is concentrated along major riverbanks.

By blocking enactment of the Williams-Minish bill, either in the Rules Committee or through a presidential veto, the administration hopes to use the pressures of urban transit crises to speed the passage of its own plan.

Indeed, hearings are scheduled this month in both the Senate and the House. But if the tortuous course of the 1973 highway-aid act is any guide, many hurdles and delays are still ahead, and the administration will have to show far more willingness to compromise than has been evident to date. Meanwhile, the squeeze on many transit systems, including Metro, increases every day. Fuel costs keep rising, and more rush-hour riders create greater deficits. The immediate relief offered by the Williams-Minish bill would be desirable. If that is not to be forthcoming, the administration and the Public Works Committees have an obligation to proceed with broader, longer-range legislation at once.

STATEMENT BY U.N. COMMISSIONER FOR NAMIBIA, THE HONORABLE SEAN McBRIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, the House Foreign Affairs Subcommittee on Africa held hearings on the 21st of February on the critical developments in Namibia, which is the former U.N. mandate of South-West Africa. I would like to insert for the thoughtful consideration of my colleagues the statement by the United Nations Commissioner for Namibia, the Honorable Sean McBride, at Lusaka, Zambia, on the 19th of February.

Mr. McBride emphasizes that—

> One feature of the present worsening situation in Namibia which is worrying is the failure of the press and media in many parts of the world to inform public opinion adequately of the repression which is taking place and of the attempts which are being made to suppress the South-West Africa Peoples' Organization.

The hearings of the subcommittee on the situation in Namibia will be continued on March 21 at which time a witness from the Department of State is scheduled to testify.

The text of Mr. McBride's statement is as follows:

Statement by United Nations Commissioner for Namibia, Sean McBride, Zambia, February 19

I have just taken up duty as the United Nations Comissioner for Namibia. I regarded it as essential to come in the first instance to Lusaka to consult with the Zambian authorities and the leaders of the South-West Africa People's Organization. In addition, of course, I came to visit my office here and to meet Namibian refugees who have been so generously granted asylum in Zambia.

I want you to understand that the meaning of my journey is not purely symbolic; I want to formulate and discuss a programme of action with those who are most directly involved and whose judgement I respect.

We have to break new ground in this struggle for Namibia, so that the world and also South Africa will understand that neither the African people nor the United Nations are prepared to tolerate the continued illegal occupation of Namibia. Efforts to engage in a dialogue with the South African Government not only failed but showed up the intransigence of the South African Government. This has made the United Nations more conscious than ever of its obligation to fulfil the commitment the United Nations solemnly undertook in 1966.

While I am speaking to you today there are dark clouds overhanging Namibia. The South African authorities have reneged on the promises they gave to the Secretary-General in writing. There would be, they had said, no impediments to political activity, but their deeds have been different. All the known leaders of SWAPO are now being charged or detained without trial. Hundreds of other Namibians are daily brought to court and sentenced on flimsy charges arising from the application of the so-called pass law.

The intention of the South African authorities is clear—no political activity is to be allowed in the Territory. Not only is it the intention of the South Africans to prevent the people of Namibia from expressing politically their desire for complete independence but they are, as all oppressive colonial dictatorships, seeking to sow terror among the people they misrule.

It is essential that the white people of South Africa should make a reappraisal of their situation in light of the realities of the world of today. The oppression of the overwhelming majority of the people of Namibia by a small white colonial racist minority cannot subsist. Not only are the peoples of Africa not prepared to accept this but the entire international community is determined to end this situation. The principles of democracy and of national self-determination are now universally accepted.

The actions of the South Africa authorities in Namibia reflects a growing disregard for the elementary human rights of the people. Injustices and violations of the internationally recognized norms of human rights can no longer be relegated to a dark corner of the international conscience. The violations of human rights in Namibia and the defiance of the express decisions of the international community are now becoming the top priorities for international action.

One feature of the present worsening in Namibia which is worrying is the failure of the press and media in many parts of the world to inform public opinion adequately of the repression which is taking place and of the attempts which are being made to suppress the South-West Africa People's Organization.

The international press must not allow the South African authorities to cajole it into accepting what amounts to a conspiracy of silence. The financial and strategic influence of South Africa in the Western world is only too well known but the international press will not allow these considerations to silence it in the face of injustice.

Today's oppression and how to cope with it is one thing. But there must be also a long-term programme for an independent united Namibia, and the cadres to make that a reality must be organized and trained. It is not going to be easy, but the Namibians have the necessary courage and determination, and the international community will give them their full support.

LABOR—FAIR WEATHER FRIEND—IX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas, (Mr. Gonzalez) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, one of the founding members of the Labor Council for Latin American Advancement, and a member of its board, is Paul Montemayor. I have known Paul for a long time. You would think that an old friend like that would call up or write, when his organization has called you a union buster.

I can remember many dark nights in Paul's career, when he would call me to discuss this or that problem with the union. I was one of the very few politicians in Texas who would even talk to union people back then, and I like to think that Paul liked my independence—which made it possible for me to talk to anybody, including him.

Over the years, we have had our disagreements. I remember a few years ago that Paul thought it was wrong of me to be independent of an effort that he was involved in, something called the Southwest Council of La Raza. I was not with the program, he would say, and that was bad. He no longer liked my indipindence.

But, even so, my door has been open. Not very long ago, Paul Montemayor came up to introduce a lobbyist for an organization called RASSA, and tell me how much that organization could help. I spent a long time discussing this, and at the end expressed my doubts that RASSA would ever be much help to me.

Well, that has turned out to be the case. When the LCLAA attacked me, I did not hear from the RASSA lobbyist. He asked me no questions, expressed no interest, gave no sign of concern. Nor did I hear from Paul.

It is important to him that I hear him out. It must mean nothing to him that I should also be heard, or dealt with in a fair, open, and honest manner. There is no sign that he cares that his organization has given me a bad deal, violated my good name, and acted even without its board's consent in the bargain. I do not hear from Paul, now that I could use a little help, or could expect him to speak up for a little common decency. Evidently it has been a one-way street.

It is too bad. I have been a friend of Paul Montemayor for a very long time, in good times and bad. And he has been my friend, at least in fair weather. It is beginning to look as if he is one more labor friend who is good for fair weather only. I am disappointed, sorry to find how little energy this energetic fellow has even to the extent of insisting that his friends and fellow LCLAA board members not run down his own rights in their anxiety to attack me. I would think that Paul would be concerned that his own rights were violated in this business, even if he does not care about mine. But then maybe not. Maybe all those years are not worth even that.

A DECADE AND A HALF OF STATEHOOD: HAWAII LOOKS BACK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. Matsunaga) is recognized for 30 minutes.

Mr. MATSUNAGA. Mr. Speaker, 15 years ago, on March 12, 1959, by an overwhelming vote of 323 to 89, the House of Representatives passed, as the Senate had the day before, an act to provide for the admission of the State of Hawaii into the Union.

My image of that day remains vivid. The Hawaii Territorial Legislature had recessed in anticipation of the action in Washington, and was assembled in the throne room of Iolani Palace listening to a running account of the statehood bill's progress, by telephone, from then-Delegate to Congress John A. Burns.

As I have so often recounted, announcement of the final vote was greeted with a deafening cheer—followed almost immediately by an almost mystical silence. It was as if all of those present had joined in silent prayer, both to thank God for the great blessing he had seen fit to bestow on Hawaii's citizens, and to ask His guidance in their new and heavier responsibilities. Moved by the compelling appropriateness of the occasion, the House Chaplain led the group in prayer. Many knelt down on the floor with tears welling in their eyes.

And what has 15 years of statehood brought to Hawaii? Our great natural beauty remains, despite incursions on many fronts in the development of various buildings and projects. Hawaii is still, in the words of Mark Twain:

> The loveliest fleet of islands anchored in any ocean.

It remains a place where peoples, cultures, and customs coexist, indeed, thrive on coexistence. It was for good reason that our late President, John Kennedy, chose Hawaii as the place to deliver his first major civil rights address. "Hawaii is," he explained, "what the United States is striving to be."

Hawaii has developed into the most reliable bridge between East and West in our struggle for international cooperation and world peace. The most visible symbol of this role for the Island State lies in the East-West Center, associated with the University of Hawaii. At this great institution Asians and Americans meet each other in an academic and social atmosphere which leads to interchange and a deeper understanding of each other's problems and cultures.

Hawaii has, and will continue to have, problems unique among the States of the Union, because of its geography and insular character. But Hawaii also makes, and will continue to make, a contribution unique among the States to a greater America in a better world.

Perhaps Hawaii's contribution is best described in the best known Hawaiian word, "Aloha." My good friend Rev. Abraham Akaka, speaking the day after the House passed the statehood bill back in 1959, described with passion and precision the relationship between statehood and the spirit of aloha. His words remain relevant today, and I include Reverend Akaka's remarks in the RECORD at this point:

ALOHA KE AKUA

(By Rev. Abraham Kahikina Akaka)

"One nation under God, indivisible, with liberty and justice for all"—these words have a fuller meaning for us this morning in Hawaii. And we have gathered here at Kawaiahao Church to give thanks to God, and to pray for his guidance and protection in the years ahead.

Our newspapers lately have been full of much valuable historical data concerning Hawaii's development, growth, and aspirations. I will keep these stories as long as I live, for my children and their children, for they call to mind the long train of those whose sacrifices were accepted, whose prayers and hopes through the years were fulfilled yesterday. There yet remains the formal expression of our people for statehood, and the entrance of our Islands into the Union as a full-fledged member.

I would like today to speak the message of self-affirmation: that we take courage to be what we truly are, the Aloha State.

On April 25, 1820, one hundred and thirty-nine years ago, the first Christian service conducted in Honolulu was held on this very ground. Like our Pilgrim Fathers who arrived at Plymouth, Massachusetts, in 1620, so did the fathers of a new era in Hawaii kneel in prayer after a long and trying voyage to give thanks to God who had seen them safely on their way.

Gathered around the Reverend Hiram Bingham on that day were a few of our "kupunas" who had come out of curiosity. The text of the sermon that day, though it was April and near Easter time, was from the Christmas Story. And there our people heard these words for the first time: "Mai maka'u 'oukou, no ka mea, eia ho'i, ke ha'i aku nei au ia 'oukou i ka mea maika'i, e 'oli'oli nui ai e lilo ana no na kanaka apau. No ka mea, i keia la I hanau ai, ma ke kulanakauhale o Davida, he ola no 'oukou, aia ka Mesia ka Haku"—"Fear not, for behold, I bring you good tidings of great joy which shall be to all people. For unto you is born this day in the city of David a Saviour which is Christ the Lord."

Although our grandfathers did not realize it fully then, the hopes and fears of all their years through the next century and more were to be met in the meaning and power of those words, for, from that beginning, a new Hawaii was born. For through those words, our missionaries and people following them under God became the greatest single influence in Hawaii's whole development—politically, economically, educationally, socially, religiously. Hawaii's real preparation for statehood can be said to have truly begun on that day and on this spot one hundred and thirty-nine years ago.

Yesterday, when the first sound of firecrackers and sirens reached my ears, I was with the members of our Territorial Senate in the middle of the morning prayer for the day's session. How strange it was, and yet how fitting, that the news should burst forth while we were in prayer together. Things had moved so fast. Our mayor, a few minutes before, had asked if the church could be kept open, because he and others wanted to walk across the street for prayer when the news came. By the time I got back from the Senate, this sanctuary was well filled with people who happened to be around, people from our government buildings nearby. And as we sang the great hymns of Hawaii and our nation, it seemed that the very walls of this church spoke of God's dealing with Hawaii in the past, of great events both spontaneous and planned.

There are some of us to whom statehood brings great hopes, and there are some to whom statehood brings silent fears. One might say that the hopes and fears of Hawaii are met in statehood today. There are fears that Hawaii as a state will be motivated by economic greed; that statehood will turn Hawaii (as someone has said) into a great big spiritual junkyard filled with smashed dreams, worn-out illusions; that it will make the Hawaiian people lonely, confused, insecure, empty, anxious, restless, disillusioned—a wistful people.

There is an old "mele" that reminds me of such fears as these, and of the way God leads us out of our fears. "Haku"i i ka uahi o ka lua, pa i ka lani, ha'aha'a Hawai'i moku o Keawe i hanau'ia . . . no Puna, no Hilo, po i ka uahi o ku'u'aina . . . ola ia kini, ke 'a mai la ke ahi"—"There is a fire underground, but the firepit gives forth only smoke, smoke that bursts upward, touching the skies, and Hawaii is humbled beneath its darkness . . . it is night over Hawaii, night from the smoke of my land . . . but there is salvation for the people, for now the land is being lit by a great flame."

We need to see statehood as the lifting of the clouds of smoke, as the opportunity to affirm positively the basic Gospel of the fatherhood of God and the brotherhood of man. We need to see that Hawaii has potential moral and spiritual contributions to make to our nation and to our world. The fears Hawaii may have are to be met by men and women who are living witnesses of what we really are in Hawaii, of the spirit of Aloha, men and women who can help unlock the doors to the future by the guidance and grace of God.

This kind of self-affirmation is the need of the hour. And we can affirm our being, as the Aloha State, by full participation in our nation and in our world. For any collective anxiety, the answer is collective courage. And the ground of that courage is God.

We do not understand the meaning of Aloha until we realize its foundation in the power of God at work in the world. Since the coming of our missionaries in 1820, the name for God to our people has been Aloha. One of the first sentences I learned from my mother in my childhood was this from Holy Scripture: "Aloha ke Akua"—in other words, "God is Aloha." Aloha is the power of God seeking to unite what is separated in the world—the power that unites heart with heart, soul with soul, life with life, culture with culture, race with race, nation with nation. Aloha is the power that can reunite when a quarrel has brought separation; aloha is the power that reunites a man with himself when he has become separated from the image of God within.

Thus, when a person or a people live in the spirit of Aloha they live in the spirit of God. And among such a people, whose lives so affirm their inner being, we see the working of the Scripture: "All things work together for good to them who love God . . . from the Aloha of God came his Son that we might have life and that we might have it more abundantly."

Aloha consists of this new attitude of heart, above negativism, above legalism. It is the unconditional desire to promote the true good of other people in a friendly spirit, out of a sense of kinship. Aloha seeks to do good, with no conditions attached. We do not do good only to those who do good to us. One of the sweetest things about the love of God, about Aloha, is that it welcomes the stranger and seeks his good. A person who has the spirit of Aloha loves even when the love is not returned. And such is the love of God.

This is the meaning of Aloha. I feel especially grateful that the discovery and development of our Islands long ago was not couched in the context of an imperialistic and exploitive national power, but in this context of Aloha. There is a correlation between the charter under which the missionaries came—namely, "to preach the Gospel of Jesus Christ, to cover these islands with productive green fields, and to lift the people to a high state of civilization"—a correlation between this and the fact that Hawaii is not one of the trouble spots in the world today but one of the spots of great hope. Aloha does not exploit a people or keep them in ignorance and subservience. Rather, it shares the sorrows and joys of people; it seeks to promote the true good of others.

Today, one of the deepest needs of mankind is the need to feel a sense of kinship one with another. Truly all mankind belongs together; from the beginning all mankind has been called into being, nourished, watched over by the love of God. So that the real Golden Rule is Aloha. This is the way of life we shall affirm.

Let us affirm ever what we really are—for Aloha is the spirit of God at work in you and in me and in the world, uniting what is separated, overcoming darkness and death, bringing new light and life to all who sit in the darkness of fear, guiding the feet of mankind into the way of peace.

Thus, may our becoming a State mean to our nation and the world, and may it reaffirm that which was planted in us one hundred and thirty-nine years ago: "Fear not, for behold I bring you good tidings of great joy, which shall be to all people."

MY FRIEND—TOMMY HOOKER

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. CHAPPELL) is recognized for 5 minutes.

Mr. **CHAPPELL**. Mr. Speaker, January 15, 1974, was a hollow day for me—hollow because my right arm in Government retired from active public service for health reasons—hollow because I knew how much I, my staff, my constituents, and America would miss the experience of his stewardship, the warmth of his demeanor, and his personal sacrifice to all. Yet, I dare not dwell upon the loss of my devoted friend and administrative assistant to public service lest I mitigate the great appreciation I feel for him, my deep admiration for his self-discipline, personal determination, and my gratitude for his accomplishments. I must dwell then, Mr. Speaker, upon some of the greatness of Tommy Hooker.

Tommy Hooker and I grew up together on adjoining farms—a younger brother he was to me—a saddlemate on many a cattle search and drive. He sprang from strong parents. Ernest and Azilee Lyles Hooker took their parental responsibilities seriously and built into their children their own good humor, their own appreciation for hard work and opportunity, and their love for their country and their fellow man. Tommy practices well what they taught and what he learned. He finished high school—served overseas in the Korean conflict, returned home—but, within a few short months, a service-connected disability paralyzed him, totally at first and then for the remainder of his life, from the waist down. Told that he would never walk again, he determined to rehabilitate himself, and after months of agonizing therapy, he walked again, but a pair of crutches would be his constant companion.

The tenacity and courage he had displayed as a Golden Glove boxing champion in high school sprang forth in new determination. After attending the University of Florida, he formed his own business in Ocala, then became a Veterans Service Officer—one of the most effective and knowledgeable in the State. He was the first service officer to receive the Outstanding Service Officers Award in Florida.

When I was elected to the Congress, Tommy joined me as my legislative aide, specializing in veterans and social security legislation. He later assumed the heavy and demanding position as administrative assistant. His loyalty, good humor, and ability to get the job done have been invaluable to me. He served this office and the people of the Fourth Congressional District with no thought to himself. It is this kind of dedication, loyalty, and patriotism that has provided this Nation with the leaders that make our country great. It is difficult for a man like Tommy Hooker to slow down, and only on doctors' orders does he do so now. He has gone back home—to Ocala, Fla., to preserve his health, spend more time with his family, and enjoy his farm and the beautiful Florida sunshine.

Our Congress and our country will sorely miss one of its most dedicated public servants. He was a source of inspiration to all with whom he served and a mountain of comfort to all with whom he counseled.

I will deeply miss him, his help, his professional service; but most of all, I will miss his day-to-day friendship. As Carrie James Bond said:

> We find at the end of a perfect day the soul of a friend we've made.

Mr. Speaker, I know my colleagues and our staffs in the Congress join me in paying tribute to Tommy Hooker—a great American—my true friend.

INTRODUCTION OF HEALTH CARE LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. MILLS) is recognized for 10 minutes.

Mr. MILLS. Mr. Speaker, there is widespread agreement that the present system of paying hospitals under medicare and medicaid on the basis of retroactive reimbursement of incurred costs provides no incentive for cost containment efforts on the part of hospitals and that this factor is a significant part of the cause of the rapid increase in hospital costs.

The inflationary trends in the health field in general, and hospitals in particular, must be contained and the Federal Government, as a major purchaser of health services under medicare and medicaid, has a responsibility to take a leadership role in reversing the inflationary spiral in health care costs.

Unfortunately, too many people, including some hospital people, believe that Government leadership means detailed regulation and the Government setting of hospital charges. To my mind, such a step would be pure folly. Should that happen, I believe we will see innovation stifled and the quality of care fall to the lowest common demonstrator.

The Federal Government, however, can meet its responsibility without being the regulator. It can meet the challenge of reversing the inflationary trend by providing appropriate incentives for hospitals to institute sound business practices designed to reduce unnecessary costs while maintaining high-quality care. The ingenuity of local people working in local institutions can produce a more efficient health delivery system if Government provides the proper motivation within flexible but clear guidelines.

What we desperately need is a way to harness the ingenuities of hospital boards, administrators, physicians, and employees in the direction of sound public policy rather than continue to impose regulations upon them which either stimulate their ingenuities to defeat the regulations or drain away their initiative.

Today I have introduced legislation which I believe will meet the need for Government leadership but will avoid too much bureaucratic regulation. The bill will establish meaningful incentives designed not only to recognize superior performance but also to reward efficient and effective management.

But before describing what the bill would do, a very brief discussion of the problems of hospital rate regulation is in order.

There are many problems with Government rate regulations for health providers. I believe a utility-type system of rate setting would—

Require the creation of a new governmental bureaucracy, loaded down with people to tell health care institutions how to do their job;

Stifle productive competition and the influences to keep down prices that go with it;

Result in the eventual Government takeover of health care institutions since the power to control charges implies caretaker responsibility; and

Require almost all States to develop from scratch the necessary expertise to review and monitor hospital financial transactions when both the Federal Government and private insurance carriers have much greater expertise and experience in this area.

On the above points, I would like to quote from a recent address given by former Social Security Commissioner Robert M. Ball before the Institute of Medicine. The former Commissioner said, and I quote:

> In rate regulation it is necessary, of course, to take responsibility for controlling much more than the rate alone. As soon as one goes beyond the type of control the Federal government has been exercising over rate increase and sets the basic rates by institution or class of institution, the rate setting agency is soon dealing with the issues of quality of service, the availability of service, the subsidy of services that do not pay their own way and control over growth and duplication of services.

It seems clear to me that we should move to public-utility-type rate regulation of health care institutions only as a last resort—only after all other alternatives have been tried and found wanting. We have not yet tried, with sufficient vigor, other promising systems.

The bill I have introduced would establish, I believe, the most promising system yet devised.

The bill has two major parts.

The first part would make available to hospitals participating in the medicare and medicaid programs an alternative to the present retroactive cost payment method. Specifically, it would make available prospective payment methods under the medicare and medicaid programs—which buy more than one-third of all hospital care.

Under a prospective payment method, a hospital's payment rates would be set in advance. The hospital, in effect, has a target which it can aim for—and which, except for unforeseen contingencies, it has to live with and within.

If actual costs exceed the prospective rate then the hospital must absorb the difference. Similarly, if the hospital's actual costs are below the prospective rate then the hospital is in an improved financial situation. Thus, the incentives for the hospital itself are in the direction of increasing efficiency and effectiveness of management—not on expanding costs.

The idea of prospective payment is not new. Recent Social Security Act amendments have included authority for extensive experimentation with various types of prospective payment methods.

I have, however, been discouraged by lack of leadership and wilingness to experiment in this area. Quite frankly, one of my reasons for introducing this bill is the hope that HEW can be stimulated to take the initiative. If the administration really wants to reduce reliance on Government, then it should move actively in this area and not fall into traps set by its own planners for increasing dependency on Government.

My bill would require, in title I, that one or more methods of prospective payment be developed and made available to all hospitals participating in the medicare and medicaid programs as an option to retroactive cost reimbursement. The Secretary would be required to consult with hospitals, third-party payors, and other interested parties prior to developing these prospective payment methods. The methods finally used would be those in which a substantial number of hospitals would agree to participate. As an inducement for hospitals to participate in a prospective payment method, a ceiling on the rate of annual increase in cost reimbursement would be imposed on those providers who elect to stay with cost reimbursement.

Prospective payment does, as I said, inject incentives for the hospital management to keep costs below the prospective rate. But what incentive is there for a hospital to keep its prospective rate as low as possible? With nothing else in the picture hospitals would want to have their prospective payment rates set as high as possible in order to maximize their return. The second part of the bill deals with this problem and also injects new incentives for quality administration in hospitals which do not elect to use a prospective payment system.

Under the second part of the bill similar hospitals would be compared on the basis of their efficiency and quality of management and the better performers would be rewarded. Specifically, hospitals would first be grouped into classes, then the actual proportionate increase in operating costs per beneficiary or other acceptable unit of comparison for the 3 previous years would be computed and compared with the other hospitals in the same class.

Hospitals which experience increases less than the average for all hospitals in their class would receive a "quality management" award in the form of a cash payment equal to 50 percent of the difference between actual costs and what the costs would have been had the hospital costs gone up at the average rate. Alternatively, if the dollar increase—not the proportionate increase—in costs increased less than the average dollar increase, the hospital would receive 50 percent of the difference between actual costs and what total reimbursable costs would have been had the dollar increase been the same amount as the average dollar increase.

A similar system would apply to hospitals under prospective reimbursement in order to provide an incentive for hospitals to keep the prospective rate as low as reasonable.

Since it will be the sum of the individual actions of hospital personnel which really determines whether a hospital would qualify for a quality management payment, my bill would require that hospital management, of all hospitals, have—and make known to the staff—a plan for distributing at least one-half of the payment to the employees and medical staff in the form of bonuses.

This principle of sharing savings or sharing profits is well established in for-profit industry and has been highly successful in motivating both management and employees to improved efficiency of operation and greater profits. Where this approach of sharing savings has been used in hospitals the results have also been highly successful. Unfortunately, it has only been used in a handful of hospitals. The provisions of my bill, however, will make these incentives available to all hospitals and all employees and staff within those hospitals. Those whose efforts make quality management awards possible should, and will, share in them.

In addition, the Secretary would be required to publicize all quality management award payments so that proper public recognition would go to those who were awarded them.

I believe that these provisions in my bill, prospective reimbursement and concrete recognition of superior performance, will do much to inject the proper incentives into hospital management and performance. And lest some erroneously conclude that quality will be impaired let me assure them that quality will be enhanced. It is only reasonable that a hospital which works for quality management will increase quality of care. Moreover, I have great faith that hospital leadership in this country will maintain its dedication to quality care under the many mechanisms which hospitals themselves have established to meet that objective.

Mr. Speaker, I have introduced this bill because I have become convinced that no Government regulatory body can be as effective in carrying out public policy as an effective system of incentives.

There seems to me too many people who are looking to even more regulation to solve problems which have in large part been created by regulation. At the very least, we must try out alternatives to regulation before committing ourselves to a path from which we could never turn.

I urge my colleagues, and others interested in these critical issues, to study the bill I have introduced, to make suggestions for improvement, and experiment with it. We need to develop the soundest system of incentives possible not only for the large existing programs of medicare and medicaid but also for precedents as the Nation moves toward some form of national health insurance.

DEFENSE DEPARTMENT BASE CLOSINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, as a means of saving money the Defense Department has been closing bases around the country and transferring missions from one installation to another.

In some cases these moves have brought about savings, others have meant no savings, but at least one, involving my city, Philadelphia, seems designed to waste money and ruin morale.

Last year the Department of the Navy moved the reserve functions of the 4th Naval District—located in Philadelphia—to the headquarters of the 3d District, at the Brooklyn Naval Base.

From all appearances this move will be a total disaster. At this time I will read into the RECORD a letter I have sent to Secretary of Defense James R. Schlesinger concerning this matter:

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 13, 1974.

Hon. JAMES R. SCHLESINGER,
Secretary of Defense,
The Pentagon,
Washington, D.C.

DEAR MR. SCHLESINGER: In the past year, the Department of the Navy has administratively consolidated the Reserve Manpower function of the Fourth Naval District Headquarters to the Headquarters of the Third Naval District at the Brooklyn Naval Base. The standard organization and functional manual for Naval District Headquarters assigns a reserve function to the Commandant of each district. Accordingly, the consolidation action would seem to be counter to the intent of 10USC265 which prescribes the assignment of Training and Administrative Reserve Officers to the Naval District Commandant's staff.

Of far greater concern, however, is the situation which exists at the facility to which the reserve personnel and function have been transferred. A limited number of quarters and billeting space is available on post. The closest housing off the base is at Mitchell Field from which the commuting time is one hour in each direction. In view of the energy crisis, this seems intolerable. I am advised the enlisted men's quarters on the Brooklyn Naval Base are not cleaned regularly and that they reek of roaches. Latrines must be locked off and three locks are required on each wardrobe locker.

The records of the reserve personnel are being maintained in cardboard boxes lying on the floor. There have been several records mix-ups as a result, and the integrity of the records are now questionable.

Serious recruitment problems have been experienced as a result of the transfer of function since most of the civilian personnel declined to transfer from Philadelphia with the function. This loss of expertise has also been a contributing factor to the loss of integrity of the records.

It would seem that the reserve function is suffering from lack of adequate facilities for housing personnel and for office operations and records maintenance. This is a very serious situation when you consider the prime facilities in which this function operated in Philadelphia.

The area in which the base is located militates against recruitment of civilian personnel and causes serious morale problems among the naval military personnel. I am advised that one enlisted man cashed a check on the base and was mugged and robbed in a building on the base. A woman was mugged directly outside the gates. Approximately six hundred of the 1100 military personnel assigned are awaiting disciplinary action. Active duty personnel will not leave the base after duty hours.

My assistant, Charles Duld, visited the Brooklyn Base while serving on a two-week reserve tour of active duty. He personally witnessed the conditions of the enlisted men's quarters as well as the locked latrines and triple lock safeguards on the wardrobe lockers. The other items I cite were ascertained by Mr. Duld in discussion with personnel of the base.

Mr. Secretary, as a Member of Congress, I cannot sit idly by and permit the situation I describe to continue without raising my voice in protest to my colleagues. I believe immediate corrective action is required. Since the total transfer has not been completed, the logical solution to this most deplorable problem would seem to be to move the function back to the Headquarters of the Fourth Naval District in Philadelphia. I believe such an action would be more in consonance with the spirit and intent of 1OUSC265.

I shall appreciate hearing from you on this matter at an early date.

Sincerely,

JOSHUA EILBERG.

IN SITU OIL SHALE TECHNOLOGY ACT OF 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah, (Mr. OWENS) is recognized for 5 minutes.

Mr. OWENS. Mr. Speaker, our goal of self-sufficiency in energy can be achieved only if a national commitment is made to develop all of our domestic energy resources of which oil shale is one of the most abundant. Exploitation of this resource would provide a supplemental petroleum source for the United States which would reduce dependence on imports from foreign countries and would contribute positively to the U.S. balance of trade.

We know that surface processing of oil shale will be expensive and will result in several adverse environmental impacts. Although there are more than 600 billion barrels of shale oil in Utah, Colorado, and Wyoming, the contribution of this domestic resource by 1980 to the U.S. energy supply may be minimal. Estimates of the quantity of shale oil which will be produced from the prototype oil shale leasing program of the Department of the Interior and from development on privately owned lands range from a high of 300,000 barrels per day by 1980 to a low of 100,000 to 250,000 barrels per day by 1985. For comparison, it is estimated that an early successful demonstration of a commercial scale oil shale processing plant along with other Government incentives such as guaranteed loans or guaranteed product pricing, could result in production of 1 million barrels per day of shale oil by 1983 and possibly 2 years sooner if in-place processing is successful.

We must develop a technology for processing shale at a rate which will significantly contribute to our future energy supply without undue environmental damages. We must develop a technology for processing shale which will produce a barrel of oil at the least cost for the American consumer. The best means of achieving this objective may prove to be the processing of oil shale in place with minimum surface deformation. Using this in situ technology, researchers have shown that it is possible to distill shale oil from shale in place without destroying an entire mountain. Reduction in air, water, and solid waste pollution may be possible with the use of this technology.

In view of the tremendous potential which in situ processing of oil shale offers, I am introducing the "In Situ Oil Shale Technology Act of 1974." The purpose of this legislation is to advance oil shale research and development by establishing a Government-industry corporation to further the technology required for commercial development of non-nuclear in situ processing of oil shale resources located within the United States.

This legislation would insure that the research and development funds are allocated to the development and demonstration of in situ processing technology for the U.S. oil shale resources. The bill would seek to decrease the lead time necessary before oil derived from shale by in situ processing comes on stream. Furthermore, the proposed In Situ Oil Shale Technology Corporation would allow the technical and managerial expertise of the Government and industry to work together to provide a better basis for evaluating and directing research and development on in situ processing. The need for this type of legislation is increased in view of the fact that the Department of the Interior does not require any of the tracts of the Prototype Oil Shale Leasing Program to be developed using in situ technology.

The legislation which I propose today represents a new concept which deserves serious attention. It is timely in view of the fact that both the Subcommittee on Mines and Mining and the Subcommittee on Environment of the House Interior and Insular Affairs are currently considering legislation pertaining to oil shale development.

Mr. Speaker, I solicit my colleagues to join me in careful consideration of this proposal.

PRESIDENT'S TAXES VASTLY UNDERPAID

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, there has been considerable controversy in the last several days concerning the possibility of a staggering underpayment of Federal income taxes by the President of the United States.

A number of accountants and tax lawyers have already provided careful studies of this question. I believe from the information that has been made available in the press and by tax analysts and advocates, the President may have understated his taxes by approximately half a million dollars—and that he must be assessed a tax penalty if the faith of the American people in the IRS is to be restored.

I would like to include in the RECORD at this point two thoughtful newspaper articles which discuss the tax payments of President Nixon.

The first article in the Wall Street Journal of January 2, 1974, is by Michael Skigen, a CPA and associate professor of accounting and taxes at Georgetown University's School of Business. As Mr. Skigen states:

> By my reckoning, the gross total of Mr. Nixon's taxes should have been at least $71,000 higher, and by now, if my calculations are correct, interest, and penalties would almost double this amount.

Mr. Skigen makes a special point of the improper handling of capital gains from the sale of President Nixon's New York City apartment.

In the Washington Post of January 7, 1974, Mr. Walter Pincus provides an exhaustive analysis of the donation of the President's papers. The general conclusion in this article is supported by a number of expert papers submitted to Tax Analyst and Advocates, a public interest tax law organization. Mr. Pincus points out that "the papers deduction will have saved Mr. Nixon from paying an additional $300,000 or more in taxes.

If penalties are added to the improper use of the papers deduction, and if the President had not used his home as a business use deduction in a highly questionable manner, the total tax and penalty underpayment of the President is in the neighborhood of $500,000.

Mr. Speaker, the President's tax filings are documents of the moral indifference of the President.

The article follows:

SECOND-GUESSING MR. NIXON'S 1040

(By Michael R. Skigen)

In the past four years President Nixon has spent almost $22,000 for income tax advice. Yet the President's tax return doesn't appear to be all that complicated—he has no investments in oil properties, cattle raising or timber, or even a substantial number of rental properties—all of which are common for one in his income bracket.

Nevertheless, from a strictly cash and estate standpoint, this fantastic expenditure seems to have been money well spent. Whether the tightrope walk along the outer boundaries of the IRS regulations was worth antagonizing the millions of Americans who paid more taxes than the President is another matter we won't go into here. As everyone now knows, the President, on total income for three years of more than $800,000, paid actual taxes in 1970, 1971 and 1972 of $5,979.01, equivalent to a man with income of about $17,000 a year. And even at that, according to his accountant Arthur Blech, he could have "picked up $10,000, $15,000, $20,000 more in expenses" that weren't claimed.

Asked why he made that decision for Mr. Nixon, Mr. Blech explained it was "because of the conservative nature of the work I tried to do. . . . Because the line was not black and white. The *line* was gray."

After examining the President's financial statements and tax returns in some detail, I'm sorry to say I found a good deal more gray than Mr. Blech apparently did. By my reckoning, the gross total of Mr. Nixon's taxes should have been at least $71,000 higher, and by now, if my calculations are correct, interest and penalties would almost double this amount. Admittedly, IRS rules are subject to varying interpretations and five tax accountants might come up with five different tax estimates. But my estimates are based on the way the taxes would be figured if the President had been treated by the IRS like an ordinary taxpayer.

VICE-PRESIDENTIAL PAPERS

First off, let me say that I found nothing improper in the way the President handled the gift of his vice-presidential papers to the National Archives, even though the tax savings from this $576,000 gift may amount to as much as $300,000. The papers were delivered with the intention of making a gift and more than three years later still have not been rejected. Delivery, acceptance or lack of rejection, and intent to give are the usual criteria applied by the IRS in such cases. However, it must be said that the IRS usually appraises non-cash gifts of such magnitude and does not rely solely on the appraisal obtained by the donor—even on one by such a distinguished appraiser as Ralph G. Newman.

It's another story with the deferral of the $143,000 gain from the sale of Mr. Nixon's apartment in New York City. This was decidedly improper. There are two IRS requirements to fulfill before one is entitled to defer payment of tax on the gain from the sale of a personal residence: (a) that the property be bought or built and (b) that the property be used within one year as the principal residence of the taxpayer. IRS uses several rules of thumb to determine principal residence but the President does not fill the requirements for any of them.

Furthermore, he does not qualify for the four-year exclusion available to certain members of the armed forces. The additional tax that would have been due had this matter been treated properly amounts to approximately $39,000 with the 10% surtax in effect for 1969.

The purchase of the President's San Clemente property and the subsequent sale of the largest portion of that property to his friends Robert Alplanalp and C. G. Rebozo is another gray area that bears looking into.

According to Mr. Blech, the sale transaction was set up by him and designed to show no profit. This is a perfectly legal attempt. However, in maximizing the proceeds to Mr. Nixon (the proceeds actually taking the form of debt reduction), Mr. Blech allocated property values as of the date of the sale rather than the more usual basis of relative fair market values of the separate parcels at the date of purchase.

The auditing firm, Coopers & Lybrand, chosen by the President to examine his financial affairs, felt strongly enough about the situation to find a gain of approximately $117,000 on the sale to Messrs. Rebozo and Abplanalp. Since Mr. Blech and Coopers & Lybrand reportedly used the same appraiser's report for the allocation and since the IRS prefers to use fair market value of a property at the date of purchase for allocating costs of that property, I would agree with Coopers & Lybrand. It must be emphasized, however, that many accountants and IRS agents will agree to an allocation of costs based on predicted fair market values at the date of sale. (The prediction is usually made at or about the time of purchase.) The tax law and regulations only require that such allocation be "equitable."

It is interesting to note that the President did not reduce his basis in the San Clemente property by the deferred tax from the sale of his New York apartment, which he would have been required to do if his treatment were correct. The gain on the sale of his property would increase by another $117,000—a total of $234,000 in all. Mr. Blech insisted at the Dec. 8 White House press conference that he had taken such allocation into consideration, but the fact remains that this allocation does not appear either on the tax return or in the supplemental papers released by the White House.

Assuming that the original handling of the sale of the New York residence is incorrect, the gain of $117,000 reported by Coopers & Lybrand would not have increased income taxes in 1970, but a minimum tax of almost $6,000 would have been assessed, and, through the intricacies of the tax law the charitable contribution carryover from the gift of the vice presidential papers would have been reduced by almost $30,000 in 1973—from $94,000 to $64,000. The President's 1973 return is not due yet.

OTHER EXPENSES

At the White House press briefing on Dec. 8, Mr. Blech was asked on what basis the operating expenses of the President's San Clemente home were allocated between personal and business use. His response was that he was informed that of the total use made of San Clemente, about 50% was official business, and, to be conservative, he deducted only 25% of the applicable expenses. The expenses totaled over $32,000 in less than four years and exceeded $10,000 in 1971.

IRS regulations require that for a property used partly for business and partly for personal use, a two-tier allocation of costs be made. The first tier involves areas set aside exclusively for business use and the second involves areas used partly for business and partly for personal use. The description of the San Clemente property released by the White House reveals that only one room out of 16 (not counting bathrooms, porches or pantries) is used exclusively for business purposes. If we accept the estimate of maximum business use offered by Mr. Blech, and generously estimate that the property is used 60 days a year, with 30 of those days on presidential business and further assume that half the property is so used during those days, then the annual write-off should be closer to $2,600 than to $8,000.

While it is true that the IRS regulation requiring this type of allocation was ignored in a 1972 district court case, IRS has not acquiesced to that court decision and other taxpayers will have to go to court to obtain similar relief. The President was using this allocation basis in 1969, 1970, 1971 and 1972 even though the court case mentioned was not resolved until late 1972 or early 1973.

The point made here is that the President is, in effect, the chief IRS officer and should be required to comply with IRS regulations even more than anyone else. The impact of using this allocation of costs is to save the President about $6,000 or more in taxes over the 1969–72 period.

In addition, the President incorrectly treated the employe business expenses in his tax returns. Since he received an annual $50,000 expense allowance, all of his employe business expenses up to that amount are reimbursed. They are, therefore, deductions toward adjusted gross income, which in turn reduces the base against which charitable contributions are determined. The proper treatment of these expenses would indicate that the President has taken charitable contributions of over $61,000 in excess of those to which he was entitled. The tax on these deductions would amount to approximately $20,000.

The total impact of all the marginal items mentioned above can be summarized as follows:

Tax owed on sale of N.Y. property	$39,000
Tax on excess charitable contributions	20,000
Minimum tax from San Clemente sale	6,000
Tax from overstatement of deductible expense	6,000
Total	71,000

So, at the conclusion of this exercise, what does it all mean? Even if all my suggestions were accepted, the President would pay only a relatively small sum for one in his income bracket. However, it does seem to say something about the way the tax laws are structured. And it may be of some interest to the typical taxpayer who does not have vice-presidential papers to donate, who gets grief from the IRS for deducting his donations of clothing and other items to charities without professional appraisals and itemized receipts, and who can claim only one principal place of residence for both federal and state purposes.

MR. NIXON'S PAPERS: THE TAX QUESTION

(By Walter Pincus)

Investigations into various aspects of President Nixon's income tax returns are now being undertaken by the Internal Revenue Service, the Joint Committee on Internal Revenue Taxation, the House Judiciary Committee (studying impeachment) and the State of California. One particular point that deserves attention is the questionable manner in which Mr. Nixon's tax deductible "gift" of vice presidential papers was made. As with almost every phase of the Watergate affair, there seem to be substantial differences between what the President and his aides say happened, and what can be pieced together using a variety of sources.

Ralph G. Newman is a respected appraiser of historic books, manuscripts and archives. Edward L. Morgan is now an assistant secretary of the Treasury but until this year he had served in the White House as a deputy counsel to President Nixon. Frank DeMarco is a California lawyer who, since 1969, has handled Mr. Nixon's taxes. Each is unknown to most Americans, but the chances are growing that as Mr. Nixon's taxes are thoroughly investigated in the coming months, these gentlemen will become as recognizable as Rose Mary Woods and J. Fred Buzhardt, whose fame spread during the inquiry into the 18-minute gap on the White House tapes. As with the tapes, Mr. Nixon's taxes and particularly the tax-deductible gift in 1969 of pre-presidential papers valued at $576,000, require a suspension of disbelief. And as with the tape gap, there is the possibility that a criminal act was involved.

In his Nov. 17 appearance before the Associated Press managing editors, the President made one of his typical, misleading overstatements. Discussing why he paid less than $1000 in taxes on an earned personal income of over $250,000 in 1970 and 1971, he said it was "not because of the deductions for . . . gimmicks"; it was because Lyndon Johnson "came in to see me . . . and he told me that under the law, up until 1969, presidential and vice presidential papers given to the government were a deduction and should be taken, and could be taken as a deduction from the tax." Having credited the original idea to Johnson, Mr. Nixon went on to say he turned his papers "over to the tax people . . . They appraised them at $500,000." So when the tax people prepared his returns, they "took that as a deduction." But as can be seen from an inspection of those returns, as well as documents placed in the Congressional Record by Sen. Lowell Weicker (who has run his own investigation) and interviews with various participants, the matter of the tax-deductible papers is far more complex than the President's words would suggest.

Sometime after his election in 1968, Mr. Nixon and then President Johnson apparently did discuss the donation of papers. Johnson had since 1965 been availing himself of this "gimmick" to lower his taxable income. It was a simple thing: a public official had papers; he offered them to an educational institution or the government; the recipient put them in order and someone was brought in to appraise their value. Then, based on the appraised value and the donor's taxable income, all the papers were turned over at once, or given over a number of years with the deductions spread out.

Many officials have used this gimmick. And so in December 1968, Mr. Nixon or one of his aides got in touch with Mr. Newman, whose place of business is in Chicago. Newman had performed similar services for President Johnson. Around Dec. 20 Mr. Newman went to New York City and reportedly identified donatable materials belonging to Mr. Nixon which were kept in the offices of Nixon's law firm and in a New York warehouse. Since the end of the tax year was fast approaching, a deed to this material was drawn up, supplemented by a list of 21 specifically identified cartons of papers, letters, books, tapes and memorabilia from various parts of Mr. Nixon's career. The deed turned the listed material over to the U.S. government but reserved to the donor, Mr. Nixon, the right to limit access to the papers during his presidency to persons specifically designated by him. On Christmas Day 1968 Mr. Nixon signed the deed. The materials were said to have been delivered to the Federal Records Center in New York City Dec. 30, 1968, and accepted in writing by an official of the General Services Administration, which operates the National Archives and the presidential libraries.

Nothing more was done about these 1968 papers until mid-March 1969, when Mr. Nixon's tax returns were being prepared and a fuller description and appraisal of the 1968 gift were needed. On March 20, 1969, the 1968 papers were brought to Washington from New York and stored in stack area 14–W4 of the National Archives Building. The next day the assistant archivist for presidential papers, Daniel Reed, informed Mr. Newman that the 1968 papers were being readied for examination by him in Washington.

That same week a retired member of the National Archives staff, Sherrod East, was asked to return as a consultant to help organize the pre-presidential Nixon papers. In the preceding months hundreds of cartons had been gathered together from warehouses around the country and even the garage of the President's brother, Donald. Initially they had been crowded into a room in a federal building a block from the White House. On March 25, 1969, it was decided to move the approximately 500 cartons and 17 file cabinets to stack area 19–E3 in the National Archives. The move took place over the next two days, but upon arrival at the Archives the cartons had to be stacked "four and five high, in no discernible order," according to a report Mr. East later made. "Our problems were further complicated by the indiscriminate mixing of all kinds of office property, memorabilia, books, mementos, audiovisual materials, etc., with the records of a long and varied public and private career," Mr. East added.

Before he and his staff could get to work sorting all this out, Mr. East was, he wrote, "diverted to perform priority arrangement, boxing and labeling of some 45 cubic feet of (Nixon) papers which had been hurriedly separated from his storage files and deeded to the U.S. government before Dec. 31, 1968."

Mr. Newman arrived in Washington April 6, 1969, and stayed through April 8. In order for him to examine the 1968 gift—which East's group had by then put in order—a special document had to be drafted by Mr. Morgan in the White House permitting "limited right to access" to Newman. Mr. East recalls escorting Newman to the 1968 material in April 1969, and either East or one of his assistants remained with him during the entire time of his inspection. "To the best of my knowledge," East said recently, "he [Newman] looked only at the 1968 material." Since the larger batch of Nixon papers was held in a different area of the building, and since East was by then trying to unpack and organize that material, he holds quite firm to his recollection.

Archivist official Reed also has no personal knowledge of Newman's visiting the stack area where the newly arrived Nixon material was stored. And he has no access letter that would have permitted Newman to examine material other than that in the 1968 gift.

In discussing his April 1969 trip to Washington with recent questioners, Mr. Newman has been vague about whether he actually saw anything other than the 1968 gift. He has recalled that a Nixon aide or lawyer, perhaps DeMarco, told him that a $500,000 gift was being considered, so that the President would be able to carry forward a deduction of some $100,000 from his taxes for the coming five years. Newman has said he may have made a "ballpark estimate" of the value of the newly gathered material, based on a description of the amount involved. Mr. East, who was working on the new material, says that in April 1969, when Newman was there, most of it was in unidentified cartons and packing cases; no description of contents was possible. It was East's job over the next two months to put the papers and material in order so that Newman or someone else could see what papers were there and decide what was to be done with them. As far as Mr. East knew, the Nixon material he was working on in stack area 19 was to be organized "for reference and accessioning purposes." He and his associates then proceeded to identify the series of papers contained within the boxes.

While this was going on, Congress (and the Nixon administration) was working to close the tax loophole that allowed for the donating of deductible papers. No one expected the law to be changed prior to Dec. 31, 1969.

East's work was done by the end of May, and in November 1969 Mr. Newman returned to stack 19 of the Archives to work on what was to become the 1969 gift. In that month he reportedly separated out 1,176 National Archives boxes that he valued—for tax purposes—at $576,000. Of the material placed in the Archives on March 26, there remained at least 16 steel file cabinets, 64 boxes of sound tapes, 47 boxes of motion picture film, 28 boxes of memorabilia and hundreds of other Nixon document boxes that have not been deeded.

In late December the Congress closed the loophole: No deductions would be permitted on 1969 income taxes for material that had not been donated prior to July 25, 1969. The President's 1969 tax plans included about $100,000 to be deducted for donated papers. If he did not get it, he would be in a tax bind. His income that year had been inflated by $92,445 in capital gains from the sale of his Fisher's Island stock. Without the papers deduction the President probably would have had to pay $10,000 or more additional tax. As it was, he took a deduction of $95,298 for the papers and would up with a tax refund of $35,301.

The manner in which the gift of the Nixon papers was accomplished has become the focus of investigation. On April 6, 1970, nine days before taxes were due, Mr. Newman drew up his appraisal of the 1969 gift. He said among other things that "from the sixth to the eighth day of April 1969," he or his employees did "examine the papers of Richard Milhous Nixon Part II." These were the papers which East and Reed now say Newman, to their knowledge, did not see at that time. Shortly thereafter on April 10, 1970 what purports to be a deed to the 1969 gift was delivered to the general counsel of GSA, parent agency to the Archives. That deed was dated March 27, 1969, the day the disorganized material arrived in stack area 19. The deed supposedly carried with it a list of the specific papers that made up the gift. The supposed original March 27 list is missing, and a 1970 replacement identifies the 1,176 boxes in the Newman appraisal. But as Mr. East recently noted, those 1,176 boxes did not exist as of March 27, 1969; on that date the material in them was scattered among 500 cartons and assorted file cabinets. Furthermore Mr. Newman did not segregate that material until November 1969.

Of particular interest to investigators—looking into the possibility that this deed was drawn up well after the July 25 gift deadline—is the fact that Deputy Counsel Morgan signed it on behalf of the President. The President did not himself sign it as he had for the 1968 gift. No power of attorney document from the President accompanied the deed. There is only an affidavit that Nixon lawyer DeMarco notarized. As a notary under California law, DeMarco should have kept a record book establishing the date this document was signed, irrespective of the date it carries. DeMarco had no such record.

The outlines of the impending tax investigations are clear. Newman will be questioned on what he did in April 1969 about the 1969 gift. Lawyer DeMarco and the White House have claimed that Newman at that time examined, designated and segregated the gift. The man who was then working directly with the papers says no such work was done. Newman may also be questioned on the basis for his appraisal. Of the 1968 gift, 9,000 items were classified as "children's letters," 1,000 were clippings from the 1960 campaign, and 8,000 were from overseas trips taken by the Vice President. Of the 1969 gift 57,000 items were listed as foreign trips by the Vice President, the bulk of the materal—414,000 of a total of 600,000 items—being general correspondence between 1953 and 1961.

DeMarco and Morgan almost certainly will be questioned on the long delayed deed to the 1969 gift. Secretaries and typists who drafted the pertinent documents will also be questioned.

On his tax returns for four years—1969 through 1972—Mr. Nixon deducted $482,019.87 as charitable contributions (i.e., the gift of his papers). Add to that the $60,000 to $80,000 he claimed as a deduction for the earlier gift of papers in 1968 and the $94,300 on his '69 gift which he may still claim against his 1973 taxes, and you come up with a possible deduction of $640,000.

In a practical sense, the papers deduction will have saved Mr. Nixon from paying an additional $300,000 or more in taxes. Put another way, the papers "deal" helped Mr. Nixon on his way to becoming a millionaire as much as any other financial venture he undertook.

AMENDMENTS TO H.R. 69

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. O'Hara) is recognized for 10 minutes.

Mr. O'HARA. Mr. Speaker, during general debate on H.R. 69, on March 12, I addressed myself to the concept that underlies the amendments I will offer to that bill when, next week, it is called up for reading and amendment.

In accordance with the requirements of House Resolution 963, I am today submitting to be printed in the Record, the text of those amendments, which will be printed at the conclusion of these brief explanatory remarks.

My amendments are twofold.

First, I am seeking to amend the distribution formula in the bill so that, of the funds appropriated under H.R. 69, two-thirds will be distributed among the recipient States and local educational agencies on the basis of school-age population, and the remaining one-third will be distributed on the basis of the formula as already proposed in the committee bill, with a 90-percent "hold harmless" provision.

My second amendment will begin by changing the wording of section 101 of the existing Elementary and Secondary Education Act to delete the emphasis on "concentrations of low-income families" and substitute the concept of targeting the special education needs of educationally deprived children. A further provision of the same amendment will remove from local educational agencies the requirement that they provide their funds to concentrations of low-income families and require instead that the funds be directed toward "the individual needs of children demonstrating the need for educational remediation" and conforming other sections of the bill accordingly.

According to the exigencies of the parliamentary situation, Mr. Speaker, I will either submit these amendments separately at the appropriate places, or include them in an amendment in the nature of a substitute for all of title I of H.R. 69. Under the provisions of the rule, I am also asking that the proposed substitute amendment be printed following the text of the other amendments.

The texts of the amendment follow:

AMENDMENTS TO H.R. 69, AS REPORTED OFFERED BY MR. O'HARA

Page 29, beginning with line 18, strike out everything after "be" down through the period in line 21, and insert in lieu thereof the following: ": (A) from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection), the product obtained by multiplying the number of children aged five to seventeen, inclusive, in the school district of such agency by 40 per centum of the amount determined under the next sentence, and (B) from the remaining one-third of such amount so appropriated, the product obtained by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence."

Page 31, line 17, insert after "be" the following: ": from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection), the product obtained by multiplying the number of children aged five to seventeen, inclusive, in Puerto Rico by 40 percentum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States, and, from the remaining one-third of such amount so appropriated,".

Page 48, line 10, strike out "85" and insert in lieu thereof "90".

AMENDMENT TO H.R. 69, AS REPORTED OFFERED BY MR. O'HARA

Page 28, insert after line 3 the following:

DECLARATION OF POLICY

SEC. 101. Section 101 of title I of the Elementary and Secondary Education Act of 1965, as amended, is amended to read as follows:

"SEC. 101. In recognition of the special educational needs of educationally deprived children and the impact that the presence of such children have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving such children to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children.";

And succeeding sections of Title I are accordingly renumbered.

Page 45, beginning with line 7, strike out everything after "(A)" down through line 11, and insert in lieu thereof the following: which meet the individual needs of children demonstrating the need for remedial education, and such payments shall be used only for such needs of such children, without regard to race, sex, religion, national origin, family income, or any other socio-economic criteria, and".

Page 45, beginning with line 17, strike out everything down through line 18 on page 46.

Page 53, beginning with line 7, strike out everything down through line 2 on page 54.

Page 54, line 5, strike out "112" and insert in lieu thereof "111".

Page 57, line 10, strike out "113" and insert in lieu thereof "112".

AMENDMENT TO H.R. 69, AS REPORTED OFFERED BY MR. O'HARA

Page 28, beginning with line 1 strike out everything down through page 58, line 18, and insert in lieu thereof the following:

TITLE I—AMENDMENTS OF TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

DECLARATION OF POLICY

SEC. 101. Section 101 of title I of the Elementary and Secondary Education Act of 1965, as amended, is amended to read as follows:

"SEC. 101. In recognition of the special educational needs of educationally deprived children and the impact that the presence of such children have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving such children to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children."

EXTENSION OF TITLE I PROGRAMS

SEC. 102. Section 102 of title I of the Elementary and Secondary Education Act of 1965 (hereinafter referred to as "the Act") is amended (1) by striking out "for grants to local educational agencies", and (2) by striking out "1973" and inserting in lieu thereof "1977".

ALLOCATIONS OF FUNDS

SEC. 103. Section 103(a) of title I of the Act is amended to read as follows:

"SEC. 103. (a)(1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph an amount equal to not more than 1 per centum of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term 'State' by this subsection). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to subsection (d)(1), and (ii) to make payments pursuant to subsection (d)(2). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

"(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State shall be eligible to receive under this part for a fiscal year shall (except as provided in paragraph (3)) be (A) from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection), the product obtained by multiplying the number of children aged five to seventeen, inclusive, in the school district of such agency by 40 per centum of the amount determined under the next sentence, and (B) from the remaining one-third of such amount so appropriated, the product obtained by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State, except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States. In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under the two preceding sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

"(3) (A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

"(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

"(C) The grant which Puerto Rico shall be eligible to receive under this part for a fiscal year shall be: from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection), the product obtained by multiplying the number of children aged five to seventeen, inclusive, in Puerto Rico by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil exenditure in the United States, 120 per centum of the average per pupil expenditure in the United States, and, from the remaining one-third of such amount so appropriated, the amount arrived at by multiplying the number of children counted under subsection (c) by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(4) For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands."

TECHNICAL AMENDMENT

SEC. 104. Section 103(b) of title I of the Act is amended by striking out "aged five to seventeen, inclusive, described in clause (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a)" and inserting in lieu thereof "counted under subsection (c)".

DETERMINATION OF NUMBER OF CHILDREN TO BE COUNTED

SEC. 105.(a) Section 103(c) of title I of the Act is amended to read as follows:

"(c)(1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A), (B) two-thirds of the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to section 123 for the purposes of a grant to a State agency, or being supported in foster homes with public funds."

(b)(1) Section 103(d) of the Act is redesignated as paragraph (2) of subsection (c) and the first sentence thereof is amended to read as follows:

"(A) For purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.".

(2) The second sentence of paragraph (2) of such section (as so redesignated) is deleted, and the third sentence of paragraph (2) of such section (as so redesignated) is amended to read as follows:

"(B) For purposes of this section, the Secretary of Health, Education, and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.".

(3) The fourth sentence of paragraph (2) of such section (as so redesignated) is amended by inserting "(C)" before "When" and by striking out "having an annual income of less than the low-income factor (established pursuant to subsection (c))" and inserting in lieu thereof "below the poverty level (as determined under paragraph (A)).".

(c) Section 103 of the Act is amended by striking out subsection (e).

SPECIAL USE OF FUNDS FOR INDIAN CHILDREN

SEC. 106. Section 103 of title I of the Act is amended by adding at the end thereof the following:

"(d)(1) From the amount allotted for payments to the Secretary of the Interior under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

"(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 131(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of section 131(a) and 133(a)(3)."

STATE OPERATED PROGRAMS

SEC. 107. Title I of the Act is amended by inserting the following in lieu of parts B and C:

"PART B—STATE OPERATED PROGRAMS

"PROGRAMS FOR HANDICAPPED CHILDREN

"SEC. 121. (a) A State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), shall be eligible to receive a grant under this section for any fiscal year.

"(b) Except as provided in section 124, the grant which an agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such avearge per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(c) A State agency shall use the payments made under this section only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of such children, and the State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

"(d) In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in subsection (c).

"PROGRAMS FOR MIGRATORY CHILDREN

"SEC. 122. (a)(1) A State educational agency or a combination of such agencies, upon application, may receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application only upon his determination—

"(A) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

"(B) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

"(C) that such programs and projects

will be administered and carried out in a manner consistent with the basic objectives of clauses (1) (B) and (3) through (12) of section 131(a), and of section 132; and

"(D) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering the funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

"(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for such State or States under this section.

"(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in the consideration of programs and activities contained in applications submitted under this subsection.

"(b) Except as provided in section 124, the total grants which shall be made available for use in any State (other than Puerto Rico) for this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 percentum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (1) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (2) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. The total grant which shall be made available for use in Puerto Rico shall be arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

"PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN

"SEC. 123. (a) A State agency which is directly responsible for providing free public education for children in institutions for neglected or deliquent children or in adult correctional institutions shall be eligible to receive a grant under this section for any fiscal year (but only if grants received under this section are used only for children in such institutions).

"(b) Except as provided in section 124, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(c) A State agency shall use payments under this section only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

"RESERVATION OF FUNDS FOR TERRITORIES

"SEC. 124. There is authorized to be appropriated for each fiscal year for purposes of each of sections 121, 122, and 123, an amount equal to not more than 1 per centum of the amount appropriated for such year, for such sections for payments to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands under each such section. The amounts appropriated for each such section shall be allotted among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title."

USE OF FUNDS BY LOCAL EDUCATIONAL AGENCIES; PARENT ADVISORY COUNCILS

SEC. 108. (a) Section 141(a) (1) of the Act is amended by striking out so much thereof as precedes clause (B) and inserting in lieu thereof the following:

"(1) that payments under this title will be used for the excess costs of programs and projects (including the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools eligible for assistance under this title, the training of teachers, and, where necessary, the construction of school facilities and plans made or to be made for such programs, projects, and facilities) (A) which meet the individual needs of children demonstrating the need for remedial education, and such payments shall be used only for such needs of such children, without regard to race, sex, religion, national origin, family income, or any other socio-economic criteria, and".

(b) Section 141(a) (2) of the Act is amended to read as follows:

"(2) that the local educational agency has provided satisfactory assurance that section 132 will be complied with;".

(d) Section 141 of the Act is amended by striking out subsection (c), by redesignating subsection (b) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b) It is the purpose of the Congress to encourage, where feasible, the development for each educationally deprived child participating in a program under this title of an individualized written educational plan (maintained and periodically evaluated) agreed upon jointly by the local educational agency, a parent or guardian of the child, and when appropriate, the child. The plan shall include (1) a statement of the child's present levels of educational performance, (2) a statement of the long-range goals for the education of the child and the intermediate objectives related to the attainment of such goals, (3) a statement of the specific educational services to be provided to such child, (4) the projected date for initiation and the anticipated duration of such services, (5) objective criteria and evaluation procedures and a schedule for determining whether intermediate objectives are being achieved, and (6) a review of the plan with the parent or guardian at least annually with provision for such amendments as may be mutually agreed upon.".

ADJUSTMENTS NECESSITATED BY APPROPRIATIONS

SEC. 109. Section 144 of title I of the Act is amended by striking out the first sentence and inserting in lieu thereof the following: "If the sums appropriated for any fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which all local and State educational agencies are *eligible* to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under section 121, 122, or 123 shall be equal to the total amount of the grant as computed under each such section. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under part A of this title for such year, the allocations to such agencies shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 90 per centum of its allocation under part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any of such remaining local educational agencies from being thereby reduced to less than such amount."

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 110. (a) Sections 142 through 144 of the Act (and all cross-references thereto) are redesignated as sections 143 through 145, respectively (and will be further redesignated under section 110(h) of this Act), and the following new section is inserted immediately after section 141:

"PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

"SEC. 132. (a) To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements meeting the requirements of section 131(a) (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate.

"(b)(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(12) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(3) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under this title."

TECHNICAL AND CONFORMING AMENDMENTS TO TITLE I OF ESEA

SEC. 111. (a) Section 141(a)(4) of title I of the Act is amended by striking out "section 145" and inserting in lieu thereof "section 433 of the General Education Provisions Act".

(b) Sections 141(a)(1)(B) and 144(a)(2) (as redesignated by section 109 of this Act) of the Act are each amended by striking out "maximum".

(c)(1) Section 143(a) (as redesignated by section 109 of this Act) of title I of the Act is amended by striking out "described in section 141(c)" and inserting in lieu thereof "provided for in section 122".

(2) Section 143(a)(1) (as redesignated by section 109 of this Act) of title I of the Act is amended by striking out "section 103(a)(5)" and inserting in lieu thereof "section 121".

(d) Section 144(a)(2) (as redesignated by section 109 of this Act) of title I of the Act is amended by striking out "or section 131".

(e) Section 144(b)(1) (as redesignated by section 109 of this Act) of title I of the Act is amended to read as follows:

"(1) 1 per centum of the amount allocated to the State and its local educational agencies as determined for that year under this title; or".

(f) The third and fourth sentences of section 145 (as redesignated by section 109 of this Act) of title I of the Act are each amended by striking out "section 103(a)(6)" and inserting in lieu thereof "section 122".

(g) Sections 146 and 147 of title I of the Act are each amended by striking out "section 141(c)" and inserting in lieu thereof "section 122".

(h) Part D of title I of the Act (and any cross-reference thereto) is redesignated as part C, section 141 of the Act (and any cross-reference thereto) is redesignated as section 131, sections 143 through 145 of the Act (as redesignated by section 109 of this Act) (and cross-references thereto) are further redesignated as sections 133 through 135, respectively, sections 146 through 149 of the Act (and cross-references thereto) are redesignated as sections 136 through 139, respectively), and section 150 of the Act (and any cross-reference thereto) is redesignated as section 141.

(i) Section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new paragraphs:

"(16) For purposes of title II, the 'average per pupil expenditure' in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies as defined in section 403(6)(B) in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(17) For the purposes of title II, 'excess costs' means those costs directly attributable to programs and projects approved under that title which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects (but not including expenditures under that title for any comparable State or local special programs for educationally deprived children or expenditures for bilingual programs or special education for handicapped children or children with specific learning disabilities)."

STUDY OF PURPOSES AND EFFECTIVENESS OF COMPENSATORY EDUCATION PROGRAMS

SEC. 112. (a) In addition to the other authorities, responsibilities, and duties conferred upon the National Institute of Education (hereinafter referred to as the "Institute") by section 405 of the General Education Provisions Act, the Institute shall undertake a thorough evaluation and study of compensatory education programs, including such programs conducted by States and such programs conducted under title I of the Elementary and Secondary Education Act of 1965. Such study shall include—

(1) an examination of the fundamental purposes of such programs, and the effectiveness of such programs in attaining such purposes,

(2) an analysis of means to accurately identify the children who have the greatest need for such programs, in keeping with the fundamental purposes thereof,

(3) an analysis of the effectiveness of methods and procedures for meeting the educational needs of children, including the use of individualized written educational plans for children, and programs for training the teachers of children,

(4) an exploration of alternative methods, including the use of procedures to assess educational disadvantage, for distributing funds under such programs to States, to State educational agencies, and to local educational agencies in an equitable and efficient manner, which will accurately reflect current conditions and insure that such funds reach the areas of greatest current need and are effectively used for such areas,

(5) experimental programs to be administered by the Institute, in cases where the Institute determines that such experimental programs are necessary to carry out clauses (1) through (4), and the Commissioner of Education is authorized, notwithstanding any provision of title I of the Elementary and Secondary Education Act of 1965, at the request of the Institute, to approve the use of grants which educational agencies are eligible to receive under such title I (in cases where the agency eligible for such grant agrees to such use) in order to carry out such experimental programs, and

(6) findings and recommendations, including recommendations for changes in such title I or for new legislation, with respect to the matters studied under clauses (1) through (5).

(b) The National Advisory Council on the Education of Disadvantaged Children shall advise the Institute with respect to the design and execution of such study. The Commissioner of Education shall obtain and transmit to the Institute such information as it shall request with respect to programs carried on under title I of the Act.

(c) The Institute shall make an interim report to the President and to the Congress not later than December 31, 1976, and shall make a final report thereto no later than nine months after the date of submission of such interim report, on the result of its study conducted under this section. Any other provision of law, rule, or regulation to the contrary notwithstanding, such report shall not be submitted to any review outside of the Institute before its transmittal to the Congress, but the President and the Commissioner of Education may make to the Congress such recommendations with respect to the contents of the reports as each may deem appropriate.

(d) There is authorized to be appropriated to carry out the study under this section the sum of $15,000,000.

(e)(1) The Institute shall submit to the Congress, within one hundred and twenty days after the date of the enactment of this Act, a plan for its study to be conducted under this section. The Institute shall have such plan delivered to both Houses on the same day and to each House while it is in session. The Institute shall not commence such study until the first day after the close of the first period of thirty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress.

(2) For purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

SURVEY AND STUDY FOR UPDATING NUMBER OF CHILDREN COUNTED

SEC. 113. (a) The Secretary of Commerce shall, in consultation with the Secretary of Health, Education, and Welfare, expand the current population survey (or make such other survey) in order to furnish current data for each State with respect to the total number of school-age children in each State to be counted for purposes of section 103(c)(1)(A) of title I of the Act. Such survey shall be made, and a report of the results of such survey shall be made jointly by the Secretary of Commerce and the Secretary of Health, Education, and Welfare to the Congress, no later than February 1, 1975.

(b) The Secretary of Health, Education, and Welfare and the Secretary of Commerce shall study the feasibility of updating the number of children counted for purposes of section 103(c) of title I of the Act in school districts of local educational agencies in order to make adjustments in the amounts of the grants for which local educational agencies within a State are eligible under section 103(a)(2) of the Act, and shall report to the Congress, no later than February 1, 1975, the results of such study, which shall include an analysis of alternative methods for making such adjustments, together with the recommendations of the Secretary of Health, Education, and Welfare and the Secretary of Commerce with respect to which such method or methods are most promising for such purpose, together with a study of the results of the expanded population survey, authorized in subsection (a) (including analysis of its accuracy and the potential utility of data derived therefrom) for making adjustments in the amounts paid to each State under section 134(a)(1) of title I of the Act.

(c) No method for making adjustments directed to be considered pursuant to subsection (a) or subsection (b) shall be implemented unless such method shall first be enacted by the Congress.

LEGISLATION TO REFORM BIG OIL TAX LOOPHOLES

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, hidden beneath big oil's rhetoric lies one simple fact—the petroleum industry enjoys an array of tax advantages unmatched by any other industry. The legislation which I introduced yesterday, H.R. 13381, would transform these tax breaks, which have too long favored big oil at the expense of the American taxpayer, into useful tools to combat the energy crunch.

The concerted media campaign launched by big oil to bolster its battered image is new to the public—it is not new to those of us who have been trying to reform the tax laws. In 1972, Gulf had an effective tax of only 1.2 percent of net income before taxes. The normal tax rate for a corporation is 48 percent. When questions were being asked about the extraordinarily low tax rate applied to oil earnings, Frank Ikard, president of the American Petroleum Institute, wrote each Congressman contending that the industry did indeed pay high taxes, worldwide amounting to $21.9 billion. Careful analysis of the basis for that statement by Tax Advocates and Analysts, a public interest group, revealed that $10 billion of that amount included motor fuel and other excise taxes, which like State and local sales taxes are never absorbed by producers, but are borne by consumers.

Part of the problem of hiding profits from the tax collector stems from the large number of big oil's wholly owned subsidiaries. For example, in 1971 Exxon owned 163 tankers totaling 13 million tons, in contrast to the U.S. Navy's 26 tankers totaling 563,000 tons. The oil companies' shipping subsidiaries fly the flags of many different countries, such as Liberia, Panama, Honduras, countries which neither require financial statements nor impose corporate income taxes and therefore provide paper havens for excess profits the corporation would rather the IRS never saw.

The most outrageous example of the extremes to which big oil would go to take advantage of the foreign tax credit loophole was revealed to me recently when I learned that an oil company refused to drill for oil in a foreign country unless a royalty was imposed on the operation thereby allowing the company to deduct a similar sum from its U.S. tax bill. With this kind of chicanery it is no complicated trick for the parent companies to funnel profits in and out of the subsidiaries so as to manipulate the amount of taxes owed the U.S. Government.

There are three major tax areas which urgently need to be reformed if we are to ever shorten gas lines and restore public confidence in Government. Foreign tax credits were originally created to avoid the possibility of having American companies taxed twice, once by a foreign country and once by the United States.

Incredible as it may seem, the royalties paid to foreign governments for oil extracted are treated under U.S. tax law not as a business expense but as a direct dollar-for-dollar credit against their U.S. tax bill. It has proven so beneficial that excess credits have been carried over by the oil companies for use against future income. The legislation I propose would prohibit the use of the foreign tax credit in the case of an oil or gas well located outside the United States and instead have foreign tax payments treated as a normal business expense. This alone could save U.S. taxpayers between $2 and $3 billion in 1974.

The depletion allowance is another major contributor to the low tax bill of big oil. This so-called incentive has the same effect as would allowing the individual taxpayer earning $50,000 a year to subtract $11,000 even before he begins to figure out his income tax return. I propose that this depletion allowance be disallowed for foreign wells. If, as the oil companies claim, this allowance is needed as an incentive, then let it operate so as to encourage domestic exploration. My bill does just that—in order to qualify for the allowance the well would have to be located within the United States, its territories, or within the Continental Shelf.

The third major tax break enjoyed by big oil is the intangible drilling expense deduction which allows the owner of a productive well to write off his capital investment and show a paper loss in the first year of successful operation despite the fact that the well has made its owner a handsome sum of money. The reform that I am calling for would restrict the benefit of this accounting illusion to domestic wells. Foreign wells are as unstable as the host governments, and the American taxpayer should not have to in effect pay for insuring the monetary success of the driller without assurances that the oil would continue to flow.

The effect of these three tax subsidies has been staggering. The extra profits generated from the foreign tax credit provisions alone approached $15 billion in 1973, revenues which should have benefited American taxpayers.

In 1971 business as a whole reduced corporate taxes by about 15 percent, while the oil industry reduced its effective tax rate by 73 percent. This legislation is a must—to control exploding oil profits, and redirect the industry to expand domestic production.

I include the following:

OIL COMPANY PROFITS

Company	1973 profits full year (millions)	Increase over 1972 (percent)
Exxon	$2,440	59
Texaco	1,292	45
Mobil	843	47
Shell	333	28
Union	180	48
Cities Service	136	37

Company	1973 profits 9 months (millions)	Increase over 1972 (percent)
Gulf	570	60
Standard of California	560	40
Standard of Indiana	389	32
Atlantic Richfield	178	37
Continental	153	23
Phillips	143	30

Source: UAW Solidarity, March 1974.

DANIELS HAILS SHEVCHENKO BIRTHDAY

(Mr. DOMINICK V. DANIELS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DOMINICK V. DANIELS. Mr. Speaker, on March 9, 1974, we observed the 160th anniversary of the birth of Taras Shevchenko, the great national poet of the Ukraine.

Mr. Speaker, at this critical time when a thaw is possible in East-West relations, I could not let this anniversary pass without reminding the world that there has been no letup in the campaign of forced Russification in the Ukraine, a policy inaugurated by the Tsars and continued under the Communist regime.

It is well, Mr. Speaker, to remember that Shevchenko's fame began with the publication in 1840 of Kobzar, a collection of poems extolling freedom for the people of his nation.

Mr. Speaker, I again take the floor of this House to use this forum to remind Mr. Nixon, who is charged under the Constitution with the direction of foreign policy, that there are still many who care about freedom for the people of the Ukraine. As long as I serve in this body there will be one voice which will continue to speak out for the people of the Ukraine.

COAL: OUR ACE IN THE HOLE

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, with 50 of my distinguished colleagues as cosponsors, I have introduced H.R. 12045 to confer emergency powers on the Federal Energy Administrator to achieve the maximum production and conversion of coal. We know that we have in this country approximately one-half of the coal reserves of the world. With coal alone, in addition to the petroleum products we produce and can obtain in this hemisphere, we could make this country in a few years independent of the Middle East as a source of fuel. But in order to do that we have got to coordinate and concentrate our national efforts to achieve such maximum production. We know that the Germans ran most of the war with gasoline derived from coal. We already have proven techniques in this country by which coal can be converted into gas and gasoline. Hence, it is imperative that we enact such legislation and determine that we are going to make use of this great coal resource that we have to help meet the present energy crisis.

Mr. Speaker, there was an excellent article in the March issue of The Reader's Digest entitled "Coal: Our 'Ace in the Hole' To Meet the Energy Crisis" by Rogers C. B. Morton, U.S. Secretary of the Interior. In this article Secretary Morton urges that we fully employ our coal resources in a determined effort to supplement from coal our energy supply. I include the Secretary's article to follow immediately after these words by me in the body of the Record:

COAL: OUR "ACE N THE HOLE" TO MEET THE ENERGY CRISIS

(By Rogers C. B. Morton, U.S. Secretary of the Interior)

America has enough of it to supply our energy needs for the next five decades. Now is the time to launch an Apollo-size program to get it out and put it to work—as quickly, cleanly and efficiently as possible

The urgency of our energy situation cannot be overstated. Airlines have cut back flight schedules. Many cars and trucks have disappeared from the highways. Our homes are sometimes chilly and dark. The mighty American economy, strongest in the world, is quite literally running out of gas.

The question is no longer whether shortages will lead to personal hardships. It's whether the United States, and indeed the free world, can survive current and projected energy shortages without severe social and economic losses.

I've heard people ask, "How come we've just found out now?" The fact is that scientists, economists and government experts have been warning us for years. We just weren't listening, nor were our elected officials. But there is no time now to waste bickering over where the blame lies. Right away, we Americans must roll up our sleeves and tackle the task that lies ahead.

BLEAK FUTURE?

That task is to establish national energy self-sufficiency, or as close to it as we can get. What do we have to work with? Where has our national energy supply been coming from? Answer: about 77 percent from oil and natural gas; 18 percent from coal; about 4 percent from hydroelectric power; about 1 percent from nuclear power.

Until 1972, we were able to meet about 90 percent of our oil needs from wells in the Western Hemisphere—on the mainland and offshore of the United States, in Venezuela and in Canada. Since then, however, Venezuelan production capacity has leveled off, as has our own domestic production, and Canada has limited its energy exports to us. Hence our only alternative has been to depend more heavily upon the Arabs. Before they established their embargo, we were counting on obtaining nearly three million barrels of oil a day from the Arab world.

In this context of crisis, what does the immediate future look like? In a word: "bleak." By 1985, *unless we find other sources in the meantime,* we shall depend for at least 57 percent of our total fuel supply on oil from other countries—particularly the Middle East and Africa. Without sufficient oil, we would, as a nation and a world power, trail off into impotence.

To depend this heavily upon other nations is to live and work at their mercy. This is why we must urgently develop new sources of energy.

BEST PATH

What are these sources? Let's discount, right off the bat, the more exotic ones, such as atomic energy, geothermal energy and solar energy. All of them, of course, hold great promise and must be brought along as fast as possible. But even atomic-fission energy will at best be able to supply no more than 17 percent of our total energy requirements by 1985. For the rest—for somewhat more than 80 percent of our energy—we'll still depend on oil, natural gas and coal.

We are working on new supplies of oil and natural gas. Three to four years from now, North Slope oil should be flowing through the Trans-Alaska pipeline. We've already acted to accelerate drilling on the Outer Continental Shelf, and are looking at the possibilities of other domestic reserves. We have proposed broadbased legislation to stimulate the production of natural gas.

Nevertheless, I believe that our best path to self-sufficiency by 1980 lies underground—in coal. Coal—three *trillion* tons of it, composing 89 percent of all our fossil-fuel resources—is literally our "ace in the hole." In fact, we have enough coal in the ground to supply *all* our energy requirements until well into the second quarter of the 21st century.

Unfortunately, we have been ignoring coal for years, concentrating instead on using the fuels that are in shortest supply. The reasons are obvious. Coal costs more to mine and deliver than oil and natural gas. Its smoke pollutes the air. Unregulated strip-mining for coal desecrates the land. And coal mining remains one of the most hazardous occupations in the nation.

These serious disadvantages have discouraged us from using coal and blinded us to its virtues. Since World War I, we have had the scientific capability to convert coal into a gas. This gas can fire a kitchen stove or power an electric generator. For a long time, we've also known how to liquefy coal into synthetic oil that can do anything petroleum can do. At an expected conversion rate of two barrels or more of synthetic oil from each ton of coal, our convertible reserves represent the equivalent of four trillion barrels of oil—about ten times the proven oil reserves in the entire world! And if we gasified these coal reserves, they would yield about 32,000 trillion cubic feet of pipeline-quality gas, approximately 20 times the world's known reserves of natural gas.

ALL STOPS OUT

Unfortunately, we do not have the capability to turn coal into oil or gas in commercial quantities, nor can we attain it overnight. At the production end, conversion processes on a large scale are either prohibitively costly or in pilot-plant stages; at the mining end, huge strides must be made in coal-extraction methods and in reclamation. But if we fail to concentrate on coal now—and I mean a national effort bigger than the Manhattan or Apollo programs—we shall have little chance of self-sufficiency by 1980 or, for that matter, by 1985.

Fortunately, the Interior Department has been carrying forward an active research program for making clean gaseous and liquid fuels from coal. Almost since its inception in 1910, the Bureau of Mines has been laying the technical groundwork for our current ability to construct large pilot plants, and to show the commercial feasibility of coal conversion. One coal-gasification pilot plant is in operation in Morgantown, W. Va., and a second with even more modern technology is being completed near Bruceton, Pa. Interior is also researching ways to convert coal to gas underground, thus minimizing the environmental damage from mining.

For more than a decade, Interior's Office of Coal Research (OCR) has also been working on a small scale with the gas and utilities industries to develop economical conversion processes. Eight months ago, most of OCR's target dates for big, commercial-scale operations were set for the mid-1980s. Now they're pegged at 1980, and we're pulling out all stops to meet them. Three years ago, OCR's budget was $17 million a year. Today it's more than $122 million, and by 1975 it should be at least $300 million a year. From then on, the investment must soar even more sharply upward.

Already in joint operation by Interior and the American Gas Association are two successful gasification pilot plants. One, at Rapid City, S.D., is testing Consolidation Coal Company's carbon-dioxide process. The other, at Chicago, is developing the Institute of Gas Technology's HYGAS process, which recently demonstrated for the first time the large scale conversion of coal to synthetic natural gas. A dozen other vital research-and-development projects are currently under way, including a $17-million pilot plant at Fort Lewis, Wash,, which will soon process 50 tons of coal a day into a low-sulfur fuel known as Solvent Refined Coal.

HIGH PRICE TAG

From what we learn at these plants, and with an all-out national effort, we could well come "on stream" by the late 1970s with the Interior Department's projected solution to America's energy problem: vast mine, refinery and shipping points, already designated as COGs—for Coal-Oil-Gas.

We envision the first of these as a $450-million prototype of a total energy-systems complex, located somewhere near a minehead and close to an industrial area. A site of perhaps 1000 acres would be crammed with machinery, gasifiers, converters and refineries. Every day it would combine coal with water to produce large supplies of pipeline gas, synthetic oil, ashless, low-sulfur coal, butane or propane, organic chemicals for plastic and petrochemical products, sulfur, cement, iron—plus cinder bricks and blocks.

We should be building ten or more of these complexes by 1980, to increase our coal production by then from 500 million tons to 1500 million tons a year. But anyone who thinks we can achieve this by oldtime methods is dreaming. For one thing, you can't get that many people to work underground. Thus, for the short term, we must strip-mine; for the long term, we must automate the coal mine.

If we are to strip-mine on a large scale, however, Congress will have to come up with tough legislation to eliminate once and for all any permanent damage to the land. Reclamation projects in this country and abroad make me confident that we can put mined land back the way it was, perhaps even improve it.

As for deep mining, well before the year 2000 our underground mines should be practically automated. The machinery should be developed to do the most hazardous work, with men's duties largely confined to maintenance and control.

All these efforts will give us energy sufficiency with security. Combined with an awakened national ethic of frugality and restraint, we shall have energy for continued growth—and we'll have it via methods in keeping with our new standards for clean air, clean water and respect for the land.

The price tag is high: $10 billion spread over the next five years just for a starter. If we don't begin paying now, however, and instead turn the energy crisis into a time of complaining and recrimination, we shall surely plunge the country into economic chaos. The challenge is ours.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. Pepper (at the request of Mr. O'Neill), from 3 p.m. today through Thursday, March 14, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Beard) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 15 minutes, today.

Mr. Anderson of Illinois, for 30 minutes, today.

Mr. Frenzel, for 15 minutes, today.

Mr. Miller, for 5 minues, today.

Mrs. Heckler of Massachusetts, for 5 minutes, today.

Mr. Dickinson, for 60 minutes, on March 18, 1974.

(The following Members (at the request of Mr. Moakley) to revise and extend their remarks and include extraneous material:)

Mr. Minish, for 10 minutes, today.

Mr. Diggs, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Matsunaga, for 30 minutes, today.

Mr. Chappell, for 5 minutes, today.

Mr. Mills, for 10 minutes, today.

Mr. Eilberg, for 5 minutes, today.

Mr. Owens, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Ms. Abzug, for 20 minutes, today.

Mr. O'Hara, for 20 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Beard) and to include extraneous material:)

Mr. Broomfield.

Mr. Kemp in two instances.

Mr. Del Clawson.

Mr. Hosmer in two instances.

Mr. Myers.

Mr. Esch in two instances.

Mr. Archer.

Mr. Frenzel in three instances.

Mr. Wyman in two instances.

Mr. Horton.

Mr. Baker.

Mr. O'Brien in 10 instances.

Mr. Railsback.

Mr. Hanrahan in three instances.

Mr. Derwinski in three instances.

Mr. Carter in five instances.

Mr. Bray in three instances.

Mr. Nelsen.

Mr. Bell.

Mr. Mizell in five instances.

Mr. Brown of Michigan.

Mr. Wydler.

Mr. Shriver.

Mr. Walsh.

Mr. Gilman.

(The following Members (at the request of Mr. Moakley) and to include extraneous material:)

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Mahon.

Mr. Montgomery.

Mr. James V. Stanton.

Mr. Burton in two instances.

Mr. Patten.

Mr. Rogers in five instances.

Mr. Studds.

Mr. Stokes in six instances.

Mr. Rangel in five instances.

Mr. Downing.

Mr. Fascell in three instances.

Mr. Hungate in two instances.

Mr. Howard.

Mr. Rostenkowski.

Mr. Nichols in 10 instances.

Mr. Dulski in five instances.

Mr. Minish.

Mr. Danielson.

Mr. Udall.

Mr. Dorn in two instances.

Mr. Anderson of California in five instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 872. An act to facilitate prosecutions for certain crimes and offenses committed aboard aircraft, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 3066. An act to consolidate, simplify, and improve laws relative to housing and housing assistance, to provide Federal assistance in support of community development activities, and for other purposes; to the Committee on Banking and Currency.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on March 12, 1974, present to the President, for his approval, a bill of the House of the following title:

H.R. 5450. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972, in order to implement the provisions of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, and for other purposes.

ADJOURNMENT

Mr. MOAKLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 1 minute p.m.,) the House adjourned until tomorrow, Thursday, March 14, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2040. A letter from the Chairman of the Board of Governors, Federal Reserve System, transmitting a report on monetary policy and the economy during 1973; to the Committee on Banking and Currency.

2041. A letter from the Secretary of the Interior, transmitting a report on a study of a 69.5-mile segment of the Allegheny River in Pennsylvania recommending against its inclusion in the National Wild and Scenic Rivers System, pursuant to 82 Stat. 906; to the Committee on Interior and Insular Affairs.

2042. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed concession contract for the continued provision of lodging, food, and motor transportation facilities and services for the public within Canyon de Chelly National Monument during a term ending December 31, 1978, pursuant to 16 U.S.C. 17b–1; to the Committee on Interior and Insular Affairs.

2043. A letter from the Secretary of Transportation, transmitting a report covering calendar year 1973 on the leasing and hiring of quarters and the rental of inadequate housing at or near Coast Guard installations, pursuant to 14 U.S.C. 475(f); to the Committee on Merchant Marine and Fisheries.

2044. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to increase rates of disability compensation and dependency and indemnity compensation, and to provide for automatic adjustment thereof commensurate with future increases in the cost of living, and for other purposes; to the Committee on Veterans' Affairs.

RECEIVED FROM THE COMPTROLLER GENERAL

2045. A letter from the Comptroller General of the United States, transmitting a report on the examination of the financial statements of the Overseas Private Investment Corporation for fiscal year 1973 (H. Doc. No. 93–238); to the Committee on Government Operations and ordered to be printed.

2046. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in the Washington Metropolitan Area Transit Authority's system of reporting on the status of Washington Regional Rapid Rail Transit System (METRO) cost and construction progress; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MORGAN: Committee on Foreign Affairs. H.R. 12799. A bill to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations, and for other purposes; with amendment (Rept. No. 93–904). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 5525. A bill to declare that certain mineral interests are held by the United States in trust for the Chippewa Cree Tribe of the Rocky Boy's Reservation, Mont.; with amendment (Rept. No. 93–905). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 6175. A bill to amend the Public Health Service Act to provide for the establishment of a National Institute on Aging, and for other purposes; with amendment (Rept. No. 93–906). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 6371. A bill to provide for financing and economic development of Indians and Indian organizations, and for other purposes; with amendment (Rept. No.

93-907). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 10337. A bill to authorize the partition of the surface rights in the joint use area of the 1882 Executive Order Hopi Reservation and the surface and subsurface rights in the 1934 Navajo Reservation between the Hopi and Navajo Tribes, to provide for allotments to certain Paiute Indians, and for other purposes; with amendment (Rept. No. 93-909). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOGAN: Committee on the Judiciary. H.R. 7682. A bill to confer citizenship posthumously upon L. Cpl. Federico Silva (Rept. No. 93-908). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BADILLO:

H.R. 13443. A bill to amend the Emergency Petroleum Allocation Act of 1973 to assure more equitable distribution of gasoline supplies on a State-by-State basis; to the Committee on Interstate and Foreign Commerce.

By Mr. BENNETT:

H.R. 13444. A bill to amend the Strategic and Critical Materials Stock Piling Act in order to apply the provisions of that act to materials needed to prevent disruption of the national economy; to the Committee on Armed Services.

By Mr. BROWN of California:

H.R. 13445. A bill to authorize the Secretary of Labor to provide financial and other assistance to certain workers and business firms to assist compliance with State or Federal pollution abatement requirements; to the Committee on Banking and Currency.

By Mr. BURKE of Massachusetts:

H.R. 13446. A bill to amend title 10, United States Code, to permit the Secretary of the Navy to establish annually the total number of limited-duty officers permitted on the active list of the Navy and Marine Corps, and for other purposes; to the Committee on Armed Services.

By Mr. CARTER:

H.R. 13447. A bill to amend the Social Security Act to provide adequate financing of health care benefits for all Americans; to the Committee on Ways and Means.

By Mr. DORN (for himself, Mr. Teague, Mr. Roberts, Mr. Satterfield, and Mr. Hammerschmidt):

H.R. 13448. A bill to amend section 620, title 38, United States Code, to exempt contract nursing home care under this section from the requirements of the Service Contract Act of 1965; to the Committee on Veterans' Affairs.

By Mrs. GRASSO:

H.R. 13449. A bill to amend the Small Business Act and the Small Business Investment Act of 1958 to stimulate and encourage industrial and commercial development in the United States by assisting and facilitating the development by small business concerns of new products and industrial innovations and inventions; to the Committee on Banking and Currency.

H.R. 13450. A bill to amend the Public Health Service Act to assist research and development projects for the effective utilization of advances in science and technology in the delivery of health care; to the Committee on Interstate and Foreign Commerce.

H.R. 13451. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $5,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

H.R. 13452. A bill to amend title II of the Social Security Act to permit the payment of benefits to a married couple on their combined earnings record where that method of computation produces a higher combined benefit; to the Committee on Ways and Means.

H.R. 13453. A bill to amend title XVIII of the Social Security Act to provide payment under the supplementary medical insurance program for optometrists' services and eyeglasses; to the Committee on Ways and Means.

H.R. 13454. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. HALEY (for himself, Mr. Hosmer, Mr. Melcher, and Mr. Steiger of Arizona):

H.R. 13455. A bill to further the purposes of the Wilderness Act by designating certain lands for inclusion in the National Wilderness Preservation System, to provide for study of certain additional lands for such inclusion, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HOLIFIELD (for himself, Mr. Brooks, Mr. Fountain, Mr. Fascell, Mr. Reuss, Mr. Macdonald, Mr. Randall, Mr. Culver, Mr. Hicks, Mr. Conyers, Mr. Alexander, Ms. Abzug, Mr. Donohue, Mr. James V. Stanton, Mr. Ryan, Ms. Collins of Illinois, Mr. Gude, Mr. McCloskey, Mr. Parris, Mr. Regula, Mr. Hinshaw, Mr. Pritchard, and Mr. Hanrahan):

H.R. 13456. A bill to establish a Consumer Protection Agency in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes; to the Committee on Government Operations.

By Ms. HOLTZMAN (for herself, Ms. Burke of California, Ms. Grasso, Mr. Moss, Mr. Roybal, and Mr. Wolff):

H.R. 13457. A bill to amend the Fair Labor Standards Act of 1938 to narrow the circumstances under which an employer employing employees subject to that act may have wage differentials based on the sex of the employees; to the Committee on Education and Labor.

By Mr. LENT:

H.R. 13458. A bill to discourage the use of painful devices in the trapping of animals and birds; to the Committee on Merchant Marine and Fisheries.

By Mr. LUJAN:

H.R. 13459. A bill to govern the disclosure of certain financial information by financial institutions to governmental agencies, to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes; to the Committee on Banking and Currency.

By Mr. LUJAN:

H.R. 13460. A bill to amend the Freedom of Information Act to require consent of subject individuals before disclosure of personally identifiable information in certain circumstances; to the Committee on Government Operations.

By Mr. MILLS:

H.R. 13461. A bill to complement both the health facilities and services planning provisions of section 1122 of the Social Security Act and section 314 of the Partnership for Health Act and the utilization effectiveness and quality assurance provisions of title XI of the Social Security Act by promoting the efficiency and effectiveness of hospital management through the establishment of payment incentives in the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. MOAKLEY (for himself, Mr. Badillo, Mr. Dellums, Mr. Rangel, Mr. Diggs, Mr. Cronin, Mr. Podell, Mr. Bennett, Mrs. Chisholm, Mr. Boland, Mr. Clay, Mrs. Burke of California, Mr. Helstoski, Mr. Danielson, Mr. Culver, Mr. Roybal, Mr. Edwards of California, Mr. Charles H. Wilson of California, Mr. Leggett, Mr. Conyers, Mrs. Heckler of Massachusetts, Miss Holtzman, Mr. Wolff, Mr. Hillis, and Mr. Rosenthal):

H.R. 13462. A bill to provide assistance and full time employment for persons who are unemployed and underemployed as a result of the energy crisis; to the Committee on Education and Labor.

By Mr. MONTGOMERY:

H.R. 13463. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. NELSEN:

H.R. 13464. A bill to amend the Clean Air Act to assure consideration of the total environmental, social and economic impact while improving the quality of the Nation's air; to the Committee on Interstate and Foreign Commerce.

By Mr. OWENS:

H.R. 13465. A bill to amend the Mineral Lands Leasing Act to advance oil shale research and development by establishing a Government-industry corporation to further the technology required for commercial development of nonnuclear in situ processing of oil shale resources located within the United States; to the Committee on Interior and Insular Affairs.

By Mr. PEPPER:

H.R. 13466. A bill to provide for the continuing availability of capital for economic growth and the creation of new jobs and to provide for greater competitiveness in our economy by amending the Internal Revenue Code of 1954 to impose limitations on institutional holdings of securities and to encourage individuals to invest in securities; to the Committee on Ways and Means.

By Mr. PICKLE:

H.R. 13467. A bill to amend the Truth in Lending Act to prohibit discrimination on account of sex or marital status against individuals seeking credit; to the Committee on Banking and Currency.

By Mr. RODINO:

H.R. 13468. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to provide income and payroll tax relief to low- and moderate-income taxpayers; to the Committee on Ways and Means.

By Mr. ROGERS (for himself (Mr. Staggers, Mr. Kyros, Mr. Preyer, Mr. Symington, Mr. Roy, Mr. Nelsen, Mr. Carter, Mr. Hastings, Mr. Heinz, and Mr. Hudnut):

H.R. 13469. A bill to amend the Public Health Service Act to revise the National Health Service Corps program and the Public Health and National Health Service Corps scholarship training program; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 13470. A bill to amend the Truth in Lending Act to prohibit discrimination on account of age in credit card transactions; to the Committee on Banking and Currency.

By Mr. SKUBITZ:

H.R. 13471. A bill to amend the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself and Mr. Devine) (by request):

H.R. 13472. A bill to amend the Public Health Service Act to revise and extend programs of Federal assistance for comprehensive health resources planning, and to assist the States in regulating the costs of health care; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE:

H.R. 13473. A bill to amend title 10, United States Code, to establish a center for research regarding prisoner-of-war health problems; to the Committee on Armed Services.

H.R. 13474. A bill to amend title 38, United States Code, to extend the 20-year protection to ratings for children permanently incapable of self-support; to the Committee on Veterans' Affairs.

By Mr. THORNTON (for himself, Mr. Sarbanes, Mr. Talcott, Mr. Studds, Mr. Cleveland, Mr. Moakley, Mr. Hechler of West Virginia, Mr. Hogan, Mr. Gunter, and Mr. Price of Illinois):

H.R. 13475. A bill to amend the Small Business Act to provide for loans to small business concerns seriously affected by shortages of energy producing materials, and for other purposes; to the Committee on Banking and Currency.

By Mr. TIERNAN:

H.R. 13476. A bill to provide public service employment opportunities for unemployed and underemployed persons, to assist States and local communities in providing needed public services, and for other purposes; to the Committee on Education and Labor.

H.R. 13477. A bill to amend title II of the Social Security Act to provide that increases in monthly insurance benefits thereunder (whether occuring by reason of increases in the cost of living or enacted by law) shall not be considered as annual income for purposes of certain other benefit programs; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mr. Ford, Mr. Matsunaga, Ms. Abzug, Mr. Stratton, Mr. Rosenthal, Mr. Stokes, Mr. Owens, Mr. Riegle, and Mr. Roe):

H.R. 13478. A bill to amend the Internal Revenue Code of 1954 to eliminate, in the case of any oil or gas well located outside the United States, the percentage depletion allowance and the option to deduct intangible drilling and development cost, and to deny a foreign tax credit with respect to the income derived from any such well; to the Committee on Ways and Means.

By Mr. BRADEMAS:

H.R. 13479. A bill to provide assistance and full-time employment to persons who are unemployed or underemployed as a result of the energy crisis; to the Committee on Education and Labor.

By Mr. DANIELSON (for himself, Mr. Corman, Mr. Hawkins, Mrs. Grasso, Mr. Johnson of California, Mr. Leggett, Mr. McFall, Mr. Moss, Mr. Sisk, Mr. Van Deerlin, and Mr. Waldie):

H.R. 13480. A bill to amend title 38, United States Code, to provide veterans and other elegible persons a 10-year delimiting period for completing educational programs; to the Committee on Veterans' Affairs.

By Mr. Hébert (for himself, and Mr. Bray) (by request):

H.R. 13481. A bill to amend title 10, United States Code, to repeal sections which impose certain restrictions on enlisted members of the Armed Forces and on members of military bands; to the Committee on Armed Services.

H.R. 13482. A bill to amend Public Law 92-477, authorizing at Government expense the transportation of house trailers or mobile dwellings, in place of household and personal effects, of members in a missing status, and the additional movements of dependents and effects, or trailers, of those members in such a status for more than 1 year, to make it retroactive to February 28, 1961; to the Committee on Armed Services.

By Mr. LITTON (for himself, Mr. Badillo, Mr. Bingham, Mr. Breaux, Ms. Burke of California, Mr. Chappell, Mr. Dent, Mr. Eilberg, Mr. Flood, Mr. Ford, Mr. Frenzel, Mr. Hawkins, Mr. Kemp, Mr. Ketchum, Mr. Mann, Mr. Obey, Mr. Owens, Mr. Powell of Ohio, Mr. Robinson of Virginia, Mr. Robison of New York, Mr. Roybal, Mr. Ruppe, Mr. Stephens, Mr. Yatron, and Mr. Young of Illinois):

H.R. 13483. A bill to amend the Legislative Reorganization Act of 1970 to provide seminars to freshmen Members of the Congress, and for other purposes; to the Committee on House Administration.

By Mr. PRICE of Illinois (for himself, Mr. Holifield, Mr. Hosmer, Mr. Anderson of Illinois, and Mr. McCormack) (by request):

H.R. 13484. A bill to amend the Atomic Energy Act of 1954, as amended to provide for approval of sites for production and utilization facilities, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. TEAGUE:

H.R. 13485. A bill to provide that veterans' compensation shall not be considered as income in determining the financial eligibility of individuals for Federal benefits; to the Committee on Ways and Means.

By Mr. UDALL:

H.R. 13486. A bill to provide for the establishment of the Mojave-Sonora Desert National Conservation Area; to the Committee on Interior and Insular Affairs.

By Mr. HOWARD (for himself, Ms. Abzug, Mr. Badillo, Mr. Bell, Mr. Carter, Mr. Cleveland, Mr. du Pont, Mr. Gilman, Mrs. Green of Oregon, Mr. Henderson, Mr. Hungate, Mr. Jones of North Carolina, Mr. McDade, Mr. Melcher, Mr. Moakley, Mr. Morgan, Mr. Parris, Mr. Podell, Mr. Rangel, Mr. Steele, Mr. Thone, Mr. Treen, Mr. Williams, Mr. Wolff, and Mr. Zwach):

H.J. Res. 938. Joint resolution to authorize the President to issue a proclamation designating the month of May 1974, as 'National Arthritis Month"; to the Committee on the Judiciary.

By Mr. HUBER (for himself, Mr. Blackburn, Mr. Harrington, Mr. Hechler of West Virginia, Mrs. Heckler of Massachusetts, Mr. Kemp, Mr. Long of Maryland, Mr. Mitchell of Maryland, Mr. Quie, Mr. Whitehurst, and Mr. Won Pat):

H. Con. Res. 446. Concurrent resolution offering honorary citizenship of the United States to Alexander Solzhenitsyn and Andrey Sakharov; to the Committee on the Judiciary.

By Mr. LUJAN:

H. Res. 981. Resolution to create a Select Committee on the Right of Privacy; to the Committee on Rules.

By Mr. OWENS (for himself, Mr. Bingham, Mr. Brown of California, Mr. Edwards of California, Mr. Hechler of West Virginia, Mr. de Lugo, Mr. Leggett, Mr. Mitchell of Maryland, Ms. Mink, Mr. Stark, Mr. Studds, Mr. Van Deerlin, Mr. Waldie, Mr. Charles H. Wilson of California, Mr. Wolff, Mr. Won Pat, and Mr. Moorhead of Pennsylvania):

H. Res. 982. Resolution to amend the Rules of the House of Representatives to provide for the broadcasting of meetings, in addition to hearings, of House committees which are open to the public; to the Committee on Rules.

SENATE—*Wednesday, March 13, 1974*

The Senate met at 10 a.m. and was called to order by Hon. Robert C. Byrd, a Senator from the State of West Virginia.

PRAYER

Brig. James Osborne, divisional commander, the National Capital and Virginias Division, the Salvation Army, offered the following prayer:

Almighty God, Father of all and cornerstone of this great Nation, touch and teach us today. Mark us for significant service for this exciting and exacting moment.

We particularly pray for these selected and elected servants, standing in the midst of great turmoil, encircled by the forces of good and evil, yet enriched and equipped by Thy presence and power.

Grant them strength to stand against all that is low and profane accompanied by wisdom to know and courage to choose high ideals and righteous causes.

Endow them with ability to see problems of this day and beyond them to lasting possibilities and eternal verities.

Guide our people to lives of love, fervent devotion, and spiritual efficiency.

Send us a sensitivity to those suffering and in need then direct us to appropriate action as the demonstration that righteousness exalts a nation.

Bestow on us new vision and verve through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., March 13, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Robert C. Byrd, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. ROBERT C. BYRD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of

Tuesday, March 12, 1974, be dispensed with.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. **HUGH SCOTT**. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. **HUGH SCOTT**. Mr. President, I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. Does the distinguished minority leader desire to have any time under the standing order?

Mr. **HUGH SCOTT**. Mr. President, I yield back my time and suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. Does the distinguished minority leader wish the time to be taken out of the first order for recognition of Senators, which would be the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.)?

Mr. **HUGH SCOTT**. Mr. President, I ask unanimous consent that the time for the quorum call be taken out of the first order.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. **HUGH SCOTT**. Mr. President, I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. STEVENSON). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that I may be permitted to yield the 15 minutes allotted to me under the order entered to the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.).

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **ROBERT C. BYRD**. Mr. President, will the distinguished Senator yield me 30 seconds?

Mr. **HARRY F. BYRD, JR**. I yield.

RICE ALLOTMENT TRANSFERS

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 705, S. 3075.

The **PRESIDING OFFICER**. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3075) to amend the Agricultural Adjustment Act of 1938.

The **PRESIDING OFFICER**. Is there objection to the present consideration of the bill?

There being no objection, the bill (S. 3075) was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of subsection (g) of section 353 of the Agricultural Adjustment Act of 1938 be amended by striking "for 1973" and inserting in lieu thereof "for any year" and by striking "an adjoining" and inserting in lieu thereof "a near".

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that appropriate extracts from the committee report (No. 93–729), in explanation of the bill, be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

This bill would permit rice growers who are unable to plant part or all of their farm acreage allotments because of floods or other natural disasters to transfer their allotments to other farms in the same or a near county on which they will have an interest in the particular commodity. Any allotment transferred will be considered to have been grown on the farm from which transferred for the purposes of acreage history credits and eligibility for future allotments as an old farm.

NEED FOR THE LEGISLATION

Flood conditions this year in some parts of the country again threaten to make it impossible for farmers to grow rice on their farm acreage allotments. This bill would provide permanent authority for the Secretary of Agriculture to permit the transfer of rice allotments from farms where because of a natural disaster the crop cannot be planted or replanted, to another farm in which the grower has an interest in the same or a near county.

Authority to permit, for 1973 only, the emergency transfer of rice allotments to another farm in the same or an adjoining county was provided by Public Law 93–27, approved April 27, 1973.

The production of rice from acreages affected by floods or other natural disasters is needed to meet the demand for rice, which is in short supply. An increase of 27 percent in the national acreage allotment for 1974 was announced by the Department on January 24, 1974, to provide a crop adequate for an increase in export demand and to allow for a desirable year-ending stock. While marketing quotas are not in effect with respect to the 1974 crop, producers must plant within their established allotments to be eligible for price support loans.

Thus, the provisions of this bill would assure a more adequate supply of rice as well as provide relief for farmers adversely affected by natural disasters.

The bill potentially affects approximately 660,000 acres of rice land in Mississippi, Arkansas, and Louisiana. Mississippi rice producers, currently the hardest hit by recent floods, have to make planting decisions by April 25.

DEFENSE AND DÉTENTE: AN ANALYSIS

Mr. **HARRY F. BYRD, JR**. Mr. President, today the free world is beset by troubles, with weakness and disorder apparent both between nations and within nations.

Inflation is widespread and increasing, with no end in sight.

Militant forces within nations demand and get prerogatives at the expense of the nation and other groups within the nation.

By contrast, in the Soviet Union there are no powerful militant organizations; there is little inflation, although productivity is low; there are no strikes or work stoppages, only inefficiencies; their shortages are not severe and a possible food shortage was averted, thanks to the willing cooperation of the United States.

Russia, as I see it, is playing a shrewd game.

The Soviets have come to realize that in order to reach their goals they must utilize all the fundamental elements of national power: political power, economic power, and military power.

Over the years, they have cautiously but continuously expanded their control and influence over more of the world. In the process they have not only increased their elements of national power, but have become more skillful in using them.

Their scientific achievements have been great. They lack capital and management and technological skills, but they recognize these deficiencies and are taking steps to rectify them. They hold out the hope of détente as a means of obtaining assistance in their technological difficulties and their need for low interest rates and long-term credits.

While they are in the process of building a more solid economic base, the Soviets are not averse to exacerbating economic troubles for the West.

Oil is the first economic weapon to be used against us. There seems little doubt that the Soviets influenced recent Arab action in establishing oil embargos and drastically and repeatedly raising the price of oil.

This has resulted in hurting the economy of Western nations and aggravating the relationships among these nations dependent on Middle East oil. The Soviets are adept at using third powers to further their aims.

The Soviets will avoid any action, I feel, that might lead to general nuclear war; but at the same time they will continue to maintain and improve nuclear capability and try to achieve nuclear superiority.

Current situations in the Middle East and the Mediterranean aid in causing disruption in the economy of many free world nations, and present an opportunity for the Soviets to increase their influence on Persian Gulf and Indian Ocean countries.

Iraq and India are moving closer to Moscow. If the Soviets can obtain essential control over the Indian Ocean area, and the Arabian Peninsula, they will have come a long way to countering Red China as well as having a powerful economic lever on all of the West.

The opening of the Suez Canal will be of substantial benefit to the Soviet Union, and detrimental militarily to the United States.

Summarizing, Soviet political power is tremendous; only the United States is comparable. The Russian leaders are skilled in causing other nations to do those things which help them and injure those who may oppose them.

The significance to the United States is this: Russia is the only present potential threat—China's threat is a decade or two away—to the free world and it is primarily because of Russia that the United States is spending approximately $80 billion a year for military purposes—the new budget exceeds that figure.

I believe that in 1974 we must carefully evaluate the entire defense policy of the United States.

This appraisal should be conducted on the basis of a realistic understanding of the relationship between the United States and the rest of the world. In particular, we must look carefully at the situation which exists between the United States and the Soviet Union.

Because of recent agreements with Russia, there is optimism over "détente"—a French word meaning a relaxing of tensions between nations. But before we relax to the point of complacency, a note of caution may be in order.

At the outset, let me say that I favored President Nixon's visits to Peking and Moscow. Let the leaders of the great powers continue to meet, continue to discuss, continue to seek solutions. This is important and desirable.

But let us not deceive ourselves. Let us not suppose that all has become sweetness and light between the Communist powers and the United States.

As to the Soviet Union—while the Russian leaders have signed agreements with the United States, we must remember that they have received far more than they have given. This is true both in trade and in arms.

As a matter of fact, in each of the three agreements between the United States and the Soviet Union during 1972, the United States came out second best.

The most dramatic is the grain deal. Not only did we let our products go too cheaply, but also the U.S. Government provided what was in effect a $300 million subsidy. And, on top of that, Russia borrowed the money from the U.S. Government to pay for the wheat. In other words, Russia bought our wheat with our money.

Melvin Laird, former counselor to President Nixon, stated flatly—

> The wheat deal was forged to save the Soviets from the results of a disastrous agricultural program.

Is there any wonder Chairman Brezhnev is so anxious to promote détente?

The fact is that we made it easier for them to spend for defense when we subsidized their domestic economy with bargain basement prices on wheat.

Another agreement with Russia in 1972 was the settlement of its debt to the United States.

At the end of World War II, the total value of lend-lease equipment sent from the United States to Russia during the conflict was estimated at about $11 billion. All but $2.6 billion of this amount was written off in 1946, since it consisted mostly of military equipment used in the war.

In 1972 the United States agreed to a settlement of the remaining $2.6 billion debt for $722 million—or about 28 cents on the dollar.

But there is no assurance that the $722 million will be paid. Of that total, $674 million is contingent upon granting to the Russians of most-favored-nation status in tariffs, a concession many of us in Congress strongly oppose.

That leaves only $48 million in assured repayment—which is less than 2 percent of the $2.6 billion debt.

Russia said, in effect, we will pay the United States a small part of what we owe you—provided you give us special trade concessions, including long-term credits and subsidized interest rates provided by the American taxpayers.

Yes, détente is fine—for Russia.

The third United States-Russian agreement of 1972 was the SALT accords. In the agreement on offensive ballistic missiles, the Russians were permitted to have numerical superiority.

The United States may have 1,054 land-based intercontinental ballistic missiles while Russia is permitted 1,618.

We also gave the Russians a numerical advantage in submarine-launched ballistic missiles and in the number of missile-carrying submarines. They are building and modernizing 62 strategic-missile submarines as allowed under the SALT Treaty, while the United States is limited to 44.

The United States held a lead in submarine missiles during the negotiations but conceded to the Soviets a sizable advantage in the treaty agreement, 950 to our 710.

And the Soviets are not standing still. They already have passed the United States in total missiles and are speeding production to reach the limits allowed under SALT–I.

In addition, the Soviets are accelerating development of four new types of long-range missiles, all capable of carrying large numbers of multiple independently targeted warheads. They also are developing a fast new manned bomber, the "Backfire."

In addition, they have great numbers of very fast attack submarines to be used against our Polaris-Poseidon submarine fleet.

SALT–I was a temporary agreement, yet I was uneasy about this agreement when it was submitted to the Senate. I joined with Senator Jackson and a number of other Senators in sponsoring an amendment calling on U.S. negotiators to insist on equality with Russia in future agreements.

Without that provision, I could not have supported the strategic arms limitation agreement.

The point to be made by this review of the 1972 agreements is this: our representatives are so anxious to get agreements that they are too willing to make unmatched concessions.

It is essential that the United States never lose sight of the fact that while moods and methods, words and gestures may change in Moscow, the underlying goal of the Communist dictatorship remains constant. That goal is the worldwide domination of the Communist system. It is a fixed star in the Soviet firmament.

If we forget this central fact, we imperil ourselves. Soviet theorists constantly reiterate that no matter what course may be dictated by the opportunities of the moment—and Moscow has changed course often—the ultimate goal remains the same.

Chairman Brezhnev made this clear in June 1972, when he said:

> Détente in no way implies the possibility of relaxing the ideological struggle. On the contrary, we must be prepared for this struggle to be intensified and become an ever sharper form of the confrontation between the two systems.

The United States cannot afford to accept a "détente" which leaves open the way for global domination by the Soviet Union.

The danger of "détente" is that it tends to lull the United States into a false sense of security.

From within Russia, dissident voices like those of now-exiled novelist Alexander Solzhenitsyn and physicist Alexei Sakharov have warned against concessions by the West unmatched by concessions on the part of the Soviets.

Sakharov, father of the Russian hydrogen bomb, stated:

> Détente without democratization, a détente when the West in fact accepts Russia's rule of the game in the process, such a détente would be dangerous.

All the world, of course, yearns for peace. Most of us would prefer a world order based on justice rather than on might. But such an order, unfortunately, has not yet come.

Indeed, the only way we have to build a peace that is effective and lasting is to maintain a strong defense and to bargain realistically.

The implications of these facts for the current SALT negotiations are important to note.

If we are to attain nuclear stability, then we must attain strategic equality.

Clearly, we have to maintain adequate strategic defense, as a vital element of our own national security and for the security of the free world.

As I have pointed out, there has been a shift in the strategic balance between the United States and the Soviet Union. In fact, strategic inequality in favor of the Soviets was built into the SALT–I agreement.

How do we measure strategic balance?

We look at the numbers of strategic launchers, their throw weight, ability to deliver multiple warheads, and technology.

We were led to believe, in the debate on SALT–I, that the *numerical* superiority afforded the Soviets in numbers of launchers was balanced by our superior technology, especially MIRV capability.

But now the Soviets have improved their technology. They are developing a MIRV'ing capability, which coupled with their built-in advantage in the number of missiles, could lead to a Russian advantage in the number of warheads.

In fact, the Soviets are building up to every level allowed under SALT–I—and how could anyone expect otherwise?

If our SALT–II negotiators do not insist on equality, then they are opening the door to further Soviet advantages at our peril.

The Soviets will use every agreement to their advantage. They gave up nothing at SALT–I and retained the right to increase the ultimate payload of their missiles. Since then they have greatly increased their nuclear capability.

Having gained the upper hand from the interim agreement, they will be even harder to deal with in subsequent negotiations.

I agree with my colleague, Senator JACKSON, that it is time to put the Soviets to the test.

If they do not want to bargain realistically and accept a position of nuclear equality, then we should revise our view of détente and increase our vigilance.

Yet while we must maintain a strong defense to protect our vital interest, ours cannot be a lone vigil.

Secretary of Defense Schlesinger said at a recent hearing of the Senate Committee on Armed Services:

> The United States, as opposed to the period before 1939, or even before 1945, bears the principal burden of maintaining the worldwide military equilibrium that underscores the survival and security of the Free World.

The Secretary went on to say:

> There is nobody else to pick up the torch if the United States fails to carry it.

We have been carrying the torch since World War II. We carried the torch and at the same time carried on a long, costly conflict in Southeast Asia. We have carried the torch of free world defense for a long time and at great expense to ourselves.

It would be a grave error in judgment to assume that we can carry the torch alone, or that the torch gets lighter because there is talk of détente.

Our free world allies must share more fully in the burden which the United States has assumed. We must get that point across to our friends.

We must look closely at all our commitments.

We should carefully analyze our commitments to NATO in particular, with an eye for a more equitable sharing of the costs.

NATO is clearly one of our most important alliances. In the past few years, however, its strength has deteriorated. Since the energy crisis, the weaknesses have increased.

There are several questions on the NATO alliance that should be raised:

Are our NATO allies bearing their just share of its burden?

Can we continue to maintain 4⅓ divisions of ground troops in Europe? Should we, even if we could?

Can Spain make an important contribution to the defense of Europe and should we pursue the possibility of her admission to NATO?

Can the United States continue to carry a disproportionate share of the NATO burden?

A free and peaceful Europe is vital to the United States. The 6th Fleet in the Mediterranean is of substantial importance, as are the six Royal Air Force bases we occupy in England; our naval and air bases in Spain and Greece; and our air bases in Turkey and Germany. All are of tremendous importance.

But 29 years after World War II, should the United States maintain 200,000 ground troops in Europe? I think that is difficult to justify.

I urge the President and the Secretary of Defense to begin talks now with our NATO allies looking toward phasing out 100,000 U.S. ground troops in Europe over a 3-year period.

This should result in a reduction of the total United States defense force. Such a reduction should be focused in the support elements, without reducing the combat capability of our conventional forces.

While I believe that we must be cautious about the commitments which we undertake, and those which we maintain, I do not favor isolation.

The United States, as a great power, has a major role to play in the world. Europe and the Middle East are of especial importance to the United States.

Because of this—and because the flow of commerce and supplies in any emergency depends upon freedom of the seas—the United States must maintain its naval power.

Indeed, I feel Secretary of Defense Schlesinger was accurate when he told the Senate Armed Services Committee last month that the free world today "is an ocean world."

During the last 10 years, the Soviet Union has been engaged in a massive maritime building program, paralleled only once in all history—the great expansion of the American fleet during World War II.

Since 1964, the Russians have commissioned almost double the number of submarines put into service by the United States—140 against 75—and have more than kept pace with the United States in surface warships.

Moreover, because of obsolescence in the U.S. Fleet and because of retirements for economy reasons, the Russians this year for the first time have a surface combatant fleet larger than that of the United States.

The quality, as well as the quantity of the Soviet buildup should be noted. Historically, Russia built ships for defense of the home waters; today, the emphasis in the Russian program is upon attack vessels designed to project power to distant shores.

The Soviet fleet definitely has taken on great offensive capability.

I believe that the Russian naval forces are part of a major effort to use the sea for economic, political, and military purposes.

But all this is not to say that we are overpowered at sea or that we would be defeated at sea in a struggle against the Soviet Union.

Actually, we are ahead of the Soviets in aircraft carriers, amphibious forces, submarine detection, and many other important aspects of naval power.

But there is a very definite trend—the Soviets are rapidly reducing our lead in some of these areas.

Not only has the Russian bear learned to swim, but he is making a big splash—in the Mediterranean, in the Indian Ocean, and increasingly all around the globe. And he wants his paws planted on the reopened Suez Canal, another advantage—at our expense—to his seapower.

The Soviets have learned the real importance of seapower—power to assure the movement of vital goods, power to protect a nation's vital interests.

The sea offers concealment for undersea warships that have made the missile-carrying submarine a comparatively invulnerable deterrent against the possibility of nuclear war.

So, for economic, political and military reasons, the world's oceans are vital.

What does that mean in terms of national policy? To me, it means that the United States must have a Navy second to none.

It also means that we need a strong merchant marine. For several years after World War II, the United States was the unquestioned leader among the world's maritime powers.

However, our merchant marine declined for many years and we have paid a heavy price for that neglect.

Not only has the United States lost its merchant fleet supremacy, but it has been forced to pay large sums to other countries to haul goods to and from our own shores. And this at the expense of our balance of payments with other nations. Obviously, the amounts we paid for our commerce on ships of other countries made the balance-of-payments situation worse.

Today, after many years of drifting, our Government policy toward the U.S. merchant marine is back on course. Congress has enacted a program with the specific goal of revitalizing the American merchant fleet.

It is important that we continue the effort to provide the United States with a strong merchant marine. A fleet of modern merchant vessels is the proper companion to a strong Navy and in this era the United States must have both.

There is another aspect of our seapower which needs to be taken into consideration—namely, the security of vital links such as the Panama Canal.

In my opinion, the United States cannot afford to yield its sovereignty over the Panama Canal Zone.

I take strong exception to the statement signed last month in Panama by Secretary of State Kissinger. Secretary Kissinger committed the United States to prompt completion of negotiations leading to the transfer of sovereignty over the Canal Zone from the United States to Panama.

Neither the President nor the Secretary of State has the right under our Constitution to commit the United States to a new treaty eliminating U.S. sovereignty in the Canal Zone.

That sovereignty was acquired by treaty 70 years ago and it can be abrogated and a new treaty ratified only by a two-thirds vote of the Senate of the United States.

President Johnson tried to bargain away U.S. sovereignty in 1967, and I helped lead the fight in the Senate in opposition. President Johnson, facing defeat on this issue, decided not to press it.

I shall make every effort in the Senate to defeat Secretary Kissinger's "commitment" to give away the United States interest in the Panama Canal.

I am willing to support reasonable changes in the present treaty with Panama but so far as my vote is concerned, our sovereignty over the Canal Zone is not negotiable.

Turning back to the global scene, I have said that the United States must bargain more firmly with the Communist powers, particularly Russia; that we must insist on equality in strategic forces; that we must reexamine the structure of our worldwide alliances; that we cannot afford to police the world; and that seapower is a vital element to national security.

Nor can one minimize the importance of airpower to national security. Manned bombers are an essential element of the triad concept—namely, bombers, ICBM's, and SLBM's.

The role that we assume among the nations of the world determines the size of our defense budget.

Let us now proceed to this budget.

In considering the proposals for national defense expenditures, let us bear in mind that the debate we will conduct here in the United States will have no parallel in the Soviet Union.

The leaders in Moscow are not subject to the kinds of constraints which are present in a democracy.

I feel that the Russian people are just as peace loving as the people of the United States. But the Russian people have no way to present their views, because the Soviet Union is a rigid dictatorship. A small group makes the decisions, and opposition is not tolerated.

Fortunately, such is not the case in our Nation.

At the outset of the debate on the defense budget, let us keep in mind that defense costs are not the reason for the enormous expansion of the Federal budget which has taken place in recent years.

On the contrary, defense outlays from 1968 through the current year have been relatively stable at $78 to $80 billion, while nondefense outlays have soared from $98 to $194 billion.

For the coming fiscal year, the President has proposed an increase in defense spending to $86 billion or about 8 percent.

My attitude toward that proposal is this: there can be no reductions which would impair national security, but wasteful or unnecessary spending must be eliminated.

To put it another way—we must cut the fat, but we dare not cut the muscle.

In more concrete terms, this means that we must have a strategic force sufficient to deter nuclear war and a conventional force adequate to discourage expansionism on the part of the Communist powers.

We need both—nuclear and conventional—because without the latter a future President will lack a conventional option to a nuclear response. We must have an alternative to nuclear war.

In my judgment, there can be no compromise with these objectives.

Within these guidelines, however, we must look carefully at each proposal for spending.

For example, nearly two-thirds of every defense dollar today goes for personnel or personnel-related costs. These costs have escalated dramatically as a result of the implementation of the all-volunteer Armed Forces concept. Today, the average cost of maintaining one man in uniform is $12,500 per year.

From the beginning I have questioned the wisdom of an all-volunteer force. I see nothing wrong with what now seems to be thought of as an old-fashioned ideal—namely, broad citizen participation in the defense of the Nation as opposed to an all-professional force.

I think we must take a hard look at the way this all-volunteer system is working.

I am not opposed to past pay increases for the military. All of our Armed Forces personnel should be appropriately paid, well housed, and well fed.

However, as we pay more for personnel the quality should increase. Yet the experience to date with the all-volunteer force has been just the opposite.

In 1964, a pre-Vietnam low draft year, 67 percent of those in the Army had high school diplomas. But in December 1973, only 41 percent of new recruits had completed high school. To date in fiscal year 1974, the overall high school graduate figure is 54 percent.

There is a similar pattern in regard to recruits when measured as to mental ability.

So far in fiscal year 1974, 19 percent of Army recruits have been "category IV." These are persons of lower than average intelligence, who are difficult to train and have more than normal problems adjusting to military life.

In regard to racial composition, blacks represent about 12 percent of the population in the country and yet thus far in fiscal year 1974, 27 percent of Army recruits have been black. In the Marines, blacks now constitute 18 percent of the Corps.

Let us now consider personnel cost versus expenditures for research and development and weapons systems acquisition.

In fiscal year 1954 defense outlays were $43.6 billion, and in fiscal year 1974 defense outlays are estimated at $79 billion.

This is an increase of $35.4 billion in 20 years. But the bulk of this increase has not been for the procurement of weapons systems. Of the $35.4 billion increase, 93 percent went for pay and operating costs, and only 7 percent for the combined total of procurement, research and development, and military construction.

If we compare fiscal year 1964 to fiscal year 1974, the picture is even more startling. Defense outlays have increased $28.2 billion since fiscal year 1964. Of this increase 96 percent has been for pay and operating costs while only 4 percent has been for procurement, research and development, and military construction.

Retired pay is a significant part of the manpower budget.

In fiscal year 1974 there will be over 1 million persons on the retired rolls, at a cost of $5 billion. For fiscal year 2000 there will be 2 million retirees with an annual cost of more than $30 billion.

Additionally, the unfunded liability of the military retirement system is currently $137 billion.

It causes me great concern that we spend such a small percentage of the defense budget for procurement and research and development.

With two-thirds of the defense dollar going for personnel costs, if sufficient money is to be obtained for weaponry and for research and development, the armed services are likely to be faced with the need to reduce the total numbers of personnel—which today total 2.1 million in uniform and 1 million civilians.

With such a high percentage of the defense budget going to personnel costs, the services must learn to make the most efficient use of their valuable manpower resources. Military manpower is a costly resource. It must be managed as such.

In addition, there is a definite relationship between a strong defense and a sound economy. Heavy Government deficits are forcing down the value of the dollar and forcing up the cost of living.

That is why I believe that if we are going to maintain a strong defense with adequate modern weapons, we must reduce to some extent the total personnel.

I began by discussing "détente."

Let there be détente.

But let it be based on reality—on a recognition of Russian ambitions and might, and the need for American strength—and not on wishes and unilateral concessions.

Weakness never has been a basis for peace.

We must never lose sight of the fact that dollars spent for American defense are an investment in world peace and stability, and that world peace and stability, in turn, are important to our own freedom and prosperity.

Mr. President, at this point I ask unanimous consent to insert in the RECORD certain statements made by various leaders of the Soviet Union.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

[Marshal of the Soviet Union A.A. Grechko, May 1973]

IMPROVEMENT OF FORCES

The Communist Party and Soviet Government attach great importance to improving these forces [i.e., the Strategic Missile Forces], and day-to-day attention is also given to other branches of the Armed Forces and combat arms. They are being outfitted with all means of armed warfare needed to defeat any aggressor.

[Pravda Editorial, July 1972]

POWER

The more powerful our Motherland becomes, the more opportunities it acquires for influencing the course of world events in a direction favorable to the peoples. Recent events confirm once again that the Soviet Union and the other countries of the socialist community are a force increasingly determining the course of world development.

[Resolution of CPSU Central Committee, April 1973]

STRENGTH

The active, enterprising international policy of the CPSU, a policy which relies on the great strength and prestige of the Soviet state, and the support of the entire people, is conducive to positive changes in the world situation.

[24th CPSU Congress, March 1973]

EDUCATE PEOPLE FOR DEFENSE STRENTH

The comprehensive raising of the defense might of our Motherland and the education of Soviet people in a spirit of great vigilance and constant readiness to defend the great achievements of socialism must continue to remain one of the most important tasks of the party and the people.

Mr. HARRY F. BYRD, JR. Mr. President, how much time do I have remaining?

The **PRESIDING OFFICER** (Mr. INOUYE). The Senator has 1 minute remaining.

Mr. **HARRY F. BYRD, JR.** I yield that 1 minute to the Senator from New York.

The **PRESIDING OFFICER.** Under the previous order, the Senator from New York (Mr. BUCKLEY) is recognized for not more than 15 minutes. With the 1 minute yielded by the Senator from Virginia, it is a total of 16 minutes.

Mr. **BUCKLEY.** Mr. President, I thank the Senator from Virginia not only for that 1 minute but more particularly for his excellent and comprehensive statement of our defense needs. I am particularly grateful for his having pointed out the danger in the euphoria of détente which has unfortunately blinded so many to the Soviet Union's capabilities and intentions.

ANTIJAMMING AMENDMENTS TO THE TRADE REFORM ACT OF 1974

AMENDMENTS NOS. 1021 AND 1022

Mr. **BUCKLEY.** Mr. President, we have seen a gradual transformation in the administration's perception of détente from a policy for opening the way to hard-headed negotiations with the East into one in which maintaining the "spirit of détente" has become an end in itself. Thus, while détente began as an instrument of policy designed to cope with world realities and thus achieve a safer world, the Nixon-Kissinger policy now seems so concerned with preserving the appearances of détente that we run the danger of losing sight of reality. Thus we are pursuing goals that may make the world considerably less safe than we now find it.

By way of contrast, the Soviet Union views détente as a means of achieving specific ends, and not as an end in itself. As Secretary of Defense Schlesinger recently observed:

> Soviet actions during the October 1973 Middle East war show that détente is not the only, and in certain circumstances, not the primary policy interest of the U.S.S.R.

In the economic sphere, détente is viewed as a means of curing serious shortcomings in the Soviet economy by encouraging massive transfers of Western capital and technology. This latter aspect is detailed in a recent article by Natalie Wales Hamilton entitled "Why Must We Bail out the Soviet Economy?" which appears in the current issue of Human Events, March 16, 1974. I ask unanimous consent that this article be printed at the conclusion of my remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 1.)

Mr. **BUCKLEY.** Mr. President, I belive it is fully appropriate for the Congress to demand a more realistic view of détente than that currently held by the administration. To this end, I am today introducing amendents to the Trade Reform Act (H.R. 6767) and to the bill to extend the life of the Export-Import Bank (S. 1890) which will deny most-favored-nation status and extension of commercial credits to any country that jams international broadcasts that are supported by U.S. tax dollars.

These amendments are in full harmony with the objectives of policy of détente. They are based on the understanding that freedom of information is the sine qua non of international stability and peace; that only by assuring better communication among the peoples of East and West can we hope to build the foundation for a truly peaceful world.

I say this not on my own authority, but on that of the leading statesmen of the West who met in Helsinki last June to prepare the way for the current Conference of Security and Cooperation in Europe—CSCE. These men gave unanimous witness to the necessity for a freer movement of ideas and individuals and information among the nations of Europe—and by extension, the world. It would be futile, they said, to talk about establishing a structure for long-term cooperation and security among the nations of Europe without first assuring the ability of the peoples of Europe to talk to one another, to learn from one another, under conditions conducive to a genuine exchange of views and information.

Allow me for a moment to offer quotations from the distinguished participants in the Helsinki talks:

United Nations Secretary General Kurt Waldheim said:

> Detente is a word often used to describe better political relations between the great powers, but I wish to emphasize that although this is of crucial importance, real detente goes much deeper. . . . Above all, real detente means true understanding of the values and the interests of others. . .

Finland's President Kekkonen said:

> Security is not gained by erecting fences; security is gained by opening gates.

Italian Foreign Minister Medici said:

> It is because human beings, and not treaties, make war or peace that greater freedom of movement for mankind and improved cultural and information exchange are of such decisive importance.

France's Foreign Minister Jobert stated:

> We believe that peace is achieved by the exchange of ideas and goods, by free circulation movement of individuals, as well as by their free self-determination.

British Foreign Secretary Douglas Home said:

> If our Conference is to be about people, and about trust, then it is essential that we should do something to remove the barriers which inhibit the movement of people, the exchange of information and ideas.

West Germany's Foreign Minister Scheel said:

> Who does not observe everywhere in Europe today the urge for more contacts, more information, more meetings? People wish to partake at long last in their daily lives of the fruits of detente, to feel these fruits with their hands . . . We must make it clear that detente implies an improvement in human contacts. The inviolability of frontiers only assumes its full meaning if frontiers do not disrupt natural ties, and if it is possible to maintain and establish contacts across frontiers.

Commenting on the final recommendations adopted at Helsinki, William Rogers, then Secretary of State of the United States said:

> A fundamental aspect of our commitment is outlined in Section III. I refer, of course, to the lowering barriers to the freer flow of people, information and ideas among participating states. . .
>
> It will . . . be important to give specific content to our agreement to improve the circulation of and access to information transmitted by the various media and to improve the conditions under which journalists may exercise their profession in our countries. The right of people to know fully what is happening in the world is a basic human right and a basic requirement for understanding. . .
>
> Of paramount importance (are) . . . human contacts, the freer dissemination of information and the broadening of cultural and educational cooperation . . .

As the insistence of the Western representatives, the final recommendations adopted at Helsinki for the Conference on Security and Cooperation in Europe include the following provisions of title III—"Cooperation in Humanitarian and Other Fields":

Section 42 states:

> With the aim of contributing to the strengthening of peace and understanding among the peoples of the participating States . . . irrespective of their political economic and social systems, the Committee, shall be charged with examining all possibilities of cooperation conducive to creating better conditions for increased cultural and educational exchanges, for broader dissemination of information, for contacts between people, and for the solution of humanitarian problems.

Section 47, entitled "Information," states:

> The Committee/Sub-Committee shall prepare proposals to facilitate the freer and wider dissemination of information of all kinds in doing so it shall pay particular attention to:
>
> (a) improving the circulation of, and access to, oral, printed, filmed and broadcast information and extending the exchange of information;
>
> (b) encouraging co-operation in these fields of information on a basis of short or long term agreements;
>
> (c) improving conditions under which journalists from one participating State exercise their profession in another participating State.

Mr. President, I want to underscore the fact that the 35 nations participating in this conference, including a reluctant Soviet Union, agreed that security and cooperation depend significantly on "improving * * * access to * * * broadcast information * * * ." Thus, the principle of freedom of information in international broadcasting is one officially subscribed to by the nations participating in the conference as a prerequisite for true international security and cooperation among nations. In fact, the participants agreed to meet in Geneva "on the basis of the final recommendations of the Helsinki consultations." There can be no doubt that the free movement of ideas and information is not a peripheral matter, but one of central concern to the nations involved in the security talks.

It is clear from the foregoing that the amendments I am offering are completely consistent with the policy that has been adopted by the participants in the CSCE. Yet there are those who, while sympathetic with the objectives of my amendments, will nevertheless object that their adoption might hurt the cause of peace. They will suggest that it is inappropriate to introduce purely political considerations into legislation having to do with matters of trade; and that the attempt to do so will derail the "spirit of détente." I submit, Mr. President, that such objections reflect far too narrow a view of the nature and implications of the trade negotiations now in progress between the United States and the Soviet Union, as well as a lack of understanding of how the Kremlin regards the relationship we describe as "détente."

For those having an overweening concern for Soviet sensibilities, for those who feel the fabric of détente is too delicate to allow us to insist on a balancing of benefits, perhaps the following authoritative statements of the hard-headed attitudes of our Russian partners-in-détente will prove reassuring. In March of last year, for example, G. Arbatov, director of the Soviet Institute for American Studies, said:

> Relations with the capitalist nations will remain the relations of struggle, however successful normalization and detente may be . . . The essential question is what form that struggle will take.

Lest there be any misunderstanding, here is Pravda, the official voice of Soviet communism, in May of 1973:

> Only naive people can expect that recognition of the principles of coexistence by the capitalists can weaken the main contradiction of our times between capitalism and socialism, or that the ideological struggle will be weakened.

I suggest, in short, that the kind of tradeoff implicit in the amendments I am introducing today will not only advance the objectives of détente by bringing legitimate pressures to bear for a leavening of Soviety society, it will apply these pressures in a manner wholly consistent with the Soviet Union's own understanding of the political and economic arenas into which détente has taken us.

The tradeoffs provided for in my amendment recognize the fact that the costs and benefits of an expanded trade with the Soviet Union based on credits unilaterally extended by the United States cannot be measured in traditional commercial terms. Economists are in agreement that the United States has relatively little to gain economically from the dramatic expansion of commercial intercourse that is now being discussed between Washington and Moscow. On the other hand, they are equally in agreement that the Soviet economy would be immeasurably strengthened by it. The Soviets are in desperate need not just of our agricultural and consumer goods, but most especially, of our agricultural, industrial, and computer technology. The London Economist has described the contemplated expansion of Western and, in particular, American trade with the Soviet Union as a "rescue service" to deliver the Soviets and their allies from decades of economic mismanagement. The Soviet technology—with the exception of some specialized military areas and a few research-oriented specialties—is primitive by comparison with our own. This fact has not escaped the notice of leading Soviet scientists, three of whom have appraised the disparity between United States and Soviet technology in this manner:

> When we compare our economy with that of the United States, we see that ours is lagging behind, not only quantitatively . . . We are . . . behind in the production of oil, gas, and electric power, ten times behind in chemistry, and immeasurably behind in computer technology . . .

It is for this reason that the Soviets seem so much more interested in acquiring our technology than our goods. According to a recent article in the National Journal, the Soviets are negotiating to acquire our advanced technology in the fields of computers, agriculture, petroleum, conventional and atomic power generation, aviation, and a number of others.

As I have stated, it is generally agreed that while the purely economic benefits to be derived by the American economy from expanded trade with the Soviet Union are small, the advantages that are to accrue to the Soviet economy are of critical importance. Furthermore, it is also agreed that an economically strengthened Soviet Union will be better able to continue its massive investment in military forces while increasing the level of political and economic competition that the Kremlin equates with détenté.

Thus it is both reasonable and prudent for us to ask ourselves whether without special concessions from the Soviets, it is in the interest of world peace, to say nothing of our own self-interest, to subsidize the kind of expansion in commercial relationships between our two countries that is now being advocated. I believe the answer is self-evident. This Nation cannot prudently go about facilitating trade without insisting that a significant political price be paid as a condition for credits or any other special accommodations extended to the Soviet bloc. I can think of none that is easier to verify or more important to peace than an insistence that our broadcasts be allowed uninhibited access to listeners behind the Iron Curtain.

To those who state that the Kremlin has shown its goodwill by ceasing to jam Voice of America broadcasts, it must be pointed out that, first, this gesture has not been extended to the broadcasts of Radio Liberty, and second, there is no assurance that the jamming of the VOA will not be resumed at any time in the future, especially if VOA resumes a somewhat meatier diet than that now being served its Russian-language listeners. Moreover, at no time has the Soviet Union shown a willingness to sign any specific, detailed multilateral agreement concerning the jamming of international broadcasts; and there is no reason to expect them to do so now unless given a specific incentive to do so. It is precisely this incentive that can be provided by the adoption of my amendments.

It will be argued, I know, that my amendment is redundant as the Soviet Union and its Eastern satellites have already agreed to a final recommendation for the agenda for the CSCE that will require a freer exchange of peoples and ideas. We would be naive, however, in light of past experience and of the tightening of the forces of internal repression that has accompanied the so-called era of détente, to believe that the Soviets will in fact translate formal agreement to principle into its implementation in practice. The Soviet fear of truth runs too deep. The extraordinary measures and expense the Kremlin undertakes to protect its subjects from knowing about what is going on in the outside world—or in their own country, for that matter—are underscored in a study made by the Library of Congress.

This study of the origins, structure, policy, programing, and effectiveness of Radio Liberty—RL—was prepared at the request of Senator J. WILLIAM FULBRIGHT and published in March of 1972. I would like to quote from the study about the nature and extent of jamming by the Soviet Union:

> Within 10 minutes after RL went on the air in March 1953, the Soviet Government began jamming operations; it has continued ever since, jamming RL around the clock 24 hours a day . . .
>
> *Soviet jamming operations are extensive, and they are expensive. It has been estimated that it costs the Soviet Government over 6 times as much annually to operate the jamming network as the annual budget of RL itself.* (Emphasis added.)
>
> A further indication of Soviet willingness to pay a high price to prevent the citizens from hearing foreign broadcasts, despite pressing economic problems at home that could use this allocation of funds, was the estimate of USIA a few years ago on the cost of Soviet jamming. USIA compared jamming with the erection of the Berlin Wall as an admission of failure, and went on to say that, "the communists now employ something like 2,500 jammers against the Voice and other free world broadcasters. We estimate that it would cost us over $150,000,000 per year to operate a similar network. This is three or four times the amount spent by all free world radios broadcasting to the communist bloc . . . ." RL estimates that Soviets have 24 main jamming stations with between 10 and 15 transmitters per station.

I might add that the study submitted by the USIA estimates that the Soviet Union spends $150 million a year to keep their public from learning the truth from U.S. sources.

Although the Soviet Union is a signatory to the final recommendations of the Helsinki Resolutions asserting the principle of "improving—the access to—broadcast information" as a means of "contributing to the strengthening of peace," it would be naive to assume that the Soviets will willingly comply with its terms. There has been no more dramatic or obvious example of the Soviet Union's fear and repression of the basic human rights of freedom of speech and of information than its treatment of the Nobel Prize-winning author Alexander Solzhenitsyn.

The arrest and exile of Alexander Solzhenitsyn represents far more than just another example of the Soviet Union's contempt for the basic human freedoms for which the great Russian author and patriot has so long fought. It represents an act of calculated contempt for American and world opinion and for the values of free men everywhere. As such, it dramatizes the full context of the relationships within which trade plays a necessarily political as well as economic role.

Alexander Solzhenitsyn's life has been spared, and for this we should all be grateful; but it was spared not out of respect or compassion, but because of Mr. Brezhnev's desire not to make a martyr of a man who has become the embodiment of mankinds unquenchable thirst for freedom and justice. Instead, this great patriot has been condemned to a life in exile which he has long made clear would be for him a kind of living death.

The arrest and exile of Solzhenitsyn is a gesture of major symbolic importance. It is a naked assertion that the Kremlin does not intend to lift in the slightest degree the repression through which it continues to rule. The American people are therefore entitled to something more than the rhetoric of détente if they are to be asked, in effect, to subsidize trade through the extension of special credits and other privileges so that the Soviet Union may, on its own terms, acquire the benefits of American technology and consumer goods.

I do not quarrel with the desirability of establishing lines of communication with Moscow, or with the necessity to pursue every reasonable avenue of discussion that is designed to result in symmetrical and prudent reductions in our respective military forces and armaments. The necessity or desirability of such negotiations, however, cannot excuse or justify a policy in which all moral concepts and objectives are set aside in considering the totality of the relationships between the two superpowers.

Mr. President, this is something that this Congress has already recognized with respect to the trade reform bill. I speak of the Jackson amendment that would withhold most-favored-nation status and the extension of commercial credits to any nonmarket economy nation that denies its citizens the right of emigration. This restriction has been adopted by the House of Representatives, and the amendment in the Senate is sponsored by 70 Senators. But while the Jackson amendment serves the great humanitarian objective of using our leverage to induce the Soviet Union to let people seek their destinies elsewhere, of requiring the Soviets to honor their solemn undertaking as signatories to the United Nations Declaration of Human Rights as it respects the right of emigration; my amendment would have the complimentary effect of requiring, as a condition to the extension by the United States of certain privileges and benefits, that information and ideas be allowed entry into the Soviet Union in the form of uninterrupted radio broadcasts. More than that, the objective of my amendment; namely, the requirement that the Soviet bloc desist from jamming broadcasts sponsored or supported by the United States, is one that is not only supportive of the policy of détente, but essential to its ultimate success.

The rulers of the Soviet Union have shown an insatiable appetite for the goods and technology of the West. Let us demonstrate that if they want to import our goods, if they want to master our technology, if they want to utilize our economic credits, they must also "import," as it were, our most precious commodity—the one that those imprisoned behind the Iron Curtain value above all others—freedom of information. We cannot force the Soviet Union to stop jamming; but we can make it clear to them that this is the price they will have to pay if they want our trade.

Mr. President, I send my amendments to the desk and ask that they be appropriately referred, and that they be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. The amendments will be received and printed, and will be appropriately referred; and, without objection, the amendments will be printed in the RECORD in accordance with the Senator's request.

Mr. BUCKLEY's amendments are as follows:

AMENDMENT No. 1021

On page 81, after line 12, insert the following new section:

SEC. 507. INTERFERENCE WITH BROADCASTS BY UNITED STATES.—(a) Notwithstanding any other provision of this Act or any other law, after the date of the enactment of this Act, no nonmarket economy country shall be eligible to receive most-favored-nation treatment or to participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, during the period beginning with the date on which the President of the United States determines that such country is interfering with the reception by citizens or residents of such country of radio or television broadcasts from stations operated, or funded in whole or in part, by the Government of the United States or any agency thereof, and ending on the date on which the President determines that such country is no longer interfering with the reception of such broadcasts by citizens or residents of such country.

(b) After the date of the enactment of this Act, a nonmarket economy country may participate in a program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and shall be eligible to receive most-favored-nation treatment, only after the President of the United States has submitted to the Congress a report indicating that such country is not interfering with the reception by citizens or residents of such country of radio or television broadcasts described in subsection (a). The report required by this subsection shall be submitted initially as provided herein and semi-annually thereafter so long as any agreement entered into pursuant to the exercise of such authority is in effect.

AMENDMENT No. 1022

At the end of the bill, insert the following new section:

SEC. 3. INTERFERENCE WITH BROADCASTS BY UNITED STATES.—(a) Notwithstanding any other provision of this Act or any other law, after the date of the enactment of this Act, no nonmarket economy country shall be eligible to receive most-favored-nation treatment or to participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, during the period beginning with the date on which the President of the United States determines that such country is interfering with the reception by citizens or residents of such country of radio or television broadcasts from stations operated, or funded in whole or in part, by the Government of the United States or any agency thereof, and ending on the date on which the President determines that such country is no longer interfering with the reception of such broadcasts by citizens or residents of such country.

(b) After the date of the enactment of this Act, a nonmarket economy country may participate in a program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and shall be eligible to receive most-favored-nation treatment, only after the President of the United States has submitted to the Congress a report indicating that such country is not interfering with the reception by citizens or residents of such country of radio or television broadcasts described in subsection (a). The report required by this subsection shall be submitted initially as provided herein and semiannually thereafter so long as any agreement entered into pursuant to the exercise of such authority is in effect.

EXHIBIT 1

[From Human Events, Mar. 16, 1974]

WHY MUST WE BAIL OUT THE SOVIET ECONOMY?

(By Natalie Wales Hamilton)

An article in the New York Times of October 30 by Harry Schwartz, of the editorial staff, raised doubts about the wisdom of "today's lemming-like anxiety of some American businessmen to make massive transfers of United States technology and capital to the Soviet Union." By way of example he cited the recent Control Data Corporation deal with the Soviets for joint development of computer technology.

"If its implementation is to mean anything at all," he said, "this agreement will transfer to the Soviet Union a knowledge of computer techniques that it does not now possess." Then he posed the crucial question, applicable to expanded trade with Communists generally: "Will this be in the country's interest?"

At about the same time, the Committee to Unite America, a non-partisan voluntary organization, had decided to protest against the computer deal—not because it is worse than other gigantic American-Soviet partnerships, but to exemplify the whole suicidal drive.

In a letter to the corporation, we asserted that its agreement "defies the common sense of American security and political self-interest," and warned against all "profit-oriented deals that bolster the economic and military vitality of our self-declared enemies in the Soviet Union." Incidentally, we quoted the Schwartz article.

RED TECHNOLOGY LAG

One of the presumptive "lemmings" responded. William C. Norris, chairman of Control Data, in a letter to our committee, brushed off Dr. Schwartz as "grossly misinformed." His letter to the New York Times, published on November 30, was more restrained, holding Dr. Schwartz guilty of "superficial assumptions." Since Dr. Schwartz has been an earnest student of the Soviet economy for some 25 years, disdainful dismissal of his views on a matter as serious as giving the Soviets access to sophisticated American technical achievements and expertise was on the face of it unjustified and insolent.

Mr. Norris defended Soviet-American technology exchanges not only in the computer field but in all fields. The United States, he contended, "has more to gain than lose in a broad program of technical cooperation with the USSR." In particular, he assailed the belief that the transfer of our advanced technology would help the Soviet military machine.

These were extraordinary statements: to grasp how extraordinary, they must be seen in the context of two commonly known facts, not disputed even by Soviet spokesmen, namely (*1*) the Soviet technology lags very far behind the West and especially the United States, and (*2*) that in order to narrow and ultimately close this gap, the Kremlin is frankly eager to import our technology and production know-how.

An analysis by U.S. News & World Report (April 21) estimated that Soviet production "remains 20 years behind the levels in the West." Soviet Russia, it said, having been "unable to develop the technology and know-how to exploit its vast natural resources," is "turning to the West for capital, technology, computers and production machinery."

New York Times correspondent Theodore Shabad in a Moscow dispatch (June 17) similarly noted "the basic decision about 1970 to turn increasingly westward, especially to the United States, to make up the lag and convert the Soviet economy into a more modern and efficient mechanism."

For the Soviets, this is obviously the most important element in the detente equation. A Wall Street Journal article (April 10) was headlined: "Soviets Look to Detente With the West As Possible Cure for Their Economic Ills." To cure these ills, the article said, "Moscow has decided it needs infusion of Western capital and technology." A later dispatch in the same newspaper from Brussels in November reported considerable belief there "that the detente is merely a temporary tactic to build strength by tapping Western technology."

Soviet spokesmen say little about exchanges of technology—the disparity is so great that such proposals seem unreasonable. What they emphasize, as Brezhnev did while visiting here, is a marriage of Western technology and Russian natural resources: in effect the purchase of capitalist expertise with Communist promises of profits.

As Patrick M. Boardman of the Center for International Business in Los Angeles summed it up: "Since the Russians need our money to buy our technology, all we'd be getting from them is non-negotiable Soviet IOU's." Mr. Norris assured us that "The United States is offering only standard commercial technology in the exchange with the USSR." But that is precisely what the Soviet economy, civilian and military, desperately needs at this stage.

The East-West trade debate is almost as old as the Soviet regime itself. The central issue has been and remains whether we have more to gain or to lose by adding economic muscle to a dictatorship unswervingly committed to imposing its ideology and system on the non-Communist world. This issue, rightly raised by Dr. Schwartz, was evaded by Mr. Norris.

He could make the claim that "technical cooperation" has no military relevance only by drawing an unrealistic line between civilian and military needs. He ignored the obvious: that the enhancement of any nation's economy also enhances its military potential—and that this is especially true for Soviet Russia, which concentrates its economy primarily on expansion of military power.

Any advanced technology and manufacturing experience we supply certainly will be exploited by the Kremlin's military-industrial complex. Another agreement for technical exchanges wtih the USSR in the electronics area, by General Dynamics, covers such fields as ship-building, telecommunications equipment, and computer-operated microfilm equipment, all clearly defense-related. Technical collaboration in the steel industry, now being negotiated by the Armco Steel Corporation, would obviously invigorate Soviet armaments.

RESTRICT COMPUTERS

Even David Rockefeller of the Chase Manhattan Bank, an ardent promoter of trade with the Communists, stated in an interview last summer that "strategic goods" should continue to be restricted. Certainly computers are in this category. The computer has become the heart of modern military instrumentation. We doubt that Mr. Norris could point to any advanced computer that could not also be used for military purposes.

The Times news story announcing the Control Data accord with Moscow, under Mr. Shabad's byline on October 24, said plainly: "The Soviet Union has lagged far behind the United States and other industrial countries in the use of computer technology." Surely that refers to military no less than civilian uses; the two are inseparable.

Mr. Shabad also noted that the agreement came "at a time when the Soviet Union has ambitious plans for a national computer and data-processing network that would inject new vigor and efficiency into a sluggish economy." The network is intended to improve both civilian and military planning, but it would also improve police and espionage operations for tracking down political and religious dissenters and to tighten surveillance and control of the people in general.

Alexander Solzhenitsyn's Gulag Archipelago, documenting the Soviet terror system, has deservedly aroused worldwide attention. At one point it declares that in recent years the police control apparatus has been fortified with "the refinement of electronic monitoring devices."

Should not Americans who make deals for technical cooperation with the Soviets pause to consider the desirability of injecting "new vigor and efficiency" into the Kremlin's "sluggish economy"? When the deals involve electronics, should they not face up to the moral dilemma of providing the Soviet terror machine with better "electronic monitoring devices" for the persecution of the citizenry?

The magnitude of what Control Data, General Dynamics and other such companies are making available to the USSR must be judged in relation to the backwardness of Soviet computer science.

A top Soviet cybernetics specialist, writing in Moscow's *Izvestia* on July 11, 1966, complained about "the low reliability of computers and ancillary devices, and the substandard quality of magnetic tape." More than seven years have passed since then, but "lead time" in computer development is exceptionally long, and the West has made at least as much progress in these years as the Russians. Besides, there is plenty of current testimony.

In early July 1973, Prof. Allen Reiter, head of the computer department at the Israel Institute of Technology, stated: "The Russians know nothing about modern computer technology. The whole basis of third-generation computers, in use in the West for 10 years, is unfamiliar to them." Reiter was quoted in an article in HUMAN EVENTS by Prof. Anthony C. Sutton of the Hoover Institution, an outstanding authority on the Soviet economy whose latest book is *"National Suicide: Military Aid to the Soviet Union"*, published by Arlington House.

Mr. Norris insists, nevertheless, that we "have more to gain than to lose" by pooling American and Soviet technologies. That astounding faith he rests on the fact, probably correct, that "the USSR has many more scientists and engineers than the U.S." and on "the exceptionally high quality of Russian research capabilities." The excellence of Russian mathematicians, he argues, is "of particular value to logical design and software in the computer field."

His response to the Committee to Unite America goes further: "It should follow that the Russians would be doing significant work in design of computers" and are "likely" to come through with a concept "more advanced than any which we know in the U.S." He thus justifies exchanging what we already possess for that which they may—not *will* but *may*—some day produce. Only the euphoria of detente illusions can account for such reasoning.

Communist Russia has had this great body of engineering and research talent, in quantity and quality, for decades. It should "logically follow" that it would have matched if not surpassed the West in technoogy, that its mathematicians would already have originated superior computer and related concepts. But in fact Soviet technology remains dismally backward. Why suppose that it will produce tomorrow the marvels it could not produce yesterday?

Mr. Norris fails to explain this mystery of Soviet technical retardation despite larger numbers of engineers and exceptionally brilliancy in research. The explanation no doubt lies in the stifling and self-defeating character of the Communist economic system and political despotism. Businessmen and bankers eager to exchange American for Soviet technical knowledge evidently discount the importance of intellectual and personal freedom in achieving technological progress.

Referring to the Soviet concentration on military industry, Mr. Schwartz wrote: "What Moscow seems to be asking now is that the United States play a major role in repairing the backwardness caused by this concentration, particularly, but not exclusively in the computer field." We submit that it is politically, militarily and humanly irrational for America to take on that role.

From Lenin's time to Brezhnev's, the Soviet economy has been essentially parasitic, drawing on the accomplishments of advanced capitalist nations. Some 10,000 foreign engineers and other specialists, mostly Americans, representing dozens of Western firms, enabled Stalin to carry out his first five-year plan. Had the West and especially the United States resisted the bait of profit and refused to launch Soviet industralization, the plan could not have gotten off the ground.

FRANKENSTEIN ROLE

A series of articles in the New York *Times* in December, by Henry R. Lieberman, detailed Moscow's present campaign "to make centralized planning work"—"to stimulate lagging technological growth and keep up with the West." With regard to "widespread computerization," one of the principal Soviet needs, the executive vice president of the Data Control Corporation, Richard D. Schmidt, told Mr. Lieberman that "they want us to show them how to put it together." And that is what the corporation has contracted to do.

Why must we again assume the role of Frankenstein creating a destructive monster?

Mr. Norris, David Rockefeller and the horde of other U.S. businessmen and financiers so eager to enter into long-term partnerships with the Kremlin involving tens of billions of dollars in credits—underwritten by American taxpayers through the Export-Import Bank and other government guarantees—should ask themselves that key question.

The unholy rush to hand over the fruits of our free economy to the sworn foes of freedom is shocking. No less shocking is the fact that so few of our business leaders have spoken out against this disastrous course.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, the Senator from New York has made a magnificent analysis of the question of détente with the Soviet Union. I thought his entire presentation was splendid, but I was particularly impressed with one of his sentences, which was that the United States is entitled to more than rhetoric, more than the rhetoric of détente, if the Soviet Union is going to be granted credits and subsidized interest by the American taxpayers.

I think our negotiators and the executive department of our Government have a keen obligation to see that from these agreements, whatever agreements might be made with the Soviet Union, the benefits we receive not be confined to rhetoric, but that we get something of substance. That was the point made so ably by the Senator from New York.

The **PRESIDING OFFICER**. The Senator's time has expired.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 10 minutes, with statements therein limited to 5 minutes each.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

SALT II

Mr. **HARRY F. BYRD, JR.** Mr. President, along the same line as the remarks of the Senator from New York, I have in my hand an article entitled "SALT II: Agreement Unlikely," written by the columnist Joseph Alsop, and published in the Washington Post of Friday, March 8, 1974.

This article is an excellent analysis of how the United States came out second best in the SALT I agreements. To quote one sentence:

> When you have given an inch, and have had a mile taken, it is always vastly harder to get back on a sound basis.

That is what happened to the United States in SALT I. The United States distinctly came out second best. Now, in SALT II, as Alsop points out, it is going to be a lot more difficult to get a fair and appropriate agreement. He says that an agreement at SALT II is unlikely.

Mr. President, I agree with his entire column with the exception of its conclusion. I think there will be an agreement at SALT II. I think that the administration is so anxious to get an agreement that the necessary concessions will be made. That is what I am very fearful of, and very much concerned about.

I ask unanimous consent that the article by Joseph Alsop to which I have referred be printed in the RECORD at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

Mr. **HARRY F. BYRD, JR.** I again commend the able Senator from New York for his excellent address to the Senate this morning.

EXHIBIT 1

SALT II: AGREEMENT UNLIKELY

(By Joseph Alsop)

"Essential equivalence" is now the official description of the American objective in the new round of talks on strategic arms limitations. Secretary of State Henry A. Kissinger and Secretary of Defense James Schlesinger have sworn solemn oaths to one another to aim for "essential equivalence" and to take nothing less.

The SALT negotiators have been so instructed. Thus the considerable period has ended when the U.S. government had no agreed position concerning the next round of SALT. But it has to be admitted that, short of a miracle, anything like a real agreement based on "essential equivalence" will be all but impossible to obtain from the Soviets.

There are two cardinal points that weigh against a future SALT agreement that would represent a genuine Soviet-American balance in strategic weapons. To begin with, the U.S. SALT negotiators are now heavily handicapped by the fact that the first SALT agreement, so loudly applauded in the United States, did not remotely begin to represent "essential equivalence."

This was partly the result of gross American official underestimation of Soviet progress in weaponry. It was concluded, for example, that the Soviets could not possibly produce a submarine-launched ballistic missile with anything like the range of the American Trident. Yet the first SALT agreement was hardly signed when just such a missile was tested by the Soviets.

More generally, and in all sorts of additional ways, intangible U.S. technological advantages were falsely counted upon to compensate for the enormous tangible advantages allowed to the Soviets in the vital area of missile power and missile numbers. To the foregoing arguments from false assumptions, however, another quite realistic argument was added by Dr. Kissinger.

Given the character of the former U.S. defense program and the former Defense Department leadership, there was little likelihood of a sudden surge of U.S. effort when the first SALT agreement was signed. We had no plans then and we had no means then to do what we promised not to do in SALT I. So it was persuasively and realistically argued that the agreement gave nothing away that had not been given away already.

Unhappily, that does not alter the present handicap resulting from SALT I. Whenever one unequal agreement has been signed with the Soviets, they have always automatically assumed that gross inequality, favoring them, has thus become a matter of right. This rule was sadly underlined by the extreme inequality of the first Soviet proposals for the second round of SALT.

When you have given an inch, and have had a mile taken, it is always vastly harder to get back on a sound basis. In the present instance, the problem is made much, much worse by the second cardinal point mentioned above. In brief, as anyone can see from the new Soviet missile programs, the Soviet military lost nothing whatever by the first SALT agreement.

It can be strongly argued in fact that the Soviet defense minister, Marshall Andrei Grechko, and his colleagues actually made great gains from SALT I. They went on getting every ruble they could possibly have demanded to forge ahead with every kind of lavish defense improvement. Meanwhile the Western nations got a large dose of tranqualizers—which Marshall Grechko can hardly have minded.

At this juncture, however, one thing is already abundantly clear. The Soviet military are surely going to suffer where they mind suffering most—in the future scale of their defense investments—if the U.S. SALT negotiators seriously insist upon "essential equivalence." You now have a position, in fact, where nothing like "essential equivalence" can possibly be attained except at the expense of the Soviet military and their projects.

This will require a further development that is extremely improbable. General Secretary Leonid Brezhnev will have to get exceptionally tough with Marshall Grechko, who is more like his "closest comrade in arms" than his chief sparring partner in the Kremlin. You can see, then, why miracles are now required for another SALT agreement.

Mr. **BUCKLEY**. Mr. President, I appreciate the kind remarks of the Senator from Virginia. I believe he has made an enormous contribution to our critical understanding of the negotiations now going on in connection with SALT II.

With reference to the Senator's remarks in connection with the euphoria of détente, as to what may be the outcome, and that if we do not show the willingness to make up for lost time the Soviets will have no incentive to talk, I share his fear that SALT II will become the captive of our foreign policy and of our determination and desire to come up with some kind of agreement; and I hope he also shares my concern over the implication of much of what is involved in the current negotiations over expanded trade.

To this Senator, it seems clear that if we in fact cooperate with the Soviets in the transferral of massive technological know-how, especially in such sophisticated fields as computer technology, we will be handing over to them at our expense the ability to perfect their weapons, so that they can translate their quantitative advantage in nuclear armament into a qualitative advantage as well, as they catch up with our technology. I hope the Members of this body will view with skepticism and care any proposal, either in terms of SALT II or in terms of commerce, that is not truly symmetrical, wherein we cannot at least measure what we give up against what we receive back, and make sure that the totals even out.

I would also ask Members of this body to keep in mind that as economically we have not much to gain from the Soviet Union, the best we can hope for—and this can be critically important—is to get those political advantages in terms of loosening up the Soviet system that alone offer some hope for long-range peace.

Mr. President, I yield back the remainder of my time.

ILLEGAL HELP TO CAMBODIANS

Mr. **CRANSTON**. Mr. President, I and a rapidly growing number of Senators are today sending a letter to JOHN STENNIS, the chairman of the Armed Services Committee of the U.S. Senate.

Mr. President, this morning's Washington Post reports that an American is serving as a military adviser in Cambodia—in the field—in direct violation of a law prohibiting U.S. military personnel from direct involvement in the Cambodian fighting.

I have written a letter to Senator JOHN STENNIS, chairman of the Senate Armed Services Committee, asking him to conduct an immediate investigation into what is apparently a gross violation of the law. Today I will ask other Senators to join me. We must serve clear notice that covert and illegal war cannot be tolerated by the Congress.

Mr. President, on June 29 of last year, the Congress voted to halt the bombing of Cambodia. That ban went into effect on August 15.

At that time, I believe that most Members of Congress thought that they were voting in favor of ending the U.S. role in Cambodian hostilities once and for all. But apparently we underrated either the administration's determination to have its way regardless of the law, or its ignorance of what is going on.

While the White House pays lip service to the law, Maj. Lawrence W. Ondecker has been telling Cambodian Government soldiers in the field how to fight. Naturally that kind of activity is heatedly denied at the U.S. Embassy at Phnom Penh.

How many others are there whom we do not know about?

I am asking Senators to think back for a moment, to the days before the Vietnam war reached the attention of the American public. In those days there were occasional reports of Green Beret activities, of Americans killed, of counterinsurgency planning. All were played down or denied by the White House.

What have we learned from Vietnam, anyway?

Mr. President, apparently it is not enough for Congress to pass a law. We must constantly monitor its implementation. We must police—and publicize—each violation.

The war in Southeast Asia has been a breeding place for lies, deceptions, and illegal activities by our Government for nearly 10 years.

We have already paid an exorbitantly high price—in lives and in money—for these practices.

We had hoped that they had been brought to an end. They must be brought to an end lest they drag us once again into the horror, the waste, and the futility of active combat in Southeast Asia.

This latest news report on possible illegalities in Cambodia puts the administration's pending request for funds in a new and even worse light. The light was bad enough to begin with.

The administration has already asked for an excessive amount of money for economic and military aid to Southeast Asia.

Counting the supplemental defense budget request now pending in the Congress, the administration is talking about spending $2.4 billion in military aid to the three countries of Indochina for the remainder of this fiscal year and in fiscal year 1975. This compares with $1.3 billion in actual outlays so far this year.

If economic aid is included, the estimated totals are $3.2 billion requested in fiscal year 1975 compared with $2.2 billion in this year's outlays.

I emphasize that these figures are only tentative, because there is a great deal of obscurity surrounding our aid to Indochina.

The money is fragmented and diffused among a number of different agencies.

Some of the details are classified.

And aid which is technically "economic" often winds up being used for military purposes. The operation of the Food for Peace program in South Vietname is a recent and notorious example.

Mr. President, as I have said before, we are pouring money down a rathole.

Not only do we have, in today's newspaper article, an example of an apparent violation of the law in Cambodia, we also have in Saigon a dictator whose contempt for the law is as great as his dependence on American money.

President Thieu has repeatedly violated both the spirit and the letter of the peace agreements which were negotiated so laboriously by Henry Kissinger and Le Duc Tho.

I believe that so long as Thieu feels confident of unrestricted American support, he will continue to defy those agreements.

The Congress should make it clear that we will no longer feed Thieu's hunger for power with our tax dollars. As signatories to the Paris peace agreements, we should insist that Thieu's Government live up to those agreements—or do without our support.

Mr. President, I ask unanimous consent that my letter to Senator STENNIS, requesting an immediate investigation into the apparent violation of the law that is taking place in Cambodia, be published in the CONGRESSIONAL RECORD. At the end of this session I will announce the names of those Senators who have added their signatures to this effort.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Hon. JOHN STENNIS,
Chairman, Senate Armed Services Committee, U.S. Senate.

DEAR JOHN: We respectfully request that the Armed Services Committee conduct an immediate investigation into the activities of United States military personnel, including Major Lawrence W. Ondecker of the Third Infantry Brigade, who allegedly are serving as military advisers in Cambodia, which would be in violation of the law.

Sincerely,

ALAN CRANSTON.

Mr. CRANSTON. I also ask unanimous consent to have printed in the RECORD an article published in today's Washington Post entitled "Illegal Help to Cambodia—American Advises In Combat," written by Elizabeth Becker.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ILLEGAL HELP TO CAMBODIANS—AMERICAN ADVISERS IN COMBAT

(By Elizabeth Becker)

KAMPOT, CAMBODIA.—During the dark hours of dawn the Cambodian insurgents were lobbing mortars around the government's command post at Kampot. Inside, U.S. Maj. Lawrence W. Ondecker was showing the Cambodian officers how to mount a counterattack.

"I want you to respond very quickly," he said. "If even one mortar falls in your zone, you must answer back with fire immediately."

While the American major was poring over maps with the Cambodian staff officers, the Cambodian general officially in command of the post was writing in his diary, alone in the adjoining bunker.

The U.S. embassy in Phnom Penh has repeatedly denied reports that Americans are serving as military advisers in the field. Congress has passed a law that prohibits the U.S. mission here from direct involvement in the conduct of the war.

But the situation in this coastal town about 80 miles south of Phnom Penh is critical, and Maj. Ondecker was flown down Sunday. "He was loaned to us from the 3d Infantry Brigade," Lt. Col. Choey Yeun said. "He is attached to the 3d and normally works in the field with them, but he is needed here. I am surprised that you did not know him."

In the past month rebel troops have moved within one to four miles of Kampot, capturing the city's main water supply and the country's only cement factory. They regularly shell the town with 75-mm, recoilless rifles and 81-mm. mortars.

Although government intelligence officers warned of an impending offensive as early as January, the Kampot garrison made no defense preparations. Over the past week the Cambodian high command sent reinforcements—and they sent Maj. Ondecker.

"Protect this area immediately," Maj. Ondecker said while the 31 rounds were falling in and around the city Monday morning. "Good, perfect," he said as a Cambodian officer pointed on the map after accepting the American's proposal.

The day before rebel gunners shot down one of the two helicopter gunships stationed here, and the second one was recalled to Phnom Penh. Maj. Ondecker arranged with the U.S. embassy on the morning of the attack that additional gunships would be sent to Kampot to support the infantry.

A member of the U.S. military attache's staff in Phnom Penh, Ondecker, is in Kampot officially to gather information. Chuck Bernard, known as Monsieur Jacques, is the other U.S. representative in town. He has approximately the same official duties as Ondecker except that his area is civilian matters.

"Monsieur Jacques works with me," said Ker Sophay, director of political warfare. "He writes propaganda tracts with me. We have published and distributed 6,000 pamphlets in the three weeks he has been here."

While junior Cambodian officers say Americans advise in the field around Phnom Penh, it has never been confirmed. In Kampot, however, it is difficult to hide. Ondecker was in and out of the command post, openly recommending military maneuvers. Sometimes he prefaced his proposals with "I suggest and the general also suggests that you immediately fire in this direction."

The Cambodians were obviously pleased with the American's help. "Maj. Ondecker was very good with the 3d Brigade; he *will* be good with us," said Col. Choey Yeun.

Changes were made quickly after Ondecker's arrival. Another infantry brigade was called in to bolster the 2,000-man government garrison, and the top command was replaced within 24 hours. The city's defense perimeter was stabilized for the first time throughout the siege.

Villagers are still leaving the town—the population has dropped from 50,000 to less than 20,000 in a month. Though all private shops are closed, and mortars still land within the city, the city's small open-air market reopened Sunday with some fruit and fish offered for sale.

CAMBODIAN ROUTE PARTIALLY CLEARED

Cambodian government forces yesterday cleared insurgent troops from a five-mile stretch of Highway 4, opening the road from Phnom Penh to the provincial capital of Kompong Speu 30 miles to the west, the Cambodian command said.

The highway, Phnom Penh's only land route to the sea, remains cut by rebel troops between Kompong Speu and the port of Kompong Som.

Meanwhile political sources in Phnom Penh reported that four prominent Cambodians, all of them former or present government officials, had defected to the government-in-exile of Prince Norodom Sihanouk, the deposed head of state.

The most prominent figure among them was Ing Kiet, the minister of public works in Sihanouk's government before the latter was ousted in March 1970.

The others were Khek Sisoda, onetime senior official in the Ministry of Commerce; Sieu Sophon, a magistrate in Takeo Province, and Siv Hak, an official in Tela Khmer, the government-owned petroleum complex.

All four had been in Paris on either private or official business when they defected and began working for Sihanouk's government there, the sources said.

In Vientiane, the Laotian Foreign Ministry announced that North Vietnam's Ambassador Le Van Hien would return to his post today after an absence of nine years. Hien's return is seen by observers as an indication that a final agreement is imminent on a coalition government for Laos. Hien was last in Laos in 1965, departing in apparent protest over the collapse of an earlier attempt to form a coalition.

Mr. CRANSTON. Mr. President, I thank you for this opportunity to speak.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. Robert C. Byrd) today signed the enrolled bill (H.R. 6119) for the relief of Arturo Robles, which had previously been signed by the Speaker of the House of Representatives.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Robert C. Byrd) laid before the Senate the following letters, which were referred as indicated:

Request for Supplemental Appropriation For National Railroad Passenger Corporation

A letter from the president, National Railroad Passenger Corporation (Amtrak), requesting a supplemental appropriation for fiscal year 1974 (with an accompanying paper). Referred to the Committee on Appropriations.

Report on Facilities Projects Proposed To Be Undertaken for the Army Reserve

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on facilities projects proposed to be undertaken for the Army Reserve (with an accompanying paper). Referred to the Committee on Armed Services.

Report of Defense Department

A letter from the Principal Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a report of that Department, fiscal year 1975 (with an accompanying report). Referred to the Committee on Armed Services.

Proposed Legislation From Department of the Navy

A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to repeal sections which impose certain restrictions on enlisted members of the Armed Forces and on members of military bands (with an accompanying paper). Referred to the Committee on Armed Services.

Report of Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Progress and Problems in Providing Health Services to Indians," Health Services Administration, Department of Health, Education, and Welfare, dated March 11, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

Proposed Legislation From Cabinet Committee on Opportunities for Spanish-Speaking People

A letter from the chairman, Cabinet Committee on Opportunities for Spanish-Speaking People, transmitting a draft of proposed legislation to extend the expiration date and the authorization of appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People (with an accompanying paper). Referred to the Committee on Government Operations.

Project Proposals Under Small Reclamation Projects Act of 1956

A letter from the Acting Deputy Assistant Secretary of the Interior, reporting, pursuant to law, on the receipt an application for a loan, in the amount of $9,946,400, and a grant of $53,600 from the Central Nebraska Public Power and Irrigation District of Holdrege, Nebr. Referred to the Committee on Interior and Insular Affairs.

Report on a Defector Alien

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, reporting, pursuant to law, on the case of Tibor Joseph Herczeg, a defector alien (with an accompanying paper). Referred to the Committee on the Judiciary.

Report on Administration of Public Laws 874 and 815

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the administration of Public Laws 874 and 815, for fiscal year ended June 30, 1972 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

Proposed Legislation From Department of Health, Education, and Welfare

A letter from the Acting Secretary, Department of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Public Health Service Act to revise and extend programs of Federal assistance for comprehensive health resources planning, and to assist the States in regulating the costs of health care (with an accompanying paper). Referred to the Committee on Labor and Public Welfare.

Report of Veterans' Administration

A letter from the Administrator, Veterans' Administration, transmitting, pursuant to law, a report of that Administration, for fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on Veterans' Affairs.

Proposed Legislation From Veterans' Administration

A letter from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to increase rates of disability compensation and dependency and indemnity compensation, and to provide for automatic adjustment thereof commensurate with future increases in the cost of living, and for other purposes (with an accompanying paper). Referred to the Committee on Veterans' Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Robert C. Byrd):

A memorial of the Senate of the State of Arizona. Referred to the Committee on Interior and Insular Affairs:

"Senate Memorial 1007

"A memorial relating to construction of the Hualapai Hydroelectric Dam, and urging the Congress of the United States to approve construction of the Hualapai Hydroelectric Dam located in the inner gorge of the Colorado River within the boundaries of the Hualapai Indian Reservation

"To the Congress of the United States of America:

"Your memorialist respectfully represents:

"Whereas, the Nation is faced with an energy supply inadequate to meet its rapidly increasing needs; and

"Whereas, preservation of our natural environment must be balanced with the development of energy needed to maintain a sound economy; and

"Whereas, electric energy produced in hydroelectric projects is highly desirable from the standpoints of reliability, cleanliness, efficiency, and safety; and

"Whereas, highly desirable hydroelectric dam sites are still available in Arizona along the Colorado River; and

"Whereas, the Hualapai Hydroelectric Project (Bridge Canyon) is potentially a major clean energy source for supplying a significant amount of energy for the Southwest Region; and

"Whereas, it would take millions of barrels of oil, our single most-demanded fuel, per year to generate the electricity which can be developed from this project; and

"Whereas, the water which would be the power to run the hydroelectric generators is a vast renewable resource now being wasted down the river; and

"Whereas, income from the Hualapai Dam would provide the State with major financial support to help pay for the Central Arizona Project; and

"Whereas, the Hualapai Indians support construction of the dam on their reservation recognizing it as their only opportunity for economic development and full tribal employment; and

"Whereas, this project would not interfere with the free-flowing Colorado River through the Grand Canyon; and

"Whereas, construction of the dam will create a ribbon of blue in the narrow inner gorge, making the Hualapai section of the Colorado available to all for recreational uses.

"Wherefore your memorialist, the Senate of the State of Arizona, prays:

"1. That the Congress promptly review the many benefits of hydroelectric development along the Colorado River, particularly the proposed Hualapai Project and take action to approve its construction at a time when the Nation could greatly use the electrical energy derived from it, and support the efforts of the Arizona Power Authority and the Hualapai Indian Tribe to preserve the viability of the Hualapai Dam site in legislation now pending before Congress.

"2. That the Secretary of State of the State of Arizona transmit a copy of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of the Arizona congressional delegation."

A memorial of the Senate of the State of Arizona. Referred to the Committee on the Judiciary.

"Senate Memorial 1002

"A memorial relating to Veterans' Day; urging Congress to enact legislation returning observance of Veterans' Day to November 11

"To the Congress of the United States:

"Your memorialist respectfully represents:

"Whereas, the Congress of the United States enacted legislation which changed observance of Veterans' Day from November 11, the date of the armistice ending World War I and the traditional day of observance of that historical event, and

"Whereas, the change of Veterans' Day to the fourth Monday in October for the sole purpose of adding a three-day weekend to the holidays of the year is not a sufficient reason for breaking with tradition, memories, sentiments and history, and the reduction which follows in participation in patriotic ceremonies.

"Wherefore your memorialist, the Senate of the State of Arizona, prays:

"1. That the President and Congress give their most earnest consideration to the prompt enactment of legislation which would result in the return of Veterans' Day to the traditional day of observance, November 11, of each year.

"2. That the Honorable Wesley Bolin, Secretary of State of the State of Arizona, transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation."

A memorial of the Senate of the State of Arizona. Referred to the Committee on Veterans' Affairs:

"Senate Memorial 1003

"A Memorial Urging the Veterans Administration of the United States to Enact Legislation Establishing a National Cemetery in Arizona

"To the President and the Congress of the United States of America:

"Your memorialist respectfully represents:

"The State of Arizona's one hundred seventy available National Cemetery burial spaces are totally inadequate to handle the potential demand of the more than two hundred fifty thousand veterans residing in the state.

"A deceased veteran who had expressed a desire to be buried in a National Cemetery must be transported to another state for burial thereby causing great hardships for his survivors.

"Veterans organizations within the State of Arizona have some six hundred forty acres of land in central Arizona available, without cost, for utilization as a National Cemetery and Memorial Park.

Wherefore your memorialist, the Senate of the State of Arizona, prays:

"1. That the Veterans Administration give its most earnest consideration to the establishment of a National Cemetery in the State of Arizona.

"2. That the Secretary of State of the State of Arizona transmit a copy of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Administrator of the Veterans Administration and to each member of the Arizona Congressional Delegation.

Resolutions of the legislature of the Commonwealth of Massachusetts. Referred to the Committee on Finance:

"The Commonwealth of Massachusetts

"Resolutions memorializing the Congress of the United States to enact legislation amending the Social Security Act and the Internal Revenue Code of 1954 to provide for federal participation in the costs of the Social Security program, with a substantial increase in the contribution and benefit base and with appropriate reductions in Social Security taxes to reflect the Federal Government's participation in such costs

"Whereas, There is pending before the Congress of the United States a bill H.R. 12489 which if enacted into law would amend the Social Security Act and the Internal Revenue Code of 1954 to provide for federal participation in the costs of the Social Security Program, with a substantial increase in the contribution and benefit base and with appropriate reductions in Social Security taxes to reflect the Federal Government's participation in such costs; and

"Whereas, Said bill would grant tax relief to every wage earner with an income of $20,000 or less; and

"Whereas, It is the sense of the Massachusetts House of Representatives that, in these times of severe inflation, every means should be employed to increase the spendable income of working people; and

"Whereas, Said bill, in addition to aiding the workers, would lower the cost of doing business for employers: therefore be it

"Resolved, That the Massachusetts House of Representatives urges the Congress of the United States to enact into law H.R. 12489; and be it further

"Resolved, That copies of these resolutions be forwarded by the Clerk of the House of Representatives to the President of the United States, to the Secretary of State, to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth."

Adopted, February 25, 1974.

Resolutions of the Legislature of the Commonwealth of Massachusetts. Referred to the Committee on Veterans' Affairs:

"The Commonwealth of Massachusetts

"Resolutions memorializing the Congress of the United States to establish a National Cemetery in the Commonwealth

"Whereas, It is the right of every veteran to be accorded the honor of a burial in a national place of honor; and

"Whereas, Out of the ninety-eight national cemeteries in the United States, there is none in the New England area; and

"Whereas, The saturation point of these cemeteries is rapidly being reached and the need for new land is urgent; now, therefore, be it

"Resolved, That the General Court of Massachusetts hereby memorializes the Congress of the United States to establish a National Cemetery in the Commonwealth of Massachusetts; and be it further

"Resolved, That copies of these resolutions be sent forthwith by the Clerk of the House of Representatives to the President of the United States, to the presiding officer of each branch of Congress and to members thereof from the Commonwealth."

A joint resolution of the Legislature of the State of Wisconsin. Referred to the Committee on Commerce:

"1973 Senate Joint Resolution 121

"Enrolled joint resolution purging all concerned agencies of the government of the United States to insure that the Lake Michigan ferry service between Manitowoc and Kewaunee, Wisconsin and Frankfort, Michigan be continued

"Whereas the United States Department of Transportation has proposed abandonment Lake Michigan ferry service between Manitowoc and Kewaunee, Wisconsin, and Frankfort, Michigan; and

"Whereas, abandonment of the ferry service would cause severe economic hardship for east-central Wisconsin; and

"Whereas, in light of the national energy crisis, any curtailment of the Lake Michigan ferry service would necessarily increase the burden on our national energy resources; and

'Whereas tourism in Wisconsin would be severely damaged by curtailment of the Lake Michigan ferry service; and

"Whereas the Green Bay and Western Railroad, which is of great economic significance to the people of Wisconsin, would lose a very substantial portion of its revenue if the Lake Michigan ferry service were curtailed; and

"Whereas rail service to many Wisconsin communities would be jeopardized by curtailment of the ferry service; and

"Whereas, curtailment of the ferry service will jeopardize economic development in northern Wisconsin; and

"Whereas curtailment of the Lake Michigan ferry service would eliminate a vital link in the interstate transportation system of east-central Wisconsin: Now, therefore, be it

"Resolved by the Senate, the assembly concurring, That the Legislature of the State of Wisconsin opposes any curtailment of the Lake Michigan ferry service, pending a full and complete study of Wisconsin's transportation needs by the Wisconsin Department of Transportation, the United States Department of Transportation, the Interstate Commerce Commission and the United States Railway Association; and, be it further

"Resolved, That the Legislature of the State of Wisconsin respectfully urges all concerned agencies of the United States Government to insure that the Lake Michigan ferry service between Manitowoc and Kewaunee, Wisconsin, and Frankfort, Michigan, be continued; and, be it further

"Resolved, That certified copies of this resolution be immediately transmitted to the President of the Senate and the Speaker of the House of Representatives of the United States and to each member of the congressional delegation from Wisconsin."

PRESENTATION OF PETITIONS

By Mr. Pastore (for himself and Mr. Pell):

A resolution of the Senate of the State of Rhode Island and Providence Plantations. Referred to the Committee on Finance:

"Senate Resolution

"Memorializing Congress to Enact Legislation Relating to the Individual Taxpayer's Income Tax and the Increased Amounts in Fuel Prices

"Whereas, The federal government has permitted price increases for fuel products, thereby providing windfall profits to numerous companies within the oil industry at the expense of the consuming public, many of whom are overburdened by the inflationary spiral which has affected the United States and are thus unable to afford the increased costs of petroleum products; and

"Whereas, It is incumbent upon the federal government to provide relief to those consumers so adversely affected by its policy with respect to the pricing of fuel products; now therefore, be it

"Resolved, That the Congress is urged to enact legislation permitting individual taxpayers, in computing federal tax, to deduct directly from their adjusted gross income regardless of whether deductions have been otherwise itemized, an amount equal to the increased amounts such taxpayers have been requested to pay for fuel; and be it further

"Resolved, That the secretary of state be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the Rhode Island delegation in Congress."

A resolution of the Senate of the State of Rhode Island and Providence Plantations. Referred to the Committee on Finance:

"Senate Resolution

"Memorializing Congress to review and repeal existing laws granting favored income tax treatment to the Oil Industry

"Resolved, That the members of the congress of the United States be and they are hereby respectfully requested to review and repeal existing laws granting favored income tax treatment to the oil industry whereby major oil producers have been able to reap excessive profits at the expense of the consuming public; and be it further

"Resolved, That the secretary of state be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the senators and representatives from Rhode Island in the Congress of the United States."

A resolution of the Senate of the State of Rhode Island and Providence Plantations. Referred to the Committee on Interior and Insular Affairs:

"Senate Resolution

"Memorializing Congress to give the Federal Energy Office authority to inspect oil inventories of major oil companies

"Resolved, That the members of the Congress of the United States be and they are hereby respectfully requested to give the Federal Energy Office authority to audit and examine data, books, and make inspections of oil inventories of major oil companies on a monthly basis; and be it further

"Resolved, That the Secretary of State be and he hereby is authorized and directed to transmit duly certified copies of the resolution to the senators and representatives from Rhode Island in the Congress of the United States."

A resolution of the Senate of the State of Rhode Island and Providence Plantations. Referred to the Committee on Interior and Insular Affairs:

"SENATE RESOLUTION

"Memorializing Congress to roll back the prices of domestic fuel and gas to January 1, 1973 and to freeze at that level on suppliers and retailers

"Resolved, That the senate of the state of Rhode Island and Providence Plantations hereby memorializes Congress to roll back the prices of domestic fuel and gas to January 1, 1973 to freeze at that level on suppliers and retailers; and be it further

"Resolved, That the secretary of state be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the Rhode Island delegation in Congress."

Resolutions of the Legislature of the Commonwealth of Massachusetts. Referred to the Committee on Public Works:

"RESOLUTIONS

"Relative to the energy crisis

"Whereas, The nation and particularly the New England region is confronted with a major energy and environmental dilemma; and

"Whereas, Extensive engineering and economic studies conducted some ten years ago by the Department of the Interior demonstrated to the satisfaction of President Kennedy the feasibility and relative environmental desirability of developing the extraordinary tidal characteristics of the Passamaquoddy Bay area for hydroelectric production; and

"Whereas, Such development, including the Dickey-Lincoln School hydroelectric installations would have provided some 1,250 megawatts of electricity (mostly peaking power) to northeastern America, with annual power benefits in excess of $40 million in the form of a power supply available at about 25% less than the then prevailing cost; and

"Whereas, The combined project would have represented a Federal resource-developing investment of more than $1 billion in the New England area and entailed some 15,000 man-years of on-site employment; and

"Whereas, Private international investors have recently been organizing to develop similar tidal sites in Nova Scotia; and

"Whereas, Electric power is expected to be increasingly required, especially for mass transit and industry; and

"Whereas, The mounting costs and the precariousness of supply of imported petroleum is drastically transforming the economy of energy; and

"Whereas, The Congress has recently responded to the crisis by providing in the Emergency Energy Act for the preparation of plans for the development of hydroelectric resources; and

"Whereas, The Massachusetts Senate is gravely concerned about the development of the economic base of New England and about the protection of the environment as well as insistent that the few natural energy resources that the northeast possesses be wisely and equitably developed; now, therefore, be it

"*Resolved,* That the Massachusetts Senate respectfully requests the Congressional delegation from this Commonwealth and the other states of the northeastern area to assure reconsideration of the entire project as presented in the July, 1963 Report by Secretary Udall to President Kennedy as a major element in the forthcoming appraisal of our national hydroelectric potential; and be it further

"*Resolved,* That a copy of the foregoing resolutions be transmitted forthwith by the Clerk of the Senate to the Congressional delegation from this Commonwealth and the other northeastern states.

"Senate, adopted, January 21, 1974."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. **FONG**, from the Committee on the Judiciary, without amendment:

S. 1276. A bill for the relief of Joe H. Morgan (Rept. No. 93-731).

By Mr. **HRUSKA**, from the Committee on the Judiciary, without amendment:

S.J. Res. 179. Joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning April 21, 1974, as "National Volunteer Week" (Rept. No. 93-732.

By Mr. **HRUSKA**, from the Committee on the Judiciary, with amendments:

S.J. Res. 163. Joint resolution authorizing the President to proclaim the last full week in March of each year "National Agriculture Week" (Rept. No. 93-733).

By Mr. **LONG**, from the Committee on Finance, with amendments:

H.R. 13025. An act to increase the period during which benefits may be paid under title XVI of the social Security Act on the basis of presumptive disability to certain individuals who received aid, on the basis of disability, for December 1973, under a State plan approved under title XIV or XVI of that act.

By Mr. **MOSS**, from the Committee on Aeronautical and Space Sciences, with amendments:

H.R. 11864. An act to provide for the early commercial demonstration of the technology of solar heating by the National Aeronautics and Space Administration and the Department of Housing and Urban Development, in cooperation with the National Bureau of Standards, the National Science Foundation, the General Services Administration, and other Federal agencies, and for the early development and commercial demonstration of technology for combined solar heating and cooling (Rept. No. 93-734).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. **HRUSKA**, from the Committee on the Judiciary:

John W. Warner, of Virginia, to be Administrator of the American Revolution Bicentennial Administration.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. **WILLIAM L. SCOTT**. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nominations of 9 in the Army to the grade of major general and brigadier general, and in the Navy, 31 captains for temporary promotion to the grade of rear admiral. I ask that these names be placed on the Executive Calendar.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **WILLIAM L. SCOTT**. Mr. President, in addition, there are 165 appointments in the Army in the grade of colonel and below; 944 in the Air Force for appointment in the grade of captain and below; and, in the Marine Corps and Marine Corps Reserve, 3,552 appointments to the grade of colonel and below. Since these names have already appeared in the Congressional Record and to save the expense of printing on the Executive Calendar, I ask that these names be placed on the Secretary's desk for the information of any Senator.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

By Mr. **SPARKMAN**, from the Committee on Foreign Relations:

Leonard Unger, of Maryland, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary to the Republic of China;

John Gunther Dean, of New York, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Khmer Republic;

Robert W. Dean, of Illinois, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to Peru;

Hermann F. Eilts, of Pennsylvania, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary to the Arab Republic of Egypt;

Leo Cherne, of New York, Rita E. Hauser, of New York, and Leonard H. Marks, of the District of Columbia, to be members of the U.S. Advisory Commission on International Educational and Cultural Affairs; and

Lawrence Y. Goldberg, of Massachusetts, to be a member of the U.S. Advisory Commission on International Educational and Cultural Affairs.

(The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. **McGOVERN** (for himself and Mr. Case):

S. 3163. A bill to amend the General Education Provisions Act to require that the budget of the President include proposed appropriations for carrying out section 412 relating to advance funding of education programs. Referred to the Committee on Labor and Public Welfare.

By Mr. **BROCK**:

S. 3164. A bill to provide for greater disclosure of the nature and costs of real estate settlement services, to eliminate the payment of kickbacks and unearned fees in connection with settlement services provided in federally related mortgage transactions, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. **CRANSTON**:

S. 3165. A bill to authorize the Secretary of the Interior to sell mineral interests of the United States in certain lands in the State of California to the record owners of the surface thereof. Referred to the Committee on Interior and Insular Affairs.

By Mr. **JAVITS** (by request):

S. 3166. A bill to amend the Public Health Service Act to revise and extend programs of Federal assistance for comprehensive health resources planning, and to assist the States in regulating the costs of health care. Referred to the Committee on Labor and Public Welfare.

By Mr. **TOWER**:

S. 3167. A bill to amend title II of the Social Security Act to eliminate the special dependency requirements for entitlement to husband's and widower's insurance benefits, so that benefits for husbands and widowers will be payable on the same basis as benefits for wives and widows.

S. 3168. A bill to amend title II of the Social Security Act to permit the payment of benefits to a married couple on their combined earnings record;

S. 3169. A bill to amend title II of the Social Security Act to provide that an insured individual otherwise qualified may retire and receive full old-age insurance benefits, at any time after attaining age 60, if he has been forced to retire at that age by a Federal law, regulation or order; and

S. 3170. A bill to amend title II of the Social Security Act to provide that any individual who has 40 quarters of coverage, whenever acquired, will be insured for disability benefits thereunder. Referred to the Committee on Finance.

By Mr. COOK (for himself and Mr. HUDDLESTON):

S. 3171. A bill to amend section 133 of title 28, United States Code, to increase by two the number of district judges for the Eastern District of Kentucky. Referred to the Committee on the Judiciary.

By Mr. GRAVEL:

S. 3172. A bill to amend title 39, United States Code, to eliminate certain restrictions on the rights of officers and employees of the U.S. Postal Service, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. INOUYE:

S. 3173. A bill to amend the Intercoastal Shipping Act, 1933. Referred to the Committee on Commerce.

By Mr. FANNIN:

S. 3174. A bill to authorize the Secretary of the Interior to convey certain lands situated in Yuma County, Ariz. Referred to the Committee on Interior and Insular Affairs.

By Mr. MOSS (for himself and Mr. GOLDWATER) (by request):

S. 3175. A bill to amend section 203(b) of the National Aeronautics and Space Act of 1958. Referred to the Committee on Aeronautical and Space Sciences.

By Mr. BIBLE:

S. 3176. A bill for the relief of Douglas B. Yballe. Referred to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 3177. A bill to regulate commerce and promote the general welfare by providing incentives and assistance, based on detailed data and information, that will increase the amount of transportation by railroad rather than by less energy-efficient modes in order to conserve limited resources of energy, and for other purposes. Referred to the Committee on Commerce.

By Mr. PASTORE (for himself and Mr. AIKEN) (by request):

S. 3178. A bill to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Referred to the Joint Committee on Atomic Energy.

By Mr. PASTORE (by request):

S. 3179. A bill to amend the Atomic Energy Act of 1954, as amended, to provide for approval of sites for production and utilization facilities, and for other purposes. Referred to the Joint Committee on Atomic Energy.

By Mr. STEVENSON:

S. 3180. A bill to amend the Emergency Petroleum Allocation Act of 1973, Public Law 93–159, to clarify services directly related to agricultural operations, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. KENNEDY (for himself, Mr. MAGNUSON, and Mr. JAVITS):

S. 3181. A bill to amend the Public Health Service Act to revise the National Health Service Corps programs and the Public Health and National Health Service Corps scholarship training program. Referred to the Committee on Labor and Public Welfare.

By Mr. McCLURE:

S. 3182. A bill to prohibit the banning of lead shot for hunting. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND RESOLUTIONS

By Mr. BROCK:

S. 3164. A bill to provide for greater disclosure of the nature and costs of real estate settlement services, to eliminate the payment of kickbacks and unearned fees in connection with settlement services provided in federally related mortgage transactions, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

Mr. BROCK. Mr. President, today I am introducing the "Real Estate Settlement Procedures Act of 1974" to relieve the consumer from the high cost of settlement charges.

While many of the provisions of this bill are presently contained in S. 2228, which I introduced on July 23, 1973, a number of new consumer-oriented provisions have been added as a result of the recommendations that were made by public, consumer, and industry witnesses in Congressional hearings held during the past 9 months.

Mr. President, both Houses of Congress have discussed and examined the real estate settlement process extensively during the past 2 years. In the early months of 1972, the Department of Housing and Urban Development and the Administrator of Veterans' Affairs submitted a detailed report to the Congress on "Mortgage Settlement Costs." Contrary to the belief held by many that the HUD–VA report concluded that unreasonably high settlement costs were a widespread problem, the actual finding of the report was that "costs appear to be high in some areas, but unreasonable costs probably occur in fewer areas than may be popularly assumed." The report did find, however, that certain problems and abuses existed in some areas of the country that were resulting in unnecessarily high settlement costs. Specific recommendations for Federal action that could be taken to correct these problems and abuses were proposed. I am pleased to point out that the "Real Estate Settlement Procedures Act" is directly responsive to all of the recommendations of that report for Federal legislative action.

Over the last 2 years the Senate has also received testimony from approximately 25 witnesses on this subject in three different sets of hearings. The House of Representatives has held extensive hearings on various proposals for reform in this area as well. The provisions of my bill are responsive to the various points and suggestions made by the witnesses in these hearings. It is clear that we have studied reform proposals for the real estate settlement process long enough. The time has come for Congress to act.

My bill would attack the problems and abuses that have been demonstrated to exist in the real estate settlement process in four basic ways.

First, there are a number of provisions that would provide greater and more timely information to home buyers on the nature and costs of settlement services. A special information booklet to be developed by HUD would have to be given by the lender to the home buyer at the time he files a mortgage loan application. The lender would also have to give the home buyer a detailed estimate of his settlement costs at least 10 days in advance of settlement. This disclosure would be made on a uniform settlement statement to be developed by HUD that would also be the form used as the final statement that would be given to the buyer at the time of settlement. These provisions should help insure that home buyers will no longer be surprised to first learn of certain costs at the time of settlement and that they will be in a much more knowledgeable position to negotiate for the most reasonable charges for the services that they need.

Second, sections 7, 8 and 11 of my bill will deal effectively with certain abuses that exist in the real estate settlement process in some areas of the country. Section 7 would prohibit any kickback or referral fee that is paid or received for the mere referral of settlement business and would prohibit any fee-splitting among persons who render settlement services unless the fee is paid in return for services actually rendered. These kickbacks or referral fees increase the cost of settlement services to the home buyer without providing any benefits to him. Section 7 will deal with these problems in the most comprehensive manner ever considered by the Senate.

Section 8 and 11 are new provisions not contained in S. 2228. Section 8 would limit the amount that lenders can require home buyers to pay into escrow accounts established to ensure the payment of real estate taxes and insurance. In areas where unreasonable escrow requirements are imposed on the buyer, this provision should result in a reduction of hundreds of dollars in the amount that must be paid by the buyer at the time of settlement. Section 11 would prohibit a lender from charging the home buyer any fee for the preparation of truth-in-lending statements or the disclosure statements called for by sections 4 and 6 of the bill.

Third, in order to deal with what many witnesses have described as the underlying cause of unnecessarily high title transfer costs, I have added a provision directing HUD to develop and place in operation a model system or systems for the recordation of land title information. In many areas of the country, local governments continue to maintain land title records in accordance with systems designed for use in the 19th or 18th centuries. The costs of title searching in these jurisdictions are invariably higher than in areas where local records are maintained in accordance with more modern methods. The model systems developed by HUD in accordance with section 9 of the bill will provide much needed information and experience to help local governments modernize their record keeping and help us achieve real savings that will result in lower title transfer costs.

Finally, section 10(c) of the bill would repeal section 701 of the Emergency Home Finance Act of 1970. In spite of what many of us in the Congress intended in this section, a number of people have interpreted section 701 as empowering the Secretary of HUD and the Administrator of Veterans' Affairs to engage in the wholesale regulation of the rates charged by those who provide settlement services in FHA and VA assisted transactions. We have received extensive testimony from consumer and industry groups as to the many difficulties and drawbacks of Federal rate regulation in this area. The Department of Housing and Urban Development itself, on the basis of its experience in trying to develop such a rate regulatory scheme, has concluded that such regulation would be both unwise and unworkable and has testified in support of repeal of section 701. Its recommendations in this matter have received the strong support of the Federal Home Loan Bank Board, the agency established by the Congress to help insure that there are adequate financial resources to meet the Nation's housing goals.

While I believe the Federal rate regulation is not a realistic solution and that the antiabuse, disclosure and reform provisions of this bill offer the brightest prospects for keeping settlement costs to reasonable levels, I have, after consultation with a number of my colleagues, expanded section 10 to include a provision calling upon the Secretary of HUD to monitor the implementation of the various provisions of the bill and to report back to the Congress on what further legislation may be needed in this area. Section 10(b) would specifically call for the Secretary's recommendations in three areas that were of particular concern to some of the witnesses who testified at the congressional hearings: First, whether it is desirable to have lenders bear the costs of particular settlement services presently paid for by the borrower; second, whether Federal regulation of settlement charges is necessary and desirable, and if so, what sort of regulatory scheme should be adopted by the Congress; and third, what sort of incentives can be provided to local governments to improve and modernize their system for the recordation of land title information.

I would like to point out, Mr. President, that I believe the report to be prepared by the Secretary will provide the necessary basis for further legislative action in this area. The earlier HUD-VA study has proven to be of great value to the Congress and, indeed, the findings and recommendations contained in that study have formed the basis for the legislation I am proposing today. Contrary to many other reports that are called for by Congress which only delay effective action on the problem, the report called for by section 10 is designed to insure that the actions we would be taking in the bill are effective and, if they are not, to provide the Congress with the necessary information to allow us to act proptly on whatever further legislation is needed.

Mr. President, the "Real Estate Settlement Procedures Act" offers the Senate the best opportunity to enact legislation this year that will provide real and significant benefits to home buyers. It represents a realistic compromise of the positions of numerous groups and individuals. I believe we would be neglectful of our duties to our constituents if we allowed another year to go by without adopting legislation that would eliminate the abuses we know to exist, that would provide meaningful advance disclosure which the prospective home buyer needs, and that would take the initial steps necessary to solving the basic shortcomings in local recordkeeping that is at the root of unnecessarily high title transfer costs.

Mr. President, I ask unanimous consent that the text of this bill together with a section-by-section explanation be printed at this point in the RECORD.

There being no objection, the section-by-section analysis and the bill were ordered to be printed in the RECORD as follows:

SECTION-BY-SECTION ANALYSIS OF THE REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

SHORT TITLE

Section 1 is a new provision that specifies that the Act may be cited as the "Real Estate Settlement Procedures Act of 1974."

FINDINGS AND PURPOSE

Section 2 is a new "findings and purpose" section that was not contained in S. 2228. The section sets forth two Congressional findings: (1) that significant reforms in the real estate settlement process are needed to provide consumers with greater and more timely information on the nature and costs of the settlement process and to protect them from unnecessarily high settlement charges that are the result of certain abusive practices that have developed in some areas of the country, and (2) that the time has come for the Congress to implement the recommendations contained in the 1972 HUD-VA Report to the Congress on "Mortgage Settlement Costs" that was prepared in accordance with Section 701(b) of the Emergency Home Finance Act of 1970.

Section 2 also sets forth the four basic purposes that the Congress intends to achieve in enacting the bill. These include: (1) that more effective advance disclosure of settlement costs is provided to home buyers and sellers, (2) that kickbacks or referral fees that unnecessarily increase settlement costs are eliminated, (3) that reductions are affected in the amounts home buyers are frequently required to place in escrow accounts established to ensure the payment of real estate taxes and insurance, and (4) that significant first steps are taken by the Federal government to help effect reform and modernization of local record-keeping in regard to land title information.

DEFINITIONS

Section 3 contains various definitions of terms used in the Act and is substantially identical to section 101 of S. 2228. The only change is that the definition of "settlement services" in section 3(4) has been expanded somewhat so as to make the definition more comprehensive.

UNIFORM SETTLEMENT STATEMENT

Section 4 of the new bill is identical to section 102 of S. 2228. This section requires that a uniform settlement statement is to be prepared by the Secretary of HUD in consultation with various federal agencies and is to be used as the standard settlement form for all transactions in the United States which involve federally related mortgage loans. Because of the differences that exist in legal and administrative requirements and practices in various areas of the country, the uniform settlement statement may contain minimum variations that are necessary to reflect these differences across the country. The form is also intended to include all of the information and data required to be provided under the Truth-in-Lending Act and the regulations thereunder, so that by combining the settlement statement with the Truth-in-Lending form, more effective disclosure can be made to the home buyer.

SPECIAL INFORMATION BOOKLETS

Section 5 is identical to section 103 of S. 2228 and would direct that the Secretary of HUD prepare and distribute special information booklets to help persons borrowing money to finance the purchase of a home to better understand the nature and costs of real estate settlement services. These booklets, which may be prepared by lenders if their form and content are approved by the Secretary, are to be distributed to the home buyer at the time he files a mortgage loan application.

ADVANCE DISCLOSURE OF SETTLEMENT COSTS

Section 6 is substantially identical to section 104 of S. 2228 in requiring that any lender agreeing to make a federally related mortgage loan must provide to the home buyer, at least ten days prior to settlement, an itemized disclosure of each charge arising in connection with the settlement. This section has been amended so that this information will be required to be given to the seller as well. This disclosure would be made upon the uniform settlement statement to be developed under section 4 of the bill.

PROHIBITION AGAINST KICKBACKS AND UNEARNED FEES

Section 7 is identical to section 105 of S. 2228 and would prohibit the payment or receipt of any kickback or referral fee made for the referral of real estate settlement business. In addition, this section would prohibit any person from giving or accepting any portion of any charge made for the rendering of a settlement service unless the payment were made for services actually performed. Both civil and criminal penalties would be imposed for violation of the prohibitions.

LIMITATION ON REQUIREMENT OF ADVANCE DEPOSITS IN ESCROW ACCOUNTS

Section 8 is a new provision designed to limit the amounts that lenders can require home buyers to pay into escrow accounts established to ensure the payment of real estate taxes and insurance. At the present time, many lenders require that a home buyer establish such an account at the time of settlement and pay as much as 6 months, one year or even two years advance taxes and insurance premiums into this account. Section 8 would limit the amount of these payments at the time of settlement in the following manner: (1) in jurisdictions where taxes and insurance premiums are post-paid, the borrower could not be required to deposit more than the amount of taxes and insurance premiums that will be due and payable on the date of settlement plus the pro rata portion of such taxes and premiums that has already accrued, and (2) in jurisdictions where taxes and insurance premiums are prepaid, the borrower could not be asked to deposit more than the pro rata portion of the estimated taxes and insurance premiums based on the number of months from the last payment date to the date of settlement. In both cases, lenders may also require one-twelfth of the taxes and insurance premiums estimated to become due and payable during the twelve months following the date of settlement. After the date of settlement, a lender may only require the borrower to deposit in any one month one-twelfth of the total taxes and insurance premiums that will be due and payable during the year. In those areas where excessive escrow requirements have been imposed on home buyers, this provision will result in substantial savings to the home buyer at the time of settlement without substantially interfering with the legitimate requirements of lenders for some assurance that real estate taxes and insurance premiums will continue to be paid on the property.

ESTABLISHMENT ON DEMONSTRATION BASIS OF LAND PARCEL RECORDATION SYSTEM

Section 9 is a new provision that would direct the Secretary of HUD to establish, on a demonstration basis, model land recordation systems in various parts of the country in the hope of effecting fundamental improvements in the present systems utilized by local governments for the recordation and indexing of land title information. Virtually all of the witnesses in the recent Senate hearings on closing and settlement costs testified as to the urgent need for the Federal government to take meaningful steps in this area to assist local governments in improving and modernizing their land record systems. The January, 1972, Report by American University to HUD on "The Real Estate Settlement Process and Its Costs" concluded that "the root problem involved in reducing costs in reform and reorganization of public land records." Section 9 is designed to meet this problem by having HUD establish on a demonstration basis various types of recordation systems that can be used as a model by local governments who wish to modernize their own antiquated systems. The experience gained from these models should prove invaluable in the determination of how basic reforms in land parcel indexing and recording can be achieved.

REPORT OF THE SECRETARY ON NECESSITY FOR FURTHER CONGRESSIONAL ACTION

Section 10 of the bill is a new section that is designed to achieve two purposes. First, subsection (c) would repeal Section 701 of the Emergency Home Finance Act of 1970. This is the section of law that has been interpreted as authorizing the Secretary of HUD and the Administrator of Veterans' Affairs to directly regulate the rates and charges of hundreds of thousands of attorneys, title companies, surveyors, pest and fungus inspectors, and others who provide settlement services in FHA and VA assisted mortgage transactions. Testimony presented by various consumer, industry and government witnesses in Congressional hearings held during the past year have demonstrated that Federal rate regulation of settlement charges would be both unwise and unworkable. Both the Department of Housing and Urban Development and the Federal Home Loan Bank Board have testified in opposition to Federal rate regulation of settlement charges and have urged the repeal of Section 701 of the Emergency Home Finance Act of 1970.

Second, section 10 would direct the Secretary of HUD to monitor the implementation of the various anti-abuse and disclosure provisions of the bill and report back to the Congress no sooner than three and no later than five years from the effective date of the Act on whether there is any necessity for further legislation in this area. If he concludes that there is need for further Congressional action, he is to report on the specific practices or problems that should be the subject of such legislation and the corrective measures that need to be taken. Specifically, section 10 would direct the Secretary to include in his report to the Congress his recommendations on the desirability of requiring lenders of federally related mortgage loans to bear the costs of particular real estate settlement services presently paid for by borrowers and recommendations on whether Federal regulation of settlement charges is necessary and desirable. If he concludes that such regulation would be necessary and desirable, he is to provide the Congress with a description and analysis of the regulatory scheme he believes the Congress should adopt. The Secretary is also directed to report on the ways in which the Federal government can encourage and assist local governments to improve and modernize their land title record-keeping systems.

This report will ensure continuing Congressional and administrative attention to the problems of unnecessarily high settlement charges even after the passage of the bill. This continuing concern itself will help to ensure that changes are affected in the real estate settlement process over the next three years. Moreover, the report called for by section 10 will provide the Congress with the information it needs to make a reasoned judgment as to the various alternatives that might be considered if the provisions of the bill are not totally effective in ensuring that home buyers pay only reasonable charges for necessary settlement services.

FEE FOR PREPARATION OF TRUTH-IN-LENDING AND UNIFORM SETTLEMENT STATEMENTS

Section 11 is a new provision not contained in S. 2228 that would prohibit lenders from imposing on borrowers any fee or charge for the preparation of the Truth-in-Lending statement or any other disclosure statement called for by the provisions of the bill. This type of provision received substantial support during the hearings held by the Senate Banking Committee.

MISCELLANEOUS PROVISIONS

The final three sections of the bill are identical to sections 106, 107 and 108 of S. 2228. Section 12 provides that actions to recover damages pursuant to sections 6 and 7 of the bill may be brought in an appropriate United States district court within one year from the date of the occurrence of the violation. Section 13 provides that nothing in the Act shall affect the validity of enforceability of any sale, loan, mortgage or lien made in connection with a federally related mortgage loan. Section 14 provides that the effective date of the Act shall be 180 days after the date of enactment.

S. 3164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Real Estate Settlement Procedures Act of 1974."

FINDINGS AND PURPOSE

SEC. 2. The Congress finds that significant reforms in the real estate settlement process are needed to insure that consumers throughout the Nation are provided with greater and more timely information on the nature and costs of the settlement process and are protected from unnecessarily high settlement charges caused by certain abusive practices that have developed in some areas of the country. The Congress also finds that it has been over two years since the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs submitted their joint report to the Congress on "Mortgage Settlement Costs" and that the time has come for the recommendations for Federal legislative action made in that report to be implemented. It is the purpose of this Act to effect certain changes in the settlement process for residential real estate that will result (1) in more effective advance disclosure to home buyers and sellers of settlement costs, (2) in the elimination of kickbacks or referral fees that tend to unnecessarily increase the costs of certain settlement services, (3) in a reduction in the amounts home buyers are required to place in escrow accounts established to insure the payment of real estate taxes and insurance, and (4) in significant reform and modernization of local recordkeeping of land title information.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "federally related mortgage loan" includes any loan which—

(A) is secured by residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from one to four families; and

(B) (i) is made in whole or in part by any lender the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by any lender which is itself regulated by any agency of the Federal Government; or

(ii) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary or any other officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary or a housing or related program administered by any other such officer or agency; or

(iii) is eligible for purchase by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or from any financial institution from which it could be purchased by the Federal Home Loan Mortgage Corporation; or

(iv) is made in whole or in part by any "creditor", as defined in section 103(f) of the Consumer Credit Protection Act of 1968 (15 U.S.C. 1602(f)), who makes or invests in residential real estate loans aggregating more than $1,000,000 per year;

(2) the term "thing of value" includes any payment, advance, funds, loan, service, or other consideration;

(3) the term "person" includes individuals, corporations, associations, partnerships, and trusts;

(4) the term "settlement services" includes any service provided in connection with a real estate settlement including, but not limited to, the following: title searches, title examinations, the provision of title certificates, title insurance, services rendered by an attorney, the preparation of documents, property surveys, the rendering of credit reports or appraisals, pest and fungus inspections, services rendered by a realtor, and the handling of the processing, and closing or settlement; and

(5) the term "Secretary" means the Secretary of Housing and Urban Development.

UNIFORM SETTLEMENT STATEMENT

SEC. 4. The Secretary, in consultation with the Administrator of Veterans' Affairs, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, shall develop and prescribe a standard form for the statement of settlement costs which shall be used (with such minimum variations as may be necessary to reflect unavoidable differences in legal and administrative requirements or practices in different areas of the country) as the standard real estate settlement form in all transactions in the United States which involve federally related mortgage loans. Such form shall conspicuously and clearly itemize the charges imposed upon both the borrower and the seller in connection with the settlement, and shall indicate whether the title insurance premium included in such charges covers or insures the lender's interest in the property, the borrower's interest, or both. Such form shall include all information and data required to be provided for such transactions under the Truth-in-Lending Act and the regulations issued thereunder by the Federal Reserve Board, and may be used in satisfaction of the disclosure requirements of that Act, and shall also include provision for execution of the waiver allowed by section 6(c).

SPECIAL INFORMATION BOOKLETS

SEC. 5. (a) The Secretary shall prepare and distribute special booklets to help persons borrowing money to finance the purchase of residential real estate to better understand the nature and costs of real estate settlement services. The Secretary shall distribute such booklets to all lenders which make federally related mortgage loans.

(b) Each booklet shall be in such form and detail as the Secretary shall prescribe and, in addition to such other information as the Secretary may provide, shall include in clear and concise language—

(1) a description and explanation of the nature and purpose of each cost incident to a real estate settlement;

(2) an explanation and sample of the standard real estate settlement form developed and prescribed under section 4;

(3) a description and explanation of the nature and purpose of escrow accounts when used in connection with loans secured by residential real estate;

(4) an explanation of the choices available to buyers of residential real estate in selecting persons to provide necessary services incident to a real estate settlement; and

(5) an explanation of the unfair practices and unreasonable or unnecessary charges to be avoided by the prospective buyer with respect to a real estate settlement.

Such booklets shall take into consideration differences in real estate settlement procedures which may exist among the several States and territories of the United States and among separate political subdivisions within the same State and territory.

(c) Each lender referred to in subsection (a) shall provide the booklet described in such subsection to each person from whom it receives an application to borrow money to finance the puchase of residential real estate. Such booklet shall be provided at the time of receipt of such application.

(b) Booklets may be printed and distributed by lenders if their form and content are approved by the Secretary as meeting the requirements of subsection (b) of this section.

ADVANCE DISCLOSURE OF SETTLEMENT COSTS

Sec. 6. (a) Any lender agreeing to make a federally related mortgage loan shall provide or cause to be provided to the prospective borrower, to the prospective seller, and to any officer or agency of the Federal Government proposing to insure, guarantee, supplement, or assist such loan, at least ten days prior to settlement, upon the standard real estate settlement form developed and prescribed under section 4 and in accordance with regulations prescribed by the Secretary, an itemized disclosure in writing of each charge arising in connection with such settlement. For the purposes of complying with this section, it shall be the duty of the lender agreeing to make the loan to obtain or cause to be obtained from persons who provide or will provide services in connection with such settlement the amount of each charge they intend to make. With respect to any charges arising in connection with the settlement, in the event the exact amount of any such charge is not available, a good faith estimate of such charge may be provided.

(b) If any lender fails to provide a prospective borrower with the disclosure as required by subsection (a), it shall be liable to such borrower in an amount equal to—

(1) the actual damages involved or $500, whichever is higher, and

(2) in the case of any successful action to enforce the foregoing liability, the costs of the action together with a reasonable attorney's fee as determined by the court;

except that a lender may not be held liable for a violation in any action brought under this subsection if it shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures adopted to avoid any such error.

(c) The provisions of subsection (a) shall be deemed to be satisfied with respect to any settlement involving a federally related mortgage loan if the disclosure required by subsection (a) is provided at any time prior to settlement and the prospective borrower executes, under terms and conditions prescribed by regulations to be issued by the Secretary after consultation with the Federal Reserve Board, a waiver of the requirement that the disclosure be provided at least ten days prior to such settlement.

(d) With respect to any particular transaction involving a federally related mortgage loan, no borrower shall maintain an action or separate actions against any lender under both the provisions of this section and the provisions of section 130 of the Consumer Credit Protection Act of 1968 (15 U.S.C. 1640).

PROHIBITION AGAINST KICKBACKS AND UNEARNED FEES

Sec. 7. (a) No person shall give and no person shall accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement involving a federally related mortgage loan shall be referred to any person.

(b) No person shall give and no person shall accept any portion, split or percentage of any charge made or received for the rendering of a real estate settlement service in connection with a transaction involving a federally related mortgage loan other than for services actually performed.

(c) Nothing in this section shall be construed as prohibiting (1) the payment of a fee (i) to attorneys at law for services actually rendered or (ii) by a title company to its duly appointed agent for services actually performed in the issuance of a policy of title insurance or (iii) by a lender to its duly appointed agent for services actually performed in the making of a loan, or (2) the payment to any person of a bona fide salary or compensation or other payment for goods or facilities actually furnished or for services actually performed.

(d) (1) Any person or persons who violate the provisions of this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(2) In addition to the penalties provided by paragraph (1) of this subsection, any person or persons who violate the provisions of subsection (a) shall be jointly and severally liable to the person or persons whose business has been referred in an amount equal to three times the value or amount of the fee or thing of value, and any person or persons who violate the provisions of subsection (b) shall be jointly and severally liable to the person or persons charged for the settlement services involved in an amount equal to three times the amount of the portion, split or percentage.

LIMITATION ON REQUIREMENT OF ADVANCE DEPOSITS IN ESCROW ACCOUNTS

Sec. 8. No lender, in connection with a federally related mortgage loan, shall require the borrower or prospective borrower—

(1) to deposit in any escrow account which may be established in connection with such loan for the purpose of assuring payment of taxes and insurance premiums with respect to the property, prior to or upon the date of settlement, an aggregate sum (for such purpose) in excess of—

(A) in any jurisdiction where such taxes and insurance premiums are postpaid, the total amount of such taxes and insurance premiums which will actually be due and payable on the date of settlement and the pro rata portion thereof which has accrued, or

(B) in any jurisdiction where such taxes and insurance premiums are prepaid, a pro rata portion of the estimated taxes and insurance premiums corresponding to the number of months from the last date of payment to the date of settlement,

plus one-twelfth of the estimated total amount of such taxes and insurance premiums which will become due and payable during the twelve-month period beginning on the date of settlement; or

(2) to deposit in any such escrow account in any month beginning after the date of settlement a sum (for the purpose of assuring payment of taxes and insurance premiums with respect to the property) in excess of one-twelfth of the total amount of the estimated taxes and insurance premiums which will become due and payable during the twelve-month period beginning on the first day of such month, except that in the event the lender determines there will be a deficiency on the due date he shall not be prohibited from requiring additional monthly deposits in such escrow account of pro rata portions of the deficiency corresponding to the number of months from the date of the lender's determination of such deficiency to the date upon which such taxes and insurance premiums become due and payable.

ESTABLISHMENT ON DEMONSTRATION BASIS OF LAND PARCEL RECORDATION SYSTEM

Sec. 9. The Secretary shall establish and place in operation of a demonstration basis, in representative political subdivisions (selected by him) in various areas of the United States, a model system or systems for the recordation of land title information in a manner and form calculated to facilitate and simplify land transfers and mortgage transactions and reduce the cost thereof, with a view to the possible development (utilizing the information and experience gained under this section) of a nationally uniform system of land parcel recordation.

REPORT OF THE SECRETARY ON NECESSITY FOR FURTHER CONGRESSIONAL ACTION

Sec. 10. (a) The Secretary, after consultation with the Administrator of Veterans' Affairs, the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board, and after such study, investigation and hearings (at which representatives of consumers groups shall be allowed to testify) as he deems appropriate, shall, not less than three years nor more than five years from the effective date of this Act, report to the Congress on whether, in view of the implementation of the provisions of this Act imposing certain requirements and prohibiting certain practices in connection with real estate settlements, there is any necessity for further legislation in this area.

(b) If the Secretary concludes that there is necessity for further legislation, he shall report to the Congress on the specific practices or problems that should be the subject of such legislation and the corrective measures that need to be taken. In addition, the Secretary shall include in his report—

(1) recommendations on the desirability of requiring lenders of federally related mortgage loans to bear the costs of particular real estate settlement services that would otherwise be paid for by borrowers;

(2) recommendations on whether Federal regulation of the charges for real estate settlement services in federally related mortgage transactions is necessary and desirable, and, if he concludes that such regulation is necessary and desirable, a description and analysis of the regulatory scheme he believes Congress should adopt; and

(3) recommendations on the ways in which the Federal Government can assist and encourage local governments to modernize their methods for the recordation of land title information, including the feasibility of providing financial assistance or incentives to local governments that seek to adopt one of the model systems developed by the Secretary in accordance with the provisions of section 9 of this Act.

(c) Section 701 of the Emergency Home Finance Act of 1970 (12 U.S.C. 1710, note) is repealed.

FEE FOR PREPARATION OF TRUTH-IN-LENDING AND UNIFORM SETTLEMENT STATEMENTS

SEC. 11. No fee shall be imposed or charge made upon any other person (as a part of settlement costs or otherwise) by a lender in connection with a federally related mortgage loan made by it (or a loan for the purchase of a mobile home), for or on account of the preparation and submission by such lender of the statement or statements required (in connection with such loan) by sections 4 and 6 of this Act or by the Truth-in-Lending Act.

JURISDICTION OF COURTS

SEC. 12. Any action to recover damages pursuant to the provisions of section 6 or 7 may be brought in the United States district court for the district in which the property involved is located, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

VALIDITY OF CONTRACTS AND LIENS

SEC. 13. Nothing in this Act shall affect the validity or enforceability of any sale or contract for the sale of real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a federally related mortgage loan.

EFFECTIVE DATE

SEC. 14. The provisions of this Act, and the amendments made thereby, shall become effective one hundred and eighty days after the date of the enactment of this Act.

By Mr. CRANSTON:

S. 3165. A bill to authorize the Secretary of the Interior to sell mineral interests of the United States in certain lands in the State of California to the record owners of the surface thereof. Referred to the Committee on Interior and Insular Affairs.

Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to authorize the Secretary of the Interior to sell the mineral interests of the United States in certain lands near Saugus, Calif., to the owners of the surface rights of those lands. The property involved is in Los Angeles County and encompasses approximately 500 acres.

Under existing law, the Secretary of the Interior does not have the authority to convey reserved mineral interests of the United States. The Interior Department has advised me that private legislation is necessary. I am pleased to sponsor this bill at the request of the surface owners, provided that there is no loss of revenue or essential minerals to the United States. The bill requires that the beneficiaries pay all the administrative costs as well as the fair market value of the mineral interests conveyed.

I request that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed, in accordance with this Act, to convey, sell, and quitclaim all mineral interests of the United States in and to the following described properties to the record owners of the surface thereof as of the date of the enactment of this Act:

Parcel 1: The East half of the southwest quarter and the southwest quarter of the southwest quarter of Section 10, Township 4 North, Range 15 West, in the County of Los Angeles, State of California, according to the Official Plat thereof.

Parcel 1A: The Northwest quarter of the southwest quarter of Section 10, Township 4 North, Range 15 West, in the County of Los Angeles, State of California, according to the Official Plat thereof.

Parcel 1B: The East half of the southwest quarter and the southwest quarter of the southwest quarter of Section 10, Township 4 North, Range 15 West, in the County of Los Angeles, State of California, according to the Official Plat thereof.

Parcel 2: The northwest quarter of the northwest quarter of Section 15, Township 4 North, Range 15 West, in the County of Los Angeles, State of California, according to the Official Plat thereof.

Parcel 2A: The Northwest quarter of the northwest quarter of Section 15, Township 4 North, Range 15 West, in the County of Los Angeles, State of California, according to the Official Plat thereof.

Parcel 3: The north half of the northeast quarter of Section 16, Township 4 North, Range 15 West, in the County of Los Angeles, State of California, according to the Official Plat thereof.

Parcel 3A: The southeast quarter of the northeast quarter and the East half of the southwest quarter of the northeast quarter of Section 16, Township 4 North, Range 15 West, in the County of Los Angeles, State of California, according to the Official Plat thereof.

Parcel 3B: The southeast quarter of the northeast quarter of the East half of the southwest quarter of the northeast quarter of Section 16, Township 4 North, Range 15 West, in the County of Los Angeles, State of California, according to the Official Plat thereof.

Parcel 4: The southeast quarter of the southeast quarter of Section 9, Township 4 North, Range 15 West, in the County of Los Angeles, State of California, according to the Official Plat thereof.

Parcel 4A: The northeast quarter of the southeast quarter of Section 9, Township 4 North, Range 15 West, in the County of Los Angeles, State of California, according to the Official Plat thereof.

Parcel 4B: The northeast quarter of the southeast quarter of Section 9, Township 4 North, Range 15 West, in the County of Los Angeles, State of California, according to the Official Plat thereof.

Parcel 5: The East half of the northeast quarter of the southeast quarter and the West half of the West half of the northeast quarter of the southeast quarter, Section 16, Township 4 North, Range 15 West, in the County of Los Angeles, State of California, according to the Official Plat thereof.

Parcel 5A: The east half of the northwest quarter of the southeast quarter and the west half of the west half of the northeast quarter of the southeast quarter, section 16, township 4 north, range 15 west, in the county of Los Angeles, State of California, according to the official plat thereof.

SEC. 2. The Secretary of the Interior shall require the deposit of a sum of money which he deems sufficient to cover estimated administrative costs of this Act. If any conveyance is not made pursuant to this Act, and the administrative costs with respect thereto exceed the deposit, the Secretary shall bill the applicant for the outstanding amount, but if the amount of the deposit exceeds the actual administrative costs, the Secretary shall refund to the applicant the excess.

SEC. 3. No conveyance shall be made pursuant to this Act unless application for conveyance is filed with the Secretary within six months of the date of the enactment of this Act and unless within the time specified by him payment is made to the Secretary of (1) administrative costs of the conveyance and (2) the fair market value of the interest to be conveyed. The amount of the payment required shall be the difference between the amount deposited and the full amount required to be paid under this section. If the amount deposited exceeds the full amount required to be paid, the applicant shall be given a credit or refund for the excess.

SEC. 4. The term "administrative costs" as used in this Act, includes, but is not limited to, all costs of (1) conducting such exploratory programs as the Secretary of the Interior deems necessary to determine the character of the mineral deposits in the land, (2) evaluating the data obtained under the exploratory programs to determine the fair market value of the mineral rights to be conveyed, and (3) preparing and issuing the instrument of conveyance.

SEC. 5. Moneys paid to the Secretary for administrative costs shall be paid to the agency which rendered the service, and deposited to the appropriation then current. Moneys paid for the minerals or mineral interests conveyed shall be deposited into the general fund of the Treasury as miscellaneous receipts.

By Mr. JAVITS (by request):

S. 3166. A bill to amend the Public Health Service Act to revise and extend programs of Federal assistance for comprehensive health resources planning, and to assist the States in regulating the costs of health care. Referred to the Committee on Labor and Public Welfare.

HEALTH RESOURCES PLANNING ACT

Mr. JAVITS. Mr. President, by request, I am today introducing the administration's "Health Resources Planning Act" which would amend the Public Health Service Act to revise and extend programs of Federal assistance for comprehensive health resources planning, and to assist the States in regulating the costs of health care.

The major purposes of this bill—to assist the Nation's health care system to plan more effectively to provide the resources necessary to meet the Nation's health care needs and provide grant assistance to States to pay part of their costs in regulation proposed capital expenditures and rate increases for health care—are substantially similar to the "Health Planning Act" (S. 3139) measure I recently introduced.

In respect to planning activities the bill is designed to replace the State areawide planning components of five programs, conducted under the Public Health Service Act, whose authorizations expire with the close of the current fiscal year. These are the comprehensive health planning programs under sections 314(a) and 314(b) of the act, the Hill-Burton program under title VI of the act, the regional medical programs under title IX of the act, the program supporting area health education centers—funded through both the regional medical programs and section 774 of the act—and the program assisting experimental health services delivery systems under section 304 of the act.

In respect to State regulatory activities on health care planning the bill provides a formula grant program to encourage these activities, and to supply some of the costs to the State attendant upon its participation in the program of capital expenditure review established by section 1122 of the Social Security Act. In this regard, in contrast to views about planning the bill recognizes that regulation of the health care industry is a governmental function, and cannot appropriately be transferred to private hands.

I am concerned that the bill—and the letter of transmittal from the Department of Health, Education, and Welfare makes it clear—does not propose to extend project grants for health facilities construction. I am not convinced that our urban and public hospital system can survive without such Federal assistance.

That is why I modified my planning bill to authorize grants, as well as loans, for facilities' construction and also introduced with Senator Eagleton the "Urban Hospitals Emergency Assistance Act of 1974" (S. 2983).

I ask unanimous consent that the full text of the letter of transmittal, a section by section summary of the bill, and the bill be printed in the Record.

There being no objection, the material and bill were ordered to be printed in the Record, as follows:

Department of Health, Education, and Welfare,
March 11, 1974.

Hon. Gerald R. Ford,
President of the Senate,
Washington, D.C.

Dear Mr. President: Enclosed for the consideration of the Congress is a draft bill "To amend the Public Health Service Act to revise and extend programs of Federal assistance for comprehensive health resources planning, and to assist the States in regulating the costs of health care." Upon enactment, the bill will bear the short title of the "Health Resources Planning Act".

The draft bill has two major purposes: First, to assist the nation's health care system to plan more effectively to provide the resources necessary to meet the nation's health care needs; second, to grant assistance to States to pay part of their costs in regulating proposed capital expenditures and rate increases for health care.

In aid of the first purpose, the draft bill would establish a procedure under which State governors and the chief executive officers of the territories of the United States would take the initiative in establishing geographical regions (to be known as "health service areas") within which there will be available a comprehensive range of health services, and which will represent rational areas for the effective planning and development of health services.

To serve as the locus for health planning and related activities within the areas thereby established, the Secretary would certify private nonprofit organizations, after consultation with the appropriate State and local officials, as "Health Systems Agencies" whose efforts would be directed at aiding the major sectors of the health care market within the area—consumers, health care providers, health care insurers, health educational institutions, and government—to develop, for the area, adequate, equitably distributed health services of high quality and reasonable cost.

An Agency would supply this aid, with respect to its area, by preparing and keeping current a comprehensive health plan for services, facilities, and manpower; by reviewing and advising the Secretary with respect to applications to the Secretary for financial assistance for the construction of health facilities, the development of health services, or the training of health manpower, by advising State and local governments in regard to actions those governments may propose relating to health services, facilities, or manpower; and by providing technical assistance, including grants and contracts not in excess of $25,000 each, for projects and activities that would contribute to implementing the comprehensive health plan.

In States containing more than one health service area, the Agencies serving the State would establish a Statewide Health Coordinating Council, which would prepare a Statewide comprehensive health plan and would offer its participating Agencies a forum for resolving problems of inter-Agency coordination.

To support these activities, the draft bill would offer the Agencies three forms of assistance: it would authorize the Secretary to contribute toward their expenses of operation, to accord them technical assistance, and to fund the Agencies' own technical assistance grants and contracts.

In aid of the draft bill's second purpose, it would establish a program of State formula grants, based upon a State's population and the cost of the services for which the grant is supplied, to aid each State (and the territories) in paying their costs of regulating capital expenditures for health care and the payment or reimbursement for health care services. A State choosing to regulate in both areas, and vesting that regulation in a single Agency of the State, would be entitled to receive a grant that was twenty-five percent larger than the grant that it would otherwise have received under the formula.

The draft bill is more fully described in the enclosed sectional summary.

The draft bill is designed to replace the State or areawide planning components of five programs, conducted under the Public Health Service Act, whose authorizations expire with the close of the current fiscal year. These are the comprehensive health planning programs under sections 314(a) and 314(b) of the Act, the Hill-Burton program under title VI of the Act, the regional medical programs under title IX of the Act, the program supporting area health education activities funded through the regional medical programs, and the program assisting experimental health services delivery systems under section 304 of the Act.

Because these programs, and therefore their planning components, were developed at different times and for different reasons, each program was designed to concentrate its planning activities on only a part of the health care system. In consequence, the Federal approach to private health care planning has been fragmented, demonstrating little capacity to bring about improvement in the health care system as a whole.

In seeking to remedy this problem, our proposal reflects our awareness that the larger portion of last year's national expenditures in the field of health care were by the private sector, with only five percent of the total representing amounts expended by State and local government: a share, moreover, that continues to diminish. By emphasizing support of private rather than governmental health care planning, our proposal recognizes that health care planning in the United States is now, and should remain, primarily a private activity.

A particular concern of our proposal is to assure that each Health Systems Agency assisted under it be governed by a body representative of the health care market in which the Agency is to intervene. It meets this concern by requiring one-half of the governing body to consist of consumers and State and local (primarily elected) governmental officials, and one-half to consist of providers of health care, health care insurers, and health education institutions.

A further concern is to open the planning process to the public and to encourage public participation. This would be accomplished by a range of provisions that include the mandating of open meeting of Agency governing bodies, and public hearings on the adoption of the comprehensive health plan.

The Agency function of reviewing Federal, State, and local health activities in its area, albeit advisory, will accord to its planning efforts serious attention at all levels of government.

Because of the influence of State regulatory activities on health care planning, and the importance of those activities in assuring the availability of quality health care at a reasonable cost, our proposal also includes the previously described formula grant program to encourage these activities, and to defray some of the costs to the State attendant upon its participation in the program of capital expenditure review established by section 1122 of the Social Security Act. In this regard, in contrast to our views about planning, the draft bill recognizes that regulation of the health care industry is a governmental function, and cannot appropriately be transferred to private hands.

We are not seeking an extension of those aspects of the regional medical program or the Hill-Burton program not embraced by the draft bill, or section 314(c) of the Public Health Service Act, which provides project grants for training, studies, and demonstrations in the health planning field.

The Hill-Burton hospital construction program was initiated in 1946 to meet the nation's most critical post-war need: acute care (inpatient) beds. During the early years of Hill-Burton, nearly two-thirds of available funds were expended for new construction, principally in rural communities where no facilities existed or where existing facilities were completely inadequate. As the program progressed, the need for additional facilities decreased and support shifted to projects for replacement, alterations, and additions to existing facilities. With the expenditure of more than $3.7 billion over the past two decades to assist over 10,000 facilities to establish 470,000 new beds, the need for additional general hospitals, mental hospitals, and acute beds has substantially been met. The national average bed occupancy rate is now about 73 percent. Moreover, any further construction that might be needed can be financed from charges for patient care through private, State, and local borrowing.

In regard to the regional medical programs, the expenditure of more than $500 million from 1966 through 1972 has not significantly altered the health care delivery system nationally. Moreover, the original objective of the programs—to improve quality of care—is now the major responsibility of the nationwide system of Professional Standards Review Organizations.

Finally, our experience with grants under section 314(c) has been that they have not contributed materially to the overall competence of the health planning process. Persons who wish to pursue graduate training in health planning can be assisted through alternative sources, *e.g.*, the student assistance programs of the Office of Education, which are generally available to students in higher education.

We urge that the draft bill receive prompt and favorable consideration.

We are advised by the Office of Management and Budget that enactment of this proposal would be in accord with the program of the President.

Sincerely,
/s/ Frank C. Carlucci,
Acting Secretary.

Sectional Summary of Health Resources Planning Bill

AN OVERVIEW

The draft bill consists of six sections:

Section one would give the bill the short title of the "Health Resources Planning Act";

Section 2 expresses the bill's purpose of assisting private and public health care systems to plan more effectively the provision of resources necessary to meet the health care needs of the nation, and to facilitate governmental regulation of health care costs;

Section 3 would enact the bill's two new programs, as described below;

Section 4 consists of technical and conforming changes to the Public Health Service Act necessitated by the amendments made by section 3 of the bill;

Section 5 would authorize technical assistance, during fiscal year 1975, to planning agencies previously established under the Hill-Burton program or under the regional medical programs, and to "A" or "B" agencies under the current comprehensive health planning program, to enable them to convert to the type of planning agency assisted by the first of the bill's new programs; and

Section 6 would make the bill effective with respect to appropriations for fiscal years beginning after June 30, 1974.

ASSISTANCE FOR HEALTH RESOURCES PLANNING: A NEW SECTION 316 OF THE PUBLIC HEALTH SERVICE ACT

The draft bill would repeal the current section 316 of the Public Health Service Act, which provides for a National Advisory Council on Comprehensive Health Planning Programs, and would enact a new section 316, subdivided as shown below.

(a) *Purpose of section.* The purpose of the new section 316 is to assist in the formulation of a nationwide system of Health Systems Agencies to encourage the development of adequate, equitably distributed health services of high quality and reasonable cost. The Agencies, in pursuit of this purpose, would be responsible for fostering alternative health care arrangements, the elimination or reduction of health resource duplication, the establishment of an adequate supply and distribution of those resources, the improvement of the efficiency and productivity of health care providers, the continuing education of health personnel (including education for new roles), and the coordination of all segments of the health care market.

(b)(1) *Designation of health service area.* The chief executive officer of each State (defined to include the District of Columbia, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands) may designate geographical regions as "health service areas". The areas (whose boundaries could be modified by the Secretary as appropriate) would be served by the Health Systems Agencies described below.

(2) *Characteristics of area.* The health services area would be a geographical region within which there are available a comprehensive range of health services, and which is of a character suitable for the effective planning and development of health services. Generally speaking, the areas (which could extend beyond the boundaries of a State) would be defined with appropriate regard for existing planning districts (such as those established for purposes of the Professional Standards Review Organizations, for State planning purposes, or as standard metropolitan statistical areas), and would contain a population of between one-half to three million.

(c) Health Systems Agencies: certification, functions, and eligibility for Federal assistance.—

(1) When and by whom certified. The Secretary would certify as a Health Systems Agency for each health service area an organization that enters into an agreement with the Secretary for this purpose and it's structured as described below.

(2) Functions. The agreement with the Secretary would obligate the Agency to prepare and maintain a comprehensive health plan for the health service area, to review the Secretary's grants of Federal financial assistance for health care activities, to review State and local health care activities, to offer technical assistance in furtherance of the health plan, to participate in the Statewide Health Coordinating Council described below, and to comply with various subsidiary requirements, including those necessary to protect the financial interest of the United States.

(3) Provisional agencies. Agencies would initially be certified on a provisional (24-month) basis, after appropriate consultation with State and local officials, during which period the Agency would follow a plan for the orderly assumption of the previously described Agency functions.

(4) Assistance by Secretary.—

(A) Expenses of operation. The Secretary would make grants for an agency's operational expenses.

(B) Technical assistance by Secretary. The Secretary would extend to the Agency a broad range of technical assistance, and keep it apprised of national health policies and issues that bear on health care.

(C) Support of Agency's technical assistance grants and contracts. The Secretary would fund the technical assistance grants and contracts awarded by the Agency in furtherance of the comprehensive health plan for its health service area. The amount of this assistance would, in part, depend upon the Secretary's evaluation of the Agency's effectiveness.

(d) Termination or withdrawal of certification. An Agency could terminate a provisional certification upon 90 days notice to the Secretary, or a final certification upon such notice as the Secretary's regulations provide. The Secretary would withdraw an Agency's provisional or final certification, on not less than 120 days notice, upon his determination, after a formal hearing, of the Agency's noncompliance with its agreement.

(e) Organizational requirements to be met by Agencies.——

(1) In general. An Agency is required to be a nonprofit private corporation that exercises no Federal, State, or local regulatory authority, and is not a provider or insurer of health services or an educational institution.

(2) Governing body.—

(A) In general. The governing body is made responsible for the Agency's compliance with its agreement with the Secretary, and for management of the Agency.

(B) Composition. The governing body must consist of not more than 30 members, one-half of whom are to represent consumer organizations or State or local officials (with not less than two members in each of these categories), and one-half of whom are to represent organizations representative of physicians, health maintenance organization hospitals, long-term care facilities, health care insurers, or health educational institutions (with not less than one member in each of these categories that has members that provide services to the health service area). In addition, there may be included, as part of this latter provider group, other private or public providers of health services (such as representatives of Federal agencies that provide, or assist the provision of health services within the area).

(C) Actions reserved to governing body. There are reserved to the governing body the responsibilities, for its health service area, of adopting the comprehensive health plan, making recommendations to the Secretary on the use of Federal funds related to health care, reviewing State or local health care actions, and awarding grants or contracts for technical assistance.

(D) Proceedings.—

(i) Quorum. The governing body may act only by vote of a majority of its members at a meeting at which at least one-half of its members are present.

(ii) Public participation and information. Subject to limitations for the protection of confidential information of a type now protected under the Administrative Procedure Act, the governing body must conduct its meetings in public, provide for participation of the public in Agency actions, and publish annually a statement of its financial situation and activities.

(3) Staff. In empowering the Agency to employ staff, the bill would provide for training to upgrade the staff's qualifications. The bill, in this regard, contemplates only in-service training and does not intend to authorize education of a character leading to an academic degree.

(4) Invidious discrimination prohibited. In the selection of its members or staff, the Agency would be barred from discriminating on the basis of race, color, national origin, religion, sex, or age.

(5) Limitation of liability.—

(A) Services of members and employees. Members and employees of the Agency would be relieved of civil or criminal liability under any law for the performance, with the exercise of due care, of functions authorized by the bill.

(B) Provision of information. A similar relief would be accorded to persons providing information to the Agency with respect to the provision of that information, if the information is provided in good faith and related to the Agency's functions.

(6) Sources of financial support. An Agency may receive unconditional contributions from any private source of up to 5 percent of the amount of assistance received from the Secretary, and of up to 25 percent of that amount from any public sources.

(f) Comprehensive health plan.—

(1) Preparation and contents. Each Agency must annually adopt a comprehensive health plan for its health service area identifying shortages, maldistributions, and surpluses of health personnel, facilities, and services, and the most serious organizational and operational deficiencies of health care providers.

(2) Recommendations. The plan must set forth long-range goals and annual priorities for the establishment or improvement of health care systems, and recommend actions to alleviate the problems identified by the plan. The actions recommended should foster the objectives described in subsection (a), above.

(3) Adoption and promulgation. Prior to the adoption of its plan, the Agency must conduct a public hearing and receive written comment from interested persons.

(g)(1) Review of Federal project grants. Each Agency is required to review project grants by the Secretary to its health service area, under the principal health statutes administered by him, for the development, expansion, or support of health facilities, manpower, or services.

(2) Review of Federal formula grants. The Agency, if its area is Statewide or, if not, the pertinent Statewide Health Coordinating Council, must review the plans or applications submitted as a condition of an entitlement to formula grant funds under the health statutes administered by the Secretary.

(3) Effect of approval or disapproval. The Secretary would be required to provide to the pertinent Agency or Council, upon request, a detailed written statement of his reasons for disregarding their recommendations in the approval or disapproval of any project grant or, in the case of a formula grant, any plan or similar application upon which the entitlement is conditioned.

(h) Technical assistance by Agencies.—

(1) Purposes. An Agency may provide technical assistance, directly or by grant or contract, to implement the recommendations of its comprehensive health plan. The assistance would be available, among other purposes, for the preparation of applications to the Secretary for assistance related to health care, and for implementing any project or activity for which such assistance is awarded.

(2) Limitation of purpose, amount, and duration. Grants or contracts under this subsection could be used only for operational expenses (although not for the purposes or provision of health care services or training in the provision of health care services), could not exceed $25,000 for any single project for a fiscal year, and could not be awarded for any single project for more than two successive fiscal years.

(i) Statewide Health Coordinating Council.—

(1) Requirement for Council. Two or more Agencies that serve health service areas that fall, in whole or in part, within the same State would be required to form a Statewide Health Coordinating Council.

(2) Organization. The Council would consist of two representatives from each member Agency, one representative selected from the consumer or public members of the Agency's governing body, the other selected from the members related to the health professions.

(3) State participation. The State would also be permitted to appoint one or more of its officials to serve on the Council, and would be permitted to contribute up to 25 percent of the amount required to meet the Council's expenses (the remainder, under paragraph (2) above, to be paid by the participating Agencies).

(4) Functions. The Council would draw on the comprehensive health plans of its member Agencies to prepare a Statewide plan, and would perform other advisory analytical, and coordinative functions.

(5) Proceedings, public participation, staff, and limitations of liability. The captioned matters would be essentially the same as those required of Agencies.

(j) Evaluation of Agencies by Secretary. The bill would require the Secretary to evaluate the performance of Agencies and Councils on a regular basis, and would empower him to prescribe standards of performance to facilitate this evaluation.

(k) Appropriations authorized. The bill would authorize the appropriation of such sums as may be necessary for fiscal years 1975, 1976, and 1977 for section 316.

GRANTS TO STATES FOR REGULATION OF HEALTH CARE COSTS: A NEW SECTION 316A OF THE PUBLIC HEALTH SERVICE ACT

The draft bill would add a new section 316A to the Public Health Service Act, subdivided as shown below.

(a) Purpose. There would be established a formula grant program to assist the States to pay their costs of regulating capital expenditures related to health care, and otherwise to establish or regulate rates used for the payment or reimbursement for health care services.

(b) (1) (A) Allotment. The allotment would be in accordance with the populations of the respective States eligible for it, and the costs of regulating the activities selected by the States for regulation.

(B) Entitlement to increased allotment. A State that regulates both capital expenditures and the rates of payment or reimbursement for health care services, and that centralizes this regulation in a single State agency, would be entitled to an additional amount equal to 25 percent of its original allotment.

(2) Reallotment. Amounts not used by a State would be reallotted among the remaining States in proportion to their original allotments.

(3) Payment. Payment may be made on the basis of estimates of anticipated expenditures, with provision for adjustments for underpayments or overpayments.

(c) State agreement. In addition to its acceptance of provisions to protect the financial interest of the United States, a State, as a condition of its entitlement under this section, must also agree to provide for the establishment of a procedure under which the instrumentality of the State responsible for approving capital expenditure related to health care within the State will first obtain the recommendation of the Health Systems Agency with respect to any expenditure within the Agency's health service area. If the instrumentality takes action contrary to that recommendation, there must be a procedure under which its decision is reviewed by the chief executive officer of the State as he may designate.

(d) Termination of assistance. The Secretary, after reasonable notice and opportunity for hearing to a State, may terminate assistance for noncompliance. The Secretary may also request the Attorney General to take such action to compel compliance, or to recover amounts improperly expended by a State under the section, as may be authorized by law.

(e) Appropriations authorized. The bill would authorize the appropriation of such sums as may be necessary for fiscal years 1975, 1976, and 1977 for section 316A.

S. 3166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Health Resources Planning Act".

PURPOSE OF ACT

SEC. 2. The purpose of this Act is to assist private and public health care systems to plan more effectively the provision of resources necessary to meet the health care needs of the Nation, and to facilitate governmental regulation of health care costs.

FEDERAL ASSISTANCE TO ESTABLISH A COMPREHENSIVE HEALTH CARE PLANNING SYSTEM AND TO AID STATES IN REGULATING HEALTH CARE COSTS

SEC. 3. Section 316 of the Public Health Service Act is repealed, and there are enacted new sections 316, 316A, and 316B to read as follows:

"ASSISTANCE FOR HEALTH RESOURCES PLANNING

"SEC. 316. (a) PURPOSE OF SECTION.—The purpose of this section is to assist in the formulation of a nationwide system of Health Systems Agencies whose mission is to inform, coordinate, assist, and influence each of the five major sectors of the health care market—consumers, health care providers, health care insurers, health educational institutions, and Government—to plan and develop an adequate supply of health care of high quality, equitably distributed, and of reasonable cost. In aid of this mission, each Agency shall seek to achieve the following objectives—

"(1) to foster the establishment of alternative arrangements for the organization, financing, and provision of health services;

"(2) to minimize or eliminate the unnecessary duplication of health resources;

"(3) to assure the adequate supply and distribution of health resources and services throughout the geographical area it serves;

"(4) to encourage improvements in the efficiency and productivity of individuals and organizations that provide health care, including, in aid thereof, change in the organization and operation of entities providing health services, and their use of personnel;

"(5) in aid of the preceding objectives, to foster the appropriate training, retraining, and continuing education of health personnel, and the initiation of new types and patterns, and the improvement of existing types and patterns of that training, retraining, and continuing education; and

"(6) to encourage coordination of the activities of all segments of the health care market, with particular reference to the relationship to that market of the health plans and activities of government, the kinds of services that are or should be reimbursed by insurers of health care, the kinds of personnel that are or should be providing those services, the admissions policies and curricula of health educational institutions, the location of medical or other health internships, residences, employment, or other manpower training programs, and the placement of health facilities.

"(b) (1) DESIGNATION OF HEALTH SERVICE AREA.—As soon as practicable after the enactment of this section, the Secretary shall publish a general notice in the Federal Register, and shall give actual written notice to the chief executive officer of each State, announcing the initiation of proceedings to designate geographical regions, to be known as 'health service areas', to be served by Health Systems Agencies certified under subsection (c). Each notice shall request the chief executive officer of each State to establish, in accordance with the criteria specified by paragraph (2) and after consultation with each agency within the State established under section 314(a) or 314(b), or title IX, of this Act, the boundaries of all health service areas within which his State or any portion thereof will be located, and to inform the Secretary of those boundaries within six months of the date of that enactment. By promulgation of a rule under 5 U.S.C. 553, the Secretary shall thereafter designate such areas as health service areas for purposes of this section, subject to such modifications (notwithstanding paragraphs (2) (B) and (2) (C) as the Secretary may deem appropriate. The Secretary, by such rule, shall also designate health service areas for every geographical region of the United States that would not otherwise be located in any health service area. A health service area may not be altered, after its designation, except by promulgation of a rule under 5 U.S.C. 553, proposed after actual written notice to the chief executive officer of each State any portion of which is included in that area.

"(2) CHARACTERISTICS OF AREA.—A health service area shall be a geographical region within which there are available a comprehensive range of health services, and which is of a character suitable for the effective planning and development of health services. Subject to the preceding sentence, a health service area—

"(A) shall not include any portion of the geographical region of any other health service area but may otherwise be within, coexistensive with, or extend beyond the boundaries of a State (except that there shall be designated with respect to each State not less than one health service area within which health services are provided primarily to residents of that State);

"(B) shall have boundaries, subject to subparagraph (A), that (i) shall conform to, or otherwise take into account, areas designated by a State for planning for human services and areas established under section 1152(a) of the Social Security Act; and (ii) shall not, unless such health service area boundaries would otherwise be infeasible, cross the boundaries of a standard metropolitan statistical area (as determined by the Office of Management and Budget); and

"(C) shall contain upon its establishment, subject to the preceding subparagraphs, a population of not less than five hundred thousand (unless the population of a State contained within the health service area is less than five hundred thousand), and not more than three million (unless the health service area contains a standard metropolitan statistical area having a population in excess of three million).

"(c) HEALTH SYSTEMS AGENCIES: CERTIFICATION, FUNCTIONS, AND ELIGIBILITY FOR FEDERAL ASSISTANCE—

"(1) WHEN AND BY WHOM CERTIFIED.—The Secretary shall, as soon as practicable after the designation of a health service area, enter into an agreement with an entity whereby he shall certify the entity as the sole Health Systems Agency (hereinafter in this section referred to as the 'Agency') for that area. The initial certification of an entity as an Agency shall be provisional, in accordance with paragraph (3).

"(2) Functions.—The Secretary may certify an entity as an Agency only if it meets the organizational requirements of subsection (e), and, in the agreement entered into under paragraph (1), undertakes—

"(A) to use amounts received from the Secretary under this section only for the purposes for which provided, and in accordance with such procedures, consistent with this section, as the Secretary's regulations may prescribe;

"(B) to prepare and keep current a comprehensive health plan for services, facilities, and manpower meeting the requirements of subsection (f);

"(C) at the Secretary's request, in accordance with subsection (g), to review and make recommendations upon each application to the Secretary for Federal financial assistance for the construction of a health facility, the development of a health service, or the training of health manpower within the health service area for which it is established;

"(D) in its discretion, to review and make recommendations upon the actions or proposed actions of a State (including its political subdivisions, any agency thereof, and any agency designated under section 1122 of the Social Security Act) relating to health services, facilities, or manpower within the Agency's health service area;

"(E) insofar as it finds necessary to facilitate the accomplishment of its mission, to collect data and other information, and to conduct analyses, evaluations, and other studies, with respect to (i) health manpower, facilities, services, and related health resources, (ii) the costs and financing of those health resources, and (iii) the health status and needs of the population of the health service area;

"(F) to make available to the public the data and other information collected, and the analyses, evaluations, and other studies conducted under subparagraph (E); and such other information on health conditions, needs, resources, and activities undertaken with respect to them, as may be in the Agency's possession;

"(G) to provide technical assistance in accordance with subsection (h);

("H) to participate, if required by subsection (i), in a Statewide Health Coordinating Council;

"(I) to comply with such performance standards as the Secretary may prescribe under subsection (j);

"(J) to make such reports, in such form and containing such information, as the Secretary may from time to time require, and to keep such records and afford such access thereto as the Secretary may find necessary to verify such reports;

"(K) to provide for such fiscal control and fund accounting procedures as the Secretary may require to assure proper disbursement of, and accounting for, amounts received from the Secretary under this section; and

"(L) to permit the Secretary and the Comptroller General of the United States, or their representatives, to have access for the purpose of audit and examination to any books, documents, papers, and records pertinent to the disposition of amounts received from the Secretary under this section.

"(3) Provisional Agencies.—The Secretary shall initially certify an entity as an Agency on a provisional basis, for a period not to exceed 24 months, in order to develop and determine the capacity of the entity to perform the functions imposed on Agencies under this section. The Secretary shall not provisionally certify an entity as an Agency until he has consulted with the chief executive officer of the State to be served, and such other State and local officials as he may deem appropriate, with respect to that certification, and has received from the entity, and approved, a formal plan for the entity's orderly assumption and implementation of those functions during the provisional period.

"(4) Assistance by Secretary.—

"(A) Expenses of operation.—From the sums appropriated under subsection (k) for any fiscal year, the Secretary may make grants for that fiscal year to each entity certified or provisionally certified by him under this subsection as an Agency, for use by the Agency for its expenses of operation (as defined by section 316B(4)).

"(B) Technical assistance by secretary.—To assist each Agency in performing its functions, the Secretary shall provide the Agency with materials pertinent to health care planning methodologies, health care system studies, research, and related information available to him, including information pertaining to health care resources and utilization. Materials provided shall include model curricula, and other information on the health care system, that would further educate members of the Agency. The Secretary shall also, as appropriate, inform each Agency of health policies or issues of national concern, of national priorities in the establishment of health policy or in addressing those issues, and of such other national policies or issues as may bear upon the provision of health care.

"(C) Support of agency's technical assistance grants and contracts.—To enable an Agency that has prepared a plan, for a fiscal year, that meets the requirements of subsection (f), to provide technical assistance for that fiscal year authorized by subsection (h), the Secretary may award to the Agency for that fiscal year a grant from sums appropriated under subsection (k). The amount of that grant shall be based upon—

"(i) the population of the health service area for which the Agency is certified;

"(ii) the health care needs within that health service area as set forth by the plan; and

"(iii) the efficiency and effectiveness of the Agency as determined by the Secretary under subsection (j).

"(d) Termination or withdrawal of certification.—An Agency may terminate a provisional certification upon 90 days notice to the Secretary, and a certification (other than a provisional certification) at such time and upon such notice to the Secretary as the Secretary's regulations shall prescribe. The Secretary shall withdraw an Agency's certification or provisional certification not less than 120 days after notifying the Agency of his intent to do so, but only upon his determination, after providing the Agency with an opportunity for hearing in accordance with 5 U.S.C. 554, that the Agency has not complied with the agreement entered into under subsection (c)(1) or, in the case of a provisionally certified Agency, is not capable of such compliance.

"(e) Organizational requirements to be met by agencies.—

"(1) In general.—An agency shall be eligible to be certified for a health service area so long as it is and continues to be an entity that (A) is incorporated as a nonprofit private corporation of a State that includes the largest part of the area's population; (B) is governed and maintains a staff in compliance with paragraphs (2) and (3), respectively; (C) is not a subsidiary of, or otherwise controlled by, any other public or private corporation or other entity; (D) exercises no regulatory authority nor otherwise participates, other than in an advisory capacity, in any regulatory process, established by law; (E) does not provide, or insure the provision of, and does not own or operate any facility that provides, or insures the provision of, health services to any individual (other than its members or employees); (F) is not and does not operate an educational institution; (G) does not engage in activities not authorized by this section; and (H) is capable, as determined by the Secretary, of performing each of the functions described in subsection (c)(2).

"(2) Governing body.—

"(A) In general.—An agency shall have a governing body that shall be composed as provided in subparagraph (B), shall conduct its proceedings in accordance with subparagraphs (C) and (D), shall *be responsible for* the Agency's compliance with the agreement executed under subsection (c)(2), and shall otherwise manage the Agency.

"(B) Composition.—The governing body of an agency shall be composed of not more than thirty members (as the Secretary's regulations may prescribe) who are residents of the health service area for which the agency is certified. Of these members—

"(i) one-half shall be (I) individuals who represent organizations that in the aggregate reflect the composition of the population of the area and none of whom is, or within the 12 months preceding his appointment has been, a provider of health services; or (II) individuals who are officials of State or local government who hold public elective offices that are broadly representative of the elected governmental authorities in the area (except that the Secretary's regulations may authorize the selection, in lieu of an elected official, of an official holding a comparable appointive office); and

"(ii) one-half shall be individuals who represent organizations that are representative of (I) physicians, (II) health maintenance organizations, (III) hospitals, (IV) long-term care facilities, (V) other private or public providers of health services, (VI) health care insurers, or (VII) health educational institutions.

Members shall be selected in such manner and serve such terms as the Secretary's regulations may prescribe, except that—

"(iii) there shall be at least two members designated under each of the clauses enumerated (i)(I) and (i)(II); and

"(iv) there shall be at least one member designated under each of the clauses enumerated (ii)(I) through (ii)(IV), (ii)(VI), and (ii)((VII) (except with with respect to any clause that describes a category no members of which serve the Agency's health service area).

For purposes of clause (i), the term 'provider of health services' means an individual (or any dependent child of such individual) who receives (either directly or through his spouse) any gross annual income from fees or compensation for the provision of, research into the provision of, or instruction in the provision of health services, or from entities engaged in such provision, research, or instruction, or from producing or supplying, or from entities engaged in producing or supplying drugs or other articles for individuals or entities engaged in the provision of, research into the provision of, or instruction in the provision of such services, or holds a fiduciary position with, or has a fiduciary interest in, any of the previously described entities. For purposes of clause (ii), the terms contained in the enumerated clauses thereof shall bear such meaning as the Secretary's regulations may prescribe.

"(C) Actions reserved to governing body.—Except upon the approval of the governing body, an agency may not (i) adopt, or adopt a revision of, a comprehensive health plan under subsection (f); (ii) approve or disapprove any proposed use of Federal funds, or any State plan or similar institutional application, under subsection (g); (iii) make any recommendation relating to actions or proposed actions of a State under subsection

(c) (2) (D); or (iv) provide technical assistance by grant or contract under subsection (h).

"(D) Proceedings.—

"(i) Quorum.—The governing body of an Agency shall act only by vote of a majority of its members present and voting at a meeting called in accordance with the Agency's articles of incorporation and applicable by-laws, and at which meeting a quorum is in attendance. A quorum for the governing body shall be not less than one-half of its members. An Agency shall reimburse the members of its governing body for their reasonable costs incurred in attending meetings of the governing body.

"(ii) Public participation and information.—Subject to such terms and conditions as the Secretary's regulations may prescribe, including such exceptions as the Secretary finds necessary to protect the confidentiality of matter comparable to matter described in 5 U.S.C. 552(b), the by-laws of an Agency shall—

"(I) provide that the governing body shall conduct its business meetings in public, shall maintain minutes of those meetings, and shall make those minutes, and its other records available, upon request, to the public;

"(II) provide for participation of the public in the actions of the Agency, by requiring public notice of meetings of the governing body, reasonable opportunity for interested persons to file statements with the governing body with respect to matters upon which the body proposes to act, and such other procedures as may be deemed necessary or appropriate to effect this purpose; and

"(III) provide that the governing body on behalf of the Agency shall annually publish and disseminate to the public a statement listing the Agency's income, expenditures, assets, and liabilities for the year; and a statement describing the Agency's activities in that year.

"(3) Staff.—An Agency shall employ staff that includes individuals knowledgeable in the disciplines relevant to health care financing, organization, and resource utilization. An Agency may employ consultants, and may contract with individuals or groups for the provision of services, where necessary to perform its functions. The staff, consultants, and other individuals or groups employed by or providing services to the Agency shall be compensated in accordance with standards established by the Secretary's regulations. Subject to the Secretary's regulations, an Agency may, notwithstanding the limitations of paragraph (1) (F) (barring an Agency from functioning as an educational institution), undertake to provide, by contract or otherwise, for the additional training of its staff to improve the capability of the Agency to carry out its functions under this section.

"(4) Invidious discrimination prohibited.—For the purposes of the application to this section of title VI of the Civil Rights Act of 1964, section 601 of that Act shall be deemed also to prohibit, with respect to any person in the United States, the exclusion of that person from participation in, denial to that person of the benefits of, or the subjection of that person to discrimination under the activities of the Agency authorized or required by this subsection, on the ground of religion, sex, or age.

"(5) Limitation of liability.—

"(A) Services of members and employees.—No individual who, as a member or employee of an Agency or who furnishes professional counsel or services to an Agency, shall, by reason of his performance of any duty, function, or activity required of, or authorized to be undertaken by, an Agency under this section, be held to have violated any criminal law, or to be civilly liable under any law, of the United States or any State (or political subdivision thereof), provided he has exercised due care and has acted, with respect to that performance, without malice toward any person affected by it.

"(B) Provision of information.—No person who provides information to an Agency shall, by reason of having provided that information, be held to have violated any criminal law, or to be civilly liable under any law, of the United States or any State (or political subdivision thereof), unless—

"(i) the information is unrelated to the performance of the functions of the Agency, or

"(ii) the information is false and the person providing the information knew, or had reason to believe, that the information was false.

"(6) Sources of financial support.—An Agency is authorized to solicit and accept unconditional contributions of money, to be used for the purposes of this section. An Agency may not accept from any private individual or other private entity in or for any fiscal year, a contribution that exceeds five per centum of amounts awarded to the Agency by the Secretary under this section for that fiscal year, nor from any public entity a contribution that exceeds twenty-five per centum of such amounts for such year.

"(f) Comprehensive health plan.—

"(1) Preparation and contents.—Each Agency shall annually adopt and promulgate, in accordance with the procedures prescribed by paragraph (2), a plan for the health service area for which it is certified which shall take into account the health services, facilities, and manpower of the area, including health care provided or the provision of which is assisted by the United States. The plan shall identify problems related to each of the objectives specified by subsection (a), and, to the extent not otherwise identified—

"(A) shall identify the most acute shortages, maldistributions, and surpluses of health personnel, facilities, and services, within the health service area; and

"(B) shall identify the most serious deficiencies in the organization and operation of health entities within the health service area engaged in providing health services.

"(2) Recommendations.—The plan shall set forth a detailed statement of long-range goals and annual priorities for the establishment or improvement of health care systems, including services, facilities, and manpower, which shall meet the health care needs of the people of the area, and shall recommend specific actions to alleviate the problems identified under paragraph (1). The actions recommended shall foster the objectives set forth for Agencies in subsection (a).

"(3) Adoption and promulgation.—Prior to its adoption of any plan under this subsection, the Agency shall conduct a public hearing on the plan as proposed, and shall give interested persons an opportunity to submit their views orally and in writing. Not less than thirty days prior to that hearing, the Agency shall publish in at least two newspapers of general circulation throughout the health service area a notice of its consideration of the proposed plan, the time and place of the hearing, the place at which interested persons may consult the plan in advance of the hearing, and the place and period in which to direct written comment to the Agency on the plan. As soon as practicable after conclusion of the hearing, the Agency shall either adopt the proposed plan, with such modifications as it deems appropriate, or reject it. Upon the adoption of a plan (subject to such modifications as may be made by the pertinent Statewide Health Coordinating Council, if any, under subsection(i) (4) (A)), the Agency shall promulgate it throughout the health service area.

"(g) (1) Review of federal project grants.—Each Agency shall review and approve or disapprove each proposed use within its health service area of Federal funds appropriated for a program (other than a program described by paragraph (2)) under this Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 for the development, expansion, or support of health facilities, manpower, or services.

"(2) Review of federal formula grants.—Each Agency whose health service area includes an entire State or each Statewide Health Coordinating Council of the State shall review and approve or disapprove the State plan or similar institutional application, or any revision thereof, submitted to the Secretary as a condition of entitlement to amounts allotted by this Act or the Acts cited by paragraph (1).

"(3) Effect of approval or disapproval.—If an Agency disapproves a proposed use of Federal funds for a program described by paragraph (1), or an Agency or Council disapproves a plan or application described by paragraph (2), the Secretary may not make Federal funds available for such program, or approve such plan or application, until he has made, upon request of the entity proposing such use or submitting such plan or application, or upon his own initiative, a review of the Agency's or Council's decision. If the Secretary thereafter approves such use, plan, or application, he shall make a detailed written statement of his reasons to such Agency or Council. If the Secretary disapproves any proposed use of such Federal funds, or such plan or application, contrary to the approval of such Agency or Council, he shall make a detailed written statement of his reasons to such Agency or Council upon its request. Nothing in this subsection, however, shall be construed to authorize the Secretary to withhold his approval of any use, plan, or application that complies with provisions of law creating an entitlement to any amount, if the Secretary is not otherwise authorized to exercise discretion to withhold his approval.

"(h) Technical assistance by agencies.—

"(1) Purposes.—An Agency may provide technical assistance, directly or by grant or contract, to assist public or private entities to plan or develop programs or projects to implement any action recommended under subsection (f) (2). Subject to the preceding sentence, technical assistance may include, but shall not be limited to, assistance—

"(A) to plan, develop, or prepare an application to the Secretary for assistance under any Act that the Secretary administers, or any Act administered by an official under his supervision, for any project or activity for or to develop or expand health services or facilities or the education or training of health manpower; or

"(B) to implement any such project or activity for which the assistance described in subparagraph (A) is awarded,

except that the amount of any technical assistance awarded under this subsection shall not be included in the computation of any non-Federal contribution to such project or activity required under any such Act. The Secretary shall publish and disseminate to each Agency standards and guidelines to assist in its provision of technical assistance described in subparagraphs (A) and (B).

"(2) Limitation of purpose, amount, and duration.—Amounts awarded under a grant or contract under paragraph (1) shall be used only to pay expenses of operation (as defined by section 316B(4)), except that an Agency may not authorize the use of any such award for the purchase or provision of health care services (except by the recipient, in its capacity as an employer, with respect to its employees), or education or training in the provision of such services. No such award, or aggregate of awards, shall be to an individual or other entity, for any single project or activity, in an amount that exceeds $25,000 for any fiscal year, nor shall an Agency extend technical assistance by grant or contract, or combination thereof, to any individual or other entity, for any single project or activity, for more than two successive fiscal years.

"(i) Statewide health coordinating council.—

"(1) Requirement for council.—In the case of two or more Agencies certified for health service areas that fall, in whole or in part, within the boundaries of a single State, the Agencies shall prepare and submit to the Secretary, within such time, in such form and manner, and meeting such terms and conditions, consistent with this section as his regulations prescribe, a common proposal for the establishment, for that State, of a Statewide Health Coordinating Council (hereinafter in this section referred to as the 'Council'). An Agency certified for a health service area contained only within the boundaries of two or more States shall comply with the preceding sentence with respect to each of those States.

"(2) Organization.—A proposal for a Council shall contain the agreement of each Agency that joins in submitting it—

"(A) to designate to serve as members of the Council, one member of each Agency described by subsection (e)(2)(B)(i) (pertaining to qualifications of consumer and public members), and one member of each Agency described by subsection (e)(2)(B)(ii) (pertaining to qualifications of members related to the health professions), and to maintain this number and character of membership of the Council;

"(B) to assume, for each fiscal year, its share of the costs of the Council in excess of those defrayed under paragraph (3); for which purpose the share of each agency shall bear the same proportion to those costs as th amounts the Secretary has awarded to the agency under this section (with respect to the portion of its health service area lying within the State of the Council) for that year bear to such aggregate amounts awarded under this section to all agencies joining in the proposal; and

"(C) to comply with the rules and regulations of the Council promulgated under paragraph (4).

An agency shall be required to comply with each proposal it submits under paragraph (1) upon notification of the Secretary's acceptance of it.

"(3) State participation.—The Secretary shall accord to the chief executive officer of each State for which a Council is established the opportunity to appoint one or more officials of the State to serve, on behalf of the State, as members of the Council. For use in the payment of the expenses of the Council, a State may contribute to the Council, for a fiscal year, an amount that may not exceed 25 per centum of those expenses for that year.

"(4) Functions.—The Council, with respect to the State for which it is established, shall—

"(A) integrate, annually, the portions of plans that would be operative within the State, adopted under subsection (f) by each member agency, into a statewide plan that complies with that subsection, making only such modifications to the plan of each member Agency, for this purpose, as the Council finds necessary to eliminate inconsistencies that would unreasonably interfere with the coordination of activities among health service areas in pursuit of the statewide plan;

"(B) be authorized to undertake and publish such analyses, studies, research, evaluations, and other reports relating to health care as may be pertinent to the health services, facilities, or manpower in two or more health service areas served by member agencies;

"(C) be authorized to make recommendations to the State (including its agencies and political subdivisions) with respect to any plan or activity relating to the health care in two or more health service areas served by member agencies; and

"(D) take such other action with respect to coordinating the plans or activities of each agency within the State, with respect to one another and with respect to the plans or activities of the State, as the Council's rules and regulations may provide.

"(5) Proceedings, public participation, staff, and limitation of liability.—A Council's proceedings, the participation of the public in its activities, the appointment and composition of its staff, and the limitations of liability of its members, employees, individuals who furnish it with professional counsel, and persons who provide it with information, shall conform to subsections (e)(2)(D), (e)(3), and (e)(4), with such exceptions and subject to such modifications as the Secretary's regulations may prescribe.

"(j) Evaluation of Agencies by Secretary.—The Secretary shall evaluate on a continuing basis the efficiency and effectiveness of each Agency and each Statewide Health Coordinating Council established under subsection (i), and shall periodically publish each evaluation and disseminate it to each Agency and Council. To facilitate this evaluation the Secretary shall develop and prescribe for the use of each Agency and Council uniform methods of measuring its performance, for which purpose the Secretary shall develop and publish uniform standards relating to the requirements of this section and shall employ these standards in his evaluations under this subsection. To aid in the conduct of evaluations under this subsection, the Secretary shall provide for the conduct of visitations to each Agency and Council at least once in each period of three consecutive fiscal years.

"(k) Appropriations Authorized.—There are authorized to be appropriated for the purposes of this section such sums as may be necessary for the fiscal year ending June 30, 1975, and each of the next two fiscal years.

"GRANTS TO STATES FOR REGULATION OF HEALTH CARE COSTS

"Sec. 316A. (a) Purpose.—To assist the States to enter into and implement agreements with the Secretary to regulate capital expenditures related to health care, and otherwise to establish or regulate rates used for the payment or reimbursement for health care services rendered by health practitioners, hospitals, nursing homes, extended care facilities, community health care programs, home health agencies, visiting nurse associations, and indirect suppliers of health services (such as medical laboratories, ambulance services, blood banks, and dental laboratories), the Secretary shall, under subsection (b), allot the sums appropriated under subsection (e).

"(b)(1)(A) Allotment.—The sums appropriated under subsection (e) shall be allotted, for each fiscal year, among the States that, under subsection (c), have entered into an agreement with the Secretary that is in effect for the fiscal year. The allotment shall be, under the Secretary's regulations, in accordance with the populations of the respective States eligible therefor, and the costs of performing the functions to be undertaken by the States under their agreements, except that the allotment of a State, as so determined, shall be increased by twenty-five per centum (and the allotments of each State not so increased shall be proportionately reduced), in the case of a State meeting the requirements of subparagraph (B).

"(B) Entitlement to increased allotment.—A State shall meet the requirements of this subparagraph if the Secretary determines that (i) the State is entitled to assistance under this section both in consideration of an agreement with the Secretary to regulate capital expenditures related to health care and an agreement with the Secretary to regulate the payment or reimbursement of such health care services described by subsection (a) as the Secretary may provide; and (ii) the State has designated a single agency of the State to perform all of those regulatory functions.

"(2) Reallotment.—The amount of any allotment to a State under paragraph (1), for any fiscal year, that the Secretary determines will not be required by the State, during the period for which it is available, for the purposes for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as he may fix, to other States with respect to which such a determination has not been made, in proportion to the original allotments to such States under paragraph (1) for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during that period; and the total of those reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State from sums appropriated under subsection (e) for a fiscal year shall be deemed part of its allotment under paragraph (1) for the fiscal year.

"(3) Payment.—From each State's allotment for a fiscal year under this subsection, the Secretary shall from time to time pay to the State the amount of its expenditures incurred during that year or the succeeding year under the agreement entered into under this subsection. The Secretary shall make these payments on the basis of estimates of those expenditures, or in anticipation of those expenditures based upon his estimate of the sums the State will need in order to perform the functions undertaken under the agreement, but with such adjustments as may be necessary to take account of previously made underpayments or overpayments.

"(c) State Agreement.—In order to be approved for the purposes of this section, a State agreement (or agreements, in the case of a State submitting separate agreements for rate regulation and capital expenditure) must—

"(A) designate, or provide for the establishment of, the entities that will perform the functions described by subsection (a);

"(B) set forth policies and procedures that, in the judgment of the Secretary, will assure the effective discharge of those of the functions described by subsection (a) for which the State proposes to use its allotment under this section;

"(C) provide for the establishment of a procedure under which the instrumentality of the State responsible for approving capital expenditures related to health care within the State will obtain the recommendation of a Health Systems Agency with respect to any such expenditure within the health service area of the Agency; and further provide that a decision of that instrumentality to approve or disapprove any such expenditure against the recommendation of the Health Systems Agency shall be reviewed, upon petition of the Agency, by the chief executive officer of the State, or such other instrumentality (other than the instrumentality rendering the decision) as the chief executive officer may designate;

"(D) provide that the State will make such reports, in such form and containing such information, as the Secretary may from time to time require, and keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

"(E) provide for such fiscal control and fund accounting procedures to be undertaken by the State, or prescribed by it for entities receiving assistance from the State under this section in aid of the performance of any function described by subsection (a), as may be necessary to assure proper disbursement of and accounting for funds paid to the State under this section; and

"(F) contain such additional information and assurances as the Secretary may find necessary to carry out the purposes of this section.

"(d) Termination of Assistance.—Whenever the Secretary, after reasonable notice and opportunity for hearing to the State, finds that with respect to any portion of its allotment under this subsection there is a failure to comply with the agreement entered into under subsection (c), the Secretary shall make no further payments to the State from its allotment (or, in his discretion, no further payments from its allotment for the activities in which there is such failure) until he is satisfied that there will no longer be such failure. In addition to, or in lieu of, such termination of assistance, the Secretary may request the Attorney General to take such action to compel compliance, or to recover amounts improperly expended by the State under this section, as may be authorized by law.

"(e) Appropriations Authorized.—There are authorized to be appropriated, for the purposes of this section, such sums as may be necessary for the fiscal year ending June 30, 1975, and each of the next two fiscal years. Sums appropriated under this subsection shall remain available for obligation for the fiscal year succeeding the fiscal year for which appropriated.

"GENERAL DEFINITIONS

"Sec. 316B. For the purposes of sections 316 and 316A—

"(1) The term 'State' means each of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands; and the term 'United States' means all of the States, as so defined, or the Federal Government, as the context may dictate.

"(2) The term 'chief executive officer of a State' means the governor of each of the fifty States and the Commonwealth of Puerto Rico, the Commissioner or Mayor of the District of Columbia, and, with respect to each remaining State, such officer or employee of the United States having principal responsibility for its management or administration as the Secretary of the Interior shall designate.

"(3) The term 'nonprofit' as applied to any entity means an entity no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and which, if owned or operated by another entity, is owned or operated only by a nonprofit entity.

"(4) The term 'expenses of operation' means, with respect to any fiscal year, expenses chargeable to that year under generally accepted accounting principles, including debits for the depreciation of assets."

TECHNICAL AND CONFORMING CHANGES

Sec. 4. The Public Health Service Act is amended—

(1) in sections 310A and 310B, by striking out "314(a), 314(b), 314(c),";

(2) in sections 311(a) and 311(b), by striking out "section 314" and inserting "sections 314, 316, and 316A" in lieu thereof;

(3) in section 314(g)(1), by striking out the first sentence thereof;

(4) in section 314(g)(2), (A) in the first sentence thereof, by inserting "or section 316" after "this section", and (B) in the second sentence thereof, by striking out "subsection (a) or (d)" and inserting "subsection (d), or the amount of Federal assistance under section 316" in lieu thereof;

(5) in section 329(e)(1), (A) by striking out the text of subparagraph (C) and inserting in lieu thereof "Three members shall be appointed from the membership of Health Systems Agencies or State health planning agencies."; and (B) by striking out subparagraphs (E) and (F);

(6) in section 329(f)(3)(C), by striking out "section 314(b)" and inserting "section 316" in lieu thereof;

(7) in section 721(c)(7), by striking out clauses (A) and (B) and inserting in lieu thereof "the Health Systems Agency for the health service area (designated under section 316(b)) in which the project is to be located,";

(8) in section 721(d)(2), (A) by striking out "in a State which has in existence a State planning agency, or" and inserting in lieu thereof "in a health service area (designated under section 316 (b)) with respect to which there is certified a Health Systems Agency, or in a State"; (B) by striking out "by such agency" each time it appears and inserting "by either such agency" in lieu thereof; and (C) by striking out "such State" and inserting "such health service area or State, respectively," in lieu thereof.

(9) in section 728, by inserting after "health personnel" the following: ", or to Health System Agencies to assist in planning such programs";

(10) by striking out section 791(b)(5)(C) and inserting in lieu thereof the following:

"(C) in the case of an applicant in a health service area (designated under section 316 (b)) for which there is certified a Health Systems Agency, the relationship of the application to the construction or training program described in the plan of the Agency promulgated under action 316(f) and, if the Agency has reviewed the application, any comment thereon submitted by it.' '

(11) by striking out the text of section 802(c)(2) and inserting in lieu thereof a text identical with the text of section 791 (b)(5)(C) as amended by paragraph (10) of this section.

TRANSITIONAL ASSISTANCE TO EXISTING AGENCIES

Sec. 5. In the case of an entity to whom the Secretary has awarded financial assistance, for the fiscal year ending June 30, 1974, under title VI or IX, or section 314(a) or 314(b) of the Public Health Service Act, as in effect in that year, the Secretary is authorized to provide to such entity, prior to July 1, 1975, such technical assistance as it may require to qualify for provisional certification as a Health Systems Agency under section 316(c)(3) of the Public Health Service Act as amended by this Act. The Secretary may condition the provision of that assistance upon such reorganization of the entity, or such merger of the entity with one or more other entities, as will facilitate the performance of its functions as such Health Systems Agency with respect to the health service area for which it is certified.

EFFECTIVE DATE

Sec. 6. Except for section 5, which shall become effective upon enactment, this Act is effective with respect to appropriations for fiscal years beginning after June 30, 1974.

By Mr. TOWER:

S. 3167. A bill to amend title II of the Social Security Act to eliminate the special dependency requirements for entitlement to husband's and widower's insurance benefits, so that benefits for husbands and widowers will be payable on the same basis as benefits for wives and widows;

S. 3168. A bill to amend title II of the Social Security Act to permit the payment of benefits to a married couple on their combined earnings record;

S. 3169. A bill to amend title II of the Social Security Act to provide that an insured individual otherwise qualified may retire and receive full old-age insurance benefits, at any time after attaining age 60, if he has been forced to retire at that age by a Federal law, regulation, or order; and

S. 3170. A bill to amend title II of the Social Security Act to provide that any individual who has 40 quarters of coverage, whenever acquired, will be insured for disability benefits thereunder. Referred to the Committee on Finance.

Mr. TOWER. Mr. President, over the last several months I have undertaken a thorough review of the problems being experienced by my constituents under the current provisions of the Social Secuity Act. In most cases, I have discovered that the majority of these problems arise out of a misunderstanding of the ever-changing provisions and regulations governing the program and from inadvertent errors on the part of the Social Security Administration. However, my constituents have brought to my attention several provisions of the act itself which provide inequitable coverage for certain groups of individuals.

Certainly this is not surprising; nor is it unexpected when we consider the fact that the social security program is the most comprehensive, complex and expensive program the Congress has ever approved. Cash benefits for social security alone amount to more than one-fifth of the total Federal budget, and about 33 million persons—1 out of every 6 Americans—benefit now either as direct recipients, survivors or dependents. Nevertheless, the fact that social security is America's most important domestic program at the Federal level, makes it all the more important that it be as fair as possible to each and every person. This requires a continuing reassessment of the program and continuing efforts on the part of the Congress to improve its coverage as well as the efficiency of its administration.

Today, I am introducing four bills to amend title II of the Social Security Act, which are designed to remedy inequities I have discovered under the present act, as it has been amended.

The first would eliminate the special dependency requirements for entitlement to husband's or widower's benefits, so that benefits for husbands and widowers would be payable on the same basis as benefits for wives and widows.

Under the present law, a widower must be able to show that half of his support was derived from his wife's earnings in order to qualify for survivors benefits on her social security record. The law presumes that a widow received half her support from her husband's earnings, and no such proof is required.

Considering the number of wives who are presently working and contributing substantially to their family's income, it is no longer appropriate to presume that a widow derived half of her support from her husband's earnings. Survivor's benefits for husbands and widowers should, therefore, be payable on the same basis as benefits for wives and widows. My bill is designed to accomplish this.

The second proposal would permit the payment of benefits to a married couple on their combined earnings record.

Under current law, a wife who works, upon retirement, is permitted to draw on her own working record or that of her husband, whichever is greater. Consequently, in most cases, a woman draws on the account of her husband, since usually his earnings have been greater. She is, therefore, collecting a wife's benefit, which she would have been entitled to draw had she never worked in her life or contributed to the social security fund. Most significantly, however, she is not receiving benefits in proportion to the taxes she paid into social security while employed.

Under this system, obviously, earnings are replaced, but only in a standardized fashion. The social security system fails to consider the total of combined funds paid into the system by the working couple. This measure would permit married couples to combine their social security credits and draw higher benefits based on those combined earnings credits. It would insure that couples in which both partners work and contribute to social security would receive at least as high a benefit as a couple in which only one partner has worked.

My third proposal provides that an insured individual otherwise qualified, may retire and receive full old-age insurance benefits, at any time after attaining the age of 60, if he has been forced to retire at that age by a Federal law, regulation or order.

Under Federal Aviation Administration regulations, airline pilots are required to stop flying at age 60. Many of these individuals are understandably unable to obtain other employment at that age; however, the law specifically states that age 62 is the earliest age of eligibility for retirement benefits, with retirement benefits taken before age 65 reduced to take account of the longer period over which social security recipients in general would be paid.

My proposal today would correct a situation which results from action of the Federal Government; in other words, if the Federal Government requires a pilot to retire, the retirement payment made by the Federal Government should be computed in a way which takes this into account.

While it may be reasonable to assume that most people who retire before 65 do so voluntarily, this is not the situation with the airline pilots. There is nothing voluntary about a pilot's retirement, for neither he nor his employer can do anything to prevent it—it is illegal for a pilot to fly. Therefore, in all fairness, the Government should make a special exception for computing a pilot's benefit, just as it has with respect to his employability after age 60.

The final proposal I am offering today would provide that any individual who has 40 quarters of coverage, whenever acquired, will be insured for disability benefits.

As my colleagues know, one of the requirements of the Social Security Act, in its present form, is that a person whose disability began at age 31 or later must have social security credits for 20 calendar quarters—5 years—of work during a 10-year period ending in or after the calendar quarter in which he became disabled. In essence, this means that if a person is disabled more than 5 years after retirement, no matter how many credits he has amassed, he is ineligible for social security disability coverage.

The bill I am introducing today would simply provide for a relaxation of this rather arbitrary earnings requirement to allow disability coverage to any individual who has worked under social security for 40 quarters or more at any time during his life, in addition to the current allowance for 20 quarters of coverage in the 10 years preceding disability.

Certainly, Mr. President, these four measures in themselves, will not remedy all the inequities in the law as presently written. The conference committee is now considering H.R. 3153, approved by the Senate last December, the Senate version of which contains another of my proposals to raise the earnings ceiling on outside earnings to $3,000 before deductions are made, and lower the age limit from 72 to 70 after which no deduction would be made at all for outside earnings.

Furthermore, a number of my colleagues have introduced legislation already designed to remedy other inequities. One of these proposals, S. 2815, introduced by the Senator from Hawaii (Mr. FONG), would increase the increment in old-age benefits payable to individuals who delay their retirement beyond age 65. I am a cosponsor of this important measure.

Another bill, S. 1051, introduced by the Senator from Indiana (Mr. HARTKE), would eliminate the requirement that a recipient of disability insurance benefits under title II wait for 24 months before becoming eligible for coverage under medicare.

Indeed, there are countless other meritorious proposals now pending before the Committee on Finance. At this point, however, Mr. President, I feel it is important to also point out the problems confronted by the Committee on Finance in considering these important measures.

The most insurmountable problem, of course, is, and has always been, the cost of social security to the middle-income family, and this is a problem I have addressed frequently. As important as I feel it is to provide equitable coverage to our social security beneficiaries, we cannot overlook the increasing burden of social security taxes on our working people. In this decade of rampant inflation and controlled wages, any major increase in social security taxes will inevitably be unwelcome. Consequently, the members of the Senate Finance Committee must weigh priorities carefully and report their recommendations objectively for consideration by this entire body and the Congress as a whole.

Undoubtedly, these recommendations will seem inadequate to some while seeming irresponsible to others. This is the heavy burden of their responsibility.

Understanding that, I do not intend to urge the distinguished chairman of that committee (Mr. LONG) or any of its members to expedite or even accept the proposals I offer today in their present form. I offer them basically as a means of calling their attention to the inequities being experienced by my constituents today, and to simply ask that the committee undertake a thorough review of our social security laws at the earliest possible date for the express purpose of identifying these and any other inequities in the program. Then I would ask that they consider legislation to remedy these inequities before considering proposals to expand the scope of the program even further. I am not even inalterably committed to the specific language of my proposals. I simply would like to see legislation reported which would remedy these inequities without placing an unconscionable burden on our nation's taxpayer.

I am presently compiling certain statistical data, including cost estimates on the four specific proposals I have introduced, which I shall forward to the committee as soon as it has been prepared. I know that Chairman LONG and the members of his committee will give this serious matter most careful consideration.

Mr. President, I ask unanimous consent that the full text of each of my four proposals be printed at this point in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 3167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 202(c)(1) of the Social Security Act is amended—

(1) by adding "and" at the end of subparagraph (B);

(2) by striking out subparagraph (C); and

(3) by redesignating subparagraph (D) as subparagraph (C).

(b) Section 202(c) of such Act is further amended by striking out paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(c) Section 202(p)(1) of such Act is amended by striking out "subparagraph (C) of subsection (c)(1),".

(d) Section 202(s)(3) of such Act is amended by striking out "Subsections (c)(2)(B) and (f)(2)(B)" and inserting in lieu thereof "Subsection (f)(2)(B)".

SEC. 2. (a) Section 202(f)(1) of the Social Security Act is amended—

(1) by adding "and" at the end of subparagraph (C);

(2) b ystriking out subparagraph (D); and

(3) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(b) Section 202(f) of such Act is further amended by striking out paragraph (2), and by redesignating paragraphs (3) through (7) as paragraphs (2) through (6), respectively.

(c)(1) Section 202(f)(1)(B) of such Act is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (5)".

(2) The subparagraph of section 202(f) (1) of such Act redesignated as subparagraph (F) by subsection (a)(3) of this section is amended by striking out "paragraph (6)" and "paragraph (7)" and inserting in lieu thereof "paragraph (5)" and "paragraph (6)", respectively.

(3) Subparagraph (A) of the paragraph of section 202(f) of such Act redesignated as paragraph (2) by subparagraph (b) of this section is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)".

(4) The paragraph of section 202(f) of such Act redesignated as paragraph (4) by subsection (b) of this section is amended by striking out "paragraph (4)" and "paragraph (3)" and inserting in lieu thereof "paragraph (3)" and "paragraph (2)", respectively.

(5) The paragraph of section 202(f) of such Act redesignated as paragraph (6) by subsection (b) of this section is amended by striking out "paragraph (1)(G)" and "paragraph (6)" and inserting in lieu thereof "paragraph (1)(F)" and "paragraph (5)", respectively.

(d)(1) Section 202(k) of such Act is amended—

(A) by striking out "or (f)(5)" wherever it appears in paragraph (2)(B) and (3)(B) and inserting in lieu thereof in each instance "or (f)(4)"; and

(B) by striking out "or (f)(3)" in paragraph (3)(A) and inserting in lieu thereof "or (f)(2)".

(2) Section 202(p) of such Act is amended by striking out "clause (i) or (ii) of subparagraph (D) of subsection (f)(1), or".

(3) Section 202(s)(2) of such Act is amended by striking out "Subsection (f)(4)" and inserting in lieu thereof "Subsection (f)(3)".

(4) Section 202(s)(3) of such Act (as amended by subsection (d) of the first section of this Act) is amended by striking out "Subsection (f)(2)(B) of this section, so" and inserting in lieu thereof "So".

SEC. 3. The amendments made by this Act shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after the month in which this Act is enacted, on the basis of applications filed in or after the month in which this Act is enacted.

S. 3168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202 (a) of the Social Security Act is amended to read as follows:

"(a)(1) Every individual who—

"(A) is a fully insured individual (as defined in section 214(a)),

"(B) has attained age 62, and

"(C) has filed application for old-age insurance benefits or was entitled to disability insurance benefits for the month preceding the month in which he attained age 65,

shall be entitled to an old-age insurance benefit for each month beginning with the first month in which such individual becomes so entitled to such insurance benefits and ending with the month preceding the month in which he dies.

"(2) Except as provided in subsection (q), such individual's old-age insurance benefit for any month shall be equal to his primary insurance amount for such month as determined under section 215(a), or as determined under paragraph (3) of this subsection if such paragraph is applicable and its application increases the total of the monthly insurance benefits payable for such month to such individual and his spouse. If the primary insurance amount of an individual for any month is determined under paragraph (3), the primary insurance amount of his spouse for such month shall, notwithstanding the preceding sentence, be determined only under paragraph (3).

"(3) If an individual and his spouse are living in the same household (as determined by the Secretary on the basis of evidence available to him), and each of them is entitled to benefits under this subsection (or section 223), or one of them is so entitled and the other would upon satisfying subparagraphs (A) and (C) of paragraph (1) be entitled to benefits under this subsection, then the primary insurance amount of such individual, and the primary insurance amount of such spouse (who shall be deemed to be entitled to benefits under this subsection, whether or not satisfying such subparagraphs, beginning with the later of the month in which such spouse attains age 62 or the month in which such individual became entitled to benefits under this subsection), for any month, shall each be equal to the amount derived by—

"(A) adding together such individual's average monthly wage and such spouse's average monthly wage, as determined under section 215(b),

"(B) applying section 215(a)(1) to their combined average monthly wage determined under subparagraph (A) (subject to the next sentence) as though such combined average monthly wage were such individual's average monthly wage determined under section 215(b), and

"(C) multiplying the amount determined under subparagraph (B) by 75 percent.

In no event shall the combined average monthly wage of such individual and his spouse be greater than the average monthly wage that would result under section 215(b) with respect to a person who became entitled to benefits under this subsection (without having established a period of disability) in the calendar year in which the primary insurance amounts of such individual and spouse are determined under this paragraph, and who had the maximum wages and self-employment income that can be counted, pursuant to section 215(e), in all his benefit computation years. The primary insurance amount of an individual and his spouse determined under this paragraph shall not be increased unless there is an increase in the primary insurance amount of either of them pursuant to provisions of this title other than this paragraph.

"(4)(A) Paragraph (3) shall also apply to an individual and his spouse who are not living in the same household for any month with respect to which both such individual and such spouse have indicated, in such manner and form as the Secretary shall by regulations prescribe, that they desire to have their primary insurance amounts determined under paragraph (3).

"(B) Paragraph (3) shall not apply—

"(i) for any month with respect to which an individual or his spouse indicates, in such manner and form as the Secretary shall by regulations prescribe, that he or she does not desire to have his or her primary insurance amount determined under paragraph (3), or

"(ii) for purposes of determining the amount of any monthly benefits which (without regard to section 203(a)) are payable under the provisions of this section other than this subsection on the basis of the wages and self-employment income of an individual or his spouse."

(b)(1) Section 202(e)(2) of such Act is amended by striking out "shall be equal to 82½ percent of the primary insurance amount of such deceased individual" and inserting in lieu thereof "shall be equal to the larger of (A) 82½ percent of the primary insurance amount of such deceased individual for such month as determined under section 215(a), or (B) 110 percent of the primary insurance amount of such individual as determined under subsection (a)(3) of this section (assuming for purposes of this clause that such subsection was applicable) for the month preceding the month in which he died".

(2) The paragraph of section 202(f) of such Act redesignated as paragraph (2) by section 3(b) of this Act is amended by striking out "shall be equal to 82½ percent of the primary insurance amount of his deceased wife" and inserting in lieu thereof "shall be equal to the larger of (A) 82½ percent of the primary insurance amount of his deceased wife for such month as determined under section 215(a), or (B) 110 percent of the primary insurance amount of his deceased wife as determined under subsection (a)(3) of this section (assuming for purposes of this clause that such subsection was applicable) for the month preceding the month in which she died".

(c) Section 203(a) of such Act is amended by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", or", and by inserting after paragraph (3) the following new paragraph:

"(4) when the primary insurance amount of the insured individual is determined under section 202(a)(3), such total of benefits for any month shall not be reduced to less than the larger of—

"(A) that amount determined under this subsection without regard to this paragraph, or

"(B) the amount appearing in column V of the table in section 215(a) on the line on which appears in column IV the amount determined under subparagraph (B) of such section 202(a)(3) for such individual and his spouse (or, if the amount determined under such subparagraph (B) does not appear in column IV, on the line on which appears in column IV the next higher amount)."

(d)(1) Section 215(f)(1) of such Act is amended by inserting "(or section 202(a)(3))" after "determined under this section".

(2) The second sentence of section 215 (f)(2) of such Act is amended by inserting before the period at the end thereof the following: ", or as provided in paragraph (3) of section 202(a) if such paragraph is applicable (but disregarding any increase which might result under the second sentence of such paragraph solely from changes in the maximum wages and self-employment income that can be counted in the years involved)".

(e) Section 223(a)(2) of such Act is amended by insertnig after "section 215" the following: "or under section 202(a)(3)".

(f)(1) The amendments made by subsections (a), (b), and (c) shall apply only with respect to monthly insurance benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted.

(2) In the case of an individual or his spouse who became entitled to benefits under section 202(a) or section 223 of the Social Security Act prior to the second month following the month in which this Act is enacted (but without regard to section 202(j) (1) or section 223(b)(2) of the Social Security Act), the average monthly wage of such individual or spouse, as the case may be, for purposes of section 202(a)(3)(A) of the Social Security Act, shall be the figure in the column headed "But not more than" in column III of the table in section 215(a) (1) of the Social Security Act in effect immediately prior to the enactment of this Act on the line on which in column IV of such table appears the primary insurance amount of such individual or spouse, as the case may be, for the month in which this Act is enacted, unless the average monthly wage of such individual or such spouse, as the case may be, is, after the enactment of this Act, redetermined under section 215(b) of the Social Security Act.

S. 3169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 202 (a) (2) of the Social Security Act is amended to read as follows:

"(2) (A) has attained age 62, or (B) has attained age 60 and has been required by his employer (after having been employed by such employer for 5 or more years) to retire at such age in compliance with an Executive order of the President, a regulation or order issued by a Federal department or agency and published in the Federal Register, or a Federal law, and".

(b) Section 202 of such Act is further amended by adding at the end thereof the following new subsection: "Special Rule for Determining Eligibility for Benefits in the Case of Certain Dependents and Survivors "(w) For purposes of determining entitlement to monthly insurance benefits under subsection (b), (c), (e), or (f), and the amount of such benefits, in the case of any person on the basis of the wages and self-employment income of an individual who is entitled to old-age insurance benefits and who satisfies subsection (a) (2) by reason of clause (B) thereof, such person—

"(1) shall be deemed to satisfy subsection (b) (1) (B), (c) (1) (B), (e) (1) (B) (i), or (f) (1) (B) (i), as the case may be, if he or she has attained the age of 60, and

"(2) shall be deemed for purposes of subsection (q) to have attained retirement age as defined in paragraph (9) thereof at the time such individual first satisfies subsection (a) (2) by reason of clause (B) thereof, at the time such person becomes entitled to such benefits, or at the time such person attains the age of 60, whichever is the latest (but in no event later than the time such person actually attains retirement age as so defined)."

Sec. 2. (a) Section 202(q) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(10) Notwithstanding any other provision of this title, no reduction shall be made under this subsection in the old-age insurance benefit of any individual (or in any other benefit payable under this section to an individual who is also entitled to an old-age insurance benefit) for any month if such individual (upon becoming entitled to old-age insurance benefits) satisfies subsection (a) (2) by reason of clause (B) thereof."

(b) (1) Section 202(q) (1) of such Act is amended by striking out "If" and inserting in lieu thereof "Subject to paragraph (10), if".

(2) Sections 202(q) (3) (A) and 202(q) (3) (E) of usch Act are each amended by striking out "If" and inserting in lieu thereof "Subject to paragraph (10), if".

Sec. 3. The last sentence of section 215 (b) (3) of the Social Security Act is amended—

(1) by striking out ", any calendar year" and inserting in lieu thereof "(i) any calendar year", and

(2) by inserting before the period at the end thereof the following: ", and (ii) an individual who satisfies section 202(a) (2) by reason of clause (B) thereof after 1971 and before the year in which he or she attained (or would attain) the applicable age specified in clause (A), (B), or (C) of such sentence shall be deemed to have attained such age in the year in which he or she first satisfies such section 202(a) (2)".

Sec. 4. (a) Section 216(i) (2) (B) of the Social Security Act is amended by inserting before the period at the end thereof the following: "or satisfies section 202(a) (2) by reason of clause (B) thereof".

(b) Section 216(i) (2) (D) of such Act is amended by inserting after "attains age 65" the following: "or satisfies section 202(a) (2) by reason of caluse (B) thereof".

Sec. 5. (a) Section 223(a) (1) (B) of the Social Security Act is amended by inserting before the comma at the end thereof the following: "and has not satisfied section 202(a) (2) by reason of clause (B) thereof".

(b) Section 223(a) (1) of such Act is further amended by inserting after "age 65" in the matter following subparagraph (D) the following: "or satisfies section 202(a) (2) by reason of clause (B) thereof".

Sec. 6. The amendments made by this Act shall apply with respect to monthly insurance benefits under title II of the Social Security Act for months after the month in which this Act is enacted; except that, in the case of an individual who is not entitled to a monthly insurance benefit under section 202 of such Act for the month in which this Act is enacted, such amendments shall apply only on the basis of applications filed on or after the date of the enactment of this Act.

S. 3170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 223(c) (1) of the Social Security Act is amended by inserting "if he has not less than 40 quarters of coverage or" immediately before "if—".

(b) The amendment made by subsection (a) shall apply only with respect to disability benefits payable under title II of the Social Security Act for months after the month in which this Act is enacted on the basis of application therefor filed in or after the month in which this Act is enacted.

By Mr. COOK (for himself and Mr. HUDDLESTON):

S. 3171. A bill to amend section 133 of title 28, United States Code, to increase by two the number of district judges for the eastern district of Kentucky. Referred to the Committee on the Judiciary.

Mr. COOK. Mr. President, today Senator HUDDLESTON is joining with me in introducing legislation which would increase the number of Federal district judges in the eastern district of Kentucky from two to four.

There has been a phenomenal increase in the caseload of the eastern district in recent years. Just to cite a number of examples:

First. During the fiscal year ending June 30, 1973, trails per judgeship were 78.4, the highest number in the entire sixth circuit, compared to lows in the circuit of 34.9 in the western district of Kentucky, and 39.5 in the western district of Michigan.

Second. Civil cases commenced in the eastern district of Kentucky in the fiscal year 1956 totaled 265, during the fiscal year 1966, totaled 480, and in the fiscal year 1973 totaled 660.

Third. As of October 30, 1973, there were pending for administrative review in the social security offices located in the eastern district of Kentucky 13,121 cases.

Fourth. In the fiscal year 1973, the eastern district of Kentucky ranked seventh in the weighted filing per judgeships in the U.S. judicial system.

Fifth. As of the close of business on October 31, 1973, there were pending before Chief Judge Moynahan 439 civil cases, 143 criminal cases involving 192 defendants; there were pending before Judge Swinford 100 civil cases and 74 criminal cases involving 134 defendants; and there were pending before Judge Hermansdorfer 380 civil cases and 82 criminal cases involving 126 defendants.

Mr. President, I feel the statistics above clearly indicate the need and justification for two additional judges for the eastern district of Kentucky.

By Mr. GRAVEL:

S. 3172. A bill to amend title 39, United States Code, to eliminate certain restrictions on the rights of officers and employees of the U.S. Postal Service, and for other purposes. Referred to the Committee on Post Office and Civil Service.

RIGHT TO STRIKE FOR POSTAL EMPLOYEES

Mr. GRAVEL. Mr. President, I am today introducing legislation to give postal employees the right to strike.

The right to strike is the employee's most fundamental tool in labor-management relations. Yet under the Postal Reorganization Act, which reshaped the U.S. Postal Service in the image of a business enterprise, the right to strike was denied the postal unions. This despite the fact that 700,000 employees of the Postal Service were told by the Congress that they would no longer have the protections of the civil service laws enjoyed by other employees in the Federal Government. Postal employees were told they could bargain collectively, just as private employees. But at the same time they were denied the one essential tool possessed by private employees to attain a fair agreement.

To give postal employees the right to strike will not mean more strikes. The historical evidence demonstrates that exactly the reverse will be true. The present absence of that right has not prevented strikes in the past. There was the massive strike by postal employees in 1970, and we are periodically confronted with wildcat strikes on a more localized basis. Despite the overwhelming pressure of antistrike laws, strikes by public sector workers have been increasing dramatically over the past several years.

As paradoxical as it may seem, the right to strike is the best insurance against its use. The very existence of equality at the bargaining table is the surest incentive to mutual agreement in an atmosphere of fair and free negotiation. Labor history demonstrates that most strikes are precipitated when one side or the other holds an unfair advantage.

The argument is frequently made that Government employees are essential to the public interest and therefore should not have the right to strike. But private employees working on Government contracts, many of whom are engaged in supplying absolutely essential goods and services to the Government, nevertheless possess the right to strike. And of course many private industries serve the public interest directly as well, but the right to strike is not seen as an unacceptable threat in those cases.

All indications are that the public interest—as well as the rights of postal employees—would be better protected by allowing postal employee strikes. But to assure that even a rare postal strike would not impose undue burdens on our citizens, my bill provides that delivery of the following categories of mail would continue even in a strike situation: first, social security checks; second, railroad retirement checks; third, Veterans' Administration subsistence and benefit checks; fourth, annuity checks paid under any retirement system of the Federal, State, or local government; fifth, education subsistence checks; and sixth, food stamps and welfare and unemployment checks.

Mr. President, I believe this bill will not only insure fair treatment for our 700,000 postal employees, but will in fact also result in a more efficient Postal Service. I urge early action by the Senate on this important subject.

By Mr. INOUYE:

S. 3173. A bill to amend the Intercoastal Shipping Act, 1933. Referred to the Committee on Commerce.

Mr. INOUYE. Mr. President, I introduce for appropriate reference a measure to amend section 6 of the Intercoastal Shipping Act of 1933.

The 1933 act, as originally enacted, was intended to promote rate stability in the intercoastal trade—between Atlantic/Gulf and Pacific coasts via Panama Canal—and to generally protect the public interest by subjecting carriers in that trade to economic regulation. A review of the act's legislative history reveals that section 6—originally section 4—was proposed as an amendment to the introduced bill by the Federal Coordinating Service—a predecessor agency of General Services Administration—which said:

> The clause suggested is similar to that contained in Section 22 of the Interstate Commerce Act. By providing this clause in the Act, the intercoastal steamship carriers will be placed on a parity with the all-rail carriers and will be permitted to accord the Government reduced rates which the rail carriers are now permitted to do under the Interstate Commerce Act.

Reduced rates for Government impelled cargo has its origins in section 22 of the Interstate Commerce Act, such provision representing a consideration for the land grants received from the Federal Government by the railroads; the domestic off-shore carriers owe no obligation of this kind to the Government.

In 1938 the provisions of the 1933 act were made applicable to offshore carriers, and therefore such trade is today regulated under a statute that authorizes free or reduced transportation of Government property for underlying reasons totally unrelated to the domestic offshore trades.

Section 6 provides:

> That nothing in this Act shall prevent the carriage, storage, or handling of property free or at reduced rates, for the United States, State, or municipal Government, or for charitable purposes.

Pursuant to this provision common carriers by water in the domestic offshore trades are permitted to transport Government-impelled cargo at rates reduced without limitation from those applying to the same cargoes moving under commercial bills of lading; although such reduced rates must be filed on an informational basis with the Federal Maritime Commission, the effect of the provision is to strip that agency of any authority to exercise economic regulation over such rates including the right to determine, prescribe, and enforce just and reasonable minimum rates; commercial rates are however subject to the full exercise of economic regulation.

The regulation of commercial rates affords shippers with protection from unreasonable rates or discriminatory or unduly preferential conditions of carriage. Large aggregations of Government-impelled cargo are particularly prone to special rate or preferential service arrangements with the cost of such preferential treatment potentially borne by commercial shippers in the form of either higher rates or less efficient service. Such special rates or preferential arrangements being nonregulated pursuant to section 6 leaves the commercial shippers with no regulatory means with which to protect himself from those adverse results.

It is true that when a carrier in the domestic offshore trade files a general reasonableness and lawfulness of such increase in his commercial rates the increase is established by the Federal Maritime Commission on the basis of that portion of total costs and rate base allocated to commercial cargoes. The result is that the Commission's ultimate finding goes to the lawfulness of the carrier's rate of return on that portion of his total rate based to the exclusion of revenues, costs and rate base attributable or allocated to nonregulated Government cargoes.

However, from the viewpoint of the investors who provide the capital for what is now a capital intensive industry there is no distinction made between regulated and nonregulated results in terms of the overall financial results of the carrier's operations. To the extent that increases in rates on Government impelled cargoes lag substantially behind increases in commercial rates these overall results can be less than satisfactory and contribute to hastening that point in time when additional increases in commercial rates must be sought. In an era of continuing escalation in operating costs and with the experienced lag in passing through a share of those costs to the Government rate payer it may become necessary to not only file an earlier time for increases in commercial rates, but also to seek a greater percentage of return on the commercial rate base in order to offset the effects of such lag.

For example, in the case of my own State, Hawaii, in January of 1971 Matson filed a 12½-percent general increase in its commercial rates which was determined after hearing and investigation to be lawful by the Federal Maritime Commission in January of 1973. After expiration of the statutory suspension period for a portion of that increase, commercial shippers were paying the full 12½-percent increase for a period of approximately 18 months prior to issuance of the Commission's final decision. Customarily nonregulated contracts rates for government cargo are not adjusted to reflect increased operating costs until such final decision as to the commercial rate structure is issued. Therefore, in March of 1973 Matson placed a demand on the Military Sealift Command for an increase in rates and as of this date negotiations for such increase have not been completed. This lag in assumption by the Government of its share of increased costs is unfair in its effects on both the carrier and the commercial rate payer.

There would appear to be three basic reasons justifying the repeal of section 6. First, it would provide equal treatment as to rate adjustments to all rate payers. Second, it would eliminate the potential for more frequent increases or greater percentages of increase in commercial rates occasioned by either the depressed level of rates for government cargoes or the lag in passing through increases in operating costs to government rate payers. Third, such amendment would contribute to rate stability in the trade and assist in maintaining the carrier's economic viability in terms of his ability to accumulate capital for future fleet improvements.

Repealing the applicability of section 6 would subject all government cargo rates in that trade to economic regulation. As a consequence the government shipper, as does now the commercial shipper, would have the right to file a formal protest with the Federal Maritime Commission as to any change in rates or attendant conditions filed by a carrier, requesting that the effective date of the matter be suspended and set down for hearing and investigation. In this way the Government, as does any shipper, would have full protection from any pricing action taken by the carrier that it may believe to be unreasonable, unduly preferential or unfair.

By Mr. McGOVERN:

S. 3177. A bill to regulate commerce and promote the general welfare by providing incentives and assistance, based on detailed data and information, that will increase the amount of transportation by railroad rather than by less energy-efficient modes in order to conserve limited resources of energy, and for other purposes. Referred to the Committee on Commerce.

THE RAIL REVITALIZATION AND ENERGY CONSERVATION ACT OF 1974

Mr. McGOVERN. Mr. President, I introduce for appropriate reference the Rail Revitalization and Energy Conservation Act of 1974.

First of all, I wish to commend the chairman of the Surface Transportation Subcommittee, Senator HARTKE, and the ranking minority member, Senator PEARSON, for their work to help revitalize our neglected railroads. Last year we passed in the Senate a Northeast rail bill which provided some measure of assistance to railroads throughout the Nation for equipment modernization, aid to States to acquire certain lines, and operating subsidies. Unfortunately, the House struck virtually all of the Senate amendments thus limiting all but one section of the bill to the Northeast alone.

But while the decay of the Northeastern railroads is perhaps more pronounced than that of railroads generally, we can no longer neglect those communities in other parts of the country which depend on rail service for their economic well-being. Throughout rural America, farmers and small businessmen will not be able to market their products or secure supplies if branch lines are discontinued.

In the Plains States we have been unable to obtain sufficient boxcars to bring our grain to market. And in a number of areas, the track is in such poor repair that we have had what the industry calls "standing derailments." That is when the track is so bad that the train falls off while standing still.

I know that sounds incredible, but I understand it is becoming a more common occurrence each year. In fact, 60 percent of Midwestern mainline track is under "slow orders"; in some cases the maximum safe speed is below 10 miles per hour.

Revitalization of our railroads would not only strengthen our transportation system but would make a significant contribution to solving the energy crisis. Prior to World War II, railroads were the principal source of transportation in this country. Since that time cars, buses, planes, and trucks, aided by Government subsidies for highways and airports, have gradually supplanted rail service. As a consequence, approximately 10 percent of the track in operation in 1944 has been abandoned and service between many points has been discontinued.

Yet, rail service remains the most energy efficient means of transportation. The Europeans and the Japanese, who have long had to pay high prices for imported fuel, recognize this, and they have retained and upgraded their rail systems. But we, initially blessed by an abundance of oil, have come to rely increasingly on the most wasteful means of transportation.

Some say that the railroads have deteriorated to their present state because of an unrealistic and unsubsidized rate structure; others that the railroads have permitted their plants and service to decay in order to force the Government to permit them to abandon lines which they consider bad business to operate.

But the point now is not who is to blame, but what can be done. The railroads are now caught in a vicious circle: they cannot regenerate their plant because their earnings are low, and their earnings are low because they cannot regenerate their plant.

In 1972, the railroads had their best year in terms of revenue ton miles; yet their rate of return on net investment was only 2.95 percent. Preliminary figures for last year indicate that freight business ran at an annual rate of 850 billion ton miles, or nearly 10 percent above 1972's record level. Yet no one predicts better profits.

On the contrary, one of the ironies of increased business is that it has brought profits down. The increased use of worn-out cars, track, and locomotives have increased repair bills substantially. That, plus bad weather, made earnings decline for many railroads, as much as 63 and 77 percent in some cases.

In 1972, the industry had operating revenues of less than $13.5 billion. For 1974 and over the next 10 years, the experts say that the industry should spend between $3.6 and $4 billion for capital improvements. But their revenues and equity are sufficient to support only half the level of needed investment.

So, unless some means is found to increase the capital flow by $2 billion or more per year, the railroads will continue to decline. And because a deteriorating plant wears down at a higher rate than sound equipment, the capital requirements for repair and replacement will increase geometrically each year.

The administration's answer is to increase rates and permit wholesale abandonment of lines and service. While this would make the railroads more profitable, it would leave many of the communities they serve to die on the vine. And it would lead to still greater reliance on energy wasteful means of transportation.

The realistic and responsible answer is to provide the railroads with the means to upgrade and expand their existing facilities and thus provide more and better service.

Unfortunately, the administration has repeatedly resisted efforts to formulate a national transportation policy. As with the energy crisis, the food shortage last summer, and many of the other problems which beset the Nation, we are left without foresight, imagination, or a sound analysis of the coming transportation crisis.

The bill I am introducing today would provide, along with the development of a long-term national transportation plan, immediate relief for the most significant railroad problems.

Under my bill:

First, abandonment of rail lines and discontinuation of rail service would be halted immediately;

Second, within 90 days of enactment, the Department of Transportation would set track standards for high speed energy efficient freight and passenger service;

Third, railroads which operate unprofitable lines or are financially unable to meet the track standards could apply for Federal operating subsidies, modernization loans, or acquisition of their track, rights-of-way and appurtenant structures by a publicly financed but privately managed corporation, the Consolidated Rail Corporation, or by a regional, local, or State transportation authority;

Fourth, the CRC would maintain, modernize, and expand the rail beds it acquired. Railroads operating on CRC lines would be charged a fee on a ton-mile basis and carriers from whom the lines were acquired would receive a credit against such fees based on the value of the acquired property and other factors;

Fifth, an allocation program for railcars would be established where manufacturers were unable to deliver within 1 year of receipt of order;

Sixth, $2 billion in Federal loan guarantees would be available to railroads to acquire additional rolling stock;

Seventh, a nation rolling stock information system would be established to keep track of, and insure maximum utilization of, existing rolling stock;

Eighth, if these measures and the efforts of private industry do not prove adequate in solving the boxcar shortage, the establishment of a Railroad Equipment Authority to acquire and operate a reserve pool of rolling stock is authorized; and

Ninth, the Secretary of Transportation is directed to develop a national rail services and transportation plan within 1 year of enactment, subject to review by the Interstate Commerce Commission and ultimately the Congress. This plan would be based on a series of detailed studies and program cost evaluations and would result in recommendations by the Secretary for coordinated national transportation programs designed to meet the transportation needs of the Nation in the most energy efficient manner.

Over the short term, the two most pressing problems from both an economic and an energy standpoint are the boxcar shortage and the deplorable condition of mainline track.

As a practical matter the demand for cars is so high that in many cases there is an 18-month backlog of cars presently under order.

Some experts have voiced doubt that a genuine shortage exists. Because of antiquated car deployment systems and "car jams" the average freight car travels only 56 miles per day. For example, the Southern Pacific which bought 13 percent of all freight cars purchased in 1972 estimates that they lost 15,000 carloads of lumber simply because their existing cars were not available when and where the shippers needed them.

As Worthington L. Smith, president of the Milwaukee Road, has said:

> I'm opposed to calling the experience of the first half of 1973 a car shortage. That implies that adding more cars would have solved things. With ports and terminals backed up, twice the number of cars available for loading would have resulted in twice the number of loaded cars with no place to go.

Poor management by the administration was in part responsible. The budget cutters curtailed the grain storage loan program which permitted farmers to store grain on their farms, characteristically not looking beyond the papers they were red penciling. Simultaneously, grain was called up to meet the commitments our Government had negotiated with Russia, China, and other foreign governments. The result was that the farmer moved many more tons of grain onto boxcars than the terminals and ports could handle in an orderly way. And this created the monumental car jam and an even lower use of cars which would otherwise have been possible.

My bill directs the Secretary of Transportation to examine the impact of the commodity credit and other Federal programs and report to the Congress his findings and program changes which might help alleviate the situation or prevent it from occurring again.

This combined with the provisions for $2 billion in equipment loan guarantees, the national computerized car utilization system, and the federally managed emergency reserve pool of cars, should bring the boxcar shortage to an end.

The problem of bringing track up to proper standards is considerably more difficult. The decay and neglect has been permitted for so long that major overhaul and replacement are necessary. And this will take some time.

The place to start is by setting the proper standards as my bill requires rather than continuing the minimum safety standards provided for in existing law. Once that is done, the task of modernizing and improving the lines can begin—by private industry with Federal assistance and by the publicly financed Consolidated Rail Corporation.

Over the long term, we need to develop comprehensive policies for coordinated programs for rail, truck, and air transport. We can meet the needs of all our communities for reasonably priced transportation, while making a significant contribution to energy conservation as well, if we proceed in an orderly and planned fashion. The national rail services and transportation plan required under my bill would give us this capability.

In conclusion, Mr. President, let me express the hope that the Congress can deal with the railroad emergency effectively and promptly rather than in the piecemeal fashion suggested by the administration. Abandonment of lines and discontinuation of service is no answer for either our cities or our rural areas. By improving and expanding rail service we can significantly reduce the demand for energy. But if we fail to act promptly, enormous harm will be done to many communities and the ultimate cost to the taxpayer will be considerably higher.

Mr. President, I ask unanimous consent that a section-by-section analysis of my bill be printed at the conclusion of my remarks.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS—THE MCGOVERN RAIL REVITALIZATION AND ENERGY CONSERVATION ACT OF 1974

The bill is divided into six titles.

TITLE I—GENERAL PROVISIONS

Section 101 (Declarations of policy)

The Congress makes findings in subsection (a) that essential rail service to rural and urban communities throughout the United States is threatened with discontinuation and abandonment; that this is caused in part by the financial inability of many railroads to regenerate track, plant, rolling stock and other equipment; that high speed freight and passenger rail service is the most energy efficient means of transportation presently available; that the shortage of energy supplies and the economic well being of the United States require the expansion and improvement of rail service; that further abandonment of rail lines and discontinuation of rail service would be against the national interests of the United States; and that these needs cannot be met without substantial action by the Federal government.

In subsection (b), the Congress declares that the purpose of the bill is to provide for (1) a moratorium on abandonment of rail lines and discontinuation of rail service except where such abandonment or discontinuation would not adversely affect the economic well being of any community; (2) financial assistance to carriers which operate unprofitable lines; (3) the establishment of track standards for high speed energy efficient rail service; (4) acquisition, maintenance and modernization of track, rights of way and appurtenant structures by a publicly financed corporation from railroads financially incapable of maintaining and modernizing such equipment; (5) the establishment of a rail car allocation system for rail cars in short supply; (6) full utilization of existing rolling stock through the establishment of a National Rolling Stock Information System; (7) a reserve supply of rolling stock to be utilized in emergencies; (8) a Federal loan guarantee program for carriers to acquire needed rolling stock; and (9) accomplishing these objectives at the lowest possible cost to the general taxpayer.

Section 102 (Definitions)

This section defines various terms used in the Act.

TITLE II—ABANDONMENT, MORATORIUM, TRACK STANDARDDS, AND ALTERNATIVE SERVICE

Section 201 (Moratorium on abandonment)

Abandonment of rail lines and discontinuation of rail service would be precluded except in accordance with Section 203 of this Title, or in the case of the Northeast region, Section 304 of P.L. 93–236.

Section 202 (Track standards)

Within 90 days after enactment the Secretary is required to prescribe standards (effective one year later) for all main track based upon certain factors including high speed operation, energy conservation, and the needs of manufacturers, farmers, and other rail users as distinct from present minimum safety requirements.

Section 203 (Abandonment and discontinuation)

Abandonment of rail lines or discontinuation of rail service would be permitted only where it would not adversely affect the economic well being of any community or where alternative means of transportation are available at a reasonable cost.

Section 204 (Alternatives to abandonment)

If a carrier is financially unable to meet the track standards, or continue service on a line which cannot be abandoned, it may apply for (a) an acquisition or modernization loan, (b) a continuation subsidy, (c) a rate increase or (d) local, state, or Consolidated Rail Corporation (CRC) acquisition of the line(s) under Section 205 of this Title.

Section 205. (Acquisition of rights-of-way by others)

In lieu of a petition for abandonment the ICC may approve the transfer to a State, local, or regional transportation authority, or the CRC, of all or part of a railroad's equipment and/or rights in their lines, provided the railroad agrees to provide service on the lines. The CRC would maintain, upgrade, consolidate, and expand such lines, and assume the payment of state and local property taxes thereon.

Section 206. (Procedures and judicial review)

Upon petition for abandonment or alternative service the ICC would conduct public hearings with adequate notice in the communities affected. Political officials, rail service consumers, and other interested parties must be given the opportunity to testify and comment. Appeals, hearings and judicial review would be governed by the appropriate sections of the Interstate Commerce Act.

Section 207. (Interim financial assistance)

Pending final determination of an application for abandonment or alternative service the Secretary is authorized to provide financial assistance to lines which could not continue to function without such assistance.

Appropriations for interim subsidies of $50,000,000 for the first fiscal year and $25,000,000 for the second fiscal year are authorized.

TITLE III—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

Section 301. (Conforming amendment)

This section authorizes the CRC to acquire lines outside the Northeast Region.

Section 302. (Conforming amendments)

This section adds the following new sections to P.L. 93–236: "Sec. 305—Acquisition of Other Rail Lines—This section authorizes the CRC to acquire rail lines pursuant to an application for alternative service under Section 205. The carrier and the CRC would negotiate a fee to be paid to the CRC for the future use of the lines calculated on revenue mile basis and a credit against such fees based on the value of the properties acquired, subject to ICC approval. The ICC would evaluate the agreement based upon the fair market value of the property, the capital investment needed to restore the line, the capital investment needed to modernize the facilities, the degree of past maintenance and average yearly investment, the anticipated fee the CRC may receive from users, the amount of loss petitioner would have suffered if acquisition did not take place.

If the CRC and petitioner could not agree upon fee and credit arrangements, the ICC would determine the amounts based on the above considerations. Also, the ICC would establish a description and schedule of service on lines acquired by the CRC. (For hearings and judicial review, see Section 206.)

Section 306. (Rehabilitation and maintenance)

Upon acquisition by the CRC, it would assume the rehabilitation, maintenance and improvement of the lines including centralized traffic control, improved safety devices, extra track, new sidings, removal of restrictive clearances, reduction of curves and grades, and improved crossing protection.

Section 307. (Freight service)

Any railroad company which conveys its line to the CRC, or which uses a line conveyed to the CRC, would have the right to continue its regular freight service thereon. Other carriers may apply for use of the lines in return for a fee calculated upon gross ton miles of locomotive and train operations.

Section 308. (Passenger service)

This section is similar to Section 307 and applies to passenger service.

Section 309. (Operating rules)

The CRC is given the power to regulate its lines as to speeds, size and weight limits. Users may appeal ruling to the Secretary.

Section 310. (Liability for injury and damage)

The CRC would be responsible for all injury and harm caused by defects in their track, roadbeds, signals, communications, or other facilities owned or controlled by them or their employees. Carriers would be responsible for all other accidents.

Section 311. (Reduction of capacity of rail lines)

The CRC, after notice, could reduce the capacity of its lines, if such a reduction will not result in elimination of service to any point.

Section 312. (Conforming amendment)

This section makes a conforming amendment to Title IV of P.L. 93-236.

TITLE IV—CAR ALLOCATION PROGRAM

Section 401. (Car allocation priorities)

If a railroad car manufacturer cannot deliver orders within one year after receipt, the Secretary would establish priorities for manufacture and delivery based upon the following criteria: the supply and delivery of health and food products, conservation of the nation's energy supply, and improvement of mass transit systems.

TITLE V—EQUIPMENT IMPROVEMENT

Section 501. (Formal provisions)

This title may be cited as the "Rolling Stock Utilization and Financing Act of 1973" (subsection (a)).

Congress finds that there is a shortage of railroad freight cars caused by an inadequate number of such cars and the underutilization of the cars which are in service. Congress further finds that this shortage of available general service freight cars has caused losses to producers and manufacturers of goods and products, higher prices to consumers of goods and products, and losses of revenue for railroads (subsection (b)).

In subsection (c) Congress declares that the purposes of this title are to improve the utilization and distribution of railroad rolling stock, to assist railroads to acquire additional rolling stock and equipment or facilities so as to provide expeditious service, and to assist in achieving full employment by insuring enough adequate equipment to transport the products of American industry.

Subsection (d) contains definitions applicable to this section:

"Fund" is defined in paragraph (7) as the Obligation Guarantee Fund which a special Obligation Guarantee Board (paragraph (2)) in the Department of Transportation administers. "Authority is defined in paragraph (1) as the Railroad Equipment Authority authorized under section 510, and "Directors" is defined in paragraph (4) as the board of directors of that Authority. "Equipment obligation", the instrument which the Board is authorized to guarantee through the Fund, is defined in paragraph (6) to include a variety of debt and security instruments "issued or granted to finance or refinance rolling stock or equipment or facilities". One form of equipment obligation, a "lease obligation" is defined separately in paragraph (10). Paragraph (12) defines "principal" as it pertains to lease obligations. "Lease" is defined in paragraph (9) to include only a rental agreement under which either a "railroad" (defined in paragraph (13)) or a "car pooling company" (defined in paragraph (3)) receives available tax benefits in the form of reduced rentals. "Railroad" includes an express company.

The Board is authorized to guarantee equipment obligation financing or refinancing of two types of property which are defined in this section: rolling stock and equipment or facilities "Rolling stock" is defined in subsection (14) to include locomotives, cabooses, refrigerator cars, any type of general service railroad freight car, including boxcars, gondolas, open top and covered hopper cars, and flatcars, including those suitable for transportation of building and construction materials, or any express van. An express van would include a truck for use on flatcars, a tractor to pull such truck, and any delivery vehicle which could be used in conjunction with rail service. The Board is authorized, upon a written finding, to make other types of cars eligible for financing guarantees under this title by designating them as rolling stock, provided such designation "is consistent with the purposes of this title." "Equipment or facilities" is defined in subsection (5) to mean property which can be used to improve the performance or utilization of rolling stock (e.g., computer systems, freight yards, loading and unloading machines and ferries, and shoreside facilities for moving rolling stock by water).

Sec. 502 (Obligation Guarantee Board)

There is to be established in the Department of Transportation an independent agency, the Obligation Guarantee Board, composed of five members representing shippers, consumers and State regulatory commissions, and the Secretaries of Transportation and the Treasury, which shall administer the Obligation Guarantee Fund established under section 503. Board members who are not government employees are to receive $150 per diem plus expenses incurred when performing their duties as board members. As designated by the President, the terms of office of board members shall initially be either 3 or 6 years. Succeeding board members shall serve the terms of 6 years.

Section 503. (Guarantee of equipment obligations)

Subsection (a) authorizes the Board to guarantee payment of the interest and principal on equipment obligations and specifies the application process for such guarantees. Anyone who meets the requirements and conditions for equipment obligation guarantees is eligible to apply. Applicants are not limited to railroads or car-pooling companies except in the case of lease obligation guarantees and guarantees of over 80% of the value of the property to be financed. In order to encourage the maximum use of lease financing where it is the most economic financing vehicle, the measure permits guarantees of equipment obligations entered into by, for example, leasing companies and other institutions seeking to garner certain tax benefits as the lessors of capital equipment. Under the Internal Revenue Code's investment tax credit and advanced depreciation rate system, companies with large cash flows may benefit greatly by becoming lessors of capital equipment. These benefits are passed on to lessees in the form of reduced effective rates of interest. Thus, the railroad in financial straits is likely to be able to acquire equipment at the least cost through a lease financing arrangement rather than through direct purchase of equipment. This bill is designed to promote such equipment leasing.

Since one of the major factors underlying the freight car problem is segmented ownership of management of freight cars it is intended that this bill give incentive to more efficient coordination of the nation's railroad operations. One of the ways in which the bill does this is by encouraging the development of car-pooling companies for operation of freight cars on a pooling basis. A car-pooling company, whether a corporation, railroad subsidiary, or a formal or informal arrangement between railroads, furnishes freight cars to participating railroads. Such cars would be free running on and between those lines, subject to distribution in accordance with the pooling plan without reference to the ordinary car service rules of distribution among railroads. On other lines of the railroads participating in a pool, such cars could be utilized as required to meet the loading and traffic requirements of the participating railroads.

Such cars may move off the lines of the participating railroad. In that event, it becomes subject to the ordinary car service rules, except that the pool becomes the "home road" (unless otherwise modified by order of the Interstate Commerce Commission or agreement within the industry). Car pooling companies will monitor the utilization of their cars and will take action when necessary to increase the utilization of their cars. The provisions of this title which permit guarantee of equipment obligations of eligible applicants, including car pooling companies, are intended to encourage the rail industry to experiment with this technique of freight car management as a means of achieving better utilization.

Subsection (b) directs the Board to establish the revolving fund to carry out these provisions. In subsection (c), limits are placed on the amount of the principal of an equipment obligation which may be guaranteed: 80% of the value of the property being financed except that 95% of such value for railroads or car pooling companies otherwise unable to acquire such property on reasonable terms may be guaranteed and, in the case of lease obligations of bankrupt railroads, the Board may guarantee the full amount of such lease obligations. It is expected that the Board will consider such factors as the cash position of the railroads, available interest rates, and the likelihood that the railroad would be able to provide improved car service if funds made available at a lower interest rate through the guarantee of obligations were used for the improvement of railroad operations when determining guarantee levels. In subsection (d) the Board is authorized to approve any equitable and non-prejudicial modification of any provision of a guarantee or commitment to guarantee. Subsection (e) provides a maximum obligational authority of $2 billion—no more than 30% of such sum may guarantee obligations financing or refinancing equipment or facilities. Subsection (f) sets the standards by which the Board sets rates of interest. Notice must be given before an obligation is guaranteed (subsection (g)).

A series of requirements are listed in subsection (h) which must be met before the Board can enter into a guarantee agreement. The requirements for a guarantee or a commitment to guarantee an equipment obligation are as follows:

(1) The obligation is secured by rolling stock or equipment or facilities to be financed thereby; (2) The payment of obligations is to be required within 15 years of their execution; (3) The leasing, financing or refinancing of equipment is justified by the present and probable future demands for services to be rendered by applicants; (4) the applicant has given reasonable, independently verified, assurances that the *rolling stock,* equipment or facilities to be acquired with the equipment obligations will be economically and efficiently utilized; (5) The purchase or lease of the rolling stock or equipment or facilities will serve to meet demonstrable needs for rail services and to provide shippers with improved service; (6) The probable value of such rolling stock or equipment or facilities is sufficient to provide the United States reasonable protection in case of default and repossession by the holder of the equipment obligation or in case of possession or purchase by the Board; and (7) The transaction will result in a net increase of the total load carrying capacity of the applicant's rolling stock, or an improvement in the applicant's capability, efficiency, or effectiveness with respect to the utilization or performance of rolling stock.

Subsection (i) provides that guarantees can be issued only on the condition that: (1) There will be no net decrease in the load carrying capacity of the applicant; (2) there will be no increase in discretionary dividend payments except when the Secretary finds that such increased dividends will not decrease the ability of the obligor to provide improved car service; (3) there will be no use of assets or revenues for non-railroad operations by obligors unless such use will not decrease the ability of the obligor to provide improved car service; and (4) the obligor must take all reasonable steps to improve utilization.

Subsection (j) provides that upon breach of any subsection (i) condition the Secretary may seek to enjoin the activity in violation of the condition. Any person violating a condition may be subject to a civil penalty. Subsection (k) sets terms in case of default on a lease obligation. Subsection (l) provides for an investigation charge: subsection (m) provides for a guaranteed obligation premium charge; and subsection (n) provides that administrative costs may be paid from the proceeds collected as annual premium charges, up to 5% of that amount.

Section 504. (Issuance of notes of obligations)

The Board is authorized to provide notes or obligations to finance activities under section 503 and to dispose of property it acquires. Revocation of guarantees, except in accordance with lawful terms and conditions prescribed by the Board, is prohibited.

Section 505. (Audit of transactions)

The Comptroller General is authorized to audit transactions of the Board and if necessary in such audit, is given access to the records of companies for whom obligations have been insured. Subsection (c) declares that he shall make a report of such audits to the Congress.

Section 506. (Default)

The rights of parties under the guaranteed obligation, including rights under any security agreements, are established and the Board is given a right of action against defaulting obligors.

Section 507. (National rolling stock information system)

The Secretary shall develop and direct implementation of a plan for a national rolling stock information system. He may provide technical assistance to railroads in the establishment of such a system.

An anti-trust exemption is granted (subsection (c)) to the extent necessary to carry out the plan. The Secretary may establish a rolling stock information center (subsection (d)). Semiannually, DOT must report to Congress on the progress made in implementing the plan. Subsection (f) authorizes $10 million to be appropriated for the purposes of this section.

Section 508. (Utilization measurement and oversight)

The Secretary is authorized to promulgate a standard index by which to measure the degree of utilization of each piece of rolling stock. At present, the overage railroad freight car is utilized for freight transportation less than 10% of the time. Every 3 months DOT must publish a report on rolling stock utilization, and 30 days after each DOT report, the ICC must comment on it. Legal action must be taken by the Secretary to improve the utilization of rolling stock.

Section 509. (Prerequisites to establishment)

The Railroad Equipment Authority (authorized under section 510) may be established only under the following conditions:

(1) (a) 2 years or more after the date of enactment of the title, (i) if the Commission finds that as a result of inadequate utilization or inadequate supply, there still is a continuing shortage of rolling stock, or (ii) if the Secretary finds there has not been a significant increase in utilization of rolling stock since enactment; and

(b) 6 months after such finding, the Secretary finds efforts to establish a not-for-profit non-governmental car pooling corporation have not succeeded or met standards set in title; and

(c) the Congress, by affirmative concurrent resolution, authorizes the establishment of the Authority; or

(2) (a) the Secretary or the Commission makes either finding (1) (a) or (1) (b) above 7 years after the enactment of this Act; and

(b) the Congress by affirmative concurrent resolution, authorizes the establishment of the Authority.

Section 510. (Railroad Equipment Authority)

This section authorizes the establishment of the Authority when the prerequisites set out in section 509 have been met; outlines the purposes of the Authority; establishes the status of the Authority; and provides for the appointment by the President, by and with the advice and consent of the Senate, of a Board of Directors from lists of qualified individuals recommended by (a) the Association of American Railroads, (b) the AFL–CIO, (c) the National Academy of Sciences, (d) shippers and consumers, (e) the Secretary of Defense, and (f) the Secretary of Transportation.

All of the Authority's powers are to be exercised by direction of the Board of Directors (subsection (f)) and the antitrust laws are declared to be inapplicable, to the extent necessary for persons contracting with the Authority for the operation or maintenance of rolling stock or for the design or implementation of a national rolling stock information system (subsection (g)).

Section 511. (General powers of the Authority)

This section provides the Authority with powers necessary to carry out its functions under sections 510 through 518.

Section 512. (Financing)

Railroads incurring a car hire charge must, pursuant to subsection (a), pay the Authority a per diem surcharge of 50c per car day. Subsection (b) authorizes and directs the Authority to issue negotiable debentures in the amount of the surcharges. The surcharge is to be returned in the event of liquidation of the Authority (subsection (c)). The Authority may incur debt for capital purposes and the Secretary of the Treasury may purchase obligations of the Authority guaranteed by the United States in an amount not to exceed $1 billion.

The Secretary of the Treasury may finance any purchase of the obligations of the Authority under the title by a public debt transaction (subsections (d), (e), (f)). The appropriation of $10 million for the acquisition of capital stock of the Authority is authorized as is the appropriation of sums necessary to meet the obligations of the United States which are incurred as a consequence of any guarantee made under this section (subsection (g)). Securities guaranteed under this section are a lawful investment (subsection (h)). The Authority may issue capital stock in such amounts and of such classes as it determines, except that no railroad may own, directly or indirectly, more than 5% of the shares outstanding in the Authority (subsection (i)). So long as the United States owns any capital stock in it, the Authority is subject to audit and examination pursuant to the Government Corporation Control Act, (subsection (j)).

Section 513. (Conversion to private ownership)

Although the Authority, if it is established as a result of the inability to solve by any other means the freight car shortage problem, is to be started as a Federal Government corporation, the Committee contemplates its speedy conversion to private ownership.

Subsection (a) establishes a panel composed of the Secretaries of Transportation and Treasury, and the Chairmen of the Securities and Exchange Commission and the Interstate Commerce Commission to prepare, along with the chairman of the board of directors of the Railroad Equipment Authority, a plan for the public sale of stock. The plan is to be submitted "as soon as practicable" to the President and the Congress, upon a finding that a market exists for the public offering and that it will serve the purposes of this title.

Under subsection (b) it is declared that the plan for the sale of stock must specify a program for systematically reducing the Authority's obligations to the United States. Subsection (c) authorizes the board of directors to be enlarged by the addition of members elected by the owners of the publicly-offered stock. Subsection (d) directs that the proceeds from the sale of stock to the public be applied to retire the capital stock held by the United States. When all such stock is retired, all except three of the Directors shall be elected by the owners of the stock.

After the Authority is completely privately held, it shall pay an annual fee to the Federal Government equal to the difference between the amount of interest it is paying on its outstanding obligations and the amount it would have to pay were it not for the guarantee of such obligations by the credit of the United States plus ¼%. It is directed to make every effort to refinance to terminate the contractual liability of the United States with respect to those obligations (subsection (e)). If, on the other hand, the Authority defaults in the payment of obligations guaranteed by the United States, the Federal Government is directed "to take control and appoint a new Board of Directors" according to the original formula (subsection (f)).

Section 514. (Information system)

If an effective computerized system for locating and tracking freight cars and other rolling stock has not been developed under section 507, the Authority is directed to establish and maintain one (subsection (a)).

It shall make data from the system available on an equal basis to all railroads and shippers (subsection (b)), and it shall report to Congress annually on the progress made in implementing the national system (subsection (c)).

Section 515. (Use of equipment supplied by the Authority)

The Authority is empowered to maintain a schedule of charges for the use of its freight cars and other rolling stock and equipment related to utilization of rolling stock (subsection (a)). User charges may not, however, be assessed for rolling stock located on any railroad which has no need for that stock in originating traffic, if that stock is not subject to a car service order by the Authority or the ICC and provided that railroad furnishes appropriate notice in advance (subsection (b)). Subsection (c) provides for the Authority to establish rates, terms and conditions, just and reasonable car service rules, and other enumerated conditions on the use of the freight cars and other rolling stock which it owns, leases, controls, or manages. Each railroad is directed to comply with those conditions (subsection (d)). Subsection (e) prohibits any railroad from refusing to transport any rolling stock of the Authority, whether loaded or empty so long as safety and other reasonable requirements are met.

Section 516. (Commission review)

The Railroad Equipment Authority, although not a common carrier by railroad, is made subject to section 1(10) through 1(17) of the Interstate Commerce Act and applicable Commission rules under those provisions.

Section 517. (Enforcement)

The Authority is given the power to initiate court action in Federal court to enforce compliance with any obligation owing it under this title or under any agreement entered into pursuant to this title (subsection (a)). It is authorized also to secure equitable relief and the district courts of the United States are authorized to grant such relief (subsection (b)).

Section 518. (Annual report)

Each year the Authority is directed to submit a comprehensive report to the President and Congress which is to include information regarding its activities, methods, effectiveness, and problems and on the state of railroad freight service in the United States. Every 2 years the ICC and the Secretary of Transportation are directed to investigate and evaluate its performance and report their findings to the President and Congress.

Section 519. (Protective arrangements for employees)

Employees adversely affected by actions taken under title V are to be provided adequate employment protection, including the same labor protections as are provided under section 405 of the Rail Passenger Service Act of 1970, section 13 of the Urban Mass Transit Act of 1964, and section 6 of the High Speed Ground Transportation Act of 1973. The program adopted under this section is to be coordinated by the Secretary of Labor with these earlier laws. These provisions apply to employees of railroads and car pooling companies which are the beneficiaries of actions taken under the title.

Additionally, construction contracts awarded by the Authority (if it comes into existence) to railroads are not to be subcontracted; the Authority is to divide such contracts between railroads and car building companies on the basis of the ratio of building during the 5 years preceding the date of the contract. If contract awards vary more than 5% from such ratio the labor protection arrangements described above shall go into effect. To the extent possible, repair and maintenance contracts are to be awarded to railroads with facilities for performing such work.

All work financed with the assistance of funds provided under this title is to be performed by labor paid at the prevailing rate for such work in the same locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. Wage rates negotiated under the Railway Labor Act and the National Labor Relations Act are in compliance with the Davis-Bacon Act and the highest of such wages in the locality shall be paid employees engaged in car building under Authority contract who are not covered under the RLA or the NLRA.

Employees adversely affected by actions taken pursuant to title V are entitled to be restrained and/or reassigned and are entitled to continued representation in the same class or craft. Job positions affected by such changes may be eliminated as they become vacant through deaths, retirement, or voluntary resignation.

TITLE VI—NATIONAL RAIL SERVICE AND TRANSPORTATION PLAN

Section 601. (National rail services plan)

This section requires the Secretary to prepare a National Rail Service and Transportation Plan and supporting studies (see sections 602–608) to be submitted to Congress and the ICC one year after enactment.

Section 602. (Financial analysis)

This section is designed to provide working data on the requirements for railroad capital investment over the next ten years for equipment maintenance, rolling stock, railyards, track construction and rehabilitation among other categories. The analysis is to take into account different kinds of possible Federal assistance and make recommendations to achieve greater economies.

Section 603. (National rail survey)

This section is designed to provide current data on a region by region basis for existing railroad equipment including the number, type, and condition of rail lines, rolling stock, railbeds, employees, rights-of-way, railyards, the number of lines proposed to be abandoned, the number of lines which may effectively be consolidated without affecting service, the percent of rolling stock utilized and the systems used to coordinate and deploy it.

Section 604. (Rail rehabilitation study)

This section requires the Secretary to project railroad equipment and facilities necessary to meet the transportation requirements of the United States, based upon (1) different transportation models, utilizing various coordinated modes of transportation and (2) alternative kinds of federal assistance.

Section 605. (Program cost evaluation)

The Secretary is required to evaluate and develop cost estimates for the transportation models developed under section 604. In studying alternatives for federal assistance, the Secretary is to consider direct federal subsidies, the expansion of (1) Amtrak, (2) the Consolidated Rail Corporation, and (3) the U.S. Railway Association as well as Federal or State acquisition of railbeds and rights-of-way, Federal or State acquisition and maintenance of low density branch lines, and changes in other Federal rail-related programs such as the crop storage program.

Section 606. (Essential services report)

The Secretary is required to set forth his conclusions as to which present and future rail services are essential to the transportation needs of the United States.

Section 607. (Passenger service report)

The Secretary is to submit to Congress a report on the feasibility and desirability of expanding Amtrak based upon certain enumerated factors including energy conservation.

Section 608. (National transportation policy)

Based on the foregoing studies the Secretary is to submit to Congress a National Transportation Policy including his recommendations for all modes of transportation.

Section 609. (Review by Interstate Commerce Commission)

The reports required under Sections 602–608 are to be studied and evaluated by the ICC. The ICC is required to (1) solicit and study the views of governors, mayors, shippers, the Secretary of Defense, wholesalers, and retailers within each region, farmers, consumers of goods shipped by rail, and other interested parties in public hearings held in the various regions of the country and (2) recommend changes in the National Rail Service and Transportation Plan.

Section 610. (Review by Congress)

The Secretary and the ICC are to deliver their reports to both Houses of Congress and the appropriate congressional committees. The National Rail Service and Transportation Plan as recommended by the Secretary and amended by the ICC will be considered approved unless either the House or the Senate passes a disapproving resolution within 60 calendar days of continuous session. If either the House or the Senate disapproves of the Plan, the Secretary and the ICC are to revise the plan and resubmit it.

Section 611 (Authorization for appropriation)

Appropriations of $25,000,000 for the DOT reports and $10,000,000 for the ICC evaluation are authorized.

By Mr. STEVENSON:

S. 3180. A bill to amend the Emergency Petroleum Allocation Act of 1973, Public Law 93–159, to clarify services directly related to agricultural operations, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. STEVENSON. Mr. President, I introduce today an amendment to the Emergency Petroleum Allocation Act of 1973. This amendment would make it clear that the production and distribution of fertilizer for domestic use is a service directly related to agricultural operations and, therefore, is entitled to receive 100 percent of its current fuel requirements.

Section 4 of the Emergency Petroleum Allocation Act directed the President to promulgate regulations for the mandatory allocation of fuel which would "to the maximum extent practicable" provide for the "maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto." Under current Federal Energy Office—FEO—directives, agricultural operations receive 100 percent of their current fuel needs. Section 221.51 of FCO's regulations defines agriculture as "commercial farming, dairy, poultry, livestock, horticulture, forestry, and fishing activities and services directly related to the planting, cultivation, harvesting, processing, and distribution of fiber, timber, tobacco and food intended for human consumption and animal feed."

Unfortunately, FEO has not recognized the essential link between fertilizer and farming, and, as a result, the production and distribution of fertilizer has not been receiving a high-priority fuel allocation.

Mr. President, it is crucial for the fertilizer industry to receive 100 percent of its fuel requirements for the production and distribution of fertilizer intended for domestic use.

Approximately one-third of the total food and fiber production in the United States is directly attributable to the applicaton of fertilizer. In an effort to rebuild diminished U.S. grain reserves, almost 20 million more acres of land will be in production this year than last year. This increase in acreage will require an additional 4 million tons of fertilizer.

Unfortunately, U.S. fertilizer production capacity is insufficient to satisfy all the increased farmer requirements for fertilizer. The U.S. Department of Agriculture recently reported that its field surveys continue to show fertilizer shortages, with nitrogen shortages being most severe. Its report stated:

> Nitrogen is short in 40 states and tight in five. Mixed fertilizer is short in 29 states and tight in 15. Phosphate and potash supplies were reported up somewhat from two weeks ago with phosphate still short in 30 states and potash in 24.

That report is probably optimistic. In my own State, the Illinois Department of Agriculture estimates a fertilizer shortfall of 20 to 25 percent.

Planting decisions must be made in the next 30 to 60 days and, therefore, it is essential that everything possible be done to immediately increase the supply of fertilizer available to U.S. farmers at equitable prices.

The Senate recognized the importance of increasing the availability of fertilizer when it passed Senate Resolution 289 on February 27. In essence, Senate Resolution 289 exhorts the fertilizer industry and the appropriate Federal agencies and departments to give the highest priority to the production and distribution of fertilizer at reasonable prices. Senator McGOVERN and the entire Committee on Agriculture and Forestry are to be commended for their work in trying to alleviate the current fertilizer shortages. Additional legislative and administrative action is, however, required.

First, fertilizer producers need to receive 100 percent of their full requirements for that part of their production destined for domestic use. This is the purpose of the amendment I am introducing today to the Emergency Petroleum Allocation Act. Under this amendment fertilizer producers will continue to receive their regular fuel allocation for production of fertilizer that may be exported, but they will have the added incentive of a 100-percent fuel allocation for that share of their production which is destined for domestic markets.

Hopefully, this approach will increase domestic fertilizer supplies without resort to an embargo on U.S. fertilizer exports. An embargo could have serious economic and political consequences for the United States since we are still net importers of fertilizer, and are about 60 to 70 percent dependent on Canadian potash.

However, some form of export control may be necessary. That is a subject which will be addressed in forthcoming hearings of the Senate Subcommittee on International Finance, which I chair.

Second, fertilizer producers need to receive a high priority allocation of natural gas for the production of nitrogen fertilizers destined for domestic use. Anhydrous ammonia is the most serious nitrogen fertilizer shortage confronting our farmers. Anhydrous ammonia and other nitrogen fertilizers are essential to the production of corn. Unless farmers are assured adequate supplies of nitrogen fertilizer, they may have to shift their acreage into soybeans—which can be grown without nitrogen fertilizers. This shift would create an unbalanced U.S. agricultural crop, and could lead to a critical shortage of corn. The Consumer Energy Act of 1974, of which I am a principal sponsor, contains a high priority allocation of natural gas for the production of fertilizer. The Commerce Committee is now in the process of marking up the act, and I am hopeful that the Senate will be able to act on it soon.

Third, it is imperative that the Interstate Commerce Commission issue car service and/or distribution orders to expedite the transport of fertilizer. Fertilizer shortages are due, in part, to transportation problems, particularly the availability of railroad cars. According to the Department of Agriculture, fertilizer producers currently lack about 4,000 railroad cars for fertilizer now available for shipment to dealers.

I am writing to the Chairman of the Interstate Commerce Commission to urge him to exercise the Commission's emergency authority under the Interstate Commerce Act to break the transport logjam now affecting the delivery of fertilizer.

Finally, the Cost of Living Council must act to assure that individual fertilizer producers and dealers do not take advantage of the current shortages and resort to price gouging. Senate Resolution 289 expressed the sense of the Senate that the Cost of Living Council establish an investigatory program to monitor and analyze any reports of fertilizer price gouging at either the wholesale or retail levels. Today I have also written the Chairman of the Cost of Living Council requesting a status report on the Council's efforts to enforce this antiprice gouging policy.

As Senator MCGOVERN highlighted during fertilizer shortage hearings recently held by his Subcommittee on Agriculture Credit and Rural Electrification, the adequacy of the country's and the world's food supplies for next year depend on how well we can produce and transport the maximum amount of fertilizer.

The steps I am taking are designed to help achieve maximum production and the rapid distribution of fertilizer to American farmers. These actions are designed to deal with the fertilizer crisis we face in the short term. But, once these actions are taken, I will not forget, and I am confident my colleagues in the Congress will not forget, that the fertilizer shortage crisis is really a long-term problem. We must act to make sure we do not have shortages next year or ever again.

By Mr. KENNEDY (for himself, Mr. MAGNUSON, and Mr. JAVITS):

S. 3181. A bill to amend the Public Health Service Act to revise the National Health Service Corps programs and the Public Health and National Health Service Corps scholarship training program. Referred to the Committee on Labor and Public Welfare.

THE NATIONAL HEALTH SERVICE CORPS AMENDMENTS OF 1974

Mr. KENNEDY. Mr. President, on behalf of myself, Senator MAGNUSON, and Senator JAVITS, I have today introduced a bill to extend the authority for the National Health Service Corps through fiscal year 1977, and to strengthen the Health Service Corps ability to recruit health professionals and prepare underserved communities to recruit and retain health professionals. The authority for the Corps, section 329 of the Public Health Service Act, expires on June 30 of this year.

This bill contains a variety of changes which merit the careful consideration of the Senate, and on which the Health Subcommittee will hold hearings in the very near future. It is identical to the bill filed today in the House of Representatives by Congressman ROGERS. The Senate and House have cooperated closely in the past on this program, and I am pleased that we can continue to closely coordinate our initial proposals for improvement to the program.

However, I sponsor this proposal as a good basis for hearings, and I and the Health Subcommittee will be open to all serious amendments. I invite my colleagues in the Senate to offer such proposals.

Indeed, of all the problems we face in delivering health care to Americans, one of the most widely recognized is the problem of attracting health professionals into rural and innercity communities. There are still over 5,000 communities without a physician in our Nation and, according to the American Medical Association, 140 counties with no physician whatsoever. This problem has grown in recent years as the number of medical students entering specialty practices has increased, and as earlier generations of family physicians and general practitioners have retired. Every Senator knows stories of how community leaders have interviewed hundreds of potential physicians, dentists, and nurses, in an effort to attract them into their community. Every Senator knows how more and more innercity residents are forced into long waiting lines in city hospital emergency rooms. I believe this is a problem that we can all recognize; and I believe it is an area where we can legislate on a bipartisan basis to help solve the problem.

In recent years the Senate has passed legislation which addresses this problem from a variety of perspectives.

First. In 1971 we established and strengthened loan forgiveness programs under the Comprehensive Health Manpower and Nurse Training Acts. These programs forgive up to 85 percent of student loans to any professional who practices in an underserved area—whether he serves on his own, or as a member of the National Health Service Corps.

Second. In 1971 as well, based on an amendment by Senator RANDOLPH, the Senate established a National Health Manpower Clearinghouse to assist communities in their search for physicians who might be willing to consider service in their area.

Third. The Comprehensive Health Manpower Act also included a family-practice-of-medicine grant aimed at increasing the number of physicians trained in the form of practice most suitable to many rural and innercity communities.

Fourth. Finally, in December of 1970, the Congress enacted the Emergency Health Personnel Act under the sponsorship of Senator MAGNUSON. This act was extended during the last Congress to June 30, 1974, and the organization it created was named the National Health Service Corps. Since its early conception, this program has been fathered by Senator MAGNUSON, and I am pleased to join him in introducing this bill today.

The purpose of the National Health Service Corps is to recruit health professionals into the Corps for service in communities which cannot obtain health services in any other way. As of July 1, 1973, there were approximately 400 health professionals, predominately physicians, working in 170 communities of this type. The program continues to grow, and under the legislation introduced today should reach 500 communities, through approximately 1,250 health professionals.

The major problem faced by the Corps today is recruitment. In 1972 the Health Subcommittee reported and the Senate passed an amendment by Senator STEVENS of Alaska, establishing a major new scholarship program which essentially offers young people an education in medicine or dentistry in exchange for service in an underserved community. The bill I introduce today strengthens that scholarship program, which has been endorsed this year by the administration, and in addition allows the Corps to pay young physicians and dentists a salary competitive with what they could earn in other areas with equal experience and training. These two features are critical to recruitment given the termination of the military draft.

In addition to its success in supplying communities with health professionals, the Corps is showing evidence of success of other kinds.

Although it is still too early for clearly significant evaluative data about the program, and although there have certainly been some areas where problems have been experienced, the program has, in general, begun on an exceedingly optimistic pattern of performance. What hard evidence there is for the success of the program is encouraging. The initial 20 health personnel ordered to duty in January of 1972 were recruited under the most adverse conditions and none remained in the program when their assignment was finished. But it was significant, that 50 percent of those 20 changed their career planning from a practice in a medical or dental subspecialty into a primary care area. Equally encouraging is the fact that several of the communities served by these initial 20 health personnel were able to recruit their own replacements because of the expertise they had gained during their assignment from the Corps. The next wave of 150 physicians that were newly assigned in July 1972 was hastily and unscientifically recruited and matched to eligible shortage areas, but it appears at the present time that about 25 percent of those will remain in their communities following the conclusion of their obligated period of service in July 1974. In addition, a number of communities where assignments are terminating are replacing them with non-Federal employees recruited by the community. With enough time for careful recruitment and matching there is no doubt that the percentages can be significantly increased. In addition, a number of communities are successfully demonstrating their ability to manage a new health practice in their areas and are returning to the Corps funds collected from fee-for-service, third-party, or other sources in amounts sufficient to cover the costs that the Corps incurred in placing and maintaining personnel in the areas.

It is clear, therefore, that in its initial years of operation the National Health Service Corps has demonstrated its viability as a mechanism to begin to correct the need for health professionals in the rural and innercity areas of our country.

I urge my colleagues to give their consideration to this bill.

I ask unanimous consent that certain material relating to the bill be printed in the RECORD.

REDUCTION OF THE GRANDFATHER CLAUSE IN THE BUDGET BILL

Mr. President, I send to the desk an amendment to S. 1541, the Congressional Budget Act of 1974, and I ask that it may lie on the table and be printed.

The purpose of the amendment is to make the so-called "two-major-committee" limitation in the Senate rules applicable to the new Senate Budget Committee in 1977, instead of 1979 as the bill now provides.

As reported by the Government Operations Committee and the Rules Committee, the proposed Congressional Budget Act will establish comprehensive, far-reaching and long-overdue reforms in the way Congress handles the Federal budget. The proposed act holds out the promise of a historic new era in congressional control and responsibility over Federal spending.

All of us in the Senate are aware of the exhaustive joint effort that has produced this outstanding piece of legislation, and I commend the Senators, the committees, and their staffs who have worked so industriously, skillfully, and successfully over the past 2 years to prepare the bill we are about to debate. Surely, the new act will become a landmark achievement of the 93d Congress, and a centerpiece in the continuing efforts by the Senate and the House to assert their long-dormant responsibilities and prerogatives under the Constitution.

The amendment I am proposing is a relatively minor modification in one aspect of the bill—the transition rule proposed as part of the creation of the new Senate Budget Committee to be established by the act.

As it should, the new committee will be a major committee of the Senate—a "category A" committee under paragraph 6(a) of Senate rule XXV. As a result, the so-called "two-major-committee" limitation would ordinarily be applicable, under which Senators are limited to serving on two major Senate committees. Therefore, under the Senate rules, a Senator who now holds two major committee assignments would be required to give up one of those committees in order to serve on the new Budget Committee.

In dealing with this issue, the bill reported by the Rules Committee contains a provision exempting the members of the new Budget Committee from the two-major-committee limitation until January 1979, when the 96th Congress convenes.

The amendment I am introducing would make the limitation applicable in January 1977, when the 95th Congress convenes. The amendment would thus limit the exemption to one full Congress instead of two full Congresses, as now proposed in the bill reported to the Senate.

In general, the theory of an exemption from the limitation is a wise one. The new Budget Committee will unquestionably be an important one, but the details of its role and its workload are so uncertain and so unpredictable at the outset, that it would be unreasonable to require Senators to choose in advance whether to give up an existing major committee assignment in order to serve on the Budget Committee. Therefore, it is appropriate, during the initial period of operation of the new budget procedures, to waive the two-major-committee rule.

Although the principle of the grandfather clause thus seems sound in its application here, the difficulty in the Committee bill is that it stretches out the "get acquainted" period for too long.

There is every expectation that the Budget Act will clear Congress and be signed into law by the President within the next few weeks. Certainly, no one expects it to be delayed beyond the end of this Congress. Thus, in all likelihood, the new Budget Committee and the new Congressional Office of the Budget will be established promptly, and can begin staffing and assuming their responsibilities at once.

In addition, as the bill requires, the transition to the new fiscal year proposed in the bill will take place relatively quickly also, by extending the 1976 fiscal year until September 30, 1976, at which time the new October 1-September 30 cycle for fiscal years will be in place.

Why, then, should there be two full Congresses before the two-major-committee limitation comes into effect? By 1977, the Budget Committee will have had ample opportunity to develop its procedures and assume its workload, and by 1977, the regular Senate rules should apply.

The two-major committee limitation serves an extremely useful purpose in guaranteeing that the important responsibilities of Senate committees are shared widely among the Members, and the limitation should certainly be applied to the preeminent anticipated role of the new Budget Committee at the earliest practicable opportunity.

Mr. President, I urge the Senate to consider this amendment and to act favorably upon it, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1541

A bill to provide for the reform of congressional procedures with respect to the enactment of fiscal measures; to provide ceilings on Federal expenditures and the national debt; to create a budget committee in each House; to create a congressional office of the budget; and for other purposes

On page 107, lines 16 and 17, strike out "Ninety-sixth Congress" and insert "Ninety-fifth Congress".

CHANGES IN THE NHSC MADE BY THE NATIONAL HEALTH SERVICE CORPS AMENDMENTS OF 1974

1. Changes the definition of a "medically underserved area" to conform to the definition of a "medically underserved population" used in the HMO Act of 1973. Clarifies the present legislative intent that the Secretary is to publish a list of all of the underserved populations in the United States by requiring a report to Congress by September 1, 1974, on the criteria used in designating medically underserved populations, and the publication of such a list by January 1, 1975. Provides a new mechanism by which representatives of populations which are not designated by the Secretary as underserved may apply to him for such designation, and lists the indicators of the availability of health services which should be considered when reviewing such applications. Sec. 329(b)(1), (b)(2), and section 1(b).

2. Clarifies the existing requirements for applying for the assignment of NHSC personnel to make it clear that a community seeking such assignment must make application to the Secretary, and specifying that, in communities with several medical or dental societies, the approval of any one of these societies will be sufficient for the approval of an application. Section 329(c)(1)(A).

3. Adds a new requirement that the Secretary may approve applications for NHSC personnel for periods which do not exceed four years, and that, if a community desires assignment of NHSC personnel for more than four years, it must reapply to the Secretary at the end of the original four-year assistance period. Requires the Secretary in considering applications for continued assistance for a community to apply the criteria necessary for the original approval of an application and, in addition, to evaluate the community's continued need for NHSC personnel, the use of personnel assigned to date, the growth of the practice of the assigned personnel, the community's support for the assignment, the community's continued efforts to secure its own health manpower, and the quality of the management of the NHSC practice. Section 329(c)(2).

4. Adds a new requirement that the Secretary, in assigning Corps personnel to communities, make an effort to match the characteristics of the personnel (and their spouses) and the communities to which they may be assigned in such a way as to maximize the likelihood that the personnel will remain in the community after the completion of their assignment and leaving the NHSC. Further requires the Secretary to review the assignment of each Corps assignee and the situation in the community to which he is assigned for the purpose of determining the appropriateness of extending his assignment. Section 329(c)(4).

5. Makes new authority available to the Secretary to make grants, not in excess of $25,000, to medically underserved populations to be used for the purpose of establishing medical practices for NHSC personnel. This provision is written to repay to the Federal government the amounts of such grants using revenues generated by the practice. Section 329(d)(3) and (e)(1)(G).

6. Provides authority to the Secretary to sell to NHSC communities at fair market

value any equipment in his ownership which has been used by NHSC assignees in providing health services. Sec. 329(d)(4).

7. Clarifies the financial arrangement that the Secretary and communities receiving NHSC personnel must enter into. Provides that a community must:

(1) charge patients seen for health services received.

(2) make reasonable efforts to collect the amounts of such charges, and

(3) pay to the United States the lesser of either:

(a) the amount collected under (2) or

(b) the pay and allowances of the NHSC personnel plus the amounts of any start-up grants provided to the community (suitably pro-rated over the period of NHSC assignment).

These provisions have the effect of assuring that NHSC communities will be responsible for payment to the Federal government of the reasonable costs incurred by it in the operation of the program, but, that in the event the practice generates additional revenues, these additional revenues may be retained by the community for its use in improving or expanding the practice, or recruiting its own health manpower. The ability of the community to retain some funds is intended to provide the community with a significant incentive for the efficient and effective collection of charges billed to patients. Sec. 329(e)(1).

8. Requires the Secretary, under regulations which he prescribes, to adjust the monthly pay of physicians and dentists serving in the NHSC so that their pay will be competitive with that of physicians and dentists in established practices with equivalent training. This provision constitutes, in effect, a pay bonus and is modeled after physicians and dentists serving in the Armed Forces. It will be limited to an amount, not to exceed $1,000 per month, which is intended to make service in the NHSC attractive on a financial basis for young physicians. Further, the pay bonus would be available in its full amount only during the first three years in which an individual served in the NHSC. Subsequently his salary would be held constant so that as the practice grows it will become financially wise for the NHSC personnel to leave the Corps and enter private practice in the community in which they are assigned. Sec. 329(f)(4).

9. Adds new requirements to the existing requirements for an annual report to the Congress that the report indicate the number of patients visits recorded in the previous year by the NHSC, the results of evaluations conducted by the NHSC, and the amounts charged, collected, and paid to the Federal government by NHSC communities. Sec. 329(g).

10. Renames the existing national advisory council as the National Advisory Council on the NHSC, requires membership on the Council from communities served and NHSC personnel assigned, and gives the Council the authority to review and approve program regulations. Sec. 329(h).

11. Provides the Secretary authority to seek appropriations for the NHSC a year in advance so that stable budget planning will be possible in order to facilitate long-range recruitment of physicians and dentists for the Corps. This is important because most physicians and dentists make their career plans as much as a year in advance and therefore the Corps must know as much as a year in advance how many physicians its appropriations bill will support. Sec. 329(i)(2).

12. Requires the Secretary of HEW to conduct or contract for studies of methods of assigning personnel in the NHSC with the purpose of identifying the characteristics of health manpower who are likely to remain in practice in medically underserved populations, the characteristics of areas which have been able to retain health manpower, the appropriate conditions for the assignment of independent nurse practitioners and physicians' assistants in medically underserved populations, and the effect of primary care residency training in such populations on the health care provided and the decisions of the residents respecting areas in which to locate their practice. Sec. 1(b)(2).

13. Amends the NHSC scholarship program to follow the provisions of the military health manpower scholarship program respecting monthly payments to participants and support by the Secretary for the costs born by institutions who increase their enrollment in order to accept participants in the scholarship program. Sec. 225(c)(1)(A) and (c)(2).

14. Provides that the payments under the scholarship program for individual living expenses may be adjusted by the Secretary in proportion to any inflation in living costs. Sec. 225(c)(1)(B).

15. Clarifies the legislative specification that individuals completing the scholarship program be available first for service in the NHSC or Indian Health Service, second, if no positions are available in the above, for service in the Federal Health Programs Service, and third, if no positions are available in any of the above, for any service deemed appropriate by the Secretary. Sec. 225(d)(2).

16. Provides a penalty provision similar to the one contained in H.R. 7724, the Biomedical Research Training legislation, which would require individuals who fail to perform obligated service to pay back their scholarship and related Federal contributions to their education at twice their original value. This provision is responsive to the experience of existing, primarily state, loan and scholarship training programs which have been that without such penalty a substantial portion of the participants will repay the dollar value of their scholarship rather than perform the obligated service. Sec. 225(e)(1).

17. Authorizes appropriations for the NHSC as follows:

	Million
Fiscal year 1975	$30
Fiscal year 1976	35
Fiscal year 1977	40
Total	105

Authorizes appropriations for the NHSC scholarship program as follows:

	Million
Fiscal year 1975	$20
Fiscal year 1976	25
Fiscal year 1977	30
Total	75

Mr. MAGNUSON. Mr. President, having authored the legislation that created the National Health Service Corps in 1970, I am pleased to join the distinguished chairman of the Health Subcommittee, Mr. KENNEDY, in introducing this first draft of legislation to extend the corps' authorization through fiscal year 1977. This legislation also proposes several modifications in the corps to make it more attractive to physicians, dentists, and other health professionals. Out of the hearings on this measure will emerge, I hope, final legislation that will strengthen the National Health Service Corps so that it can go much further toward satisfying the needs of the some 5,000 U.S. communities that still lack adequate health manpower.

Mr. President, today there are some 400 corpsmen providing health care in 170 communities around the country—communities which otherwise would still be without adequate health care manpower. In my own State of Washington there are now 10 NHSC assignees serving 7 communities and later this year that number should increase to 11 communities. From my visits in some of those communities, I know what an extremely important job these men and women are doing. Consequently, I find it very hard to understand why the administration continues to refuse to give the corps the dollar support and administrative attention its mission merits.

As chairman of the Labor-HEW Appropriations Subcommittee, I can attest to Congress' support for the corps. For every complete fiscal year since the program's inception, Congress has appropriated more for it than the administration has requested or been willing to spend.

That would not be so disturbing if we were speaking of billions or hundreds of millions of dollars, or if we were talking about some part of the huge HEW bureaucracy downtown. But we are not. Instead, we are speakng of a few million dollars for a program that is taking health care into the small towns of America and into the everyday lives of everyday Americans. That is why I find the administration's position so hard to comprehend.

The corps has also too often been the victim of administrative oversight. Let me cite just one example. In 1971, Congress enacted legislation authorizing HEW to repay 60 percent of any educational loan used by an individual to obtain professional health training if that individual served 2 years in health manpower shortage areas. That was in 1971, but it took HEW until June 1973, to just get the necessary Government forms printed for NHSC assignees to sign. Then followed more months of paper shuffling. Then the doctors and others who had been serving in the corps since 1971 were told that if their 2-year tour with the corps in a health manpower shortage area expired before all the paperwork had been completed they would not qualify for the loan repayment. In other words, they were told, the critical issue was not the 2 years they had spent working in health manpower shortage areas—but the date upon which all the paper shuffling had been completed. The Secretary has informed me that legislation to rectify this bureaucratic tangle is being readied for submission to the Congress. If that legislation has not arrived by the time hearings begin on the measure we have introduced today, then an appropriate remedy will, it seems to me, have to be provided through our bill.

Mr. President, in looking back over the first few years of the corps, I would conclude that its success despite the administration is testimony to the fine work of the health professionals who are serving in it and to the soundness of the program's original concepts. The National Health Service Corps has proved its value to thousands of Americans in small towns and big-city slums. It is fully deserving of extension.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2422

At the request of Mr. Mathias the Senator from Michigan (Mr. Hart) was added as a cosponsor of S. 2422, to establish a National Center for the Prevention and Control of Rape and provide financial assistance for a research and demonstration program into the causes, consequences, prevention, treatment, and control of rape.

S. 2495

At the request of Mr. Domenici, his name was added as a cosponsor of S. 2495, to provide for the more effective utilization of our scientific and technological resources.

S. 2782

At the request of Mr. Jackson, the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of S. 2782, the Energy Information Act.

S. 2854

At the request of Mr. Cranston, the Senator from Missouri (Mr. Eagleton), the Senator from Maine (Mr. Hathaway), the Senator from Alabama (Mr. Allen), the Senator from Texas (Mr. Bentsen), the Senator from Indiana (Mr. Hartke) and the Senator from Georgia (Mr. Nunn) were added as cosponsors of S. 2854, to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance a national attack on arthritis.

S. 2871

At the request of Mr. McGovern, the Senator from Alabama (Mr. Sparkman) was added as a cosponsor of S. 2871, to amend the Food Stamp Act of 1964, as amended, and for other purposes.

S. 2938

At the request of Mr. Jackson, the Senator from Massachusetts (Mr. Brooke) was added as a cosponsor of S. 2938, the Indian Health Care Improvement Act.

S. 3057

TVA ENVIRONMENTAL FINANCING

Mr. BAKER. Mr. President, I ask unanimous consent that Senator Cook be added as a cosponsor of S. 3057 at its next printing.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I also would make a correction of a figure which appeared in my statement at the time of introducing that legislation. The Tennessee Valley Authority is required to retire annually $20 million of the appropriation investment which the Federal Government had prior to 1959 invested in the TVA power program. Credits under the bill would be charged against that amount and not against $20 billion as appeared in the Record.

I hope this error has not caused any inconvenience or concern to my colleagues.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 3069

At the request of Mr. Ribicoff, the Senator from New York (Mr. Buckley) was added as a cosponsor of S. 3069, to extend through December 1974 the period during which benefits under the supplemental security income program on the basis of disability may be paid without the interruption pending the required disability determination, in the case of individuals who received public assistance under State plans on the basis of disability for December 1973 but not for any month before July 1973.

S. 3075

At the request of Mr. Eastland, the Senator from Oregon (Mr. Packwood) was added as a cosponsor of S. 3075, a bill to amend the Agricultural Adjustment Act of 1938, with respect to the emergency transfer of rice allotments.

S. 3098

At the request of Mr. Dole, the Senator from Connecticut (Mr. Ribicoff) was added as a cosponsor of S. 3098, to amend the Emergency Petroleum Allocation Act of 1973 to provide for the mandatory allocation of plastic feedstocks.

S. 3108

At the request of Mr. Stafford, the Senator from Massachusetts (Mr. Kennedy) and the Senator from Pennsylvania (Mr. Schweiker) were added as cosponsors of S. 3108, to amend the Rehabilitation Act of 1973.

S. 3154

At the request of Mr. Ribicoff, the Senator from Pennsylvania (Mr. Schweiker) was added as a cosponsor of S. 3154, the Comprehensive Medicare Reform Act of 1974.

SENATE JOINT RESOLUTION 188

At the request of Mr. Helms, the Senator from Massachusetts (Mr. Brooke), the Senator from Washintgon (Mr. Jackson), the Senator from Ohio (Mr. Taft), and the Senator from Utah (Mr. Moss) were added as cosponsors of Senate Joint Resolution 188, to authorize the President to declare by proclamation Aleksander L. Solzhenitsyn an honorary citizen of the United States.

SENATE CONCURRENT RESOLUTION 73—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO A COMMITTEE PRINT OF THE SENATE SELECT COMMITTEE ON NUTRITION AND HUMAN NEED

(Referred to the Committee on Rules and Administration.)

Mr. McGOVERN submitted the following concurrent resolution:

SENATE CONCURRENT RESOLUTION 73

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Special Committee on Nutrition and Human Needs five thousand (5,000) additional copies of its committee print entitled "To Save The Children: Nutritional Intervention Through Supplemental Feeding."

SENATE CONCURRENT RESOLUTION 74—SUBMISSION OF A CONCURRENT RESOLUTION AND BILL RELATING TO ADVANCE FUNDING OF EDUCATION PROGRAMS

(Referred to the Committee on Labor and Public Welfare.)

RATIONAL FUNDING OF EDUCATIONAL PROGRAMS

Mr. McGOVERN. Mr. President, one of the principal problems school administrators face today is the delay in appropriating funds for education programs. Even if the administration were more cooperative, the actual appropriations would not be made until the late spring or early summer before the start of the new school year with notice of the individual school district entitlements some months later.

For the school districts to plan the next school year properly and negotiate teacher contracts, they ought to know the amount of Federal funds they will receive the following year by early spring at the latest. So, even under the best of circumstances, the present fiscal year appropriations process does not meet school district administrative needs.

This problem has been compounded further in recent years by the callousness this administration has shown toward educational programs in general. While pressing for increased military spending and foreign aid, the administration has attempted to balance the budget by cutting back on domestic programs such as education. The so-called Better Schools Act of 1973, for example, which sought to substitute a revenue sharing approach for the historical categorical grant program, would have amounted to a wholesale retreat from the traditional Federal commitment to quality elementary and secondary education.

Fortunately, the Congress has seen through the administration's false rhetoric on its commitment to education and consistently appropriated substantially higher sums than the President requested. But this yearly duel on the amount of Federal aid to education has further delayed the commitment of funds to school districts. The President has twice vetoed education appropriations, forcing the Congress to rely on continuing resolutions. And even then, the school districts have been unable to obtain the funds the law entitles them to because the administration impounded the funds on a variety of pretexts.

What this has meant for a school administrator is that he or she does not know what Federal funds to expect for the school year until 2 or 3 months after school has opened. Since an administrator cannot plan on dollars which may not come, this has meant less education for students and economic uncertainty for teachers.

During the last year of the Johnson administration, the Congress enacted a statute which would have avoided much of this chaos, had that statute been followed.

The law (15 U.S.C. 1223) authorizes appropriations for educational programs administered by the Commissioner of Education in "the fiscal year preceding the fiscal year for which they are available for obligation." In other words, this statute would move the appropriations process back 1 year so that appropriations for fiscal year 1976 would be passed in fiscal year 1975 even though they would not be available for obligation until the following year. If this procedure were followed, school officials would know the amount of funds they would receive 1 year earlier than is presently the case. Further, this process would have no effect on the size of the Federal budget because the funds, although appropriated, would show up as "outlays" only for the year in which they were to be expended.

The statute also provides for a 2-year appropriation in the first year it is implemented in order to effectuate a transition to this method of appropriating educational funds.

Mr. President, I am introducing for appropriate reference two separate measures to implement this statute.

The first is a concurrent resolution (S. Con. Res. 74) expressing the sense of the Congress that the statute authorizing advance funding for educational programs should be immediately and continually implemented.

The second is an amendment to the Budget and Accounting Act of 1921 directing the President to include in the budget a request for advance funding of educational programs for the fiscal year ending June 30, 1976, and each succeeding year thereafter (S. 3164).

I also intend to offer an amendment to the Labor, HEW appropriations bill implementing the forward funding statute for this year when that bill is sent over from the House for Senate consideration.

In conclusion, Mr. President, I ask unanimous consent that the text of my resolution and bill be printed at the conclusion of my remarks.

There being no objection, the concurrent resolution and bill were ordered to be printed in the RECORD, as follows:

Concurrent resolution to express the sense of Congress that advance funding of education programs should be implemented so as to afford responsible State, local, and Federal officials education offices adequate notice of available Federal financial assistance for education programs

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that section 412 of the General Education Provisions Act, relating to advance funding for education programs, should be immediately and continually implemented so as to afford responsible State, local, and Federal officers adequate notice of available Federal financial assistance for education.

S. 3163

A bill to amend the General Education Provisions Act to require that the budget of the President include proposed appropriations for carrying out section 412 relating to advance funding of education programs

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 412 of the General Education Provisions Act is amended by inserting "(a)" immediately after the section designation and by adding at the end thereof the following new subsection:

"(b) In order to carry out the provisions of this section, the President shall include in the budget required to be transmitted to the Congress under section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), for the fiscal year ending June 30, 1976, and for each succeeding fiscal year thereafter, proposed appropriations to be made during the fiscal year to which that budget applies, and which is to be obligated in the immediately succeeding fiscal year for grants, contracts, or other payments under any applicable program."

ADDITIONAL COSPONSOR OF CONCURRENT RESOLUTION—SENATE CONCURRENT RESOLUTION 40

At the request of Mr. BROCK, the Senator from Colorado (Mr. DOMINICK) was added as a cosponsor of Senate Concurrent Resolution 40, to express the sense of the Congress with respect to certain vocational and career student organizations.

DEVELOPMENT OF A FAIR WORLD ECONOMIC SYSTEM—AMENDMENT

AMENDMENT NO. 1021

(Ordered to be printed, and referred to the Committee on Finance.)

Mr. BUCKLEY (for himself and Mr. DOMINICK) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 6767) to promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate the economic growth of the United States, and to provide the President with additional negotiating authority therefor, and for other purposes.

(The discussion of this amendment, when it was submitted, appears earlier in the RECORD.)

AMENDMENT OF EXPORT-IMPORT BANK ACT OF 1945—AMENDMENT

AMENDMENT NO. 1022

(Ordered to be printed, and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. BUCKLEY (for himself and Mr. DOMINICK) submitted an amendment, intended to be proposed by them, jointly, to the bill (S. 1890) to amend the Export-Import Bank Act of 1945, as amended, to extend for 4 years the period within which the Bank is authorized to exercise its functions, to increase the Bank's loan, guarantee, and insurance authority, to clarify its authority to maintain fractional reserves for insurance and guarantees, and to amend the National Bank Act to exclude from the limitations on outstanding indebtedness of national banks liabilities incurred in borrowing from the Bank, and for other purposes.

(The discussion of this amendment, when it was submitted, appears earlier in the RECORD.)

FEDERAL ACT TO CONTROL EXPENDITURES AND ESTABLISH NATIONAL PRIORITIES—AMENDMENT

AMENDMENT NO. 1023

(Ordered to be printed, and to lie on the table.)

Mr. BROCK. Mr. President, today I am submitting an amendment to S. 1541, the Congressional Budget Act, on behalf of myself and Senator METCALF.

S. 1541 is a landmark in our legislative history. It will give Congress the tools to examine spending decisions in a comprehensive macroeconomic framework. It will allow us to control spending so as to maintain greater economic health as a Nation. It will allow us to make a much more sensible determination of our priorities. The reforms it embodies are vitally needed.

We believe, however, that if we are to keep abreast of changing times, the budgetary process should be subject to continuing study and change where appropriate. We must avoid falling into another period of inattention to the importance of our budget making role. While S. 1541 calls for changes of truly major significance, we should not assume that it will complete the job of assuring that Federal dollars are spent as effectively as possible in meeting national needs.

During the lengthy consideration of S. 1541 by the Committees on Government Operation and Rules and Administration, several proposals for reform were suggested which are not included in the bill which will soon come before us. Some of those suggestions are particularly deserving of further study and consideration.

Our amendment, therefore, calls upon the Budget Committees of both Houses to conduct continuing study of proposals for improving budgeting procedures. The committees may study such proposals as it believes appropriate and will report its findings and recommendations to Congress. To facilitate this effort, they are authorized to create task forces of experts drawn from congressional and executive agencies.

The amendment lists several areas where study would be especially fruitful in leading to further improvements. These areas correspond generally to specific suggestions offered by various members and budgeting experts during the development of S. 1541, and should be included among those to be considered by the Budget Committees.

We think it is useful and desirable to indicate an agenda for future search for further improvements in our budget making procedures, and to explicitly charge the Budget Committees with the responsibility for promoting such an inquiry. In this way we can demonstrate our resolve to attend more constantly to upgrading our budget making procedures than we have in the past.

AMENDMENT NO. 1024

(Ordered to be printed, and to lie on the table.)

Mr. CHILES. Mr. President, on behalf of the Senator from New York (Mr. Javits), the Senator from Maine (Mr. Muskie), the Senator from Louisiana (Mr. Johnston), the Senator from Utah (Mr. Moss), and myself, I submit an amendment, intended to be proposed by us, jointly, to Senate Bill 1541, the Congressional Budget Act. I ask unanimous consent that the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1024

On page 116, after line 25, insert the following:

REPORT ON NATIONAL GOALS AND PRIORITIES

Sec. 203. (a) Annual Report.—The Director shall submit to the Congress on or before May 1 of each year (beginning with 1978) a national goals and priorities report, which shall include, but not be limited to, a description and discussion of—

(1) the President's recommendations on national priorities reflected in the proposed allocation of budget authority and budget outlays for each major national need as set forth in the budget submitted by the President for the fiscal year beginning on October 1 of such year;

(2) the goals, or objectives, associated with each major national need and the goals, or objectives, being sought by all Federal programs directed at meeting such national need;

(3) an assessment of the adequacy of the resources allocated to each national need in view of the goals or objectives being sought; and

(4) alternative allocations of budget authority and budget outlays to major national needs to reflect alternative sets of priorities and associated goals or objectives.

(b) Assistance to Committees and Members.—At the request of any committee or Member of the Senate or the House of Representatives or any joint committee of the Congress, the Office shall provide to such committee, Member, or joint committee further information, data, or analysis relevant to an informed determination of national goals and priorities.

(c) Definitions.—For purposes of this section—

(1) The term "national needs" means those Federal functions and sub-functions which are, at a given time, being performed by the Government in order to provide for the well-being of the Nation. National needs (functions and sub-functions) describe the purposes being served by budget authority and outlays without regard to the means that may be chosen to meet those purposes.

(2) The term "agency missions" means those responsibilities for meeting national needs which may be variously assigned to the agencies of the executive branch. Agency missions can be expressed in terms of those functions or sub-functions which may be, at a given time, the responsibility of that agency and its component organizations.

(3) The term "program" means that organized set of activities and actions which may be undertaken by an executive agency in order to solve a particular problem, meet a particular objective, and achieve a particular set of goals directly related to fulfilling that agency's mission responsibilities and which, over the course of the program, entails significant expenditure of resources.

(4) The following are four of the basic steps in the process by which new programs, or major modifications to existing programs, are formulated and executed:

(A) "Establishing needs and goals" means defining the particular problem to be solved and the objective measures of the end results, or goals, to be sought and attained as a consequence of the program. Goals describe the level of mission capability the agency is seeking, when it is to be made available, and the total cost within which that capability is to be provided without regard to the means used to achieve those results.

(B) "Exploring alternatives" means the creation, definition, and evolution of competing means to solve a particular problem, drawing on the base of technology in order to identify and evolve those approaches that are promising, to eliminate those that are not promising, and to supply information on the expected costs and benefits of each approach.

(C) "Choosing the preferred program approach" means the evaluation and choice of the preferred program approach from among remaining alternatives. The evaluation will determine which approach will best meet the updated goals of the program and the costs and benefits accruing to each alternative in meeting the agency's mission.

(D) "Implementation" means putting the preferred program approach into operation and monitoring its effectiveness, including final development preparation of the chosen approach, operational support and maintenance, and modification based on review of program effectiveness.

On page 117, line 2, strike out "203" and insert "204".

On page 168, line 3, strike out the closing quotation marks and after line 3 insert the following:

"(i) The Budget transmitted pursuant to subsection (a) for each fiscal year, beginning with the fiscal year ending September 30, 1979, shall contain a presentation of budget authority, proposed budget authority, outlays, proposed outlays, and descriptive information in terms of—

"(1) national needs (as defined in section 203(c)(1) of the Congressional Budget Act of 1974);

"(2) agency missions (as defined in section 203(c)(2) of such Act); and

"(3) a summary of agency programs and basic program steps (as defined in sections 203(c)(3) and 203(c)(4) of such Act), with a detailed description to be provided directly by the agencies to the cognizant committees of Congress to the extent applicable to agency activities.

"(j) To assist the President in carrying out the provisions of subsection (i)—

"(1) each agency shall furnish information in support of its budget requests in accordance with its assigned missions in terms of Federal functions and sub-functions, including mission responsibilities which may be delegated to component organizations;

"(2) each agency shall relate all programs to agency missions and shall furnish information to describe the program step being executed and for which budget authority is being requested or outlays made to the extent applicable to agency activities;

"(3) not later than December 31, 1975, the Director of the Office of Management and Budget, in cooperation with the heads of executive agencies, the Comptroller General of the United States, and the Director of the Congressional Office of the Budget, shall develop a detailed structure of Federal functions and sub-functions, to be updated and modified as appropriate, which shall be used to reference all agency missions and programs; and

"(4) not later than June 30, 1976, the Comptroller General shall report to the Congress on the adequacy of the structure developed pursuant to paragraph (3) for the purposes of representing agency missions and programs."

On page 182, line 14, before the period insert "and section 201(i) of such Act (as added by section 601) shall apply with respect to the fiscal year beginning on October 1, 1978, and succeeding fiscal years".

AMENDMENT NO. 1028

(Ordered to be printed, and to lie on the table.)

REDUCTION OF GRANDFATHER CLAUSE FOR BUDGET COMMITTEE

Mr. KENNEDY. Mr. President, on behalf of Senator Pearson and myself, I send to the desk an amendment to S. 1541, the Congressional Budget Act of 1974, and I ask that it may lie on the table and be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. The purpose of the amendment is to make the so-called two-major committee limitation in the Senate Rules applicable to the new Senate Budget Committee in 1977, instead of 1979 as the bill now provides.

As reported by the Government Operations Committee and the Rules Committee, the proposed Congressional Budget Act will establish comprehensive, far-reaching and long-overdue reforms in the way Congress handles the Federal budget. The proposed act holds out the promise of a historic new era in congressional control and responsibility over Federal spending.

All of us in the Senate are aware of the exhaustive joint effort that has produced this outstanding piece of legislation, and I commend the Senators, the committees, and their staffs who have worked so industriously, skillfully, and successfully over the past 2 years to prepare the bill we are about to debate. Surely, the new act will become a landmark achievement of the 93d Congress, and a centerpiece in the continuing efforts by the Senate and the House to assert their long-dormant responsibilities and prerogatives under the Constitution.

The amendment I am proposing is a relatively minor modification in one aspect of the bill—the transition rule proposed as part of the creation of the new Senate Budget Committee to be established by the act.

As it should, the new committee will be a major committee of the Senate—a "Category A" committee under paragraph 6(a) of Senate Rule XXV. As a result, the so-called two major committee limitation would ordinarily be applicable, under which Senators are limited to serving on two major Senate committees. Therefore, under the Senate rules, a Senator who now holds two major committee assignments would be required to give up one of those committees in order to serve on the new Budget Committee.

In dealing with this issue, the bill reported by the Rules Committee contains a provision exempting the members of the new Budget Committee from the two-major-committee limitation until January 1979, when the 96th Congress convenes.

The amendment I am introducing would make the limitation applicable in January 1977, when the 95th Congress convenes. The amendment would thus limit the exemption to one full Congress instead of two full Congresses, as now proposed in the bill reported to the Senate.

In general, the theory of an exemption from the limitation is a wise one.

The new Budget Committee will unquestionably be an important one, but the details of its role and its workload are so uncertain and so unpredictable at the outset, that it would be unreasonable to require Senators to choose in advance whether to give up an existing major committee assignment in order to serve on the Budget Committee. Therefore, it is appropriate, during the initial period of operation of the new budget procedures, to waive the two-major-committee rule.

Although the principle of the grandfather clause thus seems sound in its application here, the difficulty in the Committee bill is that it stretches out the "get acquainted" period for too long.

There is every expectation that the Budget Act will clear Congress and be signed into law by the President within the next few weeks. Certainly, no one expects it to be delayed beyond the end of this Congress. Thus, in all likelihood, the new Budget Committee and the new congressional Office of the Budget will be established promptly, and can begin staffing and assuming their responsibilities at once.

In addition, as the bill requires, the transition to the new fiscal year proposed in the bill will take place relatively quickly also, by extending the 1976 fiscal year until September 30, 1976, at which time the new October 1–September 30 cycle for fiscal years will be in place.

Why, then, should there be two full Congresses before the two-major-committee limitation comes into effect? By 1977, the Budget Committee will have had ample opportunity to develop its procedures and assume its workload, and by 1977, the regular Senate rules should apply.

The two-major-committee limitation serves an extremely useful purpose in guaranteeing that the important responsibilities of Senate Committees are shared widely among the Members, and the limitation should certainly be applied to the preeminent anticipated role of the new Budget Committee at the earliest practicable opportunity.

I urge the Senate to consider this amendment and to act favorably on it, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1028

On page 107, lines 16 and 17, strike out "Ninety-sixth Congress" and insert "Ninety-fifth Congress."

AMENDMENT OF NATURAL GAS ACT—AMENDMENT

AMENDMENT NO. 1025

(Ordered to be printed, and referred to the Committee on Commerce.)

THE $5 MILLION VETO

Mr. McGOVERN. Mr. President, with Mr. Nixon's veto of the Emergency Energy bill, the oil interests have added another to their unbroken string of victories over the consumer. And the Senate by failing to override that veto has made the Congress an accomplice to this unwise and unjust act.

The sole issue involved was the rather modest rollback in consumer fuel prices the bill required. The President supported, or at least was willing to accept, the other major provisions of the bill for—

Reduction of propane prices;

Emergency rationing authority;

Stripper well regulation;

And emergency unemployment compensation for the tens of thousands of workers who have lost their jobs because of the energy crisis.

While the influence of consumers may be less than that of the major oil companies, their numbers are larger. And they will not soon forget this veto or that:

The profits of the major oil companies increased at ridiculous rates last year: more than 100 percent for Shell; 79 percent for Gulf and 60 percent for Exxon;

The price of fuel has increased 10 cents or more per gallon in the last 15 weeks alone and will continue to climb;

The price of propane and home heating fuel has gone up in some cases from 200 to 300 percent above last year's level;

The oil interests contributed more than $5 million or over 12 percent of the total campaign funds raised by the Committee to Re-Elect the President.

I recognize that the President's veto and Congress failure to override it will make the task of harnessing the arrogance of the major oil companies and restoring equity to the fuel prices more difficult. The temptation now for some will be to press for cosmetic measures to appease an aroused public. But in my opinion that course is as bad politics as it is bad policy.

The Congress and the President are held in low esteem and not without reason. We have been long on rhetoric and short on action. And if we fail to act responsibly and promptly, the people, quite rightly, will find others who will.

Mr. President, I send to the desk an amendment to S. 2506 which incorporates some of the provisions of the vetoed bill and adds others.

My bill would—

First, roll back propane prices to the May 15 price levels;

Second, place stripper wells under regulation as requested by Mr. Simon;

Third, roll back domestic crude prices to the December 18 level;

Fourth, permit future domestic crude price rises only where the President demonstrates that this would increase the energy supply of the United States;

Fifth, require congressional review of future administration price increases; and

Sixth, abolish the so-called released oil program under which the administration has exempted oil from old fields from price controls.

Today the United States produces approximately 9.2 million barrels of crude oil a day. About 71 percent of that oil is flowing from fields developed prior to 1973 and is controlled at a price of $5.25 per barrel. The remaining 29 percent is exempt from price controls on various grounds and sells for about $9.50 a barrel. Only about one-third of this exempt oil is "new"—from fields not flowing in 1972 or before.

Under the formula in the vetoed bill, the price for all domestic crude would be nominally set at $5.25 per barrel. But the President was expressly given the power to raise the price as much as 35 percent—for a maximum ceiling of $7.09 per barrel.

The practical effect of this proposal therefore would have been to impose roughly a $2.41 reduction on the 30 percent which is not presently controlled. No change in the price of the other 70 percent was mandated. Indeed, further price increases on this oil totaling nearly $2 a barrel, or 5 cents a gallon at the consumer level, were permitted.

I expressed reservations about the conference approach for three reasons. First, the plan would have left intact the President's recent decision to raise the price of controlled or "old" oil by $1 per barrel—from $4.25 to $5.25. Second, the administration would have retained the right to further increase the price of old oil by nearly $2 more. And third, the conference formula would have resulted in only small savings to the consumer.

During the last 15 weeks, consumer fuel prices have increased on the average approximately 10 cents a gallon. In some cases, particularly propane and home heating fuel, consumers have paid as much as 200 to 300 percent more this year than last.

At the same time, the profits of the major oil companies have gone up even more rapidly than fuel costs. During the first 9 months of last year, the 31 largest oil companies posted a 47-percent increase over the comparable 1972 period—a 63-percent increase in the third quarter alone. For the largest companies, the results were even more dramatic: Exxon's third-quarter profits were up 81 percent; Gulf's 91 percent. Although the final figures for all companies are not yet in, one company, Gulf, reported a 153-percent increase in its fourth-quarter profits and a full year profit rise of 79 percent. Exxon posted a 60-percent overall profit increase last year.

Although the majors stress that a substantial portion of their new riches come from foreign operations, the rising price for domestic crude has been a significant factor. In 1958, domestic crude sold for an average price of $3.09 a barrel. The price of crude, which averaged less than $3 a barrel during the 1960's, increased gradually to about $3.40 in late 1972. On May 15, 1973, the administration permitted a 35-cent increase in the then controlled price of $3.90 a barrel. This new $4.25 price was further increased by executive fiat to $5.25 last December.

Thus, under the Nixon price controls, crude oil went up 36 percent in less than a year. That $1.35 increase was greater than the 81-cent rise during the prior 15 years.

According to Ervin Wolf, chairman of one of the largest exploration companies and other industry experts:

Approximately 80 to 90 percent of all the old oil which was recently increased $1 per barrel is owned by the major oil companies.

He estimates that the dollar increase was worth approximately $30 billion to the majors on their existing inventory of crude oil. It must be stressed that this oil was found and developed years ago.

it would have continued to be produced without any increase in price.

As Senator Johnston of Louisiana pointed out in debate on February 7, this dollar increase amounts to a pure windfall profit to the major oil companies. It was granted for wells which were developed and flowing prior to 1973. For these wells there is no exploration or development risk. Those costs were incurred 10 and 20 years ago. The only present costs are in pumping it up from the ground. Business Week sets that cost at $1.10 a barrel and many other experts put it even lower. The rest is pure unadulterated profit—at present prices more than $4 a barrel.

As Senator Johnston pointed out, an increase in the price of old oil is by no stretch of the imagination an incentive to produce new oil. And in a colloquy with him, Senator Jackson admitted that the dollar increase was, and I quote, "clear windfall."

And so I ask Senator Johnston: Why not roll back the price of old oil—which represents approximately 70 percent of domestic crude—to its December price of $4.25 and eliminate the $1 per barrel windfall that was allowed despite the fact that it is not really a viable incentive to produce more oil?

My second objection followed logically from the first. If, as Senator Jackson has said, the dollar increase on old oil was "clear windfall" why should we give the President specific authority to grant nearly $2 in future increases?

The conference report expressed the expectation that this new authority would have been used only with respect to newly produced crude and oil extracted through expensive technology such as secondary and tertiary recovery. But the same could have been said before the December price increase.

Moreover, the administration has announced plans to gradually increase the price of crude to $7 per barrel over the next 3 years. Treasury Secretary Shultz described the administration's so-called windfall profits tax to the Ways and Means Committee on February 4 as:

> A tax which bites hard on immediate price increases (but would) not interfere with the production of needed oil supplies if it gradually phases out so that after three years there would be no tax on oil prices at around $7 or less per barrel.

Under the mechanics of the plan the Secretary described, the base not subject to the proposed tax would be increased by 80 cents a year for a non-taxed price of $7.15 in 3 years. His precise calculations furnish a good benchmark against which to judge the administration's intentions regarding oil price control policies.

The third question I had on the conference report was on how much the proposed limited price rollback would have saved the consumer. Senator Jackson estimated that it would have reduced consumer prices by 4 cents a gallon or more, and that it would have saved the consumer upward of $4 billion. Yet the unanimous testimony of expert witnesses before the Interior Committee just 2 weeks ago was that a 25-percent decrease in the price of uncontrolled oil—roughly equivalent to the conference report formula—would save the consumer perhaps 1 cent a gallon.

The administration estimated that the December dollar increase on 71 percent of domestic production would increase fuel prices by 2.5 cents per gallon and cost the consumer approximately $2.5 billion a year. On that basis a $2.41 reduction on 29 percent would save the consumer about $2.3 billion which works out to about 2.3 cents per gallon.

But under the price control regulations, the fuel presently being consumed is priced according to the average cost of crude oil in the refiner's inventory at the time the fuel was refined. In general, fuel consumed today is based on crude refined 30 days ago or more. In many cases that crude was purchased weeks or months before at substantially lower prices. Expensive Arabian crude, for example, takes 45 days just to be shipped in tankers to the United States.

Since uncontrolled crude sold for less than $7 60 days ago and about $8.25 30 days ago, the effect of the conference proposal would have been at best to stabilize fuel costs at their present levels. In some cases, costs would have continued to increase because of the higher cost of foreign crude. In others, it would have decreased because of greater stability in foreign prices. This would have depended on the source of oil for individual companies contracted for weeks and months ago, and it explains why Exxon recently raised its price on the same day that Amoco announced a reduction.

The price for new oil adopted in my bill is about $7 per barrel. That is the price the administration and the industry originally said was adequate to provide a sufficient incentive for the development of new sources such as oil shale and to supply the capital needed to finance new expensive recovery techniques and deep wells. Predictably enough their estimates have drifted upward with the price.

I am not suggesting an absolute limit of $7 for new oil. What I am suggesting is a present $7 price which could be adjusted upward if the President showed proper reasons for doing so and the Congress concurred.

So far as this released oil program is concerned, I can see no justification for it. Under the current price control program, the administration in effect permits one barrel of old oil to be decontrolled for each new barrel of oil produced from an existing field. It seems to me that today's present high prices for new oil, even if they were rolled back to the $7 level, furnish a sufficient incentive for producing the new oil. There is no justification now for adding a bonus barrel.

The steps I propose now would permit us to return to the consumer price levels which prevailed last December, plus the increased costs of foreign crude since then. Today we import nearly 40 percent of our crude and will continue to do so in the months ahead.

I am hopeful that Secretary Kissinger will succeed in his efforts to reduce the world price for oil. Recent statements by Mr. Yamani of Saudi Arabia and other spokesmen of oil exporting nations to the effect that the present price risks a worldwide depression offer some hope that this will be done. If this is done, consumers will benefit not only from lower foreign crude prices but less pressure on domestic prices as well.

But while we wish the Secretary well in his travels, let us at least hold down oil profiteering at home in a rational way. We may not yet have the ability to affect foreign prices, but we have the obligation to restrain domestic prices.

In conclusion, Mr. President, I ask unanimous consent that the text of my amendment be printed in the Record at the conclusion of my remarks.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1025

On page 33, line 11, insert the following new Title:

TITLE IX.—DOMESTIC PRICE ROLLBACK

"Sec. 901(a) Notwithstanding any provision of the Emergency Petroleum Allocation Act of 1973 or of the Economic Stabilization Act of 1970 or of any order or regulation under either such Act, the President shall, upon the enactment of this section, issue an order—

"(1) establishing a ceiling price level for the first sale of domestic crude oil as follows:

"(A) In the case of any amount of crude oil which exceeds the amount produced from that field during the corresponding month of the year 1972, or was heretofore subject to an exemption from price controls under Section 406 of Public Law 93-153, the ceiling price shall be equal to the free market price for that grade of crude oil at that field prevailing on December 18, 1973, or if that grade of crude oil was not produced at that field on that date, the related price for that grade of crude oil which is most similar in kind and quality at the nearest field; and

"(b) In the case of any other crude oil, the ceiling price shall be the sum of (i) the highest posted price at 6:00 AM, local time, May 15, 1973, for that grade of crude oil at that field, or if there were no posted prices at that field for that grade of crude oil on that date, the related price for that grade of crude oil which is most similar in kind and quality at the nearest field at which prices were posted on that date; and (ii) not more than $.35 per barrel; and

"(2) establishing a ceiling price for the first sale of propane:

"(A) allocating only those costs directly related to the production of propane to such gas for purposes of establishing any price for propane, and

"(B) prices for propane shall be based on the prices for propane in effect on May 15, 1973.

"(b) The order issued under subsection (a) shall provide (1) for an equitable allocation of costs among different refined petroleum products and (2) that any reduction under such order in the price of crude oil or propane gas shall, to the maximum extent practicable, be passed through to all subsequent purchasers of crude oil or products refined from crude oil or propane gas on a proportional basis.

"(c) No other price rules for the first sale of domestic crude oil other than those contained in subsection (a) of this section shall apply and no exemption from, exception to, or waiver of the requirements of this section shall be made. Any order or regulation heretofore issued establishing any price rule, exemption, exception, or waiver for the first sale of domestic crude oil, or any category or classification thereof, which is different from, or inconsistent with, the requirements of subsection (a) of this section shall be of no force and effect.

"(d) The President is authorized from time to time to adjust the ceiling price levels established under subsection (a) to the extent that any adjustment is justified by

(1) changes in the cost of producing domestic crude oil or propane, as the case may be, or

(2) the need for an additional economic incentive to increase the supply of domestic crude oil or refined petroleum products, except that any such adjustment which results in an increase in any ceiling price shall not take effect until the expiration of the first period of 30 calendar days of continuous session of the Congress after the date of publication in the Federal Register of a description of the adjustment together with the reasons therefor as provided in subsection (e) of this section (or at such later date as may be stated in the publication), unless between the date of publication and the expiration of such period, either House of Congress passes a resolution stating in substance that such House does not favor such adjustment.

"(e) Every price proposed to be specified pursuant to subsection (d) (ii) of this section which specifies a different price or manner for determining the price for domestic crude oil provided for in subsection (a) of this section, and every price specified for (or every prescribed manner for determining the ceiling price of) residual fuel oil and refined petroleum products, shall be transmitted to the Congress and shall be accompanied by a detailed analysis setting forth—

"(1) the additional quantities of crude oil, residual fuel oil, refined petroleum products, or if any, that can reasonably be expected to be produced;

"(2) the effect, if any, upon the demand for crude oil, residual fuel oil, refined petroleum products,

"(3) the impact upon the economy as a whole, including the impact upon consumers and the profitability of and employment in industry and business;

"(4) any significant problems of enforcement or administration; and

"(5) the impact on the preservation of existing competition within the petroleum industry,

resulting from the proposed change in the price of crude oil or manner for determining the price of residual fuel oil or refined petroleum products. Notwithstanding the provisions of this subsection or subsection (a) of this section, the President may at any time act to establish ceiling prices lower than those provided if he determines that lower ceiling prices will permit the attainment of the objectives of this Act.

"(f) For the purpose of subsection (d) of this section—

"(1) continuity of session is broken only by an adjournment of Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period."

SEC. 2. Section 406 of Public Law 93-153 is repealed.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS ACT—AMENDMENT

AMENDMENT NO. 1026

(Ordered to be printed, and referred to the Committee on Labor and Public Welfare.)

GUARANTEEING EDUCATIONAL OPPORTUNITY FOR MILITARY DEPENDENTS

Mr. McGOVERN. Mr. President, I send to the desk an amendment to S. 1539, the Elementary and Secondary Education Amendments Act, and ask that the text of my amendment be printed at the conclusion of my remarks.

The substitute bill for S. 1539 which the Education Subcommittee is currently considering would continue to provide assistance to heavily impacted school districts—25 percent or more category A students—at 100 percent of entitlement but would prorate funds for such districts in the event that insufficient funds were appropriated. Under the formula in the bill, such districts might suffer a 15-percent reduction in impact aid assistance.

In South Dakota, Nebraska, and some other States there are school districts which are as much as 75 percent impacted. At the Douglas school system near Ellsworth Air Force Base, S. Dak., for example, approximately 76 percent of the students live on base; of the nearly 3,400 students only about 450 are not federally connected.

The Douglas schools were forced to close last Spring because of insufficient Federal funding. They were able to reopen only because of the amendment to the supplement appropriation bill which Senator YOUNG and I offered last spring which provided funding at 100 percent of entitlement for schools with 25 percent or more "A" students. I am hopeful that the Congress will pass and the President will sign an appropriations bill providing for full funding of the impact aid program.

But I am fearful that if this does not occur, the present language of the bill the committee is considering will result in the Douglas schools having to close their doors once again. The district has already cut back on educational services and could not weather a further 15 percent cutback. For the nearly 90 percent of the students whose parents are connected with the Air Force, this would mean they would have no school to attend.

I suggest that the present language of the bill be amended to provide that districts with 25 percent or more category A students would not be subject to the proration formula. This would protect those school districts which exist essentially to educate children from military bases without upsetting the scheme of the bill.

I recognize that the committee has been faced with difficult policy choices in drafting a bill to preserve the impact aid program in the face of administration opposition. But I believe the Congress has an obligation to guarantee educational opportunities for military dependents and that this can be done in a way which is consistent with the overall purposes of the bill.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 10, between lines 4 and 5, insert the following new section:

ENTITLEMENT TO PAYMENTS WITH RESPECT TO HIGH CONCENTRATIONS OF CHILDREN WHO RESIDE ON OR WHOSE PARENTS ARE EMPLOYED ON FEDERAL PROPERTY

SEC. 203. (a) Section 3 of the Act of September 30, 1950, (P.L. 874, 81st Congress) is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of this Act (including the provisions of section 5(c)) a local educational agency with respect to which the number of children determined for any fiscal year under subsection (a) amounts to at least twenty-five per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, shall be entitled to 100 per centum of the amounts to which such agency would be otherwise entitled under this Act. The provisions of section 5(c) shall not apply to any local educational agency to which this subsection applies.".

(b) The amendment made by this section shall be effective on and after July 1, 1974.

On page 10, line 8, strike out "Sec. 203" and insert in lieu thereof "SEC. 204".

INCREASE OF PERIOD DURING WHICH BENEFITS MAY BE PAID UNDER TITLE XVI OF THE SOCIAL SECURITY ACT—AMENDMENT

AMENDMENT NO. 1027

(Ordered to be printed, and to lie on the table.)

Mr. HARTKE. Mr. President, I submit an amendment to the bill (H.R. 13025) to increase the period during which benefits may be paid under title XVI of the Social Security Act on the basis of presumptive disability to certain individuals who received aid, on the basis of disability, for December 1973, under a State plan approved under title XIV or XVI of that act.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1027

At the end of the Act, add the following new section:

SEC. 2. (a) Section 226(c) (1) of the Social Security Act is amended by striking out "and post-hospital home health services" and inserting in lieu thereof "post-hospital home health services, and eligible drugs".

(b) Section 1811 of such Act is amended by inserting "and eligible drugs" after "related post-hospital services".

(c) Section 1812(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and "; and

(3) by adding after paragraph (3) the following new paragraph:

"(4) eligible drugs.".

(d) Section 1813(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) The reasonable allowance, as defined in section 1823, for eligible drugs furnished an individual pursuant to any one prescription (or each renewal thereof) and purchased by such individual at any one time shall be reduced by an amount equal to the applicable prescription copayment obligation which shall be $1."

(e) (1) Section 1814(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (6);

(B) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (7) the following new paragraph:

"(8) with respect to drugs or biologicals furnished pursuant to and requiring (except for insulin) a physician's prescription, such drugs or biologicals are eligible drugs as defined in section 1861(t) and the participating pharmacy [as defined in section 1861 (dd)] has such prescription in its possession, or some other record (in the case of insulin) that is satisfactory to the Secretary."

(2) Section 1814(b) of such Act is amended—

(A) by inserting "(1)" after "(b)".

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B) respectively,

(C) by redesignating in subparagraph (A), as redesignated, clauses (A) and (B) as clauses (i) and (ii);

(D) by inserting "(other than a pharmacy)" immediately after "provider of services", and

(E) by adding at the end thereof the following new paragraph:

"(2) The amount paid to any participating pharmacy which is a provider of services with respect to eligible drugs for which payment may be made under this part shall, subject to the provisions of section 1813, be the reasonable allowance (as defined in section 1823) with respect to such drugs."

(f) Section 1814 of such Act is amended by adding at the end thereof the following new subsection:

"LIMITATION OF PAYMENT FOR ELIGIBLE DRUGS

"(j) Payment may be made under this part for eligible drugs only when such drugs are dispensed by a participating pharmacy; except that payment under this part may be made for eligible drugs dispensed by a physician where the Secretary determines, in accordance with regulations, that such eligible drugs were required in an emergency or that there was no participating pharmacy available in the community, in which case the physician (under regulations prescribed by the Secretary) shall be regarded as a participating pharmacy for purposes of this part with respect to the dispensing of such eligible drugs."

(g) Part A of title XVIII of such Act is further amended by adding after section 1819 the following new sections:

"MEDICARE FORMULARY COMMITTEE

"SEC. 1820. (a)(1) There is hereby established, within the Department of Health, Education and Welfare, a Medicare Formulary Committee (hereinafter referred to as the 'Committee'), a majority of whose members shall be physicians and which shall consist of the Commissioner of Food and Drugs and of four individuals (not otherwise in the employ of the Federal Government) who do not have a direct or indirect financial interest in the composition of the Formulary established under this section and who are of recognized professional standing and distinction in the fields of medicine, pharmacology, or pharmacy, to be appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Chairman of the Committee shall be elected annually from the appointed members thereof, by majority vote of the members of the Committee.

"(2) Each appointed member of the Committee shall hold office for a term of five years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, one at the end of each of the first five years. A member shall not be eligible to serve continuously for more than two terms.

"(b) Appointed members of the Committee, while attending meetings or conferences thereof or otherwise serving on business of the Committee, shall be entitled to receive compensation at rates fixed by the Secretary (but not in excess of the daily rate paid under GS–18 of the General Schedule under section 5332 of title 5, United States Code), including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c)(1) The Committee is authorized, with the approval of the Secretary, to engage or contract for such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Committee such secretarial, clerical, and other assistance as the Formulary Committee may require to carry out its functions.

"(2) The Secretary shall furnish to the Committee such office space, materials, and equipment as may be necessary for the Formulary Committee to carry out its functions.

"MEDICARE FORMULARY

"SEC. 1821. (a)(1) The Committee shall compile, publish, and make available a Medicare Formulary (hereinafter in this title referred to as the 'Formulary').

"(2) The Committee shall periodically revise the Formulary and the listing of drugs so as to maintain currency in the contents thereof.

"(b)(1) The Formulary shall contain an alphabetically arranged listing, by established name, of those drug entities within the following therapeutic categories:

"Adrenocorticoids
"Anti-anginals
"Anti-arrhythmics
"Anti-coagulants
"Anti-convulsants (excluding phenobarbital)
"Anti-hypertensives
"Anti-neoplastics
"Anti-Parkinsonism agents
"Anti-rheumatics
"Bronchodilators
"Cardiotonics
"Cholinesterase inhibitors
"Diuretics
"Gout suppressants
"Hypoglycemics
"Miotics
"Thyroid hormones
"Tuberculostatics

which the Committee decides are necessary for individuals using such drugs. The Committee shall exclude from the Formulary any drug entitles (or dosage forms and strengths thereof) which the Committee decides are not necessary for proper patient care, taking into account other drugs entities (or dosage forms and strengths thereof) which are included in the Formulary.

"(2) Such listing shall include the specific dosage forms and strengths of each drug entity (included in the Formulary in accordance with paragraph (1)) which the Committee decides are necessary for individuals using such drugs.

"(3) Such listing shall include the prices at which the products (in the same dosage form and strength) of such drug entities are generally sold by the suppliers thereof and the limit applicable to such prices under section 1823(b)(1) for purposes of determining the reasonable allowance.

"(4) The Committee may also include in the Formulary, either as a separate part (or parts) thereof or as a supplement (or supplements) thereto, any or all of the following information:

"(A) A supplemental list or lists, arranged by diagnostic, prophylactic, therapeutic, or other classifications of the drug entities (and dosage forms and strengths thereof) included in the listing referred to in paragraph (1).

"(B) The proprietary names under which products of a drug entity listed in the Formulary by established name (and dosage form and strength) are sold and the names of each supplier thereof.

"(C) Any other information with respect to eligible drug entities which in the judgment of the Committee would be useful in carrying out the purposes of this part.

"(c) In considering whether a particular drug entity (or strength or dosage form thereof) shall be included in or excluded from the Formulary, the Committee is authorized to obtain (upon request therefor) any record pertaining to the characteristics of such drug entity which is available to any other department, agency or instrumentality of the Federal Government, and to request suppliers or manufacturers of drugs and other knowledgeable persons or organizations to make available to the Committee information relating to such drug. If any such record or information (or any information contained in such record) is of a confidential nature, the Committee shall respect the confidentiality of such record or information and shall limit its usage thereof to the proper exercise of its authority.

"(d)(1) The Committee shall establish such procedures as it determines to be necessary in its evaluation of the appropriateness of the inclusion in or exclusion from the Formulary, of any drug entity (or dosage form or strength thereof). For purposes of inclusion in or exclusion from the Formulary the principal factors in the determination of the Committee shall be:

"(A) the factor of clinical equivalence in the case of the same dosage forms in the same strengths of the same drug entity, and

"(B) the factor of relative therapeutic value in the case of similar or dissimilar drug entities in the same therapeutic category.

"(2) The Committee, prior to making a final decision to remove from listing in the Formulary any drug entity (or dosage forms or strengths thereof) which is included therein, shall afford a reasonable opportunity for a formal or informal hearing on the matter to any person engaged in manufacturing, preparing, compounding, or processing such drug entity who shows reasonable ground for such a hearing.

"(3) Any person engaged in the manufacture, preparation, compounding, or processing of any drug entity (or dosage forms or strengths thereof) not included in the Formulary which such person believes to possess the requisite qualities to entitle such drug to be included in the Formulary pursuant to subsection (b), may petition for inclusion of such drug entity and, if such petition is denied by the Formulary Committee, shall upon request therefor, showing reasonable grounds for a hearing, be afforded a formal or informal hearing on the matter in accordance with rules and procedures.

"LIMITATIONS ON MEDICARE PAYMENT FOR CHARGES OF PROVIDERS OF SERVICES

"SEC. 1822. (a) Any provider of services as defined in section 1861(u), whose services are otherwise reimbursable, under any program under this Act in which there is Federal financial participation on the basis of 'reasonable cost', shall not be entitled to a professional fee or dispensing charge or reasonable billing allowance as determined pursuant to this part.

"(b) A fee, charge, or billing allowance shall not be payable under this section with respect to any drug entity that (as determined in accordance with regulations) is furnished as an incident to a physician's professional service, and is of a kind commonly furnished in physicians' offices and commonly either rendered without charge or included in the physicians' bills.

"REASONABLE ALLOWANCE FOR ELIGIBLE DRUGS

"SEC. 1823. (a) For purposes of this part, the term 'reasonable allowance' when used in reference to an eligible drug (as defined in subsection (h) of this section) means the following:

"(1) when used with respect to a prescription legend drug entity, in a given dosage form and strength, such term means the lesser of—

"(A) an amount equal to the customary charge at which the participating pharmacy sells or offers such drug entity, in a given dosage form and strength, to the general public, or

"(B) the price determined by the Secretary, in accordance with subsection (b) **of this** section, plus the professional fee or dispensing charges determined in accordance with subsection (c) of this section.

"(2) When used with respect to insulin such term means the charge not in excess of the reasonable customary price at which the participating pharmacy offers or sells the product to the general public, plus a reasonable billing allowance.

"(b)(1) For purposes of establishing the reasonable allowance in accordance with subsection (a) the price shall be (A) in the case of a drug entity (in any given dosage form and strength) available from and sold by only one supplier, the price at which such drug entity is generally sold (to establishments dispensing drugs), and (B) in any case in which a drug entity (in any given dosage form and strength) is available and sold by more than one supplier, only each of the lower prices at which the products of such drug entity are generally sold (and such lower prices shall consist of only those prices of different suppliers sufficient to assure actual and adequate availability of the drug entity, in a given dosage form and strength, at such prices in a region).

"(2) If a particular drug entity (in a given dosage form and strength) in the Formulary is available from more than one supplier, and the product of such drug entity as available from one supplier possesses demonstrated distinct therapeutic advantages over other products of such drug entity as determined by the Committee on the basis of its scientific and professional appraisal of information available to it, including information and other evidence furnished to it by the supplier of such drug entity, then the reasonable allowance for such supplier's drug product shall be based upon the price at which it is generally sold to establishments dispensing drugs.

"(3) If the prescriber in his handwritten order, has specifically designated a particular product of a drug entity (and dosage form and strength) included in the Formulary by its established name together with the name of the supplier of the final dosage form thereof, the reasonable allowance for such drug product shall be based upon the price at which it is generally sold to establishments dispensing drugs.

"(c)(1) For the purpose of establishing the reasonable allowance (in accordance with subsection (a)), a participating pharmacy shall, in the form and manner prescribed by the Secretary, file with the Secretary, at such times as he shall specify, a statement of its professional fee or other dispensing charges.

"(2) A participating pharmacy, which has agreed with the Secretary to serve as a provider of services under this part, shall, except for subsection (a)(1)(A), be reimbursed, in addition to any price provided for in subsection (b), the amount of the fee or charges filed in paragraph (1), except that no fee or charges shall exceed the highest fee or charges filed by 75 per centum of participating pharmacies (with such pharmacies classified on the basis of (A) lesser dollar volume or prescriptions and (B) all others) in a census region which were customarily charged to the general public as of June 1, 1972. Such prevailing professional fees or dispensing charges may be modified by the Secretary in accordance with criteria and types of data comparable to those applicable to recognition of increases in reasonable charges for services under section 1842.

"(3) A participating pharmacy shall agree to certify that, whenever such pharmacy is required to submit its usual professional fee or dispensing charge for a prescription, such charge does not exceed its customary charge."

(h) Section 1861(t) of such Act is amended—

(1) by inserting ", or as are approved by the Formulary Committee" after "for use in such hospital"; and

(2) by adding at the end thereof the following new sentence: "The term 'eligible drug' means a drug or biological which (A) can be self-administered, (B) requires a physician's prescription (except for insulin), (C) is prescribed when the individual requiring such drug is not an inpatient in a hospital or extended care facility, during a period of covered care, (D) is included by strength and dosage forms among the drugs and biologicals approved by the Formulary Committee, (E) is dispensed (except as provided by section 1814(j), by a pharmacist from a participating pharmacy, and (F) is dispensed in quantities consistent with proper medical practices and reasonable professional discretion."

(i) Section 1861(u) of such Acts is further amended by striking out "or home health agency" and inserting in lieu thereof "home health agency, pharmacy."

(j) Section 1861 of such Act is further amended by adding at the end thereof the following new subsection:

"Participating Pharmacy

"(aa) The term 'participating pharmacy' means a pharmacy, or other establishment (including the outpatient department of a hospital) providing pharmaceutical services, (1) which is licensed as such under the laws of the State (where such State requires such licensure) or which is otherwise lawfully providing pharmaceutical services in which such drugs are provided or otherwise dispensed in accordance with this title, (2) which has agreed with the Secretary to act as a provider of services in accordance with the requirements of this section, and which complies with such other requirements as may be established by the Secretary in regulations to assure proper, economical, and efficient administration of this title, (3) which has agreed to submit, at such frequency and in such form as may be prescribed in regulations, bills for amounts payable under this title for eligible drugs furnished under part A of this title, and (4) which has agreed not to charge beneficiaries under this title any amounts in excess of those allowable under this title except as is provided under section 1813(a)(4), and except for so much of the charge for a prescription (in the case of a drug product prescribed by a physician, of a drug entity in a strength and dosage form included in the Formulary where the price at which such product is sold by the supplier thereof exceeds the reasonable allowance) as is in excess of the reasonable allowance established for such drug entity in accordance with section 1823."

(k)(1) The first sentence of section 1866 (a)(2)(A) of such Act is amended by striking out "and; (ii)" and inserting in lieu thereof the following: "(ii) the amount of any copayment obligation and excess above the reasonable allowance consistent with section 1361(aa)(4), and (iii)".

(1) Notwithstanding any other provision of this Act, the amendments made by this section shall apply with respect to eligible drugs furnished on and after the first day of July 1974.

ADDITIONAL COSPONSORS OF AMENDMENT

AMENDMENT NO. 1004

At the request of Mr. KENNEDY, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kansas (Mr. DOLE), and the Senator from Kentucky (Mr. HUDDLESTON) were added as cosponsors of amendment No. 1004, to H.R. 13025.

NOTICE OF FIELD HEARINGS ON FEDERAL COAL LEASING PROGRAM

Mr. METCALF. Mr. President, as I announced on February 25 and February 28, the Subcommitte on Minerals, Materials, and Fuels of the Committee on Interior and Insular Affairs has scheduled a series of oversight hearings on the Department of the Interior's future leasing program for the Federal coal resources of the northern Great Plains.

Representatives of the Interior and Agriculture Departments and the Environmental Protection Agency have been scheduled to testify on March 13. The administration witnesses have been asked to respond to questions submitted to them by the subcommittee. These questions are printed in the CONGRESSIONAL RECORD of February 25, 1974, on page 4042.

On April 1 and 2, representatives of the coal industry, national environmental and citizen groups, and other interested persons will testify. We have asked these witnesses not only to express their views about the Federal coal leasing policy but also to comment on the questions which the subcommittee asked the administration and the administration's answers.

Field hearings have been scheduled in Casper, Wyo., and Billings, Mont., for April 18 and 20, respectively. On April 19, the subcommittee will view a number of present and proposed surface mining operations.

The April 18 hearing will be held in the Wyoming Room of the Ramada Inn, 123 West E Street in Casper. The April 20 hearing will be held in the Federal courtroom, fifth floor, Federal Building, in Billings. The hearings will begin at 9 a.m. on each day.

These field hearings are very important. The subcommittee wants to know the views of the people who will be most directly affected by the development of these coal resources. We wish to allow the maximum number of witnesses to testify. Thus, while all written testimony will be printed in the hearing record in its entirety, oral presentations will be limited to 10 minutes.

Persons who wish to testify at the field hearings should either call or write Mike Harvey of the committee staff. The telephone number is 202-225-1076. The address is Interior and Insular Affairs Committee, U.S. Senate, 3106 Dirksen Senate Office Building, Washington, D.C. 20510.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Stanley B. Miller, of Indiana, to be U.S. attorney for the southern district of Indiana for the term of 4 years (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Wednesday, March 20, 1974, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARINGS ON S. 1463, THE PAROLE COMMISSION ACT

Mr. BURDICK. Mr. President, as chairman of the Judiciary Committee's Subcommittee on National Penitentiaries, I wish to announce hearings for the consideration of S. 1463, the Parole Commission Act, beginning at 10 a.m. on March 20, 1974, in room 6202 of the Dirksen Office Building.

This legislation is designed to provide the necessary legislative authorization for reorganization of the structure of the Federal parole and authority, and changes in many of the parole procedures. This legislation would abolish the present U.S. Board of Parole and create in its place a U.S. Parole Commission, moving the decisionmaking structure from one central office to regions closer to where the released criminal offenders will take up residence. The paroling authority is of crucial importance to the criminal justice system because the Parole Board controls an important element of the question as to when many offenders will be released from incarceration.

The Subcommittee on National Penitentiaries has previously held 4 days of hearings on this legislation, and has worked closely for more than 20 months with Members of Congress, the present U.S. Board of Parole, and interested groups.

Any person who wishes to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on National Penitentiaries, room 6306, extension 225, 8994.

NOTICE OF NOMINATION HEARING

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Public Welfare has scheduled a hearing on the nomination of Abraham Weiss, of Maryland, to be an Assistant Secretary of Labor, on Tuesday, March 19, at 2 p.m., in room 4232, Dirksen Senate Office Building.

ANNOUNCEMENT OF OPEN HEARINGS BY SUBCOMMITTEE ON PARKS AND RECREATION

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public that open hearings have been scheduled by the Subcommittee on Parks and Recreation at 9 a.m. on April 8, 1974, at the Boston North Hampton Junior High School and Elementary School, 1930 Bronson Avenue, Peninsula, Ohio 44264, on the following bill:

S. 1862, to provide for the establishment of the Cuyahoga Valley National Historic Park and Recreation Area.

ANNOUNCEMENT OF OPEN HEARINGS BY SUBCOMMITTEE ON PARKS AND RECREATION

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public that open hearings have been scheduled by the Subcommittee on Parks and Recreation at 10 a.m. on March 21 and 22, 1974, in room 3110, Dirksen Senate Office Building, on the following bills:

S. 334, to authorize the acquisition of the Big Cypress National Fresh Water Reserve in the State of Florida;

S. 783, to establish the Everglades-Big Cypress National Recreation Area in the State of Florida;

S. 920, to authorize the acquisition of the Big Cypress National Fresh Water Reserve in the State of Florida; and

H.R. 10088, to establish the Big Cypress National Preserve in the State of Florida.

NOTICE OF HEARINGS BEFORE THE SUBCOMMITTEE ON INDIAN AFFAIRS

Mr. JACKSON. Mr. President, I wish to inform the Members of the Senate of two hearings scheduled before the Subcommittee on Indian Affairs.

The first hearing will be held on March 25 on the subject of Indian water rights. Because of the importance of this critical issue to Southwest Indian tribes, the subcommittee considers it timely and essential that the affected tribal group be provided an opportunity to state their case through an official hearing record. This hearing is open to the public and will commence at 9 a.m. in room 3110, Dirksen Senate Office Building.

The second hearing will be held on March 26 to consider S. 3007, Indian Claims Commission authorization. Testimony will be taken from the Chairman and members of the Commission and representatives from interested Indian organizations. This hearing is open to the public and will commence at 10 a.m. in room 3110, Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

HANDGUN LEGISLATION

Mr. GOLDWATER. Mr. President, in the State of Arizona the whole idea of relating handgun control to the rate of crime is regarded as unrealistic and not a little ridiculous.

There is in my State also a deep feeling that any person has a right to defend himself against assault by another individual and that this right extends to the possession of adequate weapons to defend his home and his family.

This attitude on the part of the people of Arizona was translated into a resolution by the senate of the State of Arizona on March 4. At that time, the Senate adopted, by a vote of 26 to 4, a memorial urging the President and the Congress to oppose any handgun control proposals for Federal legislation. The memorial pointed out that there are now adequate laws on the books to punish criminals for the misuse of firearms. I ask unanimous consent that this memorial be printed in the RECORD.

There being no objection, the memorial was ordered to be printed in the RECORD, as follows:

SENATE MEMORIAL 1001

A memorial urging the President and the Congress of the United States to oppose any handgun control proposals for Federal legislation.

To the President and the Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, defense of one's person against assault by another is a natural right recognized by every generation; and

Whereas, every individual's right to the possession of adequate weapons for his defense or the defense of his home and family is essential to the protection of this natural right; and

Whereas, the Bill of Rights of the Constitution of the United States and Article 2, Section 26 of the Constitution of the State of Arizona guarantee to its citizens the right to keep and bear arms; and

Whereas, the handgun is the most effective weapon for self-defense, and its mere possession frequently is sufficient to repel an invader or attacker; and

Whereas, crime statistics only cover the use of firearms in crimes, and do not disclose the many instances where the lawful possession or use of firearms for defense have prevented crimes; and

Whereas, such legislation would deny a citizen the right to obtain weapons for self-defense, but would not prevent the acquisition of weapons by criminals or their misuse by criminals; and

Whereas, there are adequate laws now on the books to punish criminals for the misuse of firearms in crimes if properly enforced.

Wherefore your memorialist, the Senate of the State of Arizona, prays:

1. That the President and the Congress of the United States take those steps necessary for the proper enforcement and judicial punishment of criminals, rather than consider legislation to curtail the right of honest citizens to acquire weapons for sport or self-defense.

2. That the Secretary of State of the State of Arizona transmit a copy of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Arizona Congressional delegation.

GROUNDBREAKING CEREMONIES CONDUCTED FOR NATIONAL VISITOR CENTER—SECRETARY MORTON SPEAKS

Mr. RANDOLPH. Mr. President, this morning I was privileged to attend the groundbreaking ceremonies for the National Visitor Center. This was a noteworthy occasion, for it marked the beginning of a project that will add a new dimension of service to one of our city's historic buildings. When the national bicentennial celebration takes place in 1976, venerable Union Station will also house the Visitor Center as the gateway to Washington for millions of visitors.

I have personal and somewhat nostalgic interest in seeing an expanded role of service for Union Station. This monumental terminal was constructed in 1906. As a small boy, I received my first glimpse of Washington from Union Station when I visited here with my father, after riding on a Baltimore & Ohio train from Salem, W. Va.

Mr. President, the development of the National Visitor Center was first approved by the Congress as Public Law 90-264, enacted March 12, 1968. Federal funds were authorized last year to initiate construction.

The ceremony today was attended by several hundred people. Participants in the program represented a variety of interests in Washington, and their presence was perhaps symbolic of the broad impact the Visitor Center will have on many aspects of the city's life. Both the public and private sectors were represented, reflecting the joint government-business nature of the worthwhile enterprise.

It was proper that the presiding official was Ronald H. Walker, Director of the National Park Service, for it is his agency which will have responsibility for operating the Center.

John A. Nevius, Chairman of the District of Columbia City Council, discussed the impact of the Visitor Center on the city. Hays T. Watkins, chairman of the board of the Chessie System, spoke on behalf of the owners of Union Station.

The spokesman for the Congress was Representative KENNETH J. GRAY, chairman of the House Subcommittee on Public Buildings and Grounds, an early supporter of the project. He observed that the Visitor Center will bring together the past and the future. Construction of the Visitor Center, he said, will not only preserve a historic landmark but introduce visitors to the National Capital.

Representative GRAY noted:

> At the present time, they see our backs instead of our faces. The center will make all people feel welcome when they come to Washington.

Henri F. Rush, Jr., Deputy Federal Railroad Administrator, spoke for the Department of Transportation which will coordinate the development of a multimodal transportation center at the Visitor Center.

Anne L. Armstrong, counselor to President Nixon, presented a message from our Chief Executive. She also observed, in her own remarks, that the bicentennial symbol of red, white, and blue loops signify heritage, festival, and horizon and that this theme is carried through in the purposes of the Visitor Center.

Secretary of the Interior Rogers C. B. Morton spoke of his department's involvement in the Center and of plans for operating this unique facility.

Mr. President, I was joined at this observance by Representative ROBERT JONES of Alabama, a senior member of the House Public Works Committee and a strong advocate of the Visitor Center. Also attending was the senior Senator from South Carolina, the Honorable STROM THURMOND.

Mr. President, I ask unanimous consent that the text of Secretary Morton's address and excerpts from the remarks of Mr. Watkins and Mr. Rush be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

ADDRESS BY HON. ROGERS C. B. MORTON

This morning we are participating in an historic event. A groundbreaking where no ground will be broken . . . a start of construction in which no construction is yet visible. But nonetheless, we are marking an occasion that will be long-remembered as the beginning of our country's National Visitor Center.

Plans for the National Visitor Center are great, as befits a great country—great in spirit, great in strength, great in its welcome to all who come to these shores and to this Nation's Capital.

As Secretary of the Interior, I am deeply concerned with all parts of this country. Thus, I am especially pleased that one landmark of the Visitor Center will be aptly named, the "Discover America Hall of States." In this Hall, a visitor will have the opportunity to "discover," or rediscover, each of our 50 States and their scenic beauties, their historic and cultural heritage and all the unique highlights which make each of them beautiful and great in their own magnificent ways.

Here in the Hall of States, citizens from the United States and our friends from abroad can see in a capsule what America is about.

In another area of the Center, the National Park Service will pay special tribute to our Nation's Bicentennial with a 200th birthday salute. Special exhibits, films and other visual and audio presentations will tell visitors about 23 National Park Service sites designated as our nation's Bicentennial Parks. These parks are each linked with the American Revolution to tell a story of compelling drama and enduring significance. Another attraction will be the representation of America's cultural, scenic, historic and recreational areas that so vividly are a part of our past, present and future.

In a phrase, the National Visitor Center will become a showcase for all America.

To help tell these stories, multi-lingual attendants will be here, giving assistance to all visitors, to help all people in ways to better see, appreciate and understand this great country.

While the National Visitor Center is expected to become a focal point for visitors who want to see America, it must be remembered that neither this Center nor the Bicentennial Celebration belongs to Washington alone. They belong to all Americans and will open new understanding of the United States.

While this center will speak of the Lincoln Memorial, the Jefferson Memorial, and of Mount Vernon and Monticello, it will also speak of the Golden Gate in San Francisco and of Virginia's Booker T. Washington National Monument, of Indian pueblos and of cities, towns, rivers, lakes and wheatfields . . . of all that makes America what it is today—the greatest nation in the world and the greatest hope of mankind.

The National Visitor Center is, indeed, the first of its kind in the world. By all indications, it may not be the last.

Already, other nations have expressed interest in the concept of the center and it is quite probable that here, at Union Station, may be the beginnings for a series of events that could lead to similar visitor centers around the world.

Indeed, we are proud that this center will be administered by the National Park Service. Just as a century ago, when the United States established the world's first national park at Yellowstone, today we are "breaking ground" for the nation's first—and the world's first—National Visitor Center, which by its name symbolizes and expresses our country's welcome to all people.

REMARKS BY HAYS T. WATKINS

Chessie System is proud to be participating, through its Baltimore and Ohio, the nation's first common-carrier railroad, in the creation of the National Visitor Center. It is a noteworthy example of cooperation between Government and private industry.

Chessie System's sole responsibility for the private financing and the private construction of the National Visitor Center may surprise those who do not know that the great majority of the nation's railroads are still arranging their financing privately.

Sixty major railroads move the bulk of the nation's freight tonnage. Last year they carried more ton-miles of freight than they carried in any previous year in their history.

These sixty railroads, setting aside only those that are in bankruptcy, are doing their important job without Government loans. They are paying their bills. They are paying their taxes. They are providing a return to their shareowners and the owners of their debt securities.

Last year, the United States railroads collectively operated efficiently enough to earn a profit of over $550 million. That compared with railroad deficits on nationalized systems in foreign nations from the 100 million-dollar range up to the Japanese Railway's estimated 1975 deficit of over one billion dollars.

One year after the nation's bicentennial the Baltimore and Ohio Railroad will celebrate its 150th anniversary. The nation's railroad industry is, indeed, an old one. In the main, the railroad industry, given a fair regulatory climate, will continue vigorous and progressive, no less so than the nation.

REMARKS BY HENRI F. RUSH, JR.

It is my very great pleasure to appear here today and bring you the greetings of the Secretary of Transportation, Claude S. Brinegar on this most auspicious occasion.

This is an historic first step toward a more cooperative approach among surface common carriers of passengers. Cooperation among the various modes of transportation is a matter of constant concern at the Department. As Secretary Brinegar put it when he testified just over a week ago before the House Appropriations Committee, Subcommittee on Transportation, with respect to the Department's continuing efforts to develop a National Transportation Policy:

A major cause of inefficiency in both passenger and freight transportation is the lack of close coordination among the various modes. This problem is compound by the historical development of separate systems of terminals by each of the modes. A priority program is needed to lift unneeded restraints to intermodal cooperation and to encourage the joint use of terminal and other facilities by all transportation modes.

I would only add to that, that the history of the relationship between surface modes has too frequently been marred by essentially negative competitive warfare. I would say to those of you here representing those modes that your common market is the auto driver and not each others passengers. While it is true you can expect help over the short term from the energy problems, it is also true that major breakthroughs will require the sort of affirmative cooperation demonstrated by the creation of the joint intermodal passenger terminal which is such an integral part of this entire Visitor Center complex.

In closing, let me say, without resorting to hyperbole, that if it cannot be fairly said that the eyes of the Nation are upon this project, at least it is clear that the eyes of Congress are upon it. How could it be otherwise with an undertaking of this magnitude right upon the doorstep of the buildings which house the Congress. Thank you.

THE FOOD STAMP PROGRAM IN PUERTO RICO

Mr. BROOKE. Mr. President, I was appalled to learn recently that the Department of Agriculture and the present government of the Commonwealth of Puerto Rico have agreed to a food stamp allocation program which clearly discriminates against the needy people of Puerto Rico and in addition seems to be in violation of Federal law.

In 1973, the Congress added an amendment to the Food Stamp Act which made the program mandatory for every political subdivision of the United States, Puerto Rico, and the U.S. territories. Except in the most extraordinary circumstances where it might be administratively impossible, the program was to be implemented in every jurisdiction by June 30, 1974.

However, under a plan submitted to the Department of Agriculture by the government of the Commonwealth of Puerto Rico, the food stamp program will be implemented on a pilot basis only, in four Puerto Rican cities, during the next year. Oddly enough, the city of San Juan, with a population of nearly a million persons and an extremely high unemployment rate, is the fourth and last city to receive the program under the Commonwealth's plan. It will not be operational in the city of San Juan until March of 1975.

Yet even when the program does become operational, it will not necessarily benefit the people who need it and are eligible for it. The cost of living in Puerto Rico, and particularly in San Juan, is among the highest of any region in the world. It was with this fact in mind that the Congress specified in the 1973 amendments that under no circumstances should the eligiblity schedule for Puerto Rico or any of the territories exceed the standard used in the 50 States. We certainly did not expect, however, that the Department of Agriculture would devise, and the Commonwealth Government would accept a standard which leaves out many thousands of people and makes the people accepted for the program eligible for considerably lower benefits than their mainland compatriots.

Under the proposed plan, instead of basing eligibility on the same standards as apply in continental United States, the Department of Agriculture has devised a formula which anticipates that the diet of the people of Puerto Rico will normally include cheaper and less nutritionally adequate foods than those used by persons on the mainland. Therefore, the coupon allotment plan provides only $122 per month to a family of four, instead of the $142 for which a mainland family would be eligible. In addition, the Department has apparently accepted such lower income guidelines as a basis for determining eligibility for assistance in the first place.

Mr. President, this is not what we intended when we adopted the Food Stamp Act Amendments of 1973. The present plans can result in continuing hardship for many deserving families, and the denial to many otherwise eligible families of the benefits to which we intended that they be entitled under an act of Congress. This situation is untenable, and I urge the appropriate authorities to reconsider their actions, and to provide adequate food stamp benefits to the people of Puerto Rico as soon as possible.

CONGRESS, THE MEDIA, AND REFORM

Mr. HUMPHREY. Mr. President, there has been considerable discussion lately about reforming Congress. We are soon to consider a bill to reform congressional budgetary procedures. The Joint Committee on Congressional Operations has been conducting hearings on "Congress and the Mass Media." And recent public opinion polls, revealing that Congress has slumped to new low ebbs of popular esteem, have prompted numerous pundits both within and outside Congress to try to explain why.

An excellent commentary on the public's sagging estimation of congressional performance and what might be done about it appeared as an editorial in the Washington Star-News of March 9.

Mr. President, the editorial observes, correctly, that Congress has probably been more deserving of low ratings by the public in the past than it is today. But because of a less-developed state of the art of communications, the public lacked the awareness it has today of some aspects of congressional behavior.

The editorial also is right in observing that Congress, by its nature, as the Nation's "great arguing forum" made up of 535 Members of varying natures and constituencies, can never by itself run the country.

I fully agree with the editorial writer's conclusion that these circumstances only provide greater reason why this institution must reform and modernize itself. We must shape up. We must bring ourselves into the second half of the 20th century.

Reform of our system of budgetmaking is described in the editorial as an elementary reform that would represent a start toward demonstrating responsibility and winning back the confidence of the American people.

I agree, but I would carry the argument further.

I have long advocated television and radio news coverage of the proceedings on the Senate and House floors. The editorial suggests that this might only result in "much more public boredom on a massive scale."

I submit that boredom is a low price for the citizens of an enlightened, democratic society to pay for their freedom.

But they would not have to be bored. They might well be enlightened. But only if we did our part. We have in our hands the power to determine whether we look good or bad when the folks back home tune us in.

I am not, however, talking about mere cosmetic adornment. I am talking about fundamental changes that will make us look good, because our operations would, in fact, be of the highest competence and efficiency.

Bringing TV and radio into our chambers would be a partial reform. Building new sense and order and perspective into our budgetary processes would be another partial, though sizable reform.

Both of these would make us better. But both would serve to demonstrate even more graphically the deep need we have for other reforms.

Television and radio in the chamber could help improve the quality of congressional debates and stimulate the expediting of legislative business.

Budget reform would cast a spotlight of its own. It would show us and the public the need for other reforms, including long overdue changes in our committee structures and in our methods of scheduling our work.

If we adopt a budget reform measure that creates committees on the budget in each House of Congress and assigns new timetables and new responsibilities to the other standing committees, then we will quickly see the need to consider using computers to schedule our meetings, and the need to restructure the committee system itself to make it more responsive, efficient, and effective.

Mr. President, over the past months I have offered several legislative proposals along these lines. And last month I introduced omnibus legislation, S. 2992, the Modern Congress Act.

I was privileged to testify recently at a hearing of the Joint Committee on Congressional Operations, on the subject of "Congress and Mass Communications."

In my remarks I urged opening the House and Senate floors to radio and television news coverage. I proposed a privately sponsored program to educate the radio and newspaper reporters and editors from the smaller communities around the Nation about the functioning of Congress, and I suggested making Senators and Representatives more readily accessible to them.

Provisions of the Modern Congress Act which bore directly on the subject under consideration by the committee include:

The establishment by legislative mandate of an annual "state of the Congress" message by the leadership of the two Houses.

Creation of an Office of Congressional Communications, to provide communications and information services for Members and to improve congressional ability to communicate with the public, through the news media.

The opening of committee and subcommittee meetings to the full scrutiny of the press and public.

The Modern Congress Act also would:

Create a Citizens' Committee To Study Congress, which would recommend reforms during a 2-year period.

Authorize a study by the Joint Committee on Congressional Operations of the committee structure of the Senate, to seek jurisdictional reforms and improvements in the Senate's use of personnel and modern technological tools.

Establish an Office of Congressional Counsel, to provide legal services to Congress and its Members including advice on pending legislation and court-related legal activities.

Strengthen the office of the Comptroller General to enforce the will of Congress in the expenditure of public funds.

Implement fiscal and budgetary reforms, including establishment of a Congressional Office of Budget Analysis and Program Evaluation, establishment of budget ceilings at the beginning of each year's budget deliberations, and other reforms including provisions for more openness in the budget process.

Establish a Legislative Review Subcommittee in each standing committee of the Senate, to perform oversight and related functions dealing with the implementation of previously adopted acts of Congress.

Specifically instruct the Citizens Committee To Study Congress tc undertake a study of the possible use of computers in scheduling Senate work, including meetings of committees and subcommittees.

Create a Joint Committee on National Security, to conduct continuing review and evaluation of the many portions of public policy known as "national security."

Mr. President, I hope that my colleagues have been able to familiarize themselves with the details of this bill. I am pleased that the distinguished Senator from Tennessee (Mr. BROCK) and the distinguished Senator from Colorado (Mr. HASKELL) have already joined in sponsoring this legislation. In addition, Representative WAYNE OWENS, of Utah has introduced a modified version of the bill in the House of Representatives.

Mr. President, I ask unanimous consent that the Washington Star-News editorial, entitled "Congress Reputation," and the text of my prepared statement before the Joint Committee on Congressional Operations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS REPUTATION

About the only thing that gives Republicans any satisfaction these days—and this is very small succor at best—is that Congress rates lower than President Nixon in some poll showings. "I can assure you the President will never be as low as 21 percent in the polls," GOP National Chairman George Bush told a cheering crowd at the Louisiana Republican Convention the other day.

Whether Bush is walking on thin ice there, we have no idea, but his theme is familiar wherever Republicans gather. Yes, the President's popularity is mighty low, "yet the respect and feeling that people have for the Congress is even lower." The 21 percent referred to is what one recent survey shows for Congress (though others are more generous), while Mr. Nixon hovers about five points higher. Aside from the obvious fact that a large number of Republicans serve in Congress along with the Democratic majority, and presumably contribute to the rating, there are reasons why no one of any partisan stripe should take cheer from such comparisons. It is chilling commentary on the times that central institutions of government vie on the basis of which is least unpopular, all having been kicked into the cellar of public esteem.

Congress perhaps is the most pitiable, since by nature it is so unwieldy, so incapable of swift and decisive action on matters of high controversy. What the public doesn't realize is that 535 representatives of widely varying constituencies and interests simply cannot, except very rarely, move as one—cannot, in fact, run the country. As the great American arguing forum, Congress seldom can present a unified image, and hence cannot achieve the popularity of a single national leader at his best. So, in its milling diffusion, it always has been an all-purpose punching bag for the public when things go wrong, ridiculed for incompetence by Mark Twain, Mencken and scores of other popular pundits. Never, though, has its low rating matched the current slump. This is due, no doubt, to the poisonous Watergate ambience and assorted federally failures of recent years, but perhaps mainly to the increased visibility afforded by television.

Congress has, after all, been worse in times past than it is today. In much of what is considered the old Golden Age, it was more servile to a few greedy interests, and not long ago it was full of demogogic spewings, racial and otherwise. But Theodore G. Bilbo, and the fixers of yesteryear, did not come into our living rooms in living color, or the faith might have flagged long ago. Now the public is more knowledgeable, and Congress—despite its shortcomings of inaction and profligacy—is more circumspect.

But it must become more so, quite obviously, while continuing to reform its ancient mechanisms for more efficiency and public accountability. We doubt that Senator Muskie's idea of televising its sessions holds the potential for much more than public boredom on a massive scale, and maybe added disillusionment. The real need is for action to demonstrate responsibility—such as setting up a budgetary system through which Congress would plan and control its spending. This elementary reform, by itself, would do much to enhance Congress' image.

CONGRESS AND THE NEWS MEDIA

(By Senator HUBERT H. HUMPHREY)

Mr. Chairman, I commend the Joint Committee for its wise and timely decision in calling this hearing. If anything, we are overdue in considering the subject of the relationship between Congress and the news media.

The Congress suffers doubly for its inattention to this subject in the past. On one hand, we cast a blurred and confusing image for the man on the street; on the other, we are regularly made victim to end-runs and upstaging by the President. We have failed to make ourselves known and understood as an institution, with a recognizable and positive identity in the public mind. And we have been sluggish in meeting the challenge of the Executive's inherent advantage in competing with us for the public eye and ear.

Ask the average citizen what the President did or said today, and then inquire what the Congress did, and you will quickly see how great the imbalance is.

Such an "identity gap" is in some degree inevitable. It stems in part from the differences between the Congress and the President, between the legislative and executive branches. He is one; we are many. He can speak for himself. It is rare if ever that a single voice can express the unanimous view of 535 members of the House and Senate.

When I served as Mayor of the City of Minneapolis before coming to the Senate, I usually found I had the advantage over the City Council in reaching the public. I am sure the chief executive of any governmental unit, from small towns and villages to the states, has also found this true.

But this does not mean there is not ample opportunity for the Congress to improve its performance in this regard. We can make improvements in two basic ways—first, by simply making the Congress and its activities more accessible to the representatives of the news media; and second, by more actively seeking out the media to offer our point of view as an institution.

First, let me offer some thoughts on ways of making Congress more accessible to news coverage. Probably the simplest and most direct means is one I have advocated for 20 years—by opening up the floors of the Senate and House of Representatives to coverage by radio and television. This is also the basic proposal of a recent, excellent study entitled, "Congress and Mass Communications," prepared by Mr. John G. Stewart for the Committee, through contract with the Library of Congress. The report points out that only once, in 1947, for the opening session of the 80th Congress, were television cameras permitted in the House Chamber, while there has never been such coverage allowed during a regular business session of the Senate. But the report alertly observes the irony in the fact that the House Chamber is opened up to television coverage for the delivery of the State of the Union Message—by the President.

This example alone vividly illustrates the need for Congress to update policies and practices regarding the news media. The matter becomes more imperative when considered against the current background of concern that the Executive Branch has severely eroded and undermined the powers of the legislative branch, while the Congress itself has simply failed to exercise the powers and authority it has under the Constitution.

To quote from the report by Mr. Stewart:

"A decision by Congress to permit some form of television and radio coverage of floor proceedings would produce broader and more informative news coverage of the institution. It is hoped that citizens would begin to acquire a new sense of Congress' institutional role by witnessing the legislative process in operation and by seeing their elected representatives openly conduct the public's business."

In short, it would make us shape up.

I'd like to paraphrase another writer, Mr. Ben H. Bagdikian, national correspondent of the *Columbia Journalism Review*, who, in the current issue of that fine publication, voices some strong criticisms of both the news media and Congress, in an article entitled, "Congress and the Media: Partners in Propaganda." I recommend the article for all members of Congress and members of the journalistic profession, as food for serious thought. The portion that should provoke a great deal of concern by this Committee as it continues its deliberations, deals with the numbers of members whose activities in Congress are virtually unseen by most or all of their constituents back home in the state or district they represent. This is due to the lack of personnel in Washington reporting back to the newspapers and radio and television stations in the areas those members serve. Surely many of the smaller newspapers and radio and television stations are unable to hire even a "stringer" to dispatch news to them from Washington. But if Congress opened itself up to national coverage, it would follow that each individual member would thus be exposed to at least some greater degree of news coverage.

I believe this disadvantage at which smaller news outlets are placed in covering the activities of Senators and Congressmen long-distance, from back home, is a serious problem which we should address. I suggest that it is possible for those news outlets to improve their coverage of Congress if the opportunity were made available. The first thing they need is understanding of Congress as an institution, and of the work of individual Senators and Representatives. The second thing they need is access, so they can keep track of those Senators and Representatives.

I have long been a strong supporter of a privately-financed program that provides the first half of that equation, understanding, for news media professionals—and in this case, for political scientists and federal agency personnel as well.

Many of my colleagues in the Senate and in the House are familiar with the Congressional Fellowship Program sponsored by the American Political Science Association. Many of you have had APSA Congressional Fellows work in your offices as part of their studies of Congress. At present, I have two Fellows, both newspapermen, working in my office.

What I would propose is a program on a smaller scale, specifically for editors and reporters from the smaller newspapers, the weeklies and dailies of up to perhaps 50,000 circulation, and the local television and radio stations. Rather than extending for a period of nine months, as does the APSA program I would suggest a short-course format. Two or three weeks would be sufficient. This would make it possible for an organization with a small staff to function with one member absent while he or she attended the short-course, and would hold down the costs.

On the subject of financing the program, I am absolutely not advocating any involvement of federal funds for its support or operation. Only an attempt to mix church and state would set off a howl as great as would be heard if we offered federal money for a program involving government and the Fourth Estate.

But Congress can and should invite and encourage such a program and then go all-out to cooperate with it.

I would propose that we establish an ad hoc, bi-partisan committee of a few members of both Houses of Congress, to go out and talk up this idea with representatives of groups that might logically be interested in sponsoring and helping finance it. I know that we have among our ranks several Senators and Representatives who have had experience in the news media before being elected to their present offices. I don't know how many there are or who all of them are, but a diligent search should identify them quickly, and we could perhaps name them as the committee. They could contact organizations of professional journalists, including both the so-called "working press" groups and those representing the management side, the publishers and station managers and owners.

The cost to the sponsors would depend on the number of journalists who would participate in each short-course, and the extent to which they would be supported by their own employers.

Those are all details that should be worked out once willing sponsors are found, and should be left up to them. But I think we should make an energetic attempt to encourage thinking about establishing such a program.

The object of the program would be to educate reporters and editors about the operations of Congress, so they could go back home and write and select their stories and broadcast reports more intelligently.

But in order to do that, they also need better access to the Senators and Representatives from their states and areas of circulation or audience. To provide that, we already have at least partial facilities available to many of us, in the form of the Wide Area Telephone Service (WATS) with which we maintain contact with our states and districts.

It is now possible for a reporter to walk into our home office and place a call on our WATS line to talk with us or our staff members about pending legislative business. It is also possible for a reporter to send a message through our home offices to us in Washington so we can call the reporter back via our outgoing WATS line from Washington.

I would suggest an investigation of the possibility of expanding this service to increase the usefulness of the WATS line as a link between us and the news media back home. I can envision, for example, telephone news conferences linking the office of a Senator or Representative and two or more news outlets in different parts of the State or district.

While the handicaps of the hometown news media are important, I note that the title of this hearing is, "Congress and Mass Communications." This implies a primary concern with the large, national news media, and I assume, electronic media chiefly represented by television. This, too, is vitally important if Congress is to maintain its status as a co-equal branch with the Executive, and stop accepting second-billing behind the President on prime TV time.

I have recently introduced the Modern Congress Act, in which I propose improvements designed to reform the operations of Congress in a variety of ways. I call your attention to three of those proposals which I believe would achieve the ends being sought by this Committee.

One is the establishment, by legislative mandate, of a new tradition in Congress—the annual delivery by the leadership of both Houses and both parties, of a "State of the Congress" message. While we have seen informal efforts to achieve such a step in recent years, I believe making it a formally declared custom of Congress would enhance its prestige, as a message of importance on the same plane as the President's state of the Union message. A legislative mandate also would insure that the practice would continue.

Another is the establishment of an Office of Congressional Communications. While a major part of this OCC's job would be to operate a modernized internal information and communications system within Congress for the benefit of members in performing their work, it also would provide facilities, equipment and expert technical advice to help members communicate with the public, through the news media.

Third, the Modern Congress Act proposes following recent changes in Congressional rules and procedures to their logical conclusion, by fully opening up the activities of the committees and subcommittees to news media coverage. If any of us cringe at being closely scrutinized in our activities—and I hope none of us would feel we have anything to fear from such scrutiny—let me point out that if we are doing our jobs, we can only gain, since through this reform our constituents will be better able to see us at work. And I need not point out to my colleagues in either House of Congress that the committee room is the real workshop of Congress—the place where the major portion of our time is spent on pending legislation.

I believe this final point is the one we must keep in mind as we consider the subject before this Committee. We have been experiencing a period of growing suspicion and disapproval by citizens, toward government in general and elected officials in particular. While there are many reasons for this, including some for which Congress is free of blame, we have a duty as an institution to reverse this trend.

Any nation is in trouble when its citizenry feels alienated from its government and suspicious of it; but this is by far a worse disease when it afflicts a democracy. Here are some justifications for this lack of esteem for public officials by the citizen. Hopefully, most of those reasons are being answered by other committees of Congress and by the judicial branch. But one of the reasons is popular ignorance of what government is and how it functions. That condition as a basis of the public's judgment of us is not acceptable, and its results are not justified. We must act to overcome it, to the extent we are able. I believe that the measures I have proposed would go far toward fulfilling our duty. I believe that an open Congress would be a Congress understood and respected.

COMMITTEE REORGANIZATION

Mr. BROCK. Mr. President, today Congress is faced with a challenge: the challenge of organizational responsibility. Can Congress go on operating with its present committee system? This question has been raised on a number of occasions over the past few months. My feeling is that we must study reform of the committee system, and we must do it now. In fact, I have introduced legislation to facilitate a study of the committee system along with Senators Mathias, Stevenson and others.

I would like to draw my fellow Senators' attention to a recent edition of the Annals, which strongly supports my views about committee reform. The January 1974 edition of the Annals, subtitled "Changing Congress: The Committee System," has been sent by me to each Senator for his review. I am hopeful that every Senator will have a chance to review this journal, and to reflect on the opportunities before us.

In this volume, I would like to draw your attention to two articles in particular. Congressman Richard Bolling has written an article entitled "Committees in the House," and Norman Ornstein has drafted "Towards Restructuring the Congressional Committee System." I ask unanimous consent that these two articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Committees in the House

(By Richard Bolling)

(Note.—Richard Bolling is United States Representative from the Fifth District of Missouri. A member of the House of Representatives since 1948, he is a member of the Committee on Rules and the Joint House-Senate Economic Committee. Long an advocate of congressional reform, Bolling served as Chairman of a special Rules Committee Subcommittee, whose work led to the creation of the Committee on Standards of Official Conduct and to the first code of ethics adopted by the House of Representatives. In 1973 Speaker Carl Albert named Bolling Chairman of the House Select Committee on Committees, which is to propose changes in the committee system. Representative Bolling is the author of House Out of Order (1965) and Power in the House (2d ed., 1974), two critical studies of the House of Representatives.)

Abstract: The committee system in the House of Representatives contributes directly to the House's failure to provide vigorous national leadership. By denying the Speaker necessary tools of leadership, by using inadequate informational resources, by abdicating macroeconomic responsibilities and by employing outmoded jurisdictions, House committees clearly reveal the need for significant reorganization. Such reorganization is not impossible to achieve, however; the House of Representatives has changed in the past and, with self-discipline and hard work, can do so again. Signs of change already exist: procedural changes affecting the role of the Speaker, creation of the Office of Technology Assessment and the House Information Systems Office, consideration of fundamental budgetary reform proposals and establishment of the Select Committee on Committees, all point to a climate of reform. The select committee, after debating organizing principles of a committee system within a legislative body, can contribute significantly to this reform by its examination of committees in the House. Several schemes of committee reorganization within the mandate of the Select Committee illustrate generally the parameters of change.

The United States House of Representatives should be the most vigorous institution of the federal government. Its election every two years provides a representative form of government. Its Constitutional authority to raise revenues offers a means of control over federal activity and keeps the historic power to tax in a body responsive to the people. Its legislative responsibilities enable the House to set national policy objectives and to determine that which is legal or illegal. Its large membership enables the country's legislature to develop the issue expertise a smaller body cannot. Finally, the diversity and humanity of the House—its common touch—provide citizens with access to the federal establishment and remind us all that our national government is made up of real people, not simply white buildings and tax returns. The House of Representatives should be the forge of democracy.[1]

Yet, today, the House is not the vigorous institution it should be. It does not occupy, as it once did, a commanding place in the American scheme of government. Hampered by decentralized authority, lacking informational resources, stymied by obsolete rules and denying the Speaker his rightful tools, the House of Representatives cannot do its job. It is still, sadly, out of order.

THE COMMITTEES

Central to the operation of the House is the committee system. The ranking Republican member of the Rules Committee and Vice-Chairman of the Select Committee on Committees, Representative Dave Martin of Nebraska, called committees "the heart and soul of the legislative process."[2] Woodrow Wilson's famous dictum that the House of Representatives sits not for serious discussion, but to sanction the conclusions of its committees, remains generally true.[3] At present the House conducts its business via twenty-one standing committees. These committees—which vary in size but average thirty-three members—enable the House to split up its work and concentrate on a variety of issues. Such division of labor and its accompanying specialization have helped the House meet modern legislative demands. They also have helped to keep the institution from becoming captive of the executive branch. In addition, committees have created entry points or gateways to the House of Representatives for those wishing to affect government. They have become vehicles for the advancement of members' interests and careers.

As does the House, itself, committees have had a long and fascinating history. In the earliest Congresses the House relied upon select committees for the consideration of legislation. At that time the House would resolve itself into the Committee of the Whole to decide upon a bill's general principles, whereupon a select committee would be established to settle details and draft the final product. By 1800, after five Congresses had met, only four standing committees existed, of these, only one was a legislative committee. This committee—Interstate and Foreign Commerce—was established in 1795 and is now the oldest standing committee in the House of Representatives.

The Ways and Means Committee was created in 1802, the Judiciary Committee in 1813 and the Agriculture Committee in 1820. The Appropriations Committee was not established until 1865, nor the modern Rules Committee until 1885. By 1900 the House had fifty-eight standing committees; by 1930 it had sixty-seven such committees. Some of these, such as the Committee on Pacific Railroads and the Committee on Woman Suffrage, have disappeared. Others, such as the Committee on Public Buildings and Grounds and the Committee on Naval Affairs, have become subcommittees of committees or have merged with other committees. In 1946, when the House last reorganized its committee system, forty-eight committees were reduced in number to nineteen. In 1958 the Committee on Science and Astronautics was created; nine years later the Committee on Standards of Official Conduct was established. This raised the number of standing committees in the House to twenty-one.

The present committee system, however, fails the House of Representatives in four ways: (1) the system cripples the Speaker by denying him operational leadership of the House; (2) the system neither receives, utilizes nor generates adequate information; (3) the committee system does not consider the economy from a macroeconomic point of view; and (4) it does not facilitate coordinated policies, nor does it coordinate emerging issues, because the jurisdictions of House committees are outdated. The failure of the modern House to provide vigorous national leadership stems directly from these four shortcomings. No corporate board of directors would permit a company to operate with outmoded organization or without central direction, adequate information or economic integrity. Yet, that is what the House of Representatives is doing. Who is to blame for the disarray? The 435 men and women who sit in the House as representatives. They are responsible for the resulting drift and decay of the House. These individuals—who, by and large, are honest, diligent and capable people—must now restore the institution in which they serve. What is needed is self-discipline and hard work.

A HOUSE IN TRANSITION

The House of Representatives has changed before; it can do so again. No immutable rules or customs exist, because the House is a dynamic institution. In times past Speakers have appointed committee chairmen; legislative committees have appropriated funds; seniority has been discarded—indeed, the system of seniority was not fully developed until after the turn of the century; a freshman member has been named Speaker,[4] and party caucuses have ruled supreme. Precedents such as these indicate that the House is capable of significant change.

For example, the Speaker, when a Democrat, now sits on his party's committee which makes committee assignments for Democratic members. This party committee is a focus of power in the House. Moreover, the Committee on Rules no longer obstructs the Speaker, who also benefits from new Democratic Caucus rules which strengthen subcommittees at the expense of full committees and their chairmen. Thus, the present Speaker, Carl Albert of Oklahoma, occupies a stronger post than his predecessor, Representative John McCormack of Massachusetts.

The Speaker

A strong Speaker is necessary if the House of Representatives is to regain its proper place in government. The only officer of the House mentioned in the Constitution, the Speaker is both coach and quarterback. Under such Speakers as Henry Clay, Thomas Reed, Nicholas Longworth and Sam Rayburn, the House of Representatives received firm leadership. Goals were set, strategy devised and tactics employed. The result was a record of achievement, a sense of purpose and public recognition for the whole House. No institution can obtain these results without such leadership.

Currently, the Speaker lacks the institutional tools of leadership. He must rely upon personal persuasiveness, as Longworth and Rayburn did. The Speaker cannot establish an agenda for the House. He cannot nominate—much less designate—its lieutenants, the committee chairmen. He cannot discipline the unfaithful, and he has little with which to reward the deserving. The Speaker is but titular head of the organization. His power is personal; thus, House leadership is dependent upon the rare fortune of finding an exceptional man.

Informational resources

In the area of informational resources, the House of Representatives operates at a disadvantage in comparison with the executive branch and the business community. The treatment of information by the House is archaic. An appropriate analogy is one of quill pens versus electronic computers. The House has overtaxed its committee staffs, misused its slender research facilities, distrusted automatic data processing systems and ignored the potential for contract research. Most important of all, the House has not realized that, in a society dependent upon technology, information must necessarily be viewed as a valued resource. Solutions to a legislative problem depend on the right kind of information; so, in fact, does the very perception of the problem.

Quite recently the House has shown signs of recognizing the importance of informational resources. It has established an office for automatic data processing and an office for contract research with the Senate. The first office, the House Information Systems, has installed an electronic voting device and is supporting the Clerk of the House with administrative services. It has also developed a bill status system and is planning a system for the preparation of committee calendars. The second office, the Office of Technology Assessment, will hopefully increase the congressional evaluation of technology's impact on society. While neither office is comparable to the informational resources of the executive branch nor equal to the House's potential, they are a start.

Macroeconomic role

The House of Representatives has also been operating at a disadvantage in the area of macroeconomics. The President and his advisors, the Office of Management and Budget and the Council of Economic Advisors are in charge. The federal budget is called the President's budget, and it is he who determines the amounts to be spent. The House does not coordinate the work of its taxing and spending committees. Its Appropriations Committee reviews less than half of the annual federal expenditures and does not report legislation on time—often because the authorizing committees fail to act in time in authorizing appropriations. Its members have no means of debating economic priorities. For a body with macroeconomic responsibilities, the situation is absurd. Unless the House of Representatives gets a handle on the federal budget, it will continue to be the economic mistress of the executive branch.

Late in 1972 the House began at last to reform the committees' consideration of the federal budget.[5] In cooperation with the Senate, the House established a Joint Study Committee on Budget Control to recommend procedures which would improve "Congressional control of budgetary outlay and receipt totals" and would assure "an overall view of each year's budgetary outlays."[6] Spurred on by the President's unprecedented impoundment of appropriated funds in 1972 and 1973, the joint study committee met and recommended additional committee structure: new House and Senate committees which would set a budgetary ceiling and attempt to sponsor a true debate over priorities. These proposed budget committees would be comprised of members from the respective taxing and appropriating committees, with additional members appointed by the majority leadership—in the case of the House, by the Speaker. Moreover, the new committees would have an enlarged professional staff with access to more data without which the House of Representatives simply cannot regain its macroeconomic role.

Unfortunately, the recommendations of the joint study committee had serious defects. For example, no provision was made for committee consideration of tax expenditures; no safeguards existed to prevent the new budget committees from predetermining the priorities debate; and, of great significance, no potentially powerful committee should be created in the House without greater participation of the Speaker.

Jurisdiction

The last area in which the committee system fails the House is jurisdiction. At present, the jurisdiction of the twenty-one standing committees is spelled out in Rule XI of the House rules. Last revised more than twenty-five years ago in the Legislative Reorganization Act of 1946, Rule XI is now unsatisfactory. House committee jurisdictions are unclear and duplicative. They are also full of omissions and antiquated or irrelevant listings.

Footnotes at end of article.

Rule XI is unclear as to which committee in the House of Representatives has jurisdiction over the control of dangerous drugs; several committees have claimed jurisdiction.[7] Clarity is also lacking in the area of water resources, in which three committees of the House are involved.[8] The rule is also duplicative. For example, it designates two committees with jurisdiction over national forests, the Committee on Agriculture and the Committee on Interior and Insular Affairs. Rule XI is particularly deficient in omitting some subject categories. In 1946 these subjects were not national issues, thus, understandably, they were not covered by the rule. Today, categories such as energy and crime need a focal point within the House of Representatives. This is possible only by explicit designation of committee jurisdiction. As Representative John Culver of Iowa stated on the House floor:

"Our first obligation is to see that there is a coherent, realistic, and contemporary setting for the consideration of all legislation and to be sure that the most commanding and imminent issues of public policy are mirrored and realized in the organizational structure of Congress."[9]

The inadequacies of Rule XI, however, have not meant that the House fails to act in areas of jurisdictional uncertainty. Acting on behalf of the Speaker, the Office of the Parliamentarian refers all bills to committee, whether or not the subject is specifically listed in the rule. When Rule XI is silent or unclear, the office is guided by precedent, logic or political advantage. Over a period of time such a process inevitably leads to confusion and inconsistency. House committees acquire jurisdiction by accretion. Different committees receive similar subject matter. Procedural uncertainty frequently results. Public policy often suffers.

The same outcome sometimes occurs when House committees compete with one another for jurisdiction over emerging national issues. Often, bills are drafted so that they will reach a certain committee. Different committees sometimes end up with similar legislation and identical jurisdiction. Take, for example, the current fascination with energy. Three committees of the House have created subcommittees on energy, while a fourth committee considers itself the appropriate site of energy legislation.[10] A coherent, sensible national energy policy is difficult to achieve under the best of circumstances; when several committees vie for control, it is next to impossible. At times, of course, overlapping jurisdiction is desirable because differing points of view which may be suppressed in one committee receive fair consideration in another. However, a diversity in communication patterns does not warrant conflicting legislation and this, too, can result from such overlap.

A further disadvantage with the present system of committee jurisdiction is imbalanced workload. Some House committees do not have much to do. Others are so busy that they must neglect urgent public business within their jurisdiction. In 1973 a member of the Committee on Ways and Means indicated that the committee had to postpone consideration of tax reform in order to take up trade legislation.[11] A critical issue was delayed because Ways and Means which has jurisdiction, under Rule XI and the precedents of the House, over taxes and the public debt, social security, national health programs, such as medicare and medicaid, revenue sharing and trade was too busy.

A final disadvantage of the present configuration of committee jurisdiction is that subject areas or issues without a committee to call their own lose focus and protection. Committees in the House afford a subject a sense of place, a home in which its constituency can centralize strategy, develop friends and rebuff foes. Issues which are orphans usually do not fare well in the House. Prestige is involved too. National issues need a legislative point of convergence which only committees can provide.

THE SELECT COMMITTEE ON COMMITTEES

In January of 1973 the House acted to remedy the problem of committee jurisdictions. At the initiation of the Speaker and with the support and encouragement of the minority leader, Representative Gerald Ford of Michigan, the House approved creation of a select committee to recommend changes in Rule XI, as well as in Rule X which designates the names and numbers of standing committees.[12] The Select Committee on Committees, as the new body is called, consisted of ten members of the House, five Democrats and five Republicans. The balance between Democrats and Republicans is unusual because the makeup of congressional committees traditionally reflects the ratio of the majority and minority parties in each house. An exception was made in this case because the success of the Select Committee is dependent upon bipartisan support.

During the debate on the resolution creating the Select Committee, the question of why a select committee was required was raised. Could not the Joint Committee on Congressional Organization, the Committee on House Administration or the Rules Committee—which has legislative jurisdiction over changes in House rules—examine Rules X and XI? Any of these alternatives, it was argued, could do the job and save the time and expense of assembling a new committee and staff.

However, each of these alternatives presented serious difficulties. The Joint Committee on Congressional Operations would involve United States senators in the determination of House committees—an involvement for which they were neither qualified nor welcome. The Senate and the House are fundamentally different and need not be involved in each other's internal organization. Moreover, the joint committee is specifically prohibited from recommending changes in the rules, parliamentary procedures or precedents of either house.[13] Also, it is not a bipartisan committee, but one in which Democrats currently outnumber Republicans. The absence of bipartisanship was again compelling in considering the Committee on House Administration as an alternate to the select committee. In addition, an obvious need existed for the body conducting the study to be as free as possible of present committee structure. As one of the twenty-one standing committees of the House, the Committee on House Administration could not be neutral. It would have had an unfair advantage were it responsible for the study. A similar conflict of interest would occur were the Rules Committee to conduct the study of Rules X and XI. Moreover, partisanship could be acute, as the majority outnumbers the minority on Rules two to one. Furthermore, the committee's staff is small and would be unable to assume the necessary added responsibility. The legislative recommendations of the select committee, however, will be subject to clearance by the Rules Committee before they are debated and acted upon in the House, itself. Finally, the Select Committee on Committtees is a nonexclusive body whose members serve on ten of the other standing committees. Such diversity gives the select committee a useful perspective on various aspects of the committee system.

CRITERIA FOR CHANGE

In examining Rules X and XI the select committee must keep in mind that any operating process in the House of Representatives must be democratic. This means that any reorganization of committees must be consistent with the underlying values of our political system. Committees in the House, regardless of their number or jurisdiction, must therefore function openly and with deliberation. The legislative process must be visible to the public. Moreover, democracy does not always operate best behind closed doors, and neither do committees. The process must also be deliberative. Committees are a place to think things through. Goals should be stated, premises revealed, alternatives explored and conclusions questioned. After all, the House is a legislative body, and the unique function of a legislature is to provide a forum for the debate of public issues.

To be democratic, House committees must also function responsibly. Here, again, a constraint has been placed upon the select committee. Its recommendations must enable the committees of the House to be held accountable for their actions; this means, simply, that credit or blame can be affixed. Such responsibility is vital to the political integrity of the House, particularly now when Americans' faith in their institutions of government is unusually low.

Another criterion for the reorganization of committees is representation, which means that affected interests are given an opportunity to be heard. The House of Representatives should not operate without hearing those who wish to be heard, as some committees have at times done. Representation means that committees must listen to those upon whom committee actions have an impact. Such listening is essential to fair play.

A further requirement for the democratic operation of committees is responsiveness. The House and its committees must be responsive to national needs. The criterion is an illusive one, of course, because people's perceptions of problems and remedies vary greatly. Yet, committees should not ignore that which generally seems to be a real problem, and committee structure should not prevent the House from working its will.

Two other criteria serve as additional guidelines for the select committee in reorganizing the committee structure of the House. The first is to maintain the relative equality of all members. A committee system should not make some members of the House feel that they are backbenchers. Every member of the House is important. Each has a vote equal to the other, and each should have a committee role of some importance. While the need for leadership in the House and the quirks of personality mean that some representatives are more influential than others, House committees should be structured to give all 435 a piece of the action.

QUESTIONS ABOUT COMMITTEES

In contemplating significant changes in Rule X and XI, the Select Committee on Committees—or anyone else planning a reorganization of House committees—must first ask some basic questions about the committee system. These questions should precede any rearrangement of committee jurisdictions. Their answers will comprise a necessary framework upon which to base reorganization. They also will heavily influence the committee arrangement which occurs. Four of these basic questions are discussed below.

An appropriate first question concerns the budget. Will reorganization include committee consideration of the federal budget? If so, several questions follow: (1) should the appropriation and authorization functions continue to be separated? Is the setting of a budget ceiling by the House desirable or practical? At what level of funding, and where in the committee process, does the priorities debate occur? Does a budget ceiling make an appropriations committee superfluous? What mechanism will guarantee coordination between spending and taxing?

A second basic question concerns the scope of jurisdiction. Should the jurisdiction of committees in the House cover several different areas of public policy or be limited

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to one such area? Are single interest committees, such as the Committee on Agriculture whose jurisdiction is pretty much confined to agriculture, preferable to multiple interest committees, such as the Committee on Public Works whose jurisdiction includes water resources, transportation and public buildings? Additional questions include: do single interest committees develop greater expertise than multiple interest ones; do multiple interest committees become less susceptible to capture by lobby groups; do single interest committees really function as a single unit rather than as a grouping of subcommittees? Should the interests of multiple interest committees be related or deliberately different?

Another basic question to ask before reorganizing committee jurisdictions concerns oversight—the monitoring of the executive branch. Is the oversight function best served by having a separate committee in the House perform most, or nearly all, of the oversight or should oversight be divided among the legislative committees, the Appropriations Committee and a Government Operations Committee, as is now the case? Should the party not in the White House direct oversight in the House? What mechanism will guarantee coordination of oversight activity with the House's appropriation of funds?

A fourth basic question concerns the size of committees. How many members should House committees have? Currently, the average size of the twenty-one standing committees is thirty-three members. Committee size, of course, affects a committee's jurisdiction and internal procedures. Committees of thirty-three members tend to be unwieldy if everyone attends, to discourage equal participation of members and to encourage the use of subcommittees. They also allow committees to have multiple interest jurisdictions, although the House presently has two larger committees which are single interest: the Committee on Agriculture and the Committee on Foreign Affairs. Committees smaller than thirty-three members would most likely increase the number of single interest committees in the House. Larger committees would enhance the subcommittee system and enable members to serve on several committees. Whether House committees should be exclusive assignments is itself another basic question which directly relates to the size of committees.

Having answered basic questions such as these and, thus, devising a framework upon which to base a reorganization of House committees, the next step is to restructure committee jurisdiction. This is not easy, because policy areas are interrelated. It is not usual either, because those scholars and other observers who have commented on the committee system have neglected to present alternatives.

SCHEMES OF REORGANIZATION

What follows in the tables below is thus unusual: three schemes of committee organization—preceded by the existing scheme of House committees and their jurisdiction. The new schemes vary considerably, and no preference is expressed or implied. Each of the schemes reduces the number of committees; each provides a separate committee for oversight, although these are not inevitable. However, the schemes differ in scope of committee jurisdiction. Scheme A provides multiple interest, exclusive committees of similar subject matter which would enjoy equal legislative significance. Scheme B provides a sharp reduction in the number of committees which again would be multiple interest and exclusive, but with greater diversity of subject matter than in Scheme A. Scheme C provides a mix of single interest and multiple interest committees. These committees would not necessarily be exclusive, but would be far larger in number than those in the other new schemes.

The three new committee schemes also differ in their consideration of the federal budget. Scheme A grants the present Appropriations Committee—which receives a new name—jurisdiction to set a budget ceiling, but retains the distinction between authorizing and appropriating committees. Scheme B creates a new Committee on Budget and Revenues which combines the spending and taxing functions and requires the other committees to appropriate, as well as to authorize funds. Scheme C creates a new Budget Committee and also reunites the appropriating and authorizing functions. However, the scheme does not combine the spending and taxing jurisdictions.

CONCLUSION

These schemes represent an effort to portray what different committee systems could be. As a key component of the House, committees must be reorganized if the House of Representatives is to regain its role in government. Yet, this reorganization requires a searching examination of the concepts underlying committees in a legislative body. Changing committees is an exceedingly difficult task, both intellectually and practically. It is also a risky one. For, as the experience with the provisions of the Legislative Reorganization Act of 1946 shows, the appearance of change is not necessarily the reality of reform. Today's gleaming reorganization is tomorrow's out-of-date organizational inadequacy. Hopefully, the articles in this issue of The Annals will throw some light on the road ahead, wherever it may lead.

FOOTNOTES

[1] The phrase is Neil McNeil's; see his *Forge of Democracy: The House of Representatives* (New York: David McKay Company, 1963); and Richard Bolling, *Power in the House* (New York: E. P. Dutton, 1968).

[2] U.S., Congress, House, *Congressional Record*, Vol. 119, Pt. 3, p. 2805.

[3] Woodrow Wilson, *Congressional Government* (Cleveland, Ohio: Meridian Books, 1956, originally published in 1885), p. 69.

[4] Representative Henry Clay, in 1811.

[5] On December 5, 1973 the House of Representatives passed a budget reform measure, "The Budget and Impoundment Act of 1973."

[6] See, U.S., Congress, Joint Study Committee on Budget Control, *Improving Congressional Control Over Budgetary Outlay and Receipt Totals: Interim Report* (Washington, D.C.: Government Printing Office, 7 February 1973), p. 1.

[7] The Committee on Education and Labor, the Committee on Interstate and Foreign Commerce and the Committee on Judiciary.

[8] The Comitee on Interior and Insular Affairs, the Committee on Merchant Marine and Fisheries and the Committee on Public Works.

[9] U.S., Congress, House, *Congressional Record*, Vol. 119, Pt. 3, p. 2815.

[10] The Committee on Interstate and Foreign Commerce, the Committee on Public Works and the Committee on Science and Astronautics have created subcommittees on energy. The Committee on Interior and Insular Affairs considers itself to be the logical focus of energy legislation in the House.

[11] U.S., Congress, House, Select Committee on Committees, *Committee Organization in the House, Hearings*, 93rd Cong., 1st sess., volume 1 of 3, part 1 of 2, May and June, 1973, p. 283.

[12] House Resolution 132, 93rd Cong., 1st sess., 15 January 1973.

[13] P. L. 91–510, section 402(d).

TABLE 1

The present scheme of committee jurisdiction

Committee and Jurisdiction

1. Agriculture: Agriculture, forestry and rural development.
2. Appropriations: Appropriation of funds.
3. Armed Services: Military affairs and national security.
4. Banking and Currency: Wage and price controls, banking, international banking, deposit insurance, currency and coinage, housing, urban affairs, generally, and urban mass transit.
5. District of Columbia: Washington, D.C. affairs.
6. Education and Labor: Education, fine arts, manpower and labor relations.
7. Foreign Affairs: International relations and disarmament.
8. Government Operations: Budget and accounting measures, executive branch reorganization, intergovernmental relations, the efficiency and economy of government.
9. House Administration: Administrative matters of the House and federal elections.
10. Interior and Insular: Forestry, national parks, American Indians, water supply, mining, public lands, land-use planning, environment and territorial matters.
11. Internal Security: Subversive activity.
12. Commerce: Public health, air pollution, civil aviation, interstate oil compacts, railroads, commerce, generally, communications, interstate power transmission, securities and exchanges and the weather.
13. Judiciary: The judiciary, bankruptcy, espionage, crime, civil liberties, constitutional amendments, interstate compacts, immigration and naturalization, patents, national penitentiaries, antitrust matters and federal holidays.
14. Merchant Marine and Fisheries: The merchant marine, fisheries and wildlife, environment, oceanography and the Panama Canal.
15. Post Office and Civil Service: Census, national archives, postal service and the civil service.
16. Public Works: Flood control, river and harbor improvement, highways, public buildings and grounds, regional economic development, the Capitol Building, water pollution and water power.
17. Rules: Changes in the House rules and regulation of floor debate.
18. Science and Astronautics: Space exploration, science and technology, weights and measures and astronautical research and development.
19. Standards of Official Conduct: Official conduct.
20. Veterans' Affairs: Veterans' affairs.
21. Ways and Means: Taxes and the public debt, social security and welfare, national health programs—medicare and medicaid—revenue sharing and trade between nations.

TABLE 2

Committee jurisdiction scheme A

Committee and Jurisdiction

1. Agriculture and Rural Affairs: Agriculture and rural development.
2. Armed Services: Military affairs and national security.
3. Economic Affairs: Wage and price controls, banking, deposit insurance, currency and coinage, economic affairs, generally, regional economic development, bankruptcy, securities and exchanges and small business, commerce, and labor relations.
4. Budget and Appropriations: Budget ceiling, budget and accounting measures and appropriation of funds.
5. Ethics (nonexclusive): Official conduct.
6. Foreign Affairs: International relations, disarmament, Panama Canal, international banking and trade between nations.
7. Government Operations: Executive branch reorganization, intergovernmental relations, the efficiency and economy of government, public buildings and grounds, the Capitol Building, civil service, national archives and the postal service.
8. Judiciary: The judiciary, espionage and internal security, crime, civil liberties, federal elections, Constitutional amendments, interstate compacts, immigration and naturalization, patents, copyright and trademarks, national penitentiaries, antitrust matters, territorial affairs and federal holidays.
9. Natural Resources and the Environment: Forestry, national parks, water re-

sources, mining, public lands, land-use planning, environment, fisheries and wildlife, pollution, weather, flood control and energy.

10. Human Resources: Education, fine arts, manpower, public health, national health programs, American Indians, consumer affairs, social security and welfare, veterans' benefits and the elderly.

11. Space, Science and Technology: Space exploration, science and technology, weights and measures, astronautical research and development, census, oceanography and communications.

12. Transportation and Urban Affairs: Civil aviation, highways, railroads, merchant marine, rivers and harbors, urban mass transit, Washington, D.C. affairs, housing and urban affairs, generally.

13. Ways and Means: Taxes, revenue sharing and the public debt.

14. Office of the Speaker: Changes in the House rules, regulations of floor debate and the administrative matters of the House.

TABLE 3

Committee jurisdiction scheme B

Committee and Jurisdiction

1. Budget and Revenues: Spending ceiling—other committees appropriate via special subcommittees—budget and accounting measures, taxes, revenue sharing and the public debt.

2. Economic Affairs: Wage and price controls, banking, deposit insurance, currency and coinage, economic affairs, generally, housing, urban-rural affairs, regional economic development, bankruptcy, securities and exchanges, small business, antitrust matters and labor relations.

3. Human Resources: Education, fine arts, manpower, public health, national health programs, American Indians, consumer affairs, social security and welfare, veterans' benefits and the elderly.

4. International Relations: Military affairs and national security, international relations, disarmament, Panama Canal, international banking and trade between nations.

5. Judiciary: The judiciary, espionage and internal security, crime, civil liberties, federal elections, Constitutional amendments, Washington, D.C. affairs, interstate compacts, immigration and naturalization, patents, copyright and trademarks, national penitentiaries, territorial affairs and federal holidays.

6. Natural Resources: Forestry, national parks, water resources, public lands, land-use planning, environment, fisheries and wildlife, pollution, flood control, mining, oceanography and energy.

7. National Policy Planning: Planning generally.

8. Government and Program Review: Executive branch reorganization, intergovernmental relations, public buildings and grounds, civil service and the economy and efficiency of government.

9. Rules and Agenda: Changes in the House rules, regulation of floor debate, administrative matters of the House and referral of bills.

10. Science and Space: Space exploration, science and technology, weights and measures, astronautical research and development, communications, national archives, census, postal service and weather.

11. Transportation: Civil aviation, highways, railroads, merchant marine, rivers and harbors and urban mass transit.

TABLE 4

Committee jurisdiction scheme C

Committee and Jurisdiction

1. Agriculture and Consumer Affairs: Agriculture and consumer affairs.

2. Armed Services: Military affairs and national security.

3. Budget: Spending ceiling—other comcommittees appropriate via special subcomas well as authorize.

4. Commerce, Banking and Labor: Wage and price controls, banking, deposit insurance, currency and coinage, economic affairs, generally, labor relations, commerce, securities and exchanges, federal holidays, bankruptcy and small business.

5. Communications: Communications, copyright and trademarks, national archives, census and the postal serice.

6. Community Development: Rural development, housing, urban affairs, generally, land-use planning, public buildings and grounds, revenue sharing, regional economic development, Washington, D.C. affairs, American Indians and veterans' housing.

7. Education: Education and manpower.

8. Energy: Mining, power and energy.

9. Government Review: Budget and accounting measures, executive branch reorganization, intergovernmental relations, the efficiency and economy of government, civil service and review of military procurement.

10. Health: Public health, health research, veterans' hospitals and national health programs.

11. House Administration: Administrative matters of the House, Library of Congress and the Smithsonian Institution.

12. International Affairs: International relations, disarmament, Panama Canal, international banking and trade between nations.

13. Judiciary: The judiciary, espionage and internal security, crime, civil liberties, federal elections, Constitutional amendments, interstate compacts, immigration and naturalization, national penitentiaries, territorial affairs and federal holidays.

14. Natural Resources and the Environment: Forestry, national parks, water resources, public lands, land-use planning, environment, fisheries and wildlife, pollution, weather and flood control.

15. Rules and Jurisdiction: Changes in the House rules, regulation of floor debate and referral of bills.

16. Science and Technology: Space exploration, science and technology, weights and measures, astronautical research and development, oceanography, patents, copyright and trademarks.

17. Standards of Official Conduct: Official conduct.

18. Social Services: Social security, welfare and veterans' pensions.

19. Transportation: Civil aviation, highways, railroads, merchant marine, rivers and harbors and urban mass transit.

20. Ways and Means: Taxes and public debt.

TOWARD RESTRUCTURING THE CONGRESSIONAL COMMITTEE SYSTEM

(By Norman J. Ornstein)

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Abstract: While the standing committee structures of the House of Representatives and Senate have functioned well for their legislative systems, some endemic problems remain. Because individual legislators have different backgrounds, interests and goals, and because committees have varying attractiveness for members, a natural selection process builds a distinct bias into committee assignments, overrepresenting those with special interests in the subject matter of the committee. Thus, rural legislators dominate the Agriculture and Public Works Committees; port area congressmen, Merchant Marine and Fisheries. The problem is especially acute in the House, where congressmen have only one or two committee assignments, and reformers have recently strengthened the powers of committee caucuses and subcommittees. Several large scale reforms are suggested to make committees more representative of the larger legislative entity and, thus, to improve the formulation of national public policy. For the House these reforms include: (1) consolidating standing committees to a total of seven or eight; (2) limiting the tenure of committee chairmen to prevent longterm accumulations of power by small numbers of legislators; (3) rotating committee assignments to further ensure a wider range of members on each committee and to give congressmen indepth experience in a larger number of issue areas. Formulas are suggested to limit the turnover on a given committee at any given time to protect expertise. For the Senate, a consolidation of both committees and subcommittees is suggested to give senators more flexibility to cope with a heavy and ever expanding workload.

Very early in its existence Congress adopted a standing committee system. One hundred and eighty years later, after periodic changes in committee structures, the standing committee systems of the House of Representatives and the Senate are the most significant features of both legislative bodies. The one assumption universally shared by those who are currently focusing on reform is that standing committees are here to stay in the United States Congress; no other mode of operation is ever discussed.

No doubt, standing committees have functioned well for Congress' operations. They have permitted the two legislative bodies to cope with their increasingly heavy workload through a manageable division of labor, and they have facilitated the process of individual specialization which provides expertise necessary to cope with the resource- and talent-rich executive branch and with the complexity of contemporary issues and legislation.[1] These are problems of a technological society and a large legislative body; neither of these conditions is likely to disappear. Thus, standing committees will become more and more solidified. Suggestions for change in the committee systems must be put within this framework.

Standing committees fulfill important goals for the legislative system. Because of their central position in the legislature, committees are also objects of great significance for individual legislators and their careers. Committee assignments are vitally important to each member, whether he is primarily concerned with implementing public policy, attaining internal power and prestige or protecting his elective flanks. Because committees have varying attractiveness to members, they tend to attract members with different goals; thus, they tend to be quite unrepresentative of the larger body membership.

THE PROBLEM OF COMMITTEE UNREPRESENTATIVENESS

In the House there are twenty-one standing committees; representatives sit on either one or two. Some committees deal with major issues of national public policy, such as Armed Services and Ways and Means. Others deal with narrower policy areas—which may still be vitally important to smaller groups within the society—such as Post Office and Civil Service and Merchant Marine and Fisheries. As Fenno has detailed in his recent book *Congressmen in Committees*,[2] each of these committees offers different incentives to its members—incentives which will attract some legislators, depending on their goals and outlooks, and will not appeal to others. Ways and Means and Appropriations appeal to members who desire influence and prestige within the House;

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Interior and Post Office appeal to those whose districts benefit from these committees. Internal incentives for specialization, the small number of assignments and the varying character of committees lead members of Congress to gravitate towards committees in which they have a perceived special stake or interest; thus, for example, congressmen from western areas go to Interior; those from rural areas go to Agriculture; and those from port areas go to Merchant Marine and Fisheries. Members who lack such an interest will leave these committees as rapidly as they can—a good example is Shirley Chisholm's brief encounter with the Agriculture Committee—and committees become dominated by those with an original special interest.

Some committees, such as Rules and Appropriations, do appeal to a wider range of legislators, and so an unbiased committee assignment procedure could make these universally desirable committees representative of the larger body.[2] With most other committees, however, it must be emphasized that a natural selection process is at work. Since committees have unequal attractiveness to members, then, regardless of the initial assignment process, people interested in farm problems will tend to gravitate to the Agriculture Committee and those with reclamation interests will move to Interior even if they are first put on incompatible committees.

It follows, then, that the policy outputs ratified—or blocked—by a particular committee might well be significantly different from those which would have been formulated if the entire body had been acting. While the full memberships of House and Senate do act on committee recommendations—although not on measures committees fail to report—the limited time available for floor consideration and the greater specific knowledge and interest of committee members give their recommendations great impact.

Moreover, the crucial importance of committees for individual legislators makes change in the committee system, especially major change, difficult to achieve. Too much is wrapped up in members' committees to allow them to easily cede jurisdictions—much less to permit committees to be abolished—and periodic reassessments of committees are infrequent. It is quite remarkable, given the tremendous changes which have occurred in America and the world in recent years, that the last time the committee systems of House and Senate were evaluated and restructured was 1946—the year before Richard Nixon first came to the House of Representatives.

In this essay, I will discuss these problems, and possible ways of reconciling the individual and system functions of committees. How can committees be responsive to the larger legislative entity, and how can future necessary change be facilitated? With fewer committee assignments, a more hierarchical structure and fewer noncommittee-based resources for members than has the Senate, the House of Representatives suffers more acutely from committee unrepresentativeness—although Senate committees are not immune—and so the House will receive somewhat more attention. In a latter section the Senate committee system will be discussed.

The proposals for reform which will be analyzed are not minor. If enacted, they would sweepingly alter congressional structures—with no certain fashion of predicting the emerging relationships of power. It would be more difficult, if not impossible, to get Congress to restructure itself willingly in such a fashion. However, a low probability of enactment should be no deterrent to analyzing large scale reforms—indeed, it could be argued that tailoring analyses of reform to perceived probability of success helps to limit the amount of change which will occur. Furthermore, the raising and discussing of larger questions and the challenging of some of the basic assumptions underlying the contemporary committee systems in the House and the Senate can give a better understanding of the role of committee structures in the congressional process.

PAST REFORMS

Any examination of committee structures must first be put into the context of the origin and the enactment of past reform proposals. Most recent efforts at internal reforms have focused on aspects of committee operations.[4] The seniority system arose from the 1910 revolt in the House.[5] The 1946 Legislative Reorganization Act's most sweeping provision greatly reduced the number of standing committees in both House and Senate.[6] In the Senate the most significant change of the 1950s was the Johnson rule,[7] which guaranteed each Democrat a major committee assignment. In the House the Rules Committee was the major focal point of the late 1950s and early '60s, with reformers attempting both to enlarge it[8] and to bypass it—via the twenty-one day rule. Recent reforms in the House in 1971 and 1973 have significantly altered the subcommittee system,[9] the selection of committee and subcommittee chairmen and the conduct of committee meetings.[10]

What have these reforms tried to accomplish? By examining some of them more closely one may be able to better understand how future structural changes might affect congressional behavior and legislative outputs.

POWER AND COMMITTEE CHAIRMEN IN THE HOUSE

The seniority system arose as a way of shifting power from an omnipotent Speaker of the House, whose greatest formal weapon had been his ability to appoint committee members and chairmen. The seniority custom was devised as an automatic, nonpolitical method for selecting committee chairmen and preventing a subgroup of legislative actors—in this case, a subgroup of one—from using accumulated power to dictate outcomes to the larger body membership.

The enlarging role of the federal government in American society and, to a lesser extent, the 1946 reduction in the number of committees greatly increased the importance and power of the standing committees. Much of this power went to the handful of committee chairmen. Chairmen had formal powers—control over hiring and firing of committee staff, control over formation and jurisdiction of subcommittees and appointment of subcommittee chairmen—as well as the informal influence of prestige and expertise. Most importantly, the technical operation of the seniority system in the House meant that chairmen achieved their positions automatically and retained them without being directly responsible to any larger authority. The important step, ratification of the appointment by the majority party caucus, was done by a single vote for all committee assignments and chairmanships, making it virtually impossible to challenge any particular chairman.

Working mainly through the House Democratic Caucus, contemporary reformers in 1971 and 1973 moved, through a series of changes, to rectify this latter day power imbalance in which smaller concentrations of power, rather than being eliminated, were centered in the hands of committee chairmen.[11] First, the Democrats attempted to get automatic voting by the party caucus on each individual chairmanship. They partially succeeded in 1971 at the start of the 92nd Congress; a vote was permitted on a chairman if ten members demanded it. At the beginning of the 93rd Congress in January of 1973 an automatic vote procedure was implemented. No chairman lost his position in either of these years, but, as Peabody has noted: "all were put on notice that their conduct would be subject to bi-annual examination with the threat of caucus removal at least a possibility."[12]

At the same time vast changes have been implemented in the structure of the subcommittee system, also accomplished largely via the Democratic Caucus.[13] Subcommittee chairmanships were limited to one per member in 1971, thereby spreading out these positions to younger members. In 1973 a Subcommittee Bill of Rights was implemented by the Caucus; it enlarged and specified the powers of subcommittee chairmen, enabling them to hire their own professional staffs and to handle legislation on the floor. The selection of subcommittee chairmen was formalized, as well. All of these reforms strengthened subcommittees and subcommittee chairmen at the expense of committee chairmen. Importantly, these changes were made subject to ratification by the individual committee caucus of the majority party.

There is little question that, although the specific recommendations came from an ideologically and regionally balanced Democratic committee on reform headed by Representative Julia Butler Hansen of Washington, these changes were instigated by liberals who felt the committee system of the 1960s—especially through seniority—favored Southern conservatives. Nevertheless, an examination of them, on paper at least, shows that these 1971 and 1973 changes were sensitive to the unrestricted accumulation of power brought about through the *1910* reforms. Some power was taken from committee chairmen and spread out to subcommittee chairmen, which meant a broader distribution of power in terms of region, ideology and seniority. However, unlike the previous reforms, checks were put on committee chairmen, via the party caucus, and on subcommittee chairmen, via committee caucuses. In theory, at least, one of the major problems of the committee system in the past was ameliorated, although it will take several years before the real impact of these reforms can be assessed.[14] Nevertheless, as nearly as can be determined and as far as structural reforms can go, the House Democrats have arranged safeguards against the possibility of a substitution of one hundred fifty fiefdoms for twenty.

These safeguards can break down, especially through individual committees and their majority party caucuses. While committee chairmen have had their formal powers curbed, they and their subcommittee counterparts are now responsible to the full committee membership, especially the majority party caucus. Should a committee decide to defy the full party membership there are few direct remedies. One cannot easily restructure an entire committee; thus, a problem which remains is ensuring that an individual committee does not become biased in some fashion relative to the full body membership—the representativeness problem again.

SUGGESTIONS FOR CHANGE

How, then, can committees reflect the makeup of the entire body as a microcosm of the nation without drastically affecting their capacity for knowledgeable formulation and oversight of public policy? A series of structural modifications might be able to achieve this goal, while at the same time building in an increased flexibility for future change; possible reforms are discussed below. It should again be emphasized that such changes are not likely to be implemented soon, if ever. For one thing, their inception would involve success in several separate forums. Committee assignments are handled by individual party caucuses; proposals to implement uniform criteria, such as limita-

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tion on continuous service on a committee, would have to be accepted by each of the parties, or would not work. Other proposals, such as a reduction in the number of standing committees, could be implemented through the House as a whole, but would involve large scale changes which would encounter opposition from many sources—not the least being many of the current committee chairmen and other high ranking members.

Finally, these changes operate under the assumption that the House is attempting, first and foremost, to pass and oversee good national governmental policy. Congressmen, however, have other goals as well—some personal, such as getting reelected or having personal influence within the House, and some constituency-related, such as seeing that particular interests of one's own district are well represented. To the extent that these goals predominate, major changes which might conflict with them will have little chance of success. Nevertheless, discussing significant structural reforms is a useful method of understanding how Congress, through its committees, operates.

Consolidation of committees

The first, and greatest, step in making committees representative would be to consolidate committees in the House; the final total should be perhaps seven or eight standing committees, each with approximately fifty-five members and with each representative having one assignment. Our concern here is less with the specifics of rejurisdiction or with the problems of appropriation, taxation and authorization—questions which have been discussed in detail by others—than with the broader implications of this type of innovation. Elsewhere in this volume Robert L. Peabody outlines one system,[15] which we will utilize for analytic purposes. In a modification of this type one could consolidate committees with very different incentives and, thus, broaden the natural base of each new committee. For example, a Committee on Natural Resources could include interior, public works, environmental and agricultural jurisdictions, appealing to both urban congressmen concerned about pollution and rural congressmen concerned about farm problems. A Committee on Human Resources could include the areas of education, health, welfare and labor. A Committee on Defense and Foreign Policy could encompass armed services, foreign affairs and international economic concerns. The other committees suggested by Peabody are Government Operations, Technology and Sciences, Ways and Means, Appropriations and Judiciary and Constitutional Rights.

House committees now range in size from nine to fifty-five; with this reform all committees would be composed of about fifty-five members. Thus, to some extent, the diffusion of workload which a committee system makes possible would be countered—it is extraordinarily difficult for fifty-five people to work as a unit, and the tendency would be strong for a greater division of labor. As was the case following the 1946 consolidation of committees down to nineteen, subcommittees would continue to proliferate. The recent House Democratic reforms which increased subcommittee chairmanships suggest that this proliferation would not necessarily be bad.[16] Giving out more subcommittee chairs can encourage congressmen to do their legislative work; furthermore, by giving each member a piece of the action, legislative activity and oversight can be enhanced. Once one reaches the point of overlap at which members must chair several different units, the effects of subcommittee proliferation become negative. Until that point is reached, more subcommittees may be beneficial. With fifty-five-member committees, the major work would be done at the subcommittee level; therefore, great care would be required to make subcommittees both representative and responsive. The problem of creating one hundred fifty autonomous and autocratic subcommittee chairmen is a real one which is reduced, but not eliminated, by the principle of committee caucus review.

Limitation of chairmanship tenure

Secondly, the problem of the chairman's power must be considered—both for committees and, as indicated above, subcommittees. Committee chairmen retain considerable influence within their bailiwicks; a reduction in committees would enhance the influence of the smaller number of new chairmen, in spite of the steps which have been taken to curb the powers of chairmen. An essential corollary of committee consolidation would be limitation of the tenure of committee chairmen, for example, to six years in their House careers. Such a step would decrease the influence of chairmen and would discourage any long term individual accumulation of power. Exceptional individuals could still make significant contributions through subcommittee chairmanships and other legislative activities. Chairmanship of any single subcommittee would have to be limited in the same fashion, for the same reasons; yet, to give continuing incentives to members for legislative work, the future opportunity to chair other subcommittees should exist.

In a practical sense, this proposal—or some variation—could be implemented through the majority party caucus; the proposal could exempt current chairmen and allow them to complete their careers in order to diffuse a major source of opposition. Indeed, a similar proposal was suggested this past year to the Democratic Caucus committee on reform by Florida Representative Charles Bennett; however, it was not acted upon.

Rotation of assignments

Another way of ensuring committee representativeness is to rotate, in some fashion, committee assignments. Currently, continuity on committees is encouraged, primarily by rewarding continuous committee seniority rather than overall seniority. Thus, when Representative Edith Green—Democrat, Oregon—moved last year from the Education and Labor Committee to the Appropriations Committee, she sacrificed eighteen years of seniority and a second ranking position on Education and Labor to become thirtieth ranking member of thirty-three Democrats on Appropriations. Lateral moves of this sort are not often taken.

On the other hand, the new House Democratic Steering and Policy Committee has built in a procedure which ensures a steady rotation of members, while limiting the overall turnover each two years to permit required continuity. A similar system could easily be adapted for the standing committee system. For example, continuous service on a committee could be limited to six years, after which a member would be required to leave the committee for four years before returning, if he desired. Ranking on each committee, and subcommittee chairmanships, could be decided by a combination of overall tenure and committee seniority—ratified by committee caucuses—as could committee chairmanships; if the most senior members had already served six years as a committee chairman, the next ranking member would be recommended to the majority party caucus. Finally, to ensure a continuing influx of fresh viewpoints, preference for some, perhaps half, of contested vacancies on desirable committees could be given to those who have never served on the committee, so long as the overall turnover on the committee did not exceed one-third for a given Congress.

A rotation system of this type would have several consequences. First, it would prevent any small group of legislators, whatever their ideologies, from becoming entrenched in the same formal power positions for extended periods of time. Also, by diluting internal vested interests, it would enable Congress to restructure itself more easily as policy areas and problems changed—legislators would have less stake in preserving their own congressional status quo.

Secondly, it would broaden the knowledge base in Congress by giving each legislator a wider range of experiences in several issue areas, without penalizing him for doing so. This would not drastically impair member expertise, for members could still spend several years during their legislative careers working on a single committee or dealing with a single problem. As most legislators would attest, a good grasp of the issues facing a particular committee or subcommittee can come after a short period of time; the outlines, if not the specifics, of policy proposals are usually quite similar from term to term. A legislator who has served on a committee for thirty years is little more expert than one who has served on the same committee for fifteen years—if they are matched in perseverance and intelligence. In fact, by allowing congressmen to examine issue areas from different perspectives, a rotation system could enhance expertise. Moreover, by building in mechanisms to limit the turnover on a committee at any given time to one-third or one-half, one could prevent the admittedly improbable situation of a committee composed entirely of inexperienced newcomers.

Finally, each committee would, at any given time, more accurately reflect the overall membership of the body—regionally, ideologically and in seniority. A regularized change of membership would give each committee a wider range of legislators; rural congressmen would be spread more broadly throughout the committee system and would no longer be so concentrated in the Agriculture and Public Works Committees, while big city congressmen would no longer be as heavily represented on the Education and Labor and Foreign Affairs Committees. Policy outputs formulated by a wider spectrum of legislators would be more likely to reflect national needs and desires.

This innovation would, however, have significant side effects as well. Larger proportions of members would have served on each commitee and would be less hesitant about speaking out on the floor about a committee's recommendations. All committees would become, in Fenno's phrase, more permeable, and floor debate would become more significant. Most likely, amendments would increase, and the efficiency of floor debate and decision making would decrease correspondingly. This type of environment exists to an extent in the Senate, which by virtue of its smaller size can react more flexibly; it might create chaos in the House. On the other hand, floor procedures could be created to streamline debate and deliberation, and vigorous and meaningful floor debate—if not efficient—might well produce better decisions.

Presumably, also, committee staffs—having the continuity on committees which legislators would lack—would increase in importance, particularly in crafting legislation. This is not a serious problem, however. Legislators would not become wholly dependent on their staffs; they are intelligent and capable individuals with control over the direction and substance of policy concerns. Elliot Richardson's successful administration of the Defense Department—Richardson being no expert in technical defense topics—is an example of the limitations or staffs in dictating or shaping outcomes.

Consolidation of committees deals with many of the same areas; perhaps, given its implementation, a built-in rotation of committee assignments would be unnecessary. A better solution might be merely rotation among subcommittees, limiting chairmanships and tenure in a similar fashion. This approach would check the erosion of special-

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ization and expertise caused by committee rotation; however, it would limit the interchange of ideas and viewpoints across policy areas and would make a future rejurisdiction of committees more difficult by giving members more stake in protecting their particular committee's interests.

THE SENATE

The House of Representatives and the Senate are two very different institutions with disparate modes of operation; thus, committees and the committee system as a whole might serve quite varying functions in the two bodies.[17] The most fundamental differences between the two institutions is also the most obvious—that of membership size. The one hundred members of the Senate serve on seventeen standing committees and one hundred twenty-one standing subcommittees; comparable figures for four hundred thirty-five House members are twenty-one committees and one hundred and twenty-three subcommittees. Numerically, it is obvious that senators must have either smaller committees or more committee assignments; in fact, the Senate has both. Senate standing committees average fifteen members in size; House committees, thirty. As Asher notes, in his essay, in this volume, senators average 2.6 committee and 9.7 subcommittee assignments, while House members sit on an average of 1.6 committees and 3.5 subcommittees.

It is quite clear that those size differences have a direct importance for proposals of committee structural change.[18] For example, while an expansion of subcommittees in the House might be desirable—to spread the action and encourage substantative involvement by younger legislators—such an action would be highly undesirable in the Senate. Better than half the members of the House lack subcommittee chairmanships or ranking minority memberships, but ninety-seven out of one hundred senators have at least one ranking position and many senators have several. To add new subcommittees in the Senate would spread even thinner its already overburdened members. Thus, one might at the same time call for an expansion of subcommittees in the House and a consideration and reduction in the number of subcommittees in the Senate.

Similarly, 60 percent of the Senate is represented on the three most powerful and prestigious committees—Appropriations, Finance and Foreign Relations—while only 22 percent of the House sits on its three super committees—Appropriations, Rules and Ways and Means. The problem of committee representation and meaningful assignments for legislators is a different one in the Senate than in the House. A rotation of committee assignments would be less meaningful in the Senate, for most senators already serve on a broad range of committees. In the Senate a more major problem is that of the individual workload and division of labor. Senators have too many time commitments and assignments; they are stretched too thin, substantively. A majority of Democratic senators chair multiple subcommittees, and most senators miss the bulk of their scheduled committee and subcommittee meetings and hearings.[19]

For these reasons a consolidation of both committees and subcommittees makes sense for the Senate. The overall workload will not decrease no matter what the reform, but a reduction in the number of assignments and chairmanships for each senator would enable a more efficient allocation of time and resources. Senators would have more control over scheduling; overlaps could be minimized. A consolidation plan similar to Peabody's for the House could be employed, while also limiting chairmanship tenure in the manner described. Senators would still sit on two committees and several subcommittees—they would be permitted no more than two chairmanships; thus, they could still cross several issue areas, limiting the problem of representatives.

CONCLUSION

Standing committees are not Constitutionally mandated structures; they are congressional responses to heavy workloads and unwieldy decision making. The reforms mentioned above are an attempt to make committees and their policy outputs reflect the larger legislature membership and, thus, the nations. Enacting these changes in the House or the Senate is, to say the least, unlikely—in the near future, at any rate. Nevertheless, the implications or modifications of this type should be seriously contemplated by both scholars and legislators. At the least, by discussing them we shed light on the underlying assumptions, behavior and limitations which characterize contemporary committees.

FOOTNOTES

[1] The increasing role of the federal government in American society and the growing volume and complexity of governmental decisions have created great problems for Congress in gathering and evaluating information to formulate and oversee public policies. How can 535 legislators—most of them lawyers—hope to compete with a bureaucracy which today is 3.5 million strong—with countless scientists, doctors and technical experts backed up by vast resources, including 6,000 computers? The response in Congress has been the sharpening of specialization and division of labor via the committee system. The House, in particular, has tried to develop its own member specialists, offering them incentives to maintain and enhance their expertise. Thus, the seniority system is based on continuous committee service, not House service, encouraging members to stay on their committees and not to move around, thus, presumably not diluting their knowledge.

[2] Richard F. Fenno, Jr., Congressmen in Committees (Boston, Mass.; Little, Brown, 1973).

[3] Such an unbiased system does not, however, exist now.

[4] There are two notable exceptions. Focus on the filibuster—Rule XXII—in the Senate points up the relative importance of floor considerations in the Senate. The recorded teller vote and electronic voting in the House may be the most significant structural reforms in Congress since 1946. See, for example, *Congressional Quarterly Weekly Report*, 25 September 1971, pp. 1967–1970.

[5] See, Nelson Polsby, Miriam Gallagher and Barry Rundquist, "The Growth of the Seniority System in the U.S. House of Representatives," *American Political Science Review* 62 (September 1969), pp. 787–807.

[6] See, George Goodwin, *The Little Legislatures* (Amherst, Mass.: University of Massachusetts Press, 1970), pp. 3–30; and Walter Kravitz's essay in this volume.

[7] For a good account of the implementation of the Johnson rule, see, Rowland Evans and Robert Novak, *Lyndon B. Johnson; The Exercise of Power* (New York: New American Library, 1966), pp. 74–75.

[8] See, for example, Tom Wicker, *JFK & LBJ* (New York: William Morrow, 1968), pp. 25–82.

[9] Norman J. Ornstein, "Causes and Consequences of Congressional Change: Subcommittee Reforms in the U.S. House of Representatives, 1970–73" (Paper presented at the 1973 Annual Meeting of the American Political Science Association, New Orleans, Louisiana, 4–8 September 1973).

[10] See, *Washington Post* story by Mary Russell, 5 July 1973, p. A13.

[11] Ornstein, "Congressional Change." It is quite interesting to see the increased importance of the party caucus, both in substantive and structural areas, in Congress.

[12] Robert L. Peabody, "House Leadership, Party Caucuses, and the Committee Structure," Select Committee on Committees, Working Paper on House Committee Organization and Operation (Washington, D.C.: Government Printing Office, 1973).

[13] Ornstein, "Congressional Change."

[14] There are many ifs involved here. For one thing, if the Democrats should become the minority party in the House, these changes become largely academic. In addition, one must remember that there were structural barriers to an accumulation of power in 1910—primarily, the discharge petition and Calendar Wednesday—but they were little utilized and have not had the intended impact.

[15] See Peabody's contribution to this volume.

[16] Ornstein, "Congressional Change."

[17] See, Fenno, *Congressmen in Committee*, especially chap. 5.

[18] See, Norman J. Ornstein, "Information, Resources and Legislation Decision-making: Some Comparative Perspectives on the U.S. Congress" (Ph.D. diss., University of Michigan, 1972), especially chap. 6.

[19] For some additional suggestions and thoughts on this topic, see, Norman J. Ornstein, "Streamlining the Work of the Senate," *Washington Post*, 2 August 1973, p. A24.

SHORTAGE OF RAILCARS

Mr. **HUMPHREY**. Mr. President, the March 13 edition of the New York Times carried a most interesting article, "Railcars Needed in Fertilizer Lag."

The Department of Agriculture claims that approximately 4,000 additional railcars are needed to move fertilizer to the farmers in time for spring planting, and that it was working with the ICC to get those cars.

The decision is to be made by Mr. Butz in the next few days, and Mr. Hamilton of the ICC felt that his agency could respond quickly depending on the urgency of the request.

Mr. President, I do hope that the message gets through to Mr. Butz that this is an urgent matter. Senator McGovern's Subcommittee on Agricultural Credit and Rural Electrification has been holding fertilizer hearings, and without exception transportation has been reported as one of the major bottlenecks.

But beyond the issue of getting additional railcars for fertilizer, we simply must not allow the transportation problem itself to become a crisis. If we have a bumper crop this year—and we should if only because of our increased acreage—we will also need more railcars at that time. I strongly urge appropriate Federal agencies to give high priority now to meet this requirement.

Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Mar. 13, 1974]

Rail Cars Needed in Fertilizer Lag

(By William Robbins)

Washington, March 12.—Much of the nation's hope for an adequate supply of food at reasonable prices in the coming year rides on the railroads, and a decision in the next few days on a big increase in rail cars to move fertilizer will be critical, officials of the Department of Agriculture said today.

Approximately 4,000 more rail cars than are now being used are needed to move the fertilizer to farmers in time for spring planting, the department officials said at a news briefing.

"We have got to start moving right now," said James H. Lauth, director of the Transportation and Warehouse Division of the Department's Agricultural Marketing Service. Immediate action is needed if fertilizer for feed grains, especially corn, is to be in dealers' hands when farmers need it, between May 1 and May 15, he said.

"We are working with the Interstate Commerce Commission to try to get the cars to move the fertilizer," he said.

But what may be required, he explained, is first a decision by the Secretary of Agriculture that enough of an emergency exists to divert the cars from other activities and, then, an emergency order by the I.C.C. requiring the diversion.

MOST CRITICAL NEED

The transportation requirement was cited as the most critical element during a discussion of shortages affecting the outlook for food production at the news briefing.

Other officials taking part in the briefing were Nicholas H. Smith, director of the Department of Agriculture's Energy Office, and J. Dawson Ahalt, staff economist at the department. Also leading the briefing was William J. Kuhfuss, president of the American Farm Bureau Federation, who is chairman of the Agriculture Advisory Committee of the Federal Energy Office.

Even if all the cars required were supplied in time, the official said, there would still be fertilizer shortages. The shortage in nitrogen fertilizer was estimated at 5 per cent of demand, and phosphates were estimated to be 10 per cent short of demand.

Other materials affecting production that were discussed were diesel fuel, gasoline, propane, bailing wire, and bailing twine, as well as phosphates used in livestock feed.

Careful management of the supplies and care in allocations to get all available materials into farmers' hands at the right time will be required if the nation's goals of big increases in crop production are to be met, the officials said.

TOP FUEL PRIORITY

They expressed continued hope, however, that the goals of record output would be achieved. Noting that agriculture had been given top priority in fuel allocations, Mr. Smith acknowledged:

"We appreciate the fact that you can't run a tractor on priorities."

In regard to the rail car requirement, Mr. Lauth said, a decision by Secretary of Agriculture Earl L. Butz can be expected within the next few days.

A problem, Mr. Kuhfuss noted is that I.C.C., regulations were written for other times and other situations. The question is whether action can be achieved swiftly, he said.

But Edgar B. Hamilton Jr., press information officer at the I.C.C., expressed optimism that the agency could respond quickly to a request by the Secretary.

"A lot depends on how urgently he expresses the need," he said, adding:

"What we have got to find out is how many cars are needed at a given point at a given time. Then we can take action and I'm sure we will."

A problem, however, is that the cars needed to move fertilizer are now occupied in moving record quantities of grain.

NITROGEN NEED CITED

In discussing the shortage of fertilizer supplies, the agriculture officials said that nitrogen was the element most critically needed for production increases.

But they said, as other agriculture experts have explained recently, that production losses resulting from any reduced application of fertilizer would be smaller proportionally than the amount of the fertilizer cutback.

The reason, they said, is that as more and more fertilizer is applied, there is decline in the gains from each degree of increment.

Mr. Ahalt noted, for example, that a recent Illinois study had shown that in areas where 125 to 130 reduction in the fertilizer application caused a loss of only about 8 to 12 per cent of corn production.

The expected shortfall in fertilizer is far less than the 25-pound reduction used in the study, he pointed out,

Mr. Kuhfuss observed that the critical question would be the time it took to get the supplies to farmers. Even a delay of a few days at planting time could cause serious losses, he said.

ARAB OIL RESUMING NO PRICE CUT HELP

Mr. FANNIN. Mr. President, at any moment now we are expecting word that the Arab oil boycott will be lifted. This is both good and bad news. It is good that we will have the additional supply to help meet our needs. It is bad news in that the price for this oil is astronomical and could cause severe economic consequences for the United States and for the world.

In the concern over lines at gas stations and attempts to roll back crude oil prices arbitrarily, little public attention has been paid to the big problem facing us once the boycott is over.

The Associated Press recently carried an article which provided a discussion of some of the main problems which will be created by the world's heavy dependence on Mideast oil. Although I am not necessarily in agreement with all of the answers given in this presentation, I do believe that this article raises many significant points that the Congress, the administration, and the American people must consider.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Bakersfield Californian,
Feb. 25, 1974]

ARAB OIL RESUMING NO PRICE CUT HELP

WASHINGTON.—Even if the Arab oil embargo is lifted soon, the economic impact of sharply higher oil prices will be felt around the world for a long time.

In the United States, the long lines at gasoline stations might diminish but the high fuel prices wouldn't. In many other nations, the prospects are much more dismal. Some face recessions, others depression. The prices may lead to starvation in some extremely poor countries.

U.S. government officials, American financial leaders, and officials of international institutions are trying to work out plans to ease the financial impact of the higher prices. In question and answer form, here are some of the issues involved:

Q. How much more money will the Arab nations and other oil-producing countries collect because of higher prices this year?

A. The best estimate is about $50 billion more. That's about five times the value of gold in Ft. Knox. The United States probably will have to pay about $15 billion more for imported oil this year.

Q. I assume the U.S. oil companies will be putting up the extra money and then charging consumers higher prices?

A. That's right. Oil companies may, under price regulations, pass on to consumers the higher costs of foreign oil. That means the American rate of inflation is going to continue high.

Q. What about other industrial nations, such as France, Japan and Germany?

A. The higher prices will pose more of a problem. Japan, for instance, is wholly dependent on foreign oil. Many of the industrial nations will be pressed to come up with extra money. Therein lies the danger.

Q. Why?

A. Because that's the possibility that some nations may try to increase their foreign earnings to raise the necessary cash to pay off the Arabs. One technique would be to devalue their currency. Then their exports to other countries would become cheaper almost immediately. And they could pick up sales. A devaluation is, in effect, a price cut.

Q. What's wrong with that? Sounds like an extension of the free enterprise system to me.

A. The danger is that it would touch off a round of competitive devaluations and wind up in a full-scale trade war, to nobody's benefit, except, possibly the Arab nations.

Q. What's another way to raise the needed cash?

A. Well, a nation might go to the other extreme and put up import barriers to keep foreign goods out. It might result in a balance of trade surplus and net earnings. But if every nation did that, the free-trade system would break down and all kinds of dire economic consequences might result.

Q. What's the answer then?

A. The unfortunate thing is that there is no easy one. Now, the industrial nations are concerned with what the Arabs might do and how the capital they are accumulating will flow back to them. There could be a partial solution in the way the money flow back.

Q. What do you mean by that?

A. It depends on what the Arab-producing states do with the money, most of it, as I said, in dollars. The Arabs certainly wouldn't hold dollars for long, but would probably deposit them initially in banks either in Beirut or Switzerland or perhaps other financial centers. Then they would consider whether to invest the money—perhaps buy land in France, stock in the United States and so forth.

Q. But that doesn't assure an equitable flow of money to all countries?

A. That's right, and it might mean serious financial problems for some.

Q. How about the United States?

A. The dollars are inevitably expected to flow back here. The nation could have a big balance of payments surplus eventually. The financial impact of the higher prices here won't be that great—except on prices.

Q. Ah, but what if the Arabs decide to use their big supplies of money in a different way? Suppose they wanted to launch an attack on the dollar as another form of political blackmail?

A. It's possible. But few people within the government expect the Arabs to use their money to cause such worldwide financial disruption.

Q. Is there anything the United States and international institutions can do?

A. Treasury Secretary George P. Schultz has proposed that other nations set up a new international investment institution. This would be the vehicle through which the Arab and other producing nation investment money would flow. Presumably, there would be some kind of coordination of investments. The International Monetary Fund would probably extend loans to countries which needed the money to pay higher oil bills.

Q. How will the Arabs receive these suggestions?

A. No one knows. There appears to be no Arab unity on the question.

Q. You said something about starvation and depression in some countries. How would that happen?

A. There are 30 or 40 nations, India the most notable, which are already in dire straits. India is facing financial difficulty already because it has to pay higher food and fertilizer bills for its huge population. It will be impossible for these nations to come up with the extra $10 billion needed for higher oil prices.

Q. Is there an answer?

A. Well, yes, but it depends on what the Arabs will do with their money. A number of proposals to help the developing nations have been made. But it will require multination help.

Q. What could the Arabs do?

A. They could, for instance, lend their money at very low interest rates to the poor nations. Or they could extend foreign aid directly, such as the United States did to Europe after World War II. They could sell their oil to the developing nations at low prices and to the industrial nations at high prices. All of these ideas have been proposed.

Q. Will the United States help?

A. That's debatable now. Congress has turned down, for the time being, a request to provide the U.S. share to a World Bank agency that makes easy-term loans to the poorest of the poor nations. Some congressmen are wary about voting funds for aid if the money is simply going to wind up in Arab hands.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, last December the international community celebrated the 25th anniversary of the proclamation of the Declaration of Human Rights. This remarkable document notes that without the recognition of the inherent dignity and the equal and inalienable rights of all members of the human family, there can never be freedom, peace and justice. In short, it states that peace and progress in the human rights field are closely linked. In many ways, it resembles our own Declaration of Independence.

Since that proclamation, a series of treaties have been adopted by the international community in an effort to give the force of international law to these noble ideals. One such treaty is the Genocide Treaty. Drafted in the post-World War II era, it seeks to outlaw any attempt to systematically eliminate a racial, religious, national or ethnic group.

Ironically, it was the United States which was the prime mover behind the drafting of this treaty. Yet today, a full generation later, the U.S. Senate has not given its advice and consent to this humanitarian treaty. This inaction has been a source of diplomatic embarrassment for our diplomatic corps, puzzling our allies and delighting our enemies.

Mr. President, over 75 nations have ratified this treaty including all of our major Western allies. We owe it to ourselves to ratify this treaty now and, thereby, rededicate ourselves to the basic principles of human rights for which our forefathers fought.

NORTHEAST REGIONAL RAIL REORGANIZATION

Mr. JAVITS. Mr. President, the newly created Rail Services Planning Office of the Interstate Commerce Commission has begun hearings, pursuant to the Regional Rail Reorganization Act of 1973, to restructure and revitalize the freight and passenger rail service system in the Northeast and Midwest. The hearing's primary purpose is to receive comment on the Secretary of Transportation's rail service report, which contains the DOT recommendations for achieving a profitable system.

That report recommends massive abandonment of branch lines and local service. In New York, it classifies 1,875 miles, or 34 percent of all rail track, as potentially excess. This should be compared to the report of the New York Department of Transportation which concluded that 500 miles of trackage was unprofitable.

The difference is in methodology. But the transportation needs of the people of the Northeast cannot be determined by statistical analysis alone. They must be developed from a host of factors—factors that the DOT report did not consider.

Among those factors are the energy and environmental advantages of railroad transportation, the increasing need for passenger service, the economic effect on individual communities and railroad employees, and the importance of competition.

The U.S. Railway Association must prepare a preliminary system plan based on the DOT report and the results of the ICC hearings. I believe that sufficient testimony will be produced at the hearings to merit retention of many of the lines and rights-way recommended as excess. I hope that all affected parties will contribute to this process so that the Planning Office will have a complete and accurate information base for its comprehensive report.

In my testimony before the Commission, I stressed the importance of the factors mentioned above and urged the Planning Office to consider each of them in depth before making its recommendations. I ask unanimous consent that my testimony be printed in the Record at the conclusion of my remarks.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Testimony of Senator Jacob K. Javits Before the Rail Services Planning Office of the Interstate Commerce Commission

Mr. Examiner, I commend the Interstate Commerce Commission's Rail Services Planning Office on the speed and efficiency with which it has set up these important hearings. I am also pleased to see that Buffalo, New York has been added to the list of cities in which hearings are to be held, since there are many interested parties in Erie County unable easily to attend the hearings in Albany or New York City.

I have two procedural comments to make before getting to the substance of the two volume report entitled *Rail Service in the Midwest and Northeast Region* prepared by the Secretary of Transportation. First, it has been extremely difficult for interested citizens to obtain copies of the Report. My Senate office received a single copy, and was, consequently, unable to meet requests from others for the Report. Interested persons will be unable to comment intelligently if the Report is not more widely disseminated.

I therefore urge the Commission to make every effort to disseminate the information contained in the Report to all interested parties, e.g. citizens, shippers, localities, etc. I also ask that the hearing record remain open as long as is necessary to enable interested parties to submit written comments, after they have had an opportunity to review the Report.

My second procedural comment relates to the format of the Report. Color coding the rail lines that are "not necessary to serve points recommended for service" leads the reader to believe that all other (non-color coded) lines are safe. This is not the case. Consequently, I ask that further hearings be held in any area where rail lines which are not recommended for abandonment in the Report become slated for discontinuance.

Turning to the Report itself, although I believe the Department of Transportation used a uniform approach and applied it objectively to all parts of the existing system, I feel the results do not adequately take into account potentially disastrous economic impact upon individual counties and towns.

The Report asserts that 95% of the existing local freight service in New York State can be provided over 66% of existing trackage. I hope this is a realistic prediction and I emphasize that it remains to be proven in terms of present and potential *needs, rather* than historical data alone.

But it must be remembered that eliminating trackage is *not* in and of itself the ultimate goal. Rather, we must aim toward expanding railroad use which is clearly the most energy-efficient way to move both people and freight. In this connection, I take strong issue with the Report's recommendations drastically to cut service in certain geographic areas, particularly New York State. In the Amsterdam and Poughkeepsie zones, for example, traffic on tracks slated for abandonment is far too great. Such massive reduction in rail service to areas that depend on the railroads for present needs and future development would, in my view, be unwise and, possibly, fatal. It is put forward in the Report at precisely the time that upstate New York papers such as the Syracuse *Post Standard* and the Buffalo *Courier Express* are urging expanded, comprehensive improvement of rail service throughout New York State.

The transportation needs of these areas—and other areas where drastic reduction is planned—must be investigated with particular care. Traffic in any given area should not be cut more than 10% unless it is absolutely clear that alternate, energy-wise and economical service is available.

In addition, I believe that an intensive analysis should be conducted of the needs of shippers whose livelihoods depend upon rail transport. Shippers, and the communities they serve, should be given every opportunity to present evidence of actual growth since the date of issuance of the Secretary's Report, and of long-range development planning.

Every effort should be made to preserve trackage and feeder lines in areas which can demonstrate potential for freight traffic growth or rail passenger service. Study and recommendations should also be made concerning alternative service afforded to those shippers who will eventually lose direct rail service because of abandonment. My inclination is that piggyback rail service can be provided to many; in-depth study is, however, required.

Two other subjects of critical importance merit more thorough and comprehensive analysis than has been given to date. These are energy-conservation and environmental impact. Congress has specifically required that the new rail system be designed to utilize those modes which require the smallest amount of "scarce energy resources" and which do not adversely impact upon our environment.

The precise energy usage and negative environmental impact of the different modes of transport should be carefully compared. All efforts must be made to maximize energy-conservation and to minimize ecological disruption. Because the energy entailed in rail use is relatively low, every effort should be made to preserve rail lines that show the potential for economic service. Our transportation system must not only serve present needs but must be able to meet prospective needs of the rural areas and of increasingly congested cities and suburbs.

With regard to the interests rail service system, I believe there may be a need for the establishment of two new corporations, as suggested in the *Secretary's Report*. It is essential that the major mainline routes in the system be served competitively. In areas where routes are serviced by bankrupt carriers, the temptation is great to suggest elimination of all but one of the routes, or to leave alternative routes to the newly established corporation. These temptations should be resisted. Competition on the major routes must be preserved; this should be a primary goal of the emergent system. If solvent railroads do not enter the market, an additional railway corporation should be established to provide the necessary service on a competitive basis.

My final comment relates to rail passenger service which, while not the focus of the Secretary's Report, should be carefully evaluated before abandonments are recommended. The need for increased rail passenger service has, in this period of energy crisis, become readily apparent. Inter-city rail and commuter line passenger service—work and recreation-related—are increasing and will continue to increase (as Amtrak has demonstrated). The Report does not adequately take passenger service into account. It recommends, for example, elimination of part of the Penn Central's Harlem Division north of Mount Kisco, New York. This must not be permitted. It is at odds with one of the greatest current needs of our suburban population.

In conclusion, much closer attention must be paid to the present and potential use of rail networks to provide passenger service. Greater care and sensitivity should be shown before rail lines and trackage are finally placed on the chopping block.

POSTAL SERVICE

Mr. McGEE. Mr. President, the Committee on Post Office and Civil Service, which has recently filed its report—Senate Report No. 93–727—on its investigation of the Postal Service, observed therein that present U.S. postage rates were not entirely out of line when compared with those in other industrialized nations. In most of those nations the postal monopoly is broader, encompassing telephone and telegraph service as well.

If you think postal service is bad in the United States, look abroad, advises the current edition of U.S. News & World Report, whose international staff has compiled a country-by-country check which led the magazine to conclude that—

> By contrast with some systems abroad, the U.S. Postal Service would get a "satisfactory" rating.

The Committee on Post Office and Civil Service has not gone so far as to proclaim the USPS brand of service as satisfactory. What we did say is that the committee has found no reason to conclude that there is anything inherent in the structure of the U.S. Postal Service as established by Public Law 91–375 which foretells its doom or ordains that it cannot work. Rather, we found in the gradual changes and constructive adjustments reason to hope for further improvement and stabilization in the future. One requirement will be that Congress be willing to resolve both short and long-term difficulties stemming from what may have been unrealistic hopes for quick solutions to break-even postal financing.

For the perspective it offers, Mr. President, I ask unanimous consent that U.S. News & World Reports' article from its March 18 edition be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

LABOR: IF YOU THINK POSTAL SERVICE IS BAD IN UNITED STATES, LOOK ABROAD

(Plagued by tardy mail deliveries here at home? Postal problems in other parts of the world include backed-up letters, stolen stamps, labor woes.)

Americans are far from being the only people with complaints about tardy mail deliveries and lackadaisical clerks at post-office windows.

Postal systems in other parts of the world also leave much to be desired, judging from a survey by members of the International Staff of "U.S. News & World Report."

A country-by-country check turned up examples of letters that had arrived three months late, of parcels that had been sabotaged by irate employes and of mail that wound up in the gutter. Lack of modern equipment, inefficiency of workers, low pay, strikes and labor shortages all got their share of the blame.

The picture is not uniformly dark, however. In some nations, householders and business firms still get overnight delivery of letters. And in Sweden, the post office even makes a profit.

But the complaints about poor mail service are rising, particularly in Europe. Businessmen in the U.S. are searching for ways to insure safe, speedy delivery of important letters and documents to European offices.

One recent development: a privately operated courier service that will pick up mail or packages at various locations in this country or in Europe and make transatlantic deliveries the next day.

PRIVATE SERVICE

Inside some European countries, too, private mail systems provide special deliveries within a city or a region, to counteract slow service.

Problem areas for mail delivery around the world show up in the following cases noted by staff members of this magazine:

In London, some business firms had no mail deliveries for days on end recently. A shortage of postmen caused 14-hour days for those on the job, so the union in early March imposed a ban on all overtime work.

Italians report delays of two or three months for delivery of letters, several days for telegrams. Important invitations in Rome are sent through a private mail service that guarantees distribution in that city within 36 hours.

Mail clerks in South Vietnam often sell the same stamp several times a day—failing to stick it to the letter after the customer leaves the postal windows. A clerk who can do that seven times a day can double his monthly income, because postal salaries are so low.

Members of the Canadian Parliament report that their files are bulging with constituent complaints on the mails. The gripes tell of the three days required to receive intracity mail in Toronto, of week-long delays in delivery of letters between Montreal and Toronto and of Christmas cards that were still arriving in February.

The political views of postal workers tend to slow the mails in Argentina. An employee in the Buenos Aires post office admitted recently that workers deliberately sabotaged the processing of mail from Chile because the left-leaning postal union is politically unsympathetic to Chile's military junta.

Brazilian postal employes in Rio de Janiero have been known to throw up their hands at the flood of Christmas mail and to dump sacks of letters into Guanabara Bay.

THE EXCUSES

Various reasons are cited for these worldwide post-office problems.

British experts blame a lack of workers for current delays in the mails. The country is 9,000 postmen under strength, and London alone is short 3,500 postal employes. That means some mailmen work double shifts, putting in as many as 14 hours a day, six days a week.

Increased mechanization of the postal processes is seen as the long-term hope for the service in Britain. The union of postal workers says that it has ended its policy of fighting modernization moves.

Britain's state-controlled postal system showed a loss of 144 million dollars last year. The service charges slightly less than 8 cents to carry a letter for delivery anywhere in the United Kingdom. That makes it the least-expensive mail service of all of the Common Market countries.

Next-day delivery of mail in Britain was achieved in 92 per cent of the cases in 1972, the records show. But when the score dropped to 89 per cent at the end of 1973, business firms complained.

TWO-MONTH-OLD MAIL

Delays are sometimes measured in months, not days, in Italy. The Government Minister in charge of the postal service has been quoted as admitting that even he receives letters that are two months old.

Magazines or other printed matter may take as long as six months to reach their destination.

The Italian Government has talked of seeking nearly 2 billion dollars to automate the postal service over a period of years. So far, however, the plan exists mainly on paper.

An antiquated distribution system and a high percentage of absenteeism—as much as 40 per cent—cause Italy's delivery problems. The union of postal employes says the fault lies in bad management, an inefficient operating system and a lack of workers. Postal management places much of the blame on a poor output from employes.

In the present disarray, mail has been found in ditches after a long strike. In most cases, the mail eventually turns up—although it may be a year late.

WORKER DISGRUNTLEMENT

In Canada, postal employees themselves describe their morale as "unbelievably low." They cite poor working conditions and growing fears for job security in the face of technological innovations—all of which results in apathy, carelessness and, among a militant minority, sabotage of the mail. Turnover is running as high as 40 per cent a year in certain jobs. Workers "fed up with it all" are going on pension early.

Officials concede that there are many problems, including inadequate plants, a need for modern machinery and a work force that is "less dedicated" than in earlier years.

Despite complaints, most residents seem to think that the Canadian mail service is better than the system in many other countries.

Canada's post office tries to give next-day delivery to any letter mailed before 11 a.m.—in a country that stretches 4,700 miles coast to coast. Officials claim that, on the average, only about 1 per cent of that mail is delayed beyond a day.

POOR PAY

That war-ravaged South Vietnam has a postal service at all is remarkable—but there is no guarantee that a letter will ever reach or leave the country. Wages are too low to attract the younger workers. A mail sorter earns about $20 a month in U.S. terms, and a clerk get less than $35.

Not only do employees in the post office steal to make up for low wages, but youths extract letters from mail boxes with the help of a stick and gum.

At a hotel, a tourist may turn letters in to the desk clerk for mailing, but the letters may never get to the post office because a bellboy may remove the stamps to sell them. The letters go into the nearest gutter.

Strikes have been a basic problem facing the French mail system. Between May, 1972, and January, 1973, five strikes affected most of the country's 25,000 mail sorters. Workers were seeking more money and less work.

Another problem for the French is the rapidly increasing number of letters. Mail volume has doubled in the past 15 years and continues to rise.

SWISS EFFICIENCY

In Switzerland, daily deliveries have been reduced, and complaints are voiced about lagging mail services, but the postal system still compares favorably with that of most other European countries.

Parcels mailed one morning in Switzerland usually are delivered there the following day. "Express letters" mailed in Zurich before noon, for example, arrive at an office in Geneva in the late afternoon or evening of the same day.

West Germany's post office continues to provide one-day service on letters in more than 90 per cent of the cases. Delivery of a parcel within the country customarily takes two or three days.

As in most countries, it is illegal for Japanese postal employes to strike, but that does not stop them from staging semiannual shutdowns over money demands. In the spring, they seek a pay raise; in December, it is pressure for a larger year-end bonus. Last year, Japan's post offices were struck for three days in the spring and three more in early December. By mid-December, an estimated 23 million pieces of mail had piled up, but the union proudly pointed to the workers' achievement in clearing away that backlog before the year's end—along with 223 million New Year's cards.

Japan's two postal unions and their members support the idea of mechanization of post-office operations. Automatic sorting machines now are working in 44 offices.

Even so, officials admit that the system is barely holding its own against increasing volume. Manpower and facilities are inadequate to cope with mail volume that is increasing 4 or 5 per cent a year. The 1973 total exceeded 13 billion pieces of mail, about 120 per capita.

Thus, almost every country has its peculiar postal problems. By contrast with some systems abroad, the U.S. Postal Service would get a "satisfactory" rating.

ALCOHOL'S POTENTIAL FOR EASING THE FUEL SHORTAGE

Mr. DOLE. Mr. President, I would like to call attention to an article appearing in the Kansas City Times of February 18, 1974. It deals with the potential use of ethyl grain alcohol as an automobile fuel additive. In light of the acute oil shortage, I have on several previous occasions supported research into the feasibility of the use of grain alcohol as a gasoline extender. Investigations to date seem to indicate that such use would not only be a promising way in which to stretch existing fuel supplies but would also help reduce exhaust pollution.

Such a program has long been of interest to Midwestern grain producers and dealers, who would provide the necessary resources for production of the additive. Far-Mar-Co, based in Hutchinson, Kans., is already developing a process for separating grain into its component parts, which would greatly facilitate such production. And Midwest Solvents, Inc., in Atchison, is the largest American producer of grain alcohol.

The current shortage and rising costs of gasoline have been of concern to all our Nation's citizens and, therefore, the possible utilization of grain alcohol to ease that shortage and perhaps reduce costs should, I feel, be brought to the public attention. The following article is particularly informative, and I ask that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GASOLINE GOES ALCOHOLIC

(By Phillip S. Brimble)

First came "tiger in your tank." Next, with gasoline prices soaring and supplies shrinkng, it may be "vodka in your Volkswagen."

Because it burns well in conventional engines, ethyl alcohol or ethanol is being considered as a possible gasoline extender to stretch out dwindling gasoline supplies.

Gasoline is made from oil, a nonrenewable resource, whereas ethanol, made from grains such as corn, wheat and milo, is a renewable source of energy, thus theoretically providing unlimited supplies.

But whether the day will come when cars consume more alcohol than their drivers depends on economics.

Currently the most active program to study the potential of "gasahol," as a mixture of 10 per cent ethanol and 90 per cent gasoline is called, is going on at the University of Nebraska, Lincoln.

There preliminary tests with five vehicles driven a total of 250,000 miles burning gasohol indicated there was no unusual engine wear, no starting difficulties and no loss in either mileage or performance.

"We didn't find any major problems," said Dr. William A. Scheller, head of the project. "For that matter, we didn't find any minor problems either."

Dr. Scheller, a chemical engineer at the university, believes a 2-million-mile test using 35 state cars and trucks will provide conclusive proof that ethanol can be burned in conventional engines without requiring modification and without affecting engine life or performance.

He hopes to begin the fleet testing May 1.

Like other suggestions for alternative energy sources being revived by the current energy crisis, burning alcohol in cars has a history. It has been a suggestion that tended to surface rapidly in times of low farm prices, and drift out of attention when grain prices increased.

Before World War II ethanol was used as a motor fuel in several European countries.

In the period from 1935 to 1938 service stations in northeast Kansas and in Missouri, Nebraska and Illinois sold an alcohol-gasoline blend called Agrol, but the firm went out of business because gasoline was still cheaper.

"In those days you could buy 10 gallons of gasoline and a pack of cigarettes and still get change on your dollar," said Keith Kilander, director of research and development for the Midwest Solvents Company, Atchison, Kan., the nation's largest distiller of grain alcohol.

It was Midwest that bought out the Agrol firm. But Midwest's interests have been limited to the beverage industry.

And that isn't likely to change, J. M. Carrigan, a vice-president of the firm, said.

Just the same Nebraska gasohol investigators have been going to Midwest Solvents for technical advice and direction.

The level of activity in Nebraska is convincing evidence that the perfume of gasohol profits may be an enticing one.

The Nebraska Legislature has passed a bill for a 3 cents reduction in state gasoline tax for gasoline sold in the state containing 10 per cent grain alcohol.

The legislature has also established an agricultural alcohol fuel tax fund to investigate the possible use of grains in making car fuels. Funds come from retaining one-eighth of a cent gallon of the refundable part of the state nonhighway gasoline tax.

In essence, the farmers of Nebraska are footing the tax fund to find ways to make more money with their crops.

The legislature also has set up a committee to administer these funds. Called the Nebraska Agricultural Products Industrial Utilization Committee, it is composed of four farmers, two businessmen, and an oil company executive.

Dr. Scheller pointed out in a telephone interview that the grain crops of the Midwest could provide a significant source of renewable energy if gasohol proves commercially feasible.

However now his study group is concerned primarily with the needs of Nebraska.

"Every state will have to consider its own situation," he said. "In Nebraska we can grow enough grain for food and alcohol and still not use up all our idle acres.

"But nationwide, if you look at gasoline consumption, about 100 billion gallons last year, you realize that we'd need 10 billion gallons of ethanol, and that would amount to about 4 billion bushels of grain."

Dr. Wayne Henry, director of research for the Far-Mar-Co, a farm co-operative based in Hutchinson, Kan., has estimated that conversion to alcohol of the nation's entire wheat harvest last year would have yielded 6 billion gallons of ethanol.

Dr. Scheller has a ready answer to critics who contend converting grains to alcohol to run cars would be immoral in a world with food shortages.

"That would be inaccurate," Dr. Scheller said. "There is a protein shortage in the world, and we use only the starches of grain to make alcohol. The protein remains as a byproduct."

Unfortunately, he added, the taste of distiller's grains is too bitter for human consumption, so it is sold as cattle feed.

If ways can be found to salvage for human consumption the protein part of wheat the cost of distilling could be offset and this would make gasohol close to becoming competitive with ordinary gasoline, Dr. Scheller said.

Indications that such a time is near come from Far-Mar-Co officials, who have developed a process to separate the grain into its component parts before processing. This could reduce the by-product production and manufacturing costs of alcohol distillation.

Other separation methods have permitted only 45 per cent extraction of wheat kernel components. The new process enables separation and segregation without damage of almost all the kernel components, according to Far-Mar-Co.

This means that the protein part of the kernel could be isolated for human food, while the starchy part could be separated for distilling.

Current distilling techniques enable the extraction of about 2.5 gallons of ethanol from a bushel of wheat or milo and 2.6 gallons from a bushel of corn.

Three main factors affect the possible success of gasohol:

The price of gasoline.

The price of grain.

The value of by-products from the alcohol manufacturing process.

As a hedge against food prices increasing because industrial users bid against food processors for grain, an official of the Nebraska Deparment of Agriculture suggested a utilization bank of grain reserves for industrial use. That way industrial users could bid a year in advance for these set-aside grains.

The chemical formula of ethanol is CH3-CH2-OH, making it more chemically akin to gasoline than methanol, which has a formula of CH3OH.

Methanol or wood alcohol also has been considered as a possible gasoline extender. It is cheaper to make than ethanol, but it has less energy potential.

For example, a gallon of methanol has about 57,000 B.T.U.s (for British Thermal Units, a measure of energy potential), compared to 84,000 B.T.U.s in a similar amount of ethanol, according to Dr. Scheller.

While car engines can run on ethanol without requiring any modifications, methanol-burning motors must first be reset, he added.

"In addition, the ethanol industry is well established and large," he said.

"Since methanol is made primarily from trees, I don't think we will be seeing it materialize as a serious competitor with ethanol as a gasoline extender. Think of how slow trees grow, and how many would be needed, then you'll understand my meaning."

Other suggested sources of methanol have included garbage, valueless vegetation, and the output of sewage treatment plants.

While proponents of coal say it appears to be the most attractive candidate for methanol production, this has not stopped others from coming up with less attractive candidates, such as processing animal wastes.

A scientist at Kansas State University has estimated that enough methane, a gas, could be produced from all the feed lots in Kansas to supply 13 per cent of the state's electricity for a year. But to run cars on methane would require completely redesigning the engine and would mean cars now on the street would need expensive modifications.

"None of that is any good for the short run," Dr. Scheller said. "Gasohol is with us now, and needs none of these engine alterations. We are very encouraged."

SHORELINE EROSION

Mr. STEVENSON. Mr. President, 1 year ago, shoreline erosion was causing unprecedented damage throughout the United States. Although the Army Corps of Engineers' Shoreline Inventory Report had documented the extent of the damage being done, the Federal Government had little legal authority and insufficient technical knowledge with which to come to grips with the critical erosion occurring along the Great Lakes, gulf coast, and ocean shorelines.

At that time, I introduced four bills designed to give the Federal Government some of the knowledge and legal authority it needed to act against shoreline erosion. The enactment of the Water Resources Development Act invites us to reflect on the progress those and other legislative measures have made in the past 12 months.

In the past year Congress has enacted six measures, and several administrative agencies have been moved to respond to the relentless shoreline erosion.

Four of the measures enacted by the Congress can provide immediate relief:

Section 27 of the Water Resources Development Act gives the Army Corps of Engineers authority to deal with shoreline erosion problems on an emergency basis to protect public works, churches, hospitals, schools and other nonprofit public services.

Section 55 of the Water Resources Development Act empowers the Corps to provide technical and engineering assistance to nonfederal public interests seeking to prevent damage from shoreline and streambank erosion.

The Flood Disaster Protection Act of 1973 expands the Federal Flood Insurance program to include erosion. Thus, "erosion" insurance is now available in communities which are participating in the flood insurance program.

The Shoreline Erosion Control Demonstration Act of 1974 establishes a five-year program in which no fewer than sixteen demonstration projects will be established on the nation's shorelines. These projects will be distributed throughout the nation and will reflect a variety of geographical and climactic conditions.

Two more pieces of legislation enacted by Congress in the past year respond to the need for a greater understanding of the physical forces which produce erosion:

The Water Resources Development Act directs the Corps to study the feasibility of constructing a hydraulic model of the Great Lakes system, and creating an associated technical center for intensive study of these matters.

The Shoreline Erosion Control Demonstration Act of 1974, noting the need to develop, demonstrate and disseminate information about low-cost means to prevent and control shoreline erosion, creates a Shoreline Erosion Advisory Panel to direct the research into both engineered and vegetative means of stemming erosion.

Still pending in the Senate Public Works Committee is S. 1267 which would include erosion in the list of disasters for which Federal relief is available. I am hopeful the committee will include it in the comprehensive revision of the disaster assistance legislation which it will soon report to the Senate.

In addition, the efforts to spur further investigation into shoreline erosion phenomena have caused the Army Corps of Engineers to focus more directly on the problem. I have received assurances from the corps that it will include the objectives of S. 1265 in certain ongoing studies it is conducting. I introduced S. 1265 last March to direct the corps and the National Oceanic and Atmospheric Administration to conduct a study of the causes and means of prevention of shoreline erosion in the Great Lakes with particular regard to the effect of manmade structures.

Other Federal agencies have become more concerned with shoreline erosion—the National Oceanic and Atmospheric Administration, in its implementation of the Coastal Zone Management Act, the Department of the Interior, in its concern for our national seashores, and Federal delegates to the International Joint Commission, in their duties regarding lake level regulations. Shoreline erosion has also become a concern of several interstate commissions as well as officials of State and local governments throughout the country. This spreading concern is perhaps the best indication of the impact that has been made in the past year by those who have tried to call the Nation's attention to the difficult problems of coastal zone management.

I am pleased with this beginning, and look forward to a year in which we can develop and build upon the sound foundation laid in the past 12 months.

WATERGATE

Mr. GOLDWATER. Mr. President, I believe all of us are deeply concerned these days about the Watergate situation and related matters. But I wonder how many of us have gone to the trouble of examining the root causes of this situation so that we might avoid a recurrence of this tragic affair?

In a recent speech to the National Association of Independent Insurers, my son, Representative BARRY M. GOLDWATER, JR., of California, went into this matter and found that the causes have preceded Watergate by many years and could be defined as "a widespread decay in traditional American ethics and values."

Congressman GOLDWATER declared:

Watergate is symbolic because it involved people in high places. But the Watergate mentality permeates all phases of American life.

The Congressman spoke about specific instances involving theft, and irresponsibility in other areas of American life.

Mr. President, at this time I ask unanimous consent that Congressman GOLDWATER's speech to the insurers' 13th annual personnel workshop at the New Quarter Inn, Newport Beach, Calif., be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY REPRESENTATIVE BARRY M. GOLDWATER, JR.

Chairman Perkins, Chairman Evans, President Lemmon, distinguished Members of The National Association of Independent Insurers. When I accepted your very gracious invitation to speak, I indicated to my longtime friend, Darrell Coover, that I would like to discuss the subject of values, ethics, and Federal growth.

I realize that a principal theme of this year's workshop is the impact of the energy crisis upon your industry. I believe that an integral part of the current energy situation involves ethics, values, and federal growth.

Of course, there are some who may scoff at a member of Congress these days who attempts to give a discourse on ethics and values. The problem is that many elected officials are held in great contempt these days. Many of you no doubt read the recent Harris poll which gave Congress a very low grade. The poll came as no shock to me.

In their constant carping at the President, some very partisan members of Congress have conveniently tried to focus attention away from their own shortcomings.

As the Scottish poet Robert Burns declared, "O, Would Some Power the Giftie Gie Us, To See Ourselves As Others See Us."

There is a tendency to blame the Congress and the President for all of the trials and tribulations of modern America. A day doesn't pass that well organized pressure groups don't take advantage of the mass media to criticize the President and the Congress. Ralph Nader is on the front page because he is on the attack. Common Cause is on the front page because it's on the attack.

One group which gets a great deal of attention because of its attacks is the Committee for a More Effective Congress. The title of this group sums up the attack of the other groups. In truth, they only attack members of Congress with whom they have philosophical differences. They praise those elected officials who agree and vote in accordance with their wishes. They condemn those who disagree with them.

It's somewhat like a Congressman I know that returned to his home district and was told by his campaign manager. "Congressman, did you know that Tom Sullivan is going to run against you?"

"I'm not surprised," Said the Congressman, "Tom Sullivan is an ingrate and a scoundrel. He is lucky to be out of jail."

The campaign manager continued, "Jim Jones is also going to run against you."

"He is the same type—a reprobate, a thoroughly evil character," said the Congressman.

The campaign manager smiled, and said, "I am just kidding you, Congressman. I just saw both of them, and they said to give you their best regards."

"Now look what you have done," said the Congressman, "you made me say some ugly things about two of the most fine, loyal and upright men in my district."

I am not here to make a defense of Congress, or of the President. The criticism leveled at these two institutions are only symbolic of a very deep seated frustration on the part of most Americans. Without fear of generalization or an oversimplification, I surmise that people are dissatisfied over what is happening to our sense of values in America.

All of us are concerned about Watergate, but it is high time we all examine the root causes of Watergate. These causes preceded Watergate by many years. They are defined as a widespread decay in traditional American ethics and values.

Watergate is symbolic because it involved people in high places. But the Watergate mentality permeates all phases of American life.

What about the Midwest meat packer who grosses $15 million a month, but can't show a profit because of an employee theft ring?

What about unscrupulous labor unions who buy elections while at the same time shafting the American consumer with demands for unreasonable wage increases?

What about the case of the bank which recently went bankrupt because its principal stockholders were making questionable loans to themselves?

What about the stockholders who could not care less what the corporation does as long as they receive their dividends?

What about irresponsible strikes that close down emergency services such as hospitals?

What about a nationwide T.V. program that tries to convince us that the Rosenbergs were nice people, and not traitors?

What about sensation seeking reporters who deal in stolen documents, in order to obtain a good story?

The list is endless. It is truly a "Watergate" mentality, and tragically, countless numbers who should know better are not above reproach. On the contrary, many so-called leaders refer to this as "doing your own thing."

The old bard of Baltimore, H.L. Mencken, once scornfully said, "conscience is that inner voice that warns us somebody may be looking." Now, it appears that being caught "red-handed" is no deterrent.

Most of us have watched a session or two of the Senate Watergate hearings. How many times was a witness asked whether he had considered the ethical implications of this sordid affair?

Wouldn't it be a tragedy if the only thing gained from Watergate is a few convictions and some ruined reputations?

There should be one result and one lesson from Watergate, that is that every American has a solemn duty to re-dedicate himself to the values upon which this great Nation was founded.

These values stress faith in God, fidelity, respect, and love of fellow man. They only need to be resurrected.

As G.K. Chesterton once said, "the christian ideal has not been tried and found wanting, it has been found difficult and left untried."

Many sociologists and psychologists tell us that the reason attitudes toward traditional values are changing is because society itself is changing. This is a very convenient excuse. However, it is no excuse for public acceptance of personal liberation which often carries a toleration of permissiveness and low ethical standards.

I am not suggesting that a large percentage of Americans have a warped sense of values. More and more people are becoming conscious of the threat to American institutions and our value system. Happily, they are trying to do something about it.

For instance, I am heartened over initiatives taken by your industry—initiatives that are on the right track. During the energy crisis, many of your companies have pledged the refund of premiums to policy holders if some of the energy conservation measures result in windfall profits. Your companies are spending large sums of research money in an attempt to get lower rates for policy holders as a result of a reduction in the use of automobiles due to the energy crisis.

This is good ethic. It is doing the right thing, and you are to be commended. It is also good business, and good business and good ethic go hand in hand.

Contemporary historians rarely agree on just what historical event in recent years triggered the attack on our value system.

I do not profess to be a historian. But, one thing is for certain, the pioneer spirit in America which placed an emphasis on the work ethic and a rigid adherence to the Judaic-Christian value system is under great attack.

Far too many people have taken the attitude in the last 30 or 40 years that there is really no need to work hard—that there is no need to assume civic responsibility. After all, they say, let the Federal Government assume these responsibilities.

This is not to say that the Federal Government is directly responsible for a decrease in values and ethics.

But, what has happened is government paternalism has created an attitude of irresponsibility. It has also created an insensitive bureaucracy that often enforces the law, not on the basis of justice, but on the basis that the end justifies the means.

An example of this occurs when enforcement agencies such as the Equal Employment Opportunity Commission, and the Occupational Health and Safety Administration or OSHA, as it is called, go beyond the letter and the intent of the law to intimidate and harass businessmen.

There are other agencies in this category, of course. However, I single out these two because they are symptomatic of the horrors of too much government. They are convenient sounding boards for those who wish to place the free enterprise system under strict government regulation.

Under the guise of such well meaning endeavors as health, safety, minority employment, and equal rights, the agencies have a virtual life and death control over American business. As everyone of you in this room knows, on many occasions, ethics is not necessarily one of their considerations.

The most devastating impact of E.E.O.C. and OSHA has been on small employers. At a time of high inflation, low profits, and dollar instability, the small employer is hard-pressed to even keep his business going, much less have it dictated to by some anti-business bureaucrat from EEOC, OSHA or other agencies.

The small employer is intimidated and forced to comply with questionable edicts because he doesn't have the money to go to court. He must pay legal expenses out of his own pocket. EEOC and OSHA handle such expenses through the American taxpayers. The irony is that the businessman, through his taxes, pays the salaries of the very people who would put him out of business. This is unfair. It is less than ethical. Unfortunately, such agencies rarely cease to exist, once they are created. If anything characterizes the Federal Government, it is the unique ability to grow and grow and perpetuate itself.

Of course, the government will never admit it is wrong. The energy crisis is a good example. Many government officials, particularly Congressmen, have a tendency to blame the oil companies for our current energy shortage. They never point out, for example, that the reason we have severe home heating fuel shortages is because the government held down the price of natural gas at the wellhead 12 years ago.

As each of you is aware, the same is true regarding the great debate over no-fault automobile insurance. The proponents of Federal no-fault proclaim it as a consumer bonanza. But they don't point out that under such a plan, a consumer could be forfeiting a constitutionally protected legal recourse.

Proponents of no-fault also often mislead people into thinking they would be getting something for nothing. This also becomes a question of ethics.

With the growth of government, and its ever increasing intrusion into every aspect of our lives, there is a growing tendency on the part of many Americans to become frustrated, disillusioned, and skeptical. We have seen this happen in countries, such as Sweden, where cradle to grave government has led to permissiveness, alienation, and loss of values.

I happen to think that people are becoming less satisfied, and certainly less happy, with the concept that government can do it all.

Often, what is merchandized by the proponents of big government as "liberating" turns out to be depressing and destructive to the individual.

There should be no question that when people adopt the attitude that government can do it all, then they are ripe for total manipulation of their lives and destinies.

The Federal Government cannot restore or replace our moral moorings. Only you and I, acting as free men, can restore the principles upon which our institutions are based.

As I mentioned before, I am not a historian. But, I am familiar with Gibbon's "Rise and Fall of Ancient Rome."

The destruction of values and ethics—not the rampaging hordes—sealed the fate of ancient Rome. The grave, dignified Roman character, symbolic of the republic, was destroyed amid the surface affluence, sophistication and sensation-seeking of the imperial period. A somewhat similar process seems to be at work in contemporary America. It must be resisted.

I happen to think the American ethic is alive—not necessarily in good health—but alive. But, a rebirth will require a nationwide effort at the highest levels of national leadership. It will require a rebirth of the golden rule.

As a beginning, I firmly believe that families should be encouraged by our great communications outlets to stress ethics and values. Secondly, I feel that those churches which now stress such terms as "relevance, commitment, and involvement", in their ministry, should place more emphasis on "ethics, values, and piety".

I believe that every outlet of education, whether it be kindergarten or graduate school, must place ethics and values as priority items in the school curriculum. I am speaking of moral values, of course. But, I am also referring to intellectual values.

Having a sense of values and applying a value judgment is central to a liberal education.

Ethics is still stressed at some schools, and these schools are to be commended. They are not square. They realize that all of us have a great investment in our youth, and a young person imbued with a sense of values is likely to make a good citizen.

Of course, ethics is still taught in journalism schools and law schools, but as one law student recently said, "The ethics courses in higher education relate to avoiding libel in the case of journalism schools, and taking legal advantage of libel in law schools."

I am hopeful that discussions of ethics and values will increase in our daily communications. I want to see our national leaders create an atmosphere in which ethics and values play a prominent role.

Ethics and values were never intended to operate in a vacuum or in a philosopher's manual. They must be the very structure upon which a nation and its citizens function. Without them, there is no structure. Without them, collapse is imminent, and we can go on expecting more scandals such as Watergate, in the future.

IMPLICATIONS OF THE HOUSE VOTE ON IDA LOANS

Mr. McGOVERN. Mr. President, the decision of the House of Representatives not to appropriate $1.5 billion for the World Bank's International Development Association, as I have said on previous occasions, can have a long-term negative effect on the world economy and a damaging effect on the posture of the United States in the world.

A thoughtful editorial in the March 1974 Catholic Rural Life, by Msgr. John George Weber, executive director of the National Catholic Rural Life Conference, assesses the impact of that decision with reason and compassion. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

"SOFT" LOANS

(By Msgr. John Geo. Weber)

The U.S. House of Representatives in its first days of this session killed the Administration's proposal for an appropriation of $1.5 billion to replenish the loan funds of the International Development Association. IDA was established as an affiliate of the International Bank of United Nations in 1960. Its purpose is to make loans to less-developed countries on terms that are more flexible than bank loans. Hence, "soft" loans.

The House vote is a disgrace to our country, the richest nation on God's earth. Rightly and wisely the United States had turned to using multilateral agencies such as IDA in giving aid to poorer nations rather than establishing bilateral programs. This avoided the imperialist label and placed the aid beyond suspicion of political pressures and economic dominance. Receiving nations have more confidence and trust in aid coming through international organizations.

Many informed U.S. citizens are rightly indignant about our bilateral foreign aid programs, especially the military aid. These programs have drawn us into costly involvements; costly both in life and finances which clearly are not to the best interests of mankind. Therefore, many have turned away completely from foreign aid of any kind. Maybe the House vote on the IDA appropriations was reflecting this mood of the American people. The oil squeeze was also mentioned as a reason for rejecting the aid appropriations.

Whatever the case may be, it was a mistake. Aid for genuine development through the International Development Association and other international agencies is one of the surest ways of avoiding military involvement and recognizing the independence of foreign nations and fulfilling our moral obligation of aiding the poor. If we are looking for genuine respect and recognition on the international level, aid through international agencies is a much better formula. IDA has a good record on the use of its funds and assistance to the least privileged of the world's people as far as we can determine.

The $1.5 billion proposed for IDA is a rather insignificant amount compared with a $300 billion federal budget and a trillion-dollar-plus economy. The $1.5 billion is the U.S. share of a total $4.5 billion from the richer countries. It would be spread out over four years. Even giving ⅓ of the total ($1.5 of $4.5), the U.S. is still contributing a smaller proportion of its national income for foreign aid than most of the other rich countries.

"The struggle against destitution, though urgent and necessary, is not enough. It is a question, rather, of building a world where every man, no matter what his race, religion or nationality, can live a fully human life . . . where the poor man Lazarus can sit down at the same table with the rich man." These are the words of Pope Paul in his encyclical, Development of Peoples. The "soft" loans through the IDA is an invitation to Lazarus to come and sit at our table. We have just refused to issue that invitation.

ENERGY CRISIS

Mr. MATHIAS. Mr. President, on December 27, 1973, my colleague, Senator BEALL, and I held hearings in Baltimore to examine the impact that the energy crisis was having in the State of Maryland. One of our witnesses on that day was the late Andrew M. Lewis, Jr., formerly president of the Maryland-District of Columbia AFL-CIO; we found his testimony of enduring interest and increasing timeliness.

His premature death shortly after the hearing may have stilled his voice, but has not diminished the value of his advice. I would like to bring his comments to the attention of our colleagues and, therefore, ask unanimous consent to have his remarks printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

MR. ANDREW M. LEWIS, JR.

The Metropolitan Baltimore Council AFL-CIO Unions wants to go on record to show quite clearly that in the present energy emergency as in every emergency facing this nation . . . the working men and women of the Metropolitan Baltimore area are prepared to sacrifice as much as everyone else for as long as everyone else provided the sacrifice is equal for all segments of society.

Curtailment of this nation's consumption of energy necessarily involves a change in the life-style for many workers in the Metropolitan Area. For many this means a sacrifice of comfort or convenience, but for many of the workers in the Metropolitan Area there is a clear threat of special hardships . . . loss of jobs and income.

Already, we are receiving reports from Unions all over the country in all sorts of trades, industries and services of shortened work weeks, cuts in pay checks and buying power at a time when the cost of living continues to climb relentlessly and the administration displays complete enability to cope with the nation's economic problems.

Labor does not believe that, in the name of crisis, America should abandon some national goals or suborn others. For example, the wavering if all environmental safeguards would, unquestionably, ease the present emergency, but the health of the American people is too high a price to pay. Closing schools for a month would also reduce energy consumption at the expense of the education of thousands of children and we can't afford that either.

Labor believes that Congress should take specific actions that will minimize economic disruption and dislocation, assure fairness and equity in the administration of energy conservation programs and make certain that some Americans are not permitted to profit while others are forced to sacrifice. To minimize economic dislocation and hardships, we urge your committee to. . . .

1. Provide specific aids, including extended and improved unemployment compensation, for workers and communities adversely effected by the emergency.

2. Spell out, in clear language, procedures for the review of complaints at all levels from workers and their representatives about adverse employment effects.

3. Guarantee workers and consumers adequate representation on any national, state or local boards established to administer fuel controlment programs.

4. Where job loss is indicated, require industries to prove there are no feasible alternatives that would reduce energy consumption without the dislocation of workers.

5. Keep the authority for relaxation of environmental standards to the minimum necessary to meet this particular emergency. Exemptions and variances should be considered on a case by case basis and only for specified periods of time.

6. Require state and local governments to maintain safeguards for environmental protection and workers' safety in taking measures to increase energy production.

7. Permit sufficient flexibility to allow states and localities to take into consideration local economic concerns in developing local programs.

Let me emphasize that the men and women of the American Labor movement are prepared to do their fair share in *meeting* the present emergency, but we insist on equality of sacrifice. Senator we look to the Congress to insure equity for the American people.

THE CONFERENCE ON ENVIRONMENTAL ISSUES

Mr. McGOVERN. Mr. President, recently I placed the proceedings of two seminars from the Conference on Environmental Issues in the RECORD. As a follow-up to this, I would like to add a second segment. Mr. President, I ask unanimous consent to have these proceedings printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROCEEDINGS OF THE CONFERENCE ON ENVIRONMENTAL ISSUES, SIOUX FALLS, S. DAK., JANUARY 12, 1974

LUNCHEON

Master of Ceremonies: Hon. Larry Piersol, Majority Leader, South Dakota House of Representatives.

Invocation and Benediction: Father Leonard Kayser.

Address: Senator George McGovern.

INVOCATION

(The prayer of the Oglala Sioux, Black Elk, at Harney Peak in the Black Hills in 1912, somehow seems very appropriate to this occasion. Let us pray:)

Grandfather, Great Spirit, once more behold me on earth, and lean to hear my feeble voice. You lived first, and you are older than all need, older than all need, older than all prayer. All things belong to you—the two-legged, the four-legged, the wings of the air and all green things that live. You have set the powers of the four quarters of the earth to cross each other. The good road and the road of difficulties you have made me cross; and where they cross, the place is holy. Day in, day out, forevermore, you are the life of things.

Therefore, I am sending you a voice, Great Spirit, by Grandfather, forgetting nothing you have made, the stars of the universe and the grasses of the earth.

Again, and maybe for the last time on earth, I recall the great vision you sent me. It may be that some little root of the sacred tree still lives. Nourish it, then, that it may leaf and bloom and fill with singing birds. Hear me, not for myself but for my people; I am old. Hear me, that they may once more go back into the sacred hoop and find the good road and the shielding tree.

And now, because I believe that people should eat together only after they have prayed together, let us all together pray as our Lord Jesus taught us: Our Father . . .

BALANCING VALUES: ENVIRONMENT, ENERGY, GROWTH

(Address by Senator GEORGE MCGOVERN)

Our part of the country has been largely spared from the environmental crisis atmosphere that has prevailed in much of America in recent years. No one here has died from noxious air. We have had no oil spills. Some of our lakes and waterways are on the road to decay. But, for the most part, they remain hospitable to both marine and human life. And while our landscape has been changed, it does not bear the irreparable, hopeless scars that have rendered Appalachia barren for all time.

To some extent that is by chance. The country's thickest concentrations of people and industry are elsewhere, near international shipping or more abundant supplies of raw material and other resources.

But it is also by choice. For while words like "ecosystem" and "environmentalism" may have entered our vocabulary only recently, the thrust of those movements has been ingrained in this State for many, many years. Our farmers have been in the forefront of every conservation effort. Soil and water conservation districts have long been keystones of rural life. And whatever the direct source of our livelihood, all of us have known that our progress and the quality of our lives are inextricably bound to the land, to its wise use, and to its protection.

Yet the national crisis does touch us. Rather, it pushes us. And push is coming to shove. As we seek to develop and diversify our economy, we must seek as well to avoid the pitfalls that have been exposed elsewhere. And at the same time, we are learning painfully that our development—or even maintaining the status quo—depends upon resources that are becoming scarce and upon methods that can be harmful.

Many of us are now asking how much environmental quality can be sacrificed to soften the impact of the energy crisis. That there will be setbacks, at least in the short term, is clear enough. We have already seen adjustments in the clean air standards for automobiles because Detroit's designs seem to need more fuel to pollute less. And on energy sources, whether it is a pipeline in Alaska or oil drilling off the coasts, the emphasis has shifted away from what is safest or cleanest, and toward what is fastest.

But I would like to suggest here today that the long-term trend may be just the reverse. Just perhaps, the energy crisis will inspire changes in our attitudes and patterns of consumption that will get this nation behind environmental concerns as we have never been before. We may one day look back upon this period as the time when we all learned that the conservation of energy and the attainment of environmental quality are complementary goals, both demanding that our resources be used with care and restraint. And any temporary setback in the passage or implementation of environmental protection laws could easily be offset, if this crisis brings us to see the need to change our profligate ways.

Those ways have roots deep in our national experience. During our first two centuries, we have had an opportunity to explore—and exploit—the immense resources of a virgin land of continental size. Further, the industrial revolution brought the technology which allowed the development of these resources on a scale and with an intensity never before imagined.

So the frontier in American experience was not just the advancing edge of western expansion. It was also the beginning of an industrial society and technology which mined, moved and cleared the land, used the water and raw materials, and truly made us the world's "people of plenty." Especially in this century, we produced consumer goods in great profusion and variety and at relatively low cost. So great was the abundance of this new age that it was necessary to create modern advertising—to make people want what they might not need, and to make consumption virtually an end in itself. And rarely if ever did we perceive a need to set priorities, or to strike a balance of values between what we were using from our environment and what we were doing to it.

Nowhere is this remarkable growth more clearly reflected than in our consumption of energy—over 400 BTUs per capita each year. Only in Canada has the level of energy consumption even approached what it is in the United States. Perhaps more than any other factor, it has been the availability of that cheap, plentiful energy that has made our incredible progress possible.

So appliances, such as home air conditioners, dishwashers, clothes dryers and freezers, which were almost luxuries as recently as the 1950s, are now used in nearly half the homes in this country.

In industry, men have been displaced by energy-consuming machines on a mammoth scale. Our main streets are lighted brightly with neon signs competing for our attention. Last year the Houston Astrodome, just one huge indoor sports arena, used enough electricity to supply more than 8,000 homes.

Then there is the automobile. In 1970 there were more than 82 million passenger cars on the road. In that one year alone, almost $88.5 billion was spent on the purchase, operation and maintenance of automobiles. Making and maintaining the automobile now accounts for 13 percent of the gross national product and for one out of every six jobs. And an entire urban culture has been built around it.

All of these trends and their consequences inspired the national environmental movement which first became highly visible toward the end of the 1960s. We had not heeded the expert warnings before. We had not noticed the danger.

But we did notice it when we began choking on fouled air. We noticed it when so many communities across the country were left with water supplies that neither palate nor health could stand. And we noticed it when lakes, great and small, began dying long before their time because they could not sustain a sound balance of life.

The national government responded. Congress moved with relative speed to enact such measures as the National Environmental Protection Act, the Clean Air Act, and the Water Quality Act, all establishing broad powers to control pollution at its source—whether it was the automobile, the paper mill, a power plant, or an activity of the government itself.

Yet for all of that activity, I suspect few Americans saw this as a cause which would require significant changes in the way we live. We cracked down on the biggest and most visible polluters. But this did not mean that a majority of the American people—or even a majority of the Congress for that matter—were ready to accept the kind of enforcement measures, or make the kinds of public investments, that would mean more modest habits of consumption or more conservative lifestyles.

That gap became apparent last summer when the Environmental Protection Agency announced its first urban transportation control plans. They were taken to be quite radical, and they were resisted and denounced. Viewed against our freewheeling habits, they were radical. Yet when viewed against the standards we had set down before, they were as rational as they could be.

There are other cases. For example, from the standpoints of land conservation, reduced fuel consumption, and clean air, we should be promoting railroad and mass transit systems wherever they can be used to move both goods and people. But here in South Dakota, and many other places, what freight trains there are must often be held down to around ten miles an hour because the trackbeds are so bad. I have heard of one case where the track collapsed under a car that was actually standing still. And in the major cities, efficient rail and mass transit systems are still the exception rather than the rule. We have spent lavishly to prop up this or that foreign ruler over the years. But when it came to our own transportation systems, we have impounded, postponed, and refused.

Of course, for some purposes and in some parts of the country there is no substitute for the automobile. But there are substitutes within that category. Yet the environmental movement hardly caused a ripple in the preference of the big car manufacturers for producing and promoting big cars. How many of us have rejected for ourselves the notion that owning one of these gas-guzzling behemoths is the ultimate test of success?

Now we are faced with an energy crisis. And it forces us to look realistically at the kind of reform those earlier environmental laws suggested.

I have no doubt that the crisis has been aggravated by international developments and by some sharp manipulations on the part of the major oil firms. We will learn more on that in the weeks ahead. But I also have no doubt that the crisis is real. And I think it will convince all Americans that we have to look more carefully than ever before at the ways we develop our resources, at the way we use them, and at the broader purposes of both steps. A new calculus now defines the wisdom of so many of our actions, both public and private. For we now know not only that our resources are limited, but that those limits have been sighted and they are not all that far away.

This does not mean economic development must or can end. We can set aside the extreme school which calls for a no-growth, scrap-the-system economy. It is both unrealistic and irresponsible. Who would presume to tell a hungry child he cannot eat because the land is better left underdeveloped and untilled? Who really believes we can now reverse the clock on the human aspirations this country has inspired?

No, it will not come to that. But neither can it be business and consumption as usual. The relevant question is not whether to grow or not grow, but how to construct growth so we can conserve precious resources and so we can assure that what we do use will do the maximum to serve humanity's needs.

Let me cite an example to bring this closer to home. We had a seminar on coal and energy development this morning. We know that there are vast deposits of low sulphur coal in Montana, Wyoming and the Dakotas. We also know that this plentiful fuel is among the most troublesome from an environmental point of view. Where is the balance?

I come out of the discussion with some tentative conclusions. I think we have no choice but to develop those resources to meet relatively short-term and medium-term needs. That means, first, that we must intensify our attention to the most environmentally sound methods of mining that coal, and then of requiring that the land be restored to its original state when the work is done. It means, second, that we must accelerate research on steps to use coal more cleanly—including such processes as MHD, gasification, and liquefication. It means, third, in my view, that we are better protected if the mining and using is done by companies which are native to the area, and staffed by people of the area, than we are if the industry's giants come in to take what they can and then move on. I think our experience with Basin Electric underscores this observation. For that is a utility which has been consistently ahead of the environmental standards, and constantly attentive to long-term environmental concerns.

That is for the medium term. But over the longer run, and considering the inevitable environmental costs, I hope we will view coal development as a transitional step on the way to energy sources totally separate from these finite fossil fuel reserves. We should attach the highest possible priority to research on solar, hydrogen and geothermal energy sources. As you all know well, I think we need these things far more than we need new ways to refine the Russian dust finer, when we can already destroy that country ten times over. And these goals of hope and human progress are how we must now occupy our best scientists and engineers.

If we do, and I have introduced legislation toward that end, I believe we can one day vastly reduce and perhaps end our reliance on fossile fuels. And remember this—whether it is sooner or later, that transition is inevitably going to come someday. I can see no reason why it cannot be made to happen sooner, well before we exhaust the earth's limited natural reserves.

These, then, are the kinds of concerns we must try to balance today. In all likelihood we cannot reach unanimous conclusions or final solutions. As I said this morning, this conference was deliberately designed to bring together people who have different perspectives on the issues at hand.

What we can do is at least channel our thinking along realistic and positive lines. We can recognize that while the new environmental questions may not on balance warrant a change in long-standing plans, they at least have a right to be asked. Indeed, it is essential that they be asked. For it is essential to our survival as a modern, progressive society that we now develop that new habit—to incorporate the concerns of conservation and the environment into each decision that we make, whether as individuals, as a State, or as a nation.

1973 has been a hard year for America. Yet we still see hard times ahead. And we all know that it will not work anymore to just look the other way; that only gives trouble a chance to hit us from behind.

Yet with all of this, I look toward South Dakota's future and America's future with undiminished faith.

We have progressed in part because our land is blessed with natural abundance. But more than that, we have been moved by resources of mind and of spirit, and by a free system which draws out the best of those values. As we apply them now, I believe—no, I am certain—that those human resources will carry us through these difficult days, over these challenges, and on to a new time of greatness.

That is my conviction. I know it is yours. Let us get on with our task.

BENEDICTION

Thank you, God of generosity, Creator of all things, for all things that grow on the earth. Many of us tend to forget, seeing food packaged, arranged, weighed and priced in the super-markets, all the labor, skill, energy, and knowledge that goes into bringing these many gifts of yours to our table.

We often tend to forget, in our technical society, the utter dependence all of us have on wind and weather, on sun and rain, without which little or nothing would grow.

Help us to bring rural America together, and to fulfill our responsibilities in glorifying your earth, that it may fulfill your wish that the land should feed and shelter all people for all time.

We make this prayer through Jesus Christ, your Son, our Lord, who lives and reigns with you Father, and the Holy Spirit, one God, forever and ever. Amen.

SEMINAR III: IRRIGATION AND CHANNELIZATION PROPOSALS

Moderator: Joe Farnham, Director of Admissions, So. Dak. St. Univ.

PANELISTS

Preston Funkhouser, Oahe Project Manager, Bureau of Reclamation, Huron, S.D.

Larry Fine, Professor, Plant Science Dept., So. Dak. St. Univ.

F. F. Kerr, Extension Water Resources Specialist, So. Dak. St. Univ.

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George Piper, President, United Family Farmers, Carpenter, S.D.

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James Lewis, Manager, Oahe Conservancy Sub-District, Huron, S.D.

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REMARKS BY PRESTON L. FUNKHOUSER, JR., PROJECT MANAGER, MISSOURI-OAHE PROJECTS, HURON, S. DAK., BUREAU OF RECLAMATION

The people of South Dakota have been searching for ways to combat the effects of drought since settlement of the State in the late 1800's and particularly since the 1930's.

Significant improvements in combating the widespread effects of drought have been made through conservation practices, managment strategies, cultural practices, and use of drought resistant crop varieties. The most effective method of creating production stability, eliminating the effects of drought, and insuring a more nearly optimum use of moisture is through the application of water to crops by irrigation. Irrigation developed by individuals in eastern South Dakota has increased from less than two thousand to 58,000 acres during the 20-year period 1950–1970, and its effects reach every section of the local economy.

When people talk about irrigation in South Dakota, the Oahe Unit usually comes to most peoples minds first. Although there have been numerous individual irrigation developments and there are plans for many smaller projects, talk has centered on Oahe for the past 25 years. Possibly one reason is that it was the first large project proposed in this area and its development has always been considered as a benefit to replace production from the land lost to the chain of lakes formed by the four mainstem dams on the Missouri River in South Dakota. Many South Dakotans felt they were giving up more than they would gain when the mainstem reservoirs were first proposed and that without irrigation development the downstream and adjoining states would reap most of the benefits from flood control, navigation and power. Oahe Unit construction is long overdue in providing replacement benefits to South Dakota for inundation of 509,000 acres of land by the four mainstem reservoirs.

This brings me to the question "What is the role of the Bureau of Reclamation?" A sign recently erected in the Project area asks that the Bureau *leave* South Dakota's natural resources alone! Yet we are here by invitation of the people of South Dakota. Our mission is to assist the people in developing land and water resources. We do not force a project on the people; we only identify the resources and the possibilities of development. The people than make the decision whether or not to support implementation and development of the resources.

We believe our plans for the Oahe Unit are sound and well documented. Hundreds of man-years have been expended and there are enough volumes of reports and supporting data available to equip a small library.

We have utilized the services of many specialists of the Bureau, other Federal and State agencies and institutions in developing the Oahe Unit plan. These specialists include soil scientists, hydrologists, biologists, engineers, recreation planners, economists, environmentalists, geologists, agriculturists, and many others.

Many questions have been raised about the environmental impacts of the Oahe Unit after the Draft Environmental Statement was available for review in late 1972. The Final Environmental Statement has been approved and was released late in December of last year.

I hope those of you who are interested have had a chance to read the statement which we believe answers the environmental concerns many of you have raised regarding the project. Unfortunately, because of physical limitations and other printing priorities, we were unable to make as many copies available of this document as we would have liked, but we are having more copies printed at present. Administrative action will not be taken until 30 days after copies are sent to those who provided susbtantive comments on the Draft Statement.

Certainly, release of the Environmental Statement is significant to all of us. For those who have seen a quarter century of planning go into the project, it means we're finally on the threshold of development. For those interested people who commented on the original draft it means a better statement. And for all of us concerned with the environment it is an assurance for environmental protection and enhancement during and after construction.

I would like to cover a few aspects of the Oahe Unit that have generated the most interest and concern even though they are covered in the Environmental Statement. These are: amount of land needed for the project, return flows from both the Garrison Diversion Unit and Oahe Unit that will accrue to the James River and plans for handling the return flows in the James River.

Taking these concerns as listed, let's look at the land needed for the Oahe Unit, which has received some attention recently. Even though land acquired for the project to date has been by amicable means, none of us should kid ourselves that there will be complete agreement by all land owners, because some people aren't going to want to move or have a canal cross their property regardless of how well they are treated and reimbursed. However, our goal is fair treatment for all, in line with the best interests of the project as expressed by the people involved.

The initial stage development will provide a water supply for 190,000 acres of irrigable land which will be operated in connection with many thousand acres of dryland, and water will be available for use in area towns. Eighteen areas will be developed for wildlife, water-based recreation facilities will be developed at the three regulating reservoirs and at one existing lake, and project facilities will also provide some flood protection.

Project facilities will require the acquisition of about 70,000 acres; of this total about one-third will be needed for canals, laterals, and drains, and two-thirds for the three regulating reservoirs. About 6,000 acres of this land are presently not agriculturally productive, consisting of ponds, sloughs and streambeds, and land used for roads and other nonagricultural purposes; slightly over 7,000 acres could be utilized as grazing land or hayland after development of the project.

Nearly 40,000 acres of additional land will be developed for the planned 18 fish and wildlife habitat areas. Of this total, about 6,000 acres are not agriculturally productive at present. After development of the project there will be about 12,000 acres of water and marsh area associated with the wildlife areas, and almost 28,000 acres of upland habitat managed for wildlife. The rights-of-way along the project canals and drains will also provide habitat and corridors for wildlife.

Turning now to return flows from the Project area that will accrue to the James River, which has by far generated the most comment about Oahe Unit.

Return flows from an irrigation project consist of operational wastes from the water distribution system; deep percolation from cropland, which is the water that percolates below the crop root zone; and surface runoff from the irrigated fields. Surface runoff resulting from irrigation has been minimized in recent years by use of sprinkler methods of water application and recirculating surface runoff in connection with gravity application of water.

Perhaps at the outset, it should be mentioned that return flows to the James River from the authorized initial stage of the Garrison Diversion Unit in North Dakota will be very minimal, amounting to about 5 percent of the average annual flow of the James River at Columbia, South Dakota. Future stage development of Garrison Unit could add more water to the James River but any additional development would require congressional authorization and, of course, an Environmental Statement. All of the return flows from the Oahe Unit will enter the James River; these flows will enter the river at various points within the Project area.

The channel capacity of the James River through most of the Project area is very limited and bottom land flooding occurs quite frequently in the spring; in fact, the frequency is once in every 2 years. Downstream from the confluence of Turtle Creek with the James River near Redfield, the channel capacity is about seven times greater and flooding is much less frequent.

During early studies of the Oahe Unit, which culminated in the feasibility report on the Initial Stage and subsequent authorization by Congress, a major consideration along the James River flood plain was to alleviate, to the greatest extent possible, the economic loss caused by flooding and as a minimum permit no further aggravation of flooding from development of Oahe Unit.

Thus, the plan proposed for the Unit, which was authorized by Congress in 1968, included channel modification on the James River which prevents Unit return flows from increasing flood conditions in the James River Valley and also provides some incidental flood protection to these lands through the Lake Plain area.

Subsequent to the feasibility report, concern was expressed for wildlife habitat that could be damaged by the plan, so preservation of woody oxbow habitat was incorporated as a part of the present return flow plan.

Recent review of environmental impacts of the Oahe Unit has resulted in the Bureau considering other alternatives. A definite decision on the method for handling return flows is not needed for about 5 years from the initiation of construction on Oahe Unit. Therefore, the Bureau has initiated more detailed studies of alternatives before a definite course of action for handling return flows through the Project area is determined.

To date, we have been gathering basic data for the study, aerial photographs were taken of the river valley early last spring prior to the start of vegetative growth and again in September of last year. We have initiated a land use study of the James River flood plain through the Project area and we are securing additional information on hydraulic characteristics of the James River through the Project area.

When we have obtained the detailed basic data, we then plan to form an advisory committee representing various groups that have an interest in the James River Valley and the Oahe Unit to help establish a work plan and assist in the conduct of the study of alternatives for handling return flows in the James River. Upon completion of the study, we will of course prepare a Supplemental Environmental Statement on the alternative studies. We are hopeful that by working together, utilizing the talents and expertise of varied interests, that a plan can be devised that will provide flood protection through the Project area and that will not be detrimental to the environment. I realize this is a big undertaking but by working together, I am sure it can be accomplished.

Oahe Irrigation Soil and Water

(Statement of Dr. L. O. Fine, Plant Science Department, South Dakota State University)

SOIL SUITABILITY

The classification of soils in the Oahe first stage project has been completed by the Bureau of Reclamation. I wish to comment on the classification only to say that soils presently under irrigation on the Redfield Irrigation and Development Farm, now known as the James Valley Research and Development Center, have been under irrigation for approximately 25 years. Some of the soils on this farm are classified as Aberdeen by our Standard Soil Survey techniques but would be Class IV and thus, not irrigable by the Bureau standards.

However, the areas of Arbedeen on the Redfield Farm have performed fairly satisfactorily most of the years since the inception of irrigation there in 1948. The performance does depend upon the kind of crop being grown and the frequence of irrigation, however. The soils on the farm known in the Standard Soil Survey as Beotia, Great Bend, and otherwise and classified as 1, 2 or 3 in the Bureau system have performed very well throughout the 25 year period with which I am acquainted.

Salinity

The salinity in lower depths of these soils is a matter of concern to both the farmer at the present time and the farmer of the future, whether he be a dry land or irrigated operator. This is so because there is in most soils of central and western South Dakota (and a lot of them in eastern South Dakota) a zone of salt accumulation in some part of the soil profile.

The surface soils, however, have insignificant amounts of salt in most cases and therefore, are suited to agriculture or to the growth of grasses. The sub-surface salinity becomes extremely important for irrigated agriculture and under certain circumstances also for non-irrigated agriculture, and it is the sub-surface salinity which is quite variable throughout most of South Dakota. A soil is regarded as moderately saline for agricultural uses when the electrical conductivity of a water extract is 4 millimhos per cm or greater.

Six soil series common in the lake plain area of glacial Lake Dakota (mostly Spink and Brown counties) the Great Bend, Beotia, Harmony, Zell, Aberdeen and Tetonka series, have surface salinities ranging from 0.4 millimhos per cm (or 0.025 percent salt) up to 0.6 in most cases. A few soils, even some of those classified as irrigable, have as much as 2.4 millimhos per em of electrical conductivity (or approximately 0.150 percent salt) somewhere within the top 21 inches. However, when one considers the maximum salinity found in the top 40 inches of soil the salinity range is from 0.4 millimhos per cm (.025 percent) up to 13.5 millimhos per cm, or roughly 30 times as much.

The salinity of the soil parent material, that is material between 3 and 5 feet in depth, is often more consistent and more important than that in the soil profile itself. Typical soils from the Great Plains area having 0.2% or more of salt range from 11% of the samples of Tetonka to 58% of the samples of Aberdeen soils which have been sampled in the past. Thus, salinity of surface and sub-soil materials is a variable phenomenon in moist sub-humid or moderately dry climates of this part of the world and salinity in sub-surface parent materials is even more prevalent than in the part of the soil profile which is exploited by plant roots and is used in agriculture. However, the management of that salinity is a technological task of agriculture, and consciously or unconsciously, we are managing that salt in dry land agriculture as well as in irrigated agriculture. In some cases, parenthetically, we are not managing it too well in dry land agriculture, as witness the 83,000 acres more or less of salted out seep lands in North Dakota which have developed in the last 10 years.

The textures of the surface soils of the areas classified as irrigable or potentially irrigable are medium and moderately fine, the medium textures being silt loams and loams and the moderately fine being silty clay loams, clay loams and silty clays. These textures are considered medium to moderately slow as far as water intake rates are concerned but are excellent from the standpoint of water holding capacity and, when maintained in good physical structure, have very good water release characteristics as far as releasing water to growing plants is concerned.

Exchangeable sodium

Another aspect of the suitability of the soil is the exchangeable sodium or the alkali status of the soil. It should be made clear here that we are not speaking of salt level but rather of a specific salt constituent, namely sodium. The difficulty with sodium in soils is that it becomes attached to the clay particles and under certain circumstances can cause dispersion of the clay so that the physical characteristics become that of adobe or gumbo or unmanageable clay.

The surface soils (plowed layer) on practically all of the soils of the project area are satisfactory with respect to this characteristic of exchangeable sodium. The B2 horizon (the zone normally from about 10 to 20 inches below the soil surface) has been analyzed and in some cases has been found to contain high or moderately high exchangeable sodium, amounting to as much as 6.7 milliequivalents per 100 grams of soil in the "sodic" or alkali horizons of a few soil types. This is in some cases as much as 47% of the total exchangeable ions in the clay.

It appears, however, that for most areas of the irrigable classes of land the exchangeable sodium situation does not present a problem. Quoting a "Report of Special Investigations of the Oahe Unit" by the U.S. Salinity Laboratory, Riverside, California, issued in 1954, one of the conclusions is: "These soils are moderately saline and only a few of them contain more exchangeable sodium than gypsum. It is concluded that the areas represented by these samples do not present serious salinity or alkali problems".

I do not wish to give the impression that there are or will be no sodium problems in the Oahe irrigation area. There is, however, adequate information available on the identification, mapping, and within reason, treatment of these soils so that the problems they present can be minimized and in certain cases the land can be ameliorated and produce as well as nonsodic areas.

WATER QUALITY

Surface waters

Secondarily, I wish to spend a few moments on the quality of waters which will be emanating from irrigated lands, both surface water and internal drainage water coming from the soil. One of the first subjects to arise in discussions of water degradation is the nitrate nitrogen level. Considerable nitrogen exists in the world about us. The atmosphere, our soils, and our waters, both in the earth and on the surface of the earth naturally carry various amounts of nitrogen, some of it in nitrate form.

Recent research developed at S.D.S.U. by Dr. E. M. White has shown that runoff waters from native prairie contain from 0.1 or 0.2 parts per million up to as much as 1.68 parts per million nitrogen as nitrate, depending upon the nature of storm, the time of the year in which the rainfall occurs, and the kind of vegetation over which the rain water runs before it reaches a draw or a tributary or a lake. The natural rainfall itself, without touching either soil or vegetation, carries around 0.1 of a part per million of nitrate nitrogen, and is enriched from 1 to 16 fold by contact with the soil or vegetation or both when it falls on the earth as rainfall or snow and then runs off. When rain strikes cultivated soils such as in a cornfield or soybean field, the runoff water is generally very slightly higher or sometimes lower than runoff water from native prairie.

The values which Dr. White has found in runoff waters from our Garden City experimental station in 1969, 1970 and 1971 carried as little as 0.1 parts per million of nitrate nitrogen when they ran off alfalfa land and as high as 1.1 parts per million when the runoff occurred from oats land. Soils used for corn and other row crops, however, are generally slightly higher in nitrates in the surface soils, mostly because we cultivate the soil to a greater extent.

Thus, I do not see irrigation agriculture as causing a great increase in nitrate nitrogen concentration in our surface waters in South Dakota. I would like to quote two national authorities on this point. First, former EPA administrator Ruckelshouse; "Generally proper land management, including suitable fertilizer and pesticide application techniques, will provide the best means of controlling pollution from crop land"; then, Mr. Orrin Long of the EPA of Kansas City as follows: "Our ability to control erosion essentially measures our ability to control pollution from crop land. There are of course other problems relative to accumulated wastes and irrigation return flows".

Some rainfall and return flow tests on irrigated fields in South Dakota in 1968 in the vicinity of Bath, South Dakota showed that the supply of water carried .44 parts per million nitrate nitrogen, the return flows 1.14. Near Pierre the same year the supply water had 0.31 and the return flows 0.80 parts per million. Thus, there is about the same enrichment of surface waters by flowage of irrigation water over the land surface as there is by the flowage of rainfall over the land surface, according to the data quoted earlier from Dr. White's research work.

The element phosphorus is perhaps a more important nutrient than nitrogen as respects the eutrofication and pollution of surface waters. The ions containing phosphorus in the soil are adsorbed quite tightly on soil surfaces and thus the soil normally acts as a filter, so waters passing through the soil will not carry appreciable amounts of phosphorus. However, to the extent that erosion occurs and phosphorus is attached to soil particles which erode, phosphorus will be moved into surface waters, to drains, to lakes, etc.

Drainage waters

The water quality coming from the drains which will need to be installed along with the irrigation supply works is a question deserving considerable attention. In the course of our experimental work related to the amelioration of clay pan soils in the lake plain we have had an experimental area under study for the past 4 years in central Spink County. A part of this study has been the installation of a tile drain through the fields and the collection and examination of the waters which have been delivered by that tile system. The maximum and minimum salinity in the 3 years that the drain has been operating since installation in 1970 are as follows: the maximum conductivity in 1971 was 3.6, in 1972 was 3.5, and 1973, 2.7 millimhos per cm. The minimum conductivities were 0.5 in 1971, 0.7 in 1972, and 0.55 in 1973. These would be approximately 300–420 parts per million.

The point I wish to make is that the maximum salinity at the period of lowest flow has diminished with time. I interpret this to mean that channels are developing in the soil through which the drainage water moves and the salinity removal per year may actually decline in the first 5 or 10 years of the project. I also wish to point out that the maximum salinity of this drainage water is only slightly higher than the salt content of the James River itself in low period. (EC on July 7, 1973 was 2.03, October 5, 2.52 mmhos/cm) A significant part of this information is the change in salinity as volume of flow changes. The accompanying table of data show that the flowage in cubic feet per day from the tile line changed from 1160 in the early part of May to 64 in mid-June.

Spink County tile drainage—Conductivity and flowage, May and June 1973

	Flowage cu. ft./day	*EC mmhos/cm.*
May 2 to May 4	1, 160	0. 56
May 4 to May 9	1, 130	1. 07
May 24 to May 31	246	2. 01
June 7 to June 12	64	2. 73

Accompanying that decrease in flowage was an increase in electrical conductivity or salinity of the water from 0.56 millimhos per cm in early May to 2.73 in mid-June. Thus, the total salt removed from the drained area diminishes with flowage but the concentration increases to a considerable degree but not in direct proportion to the diminution of flowage. My impression is that this means that the salt impact on receiving streams will not be negligible, but rather minor at the periods of low flow and the water quality coming through soil drains in periods of high flowage after the first 5 years or so will be about the same as normal flows and much better than the James River is at the low flow periods. (July 7, 2.03 mmhos/cm)

Another aspect of this flowage-conductivity relationship is the way in which nitrate nitrogen varies with salinity. As the salinity of the water increases from approximately 0.25 millimhos per cm to about 2.0, the nitrate nitrogen content increases from approximately 0.5 parts per million to roughly 2 or 2½ parts per million. There is some deviation from this, of course, as not all samples fall in agreement, but this is the general trend of nitrate and salinity in many ground waters.

In this connection I would like to point out that a group of samples from Lake Byron which were analyzed at the State Water Quality Laboratory in the summer of 1973 had hydrolyzable phosphate contents of 0.8 to as high as 3.25 parts per million. This means that in solution and in the live and dead cell bodies of algae and other organisms in suspension in the lake water there was as much as 3.25 ppm of phosphate. When one compares this with phosphate contents of the Missouri River of about 0.03 parts per million, one has a glimpse of the extreme enrichment that has taken place in Lake Byron, quite typical of our prairie lakes. The drainage waters which come through soil are essentially devoid of phosphorus and thus this enrichment problem in Lake Byron should very much diminish, as the water to be pumped into Lake Byron is partially return flow drainage water and partially Missouri River water diverted into the James.

It has been my observation in experience of pumping out of the James River in the last few years for our experiment on clay pan soil amelioration that the river water is so turbid and transmits so little light that practically no bottom-attached vegetation exists in the channel proper. There is a little along the sides in a few cases. This high turbidity is a factor which would be alleviated by the increased flowage and the augmentation occurring as a result of drainage waters and surface return flows from irrigated lands. This augmentation will be water largely very low in phosphorus as far as the drains are concerned except for phosphorus which may be picked up from the soil and plant materials existing in channels between the pipe drains and the river itself. The suspended solid load in the James River varies with the time of year but seems to increase very remarkably during middle and late summer. Measurements in 1971 indicated a range from 6 to 23 parts per million of suspended solids. My estimate is that this would be considerably diminished by the dilution from the drain waters and augmentation by additional surface flows.

Irrigation—Costs and Returns

(By F. F. Kerr, extension water resources specialist, South Dakota State University)

I would like to direct my remarks during this brief presentation period to some results we have compiled during the past several years on irrigation costs and returns.

The basis for cost and return analysis comes largely from irrigation demonstration farm results.

When a demonstration farm is set up the agreement calls for the farmer to assume all costs except for a little instrumentation that we provide him on a loan basis. He also agrees to make his facility available to us for tours etc., keeps accurate records on forms that we provide and to follow our recommendation where he believes them to be applicable. The extension service agrees to provide technical services and recommendations on agronomic, economic and engineering considerations relating to the operation.

The services that extension carries out for the demonstration farm operators are really no different than those provided anyone else except that they are more intensive and somewhat formalized by the agreement. Extension, in turn obtains reliable, on-the-farm data that can be used elsewhere.

The three main things on which extension wished to accumulate "on-the-farm" data were crops and crop varieties, water management and cost and return figures.

We started intensive work on this in 1967. The first three years we concentrated on crop varieties, water management and engineering design and layout. The cooperator was in Brown County. In 1970 we closed out the Brown County agreement and entered a new agreement with a cooperator in Chas. Mix County.

On the Chart I, I have extracted certain cost figures that reflect what it has cost the cooperators each year to deliver the necessary water to the land served. These figures would compare to the $10.40 charge to be made in the Oahe unit.

In the case of the Brown County farm the delivery costs were almost the same as the Oahe charge. In this project the water source was close at hand and lifts were under 50 feet. On the Charles Mix farm water was drawn from Lake Francis Case, transported nearly 1½ miles and lifted 320 feet. Therefore delivery costs were much higher.

The other column on Chart I shows the return to land, labor and management for each of the years 1970–1973. Chart II shows how this figure is arrived at.

The term "return to land, labor and management" may need explaining. It is one of four expressions of net profit that may be used—(1) return to management (2) return to land and management, (3) return to labor and management and (4) return to land, labor, and management. We leave it to the cooperator as to how he wishes net profit to be expressed. If he wants to show return to management only, the family labor is entered as a cost at whatever rate per hour he feels he could earn if he were not farming. Also if he were not farming he would not have money invested in land and could put this money out on interest at some rate, perhaps 6½ percent, so if the land were worth two hundred dollars an acre he is foregoing a $13.00 income from every acre that he owns by virtue of his owning it and this $13.00 is also entered as a cost. He then has a return to management only.

Chart II shows a summary of the 1973 costs and return for the Charles Mix farm.

The relationship of gross income to costs is good in view of the $2.05 corn price even with the higher costs of 1973 inputs. Should the price go down and/or expenses go up this very favorable relationship will become less favorable. There does however appear to be room for some cost-price adjustment and still leave an acceptable profit. Also putting the feed through livestock will help a great deal when cost-price relationships are tight.

A small group of farmers at Ft. Thompson have formed a 2585 acre irrigation district and are requesting funding for their project through the South Dakota Water Resources Management Act. The state Department of Natural Resources Development requested extension to run some farm budgets in this area using data assembled from demonstration farms. We did this and carried the analysis a step further in that we computed induced or "spin off" benefits that accrue from such a project. The computation was based on some recent research done for small irrigation project developments.

Chart III shows an interesting relationship between direct gain to irrigators and total gain to the economy as crop prices increase. The gain to the total economy increases at a more rapid rate than the gain to irrigators.

REALISTIC YIELDS UNDER IRRIGATION

Corn has shown a dramatic increase in yields per acre under irrigation during the last several years. In 1967 an exhaustive personal interview survey among irrigators was held. The survey revealed, at that time that the average yields in eastern South Dakota, south of a line through the southern Beadle County boundary was 109 Bu./acre and north of the line the average yield was 89.5.

Today the difference still exists but the range of difference has decreased by about 50%. This is due mostly to more adaptable varieties and improved water management. The average yields are now about 125 in the north and about 135 in the south. This being due to better varieties and even more to better water management. Top yields range far above the averages as can be noted on Chart IV.

Alfalfa yields have increasd somewhat in the same period but less dramatically. Present alfalfa yields are about 5T per acre with the top being about 6.

Corn silage yield have not increased much largely because irrigators do little variety selection for silage use. Instead they usually cut their poorest field for silage. Yields are running about 20T per acre. Thirty tons/acre is believed to be a realistic goal with good variety selection and other management inputs.

Potatoes have received some attention from extension and research in the last couple of years to attempt to determine how they would respond to irrigation in the Clark County area. Irrigation yields have been 290 cwt. per acre as compared to 135 cwt/A under dryland.

Dry edible bean irrigated and dryland yields were compared in 1973 at several locations in north eastern South Dakota. Average yield differences were 2104 lbs/acre irrigated and 1491 lb/acre dryland.

Sunflowers were irrigated and yields were compared to dryland at Redfield in 1973. There was no significant difference.

Soybeans have not generally been irrigated in South Dakota because their response has not been economically competitive with other crops. More research on variety selection and the response of each to irrigation will be conducted at Redfield.

CHART I.—DEMONSTRATION FARM SUMMARY

Year	Brown County farm		Chas. Mix Co. farm	
	Delivery cost per acre	Return to land labor and management	Delivery cost per acre	Return to land labor and management
1967	(1)	(1)		
1968	(1)	(1)		
1969	(1)	(1)		
1970	$10.33	$35.99	$35.05	$16.94
1971			35.68	40.99
1972			19.58	82.27
1973			42.86	141.25

[1] Crop varieties, water management, and engineering.

CHART II.—*Chas. Mix demonstration farm, 1973*

COSTS	*Per acre*
Pumping costs (fuel, oil, grease, and repairs)	$35.06
Crop production costs (planting, harvesting, drying)	24.66
Fertilizer	30.59
Agricultural chemicals	5.35
Fixed and other costs (depreciation, interest, insurance)	28.48
Total costs	124.14
INCOME	
Corn—14,950 bushels at $2.05 (115A at 130 Bu/A)	30,647.50
Silage—100 tons×$12.00 per ton (5A at 20T/A)	1,200.00
	31,847.50
Gross income/A	265.39
Less production and fixed costs	124.14
Net return to land, labor, and management	141.25

CHART IV.—YIELDS IN SOUTH DAKOTA IRRIGATED CORN CONTEST, BASED ON YIELD FROM A RANDOM 10 PERCENT OF A 25-ACRE FIELD

[Yields corrected to 15½ percent moisture]

Contestant	Yield	Percent of normal goal[1]
1972:		
Varilek (Chas. Mix)	199.79	133.19
Turner (Walworth)	149.53	124.60
Ludens (Turner)	173.40	123.85
Nielson (Spink)	151.22	120.97
Nystrom (Hughes)	157.08	120.83
1973:		
Wipf (Spink)	179.54	143.63
Ludens (Turner)	197.45	141.12
Hunter (Turner)	176.93	126.37
Basse (Union)	188.80	125.86
Scofield (Moody)	131.46	101.12

[1] Based on growing-degree-days for that county.

STATEMENT OF NELS H. GRANHOLM

Senator McGovern, people of South Dakota, and other distinguished visitors . . . I am pleased to have this opportunity to act on behalf of the people of this State. I hope my comments today will serve to help South Dakotans more fully understand many of the issues involved in projects such as the Oahe Unit. And I recognize as do all of you that we are indeed fortunate to have the kind of government which will allow us to speak freely in an open forum such as this one to discuss significant federal-state policy issues. I would like to thank Senator McGovern for calling this Conference.

Federal water resource projects such as the Oahe Unit irrigation project do not just "crop up" (pardon the pun) overnight. They represent the results of years, sometimes decades, of planning. It may be that South Dakotans in the 1890's discussed the idea of transporting Missouri River water to the James River Valley for irrigation purposes. However, the Oahe Unit, Initial Stage was not authorized by the United States Congress (82 Stat. 624) until August 3, 1968, nearly 5½ years ago. In these last 5½ years significant policy decisions which relate directly to the whole concept of federal water resource development projects have been made. In my talk today, I would like to review some of these decisions and policy. Interestingly, many of these policy changes reflect our long-in-coming awareness of environmental values. The energy crisis whether real, contrived, or both serves to illustrate how our rather short-sighted exploitation of the world's natural resources, in this instance petroleum, can lead to serious problems having profound global repercussions.

1. Returning to federal water resource projects like the Oahe Unit, we find that the single, most important criterion in determining whether or not the project achieves Congressional authorization is the benefit-cost evaluation.

"Through a variety of methods, the Bureau attaches dollar values to the future benefits and costs it predicts for its projects. These values are then adjusted or "discounted" to recognize the fact that a dollar of expense today is worth more than a dollar of income sometime in the distant future. If a project's total discounted benefits exceed total discounted costs, then the Bureau labels the project economically feasible. Each project must pass this economic feasibility test before it is submitted to Congress. And once it is submitted cloaked in figures that say it will provide more benefits than costs, it is almost invariably approved."[1]

A. Let us briefly examine the August, 1971 (most current) BR benefit-cost evaluation of the Oahe Unit.[2] Project benefits from the following purposes are listed in annual equivalent benefits using a 3¼% interest rate for a 100-year period:

Benefits (annual) Irrigation:	*Annual equivalent*
Direct	$11,923,100
Total	20,314,000
Municipal and industrial water	461,300
Fish and wildlife enhancement	$549,400
Flood control	46,400
Recreation	108,300
Area redevelopment	280,200
Uncompensated adverse effects	$481,900
Net benefits: Direct	13,268,700
Total	21,277,700

Footnotes at end of article.

B. "Total project costs, with the annual equivalent costs for the initial stage as computed for a 100-year period of analysis and using a 3¼% interest rate are shown in the following tabulation[2]":

Item	Total costs[1]			
	Project and assigned costs	Interest during construction	Total	Total annual equivalent
Project costs	$246,950,000	$10,751,000	$257,701,000	$8,041,400
Assigned costs from Pick-Sloan Missouri Basin program:				
Main-stem storage	19,357,000	1,934,000	21,291,000	571,800
Power	23,292,000	1,428,000	24,720,000	697,200
Total assigned costs	42,649,000	3,362,000	46,011,000	1,269,000
Total project and assigned costs	289,599,000	14,113,000	303,712,000	9,310,400
Less preauthorization costs	4,989,000	892,000	5,881,000	199,200
Subtotal				9,111,200
Plus replacement of recreational facilities				16,900
Plus OM&R				1,320,100
Total net cost				10,448,200

[1] Does not include costs of future capacity provisions for Oahe Pumping Plant, $3,800,000, and costs for highway betterment, $2,000,000.

C. *Benefit-Cost Ratios.* In order to calculate direct benefits only, one divides the direct benefits (expressed in annual equivalents) by the total project costs (also expressed in annual equivalents), i.e., $13,368,700/$10,448,200 which equals 1.28, rounded to 1.3. Similarly for total project benefits, the B/C ratio is $21,277,700/$10,448,200 or 2.04 rounded to 2.0.

One might look at these two benefit-cost ratio figures of 1.3 (direct) and 2.0 (total) and conclude, on this basis alone, that the Oahe Unit demonstrates economic and thus overall respectability; it does appear that for every dollar of cost, we are getting a return of $1.30 in direct benefits and $2.00 in total benefits. But things are not quite that simple. In order for us to evaluate the Bureau's B/C analysis procedure, we need to: (1) examine precisely how the Bureau of Reclamation attaches dollar values to future benefits and costs, (2) comprehensively outline and evaluate total project and secondary costs such as long term environmental costs resulting from BE sponsored projects, i.e., wetlands drainage, less of 110,000 acres of grazing and agricultural land, energy expenditures, water quality degration due to irrigation and municipal-industrial uses, nonrenewable resource commitments, and others, and (3) consider total project merit or desirability in light of new federal studies, new guidelines for water resource projects like Oahe, and laws, e.g., The President's National Water Commission's Reports, The Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500).

2. Let us look very briefly at some rather significant federal, state, and private policy statements, guidelines, and laws which reflect directly on the overall feasibility and merit of the Oahe Unit. These include: (1) Federal Water Resources Council's newly promulgated (10 Sept. 1973) "Principles and Standards",[3] (2) Draft and Final Reports of the President's National Water Commission,[4] [5] (3) House Report No. 93-530,[6] (4) Missouri River Basin Commission's PROSPECTUS FOR A LEVEL B STUDY of the James River Basin North Dakota-South Dakota,[7] (5) Review by the Environmental Protection Agency of the Oahe Unit Draft Environmental Impact Statement,[8] (6) Federal Bureau of Sport Fisheries and Wildlife, Department of Interior—testimony of Mr. Robert Panzner at the Oahe Unit Draft Environmental Impact Statement,[9] (7) position statements on relevant environmental issues by the Wildlife Society, a national professional conservation organization,[10] (8) Federal Water Pollution Control Act Amendments of 1972 [11] and others.

3. Federal Water Resources Council's (WRC) newly promulgated (10 Sept. 1973) Principles and Standards.[3]

These new guidelines will largely reform both planning and evaluation procedures of large federally-funded water resource projects like Oahe. The WRC, an interagency body comprising the department heads of major water resource development agencies, was established as a result of the Water Resources Planning Act of 1965. The two major changes of these new guidelines which took effect 25 September involve (1) the discount rate and (2) project planning objectives. Also, some previously authorized projects will be reformulated and resubmitted to Congress for reauthorization.

A. The Discount Rate: The B/C ratio of large, multipurpose federal water projects requiring heavy capital investment is extremely sensitive to increases in the discount rate. For example "a survey made some time ago by the Water Resources Congress, a promotional group, showed that, for about one-third of some 245 authorized Corps of Engineers projects on which no work had been started, the B/C ratio would drop below 'unity' ($1 in benefits for every dollar in costs) if the discount rate were raised from 5⅜% to 7%, the latter being only slightly higher than the initial rate under the new Principles and Standards [12]"

The discount rate based solely on "the opportunity cost of capital" would be about 10%. Under the new Principles and Standards the discount rate starts at 6⅞, then rises or falls by 0.5 of 1% depending on the money market, i.e. the average cost of Federal borrowing as determined by the Secretary of the Treasury.[13]

The Oahe Unit was originally authorized (3 August 1968) using a 3⅛% discount rate [14]. Later the economics were recalculated in the Definite Plan Report of 1971 [2] using a 3¼% discount rate.

B. Project Planning Objectives: "The overall purpose of water and land resource planning is to promote the quality of life, by reflecting society's preferences for attainment of the objectives defined below: (1) to enhance national economic development by increasing the value of the nation's output of goods and services and improving national economic efficiency, and (2) to enhance the quality of the environment by the management, conservation, preservation, creation, restoration, or improvement of the quality of certain natural and cultural resources and ecological systems.[15]

For each water resource project, a system of public information accounts will be used to carefully delineate and display the beneficial and adverse effects on the national economic development and environmental quality objectives and on regional development and social well-being. These accounts "will be prepared in such a manner that the different levels of achievement to each objective and effects on regional development and social well being can be readily discerned and compared, indicating the tradeoffs between alternative plans [16]". In short, the new Principals and Standards provide for comprehensive accountability regarding environmental as well as economic values in federal water project planning. They will do much to identify the real costs of such projects.

C. Reevaluation, Reformulation, and Reauthorization of Selected Federal Water Resource Projects: "Under certain key provisions of the Principles and Standards, large-scale, capital-intensive water projects will often be harder to justify in the future than they have been in the past. Furthermore, besides affecting future projects that have not yet been formulated and sent to Congress, the new guidelines will be applied 'selectively' to the $15 billion backlog of projects previously authorized but not yet built. Any authorized project that is reevaluated and susbtantially reformulated will be submitted to Congress for reauthorization [17]".

4. Draft and Final Reports of the President's National Water Commission (NWC).

Public Law 90-515 approved 26 September 1968 established President Johnson's NWC and charged the Commission to make "conclusions and recommendations on the policies when it believes the Nation should adopt at this point in its history for the efficient, equitable, and environmentally responsible management of its water resources [18]". Members of the Commission include the chairman, Mr. Charles F. Luce (former administrator of the Bonneville Power Administration, former Undersecretary of the Interior, and present board chairman of Consolidated Edison), Mr. Howell Appling Jr. (Founder and President, Independent Distributors, Inc., a wholesale farm equipment distribution firm in Portland, Oregon), Mr. James R. Ellis (attorney), Mr. Roger C. Ernst (Consultant, Arizona Public Service Co. and President, Central Arizona Water Conservation District), Mr. Ray K. Linsley (Professor of Hydraulic Engineering, Stanford University), Mr. James E. Murphy (attorney), and Mr. Josiah Wheat (attorney). The Draft or Proposed Report of the NWC was released late in 1972; the Final Report was presented to the President on 14 June 1973.

The following conclusions and recommendations regarding the overall merit and desirability of large, capital-intensive, federally-funded water projects like Oahe are taken from the Draft and Final NWC Reports: [4], [6]

A. "When federal water developments are

Footnotes at end of article.

used to encourage economic growth in certain regions, offsetting declines or reductions in the pace of growth may result in other regions . . .

B. "Federal reclamation projects have been undertaken . . . to provide commodities that could have been produced at lower cost to the nation by other means . . .

C. In addition to frequently failing a cost effectiveness test, the federal water resources development projects have been heavily subsidized by the federal government; that is by all the taxpayers of the nation. The water users on some modern federal reclamation projects, for example, repay no more than 10% of the construction costs attributable to irrigation, the remaining cost being borne by the federal government in two ways: by not requiring the water users to reimburse the Treasury for the interest on the capital advanced for project construction, and by permitting power revenues and sometimes other non-irrigation revenues to be credited toward irrigation reimbursement . . .

D. "There is no way to determine the exact impact of the reclamation program on crop surpluses; however, nearly 37% of the acreage served by Bureau of Reclamation project facilities produced crops eligible for federal price support programs in 1969 . . .

E. "It has been estimated that in the period 1944–1964 something between $83 and $179 million in annual payments to farmers under federal farm price support programs can be directly attributed to increased production from reclamation lands . . .

F. "There is adequate productive capacity in the nation's agriculture to meet food and fiber demands under various alternative futures at least until the year 2000. There consequently is no need within the next 30 years for federally subsidized water resource development programs to increase the agricultural land base of the country . . .

G. "The federal reclamation program has never succeeded in producing family farms owned, operated, and occupied by farm families . . .

H. "The commission concludes that subsidization of new irrigation projects is not justified on either social or economic grounds . . .

I. "Subsidization of new irrigation projects should be discontinued. Direct beneficiaries of federal irrigation developments should pay in full the costs of new projects allocated to irrigation . . .

5. U.S. House of Representatives Report No. 93–530 entitled Stream Channelization: What Federally Financed Draglines and Bulldozers do to Our Nation's Streams.

The House Committee on Government Operations' Subcommittee, Conservation and Natural Resources Subcommittee chaired by Henry S. Reuss of Wisconsin "held extensive hearings on May 3 and 4, June 3, 4, 9, 10, and 14, 1971, and March 20 and 22, 1973 concerning the Federal Government's stream channelization programs, to determine whether Federal agencies are responsibly, economically, and efficiently complying with applicable law, including the Fish and Wildlife Coordination Act (16 U.S. Code 661, *et seq.*), the Federal Water Pollution Control Act (33 U.S. Code, 1972 Supp. II, 1151, *et. seq.*), and the National Environmental Policy Act of 1969 (42 U.S. Code 4321, *et seq.*), and whether these agencies are adequately assessing the adverse environmental effects of channlization [19]". The conclusions reached by the Committee on Government Operations' Conservation and Natural Resources Subcommittee [20] generally indicate that much improvement is needed in the operations of the Bureau of Reclamation, Army Corps of Engineers, the Soil Conservation Service, and the Tennessee Valley Authority (TVA) regarding planning and construction of water resource projects. Some of these conclusions are:

A. "Some channelization accomplishes good and useful purposes and should be continued. However, other channelization projects either directly or indirectly have adversely affected the environment—ruining fish and wildlife habitat, destroying hardwood forests, damaging scenic and esthetic natural values, lowering water tables, increasing erosion upstream, and sedimentation and flooding downstream, impairing water quality, encouraging construction on flood plains and thereby increasing both damages from large floods and demands for more flood protection works, enabling nearby land owners to construct lateral ditches to drain even more wetlands, etc.[21]"

B. "The fears raised by many concerned citizens about the adverse effects of channelization are not imagined or exaggerated. They reflect the real and extensive environmental damage which results from many channelization projects. Unless the Federal Agencies (BR, Corps, SCS, and TVA) act promptly to deal with the problem—by adopting alternatives to channelization, abandoning the channelization features of a project, or substantially minimizing the adverse effects of channelization—those water resource programs will continue to face major citizen opposition and the benefits of these projects to the nation will be impaired." [22]

C. Of the principle Federal agencies engaged in sponsoring channelizatiion, i.e., the Corps, SCS, and to a lesser extent BR and TVA have: (1) "not given adequate consideration to the adverse environmental effects of channelization projects which they have supported . . . (2) "failed to afford adequate opportunity for full public participation in the development of channelization projects . . . (3) failed to publish basic guidelines, instructions, memoranda, and other documents which are regulatory in nature or set forth general policy . . . in the Federal Register despite the requirements of the Administrative Procedure Act." [20]

D. "The Bureau of Outdoor Recreation (BOR) has broad statutory authority and duties to review SCS projects in order to conserve and enhance public outdoor recreational opportunities. It has, however, failed to carry out its statutory obligation [20]".

E. Finally, "it is clear that much improvement is needed in the operations of the Federal agencies discussed in this report (Corps, SCS, BR, and TVA). Adoption of the Committee's recommendations [23] will aid in achieving such improvement." [20]

6. Missouri River Basin Commission (MRBC).

The MRBC, a Presidential State-Federal River Basin Commission in accordance with the Water Resources Planning Act of 1965, serves as the principal agency for the coordination of Federal, State, interstate, local, and non-governmental plans for the development of water and related land resources in the Missouri River Basin.[24]

A careful analysis of the MRBC's "PROSPECTUS FOR A LEVEL B STUDY OF The James River Basin North Dakota-South Dakota" i.e. a $2,000,000 cooperative undertaking between local, state, and federal agencies to thoroughly investigate and document the Basin's multiple resources as defined by the multi-objectives of national economic efficiency, environmental enhancement, regional development, and social well-being submitted to the Federal Water Resources Council for funding, is very instructive. Such an analysis clearly demonstrates that the Commission recognizes serious problems inherent in present unilateral development programs of the James River Basin. The following quotations:

"It is obvious to those familiar with the problems of the James River Basin that a coordinated planning effort is essential at this time.

On the eve of constructing major irreversible works within the Basin (Oahe Unit, Pipestem Dam and Reservoir, and one fourth of the Garrison Diversion), interrelated problems and needs from both natural and manmade conditions are unresolved [25]" and

"The introduction of large blocks of irrigation in the Garrison and Oahe Units by importation from the Missouri River will influence water quality in the James River. Return flows from irrigation could be detrimental at times in terms of contributing to dissolved solids and salts, but beneficial effects could also derive from the availability of the imported water for the augmentation of low flows and the regulation and dilution of current high dissolved mineral concentrations. Additional investigations are needed to determine water quality enhancement requirements as municipal, industrial, and agricultural water uses change within the Basin".[26]
serve to show the serious and genuine intent of the Commission in requesting financial support from the Water Resources Council to conduct the Level B study.

7. Environmental Protection Agency (EPA)

Under Section 309 of the Clean Air Act, EPA must "review and comment in writing on the environmental impact" of any legislation, action or regulation proposed by any federal agency if it affects matters related to EPA's jurisdiction. If EPA determines that any proposed activity is unsatisfactory from the standpoint of public health or welfare or environmental quality, that determination must be published and the matter referred to the President's Council on Environmental Quality. EPA has reviewed the Oahe Unit draft Environmental Impact Statement and stated, "Because the project involves changing the existing land uses and hydrologic/water quality features on 190,000 acres of South Dakota over a short period of time, environmental degradation could be extensive. . . . We feel that four areas of impacts have not been adequately covered in the statement, namely: *water quality, flooding potential, wildlife,* and *economics*. . . . "EPA has assigned a Category 3 to the review of this project. With a Category 3, EPA takes issue with the proposed action unless major changes or additions are made which will adequately protect the environment. EPA feels that the proposed action, as described in the draft statement, needs major revisions from an environmental viewpoint".[8]

8. Federal Bureau of Sport Fisheries and Wildlife (BSFW)

The BSFW has gone on record opposing James River channelization and the original plan for Byron Reservoir development of the Oahe Unit [9] [27]. Mr. Robert Panzner of the Aberdeen BSFW office testified that "recent studies of several streams in other parts of the country indicate that channelization results in the loss, both by weight and number, of 90% of the game fish. These studies also note that there is no significant increase in fish populations 40 years after channelization. . . . Other wildlife species expected to suffer major losses are wood ducks, great blue herons, black-crowned night herons, fox squirrels, beaver, mink, and racoons. All other mammals and birds using this reach of the James River will be adversely affected.[11] Mr. Panzner also discussed negative impacts on fisheries resources (bigmouth and smallmouth buffalo) within Lake Sharpe resulting from "removal of zooplankton-bearing surface water from the immediate vicinity of Oahe Dam".[9]

9. Position Statements on Water Resources by Conservation Organizations such as the National Audubon Society, National Wildlife Federation, National Resources Defense Council, Izaak Walton League, Wildlife Management Institute, and many others as exemplified by the Wildlife Society.

"The Wildlife Society is a professionally oriented association with members in more

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than 60 countries. The Society is dedicated to the sound management and preservation of wildlife resources of the world . . . membership is composed of administrators, educators, information and law enforcement specialists, managers, and research scientists''.[28]

The Wildlife Society thus contains professionals with expertise in the fields of wildlife biology and wildlife management. In October 1973, The Wildlife Society Council approved the following position statement on WETLANDS AND STREAM ALTERATION:

"Wetlands and streams are distinct biotic communities that support a unique and diverse flora and fauna. They function as stabilizing forces of the physical environment by sustaining high water tables to balance precipitation deficits, by retaining excess surface water to diminish flooding, and by serving as settling basins for silt and chemicals to reduce pollution in downstream waters.

In the past several decades, however, thousands of wetlands have been drained or filled for land reclamation, and thousands of miles of streams have been channelized—or otherwise altered—for flood control, irrigation, power generation, and navigation. These practices, which are continuing at a rapid pace, have not only irreparably damaged these water areas but have also adversely affected the associated aquatic and riparian (river bank) biota. Environmentally disruptive programs of wetlands and stream alteration have been, and are being, subsidized by public funds. Furthermore, intraprogram measures designed to mitigate resource losses resulting from these injudicious practices have been inadequate.

Therefore, it is the policy of The Wildlife Society to:

1. Oppose alteration programs that cause permanent damage to the physical and biological resources of wetlands and streams.

2. Support programs and practices designed to enhance the retention of surface water at its origin on the watershed, to conserve natural reservoirs of underground water, and to maintain high standards of water quality.

3. Encourage the enactment of legislation that promotes the wise management of wetlands and streams, and their biota."[29]

10. Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500).

In this comprehensive water law, the goal of "no discharge of pollutants into the navigable waters by 1985" remains an outstanding and remarkable objective. Our whole means of dealing with water pollution is transformed from the old concept of assimilative capacity (i.e., what concentration of pollutants can the water dilute or assimilate) to the concept of no discharge. Regarding irrigation return flows, the language of Sections 101 and 102 although poetic lacks specifics. Clearly, however, the discharge of highly saline and otherwise toxic return irrigation flows into navigable waters is in direct contradistinction to the meaning and intent of the Water Act. And, certain Sections of the Water Act do address themselves to irrigation and other agricultural activities.[30]

11. Allocations and Repayment of Oahe Unit for Fiscal Year 1974.[31]

	Amount
Allocations:	
Irrigation	$296,866,000
Power	
M and I water	14,426,000
Recreation	4,861,000
Fish and wildlife	15,858,000
Flood control	1,398,000
Future capacity	4,430,000
Highway improvement	2,360,000
Other	
Total	338,199,000
Repayment:	
Amt repaid by irrigators	$33,440,000
Amt repaid by power	263,426,000
Amt repaid by M & I water	14,426,000
Amt repaid by recreation	466,000
Amt repaid by fish and wildlife	1,012,000
Future capacity	4,430,000
Nonreimbursable[1]	20,999,000
Total	338,199,000

[1] Includes nonreimbursable fish and wildlife, $14,864,000; flood control, $1,398,000; $2,395,000; and construction of highways to higher standards under Public Law 87-874, $2,360,000

Interestingly, the total allocation of $338,199,000 represents a 64% cost overrun relative to the total cost at project authorization of $205,790,000.[32] Such large, capital-intensive federally-financed projects tend to have rather spectacular cost overruns; the cost overrun of the Army Corps of Engineers Oahe Dam project was 359%.[33]

12. How Some Project Benefits are Calculated

A. Fish and Wildlife Benefits: "Fish and wildlife enhancement benefits were computed on the basis of determination by the Bureau of Sport Fisheries and Wildlife that benefits would be equal to the least costly, justifiable single purpose alternative which would produce the same or substantially similar effect".[34] Does this procedure reflect the true fish and wildlife enhancement benefit? It seems a bit inconsistent that for purposes of the benefit/cost evaluation, we use fish and wildlife enhancement benefits when in fact, most professional wildlife specialists including members of the BSFW [29] and Wildlife Society [28] [29] agree that projects like Oahe result in net losses to ecological and wildlife values.

B. Recreation Benefits: "Recreation benefits were estimated by the National Park Service on the basis of anticipated use of Blunt, Cresbard, and Byron Reservoirs, as well as the reservoir formed by the recently completed James diversion dam. The benefits are exclusive of annual operation and maintenance costs of the recreation facilities which would be a non-Federal responsibility".[35]

The National Park Service evaluated "the recreation potential of the Oahe Unit in keeping with . . . Senate Document 97 . . . and applicable sections of part 751, Reservoir Project Lands, appendix B, Departmental manual".[36] Such guidelines allow the NPS to affix values of "annual visitor days" to each project reservoir. For example, the NPS states "that about an average of 23,000 visitor days will be derived annually from this (Cresbard) impoundment when the initial installation of basic recreation facilities has been completed".[37]

One wonders how the predicted NPS recreation potential of the Oahe Unit would compare to a current reevaluation using new guidelines? One wonders if double counting (calculating each activity per person as one annual visitor day, i.e. one person who spends time hiking, boating, fishing, and having lunch could be counted as 4 annual visitor days) was used in NPS's evaluation?

C. Municipal and Industrial Water Benefits (M and I): "M and I water benefits were computed on the basis of the cost of the cheapest single-purpose alternative likely to be developed in the absence of the Federal project, using a local financing rate of 4% .[38] One can raise questions regarding this "alternative cost principle" which BR uses. For example, the phrase "likely to be developed" is subjective. Upon thorough economic examination one might find that BR tends to systematically overstate M and I benefits.[39]

13. Negative Economical Benefits (Environmental Costs), Direct and Secondary

"Currently, the Bureau does not take into account the deleterious impacts of irrigation or municipal and industrial (M and I) wastes. These negative benefits should be recognized and quantified in dollar terms when they are attributable to Reclamation projects. It is intolerable for the Bureau of Reclamation to claim the benefits from irrigation, while failing to recognize the actual water quality costs resulting from that irrigation. Similarly the Bureau should stop recognizing indirect irrigation benefits and M and I benefits unless it also recognizes the negative benefits from M and I growth and from the processing and irrigation of commodities grown on Bureau-irrigated lands [40]".

Regarding Oahe, direct negative benefits or environmental costs include substantial James River degradation regardless of channelization or "green-belt" alternative, "net decrease of approximately 9,400 acres of semi-permanent wetlands [27]", overall ecological degradation, consumption and pollution of fuels and energy, and others. Water quality impacts may also be very serious. These negative benefits are not discussed or calculated in the Oahe Unit benefit/cost evaluation. In the case, Sierra Club v. Froehlke "which involved the adequacy of the Corps environmental impact statement on the Wallisville Dam project . . . the court found of 'particular significance' the reference in the Corps cost-benefit analysis to 'selected environmental related benefits without also considering and evaluating environmentally-related costs [41]".

14. Energy Considerations

"American agricultural technology is extremely dependent upon an abundance of cheap energy. So long as a continued supply of cheap energy is forthcoming, it may be able to proceed as it has in the past; but should it have to face an energy crisis in the near future, or even a substantial rise in the price of energy, agriculture may have to undergo a drastic reorganization [42]". It is becoming increasingly more apparent that we should strive for maximum efficiency of energy utilization in agriculture as well as other areas. How efficient is American agriculture?

Delwiche, 1968 (taken from Perelman, 1973.[42]) estimates that food production consumes about one to two times as much energy as it yields, and this estimate may be conservative. "In contrast, for each unit of energy the wet rice farmer (Traditional Chinese wet rice agricultural) expends, he can get more than 50 in return (from the sun's energy); for each unit of fossil fuel energy we expend in food production, we get about one unit in return [43]".

The Bureau of Reclamation stated in the Draft Environmental Impact Statement (DEIS) that the annual reduction of saleable Missouri River Basin hydroelectric energy due to the Oahe unit would be 272 million kilowatt-hours (kwh). In the Final Environmental Impact Statement (FEIS), the Bureau states that the Oahe Unit will result in "a decline in generation of 143 million kwh per year and an annual consumption of 99.2 kwh to pump project water . . . about 50% of the Oahe Unit irrigable lands will be sprinkler irrigated. This would require an additional 43 million kwh of electrical energy to operate on farm sprinkler facilities [44]". This total amounts to 295.2 million kwh of electrical energy expended per year. In addition, electrical energy "could be retrieved if a higher use materialized. Other power sources, possibly thermal, may have to be developed to supply existing customers. This increased thermal generation may consume fuel from resources which are irretrievable [44]'".

It seems inconsistent in the face of our present energy shortage and knowledge about our agricultural energy efficiency to commit large units of energy to alter the farming practices of the productive Lake Plain dryland farming scheme. In short, the Lake Plain area produces respectable yields of small grains. One wonders about the amount of energy that must be expended to convert this productive small grain opera-

Footnotes at end of article.

tion into an alfalfa, corn, irrigated pasture, livestock production scheme. One also wonders how much potential energy in terms of future crop production will be lost on the 110,000 acres of agricultural and grazing land used for canal rights-of-way, poundments, etc. It is also interesting to consider how much energy will be expended in terms of petroleum products to create the Oahe Unit, to dig the canals, build pumping stations, create the large reservoirs, etc. Also, one wonders how much energy will be expended for routine operation, maintenance, and replacement of the Oahe Unit. The very hard and legitimate question is "will the increased productivity of the irrigated lands justify the total energy expenditure?" Can we now say with confidence that the Oahe Unit is the most efficient way to increase our agricultural productivity in South Dakota? In the event of a real energy "crunch" in the future, will we regret our energy commitment to the Oahe Unit?

15. Future Public Works Projects.

In the future, the kinds of public works projects Congress will authorize may be quite different from the Oahe Unit. They will probably be less complex, less capital-intensive, and possess less engineering features. In order for states and regions to compete favorably for available funds, projects will probably become smaller in scope, less intricate, better planned, and hopefully, more efficient. The National Water Commission Draft and Final Reports[4,5] indicate that multi-purpose water resource projects like Oahe may not be the most desirable or efficient way to stimulate the economy or achieve other avowed project purposes.

It is interesting to consider the structure and function of future public works programs. How would the funds allocated for the Oahe Unit ($338,199,000[31]) be spent in future years?

16. Additional Seminars, Symposia, Meetings, Conferences, etc. on the Oahe Unit.

The items selected in this summary for discussion today represent only a fraction of the concepts, ideas, and information that should be openly discussed in public by proponents, opponents, and others. For example, we have not discussed: (1) numerous social impacts of the Oahe Unit including rather drastic living changes forced upon South Dakotas by the project, (2) complexities, subtleties, and intricacies of the Bureau's benefit-cost evaluation and various "hidden repayment subsidies,"[45] (3) the concept of mitigation of wildlife values, (4) economics of dryland versus irrigation farming in the Lake Plain area, (5) environmental impacts such as channelization of natural drainage creeks, ecological losses inherent in mitigation, etc., and (6) many others.

We need additional meetings to present all the issues openly and fairly. I would like to ask Mr. Preston Funkhouser, Officers of the Oahe Conservancy Sub-District, West Brown and Spink County Irrigation Districts, Senator McGovern, Governor Kneip, Secretaries Lockner, Butler, Popowski, other members of our Congressional delegation and other responsible public officials to help cosponsor along with various environmental groups a series of informational, panel discussion-type meetings on all facets of the Oahe Unit. After South Dakotans learn about the Oahe Unit, they will then be in a much better position to evaluate the project.

17. Conclusions.

A. The request for a moratorium on land acquisition and construction of the Oahe Unit by United Family Farmers, South Dakota Environmental Coalition, and others is a valid request.

B. The Oahe Unite should undergo a reevaluation, a reformulation, and should be resubmited to Congress for reauthorization. The new discount rate of 6⅞% and new project planning objectives of the Federal Water Resources Council's Principles and Standards[3] should be used during project reevaluation and reformulation.

C. The people of South Dakota should learn as much as they can about the Oahe Unit and other public works projects. It is our responsibility as good citizens to become more responsive to our government.

Thank you very much.

FOOTNOTES

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[13] See footnote 3, p. 24822.

[14] House Document No. 163, 90th Congress, First Session. 1967. Oahe Unit, Missouri River Basin Project, South Dakota. Washington, D.C., U.S. Government Printing Office.

[15] See footnote 3, p. 24781.

[16] Ibid. p. 24833.

[17] See footnote 12.

[18] See footnote 5, p. iii.

[19] See footnote 6, p. 1–2.

[20] Ibid. p. 12–5.

[21] Ibid. p. 12.

[22] Ibid. p. 11.

[23] Ibid. p. 16–7.

[24] Mr. John W. Neuberger, Chairman, Missouri River Basin Commission, Suite 403, 10050 Regency Circle, Omaha, Nebraska 68114.

[25] See footnote 7. p. 6.

[26] Ibid. p. 6A.

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[29] The Wildlife Society, Suite S–176, 3900 Wisconsin Avenue, N.W., Washington, D.C. 20016.

[30] See Sec. 304(e) (A) and Sec. 402(b) of The Federal Water Pollution Control Act Amendments of 1972 (P.L. 92–500) and 38 Federal Regulations 10800, Sec. 124.11.

[31] Figures taken from Bureau of Reclamation Oahe Unit Project Data Sheet, Transcript of the Public Works Appropriations for Fiscal Year 1974, U.S. Congress, 28 March 1973. p. 2788.

[32] See footnote 14, p. 50.

[33] Drew, Elizabeth. 1970. Dam outrage: Story of the Army Corps of Engineers. Atlantic Monthly, April, 1970. p. 57.

[34] See footnote 14, p. 42.

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[36] Report of the National Park Service. Supplemental Report—Recreation Reconnaissance Report, Oahe Unit. see Footnote 14, p. 194–202.

[37] Ibid. p. 198.

[38] See footnote 14. p. 42.

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NATIONAL STRATEGIC POLICY

Mr. GOLDWATER. Mr. President, we hear a great deal of discussion these days about our national strategic policy at a time when the administration keeps talking about "détente" with the Soviet Union and defense officials keep pointing out the enormous military advances being made by the Russians.

I believe the need for rethinking U.S. strategic concepts is now recognized and that some changes can be expected before too long. In this connection, Mr. President, I should like to point out that the board of directors of the Air Force Association recently adopted a unanimous statement relating to this policy situation. I ask that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AN AFA STATEMENT ON NATIONAL STRATEGIC POLICY

The need for rethinking US strategic concepts, stemming from radical changes in world power equations that have taken place in the past year, is now recognized. As a result, a basic and welcome change in the strategic plans and policies of the United States is beginning to take shape.

The risky and rigid strategic concept of assured destruction is giving way to a more flexible, more realistic deterrent doctrine incorporating counterforce—the ability to destroy an attacker's essential military targets, both soft and hard—making it possible to respond in kind to less than all-out nuclear aggression.

The Air Force Association endorses this shift in national strategy, with its greatly expanded emphasis on purely military targets rather than on military-related industrial and transportation targets and population centers. We commend Secretary of Defense Schlesinger for his sure grasp of the advantages of a strategy incorporating counterforce capabilities, and for articulating these advantages so convincingly. We welcome the initiatives taken in the Administration's FY '75 budget that support such a strategy.

It remains now for the Administration, the Congress, and the American people to bring into being, and to maintain, the military and political apparatus required to make a counterforce-oriented strategy possible, workable, and believable.

Recent advances in Soviet military technology, together with the disarray among US allies arising from the Middle East confrontation, permit no other reasonable choice to the United States.

Counterforce too often is wrongly equated with a destabilizing first-strike posture. Counterforce likewise is seen by critics as ensuring continuance of an arms race. The first of these claims is not true. The second ignores even worse alternatives.

What is true is that counterforce weapons in the hands of the Soviet Union, without tangible evidence of an offsetting US capability, would create intolerable pressures on our national leadership. The US eventually would be reduced to a high-risk dependence on bluffing, and the nation's ability to maneuver diplomatically would be paralyzed. Doubts concerning US capabilities and intentions would proliferate, not only in the Kremlin but among our allies.

The world balance of power would shift, first into a period of precarious stability, and ultimately into a situation of one-way deterrence, with the Soviet Union in the driver's seat.

Whatever risks may be associated with an arms race, the greatest risk of all would be for the United States to finish second best.

A credible counterforce capability thus becomes essential to a credible US deterrent posture. In a counterforce strategy, the segments of the US Triad become even more interdependent one upon the other, with land-based ICBMs remaining the principal counterforce weapon. Therefore, it becomes a matter of urgent priority to exploit more fully the inherent counterforce capabilities of our ICBMs. These are limited in number by the SALT I agreements, and hence can only be upgraded qualitatively—in accuracy, yield, and numbers of warheads, plus hardening of launch sites.

Failure to maintain at leaast essential equivalence, overall as well as in key counterforce capabilities, would be dangerous, provocative, and irresponsible.

Compounding these factors is the declining US investment in military-oriented scientific research over the last decade, especially when set against a steadily increasing Soviet level of effort. There is real danger of major technological surprise in the years ahead. US defense research is down some twenty-five percent since 1964, while the Soviet effort has increased manyfold over the same period.

The signs are ominous. US scientists and associated experts know of the existence of dozens of advanced Soviet research projects whose nature and purpose defy assessment. Among these projects may well be the seeds of a technological breakthrough to rival or exceed the combination of the nuclear warhead and the ICBM.

The Air Force Association, therefore, urges the Administration and the Congress to take the following essential actions and to assure their continuance in the interest of stability in the world:

An increase in basic military R&D sufficient to make up for lost ground in order to maintain a position of technological superiority;

Development of technological options, beyond the present family of strategic weapons, so that Soviet numerical superiority of strategic weapon systems accorded by SALT I is not reinforced by qualitative superiority as well;

Upgrading of our ICBM force to achieve full counterforce capabilities;

Expeditious development and deployment of the B–1 strategic bomber as essential insurance against potentially decisive technological surprise;

Full funding of current force modernization programs to maintain the US ability to credibly deter conventional war;

Expansion of the US strategic airlift capability; and

Maintaining the manpower of the armed forces, both the Reserve components and the active-duty forces under the total-force policy, at levels in consonance with their mission of deterring nuclear as well as conventional war.

CAREER FEDERAL SERVICE

Mr. McGEE. Mr. President, Washington Post columnist Mike Causey, in his Tuesday column, devoted a great deal of attention to the situation facing top-rung career executives in the Federal Service. Government retirement experts, he reported, already say they are being quietly contacted by key supergrade employees who want their annuities computed now. And he related a report about one high level employee who plans to retire because he has discovered he will lose only a small amount of take-home pay—$34 a week. Causey quotes one official as saying:

> When you calculate that a guy would no longer be paying 7 percent of his salary into the retirement fund, would be on a much lower tax base, and the fact that his pension won't increase much if he keeps on working, a lot of people are going to wake up one morning and say "what am I working for when I'd be better off financially to retire and take cost-of-living raises."

Few, I would say, would be better off, but the difference might be, in many cases, so close as to be insignificant since most people concerned would have the capability of earning substantial amounts in private employment. And this is true even though very few would be eligible for the maximum pension of 80 percent of their high 3-year average salary. It takes considerable service to reach that level.

Some will say, and have said, "good riddance." But, Mr. President, I would suggest that Members with that state of mind think again. The U.S. Postal Service, when it first was created, took aim at reducing its work force and its costs, instituting an early retirement program which resulted in the loss of many thousands of knowledgeable and experienced employees, including about a fourth of its supervisory force. The results were traumatic, I can assure you.

Mr. President, I ask unanimous consent that the column I have referred to, from Tuesday's Washington Post, be printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

Agencies Look for High-Level Exodus

(By Mike Causey)

Federal agencies have been told to carefully monitor retirement patterns over the next few months. The object of the exercise is to find out how many—if any—top-paid executives will quit because their salaries remain frozen at $36,000.

During the recent pay raise debate, backers of the President's executive salary proposals warned that hundreds of key officials could be expected to retire unless their five-year pay freeze was ended. Most members of Congress (who make $42,500) and private citizens (who average around $11,000 a year) appeared unmoved by the argument.

But government retirement experts already report they have been quietly contacted by key supergrade (GS 16, 17 and 18) employees who want their annuities computed now. They suspect that many will retire earlier than expected, because there is little hope they soon can get pay raises that would help build their retirement income.

Over the weekend the Los Angeles Times reported on a high-level aide at the National Institutes of Health who will retire in May because, he says, the difference between his salary and pension will be only $34 a week.

Government pensions—after long service—are based on 80 per cent of the average highest three years salary. As pay moves steadily upward, and the employee accumulates more service time, the potential pension also increases. But with pay frozen—as it is now for more than 10,000 Grade 15 through 18 workers—pension building is almost at a standstill.

When you calculate that a guy would no longer be paying 7 per cent of his salary into the retirement fund, would be on a much lower tax base (paying no federal tax for at least a year after retirement), and the fact that his pension won't increase much if he keeps on working," an official said, "a lot of people are going to wake up one morning and say "what am I working for when I'd be better off financially to retire and take cost-of-living raises.' "

Despite the reasoning of freeze-inspired retirements, there are many who remain unconvinced that the government will have an executive exodus. One is Rep. Bill Scherle (R-Iowa). The conservative Scherle recently wrote the President asking for "a list of those federal employees whom we were told would resign in droves if their salaries were not immediately increased."

Scherle says there are plenty of people in his district who will be willing to fill the supergrade gap at $36,000. "I am confident that as the present disgruntled employees leave, most could be rapidly replaced by qualified, dedicated constituents of mine."

Scherle's address, if you want to contact him, is Room 512, Cannon House Office Building.

THE U.S. CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. BROOKE. Mr. President, I have joined with many of my colleagues in the Senate in expressing dismay at the recent action of the House of Representatives in denying funds to replenish the U.S. contribution to the International Development Association. I am convinced that this myopic action, if allowed to stand, would ill-serve our national interests as well as the humanitarian ideals which we cherish.

Recently, Roy Wilkins, executive director of the National Association for the Advancement of Colored People, wrote eloquently of the negative implications of the House action. In his column he wrote:

> If our vote denies bread to the black people of Africa, whatever excuses we give to the world, in our heart of hearts we shall don sack cloth and ashes and we shall weep for the brothers we could have helped, but did not.

I believe the Congress should reflect very seriously on the implications of this statement before it goes down the path to which the House action is pointing. In the end such a journey will only lead to more suffering and despair for the poor of the world without in any way serving the interests of the American people. It is a journey we should not take.

Mr. President, I ask unanimous consent that the Roy Wilkins column concerning the International Development Association be printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

The Roy Wilkins Column

(By Roy Wilkins)

The people who have suffered during the African drought will be starving to death in 1974 because the House of Representatives of the United States of America, the richest nation on earth, failed to enact a bill which would enable the poor African nations to borrow from the World Bank and thus stave off starvation.

Representatives in the House were reacting, it is said, to the strong American feeling that this nation ought not to vote money for any foreigners, especially if they are black. But the vote of January 23 was more than resentment against voting another money bill. It was more than resentment against the actions of the President who has cut off funds for poor Americans, while still asking that American money go to the poor in foreign lands.

American private citizens have leaped to the aid of any people, anywhere, after disaster has struck. We have poured out our dollars and our goods wherever there has been want. It matters not whether the stricken people suffered from a tidal wave, an earthquake, a volcano, a flood, a drought a tornado or whatever, American hearts went out to them. American pocketbooks were opened. In fact, disaster relief has been so generous and so loosely administered inside our own country that there has been a shaking of heads over some phases of the relief of our own people.

Apparently this has not extended (at least through our elected representatives in the Congress) to the black people of Africa. We have given them, it is true, a million here and a million there to relieve a multi-million-dollar need, but nothing comparable to the millions and hundreds of millions—even the billions—we have made available to nations not predominantly black.

The U.S.A. has been Europe-oriented, not Africa-oriented. We send our dollars to Europe. Lately we have included Japan and soon will include China. We simply do not see our destiny, as yet, in Africa. Color helps our white people in their mistaken righteousness, but it is not the whole answer.

However, it is difficult to convince a hungry black population, as well as millions of American blacks, that skin color is merely incidental. The question now is, "To starve or not to starve?"

The United States ranks 14th among the 16 donor countries. Its per capita income is today 34–40 times that of the people in the poor nations of Africa and Asia. If we go by per capita income, our contribution is only one-tenth of what it was 25 years ago. This is not a proud spot for the richest nation the world has even seen.

Nor is it an occasion for boasting that the sharing agreement was negotiated at a meeting to all interested parties in Nairobi, Kenya. The House of Representatives seems to be saying that it does not live up to agreements negotiated in Africa. The share of the United States was 1.5 billion dollars spread over four years instead of three. It was the smallest share ever for the U.S.

Mr. McNamara, president of the World Bank, has called the refusal of the House "an unmitigated disaster for hundreds of millions of people in the poorest nations of the world."

The U.S., so fat and rich, must not starve millions of human beings. If our vote denies bread to the black people of Africa, whatever excuses we give to the world, in our heart of hearts we shall don sack cloth and ashes and we shall weep for the brothers we could have helped, but did not.

WORLD FOOD SHORTAGE

Mr. HUMPHREY. Mr. President, the New York Times included two compelling articles in its March 11 edition which I recommend highly.

The first, "Consumers in the U.S. Face Competition for Nation's Food," highlights the problem which the American consumer now faces. American products are selling at peak prices on the world market which everyone applauds. Domestic food prices have also gone through the ceiling, but no satisfactory explanation is forthcoming.

As I have pointed out many times, this administration has abdicated on its responsibility to develop a sensible policy on maintaining adequate food reserves. I am afraid the Department of Agriculture would be prepared to sell its last bushel of wheat on the world market, regardless of the domestic needs.

This is a case of playing Russian roulette with American consumers and hoping the farmers will again bail us out with a bumper crop.

Mr. President, the second article, "Critical New Food Shortages Predicted for India," provides the other side of our shortsighted "sell all you can to whomever will buy regardless of the consequences" policy.

India has made splendid progress in increasing its wheat and rice production in recent years. However, recent droughts and the refugee problem growing out of Bangladesh's fight for independence have wiped out its stored reserves. Fertilizer shortages now make the picture even bleaker.

We need not expect to feed the world, but we are no longer in a position even to be of much help in case of an emergency. India is of course only one on the list of countries facing a serious food shortage. We, too, would be in a critical situation if we had a crop failure in this country.

Mr. President, I intend to continue issuing these warnings until this administration finally takes the decisive action that is clearly required. We need firm leadership now or the food situation could well become a disaster.

Mr. President, I ask unanimous consent that these two articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Consumers in United States Face Competition for Nation's Food

(By Douglas E. Kneeland)

When Americans push shopping carts through their supermarkets, not many of them are aware that they are now competing for much of the food they buy with people in Japan, Western Europe, the Soviet Union, China and most of the rest of the world. But they are.

Agricultural and economics experts agreed in interviews over the last three weeks that a major reason for some of the sharp increases in food prices in recent years had been the sudden and vast expansion of agricultural exports from the United States.

In the fiscal year ending June 30, 1972, the total value of American agricultural exports was $8-billion. For the year ending this June 30, the Government is estimating total agricultural sales abroad of $20-billion, 2½ times as much.

"We had a hellish big increase in quantity but a lot of it was in price," said Kennard O. Stephens, deputy assistant sales manager in the Department of Agriculture's foreign agriculture service. "Maybe 50 per cent of this was price."

END NOT IN SIGHT

That is what happens when a lot of people are bidding for the existing products on an international market.

Discussions across the country with representatives of the food industry, officials of the Department of Agriculture, exporters, consulting agricultural economists and farmers themselves provided a consensus that the end of the expansion in foreign agricultural trade is not in sight.

Most Americans are familiar with the Soviet purchases of 350 million bushels of wheat in the late summer of 1972. That marked the beginning of the end of the huge surpluses that had occurred for decades in the United States. But most of those interviewed during the last few weeks agreed that the Soviet grain deal was only the tip of the iceberg.

RISING EXPECTATIONS

The law of supply and demand is at work, they emphasize, but it is no longer limited to the domestic level. It is the demand of a hungry world, whose ever-increasing population has rising expectations and somewhat more affluence, for food supplies that are having trouble keeping up.

For most of their lifetimes, Americans have been accustomed to relatively cheap basic foodstuffs made possible by an agriculture that regularly produced vast surpluses. The government, in turn, has spent billions to buy and store the leftovers and to pay farmers to hold acreages out of production.

Now, the upsurge in American exports has produced a whole new set of influences on the domestic market.

For instance, Japan has an insatiable appetite for soybeans, of which the United States is the world's biggest exporter. The demand may keep the price at a level that, in a side effect, adds considerably to the expense of feeding soybean products to poultry in this country and eventually to the cost of chickens to consumers. Likewise, a developing desire for more meat abroad may lead to a drastic increase in exports of American corn and other feed grains, pushing up their prices in making the cost of beef and pork much higher in the United States.

ANCHOVIES AND SALESMANSHIP

The change was spurred by a number of things, such as the easing of restrictions on trade with Communist countries, disappointing grain crops in many parts of the world, a poor catch of anchovies (used for protein in feed) off Peru two years ago, rising world demand for wheat and meat, rice crop failures in Asia and aggressive salesmanship over the last few years by many American growers' associations and export companies.

But it has come about so fast, rapidly draining off the traditional surpluses in this country, that it has caught many by surprise.

Little public notice was paid to the shifting situation until the American Bakers Association recently began badgering the Department of Agriculture to slow the record exports of wheat. The bakers sought the imposition of some sort of licensing controls, in effect, an embargo on new sales, lest the United States run out of wheat by the June 30 end of the crop year.

The bakers have insisted that the country could run so low on wheat that prices would soar and a family-size loaf of bread might cost $1.

The department, which has welcomed and encouraged an upward trend in sales, has resisted any type of embargo. The United States ended the last calendar year $9.3-billion ahead in agricultural exports over imports and $1.7-billion in the black in total balance of payments.

Secretary of Agriculture Earl L. Butz and his assistants are convinced that the credibility of the United States as a world trading partner was severely damaged in the summer of 1973 by a temporary embargo on soybean exports.

They insist that despite the bakers' predictions, the country will have a carryover of about 150 million bushels of wheat on July 1.

PUBLIC UNPREPARED

Most of those questioned were convinced that the bakers—like much of the American public—had become so used to prices dictated by surpluses that they were unprepared when wheat broke the historic $3-a-bushel barrier and rose to as much as $6 a bushel.

But the philosophy of Dr. Butz and many in the grain industry is that if Americans are to trade in a free world market they must pay the going price for products, even those that are raised in great surplus at home. In the case of wheat, the United States consumes only about a third of its annual crop. There are some obvious political risks in telling the people at home in a time of rising prices that they must bid against the rest of the world for their own grain.

Ray Davis, president of the National Association of Wheat Growers, does not believe the country is going to run out of wheat, but he enthusiastically embraces the new philosophy that American consumers are going to have to pay the world price if they want their share.

Cargill, Inc., in Minneapolis, is generally acknowledged as one of the largest, if not the leading, processor and handler of United States farm products. Men like Walter B. Saunders, vice president for the company's marketing and transportation group, and Melvin H. Middents, vice president for the commodity marketing division, are dealing with the new world situation with relish. It's their business and it's booming.

IN 38 COUNTRIES

Cargill, which has annual sales in the billions, buys and sells grains (it accounts for more than 22 per cent of United States wheat exports). It also processes soybeans and other products, produces feeds and raises poultry, leases a fleet of 1,500 hopper cars, owns barges, towboats and ships, makes chemical products and operates salt mines and fishing fleets. It has more than 300 plants and offices in 38 countries.

But Mr. Saunders and Mr. Middents, dressed in conservative gray suits and rep ties, make it all sound simpler than that.

"Our economic function, really two functions," Mr. Saunders said in company headquarters in a secluded brick chalet at Lake Minnetonka, "is to get grain from surplus areas to deficit areas. That can be from Kansas City to Buffalo or to the U.S.S.R. The other is to take grain when it is in surplus and then distribute it when it is no longer surplus. That's the grain business."

Mr. Saunders, slender, with dark wavy hair and horn-rimmed glasses, paused to smile across the table at Mr. Middents, a broad-faced friendly man.

"We store grain for other people," he went on. "Since World War II our biggest customer has been Uncle Sam, but we don't do much of that any more."

Both agreed that the world grain stocks were tight, but insisted that the United States would not run out of wheat.

"It's really been a shock to us," Mr. Saunders said. "Mel and I have been with Cargill a number of years and nobody paid any attention to our business. Now we've been on radio and television and people complain to us at cocktail parties. 'You're the guys who sold all that wheat to the Russians.' "

"That Russian grain deal is the most misunderstood thing," said Mr. Middents, "but it was just the timing more than anything. Nobody predicted the dramatic turnaround."

"We thought it would happen," Mr. Saunders interjected, "but we thought it would be gradual. Nobody expected the explosive nature of it."

"One of the things, as with energy," Mr. Middents said, "I think we'll still have reasonably priced food. But we can't take either energy or food for granted as something we'll have extremely cheaply."

CRITICAL NEW FOOD SHORTAGES PREDICTED FOR INDIA

(By Bernard Weinraub)

NEW DELHI, March 10.—A private report by international economists has concluded that India faces an economic crisis marked by critical food shortages in the next few years.

The carefully worded report by the World Bank, circulated in Washington and New Delhi, says that India must import at least 10 million tons of grain in the next five years, that she will need $12-billion in aid over that period—far more than the Government had predicted—and that assistance from oil-producing countries is crucial to meet India's requirements.

The report, a confidential working paper prepared by World Bank economists, was distributed to the members of the 13-nation Indian Aid Consortium, the central agency that seeks to meet India's development needs.

MOST MEMBERS FROM WEST

The members are Austria, Belgium, Britain, Canada, Denmark, France, West Germany, Italy, Japan, the Netherlands, Norway, Sweden and the United States, as well as the World Bank itself, formally named the International Bank for Reconstruction and Development.

A copy of the full report, issued for the consortium meeting in Paris April 9–11, was made available to The New York Times by sources outside the World Bank.

Parts of the document were discussed in an Indian newspaper, The Statesman.

Although the document avoids the word "crisis," its conclusions are inescapable. "First and most serious is the food situation," the report says. "Food stocks in the public distribution system are negligible, current availabilities have been severely reduced, prices are sharply rising and active discontent is spreading."

SETBACK ON FOOD

The report estimates that India will have to import two million tons of grains in each of the next five years, a serious setback to a nation that sought self-sufficiency in food production less than three years ago.

It also speaks gravely of the impact of the oil crisis.

"India is among the developing countries most severely affected by the recent changes in the world energy situation," the report says.

"India's need is so great, and the potential consequences of not satisfying it so serious, that it is imperative that all concerned make every effort to solve the massive problem that lies ahead.

At another point, the report says of the rise in oil prices, "The increase is so large and so sudden that unless the assurance of obtaining the additional financing required is soon forthcoming, the Government will have to make immediate and radical downward adjustments in petroleum and other imports, which can only have a disruptive and negative effect on growth.

IMPACT ON FOOD

"Moreover, any reduction in fertilizer availability through lack of imports would impair the country's ability to meet its food requirements in the coming year, and perhaps beyond." It adds: "If the monsoon were to fail in 1974, there could be a famine of grave proportion."

India, the second most populous nation after China, consumed 24.5 millions tons of petroleum and related products last year. Of this, 17 million tons were imported. This year India is expected to spend 50 to 80 per cent of what she earns through exports on oil wells, compared to 20 per cent last year.

The report says that Eastern and Western nations must step up their aid to India, and that a new source of assistance must be tapped, the oil-producing nations.

OIL WEALTH MUST HELP

The document notes a conclusion by Indian planners that the nation would need $5-billion in foreign aid in the next five years, but it says that a more realistic figure now is $12.1-billion.

The economists say, in effect, that even if the nations of the consortium, as well as those in the Eastern bloc, step up assistance, Indian would still be $3-billion short.

"This gap must be filled," they advise, "by calling on other sources, of which the resources of the oil-producing countries, whether obtained directly or indirectly, constitute an important potential element."

The report notes a sharp rise in the cost of imported goods and adds: "Unfortunately, while India's import prices are rising rapidly, its exports are not similarly favored. Tea and jute products, two of India's most important exports, have benefited little from the sharper increase in world prices of primary products."

The World Bank analysts detailed India's growing relationship with the Soviet Union and other Eastern bloc nations, a relationship that many Indian economists prefer because these nations have accepted payments in rupees rather than one of the world's dominant currencies, such as the dollar or pound.

EASTERN AID DUBIOUS

Significantly, except for the fiscal year now ending, India sent more goods to the Eastern bloc than she received over the four years—a situation the economists call a "negative net aid transfer." This year there was a reversal because of food shipments from the Soviet Union.

"While India has benefited from its trade relationship in Eastern Europe," the analysts said, "the implications of the negative net aid transfer cannot be ignored. A negative net transfer is the opposite of what should prevail in a relationship between a developing country and countries committed to assist its development."

Perhaps the key reason for the "negative net aid transfer" is that Indians have spurred exports to the Soviet Union but what the New Delhi Government needs—newsprint, fertilizer, minerals—are sold elsewhere for convertible currency.

CEASE-FIRE IN VIETNAM

Mr. MATHIAS. Mr. President, recently the Maryland Senate and House of Delegates passed resolutions commemorating the first anniversary of the cease-fire in Vietnam and particularly remembering the 1,200 American servicemen, including 31 from Maryland, who remain missing in action in Southeast Asia. I know my colleagues join me in the guarantee that our Government will continue to make every effort to obtain a full accounting of these men whose families have lived for so long with uncertainty and despair.

I ask unanimous consent that Maryland Senate Resolution No. 20 be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Senate Resolution No. 20: Cease-Fire in Vietnam

For the purpose of commemorating the first anniversary of the cease-fire in Viet Nam, January 27, 1973, and remembering, with sympathy, the prisoners of war or listed as missing in action, paying tribute to these men through the Maryland Freedom Tree on the State House Grounds as a living memorial and by an annual resolution.

Whereas, It is important that Americans remember and pay tribute to their fellow countrymen who have fought and died in the long war in Southeast Asia with the hope that all men may someday live in peace; and

Whereas, More than 1200 Americans who were captured or listed as missing in action in Southeast Asia have not yet been returned or even accounted for; and

Whereas, Of 42 men with families in Maryland who were listed as prisoners or missing in action at the time of the cease-fire only 11 have returned, leaving 31 unaccounted for; and

Whereas, No information has been provided about these men; including 50 men previously listed as prisoners; the remains of 60 men said to have died in captivity and not yet returned to their families; and the 1,200 men listed as missing in action about whom there is still no information; and

Whereas, These 1,200 missing Americans account for more than two-thirds of those listed one year ago as prisoners or missing in action and little is being done by the United States government to determine the fate of these men and ease the years-long anguish of their families; now, therefore, be it

Resolved by the Senate of Maryland, That its members express their feelings of greatest sympathy for the more than 1,200 families all across this country who continue to live with the incredible agony of not knowing where their husbands, sons and fathers are, and whether they are dead or alive; and be it further

Resolved, That the Senate of Maryland continue to pay tribute to these men through an annual resolution in the Senate and through the Maryland Freedom Tree, now growing on the State House lawn as a living memorial to all prisoners and missing in action; and be it further

Resolved, That copies of this Resolution be sent to Maryland Senators Charles Mathias and J. Glenn Beall; members of the Maryland delegation to the U.S. House of Representatives; the U.S. Secretaries of State and Defense; the U.S. Representative to the United Nations; the Maryland Chapter, National League of Families of American Prisoners of War and Missing in Southeast Asia; the national office of VIVA (Voices in Vital America); Le Duc Tho of North Vietnam; M. Phoumi Vongvichit of Laos; and Col. William W. Tombough, Chief of the U.S. Delegation to the Four Power Joint Military Team in Paris, and families of Maryland men who have been prisoners or who are missing in action in Southeast Asia.

THE FUTURE OF NEW HAMPSHIRE RAILS

Mr. McINTYRE. Mr. President, the Interstate Commerce Commission has recently held hearings in the Midwest and Northeast region to determine a rail reorganization plan for this area. These hearings represent the second step in a yearlong process to establish a feasible and economically sound plan for improving rail service for this region.

Representatives from all over New England were asked to give testimony in Boston last week on the preliminary report of the Department of Transportation's recommendations for reorganizing these rails. John Hoar, Jr., chairman of the Ad Hoc Committee on the Condition of the Railroads in New Hampshire and a representative of the New Hampshire General Court was able to speak from an informed background having studied New Hampshire's rail situation for the past 8 months. Mr. Hoar is also the author of legislation which would authorize the New Hampshire Public Utilities Commission to purchase and maintain the operation of rail service in the Granite State.

Mr. President, I therefore ask unanimous consent that his testimony at the rail reorganization hearings in Boston be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Northeastern Railroad Investigation Review of the Secretary of Transportation's Rail Service Report

My name is John Hoar, Jr. I reside at Prescott Road, Epping, New Hampshire. I am a Representative to the General Court of New Hampshire, representing Rockingham County, District 8. I am a member of the House Committee on Executive Departments and Administration and I am Chairman of the Speaker's Ad Hoc Committee on the Condition of Railroads in New Hampshire.

Since the appointment of the Speaker's Ad Hoc Committee on the Condition of Railroads in New Hampshire in July of 1973, one of its chief aims has been to analyze the ramifications of the Regional Rail Reorganization Act of 1973, particularly as it might apply to New Hampshire and Northern New England. During the last eight months the Committee has carefully studied the state's rail situation. It has met with shippers and receivers of all sizes, railroad managers and operators, and state, federal, local and regional officials. It has inspected the state's entire rail system traveling by caboose, hi-rail car and on foot.

The Department of Transportation report came as no surprise to the Committee, nor was it entirely unwelcome. It brought to a head a problem that has long been festering in New Hampshire—the difficulty of securing decent service and maintenance on the state's light-density lines.

Over the last twenty years the Boston and Maine Railroad has followed policy of deferring maintenance, curtailing service, poor scheduling, diverting traffic and discouraging customers on New Hampshire lines until the resulting reduced speeds and light traffic density have provided grounds for abandonment.

At present, 224 miles of the state's 830 miles are abandoned or requested for abandonment, with many more under consideration. Track speeds have been cut in half throughout the state in *just 10 years.*

The Federal Act has temporarily halted this process and the D.O.T. Core System report has given us a hard, painful, look at what rail service would have been in five years under the B&M if the state had done nothing. The Federal bill has forced New Hampshire to step back and analyze its situation and made some hard decisions about the future of its railroads.

I must say here, parenthetically, that the D.O.T. report, as Mr. Bixler so ably presented this morning, is directed principally at Class 1 railroad operations. The lines in New Hampshire are principally light-density lines and as such belong under Class 2-type operations. The D.O.T. report specifically states that:

"The lines classified as potentially excess also merit close attention by states, local communities and shippers because they are the lines most likely to be determined to be financially non-viable and hence excluded from the Association's Final System Plan."

The Regional Rail Reorganization Act of 1973 provides for grants and loans to the state, etc., for acquisition, modernization and rehabilitation purposes.

The Railroad Committee has reacted by submitting legislation to the Special Session of the New Hampshire General Court that would authorize the New Hampshire Public Utilities Commission to purchase railroad rights-of-way and trackage and lease them to private operators. The legislation would establish a special rail office within the Public Utilities Commission with authority to develop and promote a state rail plan and administer this Act.

While the bill itself is enabling legislation only and specifies no plan, the Committee anticipates the purchase and lease of four or more rail networks that could be operated profitably in the state. The rail office would create those networks from segments of light and heavy traffic density, being careful to give each network a sufficient average traffic density and enough gateways to permit bargaining and competition for favorable divisions of revenue and service. The Office would lease each network on a all-or-nothing basis requiring an operator to serve an entire network or no lines at all. Our economic studies show these networks could be operated at a profit by a competent operator. If properly structured, this network concept would return the bulk of the state's trackage, regular service and maintenance, and upgrade tracks to the levels acceptable for rail passenger service.

The fate of House Bill 31 will be decided by the legislature and the Governor of the State of New Hampshire in the next few weeks. If it passes, New Hampshire will be in a position to restructure its own system and integrate it with CRC's core system. The 400 miles of track left out of D.O.T.'s Core System report will be kept in service and upgraded. The threatened job loss won't materialize; CRC will get more traffic than presently anticipated and New Hampshire will take a strong step toward developing a balanced transportation system that will save fuel, secure and promote a healthy economy and cut the *cost of living* and reduce unemployment as well as contribute to a cleaner environment.

Our sister state of Vermont, as Mr. Gensberg stated this morning, has for a decade successfully pursued the course of state ownership and leasing of railroad lines which we propose to be adopted in New Hampshire. Neither state would think of interfering with the operations of viable railroads such as Vermont Central, Maine Central, Canadian National and Canadian Pacific as long as they continue to provide for our service requirement. On the other hand, should any of those railroads decide to cut back on their service, I am certain that both states would take a long look at the lines involved so that we could inure service in the affected area.

New Hampshire's plan of action, or any state's plan of action, should not stop with today's needs but should anticipate future requirements whether industrial, agricultural, or recreational, freight or passenger. We, in New Hampshire, have even adopted the term "rail banking."

The question of whether or not the Boston and Maine Railroad is reorganizable does not overwhelm my Committee. We do feel strongly, however, that the State of New Hampshire, regardless of the outcome of the bankruptcy proceedings, will always be the source of feeder traffic rather than main line traffic and for that reason, principally, we have recommended the legislative action now under consideration.

Your Honor, you have heard today and you will hear in the future, many criticisms of the D.O.T. report. You will hear the needs for railroad service continually stressed. I earnestly hope that the Interstate Commerce Commission in their analysis of the D.O.T. report consider the alternatives presented by that report and do not overlook Class 2 Operations, the service that those operations can provide; as well as the necessary bridge lines, which even though they be light-density, are essential to continuation of economic and competitive rail service in this region.

For your additional information, I am attaching a copy of our Final Report to the Speaker dated January 26, 1974, together with a copy of House Bill 31 as submitted to the New Hampshire General Court now in Special Session.

SUSTAINING THE PRESIDENT'S VETO OF THE EMERGENCY ENERGY BILL

Mr. FANNIN. Mr. President, thanks to the good sense and courage of 40 Members of this Senate, we voted last week to sustain President Nixon's veto of the emergency energy bill.

This bill with its phony oil price rollback provision was clearly a political ploy. The irony is that although it appeared to be a good piece of public relations for the Congress, it was in fact legislation which would have further eroded confidence in this branch of Government. It was another something-for-nothing promise which would have backfired by causing not more gasoline but less gasoline, not lower prices but higher prices.

With confidence in Government at such a low point we can no longer afford to play political games. We must have legislation that is truthful, that is realistic, that is economically sound, that will result in the product that our people need.

Mr. President, editorials which appeared recently in the Dallas Morning News on March 8, 1974, and the Dallas Times Herald on February 17, 1974, demonstrate that knowledgeable people across this Nation are not being fooled by the efforts of some Members of Congress to blame everyone but the Congress for the disastrous economic consequences of policies dictated by Congress for the past two decades. I request unanimous consent that these editorials be printed in the RECORD.

There being no objection, the columns were ordered to be printed in the RECORD, as follows:

[From the Dallas Morning News, Mar. 8, 1974]

A CLOSE SAVE

President Nixon has vetoed the Congress' energy bill and its strange answer to the oil shortage, the oil price rollback. The veto was sustained in the Senate.

We suspect that quite a few members of the Congress heaved a sigh of relief, including some who voted for the bill. Thanks to the President's willingness to make this save, the lawmakers who voted to give the folks back home a bargain can feel a bit less guilty about the future consequences of their grandstand play.

The grandstand play was the part of the bill that would have solved the energy shortage by rolling back the price oilmen can get for their crude oil.

There is no minimum intelligence requirement for either house of the Congress, as has been demonstrated on frequent occasions. But anyone with the intellect needed to step out of the way of a speeding truck can see that you do not ease a shortage of oil by making it less profitable to produce more oil. By rolling back the price oilmen can get, you ensure that the nation will be furnished less, not more of the fuel we need.

Politicians are not entirely unaware of the power of greater income to attract interest. Some have been known to say from time to time that higher pay for elected officials—such as, for instance, congressmen—would attract more good men into public service. They have not been pointing out this truth much lately, of course—and considering the public's jaundiced attitude toward public servants, they are wise not to.

But it is true, nevertheless. The prospect of better income attracts more people to run for office just as it attracts more people to search for oil.

That being the case, the congressmen's vote to reduce the price of oil in an oil-short nation was an economic absurdity. And even now, with members of the House trying another rollback, we believe the congressmen are able to recognize it as such.

But politically, the pro-rollback majority can hope that it will pay off very well. Those who must run for reelection in the consumer states can now go home and tell the voters that they stood right up and tried to give a bargain to The People. They can condemn the President for keeping this bit of congressional generosity from the weary public.

So they get the credit for the grandstand play. And the President gets the blame for saving the country from the disastrous results of that grandstand play.

In the short-run, this sort of thing will probably work to help some congressmen win reelection. But over the years, just such irresponsibility has cost the legislative branch itself the public respect that it once enjoyed.

[From the Dallas Times Herald, Feb. 17, 1974]

SILENT ANGER ARMY

(By Felix R. McKnight)

Out in the middle of the torrent of inflation, shortages, corruption, moral foldups, attacks on American business, internal bickering and, now, incredible terrorist tactics is an outraged American public ready to lower the boom.

It has had it—to the limit. It is fuming in silent anger, and that is the worst kind of anger.

Public confidence has eroded. It is sick to the stomach from daily doses of charges, charges, charges arising from the political arena.

It hasn't heard any good, constructive news from its Congress or the White House since the night the boys jimmied the Watergate door. Everybody's busy knifing each other in the media or at the courthouse.

Not even in the depression '30s was there such a lack of confidence in national leadership. Indecision, bumbling, back alley maneuvering, absence of organized planning and a widening partisan breach between Democrat and Republican is creating a deadening situation.

And if you had the idea that all of this could be laid at the tired feet of Richard M. Nixon and his Watergate conspirators, you got the other half of the picture a few days ago when the Louis Harris Survey released findings on the public's rating of the Congress.

President Nixon seems to be in slightly better public favor than the Congress that is talking his impeachment, resignation or censure.

The Harris Survey reported that 69 per cent of the American public rates the job Congress is doing between poor and fair. Only 21 per cent voted good or excellent.

It wasn't Rchard Nixon they totally blamed for the inflation that has brought deflation of public confidence. It was the Congress that received a bruising 88 per cent negative rating on controlling inflation.

Further, the Congress that has spent a year Watergating and investigating the Nixon troupe, got an 82 per cent negative in inspiring public confidence. It rated 83 per cent negative on keeping spending under control and 82 per cent negative on *handling* the energy shortage.

Which isn't, by any means, reason to set the Nixon administration scot free for ills of the day. Its indecision and lack of leadership didn't rate much higher in the last Gallup poll.

But it all supports, nationally, the general atmosphere of the Dallas area. The people are restless and their mood undoubtedly will be expressed at the polls this year.

The current issue of U.S. News and World Report, from its own reliable pulse feeling, reports:

"Public anger at Washington's failure to cope with today's problems—energy shortage, inflation, recession threat—is getting sharper by the week . . . It appears to many that the U.S. is just lurching from one crisis to the next.

"Federal machinery is seen as cumbersome—unable to act swiftly, or at all."

It concludes with the obvious observation that Americans have been told for years that Washington can solve all of their troubles. Now, they are demanding that those promises be made good.

It is a mixed bag. The Congress and the President are getting the pressure from disgruntled citizens who will become disgruntled voters within the next few months.

They are quite weary with the shim-sham attacks on business that has brought to them the highest standards of the world. They want a little partnership between government and business, for a change.

They do not want Big Daddy pushing towards nationalization of anything. If the present drifting is an example of how they would run petroleum, automotive, steel or anything else—they don't want any.

FREE ENTERPRISE SCHOLARSHIP

Mr. TALMADGE. Mr. President, the Georgia State Chamber of Commerce last year launched a noteworthy effort to widen channels of communication and understanding between private business and the academic community.

It is referred to as the "Free Enterprise Fellowship" program, and it operates under the auspices of the State Chamber's Committee on Economic Education, chaired by G. H. (Gerry) Auchenbach, president of Piggly Wiggly Southern, Inc., of Vidalia, Ga.

The program is designed to place business leaders in the world of college education, and to put a college professor into a business organization, each for a 6-week period, in an effort to broaden understanding of the work, problems, and needs of each other's area of endeavor. Under this extremely worthwhile pilot project, the first fellowship went to Prof. Del Presley of the Department of English, Georgia Southern College at Statesboro. Admittedly, Professor Presley entered the program with some skepticism and misgiving. However, on completing the program, he urged that it be continued and that more professors and more businessmen take advantage of this unique exchange program.

Professor Presley has prepared an interesting paper on his experiences, which I commend to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

AN ENGLISH PROF'S ODYSSEY IN MODERN INDUSTRY

(By Del Presley)

In the summer of 1973, I spent five weeks as an "intern" in residence at the headquarters of a food chain, Piggly Wiggly Southern, Inc., of nearby Vidalia, Georgia. My first two weeks were introductory: I attended various meetings, traveled with district managers, visited and worked in some local stores. The final three weeks were spent on assignments normally handled by a middle-level executive. At the end of my tenure there, the company president asked me to write a critique of PWS's weaknesses. My report became the subject of several in-house meetings which, I am told, produced some "reforms" in the company's operations. What follows is an inside report from the faculty side of this unique exchange program which allows executives and professors to swap jobs for brief periods of time.

After agreeing to postpone research and writing plans for the first five weeks of my cherished summer, I was still skeptical about the possible merits of this exchange program my superior had convinced me to endure "for the sake of the college." Like all pilot projects, this one looked good on paper. Trouble was, not much had been put on paper. The college, the business, and the Georgia Chamber of Commerce all agreed that something had to be done to diminish the misconceptions educators have about the business community and vice versa. In the words of Piggly Wiggly's president, dynamic Gerry Auchenbach, "we've got to stop fighting each other." And all parties concerned agreed that one way to get at the problem was to throw a typical college professor into a business organization and to observe the results. Later an executive would jump cold turkey into the academic whirl.

There are other ways to learn to swim, the saying goes, but the quickest way is to leap into water over your head. Actually, as I contemplated my leap, I was not so sure the waters I faced were very deep. The real depths, of course, were those in which I navigated daily—the seas of the intellect whose greatest treasures lay fathoms deeper than those found in the shallows of the workaday world. The chief beneficiary of the exchange, therefore, surely would be the executive who was scheduled to swap duties with me. He would glimpse the mysteries of the life of the mind. He would have that unaccustomed luxury of conversation with fellow scholars. There would be the required committee meetings, but there would also be time, time, time. That goddess of creativity, time, surely would captivate my opposite, the nine-to-five organization man.

When I packed away my colorful academic regalia and donned the customary white shirt and tie, I was reluctantly prepared to pay the price. Facing me was the expected boredom of an eight hour day beneath the bland celotex, interrupted occasionally by inane coffee break chatter, and inundated by the mushy sounds of Muzak. Naturally, I took along some good books I had been neglecting, hoping to salvage at least some stimulation from the experience.

I fully expected to encounter men and women who, while crassly defying Socrates' wisdom, daily lived the "unexamined life." Pity for those who foolishly had embraced the phantom of materialistic success! Would I not meet, first-hand, characters made immortal by legions of modern authors? Perhaps I would be working in the midst of an unimaginative, bureaucratic husband of a contemporary Lady Chatterly. Surely there would be pious, money-grubbing Babbits in every corridor of this building built by and for the Snopses of this world.

Thus began an English professor's odyssey in modern industry. But unlike so many trips in today's world, this one did not merely end where it started. I confess that I made some discoveries which have fundamentally altered my view of the world into which most of my English composition students eventually tumble. I will spare you the information about basic economics, industrial organization, and productivity. To be sure, salient facts about profits are crucial information, e.g., in 1973 the food industry's profits were less than 1% of total sales! But the most important gleanings from my five weeks of daily involvement in food distribution have to do with people—how they live, how they survive, and how some of them triumph in their vocations.

Six observations abide. If they seem obvious or commonplace to you, then consider these as one professor's capitulation to commonsense—the kind of commonsense educational institutions might well heed:

1. The importance of man in management—"man" as in human, humane/humanity, humanitarian. I speak not simply of the personal qualities of certain executives, but of the general integrity of countless individuals who prove false the notion that employees are cogs in some giant, impersonal machine. Employees can, and often do, experience self-realization in their daily tasks.

2. Tenacity, not tenure, is the most important factor in the company's system of rewards. Length of service means little if the quality of service is poor.

3. Successful, competitive employees function best when surrounded by other successful, competitive employees. (The Organization Man in that gray flannel suit, whose two favorite words are "yes, sir," functions best only in fiction.)

4. Candid is the style of good management. Honest opposition among mature colleagues is the glue which holds together the good, free ship Enterprise.

5. Each man can be his own manager if he belongs to a team. A member of a team is not ridden with distrust and jealousy, but depends on the competence and reciprocal trust of his fellow workers.

6. Decision making about operational matters—95% of the decisions in business—should begin at the level of operations. For example, truck drivers are well qualified to suggest how the company can increase shipping efficiency, and they are more than happy to implement decisions into which they have input.

I confess that I began my internship in business with the vague, albeit falsely supported, suspicion that businessmen were intellectual eunuchs. That deep down they were shallow. That under the veneer of respectability was an insensitive semi-slob whose sole motivation was materialistic gain. Thus began but did not end. Yet, and how confession hurts the hubris, I ended with a different kind of skepticism. And this dark feeling still abides.

I am deeply worried about a syndrome within our degree-producing institutions of higher learning—the "ABMAPHD" factories, Edward Albee once called them. How is it that 10 out of 10 college professors in this country share a body of genuine fakelore about the free marketplace? Volumes could be written about the problem—its roots, its consequences, and so forth. But books on this subject we do not need, not now at least.

Let more professors take brief sabbaticals in business. If a business is worth the paper its stock is written on, it will listen thoughtfully to the working proof. And the proof will have ample opportunity to receive the message of business at its very medium. And, if I am not mistaken, this kind of exchange is called DIALOGUE—something yet unheard of in the uneasy relationship between modern business and higher education.

FRIENDS OF THE EARTH URGE ACTION TO PROTECT FISH AND WHALES

Mr. STEVENS. Mr. President, negligent destruction of the world's fish and whale population—notoriously exemplified by the distant water fishing policies of Japan and other nations—demands whatever deterrents the United States can mobilize.

In their concern over this growing problem, members of the Friends of the Earth, both here and abroad, are supporting legislation to protect the threatened and endangered creatures of the sea until effective international conservation measures are agreed upon and in force. I would like to share with my colleagues the contents of a letter written to the Governors of all coastal States of our Nation by Mr. David R. Brower, president of Friends of the Earth, Inc., and secretary general of Friends of the Earth International.

In his letter, Mr. Brower outlines the circumstances which have led to the emergency in our coastal fisheries; he reviews recent developments which demonstrate the shortcomings of existing multinational conventions in protecting the species; he suggests that the Japanese and perhaps the Soviets are maximizing their harvest off U.S. shores while the getting is good, because they expect an extension of the fisheries jurisdiction zones of coastal nations; he recommends citizens' boycott of Japanese and Soviet products; and, finally, he asks the Governors' active support of 200-mile limit and economic retaliation legislation.

Mr. President, I ask unanimous consent that Mr. Brower's letter be printed in the RECORD.

There being no objection, the letter

was ordered to be printed in the RECORD, as follows:

JANUARY 22, 1974.

DEAR GOVERNOR: Knowing of your concern, as governor of a coastal state, for far-reaching questions related to the marine resources of the earth, Friends of the Earth is seeking your help. We are attempting herein not only to represent the views of Friends of the Earth in the United States, but also of our many sister organizations in other countries, particularly in Australia, Britain, South Africa, and Sweden. Friends of the Earth International, of which I am Secretary-General for the moment, will be expressing its views, related to the critical situation described below, in the forthcoming United Nations conference on the Law of the Seas, in Caracas, and on Population, in Bucharest.

Most of the people of the earth have a crucial stake in the protection and restoration of marine resources, above all those upon which coastal fisheries are dependent. Yet this vital interest has fallen hostage in recent years to aberrant national priorities.

It has been overriden by an obsession with growth and profit without intelligent concern for consequences, producing disastrous pollution of inshore and offshore waters, destruction and poisoning of estuaries, damming of rivers used by anadromous fish and the construction of hugh coastal power plants which now kill billions of fish, fry and eggs, yearly.

In the United States this interest has been the victim of a foreign policy which led our government to drop 15 million tons of bombs in the jungles of Asia, while permitting the deliberate obliteration of fish stocks off our coasts by mechanized fleets from the Soviet Union, Eastern Europe, and Japan. As a result, we now face the spectre of the imminent total collapse of traditional coastal fisheries, some of which had remained stable for a century, which provide needed protein, and a livelihood for hundreds of thousands of Americans.

The immediate, overriding peril today is that posed by fleets of nations involved in the so-called "fisheries revolution" and their massively applied sophisticated lethal technologies which no marine resource can indefinitely withstand. The weak multilateral conventions negotiated to "conserve" fish and whales have proved hopelessly ineffective in curbing the implacable, mechanical voracity of the modern fleets.

Japan and the Soviet Union and certain other nations have alternately flaunted and paralyzed these organizations, and pursued policies that imperil our own right now. American protest within such organizations as the IWC (International Whaling Commission); the INPFC (International Commission for North Pacific Fisheries Commission); and ICNAF (International Commission for North Atlantic Fisheries) has usually garnered only minor concessions or has been rebuffed.

I would like to review briefly three recent cases with which I know you are familiar:

IN THE NORTHEAST

The Soviets, Poles, and East Germans have in a little over a decade of fishing extirpated the formerly abundant Georges Bank haddock, gravely imperiled once enormous stocks of sea herring, threatened the Yellowtail flounder fishery, and depleted cod and most other stocks. Total U.S. landings have declined by half in a few years.

The three-year ICNAF agreement signed this October, touted as "bringing new hope for gravely depleted fishing grounds in the Northeast," provides quotas for the Soviet Union and other Eastern bloc countries over three times greater than that accorded our fleet. The United States and Canada together received less than a quarter of the 923,000 metric ton quota for 1974. This ICNAF "victory" may prevent the Yellowtail flounder from joining the haddock and the Atlantic halibut in "commercial extinction." It clearly neither terminates Soviet hegemony off our coasts, nor provides enough catch reduction to permit overall recovery of stocks, or even, necessarily, to arrest their decline.

In the meantime, off the Central Atlantic coast, which does not fall under international regulation, a new Soviet purse seining fleet has appeared over the past two years with an estimated capacity greater than the entire U.S. menhaden fleet. This poses a threat to the menhaden fishery, one of the last reasonably viable coastal fisheries remaining.

OFF ALASKA

The Japanese high seas salmon fishery, which last year comprised ten 500-foot motherships and 332 catcher boats, each fishing one-fourth mile of bilnet, has grievously depleted the Sockeye salmon. Biologists believe that another season of Japanese netting will cut so critically into the salmon runs that the Bristol Bay fishery will be destroyed, and the survival of the species jeopardized.

At the same time, the American and Canadian halibut fishery in the eastern Bering Sea, according to National Marine Fisheries Service Director Robert Schoning, has been "for all practical purposes eliminated" by what are again called "incidental catches" by Japanese and Soviet fleets. Fishing in the central Bering Sea threatens the Western Alaska Chinook salmon; and King crabs, Alaska scallop, and Jenner crabs are declining. There is, in fact, tremendous pressure on all Bering Sea stocks, where total catch has risen from 28 million pounds in 1954, to five billion pounds last year, through an unprecedented expansion of Japanese and Russian effort.

The increasing destruction of species forming the feeding base for stocks of commercially important fish raises the possibility of a disastrous collapse of the entire fishery, with the most far-reaching ecological effects, within a few years. Yet at the recent meeting of the International Northwest Fisheries Commission in Tokyo, the Japanese, who account for more than 80% of the total catch, provided no indication that they are prepared to reduce their fishing even when failure to do so will result in the annihilation of the remnants of once plentiful stocks, such as the Sockeye salmon.

WHALING

During the past 25 years pelagic whaling fleets have brought Blue and Humpback whales to the verge of biological extinction and have decimated populations of other species. An entire suborder of unique and magnificent mammals, the great baleen whales, of inestimable aesthetic, ecological, and potential economic value to mankind, is rapidly disappearing. The whales are being sacrificed for the most trivial of uses, effaced from the oceans for no better reason than that their destruction contributes to the short-term profits of a few Japanese fishing companies and their Soviet competitors.

At the 25th meeting of the International Whaling Commission last June, the Japanese and Soviets, ignoring resolutions by the United Nations Conference on The Human Environment and the UN Environmental Secretariat calling for a ten-year moratorium on the commercial killing of whales, succeeded in turning back US-led efforts to significantly reduce the slaughter. Not satisfied with this, these nations have announced that they will disregard the modest conservation measures eventually voted by the IWC to protect sperm and minke whales in the Southern hemisphere.

The decision to ignore the sustained-yield quota recommended by the IWC scientific committee for taking minke whales means that Japan and Russia will actually be killing several thousand more whales this year than last year. It means that the minke whale, the last baleen whale which remains comparatively abundant, having largely escaped earlier massacres because of its smaller size, must now sustain the insatiable appetite of the whaling fleets until it follows its larger cousins into commercial extinction.

In the meantime, the unilateral Japanese decision to ignore the IWC vote to phase out killing of Antarctic finback whales means that the remnant population which survived the killing orgy of the 1960's will shortly disappear. Between 1960 and 1965, between 25,000 and 30,000 finbacks a year were taken in Antarctica. Last year the whalers were able to find and kill around 1500, and this is considered far above the ability of the population to sustain.

Friends of the Earth can now perceive no alternative to prompt unilateral action by our government if a succession of disasters is to be avoided. Those who have counciled delay until "relief" is forthcoming through Law of the Sea deliberations, have evidently failed to grasp the extremely parlous state of many fish stocks and whale populations. A single season's carnage may now result in the commercial, or even biological, extinction of irreplaceable species, while five years or more may elapse before Law of the Sea agreements are ratified. Such agreements, even then, may have limited impact.

From his vantage point in Washington, D.C., where he serves on interagency committees concerned with marine conservation, Friends of the Earth wildlife director Tom Garrett is in day-to-day contact with administrative and congressional offices. He reports a growing conviction that the Japanese, and possibly the Soviets as well, are reacting to the probable eventual emergence of a 200-mile national fisheries jurisdiction through the Law of the Sea deliberations by maximizing their take of fish off our Northwest coasts while such fish are still available. Several US negotiators to the recent INPFC conference left Tokyo with the shocked impression that Japan, since it will not have indefinite access to them, would probably prefer that our coastal fish stocks be destroyed, and our fishing industry bankrupted. This would, of course, make the United States largely dependent on the Japanese fishing industry to supply our domestic requirements. Already we import nearly three quarters of the fish consumed in this country. Another interpretation has been fanned by the acquisition of Alaska's largest fishing company, Whitney-Fidalgo Seafood, Inc. by Kyokuyo-Hogel Ltd. (one of Japan's three major whaling companies). This interpretation is that Japan is engaging in "softening up" the US fishery to facilitate a Japanese economic takeover.

Mr. Garrett served as a member of the US delegation to the International Whaling Commission during its past two meetings. He has expressed the view that, since small-scale sustained-yield whaling is not profitable, and since far too few whales remain to justify investment in new factory ships, the Japanese intend that the commercial extinction of whale populations should coincide with the efficient life expectancy of their aging fleet. He now fears that the Japanese have stepped up their timetable, owing to rising costs of upkeep and operation.

As you know, FOE has joined other conservation groups, all reluctant to do so, in asking the American public to cease buying Japanese and Soviet products, and to abstain from visiting these countries, until the tragic destruction of whales, and of stocks of fish off our coasts, is halted. We do not like such measures in international relations. We have hoped that international discussions would produce the essential long-term conservation policy essential to the interests of all. Those of us who lived through the period, may recall that a citizens' boycott of Japanese goods was launched after the Panay incident in 1937, to protest the invasion of China. That boycott eventually developed considerable effectiveness, and set the stage for an official US government embargo. We continue to hope that reason will prevail instead, in a world that needs all the reason it can muster.

Our organization is also strongly supporting bills which have recently been introduced in Congress to protect these threatened species. Once passed, and properly implemented, this legislation should make the rather desperate recourse of mounting a citizens' boycott unnecessary. I have listed below the bills which we feel can, in combination, achieve necessary protection.

1. FOE strongly supports S. 1998, submitted by Warren Magnuson (D-Wash.) Mr. Garrett testified on behalf of this measure in hearings held in early December, and is lobbying for early hearings in the House on the companion bill introduced by Rep. Gerry Studds (D-Mass). S. 1998 would provide interim protection until the implementation of a Law of the Sea agreement, by establishing United States jurisdiction over marine resources up to 200 miles from our coastline.

Opposition to the bill comes from the shrimp and tuna industries, who fish primarily off foreign shores, ond who fear that US extension of jurisdiction might bring about foreign retaliation against them.

However, none of the foreign nations hosting these fisheries presently fish off US coasts. A favorable bilateral agreement has been worked out with Brazil for US fishing within its claimed jurisdiction. Chile, Peru, and Ecuador already enforce a 200-mile limit, and are unlikely to be influenced by what we do off our coasts. Mexico is reportedly on the verge of unilaterally claiming 200-mile jurisdiction, "come what may." In any case, shrimp and tuna landings comprise only about 15 percent of the US total, and I cannot see the logic in permitting the almost certain ruin of over 80 percent of US fisheries because remedial action might harm the remainder.

2. FOE will strenuously support SJ Res 184, introduced in the Senate by Warren Magnuson and by Claiborne Pell (D-R.I.), and Senator Hollings (D-S.C.), and in the House by Rep. Alphonso Bell (R-Cal.). This resolution is specifically designed to prepare the way for effective economic action against those nations, and those interests, that are now engaging in destruction of marine resources. The resolution instructs the Secretaries of State and Commerce to determine what action can be taken to effect compliance with conservation measures aimed at protecting marine resources. This includes a study of the Pelly-Stevens amendment to the Fishermen's Protective Act of 1967 (which gives the President discretion to halt fisheries imports from nations ignoring "international fisheries conservation programs"), to determine whether and to what extent it should be applied, and whether it should be amended to include products other than fisheries products, "and an examination of Trade Agreements with Japan and the USSR, particularly those agreements regarding industries which have a financial interest in the whaling or fishing industry."

We regard SJ 184 as a necessary complement to the 200-mile fisheries limit bills. Once the study mandated by this resolution has been completed, and the necessary implementing legislation introduced and passed, we will have a realistic means of protecting the great whales, as well as stocks of fish occurring in the open ocean beyond any potential national jurisdiction and endangered marine species such as sea turtles.

3. A bill which may provide the necessary vehicle for applying adequate economic leverage has already been introduced. This is S. 1366, sponsored by Ted Stevens (R-Alaska). Mr. Stevens' bill amends the Pelly-Stevens amendment noted above by widening the spectrum of offenses which can initiate retaliatory restrictions on fisheries imports. The offenses would in effect include "any . . . activity which endangers United States fish resources." FOE is prepared to throw its weight behind an amended version of S. 1366 that would provide discretion to halt importation of a range of products other than fish, and would further provide authority to halt exports as well as mention specifically the destruction of whales and endangered marine species among offenses which permit such measures to be invoked.

It is clear that we are moving rapidly here toward a tense situation. If the measures now being proposed in Congress to afford protection of fish and whales fail, or are long delayed, the fate of many marine species, and several of our coastal fisheries as well, may be sealed. We believe that the bills described above do have an excellent chance of passing Congress. We believe that the American people are increasingly aware of the situation and are becoming impatient with our continued reliance on impotent multilateral fisheries conventions. We sense that they are exasperated at appeasement of exploitative interests at the expense, not only of the American fishermen of today who are practicing conservation, but of fishermen of the world who would like to practice it, and must, in the future.

As governor of a key coastal state, your weight could well prove critical in tipping the scales toward the passage of effective interim protection legislation. I strongly urge you to move energetically in support of both the 200-mile limit and the authorization of economic-retaliation approaches if these are our only course. I urge you to join with the American conservation and humane movements in insisting that this protection be accorded whales as well as fish. None of us, surely, wishes to be a member of a generation which reached the moon, while the last great whales, creatures with immense brains, unfathomed and unexplored, were destroyed in the world's oceans.

Our organization offers its support of your actions to help achieve necessary protection. Mr. Garrett, in our Washington office, is prepared, when necessary, to remain in day-to-day contact with your staff.

Sincerely,

DAVID R. BROWER,
President.

CAREER EDUCATION

Mr. HATHAWAY. Mr. President, I have long felt that our traditional elementary and secondary educational programs have not done enough to provide high school graduates with a "marketable" skill, one which would enable them to acquire responsible and respectable employment upon graduating from high school. For this reason, I have urged the Committee on Labor and Public Welfare to include a section on career education in the major revision of the Elementary and Secondary Education Act due for consideration in this session of Congress.

The measure I am proposing, which has already been approved by the Education Subcommittee, recognizes the differences that exist in the educational community about the scope and precise meaning of career education; the proposal, therefore, is aimed at providing a vehicle for the development of the concept rather than at the choice of a definitive approach. I am suggesting that an Office of Career Education with its own director be created within the U.S. Office of Education with the responsibility of surveys and assessing the current status of career education programs and materials and reporting this along with recommendations for further legislation to the Congress. Also, we would authorize grants to State and local educational agencies, institutions of higher education and nonprofit agencies to support demonstration projects and exemplary career education models. Finally, grants would be authorized for the development of State career education plans.

The March 9 edition of Business Week includes some interesting observations on the subject of career-vocational education as well as some practical advice for today's student. I ask unanimous consent that his particular article be printed in the RECORD.

There being on objection, the article was ordered to be printed in the RECORD, as follows:

CAREER EDUCATION

NOT MANY JOBS FOR WELL-ROUNDED COLLEGE GRADS

The days are long gone when your youngster could waltz into college, choose any major he pleased, and expect to have a career. As any PhD who is driving a cab can tell you, a degree per se is no longer a passport to a good job. You should advise your son or daughter about the "new vocationalism" on campus—or steer him to someone who can.

"Beginning with the 1969 recession, the job outlook for college graduates has been less attractive than it has been for several decades," says Herbert Bienstock, head of the New York regional office of the Bureau of Labor Statistics. Employers are swamped with applicants and can afford to be very choosy. They want practical skills along with that degree.

Already there's a marked trend among students away from humanities courses and toward the sciences. "The idea of the well-rounded individual just doesn't go over any more," says one dean. More and more, job-oriented freshmen are eschewing liberal arts for business and public administration pre-med, pre-law, and urban design, notes New York University Admissions Director Herbert Livesey.

SPECIALIZATION IS THE GAME'S NAME

The job outlook is least favorable now for liberal arts and education majors. But that doesn't mean your youngster ought to pursue a course of study in which he lacks interest or aptitude. Rather, encourage him to sprinkle his arts curriculum with courses having job-market value; or have him tailor his liberal arts studies to professional programs.

Example: if your youngster is intent on being an English major, suggest a concentration in journalism. A social science major might do well to accumulate credits in criminal justice. A philosophy major might see the value of electives in economics.

Specialization will also improve your youngster's chances. "Even in a crowded field," says Livesey, "you'll do well if you have some expertise." Many graduates, in fact, are returning to school to do advanced work in a specific area. A graduate may have trouble landing a job as a secondary school teacher—but not as a teacher of drama. Similarly, the outlook is grim in many places for elementary school teachers, but there are jobs available for teachers trained to work with disabled, gifted, or ghetto children.

WHERE DEMAND EXCEEDS SUPPLY

The rapidly changing economic and social climate will doubtless affect the new job market for years to come. The energy shortage, for example, is expected to spur the rising demand for engineers—currently running 31% ahead of last year, according to a recent College Placement Council survey.

Only a few years ago, the outlook for engineers was bleak.

The energy shortage promises to send more people back to the cities, too, and that should promote new demand for urban planners, systems analysts, police administrators, criminal rehabilitators, and probation officers. In general, students with business and financial backgrounds are in the catbird seat. Indeed, the Labor Dept. reports that the largest number of job openings this year will be for business administration majors—especially accountants.

(NOTE.—Internships and work-study programs, if available at your youngster's school, may make more sense than ever. In this program, the youngster spends part of the school year working and part studying on campus. Besides gaining practical experience, this provides an "in" with a prospective employer. Of course, the job may not be exactly to his liking. "A few years ago, you could have had your choice of two or three jobs," says Asa S. Knowles, president of Northeastern University. "Today, this isn't so in many fields."

LETTER TO SENATOR MATHIAS

Mr. MATHIAS. Mr. President, not long ago I received a very unusual letter. It would be unique if only for the reason that while my correspondent sent a campaign contribution, he expressly stated that he had not yet committed his vote with his money. On a more substantive plane, however, the letter is a moving and accurate expression of the anguish which many feel about the present state of our democratic "experiment," now nearly 200 years old, but by no means guaranteed another century of testing. The responsibility which falls upon us to preserve our system is apparent, and the letter is recommended reading for each of us who feels a need to renew his faith and his humility. Yet, one does not read it with a feeling of hopelessness, because of the wisdom and confidence which lie behind its words. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ROCKVILLE, MD.,
January 21, 1974.

Senator CHARLES MCC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: Enclosed is a small contribution toward your campaign. Although I am a Democrat, it seems to me that you have represented the State well. Nevertheless, I shall expect to reserve my vote until the candidates have had an opportunity to express their views. The purpose of my contribution is to support your conviction that candidates should be free of the pressures and restraints of financial obligation to particular groups.

What follows is written more for my benefit than for yours. It fulfills my obligation as a citizen to express my opinion.

I do not wish a government by poll. That would limit our wisdom to the average. I would hope that our elected officials would have better than average judgment. I expect them to be better informed and to have invested some time in consideration of the nature of our form of government and of the complex question of what constitutes the public interest. In applying those considerations to specific issues, it is not always important to me that we reach the same conclusion. I have some respect for my own judgment; I am prepared to respect yours. What is important to me is that your decisions represent a base upon which we can agree. That base is difficult to define, but some "truths are self evident."

I believe that our form of government is an experiment and that, as Walter Lippman has observed, "it is not engraved upon any tablets of stone that we are destined to succeed." Like Washington, who had his doubts, I am committed to make it work. But making it work means more than proclaiming the virtues of our form of government. It means recognizing the faults and the prices that must be paid.

Too often we have encouraged the belief that all advantages reside with democratic systems. This, of course, is not true. Many advantages lie with totalitarian systems. The failures of our present administration stem directly, in my view, from the fact that they were not intellectually prepared to recognize that the administrative disadvantages of a democratic system led them to embrace the virtues of a totalitarian system.

There are many legitimate arguments, for example, for secrecy in government. There are many instances where it is easier, more effective, and less damaging to the public interest to keep information from the general public. Yet I am firmly convinced that such secrecy is antithetical to the "noble experiment". There are prices we must be willing to pay to have an open society. Too many of our officials and representatives want the virtues of our form of government without paying the prices. The prices are real and must be paid. We should have the courage to face that.

This is true of many of our institutions. Not all films contribute to public taste or morality. The words of many speakers are pernicious, even dangerous. But we can't have it both ways. To believe in freedom of speech and of the press, to believe that the truth will prevail and that men have the ultimate right to exercise choice requires that we continue to resist the temptation that we know what is best for others—in what they shall hear or read or see. I believe that these freedoms are fundamental to our society. I also believe that there are real prices to be paid for those freedoms.

While I do not consider myself to be what Carl Sandburg called "a freedom shouter", I am melodramatic enough to believe that you and I should be willing to make sacrifices in defense of the human spirit. The test of that willingness is only rarely on the battlefield and, perhaps, that is the easiest test to face. More often the confrontation is more subtle: the choice between political survival and a gut conviction of the public interest. God knows it is easy enough to rationalize the choice in favor of how much one can accomplish if one survives! But I would prefer to believe that we have men in our government who are at peace with themselves on that issue, men who knows that they carry with them the burden of their own honor, that of their family, and of their fellow citizens whom they represent.

Having said this, I would also have to say that it is not enough to be right. It is easy to be "right". More is required. To be effective. To see the word made flesh. That is the challenge.

Yet I am also afraid of the tyranny of the righteous. As I would not have another's view of what is right imposed upon me; so I would not impose my view upon others. While this preference is not always easy to legislate in a complex and interdependent society, I would accept as a general guideline the separation of public and private behavior.

Finally, I would have to say that our form of government and society does not depend upon all men being virtuous. There will always be those who lie and cheat and steal. It may only be said that our country depends upon those who don't. At every level—from private citizen to public official—our country depends upon there being enough of those who have integrity, who may be trusted. With too few, no system of laws or of police or of armies will permit us to survive as a free people. Our country requires enough who can be trusted. And how many is enough? I don't know. I only know that it is important that you and I be among them.

Long ago, Pericles explained the choice to the Athenians, "We depend less upon system than the native integrity of our people." If we can share that belief, we can happily disagree about many things.

May I wish you every success in your most important work. And also, my apologies for fulfilling a personal obligation at your expense.

Sincerely,

JOHN S. CLAYTON.

SSI MESS

Mr. CRANSTON. Mr. President, the Social Security Administration's disastrous implementation of the new Federal supplemental security income—SSI—program is brought home in a letter to the head of the Social Security Administration which I recently received from Mr. Edward Wolf, administrator of a residential care home for the aged in Sacramento.

Among other things, Mr. Wolf reports that only 4 persons, among the 29 living in his home, are receiving the right amount of money in their SSI payment. The remaining 25 are either being underpaid, or—in the case of three persons—receiving no money at all. While SSA has repeatedly reported that all SSI accounts would be corrected, there seems to have been little improvement in February and March receipts and the cumulative losses individuals are incurring are mounting.

The personal hardships imposed by these administrative problems need hardly be detailed. With the prospect of skyrocketing food prices and cost-of-living increases already averaging 24 to 25 percent on an annual basis for January and February, it is not difficult to imagine what a reduction in or lack of assistance means for persons already stretched to their very limits in eking out a bare subsistence living from meager fixed incomes.

Mr. Wolf goes on to document the absolute futility of getting assistance from the local SSA office, recounting how he personally spent more than 3 hours—2 days in a row—waiting in vain to see an SSA representative.

The unresponsiveness of local SSA offices to the information needs of potential and eligible SSI recipients is one to which I can well attest. Last week a disabled SSI recipient appeared in my office and announced he had flown all the way from California to try and get someone to clear up his SSI payments problems. To this day, no one knows where he got the cash to buy an airline ticket, for he did not have a nickel in his pockets, nor even a jacket on his back when he arrived. Three days later, with the assistance of the Travelers' Aid Society of Washington, he was on his way back to California, satisfied that at last someone had responded to his problem.

It is easy to write off a case like that as one outrageous problem, but, in fact, this gentleman proved the tragic lengths older and disabled persons feel they must go to before they can get any attention or satisfaction from the Social Security Administration. It should be mentioned that the gentleman's case was not really taken seriously by SSA, despite the efforts of my office until he finally took himself over to SSA Commissioner Cardwell's office and sat down, refusing to vacate the office until someone heard him out.

Mr. President, I ask unanimous consent that the letter from Mr. Edward Wolf, administrator, Del Paso Guest Home, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Del Paso Guest Home,
Sacramento, Calif., February 22, 1974.
Alan Cranston,
U.S. Senator, Senate Office Building, Washington, D.C.

Honorable Sir: I have been a supporter of yours since your days as the Comptroller of the State of California. I feel you are doing an excellent job as our Senator and plan to support you again when you next run for office.

I enclose a copy of a letter I've written to the Social Security Administration in Washington concerning their lack of interest and understanding in their new roll as the payee of moneys to the aged. Our industry and the aged we care for and represent need responsible leadership from our officials in Washington. I am hopeful that you may be able to add something for the cause of the aged, thank you.

Very truly yours,

Edward Wolf,
Administrator.

Del Paso Guest Home,
Sacramento, Calif., February 22, 1974.
Director,
Health, Education, and Welfare, Social Security Administration, Washington, D.C.

Gentlemen: We operate a Residential Care Home for the Aged which has a population of thirty four. The purpose of this letter is to obtain information and to register a compaint.

At times our residents suffer an illness which may confine them to a hospital or convalescent hospital. I've written to your Sacramento office on January 7th in an attempt to learn what guide lines you have concerning the reservation of the Resident's room during these times of hospitalized confinement. No response has been received by us in the form of reply to our written inquiry, and last evening I attended a meeting where your representative was to answer our questions. Connie Eaton, an Administrative Assistant from your Sacramento office conducted this meeting and stated that no policy had been formulated along these lines as yet. Please remember that most of these people come to consider our facilities as their homes and it is heartbreaking when due to illness they will lose their home.

My area of unhappiness lies with the "mess" we are now living with since your administration has taken over the payments of supplemental income previously handled by the County agencies. We are a small business who employ ten full time and one part time help. As of February 1, 1974 our (earned income) cash flow is short in excess of $2,000.00 due to the fact that your administration has either shorted or not paid anything at all to most of our residents. Of 29 persons receiving supplemental aid only four (4) are receiving the right amount of money. The balance, or twenty-five persons are being shorted, in three instances no money is being paid. During January, Newspaper accounts quoted your Administration as stating that all accounts would be corrected and shortages paid beginning with the February payment. There was no improvement in February, the same people were shorted or did not again receive a check. Last evening at the meeting mentioned above, Connie Eaton advised us that very few problems would be solved when the March payments are made, and perhaps IF they have no further problems all checks will be for the correct amount in April. If this is true, our cash deficiency will be in excess of $3,000.00 March 1 and our shortage will be close to $5,000.00 by April 1st. I pointed out this matter to Connie Eaton last evening and asked what suggestions your Administration may have which would alleviate our problem. She had no answers to this or other questions posed to her. I realize that it may be that the local Social Security office is under-staffed, overworked and possibly fed some wrong information but we are approaching the end of the first quarter in 1974 and to my knowledge guidance and leadership from Washington, D.C. is non-existent. Action is needed, not today or tomorrow, but yesterday. Our industry is one of narrow margins, food alone went up 32% in 1973, our taxes increased and during March we in California are faced with a minimum wage law compelling employers to pay a minimum of $2.00 per hour. The small increase we were to receive January 1st but haven't because you haven't paid the proper amounts will not cover our increased operating costs. The increase is inadequate at this time, it is a year or more late. We are to receive $250.00 per month effective January 1, 1974. Every study made by our industry and the State Department of Social Welfare as far back as one year ago indicated that a minimum of $300.00 per month should be paid so that competent administrative personnel may be employed, and the enterprise be entitled to some sort of return on investment.

I also wish to bring to your attention the inaccessibility of reaching people in your Administration. Today to get into your Sacramento office by phone required continual dialing and getting a busy signal for more than forty five minutes. Last month there were days on end when your lines were so busy the phone company overload system came into play with a recording which recited "that the number you are dialing is no longer in use and no new number is available". I personally made two trips to your Sacramento office, one day I waited more than three hours, another day more than four hours, in both instances I did not see any representative. Another source of irritation is that correspondence goes unanswered. Letters written January 2, 4, 7 and 16 have been ignored as of today.

A letter was received from your San Francisco office over the signature of Paul W. Quandt advising an elderly woman here that she would receive no check for one month due to some clerical error. On January 16 I addressed a letter to Mr. Quandt concerning this case for the purpose of providing him with information related to this incident. This morning I called long distance as much as I had received no reply to my letter to find out what progress was being made in this case. The amount of this check is $196.60 which is another account we are forced to carry on our books until the matter is corrected. * * *

Mr. CRANSTON. Mr. President, the problems of handling delayed checks, as well as enrolling new applicants, is fast approaching a crisis stage. I have called upon Secretary Weinberger to advise me of the immediate steps being taken to rectify this problem.

I ask unanimous consent, Mr. President, that my letter to Secretary Weinberger, dated January 25, 1974, and my most recent effort, a telegram sent today, be printed in the Record at this point.

There being no objection, the letter and telegram were ordered to be printed in the Record, as follows:

January 25, 1974.
Hon. Caspar W. Weinberger,
Secretary of Health, Education, and Welfare, Washington, D.C.

Dear Cap: This week I returned from California where, as you are well aware, thousands of aged, blind and disabled persons have not received their welfare checks, due since January 1, when the Federal Government took over responsibility from state and county agencies for the Supplemental Security Income (SSI) program established under P.L. 92–603.

Even a day's delay in receiving cash assistance—which, for a significant number of SSI recipients, represents their only source of income—can cause serious hardship for these older citizens. Many recipients have had to go without food and to face the needlessly threatening situation of not being able to pay their rents. In California alone, delayed or missing checks already have topped 30,000 and the number could go still higher.

I am deeply concerned that this problem be rectified as quickly as possible. Although I understand that certain emergency measures have been initiated to resolve the immediate difficulty in California—for example, local welfare offices are now issuing $200 emergency loans, bureaucratic procedures required to process loan applications have been simplified, and personnel have been added to public social services staffs—there is still reason to be concerned about the Social Security Administration's future administration of the new federalized welfare payment system. New changes in address occurring in January may not have been properly handled because staff have been responding to the present crisis.

Thus, I would like to know what measures are being taken so that this transitional period will not result in any further delays of the kind that have been experienced in the past weeks.

I would especially like to be apprised of the emergency payment procedures being implemented in California and the reporting procedures that are being employed to ensure that reliable data on names and addresses is transmitted to the appropriate Federal SSA office. We must take all steps necessary to prevent SSI recipients from going without income for even a single day.

I would appreciate your response concerning this matter at your earliest convenience.

Sincerely,

Alan Cranston.

[Telegram]

Hon. Caspar Weinberger,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.:

Have not received response to January 25, 1974, letter on SSA administration of newly established SSI program.

As I am sure you know, the problems of handling delayed checks, as well as enrolling new applicants, is fast approaching a crisis stage. Also, according to the San Francisco Regional SSA office, there are no reliable statistical data available on the SSI program statewide.

Want to know immediately steps you are taking to rectify situation so that persons eligible for SSI checks will no longer be required to wait for entitled benefits, and so we may receive basic information regarding the structure and implementation of the program.

Sending under separate cover a copy of February 22 Wolf letter to head of the Social Security Administration detailing horror stories about Sacramento SSA's implementation of SSI program.

Alan Cranston,
U.S. Senator.

DISEASES OF THE EYE

Mr. TALMADGE. Mr. President, the General Assembly of the State of Georgia has approved a resolution urging expanded Federal support and research into the prevention and treatment of eye diseases, particularly, toxoplasmosis. Further, the General Assembly has expressed its concern with the impoundment of funds appropriated by the Congress for these purposes.

Mr. President, on behalf of myself and my distinguished colleague from Georgia (Mr. Nunn) I ask that the text of this resolution be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

H.R. 648

A resolution requesting the President and the Congress to participate in the fight against diseases of the eye; and for other purposes.

Whereas, countless citizens of this State and of the United States are afflicted in each year by diseases of the eye, and especially the disease Toxoplasmosis; and

Whereas, the causes of almost all diseases of the eye are unknown to science, causing incorrect diagnoses and leading toward a lack of proper treatment which in turn may facilitate blindness and even mental retardation; and

Whereas, it is more feasible to appropriate money for research to prevent blindness than to appropriate money to provide for the blind whose sight might have been saved through research; and

Whereas, even when funds are appropriated by the Congress for this vital research into the causes and cures of eye diseases they are often impounded or vetoed by the President for reasons which are not related to the crying need for eye research; and

Whereas, it is absolutely imperative that research into diseases of the eyes be continued and expanded in the most rapid and most thorough fashion possible.

Now, therefore, be it resolved by the General Assembly of Georgia that this body respectfully requests the President and the Congress to immediately act for the support and expansion of research into the causes and cures of eye diseases, and particularly of the eye disease Toxoplasmosis.

Be it further resolved that the Congress is urgently requested to appropriate funds to the National Eye Institute to enable such research to be conducted.

Be it further resolved that the Secretary of State is authorized and directed to transmit an appropriate copy of this Resolution to the President of the United States; the President of the Senate and Speaker of the House of Representatives of the United States; to the Governors of the states of North Carolina, South Carolina, Florida, Alabama, Tennessee, Mississippi, Louisiana and Texas; to the Director of the National Eye Institute; to Secretary of the Army, Howard "Bo" Callaway; to Undersecretary of Agriculture. Phil Campbell: and to the members of the Georgia Congressional Delegation.

Be it further resolved that Senator Herman Talmadge and Congressman Bo Ginn are respectfully requested to read this Resolution to their respective Houses and, thereafter, to insert this Resolution into the Congressional Record.

Be it further resolved that the Governors and Legislators of our sister states are urged to join with us in our urgent request for action to find the causes and cures of diseases of the eye.

SENATOR BEALL'S TESTIMONY BEFORE THE ICC

Mr. BEALL. Mr. President, on March 11, 1974, I testified at the Interstate Commerce Commission hearing in Baltimore regarding the Department of Transportation's rail plan.

I ask unanimous consent that my testimony be printed in full in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Senator J. Glenn Beall, Jr.

I appreciate this opportunity to testify on the Department of Transportation Report.

As the manager for the minority when the Regional Rail Reorganization Act of 1973 was passed, I wish at the outset to emphasize a number of important points with respect to the law and the intent of the Congress.

The DOT Report does not constitute the final system plan. Rather, it is only the first step in a multi-step process before a final system plan receives a green light.

The second step, and that is where we are today, requires the ICC's Rail Service Planning Office to hold hearing on DOT's Report, and present the results of these hearings to the United States Rail Association (USRA) which has the responsibility of planning and financing the new rail system.

The USRA must then develop the preliminary plan, which also is required to be the subject of hearings by the ICC's special office. The ICC's special office is required to present to the Association, 60 days after the issuance of the preliminary report, a summary of the evidence presented, together with its critique and evaluation.

The USRA will then submit to Congress a final system plan on February 26, 1975. The plan is then reviewed by the Congress. Even then, at the end of the line so to speak, the legislation includes a provision providing for a subsidy of 70 per cent federal—30 per cent state or local for the continuation of the lines deemed essential by the State, region, and local communities or shippers. I joined Senator Pearson in insisting on this subsidy provision.

Thus, we are in the beginning of a process that hopefully will result in a new and viable transportation system that will better meet the transportation needs of Maryland, the Northeast region, and the Nation as a whole. While the Regional Rail Reorganization Act of 1973 is no perfect measure, the Congress and the Administration rightfully took action to avert a crisis that would have been disastrous.

I want to emphasize that the Department of Transportation Report, even assuming the validity of it criteria and calculations (and other witnesses will present testimony showing some obvious errors and shortcomings), essentially employ one criterion namely economic. The economic factors are only one of eight specific considerations that Congress listed in the statutes for the final system plan. Other criteria include the rail transportation service needs; improved passenger service; the preservation, to the extent consistent with other goals, of existing patterns of service and track, particularly in areas where natural resources are located, and the utilization of the transportation mode requiring the least amount of energy; the maintaining of competition; environmental standards and the environmental impact of alternative choices of action; and the minimization of job losses and associated increases in unemployment in the region presently served by rail service.

Congress in enacting the law rejected the either-or approach, that is a system based solely on economic viability or a system based solely on the need for service. Instead, we opted for a balanced approach based on both, as well as the other factors I listed.

According to the Department of Transportation Report, 20 per cent, or 225 miles of Maryland's 1,100 miles of track are deemed potentially excess. The Report also indicates that only 3 per cent of the State's rail service would be lost. These gross statistics, however, mask the harsh impact of the loss of rail service on individual areas or regions.

For example, the Eastern Shore of Maryland would lose approximately 65 per cent of its trackage and 28.9 per cent of all rail service. While I recognize that some lines will have to be abandoned in Maryland, the Report's "meat ax" approach on the Shore, if carried out, would pose a serious threat to the Eastern Shore's present economy and to its future economic development that it is unjustified and unwise.

The economy of the Eastern Shore is predominately agriculture and agribusiness. Unemployment in this eight county area for December 1973 ranged from 4.3 per cent to 9.6 per cent. Successful efforts have been and are underway to promote greater industrial development and diversification, but without adequate transportation, such efforts will be undermined.

Maryland ranks seventh in the Nation in poultry production, for example, and the State's poultry production is centered on the Eastern Shore.

Maryland's Eastern Shore and the entire Delmarva Peninsula are ideally situated to serve the major population centers of Wilmington-Philadelphia, and Baltimore-Washington, D.C. Damage to the agriculture industry would have a direct impact in these metropolitan areas and probably an indirect impact elsewhere in the country.

40 per cent of the Eastern Shore's economy is dependent upon the poultry industry. We must take into account the agriculture industries reliance on rail transportation. Rails are needed for feed for the poultry industry, fertilizer and the delivery of the produce. While the Eastern Shore at one time was self-sufficient in grain, this is not the case today as grain must be imported to meet the growing needs of the poultry industry.

Transportation costs may not have loomed so important yesterday as they are today. Fuel shortages, the increase in the price of fuel, and reduced speed limits, all have had the potential of making transportation costs a major factor in the cost of food to the consumer. The Senate Agriculture Committee, in a report issued in January of this year entitled, "The Immovable Feast" noted the growing impact of transportation costs for food products saying:

"Packing plants are shutting down for the lack of refrigerated trucks. Meat supplies are certain to be affected. The cost of shipping nonregulated perishable agricultural products, where higher costs of diesel fuel can be passed on to shippers, are bound to increase sharply and it is not known whether price increases on some items will price them off the market—that is, it is not known whether it will prove, to be uneconomical to harvest a given crop. For instance, very recently California lettuce was priced at $1.25 per carton, but the going truck rate to the east coast was $2.25 a carton—when you could get a truck. Loads of perishable vegetables, which were shipped last year for $1,700–$1,800 a load, are now shipping for $2,700 and the expectations are that as speed limit reductions are more and more enforced on the badly over extended refrigerator fleet, these costs could rise to $3,000 or $3,500. Poultry shipping rates have already increased 10 per cent. The price of shipping Washington apples has increased twenty cents a box.

Insofar as highway transport is concerned, current policies are limiting trucking capacity; and this in turn will limit food production, having a significant impact on consumer prices through artificial shortages."

This Report underscores the neglect of our transportation policies in rural areas, particularly in agriculture areas, warning that the rural transportation crisis has become:

"Over many years an increasing problem which will shortly have a profound effect on the prices the housewife must pay for food, and perhaps on her ability to get certain commodities, at certain times, at any price. Both the farmer and the housewife will be seriously hurt by the set of circumstances which prevail. An abundance of food at fair and reasonable prices is elemental to the prosperity of our society. Clearly it is time for some new and revised planning to diminish the rural transportation crisis, and the threat which this crisis implies for the American market basket."

When the Penn Central Bridge over the C&D Canal was knocked out on February 2, 1973, we received some idea of the impact of the loss of rail service. During this time, grain had to be transported in by truck from Southern Pennsylvania and the differential cost for the grain shipped by trucks compared to rail was $7 per ton.

The DOT Report would close the main Penn Central line south of Fruitland and thus eliminate service to the Virginia portion of the Peninsula which is linked by the Chesapeake Car Float. In 1972 a total of 27,962 cars utilized this car float. While the DOT in its analysis of this segment of the main line included traffic which originated or terminated on the Delmarva Peninsula, they did not include any consideration of the traffic that simply moved through the area. 65 per cent or 18,175 cars would fall in this classification.

It would seem that some apportionment of the through traffic should be included in considering whether to continue this main line of the Delmarva Peninsula, which is becoming an important north-south transportation artery. With the Potomac Yards in the Washington area already crowded, and with some traffic, because of its size or width, unable to make it through the tunnels along the Baltimore-Washington route, I believe the failure to continue this north-south artery would be a mistake.

The main line south of Salisbury is in terrible shape. Slow speeds orders are the rule on most of the tracks; derailments have been a problem; and it takes ten to twelve hours and a number of crew changes to make the run from Salisbury to Cape Charles. With such inefficiency and limited service, a shipper often turns in frustration to other modes.

One example of such shipper frustration is Salisbury Steel which a few years ago paid over $100,000 on freight to Penn Central. However, the service became so bad that the company had to utilize truck service, although from its standpoint the train generally would have been preferable. As a result, the company's freight business with the railroad diminished to $5,000.

With respect to some of the branch lines, you will be hearing expert testimony from the State and other witnesses with respect to the criteria used.

Even assuming, however, the validity of the DOT criteria, it is my understanding that some of the branch lines are profitable, with updated statistics, and would be more profitable with more attention and better services by the railroads.

In Western Maryland there is a 14 mile line on the Western Maryland Railroad from Westernport to Midland that would be eliminated by the DOT Report. I strongly oppose this recommendation which would harm the area economically, aggravate unemployment, and hurt the Nation's effort to find additional sources of new energy.

As a result of the energy crisis and a renewed interest in coal, the George's Creek area is experiencing a revitalization with respect to coal mining. At the present time there are 8 coal companies using the railroad to ship 70 railroad cars a day on a 6 day workweek, carrying 6,000 tons of coal from this area. The loss of this line would cause the unemployment of over 100 coal industry workers, as well as a number of railroad employees, and also deprive the Nation of coal that is needed to help us through the energy crisis. These developments must not have been foreseen and they certainly illustrate the need to pursue carefully and not precipitously given the changes that have taken place in our country.

The Washington Post in its Panorama Section recently featured a story regarding the renewed interest in coal in this area and I ask unanimous consent that this article be printed following my remarks. In addition, I ask unanimous consent that a resolution introduced by the Western Maryland Delegation in the Maryland Legislature with respect to this line also be included in this record.

In many respects we are in a whole new ball game. The energy crisis has added a new dimension and has given new life to the railroads as their economy, their energy efficiency, (railroads are 4 times more efficient than many trucks), and their environmental qualities are becoming more recognized and appreciated; and this is not just by the railroad buffs, but by all of us. Railroad stations are crowded with passengers as Amtrak business soars by 50 per cent; commuter trains are crowded; and the return to coal has reactivated some mines and has given increased business to railroads.

The agriculture scene is changing in this Nation. Yesterday our concern was over agriculture surpluses. Today our concern relates to agriculture shortages. Agriculture production is not only essential for the feeding of our population here at home at reasonable prices, but also it is important in helping to meet the food needs of the world. Agriculture represents a major plus in our balance of payments.

The surplus produced by the sale of agriculture products abroad will be needed to offset the growing costs of imported oil. Some of the estimates of the balance of payments deficit resulting from fuel imports are staggering. Thus, we will need a strong agriculture production to help offset this deficit in the oil import area.

I must say a word regarding the Department of Transportation's distribution of the Report. I believe a map depicting the lines to be abandoned in each State should have been printed. Secondly, the map could have been carried by the newspapers throughout the State thereby assuring that the public was alerted to potential abandonment problems.

I am not certain that the word has reached all affected areas in Maryland. Congress was deeply concerned that the public be alerted to potential problems and that the public interest be represented and even authorized the use of lawyers to represent and assure the public's voice was heard. I believe that the ICC or the Department of Transportation should consider making maps similar to the one I have made available.

Undoubtedly there will be abandonment of lines, in the Northeast region and Maryland. I am hopeful that the massive cuts proposed for Maryland's Eastern Shore will not occur. In any event, it behooves Federal and State governments, local communities, railroad labor and management and shippers to be alert to new ideas and approaches. For example, the Federal Government should consider the possibility of partnerships with affected states which would mobilize the talents of our agriculture land-grant colleges to develop new ways and methods to make certain that the giant agriculture production of this country will not be lost or subsequently diminished because of cutbacks in rail service or inadequate rail transportation. Intermodal centers and the use of containers for the shipment of goods offer intriguing possibilities. The consumer concept has been growing and is employed widely by industry and business. Yet, although the Department of Transportation has encouraged study in this matter, containerization has not really been demonstrated in the *agriculture* section.

Dr. William Thompson of Iowa State University, a recognized expert in the movement of grain products, has estimated that from the farm to our foreign markets grain must be handled and rehandled as often as eleven times. Much of the cost of shipping bulk commodities results from the handling and rehandling process.

Further, the problem of rehandling agriculture products severely limits the interface between two transportation modes.

Today the most desired car for handling grain by rail is the so-called "covered grain-hopper car." The nature of this car usually assures that it will be empty on its return trip, and that it will be only used seasonally to move agriculture products. Yet the flexible and adaptable flatcar could easily handle containers and could be used year round and would be more likely to be employed for back hauls. Also, plastic bags, like giant baggies, have been developed for containers and this now makes it possible to place agriculture products in a container on a farm. Refrigerated containers are also available for perishable commodities, such as poultry and meat.

I strongly urge that the subsequent products of this process, the preliminary system plan and the final system plan, reflect the work of the scalpel and not the meat ax. I, therefore, urge the continuation of the north-south artery on the Delmarva Peninsula. I also strongly recommend the retention of the coal line in Western Maryland.

Finally, I ask that the editorial from the Baltimore Sun on the DOT rail plan be printed in the record.

BREAKING THE LAW IN CAMBODIA

Mr. CHURCH. Mr. President, a disturbing dispatch from Cambodia on the front page of this morning's Washington Post reports that an American military adviser is at work assisting Cambodian Government armed forces in their civil war. The report by Elisabeth Becker reads:

> During the dark hours of dawn the Cambodian insurgents were lobbing mortars around the government's command post at Kampot. Inside, U.S. Maj. Lawrence W. Ondecker was showing the Cambodian officers how to mount a counterattack.
>
> "I want you to respond very quickly," he said. "If even one mortar falls in your zone, you must answer back with fire immediately."

If this report is true, then the Executive is breaking five statutes now in effect.

The first statute, commonly known as the Cooper-Church amendment, became law on January 5, 1971. Public Law 91-652 as amended by Public Law 92-226, prohibits the introduction of U.S. ground combat troops and U.S. military advisers into Cambodia. It reads as follows:

> SEC. 7. (a) In line with the expressed intention of the President of the United States, none of the funds authorized or appropriated pursuant to this or any other Act may be used to finance the introduction of United States ground combat troops into Cambodia, or to provide United States advisers to or for mili-

tary, paramilitary, police, or other security or intelligence forces in Cambodia.

Subsequently, in 1973, four statutes, frequently referred to as Case-Church amendments, were enacted into law, barring engagement by U.S. military forces in hostilities in, over, or from off the shores of all of Indochina. This strict restriction is part of Public Law 93-50, Public Law 93-52 as extended by Public Laws 93-118 and 93-124, Public Law 93-126, and Public Law 93-155.

This morning's Washington Post account provides on-the-spot evidence that at least one American military man, perhaps more, is directly involved in hostile combat in Cambodia. This involvement breaks the law.

In his confirmation hearing before the Foreign Relations Committee, Henry Kissinger and I had an exchange about Executive compliance with the Cooper-Church amendment. Dr. Kissinger replied: "To the best of my knowledge, it is." Then this exchange took place:

Senator Church. About a month ago, I watched a national network television news program which showed an American colonel, as I recall his rank, in the field in Cambodia with Cambodian forces. The film showed him pointing in various directions on the battlefield, discussing what must have been matters of tactical concern, with Cambodian soldiers in uniform, and opening a map and discussing with reference to the map and the terrain, what he had to say. The Cambodians were listening very intently to what must have been his advice.

Assuming that this film was actually taken in Cambodia, as it was purported to be, and that the camera accurately recorded the event, would not that colonel be acting as a military adviser, contrary to the provisions of the law?

Mr. Kissinger. Senator, I honestly do not know anything about that event, and it is very difficult for me to speculate. If the colonel was advising Cambodian troops in combat actions he was acting in violation of the law.

But let me make a general comment. The Vietnam war was conducted in an atmosphere of extraordinary bitterness within this country, I would say on both sides of the discussion, in which both sides believed that very grave issues of national policy were involved; under those conditions it is possible that things were done that seemed overwhelmingly in the national interest and that that was considered the primary criterion.

If what I have said to this committee is to have any meaning, then it would be totally inappropriate for me, as Secretary, or as adviser to the President, to behave like a sharp lawyer and to try to split hairs and find some legal justification for something clearly against the intent of the law. So I think the better answer to give you, Senator, is to say, that when the law is clearly understood—and it will be my job to make sure that I clearly understand the intent of the Congress—we may disagree with it, but once the intent is clear we will implement not only the letter but the spirit. If such an event occurred as you describe, I will do my best to have it stopped.

Senator Church. Dr. Kissinger, I want to thank you for that assurance and, knowing you as I do, I am certain that you will follow through with it.

Mr. Kissinger. Thank you.

In the light of the Becker report vis-a-vis the five laws currently on the books and Dr. Kissinger's assurance to me that there will be no hair-splitting but genuine compliance with the law, I call upon the Secretary of State and Secretary of Defense James Schlesinger to account fully and openly for this apparent violation as soon as possible.

I ask unanimous consent that Elizabeth Becker's dispatch from Kampot, Cambodia, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, March 13, 1974]

American Advisers in Combat

(By Elizabeth Becker)

Kampot, Cambodia.—During the dark hours of dawn the Cambodian insurgents were lobbing mortars around the government's command post at Kampot. Inside, U.S. Maj. Lawrence W. Ondecker was showing the Cambodian officers how to mount a counterattack.

"I want you to respond very quickly," he said. "If even one mortar falls in your zone, you must answer back with fire immediately."

While the American major was poring over maps with the Cambodian staff officers, the Cambodian general officially in command of the post was writing in his diary, alone in an adjoining bunker.

The U.S. embassy in Phnom Penh has repeatedly denied reports that Americans are serving as military advisers in the field. Congress has passed a law that prohibits the U.S. mission here from direct involvement in the conduct of the war.

But the situation in this coastal town about 80 miles south of Phnom Penh is critical, and Maj. Ondecker was flown down Sunday. "He was loaned to us from the 3d Infantry Brigade," Lt. Col. Choey Yeun said. "He is attached to the 3d and normally works in the field with them, but he is needed here. I am surprised that you did not know him."

In the past month rebel troops have moved within one to four miles of Kampot, capturing the city's main water supply and the country's only cement factory. They regularly shell the town with 75-mm. recoilless rifles and 81-mm. mortars.

Although government intelligence officers warned of an impending offensive as early as January, the Kampot garrison made no defense preparations. Over the past week the Cambodian high command sent reinforcements—and they sent Maj. Ondecker.

"Protect this area immediately," Maj. Ondecker said while the 31 rounds were falling in and around the city Monday morning. "Good, perfect," he said as a Cambodian officer pointed on the map after accepting the American's proposal.

The day before rebel gunners shot down one of the two helicopter gunships stationed here, and the second one was recalled to Phnom Penh. Maj. Ondecker arranged with the U.S. embassy on the morning of the attack that additional gunships would be sent to Kampot to support the infantry.

A member of the U.S. military attache's staff in Phnom Penh, Ondecker is in Kampot officially to gather information. Chuck Bernard, known as Monsieur Jacques, is the other U.S. representative in town. He has approximately the same official duties as Ondecker except that his area is civilian matters.

"Monsieur Jacques works with me," said Ker Sophay, director of political warfare. "He writes propaganda tracts with me. We have published and distributed 6,000 pamphlets in the three weeks he has been here."

While junior Cambodian officers say Americans advise in the field around Phnom Penh, it has never been confirmed. In Kampot, however, it is difficult to hide. Ondecker was in and out of the command post, openly recommending military maneuvers. Sometimes he prefaced his proposals with "I suggest and the general also suggests that you immediately fire in this direction."

The Cambodians were obviously pleased with the American's help. "Maj. Ondecker was very good with the 3d Brigade; he will be good with us," said Col. Choey Yeun.

Changes were made quickly after Ondecker's arrival. Another infantry brigade was called in to bolster the 2,000-man government garrison, and the top command was replaced within 24 hours. The city's defense perimeter was stabilized for the first time throughout the siege.

Villagers are still leaving the town—the population dropped from 50,000 to less than 20,000 in a month. Though all private shops are closed, and mortars still land within the city, the city's small open-air market reopened Sunday with some fruit and fish offered for sale.

INCOME TAXES AND THE OLDER AMERICANS

Mr. BEALL. Mr. President, as April 15, 1974 approaches, we should be mindful of the fact that between 7 and 9 million senior citizens will soon be filing their income tax returns. Data gathered by the Special Committee on Aging, of which I am a member, would indicate that perhaps 50 percent of all taxpayers 65 years of age and over may have overpaid their Federal income tax. Congress has sought to provide senior citizens with special tax benefits such as the retirement income tax credit, special treatment on capital gains through the sale of a home, and so forth. In providing these special benefits, however, Congress has made the Federal tax system more complicated for senior citizens and thus many fail to take full advantage of the opportunities offered them.

Internal Revenue Service has published a booklet entitled "Tax Benefits for Older Americans"—publication No. 554—which is available through IRS offices. A summary of the tax benefits provided for older Americans has been developed by the Special Committee on Aging and I ask unanimous consent, Mr. President, that the "Check List of Itemized Deductions for Schedule A (form 1040)" be printed in the Record.

There being no objection, the checklist was ordered to be printed in the Record, as follows:

Checklist of Itemized Deductions for Schedule A (Form 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses are deductible to the extent that they exceed 3% of a taxpayer's adjusted gross income (line 15, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 15, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expense (subject to 3% limitation):

Abdominal supports.
Ambulance hire.
Anesthetist.
Arch supports.

Artificial limbs and teeth.
Back supports.
Braces.
Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.
Cardiographs.
Chiropodist.
Chiropractor.
Christian science practitioner, authorized.
Convalescent home (for medical treatment only).
Crutches.
Dental services (e.g., cleaning teeth, X-rays, filling teeth).
Dentures.
Dermatologist.
Eyeglasses.
Gynecologist.
Hearing aids and batteries.
Hospital expenses.
Insulin treatment.
Invalid chair.
Lab tests.
Lip reading lessons (designed to overcome a handicap).
Neurologist.
Nursing services (for medical care).
Ophthalmologist.
Optician.
Optometrist.
Oral surgery.
Osteopath, licensed.
Pediatrician.
Physical examinations.
Physician.
Physiotherapist.
Podiatrist.
Psychiatrist.
Psychoanalyst.
Psychologist.
Psychotherapy.
Radium therapy.
Sacroiliac belt.
Seeing-eye dog and maintenance.
Splints.
Supplementary medical insurance (Part B) under medicare.
Surgeon.
Transportation expenses for medical purposes (6¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.).
Vaccines.
Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).
Wheelchairs.
Whirlpool baths for medical purposes.
X-rays.

TAXES

Real estate.
State and local gasoline.
General sales.
State and local income.
Personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of five classes of items: automobiles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security or Railroad Retirement annuities).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, State or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 6¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.
Auto loan.
Installment purchases (television, washer, dryer, etc.)
Bank credit card—can deduct the finance charge as interest if no part is for service charges or loan fees, credit investigation reports. If classified as service charge, may still deduct 6 percent of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) limited to the portion of the total fee or service charge allocable to the year.
Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).
Penalty for prepayment of a mortgage—deductible as interest.
Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

CASUALTY OR THEFT LOSSES

Casualty (e.g., tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4648 for computing your personal casualty loss.

CHILD AND DISABLED DEPENDENT CARE EXPENSES

The deduction for child dependent care expenses for employment related purposes has been expanded substantially. Now a taxpayer who maintains a household may claim a deduction for employment-related expenses incurred in obtaining care for a (1) dependent who is under 15, (2) physically or mentally disabled dependent, or (3) disabled spouse. The maximum allowable deduction is $400 a month ($4,800 a year). As a general rule, employment-related expenses are deductible only if incurred for services for a qualifying individual in the taxpayer's household. However, an exception exists for child care expenses (as distinguished from a disabled dependent or a disabled spouse). In this case, expenses outside the household (e.g., day care expenditures) are deductible but the maximum deduction is $200 per month for one child, $300 per month for 2 children, and $400 per month for 3 or more children.

When a taxpayer's adjusted gross income (line 15, Form 1040) exceeds $18,000, his deduction is reduced by $1 for each $2 of income above this amount. For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

MISCELLANEOUS

Alimony and separate maintenance (periodic payments).
Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.
Campaign contributions (up to $100 for joint returns and $50 for single persons).
Union dues.
Cost of preparation of income tax return.
Cost of tools for employee (depreciated over the useful life of the tools).
Dues for Chamber of Commerce (if as a business expense).
Rental cost of a safe-deposit box for income producing property.
Fees paid to investment counselors.
Subscriptions to business publications.
Telephone and postage in connection with investments.
Uniforms required for employment and not generally wearable off the job.
Maintenance of uniforms required for employment.
Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).
Business entertainment expenses.
Business gift expenses not exceeding $25 per recipient.
Employment agency fees for securing employment.
Cost of a periodic physical examination if required by employer.
Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).
Cost of bond if required for employment.
Expenses of an office in your home if employment requires it.
Payments made by a teacher to a substitute.
Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—Taxpayers may now claim either a deduction (line 33, Schedule A, Form 1040) or a credit (line 52, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) State committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $50 ($100 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $12.50 ceiling ($25 for couples filing jointly).

Presidential Election Campaign Fund.—Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) to help defray the costs of the 1976 presidential election campaign. If you failed to earmark $1 of your 1972 taxes ($2 on joint returns) to help defray the cost of the 1976 presidential election campaign, you may do so in the space provided above the signature line on your 1973 tax return.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

Other tax relief measures for older Americans

Filing status:	*Required to file a tax return if gross income is at least—*
Single (under age 65)	$2,050
Single (age 65 or older)	2,800
Married couple (both spouses under 65) filing jointly	2,800
Married couple (1 spouse 65 or older) filing jointly	3,550
Married couple (both spouses 65 or older) filing jointly	4,300
Married filing separately	750

Aditional Personal Exemption for Age.—In addition to the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1974, you will be entitled to the additional $750 personal exemption because of age for your 1973 Federal income tax return.

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10 percent of the mutual dependent's support, *but only one of them*, may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers.—A taxpayer may elect to exclude from gross income part, or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least 5 years within the 8-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 or less. (This election can only be made once during a taypayer's lifetime.) If the adjusted sales price exceeds $20,000, an election may be made to exclude part of the gain based on a ratio of $20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within 1 year before or 1 year after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

Retirement Income Credit.—To qualify for the retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received earned income in excess of $600 in each of any 10 calendar years before 1973, and (c) have certain types of qualifying "retirement income". Five types of income—pensions, annuities, interest, and dividends included on line 15, Form 1040, and gross rents from Schedule E, Part II, column (b)—qualify for the retirement income credit.

The credit is 15 percent of the lesser of:

1. A taxpayer's qualifying retirement income, or

2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxable pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62, he must reduce the $1,524 figure by the amount of earned income in excess of $900. For persons at least 62 years old but less than 72, this amount is reduced by one-half of the earned income in excess of $1,200 up to $1,700, plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer if he has requested that IRS compute his tax and he answers the questions for Columns A and B and completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayer should also write "RIC" on line 17, Form 1040.

AMNESTY

Mr. THURMOND. Mr. President, there appeared in the March 2, 1974, issue of the Augusta Chronicle newspaper, Augusta, Ga., an editorial entitled "No Easy Out."

This editorial succinctly points out why so many Americans share views similar to my own reference amnesty.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NO EASY OUT

Army Secretary Howard H. Callaway is, we believe, correct in his stand against letting Vietnam War draft evaders clear their records by peace-time Army service.

The solution would set up two classes of citizens. One would be those who obeyed the law, served in our defense forces, and in thousands of cases died during the effort to hold back the tide of Communist aggression.

The other class would be those who chose to violate the law, then ask to be allowed to don uniforms when military compensation and benefits had vastly increased, and put in "honorable" service with little chance of having to bear the brunt of a shooting war.

The spirits of those brave men who did not skip out to Canada or Sweden when danger threatened should rise to haunt anyone who would agree to such a cynical double standard.

As Jim Bishop put it in a column in the Augusta Herald: The Nation "has about 40,000 deserters who skulk in bitterness . . . (the forgiveness plan) was not devised to help the 53,000 American soldiers who died in Vietnam. They lie uncomplaining in boxes."

The American people might go through the motions of forgiving those who preferred to let others shoulder their danger of dying. But could the people, if they agreed to so hypocritical a move, ever forgive themselves?

THE SCIENTIFIC POTENTIAL AND DOMESTIC PROBLEMS

Mr. DOMENICI. Mr President, today I am adding my name as a cosponsor of S. 2495, a bill to provide for the more effective utilization of our scientific and technological resources. The main thrust of the bill is to relate our scientific potential to our critical domestic problems.

This bill is a positive step in obtaining a much needed assessment of our scientific and technological abilities. I have always felt that we possess the necessary technological skills but have failed to devise a proper mechanism by which these may be applied to our everyday needs. Today it is vitally important that we effectively maximize the benefits that can be gained by the work of our scientific community.

The question must then be asked as to what is the most appropriate mechanism to effectively utilize these resources. In the past we have been unable to assess and motivate our scientific potential in an orderly manner. The testimony received before the Aeronautics and Space Sciences Committee reveals the peaks and valleys, the bursts of interest and the lulls of inattention which have plagued our national efforts.

The committee heard from: Dr. H. Guyford Stever, Director, National Science Foundation and Science Advisor to the President; Dr. James C. Fletcher, Administrator, National Aeronautics and Space Administration, and Dr. Philip Handler, president, National Academy of Sciences, where it was repeatedly established that our approach has been one of fragmentation and short-lived priorities.

If we are to establish a positive approach in meeting many of our domestic problems through utilization of our scientific resources, we must develop a vehicle to more effectively relate our capabilities to our needs. It is my belief that S. 2495 is a step in the right direction towards the establishment of such a vehicle in that it proposes both a total assessment of our abilities and creates a mechanism whereby these capabilities can be related to the legislative machinery. There are several provisions in this bill which I feel need revision, but it is the overall approach of which I offer my support.

I call upon my colleagues to accept the responsibility of designing and maintaining a mechanism whereby the potential of our scientific community is more effectively related to the needs of our people. We have for too long accepted a fragmented approach and we are now witnesses to the effects of this chaotic condition.

SENATOR THURMOND ADDRESSES NATIONAL ECONOMIC COMMISSION OF THE AMERICAN LEGION

Mr. HARTKE. Mr. President, recently the distinguished senior Senator from South Carolina (Mr. THURMOND) addressed the National Economic Commission of the American Legion at their Washington conference held here on March 7. Senator THURMOND, who is the senior Republican on the Veterans' Affairs Committee is a valued and hardworking member who has materially aided us in securing new and improved legislation for veterans. I believe my colleagues will find Senator THURMOND's remarks of interest and thus ask unanimous consent that the text of his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR STROM THURMOND

Mr. Chairman, Director Kerby, distinguished members of the Economic Commission, my fellow Legionnaires: As soon as I was eligible after World War II, I joined The American Legion. I have always been proud of my long and close association with you.

Since it was founded in 1919, The American Legion has made a valuable contribution to the National welfare. It has stood for the best values in the American character—*Americanism, freedom, good government,* and *service to one's follow man.* In my mind, The American Legion is synonymous with what is best for America.

Your support has been a vital factor in the maintenance of a strong National defense. Your unyielding concern for the American veteran and his family has been a National asset.

Along with many others in the Congress, I appreciate your hard work, and value your positions on the great issues which affect the destiny of our Nation.

I. ECONOMICS AND THE VETERANS

It is my understanding that the Economic Commission has specific jurisdiction over economic matters pertaining to veterans, with particular emphasis on *employment, veterans' preference in Federal employment,* and *VA housing.*

With your permission, I shall speak briefly to these particular points, and, more generally, to the economic implication of veterans' legislation for the individual veteran and the Nation as a whole.

I compliment The Legion for the sensible approach it has maintained in recommending responsible programs to the Congress. Your recognition of the limited resources with which the Federal Government must work, has given your views an added stature when you point to the economic needs of the veteran. Your voice does not go unnoticed.

The economic success of America's 29 million living veterans is essential for the total economy to prosper. Together with their dependents, veterans represent almost one-half of our population. The well-being of the veteran is interwoven with the economic prosperity for all.

II. EMPLOYMENT

Programs designed to aid the veteran in employment and reemployment play an important part in ensuring the well-being of other sectors of our economy.

The employment of veterans pays extra dividends to the employer. Veterans make good, sound employees.

They have *matured* in the service of our country.

They are trained in *self-discipline.*

Former officers and non-commissioned officers have developed *managerial skills,* which have proved to be a great asset in business, industry, and government.

Veterans have acquired an *expertise in vocational skills* through mandatory MOS qualification in the military.

They have learned *self-confidence through problem solving,* on the field of battle or under rigorous training programs.

In many instances, however, the veteran has been disabled in the service of our country. He requires vocational rehabilitation and special consideration in order to return to the civilian sector as a productive member of society.

We owe this man and his family every effort to help him readjust.

One of the pending bills before the Senate, S. 2784, deals with this problem. I am a co-author of this legislation. It contains several significant provisions for the employment of young and disabled veterans, their wives and widows.

S. 2784 extends vocational rehabilitation benefits to Vietnam veterans who have a compensable service-connected disability rating. Presently, the veteran must have a 30% disability rating or demonstrate the relationship between his need for such training and his particular disability.

Job training, counseling, and placement services will be extended to widows of veterans who die of service-connected causes, and wives of totally disabled veterans.

In the 1972 "GI Bill" amendments, now Public Law 92–540, the Congress passed a substantial provision to aid veterans in their employment problems. Public Law 92–540 authorized 67 Federal employment specialists to assist Veterans' Employment Representatives in seeking to solve veterans' employment problems.

Unfortunately, this law has not yet been fully implemented. I am aware of your concern in this area.

Earlier this week, I spoke with officials in The Department of Labor about this problem. I urged the Labor Department to expedite the implementation of this law, and to authorize higher grade levels for these slots, so outstanding individuals can afford to take these jobs.

You may be assured of my continued intrest in this problem.

Further, a new provision will be added to the law by S. 2784. It requires the VA, the Department of Labor, and the Civil Service Commission to establish an action plan for the preferential employment of disabled veterans and young Vietnam Era veterans.

Veterans preference for Civil Service jobs was first authorized by Public Law 78–359 in the "Veterans Preference Act of 1944". It is the law of the land, and it should be enforced. The provisions contained in S. 2784 will help ensure the employment and reemployment rights to which the veteran is entitled.

Hearings will be held on S. 2784 within the next several months, and the Committee will welcome the views of The American Legion on employment and veterans preference.

III. EDUCATION

The primary focus of S. 2784, the "GI Bill" Amendments, is the educational subsistence allowance and related provisions.

The "GI Bill" has been one of the outstanding programs to aid the economic success of the veteran, and to assure the economic well-being of our society.

An analysis of the economic return of the "GI Bill" substantiates this fact.

In 1965, the Department of Labor and The Department of Commerce analyzed the incomes of veterans and non-veterans in the same age groups. Approximately 10 million World War II and Korean Conflict veterans enrolled for education or training under the "GI Bill". The total cost to the government was $19 billion.

The income of the veteran who received "GI Bill" assistance averaged from $1,000 to $1,500 a year more than those who *did not.* On this basis, it was estimated that the trained and educated veterans generated additional income taxes in excess of $1 billion per year for over 20 years. This represented a $20 billion return in taxes alone on the $19 billion cost of the program.

Additionally, the skill levels of those who participated in the program were raised significantly. Around 45% of the World War II veterans, 29% of the Korean Conflict veterans, 10% of the post-Korean Conflict veterans, and 8% of the Vietnam Era veterans had less than a high school education when they entered training under the "GI Bill".

Since World War II, the "GI Bill" has provided an impressive part of the Nation's professional and skilled manpower. The number of jobs added to the National productive capability is revealing:

523,000 in engineering;

350,000 in education;

365,000 in the life sciences, physical sciences, and health sciences;

Over 1 million in business, commerce, and law; and

Almost 4 million in skilled trades, crafts, and industrial pursuits.

In each instance, the veteran has not been the only beneficiary. Society as a whole has benefitted from the training and educational pursuits of veterans under "The GI Bill". It has paid for itself many times over.

Education is one of our best investments in the future. I shall continue to work for a viable "GI Bill" program which is equivalent to the programs provided to veterans of other wars.

The Senate will be considering adjustments in the subsistence rate and vocational rehabilitation rates. We will consider an extension of the period of time in which the veteran may use his "GI Bill" eligibility for training. We will examine the usefulness and effectiveness of the "GI Bill" in today's economy.

Approximately 2 million veterans, widows, and dependents receive $2.5 billion annually in education benefits. These benefits generate an economic return which is of great value to a prospering economy.

I am sure that the bill which the Committee recommends to the Senate will reflect the best interests of both the veteran and the Nation.

The Legion was a pioneer in its support of the original "GI Bill," and we will value your continued suggestions in this area.

IV. HOUSING

Your Commission has jurisdiction over another important area—*housing.*

The VA home loan guarantee program has undergone many changes since its inception in 1944. Additional changes are in order. Any new legislation must, however, continue to adhere to the fundamental purposes of the original program.

First, it must assure the veteran that he can obtain mortgage loans at terms more favorable than those readily available in the credit market for low down-payment loans on houses, farm houses, and mobile homes.

Second, it must assure that the program is attractive to private lenders; so the veteran can, in fact, obtain a mortgage loan at favorable terms.

Third, it must continue to protect the financial interest of the veteran with respect to the quality of the property and the conditions of the sale.

Both rising costs and a tight housing market have had their effect on veterans, as well as other potential home buyers.

In light of these concerns, I am hopeful the Congress can consider at least two pieces of housing legislation which I am cosponsoring in the VA housing field.

First, consideration of an increase in the maximum limitation on guaranteed and direct loans will be in order.

Housing costs have increased during the past year by 19%. A corresponding increase in maximum limitations will ensure that the home loan program remains attractive to both the veteran and the private lender.

Second, an increase in the specially adapted housing program should be considered.

The specially adapted housing program has been called the "wheel-chair" home, because it is especially adapted to the needs of the totally disabled veteran, who is blind or who has lost the use of his lower extremities.

These veterans require extensive modification in their home plan, not required by the ordinary home-owner. Larger doorways, wider halls, and ramps are necessary in order to accommodate their mobility.

Presently, the VA is authorized to provide a grant of up to 50%, but not to exceed $17,500, to pay part of the cost of building, buying, or remodeling such homes for those who qualify.

In view of increasing costs and the demanding needs of these disabled veterans, their economic condition should be of first priority when housing legislation is considered.

Unfortunately, the problems of VA housing have not had the recent attention of the Veterans' Affairs Committee, as they should have. Recent developments in the field of housing command our attention to this area.

A review of the VA housing program is on the agenda of the Senate Committee later in this session.

The service organizations will be called on for your assessment of this important field.

V. OTHER LEGISLATION

There is one other program, although outside the specific jurisdiction of the Economic Commission, which I want to mention this morning. Briefly, it is the availaiblity of first-rate medical care for our veterans in the 170 VA hospitals across the Nation.

I want to applaud President Nixon's budget proposals in the area of VA medical care.

In fiscal year 1975, an additional 7,600 medical personnel will be added to the Department of Medicine and Surgery. Hospital construction for FY 75 will reach an all-time high of $276 million.

These budget proposals support the fundamental proposition that VA medical care must be among the best offered anywhere in the country.

At the present time, however, it concerns me that several of the National Health Insurance proposals pending before the Congress may endanger the independence of the VA health care system. I am pleased that the President has given his support to an independent VA system.

A separate VA medical care system guarantees the veteran priority care for his service wounds. Integration of the VA system with HEW would be disastrous.

You may be assured that I will fight with all my energy to keep the VA system separate! I urge The American Legion to offer its support to this position when National Health Insurance is considered by the Congress.

VI. CONCLUSION

Other areas, such as compensation and pension legislation, will also demand our attention this year; but I will not discuss them this morning.

In conclusion, the problems of our veterans will continue to be a priority item in this session.

As the senior Republican on the Senate Veterans' Affairs Committee, I will continue to fight for the economic well-being of our veterans.

Our Nation owes no greater debt to any group than to her veterans.

We are able to assemble here this morning in free and open discussion because of the sacrifices you, our veterans, have made. You have gone abroad in time of war; you have mobilized in time of crisis; you have always put America's interest first.

I applaud the work of The American Legion in bringing to the forefront of American opinion both the contributions and needs of America's veterans.

Your work as delegates to this Conference is most important. The resolutions which you have adopted, and the positions which you have formulated, are carefully considered by the Congress, the Administration, and the American public. Your membership has reposed a great trust in you.

I am confident, that by working together, we can continue to enhance the economic status of the American veteran and his family, thereby benefitting the Nation as a whole.

THREAT TO MILITARY JUSTICE SYSTEM

Mr. THURMOND. Mr. President, in the last year I have made several talks reference the connection between a decline in military discipline and its relation to the civilian judiciary.

On March 6, 1974, Col. R. D. Heinl, Jr., U.S. Marine Corps, retired, authored an article in the Detroit News entitled, "Civilians Threaten Military Justice."

Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Detroit News, March 6, 1974]

Civilians Threaten Military Justice

(By Col. R. D. Heinl, Jr., U.S. Marine Corp, Retired)

Washington.—Two federal court decisions in the news, widely separated as to cause, venue, and underlying issues, nevertheless indicate what a poor shake the Army, and more generally the Armed Forces, are getting at the hands of an increasingly activist, libertarian civilian judiciary which has taken to meddling in the administrative and disciplinary systems of the Armed Forces.

The Army is at this moment reeling under a 12-page ruling, handed down last month by U.S. District Judge Gerhard A. Gesell here in Washington, which strikes down the Army's drug abuse prevention program and has thereby ground to a halt every courtmartial or disciplinary or administrative action aimed by the Army at fighting its desperate battle against drugs. When this consequence was argued, Gesell, a judicial high-flyer not oversympathetic to the Armed Forces, blandly moralized in reply, "Military necessity may not embrace everything the military may consider desirable."

What the learned judge was waving aside as merely "desirable" for the Army was its contention (which few soldiers and even fewer young soldiers' parents, I surmise, would dispute) that in present service conditions, drug control is indeed a matter of paramount military necessity.

Where the Army pleaded that rigorous drug control measures alone could "prevent serious impairment of morale and discipline," Judge Gesell would hear nothing of necessity and replied in terms of desirability. The logical conclusion to be drawn from the judge's reasoning is that constitutional and libertarian abstractions intended to govern civilian society override the central requirements of a military organization for morale and discipline, the qualities which impel soldiers to fight and if need be, die.

What Gesell seems to be saying is a slight paraphrase of Robespierre: "Perish the Armed Forces, rather than the 4th Amendment!"

Far away from Judge Gesell's Washington courtroom, down in the rustic setting of Columbus, Georgia, a country cousin, so to speak, U.S. District Judge J. Robert Elliott, last week freed Lt. William Calley, convicted of 22 murders at My Lai and under 20-year sentence by an Army court-martial, on the nominal bail of $1,000 pending completion of the long-drawn appellate review of his cause celebre.

What is novel and unsettling in Judge Elliott's ruling (which at least foregoes the meretricious value judgment of the learned Gesell) is simply that the military judicial system, as framed by Congress and as it has functioned here for two centuries and in Britain for centuries more behind, intentionally makes no provision for the civilian privilege of bail.

Judge Elliott, to be sure, bottoms his unprecedented grant of bail to Calley on a Supreme Court affirmation of bail granted by the notoriously anti-military Justice Douglas to the seditious Dr. Howard Levy, after the latter's dismissal from the Army, though still serving sentence. The legal distinction between Calley (unfinished business, still in uniform, albeit confined) and Levy (a finally sentenced prisoner) is for the lawyers to sift. The matter for public concern is that a country judge in the red hills of Georgia casually takes on himself to dictate an unheard-of mutation—engraftment of civilian bail—onto the Congressionally closed system of military justice and administration as if he were adjudicating some tort case across the Chattahoochee River between litigious Georgia and Alabama squires.

Nor, in any case, is a man fairly convicted (as this reporter knows, having covered the trial) of 22 murders a person, never mind the excruciating circumstances, who should be released like a penitent chicken-thief or woolhat moonshiner, on $1,000 or any bail, especially over government objection.

It would be disquieting enough if these two cases represented unusual instances of judicial meddling in military matters far beyond the proper (and previously traditional) sphere of civilian courts. Unfortunately this is not the case.

Within the last year we have seen the 5th Circuit Court of Appeals strike at the heart of the long-standing military system of discharge graded according to the character of a soldier's service. If this ruling is finally upheld, the services will henceforth be unable to forewarn the public, or place on open record the facts of undesirable discharge for such offenses as drug addiction, internal resistance or sedition, let alone homosexuality or conscientious objection.

In still another monkey-wrench judicial interposition, U.S. District Judge Barrington D. Parker in Washington, D.C., recently ruled that the Air Force had no right (in time of war, mark you, and in the field) to stop airmen working in concert to round up signatures for antiwar petitions from Vietnam. If ever there could be a clear case of sedition in the presence of the enemy (if only by the express provisions of 18 USC 2387 and 2388, the military sedition laws the Justice Department has refused to enforce), here it was; yet Judge Parker chose the First Amendment over the imperatives of discipline in war.

It would be possible to go on, but the foregoing examples make a case which is simple enough. Every single judicial action, arrived at on the whim or particularities of a case, has intruded with little apparent regard for general consequences into the worldwide workings of the defense Establishment, impelled by mindless devotion to libertarian constitutional literalities that predecessor generations of wiser U.S. judges have carefully sidestepped when dealing with the necessary practicalities of the Armed Forces.

In other words, what the defenseless military is up against is runaway exercise of nearly limitless judicial authority with no responsibility whatever for consequences. It makes no mind to Gesell whether our Army in Germany rots itself to death on drugs; that's for General Abrams to worry about. Elliott gives no second thought to reversing 200 years' precedents against bail in military cases. If airmen mutiny in Vietnam with his opinion in their fists, Parker will merely yawn.

Unless and until this larger issue of authority versus judicial irresponsibility can be worked out by Congress or the Supreme Court so as to protect the Armed Forces, we had better forget discipline, without which, anyway, an army is meaningless.

DETENTE

Mr. MATHIAS. Mr. President, on January 31, the Pittsburgh Jewish Chronicle carried an article highlighting the comments of the distinguished minority leader, Senator HUGH SCOTT, to the Jewish National Fund Annual Dinner guests. Senator SCOTT shared his views on the subject of détente between the United States and the Soviet Union in light of the recent events in the Middle East and controversy over emigration of Jews from Russia. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Pittsburgh (Pa.) Jewish Chronicle, Jan. 31, 1974]

DÉTENTE STILL WORKING, SENATOR SCOTT TELLS JNF HERE

(By Joel Roteman)

Detente is alive, well and still working, despite passage of the Jackson-Mills-Vanik bill, despite the Yom Kippur War and the largely visible yet largely invisible role of the Soviet Union in orchestrating the Arab sneak attack, and despite the Arab oil embargo, which was encouraged somewhat also by the Russians.

Despite all these despites, Senator Hugh Scott assured the Jewish National Fund Annual Dinner guests, Sunday, Jan. 27 and earlier, The Jewish Chronicle, "detente has not suffered."

The "failure to get the Soviet trade bill was," Sen. Scott conceded "unfortunate. If we can work out the problem of Soviet Jewry emigration with Russia and then a trade agreement, we will be better off," he told The Chronicle.

As for the Yom Kippur War, "We'll never really know how much they knew of the actual attack plans."

Since then, "the US has been engaged in frequent interchanges of ideas with the Soviets, including Phase II of SALT. Obviously, detente is still working."

Sen. Scott expressed "cautious but reasonably good chances for Middle East peace."

"Nobody really wants to re-open the war and now physical separation makes war impossible without overrunning the UN forces. Both sides in the Sinai are beyond effective artillery range."

Scott also spoke of the "inevitable US role in the Middle East. No one else could have gotten the ceasefire and disengagement. Remember, peace comes only when war becomes improvident."

On a different front, Sen. Scott expressed guarded optimism for the UN Genocide Convention, which is being debated on the floor of the Senate this week. Adopted by some 75 nations since its drafting over two decades ago, the UN bill outlawing genocide has consistently been brushed aside by the Senate, mainly from the right.

"Opposition comes from those people who are critical of the UN and any extension of its authority. They fear so-called UN interference in our affairs and fear it is a step toward world government."

At the JNF dinner, it was announced that a Sen. Hugh Scott-Pittsburgh Forest would be planted in his honor.

THE ALABAMA NATIONAL GUARD

Mr. ALLEN. Mr. President, the Alabama National Guard has been an example of courage and patriotism since 1836 when it was known simply as the State Militia. At that time the guardsmen were primarily a defensive unit protecting the Alabama settlers from the warring Seminoles. The Alabama State Militia also offered protection during the War Between the States and, when it was officially named the National Guard, became a key force in World War I, World War II, and the Korean war.

The February issue of the distinguished publication, Alabama News Magazine, included a well-documented article telling the history of the Alabama National Guard. I ask unanimous consent that this interesting article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Alabama News Magazine, February 1974]

FROM SEMINOLE WARS TO VIETNAM, ALABAMA CITIZEN SOLDIERS WERE THERE

History books will tell you that the National Guard of Alabama came into being on July 15, 1911. That was in fact the official day of birth of the Guard in Alabama. But long years before that, Alabamians had banded themselves together in what was called the State Militia, and these brave men, the first real "Guardsmen", wrote some of the most glorious pages in the history of Alabama and America.

From the very beginning of the settlement of what is now Alabama, it was necessary on many occasions for these pioneers to band together to defend their families and homes from hostile Indians. Perhaps this was the real beginning of the "citizen-soldier Army" which today is called the National Guard.

The first record of an organized State Militia came in 1836 when the various tribes of the Seminole Indians made war on the settlers in Alabama and Florida. While the Alabama Militia for the most part participated only in defensive action, two volunteer units from this state—the "Montgomery True Blues" and the "Selma Guards"—marched off to Florida to aid their sister state. Their performance in combat at Fort Foster was so outstanding that the grateful Floridians later renamed the facility to Fort Alabama.

Only ten years later the Alabama Militia found itself again in combat. The young nation was involved in a war with Mexico, and it was in this war that for the first time the State Militia was mustered into federal service. One Alabama unit, the "First Alabama Volunteers" distinguished itself in the fierce Battle of Vera Cruz.

It was a different uniform the State Militia donned in 1861—the gray of the Confederacy. The incredible record of the Alabama Militia in the War Between the States could fill countless volumes of history books. Perhaps no unit more distinguished itself than the Fourth Volunteer Regiment, commanded by Col. Egbert Jones of Athens. It fought in an unprecedented 17 major campaigns, including Gettysburg, Chickamauga and Second Manassas. A total of 1,400 Alabamians went to war as members of the Fourth, only 300 returned home after the hostilities ended.

The next significant date in the history of the State Militia was that birthday referred to earlier on July 15, 1911. It was on that date that state militias throughout the nation were reorganized along federal lines and were given the name of the National Guard.

Yet another singular date in the history of the Alabama Guard was Aug. 14, 1917, when the state unit was designated as the 167th Infantry Regiment, and became a part of the 42nd Division—which shall be remembered forever as the "Rainbow Division."

The exploits of this division in World War I constitute one of the most remarkable sagas of heroism and courage in American history. The 167th, with its sister regiment from New York state, the "Fighting 69th," established an awe-inspiring record in France. During almost seven continuous months of combat (Second Battle of the Marne, Chateau Thierry, Croix Rouge, Meuse Argonne), this mixture of "Rebels" and "Yankees" put to rout the best the Germans had to offer. But the victories they won were at a terrible price. More than 30% of the division was killed or wounded.

After World War I, the 167th was reassigned to the 31st Division. Because this division was made up of units from Alabama, Florida, Louisiana and Mississippi, it was not long before it had a nickname—the "Dixie Division."

More than a year before Pearl Harbor, in November, 1940 to be exact, the Dixie Division was called into active duty under the command of Gen. John C. Persons of Birmingham. It was to be four long years before this proud division would see combat. Instead, it was used as a training division. In all, it trained more than 39,000 officers and enlisted men, most of whom later saw combat.

Finally, in 1944, the Dixie Division sailed for the South Pacific. Its initial combat was in the Aitape region of New Guinea. The area had been captured, but the Japanese had launched a fierce counter-attack. After four long years of training, the Dixie Division was ready. The enemy was repulsed with heavy losses. Later, units of the Division saw extensive combat in the invasion and recapture of Moratai, the second largest of the Philippine Islands. At the close of the war, despite its late arrival in combat, the 31st Division had inflicted 7,346 casualties on the enemy while suffering only 1,709 casualties.

Only six years after the end of World War II, the division found itself again called into active duty, being federalized following the outbreak of the Korean conflict. The division itself was never sent to Korea, but a number of its units were sent into combat in that far-off land.

With the national policy dictating that draftees make up the bulk of the fighting force in Viet Nam, the Alabama National Guard's participation in that long war was limited. Only one Alabama Guard unit was called into active duty, it being the 650th Medical Detachment of Birmingham. This group spent almost a year in Viet Nam.

Today the Alabama National Guard remains at the ready. It is not looking for trouble, but it it comes, the Guard will be ready just as it always has been.

SIXTH ANNIVERSARY OF MAURITIUS

Mr. HARTKE. Mr. President, today we salute the sixth anniversary of the independence of the Republic of Mauritius.

Mauritius is a strategic island in the Indian Ocean between the east coast of Africa and the west coast of Australia and because of its position the United States has used its airport facilities for air/sea rescue on most of our space expeditions.

Mauritius has had a long and unbroken record of friendly relations with the United States. In May 1794 Congress appointed the first American consul to the island. In the days of the sailing ships, over 100 American trading vessels used its ports every year.

Mauritius has no mineral wealth of any description and her economy is based on agriculture, predominantly sugar.

At the present time, approximately 215,000 acres or 46.5 percent of the total area of the country, are devoted to the cultivation of sugar. Sugar is not only Mauritius' largest foreign exchange earner, representing approximately 91 percent of the total value of its annual export trade, but it is also the largest employer of labor. The number of workers employed directly in the sugar industry is approximately 72,000 or over 30 percent of the working population. The well-being of most of the other industries on the island is directly related to the fortunes of the sugar industry, since sugar directly accounts for about one-third of the country's national income. Government revenue depends largely on sugar production through direct and indirect taxation, including an ad valorem duty of 9 percent on sugar exports, a duty of 5 percent on the exports of molasses, and a milling tax of $3.25 per ton of sugar produced.

At the present time, Mauritius is the ninth largest world exporter of sugar.

The United States is high on the list for import into the island nation and American businessmen have found a very favorable climate for investments.

At the present time, American business owns 50 percent of the largest industrial undertaking in the island—a fertilizer complex that will supply all of Mauritius' agricultural needs.

FUSION DELAY—TWO STEPS FORWARD AND ONE BACKWARD?

Mr. BIDEN. Mr. President, I was very concerned to learn that the Office of Management and Budget, apparently at the direction of the White House, has ordered the Atomic Energy Commission to cut substantially its budget for fusion research. Nuclear fusion is the process of creating energy by joining atoms together and is considered by most people to be the optimum method of producing electricity for the future. Although the overall budget for this program is still significantly larger than in the past, this slash in funds will delay the commercial application of fusion produced electricity by about 3 years—to the turn of the century.

Nuclear plants now in operation produce electricity by means of fission. Fission is the process of creating energy by splitting atoms apart. For some time now there has been a large controversy over the safety of fission power plants. The AEC and the electric companies maintain that they are safe to operate; many others disagree, pointing to such problems as thermal pollution, transportation of nuclear materials, and the storage of nuclear waste. The one thing that almost everyone agrees on, however, is that the fusion process will be the best method of nuclear energy production, in terms of safety and efficiency, once enough research has been done to make it commercially feasible.

I, therefore, question the wisdom of cutting this program, in light of this country's future energy requirements. Energy self-sufficiency is an essential goal which will enable us to maintain our position of strength in the world, sustain our high standard of living, and shield us from the whims of other countries on whom we are sometimes compelled to rely. It is crucial that wise and thoughtful decisions be made now on how to spend money for energy so that at the same time self-sufficiency is being attained, it is done in a manner consistent with the need to preserve a high quality of life for ourselves and for future generations.

Mr. President, I ask unanimous consent that an article on this subject by Mr. Thomas O'Toole, which appeared in a recent edition of the Washington Post, be printed at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post]

U.S. FUSION ENERGY PLAN DELAYED

(By Thomas O'Toole)

The Atomic Energy Commission has stretched out its program to make electricity from thermonuclear fusion to close to the turn of the century, mostly on orders from the White House.

The stretch-out delays by about three years the AEC's timetable to produce commercial power from fusion, which is considered the ultimate means of making electricity because it depends on nothing more than the hydrogen from sea water for its fuel.

What the stretch-out does is to cut $32 million from the AEC's fusion budget for fiscal 1975, leaving it at $102.3 million. This is still an increase of 55 per cent over what it was in fiscal 1974 and still allows for manpower gains of about 30 per cent in the fusion program.

The $32 million reduction was ordered by the Office of Management and Budget, which also told the AEC to trim $140 million from its five-year plan for fusion research. This still left the fusion budget for the next five years at about $1.2 billion.

Reducing fusion spending by $140 million over the next five years means that the AEC timetable for thermonuclear fusion will stretch out into the late 1990s instead of 1995. This also means a timetable revision along the way to 1995 as well as a cutback in the number of fusion test plants from three to two.

Spurred on by unusual success in three different areas of fusion research, the AEC last year had planned to build fusion demonstration plants based on all three methods of making power from fusion.

The first plant was to have been ready in 1938, the second in 1987 and the last in 1995. The third one was to be the largest of the three and was to provide the "basis for commercial fusion power."

With the upcoming budget cuts ordered by the White House, three plants can still be built but only at a stretched-out schedule and only using two designs instead of three. The third plant would be a demonstration facility instead of a full-scale test plant.

This means the first plant will be ready in 1985, the second in 1980 and the third in the late 1990s, probably right before the turn of the century.

THE ECONOMIC PROSPECTS OF THE DISTRICT OF COLUMBIA METROPOLITAN AREA

Mr. MATHIAS. Mr. President, the economists tell us that the year ahead will be one of testing for the American people. Inflation will remain high, energy will remain short, unemployment may rise.

No one can escape the effect of these unfortunate economic trends, and all of us must work to blunt their overall impact—by measures to stimulate the economy, to insure fair treatment for the unemployed, to readjust our energy policies so as to lay a basis for a prosperous America in the years ahead.

But before we can fully respond to the economic challenges we face, we must understand their breadth and depth. William H. Jones, assistant financial editor of the Washington Post, surveyed the metropolitan area surrounding the District of Columbia and summarized his findings in an article in the Potomac magazine section of the Post on Sunday, February 10, 1974. I believe that his article is realistic and helpful. He points out that the metropolitan region has traditionally been affected less by economic swings than most other areas of the country, and yet he notes a number of ways that each resident of the Capital area will be affected.

I believe that my colleagues may find this article of interest not only in their planning for their own family but in planning for the policies of the whole Nation. I, therefore, ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Potomac magazine, Feb. 10, 1974]

HOW RECESSION PROOF IS WASHINGTON?

(By William H. Jones)

"The bubble is about to be pricked for the time being," says shoe merchant and Washington native Frank H. Rich, describing the local economy.

"Yeah, but how'd you like to be in Detroit?" counters banker Joseph W. Barr. "We gotta be darn thankful . . . we're lucky . . . there's no other city in the world that's a better place to be this year."

Austin Kenny is not so sure. The area's chief promoter of tourism and conventions, Kenny prefers to concentrate on optimism: "Convention business will remain strong, because of commitments for hotel space already made . . . there may be an increase in business meetings to delve into the energy crisis."

Otherwise, he concedes, "this thing's so damn big, nobody's got a handle on it . . . I think we can develop some business from closer areas, things like get away from Baltimore, Harrisburg, Philadelphia for the weekend." But will anyone come, if there's gasoline rationing?

More to the bitter point many Washingtonians in the cold winter of 1974 are wondering if the restless churning of a fragile, nearly leaderless, economy will leave them out of a job by the winter of 1975. That's news, in itself, because the economic bubble of this community has hardly wavered at all during several American recessions and economic downturns since World War II.

There are a variety of potential economic scenarios for this year, but in every instance some degree of a slowing down is anticipated. The degree of slowdown—and possibly real economic decline—depends upon when and if the energy crisis is resolved to the extent that we know how much gasoline will be available for autos and how much fuel there is for industry.

Most people here haven't had time to participate in real slowdowns, because they either worked for the federal government or served the people who work for the government. And more and more power has been concentrated at the federal capital, no matter the obstacle—even pledges by Presidential candidates.

In the 1960s, metropolitan Washington became a champion. The fastest growing urban market in America. The most affluent households. The best educated marketplace. The highest per capita and family incomes. The most retail sales per household. The highest stock ownership per capita.

Some of these superlatives have been blunted by statistical quirks, including a decision by the Commerce Department last year to carve a new metropolitan statistical area out of the rich Long Island suburbs of New York—thus downgrading Washington to No. 2 in income per household, and retails sales per home.

We're still leading the pack in drug store sales per household (which some casual observers might attribute to a pressure-cooker political atmosphere), as well as air trips per capita, passports issued per thousand households, the number of telephones, and education (40.6 per cent of all our adults 25 years and over have attended or graduated from college.)

But there is reason to believe that an anticipated worldwide recession, now perceived to be in its infancy, will trim some of Washington's traditionally buoyant growth outlook.

Since the days of the Founding Fathers, it has been a goal and gospel for Washington to have a "recession-proof" economy.

Between 1783 and 1790, as Congress studied 22 possible sites for the national capital, strong arguments were heard against placing the seat of government in a city where commerce and industry were strong factors.

"A great obstacle to the exercise of control in a large commercial community, would be found in the mixed character of the population, and the many elements of discord which existed there," wrote Joseph Bradley Varnum, in recounting the debate.

". . . disturbances would frequently occur in times of high party feeling, or during any period of stagnation in business, when unemployed multitudes could easily be aroused, by real or imaginary grievances, to overcome all opposition, and stay the operations of government."

Once the decision was made to keep the capital some distance from chief commercial centers, "many members of Congress did not favor the growth of such enterprises within the District," bank historian David M. Cole noted, while emphasizing that a lack of enthusiasm for—and even hostility toward—commercial business developments here has extended beyond Congress to rival cities and some D.C. residents.

George Washington, who acted as sort of a one-man Board of Trade in his day, was a maverick on this issue. He saw great commercial futures for both Alexandria and Georgetown, which is why he wanted the government here in the first place. And he backed canals, roads, bridges, banks and other investments with enthusiasm and money, only to see most of them fail.

Throughout the area's history, the same theme has been repeated, often in the midst of economic chaos elsewhere:

"Fortunately, from its position and the nature of its business, Washington City suffers less sympathetically by reason of the (financial) disasters in New York than any other American city of its size." (The Evening Star, 1873)

"Perhaps the escape from . . . upheavals has been due to the fact that Washington has never been a financial center in the commercial sense of the term." (The Washington Post, 1909)

"Washington makes its own bread, brews the larger part of its beer, slaughters and packs a good portion of its meats, makes its brick, saws lumber and works iron and steel." (Washington Board of Trade Annual Report, 1904)

"Washington is the one depression-proof city in the U.S. . . . the backbone of Washington business . . . is the huge government payroll, which is almost unaffected by the depression." (Frederick William Wile, The Evening Star, 1931)

The large stable-salary population of Washington has caused business conditions of the city to remain on a reasonable satisfactory level. The effect of the recession has been experienced, but not nearly so much as in other parts of the country." (Thomas J. Groom, president of D.C. Bankers Association, 1937)

While the economic stability of Washington during the Great Depression did tend to demonstrate how wise it was to have the seat of government removed from the wild gyrations of industry and the business cycle, it was during this era that the foundations for diversifying the local economy were established.

The very bigness of New Deal federal government led to changes, in some cases quickening trends already established (the location in Washington of trade associations' headquarters, for example) and in other instances developing a huge potential market for specialized services.

When Franklin D. Roosevelt took office, in 1933, Marriott Corp. consisted of hardly more than a few root beer stands. Such ventures as Government Employees Insurance Co., Giant Food, Drug Fair, Dart Drug, Allegheny Airlines, Quality Inns, the Rouse Co.—none of these had even been born. Nor had two of the area's biggest firms of today—Communications Satellite Corp. and Federal National Mortgage Association—products of big government at a later date.

Tourism was a minor factor, with the first Cherry Blossom festival having been held in the late 1920s.

Local businessmen were hardly enthralled by the Roosevelt administration, not seeing in the early 1930s that their fortunes actually had been blessed. FDR ordered 15 per cent cuts in federal salaries and instituted a ruling that cut in half many incomes—one government job per family. Places in new federal agencies seldom went to oldtime civil servants and bank deposits fell.

"A measure of the gloom," writes historian Constance McLaughlin Green, "was the listlessness with which baseball fans celebrated the Senators' winning of the American League pennant. . ."

Still, by comparison, Washington had little about which to complain. The federal establishment grew rapidly—63,000 government jobs in 1933, 93,000 by 1935 (mostly filled by newcomers to the D.C. area), 149,300 by 1940.

Compared with the 15 per cent salary cuts, the reductions averaged 50 per cent in other cities, and 10 per cent was restored here by July, 1934, (the rest in early 1935). Businessmen poured into the city for conferences, filling Washington hotels.

Effective buying income averaged $3,782 in Washington, $2,000 in other U.S. cities; Evening Star advertising linage was the biggest in America; D.C. population rose by 36 per cent over the 1930s; builders couldn't keep up with the demand for apartments and houses.

Consumers flocked to Hecht's, Woodward & Lothrop and Julius Garfinckel to spend their government salaries, making Washington the number one retail market in America—in terms of retail sales per capita—in mid-Depression 1935.

Such affluence, although it didn't extend to the city's huge black population, helped spark economic expansion into non-government businesses. Research and technology companies were opened, Washington became a headquarters city for labor unions, wholesale distribution centers were located here to serve the Middle Atlantic region.

Today, George Washington would be happy that his early conviction—about his community being an important commercial center—has become a fact.

But is it still true that a recession is simply not possible here?

A quick glance at local employment figures would tend to confirm this, with about 500,000 persons in a 1.3 million civilian work force holding positions in either the federal or state-local governments.

Long-term job figures, however, indicate that government is becoming less of a direct economic factor almost every year, but, while the majority of workers don't get salary checks from the taxpayers, government spending and payrolls have an enormous impact here.

For example, major employment sectors in the local economy include retail and wholesale trading of merchandise (250,000); all services, including doctors, lawyers hotels, restaurants (286,500); construction (86,500); financial institutions, insurance and real estate (79,400); transportation and communications (63,600); and manufacturing (46,100). In the manufacturing sector, the largest industry is printing and publishing, a fact that hasn't changed for a century in a city of words.

Large local employers outside the government include Government Employees Insurance Co. (over 5,000), Marriott Corp. (10,000 or so), Washington Post Co. (about 3,000 in the D.C. area), Potomac Electric Power Co. (over 4,000), Woodward & Lothrop (6,000), and Riggs National Bank (1,500).

"I think," Rich observes, "that Washington is more recession-proof than any large American city, but there are strange factors at work this time, different from ever before, and no one knows what's going to happen."

The biggest uncertainty is the availability of energy resources—petroleum from which to refine gasoline for autos or oil for heating; electricity, which depends upon oil or coal to fire generating stations; natural gas, which heats many area residences.

A long-term problem of short supplies could lead to basic changes in lifestyles and spending habits. Some people are losing jobs—airline pilots, gasoline station attendants, people who've held part-time slots at suburban stores—and little alternative employment is available here.

At the same time, the bills for necessities—food, the rent or mortgage, taxes, necessary clothing—are going up faster than incomes.

There is no question, then, that some cutbacks in personal spending have to be made.

On-the-town entertainment will be reduced, on the one hand, while spending for permanent at-home entertainment will rise.

Sony Corp. is increasing its output of color television sets because of huge demand experienced over the Christmas holidays at such stores as Sun Radio in the Washington area. Demand remains high for tape recorders, too.

One recession-related trend that will intensify this year is less bizarre clothing and a return to fashion conservatism.

Look at it this way: Unemployment is rising, and you're a young college graduate looking for a job. Do you dress like you might have in 1973, in faded blue jeans, paisley shirt and sandals? Or will you try a pressed pair of slacks, polished shoes, shirt and tie—probably more colorful than might have been the case a decade ago, but still neat?

When the resources begin to dwindle, people tend to concentrate their spending less on silly and frivolous items and more on durable, practical goods. It's already happening, in the recent sales booms for electric blankets, Franklin stoves, furry slippers, flannel pajamas.

There's little doubt that the great leaps forward for the Washington economy, experienced annually in recent decades, have reached a plateau.

A variety of dampers are operating to strongly retard area population growth. Five of the key factors are:

Fertility decline—Half of Washington's 1960s population growth was from natural increases; a current sharp drop in fertility means a big slice in the overall growth rate.

Singles boom—Americans are marrying less and separating more; the divorced population in the Washington area rose 72 per cent in the 1960s, the separated by 49 per cent, the never married by 68 per cent, and the married by only 34 per cent. Thus, a continuing damper on natural birth increases.

Sex gap—There are a lot more area women than men in the critical 20–24 age group when most marriages take place (16 per cent more females in 1970); since many of these women won't marry, population growth is again affected.

Income plateau—Pay scales of the federal government in the 1960s were brought into line with the private sector, creating high and rising incomes that are "a powerful attractor of in-migration." But the catching up has been largely completed and the very high average family incomes cannot continue to grow at the pace of recent years.

Capital plateau—In the 1960s, there was also a catch-up with Washington as a growing center for the arts, finance, information and decision-making, leading many associations and institutions to move to Washington or expand existing operations. But with most such organizations already lodged here, the potential for future growth in this sector has to be leveling off.

The first hints of sluggishness became apparent in the 1969–1970 recession. Although great strength was demonstrated at that time, with real economic gains experienced by most area residents and an unemployment rate half the U.S. average, there was an unusual concentration of white collar joblessness.

Engineers and technicians lost their jobs by the thousands when cutbacks in government and business research spending had a severe impact on a burgeoning local research and development industry. Dozens of small R and D firms were plunged into bankruptcy and others were absorbed by larger companies.

This year, the impact is expected to be far broader, affecting many unskilled workers. This will tend to aggravate the employment picture for young black males, already the largest single group of unemployed persons here. Successful jobs programs of the past, such as finding summer work for disadvantaged youths, or permanent employment for ex-addicts and former convicts, will become failures if a recession leads to layoffs of people already at work.

First, recently-hired workers will be furloughed. Then, more shoddy merchandise may be substituted as a way to reduce costs, affecting the lower-priced goods purchased mainly by people on low incomes.

Finally, businesses will shut down unprofitable or marginal stores, a trend already well under way with the death of Lansburgh's department stores, the sale of Erlebacher's and closing of the Kenton Center in affluent Friendship Heights, the closing of G.E.M. discount department stores in the suburbs, and the abandonment of a historic F Street location by Jelleff's.

Joseph Barr looks at all of this with a detachment that reflects his background as an Indiana businessman and Congressman, a government, career in regulation and the Treasury Department (he served briefly as Secretary of the Treasury under President Johnson), and currently the chairmanship of American Security & Trust Co., second largest D.C. bank.

What he sees are long-term trends that add up to increased deposits and more loan business for his bank, a vision that can suffer with the short-term dislocations which may hit Washington this year.

If you've got a job, and if you live where your television set can pick up the Washington channels, the chances are you'll be better off this year than almost anywhere else, in Barr's view.

Nationwide, unemployment probably will top 6 percent, Barr believes. In the Washington area, overall joblessness will rise slightly to perhaps 4 per cent or more. For young men here, the unemployment percentage will be much higher—well over 10 per cent, with the rate of jobless blacks three times that of jobless whites.

In this climate, the prices of essentials—food, clothing, energy to operate houses and autos—will continue to rise, with worldwide shortages of raw products and basic foods combining with unprecedented demand from a richer world to create an inflationary cycle.

Organized labor won't sit still for dilution of their weekly pay checks, increasing the prospect for confrontations with management and work stoppages that would further aggravate shortages.

If you want to buy a house or a car, or borrow money to fix up the house you have, Barr thinks you'll pay dearly in 1974, although interest rates should be on a gradual decline. In terms of home mortgages, this means "down" to about 8 per cent by the end of the year, equal to the usury ceiling in D.C. and Maryland which has effectively limited new mortgages in those areas since mid-1973.

Gasoline shortages could decrease the automobile tourist business, Barr says, but many people might switch to buses and trains. For future years, "The subway system has got to be one of the great investments," which will lead to young, unmarried people and childless couples moving back to the center city.

Kenny, head of the Board of Trade's convention and visitors bureau, says Washington will remain alive and well. While hotel owners are complaining about the lack of business early this year, he points out, there was a Presidential inauguration last year which inflated business volume.

The travel industry as a whole, he insists, will continue to expand and prosper, with Washington now a major cultural and entertainment capital, the site of a "fantastic growth in quality restaurants," and a place where a lot of foreign tourists—notably Japanese—are spending time while in America.

It would be ironic if one of the strong points in the local economy this year is the presence of a large number of Japanese visitors to the Cherry Blossom festival in early April. Don't count on it, however, because Japan's economy already is in a tailspin.

USDA COMMODITY PURCHASING AUTHORITY

Mr. BIDEN. Mr. President, Public Law 93–86, which authorizes the U.S. Department of Agriculture to purchase commodities at fair market value for distribution to schools, will expire this June unless Congress takes the necessary action to renew it.

USDA's purchasing authority has in the past enabled schools to keep food costs down and to purchase commodities in greater quantities. If this authority is not extended, a severe burden will be placed on schools. In this instance, the State may be called upon to administer the program, and without the sufficient resources of the USDA, the schools would suffer.

Moreover, if the purchasing authority is not extended, schools, if they are unable to get enough funds from the State, will have to increase the price they charge children for lunch.

Therefore, Mr. President, I would like to share with my colleagues the resolution adopted by the Delaware State Senate, which urges the continuance of the Department of Agriculture's authority to purchase commodities for schools and other institutions. I ask unanimous consent that the text of this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Memorializing the Delaware congressional delegation to exert every effort to provide for the continuance of USDA donated commodities to schools and other institutions

Whereas, Public Law 93–86 allows the U.S. Department of Agriculture to purchase commodities at fair market value to be distributed to schools and other institutions; and

Whereas, this authority to purchase terminates on June 30, 1974; and

Whereas, if special purchase authority is not extended or made a permanent amendment to the law, food commodities will no longer be made available to institutions; and

Whereas, schools will still be able to receive donated food commodities; however, the amount which USDA will be authorized to provide will be reduced substantially; and

Whereas, if donated food commodities should not become available to institutions the State will most likely be called upon to pick up the program; and

Whereas, schools will either have to increase the price they charge children for class A lunches, or more than likely seek an appropriation from the State to off-set the value of the donated food commodities; and

Whereas, during fiscal 1973 a total of 2,752,596 pounds of donated food was distributed to the schools and 390,736 pounds to institutions which the federal government placed a value of $.25 per pound on this food or approximately $800,000; and

Whereas, if the schools and institutions have to purchase these commodities themselves, we can safely anticipate that the cost of them would double over the costs to the USDA.

Now, therefore:

Be it resolved by the Senate of the 127th General Assembly of the State of Delaware that the Delaware Congressional Delegation is hereby requested to initiate every effort and influence of their respective offices to provide for the continuance of USDA donated commodities to schools and other institutions which is scheduled to terminate on June 30, 1974.

Be it further resolved that this Resolution be made a part of the Senate Journal and that copies be sent to Senator William V. Roth, Senator Joseph R. Biden, Jr., and Rep. Pierre S. duPont, IV.

PHASE-OUT OF IMPACT AID FUNDS DUE TO AREA BASE CLOSINGS

Mr. PELL. Mr. President, it was with great delight that I received a copy of a resolution of the council of the city of Newport which endorses Senate bill 896, a portion of which relates to the phase-out of impact aid funds due to area base closings.

The city council is laboring to insure continuing service to all Newport citizens in spite of the loss of Government revenues due to the arbitrary closing of Newport naval bases. Final passage of S. 896, presently pending in the House, would ease some of the financial pressures caused by the loss of impact aid funds.

I would like to print in the Record a copy of the resolution.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Resolution

Resolved: That the Council of the City of Newport hereby endorses Congressional Bill S896 which provides that local educational agencies qualify for a phaseout of impact aid over a 5-year period if: (a) the local educational agencies experience a 10-percent decrease in the number of federally connected children during either fiscal year 1974 or fiscal year 1975, or (b) if such a decrease occurs in the 2-year period beginning July 1, 1973, and if these decreases are due to a cessation or decrease of activities announced after April 16, 1973. The amount to be received by such agencies in any fiscal year shall not be less than 90 percent of what the agency was entitled to in the preceding fiscal year; and be it further

Resolved: That a certified copy of this resolution be forwarded to:

(1) Each member of the Rhode Island Congressional Delegation.

(2) Department Health, Education, and Welfare Washington, D.C.

(3) All other local communities affected by impacted aid funds.

POKE WEED

Mr. ALLEN. Mr. President, in this day of high-priced synthetic foods and precooked meals—everything from artificial eggs to TV dinners—there are in Alabama and other parts of the South simple, but little-known foods growing wild. One is the "poke weed," a plant of many uses and little cost. It has been used as food, an itch medicine, writing ink and, in 1844, symbolized support for Presidential Candidate James K. Polk. This weed saved the life of many a southerner in the sad days following the War Between the States since it grew wild and could be cooked or eaten raw.

Many southerners were eating poke and other nourishing wild plants which Mother Nature sowed on Earth long before some public relations consultant discovered the salability of health foods or organic foods.

Bill Crowe, a staff writer for the Birmingham News researched the poke weed and an article singing the praises of this unglorified plant appeared in a recent issue of that newspaper. With the thought that modern Americans should be reminded of the abundance that grows wild around them, I ask unanimous consent that the article, "Poke Weed Earned Place in History," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Food: Political Symbol, and So Forth—Poke Weed Earned Place in History

(By Bill Crowe)

It has saved folks from starvation, served as a political symbol, been squished into writing ink, distilled into medicine and pureed into itch lotion.

Yet the noble poke week goes largely unrecognized—not to mention unhailed—in this age of back-to-nature cereals and ersatz health foods.

Archie Phillips, a Fairfield taxidermist, is a naturalist and local Ewell Gibbins of sorts. An avid outdoorsman, he's made it a point to know the history and uses of wild plants.

He, along with other authorities, claims the little poke weed was "the salvation of the South" following the Civil War.

That was in its use as food—"sort of like turnip greens, if you get it when it first comes up," says Phillips—but the poke has also been used as a source of writing ink, an ingredient in home remedies, a cure for cancer (in 1789) and was a prime prop in a presidential campaign.

That was in 1844, with James K. Polk running against Henry Clay. Polk partisans took on the poke weed (also spelled "polk") as their campaign symbol, carrying plants in street parades and such.

Ox drivers in the South stained the horns of their animals with the juice of the poke's berries to show their choice as Polk, while Clay men dabbed clay on the horns of their oxen.

The berries were also used in a compound with vinegar and sugar to make a red writing ink. Some of Jefferson Davis' letters to his wife, now at the First White House of the Confederacy in Montgomery and still legible, were penned in poke ink.

According to Phillips, the root of the plant was used as a medicine by Indians, and is still an ingredient in some modern stimulants and emetics.

The "pot likker" produced in boiling the leaves was also used medicinally. One old recipe called for one part poke juice and three parts whisky, a potion which should have cured most anything.

The plant's greatest fame—as well as its place in history—has been in its use as a food, however.

Phillips says it was the primary food of many Southerners, especially in Alabama, following the War Between the States.

"All the seeds were gone and the fields were grown up in weeds so there just wasn't much to eat," says Phillips. "But the woods were full of poke weed—and that saved a lot of people from simple starvation."

The poke can be eaten in several ways. And that is the reason for some confusion about its proper name.

"A lot of folks call the plant 'poke sallet,' but that's just not right," says Phillips.

Actually, the plant is the poke weed. From it is made poke salad and poke sallet. The salad is like any green salad, while sallet is the cooked form, according to the Dictionary of Americanisms published by the University of Chicago Press.

The sallet can be cooked alone, or in combination with turnip and mustard and sometimes radishes. Phillips warns "you need to boil it, then run the first water off, and boil it again in fresh water. If you don't it can be pretty strong."

Ham or side meat is usually cooked in with the sallet.

Phillips himself favors another concoction, in which the boiled poke is then fried with egg to produce a sort of omelet. "It looks pretty awful, but it tastes mighty good," he says.

If you want to sample poke for yourself—as food, ink, itch ointment or whatever—"it's out there all over the place," says Phillips. "Why, there's enough between Fairfield and Birmingham to feed an army."

Most armies, traveling on their stomachs, poke along anyway.

HONORING THE DEAD BY HELPING THE LIVING

Mr. HARTKE. Mr. President, I and the other members of the Committee on Veterans' Affairs, of which I am privileged to chair, received the legislative program of the Veterans' of Foreign Wars of the United States this week during the annual conference of State and national officers of the VFW. I always appreciate this opportunity to hear first hand from the delegates of this great organization as to needs of America's veterans.

I wish to congratulate the VFW on its Diamond Jubilee Year for 75 years of unfailing and dedicated service to our Nation's veterans and their dependents. The VFW is still growing, now over 1,800,000 strong, with 10,000 posts throughout the land. I especially wish to commend the VFW for its vigorous support for legislation to increase the GI education benefits and disability compensation, both priority items of the committee this year.

I consider the testimony to the committee of the distinguished commander in chief of the VFW, Ray R. Soden, to be exceptional and extremely informative and commend it to my colleagues.

Mr. President, I request unanimous consent that Commander Soden's testimony be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Statement of Ray R. Soden

Mr. Chairman and members of the committee: It is a great privilege to appear before your distinguished Committee and present the legislative program of the Veterans of Foreign Wars of the United States.

We are here in Washington at this time for our annual Conference of State and National Officers. The men who have accompanied me to this meeting comprise the top leadership of our organization. They come from every state in the Union, and some from foreign countries. They too consider it a rare privilege to be permittd to attend this session of your Committee. It gives them an opportunity to observe at first hand the true friends of the American veteran—to hear for themselves the comments of your distinguished members. They will carry their personal reactions back to the communities and states they represent, and to their many constituents.

We in the Veterans of Foreign Wars are celebrating our 75th Anniversary. We will wind up our Diamond Jubilee Year at our National Convention, August 16 to 23, in Chicago, Illinois.

As most of you know, the Veterans of Foreign Wars was founded in September, 1899, by returning veterans of the Spanish American War. They perceived a need for an organization of men who had shared the hardships of war far from their homeland. Paid off at the rate of sixteen dollars and seventy cents per man for their service to their country, many of them suffering from malaria and tropical fever, and with no medical care or hospitalization available to them, they also saw the need of helping each other. They pledged themselves "to honor the dead by helping the living."

From that day to this—for seventy-five years—we in the organization they founded have honored that sacred pledge to the veterans of every war.

Today, the Veterans of Foreign Wars of the United States has more than one million, eight hundred thousand members—in 10,000 Posts throughout the nation we love beyond self and family. In addition, we have more than a half million women in our Ladies Auxiliary. We are rapidly expanding a subsidiary organization which we call "The Sons of the V.F.W."

Every man in this room with me today knows that the V.F.W. Story can be summed up in two words—GROWTH and SERVICE. For more than twenty consecutive years there has been a steady increase in our membership. We have a reasonable expectation of reaching two million by the time we go to our Seventy-fifth National Convention in Chicago.

More than 450,000 of our present members are veterans of the Vietnam War. A major reason for this is the steadfast support our organization has given three Presidents and the Congress on behalf of our armed forces in Southeast Asia during the past decade.

Another reason is our opposition to a general amnesty for the deserters and draft dodgers who placed self above country during those troubled years.

But the most compelling reason of all is that most Vietnam veterans know of the V.F.W.'s long and successful leadership in the fight to obtain Congressional approval of benefits, assistance, and programs geared specifically to their needs.

There are many other programs of service, Mr. Chairman, to veterans and their families— to our communities and to the Nation, which have contributed greatly to the continued growth and importance of the Veterans of Foreign Wars, but time does not permit me to enumerate them on this occasion.

These comrades who stand with me here are the leaders who are largely responsible for the success of all of our programs. Many of them have already visited with you and your Committee members. Others will be calling on you during our Conference. Please feel free to ask them any questions you may care to ask concerning our organization.

Some of you may wish to know more about our National Home for widows and orphans of our deceased members and Ladies Auxiliary at Eaton Rapids, Michigan, a community of 640 acres and more than thirty homes where children are reared in family-sized units under the guidance of a house mother or house parents.

Our National Veterans Service processes hundreds of thousands of claims for veterans and their dependents each year. The V.F.W. maintains 350 accredited representatives, with approximately 150 full-time service officers at VA facilities throughout the land. These services are performed without charge to veterans and their dependents, regardless of their affiliation with our organization, and whether they are eligible for membership or not. It is a matter of simple mathematics that these service officers save the federal government many thousands of dollars each year by performing services which otherwise would require additional federal employees.

We are extremely proud of our V.F.W. Voice of Democracy Program. This Program, entirely financed by our organization, attracts approximately 500,000 high school students each year who vie for $400,000 in scholarships to institutions of higher learning.

Each year we bring the winners from each state and three foreign countries, as well as the District of Columbia, here to our Washington Conference for the final contest. Scholarships totaling $22,500 will be awarded to the first five winners at our Banquet tomorrow night. The young man or woman who places first will receive a $10,000 scholarship to be used at the college or university of his or her choice.

This, as most of you know, is a script-writing contest calculated to strengthen an understanding and appreciation of true Americanism. The theme this year is "My Responsibility as a Citizen." We will have the privilege of hearing the winner deliver his or her script tomorrow night.

Our Veterans of Foreign Wars Legislative Program is established each year through the adoption or rejection of more than 300 resolutions discussed and voted upon by the delegates at our National Convention. Our present list of resolutions was adopted at our National Convention in New Orleans, Louisiana, last August.

In September, our National Security and Foreign Affairs Committee, together with our National Legislative Committee, met here in Washington, under my direction, and analyzed each of those resolutions. At the conclusion of those meetings they assigned a priority number to each resolution, and submitted their recommendations to me as Commander-in-Chief. Out of this careful study has come our V.F.W. Priority Goals for 1974—a copy of which has been furnished to each member of the Congress.

It would be deeply appreciated, Mr. Chairman, if a Digest of these Resolutions, together with a copy of the V.F.W. Priority Legislative and Security Goals for 1974, may be made a part of my remarks at this time.

Mr. Chairman, and members of the Committee, it has been more than a year since the official termination of the War in Vietnam. On the record of history, the sacrifices in the national interest which were made by this most recent group of veterans will be forgotten all too quickly by the general public.

Those who have always been opposed to special programs for veterans are once again being heard.

The Veterans of Foreign Wars believes implicitly that service in the Armed Forces in time of war or national emergency is a very special service to the Nation. We believe that this special service entitles every man who renders it, or, if deceased, their surviving dependents—widow, child, or parent—to equal special consideration. We are aware, and grateful, Mr. Chairman, that you and the members of your Committee share this view. You have demonstrated your abiding faith in that principle, which has been a part of the philosophy of this great Nation since the days of George Washington.

It is out of this philosophy and this partnership that the comprehensive programs of veterans rights and benefits have been built. It is out of this unity of gratitude for the suffering and the dying by those who fight this nation's wars that the great structure of VA hospitals has been maintained. We in the Veterans of Foreign Wars thank each of you, and your predecessors on this Committee, for your steadfast support.

Each year some new threat to veterans programs rears its ugly head. We know, and you know, that there are troubled times ahead.

The V.F.W. has always given primary consideration to the needs of men who were wounded in action on the battlefield—or, if deceased from service-connected causes, to their surviving widows and orphans. Compensation to living veterans, and dependency and indemnity compensation to survivors of veterans, is the cornerstone of veterans programs. In this regard, the V.F.W. is greatly heartened that your Subcommittee on Compensation and Pensions will be taking up V.F.W. supported proposals later this week providing for cost of living increases for the more than 2.2 million veterans receiving service-connected disability payments and the 375,000 widows of veterans who died from service-connected causes, who are now receiving survivors' benefits.

Another problem which has been repeatedly called to my attention during my travels throughout the states this year, is the growing needs of our Vietnam veterans in relation to the GI Bill. These young men total almost seven million, and far too many of them have not availed themselves of assistance under that Bill which was first enacted for their benefit in 1966. It was then called the "Cold War GI Bill", and included all veterans who had served in the Armed Forces after the official ending of the Korean Conflict on January 31, 1955.

These young men were given a period of eight years in which to avail themselves of the assistance provided under the third GI Bill.

On June 1, 1974, that eight-year period will come to an end unless Congress extends the termination date. There are thousands of "Cold War" veterans who must have this date extended if they are to complete their education under the Bill.

The V.F.W. is deeply grateful that the House has unanimously approved a provision in H. R. 12628, The Veterans Education and Rehabilitation Amendments of 1974, which will extend this limitation date to June 1, 1976.

It has long been a V.F.W. priority objective that the Vietnam veterans should be entitled to readjustment assistance comparable to that received by veterans of World War II. The House has passed H. R. 12628 which has increased the educational allowance rate by 13.6 per cent, extended the termination date, and liberalized requirements of qualification for school and job training, which go a long way toward achieving this goal. The V.F.W. is encouraged by the concern of the United States Senate for the Vietnam veteran, which is found in the large number of Senators who have placed their names on proposals to improve and liberalize the GI Bill. Approval of the education bill introduced by you, Mr. Chairman, S. 2784, and cosponsored by all members of your Committee, will substantially carry out the V.F.W. goal of comparability of assistance for the Vietnam veteran as was available for the World War II veteran.

However, there is still one area in which there is rather widespread concern among the veterans throughout the nation. That is the inability of qualified veterans, otherwise eligible for admission, to attend certain schools of their choice whose higher tuition rates render the GI Bill allowances too low. These veterans know that the allowances provided the veterans of World War II made it financially possible for them to attend schools of their choice.

Again we are impressed by the large number of Senators who are sponsors of provisions in Veterans Education bills before your Committee which provide for an additional allowance or assistance for tuition, books, and fees to those veterans who attended a college or university whose rates are higher than the national average.

Your Committee will consider these Education bills in the near future and we are confident that this Committee will do justice for Vietnam veterans as provided in these bills.

Two of the V.F.W. Priority Goals relate to the veterans pension program. We strongly endorse the principle of independent veterans pensions for totally disabled veterans; and for all veterans who become disabled and in need.

Unfortunately, there exists a sharp difference of opinion as to what constitutes "need" in connection with the veterans pension program. The Veterans of Foreign Wars completely disagrees with the need concept embodied in the so-called VA pension reform proposal which was recommended to this Committee by VA spokesmen last year. A draft has been printed, carrying out the VA recommendations. In addition, the President has endorsed this reform proposal, both in his message to the Congress on Veterans, and in the 1975 VA budget.

It has been reported in the press that the President has recommended an increase in pensions, when in reality, the VA reform proposal would provide a modest increase for only a small number of veterans. We in the V.F.W. are gravely distressed at this misleading publicity which has given false hope to hundreds of thousands of veterans and their surviving widows througout the nation.

If this VA pension reform proposal is approved by Congress, it will bar three-fourths of the veteran applicants for pension in the future who otherwise would be qualified under current income standards.

We are also deeply distressed that veterans and widows of veterans have either lost or had their VA pensions cut because of Social Security increases. It has long been the V.F.W. position that veterans pensions are wholly unrelated to Social Security and similar retirement income, and that the latter should be disregarded in determining entitlement to a VA pension based upon a veteran's military service in time of war.

We continue to urge the Congress to disregard Social Security increases by increasing veterans income limitations, and rates, each time Social Security payments are increased.

It is true that the pension rates were increased 10% by Public Law 93-177 (H.R. 9474), but in respecting a provision to increase the income limitations as well, the result is that the VA pension program has fallen behind and has failed to keep up with the ever-rising cost-of-living.

We all know that an 11% Social Security increase has been authorized for 1974, which will be counted as income for veterans pension purposes, beginning with 1975.

It is our clear and unalterable position that the veterans pension program should be kept up-to-date by increases in both the rates and the income limitations, so that when Social Security payments are increased there will not be a corresponding decrease in veterans pension payments because of it.

When the V.F.W. speaks of a veteran "in need" we do not mean that he is or must be a welfare case, as proposed in the VA pension reform. Such an interpretation would place the brand of shame on men who have proudly served their country in time of war, and we in the V.F.W. will never accept any such degrading definition—by the Veterans Administration or by the Federal Government.

Mr. Chairman, the VA has indicated that it will ask for funds from Congress to locate a new national cemetery within each of the ten Federal Regions. In addition, they plan to assist with federal funds those states which would establish veterans cemeteries.

While a step in the right direction, we in the V.F.W. view this proposal as highly inadequate. We firmly believe that the only equitable solution is to require the VA to establish, under its National Cemetery System, a veterans' cemetery in each state. There is no other way to provide reasonably accessible burial space for deceased veterans who choose to be buried in a veterans cemetery. If left to the various states, we will end up with different specifications and admission requirements, as well as delaying political controversy.

One of the great national assets of this nation, Mr. Chairman, is the VA Hospital and Medical Care System. We in the V.F.W. are concerned, and many veterans and their families are afraid, that the finally-approved National Health Program will either decrease or end that system. It is our unchanging position that the national health insurance program must not be permitted to infringe upon or reduce the integrity and independence of the VA Hospital and Medical Care Program.

We seek assurance that the VA will not be made subservient to or under the control of a health czar, or the Department of Health, Education and Welfare, which has a long history of hostility toward the concept of a separate and independent hospital and medical care program for veterans. We will be relying heavily on this Committee to support this V.F.W. position as legislation regarding national health insurance is considered in the Congress.

For a number of years, the Office of Management and Budget has been successful in curtailing the average number of patients being cared for in VA hospitals on a given day, by cutting the VA's budget, and imposing personnel and fiscal limitations on VA hospital directors.

This year it is noted that the average daily patient load is expected to hold at 82,000. We commend the Honorable Melvin R. Laird, who in his capacity as Counsellor to the President, was a key figure in having Dr. Marc. J. Musser reappointed for another four years as Head of the VA's Department of Medicine and Surgery.

I should also like for the record to show our appreciation to this Committee, and to you, Mr. Chairman, for the many hearings you have held respecting the VA hospital and medical care programs.

The information obtained by your Committee and Subcommittee on Health and Hospitals was crucial evidence in bringing about the authorization of extra money for the VA hospital and medical care budget during recent years.

We are grateful also to the Appropriations Committee, which so eloquently spelled out its own position during the first session of the 93rd Congress, in the following words:

"The Committee expects that the Administration will also drop the arbitrary restrictions it has imposed, which have limited available hospital facilities for the care of veterans. The Committee expects the VA to accept for treatment eligible veterans in need of care, as required by law, and stands ready to favorably entertain consideration of future justified proposals submitted by the Administration to supplement medical funding provided in this bill."

You will remember, Mr. Chairman, that a proposed revision of the VA Rating Schedule in the 1974 VA budget would have taken $160 million out of the pockets of combat disabled Vietnam veterans, but for the subsequent uproar which caused it to be withdrawn.

There is a bill now pending which will prevent any future occurrence of arbitrary and precipitous actions of this kind by the VA Administrator under the direction of the Office of Management and Budget. This is the VA Accountability Act (S. 1076). The V.F.W. strongly supports S. 1076, with the amendment by Senator Cranston, regarding the accountability of principal VA officials, which will require Presidential appointment and confirmation by the Senate, of the Deputy Administrator, Chief Medical Director, and Chief Benefits Director of the VA, and urge your Committee to take up and advance this bill in the very near future.

Mr. Chairman, these are but a few of the concerns of veterans which have come to my attention during my travels throughout the nation during the past six months. Another is the total support of the members of our organization for the restoration of Veterans Day to November 11th. We wish to thank Senator Thurmond and members of this Committee for sponsoring S. 3079, which will accomplish what has already been done in a majority of the states.

We oppose the enactment of legislation which will, in any way, forgive draft dodgers and deserters who have violated the law. It is our continuing position that they must answer in a court of law for their crimes—that justice must be permitted to take its course.

I speak for every member of the Veterans of Foreign Wars when I say again, we thank you for the privilege of appearing here before your distinguished Committee. I extend the commendation of our entire membership for the dedicated work you are doing for the veterans of this nation. You have been our great ally and influential friend in maintaining existing veterans programs and liberalizing and establishing new ones. These V.F.W. leaders who are with me today share my own personal gratitude.

It is also hoped that this meeting has shed further light on the legislative process for these 53 young patriots who are our Voice of Democracy winners.

We look forward to visting with each of you at our annual Congressional Banquet at the Sheraton-Park Hotel tomorrow night. We will be especially honoring one of your distinguished colleagues, the Chairman of the House Committee on Appropriations, the Honorable George Mahon, of Texas. He will be the eleventh recipient of our annual Congressional Award for outstanding service to the nation.

The dinner will begin promptly at 7:00 p.m., with a reception starting at 6:00 p.m.

THE 50TH ANNIVERSARY OF COLUMBIA SCHOLASTIC PRESS ASSOCIATION

Mr. KENNEDY. Mr. President, this year, the Columbia Scholastic Press Association is celebrating its golden anniversary. I am pleased to take the Senate floor today to honor the association on this significant occasion and to commend it for its extraordinary half-century of achievement and contribution to American life and letters.

Over the years, the association has compiled an outstanding record of service to student journalism. Generations of professional journalists have found an early training ground in the association's programs, workshops, and competitions. Today, the association is the best-known school press organization in the country engaged in training programs for student editors. Its annual conventions have attracted nearly 200,000 students and their advisers, from every State in the Union.

This Thursday, on the campus of Columbia University in New York City, the association begins its annual convention, whose theme this year is "Looking Forward." I know that all Members of the Senate will join me in congratulating the association on this historic anniversary, and in wishing it well as it looks forward at the beginning of its second 50 years.

Mr. President, I ask unanimous consent that there may be printed in the RECORD a brief description of the association prepared by the Office of Public Information at Columbia University, as well as the text of the address which I delivered at the association's convention last year.

There being no objection, the description and the text of the address were ordered to be printed in the RECORD, as follows:

COLUMBIA CELEBRATES 60 YEARS OF SERVICE TO NATION'S SCHOOL EDITORS

Each March, thousands of young student editors from all parts of the nation fill Columbia University's campus to participate in the three-day convention of the country's largest, most widely known school press organization.

The Columbia Scholastic Press Association, now celebrating its 50th anniversary, is devoted to helping young editors excel in their tasks through educational workshops, seminars, lectures, critical evaluations and a national competition.

Throughout its half-century history, the CSPA convention has been acclaimed by participants as the outstanding event in their careers as elementary, junior high school, high school and college student editors, particularly for the critical review it offers their publications and the practical how-to seminars it conducts.

This year's convention, whose theme is "Looking Forward," will be held Thursday, Friday and Saturday, March 14, 15 and 16, on the Columbia campus. There, in University classrooms and lecture halls, professional journalists and journalism educators will conduct more than 260 meetings, conferences, workshops, shortcourses and laboratory sessions on various aspects of scholastic journalism.

Capping the yearly conference is a traditional massive Saturday luncheon, featuring nationally prominent speakers and attended by all the conferees. This year's luncheon is set for March 16 in the New York Hilton, with television newsman Walter Cronkite as the principal speaker. Others who have addressed past luncheons have included Edward Murrow, Eleanor Roosevelt, Edward Kennedy, Harry Truman, Hubert Humphrey, Dwight Eisenhower and Barbara Ward. The luncheon is the largest one held under one hotel roof in the world, says CSPA Director Charles O'Malley.

Some 5,000 student editors and faculty advisers are expected to attend the 1974 convention, representing 1,500 newspapers and magazines entered in competition for CSPA medals and ratings. There are also 1,000 yearbooks in the competition, but yearbook editors meet in a separate convention in the fall.

The first CSPA convention, in 1925, had 308 delegates attending, with 179 publications competing for awards. Altogether 158,089 students and advisers have attended the March conventions and 29,077 have attended the fall yearbook sessions, for a total of 187,166 participants. Entered in the competitions have been 60,204 newspapers and magazines, as well as 34,147 yearbooks, for a total of 94,351 publications.

Many of the nation's leading journalists received some of their early training as CSPA delegates and later returned as CSPA speakers and workshop leaders.

The founder and driving force behind the CSPA for 45 years was Colonel Joseph M. Murphy, now 75 and director emeritus. He became widely known as "dean of the school press field." Until Charles O'Malley became associate director in 1968, Colonel Murphy had directed CSPA activities with only the help of part-time Columbia College students. Mr. O'Malley assumed the directorship in 1969.

Through Colonel Murphy's efforts, CSPA is a self-supporting organization which has never had a deficit. A scholarship fund named for him and established in 1940 provides full tuition and a living allowance for the Columbia College students CSPA employs. More than 300 students have earned all or part of their college expenses in this way.

Previous milestones in CSPA history have been marked in newspaper editorials, a mayoral proclamation and commendations from prominent persons throughout the nation.

ADDRESS OF SENATOR EDWARD M. KENNEDY, COLUMBIA SCHOLASTIC PRESS ASSOCIATION, 49TH ANNUAL CONVENTION

NEW YORK CITY,
March 17, 1973.

I am honored to be here today to address the delegates to this annual convention of the Columbia Scholastic Press Association. Year after year for nearly half a century, you and the generations of young editors who preceded you have come together from schools and colleges around the country and around the world for these annual sessions of learning and exchange in the art and science of journalism. The thousands of school newspapers, magazines, and yearbooks you represent are a living public tribute to the energy and vitality of American students in every corner of the nation. I welcome the opportunity to share my views this afternoon with so many outstanding student leaders and educators in American academic life, especially in our secondary schools.

Not all of you, I know, will go on from here to professional careers in journalism. For those who do not, the skills you have learned already in your high school and college training are tools that will serve you all your lives, whatever career you follow. But, for those who do go on to careers in journalism, you are entering one of the most important professions in public service—the service of the people's right to know.

President John F. Kennedy believed that public service was the highest calling in a democracy, and he also believed that journalism was one of the highest forms of public service. Journalism was his early love and first career. In fact, if he had not won his initial race for the House of Representatives as a young returning veteran in 1946, he almost certainly would have become a journalist.

Like all of you here today, President Kennedy loved to write, and he found an early strong attraction to student journalism. At Choate, he served on the yearbook staff, and later, as an undergraduate, he worked for the Harvard Crimson.

And then when World War II was over, he went to work for the New York Journal American. As a young reporter in 1945, he was assigned to cover three of the most historic events of that post-war year, events that shaped America and the world for a generation and beyond.

In April and May of 1945, he covered the United Nations Conference in San Francisco, reporting on the historic meetings at which the groundwork for future international cooperation was laid.

In June and July of 1945, he covered the famous election in Great Britain. A month before it happened, he filed a dispatch forecasting that Winston Churchill would be defeated by Clement Atlee.

And later, at the end of July that year, he covered the historic Big Three Conference in Potsdam that set the future course of postwar Europe.

Then came the Massachusetts Congressional primary in the spring of 1946, when John Kennedy took the fork in the road that led to his career in public life. He never forgot the love he had for journalism and writing. And down through the years, the interest and tradition he established has always been honored and encouraged by our family.

In fact, we are proud to be part of a major recent step that continues our long-standing interest in high school journalism. Earlier this week, as many of you know, the Robert Kennedy Foundation in Washington, established five years ago to carry on the ideals my brother stood for, took action that holds great promise for those who will follow in your footsteps. The Foundation has launched an independent national Commission of Inquiry into High School Journalism, to be composed of 25 men and women experienced in the fields of education, journalism and youth affairs. Beginning next week in San Francisco, the Commission will hold public hearings and discussions in many different parts of the country, designed to produce a comprehensive study of the problems and potential of high school journalism in America.

Three inquiries the Commission plans to undertake are of special interest:

The first will be into the serious problem of minority opportunity and access in the field of high school journalism. Too often a school newspaper or yearbook or magazine is the private preserve of the scholastic elite, with the top positions reserved for students who earn A's in English. Automatically, this selection process has worked unfairly against black and Chicano and other high school students whose abilities are waiting to be tapped, whose contributions can be massive on issues that are basic not only to the school, but to the community as well.

The second area of inquiry will be the scope of free expression in student journalism, the degree, if any, to which school authorities should control the tone and content of high school publications. In this area, as in so many others, I believe that we should view high school journalism as a process of education, not probation. We need to encourage the maximum possible expression of ideas and opinions, so that high school students are free not just to agree with conventional policy and standards, but free to disagree, free to be wrong as well as right.

The third major area of the Commission's inquiry will be an effort to suggest some new directions in the role and function of high school journalism. For every school newspaper in which interference with student editors is an issue, there are dozens more so dead that controversy would be welcomed as a spark of life, a sign that the publication is alive and well, still relevant to students, still raising issues that matter to the school. In this sense, I think there can be a "new" journalism in high school education, a counterpart to the breakthroughs in so many other areas of education in recent years.

To a great extent, of course, these issues are not restricted to high school journalism, but are deeply felt in the world of professional journalists as well. The controversy over access and opportunity is a growing problem for managing editors of almost every publication in the country. A recent study by the American Society of Newspaper Editors reported that, of the professional journalists in America today, all but three-quarters of one percent are white, a situation that is a national scandal and disgrace.

The controversy over official interference with reporters' rights is also very real today, having risen to its highest pitch since the infamous Alien and Sedition Acts at the end of the 18th Century.

The men who wrote freedom of the press into the Bill of Rights understood the value of free expression in a democratic society. They believed, as Oliver Wendell Holmes and Louis Brandeis so eloquently put it, that the only measurement of truth is its ability to get itself accepted in the competition of the marketplace, where ideas can test their value in free and peaceful combat. Our founding fathers believed that freedom to think as you will and speak as you think are indispensable to the discovery and spread of truth. They believed that public discussion is a political duty, that the greatest menace to freedom is an inert or apathetic people.

What would those who wrote the First Amendment have said about freedom of the press today, when the modern scourge of journalists is no longer the deadline against which they write, but the subpoena they may receive from Federal, State or local prosecutors if they write too well or their stories strike too close to home? What a travesty of the First Amendment and basic justice it is for the Administration to hide its own transgressions behind an unprecedented new expansion of executive privilege at the very moment it refuses to honor the ancient and long respected tradition of newsman's privilege.

As high school and college journalists, probably none of you has spent a night in jail for defending the freedom of your profession. But I suspect that over the past three years you may have begun to feel increasingly exposed and vulnerable—perhaps even to the distressing extent that the appeal of a future career in journalism looks less attractive now than when you joined your school or college paper.

For nearly two hundred years, ever since the First Amendment and the Bill of Rights were ratified, reporters and prosecutors have coexisted without the need for federal laws to protect their basic freedoms. Throughout our history, reporters have enjoyed a de facto privilege from subpoena in grand jury proceedings, a privilege of the sort traditionally afforded to doctors, lawyers, priests, husbands, and wives, and others in society whose special relationships of confidentiality have long received the generous protection of the Constitution and the law.

Yet, today in Congress, one of the major pieces of legislation we are now considering urgently is a bill to give reporters precisely the sort of freedom we thought they always had, Senator Alan Cranston of California and I are proposing a comprehensive bill to give all reporters, including high school and college journalists, an absolute and unqualified immunity from the reach of unfair law enforcement tactics. The protection would apply before grand juries and every other agency of government, Federal, state or local, before all branches of government, legislative, executive, or judicial, and in all proceedings, civil or criminal. I see no need whatever to allow a situation to continue in which a journalist is forced to become an unwilling investigator for a local prosecutor, in which the New York Times becomes simply the Manhattan office of the FBI.

In the present debate, nothing is more misleading than the suggestion that the issue is a choice between requiring reporters to testify or letting criminals go free. The question is not whether we shall have privileged news or unprivileged news, but whether we shall have more news of less news. The public itself will be the greatest loser if the media are compelled to open their files and notebooks at every lawyer's whim.

To some extent, we already know the impact of the current crisis. Reporters destroy their notes, rather than keep them in a file that could be subpoenaed. Sources of information the public ought to have are reluctant to come forward, for fear their identities may be disclosed. We know how hard the Department of Justice itself has fought in recent years to prevent the courts from disclosing names of informers in criminal proceedings. Why, then, is the Department so quick to want reporters to disclose their sources?

One thing we know much less about, however, is the effect these darkening storm clouds over the First Amendment and other issues are having on the career, choices of young men and women like yourselves.

The sudden barrage of subpoenas sprayed on professional reporters throughout the country in recent years is bad enough. But it is even worse if the new oppressive atmosphere is deterring young men and women like yourselves from entering careers in journalism.

Today, on many different issues, we are only beginning to understand the ominous impact that the government's short-sighted social policies may now be having on generations of future students in schools and colleges around the country. How many engineers are we losing because the Administration has down graded science and technology? How many Nobel Prizes will not be won ten or twenty years from now by American physicians, because enthusiastic young men and women doing research in high school laboratories can already see the handwriting on the wall, in the budget cuts for health? We can't afford those cuts. America has the finest medical research of any nation in the world today, and I want to keep it that way tomorrow.

The same is true of journalism. How many Pulitzer Prizes will not be won because high school and college editors like yourselves are abandoning journalism for professions less vulnerable to the intrusion of government's heavy hand? America has the finest tradition of freedom of the press of any nation in the world today, and I want to keep it that way tomorrow.

As you and I both know, the issue over the First Amendment is only a symptom of the basic issues that divide our society in many respects today. There are no simple remedies to heal our deep divisions over foreign and domestic policy. There are no easy answers to the difficult questions we face. However much we may be troubled by an issue, we cannot yield to the blandishments of those who play on fear and prejudice, or who mislead the people in the hope that serious problems will simply go away.

The answer to crime cannot be capital punishment. Yet, on many issues, not just crime, capital punishment seems to be the only answer the Administration ever has.

I disagree profoundly with this approach.

The answer to equality of education cannot be death for the inner city. The answer to poverty cannot be death for the Office of Economic Opportunity. The answer to the Federal budget deficit cannot be death for social programs helping citizens too poor or weak to help themselves.

On other issues, the answers are no easier. The answer to amnesty cannot be "never." The answer to unrest in Asia cannot be arms for Pakistan. The answer to health reform cannot be cuts in Medicare for the elderly. The answer to tax reform cannot be "not now, not my loophole." The answer to equal justice and evenhanded application of the laws cannot be neglect of the average citizen, and special benefits for the special interests.

Above all, the answer to corruption in government cannot be a cover-up that goes by the name of executive privilege. President Eisenhower knew how to handle the issue of integrity in government. In 1958, Sherman Adams, the number one assistant in the White House, was allowed to testify in Congress on serious charges raised about his conduct. There was no question about executive privilege then, because President Eisenhower knew how important it was for people to keep their faith in government. I say, President Nixon ought to follow that example. He ought to allow John Dean to go before the Senate to answer all the serious questions raised about his handling of confidential FBI reports in the Watergate investigation.

In all the areas where we need better answers for our policy at home and overseas, we also need the vision and inspiration of young men and women like yourselves. More often than not, on some of the most difficult challenges we have faced in these recent painful tragic years, it has been the young men and women of America who have seen most clearly the direction America ought to take, who have led the nation forward.

On the overriding issue of our time, the Vietnam war, it was the voice of students on high school and college campuses across the country that first sounded the alarm. On the crucial issue of race and ending segregation, you were there for the freedom rides and the March on Washington at the beginning of the Sixties. You were there for Vista and the Peace Corps, too, always at the ramparts for equality and human rights, beacons summoning those who had lost their way in the fog of America's complacency, neglect, and outright prejudice.

And you must be there today, on issues like homes and schools, jobs and health, crime and drug and gun control, and every other aspect of our policy. That's where you belong, and I'm here to say that, as never before in recent years, Congress is ready to go to work to achieve the goals we share.

When Robert Kennedy spoke to the students at the University of Capetown in South Africa on his visit there in 1966, he put the challenge this way:

"Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, these ripples build a current which can sweep down the mightiest walls of oppression and resistance."

That is the message I would leave with you today, because it symbolizes the best in American life, the real message of 1973—not the negative self-defeating message of despair and alienation that is so widely heard today, but the positive, self-fulfilling message of hope and progress and opportunity, the message that people must get involved, that individuals can make a difference.

That's the challenge youth must face. You did not make the world you live in, but you have the chance to change it. With the 18 year old vote now in force, you and millions like you around the country have a powerful, new voice to bring back confidence in government, to shape the future of America in your community, state and nation.

If in this new era, we stand against the people, if we give them war instead of peace, if we stand with the rich against tax reform, with the insurance industry against health reform, with the auto industry against pollution and safe cars, with the highway lobby against mass transit, with the gun lobby against safe streets and gun control, then we do not understand the direction of our country. We deny our heritage and our history.

You and I and all the other citizens of this country are stewards of the sacred rights and traditions handed down to us by the greatest architects of freedom the world has ever known, the men who met at Independence Hall in Philadelphia in 1776.

When they signed the Declaration of Independence they launched a great experiment that changed the course of history. Three years from now, when we meet in every city hall and village green across the country to celebrate the two hundredth anniversary of their historic action, we want to be able to look the founding fathers in the eye and say that the experiment they began is still alive and well, that we have been faithful to our stewardship, that the promise of America is being kept.

A TROUBLED ALLIANCE

Mr. HUMPHREY. Mr. President, I would like to call to the attention of my colleagues an editorial in the New York Times of March 13, 1974, entitled "Transatlantic Slanging."

This editorial properly expresses concern over the state of America's relations with its European allies. I share the concern expressed by the New York Times and I believe we are witnessing a serious deterioration in the political, moral, and economic strength of the NATO Alliance as a result of the constant level of high-level feuding over issues of great import to the peoples of Western Europe and the United States.

To be sure, both the United States and various European nations have been guilty of behavior which annoys, and frustrates its allies. Both the United States and our allies have from time to time failed to consult with one another; have taken steps which exacerbate tensions with each other; and have unfortunately allowed purely national concerns to come before the common interest of the Alliance as a whole.

Honest differences of opinion should not be glossed over or covered up. And substantive disagreements over fundamental policy issues must be resolved. But there can be no place for the rancor and the public hostility which is taking the place of the deliberative calm needed when legitimate differences arise.

I believe that the administration should realize that many Members of Congress are extremely concerned with the current trend in European-American relations. The policy differences caused by the energy crisis are being swept into a type of emotionalism which is being fueled by intemperate statements on both sides of the Atlantic. To say the least, this type of atmosphere is totally counterproductive to the interests of all concerned.

If the Atlantic Alliance is indeed the cornerstone of U.S. foreign policy those who formulate our foreign policy must stop giving the impression by word or deed that we are anti-European.

Ever since I came to the Senate, I have observed that the Soviet Union has one of its primary goals the creation of divisions and strife within the Atlantic Alliance. Despite the end of the cold war, despite the progress we have made toward détente, I do not seriously believe that the Soviet Government has altered this fundamental policy objective. It is indeed ironic and unfortunate that the Government of the United States seems to be unwittingly aiding the Soviets in the attainment of this policy objective. Our close relationship and alliance with Western Europe does not stand in the way of a better and more constructive policy relating to the Soviet Union. We should pursue a course of détente with the U.S.S.R., but we must not permit any act of ours to erode or weaken our alliance with NATO and other European friends.

The time has come for self-restraint. The time has come for a constructive dialog at the highest level with our European friends. The time has come for the squabbling to end. The damage must be repaired—not glossed over with pious platitudes. But there must be found an informal mechanism to deal with legitimate differences in a framework which is not destructive.

Mr. President, I ask unanimous consent that the editorial in the New York Times be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TRANSATLANTIC SLANGING

It is difficult to understand why President Nixon and his Secretary of State are allowing the differences between the United States and its European Common Market allies to be exacerbated into a verbal brawl. The latest salvos can only make it harder for Washington to get wholehearted European Community backing—leaving aside the hopeless case of France—for a collective approach to the oil producers or even for Middle East peace efforts.

Secretary Kissinger's remark, in briefing wives of American Congressmen, that "there have been, very rarely, fully legitimate governments in any European country since World War I," is incredible—even though he apparently thought at the time he was speaking off the record. European parliamentary democracies have every right to respond that they require no lessons in "legitimacy" from the Administration Mr. Kissinger serves.

Mr. Nixon raised the squable to heads-of-government level with a letter to Chancellor Brandt of West Germany, complaining of inadequate consultation prior to the Common Market's offer of far-reaching, long-run cooperation with twenty Arab countries, and asking postponement of a meeting scheduled for today in Brussels on a new declaration of principles regarding the relationship of the United States with the European Community. An American official concedes that the President's letter was couched in terms "franker than the usual diplomatic language;" Europeans call it "harsh."

The Community's offer to the Arabs may have come at an inopportune time, and conceivably could damage the laudable effort now under way by all major oil-consuming nations except France to develop a common approach for a conference with oil-producing states. What baffles the Europeans—particularly the Germans who currently hold the presidency of the Community—is the charge that the United States was inadequately consulted.

Bonn insists that Washington was kept informed throughout the preparation of the Community's Arab initiative. Europeans suspect that what they regard as verbal overkill in Washington's reaction represents parts of an Administration effort to shock the allies into a greater measure of cooperation with American objectives, whether on oil, NATO's future or United States relations with the Community.

Both White House and State Department moved yesterday to repair the damage done by Mr. Kissinger's denigration of democratic Europe before the Congressional wives. President Nixon reiterated through a spokeman that the Atlantic Alliance was "the cornerstone of U.S. foreign policy." Mr. Kissinger, acknowledging "real and serious" differences within NATO, declared in a statement, "but we are determined to resolve them with patience and goodwill."

Both qualities are badly needed and long overdue on both sides of the Atlantic relationship. No matter how maddening France, in particular, may be, such an approach on Washington's part will go further toward realizing Administration goals in Europe than implying, as Mr. Kissinger did Monday, that the most recent show of independence by the Community reflects "basic hostility to the United States."

DEATH OF JESSE A. HELMS, SR.

Mr. THURMOND. Mr. President, while the Senate was in recess last month, sadness came to one of our distinguished colleagues. Senator JESSE HELMS of North Carolina lost his father.

I mention this, Mr. President, for two reasons. First, because we extend our deepest sympathy to our colleague and his family. But there is another and equally important reason: Senator HELMS' father was a remarkable American who, in a very real sense, typifies all that is great and good about this blessed land in which we are privileged to live.

Senator HELMS' father, Jesse A. Helms, Sr., was a legend in the city of Monroe, N.C. For a half century, his career was devoted to protecting the lives and property of the citizens of that community. Mr. Helms served as fire chief and police chief of Monroe during his career—and at one time, he served in both capacities simultaneously.

However, that is not the important aspect, Mr. President. What is important is the way in which he served. When memorial services were held in Monroe on February 12, the city virtually shut down to pay homage to a quiet, loving, compassionate man who had won the hearts of his fellow townsmen. They paid tribute to a man who had enforced the law with patience and understanding, a man who throughout his career had constantly gone the second mile with thousands of citizens in showing them that it was far better to be law-abiding instead of violating the law.

A Charlotte television station recited some of the deeply personal tributes paid to "Mr. Jesse," as he was known. One man recited the instance when Mr. Helms had stopped him for a traffic violation. The man said:

> That was 30 years ago, and I had been drinking. Mr. Jesse could have locked me up for drunk driving. Instead, he parked my car, locked its doors, and took me home. He sat with me for an hour or more. He told me that I had a fine wife and family, and that I would ruin myself if I continued to drink whiskey. He asked me to promise him that I would never drink again—and I never did. By that simple act of kindness, Mr. Jesse changed my life.

Mr. President, citizens of Monroe will tell you that there is no way to count the number of times that "Mr. Jesse" fed the hungry out of his own pocket, or sat with the unfortunate in times of trouble, and prayed with them in times of distress. The greatest tribute that can be paid any man is that he has the capacity for love of his fellow man. It is no wonder that the father of our distinguished colleague was so widely loved and respected. He was a credit to law enforcement. He was a man who loved his God, his country, his family, his friends, and his work.

So it was fitting, Mr. President, that when "Mr. Jesse" died in his sleep on February 11, his passing was mourned. He had devoted his life to law enforcement and public service in a small town. However, his deeds created a beneficial impact far beyond his realm. The measure of the esteem in which he was held was shown by the gathering at his death of hundreds of friends and officials, including the Governor of North Carolina, to pay their last respects. The life that "Mr. Jesse" lived will be his own greatest monument.

Mr. President, I know also that it must have given Chief Jesse A. Helms great satisfaction when his son, JESSE A. HELMS, Jr., became a U.S. Senator where he is making such an outstanding record. I look upon Senator HELMS not only as a personal friend but as one of the great men of this country, one whose views are reasonable and whose philosophy is sound.

Mr. President, I ask unanimous consent that an article from the Monroe, N.C., Enquirer-Journal of February 11, 1974, entitled "Jesse A. Helms" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JESSE A. HELMS

Jesse A Helms, 80, of 109 North Westover Drive, one of Union County's best known citizens, died early this morning in Union Memorial Hospital after a short illness.

He was born July 19, 1893, in Union County, son of Joe C. and Sarah Ellen Mosser Helms. He served the City of Monroe in various capacities for over 50 years as: Police chief, fire chief and deputy sheriff. He was city fire marshal at the time of his death.

Helms was a Monroe Civitan with many years of perfect attendance. He was president of the N.C. Firemen's Association's 25-year club; honorary member of the N.C. State Firemen's Association, member of the International Fire Chief's Association, Southeastern Association of Fire Chiefs, and honorary member of the State of North Carolina Sheriffs' Association.

He was also a member of the Monroe Masonic Lodge No. 244 A.F. and A.M., the Oasis Temple, the Union County Shrine Club, and the First Baptist Church.

His first wife, Mrs. Ethel M. Helms, died in 1966. He is survived by his wife, Mrs. Ethel Sell Helms; two sons, Wriston A. Helms of Pascagoula, Miss., Senator Jesse A. Helms, Jr., of Washington, D.C.; one daughter, Mrs. R. E. McNeely, Jr., of Monroe; seven grandchildren and three great grandchildren; also two sisters, Mrs. Estelle Keziah and Mrs. Cordie Brantley, both of Monroe.

Funeral service will be Tuesday, Feb. 12, at 11 a.m. at the First Baptist Church, conducted by Rev. Joe S. Larrimore. Burial will be in Lakeland Memorial Park with Masonic rites.

Pallbearers will be members of the Monroe Masonic Lodge. Honorary pallbearers will be: city officials, the sheriff's department, the Monroe Fire Department, Monroe Police Department, and members of the Men's Bible Class of the First Baptist Church.

McEwen's is in charge of arrangements.

GUATEMALA AT CROSSROADS

Mr. KENNEDY. Mr. President, Guatemala is on a tightrope today between less democratic rule and a more free and open political society.

The election that took place less than 2 weeks ago began as an admirable effort to take a firm step toward greater political liberty. The participation of the Christian Democratic Party in the election and the unfettered opportunity given its candidate to express his views represented a new willingness to permit the voters to have a legitimate choice for the first time in the past two decades.

But then at the last moment, those in power refused to permit the outcome of the election to reach its final conclusion. The initial returns and reports from a wide variety of official and unofficial sources showed a victory by the Christian Democratic candidate Rios Montt. Unfortunately the current government immediately ceased issuing election returns, dropped a heavy blanket of secrecy over the entire electoral process, and finally announced that preliminary returns showed that the government candidate had won.

If this were to occur, it would be a tragic step backward for the people of Guatemala and it would once again seem to push the nation toward a more repressive and therefore more violent society. Guatemala already has had its full share of violence, by terrorism and by counterterrorism of the "Mano Blanco."

Already, recent press reports talk of clashes between students and campesinos trucked into the capital by the government. Student demonstrations broken up by government police have yielded at least three persons seriously wounded. And the threats of further violence are increasing.

Many had looked with great hope at the progress of this Presidential election campaign. Now it appears that hope is to be swept away.

It is in that context that one is disturbed by the silence of the administration, both publicly and, from all accounts, privately as well. The scuttling of the democratic process is one which should at least draw some expression of concern by our diplomats.

Mr. President, I ask unanimous consent that recent articles on the subject of the elections in Guatemala be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

GUATEMALA VOTE BRINGS TURMOIL

GUATEMALA.—A week after presidential elections in both government and opposition candidates claimed victory, daily street clashes between leftist students and policemen are keeping this Central American republic in a state of political turmoil.

So far three people have been seriously wounded and more than 100 arrested by policemen using clubs, tear gas and sometimes firearms to break up groups of students protesting what they charge was fraud by the Government.

The preliminary official election results give the Government candidate, Gen. Kjell Eugenio Laugerud García, 41.2 per cent of the 640,000 votes cast. Gen. Efraín Rios Montt of the National Opposition Front 35.7 per cent and Col. Ernesto Paiz Novales of the Revolutionary party 23.1 per cent.

The left-leaning National Opposition Front, which is led by the Christian Democrats, claims that General Ríos Montt was a clear winner. It is said to be hoping that the disturbances will cause the military to intervene to reverse the official result.

THE ARMY'S OPTIONS

But local political sources indicated that the army was more likely to press for new elections rather than risk a direct confrontation with the country's President, Gen. Carlos Arana Osorio.

Other options open to the army high command include the direct assumption of power or endorsement of General Laugerud García as the President-elect.

Before the elections the Defense Minister Gen. Fausto David Rubio, said on television that the armed forces would guarantee the fairness of the elections. Since the results came in, however, he has made no public statement.

"Until the army defines its position, the situation will continue to deteriorate," a retired politician said. "The high command knows that Ríos Montt won, but it wants to pick the right moment to step into the ring."

LAST COUP IN 1963

The last coup d'état here took place in March, 1963, when Col. Enrique Peralta Azurdia overthrew President Miguel Ydogoras Fuentes. Free elections were held in 1966 and 1970, but the army has retained its political importance. All three candidates last Sunday were military officers, chosen because of the army's reluctance to accept a civilian as President.

While remaining the final arbiter of Guatemalan politics, the army has been able to reduce its ties with particular political groupings. An important consequence of this has been its steady separation from the right-wing civilian coalition that nominated General Arana to the presidency in 1970.

For the army high command there is little to choose between the three candidates. All are middle-of-the-road army professionals and the two generals have even held posts during the Arana Administration.

General Laugerud is certainly more to the center than the right-wing coalition that nominated him and General Ríos Montt, has demonstrated that he is not a puppet of the more radical groups that back him. The prospect of a Rios Monti administration is therefore not entirely unacceptable to the army.

CONGRESS TO ACT

The Congress is examining the detailed election results and expects to proclaim the next President formally some time next week.

The Opposition maintains that the detailed returns, signed by party delegates at every election booth, differ drastically from these announced by the Government. Some opposition sources have therefore expressed the hope that, despite the government majority in Congress and the apparent fraud in computing the preliminary results, General Ríos Monti might still be proclaimed the winner.

If neither candidate obtains an absolute majority, as seems likely, the Congress will have the authority under the Constitution to choose between the two front-runners. As a result, General Laugerud could still be named President even if General Ríos Monti comes out on top.

"There is no precedent for the runner-up to be picked, although it would be strictly legal," one diplomat said. "But the support for Ríos Monti is so large and the anti-Government sentiment so strong, that it would be risky to name Laugerud."

"This is a country with a terrible tradition of violence," the diplomat went on, "and it would be dangerous to ignore the warning signal implicit in the Government's defeat."

[From the New York Times, Mar. 8, 1974]

GUATEMALAN LEFT THREATENS STRIKE

(By Alan Riding)

GUATEMALA.—Guatemala's left-leaning opposition has vowed to paralyze the country by strikes of nonviolent resistance if the apparent victory of its candidate in the Presidential election of last Sunday is not upheld.

Although the conservative Government has already proclaimed its own candidate as President-elect, opposition sources said they hoped that mass protests would lead to a military intervention to reverse the official election results.

Government, military and well-placed diplomatic sources have all supported in private comments the general impression that the authorities resorted to extensive fraud to insure the victory of their candidate, Gen. Kjell Eugenio Laugerud Garciá.

The opposition's offensive began last night with a series of protest meetings in different parts of town. Riot policemen were called out to stop the demonstrations and, by nightfall, tear-gas fumes hung heavily over downtown Guatemala City. Several students were arrested, but no one was seriously injured.

In the next few days, the opposition hopes that the street clashes will be complemented by a wave of strikes. The Powerful National Confederation of Workers has given its support to the opposition, while electricity workers are reportedly planning strike action.

"We want to build up the protests slowly until we have a general strike," one opposition leader said. "If the army sees just how unpopular the Government is, I think it will intervene in our favor."

The Government of President Carlos Arana Osorio, himself a retired general, has in turn moved quickly to smother any organized protests for fear of losing control of the delicate situation.

After long, unexplained delays in the publication of election returns, the Government-controlled electoral registry last night suddenly announced completion of final results.

General Laugerud Garcia was said to have won 260,313 votes, or 41.2 per cent of the total; General Efrain Ríos Montt of the Nation Opposition Front 225,586 votes, or 35.7 per cent, and Col. Ernesto Paiz Novales of the middle-of-the-road Revolutionary party 145,967 votes, or 23.1 per cent.

The National Opposition Front contends that its candidate won 44.8 per cent of the vote, General Laugerud García 33.6 per cent and Colonel Paiz Novales 21.6 per cent.

But the Government has warned that it is subversive to give out misleading information on the election results and has already closed down three radio stations that insisted on broadcasting a protest message from General Ríos Montt.

More than 60 people have been arrested by the police during the last 48 hours.

So far, at least, the street clashes have not involved firearms. But the Government and the opposition both control tough shock troops, which are mobilizing.

Last night, at a heated meeting at San Carlos University in the capital, militant students asked General Ríos Montt to provide them with arms with which to fight the Government. But the 47-year-old general, who until eight months ago was army chief of staff, refused to encourage them and said that the Government's violence should be met with intelligence, not arms.

Earlier, the official Vice-Presidential candidate, Mario Sandoval Alarco, a much-feared man who has a private army of gunmen and bodyguards, threw down a challenge to the opposition to take the battle to the streets, where, he said, "We will be waiting to meet them and show them that we will not tolerate blackmail and threats."

[From the Washington Post, Mar. 8, 1974]

Post-Vote Violence

Guatemala City.—Students holding a wake for three of their number killed Monday were fired upon Wednesday night, and their demonstration was broken up by rightist civilian supporters of the uniformed police. One injury was reported.

The three students found dead on a roadside were sent by the opposition Christian Democratic Party to witness last Sunday's election in a remote rural area.

Efrian Rios Montt, the party's candidate, threatened to call strikes unless alleged fraud is corrected. Another retired general, Kjell Laugaraud was proclaimed winner though only 65 per cent of the votes were counted. He was backed by outgoing President Carlos Arana Osorio.

[From the Washington Post, Mar. 6, 1974]

Candidate of Ruling Party Leads in Guatemala Count

(By Bruce Handler)

Guatemala City.—Kjell Laugerud, a U.S.-trained former army general who is the candidate of the governing party, emerged today as the apparent winner in Guatemala's confused presidential election.

Opposition candidate Efrain Rios Montt, who had claimed victory yesterday, accused the government of "fraud" to protect unnamed "big economic interests." He called on supporters to "peacefully resist" the installation of Laugerud as the next leader of this poor Central American republic of 6 million people.

The official vote count from Sunday's balloting—with partial returns from 203 of 325 districts, but complete totals for the populous capital—gave Laugerud 41 per cent, Rios Montt 38 per cent and a third candidate 21.

Rios Montt contends, however, that the true figures give him 52 per cent, compared to 31 per cent for Laugerud. Rios Montt, 47, also is a retired general, representing the mildly left-of-center Christian Democratic Party.

Laugerud, 43, whose father immigrated to Guatemala from Norway, was the handpicked candidate of outgoing President Carlos Arana Osorio, a tough anti-Communist army general who was elected in 1970. Laugerud, a tall, thin man with traces of Indian features in his face, has pledged to carry on Arana's modestly successful drive for political stability and economic progress.

Three-fourths of the people of Guatemala are illiterate. Average income is $300 a year. Until recently, Guatemala's history was one of constant violence, coups and dictatorship.

Government backers have proclaimed Laugerud as president-elect, but the candidate himself has made no public statement.

Rios Montt, on the other hand, was angrily articulate. "The government is altering all the election results," he complained to newsmen.

"We tried to do things legally—by means of the vote. But due to the government's ignorance and immaturity, the peoples' will could not be carried out," he said.

Rios Montt said he would not encourage violent resistance, "we have no strikes planned, no demonstrations, no blockades. When that happens people always get killed. I do not want bloodshed.

"But I am a soldier, and I cannot abandon our peoples' cause.

All radio stations had to join a government network which today carried official returns interspersed with music. Monday the reporting of returns was suspended.

During the campaign, Laugerud supporters made accusations that Rios Montt was a Communist. Laugerud warned that it would be dangerous to vote for Christian Democrats, whom he blames for "opening the door" to socialism in Chile in the 1960s.

Rios Montt pointed out that Communism has been against the law here for 20 years and that the current government recognizes the Christian Democrats as a legal party.

Laugerud has said he "absolutely believes" in the democratic system, as opposed to socialism and communism. He has pledged to improve living conditions for the impoverished Mayan peasant farmers.

Laugerud joined the army as a cadet at 15. He rose quickly through the ranks and later became chief of staff and finally defense minister. He went through officer's training courses at Ft. Benning, Ga., and Ft. Leavenworth, Kan.

If no candidate gets an absolute majority in the official vote count, the election goes to Congress, which is expected to select the man who polled the most popular votes.

[From the New York Times, Mar. 6, 1974]

Guatemalan Says Election Is Rigged

Guatemala.—The main opposition candidate for President said today that he had won a absolute majority in the voting last Sunday, but warned that the Government was preparing to declare its own candidate the winner.

At a news conference this morning, Gen. Efrain Ríos Montt, the candidate of the Christian Democrat-led National Opposition Front, said, "My historic responsibility and my honor as a soldier oblige me to reject emphatically in the name of the people the fraud that is being attempted."

He then called for "peaceful resistance" to the Government, but added that "to hold a public demonstration now would be taking the people to their death."

GOVERNMENT'S FIGURES

The Government announced this morning that so far Gen. Kjell Eugenio Laugerud Garcia of the ruling right-wing coalition had won 175,940 votes, General Rios Montt 145,840 and Col. Ernesto Paiz Novales of the centrist Revolutionary party 85,941.

"According to the National Opposition Front, however, General Rios Montt has so far won 335,427 votes, General Laugerud Garcia 201,712 and Colonel Paiz Novales 108,992. Even Government and army sources said privately that General Rios Montt had won.

As their results came in yesterday, there was a moment when the Government seemed willing to accept defeat. It stopped a march on the opposition-held City Hall by some 3,000 armed peasants and lifted its control of radio and television transmissions.

THE SIGNS CHANGE

Later in the day, however, reportedly after the ruling National Liberation Movement and key business groups had applied pressure on the Government, the signs once again began to point to victory for General Laugerud.

President Carlos Arana Osorio received General Rios Montt last night and assured him that the electoral results would be respected. Now, however, it seems that the official results will show General Laugerud to have won.

So far the army has kept clear of the political crisis, but its senior officers have been meeting almost without interruption.

Military sources indicated that key commanders recognized that General-Rios Montt had won the election, but they were apparently reluctant to interfere directly, even if only to guarantee the fairness of the elections.

In the absence of military intervention, a new wave of political violence seems inevitable here, where it has been continual for the last 20 years.

President Arana eliminated a strong leftist guerrilla movement through indiscriminate repression of all opposition groups in 1970 and 1971. Since then, however, the opposition has reorganized itself and may not be willing to accept its defeat without some response.

The government parties, on the other hand, have well-trained "shock troops," who may be used against the Opposition in anticipation of Leftist activities.

Already yesterday the Opposition mayor of the provincial capital of Cuilapa in the South of Guatemala, Victor Manuel Monterroso Granados, was murdered. Three medical students sent by the Opposition to supervise voting in the eastern department of Zacapa were found dead beside a highway.

[From the New York Times, Mar. 5, 1974]

Opposition Seems Victor in Guatemala

Guatemala.—A general representing the opposition appears to have scored a clear victory over two other military candidates in Guatemala's Presidential election yesterday, but the Government has so far refused to concede defeat publicly.

In an atmosphere of mounting tension and uncertainty, the Government said that "unforeseeable circumstances" had delayed the announcement of final results.

But in private, Government sources conceded defeat as reflected in figures issued by a left-leaning opposition group, the National Opposition Front.

The front's candidate, Gen. Efraín Ríos Montt, has reportedly won about 49 per cent of the votes cast; Gen. Kjell Eugenio Laugerud García of the governing conservative coalition, about 34 per cent, and Col. Ernesto Paiz Novales of the centrist Revolutionary party, 17 per cent.

At present, the two leading parties are exchanging accusations of fraud. The reaction of the armed forces is, of course, crucial.

The current President is a retired army officer, Gen. Carlos Arana Osorio, who seems solidly committed to an official victory.

But many key army officers, having privately conceded the Government's loss, reportedly feel that the electorate's will should be respected. According to one source, an overriding consideration among senior officers is to preserve at all costs "the unity of the military institution" in the present crisis.

One of the partners of the governing coalition, the ultra-conservative National Liberation Movement, is believed to favor a wave of disturbances to prompt military intervention and thus prevent General Ríos Montt from taking office.

SUPPORT IS ARRANGED

This morning, the National Liberation Movement brought some 3,000 peasants, many armed with sticks and pistols, into the capital's main square to celebrate the Government's "victory." A speaker then urged the crowd to march on City Hall, which is an opposition stronghold, "to demand justice" from the Mayor. After several hours of tension, policemen dispersed the crowd.

But rumors of possible violence persists as most Guatemalan politicians and their followers are heavily armed.

General Ríos Montt, who has already proclaimed his victory, cabled President Araña this morning asking for an audience to discuss ways of preventing bloodshed in the next few days. So far he has received no answer.

Even followers of General Ríos Montt have been surprised by the apparent margin of his victory in the three-way race yesterday.

If he fails to win a majority, a runoff against General Laugerud is to be held in Congress, where the Government enjoys a clear majority.

[From the Washington Post, Mar. 5, 1974]

GUATEMALAN RESULTS WITHHELD

(By Bruce Handler)

GUATEMALA CITY.—Confusion and suspicion surrounded the outcome of Guatemala's general election, as the government stopped giving out vote totals at mid-morning, today.

Opposition Christian Democratic candidate Efrain Rios Montt declared himself the winner.

Early official returns from yesterday's voting showed government candidate Kjell Laugerud in the lead. Then the flow of results halted.

A third candidate, Ernesto Paiz Novales, seemed to be out of the running.

Both Rios Montt and Laugerud are recently retired army generals. During an animated presidential campaign in this poor, coffee-producing country of Central America, Laugerud's backers accused Rios Montt of being a Communist. Rios Montt, a former chief of staff, dismissed the charges as nonsense.

"Communist ideology" has been illegal here for 20 years. The Guatemalan armed forces do not allow suspected leftists to participate in the political system.

Rios Montt claimed 49 per cent of the vote on the basis of his party's tally of early returns. The Christian Democrats said Laugerud had 34 per cent.

The official vote count—in sharp contrast—with 165,000 ballots tallied, showed Laugerud with 43 per cent and 37 per cent for Rios Montt.

A telling sign that Rios Montt's own figures might have been closer to the truth was that official returns from Guatemala City, with 373 of 493 precincts checked, gave Rios Montt 56 per cent and Laugerud 28 per cent.

"We have won the election," Rios Montt, 47, a short trim man, beamed at a press conference. Later, speaking over a Central America radio hookup, he referred to himself as the "president-elect."

Rios Montt sent a telegram to President Carlos Arana Osorio—who openly had urged voters to back Laugerud—asking for an audience. The self-proclaimed victor said he wanted to avoid "bloodshed and public disturbances."

Laugerud, whose father was a Norwegian immigrant to Guatemala and whose first name sounds like shell, made no immediate public statement.

Some 5,000 farmers wearing straw hats and carrying machettes marched down busy Sixth Avenue this morning in a disorganized pro-Laugerud demonstration. Then they piled into the trucks and buses that had brought them to the capital and disappeared. Many observers charged that the government had arranged the show.

Complete election returns were not expected until late in the week. In contrast to Guatemala City, where a computer tallied the results, ballots from remote outlying areas had to travel by canoe and muleback to get to the nearest state capital.

About one-sixth of the registered voters live in Guatemala City.

The election was one of the most peaceful in this country's history. The last two presidents of Guatemala were chosen in more or less fair elections—unusual for a nation traditionally run by dictators and military juntas—though with Marxists excluded.

Arana, an anti-Communist ex-general who has brought internal peace and some economic progress during his four-year term, is slated to turn over power to his successor on July 1.

[From the New York Times, Mar. 4, 1974]

GUATAMALANS VOTE, WITHOUT TURBULENCE, FOR NEW PRESIDENT

GUATEMALA.—Some 700,000 Guatemalans voted in apparent tranquility but with little overt enthusiasm today for a new President from among three military candidates.

The Government candidate is a narrow favorite to win, but all three are expected to make a strong showing.

Despite the calm atmosphere—all the more notable because of Guatemala's recent history of political violence—there is underlying uncertainty about the reaction of the Government and armed forces to a victory of either opposition candidate.

The candidate of the ruling conservative coalition, Gen. Kjell Eugenio Laugerud Garcia, 44 years old, has repeatedly accused his main rival, Gen. Efrain Rios Montt of the National Opposition Front, of representing Communism.

General Rios Montt, 47 who was army Chief of Staff until last July, has in turn accused the Government of planning to block his victory, by fraud or even military intervention. The candidate of the middle-of-the-road Revolutionary party, Col. Ernesto Paiz Novales, 54, has also accused the ruling coalition of planning fraud.

According to sources close to the army, there is a clear division between those officers who favor victory for General Laugerud, even through fraud, and those who insist that the electorate's will be respected.

"The real story begins once the election results are known," a foreign diplomat said.

If no candidate receives an absolute majority, as seems probable, the present Government-dominated Congress will choose the winner from between the two leading candidates. One of the biggest political questions is whether Congress will endorse General Laugerud even if he runs second. Another is whether the army would accept such a decision.

[From the New York Times, Mar. 2, 1974]

ARMY HOLDS KEY TO GUATEMALAN ELECTION

(By Alan Riding)

GUATEMALA.—In a strange marriage of civilian democracy and military power, all three candidates in the presidental elections here Sunday are high-ranking army officers.

The unusual formula was worked out by Guatemala's three political groupings after the armed forces indicated privately that they would not accept a civilian successor to President Carlos Arana Osorio, a general, who cannot seek reelection.

As a result, this Central American republic, with its long tradition of political violence between civilian factions, has enjoyed one of the quietest election campaigns in its history.

But even with three army officers—two generals and a colonel—running a close race for the presidency, the armed forces are still in a position where they can either uphold or reject the choice of the voters.

MILITARY DIVIDED

According to sources close to the military, the officer corps is deeply divided between those who believe that the genuine winner should be recognized and those who favor victory for the official candidate at all costs.

This division may be emphasized if no candidate receives more than 50 per cent of the votes cast and a second election between the two leading vote getters must take place in Congress, where the Government has a clear majority.

The two opposition parties have already accused the ruling conservative coalition of preparing to secure its re-election by fraud. One opposition candidate has even said that on Monday the Government will declare a state of seige and suspend constitutional rights.

Tensions have risen with every new wave of rumors. The embassies of at least two Latin-American countries have reportedly collected bunk beds and food in case of disturbances next week.

Much of the nervousness comes from memories of Guatemala's recent political past. Four months before the 1966 elections, the left-leaning favorite, Mario Méndez Montenegro, was assassinated. His brother, Julio César, stepped into his place, won election and served as President until 1970.

During his stormy term, however, the country was continuously shaken by left-wing guerrilla activity. In 1968, the United States Ambassador John Gordon Mein, was gunned down in his car. On the eve of the March, 1970, elections, Foreign Minister Alberto Fuentes Mohr was kidnapped by leftist guerrillas. A few days later, the West German Ambassador, Count Karl Von Spreti, was kidnapped and murdered by a group called the Rebel Armed Forces.

The violence made victory easier for the law-and-order candidate, Arana Osorio, whose main campaign promise was to pacify the country.

Since then hundreds of leftist and even moderate opponents of the Government have been killed. Some have died in direct confrontations with the United States-trained army; many have been murdered by a right-wing terrorist group known variously as The White Hand and An Eye for an Eye.

CHOOSING A CANDIDATE

In September, 1972, the Government was also blamed for the disappearance of the entire Central Committee of the Guatemalan Communist party.

Recently, however, political violence has sharply declined. Many Guatemalans attribute this to the growing strength of the army as an independent political force that has succeeded in controlling extremist civilians within the ruling coalition.

This new military predominance became apparent when the right-wing coalition—the ultra-conservative National Liberation Movement and the probusiness Democratic Independence party—came to choose its presidential candidate for Sunday's election.

The secretary general of the National Liberation Movement, Mario Sandoval Alarcón, a fervent anti-Communist who picked General Arana as the coalition candidate in 1970 because of his fame as a guerilla fighter, clearly hoped to become the official nominee. However, General Arana, in his joint role as President and Commander in Chief of the armed forces, obliged the coalition to nominate the Defense Minister, Gen. Kjell Eugenio Laugerud Garcia, 44 years old, as the candidate. Mr. Sandoval was given the second spot on the ticket.

The middle-of-the-road Revolutionary party, which was in power between 1966 and 1970, eventually chose Col. Ernesto Paiz Novales, 53, who recently served as Guatemala's Ambassador to Venezuela.

The left-leaning Christian Democrats formed a National Opposition Front with two smaller movements and nominated Gen. Efrain Rios Monit 47, a former army Chief of Staff who was exiled to the diplomatic post in Washington last summer because of his supposed liberal tendencies.

[From the Washington Post, Mar. 1, 1974]

GUATEMALA ELECTION QUIET

(By Bruce Handler)

GUATEMALA CITY.—Guatemala will choose a new President Sunday. Surprisingly, the general election is expected to take place with almost no gunfire and bloodshed, once an accepted part of the voting scene in this Central American country.

Three recently retired Army officers are running on similar platforms.

All are against Communism, crime and inflation and in favor of law and order, motherhood and the family, the Catholic Church and economic progress for Guatemala's impoverished masses of Indian peasants.

Because 75 per cent of Guatemala's 6 million people are illiterate, the various national and local candidates have identified themselves in campaign advertising by symbols.

Posters urge voters to mark their Xs through a rooster, sword, map of Guatemala, corn stalk, arrow, bell and heart.

Anyone over 18 may vote. The law says men who can read and write must vote, but this rule is not strictly enforced. Women and illiterates may vote if they wish.

Of the estimated 3 million Guatemalans of legal age, about 1.6 million are registered voters. Of these, perhaps 1 million will appear at the polls, experts say.

Election propaganda also has been intense on radio, because many Guatemalans now own cheap transistor sets, and many campaign spots are set to catch bolero and cha-cha beats.

The presidential candidates:

Gen. Kjell Laugerud. He is being pushed by outgoing President Carlos Arana, an anti-Communist army general chosen in a semi-democratic election in 1970. Laugerud, 43, is the son of a Norwegian immigrant and a Guatemalan. His first name is pronounced "Shell."

A former defense minister, Gen. Laugerud has pledged to intensify Arana's largely successful drive for political stability in the nation, and to improve living conditions. Forty per cent of the population is comprised of Mayan Indian farmers who speak little Spanish and barely participate in the economy.

Col. Ernesto Paiz Novales. He is the standard-bearer of the political group which ran the government before Arana. A career officer, diplomat and businessman, Col. Paiz Novales, 53, says he, too, wants internal peace and economic progress.

But he warns against "continuismo," the Spanish word that describes the tendency of political parties in this part of the world to continue holding power once they have it.

Gen. Efrain Rios Montt. This career man represents the small but well-organized Christian Democratic Party. Opponents have been trying to convince voters that Gen. Rios Montt, 47 is a Communist, although Communism is illegal in Guatemala. The army holds power behind the scenes, and Gen. Rios Montt is a former army chief of staff.

Although all presidential contenders are surrounded by armed guards, the massive outpouring of policemen and soldiers which formerly characterized elections is absent.

Guatemala City hotels are filled with American and European tourists here to see ancient Mayan ruins, Indian markets and spectacular lake and volcano scenery.

There have been unsettling incidents. Unidentified attackers tried last week to kidnap two of President Arana's sisters, but they could not start the escape car and fled without the intended hostages. A bomb exploded in a car carrying backers of a Guatemlaa City mayoral candidate, but no one was killed.

The overall scene is quite different from that of the late 1960s, when left-wing terrorists assassinated the American ambassador in Guatemala, soldiers toting submachineguns patrolled streets and highways and foreign travel agents were alerted to scratch Guatemala from Latin American tours.

"We've made a lot of progress. We don't settle our political differences with bullets anymore," Gen. Laugerud said. And he added, with a sigh, "Gracias a Dios (Thank God)."

A grain vendor in the central market put it this way. "Before, when election day got close, you were crazy if you went out in the the street. Now there's no problem. Arana has taken care of that."

The vendor made a fist to symbolize the current governments tough anti-terrorism policy.

Since a right-wing movement, backed by the U.S. Central Intelligence Agency, overthrew leftist President Jacobo Arbenz in 1954, Communism and "Communist ideology" have been against Guatemala law.

Arana erased practically all remaining left-wing guerilla resistance by repression in 1970 and 1971.

Edmundo Guerra Theilheimer, 41, a self-styled "anti-fascist" who admires Che Guevara and Ho Chi Minh, labels the election "a farce." He runs a legal-aid office in Guatemala City which defends political prisoners and people who allegedly have been secretly kidnaped by the police.

"It doesn't make any difference who wins," he said. "Violence and repression will continue."

Longtime observers say the presidential voting will be close. If no candidate gains a majority, the Constitution calls for Congress to select the winner, and Congress is expected to choose the man who receives the most popular votes.

If this happens, Guatemala will have experienced its third consecutive presidential election held under more-or-less democratic terms. The catch is that anyone the government considers leftist cannot participate.

Even under these ground rules, a reasonably democratic election will be an unusual achievement in Latin America where authoritarian rule is sharply on the rise.

[From the Christian Science Monitor, Jan. 22, 1974]

HOW GUATEMALANS AVOID MILITARY COUP

(By Alan Riding)

In an unusual attempt to save formal democracy in Guatemala, three military officers have been nominated as candidates for March's presidential elections.

The current President, General Carlos Arana Osorio, who won the 1970 elections, predictably chose another right-wing general to be the official candidate. But the opposition parties also have nominated military officers in the knowledge that no victorious civilian candidate would be allowed to assume office by the armed forces.

In other words, to avoid a military coup, Guatemalan civilians must allow the armed forces to continue to run the government in everything but name. And the formal trappings of democracy—Congress and elections—may thus be preserved.

EARLIER CIVILIAN RULE

The last military coup took place in Guatemala just 10 years ago. Elections were then held in 1966, and left-of-center reformist Julio Cesar Mendez Montenegro was returned by a comfortable majority. Reluctantly, the armed forces allowed him to assume office on condition that he temper his reformism and allow them to control security matters.

But during his presidency, leftist guerrilla activity increased sharply, and the country suffered serious political instability. In the 1970 elections, the right-wing civilian opposition therefore ran on a "law-and-order" platform and chose a military officer, General Arana, as its candidate.

But while officially the elections were won by the conservative civilian coalition comprising the Movement for National Liberation (MLN) and the Independent Democratic Party (PID), once General Arana was in office, the Army assumed an increasingly important role in day-to-day government.

The civilian Right was quietly eased out of power, while leftist and even moderate opponents of the regime were subjected to a violent two-year "pacification" crackdown.

When it came to choosing the MLN–PID candidate for the March elections, it was therefore the armed forces rather than civilian politicians who had the final word. And the nomination of another general was inevitable.

VICTORY SEEMED CERTAIN

Until recently this candidate, Gen. Ljell Laugerud, a former Defense Minister of Norwegian descent, seemed certain of victory next March because of constant in-fighting among the various opposition groups.

The government helped maintain these divisions by denying legal inscription to several political groups that were sponsoring potentially strong candidates. This strategy in turn gave greater bargaining power to the only legal opposition groups—the Revolutionary Party, which had been in power between 1966 and 1970, and the Christian Democrat Party—whose leaders were regarded as only mild opponents of the regime.

But some of the confusion evaporated in October, when leader of the Christian Democrats Rene de Leon Schlotter, unexpectedly withdrew his candidacy on the understanding that the united Left would nominate an Army officer for the presidency.

LEFT PICKS GENERAL

The choice fell upon Gen. Efarain Rios Montt, a former Army chief of staff. The government naturally was distressed by the nomination, but it could still count on the cooperation of the head of the Revolutionary Party (PR), Carlos Sagastume Perez, who seems more interested in the reelection of the government than an opposition victory.

Although his attitude has badly divided the PR, the party nevertheless retains a significant organization in the country and can therefore be expected to take votes from any other opposition candidate—in this case, General Rios Montt.

Revolutionary Party chief Carlos Sagastume Perez took a government hint, withdrew his own candidacy, and agreed to the nomination of another Army officer, Col. Ernesto Paiz Novales, while remaining himself as the vice-presidential candidate.

ONE FINAL MOVE

Should the opposition unite behind General Rios Montt, however, the government has one final move left.

Col. Enrique Peralta Azurdia seized power in a coup in 1963 and remained in office until the 1966 elections. Nevertheless, he is surprisingly popular, and the government has therefore constantly blocked his candidacy by refusing registration to his Party of National Action and Reconstruction.

But should General Rios Montt seem a serious threat to General Laugerud, Colonel Peralta might be encouraged to run by the government to weaken the opposition vote.

With at least three military candidates in the race, the Army's support is already seriously divided and could therefore lead to trouble next March.

Whatever the outcome, a continued military presence in government seems guaranteed. The only real question at stake is therefore whether the elections can save formal democracy in one of the few Latin American countries where voters are still invited to the polls.

BLACK LUNG BENEFITS ACT HELD CONSTITUTIONAL

Mr. WILLIAMS. Mr. President, on February 21, 1974, a three-judge Federal court in the District of Columbia upheld the constitutionality of title IV of the Coal Mine Health and Safety Act of 1969 and the Black Lung Benefit Amendments of 1972. This judicial decision is not only important to the thousands of disabled miners but for all workers who are relying on legislation such as S. 2008, the Federal workers' compensation standards legislation which I have sponsored to bring them financial and medical relief from their occupationally related disability.

I ask unanimous consent that the text of the decision in National Independent Coal Operator's Association against Brennan be printed in the Record.

There being no objection, the decision was ordered to be printed in the Record, as follows:

United States District Court for the District of Columbia

(Civil Action No. 1711–73)

National Independent Coal Operator's Association, et al., Plaintiffs, v. Peter J. Brennan, Secretary of Labor, Department of Labor, Washington, D.C., Defendant

Civil Action No. 2054–73

Association of Bituminous Contractors Inc., et al., Plaintiffs, v. Peter J. Brennan, Secretary of Labor, Department of Labor, Washington, D.C., Defendant

Appearances:

John L. Kilcullen, for plaintiffs in Civil Action No. 1711–73.

Francis T. Coleman, for plaintiffs in Civil Action No. 2054–73.

James G. Johnston, Department of Labor and David Orlikoff, Department of Justice, for defendant.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above-entitled matters having been consolidated and come on for trial on the merits on December 21, 1973; the Court having considered the pleadings, the motions for permanent injunctions filed by plaintiffs in both actions; plaintiffs' memoranda in support of said motion and supporting affidavits, defendant's memorandum in opposition to said motion, the memoranda and supporting affidavits filed by plaintiffs and defendant for trial, oral argument of counsel, and all proceedings heretofore had herein, and the Court being fully advised in the premises, now makes its findings of fact and conclusions of law as follows:

FINDINGS OF FACT

A. The Parties

1. In C.A. 1711–73 the plaintiffs National Independent Coal Operator's Association and Rocky Mountain Coal Association are associations of operators of coal mines and coal processing facilities. The remaining 48 plaintiffs in C.A. 1711–73 are or have been owners and operators of coal mines and coal processing facilities.

2. In C.A. 2054–73, the plaintiff Association of Bituminous Contractors, Inc., is an association of construction companies that construct coal mines. The remaining 14 plaintiffs in C.A. 2054–73 are general and independent contractors who engage in the construction of coal mines.

3. Defendant Peter J. Brennan is the Secretary of the United States Department of Labor. In that capacity, he has executive responsibility for the implementation, operation and enforcement of Section 415 and Part C of Title IV of the Federal Coal Mine Health and Safety Act of 1969.

B. The statutes

4. The statutes involved are:

(a) the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 801 *et seq.* (1970), *as amended* (hereinafter cited as the Act). Title IV of the Act, 30 U.S.C. § 901 *et seq., as amended,* 30 U.S.C. § 901 *et seq.* (Supp. II, 1972), provides benefits to coal miners who are totally disabled due to pneumoconiosis, and to certain surviving dependents of coal miners whose death is due to pneumoconiosis or who are totally disabled by coal workers' pneumoconiosis at the time of their deaths (Act, Section 401); and

(b) the Black Lung Benefits Act of 1972, 30 U.S.C. § 901 *et seq.* (Supp. II, 1972), *amending* 30 U.S.C. § 901 *et seq.* (1970), which amended certain provisions of Title IV of the Act and added new provisions to that title in order to remedy certain deficiencies to Title IV and its administration.

C. Definitions

5. "Pneumoconiosis" is defined in Section 402(b) of the Act, 30 U.S.C. § 902(b), as "a chronic dust disease of the lung arising out of employment in a coal mine." This definition is applicable to both Parts B and C of Title IV of the Act. Pneumoconiosis, sometimes called "black lung" disease, is a severely disabling and often fatal disease which once contracted, may progress to disablement without further exposure to coal dust.

"Total disability" is defined in Section 402 (f) of the Act as having "the meaning given it by regulation of the Secretary of Health, Education, and Welfare except that such regulations shall provide that a miner shall be considered totally disabled when pneumoconiosis prevents him from engaging in gainful employment requiring the skills and abilities comparable to those of any employment in a mine or mines in which he previously engaged with some regularity and over a substantial period of time. Such regulations shall not provide more restrictive criteria than those applicable under Section 223(d) of the Social Security Act."

This definition of "total disability" is applicable to both Parts B and C of Title IV of the Act. The Secretary of Health, Education and Welfare has published the definition of "total disability" in 20 C.F.R. § 410.412 (1973).

A "miner" is defined in Section 402(d) of the Act as "any individual who is or was employed in a coal mine." This definition is applicable to both Parts B and C of Title IV of the Act.

An "operator" is defined in Section 3(d) of the Act, 30 U.S.C. § 802(d), as "any owner, lessee, or other person who operates, controls, or supervises a coal mine," and a "coal mine" is defined in Section 3(h) of the Act as "an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used in, or to be used in, or resulting from, the work or extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means of method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities."

These definitions are applicable to all of Title IV of the Act.

Pursuant to Sections 3(d), 422(a) and 426 of the Act, the Secretary of Labor promulgated regulations further defining the term "operator," to state that ". . . general and independent contractors, whose employees may be considered miners as defined in Section 402(d) of Title IV of the Act by virtue of the fact that such employees are employed in a coal mine as defined in Section 3(h) of the Act, may be considered operators for purposes of Sections 415, 422, and 423 of Title IV of the Act with respect to such employees. 20 C.F.R. § 725. 302, 38 Fed. Reg. 26053 (1973)."

D. Responsible operators

6. Section 422(h) of the Act authorizes the Secretary of Labor to establish standards, "which may include appropriate presumptions, for determining whether pneumoconiosis arose out of employment in a particular mine or mines." He may also establish regulations for the apportionment of liability among "more than one operator, where such apportionment is appropriate."

7. Section 423 of the Act, 30 U.S.C. § 933, provides that as long as a State is not included on the Secretary's list of approved States under Section 421 of the Act, 30 U.S.C. § 931, each operator in that State must secure his liability for benefits under Section 422 by either "qualifying as a self-insurer in accordance with regulations prescribed by the Secretary of Labor," or insuring with a private insurer or a State fund that is "authorized under the laws of any State to insure workmen's compensation."

8. Under Section 424 of the Act, 30 U.S.C. § 934, in the event an operator has failed to insure the payment of benefits pursuant to Section 423 or fails to pay any benefits due within a reasonable time, the Secretary of Labor shall pay any claims otherwise payable by such an operator, who shall, in turn, "be liable to the United States in a civil action" for the amounts paid by the Secretary. The Secretary of Labor must also pay the benefits where "there is no operator who was required to secure the payment of such benefits."

9. Section 426(a) of the Act, 30 U.S.C. § 936 (a) authorizes the Secretaries of Labor and Health, Education and Welfare "to issue such regulations as each deems appropriate to

carry out the provisions" of Title IV of the Act. Pursuant to Sections 422(a), 422(c), 422(h) and 426, the Secretary of Labor promulgated regulations, designated 20 C.F.R. § 725.311, 38 Fed. Reg. 26054 (1973), and incorporated into 20 C.F.R. § 720.112, 38 Fed. Reg. 16968 (1973), which establish criteria for identifying the operator deemed liable for payment of benefits. These regulations provide, among other things, that the operator with whom the miner (on whose disability or death the claim is based) has "the most recent periods of cumulative employment of not less than one year" will be designated the "responsible operator." There then arises a presumption that "the miner's work-related pneumoconiosis arose in whole or in part sufficiently to occasion liability, out of his employment with such operator during the period or periods when he was employed in a mine or mines operatod by such operator."

E. Medical benefits

10. Medical benefits for miners are provided for under Section 422(a) of the Act by the incorporation of Section 7 of the Longshoremen's and Harbor Workers' Compensation Act, *as amended*, 33 U.S.C. § 901 *et seq*. Section 412 of the Act contains no such incorporation.

11. Pursuant to Sections 422(a) and 426 of the Act, the Secretary of Labor has issued regulations which permit a coal miner who is receiving benefits on account of total disability due to pneumoconiosis from the United States Department of Health, Education, and Welfare, to file a new claim under Section 422. If the Secretary of Labor determines that such a miner is entitled to benefits under Section 422, he will continue to receive his benefits from the Department of Health, Education, and Welfare, and will, in addition, be eligible for medical treatment benefits provided under Section 422. Such medical treatment benefits will be payable by the operator deem liable, or the Secretary of Labor under the provisions of Sections 415 or 424. 20 C.F.R. § 725.102, 38 Fed. Reg. 26045 (1973).

12. Sections 422(a) and (b) of Part C of Title IV of the Act, 30 U.S.C. § 932, provide that where a claim for benefits is filed after December 31, 1973, in cases where a State is not included on the list of States approved by the Secretary of Labor as providing adequate coverage for pneumoconiosis, coal mine operators "shall be liable for and shall secure the payment of benefits" with respect to "death or total disability due to pneumoconiosis arising out of employment in a coal mine." Except as otherwise provided by regulation, the provisions of the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. § 901 *et seq., as amended,* with certain exceptions enumerated in Section 422 (a) of the Act, are applicable under that section. The Secretary of Labor is authorized to promulgate by regulation "such additional provisions . . . as he deems necessary to provide for the payment of benefits by [an] operator. . . ." Part C of Title IV of the Act was enacted in recognition of the ultimate responsibility of the coal mining industry to compensate its employees for disablement or death due to a disease (penumoconiosis) which arose as an incident of the miner's employment in that industry.

F. Medical presumptions

13. Under Section 411(c)(2) of the Act, "if a deceased miner was employed for ten years or more in one or more coal mines and died from a respirable disease there shall be a rebuttable presumption that his death was due to pneumoconiosis." Similarly, under Section 411(c)(4), "if a miner was employed for fifteen years or more in one or more underground coal mines, and if there is a chest roentgenogram submitted in connection with such miner's, his widow's, his child's, his parent's, his brother's, his sister's, or his dependent's claim under (Title IV) and it is interpreted as negative with respect to the requirements of paragraph (3) of this subsection, and if other evidence demonstrates the existence of a totally disabling respiratory or pulmonary impairment, then there shall be a rebuttable presumption that such miner is totally disabled due to pneumoconiosis, that his death was due to pneumoconiosis, or that at the time of his death he was totally disabled by pneumoconiosis."

Under Section 422(h) of the Act, the Sectary of Labor has adopted for the purposes of Section 422 operator liability the regulations promulgated pursuant to Section 411 on government liability.

14. Pursuant to Sections 402(f), 411 and 426 of the Act, the Secretary of Health, Education and Welfare promulgated 20 C.F.R. Part 410, Subpart D (1973), that set forth standards for determining total disability and standards which otherwise deal with eligibility for benefits based upon the provisions of Section 411.

15. Pursuant to Section 422(h), the Secretary of Labor adopted 20 C.F.R. Part 410, Subpart D (except § 410.490) into his regulations published as 20 C.F.R. Part 718, 38 Fed. Reg. 16965–66 (1973).

G. Medical evidence

16. Pursuant to Section 413(b) of the Act, 30 U.S.C. § 923(b), no claims for benefits under Part B shall be denied solely on the basis of the results of a chest roentgenogram (X-ray).

17. Under Section 430 of the Act, 30 U.S.C. § 940, the 1972 amendments of Part B of the Act on government liability shall be applicable to Part C of the Act on operator liability. The Secretary of Labor promulgated 20 C.F.R. Part 718 (1973) which implements the 1972 amendments to Part B of the Act as applicable to Part C.

18. Under 20 C.F.R. § 725.445, 38 Fed. Reg. 26060 (1973), any party, including an operator, may, upon request, retrieve documents, including medical evidence, from the administrative file for introduction as evidence at the formal hearing.

H. Retroactivity

19. Section 422(c) of the Act states that coal miner operators must pay benefits to the same categories of persons who are entitled to benefits under Section 412(a) of the Act, 30 U.S.C. § 922(a), as those persons are defined in regulations of the Secretaries of Labor and Health, Education and Welfare. Section 412(a) imposes no restrictions relating to the miners' dates of employment on the government's liability under Part B of the Act.

20. Section 415 of the Act, 30 U.S.C. § 925, provides that the Secretary of Labor shall determine claims and pay benefits with respect to claims which are filed under that section from July 1, 1973, to December 31, 1973. Operators are participants in claims-determination proceedings under this section, are bound by those determinations, and become "liable to pay benefits to the claimant under Part C of [Title IV] for any month after December 31, 1973." The Secretary of Labor is authorized, upon consultation with the Secretary of Health, Education and Welfare, to "issue such regulations as are necessary or appropriate to carry out the purpose of this section."

Section 415 imposes no restrictions relating to miners' dates of employment on the government's liability under Part B of the Act.

21. Under Section 422(e), no operator shall be required to make any payment of benefits "for any period prior to January 1, 1974."

Under Section 422(f), claims for benefits must be filed within three years of the discovery of total disability or the date of death, due to pneumoconiosis. This subsection also provides that where a claimant under Section 422 filed for benefits based upon the "fifteen year presumption" contained in Section 411(c)(4) of the Act, 30 U.S.C. § 921 (c)(4), his claim, if he is a miner, must be filed within three years "from the date of last exposed employment in a coal mine," or, if he is a surviving dependent, must be filed within 15 years "from the date of last exposed employment in a coal mine."

22. In 20 C.F.R. § 726.203, 38 Fed. Reg. 12498 (1973), the Secretary of Labor has promulgated an interpretative regulatory provision, which states that the Secretary of Labor is bound, "within the framework and intent of Title IV of the Act [to] find in appropriate cases that an operator is liable for the payment of benefits for some period after December 31, 1973, even though the employment upon which an operator's liability is based occurred prior to . . . the effective date of the Act or the effective date of any amendments thereto."

H. Special findings as to bituminous contractors

23. In addition to building and construcing coal mines, most members of plaintiff Association of Bituminous Contractors engage in construction projects which are not related to the coal mining industry. Employees are used interchangably on coal mine and noncoal mine construction projects.

For the last dues paying year the members of the Association reported the following as manhours worked in coal mine construction:

Less than 3,000 manhours	129
3,000–10,000	40
10,000–35,000	37
35,000–50,000	11
50,000–100,000	14
100,000–200,000	10
Over 200,000	9

24. The individually named plaintiff-contractors are mostly small and medium size companies which generally employ from two to three employees up to about two-hundred and fifty employees.

25. The individually named plaintiff-contractors and other members of the Association do employ, as construction employees, persons who have worked for companies which engage in the mining and processing of coal.

26. The coal mine construction industry is a specialized segment of the construction industry. The designation "coal mine construction" refers to the end use to which the facilities constructed are to be put.

27. Coal mine construction as such does not involve the mining, processing or extracting of coal, and there is no showing that the plaintiff-contractors engage in the mining, processing or extracting of coal.

28. The vast bulk of coal mine construction work performed by members of the Association must be performed before any coal may be mined or processed at any given site.

29. Most repair work performed by coal mine construction companies is performed while the mine is not in operation.

30. Coal mine construction workers are not exposed to the same health or safety hazards as are workers engaged in the mining and processing of coal.

31. For purposes of determining responsibility for benefit payments beginning January 1, 1974, the Secretary has taken the position, by the promulgation of 20 C.F.R. § 725.302, that plaintiff-contractors and other companies which likewise engage in the building and constructing of coal mines, are coal mine operators. Pursuant to his determination, the Secretary has declared his intention to hold plaintiffs and other coal mine construction companies responsible for payment of benefits under Part C of Title IV of the Act.

32. In order for a company to be a coal mine operator within the meaning of the Act, it must be engaged in the mining, processing or extracting of coal.

33. Until a coal mine is constructed, there is no operator of the coal mine.

CONCLUSIONS OF LAW

A. Jurisdiction

1. The Court has jurisdiction over the subject matter of and the parties to these actions.

2. Congress had the constitutional power to enact Title IV of the Act.

3. The Secretary of Labor is charged by law with the responsibilities of administering Section 415 and Part C of Title IV of the Act.

B. C.A. 1711–73

(i) *Liability*

4. Each of the plantiffs in C.A. 1711–73 who either is or has been owner or operator of a coal mine or coal processing facility is an "operator" as that term is defined in the Act and the regulations promulgated by the Secretary of Labor pursuant to the Act, and is subject to the provisions of Section 415 and Part C of Title IV of the Act.

(ii) *Total Disability*

5. Pursuant to Section 402(f) of the Act, the Secretary of Health, Education and Welfare properly promulgated regulations, 20 C.F.R. § 410.412 (1973), defining "total disability." This definition adds only one phrase, "in the immediate area of his residence," to the language of Section 402(f). This addition was within the Secretary's discretion since Section 402(f) specifically authorizes the Secretary to define "total disability."

Pursuant to Section 422(h) of the Act, the Secretary of Labor properly adopted 20 C.F.R. Part 410, Subpart D (except § 410.490) into his regulations published as 20 C.F.R. Part 718. The adoption of 20 C.F.R. Part 410, as it relates to medical criteria, definitions and standards, is required by Section 422(h).

(iii) *Responsible Operator*

6. Pursuant to Sections 422(a), 422(c), 422(h) and 426 of the Act, the Secretary of Labor properly promulgated regulations, designed 20 C.F.R. § 725.311, and incorporated into 20 C.F.R. § 720.112, which establish criteria for identifying the operator deemed liable for the payment of benefits. These regulations conform with the mandates of the pertinent provisions of the Act.

In promulgating his regulations which establish criteria for identifying a "responsible operator" and which establish a presumption of liability with regard to such operator, defendant has followed the mandate of the statute and has not exceeded his regulatory authority under the Act, and the provisions of the Act pursuant to which defendant's regulations were promulgated do not and will not deprive plaintiffs of their property without due process of law or deny them equal protection of the law in violation of the Fifth Amendment.

The Secretary's regulation establishing criteria for identifying a responsible operator, 20 C.F.R. § 725.31, was within his discretion because Section 422(h) permits, but does not require, the Secretary to apportion liability among more than one operator.

Furthermore, it does not violate due process of law to place full liability on one of several operators responsible for the pneumoconiosis. Also, it is consonant with due process to presume that an operator for whom a miner worked for one year contributed to the miner's pneumoconiosis since there is a rational connection between the fact proven—the one-year employment—and the fact presumed—the contribution to the development of the disease.

(iv) *Medical Benefits*

7. Pursuant to Section 422(a) and 426 of the Act, the Secretary of Labor properly issued regulations which permit a miner who is receiving benefits on account of total disability due to pneumoconiosis from the Department of Health, Education and Welfare, to file a new claim under Section 422 for medical treatment benefits. Such medical treatment benefits will be payable by the operator deemed liable, or the Secretary of Labor under the provisions of Sections 415 or 424. These benefits are essential to an effective benefits program and the "refiling" mechanism is not prohibited by the Act and indeed comports with its intent and policy.

(v) *Medical Presumptions*

8. Pursuant to Sections 422(h) and 422(f) (2) of the Act, the Secretary of Labor properly promulgated regulations applying the Section 411 presumptions to Section 422 operator liability. Therefore, the statutory provisions pursuant to which the Secretary's regulations were promulgated do not and will not deprive the plaintiffs in No. 1711–73 of their property without due process of law or deny them equal protection of the law.

(vi) *Medical Evidence*

9. Pursuant to Section 430 of the Act, the Secretary properly promulgated regulations applying the 1972 amendments to Part B of the Act on government liability to Part C of the Act on operator liability. Moreover, Section 413(b) of the Act does not preclude the consideration of negative X-rays as matrial and competent evidence or even, as long as other evidence supports the X-rays, as the most persuasive evidence. Therefore, Section 413(b) of the Act is a valid exercise of legislative power and does not offend due process of law.

(vii) *Retroactivity*

10. In promulgating his regulations which reflects the intent of Congress to make operators liable for the payment of benefits for periods beginning January 1, 1974, in cases where a miner, on whose disability or death a claim is based, died or became totally disabled prior to December 31, 1969, defendant has followed the mandate of the statute and has not exceeded his regulatory authority under the Act, and the retroactive operation of the Act does not deprive plaintiffs of their property without due process of law or deny them equal protection of the law in violation of the Fifth Amendment.

Section 422(e) of the Act limits only the periods for which benefits can be collected; it does not limit the eligibility of miners whose period of employment terminated prior to January 1, 1974.

In 20 C.F.R. § 726.203, the Secretary of Labor has properly promulgated an interpretative regulatory provision, which states that the Secretary of Labor is bound, "within the framework and intent of Title IV of the Act [to] find in appropriate cases that an operator is liable for the payment of benefits for some period after December 31, 1973, even though the employment upon which an operator's liability is based occurred prior to . . . the effective date of the Act or the effective date of any amendments thereto."

The statute itself, as well as the legislative history, clearly indicates congressional intent that benefits be available under Section 422 where a claimant meets the filing requirements of that section, regardless of the termination of employment of the miner on whose death or disability the claim is based. It is clear that Congress intended to provide full protection to older, retired miners who have only recently discovered the disease or in whom the disease is still latent.

11. The plaintiffs in No. 1711–73 are not entitled to injunctive relief against the defendant Secretary of Labor.

C. C.A. 2054–73

12. The determination by the Secretary, set forth by regulation as 20 C.F.R. § 725.302, that all coal mine construction companies, whether or not they engage in the extraction of coal, are operators within the meaning of the Act exceeds and is inconsistent with the definition of operator stated at Section 3(d) of the Act.

13. The determination by the Secretary, set forth by regulation as 20 C.F.R. § 725.302, that such coal mine construction companies are operators within the meaning of the Act contravenes the legislative intent, scheme, and purpose of Title IV. Coal mine construction companies are not operators within the meaning of the Act.

14. The Act was not intended by Congress to be applied to coal mine construction companies who do not actually engage in coal extraction operations. The reference in the statutory definition of a coal mine, Section 3(h) of the Act, to equipment, structures and property "to be used in" a coal mine was meant by Congress to refer solely to the extracting of coal. There is nothing in the legislative history of the Act which suggests Congress meant that the statutory definition should be applied so expansively as to include those companies which construct coal mines but do not extract coal from them.

15. Injunctive relief, as requested by plaintiffs in C.A. 2054–73, is appropriate.

Accordingly, it is this 21st day of February, 1974,

Ordered that the permanent injuction prayed for in C.A. 1711–73 be, and the same is hereby, denied, and summary judgment in said action be, and the same is hereby, granted, in favor of defendant; and it is

Further ordered that, in C.A. 2054–73, the Secretary of Labor be, and he is hereby, permanently enjoined from enforcing and applying any regulation or otherwise determining that general and independent contractors who do not actually engage in coal extraction operations are coal mine operators for purposes of Title IV of the Federal Coal Mine Health and Safety Act of 1969, *as amended* by the Black Lung Benefits Act of 1972, and summary judgment in said action be, and the same is hereby, granted in favor of plaintiff.

THE MAKING OF THE PRESIDENT, 1972

Mr. McGOVERN. Mr. President, one of the best books it has been my privilege to read was Theodore White's book "The Making of the President, 1960." One of the worst books I have ever read is Mr. White's "The Making of the President, 1972."

Frank Mankiewicz who was involved, as I was, in both campaigns has given us an analysis of why the 1960 book was so good and why Mr. White failed so miserably in 1972. Mr. Mankiewicz' review appears in Psychology Today, January 1974.

When I first read Mr. White's book on the 1972 campaign, I could scarcely believe the uneven character of the book. Some portions of the story including my successful bid for the Democratic Presidential nomination were well told. But the analysis of the Nixon character and the problems that beset my campaign after the Miami convention are both ridiculous and woefully misleading.

Mr. White is totally off base, for example, in his account of my role in selecting a new national chairman at the Miami convention. He is equally off base in his account of the Eagleton matter. And he tops off a series of false accounts about me by quoting a labor leader's unfounded accusation about my veracity.

Some day a good historian will tell the full story of how the American people were misled in 1972. Mr. White has been among those who have temporarily observed that story.

Mr. Mankiewicz' review will help to correct some of the errors. I ask unanimous consent that the review be printed in the RECORD.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

"The Making of the President 1972"

Reviewed by Frank Mankiewicz

TEDDY TAKES A TUMBLE

Coverage by the American press of the 1972 Presidential campaign has not wanted for criticism. There have been two generally excellent books on the subject: *Us and them,* by James Perry of the *National Observer* and *The Boys on the Bus* by Tim Crouse of *Rolling Stone*. There will undoubtedly be others and the general question of why American political reporters failed, by so wide a margin, to give their readers the *real* picture of what was happening will undoubtedly engage us all for some time. Never, it can be safely said, have so many failed so badly.

It struck many at the time that the problem was Theodore H. White. Put simply, White's *The Making of the President,* particularly the 1960 volume, had revitalized American political reporting. That book illuminated, in one great flare, the inadequacies of political reporting until that time. While the reporters were rewriting the campaign speeches and reporting what the candidates were doing—and before how many people—and chewing over the public issues, Teddy White was finding out what was going on *inside.*

It was White, in that marvelous 1960 book, who first reported, in a systematic way, on the arcane doings of our politicians. He told us how the Kennedy people operated—how they lined up delegates and delegations, how advance men and scheduling functioned, the techniques of fund-raising and polls, how the mayors and county chairmen were wooed and even what were the frictions and disputes which had to be arbitrated and how.

Political reporting was never the same again. By 1972, almost every reporter assigned to the McGovern/Nixon campaign wanted to write Theodore White's book every morning. The result was intense coverage of all the inside stuff, to the point that McGovern could note, with some asperity, that when he met the voters, the questions would involve—naturally enough—the war, taxes, welfare, crime and all the other things that were on people's minds. But when he met with the press—which he did regularly on the theory that a campaign should be as open as possible—the questions all had to do with how the money raising was going, where he stood in the polls, when he was going to get the support of major labor leaders or governors, and the tension of the feuds, real or imagined, among his supporters and advisors.

THE GREAT GRAIN ROBBERY

The Teddy White syndrome was strong. On the day that McGovern broke the story that was later to be known as "the great grain robbery," the major concern in the traveling press party was whether the Mayor of Chicago would meet the candidate on one day in Springfield or on the next day in Chicago and, if the latter, would this not construe a snub of some sort? There were probably, McGovern replied, more people on his press plane who cared about that answer than there were in the rest of the country.

The result, of course, was that Watergate—except for the efforts of Bob Woodward and Carl Bernstein of *The Washington Post*—hardly got covered at all, nor did the larger story of Nixon Administration corruption—the scandals in grain, insurance, carpets and milk, the secret cash donations, IT&T and all the others. When McGovern did document his charge that this was the "most corrupt Administration in our history," the press reply would be to note the "excessive rhetoric" and inquire whether it was true that Gordon Weil had been reassigned to Washington and, if so, why?

But, back at the ranch, White himself was restless. Just as the rest of the political press was catching on to what made *his* reporting so satisfying, White made one of those countercyclical shifts we see from time to time in which the leader finds new goals just as the followers are beginning to understand the old ones.

A BADLY FLAWED BOOK

White decided in 1972 to cover the *outside* campaign and it is this decision that, ultimately, makes *The Making of the President 1972* a badly flawed book. Unable to get at what was really happening inside the White House (the Nixon men who lied to the country were only too willing to lie to White), White took Nixon at face value—always a grave error. He reported the Nixon campaign as though there *were* a Nixon program, a Nixon ideology, a Nixon "God-save-the-mark" philosophy and he gives them to us in just the words Nixon and his men would—and did—use. Now, one year later, it all seems quite clear that there never *was* a Nixon program and all that effort was devoted not, as White thought, to seeing that "they" learned about Nixon "out there," but that "they" did not. The Richard Nixon who has not made a move in a 25-year political career which was not designed either to gain him political victory or personal enrichment, comes off in White's account as a thoughtful, conservative patriot, a ludicrous notion now that the facts are in.

White even goes so far as to pose a sort of press "war," in which the Eastern dailies who are hostile to Nixon, are somehow more stealthy and less honorable than the overwhelming mass of press support "out there." "Fairly and cleanly" is the way he describes Nixon treatment in the press once you get out of those dens of establishmentarianism such as New York and Boston. We expect that kind of analysis from Pat Buchanan, but not from Teddy White.

SCRATCHING THE SCAB

The serious Nixon is everywhere. Even on the busing issue, where the intervention to rip off a healing scab and make Americans think in racist terms again was perhaps the most shameful (for the country) strategy that Nixon used. White sees a master plan and a "local school" and neighborhood ideology. Nonsense. There never was an ideology behind Nixon's busing (or antibusing) program. There was instead a cold recognition—which other politicians shared but retained the decency not to exploit—that there are voters, lots of voters, in the Northern cities of the country who would dare to holler "nigger" in a slightly more genteel way. So Nixon did it, and he was right; the votes were there. But to say that this was the result of some "American" philosophy is to miss the essential difference between Nixon and other politicians—Republican, Democrat, left, right and center—the man has no moral boundaries. And it is this point which White, by taking Nixon, as it were, seriously, obscures.

Watergate must have been a blow to White and his publisher. Tied to a deadline, he went back to work in the spring of 1973 in an attempt to repair the damage. There are some Watergate-related sections and analyses. But it is impossible to write an account of 1972 without Watergate and then go back and fold one in. It is as though David Halberstam on the verge of publication of *The Best and the Brightest* had suddenly discovered that Dean Rusk was secretly financing the House Armed Services Committee with funds embezzled from the Saigon treasury. White, to avoid the catastrophe of an entire rewrite, was thus forced to defend the proposition that Nixon would have won anyway, even if the facts had been known, when every bit of polling data says the opposite.

A CASUALTY OF WATERGATE

The book is a casualty of Watergate and it's a shame. Because in all the "ordinary" ways, it is first-rate. The story of how George McGovern won the Democratic nomination has not been and will not be better told than White tells it, not even by the participants. In short, if 1972 had been a free election, this would have been a clear, accurate, technical account of it.

One exception, however, must be noted. White's account of the "Thomas F. Eagleton affair" is woefully one-sided; he consulted only with Eagleton and quoted only his notes and recollections of those days and those meetings. Teddy White wishes he had had the time to check Eagleton's version with McGovern; so do I.

GUIDE TO FEDERAL EDUCATION FUNDS

Mr. CRANSTON. Mr. President, the March 1974 issue of American Education, published by the U.S. Office of Education, contains a very helpful guide to OE-administered programs for fiscal year 1974, including the dollar amounts appropriated by the Congress.

I believe it would be of benefit to Senators and their constituents to have this table printed in the RECORD, and I ask unanimous consent that it be printed at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Federal Funds

The Federal Government is a major source of financial support and technical assistance to the Nation's schools and colleges, chiefly through the U.S. Office of Education (OE). As a major component of the Education Division of the U.S. Department of Health, Education, and Welfare, OE administers programs covering virtually every level and aspect of education. These programs and the Fiscal Year 1974 funds appropriated by Congress in support of them are listed on the following pages.

For easy reference, the programs are presented in categories or groupings that indicate whether they serve individuals or institutions and the nature of their support, for example, research or construction. Since the several phases of one program or activity may serve more than one category, a given program may be listed more than once.

It is important to note that under special provisions of the HEW Appropriations Bill, the President is authorized to withhold from obligation and expenditure up to $400 million of the total, with the reservation that funds appropriated for no one program, activity, or project may be reduced by more than five percent. With that withholding option taken into account, the Office of Education's funding level for Fiscal Year 1974 comes to $5,936,944,000. This sum does not include the FY 1974 appropriation of $75 million for the National Institute of Education, the other major component of the HEW Education Division.

It should also be noted that distribution of OE funds for Title I of the Elementary and Secondary Education Act is subject to a special "hold harmless" provision. Under this provision allocations will be made in such a manner that no State will receive less than 100 percent and no more than 120 percent of the amounts it received in FY 1973. Within each State, no local education agency will receive less than 90 percent of the amount it received in FY 1973, with no stated ceiling on amounts above that level.

Reprints of the "Guide to OE-Administered Programs, Fiscal Year 1974" are available. A single copy may be obtained free on request to American Education, P.O. Box 9000, Alexandria, VA 22304. Multiple copies may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 at 25 cents each (25 percent discount on orders over 100). When ordering, please specify OE–74–01016.

GROUP I: TO INSTITUTIONS, AGENCIES, AND ORGANIZATIONS

Type of assistance	Authorizing legislation	Purpose	Appropriation (dollars)	Who may apply	Where to apply
PT. A—FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS					
1. Bilingual education	Elementary and Secondary Education Act, title VII.	To develop and operate programs for children aged 3–18 who have limited English-speaking ability.	50, 350, 000	Local education agencies or institutions of higher education applying jointly with local education agencies.	OE Grant Application Control Center.
2. Comprehensive planning and evaluation.	Elementary and Secondary Education Act title V–C.	To improve State and local comprehensive planning and evaluation of education programs.	4, 750, 000	State and local education agencies.	OE Division of State Assistance.
3. Follow Through	Economic Opportunity Act of 1964 (amended by Public Law 90–222).	To extend into primary grades the educational gains made by deprived children in Head Start or similar preschool programs.	41, 000, 000	Local education or other agencies nominated by State education agencies in accordance with OE and OEO criteria.	OE Division of Follow Through.
4. Incentive grants	Elementary and Secondary Education Act, title I, pt. B (amended by Public Law 91–230).	To encourage greater State and local expenditures for education.	17, 855, 000	State education agencies that exceed the national effort index.	OE Division of Compensatory Education.
5. Innovative and exemplary programs—supplementary centers.	Elementary and Secondary Education Act, title III.	To support innovative and exemplary projects.	146, 168, 000	Local education agencies	State education agencies, or OE Division of Supplementary Centers and Services.
6. Indian education	Indian Education Act (Public Law 92–318) title IV, pt. A.	To aid local education agencies and Indian controlled schools on or near reservations meet the special educational needs of Indian children.	25, 000, 000	Local education agencies and Indian controlled schools on or near reservations.	OE Office of Indian Education.
7. Programs for children in State institutions for the neglected and delinquent.	Elementary and Secondary Education Act, title I (amended by Public Law 89–750).	To improve the education of delinquent and neglected children in State institutions.	25, 449, 000	State parent agencies	State education agencies.
8. Programs for disadvantaged children.	Elementary and Secondary Education Act, title I (amended by Public Law 89–750).	To meet educational needs of deprived children.	1, 446, 338, 000	Local school districts	State education agencies.
9. Programs for Indian children	Elementary and Secondary Education Act, title I (amended by Public Law 89–750).	To provide additional educational assistance to Indian children in federally operated schools.	15, 809, 936	Bureau of Indian Affairs schools	Bureau of Indian Affairs, Department of Interior.
10. Programs for migratory children.	Elementary and Secondary Education Act, title I (amended by Public Law 89–750).	To meet educational needs of children of migratory farmworkers.	98, 351, 000	Local school districts	State education agencies.
11. School library resources and instructional materials.	Elementary and Secondary Education Act, title II.	To help provide school library resources, textbooks, and other instructional materials.	90, 250, 000	Local education agencies	OE Division of Library programs.
12. Special grants to urban and rural school districts with high concentrations of poor children.	Elementary and Secondary Education Act, title IV, pt. C (amended by Public Law 91–230).	To improve education of disadvantaged children.	47, 701, 000	Local school districts	State education agencies.
13. Special projects in Indian education.	Indian Education Act (Public Law 92–318), title IV, pts. B and C.	To support planning, pilot, and demonstration projects for the improvement of educational opportunties for Indian children and to develop training programs for educational personnel.	15, 000, 000	Indian tribes, organizations, and institutions; State and local education agencies and federally supported elementary and secondary schools for Indian children.	OE Office of Indian Education.
14. State administration of ESEA Title I programs.	Elementary and Secondary Education Act, title I (amended by Public Law 89–750).	To strengthen administration of ESEA, title I.	18, 048, 000	State education agencies	OE Division of Compensatory Education.
15. Strengthening State education agencies.	Elementary and Secondary Education Act, title V–A.	To improve leadership resources of State education agencies.	34, 675, 000	State education agencies, combinations thereof, and public regional interstate commissions.	OE Division of State Assistance.
PT. B—FOR STRENGTHENING ORGANIZATIONAL RESOURCES					
16. Library services	Library Services and Construction Act, title I.	To extend and improve public library services, institutional library services, and library services to physically handicapped persons.	44, 019, 000	State library administrative agencies.	OE Division of Library programs
17. Interlibrary cooperation	Library Services and Construction Act, title III.	To establish and operate cooperative networks of libraries.	2, 730, 000	State library administrative agencies.	OE Division of Library programs.
18. State administration (of NDEA programs).	National Defense Education Act, title III.	To strengthen administration in in State education agencies for supervisory and related services to elementary and secondary schools.	2, 000, 000	State education agencies	OE Division of Library programs.
19. Instruction In nonpublic schools.	National Defense Education Act, title III, sec. 305.	To provide interest bearing loans to private schools to improve instruction of academic subjects.	250, 000	Nonprofit private elementary and secondary schools.	OE Division of Library programs.
20. Instruction in public schools	National Defense Education Act, title III.	To strengthen instruction of academic subjects in public schools.	26, 250, 000	State education agencies	OE Division of Library programs.
21. Educational personnel training and development.	Education Professions Development Act (Public Law 90–35).	To support, broaden and strengthen training of teachers and other educational personnel.	26, 179, 000	State and local education agencies, colleges, and universities.	OE Division of Educational Systems Development.
22. Teacher Corps	Education Professions Development Act, pt. B–1.	To improve educational opportunities for children of low income families and to improve the quality of programs of teacher education for noncertified and inexperienced teacher interns.	37, 500, 000	Institutions of higher education, local education agencies and State education agencies.	OE Teacher Corps Office.
23. Special programs serving schools in low-income areas.	Education Professions Development Act (Public Law 90–35).	To train or retrain persons for career ladder positions or for staff positions in urban and rural poverty schools; to introduce change in the ways in which teachers are trained and utilized.	46, 229, 000	State and local education agencies, colleges, and universities.	OE Division of Educational Systems Development.
24. Educational broadcasting facilities.	Public Broadcasting Act of 1967, as amended.	To aid in the acquisition and installation of broadcast equipment for educational radio and TV.	15, 675, 000	Nonprofit agencies, public colleges, State broadcast agencies and education agencies.	OE Division of Technology and Environmental Education.
25. Sesame Street—Electric Company.	Cooperative Research Act	To fund children's public television programs.	3, 000, 000	Children's Television Workshop (only).	OE Division of Technology and Environmental Education.
26. Projects in environmental education.	Environmental Education Act of 1970 (Public Law 91–516).	To develop environmental and ecological awareness and problem-solving skills through education programs conducted by formal and nonformal educational organizations and institutions.	1, 900, 000	Colleges and universities, postsecondary schools, local and State education agencies and other public and private nonprofit agencies, institutions, and organizations.	OE Division of Technology and Environmental Education.

GROUP I: TO INSTITUTIONS, AGENCIES, AND ORGANIZATIONS—Continued

Type of assistance	Authorizing legislation	Purpose	Appropriation (dollars)	Who may apply	Where to apply
PT. B—FOR STRENGTHENING ORGANIZATIONAL RESOURCES—Continued					
27. Drug abuse education and related programs and activities.	Drug Abuse Education Act of 1970 (Public Law 91-527).	To organize and train drug education leadership teams at State and local levels; to provide technical assistance to these teams; to develop programs and leadership to combat causes of drug abuse.	5,700,000	Institutions of higher education; state and local education agencies; public and private education or research agencies; institutions and organizations (sec. 3); public or private nonprofit agencies, organizations, and institutions (sec. 4).	OE Division of Drug Education, Nutrition, and Health programs.
PT. C—FOR POSTSECONDARY EDUCATION PROGRAMS					
28. Advanced institutional development.	Higher Education Act of 1965, title III, as amended.	To assist selected developing institutions enter the mainstream of higher education.	99,992,000	Developing institutions with demonstrated progress.	OE Division of Institutional Support.
29. College Library Resources	Higher Education Act of 1965, title II-A.	To strengthen library resources of junior colleges, colleges, universities, and postsecondary vocational schools.	9,975,000	Postsecondary institutions	OE Division of Library programs.
30. College Work-Study	Higher Education Act of 1965, title IV-C, as amended.	To stimulate and promote the part-time employment of postsecondary students of great financial need.	270,200,000	Colleges, universities, vocational, and proprietary schools.	OE Office of Student Assistance, Division of Student Support and Special programs.
31. Cooperative education programs.	Higher Education Act of 1965, title IV-D, as amended.	To support the planning and implementation of cooperative education institutions.	10,750,000	Colleges and universities	OE Division of Institutional Support.
32. National Direct Student Loan program.	Higher Education Act of 1965, title IV-E, as amended.	To assist in setting up funds at institutions of higher education for the purpose of making low-interest loans to graduate and undergraduate students attending at least half-time.	293,000,000	College and universities	OE Office of Student Assistance, Division of Student Support and Special programs.
33. Cuban student loans	Migration and Refugee Assistance Act.	To provide a loan fund to aid Cuban refugee students.	2,600,000	Colleges and universities	OE Office of Student Assistance, Division of Student Support and Special programs.
34. Endowments to agriculture mechanic arts colleges.	Bankhead-Jones and Morrill-Acts.	To support instruction in agriculture and mechanic arts in land-grant colleges.	12,200,000	The 69 land-grant colleges	OE Division of Institutional Support.
35. State student incentive grants.	Higher Education Act, title IV	To encourage States to increase their appropriations for grants to needy students or to develop such grant programs where they do not exist (Grants are on a matching 50-50 basis).	19,000,000	State education agencies	OE Office of Student Assistance.
36. Higher education innovation reform.	Education Amendments of 1972	To aid higher education in generating reforms in curriculum development, teaching, and administration.	10,000,000	Postsecondary institutions and related organizations.	Fund for the improvement of Postsecondary Education (ASE).
37. National teaching fellowships and professors emeriti.[2]	Higher Education Act of 1965	To strengthen the teaching resources of developing institutions.	(see 1, 28)	Developing institutions nominating prospective fellows from established institutions and retired scholars.	OE Division of Institutional Support.
38. State Administration of Higher Education Act, titles VI-A and VII-A programs.	Higher Education Act, title XII	To help States administer programs under title VI and VII of Higher Education Act.	3,000,000	State commissions that administer academic facilities instructional equipment programs.	OE Division of Training and Facilities.
39. University community service programs.	Higher Education Act of 1965, title I, as amended.	To strengthen higher education capabilities in helping communities solve their problems.	14,250,000	Colleges and universities	State agencies or institutions designated to administer State plans (information from OE Office of Institutional Support and International Programs).
40. Strengthening developing institutions.	Higher Education Act of 1965, title III.	To provide partial support for cooperative arrangements between developing and established institutions.	(see 1, 28)	Accredited colleges and universities in existence at least 5 years.	OE Division of Institutional Support.
41. Student Special Services	Higher Education Amendments of 1968, title I-A	To assist low income and handicapped students to complete postsecondary education.	23,000,000	Accredited institutions of higher learning or consortiums.	HEW Regional Offices.
42. Veterans cost-of-instruction	Higher Education Act, title X	To encourage recruitment and counseling of veterans by postsecondary education institutions.	23,753,000	Postsecondary education institutions.	OE Veterans Program Unit.
43. Supplemental Educational Opportunity Grants.	Education Amendments of 1972	To assist students of exceptional financial need to pursue a postsecondary education.	210,300,000	Participating educational institutions.	OE Division of Student Support and Special Programs.
44. Talent Search	Higher Education Act of 1965, title IV-A, as amended.	To assist in identifying and encouraging promising students to complete high school and pursue postsecondary education.		Institutions of higher education and combinations of such institutions, public and private nonprofit agencies, and public and private organizations.	HEW Regional Offices.
45. Undergraduate instructional equipment.	Higher Education Act of 1965, title VI-A.	To improve undergraduate instruction.	11,875,000	Institutions of higher education, including vocational and technical schools and hospital schools of nursing.	Division of Institutional Support.
46. Upward Bound	Higher Education Act of 1965, title IV-A, as amended.	To generate skills and motivation for young people with low-income backgrounds and inadequate high school preparation.	38,331,000	Accredited institutions of higher education and secondary or postsecondary schools capable of providing residential facilities.	HEW Regional Offices.
47. Fellowships for higher education personnel.	Education Professions Development Act, pt. E.	To train persons to serve as teachers, administrators, or education specialists in higher education.	2,100,000	Institutions of higher education with graduate programs.	OE Division of Training and facilities.

Type of assistance	Authorizing legislation	Purpose	Appropriation (dollars)	Who may apply	Where to apply
PT. D—FOR THE EDUCATION OF THE HANDICAPPED					
48. Deaf-blind centers	Education of the Handicapped Act, title VI–C (Public Law 91–230).	To develop centers and services for deaf-blind children and their parents.	14,055,000	State education agencies, universities, medical centers, public or nonprofit agencies.	OE Bureau of Programs for Handicapped, Division of Educational Services.
49. Early education for handicapped children.	Education of the Handicapped Act, title VI–C (Public Law 91–230).	To develop model preschool and early education programs for handicapped children.	12,000,000	Public agencies and private nonprofit agencies.	OE Bureau of Programs for Handicapped, Division of Educational Services.
50. Information and recruitment for handicapped.	Education of the Handicapped Act, title VI–D (Public Law 91–230).	To improve the recruitment of educational personnel and the dissemination of information on educational opportunities for the handicapped.	500,000	Public agencies and private nonprofit agencies and organizations.	OE Bureau of Programs for Handicapped, Division of Educational Services.
51. Media services and captioned film loan program (films).	Education of the Handicapped Act, title VI–F (Public Law 91–230).	To advance the handicapped through film and other media, including a captioned film loan service for cultural and educational enrichment of the deaf.	13,000,000	State or local public agencies, schools, and organizations which serve the handicapped, their parents, employers, or potential employers.	OE Bureau of Programs for Handicapped, Division of Educational Services.
52. Media services and captioned film loan program (centers).	(As above)	To establish and operate a national center on educational media for the dandicapped.	(included in 51 above)	Institutions of higher education	OE Bureau of Programs for Handicapped, Division of Educational Services.
53. Media services and captioned film loan program (research).	(As above)	To contract for research in the use of educational and training films and other educational media for the handicapped and for their production and distribution.	(included in 51 above)	By invitation	OE Bureau of Programs for Handicapped, Division of Educational Services.
54. Media services and captioned film loan program (training).	(As above)	To contract for training persons in the use of educational media for the handicapped.	(included in 51 above)	Public or other nonprofit institutions of higher education for teachers, trainees, or other specialists.	OE Bureau of Programs for Handicapped, Division of *Educational* Services.
55. Programs for children with specific learning disabilities.	Education of the Handicapped Act, title VI–G (Public Law 91–230).	To provide for research, training of personnel and to establish model centers for the improvement of education of children with learning disabilities.	3,250,000	Institutions of higher education, State and local educational agencies, and other public and private nonprofit agencies.	OE Bureau of Programs for Handicapped, Division of Educational Services.
56. Programs for the handicapped (aid to States).	Education of the Handicapped Act, title VI–B (Public Law 91–230).	To strengthen educational and related services for handicapped children.	47,500,000	State education agencies	OE Bureau of Programs for Handicapped, Division of Educational Services.
57. Programs for the Handicapped in State-supported schools.	Elementary and Secondary Education Act, title I (Public Law 89–313, as amended).	To strengthen programs for children in State-supported schools.	85,778,000	Eligible State agencies	OE Bureau of Programs for Handicapped, Division of Educational Services.
58. Personnel training for the education of the handicapped.	Education of the Handicapped Act, title VI–D (Public Law 91–230).	To prepare and inform teachers and others who educate handicapped children.	39,615,000	State education agencies, colleges, universities, and other appropriate nonprofit agencies.	OE Bureau of Programs for Handicapped, Division of Training Programs.
59. Training of physical education and recreation personnel for handicapped children.	Education of the Handicapped Act, title VI–D (Public Law 91–230).	To train physical education and recreation personnel for the handicapped.	(included in 58 above)	Institutions of higher education	OE Bureau of Programs for the Handicapped, Division of Training Programs.
PT. E—FOR THE SUPPORT OF OVERSEAS EDUCATIONAL PROGRAMS					
60. Consultant services of foreign curriculum specialists.	Mutual Educational and Cultural Exchange Act and Agricultural Trade Development and Assistance Act (Public Law 83–480) (in excess foreign currency countries).	To support visits by foreign consultants to improve and develop resources for foreign language and area studies.	160,000	Colleges, consortiums local and State education agencies, nonprofit education organizations.	OE Division of International Education.
61. Group projects abroad for language and area studies in non-Western areas.	Mutual Educational and Cultural Exchange Act and Public Law 83–40 (in excess foreign currency countries).	To promote development of international studies.	[3] 2,300,000	Colleges, universities, consortiums, local and State education agencies, nonprofit education organizations.	OE Divisions of International Education.
62. Institutional cooperative research abroad for comparative and cross-cultural studies.	Agricultural Trade Development and Assistance Act of 1954 (Public Law 83–480).	To promote research on educational problems of mutual concern to American and foreign educators.	(included in 61 above)	Colleges, universities consortiums, local and Stated education agencies, nonprofit education organizations.	OE Division of International Education.
PT. F—FOR OCCUPATIONAL, ADULT AND VOCATIONAL EDUCATION					
63. Adult education	Adult Education Act of 1966, as amended.	To provide literacy programs for adults.	63,485,000	State education agencies	OE Division of Adult Education.
64. Occupational training an retraining.	Manpower Development and Training Act of 1962, as amended.	To train persons for work in fields where personnel shortages exist.	145,000,000	Local school authorities (public, private, nonprofit).	State vocational education agency (information from OE Division of Manpower Development and Training).
65. Vocational programs	Vocational Education Act of 1963, as amended.	To maintain, extend, and improve vocational education programs; to develop programs in new occupations.	[3] 494,227,000	Public schools	State boards of vocational education (information from OE Division of Vocational and Technical Education).
PT. G—FOR DESEGREGATION ASSISTANCE AND IMPACT AID					
66. Cuban refugee education	Migration and Refugee Assistance Act.	To help school systems meet the financial impact of Cuban refugee education.	10,000,000 (est.)	School districts with significant numbers of Cuban refugee school-age children.	OE Division of School Assistance in Federally Affected Areas.
67. Desegregation assistance to local education agencies. 9	Civil Rights Act of 1964, title I	To aid shcool districts in hiring advisory specialists to train employees and provide technical assistance in matters related to desegregation.	[4] 21,700,000	School districts	OE Office of School Desegregation Programs.
68. Desegregation assistance to teacher institutes.	Civil Rights Act of 1964, title IV	To improve ability of school personnel to deal with school desegregation problems.	(included in 67 above)	Colleges and universities	OE Office of School Desegregation Programs.
69. Desegregation assistance to general assistance centers and Stateeducation agencies.	Civil Rights Act of 1964, title IV	To provide technical assistance for school desegregation activities.	(included in 67 above)	Colleges, universities, and State education agencies.	OE Office of School Desegregation Programs.
70. Desegregation assistance (nonprofit organizations).	Emergency School Aid Act, title VII (Public Law 92–318).	To give aid to community based efforts in support of school district E.S.A.A. programs.	19,915,000	Nonprofit organizations and groups of organizations (public or private).	HEW Regional Offices.
71. Desegregation assistance (basic grants).	Emergency School Aid Act, title VII (Public Law 92–318).	To aid school districts to eliminate or reduce minority group isolation.	146,875,000	Local public school districts	HEW Regional Offices.

Footnotes at end of table.

GROUP I: TO INSTITUTIONS, AGENCIES, AND ORGANIZATIONS—Continued

Type of assistance	Authorizing legislation	Purpose	Appropriation (dollars)	Who may apply	Where to apply
PT. G—FOR DESEGREGATION ASSISTANCE AND IMPACT AID—Continued					
72. Desegregation assistance (pilot projects).	Emergency School Aid Act, title VII (Public Law 92-318).	To help school districts provide special educational assistance in minority group isolated schools.	37,341,000	Local public school districts	HEW Regional Offices.
73. Desegregation assistance (bilingual-bicultural programs).	Emergency School Aid Act, title VII (Public Law 92-318).	To help school districts provide bilingual programs to reduce isolation of minority language groups.	9,958,000	Local public school districts	HEW Regional Offices.
74. Desegregation assistance (educational TV).	Emergency School Aid Act, title VII (Public Law 92-318).	To develop and produce multi-ethnic TV presentations supporting educational improvements.	7,468,000	Nonprofit organizations, public or private.	OE Office of School Desegregation Programs.
75. Desegregation assistance (special programs).	Emergency School Aid Act, title VII (Public Law 92-318).	To support efforts serving E.S.A.A. aims in areas not included in specified programs.	12,447,000	School districts in U.S. jurisdictions other than States; and nonprofit organizations, public and private.	OE Office of School Desegregation Programs.
76. School maintenance and operation.	School Aid to Federally Impacted and Major Disaster Areas (Public Law 874).	To aid school districts on which Federal activities or major disasters have placed a financial burden.	225,820,000	Local school districts	OE Division of School Assistance in Federally Affected Areas.

GROUP II: INDIVIDUALS—FOR TEACHER AND OTHER PROFESSIONAL TRAINING, AND STUDENT ASSISTANCE

Type of assistance	Authorizing legislation	Purpose	Appropriation (dollars)	Who may apply	Where to apply
1. Basic Educational Opportunity Grants.	Education Amendments of 1972	To provide financial assistance to postsecondary students at the undergraduate level.	475,000,000	Postsecondary education students.	P.O. Box G, Iowa City, IA 52240.
2. College Work Study	Higher Education Act of 1965, title IV-C, as amended.	To stimulate and promote the part-time employment of postsecondary students of great financial need.	(see I, 30)	Graduate, undergraduate, and vocational students enrolled at least half-time in approved educational institutions.	Participating institutions (information from OE Office of Student Assistance).
3. Cuban student loans	Migration and Refugee Assistance Act.	To provide a loan fund to aid Cuban refugee students.	(see I, 33)	Cubans who became refugees after Jan. 1, 1959.	Participating institutions (information from OE Office of Student Assistance).
4. Direct student loans	Higher Education Act of 1965, as amended, title IV-E.	To provide low interest loans to postsecondary students.	(see I, 32)	Graduate and undergraduate students enrolled on at least a half-time basis.	Participating institutions (information from OE Office of Student Assistance).
5. Educational development (for educators from other countries).	Mutual Education and Cultural Exchange Act.	To provide opportunity for educators to observe U.S. methods, curriculum, and organization on elementary, secondary, and education levels.	350,000	Educators from abroad (including administrators, teacher trainers, education ministry officials).	OE Division of International Education.
6. Fellowships abroad for doctoral dissertation research in foreign language and area studies.	Mutual Educational and Cultural Exchange Act.	To promote instruction in international studies through commercial lenders.	750,000	Prospective teachers of language and area studies.	Participating institutions (information from OE Division of International Education).
7. Fellowships for higher education personnel.	Education Professions Development Act, pt. E.	To train persons to serve as teachers, administrators, or education specialists in higher education.	(see I, 47)	Individuals who qualify	Participating institutions (information from OE Office of Institutional Support and International Programs, Division of Training and Facilities).
8. Fellowship opportunities abroad.	Mutual Educational and Cultural Exchange Act, and Public Law 83-480 (in excess foreign currency countries).	To promote instruction in international studies through grants for graduate and faculty projects.	[5] (see I, 60)	Faculty in foreign languages and area studies.	Institutions of higher education at which applicants are enrolled or employed (information from OE Division of International Education).
9. Guaranteed Student Loan program.	Higher Education Act of 1965, title IV-B, as amended.	To encourage private commercial institutions and organizations to make loans for educational purposes to postsecondary students.	(6)	Students accepted for enrollment on at least a half-time basis in an eligible postsecondary educational institution.	Private lenders.
10. Interest benefits for higher education loans.	Higher Education Act of 1965, title IV-B, as amended.	To provide interest benefits for student loans through commercial lenders.	310,000,000	Students enrolled in eligible institutions of higher and vocational education.	Participating lenders (information from OE Office of Student Assistance).
11. Media services and captioned films training grants.	Education of the Handicapped Act, title VI-F (Public Law 91-230).	To improve quality of instruction available to deaf persons.	[7] (see I, 51-54)	Persons who will use captioned film equipment.	OE Bureau of Programs for Handicapped, Division of Educational Services.
12. National teaching fellowships and professors emeriti.	Higher Education Act of 1965, title III.	To strengthen the teaching resources of developing institutions.	[8] (see I, 37)	Highly qualified graduate students or junior faculty members from established institutions and retired scholars.	Participating institutions (information from OE Division of Institutional Support).
13. Personnel training for the education of the handicapped.	Education of the Handicapped Act, title VI-D (Public Law 91-230).	To prepare and inform teachers and others who educate handicapped children.	(see I, 58)	Qualified individuals	Participating institutions (information from OE Bureau of Programs for Handicapped, Division of Training Programs).
14. State student incentive grants.	Higher Education Act, title IV	To encourage States to increase their appropriations for student grants to needy students or to develop such grant programs where they do not exist—grants are on a 50-50, matching funds basis.	(see I, 35)	Postsecondary education students.	State education agencies.
15. Supplemental Educational Opportunity Grants.	Education Amendments of 1972	To assist students of exceptional financial need.	(see I, 43)	Postsecondary students	Participating educational institutions (information from OE Office of Student Assistance).
16. Teacher exchange	Mutual Education and Cultural Exchange Act.	To promote international understanding and professional competence by exchange of teachers between the United States and foreign nations.	[9] 1,320,000	Elementary and secondary school teachers, college instructors, and assistant professors.	OE Division of International Education.
17. Training of physical education and recreation personnel for handicapped children.	Education of the Handicapped Act, title VI-D.	To train physical education and recreation personnel for the handicapped.	(see I, 59)	Qualified individuals	Participating institutions (information from OE Bureau of Programs for the Handicapped, Division of Training Programs).
18. Teacher Corps project grants	Education Professions Development Act, pt. B-1.	To improve educational opportunities for children of low income families and improve the quality of programs of teacher education for both certified and inexperienced teacher interns.	(see I, 22)	Institutions of higher education, local education agencies, and State education agencies.	OE Teacher Corps Office (individuals apply to appropriate institution).

Footnotes at end of table.

Type of assistance	Authorizing legislation	Purpose	Appropriation (dollars)	Who may apply	Where to apply
19. Ellender Fellowships	Public Law 92-506	To assist the Close Up Foundation of Washington, D.C., to carry out its program of increasing the understanding of the Federal Government among secondary school students, and the communities they represent.	500,000	Economically disadvantaged secondary school students and secondary school teachers.	The Close Up Foundation, 1660 L St. N.W., Washington, D.C. 20036.
20. College teacher fellowships	Higher Education Act, title IX	To increase the number of well qualified college teachers.	5,806,000	Prospective college teachers working toward doctoral degrees.	Participating institutions (information from OE Office of Institutional Support and International Programs, Division of Training and Facilities)
21. Librarian training	Higher Education Act, title II-B	To increase opportunities for training in librarianship.	2,850,000	Prospective and/or experienced librarians and information specialists.	Participating institutions (information from OE Division of Library Programs).
GROUP III: FOR RESEARCH					
1. Handicapped research and related activities.	Education of the Handicapped Act, title VI-E (Public Law 91-230).	To promote new knowledge and teaching techniques applicable to the education of the handicapped.	9,566,000	State or local education agencies and private educational organizations or research groups.	OE's Bureau of Programs for Handicapped. Division of Innovation and Development.
2. Physical education and recreation for the handicapped.	Education of the Handicapped Act, title VI-E (Public Law 91-230).	To perform research in areas of physical education and recreation for handicapped children.	350,000	State or local education agencies, public or nonprofit private educational or research agencies and organizations.	OE Bureau of Programs for Innovation and Development.
3. Vocational education curriculum development.	Vocational Education Act of 1963, as amended in pt. "I".	To develop standards for curriculum development in all occupational fields and promote the development and dissemination of materials for use in teaching occupational subjects.	4,000,000	State and local education agencies, private institutions and organizations.	OE Application Control Center, Office of Adult, Vocational, Technical and Manpower Education.
4. Vocational education research (developing new careers and occupations).	Vocational Education Act of 1963, as amended, part C.	To develop new vocational education careers and to disseminate information about them.	9,000,000	Education agencies, private institutions and organizations.	OE Application Control Center, Office of Adult, Vocational, Technical, and Manpower Education.
5. Vocational education research (innovative projects).	Vocational Education Act of 1963, as amended, pt. D.	To develop, establish and operate exemplary and innovative projects to serve as models for vocational education programs.	3,000,000	State boards of education	OE Office of Adult, Vocational, Technical and Manpower Education, Division of Research and Demonstration.
6. Vocational education research (meeting vocational needs of youth).	Vocational Education Act of 1963, as amended, pt. C.	To develop programs that meet the special vocational needs of youths with academic and socioeconomic handicaps.	9,000,000	Education agencies, private institutions, and organizations.	State boards of education.
7. Vocational education research (relating school curriculums to careers).	Vocational Education Act of 1963, as amended, pt. D.	To stimulate the development of new methods for relating school work to occupational fields and public education to manpower agencies.	8,000,000	State boards of education, local education agencies.	DHEW regional offices.
8. Library demonstrations	Higher Education Act, title II-B	To promote library and information science research and demonstrations.	1,425,000	Institutions of higher education and other public or private nonprofit agencies, institutions and organizations.	OE Division of Library Programs.
GROUP IV: FOR CONSTRUCTION					
1. Public schools	School Aid to Federally Impacted and Major Disaster Areas (Public Law 815).	Aid school districts in providing minimum school facilities in federally impacted and disaster areas.	19,000,000	Local school districts	DHEW regional offices.
2. Vocational facilities	Appalachian Regional Development Act of 1965.	Construct area vocational education facilities in the Appalachian region.	24,000,000	State education agencies in Appalachian region.	OE Division of Vocational and Technical Education.

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[1] OE (Office of Education).

[2] Includes $2,000,000 in appropriated excess foreign currencies, $300,000 from the Bureau of Postsecondary Education.

[3] At least 10 percent for handicapped.

[4] Represents total funding figure for title IV of Civil Rights Act.

[5] Taken from a total $3,000,000 in appropriated excess foreign currencies.

[6] Private capital is used for these loans.

[7] Programs that include educational personnel training.

[8] Appropriated in previous years.

[9] Includes funds contributed by foreign governments on a cost-sharing basis.

DISCRIMINATION PROHIBITED

Title VI of the Civil Rights Act of 1964 states: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, or be so treated on the basis of sex under most education programs or activities receiving Federal assistance." All programs cited in this article, like every other program or activity receiving financial assistance from the Department of Health, Education, and Welfare, operate in compliance with this law.

THE INDIAN SELF-DETERMINATION AND EDUCATIONAL REFORM ACT, S. 1017

Mr. KENNEDY. Mr. President, I would like to refer briefly to the statement and materials I placed in the RECORD last Friday regarding the Indian Self-Determination and Educational Reform Act, S. 1017. During the next few weeks, the Interior Committee, the full Senate, and the Indian community will be continuing their discussion of this bill. I, thus, believe it would be helpful to make available additional relevant materials which should prove useful in this discussion.

First, I would like to place in the RECORD an analysis of title II, part A of S. 1017, written by Myron Jones, Director of Indian Education Training, Inc. Second, at the request of the Director of the National Advisory Council on Indian Education, I submit a paper written for NACIE by Adrian Parmeter, former staff director of the Senate Special Subcommittee on Indian Education, giving an overview of some of the problems and conflicts in current Indian education programing.

Finally, I want to call to the attention of my colleagues the inadvertent inclusion of section 223 in the staff draft amendment to S. 1017, appearing on page 5929 of the CONGRESSIONAL RECORD of March 8. It is my personal opinion that greater coordination between the Department of Health, Education, and Welfare and the Department of the Interior in their administration of Indian education programs is necessary and that the National Advisory Council might be utilized to that end. However, this particular section was not approved by the Interior Committee staff and should not have been included in the reprinted amendment.

I ask unanimous consent that the materials referred to above be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

ANALYSIS OF S. 1017, TITLE II, PART A

(By Myron Jones)

This section of the Act would eliminate Johnson O'Malley at a point in history when Indian communities are beginning both to understand and gain increasing control over Johnson O'Malley funds. To give the Bill the benefit of several doubts, it is an honest attempt at reform. It does not reform anything. Not only does it throw out the proverbial baby with the bath water, it replaces both with dirtier water.

(1) At a time when the States and the courts are wrestling with questions of school equalization formulas, this Act attempts to arrive at one Federal solution for Indians only in 21 separate States. This equalization attempt totally ignores the existence of the Citizenship Act of 1924. Indians and districts containing Indians are not excluded from all of the free public education provisions found in every State constitution. As such, equalization of funds is a State responsibility. The various State formulas will certainly try to take *non-categorical* Federal funding into account, but the equalization formula is the responsibility of the States, not the Federal government. Furthermore, if one is to believe the language of this Act, an Indian district is any district that contains at least one Federally recognized Indian, and that one Indian makes the entire district a Federal responsibility. Let me use a real example. The Albuquerque, New Mexico, school district now has 285 eligible, reservation Johnson O'Malley students. The total school district population is 83,000. Should Johnson O'Malley type funds or a replacement program be used to equalize funding for 83,000 students because of the presence of 285 Indian students? It's absurd, of course, but the language of the Bill would require that the funds be used to equalize such a school district.

(2) The Bill eliminates reform Johnson O'Malley measures that have now been undertaken in many JOM States. New Mexico, Nevada, California, Wisconsin, Montana, Oklahoma (with the exception of non-P.L. 874 districts) and Wyoming all have Statewide Johnson O'Malley programs that require that all JOM funds be used for supplementary programs. The new Bill would eliminate JOM type funding in many districts because of school financial questions either partially or totally unrelated to the presence of Indian students. It would also eliminate all the gains of these aforementioned States because the new Act doesn't call for any supplementary funding. It calls for 20% of the programs to be used for "special programs." Present experience tells us that this is a virtual invitation for school districts to use the funds for special programs that either serve to meet minimum standards between Indian and non-Indian schools. All history of Federal education funds tells us clearly that unless the word "supplementary" is both used and defined, Federal funds will be used to supplant.

It is important to point out that more than 65% of the Johnson O'Malley districts in the country have Indian student percentages below 25%. This means that factors such as amount of State funding and local tax effort, *over which the Indians in the district have no control,* will determine whether or not Indian students receive funding. This assumes a fantasy world in which a large non-Indian majority will increase its taxes to benefit the Indian minority within the school district. The reality is that school districts have lately been in revolt against voting higher taxes for their *own* kids. This legislation assumes an altruism, which, if real, would eliminate the need for any Federal legislation. Section 203(a) (1) requires a tax rate equal to that of five comparable (by size) districts. As stated above, this is impossible to enforce and simply will not work. It is also startlingly naive to attempt to consider tax rates independent of the amount of taxable property, assessed valuations, amount of industry, and all the other factors that affect income every bit as much as tax rates.

Section 203(a) (2) says that P.L. 874 will be considered as local income for purposes of this Act—no problem in itself, but Section 203(a) (3) says that local and State per pupil payments must be equal to that of five comparable districts, and that is a serious problem. Example: The State of New Mexico uses the presence of Public Law 874 funds in determining supplementary distribution. This means that every large Indian district in the State, because of substantial P.L. 874 funds, receives less State money per pupil under the State equalization plan than five comparable districts, and that these large Indian districts are, therefore, ineligible for S. 1017 funding. Specifically, Gallup-McKinley, the largest Indian district in the country with more than 8,000 Indian students would be ineligible under this section. Kirtland Central, with more than 3,000 Indian students would be ineligible under section (a) because they have the lowest tax rate in the State. In short, the most superficial homework shows that this Act would remove eligibility for the two largest Indian districts in the country.

I don't believe for a minute that this was the intent behind the legislation. I mention this only to illustrate that the consequences of this legislation have not been considered carefully or realistically.

On the contrary, the legislation represents myopic intervention into fundamental public school questions that are clearly outside the expertise of the Department of the Interior. Section 203 alone makes this self-evident.

No one in New Mexico in a position to know or with administrative responsibility has been asked what effect these funding requirements would have, and the result is that the overwhelming majority of present JOM students would be eliminated from eligibility. A quick check has indicated that of all JOM States, only Arizona has been asked what the effect would be. Since Arizona is notoriously the most unreformed JOM State in the country, this one place survey has produced predictable results.

(3) The follow-up section (4) with recommendations for programs is demeaning both to Indian education committees and to local school boards. One cannot honestly recommend legislation that would "provide one counselor for every 50 students" and still pretend to believe in any kind of local education control. Obviously the parents are capable of deciding whether or not they want counselors, and if so, how many. They do it now under Johnson O'Malley all over a growing number of States.

In summary, this Bill has several serious defects:

(1) It eliminates the familiar (Johnson O'Malley) in the name of new legislation (the effect of which has neither been properly studied or planned)

(2) It intervenes in basic questions of public school finance without proper expertise, investigation or documentation

(3) It sets up eligibility criteria wholly unrelated to Indian students' needs

(4) It diminishes parental control by 1) eliminating some now eligible school districts, including the two largest; 2) reducing available funds for many other districts; 3) diluting protective provisions that committees now have through the language of their State Plan.

THE FEDERAL GOVERNMENT AND INDIAN STUDENTS IN PUBLIC SCHOOLS

(An analysis of the rationale and purpose of the Indian Education Act and its relationship to other Federal Subsidy Programs for Indian Students in Public Schools.)

(By Adrian L. Parmeter)

I. INTRODUCTION

The purpose of this policy position paper is to examine the four federal programs which seek to provide effective educational programs for Indian children in public schools. Two principal issues to be examined are:

(1) The basic deficiencies and relative effectiveness of these programs;

(2) The extent to which there is unnecessary or undesirable duplication of effort between them.

The paper will conclude with a set of legislative and policy recommendations designed to enhance the effectiveness of these programs in achieving their common goal.

II. THE QUESTION OF NATIONAL POLICY

According to the latest available figures from the Office of Education, there are approximately 250,000 Indian students in public schools. In addition, there are approximately 55,000 Indian children served by the BIA Federal School System. Thus five out of every six Indian students can be found in a public school. On Federal Indian reservations, three out of every four Indian students are in a public school. Thus the predominant responsibility for effective Indian education programs lies in the public school sector.

The policy of the Federal Government, starting in the 1920's, has been to transfer the responsibility for Indian education from BIA or Federal schools to public school districts. The two-fold rationale for this policy has been that education is the responsibility of the states and that Indian children wherever possible should be educated in an "integrated" setting. In fact, a careful review of the historical evidence (see Appendix I—Final Report of Senate Subcommittee on Indian Education and Chapter I—"Failure of National Policy") indicates that a dominant reason for this transfer policy has been a desire to cut back and terminate direct Federal services for Indians and to force assimilation at whatever cost. One other important factor has been the failure of the Federal Government to provide effective alternatives to public school education in the Federal school system including any attempt to develop quality or superior educational programs.

It is beyond the scope of this paper to examine in any depth this two-fold policy rationale, but it is clearly open to serious challenge. The historical fact remains that whereas 80% of enrolled Indian students were in Federal schools in the early 1920's this situation has been completely reversed in the last fifty years. To accomplish this reversal has required three predominant Federal practices.

First, it has been necessary to provide substantial Federal subsidies to entice public school districts to enroll Indian students. In the course of the extensive hearings held by the Senate Subcommittee on Indian Education, these Federal subsidies were often referred to by Indian witnesses as "bribe money" or "a price on the head of Indian children". The clear implication is that many of the school districts are primarily interested in the money and have relatively little interest in the unique and special educational needs of the children. This leads to the second predominant Federal practice.

Because of the principle of "local control" there has been hardly any accountability on the part of the school districts for how the money is expended and even if it is used to benefit Indian students at all. There is now available from various studies substantial evidence of the abuse and misuse of these funds by public school districts.

This failure to provide for any accountability in these Federal subsidy programs, has led to a third aspect of Federal practice. There has been a general unwillingness or non-recognition of the fact that many of these public school districts that Indian children have been pushed or gerrymandered into, have failed to provide anything even approaching an effective educational program for them. Again, there is ample documentation of this fact, from a number of recent thorough studies. A number of school districts can be found where there has been a conscious effort to exclude or neglect Indian students, and where the rankest kinds of discriminatory attitudes and practices prevail.

The Subcommittee on Indian Education found a number of school districts where, although there had been substantial Indian enrollment over a period of several decades, no Indian student had ever graduated, and in some instances where school administrators were even proud of the fact. The State of Oklahoma has more school districts receiving Federal Johnson O'Malley funds than any other state. Within the last year an audit conducted by the Interior Department found that more than one-third of the money had not been used by the districts for the benefit of their Indian students at all. Another compelling example is the Gallup-McKinley county school system, in New Mexico, which has a larger Indian enrollment and receives more Federal funds as a result of that Indian enrollment than any other school district in the country. A comprehensive record of their purposeful misallocation of resources and malfeasance in regard to their Indian students is now part of a recent trial record in the Federal District Court serving New Mexico.

One of the important reasons for the misallocation of funds within districts and general neglect of Indian students is the fact that Indian students can largely be found in the poorest, most marginal, most backward, most poorly staffed and financed school districts in the U.S. Recent Office of Education data reveals that 35% of all public school Indian students are in school districts where per pupil expenditure is below $425, or less than 50% of the national average. Seventy-five percent of all public school Indian students are in districts that expend less than $624 per pupil. It is highly questionable whether any child can receive an effective education under these financial constraints, let alone a highly disadvantaged child from a dramatically unique cultural and language background.

A serious question could be raised given the financial status of many of these school districts whether or not they should be in existence at all. A substantial number of these school districts, where the largest concentration of Indian students can be found, certainly could not continue to exist without the Federal subsidies. They exist as a result of our long-standing national policy that Indian children should be educated in public schools regardless of the consequences. This probably accounts for part of the Federal practice of benign neglect, or non-recognition of school district failure. The implicit rationalization is who could possibly be successful under these circumstances.

In summary, we now have substantial national data which indicates that public school education for a variety of reasons, both conscious and unconscious, has grossly failed Indian children, and the Federal government is a party to this failure, through its past policies and Federal subsidies which continue to underwrite a national tragedy.

III. FEDERAL SUBSIDIES FOR INDIAN STUDENTS IN PUBLIC SCHOOLS [1]

The triad of Federal programs which have provided the basic subsidies for Indian students in public school districts are the Johnson O'Malley Act (1934), P.L. 874 as amended in 1958, and Title I of the Elementary and Secondary Education Act of 1965. An historical examination of the accumulative interrelationships between these three Acts reveals that there is a substantial duplication problem which emerges in 1958 with the amendments to P.L. 874 and is exacerbated by the passage of Title ESEA in 1965. From the standpoint of Federal policy and administration, this constitutes the original and primary duplication problem.

In terms of providing effective educational programs for Indian students in public schools they share a common failure but for somewhat different reasons. Because of their deficiencies, they have all been superseded by P.L. 92-318 Title IV but continue to operate along their original paths. The passage and funding of P.L. 92-318 has now forced the issue into the open and a coherent set of policy and legislative decisions needs to be made to resolve the overlapping areas of responsibility.

Johnson O'Malley Act

When the Indian Citizenship Act of 1924 automatically made all Indians citizens of the States in which they resided and established a clear State responsibility under existing education laws, one might have assumed that this would suffice to bring about a wholesale change from BIA to public schools. In practice, however, it quickly became apparent that States and local public school districts would not assume this responsibility without Federal financial support.

The initial transfer of Indian students from Bureau schools to public schools in the 1920's came not primarily as a result of Bureau policy, but as a simple question of expediency. Increasing numbers of Indian students, particularly in California, found that, whereas Bureau schools were inaccessible to them, public schools were relatively close by. This was handled through a tuition system where the Bureau would compensate public schools directly on a per pupil basis.

By 1934, there were enough Indian students in public schools to justify new legislation and adaptation of a Bureau policy which would enable an increasing transfer of Indian students from Bureau schools to public schools. In most cases, the students and tribes affected were not receiving adequate Bureau services in any case, and Johnson O'Malley simply represented a formalization of a growing procedure. It did, however, specifically enable the Bureau of Indian Affairs to deal with States instead of negotiating with individual school districts. (It also extended this existing practice in education to apply to health and welfare services.)

In 1935, Johnson O'Malley contracts were first negotiated in the States of California and Washington. Of these contracts, the BIA said, "The amount to be paid under the terms of the contract in each case was the same as total tuition payments to the public school districts of the State during 1934." During appropriations hearings in 1936, Dr. Carson Ryan, Director of Education for the Bureau of Indian Affairs, said: "The chief argument for paying Federal tuition for the Indian children is that the existence of the untaxed Indian land deprives the school district of part of its taxable resources . . . If there is no untaxable Indian land, it is a little difficult to justify payment of a Federal subsidy." In 1937, the Bureau offered this explanation of California and Washington contracts:

"These contracts provide for the education of the Indian children; and where required and the extent to which funds are available under the contracts, for their transportation to and from school, for noon day lunches, textbooks, school supplies, school medical and dental services; also, so far as practicable for special courses desirable for Indian children."

Johnson O'Malley and Public Law 874

In 1958, Public Law 874 (Federal Impact Aid) was amended to include Indian children living on Federal land. This obviously affected the financial situation of school districts and was reflected in Bureau of Indian Affairs Code of Federal Regulations:

I. Existing Regulations: 33.4—Contracts with public schools

a. Contracts may be entered into under the provisions of the Act of April 16, 1934 (48 Stat. 596) as amended by the Act of June 4, 1936 (49 Stat. 1458, 25 U.S.C. 452-456) with the authorities of any State for the education of Indian children of one-fourth or more degree Indian blood, unless excepted by law, and to expend under such contract monies appropriated by Congress for such purposes and to permit the use of existing federal Indian school facilities and equipment by the local school authorities under such terms as may be agreed upon.

b. The program will be administered to accommodate unmet financial needs of school districts related to the presence of large blocks of non-taxable Indian-owned property in the district and relatively large numbers of Indian children which create situations which local funds are inadequate to meet. This Federal assistance program shall be based on the need of the district for supplemental funds to maintain an adequate school after evidence of reasonable tax effort and receipt of all other aids to the district without reflection on the status of Indian children.

c. When school districts educating Indian children are eligible for Federal aid under Public Law 874, 81st Congress (64 Stat. 1100), as amended, supplemental aid under the Act of April 16, 1934, supra, will be limited to meeting educational problems under extraordinary or exceptional circumstances. (22 F.R. 10533, December 24, 1957, as amended at 23 F.R. 7106, September 13, 1958)

It's clear from these regulations that at this point the Bureau is operating with some contradictions. On the one hand, paragraph "b" implies that Johnson O'Malley funds are to be used only as financial reimbursement for school districts' needs directly related to Federal non-taxable land. On the other hand, section "c" acknowledges that these financial needs will generally be taken care of by Public Law 874, and that Johnson O'Malley "will, therefore, be limited to meeting educational problems under extraordinary or exceptional circumstances".

The problem with this, of course, is that there is no definition for educational problems or extraordinary or exceptional circumstances. In a 1961 Senate hearing, BIA Chief of Education, Hildegard Thompson, attempted to define the type of district that would still be eligible for Johnson O'Malley funds: "Where there is no tax resource or practically no tax resource in the district, and the only financial resource the district has is a State aid program, plus what they get from 874, and the two together would not put them at all where they could operate an adequate program." Again, the difficulty here is that the Bureau then had no way to define what they meant by "an adequate program." Twelve years later, they still have no way to define "an adequate program."

The actual policy in relation to Johnson O'Malley use depends not on the Bureau but on individual States. For example: The State of New Mexico Johnson O'Malley Plan defines an adequate school as one that meets State Minimum Standards, and specifically provides that all Johnson O'Malley funds must be used for special, supplementary programs above and beyond the Minimum Standards. In a Federal district court decision last winter, involving the Gallup New Mexico school district, Judge Eratton carried this principle one step further and ruled that Johnson O'Malley funds should be used to provide special Indian programs only after school districts had demonstrated comparability in relation to their use of other funds. In New Mexico, the amount of taxable property and the tax rate, however low, is not considered a factor in Johnson O'Malley distribution. In fact, one district with the lowest tax levy in the State has consistently received Johnson O'Malley funds while at the same time, having an unbudgeted surplus that far exceeds their Johnson O'Malley program requested.

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[1] I want to acknowledge my indebtedness to Myron Jones for most of the substantive material in this section.

On the other hand, the neighboring State of Arizona has a Johnson O'Malley State Plan that rests almost exclusively on financial questions and ignores program questions. They take a tax levy mean average of all Johnson O'Malley districts. All districts above the average receive funding; all districts below the average receive no funding. There are no requirements on how the money can, or should be, used, and according to the State of Arizona's own report, in fiscal 1972, of $3.8 million received, only $10,000 was used for special programs. In effect, you could say that in some States, the existence of Public Law 874 and its funding factor has been acknowledged and Johnson O'Malley is meant to be used as an Indian Title I program; in other States, they are still pretending that 874 doesn't exist.

There are, of course, other factors that should be taken into account but are not. In many of the Western school districts, improvements (gas and oil leases, industrial development) on Indian land have progressed to the point where taxes from Indian land contribute far more to the school district than non-Indian taxes. For example, in the Bloomfield, New Mexico school district, which is less than 25% Indian, 60% of all local taxes are paid by the El Paso Natural Gas Company off Navajo land, and on Navajo land alone, in both Arizona and New Mexico, El Paso Natural Gas pays slightly more than $2 million a year in school taxes. This sometimes large factor of taxable improvements probably could not have been anticipated either in the 30's when Johnson O'Malley was passed or in the 50's when the reguations were written, but that is not the problem. The difficulty now is that neither the Bureau of Indian Affairs as part of a national policy, nor individual States, takes into account this factor, and no distinction is made in the distribution of funds between districts that have a considerable tax base and districts that have virtually none.

Johnson O'Malley, Public Law 874, and Title I

If Public Law 874 removed the argument for use of Johnson O'Malley as in lieu of tax payments, Title I threatened to eliminate the need for Johnson O'Malley on special programs since Title I was meant to serve all eligible pupils, including Indian pupils. This meant in theory, that if Indian students represented the most educationally disadvantaged in a school district, they would become the target group for Title I funding and Johnson O'Malley would function as a duplication. One reading of Bureau regulations after the passage of Public Law 874 would indicate that Johnson O'Malley had anticipated Title I and had become an Indian Title I program. Ironically, however, the fact that it had not become one formed a pressure base to retain Johnson O'Malley from those very schools which had abused it most. Those school districts were not about to let lovable, old, never-say-"no" Johnson O'Malley drop in favor of a Title I program with strict guidelines that were at least theoretically enforceable. Within the national community there was also great pressure to keep Johnson O'Malley, not only because it was familiar, but because it was viewed at least in its intention, as a specifically Indian program, and Title I, of course, was not.

The Title I Act and accompanying regulations are an implicit and sometimes explicit declaration that the Federal government does not trust local school districts to program compensatory Federal program funds toward the greatest needs of their least succesful pupils. The history of Johnson O'Malley demonstrates the validity of OE's assumption. However, it is precisely this potential for enforcement that the local school districts exploit with Indian people: "Who knows local needs best? Us, or the Feds?" Unless the local community is sophisticated enough and bold enough to say, "Who's the us?", this argument frequently works.

In the past, the argument has worked with Office of Education programs in a way that is not possible with Bureau of Indian Affairs programs. This is partially because the Bureau is not only more "local" than the Office of Education, they are more local than the public school administrators. Agency staff members and even Area staff are invited to and participate in far more tribal council and inter-tribal meetings than do school officials of any rank. Another factor is that the Bureau of Indian Affairs and the Indian community have now passed two golden anniversaries in a tenuous and miserable marriage, but a marriage in which the threat of Federal divorce can override all other questions. Hostility toward the Federal government can be directed more safely away from the Bureau of Indian Affairs, and both the Bureau and the public schools have sometimes exploited this situation. (NOTE: I refer throughout to Title I, rather han ESEA because the other Titles have been a relatively small factor in Indian communities.)

The Office of Education keeps two sets of figures on Title I: (1) total number of eligible students; (2) actual program participants—actual Indian participation depends on the school models and involves previous use of Johnson O'Malley.

Category 1: Major Impact—districts that are over 75% Indian and receive substantial ($400 per pupil or more non-categorical JOM funding).

Arizona, Alaska, the Dakotas would contain most of these districts. In these districts, JOM funds are used for what the school administration (and an occasional active school board member) considers "meat and potato" needs, and Title I supplies the dessert (usually pre-packaged). If there are JOM funds left over, they may be used for non-classroom supportive services (school supplies, P.E. equipment, extra-curricular transportation, etc.). Title I will be used exclusively for supplementary classroom needs, usually more of what hasn't worked in the basic school program.

Category 2: Major Impact—categorical districts.

This would include districts in New Mexico, Montana, and Washington where the State Plans require that JOM be used only for supplemental and categorical programs. Generally speaking, these districts use JOM and Title I in similar types of programs, primarily remedial. Most staff people can be moved back and forth from one to another without knowing the difference.

Category 3: Districts with sizable numbers (more than 200) of Indian Students but comprising less than 60% of the school district and with a competing Title I group.

All Johnson O'Malley States have some of these school districts. If the State Plans do not limit the use of JOM to special programs, the Indian students will participate in the Title I programs although these programs pretend in no way to be specifically based on Indian educational needs. If they are designed in relation to any specific needs, they will be primarily geared toward the other Title I group, e.g., Spanish/English as a second language program. If, however, the States require JOM to be used for supplemental prorams, JOM becomes Title I, and the regular Title I programs become overwhelmingly non-Indian. Until last year, a Title I director in one of these kinds of school districts believed that Indian students were meant to be excluded from Title I funds to the "non-Indian" schools.

Category 4: Districts with fewer than 200 Indian students comprising less than 20% of the school population.

These districts have usually received very low JOM funding. There were, for example, 12 such districts in the State of Arizona in fiscal 1972.

They split $84,324 amongst themselves. This averaged out to $30.04 per pupil, compared with a State average of $337. An additional 14 "minor" impact districts received no JOM funding at all in fiscal 1972.

Indian students may or may not participate in Title I programs but they certainly do not form a Title I pressure group. In the rare instances in which these districts have been able to secure substantial JOM program funds, the Indian students do not participate in the Title I programs; not necessarily because they would be excluded from participation, but because all community energy is taken up with planning Johnson O'Malley funds.

In many of these smaller districts, Title I funds might be three times as big as JOM, but they tend to be ignored because: (1) they are newer; (2) Title I regulations and guidelines are far more complicated; (3) they are not exclusively Indian. Several recent studies reveal that less than one-third of the Indian children that qualify under Title I actually receive any program benefits at the school district level.

IV. BASIC DEFICIENCIES IN FEDERAL SUBSIDY PROGRAMS FOR INDIAN STUDENTS IN PUBLIC SCHOOLS

The purpose of this section is to summarize the basic deficiencies in the triad of Federal programs which underwrite public school education for Indian students. There is a wealth of data available from a number of recent studies the most important of which are the findings and records of the Senate Subcommittee on Indian Education, the NAACP Legal Defense Fund study *An Even Chance*, the O.E. funded national survey of Indian education by Robert Havinghurst et al, and the Bureau of Social Science Research, Inc., publication entitled "Federal Funding of Indian Education: A Bureaucratic Enigma". In addition there are several important GAO reports and a JOM survey report by the Department of Interior. It is not my intention to cite individual sources but I have drawn upon all of them in preparing this summary.

1. The first and foremost fact is that the failure rate of Indian students in public schools is a national scandal. Although some improvement can be detected in some school districts, there is hardly any evidence to support the proposition that 25 years of subsidies under the Johnson O'Malley Act, 15 years of subsidies under P.L. 872, and 8 years of subsidies under ESEA Title I have made any significant difference in terms of the academic performance of Indian students in public schools. Even assuming that there has been some minimum impact the current performance statistics are a national disgrace.

2. There is conclusive evidence that substantial amounts of money which go to pub-

lic school districts are not used for the benefit of Indian students in those school districts. Although there are a variety of ways by which public school districts accomplish this objective, and these vary somewhat between the three Federal subsidy programs, it can be said without qualification that this is an equality serious deficiency of Johnson O'Malley (e.g., recent audit in Oklahoma), P.L. 874 (e.g., recent court decision regarding Gallup-McKinley County School district), and ESEA Title I (e.g., see BSSR report and OE 1970 survey).

3. There is relatively little accountability on the part of the public school districts for how the money is spent. Under the largest program, P.L. 874, there is no accountability. Under the second largest program, Johnson O'Malley, there is almost no accountability in actual practice despite the pretense of state plans. To cite one particularly gross example recently presented in Senate hearings, $2.8 million in JOM funds in the State of Alaska were neither expended nor accounted for and the BIA accepted a report of that fact from the State without asking for any additional information. Under ESEA Title I there are some accountability requirements but in practice this is meaningless because there is very little if any enforcement. A recent report by the Bureau of Social Science Research states: "So far as we could ascertain, in neither the USOE or BIA is there one official with a comprehensive grasp of the distribution of Indian education funds or the policies which govern this distribution" . . . "much of the information on the allocation of funds is incomplete and misleading." This problem is so blatant and severe that the Senate Subcommittee on Administrative Practice and Procedure has undertaken a special investigation and public hearings on this matter.

4. Indian parents and communities have little control over the expenditures of monies under these three basic subsidy programs. Under P.L. 874, they have no control or involvement at all. The monies go directly into the general budget to be used in any way the school district sees fit. A large majority of the JOM dollars also go directly into the school district budget never to be identified again. A substantial amount of the funds go for non-educational purposes such as school lunch, transportation and parental support. Although there are Indian advisory committees these committees are only advisory and usually either dictated to or manipulated by the school administrations who appoint them. In recognition of this fact, a recent trend has been to contract these funds directly to Indian tribes or organizations. This is a highly desirable change and will be considered again in the recommendations section of this paper. It should also be noted that these monies are not necessarily used to support public school districts at all, and if they are it is an Indian subsidy rather than a direct Federal subsidy.

Under ESEA Title I, although there are general requirements for program involvement, in fact Indian involvement has been negligible. In many instances the funds are never even applied for or are expended on other students. Projects actually planned by Indian parents and administered by Indian staff are practically nonexistent.

5. None of the triad of Federal subsidies for Indian students in public school districts provide a strategy or systematic approach to the development of new or alternative or more effective educational approaches or programs for Indian students. Given the past record of traditional educational programs for these students, more of the same is, at best, questionable and, in general, a guarantee of continuing failure.

6. As the following charts indicate, no more than one-third of the Indian students in public schools are even potentially being reached by the triad of Federal subsidy programs. P.L. 874 and JOM monies are restricted to Indian children connected with Federal reservation or trust land. These two programs serve essentially the same Indian students and exclude two-thirds of the Indian students in public schools. According to the BSSC study, only one-third of the public school Indian students who qualify under ESEA Title I are being reached because of the way the program is administered.

Numerous studies have demonstrated that the failure of public schools is a national phenomena and in no way restricted to reservation populations. This was extensively documented in the findings and reports of the Senate Subcommittee on Indian Education and is corroborated by other research reports. Thus, one must conclude that only a small percentage of the real need is being met and this only in a partial and generally ineffective way.

A second major question regarding need is the question of depth of need of individual Indian students and to what extent the Federal subsidies are in any way adequate for the Indian students they do potentially reach. Based on recent Office of Education data and a three-part classification of need the charts indicate that 46% of the Indian students with unmet basic educational needs (defined in terms of a minimum per pupil expenditure in a school district) are presently not being reached by the Federal subsidies; that 64% of the students with compensatory or remedial educational needs are presently not being reached by the Federal subsidies; and that the Federal subsidies fail to reach 100% of the need for special educational needs (defined as cultural enhancement—Indian tribal history, culture, government, etc.). Whereas the present Federal subsidies do have some impact at the Basic educational need level, they have only a minor impact at the compensatory education level and practically none at the special educational need level.

In summary, the present Federal subsidies are gravely deficient in terms of meeting both the breadth and depth of need.

CHART I.—NUMBER OF PUBLIC SCHOOL INDIAN STUDENTS SERVED BY THE THREE BASIC FEDERAL SUBSIDY PROGRAMS

Category of need	Number of students	Public Law 874	JOM	ESEA
Basic needs	[2] 200,000	[3] 85,000	[3] 50,000	0
Compensatory needs	[4] 240,000	0	[3] 35,000	[3] 80,000
Special needs	250,000	0	0	0

[1] Total number of public school Indian students, based on OE figures, is 250,000.

[2] This figure is based on OE data which indicates that 80 percent of Indian students are in public school districts with a per pupil expenditure significantly under the national average.

[3] Same.

[4] This figure excludes 10,000 Indian students for which it is assumed that compensatory programs might not be required.

CHART II

TOTAL NUMBER AND PERCENT OF PUBLIC SCHOOL INDIAN STUDENTS WHOSE EDUCATIONAL NEEDS ARE NOT BEING SERVED BY FEDERAL SUBSIDY PROGRAMS

	At all		Inadequately	
	Number	Percent	Number	Percent
Total number of Indian students whose minimum basic educational needs are not being met	115,000	46	200,000	80
Total number of Indian students whose minimum compensatory educational needs are not being met	160,000	64	240,000	96
Total number of Indian students whose minimum special educational needs are not being met	250,000	100	250,000	100

V. THE INDIAN EDUCATION ACT: P.L. 92–318, TITLE IV

The final report of the Senate Subcommittee on Indian Education was published in November of 1969. This report was based on two years of public hearings and extensive staff field investigation which covered the U.S. from Alaska to Florida and from California to Maine. More than one hundred Indian organizations and individuals had testified that Federal policy, law, and programs relating to Indian education were grossly deficient, that the consequences were a national tragedy, and that a new, comprehensive, Indian Education Act was absolutely essential. All of the fundamental deficiencies in existing Federal programs summarized in the preceding sections of this paper, had been identified by Indian witnesses and documented by Subcommittee staff. The need for a radical departure from past practice was overwhelmingly apparent.

The conceptualization, planning, development, drafting, review, perfection, and passage of the Indian Education Act would require an additional two years, and the dominant element in this whole process was extensive Indian participation and involvement. American Indians have never played so large a role or exercised so much control over the shaping of major Indian legislation. The extensive, documented record of the Subcommittee and the extensive participation of American Indians in the work of the Subcommittee, and the development of the legislation was respected by Congress when the Act was passed with broad bi-partisan support and without a dissenting vote. It would be difficult to conceive of a greater Congressional mandate of support and demand for action. The significance of the Act in the minds of American Indians was perhaps best stated by the National Advisory Council on Indian Education in a letter to the President: "no other law has greater potential for solving Indian problems, contributing to Indian welfare and permitting Indians to exercise real control over the education of their children." It is difficult for me to comprehend how any administration which truly cares about the welfare of the American Indian and believes in the principle of Indian self-determination can oppose the full funding and effective implementation of this Act.

The Indian Education Act is not designed to reject or duplicate previous legislation. In fact, its substantive provisions are all in the form of corrective or perfecting amendments to existing legislation. Part A of the Act is in the form of a perfecting amendment to P.L. 874. Part B of the Act is in the form of a perfecting amendment to Title VII of the Elementary Secondary Education Act. Part C is in the form of a perfecting amendment to the Adult Basic Education Act and Part E is in the form of a perfecting amendment to the Higher Education Act.

Part D of the Act is new and fundamental. It provides for fifteen Indian Presidential appointees to serve on a National Advisory Board on Indian Education. The most important basic principle which permeates this Act—effective Indian control and self-determination—is given shape and form and substance in the National Adivsory Council. This is not to say that Indian control at the bottom—parent, child, and community—is not essential. It certainly is, and Parts A, B, C, and E of this legislation fully provide for it. But this is the first legislation to provide for Indian control at the top as well. The ultimate responsibility for the successful implementation of the Indian Education Act lies with the Indians who serve on this Council.

Indian control in past practice has often been a hollow term, all form and no substance. That is definitely not true in this case. This Council has far broader powers and responsibilities than the usual Federal Advisory Councils, and these powers are clearly delineated in the legislation. This

Council has substantial control over the selection of the Deputy Commissioner who will direct the Administration of the Indian Education Act. The Council has the responsibility for reporting to Congress on an annual basis on the expenditures, results, progress, and recommendations for changes in the Act.

The Council has substantial control over policy and rules and regulations used in implementing the Act. The Council has major input into planning and direct involvement in field review and evaluation. The Council has final authority over discretionary funding provisions in the Act. Some would say that the powers of the Council are too broad and encroach too much on the prerogatives of the Administration. It could more forcefully be argued that this Council is one of the most important efforts yet undertaken to bring life and force to President Nixon's call for Indian control and self-determination in the field of education.

The Indian Education Act in toto was carefully designed to overcome the fundamental deficiencies of the triad of Federal laws which have served the Indian student in public schools so poorly in the past. The suggestion that it duplicates these laws is patently absurd. The fact is that it has superceded these laws, thus raising the constructive question of whether or not the previous legislation should be rescinded, redirected, or administratively absorbed into the Indian Education Act which has now become the major vehicle for providing an effective education for Indian children in public schools. Before moving on to this important remaining question, it would probably be worthwhile to examine how Part A of the Indian Education Act provides an effective remedy for these deficiencies.

Last spring in a brief hearing (at which no Indian or Indian organization had a chance to testify) before the Senate Appropriations Subcommittee on Interior and Insular Affairs, the Commissioner of the Office of Education contended that Part A of the Indian Education Act was a duplication of P.L. 874. If Indian witnesses had testified, or if the Commissioner had consulted with Indians before testifying, they would have pointed out the following facts. Under Part A of the Indian Education Act, Indian parents and communities have complete control over the money in terms of planning, program execution, evaluation, and expenditures. Under P.L. 874, they have no control at all. Under Part A of the Indian Education Act the money can only be spent on educational programs for Indian students. Under P.L. 874 the money is spent for the benefit of all students at best and often very disproportionately on the non-Indian students. Under Part A of the Indian Education Act, tribally controlled schools, as alternatives to public schools, can be directly funded (e.g., the famous Rough Rock School on Navajo reservation). This is impossible under P.L. 874. Under Part A of the Indian Education Act, the full educational needs of 250,000 public school Indian students can be reached. Under P.L. 874 more than two-thirds of these students are excluded. Under Part A of the Indian Education Act there are provisions for full accountability over the expenditure of funds. Under P.L. 874 there is no accountability. Under Part A of the Indian Education Act new and innovative alternative approaches can be generated either within public school systems or in tribally controlled schools. Under P.L. 874 traditional practices which fail or discriminate against Indian students will prevail.

I don't believe it would serve any useful purpose to repeat a similar litany of comparison between the Indian Education Act and ESEA Title I. The duplication argument is essentially a false issue. Perhaps the best evidence is the fact that the testimony completely fails to mention the *real* duplication problem existing between the Johnson O'Malley program, P.L. 874, and ESEA Title I. The testimony also fails to address the real issue—the serious deficiencies in existing law which permit the Federal government to continue to subsidize a national disgrace without alleviating the problem. Similar to subsidizing slum housing, we have subsidized slum education.

It should also be noted that there is a gross overstatement of the amount of money expended by the Office of Education under various programs which allegedly serve Indians. I have talked with the program officers in OE who have attempted to compile reliable figures and they all agree that the data is not available within the Office of Education to arrive at any kind of a reliable total. They also agree that the figure used in the testimony is highly exaggerated. This is just another example of the failure of the Office of Education to realize its own deficiencies and to face up to the real problems.

The Commissioner's testimony was more or less superseded by the testimony of the Undersecretary of HEW before the Senate Interior Committee in June. In pointing out the shortcomings of S. 1017, the Undersecretary essentially supported the various provisions of the Indian Education Act by explaining their purpose, rationale, and potential. He did not reiterate any of the previous duplication arguments. In the interim period Indians had made their voices heard both within the Department and in the Federal Courts.

On October 30, 1973, the Secretary of HEW addressed the annual convention of the National Congress of American Indians. He pointed out that "education is the key to self-determination and education will receive heavy HEW emphasis as we move down the road that leads to full self-determination." He also stated that HEW was actively cooperating with the National Advisory Council on Indian Education in the selection of the first Deputy Commissioner for Indian Education, and that HEW would fully release and expend the $40 million which Congress had appropriated for the Indian Education Act for the coming fiscal year.

In addition, "the Office of Education will continue to provide additional funds under the more traditional Impact Aid Program and Title I of ESEA. . . ." The new Deputy Commissioner would have the responsibility for seeing that these two programs mesh effectively with the Indian Education Act and that all OE programs better serve Indian children.

Thus, the Administration seems to have reversed its own position and the duplication argument has suffered a still birth.

What remains to be seen is whether or not this HEW position of support for the Indian Education Act can survive the onslaught of budget cutting in the Office of Management and Budget and be fully reflected in the President's new Budget Message to Congress in January, 1975. If the Indian Education Act is not a part of the President's new budget request this will indeed reflect badly on the President's policy of Indian self-determination and Secretary Weinberger's speech to the National Congress of American Indians. It will be another example of "don't listen to what we say, watch what we do". American Indians are only too familiar with this form of hypocrisy and the consequences are not just the betrayal of Indian children, but an increase in the cynicism and despair of Indian communities which undermines the effectiveness of all Federal Indian programs.

Equally important, to exclude the Indian Education Act from the President's budget is essentially self-defeating. There is strong bi-partisan support in Congress for the Indian Education Act. Despite Administration opposition in the past, they have appropriated first $18 million in a Supplemental Appropriation Act and $40 million for FY '74. I have spoken with the staff and members of the two responsible Appropriations Subcommittees and it is clear that whether or not the Indian Education Act is a part of the President's budget request, a minimum of $60 million and quite possible $80 million will be appropriated by Congress for FY '75. Could it be that the Congress believes more strongly in the President's Indian policy than the President himself?

In my opinion the real price to be paid is not the loss of badly needed funds for Indian education because Congress will not permit that to happen. The real loss is to tarnish and debase the President's policy of Indian self-determination and his eloquent and unique contribution to Indian Affairs, the Special Message to Congress of July, 1970. This would be a tragic loss and should not be permitted to happen.

VI. RECOMMENDATIONS

The Indian Education Act was carefully designed to overcome the gross deficiencies of the triad of Federal laws which have served the Indian student in public schools so poorly in the past. The contention that it duplicates previous law has been carefully analyzed in this paper and shown to be a false issue. The fact is that it has superceded these laws and has now become the major Federal vehicle for achieving an effective education for Indian students in public schools. The question remains as to what shall be done about the overlap and duplication between Johnson O'Malley, P.L. 874, and ESEA Title I.

A second question of increasing importance as the size of the appropriations for the Indian Education Act rapidly increase (in the first full year of funding, FY '74 the funding level of $40 million is already greater than any of the other programs) and fair and effective displacement of previous ineffective programs becomes feasible without adverse impact at the school district level, what should be done regarding the traid of Federal subsidy programs which continue along their original paths. Should these programs be rescinded, redirected, or administratively absorbed into the Indian Education Act? This section of the paper will address these questions and provide a preliminary set of recommendations directed toward their resolution.

Recommendation I—Johnson O'Malley

As I stated in an earlier section of this paper, a recent trend in the Johnson O'Malley program has been to contract directly with Indian tribes and organizations. There are now four states where JOM funds are administered, not by the States, but by Inter-Tribal groups. Under at least one of these contracts, parental costs are not given to school districts at all, but are administered through the Indian community. This approach has proven to be feasible and effective and enthusiastically received by Indian communities. I would recommend that all Johnson O'Malley monies be contracted directly with Indian Tribes and organizations and administered by the respective Indian communities. The Indian communities could subsidize innovative educational programs of their own specifications in public school districts if they choose to, or they could develop important alternative or supplementary educational programs of their own. Such an approach provides real community control, provides a real stimulus for effective planning and enhances Indian community development and self-respect. In short, this approach is the essence of Indian self-determination and was specifically recommended in the President's Special Message to Congress of July, 1970.

There are two bills pending in the Senate Interior and Insular Affairs Committee which relate to this recommendation. S. 1342 is an administration bill which would clarify and strengthen the Indian contracting authority under the Johnson O'Malley Act. In my judgment, this bill is right in its intention and policy but essentially superfluous. Adequate authority presently exists under the 1936 amendment to the Johnson O'Malley Act to fully implement this policy. What is needed is a clear policy decision and effective implementation.

S. 1017, sponsored by Senator Jackson and others, is also being marked-up in Committee. This bill is good in its intentions but essentially bad legislation. There are many serious deficiencies in this bill which deserve full discussion in a separate paper. But the two gravest deficiencies are its subsidizing of school district approach and its implied dictation of what educational programs Indians should have. The public school district approach has been a failure in the past and will continue to fail regardless of what language is written into the bill. Also, to predetermine the educational needs of Indian students and communities is a violation of the principle of self-determination. In addition, the proposed law would be a massive duplication under the Interior Department of the Indian Education Act under the Office of Education. It would serve to undermine the effectiveness of the Indian Education Act and to thoroughly confuse Indian communities. S. 1017 in its present form is definitely not the right answer. The right answer is contracting all JOM monies directly to Indian Tribes and organizations and this requires only a policy decision, not new law.

Recommendation II—ESEA Title I

There are two recommendations regarding the Elementary Secondary Education Act which I feel have considerable merit. The first addresses the need for very close coordination between the Administration of ESEA Title I and Part A of the Indian Education Act. I would recommend that the full entitlement of money for Indian students under Title I ESEA be integrated with the Administration of Part A of the Indian Education Act and become subject to the same set of rules and regulations. The first organizational step in this direction can be taken immediately by the Commissioner of the Office of Education. The second step, bringing Title I monies under the same set of rules and regulations as Part A of the Indian Education Act will require an amendment to ESEA. This act is presently approaching final markup in the Senate Labor and Public Welfare Committee and such an amendment should be included.

The net result of this recommendation is to substantially enhance the effectiveness of the monies expendable under Title I and will guarantee that they actually are used to benefit Indian children. The merger will also enhance Part A of the Indian Education Act by substantially increasing its size and critical program mass at the local school district level. In addition, integrating the administration of the two programs will alleviate any duplication which might otherwise occur, eliminate confusion at the school district level, and concentrate the force and authority of Indian parent advisory committees.

Recommendation III—ESEA

This recommendation concerns all of ESEA and was conceived by Dillon Platero, director of the Education Division for the Navajo Tribe and one of the leading Indian educators in the country. The recommendation is in the form of an amendment to the Elementary and Secondary Education Act which is stated in toto in draft form on the following page. The purpose of the amendment is to provide for the establishment of tribal educational agencies on Federally recognized Indian reservations, that would qualify directly for grants and programs under all appropriate Titles and sections of ESEA. Thus in effect, the Tribal government if it so chooses can elect to serve as the "state educational agency" and Tribal schools or school board can serve as "local educational agencies".

It should be stressed that this would not be mandated by the amendment but rather would be an option that could be exercised by any recognized Tribe that was ready and so desired. Appropriate qualification standards would be established by the Secretary of HEW for all Tribes who elected to file for this status.

This amendment provides an incentive and a mechanism for full Tribal control and self-determination of all programs funded under the Elementary and Secondary Education Act. It would stimulate effective Tribal educational planning (such as Mr. Patero has already done on the Navajo Reservation), it would provide an additional strong thrust in the direction of Tribally controlled schools, it would enhance Tribal sovereignty and it would provide an additional strong stimulus to innovative new programs and effective educational alternatives on Indian reservations.

This proposed amendment should be carefully studied, revised as necessary, and incorporated into the ESEA by the Senate Labor and Public Welfare Committee.

Proposed draft amendment to ESEA

To provide for the establishment of tribal educational agencies by recognized Indian tribes.

Be it enacted by the Senate and House Representatives of the United States of America in Congress assembled, That Section 801(f) of the Elementary and Secondary Education Act of 1965 (relating to the definition of "local educational agency") is amended by adding at the end thereof the following:

"Such term also includes any Indian tribal school board or other tribal authority established by a recognized Indian tribe which performs substantial governmental functions within an Indian reservation and has authorized such board or authority to have administrative control and direction of an elementary or secondary school for Indian children within its reservation."

Sec. 2. Section 801(k) of the Elementary and Secondary Education Act of 1965 (relating to the definition of "State educational agency") is further amended by adding at the end thereof the following:

"*Provided, however,* that any recognized Indian tribe which performs substantial governmental functions within an Indian reservation shall be entitled to elect to serve as the "State educational agency" for such reservation, and the term "State educational agency" shall include any such tribe which has filed such an election with the Secretary."

Recommendation IV—Public Law 874

The lack of relevant data regarding the Indian entitlement under P.L. 874 makes it impossible to arrive at any comprehensive recommendation regarding this program at this time. During the hearings on the Indian Education Act, it became apparent that Part A of the Indian Education Act would not serve as a satisfactory substitute for basic Indian entitlements under P.L. 874. Too many school districts with large Indian enrollment, were so dependent on P.L. 874 funds for general operating revenues that they probably could not continue to exist without them. The general rationale that was arrived at in those hearings and Committee mark-up was that P.L. 874 should continue as a basic support program and that Part A of the Indian Education Act would serve to meet the compensatory and special educational needs of Indian students.

This is still a sound rationale in my judgment, but as the level of funding for Part A substantially increases, this matter deserves further analysis and consideration. The real question, however, is not duplication, but rather whether or not at certain levels of funding Part A can become an equitable replacement and more effective funding agent than the "in lieu of taxes" approach of P.L. 874.

In the meantime, one procedural recommendation deserves immediate implementation by the Office of Education. Sufficient evidence exists of substantial abuses in the allocation of resources by P.L. 874 districts, and remedy by litigation which was the *approach* utilized by Indians in Gallup-McKinley County, New Mexico is far too costly and time consuming a burden to be borne by Indian communities. The Office of Education should establish procedures which would enable the Administration of P.L. 874 to determine whether Indian children share equally in the allocation of Impact Aid funds and to require local school districts to distribute these funds equally. If the Office of Education will not take this step of its own volition, it should be mandated by Congress.

Recommendation V—Indian Education Act

Part A of the Indian Education Act has great promise and is far superior in its provisions than previous law. However, it is not an automatic panacea to the problem of widespread abuses at the local school district level. Prejudice, ignorance and discrimination are deepseated problems and it is only prudent to assume that many public school districts will continue to attempt to misuse Indian Education Act moneys in the same fashion they have grown accustomed to under previous law.

I recommend that the Office of Education develop a strong and substantial program audit and technical assistance program built around a core of well trained Indian program auditors and technical assistance specialists. These Indian auditors can serve three important functions. First, they will serve as technical assistance and training advisors for parent advisory committees at the local school district level. Second, they will serve as independent program auditors for the Office of Education and the National Advisory Council on Indian Education. Third, they can serve as third party trouble-shooters for those projects that are in trouble or not living up to the rules and regulations.

The advantages of this program are as evident as the necessity for it. The program will provide an infrastructure of trained Indian professionals to maximize the potential and effectiveness of the parent advisory committees, to substantially increase the quality of programs under Part A, to minimize, arbitrate and remedy school district abuses of Part A programs, and to provide the Indian community, the Indian Education Act administration and the National Advisory Council with the kinds of information necessary for policy decisions and full accountability.

I would also recommend that the requirement for independent program auditors should be made a part of the Indian Education Act and be incorporated into the rules and regulations under which the Indian Education Act is administered. The present approach, being developed under contract for the Office of Education, of developing a management information system, supplemented by field questionnaires is not satisfactory. It will not provide the information needed for policy decisions or full accountability, it will not really serve to strengthen the parent advisory committees, it will not develop a new cadre of trained Indian professionals and it will not serve to effectively overcome abuses by public school districts.

Recommendation VI—An exemplary federal school system for Indian students

The Federal government, under the Bureau of Indian Affairs, administers an extensive Federal School System for Indian students. An analysis of this program is beyond the scope of this paper but one thing is clear. This Federal School System should provide exemplary models and leadership for the development of effective educational programs for Indian students in public shcools.

Beginning with President Johnson's Special Message to Congress on Indian Affairs in 1968 and strongly reinforced and delineated by the recommendations of the Senate Subcommittee on Indian Education, the need and desirability of an exemplary Federal School System for Indian students has been well established. Yet little has been accomplished.

Congress should request the Bureau of Indian Affairs working in conjunction with the Office of Education and the National Advisory Council on Indian Education, to prepare a detailed set of specifications for such an exemplary system and a blueprint for how it can be achieved. This report should be extensively discussed and considered in public hearings conducted by the appropriate committees of the House and Senate. On the basis of these hearings legislation should be drafted and passed providing for an Exemplary Federal School System for Indian Children.

The time has come when it must be recognized that without a plan, without focused public hearings and without the mandate of new law, an exemplary program is only a pipedream. And all Indian children will continue to suffer the adverse consequences.

CATTLE PRICES AND BEEF PRICES

Mr. McGOVERN. Mr. President, today the Subcommittee of Agricultural Production, Marketing and Stabilization of Prices, of the Committee on Agriculture and Forestry, held the first of 2 days of hearings into the price of cattle at the farm level, and the price of beef in the supermarket.

Our cattle ranchers and feeders are taking the worst financial beatings of their lives. At today's hearing, the first vice president of the American National Cattlemen's Association, Mr. Wray Finney of Fort Cobb, Okla., and C. W. McMillan, executive vice president of the American National Cattlemen's Association, presented a most enlightening statement which detailed the predicament which has caught up the cattle industry in the early part of 1974.

Mr. President, I ask unanimous consent that the statement of the American National Cattlemen's Association, together with my remarks at the opening of the hearing, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement of the American National Cattlemen's Association

(By Wray Finney)

My name is Wray Finney. I operate a cattle ranch at Ft. Cobb, Oklahoma and I also feed cattle. I am first vice president of the American National Cattlemen's Association, the national beef cattle trade association representing 150,000 cattlemen.

Our industry is made up of two basic groups: (1) The ranchers and farmers with beef cow herds or stocker operations producing feeder cattle; and (2) the cattle feeders and feedlot operators who purchase the feeder cattle and finish them out for market on grain rations. It is the consumer demand for this quality, choice beef which has brought continued growth of the cattle industry and a continued increase in per capita consumption of beef.

For almost a year—ever since imposition of the government's beef price freeze on March 29, 1973—the beef cattle industry has been in a state of economic chaos. As we predicted when it was imposed, the price freeze has had detrimental effects which will be felt for years to come.

A year ago, cattle feeders were making a profit. Today they are sustaining the largest losses in history, and many have been, or are on the verge of being, forced to go out of business or cut back sharply on their operations. With feed and other costs at record high levels, breakeven prices on slaughter cattle are $10 or more per hundredweight higher than slaughter cattle prices. Feeders are currently losing more than $100 per head on cattle marketed. Feeders have sustained losses continuously since September, 1973. This is shown in Table I.

The losses in the feedlot industry have reduced demand for the feeder cattle produced by ranchers and farmers. Feeder cattle prices are down sharply from their 1973 highs. The over-all price problem threatens the future health of the total beef cattle industry and thus the available consumer beef supply in the future.

SLAUGHTER CATTLE AND WHOLESALE BEEF PRICES

In a free market business like cattle and beef, the price is set by supply and demand at the time of the transaction. There always are price fluctuations from day to day or week to week. However, the fluctuations as illustrated in Table II, have been extremely wide since April, 1973. This is because of the disruptive effects of the economic stabilization program.

Average weekly cattle prices reached their high points during late July, August and early September. This was the time when retailers were having cattle custom-killed in order to obtain supplies. After removal of the retail beef price freeze in September, cattle prices tumbled to less than $40 per hundredweight—the largest price decrease in history. The decline reflected an increase in availability and slaughter of cattle not moved during the freeze period.

The strengthening cattle price trend in December resulted from a partial clean-up of "over-done" cattle; increased retail featuring of beef; and light slaughter as a result of holiday interruptions.

Cattle prices declined again in February and March. This was because the industry never got current in its sale of market-ready cattle. Then the truck strike caused a further back-up of cattle in the country.

While wholesale beef prices rose to new highs because of shortages brought on by the truck shut-down, the limited market for live cattle caused prices to feeders to decline. Also, consumer demand has been sluggish for weeks. This has been attributed to a slow-down in the economy, inflationary pressures on consumer buying power, retail prices averaging as high as or higher than at any time in the past, and less than normal amounts of retail featuring of beef due to the price ceilings of last year and margin controls still in effect by the Cost of Living Council.

GRAIN AND FEEDER CATTLE PRICES

Feed grains now cost twice as much as a year ago. As shown in Table IV, corn prices jumped from $1.65 per bushel last April to $3.00 today. With world demand for grain continuing strong, feed prices likely will remain high in the months ahead.

Feeder cattle prices, reflecting trends in fed cattle prices, rose to new highs in the summer of 1973. Weekly average prices at Oklahoma City reached a high of more than $68 last August. Subsequently, as prospects for profits from feeding dimmed, feeder cattle prices declined, and by the latter part of February, the average was down to $49 per hundredweight.

Along with the earlier rise in costs of feeder cattle, the continuing increases in feed costs brought a constant uptrend in cattle feeding costs, while slaughter cattle prices were declining.

CATTLE FEEDING PROFIT OR LOSS

Table I, referred to earlier, shows estimated breakeven prices, actual slaughter cattle prices and cattle feeders' profit or loss since last April. During the first part of the period, costs and slaughter cattle prices were such that feeders were making a profit. Beginning in September, cattle feeders went into a loss situation which has continued for six months. For the entire industry, losses since September total approximately $1 billion.

The cost of a pound of gain in the feedlot was 27¢ back in October, 1972. Today, reflecting much higher feed costs, the average cost of putting a pound of gain on a steer is approximately 51¢, and it is projected to increase to 55¢ by summer. To these costs must be added interest charges of about 3¢ per pound of gain.

Another major problem for the cattle feeder during the past year was the government's ban on use of diethylstilbestrol (DES) for cattle. Use of this growth stimulant has been shown to increase feed efficiency by at least 10%, in addition to shortening the period on feed and thereby reducing costs. Even though alternate substances have been used, had stilbestrol continued to be available, many feeders could have lowered their costs of gain by as much as 3¢ or 4¢ per pound. This would have minimized their losses or given them a profit on some cattle.

Barring periods such as the early 1960's when much of the industry went bankrupt, the current losses are much more severe than ever before. At this point, a large portion of the equity of feeders (both individuals and investor feeders) has been lost. And, based on projected breakeven levels, it seems unlikely that feeders will be in a profit position prior to the middle of 1974, if by then. Furthermore, financial institutions are expressing concern about the reduced or lost equity of cattle feeders, and the survival of many feeding operations is threatened.

FEEDLOT PLACEMENTS

Monthly placements of cattle on feed have continued below a year earlier since last April. The reductions have been caused by the 1973 boycotts and price freeze, which reduced the incentive to feed cattle, and by financial losses, high costs of gain and general uncertainties about the future. Numbers of cattle available to be placed in feedlots were up 5% in 1973, but actual placements were down 8%. The reduction in cattle placed on feed totaled 2.7 million head, which represents a tremendous amount of beef.

As a result of the reductions in placements in feedlots, numbers of cattle on feed dropped below a year earlier by late in 1973. Only because 1973 slaughter levels were below 1972 did numbers of cattle on feed remain ahead of the preceding year until November.

At this time, there continues to be more cattle available for placement in feedlots than a year ago. However, the current state of the feeding industry restricts interest in purchasing feeder cattle. Generally, cattle placed in feedlots are marketed as slaughter cattle about 180 days later. Therefore, if placements continue to lag, supplies of slaughter cattle will be down later in 1974.

CURRENT SITUATION AND OUTLOOK

At present there are large supplies of cattle in feedlots which are or will be ready for market. The back-up of cattle was caused by marketing disruptions from price controls, the recent truck strike, and economic conditions in the industry, including lagging demand.

All of this means that cattle feeding can provide cattle in large amounts—supporting a weekly federally inspected slaughter of 620,000 to 640,000 head of cattle—for the next two or three months, and possibly even longer.

To move the dressed beef in the volume necessary, however, there must be adequate transportation. The current speed limits have greatly reduced the effective carrying capacity of refrigerated trucks. That is why it is important that Congress adopt legislation permitting heavier and longer trucks on the interstate highways.

If the cattle industry is to recover soon from its current depressed condition, it is necessary to move the present burdensome supplies quickly. Therefore, stepped up featuring of beef by retailers is imperative, in order to increase consumer demand, and then there must be transportation available to take the product to market. Also, there must be action to help forestall any more truck stoppages.

Meanwhile, looking further ahead, the current crisis in cattle feeding threatens the future of the basic cow herd. If feeder cattle prices continue to decline, there may be liquidations of basic herds. An indication of a cutback is seen in an increase of 16% in the size of cow slaughter in January, as compared with a year earlier. Producers who have the alternative of converting pasture acres to crops (in order to return more dollars) may switch away from the production of feeder cattle. Up to this time, the basic beef cow herd has been increasing in size, but the outlook will change if the cattle industry cannot soon see prospects for adequate returns in the years ahead.

Feeding costs are likely to continue high for some time. Export of grain in order to insure a favorable balance of international payments the fertilizer shortage and small grain reserves all add up to prospects for high grain prices. At the same time, there is a limit on how high beef and cattle prices can go in the marketplace.

If feed costs cannot come down and if slaughter cattle and beef prices can go only so high, there is more pressure on the one remaining area which determines feeding profit or loss—and that is the price of the feeder cattle. It is the nature of the cow man to continue producing feeder cattle. But, if he cannot see a profit in his future, he has no choice but to get out.

Thus, we see that the survival and stability of both segments of the beef cattle industry—the cow-calf operators and also the cattle feeders—hinge on early relief from the present disastrous price situation.

CORRECTIVE ACTION

The American National Cattlemen's Association recommends the following actions in order to help improve the beef cattle industry situation and thereby to help assure adequate supplies of beef to consumers:

1. The Administration should immediately end the economic stabilization program on food, rather than wait for expiration of the ill-conceived Economic Stabilization Act on April 30, 1974. Termination of the program will help restore the total industry, from producer to retailer, to the normal free, competitive market system. In a commodity business geared to the law of supply and demand, only a free market system will bring more favorable supplies and prices. Cattle producers and feeders will have more confidence in the future, and stability will be added to the total industry. Thus, the consumer will also receive the benefits.

Also, the present Economic Stabilization Act should be permitted to expire. If stand-by control authority is maintained, the temptation of political expediency will be forever present.

2. The Congress should enact emergency legislation to permit additional weight per axle and longer truck lengths. This is necessary to help offset the reductions in cattle and beef carrying capacity resulting from the 55 mile per hour speed limit.

3. Both the Congress and the Administration must recognize the vital importance of modern production tools—such as feed additives which improve feeding efficiency—in helping to reduce production costs and provide adequate supplies of beef at reasonable prices. Government must avoid laws and regulations which unnecessarily restrict use of modern technology. Stepped up production research also should be authorized and funded.

4. Government agencies which purchase beef should take advantage of the current large supplies and low wholesale prices and increase their purchases. This can result in economies to the government and can help move the present burdensome supplies to beef on the hoof.

TABLE I.—CATTLE FEEDING PROFIT OR LOSS SITUATION, MONTHLY FOR CATTLE SOLD BETWEEN APRIL 1973 AND FEBRUARY 1974[1]

Month sold	Estimated breakeven price per hundredweight	Actual price choice steers, Omaha, hundredweight	Profit or (loss) per head	Cattle marketed 7 States (1,000 head)	Total profit or (loss)
1973:					
April	$37.94	$44.90	$73.08	1,440	$105,035,200
May	38.66	45.96	76.65	1,688	129,385,200
June	40.06	46.99	72.77	1,557	113,302,890
July	42.49	47.93	57.12	1,498	85,565,760
August	46.19	53.45	76.23	1,410	107,484,300
September	49.75	45.46	45.05	1,490	67,124,500
October	48.93	41.82	74.66	1,753	130,878,980
November	50.69	39.88	113.51	1,642	186,383,420
December	57.50	38.82	133.14	1,560	207,698,400
1974:					
January	$53.91	$46.92	$73.40	1,521	$111,641,400
February	58.85	46.01	134.82	[2] 1,500	202,230,000
Total, September 1973–February 1974					905,956,700
March	55.30				
April	53.94				
May	54.19				
June	52.60				
July	55.14				
August	54.51				

[1] Breakeven-prices are based on average prices paid for feeder cattle and estimated average costs of gain, with actual costs higher or lower in different areas. The figures are based on steers entering the feedlot at 600 lb, being fed for 180 days and then marketed at a weight of 1,050 lb. The total industry profits or losses are estimated on the basis of total fed cattle marketed from the 7 principal feeding States, which account for 70 percent of cattle on feed in the United States. These 7 States are Arizona, California, Colorado, Iowa, Kansas, Nebraska, Texas.

[2] Estimated.

TABLE II

Week ended	Price choice steers, Omaha	Feeder cattle, 500-600 lbs, Oklahoma City	Wholesale beef choice, Midwest, 600–700 lbs	Corn prices, Chicago, per bushel	Retail price, ERS data
Apr. 7	$44.67	$52.40	$69.55	$1.65 for April	$1.36 for April.
14	44.72	52.35	70.69		
21	45.26	54.82	69.60		
28	44.94	56.90	67.60		
May 5	45.16	57.20	68.15	$2.01 for May	$1.36 for May.
12	45.55	55 85	68.95		
19	45.91	55.62	68.45		
26	46.36	55.82	68.38		
June 2	46.82	54.00	69.25	$2.42 for June	$1.355 for June.
9	47.02	55.80	NA		
16	47.13	55.50	70.95		
23	46.92	55.50	70.19		
30	46.90	55.70	70.85		
July 7	47.06	55.75	70.94	$2.52 for July	$1.363 for July.
14	47.24	57.60	70.80		
21	48.24	59.40	71.00		
28	49.19	63.60	(1)		
Aug. 4	51.45	67.10	(1)	$2.91 for August	$1.442 for August.
11	54.51	68.60	(1)		
18	56.55	68.20	(1)		
25	53.48	66.60	(1)		
Sept. 1	51.25	64.40	(1)	$2.47 for September	$1.449 for September.
8	49.61	64.00	75.88		
15	48.47	62.00	75.40		
22	$45.15	$59.50	$69.40		
29	38.62	54.60	63.69		
Oct. 6	42.11	57.50	65.00	$2.37 for October	$1.360 for October.
13	42.05	57.50	65.00		
20	42.00	56.30	61.56		
27	41.85	54.70	64.19		
Nov. 3	41.09	54.70	64.95	$2.50 for November	$1.349 for November.
10	40.27	53.50	63.81		
17	40.26	53.60	59.25		
24	39.79	55.25	60.58		
Dec. 1	39.20	55.00	61.80	$2.68 for December	$1.344 for December.
8	37.03	50.20	61.13		
15	37.32	49.30	66.00		
22	39.80	50.20	66.20		
29	41.14	50.50	67.75		
Jan. 5	42.66	50.75	58.56	$2.90 for January	$1.430 for January.
12	47.88	53.45	75.00		
19	47.74	54.50	77.50		
26	48.22	53.30	74.45		
Feb. 2	48.10	53.00	76.20	$3 (estimate)	
9	48.18	52.80	84.94		
16	46.51	51.40	74.25		
23	43.34	49.25	69.94		

[1] Period of custom killing.

TABLE III.—MONTHLY AVERAGE FEEDER CATTLE AND CORN PRICES

Month	Feeder steers (500–600 lb) Oklahoma City hundredweight	Corn price, Chicago (monthly average) bushel
April 1973	$54.12	$1.65
May 1973	55.70	2.01
June 1973	55.63	2.42
July 1973	59.09	2.52
August 1973	66.98	2.91
September 1973	60.03	2.47
October 1973	56.14	2.37
November 1973	54.34	2.50
December 1973	50.05	2.68
January 1974	53.00	2.90
February 1974	51.15	[1] 3.00

[1] Estimated.

STATEMENT OF SENATOR GEORGE MCGOVERN

Mr. Chairman, the subject of these hearings—the wide spread between the farm price and the retail price of beef, and the disastrous pinch in which our cattle growers and feeders are caught—is a most timely one, and I commend you for calling these hearings.

I think it is important that the Subcommittee examine the precise nature of the situation confronting our meat industry, determine how we got into the present predicament, and look for ways to get out of it.

To find out how we got here, let us go back a year ago this month. The television news programs in March of 1973 were carrying almost daily stories about the consumer beef boycotts, the high price of beef, and quoting our Secretary of Agriculture as saying that anybody who would freeze the price of meat was "a damn fool."

Yet, before the month was over, some damn fool did freeze the price of meat, and we've been living with the consequences ever since. I am sure that every member of the Committee, and a large majority of the Congress, agrees with me that meat price controls were the largest single mistake that this Administration has made under the Economic Stabilization authority which Congress has granted.

Livestock is important to my State. Last year, the sale of livestock and livestock products accounted for $1.23 billion in cash income in South Dakota. No other industry, or other segment of agriculture, comes close to that. We are dealing with the real backbone of my State's economy.

Today, the cattle ranchers and feeders in my State, as well as those in the rest of the Nation, are taking the worst financial beating of their lives. And that financial squeeze has dangerous implications, not only from the cattlemen and the South Dakota economy, but in the long run for every consumer.

Let's look at the factors which created this situation:

First, the fat cattle now moving out of the feedlots into the market were bought as calves or feeder cattle last fall at relatively high prices—some as high as 60 to 80 cents a pound.

Second, fattening these cattle to slaughter weight cost the feeder somewhere in the area of 50 cents a pound, sometimes more. Some feeders estimate the cost of gain, per pound, as high as 56 cents.

Third, there has been a sharp drop in market prices. Slaughter cattle are getting, at best, 42 to 43 cents per pound. So every fed steer or fed heifer sold today results in heavy financial loss to the feeder—somewhere between $100 and $200 a head.

Faced with losses of that magnitude, cattle feeders are not inclined to buy feeder cattle to replace those they just sold. And that reduced demand means lower prices to the cattle rancher who produces the feeder cattle.

Over the long haul, it also means sharply reduced meat supply—like the shortages in the supermarkets of last fall—and sharply higher retail prices.

Without any question, the critical situation we find today has part of its origin right here in Washington. Since the price freeze, the problem has been compounded by the complete removal of restrictions against imported beef, by the Administration's refusal to buy more beef for the school lunch program, and by its refusal to head off a trucker strike which caused additional disruptions.

Because much of the problem has its roots in Federal mistakes, we have an obligation to come up with some solutions. So I would like to offer four recommendations—two short-term, two long-term—which might help.

First, the Administration should immediately restore quotas to stop the heavy shipments of imported beef into this country. Last year, the U.S. imported 1,989,000,000 pounds of beef—almost 10 per cent of our total 1973 beef consumption of 22,788,000,000 pounds.

It is clear from the White House statement, when the lid came off beef imports, that they feel imports have a direct effect on prices. Press Secretary Warren said last month that more imports will increase supplies and thus have an impact on prices.

This Administration should look for a way to have an impact to increase prices to the cattle producer, not drive them down.

Second, the Agriculture Department should buy much more beef for the school lunch and commodity distribution programs, and the Defense Department should buy more for the military services. Last month, USDA stopped buying beef for school lunches after buying only 45 million pounds—less than half of what it bought in 1970.

Each of these actions would have, at the very least, a good psychological impact on the cattle market. And in the case of imports, which account for nearly 10 per cent of supply, the impact can be greater than just psychological.

Third, the Federal Trade Commission should attach the highest priority to its investigation of the wide spread between the farm price and the supermarket price of beef.

There is no reason for retail beef prices to continue at or near their high levels of last year, when the farm price has dropped by one-third or more.

This week, we are beginning to see some break in retail prices—no doubt as a result of the public pressure from a number of us in the Congress, spokesmen for the cattle industry, and one or two lonely voices in the Administration.

Let us now hope that those retailers who promoted hard last year to sell substitutes for beef now promote equally hard to stimulate a return to beef.

Fourth, we should sharply increase our efforts to export beef and other livestock products. This Nation has done an outstanding job developing markets for wheat and feed grains. Last year's beef exports showed a significant increase—80 million pounds, compared with 50 million pounds a year earlier. Any Nation that can develop export markets for three-fourths of its wheat certainly can find markets for its beef in foreign capitals where retail beef prices are now $5 and $10 per pound.

Members of the Committee on Agriculture and Forestry are unanimous, I believe, in wanting a fair break for our cattle ranchers and feeders. Let us urge the Administration to join us.

Cattlemen are not asking for a Federal subsidy—the livestock industry traditionally has avoided that. But what they want is a chance to make a fair living, without the Government interference that comes from a price freeze or unlimited imports. It is a fair request, and one which I hope the Administration will grant.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. ABOUREZK). Is there further morning business? If not, morning business is concluded.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination on the Executive Calendar will be stated.

DEPARTMENT OF THE INTERIOR

The second assistant legislative clerk read the nomination of Royston C. Hughes, of Maryland, to be an Assistant Secretary of the Interior.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

CAPITAL PUNISHMENT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 1401, which the clerk will state.

The second assistant legislative clerk read as follows:

S. 1401, to establish a rational criteria for the mandatory imposition of the sentence of death, and for other purposes.

The Senate resumed the consideration of the bill.

SENATOR KENNEDY COMMENDED FOR AMENDED REMARKS

Mr. HELMS. Mr. President, I rise to commend the distinguished Senator from Massachusetts (Mr. KENNEDY) for removing from the RECORD some extemporaneous and, I am sure, some unintended remarks made by him yesterday afternoon in this Chamber concerning my State and, by implication, the judicial system of North Carolina.

His amended remarks, as published in the RECORD, are quite satisfactory to me; and I do not find them offensive in the slightest. However, as the distinguished Senator from Massachusetts and a few other Senators who were on the floor of the Senate at the time are aware, I did question some oral statements on the floor yesterday.

Mr. President, it so happens that I was presiding at the time, just before 5 p.m. At 5 p.m., I was succeeded in the chair by the distinguished Senator from Ohio (Mr. METZENBAUM). The comments by the distinguished Senator from Massachusetts, which I questioned, were made shortly before I left the chair. Immediately thereafter, I made inquiry of Senator KENNEDY as to the basis of his comments concerning my State.

As Senator KENNEDY will recall, he orally referred implicitly to "systematic" exclusion of blacks from the jury in the North Carolina case which he was discussing. He rather strongly suggested that the victim of the rape may have consented to sexual intercourse with the man convicted of raping her. There were other statements which, altogether, seemed to me to portray my State and its judicial system in a rather bad light.

I am comforted, Mr. President, by the fact that the distinguished Senator from Massachusetts perhaps had second thoughts about these suggestions. In any case, the comments by him which I questioned yesterday do not appear in the RECORD of March 12. I thank the distinguished Senator for the decision to exclude them from the RECORD.

AMENDMENT NO. 1019

The **PRESIDING OFFICER**. The question is on agreeing to the amendment of the Senator from Colorado (Mr. HASKELL) No. 1019.

Mr. **HASKELL**. Mr. President, I ask unanimous consent that Balvino S. Martinez Chaves of my staff be accorded the privilege of the floor during debate and the vote on this amendment and on final passage of S. 1401.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **HASKELL**. Mr. President, my amendment is very simple. It would merely substitute the word "may" for "shall" on page 15, line 3, and on page 16, line 2.

The bill, without my amendment, would make mandatory the imposition of a death sentence. I will give one example of what I would consider to be an unintended effect. I call the Chair's attention to line 14 on page 16 where the offense is destruction of Government property by explosives which, incidentally, if a death is inadvertently caused, would require the death penalty.

Now that line on that particular page of the bill is an aggravating circumstance under which a judge would have no alternative but to impose the death sentence.

Take, for example, a situation where—this is absurd, I admit, but I am using the absurdity to illustrate my point—a picnic table in a national park is destroyed by an explosive and someone is unwittingly killed. Under the reading of this statute, the death sentence would have to be imposed.

Now I recognize that on page 14, line 20, there is a possible mitigating circumstance which a jury might find. The jury might find that the offending person could not reasonably have foreseen that his action would result in death.

But suppose a jury did not make such a finding, juries have been known to err. Then the judge has absolutely no discretion. This man must be put to death.

My amendment would provide that if aggravating circumstances are present, the judge has discretion whether to impose the death penalty.

Now let us come to the decision in the Furman case by the Supreme Court of the United States. I think, first, I should like to call the attention of the Chair to a comment of the Chief Justice in that case, on page 403, where the Chief Justice says:

> Since there is no majority of the Court on the ultimate issue presented—in these cases—

That is the constitutional issue—

> The future of capital punishment in this country has been left in an uncertain limbo. Rather than providing a final and unambiguous answer on the basic constitutional question, the collective impact of the majority's ruling is to demand an undetermined measure of change from the various State legislatures and the Congress.

Now of the majority of five Justices in that case, three found the death penalty unconstitutional, and two were concerned not with the constitutionality of capital punishment per se but placed special emphasis on the fact that the judges had broad discretion.

I would call the Chair's attention to the fact that with my amendment, the bill has standards. There are certain cases where the court and the jury may not, under any circumstances, impose the death penalty. There are certain cases where, the standards being spelled out, a court may impose the death penalty. Therefore, I have concluded—one should never be absolutely certain, Mr. President, of anything—beyond any shadow of a doubt that the proposed statute, with my amendment, satisfies the standards implied in the court's opinion, yet prevents the unintended result of putting a man to death under the circumstances I have related.

Let me say in conclusion that it is all very well to have a mechanical result in a tax statute because then all a person can lose is his money, but to have a mechanical test in a statute where a man can lose his life, that is certainly something we in this body do not want to pass.

Mr. President, that concludes my presentation.

I ask for the yeas and nays on my amendment.

There was not a sufficient second.

Mr. **HASKELL**. Mr. President, I suggest the absence of a quorum.

Mr. **McCLELLAN**. Mr. President, will the Senator withhold that request for a moment?

Mr. **HASKELL**. I withhold my request.

Mr. **McCLELLAN**. Mr. President, I want to expedite the matter of disposing of this amendment and other amendments today, to the end that we may finish the bill sometime this afternoon at a reasonable hour, so that we can accommodate the wishes of many Members of this body, including myself to try to get this bill out of the way as expeditiously as possible.

I certainly shall support the request for a rollcall vote, Mr. President. I do want to make a few remarks, and I will withhold my remarks pending the quorum call and until we can get the yeas and nays. I hope the Sergeant at Arms will help us to get the required number of Senators in the Chamber to provide the proper second to the request, so that we may move expeditiously.

Mr. **HASKELL**. I thank the Senator from Arkansas.

Mr. President, I suggest the absence of a quorum, and in the meantime the Sergeant at Arms might see whether we can get the requisite quorum.

The **PRESIDING OFFICER**. The Sergeant at Arms is requested to do so.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

DETERMINING TONNAGE ON VESSELS USED FOR WASTE MATERIALS

Mr. **ROBERT C. BYRD**. Mr. President, it is my understanding that the measure I am about to call up has been cleared on both sides of the aisle.

I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 706, S. 1353.

The **PRESIDING OFFICER** (Mr. ABOUREZK). The bill will be stated by title.

The second assistant legislative clerk read as follows:

> A bill (S. 1353) to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials.

The **PRESIDING OFFICER**. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with amendments on page 1, line 5, after the word "new", strike out "paragraph" and insert "subsection"; in line 7, after the word "clarify", strike out "or"; in the same line, after the word "purify", insert "or process"; in line 8, after the word "mixture", strike out "or"; in the same line, after the word "residue", insert "bilge residue,"; in line 9, after the word "sewage", insert "garbage, galley wastes, or trash"; in line 10, after the word "tank", strike out "or"; in the same line, after the word "tanks", insert "or collection area"; and, in line 11, after the word "carriage", insert "or collection"; so as to make the bill read:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 4153 of the Revised Statutes (46 U.S.C. 77) is amended by inserting following subsection (d) the following new subsection:
>
> "(e) Space occupied by machinery used exclusively to separate, clarify, purify, or process, a ship's own slop oil mixture, tank-

cleaning residue, bilge residue, or other waste materials, including sewage, garbage, galley wastes, or trash and space occupied by any tank, tanks, or collection area used exclusively for the carriage or collection of such slop oil mixture, tank-cleaning residue, or other waste materials, but not to exceed a maximum space deduction established by regulations hereunder. The Secretary of the department in which the Coast Guard is operating in consultation with the Administrator of the Environmental Protection Agency, shall issue regulations to define the slop oil mixtures, cleaning residue, and waste materials, establish the maximum deductions which may be made, define the manner in which the spaces shall be used and marked, and as necessary otherwise to carry out the provisions of this subsection."

SEC. 2. Section 4153 of the Revised Statutes (46 U.S.C. 77) is further amended by redesignating existing subsections (e) through (i) as (f) through (j).

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

REPORT OF ARMS CONTROL AND DISARMAMENT AGENCY—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. ABOUREZK) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Foreign Relations. The message is as follows:

To the Congress of the United States:

Technology in the Nuclear Age has become capable of virtually global devastation. We are thus called upon as never before in the history of American diplomacy—both by our traditions and by unprecedented responsibilities—to assume a role of leadership in seeking international arms restraints. This is a most important element of that structure of peace which is the broader goal of our foreign policy.

The coordinating instrument for this effort within our Government is the U.S. Arms Control and Disarmament Agency, now entering its fourteenth year. It has been the policy of my Administration to strengthen this Agency and to equip it for the essential role it must play in promoting our national security.

The year 1973 was a time of sustained effort and continued progress in arms control, building upon earlier achievements and laying the ground for future agreements which will be of utmost importance for our security and well-being.

It is with deep satisfaction in our continuing progress that I transmit to the Congress this thirteenth annual report of the U.S. Arms Control and Disarmament Agency.

RICHARD NIXON.

THE WHITE HOUSE, *March 13, 1974.*

CAPITAL PUNISHMENT

The Senate continued with the consideration of the bill (S. 1401) to establish a rational criteria for the mandatory imposition of the sentence of death, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the yeas and nays be ordered on the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Colorado (Mr. HASKELL). The Senator from Arkansas is recognized.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for just 1 minute?

Mr. McCLELLAN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I hesitate to ask that the yeas and nays be ordered by unanimous consent but I am also reluctant to see the Senate tied up for 30, 40, or 60 minutes waiting for seven additional Senators to get to the floor to order the yeas and nays. I also am reluctant to interrupt committee hearings by asking for a live quorum.

I thank the Senator for yielding.

Mr. McCLELLAN. I wish to express my appreciation to the acting majority leader for having taken this action in an effort to expedite further consideration of the measure.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, I have carefully considered the amendments proposed by the distinguished Senator from Colorado (Mr. HASKELL). Last night, after the Senate recessed, I once again read the opinions of Justices Stewart and White in the Furman case, as well as the opinion of Chief Justice Burger, which the Senator cited in support of his amendment.

Parenthetically, I would like to say that personally I would like to be able to support the amendment in order to provide discretion to the jury or judge trying these cases. But that is the very defect in the present system that brings this legislation to the floor today. That is the very defect that caused the reversal in the Furman case. That is the defect this bill seeks to correct.

I am persuaded that if this amendment were agreed to and the word "may" inserted where the word "shall" now appears, we would be engaging in an effort in futility. For it is the discretion that has heretofore been reposed in the courts and juries that the Supreme Court condemned in the Furman decision. It is this discretion that the Court found permitted the wanton and freakish application of the death penalty which Justices Stewart and White so vigorously protested.

This is a bill to try to make the death penalty mandatory under standards of the highest order that we can conceive, taking into account the right of society to be protected from murder. There are five mitigating circumstances, any one of which, if present, requires that the death penalty not be imposed.

There are eight aggravating circumstances. If one or more of these is present and none of the mitigating circumstances is present, then the death sentence is required.

I, too, would much prefer from my personal standpoint a constitutional law that permitted at least a measure of the discretion which the Senator seeks. Unfortunately, Furman does not allow that. But the standards included in this bill are certainly the highest I can conceive of and the highest that the committee has been able to work out. They require the death penalty to be imposed only in the most atrocious cases of murder.

As I started to say before having again read the opinions of Justices Stewart and White, I must oppose this amendment. I do so, as I just stated, because I sincerely believe that if they are adopted, the bill would be subject to the same objections that led Justice Stewart and Justice White to join with Justice Brennan, Justice Marshall, and Justice Douglas in declaring the death penalty unconstitutional in the Furman case.

One who does not believe in the death penalty under any circumstances might find some refuge in the Senator's amendment, but I do not subscribe to that view.

As I have said repeatedly, there are such atrocious crimes that those who commit them should forfeit their right to live. They constitute a continuing danger to society. Even if incarcerated under guard, they may still have the opportunity to repeat the crime. Care must be taken to at least try to enact a constitutional law.

With the amendment, a judge could ignore the standards in the bill and nothing could be done about it. Once we give him the power, the discretion, to decide the final word is with him. That is what the Justices objected to—that the law ought to say the final word, not a jury or judge. Under this bill, once a jury makes a specific finding of fact that none of these mitigating circumstances exist and at least one aggravating circumstance exists, then the death penalty applies. On the other hand, if one mitigating circumstance, as reflected in this bill, is present, no judge may impose death. It works both ways. The law makes the decision, not the judge, not the jury.

The amendment proposed by the Senator from Colorado would vitiate this objective. Once again the imposition of the death sentence would be left to "unfettered discretion." The discretion of the judge or jury would not be limited in any way. The judge would not be required to impose the penalty no matter how many of the aggravating factors existed—not even if all eight aggravating factors—were present and none of the mitigating factors. To paraphrase the very words of Justice White, the legislative will would not be frustrated if the penalty were never imposed. Likewise, there would be nothing to prevent the wanton and freakish results deplored by Justice Stewart from recurring.

The Senator from Colorado cites the opinion of Chief Justice Burger in support of his amendments. In that opinion the Chief Justice also stated:

> There is little reason to believe that sentencing standards in any form will substantially alter the discretionary character of the prevailing system of sentencing in capital cases.

He therefore has some doubts that even the standards in the bill as drafted will relieve or eliminate the problems of Furman, a fortiori, the amendments proposed by the Senator from Colorado would do nothing to remedy the situation.

I recognize that the Senator from Colorado is genuinely concerned. I have talked with him personally about this, and I certainly respect his interest, his concern, his purpose, and his motive.

There is no question that we are dealing here with a problem that is of grave concern to everybody in this Nation. If there is to be a death penalty, then we must set up the guidelines, the standards, to be applied in a manner reasonably certain to be constitutional. We are trying to make application of the law as uniform as possible. Of course, if one believes that under no circumstances should the death penalty be imposed, then he should favor this amendment.

Yesterday the Senator from Colorado cited the example of a violation of one of the explosive offenses where death resulted—but where that death was not foreseeable by the bomber.

I have no sympathy at all for bombers I assure you. But even that case is clearly covered by the mitigating factors in this bill. Under the fifth mitigating factor, if the resulting death was not foreseeable, the death penalty could not be imposed.

I will read that fifth factor, Mr. President:

> He could not reasonably have foressen that his conduct in the course of the commission of a murder or other offense resulting in death for which he was convicted would cause or would create a grave risk of causing death to a person.

If a defendant had no reason to believe that he would cause death, that is a mitigating factor. Though he was responsible for the death, if he could not foresee it, he could not be given the death penalty.

Mr. President, I recognize that there are those who are concerned that a bill that requires that the death penalty be imposed in certain cases may result in unjust executions.

That is exactly what the Supreme Court also complains about. Where there is discretion, it may often result in unjust executions.

To those who are thus concerned, I would urge that they carefully examine the listed "mitigating" factors—the existence of any one of which will prevent that punishment from being imposed. I am confident that they will find that they can conceive of no instance where the death penalty would be unjustly imposed.

I cannot think of any other mitigating factor that should be written into this law that is required to do justice if there is to be any death penalty.

I sincerely believe that the effect of the amendments proposed by the Senator from Colorado would be to perpetuate a defect identified by Justices Stewart and White as controlling their decision in Furman and thereby render this bill unconstitutional.

I believe they would do irreparable violence to this bill. If such amendments were adopted, there could be no legal death penalty imposed hereafter. For that reason, though I respect his motives and his sincerity, I must oppose them.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. McCLELLAN. I have the floor. I am ready to yield the floor or yield to the Senator.

The Senator from Colorado has offered an amendment. If he would prefer to go first, I will yield the floor.

Mr. HASKELL. That will be all right, Mr. President.

Mr. McCLELLAN. Mr. President, I yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I have another matter to attend to. I would like to ask a question at this time.

Mr. McCLELLAN. Mr. President, I yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, did the Senator cite the two cases decided by the Supreme Court of Delaware and the Supreme Court of North Carolina on this precise point?

Mr. McCLELLAN. I did not cite any cases other than refer to the comments of the judges in the Furman case.

Mr. HRUSKA. There are two cases that have been decided, one by the Supreme Court of Delaware and the other by the Supreme Court of North Carolina on this subject. One was decided in Delaware on November 1, 1972. The other was decided in North Carolina on January 18, 1973. They are reported in 12 Criminal Law Reporter at pages 2125 and 2307 respectively.

Both courts considered the constitutionality of statutes that created standards much like those in S. 1401 but permitted the judge or jury to exercise discretion in determining whether the death penalty should be imposed. In short, both statutes were much the same as this statute would be if the amendment under discussion were approved. In both cases, the courts held that this type of statute was unconstitutional in light of Furman against Georgia. To render the statutes constitutional, the courts severed the discretionary aspect leaving the States with mandatory death penalties for certain specified crimes, which is what S. 1401, as now drafted, proposes.

Yesterday, the Senator from Colorado referred to S. 1 saying that it imposed discretionary standards. The Senator is correct. But the committee rejected that approach in favor of the S. 1401 approach which was considered to be based upon a firm constitutional footing. And as my citation to the decisions by the North Carolina and Delaware courts illustrates, it appears that the S. 1 approach is indeed unconstitutional.

Aside from the constitutional issue, I believe that there is another defect in the amendment. Under this amendment, a jury could find that one or more aggravating factors exist and no mitigating factors exist. Yet, the court could, in its discretion, refuse to impose the death penalty. But what are the standards to guide this discretion? There are none. A judge could punish as he willed despite the findings of the jury. If he did not like the death penalty as a form of punishment, he could refuse to impose it for that very reason alone thereby frustrating the will of the jury. In short, his discretion would be unfettered. As a result, the penalty could be imposed in the same "wantonly and freakishly" manner that the Supreme Court held violated the Eighth Amendment. Evenhanded justice could not be attained. In my mind, such a provision is not only unconstitutional but also unwise.

Finally, let me suggest that the basic concern of the distinguished Senator from Colorado, namely that the death penalty will not be imposed upon a defendant who accidentally killed another or who could not reasonably foresee that death would actually result from his conduct—is already satisfied by a mitigating factor found in the bill. Under S. 1401, the death penalty cannot be imposed if the defendant, and I quote mitigating factor 5, "could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which he was convicted would cause, or would create a grave risk of causing, death to any person."

In sum, I believe that the basic concern of the Senator from Colorado—namely, that the penalty not be imposed unjustly—is met by S. 1401 as now drafted. I ask my colleagues not to amend the bill in such a way that it calls into question the constitutionality of the bill, as the proposed amendment would.

I would suggest that we take cognizance of these two Supreme Court decisions and reject the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the previous order for the yeas and nays on the amendment be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second (putting the question)?

The yeas and nays were ordered.

Mr. HASKELL. Mr. President, just briefly I believe that there is a difference of opinion between the distinguished Senator from Arkansas, the distinguished Senator from Nebraska and me. I personally feel that the death penalty is something that should be retained as a deterrent factor in our law.

I do not read the Furman decision the way the distinguished Senator from Arkansas does. Of course, we can go back and forth from interpretation to interpretation.

I read that decision as saying that the

unfettered discretion of a judge or jury is unconstitutional. I would again point to my earlier remarks. By granting this small element of discretion, we can prevent terrible injustices.

With my amendment I can vote for the bill. Without my amendment, I, unfortunately, cannot, at this time, consider voting for it. We could run into the type of terrible injustices that have happened previously.

With that statement I yield the flood.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HART. Mr. President, will the Senator yield?

Mr. HRUSKA. Mr. President, I yield to the Senator from Michigan.

Mr. HART. Mr. President, I ask unanimous consent that Mr. Burton Wides of my staff be permitted access to the floor during the debate of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the text of the two opinions to which I have referred in the Delaware and North Carolina cases be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HRUSKA. Mr. President, aside from the constitutional issue, I believe there is another defect in the amendment proposed by the Senator from Colorado.

Under this amendment, the jury could find that one or more aggravating factors exist and that no mitigating factors exist. Yet, the court could, in its own discretion, refuse to impose the death penalty.

What are the standards to guide this discretion? There are none. The judge could punish as he will despite the findings of the jury. If he did not like the death penalty as a form of punishment, he could refuse to invoke it. For that very reason alone, he can thereby frustrate the will and the findings of the jury.

I again suggest that such a measure would not only be unwise but also unconstitutional in the light of the Supreme Court's decision in Furman against Georgia.

I urge the Senate to reject the amendment.

EXHIBIT 1

[Supreme Court of Delaware, Nov. 1, 1972]

STATE OF DELAWARE, PLAINTIFF

v.

RANDOLPH DICKERSON, DEFENDANT

Rehearing Denied Nov. 21, 1972, Supplemental Opinion Jan. 22, 1973

Before Wolcott, C. J., and Carey and Herrmann, J. J.

Herrmann, Justice (for the Majority of the Court):

This certification presents the question of the constitutionality of capital punishment under our First Degree Murder Statute (11 Del.C. § 571)[1] and our Recommendation of Mercy Statute (11 Del.C. § 3901),[2] in the light of the recent decision of the United States Supreme Court in Furman v. Georgia, 408 U.S. 238, 92 S.Ct. 2726, 33 L.Ed.2d 346 (1972), dealing with capital punishment as "cruel and unusual" punishment under the Eighth and Fourteenth Amendments.

I

The defendant is awaiting trial on the charge of murder in the first degree in violation of 11 Del.C. § 571.

Stating that an early determination thereof by his Court is necessary as guidance in the proper trial of this case and other first degree murder cases now pending, the Superior Court has sought and obtained certification of the following questions of law:

1. Are the discretionary mercy provisions of 11 Del.C. § 3901 unconstitutional under Furman v. Georgia?

2. If the answer to Question 1 is yes, is the mandatory death penalty prescribed in 11 Del.C. § 571 constitutional?

II

The threshold problem is an accurate understanding of the precise holding of the *Furman* case which has become the law of the land binding upon this Court. This presents some difficulty, in view of the fact that each of the nine justices wrote a separate opinion setting forth a different rationale, while a tenth *per curiam* opinion represents the decision of the Court in its 5–4 division. Dissenting members of the Court, themselves, expressed doubt as to the precise scope and meaning of the majority decision in *Furman*.[3]

It is easier at the outset to state what *Furman* did not decide: The United States Supreme Court has not ruled in *Furman* that capital punishment, *per se*, is violative of the Eighth and Fourteenth Amendments[4] ban on cruel and unusual punishment; nor has it ruled that the death penalty is barred for any particular class or classes of crimes. Only 2 of the 5 concurring justices, Justices Brennan and Marshall, concluded that the Eighth Amendment prohibits capital punishment for all crimes and under all circumstances; the third concurring member of the Court, Justice Douglas, refrained from reaching that ultimate question, deciding the cases on an equal protection of the laws basis; and the other 2 members of the majority, Justices Stewart and White, did not reach the ultimate question because they concluded that the death sentences before the Court must be set aside on the ground that the sentencing practices followed violated the Eighth Amendment.[5]

The sum and substance of the decision that ultimately earned the support of a majority of the Court in *Furman* was expressed in the *per curiam* opinion as follows: (92 S.Ct. at 2727)

"The Court holds that the imposition and carrying out of the death penalty in these cases constitutes cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. The judgment in each case is therefore reversed insofar as it leaves undisturbed the death sentence imposed, and the cases are remanded for further proceedings."

Otherwise stated, the decision of the United States Supreme Court in *Furman* was limited to the holding that the death sentences, as imposed in the cases then before it, constituted "cruel and unusual" punishment within the ban of the Eighth Amendment.

For the clearest understanding of the limited decision of the United States Supreme Court in *Furman*, we must look to the concurring opinions of Justice Douglas, Stewart, and White:

Mr. Justice Douglas based his decision (92 S.Ct. at 2727) on the belief that capital punishment statutes, which leave the decision of life or death in the uncontrolled discretion of judge or jury, are being applied in a way that discriminates against minorities and the poor; and that such "discrimination is * * * not compatible with the idea of equal protection of the laws that is implicit in the ban on 'cruel and unusual' punishments."

Mr. Justice Stewart pointed out (92 S. Ct. at 2760) that the constitutionality of capital punishment in the abstract was not before the Court in *Furman*. He stated that death sentences which are left to the uncontrolled discretion of judge or jury are being applied on such random and capricious basis that the imposition thereof has become cruel and unusual; that the states do not apply capital punishment uniformly or automatically; that few defendants actually incur the death penalty; that those who do "are among a capriciously selected random handful upon whom the sentence of death has in fact been imposed."

Further: "These death sentences are cruel and unusual in the same way that being struck by lightning is cruel and unusual." Concluding: "* * * the Eighth and Fourteenth Amendments cannot tolerate the infliction of a sentence of death under legal systems that permit this unique penalty to be so wantonly and so freakishly imposed."

Mr. Justice White wrote (92 S.Ct. at 2763) that, although he does not decide that the death penalty is unconstitutional *per se*, he does believe that the death penalty is now so infrequently imposed that it no longer satisfies "any existing general need for retribution" or has any deterrent value; that "there is no meaningful basis for distinguishing the few cases in which [the death penalty] is imposed from the many cases in which it is not"; that, therefore, the Eighth and Fourteenth Amendments were violated by the death sentences imposed.

Manifestly, therefore, the effect of *Furman* is to invalidate the uncontrolled discretionary imposition of the death penalty by jury or judge. The *Furman* decision goes that far, but no farther.

III

[1] As thus analyzed, the fatal effect of the *Furman* decision upon our Recommendation of Mercy Statute (hereinafter "Mercy Statute") is clear. That Statute delegates to jury and judge uncontrolled discretion in the imposition of the death penalty. Under the Mercy Statute, there is room for that caprice, whim, and discrimination in the imposition of the death penalty that now stands condemned by the United States Supreme Court in *Furman*.

The fatal effect of the *Furman* decision upon the Mercy Statute is conclusively demonstrated by the mandates, arising out of *Furman*, received by this Court from the United States Supreme Court in certain first degree murder cases which had been tried under the combined Murder Statute and Mercy Statute, in which convictions were had and death sentences imposed, and appeals then taken to the United States Supreme Court. In each of those Delaware cases, the United States Supreme court implemented *Furman* by vacating the judgment of conviction "insofar as it leaves undisturbed the death penalty imposed" and by remanding each cause to this Court for "further proceedings".

It follows that the Mercy Statute must fall under the *Furman* decision as being violative of the Eighth Amendment. All parties concur in that conclusion.

IV

The question then arises as to whether our First Degree Murder Statute (hereinafter "Murder Statute"), and the mandatory death penalty contained therein, stands alone or whether it falls with the Mercy Statute under the *Furman* decision.

[2] It is argued that the penalty provision of the Murder Statute may not stand alone because, together with the invalid Mercy Statute, it is a constituent and inherent part of a statutory scheme; that, therefore, the two Statutes are unseverable. In support and in opposition to this contention, both

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Footnotes at end of article.

sides rely upon the legislative history of the two Statutes[6] in their efforts to demonstrate legislative intent upon the question of severability. Legislative intent, of course, governs the issue of severability if it may be ascertained with reasonable certainty. State v. Ayers, Del. Supr., 260 A.2d 162 (1969). Unfortunately, we have no recitals, minutes, reports, or other indicia of legislative intent to aid in resolving the question. Compare Sincock v. Gately, 262 F.Supp. 739, 745 (D. Del. 1967). We are left to supposition.

The defendant and the *amicus* contend that the trend of capital punishment throughout the nation in 1961 does not permit the conclusion that the Legislature intended to regress by going from the total abolition of the death sentence to the other extreme of the mandatory death sentence which, by then, had disappeared in practically every other State.[7] The State contends that the basic legislative intent in 1961 was clear: to restore the death penalty; that the Mercy Statute was a secondary consideration; and that the passage of the Murder Statute and the Mercy Statute in separate enactments[8] indicated severability in the absence of an express provision to the contrary.

[3] We find it unnecessary to engage in such conjecture as to legislative intent regarding severability. The question is governed by 1 Del.C § 308.[9] It is there provided that if any provision of the Code or the application thereof is held invalid, "such invalidity shall not affect the provisions or application of this Code * * * that can be given effect without the invalid provisions or application, and to this end the provisions of this Code * * * are declared to be severable."

The question then becomes this: may the Murder Statute be "given effect" without the "invalid provisions of application" of the Mercy Statute, and thus be severable under § 308?

The Murder Statute passes the severability test prescribed by § 308: It "can be given effect without the invalid provisions or application" of the Mercy Statute. On its face, the Murder Statute is complete and whole in all respects. It may stand alone and be "given effect" alone. It is not in any way dependent upon the Mercy Statute for viability. We have been shown no deficiencies which would bar its being "given effect" standing alone; and we see none.

As has been stated, the defendant and the *amicus* argue that the Murder Statute, standing alone, may not be "given effect" because that conclusion would mean regression to the mandatory death penalty; and, they contend, the General Assembly could not have intended such regression. This is a strong argument; but it falls short of demonstrating the "manifest" intent of the General Assembly.

It is the search for a "manifest" legislative intent with which we are confronted in this aspect of this case. By 1 Del.C. § 310,[10] it is provided that the "rules of construction * * * set forth in this chapter [including § 308] shall be observed in the construction of this Code and all other statutes, unless such construction would be inconsistent with the *manifest* intent of the Legislature, * * *." (Emphasis supplied)

By definition, the word "manifest" includes the concept of being "obvious", "apparent", or "beyond doubt or question". While reasonable men may differ as to whether, in 1961, the General Assembly would have enacted the Murder Statute without the Mercy Statute, or would have permitted the first to stand alone without the second if it had to elect, we do not think it can be said that the matter is "beyond doubt or question". All we have to go on, in pursuit of the ethereal legislative intent regarding severability, is the chronological history of the two Statutes and speculation. That is not enough to enable us to ascertain that the severabiilty of the Murder Statute from the Mercy Statute is "inconsistent with the manifest intent of the Legislature" as is required by § 301 in order to override the rule of severability prescribed by § 308.[11]

Accordingly, we hold, under 1 Del.C. § 308, that the Murder Statute, including the mandatory death penalty contained therein, is severable from the Mercy Statute; that it does not fall with the Mercy Statute under *Furman;* and that it now stands alone, severed from the Mercy Statute.

V

It is contended that the application of the mandatory death penalty of the Murder Statute, standing alone, will be "cruel and unusual" punishment under the Eighth Amendment and "cruel" punishment under the State Bill of Rights.[12]

As has been demonstrated, *Furman* does not hold that mandatory capital punishment *per se,* uniformly applied, is violative of the Eighth Amendment. The express reservations of Justices Stewart and White and the analyses contained in the dissenting opinion make that clear. Accordingly, we are satisfied that the mandatory death penalty of the Murder Statute, if uniformly applied, has not been invalidated by *Furman.*

It is argued, however, that although it may not be specifically covered by the *Furman* decision, the mandatory death sentence nevertheless will constitute cruel and unusual punishment within the federal constitutional ban. We cannot agree.

The United States Supreme Court has consistently acknowledged the constitutionality of capital punishment *per se*, either by assumption or assertion. Wilkerson v. Utah, 99 U.S. 130, 25 L.Ed. 345 (1878); In re Kemmler, 136 U.S. 436, 10 S.Ct. 930, 34 L.Ed. 519 (1890); Louisiana ex rel. Francis v. Resweber, 329 U.S. 459, 67 S.Ct. 374, 91 L.Ed. 422 (1947); Trop v. Dulles, 356 U.S. 86, 78 S.Ct. 590, 2 L.Ed.2d 630 (1958); Weems v. United States, 217 U.S. 349, 30 S.Ct. 544, 54 L.Ed. 793 (1910); McGautha v. California, 402 U.S. 183, 91 S.Ct. 1454, 28 L.Ed.2d 711 (1971); Robinson v. California, 370 U.S. 660, 82 S.Ct. 1417, 8 L.Ed.2d 758 (1962); see dissenting opinion of Mr. Justice Powell in *Furman*, 92 S.Ct. at 2819–2823.

And this Court has consistently rejected the contention that capital punishment *per se* constitutes "cruel" or "cruel and unusual" punishment within the constitutional bans. Recently, in Steigler v. State, Del. Supr., 277 A.2d 662, 669 (1971), we stated:

"* * * In our opinion, the matter of the retention or abolition of the death penalty is a question for the lawmaking authorities rather than the Courts.

"As was said in State v. Cannon, Del. Supr., 5 Storey 587, 190 A.2d 514 (1963):

" 'It is the province of the General Assembly in its wisdom to give expression to the public will. * * * We think the standards of present day society are to be determined by the expressions of that society, itself, and not by an expression of the individual opinions of members of the Judiciary. * * * The only manner in which such an expression can be made is through the action of duly elected representatives of the Society whose standard is to be applied.' "

See also Parson v. State, Del.Supr., 275 A. 2d 777 (1971); Seeney v. State, Del.Supr., 277 A.2d 670 (1971).

[4] In the light of our consistent judicial policy, and the long history of capital punishment in this State from colonial times, we reaffirm the view that capital punishment *per se* is not violative against "cruel" or "cruel and unusual" punishment; and that the retention or abolition of capital punishment in this State is for the decision of the people of this State, speaking through their chosen representatives in the General Assembly.

[5] Accordingly, we hold that, uniformly applied, the mandatory death provision of the Murder Statute, standing alone, will not constitute "cruel" or "cruel and unusual" punishment in violation of the constitutional guaranties.

VI

But the mandatory death penalty contained in the Murder Statute, hereby declared severed from the Mercy Statute, may not be constitutionally applied retroactively to the defendant in this case.

The result of severing the Murder Statute from the invalid Mercy Statute is to change the penalty for first degree murder from life imprisonment or death, at the discretion of jury and judge, to mandatory death. A retroactive application of such change of penalty would constitute a denial of due process of law.

The State Ex Post Facto Clause, U.S. Const., Art. 1, § 10 forbids the enactment of any law making a crime greater than it was when committed, by subsequently increasing the punishment. This has been the law of the land from the beginning. Calder v. Bull, 3 U.S. (3 Dall.) 386, 1 L.Ed. 648, 650 (1798).

A pertinent application of this principle appears in Lindsey v. Washington, 301 U.S. 397, 57 S.Ct. 797, 798–799, 81 L.Ed. 1182 (1937):

"The effect of the new statute is to make mandatory what was before only the maximum sentence.

* * * * *

"[T]he *ex post facto* clause looks to the standard of punishment prescribed by a statute, rather than to the sentence actually imposed. The Constitution forbids the application of any new punitive measure to a crime already consummated, to the detriment or material disadvantage of the wrongdoer.

* * * * *

"It could hardly be thought that, if a punishment for murder of life imprisonment or death were changed to death alone, the latter penalty could be applied to homicide committed before the change."

Thus, it has been held that where the punishment at the time of the offense was life imprisonment or death, at the determination of jury or judge, a change to death alone is *ex post facto* as to such offenses committed prior to the change. Marion v. State, 16 Neb. 349, 20 N.W. 289 (1884); 1 Antieau, Modern Constitutional Law, § 5:135.

It is recognized, of course, that the letter of the Ex Post Facto Clause is addressed directly to legislative action. Frank v. Mangum, 237 U.S. 309, 35 S.Ct. 582, 59 L.Ed. 969 (1915). But indirectly, via the Due Process Clause of the Fourteenth Amendment, the spirit of the *ex post facto* guaranty, and the resultant ban against the retrospective increase of punishment for a crime, is made to apply as a prohibition against judicial action having such effect. In Bouie v. City of Columbia, 378 U.S. 347, 84 S.Ct. 1697, 1702, 12 L.Ed.2d 894 (1964), the United States Supreme Court stated:

"[A]n unforeseeable judicial enlargement of a criminal statute, applied retroactively, operates precisely like an *ex post facto* law, such as Art. 1, § 10 of the Constitution forbids. An *ex post facto* law has been defined by this Court as one 'that makes an action done before the passing of the law, and which was *innocent* when done, criminal; and punishes such action,' or 'that aggravates *a crime*, or makes it *greater* than it was, when committed.' Calder v. Bull, 3 Dall. 386, 390, 1, L.Ed. 648. *If a state legislature is barred by the Ex Post Facto Clause from passing such a law, it must follow that a State Supreme Court is barred by the Due Process Clause from achieving precisely the same re-*

Footnotes at end of article.

sult by judicial construction. * * *." (Latter emphasis supplied)

The same limitation is imposed upon the United States Supreme Court by the Federal Ex Post Facto Clause, U.S. Const., Art. 1, § 9, and the Due Process Clause of the Fifth Amendment as is imposed upon this Court by the State Ex Post Facto Clause, U.S. Const. Art. 1, § 11, and the Due Process Clause of the Fourteenth Amendment. Accordingly, the consequence is the same, whether the change of penalty is deemed to have resulted from this decision of this Court, or from the decision of the United States Supreme Court in the *Furman* case.

[6] For these reasons, we hold that the mandatory death penalty provision of the Murder Statute, standing alone, may not constitutionally be applied retroactively because such application would constitute a denial of the due process of law. Otherwise stated, we hold that the mandatory death penalty provision of the Murder Statute may be constitutionally applied prospectively only, and may not be constitutionally applied to any offense committed prior to the date of this decision. Compare State v. Jones, 44 N.M. 623, 107 P.2d 324 (1940); Linkletter v. Walker, 381 U.S. 618, 85 St.Ct. 1731, 14 L.Ed.2d 601 (1965); Johnson v. New Jersey, 384 U.S. 719, 86 S.Ct. 1772, 16 L.Ed.2d 882 (1966); Great Northern Ry. v. Sunburst Oil and Refining Co., 287 U.S. 358, 53 S. Ct. 145, 77 L.Ed. 360 (1932).

VII

The foregoing impels the following answers to the questions certified:

(1) The discretionary mercy provisions of 11 Del.C. § 3901 are unconstitutional under Furman v. Georgia.

(2) The mandatory death penalty prescribed in 11 Del.C. § 571 is constitutional; but it may not be applied retroactively to the defendant in this case.

VIII

Having determined that the mandatory death penalty provision of the Murder Statute, standing alone, may not be applied retroactively, we are left with the problem of pointing to the statutory, common law, or inherent power of the Superior Court under which sentence may be imposed upon a conviction of murder in the first degree for which the mandatory death penalty of the Murder Statute may not be imposed.[13] That question was not certified and was not briefed or argued by counsel. In order that we may have the full measure of assistance of the especially well qualified counsel involved in this case, the question is reserved. Counsel will be requested to brief and argue the question at the earliest practicable time.

IX

The result reached here warrants the attention of the General Assembly for at least two reasons:

First, if the mandatory death penalty for first degree murder, now found to exist in Delaware, is not in accord with the will of the people, the law should be rectified at the earliest possible time.

Second, the result reached here does not necessarily solve the problems created by the *Furman* decision for any state wishing to retain capital punishment. History shows that the mandatory death sentence for first degree murder is also open to caprice and discrimination in the imposition of the death penalty. The jury's route for the exercise of such caprice and discrimination, historically, is to return a verdict for a lesser-included offense carrying a lesser penalty. There was in this country, almost from the beginning, a "rebellion against the common law rule imposing a mandatory death sentence on all convicted murderers"; juries took "the law in their own hands" and refused to convict on the capital offense. The result was widespread legislative development of the discretionary death sentence throughout the country. See McGautha v. California, 402 U.S. 183, 198, 91 S.Ct. 1454, 1462, 28 L.Ed.2d 711 (1971).

Obviously, any lack of uniform application—any discrimination or caprice in the imposition of the death sentence via the lesser-included offense route—will expose the mandatory death penalty provision of the Murder Statute, hereby upheld, to the same condemnation as was accorded the Mercy Statute in the *Furman* case.

Accordingly, we take the occasion to recommend legislative attention to the subject of capital punishment in the light of the *Furman* decision and its consequences in this State.

Wolcott, Chief Justice (concurring in part and dissenting in part):

I agree entirely with the conclusion of the majority in answer to Question No. 1 that, in Furman v. Georgia, 408 U.S. 238, 92 S.Ct. 2726, 33 L.Ed.2d 346 (1972), the Supreme Court of the United States has held in effect that 11 Del.C. § 3901 (the so-called Mercy Statute) is unconstitutional. This ruling is, of course, binding upon us.

I also agree with the conclusion of the majority in answer to Question No. 2 that 11 Del.C. § 571 (the Murder Statute) is severable from 11 Del.C. § 3901 and, therefore, is unaffected by Furman v. Georgia, supra. In addition, I concur with the majority's holding that the death penalty *per se* is not cruel and unusual. 11 Del.C. § 571, therefore, continues to stand as the law of this State and requires the imposition of a mandatory death penalty upon conviction of murder in the first degree.

I disagree, however, with the majority's conclusion that 11 Del.C. § 571 may not be applied retroactively by the courts of this State. I question whether this phase of Question No. 2 is within the framework of the actual question certified; nonetheless, I will consider this aspect since the majority is of the opinion that it is.

The conclusion is based upon the prohibition of *ex post facto* laws by Art. 1, §§ 9 and 10 of the Federal Constitution which in terms forbid only the enactment of such laws. However, as a result of Bouie v. City of Columbia, 378 U.S. 347, 84 S.Ct. 1697, 12 L.Ed.2d 894 (1964), the prohibition is now apparently extended to include judicial construction of a criminal statute which has the effect of enlarging a previously prescribed penalty.

I do not think that this Court by this Opinion has made any such construction. We have held that the Murder Statute and the Mercy Statute are severable and stand independently when subjected to constitutional attack. The Supreme Court of the United States—not this Court—has held that the Mercy Statute is unconstitutional. We, of course, are bound by this decision, but we have not made it. Hence, it seems to me that, under no circumstances, can it be said that this Court has enlarged the penalty for first degree murder. Accordingly, I feel that *Bouie* is inapplicable to the case at bar. In this connection, I note that the mandatory sentence of death has always been the penalty for murder in this State, except for a short period of time.

It seems readily apparent that the Supreme Court of the United States did not consider that Delaware, unlike the other States, had two separate and independent statutes relating to this field—one providing the penalty and the other providing for mercy under some circumstances. The latter has been held unconstitutional since, on its face, it was susceptible to capricious application, but this holding does not affect in any way our Penalty Statute. It continues to stand as it always has.

In my opinion, therefore, 11 Del.C. § 571 prescribes a mandatory sentence of death upon conviction of murder in the first degree with respect to all such indictments pending, irrespective of the dates of the crimes on the indictments.

SUPPLEMENTAL OPINION

In Part VIII of the foregoing Opinion, we reserved for further briefs and argument the identification of the authority of the Superior Court under which sentence may be imposed upon a conviction of first degree murder committed prior to November 1, 1972, for which the death penalty may not be imposed. We have now had the benefit of additional assistance of counsel upon that question.

[7] Both the Attorney General and the Public Defender agree that the penalty in such case must be mandatory life imprisonment. We so hold.

Manifestly, as a matter of either legislative intent, legal concept, or simple reasonableness, a greater crime must be deemed to carry a penalty at least as severe as that prescribed for a lesser-included-offense. The statutory penalty for murder in the second degree is mandatory life imprisonment. 11 Del.C. § 572. The penalty for murder in the first degree may be no less.

The question remains as to the source of the power and authority of the Superior Court to impose a mandatory life sentence for first degree murder.

As this Court has now ruled, the mandatory death penalty of the First Degree Statute, though held to be constitutional prospectively, may not be constitutionally applied retrospectively to any offense committed prior to November 1, 1972. As to any such offense, therefore, the conclusion is impelled that the First Degree statute, § 571, lacks a constitutional penalty provision.

[8] To fill that void, we look to the immediate statutory predecessor of § 571, which was the 1958 Statute abolishing capital punishment and prescribing life imprisonment for murder in the first degree. 51 Lel.L. Ch. 347. The penalty portion of § 571 having been found unconstitutional for certain limited purposes, the next preceding Statute revives and becomes controlling for those purposes. The rationale and the result are the same, we think, as in other types of cases in which a repealer statute is found to be invalid, thus restoring its progenitor. See Clark v. State, Del.Supr., 287 A.2d 660 (1972); State ex rel. James v. Schorr, Del.Supr., 6 Terry 18, 65 A.2d 810 (1949); Abrahams v. Superior Court, Del.Supr., 11 Terry 394, 131 A.2d 662 (1957).

Accordingly, for the guidance of the Superior Court in this case and others in like retroactive category, we express the opinion that the penalty to be imposed, upon conviction of the charge of first degree murder, is mandatory life imprisonment; and that the authority therefor is 51 Del.L. Ch. 347.

FOOTNOTES

[1] 11 Del.C. § 571 provides:

"§ 571. Murder in the first degree

"Whoever commits the crime of murder with express malice aforethought, or in perpetrating, or attempting to perpetrate the crime of rape, kidnapping or treason, is guilty of murder in the first degree and of a felony and shall suffer death."

[2] 11 Del. C. § 3901 provides:

"§ 3901. Recommendation of mercy

"In all cases where the penalty for crimes prescribed by the laws of this State is death, if the jury, at the time of rendering their verdict, recommends the defendant to the mercy of the Court, the Court may, if it seems proper to do so, impose the sentence of life imprisonment instead of death."

[3] In the dissent of Chief Justice Burger, doubt as to the precise holding of the majority was expressed as follows: (92 S.Ct. at 2807)

"The actual scope of the Court's ruling, which I take to be embodied in these concurring opinions, is not entirely clear." See also dissent of Mr. Justice Powell, 92 S.Ct. at 2817.

[4] The Eighth Amendment to the Federal Constitution provides: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted."

While the Fourteenth Amendment is, of course, operative throughout in the application of the Eighth Amendment prohibition to the State, Robinson v. California, 370 U.S. 660, 82 S.Ct. 1417, 8 L.Ed.2d 758 (1962); Powell v. Texas, 392 U.S. 514, 88 S.Ct. 2145, 20 L.Ed.2d 1254 (1968), reference will be made herein to the Eighth Amendment only for the sake of brevity.

[5] In *Furman* and each of the two related cases, the death sentence was imposed. In each, the determination of whether the penalty should be death or a lesser penalty was left by state statute and procedure to the discretion of the jury.

[6] Capital punishment has been a penalty in Delaware since colonial days; and, until 1911, mandatory death was the penalty for the crimes specified.

Colonial capital offenses were murder, treason, manslaughter by stabbing, serious maiming, highway robbery, burglary, third offense larceny, arson, sodomy, buggery, rape, concealing the death of a bastard child, advising another to kill such child, and witchcraft, Caldwell Penology in Delaware in Reed, History of the First State, Vol. 2, p. 852; 1 Del. L., p. 297. By the time of the 1829 Delaware Code, capital offenses were limited to seven: murder, stabbing causing death, rape, burglary, arson, second offense kidnapping, and treason. 1829 Del.C., pp. 127–131.

The 1852 Code further limited capital crimes to five: murder in the first degree, treason, rape, arson, and burglary. 1852 Del. C, pp. 471–476. The 1915 Delaware Code retained the death penalty for those same offenses. 1915 Del.C. §§ 4697, 4696, 4706, 4721, 4727. The 1935 Delaware Code retained five capital offenses: first degree murder, treason, burglary, kidnapping, and rape. 1935 Del.C., §§ 5157, 5154, 5187, 5174, 5166. The 1953 Delaware Code retained four capital offenses: first degree murder, treason, kidnapping, and rape. 1953. 1953 Del.C., §§ 571, 861, 623, 781.

Until 1911, the death penalty was mandatory in all capital offenses. In that year, the General Assembly amended the rape statute by providing a limited discretion permitting the jury to recommend mercy, in which event the court could impose the sentence of life imprisonment. 26 Del.L., Ch. 270. In 1917, the Legislature enacted the predecessor of the present Mercy Statute by providing that in any capital case, if the jury recommended mercy, the court might in its discretion, impose a sentence of life imprisonment instead of death. 29 Del.L., Ch. 266. This provision was carried into the 1935 Delaware Code as § 5330 and into the 1953 Delaware Code as § 3901 of Title 11.

Capital punishment was abolished in Delaware in 1958. 51 Del.L., Ch. 347. In 1961, capital punishment was restored for the single crime of first degree murder (the Murder Statute involved here) and at about the same time, the pre-existing Mercy Statute (the Mercy Statute involved here) was restored. The Murder Statute became law as 53 Del.L., Ch. 310; it had been S.B. 192. The Mercy Statute became law as 53 Del.L., Ch. 309; it had been S.B. 215.

S.B. 192 was introduced on June 12, 1961 and was passed and sent to the House on June 14. S.B. 215 was introduced on June 22 and, on the same date, was passed and sent to the House. On December 4, 1961, S.B. 215, as amended, passed the House and was returned to the Senate where it passed on December 5; and on December 5, S.B. 192 passed the House. The Governor vetoed both Bills; whereupon, on December 18, both Bills were passed by both Houses over the Governor's veto.

Both the Murder Statute and the Mercy Statute have been carried into the 1973 Delaware Revised Criminal Code (effective April 1973) as § 4209.

[7] The *amicus curiae* reports: By 1961, the mandatory death sentence for first degree murder had been abandoned almost universally in the United States after almost a century of change from the mandatory to the discretionary form. By 1961, New York was the only one remaining state to retain the mandatory death sentence. All other states, in which capital punishment prevailed, had changed to the discretionary death sentence; and in 1965, New York likewise changed. Nine states have abolished the death penalty and reinstated it in discretionary form; of these, four have undergone periods of abolition after an earlier adoption of discretionary capital sentencing; each reinstated the discretionary form; none reverted to the mandatory form.

[8] It is noteworthy that, when *Furman* was decided, three States—Delaware, Florida, and Louisiana—had cases pending before the Supreme Court which arose under Statutes that were "separate" enactments, mechanically and chronologically. See Fla.Stat.Ann. § 919.23 (1944) and § 782.04 (1965); La.Stat. Ann. § 14:30 (1951), § 15–409 (1951) and La.CodeCrim.Pro. Art. 817 (1966). On the authority of *Furman*, the Supreme Court vacated the death sentences imposed in the cases which had originated in these three States, thus making no distinction as to the "separate" statute cases among the total of 120 cases, involving 125 condemned persons, from 26 states.

[9] 1 Del.C. § 308 provides:

"§ 308. Severability of provisions

"If any provision of this Code or amendments hereto, or the application thereof to any person, thing or circumstances is held invalid, such invalidity shall not affect the provisions or application of this Code or such amendments that can be given effect without the invalid provisions or application, and to this end the provisions of this Code and such amendments are declared to be severable."

[10] 1 Del.C. § 301 provides:

"§ 301. Rules of construction and definitions

"The rules of construction and the definitions set forth in this chapter shall be observed in the construction of this Code and all other statutes, unless such construction would be inconsistent with the manifest intent of the Legislature, or repugnant to the Code or to the context of the same statute."

[11] Any doubt, as to the correctness of our conclusion on severability, is resolved by the maxims that a statute must be held valid if it is possible for the court to do so; that every presumption must be resolved in favor of its validity; and that it should not be declared unconstitutional unless the court is convinced of that status beyond a reasonable doubt. Coleman v. Rhodes, Del.Super., 5 W.W. Harr. 120, 159 A. 649 (1932). We are not so convinced.

[12] Del.Const. Art. 1, § 11, Del.C.Ann., provides:

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted; * * *." Compare the "cruel or unusual" punishment constitutional provision dealt with in People v. Anderson, 6 Cal. 3d 628, 100 Cal.Rptr. 152, 493 P.2d 880 (1972).

[13] Four possibilities come to mind: (1) Revival of the 1958 Abolition Statute, 51 Del.L. Ch. 347, the predecessor of § 571; (2) the sentence of life imprisonment authorized by 11 Del.C. § 572 for second degree murder, the next lesser-included offense; (3) the common law power of the court to impose suitable punishment within the exercise of a sound judicial discretion; (4) the inherent power of the court to implement its judgments.

[282 N.C. 431]

STATE OF NORTH CAROLINA v. JAMES HOWARD WADDELL

Huskins, Justice:

[1] We overrule defendant's assignments of error based on denial of his motions for nonsuit and to set aside the verdict. The evidence is overwhelmingly sufficient to carry the case to the jury and to support the verdict. Likewise, defendant's third assignment addressed to the charge has no merit and cannot be sustained. The court's charge on circumstantial evidence is free from prejudicial error. We therefore put aside these assignments without discussion and go directly to the constitutional question raised by defendant and argued in the briefs.

Defendant contends that the imposition and carrying out of the death penalty was held in Furman v. Georgia, 408 U.S. 238, 92 S. Ct. 2726, 33 L. Ed. 2d 346 (1972), to constitute cruel and unusual punishment in violation of the Lighth and Fourteenth Amendments. The State, on the other hand, disputes defendant's interpretation of the holding in *Furman* and argues that the death sentence was lawfully and constitutionally imposed in this case and should be carried out. These antagonistic positions require an analysis of the *Furman* decision.

Furman v. Georgia was consolidated with Jackson v. Georgia and Branch v. Texas for decision. Each defendant was black. Furman killed a Georgia householder while seeking to enter the home at night. Jackson entered a Georgia home after the husband left for work, held scissors against the neck of the wife and raped her. Branch entered the Texas home of a 65-year-old widow, a white woman, while she slept and raped her, holding his arm against her throat. Furman was convicted of murder, Jackson and Branch of rape, and each was sentenced to death after a trial by jury which, under applicable Georgia and Texas statutes, had discretionary authority to determine whether to impose the death penalty. On certiorari, the United States Supreme Court reversed the judgment in each case insofar as it left undisturbed the death sentence imposed, and the cases were remanded for further proceedings. In an opinion expressing the views of five members of the Court, it was held that the imposition and carrying out of the death sentence in the three cases before the Court constituted cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. Four members of the Court dissented, voting to sustain the constitutionality of the statutes under which defendants were tried and sentence of death imposed.

Prior to the decision in Furman v. Georgia, supra, the United States Supreme Court implicitly approved or, albeit in dictum, expressly upheld the constitutionality of capital punishment in many cases, including Wilkerson v. Utah, 99 U.S. 130, 25 L.Ed. 345 (1879); In Re Kemmler, 136 U.S. 436, 10 S.Ct. 930, 34 L.Ed. 519 (1890); Weems v. United States, 217 U.S. 349, 30 S.Ct. 544, 54 L.Ed. 793 (1910); Louisiana ex rel. Francis v. Resweber, 329 U.S. 459, 67 S.Ct. 374, 91 L.Ed. 422 (1947); Trop v. Dulles, 356 U.S. 86, 78 S.Ct. 590, 2 L.Ed.2d 630 (1958); Witherspoon v. Illinois, 391 U.S. 510, 88 S.Ct. 1770, 20 L.Ed.2d 776 (1968); McGautha v. California, 402 U.S. 183, 91 S.Ct. 1454, 28 L.Ed.2d 711 (1971). Thus, since the ratification of the Eighth Amendment one hundred eighty-one years ago, no decision of the United States Supreme Court prior to *Furman* casts the slightest doubt on the constitutionality of capital punishment. Therefore, since the decision in *Furman* is not grounded on prior decisions of the Court, the scope of that holding must be gleaned from the separate opinions of the Justices themselves.

The nine opinions focus upon the Eighth Amendment which provides: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." The proscription of cruel and unusual punishments is applicable to the States through the Due Process Clause of the Fourteenth Amendment. Powell v. Texas, 392 U.S. 514, 88 S.Ct. 2145, 20 L.Ed.2d 1254 (1968); Robinson v. California, 370 U.S. 660, 82 S.Ct. 1417, 8 L.Ed.2d 758 (1962).

We note at the outset that only two members of the Court, Mr. Justice Brennan and Mr. Justice Marshall, concluded that capital punishment for all crimes under all circumstances is prohibited by the Eighth Amendment. Mr. Justice Brennan summarized his views in these words:

"At bottom, then, the Cruel and Unusual Punishments Clause prohibits the infliction of uncivilized and inhuman punishments. . . . The test, then, will ordinarily be a cumulative one: If a punishment is unusually severe, if there is a strong probability that it is inflicted arbitrarily, if it is substantially rejected by contemporary society, and if there is no reason to believe that it serves any penal purpose more effectively than some less severe punishment, then the continued infliction of that punishment violates the command of the Clause that the State may not inflict inhuman and uncivilized punishments upon those convicted of crimes. . . . Under these principles and this test, death is today a 'cruel and unusual' punishment."

Mr. Justice Marshall reached a like conclusion when he wrote:

"There is but one conclusion that can be drawn from all of this—*i.e.*, the death penalty is an excessive and unnecessary punishment which violates the Eighth Amendment. . . . In addition, even if capital punishment is not excessive, it nonetheless violates the Eighth Amendment because it is morally unacceptable to the people of the United States at this time in their history."

Thus, it may be seen that these two Justices joined in the *Furman* decision on the basis that capital punishment is *per se* unconstitutional.

Mr. Justice Douglas rested his concurrence on a different basis. He wrote:

"In these three cases the death penalty was imposed, one of them for murder, and two for rape. In each *the determination of whether the penalty should be death or a lighter punishment was left by the State to the discretion of the judge or of the jury.* In each of the three cases the trial was to a jury. [Emphasis added] . . . In a Nation committed to Equal Protection of the laws there is no permissible 'caste' aspect of law enforcement. Yet we know that the discretion of judges and juries in imposing the death penalty enables the penalty to be selectively applied, feeding prejudices against the accused if he is poor and despised, poor and lacking political clout, or if he is a member of a suspect or unpopular minority, and saving those who by social position may be in a more protected position. . . . Thus, these discretionary statutes are unconstitutional in their operation. They are pregnant with discrimination. . . . Any law which is nondiscriminatory on its face may be applied in such a way as to violate the Equal Protection Clause of the Fourteenth Amendment. Yick Wo v. Hopkins, 118 U.S. 356, 6 S. Ct. 1064, 30 L. Ed. 220. Such conceivably might be the fate of a mandatory death penalty, where equal or lesser sentences were imposed on the elite, a harsher one on the minorities or members of the lower castes. *Whether a mandatory death penalty would otherwise be constitutional is a question I do not reach.*" [Emphasis added.]

It seems clear that Mr. Justice Douglas left open the question of the constitutionality of a mandatory death penalty and voted to invalidate the death sentence in *Furman* and companion cases on the ground that the trial jury was given statutory discretion as to whether a defendant convicted of rape or murder should be sentenced to death or to life imprisonment.

Mr. Justice Stewart joined the majority opinion on similar grounds: That under the Georgia and Texas statutes, the death penalty was not mandatory for murder and rape but could be imposed in the unfettered discretion of trial juries, and that the exercise of this discretion resulted in "freakish" selection of those who should be executed for their crimes. He expressed his views as follows:

"[A]t least two of my Brothers have concluded that the infliction of the death penalty is constitutionally impermissible in all circumstances under the Eighth and Fourteenth Amendments. Their case is a strong one. *But I find it unnecessary to reach the ultimate question they would decide.* [Emphasis added] . . . The constitutionality of capital punishment in the abstract is not, however, before us in these cases. For the Georgia and Texas Legislatures have not provided that the death penalty shall be imposed upon all those who are found guilty of forcible rape. And the Georgia Legislature has not ordained that death shall be the automatic punishment for murder. . . . These death sentences are cruel and unusual in the same way that being struck by lightning is cruel and unusual. For, of all the people convicted of rapes and murders in 1967 and 1968, many just as reprehensible as these, the petitioners are among a capriciously selected random handful upon whom the sentence of death has in fact been imposed. . . . I simply conclude that the Eighth and Fourteenth Amendments cannot tolerate the infliction of a sentence of death under legal systems that permit this unique penalty to be so wantonly and so freakishly imposed."

Mr. Justice White concurred in the majority opinion for reasons substantially similar to those of Justice Stewart. The following language from his concurring opinion depicts his views:

"In joining the Court's judgments, therefore, I do not at all intimate that the death penalty is unconstitutional *per se* or that there is no system of capital punishment that would comport with the Eighth Amendment. . . . I cannot avoid the conclusion that as the statutes before us are now administered, the penalty is so infrequently imposed that the threat of execution is too attenuated to be of substantial service to criminal justice. . . . That conclusion, as I have said, is that the death penalty is exacted with great infrequency even for the most atrocious crimes and that there is no meaningful basis for distinguishing the few cases in which it is imposed from the many cases in which it is not. The short of it is that the policy of vesting sentencing authority primarily in juries . . . has so effectively achieved its aims that capital punishment within the confines of the statutes now before us has for all practical purposes run its course."

Four members of the Court dissented and voted to uphold the constitutionality of the Georgia and Texas statutes under which Furman, Jackson and Branch were tried and sentenced to death. The position of the four dissenters is best summed up by Chief Justice Burger as follows:

"There are no obvious indications that capital punishment offends the conscience of society to such a degree that our traditional deference to the legislative judgment must be abandoned. ... Capital punishment is authorized by statute in 40 States, the District of Columbia and in the federal courts for the commission of certain crimes. On four occasions in the last 11 years Congress has added to the list of federal crimes punishable by death. In looking for reliable indicia of contemporary attitude, none more trustworthy has been advanced. ... Today the Court has not ruled that capital punishment is *per se* violative of the Eighth Amendment; nor has it ruled that the punishment is barred for any particular class or classes of crimes. The substantially similar concurring opinions of Mr. Justice Stewart and Mr. Justice White, which are necessary to support the judgment setting aside petitioners' sentences, stop short of reaching the ultimate question. . . . The critical factor in the concurring opinions of both Mr. Justice Stewart and Mr. Justice White is the infrequency with which the penalty is imposed. This factor is taken not as evidence of society's abhorrence of capital punishment... but as the earmark of a deteriorated system of sentencing. It is concluded that petitioners' sentences must be set aside, not because the punishment is impermissibly cruel, but because juries and judges have failed to exercise their sentencing discretion in acceptable fashion."

[2] The foregoing quotations from the various separate opinions in *Furman* compel the conclusion that capital punishment has not been declared unconstitutional *per se*. Rather, the *Furman* decision holds that the Eighth and Fourteenth Amendments will no longer tolerate the infliction of the death sentence if either judge or jury is permitted to impose that sentence as a matter of discretion.

We now consider the effect of the *Furman* decision on G.S. § 14–21 which reads as follows:

"Every person who is convicted of ravishing and carnally knowing any female of the age of twelve years or more by force and against her will, or who is convicted of unlawfully and carnally knowing and abusing any female child under the age of twelve years, shall suffer death: *Provided, if the jury shall so recommend at the time of rendering its verdict in open court, the punishment shall be imprisonment for life in the State's prison, and the court shall so instruct the jury.*" (Emphasis added)

[3] Does *Furman* invalidate G.S. § 14–31 in its entirety or invalidate only the discretionary proviso, leaving death as the mandatory punishment for rape in North Carolina? A look at history is necessary to put the question in proper perspective.

Blackstone's Commentaries tell us:

"Rape was punished by the Saxon laws . . . with death . . . . But this was afterwards thought too hard; and in its stead another severe, but not capital, punishment was inflicted by William the conqueror; *viz*, castration and loss of eyes; which continued till after Bracton wrote, in the reign of Henry the third. * * *

"In the 3 Edw. I. [1275] by the statute Westm. 1. c. 13. The punishment of rape was much mitigated: the offence itself being reduced to a trespass, if not prosecuted by the woman within forty days, and subjecting the offender only to two years imprisonment, and a fine at the king's will. But, this lenity being productive of the most terrible consequences, it was in ten years afterwards, 13 Edw. I. found necessary to make the offence of rape felony, by statute Westm. 2. c. 34. And by statute 18 Eliz. c. 7. it is made felony without benefit of clergy . . ." 4 W. Blackstone Commentaries, 211–2 (1st ed. 1769).

In 1778, the State of North Carolina enacted what is now G.S. § 4–1 which states:

"All such parts of the common law as were heretofore in force and use within this

State, or so much of the common law as is not destructive of, or repugnant to, or inconsistent with, the freedom and independence of this State and the form of government therein established, and which has not been otherwise provided for in whole or in part, not abrogated, repealed, or become obsolete, are hereby declared to be in full force within this State."

By this statute the common law death penalty for rape was adopted in North Carolina. This punishment was codified in Vol. 1, c. 34, § 5 of the 1837 Revised Statutes of North Carolina.

In 1869, the General Assembly of North Carolina reenacted the punishment for rape in the following language:

"Every person who is convicted, in due course of law, of ravishing and carnally knowing any female of the age of ten years or more by force and against her will; or who is convicted, in like manner, of unlawfully and carnally knowing and abusing any female child uder the age of ten years, shall suffer death." Public Laws of 1868–69, c. 167, § 2.

An amendment in 1917 raised the age of consent from ten to twelve years. See Public Laws 1917, c. 29.

Thus, death has been the punishment for rape in North Carolina for almost two hundred years. Our present statute on the subject, G.S. § 14–21, was amended in 1949 by adding the proviso which (1) empowers the jury in its discretion to recommend and thus to fix the punishment at life imprisonment, and (2) requires the trial judge to so instruct the jury. Session Laws of 1949, c. 299, § 4.

Since the 1949 amendment adding the proviso, seventeen bills or resolutions have been introduced in the General Assembly of North Carolina designed to abolish or limit the impositon of the death penalty for rape or other capital offenses. See House Bills 924, 925, 927 and 928 in the 1955 Session; House Bill 113 in the 1961 Session; House Bill 35, Senate Bill 27 and Senate Resolution 173 in the 1963 Session; House Bills 103 and 351 in the 1965 Session; House Bills 68, 71, 138 and 314 in the 1967 Session; House Bill 160 in the 1969 Session; and House Bill 397 and Senate Bill 251 in the 1971 Session. All of these bills and resolutions failed to receive a favorable report from the committee to which referred, or were tabled or defeated on the floor of the House in which introduced.

The new State Constitution, which was ratified by the people in the general election of 1970, retained the provision contained in the former Constitution of North Carolina authorizing the General Assembly to provide by statute for the imposition of the death penalty for murder, arson, burglary and rape. See Constitution of North Carolina, Article XI, Section 2. Thus, there is nothing in the legislative or constitutional history of this State to indicate an intent by the Legislature, or by the people, to reduce the punishment for rape from death to life imprisonment, or to indicate that the 1949 proviso was enacted for that purpose except upon the discretionary recommendation of the jury, or to indicate that such proviso would have been enacted at all had its unconstitutionality been foreseen b ythe 1949 General Assembly. Rather, such history demonstrates a constant intent by the people and their representatives to retain the death penalty for murder, arson, burglary and rape notwithstanding the proviso added in 1949.

It is the proviso, and the proviso alone, which creates the discretionary difficulty condemned by the *Furman* decision; and it is quite clear that *Furman* strikes down the proviso as violative of the Eighth and Fourteenth Amendments.

[4] The question then arises; Does the remainder of G.S. § 14–21 stand alone with death as the mandatory punishment for rape? Or, is the proviso such a constituent and inherent part of a single statutory scheme of punishment that it is inseverable and the entire statute must fall?

In 16 Am.Jur.2d, Constitutional Law, § 186, the rule of severability is thus stated:

"If the objectionable parts of a statute are severable from the rest in such a way that the legislature would be presumed to have enacted the valid portion without the invalid, the failure of the latter will not necessarily render the entire statute invalid, but the statute may be enforced as to those portions of it which are constitutional. If, however, the constitutional and unconstitutional portions are so dependent on each other as to warrant the belief that the legislature intended them to take effect in their entirety, it follows that if the whole cannot be carried into effect, it will be presumed that the legislature would not have passed the residue independently, and accordingly, the entire statute is invalid."

The original portion of G.S. § 14–21 with its mandatory death penalty for rape stood alone and was given full effect by the courts of this State for a century prior to the enactment of the 1949 proviso. Grammatically, as well as historically, the two portions of the statute are distinct and separate and the constitutional invalidity of the added portion will not destroy the part which was in existence prior to the enactment of the unconstitutional portion.

"Usually, when an amendatory exception to a statute proves unconstitutional, the original statute stands wholly unaffected by it." 16 Am.Jur.2d, Constitutional Law, § 184. "When exceptions, exemptions, or provisos in a statute are found to be invalid, the entire act may be void on the theory that by striking out the invalid exception the act has been widened in its scope and therefore cannot properly represent the legislative intent. *This result is not reached, however, when the repugnant exception was added by way of amendment*, as it may be said that the Legislature did intend, at least originally, to pass the act without offering the exception." (Emphasis added) Sutherland, Statutes and Statutory Construction, § 2412 (3d ed. 1943).

In Frost v. Corporation Commission, 278 U.S. 515, 49 S.Ct. 235, 73 L.Ed. 483 (1929), the United States Supreme Court dealt with an Oklahoma statute which, as originally enacted, required a certificate of public convenience and necessity in order to engage in the business of operating a cotton gin. The statute was thereafter amended to insert a proviso exempting gins operated by cooperatives. The Court held the proviso violated the Equal Protection Clause of the Fourteenth Amendment but upheld the statute as initially written, saying:

"Here it is conceded that the statute, before the amendment, was entirely valid. When passed, it expressed the will of the legislature which enacted it. Without an express repeal, a different Legislature undertook to create an exception, but, since that body sought to express its will by an amendment which, being unconstitutional, is a nullity and, therefore, powerless to work any change in the existing statute, *that statute must stand as the only valid expression of the legislative intent.*" (Emphasis added)

In United States v. Jackson, 390 U.S. 570, 88 S.Ct. 1209, 20 L.Ed.2d 138 (1968), the Supreme Court of the United States held invalid a proviso in the Federal Kidnapping Act (18 U.S.C. § 1201(a)) providing for the death sentence upon conviction of kidnapping under certain circumstances if the jury so recommended in its verdict. Originally, the statute made the crime punishable by imprisonment only. The Court held that the remainder of the statute was valid since the unconstitutional proviso was severable from it, saying:

"As we said in Champlin Rfg. Co. v. Commission, 286 U.S. 210, 234, 52 S.Ct. 559, 76 L.Ed. 1062: 'The unconstitutionality of a part of an Act does not necessarily defeat . . . the validity of its remaining provisions. Unless it is evident that the legislature would not have enacted those provisions which are within its power, independently of that which is not, the invalid part may be dropped if what is left is fully operative as a law.

"Under this test, it is clear that the clause authorizing capital punishment is severable from the remainder of the kidnapping statute and that the unconstitutionality of that clause does not require the defeat of the law as a whole."

The fact that the proviso in G.S. § 14–21 gives the jury the discretion to recommend life imprisonment rather than death does not distinguish the case before us from United States v. Jackson, supra.

In Bank v. Lacy, 188 N.C. 25, 123 S.E. 475 (1924), this Court said: "The invalidity of one part of a statute does not nullify the remainder when the parts are separable, and the invalid part was not the consideration or inducement for the Legislature to enact the part that is valid." To like effect: Jackson v. Board of Adjustment, 275 N.C. 155, 166 S.E.2d 78 (1969); Clark v. Meyland, 261 N.C. 140, 134 S.E.2d 168 (1964); Fox v. Commissioners of Durham, 244 N.C. 497, 94 S.E.2d 482 (1956); Power Co. v. Clay County, 213 N.C. 698, 197 S.E. 603 (1968); Connolly v. Union Sewer Pipe Co., 184 U.S. 540, 22 S. Ct. 431, 46 L.Ed. 679 (1902).

It is the proviso which confers upon juries the discretion to send one defendant to death and another to prison for life for the same crime committed under substantially similar circumstances. This, and only this, is what *Furman* condemns as violative of the Eighth and Fourteenth Amendments. The proviso, then, can no longer be given effect as part of the law of North Carolina. This leaves in effect the original statute making the death sentence mandatory upon a conviction of rape, and forbids an instruction to the jury that it may, in its discretion, fix a different punishment.

In light of the authorities cited, we hold that the unconstitutional proviso in G.S. § 14–21 is severable and the remainder of the statute with death as the mandatory punishment for rape remains in full force and effect. A similar conclusion was reached by the Supreme Court of Delaware in State v. Dickerson, Del. Supr., 298 A.2d 761 (decided November 1, 1972).

[5–8] We recognize that the Legislature, not the courts, decides public policy, responds to public opinion and, by legislative enactment, reflects society's standards. The matter of retention, modification or abolition of the death penalty is a question for the lawmaking authorities rather than the courts. In view of the decision in *Furman*, the Legislature may wish to delete the unconstitutional proviso from G.S. § 14–21 (rape), G.S. § 14–17 (murder), G.S. § 14–52 (burglary), and G.S. § 14–58 (arson); or it may wish to rewrite these statutes altogether to give expression to what it conceives to be the public will. Meanwhile, we hold that the effect of the *Furman* decision upon the law of North Carolina concerning the punishment for rape, murder in the first degree, arson and burglary in the first degree is this: Upon the trial of any defendant so charged, the trial judge may not instruct the jury that it may in its discretion add to its verdict of guilty a recommendation that defendant be sentenced to life imprisonment. The trial judge should charge on the constituent elements of the offense set out in the bill of indictment and instruct the jury under what circumstances a verdict of guilty or not guilty should be returned. Upon the return of a verdict of guilty of any such offense, the court must pronounce a sentence of death. The punishment to be imposed for these capital felonies is no longer a discretionary question for the jury and therefore no longer a proper subject for an instruction by the judge.

[9] Since the invalid proviso in G.S. § 14–21 was given effect from the time it was enacted in 1949 to the date of the *Furman* decision in all cases wherein the defendant was convicted of rape or other capital crimes under the statutes applicable thereto, the practical effect of a judicial determination that the proviso is severable and therefore eliminated from the statute is to change the penalty for rape (or other capital crimes) from *death or life imprisonment in the discretion of the jury* to *mandatory death*. An upward change of penalty by legislative action cannot constitutionally be applied retroactively. Article I, section 16 of the Constitution of North Carolina forbids the enactment of any *ex post facto* law. The Federal Constitution contains a like prohibition against *ex post facto* enactments by a state. See Constitution of the United States, Art. I, sec. 10. It has been held that this section of the Constitution "forbids the application of new punitive measure to a crime already consummated, to the detriment or material disadvantage of the wrongdoer. * * * It could hardly be thought that, if a punishment for murder of life imprisonment or death were changed to death alone, the latter penalty could be applied to homicide committed before the change." Lindsey v. Washington, 301 U.S. 397, 57 S.Ct. 797, 81 L.Ed. 1182 (1937). It thus appears that where the punishment at the time of the offense was death or life imprisonment in the discretion of the jury, as in the case before us, a change by the Legislature to death alone would be *ex post facto* as to such offenses committed prior to the change. State v. Broadway, 157 N.C. 598, 72 S.E. 987 (1911).

While we recognize that the letter of the *ex post facto* clause is addressed to legislative action, the constitutional ban against the retroactive increase of punishment for a crime applies as well against judicial action having the same effect. "[A]n unforeseeable judicial enlargement of a criminal statute, applied retroactively, operates precisely like an *ex post facto* law, such as Art. I. § 10 of the Constitution forbids. An *ex post facto* law has been defined by this Court as one 'that makes an action done before the passing of the law, and which was *innocent* when done, criminal; and punishes such action,' or 'that aggravates *a crime*, or makes it *greater* than it was, when committed.' [Citation omitted] If a state legislature is barred by the *Ex Post Facto* Clause from passing such a law it must follow that a State Supreme Court is barred by the Due Process Clause from achieving precisely the same result by judicial construction." Boule v. Columbia, 378 U.S. 347, 84 S.Ct. 1697, 12 L.Ed.2d 894 (1964).

[10] For the reasons stated, we hold that North Carolina's mandatory death penalty for rape, murder in the first degree, burglary in the first degree and arson may not be constitutionally applied to any offense committed prior to the date of this decision but shall be applied to any offense committed after such date. *Compare*, Johnson v. New Jersey, 384 U.S. 719, 86 S.Ct. 1772, 16 L.Ed.2d 882 (1966).

[11] We now turn to the task of applying the *Furman* decision, and the holding here, to the death sentence imposed upon defendant in this case.

Defendant was tried, convicted and sentenced under G.S. § 14–21, and the trial judge instructed the jury, *inter alia*, as follows: "If you return a verdict of guilty of rape, you may accompany your verdict with a recommendation of life imprisonment. If you make no such recommendation, the law provides that the defendant will be put to death in the gas chamber. If you do so recommended, the punishment will be imprisonment for life. You are completely free to accompany a verdict of guilty with a recommendation of life imprisonment or not, as the law leaves that to your complete and unbridled discretion. Thus members of the jury, depending on how you find the facts, there are three possible verdicts which you may return, you may find the defendant guilty of rape with no recommendation; guilty of rape with a recommendation of life imprisonment or not guilty." Thus, the jury was permitted to exercise its discretion and choose between death and life imprisonment. The proviso in G.S. § 14–21 requiring the judge to so charge and permitting the jury in its discretion to so choose is not materially different from the discretion vested in the jury by the Georgia and Texas statutes condemned by *Furman*. It is apparent, therefore, that *Furman* forbids the imposition of the death penalty in this case. This conclusion is buttressed by the fact that, following the decision in *Furman*, five cases in which we had affirmed the imposition of the death sentence were remanded to this Court by the Supreme Court of the United States "for further proceedings," the judgment of this Court having been vacated "insofar as it leaves undisturbed the death penalty imposed." We remanded those cases to the respective superior courts for imposition of sentences of life imprisonment. State v. Miller, 281 N.C. 740, 190 S.E.2d 841 (1972); State v. Hamby and Chandler, 281 N.C. 743, 191 S.E.2d 66 (1972); State v. Chance, 281 N.C. 746, 191 S.E.2d 65 (1972); State v. Westbrook, 281 N.C. 748, 191 S.E.2d 68 (1972); State v. Doss, 281 N.C. 751, 191 S.E.2d 70 (1972).

Accordingly, the judgment of the Superior Court of Sampson County insofar as it imposed the death penalty upon this defendant is reversed. The case is remanded to the Superior Court of Sampson County with directions to proceed as follows:

1. The presiding judge of the Superior Court of Sampson County will cause to be served on the defendant, James Howard Waddell, and on his counsel of record, notice to appear during a session of said Superior Court at a designated time, not less than ten days from the date of the notice, at which time, in open court, the defendant, James Howard Waddell, being present in person and being represented by his counsel, the presiding judge, based on the verdict of guilty of rape returned by the jury at the trial of this case at the December 1971 Session, will pronounce judgment that the defendant, James Howard Waddell, be imprisoned for life in the State's prison.

2. The presiding judge of the Superior Court of Sampson County will issue a writ of habeas corpus to the official having custody of the defendant, James Howard Waddell, to produce him in open court at the time and for the purpose of being present when the judgment imposing life imprisonment is pronounced.

Remanded for judgment.

Bobbitt, Chief Justice (concurring in part and dissenting in part).

I agree with the majority's conclusion that "the *Furman* decision [Furman v. Georgia, 408 U.S. 238, 92 S.Ct. 2726, 33 L. Ed.2d 346 1972)] holds that the Eighth and Fourteenth Amendments will no longer tolerate the infliction of the death sentence if either judge or jury is permitted to impose that sentence as a matter of discretion." Under North Carolina statutes, whether the punishment for first degree murder, or rape, or burglary in the first degree, or arson, is to be death or life imprisonment depends solely on how the jury exercises its unbridled discretion.

Prior to *Furman*, this Court had sustained the convictions and death sentences in State v. Miller, 276 N.C. 681, 174 S.E.2d 481 (1970); State v. Hamby and Chandler, 276 N.C. 674, 174 S.E.2d 385 (1970); State v. Chance, 279 N.C. 643, 185 S.E.2d 227 (1971); State v. Westbrook, 279 N.C. 18, 181 S.E.2d 572 (1971); and State v. Doss, 279 N.C. 413, 183 S.E.2d 671 (1971). On authority of *Furman*, the Supreme Court of the United States vacated the judgment(s) in each of these cases "insofar as it [left] undisturbed the death penalty imposed," and remanded the case to this Court for further proceedings. Miller v. North Carolina, 408 U.S. 937, 92 S.Ct. 2863, 33 L.Ed.2d 755 (1972); Hamby and Chandler v. North Carolina, 408 U.S. 937, 92 S.Ct. 2862, 33 L. Ed.2d 754 (1972); Chance v. North Carolina, 408 U.S. 940, 92 S. Ct. 2878, 33 L. Ed.2d 764 (1972); Westbrook v. North Carolina, 408 U.S. 939, 92 S.Ct. 2873, 33 L.Ed.2d 761 (1972); Doss v. North Carolina, 408 U.S. 939, 92 S.Ct. 2875, 33 L.Ed.2d 762 (1972). Thereupon, this Court remanded each of these cases to the superior court which had tried it with direction that judgments imposing a sentence of life imprisonment be pronounced. State v. Miller, 281 N.C. 740, 190 S.E.2d 841 (1972); State v. Hamby and Chandler, 281 N.C. 743, 191 S.E.2d 66 (1972); State v. Chance, 281 N.C. 746, 191 S.E.2d 65 (1972); State v. Westbrook, 281 N.C. 748, 191 S.E.2d 68 (1972); State v. Doss, 281 N.C. 751, 191 S.E.2d 70 (1972).

The decision on this appeal is that *Furman* requires that this Court vacate the death sentence and remand *this case* to the superior court for the pronouncement of judgment imposing a life sentence. I emphatically agree with this decision. Moreover, I do not think *any death sentence* may be constitutionally inflicted unless *our General Assembly* strikes from our present statutes the provisions which leave to the unbridled discretion of a jury whether the punishment shall be death or life imprisonment. In my opinion, this Court has no right to ignore, delete or repeal these provisions, which were put there by the General Assembly as an integral part of its plan for the punishment of crimes for which the death sentence was permissible. *Furman* did not repeal them. This Court has no right to repeal them.

While unnecessary to the disposition of this appeal, the majority opinion states the views of four members of this Court with reference to the conduct of trials and the sentencing of defendants in the future for crimes of murder in the first degree, rape, burglary in the first degree and arson *committed subsequent to the present decision*. Since the decision in *Furman*, several cases have been tried in our superior courts in which the defendants were convicted and sentenced to life imprisonment when the jury returned verdicts of guilty (no recommendation as to punishment being involved) and at least two cases in which upon a like verdict the defendant received a death sentence. My dissent is not directed to the fact that the majority are giving an advisory opinion or directive to our superior court judges with references to crimes committed *subsequent to Furman*. Although the appeals in these cases will come to us in due course, I agree that our superior court judges are *now* entitled to some directive from this Court. *The ground on which I dissent is that the majority are giving what I consider to be the wrong advisory opinion or directive.*

The views expressed in the majority opinion *to which I dissent* may be summarized as follows: The *Furman* decision invalidates the portion of G.S. § 14-21 which reads: "Provided, if the jury shall so recommend at the time of rendering its verdict in open court, the punishment shall be imprisonment for life in the State's prison, and the court shall so instruct the jury." The invalidation of this provision leaves intact that portion of the statute which precedes it and provides for punishment by death. The *Fur-*

man decision does not invalidate the death penalty under present North Carolina statutes. It makes death the sole and exclusive punishment for rape. However, the death penalty is not to be imposed and carried out except for crimes committed subsequent to the filing of *this* decision.

If *Furman* had decided that the portion of G.S. § 14–21 quoted above was separable and invalid and that death is now the sole and exclusive punishment for rape, such decision would apply to all rapes committed subsequent to 29 June 1972, the date *Furman* was decided. But this was *not* the decision in *Furman*. *Furman* simply held that *the death penalty provision* of G.S. § 14–21 as now constituted was invalid and that, absent amendment, no death sentence can be constitutionally imposed and carried out. The dismemberment of G.S. § 14–21, and the declaration that death is the sole and exclusive punishment for rape, are neither required nor warranted by the decision in *Furman*.

Under Article XI, §§ 1 and 2, of the Constitution of North Carolina, the General Assembly is authorized to provide that the crimes of murder, rape, burglary and arson, and these only, may be punishable by death. Pursuant thereto, the General Assembly has enacted statutes which provide that a person convicted of first degree murder, G.S. § 14–17, or of rape, G.S. § 14–21, or of first degree burglary, G.S. § 14–52, or of arson, G.S. § 14–58, shall suffer death *unless* the jury, at the time of rendering its verdict in open court, recommends that the defendant's punishment shall be imprisonment for life in the State's prison.

There has been no change in any of the provisions of G.S. § 14–17, G.S. § 14–21, G.S. § 14–52, and G.S. § 14–58, since the enactment of Chapter 299, Session Laws of 1949, which contains the following: "Sec. 4. Section 14–21 of the General Statutes of North Carolina is hereby *rewritten* so as to read as follows:

"Sec. 14–21. Punishment for rape. Every person who is convicted of ravishing and carnally knowing any female of the age of twelve years or more by force and against her will, or who is convicted of unlawfully and carnally knowing and abusing any female child under the age of twelve years, shall suffer death: *Provided*, if the jury shall so recommend at the time of rendering its verdict in open court, the punishment shall be imprisonment for life in the State's prison, and the court shall so instruct the jury." (Our italics.)

Sections 14–17, §§ 14–52 and 14–58 of the General Statutes were rewritten by sections 1, 2 and 3 of Chapter 299, Session Laws of 1949. As rewritten they prescribed in like manner the punishment for murder in the first degree, burglary in the first degree and arson, respectively.

Our General Assembly has provided that no death sentence can be pronounced unless (1) the jury is instructed that the mandatory punishment will be death unless the jury when returning its verdict in open court recommends that the punishment be imprisonment for life in the State's prison, and unless (2) notwithstanding such instruction the jury returns a verdict of guilty and does not recommend that the punishment be imprisonment for life in the State's prison. Subsequent to the enactment of the 1949 Act, whether the punishment for murder in the first degree, or for rape, or burglary in the first degree, or for arson was to be death or life imprisonment was to be determined by juries, case by case, rather than by law applicable to all who committed crimes bearing those names. This Court consistently held that no constitutional right of a defendant was violated by provisions which authorized the jury, upon finding a defendant guilty of murder in the first degree, or of rape, or of burglary in the first degree or of arson, to determine whether the punishment was to be death or imprisonment for life, notwithstanding the absence from the statute of any standards to guide the jury in making that determination.

Notwithstanding our decisions upholding G.S. § 14–17, G.S. § 14–21, G.S. § 14–52 and G.S. § 14–58, the possibility that the Supreme Court of the United States would render a decision substantially like the decision in *Furman* had been anticipated. In the report submitted by the Judicial Council for consideration by the General Assembly of 1969, attention was called to this possibility. *If the General Assembly wished to continue the death penalty for the crime of rape*, it was recommended that G.S. § 14–21 be amended by *striking the following*: "Provided, if the jury shall so recommend at the time of rendering its verdict in open court, the punishment shall be imprisonment for life in the State's prison, and the court shall so instruct the jury." Similar recommendations were made with reference to G.S. § 14–17 (first degree murder), G.S. § 14–52 (first degree burglary) and G.S. § 14–58 (arson). To implement these recommendations, bills were prepared and introduced. H.B. No. 136 (relating to rape, first degree burglary and arson), and H.B. No. 137 (relating to murder in the first degree), were referred to Judiciary Committee No. 2 of the House. Both received unfavorable reports. The General Assembly, although advised that the provision for the imposition of a death sentence might be held invalid, refused to prescribe death as the punishment for rape without providing for the alternative of life imprisonment if the jury so recommended.

H.B. No. 397 was introduced in the General Assembly of 1971. Section 2 thereof provided: "Sec. 2. G.S. 14–21 is hereby amended by striking the following words: 'shall suffer death: Provided, if the jury shall so recommend at the time of rendering its verdict in open court, the punishment shall be imprisonment for life in the State's prison.', and by inserting in lieu thereof the following words: 'shall suffer punishment by imprisonment for life in the State's prison.' " Sections 1, 3 and 4 of H.B. No. 397 provided for the amendment in like manner of the provisions of G.S. § 14–17, G.S. § 14–25 and G.S. § 14–58 relating to punishment for murder in the first degree, burglary in the first degree and arson. H.B. No. 397 was referred to and (as amended) reported favorably by judiciary Committee No. 2 but failed to pass the House on second reading.

The reasonable inference from the foregoing is that the General Assembly wanted G.S. § 14–17, G.S. § 14–21, G.S. § 14–52 and G.S. § 14–58 to remain exactly as they had been since 1949 and as upheld by the decisions *of this Court*. All provisions of G.S. § 14–21 relate to the single subject indicated by the caption, to wit, "Punishment for rape." The provisions thereof constitute a single legislative plan. Only the *death penalty provision* was invalidated by *Furman*.

It is the decision of a majority of this Court—not the decision in *Furman*—which dismembers G.S. § 14–21 and declares a particular portion thereof invalid and undertakes—in direct conflict with *Furman*—to validate the death penalty provision of G.S. § 14–21 and adjudge that under present statutes death is the sole and exclusive punishment for rape. The main thrust of *Furman* is to restrict the circumstances in which capital punishment may be imposed. It is not only legally unsound but ironic and unrealistic to use *Furman* as a basis for holding that *hereafter under present statutes* death will be the sole permissible punishment for rape.

Whether the General Assembly *would have prescribed* death or life imprison if it had been confronted with the necessity of making that decision cannot be answered. In my view, this question must be answered now by the General Assembly rather than by this Court's speculation as to what the General Assembly at previous sessions would have done if they had been confronted with the necessity of making that decision.

The reliance placed by the majority on United States v. Jackson, 390 U.S. 570, 88 S.Ct. 1209, 20 L.Ed.2d 138 (1968), invites further consideration of that decision. *In Jackson, the death penalty provision* of the Federal Kidnapping Act (18 U.S.C. § 1201 (a)) was held *invalid* because it imposed an impermissible burden upon an accused's exercise of his Fifth Amendment right not to plead guilty and his Sixth Amendment right to demand a jury trial. In Pope v. United States, 392 U.S. 651, 88 S.Ct. 2145, 20 L.Ed.2d 1317 (1968), based on *Jackson, the death penalty provision* of the Federal Bank Robbery Act (18 U.S.C. § 2113(c)) was held *invalid*. No other provision of either of these statutes was invalidated.

The provision for punishment by death "if the verdict of the jury shall so recommend" considered in *Jackson* was incorporated in the Federal Kidnapping Act when rewritten by the Act of May 18, 1934, 48 Stat. 781–82. The death penalty provision considered in *Pope* was a part of the original Federal Bank Robbery Act of May 18, 1934, 48 Stat. 783. Section 3 provided that the violation thereof "shall be punished by imprisonment for not less than 10 years or by death if the verdict of the jury shall so direct." No statute *amending* or *rewriting the original Act* was involved.

Whether the death penalty provision was a part of the original act or incorporated by later amendment or rewriting was not the basis of decision in either *Jackson* or *Pope*. Moreover, the decisions in *Jackson* and *Pope* were not based upon the discretionary power granted to the jury. They were based upon the fact that Rule 23(a) of the Federal Rules of Criminal Procedure provided: "Cases required to be tried by a jury shall be so tried unless the defendant waives a jury trial in writing with the approval of the court and the consent of the government." Under this rule, if a defendant was permitted to plead guilty or to waive a jury trial, he would thereby avoid the possibility of a death sentence.

In State v. Anderson, 281 N.C. 261, 188 S.E.2d 336 (1972), the defendant appealed to this Court from a judgment which imposed death sentences based on verdicts of guilty of murder in the first degree (without recommendation of life imprisonment). The murders for which defendant was indicted and convicted were committed on 29 June 1971.

The opinion in State v. Anderson, *supra* at 267, 188 S.E.2d at 340, states: "*Jackson* and *Pope* stand for the proposition that every defendant has a constitutional right to plead not guilty and that the Federal Constitution does not permit the establishment of a death penalty applicable only to those defendants who assert their constitutional right to contest their guilt before a jury."

Chapter 616, Session Laws of 1953, codified as G.S. § 15–162.1, provided in pertinent part as follows: "(a) Any person, when charged in a bill of indictment with the felony of murder in the first degree, or burglary in the first degree, or arson, or rape, when represented by counsel, whether employed by the defendant or appointed by the court under G.S. 15–4 and G.S. 15–5, may, after arraignment, tender in writing, signed by such person and his counsel, a plea of guilty of such crime; and the State, with the approval of the court, may accept such plea. . . . (b) In the event such plea is accepted, the tender and acceptance thereof shall have the effect of a jury verdict of guilty of the crime charged with recommendation by the jury in open court that the punishment shall be imprisonment for life in the State's prison; and thereupon, the court shall pronounce judgment that the defendant be imprisoned for life in the State's prison."

This Court, being of the opinion that the procedure authorized by G.S. § 15–162.1 did not preclude a sentence of death after a conviction by a jury without recommendation of life imprisonment, unheld the convictions and death sentences in the following cases: State v. Atkinson (murder), 275 N.C. 288, 167 S.E.2d 241 (1969); State v. Hill (murder), 276 N.C. 1, 170 S.E.2d 885 (1969); State v. Roseboro (murder), 276 N.C. 185, 171 S.E.2d 886 (1970); State v. Sanders (murder), 276 N.C. 598, 174 S.E.2d 487 (1970); State v. Williams (murder), 276 N.C. 703, 174 S.E.2d 503 (1970); State v. Atkinson (rape), 278 N.C. 168, 179 S.E.2d 410 (1971).

Subsequently, based on *Jackson* and *Pope*, the Supreme Court of the United States reversed the judgments in these cases "insofar as [they] impose[d] the death sentence" and remanded the cases to this Court for further proceedings. Atkinson v. North Carolina, 403 U.S. 948, 91 S.Ct. 2283, 29 L.Ed.2d 859 (1971); Hill v. North Carolina, 403 U.S. 948, 91 S.Ct. 2287, 29 L.Ed2d 860 (1971); Roseboro v. North Carolina, 403 U.S. 948, 91 S.Ct. 2289, 29 L.Ed.2d 860 (1971); Sanders v. North Carolina, 403 U.S. 948, 91 S.Ct. 2290, 29 L.Ed.2d 860 (1971); Williams v. North Carolina, 403 U.S. 948, 91 S.Ct. 2290, 29 L.Ed.2d 860 (1971); Atkinson v. North Carolina, 403 U.S. 948, 91 S.Ct. 2292, 29 L.Ed.2d 861 (1971).

Thereafter, this Court remanded each of these cases to the superior court where it was tried with directions that judgments imposing sentences of life imprisonment be pronounced. State v. Atkinson, 279 N.C. 386, 183 S.E.2d 106 (1971); State v. Hill, 279 N.C. 371, 183 S.E.2d 97 (1971); State v. Roseboro, 279 N.C. 391, 183 S.E.2d 108 (1971); State v. Sanders, 279 N.C. 389, 183 S.E.2d 107 (1971); State v. Williams, 279 N.C. 388, 183 S.E.2d 106 (1971); State v. Atkinson, 279 N.C. 385, 183 S.E.2d 105 (1971).

In the report submitted by the Judicial Council for consideration by the General Assembly of 1969, attention was called to the possibility that the Supreme Court of the United States would hold that a death sentence could not be imposed and carried out if a defendant could avoid the possibility of a death sentence by pleading guilty and thereby surrendering his right to jury trial. If the General Assembly wished to continue the death penalty, it was recommended that G.S. § 15–162.1 be repealed. G.S. § 15–162.1 was repealed by Chapter 117, Session Laws of 1969. It is here noted that G.S. § 15–162.1 was not detached and invalidated by the decisions of the Supreme Court of the United States in the six cases referred to above.

As noted in State v. Anderson, *supra* "[F]or some obscure reason, the General Assembly reenacted the provisions of G.S. 15–162.1 by Chapter 562 of the 1971 Session Laws, effective 15 June 1971. Then, apparently to correct the error, G.S. 15–162.1 was again repealed by enactment of Chapter 1225 of the 1971 Session Laws, effective 21 July 1971. It thus appears that from 15 June 1971 to 21 July 1971 the death penalty provisions of our statutes once again applied only to those defendants who asserted their right to plead not guilty. United States v. Jackson, *supra;* Pope v. United States, supra; Atkinson v. North Carolina, *supra*. Here, the murders were committed on 29 June 1971 while the provisions of G.S. § 15–162.1 were in effect, and therefore the death sentences in these cases are unconstitutional and cannot be carried out. Hill v. North Carolina, *supra* [403 U.S. 948, 91 S.Ct. 2287, 29 L.Ed. 2d 860]." The murders having been committed when (reinstated) G.S. § 15–162.1 was in effect, this Court vacated the death sentences and remanded the cases to the superior court for the pronouncements of judgments imposing sentences of life imprisonment.

From 1953 until the repeal of G.S. § 15–162.1, North Carolina's legislative plan in respect of the dealth penalty was embodied in G.S. § 14–17, G.S. § 14–21, G.S. § 14–52 G.S. § 14–58 and in G.S. § 15–162.1. Although enacted in 1953 as a separate statute, G.S. § 15–162.1 was *in pari materia* with G.S. § 14–17, G.S. § 14–21, G.S. § 14–52 and G.S. § 14–58 as rewritten in 1949. Hence, G.S. § 15–162.1 had to be considered as if its provisions were incorporated in G.S. § 14–17, G.S. § 14–21, G.S. § 14–52 and G.S. § 14–58 as rewritten in 1949. When the Supreme Court of the United States, on authority of *Jackson* and *Pope*, vacated the death sentences which this Court had upheld in *Atkinson, Roseboro, Sanders* and *Williams*, it did not hold that G.S. § 15–162.1 was invalid. As this Court recognized in State v. Anderson, *supra*, what the Supreme Court held was that so long as G.S. § 15–162.1 remained a part of our legislative plan, no death sentence could be imposed or carried out. This objection could be and was removed by the repeal of G.S. § 15–162.1. In like manner, the decision in *Furman* does not invalidate any particular clause of G.S. § 14–17, G.S. § 14–21, G.S. § 14–52 or G.S. § 14–58. It simply holds that no death sentence can be imposed and carried out as long as our statute contains provisions which leave to the unbridled discretion of a jury whether the punishment shall be death or life imprisonment.

The *Furman* decision was filed 29 June 1972. Its impact upon state statutes similar to our G.S. § 14–17, G.S. § 14–21, G.S. § 14–52, and G.S. § 14–58 was considered in the decisions discussed below.

In State v. Johnson, 31 Ohio St.2d 106, 285 N.E.2d 751 (1972), the jury found the defendant guilty of murder in the first degree and did not recommend mercy. His appeal from a death sentence was decided by the Supreme Court of Ohio on 19 July 1972. The pertinent portion of the Ohio statute provided: "Whoever violates this section is guilty of murder in the first degree and shall be punished by death unless the jury trying the accused recommends mercy, in which case the punishment shall be imprisonment for life." Ohio R.C. § 2901.01 (1954).

The following excerpts from the opinion of Justice Brown set forth the disposition of the appeal and the rationale of the Court's decision:

"The United States Supreme Court, in Furman v. Georgia . . . has held that the carrying out of a death penalty imposed at the discretion of the trier of the facts constitutes cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the United States Constitution.

"Under that holding, which we are required to follow, the infliction of the death penalty under the existing law of Ohio is not unconstitutional (with the possible exception of taking of the life or attempting to take the life of the President, Vice President, or a person in the line of succession to the presidency [R.C. 2901.09], or of the Governor or Lieutenant Governor [R.C. 2901.10], which statutes purport to impose a mandatory penalty of death).

"We have reviewed the record of the proceedings in this case and find ample evidence of guilt of murder in the first degree.

* * * * *

"It is our conclusion that, except as to the death sentence, the judgment of the Court of Appeals is affirmed. With regard to the death sentence, the judgment of the Court of Appeals must be modified and the sentence is reduced to life imprisonment, as prescribed in R.C. 2901.01."

In Capler v. State, Miss., 268 So. 2d 338 (1972), the defendant was convicted of murder and sentenced to suffer death. His conviction and sentence were affirmed by the Supreme Court of Mississippi, which also denied his petition for a rehearing. The Supreme Court of the United States granted his petition for certiorari and ordered "that the judgment of the Supreme Court of Misissippi in this case be vacated insofar as it leaves undisturbed the death penalty imposed and that this cause be remanded to the Supreme Court of the State of Mississippi for further proceedings." Capler v. Mississippi, 408 U.S. 937, 92 S. Ct. 2862, 33 L.Ed.2d 754 (1972). This order and mandate followed the decision in *Furman*.

The pertinent Mississippi statute provided: "Every person who shall be convicted of murder shall suffer death, unless the jury rendering the verdict shall fix the punishment at imprisonment in the penitentiary for the life of the convict; or unless the jury shall certify its disagreement as to the punishment as provided by section 1293 [Code of 1930; § 2536, Code of 1942] in which case the court shall fix the punishment at imprisonment for life." Miss. Code of 1942, § 2217 (1957). Upon further consideration, the Supreme Court of Mississippi remanded the case to the trial court for the pronouncement of a judgment of life imprisonment. The rationale of this decision is epitomized by Chief Justice Gillespie in these words: "The only infirmity in section 2217 is that the harsher penalty of death may not lawfully be imposed. The remaining part of the statute is complete, and it does not follow that the remaining provision providing for imprisonment in the penitentiary for the life of the defendant must fall. We hold that because of the decision in Furman v. Georgia the death penalty cannot be inflicted; that the remainder of the statute is valid, and the only other punishment for murder is life imprisonment." *Accord*, Peterson v. State, Miss., 268 So.2d 335 (1972).

In State v. Square, La., 268 So.2d 229 (1972), the defendant's conviction of murder and the death sentence pronounced thereon had been affirmed by the Supreme Court of Louisiana but the Supreme Court of the United States, citing Stewart v. Massachusetts, 408 U.S. 845, 92 S.Ct. 2845, 33 L.Ed.2d 744 (1972), following Furman v. Georgia, vacated the judgment insofar as it left undisturbed the death penalty imposed and remanded the case for further proceedings. 408 U.S. 938, 92 S.Ct. 2871, 33 L.Ed.2d 760 (1972). The pertinent portion of the Louisiana statute provided: "In a capital case the jury may qualify its verdict of guilty with the addition of the words 'without capital punishment,' in which case the punishment shall be imprisonment at hard labor for life." L.S.A.C. Cr.P. art. 817 (1967).

Under consideration upon remand, the per curiam opinion of the Supreme Court of Louisiana contains the following:

"We construe the Mandate of the United States Supreme Court to require the imposition of a sentence other than death. Cf., State v. Shaffer, 260 La. 605, 257 So.2d 121 (1971) and State v. Duplessis, 260 La. 644, 257 So.2d 135 (1971).

"Accordingly, in compliance with the Mandate of the United States Supreme Court, the death sentence imposed upon defendant is annulled and set aside, and the case is remanded to the 4th Judicial District Court with instructions to the trial judge to sentence the defendant to life imprisonment.

"Case remanded."

In Garcia v. State, 501 P.2d 1128 (Okl. Cr.1972), the jury found the defendant guilty of murder and fixed his punishment at death. The pertinent Oklahoma statute provided: "Every person convicted of murder shall suffer death, or imprisonment at hard labor in the State penitentiary for life, at the discretion of the jury. Upon trial of an indictment for murder, the jury, if they find the defendant guilty, must designate in their verdict whether he shall be punished by death or imprisonment for life at hard labor, and the judgment of the court shall be in accordance therewith. But upon a plea of guilty the court shall determine the same." 21 Okla.Stat.Ann. § 707 (1958). On 21 June 1972, the Court of Criminal Appeals of Oklahoma affirmed the conviction and death sentence. However, that decision was modified 26 October 1972, on rehearing, at which time the following order was entered: "In the light of Furman v. Georgia, Jackson v. Georgia, and Branch v. Texas . . . the judgment and sentence of death by electrocution is modified to a term of life imprisonment, and as so Modified, the judgment and sentence is Affirmed." 501 P.2d at 1141.

In People v. Speck, 52 Ill.2d 284, 287 N.E. 2d 699 (1972), the jury found the defendant guilty of murder in each of eight cases. His convictions and the death sentences pronounced thereon were affirmed by the Supreme Court of Illinois. However, the Supreme Court of the United States reversed each judgment insofar as it imposed a death sentence.

The pertinent portions of the Illinois statutes (S.H.A. ch. 38 (1972)) are quoted below:

"§ 9-1. *Murder*

* * * * *

"(b) Penalty.

"A person convicted of murder shall be punished by death or imprisonment in the penitentiary for any indeterminate term with a minimum of not less than 14 years. If the accused is found guilty by a jury, a sentence of death shall be imposed by the court unless the jury's verdict so provides in accordance with Section 1-7(c) (1) of this Code."

* * * * *

"§ 1-7. *Judgment, Sentence and Related Provisions*

* * * * *

"(c) Capital Offenses.

"(1) Where, upon a trial by jury, a person is convicted of an offense which may be punishable by death, the jury may return a verdict of death. Where such verdict is returned by the jury, the court may sentence the offender to death or to imprisonment. Where such verdict is not returned by the jury, the court shall sentence the offender to imprisonment."

Upon remand of the *Speck* case, Justice Schaefer, speaking for the Supreme Court of Illinois, said: "The Supreme Court has now held that a defendant could not be validly sentenced to death under the same Illinois statutes that are applicable to this case. (Moore v. Illinois (1972), 408 U.S. 786, 92 S.Ct. 2562, 33 L.Ed.2d 706; Furman v. Georgia. . . .) Therefore, the death penalty cannot be reimposed on the defendant, and the only remaining question is the procedure to be followed in resentencing him to a sentence other than death."

In Commonwealth v. Bradley, 449 Pa. 19, 295 A.2d 842 (1972), the jury found the defendant guilty of murder in the first degree and fixed the penalty at death. On direct appeal, the conviction was affirmed but the death sentence was vacated and the *defendant was sentenced to life imprisonment*. The pertinent portion of the Pennsylvania statute provided: "Whoever is convicted of the crime of murder of the first degree is guilty of a felony and shall be sentenced to suffer death in the manner provided by law, or to undergo imprisonment for life, at the discretion of the jury trying the case, which shall, in the manner hereinafter provided, fix the penalty." 18 Pa.Stat.Ann. § 4701 (1963). The ground of decision was stated by Justice Roberts as follows: "In Furman v. Georgia, . . . the United States Supreme Court recently held *that the imposition of the death penalty under statutes such as the one pursuant to which the death penalty was imposed upon appellant is violative of the Eighth and Fourteenth Amendments.* Accordingly, appellant's sentence of death may not now be imposed." 295 A.2d at 845. (Our italics.) *Accord,* Commonwealth v. Sharpe, Pa., 296 A.2d 519 (1972); Commonwealth v. Lopinson, Pa., 296 A.2d 524 (1972); Commonwealth v. Ross, 449 Pa. 103, 296 A.2d 629 (1972).

In Graham v. State, Ark., 486 S.W.2d 678 (1972), the jury found the defendant guilty of murder in the first degree and did not recommend a life sentence. The pertinent Arkansas statute provided: "The jury shall have the right in all cases where the punishment is now death by law, to render a verdict of life imprisonment in the State penitentiary at hard labor." Ark.Stat.Ann. § 43-2153 (Repl.1964). Upon defendant's appeal, the Supreme Court of Arkansas upheld the conviction but remanded the case to the trial court for the pronouncement of a judgment of life imprisonment. The following excerpt from the opinion of Justice Byrd indicates the ground of decision: "[T]he U.S. Supreme Court, as presently constituted, has recently decided that where a jury is permitted to decide between the punishments of life and death, the death penalty constitutes 'cruel and unusual punishment' and that such interpretation is applicable to the several states through the Fourteenth Amendment. See Furman v. Georgia. . . .

"So long as the ruling in Furman v. Georgia, *supra,* is made applicable to this State, we are obliged to reduce appellant's sentence from death to life imprisonment as being the next highest available penalty, Ark.Stat.Ann. § 43-2308 (Repl.1964)." 486 S.W.2d at 679.

In State v. Baker, 81 Wash. 2d 281, 501 P.2d 284 (1972), the jury found defendant guilty of murder in the first degree and asked that the death penalty be inflicted. The pertinent portion of the Washington statute provided: "Murder in the first degree shall be punishable by imprisonment in the state penitentiary for life, unless the jury shall find that the punishment shall be death. . . . " R. C. Wash. Ann. § 9.48.030 (1961). Notwithstanding the jury's request, the trial judge deferred imposition of the death penalty on the condition that the defendant be incarcerated for life not subject to parole. The case was before the Supreme Court of Washington on the State's appeal from that order. In remanding the case for a proper sentence in the light of *Furman,* the Court said: "The decision in *Furman* has rendered the issue presented here moot *since the state is now precluded from any attempt to have the death penalty imposed under the existing statute.* The question whether a trial court may defer the death penalty has become academic." *Id.* at 284-285. (Our italics.)

In Huggins v. Commonwealth, Va., 191 S.E.2d 734 (1972), the jury found the defendant guilty of first degree murder and fixed his punishment at death. The pertinent statute provided: "Murder of the first degree shall be punished with death, or by confinement in the penitentiary for life, or for any term not less than twenty years." Va. Code 1950 § 18.1-22. Based on *Furman,* Justice Poff, for the Supreme Court of Virginia, said: "Insofar as it authorized discretionary imposition of the death penalty, Virginia's statute is unconstitutional. With respect to the death sentence, the judgment is vacated." *Id.* at 735. The conviction was upheld and the case was remanded for a new trial on the issue of punishment, that is, to determine whether the confinement in the penitentiary was to be for life, or for a term of twenty years, or for a term exceeding twenty years. *Accord,* Hodges v. Commonwealth, Va., 191 S.E.2d 794 (1972).

Although the above-cited decisions in which death sentences were reversed and sentences of life imprisonment were substituted therefor involved crimes committed prior to *Furman,* none suggests that a death sentence may be imposed and carried out unless and until present statutory provisions are amended. All either state or clearly imply that under existing statutes the death sentence may not be imposed and carried out without regard to whether the crime was committed before or subsequent to *Furman.*

The Florida, Louisiana and Pennsylvania cases discussed below relate to current and future problems of procedure because of unequivocal holdings that under existing statutes a death penalty cannot be imposed and carried out.

In Donaldson v. Sack, 265 So.2d 499 (Fla. 1972), Donaldson, who had been indicted for murder in the first degree, filed his petition in the Supreme Court of Florida for a writ of prohibition. Fla.Const. Art. V, § 9(2), F.S.A., vested in the criminal courts of record jurisdiction of "all criminal cases not capital." Fla.Const. Art. V, § 6(3), vested in the circuit courts "all criminal cases not cognizable by subordinate courts." Donaldson asserted that respondent, Circuit Court Judge Sack, had no jurisdiction to proceed with his case because, as a result of the decision in *Furman,* "capital cases" no longer existed in Florida.

On 29 June 1972, when *Furman* was decided, Florida statutes then in force included the following:

"The unlawful killing of a human being, when perpetrated from a premeditated design to effect the death of the person killed or any human being, or when committed in the perpetration of or in the attempt to perpetrate any arson, rape, robbery, burglary, abominable and detestable crime against nature or kidnapping, shall be murder in the first degree and shall constitute a capital felony, punishable as provided in § 775.082." Fla.Stat.Ann § 782.04(1) (1972 Supp.), F.S.A.

"Whoever ravishes and carnally knows a female of the age of ten years or more, by force and against her will, or unlawfully or carnally knows and abuses a female child under the age of ten years, shall be guilty of a capital felony, punishable as provided in § 775.082. . . ." Fla.Stat.Ann. § 794.01 (1972 Supp.), F.S.A.

"A person who has been convicted of a capital felony shall be punished by death unless the verdict includes a recommendation to mercy by a majority of the jury, in which case the punishment shall be life imprisonment. A defendant found guilty by the court of a capital felony on a plea of guilty or when a jury is waived shall be sentenced to death or life imprisonment, in the discretion of the court." Fla.Stat.Ann. § 775.082(1) (1972 Supp.), F.S.A.

A Florida statute which became effective 1 October 1972, and is now codified as section 775.082(2) and (3), provided: "(2) In the event *the death penalty* in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, a person who has been convicted of a capital felony shall be punished by life imprisonment.

"(3) In the event *the death penalty* in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment with no eligibility parole." (Our italics.)

Excerpts from the opinion of Judge Dekle are quoted below.

"Since Furman v. Georgia . . . in effect 'removes" (until new legislation which may revive it) 'capital cases,' then there appears to be no logical escape from the fact that our circuit courts at this time, and until any legislation which may revive 'capital cases,' do not have jurisdiction in those cases heretofore delineated as 'capital' and accordingly subsequent to Furman jurisdiction in such cases now pending or being filed vests in the courts of record and may be transferred there in those 17 counties of Florida which have such courts."

"We are unable in the face of existing authorities and logic to find support for the continuance of 'capital offense' as heretofore applied. Accordingly, it must fall with the U.S. Supreme Court's holding against the death penalty as provided under present legislation. Our decision is compelled by that Court's action."

"We find no difficulty with a continuation of the sentencing for thee former capital offenses' under § 775.082(1) as automatically life imprisonment upon conviction, inasmuch as that is the only offense left in the statute. . . . The elimination of the death penalty from the statute does not of course destroy the entire statute. We have steadfastly ruled that the remaining consistent portions of statutes shall be held constitutional if there is any reasonable basis for doing so and of course this clearly exists in these circumstances."

"The removal of capital punishment only removes 'capital cases' as that term has been known. The offense—and the imposition of a life sentence upon conviction—remains. . . . There simply is not at this time such a designation as a 'capital case' as set forth in the several provisions of our Constitution, statutes and rules."

Since there were no "capital cases" under existing Florida statutes, the court then discusses the drastic impact of its decision upon Florida's Criminal Rules relating to (1) the requirement of twelve jurors in a "capital case," (2) provisions for a speedy trial, (3) jury selection procedures, (4) bifurcated trial procedures, (5) necessity for indictment by a grand jury, and (6) right to bail.

In Anderson v. State, 267 So.2d 8 (Fla. 1972), the Supreme Court of Florida, based on *Furman*, vacated the death sentences of forty defendants. It corrected the sentences of those who had been convicted of murder in the first degree by providing that each be imprisoned for the term of his natural life. In doing so, the Court said: "The elimination of the death penalty from the statute prescribing the penalty for murder in the first degree does not destroy the entire statute. The only sentence which can now be imposed upon conviction of the crime of murder in the first degree is life imprisonment. This is an automatic sentence and a reduction from the sentence previously imposed. The Court has no discretion." The defendants in the rape cases having been convicted for rapes committed prior to 1 January 1972, were subject to imprisonment for life *or* for any term of years within the discretion of the Court. Fla.Stat.Ann. § 794.01 (1944). Their cases were remanded for resentencing.

On authority of *Donaldson* and *Anderson, supra*, the Supreme Court of Florida in State v. Whalen, 269 So.2d 678 (Fla. 1972), held that a trial judge, sitting as sole trier of fact after accepting a plea of guilty to first degree murder and holding an evidentiary hearing on the issue of the extent of penalty, did not have power to impose the death sentence. Chief Justice Roberts said: "This question concerning bifurcated trials is moot since at the present time capital punishment may not be imposed. This Court has held that there are currently no capital offenses in the State of Florida. If there is no capital offense, there can be no capital penalty." *Id.* at 679.

In Ex Parte Contella, 485 S.W.2d 910 (Tex. Cr.App. 1972), the apepals were from orders in habeas corpus proceedings in which the accused were denied bail after indictment for murder with malice. The Texas Constitution contained this provision: "All prisoners shall be bailable by sufficient sureties, unless for capital offenses, when the proof is evident. . . ." A Texas statute provided: "All prisoners shall be bailable unless for capital ofeneses, when the proof is evident." A capital felony was defined by statute as "(a)n offense for which the highest penalty is death." The cited Texas decisions had held that "[t]he term 'proof is evident' means the accused, with cool and deliberate mind and formed design, maliciously killed the deceased, and that upon a hearing of the facts before the court a dispassionate jury would, upon such evidence, not only convict but would assess the death penalty." Vernon's Ann.P.C. art. 1257 provides: "The punishment for murder shall be death or confinement in the penitentiary for life or for any term of years not less than two." Vernon's Ann.C.Crim.Proc. art. 37.07 (1972 Supp.) provides that, in capital cases, where the state has made it known in writing prior to trial that it will seek the death penalty, the punishment must be assessed by the jury.

The following excerpts from the opinion of Judge Roberts set forth the disposition of the appeals and the rationale of the decision.

"In the case of Furman v. Georgia . . . the United States Supreme Court held that the death penalty, at least insofar as it is currently imposed in this country, 'constitutes cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments.' That being the case, we conclude that the death penalty, as it is currently authorized, may not be imposed as a penalty for the crime of murder.

"In light of this holding, the question which is before the Court is whether, in terms of our Constitution and statute, bail may now be denied in cases which, prior to the holding in Furman v. Georgia, *supra*, the death penalty could have been imposed. We conclude that bail may not be denied in such cases.

* * * * *

"We therefore conclude that bail may no longer be denied on the ground that the offense is a capital offense and the proof is evident. Since the death penalty may not be imposed, there no longer exists a 'capital felony' as defined in Art. 47, V.A.P.C. Likewise, since the death penalty is no longer a possible penalty, it is impossible for the State to offer evidence, in this or any other case, sufficient to establish that the 'proof is evident' as that term is defined in Ex parte Paul, *supra*, [420 S.W.2d 956 (Tex.Cr.App.)]. Therefore, there is no case in which bail may be denied under the provisions of Art. 1, Section 11 of the Texas Constitution or Art. 1.07, V.A.C.C.P.

"The orders denying bail are reversed and the trial judge is ordered to set bail herein." 485 S.W.2d at 911–912.

In Commonwealth v. Truesdale, Pa., 296 A.2d 829 (1972), the defendant was awaiting trial on indictments of first degree murder and conspiracy. Under the Pennsylvania Constitution a "capital" offense is not bailable and defendant had been denied bail. After the decision in *Furman*, defendant made an application for his release on bail on the ground that *Furman* abolished the death penalty as it theretofore had existed in Pennsylvania. After a hearing, the trial court granted bail. The Commonwealth immediately filed a petition in the Supreme Court requesting the assumption of plenary jurisdiction to determine whether defendant had a right to bail pending trial. The Court observed that "[w]ith the decision of the United States Supreme Court in Furman v. Georgia . . . as well as this Court's decision in Commonwealth v. Bradley, 449 Pa. 19, 295 A.2d 842 (1972), *which cases have invalidated the death penalty as it presently exists in Pennsylvania*, we are left to decide if the definition of 'capital offense' which we adopted in *Alberti* [Commonwealth ex rel. Alberti v. Boyle, 412 Pa. 398, 195 A.2d 97] requires that the bail set for Truesdale was proper." 296 A.2d at 832 (Our italics.) Holding that bail was properly granted, the Court stated that "since there are presently no criminal offenses in the Commonwealth for which the death penalty may be imposed, there are no 'capital offenses'; hence, by mandate of our Constitution, all offenses are bailable prior to trial." *Id.* The Court clearly recognizes and accepts the fact that the effect of the *Furman* decision was to make "the maximum penalty for murder in the first degree . . . life imprisonment." 296 A.2d at 835.

In State v. Holmes, La., 269 So.2d 207 (1972), and in State v. Flood, 269 So.2d 212 (La. 1972), the Supreme Court of Louisiana held that *Furman* did not destroy the classification of certain crimes in Louisiana as capital offenses. The impact of *Furman* was described in these words: "The crime [of murder] remains unchanged; only the penalty has been changed. True, the penalty is what made murder a capital offense, and it is not actually a capital offense in Louisiana today. But the *nature* of the offense has not changed—only the punishment." State v. Flood, *supra*, at 214. Hence, *Holmes* held that a person charged with a crime formerly punishable by death had to be tried by a jury of twelve, all of whom must concur to render a verdict; and *Flood* held that a person so charged was not entitled *as of right* to be released on bail.

The majority opinion cites Delaware v. Dickerson, Del. Supr., 298 A.2d 761 (1972). This is the only decision disclosed by our research which supports to any extent the view of the majority herein. Dickerson was charged with a first degree murder committed prior to the decision in *Furman*. Two questions of law were certified by the Superior Court to the Supreme Court, to wit: "1. Are the discretionary mercy provisions of 11 Del.C. § 3901 unconstitutional under Furman v. Georgia? 2. If the answer to Question 1 is yes, is the mandatory death penalty prescribed in 11 Del.C. § 571 constitutional?" Both questions were answered "Yes".

11 Del.C. § 571 provided that whoever committed the crime of first degree murder as defined therein "shall suffer death." 11 Del.C. § 3901 provided: "In all cases where the penalty for crimes prescribed by the laws of this State is death, if the jury, at the time of rendering their verdict, recommends the defendant to the mercy of the Court, the Court may, if it seems proper to do so, impose the sentence of life imprisonment instead of death."

The questions certified seem to have been adroitly phrased to elicit the answers which were given. The true question was whether *Furman* had invalidated the death penalty provision of the Delaware statute. All justices (3) of the Supreme Court of Delaware concurred in answering the certified questions as stated above. The majority (2) held that the death penalty could not be applied retroactively to the defendant in the case under consideration. This is an excerpt from the majority opinion: "Having determined that the mandatory death penalty provision of the Murder Statute, standing alone, may not be applied retroactively, we are left with the problem of pointing to the statutory, common law, or inherent power of the Superior Court under which the sentence may be imposed upon a conviction of murder in the first degree for which the mandatory death penalty of the Murder Statute may not be imposed. That question was not certified and was not briefed or argued by counsel." Chief Justice Wolcott dissented from "the majority's conclusion that 11 Del.C. § 571 may not be applied retroactively by the courts of this State." His dissent is based on this premise: "The Supreme Court of the United States—not this Court—has held that the Mercy Statute is unconstitutional. We, of course, are bound by this decision, but we have not made it." Suffice to say, in my view *Furman* held only that the *death penalty pro-*

vision of the Delaware statute was invalid. Therefore, as I see it, the holdings of the Supreme Court of Delaware in Dickerson were not required or supported by *Furman*.

I agree that the *Furman* decision has not established the proposition that capital punishment under all circumstances constitutes cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the Constitution of the United States. Moreover, nothing in the *Furman* decision would seem to invalidate a statute of our General Assembly prescribing death as the sole and exclusive punishment for murder in the first degree, rape, burglary in the first degree, or arson. Whether such a statute should be enacted is for legislative determination. The majority opinion states: "We recognize that the Legislature, not the courts, decides public policy, responds to public opinion and, by legislative enactment, reflects society's standards. The matter of retention, modification or abolition of the death penalty is a question for the lawmaking authorities rather than the courts." With this statement I emphatically agree. However, in their directive that death shall be the sole and exclusive punishment for all crimes of first degree murder, rape, first degree burglary, and arson, committed *after the filing of this decision*, the majority, in my view, have assumed to act in a legislative rather than in a judicial capacity. Thereby they demonstrate the difference between precept and practice. Of course, the practical efect of today's decision is to place upon those members of the General Assembly who favor the abolition or limitation of capital punishment the burden of initiating and passing legislation to that effect.

It is my view that, unless and until G.S. § 14-17, G.S. § 14-21, G.S. § 14-52, and G.S. § 14-58 are amended by our General Assembly, *Furman* requires that trials be conducted solely to determine the guilt of the defendant; and, if found guilty of murder in the first degree, rape, burglary in the first degree, or arson, that the defendant be sentenced to life imprisonment as the only permissible punishment.

Higgins, Justice (concurring in result).

A court opinion must reflect the views of the majority of the Court. A concurring in result opinion may reflect the individual views of the writer.

In my opinion, Furman v. Georgia, 408 U.S. 238, 92 S.Ct. 2726, 33 L.Ed.2d 346, does not work any change in North Carolina trial procedure. The decision deals with punishment only. Hence in what are now our four capital felonies the trial court should, as in other cases, omit any reference to punishment and charge on the constituent elements of the offenses and instruct the jury under what circumstances a verdict of guilty should be returned. As a result of the Court's holding in Furman, a charge on the right of the jury to recommend life imprisonment is now an idle gesture and should be omitted. The recommendation is not authorized until the jury unequivocally finds guilt. A conviction without a jury recommendation now requires life imprisonment and permits nothing more.

After discussing the effect of the 1949 amendment giving the jury power to recommend life imprisonment in our four capital felony cases, the majority opinion concludes: "It is the proviso, and the proviso alone, which creates the discretionary difficulty condemned by the Furman decision; and it is quite clear that Furman strikes down the proviso as a violative of the Eighth and Fourteenth Amendments."

I do not so interpret the effect of Furman. That decision does not strike down the proviso and does not hold that it violates the Eighth and Fourteenth Amendments. Furman holds that after the jury determines guilt and the State law permits either the court or the jury discretion whether the punishment shall be death or life imprisonment, life imprisonment must be imposed. Where discretion is given, Furman holds that a life sentence is valid but strikes down the death penalty. The rationale of the rule seems to be that if discretion between a death sentence or life imprisonment is given either to the court or the jury, the milder punishment must be imposed because in the interpretation of criminal statutes that which is the more favorable to the accused must be accepted.

The fixing of punishment for crime is a legislative function. The General Assembly, in my view, may fix death as the punishment for either or all of the four offenses named in Article XI, Section 2 of the North Carolina Constitution. The Legislature may provide the death penalty or it may provide life imprisonment, but when it undertakes to give an option, the milder judgment must be imposed.

In my opinion, this Court can no more strike out the proviso for life imprisonment than it can strike out the death penalty. Both provisions were inserted in the law by the General Assembly. I am unfamiliar with any authority this Court has to legislate on the subject by repealing either provision.

This further objection to the opinion: After the Court has "eliminated" the right of the jury to recommend life imprisonment in this case, the Court further decrees that capital punishment shall be restored after this Court's opinion is handed down. This holding seems to be required in order that the Court may dig itself out of the hole it fell into by its holding that Furman "strikes down the proviso as violative of the Eighth and Fourteenth Amendments." Furman, as I understand it, holds that life imprisonment is valid, but because of the option, Furman strikes down the death penalty.

Since writing the above I have read the well documented opinion of the Chief Justice. I fully concur therein.

Lake, Justice (concurring).

I concur in all parts of the opinion of Justic Huskins. In view of the length of the dissenting portion of the opinion of the Chief Justice and of the number of authorities cited therein, and because of the importance of the issue, I deem it advisable to state, as briefly as possible, why I do not find its argument persuasive or the citations convincing upon the question with which the opinion of Justice Huskins deals.

The jury having returned a verdict of guilty of rape without making a recommendation that the defendant's punishment be life imprisonment, a sentence to death was imposed by the trial court pursuant to G.S. § 14-21. It is, therefore, our duty to determine the effect now to be given that statute by the courts of North Carolina. We may not properly bypass that task, nor escape our responsibility for it by labeling the question one of policy for determination by the Legislature.

The Supreme Court of the United States being the higher authority on the validity of judgments under the Constitution of the United States, its mandates, issued in reliance upon Furman v. Georgia, 408 U.S. 238, 92 S.Ct. 2726, 33 L.Ed.2d 346, vacating the death sentences previously affirmed by this Court in the five cases cited in the opinion of Justice Huskins, became the law of those five cases. Under the compulsion of those mandates, this Court remanded those cases to the respective superior courts for the imposition of sentences of life imprisonment.

The present case, on the contrary, is before us for the first time. In it we have no mandate from the Supreme Court of the United States vacating the death sentence imposed upon this defendant. In the absence thereof, it is our duty, not that of the Legislature, to determine just what the United States Supreme Court decided in Furman v. Georgia, supra, and to determine the present state of the law of North Carolina with reference to punishment for the crime of rape in the light of that decision.

Only this Court can determine whether any portion of G.S. § 14-21 is the law of North Carolina today and, if so, which portion. The Legislature, now in session, cannot make that determination. The Legislature can determine what the law of this State ought to be and shall be in the future. That is policy making and that is the Legislature's prerogative and responsibility. It is for us, and for us alone, to determine what part of G.S. § 14-21, if any, is the law of North Carolina today and determinative of the validity of the sentence from which this defendant appeals. That is not policy making but the interpretation of the statute—an exercise of the judicial function which we may not abdicate or assign to the Legislature. Constitution of North Carolina, Art. I, § 6; Art. IV, § 1.

It is quite clear, as the opinion of Justice Huskins plainly states, that it is for the Legislature, not for this Court, to determine the policy of this State as to what acts shall be deemed crimes and as to the punishment therefor; that is, to determine what punishment ought to be and shall be imposed for the offense of rape hereafter committed. Constitution of North Carolina, Art. I, § 6; Art. II, § 1; Art. XI, § 2. But the Legislature has spoken in G.S. § 14-21 and, until it speaks again, it is the duty of this Court to determine what if anything, remains of its pronouncement in G.S. § 14-21 after the decision in Furman v. Georgia, supra. No officer or agency, save this Court, can make that determination.

The determination of that question as stated in the opinion of Justice Huskins is, in my view, unassailably correct. If the Legislature, now sitting, deems the result of our determination is unwise, as a matter of policy, it may, as to rapes hereafter committed, adopt and promulgate a different rule as to punishment. That is its responsibility, not ours.

The opinion of the Chief Justice states:

"If *Furman* had decided that the portion of G.S. 14-21 quoted above was separable and invalid and that death is now the sole and exclusive punishment for rape, such decision would apply to all rapes committed subsequent to 29 June 1972, the date *Furman* was decided. But this was not the decision in *Furman*." Of course, it was not, for the simple reason, if for none other, that the Supreme Court of the United States does not have the authority to decide that question. Whether a statute is separable or inseparable is a question of statutory interpretation. It is well settled that the interpretation of a state statute is a quesion to be determined by the supreme court of the state. The Supreme Court of the United States has repeatedly accepted as binding upon it the interpretation placed upon state statutes by the highest courts of such states.

Thus, the Supreme Court of the United States has not said, and may not properly determine that G.S. § 14-21 is or is not separable. What it has said in Furman v. Georgia, supra, is that the discretion which the proviso in G.S. § 14-21 undertook to vest in North Carolina juries cannot be conferred upon them consistently with the Fourteenth Amendment. It having so held, it is now the prerogative and duty of this Court, and this Court alone, to determine whether the proviso is severable from the original statute unto which the proviso was attached by amendment in 1949. Thus, it is the date of the decision of that question by this Court—today—not the date of the decision in Furman v. Georgia, supra, which fixes the offenses of rape for which a death sentence may be imposed without running afoul of the Ex Post Facto principle.

The opinion of the Chief Justice further states:

"Furman simply held that *the death penalty provision* of G.S. 14-21 as now con-

stituted was invalid and that absent amendment, no death sentence can be constitutionally imposed and carried out."

I do not find the words, "absent amendment," in any of the nine opinions by the justices in Furman v. Georgia, supra, nor in the per curiam statement of the decision therein. Furman v. Georgia, supra, did not hold "the death penalty provision of G.S. 14–21" invalid. It held, as the opinion of Justice Huskins states, that the death penalty cannot be imposed *at a time when juries or judges are given the discretion to impose the death penalty on one defendant and life imprisonment on another for the same offense*—quite a different thing.

I am unable to agree with the reasoning by which the Chief Justice reaches the conclusion that the defeat in 1971 of the legislative proposal to abolish the death penalty for rape and make life imprisonment the mandatory punishment therefor now compels us to hold that, since Furman v. Georgia, supra, life imprisonment has become the mandatory punishment for the crime. Quite obviously, the 1971 Legislature preferred, as a matter of policy, to leave North Carolina juries in possession of the discretion which the 1949 amendment to G.S. § 14–21 attempted to give them. It seems to me perfectly clear that the 1971 Legislature did not believe the then prophesy that the United States Supreme Court would decide as it did in Furman v. Georgia, supra. As the opinions of the four dissenting justices in Furman v. Georgia, supra, show, the earlier decisions of the Court afforded ample basis for such legislative disbelief. However, in any event, the Chief Justice's opinion, if adopted by this Court, would result in our declaring G.S. § 14–21 now to mean precisely what the 1971 Legislature expressly refused to make it say. This we may not do. The Legislature of 1971 obviously wanted the whole of G.S. § 14–21, including the provsio, which it believed constitutionally permissible, but this is far from showing it wanted the whole or nothing. It certainly fails to show that, if unable to have the whole, it wanted the part which it refused to adopt, standing alone, in preference to the part which it refused to repeal.

The array of decisions from other states, cited in the opinion of the Chief Justice, are simply not in point on the question of the severability of G.S. § 14–21. In the first place, substantially all of them, if not all, held only that the death penalty may not be imposed by a state in a case which arose and was adjudicated while the state undertook to give its juries the discretion which Furman v. Georgia, supra, held cannot be vested in juries. In so holding these decisions do not conflict with the opinion of Justice Huskins. In the second place, of all the cited decisions only those from Mississippi and Florida appear to contain any discussion of the question of the severability of the various state statutes involved and the Mississippi and Florida decisions appear to rest on the acceptance by those courts of the view that their statutes were severable and the life sentence provisions therein were the parts which survived the decision in Furman v. Georgia, supra. In the third place, decisions from other states as to the severability of their statutes cannot help us materially in determining whether our own statute is severable, even if the wording of the statutes be identical, because the legislative history of the respective statutes may well be quite different. As the opinion of Justice Huskins demonstrates, the history of G.S. § 14–21 leads to the conclusion that the proviso, added by the amendment of 1949, is severable from the remainder of the statute.

It is one thing to hold, as the Mississippi and Florida Courts appear to have done, that a statute like G.S. § 14–21 is severable and the part which survives Furman v. Georgia, supra, is that providing for a life sentence. This would, as Justice Huskins has demonstrated, simply be a most strained and improbable view of the intent of the North Carolina Legislature in the light of its repeated refusals to abolish capital punishment. It is a far different thing to say, as the opinion of the Chief Justice suggests, that G.S. § 14–21 is an inseparable whole.

If this view suggested in the opinion of the Chief Justice were correct, it would necessarily follow that the imposition of a sentence to imprisonment for life would be unlawful. It is well settled, as shown by the authorities cited by Justice Huskins, that if the provisions of a statute are, indeed, so inter-related that they are an inseparable whole, the statute cannot be partly unconstitutional and partly constitutional. Quite obviously, the effect of Furman v. Georgia, supra, is that G.S. § 14–21 is not, in its entirety, constitutional. If it be inseparable, then the entire statute would fall under the impact of Furman v. Georgia, supra, and G.S. § 14–21 would authorize no sentence whatever. In that event, rape being a felony at common law and no specific punishment being provided by a valid statute, G.S. § 14–2 would apply and the maximum sentence for rape would be imprisonment for ten years plus a fine.

Of course, the real thrust of the opinion of the Chief Justice is not that G.S. § 14–21 is inseparable but that it is separable and that the proviso is the surviving portion. This I find inconsistent with the legislative history of the statute, correctly set forth by Justice Huskins.

Sharp, Justice (concurring in the opinion of Chief Justice Bobbitt).

I concur fully with the views expressed by the Chief Justice in his well-documented opinion and in his conclusion that the effect of *Furman* is to invalidate the death penalty under the laws of this State as presently written and to make life imprisonment the punishment for first degree murder, rape, arson, and first degree burglary. In signifying my concurrence I add these comments:

In my view, there are no constitutional infirmities in capital punishment *per se* and, under the conditions prevailing today, I do not consider the death penalty cruel and unusual punishment for the crimes for which the State Constitution authorizes the General Assembly to prescribe it. * * *

Mr. HASKELL. Mr. President, just briefly, in my opening statement, prior to the time that the Senator from Nebraska came on the floor, I called attention to the fifth mitigating circumstance, pointing out that juries can be wrong and err and that if they were wrong and erred, there would be absolutely nothing the judge could do under the circumstances.

Mr. HRUSKA. Mr. President, if the Senator would yield, let me say that something could be done. There is a provision for appellate review. It grants the defendant a right to appeal the imposition of the sentence. If there is clear error, the court of appeals has the power to set aside the verdict. If the circuit court found the imposition of the sentence was clearly erroneous, it could strike it down. Now, then, what are we going to say: that maybe even the circuit court is in error? I do not think that would abide in our system of jurisprudence.

The right of appellate review of the sentence is a safeguard added by this bill. We have never had such a right of appeal in our jurisprudence. But with the enactment of this bill, we would.

Mr. HASKELL. Mr. President, will the Senator yield?

Mr. HRUSKA. Surely.

Mr. HASKELL. Just one comment. I am sure the distinguished Senator is aware that the scope of review of a jury finding by the appellate court is quite different than the normal ability to set aside by a trial judge. I am sure the Senator is aware that there must be a far greater showing of error.

That is all I have to say.

Mr. HRUSKA. Aside from the inherent power of the judge to set aside a verdict that a finding is clearly in error, there is express statutory authority in S. 1401 for appellate review. When there is a clear error, that is ground for the circuit court to say so accordingly.

Who are we to say, academically, and in the abstract, "Well, but there still might be a mistake?" If we are to administer justice at all, such a view cannot be tolerated.

Mr. HASKELL. If the Senator will yield further, I see authority in the trial judge to set aside the initial verdict in the sense of whether the man committed the act, but I do not see any authority for the trial judge to set aside a finding on mitigating or aggravating circumstances.

Mr. HRUSKA. I say inherently the practice of permitting a judge to set aside a finding that is plainly erroneous is the rule generally in criminal law and I refer to the Federal Rules of Criminal Procedure 35 and 52. Specifically, rule 52, provides that plain errors or defects may be noticed by the court even on its own motion. I am happy to yield to the Senator from North Carolina on that point if he would like to elaborate on it.

Mr. ERVIN. Mr. President, I think a trial judge always has discretion to set aside any verdict which he for any reason thinks is wrong, either on the facts or because of misdirection he gave the jury.

Mr. HRUSKA. In addition to that, which is a part of our existing law, I refer to the language on page 21 of the bill, starting on line 7:

> If the court of appeals finds that: (1) the procedures employed in the sentencing hearing were not contrary to law, or were contrary to law only in a manner constituting harmless error, and (2) the findings under section 3562A(d) were not clearly erroneous, or were clearly erroneous but the sentence was not affected, it shall affirm the sentence. If the court of appeals finds that the procedures employed in the sentencing hearing were contrary to law in a manner not constituting harmless error, it shall set aside the sentence and remand the case for redetermination of sentence in accordance with section 3562A. If the court of appeals finds that a finding under section 3562A(d).

And I underscore these words—

> was clearly erroneous and that the sentence was affected by such clearly erroneous finding, it shall set aside the sentence and remand the case for imposition of a sentence other than death. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.

That is as plainly as we could provide for judicial review of that sentence; and I submit that it takes care of the type of case to which the Senator from Colorado refers.

Mr. HASKELL. Mr. President, may I ask the Senator from Nebraska one question? Is it the Senator's understanding that the trial judge, if he felt the jury made an erroneous finding on mitigating circumstances, could set aside the jury's finding?

Mr. HRUSKA. I refer the Senator to the statement just made by the Senator from North Carolina, whose experience in criminal law results from being a prosecutor, a defender, and a Judge, and who is also an eminent authority in this field: Yes, he can.

But separate and apart from that, I return again to the language in the statute. If there is any misgiving in the mind of anyone, including the Senator from Colorado, that the power does not exist in the hands of the judge, it is reviewable by the circuit court.

Mr. HASKELL. But it is the Senator's understanding of this bill that the trial judge could set aside the special verdict under (f), which appears on page 14?

Mr. HRUSKA. In the event of the existence of a clearly erroneous finding, yes, that is my understanding and my belief.

Mr. HASKELL. I thank the Senator.

Mr. McCLELLAN. Mr. President, I am ready to vote on the pending amendment. But I ask unanimous consent to have printed in the Record at this point an article published in the Washington Post today, entitled "Montana Renews Death Penalty in Kidnapings."

Yesterday, the Governor of Montana signed into law a bill restoring the death penalty for kidnapers who murder their victims.

Also yesterday, the Pennsylvania Senate cleared legislation making the death penalty mandatory for nine types of murder—including the killing of a policeman or a prison guard.

There being no objection, the article was ordered to be printed in the Record, as follows:

MONTANA RENEWS DEATH PENALTY IN KIDNAPINGS

[Reuters]

Helena, Mont., March 12.—The governor of Montana has signed into law a measure restoring the death penalty in the state for kidnapers who murder their victims.

The law was prompted by a spate of abductions in Montana and elsewhere in the country.

In Harrisburg, Pa., the Pennsylvania Senate cleared legislation making the death penalty mandatory for nine types of murders—including the killing of a policeman or prison guard. Gov. Milton J. Shapp has 10 days to decide if he will sign or veto the measure.

Mr. McCLELLAN. Mr. President, I would like to make this observation. No one supporting this bill does it with any great degree of pleasure. We are acting here in response to a public demand that some effective legislation be enacted to meet the contingencies of the situation that was found to be faulty by the Supreme Court.

I do not think there is any question but that the majority of the people and the legislatures of the majority of the States want this faulty situation corrected and the death penalty restored in cases where the most atrocious crimes have been committed.

The PRESIDING OFFICER (Mr. Abourezk). The question is on agreeing to the amendment of the Senator from Colorado. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from South Carolina (Mr. Hollings), the Senator from Minnesota (Mr. Humphrey), the Senator from Montana (Mr. Mansfield), the Senator from Wisconsin (Mr. Nelson), the Senator from West Virginia (Mr. Randolph), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "yea."

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New Hampshire (Mr. Cotton), the Senator from Colorado (Mr. Dominick), and the Senator from Oregon (Mr. Hatfield) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The result was announced—yeas 41, nays 47, as follows:

[No. 66 Leg.]

YEAS—41

Abourezk
Bayh
Bentsen
Brooke
Buckley
Burdick
Case
Church
Clark
Cranston
Eagleton
Fong
Gravel
Hart
Hartke
Haskell
Hathaway
Hughes
Inouye
Javits
Kennedy
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Moss
Muskie
Pastore
Pell
Percy
Proxmire
Ribicoff
Stafford
Stevenson
Taft
Tunney
Weicker
Williams

NAYS—47

Aiken
Allen
Baker
Bartlett
Bellmon
Bennett
Bible
Biden
Brock
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cook
Curtis
Dole
Domenici
Eastland
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Helms
Hruska
Huddleston
Jackson
Johnston
Long
Magnuson
McClellan
McClure
Montoya
Nunn
Packwood
Pearson
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stevens
Symington
Talmadge
Thurmond
Tower
Young

NOT VOTING—12

Beall
Cotton
Dominick
Fulbright
Hatfield
Hollings
Humphrey
Mansfield
Nelson
Randolph
Sparkman
Stennis

So Mr. Haskell's amendment (No. 1019) was rejected.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUCKLEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 18, after line 12, insert the following new subsection (i): "(i) In no event shall a sentence of death be carried out upon a pregnant woman."

Mr. BUCKLEY. Mr. President, I yield to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I ask unanimous consent that a member of my staff, Mr. Robert Harris, have the privilege of the floor during the pendency of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. BUCKLEY. I yield.

Mr. ROBERT C. BYRD. Could the Senator give Members some idea as to how soon he would anticipate a vote on his amendment?

Mr. BUCKLEY. Mr. President, I do not anticipate speaking more than 2 or 3 minutes on this amendment. I do not know what the sponsors of the bill might wish to say.

Mr. McCLELLAN. I will agree to 5 minutes on a side.

Mr. BUCKLEY. I gladly accept that.

Mr. ROBERT C. BYRD. Mr. President, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, the amendment states, quite simply:

In no event shall a sentence of death be carried out upon a pregnant woman.

The purpose of the amendment is, I think, self-evident. It is to reiterate and reinforce the traditional common-law rule that an unborn child shall not be made to suffer death on account of his or her mother's crime. Implicit in that rule was the recognition of the unborn child as a legal person. It should be unnecessary to reiterate this longstanding rule, but the Supreme Court's rulings of January 1973, justifying abortion-on-request have raised doubts as to whether any legal protection remains for the unborn child. Mr. Justice Blackmun in his opinion for the Court in those cases did not allude to the common law precedent mandating a stay of execution for a pregnant woman. And from the Court's self-interested perspective, it is well that he did not. For mere reference to the rule would have exposed a fact that the majority of the Court was at great pains to disguise or deny, namely, that historically, the unborn child had a legally protectable interest wholly separate from that of the mother. From my own perspective, the unborn child facing death because of his mother's impending execution is no less a legal person than the unborn child facing death because of abortion.

The Supreme Court itself in an 1891 decision, *Union Pacific Railway* v. *Botsford*, 141 U.S. 250, remarked the legally protectable status of the unborn child, stating that the execution-reprieve doctrine was intended "to guard against the taking of the life of an unborn child for the crime of the mother." A tragic footnote in the application of this long-standing rule was provided by an earlier Massachusetts case, Commonwealth against Spooner (1778), in which a condemned woman claimed to be several months advanced in pregnancy. The sheriff was ordered by the Court to take steps to confirm or deny the claim, and owing either to the crudity of the tests then available or to the ignorance or malice of the examiners, or both, pregnancy was not confirmed and the unfortunate woman was executed. An autopsy revealed "a perfect male fetus of the growth of 5 months." The reaction to this discovery is movingly described by the reporter of the case:

> (H)er statement that she was about to become a mother, was generally regarded as the trick of an artful woman to postpone the day of her suffering. But when she had paid the full penalty of the law and the startling truth was whispered to the retiring multitude, that her statement was true, and that the vengeance of the law had fallen on her unborn child, there was a universal feeling of regret at the haste of the proceedings. Every mother, who had seen her die, shuddered at the recollection; and what must have been the feelings of that "jury of discreet matrons"—mothers as they were to whom had been committed the charge of ascertaining the truth, and who, through prejudice, or ignorance, or malice, had been the occasion of this grievous mistake!

Mr. President, I believe no one in this body would condemn an unborn child to death under such circumstances. In consideration of the long-standing status of this humane and merciful rule, and in recognition of the moral and legal rights of the unborn child, I urge my colleagues to support my amendment.

I believe that the point is self-evident. This does not mean that no women may be executed but, rather, that the authorities would have to await delivery of her child before carrying out the sentence.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. MATHIAS. Mr. President, I should like to associate myself with the statement made by the distinguished Senator from New York and to ask unanimous consent that I may be a cosponsor of his amendment, which I support very fully.

Mr. BUCKLEY. Mr. President I ask unanimous consent that the name of the distinguished Senator from Maryland be added as a cosponsor. The Senator from Kansas (Mr. Dole) and the Senator from North Carolina (Mr. Helms) are also cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. DOLE. Mr. President, I think it is desirable that the amendment proposed by the distinguished Senator from New York (Mr. Buckley) be included among the provisions of this important legislation.

Throughout our Nation's nearly 200 years, we have always endeavored to protect and defend the lives and well-being of our infant children, who have not yet had the opportunity to choose between right and wrong. This same ideal necessarily extends to the yet unborn child, whose unsullied innocence is a matter of factual inherence—regardless of the actions or conduct of his procreator.

This notion has been alluded to on numerous occasions over the years, perhaps no more explicity, than in the 1891 Supreme Court decision in Union Pacific Railroad against Botsford. Although the issue itself was not principal to that case, it was noted, through citation of the common law doctrine of "execution reprieve," to be imperative that we "guard against the taking of the life of an unborn child for the crime of the mother."

In reality, the moral ethics of those who are charged with execution of sentencing may never allow such a situation to arise in the first instance. However, that probability is not in itself sufficient to insure against the possibility that an unacceptable event of that type might somehow occur.

I am strongly in favor, therefore, of acting to preclude the carrying out of a death sentence upon a pregnant woman. While this is certainly a very unique and specialized area of concern, it is by all means appropriate for incorporation into this bill, whose very spirit and intent is that of specific standardization and strict definition.

Mr. BUCKLEY. Mr. President, I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President, I should like to ask the Senator a question, on my own time.

I am very much in sympathy, in many respects, with what the Senator is trying to do. I would hate to see the execution take place if a woman were pregnant.

Does the Senator's amendment relate to the condition of the woman at the time she commits the crime, or would it apply to her if, after committing the crime, she became pregnant for the purpose of saving her life?

Mr. BUCKLEY. It would apply at any time. I understand the incentives implicit in the question. But this certainly was a situation which people had to cope with under the common law rule. We are able to cope in those days, and I am sure we could do so in the future.

Mr. McCLELLAN. Certainly, no one wants to see a woman executed when she is in that condition. But I can conceive of one who is guilty of the most atrocious crime trying to escape the death penalty, if she has a little interval from the time of the crime, to give her an opportunity to become pregnant. Perhaps I misunderstood the Senator.

Mr. BUCKLEY. Under those circumstances, she would escape the penalty for only 9 months.

Mr. McCLELLAN. Mr. President, I am ready to vote, unless someone wishes to speak.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BUCKLEY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment is yielded back.

The question is on agreeing to the amendment of the Senator from New York. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from South Carolina (Mr. Hollings), the Senator from Minnesota (Mr. Humphrey), the Senator from Louisiana (Mr. Long), the Senator from Montana (Mr. Mansfield), the Senator from Wisconsin (Mr. Nelson), the Senator from Alabama (Mr. Sparkman), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New Hampshire (Mr. Cotton), the Senator from Colorado (Mr. Dominick), the Senator from Oregon (Mr. Hatfield), and the Senator from Arizona (Mr. Goldwater) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The result was announced—yeas 87, nays 0, as follows:

[No. 67 Leg.]

YEAS—87

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Fong
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hathaway
Helms
Hruska
Huddleston
Hughes
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—13

Beall
Cotton
Dominick
Fulbright
Goldwater
Hatfield
Hollings
Humphrey
Long
Mansfield
Nelson
Sparkman
Stennis

So Mr. Buckley's amendment was agreed to.

Mr. ROBERT C. BYRD and Mr. HUGHES addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, may the Senator from Iowa be recognized and then yield to me for a unanimous-consent request?

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HUGHES. Mr. President, I am happy to yield to the Senator from West Virginia.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on each of the two amendments by Messrs. KENNEDY and HART, amendments Nos. 1015 and 1016, there be a time limitation of 40 minutes, to be equally divided in accordance with the usual form, and that time on any amendment to an amendment, debatable motion, or appeal be limited to 10 minutes, to be equally divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. Mr. President, reserving the right to object, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. McCLELLAN. As I understand it, the request applies to only two amendments. Is that correct?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. McCLELLAN. It does not apply to the so-called gun control amendment?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. McCLELLAN. And the time is 40 minutes?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLELLAN. What did the Senator say about 10 minutes?

Mr. ROBERT C. BYRD. On any amendment to an amendment, debatable motion, or appeal.

Mr. McCLELLAN. Except that all the amendments should be germane. I would like that to be included.

Mr. ROBERT C. BYRD. Very well, in accordance with the usual form; yes.

Mr. McCLELLAN. Mr. President, I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HUGHES. Mr. President, I would like to ask the distinguished Senator from New York (Mr. BUCKLEY) a couple of questions about the amendment that was just adopted, for my own clarification. As the Senator from Iowa understands the amendment, it prevents execution of a pregnant woman. Is that correct?

Mr. BUCKLEY. That is correct.

Mr. HUGHES. If a woman was pregnant, awaiting execution, and the baby was born prior to the date of the execution, would the woman then be executed?

Mr. BUCKLEY. She would then be executed.

Mr. HUGHES. She would then be executed. Is there any provision for the mother to nurse the baby for any period of time, say 30 or 60 days or 6 months, before the execution?

Mr. BUCKLEY. No, but I assume the competent officials would have the humane good sense to do the right thing under those circumstances.

Mr. HUGHES. In other words, the court then could perform the execution simply by setting the execution date, say, if they knew the mother was pregnant, 10 months ahead, so they could obviously execute the woman then?

Mr. BUCKLEY. That is correct.

Mr. HUGHES. So the amendment which was just adopted could not prevent the execution if the court wanted to execute; simply by controlling the date of execution, they could see that execution was performed?

Mr. BUCKLEY. What we want to prevent is killing an unborn child.

Mr. HUGHES. So the purpose of the amendment is to see that the child is born, and has no relationship to the life of the mother?

Mr. BUCKLEY. That is correct.

Mr. HUGHES. I thank the Senator from New York for clarifying that point.

Mr. KENNEDY. Mr. President, I call up my amendments No. 1015, on behalf of the Senator from Michigan (Mr. HART) and myself.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk proceeded to read the amendments.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendments No. 1015 are as follows:

On page 14, line 3, immediately after "(f)", insert "(1)".

On page 14, line 7, strike out "(1)" and insert "(A)".

On page 14, line 8, strike out "(2)" and insert "(B)".

On page 14, line 12, strike out "(3)" and insert "(C)".

On page 14, line 15, strike out "(4)" and insert "(D)".

On page 14, line 20, strike out "(5)" and insert "(E)".

On page 14, between lines 24 and 25, insert the following:

"(2)(A) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in subsection (d) that the action resulting in the offense for which the defendant was convicted involved the holding or detaining by the defendant of one or more individuals as hostage or otherwise and that, on the basis of an assurance given to him by the Attorney General or his delegate to the effect that the release of any and all such individual or individuals then held or otherwise detained would be considered a mitigating factor for purposes of this subsection, the defendant thereafter released any and all such individual or individuals on the basis of that assurance.

"(B) In any sentencing hearing involving a defendant who received an assurance in accordance with the provisions of subparagraph (A) of this paragraph and who, on the basis thereof, released any and all individual or individuals held or detained by him at the time such assurance was given, the Attorney General shall certify that information to the court conducting such hearing and such certification shall be deemed a mitigating factor for purposes of this subsection.".

Mr. KENNEDY. Mr. President, amendment No. 1015, which has been offered by the Senator from Michigan (Mr. HART) and myself, would provide an additional mitigating factor——

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. McCLELLAN. Does the Senator wish a rollcall vote on the amendment?

Mr. KENNEDY. Yes, I would wish a rollcall vote.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, could I ask for the yeas and nays on the other amendment, No. 1016?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on amendment No. 1016.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second?

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the yeas and nays be ordered on the gun control amendment, as well, at whatever time that is going to be considered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second?

The yeas and nays were ordered.

Mr. McCLELLAN. Mr. President, I would like to reserve the right to move to table. I might make such a motion if I feel it necessary.

The PRESIDING OFFICER. No right to table has been lost. The motion may still be made.

Mr. ROBERT C. BYRD. Mr. President, the yeas and nays were ordered on the question of adopting the amendment. Does not that rule out a motion to table?

The PRESIDING OFFICER. No, it does not.

Mr. McCLELLAN. That is what I wanted to be clear on. I was under the impression that it did.

The PRESIDING OFFICER. A unanimous-consent agreement to vote on a motion to adopt an amendment would rule out the motion to table. But a simple order for the yeas and nays would not.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

Mr. McCLELLAN. I just wanted to reserve that right.

Mr. KENNEDY. Mr. President, I ask unanimous consent that our time begin to run at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, our amendment No. 1015 would provide for an additional mitigating factor which, upon agreement of the Attorney General or his delegate, would preclude the death penalty if, after killing one or more individuals, the defendant released hostages. Without such a provision under the bill as it is now written, a defendant who has already killed an individual would automatically receive the death penalty and would therefore have nothing to lose in killing the remaining hostages he holds. Our amendment, on the other hand, would provide law enforcement officials, in appropriate cases, with a bargaining tool that would allow them to offer the defendant a guarantee that he would not get the death penalty in return for releasing his hostages.

Further, by requiring the consent of the Attorney General before the act of releasing hostages could become a mitigating factor, my amendment would insure that the provision apply only in appropriate cases at the discretion of the Attorney General. If we were to make the addition of the mitigating factor of release of hostages an absolute one, applicable in every case, thereby leaving the decision up to the criminal, conceivably he could decide to kill all of his hostages as long as he was careful to release one person alive in order to avoid the death penalty.

In the interest of saving the lives of innocent victims at a time when crimes involving hostages are occurring almost daily, I urge my colleagues to vote for this amendment regardless of your position on the death penalty.

Mr. HART. Mr. President, would the Senator yield?

Mr. KENNEDY. I yield.

Mr. HART. Mr. President, as the Senator from Massachusetts has already described, this amendment would try to reduce the possibility of the quasi-mandatory operation of the bill having the effect of increasing the risk of death to hostages of a skyjacker, kidnaper, or bank robber. Presently, the bill offers no opportunity for police authorities to try to bargain for the release of such hostages if one person was killed in the effort to gain command of an aircraft, or to accomplish the initial kidnaping. Death would be mandatory; the kidnaper would gain nothing by releasing the hostages.

Our amendment would permit the Attorney General to direct the U.S. attorney to stipulate that release of hostages was a mitigating factor. This would not guarantee a kidnaper or skyjacker that by taking hostages he could evade the death penalty. The Attorney General could refuse to promise such a stipulation. But if he did, the situation would be no worse than it is under the present bill. And, in appropriate cases where the Attorney General did agree to make the stipulation, it would be a valuable tool to save lives.

Mr. KENNEDY. Mr. President, if the Senator would yield for a moment. Under the present bill if a skyjacker actually killed some individual in the process of the skyjacking, under the existing legislation the mandatory death sentence would apply. Therefore, there would be very little incentive for the hijacker to come to terms with law enforcement officials or to be willing to release any of the hostages because of the fact that he had already committed a crime for which the death penalty is automatic.

It is because of this factor that we feel it would be useful or helpful, both in terms of preserving life and bringing an individual to justice, to provide for a degree of flexibility.

As I understand it, this degree of flexibility does not exist under the current law, and there would be very little incentive for a hijacker, if a death had occurred in the process of the hijacking, to preserve the lives of hostages.

Mr. HART. The Senator from Massachusetts is correct. There is no flexibility in the bill unless this amendment is agreed to. Once the skyjacker or kidnaper has killed, those whom he continues to hold become excess baggage. He might as well kill them too because he is a dead duck unless this amendment is agreed to.

To cite a current and cruel case, the daughter of the California publisher, Mr. Hearst, was kidnaped. As I read the papers, the girl's fiance was beaten and physically assaulted by the kidnapers. If the fiance had been killed in that scuffle, how much worse Miss Hearst's prospects would be. That is why this amendment makes good sense.

Mr. KENNEDY. It is because of this situation that this amendment is offered, to provide an incentive.

Mr. President, we reserve the remainder of our time.

Mr. McCLELLAN. Mr. President, I yield 3 minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I rise in opposition to the amendment. I believe it would be counterproductive.

Suppose that an individual would engage in an illegal act, an offense against the U.S. law, and would kill someone and then escape. When law enforcement officials were closing in upon him, he could grab two or three people and hold them hostage. He could then say, "All right. I will agree not to kill them, and I will return them if I get excused by the Attorney General from any death penalty."

We would have put in by reason of this amendment a situation that would really endanger the public and result in the loss of lives of innocent people. It would give an individual who has committed an offense for which the penalty of death may be imposed the incentive to take hostages so that he can bargain with the Attorney General to avoid the death penalty.

I would like to ask if the Senator from Massachusetts thinks there is any merit to that suggestion.

Mr. KENNEDY. Mr. President, first of all, I think the Senator's argument defies any kind of logic, because the defendant would be attempting to escape, and if he had a hostage, he would be running the further risk of the possibility of identification. Finally, he has taken hostages on the chance that the Attorney General might be willing to exercise his discretion which he is in no way compelled to do.

If this were mandatory, there might be some logic. I still feel that a defendant would be more involved in attempting to escape rather than taking a hostage. But the fact that it is purely discretionary, I think, destroys the logic of the fact situation that the Senator from Nebraska has presented.

Mr. HRUSKA. Mr. President, the only comment I would have on that is to say that if the taking of the hostages was contemporaneous with the commission of the offense for which the man is later convicted, that is one situation. But the amendment we have before us would cover situations where hostages could be seized at a later time, in circumstances unrelated to the crime, unrelated to the offense for which he is ultimately convicted.

What about those who may be future hostages, those who are seized by offenders in efforts to obtain the assurance of the Attorney General that the death penalty will not be imposed.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. HRUSKA. I yield myself 2 more minutes.

What about the hostages? It is not a very nice arrangement for them, when, as a result of this provision they are put in that predicament. I think that is a pretty high price to be paid by innocent people. We should not trifle with the dignity of human life by putting them in that situation which, in my judgment, can be the result if we adopt this amend-

I yield back the remainder of my time, if there is any remaining. It is my hope, Mr. President, that the amendment will be defeated.

Mr. McCLELLAN. Mr. President, does the Senator from Massachusetts yield back the remainder of his time?

Mr. KENNEDY. Is the Senator prepared to yield back his time?

Mr. McCLELLAN. No, I wish to speak on the amendment.

Mr. KENNEDY. I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President, I wish we had more Senators here to listen to this argument.

This amendment would sanction by law a negotiating agency to negotiate with the most cruel criminals who may come along. It is an invitation to any criminal, any kidnapper, any robber, any hijacker, the minute he commits a crime resulting in the death of another, to take with him a hostage. No matter how horrible the original crime. No matter how dastardly. No matter how many are involved, whether there are 1, 2, or 10 people killed. All he has to do is take with him one or more hostages, and then bargain for the lives of the hostages with the Attorney General under the sanction of law to escape the death penalty.

Any criminal smart enough and sophisticated enough to plan such a crime and to execute it certainly would have the judgment and the ingenuity to take hostages and then bargain for his own life. This is one of the most dangerous precedents, in my judgment, that we could set. Suppose he takes a half dozen hostages and the Attorney General is reluctant, because the person has perhaps already murdered someone in some horrible fashion, maybe by crucifixion or torture. He takes some hostages, and then he says to the Attorney General, "You cannot condemn me under the law if I release these hostages on your promise that I will not be electrocuted."

And it is binding. This is to be one of the mitigating factors. All he would have to do is take two persons, and say, "I will kill one today if you do not agree to my terms." He kills that one today. Then he says, "I will kill the other one tomorrow if you do not agree to spare my life. I have nothing to lose now."

Let me point out something else. Under this amendment they can cut off their ears, they can punch out their eyes, they can mutilate them, and then return them. The amendment does not say they are to be returned unharmed. They can do anything to the hostages they want to short of killing them. The Attorney

General could not know whether they have been hurt or not. He could not know, as he bargains, whether they have been maimed for life.

Of course, the criminal will bargain to save his own life. He will agree to turn them loose to save his life. But we are setting a trap for ourselves. I hope we will never go that far.

There is risk as long as we have wanton murderers at large in the land. Everyone's life to some extent is exposed to danger. But if we are going to invite and set up the plan in advance, the criminal will have sense enough to get hostages. I do not think that kind of power should be vested in an Attorney General. If it is to be vested anywhere, it ought to be in some court, some tribunal where there is a right of review, where society can be protected, where the decision is not made on the whim, the faulty judgment, or the expert judgment, if you will, of just one man.

There is a lot at stake in this amendment. We would be encouraging crime of the worst order. We would be promising the worst criminal that if he can get himself some hostages, he will have a chance to save his own life. We do not even protect them while they are in his care. All this amendment requires is that they be released, that he agrees to release them. There is nothing in here about their condition or how they are to be released, whether they are to be unharmed.

I hope the Senate will not give sanction to a proposal of this kind. For the moment, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield the Senator from Michigan such time as he may require.

Mr. HART. Mr. President, I think this discussion has enabled all of us to see a little more clearly the situation we confront. It was because of that anticipation that Senator KENNEDY and I provided the authority in the Attorney General to make a judgment as to what humanity's claim is in a given situation.

I have confidence that the Attorney General would resolve it correctly. The hard truth is that hostages are taken now, and can be taken at any time. Bargaining is undertaken, whether it is a direct kidnaping or involves 100 people on an airplane, and humanity's claim is sought to be answered now. But if this bill becomes the law, and a single death has occurred, unless we have this authority in the Attorney General, that skyjacker would not give a damn what happened, because, as the Senator from Arkansas says, it is the chair for him.

Let us try to anticipate that situation, and adopt this amendment.

The PRESIDING OFFICER. Who yields time? Is all remaining time yielded back?

Mr. McCLELLAN. We will not yield back the remainder of our time until we determine whether there are any other amendments.

The PRESIDING OFFICER. There is an amendment to the amendment which, as I understand it, has not yet been called up, but which is eligible to be called up.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. If we yield back the time, would we then proceed to vote?

The PRESIDING OFFICER. Not if an amendment to the amendment is offered.

Mr. McCLELLAN. All right. I am prepared to yield back my time, if someone wishes to offer an amendment.

Mr. KENNEDY. Mr. President, let me just make this brief comment. I could not let the RECORD stand as left by the Senator from Arkansas about all the gruesome details of what might happen were this amendment to be accepted. If we are going to talk about the torture of different hostages, I hope those who are not going to support the amendment will have some degree of understanding for the position that would be taken by law enforcement officials who are attempting to free hostages in a plane or in some other kind of skyjacking. I would hope that the law enforcement officials will be able to explain to the families of the dead hostages that they could not negotiate their release because the law did not give them the opportunity.

I hope the families will understand that the criminal had nothing more to lose by crashing or blowing up the plane, after he has been involved in the initial killing.

As the Senator from Michigan (Mr. HART) has pointed out, this is completely discretionary power. I think it is a responsibility, an awesome responsibility, which any Attorney General can exercise on behalf of the preservation of life, with some flexibility to use this discretion in appropriate cases.

Mr. JOHNSTON. Mr. President, I am wondering, is it discretionary if the Attorney General makes a promise to a kidnapper holding hostages, not to then fulfill that promise, or does he have the discretion later, after the hostages have been released, where he may determine it is not a worthwhile case? Does this ripen into a contract between the United States and the kidnapper, if the agreement is made prior to the release of the hostages?

Mr. KENNEDY. Once the assurance is given, it would be considered to be a mitigating circumstance, and the Attorney General would be bound to make that presentation at the time of the sentencing.

Mr. JOHNSTON. Well, I have an amendment which I am prepared to offer when time is yielded back, which would make clear that the promise made by the Attorney General would not be binding if made prior to release of the hostages. I submit that it is only proper that the United States should not allow itself, whether it be the Attorney General, a delegate, or anyone else, to have a shotgun held at his head and make a promise which is binding, but rather any negotiations prior to that time should become binding only after the force itself.

Mr. KENNEDY. It is only binding if the defendant complies with the terms. If the Attorney General says that the hostages have to be released, then if he kills that individual, there is no agreement. There would have to be a release of the hostages in order to have a binding agreement and that individual would have to be freed for the terms to be complied with.

Mr. President, I am prepared to yield back my time.

Mr. McCLELLAN. Mr. President, I agree with the Senator from Massachusetts that the criminal has nothing to lose after he has committed the crime, blows up the airplane with women and children in it, because after he blows it up, he has nothing to lose. He has got everything to gain. He will gain his life back by bartering, by threatening the hostages, maybe by torturing them to the point where the Attorney General would agree.

Sure, he has got nothing to lose. He has everything to gain—and that is his life—preserving his life.

Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HATHAWAY). All time has now been yielded back. The question is on agreeing to the amendment.

Mr. JOHNSTON. Mr. President, I have an amendment at the desk which I call up at this time.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, line 13, change the period to a comma and add the following:

"*Provided*, That any such promise or assurance made by the Attorney General or his delegate, made prior to the release of such hostages shall not be binding on the United States, the Attorney General, or his delegate."

Mr. McCLELLAN. Mr. President, I would like to ask the Senator, would he modify his amendment further, where he says, ". . . shall not be binding on the United States, the Attorney General, or his colleague . . ." and add "or on the courts of the United States". Under the amendment as now written, it would not be binding on the courts.

Mr. JOHNSTON. The intent of the amendment is to allow the Attorney General to make it binding, provided the Attorney General makes that decision after the hostages have been released.

Mr. McCLELLAN. The Senator does not say here "or on the court." That is what I would hope the Senator would do.

Mr. JOHNSTON. I concur with the Senator in the sense that it would not be binding on the court provided the Attorney General decides to change his mind later.

Let me explain the intent of my amendment and then I will be glad to modify it if it does not achieve that purpose.

All through the law, the common law, the civil law, virtually every law I know of, any promise made under duress is held to be an unenforceable promise. Indeed, a shotgun marriage can be annulled upon proof of having used the shotgun because the consent is vitiated by the force.

What we are doing in this amendment,

if it is not changed, is to say that a promise made by the Attorney General pursuant to force will be binding on the United States and will be binding on the Attorney General. What this does is to encourage the dealing with kidnapers and making a promise and then making the promise ripen into allegedly enforceable promise.

If the kidnapers of Hearst's daughter would say that they will release the hostages, if the Attorney General will not give them the death penalty, he has no choice. He must give this mitigating circumstance. He must give that mercy in that situation, whether the kidnapers actually deserve it or not. They could have killed 10 people, all the hostages, upon a promise to release one, and the Attorney General would have no choice, in my judgment, but to release that hostage, and that promise then would ripen into an immediate, legally enforceable promise.

What this amendment would do would be to provide that, in effect, if the Attorney General has to make that promise while the hostages are still being held, that promise is not binding. Like any other promise, it would not be binding and, therefore, the Attorney General could then decide, after the fact, after the release of the hostages, whether it should in fact be a mitigating circumstance.

In my judgment, this kind of theme should run throughout all the law, that not only where hostages are held or where there is a prison riot and negotiations are held with prisoners under duress, or in any other situation where prisoners are held in the United States through the Attorney General or other law enforcement officer when he negotiates under duress, none of those promises should be binding. They are not in the rest of the law and they should not be here.

I quite agree with the Senator from Massachusetts and the Senator from Michigan that we should be able to hold out some carrot to the kidnapers so that it is not automatically decided they will be put to death. But if we make that discretionary, that would be all the carrot they would need.

Mr. President, I reserve the remainder of my time.

Mr. HART. Mr. President, if I understand it correctly, the situation of the hostages would be better under the amendment of the Senator from Louisiana than if the bill as reported was adopted. But the hostage's situation would be still better if the amendment offered by the Senator from Massachusetts and the Senator from Michigan were adopted.

I know that the concern of the Senator from Louisiana is for the State's integrity and less for the appeal in the claim on us from the hostage. Have I described the situation?

Mr. JOHNSTON. I think that is correct. Under my amendment, the criminal would have the hope that the Attorney General would grant him amnesty. Under the amendment of the Senator from Michigan, he would have the absolute legal right.

Mr. HART. And the criminal, under the Kennedy-Hart amendment, would know that he could rely on the commitment from the Attorney General. Under the amendment of the Senator from Louisiana, the criminal would be unsure.

Mr. JOHNSTON. That is correct.

Mr. HART. Under that circumstance and understanding, it seems to me that those of us who feel that the Kennedy-Hart approach is preferable would vote against the amendment offered by the distinguished Senator from Louisiana. Unfortunately, that vote shall occur first, so I would urge the rejection of that amendment.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. McCLELLAN. Would the Senator agree to modify his amendment to provide that any assurances given will not be binding on any court of the United States? If the Senator says "any court in the United States," there is no question. It is not binding on anybody if something goes wrong.

Mr. JOHNSTON. The intent is to make the death penalty discretionary if the hostages are released. If we add that language, would it be the intent of the Senator from Arkansas to then have it discretionary to inflict the death penalty?

The PRESIDING OFFICER. All time of the Senator from Louisiana has expired. The Senator from Massachusetts has 3 minutes remaining on his amendment.

Mr. McCLELLAN. Mr. President, will the Senator yield me a half minute?

Mr. KENNEDY. I yield.

Mr. McCLELLAN. I want to put that discretion in the court, if the Senator from Louisiana contends it is discretionary, and not leave it to the Attorney General's discretion.

Mr. JOHNSTON. With that explanation, Mr. President, I modify the amendment to add the words "or the courts."

Mr. McCLELLAN. "Or any court of the United States."

Mr. JOHNSTON. "Or any court of the United States."

The PRESIDING OFFICER. Will the Senator send the modification to the desk?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. The clerk will state the amendment as modified.

The legislative clerk read as follows:

At the end of the amendment proposed by the Senator from Louisiana, add the words "or any court of the United States."

The PRESIDING OFFICER. Who yields time?

Mr. HART. Mr. President, I ask unanimous consent that, without the time being charged to either side, the clerk now read the amendment as modified.

The PRESIDING OFFICER. Is there objection? The Clerk hears none, and it is ordered.

The clerk will read the amendment as modified.

The legislative clerk read as follows:

On page 2, line 13, change the period to a comma and add the following: "*Provided*, That any such promise or assurance made by the attorney general, or his delegate, made prior to the release of such hostages, shall not be binding on the United States, the attorney general or his delegate, or any court of the United States."

The PRESIDING OFFICER. The Senator from Massachusetts has 2 minutes remaining.

Mr. KENNEDY. Mr. President, I think that certainly weakens our amendment.

For the reasons the Senator from Michigan pointed out earlier, our interest was to put the safety of the hostage first and now the hijacker does not have as much incentive to release the hostages since the agreement is not automatically binding.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. JOHNSTON. What it does is to change a mandatory death sentence to a discretionary death sentence.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. KENNEDY. Mr. President, I ask unanimous consent that we may have 4 additional minutes, evenly divided.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered

Mr. KENNEDY. As I understand it, it does not make it discretionary. All it does is make it discretionary whether the court is going to accept the agreement. It does not change the existing legislation that we are debating here, at least in my understanding of the amendment as modified. The court could accept or reject the agreement.

Mr. JOHNSTON. The intent is to allow the Attorney General to recommend to the court and to allow the court to take into consideration the release of hostages as being a mitigating circumstance which reduces a mandatory death sentence to a life sentence. It can be done on the basis of this amendment; whereas, under the original amendment offered by the Senator from Massachusetts, a promise made would automatically reduce a mandatory death sentence to a life sentence.

The PRESIDING OFFICER. Is all time yielded back?

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from Louisiana, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The question is now on agreeing to the amendment of the Senator from Massachusetts, as modified by the amendment of the Senator from Louisiana On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Is a motion to table the amendment, as modified, still in order?

The PRESIDING OFFICER. Yes.

Mr. DOLE. Mr. President, I move to table the amendment, as modified.

The PRESIDING OFFICER. The question is on the motion to table the amendment, as modified.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

Mr. HRUSKA. Mr. President, I ask for a rollcall vote.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. What is the question?

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from Kansas to table the amendment of the Senator from Massachusetts as amended by the amendment of the Senator from Louisiana.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. MANSFIELD), the Senator from Wyoming (Mr. MCGEE), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), and the Senator from Oregon (Mr. HATFIELD), are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 40, nays 47, as follows:

[No. 68 Leg.]

YEAS—40

Aiken
Allen
Baker
Bartlett
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Curtis
Dole
Eastland
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Helms
Hruska
Huddleston
McClellan
McClure
McIntyre
Montoya
Nunn
Packwood
Randolph
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stennis
Stevens
Symington
Talmadge
Thurmond
Tower
Young

NAYS—47

Abourezk
Bayh
Bellmon
Bentsen
Biden
Brooke
Burdick
Case
Chiles
Church
Clark
Cranston
Domenici
Eagleton
Fong
Gravel
Hart
Haskell
Hathaway
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mathias
McGovern
Metcalf
Metzenbaum
Mondale
Moss
Muskie
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Schweiker
Stafford
Stevenson
Taft
Tunney
Weicker
Williams

NOT VOTING—13

Beall
Bennett
Cook
Cotton
Dominick
Fulbright
Hartke
Hatfield
Hollings
Long
Mansfield
McGee
Nelson

So Mr. DOLE's motion to lay on the table Mr. KENNEDY's amendment, as amended by Mr. JOHNSTON, was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Massachusetts (Mr. KENNEDY), as amended. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Montana (Mr. MANSFIELD), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

I further announce that, if present and voting the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 49, nays 40, as follows:

[No. 69 Leg.]

YEAS—49

Abourezk
Bayh
Bellmon
Bentsen
Biden
Brooke
Burdick
Case
Chiles
Church
Clark
Cranston
Domenici
Eagleton
Fong
Gravel
Hart
Hartke
Haskell
Hathaway
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Mathias
McGee
McGovern
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Schweiker
Stafford
Stevenson
Taft
Tunney
Weicker
Williams

NAYS—40

Aiken
Allen
Baker
Bartlett
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Curtis
Eastland
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Helms
Hruska
Huddleston
Long
Magnuson
McClellan
McClure
McIntyre
Nunn
Packwood
Randolph
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stennis
Stevens
Symington
Talmadge
Thurmond
Tower
Young

NOT VOTING—11

Beall
Bennett
Cook
Cotton
Dole
Dominick
Fulbright
Hatfield
Hollings
Mansfield
Nelson

So the Kennedy amendment, as modified, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go into executive session for not to exceed 3 minutes, to consider certain nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, eight of these nominations were favorably reported today by the Committee on Foreign Relations, and one by the Committee on the Judiciary. I ask for their immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the nominations.

DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of Leonard Unger, of Maryland, to be Ambassador Extraordinary and Plenipotentiary to the Republic of China.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The assistant legislative clerk read the nomination of Robert W. Dean, of Illinois, to be Ambassador Extraordinary and Plenipotentiary to Peru.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The assistant legislative clerk read the nomination of John Gunther Dean, of New York, to be Ambassador Extraordinary and Plenipotentiary to the Khmer Republic.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The assistant legislative clerk read the nomination of Hermann F. Eilts, Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary to the Arab Republic of Egypt.

The PRESIDING OFFICER. Without objection, the nomination was confirmed.

U.S. ADVISORY COMMISSION ON INTERNATIONAL EDUCATIONAL AND CULTURAL AFFAIRS

The assistant legislative clerk read the nomination of Lawrence Y. Goldberg, of Massachusetts, to be a member of the U.S. Advisory Commission on International Educational and Cultural Affairs for the remainder of the term expiring May 11, 1975.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The assistant legislative clerk read the nominations of Leo Cherne, of New York; Rita E. Hauser, of New York; and Leonard H. Marks, of the District of Columbia, to be members of the U.S. Advisory Commission on International Educational and Cultural Affairs for terms expiring May 11, 1976.

The PRESIDING OFFICER. Without objection, the nominations are confirmed.

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

The assistant legislative clerk read the nomination of John W. Warner, of Virginia, to be Administrator of the American Revolution Bicentennial Administration.

The **PRESIDING OFFICER**. Without objection, the nomination is confirmed.

Mr. **SPARKMAN**. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

CAPITAL PUNISHMENT

The Senate resumed the consideration of the bill (S. 1401) to establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes.

Mr. **KENNEDY**. Mr. President, I yield to the Senator from Virginia.

Mr. **WILLIAM L. SCOTT**. Mr. President, I appreciate the courtesy of the distinguished Senator from Massachusetts in yielding me a moment so that I might comment on the bill before us.

Certainly the death penalty is a matter upon which reasonable people may disagree, but I would commend the administration for the message it sent to Congress urging that we meet the criteria set down by the Supreme Court, and also commend the committee for the bill that it brought to us for consideration. I am pleased to be a cosponsor of this measure.

It seems to me that the only justification for passing a bill reestablishing the death penalty in certain cases for major crimes is its effect as a deterrent to crime. There is a fine line that has been laid down by the committee in the bill before us to meet the requirements of the Supreme Court and to reestablish the death penalty. In my opinion this is a good bill, a major deterrent to crime, and I express the hope that the bill can be passed, and passed overwhelmingly, without any amendments that would tend to weaken its provisions.

AMENDMENT NO. 1016

Mr. **KENNEDY**. Mr. President, I call up my amendment No. 1016.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. **KENNEDY**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. KENNEDY's amendment (No. 1016) is as follows:

On page 13, beginning with line 17, strike out all through line 2 on page 14 and insert in lieu thereof the following:

"(e) If the jury or, if there is no jury, the court finds, beyond a reasonable doubt, that one or more of the applicable aggravating factors set forth in subsection (g) or (h) exists, the court shall sentence the defendant to death, except that if such jury or court, as the case may be, finds by a preponderance of the information that one or more of the mitigating factors set forth in subsection (f) exists, the court shall not sentence the defendant to death but shall impose any other sentence provided for the offense for which the defendant was convicted.".

On page 14, line 3, immediately after "(f)", insert "(1)".

On page 14, line 7, strike out "(1)" and insert "(A)".

On page 14, line 8, strike out "(2)" and insert "(B)".

On page 14, line 12, strike out "(3)" and insert "(C)".

On page 14, line 15, strike out "(4)" and insert "(D)".

On page 14, line 20, strike out "(5)" and insert "(E)".

On page 14, between lines 24 and 25, insert the following:

"(2) For purposes of determining the existence of mitigating factors under this section, the provisions of this section relating thereto shall be liberally construed.".

The **PRESIDING OFFICER**. The Senator from Arkansas and the Senator from Massachusetts are advised that on this amendment there is a time limitation. Who yields time?

Mr. **KENNEDY**. Mr. President, I yield myself such time as I may require.

Our amendment contains two sections. One would require that aggravating circumstances, as set forth in subsections (g) and (h), be proven beyond a reasonable doubt, and not merely by a preponderance of the evidence, as the bill provides. I believe this higher criminal standard is necessary in order to diminish the possibility that an irrevocable punishment be imposed on an innocent person. Although under present sentencing procedures the standard of preponderance of the evidence is used, I believe, with the automatic imposition of the death penalty provided under S. 1401, the higher standard is both necessary and appropriate.

The second portion of our amendment provides that all the mitigating factors set forth in subsection (f) be liberally construed. Words such as "relatively minor," and "substantial duress," are in my judgment quite vague. This provision of the amendment would insure that a jury caught between two interpretations of what facts constitute relatively minor participation or substantial duress would choose the interpretation most favorable to the defendant, thereby diminishing the possibility of error.

I direct the attention of Senators to the list of aggravating factors. Subparagraph (5) requires that the defendant commit the offense in an especially heinous, cruel, or depraved manner. We ask why should such facts not be proved beyond a reasonable doubt?

If a defendant committed an offense in return for payment, which is a hired killer, why should that not be proved beyond a reasonable doubt?

It seems to us that the seriousness of the mandatory application of the death penalty should require that in the proving of the aggravating circumstances, they should be proved beyond reasonable doubt.

In proving a fact by the preponderance of the evidence, the prosecution is required to go as far as 51 percent toward a certainty. The standards of beyond a reasonable doubt would require almost 100 percent, at least in the 90th percentile. When we are talking about taking the life of a human being, should we not at least require the higher standard so that we reduce the possibility of error?

On the other hand, considering the mitigating circumstance—the words in section (f) are, I believe, sufficiently vague to permit great latitude in the interpretation. There are other mitigating factors listed under section (f) such as "could not reasonably have foreseen that his conduct would result in death."

The thrust of this part of the amendment is to provide an interpretation which would, in a case of jury indecision, result in a decision in the light most favorable for preserving human life. So I would hope that this particular amendment would be acceptable to the proponents of the bill.

I yield such time as the Senator from Michigan (Mr. HART) may require.

Mr. **HART**. Mr. President, I shall be very brief. I think the explanation offered by the Senator from Massachusetts is inclusive and I would hope persuasive.

All I should underscore, perhaps, is an effort to remind my colleagues that history unfortunately shows that even when the requirement is proof beyond a reasonable doubt, even when that is the standard, we know that innocent men have been convicted—I do not say executed, except for the one that we know of in England—but convicted.

How much more likely are mistakes to be made if the jury finds only on the basis of a preponderance of the evidence, yet that is the standard on which the judgment shall be made as to the existence of a fact which will require execution unless this amendment is agreed to. I hope very much that we shall.

Mr. **HRUSKA**. Mr. President, while I appreciate the concerns of the distinguished Senators from Massachusetts and Michigan that have prompted their amendment to increase the degree of proof for the aggravating factors from the standard of "preponderance of the evidence" to the standard "beyond a reasonable doubt," I believe that the amendment is neither workable nor necessary.

The amendment would be unworkable because the aggravating factors do not lend themselves to that kind of proof. One of the aggravating factors is that "the defendant committed the offense in an especially heinous, cruel, or depraved manner." But how could it be shown that the defendant committed the offense in a heinous, cruel or depraved manner beyond a reasonable doubt?

It does not lend itself to that kind of proof.

Aside from that point, I believe that the amendment is unnecessary because there are already safeguards in the bill designed to insure that no errors are committed. In addition to the procedural safeguards already available to a defendant in a criminal trial, one of which requires proof of guilt to be beyond a reasonable doubt, the bill provides three other safeguards:

First, the defendant is accorded a bifurcated, or two-stage, trial. Thus, evidence relevant to the issue of punishment can only be admitted during the second stage, not the first stage where the issue of guilt is decided. The risk of creating prejudice by admitting evidence relevant to punishment during the first stage is thereby avoided.

Second, the rules of evidence are not applicable with respect to the admissibility of evidence of mitigating circumstances, but remain in force with respect to aggravating circumstances. Such a procedure guarantees that all evidence favorable to the defendant will be considered while unreliable derogatory evidence will continue to be excluded.

Finally, S. 1401 provides for appellate review of the imposition of the death sentence. The defendant is granted the right to appeal the imposition of the sentence.

With all these safeguards, there appears to be no need to require that agravating factors be proved beyond a reasonable doubt. I believe that these safeguards reduce to almost an impossibility the likelihood of an innocent man being executed.

I, therefore, oppose the amendment. I believe it to be both unworkable and unnecessary. It is my hope that the amendment will be rejected.

Mr. McCLELLAN. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER (Mr. BARTLETT). The Senator from Arkansas is recognized for 3 minutes.

Mr. McCLELLAN. Mr. President, this bill as it is now is pretty much in conformity with present law. I invite the attention of Senators to subsection (e) which provides that the decision of the court or jury as to the existence of any aggravating or mitigating factors is to be based upon a "preponderance of the information." The preponderance standard is now, and has been, the standard utilized for the purposes of sentencing in both the Federal and State systems. In trying to arrive at a just sentence in a particular case, the judge considers all the material presented to him and reaches a decision based upon a preponderance of that information. Thus, this bill contemplates no change whatever in the sentencing system now applicable to all Federal crimes. The expression "preponderance of the information" merely appears novel because it is not usually stated.

I should note, however, that when the Congress last took up the question of sentencing for "dangerous special offenders" in the Organized Crime Control Act of 1970 this was precisely the standard adopted under those sentencing provisions. That act, passed by the Senate in January of 1970, provided for increased sentences for defendants who were determined to be "dangerous special offenders" by a preponderance of the information.

Lest there be any confusion, the use of the term "information" rather than the term "evidence" was the result of a deliberate choice because subsection (c) of the bill allows the defendant to present material tending to prove the existence of any mitigating factors even if it does not meet the standards of admissibility of "evidence" in a criminal trial.

Mr. President, it seems to me that in this bill and with the amendment already adopted to it, we are going pretty much overboard toward accommodating the worst criminals we can have in this country.

Certainly, a finding by a preponderance of the evidence that these aggravating facts exist—after the judgment of guilt beyond a reasonable doubt on the crime of murder has already been reached—should be sufficient. The bill allows the defendant to offer anything in mitigation that he wishes. He is not controlled by the rules of evidence. He can make any presentation in mitigation.

I think we are being more than fair. We are going pretty far to try to have a statute that will permit the death penalty under only the highest standards and requirements of law. There will be no death penalty unless Congress or the States, or both, in certain instances, enact a law setting up standards such as are in this bill, such as will meet the tests set out in Furman.

The real issue before us is whether we are going to have a death penalty or whether we are not. We are trying to meet the standards that the courts set up. I do not think we ought to go beyond those standards. We can go beyond them and just say there will be no death penalty statute. If that is what the Senate wants, that is its right. That is pretty much what we are leading to.

I hope the amendment will be defeated. I am ready to yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

I am somewhat perplexed as to why those who oppose this amendment feel that they can make a judgment about what is preponderance of the evidence but cannot do it with regard to beyond a reasonable doubt. They say that is a standard they do not feel lends itself sufficiently to definition to be able to be willing to accept it, but they have no trouble with the lesser standard.

I do not see why the amendment we have suggested here would complicate that particular understanding for the judge and for the jury. I do not believe that is really a legitimate argument.

I should like to ask the proponents of the bill and the manager of the bill what the real meaning of some of these words, say, for instance, in respect to the mitigating factors.

One of the mitigating factors is that the participation of the defendant is "relatively minor." Could the Senator from Nebraska help me in understanding what the managers of the bill feel would be "relatively minor"? Would that include, for example, someone who is driving the getaway car in a bank robbery? Would that be considered relatively minor or not? I am trying to get some kind of understanding of the legislative history for these terms.

Mr. HRUSKA. Two issues are involved. One is the issue of guilt. Certainly, if six people are involved in a bank robbery and one of them is driving a car and perhaps two are lookouts and three go into the bank and actually perpetrate the robbery, they are all engaged in the robbery. If a homicide occurs during that venture, their participation would involve all of them, and on the issue of guilt, they are on an even standing.

When we come to the matter of mitigating circumstances, then the rules of evidence do not apply. The whole matter can be considered by the factfinder without the restraints imposed by the rules of evidence. As a result almost any evidence will be allowed to establish mitigating circumstances. That is an additional safeguard in favor of those who want to establish a relatively minor role.

The PRESIDING OFFICER. The 3 minutes of the Senator from Massachusetts have expired.

Mr. KENNEDY. Will the Senator yield on his own time?

Mr. HRUSKA. I yield myself 2 minutes.

Ultimately, of course, it will be for the jury to decide, in view of all the circumstances, whether the role of the driver of that car or the role of the lookouts, outside the building, were minor, as compared, for example, to the robber inside the bank who, as in one case in the State of Nebraska, told five officers and employees of the bank to lie down with their faces to the floor, and then walked from one to the other and shot them dead.

In light of all the circumstances, the proof of the planning and premeditation of the defendants and their intent, it would be for the jury to decide whether the lookouts were involved only in a minor role or in a major role, in determining whether the mitigating factor existed. If the jury found that the mitigating factor existed, the lookouts would not be subject to execution; whereas, the one who actually put them on the floor and pulled the trigger would be. That is the purpose of the mitigating circumstance.

Mr. KENNEDY. My question is this: Should a judge, in reviewing the legislative history of this particular provision as it applied to that circumstance in Nebraska, consider that the person who drove the getaway vehicle in that particular circumstance——

Mr. HRUSKA. That is a question for the jury to decide, in the light of all the circumstances that prevail.

Mr. KENNEDY. Mr. President, we are talking about the legislative history. We are trying to find out what those words really mean.

I ask the Senator from Arkansas whether he has anything he wishes to add. What I am giving is a rather simple fact situation which I think probably arises with a considerable degree of frequency.

Is it the position of the floor managers of the bill that that factual situation would fall into their interpretation of "relatively minor" or outside it?

Mr. HRUSKA. If the Senator will yield, I will answer in part, and then I will yield to the Senator from Arkansas.

Mr. KENNEDY. I should like the Senator to answer, but on his own time.

Mr. HRUSKA. The Senator from Massachusetts has been traveling on our time.

Mr. KENNEDY. Mr. President, I ask that the Chair make those adjustments.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry. Whose time are we on now? I thought we had yielded this time.

The PRESIDING OFFICER. At the moment, we are on the time of the Senator from Massachusetts.

Mr. McCLELLAN. I thought I had yielded the floor.

Mr. HRUSKA. Mr. President, I yield myself 2 minutes, with the permission of the Senator from Arkansas.

Mr. McCLELLAN. Very well.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. Mr. President, the Senator from Massachusetts speaks of legislative history. But the question whether or not a mitigating factor exists is a question of fact not governed by instructions of the judge as to legal questions. When the language of the statute is brought before a jury and the instructions are read to the jury that "you are to consider this evidence and you are to determine whether or not this conduct was minor or not," that is a question of legislative history. But the actual decision made by the jury is a determination of a question of fact. I do not see the parallel, the analogy, the pertinence, or relevance. Questions of fact are completely divorced from questions of law. Only with respect to the latter can legislative history offer guidance.

Mr. KENNEDY. I would be glad to hear at this point from the Senator from Arkansas. I think every member of the Senate would be concerned if the floor managers of the bill cannot tell us on a simple factual situation if someone is involved in a minor role or not. If they cannot tell us, how can we expect members of the jury to be able to make that decision by a fair preponderance of the evidence? We are not even able to give them guidelines. We have a simple factual situation that I have posed to develop that point so that there might be guideposts for judges reviewing legislative history. From this debate the courts will probably find that the guidelines with respect to mitigating factors are vague indeed.

I wonder if the Senator from Arkansas might respond on a simple factual situation. We have a judge up in Massachusetts and he is trying to instruct a Federal jury in Massachusetts. Let us assume there has been a bank robbery at the First National Bank in Boston and there has been a killing in that bank. After conviction the Judge has to instruct the jury as to their responsibility in deciding whether the defendant who drove the getaway car played a minor role. How would the Senator from Arkansas clarify that?

Mr. McCLELLAN. I cannot tell how judges might determine any questions of fact.

Mr. KENNEDY. That is not the question.

Mr. McCLELLAN. If the Senator wants my opinion I will give it. I thought he was asking me.

Mr. KENNEDY. Yes, sir.

Mr. McCLELLAN. I think every case has to stand on its own circumstances. But if three people enter into a conspiracy to go into a bank and rob the bank at gunpoint and to kill, if necessary, to carry out that robbery, and the man sitting in the car is a part of that conspiracy, in my opinion that would not be a minor part.

Mr. KENNEDY. It would not be a minor part.

Mr. McCLELLAN. No. If he went there as a result of that conspiracy, knowing there might be a shooting, a killing. Any circumstances might be testified to, but if he went there for the purpose of committing a robbery, it would not be a minor part.

Mr. KENNEDY. Then, the Senator holds that the fellow who drives the getaway car will be included.

What about the person that hides the bank robbers. Let us say there is a killing in a Boston bank robbery and the criminals go out to Somerville and hide in somebody's basement. Would that person who hid them be considered to have played a relatively minor role?

Mr. McCLELLAN. If it is a relative or something like that, it might be considered to be a minor role. If he did not actually participate in the crime, then the act of concealing is a separate crime and not a part of the crime.

Mr. KENNEDY. Say he was in the discussion and knew they were in a conspiracy to rob the bank.

Mr. McCLELLAN. The Senator did not say that.

Mr. KENNEDY. I am giving it to the Senator now.

Mr. McCLELLAN. Well, let us have it.

Mr. KENNEDY. I am trying to make legislative history for this section concerning mitigating factors.

Mr. McCLELLAN. I think you can imagine a thousand circumstances that would all be different.

Mr. KENNEDY. That is why we are bringing this up.

Mr. McCLELLAN. And there is no way to write that into law. We can only use general language which it will be up to a jury to interpret in the light of their common sense.

Mr. KENNEDY. Then the test would be whether a person knew they were going down to rob the bank. He knew they were going down to rob the bank and then he hid those persons. I am asking if that would be considered a minor role or not? What would be the attitude of the judge in instructing a jury? What about the person who went out and bought the car for the people who were going to rob the bank?

We have seen that one of the managers of the bill has been unwilling to give a definitive answer as to whether the person who drove the getaway car was involved in a minor way or in a major way, and the other manager felt that it would fall within the purview of these particular sections of section (f).

These are circumstances that take place throughout the United States frequently and it seems to me that they are relevant. It is pertinent to the degree of finality by which this sentencing is carried out.

We are attempting to provide by this amendment that in meeting the standards on the aggravating factors they meet the standards beyond a reasonable doubt; and that in regard to the mitigating factors that we are going to interpret those in such a way as to be considered favorable in terms of the defendant. I think we have a responsibility to the cause of justice in this area.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 5 minutes remaining and the Senator from Massachusetts has 3 minutes remaining.

Mr. McCLELLAN. Mr. President, I merely wish to make one observation. There is no legislative body that can write a law portraying in the statute every kind of circumstance that might arise. For that reason we use in the statutes general language that has a simple, common meaning and understanding among intelligent people—so that it can be applied by such people in the various situations that might occur.

The question of whether a person's participation in a crime is minor will be for a jury to determine on the basis of the facts and crcumstances presented at the trial.

I cannot predict what a jury would do on a set of facts, but certainly it is not intended here to impose the death penalty upon a person when he played only some minor part in a crime. But it will be up to the jury to make that determination based on circumstances surrounding the commission of the crime. I do not know any other way to do it.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

The thrust of this amendment provides that where there is any indecision, it is going to be found in favor of the preservation of life, rather than death. That is the whole point of the amendment.

Mr. President, I am prepared to yield back my time.

Mr. HATHAWAY. Mr. President, will the Senator yield?

Mr. KENNEDY. How much time does the Senator from Maine want?

Mr. HATHAWAY. Mr. President, how much time remains? I will take only about 1 minute.

The PRESIDING OFFICER. The Senator from Massachusetts has 1 minute remaining.

Mr. KENNEDY. Mr. President, I yield that 1 minute to the Senator from Maine.

Mr. HATHAWAY. I thank the Senator from Massachusetts.

Mr. President, I want to say that I oppose the imposition of the death penalty in any situation. But I would support the KENNEDY-HART amendment, because in case the bill passes, it should at least be in as palatable a form as we can make it. The amendment of the Senator from Massachusetts and the Senator from Michigan is consistent with the procedure we use in the trial of a respondent in a State or Federal court. The State or the Federal Government is required to prove beyond a reasonable doubt the guilt of the respondent. If the respondent asserts the affirmative defense of insanity, he is charged with the burden of proving that defense, but not beyond a reasonable doubt.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has expired or been yielded back.

Mr. HATHAWAY. Mr. President, I ask unanimous consent to proceed for 1 additional minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, if Senators are going to ask for time, I withdraw my yielding back of the time.

The PRESIDING OFFICER. The Senator from Maine is recognized for 1 minute.

Mr. HATHAWAY. If a respondent is making an affirmative defense, he has to prove it only by a preponderance of the evidence. The amendment before us invokes that same procedure with respect to sentencing. I think it is a very wise amendment. The question of the individual's life is at stake, and I certainly think the aggravating circumstances mandating the death penalty should have to be proved beyond a reasonable doubt.

Finally, Mr. President, let me say that I considered offering a perfecting amendment to change the word "shall" to "may" on line 7 of the pending amendment, but in view of the fate suffered be a similar amendment offered earlier today by the Senator from Colorado, I decided that would be useless.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back or consumed. The question is on agreeing to the amendments (No. 1016) offered by the Senator from Massachusetts (Mr. Kennedy) and the Senator from Michigan (Mr. Hart). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from South Carolina (Mr. Hollings), the Senator from Montana (Mr. Mansfield), and the Senator from Wisconsin (Mr. Nelson) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett), the Senator from New Hampshire (Mr. Cotton), the Senator from Colorado (Mr. Dominick), and the Senator from Oregon (Mr. Hatfield) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The result was announced—yeas 49, nays 43, as follows:

[No. 70 Leg.]

YEAS—49

Abourezk
Baker
Bayh
Biden
Brooke
Burdick
Case
Church
Clark
Cook
Cranston
Eagleton
Fong
Gravel
Hart
Hartke
Haskell
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Taft
Tunney
Weicker
Williams

NAYS—43

Aiken
Allen
Bartlett
Beall
Bellmon
Bentsen
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Domenici
Eastland
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Helms
Hruska
Johnston
Long
Magnuson
McClellan
McClure
Nunn
Packwood
Randolph
Roth
Scott, William L.
Sparkman
Stennis
Stevens
Symington
Talmadge
Thurmond
Tower
Young

NOT VOTING—8

Bennett
Cotton
Dominick
Fulbright
Hatfield
Hollings
Mansfield
Nelson

So Mr. Kennedy's amendment (No. 1016) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the gun control amendment to be offered by the Senator from Massachusetts (Mr. Kennedy), there be a time limitation of 2 hours, to be equally divided between the Senator from Massachusetts (Mr. Kennedy) and the Senator from Arkansas (Mr. McClellan); that time on any amendment thereto be limited to 20 minutes, to be equally divided and controlled in accordance with the usual form; that time on any debatable motion or appeal related thereto be limited to 20 minutes, to be divided in accordance with the usual form; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. The question of germaneness, and so on, applies only to this amendment?

Mr. ROBERT C. BYRD. The Senator is correct.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, if I may have the attention of the Senate, it is the intention of the joint leadership to adjourn over until Tuesday noon following the completion of action on the pending business today. From what I can ascertain in talking with Senators, there are no other major amendments to be called up, other than the gun control amendment. The Senator from Iowa (Mr. Hughes) has an amendment on which he is willing to agree to a time limitation of 20 minutes, to be equally divided. I think the Senator from Arkansas has indicated that that would be agreeable to him, and I ask unanimous consent to that effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. The House of Representatives may adjourn shortly, and it is the desire of the leadership to get Senate action on the concurrent resolution putting the Senate over until Tuesday. I hope that the leadership may have the understanding and the cooperation of all Senators, as it usually does have, so that the Senate may stay in session today until such time as it completes action on the pending bill. I hesitate to hold up the adjournment resolution any longer for fear the House may adjourn. So I intend to offer that resolution at this time.

If I am mistaken with respect to Senators who may have amendments which would put us beyond today, I would like to know about it now, because I do not wish to offer this resolution now, putting us over until Tuesday, if we are not going to finish the bill today.

Mr. McCLELLAN. I know of only the two as to which the time limitation has been agreed to.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. I am considering a motion to recommit the bill. If I do not make it, perhaps someone else will. I do not consider it necessary to engage in any extensive debate on that.

Mr. ROBERT C. BYRD. I thank the Senator.

SENATE CONCURRENT RESOLUTION 75—ADJOURNMENT OF THE SENATE FROM TODAY UNTIL MARCH 19, 1974

Mr. ROBERT C. BYRD. Mr. President, I offer a concurrent resolution, and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The assistant legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 75) providing that when the Senate completes its business today, it stand adjourned until noon, Tuesday, March 19, 1974.

The PRESIDING OFFICER. Without objection the Senate will proceed to its consideration.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. SYMINGTON. Will this resolution now go through, regardless of any other amendment, so that we can again take up the bill on Tuesday if action is not completed today?

Mr. ROBERT C. BYRD. No, it is anticipated that the bill will be acted on today.

Mr. SYMINGTON. I thank the Senator. I would suggest to the able Senator from West Virginia that we complete action on the pending bill today, regardless of the time.

Mr. ROBERT C. BYRD. That is the intention of the leadership, and I think that is the conscientious intention of all Senators.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 75) was considered and agreed to, as follows:

> S. CON. RES. 75
>
> *Resolved by the Senate (the House of Representatives concurring)*, That when the Senate completes its business today, Wednesday, March 13, 1974, it stand adjourned until noon, Tuesday, March 19, 1974.

CAPITAL PUNISHMENT

The Senate continued with the consideration of the bill (S. 1401) to establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes.

Mr. HUGHES. Mr. President, I call up an amendment which I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> At the end of the bill, add the following new section:
>
> SEC. 17. Notwithstanding any other provision of law, the United States marshal charged with the execution of any sentence of death shall take such action as may be necessary to cause such execution to be carried out in public. The United States marshal shall utilize such communication facilities, including radio and television, as may be necessary to assure the widest possible exposure of such execution to the public, and shall carry out such execution at a time most likely to provide such exposure.

Mr. HUGHES. Mr. President, I ask for yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HUGHES. Mr. President, as everyone in this body knows, I am unalterably opposed to this entire bill, and I intend to vote against it regardless of the passage of this or any other amendment, believing that this is a long trip into the past, regardless of what happens if it passes.

However, it has been maintained that the purpose for this bill is as a deterrent against serious crimes, and throughout our debate on restitution of a Federal death penalty statute, proponents have based their support in large measure on the deterrent effect of execution. For example, the Senator from Arkansas said, in his opening remarks yesterday, that:

> If a criminal knows that he will forfeit his own life if he commits one of the crimes enumerated in this bill, he will certainly be much less likely to commit that act than if all he had facing him was a prison sentence and eventual parole.

But, Mr. President, how many people will be aware of—and therefore deterred by—a death penalty statute as long as execution of the death penalty remains a private affair?

Executions in the 20th century—whether by hanging, gassing, or electrocution—have been performed behind the walls of our prisons with only the warden, a physician, the executioners, and perhaps a few other witnesses present.

Mr. President, the last execution in my State was a Federal execution while I was Governor of the State. The execution took place in an old garage, where they built a wooden platform and filed the witnesses in to witness the execution, in an old, broken-down garage inside the walls of the State prison, out of sight and out of mind of everyone except those in the immediate vicinity.

Mr. President, if indeed there is a deterrent effect to be derived from executions, as the Senator from Arkansas would contend—it certainly will not be known to the vast majority of our people as long as executions are carried out in private.

Therefore, the amendment I am offering requires the U.S. marshal charged with the execution of any sentence of death "to take such action as may be necessary to cause this execution to be carried out in public. The U.S. marshal shall utilize such communication facilities, including radio and television, as may be necessary to assure the widest possible exposure of such execution to the public. and shall carry out such execution at a time most likely to provide such exposure."

Mr. President, let us be deadly realistic about what we are doing here today. My colleagues will recall the horror expressed by many Germans following the end of the Second World War when they learned the truth of what had happened in the concentration camps at Dachau, Auschwitz, Buchenwald, Sachsenhausen, and others—the houses of death inflicted by the state.

The German people said they had not known what was going on behind the fences of the camps.

Mr. President, until there is greater public exposure to these killings by the State, the American people, too, can, and will, say they have not known what was going on behind the walls of the prisons in the chambers of death.

If Senators believe there is a deterrent effect inherent in the death penalty, then my amendment will provide a way to greatly increase this deterrence.

Let us at least not be hypocrites.

Let us at least be consistent with our previously stated position.

We cannot have it both ways.

If the death penalty is to be a deterrent, the more people who see the execution, are offended by it, are alarmed by it, and know that if they ever commit a similar crime they are subject to a similar penalty, the better. So if we believe in what we are doing here today, this amendment, I think, will offer a way for the death penalty to be a more effective deterrent to capital crime, if in fact it is a deterrent at all.

Mr. President, I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President, I do not think I want to discuss the merits of this amendment. I will simply say to my colleagues that any of you who want an invitation to attend a public execution have the opportunity to get that invitation by voting for this amendment.

I think the amendment is a step backward. There is nothing progressive about it. A man who is executed will be dead in a minute—just as dead whether it is done in public or done in private.

My thought is that this pretty much reflects upon us if we vote ourselves invitations to attend a public execution.

I cannot vote for the amendment, Mr. President. My colleagues may want to do so, but I cannot.

Mr. HUGHES. Mr. President, I ask unanimous consent that the name of the junior Senator from California (Mr. TUNNEY) be added as a cosponsor of this amendment.

The PRESIDING OFFICER (Mr. ROTH). Without objection, it is so ordered.

Mr. HUGHES. Mr. President, I did not plan that this amendment would be drawn facetiously to the pending bill, but this is a bill which is deadly and is a matter of life or death because a vote for this bill will be a vote for death. A vote against it will be a vote for life.

I truly believe that as long as we carry out executions in this country in closed quarters, in old garages, in secret chambers, behind closed doors, the American people will not be aware of the vicious feelings of pain and agony being suffered in what is happening there.

We can continue to maintain our innocence of what we are saying and doing—all of us—in the name of the State; but, for God's sake let us not be hypocrites about what we are doing. If we want to execute people, then do it in the open, do it where we all know what is happening, do it where we all can feel the pain and agony being inflicted before death. Let us at least get it out in the open and understand the nature of what we are really doing.

Several Senators addressed the Chair.

Mr. HUMPHREY. Mr. President, I am not going to vote for this bill no matter what kind of amendments are placed upon it. I cannot vote for the Senator's amendment although I fully understand the purpose of what he has in mind. I know the Senator is not being facetious because he need take no back seat to anyone in his dedication to good deeds and in his deep concern for humankind.

My feeling about the bill is that it will not be a crowning glory for Congress to legislate the death penalty. The work of this Nation should be in the protection of life, in the enhancement of life, and in the enrichment of life.

My father was a State representative in the South Dakota State Legislature in the year 1937. He was the author of the repeal amendment of the death penalty in that State. It was not a particularly popular issue. But he was right.

As his son, I intend to see that my vote is one that will not have Congress impose the death penalty in the Federal code.

Mr. MATHIAS. Mr. President, I find that the amendment of the Senator from Iowa poses some difficulties—very real difficulties—which I thought I might try to explain.

It so happens, by chance, I finished reading a book entitled "The Disappearance of Dr. Corcoran," which describes the famous 19th century murder of a Boston doctor for which a member of the Harvard medical fraternity was later tried and convicted.

The conclusion of the book describes the execution of Dr. John White Webster who was convicted of the murder. One of the final passages in the book describes the great crowd which descended upon the place of execution in Boston at the time of the execution and the enormous public interest and curiosity, the morbid fascination which execution had created.

Of course, if we go back into history, we find that rather than stimulating a feeling of revulsion at the executions, public executions indeed stimulated the kind of morbid and unhealthy curiosity of vast crowds which historically gathered to witness the executions. So that rather than being in any way revolted by the sight, they seemed to have been stimulated by it.

I wonder whether the Senator would care to comment, as a matter of human response.

Mr. HUGHES. I by no means want to imply that this is not a repulsive amendment because it is repulsive, and I hope it is repulsive to almost everyone, to think about seeing an execution, or listening to it. I am not speaking against the amendment here but it is one intended to be repulsive because the matter of an execution itself is the most repulsive thing I can think of.

My contention is, that if it is to be a deterrent, in order to be a deterrent it has to be widely disseminated, seeking the experience, in order to deter anything.

If it draws a crowd, then I regret it, because I do not want to go back to the ancient days of mass crowds and picnic celebrations at executions. We should face what we are doing today. This amendment will serve to make us realize it.

Mr. MATHIAS. Mr. President, there is one historical incident I can think of in which an execution operated as the Senator from Iowa thinks might work if his amendment were to be adopted.

During the Revolutionary War, there were some Marylanders who were still loyal to their oath to the British crown. These men, who were called Tories at the time, were charged with treason. Under the law in Maryland, which was the law of Britain at the time, the punishment for treason was to be hanged, drawn, and quartered. They were taken to the jail in Frederick, Md. They were hanged, cut down while still alive, their bowels were taken out and burned, and their bodies divided into four parts and exposed as the Governor had directed.

That punishment was so barbarous it had the effect of bringing about the abolition of hanging, drawing, and quartering in the State of Maryland and, thereafter, throughout the United States.

So, there is at least that historical precedent which would operate in the direction the Senator from Iowa would propose.

Mr. HUGHES. I heard one comment here today when the amendemnt of the Senator from New York was voted on, where it was charged that a vote for the amendment would be a vote for motherhood—you know, Mr. President, that we were not going to execute a pregnant woman. As a matter of fact, they did not realize as they voted for that amendment, that they probably would execute the woman anyway, after the baby was born, so it was not a vote for motherhood but a vote for an unborn child to survive the execution. When we are dealing with as distasteful thing as an execution, we should realize fully what we are doing.

Mr. President, I ask unanimous consent to modify my amendment as it has been pointed out to me it contains an error.

Mr. McCLELLAN. Have not the yeas and nays been ordered?

Mr. HUGHES. Yes, the yeas and nays have been ordered. Mr. President, I ask unanimous consent to modify my amendment——

Mr. McCLELLAN. Let me hear the modification, please.

Mr. HUGHES. Mr. President, the amendment now reads:

> Notwithstanding any other provision of law, the United States marshal charged with the execution of any sentence of death shall take such action as may be necessary to cause such execution to be carried out in public.

Then it reads, "The United States marshal shall"—strike the words "utilize such"—"make available to all communications facilities"—and then add—"the media, including radio and television opportunities to assure the widest possible exposure of such execution to the public, and shall carry out such execution at a time most likely to provide such exposure."

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The text of the amendment is modified as follows:

> At the end of the bill, add the following new section:
>
> SEC. 17. Notwithstanding any other provision of law, the United States marshal charged with the execution of any sentence of death shall take such action as may be necessary to cause such execution to be carried out in public. The United States marshal shall make available to all such communication facilities and media, including radio and television, opportunities as may be necessary to assure the widest possible exposure of such execution to the public, and shall carry out such execution at a time most likely to provide such exposure.

Mr. McCLELLAN. I yield 2 minutes to the distinguished Senator from Florida.

Mr. CHILES. Mr. President, we understand the motives of the Senator from Iowa and his strong feelings of being against the bill. I intend to vote for the bill on final passage, but I will not do it with any great satisfaction. I am not completely sure of that.

I think we are in a time of great terror. It is a question upon which men have differed for a long time, and we will continue to differ as to whether or not it is a deterrent. But because of the situation that now exists, when we see acts of terrorism, and in an attempt to protect the citizenry of this country, some of us feel we have to vote for this measure, if it is a deterrent. Certainly, our vote is as sincere as the vote of the Senator from Minnesota, who feels that his daddy was right and who feels that he is right in casting a vote against the bill.

But this amendment, in spite of what the Senator from Iowa is attempting to do, is a bad amendment; because this amendment says that we are going to show on television, in the widest coverage, public executions. So we are going to make children watch public executions. I think that is wrong. I believe that any of us who conscientiously think of this, in spite of the well-meaning motives of the Senator from Iowa and the junior Senator from California, will realize that we do not want to consign children to this, that it is going to be on television, that children are going to watch this.

We need only think back to our childhood and the feelings with respect to public executions then, and we will know the kind of impression it makes.

In spite of what is attempted to be done in this kind of an amendment, to cause some public revulsion, it will cause a very serious and a very dangerous thing to be shown to children. It is something they are not equipped to handle. They are not equipped to engage in the debate we are in today and the pros and cons of whether or not we should have capital punishment. It would be totally unfair to consign them to that.

I hope the Senate will reject the amendment.

Mr. HUGHES. Mr. President, I agree with everything the Senator from Florida has said. We have no disagreement. It is a repulsive thing. I would not want my children to see it. Nevertheless, if that is the decision of their parents, then I think they ought to know what we are voting for. They ought to know what we are insisting on; and perhaps by their calling on us, they can eventually get rid of this barbarism in our society, the murderous intent buried deep in the hearts of all of us, whether in the name of the State or anyone else. I have no disagreement morally with what the distinguished Senator from Florida says. I certainly have disagreement with the overall intent of the bill.

Mr. McCLELLAN. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. McCLELLAN. I will not use it. I just wish to make an observation.

The author of the amendment agrees that it is repulsive. I think it is repulsive to all of us, and we ought to reject it unanimously.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Iowa. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from South Carolina (Mr. Hollings), the Senator from Montana (Mr. Mansfield), the Senator from Minnesota (Mr. Mondale) and the Senator from Wisconsin (Mr. Nelson) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett), the Senator from New Hampshire (Mr. Cotton), the Senator from Colorado (Mr. Dominick), and the Senator from Oregon (Mr. Hatfield) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The result was announced—yeas 10, nays 81, as follows:

[No. 71 Leg.]

YEAS—10

Abourezk
Clark
Hart
Hughes
Inouye
Kennedy
McGovern
Proxmire
Tunney
Weicker

NAYS—81

Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cook
Cranston
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Fong
Goldwater
Gravel
Griffin
Gurney
Hansen
Hartke
Haskell
Hathaway
Helms
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Long
Magnuson
Mathias
McClellan
McClure
McGee
McIntyre
Metcalf
Metzenbaum
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Williams
Young

NOT VOTING—9

Bennett
Cotton
Dominick
Fulbright
Hatfield
Hollings
Mansfield
Mondale
Nelson

So Mr. Hughes' amendment was rejected.

Mr. KENNEDY. Mr. President——

Mr. HUGHES. Mr. President, will the Senator yield for 30 seconds?

Mr. KENNEDY. I yield.

Mr. HUGHES. I would like to point out to my colleagues that on national television tonight, as a matter of entertainment, there will be an excellent show entitled "The Execution of Private Slovik." I suggest that all of you who do not believe in your children watching executions not watch that show tonight.

I thank the Senator from Massachusetts for yielding.

Mr. KENNEDY. Mr. President, on behalf of the Senator from New York (Mr. Javits) and myself, I call up my amendments No. 1020.

The PRESIDING OFFICER. The clerk will state the amendments.

The legislative clerk proceeded to read the amendments.

Amendments No. 1020 are as follows:

On page 11, before line 1, insert the following:

"TITLE I—AMENDMENTS TO TITLE 18, UNITED STATES CODE, RELATING TO THE MANDATORY IMPOSITION OF THE SENTENCE OF DEATH".

On page 11, line 1, strike out the words "That chapter" and insert in lieu thereof the following:

"Section 1. Chapter".

On page 22, after the matter following line 3, add the following new titles:

"TITLE II—REGULATION OF HANDGUNS

"Sec. 201. (a) Titles II, III, IV, and V of this Act may be cited as the 'Personal Safety Handguns Act of 1974'.

"(b) Title 18, United States Code, is amended by inserting after chapter 44 the following new chapters:

" 'Chapter 44A.—FIREARM LICENSING

" 'Sec.
" '931. Definitions.
" '932. Registration.
" '933. Sales of handguns and ammunition.
" '934. Penalties.
" '935. Disposition of firearms to Secretary.
" '936. Rules and regulations; periods of amnesty.
" '937. Disclosure of information.
" '938. Assistance to Secretary.

" '§ 931. Definitions

" 'As used in this chapter—

" '(1) The term "handgun" means any weapon designed or redesigned to be fired while held in one hand; having a barrel less than ten inches in length and designed or redesigned or made or remade to use the energy of an explosive to expel a projectile or projectiles through smooth or rifled bore.

" '(2) The term "Secretary" means the Secretary of the Treasury.

" '(3) The term "licensed dealer" means any importer, manufacturer, or dealer licensed under the provisions of chapter 44 of this title.

" '(4) The term "ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any handgun.

" '(5) The term "sell" means give, bequeath, or otherwise transfer ownership.

" '(6) The term "possess" means asserting ownership or having custody and control not subject to termination by another or after a fixed period of time.

" '§ 932. Registration

" '(a) It is unlawful for a person knowingly to possess a handgun not registered in accordance with the provisions of this section. This subsection shall not apply with respect to—

" '(1) a handgun, previously not registered, if such a handgun is held by a certified dealer for purposes of sale: *Provided*, That records of such handguns are kept as may be required b; the Secretary;

" '(2) a handgun possessed by a person on the effective date of this chapter and continuously by such person thereafter for a period not to exceed one hundred and eighty days;

" '(3) a handgun, previously not registered, possessed by (A) the United States or any department or agency thereof, or (B) any State or political subdivision thereof.

" '(b) (1) A certified dealer who sells a handgun to a person in whose possession the handgun must be registered shall require from the purchaser a completed application for registering the handgun and shall file the application with the Secretary at the time of sale.

" '(2) When a person other than a certified dealer sells a handgun, the purchaser shall file an application for its registration with the Secretary prior to receipt of the handgun.

" '(3) A person who possesses a handgun on the effective date of this chapter shall, unless he sooner sells the handgun, file an application for registration of the handgun with the Secretary within one hundred and eighty days.

" '(c) An application for registration of a handgun shall be in a form to be prescribed by the Secretary, which shall include at least the following:

" '(1) the name, address, date and place of birth, photograph, and social security or taxpayer identification number of the applicant;

" '(2) the name of the manufacturer, the caliber or gage, the model and the type, and the serial number of the handgun; and

" '(3) the date, the place, and the name and address of the person from whom the handgun was obtained, the number of such person's certificate of registration of such handgun, if any, and, if such person is a licensed dealer, his license number.

" '(d) An application for registration of a handgun shall be in duplicate. The original application shall be signed by the applicant and filed with the Secretary, either in person or by certified mail, return receipt requested, in such place as the Secretary by regulation may provide. The duplicate shall be retained by the applicant as temporary evidence of registration. The Secretary, after receipt of a duly filed completed application for registration, shall send to the applicant a numbered registration certificate identifying such person as the registered owner of such handgun.

" '(e) The certified record of a handgun shall expire upon any change of the name of the registered owner or residence unless the Secretary is notified within thirty days of such change.

" '(f) It is unlawful for a person to carry a handgun required to be registered by this chapter without having a registration certificate, or, if such certificate has not been received, temporary evidence of registration, or to refuse to exhibit such certificate or temporary evidence upon demand of a law enforcement officer.

" '§ 933. Sales of handguns and ammunition

" '(a) A registrant of a handgun who sells the handgun shall, within five days of the sale, return to the Secretary his registration certificate, noting on it the name and residence address of the transferee, and the date of delivery.

" '(b) Whoever acquires a handgun required to be registered by this chapter shall require the seller to exhibit a regisration certificate and shall note the number of the certificate on his application for registration.

" '(c) A licensed dealer shall not take or receive a handgun by way of pledge or pawn without also taking and retaining during the term of such pledge or pawn the registration certificate.

" 'If such pledge or pawn is not redeemed the dealer shall return the registration certificate to the Secretary and record the handgun in his own name.

" '(d) The executor or administrator of an estate containing a registered handgun shall promptly notify the Secretary of the death of the registered owner and shall, at the time of any transfer of the handgun, return the certificate of registration to the Secretary as provided in subsection (a) of this section. The executor or administrator of an estate containing an unrecorded handgun shall promptly record the handgun without penalty for any prior failure to record it.

" '(e) Whoever possesses a handgun shall within ten days notify the Secretary of a loss, theft, or destruction of the handgun, and, after such notice, of any recovery.

" '(f) A licensed dealer shall not sell ammunition to a person for use in a handgun required to be registered without requiring the purchaser to exhibit a certificate of registration or temporary evidence of registration of a handgun which uses such ammunition, and noting the certificate number or date of the temporary evidence of registration on the records required to be maintained by the dealer pursuant to section 923(g) of this title.

" '§ 934. Penalties

" '(a) Whoever violates a provision of section 932 or section 933 shall be punished by imprisonment not to exceed five years, or by a fine not to exceed $5,000, or both.

" '(b) Whoever knowingly falsifies any information required to be filed with the Secretary pursuant to this chapter, or forges or alters any certificate of registration or temporary evidence of registration, shall be punished by imprisonment not to exceed five years or a fine not to exceed $10,000 or both.

" '(c) Except as provided in subsection (b), no information or evidence obtained from an application or certificate of registration required to be submitted or retained by a natural person in order to comply with any provision of this chapter, or regulations issued by the Secretary, shall be used as evidence against that person in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application for registration containing the information or evidence.

" '§ 935. Disposition of handguns to Secretary

" '(a) The Secretary is authorized to pay reasonable value for handguns voluntarily relinquished to him.

" '(b) A person who lawfully possessed a handgun prior to the operative effect of any provision of this chapter, and who becomes ineligible to possess such handgun by virtue of such provision, shall receive reasonable compensation for the handgun upon its surrender to the Secretary.

" '§ 936. Rules and regulations; periods of amnesty

" 'The Secretary may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter, including reasonable requirements for the marketing of handguns that do not have serial numbers, and may declare periods of amnesty for the registration of handguns.

" '§ 937. Disclosure of information

" 'Information contained on any certificate of registration or application therefor shall not be disclosed except to the National Crime Information Center established by the Federal Bureau of Investigation, and to law enforcement officers requiring such information in pursuit of their official duties.

" '§ 938. Assistance to the Secretary

" 'When requested by the Secretary, Federal departments and agencies shall assist the Secretary in the administration of this chapter.'

"TITLE III—LICENSING

"SEC. 301. Chapter 44 of title 18, United States Code, is amended by inserting after section 923 the following new section:

" '§ 923A. State permit systems; Federal handguns licensing

" '(a) The Secrtary shall determine which States or political subdivisions of States have enacted or adopted adequate permit systems for the possession of handguns and shall publish in the Federal Register the names of such States and political subdivisions.

" '(b) An adequate permit system shall include provisions for:

" '(1) identification of the permit holder appearing on the permit including name, address, age, signature, and photograph;

" '(2) restrictions on issuance of a permit to a person who is under indictment or who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, or who is a fugitive from justice;

" '(3) restrictions on issuance of a permit to a person who, by reason of age, mental condition, alcoholism, drug addiction or previous violations of handgun laws cannot be relied upon to possess or use handguns safely and responsibly;

" '(4) means of investigation of applicants for permits to determine their eligibility under subparagraphs (2) and (3), including filing with the issuing agency a complete set of fingerprints and a recent photograph of the applicant; and

" '(5) prohibition of possessions of handguns or ammunition by any person who has not been issued such a permit.

" '(c) It shall be unlawful for any person to sell or otherwise transfer any handgun or ammunition to any person (other than a licensed importer, licensed manufacturer, or licensed dealer) unless:

" '(1) the sale or transfer is not prohibited by any other provision of this chapter; and

" '(2) the purchaser or transferee exhibits a valid permit issued to him by a State or political subdivision having an adequate permit system, or the purchaser or transferee exhibits a valid Federal gun license issued in accordance with subsections (d) and (e) of this section.

" '(d) A licensed dealer shall issue a Federal gun license to a person upon presentation of—

" '(1) a valid official document issued by the person's State or political subdivision, showing his name, current address, age, signature, and photograph.

" '(2) a statement, in a form to be prescribed by the Secretary and dated within six months and signed by the chief law enforcement officer (or his delegate) of the locality of residence of the person, that to the best of that officer's knowledge that person is not under indictment, has not been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, is not a fugitive from justice, and is not otherwise prohibited by any provision of Federal, State, or local law from possessing handguns and ammunition;

" '(3) a statement in a form to be prescribed by the Secretary, dated within six months and signed by a licensed physician, that in his professional opinion such person is mentally and physically capable of possessing and using a handgun safely and responsibly;

" '(4) a statement signed by the person in a form to be prescribed by the Secretary, that he may lawfully possess handguns and ammunitions under the laws of the United States and of the State and political subdivision of his residence;

" '(5) a complete set of such person's fingerprints certified to by a Federal, State, or local law enforcement officer and a photograph reasonably identifying the person.

" '(e) Federal gun licenses shall be issued in such form as the Secretary may prescribe and shall be valid for a period not to exceed three years. A dealer shall maintain a record of all licenses issued by him as part of the records required to be maintained by section 923 (G) of this chapter, and shall forward to the Secretary the documents described in subparagraphs (d) (2)–(d) (5).

" '(f) Any person denied a Federal gun license under subsection (d) may apply directly to the Secretary for the issuance of a Federal gun license.

" '(g) Unless otherwise prohibited by this chapter, a licensed dealer may ship a handgun or ammunition to a person only if the dealer confirms that the purchaser has been issued a valid permit pursuant to an adequate State permit system, a Federal gun license, or a Federal dealer's license, and notes the number of such permit or license in the records required to be kept by section 923 of this chapter.

" '(h) No person may possess a handgun or ammunition without a valid State or local permit, if he is resident of a State or locality having an adequate permit system, or a Federal gun license.

" '(i) Determinations of adequate permit systems and denials by the Secretary of Federal gun licenses shall not be subject to the provisions of chapter 5, title 5, United States Code, but actions of the Secretary shall be reviewable de novo pursuant to chapter 7, title 5, United States Code, in an action instituted by any person, State or political subdivision adversely affected.'

"(b) The analysis of chapter 44 of title 18, United States Code, is amended by inserting immediately after item 923 the following:

" '923A. State permit systems; Federal handgun licenses.'.

"TITLE IV—HAND HELD HANDGUNS

"SEC. 401. Section 922 of title 18, United States Code, is amended by adding at the end thereof the following subsection:

" '(n) (1) It shall be unlawful for any person to import, manufacture, sell, buy, transfer, receive, or transport any hand held handgun which the Secretary determines to be unsuitable for such lawful purposes as law enforcement, military and protective uses, hunting, and sport shooting, based upon standards established by him.

" '(2) The Secretary may, consistent with public safety and necessity, exempt from the operation of paragraph (1) of this subsection such importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns by importers, manufacturers, or dealers licensed under this chapter.

" 'Such exemptions may take into consideration not only the needs of police officers and security guards, sportsmen, target shooters, and handgun collectors but also, small businesses in high-crime areas and others who can demonstrate a special need for self-protection.

" '(3) As used in this subsection, the term "handgun" means any weapon designed or redesigned and intended to be fired while held in one hand; having a barrel less than ten inches in length and designed, redesigned, or made or remade to use the energy of an explosive to expel a projectile or projectiles through a smooth or rifled bore.'

"TITLE V—GENERAL PROVISIONS

"SEC. 501. If the provisions of any part of titles II, III, or IV of this Act or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

"SEC. 502. No provision of this Act shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provisions operate to the exclusion of the law of a State or possession or political subdivision thereof, on the same subject matter, or to relieve any person of any obligation imposed by any law of any State, possession, or political subdivision thereof.

"SEC. 503. The provisions of title II, III, and IV of this Act shall become effective ninety days after the date of its enactment."

Mr. KENNEDY. The first provision of my amendment will require the registration of every civilian-owned handgun in America. All handguns in this country will be processed through a standardized registration system.

The second provision of my amendment directs the Secretary of the Treasury to establish and maintain a nationwide system to license every American who owns a handgun.

And the third provision of my amendment effectively begins to reduce the number of handguns in civilian ownership, by outlawing the production of cheap handguns. In addition to requiring registration and licensing, the bill also bans all handguns except those intended for sporting purposes. Gun manufacturers put nearly 2 million cheap handguns into the marketplace each year. We must halt the output of those deadly little devices—commonly called "Saturday night specials."

Effective restraints on the massive proliferation of the cheap hand weapon that is used only for killing people or for intimidating them must be enacted. This Senate must adopt the controls in this amendment. This amendment is an appropriate and logical complement to S. 1401 because it is designated to launch a systematic approach to curbing the easy access to guns in America, and therefore it seeks to reduce the toll of indiscriminate deaths. As with the other amendments I offered to S. 1401, this one would provide safeguards to prevent innocent people from dying.

This is only the second day this Senate has devoted to the grave matter of the death penalty. If we spend no more time on the death penalty, that will be a telling commentary on the value we place on human life in this country. Yesterday, Senator HUGHES eloquently described all the reasons why the death penalty ought not be imposed under the laws of this land. I share his views. And I believe that our national view of human life is mirrored in the insistence to permit the Government to permit criminal offenders to be executed.

At the same time, it is critical to note that human life in America is relegated to a low level because we allow so many people to possess guns. We make it too easy for children, incompetents, addicts, and, indeed, our loved ones and our neighbors to obtain weapons without adequate justification.

When we are successful in restraining the public's easy access to concealable hand weapons, we can begin to reduce the deaths, the injuries, the fear, and the violence that matches our high gun ownership rate.

Municipal health records grimly reveal that the toll of gun deaths parallels the rapid rise in gun ownership. Each year the figures get bigger, but we have not enacted laws to stem the tide of gun deaths.

As one who morally opposes capital punishment, I feel that S. 1401 is too serious to dismiss lightly. Of utmost concern for all of us is the protection of the innocent. For, not even in the vastly technical society of America have we devised ways to insure that innocent victims would escape the penalty of death if wrongly accused. And so, I am deeply concerned that if S. 1401 is destined to pass, that it include all safeguards possible to save lives.

Therefore, it seems quite appropriate to amend that bill with a handgun control measure that can begin to save lives by reducing the widespread access to these deadly devices that have no justifiable use beyond their role in crime.

My amendment No. 1020 to S. 1401 is designed to control handguns—the weapons that are responsible for over 73 percent of all police killings. The weapons that make up only 25 percent of all firearms, but account for 54 percent of all homicides. The weapon that is used in one-third of all robberies.

Let us then turn to the measures I propose to restrain the massive proliferation of handguns and the needless tragedies for which they are responsible.

Under my amendment, registration information on all handguns will be referred by local registration offices to the National Crime Information Center maintained by the Federal Bureau of Investigation. In this way, enforcement officers throughout the country can trace the ownership of any handgun.

A person who carries a handgun must have with him a certificate of registration, which he must exhibit upon the demand of any law-enforcement officer.

A violation of the registration provision is punishable by imprisonment for up to 5 years, a fine of up to $5,000, or both. Any purposeful falsification or forgery of registration information is punishable by imprisonment for up to 5 years, or a fine of up to $10,000 or both.

My proposal for legislation to enact restraints against the misuse of handguns authorizes the Secretary of the Treasury to establish periods of amnesty for all handgun owners to voluntarily turn in any weapons they wish to give up, and to receive reasonable compensation for the surrender of such weapons. Authorities know that handgun owners want to safely remove firearms from homes or places where they may be stolen or where accidents may occur.

Finally, my amendment requires every handgun owner to obtain a license before he may be entrusted with a gun.

Under the provisions of my amendment, if a State does not adopt a firearms permit system that meets minimum specified standards, Federal licensing will become effective until the State adopts an adequate permit system. No person, whether a licensed dealer or a private individual, may sell handguns or ammunition to an individual who does not have either an adequate State permit or a Federal gun license. In addition, no one may possess a handgun or ammunition unless he has either an adequate State permit or a Federal gun license. To qualify as having an adequate permit system, a State must restrict the issuance of permits applied for by convicted felons, fugitives from justice, mental defectives, alcoholics, juveniles, and drug addicts, and must adequately investigate applicants prior to the issuance of permits.

In States that do not enact an adequate permit system, Federal gun licenses, valid for up to 3 years, will be issued by federally licensed dealers upon receipt—from both the chief law enforcement officer of an applicant's locality and a licensed physician—of information bearing upon his eligibility for a Federal handgun license.

At least six highly regarded panels including criminologists, legal technicians, law enforcement authorities, and other distinguished citizens have called for restraints on handguns of the kind included in my amendment. Each of these panels believes we must nullify the devastation and killing inflicted upon the American public each year.

In fact the Brown Commission on reform of Federal criminal laws, which included Senators HRUSKA, MCCLELLAN, and ERVIN, recommended a complete "ban on the production and possession of, and trafficking in, handguns, with exceptions only for military, police and similar official activities."

In 1968, the Internal Revenue Service reported the domestic manufacture of 2,449,286 handguns. Only 598,649 handguns were produced in 1962. At that rate, nearly 10 million handguns would be produced by the end of this year. Yet, there is no system that attempts to standardize the control of these deadly devices in the hands of our citizens. Smith Hempstone believes "the greedy manufacturers and importers of handguns and handgun ammunition" must share the blame with the Congress, State legislators, and the judicial system, for the national failure to stem gun violence.

Does any industry deserve to draw its profits from the blood shed by victims of violent assaults? Will we stop making cheap handguns only after there is at least one in every home in America? Unless we redefine the role of firearms in our society, the unbridled access to guns may eventually lead to a massive nationwide shootout. Before the two-gun family becomes as commonplace as the two-car family, I would hope that sensible restraints will be enacted and enforced. Already many serious and responsible citizens have begun campaigns to halt the illogical fascination produced by handguns. In February 1973, in my own State, the publisher of the Boston Globe banned all handgun advertising in that newspaper. Radio station WMAL in Washington, D.C. broadcasts persistent editorials at least twice each week that eloquently implore the Congress "to get the guns off the streets." And in Cleveland, Ohio, the president of a retail sporting goods chain has refused to sell handguns for over 3 years. These are admirable examples of useful attempts to reform the distortions caused by too many guns in a civilized society. These examples must lead the way for others to join in the demand to stop the carnage we inflict on each other.

Each year the toll of gun deaths in this country leaps higher than the tally of the year before: For 1969, the total was 19,000. By 1973, the total was over 24,000. One-half of the gun deaths in 1973 were homicides, and according to a sample FBI survey, in at least one-fourth of the gun homicides, the cheap handgun—the Saturday night special—was the weapon of choice. Even more alarming figures were compiled in an Associated Press survey for the week of March 4, 1973. In that one week, 345 men, women, and children were shot to death in the United States.

No less than 128 of those deaths were caused by handguns. Handguns were responsible for 41 percent of the homicides. They were used in 26 percent of the suicides. And 21 percent of the accidental deaths were caused by handguns during that week.

Shortly after the senseless shooting of Senator JOHN STENNIS, the junior Senator from Idaho introduced a bill to repeal the 1968 Gun Control Act. He claimed that the 1968 law was "passed at a moment of national hysteria" and that it "has proved to have no adverse effect on anyone other than the law-abiding citizen." The Senator from Idaho bemusingly asserted that the shooting of Senator STENNIS "is being viewed as an opportunity for another round of firearms legislation." On that point, the Senator from Idaho is absolutely right. Shamefully, the Congress is urged to respond to the devastation caused by guns only when a public figure is assaulted. But each of us is dutybound to enact that legislation which will best preserve and protect the welfare of our constituents. To repeal existing gun laws would be a blatant violation of that duty. For, at least one American is shot to death every half hour in this country. If it is not sufficiently shocking that we act to restrain gun violence only when the victim is a public figure, then perhaps, we should remember that guns kill 55 Americans every day. Guns kill our neighbors and our loved ones, not because the 1968 gun law adversely affects the law-abiding citizen, but because we in the Congress have failed to enact even more effective controls to minimize the abuse and misuse of firearms.

Fully one-half of all gun deaths are homicides. Accidents and suicides complete the gun death picture—claiming as many lives as murders. Does it not make sense to isolate those devices of death that are equally lethal in the hands of a criminal, an enraged parent, a despondent business executive, or a curious child? Associated Press researchers discovered that 37 percent of the weapons used to kill people that week last March were handguns. In the meantime, gun manufacturers continue assembling over 2 million handguns a year to glut the marketplace.

Mr. President, I want stringent handgun controls not only because too many criminals find them ideal weapons of crime; but also because strong gun legislation would begin to curb the needless killing caused when a gun is handy and emotions erupt unchecked. "Most murder in real life comes from a compound of anger, passion, intoxication, and accident—mixed in varying proportions. The victims are wives, husbands, girl friends, boy friends, prior friends, or close acquaintances. The quarrels which most frequently trigger murder might well result in nothing more than bloody noses or a lot of noise, absent a deadly weapon—handy and loaded. The Honorable Edmund Brown made that statement September 13, 1971.

As the attorney general and then Governor of California, he estimated he has had contact with 500 murderers. But not one fit the pattern of the evil, ruthless killer concocting a long-range plot to kill someone. So this measure is not intended simply to stem the tide of criminal gun assaults, that account for less than one-third of all gun murders. But it would seek to curb both the crime of intent and the crime of the moment.

Stiff penalties for crimes committed with a firearm ought to be issued to those convicted of such acts. I have supported measures of that type in the past and I intend to continue doing so. But I also feel it is equally important to impose a ban on handguns that will begin to remove those weapons from access to people who do not need them. When effectively enforced, gun laws can remove certain weapons from the hands of civilians.

The National Firearms Act of 1934 has prevented the public use of machineguns and other automatic weapons of mass death. Now, after nearly 40 years experience with that law, machineguns and other automatic weapons are simply not available to the public. We ought to realize the wisdom of enacting direct controls and adopt a handgun law to eliminate another weapon that serves no justifiable role in modern society.

I am firmly convinced that enactment of effective handgun controls will substantially reduce the enormous number of tragedies caused by guns. Those who argue that more gun laws would be useless in the fight against gun violence choose to ignore a fundamental weakness in the existing system. Current gun laws vary so widely from State to State, and even within States, that a gun purchaser need only cross county or State lines to get the weapon denied him in his home location. Under my proposal, nationwide standards, imposed and enforced equally across the country would effectively deny cheap handguns to all. It is my hope that such action would comply with the assertion made to the Judiciary Committee, in September 1971, by Eugene Rossides, that officials in the Treasury Department "share the committee's objective of banning the Saturday night special." At that time, Mr. Rossides was Assistant Secretary of the Treasury for Enforcement and Operations. He offered the administration's cooperation in working with the Congress, to find appropriate solutions to the handgun menace. by enacting this measure, the Congress will establish its commitment to act responsibly on this critical matter. Indeed, we will be carrying out the recommendations of six Presidentially appointed commissions that have thoroughly studied the modern gun problem in America.

Gun registration and licensing requirements will produce a significant advance in the struggle to inaugurate a standardized, nationwide Federal firearms control system.

The facts are clear. The statistics are alarmingly impressive—24,000 deaths each year by gunfire: 11,000 murders—10,000 suicides—3,000 accidents.

In American communities that have effectively enforced gun controls, firearms violence occurs much less frequently than in communities with minimal or no controls. And, compared to other nations of the world, America's bloody pool of death by gunfire is an appalling monument to man's capacity to want only to destroy his own kind. A tally of gun deaths in all civilized nations shockingly ranks the United States as No. 1. We are not only ranked No. 1 but No. 2 lags so far behind that the sum of gun murders in every other nation probably would not equal the number of Americans killed by guns in 1 year.

A handgun is the most deadly weapon available to the average citizen. For a few dollars, the easily concealed, lethal weapon in the palm of a hand can snuff out life, inflict permanent injury, or empower the meekest citizen with unwarranted and enormous power over others.

If we are serious about controlling gun violence then let us get on with the business of enacting and enforcing effective laws that will keep handguns away from people who will use them in a fit of rage, or leave them within reach of young, unsuspecting children.

Too many Americans fear the specter of a hulking figure crouched in a dark shadow, with a gun in hand, waiting to ambush an unsuspecting passerby.

Too many people are panicked by the news of an armed robbery, or a report about the invasion of a comfortable suburban mansion by intruders who slaughter every living creature. For many citizens, such reports of gun abuse and violence are reason enough to obtain a gun for personal protection. And so, it is, that more and more people are buying guns to protect themselves against more and more people who are buying guns.

Conservative estimates indicate that in 1968 there were 90 million firearms in civilian hands in the United States in 60 million households. Other estimates place the current tally of firearms as high as 200 million. By any count, these are drastically exorbitant numbers.

Though many gun owners insist they own a gun for protection against intruders, the gun is much more likely to be used against a friend or a loved one. Federal Bureau of Investigation uniform crime reports show that over 70 percent of the people killed by guns knew the person who shot them. While the popularized view of a killer conjures up the image of a stealthy impassionate criminal, the fact is, that two times out of three, the gun killer in American homes is the father or the wife; the mother or the brother; the coworker; the lover; the teenage neighbor, or the son of the dead victim.

People use handguns to settle arguments. They use handguns to display power. They use handguns because American industry is coldly efficient in mass producing these weapons of death. Yet, we still have not enacted comprehensive controls over the millions of devices that exist for the sole purpose of putting a bullet through something. Each year armorers in this country produce more than five billion rounds of ammunition for use in civilian owned guns. There is little doubt, that at least that many words have been uttered about the gun control issue.

Mr. President, if we in the Congress would stop talking about handguns and take action to effectively control them, we would perform the most useful and rewarding service to the American public that any Congress has dared. American people want meaningful gun controls.

The proposal that I am offering as Amendment No. 1020 to S. 1401 is the kind of measure that will accomplish the goals that time and time again our people have asked for. Licensing and registration requirements can be the most effective step toward restraining the abuse of handguns.

A principal purpose of handgun registration is to provide an improved system for law enforcement agencies to trace who commit crimes with firearms. Police authorities have used registration information to apprehend many fugitives despite the weaknesses in the currently incomplete coverage of municipal and State registration laws. A nationally standardized registration system would greatly improve existing efforts to curb criminal handgun usage.

Handgun registration will tell us how many handguns there are, where they are and who owns them. I am convinced that it makes no sense for guns to remain as free floating in our society as flashlights or ballpoint ink pens. Any restriction imposed by firearms registration that prevents even one gun killing fully justifies the development and maintenance of a handgun registration system.

The Nation's police departments are constantly confronted with stolen weapons, many of which have been used in crimes. In April, 1972 police authorities reported 500,000 contraband weapons that had been reported stolen. The actual number of all stolen guns is anybody's guess.

Through a system of registration, these guns could be traced to their proper owner and with effective public awareness and information programs legitimate gun owners could be advised and assisted in establishing adequate security for their weapons.

Though gun control critics drown out the explosive fusillade of annual firing with their indignant outcries against gun confiscation, it is noteworthy that owners voluntarily turn in their guns when given the chance.

For that reason the gun registration title of my proposal also includes a period of amnesty for gun owners to voluntarily turn in any weapons they wish to surrender, and to receive reasonable compensation from the Department of the Treasury for their weapons.

After the city of San Francisco enacted a gun licensing statute in 1968, at least 1,500 guns of every description were voluntarily turned in to the San Francisco Police Department. City officials confirmed the public commitment to the elimination of gun violence by forging the metal from these guns into a 9-foot statute of St. Francis Assissi.

In England and Wales, the public is periodically invited to turn in weapons and ammunition that may have been hidden or forgotten for a long time. Since 1933, the British Government has held seven gun amnesties providing the public with opportunities to safely remove firearms from homes or places where they may be stolen or where accidents may occur.

The number of firearms and ammunition that British citizens turned in is impressive:

Year:	*Firearms*	*Ammunition*
1933	16,000	26,000
1935	8,000	151,000
1937	14,000	144,000
1946	76,000	2,500,000
1961	70,000	2,000,000
1965	41,000	1,694,000
1968	25,000	795,163

Since the presence of overwhelming numbers of guns is the single most causative factor in our Nation's widespread abuse of firearms, I believe that a comprehensive system of controls must provide for any handgun owner, to voluntarily turn in his weapon and ammunition without fear of reprisal.

The title of my amendment, requiring every handgun owner to obtain a license before he may be entrusted with a gun—is fundamental in guarding against the hazards of indiscriminately allowing criminals or other unreliable citizens to obtain firearms.

A gun is such a terribly vicious weapon, that members of a civilized society should mandate gun owners to prove that they are not disqualified from having access to these instruments of death.

I intend for this amendment to provide appropriate assistance to the provision of S. 1401 in stemming our shamefully high rate of gun deaths, accidents by gunfire, and the unbelievably awesome rate of assaults, robbery, and intimidation accomplished with guns.

Firearms legislation is in demand because the Nation needs direction as well as legal authority to suppress the lawlessness aggravated by the existence of so many guns. The gun mystique is borne in the valiant traditions that spawned the American dream. But today, American families no longer face the perils of a frontier wilderness. For the American family in 1974, fear, apprehension, mistrust, anguish, prejudice and pain are the dreaded products of our national firearms history.

People who oppose meaningful restraints on the use of firearms rely on six mindless arguments that are almost as old as the Republic:

First. Opponents of gun control insist "their right to bear arms" is borne in the Constitution. The argument is extended to claim that gun controls deprive them of their right to pursuit of happiness with guns free of government limits. But the courts have said that the Constitution does not interfere with the power of the government to regulate deadly firearms.

Since we mean to enact legislation that will halt the abuse of firearms those who find happiness in guns will just have to subordinate that pleasure to the right of all Americans to live free from the death and violence that the American gun mania has brought us.

Second. Many people make the argument that because lawless citizens will feel no obligation to be bound by gun restrictions, gun controls will simply disarm those who abide by the law. I am convinced that strict enforcement of licensing and registration laws will serve to isolate precisely those citizens who flaunt the law, to subject them to prosecution for gun violations before they commit other crimes with their guns.

Third. Critics of gun control have insisted that laws cannot control access to guns. Yet, the records show that even the limited provisions of the 1968 Gun Control Act have severely altered the flow of one kind of weapon—the imported handgun. And the National Firearms Act of 1934 essentially eliminated civilian access to machineguns, sawed off rifles and shotguns, mufflers and silencers.

Fourth. Another common refrain against firearms control is that "guns don't kill, people do." But a quick look at the statistics and commonsense tell us that it is when guns are in hand that two-thirds of the people who kill other people do so; and it is when guns are in hand that over 100,000 robberies a year are committed, and it is when guns are in hand that one-quarter of the Nation's 300,000 aggravated assaults are committed.

Rarely does an attacker make a deliberate choice of a gun over a knife. But because the fatality rate of knife wounds is about one-fifth that of gun wounds, it may be concluded that using a knife instead of a gun might cause 80 percent fewer deaths.

Fifth. Modern critics of gun control express a show of outrage at the vaulting gun crime rate. These protagonists insist that we do not need more gun laws. Instead, they say, we should enact long-term mandatory penalties for crimes committed with guns. Even if our penal system were not already beleaguered with the problems of outrageous overcrowding, this proposal may be counted upon to produce undesirable results. Penalties do not deter an angry person from reaching for a gun.

Generally, courts respond to the visciousness of crimes committed with firearms by imposing stiff penalties. If penalties were made much stronger the extra punishment would probably encourage an armed robber "to leave no witnesses." Thus, it is likely that stricter penalties would cause more gun deaths.

Sixth. It may be that the greatest number who protest gun controls do so on the basis that the administrative requirements for registration are cumbersome and inconvenient. Some believe such requirements are "unfair and punitive in that the persons really affected so adversely are law abiding citizens who pursue shooting as a hobby or as a form of recreation." I believe that any measure we might adopt which will substantially reduce the misuse of firearms will at the same time, enhance whatever pleasures that may be derived from these so-called recreational pursuits.

If the only price of firearms recordkeeping requirements is the inconvenience of gun users, then, with my amendment, the American public will have been delivered a special bargain.

This list includes the core of the objections vehemently raised and expertly used by the National Rifle Association and other gun advocates to force the Justice Department and the Department of the Treasury to turn the administration's attention away from serious efforts to put restraints on guns.

In December 1963, a witness for the gun lobby defiantly testified before the Senate Commerce Committee.

> Now we realize that there is a problem when we own guns. Somebody is going to get shot. This is part of the price of freedom that we are going to have to pay in order to have freedom to own guns. And I am willing to take this chance.

Mr. President, it is precisely that kind of eroding philosophy that stimulates officials in the Department of Justice and Treasury—to tell the House Ways and Means Committee that the ammunition recordkeeping requirements of the 1968 Gun Control Act are burdensome and unnecessary.

To properly serve the public interest, officials in the Department of Justice and in the Treasury Department should enforce existing laws to control ammunition sales, instead of recommending ways for the Congress to weaken such laws.

The only public action on guns this administration has attempted, was to commission a private firm to test handguns and to select those least likely to explode in the hands of the shooter. Presumably, survivors of people shot by weapons tested and bearing the U.S. Treasury Department safe seal of approval will be comforted to know the assailant was not at risk as he pulled the trigger killing his loved one.

Mr. President, until we have an administration that can reject such a philosophy, neither the American people nor the Congress will have the strength of national leadership demanded by those who want to stop the killing by gunfire.

When I introduced amendment No. 1020 yesterday, I reminded the Senate that my proposal to register handguns and to license handgun owners is in no way a plan that requires new studies, indeed, if there is any issue Senators understand, it is the matter of strong handgun laws. Each Member of the Senate is fully aware that six commissions appointed by the President have recommended stronger gun laws to reduce gun killing. The Commission on Crime in the District of Columbia in 1966 called for registration and licensing of all handguns in the Nation's Capital.

In 1967 the Kerner Commission on Civil Disorders recommended "That all State and local governments should enact gun control legislation." The final commission report asserted that—

> We believe that Federal legislation is essential in order to make State and local laws fully effective, and to regulate areas beyond the reach of State government.

The Eisenhower Commission on the Causes and Prevention of Violence in 1968 concluded that "the only sure way to reduce gun violence is to reduce sharply the number of handguns in civilian hands in this country. We recognize this will be a massive and expensive task. But, the price is one that we should be prepared to pay"; and in 1971, the Brown Commission on Reform of Federal Criminal Laws called for "a ban on the production and possession of, and trafficking in, handguns, with exceptions only for military, police and similar official activities; and registration of all firearms."

The Katzenbach Commission on Law Enforcement and Administration of Justice reported in February 1967 that—

> Strict controls by state or city are nullified when a potential criminal can secure a firearm merely by going into a neighboring jurisdiction with few controls, or none at all.

Because the existing patchwork system of controls is ineffective, the Commission recommended that each State should require the registration of all handguns, rifles and shotguns. And in the absence of meaningful State laws, the Commission proposed the enactment of Federal registration requirements within 5 years. As we debate this serious national problem today, the Commission's schedule has expired, the waiting period is over. Now is the time to improve our gun laws.

In its report to President Nixon last year, the National Advisory Commission on Criminal Standards and Goals recommended that by January 1, 1983, each State take the following action: The private possession of handguns should be prohibited for all persons other than law enforcement and military personnel.

Manufacture and sale of handguns should be terminated. Existing handguns should be acquired by States. Handguns held by private citizens as collector's items should be modified and rendered inoperative.

In summary, it is clear that the overwhelming weight of the statistics that gun violence produces, and the needless distraction caused by guns, are sufficient to justify ways to strengthen our current procedures for coping with the national epidemic of death by gunfire.

On its merits, the demand for strong laws is easily understood by reasonable people. But it is obvious that we will need more than statistics to resolve the problems of controlling the misuse and abuse of firearms. We will also need a national firearms policy that can redefine the proper role of firearms in our society. A gun has one function and one function only. No man deserves to hold the power of ending another man's life because of the indiscriminate use of such a lethal device. So far, we have not learned how to control that power, even through substantial evidence concludes such power can be controlled. Profs. Geisel, Roll, and Wettick reported in the Duke University Law Journal that of the 15,000 people killed by guns in 1965, as many as 6,400 of them would not have been gun victims if the Nation had a system of gun control as strong as that in New Jersey. On that basis maybe 10,000 of the 24,000 gun deaths in 1973 would have been averted.

Ramsey Clark, who served as Attorney General under President Johnson, suggests our only alternative is to remove guns from the American scene. If this is not feasible we may be obliged to place strict bans on the production and distribution of ammunition. No bullets, no shooting. Such bold approaches may be where we shall end up.

I believe that gun registration and licensing can curb the phenomenally high rate of gun crime. And I urge the Senate to adopt amendment No. 1020.

Mr. President, as I understand, there is a time limitation on this amendment of 2 hours, evenly divided between the proponents and opponents of the amendment. Am I correct?

The PRESIDING OFFICER (Mr. BARTLETT). The Senator is correct.

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

It is entirely appropriate that a bill that is considering the death penalty and the mandatory application of the death penalty should provide some safeguards against the killing of the innocent. There will probably be those who will argue this afternoon as to whether the amendment which is proposed in behalf of the Senator from New York and myself is really germane. I believe it is not only germane but absolutely consistent with the alleged purposes for which the legislation is supported by the proponents of it.

Amendment No. 1020 protects against continuing deaths due to gunfire. It has three purposes: First of all, it bans cheap handguns. Second, it provides registration for all handguns. Third, it provides for the licensing of all handgun owners.

As I mentioned when I submitted the amendment yesterday, there probably has not been a subject which has been as carefully studied as gun control legislation. In the 11 years that I have been in the Senate we have had before the Juvenile Delinquency Subcommittee some 43 days of hearings and 12 days of executive sessions. Many of those executive sessions just droned on until there was a lack of a quorum and they broke up. One hundred eighty-six witnesses appeared before the Juvenile Delinquency Subcommittee. There were 4,000 pages of testimony.

The thrust of this amendment cuts no new ground. The thrust of this amendment includes provisions which have been considered by this body time and again in the past. We can say this is an old issue, but certainly a relevant and important issue. It is an issue which has brought forth the support of former Attorneys General. As a matter of fact, three former Attorneys General of the United States have testified in favor of either this or similar types of legislation, although none have testified in favor of it in recent times under this administration.

It is a proposal whose general thrust and scope have been embraced by six Presidential commissions. I think all of us are aware of how Presidential commissions have been appointed at different times in the course of our history. In most instances these Presidential commission reports have been gathering dust, which were in part an attempt to defuse what was a hot political or emotional problem. Yet these six Presidential commissions all considered the question of gun control legislation.

These Presidential commissions—the Eisenhower Commission, the Brown Commission, the Katzenbach Commission, the Kerner Commission, the Criminal Standard and Goals Commission, the Commission on Crime and Violence in the District of Columbia—each and every one, in varying degrees, with majority and minority reports, all made the point of the close correlation between crimes of violance and criminal activity and the availability of guns. They have recommended for the most part that we develop model legislation to be introduced and that the States be given a reasonable period of time in which to develop State legislation, but if a State then failed to develop such legislation, Federal legislation goes into effect.

The reason for all this, Mr. President, is very clear and very compelling. It is because they recognize the role of handguns and hand weapons and the fact that their relationship to crimes of violence and homicide have been so closely connected.

Here on the floor this afternoon we will hear it said, that what we really need is State laws and State action. If this is a problem, let the States do it, but do not cram Federal legislation or laws down the throats of the respective States.

But, of course, the fact remains that where we have had effective local legislation in terms of registration in some of the major urban areas of this country or where we have had effective legislation at the State level, time and time again we have heard from the district attorneys, chiefs of police, and commissioners from those areas who reply time and time again that they have found that the criminals are obtaining guns outside of their jurisdiction, in jurisdictions that are weak or lacking in any type of gun legislation.

If we are interested in doing anything about crime and violence in this country, I think we ought to take the recommendations made by distinguished penologists and others involved in the fight against crime and the distinguished citizens who have composed these various Presidential commissions. I do not mean that we should say that because the Presidential commission says it is so, it is so. However, because we have had six Presidential commissions that have all virtually unanimously recommended that there be this type of action, I believe that it is time that we in the Senate give our attention to this matter.

As to statistics, on gun tragedies, there have been 3,000 accidental gun deaths. There have been 11,000 suicides. There have been 20,000 gunshot injuries. There have been 71,000 assaults. There have been 113,000 gun robberies.

Those are the statistics. However, of course, the statistics themselves do not begin to measure the pain, suffering, and anguish associated with those that have been involved in these experiences.

Mr. President, I hope that the Senate will approve this legislation. We are not in any way in our legislation making it apply to long guns, even though the best information we have is that there are at least 60 million long guns in civilian ownership. It was in 1968 that we had the figure of 60 million long guns. I think that with the gradual increases in production since that time, the best estimate that can be made is that there are approximately 100 million long guns in the country today.

This amendment is not touching those guns in terms of registration or licensing, although I personally favor, and have favored in the past, that type of legislation.

We are dealing here with a rather simple but nonetheless effective legislation device to do something about the broad proliferation of handguns. The only purpose of the handgun amendment that we are dealing with at this time is to deal with the handguns that are used for one purpose and one purpose only, and that is the shooting of other people.

We provide in the legislation for authority for the Attorney General to exclude those particular hand weapons that would be useful for sporting purposes.

The only thrust of this amendment is to deal with those weapons which can be used effectively in the shoooting of individuals. This legislation, therefore does not concern the sportsmen. This amendment does not pertain to any long gun regulations, no licensing, no registration, no restrictions on manufacturing or destruction of long guns. It does not infringe upon the sportsmen who own long guns. It does not in any way inhibit their opportunity to own them. It does not affect those who want to use shotguns for sporting purposes.

All it does is single out those easily concealable weapons, and there are millions of these weapons, whose only purpose is the taking and destruction of life.

So, Mr. President, I think this amendment is one that is necessary. I think it could have a very significant impact on reducing gun deaths in this country, on those deaths that are the result of passion, accidental death, and even of suicides. It will have a real impact in those particular areas and I think in the area of crime as well.

I think it is also of some interest to know that there are statistics covering the people in the front lines of defense, the law enforcement officials of this country. It might be interesting to review the statistics on gun deaths as they apply to the law enforcement people who have been killed or shot in the line of duty.

In 1970 there were 100 police killed. Seventy-three of these were killed with handguns.

In 1971 there were 121 police killed. Ninety-four of these were killed with handguns.

In 1972 there were 112 police killed. Seventy-four were killed with handguns.

In 1973 there were 131 police killed. Ninety of these were killed with handguns.

We are attempting in this amendment to meet this particular problem and many of the other problems suggested by the broad proliferation of hand weapons in our country.

Mr. President, will be glad to yield to the distinguished Senator from New York whatever time he might need, but first yield briefly to the Senator from California.

Mr. CRANSTON. Mr. President, I ask unanimous consent that, during the further consideration of the amendment and during the rollcall votes on the legislation, Michael Stern have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, this amendment deals with the serious matter of the availability of handguns. And let me emphasize that we are talking only about handguns and not about rifles or other long guns. It relates strictly to handguns.

I call that especially to the attention of my colleagues on the Republican side because the whip notice spoke of this amendment which we are now debating as "establishment of a nationwide system to license all gun owners."

That is untrue, Mr. President. We seek only to license those owners of handguns within the boundaries set out in the amendment.

The reason I am deeply interested in this matter, aside from the impressive arguments which have already been made very eloquently by the Senator from Massachusetts, is that we have in force in New York a very strict law controlling handguns and requiring the registration of them, and so forth. We have found that, while it helps, it is not really as effective as it should be, precisely because there is no Federal law regulating handguns.

We feel very deeply—based upon a study which I will refer to in a moment—that if there is a Federal law, it will help localities and States which have their own laws to make them truly effective.

Mr. President, the matter of guns in America has greatly disturbed me since I came to Congress more than 25 years ago. The suffering and distress which flow from the almost unrestricted access to handguns in our society constitutes the single most serious and pervasive threat to the safety of ordinary Americans. If this is so, is it not the duty of the Senate to approve legislation that would make the handgun less available?

And shocking as it may seem it is hardly more difficult for anyone—be he madman, murderer, or petty thief—to obtain some sort of gun today than it was at the time of the assassination of President Kennedy or for that matter, the assassination of President Lincoln. In recent years, Congress has passed some important gun control legislation, but we have yet to come to grips with this critical and complex handgun problem.

As the Senate debates the moral, legal, and philosophical implications of the death penalty, I think it is entirely appropriate that the Senate consider the enormous problem of death in another, but inevitably related context. That is the death associated with unrestricted access to handguns—reflected most tragically in the random shooting of policemen and innocent citizens by criminals and deranged assailants.

Even if some criminals could obtain handguns, the rest of society would be safer if we did not possess them. The fact is that the bulk of homicides committed each year do not even involve criminals attacking strangers, but rather involve family and acquaintances. Handguns are rarely used successfully by law abiding citizens for self-protection.

Each year more than 20,000 are killed or injured by guns. Between 1964 and 1972, armed robberies increased 230 percent, with about 63 percent of these robberies committed with guns. Sixty-five percent of all murders in this period were committed with guns. Too often, the handgun is the instrument of death—easily obtained and concealed, it is responsible for the murder of increasing numbers of law enforcement officers.

We believe that there are as many as 40 million handguns, which are now being manufactured and pumped into the civilian population at the rate of more than 2.5 million a year.

That means that a new handgun is sold in the United States every 13 seconds. And one is used every hour of every day to murder one of our citizens.

Let us note that legal restrictions on the distribution of these weapons are almost nonexistent.

In 42 States no license is required to purchase a handgun.

The only restriction on buying handguns in these 42 States is a provision in the Federal Gun Control Act of 1968 which requires that the purchaser fill out a form giving his name and declaring that he is not a minor, and has no history of alcoholism, mental disorder, or felony conviction. But this requirement is almost worthless since it mandates no verification—such as fingerprints and a police background check—to substantiate the purchaser's identity and his declarations. Hence it is really almost worthless.

And while the act of 1968 banned the importation of cheap handguns—known as Saturday night specials—it allowed for the importation of their parts and their domestic assembly and distribution. And so, 1 million cheap handguns that can have no conceivable sporting purpose and cannot be used for anything other than killing human beings at close range were put together and sold in the United States last year—with no real controls on their distribution.

Nowhere are the numbers more frightening and our disregard of them more tolerable than in the category of police killings.

In 1967, there were 57 policemen killed in the United States. By 1972, the death toll reached 112, of whom 108 were killed with firearms and 74 were killed with handguns.

From 1966 through 1972, 621 policemen were killed across the United States. Ninety-five percent were killed with firearms, and 7 out of 10 were killed with handguns.

Indeed it is the policeman on the beat who has the most to fear in a gun-crazed society. He is trained and equipped to defend himself. But there is little he can do about the bullet that greets him as he chases a suspect down an alley, interrupts a holdup, or comes between a husband and wife in a family dispute.

That is why police leaders—including the later J. Edgar Hoover—have long supported stringent gun control.

Our per capita gun ownership rate is between 5 and 30 times that of any other free country. And in 1969, the last year for which we have statistics, our murder rate was 16 times that of Finland, 120 times that of Sweden, and 360 times that of Norway.

New York City has the Nation's most stringent State and local gun controls. And, in 1973, New York's murder rate ranked 9th among the 10 largest cities.

In New York City, every gun is required to be registered and every owner licensed. To get a license, an applicant is first fingerprinted and his background is carefully checked by the police department, to weed out those with histories of alcoholism, mental disorder, or felony convictions. In addition, to get a license to carry a handgun in New York City, he must also prove to the police that he has a specific, legitimate need for the handgun.

The answer is that of our huge population of 8 million, only 24,000 New Yorkers having handguns were licensed. We know that this system works because only a handful of those 24,000 who were licensed ever used their weapons to commit a serious criminal offense.

But just as New York City shows how gun control can be effective, our experience there also demonstrates how even the best State and local controls are tragically undermined by the absence of stringent Federal firearms control.

Although New York ranks 19th in crime among the largest 25 cities, the number of assaults and robberies involving firearms is rising sharply. And the city's chief medical examiner attributes almost the entire increase in murder in recent years to the increased availability of guns.

These are crimes that are almost always committed with illegal guns, not by our licensed owners. Crime guns always come from jurisdictions outside the State of New York.

It has been established, in fact, that these guns are coming to us by the thousands through black-market "gunrunning" networks. These operations thrive on the absence of strict Federal standards, which makes it possible for a gunrunner to walk into a store in the South, give a false name and address on the Federal form, and exchange cash for several hundred handguns. In one case, for example, one man in South Carolina purchased 600 handguns in 1 day so that he could resell them in northern cities.

Under the strong leadership of the former mayor of New York City, John V. Lindsay, and under the present mayor, as well, because I am sure that he knows of the condition; and of former Police Commissioners Patrick V. Murphy and Donald F. Cawley, a major effort was undertaken to deal with this problem.

By increasing the pressure of local law enforcement and working with the Bureau of Alcohol, Tobacco, and Firearms, of the Department of the Treasury, they have uncovered some extraordinary facts about the origin of some 3,000 handguns seized by New York City police from persons arrested with such weapons.

In its recently released "Project Identification," "A Survey of Handguns Confiscated in Crime in New York, Detroit, Atlanta, and New Orleans from July 1, 1973, through December 1973," the U.S. Treasury Department found that of the 2,546 guns traced in New York City, 2,048 came from 46 States and the District of Columbia.

Of the out-of-State guns—that is, guns from outside New York State—500 came from retail outlets in South Carolina, and 124 of the 500 were a part of the 40,000 small, inexpensive handguns estimated to have been illegally delivered to New York City in the 1969–72 period. Following South Carolina as a source of supply for guns in the New York City study were Florida, 273—Georgia, 214—and Virginia, 169.

I am not in any way being invidious in naming these States. We are dealing solely with facts, facts which bear upon the possibility of any State or major city getting obedience to its own laws, in view of a wide open sieve, which is a lack of Federal gun control.

Because of the strict New York City gun control law, trafficking in guns is highly profitable. This is shown by documented cases in South Carolina where cheap handguns selling for $20 each in volume were sold to persons in New York City for as much as $150 each.

Mr. President, I ask unanimous consent that a table outlining these statistics and contained in the report be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FIGURE 4.—*Sources of New York City handguns—Project I*

South Carolina	500
Florida	273
Georgia	214
Virginia	169
New York	103
Texas	83
North Carolina	80
Ohio	73
Pennsylvania	47
California	47
Alabama	46
Kentucky	41
Illinois	34
Connecticut	33
Maryland	32
New Jersey	28
Tennessee	28
Louisiana	27
Mississippi	26
West Virginia	22
Missouri	19
Arizona	11
District of Columbia	11
Indiana	11
Michigan	10
Colorado	9
Oklahoma	9
Arkansas	7
Maine	7
Kansas	6
Massachusetts	6
New Mexico	6
Nevada	5
Utah	5
Iowa	4
Oregon	4
Washington	4
Delaware	3
Wisconsin	3
Alaska	2
Minnesota	2
Montana	2
Nebraska	2
Vermont	2
New Hampshire	1

FIGURE 4.—*Sources of New York City handguns—Project I*—Continued

North Dakota	1
Rhode Island	1
Hawaii	0
Idaho	0
South Dakota	0
Wyoming	0
Total	2,048

Mr. JAVITS. Mr. President, last December, Mayor Lindsay reported that a gun running operation uncovered by a joint Federal-city investigation reflects in broader terms what this interstate traffic means. The defendants in this case are alleged to have brought 200 handguns in just one shipment from South Carolina to New York—and the New York City Police Department has already seized 169 of them from persons arrested for attempted murder, assault and armed robbery.

In my judgment what all of these facts indicate is a strong case for Federal gun control.

The amendment Senator KENNEDY and I urge today would if enacted severely restrict the availability of handguns, the weapon used in 52 percent of all murders. It would substantially reduce the personal dangers and fatalities caused by the criminal behavior of those who lawlessly misuse firearms by requiring:

One. The registration of civilian owned gun in the United States;

Second. The licensing of all persons who own guns, and

Third. A ban on the domestic output of hand-held firearms that are not suitable for legitimate sporting, military and law enforcement or protective purposes.

Registration will provide an improved system for law enforcement agencies to trace and apprehend those who commit crimes with firearms. It will tell us where the guns are and in whose hands they are held. A privately owned firearms will be identified by their physical characteristics and by the name of the person applying for such registration. The National Crime Information Center of the FBI will maintain these registration documents to enable law enforcement officers throughout the country to trace ownership of any firearm.

Under the bill, a violation of this provision is punishable by imprisonment for up to 5 years, a fine of up to $5,000, or both. The Secretary has authority to declare periods during which previously unregistered weapons may be registered without penalty. Any intentional falsification of registration information is punishable by imprisonment for up to 5 years, or a fine of $10,000 or both.

The licensing provision would require all hand gun owners to possess an adequate State permit or a Federal gun license. If a State fails to adopt a firearms permit system that meets minimum standards specified in the bill, Federal licensing applies until the State adopts an adequate permit system. No person—whether a licensed dealer or a private individual may sell firearms or ammunition to an individual who does not have either an adequate State permit or a Federal gun license. In addition, no one may possess a firearm or ammunition unless he has either an adequate State permit or a Federal gun license. To qualify as having an adequate permit system, a State must restrict the issuance of permits applied for by convicted felons, fugitives from justice, mental defectives, alcoholics, juveniles, and drug addicts, and must adequately investigate applicants prior to the issuance of permits.

In states that do not enact adequate permit systems, Federal gun licenses, valid for up to 3 years, will be issued by federally licensed dealers upon receipt—from both the chief law enforcement officer of an applicant's locality and a licensed physician—of information bearing upon his eligibility for a Federal gun license.

The sale or possession of firearms or ammunition in violation of the licensing and permit provisions of the bill carries a maximum sentence of imprisonment for 5 years and a fine of $5,000.

The third purpose of the bill is to ban the domestic output of cheap hand-held firearms. The handgun's role in crime is disproportionate to its number in comparison with long guns, in the commission of homicide, aggravated assault, and armed robbery. Over 50 percent of the 15,000 homicides in 1969 were committed with handguns. Virtually every robbery involving a firearm takes place with a handgun. The percentage of violent crimes in which handguns are used is increasing. During 1969, handguns were used in 81 percent of the murders of police officers killed by criminal assaults. For the period 1960–69, 78 percent of the weapons used in police murders were handguns.

State control of hand-held firearms has been ineffective because of different policies and leakage between the States. Only a comprehensive and uniform system of controls of hand-held firearms will aid in suppressing the crimes of violence caused by these weapons.

Mr. President, our fellow citizens are alarmed by the rise of violent crime in the United States, and with good reason. Personal injury and death occur more often in our country than in any other industrial nation in the world. Firearms are the primary instrument of injury and death in American crime.

The current annual toll of 20,000 gun deaths—10,000 murders, 7,000 suicides and 3,000 accidents—is a national scandal that demands congressional action. A nationwide system of firearms licensing and registration can effectively assist Federal and State governments in their efforts to reduce that toll.

Law enforcement agencies support strong gun control legislation as the single most important way to control violent crimes. In 1967, the late J. Edgar Hoover, Director of the FBI, in testimony before the House Appropriations Committee, supported the need for legislation, requiring the registration and licensing of civilian firearms. Police Commissioner Patrick J. Murphy of New York City and others support these proposals while being increasingly apprehensive about the safety of our uniformed policemen.

As fear of crime increases, handgun sales increase; as the number of loaded guns increases, the use of firearms in crime increases; as gun use increases, the death rate from violent crime increases; when this happens, citizen fear of crime increases still more.

The self-defense aspect of this "vicious circle" deserves further attention. Even though the great majority of handguns are kept for household self-defense, it is provable that the handgun in the home is more likely to kill innocent people than to save their lives. In Detroit more people died in 1 year from handgun accidents alone than were killed by home-invading robbers or burglars in 4½ years.

The opponents of gun control maintain that we cannot limit the supply of guns enough to reduce the incidence of violent crime. It is said that criminals will still be able to obtain handguns through illicit channels. We all are aware that the problem of criminal misuse of firearms will not be fully solved by passing this bill or any other gun control legislation. But the enactment of this bill will very definitely reduce the availability of firearms, and consequently reduce the amount of criminal firearms violence.

We have sought to cope with conflicting interests. We have sought to find a way to deal with the illegitimate uses of guns, without at the same time placing undue restrictions on legitimate uses.

Mr. President, action is long overdue. We must act to protect the lives of citizens and police officers who every day confront a tide of fear and very real danger—brought about by so many who use these illegal weapons.

Mr. President, throughout the extensive debates on gun control in this chamber over the years, we have heard the claim again and again that the New York City gun control laws are not effective. As I have previously stated, former Mayor Lindsay and our police officials in New York have made a major effort to rebut this argument

Before leaving office, the mayor prepared an important report entitled, "The Case for Federal Firearms Control." It provides the most accurate information available regarding firearms production and availability, firearms thefts, firearms and police murders, and the correlation between the strength of firearms regulations and the rate of violent crime.

Although it is a somewhat lengthy document, I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. JAVITS. For all of those reasons, Mr. President, I hope very much that, at long last, we will be able today—this very afternoon, in the Senate Chamber—to strike the greatest single blow that can be struck by Congress against the epidemic of crime which is so oppressing our people, especially in our metropolitan cities.

Mr. President, we reserve the remainder of our time.

Exhibit 1

The Case of Federal Firearms Control

I. THE PROLIFERATION OF FIREARMS IN THE UNITED STATES

A. The firearms market

There are an estimated 210 million firearms in the United States. This includes 25–40 million handguns, with an additional 2.5 million handguns sold every year.

Current estimates, based primarily on studies undertaken in 1968 by the President's Commission on the Causes and Prevention of Violence (The Eisenhower Commission) indicate that there are probably as many as 210 million firearms in the United States. This includes 25–40 million handguns, which the Eisenhower Commission reported are being manufactured and introduced into the civilian population at the rate of 2.5 million a year.

Today a new handgun is sold at the rate of one every thirteen seconds, and used ones are traded at the rate of two a minute.

A Staff Report to the Eisenhower Commission, entitled "Firearms and Violence in American Life," found that the number of firearms—both long-guns and handguns—*added* to the civilian market has been increasing rapidly over the years:

[*In millions*]

1959	2.2
1960	2.2
1961	2.1
1962	2.2
1963	2.2
1964	2.5
1965	3.1
1966	3.6
1967	4.1
1968	5.3

The report found the greatest increase was in handguns:

[*Million per decade*]

1899–1948	2.7
1949–1958	4.8
1958–1968	10.2

Another indicator of the increasing proliferation of firearms, especially handguns, is that from 1962 to 1968:

Annual rifle sales doubled;

Annual shotgun sales almost doubled;

Annual handgun sales quadrupled from 600,000 to 2.5 million.

And, our best information indicates that since 1968 this trend has accelerated.

It should be noted that none of these numbers or those that follow can be exact; for neither the federal government nor any other body keeps an exact count of gun production or ownership.

(Note: Throughout this memorandum, the terms "guns" or "firearms" will mean long-guns *and* handguns. "Handguns" will be used to describe those guns which can be concealed and used with one hand, i.e., a pistol or revolver. Handguns pose the greatest problem in terms of crime, while long-guns create a serious risk of accidents and suicides.)

B. The legal availability of firearms in the United States

There are few legal restrictions on the availability of firearms in the United States. The 1968 Federal Gun Control Act is weak and unenforceable, and 42 States have no restrictions whatsoever on who may buy a handgun.

The Federal Law

The Federal Gun Control Act of 1968 banned the interstate and mail order sale of firearms and ammunition. It also contained a provision requiring that anyone buying a firearm of any kind must fill out an identification form giving his name, address, description, and a description of the gun.

Although well-intentioned, the 1968 Gun Control Act is a sadly inadequate compromise law, riddled with holes. Among the major loopholes are:

1. Under the Act, a resident of a state can purchase a gun anywhere in the state provided he meets certain minimum requirements, such as not having a jail record and being over a specified minimum age. However, no verification is required of this information by the purchaser. The purchaser need only sign his name to a form stating that this is indeed his real name and that he is not a lunatic, a felon, or a minor. No fingerprints are required and no background or identity check of any kind is made by the local or state police.

2. Although the 1968 Act banned the importation of cheap handguns known as "Saturday Night Specials," they can still be manufactured domestically and their constituent parts can still be imported and then assembled here. Thus, 1,000,000 "Saturday Night Specials"—guns that can have no conceivable sporting purpose—were assembled and sold in the United States in 1970.

3. Under the 1968 Act any legal purchaser of a gun can resell or give the gun away in his own state to anyone he chooses, as long as the person is thought to be over age and not known to be a convicted felon. There is no regulation or monitoring of these transactions, and no record of such sales or transfers are required.

STATE AND LOCAL LAWS

A digest of state and local firearms laws prepared by the National Rifle Association in 1971 illustrates the lack of minimum uniform standards of firearms control.

For example, a permit or license is required to purchase a handgun in only eight states, so that the weak provisions of the 1968 Gun Control Act are the only restrictions that exist in 42 states. In 21 states no license is needed to carry a handgun. And in only three states (Illinois, New Jersey, and Massachusetts) and two cities (New York and Washington, D.C.) is a license or identification card needed to acquire a rifle or shortgun.

C. Gun thefts

Hundreds of thousands of guns are stolen each year, many during bulk shipment. Only New York City requires security measures to protect against thefts.

Another aspect of gun over-availability has to do with stolen guns. It has been estimated that there are 500,000 guns stolen each year in the United States. And many of these guns may end up in the hands of organized crime.

Except in New York City, there are no laws mandating specific security measures for the protection of firearms from theft. The federal government does not even have a cumulative record of the number of guns that are reported stolen each year, and has no organized effort to investigate these thefts and stimulate preventive measures against reoccurrences.

A New York Daily News article in 1971 reported one ramification of this laxity of control and information:

"In recent months, a shipment of 3,000 .38 calibre pistols consigned to a western dealer was stolen from the Brooklyn piers. The guns became part of the local crime family's arsenal, according to police theory . . . Several guns picked up on Joe Columbo's body guards were traced to a stolen Kennedy Airport shipment . . ."

D. The United States compared to other nations

The United States stands practically alone in its failure to limit the availability of guns.

Almost every European country requires a license to carry a firearm or registration of firearm ownership, or both. Italy, West Germany, France, Belgium, Britain, and the Soviet Union all have stringent gun laws. And, five European countries and Japan totally prohibit the private possession of handguns. Even Israel, on the brink of war and foreign invasion, has a civilian firearms ownership rate that is about $\frac{1}{15}$ that of the United States.

The following table, prepared by the Staff Report to the Eisenhower Commission, shows how the United States stands compared to other countries in terms of handgun ownership.

Estimated handgun ownership per 100,000

Ireland	—500
Finland	—500
Netherlands	—500
Greece	—500
Great Britain	—500
Switzerland	—500
Yugoslavia	500–1,000
Israel	1,000
Austria	3,000
Canada	3,000
United States	12,000–20,000

II. GUNS AND VIOLENCE IN AMERICA

A. Gun deaths

An average of 69 people are killed each day by guns—25,000 each year by murder, accident, or suicide.

A total of 25,000 people are now killed each year by firearms in the United States. This includes 2,900 from gun accidents, 10,000 from gun suicides, and more than 12,000 from gun homicides.

In any given day an average of 69 people in the United States will be killed by firearms.

That means annual fatalities equal to more than half the number of all combat deaths in the U.S. suffered in Vietnam.

Forty percent of all firearms fatalities involve children between the ages of one and nineteen.

B. Gun crimes

There were almost 200,000 gun crimes committed in 1972—or almost 600 a day.

Approximately 63% of the more than 250,000 armed robberies committed in 1972 were committed with a firearm. This statistic is especially alarming because the FBI has found that firearms are seven times more lethal than any other weapon.

Of the 18,520 murders committed in the United States in 1972, 54% were committed with handguns and another 12% with long-guns. This is a slight increase over 1971 when 51% of all murders were committed with handguns. In 1972 murder increased in the United States by 5%, as compared to a *decrease* in overall crime of nearly 2%.

This means that about 10,000 people were murdered with handguns in 1972, an average of 27 per day, more than one per hour. In an average 39 hours more Americans will be murdered by handguns than were murdered by all firearms in England in 1972.

C. Police killings

There has been an alarming nationwide increase in police killings in the past eight years, with 108 police officers killed by firearms in 35 different States in 1972.

There were 112 police officers killed in 1972 in the United States—as compared to 86 in 1969, 64 in 1968, 57 in 1966, and so on.

One hundred eight of the 112 policemen murdered in 1972 were killed with firearms and 74 were killed with handguns.

From 1966 through 1972, 621 law enforcement officers were murdered. Ninety-five percent were murdered with firearms and 72% were murdered by handguns.

Police killings are a national problem, affecting almost every major city and State. From 1966 through 1972, police officers were killed by firearms in 22 of the 25 largest cities:

Cities	Total	Fire-arms	Hand-guns
New York, N.Y	28	23	21
Chicago, Ill	36	36	29
Los Angeles, Calif	8	8	6
Philadelphia, Pa	9	9	8
Detroit, Mich	17	17	14
Houston, Tex	8	7	7
Baltimore, Md	8	7	6
Dallas, Tex	5	5	4
Indianapolis, Ind	0	0	0
Washington, D.C	8	7	7
San Diego, Calif	2	2	2
Cleveland, Ohio	9	9	6
Milwaukee, Wis	3	3	1
San Francisco, Calif	10	9	6
San Antonio, Tex	3	3	2
Honolulu, Hawaii	1	1	1
Memphis, Tenn	0	0	0
Boston, Mass	3	3	3
St. Louis, Mo	5	5	4
Phoenix, Ariz	1	1	0
New Orleans, La	4	4	3
Columbus, Ohio	2	2	1
Jacksonville, Fla	1	1	1
Denver, Colo	1	1	1
Seattle, Wash	1	0	0
Total	173	163	133

POLICE OFFICERS KILLED BY FIREARMS IN 34 DIFFERENT STATES IN 1972

State	Total	Fire-arms	Hand-guns
Alabama	3	3	1
Alaska	1	1	0
Arkansas	3	3	1
California	6	6	4
Colorado	1	1	1
Delaware	2	2	2
Florida	5	5	4
Georgia	6	6	6
Idaho	1	0	0
Illinois	3	2	2
Indiana	3	3	2
Kansas	1	1	1
Kentucky	2	2	0
Louisiana	5	5	3
Maryland	2	2	1
Michigan	5	4	4
Minnesota	4	4	3
Mississippi	1	1	1
Missouri	5	5	2
New Jersey	1	1	1
New York	5	5	5
North Carolina	7	7	6
Ohio	7	7	5
Oklahoma	4	4	2
Pennsylvania	7	7	4
South Carolina	1	1	1
South Dakota	1	1	1
Tennessee	2	2	1
Texas	10	9	5
Vermont	1	1	1
Virginia	2	2	2
Washington	1	1	1
West Virginia	2	2	1
Wisconsin	1	1	0
Wyoming	1	1	0
Total	112	108	74

1973 has thus far shown a continuation of this trend. As of November 1, 111 police officers had been murdered, 73 with handguns and 104 with firearms. And, as of November 1, in New York City six officers have been killed, all with handguns. (This includes New York City Housing and Transit Police.)

The Staff Report to the Eisenhower Commission concluded:

"The policeman, himself armed, is capable of defending against violent attack. He is trained and equipped to ward off attacks with blunt objects, knives, or fists, and his firearm is usually sufficient to overcome his attacker, even if surprised at close range. It is, therefore, the capacity of firearms to kill instantly and from a distance that threatens the lives of police officers in the United States."

III. GUNS AND VIOLENCE IN NEW YORK CITY

Local gun controls in New York City have worked to curb violent crime, but it is apparent that they are undermined by the absence of uniform Federal gun control.

A. The law in New York

New York City has the Nation's most stringent local gun controls.

To own a long-gun or handgun in New York City you must have a license. To get such a license, an applicant is fingerprinted and his background is investigated in detail over a period of several weeks. Those with histories of mental disorder, felony convictions or drug or alcohol abuse are automatically denied licenses. To own a handgun the applicant must pass the same kind of vigorous background check and also show specific, legitimate need for the weapon. Only 28,000 civilians are licensed to own handguns in New York, of whom almost 4,000 are target shooters allowed to use their weapons only at the firing range.

In addition, the City tightly controls retailers and wholesalers of firearms and is the only jurisdiction that imposes specific theft-prevention security standards on firearms dealers. In December of 1972, the City enacted a law prohibiting the manufacture of cheap handguns ("Saturday Night Specials") in New York.

B. Gun control has worked in New York

New York's stringent gun control laws have been effective in limiting gun crimes.

Of the nation's ten largest cities, New York's murder rate is the second lowest. The murder rate in cities such as Dallas and Atlanta where there are no state and local gun controls is appreciably higher than New York's.

The percentage of crimes committed with firearms in New York City is considerably lower than the national average. The Eisenhower Commission Staff Report found that in 1967, 40% of New York's murders were committed with guns as compared to 63% in the nation, and 57% for the other largest 8 cities. The Report also found that 13% of all robberies in New York were committed with firearms as compared to 37% nationally and 44% in the other 8 largest cities.

C. The effect of the absence of national gun controls on New York's local controls

The absence of national gun controls has undermined New York's local controls.

The easy availability of firearms throughout the United States has critically limited the effectiveness of our local controls.

In 1972, more than 51% of the murders in New York City involved the use of firearms as compared to 25% in 1965. In fact, the increase in murders in New York City in recent years can be almost completely attributed to the increase in firearm murders. The City's Chief Medical Examiner has noted that several other categories of homicide, such as strangulation, assault, arson, and infanticide had remained fairly constant over the last decade while shootings have increased rapidly.

In 1972, there were 4,362 assaults in New York involving guns as compared to 2,711 four years before. In 1972, there were 21,576 robberies involving guns as compared to 12,285 four years before.

With the exception of a few rare incidents, *all of these crimes—the murders, robberies, and assaults—were committed with unregistered firearms by persons not licensed to possess them in New York City.*

These firearms, mostly handguns, were brought into New York to be borrowed or sold on the black market from other jurisdictions that do not have New York's strict laws. These black market operations are responsible for bringing literally thousands of guns each week into New York City.

In response to this interstate traffic in firearms, in 1973, the City's police began working on an ongoing basis with the Alcohol, Tobacco and Firearms Unit (ATF) of the Treasury Department. A joint survey was undertaken of the approximately 3,000 handguns seized by New York City Police in the first six months of 1973 from persons arrested on charges of murder, assault, robbery and violation of the City's gun laws. ATF is tracing these guns to the last point of known transfer, whereupon ATF and the City police will try to determine how the gun then made its way into the possession of the person arrested with it in New York City.

Though the results of the survey are not yet complete (as of November 1, 1973,) they promise to confirm our worst fears about the way in which the absence of strict national gun controls undercuts New York's tough local laws:

—Ninety-seven percent of these handguns have thus far been traced to retail sales outside of New York. (The remainder, about 3%, were guns bought legally in New York City but then either stolen from licensees or, in a handful of instances, abused by the licensees themselves.)

—Almost 70% of the guns came from four states in the South: South Carolina, Georgia, Florida and Virginia—with South Carolina accounting for an alarming one-third of the total. These states have weak or non-existent state gun controls and the only real restriction on handguns is the federal form that a purchaser must sign, swearing he is a resident of the state and is not a felon, lunatic, drug abuser or alcoholic.

Illustrative of the tragic consequence of this interstate traffic is one case in which a joint ATF–City Police effort uncovered a black market operation alleged to be "running" hundreds of handguns a week into New York. Of the 200 guns in just one shipment that defendants in this case are known to have bought in another state and sold illegally in New York, 169 have already been seized by our Police Department in connection with arrests for attempted murder, armed robbery, and assault.

On the other hand, in the last two years less than one-tenth of one percent of the 20,000 people licensed to carry handguns in New York City have used their guns to commit a murder or a robbery.

That, in short, is the case for federal gun-control.

D. Police killings in New York City

Since 1966, 33 police officers in New York City have been killed, 29 with firearms; 26 with handguns.

The month of June, 1973, tragically provided more than enough evidence of the relationship between police assaults and guns, especially handguns. In a 15 day period beginning Saturday, June 2, seven police officers were assaulted with handguns, and one was attacked with a shot-gun. Three of the officers were killed, all with handguns. None of the handguns has yet been identified as a "Saturday Night Special." (A fact which emphasizes that a mere "Saturday Night Special" law will not solve our gun control problems.)

Here are the important facts about each shooting:

1. June 2: A patrolman was killed in a bar with a handgun during a hold-up.

2. June 4: A Transit Authority patrolman, on duty, was shot in the arm with a .38 handgun.

3. June 5: A patrolman, on duty in Brooklyn, was shot in the arm, leg and abdomen while responding to a complaint of shots fired. Three perpetrators were involved using .32 and .22 handguns.

4. June 5: A Transit Authority patrolman, on duty at a subway station in the Bronx, was shot three times by four perpetrators. He died at 5:15 a.m. from a wound from a 9mm handgun.

5. June 6: A detective, on duty. was shot in Central Park. A 9mm handgun was used.

6. and 7. June 17: A patrolman responding to a call that a distraught man was waving

a handgun in a bar was shot to death by the man. His partner was seriously wounded.

None of the handguns used in these shootings were legally registered.

IV. THE CORRELATION BETWEEN GUN CONTROL AND GUN CRIMES

A. The United States vs. other countries

There is solid evidence of the correlation between the restrictions a country places on firearms and its murder rate.

In England, where there are stringent controls on who may own firearms, 19 policemen were killed in the 21 years from 1946 to 1967 as compared to 1,014 American police officers during the same time. And, English police officers are not armed.

In England and Wales, where the combined population is 48.8 million, there were 399 homicides in 1970; in Detroit, where the population is 1.5 million, there were 550 murders in 1970.

In Tokyo, stiff gun laws are credited with making crime a relatively minor problem. It is illegal in Japan to own a handgun, and according to the New York Times, the police feel that the resulting absence of handguns is crucial in keeping the murder and robbery rates as low as they are. Thus, in Tokyo, the world's largest city, three people were murdered with handguns in 1970. During the same year in New York City 538 people were killed with handguns. And, in Detroit, a still smaller city but one with gun laws that are less effective than New York's, there were 550 murders. As for the argument that would-be killers would merely use alternative weapons if guns were made available, there were a total of 217 murders in Tokyo last year as compared to 1,117 in New York City, which has 30% less people.

In 1969, the murder rate in the United States was 7.2 per 100,000 residents as compared to .4 per 100,000 in Finland, .02 in Norway, and .06 in Sweden—all countries with strong gun laws.

The rate of homicides due to firearms in the United States is eight times that of the country with the second highest rate (Canada), 42 times that of England, and 23 times that of West Germany. All of these countries have strong gun laws.

Thus, the United States not only ranks number one among the nations of the world in the number of gun deaths, but number two lags so far behind that the total of gun deaths in all free nations does not equal the total for the United States alone.

B. The correlation between local gun control laws and violent crime within the United States

Even within the United States, in States and localities where gun laws are strong, the murder rate, as well as the percentage of murder committed with firearms, is lower than in areas where gun laws are weak.

The variations shown above between the United States and other countries cannot be dismissed as mere functions of a particular American culture of violence. Rather, the gun laws seem to be a key variable in rates of crimes of violence in the United States. Every available comparison between localities *within* the United States indicates that where gun control laws are stringent, the murder rate, as well as the percentage of murders committed with firearms, is lower than in areas where gun laws are weak or non-existent and which, therefore, have a greater number of guns per capita.

The three states generally thought to have the toughest gun laws—New Jersey, Massachusetts, and New York—are among the five states with the lowest percentage of murders committed with firearms, according to the FBI.

On the other hand, Alaska, the most sparsely populated state, and Texas, both with weak controls, were among the highest in 1968 in murder rates. And, in terms of percentages of murders committed with firearms, the following figures from the Eisenhower Commission Staff Report tell a clear story:

Alaska, 71.4%; Texas, 68.7%; and New York, 31.8%.

Regionally, the South has the highest rates of gun ownership and generally the weakest laws in the nation. And, the South leads the nation in the percent of homicides committed with firearms and in the rate of accidental gun deaths per 100,000. This is illustrated by the following tables prepared by the Eisenhower Commission Staff Report.

Similarly in September of 1973, the Washington Post reported that:

"An absence of gun control legislation in Southern cities may be one reason why those metropolitan areas are dominating the nation's murder statistics . . .

"FBI data show Atlanta leading the nation in 1972 with a rate of 23 slayings per 100,000 population, followed by Gainesville, Fla.; Little Rock, Ark.; Greenville, S.C.; Columbus, Ga.; Tuscaloosa, Ala.; Richmond, Va.; and Savannah, Ga. . . .

"Out of 53 metropolitan areas that reported 12 or more homicides per 100,000 population, 42 were in a 12-state Southern region . . . "If I had my way they would take every handgun ever made and throw them in the river," said Georgia Division of Investigation Director William Beardsley."

The Staff report to the Eisenhower Commission prepared the following two tables which further illustrate the correlation between firearms laws and firearms crimes. (NOTE: New York and Boston are the two major cities in the United States with strong state and local gun laws.)

C. Can gun control be effective?

The slogan, "If guns are outlawed, only outlaws will have guns," is contradicted by all available evidence.

This is an argument frequently used by opponents of gun control. It implies that strict gun laws would disarm the law-abiding citizen while not affecting criminals at all. There are several counter-arguments:

1. Federal gun control does not mean that guns would be outlawed; at most, effective legislation would ban handguns not owned for a specific, legitimate need.

2. Total enforcement of any gun law would indeed be impossible. However, such laws could be enforced effectively enough to make a tremendous difference. If strict accounts were kept on all guns, beginning in the factory and moving on from there, and if there were uniform national standards, gun laws would be enforceable. As J. Edgar Hoover put it: "While it is true that a hardened criminal might possibly obtain a gun regardless of statutes in force, most authorities agree that controls would make acquisition much more difficult and less likely."

Also, a strong gun law facilitates increased control of criminals by providing police with an important ground for arresting armed citizens. In 1968, Leonard Reisman, then a New York City Police Department Deputy Commissioner, testified that the State's Sullivan law had enabled the police "to make many arrests for the illegal possession of pistols and revolvers before the possessor had had the opportunity to commit a crime of violence."

3. Restricting the availability of guns even to law-abiding citizens would in fact be an important step in curbing violent crime. Guns in the hands of outlaws are not the main cause of gun violence and civilian slaughter in the United States. There were 2,900 accidental gun deaths last year, 200,000 accidental gun injuries, and 10,000 gun suicides. None of these involved outlaws having guns. Most involved guns being too readily available.

Thus, in 1968, the Staff Report to the Eisenhower Commission, in considering the argument that civilians need firearms for self-protection, found that for every robber stopped by a homeowner with a handgun, four homeowners or members of their family were killed in handgun accidents.

Similarly, a study done in Cleveland in 1973 found that a firearm purchased to protect a family against an intruder is six times more likely to be used to kill a family member or friend.

More important, the FBI tells us that most murders (73% in 1972) are committed by previously law-abiding citizens committing impulsive gun-murders while engaged in arguments with family members or other acquaintances. In these cases, a readily available gun is what turns an assault into a murder.

V. SUGGESTED FEDERAL FIREARMS CONTROL LEGISLATION

Guns should be treated like motor vehicles.

Based on our experience with firearms abuse in New York, we would include the following in a model federal firearms control bill:

1. A requirement that all firearms be registered.

2. A requirement that all owners of firearms be licensed and that no one receive a license until his identity has been verified and it is certain that he is not a minor and has no history of felony conviction, mental disorder, or alcohol or drug abuse.

3. A strict limitation on licenses for the ownership of handguns so that only those demonstrating a specific, over-riding legitimate need for a handgun can get one. Presumably police officials in urban centers would interpret this requirement of overriding legitimate need to mean that few, if any, civilians could own handguns in a crowded, urban environment, except for target shooters, who might be required to store their handguns at the shooting range.

4. A total ban on the domestic manufacture, assembly or sale of handguns not suitable for sporting use ("Saturday Night Specials").

It should be emphasized that a ban on "Saturday Night Specials" is only a part of our overall proposal. This is because the experience in New York and elsewhere indicates that while these cheap handguns are an important aspect of the handgun abuse problem faced by law-abiding citizens and police officers, eliminating them will not come close to fully eliminating the problem. Recent surveys conducted by the New York City Police Department of guns seized from arrested perpetrators determined that less than 30% of the firearms seized were "Saturday Night Specials." Similarly, a survey of all handguns seized in the first six months of 1973 in the City's highest crime precinct found that even in this poverty neighborhood, approximately half of the classifiable handguns used by alleged perpetrators were high-quality, expensive weapons. And, none of the seven New York City police officers assaulted with handguns during June, 1973 were assaulted with "Saturday Night Specials."

5. A requirement that gun manufacturers, wholesalers, retailers, and transporters take appropriate security measures to guard against firearms thefts and that they be required to report all such thefts immediately to the police and the federal government.

6. To help end the damage caused by years of uncontrolled firearms distribution and ownership, the federal government would for a two-year period buy back all firearms from civilians who want to turn them in at a price at least equal to their current market value. this "buy-back" option would be available to all who surrender their guns voluntarily to state, local or federal police officials. For these two years subsequent to the passage of federal gun controls there would be no prosecution for violation of the new law for

all who so surrender their guns voluntarily. The federal government would destroy all such firearms.

This "buy-back" option would not only make the other elements of the new law more realistically enforceable; it would also remove from circulation those thousands of guns now kept "lying around" by law-abiding citizens who don't really need or want them. Police experience indicates that these guns often become weapons in accidents, spur-of-the-moment assaults, murder, and suicides; and that they are often stolen in burglaries, then ending up in the hands of criminals.

This proposed system of firearms control essentially parallels the system of motor vehicles control now used by the 50 states: vehicles are registered and drivers are licensed. It should be noted that there is no reason why this legislation could not take the form of federally imposed standards that the states or localities could enforce. This would provide some flexibility for the "overriding need" standard proposed for the granting of handgun licenses.

Mr. CHURCH. Mr. President, the able Senator from New York has spoken of the stringent gun laws that apply in New York City, where it is necessary for anyone who would legally possess a handgun to be licensed by the city, to have his fingerprints taken, to have his background checked by the city police, and then to show a legitimate need for the weapon, as required by the ordinances of the city.

This is an extremely stringent law, so much so that the Senator himself has acknowledged that only 24,000 people in a city of more than 7 million have qualified under the law to possess a firearm legally.

This, in itself, demonstrates the futility of attempting to fight crime by registering particular kinds of weapons, or licensing their owners. For the gun crime rate in New York City is very high indeed—one of the highest in the country.

The Senator from New York attempts to explain this away by saying that other States do not have equally stringent laws and, therefore, many thousands of handguns come into New York illegally from such States as South Carolina, Virginia, Florida, and others.

Well, Mr. President, if we were to enact a Federal law of the kind advocated by the Senator from New York, what would prevent the flow of weapons from coming in from sources outside the United States, from Canada, Mexico or the Caribbean?

Obviously, the laws of New York have not prevented the illicit influx of weapons from outside the State. If we were to enact a Federal law, we would face the same problem. The underground, the Mafia, would immediately grab hold of the "hot" gun traffic, and criminals would be as well supplied with unlawful handguns as they are today.

You see, Mr. President, the part of the case that has never been proved by gun control proponents is how, in fact, their controls would reach the criminal.

Oh, to be sure, law-abiding citizens would have to go through the registration process, the fingerprinting, the background check by local police, the licensing and the registering. But who in the world assumes that the criminal element will pay the slightest heed to such registration laws?

The only effect will be further harassment of law-abiding citizens, while the criminals continue to ignore the law. As the Senator from New York admits, the laws of New York notwithstanding, their effect on the criminal element has been nil.

Mr. McCLELLAN. Mr. President, is there any evidence whatsoever to indicate that the New York statute is enforced in New York now?

Mr. CHURCH. The statute is being enforced as rigorously as the State of New York is able to enforce it.

Mr. McCLELLAN. All right. The Senator says only 24,000 handguns are registered.

Mr. CHURCH. Yes.

Mr. McCLELLAN. I wonder whether any are registered by the Mafia and these other people that commit these crimes?

Mr. CHURCH. Of course not.

Mr. McCLELLAN. Of course not.

Mr. CHURCH. Furthermore, I would say to the Senator that there are undoubtedly hundreds of thousands of handguns owned by people in New York City who keep them for their own protection—guns which are not registered and which the law has failed to reach.

Mr. HRUSKA. Mr. President, we had before the Judiciary Subcommittee the person of the chief of police, Mr. Pat Murphy, who was the chief of police in New York and his estimate of handguns illegally possessed in the city of New York, that is to say not registered, was 500,000.

The New York Times researched the matter and also made an estimate. It estimated that there were 1 million such guns illegally owned and possessed by citizens and residents of the city of New York.

I believe these statistics strikingly prove the point the distinguished Senator from Idaho is making.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. McCLELLAN. Is there any interference with the city of New York enforcing the law?

Mr. CHURCH. None whatever.

Mr. McCLELLAN. If they cannot enforce this law, how would they enforce the Federal law?

Mr. CHURCH. The Senator makes a cogent point. The argument that we need a Federal law is simply not borne out by the facts, nor by a careful examination of the experience of those States and cities that have stringent gun laws of their own and cannot enforce them.

Mr. McCLELLAN. They have the opportunity to demonstrate that it can be made effective, but they are unable to demonstrate it.

Mr. CHURCH. The Senator is correct. The only conclusion that can be drawn from the experience of those States that have attempted to combat crime through gun control laws is that it has failed. Why we should assume that it will not fail if we adopt laws of larger scope, at the Federal level, escapes me.

In fact, Mr. President, if this amendment were to be adopted, it would mark the commencement of a Federal intrusion in this area that would go far beyond handguns. Once the Federal Government asserts the right to license, to fingerprint, and register the possession of handguns, it is inevitable that the next step will extend that control to every other form of weapon—to long guns, to sporting guns, and to every other kind of firearm. That is why we must not permit Federal intrusion to begin at all.

From the start of this argument over gun controls—and I have consistently opposed Federal gun controls in my 18 years in the Senate—I have stressed that this is a field that should be reserved to regulation by State and local governments. Crime conditions vary greatly from State to State. Therefore, each State should be free to deal with its own crime problem in its own way.

The worst thing would be to enact Federal laws designed to deal with the crime problems in Cincinnati, Cleveland, Chicago, and New York, and then try to live with those laws in Arkansas or in Idaho, where the condition of life is quite different and where the people keep guns in their homes because they most often do not have access to police around the corner.

In many a county in my State, you cannot get instant service from the sheriff, even if you can reach him by phone. It might take him an hour to reach you. People in Idaho keep guns for their own protection, and everyone knows it—and the crime rate is exceedingly low, incidentally, as a result. To tell the people of my State that they cannot possess guns without Federal permission is to tell them that they are no longer sovereign. To tell the people of my State that the Federal Government may step in and force them to be fingerprinted and examined by the police before they may own a gun is simply to ask for open defiance.

For that reason, Mr. President, I say that we ought to be mindful that this is a big country; it is a big continent; the problems and conditions of life vary greatly from one region to another, from State to State, and from locality to locality. The control of guns should be left to State and local governments; it is not a proper place for Federal intrusion.

Mr. McCLELLAN. Mr. President, I yield 5 minutes to the distinguished Senator from Alaska.

Mr. STEVENS. I thank the Senator from Arkansas.

Mr. President, I am happy to join the Senator from Idaho in opposing this amendment.

Senator KENNEDY's amendment to S. 1401 would require a registration and permit system for all handguns. This amendment makes no attempt to distinguish between "Saturday night specials" and sidearms used for target practice or hunting.

I believe that a handgun is not an inherently evil instrument. A piece of hardware cannot do anything the user does not make it do. Violent crimes are committed by criminals—not handguns alone. A handgun is both a necessary and respected item for many of the citizens of Alaska.

Proponents of gun control would lead us to believe that crime and guns are synonymous. The facts not agree. The Law Enforcement Assistance Administration estimates approximately 100 million guns are in private hands in the United States. The total number of crimes involving firearms in 1971 was approximately 353,000. That means that only .0035 percent of all guns were involved in crimes; and that does not include those guns that were used twice or more.

The FBI reported that in 1971, one-fourth of the 364 cases of aggravated assaults involved guns. The knife, far oftener than the gun, is the weapon used in assaults. I would like to add one more example: The Eisenhower Task Force Study on Firearms found that, while sales of long guns doubled between 1962 and 1968, the sale of handguns quadrupled. The Task Force concluded that the fear of crime, violence, and "perhaps the anticipation of stricter firearm laws" appears to have stimulated handgun sales.

The facts show that crime and guns are not synonymous and, in fact, controlling guns may have the opposite effect. Many people in their anger against the criminal have turned on guns as the scapegoat. We must redirect this strong anger back toward the real culprit, the person who would use a gun to harm another human being. The fight should be to strengthen our police, streamline our courts, and remodel our prisons so crime control is a reality and gun control is a moot reality.

A further objection which I have to the amendment now being considered by the Senate is a lack of distinction between the States it affects. The use of handguns in Alaska differs significantly from the use of handguns in other States; those primarily composed of urban areas. I am convinced that gun control legislation requiring registration should not be enacted at the Federal level, but is more appropriately a matter for State legislation. The problems facing citizens of the large inner cities, such as Detroit and New York are vastly different from the problems facing the citizens of rural States such as Alaska.

In many Western States much of the rural areas are still frontier. For example, when an Alaskan goes out into the bush to hunt or fish, he nearly always carries a handgun for his own protection, and to be protected from large animals, such as bears and wolves. I feel, therefore, that it would be inappropriate to deprive the citizens of Alaska of weapons that are necessary for their own preservation. Many States and localities have enacted comprehensive systems of law to make punishable certain criminal acts perpetrated with firearms. There is no need for blanket legislation at the Federal level.

The people in the bush areas of my State need firearms to provide food, clothing, and other necessities of life. The administrative requirements of this amendment would be unduly burdensome on the law-abiding citizens of my State. The remoteness of Alaskan villages and the lack of appropriate administrative contacts would make it extremely difficult for those people to acquire handguns which are necessary, in many instances, for their survival.

Alaska may be considered the sportsman's paradise of the United States. The amendment presently under consideration makes no distinction between handguns used for sporting purposes and the use of handguns for illegal purposes, and I am convinced that the right of law-abiding citizens, and especially sportsmen, to purchase and own handguns and ammunition without burdensome administrative procedures and restrictions should be preserved. This can only be done on a State-by-State basis where each State is permitted to determine its own needs and requirements in the area of registration of handguns. Alaska and New York, or any other large metropolitan State, are vastly different in their needs, and this difference must be recognized and considered in the passage of any firearm legislation at the Federal level.

I cannot overstate my opposition to this amendment.

Mr. President, the interesting thing about this amendment is that it is going to provide a shopping list for those who are already obtaining their weapons illegally. They will know just where to go to steal more guns.

The Senator from New York has pointed out that of the vast percentage of the crimes committed in New York, as I recall, only a handful were committed by those who had legally registered their guns or obtained licenses for them.

What we are really talking about here is an amendment that would place a tremendous burden on those who legally possess the 40 million guns throughout the country. The estimate is that 25 percent of all the households in the United States have guns today. So we are going to tell all those who legally possess their guns that they must come in and register them. And why? In order to try to control those who already illegally possess weapons and have the weapons in their hands for the purpose of committing a crime.

An interesting study was conducted in Texas. It was a study of the criminal and his weapon. I find it very interesting that the study indicated that of 491 adult male felons in Texas and Louisiana, the principal and major source of the weapons they had used was theft.

Now we come up with a concept that we are going to require the registration and licensing of guns, and anyone can go to the local police station and find out if I own a weapon and what kind it is. What an invitation to more crime.

I cannot understand that approach to crime control. It is really punishing those who have their weapons lawfully, in order to try to get those people who are already committing crime to comply with another law.

It is difficult for me to understand the registration provision, which gives a person who now lawfully has a gun 180 days within which to register his gun; and if he does not do so, he becomes a felon. Yet, the people who have the guns that the sponsors of this amendment seek to control are those who already illegally obtained them. They are already felons—do you really think they will register their guns.

The guns that the Senator from New York mentioned, which were acquired in South Carolina and transported to New York, are already in violation of Federal law. That transaction would be in violation of existing Federal law. What has that Federal law done to control the interstate trafficking in weapons destined for criminal hands? They go into New York, and they are sold to people who are violating the laws of New York as they exist today.

I believe that the real problem about this matter is that the proponents of gun control continue to try to tell us that crime and guns are synonymous, that guns commit crimes, not people. It is like telling a person in a business that the typewriter made the mistake, not the stenographer. I do not quite understand that approach to an instrument such as a gun.

In my State of Alaska, guns, including handguns, are an absolute necessity for many people. To put on my people the burden of registration and licensing would mean that many of them would have the duty to travel literally hundreds of miles to go to a Federal official to register their guns. And for what?

As a practical matter, in the areas where the licensing laws and registration laws exist today, the rate of crime is higher. Where there are no such laws and where there is a preponderance of guns today, the studies that have been conducted indicate that crime rates are lower. Where more guns are in private hands, crime rates are lower.

I cite, for example, a pamphlet prepared by New York Law School, under the New York Law Forum, entitled "A Controlled Look at Gun Controls." It states that five States—Iowa, North Dakota, Vermont, Washington, and New Hampshire—have an average homicide rate of 1.8 percent. That is extremely lower than those States that have strong gun control laws. Some people would say, "Well, that's because these are low population density States." One can look at the State of Rhode Island, for instance. It had a very low homicide rate of 2.2 percent, despite its very high density, and it had no gun control laws in effect at the time.

The study ends with this statement, which is very interesting, and which I would like to read for the RECORD:

> The furor over the gun control issue accurately reflects its emotional content, which is high for both gun owners and gun haters, but sober analysis of the problem must inevitably lead to the conclusion that whether we have gun controls or not, the pattern of criminal activity in this country will be unaffected and there will be no significant difference in the number of victims. If we remove guns from the homicide environment, there will be no homicides with guns, but as we have seen, there will be substantially as many homicides. In any case, advocates of gun controls must face the problem as it exists, not as they wish it might be. This is a country where a quarter of the citizenry may already own enough guns to arm every

single inhabitant; where, unlike other countries where gun ownership has always been restricted, firearms are as common, and as easy to obtain, even illegally, as good whisky—and sometimes cheaper. The American ethos has been that no task is too hard for us, but gun control, like victory in Vietnam, whether or not possible, is not worth the cost.

Mr. President, that is the last question I would raise: The cost of attempting to register the 40 million guns in private ownership to try to control that .0035 percent of guns in this country that are used illegally annually.

Mr. President, I ask unanimous consent to have printed in the Record an article entitled "The Armed Citizen."

There being no objection, the article was ordered to be printed in the Record, as follows:

The Armed Citizen

After two windows were broken simultaneously in her Elyria, Ohio, home, Mrs. Mary Farkas got a .22 revolver, entered the kitchen, and found a man peering in. Meanwhile an accomplice climbed in a front window, Mrs. Farkas fired a shot that sent both men fleeing, one leaving behind a machete. Police apprehended three men later and charged two with malicious entry. (The Chronicle-Telegram, Elyria, Ohio)

When one of two armed bandits grabbed Harry Dillion's wife and pressed a gun to her temple, the Philadelphia shoe store owner pulled a .38 pistol, killed one robber and wounded the other. (The Philadelphia Inquirer, Philadelphia, Pa.)

Dr. Barney Benedictson of Yakima, Wash., awakened by barking dogs early one morning, observed two youths loading a pickup truck in front of a neighbor's home. While his wife phoned the sheriff. Benedictson blocked the suspect's truck with his car, then pulled a gun and held the burglars. (The Yakima Herald Republic, Yakima, Wash.)

A Florissant, Mo., housewife, Mrs. Beverly Barrett, investigating noise at the rear of her house, saw two youths removing a porch screen. She got a shotgun and, when one of the intruders stepped onto the porch, she ordered him to lie down. The other youth fled. (St. Louis Globe-Democrat, St. Louis, Mo.)

A young man made a purchase in Robert Hindman's Waukegan, Ill., service station, then grabbed a fistful of money from the startled manager and bolted out the door. Hindman got a pistol, ordered the thief to stop, and held him for the police. An alleged accomplice waiting in a car was arrested also. (The News-Sun, Waukegan, Ill.)

Porterville, Calif., storeowner William Baker attempted to hide when an armed masked man came into his shop. When the man began firing, Baker returned the fire, wounding his assailant. Baker eluded a second masked robber and went for help. The body of the wounded bandit was later found in a driveway, apparently dumped there by his companion. (The Fresno Bee, Fresno, Calif.)

Acting on a phone call reporting a prowler at his Dolphin, Va., general store, Keith Hargrave got a gun and went with his son to investigate. They found a man inside the store who immediately surrendered when he saw the Hargraves were armed. (Richmond Times-Dispatch, Richmond, Va.)

A man with a stocking over his head walked into Bert Curtis' Thousand Oaks, Calif., store and, wielding a gun, demanded money. Curtis reached for a gun under the counter and fired two shots that sent the bandit fleeing. (The Press-Courier, Oxnard, Calif.)

Ralph Kelley, manager of a restaurant in Detroit, Mich., grabbed a .38 revolver after a robber pulled a .22 pistol and announced a holdup. The bandit fired twice, missing Kelly both times. Kelly then shot and wounded him. (The Detroit Free Press, Detroit, Mich.)

Arriving at her Fairview, Alaska, home, Fay Purnell found a man inside. He chased her around to the rear of the house where she produced a pistol and fired. The suspect, wounded, jumped into a car and drove off. He soon was apprehended by police. (Anchorage Daily News, Anchorage, Alaska)

Surprised by four armed men in the backyard of his Montclair, N.J., home, Dr. William L. Cassio pulled his own gun and fired three times. The men, one believed to have been wounded, fled the scene of the thwarted hold-up. (The Star-Ledger, Newark, N.J.)

Roy's Speed Shop in Shamokin Dam, Pa., had been the object of multiple break-ins, so owner Roy Cressinger decided to spend the night on the premises. When three youths broke in, Cressinger was ready. He held a 12-ga. shotgun on them and called the police. (The Daily Item, Sunbury, Pa.)

A man armed with a meat cleaver entered the Spirit House liquor store in Meriden, Conn., and ordered manager Stanley Zajac to "give me all the money." Instead Zajac pulled a pistol from under the counter and shot the would-be robber in the leg. (The Morning Record, Meriden, Conn.)

Mr. HRUSKA. Mr. President, will the Senator from Arkansas yield?

Mr. McCLELLAN. I yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, a while ago I stated that Mr. Pat Murphy appeared before our Subcommittee on Juvenile Delinquency of the Committee on the Judiciary. He gave us the statistic that the illegal guns, those that were not registered, numbered 500,000, and that the law requiring the registration of the guns had been on the books for 50 years or so. He also gave the statistic that only 22,000 or 24,000 permits were registered.

The point is that New York with 30,000 of its finest policemen were not able to enforce and have not been able to enforce that permit law in New York City. The point is that the law enforcement officials have not been able to enforce that law.

The argument is made however that, "In New York we can control our own but we cannot control the guns that are shipped into New York State or New York City from all the jurisdictions." Yet, as pointed out by the Senator from Alaska, such interstate shipments are already against the law unless they are made to federally licensed gun dealers, wholesalers or jobbers, as the case may be. So really what is being asked for here is another Federal law when one which is on the books now is not being enforced and apparently is incapable of being enforced.

This body went on record only 2 years ago, in 1972, I believe it was, when there were 11 votes cast in favor of the so-called Kennedy amendment and 79 were cast against it. I do hope that this body will have good sense to make a similar disposition of the amendment that is before us today.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLELLAN. Mr. President, I yield 2 additional minutes to the Senator from Nebraska.

Mr. HRUSKA. I thank the Senator.

I do not know whether the point has been made or not yet in the consideration of this matter, but there have been no hearings on this measure. The amendment has been pending in committee for a long time and no request has come to me for a hearing on this particular measure or the details of it. It is said that this is a well-debated issue. No issue is well-debated until we get down to specific words arranged in a specific sequence and a check of all provisions in the language of the bill we are asked to pass. It seems to me the best way to approach this problem once again, as I said before, is to have stricter enforcement of the Federal law we have, the imports, the licensing of manufacturers, importers, wholesalers, and dealers. These matters are well treated in legislation already adopted. If any further control of firearms is desired, it should be at the State level where it will be tailored for local needs and circumstances and where there will be a better capability for enforcement.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 28 minutes remaining.

Mr. KENNEDY. Mr. President, I yield myself such time as I need.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, in listening to the comments that have been made here by my colleague from Idaho about the possibility of Federal legislation, that people in Idaho are able to take care of their problems so why cannot the people in Massachusetts look after their problems, we have addressed ourselves in Massachusetts to the issue. We have strong gun control legislation. But as I stated before, the Commissioner of Public Safety said that 86 percent of the guns used in crimes and acts of violence in Massachusetts come from outside the State of Massachusetts, they come from northern tier States of Maine, New Hampshire, and Vermont.

We are trying to help protect ourselves in Massachusetts and throughout the country, as well as the southwestern part of the United States where there is a heavy use of guns in crimes of violence. We want to make sure they do not buy guns in Idaho and the southwestern part of the United States and use them in the northeastern part of the United States.

We are talking about minimum standards. There are laws for hunting and fishing in Idaho and we are not asking that there be placed more than a minimum burden on individuals who also want to use handguns.

I am very much aware of the emotions in this debate. I remember campaigning in Idaho not long ago and being in a hotel room before going down to make a talk at a luncheon. I flicked on the television set and on that television set there was an advertisement that one candidate was using to get elected to public office in the United States. It showed a rifle being tucked into a sportsman's arm and the caption read "The three boxes that made America great are the jury box, the ballot box, and the cartridge box. Vote for So and So for office." It went over overwhelmingly.

Those of us who support the amendment are aware of the situation.

Too often the facts are misconstrued, and the whole gun situation has been misrepresented. The issue has been, I think, in many instances deliberately misconstrued; and as a result the people are confused and we as a body have failed to come to grips with this particular issue.

I hear my colleague from Nebraska talk about hearings. I remember when I used the argument not long ago. That is a marvelous argument to use around here and it is really only applicable when Senators have the votes they need to carry forward their proposal or proposition. We had an authorization of $10 billion for the Law Enforcement Assistance Administration, and we had 2 days of hearings on that. A number of us wanted to have that bill referred or to shorten the period of time in terms of yearly authorizations, and we ended up with that LEAA legislation after approximately 4 or 5 days of hearings with an 8- or 9-year application of that legislation. That was an approximately $10 billion bill.

Now we hear the argument about whether we had hearings on this proposal. In 1969 we had 3 days of hearings on firearms registration and licensing and heard from 10 different witnesses.

These arguments have been used time and time again, I realize, by the opponents of this proposal.

I think it should be of interest to this body to know that in 1962 there were 598,649 handguns produced. In 1968, 2,500,000 handguns were produced—a 500-time increase from 1962 to 1968. Now the estimates reach as high as 5 million guns produced in 1 year. And the American people want to know what they can do about crime and violence in this country. They can vote for this legislation—598,000 handguns were produced in 1962 and 2,500,000 in 1968, and there are about 5 million now, and people wonder what they can do about crime and violence.

We have a very simple, legitimate legislative remedy to try to cope with the problem of the proliferation of weapons, and it is about time we come to grips and face up to this issue.

Mr. President, I have here some additional material that responds in detail to the six major arguments that have been mentioned generally during the course of the debate—the constitutional argument, the right to bear arms, and the responses to that argument, the fact that because lawless citizens feel no obligation to be bound by gun restrictions or gun control, we will simply disarm those who abide by the law.

I am convinced that stricter enforcement of licensing and registration will serve to isolate the people who flout the law and subject them to prosecution for gun violations before they commit other crimes with their guns.

The argument is made that gun control laws cannot control access to guns. Yet the records shows that even the limited provisions of the gun law of 1968 have limited handgun importation. The National Firearms Act of 1934 essentially eliminated civilian access to machine guns, sawed-off rifles and shotguns, mufflers and silencers. It had an impact in the dramatic reduction of the availability and access to these weapons.

Another common refrain we hear against firearms control is that guns do not kill; people do. Yet statistics show that when guns are in hand, two-thirds of the people who kill do so in that manner. One hundred thousand robberies a year take place with guns in hand. One quarter of the Nation's 300,000 aggravated assaults occur with guns. Rarely does one make a deliberate choice of a gun over a knife, but because the fatality rate of knife wounds is about one-fifth that of the gun wounds, we can conclude that use of the knife rather than a gun would result in 80 percent fewer deaths.

There is the argument that the opponents are outraged at the climbing crime rate. They say they do not need a gun law, but they say we should have longer jail terms for those who commit crimes with them. It would not surprise me if we had a substitute amendment to lengthen the period of the jail sentence for use of guns in crimes of violence. That is what usually happens. They will vote against this amendment, and then Members of the Senate are frightened that somehow they will be looked upon as being soft on crime and they will extend the length of sentences for people who use such weapons in crime of violence.

Even if our penal system were not already beleaguered with problems, that kind of legislation might be depended upon to produce undesirable results. Generally courts respond to crimes of violence by imposing a stiff penalty. If the penalty were made stronger, it would encourage the armed robber to leave no witness. If the penalty were extended much further than it is, obviously the criminal is going to feel there is a reason for leaving no witness, and it obviously would have an undesirable result.

It may be that the greatest argument against this proposal is on the basis that the requirements for registration and licensing are cumbersome and inconvenient. Some believe such requirements are unfair and punitive, and that the persons adversely affected are the innocent people who pursue the hobby of hunting and recreation. I believe that legislation which would reduce the misuse of arms would enhance at the same time whatever pleasure may be derived from recreational pursuits. But are we to balance the inconvenience of someone who has to license and get registered or how someone can shoot a moose or a deer, in my part of the country or other sections, against the saving of lives?

It is said that if we go ahead and pass this licensing and registration provision, we might be able to save a few lives—we do not know how many—but think how inconvenient it is going to be to our sportsmen. There will be some who will say that, though we can make an absolutely convincing argument that there will be the saving of human lives with the substance of this amendment, it is too much of a burden on individuals.

Mr. President, just in conclusion, one of the old political adages was "A car in every garage." I think unless we are going to take some important legislative steps such as this amendment, we are going to find two, three, and four guns in every home, with all of the attendant acts of violence and tragedy that will spring from it.

Mr. JAVITS. Mr. President, will the Senator yield me 5 minutes?

Mr. KENNEDY. I yield.

Mr. JAVITS. Mr. President, I think the Senator from Massachusetts (Mr. KENNEDY) certainly has presented the facts and figures most admirably, and I shall not repeat them, but there are two arguments here that are very critical and seem to me invalid.

One argument is that because it will be inconvenient and they do not need it in Nebraska and Alaska, it should not be the national rule. In the first place, there are a lot of things that Alaska and Nebraska do need that we make the national rule, that other States have no interest in it whatsoever, and I voted for them many times. So we, who come from States that need it, think it is high time that those Senators help us, in the interest of achieving a more orderly and peaceful country.

Second, what inconvenience are we putting on those States? They are going to have the local doctor and the local police chief certify to getting a local license. You and I know it is not going to be the same as getting a license in New York, Boston, Chicago, Los Angeles, and San Francisco.

It will be an easy matter because that is the way of life in those areas of the country. It will not be an onerous requirement at all. But to us it will mean a matter of life and death and, in many cases, the life and death of police officers.

This is a key point. We will be denied something that we urgently need for crime control. If we are without it, it really will not mean terribly much to those who say that they do not need it and can live without it.

It does have an effect. In my great State, the city of New York is down at the bottom of the list and not at the top in homicides committed with firearms, in robberies committed with firearms, and in aggravated assaults committed with firearms.

The same is true in Boston, the major city in the State of Massachusetts. That State also has a tight gun control law. Notwithstanding the fact that it is not tight enough in terms of number of weapons which are sent in from other places, it nonetheless is having some effect and will have more effect if we can dam up this stream.

Finally, the opponents say that there will not be shipments to recognized dealers. The flow of these weapons will continue just the same, even though there are Federal and State licensing requirements. Certainly this will shore up one part of the problem which is now difficult, the obtaining of guns for criminal purposes locally. Guns can be obtained locally, the opponents say, and the laws cannot ever be fully effective. This is true of any law. Why do we not repeal all drug laws? Drugs are flowing in this country. Yet we are the toughest country in keeping the drug laws on the books.

We are the one country in the world that allows such unrestricted gun ownership. We have high homicide rates and high rates in burglary, robbery, and aggravated assaults. They are so high that many of the other countries of the world look upon us as being the crime center of the world.

Mr. President, there must be some accounting for the very low crime rates in other countries. The facts show that one of the major factors for their lower crime rates is the fact that they are strict and tough on guns, especially handguns.

Mr. President, for all of those reasons, I join completely with the Senator from Massachusetts in his statement that if we are really sincere in wanting to do something—which we can do—to make it tough for the criminal, this is one thing we can do.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I yield the Senator 1 additional minute.

Mr. JAVITS. Mr. President, it is entirely within our own control and would cause no real inconvenience to anyone in the country who feels his area or State does not need it. It will be of tremendous benefit to the part of the country where more than 20 percent of the people now live, in the great cities of the country.

I hope, Mr. President, that the Senate will agree to the amendment.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. McCLELLAN. Mr. President, I yield 3 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I would like to ask a question of my friend, the Senator from New York, concerning the registration process. For example, on page 4 of the amendment, line 17, I note that it says:

> (2) the name of the manufacturer, the caliber or gage, the model and the type, and the serial number of the handgun; * * *

The question I want to ask concerns the fact there are many of us in this country who collect guns and have collected them for years. In my collection, I doubt that half of them could be identified by manufacturer. At least half of them carry no serial number. This has always caused me to wonder how a gun collector who collects guns not to shoot the guns, but for the purpose of collecting the guns, could register them. If a man cannot register the guns, would he be in violation of the amendment?

Mr. JAVITS. Mr. President, I have been trying to follow the Senator very carefully. The pertinent thrust of the amendment is to register operable guns. I do not think that we are arguing here about gun collections where one does not have operable guns. If all the guns are operable, then they would be covered. However, I do not think we intend to cover guns that are not in operable shape. We do not have any intention to cover them.

Mr. GOLDWATER. Mr. President, I remind my friend, the Senator from New York, that while these guns are not used, they are operable. They are muzzle-loading guns. They fire from cap or from flint. They fire a ball.

There is no question of a license. No license is required. There are, I believe, hundreds of thousands of such guns in this country. While they are unwieldy, nevertheless, they would come under this law if the amendment is agreed to.

That gives me concern. We would be in violation of the law for not registering the guns. Yet, there is no way of determining the manufacturer or the serial number, which is usually the way one registers a gun.

Mr. JAVITS. Mr. President, I would like to call to the attention of the Senator something that has just been called to my attention. On page 13 of the amendment, lines 13 through 22 inclusive, the statement is made:

> Such exemptions may take into consideration not only the needs of police officers and security guards, sportsmen, target shooters, and handgun collectors . . .

There is wide discretion here. I think it is fair to say that the thrust of the amendment is designed to reach the guns that are operable which can be identified through some reasonable process.

Mr. GOLDWATER. Mr. President, I thank the Senator for calling this language to my attention.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield to the Senator from Michigan.

Mr. HART. Mr. President, sooner or later we are going to do more than talk about the necessity of removing the tools of violence from the bureau drawers or the lunch boxes. We will probably wind up the day just talking.

The proposal of the Senator from Massachusetts is a useful, desirable, and significant step in the direction that I think we should eventually go. For that reason, I shall support the proposal.

In my own book, I think the need is to prohibit ownership of handguns by private citizens in this country except only for law enforcement personnel and to permit a citizen to own a handgun if he is a member of a licensed and recognized gun club and if he keeps it on the premises of the gun club.

We are told that if good citizens turn their handguns in, there will remain only the handguns in the possession of the criminals and by and large that happens to be true.

The point is that criminals get them from us, the good guys. Let us dry up the reservoir from which the hoodlum gets his gun.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I yield the Senator 1 more minute.

Mr. HART. Then we will have made a first step.

The second big hangup is that if I am required to give my gun up, I am therefore more subject to the whims and the violence of the criminal. Mr. President, every study I have seen, including the studies we made in connection with the Commission on Violence, suggests to me that you are safer if you do not have a handgun. You are safer without a handgun even if five bad guys in the neighborhood each have one.

If these propositions can only be broadly understood in this country, good people will say, "Yes, my security is advanced and my safety is increased by turning in my handgun."

Long guns are something else. It will be a long day, I suppose, before we get to the business of outlawing long guns, and I am not sure that today we are about to require the registration and licensing of handguns, but I hope that the amendment of the Senator from Massachusetts will receive very strong support.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Arkansas yield back his time?

Mr. McCLELLAN. Mr. President, I yield myself such time as I may require.

Mr. KENNEDY. Then I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President, I do not think it necessary to discuss the merits of this amendment. Others have already discussed it who are probably more familiar with the amendment than I, and who have heretofore joined in the battle in opposition to it.

This amendment is not something new. It is actually, if I am not mistaken, the same as S. 982, the bill introduced by the Senator from Massachusetts and others on February 22, 1973.

Mr. KENNEDY. The Senator is correct, with one important exception, and that is that it does not apply to long guns.

Mr. McCLELLAN. I understand the Senator made that change. With that exception, Mr. President, it is the same.

I would like to call to the attention of the Senate that S. 982 was introduced on February 22, 1973, a little more than a year ago. It was introduced about a month before S. 1401—the bill now pending in the Senate. I make note of the fact that the bill which is now the amendment being proposed by the Senator from Massachusetts was referred, when it was introduced, to the Committee on the Judiciary, and referred by that committee to the Subcommittee on Juvenile Delinquency. It has been there ever since. It has been more than a year in process. Incidentally, the distinguished Senator from Massachusetts is a member of that subcommittee, which is composed of Senator BAYH, Senator HART, Senator BURDICK, Senator KENNEDY, Senator COOK, Senator HRUSKA, Senator FONG, and Senator MATHIAS.

If this proposal is all-important, and if it has real merit that will commend it to this body, the proper procedure is to proceed with the bill, process it, and bring it before the Senate, so that it can be voted on on its merits. It should go through the process of a report and examination with respect to amendments that might be appropriate to it. After the measure has gone through the proper, regular processing, let it come up here and stand on its own.

For that reason, Mr. President, I hope that the Senate will reject this proposal, which has been languishing in committee for over a year, a committee of which the distinguished Senator from Massachusetts is a member, a committee which could be active if this bill had merit.

Comparable measures have not met with very favorable consideration in the Senate in the past. This amendment is almost identical to the amendment that was offered in the Senate to S. 2507 in August 1972. Substantially the same amendment was offered, as I recall, by the Senator from Illinois (Mr. Stevenson), and the vote in the Senate on that amendment was 75 to 16. It was rejected by that margin.

This amendment, or a comparable amendment, was also offered in the Committee on the Judiciary when it considered S. 2507 in June 1972 and it was rejected by the committee by a vote of 10 to 4.

So this proposal, wherever it has had consideration heretofore, has not been very favorably received.

I think we should have this proposal processed in the regular way. Let the bill come up here and stand on its own merits.

There is considerable argument for gun control legislation by those who conscientiously believe that that is a way to help reduce crime in this country. There are others who are just as vehement in their position that gun control legislation, in the first place, would not tend to reduce crime, but would put the law-abiding citizen who keeps a gun for his protection, and who would obey the law and would register his gun, at a disadvantage, while the Mafia, the gangster, the robber, the murderer, would not register their guns. We would have a comparable situation to that which obtained in prohibition days. The law-abiding citizen would again be placed at a disadvantage, and the malicious user of the gun as a weapon to aid him in committing crime would never register.

I say to the Senate that States which have laws requiring registration today cannot enforce them. If they cannot enforce those laws—and apparently they cannot; there are an estimated 500,000 unregistered guns in the city of New York—why pass another law here that simply puts the law-abiding citizen on the spot?

Mr. President, I do not think this amendment belongs on this bill. I think it ought to be rejected out of hand—without prejudice, of course, so that it can be processed in the usual way. I do not know what hearings have been held on it. Some hearings were held in 1932, I mean, in 1972. Perhaps, on that bill, before that measure was brought up.

Mr. KENNEDY. The Senator is right. We have been having hearings since 1932.

Mr. McCLELLAN. The Senator kindly reminds me of a slip of the tongue, which I have already corrected. I thank him.

Mr. President, I do not think, as I say, that this amendment is appropriate on this legislation. It is an amendment that deserves consideration, because it has some support, by the regular committees which have jurisdiction of it, and by those processes by which we establish the merits of a measure. It should be voted up or down by the Senate on its own merit—not attached to the pending measure. I therefore hope the amendment will be rejected.

Mr. KENNEDY. Mr. President, on the basis of the merits, I think the arguments of the Senator from Arkansas have been responded to. But I want to make one point in terms of procedure. I remember being a member of the Judiciary Committee after we passed the 1968 Gun Control Act, and there was considerable concern about the restrictions that were attached to that act as it applied to the .22-caliber rimfire ammunition. So a number of Senators sent amendments to the desk to amend the 1968 act. What happened at the desk? Then they sent it to the Judiciary Committee for further consideration. Then what happened? For some reason, we could not get action in the Judiciary Committee, and some Members who had legitimate concerns about making it easier to purchase .22-caliber rimfire ammunition asked for hearings. So, what happened then? The proponents of the amendment withdrew it from the Judiciary Committee and sent it to the Finance Committee, with not 1 day of hearings. Then what did we find? That it was added to the interest equalization tax bill.

I urged Members and made the same arguments just made by the Senator from Arkansas; that is, why do we not follow the procedures of the Senate and go ahead and have some hearings, listen to the witnesses, and all the rest. All we got out of that was about 12 or 14 votes when I argued that we should follow the procedures of the Senate.

That goes to show, Mr. President, that we see in this body time and again that it is those who have the votes who are going to decide the issue. But we should not confuse it with procedures followed by the Senate because we have seen whether those who have stood in favor of altering or changing gun control laws are willing to follow any procedures of the Senate and whether it comes down to direct amendments on legislation, or no hearings, or whatever it may be. We have had all the hearings, as I have mentioned earlier in debate, on these particular provisions. It is not a new issue but one which has been heavily debated and discussed. I would hope that this bill will not be tied up on the question of procedures. It is a simple, a fundamental, and straightforward amendment that has been debated and discussed and on which there have been days and hours of hearings. Senators can make the decision on how they will vote on that basis.

Mr. President, I am prepared to yield back my time if the other side is.

Mr. McCLELLAN. Mr. President, I want to make one observation, that if the Senator is having difficulty getting his bill out of committee, and apparently he is, he does have a remedy. He may make a motion and let the Senate work its will on whether it wants to discharge the committee and bring the bill to the floor of the Senate. The Senator is not prevented from getting the bill to the floor if a majority of Senators want it here. It will be easy enough to get it here.

Mr. President, I am ready to yield back the remainder of my time.

Mr. KENNEDY. Mr. President, let me yield myself 30 seconds to say that I am happy with the way we have got it right now—we are going to have a chance to vote—the Senate will have a chance to exercise its will and a majority will support it. I am prepared to yield back my time.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Biden). All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Massachusetts (Mr. Kennedy).

Mr. McCLELLAN. Mr. President, I move to table the amendment.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas to table the amendment of the Senator from Massachusetts (Mr. Kennedy).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from South Carolina (Mr. Hollings), the Senator from Montana (Mr. Mansfield), the Senator from Minnesota (Mr. Mondale), and the Senator from Wisconsin (Mr. Nelson) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett), the Senator from New Hampshire (Mr. Cotton), the Senator from Colorado (Mr. Dominick), the Senator from Hawaii (Mr. Fong), the Senator from Oregon (Mr. Hatfield), and the Senator from Oregon (Mr. Packwood) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The result was announced—yeas 68, nays 21, as follows:

[No. 72 Leg.]

YEAS—68

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Bible
Biden
Brock
Buckley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Clark
Cook
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Goldwater
Gravel
Griffin
Gurney
Hansen
Hartke
Haskell
Helms
Hruska
Huddleston
Jackson
Johnston
Long
Magnuson
Mathias
McClellan
McClure
McGee
McGovern

McIntyre
Montoya
Moss
Nunn
Pearson
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Scott,
William L.
Sparkman
Stafford
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—21

Brooke
Case
Cranston
Hart
Hathaway
Hughes
Humphrey
Inouye
Javits
Kennedy
Metcalf
Metzenbaum
Muskie
Pastore
Pell
Percy
Ribicoff
Stevenson
Symington
Tunney
Williams

NOT VOTING—11

Bennett
Cotton
Dominick
Fong
Fulbright
Hatfield
Hollings
Mansfield
Mondale
Nelson
Packwood

So Mr. McClellan's motion to lay Mr. Kennedy's amendment on the table was agreed to.

H.R. 11864—REQUEST FOR JOINT REFERRAL

Mr. MOSS. Mr. President, I send to the desk an amendment to H.R. 11864, together with a report thereon from the Committee on Aeronautical and Space Sciences.

I ask unanimous consent that H.R. 11864 be jointly referred to the Committee on Commerce, the Committee on Banking, Housing, and Urban Affairs, the Committee on Labor and Public Welfare, and the Committee on Interior and Insular Affairs for 30 days, and if not reported in that time, that the bill be considered as having been discharged from said committees and placed on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, would the Senator restate the unanimous-consent request?

Mr. MOSS. The unanimous-consent request was that the measure just filed be referred to the four main committees for 30 days and if they have not taken action in 30 days that it go on the calendar.

Mr. GRIFFIN. Has this been cleared with anybody on this side of the aisle?

Mr. MOSS. Oh, yes. It was discussed with the chairmen of the committees involved, and I assume it is cleared.

Mr. GRIFFIN. What is the bill?

Mr. MOSS. The solar energy bill.

Mr. GRIFFIN. Mr. President, for the time being, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MOSS subsequently said: Mr. President, I wish to renew a unanimous-consent request that I made earlier today.

By way of explanation, I might say that H.R. 11864 was reported by the House Committee on Science and Astronautics, was passed by the House, was referred to the Senate, and was referred to the Committee on Aeronautical and Space Sciences. Public hearings were held on the bill, a report was filed earlier today, and the bill was reported to the floor.

On the basis of conversations I had had with members of other committees of the Senate, because this has to do with solar energy—heating and cooling—a number of other committees expressed interest in the bill; and in an attempt to accommodate those committees, in collaboration with my colleagues on the committee, I am willing that other committees have an opportunity to consider the bill before the matter goes to the calendar.

Therefore, Mr. President, I ask unanimous consent that H.R. 11864 be jointly referred to the Committees on Commerce, Banking, Housing and Urban Affairs, Labor and Public Welfare, and Interior for 30 days and, if not reported within that time, the bill will be considered as having been discharged from said committees and that the bill be placed on the calendar, and that a report of any committee be considered a further report on the bill; that if any of the above-mentioned committees request additional time for consideration of the bill, such time, not to exceed 30 additional days, shall be granted.

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—I thank the distinguished chairman of the Committee on Aeronautical and Space Sciences for his understanding.

Earlier, when the request was made, I was not aware that the ranking Republican member of the committee, the Senator from Arizona (Mr. Goldwater), had agreed to this request. Since then, I have also been able to consult with Senator Javits, the ranking Republican member of the Committee on Labor and Public Welfare; Senator Tower, the ranking member of the Committee on Banking, Housing and Urban Affairs; Senator Pearson, in the absence of Senator Cotton; and Senator Fannin. All agree that this is an acceptable and workable arrangement, particularly in light of the additional provision that an additional 30 days would be granted if one of the committees found it necessary.

I thank the distinguished Senator from Utah for his understanding and cooperation.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Utah? The Chair hears none, and it is so ordered.

REORGANIZATION AND CONSOLIDATION OF CERTAIN FUNCTIONS OF THE FEDERAL GOVERNMENT IN A NEW FEDERAL ENERGY ADMINISTRATION

Mr. ERVIN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 11793, a bill to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions.

The PRESIDING OFFICER laid before the Senate H.R. 11793, a bill to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions.

Mr. ERVIN. Mr. President, I ask unanimous consent that the bill considered as having been read twice and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. ERVIN. Mr. President, the Senate passed by an overwhelming majority a bill to establish a Federal Energy Administration. The House did not act on the Senate bill but passed a bill of its own on the same subject.

I move to strike all after the enacting clause and insert in lieu thereof the text of S. 2776, as passed by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 11793) was read a third time and passed.

Mr. ERVIN. Mr. President, I move that the Senate insist on its amendment, request a conference with the House of Representatives, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to: and the Presiding Officer appointed Mr. Ribicoff, Mr. Ervin, Mr. Jackson, Mr. Muskie, Mr. Metcalf, Mr. Percy, Mr. Javits, and Mr. Gurney conferees on the part of the Senate.

CAPITAL PUNISHMENT

The Senate resumed the consideration of the bill (S. 1401) to establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes.

Mr. HATHAWAY. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

On page 18, line 12, strike out the quotation marks.

On page 18, between lines 12 and 13, insert the following new subsection:

"(i) In any case in which a jury finds the existence of any factor set forth in subsection (g) or (h) of this section and finds that none of the factors set forth in subsection (f) exists, the court shall, if it determines such findings with respect to subsection (f), (g), or (h) to be clearly erroneous, set aside the special verdict of the jury and impose a sentence other than death.".

Mr. HATHAWAY. Mr. President, this amendment allows the court in the sentencing procedure to direct a verdict under the same circumstances as it would at the stage of determining guilt.

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order. The Senator deserves to be heard. The Senate will please be in order.

The Senator may proceed.

Mr. HATHAWAY. Mr. President, this amendment allows the court to set aside an erroneous determination in the sentencing hearing in the same manner in which the court can set aside a verdict of guilt at the criminal trial.

I understand the chairman of the committee, the Senator from Arkansas, is in agreement with the amendment.

Mr. McCLELLAN. Mr. President, I have examined the amendment and I have discussed it with the Senator.

Mr. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their conversations to the cloakroom.

The Senator may proceed.

Mr. McCLELLAN. Mr. President, I have examined the amendment and I have also discussed it with the distinguished Senator from Nebraska (Mr. HRUSKA), the ranking minority member of the subcommittee that reported the bill and processed it. I do not think the amendment does any real violence to the bill and I think that, possibly, as a matter of principle, it should be a part of the law. I think it is already the law, but whether it is or is not it does not hurt to place it in this bill. I am ready to accept it unless someone wishes to speak further.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLELLAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I intend in just a few minutes to make a motion to recommit this legislation to the Committee on the Judiciary. I have had an opportunity to talk with members of the Committee on the Judiciary who have expressed during the course of debate their very serious reservations. I have also spoken with other members, including the distinguished Senator from New York. I think a number of troublesome questions and issues are raised by this legislation.

The Senate has acted on a number of things this afternoon with respect to aggravating conditions, sections (g) and (h), and also about the effect of mitigating circumstances. We have also amended legislation to provide some discretion to be considered by the court in considering release of various hostages.

As one who was an opponent of some of those amendments I think the standard that was established by the Supreme Court in terms of vagueness and generality which struck down the death penalty before could be raised again in future considerations.

I would hope that the majority of Senators would give consideration to sending the bill back to the Judiciary Committee for additional time to consider the constitutional questions and also the range of different crimes included and considered within this legislation.

At an appropriate time—I would expect within the next very few moments—I will make such a motion to recommit.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. JAVITS. Mr. President, I shall vote to recommit. As I said a little while ago, if it was not moved by Senators who have been very active in this matter, like the Senator from Massachusetts (Mr. KENNEDY), I would move it myself.

My reasons can be stated very briefly.

The deterrent value of the death penalty is called into serious question by the available statistics, and by the evidence of modern psychology.

1. THE STATISTICS

A leading study of the deterrent impact of the death penalty was prepared by Thorsten Sellin in a report for the Model Penal Code project of the American Law Institute in 1959. Sellin analyzes the four ways in which the deterrent value of capital punishment would be statistically evident if it exists, but, in fact, the evidence is to the contrary and indicative of no measurable deterrent value. First, studies of the homicide rates in contiguous jurisdictions with and without the death penalty show that both States with and without the death penalty have virtually identical murder rates and trends. Second, those studies conducted to determine, if the homicide rate in a given jurisdiction increases with the abolition of the death penalty and decreases with its restoration, show that there is no correlation between the status of the death penalty and the homicide rate. Third, on the assumption that a well-publicized execution should have the greatest deterrent effect in that locale, studies have been made to test the effect of executions on the capital crime rate in the community where the executions occurred. These studies show that there was no significant decrease—or increase—in the murder rate following an execution. Fourth, studies to determine if law enforcement and prison personnel are afforded greater protection by the death penalty show that police and prison homicides are virtually the same in abolition States as in death penalty States. From these studies in the four above areas, Sellin concludes:

> Any one who carefully examines the . . . data is bound to arrive at the conclusion that the death penalty, as we use it, exercises no influence on the extent or fluctuating rates of capital crimes. It has failed as a deterrent.

2. THE PSYCHOLOGY OF DETERRENCE

Murders are either premediated or they are not. In the case of unpremeditated murders, no punishment can be effective as a deterrent. Considerable evidence exists that a great percentage of those who commit violent crimes are likely to be suffering from some form of mental illness or have acted in a fit of passion. Therefore, they are undeterrable and it is pointless to threaten such offenders with death.

Finally, there are presumedly those persons who are sane and cautious enough to weigh the risk of punishment—that is, life versus death sentence—and able to decide that while the risk of death is too great in consideration of the anticipated gain from the crime, protracted imprisonment is not such a great risk. But, how many such persons are there in the total population? Those who oppose the death penalty believe it would be most exceptional for a man to be insufficiently sane and normal to be deterred by the risk of a sentence of protracted imprisonment but yet sufficiently sane and normal to be deterred by the risk of his own execution, when both risks are at a level of contingency which he is doing his utmost to avoid.

Mr. President, I also oppose capital punishment because its ultimate effect is to cheapen the value of human life and because I am deeply troubled about the racially discriminatory impact of the death penalty. And as we consider this extraordinarily serious matter, Mr. President, we cannot forget that there is no way to right the enormous wrong which would occur in the case of an unjust execution.

On the question of determining mitigating circumstances, I think it is particularly important to call to the Senate's attention the fact that in his dissent to Furman against Georgia, Chief Justice Burger emphasized that "the factors which determine whether the sentence of death is the appropriate penalty in particular cases are too complex to be compressed within the limits of a simple formula." That is precisely what S. 1401 attempts to do.

I voted against the amendment offered by the Senator from Iowa (Mr. HUGHES), but it was properly aimed at holding the mirror up to our own eyes to see what capital punishment means, and to test the argument that the State may take life on a deterrent theory. If there is no real deterrence—and there is no affirmative proof that there is; it is just an idea we are asked to accept—then we should reject this bill. In view of the Supreme Court decision and the additional likelihood that it may strike this law down, and on the ground that it is cruel and inhumane punishment we should reject this bill. With death being as final as it is, with the value of the legislation being as doubtful as it is, this bill should go back to committee, and I hope the committee will dispose of the bill afterwards.

CERTAIN BENEFITS UNDER TITLE 16 OF THE SOCIAL SECURITY ACT — UNANIMOUS - CONSENT AGREEMENT

Mr. LONG. Mr. President, I have sent to the desk a committee report on H.R. 13025, and I would like to explain to the Senate that this is a matter which has considerable urgency about it. In view of the fact that the Senate is not planning to be in session tomorrow, I would hope we could obtain unanimous consent that this measure could be considered before the Senate leaves tonight.

The PRESIDING OFFICER. The report will be stated.

Mr. LONG. Mr. President, I am not asking that it be called up at this moment. I simply point out to the Senate that this measure has an expiration date this month. Unless the Senate acts and the bill becomes law this month, 160,000 people who are regarded as disabled persons would be required to be removed from the supplemental security income rolls because the administration for that program has not been able to examine those people and pass on their disability, as is required in a changeover from State to Federal law.

In addition to that, there is also an expiration date at the end of this month on the unemployment insurance program for the 13 additional weeks in those States suffering a high degree of unemployment. Senators from those States are very much affected from the standpoint that there would be just as much an emergency about that item from their point of view as there is for the disabled people, because in each case these are people who would be very much disadvantaged, contrary to what I am sure would be the judgment of Congress, by failure of the Congress to act timely.

I hope we will be able to obtain unanimous consent that after consideration of the pending measure, this measure could be called up and considered.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. LONG. I yield to the Senator from Nebraska.

Mr. CURTIS. I thank my distinguished chairman.

In the absence of the ranking Republican Member, the distinguished Senator from Utah (Mr. BENNETT), I have been in touch with the Department of Labor and the Department of HEW.

This is an urgent matter. It is important that the bill before us, sent over to us by the House, be passed, because it will create a great many problems in our several States if it is not passed.

So I join my chairman in the request that it be considered today. After it is up for consideration, I will have a further brief statement concerning the unemployment amendment, to state the position of the administration in reference thereto, but I hope that the bill can be disposed of tonight.

Mr. LONG. Mr. President, I ask unanimous consent that the committee report be received and that it be in order to proceed to the consideration of this measure after the disposition of the pending measure.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CAPITAL PUNISHMENT

The Senate continued with the consideration of the bill (S. 1401) to establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes.

Mr. McCLELLAN. Mr. President, has the Senator from Massachusetts made his motion?

Mr. KENNEDY. No, I have not made the motion yet.

Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered——

Mr. McCLELLAN. Mr. President, I have not seen the amendment.

Mr. KENNEDY. I will be glad to explain it.

The PRESIDING OFFICER. Is there objection to the request? Does the Senator from Arkansas request to hear the amendment?

Mr. GOLDWATER. Mr. President, I object. I want the amendment read.

Mr. McCLELLAN. Mr. President, how long is it?

The PRESIDING OFFICER. It is 11 pages long.

Mr. McCLELLAN. Mr. President, if we are going to be here tonight, we may as well be here tonight. Read it.

The PRESIDING OFFICER. The clerk will read.

The legislative clerk proceeded to read the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. Mr. President, reserving the right to object, I did not know what the amendment was. I did want some identification of it. Now we know what it is. How many pages is it?

The PRESIDING OFFICER. Eleven pages.

Mr. McCLELLAN. I will withdraw my objection to the request to dispense with further reading of the amendment.

The amendment is as follows:

TITLE V—HANDGUN CONTROL

SHORT TITLE

SEC. 501. This title may be cited as the "Handgun Control Act of 1974."

AMENDMENTS TO TITLE 18, UNITED STATES CODE

SEC. 502. (a) Section 921(a) of title 18 of the United States Code is amended by inserting after paragraph (20) the following:

"(21) The term 'handgun' means a firearm designed to be fired by the use of a single hand. The term also includes a combination of parts in the possession or under the control of a person from which a handgun can be assembled. The term does not include antique firearms.

"(22) The term "handgun model" means a handgun of a particular design, specification, and designation."

(b) Section 922 (b) of title 18 of the United States Code is amended by

(1) striking out at the end of paragraph (4) thereof the word "and";

(b) striking out at the end of paragraph (5) thereof the period and inserting in lieu thereof a semicolon;

(c) adding after paragraph (5) thereof the following:

"(6) any handgun model unless such handgun model has been approved by the Secretary pursuant to section 922(n) of this title."; and

(d) deleting the final sentence, which begins with the words "Paragraph (4) of this", and inserting in lieu thereof the following:

"Paragraphs (4) and (6) of this subsection shall not apply to a sale or delivery to any research organization designated by the Secretary. Paragraph (6) of this subsection shall not apply to the sale or delivery of any firearm to the United States or any department or agency thereof, or to any State, department, agency, or political subdivision thereof, or to any duly commissioned law enforcement officer of the United States or any department or agency thereof or of any State, department, agency or political subdivisions thereof (including but not limited to members of the Armed Forces and police officers) properly authorized to carry such firearms in his official capacity. Paragraph (6) of this subsection shall not apply to the sale or delivery by a licensed importer, licensed manufacturer, or licensed dealer to a licensed dealer of any firearm intended to be sold or delivered to any government or agency thereof or person entitled pursuant to this paragraph to have such firearms sold or delivered to him. Paragraph (6) of this subsection shall not apply to the sale or delivery to a licensed collector or licensed dealer of any firearm which is a curio or relic, as the Secretary shall by regulation define. Paragraph (6) of this subsection shall not apply to occasional, sporadic sales of single handguns by a licensed collector who is not a dealer, as defined by section 921(a) of this title."

(c) Section 922 of title 18 of the United States Code is amended by adding at the end thereof the following new subsections:

"(n) The Secretary shall not approve for sale or delivery by a licensed dealer, licensed importer, licensed manufacturer, or licensed collector any handgun model unless he has caused to be evaluated and tested representative samples of such handgun model and has found that:

"(1) in the case of a pistol, the handgun model:

"(A) has a positive manually operated safety device; and

"(B) has a combined length and height in excess of 10 inches with the height (right angle measurement to the barrel without the magazine or extension) being at least 4 inches and the length being at least 6 inches; and

"(C) attains a total of at least 75 points under the following criteria:

"(i) Overall length: one point for each one-fourth inch over 6 inches;

"(ii) Frame construction: (a) 15 points if investment cast steel or forged steel, (b) 20 points if investment cast HTS alloy or forged HTS alloy;

"(iii) Pistol Weight: one point for each ounce, with the pistol unloaded and the magazine in place;

"(iv) Caliber: (a) zero points if the pistol accepts only .22 caliber short or .25 caliber automatic ammunition, (b) three points if the pistol accepts either .22 caliber long rifle ammunition or any ammunition within the range delimited by 7.65 millimeter and .380 caliber automatic, (c) 10 points if the pistol accepts 9 millimeter parabellum ammunition or over, (d) in the case of ammunition not falling within one of the classes listed above, such number of points not greater than ten (following the classification schedule above as nearly as is practicable) as the Secretary shall determine appropriate to the suitability for sporting purposes of handgun models designed for such ammunition;

"(v) Safety features: (a) five points if the pistol has a locked breech mechanism, (b) five points if the pistol has a loaded chamber indicator, (c) three points if the pistol has a grip safety, (d) five points if the pistol has a magazine safety, (e) 10 points if the pistol has a firing pin block or lock; and

"(vi) Miscellaneous equipment: (a) two points if the pistol has an external hammer, (b) 10 points if the pistol has a double action firing mechanism, (c) five points if the pistol has a drift adjustable target sight, (d) 10 points if the pistol has a click adjustable target sight, (e) five points if the pistol has target grips, (f) two points if the pistol has a target trigger;

"(2) in the case of a revolver, the handgun model:

"(A) has an overall frame length of four and one-half inches measured on a line parallel to the barrel; and

"(B) has a barrel length of at least three inches; and

"(C) has a safety device which, either (i) automatically in the case of a double action firing mechanism or (ii) by manual operation in the case of a single action firing mechanism, causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge. Once activated, such safety device must be capable of withstanding the impact of a weight, equal to the weight of the revolver, dropped a total of five times from a height of 36 inches above the rear of the hammer spur onto the rear of the hammer spur with the revolver resting in a position such that the line of the barrel is perpendicular to the plane of the horizon; and

"(D) attains a total of at least 45 points under the following criteria:

"(i) Barrel length: one-half point for each one-fourth inch that the barrel is longer than 4 inches.

"(ii) Frame construction: (a) 15 points if investment cast steel or forged steel, (b) 20 points in investment cast HTS alloy or forged HTS alloy;

"(iii) Revolver weight: one point for each ounce with the revolver unloaded;

"(iv) Caliber: (a) zero points if the revolver accepts only .22 caliber short or .25 caliber ACP, (b) three points if the revolver accepts .22 caliber long rifle or ammunition in the range between .30 caliber and .38 S&W, (c) four points if the revolver accepts .38 caliber special ammunition, (d) five points if the revolver accepts .357 magnum or over, (e) in the case of ammunition not falling within one of the classes listed above, such number of points not greater than five (following the classification schedule above as nearly as practicable) as the Secretary shall determine appropriate to the suitability for sporting purposes of handgun models designed for such ammunition;

"(v) Miscellaneous equipment: (a) five points if the revolver has either drift or click adjustable target sights, (b) five points if the revolver has target grips, (c) five points if the revolver has a target hammer and a target trigger; and

"(3) the handgun model also meets such additional standards as the Secretary may by regulation promulgate, after consultation with the Chief of Army Ordnance and the Secretary of Commerce, if the Secretary has determined that changes in the technology or manufacture of handguns, or actions tending to circumvent the intent of this subsection (which is to allow the approval of only those handgun models which are generally recognized as particularly suitable for sporting purposes), have rendered inadequate the standards set forth in paragraphs (1) and (2) of this subsection: *Provided*, That under no circumstances may any such regulation be promulgated which would permit the approval for sale or delivery of any handgun model which could not have been approved in the absence of such regulation.

"(o) It shall be unlawful for any person to reduce the length of the barrel or the overall length of a handgun previously approved by the Secretary for sale and delivery if as a result of such modification the handgun no longer meets the standards for approval set forth in subsection (n) of this section.

"(p) The Secretary shall give written notification of the results of evaluation and testing conducted pursuant to subsection (n) of this section to the licensee submitting samples of a handgun model for such evaluation and testing. If any handgun model fails to meet the standards for approval, the Secretary's notification shall state specifically the reasons for such finding. Any such notification of approval or failure shall be published in the Federal Register. At least once each year the Secretary shall compile a list of all handgun models which are then approved for sale or delivery under subsection (n) of this section, which list shall be published in the Federal Register and furnished annually to each licensee under this chapter.

"(q) Any licensee submitting to the Secretary for testing a handgun model which is subsequently found not in compliance with relevant standards shall have ten days from receipt of notification of noncompliance within which to submit in writing specific objections to such finding and a request for retesting such model, together with justification therefor. Upon receipt of such a request the Secretary shall promptly arrange for retesting and thereafter notify the aggrieved party of the results, if he determines sufficient justification for retesting exists. Should he determine that retesting is not warranted, the Secretary shall promptly notify the aggrieved party as to such determination. In the event that upon retesting the Secretary's finding remains adverse, or that the Secretary finds retesting is not warranted, the aggrieved party may within sixty days after the date of the Secretary's notice of such finding file a petition in the United States district court in the district in which the aggrieved party has his principal place of business in order to obtain judicial review of such finding. Such review will be in accordance with the provisions of section 706 of title 5, United States Code."

(d) Section 925(d)(3) of title 18 of the United States Code is amended to read as follows:

"(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954; is not a surplus military firearm; and if a handgun, has been approved by the Secretary pursuant to section 922(n) of this title; or"

(e) Sections 926, 927, and 928 of title 18 of the United States Code, and all references thereto, are redesignated as sections 927, 928, and 929, respectively.

(f) Title 18 of the United States Code is amended by inserting after section 925 the following new section:

"§926. Compensation for reasonable value of handguns voluntarily transferred to law enforcement agencies

"(a) A person may at any time transfer to any Federal, State, or local law enforcement agency designated by the Secretary any handguns owned or possessed by such person.

"(b) In the case of transfer pursuant to subsection (a) of a handgun model which the Secretary has evaluated and tested pursuant to section 922(n) of this title and not approved for sale or delivery by a licensee under this chapter, the person transferring such handgun shall, upon proof that such handgun was lawfully acquired and lawfully owned by such person prior to enactment of the Handgun Control Act of 1972, be entitled to receive from the United States a payment equal to the reasonable value of such handgun, such value to be determined as of the day before enactment of the Handgun Control Act of 1974."

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 503. There are authorized to be appropriated such sums as may be necessary to carry out the amendments made by this title.

On page 65, line 5, strike out "Title V" and insert in lieu thereof "Title VI".

On page 65, line 7, strike out "Sec. 501" and insert in lieu thereof "Sec. 601".

On page 66, line 2, strike out "Sec. 502" and insert in lieu thereof "Sec. 602".

On page 66, line 10, strike out "Sec. 503" and insert in lieu thereof "Sec. 603".

On page 66, line 17, strike out "Sec. 504" and insert in lieu thereof "Sec. 604".

On page 66, after line 24, insert the following:

(c) Title V of this Act shall become effective on the date of enactment of this Act, except that the amendments made by sections 502(b) and 502(d) shall take effect 60 days after the date of enactment of this Act.

Mr. KENNEDY. Mr. President, I think we will be prepared to vote in just a few moments on this amendment. It is a very simple one. It is a proposal that has been considered at another time by this body and has been accepted at another time by this body. This is the Saturday night special amendment. This particular amendment eliminates registration, it eliminates licensing, but it prohibits the manufacture of the Saturday night special.

It is a very simple amendment. It has been considered by this body at other times.

Members of the Senate have expressed concern that they share the view of many of us who support handgun legislation and the registration and licensing of handguns. This amendment is targeted not just broadly to handguns, which I think should be included, but those that are designated as Saturday night specials.

It has been debated before and adopted before. It is an issue which is well understood. I am prepared to vote.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, is this the so-called Bayh bill? Am I to understand that it is essentially the Bayh bill?

Mr. KENNEDY. The Senator is correct.

Mr. JAVITS. Mr. President, I thank the Senator.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield for a question.

Mr. GOLDWATER. I am in the dark about the Bayh bill. Based upon the Senator's memory, what is the definition of a Saturday night special?

Mr. KENNEDY. The same criteria that is used by the Treasury Department at the present time. On the question of imports, that is anything less than 6 inches.

Mr. GOLDWATER. Any gun less than 6 inches?

Mr. KENNEDY. The Senator is correct.

Mr. GOLDWATER. Does that include automatics?

Mr. KENNEDY. It includes automatics. The language is in existence at the present time. It is applicable to importation. The revolver must have at least a 3-inch barrel.

Mr. GOLDWATER. It is just the revolver that must have a 3-inch barrel?

Mr. KENNEDY. The Senator is correct.

Mr. GOLDWATER. The amendment will prohibit the manufacture in this country?

Mr. KENNEDY. The Senator is correct. It prohibits the manufacture.

Mr. GOLDWATER. The importation is already prohibited. Is that correct?

Mr. KENNEDY. The Senator is correct. The description is in existence, and it is 6 inches long.

Mr. SPARKMAN. Mr. President, I recall that when we voted on this measure before, we passed such a prohibition. However, that did not prohibit the importation of parts. Therefore, the parts were brought in and the guns were manufactured here. There was no way of keeping the parts out.

Mr. KENNEDY. That has been the effect of the 1968 legislation which barred importation of the cheap handguns. That has been circumvented by the importation of parts for those weapons ever, there has been a holding down of the importation. This would prohibit the manufacture of hand weapons into the United States. This would put a halt on any weapons with over a 3-inch barrel. It covers a barrel at least 3 inches. In the case of a revolver or handgun, it has an overall 4.5-inch measurement, and on a barrel it is a length of 3 inches. It has a safety device, and that is described.

This, as we mentioned, was passed overwhelmingly by the Senate in August 1972.

Mr. STEVENS. Mr. President, would the Senator yield?

Mr. KENNEDY. I yield.

Mr. STEVENS. Mr. President, is this amendment in the same language in S. 2507 which passed the Senate?

Mr. KENNEDY. This is identical language.

Mr. STEVENS. I am trying to locate in the Senator's amendment the amendment that was adopted by the Senate at my request to include in it sporting firearms suitable for sporting purposes.

Mr. KENNEDY. The Senator is right to make that observation. It would not include that. This is the legislation that came out of the committee. So the Senator has correctly observed it is not in this measure. The amendment would not be included in this amendment.

Mr. STEVENS. Mr. President, the amendment of the Senator from Massachusetts is as reported by the committee. It does not include the amendment made on the floor to S. 2507.

Mr. KENNEDY. The Senator is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second (putting the question)?

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, we spent a considerable time on the bill. It has been in the House for some time past, as I recall.

I am very hesitant on voting on the language as originally reported from the committee without an opportunity to determine which of the amendments that were made on the floor have been eliminated.

I say to the Senator from Massachusetts that I think that if an amendment is to be offered at this late hour, it should be in the text of the amendment that was finally agreed upon by the Senate, even though some Senators disagreed with the final version. Some perfecting amendments were made previous to passage.

I cannot accept the concept of taking such an amendment and eliminating everything that we did on the 3 days previous when considering the matter of Saturday night specials.

I would hope that the Senate would reject the amendment. This eliminates the amendment and all discussion which the Senator from Indiana and I had concerning the Saturday night specials and the amendments that were made at the time.

Certainly none of us support the concept of people owning guns that are more dangerous to the user than to the person whom they are pointed toward.

This is an improper way to proceed. As far as I am concerned, I am hesitant to take it up at this time. I urge that the Senate not take it up at this time.

Mr. President, unless someone else wants to speak on the matter——

First, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I intend to make one statement and then I will make a motion to table.

This bill passed the Senate by a very substantial vote, I believe, in 1972.

Mr. KENNEDY. The Senator is correct.

Mr. McCLELLAN. And the bill would probably pass the Senate again if brought up and presented in the regular way. I have no doubt of that.

The House did not take the bill before. I do not know whether they would take it this time or not. However, I think they would prefer, and I know that I would prefer, and I think that upon reflection we would all prefer to treat it as a separate measure. The Senator can resort to this tactic if he wants to kill the pending bill. If that is the Senator's purpose and he wants to vote for this amendment, that it is one way to do it.

I am confident the Senate would pass this measure if it came up on its own. It would go to the House again. If it is added to the death penalty bill, however, it might have a harmful effect on that bill by hurting its chances of being passed.

I hope that the Senate will vote to table this amendment so that we could have S. 1401 go over there on its own. It is in pretty good shape.

I did not necessarily favor one or two amendments that were agreed to. However, the bill is in pretty good shape. If one favors capital punishment in the most extreme and horrible and cruel cases of murder—and that is what is involved—he should vote for the bill. If one does not favor capital punishment under any circumstances, he ought to vote against the bill. He might also want to load the bill down with an amendment of this kind. However, I would think that everybody would come out better if we voted to table this amendment and let it come to the Senate in the proper form, as it was before the Senate before.

I hope the Senate will take that action. Therefore, Mr. President, I move to lay on the table the amendment of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, will the Senator withhold his motion for a moment?

Mr. McCLELLAN. I withhold it.

Mr. KENNEDY. I would just like to remind the members of the committee that this is the legislation which came out of the Committee on the Judiciary by a vote of 12 to 2, and this is the same Judiciary Committee that, when we considered the handgun legislation on licensing and registration, upon which we just previously voted, rejected it by a vote of 10 to 4. But a vote of approval of 12 to 2 was the way this legislation came out of the Committee on the Judiciary, so it had the overwhelming support of the members of the committee.

Some amendments were included, but this amendment represents, in the main, the product of the committee's recommendation and due deliberation. There was substantial support for that proposal by the Committee on the Judiciary. It pertains only to the question of the 3-inch barrel gun, the Saturday night special. It is absolutely limited, in effect, to only half the number of handguns in civilian ownership. It prohibits the manufacture and distribution of those weapons with barrels 3 inches or less in length. So I would hope we could have an up or down vote on it at this time.

Mr. GRIFFIN. Mr. President, will the Senator yield for a question?

Mr. McCLELLAN. I yield to the Senator from Michigan.

Mr. GRIFFIN. Am I correct, on the basis of his earlier statement and votes, that the Senator from Massachusetts is against the bill before us relating to capital punishment?

Mr. KENNEDY. The Senator is correct.

Mr. GRIFFIN. If the amendment he now offers is adopted, what would then be the position of the Senator from Massachusetts on the bill as amended?

Mr. KENNEDY. I would still vote against it.

Mr. GRIFFIN. I thank the Senator.

Mr. McCLELLAN. Mr. President, I think we all know what the picture is. I would like for us to bring the matter to a conclusion. So, in order to try to expedite the procedure, I hope the Senate will observe what is generally the routine and regular procedure under the rules. They can vote down there in the committee to bring it out of the committee and bring it to the floor of the Senate at any time, and I am sure the leadership will give them a vote on it. But this, in my judgment, is a maneuver to kill this bill. So, Mr. President, I——

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. SYMINGTON. I shall vote for the capital punishment bill as presented by the distinguished senior Senator from Arkansas. But when we are talking about the Saturday night special with the 3-inch barrel, I would certainly support the position of the Senator from Massachusetts on that amendment, even though I intend to vote for the bill.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. STEVENS. The Senator from Indiana and I labored long and hard to work out some amendments that made that Saturday night special bill, while not completely acceptable, more acceptable to the sporting community, in particular by the definition of what is a gun designed for sporting purposes, which is not in the proposed amendment, as it was in the bill when it was passed by the Senate and sent to the House of Representatives in 1972. This is not the bill that received the overwhelming vote in support of the regulation of Saturday night specials.

Therefore, Mr. President, I hope the chairman will insist on his motion, and that we will again have an opportunity to consider that bill as it passed the Senate, and not as it was reported out of the committee before the Senate as a whole considered and amended the legislation.

Mr. McCLELLAN. Mr. President, it is up to the Senate, if Senators want to take this method of killing the bill rather than having an up-or-down vote on it.

I now move to lay on the table the amendment of the Senator from Massachusetts, and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. Biden). The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from South Carolina (Mr. Hollings), the Senator from Montana (Mr. Mansfield), and the Senator from Wisconsin (Mr. Nelson) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett), the Senator from New Hampshire (Mr. Cotton), the Senator from Colorado (Mr. Dominick), the Senator from Hawaii (Mr. Fong), the Senator from Oregon (Mr. Hatfield), and the Senator from Oregon (Mr. Packwood) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The result was announced—yeas 58, nays 31, as follows:

[No. 73 Leg.]

YEAS—58

Abourezk
Aiken
Allen
Baker
Bartlett
Bellmon
Bentsen
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Goldwater
Gravel
Griffin
Gurney
Hansen
Hartke
Haskell
Hathaway
Hruska
Huddleston
Johnston
Long
McClellan
McClure
McGee
McGovern
McIntyre
Montoya
Moss
Nunn
Pearson
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Taft
Talmadge
Tower
Weicker
Young

NAYS—31

Bayh
Beall
Biden
Brooke
Burdick
Case
Clark
Cook
Cranston
Hart
Helms
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mathias
Metcalf
Metzenbaum
Muskie
Pastore
Pell
Percy
Ribicoff
Stevenson
Symington
Thurmond
Tunney
Williams

NOT VOTING—11

Bennett
Cotton
Dominick
Fong
Fulbright
Hatfield
Hollings
Mansfield
Mondale
Nelson
Packwood

So the motion to table the Kennedy amendment was agreed to.

The PRESIDING OFFICER (Mr. Biden). The bill is open to further amendment.

Mr. KENNEDY. Mr. President, I have no further amendments. As I mentioned earlier, at an appropriate time I will make a motion to recommit the bill. I would ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow us to go to third reading before making his motion?

Mr. KENNEDY. Certainly.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ROTH. Mr. President, violent crime is a constant threat in the lives of all Americans. Many persons fear that we no longer have an ordered society in which peaceful citizens can attend to their own concerns in safety and security.

To reduce the danger which crime poses to the peaceful citizen, we must make crime so dangerous for the criminal that he will refrain from committing it. Since no penalty can present the criminal with as dangerous a prospect as the death penalty, I believe that the proposed mandatory death penalty can make a significant contribution in the fight against crime. I urge the Senate to approve of S. 1401.

Our enactment of S. 1401 will register our support for the action currently being taken by many States with regard to the death penalty. Since the Supreme Court in Furman against Georgia held that discretionary imposition of the death penalty had led to unconstitutional arbitrariness, at least 15 States have made mandatory death penalty statutes effective either legislatively or by judicial decree. Several other States are considering similar moves. In Delaware, the State's supreme court has affirmed the constitutionality of the mandatory provisions of the State death penalty statutes. I suggest that we follow the wise lead of the States and make a mandatory death penalty available in Federal as well as State cases.

In considering this important issue, a vital question is whether the death penalty is a more effective deterrent to crime than life imprisonment. I believe that it is.

I realize that many critics of capital punishment disagree with me on this point. They present elaborate statistical evidence comparing murder rates in States with and without the death penalty and comparing periods of abolition of the death penalty with periods of restoration in the same State. However, one must remember that those persons who are, in fact, deterred by the threat of the death penalty and do not commit murder are not included in this statistical data. Moreover, since there exists no thorough compilation of "capitally punishable" crimes committed in the United States, all of the studies rest on the assumption that the rate of increase or decrease in capitally punishable murder, for instance, is proportional to the rate of increase or decrease in "homicides" or in "reported deaths by homicide."

As Hugo Adam Bedau, a leading student of capital punishment, observed in "The Death Penalty in America," the number of capitally punishable murders is small enough in comparison with the total number of homicides, that there could be an increase in the total number of capitally punishable murders while the general homicide rate showed a decline. There may be other discrepancies of this kind which are camouflaged by the apparently neat figures of these studies and I, for one, am unwilling to risk jeopardizing the security of thousands of my fellow citizens on the basis of such shaky findings.

As I have stated, the death penalty does have a unique deterrent effect. Law enforcement and prison officials report widespread evidence from candid conversations with convicted criminals showing that the death penalty does in fact influence criminal behavior. In a 1960 American Bar Association study, law enforcement officers presented extensive firsthand testimony. Criminals captured after having committed an offense punishable by life imprisonment refrained from killing their captives even though they might have succeeded in escaping. These prisoners were willing to serve a life sentence, but unwilling to risk the death penalty.

Other criminals who refrained even from carrying deadly weapons during the commission of their offenses admitted that one reason why they refrained was to avoid use of a weapon which would lead to the imposition of the death penalty. In 1971, the Los Angeles Police Department took statements from 99 people who either did not carry a gun during the perpetration of their crimes, did not use the gun they were carrying, or carried a phony weapon. Fifty of the 99 acknowledged that they were deterred by the fear of the death penalty. Only 10 percent, by their own testimony, were undeterred.

The legislation under consideration, S. 1401, will use the deterrent effect of the death penalty to the fullest advantage. First, the proposed penalty, being mandatory, will be imposed without exception provided one or more clearly defined aggravating factors and none of several clearly specified mitigating factors is present.

Second, the proposed penalty will apply to the crimes which are most susceptible to deterrence, those involving deliberate rational premeditation. These include wartime treason, sabotage, and espionage. Moreover, in cases of hijacking, kidnaping, and robbery, the proposal gives the criminal engaged in these offenses a positive incentive not to kill his victim.

Since the moratorium on executions in 1967, the crime rate in most American cities has continued to rise. We must confront this intolerable situation with positive action. The death penalty provides the severe deterrent we need; a mandatory death penalty will be more effective than previous discretionary death penalties.

While the proposed death penalty is but part of an overall solution to the crime problem, I believe it is an essential part. I urge the Senate to adopt S. 1401 to restore the death penalty for certain enumerated crimes.

Mr. TOWER. Mr. President, as a cosponsor of S. 1401, a bill to establish rational criteria for the imposition of capital punishment, I urge the Senate to approve that bill now before us.

This is, indeed, a most serious matter since capital punishment is the most severe form of punishment a society can inflict on one of its members. In considering S. 1401, in my mind there is only one question that a Senator need face. That is simply whether or not capital punishment is, in fact, a deterrent to the committing of violent crimes and whether such a deterrent is of such a nature that it overcomes any moral consideration that a Senator may confront concerning the nature of this punishment.

This is the major question in this debate because the system under which a capital punishment sentencing hearing would be established under the bill, corrects the deficiencies in the death penalty as enumerated by the Supreme Court in Furman against Georgia.

I believe that the death penalty is a real deterrent to the committing of violent crimes. While sociological surveys seem to be split on this question, as the committee hearings and the committee report clearly point out there is overwhelming evidence from both law enforcement officials and everyday experience that the deterrent is real.

I have the highest respect for any Senator who must vote against this bill for moral reasons. In my case, it is also extremely relevant from both a practical and moral standpoint, that a legislature whether Federal or State, take appropriate action to protect the members of its society. This is the primary responsibility of any organized association formed as a governing representative in a society. Since I have concluded that capital punishment under the procedure established by S. 1401 is constitutional and would be an effective deterrent and in this respect would be a vast improvement in terms of deterrence over the type of sentencing procedure the Supreme Court found violative of the 8th and 14th amendments, I shall support and vote for this legislation.

Mr. BUCKLEY. Mr. President, the purpose of S. 1401, now before us, is to establish a procedure consistent with the constitutional requirements set forth by the Supreme Court in its 1972 ruling on capital punishment. The proposal, briefly, consists of the creation of a two-stage trial, the first part of which would deal with the question of guilt or innocence, the second dealing with the question of whether the death penalty ought to be imposed. In this latter stage, in order for the death penalty to be imposed, one or more specified aggravating factors must be present, and all of the specified mitigating factors must be absent. This scheme would replace the presently unconstitutional formula which authorizes capital punishment for some 10 crimes under Federal criminal law. These crimes include murder, treason, rape, air piracy, and delivery of national defense information to aid a foreign government.

The threshold question is one of constitutional law. The answer to the constitutional question, however, depends in large part on how one reads the nine separate opinions of the Supreme Court in Furman against Georgia. The report of the Judiciary Committee is quite correct in suggesting that the scope of the Court's decision is unclear. The authors of the committee report make a reasoned case for the constitutionality of S. 1401 within the confines of the Furman case; but Senator HART in his minority views raises certain questions on this point, questions which also find a reasoned source in the Furman opinions. As I am not a constitutional scholar, I do not feel qualified to resolve this thorny and problematic dispute, nor do I think that anyone who has not studied this question in depth is qualified to render a firm judgment. Indeed, the majority of the Court itself seemed to be of many minds on the matter. Where the case is closely reasoned on both sides, and where the proposal does no clear violence to the Constitution, I know of no other way to resolve the constitutional question than to allow the Court in appropriate future litigation to clarify its meaning.

I turn now to the equally vexing question of the substantive case for capital punishment. I would like to state at the outset that I am not in principle opposed to the death penalty for certain heinous offenses where the existence of the penalty has a deterrant effect. At the same time, I think we are all aware—and the Supreme Court took great pains to remind us—that in practice the imposition of capital punishment has at times been arbitrary, unjust, and in some cases clearly discriminatory in its impact. The bill before us proposes to insulate the death penalty against such charges. In reviewing the bill, I have been persuaded by three factors:

First, I am convinced that in certain cases, the threat of capital punishment does act as a deterrent. It is true that in the general case, it is difficult if not impossible to demonstrate any clear and direct correlation between capital punishment and criminal deterrence. We have no way of knowing, for example, how many people did not commit capital offenses for fear of being executed. There is some evidence, however, which suggests that since the de facto abolition of capital punishment there has been an alarming rise in offenses for which capital punishment would previously have been the sanction. But whether this rise can be attributed to the elimination of the death penalty, or whether it has extraneous causes, or whether both relationships hold, are, again, questions to which we are unlikely ever to have answers that are free from doubt.

But one of the things that bothers me, Mr. President, is that the public may be paying the price. We may never know for sure, for example, whether the kidnapers of Patricia Hearst would have been deterred by the certainty of a death penalty following their capture and conviction. It may well be that such fanatics would be deterred by nothing. But if we were to impose a death penalty in such cases, I do not for a moment believe that we would be brutalizing ourselves or our social order, or giving the lie to the essential justice of our criminal system. What bothers me, in short, is the haunting fear that by proscribing the death penalty more or less absolutely, for fear that we may be doing moral damage to our respect for life, we may in fact be doing a graver injustice by endangering the lives of many innocent people.

Such is not a blanket argument justifying capital punishment; but it does suggest that our solicitude for a worthy if abstract goal; namely, the attempt to remove "cruel and unusual punishment" from our criminal system—may be purchased at an excessively high and dangerous price. There are, I believe, certain classes of crimes concerning which we ought for public safety's sake to resolve our doubts in favor of protecting innocent victims of malicious action. This can be accomplished, I believe, within the confines of appropriate procedural safeguards.

While reasonable men might differ as

to what particular crimes ought to fall within such a classification, I do not find that the list proposed to be covered by S. 1401 is so arbitrary or unreasonable as to be per se objectionable, although I am, quite frankly, I have misgivings about the imposition of the death penalty in certain classes of homicide.

Second, I believe the procedural and substantive safeguards of S. 1401 represent a reasonable compromise. The scheme, as I understand it, maintains the traditional evidentiary burden upon the prosecution to demonstrate the presence of one or more of the aggravating factors which constitute conditions precedent to capital punishment, while at the same time the burden upon the defendent to show mitigating circumstances is less. That is, evidence of mitigating factors may be offered regardless of its admissibility under the rules governing evidence at Federal criminal trials; but evidence of aggravating factors must meet the stricter rules of admissibility. This procedure, combined with the provision for separate trials, one on guilt or innocence and one on the appropriate sanction, insulates the legal system against the charge that it meets out the death penalty capriciously.

Third, I am satisfied that the creation of the right of review of the sentencing procedure will provide protection against error at the trial level. Under present law, errors in sentencing are not ordinarily subject to review. Given the gravity of the sanction in capital cases, I am glad that S. 1401 provides for appellate review as a further safeguard.

Mr. President, no one in this body is so coldblooded as to enthuse over the necessity of restoring the death penalty in certain cases. No one but a sadist takes pleasure in condemning another man to death. By the same token, I believe that anyone who believes there can never be any justification for the taking of human life, would oppose the imposition of the death penalty under any and all circumstances. I believe that under carefully circumscribed procedures the restoration of capital punishment is a regretfully necessary—but necessary nevertheless—step. S. 1401 may not be a model of perfection, but it makes a sincere and reasonable effort to reach a workable compromise.

AGAINST CAPITAL PUNISHMENT

Mr. MUSKIE. Mr. President, Senate consideration today of the mandatory capital punishment bill raises the most basic of moral considerations—the value we place on human life. In judging whether or not to sanction the death penalty, we are in fact deciding whether punishment of the criminal should ever warrant the taking of life by the state.

In my view, there has been no demonstration that the death penalty is an effective deterrent to major crimes. The consequences and dangers of execution, however, are clear: the wrong of executing the innocent can never be corrected.

My own State of Maine, for instance, repealed capital punishment in 1887—after the State hanged a man later believed to be innocent.

My good friend and colleague, Senator HART, has capably analyzed the issue presented by the broad question of capital punishment, and by the specific bill before us, in his "Additional Views" accompanying the Judiciary Subcommittee report on this bill. Senator HART summarizes all the arguments against capital punishment, saying that it has not been proven to increase deterrence, that the cost of life imprisonment may be less than a capital trial and execution, that those imprisoned for life are no more likely to commit murder again, and that execution is not necessary for retribution for crimes when other severe penalties are available. He also argues convincingly that standards in the bill deserve liberalization even if capital punishment is acceptable.

Mr. President, I commend Senator HART for his thorough and persuasive presentation of the case against capital punishment and ask unanimous consent that his "Additional Views," and the appendix to them, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL VIEWS OF MR. HART

(To accompany the Report of the Subcommittee on Criminal Laws on S. 1401, a bill to provide a revised federal death penalty)

I. INTRODUCTION

The Supreme Court decision in *Furman* v. *Georgia*, 408 U.S. 238 (1972), casts severe doubt on the constitutionality of existing death penalty statutes. In response, the President has proposed a new death penalty.

The constitutionality of S. 1401, itself, is unclear. If constitutional, S. 1401 would still be bad legislation—unwise and unjustified.

While I favor abolition of capital punishment, I appreciate that some of my colleagues favor retaining a carefully circumscribed death penalty. *But even assuming* that a well-drafted bill might be capable of imposing death only in appropriate circumstances, S. 1401 is not such a bill. It is likely to produce *both* unjust executions, in some cases, and jury acquittals of guilty murderers, in others. Moreover, it would weaken the ability of police to rescue hostages.

For all these reasons, I oppose passage of S. 1401.

Part II of these views summarizes the background of S. 1401 and its proposed scheme. Part III examines the general case made for retaining capital punishment. Part IV, *assumes* that some form of acceptable death penalty might be drafted to apply in appropriate cases, and examines the defects of the particular approach taken by S. 1401.

II. BACKGROUND AND OPERATION OF S. 1401

The Committee report outlines the decision in *Furman*. Briefly, a five-four majority held that the death penalty, as imposed under the procedures before the Court, constituted "cruel and unusual punishment" in violation of the Eighth and Fourteenth Amendments.

The full import of the decision is unclear. Each justice in the majority wrote a separate opinion. Justices Brennan and Marshall found execution a *per se* violation of the Eighth Amendment. Justice Douglas found he did not have to reach that question and held only that the present system's discriminatory impact made the punishment "cruel and unusual." But there are strong indications he would join Justices Brennan and Marshall in striking down any death penalty.

Accordingly, attention has focused on Justices Stewart and White as the critical votes for any statute which the Court might uphold. Both stressed the rarity of imposition and the arbitrary manner in which it was imposed.

Following *Furman*, the search commenced for a death penalty which might be made acceptable to a majority of the Court. Several States have taken the straightforward approach of a "mandatory" death penalty. Execution would be automatic for an enumerated list of offenses; anyone convicted of one of these offenses would be killed, regardless of the circumstances.

The problem with this approach is obvious. There is no room at all for the jury to consider mitigating circumstances or to exercise any mercy. Such a Draconian law not only revolts our sense of justice, but also would produce jury "nullification" through either conviction for a lesser-included offense or outright acquittal. Indeed, it was because of this nullification problem at the turn of the century—as society's sense of justice evolved—that mandatory death penalties largely were abandoned for the modern discretionary approach.

Apart from the impact of jury nullification on law enforcement, the barbaric nature of strict mandatory death penalties was well summed up by Justice Blackmun in his *Furman* dissent.

> Such legislation is regressive and of an antique mold, for it eliminates the element of mercy in the imposition of punishment. I thought we had passed beyond that point in our criminology long ago. (Id. at 413.)

S. 1401, then, is an answer offered to both *Furman* and the criticism of mandatory penalties.

Provisions of S. 1401

How would S. 1401 work? The bill specifies a list of mitigating and aggravating factors the jury may consider, but does not permit discretion to weigh those factors or to consider others. If any mitigating factor is found, death is precluded. If no mitigating factor is found and any one of the aggravating factors is present, the sentence must be death.

S. 1401 permits consideration of only five mitigating circumstances; the offender is under 18 years of age; his participation was peripheral; his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the law is "significantly impaired"; he acted under unusual and substantial duress; or (where death actually results) the risk of death was not forseeable.

Two groups of aggravating circumstances are enumerated.

In the case of "national security" crimes, they are that the defendant has been convicted of a similar capital crime; or knowingly created a grave risk of substantial danger to the national security; or knowingly created a grave risk of death to another person.

For other capital offenses, there must be a homicide and a finding that

The homicide was committed in the course of committee treason, espionage, sabotage, skyjacking, kidnapping, arson, escape from custody; or

The homicide was committed in an especially "heinous, cruel or depraved manner;"

The homicide was committed for gain;

The victim was a President, Vice President, President-elect or Vice President-elect, Supreme Court Justice, visiting head of state or high foreign official, federal law enforcement officer (broadly defined) or federal corrections officer, killed while performing his duties or because of his official status.

The Committee Report defends S. 1401 on two levels. First, the report reasserts the traditional grounds for retaining the death penalty: that it is necessary (1) to deter other murders; (2) to *indicate* society's condemnation of heinous acts; and (3) to incapacitate murders so they cannot strike again.

Proponents of S. 1401 also claim it meets the constitutional and policy pitfalls raised in *Furman*. They suggest that unlike other approaches, it is a fair, rational system which would permit execution only in appropriate cases and would avoid the dangers of jury nullification. I believe S. 1401 would do neither. And, of course, I challenge the basic case advanced for retaining the death penalty.

III. THE CASE AGAINST CAPITAL PUNISHMENT

The reasons why I find the arguments for capital punishment unconvincing can be briefly summarized. They are examined in more detail in the appendix to these views.

What do we know about capital punishment? We do know that mistakes will be made through human error and innocent men condemned to die. The Committee claim that this danger has passed is unconvincing.

Second, we know that those who have been sentenced to death have overwhelmingly been the poor, the minority member, and the unpopular. Rich, white Americans simply are not given the death penalty. In America, racial hostility and anxiety over personal safety are tragically intertwined by both events and design. Each of us can ask ourselves whether we really believe this discriminatory imposition in practice would be eliminated by any bill other than an absolutely mandatory one—which is unacceptable for other reasons.

Third, the very act of premeditated execution is itself a denial of the sanctity of life to which appeal is made by proponents of capital punishment. While we teach people that life should not be taken, executions, at bottom, teach that the state will sanction killing if the benefits are sufficient. Moreover executions today still involve barbaric suffering.[1] Indeed, the brutalizing effect of such horror is recognized by our insistence that men be executed privately, rather than publicly in the city square. That would be the logical way to ensure the purported deterrent effect.

There have also been cases of "suicide murders" induced by the existence of the death penalty; that is, persons who wanted to take their own lives, but were unable to do so and therefore killed so they would in turn be killed by the state.[2]

Surely, in light of these considerations, this awesome ultimate penalty by which we play God can be justified only by some significant demonstration that it is needed to protect human life where other punishments would fail. While those who favor the death penalty ask *for conclusive proof* it is not necessary, *we need only ask for any substantial evidence that it is;* none can be provided.

Deterrence

The Administration concedes that deterrence is the principal rationale for the death penalty.[3] But is it a *necessary* deterrent? An affirmative answer to that question requires more than the simplistic observation that since people fear death most, it must be an effective deterrent.

This appeal to "intuitive logic" often obscures the real issue. No one disputes that capital punishment has *some* deterrent effect. Presumably all penalties do. That simply is not the question. The point is whether it has a *sufficiently greater deterrent effect than life imprisonment*. In other words, is there any substantial demonstration that a significant number *of those murders who would be deterred by any punishment* would be deterred by death, but not by life imprisonment? If not, how do we justify imposing the ultimate penalty with its risks of irreversible injustice and its other costs to society?

No compelling case has been made that death is a greater deterrent. The evidence simply is not there. With rare unanimity, the studies show no higher criminal homicide rates in states without the death penalty than in those which retain it. In response to the possibility that figures of this kind may reflect divergent social and cultural factors other than capital punishment, more sophisticated studies have compared the rates in contiguous states where history, geography and social and economic conditions are similar. The results are the same. There is no indication the death penalty affects the rate of criminal homicide. Similarly states show no rise in murders once they abolish the penalty, nor a decline if they reinstate it. The Committee critique of the studies is fallacious.[4]

Acknowledging the absence of any data to support the death penalty, both the Justice Department and the Subcommittee Report emphasize instead "empirical evidence" based on the personal impressions of law enforcement officials and statements by individual offenders. These prove little upon closer examination.

One Administration witness, testifying before the House Judiciary Committee cited an American Bar Association study showing instances in which criminals did not carry guns, or kill potential victims because of the death penalty. In fact, no such study exists or was ever made.[5]

In a recent statement of the Department's position, Attorney General Richardson admitted that it is impossible to show with the available statistics that capital punishment has a greater deterrent effect than life imprisonment, but added:

"Statements by offenders concerning the effect of the availability or non-availability of the death penalty upon their actions *do demonstrate* that in certain instances the death penalty is, in fact a greater deterrent."[6]

With all due respect to the Justice Department, there have been no such reported statements by offenders, to our knowledge, which actually "do demonstrate" that the death penalty is a superior deterrent to life imprisonment. Not only is the motive of such statements suspect. They do not preclude the possibility that those offenders also would have been deterred from carrying loaded weapons, or taking life by the threat of life imprisonment if that had been the highest penalty then available in their state.[7] And, of course, the experience of officials is based primarily on the statements of offenders.

The Attorney General's statement goes on to add:

"Moreover, logic demonstrates that the death penalty will have a material deterrent effect on some potential offenders in some instances."

Examples are then given of such premeditated crimes as kidnapping and skyjacking. But this is to lapse into the irrelevant issue of whether it is a deterrent at all, rather than the pertinent question of whether it deters more than life sentences.

Incapacitating Offenders

Obviously, death does incapacitate, with finality, both those guilty of murder and those who might later have been found to have been innocent. But it often costs the government more to conduct a capital trial, keep a man in the special facilities on death row, and defend appeals, and then execute him, than it would have cost to have imprisoned him for life.

Moreover, despite popular myths to the contrary, the facts show that those sentenced to life imprisonment are no more likely to commit another killing than are members of the general population. Therefore, however much our emotional reactions might tug in the opposite direction, there is no more rational basis for executing someone convicted of homicide, so that he won't *kill again*, than there is to execute a bank robber or someone who has committed assault and battery, so that he will *not kill the next time*.

Retribution

It is easy to be unfair to advocates of capital punishment and to characterize their "retribution" argument as a primitive desire for blind vengance. The claim is more sophisticated. Their first point is that the death penalty offers strong condemnation by society of the most heinous criminal actions, without which expression of revulsion there would be great pressure for private reprisals and vigilante justice. Proponents also suggest that providing the most stringent penalty is necessary in order to demonstrate the intensity with which the act is condemned and thereby reinforce the internalized social restraints which help prevent others from such behavior.

There is no greater evidence of resort to private reprisal or vigilante justice in abolition states than in those with capital punishment. Moreover, the argument is a *non-sequitur*. To say society can express its utmost condemnation only by imposing its most severe penalty does not necessarily tell us what the upper limit of severity should be—or that it must be the death penalty. If life sentence with no parole were reserved for the most heinous culpable acts, then imposition of that penalty would likewise reinforce the community's internalized sanctions. Finally, the most brutal murders are quite often committed by precisely those deranged or incapacitated persons who are unlikely to be executed in any event.

This, in summary, is the case against retaining capital punishment. It rebuts the Subcommittee's assertion that "necessity" justifies the death penalty in the interest of protecting society.[8]

But a further word is in order in light of the Administration's defense of S. 1401. Even if there is more merit than I have found in the deterrence and retribution accomplishments of the death penalty, one thing is clear. Neither is plausible unless there is a substantial likelihood it will be imposed. Yet most homicides will not be capital offenses under S. 1401. The Justice Department has repeatedly emphasized that it would only apply in an extremely small number of instances.[9]

In the case of deterrence, we are concerned with homicides committed by rational persons who do premeditate and who include in their calculations the possibility of capture and punishment. Are those individuals not likely to believe that if caught, they can establish one of the mitigating circumstances in S. 1401 and escape the death penalty?[10] Similarly, we have noted that many of the most shocking homicides will not elicit the maximum condemnation of the law under any but an absolutely mandatory death penalty. In short, even the inadequate efforts in S. 1401 to prevent executions offensive to our conscience weaken further the claims of deterrence and retribution.

Thus, S. 1401 underlines the question whether advocates of capital punishment can simultaneously achieve its retention in a form which is *effective*, and *constitutional*, and *just*. An examination of S. 1401 suggests the answer may well be in the negative: that our colleagues either will have to abandon the death penalty or will have to pass a law which is constitutionally defective or one which disregards the palpable injustices that may result.[11]

But this question need not be answered conclusively before acting on S. 1401. A substantial number of our colleagues still favor retaining the death penalty for narrowly circumscribed situations if a workable, just bill can be devised. ***The remainder of these views are particularly addressed to those Senators and assume such a statute is both***

Footnotes at end of article.

desirable and attainable. Even within that framework, it is clear that S. 1401 is not the appropriate vehicle.

IV. LEGISLATIVE DEFECTS OF S. 1401

There are serious policy defects in S. 1401. It excludes considerations relevant to determining whether execution is appropriate and poses a substantial risk of unjust executions. For that reason, it also encourages juries to acquit in the face of clear evidence of guilt. And it poses added dangers for those taken hostage by criminals.

Precluding considerations of mitigating circumstances

The Committee states that to "preclude the consideration of any mitigating circumstances that might justify a lesser punishment in a particular case [would be] *clearly unacceptable*". P. 14. (Emphasis added.) I agree. Yet by permitting the jury to consider only five mitigating factors, S. 1401 would do just that.

What additional mitigating factors might be relevant in a particular case? We need look no further than S. 1, the comprehensive criminal code reform bill introduced by three distinguished members of the Subcommittee, Senators McClellan, Ervin and Hruska. The death penalty in that bill, Section 1–4E1, includes several circumstances which go beyond those in S. 1401.

S. 1401 only permits the jury to consider whether the defendant acted "under unusual and substantial duress." S. 1 permits the jury to determine if:

(i) The offender acted under unusual *pressures or* influences *or* under the domination of another person. (emphasis added.)

Duress involves coercion. The provision in S. 1, which includes the impact of influence or domination, as well as "pressure," clearly permits the jury to consider far more than it may under S. 1401.

Second, while S. 1401 only permits a showing the defendant was less than 18 years of age at the time of the offense, S. 1 would permit a showing that he was emotionally immature.

Third, S. 1 permits the jury to consider the fact the offender has no "significant history of prior criminal activity." This may not be considered under S. 1401. (Prior conviction for certain offenses *may be an aggravating factor under S. 1401*, but no prior record is required to trigger the death penalty if another aggravating factor is found.)

Commenting on the greater flexibility in S. 1 for the jury to consider these mitigating circumstances, the Attorney General did not dispute their relevance in some cases. Rather, he replied that since such considerations do not preclude the death penalty under S. 1, they "can be drawn with greater breadth," than can those in S. 1401.[12] It is true that under S. 1, the jury's findings on these considerations do not automatically dictate the sentence. But that is not the point here. The important fact is that when they introduced S. 1, Senators McClellan, Ervin and Hruska indicated their appreciation that these considerations might be relevant in some circumstances to whether the death penalty was too harsh or unjust. And the Justice Department apparently does not disagree.

Yet these considerations would be *excluded* from the jury's consideration in the sentencing proceeding under S. 1401.

In addition to S. 1, it is instructive to consider the *Report of the National Commission On Reform Of The Federal Criminal Laws*, commonly known as the "Brown Commission" after its chairman, former Governor Pat Brown of California. The Brown Commission Final Report offered alternative approaches on capital punishment: abolition of the death penalty, and a proposed death penalty statute should Congress opt for its retention. Their proposal *required* the court to impose a life sentence rather than death, whatever the jury recommendation, if the judge found:

"(c) Although the evidence suffices to sustain the verdict, it does not foreclose all doubt respecting the defendants guilt."[13]

Why was such a provision included? First, it must be remembered that jurors are instructed they may find the prosecution's case "proved beyond a reasonable doubt", even though they are not absolutely certain of the defendant's guilt and retain some ill-defined nagging doubt that the Government's version of events is the truth.

The elements of a capital offense not only may involve proof of objective facts by circumstantial evidence, but also may involve determinations about subjective states of mind and motive: To what degree were the defendant's mental capacities impaired? Did he have treasonous intent? What threat to his own life or limb did he perceive? To say the least these questions involve terribly subjective determinations for the fact finder. Even when a judge believes there is "proof beyond a reasonable doubt," in the sense that he cannot articulate clearly any specific question which remains unanswered, he may still feel a very strong sense of uneasiness that the defendant's assertions have substance. In those few cases, should the court be compelled to send the defendant to his death?

It seems clear that this is the distinction made in the Brown Commission's proposed section on grounds which would preclude the death penalty. There is no comparable provision in S. 1401.

Next we come to several mitigating circumstances which are expressly provided for in both the Brown Commission proposed statute and in S. 1 but which do not expressly appear in S. 1401. Under the Brown Commission proposal and S. 1, the jury could consider a variety of factors relating to the offender's state of mind at the time of his crime:

If he believed the circumstances morally justified or extenuated to conform his conduct to the law was impaired as a result of mental disease or defect or intoxication;

If he was under the influence of extreme emotional or mental disturbance;

If he believed the circumstances morally justified or extenuated his act and that belief was plausible by ordinary moral standards.

Together, the provisions would cover not only ongoing mental conditions but also momentary passion, extreme provocation, emotional distress, or justification. The only comparable consideration in S. 1401 is a variation on the first of these. Section (f)(2) of S. 1401 permits the defendant to show that:

His capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution.

Since this does not require that the impairment result from a mental disease or defect or intoxication, the Justice Department claims it is broader than the corresponding provisions in other proposed statutes. It suggests that Section (f)(2) comprehends provocation, emotional disturbance, actions of passion, and a defendant's belief his action was morally justified; each might be sufficient, in appropriate cases, for the jury to find his ability to appreciate or conform his behavior had been "significantly impaired."[14] In short, the Department acknowledges these factors, too, would sometimes be relevant to a decision on the death penalty, but prefers they be weighed in the process to determining the defendant's capacity to appreciate and conform his conduct. This approach raises several problems.

Though modified, the provision closely parallels the formulations used for legal insanity and other tests of mental condition. Is it likely that defense counsel will be apprised of its intended breadth from a plain reading of the statute? And what other factors, which we may have failed to raise in our letter to the Attorney General, could defendants establish in order to invoke Section (f)(2)? Moreover, assuming defense counsel somehow learns of its intended coverage, how easy will it be to obtain a jury charge from the court based on this kind of informal legislative history, which does not, for example, appear in the Report. In fact, the Report, itself, states that the provision requires a showing the defendant's "mental capacity" was impaired. The phrase "mental capacity" connotes an ongoing mental condition even more; it hardly suggests that a plausible belief of moral justification might be sufficient, as the Justice Department contends.[15]

Finally, even assuming a jury charge which spells out the factors the Attorney General says may be considered under Section (f)(2), how is the juror to perform the mental gymnastics such determinations would require? Under this approach the juror must decide not merely whether the defendant plausibly believed the homicide was morally justified. He must simultaneously determine whether that belief was sufficient to "substantially impair" the defendant's capacity. Does that depend on the intensity with which the belief was held? On the nature of the presumed moral justification? On how "plausible" the belief was by common moral standards? Or may the jury consider a mixture of all three aspects? The complexities are overwhelming.

This last mitigating circumstance would best be left a separate element. If the standard, in the Attorney General's phrase, is "too loosely drawn", then we would revise it to read as follows: "The offense was committed under circumstances which the defendant believed to provide a moral justification, or extenuation, reasonable, in fact, by ordinary standards of morality, for his conduct."

Eliminating the reference to "plausible" and changing the standard to "reasonable" should make that consideration, in and of itself, a sufficient ground to preclude the death penalty. After all, this would not mean the offender would go free. He would face life imprisonment. It would merely mean that if he reasonably thought his behavior was morally justified or extenuated, we would not kill him.

As for the other types of considerations not expressly listed in S. 1401, they should be spelled out as examples of circumstances which might justify a finding under Section (f)(2) of impaired capacity. So amended, Section (f)(2) would read: "His capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law was significantly impaired by (a) emotional or mental disturbance or distress; (b) provocation; (c) intoxication; (d) mental disease or defect; (e) other causes; but not so impaired as to constitute a defense to prosecution."

A third omission from the list of mitigating circumstances is the absence of any provision that the death penalty may be inappropriate because of the defendant's cooperation in releasing hostages unharmed. Death is mandatory if a homicide occurs in the course of a kidnaping, skyjacking or prison break, unless one of the five mitigating circumstances is present. Thus, any person already substantially involved in such a homicide and to whom none of the present mitigating factors apply, literally has nothing to lose. If caught, he faces automatic death.[16] (It must be remembered, the bill is premised on the offender's awareness of the penalties.) There is no incentive for him to let any hostages free or permit a plane to land safely. If acts which threaten innocent lives seem to serve his escape, there is

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Footnotes at end of article.

no leverage for the police to convince him to release them unharmed.

The Justice Department rejects any consideration in this area, because it "appears desirable on its face, [but] might serve to encourage certain types of offenders to act with impunity, knowing that if they later . . . release a hostage, regardless of what they may have done before, the provisions of S. 1404 would require that the death sentence not apply to them."[17]

But again, one must consider a rational murderer, not subject to some other mitigating factor. Is he really likely to kill persons he otherwise would not have slain merely because he can then "gain" life imprisonment by taking and then releasing hostages? We find a different scenario far more likely: Someone is killed at the start of a prison break attempt, or a skyjacking; the perpetrators subsequently hold guards or passengers hostage and face the question whether to kill them, too—in order to delay or avoid capture—since apprehension means certain death. We leave it to our colleagues to ask themselves which situation poses the greater danger to innocent human life.

Next, there is the more fundamental question whether any enumeration can exhaust the factors which may be very relevant in a given case. Chief Justice Burger's dissent in the *Furman* case, joined by all his dissenting colleagues, emphasized the difficulty of trying to encapsulate all the mitigating circumstances a jury might properly take into account:

However, Mr. Justice Harlan's opinion for the Court in *McGautha* convincingly demonstrates that all past efforts "to identify before the fact" the cases in which the penalty is to be imposed have been "uniformly unsuccessful," 402 U.S. at 197. One problem is that "the factors which determine whether the sentence of death is the appropriate penalty in particular cases are too complex to be compressed within the limits of a single formula. . . ." (citation omitted) 408 U.S. at 401.

I appreciate that the constitutional theory of S. 1401 requires an effort to spell out those circumstances insofar as possible. But Congress still can recognize its inability to cover in a short list all the factors which may cry out for mercy in some future case, even though such situations do not now come to mind. Under the Brown Commission statute, in addition to the specified list of factors, death would be precluded upon a finding: "there is some other compelling circumstance which would make sentence of death unjust."

For it to apply, a specific circumstance would have to be raised explicitly by the defense and there would have to be adequate information in the record to support a finding that the factor was present. Moreover, the jury would have to agree upon such a finding and agree that it, alone, rendered the death penalty inappropriate. This would have to be articulated in a special verdict. In contrast, the procedures involved in *Furman* provided no way of telling what factors had influenced any particular juror, to what degree it influenced him, or whether the other jurors agreed.

Finally, as to the aggravating factors listed in S. 1401, there is no requirement that they be proved beyond a reasonable doubt before the jury or judge could return a special verdict. The Attorney General rejected this suggestion on the ground that the standard presently in the bill—"preponderance of the information"—is the one used in all Federal sentencing proceedings,[18] I hope my colleagues are more willing to recognize the unique nature of a proceeding which might produce an execution.

Capital punishment is terribly irrevocable; men may be sentenced to death for murders they did not commit, *or for murders they committed under circumstances different from the good faith findings of the jury.* The possibility of error, present even when proof beyond a reasonable doubt is required, multiplies incalculably when findings which condemn a man to death need only seem more likely than not.

The same kinds of subjective determinations already noted in regard to mitigating circumstances are also involved in any finding of some aggravating factors in S. 1401. Nor is the guaranty of appellate review a significant safeguard, since findings can be overturned only if "clearly erroneous." Should we take a man's life if the fact finder is not at least sure to a moral certainty that the aggravating factor which we say warrants death is, in fact, present?

Danger of jury nullification

In its present form, S. 1401 also poses a risk of jury nullification. Where the ability of the jury to weigh mitigating circumstances is sharply restricted, any jurors determining guilt who are concerned about a possible death sentence will feel greater pressure to hang the jury, convict on a lesser charge, or even acquit despite strong evidence of guilt.

This concern could occur for two reasons: (1) jurors willing to find proof beyond a reasonable doubt according to the court's charge, may still have some malaise about the correctness of that verdict; (2) jurors confident about the verdict of guilt may feel strongly, on the basis of what they have seen and heard at the trial, that a death penalty would be unjust.

The Justice Department claims this danger is eliminated by the separate trials on guilt and punishment. It argues that since the evidence on punishment would not be offered until the second hearing stage, "this should be enough to avoid the inducement of [jury nullification]."[19]

But would it be enough? The trial jury would usually be aware it was a capital case. Either they would also be aware of the nature of the sentencing proceeding under S. 1401, or they would not.[20]

If the jury *is* aware of the sentencing procedure, then it knows it may not even sit at the second stage, given the options under Section (b). And the jurors know that if they do sit on the question of punishment, their ability to show mercy will be curtailed by the quasi-mandatory scheme of S. 1401. Thus, there would be an inducement to implement any qualms about the appropriateness of the death penalty for that particular defendant by preventing a murder conviction at the trial stage.

If the trial jury *is ignorant* of the sentencing procedures when they commence their deliberations on guilt, then there is still a danger of nullification. For that is the only way a juror who strongly feels death is inappropriate can be sure that his view will prevail and he can avoid complicity in what he regards as an unjust execution. The fact that jurors should not vote on guilt for that reason, under the law, is not the point. Jurors do.[21]

Conclusion

For those who seek a carefully drawn death penalty statute which would avoid unjust results, and provide an effective deterrent, without distorting the criminal justice process or endangering innocent lives, S. 1401 raises many serious problems. I hope my colleagues will consider the advice of a witness at the subcommittee hearings *who is an advocate of capital punishment and was an advisor to the Florida Commission created to draft a post-Furman statute.* He concluded that S. 1401 would not accomplish its own professional aims and suggested that the Committee "go back to the drawing boards" to see if a better bill was not possible.[22]

FOOTNOTES

[1] There is both the mental anguish of anticiption and the physical pain of the execution, itself. We hope our colleagues do not assume that modern executions are momentary and painless. I urge them to read the responsible accounts of several recent executions in the appendix to these views.

[2] See appendix at 4.

[3] Letter from Attorney General Richardson to Senators Hart and Kennedy (October 8, 1973) P. 1. (The questions sent to the Attorney General and his response are reprinted in full in the appendix to these views.)

[4] These studies, and the Subcommittee Report's comment on them are examined more fully in the appendix at 2–3.

[5] Upon close examination, one learns this reference, by now misleading reproduced in several sources, refers to assertions made without documentation by a state district attorney at an ABA symposium on the death penalty. See testimony of Henry Peterson in Hearings on Capital Punishment before Committee on the Judiciary, U.S. House of Representatives, 92d Cong., 2d sess. (1972) at 33–34; and H. Bedau, "The Nixon Administration and the Deterrent Effect of the Death Penalty," 34 Pitt. L. Rev. 557 (1973) (tracing the emergence of this "study").

[6] Richardson letter, *supra* note 4 (emphasis added) at 2.

[7] The significance of these personal "testimonials" is discussed in the appendix at 3–4.

[8] "In providing its members protection, *society must do what is necessary* to deter those who would break its laws and punish those who do so in an appropriate manner." Subcommittee Report, p. 7 (emphasis added).

[9] E.g., Richardson letter, *supra*, note 4, at 2.

[10] It cannot be argued in response that such persons will be unaware of the sentencing scheme of S. 1401. Certainly after the first sentencing proceeding under S. 1401, and perhaps upon its enactment, widespread media comment on its operation would alert most of those who are likely to calculate their crimes in advance.

[11] It is doubtful that S. 1401 skirts the constitutional swamp posed by *Furman*. For example, Justice White objected not only to arbitrary imposition, but also to a death penalty "so infrequently imposed that the threat of execution is too attenuated to be of substantial service to criminal justice." 402 U.S. at 313. Moreover, it is by no means clear that Justices Stewart and White would uphold any death penalty which turned on findings by the jury, with the attendant possibility of arbitrary or discriminatory imposition.

[12] Richardson letter, *supra* note 4, at 4. (Answer to question 2.)

[13] National Commission on Reform of Federal Criminal Laws, Final Report, Provisional Section 3603 (p. 314) (1971).

[14] Richardson letter, *supra*, note 4, at 6–7.

[15] Subcommittee Report, p. 16 .

[16] *For these purposes*, we have accepted the assumption death is a greater deterrent, on which S. 1401 is premised.

[17] Richardson letter, *supra* note 4 at

[18] Richardson letter, *supra* note 4, at 9.

[19] Richardson letter, *supra* note 4, at 4.

[20] It is unclear what inquiries the trial jury might make of the court regarding the sentencing proceeding to follow, or what instructions would include on this point if S. 1401 were enacted. But in any event it is likely that some jurors would be familiar with the scheme of the statute from its discussion in the media.

[21] Only in a single stage proceeding at which both guilt and punishment are decided, can a juror vote his true feelings on the question of guilt and still be sure he can prevent a recommendation of the death penalty. After the jury agrees on guilt, he can still force a hung jury or an agreement not to recommend the death penalty. Where there is a split proceeding and the jury has broad discretion on the question of punishment, the danger is still present but substantially less

than where, as under S. 1401, the determination is automatic.

Testimony of Prof. L. Harold Levinson, Reform of the Federal Criminal Laws, Hearings before the Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary, U.S. Senate, 93d Cong., 1st sess. (1973) at p. —.

APPENDIX TO ADDITIONAL VIEWS OF MR. HART

I. FURTHER NOTES ON CAPITAL PUNISHMENT

Proponents of capital punishment are asked to show some substantial evidence it is necessary to protect society in view of the dangers of mistaken execution, of its discriminatory application, and of its effect on the public attitude toward the sanctity of human life. Therefore, they dispute these concerns.

Many cases of innocent men condemned to death in America have been documented. Most of the celebrated cases of wrongful conviction, and all of the best documented ones, have involved prisoners alive when the error was discovered, although there have been several very close calls. See H. Bedau, *The Death Penalty In America* (Rev. ed. 1967) 434–452 (hereinafter cited as *Bedau*). It is not surprising there are no fully documented incidents of innocent persons who were executed. Once a prisoner is killed, his own efforts at vindication cease. His family, friends and defense counsel are far less likely to pursue efforts to find the actual killer or to establish the actual circumstances where the prisoner did in fact commit a homicide. There are few official channels through which the case can be pursued posthumously.

At least one English case, which played a major role in the reform of English law, should give us pause. Timothy Evans' wife and baby daughter were killed and Evans, a man of subnormal intelligence gave the police a confession. He was convicted and hanged. Four years later, a boarder in the same house, who had been the chief witness against Evans, was found to be a multiple-murderer who had committed homicides strikingly similar to the ones of which Evans had been convicted. An official inquiry judged Evans had been erroneously convicted of his daughter's death, the only one for which he had been tried. He was granted a posthumous pardon, for what that was worth. Hearings on the Death Penalty, before the Subcommittee on Criminal Laws and Procedures, U.S. Senate, 90th Cong. 2d. sess. (1968) 60.

The Evans case is unusual in one sense. Far more often, the basis of the error is mistaken identity. And this points up the weakness in the Subcommittee's argument that present procedural safeguards regarding right to counsel, appeals and so forth "have all but reduced the danger of error in these cases to that of a mere theoretical possibility." Subcommittee Report at 13. This misconceives the nature of appeal and post-conviction remedies. These reviews concern almost exclusively errors of law, not of fact—jury charges, admission and exclusion of evidence, pre-trial proceedings. The one question rarely touched is the credibility of witnesses. Whether eye-witness testimony might be mistaken or a prosecution witness might be perjuring himself is left in our system to the jury. There are now too many documented cases of mistaken conviction to argue the death penalty poses no substantial risk of executing innocent persons. It is extremely unlikely that chance has saved or will save every innocent man who has or will come within inches of death. It is far more likely the records conceal many cases which differ from those we do know about only in that the evidence of their innocence was not revealed because they were killed before it could emerge.

The discriminary impact on poor and minorities of the death penalty in America has not been definitively adjudicated by the Supreme Court, although many justices have acknowledged the powerful evidence for its existence. See e.g. concurring opinions of Justice Douglas and Marshall in *Furman, supra*. The leading student of this problem, however, has recently concluded that the present evidence strongly indicates that the death penalty has been imposed with a patterned, systematic racial bias, unexplainable either by statistical chance or any statutory or other legally acceptable basis. Wolfgang and Riedel, *Race, Judicial Discretion and the Death Penalty*, 407 Annals of the Amer. Academy of Pol. and Soc. Science 119–133 (1973). Of course the possibility of discriminatory application increases with the amount of discretion given the court or jury to impose or withhold the death penalty. But under any save a completely automatic mandatory law the requirement of jury findings on specific factual issues gives substantial play to the possibility of discrimination.

As for the brutalizing effect of the death penalty, abolitionists are often accused of holding a double standard—concern for the sanctity of life when it comes to convicted murderers, but no equal reverence for the lives of the innocent victims. Such attacks are unfair. There is a valid distinction between killing when there is a clear and present danger that one would otherwise become an innocent victim and society's right to punish criminals after the fact of their offense. If execution could bring back to ilfe the innocent victims of criminal murder, or if the prospective victim can save his own life at the cost of killing his attacker, all people except the absolute pacifist would value the innocent life over the life of the murderer. But those are not the kinds of choices we face in passing death penalty statutes unless it is shown that they will protect innocent lives effectively when other punishments will not. This brings us to the question of deterrence.

As noted in The Individual Views, the debate over the deterrent effect of the death penalty is shaped largely by the formulation of the question at issue and by the side which is thought to bear the burden of proof.

It seems to me that the pertinent question is clear: Is life imprisonment as good a deterrent as capital punishment for the crimes which a proposed statute would make capital.

Regarding the question of who should have the burden of the argument. I have explained my position in the Views, but a note can be added. In his dissenting opinion in *Furman*, Chief Justice Burger rejected the notion that proponents of capital punishment be asked to demonstrate its superiority as a deterrent to life imprisonment, unless we are prepared to make a similar inquiry regarding all gradations in punishment—that 20 years imprisonment is more effective than five, or that a $100 fine is more effective than a $10 fine. 408 U.S. at 396. Those additional questions may indeed make interesting inquiries as we revise the entire sentencing structure of our federal penal laws. But as Justice White recognized—and we think most people would agree—the death penalty is a "unique penalty" qualitatively different in its finality, its infliction of pain and terror, its distortion of the criminal justice process, and its impact on society. For that reason, I see no problem wth requiring a more substantial showing it is necessary, than in the case of lesser punishments.

What do the available studies and research tell about the deterrent effect of the death penalty as compared to life imprisonment?

1. Death penalty jurisdictions do not have a lower rate of criminal homicide than abolition jurisdictions, even when one compares continuous or otherwise comparable States;

2. In jurisdictions which abolish the death penalty, abolition has no influence on the rate of criminal homicide;

3. Jurisdictions which reintroduce the death penalty after its temporary abolition do not show a decreased rate of criminal homicide after its reinstatement. (See *Bedau*, supra, Ch. 6: Andenaes, "Does Punishment Deter Crime," 11 Criminal Law Quarterly, Quarterly 76, 83 (1968.); Sellin, *Capital Punishment* (1967).)

As for the impact on the safety of law enforcement officers and prison guards:

4. Police officers do not suffer a higher rate of criminal assault or homicide in abolition jurisdictions than in death penalty jurisdictions. Sellin, "Does the Death Penalty Protect Municipal Police" in *Bedau, supra*, at 284.

5. Nor do corrections guards suffer higher rates of assault or homicide in abolition states than in death penalty states. Sellin, *Capital Punishment* (1967) 154–160.

Death penalty proponents claim these figures are irrelevant because they never reflect persons who were in fact deterred from homicide by the threat of execution. But think about that argument. Assume State X and State Y have the same murder rate. State X has the death penalty. State Y does not. Proponents suggest the death penalty is a more effective deterrent but they cannot show it because persons deterred from killing in State X don't show up in the statistics. But what about the people in State Y who might have killed *but were deterred by life imprisonment?* The proponents argument requires the totally unwarranted assumption that, to begin with, there are a far greater number of potential murders in states with capital punishment than in states without it. *Only if that assumption is made, could the equal homicide rates reflect a greater deterrence by the death penalty.* There is no basis for such an assumption. If the assumption is not made, then essentially equal homicide rates suggest that the two penalties serve equally well to deter potential killers who do not show up in the statistics. This point can be seen even more clearly if we take a jurisdiction which had abolished the death penalty, but then reinstated it yet experienced no drop in the homicide rate. The Subcommittee's thesis requires the assumption that for some unexplained reason the number of would-be murderers in the state suddenly shot up when the death penalty was reintroduced, and that is the reason the homicide rate stayed the same even though the death penalty was deterring more people than had the previous threat of life imprisonment.

The Subcommittee further challenges these studies because they are based largely on aggregate homicide figures which do not distinguish capital from non-capital offenses. Report at 8–9. Great emphasis is placed on this point. But the Subcommittee's challenge suffers from the same defect just noted. Suppose State X has abolished capital punishment. The death penalty is reinstated with no drop in the overall homicide rate. The Subcommittee must assume that for some unexplained reason the number of homicides other than first degree murder have suddenly shot up when the death penalty was introduced. Otherwise, the steady homicide rate means that the rate of first-degree murders has stayed the same, i.e. that the proportion of capital and non-capital homicides has not substantially changed. Not only is this assumption offered without any basis; it contradicts another assertion in the Report, namely, that the death penalty has some deterrent effect even on the perpetration of non-capital homicides.

Nonetheless we agree with the Subcommittee that the evidence is not conclusive. The Subcommittee quotes one of the leading experts on capital punishment in America, Professor Hugo Bedau, for this proposition. Report at 14. But it omits Professor Bedau's overall conclusion based on his exhaustive study of the American experience with the death penalty:

"What do all these studies, taken together, seem to show? The results are negative; *there is no evidence to support the theory that the death penalty is a deterrent superior to imprisonment for the crime of murder.*" *Bedau, supra*, at 264. (italic added)

Similarly, in their opinions in the *Furman* case, both justices who joined the majority and some of those dissenting agreed there was no substantial evidence demonstrating that capital punishment is a more effective deterrent. See 408 U.S. at 307 n.7 (Mr. Justice Stewart, concurring); *Id.* at 395–6 (Chief Justice Burger dissenting); *Id.* at 416 (Mr. Justice Blackmun, dissenting); and *Id.* at 455–56 (Mr. Justice Powell, dissenting.)

Accordingly it is worth pursuing a little further the other "empirical arguments" of those supporting the death penalty. We have already discussed the so-called "American Bar Association study" in our Views. See p. 4, n. 6. The Subcommittee Report relies primarily on the stated opinions of several law enforcement officials. These views presumably are based either on institution or on conversations with captured criminals. But the significance of these conversations, and hence the opinions based upon them, is elusive. For example, the Justice Department in earlier Congressional testimony cited a Los Angeles Police Department analysis based on interrogation of 12 robbery suspects. Each reportedly indicated they had used unloaded or toy guns to avoid the risk of killing someone and being executed. Testimony of Henry Peterson, *supra* Individual Views, p. 4, n. 6.

Taking these statements at face value, they do not necessarily show anything more than that those defendants were deterred by the prospect of receiving the most severe penalty which they knew the state might impose for murder. We have no way of knowing whether, if California's toughest penalty at the time had been life imprisonment, they might have said "I didn't load my gun because I was afraid of getting life imprisonment." Without more information, use of such comments by offenders *assumes the very proposition for which they are offered*, namely, that the death penalty is a superior deterrent. Is it not likely, for example, that some robbers in Wisconsin or Michigan have used unloaded guns because they feared imprisonment with the possibility of parole being denied for much of the remainder of their life?

Moreover, it is not clear what may have been the motive of such statements. Warden Duffy of San Quentin, who personally interviewed thousands of prisoners on and off death row, reports that none indicated the death penalty was a factor they weighed. Other leading corrections officials confirm his experience. More importantly, many of those in prison for crimes other than murder told Warden Duffy that they had responded to police interrogation that the death penalty deterred them from using guns or killing because it seemed what the police wanted to hear. Many indicated to Warden Duffy that, in fact, they simply had not wanted to hurt anyone and merely wanted money. Hearings on the Death Penalty before the Subcommittee on Criminal Laws and Procedures, U.S. Senate, 90th Cong. 2d sess. 23 (1968).

The Subcommittee cites a dramatic threat to throw a grenade at hostages because the death penalty had been struck down. Yet the grenade *was never thrown*, according to the same news story cited. Report p. 11. What deterred the robber from throwing it, if he disregarded the death penalty?

As in the case of the studies, we cannot be sure about the significance of alleged "personal experience." It is possible that a few potential killers have been deterred by the prospect of the death penalty but would not have been deterred by life imprisonment. But they may well be offset—from any saving life perspective—by the instances of "suicide murders" committed by persons unable to take their own life who sought to produce their own execution. Several such cases have been documented. Ibid. at 126–27.

The superior "incapacitation" of the death penalty is usually advanced in terms of cost and the risk of recidivism. Recent experience has been that the total costs of trying, guarding and executing someone approximate—and may exceed—the costs of life imprisonment. McGhee, "Capital Punishment as Seen by a Correctional Administrator", 28 Fed. Probation 13(1964); "The Death Penalty Cases" 56 California Law Rev. 1268 (1968); Washington Research Project, *The Case Against Capital Punishment* 61–62(1971).

The studies done on recidivist rates for convicted murderers in both capital punishment and death penalty states show no greater risk that they will commit another murder than any other former offender. Indeed, some studies support the testimony of many corrections experts that convicted murderers rarely are involved in another homicide. *Bedau, supra*, at 395–400. This conclusion is applicable not only to those given life imprisonment (who might be deemed less likely to be hard core murderers) but also of those condemned and then pardoned. Of course a few convicted murderers will kill again, or attempt to do so, both within the prison and if they are subsequently released. Such cases understandably are well publicized and heighten calls for the death penalty. But other offenders, from armed robbers to petty grafters, also may commit murder, and in a few cases they will. The Subcommittee's appeal to "necessity" to protect society provides no greater case for executing murderers to incapacitate them, than it does for executing those convicted of other crimes.

Appeals to intuitive logic have been made by arguments that those already serving life imprisonment "have nothing to lose" and, without the deterrent of a death penalty, might easily contemplate killing a fellow prisoner or guard in an escape attempt. But this claim ignores the vast difference in conditions of incarceration—maximum security versus normal routine or even trustee status. Moreover, it ignores the possibilities of parole or clemency.

The Subcommittee Report, itself, suggests that a life sentence without the possibility of parole is too dangerous because wardens would then have no "hold" over such prisoners to control their behavior. Report at 11. Many states do deny or restrict parole opportunities for those under life sentence and the Subcommittee cites no study showing greater incidence of recidivism by imprisoned killers in those jurisdictions. See *Bedau, supra*, at 402. Second, denial of parole still leaves the possibility of executive clemency, which under the federal system probably could not be constitutionally denied.

In any event, the majority supporting the Subcommittee Report cannot have it both ways. Either the possible extinction of parole and elementary chances is a significant deterrent for those serving life imprisonment, as we suggest, or it does not, in which case the majority's objection to dealing with "incapacitation" for the most hardened murderers by a life sentence without parole cannot stand.

The brutalizing aspects of the death penalty involve both physical suffering and mental agony. In *Reflections on the Guillotine*, Camus wrote: "But what then is capital punishment but the most premeditated of murders, to which no criminal's deed, however calculated it may be, can be compared? For there to be equivalence, the death penalty would have to punish a criminal who had warned his victim of the date at which he would inflict a horrible death on him and who, from that moment onward had confined him at his mercy for months. Such a monster is not encountered in private life."

The physical suffering inflicted by execution is recounted in the following eyewitness accounts collected in *The Case Against the Death Penalty*, by the Washington Research Project.

The classic form of execution, still used by several states, is hanging. Warden Duffy of San Quentin, a frequent witness, describes the process:

"The day before an execution the prisoner goes through a harrowing experience of being weighed, measured for length of drop to assure breaking of the neck, the size of the neck, body measurements, et cetera. When the trap springs he dangles at the end of the rope. There are times when the neck has not been broken and the prisoners strangles to death. His eyes pop almost out of his head, his tongue swells and protrudes from his mouth, his neck may be broken, and the rope many times takes large portions of skin and flesh from the side of the face that the noose is on. He urinates, he defecates, and droppings fall to the floor while witnesses look on, and at almost all executions one or more faint or have to be helped out of the witness room. The prisoner remains dangling from the end of the rope for from 8 to 14 minutes before the doctor, who has climbed up a small ladder and listens to his hear beat with a stethoscope, pronounces him dead. A prison guard stands at the feet of the hanged person and *holds* the body steady, because during the first few minutes there is usually considerable struggling in an effort to breathe."

* * * * *

The first major substitute for hanging was electrocution, still the most widely used form of execution in this country. The prisoner's hair is cropped short, and a pants leg is slit. He or she is led—or dragged—into the death chamber, strapped securely in the chair, and electrodes are fastened to the leg and head. Then, as Warden Lawes of Sing Sing describes it:

"As the switch is thrown into its sockets there is a sputtering drone, and the body leaps as if to break the strong leather straps that hold it. Sometimes a thin gray wisp of smoke pushes itself out from under the helmet that holds the head electrode, followed by the faint odour of burning flesh. The hands turn red, then white, and the cords of the neck stand out like steel bands. After what seems an age, but is, in fact, only two minutes, during which time the initial voltage of 2,000 to 2,200 and amperage of 7 to 12 are lowered and reapplied at various intervals, the switch is pulled and the body sags and relaxes, somewhat as a very tired man would do."

As another frequent witness has reported: "The noise is loud. The dying man fights the straps with amazing strength. Usually, some smoke rises up from the chair . . . The body will burn if it requires a second or third jolt or if the condemned perspires excessively." In some cases, the eyeballs burst from their sockets.

The length of time it takes to die in the electric chair is open to serious question. Often several shocks are required, over a period of some minutes. The prison doctors who pronounced Julius Rosenberg dead, after two minutes and three shocks, found that his wife Ethel was still alive after three applications of current. They pronounced her dead after two more shocks and a total of over four minutes. No one knows whether electrocuted individuals retain consciousness until dead, but if they do it is certain that "such a form of torture would rival that of burning at the stake. A French scientist has concluded:

I do not believe that anyone killed by electrocution dies instantly, no matter how weak the subject may be. This method of execution is a form of torture.

Electrocutions, too, can go wrong, and one that did produced a celebrated Supreme Court decision. Louisiana attempted to execute Willie Francis, a teen-ager, but the current was apparently not strong enough. As one witness described the scene:

"Then the electrocutioner turned on the switch and when he did Willie Francis' lips puffed out and he groaned and jumped so that the chair came off the floor. Apparently the switch was turned on twice and then the condemned man yelled: 'Take it off. Let me breathe.'"

The current was turned off, and Francis was returned to his cell to await another attempt on his life. Later, by a five to four vote, the Supreme Court held that the Constitution did not forbid sending him to the chair a second time, and he died there.

* * * * *

The third major method of execution used in the United States is the application of lethal gas. Warden Duffy, who has seen many gassings, reports that the prisoner is strapped in a chair, the chamber is sealed, and the cyanide gas eggs are dropped into the sulphuric acid. When the gas reaches the prisoner "at first there is extreme evidence of horror, pain, strangling. The eyes pop, they turn purple, they drool. It is a horrible sight. Witnesses faint. It finally is as though he has gone to sleep." It is controversial how quickly the prisoner loses consciousness. Some medical experts believe cyanide poisoning amounts to slow, agonizing strangulation. It was reported that Caryl Chessman gave a prearranged signal six minutes after the gas reached him. The last execution in the United States, the gassing of Luis Jose Monge in Colorado in June of 1967, produced this eyewitness account:

"According to the official execution log unconsciousness came more than five minutes after the cyanide splashed down into the sulphuric acid. And to those of us who watched, this five minute interlude seemed interminable. Even after unconsciousness is declared officially, the prisoner's body continues to fight for life. He coughs and groans. The lips make little pouting motions resembling the motions made by a goldfish in his bowl. The head strains back and then slowly sinks down to the chest. And in Monge's case, the arms, although tightly bound to the chair, strained at the straps, and the hands clawed torturously as if the prisoner were struggling for air.—*The Case Against Capital Punishment at 34–73.*

Mr. TUNNEY. Mr. President, I urge my colleagues to vote against S. 1401, the mandatory death penalty bill. This measure represents a step backward in human development, a return to a darker age of retribution and vindictiveness which I hoped had been put behind us forever when the Supreme Court outlawed the death penalty.

I firmly believe that it is wrong to take human life. Against this fundamental precept, I can find no countervailing arguments which would justify imposition of the death penalty by the State. Many studies have been done in recent years on the supposed deterrent effect of the death penalty, and they show that the correlation simply does not exist. Most persons who commit crimes are not thinking ahead of the danger of capture, let alone ultimate execution. Many crimes are committed in a fit of passion, or otherwise without premeditation. Surely persons committing such crimes are not deterred by the existence of the death penalty.

The conclusion that the death penalty has no effectiveness as a deterrent has been increasingly accepted by other nations and jurisdictions within the United States. Great Britain, Argentina, Germany, Iceland, Austria, Italy—all these nations have abolished the death penalty completely and they have not been deluged in a wave of crime because of it. There is nothing preordained about the existence of a death penalty; like slavery, it is dying out around the world because people are coming to the realization that it is an anachronism, without effectiveness or moral justification in a modern era.

Of course those of us who oppose the death penalty abhor murder, brutality, and the whole category of what were once called capital crimes just as much as those who support the death penalty.

And I believe the perpetrators of such crimes should be separated from society. I therefore favor life imprisonment without possibility of parole as a protection for society and as the penalty for those outrageous criminal acts for which some would impose death.

Within the United States, it is clear that, even before the Supreme Court decision, the death penalty was losing favor. The number of executions has been steadily declining for years, and more and more courts and State Governors were refusing to impose the death penalty. In the end, the penalty was being imposed so infrequently that its imposition had, truly, become an arbitrary matter. The mandatory death penalty as proposed under this bill would not, I think, add any greater certainty to the decisions being made by a criminal at the time of a crime. The whole scheme of aggravating and mitigating circumstances is so complicated that it is foolish to think any criminal will weigh these considerations in advance. I do not believe the bill as drafted will work, or will lessen the arbitrary nature of the death penalty.

Assuming, therefore, that the death penalty will continue to be infrequently imposed, we are faced with the hard fact that it will be invoked disproportionately against the poor, the mentally unstable, the minority individuals, the outcasts of society. This was the case before the death penalty was terminated by the Supreme Court, and this was, in my view, a disgrace. It should not be allowed to reoccur.

Human life is too precious to risk even one mistaken execution. Life is too precious to cheapen it by involving judges, juries, lawyers and the whole government apparatus in arguments about details of motivation and background, or the peculiar circumstances which occurred during a crime. The answer to crime is in better law enforcement techniques, and a better society which will combat the roots of crime. This anachronistic death penalty will neither lessen crime or increase the moral self-respect of our Nation. I severely doubt that this legislation will meet the Supreme Court's standard; I think this bill is unconstitutional. However, I also feel that it sets a very wrong tone for this Congress and this Nation to even adopt it. I hope the Senate will reject this mandatory death penalty bill.

Mr. EAGLETON. Mr. President, much of my public career has been in the field of law enforcement. As a prosecutor and as Attorney General of Missouri, I prosecuted capital cases, as was my sworn duty. My experience, and the experience of others in law enforcement, has been that the surest deterrent to crime is the effectiveness of police work in swift apprehension, effective and speedy trial, and the prompt imposition of sentence at the close of trial.

Criminal penalties unquestionably serve as a deterrent to crime. Thus, the solemn question we must resolve is whether the death penalty in aggravated cases is a sufficiently greater crime deterrent than, for example, life without parole, or life imprisonment, or a sentence of 99 years.

Available studies and scientific research tell us that:

First. Death penalty jurisdictions do not have a lower rate of homicides than nondeath penalty jurisdictions;

Second. In jurisdictions which abolish the death penalty, abolition has no influence on the rate of criminal homicide;

Third. Jurisdictions which reintroduce the death penalty after its temporary abolition do not show a decreased rate of crime after its reinstatement; and

Fourth. Police officers and prison guards do not suffer a higher rate of criminal assault or homicide in abolition States than in death penalty States.

I submit that in our society the proponents of the death penalty must carry the burden of proving the necessity of execution and I submit, absent emotion, they cannot and do not carry that burden.

Indeed, the brutalizing horror of an execution is such that the sensibilities of our society insist that it be done in private, usually at the stroke of midnight, rather than publicly in the courthouse square or on national TV.

If by some miracle we could restore the life of the innocent victim by taking the life of the culprit, then the death penalty could be absolved as an act of restoration. Absent that miracle and thus standing alone, it is an act of retribution.

God's most precious gift is life itself. The quest of civilization has been to enhance and enrich the sanctity of life, to nourish it, to give it fuller meaning. My personal belief is that we are placed on earth not to play God but to do His work. His way is not served by useless acts of retribution.

Mr. BARTLETT. Mr. President, I want to thank the Committee on the Judiciary and the administration on the excellent job they have done on preparing legislation to reimplement the death penalty for certain prescribed crimes. I am proud to be a cosponsor of this legislation.

In striking down the death penalty the Supreme Court in Furman against Georgia weaved what appeared to be an insoluble maze around capital punishment. S. 1401 appears to have avoided the multiple hazards of the Furman case and will give the judiciary the means to impartially impose the death penalty for the commission of the most serious crimes.

The 1972 Furman case exposed the inconsistencies, the unfairness and the discrimination which unfortunately was present in many capital punishment cases prior to that time.

It is impossible to completely eliminate human frailty and error from our criminal justice system. So long as man drafts and executes our laws they will not be perfect.

But S. 1401, by carefully setting guidelines for the imposition of death has greatly reduced the chance for unfairness.

I have long been convinced of the deterrent value of the ultimate penalty for extreme criminal conduct in reducing the number of heinous crimes. After many conversations with law and judicial enforcement officers during my term as Governor this view was reinforced.

Capital punishment is not only justified but necessary for several reasons.

Society must be in the position to protect itself from the Mansons, the Oswalds, the Rays, and other vicious persons who prey on innocent victims.

Society should be able to express its moral outrage at the most abominable crimes by providing that ultimate punishment.

Certainly the death penalty eliminates the possibility that a Charles Manson will again wreak terror on a prison guard or other innocent bystander.

Basically, S. 1401 does the following: it provides that capital punishment be imposed for certain prescribed crimes, including treason, espionage, murder, and aircraft hijacking, and kidnaping where death results. However, death cannot be imposed unless certain mitigating circumstances are absent and unless one or more aggravating factors is present. For instance, a mitigating factor would be the age of an offender. The sentence may not be imposed on anyone under 18. An aggravating factor could be the manner in which the crime was committed. For instance, a murder for hire.

I am convinced that this is one of the most important pieces of legislation which Congress will consider this year. Government has no higher responsibility than the protection of its citizens. S. 1401 will provide better protection. What we do will not go unnoticed by the criminal community. By passage of S. 1401 Congress will be saying that society will not tolerate certain types of conduct. And every potential murderer, hijacker, kidnaper will be on notice of the consequences of his conduct.

Mr. President, I fully support S. 1401 and urge its passage by this body.

Mr. KENNEDY. Mr. President, I make a motion to recommit, and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to recommit. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MONDALE), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 35, nays 53, as follows:

[No. 74 Leg.]

YEAS—35

Abourezk
Aiken
Biden
Brooke
Burdick
Case
Clark
Cranston
Eagleton
Gravel
Hart
Hartke
Haskell
Hathaway
Hughes
Humphrey
Inouye
Javits
Kennedy
Mathias
McGovern
McIntyre
Metcalf
Metzenbaum
Muskie
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Stevenson
Tunney
Weicker
Williams

NAYS—53

Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cook
Curtis
Dole
Domenici
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Helms
Hruska
Huddleston
Jackson
Johnston
Long
Magnuson
McClellan
McClure
McGee
Montoya
Moss
Nunn
Randolph
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Symington
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—12

Bennett
Cotton
Dominick
Eastland
Fong
Fulbright
Hatfield
Hollings
Mansfield
Mondale
Nelson
Packwood

So the motion to recommit was rejected.

Mr. McCLELLAN. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time on final passage of the bill be limitel to 10 minutes and that the warning bells be sounded after the first 2½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I wish to remind Senators that there is an important matter to be taken up immediately following the passage of this bill. The Senator from Louisiana (Mr. LONG) already has addressed himself to that.

Mr. HUGHES. Mr. President, I am going to take 2 or 3 minutes now to express my opinion on this bill before final passage.

It is obvious the decision is already made and the outcome is known. I would rather that the Senate of the United States had taken this time to take a major step into light for the world rather than to continue the darkness that furthers the savagery and the brutality of mankind everywhere we look today. I say these things without any reflection upon colleagues who feel just as deeply in favor of the legislation as I feel in voting against it.

In all probability we feel that way for the same basic, fundamental reasons: The defense and safety of public society and care for those who have suffered the brutality of murder and murders.

But I would that I could have used my time debating this bill in explaining the personal agony I feel for those who have suffered as victims of crimes, as well as the agony I feel for those killed by the State.

In making my way through my life and making mistakes myself, I have arrived at a conclusion, rightly or wrongly, that man cannot make the world a better place to live in by returning brutality for brutality; neither can he increase the hope and the chance of civilization by inflicting pain and agony on others simply because they inflicted pain and agony.

I would that the evolution of man were such and the love of man were such that we no longer killed each other, nor robbed, nor took advantage of each other, but when those of us who have been victimized by these crimes force the same pain and agony to be inflicted in retribution, we have not, in my opinion, furthered the cause of hope or respect for human life.

It is regrettable that conditions in the world have not changed in so many centuries that we continue to build engines of death and tell ourselves that is the way to achieve peace; that we continue to kill each other, telling ourselves it is the way to maintain order, when we know deep within us that the only solution is not a solution of the physical but one of the spiritual.

I believe sincerely in redemption. It is obvious we are going to take what in my opinion is a step into the past after 7 and almost 8 years without an execution in this country, a beginning again of returning to a means that should be abandoned forever. It requires risk and it may well take further life to take the stand in the direction I urge, but the risk and the hope for mankind in the future by taking it would be an advantage, I believe, to all our children and our grandchildren.

In conclusion, Mr. President, and distinguished colleagues, I would say and hope that in the voting on this bill, although it is going to pass today, that we could all join together at least in the hope that in the workings and the conclusions that we make in the Senate and in the Congress we continue to lead by light those people who obviously live in darkness, as well as those who are not looking for light, and be willing to take the risk that men have taken throughout all history.

There is something beside savagery, pain, and fulfillment of that baseness in man, and this is not the way to do it. It may be the best way that we collectively know today, but ultimately mankind must abandon these methodologies of settling the cruelties that arise in a few.

I thank you, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, no issue can touch deeper in the hearts of all Americans than can the imposition of the death penalty for certain crimes. It is an issue for which strong arguments rest on both sides; but, in the final analysis, I believe that society as a whole can best be served by having the death penalty as a possible punishment for certain heinous crimes.

Therefore, I support S. 1401, a bill to establish rational criteria for the imposition of capital punishment. And my support for this legislation stems in large part from the tireless work done by the Committee on the Judiciary, which took every precaution to assure that the death penalty would only be meted out for the most serious of offenses and that, when such a sentence is clearly called for, it would be administered fairly.

As we are all well aware, the Supreme Court, in Furman against Georgia, found serious constitutional problems in the manner in which capital punishment was being meted out. Varying State laws, and juries with too much discretion, resulted in some criminals being sentenced to death for identical crimes for which other defendants received lesser sentences.

S. 1401 addresses itself to the confusion that caused that Supreme Court decision. For one thing, the imposition of capital punishment would follow a separate hearing on the issue before the trial jury, a different jury, or the judge alone; and it makes mandatory an appellate review of every death sentence. For another thing, the death penalty would be imposed for specific crimes; namely, treason, espionage, murder, and homicide committed during the crimes of sabotage, skyjacking, kidnaping, arson, and escape from custody.

The Judiciary Committee is to be commended for the effort that went into this legislation, and for the manner in which it dealt with the serious objections to the death penalty.

There are those who feel that the death penalty is not a deterrent to crime. But statistics on the value of capital punishment as a deterrent are inconclusive, and, in the absence of positive proof one way or the other, the committee rightly relied on the testimony of experienced law enforcement officers—men who deal on a day-to-day basis with the worst criminals in our society. The law enforcement officials were almost unanimous in the belief that the threat of capital punishment does indeed prevent criminals from committing the most serious crimes. My own feeling is that the death penalty can be an effective deterrent to certain crimes, especially the crime of premeditated murder. A mandatory death sentence for murder, for instance, could convince burglars not to kill their victims; and mandatory capital punishment for a death that occurs in a rape could result in not only fewer rape-murders, but also fewer rapes.

Another primary objection to capital punishment is the fear that a mistake could be made in administering the death penalty—that the life of an innocent defendant could be snuffed out by the State. There is no way that society can be 100-percent certain that such a mistake would not occur, and the possibility of such a fatal error is one of the reasons why so many safeguards—for example, the appellate review—are contained in S. 1401. It is also worth noting that Supreme Court decisions over the past several years have gone a long way toward assuring defendants and convicted criminals of their constitutional rights—if anything, those Supreme Court decisions have been weighted too heavily in favor of the criminal. Therefore, the possibility of the wrong man being sentenced to death is far more remote today than it has ever been before; and the argument that the possibility of a mistake should prevent our carrying the death penalty on the books is less valid today than ever before.

It is wrong, Mr. President—very wrong—for anyone to suggest that favoring the death penalty means lack of consideration or respect for human life. Quite the contrary, I favor the death penalty—a death penalty evenly administered for specific crimes—precisely because it offers protection to all of society from the heinous acts of a very few of its members. And the Judiciary Committee expressed this same feeling when, in its report, it said:

> The conclusion in favor of the retention of capital punishment has its basis in the belief that the primary responsibility of society is the protection of its members so that they might live out their lives in peace and safety.

This is a feeling that is also shared by the majority of American citizens, as well. In the Gallup oll of November 1972—the latest Gallup survey on the subject—57 percent of those persons interviewed said they favored capital punishment. And the Harris survey of 1973 showed that 59 percent of those persons interviewed favored capital punishment.

Those respondents were not expressing any lust for blood, or even a desire for vengeance. They were expressing a desire for the kind of justice that metes out punishment that fits the crime, and that keeps in mind that the vast majority of our citizens need—and are demanding—adequate protection from a vicious criminal element.

I believe that S. 1401 would be beneficial to society, and I am hopeful that it will be enacted into law.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado (Mr. DOMINICK) and the Senator from Oregon (Mr. HATFIELD) would each vote "nay."

The result was announced—yeas 54, nays 33, as follows:

[No. 75 Leg.]

YEAS—54

Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cook
Curtis
Dole
Domenici
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Haskell
Helms
Hruska
Huddleston
Jackson
Johnston
Long
Magnuson
McClellan
McClure
McGee
Montoya
Moss
Nunn
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stennis
Stevens
Symington
Taft
Talmadge
Thurmond
Tower
Young

NAYS—33

Abourezk
Aiken
Biden
Brooke
Burdick
Case
Clark
Cranston
Eagleton
Gravel
Hart
Hartke
Hathaway
Hughes
Humphrey
Inouye
Javits
Kennedy
Mathias
McGovern
McIntyre
Metcalf
Metzenbaum
Muskie
Pastore
Pearson
Pell
Percy
Proxmire
Stevenson
Tunney
Weicker
Williams

NOT VOTING—13

Bennett
Cotton
Dominick
Eastland
Fong
Fulbright
Hatfield
Hollings
Mansfield
Mondale
Nelson
Packwood
Sparkman

So the bill (S. 1401) was passed, as follows:

S. 1401

An act to establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 227 of title 18 of the United States Code is amended by adding after section 3562 a new section 3562A, to read as follows:

"§ 3562A. Sentencing for capital offenses

"(a) A person shall be subjected to the penalty of death for any offense prohibited by the laws of the United States only if a hearing is held in accordance with this section.

"(b) When a defendant is found guilty of or pleads guilty to an offense for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered shall conduct a separate sentencing hearing to determine the existence or nonexistence of the factors set forth in subsections (f), (g), and (h) for the purpose of determining the sentence to be imposed. The hearing shall not be held if the government stipulates that none of the applicable aggravating factors set forth in subsections (g) and (h) exists or that one or more of the mitigating factors set forth in subsection (f) exists. The hearing shall be conducted—

"(1) before the jury which determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury which determined the defendant's guilt has been discharged by the court for good cause; or

"(D) appeal of the original imposition of the death penalty has resulted in a remand for redetermination of sentence under this section; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the court and of the government.

"(c) In the sentencing hearing the court shall disclose to the defendant or his counsel all material contained in any presentence report, if one has been prepared, except such material as the court determines is required to be withheld for the protection of human life or for the protection of the national security. Any presentence information withheld from the defendant shall not be considered in determining the existence of the factors set forth in subsections (g) and (h) or the nonexistence of factors set forth in subsection (f). Any information relevant to any of the mitigating factors set forth in subsection (f) may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials; but the admissibility of information relevant to any of the aggravating factors set forth in subsections (g) and (h) shall be governed by the rules governing the admission of evidence at criminal trials. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the factors set forth in subsections (f), (g), and (h). The burden of establishing the existence of any of the factors set forth in subsection (g) and (h) is on the government. The burden of establishing the existence of any of the factors set forth in subsection (f) is on the defendant.

"(d) The jury or, if there is no jury, the court shall return a special verdict setting forth its findings as to the existence or nonexistence of each of the factors set forth in subsection (f) and as to the existence or nonexistence of each of the applicable factors set forth in subsections (g) and (h).

"(e) If the jury or, if there is no jury, the court finds, beyond a reasonable doubt, that one or more of the applicable aggravating factors set forth in subsection (g) or (h) exists, the court shall sentence the defendant to death, except that if such jury or court, as the case may be, finds by a preponderance of the information that one or more of the mitigating factors set forth in subsection (f) exists, the court shall not sentence the defendant to death but shall impose any other sentence provided for the offense for which the defendant was convicted.

"(f) (1) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in subsection (d) that at the time of the offense—

"(A) he was under the age of eighteen;

"(B) his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution;

"(C) he was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution;

"(D) he was a principal, as defined in section 2(a) of this title, in the offense, which was committed by another, but his participation was relatively minor, although not so minor as to constitute a defense to prosecution; or

"(E) he could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which he was convicted would cause, or would create a grave risk of causing, death to any person.

"(2) (A) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in subsection (d) that the action resulting in the offense for which the defendant was convicted involved the holding or detaining by the defendant of one or more individuals as hostage or otherwise and that, on the basis of an assurance given to him by the Attorney General or his delegate to the effect that the release of any and all such individual or individuals then held or otherwise detained would be considered a mitigating factor for purposes of this subsection, the defendant thereafter released any and all such individual or individuals on the basis of that assurance: *Provided*, That any such promise of assurance made by the Attorney General or his delegate, made prior to the release of such hostages, shall not be binding on the United States, the Attorney General, his delegate, or any court of the United States.

"(B) In any sentencing hearing involving a defendant who received an assurance in accordance with the provisions of subparagraph (A) of this paragraph and who, on the basis thereof, released any and all individual or individuals held or detained by him at the time such assurance was given, the Attorney General shall certify that information to the court conducting such hearing and such certification shall be deemed a mitigating factor for purposes of this subsection.".

"(3) For purposes of determining the existence of mitigating factors under this section, the provisions of this section relating thereto shall be liberally construed.

"(g) If the defendant is found guilty of or pleads guilty to an offense under section 794 or section 2381 of this title and if no mitigating factor set forth in subsection (f) is present, the court shall impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in subsection (d) that—

"(1) the defendant has been convicted of another offense under one of such sections, committed before the time of the offense, for which a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; or

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

Provided, That if the charge is under section 794(a) of this title, the sentence of death shall not be imposed unless the jury or, if there is no jury, the court further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack, war plans, communications intelligence or cryptographic information or any other major weapons system or major element of defense strategy.

"(h) If the defendant is found guilty of or pleads guilty to murder or any other offense for which the death penalty is available because death resulted and if no mitigating factor set forth in subsection (f) is present, the court shall impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in subsection (d) that—

"(1) the death or injury resulting in death occurred during the commission or attempted commission of or during the immediate flight from the commission or attempted commission of an offense under section 751 (Prisoners in custody of institution or officer), section 794 (Gathering or delivering defense information to aid foreign government), section 844(d) (Transportation of explosives in interstate commerce for certain purposes), section 844(f) (Destruction of government property by explosives), section 844(i) (Destruction of property in interstate commerce by explosives), section 1201 (Kidnaping), or section 2381 (Treason) of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(i)) (Aircraft piracy);

"(2) the defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, committed either before or at the time of the offense, for which a sentence of life imprisonment or death was authorized by statute;

"(3) the defendant has previously been convicted of two or more State or Federal offenses with a penalty of more than one year imprisonment, committed on different occasions before the time of the offense, involving the infliction of serious bodily injury upon another person;

"(4) in the commission of the offense the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value; or

"(8) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, or if there is no Vice President, the officer next in order of succession to the office of the President of the United States, the Vice-President-elect, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent of a foreign nation;

"(C) a foreign official listed in section 1116(b)(1) of this title, if he is in the United States because of his official duties; or

"(D) a Justice of the Supreme Court, a Federal law-enforcement officer, or an employee of a United States penal or correctional institution, while performing his official duties or because of his status as a public servant. For purposes of this subsection a 'law-enforcement officer' is a public servant authorized by law or by a government agency to conduct or engage in the prevention, investigation, or prosecution of an offense.

"(i) In no event shall a sentence of death be carried out upon a pregnant woman.

"(j) In any case in which a jury finds the existence of any factor set forth in subsection (g) or (h) of this section and finds that none of the factors set forth in subsection (f) exists, the court shall, if it determines such findings with respect to subsection (f), (g), or (h) to be clearly erroneous, set aside the special verdict of the jury and impose a sentence other than death."

SEC. 2. Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 3. Section 844(d) of title 18 of the United States Code is amended by striking therefrom the words "as provided in section 34 of this title".

SEC. 4. Section 844(f) of title 18 of the United States Code is amended by striking therefrom the words "as provided in section 34 of this title".

SEC. 5. Section 844(i) of title 18 of the United States Code is amended by striking therefrom the words "as provided in section 34 of this title".

SEC. 6. The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life."

SEC. 7. Section 1116(a) of title 18 of the United States Code is amended by striking the words "except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life".

SEC. 8. Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and if the death of any person results, shall be punished by death or life imprisonment".

SEC. 9. The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. 10. The fifth paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 11. Section 2031 of title 18 of the United States Code is amended by deleting the words "death, or".

SEC. 12. Section 2113(e) of title 18 of the United States Code is amended by striking therefrom the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof the words "or may be punished by death if death results".

SEC. 13. Section 902(i)(1) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(i)(1)), is amended to read as follows:

"(1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished—

"(A) by imprisonment for not less than twenty years; or

"(B) if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life."

SEC. 14. The analysis of chapter 227 of title 18 of the United States Code is amended by inserting after item 3562 the following new item:

"3562A. Sentencing for capital offenses.".

SEC. 15. Chapter 235 of title 18 of the United States Code is amended by inserting immediately after section 3741 thereof the following new section:

"§3742. Appeal from sentence of death

"In any case in which the sentence of death is imposed after a proceeding under section 3562A of chapter 227 of this title, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Such review shall have priority over all other cases. On review of the sentence, the court of appeals shall consider the record, including the entire presentence report, if any, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the findings under section 3562A (d). If the court of appeals finds that: (1) the procedures employed in the sentencing hearing were not contrary to law, or were contrary to law only in a manner constituting harmless error, and (2) the findings under section 3562A(d) were not clearly erroneous, or were clearly erroneous but the sentence was not affected, it shall affirm the sentence. If the court of appeals finds that the procedures employed in the sentencing hearing were contrary to law in a manner not constituting harmless error, it shall set aside the sentence and remand the case for redetermination of sentence in accordance with section 3562A. If the court of appeals finds that a finding under section 3562A(d) was clearly erroneous and that the sentence was affected by such clearly erroneous finding, it shall set aside the sentence and remand the case for imposition of a sentence other than death. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.

SEC. 16. The analysis of chapter 235 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3742. Appeal from sentence of death.".

SEC. 17. The provisions of sections 3562A and 3742 of title 18 of the United States Code, as added by this Act, shall not apply to prosecution under the Uniform Code of Military Justice (10 U.S.C. 801).

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLELLAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR SECRETARY OF SENATE TO MAKE TECHNICAL AND CLERICAL CORRECTIONS IN ENGROSSMENT OF S. 1401

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make such technical and clerical corrections as necessary in the engrossment of S. 1401.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR LIMITATION OF TIME ON H.R. 13025

Mr. ROBERT C. BYRD. Mr. President, the matter which the distinguished Senator from Louisiana (Mr. LONG) is going to call up at this time by unanimous consent is of such urgency that it is important that the matter be acted upon before we adojurn today to go over until next Tuesday.

I therefore ask unanimous consent that there be a time limitation on this matter of 20 minutes to be equally divided between the Senator from Louisiana (Mr. LONG) and the Senator from Nebraska (Mr. CURTIS) and that no amendments to the measure be in order other than the committee amendment.

Mr. JAVITS. Mr. President, if the Senator will yield, I will not object. I want to be sure that if any effort is made to affect the committee amendment, our other rights would not be foreclosed to affect that amendment. Is that correct?

Mr. ROBERT C. BYRD. The Senator is correct.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

The Chair hears none, and it is so ordered.

PAYMENT OF BENEFITS TO THE DISABLED UNDER THE SOCIAL SECURITY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 13025 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 13025) to increase the period during which benefits may be paid under title XVI of the Social Security Act on the basis of presumptive disability to certain individuals who received aid, on the basis of disability, for December 1973, under a State plan approved under title XIV or XVI of that act.

Mr. LONG. Mr. President, I ask unanimous consent that Michael Stern, Joseph Humphreys, and Bill Galvin of the Finance Committee staff be granted the privilege of the floor during the consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that Gene Mittelman be granted the privilege of the floor during the consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the committee amendment.

The legislative clerk read as follows:

SEC. 2. (a) The last sentence of section 203(e)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 (as added by section 20 of Public Law 93–233) is amended by striking out "April" and inserting in lieu thereof "July".

(b) In the case of an advance or advances to the unemployment account of a State under title XII of the Social Security Act made before the date of enactment of this subsection, section 3302(c)(3) of the Internal Revenue Code of 1954 shall be applied as if the "second consecutive January 1" referred to in subparagraph (A)(i) of such section were January 1, 1975, or, if later, such second consecutive January 1 as determined under such subparagraph without regard to the provisions of this subsection.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the committee amendment.

The PRESIDING OFFICER. Is there a sufficient second (putting the question)? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, H.R. 13025 would permit payments under the new supplemental security income (SSI) program to be made up for up to 12 months on the basis of presumptive disability to certain individuals who were formerly on the rolls of State programs of aid to the disabled. The bill is necessary because the Social Security Administration will not be able to complete its final determinations as to the disability of about 160,000 of these individuals within the 3-month period during which existing law permits SSI payments to be made on the basis of presumptive disability. Under the bill, payments can be continued until the necessary disability determinations are made, but not beyond December 1974.

The Committee bill would also continue for an additional 3 months a temporary provision in Public Law 93–233 with respect to the extended unemployment compensation program.

Under this provision, States can elect to come under the program which provides for 13 weeks of extended benefits beyond the expiration of regular unemployment benefits, if the insured unemployment rate in the State is at least 4 percent, without meeting the permanent law requirement that the rate also has increased by 20 percent over the prior 2 years. The provision in Public Law 93-233 expires March 31, 1974 and the committee bill extends this through June 30, 1974.

Present law allows States up to 2 years in which to pay back advances which they may receive from the Federal Government if they need them in order to pay unemployment compensation benefits. The committee bill would allow an additional year for repayment to States whose advances would otherwise be due for repayment this year.

Mr. President, if the committee bill is not enacted, thousands of disabled persons will have their SSI benefits abruptly stopped at the end of this month. In addition, there will be a cutoff of the Federal funding which underwrites one-half the cost of extended unemployment benefits for thousands of unemployed persons who are either now eligible to receive these benefits or who will become eligible for benefits during the next 3 months.

The Senate voted last year to modify the extended benefit program as a matter of permanent law. The measure which the Senate passed as an amendment to H.R. 3153 is in conference with the House and though we are hopeful to resume action soon, that conference will not be resolved by the end of this month, when the present temporary program expires. So unless the committee amendment is enacted, as of the first of next month the program would come to an end and a great number of unemployed persons receiving benefits would lose those benefits.

Mr. President, I wish to compliment the Senator from Connecticut (Mr. RIBICOFF) for his interest and leadership in offering the unemployment compensation amendment which was, I believe, unanimously agreed to by the committee. He has shown again, as he has so many times in the past, what an effective legislator he is.

His amendment is important not only in Connecticut, but also in some 20 other States, and it would affect many thousands of unemployed workers.

I would also like to commend the Senator from New York (Mr. JAVITS), who has provided leadership in this area for some time. He has often directed our attention to the fact that unless the unemployment law is modified, a good many unemployed people in this country will be disadvantaged because of our failure to act.

Mr. President, I also commend the Senator from California (Mr. CRANSTON) for his key role in helping to bring about an understanding under which this bill could be taken up, the committee amendment could be agreed to, and the bill could be passed without involving various other matters of importance which Senators would like to offer as amendments but which could have endangered passage of the bill.

I know that the Senator from California is very much concerned over this measure both with regard to unemployed persons and those receiving disability benefits under the SSI program. It is no exaggeration to say that without his efforts, the bill could not have been brought up today and it might have been delayed to the point of causing serious problems for disabled and unemployed persons.

Mr. RIBICOFF. Mr. President, I take this opportunity to praise the chairman for his understanding of a very important matter at an uncertain time.

This matter has great meaning to the people of the State of Connecticut. Without the cooperation of the chairman of the committee, we would not have been able to be successful.

I want to call attention, too, to the distinguished Senator from Washington (Mr. MAGNUSON), whose problems are similar to those of Connecticut and who spoke to me about these problems.

Always in the Finance Committee I was equally concerned along with the Senator from Washington for his own people.

The Senator from New York (Mr. JAVITS) and the Senator from California (Mr. CRANSTON), who had similar problems, had spoken to me before the Finance Committee meeting. I was more than pleased to be able to introduce the amendment in the Finance Committee. This legislation contains three proposals—two of them broadening unemployment benefits in Connecticut and the other assuring continued aid to the disabled.

The first Ribicoff measure assures the continuation of the extended benefits unemployment program. Under present law, workers are entitled to 13 weeks of extended unemployment benefits in addition to their original 26 weeks of compensation. This special program is applicable only in States where the insured unemployment rate is increasing by 20 percent over the previous 2 years. This 20 percent provision was waived last December and as a result, Connecticut will become eligible for the extended program. The waiver, however was good only through March 31, 1974.

The Ribicoff proposal extends this waiver through June 30, 1974.

The second Ribicoff unemployment proposal is designed to alleviate a problem unique to the State of Connecticut. Because of increasing Connecticut unemployment, the State's unemployment fund in the last 2 years has had to borrow $53.5 million from the Federal Government to pay benefits to unemployed Connecticut workers. Connecticut will be unable to make full payment of that loan when it falls due in November of 1974 because of increased demands on its unemployment fund. As a result the law requires the Federal Government to impose steadily increasing unemployment taxes on Connecticut businesses.

An increased tax burden on these firms at this time is unfair. Many marginal employers may be forced to close if the Federal Government increases its tax load.

The Ribicoff proposal provides a 1-year delay for Connecticut in its loan repayment schedule. This will give Connecticut an opportunity to strengthen its unemployment reserves without suffering Federal tax penalties.

The third measure is identical to S. 3069 which I introduced on February 27, 1974.

It assures that disabled persons will not be arbitrarily cut off the rolls of aid to the disabled at the end of March. A provision in present law required the redetermination of eligibility for all disabled persons who began to receive aid in the last half of 1973. The Social Security Administration has until March 31 to redetermine the eligibility of these people. Those whose eligibility is not redetermined by that time would be cut off the rolls through no fault of their own. It would provide enough time—through December 1974—to redetermine the eligibility. And at the same time it assures that between 2,000 and 5,000 disabled people in Connecticut will continue to receive the aid to which they are entitled.

Mr. CRANSTON. Mr. President, I thank the distinguished chairman of the committee for his magnificent work in moving this measure so swiftly and effectively and in a way that will save a tremendous number of people very great hardship not only in my State, but also in every other State in the Union.

It is a very wonderful piece of work by the chairman of the committee. I am very grateful and appreciate his remarks made about me.

Mr. President, I urge the Senate to act immediately to preserve SSI benefits for tens of thousands of disabled SSI beneficiaries who are in danger of loosing their assistance at the end of this month unless the Senate moves today to pass H.R. 13025 as reported from the Finance Committee, the bill we now have before us.

H.R. 13025, which has already passed the House by an overwhelming majority, would authorize payment of supplemental security income—SSI—benefits, on the basis of presumptive disability, for up to 12 months, to otherwise eligible individuals who became recipients of State administered disability assistance during the second half of calendar year 1973. The additional time would allow the Social Security Administration, which administers SSI, to complete the eligibility review, required under a provision of Public Law 93-233, as well as insure that no disabled person loses his or her benefits without a clear determination of their ineligibility.

It hardly need be said that the loss of assistance would cause undue hardship to a group of persons who already face great personal trials. However, unless H.R. 13025 is enacted, some 27,463 disabled individuals in California alone—and some 234,769 disabled SSI recipients nationwide—will suddenly be cut off from assistance, due to no fault of their own.

Mr. President, I ask unanimous consent at this time that the following chart, prepared by the Social Security Administration and showing the estimated numbers of disabled SSI recipients affected in each of the 50 States be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

STATE WELFARE AGENCIES' ROLLBACK WORKLOAD AS AMENDED FEB. 27, 1974

State	Active workload [1]	Supplemental lists sent to States, Feb. 25–27 [2]
Alabama	2, 671	588
Alaska	428	23
Arizona	1, 857	68
Arkansas	1, 934	180
California	27, 463	2, 595
Connecticut	5, 004	3, 683
Colorado	3, 563	244
Delaware	355	62
British Columbia	733	49
Florida	4, 192	448
Georgia	5, 186	515
Hawaii	793	45
Idaho	733	51
Illinois	15, 683	1, 171
Indiana	1, 636	113
Iowa	799	51
Kansas	1, 365	52
Kentucky	1, 818	1, 554
Louisiana	5, 512	356
Maine	1, 619	113
Maryland	8, 129	1, 043
Massachusetts	2, 093	1, 501
Michigan	9, 740	293
Mississippi	3, 889	441
Minnesota	3, 656	127
Missouri	3, 555	275
Montana	867	81
Nebraska	1, 172	30
Nevada	(3)	(3)
New Hampshire	235	18
New Jersey	4, 204	462
New Mexico	1, 932	300
New York	37, 081	10, 262
North Carolina	5, 882	945
North Dakota	382	8
Ohio	7, 571	416
Oklahoma	3, 152	291
Oregon	5, 195	941
Pennsylvania	15, 736	2, 326
Rhode Island	784	68
South Carolina	2, 694	292
South Dakota	230	5
Tennessee	5, 209	725
Texas	5, 427	679
Utah	1, 346	114
Vermont	568	39
Virginia	5, 082	394
Washington	10, 872	1, 389
West Virginia	2, 249	1, 556
Wisconsin	2, 069	273
Wyoming	384	2
Total	234, 769	37, 277

[1] Does not include accretions received February 1, 1974 or later.

[2] Included in [1].

[3] No APTD program.

Mr. CRANSTON. Mr. President, I want to express my very great appreciation to my many distinguished colleagues who worked with me so hard to resolve the impasse which was stopping this bill from prompt passage. I refer to the distinguished chairman of the Committee on Finance (Mr. Long) and the acting ranking minority member (Mr. Curtis); the principal sponsor of the Senate companion measure, S. 3069 (Mr. Ribicoff); the distinguished assistant majority leader, (Mr. Robert C. Byrd) and his counterpart on the minority side (Mr. Griffin); and the Senator from Massachusetts (Mr. Kennedy) and the Senator from New York (Mr. Javits), both of whom had such a great interest in this bill.

Mr. President, I also want specially to thank the staff director of the Finance Committee, Michael Stern, who has been so very cooperative with me in working out the difficult parliamentary situation which almost prevented us from acting in time to save 234,000 disabled Americans from destitution. Finally, I thank Jon Steinberg, my counsel on the staff of the Committee on Labor and Public Welfare, and Traer Sunley, my legislative aide on the committee, for their most effective assistance in the whole matter.

Mr. President, I am told that the Social Security Administration is prepared to begin issuing termination notices to these disabled SSI recipients by the 15th. I urge the Senate to move with all dispatch to pass this important legislation so that needless suffering can be averted. I have talked with colleagues on the House side and believe the other body should be able to accept the Senate amendment to H.R. 13025 added in committee to extend the additional 13 weeks of unemployment compensation eligibility for 3 more months and send the bill to the President tomorrow.

Mr. JAVITS. Mr. President, I join in the universal praise and thanks for Senator Long and in the prayer which we have uttered in this respect. I am particularly gratified by the Finance Committee's action on this amendment, as I was the one to have initiated this fight way back in 1972, and twice more in 1973.

The Senator from Connecticut (Mr. Ribicoff), showed a marvelous initiative in moving this matter through the committee.

This is a critical matter for New York. We have 60,000 claimants right now. The number is going to go to 100,000, according to official estimates prepared by the New York Department of Labor.

The amount of help provided by this interim measure is thus really extraordinary.

I think that every Member should be pleased that we can do such a thing in the Senate, and I express those sentiments for myself and for my junior colleague, Senator Buckley. Senator Buckley allowed me to speak for him since it would save time.

The Secretary of Labor would like to submit a different formulation of language. However, they realize the emergency nature of this measure. For that, we should thank Secretary Brennan.

Mr. President, I ask unanimous consent that a letter to Mr. Eugene Mittelman, of my staff, from Mr. Gerald E. Dunn, concerning the number of claimants in New York, be included in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

State of New York,
Department of Labor,
Albany, N.Y., February 28, 1974.

Mr. Eugene Mittelman,
Legislative Assistant, 326 Old Senate Office Building, Washington, D.C.

Dear Gene: The insured unemployment rate in New York for the 13 week period ending February 3 reached 4.13%; thus, we have triggered in the extended benefit program. The first compensable week will begin February 18, 1974. Claimants will report during the week of February 25 to certify that they were unemployed during the week of February 18. We, of course, are hopeful that the federal-state sharing can continue beyond March 31, 1974.

We estimate that as many as 60,000 claimants, who have exhausted their benefits will be eligible for extended benefits initially and that the number may climb to over 100,000.

Kindest personal regards.

Sincerely yours,

Gerald E. Dunn.

Mr. MAGNUSON. Mr. President, the Senator from Louisiana knows that all of us and many other Senators have done this now three times, I think it is.

I think it points up what the Senator from Louisiana has said. I do hope that we get a permanent law through which unemployment compensation would be triggered automatically when it reaches a certain unemployment level.

We have gone over this over and over again. We do not know whether 3 months will work. This affects thousands of people in my State and in Connecticut and in many other States.

I have said many times that as chairman of the exchequer in this country, the chairman of the Finance Committee is doing a wise thing.

If we do not extend unemployment insurance, and they have exhausted that and there are no jobs, they go on welfare, and that costs us more money in the long run than what we are doing here tonight.

Mr. LONG. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. Mr. President, I yield myself 3 minutes.

The passage of this bill—and I refer now to the part of it that came from the House of Representatives—is very important. Under the new SSI program, the Federal Government has assumed to a large extent the program for the aged blind and the disabled. It may have been that some of the States, about the time that the Federal Government did take over the burden for the disabled, increased their rolls. As a result, Congress passed an act that said there must be a redetermination as to each individual's disability, and gave the States 3 months to do it.

The program involves about 300,000 individuals and a great deal of administrative work. The disabled persons are not to blame. It has been an impossibility for the agencies involved to make the redetermination.

The House bill extends the time for this determination without these individuals having to go off the rolls. Without the passage of this legislation, quite a number of disabled individuals would be taken off the rolls and there would be no reason for doing so. It would not be the result of a reexamination. For that reason, it is important to the individuals involved and it is important to the States that we pass this legislation.

Now, as to the committee amendment, I shall not call for a yea and nay vote on it. I wish to state the position of the administration, having been in touch this afternoon, in the absence of the distinguished Senator from Utah (Mr. Bennett), with both HEW and the Department of Labor.

They would prefer the advancement of the administration's program for job disability or job maintenance, which is a larger package than this, but they realize also the urgency of the passage of the House bill. The committee amendment is not favored by the administration, but under the circumstances, and realizing also that there is overwhelming sentiment in this body for the committee amendment, no vote will be asked for with reference to the committee amendment.

Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed for a third reading, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER (Mr. BIDEN). The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. SYMINGTON), the Senator from Alabama (Mr. ALLEN), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MANSFIELD), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The result was announced—yeas 80, nays 0, as follows:

[No. 76 Leg.]

YEAS—80

Abourezk
Aiken
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
 Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Clark
Cook
Cranston
Curtis
Dole
Domenici
Eagleton
Ervin
Fannin
Goldwater
Gravel
Griffin
Gurney
Hansen
Hartke
Haskell
Hathaway
Helms
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Magnuson
Mathias
McClure
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Montoya
Moss
Muskie
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
 William L.
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—20

Allen
Bennett
Chiles
Church
Cotton
Dominick
Eastland
Fong
Fulbright
Hart
Hatfield
Hollings
Kennedy
Mansfield
McClellan
Mondale
Nelson
Packwood
Sparkman
Symington

So the bill (H.R. 13025) was passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

"An Act to increase the period during which benefits may be paid under title XVI of the Social Security Act on the basis of presumptive disability to certain individuals who received aid, on the basis of disability, for December 1973, under a State plan approved under title XIV or XVI of that Act, and for other purposes.".

PRIVILEGE OF THE FLOOR ON BUDGET REFORM BILL

Mr. LONG. Mr. President, I ask unanimous consent that during Senate consideration of S. 1541, the budget reform bill, including votes, Michael Stern and Joe Humphreys of the Finance Committee be permitted on the floor; and that during Senate consideration of S. 3044, the Federal election campaign reform bill, including votes, Michael Stern, Bob Willan, and Bill Morris of the Finance Committee be permitted on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. CANNON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 682, Senate Resolution 240.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 240) authorizing additional expenditures by the Committee on Banking, Housing and Urban Affairs for inquiries and investigations.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Rules and Administration with amendments on page 2, line 9, after the word "exceed", strike out "$700,000" and insert "$686,500"; in line 15, after the word "exceed", strike out "$340,000" and insert "$336,000"; and, on page 3, line 5, after the word "exceed", strike out "$230,000" and insert "$220,500".

Mr. CANNON. Mr. President, this resolution would authorize the Committee on Banking, Housing and Urban Affairs to expend not to exceed $700,000 during the next 12 months for inquiries and investigations.

During the last session of the Congress the committee was authorized to expend not to exceed $660,000 for that purpose. The committee estimates it will return approximately $60,000 of that amount to the Treasury.

The pending request includes an increase of $40,000 over last year's authorization.

The Committee on Rules and Administration has amended Senate Resolution 240 by reducing the requested amount from $700,000 to $686,500, a reduction of $13,500.

Senator SPARKMAN is chairman of the Committee on Banking, Housing and Urban Affairs and Senator TOWER is its ranking minority member.

Mr. President, I ask unanimous consent to have printed in the RECORD a tabulation containing pertinent information concerning the multiple inquiries contained within that resolution.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

Section No. and purpose	Amount			Subcommittee	
	Requested	Amendment	Approved	Chairman	Ranking minority member
3—General	$340,000	−$4,000	$336,000	Mr. Sparkman	Mr. Tower.
4—Housing, urban affairs	230,000	−9,500	220,500	Mr. Sparkman	Mr. Tower.
5—Securities industry	130,000	0	130,000	Mr. Williams	Mr. Brooke.
Total	700,000	−13,500	686,500		

Mr. CANNON. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

There being no objection, the amendments were agreed to en bloc.

The resolution, as amended, was agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Banking, Housing and Urban Affairs, or any subcommittee thereof, is authorized from

March 1, 1974, through February 28, 1975, for the purpose stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The Committee on Banking, Housing and Urban Affairs, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, to expend not to exceed $686,500 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries in accordance with such succeeding sections of this resolution.

SEC. 3. Not to exceed $336,000 shall be available for a study or investigation of—

(1) banking and currency generally;

(2) financial aid to commerce and industry;

(3) deposit insurance;

(4) the Federal Reserve System, including monetary and credit policies;

(5) economic stabilization, production, and mobilization;

(6) valuation and revaluation of the dollar;

(7) prices of commodities, rents, and services;

(8) securities and exchange regulations;

(9) credit problems of small business; and

(10) international finance through agencies within legislative jurisdiction of the committee.

SEC. 4. Not to exceed $220,500 shall be available for a study or investigation of public and private housing and urban affairs generally.

SEC. 5. Not to exceed $130,000 shall be available for an inquiry and investigation pertaining to the securities industry.

SEC. 6. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1975.

SEC. 7. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

FEDERAL ACT TO CONTROL EXPENDITURES AND ESTABLISH NATIONAL PRIORITIES

Mr. ROBERT C. BYRD. Mr. President, for the purpose of laying it before the Senate and making it the pending business, so that it will be the unfinished business upon the Senate's return, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 664, S. 1541.

The PRESIDING OFFICER (Mr. HUDDLESTON). The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1541) to provide for the reform of congressional procedures with respect to the enactment of fiscal measures; to provide ceilings on Federal expenditures and the national debt; to create a budget committee in each House; to create a congressional Office of the Budget; and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Government Operations with an amendment and from the Committee on Rules and Administration with amendments, as follows:

The amendment of the Committee on Government Operations was to strike out all after the enacting clause and insert:

That (a) this Act may be cited as the "Federal Act To Control Expenditures and Establish National Priorities".

(b) The Congress declares that because it is imperative to establish national goals and priorities for maximum utilization of Federal expenditures, and because it is imperative for the Congress to regain effective control over the budgetary process so it may determine those priorities, therefore it is deemed necessary—

(1) to establish a congressional budgeting system which facilitates establishment of national goals and priorities to meet the needs of a modern society and economy,

(2) to create budget committees with responsibility to oversee and establish fiscal guidelines for the proper implementation of national goals and priorities, and

(3) to develop a means for a constant and systematic review of existing programs to be certain that they are achieving the national objectives for which they were created.

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures of funds under budget authority during the fiscal year.

(2) The term "budget authority" means authority provided by law to enter into obligations which will result in immediate or future outlays.

(3) The term "tax expenditures" means those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability representing a deviation from the normal tax structure for individuals and corporations. The term "tax expenditures budget" means the enumeration of such tax expenditures as published by the House Ways and Means Committee in "Estimates of Federal Tax Expenditures". Such enumeration shall correspond to the functional classifications shown in the most recent budget of the United States.

(4) The term "permanent budget authority" means budget authority which becomes available from time to time without further action by the Congress.

(5) The term "concurrent resolution on the budget" means a concurrent resolution referred to in section 301 or 302.

TITLE I—ESTABLISHMENT OF SENATE AND HOUSE BUDGET COMMITTEES

BUDGET COMMITTEE OF THE SENATE

SEC. 101. (a) Paragraph 1 of rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following new subparagraph:

"(r)(1) Committee on the Budget, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"(A) The establishment of limitations on total budget outlays and on total new budget authority of the United States Government.

"(B) The establishment of appropriate levels of budget outlays and new budget authority for each committee of the Senate which has jurisdiction over legislation providing budget authority, based on allocations of the total budget outlays and total new budget authority referred to in clause (A), and the further subdivision of such allocations among the subcommittees of such committees or on the basis of major program groupings. In carrying out this function, the committee shall review and consider existing tax expenditures in each area of allocation and subdivision.

"(C) The determination of the amount, if any, by which budget outlays should exceed revenues, or revenues should exceed budget outlays, considering economic conditions and all other relevant factors.

"(D) The determination of the appropriate level of Federal revenues and the appropriate level of the public debt of the United States.

"(E) The determination of the amount, if any, by which the aggregate level of Federal revenues should be increased or decreased and the statutory limit on the public debt should be increased or decreased.

"(F) The determination of the existing levels of tax expenditures (the tax expenditures budget), and consideration of their effect on Federal revenues and their relationship to the matters set forth above.

"(G) The determination of the extent, if any, to which section 401 of the Federal Act To Control Expenditures and Establish National Priorities is to apply.

"(2) Such committee shall have the duty—

"(A) to report during each regular session of Congress at least one concurrent resolution dealing with the matters specified in clauses (A) through (G) of subparagraph (1), utilizing, in connection with the reporting of each such concurrent resolution, the reports of the Joint Economic Committee made under section 301(b) of the Federal Act To Control Expenditures and Establish National Priorities,

"(B) to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the Senate on a recurring basis,

"(C) to make continuing studies of tax expenditures and methods of coordinating the categories of tax expenditures policies and programs and direct budget outlays, and to report the results of such studies to the Senate on a recurring basis, and

"(D) to review, on a continuing basis, the conduct of its functions and duties by the Congressional Office of the Budget."

(b) The table contained in paragraph 2 of rule XXV of the Standing Rules of the Senate is amended by inserting after—

"Banking, Housing and Urban Affairs.. 15"
the following:
"Budget .... 15".

(c) Each meeting of the Committee on the Budget of the Senate, or any subcommittee thereof, including meetings to conduct hearings shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee or subcommittee, as the case may be, determines by record vote of a majority of the members of the committee or subcommittee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees, or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

(d) Paragraph 7(b) of rule XXV of the Standing Rules of the Senate and section 133A(b) of the Legislative Reorganization Act of 1946 shall not apply to the Committee on the Budget of the Senate.

BUDGET COMMITTEE OF THE HOUSE OF REPRESENTATIVES

SEC. 102. (a) Clause 1 of rule X of the Rules of the House of Representatives is amended by redesignating paragraphs (e) through (u), inclusive, as paragraphs (f) through (v), respectively, and by inserting after paragraph (d) the following new paragraph:

"(e) Committee on the Budget, to consist of ——— members."

(b) Rule XI of the Rules of the House of Representatives is amended by redesignating clauses 5 through 33, inclusive, as clauses 6 through 34, respectively, and by inserting after clause 4 the following new clause:

"5. Committee on the Budget.

"(a) The establishment of limitations on total budget outlays and on total new budget authority of the United States Government.

"(b) The establishment of appropriate levels of budget outlays and new budget authority for each committee of the House which has jurisdiction over legislation providing budget authority, based on allocations of the total budget outlays and total new budget authority referred to in paragraph (a), and the further subdivision of such allocations among the subcommittees of such committees or on the basis of major program groupings. In carrying out this function, the committee shall review and consider existing tax expenditures in each area of allocation and subdivision.

"(c) The determination of the amount, if any, by which budget outlays should exceed revenues, or revenues should exceed budget outlays, considering economic conditions and all other relevant factors.

"(d) The determination of the appropriate level of Federal revenues and the appropriate level of the public debt of the United States.

"(e) The determination of the amount, if any, by which the aggregate level of Federal revenues should be increased or decreased and the statutory limit on the public debt should be increased or decreased.

"(f) The determination of the existing levels of tax expenditures (the tax expenditures budget), and consideration of their effect on Federal revenues and their relationship of the matters set forth above,

(g) The determination of the extent, if any, to which section 401 of the Federal Act To Control Expenditures and Establish National Priorities is to apply.

"(h) The committee shall have the duty—

"(1) to report during each regular session of Congress at least one concurrent resolution dealing with the matters specified in paragraphs (a), (b), (c), (d), (e), (f), and (g), utilizing, in connection with the reporting of each such concurrent resolution, the reports of the Joint Economic Committee made under section 301(b) of the Federal Act To Control Expenditures and Establish National Priorities,

"(2) to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the House on a recurring basis,

"(3) to make continuing studies of tax expenditures and methods of coordinating the categories of tax expenditures policies and programs and direct budget outlays, and to report the results of such studies to the House on a recurring basis, and

"(4) to review, on a continuing basis, the conduct of its functions and duties by the Congressional Office of the Budget."

TITLE II—CONGRESSIONAL OFFICE OF THE BUDGET

ESTABLISHMENT OF OFFICE

SEC. 201. (a) In General.—There is hereby established an office of the Congress to be known as the Congressional Office of the Budget (hereafter in this title referred to as the "Office"). The Office shall be headed by a Director and there shall be in the Office a Deputy Director who shall perform such duties as may be assigned to him by the Director and, during the absence or incapacity of the Director or during a vacancy in that office, shall act as the Director. Both the Director and Deputy Director shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate with the approval of the Senate and the House of Representatives, given by resolution of each House. The Director and Deputy Director shall each serve at the pleasure of the Senate and the House of Representatives and may be removed by either House by resolution. The Director and Deputy Director shall each be appointed without regard to political affiliation and solely on the basis of his fitness to perform his duties. The Director shall receive the same compensation as the Comptroller General of the United States, and the Deputy Director shall receive compensation at the highest rate of basic pay payable under the General Schedule of section 5332 of title 5, United States Code.

(b) Personnel.—The Director shall appoint and fix the compensation of such professional, technical, clerical, and other personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties. The Director may delegate to personnel of the Office authority to perform any of the duties and functions imposed by this Act on the Office or on the Director. For purposes of benefits, rights, and privileges other than pay, the Director and Deputy Director shall be treated as if they were employees of the Senate. All other personnel of the Office shall be treated as if they were employees of the House of Representatives.

(c) Experts and Consultants.—In carrying out the duties and functions of the Office, the Director may procure the temporary (not to exceed one year) or intermittent services of experts or consultants or organizations thereof by contract as independent contractors, or in the case of individual experts or consultants by employment at rates of pay not in excess of the daily equivalent of the highest rate of basic pay payable under the General Schedule of section 5332 of title 5, United States Code.

(d) Relationship to Executive Branch.—

(1) Securing of information, etc.—The Director is authorized to secure all information, data, estimates, and statistics developed by the various departments, agencies, and establishments of the executive branch of the Government and regulatory agencies and commissions of the Government in the normal course of their operations and activities. All such departments, agencies, and establishments and regulatory agencies and commissions shall cooperate with the Director by furnishing to him that material which he determines to be necessary in the performance of his duties and functions.

(2) Utilization of services, etc.—In carrying out the duties and functions of the Office, the Director may, as agreed upon with the head of any department, agency, or establishment of the executive branch of Government or regulatory agency or commission of the Government, utilize the services, facilities, and personnel of such department, agency, or establishment or such regulatory agency or commission. The utilization of such services, facilities, and personnel may be with or without reimbursement by the Office as may be agreed to.

(3) Furnishing of information, services, etc.—The head of each department, agency, and establishment in the executive branch, or regulatory agency or commission, is authorized to provide the Office such services, facilities, and personnel under this subsection.

(e) Relationship to Other Agencies of Congress.—

(1) Coordination of operations.—The Office, the General Accounting Office, the Library of Congress, and the Office of Technology Assessment shall fully coordinate and cooperate in planning and conducting their operations to utilize most effectively the information, services, and capabilities of all congressional agencies in carrying out the various responsibilities assigned to each agency.

(2) Obtaining information, etc.—In carrying out duties and functions of the Office, the Director is authorized to obtain all information, data, estimates, and statistics developed by the General Accounting Office, the Library of Congress, and the Office of Technology Assessment in the normal course of their operations and *activities*. Requests for information, and the compliance with such requests, pursuant to this subsection shall be in accordance with procedures to be developed and agreed upon between the Director and the Comptroller General, the Librarian of Congress, and the Technology Assessment Board, respectively.

(3) Utilization of services, etc.—In carrying out the duties and functions of the Office, the Director may, as agreed upon with the Comptroller General, the Librarian of Congress, and the Technology Assessment Board, utilize the services, facilities, and personnel of the General Accounting Office, the Library of Congress, and the Office of Technology Assessment, as the case may be. The utilization of such services, facilities, and personnel may be with or without reimbursement by the Office as may be agreed to.

(4) Furnishing of information, services, etc.—The Comptroller General, the Librarian of Congress, and the Technology Assessment Board are authorized to provide the Office such services, facilities, and personnel under this subsection.

(5) Existing authorities not otherwise affected.—Except as otherwise specifically provided, nothing in this title shall be construed as modifying any existing authorities or responsibilities of the General Account-

ing Office, the Library of Congress, and the Office of Technology Assessment.

(f) Appropriations.—There are hereby authorized to be appropriated to the Office for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions. Until sums are first appropriated to the Office pursuant to the preceding sentence, the expenses of the Office shall be paid, upon vouchers approved by the Director, from the contingent fund of the House of Representatives.

DUTIES AND FUNCTIONS

Sec. 202. (a) Assistance to Budget Committees.—It shall be the duty and function of the Office to provide to the Committee on the Budget of both Houses information with respect to the budget, appropriation bills, other bills authorizing or providing budget authority or tax expenditures, and with respect to revenues, receipts, estimated future revenues and receipts, and changing revenue conditions. The Office shall also provide to the Committee on the Budget of either House such other related information as such committee may request. At the request of the Committee on the Budget of either House, personnel of the Office shall be assigned, on a temporary basis, to assist such committee.

(b) Assistance to Other Committees and Members.—At the request of any other committee of the Senate or the House of Representatives, any joint committee of the Congress, or any Member of the Senate or the House, the Office shall provide to such committee, joint committee, or Member any information compiled in carrying out the first sentence of subsection (a) and shall, to the extent practicable, provide other information requested with respect to the budget, appropriation bills, other bills authorizing or providing budget authority or tax expenditures, and with respect to revenues, receipts, estimated future revenue and recipts, changing revenue conditions, and related information. At the request of any such committee, joint committee, or Member, personnel of the Office may be assigned, on a temporary basis, to assist such committee, joint committee, or Member with respect to matters directly related to the items enumerated in the preceding sentence.

(c) Transfer of Functions of Joint Committee on Reduction of Federal Expenditures.—The duties and functions of the Joint Committee on Reduction of Federal Expenditures are transferred to the Office, and the Joint Committee is hereby abolished.

(d) Report on Revenues and Budget Outlays.—On or before May 1 of each year, and based on his estimates of revenues expected to be received by the United States Government during the fiscal year beginning on October 1 of such year, the Director shall report to the Congress with respect to alternative levels of revenues and outlays for such fiscal year. Such report shall also set forth the existing levels of tax expenditures (the tax expenditure budget) and an estimate, based on projected economic factors, of any anticipated change in the level of tax expenditures for such fiscal year. The Director may at any time thereafter submit subsequent reports to the Congress revising the report required by this subsection.

(e) Projection of Revenues and Budget Outlays.—The Director shall develop information with respect to the effect of existing laws on revenues and existing authorizations and budget authority on outlays during the current fiscal year and the ensuing four fiscal years. Such information shall include the effect of tax expenditures on revenues and outlays, and the effect of existing laws and existing authorizations and budget authority on tax expenditures.

(f) Use of Computers and Other Techniques.—The Director may equip the Office with up-to-date computer capability, obtain the services of experts and consultants in computer technology, and develop techniques for the evaluation of budgetary requirements, including the establishment of data files as required by section 902 of this Act.

PUBLIC ACCESS TO BUDGET DATA

Sec. 203. (a) Right To Inspect and Copy.—Except as provided in subsections (c) and (d), the Director shall make all information, data, estimates, and statistics obtained under sections 201(d)(1) and 201(e)(2) available for public inspection and copying during normal business hours. To the extent possible, he shall at the request of any person, furnish a copy of any such information, data, estimates, or statistics requested, upon payment by such person of the cost of making and furnishing such copy.

(b) Index.—The Director shall develop and maintain filing, coding, and indexing systems that identify the information, data, estimates, and statistics to which subsection (a) applies and shall make such systems available for public use during normal business hours.

(c) Exceptions.—Subsection (a) shall not apply to information, data, estimates, and statistics—

(1) which are specifically exempted from disclosure by Act of Congress; or

(2) which the Director determines will disclose—

(A) matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(C) personnel or medical data or similar data the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,

unless the portions containing such information have been excised.

(d) Information Obtained for Committees and Members.—Subsection (a) shall apply to any information, data, estimates, and statistics obtained at the request of any committee or Member of the Senate or the House of Representatives, or any joint committee of the Congress, unless the committee, Member, or joint committee making the request has instructed the Director not to make such information, data, estimates, or statistics available for public inspection and copying.

TITLE III—CONGRESSIONAL BUDGET PROCESS

The timetable with respect to the congressional budget process for any fiscal year shall be as follows:

On or before:	Action to be completed:
December 1	Current services budget to be sumbitted.
February 1	President's budget to be submitted.
April 15	Joint Economic Committee reports, and Joint Committee on Internal Revenue Taxation, appropriations, taxing, and other committees submit estimates, to Budget Committees.
May 1	Congressional Office of the Budget submits report to Congress.
May 31	Congress completes action on legislation authorizing enactment of new budget authority.
June 1	Budget Committees report first concurrent resolution on the budget.
June 20	Each House completes action on first concurrent resolution on the budget.
July 1	Congress completes action on first concurrent resolution on the budget.
September 20	Congress completes action on legislation providing new budget authority.
September 30	Congress completes action on ceiling enforcement bill.
October 1	Fiscal year begins.

ADOPTION OF CONCURRENT RESOLUTION

Sec. 301. (a) Action To Be Completed by July 1.—On or before July 1 of each year, the Congress shall complete action on a concurrent resolution setting forth for the fiscal year beginning on October 1 of such year—

(1) Total budget outlays and total new budget authority.—Limitations on total budget outlays and total new budget authority:

(2) Allocations of totals.—Appropriate levels of budget outlays and new budget authority for each committee of the Senate and House which has jurisdiction over legislation providing budget authority, based on allocations of the total budget outlays and total new budget authority, which allocations may be further subdivided among the subcommittees of such committees or on the basis of major program groupings;

(3) Estimated revenues.—Estimated revenue receipts and their major sources;

(4) Recommended surplus or deficit.—The amount, if any, by which revenues should exceeed budget outlays, or by which budget outlays should exceed revenues, considering economic conditions and all other relevant factors;

(5) Tax expenditures budget.—The existing levels of tax expenditures (the tax expenditures budget) by major budget categories;

(6) Level of total revenues and total debt.—The appropriate level of Federal revenues and the public debt;

(7) Recommended change in revenues.—The amount, if any, by which the aggregate level of Federal revenues should be increased or decreased by legislation to be reported by the appropriate committees;

(8) Recommended change in public debt limit.—The amount, if any, by which the statutory limit on the public debt should be increased or decreased by legislation reported by the appropriate committees; and

(9) Spending bills to specify outlays.—The extent (if any) to which section 401 'relating to requirement that budget authority legislation contain limitation on outlays) shall apply for the fiscal year.

(b) Reports by Joint Economic Committee.—On or before April 15 of each year, the Joint Economic Committee shall report to the Committee on the Budget of both Houses its recommendations as to the fiscal policy appropriate to the goals of the Employment Act of 1946, including where appropriate recommendations with regard to major categories of new budget authority and budget outlays. The joint committee shall also, from time to time, report to the Committees on the Budget of both Houses such other recommendations as it deems advisable.

(c) Views and Estimates of Other Committees.—On or before April 15 of each year, the Committees on Appropriations and Finance of the Senate shall submit their views and estimates to the Committee on the Budget of the Senate, the Committees on Appropriations and Ways and Means of the House of Representatives shall submit their views and estimates to the Committee on the Budget of the House, and the Joint Committee on Internal Revenue Taxation shall submit their views and estimates to the Committees on the Budget of both Houses, with respect to all matters set forth in subsection (a) which relate to matters within the respective jurisdictions or functions of such committees and joint committees. Any other committee of the Senate or House may submit to the Committee on the Budget of its House, and any other joint committee of the Congress may submit to the Committees on the Budget of both Houses, its views and estimates with respect to all matters set forth in subsection (a) which relate to matters within its jurisdiction or function.

(d) Reporting.—On or before June 1 of each year, the Committee on the Budget of each House shall report to its House a concurrent resolution on the budget referred to in subsection (a) for the fiscal year beginning on October 1 of such year. The report accompanying such concurrent resolution shall include, but not be limited to—

(1) a comparison of revenues and major sources thereof as estimated for the purposes of such concurrent resolution with those estimated in the budget submitted by the President;

(2) a comparison of the limitations on total budget outlays and total new budget authority set forth in such concurrent resolution with total budget outlays estimated and total new budget authority requested in the budget submitted by the President;

(3) the economic assumptions and program objectives which underlie the limitations, appropriate levels, estimates, deficits, or surpluses, and levels of revenue and public debt set forth in such concurrent resolution, and the alternative economic assumptions and program objectives which the committee considered in formulating such concurrent resolution;

(4) specific projections, not limited to the following, for the next five fiscal years, of—

(A) the estimated levels of total budget outlays and new budget authority for each fiscal year in such period,

(B) the estimated revenues to be received and the major sources thereof, and the estimated surplus or deficit, if any, for each fiscal year in such period, based upon such estimated revenues and the estimated levels of total budget outlays and new budget authority set forth pursuant to subparagraph (A), and

(C) the estimated levels of tax expenditures by major budget categories; and

(5) an explanation of any significant changes in the proposed levels of Federal assistance to State and local governments. Such report shall also contain the recommendations of the Joint Economic Committee as reported pursuant to subsection (b) and the separate views of other committees and joint committees as submitted pursuant to section (c).

(e) Floor Action.—On or before June 20 of each year, each House shall complete action on a concurrent resolution on the budget referred to in subsection (a) for the fiscal year beginning on October 1 of such year (except for action on any conference report on such concurrent resolution).

(f) Effect of Certain Adjournments.—Whenever after June 1 of any year, either House is not in session because of an adjournment or recess more than three days to a day certain, then in applying subsection (e) to such House, there shall be substituted for June 20 that date which follows June 20 by the same number of days (not exceeding seven in the aggregate) as the number of days after June 1 and before June 20, on which such House was not in session because of any such adjournment or recess.

(g) Extension Where Specified Date Falls on Saturday, Sunday, or Holiday.—When any date specified in subsection (d) or (e) (as modified by subsection (f)) falls on a Saturday, Sunday, or legal holiday in the District of Columbia in any year, there shall be substituted for that date the next succeeding date which is not a Saturday, Sunday, or legal holiday in the District of Columbia.

(h) Effect of Failure To Adopt Concurrent Resolution by July 1.—If the Congress fails to complete action on the concurrent resolution on the budget referred to in subsection (a) on or before July 1 of any year, then, until such action is completed—

(1) if each House has agreed to such a concurrent resolution, the figure for each matter set forth pursuant to paragaraph (2) of subsection (a) for the fiscal year shall be deemed to be the lower figure contained in the concurrent resolution agreed to by either House, and the limitations on total outlays and total new budget authority set forth pursuant to paragraph (1) of such subsection shall be the sums of such lower figures;

(2) if one House has agreed to such a concurrent resolution, the figures for the matters set forth pursuant to subsection (a) for the fiscal year shall be deemed to be the figures contained in that concurrent resolution; and

(3) if neither House has agreed to such a concurrent resolution, the figures for the matters set forth pursuant to subsection (a) for the fiscal year shall be deemed to be the respective figures therefor set forth in the budget submitted for the fiscal year pursuant to section 201(d) of the Budget and Accounting Act, 1921 (31 U.S.C. 11), as added by section 601 of this Act.

For any period for which paragraph (1), (2), or (3) applies, there shall be deemed to have been adopted a concurrent resolution on the budget referred to in this section which contains the figures referred to in the applicable paragraph.

ADDITIONAL CONCURRENT RESOLUTIONS ON THE BUDGET

Sec. 302. (a) Required Reaffirmation or Revision.—When required under section 309(d), the Committee on the Budget of each House shall report a concurrent resolution which reaffirms or revises the concurrent resolution adopted pursuant to section 301 for a fiscal year, or, if a concurrent resolution for such fiscal year has been adopted pursuant to subsection (b), which reaffirms or revises the most recently adopted concurrent resolution on the budget for such fiscal year.

(b) Permissible Revisions.—At any time after the concurrent resolution for a fiscal year has been adopted pursuant to section 301, and before the close of such fiscal year, the two Houses may adopt a concurrent resolution on the budget which revises the most recently adopted concurrent resolution on the budget for such fiscal year.

RULES FOR CONSIDERATION OF CONCURRENT RESOLUTIONS OF THE BUDGET

Sec. 303. (a) Procedure After Report of Committee.—

(1) A concurrent resolution on the budget reported in either House shall be highly privileged. It shall be in order at any time after the third day following the day on which the report accompnaying such a concurrent resolution is available to move to proceed to its consideration (even though a previous motion to the same effect has been disagreed to). Such a motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on any concurrent resolution on the budget, and all amendments thereto, shall be limited to not more than one hundred hours (twenty hours, in the case of a concurrent resolution reported after recommittal pursuant to section 304(c)). General debate shall be divided equally between the majority and minority parties. Debate on any amendment shall be limited to not more than four hours, which shall be equally divided between those favoring and those opposing the amendment. A motion further to limit debate is not debatable. A motion to recommit the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to. An amendment to a concurrent resolution reported after recommittal pursuant to section 304(c) shall be in order only if it is in order under section 304(f).

(b) Decisions Without Debate on Motion To Postpone or Proceed.—

(1) Motions to postpone, made with respect to the consideration of any concurrent resolution on the budget, and motions to proceed to the consideration of other business, shall be decided without debate.

(2) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to any concurrent resolution on the budget shall be decided without debate.

(c) Procedure After Passage by One House.—If, prior to the passage by one House of a concurrent resolution of that House, that House receives from the other House a concurrent resolution of such other House, then—

(1) the procedure with respect to the concurrent resolution of the first House shall be the same as if no concurrent resolution from the other House had been received; but

(2) on any vote on final passage of the concurrent resolution from the other House shall be automatically substituted.

(d) Action on Conference Reports.—

(1) The conference report on any concurrent resolution on the budget shall be highly privileged in each House. It shall be in order at any time after the third day following the day on which such a conference report is reported and is available to move to proceed to its consideration (even though a previous motion to the same effect has been disagreed to). Such a motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on the conference report shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the conference report. A motion to recommit the conference report shall not be in order and it shall not be in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(3) Motions to postpone, made with respect to the consideration of such conference report and motions to proceed to the consideration of other business, shall be decided without debate.

(4) Appeals from decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such conference report shall be decided without debate.

FLOOR AMENDMENTS TO CONCURRENT RESOLUTIONS ON THE BUDGET

Sec. 304. (a) Initial Floor Consideration.—During the consideration in either House of any concurrent resolution on the budget, an amendment shall not be in order unless—

(1) it is germane,

(2) there has been made available an analysis prepared by the Director of the Congressional Office of the Budget which sets forth the effect (if any) which such amendment would have on both budget outlays and new budget authority, on revenues if appropriate, and

(3) in the case of an amendment to a concurrent resolution on the budget which has been reported after recommittal pursuant to subsection (c), it is in order under subsection (f).

Paragraph (2) shall not apply to any amendment if, at the time such amendment is proposed, the Member proposing such amendment states that an analysis was requested (giving the date of such request), but has not been received, from the Director of the Congressional Office of the Budget.

(b) Floor Amendments Always in Order To Make Concurrent Resolution Consistent.—Notwithstanding any other rule (other than those provided in this section), an amendment, or series of amendments, to a concurrent resolution on the budget proposed in either the Senate or the House of Representatives shall always be in order if such amendment or series of amendments proposes to change any figure or figures then contained in such concurrent resolution so that such concurrent resolution would (if such amendment or series of amendments were adopted) not be consistent within the meaning of subsection (d).

(c) Procedure if Floor Amendments Make Concurrent Resolution Inconsistent.—If after all amendments proposed to a concurrent resolution on the budget have been considered, such concurrent resolution is inconsistent within the meaning of subsection (d), it shall be recommitted by the presiding officer, without further motion, to the Committee on the Budget with instructions to report such concurrent resolution back to the Senate or the House of Representatives, as the case may be, within three days (not counting any day on which that House is not in session) in a form which meets the requirements of subsection (e).

(d) Meaning of Inconsistency.—For purposes of this section, a concurrent resolution on the budget is inconsistent if, with respect to the figures described in and set forth pursuant to section 301(a)—

(1) with respect to budget outlays or new budget authority, the sum of the allocation of totals does not equal total budget outlays or total new budget authority, as the case may be, or

(2) the appropriate level of total revenues less the recommended surplus or plus the recommended deficit does not equal the total budget outlays, or

(3) the estimated revenues combined with the change in revenues does not equal the appropriate level of total revenues, or

(4) the change in public debt limit is not sufficient to allow implementation of the appropriate level of total debt, or

(5) any combination of (1), (2), (3), and (4) above.

(e) Action by Budget Committee After Recommittal.—When a concurrent resolution on the budget is recommitted to the Committee on the Budget of the Senate or the House of Representatives pursuant to subsection (c), such committee shall report such concurrent resolution back to its House in a form which is not inconsistent and which preserves, to the greatest extent practicable, the spirit and letter of the floor amendments previously adopted.

(f) Floor Amendments After Recommittal.—During the consideration in either the Senate or the House of Representatives of a concurrent resolution on the budget reported back after recommittal pursuant to subsection (c), an amendment, or series of amendments, shall not be in order unless it preserves the concurrent resolution in a form which is not inconsistent.

(g) Record and Analysis of Effect of Floor Action.—During the consideration in either the Senate or the House of Representatives of a concurrent resolution on the budget, the Director of the Congressional Office of the Budget shall maintain a record of the effect (if any) which floor amendments adopted would have on budget outlays and new budget authority and the figures set forth pursuant to section 301(a). On each day on which a concurrent resolution on the budget is under consideration in either the Senate or the House of Representatives, the Director shall make available to Members of that House, before the House meets on such day, the record so maintained by him as of the close of the preceding day.

CONCURRENT RESOLUTION ON THE BUDGET MUST BE ADOPTED BEFORE APPROPRIATIONS AND CHANGES IN REVENUES AND PUBLIC DEBT LIMIT ARE MADE

Sec. 305. (a) In General.—It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution (or amendment thereto) which provides—

(1) new budget authority for a fiscal year,

(2) an increase or decrease in revenues to become effective during a fiscal year, or

(3) an increase or decrease in the public debt limit to become effective during a fiscal year,

until the concurrent resolution for such year referred to in section 301(a) has been adopted by the Congress.

(b) Exception for Multi-year Funding.—In order to provide for multiyear advance funding for programs where for planning purposes there is a need to know in advance the amount of funds which will be available, particularly programs of Federal assistance to State and local governments, subsection (a) shall not apply to new budget authority which first becomes available in a fiscal year following the fiscal year to which the concurrent resolution applies.

LEGISLATION DEALING WITH CONGRESSIONAL BUDGET MUST BE HANDLED BY BUDGET COMMITTEES

Sec. 306. No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a concurrent resolution on the budget which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a concurrent resolution.

SUMMARIES OF CONGRESSIONAL BUDGET ACTIONS

Sec. 307. (a) Reports on Legislation Providing New Budget Authority or Limiting Outlays.—Whenever a committee of either House reports a bill or resolution to its House providing new budget authority or limiting budget outlays, or both, for a fiscal year, the report accompanying that bill or resolution shall contain a statement prepared in consultation with the Director of the Congressional Office of the Budget detailing—

(1) how the new budget authority in that bill or resolution compares with the limitations on, and the applicable appropriate levels of, new budget authority and budget outlays set forth in the most recently adopted concurrent resolution on the budget for such fiscal year;

(2) a projection for the period of five fiscal years beginning with such fiscal year of the budget outlays which will result from that bill or resolution in each fiscal year in such period; and

(3) the impact on State and local governments of the new budget authority and budget outlays authorized by that bill or resolution.

(b) Up-to-Date Tabulation of Congressional Budget Actions.—The Director of the Congressional Office of the Budget shall issue a daily report detailing and tabulating the progress of congressional action on legislation providing new budget authority or limiting budget outlays for a fiscal year. Specificially, such report shall include—

(1) an up-to-date tabulation comparing the new budget authority and budget outlays in legislation on which Congress has completed action to the limitations on, and the appropriate levels of, new budget authority and budget outlays set forth in the most recently adopted concurrent resolution on the budget for such fiscal year; and

(2) an up-to-date status report on all new budget authority legislation for such fiscal year in both Houses.

(c) Five-Year Projection of Congressional Budget Action.—After a bill required to be reported for a fiscal year under section 309(b) has been enacted into law, the Director of the Congressional Office of the Budget shall issue a report projecting for the period of five fiscal years beginning with such fiscal year—

(1) total budget outlays and new budget authority for each fiscal year in such period; and

(2) revenues to be received and the major sources thereof, and the surplus or deficit, if any, for each fiscal year in such period.

(d) Reports on Legislation Providing New Tax Expenditures.—Whenever a committee of either House reports a bill or resolution to its House providing new or increased tax expenditures during a fiscal year, the report accompanying that bill or resolution shall contain a statement prepared in consultation with the Director of the Congressional Office of the Budget detailing—

(1) how the new tax expenditures provided in that bill or resolution will affect the existing levels of tax expenditures as set forth in the most recently adopted concurrent resolution on the budget for such fiscal year, and a justification for any deviation from those levels;

(2) a projection for the period of five fiscal years beginning with such fiscal year of the tax expenditures which will result from that bill or resolution in each fiscal year in such period; and

(3) the impact, if any, on State and local governments of the tax expenditures provided by that bill or resolution.

ACTION ON BILLS PROVIDING NEW BUDGET AUTHORITY

Sec. 308. (a) Bills To Be Enacted Before Beginning of Fiscal Year.—In order to promote sound fiscal policies and procedures, the Congress declares that—

(1) on or before September 20 preceding the beginning of a fiscal year all bills and resolutions providing new budget authority for such fiscal year (other than supplemental, deficiency, and continuing appropriations bills and resolutions) and all bills and resolutions providing new tax expenditures during such fiscal year shall be enacted into law; and

(2) before the beginning of a fiscal year, a bill required to be reported under section 309(b) shall be enacted into law.

(b) Required Provision in New Budget Authority Legislation.—Every bill or resolution providing new budget authority for a fiscal year (other than supplemental, deficiency, and continuing appropriations bills and resolutions) shall contain a provision that the new budget authority provided in such bill or resolution shall not become effective until a bill required to be reported under section 309(b) has been enacted into law.

(c) Legislation Failing To Comply Subject to Point of Order.—It shall not be in order in either House to consider any bill or resolution providing new budget authority (or any conference report on any such bill or resolution) which fails to comply with the provisions of subsection (b).

ENFORCEMENT OF CEILINGS ON NEW BUDGET AUTHORITY AND BUDGET OUTLAYS

Sec. 309. (a) Report by Congressional Office of the Budget.—As soon as possible after all bills and resolutions providing new budget authority for a fiscal year (other than supplemental, deficiency, and continuing appropriations bills and resolutions) have been enacted into law, the Director of the Congressional Office of the Budget shall prepare and submit to the Committees on the Budget and the Committees on Appropriations of both Houses a report setting forth for such fiscal year the total amounts of new budget authority and outlays for such fiscal year and a breakdown of such total amounts in such detail as such committees may direct.

(b) Action To Effectuate Bills and Resolutions Providing New Budget Authority.—After all laws described in subsection (a) for a fiscal year have been enacted and when the total amounts of new budget authority and outlays provided in such laws for such fiscal year do not exceed the limitations set forth in the most recently adopted concurrent resolution on the budget for such fiscal year, the Committee on Appropriations of each House shall, as soon as possible, report to its House a bill providing that the new budget authority provided in such laws shall become effective.

(c) Action if Concurrent Resolution Ceilings Are Exceeded.—

(1) If, with respect to any fiscal year, the total amount of new budget authority or outlays provided in laws described in subsection (a) exceeds the limitation on total new budget authority or outlays set forth in the most recently adopted concurrent resolution on the budget for such fiscal year, then the Committee on Appropriations of each House shall, as soon as possible after all laws described in subsection (a) have been enacted, report to its House a bill, to be known as the ceiling enforcement bill, which meets the requirements of paragraph (2).

(2) A ceiling enforcement bill meets the requirements of this paragraph only if it rescinds amounts of new budget authority or other budget authority so that the total new budget authority and outlays for such fiscal year provided by laws described in subsection (a) do not exceed the limitations on total new budget authority and outlays, respectively, for such fiscal year set forth in the most recently adopted concurrent resolution on the budget.

(d) Required Reporting of Concurrent Resolution on the Budget.—If—

(1) the ceiling enforcement bill reported under subsection (c) is recommitted, pursuant to section 310(c), by either House to the Committee on Appropriations of that House, or

(2) such bill is not so recommitted by either House, but is not enacted into law, the Committee on the Budget of each House shall report to its House a concurrent resolution on the budget which revises or reaffirms the most recently adopted concurrent resolution on the budget for the fiscal year.

(e) Final Consideration of Ceiling Enforcement Bill.—After a concurrent resolution on the budget reported under subsection (d) has been adopted by Congress, the Committee on Appropriations of each House shall report to its House a ceiling enforcement bill or shall report the ceiling enforcement bill reported under subsection (c) and recommitted to it pursuant to section 310(c). Such ceiling enforcement bill shall rescind amounts of new budget authority or other budget authority so that the total new budget authority and outlays for the fiscal year do not exceed the limitations set forth in such concurrent resolution.

(f) Pro Rata Rescission Bill.—If for any fiscal year—

(1) the Congress fails to adopt a concurrent resolution on the budget reported under subsection (d), or

(2) a ceiling enforcement bill reported under subsection (e) is not enacted into law,

the Committee on Appropriations of each House shall report to its House a bill which meets the requirements of subsection (c)(2) and in which all rescissions of budget authority are on a pro rata basis applied to all available budget authority (other than budget authority for outlays which are not controllable).

(g) Congress May Not Adjourn or Recess Until Law Is Enacted.—After September 30 of any year, it shall not be in order in either the Senate or the House of Representatives to consider any resolution providing for the adjournment or recess of either House for a period of more than three days, unless a bill required to be reported under subsection (b) has been enacted into law for the fiscal year beginning on October 1 of each year.

RULES FOR CONSIDERATION OF BILLS REPORTED UNDER SECTION 309

Sec. 310. (a) Section 303 Rules To Apply.—Except as provided in subsection (b), the rules provided in section 303 for the consideration of concurrent resolutions on the budget shall also apply to bills reported under section 309.

(b) Debate Limitations.—Debate on any bill reported under section 309, and all amendments thereto, shall be limited to not more than thirty hours, which shall be equally divided between the majority and minority parties. Debate on any amendment shall be limited to not more than two hours, which shall be equally divided between those favoring and those opposing the amendment. Debate on a conference report on any such bill shall be limited to not more than ten hours, which shall be equally divided between those favoring and those opposing the conference report.

(c) Recommittal of Ceiling Enforcement Bills Reported Under Section 309 (c).—If, after amendments proposed in either House to a ceiling enforcement bill reported under section 309(c) have been considered, such bill does not meet the requirements of section 309(c)(2), it shall be recommitted by the Presiding Officer, without further motion, to the Committee on Appropriations of that House.

(d) Recommittal of Ceiling Enforcement Bills Reported Under Section 309(e) and Pro Rata Rescission Bills Reported Under Section 309(f).—If, after all amendments proposed in either House to a bill reported under section 309(e) or 309(f) have been considered, such bill does not meet the requirements of those sections, it shall be recommitted by the Presiding Officer, without further motion, in the form as then amended to the Committee on Appropriations of that House with instructions to report the bill back to that House within three days (not counting any day on which that House is not in session) in a form which meets the requirements of section 309(e) or 309(f), as the case may be, and which preserves, to the greatest practicable extent, the spirit and the letter of floor amendments previously adopted.

(e) Floor Amendments After Recommittal.—During the consideration in either House of a bill reported back after recommittal pursuant to subsection (d), an amendment or series of amendments shall not be in order unless it preserves the bill in a form which meets the requirements of section 309(e) or 309(f), as the case may be.

(f) Amendments To Meet Requirements Always in Order.—Notwithstanding any other rule, if during the consideration in either House of a bill reported under section 309 (c), (e), or (f) such bill does not, at any time, meet the requirements of those sections, an amendment or series of amendments which would, if adopted, make such bill meet such requirements shall always be in order.

(g) Conference Reports.—It shall not be in order in either House to consider a conference report on a bill reported under section 309 (c), (e), or (f) if the bill as recommended in the conference report does not meet the requirements of those sections.

SUPPLEMENTAL AND DEFICIENCY APPROPRIATIONS MUST BE WITHIN CEILINGS

Sec. 311. After the bill required to be reported for a fiscal year under section 309 (b) has been enacted into law, it shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution providing additional new budget authority for such fiscal year, any amendment to any such bill or resolution, or any conference report on any such bill or resolution, if—

(1) the enactment of such bill or resolution as reported,

(2) the adoption of such amendment and the enactment of such bill or resolution as so amended, or

(3) the enactment of such bill or resolution in the form recommended in such conference report,

would cause the limitation on total new budget authority or the limitation on total budget outlays set forth in the most recently adopted concurrent resolution on the budget for such fiscal year to be exceeded.

TITLE IV—ADDITIONAL RULES TO IMPROVE FISCAL PROCEDURES

BUDGET AUTHORITY LEGISLATION MAY BE REQUIRED TO CONTAIN OUTLAY LIMITATIONS

Sec. 401. (a) Action by Budget Committees.—Whenever a concurrent resolution on the budget for a fiscal year so requires (and to the extent provided in such concurrent resolution)—

(1) bills and resolutions providing new budget authority for that fiscal year reported in each House shall also specify the amount of outlays which may be made during that fiscal year both pursuant to the new budget authority provided by the bill or resolution and to any other available budget authority.

(2) legislation shall be reported by the Committee on Appropriations in each House for that fiscal year specifying the amount of outlays which may be made during the fiscal year under permanent budget authority, and

(3) amendments proposed in each House to bills or resolutions providing new budget authority for that fiscal year which increase or decrease the amount of any budget authority shall also specify the amount of outlays which may be made during that fiscal year pursuant to the budget authority so increased or decreased.

(b) Legislation Failing To Comply Subject to Point of Order.—If any requirement referred to in subsection (a) applies for a fiscal year, it shall not be in order to consider in either House any bill, resolution, or amendment which does not comply with such requirement.

(c) Studies and Assistance by Congressional Office of the Budget.—The Director of the Congressional Office of the Budget shall undertake studies and provide assistance to the committees of both Houses which have jurisdiction over legislation providing budget authority to enable such committees to comply with the provisions of subsection (a).

LIMITATION ON NEW ADVANCE BUDGET AUTHORITY

SEC. 402. (a) LEGISLATION SUBJECT TO POINT OF ORDER.—It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution which provides new advance budget authority (or any amendment which provides new advance budget authority) unless such bill or resolution, or such amendment, also provides that the new advance budget authority is to be exercised for any fiscal year only to such extent or in such amounts as are provided for such fiscal year in appropriation Acts or other laws enacted after the enactment of such bill or resolution.

(b) NEW ADVANCE BUDGET AUTHORITY DEFINED.—For purposes of subsection (a)—

(1) NEW ADVANCE BUDGET AUTHORITY.—The term "new advance budget authority" means advance budget authority provided by law enacted after the date of enactment of this Act, including any increase in, or addition to, any advance budget authority provided by law in effect on the date of enactment of this Act.

(2) ADVANCE BUDGET AUTHORITY.—The term "advance budget authority" means authority provided by law, whether on a temporary or permanent basis—

(A) to enter into contracts, under which the United States is obligated to make outlays, which have not been provided for in advance by appropriation Acts,

(B) to incur indebtedness, for the repayment of which the United States is liable (other than indebtedness incurred under the Second Liberty Bond Act), which has not been provided for in advance by appropriation Acts,

(C) to guarantee on behalf of the United States the repayment of indebtedness (other than indebtedness described in subparagraph (B)), which has not been provided for in advance by appropriation Acts,

(D) to make payments (including loans and grants), which have not been provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law, and

(E) to obligate the United States to make outlays by any other means which has not been provided for in advance by appropriation Acts.

(c) REFERENCE OF BILLS AND RESOLUTIONS.—All bills and resolutions introduced in the Senate which authorize the exercise of new advance budget authority shall be referred to the Committee on Appropriations of the Senate. No committee of the Senate other than the Committee on Appropriations shall have jurisdiction to report any bill or other measure which authorizes the exercise of new advance budget authority. All bills and resolutions introduced in the House of Representatives which authorize the exercise of new advance budget authority shall be referred to the Committee on Appropriations of the House. No committee of the House other than the Committee on Appropriations shall have jurisdiction to report any bill or resolution which authorizes the exercise of new advance budget authority.

REQUIREMENT OF ADVANCE AUTHORIZATIONS BY LEGISLATIVE COMMITTEES

SEC. 403. It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution (or conference report thereon) authorizing the enactment of new budget authority for any fiscal year after May 31 preceding the beginning of such fiscal year.

JURISDICTION OF APPROPRIATION COMMITTEES

SEC. 404. (a) AMENDMENT OF SENATE RULES.—Subparagraph (c) of paragraph 1 of rule XXV of the Standing Rules of the Senate is amended to read as follows:

"(c) Committee on Appropriations, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Except as provided in subparagraph (r) 1, appropriation of the revenue for the support of the Government.

"2. Rescission of appropriations.

"3. The amount of outlays for a fiscal year under permanent budget authority, to the extent section 401(a)(2) of the Federal Act To Control Expenditures and Establish National Priorities applies for such fiscal year.

"4. The exercise of new advance budget authority within the meaning of section 402 of the Federal Act To Control Expenditures and Establish National Priorities.".

(b) AMENDMENT OF HOUSE RULES.—Clause 2 of rule XI of the Rules of the House of Representatives is amended be redesignating paragraph (b) as (e) and by inserting after paragraph (a) the following new paragraphs:

"(b) Rescission of appropriations.

"(c) The amount of outlays for a fiscal year under permanent budget authority, to the extent section 401(a)(2) of the Federal Act To Control Expenditures and Establish National Priorities applies for such fiscal year.

"(d) The exercise of new advance budget authority within the meaning of section 402 of the Federal Act To Control Expenditures and Establish National Priorities.".

TITLE V—CHANGE OF FISCAL YEAR

FISCAL YEAR TO BEGIN OCTOBER 1

SEC. 501. Section 237 of the Revised Statutes (31 U.S.C. 1020) is amended to read as follows:

"SEC. 237. (a) The fiscal year of the Treasury of the United States, in all matters of accounts, receipts, expenditures, estimates, and appropriations—

"(1) shall, through June 30, 1974, commence on July 1 of each year and end on June 30 of the following year;

"(2) shall for the period commencing July 1, 1974, and ending on September 30, 1975, be for such period; and

"(3) shall, beginning on October 1, 1975, commence on October 1 of each year and end on September 30 of the following year.

"(b) All accounts of receipts and expenditures required by law to be published annually shall be prepared and published for each fiscal year as established by subsection (a)."

SPECIAL AUTHORIZATION OF APPROPRIATIONS

SEC. 502. In the case of any law enacted before the date of the enactment of this Act which authorizes the appropriation of a specified amount (or which authorizes the appropriation of sums not to exceed a specified amount) for the fiscal year commencing July 1, 1974, the amount so specified is hereby increased by 25 percent.

TRANSMITTAL OF BUDGET

SEC. 503. Section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended by striking out the first sentence and inserting in lieu thereof the following: "The President shall transmit to the Congress the budget which shall set forth his budget message, summary data and text, and supporting detail. The budget for any fiscal year beginning before October 1, 1975, shall be transmitted during the first fifteen days of that regular session of the Congress which commences prior to the beginning of the fiscal year, and the budget for any fiscal year beginning on or after October 1, 1975, shall be transmitted on or before February 1 preceding the beginning of the fiscal year."

ACCOUNTING PROCEDURES

SEC. 504. (a) Subsection (a)(1) of the first section of the Act entitled "An Act to simplify accounting, facilitate the payment of obligations, and for other purposes", approved July 25, 1956, as amended (31 U.S.C. 701), is amended to read as follows:

"(1) The obligated balance shall be transferred, at the time specified in subsection (b)(1) of this section, to an appropriation account of the agency or subdivision thereof responsible for the liquidation of the obligations, in which account shall be merged the amounts so transferred from all appropriation accounts for the same general purposes; and".

(b) Subsection (b) of such section is amended to read as follows:

"(b)(1) Any obligated balance referred to in subsection (a)(1) of this section shall be transferred as follows:

"(A) for any fiscal year or years ending on or before June 30, 1974, on that June 30 which falls in the first month of June which occurs twenty-four months after the end of such fiscal year or years; and

"(B) for any fiscal year commencing on or after July 1, 1974, on September 30 of the second fiscal year following the fiscal year or years for which the appropriation is available for obligation.

"(2) The withdrawals required by subsection (a)(2) of this section shall be made—

"(A) for any fiscal year ending on or before June 30, 1974, not later than September 30 of the fiscal year immediately following the fiscal year in which the period of availability for obligation expires; and

"(B) for any fiscal year commencing on or after July 1, 1974, not later than January 1 following the fiscal year in which the period of availability for obligation expires."

CONVERSION OF AUTHORIZATIONS OF APPROPRIATIONS

SEC. 505. Any law providing for an authorization of appropriations commencing on July 1 of a year shall, if that year is any year after 1974, be considered as meaning October 1 of that year. Any law providing for an authorization of appropriations ending on June 30 of a year shall, if that year is any year after 1974, be considered as meaning September 30 of that year. Any law providing for an authorization of appropriation for the fiscal year 1975 or any fiscal year thereafter shall be construed as referring to that fiscal year ending on September 30 of the calendar year having the same calendar year number as the fiscal year number.

ECONOMIC REPORTS

SEC. 506. (a) Section 3 of the Employment Act of 1946 (15 U.S.C 1022), is amended by striking out "The President shall transmit to the Congress not later than January 20 of each year" and inserting in lieu thereof the following: "Not later than January 20 of each year before 1975, and not later than February 5 of each year after 1974, the President shall transmit to the Congress".

(b) Section 5(b)(3) of such Act (15 U.S.C. 1024) is amended by striking out "(beginning with the year 1947)" and inserting in lieu thereof "before 1975 and not later than March 20 of each year after 1974,".

REPEALS

SEC. 507. The following provisions of law are repealed:

(1) The ninth paragraph under the headings "Legislative Establishment", "Senate", of the Deficiency Appropriation Act, fiscal year 1934 (48 Stat. 1022; 2 U.S.C. 66); and

(2) The proviso to the second paragraph under the headings "House of Representatives", "Salaries, Mileage, and Expenses of Members", of the Legislative-Judiciary Appropriation Act, 1955 (68 Stat. 400; 2 U.S.C. 81).

TECHNICAL AMENDMENT

SEC. 508. (a) Section 105 of title 1, United States Code, is amended by striking out "June 30" and inserting in lieu thereof "September 30".

(b) The provisions of this section shall be effective with respect to Acts making appropriations for the support of the Government for any fiscal year commencing on or after July 1, 1974.

TITLE VI—AMENDMENTS TO BUDGET AND ACCOUNTING ACT, 1921, AND ANALYSES

PRESIDENTIAL BUDGET TO INCLUDE SAME ELEMENTS AS CONGRESSIONAL BUDGET AND TAX EXPENDITURES

SEC. 601. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended by adding at the end thereof the following new subsections:

"(d) The budget transmitted pursuant to subsection (a) for each fiscal year shall set forth separately the items enumerated in subsection (a) (other than paragraph (9)) of section 301 of the Federal Act To Control Expenditures and Establish National Priorities.

"(e) The budget transmitted pursuant to subsection (a) for each fiscal year shall set forth the existing levels of tax expenditures (the tax expenditures budget) by major budget categories, and an estimate, based on projected economic factors, of any anticipated change in the levels of tax expenditures for that fiscal year. For purposes of this subsection, the terms 'tax expenditures' and 'tax expenditures budget' have the meanings given to them by section 2(3) of the Federal Act To Control Expenditures and Establish National Priorities.".

FIVE-YEAR BUDGET PROJECTIONS

SEC. 602. (a) Section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended—

(1) by inserting after "ensuing fiscal year" in paragraph (5) "and the four fiscal years immediately following the ensuing fiscal year";

(2) by striking out "such year" in paragraph (5) and inserting in lieu thereof "such years"; and

(3) by inserting after "ensuing fiscal year" in paragraph (6) "and the four fiscal years immediately following the ensuing fiscal year".

(b) Section 201 of such Act is amended by adding after subsection (e) (as added by section 601 of this Act) the following new subsection:

"(f) The budget transmitted pursuant to subsection (a) for each fiscal year shall include (1) an examination of proposed expenditures (including tax expenditures) and appropriations and estimated receipts within a comprehensive framework of existing and proposed programs and (2) the bases used for the proposed expenditures (including tax expenditures) and appropriations and estimated receipts."

BUDGET DATA BASED ON CONTINUATION OF EXISTING LEVEL OF SERVICES

SEC. 603. On or before December 1 of each year (beginning with 1974), the President shall submit to the Committees on the Budget of the Senate and the House of Representatives the estimated expenditures and proposed appropriations, by functional and subfunctional category, which would be included in the budget to be submitted pursuant to section 201 of the Budget and Accounting Act, 1921, for the ensuing fiscal year if all programs and activities were carried on during such ensuing fiscal year at the same level as the fiscal year in progress and without policy changes in such programs and activities.

ANALYSIS BY CONGRESSIONAL OFFICE OF THE BUDGET

SEC. 604. (a) With respect to each bill or resolution of a public character reported by any committee of the Senate or the House of Representatives (except the Committee on Appropriations and the Committee on the Budget of each House), the Director of the Congressional Office of the Budget shall prepare and make available for inclusion in the report accompanying such bill or resolution—

(1) an estimate of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is to become effective and in each of the four fiscal years following such fiscal year, together with the basis for each such estimate;

(2) a comparison of the estimate of costs described in paragraph (1) with any estimate of costs made by such committee and any Federal agency; and

(3) a list of existing and proposed Federal programs, including assistance from tax expenditures, which provide or would provide financial assistance for the objectives of the program or programs authorized by the bill or resolution.

(b) It shall not be in order in either the Senate or the House of Representatives to consider any bill or joint resolution unless the report accompanying such bill or resolution contains the material described in subsection (a) prepared by the Director of the Congressional Office of the Budget.

(c) Section 252 of the Legislative Reorganization Act of 1970 is repealed.

TITLE VII—PILOT TESTING AND EVALUATION OF PROGRAMS

PILOT TESTING OR EVALUATION OF MAJOR OUTLAY PROGRAMS

SEC. 701. (a) Except as provided in subsection (c), it shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution which establishes or extends a major outlay program unless such bill or resolution provides (or a prior law has provided) for a pilot test or an evaluation of such program, to be completed not later than three years after the enactment of such bill or resolution.

(b) For the purpose of this title, a major outlay program is any program (including a program involving tax expenditures) estimated to cost more than $100,000,000 for the first three fiscal years of the program or extension thereof, as indicated in the material prepared by the Director of the Congressional Office of the Budget and included in the report accompanying the bill or resolution under section 604 of this Act.

(c) Subsection (a) shall not apply to a bill or resolution if the committee report accompanying it contains a statement, together with full reasons therefor, that the committee has given full consideration to pilot testing and program evaluation and, in its judgment, neither would be feasible or desirable for the program established or extended.

(d) A pilot test of a major outlay program shall—

(1) specify the clear objective of the program, a well as the criteria which will be used in the measurements,

(2) include a replica as nearly as possible of the program if it were implemented on a permanent basis,

(3) be conducted for a defined period of time,

(4) be conducted by a department or agency of the Government or a public or private organization specified in the law providing for the pilot test,

(5) provide a valid comparison criterion for evaluation, including one or more of the following: control groups; base rates derived from prior time frames; or other valid measurement, and

(6) test alternative options toward achievement of the objectives specified in paragraph (1).

(e) The department, agency, or organization which conducts the pilot test or program evaluation shall report the results of the test or evaluation, and the data or other information upon which the results are based, to the committees of the Senate and the House of Representatives which have jurisdiction to report legislation implementing the program on a broad scale or authorizing its further extension. Such report shall be submitted in sufficient time to permit adequate consideration by the Congress of legislation to implement the program on a broader scale or to authorize its further extension.

(f) Nothing contained in this title shall preclude simultaneous multiple pilot tests of a major outlay program to determine the most feasible alternative before broader implementation.

(g) Each committee to which a report of a pilot test or program evaluation with respect to a major outlay program is submitted under subsection (e) shall submit to its House a report on the test or evaluation. It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution which authorizes the enactment of budget authority for the major outlay program, for any period after the date for completion of the pilot test or program evaluation of the major outlay program, until the committee or committees of that House have submitted the report required by the preceding sentence.

COMMITTEE ANALYSIS

SEC. 702. (a) Each committee to which a report of a pilot test or program evaluation, with respect to a major outlay program, is submitted under section 701 shall analyze and consider the results of the test or evaluation in its consideration of legislation to implement the major outlay program on a broader scale or to extend authorization of the program, as the case may be. Such analysis shall include a review of the data and other information upon which the department, agency, or organization which conducted the test or evaluation based its findings, results, and recommendations. In conducting such analysis, the committees of the two Houses may conduct hearings jointly.

(b) The report of a committee on legislation to implement on a broader scale or extend authorization for a major outlay program shall include (but not be limited to) the following matters:

(1) Suitability of the Federal Government to implement such program on a broader scale or to continue the conduct of such program.

(2) A summary of any available evaluations or analyses of such program, including cost-benefit studies, in relation to other alternative approaches.

(3) In the event the legislation would change a current method of dealing with a specific problem, a comparison of the current method used and the method used in the test and an analysis in terms of relative effectiveness.

REVIEW AND EVALUATION BY THE COMPTROLLER GENERAL

SEC. 703. Part I of title II of the Legislative Reorganization Act of 1970 (84 Stat. 1167; Public Law 91-510; 31 U.S.C. 1151 and following) is amended by striking out section 204 and inserting in lieu thereof the following:

"ASSISTANCE TO CONGRESS BY GENERAL ACCOUNTING OFFICE

"SEC. 204. (a) The Comptroller General shall review and evaluate the results of Government programs and activities carried on under existing law when ordered by either House of Congress, or upon his own initiative, or when requested by any committee of the House of Representatives or the Senate, or any joint committee of the two Houses having jurisdiction over such programs and activities.

"(b) The Comptroller General upon request of any committee of the House of Representatives or the Senate, any joint committee of the two Houses, or any Member of either House—

"(1) in developing specifications for legislative requirements for executive branch evaluations of Federal programs and activities, including reporting the results of such evaluations to the Congress, and

"(2) in analyzing and assessing program reviews, evaluation studies, or cost-benefit studies prepared by or for any Federal agency or organization to assist such committee in meeting the requirements of section 702 and section 802 of the Federal Act To Control Expenditures and Establish National Priorities.

"(c) The Comptroller General shall develop and prescribe principles and standards for the evaluation of Federal programs and activities, and submit an annual report.

"(d) The Comptroller General shall monitor the various recurring reporting requirements of the Congress and committees and make recommendations to the Congress and committees for changes and improvements in these reporting requirements to meet the congressional information needs ascertained by the Comptroller General, to enhance their usefulness to the congressional users, and to eliminate duplicative or unneeded reporting.

"(e) In carrying out his responsibilities under this section, the Comptroller General is authorized to establish an Office of Program Review and Evaluation within the General Accounting Office. The Comptroller General is authorized to employ not to exceed ten experts on a permanent, temporary, or intermittent basis and to obtain services as authorized by section 3109 of title 5, United States Code, but in either case at a rate (or the daily equivalent) for individuals not to exceed that prescribed, from time to time, for level V of the Executive Schedule under section 5316 of title 5, United States Code."

TITLE VIII—LIMITATION ON PERIOD OF AUTHORIZATION OF NEW BUDGET AUTHORITY FOR MAJOR OUTLAY PROGRAMS; REQUIRED REVIEWS

AUTHORIZATION OF NEW BUDGET AUTHORITY LIMITED TO THREE FISCAL YEARS

Sec. 801. (a) No law enacted after the effective date of this title which authorizes new budget authority for any major outlay program may authorize such new budget authority for a period of more than three fiscal years.

(b) All provisions of law in effect on the effective date of this title which authorize new budget authority for any major outlay program for a period of more than three fiscal years, beginning with the first fiscal year which commences after such date, shall cease to be effective at the end of the fourth fiscal year beginning after such date.

(c) All provisions of law in effect on the effective date of this title which authorize new budget authority for any major outlay program for an unspecified number of fiscal years shall cease to be effective at the end of the fifth year beginning after such date.

(d) Subsections (a), (b), and (c) shall not apply to any major outlay program funded in whole or major part of user taxes.

(e) (1) For purposes of this title, the term "major outlay program" means a program for which the sum of—

(A) the amount of new budget authority authorized to be provided for the fiscal year in progress (or, if no new budget authority has been authorized, the amount of new budget authority requested for such fiscal year in the budget submitted by the President), and

(B) the aggregate of the new budget authority provided for the two preceding fiscal years,

is more than $100,000,000. Such term includes, for purposes of subsection (a), a program enacted after the effective date of this title which is a major outlay program as defined in section 701(b).

(2) For purposes of this title, a program for which new budget authority has not been provided or authorized (or requested) for a period of three fiscal years, shall be treated as a major outlay program (until new budget authority has been provided or authorized (or requested) for three fiscal years), if the sum of—

(A) the amount, if any, of new budget authority authorized to be provided for the fiscal year in progress (or, if no budget authority has been authorized, the amount, if any, of new budget authority requested for such fiscal year in the budget submitted by the President),

(B) the new budget authority, if any, provided for such program for any preceding fiscal year in such period, and

(C) the estimated cost of such program (as determined by the Director of the Congressional Office of the Budget) for any fiscal year in such period for which no amount is applicable under paragraph (1) or (2), is more than $100,000,000.

COMPREHENSIVE REVIEW AND STUDY

Sec. 802. (a) (1) During the period prescribed in subsection (b), each committee of the Senate and the House of Representatives which has jurisdiction to report legislation authorizing new budget authority for a major outlay program shall conduct a comprehensive review and study of such program and shall submit a report thereon to the Senate or the House, as the case may be. In conducting any such review and study, the committee shall receive testimony and evidence in hearings open to the public, except that such hearings may be closed to the public upon the same terms and conditions as hearings of the Committee on the Budget of that House may be closed to the public.

(2) Prior to the beginning of the period (or as soon thereafter as possible), during which any committee of the Senate or the House of Representatives is to conduct a comprehensive review and study of a major outlay program, the head of the department or agency of the Government which administers the program (or any part thereof) shall submit to the committee an evaluation and analysis of the program.

(b) (1) The period referred to in subsection (a) for the first comprehensive review and study of a major outlay program is—

(A) with respect to any major outlay program in effect on the effective date of this title, the last fiscal year commencing after such effective date for which new budget authority is authorized for such program (after the application of section 801), except that (i) such review and study may be conducted in a fiscal year preceding such last fiscal year if the committees of both Houses required to conduct such review and study agree to conduct it during such preceding fiscal year, and (ii) if such last fiscal year precedes the third fiscal year commencing after such date, such review and study may be conducted during such third fiscal year if the committees of both Houses required to conduct such review and study agree to conduct it during that fiscal year, and

(B) with respect to any major outlay program enacted after such effective date, the third fiscal year during which the program is in effect.

For purposes of applying this paragraph, the provisions of section 801 shall be applied without regard to subsection (d) thereof.

(2) The period referred to in subsection (a) for the comprehensive review and study of a major outlay program (after the first such review and study) is the third fiscal year following the period during which the preceding review and study was conducted.

(c) Insofar as possible, the committees of the Senate and House of Representatives which have jurisdiction over a major outlay program shall conduct the review and study required by subsection (a) at the same time. Such committees may conduct the hearings required by such subsection jointly.

(d) The report of a committee on a review and study of a major outlay program shall contain an analysis of the program and the committee's evaluation of the overall success or failure of the program, and shall include (but not be limited to) the following matters:

(1) Whether the program objectives are still relevant.

(2) Whether the program has adhered to the original and intended purpose.

(3) Whether the program has had any substantial impact on solving the problems and objectives dealt with in the program.

(4) The impact of the program on the functions and freedom of the private sector of the economy.

(5) The feasibility of alternative programs and methods for dealing with the problems dealt with in the program and their cost effectiveness.

(6) The relation of all Government and private programs dealing with the problems dealt with in the program.

(7) An examination of proposed legislation pending in either House dealing with the problems being dealt with in the program, including an examination of each proposed legislation in the context of—

(A) existing laws,

(B) other proposed legislation,

(C) private efforts, and

(D) whether public efforts will hinder or help private efforts.

COORDINATION WITH TITLE VII

Sec. 803. (a) If a committee of the Senate or the House of Representatives which is required under section 802 to conduct a comprehensive review and study of a major outlay program is also (but for the provisions of this section) required under section 702, during the same period, to analyze and consider the results of an evaluation of such program under section 701, such committee shall conduct the comprehensive review and study of such program under section 802, and the provisions of section 702 shall not apply with respect to such evaluation.

(b) If a committee of the Senate or the House of Representatives which (but for this subsection) is required under section 702 to analyze and consider the results of an evaluation of a major outlay program has conducted a comprehensive review and study of such program during either of the two fiscal years preceding the period when such analysis is otherwise required, the provisions of section 702 shall not apply with respect to such evaluation.

LEGISLATION SUBJECT TO POINT OF ORDER

Sec. 804. It shall not be in order in either the Senate or the House of Representatives to consider—

(1) any bill or resolution which authorizes the enactment of new budget authority for any major outlay program for any fiscal year beginning after the period during which the committee of that House which has jurisdiction over the program is required to conduct a comprehensive review and study under section 802, until that committee has submitted the report thereon required by such section, or

(2) any bill or resolution which authorizes the enactment of new budget authority for any major outlay program for a period of more than three fiscal years.

TITLE IX—FISCAL AND BUDGETARY INFORMATION AND CONTROLS

Sec. 901. That part of title II of the Legislative Reorganization Act of 1970 which precedes section 201 thereof (84 Stat. 1167;

Public Law 91-510; 31 U.S.C. chapter 22) is amended by striking out—

"TITLE II—FISCAL CONTROLS

"PART 1—BUDGETARY AND FISCAL INFORMATION AND DATA"

and inserting in lieu thereof—

"TITLE II—FISCAL AND BUDGETARY INFORMATION AND CONTROLS

"PART 1—FISCAL, BUDGETARY, AND PROGRAM-RELATED DATA AND INFORMATION"

SEC. 902. Part 1 of title II of the Legislative Reorganization Act of 1970 (84 Stat. 1167; Public Law 91-510; 31 U.S.C. 1151 and following) is amended by striking out sections 201, 202, and 203 and inserting in lieu thereof the following:

"FEDERAL FISCAL, BUDGETARY, AND PROGRAM-RELATED DATA AND INFORMATION SYSTEMS

"SEC. 201. The Secretary of the Treasury and the Director of the Office of Management and Budget, in cooperation with the Comptroller General of the United States, shall develop, establish, and maintain, for use by all Federal agencies, standardized data and information systems for fiscal, budgetary, and program-related data and information. The development, establishment, and maintenance of such systems shall be carried out so as to meet the needs of the various branches of the Federal Government and, insofar as practicable, of governments at the State and local level.

"STANDARDIZATION OF TERMINOLOGY, DEFINITIONS, CLASSIFICATIONS, AND CODES FOR FISCAL, BUDGETARY, AND PROGRAM-RELATED DATA AND INFORMATION

"SEC. 202. (a) The Comptroller General of the United States, in cooperation with the Secretary of the Treasury and the Director of the Office of Management and Budget, shall develop, establish, maintain, and publish standard terminology, definitions, classifications, and codes, for Federal fiscal, budgetary, and program-related data and information. The authority contained in this part shall include, but not be limited to, data and information pertaining to Federal fiscal policy, revenues, receipts, expenditures, functions, programs, projects, and activities and shall be carried out so as to meet the needs of the various branches of the Federal Government and, insofar as practicable, of governments at the State and local level. Such standard terms, definitions, classifications, and codes shall be used by all executive departments and agencies in supplying to the Congress fiscal, budgetary, and program-related data and information.

"(b) In carrying out this responsibility, the Comptroller General of the United States shall cooperate with and give particular consideration to the needs of the Committees on the Budget of the House of Representatives and the Senate and the Congressional Office of the Budget.

"(c) The Comptroller General of the United States shall submit to both Houses of the Congress, on or before June 30, 1975, a report containing his recommendations for the initial standard terms, definitions, and classifications, as described in this part, and shall recommend legislation to implement them as may be necessary.

"(d) The Comptroller General shall monitor the various recurring reporting requirements of the Congress and committees and make recommendations to the Congress and committees for changes and improvements in these reporting requirements to meet the congressional information needs ascertained by the Comptroller General, to enhance their usefulness to the congressional users, and to eliminate duplicative or unneeded reporting.

"AVAILABILITY TO AND USE BY THE CONGRESS AND STATE AND LOCAL GOVERNMENTS OF FEDERAL FISCAL, BUDGETARY, AND PROGRAM-RELATED DATA AND INFORMATION

"SEC. 203. (a) Upon request of any committee of either House, of any joint committee of the two Houses, of the Comptroller General, or of the Director of the Congressional Office of the Budget, the Secretary of the Treasury, the Director of the Office of Management and Budget, or the heads of the various executive agencies shall—

"(1) furnish to the congressional committee, the joint committee, the Comptroller General, or the Director of the Congressional Office of the Budget, information as to the location and nature of available fiscal, budgetary, and program-related data and information;

"(2) prepare summary tables of such data and information and any related information deemed necessary by the requesting committee, joint committee, the Comptroller General, or the Director of the Congressional Office of the Budget; and

"(3) furnish any program evaluations conducted or commissioned by any executive agency as deemed necessary by the requesting committee, joint committee, the Comptroller General, or the Director of the Congressional Office of the Budget.

"(b) The Comptroller General, in cooperation with the Director of the Congressional Office of the Budget, the Secretary of the Treasury, and the Director of the Office of Management and Budget, shall—

"(1) develop, establish, and maintain an up-to-date inventory and directory of sources and information systems containing fiscal, budgetary, and program-related data and information and a brief description of their content;

"(2) provide, upon request, assistance to committees, joint committees, and Members of Congress in securing Federal fiscal, budgetary, and program-related data and information from the sources identified in the inventory and directory described in this part; and

"(3) furnish, upon request, assistance to committees, joint committees, and Members of Congress in appraising and analyzing fiscal, budgetary, and program-related data and information secured from the sources identified in the inventory and directory described in this part.

"(c) The Comptroller General and the Director of the Congressional Office of the Budget shall, to the extent they deem necessary, develop, establish, and maintain a central file or files of the data and information required to carry out the purposes of this title. Such a file or files shall be established to meet recurring requirements of the Congress for fiscal, budgetary, and program-related data and information and shall include, but not be limited to, data and information pertaining to budget requests, congressional authority to obligate and spend, apportionment and reserve actions, and obligations and expenditures. Such file or files and their indexes shall be maintained in such a manner as to facilitate their use by the committees of both Houses, joint committees, and other congressional agencies through modern data processing and communications techniques.

"(d) The Comptroller General, in cooperation with the Director of the Congressional Office of the Budget, the Director of the Office of Management and Budget, the Administrator of the General Services Administration, and appropriate representatives of State and local governments, shall develop procedures to assure access by State and local governments to such fiscal, budgetary, and program information as may be necessary for the accurate and timely determination by these governments of the impact of Federal assistance upon their budgets.".

SEC. 903. The table of contents of title II of the Legislative Reorganization Act of 1970 (84 Stat. 1140; Public Law 91-510; 31 U.S.C. chapter 22) is amended by striking out—

"TITLE II—FISCAL CONTROLS

"PART 1—BUDGETARY AND FISCAL INFORMATION AND DATA

"Sec. 201. Budgetary and fiscal data processing system.
"Sec. 202. Budget standard classifications.
"Sec. 203. Availability to Congress of budgetary, fiscal, and related data."

and inserting in lieu thereof—

"TITLE II—FISCAL AND BUDGETARY INFORMATION AND CONTROLS

"PART 1—FISCAL, BUDGETARY, AND PROGRAM-RELATED DATA AND INFORMATION

"Sec. 201. Federal fiscal, budgetary, and program-related data and information systems.
"Sec. 202. Standardization of terminology, definitions, classifications, and codes for fiscal, budgetary, and program-related data and information.
"Sec. 203. Availability to and use by the Congress and State and local governments of Federal fiscal, budgetary, and program-related data and information.".

TITLE X—MISCELLANEOUS PROVISIONS; EFFECTIVE DATES

CONFORMING AMENDMENTS TO STANDING RULES OF THE SENATE

SEC. 1001. Paragraph 1 of rule XXV of the Standing Rules of the Senate is amended—

(1) by striking out "Revenue" in subparagraph (h)1 and inserting in lieu thereof "Except as provided in subparagraph (r)(1), revenue";

(2) by striking out "The" in subparagraph (h)2 and inserting in lieu thereof "Except as provided in subparagraph (r)(1), the"; and

(3) by striking out "Budget" in subparagraph (j)(1)(A) and inserting in lieu thereof "Except as provided in subparagraph (r)(1), budget".

CONFORMING AMENDMENT TO HOUSE RULES

SEC. 1002. Rule XI of the Rules of the House of Representatives is amended by inserting immediately below clause 22 (as renumbered by section 102(b) of this Act) thereof the following new clause:

"22A. The respective areas of legislative jurisdiction under this rule are modified by title I of the Federal Act To Control Expenditures and Establish National Priorities."

AMENDMENTS TO LEGISLATIVE REORGANIZATION ACT OF 1946

SEC. 1003. (a) Section 133 of the Legislative Reorganization Act of 1946 (2 U.S.C. 190a) is amended—

(1) by inserting "and the Committee on the Budget" after "Appropriations" in subsections (d) and (f), and

(2) by inserting "or the Committee on the Budget" after "Appropriations" in subsection (h).

(b) Section 133A of such Act (2 U.S.C. 190a-1) is amended by inserting "and the Committee on the Budget" after "Appropriations" each place it appears in such section.

(c) Section 134(c) of such Act (2 U.S.C. 190b) is amended by inserting "or the Committee on the Budget" after "Appropriations".

(d) Section 136(c) of such Act (2 U.S.C. 190d) is amended by striking out "Committee on Appropriations of the Senate and the Committees on Appropriations," and inserting in lieu thereof "Committees on Appropriations and the Budget of the Senate and the Committees on Appropriations, the Budget,".

AMENDMENTS TO LEGISLATIVE REORGANIZATION ACT OF 1970

SEC. 1004. (a) Section 232 of the Legislative Reorganization Act of 1970 (31 U.S.C. 1172) is amended by renumbering paragraphs (2) and (3) as (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) the Committees on the Budget of the Senate and House,".

(b) Section 236 of such Act (31 U.S.C. 1176) is amended by inserting "and the Budget" after "Appropriations" in paragraph (2).

(c) Section 242(a) of such Act (2 U.S.C. 190h) is amended by inserting "or the Committee on the Budget" after "Appropriations".

(d) Section 243 of such Act (2 U.S.C. 190i) is amended by inserting "(a)"" immediately after "243" and by adding at the end thereof the following new subsection:

"(b) The provisions of subsection (a) shall also apply to the Committee on the Budget of the Senate."

EXERCISE OF RULEMAKING POWERS

SEC. 1005. (a) The provisions of this title (except section 1006) and titles I, III, IV, VII (except section 703), and VIII are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply; and such rules shall supercede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(b) Any rule provided in this Act may be waived or suspended by the Senate or the House of Representatives only by a vote of two-thirds of the Members voting, a quorum being present.

(c) If a point of order is made in either the Senate or the House of Representatives, and sustained by the Presiding Officer of that House, that any bill, resolution, amendment, motion, or other matter is not in order by reason of any rule provided in this Act, the decision of the Presiding Officer may be overruled only by a vote of two-thirds of the Members voting, a quorum being present.

EFFECTIVE DATES

SEC. 1006. (a) Except as provided in subsections (a) and (b), the provisions of this Act shall take effect on the date of its enactment.

(b) Titles III and VI (except section 604) shall apply with respect to the fiscal year beginning on October 1, 1975, and succeeding fiscal years.

(c) Section 401, section 403, section 604, title VII (except section 703), and title VIII shall take effect on the first day of the first session of the Congress following the date of the enactment of this Act.

The amendments of the Committee on Rules and Administration were to strike out the language of the Committee on Government Operations and insert:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Congressional Budget Act of 1974".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Declaration of purposes.
Sec. 3. Definitions.

TITLE I—ESTABLISHMENT OF SENATE AND HOUSE BUDGET COMMITTEES

Sec. 101. Budget Committee of the Senate.

TITLE II—CONGRESSIONAL OFFICE OF THE BUDGET

Sec. 201. Establishment of Office.
Sec. 202. Duties and functions.
Sec. 203. Public access to budget data.

TITLE III—CONGRESSIONAL BUDGET PROCESS

Sec. 301. Adoption of first concurrent resolution.
Sec. 302. Reports after adoption of concurrent resolutions.
Sec. 303. First concurrent resolution on the budget must be adopted before budget authority and changes in revenues and public debt limit are made.
Sec. 304. Permissible revisions of concurrent resolutions on the budget.
Sec. 305. Provisions relating to the consideration of concurrent resolutions on the budget.
Sec. 306. Required action by conference committee.
Sec. 307. Legislation dealing with congressional budget must be handled by budget committees.
Sec. 308. Summaries of congressional budget actions.
Sec. 309. Action on bills providing new budget authority.
Sec. 310. Second required concurrent resolution and reconciliation bill.
Sec. 311. New budget authority must be within appropriate levels.

TITLE IV—ADDITIONAL PROVISIONS TO IMPROVE FISCAL PROCEDURES

Sec. 401. Bills providing new advance spending authority.
Sec. 402. Reporting of authorizing legislation.
Sec. 403. Analyses by Congressional Office of the Budget.
Sec. 404. Jurisdiction of Appropriations Committees.

TITLE V—CHANGE OF FISCAL YEAR

Sec. 501. Fiscal year to begin October 1.
Sec. 502. Transmittal of budget.
Sec. 503. Transition to new fiscal year.
Sec. 504. Accounting procedures.
Sec. 505. Conversion of authorizations of appropriations.
Sec. 506. Economic reports.
Sec. 507. Repeals.
Sec. 508. Technical amendment.

TITLE VI—AMENDMENTS TO BUDGET AND ACCOUNTING ACT, 1921

Sec. 601. Matters to be included in President's budget.
Sec. 602. Midyear review.
Sec. 603. Five-year budget projections.
Sec. 604. Allowances for supplemental budget authority and uncontrollable outlays.
Sec. 605. Budget data based on continuation of existing level of services.
Sec. 606. Removal of exemptions from budget process.

TITLE VII—PROGRAM REVIEW AND EVALUATION

Sec. 701. Review and evaluation by standing committees.
Sec. 702. Review and evaluation by the Comptroller General.

TITLE VIII—FISCAL AND BUDGETARY INFORMATION AND CONTROLS

Sec. 801. Amendment to Legislative Reorganization Act of 1970.

TITLE IX—MISCELLANEOUS PROVISIONS; EFFECTIVE DATES

Sec. 901. Conforming amendments to standing rules of the Senate.
Sec. 902. Amendments to Legislative Reorganization Act of 1946.
Sec. 903. Exercise of rulemaking powers.
Sec. 904. Effective dates.
Sec. 905. Application of congressional budget process to fiscal year 1976.

TITLE X—APPROPRIATION RESERVES

Sec. 1001. Amendment to Antideficiency Act.
Sec. 1002. Disclaimer.

DECLARATION OF PURPOSES

SEC. 2. (a) PURPOSES.—The Congress declares that it is essential—

(1) to establish national goals and priorities to meet the needs of a strong national economy;

(2) to provide for the congressional determination each year of the appropriate level of Federal revenues and expenditures;

(3) to assure the most effective use of Federal revenues; and

(4) to assure effective control over the budgetary process.

(b) MEANS OF ACCOMPLISHMENT.—In order to achieve these purposes, it is necessary—

(1) to establish a congressional budgeting system;

(2) to create budget committees with responsibility to oversee and establish fiscal guidelines for the implementation of national goals and priorities; and

(3) to require the executive branch to furnish information in a manner that will assist the Congress in discharging its duties.

DEFINITIONS

SEC. 3. (a) IN GENERAL.—For purposes of this Act—

(1) The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures and net lending of funds under budget authority during the fiscal year.

(2) The term "budget authority" means authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds, except that such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

(3) The term "tax expenditures" means those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability representing a deviation from the normal tax structure for individuals and corporations. The term "tax expenditures budget" means an enumeration of such tax expenditures.

(4) The term "concurrent resolution on the budget" means a concurrent resolution referred to in section 301, 304, or 310.

(5) The term "appropriation Act" means an Act referred to in section 105 of title 1, United States Code.

(b) JOINT COMMITTEE ON ATOMIC ENERGY.—For purposes of titles II, III, and IV of this Act, the Members of the Senate who are members of the Joint Committee on Atomic Energy shall be treated as a standing committee of the Senate, and the Members of the House of Representatives who are members of such Joint Committee shall be treated as a standing committee of the House.

TITLE I—ESTABLISHMENT OF SENATE AND HOUSE BUDGET COMMITTEES

BUDGET COMMITTEE OF THE SENATE

SEC. 101. (a) Paragraph 1 of rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following new subparagraph:

"(r) (1) The Committee on the Budget, to which committee shall be referred all concurrent resolutions on the budget (as defined in section 3(4) of the Congressional Budget Act of 1974) and all other matters required to be referred to that committee under titles III and IV of that Act, and messages, petitions, memorials, and other matters relating thereto.

"(2) Such committee shall have the duty—

"(A) to report the matters required to be reported by it under title III and IV of the Congressional Budget Act of 1974;

"(B) to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the Senate on a recurring basis;

"(C) to request and evaluate continuing studies of tax expenditures, and to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the Senate on a recurring basis; and

"(D) to review, on a continuing basis, the conduct by the Congressional Office of the Budget of its functions and duties."

(b) The table contained in paragraph 2 of rule XXV of the Standing Rules of the Senate is amended by inserting after—

"Banking, Housing, and Urban Affairs__ 15"

the following:

"Budget ____________________________ 15".

(c) Paragraph 6 of rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following new subparagraph:

"(h) For purposes of the first sentence of subparagraph (a), membership on the Committee on the Budget shall not be taken into account until that date occurring during the first regular session of the Ninety-sixth Congress, upon which the appointment of the majority and minority party members of the standing committees of the Senate is initially completed."

TITLE II—CONGRESSIONAL OFFICE OF THE BUDGET

ESTABLISHMENT OF OFFICE

SEC. 201. (a) IN GENERAL.—

(1) ESTABLISHMENT.—There is established an office of the Congress to be known as the Congressional Office of the Budget (hereinafter in this title referred to as the "Office"). The Office shall be headed by a Director, and there shall be a Deputy Director who shall perform such duties as may be assigned to him by the Director and, during the absence or incapacity of the Director or during a vacancy in that office, shall act as Director.

(2) APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR.—The Director and Deputy Director shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate after consultation with the Committees on the Budget of the House and the Senate, respectively, subject to confirmation given by order of each House. The Director and Deputy Director shall each be appointed without regard to political affiliation and solely on the basis of his fitness to perform his duties.

(3) TERMS OF OFFICE.—The terms of office of the Director and Deputy Director first appointed shall expire at noon on January 3, 1979, and the terms of Directors and Deputy Directors appointed thereafter shall expire at noon on January 3 of each sixth year thereafter. Any individual appointed to fill a vacancy prior to the expiration of a term shall serve only for the unexpired portion of that term. An individual serving as Director or Deputy Director at the expiration of a term may continue to serve until his successor is appointed.

(4) REMOVAL.—The Director and Deputy Director, or either of them, may be removed by either House by resolution.

(5) COMPENSATION.—The Director shall receive the same compensation as the Comptroller General of the United States. The Deputy Director shall receive the same compensation as the Deputy Comptroller General of the United States.

(b) PERSONNEL.—The Director shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties. The Director may delegate to personnel of the Office authority to perform any of the duties, powers, and functions imposed on the Office or on the Director. For purposes of pay (other than pay of the Director and Deputy Director) and employment benefits, rights, and privileges, all personnel of the Office shall be treated as if they were employees of the Senate.

(c) EXPERTS AND CONSULTANTS.—In carrying out the duties and functions of the Office, the Director may procure the temporary (not to exceed one year) or intermittent services of experts or consultants or organizations thereof by contract as independent contractors, or, in the case of individual experts or consultants by employment, at rates of pay not in excess of the daily equivalent of the highest rate of basic pay payable under the General Schedule of section 5332 of title 5, United States Code.

(d) RELATIONSHIP TO EXECUTIVE BRANCH.—

(1) SECURING OF INFORMATION, ETC.—The Director is authorized to secure information, data, estimates, and statistics developed by various departments, agencies, and establishments of the executive branch of Government and regulatory agencies and commissions of the Government in the course of their operations and activities. All such departments, agencies, and establishments and regulatory agencies and commissions shall cooperate with the Director by furnishing to him that material which he determines to be necessary in the performance of his duties and functions. This paragraph shall not apply to any information, data, estimates, or statistics, the disclosure of which is specifically prohibited by law.

(2) UTILIZATION OF SERVICES, ETC.—In carrying out the duties and functions of the Office, the Director may, as agreed upon with the head of any department, agency, or establishment of the executive branch of Government or regulatory agency or commission of the Government, utilize the services, facilities, and personnel of such department, agency, or establishment or such regulatory agency or commission. The utilization of such services, facilities, and personnel may be with or without reimbursement by the Office as may be agreed to.

(3) FURNISHING OF SERVICES, ETC.—The head of each department, agency, and establishment in the executive branch, agency, and establishment in the executive branch, or regulatory agency or commission, is authorized to provide the Office the services, facilities, and personnel referred to in paragraph (2).

(e) RELATIONSHIP TO OTHER AGENCIES OF CONGRESS.—

(1) COORDINATION OF OPERATIONS.—The Office, the General Accounting Office, the Library of Congress, and the Office of Technology Assessment shall fully coordinate and cooperate in planning and conducting their operations to utilize most effectively the information, services, and capabilities of all congressional agencies in carrying out the various responsibilities assigned to each agency.

(2) OBTAINING INFORMATION, ETC.—In carrying out the duties and functions of the Office, the Director is authorized to obtain information, data, estimates, and statistics developed by the General Accounting Office, the Library of Congress, and the Office of Technology Assessment in the course of their operations and activities. Requests for information, and the compliance with such requests, pursuant to this subsection shall be in accordance with procedures to be developed and agreed upon between the Director and the Comptroller General, the Librarian of Congress, or the Technology Assessment Board, as the case may be.

(3) UTILIZATION OF SERVICES, ETC.—In carrying out the duties and functions of the Office, the Director may, as agreed upon with the Comptroller General, the Librarian of Congress, or the Technology Assessment Board, as the case may be, utilize the services, facilities, and personnel of the General Accounting Office, the Library of Congress, and the Office of Technology Assessment. The utilization of such services, facilities, and personnel may be with or without reimbursement by the Office as may be agreed to.

(4) FURNISHING OF SERVICES, ETC.—The Comptroller General, the Librarian of Congress, and the Technology Assessment Board are authorized to provide the Office the services, facilities, and personnel referred to in paragraph (3).

(5) EXISTING AUTHORITIES NOT OTHERWISE AFFECTED.—Except as otherwise specifically provided, nothing in this title shall be construed as modifying any existing authorities or responsibilities of the General Accounting Office, the Library of Congress, and the Office of Technology Assessment.

(f) APPROPRIATIONS.—There are authorized to be appropriated to the Office for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions. Until sums are first appropriated to the Office pursuant to the preceding sentence, the expenses of the Office shall be paid, in accordance with the paragraph relating to the contingent fund of the Senate under the heading "UNDER LEGISLATIVE" in the Act of October 1, 1888, (28 Stat. 546; 2 U.S.C. 68), and upon vouchers approved by the Director, from the contingent fund of the Senate.

DUTIES AND FUNCTIONS

SEC. 202. (a) ASSISTANCE TO BUDGET COMMITTEES.—It shall be the duty and function of the Office to provide to the Committees on the Budget of both Houses information which will assist such committees in the discharge of all matters within their jurisdiction, including information with respect to the budget, appropriation bills, other bills authorizing or providing budget authority or tax expenditures, and with respect to revenues, receipts, estimated future revenues and receipts, and changing revenue conditions. The Office shall also provide to the Committee on the Budget of either House such other related information as such committee may request. At the request of the Committee on the Budget of either House, personnel of the Office shall be assigned, on a temporary basis, to assist such committee.

(b) ASSISTANCE TO OTHER COMMITTEES AND MEMBERS.—At the request of any other committee of the Senate or the House of Representatives or any joint committee of the Congress, the Office shall provide to such committee or joint committee any information compiled in carrying out the first sentence of subsection (a) and any additional detailed information related to the foregoing, as requested. At the request of any such committee or joint committee, personnel of the Office may be assigned, on a temporary basis, to assist such committee or joint committee with respect to matters directly related to the information referred to in the preceding sentence. At the request of any Member of the Senate or the House, the Office shall provide to such Member any information compiled in carrying out the first sentence of subsection (a) and any additional detailed information related to the foregoing, to the extent practicable, as requested.

(c) Transfer of Functions of Joint Committee on Reduction of Federal Expenditures.—

(1) The duties, functions, and personnel of the Joint Committee on Reduction of Federal Expenditures are transferred to the Office, and the Joint Committee is abolished.

(2) Section 601 of the Revenue Act of 1941 (55 Stat. 726) is repealed.

(d) Report on Revenues and Budget Outlays.—On or before April 15 of each year, and based on his estimates of revenues expected to be received during the fiscal year beginning on October 1 of such year, the Director shall report to the Congress with respect to alternative levels of total revenues and total outlays for such fiscal year and the surpluses or deficits related to such alternative levels. Such report shall also set forth the levels of tax expenditures under existing law for such fiscal year (the tax expenditure budget), taking into account projected economic factors, and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year. The Director may at any time thereafter submit subsequent reports to the Congress revising the report required by this subsection.

(e) Projection of Revenues and Budget Outlays.—The Director shall develop information with respect to the effect of existing laws on revenues and tax expenditures, and of existing authorizations and budget authority on outlays, during the current fiscal year and the ensuing four fiscal years. Such information shall include a compilation of tax expenditures and outlays, by major functional categories, and, to the extent practicable, an analysis of the interrelationship of existing authorizations, budget authority, and tax expenditures.

(f) Use of Computers and Other Techniques.—The Director may equip the Office with up-to-date computer capability (upon approval of the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives), obtain the services of experts and consultants in computer technology, and develop techniques for the evaluation of budgetary requirements.

PUBLIC ACCESS TO BUDGET DATA

Sec. 203. (a) Right To Copy.—Except as provided in subsections (c) and (d), the Director shall make all information, data, estimates, and statistics obtained under sections 201(d)(1) and 201(e)(2), available for public copying during normal business hours, subject to reasonable rules and regulations prescribed by the Director. To the extent practicable, he shall, at the request of any person, furnish a copy of any such information, data, estimates, or statistics requested, upon payment by such person of the cost of making and furnishing such copy.

(b) Index.—The Director shall develop and maintain filing, coding, and indexing systems that identify the information, data, estimates, and statistics to which subsection (a) applies and shall make such systems available for public use during normal business hours.

(c) Exceptions.—Subsection (a) shall not apply to information, data, estimates, and statistics—

(1) which are specifically exempted from disclosure by Act of Congress; or

(2) which the Director determines will disclose—

(A) matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United Sates;

(B) information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(C) personnel or medical data or similar data the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

unless the portions containing such information have been excised.

(d) Information Obtained for Committees and Members.—Subsection (a) shall apply to any information, data, estimates, and statistics obtained at the request of any committee or Member of the Senate or the House of Representatives, or any joint committee of the Congress, unless the committee, Member, or joint committee making the request has instructed the Director not to make such information, data, estimates, or statistics available for public copying.

TITLE III—CONGRESSIONAL BUDGET PROCESS

The timetable with respect to the congressional budget process for any fiscal year is as follows:

On or before:	Action to be completed:
November 10	President submits current services budget.
February 15	President submits his budget.
April 1	Committees and joint committees submit reports to Budget Committees.
April 15	Congressional Office of the Budget submits report to Congress.
May 1	Budget Committees report first concurrent resolution to their Houses.
May 15	Committees report bills and resolutions authorizing new budget authority.
June 1	Completion of all action on first concurrent resolution.
(1) Five days before beginning of August adjournment or (2) August 7 when no August adjournment.	Completion of enactment into law of all bills and resolutions providing new budget authority.
(1) Three days before beginning of August adjournment, or (2) August 15 when no August adjournment.	Budget Committees report second required concurrent resolution.
(1) Three days after end of August adjournment or (2) Four days after Labor Day when no August adjournment.	Completion of all action on second required concurrent resolution.
September 25	Congress completes action on reconciliation bill implementing second required concurrent resolution.
October 1	Fiscal year begins.

ADOPTION OF FIRST CONCURRENT RESOLUTION

Sec. 301. (a) Action To Be Completed by June 1.—On or before June 1 of each year, the Congress shall complete action on the first concurrent resolution on the budget for the fiscal year beginning on October 1 of such year. The concurrent resolution shall set forth—

(1) Total budget outlays and total new budget authority.—Appropriate levels of total budget outlays and total new budget authority;

(2) Allocations of totals.—An estimate of budget outlays and an appropriate level of new budget authority—

(A) for each major functional category, for contingencies, and for undistributed intragovernmental transactions, based on allocations of the appropriate levels of total budget outlays and total new budget authority;

(B) within each major functional category, for all existing programs (including renewals thereof) in the aggregate and for all proposed programs in the aggregate, based on the estimate and appropriate level allocated to that category; and

(C) based on the total estimate and appropriate level allocated for all existing programs (including renewals thereof) within each major functional category, in the aggregate for all permanent authority for such programs and in the aggregate for such programs whose funds are generally provided in appropriation Acts, with the estimate and appropriate level for funds so provided being further subdivided between controllable amounts and all other amounts;

(3) Estimated revenues.—Estimated revenue receipts;

(4) Recommended surplus or deficit.—The amount, if any, by which revenues should exceed budget outlays, or by which budget outlays should exceed revenues, considering economic conditions and all other relevant factors;

(5) Level of, and recommended change in, total revenues.—The appropriate level of Federal revenues, and the amount, if any, by which the aggregate level of Federal revenues should be increased or decreased by bills and resolutions to be reported by the appropriate committees;

(6) Level of, and recommended change in, public debt.—The appropriate level of the public debt, and the amount, if any, by which the statutory limit on the public debt should be increased or decreased by bills and resolutions reported by the appropriate committees; and

(7) Other matters.—Such other matters relating to the budget as may be appropriate to carry out the purposes of this Act.

(b) Additional Matter in Concurrent Resolution.—The first concurrent resolution on the budget may also include provisions to one of the following procedures:

(1) that each bill or resolution providing new budget authority for that fiscal year (other than supplemental, deficiency, and continuing appropriation bills and resolutions) shall contain a provision that the new budget authority provided in such bill or resolution shall not become effective until a provision has been enacted into law, after all such bills and resolutions providing new budget authority have been enacted into law, that the new budget authority contained in such bill or resolution shall become effective;

(2) that all bills and resolutions providing new budget authority for such fiscal year shall not be enrolled until the concurrent resolution required to be reported under

section 301(a) has been agreed to, and, if a reconciliation bill is required to be reported under section 310(c), until after that bill has been enrolled;

(3) that all provisions for new budget authority which would be included in appropriation Acts (other than supplemental and deficiency appropriation Acts) for such fiscal year be included instead in one bill; or

(4) any other procedure which is considered appropriate to carry out the purposes of this Act.

(c) Reports by Joint Economic Committee.—On or before April 1 of each year, the Joint Economic Committee shall report to the Committees on the Budget of both Houses its recommendations as to the fiscal policy appropriate to the goals of the Employment Act of 1946, including, where appropriate, recommendations with regard to major functional categories of new budget authority and budget outlays. The joint committee shall also, from time to time, report to the Committees on the Budget of both Houses such other recommendations as it deems advisable.

(d) Views and Estimates of Other Committees.—On or before April 1 of each year, each standing committee of the Senate shall submit to the Committee on the Budget of the Senate, each standing committee of the House of Representatives shall submit to the Committee on the Budget of the House, and the Joint Committee on Internal Revenue Taxation shall submit to the Committees on the Budget of both Houses—

(1) its views and estimates with respect to all matters set forth in subsection (a) which relate to matters within the respective jurisdiction or functions of such committee or joint committee; and

(2) except in the case of the Joint Committee on Internal Revenue Taxation, the estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within the jurisdiction of such committee which such committee intends to be effective during the fiscal year beginning on October 1 of such year.

Any other committee of the Senate or House may submit to the Committee on the Budget of its House, and any other joint committee of the Congress may submit to the Committees on the Budget of both Houses, its views and estimates with respect to all matters set forth in subsection (a) which relate to matters within its jurisdiction or functions.

(e) Reporting.—On or before May 1 of each year, the Committee on the Budget of each House shall report to its House the first concurrent resolution on the budget referred to in subsection (a) for the fiscal year beginning on October 1 of such year. The report accompanying such concurrent resolution shall include, but not be limited to—

(1) a comparison of revenues, as estimated for the purposes of such concurrent resolution, with those estimated in the budget submitted by the President;

(2) a comparison of the appropriate levels of total budget outlays and total new budget authority, as set forth in such concurrent resolution, with total budget outlays estimated and total new budget authority requested in the budget submitted by the President;

(3) the economic assumptions and programs objectives which underlie the appropriate levels, estimates, deficits or surpluses, and levels of revenue and public debt set forth in such concurrent resolution, and the alternative economic assumptions and program objectives which the committee considered in formulating such concurrent resolution;

(4) specific projections, not limited to the following, for the period of five fiscal years beginning with such fiscal year of—

(A) the estimated levels of total budget outlays and total new budget authority for each fiscal year in such period;

(B) the estimated revenues to be received, and the estimated surplus or deficit, if any, for each fiscal year in such period, based upon such estimated revenues and the estimated levels of total budget outlays and total new budget authority set forth pursuant to subparagraph (A); and

(C) the estimated levels of tax expenditures by major functional categories;

(5) an explanation of any significant changes in the proposed levels of Federal assistance to State and local governments; and

(6) allocations of the appropriate levels of the total budget outlays and total new budget authority among each committee of the Senate and House which has jurisdiction over bills and resolutions providing budget authority, with such allocations made with respect to the Committees on Appropriations of the two Houses being further subdivided among the subcommittees of such committees.

Such report shall also contain the recommendations of the Joint Economic Committee as reported pursuant to subsection (c), the separate views and estimates of other committees and joint committees as submitted pursuant to subsection (d), and an explanation of the Committee on the Budget of actions taken with respect to such recommendations, views, and estimates.

(f) Floor Action.—On or before May 20 of each year, each House shall complete action on the first concurrent resolution on the budget referred to in subsection (a) for the fiscal year beginning on October 1 of such year (except for action on any conference report on such concurrent resolution).

(g) Extension Where Specified Date Falls on Saturday, Sunday, or Holiday.—When any date (other than October 1) specified in subsection (e) or (f) falls on a Saturday, Sunday, or legal holiday in the District of Columbia in any year, there shall be substituted for that date during that year the next succeeding date which is not a Saturday, Sunday, or legal holiday in the District of Columbia.

REPORTS AFTER ADOPTION OF CONCURRENT RESOLUTIONS

Sec. 302. (a) Making Allocations.—As soon as practicable after the first concurrent resolution on the budget for a fiscal year has been agreed to pursuant to section 301, and as soon as practicable after any concurrent resolution on the budget under section 304 or 310 has been agreed to—

(1) the Committee on the Budget of each House shall make an estimated allocation, based upon such concurrent resolution, of the appropriate levels of total budget outlays and total new budget authority among each committee of its House which has jurisdiction over bills and resolution providing such new budget authority; and

(2) based upon the allocation to it under paragraph (1), the Committee on Appropriations of each House shall—

(A) subdivide such allocation among its subcommittees; and

(B) further subdivide the amount with respect to each such subcommittee between controllable amounts and all other amounts. In the case of a concurrent resolution on the budget referred to in section 304 or 310, the allocation under paragraph (1) and subdivisions under paragraph (2) shall be required only to the extent necessary to take into account revisions made in the most recently agreed to concurrent resolution on the budget.

(b) Submission of Report.—The Committee on Appropriations of each House shall promptly transmit the information determined in accordance with subsection (a)(2) to the Committee on the Budget of its House. Such information shall be included in a report, without change, by that Committee on the Budget with the allocations made by it under subsection (a)(1).

FIRST CONCURRENT RESOLUTION ON THE BUDGET MUST BE ADOPTED BEFORE BUDGET AUTHORITY AND CHANGES IN REVENUES AND PUBLIC DEBT LIMIT ARE MADE

Sec. 303. (a) In General.—It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution (or amendment thereto) which provides—

(1) new budget authority for a fiscal year;

(2) an increase or decrease in revenues to become effective during a fiscal year; or

(3) an increase or decrease in the public debt limit to become effective during a fiscal year;

until the first concurrent resolution on the budget for such year has been agreed to pursuant to section 301 or until June 1 preceding the beginning of such fiscal year, whichever first occurs.

(b) Exceptions.—Subsection (a) does not apply to any bill or resolution—

(1) providing new advance spending authority (as defined in section 401(c));

(2) increasing or decreasing revenues, equivalent amounts of which are paid into trust funds described in section 401(d)(1);

(3) providing new budget authority which first becomes available in a fiscal year following the fiscal year to which the concurrent resolution applies; or

(4) increasing or decreasing revenues which first becomes effective in a fiscal year following the fiscal year to which the concurrent resolution applies.

(c) Waiver in the Senate.—

(1) The committee of the Senate which reports any bill or resolution to which subsection (a) applies may, at or after the time it reports such bill or resolution, report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution, and (B) stating the reasons why the waiver is necessary. The resolution shall then be referred to the Committee on the Budget of the Senate. That commitee shall report the resolution to the Senate within ten days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred, accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such ten-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority and minority leaders or their designees, and the time on any debatable motion or appeal shall be limited to twenty minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) of this section shall not apply

with respect to the bill or resolution to which the resolution so agreed to applies.

PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET

SEC. 304. At any time after the first concurrent resolution on the budget for a fiscal year has been agreed to pursuant to section 301, and before the close of such fiscal year, the two Houses may adopt a concurrent resolution on the budget which revises the concurrent resolution on the budget for such fiscal year most recently agreed to.

PROVISIONS RELATING TO THE CONSIDERATION OF CONCURRENT RESOLUTIONS ON THE BUDGET

SEC. 305. (a) PROCEDURE IN SENATE AFTER REPORT OF COMMITTEE; DEBATE; AMENDMENTS.—

(1) Debate in the Senate on any concurrent resolution on the budget, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than fifty hours, except that, with respect to the second required concurrent resolution referred to in section 310(a), all such debate shall be limited to not more than fifteen hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to a concurrent resolution on the budget shall be limited to two hours, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of such concurrent resolution shall be received. Such leaders, or either of them, may, from the time under their control on the passage of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed three, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution.

(4) Notwithstanding any other rule, an amendment, or series of amendments, to a concurrent resolution on the budget proposed in the Senate shall always be in order if such amendment or series of amendments proposes to change any figure or figures then contained in such concurrent resolution so as to make such concurrent resolution mathematically consistent or so as to maintain such consistency.

(b) PROCEDURE IF HOUSE PASSES CONCURRENT RESOLUTION FIRST.—If, prior to the passage of a concurrent resolution on the budget by the Senate, the Senate receives from the House of Representatives a concurrent resolution on the budget of the House, then—

(1) the procedure with respect to the concurrent resolution of the Senate shall be the same as if no concurrent resolution from the House had been received; but

(2) on any vote on final passage of the concurrent resolution of the Senate the concurrent resolution of the House shall be automatically substituted with all after the resolving clause struck and the language of the concurrent resolution of the Senate substituted therefor.

(c) ACTION ON CONFERENCE REPORTS IN THE SENATE.—

(1) The conference report on any concurrent resolution on the budget shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

(2) During the consideration in the Senate of the conference report on any concurrent resolution on the budget, debate shall be limited to ten hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(3) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to one hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to twenty minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(4) In any case in which there are amendments in disagreement, time on each amendment shall be limited to thirty minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader of his designee. No amendment that is not germane to the provisions of such amendments shall be received.

(d) CONCURRENT RESOLUTION MUST BE CONSISTENT.—It shall not be in order in the Senate to vote on the question of agreeing to—

(1) a concurrent resolution on the budget unless the figures then contained in such resolution are mathematically consistent; or

(2) a conference report on a concurrent resolution on the budget unless the figures contained in such resolution, as recommended in such conference report, are mathematically consistent.

REQUIRED ACTION BY CONFERENCE COMMITTEE

SEC. 306. If a committee of conference on a concurrent resolution on the budget is unable, within seven days (excluding Saturdays, Sundays, and legal holidays) after the conferees of each House have been appointed to such committee, to agree, and submit a conference report, with respect to all amounts in the concurrent resolution which are in disagreement between the two Houses, then the conferees of each House shall submit to their House a conference report recommending—

(1) the amounts upon which the committee of conference is in agreement; and

(2) in the case of amounts upon which the committee of conference is not in agreement, an amount which is the midpoint between the amount contained in the concurrent resolution as agreed to by the Senate and the amount contained in the concurrent resolution as agreed to by the House. In the case of the first concurrent resolution on the budget referred to in section 301, the preceding sentence shall not require the submission of a conference report before May 25 of any year, and, in the case of the second required concurrent resolution on the budget referred to in section 310(a), the preceding sentence shall not require the submission of a conference report earlier than five days preceding the date on which action on such concurrent resolution is required to be completed.

LEGISLATION DEALING WITH CONGRESSIONAL BUDGET MUST BE HANDLED BY BUDGET COMMITTEES

SEC. 307. No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

SUMMARIES OF CONGRESSIONAL BUDGET ACTIONS

SEC. 308. (a) REPORTS ON LEGISLATION PROVIDING NEW BUDGET AUTHORITY.—Whenever a committee of either House reports a bill or resoluton to its House providing new budget authority for a fiscal year, the report accompanying that bill or resolution shall contain a statement prepared after consultation with the Director of the Congressional Office of the Budget detailing—

(1) how the new budget authority in that bill or resolution compares with the new budget authority set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year and the reports submitted under section 302;

(2) a projection for the period of five fiscal years beginning with such fiscal year of the budget outlays which will result from that bill or resolution in each fiscal year in such period; and

(3) the impact on State and local governments of the new budget authority, and budget outlays resulting therefrom, provided by that bill or resolution.

The committee is not required to include in the report a projection in accordance with paragraph (2) for any fiscal year in such five-year period, or to detail such impact in accordance with paragraph (3), if the committee determines that the projection for such year or detailing that impact, as the case may be, is impracticable and states in the report the reasons for such impracticability.

(b) UP-TO-DATE TABULATION OF CONGRESSIONAL BUDGET ACTIONS.—The Director of the Congressional Office of the Budget shall issue periodic reports detailing and tabulating the progress of congressional action on bills and resolutions providing new budget authority and changes in revenues and the public debt limit for a fiscal year. Specifically, such report shall include—

(1) an up-to-date tabulation comparing the new budget authority, and estimated outlays resulting therefrom, in bills and resolutions on which Congress has completed action to the new budget authority and estimated outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year and the reports submitted under section 302;

(2) an up-to-date status report on all bills and resolutions providing new budget authority and changes in revenues and the public debt limit for such fiscal year in both Houses;

(3) an up-to-date comparison of the appropriate level of revenues contained in the

most recently agreed to concurrent resolution on the budget for such fiscal year with the latest estimate of revenue receipts for such year (including new revenues anticipated during such year under bills and resolutions on which the Congress has completed action); and

(4) an up-to-date comparison of the appropriate level of the public debt contained in the most recently agreed to concurrent resolution on the budget for such fiscal year with the latest estimate of the public debt during such fiscal year.

(c) FIVE-YEAR PROJECTION OF CONGRESSIONAL BUDGET ACTION.—As soon as practicable after the beginning of each fiscal year, the Director of the Congressional Office of the Budget shall issue a report projecting for the period of five fiscal years beginning with such fiscal year—

(1) total new budget authority and total budget outlays for each fiscal year in such period, except that for any fiscal year in such period that the Director determines a projection to be impracticable, no such projection shall be required if the Director states the reasons for such impracticability with respect to that year; and

(2) revenues to be received and the major sources thereof, and the surplus or deficit, if any, for each fiscal year in such period.

(d) UNCONTROLLABLE OUTLAYS AND OUTLAYS NOT WITHIN JURISDICTION OF APPROPRIATIONS COMMITTEES.—

(1) APPROPRIATIONS COMMITTEES.—The Committee on Appropriations of each House shall, with respect to bills and resolutions which provide new budget authority for a fiscal year for uncontrollable outlays, include in the report accompanying such bill or resolution its estimate of the total outlays which will be made during that fiscal year under such new budget authority and budget authority provided for prior fiscal years.

(2) OUTLAYS NOT WITHIN JURISDICTION OF APPROPRIATIONS COMMITTEES.—The Committee on the Budget of each House shall, on or before August 1 of each year, report to its House its estimate of the total outlays which will be made during the fiscal year beginning on October 1 of that year under budget authority which is not provided in appropriation Acts.

(e) REPORTS ON LEGISLATION PROVIDING NEW TAX EXPENDITURES.—Whenever a committee of either House reports a bill for resolution to its House providing new or increased tax expenditures during a fiscal year, the report accompanying that bill or resolution shall contain a statement prepared after consultation with the Director of the Congressional Office of the Budget detailing—

(1) how the new tax expenditures provided in that bill or resolution will affect the levels of tax expenditures under existing law as set forth in the report accompanying the first concurrent resolution on the budget for such fiscal year, or, if a report accompanying a subsequently agreed to concurrent resolution for such year sets forth such levels, then as set forth in that report, and a justification for any deviation from those levels; and

(2) a projection for a period of five fiscal years beginning with such fiscal year of the tax expenditures which will result from that bill or resolution in each fiscal year in such period, except that for any fiscal year in such period that the committee determines such projection to be impracticable, no such projection shall be required if the committee states the reasons for such impracticability with respect to that year.

ACTION ON BILLS PROVIDING NEW BUDGET AUTHORITY

SEC. 309. In order to promote sound fiscal policies and procedures, the Congress declares that—

(1) not later than five days before the beginning of an adjournment taken in an odd-numbered year under section 132(a)(2) of the Legislative Reorganization Act of 1946, or, in any year in which there is no such adjournment, not later than August 7 preceding the beginning of a fiscal year, all bills and resolutions providing new budget authority for such fiscal year (other than supplemental, deficiency, and continuing appropriation bills and resolutions) and all bills and resolutions providing new tax expenditures during such fiscal year shall be enacted into law; and

(2) if a reconcilation bill is required to be reported under section 310(c) for a fiscal year, the Congress shall complete action on that bill by September 25 preceding such fiscal year.

SECOND REQUIRED CONCURRENT RESOLUTION AND RECONCILIATION BILL

SEC. 310. (a) REPORTING OF CONCURRENT RESOLUTION.—Not later than three days before the beginning of an adjournment taken in an odd-numbered year under section 132 (a)(2) of the Legislative Reorganization Act of 1946, or, in any year in which there is no such adjournment, not later than August 15, the Committee on the Budget of each House shall report to its House a concurrent resolution on the budget which reaffirms or revises the concurrent resolution on the budget most recently agreed to with respect to the fiscal year beginning on October 1 of such year. Any such concurrent resolution on the budget to reaffirm or revise shall also, to the extent necessary—

(1)(A) specify the total amount by which new budget authority for such fiscal year and budget authority for any prior fiscal year contained in laws within the jurisdiction of a committee is to be changed and direct that committee to determine and recommend changes in such laws to accomplish a change of such total amount; or

(B) whenever subparagraph (A) is infeasible, direct that all budget authority available for any such fiscal year be changed on a pro rata basis (other than budget authority for uncontrollable outlays with respect to provisions of laws already in effect);

(2) specify the total amount by which revenues are to be changed and direct the committees having jurisdiction to determine and recommend changes in the revenue laws to accomplish a change of such total amount;

(3) specify the amount by which the statutory limit on the public debt is to be changed and direct the committees having jurisdiction to recommend such change; or

(4) any combination of paragraphs (1), (2), and (3).

(b) COMPLETION OF ACTION ON CONCURRENT RESOLUTION.—Not later than three days after the end of an adjournment taken in an odd-numbered year under section 132(a)(2) of the Legislative Reorganization Act of 1946, or, in any year in which there is no such adjournment, not later than four days after Labor Day of that year, the Congress shall complete action on the concurrent resolution on the budget referred to in subsection (a) which reaffirms or revises the concurrent resolution on the budget most recently agreed to.

(c) RECONCILIATION BILL.—If a concurrent resolution on the budget is agreed to in accordance with subsection (a) containing a direction that changes in laws be made, and—

(1) only one committee is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and report a reconciliation bill to its House containing such recommendations; or

(2) more than one committee is directed to determine and recommend changes, each such committee so directed shall promptly make such determination and recommend changes and submit such recommendations to the Committee on the Budget of its House. The Committee on the Budget, upon receiving all such recommendations, shall report to its House a reconciliation bill containing, without substantive revision, all such recommendations.

(d) COMPLETION OF ACTION ON RECONCILIATION BILL.—Congress shall complete action on any reconciliation bill reported under subsection (c) not later than September 25 immediately preceding the beginning of the fiscal year commencing October 1.

(e) PROCEDURE IN THE SENATE.—

(1) Except as provided in paragraph (2), the provisions of section 305 for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of reconciliation bills reported under subsection (c) and conference reports thereon.

(2) Debate in the Senate on any reconciliation bill reported under subsection (c), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than twenty hours. Any reconciliation bill originating in the Senate which passes the Senate containing any matter relating to revenues shall not be engrossed or transmitted to the House of Representatives.

(f) CONGRESS MAY NOT ADJOURN OR RECESS UNTIL ACTION IS COMPLETED.—It shall not be in order in either the Senate or the House of Representatives to consider any resolution providing—

(1) for the adjuornment sine die of either House; or

(2) for the adjournment or recess, after September 30 of any year, of either House for a period of more than three days;

unless action has been completed on the concurrent resolution on the budget required to be reported under subsection (a) for the fiscal year beginning on October 1 of such year, and, if a reconciliation bill is required to be reported under subsection (c) for such fiscal year, unless the Congress has completed action on that bill.

(g) SHORTENING OF AUGUST RECESS.—Section 132(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198(a)(2)) is amended by striking out "thirty days" and inserting in lieu thereof "twenty-three days".

NEW BUDGET AUTHORITY MUST BE WITHIN APPROPRIATE LEVELS

SEC. 311. After all regular annual bills and resolutions providing new budget authority for a fiscal year have been enacted into law, and, if a reconciliation bill for such fiscal year is required to be reported under section 310 (c), after that bill has been enacted into law, it shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution providing additional new budget authority for such fiscal year, any amendment to any such bill or resolution, or any conference report on any such bill or resolution, if—

(1) the enactment of such bill or resolution as reported;

(2) the adoption of such amendment and the enactment of such bill or resolution as so amended; or

(3) the enactment of such bill or resolution in the form recommended in such conference report; would cause the appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded.

TITLE IV—ADDITIONAL PROVISIONS TO IMPROVE FISCAL PROCEDURES

BILLS PROVIDING NEW ADVANCE SPENDING AUTHORITY

SEC. 401. (a) PROPOSED LEGISLATION PROVIDING CONTRACT OR BORROWING AUTHORITY.—It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution which provides new advance spending authority described in subsection (c)(2) (A) or (B) (or any amendment which provides such new advance spending authority), unless that bill, resolution, or amendment also provides that such new advance spending authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(b) Proposed Legislation Providing Entitlement Authority.—

(1) Effective date.—It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution which provides new advance spending authority described in subsection (c)(2) (C) (or any amendment which provides such new advance spending authority) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.

(2) Referral to appropriations committees.—Whenever any bill or resolution which provides new advance spending authority described in subsection (c)(2)(C) is reported by any committee of the Senate or the House of Representatives, such bill or resolution shall then be referred to the Committee on Appropriations of that House with instructions to report it, with the committee's recommendations, within ten calendar days (not counting any day on which that House is not in session) beginning with the day following the day on which it is so referred. Whenever any amendment which provides such new advance spending authority (other than an amendment contained in a bill or resolution as reported and other than an amendment which increases or decreases the new advance spending authority provided by a bill or resolution as reported) is agreed to in the Senate or the House of Representatives, the bill or resolution containing such amendment shall (after all amendments have been considered) then be referred to the Committee on Appropriations of that House with instructions to report it, with the committee's recommendations, within ten calendar days (not counting any day on which that House is not in session) beginning with the day on which it is so referred. If the Committee on Appropriations of either House fails to report a bill or resolution referred to it under this paragraph within such ten-day period, the committee shall automatically be discharged from further consideration of such bill or resolution and such bill or resolution shall be placed on the calendar.

(3) Committee amendment.—The Committee on Appropriations of each House shall have jurisdiction to report any bill or resolution referred to it under paragraph (2) with an amendment which limits the total amount of new advance spending authority provided in such bill or resolution.

(c) Definitions.—

(1) New advance spending authority.—For purposes of this section, the term "new advance spending authority" means advance spending authority not provided by law on the date of the enactment of this Act, including any increase in or addition to advance spending authority provided by law on such date.

(2) Advance spending authority.—For purposes of paragraph (1), the term "advance spending authority" means authority (whether temporary or permanent)—

(A) to enter into contracts under which the United States is obligated to make outlays, the budget authority for which is not provided in advance by appropriation Acts;

(B) to incur indebtedness (other than indebtedness incurred under the Second Liberty Bond Act) for the repayment of which the United States is liable, the budget authority for which is not provided in advance by appropriation Acts; and

(C) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

Such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

(d) Exceptions.—

(1) Trust funds.—Subsections (a) and (b) shall not apply to new advance spending authority if the budget authority for outlays which will result from such new advance spending authority is derived—

(A) from a trust fund established by the Social Security Act (as in effect on the date of the enactment of this Act);

(B) from any other trust fund established by law before the date of the enactment of this Act, a substantial portion of the receipts of which consist of amounts (transferred from the general fund of the Treasury) equivalent to amounts of taxes (related to the purposes for which such outlays are made) received in the Treasury under specified provisions of the Internal Revenue Code of 1954; or

(C) from a trust fund established by law after the date of the enactment of this Act, 90 percent or more or the receipts of which consist or will consist of amounts (transferred from the general fund of the Treasury) equivalent to amounts of taxes (related to the purposes for which such outlays are or will be made) received in the Treasury under specified provisions of the Internal Revenue Code of 1954.

(2) General revenue sharing.—Subsections (a) and (b) shall not apply to new advance spending authority which is an amendment to or extension of the State and Local Fiscal Assistance Act of 1972, or a continuation of the program of fiscal assistance to State and local governments provided by that Act, to the extent so provided in the bill or resolution providing such authority.

(3) Other spending authority.—Subsections (a) and (b) shall not apply to new advance spending authority to the extent that—

(A) the outlays resulting therefrom are made by an organization which is (i) a mixed-ownership Government Corporation (as defined in section 201 of the Government Corporation Control Act), or (ii) a wholly owned Government corporation (as defined in section 101 of such Act) which is specifically exempted by law from compliance with any or all of the provisions of that Act; or

(B) the outlays resulting therefrom consist exclusively of the proceeds of gifts or bequests made to the United States for a specific purpose.

REPORTING OF AUTHORIZING LEGISLATION

Sec. 402. (a) Required Reporting Date.—Except as otherwise provided in this section, it shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution authorizing the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the Senate or the House, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

(b) Waiver in the Senate.—

(1) The committee of the Senate which reports any such bill or resolution may, at or after the time it reports such bill or resolution, report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution, and (B) stating the reasons why the waiver is necessary. The resolution shall then be referred to the Committee on the Budget of the Senate. That committee shall report the resolution to the Senate, within ten days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred, accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such ten-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees, and the time on any debatable motion or appeal shall be limited to twenty minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the resolution is in favor of any such motion or appeal, the time in oppositon thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) of this section shall not apply with respect to that bill or resolution referred to in the resolution.

(c) Certain Bills From Other House.—For purposes of subsection (a), a bill or resolution of the House of Representatives which is placed on the calendar and not referred to a committee of the Senate shall be treated as having been reported on the same day on which a companion or similar bill or resolution was reported in the Senate; and a bill or resolution of the Senate which is placed on a calendar of the House of Representatives and not referred to a committee of the House shall be treated as having been reported on the same day on which a companion or similar bill or resolution was reported in the House.

ANALYSES BY CONGRESSIONAL OFFICE OF THE BUDGET

Sec. 403. The Director of the Congressional Office of the Budget shall, to the extent practicable, prepare for each bill or resolution of a public character reported by any committee of the Senate or the House of Representatives (except the Committee on Appropriations of each House), and submit to such committee—

(1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in which it is to become effective and in each of the four fiscal years following such fiscal year, together with the basis for each such estimate; and

(2) a comparison of the estimate of costs described in paragraph (1) with any available estimate of costs made by such committee or by any Federal agency.

The estimate and comparison so submitted shall be included in the report accompanying such bill or joint resolution if submitted to such committee before such report is filed.

JURISDICTION OF APPROPRIATIONS COMMITTEES

Sec. 404. (a) Amendment of Senate Rules.—Subparagraph (c) of paragraph 1 of rule XXV of the Standing Rules of the Senate is amended to read as follows:

"(c) Committee on Appropriations, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Except as provided in subparagraph (r), appropriation of the revenue for the support of the Government.

"2. Rescission of appropriations contained in Appropriations Act (referred to in section 105 of title 1, United States Code).

"3. The amount of new advance spending authority described in section 401(c)(2)(A) and (B) of the Congressional Budget Act of 1974 which is to be effective for a fiscal year.

"4. New advance spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 provided in bills and resolutions referred to the committee under section 401(b)(2) of that Act (but subject to the provisions of section 401(b)(3) of that Act)."

(b) AMENDMENT OF HOUSE RULES.—Clause 2 of rule XI of the Rules of the House of Representatives is amended by redesignating paragraph (b) as (e) and by inserting after paragraph (a) the following new paragraphs:

"(b) Rescission of appropriations contained in appropriation Acts (referred to in section 105 of title 1, United States Code).

"(c) The amount of new advance spending authority described in section 401(c)(2)(A) and (B) of the Congressional Budget Act of 1974 which is to be effective for a fiscal year.

"(d) New advance spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 provided in bills and resolutions referred to the committee under section 401(b)(2) of that Act (but subject to the provisions of section 401(b)(3) of that Act)."

TITLE V—CHANGE OF FISCAL YEAR

FISCAL YEAR TO BEGIN OCTOBER 1

SEC. 501. Section 237 of the Revised Statutes (31 U.S.C. 1020) is amended to read as follows:

"SEC. 237. (a) The fiscal year of the Treasury of the United States, in all matters of accounts, receipts, expenditures, estimates, and appropriations—

"(1) shall, through June 30, 1975, commence on July 1 of each year and end on June 30 of the following year;

"(2) shall for the period commencing July 1, 1975, and ending on September 30, 1976, be for such period; and

"(3) shall, beginning on October 1, 1976, commence on October 1 of each year and end on September 30 of the following year.

"(b) All accounts of receipts and expenditures required by law to be published annually shall be prepared and published for each fiscal year as established by subsection (a)."

TRANSMITTAL OF BUDGET

SEC. 502. Section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended by striking out the first sentence and inserting in lieu thereof the following: "The President shall transmit to the Congress the Budget which shall set forth his budget message, summary data and text, and supporting detail. The Budget for any fiscal year beginning on or before July 1, 1975, shall be transmitted during the first fifteen days of that regular session of the Congress which commences prior to the beginning of the fiscal year, and the Budget for any fiscal year beginning on or after October 1, 1976 shall be transmitted on or before February 15 preceding the beginning of the fiscal year."

TRANSITION TO NEW FISCAL YEAR

SEC. 503. (a) The Director of the Office of Management and Budget shall prepare and submit to the Congress such proposed legislation as he considers appropriate with respect to changes in law necessary to provide adequate authorizations of appropriations for the fiscal year provided under section 237(a)(2) of the Revised Statutes (as amended by section 501 of this Act), commencing July 1, 1975, and ending on September 30, 1976.

(b) The Director shall provide by regulation, order, or otherwise for the orderly transition by all departments, agencies, and instrumentalities of the United States Government and the government of the District of Columbia from the use of the fiscal year in effect on the date of enactment of this Act to the use of the new fiscal year prescribed by section 237(a)(3) of the Revised Statutes. The Director shall prepare and submit to the Congress such additional proposed legislation as he considers necessary to accomplish this objective.

(c) The Director of the Office of Management and Budget and the Director of the Congressional Office of the Budget jointly shall conduct a study of the feasibility and advisability of submitting the Budget, and enacting new budget authority, for a fiscal year during the regular session of the Congress which begins in the year preceding the year in which such fiscal year begins. The Director of the Office of Management and Budget and the Director of the Congressional Office of the Budget each shall submit a report of the results of the study conducted by them, together with his own conclusions and recommendations, to the Congress not later than one year after the effective date of this subsection.

ACCOUNTING PROCEDURES

SEC. 504. (a) Subsection (a)(1) of the first section of the Act entitled "An Act to simplify accounting, facilitate the payment of obligations, and for other purposes", approved July 25, 1956, as amended (31 U.S.C. 701), is amended to read as follows:

"(1) The obligated balance shall be transferred, at the time specified in subsection (b)(1) of this section, to an appropriation account of the agency or subdivision thereof responsible for the liquidation of the obligation, in which account shall be merged the amounts so transferred from all appropriation accounts for the same general purposes; and".

(b) Subsection (b) of such section is amended to read as follows:

"(b)(1) Any obligated balance referred to in subsection (a)(1) of this section shall be transferred as follows:

"(A) for any fiscal year or years ending on or before June 30, 1975, on that June 30 which falls in the first month of June which occurs twenty-four months after the end of such fiscal year or years; and

"(B) for any fiscal year commencing on or after July 1, 1975, on September 30 of the second fiscal year following the fiscal year or years for which the appropriation is available for obligation.

"(2) The withdrawals required by subsection (a)(2) of this section shall be made—

"(A) for any fiscal year ending on or before June 30, 1975, not later than September 30 of the fiscal year immediately following the fiscal year in which the period of availability for obligation expires; and

"(B) for any fiscal year commencing on or after July 1, 1975, not later than November 15 following the fiscal year in which the period of availability for obligation expires."

CONVERSION OF AUTHORIZATIONS OF APPROPRIATIONS

SEC. 505. Any law providing for an authorization of appropriations commencing on July 1 of a year shall, if that year is any year after 1975, be considered as meaning October 1 of that year. Any law providing for an authorization of appropriations ending on June 30 of a year shall, if that year is any year after 1975, be considered as meaning September 30 of that year. Any law providing for an authorization of appropriations for the fiscal year 1976 or any fiscal year thereafter shall be construed as referring to that fiscal year ending on September 30 of the calendar year having the same calendar year number as the fiscal year number.

ECONOMIC REPORTS

SEC. 506. (a) Section 3 of the Employment Act of 1946 (15 U.S.C. 1022) is amended by striking out "The President shall transmit to the Congress not later than January 20 of each year" and inserting in lieu thereof the following: "Not later than January 20 of each year before 1976, and not later than February 10 of each year after 1975, the President shall transmit to the Congress".

(b) Section 5(b)(2) of such Act (15 U.S.C. 1024) is amended by striking out "(beginning with the year 1947)" and inserting in lieu thereof "before 1976 and not later than March 20 of each year after 1975,".

REPEALS

SEC. 507. The following provisions of law are repealed:

(1) The ninth paragraph under the headings "Legislative Establishment", "Senate", of the Deficiency Appropriation Act, fiscal year 1934 (48 Stat. 1022; 2 U.S.C. 66); and

(2) The proviso to the second paragraph under the headings "House of Representatives", "Salaries, Mileage, and Expenses of Members", of the Legislative-Judiciary Appropriation Act, 1955 (68 Stat. 400; 2 U.S.C. 81).

TECHNICAL AMENDMENT

SEC. 508. (a) Section 105 of title 1, United States Code, is amended by striking out "June 30" and inserting in lieu thereof "September 30".

(b) The provisions of subsection (a) of this section shall be effective with respect to Acts making appropriations for the support of the Government for any fiscal year commencing on or after July 1, 1975.

TITLE VI—AMENDMENTS TO BUDGET AND ACCOUNTING ACT, 1921

MATTERS TO BE INCLUDED IN PRESIDENT'S BUDGET

SEC. 601. Section 201 of the Budget and According Act, 1921 (31 U.S.C. 11), is amended by adding at the end thereof the following new subsections:

"(d) The Budget transmitted pursuant to subsection (a) for each fiscal year shall set forth separately the items enumerated in setcion 301(a)(1)-(6) of the Congressional Budget Act of 1974.

"(e) The Budget transmitted pursuant to subsection (a) for each fiscal year shall set forth the levels of tax expenditures under existing law for such fiscal year (the tax expenditure budget), taking into account projected economic factors, and any changes in such existing levels based on proposals contained in such Budget. For purposes of this subsection, the terms 'tax expenditures' and 'tax expenditures budget' have the meanings given to them by section 3(3) of the Congressional Budget Act of 1974.

"(f) The Budget transmitted pursuant to subsection (a) for each fiscal year shall include (1) an examination of proposed expenditures (including tax expenditures) and appropriations and estimated receipts within a comprehensive framework of existing and proposed programs and (2) the bases used for the proposed expenditures (including tax expenditures) and appropriations and estimated receipts.

"(g) The Budget transmitted pursuant to subsection (a) for each fiscal year shall contain—

"(1) a comparison, for the last completed fiscal year, of the total amount of outlays estimated in the Budget transmitted pursuant to subsection (a) for each major program involving uncontrollable or relatively uncontrollable outlays and the total amount of outlays made under each such major program during such fiscal year;

"(2) a comparison, for the last completed fiscal year, of the total amount of revenues estimated in the Budget transmitted pursuant to subsection (a) and the total amount of revenues received during such year, and, with respect to each major revenue source, the amount of revenues estimated in the Budget transmitted pursuant to subsection (a) and the amount of revenues received during such year; and

"(3) an analysis and explanation of the difference between each amount set forth pursuant to paragraphs (1) and (2) as the amount of outlays or revenues estimated in the Budget submitted under subsection (a) for such fiscal year and the corresponding amount set forth as the amount of outlays made or revenues received during such fiscal year.

"(h) The President shall transmit to the Congress, on or before April 15 and July 15 of each year, a statement of all amendments to or revisions in the budget authority requested, the estimated outlays, and the estimated receipts for the ensuing fiscal year set forth in the Budget transmitted pursuant to subsection (a) (including any previous amendments or revisions proposed on behalf of the executive branch) that he deems necessary and appropriate based on the most current information available. Such statement shall contain the effect of such amendments and revisions on the summary data submitted under subsection (a) and shall include such supporting detail as is practicable. The Budget transmitted to the Congress pursuant to subsection (a) for any fiscal year, or the supporting detail transmitted in connection therewith, shall include a statement of all such amendments and revisions with respect to the fiscal year in progress made before the date of transmission of such Budget."

MIDYEAR REVIEW

SEC. 602. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended by inserting after "1972," in subsections (b) and (c) "and on or before July 15 of each year, beginning with 1976,".

FIVE-YEAR BUDGET PROJECTIONS

SEC. 603. Section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended—

(1) by inserting after "ensuing fiscal year" in paragraph (5) "and projections for the four fiscal years immediately following the ensuing fiscal year";

(2) by striking out "such year" in paragraph (5) and inserting in lieu thereof "such years"; and

(3) by inserting after "ensuing fiscal year" in paragraph (6) "and projections for the four fiscal years immediately following the ensuing fiscal year".

ALLOWANCES FOR SUPPLEMENTAL BUDGET AUTHORITY AND UNCONTROLLABLE OUTLAYS

SEC. 604. Section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is further amended—

(1) by striking out the period at the end of paragraph (12) and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraph:

"(13) an allowance for additional estimated expenditures and proposed appropriations for the ensuing fiscal year, and an allowance for unanticipated uncontrollable expenditures, for which no request for appropriations is required, for the ensuing fiscal year."

BUDGET DATA BASED ON CONTINUATION OF EXISTING LEVEL OF SERVICES

SEC. 605. (a) On or before November 10 of each year (beginning with 1975), the President shall submit to the Senate and the House of Representatives the estimated outlays and proposed budget authority which would be included in the Budget to be submitted pursuant to section 201 of the Budget and Accounting Act, 1921, for the ensuing fiscal year if all programs and activities were carried on during such ensuing fiscal year at the same level as the fiscal year in progress and without policy changes in such programs and activities. The estimated outlays and proposed budget authority submitted pursuant to this section shall be shown by function and subfunctions (in accordance with the classifications in the budget summary table entitled "Budget Authority and Outlays by Function and Agency"), by major programs within each such function, and by agency. Accompanying these estimates shall be the economic and programmatic assumptions underlying the estimated outlays and proposed budget authority, such as, the rate of inflation, the rate of real economic growth, the unemployment rate, program caseloads, and pay increases.

(b) The Joint Economic Committee shall review the estimated outlays and proposed budget authority so submitted, and shall submit to the Committees on the Budget of both Houses an economic evaluation thereof on or before December 31 of each year. The evaluation shall include a determination of whether the estimates are accurate, complete, and based on valid economic assumptions.

REMOVAL OF EXEMPTIONS FROM BUDGET PROCESS

SEC. 606. Those provisions of law, regulations, or rulings which exempt the following agencies and funds from inclusion in the Budget of the United States Government, or which exempt certain of their activities from inclusion in the budget, shall cease to apply effective with the fiscal year beginning on July 1, 1975:

(1) Environmental Financing Authority;
(2) Export-Import Bank;
(3) Federal Financing Bank;
(4) Rural Electrification and Telephone Revolving Fund;
(5) Rural Telephone Bank; and
(6) United States Railway Association.

TITLE VII—PROGRAM REVIEW AND EVALUATION

REVIEW AND EVALUATION BY STANDING COMMITTEES

SEC. 701. Section 136(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190d) is amended by adding at the end thereof the following new sentences: "Such committees may carry out the required analysis, appraisal, and evaluation themselves, or by contract, or may require a Government agency to do so and furnish a report thereon to the Congress. Such committees may rely on such techniques as pilot testing, analysis of costs in comparison with benefits, or provision for evaluation after a defined period of time."

REVIEW AND EVALUATION BY THE COMPTROLLER GENERAL

SEC. 702. (a) Section 204 of the Legislative Reorganization Act of 1970 (31 U.S.C. 1154) is amended to read as follows:

"REVIEW AND EVALUATION

"SEC. 204. (a) The Comptroller General shall review and evaluate the results of Government programs and activities carried on under existing law when ordered by either House of Congress, or upon his own initiative, or when requested by any committee of the House of Representatives or the Senate, or any joint committee of the two Houses, having jurisdiction over such programs and activities.

"(b) The Comptroller General, upon request of any committee or Member of either House or any joint committee of the two Houses, shall—

"(1) assist such committee, Member, or joint committee in developing a statement of legislative objectives and goals and methods for assessing and reporting actual program performance in relation to such legislative objectives and goals. Such statements shall include but are not limited to, recommendations as to methods of assessment, information to be reported, responsibility for reporting, frequency of reports, and feasibility of pilot testing; and

"(2) assist such committee, Member, or joint committee in analyzing and assessing program reviews or evaluation studies prepared by and for any Federal agency.

"(c) The Comptroller General shall develop and recommend to the Congress standards for review and evaluation of Government programs and activities carried on under existing law. Such recommendations shall be reported semiannually to both Houses of Congress on or about March 1 and September 1.

"(d) In carrying out his responsibilities under this section, the Comptroller General is authorized to establish an Office of Program Review and Evaluation within the General Accounting Office. The Comptroller General is authorized to employ not to exceed ten experts on a permanent, temporary, or intermittent basis and to obtain services as authorized by section 3109 of title 5, United States Code, but in either case at a rate (or the daily equivalent) for individuals not to exceed that prescribed, from time to time, for level V of the Executive Schedule under section 5316 of title 5, United States Code."

(b) Item 204 in the table of contents of such Act is amended to read as follows:

"Sec. 204. Review and evaluation."

TITLE VIII—FISCAL AND BUDGETARY INFORMATION AND CONTROLS

AMENDMENT TO LEGISLATIVE REORGANIZATION ACT OF 1970

SEC. 801. (a) So much of title II of the Legislative Reorganization Act of 1970 (31 U.S.C. chapter 22) as precedes section 204 thereof is amended to read as follows:

"TITLE II—FISCAL AND BUDGETARY INFORMATION AND CONTROLS

"PART 1—FISCAL, BUDGETARY, AND PROGRAM-RELATED DATA AND INFORMATION

"FEDERAL FISCAL, BUDGETARY, AND PROGRAM-RELATED DATA AND INFORMATION SYSTEMS

"SEC. 201. The Secretary of the Treasury and the Director of the Office of Management and Budget, in cooperation with the Comptroller General of the United States, shall develop, establish, and maintain, for use by all Federal agencies, standardized data and information systems for fiscal, budgetary, and program-related data and information. The development, establishment, and maintenance of such systems shall be carried out so as to meet the needs of the various branches of the Federal Government and, insofar as practicable, of governments at the State and local level.

"STANDARDIZATION OF TERMINOLOGY, DEFINITIONS, CLASSIFICATIONS, AND CODES FOR FISCAL, BUDGETARY, AND PROGRAM-RELATED DATA AND INFORMATION

"SEC. 202. (a) The Comptroller General of the United States, in cooperation with the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Director of the Congressional Office of the Budget, shall develop, establish, maintain, and publish standard terminology, definitions, classifications, and codes for Federal fiscal, budgetary, and program-related data and information. The authority contained in this section shall include, but not be limited to, data and information pertaining to Federal fiscal policy, revenues, receipts, expenditures, functions, programs, projects, and activities and shall be carried out so as to meet the needs of the various branches of the Federal Government and, insofar as practicable, of governments at the State and local level. Such standard terms, definitions, classifications, and codes shall be used by all executive agencies in supplying to the Congress fiscal, budgetary, and program-related data and information.

"(b) In carrying out this responsibility, the Comptroller General of the United States shall give particular consideration to the needs of the Committees on the Budget of the House of Representatives and the Senate and the Congressional Office of the Budget.

"(c) The Comptroller General of the United States shall submit to both Houses of the Congress, on or before June 30, 1975, a report containing his recommendations for the initial standard terms, definitions, and classifications, and codes referred to in subsection (a), and shall recommend legislation to implement them as may be necessary.

"(d) The Comptroller General shall monitor the various recurring reporting requirements of the Congress and committees and make recommendations to the Congress and committees for changes and improvements in these reporting requirements to meet the congressional information needs ascertained by the Comptroller General, to enhance their usefulness to the congressional users, and to eliminate duplicative or unneeded reporting.

"AVAILABILITY TO AND USE BY THE CONGRESS AND STATE AND LOCAL GOVERNMENTS OF FEDERAL FISCAL BUDGETARY, AND PROGRAM-RELATED DATA AND INFORMATION

"SEC. 203. (a) Upon request of any committee of either House, of any joint committee of the two Houses, of the Comptroller General, or of the Director of the Congressional Office of the Budget, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the heads of the various executive agencies shall—

"(1) furnish to such committee or joint committee, the Comptroller General, or the Director of the Congressional Office of the Budget, information as to the location and nature of available fiscal, budgetary, and program-related data and information;

"(2) prepare summary tables of such data and information and any related information deemed necessary by such committee or joint committee, the Comptroller General, or the Director of the Congressional Office of the Budget; and

"(3) furnish any program evaluations conducted or commissioned by any executive agency as deemed necessary by such committee or joint committee, the Comptroller General, or the Director of the Congressional Office of the Budget.

"(b) The Comptroller General, in cooperation with the Director of the Congressional Office of the Budget, the Secretary of the Treasury, and the Director of the Office of Management and Budget, shall—

"(1) develop, establish, and maintain an up-to-date inventory and directory of sources and information systems containing fiscal, budgetary, and program-related data and information and a brief description of their content;

"(2) provide, upon request, assistance to committees, joint committees, and Members of Congress in securing Federal fiscal, budgetary, and program-related data and information from the sources identified in such inventory and directory; and

"(3) furnish, upon request, assistance to committees, joint committees, and Members of Congress in appraising and analyzing fiscal, budgetary, and program-related data and information secured from the sources identified in such inventory and directory.

"(c) The Comptroller General and the Director of the Congressional Office of the Budget shall, to the extent they deem necessary, develop, establish, and maintain a central file or files of the data and information required to carry out the purposes of this title. Such a file or files shall be established to meet recurring requirements of the Congress for fiscal, budgetary, and program-related data and information and shall include, but not be limited to, data and information pertaining to budget requests, congressional authority to obligate and spend, apportionment and reserve actions, and obligations and expenditures. Such file or files and their indexes shall be maintained in such a manner as to facilitate their use by the committees of both Houses, joint committees, and other congressional agencies through modern data processing and communications techniques.

"(d) The Comptroller General, in cooperation with the Director of the Congressional Office of the Budget, the Director of the Office of Management and Budget, the Administrator of General Services, and appropriate representatives of State and local governments, shall develop procedures to assure access by State and local governments to such fiscal, budgetary, and program-related data and information as may be necessary for the accurate and timely determination by these governments of the impact of Federal assistance upon their budgets."

(b) The table of contents of title II of the Legislative Reorganization Act of 1970 is amended by striking out—

"TITLE II—FISCAL CONTROLS

"PART 1—BUDGETARY AND FISCAL INFORMATION AND DATA

"Sec. 201. Budgetary and fiscal data processing system.
"Sec. 202. Budget standard classifications.
"Sec. 203. Availability to Congress of budgetary, fiscal, and related data.

and inserting in lieu thereof—

"TITLE II—FISCAL AND BUDGETARY INFORMATION AND CONTROLS

"PART 1—FISCAL, BUDGETARY, AND PROGRAM-RELATED DATA AND INFORMATION

"Sec. 201. Federal fiscal, budgetary, and program-related data and information systems.
"Sec. 202. Standardization of terminology, definitions, classifications, and codes for fiscal, budgetary, and program-related data and information.
"Sec. 203. Availability to and use by the Congress and State and local governments of Federal fiscal, budgetary, and program-related data and information."

TITLE IX—MISCELLANEOUS PROVISIONS; EFFECTIVE DATES

CONFORMING AMENDMENTS TO STANDING RULES OF THE SENATE

SEC. 901. Paragraph 1 of rule XXV of the Standing Rules of the Senate is amended—

(1) by striking out "Revenue" in subparagraph (h) 1 and inserting in lieu thereof "Except as provided in subparagraph (r), revenue";

(2) by striking out "The" in subparagraph (h) 2 and inserting in lieu thereof "Except as provided in subparagraph (r), the"; and

(3) by striking out "Budget" in subparagraph (j) (1) (A) and inserting in lieu thereof "Except as provided in subparagraph (r), budget".

AMENDMENTS TO LEGISLATIVE REORGANIZATION ACT OF 1946

SEC. 902. (a) Section 134(c) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190b(b)) is amended by inserting "or the Committee on the Budget" after "Appropriations".

(b) Section 136(c) of such Act (2 U.S.C. 190d(c)) is amended by striking out "Committee on Appropriations of the Senate and the Committees on Appropriations, the Budget,".

EXERCISE OF RULEMAKING POWERS

SEC. 903. (a) The provisions of this title (except section 904) and of titles I, III, and IV and the provisions of section 701 are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(b) Any provision of title III or IV may be waived or suspended in the Senate by a majority vote of the Members voting, a quorum being present, or by the unanimous consent of the Senate.

(c) Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, concurrent resolution, or reconciliation bill, as the case may be.

EFFECTIVE DATES

SEC. 904. (a) Except as provided in this section, the provisions of this Act shall take effect on the date of its enactment.

(b) Title II (except section 201(a)), section 403, and section 503(c) shall take effect on the day on which the first Director of the Congressional Office of the Budget is appointed under section 201(a).

(c) Except as provided in section 905, title III and section 402 shall apply with respect to the fiscal year beginning on October 1, 1976, and succeeding fiscal years, and section 401 shall take effect on the first day of the second regular session of the Ninety-fourth Congress.

(d) The amendments to the Budget and Accounting Act, 1921, made by sections 601, 603, and 604 shall apply with respect to the fiscal year beginning on July 1, 1975, and succeeding fiscal years, except that section 201(h) of such Act (as added by section 601) shall apply with respect to the fiscal year beginning on October 1, 1976, and succeeding fiscal years.

APPLICATION OF CONGRESSIONAL BUDGET PROCESS TO FISCAL YEAR 1976

SEC. 905. (a) If the Committees on the Budget of the Senate and the House of Representatives agree that it is feasible to report and act on a concurrent resolution on the budget referred to in section 301 for the fiscal year beginning on July 1, 1975, and submit reports of such agreement to their respective Houses on or before February 15, 1975—

(1) to the extent specified in such reports, title III (except sections 310 and 311) and section 402 shall apply with respect to such fiscal year:

(2) to the extent specified in such reports, section 401 shall take effect in each House on the day on which the Committee on the Budget of that House submits such report to its House; and

(3) there shall be substituted, for the dates specified in titles III and IV on which any action is to be taken or completed in connection with such concurrent resolution on the budget, those dates set forth in such reports.

(b) If the Committees on the Budget of the Senate and the House of Representatives agree that it is feasible to report and act on a concurrent resolution on the budget referred to in section 310 for the fiscal year beginning on July 1, 1975, and submit reports of such agreeemnt to their respective Houses on or before May 1, 1975—

(1) to the extent specified in such reports, sections 310 and 311 shall apply with respect to such fiscal year; and

(2) there shall be substituted, for the dates specified in section 310 on which any action is to be taken or completed in connection with such concurrent resolution on the budget, those dates set forth in such reports.

(c) Either House may, by resolution or order, disapprove the report described in subsection (a) or (b) submitted by the Committee on the Budget of that House. In the case of such disapproval, the provisions of titles III and IV, referred to in subsection (a) or (b), respectively, shall not apply in that House for the fiscal year beginning July 1, 1975.

TITLE X—APPROPRIATION RESERVES

AMENDMENT TO ANTIDEFICIENCY ACT

SEC. 1001. Section 3679(c)(2) of the Revised Statutes, as amended (31 U.S.C. 665), is amended to read as follows:

"(2) In apportioning any appropriation, reserves may be established solely to provide for contingencies, or to effect savings whenever savings are made possible by or through changes in requirements or greater efficiency of operations. Reserves shall not be established for fiscal policy purposes or to achieve less than the full objectives and scope of programs enacted and funded by Congress. Whenever it is determined by an officer designated in subsection (d) of this section that such reserves should be established, the officer shall notify the Comptroller General of the United States at least ten days in advance of such establishment together with his reasons therefor. The Comptroller General is authorized as a representative of Congress through attorneys of his own choosing to bring a civil action in the United States District Court for the District of Columbia to enforce the provisions of this paragraph. The courts shall give precedence to civil actions brought under this paragraph, and to appeals and writs from decisions in such actions, over all other civil actions, appeals, and writs. Whenever it is determined by an officer designated in subsection (d) of this section to make apportionments and reapportionments that any amount so reserved will not be required to carry out the full objectives and scope of the appropriation concerned, he shall recommend the rescission of such amount in the manner provided in the Budget and Accounting Act, 1921, for estimates of appropriations. Except as specifically provided by particular appropriations Acts or other laws, no reserves shall be established other than as authorized by this paragraph."

DISCLAIMER

SEC. 1002. Nothing contained in this Act shall be interpreted by any person or court as constituting a ratification or approval of any reservation of budget authority by the President or any other Federal officer or employee, in the past or in the future, unless done pursuant to statutory authority in effect at the time of such reservation.

CAPITAL PUNISHMENT

Mr. PERCY. Mr. President, I am very grateful that the distinguished Senator from Iowa (Mr. HUGHES) is in the Chamber this evening.

Very seldom are votes really influenced by the debate we hear on the floor. Many times on major issues, we have reached a conclusion based on a lifetime experience, and we vote those convictions and those conclusions. In this particular case, on the bill we considered today, the imposition of a death penalty in Federal courts, I have been deeply troubled by the entire issue.

Together with my colleagues, I deplore the heinous crimes that have been committed in this country—murder, kidnaping, hijacking, and so forth. I earnestly have sought, along with my colleagues, to find ways in which we could arrest the crime wave we have experienced in this country over a period of years and the types of crimes that have been committed with such visibility in recent days, weeks, and months.

After listening to the debate on the floor, and feeling that the Committee on the Judiciary has given this matter a great deal of thought and consideration, I would have expected to find more solid evidence that the death penalty would in fact be a deterrent to the crime and would provide a solution to the problems that we as a society have faced.

I think it is unconscionable for a human life to be taken by an individual or by society. Before I could condone the Government of the United States, and before I could cast a vote for our Government, to establish the procedure for the mandating of the death penalty, I would have to be absolutely convinced that it would be a deterrent and would prevent another crime that might have been committed against mankind—in fact, against the whole idea of God and creation. I did not see that evidence.

Mr. President, I have given a great deal of thought to the legislation now before the Senate which would reinstate the death penalty. The debate has been of a high quality and it has helped me to reach a conclusion.

For many reasons the taking of human life is unconscionable. It is a basic affront to the dignity of each human. The murder of a human being is an irrevocable act, whether committed by a vicious criminal, or whether committed by the Government of the United States, or any of the 50 States.

Before I could cast my vote to institute legalized murder on behalf of the Goverment, I would have to be convinced that such a vote is absolutely essential and fully justified. The burden of proof must be on those who argue for the death penalty. Before any of us can vote for death, I believe we must be convinced, "beyond a reasonable doubt," if you will, that the death penalty is necessary and justified.

To my mind, this proof has not been forthcoming.

Every study that I have seen on this question has concluded that the death penalty is not a deterrent to crime. Perhaps if I could be convinced that the death penalty was in fact a deterrent, then I might be more inclined to vote for this bill. But I have not been so convinced.

I share the concern which others have stated over the finality of the act. If we later discover that we have executed the wrong person, there is no recourse. As Lafayette said, and as was so eloquently quoted by the distinguished Senator from Iowa (Mr. HUGHES) yesterday:

> I shall ask for the abolition of the penalty of death until I have the infallibility of human judgment demonstrated to me.

This problem is, in and of itself so serious that I feel it must be resolved. Yet, there is no way to resolve it, precisely because we all are indeed fallible—we do make mistakes. Fortunately, in most instances we can overcome our mistakes when we find we are in error. But in the case of death, a mistake would indeed be fatal. Thus a vote for the death penalty only invites our society, at some time, in the future, to make such a terrible mistake. I am not prepared to vote for our Federal Government to take that risk when I cannot see any clear-cut advantage to society and our citizens if we do.

If my vote for the death penalty would mean that any victim could be brought back to life by the execution of the assailant, then I would vote for this bill. But, as the distinguished Senator from Michigan (Mr. HART) has so forcefully pointed out, the Government's murder of the criminal does not bring back the victim, and no vote today by any Senator will bring back the life any victim of a murder. What it does do, though, is contemplate more deaths, sanctioned, authorized, and mandated by the Government.

I admit that I have been mentally torn by this issue, and I have reached my conclusion only with great difficulty. I have been moved by the eloquent statements of my two distinguished colleagues, Senator HUGHES and Senator HART. To my satisfaction, they have rebutted the arguments of the proponents of this legislation, and thus the respect for life still stands as the ultimate criterion upon which I base my judgment.

For those who argue that without the threat of the death penalty there is no effective deterrent to serious and violent crime, I say this does not seem to be the view of leading professional penologists. In my judgment, and that of many others, the way to deter crime is through the certainty of swift justice. Through the centuries that we have imposed the death penalty, criminals have not been deterred by the threat of death.

But clean up the criminal justice system, provide for speedy trials, swift but sure justice, and that will be the deterrent which we all so earnestly want. Senator Ervin has introduced legislation to accomplish this that I have cosponsored.

Mr. President, every citizen has felt the sting of crime. Many have felt the pain of having a loved one taken from them by a senseless murder. But I say to them, with deep feeling, the death penalty is not the way to react to this barbarism. Violence only breeds more violence. If we indeed believe that we are a civilized society, we must try to overcome our visceral, emotional responses, and instead heed the counsel of wisdom, the counsel of humanity, and the counsel of experience, and refuse to authorize the Government's cold blooded and premeditated murder of any person.

Mr. President, in conclusion, if some time in the future I could be convinced that the death penalty could be a real deterrent, I might change my mind. But with the evidence before us today, I am not so convinced.

I am also concerned that the specter of a mandatory death penalty might influence some jurors and cause them to acquit a guilty person. Certainly, we do not want to take any action which would have such an adverse result.

In addition, the presence of the death penalty will only prolong the process of the trial, delaying a final determination, and this is contrary to having speedy justice.

Finally, the penalty of life imprisonment is still present, and by voting against the death penalty, no one in this body is voting for permissiveness nor is anyone being soft on crime. The penalties are and will remain severe. But the penalty of death is neither necessary nor justified. Those who have argued for it have, in my judgment, failed to overcome the presumption of every citizen's right to live.

Before reaching a final conclusion I put to myself the ultimate test. What if I were called upon to decide what sentence should be imposed upon the vicious murderer of my own daughter?

I would not impose the death penalty.

I would want that person removed from society, so that he could not commit another crime. During a life of imprisonment, I would want that person hopefully some day to realize the gravity of the crime against God and one of his children that he had committed. I would hopefully want this person to be convinced that he had committed a sin against God as well as against society and ask for God's forgiveness for that act. Death for such a person would in a way be too easy. I would not want to be guilty of committing another crime in the name of society.

Consequently, I cast my vote against this legislation.

Mr. HUGHES. Mr. President, will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. HUGHES. Mr. President, I wish to commend the distinguished Senator from Illinois and also thank him for restoring in my own heart a great deal of satisfaction to stand here and witness a father who has lost a beloved daughter by a savage and vicious murder, to this date unsolved in the annals of criminal history, and say that if he were given the right to make the decision as to whether the murderer might live or die, that he would choose that the murder might continue to live and eventually find redemption and forgiveness through repentance. It is a statement which I think few men would make, even if they had the opportunity under similar circumstances.

This body today, I think, has witnessed something unique, in both the Senator from Illinois, who has lost his daughter, and whose family has suffered one of the most grievous crimes in our history, and the Senator from Massachusetts (Mr. Kennedy), whose own family has suffered so grievously from murder, explaining the bill to this body, that they see light in the society and hope in humanity by not reinstituting a savage means of so-called justice again in our society.

I have known the Senator from Illinois so well and his own deep faith that has borne him through in these many troubling hours.

In biblical history we know that Moses, after 40 years, was led to the Promised Land, to lead his people to freedom from Egypt. We read of King David, who sent his own son into battle, and then took his wife in adultery, but who was forgiven by God.

We can look at the Master himself, and those who were followers of Christ, when a capital crime was committed by a woman and she was condemned for committing adultery. He said to her, "Where are those who have condemned you?"

She said, "Master, they are not here," and he said, "Neither do I condemn you."

A father who has lost his daughter knows the pangs and the pains of the event. Having three daughters of my own, and thinking how I would feel, placed in a similar situation, makes me at this moment say to my distinguished colleague from Illinois that I will always be indebted to him for having witnessed to the magnificent feeling of heart and soul that he has expressed when he was faced with this most difficult pain that has touched his family.

I commend him for the forgiveness that is in his own soul, and I express the hope of all mankind that we might share in comparable compassion if we were faced with a comparable problem which faced the distinguished Senator from Illinois.

Mr. CRANSTON. Mr. President, I, too, want to express my gratitude to the Senator from Illinois for his statement. It was a powerful one, one that I trust will be heeded by many Americans as they reflect upon where we stand and what we are doing when we consider the problem.

I wish to commend the courage of the Senator from Iowa for expressing himself as he has, and also the Senator from Massachusetts for the position he took, in light of the history of his own family.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the concurrent resolution (S. Con. Res. 75) providing for an adjournment of the Senate from March 13, 1974, until March 19, 1974.

U.S. MILITARY PERSONNEL ALLEGEDLY SERVING AS MILITARY ADVISERS IN CAMBODIA

Mr. CRANSTON. Mr. President, this morning, during the morning hour, I called attention to reports of U.S. military personnel allegedly serving as military advisers in Cambodia, which would be in violation of the law. I indicated that I intended to send a letter to Chairman John Stennis of the Armed Services Committee, requesting an immediate investigation of this situation. I also indicated that I would seek to have other Senators join me in that letter and would include their names in the Record at the end of the day.

I would like at this point to reread that letter into the Record and indicate the number of Senators who have joined. All together, there are 39. Counting myself, there are 40 who have joined in this letter.

I would like to state that had I had time, I am sure a very substantial majority of the Senate would have joined in this letter. The only reason they have not is that I was unable, during a very busy day, to talk to that many Senators. While pursuing this effort, I was attending one committee, attending another committee markup, attending the swearing in of a new California Representative, attending here during the consideration of S. 1401 and amendments thereto, and participating in the consideration of that material, and also working with Senators to clear passage of S. 3063, along with many other matters.

I list those activities, which are similar to those of other Senators, simply to indicate that had I had time to focus on this particular matter, which I think is of great importance, we would have a larger number of Senators joining in sending this letter to Senator Stennis.

The letter to Chairman John Stennis reads as follows:

> We respectfully request that the Armed Services Committee conduct an immediate investigation into the activities of United States military personnel, including Major

Lawrence W. Ondecker of the Third Infantry Brigade, who allegedly are serving as military advisors in Cambodia which would be in violation of the law.

The Senators who have joined me in sending the letter are as follows: Senators Abourezk, Bayh, Biden, Burdick, Case, Chiles, Church, Clark, Domenici, Gravel, Hart, Hartke, Haskell, Hathaway, Huddleston, Hughes, Humphrey, Inouye, Kennedy, Magnuson, Mathias, McGovern, Metcalf, Metzenbaum, Mondale, Montoya, Moss, Muskie, Pell, Proxmire, Randolph, Ribicoff, Schweiker, Stafford, Stevenson, Tunney, Weicker, and Williams.

PRIVILEGE OF THE FLOOR DURING CONSIDERATION OF BUDGET REFORM BILL

Mr. CRANSTON. Mr. President, on a different matter, I ask unanimous consent that the following persons may be granted the privilege of the floor during the consideration of the budget reform bill: Jon Fleming, Jon Steinberg, and Win Farin.

The PRESIDING OFFICER. Without obection, it is so ordered.

ORDER FOR NO ROLLCALL VOTES ON TUESDAY, MARCH 19, PRIOR TO 2:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no yea-and-nay votes on Tuesday, March 19, prior to 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for 15 minutes, and in the order stated: The Senator from Massachusetts (Mr. Kennedy), the Senator from Maryland (Mr. Mathias), and the Senator from Rhode Island (Mr. Pell).

The PRESIDING OFFICER. Without objection it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, following the aforementioned orders, there be a period for the transaction of routine business of not to exceed 15 minutes, with statements therein limited to 5 minutes each, and that at the conclusion of routine morning business, the Senate proceed to the consideration of S. 1541, to provide for the reform of congressional procedures with respect to the enactment of fiscal measures.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR SENATOR McGOVERN TO INTRODUCE A BILL TOMORROW, MARCH 14, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from South Dakota (Mr. McGovern) may be authorized to introduce tomorrow, March 14, a bill entitled "Rail Revitalization and Energy Conservation Act of 1974," and that the bill be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR VICE PRESIDENT, PRESIDENT PRO TEMPORE, AND ACTING PRESIDENT PRO TEMPORE TO SIGN BILLS DURING ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until Tuesday next the Vice President, the President pro tempore, and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION TO RECEIVE AND REFER MESSAGES FROM HOUSE AND THE PRESIDENT OF THE UNITED STATES

Mr. ROBERT C. BYRD. I ask unanimous consent that the Secretary of the Senate be authorized to receive messages from the House of Representatives and from the President of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over to Tuesday next, committees may be authorized to file reports on Monday, March 18, between the hours of 10 a.m. and 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO TUESDAY, MARCH 19, 1974

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the provisions of Senate Concurrent Resolution 75, that the Senate stand in adjournment until the hour of 12 noon Tuesday, March 19, 1974.

The motion was agreed to; and, at 7:34 p.m., the Senate adjourned until Tuesday, March 19, 1974, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 13, 1973:

DEPARTMENT OF THE INTERIOR

Royston C. Hughes, of Maryland, to be an Assistant Secretary of the Interior.

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

John W. Warner, of Virginia, to be Administrator of the American Revolution Bicentennial Administration.

DEPARTMENT OF STATE

John Gunther Dean, of New York, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Khmer Republic.

Leonard Unger, of Maryland, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of China.

Robert W. Dean, of Illinois, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Peru.

Hermann F. Eilas, of Pennsylvania, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Arab Republic of Egypt.

U.S. ADVISORY COMMISSION ON INTERNATIONAL EDUCATIONAL AND CULTURAL AFFAIRS

Lawrence Y. Goldberg, of Massachusetts, to be a member of the U.S. Advisory Commission on International Educational and Cultural Affairs for the remainder of the term expiring May 11, 1975.

The following-named persons to be members of the U.S. Advisory Commission on International Education and Cultural Affairs for terms expiring May 11, 1976:

Leo Cherne, of New York.

Rita E. Hauser, of New York.

Leonard H. Marks, of the District of Columbia.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSIONS OF REMARKS

FEDERAL CIVILIAN EMPLOYMENT, JANUARY 1974

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. MAHON. Mr. Speaker, I include a release highlighting the January 1974 civilian personnel report of the Joint Committee on Reduction of Federal Expenditures:

FEDERAL CIVILIAN EMPLOYMENT, JANUARY 1974

Total civilian employment in the Executive, Legislative and Judicial Branches of the Federal Government in January 1974 was 2,802,769 as compared with 2,810,239 in the preceding month of December 1973—a net decrease of 7,470. Total pay for December 1973, the latest month for which actual expenditures are available, was $3,063,013,000.

Employment in the Legislative Branch in January totaled 33,968—a decrease of 137, and the Judicial Branch increased 269 during the month to a total of 8,951.

These figures are from reports certified by the agencies as compiled by the Joint Committee on Reduction of Federal Expenditures.

EXECUTIVE BRANCH

Civilian employment in the Executive Branch in January 1974, as compared with the preceding month of December 1973 and with January a year ago, follows:

	Full-time in permanent positions	Change	Temporary, part time, etc.	Change	Total employment	Change
Monthly change:						
December 1973	2,432,473		334,979		2,767,452	
January 1974	2,433,973	+1,500	325,877	−9,102	2,759,850	−7,602
12-month change:						
January 1973	2,446,048		319,900		2,765,948	
January 1974	2,433,973	−12,075	325,877	+5,977	2,759,850	−6,098

Some highlights with respect to Executive Branch employment for the month of January 1974 are:

Total employment of executive agencies shows a decrease of 7,602 during the month to a total of 2,759,850. Major decreases were in Postal Service with 10,492 and Agriculture with 6,582, partially offset by increases in Treasury with 5,107, Commerce with 1,980 and Health, Education, and Welfare with 1,774.

The full-time permanent employment level of 2,433,973 reported for January 1974 reflects a net increase during the month of 1,500. The major increases were in Postal Service with 1,457 and Health, Education, and Welfare with 1,251.

During the first seven months of fiscal year 1974 there was a net increase of 12,266 employees in full-time permanent positions. This represents an increase of 17,165 among the civilian agencies and a decrease of 4,899 in Defense agencies.

Temporary and part-time employment in January 1974 shows a decrease of 9,102 to a total of 325,877. Major decreases were in Postal Service with 11,749, Agriculture with 5,953, and Treasury with 5,019, partially offset by increases in Commerce with 1,970 and Defense agencies with 1,180.

FISCAL YEAR 1974 PAYROLL COSTS

Actual payroll expenditures for all three branches during the first six months of fiscal year 1974 totaled $20.5 billion. Full year payroll costs for fiscal year 1974 are estimated to be approximately $38.8 billion, projected on the basis of the current monthly level. Actual payroll expenditures for the preceding fiscal year 1973 were approximately $33.3 billion.

In addition, Mr. Speaker, I would like to include a tabulation, excerpted from the Joint Committee report, on personnel employed full-time in permanent positions by executive branch agencies during January 1974, showing comparisons with June 1972, June 1973 and the new budget estimates for June 1974:

FULL-TIME PERMANENT EMPLOYMENT

Major agencies	June 1972	June 1973	January 1974	Estimated June 30, 1974[1]
Agriculture	82,511	81,715	78,368	80,200
Commerce	28,412	28,300	27,985	28,600
Defense:				
Civil functions	30,585	29,971	28,427	28,700
Military functions	1,009,548	957,310	953,955	996,600
Health, Education, and Welfare	105,764	114,307	122,193	[2] 123,900
Housing and Urban Development	15,200	15,820	15,122	14,800
Interior	56,892	56,771	56,740	58,900
Justice	45,446	45,496	46,732	48,900
Labor	12,339	12,468	12,239	12,700
State	22,699	22,578	22,520	23,400
Agency for International Development	11,719	10,108	9,512	9,900
Transportation	67,232	67,885	67,126	69,500
Treasury	95,728	98,087	102,131	104,700
Atomic Energy Commission	6,836	7,145	7,277	7,400
Civil Service Commission	5,260	5,911	6,138	6,100
Environmental Protection Agency	7,835	8,270	8,587	9,200
General Services Administration	36,002	35,721	35,528	37,200
National Aeronautics and Space Administration	27,428	25,955	25,594	25,000
Panama Canal	13,777	13,680	13,536	14,000
Selective Service System	5,791	4,607	3,405	3,100
Small Business Administration	3,916	4,050	3,919	4,100
Tennessee Valley Authority	14,001	13,995	13,482	14,000
U.S. Information Agency	9,255	9,048	8,864	9,100
Veterans Administration	163,179	170,616	171,702	173,400
All other agencies	33,499	34,603	34,667	37,300
Contingencies				2,000
Subtotal	1,910,854	1,874,417	1,875,749	1,942,700
U.S. Postal Service	594,834	547,283	558,224	537,900
Total[3]	2,505,688	2,421,700	2,433,973	2,480,600

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[1] Source: As projected in 1974 budget document submitted by the President on Feb. 4, 1974.

[2] Excludes 4,000 positions involved in proposed transfer of St. Elizabeths Hospital to the District of Columbia.

[3] January 1974 figure excludes 1,390 disadvantaged persons in public service careers programs as compared with 972 in December 1973.

HELPFUL HINTS TO SENIOR CITIZENS ON THEIR FEDERAL INCOME TAX

HON. ROBERT W. PACKWOOD

OF OREGON

IN THE SENATE OF THE UNITED STATES

Wednesday, March 13, 1974

Mr. PACKWOOD. Mr. President, recent hearings conducted by the Special Senate Committee on Aging revealed that an alarming number of older Americans pay more Federal income taxes than the law requires each year. Unable to afford tax counsel, they often overlook the deductions, exemptions, and credits that are available to them.

Recognizing this fact, the committee has compiled a checklist of itemized deductions and a description of provisions of the tax code applicable to older Americans which is designed to protect the elderly from overpayment of taxes.

I ask unanimous consent that the material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows.

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses are deductible to the extent that they exceed 3% of a taxpayer's adjusted gross income (line 15, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 15, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expense (subject to 3% limitation):

Abdominal supports.
Ambulance hire.
Anesthetist.
Arch supports.
Artificial limbs and teeth.
Back supports.
Braces.

Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.

Cardiographs.
Chiropodist.
Chiropractor.
Christian science practitioner, authorized.
Convalescent home (for medical treatment only).
Crutches.
Dental services (e.g., cleaning teeth, X-rays, filling teeth).
Dentures.
Dermatologist.
Eyeglasses.
Gynecologist.
Hearing aids and batteries.
Hospital expenses.
Insulin treatment.
Invalid chair.
Lab tests.
Lip reading lessons (designed to overcome a handicap).
Neurologist.
Nursing services (for medical care).
Ophthalmologist.
Optician.
Optometrist.
Oral surgery.
Osteopath, licensed.
Pediatrician.

Physical examinations.

Physician.

Physiotherapist.

Podiatrist.

Psychiatrist.

Psychoanalyst.

Psychologist.

Psychotherapy.

Radium therapy.

Sacroiliac belt.

Seeing-eye dog and maintenance.

Splints.

Supplementary Medical Insurance (Part B) under Medicare.

Surgeon.

Transportation expenses for medical purposes (6 cents per mile plus parking and tolls or actual fares for taxi, buses, etc.).

Vaccines.

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).

Wheelchairs.

Whirlpool baths for medical purposes.

X-rays.

TAXES

Real estate.

State and local gasoline.

General sales.

State and local income.

Personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of 5 classes of items: automobiles, airplanes, boats, mobil homes and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security or Railroad Retirement Annuities).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, state or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g. clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 6¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g. postage, stationary, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.

Auto loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges or loan fees, credit investigation reports. If classified as service charge, may still deduct 6 percent of the average monthly balance (average monthly balance equals the total of the unpaid balance for all 12 months, divided by 12) limited to the portion of the total fee or service charge allocable to the year.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g. VA loan points are service charges and are not deductible as interest.) Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

CASUALTY OR THEFT LOSSES

Casualty (e.g. tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusinesses property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4084 for computing your personal casualty loss.

CHILD AND DISABLED DEPENDENT CARE EXPENSES

The deduction for child dependent care expenses for employment related purposes has been expanded substantially. Now a taxpayer who maintains a household may claim a deduction for employment-related expenses incurred in obtaining care for a (1) dependent who is under 15, (2) physically or mentally disabled dependent, or (3) disabled spouse. The maximum allowable deduction is $400 a month ($4,800 a year). As a general rule, employment-related expenses are deductible only if incurred for services for a qualifying individual in the taxpayer's household. However, an exception exists for child care expenses (as distinguished from a disabled dependent or a disabled spouse). In this case, expenses outside the household (e.g., day care expenditures) are deductible, but the maximum deduction is $200 per month for one child, $300 per month for 2 children, and $400 per month for 3 or more children.

When a taxpayer's adjusted gross income (line 15, Form 1040) exceeds $18,000, his deduction is reduced by $1 for each $2 of income above this amount. For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

MISCELLANEOUS

Alimony and separate maintenance (periodic payments).

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Campaign contributions (up to $100 for joint returns and $50 for single persons).

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees for securing employment.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions: Taxpayers may now claim either a deduction (line 33, Schedule A. Form 1040) or a credit (line 52, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) state committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $50 ($100 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $12.50 ceiling ($25 for couples filing jointly).

Presidential Election Campaign Fund: Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) to help defray the costs of the 1976 presidential election campaign. If you failed to earmark $1 of your 1972 taxes ($2 in joint returns) to help defray the cost of the 1976 presidential election campaign, you may do so in the space provided above the signature line on your 1973 tax return.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

OTHER TAX RELIEF MEASURES FOR OLDER AMERICANS

Filing status:	*Required to file a tax return if gross income is at least*
Single (under age 65)	$2,050
Single (age 65 or older)	2,800
Married couple (both spouses under 65) filing jointly)	2,800
"Married couple (both spouses 65 or older) filing jointly	4,300
Married filing separately	750

Additional Personal Exemption for Age: In addition to the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1974, you will be entitled to the additional $750 personal exemption because of age for your 1973 Federal income tax return.

Multiple Support Agreement: In general a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) Gross Income, (3) Member of Household or Relationship, (4) Citizenship, and (5) Separate Return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support.

However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support.

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10 percent of the mutual dependent's support, *but only one of them* may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers: A taxpayer may elect to exclude from gross income part, or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least five years within the eight-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 or less. (This election can only be made once during a taxpayer's lifetime). If the adjusted sales price exceeds $20,000, an election may be made to exclude part of the gain based on a ratio of $20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within one year before or one year after the sale he buys and occupies another residence the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 423 (Tax Information on Selling Your Home) may also be helpful.

Retirement Income Credit: To qualify for the retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received earned income in excess of $600 in each of any 10 calendar years before 1973, and (c) have certain types of qualifying "retirement income" Five types of income—pensions, annuities, interest, and dividends included on line 15, Form 1040, and gross rents from Schedule E, Part II, colum (b)—qualify for the retirement income credit.

The credit is 15 percent of the lesser of:

1. A taxpayer's qualifying retirement income, or

2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxes pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62, he must reduce the $1,524 figure by the amount of earned income in excess of $900. For persons at least 62 years old but less than 72, this amount is reduced by one-half of the earned income in excess of $1,200 up to $1,700, plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer if he has requested that IRS compute his tax and he answers the questions for Columns A and B and completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayer should also write "RIC" on line 17, Form 1040.

CONNECTICUT CONSTITUTION FORBIDS POST CARDS

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. FRENZEL. Mr. Speaker, one of the problems with the post card registration bill, H.R. 8053, is that it will cause a number of States to choose to run both a Federal and a State system, thereby confusing and probably disenfranchising many voters.

The State of Connecticut is in the unique position that it has no choice in the matter. Its constitution would not allow it to run a single registration system under the Federal post card bill. If this House made the grievous error of passing the post card bill, we would force Connecticut to have one system for Federal elections and one system for State and local elections. Connecticut voters would undoubtedly become confused about in which system they were registered.

Connecticut has done a good job on registration. I can see no reason to penalize that State or any other State by passing a post card bill which has no real support in the electorate.

Below is a copy of a letter from the secretary of the State of Connecticut, Gloria Schaffer, to one of our House Members. In this letter Secretary Schaffer points out the constitutional impediment and points out the need for Congress to do a little better research on the effect of its program on the States, especially where there are constitutional bars.

The text of the letter follows:

DEAR CONGRESSMAN. It is most gratifying to know that you share my concern both for facilitating the acquisition and exercise of voting rights by our citizens and also for prescribing those basic procedural safeguards necessary to preserve the integrity of our election process.

The obvious motivation behind House Bill 8053, the postal card registration bill (as was true also of Senate Bill 352) is most admirable since the bill obviously endeavors to simplify and unify the procedure for becoming a voter. However, the basic defect in a postal card registration system (totally apart from the monumental opportunities that it provides for fraud and the very real question as to its administrative workability) relates to the fact that in many states such as Connecticut it could result in a dual electorate.

In your letter, you indicated that the bill seeks to ease the problem of a dual electorate by providing for reimbursing a state for the cost of converting its registration system for state and local elections for a post card method. The cost of such a conversion, as important as it may be, it is not as significant as the disruption and chaos which can be created in endeavoring to cope with a dual electorate even "one time around". In Connecticut, it would seem that constitutional impediments exist to the establishment of a postal card registration system for state and local elections, necessitating an amendment to the state constitution. In this connection, please see Section 3 of Article Six and Article Two of the Constitution of Connecticut on pages 39 and 42 of the 1973 Connecticut Election Laws pamphlet, a copy of which I am sending under separate cover. I have, in the past, proposed an amendment designed to remove this impediment, but the resolution was not approved by the General Assembly. Please see the enclosed copy of my letter to then Attorney General Mitchell dated March 31, 1971, in which reference is made to the proposed amendment.

To preserve the integrity of our election process, it is essential that Congress, before passing voting rights legislation, make every effort to insure its constitutionality and that it is workable and capable of coordination into the election systems of the several states.

With specific regard to the effectiveness of the reimbursement provision of the postal card registration bill to cope with the dual electorate problems, it is my opinion that such provision is not effective because it "puts the cart before the horse". It fails to recognize that the legal problems which could result from a dual electorate can imperil the validity of the election and create a constitutional crisis. In my opinion, Congress, before it considers the enactment of such legislation, should make an intensive analysis of the applicable constitutional and statutory provisions of the several states to ascertain in how many states the problem exists and also the procedure and time required for its elimination. By doing this, it would at least be aware of the problem with which it is confronted.

In any event, it is my personal view and hope that registration of our citizens as voters in the not too distant future will be achieved by a personal enrollment procedure under which the officials be easily available to all who wish to register to vote.

Needless to say, I am vitally interested in any legislation affecting the most significant of all public rights, the right to vote, and will cooperate to the fullest extent in any effort designed to maximize the opportunity of our citizens to acquire and exercise voting rights.

With deep appreciation for your interest and concern in this critical matter and with best regards,

Cordially,

GLORIA SCHAFFER,
Secretary of State.

THE GREAT PROTEIN ROBBERY: NO. 16: THE STUDDS-MAGNUSON BILL

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. STUDDS. Mr. Speaker, yesterday I entered into the RECORD an endorsement of the Studds-Magnuson 200-mile fish conservation bill from the six-State New England Governors' Conference. I brought this endorsement to the attention of my colleagues because I believe, and believe strongly, that we must begin now to protect and conserve our valuable marine resources if we are to have any fish left to protect in the future. On March 6, 1974, I received a new endorsement of this legislation from the 15-member Atlantic States Marine Fisheries Commission. This resolution, agreed to by the commission in January of this year, urges the Congress to hold hearings on and then pass the 200-mile fish protection bill as soon as practicable.

I would like to include in the RECORD at this point the text of the resolution:

RESOLUTION

Whereas, foreign fishing efforts off the coast of these United States have materially depleted stocks of marine fish upon which the domestic commercial and recreational fishing industry thrives; and

Whereas, the Atlantic States Marine Fisheries Commission strongly believes that the Federal Government should assume a positive stance in protecting the stocks of fish which the domestic industry prefers to harvest;

Therefore, be it resolved that the Atlantic States Marine Fisheries Commission vigorously support S. 1988 and H.R. 8665 as appropriate measures for interim extension of United States jurisdiction over its marine fisheries to 200 miles, and further urges that hearings on this legislation be held as soon as practicable.

DR. BEN PACHECO

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. DEL CLAWSON. Mr. Speaker, it is with particular pleasure that I call attention at this point in the RECORD to the achievements of a distinguished citizen of my hometown of Downey, Calif., Dr. Ben Pacheco. Dr. Pacheco is being honored by the Downey Lions Club on the 31st anniversary of their charter, March 15. He is currently serving as governor of Lions District 4–L2, which covers an area from the Los Angeles River to Orange County, the mountains on the north, the Pacific Ocean on the south, and includes all of the city of Long Beach. He is a colonel in the U.S. Army Reserve and commanding officer of the 349th General Hospital, a 1,000-bed center in the city of Bell, Calif.

Dr. Pacheco has been particularly active in the sight conservation program of the Lions, he has served as Secretary of the Lions Eye Foundation of Southern California and holds their membership advancement key as well as one international extension award. Dr. Pacheco has underway the establishment of a new Lions Club, "The Little Tokyo Lions Club of Los Angeles," another club is projected for the city of Sante Fe Springs.

Gov. Ben Pacheco has also been active in his community in other capacities, serving on the Downey City Charter Committee, for 7 years on the Downey Library Advisory Board, and as a member of the Downey Parks and Recreation District Board. He is a member of the Downey Chamber of Commerce, B.P.O.E. No. 2020, and the Downey Masonic Lodge No. 220.

Merely enumerating the many good works of this meritorious career serves to illustrate amply why Dr. Pacheco will be honored by his fellow Lions. It is a career of service in the highest tradition of American citizenship deserving of our recognition as well.

THE CLEAN AIR ACT NEEDS TO BE AMENDED NOW

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. NELSEN. Mr. Speaker, I am introducing today a proposal to amend the Clean Air Act in those respects which came to our attention during consideration of the Emergency Energy Act. I am doing so with the principle in mind that the Clean Air Act requires more than just clear air. Under current provisions of the act, clear air is that air which meets the national ambient air quality standards. Primary standards are to protect public health with an adequate margin of safety. Secondary standards are to protect public welfare from known or anticipated adverse effects. It is presumed that the Environmental Protection Agency has set the ambient air quality standards in a reasonable and responsible manner and that the standards will be revised upward or downward as new information is obtained.

It is entirely right and proper to require that primary ambient air quality standards be met as soon as practicable. No argument of cost or difficulty is appropriate when the public health is concerned. Similarly, although economic, social and technological aspects are appropriate welfare considerations, it is proper to require that secondary standards be met within a reasonable time. Going further than necessary to achieve and maintain clear air, however, is wasteful of the Nation's resources with no compensating benefits.

Measurement and modeling have shown that electric generating stations in isolated locations can, with proper plant design and special operating techniques, meet ambient air quality standards while using our plentiful supplies of relatively high sulfur coal.

In urban areas, powerplants, along with other sources, rightfully should be required to reduce emissions in proportion to their impacts on air quality, so that ambient standards are attained and maintained. Sulfur dioxide emitted near ground level has a much greater impact on ambient air quality than an equivalent amount discharged from a tall powerplant stack. One study has shown that, although electric generating plants emit 44 percent of total sulfur dioxide, they are responsible for only 6 percent of nationwide sulfur dioxide damage.

In devising plans to achieve the ambient standards, EPA and the States largely ignored these facts. Exclusively adopted were fuel-quality requirements or emission limitations; these are uniform for vast areas—often an entire State—disregard location, design and density of sources, and are acknowledged to be more stringent than necessary to meet ambient standards. New source performance standards are set with no consideration of impact on air quality. In addition, the Supreme Court, by a 4 to 4 tie vote, upheld a lower court decision specifying that there shall be "no significant deterioration" of air quality which is better than the national standards.

Attempts to comply with such illogical requirements have caused substantial dislocations in the country's energy supply. They will lead to increasing costs of electric power, and they threaten to disrupt growth and development. No perceptible consumer or public benefit will result.

This is no trivial matter. Almost two-thirds of scheduled additions of fossil-fuel generating capacity is jeopardized by the restrictive policy of "no significant deterioration" in clean air areas. EPA estimates that powerplant compliance with Clean Air Act limitations will require investment of $4.66 billion in 1977, with annual costs of $1.36 billion.

It becomes evident, therefore, that the Clean Air Act should be modified to reflect the problems we confront during the current energy crisis.

BRIEF EXPLANATION OF PROPOSED BILL TO AMEND THE CLEAN AIR ACT

Section 1 provides the act may be cited as the "Clean Air Amendments of 1974".

Section 2 would clarify the meaning of "protect and enhance" as used in the findings and purposes, and would encourage consideration of total environmental, economic, and social impact of air quality control measures.

Section 3 deals with implementation plans. Subsection (a) would specify procedures for determining emission limitations and would authorize alternative control strategies; subsection (b) would require periodic updating of State implementation plans; and subsection (c) would permit a source owner or operator to apply to the State agency for promulgation of alternative emission limitations, if compliance costs exceed benefits and ambient air quality standards will be attained and maintained.

Section 4 would permit an owner or operator of a new stationary source to petition the Administrator for a permit to operate with emission limits in excess of standards of performance, if control costs exceed benefits and ambient air quality standards will be attained and maintained.

Section 5 would require revision of State implementation plans to conform with the amendments.

CHANGES IN EXISTING LAW MADE BY PROPOSED BILL

NOTE.—New language is printed in italics; proposed deletions are in brackets.

"Sec. 101.

* * * * *

"(b) The purposes of this title are—

"(1) to protect [and enhance] the quality of the Nation's air resources *by estalishing standards of performance for new sources of air pollutants, and to enhance the quality of the Nation's air resources by attaining and maintaining national ambient air quality standards*, so as to promote the public health and welfare and the productive capacity of [its] *the Nation's* population *and resources*;

* * * * *

(3) to provide . . . programs; [and]

"(4) to encourage . . . programs [ ]; *and*

"(5) *to encourage cost-effective air quality control measures that consider total environmental, economic and social impact.*"

"Sec. 110(a)

* * * * *

"(2) * * *

"(B) it includes *fixed or variable* emission limitations (*based, whenever technically feasible, on measurement and field-validated models on the impact of individual sources*), schedules, and timetables for compliance with such limitations, [and] *or* such other measures as may be necessary to insure attainment and maintenance of such primary or secondary standard, including, but not limited to, land-use, transportation controls, *and alternative control strategies;*"

* * * * *

"(H) it provides for revision, after public hearings, of such plan [(i)] from time to time as may be necessary to take account of (*i*) revisions of such national primary or secondary ambient air quality standard; [or] (*ii*) the availability of improved or more expeditious methods, *including more cost effective methods*, of achieving such primary or secondary standard; [or] (*iii*) *the availability of new information on ambient air quality or the impact of particular sources or classes of sources on ambient air quality;* or [*ii*](*iv*) whenever the Administrator finds on the basis of information available to him that the plan is substantially inadequate to achieve the national ambient air quality primary and secondary standard which it implements.

"(I) it provides a procedure for petition by a source owner or operator to the State agency for promulgation of emission limitations or other measures with respect to a particular source different from those approved pursuant to Subsection (a)(2)(B). Such procedure shall require public hearing, on the record, of such petition; shall permit intervention by any party affected by such petition; shall require consideration of the impact of such source on the ambient air quality in the area affected by such source; and shall place the burden of proof on the petitioner. Any petition under such procedure shall be granted only if (i) such different emission limitations or other measures will result in achievement or maintenance of ambient air standards within the area affected by the source in question within the time for compliance with such standards, and (ii) the economic and social benefits of achieving the limitations or other measures approved pursuant to Subsection (a)(2)(B) do not justify the economic and social costs therefor."

"Sec. 111.

* * * * *

"(f)(1) Notwithstanding the above, any owner or operator of a new stationary source may petition the Administrator for a permit to operate a new source with emission limits in excess of those established by the Administrator as standards of performance for such source. The Administrator shall establish procedures for conduct of hearings on the record with respect to such petitions, including opportunity for intervention by any party affected by such petition and the burden of proof in such proceedings shall be on the petitioner. The Administrator, based on evidence produced at such hearing, shall determine (i) whether the social and economic cost of achieving limits established pursuant to the standards of performance exceeds the benefits to be attained and, if such costs are excessive, (ii) the degree of emission control which such new source must achieve to assure maintenance of ambient air standards in the area affected by such new source, and such additional control as may be justified by cost benefit analysis.

"(2) Petition for review of the Administrator's determination shall be filed, within 30 days after such determination, in the District Court of the United States having jurisdiction in the area which such source is located."

Sec. 5 of Bill

"The Administrator shall, within nine months after the date of enactment of these amendments, revise any State implementation plan that does not conform to these amendments, unless prior to such time such State has adopted and submitted a plan (or revision) which the Administrator determines to be in accordance with the requirements of these amendments."

VFW WAS RIGHT ON ASIA

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. BROOMFIELD. Mr. Speaker, I invite the attention of the House to an article in the February issue of the VFW Magazine, the monthly publication of the Veterans of Foreign Wars of the United States. The title of the article is "VFW Was Right on Asia." The author is Brig. Gen. J. D. Hittle, U.S. Marine Corps (retired), who is well known to many Members of the House, as he has served as Assistant to the Secretary of Defense for Legislative Affairs, and later as Assistant Secretary of the Navy for Manpower and Reserve Affairs.

In the article, General Hittle, who has been a syndicated writer for the Copley News Service and the military commentator for the Mutual Broadcasting System, gives us a concise, up-to-date report on the strategic situation in the Western Pacific and Southeast Asia. He bases his report on firsthand personal observation. He has been a frequent traveler through the Western Pacific and Southeast Asia since the middle 1960's.

This report by General Hittle is a helpful contribution toward a better understanding of the actual conditions in these distant but very important countries.

VFW Was Right on Asia

(By James D. Hittle)

An extensive on-the-spot survey of Southeast Asia and the western Pacific has convinced me that V.F.W. positions on American policy in the Far East were correct.

V.F.W. mandates over the years recognized that Red conquest of Southeast Asia was part of a long range plan to tighten a strategic noose around the U.S.

Further, they pointed out that only superior military power would stop Red aggression against countries that would not yield to Communist threats.

And the V.F.W. knew that Russian, Chinese or North Vietnamese Communism or a combination of these in any form or camouflage means the death of freedom.

Southeast Asia is far from peaceful or serene, but it is far better than we dared to hope for even a few years ago, thanks largely to U.S. opposition to Communist aggression in that area.

Even though Communist conquest in Southeast Asia has been checked, the Reds have not changed their character or objectives. If their leaders conclude American power or will has weakened, they will start down the warpath again.

Here is how the Republic of China on Taiwan, Laos and Vietnam looked to me during my recent travels.

Taiwan is so strategically located that it served as a backup base for American forces during the Korean and Vietnam Wars. Loyalty and friendship for the U.S. and a basic determination to remain free and stand fast in the face of Red Chinese threats are apparent.

Despite abuse by nations that traded support for the Free Chinese for markets in Communist Mainland China, the Free Chinese are working even harder. For example, the Free Chinese—expelled in 1971 from the UN as the price for Red Chinese membership—boosted their foreign trade 40% in 1972.

Under Chiang Ching-Kuo, the son of President Chiang Kai-shek, vocational training and educational programs have been devised for the veterans of the million-man Nationalist army that accompanied Chiang to Taiwan after the Communists took over. Businesses, farming, engineering and construction firms were set up within the veterans program and are making major contributions to Taiwan's economy. Chiang Ching-Kuo is now Prime Minister of Free China. Head of the veterans program is Chang Tsu-yu.

Free Chinese veterans hold the V.F.W. in especial esteem because they know the organization's long record of support.

Laos, a strategic corridor stretching south from Red China's southern border, shares boundaries with Vietnam, Cambodia and Thailand. The Reds wanted Laos for their push to the flanks of these three and beyond to the Strait of Malacca. Early, the V.F.W. warned against letting the Communists take Laos. The U.S. backed Laotian anti-Communist efforts with money, bombing and advisers. As of now, western Laos has been kept out of Red hands.

A sort of peace has been brought to that country through a cease-fire and negotiations for a coalition government. Reconstruction is underway; tourists are coming to marvel at temples and scenery; plans are afoot to harness the Mekong tributaries. One big hydroelectric dam built largely with U.S. aid funds is already in operation. Tripling output is envisaged. The power is sold through 1996.

Whether Laos remains peaceful depends on the North Vietnamese—if they believe they have enough of Laos already to assure security of the Ho Chi Minh trail and if they believe the U.S. will back the cease-fire in Southeast Asia with airpower.

Laos is so intertwined in Southeast Asian strategic developments a new offensive by Hanoi against South Vietnam would lead to renewed fighting in Laos.

From the beginning of the struggle for Vietnam, the V.F.W. led in urging action to defeat Communist aggression. The V.F.W. knew the Communists realized that South Vietnam was the strategic key to conquest of the Southeast Asian peninsula.

As a frequent visitor to South Vietnam since the middle 1960s, I noted changes and progress since those days when beating back the Communist attack was in doubt. Now you don't see American troops in Saigon. The fighting is not over, though U.S. withdrawal is a fact. Communist military probing and testing continue. The Communist buildup in the northeast near the DMZ and the Ho Chi Minh trail continues. The threat of U.S. bombing restrains Hanoi from a drive to the sea that would cut off northern South Vietnam.

South Vietnam is in a period of neither peace nor war. A government official remarked that his country would have to get used to the situation and make economic and social progress under half war-half peace conditions. And it is, despite the problem of shifting from all-out war to half-peace and the need to keep up military power and at the same time cutting defense spending.

Here are some of the signs of an economic upswing: Most main highways are open; farm produce is moving; foreign investment is coming in; Japanese businessmen are visible everywhere in Saigon; two deluxe 500-room hotels are scheduled and a third is planned; German and French businessmen are coming in, and tourism is encouraged.

Oil is a problem and a hope. Zooming prices for oil imports are putting heavy strains on the economy, but offshore oil possibilities are being explored and preliminary studies look favorable.

As in the case of Laos, much depends on whether Hanoi keeps its part of the cease-fire bargain. And that decision hinges on whether the Reds believe U.S. planes will pummel them if they start the war again.

Nations and peoples in Southeast Asia are free because the U.S. supported them and fought with them against aggression. And that is what the V.F.W. said for so long should be done.

THE ENERGY CRISIS

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. BAKER. Mr. Speaker, I have received a short poem from a good friend of mine, Charles E. Dodd, of Signal Mountain, Tenn. I really think this poem tells us what many people think of our current energy situation. They are not so concerned about the past causes of the oil shortage as they are with the methods we must use in the future to ease the energy crunch.

Charlie Dodd is a credit to the metropolitan area of Chattanooga, Tenn., and I commend his poem with its message to my colleagues in the House:

THE ENERGY CRISIS

(By Charles E. Dodd)

Twas in the year of '73
Right after the battle at Wounded Knee
When farmers were busy tilling the soil
We suddenly discovered we were out of oil.

The wells at home were running low
And there seemed no way to increase the flow.
The gas wells too were petering out,
People were wondering what it was all about.
The Arabian Countries with oil everywhere
Cut off the entire Western Hemisphere.
Unless we would turn our back on the Jews
Not a barrel of oil would they turn loose.

Dependent on oil was our whole operation
The shortage of which can paralyze the nation.
Our folks quit riding and houses got cold
The gas eating monsters couldn't be sold.

Factories closed down when fuel ran short.
And couldn't get chemicals of any sort.
Farmers were frustrated when fields were seeded
When they couldn't get fertilizer they needed.

For some reason we didn't understand
Clocks were turned up all over the land.
We left our homes in the dark of night
And got back home when it was barely light.

With the shortage of diesel and prices so high
The truckers quit hauling our daily supply.
Their tempers grew hot and with many a gun
They tried to stop those who wanted to run.

How this thing turns out is anyone's guess
We'll have to admit we are in a big mess.
With my car out of gas and my boat on the shore
I hope I can mow with my gasoline mower.

THE RIGHT TO CELEBRATE

HON. THOMAS N. DOWNING

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. DOWNING. Mr. Speaker, Dr. Edgar F. Shannon, Jr., the president of the University of Virginia, is known throughout the Nation by the mark he has made on our Commonwealth. It has been a great honor for me to have known this fine scholar and educational statesman who, though soon ending his term as president will continue to have a most important influence on the progress of Virginia and of higher education for years to come. On February 9, 1974, Dr. Shannon spoke to the Charter Day at the College of William and Mary in Williamsburg, Va. It is with a great deal of pleasure that I make these remarks available to my colleagues so that they might have the opportunity, as I have had, to profit from his remarks:

THE RIGHT TO CELEBRATE

(Talk by Edgar F. Shannon, Jr.)

It is indeed an honor and a pleasure to speak on this auspicious and venerated day at the historic College of William and Mary. I am doubly privileged to become an honorary son of this ancient College. I am grateful for this distinction. I shall always cherish it and the memory of this occasion.

I have enjoyed with your former President, Pat Paschall, many years of friendship and associated endeavors. It has been most gratifying to welcome Tom Graves to his position of leadership in the Commonwealth and to establish immediately warm personal and institutional associations with him.

Yet, however many the heartwarming links among the faculty, students, and alumni of William and Mary and the University of Virginia, they yield, of course, to the supreme conjunction of our two institutions through Thomas Jefferson, your most illustrious graduate and our father and guiding spirit. In marking this 281st anniversary of the granting of the charter of William and Mary, we pay tribute to the early recognition of the way in which the advancement of a new society in a new continent would depend upon higher education. The founding of this College and the birth of an independent nation based on the freeborn rights of Englishmen are inextricably bound up.

It is most appropriate, therefore, that here today we ponder our worthiness to commemorate the country's Bicentennial. As we initiate that observance, we have to consider the extent to which we have earned the right to celebrate the state of our nation 200 years after its noble inception. In saying this, I am reminded of the Red Queen's words to Alice in *Through the Looking Glass:*

"Where do you come from?" said the Red Queen. "And where are you going? Look up, speak nicely, and don't twiddle your fingers all the time."

It is important for Americans to recall where we came from and especially to address ourselves to where we are going. I'll do my best to look up, speak nicely, and not twiddle my fingers!

Virginians have a tendency to live in the past, and perhaps understandably so; our history is one of the longest and brightest chronicles in the annals of the United States. But the past, rather than constraining us, should give us courage for the future and move us toward the 200th anniversary with evolving plans for overcoming the ills hampering this country, which are of a magnitude as great as those of 1774. Although in size, wealth, and power the United States has progressed far beyond anything the signers of the Declaration of Independence could possibly have conceived, mere self-congratulations are not in order. Virginians should lead the way in rejecting temptations to commercialize our heritage instead of revitalizing its fundamental principles and purposes. Our challenge, here in the crucible of the nation, is to help it rediscover its center—the shared values, which inspire self-discipline and high achievement. As the living generation, we are making the history of the 1970's. Our motivation ought to gather strength and momentum from that of our progenitors.

On May 26, 1774, the first formal legislative action in the chain of events that led directly to independence and nationhood took place in Williamsburg when the House of Burgesses, which had just been dissolved by the Royal Governor, established the Committee of Correspondence to propose to the sister colonies the convening of a national Congress. Nineteen seventy-four is also the bicentennial of Jefferson's famed *Summary View of the Rights of British America,* which led to the high reputation with which he arrived at the Continental Congress and undoubtedly to his being selected as the principal draftsman of the Declaration of Independence.

Before the struggle for independence was over and the Constitution adopted and functioning, there were many years of hardship and discouragement. Yet as we look back today, we cannot fail to be struck by the confidence that the men of 1774 expressed in the potential for human fulfillment, a confidence epitomized by Jefferson's statement that "nothing is beyond the reach of free men."

Such a confidence does not infuse our countrymen today. They are distressed and divided over the Watergate scandals and the possibility of Presidential impeachment, depressed by the energy crisis, pessimistic about the economy, and, worst of all, distrustful of leadership at all levels of government. Indeed, loss of confidence seems to be a prime reason for our present malaise.

Clearly, therefore, one great objective of the Bicentennial must be the restoration of self-confidence, of confidence in each other, and of confidence in government. What better place than Williamsburg for initiating the task of national self-renewal! It was the promise of a future that our forebears resolved to join together in creating which gave them such extraordinary daring and hope. To restore that impetus, displacing the present fear of the future, which encourages selfish, immediate goals and faltering trust among people, is an immediate priority.

Any first steps toward the restoration of national confidence would have to include broad adherence to a core of cohesive values for our society, regenerated individual responsibility, an enlarged understanding of education and its goals, and a vision of the future that could stir Americans to a determined effort to make our nation worthy of celebrating the astonishing achievements of 1776.

Values or principles provided the underlying impulse that makes any society or country live, and, as all of you know as well as I, the actual values practiced by a society may be quite different from those that its members profess.

Too often and too much of late the United

States has reflected false values—the values of success at any price, money above all, winning, and, as Daniel Boorstin has amply documented, a mania for getting there first. These are patently quite different from the basic principles enunciated in the Declaration of Independence and the Constitution. How can each of us escape some feeling of responsibility for the ethical atmosphere in which Watergate spawned, when our culture promotes an obsession with victory, often by dubious means, in athletics, in politics, and even in foreign policy? In Jefferson's words in the *Summary View*, "the great principles of right and wrong are legible to every reader: to pursue them requires not the aid of many counselors. The whole art of government consists in the art of being honest." Keeping this simple proposition constantly in mind can help Virginia regain her former position of national leadership.

Shared values in the nature of man and the infinite possibilities of human life are imperative for maintaining a sense of community—local, state, and national—and these values come alive not through edict or exhortation but through the moral authority reflected by individuals, both leaders and citizens. Such moral authority becomes an active force through individual and personal commitment and risk.

In our Commonwealth, I think of the moral authority exhibited by Governor Godwin when, convinced of the needs of the people of Virginia, at personal risk and sacrifice he advocated abandonment of "pay-as-you-go" and tirelessly stumped the State on behalf of the referendum for general obligation bonds for buildings for higher education and mental health. To such leadership and moral authority, the people responded affirmatively two to one. The same kind of moral authority was exhibited by Governor Holton in behalf of race relations and for opportunity in education and employment for black citizens during the past four years. The extent to which we attract and include black and other minority citizens and women in the economic, cultural, and political life of this state will be a measure of the degree to which we are entitled to Bicentennial observances and to celebrate the principles of opportunity, liberty, and justice, to which we say we subscribe.

Recently Alexander Solzhenitsyn has offered an inspiring example of willingness to risk his very life for his beliefs. By revealing the oppression and brutality of the Communist government in Russia in his book, *The Gulag Archipelago*, he has dared to tell the truth; and the most powerful totalitarian state in modern times has not been able to and will not be able to silence his message for humanity. He concluded his Nobel Prize speech with this statement:

"ONE WORD OF TRUTH OUTWEIGHS THE WORLD

"On such a seemingly fantastic violation of the law of the conservation of mass and energy are based both my own activities and my appeal to the writers of the whole world."

Was it not a similar appeal which led the founders of this nation—few in number, who lived widely scattered on the edge of a wilderness inhabited by savages, by our standards poverty-stricken in the resources that they could marshal and with little real power—to arrogate to themselves immense moral authority and to dare to declare principles for their future in which they spoke for all mankind.

In 1963, in an address in the House of Burgesses of the restored capitol here in Williamsburg, Barbara Ward pointed to the boldness and vision of the provincials of 1776. "With breathtaking audacity," she said, "they stood up in this little room and dared to legislate for all mankind . . . They did not say 'we Virginians,' they do not say 'we Americans,' they say 'all men.' 'All men are equally free and independent,' 'all have certain inherent rights' . . . The dreams of these men were palpably ahead of their tools . . . The disparity did not daunt them. They simply went ahead to create the first free continental society known to human history . . . A second fact of relevance is that the form of debate which was launched in 1776 is now the form of debate for the whole of humanity."

Miss Ward's reference to humanity is a vivid reminder to us of the store that these men set upon human worth and dignity and of the importance of the individual. For them the common goal could be attained only by individual effort, and by sacrifice if necessary. Now, as well, a return to confidence will be attained only through the acceptance of individual responsibility.

Individual responsibility and action are intimately bound up in national confidence and in the self-confidence of each man and woman in our society. In a democratic republic such as ours, leadership is necessary in government and the institutions of our society, but we cannot blame our plight on the lack of leadership in elected and appointed officials, either in the public or private sectors. We cannot accept the notion that there is nothing that an individual can do. Individuals can and do make a difference in our society; the leaders are responsible to the people. It is our duty to hold them responsible.

The Constitution of the United States begins, "We the people. . . ." We are the government and "we" means us. Hence the soundness of our society depends, in the final analysis, on the soundness of the people as a whole.

In his memorable Charter Day speech last February, Mr. Colgate Darden perfectly described the essential role of education in the United States and urged a renewed emphasis on the liberal arts. "I have long believed," he said, and I quote, "that all government, regardless of the name by which it is known, tends to tyranny, and unless carefully watched is quite apt to end there. . . . the people themselves are the only reliable guardians of their affairs. . . . Our great responsibility is to educate them for this important task, since each generation must demonstrate anew its capacity to govern."

Education, then, is the third element in the renewal of confidence. There are those who suggest that too much education may be one of the causes of social unrest and discontent in the United States.

Surely the answer is not less education, but improved education. It is the kind and quality of education that are crucial to the vigor of the republic.

Yet how to determine quality? No one would dispute the desirability of quality in education. Indeed, it has become a shibboleth of our time. But the means of determining quality in education is today one of the most urgently debated topics in government, business, and the academy. Unfortunately, the justification and the methods of evaluation for higher education, the segment of education with which I am most directly familiar, are almost entirely statistical and economic. There is an appropriate thrust to establish standards for evaluation, but the measurements are quantitative in terms of financial and systems analysis—faculty: student ratios, square footages of student stations occupied per class hour per week, cost per credit-hour generated. There is little attempt to judge the extent to which human capacities have been enlarged, understanding of man and nature broadened, and a sense of wholeness and harmony, or an appreciation of beauty, attained.

Accountability and productivity are the higher education code words of the moment. Colleges and universities, like business and governments, should be accountable to the auditor for honesty and probity in the handling of funds. But too often accountability really masks interference and control by governmental and bureaucratic agencies that hamper or destroy educational activities and the very innovation, flexibility, and creativity that both public and private policy-makers insist that they want. If productivity means only reduced funds for education through more credit hours produced at lowered cost per credit hour, we have actually determined nothing in human terms about the educational quality of those hours spent.

There is a story current that illustrates the point I am making. When a rural member of the Wisconsin legislature showed signs of indignation over hearing that faculty members of the University of Wisconsin taught nine class hours a week, the late President, Glenn Frank, of that University responded, "Sir, you are famous for your pedigreed bulls. Would you test their value by the number of hours a week they work?"

The quality of museums, art galleries, and symphony orchestras is not judged by the standards that cost accountants and budget analysts are seeking to apply to higher education. Legislators and Congressmen would consider it impertinent for anyone to suggest that the quality of the legislation they write and adopt should be determined according to the square footage of office space and number of staff assistants per legislator or the cost to the state or the nation per committee hearing hour and floor debate spent per bill passed instead of by what the laws they vote mean in improving the health, safety, and welfare of human beings.

As Stephen K. Bailey has written in an article entitled "Combatting the Efficiency Cultists":

". . . I submit that the prime function of education is not measurable. The ultimate business of education is human freedom.

"Education today must affirm the promise of human life. . . . It must promote all that is ennobling and creative in the human psyche. It must help us posit a society whose ultimate dividends are joy and variety and vitality within the bounds of community, a society in which humanistic critics postulate man not just as he has been or as he is, but as he can be." To think of man as he can be is to believe in the future, which is the fourth element that I see as conducive to a revival of confidence. Belief in the future was a major aspect of that audacity cited by Miss Ward. How often audacity comes to mind in speaking of the men of 1776—the sort of audacity that led Jefferson to build Roman temples in the wilderness for a new university, and to speak of it as becoming a chief bulwark of the human mind in the Western Hemisphere. It was the kind of confidence that Kenneth Clark in our own day has so often declared to be the *sine qua non* for the creation of great art, and indeed for the advancement of civilization.

Just now the future may seem clouded with doubt. Instead of echoing Tennyson's words, "For I dipt into the future far as human eye could see/Saw the Vision of the world and all the wonder that would be," many of our so-called futurists foresee straitened economic circumstances, dwindling resources, and a very limited and constricted prospect for all mankind. Yet even these prophets of gloom express a kind of muted hope, and view the human condition as having attainable possibilities for improvement, if men will but fully employ their capabilities of intellect and spirit, rise above greed and egoism, and labor together in a common purpose. Inspiration of this kind we can derive from our heritage, and we shall have to engender it in the nation in order genuinely to commemorate the two-hundredth anniversary of 1776.

As part of this prelude to the Bicentennial, I think we should call for and indeed insist upon a national renewal of spirit as the essential way to mark the Bicentennial of our country. John Gardner has put the matter plainly, "There is no middle road for the spirit. We must call for the best or live with the worst."

We are at a point in Virginia, as we are in the nation, of deciding whether we have the necessary courage and enterprise to give our unremitting energy to finding new ways to make individual fulfillment and freedom of our primary goals and to recognize that this is a complex and not a simple task. To look for simplistic answers is to doom our efforts before we start. The values about which I have spoken and the confidence upon which our future must be built will never be won merely by a new organization chart, centralized management, or another consultant's report.

What is required to preserve liberty is perhaps best understood by those like Solzhenitsyn who have been without it or by those who have lost it. Such a man was Dietrich Bonhoeffer, who wrote these words from a German concentration camp in 1943:

"We have been the silent witnesses of evil deeds. . . . Bitter conflicts have made us weary and even cynical. Are we still serviceable? It is not the genius that we shall need, not the cynic, not the misanthropist, not the adroit tactician, but honest, straightforward men. Will our spiritual reserve prove adequate and our candor with ourselves remorseless enough to enable us to find our way back again . . . ?"

Within the people of this nation there is a great reservoir of strength and power for good. The world still looks to America for the fulfillment of its best hopes for humanity. On this Charter Day, it is indeed timely to rededicate ourselves to the elevated vision and yet unattained possibilities for man. It is the human spirit which we must free for its highest development if we are to have the right to celebrate in 1976.

TRIBUTE TO JULIA BUTLER HANSEN

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mr. COTTER. Mr. Speaker, I rise to pay tribute to the Congresswoman from the State of Washington, JULIA BUTLER HANSEN, who has decided to retire this year after a meritorious 37 years in public service.

During the time which I have been a Member of the House of Representatives, I have developed a deep and abiding respect for the Congresswoman. I shall long remember her success and accomplishments as chairwoman of the Interior Appropriations Subcommittee, on which she served with distinction. Her interests in the preservation of our environment and its energy resources, together with her intensely aware concern for the welfare of our Indian population, assure her an honored place in the memories of her colleagues, and the history of our Nation.

The memorable qualities of Congresswoman HANSEN are further illustrated when one recalls the prominent role which she played in presenting viable reform proposals to the 1972 Democratic Caucus; proposals which insure the increasing effectiveness of Congress in the coming years.

I therefore, take this occasion to honor Congresswoman JULIA BUTLER HANSEN, who accepted the challenges and demands of the House of Representatives, and has successfully met them.

NAZARETH COLLEGE: THE GOLDEN ANNIVERSARY OF AN UNUSUAL INSTITUTION

HON. GARRY BROWN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. BROWN of Michigan. Mr. Speaker, Nazareth College, one of the fine Kalamazoo, Mich., area institutions of higher education, will commence its celebration of its first 50 years of service Sunday, March 17, with the dedication of the Nazareth College Performing Arts Center.

It is a genuine privilege to be able to bring this special occasion to the attention of my colleagues in the U.S. House of Representatives, knowing full well that the reputation of Nazareth College for its highly personalized style of liberal arts education and its continuous classroom program innovation precedes my comments. Nazareth College has contributed markedly to the quality of life of its graduates not only in Michigan's Third Congressional District but throughout the country.

As as institution, it is setting an excellent example not only for other institutions of higher learning but our governmental ones as well in its demonstrated flexibility and growth to meet the changing needs of its constituents, in the case of the college, our young people.

Founded by the Sisters of St. Joseph in 1924, Nazareth College expanded its board of trustees in 1966, and in 1971, the school revised its admissions policy, which up until that time had provided only for the admission of women, in order to provide the benefits of its fine education to men as well. Nazareth College grants the degrees of bachelor of arts, bachelor of science, bachelor of science of nursing and bachelor of social work. Reflective of its emphasis on quality rather than numbers, through 1973, it had awarded only 1,821 baccalaureate degrees and on April 27, 1974, will graduate 17 students, its largest class in its history.

This fall the school will institute an innovative, competency-based, student-directed program in human services leading to degrees certifying professional competency in one of five areas: Health services, social services, education, management and administration, and interdisciplinary studies. Nazareth initiated and has actively supported a highly effective and successful program of collaboration among the two State and two private institutions of higher education in Kalamazoo.

The ability of the college to maintain itself financially is directly attributable to a continuing recognition of the quality of education being provided by this unique institution and this appreciation is, in turn, reflected in the wide financial support coming forth for the college from the very community-at-large in which it is located.

In the 1950's the college initiated a $7 million building program on its then new campus at Gull and Nazareth Roads in Kalamazoo. The latest improvement to the campus is the Performing Acts Center made possible by a generous grant from the Kresge Foundation and equally generous contributions from the Kalamazoo community. Its dedication Sunday highlights opening day activities of the special Golden Anniversary Celebration Week at the college and promises, not only to the college but the community as well, a marvelous facility for music, theater, dance, and lectures.

Mr. Speaker, 50 years after its beginning, Nazareth College stands as a leader in higher education. Its graduates and friends understandably stand proud of the college's long list of honors and achievements. I am privileged to be able to join them today on the floor of the House in applauding Nazareth College's first 50 years of service, and I know all my colleagues join me in wishing this most remarkable institution every continuing success in its next 50 years.

ESEA—DO AFDC CHILDREN GET COUNTED?

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. DOMINICK V. DANIELS. Mr. Speaker, I have expressed elsewhere my dissatisfaction with the idea that an AFDC child should be treated as though they were only two-thirds of a child. At this point, I only want to raise for the record the question whether many of those AFDC children will not be completely excluded from the distribution formula as reported by the Education and Labor Committee.

The committee formula counts all children in families with total income below the Orshansky poverty level and it counts all children in families with AFDC income above that poverty level for a family of four regardless of family size. Does this mean that all children in AFDC families are counted? As I read the bill, the answer is a resounding "No." If a family has income from AFDC and from other sources and that combined income brings it above the Orshansky poverty level, the children are not counted at all. They are not poor—because poverty is measured by all income; and they are not included in the AFDC count because their income from AFDC is not above the Orshansky poverty level.

These uncounted children are not an insignificant number. In 1971—the latest year for which detailed data are available—40 percent of all AFDC families had income from sources other than AFDC. I do not know what percent of the AFDC families are brought above the poverty level by this nonassistance income but I do know that over 20 percent of all AFDC families had outside income of over $100 per month—and in States that have AFDC payments approximating 75 percent of poverty that income would be sufficient to exclude them from the count altogether.

It is noteworthy that in California, whose AFDC payments to a family of four are $70 per month less than the Orshansky poverty income, over 35 percent of AFDC families have a nonwelfare income of $75 or more. While I do not have access to the data which shows what percent of AFDC children are totally excluded from the formula, I believe the managers of the bill have an obligation to supply it or else agree to an amendment to include them all.

The failure to count these children leads to some strange results. A family of four in New Jersey receives a basic AFDC payment of $324 per month and the children are included in the poverty count. If the mother enters the WIN program, the family income is increased by the $30 per month incentive payment—and it is no longer counted as poor and the children are excluded from consideration in the distribution formula. Do we really want to give the States a financial incentive to keep families out of the WIN program? The same result occurs if the mother takes some low-paying or part-time work. Is that consistent with our efforts to encourage self-reliance?

There is another matter about the count of AFDC children that needs to be brought out into the open. The committee report states:

> The richest States in the country will still be the ones which add AFDC children every year. . . .

Again, let me say that that is not my reading of the bill. The "poverty" criterion that is applied to AFDC is a uniform one regardless of family size: while that applied in determining poor children varies by family size. Therefore, only large AFDC families are counted and we all know that the size of AFDC families is declining. If my analysis is right, therefore, the percent of AFDC children in urban States that will qualify from year to year will go down rather than up. Let me illustrate. Under the committee's formula, an AFDC family of five or more will be counted in New Jersey and a family of six or more in California. If current trends continue—and assuming that AFDC payments rise proportionately with the poverty level—the percentage of AFDC families that can qualify under the formula in these States will decline over time. If my reading of the bill is wrong, I think a documented reply for the record is warranted.

RAILROADS VITAL FOR RURAL SURVIVAL

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. O'BRIEN. Mr. Speaker, the abandonment of several rural railroad segments, as contemplated in the Secretary of Transportation's report of February 2, 1974, could have a devastating effect on the economy of a large part of the 17th Congressional District of Illinois.

While recognizing that Secretary Brinegar's report was only the first step in a 20-month planning process for the railroad restructuring program authorized by the Regional Rail Reorganization Act of 1973, I am, nevertheless, deeply concerned about its implications for business, labor, agriculture, and the consuming public in the rural portions of my district.

The U.S. Railway Association, created by the act, will design the new system, but Congress wisely provided for public participation in the planning process through a series of hearings conducted by the new Rail Services Planning Office of the Interstate Commerce Commission.

I testified March 11 in Chicago at one of the first of these hearings. Railroads provide the most efficient and economical means of shipping grain, fertilizer, coal, and many other bulk provides. The survival of many rural communities is dependent on continued rail service. In fact, the railroads are vital to their economic survival. My statement at the ICC hearings follows:

TESTIMONY OF U.S. REPRESENTATIVE GEORGE M. O'BRIEN

Mr. Chairman, my name is George M. O'Brien. I am a Member of Congress representing the 17th District of Illinois which includes Kankakee, Iroquois and Will counties and most of Bloom Township in Cook County.

The Secretary of Transportation's report of February 1, 1974, on rail service in the Midwest and Northeast listed 2,650 miles of rail line in Illinois as potentially excess. In Iroquois and Kankakee, this includes the entire route of the Toledo, Peoria & Western Railroad and segments of Illinois Central Gulf, Chicago & Eastern Illinois, Norfolk & Western, Louisville & Nashville and the Chicago, Milwaukee, St. Paul & Pacific.

Will County is in the Chicago zone where no excess lines were designated because the area was judged to be too complex for analysis. Presumably, the Chicago zone could be affected during the later stages of the restructuring process.

I am deeply concerned as to the effects these suggested line closings would have on business, labor, agriculture and the consuming public in our area. There are 45 to 50 grain elevators, fertilizer and fuel distribution points located along the "excess" lines. These businesses often represent the only industry and source of employment in the community.

In expressing this concern, I recognize that Secretary Brinegar's report is merely the starting point for the task of designing a new railroad system for 17 midwestern and northeastern states of our country. The law providing for this new system allowed him only 30 days to prepare his preliminary recommendations. Of necessity, the recommendations were based solely on a statistical study of traffic volumes. At this initial stage the Department of Transportation planners had no input whatever on the economic effects of rail abandonments or the availability of other transportation modes to provide essential services. In fact, Mr. Chairman, this is why we are here today, to provide that input on the adverse effects that would inevitably flow from abandoning some of the lines designated "potentially excess" in the preliminary report.

The Congress, in passing the Regional Rail Reorganization Act of 1973 (Public Law 93-236), clearly intended the planners of the new system to consider the economic importance of the branch lines to the communities they serve. Indeed, among the eight goals which the planners were directed to consider in formulating the final system plan were these:

"(2) the establishment and maintenance of a rail service system adequate to meet the rail transportation needs and service requirements of the region;"

"(4) the preservation, to the extent consistent with other goals, of existing patterns of service by railroads (including short-line and terminal railroads), and of existing railroad trackage in areas in which fossil fuel natural resources are located, and the utilization of those modes of transportation in the region which require the smallest amount of scarce energy resources and which can most efficiently transport energy resources."

With regard to goal (4), it should be noted that the committees of Congress completed their substantive work on the legislation that became the Regional Rail Reorganization Act before the looming threat of an energy crisis became actual. Yet they were mindful of the fact that rail transportation is more saving of scarce petroleum fuels than other modes.

One of the elevator concerns in my district, the Herscher Grain Company at Herscher, Illinois, has provided some most illuminating figures on this point. Herscher is located on one of the Illinois Central Gulf's "potentially excess" lines. The elevator manager, Raymond W. Cotter, estimates that it would take 4,910 semi-trailer trucks to haul the amount of grain shipped by the company last year in 430 railroad cars. These trucks, Mr. Cotter figures, would need almost 123,000 gallons of fuel to haul his grain alone.

Another objective of the planners is to create "a financially self-sustaining rail service system." The argument that the railroad's financial plight has been caused mainly by the branch line services they are required to perform may turn out to be a myth. A Massachusetts study has shown that one New England railroad could save $1.6 million in costs annually by abandoning 370 miles of branch line. However, the abandonments also would cost the railroad $2.1 million annually in lost revenues—a net loss of $500,000.

What many people who talk glibly of branch lines' being a massive drain on railroad finances do not understand is that a major portion of main line traffic originates on branch line points, traffic the railroads would lose if the branch lines were abandoned.

The Kankakee County Farm Bureau, in discussing this point with me, forecast that agricultural shippers on any abandoned lines probably would end up moving their grain by truck directly to market rather than to nearby rail junctions.

Branch line shippers are faced with the fact that for bulk goods like grain, fertilizer, coal, lumber and the like, railroads are far more economical and efficient than other carriers. Many of the more than 100 letters which I have received from farmers and shippers in Kankakee and Iroquois counties cite this as the reason for their opposition to the suggested cutback in their present rail services.

With regard to the cost of such cutbacks to the farmer, the Cissna Park Chamber of Commerce in Iroquois county estimates that he would lose about 10 cents on each bushel of grain in increased transportation costs while having to pay more for fertilizer, farm machinery and the other goods if shippers have to rely solely on trucks.

Markwalder-Price Grain Company in Cissna Park forecast that elevators along the Villa Grove-Cissna Park branch of the Chicago & Eastern Illinois Railroad could drop in value by 50 per cent or more if that stretch is abandoned.

The outlook for the Kankakee Service Company, a major farm supply co-op in Kankakee County, is even gloomier. Richard Gustafson, the manager, wrote that three of his company's fertilizer plants located on an Illinois Central Gulf branch would have to shut down if the line is abandoned. He said that fuel shortages and weight limits on access roads to the plants would make it impossible to continue operations at these plants by using trucks instead of rail cars.

Almost all of the letters argued that

branch lines could generate more revenues if more cars were available. For instance, a survey of eleven shippers along a stretch of the Illinois Central Gulf showed that they loaded a total of 3,578 rail cars in 1972 and 1973 but would have loaded almost twice that number if they had been available.

I trust the planners of the new system will give due weight to the freight car shortage in assessing the economic factors affecting rail service in rural areas.

Obviously, the restructuring we have begun is a complex undertaking, as Congress realized in setting up the procedure we are following this morning. We are working toward the development of a new, independent and profitable rail system. In achieving that goal, we must not neglect the people whom that system is being designed to serve by discontinuing rail service essential to their economic survival.

HELPING VULNERABLE AMERICANS

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. BRADEMAS. Mr. Speaker, in today's Washington Star-News appears a column by the distinguished Commentator Carl T. Rowan commenting on the importance to the vulnerable groups in our society—the poor, children, the elderly, and American Indians and Alaskan Natives—of the work directed by Stanley B. Thomas, Jr., Assistant Secretary for Human Development of the Department of Health, Education, and Welfare.

Mr. Speaker, as Mr. Rowan points out, Mr. Thomas directs programs providing services to older citizens under the Older Americans Act, to children under Headstart and child abuse legislation, and for Indians and Alaskan Natives under the Native American program. Altogether, Mr. Thomas directs a budget which will total $725 million next year according to the President's 1975 budget proposals.

And since I have in the past, Mr. Speaker, taken the officials of this administration sharply to task for the fashion in which they have ignored the intent of Congress in implementing the law of the land, I want, today, to pay tribute to Stan Thomas and his colleagues within the Office of Human Development for their efforts to make life better for millions of vulnerable Americans.

Mr. Speaker, the article to which I have made reference follows:

HELPING "THE VULNERABLE"

(By Carl T. Rowan)

A 31-year-old black graduate of Yale is helping to prove that there is something of a "heart" in the Nixon administration where this country's neediest people are concerned.

For almost a year Stanley B. Thomas Jr., has held a new job as assistant secretary for Human Development in the Department of Health, Education and Welfare. You should have heard of him and his programs, but probably haven't. He has done a highly creditable job of ensuring that all compassionate concern for what Thomas calls "the vulnerable Americans" did not disappear in the wreckage of the old Kennedy-Johnson anti-poverty programs.

The "vulnerable" people to whom Thomas devotes his attention are the nation's children, its aging, its youth who are overly exposed to crime and delinquency, its mentally retarded and the American Indians and Alaskan natives who benefit from the Native American program. Thomas points out proudly that contrary to early wide-spread fears, the highly touted preschool Head Start program has not been allowed to wither away. In fact, Head Start is the principal program of his Office of Child Development and will cost $446 million in fiscal 1975, an increase of $38 million. He is seeking a three-year extension of Head Start.

More important, Thomas is now principal adviser to HEW Secretary Caspar Weinberger on the billions of dollars spent by other divisions of HEW on social and welfare services for children.

That gives Thomas "clout," something very few blacks have held in federal government these last few years.

Thomas also speaks proudly of progress in assisting the aging. "We will be feeding 210,000 elderly by June 30," he said, "feeding them a meal a day where they can eat with other elderly people, which is important."

Thomas is acutely aware that many people over 60 suffer simply because they don't know what help is available or how to get it. So his Administration on Aging initiated Project Alert to find as many elderly people as possible and inform them of their rights under HEW.

This articulate, exceptionally able young man expresses concern that far more Americans than the aged languish in despair because they don't know how to cope with a faceless bureaucracy. One of his priorities is to set up a network of community centers to which people can go for direction, advice, direct assistance in cutting red tape.

Encouraged and prodded by Weinberger, Thomas and his colleagues have put special emphasis on dealing with the rash of runaway children and easing the growing problem of abused and battered children.

"An abused child's family needs many kinds of help," says Thomas.

All in all, Thomas is in direct charge of programs that will cost $725 million next year. That's not bad for a young black whom most Americans never heard of.

That Weinberger has given him this authority and listens to his advice about the expenditure of billions more leads to two important observations:

1) People and the images they project are often dictated by their circumstances and roles. When Weinberger was in the Office of Management and Budget he obviously viewed his job as one of keeping the purse strings pulled tight. He won a solid reputation as a scrooge where social programs were concerned.

Now that his mandate is to look out for the health, education and welfare of the nation Weinberger is suddenly the one who pushes for an extension of Head Start, and for more governmental action on the problems of runaways and child abuse.

2) Even when the White House is fundamentally hostile toward minorities and the poor, a superbly trained minority person with integrity can still make a mark on the system.

Thomas has proven this. And that is why his Office of Human Development is high on the list of programs and people in HEW which deserve the eye and the attention of all of us.

MY RESPONSIBILITY AS A CITIZEN

HON. RICHARD W. MALLARY

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. MALLARY. Mr. Speaker, I would like to bring to the attention of my colleagues in the House a speech written and delivered by a young Vermonter, Wendy Forbes. Miss Forbes was selected to represent the State of Vermont in the Voice of Democracy Contest sponsored by the Veterans of Foreign Wars. She is 16 years of age and attends Chelsea High School in Chelsea, Vt. I find it encouraging to know that Miss Forbes, along with 500,000 other young Americans participating in this contest, have expressed their faith in our country and its democratic system. Miss Forbes has eloquently stated her feelings toward her duties as an American citizen in the following speech:

MY RESPONSIBILITY AS A CITIZEN

"Ours is not to question why; ours is but to do or die."

"America—love it or leave it."

"My country, right or wrong."

As I see these phrases, they represent the traditional view of the responsibilities of a citizen. Patriotic, blind loyalty and acceptance used to be what was thought best in a citizen. Now, I think the viewpoint has changed. People are more willing to look their country straight in the eye and say, "I see you; you see me; now let's find what we can do for each other."

Citizenship isn't a one-way street . . . or it shouldn't be. It is hard to draw the line between working for our country, and having it work for us. Things I believe in doing for my country, I do so that it can work better for me. I feel that a country is basically its people. The people hold its entire fate, along with theirs, in their hands. What they decide for it, they decide for themselves—and vice-versa.

There are many things wrong in this country, and I, personally, feel that my responsibility today as a citizen is to try to change these things. The people have the power to do this, and I think it is essential that they realize it.

The country is in dire need of revised principles and strengthened, unified character, and I think it's up to each citizen to search himself and his country for weaknesses in behavior.

We must come together and communicate our thoughts and grievances to one another. We must search together for a *common goal* and solutions to our problems. We must learn and strive to understand, opening ourselves up to new ideas. We must be totally knowledgeable about the things of which we speak. We must love our country and our fellow man, and most of all, our world, so much that we will never tire until it is as near perfect as it can be.

Perhaps we will even try to contradict Lincoln's words and "please all of the people all of the time."

I will try, as a responsible citizen, as much as I am able, in whatever way I am able, to bring about these goals in which I believe. I want to see the old traditions of the people cowering before their government and countries fearing one another give way to new ones of clear-thought, freedom, and unity.

I think perhaps responsibility in a citizen is simply recognizing his own and his country's potential and putting them together for the benefit of both.

DR. RALPH BARONE PUSHES SOLAR RESEARCH

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. PATTEN. Mr. Speaker, one of my most talented and respected constituents, Dr. Ralph P. Barone, of Colonia, N.J., recently made an interesting statement on the importance of applying more Federal funds to the less familiar technologies, such as solar and geothermal power generation.

I was especially interested in Dr. Barone's statement, because I was one of the cosponsors in the House of the Solar Heating and Cooling Demonstration Act. With the hope that my colleagues will find Dr. Barone's remarks as interesting as I did, particularly in light of the current energy crisis, I insert the article from the Daily Journal of Elizabeth, N.J., entitled, "Barone Pushes Solar Research":

BARONE PUSHES SOLAR RESEARCH

Dr. Ralph P. Barone, vice president of the National Association of Consulting Chemists and Chemical Engineers, said today that President Richard M. Nixon's energy program needs more funding.

"It contains some positive features, but it does not go far enough," said Barone, president of Envirogetics Inc. in Woodbridge.

"Although the $1.8 billion research program represents an amount almost double that which was allocated last year, it appears that most of the research funds will be directed to oil shale and coal research because they have promise of a quick payoff in increasing domestic energy supplies," he explained.

"While I am in favor of research priority in these areas. I am disappointed that sufficient federal funding is apparently not being applied to the less familiar technologies, such as solar and geothermal power generation. The National Science Foundation's 1974 solar energy budget, for example, is only $13.2 million.

"In my judgment, the use of solar energy to heat and cool homes is much closer to reality than most people think."

Dr. Barone said that the technology for simple heating and cooling of residential buildings is already at hand.

"The major challenge is to direct the technology into the nation's commercial mainstream."

He pointed out that if the majority of homes in the country were wholly or partly heated by a solar energy collection system, more than 20 to 50 per cent of all the energy now being used for homes could be saved.

Dr. Barone explained that most of the simpler solar energy systems follow the same basic format.

"A black heat-collecting surface is erected facing the sunlight. A liquid, usually water, is forced next to the surface and then, after being heated by the sun's rays, is circulated through pipes in the house.

"Thick, insulated storage tanks provide for the storage of heated water. This is used during the night or when there is little or no sunlight."

According to Dr. Barone, there already are thousands of small solar-powered water heaters in existence. Figures recently supplied by the United Nations Resources Division indicate that 400,000 such heaters are in use in Japan and 25,000 in the United States.

He also noted that Honeywell Inc. has embarked on an experimental program which will utilize solar-powered heating and cooling units in a mobile research laboratory to collect performance data in a variety of climatic and geographical conditions.

Dr. Barone cautioned that, even though money is the first requirement of a successful research program, careful planning is a close second.

"Just because less familiar technologies have not yet acquired strong industrial lobbies in Washington, they should not be overlooked."

ENERGY CRISIS

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. HUNGATE. Mr. Speaker, while we explore ways to solve the energy crisis, I believe my colleagues will find of interest a survey I made of the service station operators in my congressional district.

It appears this important small business group has been severely affected and I wish to call to the Members' attention the following statement, including a summary of the results of the survey, which I presented to the Special Small Business Problems Subcommittee of the House Select Committee on Small Business during its hearing on "Small Business and the Energy Shortage":

STATEMENT BY CONGRESSMAN WILLIAM L. HUNGATE (D-MO.)

Mr. Chairman, I join in welcoming the participants in today's important hearing as their contributions will greatly help us in obtaining the facts necessary in seeking solutions to the energy crisis and its effects on small business.

I believe this is an appropriate time for me to discuss the results of a survey I have made of service station operators in my Congressional District in Missouri. We received over 20% response to the more than 500 questionnaires we sent, and I would like to submit the results to the Subcommittee for its consideration of the effects the energy shortage has had on this small business group.

With 116 stations responding they represent all parts of the Ninth District of Missouri (20 counties along the Mississippi and Missouri Rivers from St. Louis to Iowa) and the results provide a good overview of the gasoline situation in a large Midwest area.

Since the questionnaire is rather extensive, I will now summarize the results and request permission to insert the full tabulation in the hearing record.

Summary of gasoline survey to service station operators, based on 116 responses

Gasoline supplied to service stations has been cut an average of 24%, and approximately 80% of those replying believe their supply will be cut further;

Only 55 percent believe there is a real energy crisis, while 45% of the men who actually pump the gas believe there is no real energy crisis;

According to the responses, 50% (or 58) attribute the chief cause of the energy crisis to "Major oil companies' exclusive control on production and distribution," while another 33% (or 36) believe the cause is "Ineffective Federal regulations, planning and administration;"

The service station operator's cost per gallon has increased an average of 31%;

The cost to their customers has increased an average of 11¢ per gallon for high test and low test, and 14¢ per gallon for diesel fuel;

Gross income decreased an average of 26% from gasoline sales of 59 stations reporting; 20% from repair & maintenance work of 41 stations reporting; and 21% from tires, batteries & accessories of 46 stations reporting;

Net profit decreased an average of 25 percent from gasoline sales of 59 stations reporting; 18% from repair & maintenance work of 38 stations reporting; and 20% from tires, batteries & accessories of 43 stations reporting;

As a consequence of the energy crisis, 67 full time and 100 part-time service station employees have been laid-off;

Before the energy crisis, there were 74 stations operating 100 or more hours per week; now there are only 10;

Service stations have cut back an average of 40 hours per week on selling gasoline; and

Of the responses, 50 believe the single item that would have the greatest impact on resolving the energy situation is to "Relax the environmental regulations (increase use of coal, relax anti-pollution device regulations, etc.); followed by 44 for "Let the free market work its will".

Additional comments provided indicate there are widely divergent views on the situation. For example, blame for the energy crisis includes collusion of major oil companies and Republican administration; previous years' gas wars; politics and big business; too much government control. To solve the crisis additional suggestions include: make major oil companies get out of the retail market; have no Federal control—let supply and demand work; stop tax breaks for big companies; get off oil companies' back.

Many others elaborated on the difficulties the energy crisis has brought to their station such as one who cut his own profit to keep his employees and another who lost two employees and had to put his wife to work in the station. Another operator was concerned that with the priorities set he cannot supply his customers.

Perhaps the most pointed comment came from a Pike County service station operator who said: "If I had the intelligence to resolve the energy situation, I wouldn't be pumping gas and putting up with the public to make a living."

It appears that many service station operators are caught carrying a large part of the energy crisis burden while neither the government nor industry has yet assured them about the future. We should keep in mind that these small businessmen are the ones who are hardest hit by public reaction as they must deal directly with them. One station operator sums this problem up well. He comments on the Federal Energy Office directing the station operator to do everything they want to conserve gas such as don't sell to anyone with ½ tank or more, limit amount of sale, no Sunday sales, odd and even license plates, etc. He remarks: "If they want to control it, then let them do it. But don't make us the goat. Someone should consider the station operator soon, or all that will be left will be those on salary by oil companies. This is eliminating a good number of small businessmen."

We must consider this large number of small businessmen and the jobs they provide as well as the services they offer the public. These service station operators must receive fair treatment and have the assurance of a viable future.

MICHIGAN RAIL SERVICE

HON. ROBERT P. GRIFFIN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Wednesday, March 13, 1974

Mr. GRIFFIN. Mr. President, on March 4, 1974, the Rail Services Planning Office of the Interstate Commerce Commission began hearings in Detroit, Mich., on a reorganization proposal by the Department of Transportation which, if implemented, would severely reduce rail service in Michigan.

As I pointed out in a statement presented at the hearings, if the proposal should be put into effect, Michigan would lose service on 2,275 miles of track, or approximately 37 percent of the rail lines in our State. Such a sharp reduction in rail service would have a serious adverse impact on the economy of our whole State, but the effect could be devastating for many of the 300 communities that would be cut off completely from rail service.

I ask unanimous consent that a copy of the statement I presented be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY U.S. SENATOR ROBERT P. GRIFFIN

Mr. Chairman, I appreciate the opportunity to present a statement concerning the recommendations made by the Department of Transportation with respect to rail service in Michigan.

I understand, of course, that such recommendations do not have the effect of law; and that the DOT report represents only a first step in a proposed plan of reorganization for seven major bankrupt railroads, including the Penn Central, in the Midwest and Northeast. Unfortunately, however, if some of the report's recommendations were to be implemented, large segments of Michigan's economy could become bankrupt—instead of the railroads.

Of special concern is the fact that the recommendations appear to single out Michigan for disproportionate cutbacks in rail service. Under the DOT proposal, 2,275 miles of track, or approximately 37% of all rail lines in Michigan, would be abandoned—that's more than any of the 16 other States covered by the report except New Hampshire.

Particularly disturbing is the unreasonable cutback proposed for large portions of the Lower Peninsula. About 300 communities throughout the State would be cut off from rail service if the proposal were implemented.

The DOT recommendations go so far as to recommend that all rail service on the western side of the State between Manistee and Mackinaw City be completely eliminated. Another area that would be hard-hit is the Thumb of Michigan which would lose substantially all of its existing rail service.

In addition, the report would effectively isolate the Upper Peninsula by cutting its rail link to the rest of the State. The report makes this recommendation despite the fact that none of the bankrupt railroads operate in that region.

A disturbing aspect of the DOT report is that its recommendations are based only on rail traffic volume for one year, 1972. Consequently, the figures do not reflect trends in rail service nor do they reflect changes since 1972. Furthermore, there is no indication as to whether trucks or other substitute transportation would be available or even suitable to replace lost rail service.

Obviously, if the bankrupt railroads are to be restored to economic health, some lines will have to be abandoned, particularly lines that are duplicative or unnecessary. But the DOT report goes too far and it places too much emphasis on the well-being of the railroads at the expense of local communities.

When the Regional Rail Reorganization Act of 1973 was enacted, Congress took pains to write into the bill several goals to be achieved. Regrettably, the DOT report has focused on only one of those goals—the creation of a "financially self-sustaining rail service system in the region."

Ignored by the report are these equally important goals, as outlined in section 206 of the Act:

"The preservation, to the extent consistent with the other goals of existing patterns of service by railroads . . . and the utilization of those modes of transportation in the region which require the smallest amount of scarce energy resources and which can most efficiently transport energy resources. . . ."

"The minimization of job losses and associated increases in unemployment and community benefit costs in areas in the region presently served by rail service."

In view of these goals, it is more than ironic—it is tragic—that the most severe cutbacks proposed are aimed at some of the most economically depressed areas of Michigan.

Since creation of the Upper Great Lakes Regional Commission in 1967, considerable effort has been made to stimulate the economy in Michigan's Upper Peninsula as well as in the northern half of the Lower Peninsula. Unemployment rates in that part of the State have consistently remained above 10 per cent—and one of the major reasons has been the lack of adequate transportation.

As the Upper Great Lakes Regional Commission stated in its annual report for fiscal year 1973:

"One of the Upper Great Lakes Region's most basic problems is its remoteness from national markets and nearby population centers. All of the basic planning reports for development of the Region have cited the need for improved transportation linkages with the southern portions of the three states and the industrial centers to the south and east."

At another point, the Commission took note of the progress being made in rail transportation:

"Through the medium of multiple-car, full train and unit-train movement of bulk freight. One of the largest gains in transportation has been the full-train movement of coal from Montana to the Region, and further gains may be anticipated when full-fledged unit-train operation is established not only for inbound bulk movements but also for outbound bulk movements."

Thus, it would make little sense to sever one of the key links in the future growth of Northern Michigan and, in fact, of the entire State.

Fortunately, the recommendations in the DOT report are not final. To assure that all interests are adequately considered, Congress deliberately established the Rail Services Planning Office in the Interstate Commerce Commission to review the DOT proposals before a final rail plan is drawn up by the newly created U.S. Railway Association.

As a matter of fact, when Congress passed the Regional Rail Reorganization Act, it mandated the ICC Office to look after the interests of communities and shippers. In the Senate-House Conference Report on that legislation it was emphasized that:

"The Office is specifically assigned the responsibility of properly protecting the interests of communities and users of rail services who might not otherwise be adequately represented. . . ."

Since, so far as Michigan is concerned, the DOT recommendations do not adequately represent the interests of local communities, I strongly urge that your Office take steps to see that the recommendations are appropriately revised. Thank you.

ARMY COMMUNICATIONS COMMAND, A DECADE IN ARIZONA

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. UDALL. Mr. Speaker, it is a pleasure to call to the attention of my colleagues a recent military event of significance—the 10th anniversary of the Army Communications Command—the Army's worldwide communications-electronics organization commanded by Maj. Gen. Jack A. Albright, with headquarters at Fort Huachuca, Ariz.

ACC—originally known as STRATCOM—was created as a major Army field command on March 1, 1964. Since its inception, "The Voice of the Army" has grown into a network of more than 30,000 dedicated personnel spanning the globe.

In a period of rapidly changing technology, the Army Communications Command has established a communications capability never before possessed by the Army. The command has become an indispensable part of our national defense effort.

On February 28, The Arizona Daily Star, Tucson, published a feature story on ACC detailing its responsibilities and accomplishments. In its relatively brief history, ACC has made many contributions to America's defense. Because of its reputation of professionalism and excellence, the organization has assumed even greater responsibilities than ever before.

I am certain that my colleagues will find this article of interest, and I take great pleasure in having the article printed in the RECORD with my remarks:

FORT COMMAND PLANS BIRTHDAY

FORT HUACHUCA.—Rapid, reliable and responsive communications!

This is the around-the-clock responsibility of the worldwide U.S. Army Communications Command which celebrates its 10th Anniversary Friday.

Based here since mid-1967 (it was formerly located at Washington, D.C.), ACC is a major Army Command whose global mission is to manage the Army's portion of the Defense Communications System. This includes the engineering, installation, operation and maintenance of major facilities and transmission media in the Department of Defense long-haul communications systems.

The March 1 birthday observance for the command notes 10 years of activity and growth that has seen the organization grow from an initial personnel strength of some 4,000 to a Vietnam peak of about 50,000 communicators with operations spanning the world. Its manpower today numbers about 30,000.

Commanded by Maj. Gen. Jack A. Albright, ACC accomplished its global telecommunications mission with the assistance of subordinate field commands located in the continental U.S., Alaska, the Panama Canal Zone area, Europe and in the Pacific.

Each of these subordinate commands, in turn, has other organizations under its direction and control to assure an efficient and fast-reacting global communications system.

Largest of the field commands is ACC-CONUS (for continental U.S.) at Ft. Ritchie, Md. Its mission emphasizes both the support provided the National Military Command in Washington, D.C., and communications for all Army posts and organizations throughout CONUS.

Among other things, ACC-CONUS operates the Washington-Moscow "hotline" which is being upgraded as a satellite direct communications line. The command also provides support for the nation's Civil Defense warning system.

In addition, ACC has assumed the responsibility in recent months for air traffic control at Army sites worldwide. The new mission calls for the command operating and maintaining the tower facilities, navigation aids and runway lighting facilities at nearly 90 Army airfields and heliports on a global basis.

THREE SYRACUSANS HONORED FOR WORK IN DRUG REHABILITATION

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. WALSH. Mr. Speaker, it comes as no surprise to anyone that drug addiction is one of this country's major domestic problems. According to the National Clearinghouse for Drug Abuse Information, drug addiction is now costing this country $8 billion a year. The national clearinghouse estimates there are more than 200,000 heroin addicts in the United States and that each stole an average of $150 a day through bad checks, mailbox robberies, credit card thefts, and swindles.

There are many people working toward an end to this problem and three of those people, in Syracuse, have recently been honored for their efforts in the field of drug rehabilitation. An article in the Syracuse Post-Standard detailed those efforts and the awards and I would like to share that article with my colleagues:

CATHOLIC CHARITIES TO HONOR TRIO IN DRUG REHABILITATION

Three persons responsible for St. Mary's Hospital drug rehabilitation program will be honored by Catholic Charities at its second annual Community Appreciation Dinner Sunday, March 17.

They are Sister M. Wilhelmina, hospital administrator; Dr. Ronald Dougherty, director of the rehabilitation program; and Mrs. Frances Blumkin, administrative coordinator of the methadone-maintenance program.

The three will receive the Msgr. Charles J. Brady Award, named for last year's award recipient. The dinner will be held in Hotel Syracuse at 6 p.m.

"These three individuals exemplify the 'exceptional service to people' which was our prime criterion," stated Robert J. Alexander, dinner co-chairman, in making the announcement.

"They have in three short years developed a program which has served to rehabilitate hundreds of drug users to useful, productive lives."

Mrs. Amelia Greiner, co-chairman with Martin Kendrick of the awards committee said, "The award will cite Sister Wilhelmina for her remarkable response to a pressing community need in making an entire unit and staff available for such a program, Mrs. Blumkin for her superior dedication to people and their human needs and Dr. Dougherty for his inspired development and direction of the entire program.

The hospital's three-pronged drug program includes detoxification, methadone-maintenance and after-care.

In the detoxification program, about 160 persons a year are treated.

Of 65 individuals currently in the methadone-maintenance program, 75% have been able to resume employment as a result of their rehabilitative treatment.

The after-care program involves a Mini-Clinic operated Thursday afternoons and Friday evenings, where follow-up counseling, treatment and advocacy measures are provided for more than 100 persons.

Sister Wilhelmina, administrator of St. Mary's since 1969, was administrator of St. Joseph's Hospital from 1951 until 1969 and for eight years prior to that director of its School of Nursing.

She holds an RN degree from St. Elizabeth Hospital School of Nursing in Utica, a B.S. and M.A. from Catholic University of America in Washington, and a certificate in hospital administration from St. Louis University. She is a Fellow of the American College of Hospital Administrators.

Dr. Dougherty is a 1954 graduate of LeMoyne College and of Upstate Medical Center in 1958. After internship at St. Joseph's Hospital and surgical residency at Upstate, he entered private family practice in 1960.

He is chairman of the committee on Drug Abuse of the state Academy of Family Physicians and is a member of the Onondaga Medical Society's Committee on Drug Abuse and the City-County Drug Abuse Commission.

He serves on the county Mental Health Commission and is a Diplomat of the American Board of Family Practice. He, his wife Lucille and their three daughters reside on Woodlawn Drive in Brewerton.

Mrs. Blumkin, a 1936 graduate of Crouse-Irving Hospital School of Nursing, spent 37 years in the field of obstetrical nursing before assuming her present position in July, 1973.

She was head nurse in the obstetrical department at St. Mary's for five years and as supervisor of the obstetrical department for nineteen years. She became assistant to the director of nurses in 1961 and in 1972 was named director of the in-service program.

During the past 10 years she has continued her nursing education in special courses at Wayne State University College of Nursing in Detroit, St. Vincent's Hospital in Erie, University College, and at hospital association-sponsored institutes.

Mrs. Blumkin resides at 609 Delmar Place with her husband, Arthur. They have one daughter, Mrs. Cindy Reith of Schenectady.

ELEANOR ROOSEVELT, HER DAY; A PERSONAL ALBUM

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. FRASER. Mr. Speaker, no doubt at this point in history, the memory of Eleanor Roosevelt has begun to fade from the minds of many Americans. For many younger Americans Eleanor Roosevelt is nothing but a name vaguely associated with her more famous husband. Ironically, with the women's movement in full gear, Eleanor Roosevelt seems to be largely ignored as a model and inspiration for young women in this country.

Now, A. David Gurewitsch, for many years Eleanor Roosevelt's personal physician, has published "Eleanor Roosevelt, Her Day," a photographic tribute to her memory. Gurewitsch, himself, is responsible for the fine collection of photographs of Mrs. Roosevelt in her later but still vigorous years. He comments on his photographs and reveals respect and great affection for this truly remarkable woman.

Dr. William Korey has contributed a statement about one of Eleanor Roosevelt's finest accomplishments: Her contribution to the creation of the United Nation's Human Rights Declaration. The United Nations recently observed the 25th anniversary of the Universal Declaration of Human Rights. Mrs. Roosevelt's belief that the Declaration's principles apply to all peoples and all nations serves as a continual source of inspiration to the United Nations in its efforts to promote and protect human rights.

"Eleanor Roosevelt, Her Day" is a fine reminder of a woman who embodied the true spirit of humanity, whose life was eloquent testimony to the contributions of women in American history.

MARYLAND RESOLUTION COMMEMORATES VIETNAM MISSING IN ACTION

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. HOGAN. Mr. Speaker, recently, the Maryland Senate and House of Delegates passed resolutions commemorating the first anniversary of the ceasefire in Vietnam and particularly remembering the 1,200 American servicemen including 31 from Maryland, who remain missing in action in Southeast Asia.

The families of these men continue to live in the agony of not knowing the fate of their loved ones continually hoping that their men will not be forgotten.

I insert this resolution in the RECORD at this point and urge the U.S. Government to continue its diligent efforts to determine the whereabouts of these men.

The resolution follows:

SENATE RESOLUTION NO. 20

A Senate resolution concerning Cease-fire in Viet Nam for the purpose of commemorating the first anniversary of the cease-fire in Viet Nam, January 27, 1973, and remembering, with sympathy, the prisoners of war or listed as missing in action, paying tribute to these men through the Maryland Freedom Tree on the State House Grounds as a living memorial and by an annual resolution

Whereas, It is important that Americans remember and pay tribute to their fellow countrymen who have fought and died in the long war in Southeast Asia with the hope that all men may someday live in peace; and

Whereas, More than 1,200 Americans who were captured or listed as missing in action in Southeast Asia have not yet been returned or even accounted for; and

Whereas, Of 42 men with families in Maryland who were listed as prisoners or missing in action at the time of the cease-fire only 11 have returned, leaving 31 unaccounted for; and

Whereas, No information has been provided about these men; including 50 men previously listed as prisoners; the remains of 60 men said to have died in captivity and not yet returned to their families; and the 1,200 men listed as missing in action about whom there is still no information; and

Whereas, These 1,200 missing Americans account for more than two-thirds of those listed one year ago as prisoners or missing in action and little is being done by the United States government to determine the fate of

> these men and ease the years-long anguish of their families; now, therefore, be it
>
> *Resolved* by the Senate of Maryland, That its members express their feelings of greatest sympathy for the more than 1,200 families all across this country who continue to live with the incredible agony of not knowing where their husbands, sons and fathers are, and whether they are dead or alive; and be it further
>
> *Resolved,* That the Senate of Maryland continue to pay tribute to these men through an annual resolution in the Senate and through the Maryland Freedom Tree, now growing on the State House lawn as a living memorial to all prisoners and missing in action; and be it further
>
> *Resolved,* That copies of this Resolution be sent to Maryland Senators Charles Mathias and J. Glenn Beall; members of the Maryland delegation to the U.S. House of Representatives; the U.S. Secretaries of State and Defense; the U.S. Representative to the United Nations; the Maryland Chapter, National League of Families of American Prisoners of War and Missing in Southeast Asia; the national office of VIVA (Voices in Vital America); Le Duc Tho of North Viet Nam; M. Phoumi Vongvichit of Laos; and Col. William W. Tombough, Chief of the U.S. Delegation to the Four Power Joint Military Team in Paris, and families of Maryland men who have been prisoners or who are missing in action in Southeast Asia.

TRIBUTE TO THE GENTLEWOMAN FROM WASHINGTON, JULIA BUTLER HANSEN

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. SHRIVER. Mr. Speaker, I want to join with the many Members of the House of Representatives in paying tribute to the distinguished gentlewoman from Washington, Mrs. JULIA BUTLER HANSEN.

It has been my privilege and pleasure to serve with Mrs. HANSEN on the Committee on Appropriations and, for a time, on the Subcommittee on Foreign Operations. Her commonsense response to problems both foreign and domestic has impressed and inspired Members on both sides of the aisle.

JULIA HANSEN also serves as chairman of the Interior Subcommittee, notably serving as the first of her sex to be assigned to chair a subcommittee in either the House of Representatives or the U.S. Senate. She has done an outstanding job in a leadership position and has always been responsive to the needs of our congressional districts.

Mrs. HANSEN is a product of a genuine western heritage. She is a product of 37 years of elective service to the people at the city, State and Federal levels. All of this experience has combined in our madame chairman to produce a political intelligence that is rare, even in this body. She knows what it is all about; she knows how to get things done.

Her State of Washington and the entire Pacific Northwest will surely miss her effective representation in the Congress. However, I have a feeling they will still benefit from her drive and leadership as she returns to Cathlemet. Things had better be ship-shape there, or else.

Along with other Members of Congress, I was amused by Mrs. HANSEN's remarks on announcing her decision to leave the House. Each of us, at times, has felt the urge to hang up the telephone or not answer the door. But I know that JULIA has also enjoyed the honor and privilege of such a long period of service to her constituents and her Nation. This service will no doubt continue, and we all wish her and her family happiness in the years ahead.

RUTH M. VALENZUELA OF MONTEREY PARK HONORED BY RED CROSS

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. DANIELSON. Mr. Speaker, I was very pleased to learn recently that a resident of my congressional district, Ruth M. Valenzuela of Monterey Park, Calif., is one of four winners of the 1974 Ann Magnussen Award, presented by the American Red Cross in recognition of outstanding nursing leadership and service in the community.

Mrs. Valenzuela has been involved with the Red Cross for 3 years in the field of health education. She is the developer, organizer, and promoter of health education programs for the Spanish-speaking population of Los Angeles County. She has gained the love and respect of the Spanish-speaking people through her work in community classes and small group discussions, as well as through her appearances on the regularly-scheduled television program, "Usted y Su Salud"—You and Your Health.

Los Angeles County is indeed fortunate to be served by such a highly motivated and dedicated person as Mrs. Valenzuela. It is certainly fitting that her efforts will be recognized through the presentation of the Ann Magnussen Award. In the words of George M. Elsey, president of the American National Red Cross,

> Mrs. Valenzuela, in the opinion of the judges and all who have known her, epitomizes the highest ideals of nursing and humanitarian volunteer service.

HOUSE OF REPRESENTATIVES—*Thursday, March 14, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Create in me a clean heart, O God, and renew a right spirit within me.—Psalms 51: 10.

Almighty God, our Father, open our minds to the call to turn away from the evil and error of our ways and to think about the destiny of our country in the light of eternal truth and enduring love.

We have not handled wisely the life Thou hast given us. We have left undone those things which we ought to have done and we have done those things we ought not to have done. Humbly do we confess our sins and our shortcomings and pray that Thou wilt make us ready to receive Thy forgiveness.

Strengthen us in our resolve to amend our ways and lead us in the paths of righteousness and good will. May peace and harmony abide in our hearts, in our Nation, and in our world.

Hear us as we offer our prayer in the spirit of Jesus Christ. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which concurrence of the House is requested, a bill of the House of the following title:

> H.R. 13025. An act to increase the period during which benefits may be paid under title XVI of the Social Security Act on the basis of presumptive disability to certain individuals who received aid, on the basis of disability, for December 1973, under a State plan approved under title XIV or XVI of that act.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

> S. 1353. An act to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials;
>
> S. 1401. An act to establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes; and
>
> S. 3075. An act to amend the Agricultural Adjustment Act of 1938.

WRONGDOING IN HIGH PLACES

(Mr. O'NEILL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. O'NEILL. Mr. Speaker—

> This administration has proved that it is utterly incapable of cleaning out the corruption which has completely eroded it and reestablishing the confidence and faith of the people in the morality and honesty of their Government employees.
>
> The investigations which have been conducted to date have only scratched the surface. For every case which is exposed, there are 10 which are successfully covered up.

Mr. Speaker, these are not my words, and they were not spoken about Watergate—although they certainly fit Watergate. This is one of the most powerful denunciations of wrongdoing in high places that I have ever heard. And it was uttered by someone who should know.

I am quoting Richard Nixon who as a U.S. Senator spoke those words at the Hotel Statler in Boston on November 13, 1951. That speech has turned out to be prophetic and Parade magazine recently ran excerpts from it. Senator Nixon went on to blast the moral standards of this administration and the racketeers who get concessions on their income tax cases.

The Senator did not always have substantiation for his charges, but he made them anyway. Today, seven high Nixon administration officials—including two former Cabinet officers and the two former chief Presidential advisers—are under indictment. The income tax concessions in question today are those of the President himself.

In 1951 Senator Nixon said:

> The great tragedy is not that corruption exists but that it is defended and condoned by the President and other high administration officials.

That speaks for itself. It ought to remind us once again of the responsibility that faces us all in the House of Representatives.

CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 88]

Abzug
Annunzio
Archer
Armstrong
Blatnik
Boggs
Boland
Bolling
Brasco
Brotzman
Brown, Ohio
Burke, Calif.
Carey, N.Y.
Chisholm
Clark
Clay
Collier
Collins, Ill.
Conyers
Dellums
Diggs
Dorn
Downing
Dulski
Evans, Colo.
Foley
Ford
Fraser
Gibbons
Gray
Green, Oreg.
Gubser
Hanna
Hébert
Jarman
Johnson, Colo.
Kluczynski
McCormack
McEwen
McKay
Macdonald
Metcalfe
Mizell
Mollohan
Montgomery
Mosher
Murphy, Ill.
Patman
Pepper
Pickle
Pike
Podell
Price, Tex.
Quie
Rangel
Rees
Reid
Rhodes
Riegle
Robison, N.Y.
Rooney, N.Y.
Runnels
Ruppe
St Germain
Teague
Whitten
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Young, Ga.
Whitehurst
Young, Ill.
Zwach

The SPEAKER. On this rollcall 359 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

AMENDMENT TO H.R. 69, ELEMENTARY AND SECONDARY EDUCATION ACT AMENDMENTS

(Mr. WON PAT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WON PAT. Mr. Speaker, the following amendment to H.R. 69, as reported, may be offered by myself or other Members when that bill is read for amendments:

AMENDMENT TO H.R. 69, AS REPORTED, OFFERED BY MR. WON PAT

Page 28, line 15, strike out "1" and insert in lieu thereof "2".

Page 29, beginning with line 1, strike out everything after the period down through the period in line 8, and insert in lieu thereof the following: "The Commissioner shall allot (A) 50 per centum of the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) the remaining 50 per centum of such amount so appropriated to the Secretary of the Interior (i) to make payments pursuant to subsection (d) (1), and (ii) to make payments pursuant to subsection (d) (2)."

FIREFLY LIGHTS WAY IN ENERGY CRISIS FOR PENNSYLVANIA

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, for those of us who have been locked in combat with the Federal Energy Office over fairer gasoline allocations for our States and communities, I have cheering news from Pennsylvania's Capital, Harrisburg, where State legislators have enlightened the energy situation.

The Pennsylvania Senate has passed a bill to make the firefly—lightning bug, glowworm, or whatever you prefer to call it—the official insect of the Commonwealth of Pennsylvania. Since I am not sure whether any other State has an official insect, it never bugged me that Pennsylvania might snatch the initiative and designate an official insect.

The timeliness of the firefly as a State insect must be apparent to all of us and I am indebted to my former colleague, the Honorable Clyde Dengler, for introducing the measure at the behest of schoolchildren in his district. I think the firefly makes more sense as a State insect under present circumstances than, let us say, the locust—a bane to our crops especially under today's conditions—or the gnat—it takes bug repellant with a petroleum base to shoo it away.

While the Pennsylvania House waits to act on making the firefly the official State insect, I thought the appropriateness of the selection should be noted. I am undecided on whether to dedicate these lyrics to my former colleagues in Harrisburg or to my dear friends in the Federal Energy Office.

I offer this refrain, sung to the tune of "Glow-Worm" for consideration as the official Pennsylvania insect song:

Shine! little glow-worm, glimmer! glimmer!
As gasoline supplies grow slimmer!
Lead us! Lest octane we squander!
While high prices beckon yonder!
Shine! little glow-worm, glimmer! glimmer!
As gasoline supplies grow slimmer!
Light the path! Exxon and Shell!
And find us gas to sell!

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO HAVE UNTIL MIDNIGHT FRIDAY TO FILE REPORT ON H.R. 12435, AMENDING FAIR LABOR STANDARDS ACT

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent for the Committee on Education and Labor may have until midnight on Friday, March 15, to file the report to accompany H.R. 12435, to amend the Fair Labor Standards Act.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FUNDS FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 778 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 778

Resolved, That the further expenses of the investigations and studies to be conducted pursuant to H. Res. 187 by the Committee on Merchant Marine and Fisheries, acting as a whole or by subcommittee, not to exceed $203,000, including expenditures for the employment of investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $50,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Merchant Marine and Fisheries shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, the resolution before us is for the Committee on Merchant Marine and Fisheries. It has been agreed upon unanimously by the members of the committee. It is the same amount as in the first session.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FUNDS FOR COMMITTEE ON AGRICULTURE

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 810 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 810

Resolved, That, effective from January 21, 1974, the expenses of the investigations and studies to be conducted pursuant to H. Res. 72, by the Committee on Agriculture, acting as a whole or by subcommittee, not to exceed $150,000, including expenditures for the employment of investigators, attorneys, individual consultants, or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $12,500 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the Chairman of the Committee on Agriculture shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, this resolution relates to the Committee on Agriculture. It has been agreed upon by the majority and the minority. It represents a mere $11,000 more than last year, that being caused by the fact that that committee was delayed in organizing slightly last year.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FUNDS FOR COMMITTEE ON EDUCATION AND LABOR

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 855 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 855

Resolved, That further expenses of the investigations and studies to be conducted pursuant to H. Res. 175, by the Committee on Education and Labor, acting as a whole or by subcommittee, not to exceed $1,180,000, including expenditures for the employment of investigators, attorneys, individual consultants, or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Of such amount $90,000 shall be available for each of the eight standing subcommittees of the Committee on Education and Labor reduced by that amount of the funds made available to such subcommittee from the contingent fund by H. Res. 181 in the first session of this Congress which is still available to and is unexpended by such subcommittee as of February 15, 1974, according to the official records of the Clerk of the House. However, not to exceed $15,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation of the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Education and Labor shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, this resolution is a funding resolution for the Committee on Education and Labor. It represents the same amount as last year. It was unanimously agreed upon.

Mr. PERKINS. Mr. Speaker, I take this time to state for the Record our committee interpretation of this modified resolution and to advise the House on how moneys will be allocated under the resolution, if it is approved.

As is always the case with the budget of the Committee on Education and Labor, the interpretation and procedures as outlined were worked out in consultation with the chairmen of our subcommittees and with the ranking minority member.

As provided in the resolution $1,180,000 in new moneys will be provided to the Committee on Education and Labor. Of this amount, each subcommittee will be allocated an amount equal to $90,000 less the balance in their respective accounts as of February 15, 1974. We have identified those specific February 15 balances and at the end of my statement, I will insert in the Record a chart showing the amount in new moneys each of the subcommittees will be allocated.

The balance of the $1,180,000 after subcommittee accounts receive their allocation is available for the committee majority and the committee minority. As has been the practice in our committee, the minority will be allocated 25 percent of the total amount available to the committee for the second session.

Taking into account the total in new money provided in this resolution and the total carryover of funds to the second session, the minority will have available a total of $387,500, computed:

Amount of new money	$257,588.89
Carryover funds as of January 3, 1974	129,911.11
Total	387,500.00

The remaining balance after subcommittee and minority allocations is budgeted for full committee majority.

A chart listing the subcommittee allocations of new moneys for the second session of this Congress follows:

Subcommittee:	*New Money*
Number 1	$84,824.24
Number 2	86,933.51
Number 3	74,183.08
Number 4	77,282.82
Number 5	84,948.00
Number 6	84,819.60
Number 7	78,781.56
Number 8	86,967.38

Mr. THOMPSON of New Jersey. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FUNDS FOR COMMITTEES ON SCIENCE AND ASTRONAUTICS

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 793 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 793

Resolved, That, for the further expenses of the investigations and studies to be conducted pursuant to H. Res. 253, by the Committee on Science and Astronautics, acting as a whole or by subcommittee, not to exceed $400,000 including expenditures for the employment of investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $25,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Science and Astronautics shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, House Resolution 793 is for the Committee on Science and Astronautics. It repersents the same expenditure as in the first session. It was unanimously agreed upon by the minority and the majority.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FUNDS FOR COMMITTEE ON GOVERNMENT OPERATIONS

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 846 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 846

Resolved, That the further expenses of conducting the studies and investigations authorized by rule XI(8) and H. Res. 224 of the Ninety-third Congress, by the Committee on Government Operations, acting as a whole or by subcommittee, not to exceed $891,300, including expenditures for the employment of investigators, attorneys, individual consultants, or organizations thereof, and clerical, stenographic, and other assistants, which shall be available for expenses incurred by said committee or subcommittee within and without the continental limits of the United States, shall be paid out the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $75,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Government Operations shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, House Resolution 846 is for the purpose of funding the Committee on Government Operations. It represents the same amount as was authorized in the first session. It was agreed upon by the majority and the minority.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FUNDS FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 814 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 814

Resolved, That effective January 3, 1974, the expenses of the investigations and studies to be conducted pursuant to H. Res. 180, by the Committee on Post Office and Civil Service, acting as a whole or by subcommittee, not to exceed $535,500, including expenditures for the employment of investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $100,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Post Office and Civil Service shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, this is the funding resolution for the Committee on Post Office and Civil Service. It has been agreed upon unanimously by the Chairman and ranking member of the Committee, the gentleman from Iowa (Mr. Gross).

Mr. Speaker, this represents an amount of $48,000 in excess of the moneys used in the first session, which amount has been fully justified to the satisfaction of the subcommittee of the Committee on House Administration.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FUNDS FOR COMMITTEE ON VETERANS' AFFAIRS

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 789 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 789

Resolved, That for the further expenses of the investigation and study authorized by H. Res. 134 of the Ninety-third Congress incurred by the Committee on Veterans' Affairs, acting as a whole or by subcommittee, not to exceed $120,000 in addition to the unexpended balance of any sum heretofore made available for conducting such study and investigation, including expenditures for the employment of experts, consultants, and clerical, stenographic, and other assistance, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman thereof and approved by the Committee on House Administration. Not to exceed $18,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202 (1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. The official stenographers to committees may be used at all meetings held in the District of Columbia unless otherwise officially engaged.

Sec. 3. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Veterans' Affairs shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, House Resolution 789 is for the funding of the Committee on Veterans' Affairs. It represents a modest increase, which is well justified, of $12,037.78 over the amount in the first session. It has been agreed upon by the majority and the minority.

Mr. Speaker, I move the previous question.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FUNDS FOR COMMITTEE ON BANKING AND CURRENCY

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 800 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 800

Resolved, That the further expenses of conducting the investigations and studies authorized by H. Res. 18, Ninety-third Congress, incurred by the Committee on Banking and Currency, acting as a whole or by subcommittee, appointed by the chairman of the committee, not to exceed $912,000, in addition to the unexpended balance of any sum heretofore made available for conducting such investigations and studies, including expenditures for employment, travel, and subsistence of investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistance, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. However, not to exceed $100,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose. Not to exceed $388,000 of the total amount provided by this resolution (in addition to the unexpended balance of any sum heretofore made available for the expenses of the Housing Subcommittee of the Committee on Banking and Currency) shall be made available for the expenses of the Housing Subcommittee of the Committee on Banking and Currency in accordance with this resolution which shall be paid on vouchers authorized by such subcommittee, signed by the chairman of such subcommittee or the chairman of the committee, Administration.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Banking and Currency shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, House Resolution 800 represents the funding resolution for the Committee on Banking and Currency. It has been agreed upon by the majority and the minority, and represents a modest increase of $8,000 more than in the first session.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 12471, FREEDOM OF INFORMATION ACT AMENDMENTS

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 977 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 977

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12471) to amend section 552 of title 5, United States Code, known as the Freedom of Information Act. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Hawaii (Mr. Matsunaga), is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from California, Mr. Del Clawson, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 977 provides for consideration of H.R. 12471, which, as reported by our Committee on Government Operations, would strengthen the procedural aspects of the Freedom of Information Act by amendments to that act. The major amendments would accomplish the following: First, clarify language in the act regarding the authority of the courts, relative to their de novo determination of the matter, to examine the content of records alleged to be exempt from disclosure under any of the exemptions in section 552(b) of the code; second, amend language pertaining to national defense and foreign policy matters, in order to bring that exemption within the scope of matters subject to an in camera review; and third, add a new section to the act to provide for mechanism to strengthen congressional oversight in the administration of the act by requiring annual reports to House and Senate committees on requests and denials of requests for information.

Mr. Speaker, House Resolution 977 provides for 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, after which the bill would be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the committee would rise and report the bill to the House with such amendments as may have been adopted. The previous question shall then be considered as ordered on the bill and amendments thereto to final passage, without any intervening motion except one motion to recommit.

The committee report estimates that costs required by the bill should not exceed $50,000 in fiscal year 1974 and $100,000 for each of the succeeding five fiscal years.

Mr. Speaker, H.R. 12471 represents the first changes recommended to the Freedom of Information Act since that landmark law was enacted by this Congress in 1966. The changes and clarifications proposed in this bill are modifications recommended by a unanimous vote of the Government Operations Committee. Its members in their wisdom, have clearly determined that a pressing need exists to lift the secrecy which continues to shroud our Federal agencies. The aim of this measure is to correct the dangerous inadequacies revealed by thorough investigative hearings conducted by the committee's Foreign Operations and Government Information Subcommittee during 1972, as well as through frustrating personal experiences of many in this hall in their dealings with Federal agencies.

Many of the proposed amendments are procedural in nature yet crucial to the intended purposes of the act. The amendments would improve the currently confusing and inadequate indexes of information now available in some agencies. It would correct the procedures for identification of records required by the act. It would require prompt agency responses to requests and provide for reasonable legal cost incurred by aggrieved plaintiffs who are refused mandated agency action on their legitimate requests. This provision would help cover their actions in Federal court to compel uncooperative agencies to release information which properly should be open to public inspection.

There are three more substantive provisions in the bill which warrant our full deliberation. One provision would clarify existing language regarding the authority of the courts to examine the content of agency records alleged by their custodians to be exempt from disclosure under section 552(b) of the code. Another provision would permit in camera review by the courts of matters pertaining to national defense and foreign policy, as defined by criteria established by Executive order. This will permit such matters to be included with the existing provision in the act which currently allow in camera review in nine delineated areas. I refer to section 552(b) of the code.

The third major provision would strengthen the mechanism for congressional oversight in the administering of the act. This amendment would require the filing of annual reports by the agencies to House and Senate committees. These reports would delineate statistical data and other information on denials of requests under the act, administrative appeals of denials, rules promulgated by the agencies, and fee schedules and funds collected for searches and reproduction of requested information.

Mr. Speaker, the purpose of this bill is to insure that the people's right to know what their Government is doing will be protected and that their access to legitimate information will be unimpeded. The Freedom of Information Act was intended to help make the democratic process work by assuring that the conduct of Government in our republic would remain open for all to view, except where genuine national security and foreign policy concerns would be jeopardized. The intent was, and is, to assure that our people will remain an informed and enlightened citizenry.

Experience has taught us, however, that the scope of this legitimate shield which was provided by the act could be stretched to suit particular partisan or personal purposes. It could be extended to veil matters unfavorable to the custodian agency or embarassing to the officials therein.

What this bill would do is require those agencies which have resisted proper public scrutiny to produce to a Federal judge valid reasons based on compelling national security and foreign policy interests explaining why the American people should not know of the agency's activities or policies. All of this would be done in the strictest secrecy in the closed chambers of a Federal judge. Those agencies which claim the need for secrecy will have their confidentiality safeguarded, unless, of course, the court finds their claim unreasonable. The public, including the press and the Congress, will be assured that the determination of what should be kept secret will be decided by an impartial party, not by the whim of an overly protective bureaucrat or agency official who may, under the present law, cast the cloak of national security over every detail of agency business. The bill, in brief, provides for the fullest measure of protection for legitimate Government secrets while allowing for disclosure of that which the public is entitled to know.

Mr. Speaker, as a cosponsor of this measure and of the original act, I firmly believe that this bill, the product of months of intensive investigation and review by the respected members of the Government Operations Committee, offers a sensible and workable compromise between the requirements of a democratic Government and the appropriate needs of Government and national security.

I congratulate the most distinguished chairman of the committee, my dear friend and colleague from California, Chet Holifield, and the hard-working principal sponsor of this bill, my respected colleague, Bill Moorhead, for their reasoned approach to this vital legislation.

Mr. Speaker, I urge the adoption of House Resolution 977 in order that H.R. 12471 may be considered and passed overwhelmingly.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Hawaii (Mr. Matsunaga) has explained the bill thoroughly, also the resolution, but let me just summarize very quickly:

Mr. Speaker, House Resolution 977 is the rule providing for consideration of H.R. 12471, the Freedom of Information Act Amendments. This is an open rule with 1 hour of general debate.

The purpose of H.R. 12471 is to provide easier access to Government documents for the public.

The bill sets rigid time limits on the agencies for responding to information requests, shortens substantially the time for the Government to file its pleadings in Information Act suits, and authorizes the award of attorney's fees to successful plaintiffs in such suits. In addition, each agency is required to submit an annual report to Congress evaluating its performance in administering the act and "agency" is defined to include the Executive Office of the President.

The committee report estimates the cost of this bill at $50,000 for the remainder of fiscal year 1974, and $100,000 for each of the succeeding five fiscal years.

Mr. Speaker, I urge the adoption of this rule in order that the House may begin debate on H.R. 12471.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. MATSUNAGA. Mr. Speaker, I have no requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill that we are about to consider, H.R. 12471 (to amend the Freedom of Information Act).

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

FREEDOM OF INFORMATION ACT AMENDMENTS

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12471) to amend section 552 of title 5, United States Code, known as the Freedom of Information Act.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. Moorhead).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12471, with Mr. Eckhardt in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. Moorhead) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. Erlenborn) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. Moorhead).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will be brief in my remarks explaining the bill, which has the bipartisan support of the membership of our committee and which was reported unanimously by the Government Operations Committee last month.

H.R. 12471 is a bill to insure the right of the public to ask for and receive information about what their Government is doing. It contains amendments, essentially procedural in nature, to the Freedom of Information Act, for the most part setting ground rules by which the Federal agencies must respond to inquiries from the public.

The major substantive provision of this bill clarifies the original intent of Congress that executive agency decisions to withhold information from the public may be reviewed by the judicial branch of Government.

H.R. 12471 is the result of over 2 years of investigative and legislative hearings by the Foreign Operations and Government Information Subcommittee. It represents the first overhaul of the Freedom of Information Act since its original enactment in 1966. That milestone law guarantees the right of persons to know about the business of their Government, subject to nine categories of exemptions whose invocation is, in most cases, optional.

At the time the original Freedom of Information Act was passed by the Congress in 1966, it was recognized that continual oversight by the Committee on Government Operations would probably result in the recognition that amendments would be needed in the future. In 1972, the Foreign Operations and Government Information Subcommittee commenced extensive investigative hearings resulting in the unanimous adoption by the Government Operations Committee of House Report 92-1419 in September 1972. That report contained both administrative and legislative recommendations.

As a result of many days of hearings and more days of markup, H.R. 12471, cosponsored by all but one member of the subcommittee, was introduced as a clean bill, was voted out favorably by the subcommittee by a vote of 8 to 0, and was unanimously reported by the full committee.

H.R. 12471 is mostly procedural in nature and is designed to strengthen the operation of Federal information policies and practices. Essentially, the bill seeks to do this by seven amendments which, by the time the subcommittee had worked its will, should be, and were in the committee nonpartisan and noncontroversial insofar as Members of Congress are concerned:

The amendments are as follows:

Amendment No. 1—Section (a) Indexes:

Requires agencies to publish indexes of important actions taken by them to make such actions more readily available to the public.

Amendment No. 2—Section 1(b) Identifiable records:

Eases the technical burden on the public by changing the words of the public request from "for identifiable records" to a request which "reasonably describes such records."

Amendment No. 3—Section 1(c) 7 Time limits:

Sets a fixed time of 10 working days for response, 20 working days for administrative appeal and 20 days for a responsive pleading to a complaint in a district court.

Amendment No. 4—Section 1(e) Attorney fees and court costs:

Allows the court at its discretion to award reasonable attorney fees and costs to plaintiffs who prevail in freedom of information litigation.

Amendment No. 5 —really two amendments—Section 1(d) and section 2, Court review:

Would, among other things, overrule the Supreme Court decision in EPA against Mink, by first making it clear that a court may review records in camera and,

Second, authorizing a court to look behind a security classification label to see if a record deserved classification under the "criteria" of an Executive order.

Amendment No. 6—Section 37 Reports to Congress:

Requires affected agencies to submit annual reports to the appropriate committees of the Congress on their freedom of information activities.

Amendment No. 7—Section 37 Definition of "agency":

Expands the definition of agency for the purposes of the Freedom of Information Act to include the Executive Office of the President, Government corporations, and Government controlled corporations, as well as those establishments already recognized as Federal agencies.

The amendments to the Freedom of Information Act provided for in H.R. 12471 would take effect 90 days after enactment.

Mr. Chairman, I want to stress again the bipartisan nature of and support for this bill. It is a carefully drafted piece of legislation which I feel strikes the proper balance between efficient Government operations and the public's "right to know."

This bill has been unanimously approved by the Foreign Operations and Government Information Subcommittee and the full Government Operations Committee and merits the support of this House.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to my friend, the gentleman from California (Mr. VAN DEERLIN).

Mr. VAN DEERLIN. Mr. Chairman, I am one of an overwhelming majority of this House who will be in support of the legislation before us this afternoon. I will confess to some sense of trouble over the portion of the bill to which the able subcommittee chairman has just referred, the definition of agencies and organizations to be affected by the amendments.

The reference to Government-controlled corporations in the legislation itself raises no red flags. I am, however, troubled by the report accompanying the bill which reads on page 8 as follows:

> The town "Government controlled corporation," as used in this subsection, would include a corporation which is *not* owned by the Federal Government, such as the National Railroad Passenger Corporation (Amtrak) and the Corporation for Public Broadcasting (CPB).

The Corporation for Public Broadcasting, as the gentleman knows, was created by Congress as a means of pumping Federal money into broadcasting without having Federal control over broadcasting. It seems to me that this arrangement very happily met the first amendment requirements for this type of organization. We wanted to find some way of providing Federal assistance to educational and public broadcasting needs—which includes the coverage of public events and often political subjects. There have been ongoing efforts to find a means of financing this organization which would keep Congress, which would keep the executive branch, and which would keep politicians at any level out of policymaking in public broadcasting.

I think that this administration, while it was chided by our Committee on Interstate and Foreign Commerce many times for what we thought was its slowness in coming up with long-range financing plans, did act in good faith and out of the same sense of responsibility we all felt in Congress for maintainnig the independence of this very sensitive broadcasting operation.

This was by no means intended to be a Government information agency or a Government broadcasting agency. I know the gentleman in the well feels as strongly as I do the necessity of protecting the Corporation for Public Broadcasting against the intrusion of political action.

Would the chairman be kind enough to comment on this phase of the legislation?

Mr. MOORHEAD of Pennsylvania. I would say to the gentleman that if in fact of law the Public Broadcasting Corporation is not a Government-controlled corporation, then the words of the statute and not the words of the report would control. I would also say to the gentleman that this is not a bill to provide Government access to information but it is for the people, the individual citizens across this country. I think the language of the statute would control over the language of the report.

Mr. VAN DEERLIN. If the gentleman will yield further, the right of the individual inquiry is backed up by the majesty of Government through this legislation. Where it would concern an organization such as Amtrak, I would say hooray.

But I do raise the question in regard to the CPB, and I am glad for the opportunity the chairman of the subcommittee has provided to make legislative history on this. In my opinion there would never be a question on which the Corporation for Public Broadcasting would seek to hide information. They have always testified freely before both our committee and the Committee on Appropriations, but I think we must be ever mindful of the necessity for guarding a sensitive agency such as this against political inquiry.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield to the gentleman from Texas.

Mr. WHITE. Mr. Chairman, I appreciate the gentleman yielding to me. On page 4 of the bill, the bill does recite that on or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year, and then names the specific committees to receive the reports.

I wanted to advise the gentleman that I intend to offer an amendment that in accordance with rule XXIV of the House the submission of reports would be to the Speaker of the House and to the President of the Senate, who would then submit it to the appropriate committees.

Would the gentleman have any objection to the submission?

Mr. MOORHEAD of Pensylavnia. At first blush, I would not. I would like to submit it to my colleague on the other side of the aisle.

I want to stress again the bipartisan noncontroversial nature of this legislation. It had unanimous approval of the subcommittee and the full committee. I urge its adoption.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. Can the gentleman yield on his own time?

Mr. ERLENBORN. I wanted to know if the gentleman would yield for a question.

Mr. MOORHEAD of Pennsylvania. Of course, I yield to the gentleman.

Mr. ERLENBORN. The question has been asked by Members on this side of the aisle as to the meaning of two definitions of agencies to include the Executive Office of the President.

I want to ask the gentleman if it is not correct, as it states in the report of the committee, that the term "establishment in the Executive Office of the President" as it is contained in this bill means functional entities, such as the Office of Telecommunications Policy, the Office of Manager of the Budget, the Council of Economic Advisers and so forth; that it does not mean the public has a right to run through the private papers of the President himself?

Mr. MOORHEAD of Pennsylvania. No, definitely not. I think the report is crystal clear on that. I thank the gentleman for bringing it up.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman.

Mr. ROUSSELOT. I thank the gentleman for yielding. Does this legislation mean that foreign governments or individuals from foreign governments will have the same kind of access as any American citizen, or is it just limited to American citizens?

I am referring especially in the case where an individual has to go to a court suit.

Mr. MOORHEAD of Pennsylvania. The legislation says any person; that would exclude foreign governments.

Mr. ROUSSELOT. What about a foreign ambassador or a foreign alien, say the Russian Ambassador?

Mr. MOORHEAD of Pennsylvania. I would think if he had standing in a court as an individual, not as an ambassador, that he would have the same rights in connection with this; subject, of course, to the limitations provided in the original act.

Mr. ROUSSELOT. So the interpretation of the gentleman would be that foreign citizens residing here could, in fact, have the same kind of access to Government agencies as a U.S. citizen.

Mr. MOORHEAD of Pennsylvania. Whatever the situation, I would say to the gentleman from California it is not changed by the legislation before us. He would have to go back to the original 1966 act to determine that, but we are not changing that. We are not increasing the coverage of the bill to additional people.

Mr. ROUSSELOT. Except in this legislation we say that "the court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section."

So, in fact, foreign citizens and aliens, I was thinking particularly of alien groups that reside here, if they would decide to go to court and the court could, in fact, assess the U.S. Government for their legal fees.

Mr. MOORHEAD of Pennsylvania. Of course, it is conceivable; but first the plaintiff has to prevail, and even if he prevailed, the courts will grant it only at their discretion.

Mr. ROUSSELOT. But it is clearly possible the way the courts are today, they are very lenient with our money. I wondered if this is not a possible flaw in this legislation.

Mr. MOORHEAD of Pennsylvania. I think this section is important because there is often no monetary involvement in this field of litigation and it does discourage individuals from bringing suits.

Mr. ROUSSELOT. Except it says the court may assess against the United States for attorney fees.

So, it is another form of legal fee at the expense of the U.S. Treasury.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I might point out to the gentleman that in this kind of litigation, the plaintiff gets no monetary award from winning the case. He is serving all of the people by making Government more open if he prevails.

Mr. ROUSSELOT. Except that he may keep it in court by trying to persuade the judge or the court itself to pay his fees.

Mr. MOORHEAD of Pennsylvania. Only, I say to the gentleman, if the court finds the Government has improperly withheld material.

Mr. ROUSSELOT. Mr. Chairman I appreciate the gentleman's comments.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, I was merely going to make the point that in order for such a person to prevail, the original withholding would have had to have been an improper act, or otherwise he could not prevail.

Mr. ROUSSELOT. Mr. Chairman, where does the language say that?

Mr. MOSS. The original act is to prevent the improper withholding.

Mr. ROUSSELOT. But where in this is it?

Mr. MOSS. The court here examines in camera and determines whether or not the information meets the test for privilege or whether it is going to be released.

Mr. ROUSSELOT. But the court has the real decisionmaking power to decide?

Mr. MOSS. The court has the decisionmaking power.

Mr. ROUSSELOT. It is not necessarily what the agency feels and/or the Congress; it is the court.

Mr. MOSS. It is the court, because it is a matter that is being tried in the courts in this case.

Mr. ROUSSELOT. Well, my concern is in the case of aliens and foreign people and others who have all kinds of reasons to try to attack agencies of our Federal Government. This appears to me to be a substantial loophole, if you will, in the legislation, for them to get free court costs. That is my only concern.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I would say to the gentleman that in the 7-year history of the act, we know of no case where an alien or foreign official has brought action. It could be brought under existing law, and it is not changed by this bill.

Mr. ROUSSELOT. However existing law does not provide for the court to assess the U.S. Government, does it. Does the present law provide for this?

So, this is really new law on the books, and that was my point.

Mr. MOORHEAD of Pennsylvania. Of course, it is new law.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The chair recognizes the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I yield myself such time as I may consume.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. Mr. Chairman, I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I want to commend the gentleman in the well, the gentleman from Illinois (Mr. ERLENBORN) and the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. MOORHEAD) for their leadership in bringing this bill to the floor. I am one of the sponsors of the bill, and I certainly hope that the House will enact this legislation.

Mr. Chairman, I rise in support of H.R. 12471, a bill to strengthen the people's right to be informed of their Government's activities. Our form of government—in fact the foundations of our society—rest on an informed citizenry. Nothing could be more essential than measures like the one before us now to the safeguarding of our democratic ideals.

As the ranking minority member of the Committee on Government Operations, I am very fortunate to have participated in writing laws in this area. Eight years ago, I voted in favor of the original Freedom of Information Act. For 5 years, I served on the Foreign Operations and Government Information Subcommittee, which investigated the performance of Federal agencies under the act. Last February, I introduced, along with several of my colleagues on the committee, a bill to improve the administration of this law. And today, I will vote for a measure which fulfills that same objective.

Almost every provision of H.R. 12471 is similar, if not identical, to a provision of H.R. 4960, the bill I sponsored and testified upon before the subcommittee. I am happy to see these points in the legislation we are now considering.

This measure requires agencies to perform many functions which will directly aid citizens in obtaining Government documents. It stipulates that agencies publish indexes of their material, respond to requests that reasonably describe records and decide whether to comply with those requests within specific periods of time. The bill also imposes several obligations which will indirectly assist individuals. Under H.R. 12471, courts could review agency classification of material which was allegedly made for national security reasons and could force the Government to pay attorney fees and other litigation costs in suits where the Government does not prevail. Agencies would have to respond to court suits quickly and report to congressional committees annually on how they fulfilled their responsibilities under the Freedom of Information Act.

Mr. Chairman, all these changes in the law will advance the people's right to know what their Government is doing. I commend their enactment to all Members.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. Mr. Chairman, I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I would ask that the gentleman from Illinois, during his comments, might give some specific comments concerning page 7 of the report, the paragraph entitled, "National Defense and Foreign Policy Exemption," which refers to the language on page 5 of the bill. This is the concern I have, and I would appreciate very much a discussion of that subject.

Mr. ERLENBORN. Mr. Chairman, I will be happy to do that, and I will be happy to answer any further questions the gentleman from Florida may have.

Mr. Chairman, I am happy to join with the chairman of the Foreign Operations and Government Information Subcommittee, Mr. MOORHEAD of Pennsylvania, in advocating H.R. 12471.

This bill would amend the Freedom of Information Act in several ways, all designed to ease the public's access to Government documents. It is the product of bipartisan effort by our subcommittee. We began our consideration of the Freedom of Information Act with two bills, one by Mr. MOORHEAD and one by Mr. HORTON—the ranking minority member of the Government Operations Committee—and myself. H.R. 12471 combines features of both those measures and has the unanimous support of both the Foreign Operations and Government Information Subcommittee and the full Government Operations Committee.

Mr. Chairman, the Freedom of Information Act became law on July 4, 1966, and took effect exactly 1 year later. I am proud to have played a part in securing its passage in the House, along with the gentleman from California (Mr. Moss) and our former colleague from Illinois, Don Rumsfeld. The act's guiding principle is that public access to Government information should be the rule, to be violated only in the specific areas which Congress believes are in the national interest to exempt.

In the few years that the act has been in existence, the executive branch of Government has become far more open to citizens of this country. Government officials and employees are to be congratulated for generally adopting attitudes which are in conformity with the act, but very different from the previous policy of nondisclosure.

The record of compliance with the law has not been perfect, however. In extensive investigative hearings over the past 3 years, our subcommittee has discovered many instances of failure to respond to the dictates of this act and many efforts to frustrate them by delaying release of public material.

The bill before us now is intended to remedy problems we have found.

Some individuals have experienced difficulty in learning what types of documents are in the files of various agencies. Section (1)(a) of H.R. 12471 requires agencies to publish their indexes of materials.

Some citizens have had requests for information denied on the grounds that they did not identify precisely the documents they wanted. The act was meant to require individuals to describe records reasonably, not identify them by specific number. Section (1)(b) makes this original intent clear.

Some people have had to wait excessive periods of time for responses to their requests. Section (1)(c) requires agencies to live up to the spirit, as well as the letter, of disclosure by answering requests promptly.

The Supreme Court has held that courts may not permit citizens to view matters which have been classified for reasons of national defense or foreign policy, and that courts may not examine those documents to see whether they have been properly classified. Sections (1)(d) and (2) of H.R. 12471, taken together, permit courts to examine material in chambers and determine whether it truly falls within the exemption for national defense or foreign policy classified matter. This change should persuade agencies to consider more carefully whether to classify material.

In addition, H.R. 12471 mandates that the Government respond quickly to complaints filed under this act and, at the discretion of courts, pay attorney fees and other litigation costs incurred by victorious plaintiffs. The measure also establishes that agencies shall report annually to the Congress on their performance under the act. All these provisions are designed to stimulate agencies to comply more completely and promptly with the law, and on close questions, to decide in favor of disclosure of information to the public.

Before closing, I would like to comment about an omission in H.R. 12471. H.R. 4960, which Mr. HORTON and I introduced and on which the subcommittee held hearings, included a title establishing an independent Freedom of Information Commission.

Our belief was that the existence of the Commission, authorized to review negative responses to information requests, would have been an incentive for positive agency responses. With authority to examine classified material, the Commission could have relieved judges of the burden of in camera inspection of information. Although the Commission's rulings would have been advisory rather than mandatory, its rulings would have constituted prima facie evidence of improper withholding of records. Thus, we anticipate fewer FOI cases would end up in the courts.

The decision not to establish a commission does not render H.R. 12471 defective. We can establish such a commission at a later time, if need be. I mention it only to serve notice that we are serious about making the Freedom of Information Act work.

Mr. Chairman, all the changes which the bill before us makes in procedures of the Freedom of Information Act are beneficial. They will lead, I believe, to fuller and timelier sharing of information by the Government with the people of this country. The objective is worthy, and the means of achieving it are fair. I urge approval of this bill.

Mr. ARCHER. Will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield to the gentleman.

Mr. ARCHER. Do I correctly understand this legislation is to require the prompt distribution to any individual in this country by sale or otherwise of Government documents that are not otherwise classified as being in the national security? Is that basically correct?

Mr. ERLENBORN. Yes. That is basically correct. The present law requires that. The Freedom of Information Act on the books requires that, with certain exemptions that are spelled out in the act.

Mr. ARCHER. There is one existing practice that troubles me already. I wonder if this bill would increase that, that is, the sale by the Federal Government of a list of names that they accumulate which are then used by the purchaser for the purpose of solicitation or mass mailings or harassment of some nature or another. I have legislation that I have introduced which would prohibit the Federal Government from selling these lists of names to various people in this country. I wonder what this act does about it.

Mr. ERLENBORN. We considered that problem in the subcommittee and we had testimony from interested individuals as well as the agencies involved. I must confess to the gentleman that we found it difficult to resolve the problem to everyone's satisfaction and, therefore, it is not included here in this legislation.

I am sensitive to the problem, as is the gentleman from New York (Mr. Horton) who has also introduced legislation similar to that to which the gentleman refers. As an example, I understand that the Department of the Treasury has made available the names of all those who are listed as collectors of or dealers in guns and weapons, which made it possible for those with sticky fingers and the ability to break into a person's home to find out where such weapons might be available, where they could identify people who were collectors of guns. It was not the intent of the act, and I hope we find a way of resolving that problem.

Mr. YOUNG of Florida. Will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman.

Mr. YOUNG of Florida. I thank the gentleman for yielding.

On the point I had orginally raised, the language of the report on page 7 seems to me to give the court the privilege to examine now in camera any information or documents that might be relevant to the national defense. It is a change from the existing law. That is new law, then.

Mr. ERLENBORN. Yes. That is one of the purposes of this bill; namely, to change existing law in this respect. It is the result of the decision in the Mink case mentioned by the chairman of the subcommittee, Mr. Moorhead. In that case the Supreme Court, said that the courts were not invested with authority to go behind the stamped document. Therefore, the decision of any person in the executive branch who puts a stamp of "secret" or "classified" or whatever it might be on a document could not be reviewed by the Court. It is clearly the intention of the committee to make these documents subject to inspection in camera and in chambers, not in public, by the judge, who can then decide as to whether the classification is proper under the Executive order authorizing such classification.

Mr. YOUNG of Florida. Will the gentleman yield further?

Mr. ERLENBORN. I yield to the gentleman.

Mr. YOUNG of Florida. I have a serious concern about that very point, and I wonder if the gentleman will respond to this question. Just what is it that makes the judge an expert in the field and one who would have sufficient knowledge so that he can make a determination as to what is or is not to be made available and what should be prohibited from public distribution?

Mr. ERLENBORN. The only way I can answer the gentleman is it is the same thing that makes judges experts in the field of patent law and copyright law or all of the other laws on which they have to pass judgment. There are no specific qualifications for a judge in these areas; a judge is a judge. I have the same concern as the gentleman has. That is why I recommended, along with Mr. Horton, the creation of the Freedom of Information Commission which could develop expertise in this area and act as a master in chancery or an adviser to the court. I expect, as I said in my prepared remarks today, that after we have some experience under this new provision others may agree that we need a Freedom of Information Commission.

Mr. YOUNG of Florida. Will the gentleman yield further?

Mr. ERLENBORN. I yield to the gentleman.

Mr. YOUNG of Florida. Let me respond to the gentleman's statement by saying that in the cases you mentioned the judge does have written law and precedents on which to base a decision, but in the case of classification and in the case of making the decision of whether a matter is relevant to national defense and national security he does not have this basis on which to make such a decision.

Mr. YOUNG of Florida. Mr. Chairman, I still think that insofar as the international community is concerned, that perhaps the judge might consider something to be unimportant to a possible potential enemy whereas it might be very, very important to that potential enemy, and where the judge has no special background or expertise to be able to make a reasonable judgment in that regard.

Mr. ERLENBORN. The gentleman is accurate in saying that there is no law that establishes the criteria. We learned as a result of the Ellsberg case that there is no official secrets act in this country, even though in other countries, England, for one, there are. Therefore, what we operate under in the field of classification is the Executive order. We have an amendment in this bill to paragraph 1 of the list of exemptions so as to read as follows:

> (1) authorized under criteria established by an Executive order to be kept secret in the interest of the national defense or foreign policy.

This will give direct attention of the court to the Executive order rather than the law, since we have none. The Executive order that establishes the criteria in such an instance would be used by the court to pass judgment on whether the criteria in the Executive order has been made by some flunky in the Department of Defense, and who has improperly classified such document.

Mr. YOUNG of Florida. Mr. Chairman, if the gentleman will yield further, I have one more question.

Mr. ERLENBORN. I am happy to yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I want to compliment the gentleman in the well and the leadership of the committee for the work that they have done in bringing out the Freedom of Information Act amendments, freedom of information is something which I do agree with very, very strongly. I believe that our people have the right to know what the Government is doing, or is not doing. But again I must register my objection, and my strong concern about this particular matter as it relates to our national defense, and as to who might be making important decisions relative to our national security matters.

Mr. McCLOSKEY. Mr. Chairman, if the gentleman will yield, just by way of responding to the inquiries of the gentleman from Florida (Mr. Young), because I believe this matter is one that should be made clear insofar as the legislative history is concerned: The framework of the committee's consideration of this bill was against the recent decision in the Sirica case, where the Circuit Court of Appeals in the District of Columbia did provide for in camera inspection of documents upon which the President claimed executive privilege. I think it is clear from the language in that decision that the court was prepared to bend over backward to honor the executive claims of privilege; in fact, the import in that decision was that only if the need for such revelation of the information to the grand jury outweighed the national interest in protecting the information would the court order that it be disclosed to the grand jury in that case. And all of the other decisions which we have before us in this field indicate the great reluctance of the court to overrule a contention that the national security interests are paramount. And we pass this into law with the confidence that any court will examine very closely the matter of national security interest as against a citizen seeking disclosure of information, and that the court is going to be very reluctant to override an administrative decision which exists in the mind of the administration relative to declassification of such information. And what we have done in this bill, I think, reaches a compromise that the committee has in the language of this bill that, insofar as the safeguards of our national security are concerned, that should not alone be the single criteria that would compel a court not to override such an Executive order supposedly only because of national security.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman from California (Mr. McCloskey) for his contribution, and I agree with what the gentleman has said. There will certainly be a strong presumption in favor of declassification. I say this because of the testimony before our committee which indicated that the power to classify has been abused considerably by various agencies of this Government.

As I say, we had plenty of testimony that would lead us to believe that documents have been improperly classified in the first place and, second, not declassified within a reasonable period of time.

As an historical example, there is the so-called Operation Keelhaul in which documents have been kept secret for 25 or 30 years, and which still are classified, to keep information from the public about what apparently was a very black day in the history of the United States.

We really do not know why the secrecy has been kept, even though there have been attempts by historians to get at them. The documents relate to events which occurred in 1946, immediately after World War II. The fact that they are still classified, raises questions in one's mind as to whether they are properly classified and should still be kept from the public today, in 1974.

Mr. YOUNG of Florida. I do not deny that at all. There are classifications that probably have been the result of someone being overly cautious in their classification. I would make the point though that if we are going to make a mistake, it might be better to consider making that mistake in the interest of a strong national security.

The second point, in response to the gentleman from California, I recognize the attempts of impartiality of the courts, and I believe that from the standpoint of their sincerity they certainly could be trusted with this program. But I am also aware, as is he, of the vast numbers of unauthorized leaks of information, leaks in fact that are contrary to the law that have come from some of these courts that the gentleman has mentioned.

Mr. Chairman, I rise in opposition to H.R. 12471, amending the Freedom of Information Act of 1966. I am certainly not opposed to the principle of streamlining the act through certain procedural changes, but I have grave reservations over the contents of one change which strikes at the heart of our national security.

My record in support of freedom of information cannot be challenged. As a Florida State Senator, I was one of the primary supporters of Florida's landmark "Government in the Sunshine" law. Since coming to Congress, my legislative activities have included legislation to open House committee meetings to the public, and H.R. 1291, a bill to amend the Freedom of Information Act to require public disclosure of records by recipients of Federal grants. My bill requires that a willingness to provide full public disclosure be made a condition to receiving a Federal grant; that complete records must be kept on how these funds are spent; and that refusal to make these records public will result in the grant being withdrawn.

I support the bill before us today in its efforts to speed public access to agency information and to require agencies to provide this information in a timely fashion. These procedural changes would be helpful in carrying out the intent of the original act.

However, section 552(b)(1) of the United States Code clearly states that the Freedom of Information Act does not apply to matters that are specifically required by Executive order to be kept secret in the interest of national defense or foreign policy. This is the first of nine specific exemptions from the provisions of the act.

My distinguished colleagues of the Government Operations Committee, however, have included in their so-called procedural amendments a change in the language of section 552(b)(1) which could effectively negate our national security classification system. Taken in conjunction with language elsewhere in the bill, it permits the courts to examine in camera the contents of agency records to determine if a national security exemption has been properly applied.

This is a specific grant of authority to the courts to second-guess security classifications made pursuant to an Executive order and thus constitutes a clear threat to our national defense. As the Justice Department noted in their report to the Congress on this legislation:

> No system of security classification can work satisfactorily if judges are going to substitute their interpretation of what should be given a security classification for those of the government officials responsible for the program requiring classification.

My distinguished colleague from Illinois, the ranking minority member of the Government Operations Committee, Congressman ERLENBORN, himself has admitted in our colloquy earlier today:

> That there will certainly be a strong presumption in favor of declassification.

This does not bode well for top secret documents on our national defense or foreign policy should some judge decide it would be more in the interest of the Nation to make them available to the world.

Both my distinguished colleague from Illinois and my colleague from California (Mr. MCCLOSKEY) have pointed out some of the defects of the existing classification system, especially with regard to older defense materials. To which I would respond that these defects have already been recognized and an accelerated effort put underway to remedy them.

In Executive Order 11652, dated March 8, 1972, President Nixon not only recognized the problems of overclassification and the denial to historians and other interested parties of decades-old war records and foreign policy documents, he ordered the implementation of an accelerated declassification program. Since that time, the National Archives and Record Service has sifted through close to 100 million documents and reclassified most of them so that they are available to the public. According to the President's timetable, anything over a certain age is automatically declassified; other documents of a later date are subject to review. Eventually, anything over 6 years of age will be subject to automatic review and declassification unless the classifying agency can prove that the materials still fall under the national security aegis.

Therefore, because this procedure is now in effect, it is clear that the thrust of the committee amendment is against current defense and foreign policy secrets.

Mr. Chairman, I do not believe that the American people want a judge to decide what national defense and foreign policy information should be publicized. In the Sixth Congressional District of Florida which I have the privilege of representing in Congress, 86.2 percent of those responding to my March 1972 congressional questionnaire stated that they did not believe that the news media should have the right to publish or broadcast secret Government information dealing with national security.

As a former member of the House Armed Services Committee and as one who has long been concerned over the erosion of our national defense and national security standards, I cannot stand by and see this legislation breeze through the House without drawing attention to its one glaring defect. Mr. Chairman, with this exception, I support the legislation and its purposes, but will vote against it on final passage to register my concern over the weakening of our national security, and hope that our colleagues in the other body will eliminate this invidious provision so that I can enthusiastically support the bill in its final form.

Mr. ERLENBORN. I thank the gentleman for his comments.

I now yield to the gentleman from Nebraska (Mr. THONE).

Mr. THONE. I thank the gentleman for yielding.

Mr. Chairman, having assisted in the authorship of an open records bill in Nebraska and the open meetings law we have in that State, and the partially open court law, I strongly endorse the legislation.

Mr. Chairman, I rise in support of H.R. 12471, a bill of which I am proud to be a cosponsor.

For many years, I have advocated openness in Government. We must make certain the public's business is conducted in public. Before I came to Congress, I helped to draft and worked for passage of Nebraska's open meetings and open records laws. As a member of the Foreign Operations and Government Information Subcommittee, I have been impressed with the part the Freedom of Information Act has played in making Government more accessible to the people. Our hearings last year showed, however, that there is a need for improvement of this law.

The hearings demonstrated that if there is a way that a law can be interpreted to promote secrecy and to deny the public access to public records, some Government officials will find that way. For example, the present law states that agencies must respond to any request to look at "identifiable records." Some agencies have interpreted this language so that a citizen can obtain a document only if he or she knows the precise title or the file number. To prevent such pettifoggery, we propose to amend the law so that agencies will have to respond to any request which "reasonably describes such records."

Here is another example of the bureaucratic urge for secrecy. The present law states that an agency must make nonclassified Federal records "available for public inspection by copying." Some agencies have interpreted this language to mean that a citizen can find out the language in a public document only if he comes to the agency headquarters with pencil and paper and copies what is in the record.

To correct this, the proposed language

declares that with such nonclassified information, agencies shall "promptly publish and distribute—by sale or otherwise—copies."

Information is available only if it is timely. Therefore, there are several amendments to the Freedom of Information Act in the bill before you that would require the Government to act more expeditiously. If an agency is in doubt as to whether a record should be made available to the public, it must notify the person asking for the information within 10 days whether his request will be answered, and if not, the reason for the refusal. The citizen may then appeal to the head of that agency, and a reply must be forthcoming in 20 days.

We also want to correct a time element that is unfair. If a citizen sues to get access to Government records, under present law his attorney must respond to Government motions within 20 days. The Government, however, is given 60 days to reply to motions by the other side. Our bill would amend the law to put both sides on equal footing, with a 20-day limit for replying.

A recent Supreme Court decision has left a citizen with no place to turn if an agency classifies material which the citizen believes should be nonclassified. At present, courts can only determine if the mechanics of the law and Executive orders were faithfully followed in classifying a document. Our amendment would give the courts the authority to examine document in camera to determine if the information in dispute actually falls within the criteria of an Executive order.

The Federal Government has sometimes gone to great expense of litigation to deny citizen access to requested information.

On at least one or two occasions, Government officials have displayed an attitude that could be interpreted as saying to a citizen, "If you want this information, sue the Government." To make Federal officials think twice about engaging in litigation when the Government does not have a strong case, our bill would provide that the Federal Government must pay "reasonable attorney fees and other litigation costs" of citizens who win cases under the Freedom of Information Act.

One of the most beneficial amendments being proposed to this law, in my opinion, is one requiring annual reports to Congress. Each agency shall tell Congress each year how many times it has determined not to comply with requests for records, how many appeals there have been, the results of the appeals, a copy of each rule made regarding the Freedom of Information Act, and a copy of the fee schedule and the fees collected for making records available. Through these reports, we will be able to determine which agencies are responsive to the public and which are not.

I salute the gentleman from Pennsylvania (Mr. MOORHEAD), the chairman of the Foreign Operations and Government Information Subcommittee, and the gentleman from Illinois (Mr. ERLENBORN), the ranking minority member of the subcommittee. They have carefully written amendments to the Freedom of Information Act worthy of your approval. It was a pleasure to be associated with them in producing this legislation. I urge its adoption.

Mr. ERLENBORN. I now yield to the gentleman from Virginia (Mr. PARRIS).

Mr. PARRIS. Mr. Chairman, I should like to pursue the response the gentleman made a moment ago to the inquiries from the gentleman from Florida (Mr. YOUNG). Did I understand the gentleman to say that in an in camera inspection by the court of information that the gentleman assumes hypothetically, for the purposes of this colloquy, has to do with national security, that the court in this legislation would look to the provisions of the Executive order that classifies that material under the national security exemption rather than to the material itself?

Mr. ERLENBORN. No. I am afraid the gentleman misunderstood. The amendment that we have on the bill says that the material must be classified under criteria established by the Executive order, and this is the authority for classifying the material. The court will look at the material and see whether or not it properly falls within the area established by the Executive order for classification, if it fits the criteria of the Executive order, so the court would be looking to the material itself.

Mr. PARRIS. If the gentleman would yield further, let us perhaps try to draw an analogy here where some individual wants to determine some information from the Department of Defense, and the Department of Defense comes back and says under this statute, if it is law, that this particular material has some sensitive national security aspects to it. Would it then presumably not deliver that material, and the process would go on, and there would be an inspection in camera, a judicial proceeding?

Mr. ERLENBORN. Might I interrupt the gentleman at that point? Once there has been a refusal, the matter is moot unless the party seeking the information takes the next affirmative step of instituting suit.

Mr. PARRIS. I understand, and I have gone by that step. That material that has been determined by the appropriate Government agency or Government official within the Department of Defense would then presumably be delivered or made in some way available to the court for examination, so that the court itself would review the documents, or whatever the case may be, and determine that that was in fact sensitive national security information.

Mr. ERLENBORN. The court could. The court would not be required to. We say that the court may inspect in camera. That is one device that would be made available to the court. The court is not required to.

Mr. PARRIS. Would it not be a reasonable presumption that if the court is going to make an intelligent decision about the sensitivity, it is going to have to look at the material?

Mr. ERLENBORN. Not necessarily. It may be that the description of the document itself would be sufficient. If someone were asking, for instance, for the plans for a new weapons system, or something like that, it would be quite apparent on the face of the request that this material is properly classified.

Mr. McCLOSKEY. Mr. Chairman, would the gentleman yield for a supplement to that response?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding.

Again, we examined this matter against the Sirica case decision. There the Court of Appeals ruled that if the President offered a statement to the court as to the reasons why the documents were being withheld, the court would hear arguments on those issues, and only if the arguments were not satisfactory to the court would the court then order that the documents be produced for in camera inspection. Using this authorization under criteria established by the Executive order, if that circuit court decision which remains law is followed, we would assume that the court would not order the production of the documents unless the arguments as to the documents themselves were not persuasive.

And the executive branch under the Executive order, having the power to classify matters as "Top Secret," "Secret," or "Confidential," we would assume the court would apply very strict rules before applying the in camera examination of the documents themselves.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Chairman, I thank the gentleman from Illinois for yielding, and I congratulate the gentleman in the well for his leadership as well as that shown by the chairman of our subcommittee, the gentleman from Pennsylvania (Mr. MOORHEAD) for bringing a very well constructed and very well-balanced piece of legislation before the House.

It is necessary, I think, to point out that most of the changes which this bill would make in existing law are procedural in nature but they are of considerable significance in the administration.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, regarding the national defense issue which the gentleman from Florida and the gentleman from Virginia have talked about, do I understand that the in-camera review by the judge would be solely for the purpose of determining whether the material had been classified consistent with the criteria or does the judge have the right to question the criteria. Before responding I would appreciate it if the gentleman will direct his attention to the language in the bill which says:

> Authorized under criteria established by an Executive order to be kept secret in the interest of the national defense or foreign policy.

My question is whether or not the judge can question whether those criteria were established in the interest of the national defense or foreign policy.

Mr. ERLENBORN. I have no hesitation in answering the gentleman that the court would not have the right to review the criteria. The court would only review the material to see if it conformed with the criteria. The description "in the interest of the national defense or foreign policy" is descriptive of the area that the criteria have been established in but does not give the court the power to review the criteria.

Mr. TREEN. I thank the gentleman.

If the gentleman will yield further, does the chairman of the subcommittee concur in that interpretation, that the criteria themselves may not be reviewed?

Mr. MOORHEAD of Pennsylvania. If the gentleman will yield, the court must accept the language of the Executive order as it was written.

Let me say to the gentleman what we were concerned about is a statement in the Supreme Court construing the Freedom of Information Act. Justice Potter Stewart said:

> Instead the Congress has built into the Freedom of Information Act an exemption that provides no means to question an Executive decision to stamp a document "Secret" however cynical, myopic or even corrupt the decision might have been.

But it is that kind of thinking of the Court which we wanted to alter.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding. Mr. Chairman, I, too, support the amendments to the Freedom of Information Act contained in H.R. 12471. These amendments will, in my estimation, improve the administration of the act by stimulating Federal agencies to disclose more Government information to the public and to disclose it more quickly.

When we think of the Freedom of Information Act and providing access to Government information, I know that most people think in terms of affording entry to material in the city of Washington. We often forget that the Federal Government has offices in communities all around the country, and that each of these offices also maintains information which is important to many citizens. As we decentralize Government further, we will have more of these offices, and they will maintain increasing amounts of important data.

The Freedom of Information Act applies to matters which are in these local Federal offices, as well as those which are at the seat of Government. Regrettably, many officials and employees at these offices are not familiar with the provisions of the act. Requests for information made to them must often be referred to Washington, and as a result are complied with slowly, if at all. Public access to Government data is consequently frustrated not due to any malice or intent to deceive, but merely to ignorance of the law.

I sincerely hope that the various agencies covered by the Freedom of Information Act willl take the occasion of congressional consideration of amendments to this law to educate their employees in general offices about it. Perhaps enactment of these amendments, with its consequent demands on agencies for increased speed and scope of disclosure, will effectively require agencies to make their employees outside this city aware of the FOI law.

However greater responsiveness of Federal offices to the people they serve can be achieved, I shall be happy to see it occur. I view H.R. 12471 as a means of accomplishing that goal. For that reason, as well as those cited by previous speakers, I support the bill.

Mr. Chairman, one further matter that we may look at is that these agencies are located not just in Washington, but also around the country, and these agencies ought to be accessible to the public, as well as those agencies in Washington. I think this is an important dimension of the bill.

Mr. ERLENBORN. I thank the gentleman from Ohio.

Mr. WRIGHT. Mr. Chairman, our committee has worked long and hard to produce H.R. 12471 as a genuinely bipartisan measure to strengthen and to improve the operation of the Freedom of Information Act. A total of 19 days of investigative and legislative hearings were held on the act in 1972 and 1973 by our Foreign Operations and Government Information Subcommittee, under the chairmanship of the gentleman from Pennsylvania (Mr. MOORHEAD). Another 9 days of open markup sessions were held by the subcommittee during the past months to revise, improve, and refine the language of these amendments so that we could have unanimous agreement by our subcommittee and full committee members—both Republicans and Democrats.

Mr. Chairman, the freedom of information issue—dramatized so effectively by the gentleman from California (Mr. MOSS) during his 16 years as chairman of this subcommittee—has never been a partisan one. The committee has been diligent in advancing and protecting the public's "right to know" during the past four administrations—two Republican and two Democratic. We have fought the Government bureaucrat's penchant for secrecy for almost 20 years in our committee and have saved the American taxpayers untold millions of dollars in the process.

The amendments to the Freedom of Information Act of 1966 that are proposed in H.R. 12471 are the first to be considered since its enactment. This is a highly technical and complex subject, and the committee has been exceedingly careful and deliberate in the amending process. Some may feel that we have not gone far enough. For example, the language of only one of the nine exemptions contained in section 552(b) of the act is changed at all. We felt that, by and large, the Federal courts were doing a creditable job in interpreting the language of most exemptions in a way consistent with the original intent of the Congress. The clear trend in case law under the Freedom of Information Act has been tilted toward the public's "right to know" and against Government bureaucratic secrecy, and that is the way it should be.

Although most of the amendments to the law proposed by H.R. 12471 are procedural in nature, they are nonetheless of significant importance in improving the day-to-day administration of the act. As examples, I call attention to the specific time limits provided in this bill for an agency's response to a request for information from the public. Also, the requirement that indexes of certain types of information "be published and distributed by sale or otherwise" by each Federal agency and the discretionary authority given the courts to award attorney fees and costs to plaintiffs who prevail against the Government in freedom of information litigation. Amendments relating to the court review provisions of the act likewise reaffirm the original intent of Congress in the definition of the term "de novo"; they also confirm our support of discretionary use by the courts of in camera review of contested records to clearly determine if they are properly withheld under the criteria of the exemptions set forth in section 552 (b) of the present law.

This is a meaningful and important bill, Mr. Chairman, and one which deserves the support of every Member of this body. By passing H.R. 12471 with an overwhelming vote we may begin to repair the grave erosion of public confidence in our governmental institutions that has resulted from recent Watergate scandals, secrecy, and coverup.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 5 minutes to the original author of the Freedom of Information Act, the gentleman from California (Mr. MOSS).

Mr. MOSS. Mr. Chairman, 8 years ago when the Congress passed the Freedom of Information Act without a single dissenting vote, I thought we had made it abundantly clear that the courts would have the power to examine classified documents in camera and determine whether they had been properly classified.

The criteria for each classification—confidential, secret, and top secret—had been set forth clearly in an Executive order by the President. Either a classified document meets the test of the criteria or it does not. It is just that simple.

It does not require an Einstein. What it does require is some intelligence, sensitivity, commonsense, and an appreciation for the right of the people to know what their Government is doing and why. I have confidence our judges have these qualities.

I do not think we have to make dummies out of them by insisting they accept without question an affidavit from some bureaucrat—anxious to protect his decisions whether they be good or bad—that a particular document was properly classified and should remain secret. No bureaucrat is going to admit he might have made a mistake.

If that sounds partisan or too severe a criticism, I would like to quote directly from a statement of the President of the United States only 2 years ago. He said:

> Unfortunately, the system of classification which has evolved in the United States has failed to meet the standards of an open and democratic society, allowing too many papers to be classified for too long a time. The controls which have been imposed on classification authority have proved unworkable, and classification has frequently served to conceal bureaucratic mistakes or to prevent embarrassment to officials and administrations. . . .
>
> The many abuses of the security system can no longer be tolerated. Fundamental to our way of life is the belief that when information which properly belongs to the public is systematically withheld by those in power, the people soon become ignorant of their own affairs, distrustful of those who manage them, and—eventually—incapable of determining their own destines . . .

Although the present Freedom of Information Act requires de novo determination of agency actions by the Federal courts, the Supreme Court has problems to the extent which courts may engage in in camera inspection of withheld records.

A recent Supreme Court decision held that under the present language of the act, the content of documents withheld under section 552(b)(1)—pertaining to national defense or foreign policy information—is not reviewable by the courts under the de novo requirement in section 552(a)(3). The Court decided that the limit of judicial inquiry is the determination whether or not the information was, in fact, marked with a classification under specific requirements of an Executive order, and that this determination was satisfied by an affidavit from the agency controlling the information. In camera inspection of the documents by the Court to determine if the information actually falls within the criteria of the Executive order was specifically rejected by the Court in its interpretation of section 552(b)(1) of the act. However, in his concurring opinion in the Mink case, Mr. Justice Stewart invited Congress to clarify its intent in this regard.

Two amendments to the act included in this bill are aimed at increasing the authority of the courts to engage in a full review of agency action with respect to information classified by the Department of Defense, the Department of Defense, the Department of State, and other agencies under Executive order authority.

Mr. Chairman, it is the intent of the committee that the Federal courts be free to employ whatever means they find necessary to discharge their responsibilities. This was also the intent in 1966 when Congress acted, but these two amendments contained in the bill before you today make it crystal clear. I ask for your unanimous support for this legislation which is intended to close such loopholes and make the right to know more meaningful to the American people.

I would like to point out, Mr. Chairman, too, I know the concern expressed by at least two Members in the questions directed to the distinguished ranking minority member of the committee, the gentleman from Illinois (Mr. ERLENBORN), that the classifications of many of these documents are made at such low levels in the bureaucracy of Government that one would be almost shocked to even find out that they had the authority to impose a classification stamp.

We found at one time that classification authority was being exercised by over 2 million persons in the Federal bureaucracy. Many of those documents were classified with little understanding on the part of the classifiers and remain hidden from public view. Many of those documents could be the subject of action proposed to be taken in court under the provisions of the language now being amended to further clarify the Freedom of Information Act. I think the amendments are most worthwhile.

Mr. Chairman, before yielding the floor, I would like to address a question to the gentleman from Pennsylvania (Mr. MOORHEAD), regarding the report language on page 9 under the subheading, "Information to Congress."

As I understand it, I think it is of the utmost importance that in no way do we modify the rights of the Congress by any of the language contained in the amendments now pending before this committee.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. MOSS. Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, as is the usual case, the gentleman from California is 100 percent correct.

Mr. MOSS. Mr. Chairman, I thank the gentleman.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. MOSS. Mr. Chairman, I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, I would like to join the gentleman in the well in expressing my very genuine support for this legislation, and commend not only the gentleman in the well, but the chairman of the subcommittee and the members of this Committee for bringing forth this legislation which will correct two major defects in the court's decision rendered in the Mink against EPA case.

Mr. Chairman, I rise in support of H.R. 12471, legislation to amend the Freedom of Information Act.

As Congress moves to reform our election laws, it is also essential that we move forward on another front to bring Government closer to the people. This is in the area of governmental information, the free flow of which is the wellspring of our constitutional democracy.

Fortunately, we have an excellent vehicle for this. The Freedom of Information Act, first enacted in 1966, provides a tested and workable mechanism for assuring the disclosure of information to the public while at the same time protecting the confidentiality of the Government process where necessary.

Acting on the experience gained under the basic statute, we can refine and improve the act as needed. H.R. 12471 is an effort to do this. It is a carefully considered and drafted bill which was reported out unanimously by the members of the Committee on Government Operations. It makes spare and judicious changes in the act, the need for which has been fully demonstrated by events in the information area.

I would like to discuss one such change in particular, as I was a participant in the events which showed the act must be clarified. On January 22, 1973, the U.S. Supreme Court rendered its decision in the case of Environmental Protection Agency against Mink, et al. This was the first interpretation of the Freedom of Information Act by the Supreme Court. I had initiated the suit a year earlier with 32 other Members of Congress as coplaintiffs. We sought as Members of Congress and as private individuals to compel the executive branch to release papers on the nuclear test "Cannikin." At the time, Congress was making a decision on whether to authorize and appropriate funds for the test.

In our suit, we asked that the judicial branch rule on the Executive's compliance with provisions of the act. We secured an appeals court directive to the Federal district judge to review the documents in camera to determine which, if any, should be released. This seemed entirely proper to us as an initial step under the act, since the act does provide for court determination under section (a)(3) on a de novo basis of the validity of Executive withholdings.

Unfortunately, in the Mink case the Supreme Court reached a decision that most of us regard as somewhat tortuous in this regard. When the executive branch took the appeals court decision to the Higher Court on certiorari,the Supreme Court held that in camera reviews of material classified by the President as national defense and foreign policy matters are not authorized or permitted by the act.

The basis of this decision was the act's list of exemptions from compelled disclosure. Exemption No. 1, under section (b)(1) of the act, exempts matters authorized by specific Executive order to be kept secret in the interest of the national defense or foreign policy. Somehow, the Supreme Court decided that once the Executive had shown that documents were so classified, the judiciary could not intrude. Thus, the mere rubberstamping of a document as "Secret" or "Confidential" could forever immunize it from disclosure. All the courts could do was to determine whether it was so stamped. An affidavit was used in the Mink case to prove this. No judge ever saw the documents at all, not even their cover page.

The abuses inherent in such a system of unrestrained secrecy are obvious. As the system has operated, there is no specific Executive order for each classified document. Instead, the President issued one single Executive order establishing the entire classification system, and all of the millions of documents stamped "Secret" under this over succeeding years are now forever immune from even the most superficial judicial scrutiny. A lower-level bureaucrat could stamp the Manhattan telephone directory "Top Secret" and no court could order this changed. Under the Supreme Court edict, the Executive need only dispatch an affidavit signed by some lowly official certifying that the directory was classified pursuant to the Executive order, and no action could be taken.

Obviously, something must be done to correct this ridiculous Court interpretation. It need not be a drastic step. Actually, it was the original intention of Congress in adopting the Freedom of Information Act to increase the disclosure of information. Congress authorized de novo probes by the judiciary as a check on arbitrary withholding actions by the Executive. Typically, the de novo process involves in camera inspections. These have been done by lower courts in the case of materials withheld under other exemptions in the act. They can be barred under exemption No. 1, only through a misguided reading of the act and by ignoring the wrongful consequences.

H.R. 12471 contains two minor changes in the act to correct this aspect of the Mink decision and make crystal clear that courts have authority to make in camera inspections of original documents, no matter under what exemption they were withheld, to assure compliance with the Freedom of Information Act.

The first change inserts the words "and may examine the contents of any agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth" in the act. This change will remove all doubt that courts have discretionary authority to utilize in camera inspections when they believe it is desirable. It does not compel such actions but leaves it to the discretion of the court.

The other change brought about by the Mink decision revises the wording of exemption No. 1. Instead of referring merely to matters specifically required by Executive order to be kept secret, it will exempt matters "authorized under criteria established by an Executive order to be kept secret." This will give courts leeway to probe into the justification of the classification itself. The change will empower courts to determine whether the matters meet the criteria established by the Executive order under which they were withheld. In effect, courts will be able to rule on whether disclosure actually would bring about damage to the national security or on whatever other test is set forth in the Executive order as justification for the classification. Our intention in making this change is to place a judicial check on arbitrary actions by the Executive to withhold information that might be embarrassing, politically sensitive, or otherwise concealed for improper reasons rather than truly vital to national defense or foreign policy. We are not saying any material must be released, only that it must be submitted to an impartial judge to determine whether its withholding meets the provisions and purposes of the act.

I believe these changes are essential if we are to restore the proper functioning of our democratic process. I ask for approval of H.R. 12471.

Finally in closing, I would like to acknowledge the Members of Congress in 1971, who joined me in my suit against the Government, which led to the Mink against EPA decision. The Members of Congress who were coplaintiffs are:

LIST OF COPLAINTIFFS

(Senator) James Abourezk, Bella S. Abzug, Herman Badillo, (the late) Nick Begich, Phillip Burton, William Clay, (former Rep.) John G. Dow, Robert F. Drinan, Bob Eckhardt, Don Edwards, William D. Ford, Donald M. Fraser, Michael Harrington, Augustus F. Hawkins, Ken Hechler, James J. Howard.

Robert W. Kastenmeier, Edward I. Koch, Robert L. Leggett, Spark M. Matsunaga, Romano L. Mazzoli, (former Rep.) Abner J. Mikva, Parren J. Mitchell, John E. Moss, Thomas M. Rees, Teno Roncalio, Benjamin S. Rosenthal, Edward R. Roybal, (the late) William F. Ryan, (former Rep.) James H. Scheuer, John F. Seiberling, Frank Thompson, Jr.

The CHAIRMAN. The time of the gentleman from California has again expired.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 additional minute to the gentleman from California (Mr. MOSS).

Mrs. MINK. Mr. Chairman, this has been a very long struggle for many of us, including the gentleman in the well, in the case we brought against the Government for the disclosure of information which we felt was so essential in our deliberations. The actions of this committee today in bringing this bill to the House will serve to enlarge not only our ability but the ability of the American people to acquire important information so that we can fully participate in this democracy.

Mr. Chairman, I thank the gentleman again, together with the chairman and members of the committee.

Mr. MOSS. Mr. Chairman, I thank the gentlewoman, and I would like to take this opportunity to express to the gentleman from Pennsylvania (Mr. MOORHEAD) and the gentleman from Illinois (Mr. ERLENBORN) my unqualified admiration for the work they did in drafting these amendments.

Mr. Chairman, I am pleased to support them in offering the amendments to the House today.

Mr. ERLENBORN. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I support the laudable objectives of the Freedom of Information Act, and the worthy attempt that the committee is making to strengthen the act and clarify certain ambiguities that still plague the act. But the House should make clear that the Corporation for Public Broadcasting is not intended to be covered within the expanded definition of "agency" which is part of this amendment. The corporation clearly is not a Government corporation or a Government-controlled corporation and should not become subject to the act under those terms as used within the expanded definition of "agency" in the amendment.

The Public Broadcasting Act of 1967 expressly provided that the corporation is not to be "an agency or establishment of the U.S. Government." Rather it is a private, independent corporation incorporated pursuant to the District of Columbia Nonprofit Corporation Act. Although Congress was desirous of supporting public broadcasting with Federal funds in 1967, it was keenly aware that it would be inappropriate—constitutionally and otherwise—for the Government itself to perform the support activities that it envisioned for the corporation. Congress established a private corporation so that the Government itself would not be involved in deciding how the Federal funds appropriated for the support of public broadcasting would be used.

Of course, the corporation is not opposed to making available to the public information concerning its activities. Indeed, it is important that the public understand what the corporation does for it to succeed in its mission. But it would be a mistake to treat the corporation as a Government agency or Government-controlled corporation when its very reason for being is insulation from the Government. If the corporation is made subject to the act, the corporation will inevitably be clothed with the trappings of Government.

So, Mr. Chairman, I rise to inquire of both the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. MOORHEAD), and the ranking member, the gentleman from Illinois (Mr. ERLENBORN) if, under the language on page 8, the definition of "agency," in reference to the Corporation for Public Broadcasting, is not inconsistent with the language of the legislation and if, in fact, there is any effort to get control of the corporation or its decisionmaking function through this act? I would certainly hope not.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, as I stated earlier in the debate, the language of the statute, where is says, "Government-controlled corporation," would be controlling over the language of the report. If the Corporation for Public Broadcasting is not a Government-controlled corporation, then the provisions of the act would not reach it.

I will say to the gentleman that if the act does apply to the corporation, there is no intention to do anything but give individual members of the public the right to get information. I am sure that this corporation would give that to the individual citizens, either with the law or without the law.

There is no intent to institute Government control or congressional control over the corporation itself.

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman for his response. The gentleman from Illinois (Mr. ERLENBORN), will concur, I trust.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield, I will state that the gentleman is correct.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. Mr. Chairman, I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, the people's right to know is fundamental in our democracy. H.R. 12471 advances that right by making improvements in administrative procedures under the Freedom of Information Act. As a member of the subcommittee which considered this bill, I wish to add my support of it.

I would like to address myself to two provisions of H.R. 12471 in particular: Section (1)(d), which permits—but does not require—courts to examine the contents of agency records in camera to determine whether the records or any portion of them may be withheld from the public under any of the exemptions to the act, and section (2), which makes clear that only documents which may be kept secret in the interest of the national defense or foreign policy are those which have been properly classified.

Just before we began our hearings on two bills to amend the Freedom of Information Act, both of which I cosponsored, the Supreme Court ruled in *Environmental Protection Agency* v. *Mink*, 410 U.S. 73 (1973), that courts could not review the contents of classified documents. It decided that a determination of whether material was properly classified was satisfied by an affidavit from the agency controlling the information.

On the basis of personal experience, Mr. Chairman, I do not believe that this decision is reasonable. Let me cite one example. Weather modification in Vietnam during American participation in the war there is a subject in which I have had considerable interest. Both Senator CRANSTON and I have asked the Defense Department for information about this subject repeatedly since 1971; we have been denied it each time. Senator PELL, who is the chairman of the Senate Subcommittee on Oceans and International Environment, has also asked for this information, and he, too, has been denied it.

Weather modification is one of the most sensitive and fascinating scientific topics being discussed today. Scores of meteorologists and environmentalists are very concerned about developments in this area. Surely Congress ought to know what the Defense Department is doing with regard to it before legislating on measures in this field, such as my House Resolution 329, expressing the sense of the House that the United States should seek prohibition of weather modification as a weapon of war.

I think that the Department erred in not releasing information on weather modification, but under the present law, I could not seek court review of the Department's position.

If H.R. 12471 were to be enacted, however, I could seek that court review. I could get a hearing by an independent arbiter on whether the executive branch had acted rightly in withholding information. I am pleased to vote for a bill which makes this improvement in the administration of the Freedom of Information Act.

(Mr. ALEXANDER, at the request of Mr. MOORHEAD of Pennsylvania, to revise and extend his remarks at this point in the RECORD.)

Mr. ALEXANDER. Mr. Chairman, I rise in support of H.R. 12471, which is designed to strengthen the Freedom of Information Act. This legislation is another step in making certain that government is the servant of the people and not its master.

One provision is especially important in this regard. The bill provides for the recovery of attorney fees and costs at the discretion of the courts.

Why is this so important? For one thing, there has been altogether too much unnecessary litigation forced upon our citizens by Federal agencies that feel they own or have a proprietary interest in Government information—information that belongs to all of our people.

Citizens are sometimes compelled to spend thousands of dollars—money they can ill afford—simply to assert rights which Congress is attempting to implement under both the spirit and letter of the Constitution.

The Government has lost more than half of its freedom of information cases. That is not much of a track record. In fact, it is lousy. And guess who is stuck with the tab? The unfortunate citizen complainant and the taxpayers.

The committee feels that once the Government has to take full responsibility for litigating indefensible cases, it will think twice before going to the mark in the first instance.

Let me emphasize that the recovery of reasonable attorney fees and other litigation costs is at the discretion of the court. It may take into consideration those factors it considers consistent with the administration of justice.

These may include when the suit advances a strong congressional policy, the ability of the plaintiff to sustain such expenses without harmful sacrifice, the obstinance of the Government in pressing a weak case, the question of possible malice and any other factors considered important to the court.

The committee feels strongly that no plaintiff should be forced to suffer any possible irreparable damage because the Government failed to live up to the letter and spirit of the Freedom of Information Act.

Only when this Nation's most threadbare citizen can stand before the full array of Government power and emerge victorious in every sense when his cause is just will the full promise of our system of government be realized. That promise must be guarded and brought to reality and that is our intention.

I ask this House to strike another blow for liberty and approve this legislation with resounding affirmation for its constitutional goals.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. FASCELL), a member of the committee.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, as one of the original charter members of the Moss subcommittee, appointed by the late Chairman Dawson in 1955 to investigate Government secrecy and withholding practices, I am particularly pleased to support the pending bill, H.R. 12471.

This measure would measurably improve and strengthen the original Freedom of Information Act, now in operation for almost 7 years. Our committee has spent many weeks of concentrated effort in investigative and legislative hearings and in public markup sessions to draft and perfect the legislation before us today. The need for these amendments has been fully documented in our 1972 investigative report—House Report 92-1418—and in our legislative report on this measure—House Report 93-876. I commend these two documents to all Members. They make a clear-cut case for these important amendments to curb Federal agency delays and other abuses in the administration of the act, to clarify and reaffirm original congressional intent, and to make the Freedom of Information Act a much more usable tool for the working press.

Mr. Chairman, the advantages of open public access to the workings of government have been clearly demonstrated in both the Federal Freedom of Information Act and in my own State of Florida through the "sunshine law." One of the ways in which we can help reestablish public confidence in our governmental operations is by the quick enactment of these amendments to the Freedom of Information Act.

For the most part, the Federal courts have taken adequate notice of the importance of the act as a milestone enactment by Congress in preserving the fundamental right of all Americans to be informed about the business of their Government. The pending legislation, therefore, does not change the language of eight of the nine exemptions contained in section 552(b) of the act. One of the most eloquent statements by a Federal court in support of the principles of the act was made in the 1971 freedom of information case of Soucie against David:

> Congress passed the Freedom of Information Act in response to a persistent problem of legislators and citizens, the problem of obtaining adequate information to evaluate Federal programs and formulate wise policies. Congress recognized that the public cannot make intelligent decisions without such information, and that governmental institutions become unresponsive to public needs if knowledge of their activities is denied to the people and their representatives. The touchstone of any proceedings under the Act must be the clear legislative intent to assure public access to all governmental records whose disclosure would not significantly

> harm specific governmental interests. The policy of the act requires that the disclosure requirements be construed broadly, the exemptions narrowly.

Mr. Chairman, one historical reference is particularly important in understanding the need for these amendments. When hearings were held 9 years ago by the Moss subcommittee on legislation that finally was enacted as the Freedom of Information Act of 1966, every single witness from the Federal bureaucracy—then under a Democratic President—opposed the bill. They claimed that it would seriously hamper the functioning of Federal agencies and be ruinous to the decisionmaking process. Despite their opposition, the bill was unanimously passed by the Congress and President Johnson wisely signed it into law. Of course, no such calamitous result was forthcoming. The specters never appeared. During the hearings on this current legislation to strengthen the freedom of information law, every single witness from the Federal bureaucracy—this time under a Republican President—has again opposed the bill, using the same types of discredited arguments heard 9 years ago. I trust that history will repeat itself and that Congress will again give its overwhelming approval to freedom of information legislation and that the present White House incumbent will likewise sign the bill into law.

Mr. Chairman, I urge our House colleagues to support the important bipartisan amendments to the Freedom of Information Act as contained in H.R. 12471.

Mr. Chairman, I would just simply like to add two points: One is that the original act, after long years of study and thousands of pages of testimony, has been in operation now for 7 years, and all of the cries that were raised at the time the original act was passed can be summed up probably in this fashion: That it was said that if we passed the Freedom of Information Act, it would bring the executive branch of Government to a grinding halt.

None of that, of course, has happened. The Freedom of Information Act has found its place in the legislative history and in the administration of our Government. It has been an extremely useful tool for our citizens, and it has helped build confidence in Government. Goodness knows, we need more of that.

So these amendments now are another long step toward clarifying the right of public access to Government information.

Mr. Chairman, I would just want to add this one thought: That none of the fears that have been expressed really materialized. I do not believe that any would materialize in the future as a result of these amendments or any other act that deals with this subject. I think it is too well ingrained now in our legislative history and in the operational history of this Government.

One point we should keep in mind is that members of the public and the rights of individual Congressmen are also covered under this act as members of the public, and I would like to ask the chairman of the committee, once again, in view of the long history on this point, that whatever rights accrue to Members of Congress under this act as Members of the body politic, this in no way is in derogation of other rights which may exist by reason of our responsibilities as Members of Congress and in no way diminishes or modifies those rights.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, the gentleman is entirely correct.

Mr. LEHMAN. Mr. Chairman, I rise in support of the Freedom of Information Act amendments, and urge the defeat of any weakening amendments.

Mr. Chairman, the people in the 13th District in Florida wonder why it takes over a month to receive even an interim reply from a Federal agency on a request for information. As a matter of fact, my staff often has the same problem.

The information stored in Government files is valuable stuff. And the people whose taxes paid for it should in most circumstances be able to get hold of information quickly. I am pleased to see that the committee has set time limits of 10 working days for agency action on original requests.

The Freedom of Information Act amendments before us today are more of what we in Florida call "government in the sunshine." Government in the sunshine is letting the people see what it is that the Government is doing, and gives the people better access to the Government. Conversely, it also makes the Government more responsive to the people.

Mr. Chairman, I urge the support of my colleagues for this bill.

Mr. HANRAHAN. Mr. Chairman, I was particularly proud of the recent action of the House of Representatives in passing H.R. 12471. This bill represents the first comprehensive attempt to expand and improve upon the Freedom of Information Act which became public law in 1966.

Never before in the history of America has the need for better access to governmental information by the people been so great. One of the major reasons so many Americans have lost faith in our form of government, has been the persistent belief that ours is a government of the few which makes its decisions in secret. The whole purpose of the Freedom of Information Act was to open up governmental information to the scrutiny of the American people. By passing H.R. 12471, the House has acted decisively to make this important public law more effective and available for use by all Americans.

The following major improvements to the Freedom of Information Act are included in H.R. 12471:

First. A current index of agency policies and documents shall be promptly published and distributed to interested individuals by sale or otherwise;

Second. Requests for information must merely "reasonably describe" as opposed to "specifically identify" records in question;

Third. Nothing in this bill shall be construed to limit in any way congressional access to information;

Fourth. Time limits for each phase of agency response to informational requests are set up. Original requests must be acted upon within 10 days. Administrative appeals must be decided within 20 working days. Court proceedings may be initiated if these deadlines are not met;

Fifth. The court may reimburse an informational requester in cases where the agency denial is not upheld;

Sixth. The court may examine in secret any information denied to see if it falls into any category of excluded information;

Seventh. Information denied for security reasons must be specifically identified as such by the executive branch;

Eighth. Each agency must submit an annual report of its efforts to meet the requirements of this act including the number of denials, reasons for each, and the amount and rate of fees; and

Ninth. All executive agencies and Government corporations, including the Executive Office of the President, are required to abide by this act.

As a Member of Congress who has taken a deep and abiding interest in the free flow of Government information, I feel the House has acted in the public interest by passing H.R. 12471. I sincerely hope this wise and farsighted measure will be speedily enacted into law.

Mr. PATTEN. Mr. Chairman, many years ago, Lord Acton wrote that—

> Everything secret degenerates, even the administration of justice; nothing is safe that does not show it can bear discussion and publicity.

I have always believed that, for I am convinced that the public has the right to know what the Government is doing right—or wrong. That is why I was a cosponsor of the Freedom of Information Act of 1966. It always disturbed me to read or hear that some Federal departments or agencies conceal public information, instead of revealing it.

Although the 1966 act has made more information available to the public, many improvements have to be made before Congress can really say it is furnishing the people with the information they deserve. Therefore, once again, I have become a cosponsor of freedom of information legislation, because it contains provisions that help strengthen the present law. The new legislation not only strengthens procedural aspects, but also improves its administration, and expedites the handling of requests for information from Federal agencies, including reports to Congress that will show applications for information denied.

Mr. Chairman, I have, like Jefferson, "confidence in the people, cherish and consider them as the most honest and safe." After years in public life, my confidence in the people has grown, while my faith in some who govern has declined. Yet, I have hope and believe that one of the best ways of improving the low esteem in which Congress is held by the public—only about 21 percent think we are doing a good job—is to pass a Freedom of Information Act that will provide people with the information they need about government. If government is right, it should be praised, and if it is wrong, it should be criticized.

I urge my colleagues to vote for this bill, for it will not only strengthen the public's right to know, but also help restore some of the public confidence that Federal agencies and Congress have lost.

Mr. THOMPSON of New Jersey. Mr. Chairman, I rise in support of H.R. 12471 in order that the Freedom of Information Act might be strengthened and made a more workable tool by the news media and other Americans.

As a cosponsor of the original 1973 bill on which the Foreign Operations and Government Information Subcommittee held hearings, I have closely followed the markup sessions that produced this bipartisan measure before us today. I think it significant, Mr. Chairman, that there is a broad representation of the political spectrum of both sides of the aisle in support of this bill.

History has repeatedly shown that an obsession for secrecy in governmental institutions has been the handmaiden of repression, corruption, and dictatorial rule. Government secrecy for the purposes of hiding wrongdoing, inept leadership, or bureaucratic errors undermines and can eventually destroy our system of representative government. The confidence of the American public in governmental institutions must be restored if we, as a nation, are to emerge from the Watergate doldrums. This bill to make the Freedom of Information Act a more viable weapon in the fight against secrecy excesses of the entrenched Government bureaucracy is an important start in that direction.

Mr. Chairman, in that connection we should all heed the recent observations of former Chief Justice Earl Warren when he said:

> It would be difficult to name a more efficient ally of corruption than secrecy. Corruption is never flaunted to the world. In Government, it is invariably practiced through secrecy. . . . If anything is to be learned from our present difficulties, compendiously known as Watergate, it is that we must open our public affairs to public scrutiny on every level of Government. . . .

I urge that we begin today by an overwhelming vote in support of H.R. 12471, to let the American public know that we in Congress believe that freedom of information is the best antidote for the Watergate secrecy and coverup poison.

Mr. OBEY. Mr. Chairman, I should like to commend the gentleman from Pennsylvania (Mr. MOORHEAD) and the Foreign Operations and Government Information Subcommittee which he chairs for doing a superb job of legislative oversight on the Freedom of Information Act. That painstaking and hard-hitting job of oversight in the 92d Congress led to the introduction last year of amendments to clarify and strengthen the act, which I was pleased to cosponsor. Subsequent legislative hearings helped shape the amendments that are before us now.

I think a strong case for these amendments has already been made. All I hope to do now is contribute one example of why congressional vigilance is necessary to assure that the Freedom of Information Act functions in the way Congress intended.

Last December 27 the Soil Conservation Service of the Department of Agriculture published regulations prescribing the policies, procedures, and authorizations governing the public availability of its materials and records under what it erroneously referred to as the "Public Information Act."

The SCS said it would make its records available with "reasonable promptness" for inspection or copying, except for certain kinds of records which it then listed. The SCS may have intended that its list reflect the act's list of certain categories of information that are exempt from mandatory disclosure, but the agency stumbled before it even got started.

Its very first category was:

> Materials specifically required by Executive orders to be kept secret.

A much, much broader category than that specified by the act itself, which now reads:

> Specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy.

To compound its error, the SCS did not invite public comment on its regulations, declaring blandly that—

> No substantive basic policy or procedural changes have been made.

Of course, that allegation was nonsense.

I cite this example to show that Federal agencies still cannot yet be trusted to live up to the Freedom of Information Act on their own. We must monitor them constantly and continue to demand that they strive to comply with the law to the fullest. If we do not, the public will not have the access to government information that it is entitled to have under the law.

Mr. Chairman, I urge that these amendments to the Freedom of Information Act be passed as reported out by the Government Operations Committee.

Mr. BROOMFIELD. Mr. Chairman, I rise today in support of H.R. 12471, to amend the Freedom of Information Act. When this historic act was passed in 1966, the intent was to guarantee the right of the American people to know what their Government was doing by enabling them to obtain information and records from Federal agencies.

It has been increasingly evident since then that the 1966 act lacks the strength necessary to make it effective in this area. Certain ambiguities and weaknesses have prevented it from achieving the results intended by its passage. We have the opportunity today to correct this situation and inject new life into the original act by passing H.R. 12471.

The basis of a sound democracy is an informed public. We pride ourselves on being a government that depends on the voices of all the people, not just a few. But for these voices to play an active part they must have access to knowledge. Otherwise, they are merely the voices of ignorance.

The access to Government information is a basic right of all the American people. As one of our greatest Presidents said, this is a government "of the people, by the people, and for the people." I urge all my colleagues to echo Abraham Lincoln's words today by voting favorably on H.R. 12471.

Mr. DRINAN. Mr. Chairman, the people's right to know how the Government is discharging its duties is essential to a democratic society. This is the basis of the Freedom of Information Act, and for the amendments to that act before us today.

One of the most important features of the legislation before us today is that it would create the machinery for continuous congressional oversight of the information practices of the Federal Government.

The underlying principle of the Freedom of Information Act is that of Congress performing its most essential role, acting as a check in balance on the growth of executive power. Indeed, Senator STUART SYMINGTON, quoted in "The Pentagon Papers and the Public," Freedom of Information Center Report No. 0013—U. Mo. July 1971—gave an excellent example of the dangers of secrecy in Government when he stated that he "slowly, reluctantly, and from the unique vantage point of having been a Pentagon official and the only Member of Congress to sit on both the Foreign Relations and Armed Services Committees concluded that executive branch secrecy has now developed to a point where secret military actions often first create and then dominate *foreign policy* responses."

The bill before us today strengthens the Freedom of Information Act of 1966. It provides for a wider availability of agency indexes listing informational items. It permits access to records on the basis of a reasonable description of a particular document rather than requiring specific titles or file numbers as is presently the case in many agencies. The bill sets short time limits for agency responses to inquiries. It provides for recovery of attorneys' fees and court costs by plaintiffs.

The bill also permits in camera court review of classified documents for purposes of determining whether the documents were properly classified under executive authority. This key provision in effect reverses *Environmental Protection Agency et al.* v. *Patsy T. Mink et al.*, 410 U.S. 73 (1973), a suit in which I was one of 33 congressional party plaintiffs, by specifically allowing in camera inspection by the courts of all documents in dispute, including those which may relate to national defense and those which may fall into the category of inter and intraoffice memoranda. This provision reestablishes the original intent of this bill.

The purpose of this legislation is to facilitate access to information by the public. At a time when the deleterious effects of Government secrecy have never been in greater evidence, this legislation is most welcome.

Mr. REUSS. Mr. Chairman, I strongly support H.R. 12471. The Freedom of Information Act should be strengthened and improved after 7 years of operation.

The Government Operations Committee adopted a comprehensive report on the administration of the Freedom of Information Act in September 1972. It was the unanimous view of the membership of our committee, based on many weeks of hearings and investigations by the Foreign Operations and Government Information Subcommittee, that certain amendments were required to make the law truly effective.

Hearings held on legislation to implement this committee recommendation were held last year and produced supporting testimony and statements from a number of widely diverse organizations, including:

From the news media:

Creed Black, editor of the Philadelphia Inquirer;

Herbert Brucker, former editor of the Hartford Courant and former president of the American Society of Newspaper Editors;

J. R. Wiggins, former editor of the Washington Post, past president of the ASNE, now publisher of the Ellsworth, Maine, American;

Richard Smyser, editor of the Oak Ridger, Oak Ridge, Tenn., and vice president of the Associated Press Managing Editors;

Clark Mollenhoff, former Nixon White House counsel and now bureau chief of the Des Moines Register-Tribune;

Ted Koop, Washington office director of the Radio-Television News Directors Association;

E. W. Lampson, president of the Ohio Newspaper Association;

Ted Serrill, executive vice president, National Newspaper Association;

Courtney R. Sheldon, chairman, Freedom of Information Committee, Sigma Delta Chi;

Stanford Smith, president, American Newspaper Publishers Association;

William H. Hornby, executive editor, the Denver Post and chairman, FOI Committee, American Society of Newspaper Editors; and

The Association of American Publishers, Inc.

From the legal profession:

John T. Miller, chairman, section of administrative law, American Bar Association;

Richard Noland, vice chairman, Committee on Access to Government Information, American Bar Association;

Stuart H. Johnson, Jr., chairman for Freedom of Information, Federal Bar Association;

John Shattuck, staff counsel, American Civil Liberties Union;

Ronald Plesser, attorney, Center for the Study of Responsive Law; and

Thomas M. Franck, law professor and director, Center for International Studies, New York University.

The measure is also supported by the American Library Association, Common Cause, and has been cosponsored in its various forms by more than 75 Members of the House and Senate.

H.R. 12471 contains needed and well-conceived amendments to the original 1966 Freedom of Information Act. While they may not solve all of the problems in its day-to-day administration resulting from foot-dragging tactics of the Federal bureaucracy, it will serve notice that Congress and the public strongly reaffirms its support for the principles of the people's "right to know." As the late President Lyndon Johnson said when he signed the original measure into law:

> This legislation springs from one of our most essential principles: a democracy works best when the people have all the information that the security of the Nation permits. No one should be able to pull curtains of secrecy around decisions which can be revealed without injury to the public interest. . . . I signed this measure with a deep sense of pride that the United States is an open society in which the people's right to know is cherished and guarded.

Mr. HARRINGTON. Mr. Chairman, in 1966 the Congress saw fit to enact Public Law 89–487—popularly recognized as the "Freedom of Information Act." This landmark legislation was structured to guarantee the right of citizens to know the business of their Government. But for all of its desirable ambitions, the Freedom of Information Act has, at times, proved incapable of assuring public access to the records of Federal agencies and departments.

Accordingly, the Committee on Government Operations of the House of Representatives has reported out legislation (H.R. 12471) to further protect the right of the public to check on the activities of the Federal Government, by improving the Freedom of Information Act.

During the summer of 1971, the Government Operations Subcommittee on Foreign Operations and Government Information undertook a comprehensive study of administration of the Freedom of Information Act by the Federal agencies. This investigation revealed widespread abuses of the act by the Federal agencies involved. By resorting to delaying tactics, various classification ploys and requiring of requestors a specificity of identification of desired information, Federal agencies were able, all too often, to successfully circumvent a multitude of the public's requests. The subcommittee, in its subsequent report, suggested a series of administrative changes to correct existing deficiencies in making information available by the Federal Government. Also set forth were a list of specific legislative objectives designed to improve the administration of the Freedom of Information Act. H.R. 12471, now before this House, is legislation that should correct those deficiencies noted by the subcommittee.

This measure, similar to H.R. 5425 which I sponsored in the previous session of the 93d Congress, seeks to accomplish more efficient, prompt, and full disclosure of information. H.R. 12471 would affect the following areas of the Freedom of Information Act:

H.R. 12471 would improve the availability of Federal agency indexes, which list the specific information available from individual agencies. The bill would require that indexes be readily available, in usable and concise form, upon request, even though agencies would not, by reasons of practicality, be required to print indexes in bound form.

Many agencies at present require an individual to designate a specific title or file number to identify desired documents. H.R. 12471 would allow for the retrieval of information with only a reasonable "description" of the requested information, thus restricting one manner in which citizens' access to information has been limited in the past.

Frequently, information from the Federal Government can be used only if it is timely. Too often, however, the intent of the Freedom of Information Act has been circumvented by dilatory tactics on the part of agencies. To deal with this problem, H.R. 12471 would set a 10-day time limit on agency responses to original requests for information, and 20 days for administrative appeals of denials. In unusual cases, good faith assurances of the agency will allow for an extension of the time period allowed. So as to expedite litigation carried out under the Freedom of Information Act, the bill would also cut to 20 days the present 60-day requirement for agency response to complaints. The bill would also allow defendents to recover attorney's fees from the Government, as well as court costs, if the case goes against the Government.

An important expansion of the coverage of the act is also included in H.R. 12471, as the definition of what constitutes an "agency" is expanded. Government corporations, such as the Tennessee Valley Authority, and Government-controlled corporations, such as the Corporation for Public Broadcasting or Amtrak, would come under the authority of the Freedom of Information Act for the first time. Also, agencies within the executive branch, such as the Office of Management and Budget or the National Security Council, would be covered.

H.R. 12471 also contains a provision extremely significant in the light of recent controversies over the classification of Government documents. The bill would permit, at the option of the court, in camera court review of document classification. Courts would be enabled to review the actual classified documents, rather than the classification notices, as is often the case under existing law. Courts would be empowered to determine whether the classifications imposed upon documents by agencies were properly constituted. These new procedures, I hope, will reduce the appalling incidence of smokescreen "national security" defenses raised by the Government in Freedom of Information Act cases.

Mr. Chairman, this important legislation enhances and improves the original Freedom of Information Act. In a nation which claims with just pride that it is ruled "by the people," the accessibility of Government records to the populace is of great importance. The amendments proposed to the original act by H.R. 12471 would limit the abuses of the act by Federal agencies that have had a chilling effect on the ability of citizen's to fulfill their right to know. Today the House has the opportunity to pass historic legislation, building upon the foundation of the original 1966 Freedom of Information Act. We should not shirk from the task before us today; we should pass this bill.

Mr. PRICE of Illinois. Mr. Chairman, these amendments should be passed in order to strengthen the protection a citizen is afforded under the Freedom of Information Act. Although the philosophy of the original act was clear, agency treatment of some of its provisions prevented maximum protection of citizen interest.

For example, in a situation where the information is needed quickly, an agency can effectively deny the request by delaying its response. To preclude this kind of event, the bill provides a time limit of 10 days for original requests.

Another problem is the meaning of an "identifiable record" under the act. If an agency determines that a record is identifiable only by specific title or file number, a citizen who has only a description of the record might be unable to obtain it even though it is apparent what he is requesting. The bill provides that an agency may not require specific title or file number as the sole means of identification.

Certain records, such as those relating to national defense or foreign policy, are exempt from the act and may be withheld by an agency. To prevent the dangers of arbitrary determinations under these exemptions, the bill permits a reviewing court to examine the records in private and decide if the agency determination was reasonable.

Mr. Chairman, we are not dealing here with an ordinary piece of legislation. The principles of the Freedom of Information Act emanate from the basic constitutional precepts of due process and the right of a person to confront his accuser. The act seeks to insure that no one will be adversely affected by an agency determination without being able to find out the reasons for it and to challenge it in court. I urge that we adopt these amendments to make the act more effective in protecting these rights.

Mr. CULVER. Mr. Chairman, I rise in support of this legislation, which would make much needed strengthening amendments to the Freedom of Information Act. It is significant, I believe, that this measure is a bipartisan one and was reported by the Government Operations Committee, on which I serve, by a unanimous vote last month.

Access by the people to information held by their Federal Government has never been a partisan issue because we all realize that in today's complex society information is power and a monopoly over information cannot serve the public interest.

Securing prompt, accurate, and reliable information is even more vital in today's regrettable but wholly understandable climate of popular distrust of the institutions of government. To reverse Justice Holmes' famous dictum, the time has come for government to turn square corners in dealing with the people.

This bill would add to the 1966 act important procedural tools to make the freedom of information law more workable and equitable. It would—

Force Federal agencies to move much faster to grant press and public access to Government records;

Grant courts the authority to assess attorney's fees and litigation costs against Federal agencies which withhold public records;

Permit Federal judges to look, privately, at documents which the Government claims have been classified to protect national defense or foreign policy;

Add the Postal Service and all other Government corporations to the list of Federal agencies covered by the freedom of information law;

Require every Federal agency to report to Congress each year on its stewardship of the law; and

Change the identification necessary for documents requested under the law to require only a "reasonable" identification.

Mr. Chairman, I am proud of our Government Operations Committee for the diligent and painstaking work that has gone into preparing and presenting this bill. It is based on more than 2 years of hearings, study, and deliberations. It gets at major problems uncovered by shoddy and insensitive administration of the freedom of information law by executive agencies and deserves the support of all Members of this body.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. All time having expired, the Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. (a) The fourth sentence of section 552(a)(2) of title 5, United States Code, is amended by striking out "and make available for public inspection by copying" and inserting in lieu thereof ", promptly publish, and distribute (by sale or otherwise) copies of".

(b) Section 552(a)(3) of title 5, United States Code, is amended by striking out "on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed," and inserting in lieu thereof the following: "upon any request for records which (A) reasonably describes such records, and (B) is made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed,".

(c) Section 552(a) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(5) Each agency, upon receipt of any request for records made under this subsection, shall—

"(A) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the date of such receipt whether to comply with the request and shall immediately notify the person making the request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

"(B) make a determination with respect to such appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the date of receipt of such appeal.

"Any person making a request to an agency for records under this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with subparagraph (A) or (B) of this paragraph. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to the person making such request."

(d) The third sentence of section 553(a)(3) of title 5, United States Code, is amended by inserting immediately after "the court shall determine the matter de novo" the following: ", and may examine the contents of any agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b),".

(e) Section 552(a)(3) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, the United States or the officer or agency thereof against whom the complaint was filed shall serve a responsive pleading to any complaint made under this paragraph within twenty days after the service upon the United States attorney of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown. The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the United States or an officer or agency thereof, as litigant, has not prevailed."

Sec. 2. Section 552(b)(1) of title 5, United States Code, is amended to read as follows:

"(1) authorized under criteria established by an Executive order to be kept secret in the interest of the national defense or foreign policy;".

Sec. 3. Section 552 of title 5, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Operations and the Committee on the Judiciary of the Senate. The report shall include—

"(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

"(2) the number of appeals made by persons under subsection (a)(5)(B), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

"(3) a copy of every rule made by such agency regarding this section;

"(4) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

"(5) such other information as indicates efforts to administer fully this section.

"(e) Notwithstanding section 551(1) of this title, for purposes of this section, the term 'agency' means any executive department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency."

Sec. 4. The amendments made by this Act shall take effect on the ninetieth day beginning after enactment of this Act.

Mr. MOORHEAD of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments?

AMENDMENT OFFERED BY MR. WHITE

Mr. WHITE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. White: On page 4, lines 9 through 14, strike all of subsection (d) and insert the following in lieu thereof:

"(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House and the President of the Senate for referral to the appropriate committees of the Congress. The report shall include—"

Mr. WHITE. Mr. Chairman, my amendment to the Freedom of Information Act bill is designed to bring the bill in conformity with the rules of the House. I cite you on page 542, rule 40, entitled "Executive Communications":

> Estimates of appropriations and all other communications from the executive departments, intended for the consideration of any committees of the House, shall be addressed to the Speaker, and be referred as provided by clause 2 of rule 24.

Clause 2 of rule 24 states:

> Business of the Speaker's table shall be disposed of as follows:
>
> Messages from the President shall be referred to the appropriate committees without debate. Reports and communications from the heads of departments, and other communications addressed to the House . . . may be referred to the appropriate committees in the same manner. . . .

Section 3 of the bill calls for submission of a report by each agency to the Government Operations Committees of the House and Senate and to the Senate Judiciary Committee. But, according to the House rules all such agency reports must first be directed to the Speaker of the House. Then the Speaker may refer them in accordance with rule 24, clause 2, to the appropriate committee. I understand the Senate has the same procedure.

If you desire to maintain order in the application of our rules to our bills, then my amendment should be adopted. Although my amendment may be a technical one, it is offered with the purpose of keeping the laws we make on submission of agency reports consistent with the rules we have made for ourselves.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I am glad to yield to the chairman of the subcommittee.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, the gentleman from Texas (Mr. WHITE), has been kind enough to provide us with a copy of his amendment. Insofar as the members of the committee on this side are concerned, we would accept this amendment.

Mr. WHITE I thank the gentleman.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I am glad to yield to the gentleman from Illinois.

Mr. ERLENBORN. Might I call to the gentleman's attention what I consider to be a statement which perhaps is confusing in his amendment. It says "strike all of subsection (d) and insert the following in lieu thereof:" and then the material referred to is inserted. That might be construed as striking out all of subsection 1 through 5 in that subsection. I know that is not the gentleman's intention.

Mr. WHITE. No. It is lines 9 through 14 that would be stricken by the wording of the amendment. That covers the areas that I am interested in.

Mr. ERLENBORN. Then it is clear that the gentleman only intends to strike the material in lines 9 through 14?

Mr. WHITE. Yes; according to the language of the amendment.

Mr. ERLENBORN. I thank the gentleman.

Mr. Chairman, I see no objection to the language.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WHITE).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ECKHARDT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 12471) to amend section 552 of title 5, United States Code, known as the Freedom of Information Act, pursuant to House Resolution 977, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. BUCHANAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 383, nays 8, not voting 41, as follows:

[Roll No. 89]

YEAS—383

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Diggs
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gubser
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Koch
Kuykendall
Kyros
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Milford
Miller
Mills
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, N.Y.
Murtha
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Parris
Passman
Patten
Perkins
Pettis
Peyser
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rarick
Regula
Reuss
Riegle
Rinaldo
Roberts
Robinson, Va.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Veysey
Vigorito
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Ga.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—8

Beard
Burleson, Tex.
Dickinson

Hosmer
Landgrebe
Satterfield
Waggonner
Young, Fla.

NOT VOTING—41

Anderson, Ill.
Annunzio
Arends
Armstrong
Brasco
Brotzman
Carey, N.Y.
Clay
Collier
Collins, Ill.
Cotter
Dorn
Gray
Gude
Johnson, Colo.
Jones, Ala.
Kluczynski
McEwen
McKay
Metcalfe
Mizell
Montgomery
Murphy, Ill.
Owens
Patman
Pepper
Pickle
Podell
Price, Tex.
Rangel
Rees
Reid
Rhodes
Robison, N.Y.
Rooney, N.Y.
Runnels
Stuckey
Teague
Wilson, Charles, Tex.
Wolff
Young, Ill.

So the bill was passed.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Owens.
Mr. Rooney of New York with Mr. Pickle.
Mr. Cotter with Mr. Anderson of Illinois.
Mr. Rangel with Mr. Gude.
Mr. Brasco with Mr. Arends.
Mr. Gray with Mr. Mizell.
Mr. McKay with Mr. Brotzman.
Mr. Podell with Mr. Price of Texas.
Mr. Metcalfe with Mr. Reid.
Mr. Teague with Mr. Montgomery.
Mr. Wolff with Mr. Armstrong.
Mr. Pepper with Mr. Rhodes.
Mr. Kluczynski with Mr. Johnson of Colorado.
Mr. Jones of Alabama with Mr. Collier.
Mr. Carey of New York with Mr. McEwen.
Mr. Clay with Mr. Rees.
Mrs. Collins of Illinois with Mr. Runnels.
Mr. Stuckey with Mr. Robison of New York.
Mr. Dorn with Mr. Young of Illinois.
Mr. Murphy of Illinois with Mr. Charles Wilson of Texas.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO POSTPONE FURTHER CONSIDERATION OF H.R. 69, ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1974

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that further consideration of H.R. 69, the bill to amend and extend the Elementary and Secondary Education Act of 1965, be postponed until Tuesday, March 26, 1974.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. QUIE. Mr. Speaker, reserving the right to object, I just want to point out that the Committee on Education and Labor tried to be fair to everyone by asking the Committee on Rules to provide a rule that there be some days between general debate and the consideration of the 5-minute rule, and 3 legislative days were set aside by the rule. That ought to be ample opportunity for anyone.

We could have asked for a rule which would have permitted us to go right into the 5-minute rule after general debate and we would have been in the amendment stage right now.

I understand some Members are not happy because they have not had enough time. All the information is available now that would be available a week from now for the Members to consider; so I really think it is unreasonable that we start delaying. It is primarily important that we get moving so the schools will know what next year's program will be like.

Since the chairman of the committee asks that we put it over until a week from Tuesday, March 26, I withdraw my reservation of objection.

I just wanted to let the gentleman know my displeasure.

The SPEAKER. Is there objection to the request of the gentleman from Texas (Mr. PERKINS)?

Mr. STEIGER of Wisconsin. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

LEGISLATIVE PROGRAM

(Mr. ARENDS asked and was given permission to address the House for 1 minute.)

Mr. ARENDS. Mr. Speaker, I take this time to ask the majority leader if he will kindly announce the program for next week.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. ARENDS. I yield to the gentleman from Massachusetts.

Mr. O'NEILL. Mr. Speaker, in reply to the distinguished minority whip and acting minority leader, may I say that the program has been made up in the following way. The program for the week of March 18, 1974, is as follows:

On Monday there will be the call of the Consent Calendar to be followed by four suspensions:

S. 1206, amend section 312 of Immigration and Naturalization Act;

H.R. 6371, Indian financing and economic development;

H.R. 10337, Navajo-Hopi partition; and

S. 2771, special pay bonus structure relating to members of the Armed Forces.

On Tuesday there will be the call of the Private Calendar, to be followed by three suspensions:

S. 2174, changes in definitions of widow and widower under civil service retirement system;

H.R. 12503, Narcotic Addict Treatment Act; and

H.R. 12417, National Diabetes Mellitus Act.

Mr. Speaker, under the rule adopted Tuesday the Elementary and Secondary Education Act, H.R. 69, must come up on Tuesday next. As the Members know, the chairman of the committee, in response to the requests of many Members, has asked for a further postponement of this matter because of the complexity of the formula that is in the bill, the formula the gentleman from Michigan (Mr. O'HARA) is going to offer as an amendent, and other formulas which are going to be presented.

For example, Mr. Speaker, in my own home district, I understand the city of Boston loses $476,000, while my two other cities and three towns are making a net gain on the bill. There is tremendous concern among the Members of Congress who want to know how the different formulas will affect their particular areas. Some of the Members have six or seven counties, and it is not clear how their districts will be affected in total.

That was the reason the chairman asked unanimous consent that the matter go over to a week from Tuesday.

Upon taking it up, it is expected that as soon as possible, the committee will rise and we will go into the program. In other words, we will take the matter up because there has been an objection, and we expect that the committee will rise immediately. We think this is the fair thing to do because there have been so many requests by the Members of Congress on both sides of the aisle with respect to so many formulas that will probably be pending at that time.

Therefore, I will have to include on the legislative program for Tuesday the Elementary and Secondary Education Act.

For Wednesday and the balance of the week we will have H.R. 12435, the fair labor standards amendments, subject to a rule being granted. Then, we have H.R. 11929, the Tennessee Valley Authority pollution control facilities, subject to a rule being granted. After that we have H.R. 12920, the Peace Corps authorization, subject to a rule being granted.

In addition, we have H.R. 12412, Foreign Disaster Assistance Act, subject to a rule being granted. Then, we have H.R. 11989, Fire Prevention and Control Act, subject to a rule being granted.

Finally, we will have H.R. 11105, nutrition program for the elderly, subject to a rule being granted. Conference reports may be brought up at any time, and any further program will be announced at a later date.

Mr. ARENDS. Mr. Speaker, let me just say to the gentleman from Massachusetts that I am pleased that he did not consider the primary in Illinois next Tuesday, because I think that a few years ago we established a precedent in the House that we would not be out of session on primary days. I hope we do not start that again.

Mr. O'NEILL. Mr. Speaker, I assure the gentleman from Illinois that it has no bearing on our decision.

Mr. ARENDS. Mr. Speaker, I am very pleased with the response of the gentleman from Massachusetts.

Mr. Speaker, I would like to ask one further question of the distinguished majority leader. I notice that he made no reference to post-card registration. Has that been given any consideration?

Mr. O'NEILL. Mr. Speaker, there are no plans for it for next week.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. ARENDS. Mr. Speaker I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, I want to thank the gentleman very much for yielding to me.

Mr. Speaker, I renew my unanimous-consent request to see if the gentleman from Wisconsin (Mr. STEIGER) will withdraw his objection.

Mr. Speaker, I now ask unanimous consent that the consideration of H.R. 69, the bill to amend the Elementary and Secondary Education Act, be postponed until Tuesday, March 26, 1974.

Mr. STEIGER of Wisconsin. Mr. Speaker, reserving the right to object, the Elementary and Secondary Education Act expires on the 30th of June, is that correct?

Mr. PERKINS. That is correct.

Mr. STEIGER of Wisconsin. Mr. Speaker, I find absolutely no reason to believe that this House ought to abdicate its responsibility in the consideration of ESEA. The formula is complicated. It cuts across all States and all counties; it affects everybody somewhat differently, and every formula affects somewhat differently everybody in this Chamber.

The rule under which this bill came up clearly said that we would start the debate on 1 day, go over 3 legislative days, and then come back and continue this bill.

Mr. Speaker, I must say in all honesty that if, in fact, we are going to go through this charade and if, in fact, by my objection—and I shall object—we then get into a situation where we start the debate on ESEA and then move that the Committee rise, we ought to have a vote on that, in order to be fair to each side, and decide whether or not we should start consideration of the bill or not start consideration of it.

If we decide we want the Committee to rise, so be it. That is the way the ballgame is played.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. Of course, I will yield to the distinguished majority leader.

Mr. O'NEILL. Mr. Speaker, the Committee on Education and Labor has studied this matter since last August. A formula was finally worked out and passed the committee by a vote of 31 to 4.

In view of the fact that there has been so much consternation among the Members on both sides of the aisle with regard to the formula, does not the gentleman think it fair that we should give the Members of Congress this added week? We are not doing it by reason of the fact that there is a primary in Illinois. That is of no concern whatsoever.

The Speaker has made the decision and has asked for the chairman of the committee to go along on a week's delay because he has had an unusual number of requests concerning this matter.

Mr. STEIGER of Wisconsin. Mr. Speaker, further reserving the right to object, I am mindful and deeply respectful of the problems faced by the distinguished majority leader, both within the Congress and within the gentleman's district.

This bill was reported by the Committee on Education and Labor some weeks ago. The Committee on Education and Labor, if I may say so, labored long and hard to achieve a formula that would effectively reconcile and balance the needs of the poor and the disadvantaged in the United States. I think the formula is a good one.

I recognize there are some Members in some States who do not believe it was fairly handled, but I think they have had more than an adequate chance to express their views. They are exceedingly well represented on the Committee on Education and Labor. The Members from the State of New York are a very sizable part of our Committee on Education and Labor.

They know what happens to the formula. They have known for weeks what happens to the formula.

Mr. Speaker, I will again say to the House and to the distinguished majority leader that I simply do not believe that further delay is justified.

Mr. THOMPSON of New Jersey. Mr. Speaker, before the gentleman objects, will the distinguished gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. Mr. Speaker, I happen to represent one of the States which would be vitally affected by the formula in title I of the Elementary and Secondary Education Act.

Only this morning I received information that involves my State. I do not know who programs the computers for the several States and counties. I had three versions of the effect title I formula would have on the State of New Jersey and on the other States as well, but I particularize the State of New Jersey.

I see no danger, I say to my friend, the gentleman from Wisconsin, that the act will expire June 1; but I do think most sincerely that a few additional days, the modest number of days that have been requested by the chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS) might prove extremely valuable to each and every Member.

The extremely complicated effect of the flow of dollars to the children in all of our school districts should be evaluated by each Member.

Were I the gentleman from Wisconsin, I would probably make the objection a week from now. However, I do ask the gentleman most respectfully not to object now so that we can evaluate the effect of this on our States, and our counties and on our school districts. I do not think that any injustice will be done by granting this request.

Mr. STEIGER of Wisconsin. Mr. Speaker, further reserving the right to object, I am impressed and almost moved by the plea of the gentleman from New Jersey.

Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ADJOURNMENT OVER TO MONDAY, MARCH 18, 1974

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH BUSINESS IN ORDER UNDER THE CALENDAR WEDNESDAY RULE ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERSONAL EXPLANATION

Mr. HENDERSON. Mr. Speaker, on rollcall No. 79, March 12, 1974, I was in the Chamber, placed my card in the box, but was not recorded.

Had I been recorded, I would have been shown as present.

PARLIAMENTARY INQUIRIES RELATING TO ELEMENTARY AND SECONDARY EDUCATION ACT

Mrs. MINK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore (Mr. McFALL). The gentlewoman will state it.

Mrs. MINK. Mr. Speaker, in view of the objection just raised on the request made for consideration of the Elementary and Secondary Education Act a week hence from the time when it was scheduled, in view of the rule adopted which requires 48 hours advance notice prior to the taking up of any amendments under title I, what is the time requirement with respect to the filing of said amendments in order that they may be taken up when we do take up the bill next week?

The SPEAKER pro tempore. In reply to the gentlewoman's parliamentary inquiry, the Chair would read from the rule, which says:

> No amendment shall be in order to title I of said substitute except germane amendments which have been printed in the Congressional Record at least two calendar days prior to their being offered during the consideration of said substitute for amendment, and amendments offered by the direction of the committee—

And so forth.

As the Chair understands the gentlewoman's parliamentary inquiry, the question is what happens to those amendments. All amendments printed in the RECORD 2 calendar days prior to the time they would be considered would be in order.

If we are to take up the bill on Tuesday, then the amendments would have to be printed in the RECORD 2 calendar days prior to that time.

Mrs. MINK. A further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman will state it.

Mrs. MINK. As I understand it, the House has an obligation to notify Members of the specific date on which this particular bill and title will be taken up in order that we may have advance notice as to when the 48 hours would begin to run. Do I understand the Speaker to indicate that all amendments that are to be considered for the debate on Tuesday must be filed this afternoon in order that they may be offered on Tuesday of next week?

The SPEAKER pro tempore. Two calendar days prior would mean they would have to appear in the RECORD that will be printed tonight. That is right. They would have to be printed today in order to be eligible on Tuesday.

Mrs. MINK. I thank the Speaker.

Mr. THOMPSON of New Jersey. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from New Jersey will state his parliamentary inquiry.

Mr. THOMPSON of New Jersey. Mr. Speaker, my parliamentary inquiry is this:

If in fact, as the Chair has ruled, that amendments under the unique rule—which, I might say parenthetically, is the first of this sort that I have seen in the years that I have been here—must be printed by tonight, does this not mean that any amendment under the rule must—except a committee amendment—be printed by midnight tonight, or else there will be no further opportunity for any other proposed amendments to be printed after tonight; and, further, that any amendment printed in the Record as of tonight will not be amendable on the floor; it must be voted up or down, except a committee amendment?

The SPEAKER pro tempore. The Chair will state that the answer to the second part of the parliamentary inquiry raised by the gentleman from New Jersey (Mr. Thompson), is yes; that is correct.

With reference to the first part of the gentleman's parliamentary inquiry, the Chair would state that if the House considers the bill, as is required under the rule, on Tuesday, any amendment which is considered on that day, would have to be printed in the Record by midnight tonight. However, the Chair would further state that there is no way to judge what the House might do on Tuesday with a motion by the Committee to rise and not consider the legislation further, in which case further consideration of the legislation were scheduled for a later date, then there would be further time for printing proposed amendments in the Record.

Mr. THOMPSON of New Jersey. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. THOMPSON of New Jersey. Mr. Speaker, if the gentleman from New Jersey understands the ruling of the Chair, any amendment must be submitted for printing by tonight, and unless, under very unusual circumstances, the Committee votes to rise, there would be no further opportunity on Tuesday, or, indeed, on Monday, to have printed perfecting amendments which can be considered under this rule?

The SPEAKER pro tempore. The Chair would state in reply to the parliamentary inquiry presented by the gentleman from New Jersey that certainly the opportunity to present amendments would be limited by that rule on Tuesday. If, however, the legislation went over until Wednesday or some following legislative day, then there would be other opportunities for presenting amendments in the Record, depending upon the number of calendar days which might be available.

Mr. THOMPSON of New Jersey. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his further parliamentary inquiry.

Mr. THOMPSON of New Jersey. Mr. Speaker, I will state my parliamentary inquiry in the form of a hypothetical question:

Assuming that on Tuesday a Member of the House from either side, of any persuasion, has a perfecting amendment which that Member thinks might improve the legislation, unless the committee has voted to rise, then a period of 48 hours at least must intervene between the printing of the amendment and the consideration of, and the vote on the amendment; and, further, Mr. Speaker, that the amendment cannot be amended under the rule.

The SPEAKER pro tempore (Mr. McFall). In the opinion of the Chair, the gentleman from New Jersey has stated a hypothetical situation which is proper, but if the gentleman would withhold further parliamentary inquiry pending a consultation at the rostrum concerning other hypothetical questions that he might have, including the last one, the Chair might be able to provide a more stable ruling with reference to the situation.

Mr. THOMPSON of New Jersey. The gentleman from New Jersey does not question the stability of the ruling, but with due respect to the Chair I will not pose any further hypothetical questions until the Chair has an opportunity to discuss the matter.

Mr. QUIE. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. QUIE. Is it my understanding of the rule—this is my parliamentary inquiry—that the 48-hour provision applies only to title I of the bill and not to any other title?

The SPEAKER pro tempore. The Chair would respond to the gentleman's parliamentary inquiry by saying that the 2 calendar day rule applies to title I.

Mr. STEIGER of Wisconsin. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. STEIGER of Wisconsin. Mr. Speaker, am I correct in my understanding that the distinguished majority leader asked unanimous consent some time ago that when the House adjourn today, it adjourn over until Monday noon?

The SPEAKER pro tempore. That is correct.

Mr. STEIGER of Wisconsin. Mr. Speaker, a further parliamentary inquiry. If there is a concern on the part of Members that, having adopted the rule, having had knowledge of the schedule outlined in the rule, they are now unsure that they can meet the requirement to file amendments by midnight tonight, would it not be possible for the House to consider a unanimous-consent request that the House meet at noon tomorrow?

The SPEAKER pro tempore. The answer to the gentleman's parliamentary inquiry is that such a unanimous-consent request is always in order while the House is in session.

Mr. STEIGER of Wisconsin. I thank the Speaker.

Mr. PERKINS. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. PERKINS. Has unanimous consent been requested that any Member may have until midnight tonight to submit an amendment to title I for the Record.

The SPEAKER pro tempore. Unanimous consent has not been requested.

Mr. PERKINS. Mr. Speaker, I now ask unanimous consent that any Member who may wish to offer an amendment to title I, the formula section of the bill, may have until midnight tonight to submit that amendment for the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. PEYSER. Mr. Speaker, reserving the right to object, I am not going to object to this, but I think one thing is of utmost importance as to the real problem here, and I am sure this is a problem that the Committee on Rules did not anticipate because I testified before the Committee on Rules when they made their ruling, and it was the assumption at that time—and has been the statement—that anybody putting amendments in could get the necessary computer printouts within 48 hours, because without computer printouts, it is absolutely impossible for the House to act with any judgment on the impact of these formulas.

I put formulas in and sent them to the Library of Congress, who is doing the computer printouts, on Monday of this week that we are in now. I have not yet received the computer printouts from the Library of Congress. Without the availability of the printouts, one of the reasons that I have been most interested in having this delay go over until the following week, as the majority leader has requested, and the chairman of the committee, was really on the basis that unless we do this, even though I am complying with the rule, all of my amendments will be in the Record tonight.

It will be in the Record, but without the computer printouts and without the ability of the Members to study these formulas we are absolutely going to be dealing with them blindly, which is the reason I think we should have the request approved and I would like the chairman again perhaps to seek to get a unanimous-consent request, because in effect while we can comply with the regulations of the Rules Committee the one thing they said was we could obtain these printouts in 48 hours. That is not true and we do not have the printouts necessary to present our amendments to the House.

Mr. THOMPSON of New Jersey. Mr. Speaker, if the gentleman will yield, the gentleman has stated very vividly and succinctly the problem. There is no way on earth between the hour of 2:35 and midnight tonight for those of us—and it affects each and every congressional district—who wish to do so to obtain the computer printouts and to have them inserted as part of the amendments which we intend to offer to the legislation.

If the gentleman will yield further, I renew the unanimous-consent request that the chairman of the committee, the gentleman from Kentucky (Mr. PERKINS), has made.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky as renewed by the gentleman from New Jersey?

Mr. STEIGER of Wisconsin. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Is there objection to the request of the gentleman from Kentucky?

Mr. GROSS. Mr. Speaker, reserving the right to object, may we have that unanimous-consent request restated?

The SPEAKER pro tempore. The Chair will state the gentleman from Kentucky asked unanimous consent that all Members may have until midnight tonight to print in the CONGRESSIONAL RECORD amendments that would be germane to title I.

Mr. GROSS. Mr. Speaker, further reserving the right to object, is it not true that the rule which has been adopted provides for precisely that procedure, that Members have a certain maximum time, which includes up to 2 legislative days, and that includes up to midnight tonight?

Mr. PERKINS. Mr. Speaker, if the gentleman will yield, the gentleman may be exactly right, I do not know, but I just wanted to make sure and to protect the right of the Members so that they would have until midnight tonight.

The SPEAKER pro tempore. If the gentleman will withhold, the Chair would state that the gentleman from Iowa is probably correct, that the time is available. However, the gentleman from Kentucky could certainly request unanimous consent in order to make certain of that.

Mr. GROSS. Mr. Speaker, further reserving the right to object, I noticed very little opposition to this highly unusual rule when it was adopted. I think those who voted for it should have to live with it, and therefore, I object to this request.

Mr. ARENDS. Mr. Speaker, if the gentleman will yield, the gentleman is expressing exactly my opinion. We voted on the rule last Tuesday, we understood it last Tuesday, and we stated our opinions on it. It was an unusual rule. I think we ought to stand on it.

Mr. GROSS. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection has been heard.

No Member has time at this point. Objection has been heard.

PARLIAMENTARY INQUIRY

Mr. SNYDER. Mr. Speaker, a parliamentary inquiry in regard to title I that is under discussion. Is a motion to strike the requisite number of words a motion that is necessary or an amendment that is necessary to have printed in order just to get time although we are not going to change the bill?

The SPEAKER pro tempore. The Chair would state in answer to the parliamentary inquiry that a pro forma amendment to an amendment such as is described by the gentleman from Kentucky would not be in order under this rule.

Mr. SNYDER. I thank the Speaker.

PERSONAL EXPLANATION AS TO VOTE

Mr. DANIELSON. Mr. Speaker, during the proceedings of March 11, 1974, I was unavoidably absent when rollcall No. 73 was taken on the adoption of House Resolution 790, to authorize funds for the House Committee on Armed Services. Had I been present, I would have voted "yea."

INTRODUCTION OF INTERLOCK BILL

(Mr. HARSHA asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HARSHA. Mr. Speaker, the Highway Safety Act of 1973 contained a proposal, which I sponsored, relating to safety belt use laws. Bonuses of up to 25 percent of a State's section 402 apportionments are provided to encourage States to adopt such laws.

From all indications, the incentive provision has been well received. The bill I am introducing today will, I believe, constitute an additional incentive to encourage States to adopt safety belt use laws. What it would do is this:

At the present time, new cars sold in this country are required to be equipped with an interlock system and associated buzzers and lights. Their purpose is to force drivers to use safety belts.

The trouble with the interlock system is that it adopts a nuisance approach to highway safety. That is, even though you are not required by law to use safety belts, you must use them if you want to be able to start your car and keep it running.

The nuisance approach seems counterproductive to me. Indeed, I think it is largely responsible for the spate of articles and reports which have recently appeared arguing against seatbelts. That is why I am introducing this proposal. As I see it, once a State has adopted a safety belt use law there will be no further need for interlocks or nuisance buzzers to compel seatbelt usage. My bill makes that clear. Simply stated, it provides that motor vehicles sold in States which have adopted safety belt use laws would no longer have to be equipped with such devices. Their removal would reduce the cost of automobiles and would obviate the operating difficulties which drivers have been subject to in cars equipped with them. The barrage of complaints concerning them has been so severe that the National Highway Traffic Safety Administration is already considering the early revision of the standard governing their installation.

I am hopeful that the prospect of removing interlocks, coupled with the substantial financial incentives provided by section 219 of the Highway Safety Act of 1973 will encourage many States to adopt safety belt use laws. If they do, we can begin to realize very substantial reductions in the accident/injury toll.

If the experience of Australia, where such laws have been in effect for the past 2 years, is any guide, States which do so can look forward to a 25-percent drop in fatalities and as high as a 35-percent decrease in crippling injuries.

Translated to the entire United States this would mean that we would save 10,000 lives a year and reduce serious injuries by 10 times that number.

This, it seems to me, is a goal worth striving for.

COUNTDOWN ON CONTROLS CONTINUES—TIME TO END CONTROLS ONCE AND FOR ALL

(Mr. STEELMAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. STEELMAN. Mr. Speaker, we must end wage and price controls once and for all, and in this regard, I submitted the following testimony to the Committee on Banking and Currency on the Economic Stabilization Act of 1970:

> While deliberations continue before this Committee, cash registers across this land are ringing up higher prices, and consumers watch baffled, angered, and unaided while shortages become commonplace on supermarket shelves. Panic buying is almost daily induced with the report of possible difficulties in obtaining such commodities as cocoa, chocolate, paper, or even syrup and raisins.
>
> This state of affairs hardly indicates an economy that is well or on its way to recovery. The symptoms of an unbalanced market system have only been aggravated since August, 1971, and it is time to seek other remedies.
>
> It is apparent to most that something is terribly wrong in the manner prices are precluded from seeking their natural levels in accord with demand. This responsive mechanism of supply and demand that worked so well before the instituting of controls is the best hope for rescuing a faltering wage and price system.
>
> Working men and women are being particularly hurt. All the "phases" the nation has passed through have produced a rise of consumer prices by 8.4% and food prices by 16.5% in a two-year period. Prior to controls the Consumer Price Index was advancing at a rate of 3.8% with food rising at 5%. It is speculative to try to guess what the rate of inflation would have been in the absence of controls, but the record since August 1971 shows alarming jumps in inflation in comparison to the pre-controlled economy.
>
> AFL–CIO President George Meany puts it this way: "After two freezes and four phases, the annual inflation rate, which President Nixon found unacceptable at 4.8% in 1963, was 8% in the first half of 1973."
>
> It would not be fair to cite all the dislocations as a result of a controlled economy. Worldwide shortages of foodstuffs and raw materials have played an integral role. However, after almost three years it has been proven that ceilings on prices are not an adequate long run solution. Accordingly, the Economic Stabilization Act must be repealed.
>
> With the April 30th deadline in sight, Treasury Secretary George Shultz and Cost of Living Council Director John Dunlop have reluctantly concluded that the failure of controls necessitates a new approach. These gentlemen now endorse a decontrolling of all sectors, except petroleum and health. However, the dislocations will not subside in these areas either, unless the pocketbook is permitted to be the allocator and arbitrator.
>
> Secretary Shultz and Director Dunlop are deserting a sinking ship. Secretary Shultz

has indicated he is pleased about the hostility coming to the fore in denunciation of controls.

The Administration has been phasing out controls piecemeal from industry to industry, exempting them from Phase 4. Fertilizer was one product that was decontrolled last fall. Foreign prices were much steeper than U.S. prices, inducing the Cost of Living Council Director John Dunlop to recommend a domestic price rise to stifle the danger of continuing shortages. In order to be exempted, the fertilizer industry was agreeable to increasing production, resulting in moderate price markups. Thus, one sector of the economy is on its way to recovery, but this status is threatened daily by the continuing existence of ceilings in other interdependent sectors. Decontrolling industry by industry is hardly the answer. Decontrol across the board is mandatory as demonstrated by the revival of fertilizer production.

C. Jackson Grayson, Paul W. McCracken, and William J. Fellner, all at one time economic advisors to the Administration, cite the hallmarks of the program to date: static paychecks outdistanced by controlled prices, lessening incentives for economic growth and investment, and general despair.

Professor Fellner pronounced Phase 4 as bad economics, as well as poor politics. Attacking the price control program, Fellner states that the treatment of an overexpanding economy is proceeding "by outlawing its symptoms"—higher prices. A far better approach he cites would be the cooling of expansion through the tightening of government spending and monetary restraint.

The following article, taken from U.S. News & World Report of October 20, 1973, which I submit for the record, is sobering in its impact:

LATEST THREAT TO THE BOOM: SHORTAGES WHEREVER YOU LOOK

In one line of business after another, you hear this growing complaint—Shortages of key materials are getting worse, spreading from factories to distributors and on to retail customers.

Says an executive of a major industrial company: "Many Americans, for the first time, are finding they can't always buy what they want when they want it."

A look at what lies ahead offers little comfort. In scores of key products, from steel, paper and plastics to heating oil, textiles, tools and motor bearings, supply troubles are expected to keep piling up for both producers and users.

Some typical developments:

A worsening shortage of chemical fertilizer is being felt throughout the U.S., casting doubt on whether farmers will be able to meet next year's production goals for fruits, vegetables and meat. Industry authorities say the fertilizer squeeze will last into 1975.

A pinch on supplies of cocoa and chocolate is pushing up the price of ingredients for candy, and fostering use of substitutes. A candy manufacturer in the Far West says chocolate flavoring increasingly will be made from substitutes as prices of cocoa butter and other basic ingredients go up in price and remain scarce, worldwide.

At the European assembly plant of a U.S. farm-equipment manufacturer, 300 small combines sit idle because of lack of a single part for each engine. The parts come from a Detroit supplier—and that firm, in turn, can't keep up with demand.

The basic-steel industry, plagued for years by foreign competition and lagging demand, suddenly finds itself with a huge backlog of orders that is taxing capacity of mills. Conditions probably will get tighter into 1974, say steel executives. This adds to supply problems in such steel-using businesses as autos, electrical appliances, farm implements, heavy machinery, office equipment and industrial construction.

A shortage of wood pulp, resulting partly from strikes at Canadian plants but even more markedly from foreign competition, has caused some newspapers and magazines to cut down on size and number of pages to ration scarce supplies of paper. One magazine publisher notes that there's "a natural tendency for wood pulp for papermaking to move abroad, where the open-market price is $350 a ton, compared with a Government-regulated price of $200 a ton in the U.S."

The list goes on and on—including most metals, petroleum, plastics, cotton textiles, corn syrup and raisins for confectionery and baked goods, bearings for motors, and dozens of other items.

BOTTLENECKS AT THE TOP

The falling-domino effect of shortages that spread throughout industry is summed up in a study by this magazine's Economic Unit.

"When the major materials industries reach their capacity," the study notes, "production is slowed in all other industries which depend on their products. It does little good to have excess capacity in industries down the line in the manufacturing process, if the basic-materials industries are not churning out enough raw materials for them to process."

Says the plant manager for a Southern industrial company:

"Many people are just beginning to get an education in the interdependence of our economy. You interrupt supply at one point and things begin happening all down the line."

Charles B. McCoy, chairman of the Du Pont Company, adds this:

"Despite all the public discussion about petroleum supplies and national needs, few people really understand how important oil and gas have become, not just as fuels, but also as feedstocks for the manufacture of products."

Mr. McCoy continues:

"Oil and natural gas are the beginning materials for the production of almost all the major plastics sold today, for all the truly synthetic man-made fibers, for many pharmaceuticals, for many biochemical products used in agriculture, for all synthetic rubbers and for basic chemicals, such as methanol, which are essential to the manufacture of hundreds of industrial and consumer products."

JOB CUTBACKS?

Elsewhere in the petrochemical industry, officials talk about the threat of job cutbacks because of the lack of all the petroleum needed to keep chemical plants busy.

Arthur G. Foster, vice president of purchasing and transportation for Western Electric Company, the manufacturing and supply unit of the Bell System, reports tight supplies of metals, textiles, plastics and wood pulp.

Adds Mr. Foster: "Two of the most critical are plastics and copper."

Many electronic-equipment manufacturers, including Western Electric, also report shortages of resistors, capacitors and integrated circuits.

PRESSURE FROM OVERSEAS

The Cost of Living Council has been deeply concerned about rising prices of internationally traded industrial raw materials for some time. Officials see no immediate letup in this price pressure and have not taken any action to overcome it, although Council Director John T. Dunlop indicates some steps to erase fertilizer shortages may come "soon."

Claude O. Stephens, chairman of Texasgulf, Inc., a major U.S. basic-materials firm, says present price controls have diverted sales of fertilizer to foreign markets because U.S. prices have been running $25 a ton below the world market.

Mr. Stephens adds that 20 per cent of his firm's copper output will be sold on the London Metal Exchange, where prices are determined by bidding, rather than in the U.S., where prices are controlled by the Government.

Economists are beginning to be concerned about the impact on jobs as many companies bump up against shortages of plant capacity.

Says Dr. Paul W. McCracken, professor of business administration at the University of Michigan and former Chairman of President Nixon's Council of Economic Advisers:

"In this current expansion, we obviously have run out of plant capacity before we have run out of employable labor. . . . A certain amount of further investment is needed for there to be a productive job available for each new entrant to the work force. And if that investment does not take place, the jobseeker may find himself stranded."

Growing scarcities—particularly of some imported materials—have put upward pressure on prices. The effect is shown in the chart on this page.

Worldwide shortages of zinc and copper, as an example, have forced producers of copper and brass products to pay premium prices for raw materials. On October 15, Revere Copper & Brass, Inc., cited skyrocketing prices for raw materials in raising price tags on copper water tubing and other plumbing items.

Confronted with the prospect of continued scarcities of basic raw materials and manufactured goods for months and perhaps years to come, many companies have begun to search for substitutes, along with more-efficient methods of production.

For example, the paper industry for the first time this year will use as much waste paper, wood chips and other secondary sources of material as it will new pulpwood logs to produce paper products. Industry officials say that, in years to come, recycled newspapers, paperboard, other wastes will be used to a much larger extent than logs.

Waste acid, a by-product of one Du Pont product, is being converted back into chlorine to save on raw materials.

Officials of the fertilizer industry concede there is little hope of easing the shortage of nitrogen fertilizer through 1975. But opening old phosphate plants and adding some new capacity to existing facilities will improve the outlook for phosphates.

Talk of plastics' replacing copper and zinc, which has gone on for years, no longer seems as likely a prospect now that many plastics are in short supply.

NEEDED: MORE CAPACITY

By and large, industry analysts say, putting an end to shortages will depend primarily on expanding the country's ability to produce the basic raw materials it needs rather than searching for substitutes.

The Economic Unit study notes that in September, the 12 U.S. industries that produce most of the materials used by other manufacturers were operating at 94.4 per cent of full capacity, based on Federal Reserve Board figures. This gives them little room to expand production in response to demand.

The paper industry has been working at near capacity for more than a year. Added production will be going on line in 1974, but one official says: "We will have increased tightness."

The cement industry is falling behind demand and a shortage of 5 million tons may exist by 1975. It would cost the industry an estimated 2 billion dollars to catch up with customers' needs by 1975, authorities say, adding that this outlay is "totally beyond the bounds of practical possibility."

Worldwide shortages of fertilizer are expected to remain as long as there is a scarcity of natural gas. The Fertilizer Institute, an industry trade group, estimates that the shortfall of nitrogen fertilizer in the United States alone in 1974 may reach a quarter of a million tons.

The steel industry estimates that it must add 20 to 25 million tons of new capacity by the end of this decade, as well as replacing older existing plants. Total cost: 3 to 4 billion dollars a year.

Many financial analysts agree that firms in basic industries such as steel have not been popular with investors in recent years, making it harder for these companies to raise the capital they need badly for additional capacity to meet customers' growing demands.

Stewart S. Cort, chairman of Bethlehem Steel Corporation, says his industry is in "the peculiar position of having before it highly favorable prospects for market growth but serious problems in obtaining the funds needed to take advantage of them."

Other basic industries are in much the same spot.

It all adds up to an era of stringency for a great many businesses, and adjustments for consumers as they come to terms—at least for a while—with shortages of some everyday products.

AS SUPPLIES ARE PINCHED, PRICES GO SOARING

Increases in prices of raw materials and wholesale products in the past year—

	Percent
Cotton	215
Wheat	118
Animal fats, oils	109
Rayon	104
Vegetable oils	94
Eggs	90
Soybeans	85
Steel scrap	84
Corn	84
Rubber	80
Wool	68
Wastepaper	66
Animal feed, processed	61
Tin	35
Lumber	31
Petroleum products	31
Wood pulp	20
Copper	18
Mercury	17
Zinc	17
Man-made fibers	17

Source: Dow Jones & Company; U.S. Dept. of Labor.

Without doubt, it can be stated that there is no future for wage-price controls. Naturally, decontrol will result in price rises, as will control. In the long run, curbing inflation will be the result of bringing supply into balance with demand, which will occur more quickly without controls.

WILL THE LEGAL SERVICES CORPORATION ENCOURAGE POLITICAL KIDNAPING

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, during what has unfortunately become a season of political kidnapings, it is appropriate that we focus attention on a political "kidnaping" which began in 1964 and which has been continuously perpetrated, with ever-escalating demands, ever since.

I am referring to the establishment, with minimum fanfare and no congressional authority, of a legal services program to be conducted under the auspices of the then newly created Office of Economic Opportunity. The kidnaping took place through the vehicle of the "staff attorney" system, which created an OEO monopoly over the delivery of legal services to the poor. To better appreciate what has taken place, one must consider an analogy to health care and imagine that the Nation had gone, in a matter of a few years, from privately provided health care to socialized medicine without ever pausing at a program such as medicare which at least allows its beneficiaries to choose their own doctors.

The present legal services program, with its monopolizing "staff attorney" system, has been characterized by untold numbers of flagrant abuses, including the representation of ineligible clients and the use of legal services resources for political purposes. Supporters of the present program have answered demands for reform with a counter-demand of their own—that Congress, through H.R. 7824, create a "Legal Services Corporation" which will be able to continue to carry on the abusive practices in a sheltered environment which will insulate the program from congressional oversight. The present monopoly status of the OEO legal services program enables staff attorneys to hold the poor as hostages against the creation of a corporation for the benefit of the attorneys themselves against the interests of poor clients and taxpayers alike.

It is my firm belief that Congress cannot fairly consider the merits of the proposed corporation until the "political prisoners" held by the present staff have been freed and given a reasonable opportunity to choose their own attorneys. I therefore propose that consideration of H.R. 7824 be deferred pending the development of such alternatives as "judicare" which can set the poor clients free from their attorney captors. Then, and only then, will Congress be in a position to consider the objective merits of corporation proposals.

VIETNAM A NEW BALL GAME

The SPEAKER pro tempore (Mr. McFALL). Under a previous order of the House, the gentleman from New Jersey (Mr. FRELINGHUYSEN) is recognized for 60 minutes.

Mr. FRELINGHUYSEN. Mr. Speaker, In our current preoccupation with such domestic problems as impeachment, the energy crisis, and congressional elections, it is all too easy for us to become diverted from this country's international responsibilities. However, these are responsibilities which simply will not go away or disappear by the application of wishful thinking, or by trying not to think about them.

As Secretary Kissinger recently pointed out, we are witnessing the "birthpains of global interdependence." This is another way of saying that what happens to the United States abroad inevitably affects what happens to us at home. It is an illusion, Mr. Speaker, to believe that we can resolve our domestic difficulties by ignoring the rest of the world, and the vital role which the United States must continue to play in that world.

Ironically, one area which appears presently in danger of being forgotten by this body is Vietnam. Vietnam has been the focus of international attention for over a decade and, obviously, has been a primary concern of the United States over that period. I have just returned from a visit to that country, among others, on a study mission undertaken in behalf of the Committee on Foreign Affairs. I might add, Mr. Speaker, that the only other Member of Congress to have visited that country since last August was my distinguished colleague from Illinois (Mr. CRANE), who was in Vietnam in January. This was one of the reasons why I specifically added Vietnam to my itinerary.

During my brief sojourn there, I met with President Thieu, Prime Minister Khiem, Foreign Minister Bac, and a host of other Vietnamese and American officials, including U.S. Ambassador Graham Martin. I also spent 1 day in the Mekong Delta region. I had the opportunity of visiting the Port of Rach Ghia on the Gulf of Thailand and the provincial capital of Can Tho. My impressions of this visit will be summarized in a report to my committee which will be released in due course.

At this point, however, I wish merely to provide my colleagues with a few general conclusions based on my recent experience. I emphasize the word recent. I am convinced that a very new and different situation exists there now, a situation which is of direct significance to the United States.

Let me cite a few of these impressions:

First. South Vietnamese confidence in defense efforts: First of all, the Vietnamization process is now virtually complete. The South Vietnamese are carrying the burden of their own defense against the continuing heavy probing and harassment operations of the other side. The recent successes of the ARVN forces in carrying out this responsibility—without the assistance of U.S. or other armed forces personnel—has obviously led to a new attitude of self-reliance and self-confidence. It has led also to a widespread feeling of national unity under the leadership of President Thieu. President Thieu's position, ironically, seems to have been strengthened rather than weakened by the completion of the substantial U.S. withdrawal. These attitudes, I might add, are in striking contrast to the situation which existed at the time of my last visit in October 1963.

Second. Military situation: The military situation remains critical. The North Vietnamese have ignored the Paris agreement of January 1973, calling for a cease-fire. They have moved more supplies and heavy equipment into the south—since the so-called cease-fire began—than existed just prior to the full-scale 1972 spring offensive.

Nevertheless, there is a general conviction among South Vietnamese that the ARVN forces can counter another major offensive if it comes now—under present conditions. If, however, U.S. supply operations are drastically curtailed, and if essential aid is not forthcoming, it is feared that the balance could be tipped in favor of Hanoi. This in turn could tempt Hanoi to launch a new offensive.

As one Vietnamese official put it to me, as long as a reasonable military balance is maintained, the Soviets and Chinese will probably urge moderation on Hanoi. There is no current indication of a massive replacement and resupply effort to Hanoi by these countries. If, however, South Vietnam becomes demonstrably weakened and vulnerable, the "big brothers" might feel obliged to support a new offensive. At the moment, an imminent, all-out offensive appears unlikely. It is obviously in the U.S. interest to keep it that way. It is my strong conviction that the United States should not upset this delicate balance by supplying either more or less than circumstances require.

It is particularly important, Mr. Speaker, to realize, that if we do less than is reasonable and necessary, we will be contributing not toward peace in Vietnam, but to the likelihood of renewed hostilities.

Third. Economic situation: Although the military situation remains stable and encouraging, the same cannot be said for the state of Vietnamese economy. Their economy has been steadily deteriorating since 1971.

The intensity of the fighting which took place in the spring and summer of 1972 obviously caused widespread damage and destruction of the existing infrastructure. As the International Monetary Fund reported in its March Survey:

> About 5,000 kilometers (3,108 miles) of provincial and interprovincial roads, 200 major bridges, 500 schools and 500 rural dispensaries need immediate repair.

Mr. Speaker, at this point I include in the RECORD an article in the IMF Survey of March 4, entitled "Vietnam: Dimensions of the Task of Rebuilding From Years of Strife." The article follows:

VIETNAM: DIMENSIONS OF THE TASK OF REBUILDING FROM YEARS OF STRIFE

The lengthy war in Viet-Nam has had a severe impact on its economy, especially after military activities intensified in the mid-1960s. The war not only disrupted production and distribution, but also created enormous sociological and economic problems, particularly evident in the displacement of a large part of the population.

Since 1964 about one sixth of the previously cultivated areas have been abandoned for more than ten years, and an estimated 5 million people have been registered as refugees out of a total population of about 20 million. About 5,000 kilometers (3,108 miles) of provincial and interprovincial roads, 200 major bridges, 500 schools, and 500 rural dispensaries need immediate repair. Waterways and irrigation systems have been damaged or neglected.

Owing mainly to disruptions of agricultural production, the rate of real economic growth has slowed down, averaging 2 per cent per anum during 1966–72, compared with 7 per cent during 1961–65. Over time, the major structural effects of the war have included an overexpansion of the services sector, the discouragement of agricultural output and exports as well as substantial and rising budget deficits, and a heavy dependence on imports and foreign aid. By the early 1970s, per capita imports amounted to US$40 and the inflow of foreign assistance to US$30 per capita. The budget deficit and the fundamental disequilibrium on external accounts (exports accounting for 5 per cent of imports) explain why priority in recent years had to be given to short-term stabilization policies.

The authorities now face the urgent tasks of reconstruction and rehabilitation of the war-torn economy and the creation of appropriate conditions for redeploying into agriculture and industry a large part of those previously employed in the service sector. The task is aggravated by the still critical security situation in the countryside, the weak balance of payments position, the precarious budgetary situation, and a rapid pace of inflation.

AGRICULTURE AND INDUSTRY

Viet-nam has a total area of 171,691 square kilometers (66,290 square miles), of which 16 per cent is cultivated. Up to the early 1960s, agriculture was the main source of employment and the major foreign exchange earner, rubber, rice, and tea being the three principal export products. With the intensification of military activities in the 1960s, agricultural output was adversely affected and exports of agricultural products declined sharply; in fact, since 1965 Viet-Nam has been a large importer of rice as well as of other basic foodstuffs.

In the last three years agricultural output has failed to show any significant gains; this is particularly true for rice. The 1972/73 rice crop was virtually unchanged from 1971/72 because of unfavorable weather conditions, insecurity, and reduced use of fertilizers due to higher prices. In the second-half of 1973, low rice stocks and difficulties experienced by the Government in procuring rice, mainly as a result of hoarding by farmers in anticipation of higher prices, created rice shortages in Saigon and a surge in free market prices. In early 1974, the rice situation had improved with the coming of the new crop to the market.

Manufacturing activity in Viet-Nam is still little developed, accounting for less than 10 per cent of net domestic product. Activities in the traditional agroindustries stagnated in the 1960s, but several new industries were established including food processing plants, textile, pulp and paper factories, animal feed mills, a cement plant, and plastic factories. The stepped-up military operations of 1972 adversely affected industrial production, which by mid-1973 had not regained its levels of the early 1970s. In addition to the security situation, a variety of factors have tended to depress the investment climate, including the reduction in purchasing power of most sections of the urban population, shortages of skilled labor, and rising costs of imports.

With a view to promoting industrialization, the Government had taken a number of measures, including the establishment of industrial parks and export processing (duty exempted) zones, financial assistance to enterprises, and a new Investment Law introduced in 1972. The provisions of the law aim at boosting domestic investment and at attracting foreign capital by providing investors with a five-year tax holiday, government guarantees of sufficient foreign exchange for imports of machinery and raw materials, and freedom of profit transfers abroad; also, in the case of foreign investment there is a guarantee of no nationalization.

FISCAL AND MONETARY POLICY

The war has also adversely affected the budget situation. During 1967–72, military expenditures accounted for approximately 60 per cent of total expenditures on average, but their share has been declining gradually since 1969. During the last few years, most civilian expenditures and nearly 60 per cent of total expenditures represented wages and salaries of government personnel; as a result, the share devoted to economic development was negligible. Domestic revenues accounted on the average for less than 60 per cent of total expenditures during 1967–72. Although large receipts of foreign aid counterpart funds covered a substantial part of the deficit, recourse to the National Bank was substantial. Government borrowing has been the main expansionary factor of money supply.

In an effort to improve the budgetary performance, the Government initiated an extensive tax reform in late 1972 aimed at (1) simplifying the tax system by unifying all taxes with similar characteristics; (2) minimizing the number of rates applied under each tax; and (3) basing most of the new taxes on an ad valorem basis. Among the main taxes introduced were a special consumption tax and a value-added tax. The latter, introduced in July 1973 at a rate of 10 per cent on most economic activities, was substantially modified in August 1973 when transactions directly involving the consumer were eliminated from the coverage. Efforts have also been made to improve tax administration, reduce tax evasion, and accelerate the payment of tax arrears. Nevertheless, the 1973 fiscal deficit amounted to 55 per cent of total public expenditures. After deduction of foreign aid, the remaining deficit represented nearly 30 per cent of the stock of total liquidity at the beginning of 1973.

In the 1974 budget plans both expenditures and revenues will increase by about 30 per cent over the 1973 levels. The two main features of planned public expenditures for 1974 are increased allocations for development and the continuing high military burden. The share of development expenditures is expected to rise from 8 per cent in 1973 to about 10 per cent in 1974, while that of military expenditure will continue to fall, to 45 per cent; in the course of the year, some 47,000 men out of the present 1.1 million will be released in the normal course of demobilization and a further 100,000 men will be demobilized when security permits.

In spite of the Government's large recourse to the banking sector, monetary expansion in 1972 and in the first ten months of 1973 was much smaller than in the previous two years, when it averaged 20 per cent a year. Money supply rose by 9 per cent in 1972 and by 13 per cent during January-October 1973. In 1972, the growth of money supply was restrained by a rapid increase in quasi-money holdings, which doubled in response to the sharp upward adjustment of interest rates in May 1972. As the pace of inflation accelerated in 1973, real interest rates became negative and the growth in quasi-money slowed down. The effects of the large increases in bank credit to both the Government and the private sector in 1973 were partly offset by a substantial decline in foreign exchange reserves. At present, there are practical difficulties in controlling the operations of the financial institutions through the existing instruments of credit control, as they are complicated and not always coordinated. An intensive review of the efficacy of the present instruments will be undertaken shortly as part of the technical assistance provided by the Fund.

BALANCE OF PAYMENTS AND INFLATION

With the intensification of the war from the mid-1960s, export receipts dropped sharply, mainly as a result of rapid declines in rubber exports and the prohibition of rice exports after 1964. By the early 1970s the value of exports amounted to 25 per cent of their level in the early 1960s and to less than 5 per cent of imports. During the period imports had increased substantially, amounting to about US$750 million in 1972. In order to finance the resulting huge trade deficits, Viet-Nam has relied heavily on external aid, almost all of which consisted of commodity aid from the United States (under the Commercial Import Program (CIP) and the P.L. 480 program) and the purchases of local currency by the growing U.S. military forces.

Since 1972, there have been some significant changes in the balance of payments. With the gradual withdrawal of U.S. troops, purchases of piastres by the United States have been declining rapidly from VN$403 million in 1971 to VN$100 million in 1973. Second, exports have expanded rapidly, from

US$15 million in 1971 to US$24 million in 1972 and US$56 million in 1973. The main exports were timber, fishery products, rubber, and scrap metals. However, their level in 1973 still accounted for only 7 per cent of total imports. Third, with imports continuing to increase, there was a pronounced fall in external reserves during the year, estimated at US$70 million. At the end of 1973, the level of reserves was about US$200 million, or three months of imports during that year. Even though aid levels are estimated to be maintained in 1974, the sharply higher import prices of petroleum products and continued large reliance on imports of essentials will no doubt put severe pressures on the balance of payments. The 1973 imports of petroleum products amounted to US$85 million or 12 per cent of total imports.

EXCHANGE SYSTEM REFORM

Over recent years, the operation of the trade and payments system has remained liberal. The authorities have also applied a managed flexible exchange rate policy, with the exchange rate being adjusted at frequent intervals. Despite substantial simplifications since 1971, the exchange system of Viet-Nam had remained complex. Until recently, there were two basic rates for the sale of foreign exchange: (1) the official rate which applied to all import payments financed with Viet-Nam's own foreign exchange resources, to most imports under the P.L. 480 program of the United States, and to all invisible and capital payments and transfers; and (2) the special rate which applied to imports financed by U.S. aid under the Commercial Import Program (CIP) and to P.L. 480 imports of raw cotton and wheat. The special exchange rate aimed at facilitating the absorption of imports under the tied commodity aid program (CAP) from the United States. With various exchange taxes applied to sales of exchange for import payments, there were at least eight effective selling exchange rates. Furthermore, almost all exports enjoyed general and special export subsidies paid in connection with the surrender of export proceeds which resulted in several additional effective selling exchange rates. The exchange system had become so complicated over time as to constitute a serious obstacle to effective balance of payments management. Accordingly, in early 1974 the Government undertook comprehensive exchange reform which was approved by the Executive Board of the Fund on January 23, 1974.

Under the reform, all forms of export subsidies constituting multiple currency practices were abolished. Secondly, all exchange taxes on import payments have been eliminated and replaced by ad valorem import surcharges, which are collected at the time of customs clearance of the imports in addition to the existing statutory tariffs. As a result, the total customs levies (consisting of the tariff and the import surcharge) amount to 100 per cent ad valorem on most of the import items. The preferential exchange rate for certain tied commodity aid imports from the United States (the special exchange rate) has been abolished and replaced by a system of subsidies outside the scope of the exchange system. A unitary rate of VN$560 per US$1 is applied to all exchange transactions without exception.

ECONOMIC OUTLOOK

The Vietnamese authorities are in the process of formulating rehabilitation and development plans for the years to come. For the short term, the main emphasis of policies is placed on (1) relief and resettlement of refugees, (2) repair of war damages and essential infrastructural construction, and (3) fostering agricultural production through provision of adequate inputs and credit facilities. The emphasis placed on agricultural development is of particular importance, as rapid increases in agricultural output will not only help to provide employment opportunities but also will reduce pressures on prices and on the balance of payments through lower food imports and increased exports.

In recent years unemployment had been limited due partly to military manpower requirements. Alternative employment opportunities are now needed for demobilized personnel, for some 500,000 refugees who are at present in temporary camps, as well as for the excess labor force previously employed in the service sector. In addition, about 200,000 young men enter the labor force each year.

The necessary transition of the economy to peacetime conditions and to a stepping up of development will rely on substantial economic aid from donor countries in the coming years. This is especially true for 1974, as the balance of payments is estimated to come under pressure because of continued substantial import needs, including the sharp increase in the import bill for petroleum products, and the still small export base. Up to now, more than 90 per cent of total foreign aid was provided by the United States. In 1974, however, the sources of aid will be broadened, with about 20 per cent of the aid coming from non-U.S. sources. The main donors other than the United States are expected to be France, Japan, and the Federal Republic of Germany, as well as the International Bank for Reconstruction and Development (IBRD) and the Asian Development Bank.

Although the economy of Viet-Nam is at present confronted with a number of difficult problems, there seems to be every reason to believe that prospects for developing a strong economy are good. Viet-Nam is endowed with rich natural resources. Substantial infrastructure built for military purposes is left to be utilized, and the population is hard-working, literate, and disciplined. There exists ample land to bring into cultivation, and potential agricultural production is enormous.

VIETNAM'S BALANCE OF PAYMENTS

[In millions of U.S. dollars]

	Annual average					
	1960-69	1965-69	1970	1971	1972	1977
I. Trade balance	−217	−623	−766	−788	−719	−739
Exports	68	35	13	15	24	56
Imports	−282	−658	−779	−803	−743	−795
II. Services, transfers, miscellaneous capital and net errors and omissions	8	311	224	304	145	133
III. Official aid (net)	198	344	506	487	559	536
IV. Total (I+II+III)	−8	32	−36	3	−15	−70
V. Allocation of SDR's			7	7	7	
Total (IV+V)	−8	32	−29	10	−8	−0

Data: Until 1972, IMF, "Balance of Payments Yearbook;" from 1973, data furnished by the Vietnamese authorities.

Mr. Speaker, in 1973, additional—and serious—problems were caused by the massive withdrawal of U.S. forces. This sudden development understandably generated considerable unemployment, reaching approximately 15 percent. Added to this was an inflation rate of some 68 percent and a major reduction in the proposed level of U.S. economic assistance.

Now, as 1974 begins, there is the worldwide problem of the oil price increases which not only add to defense costs, but also adversely affect agricultural development. As is the case in other underdeveloped countries, the key to agricultural production in Vietnam is fertilizer—and fertilizer production is based on oil. It is as simple as that.

Mr. Speaker, let me conclude these remarks by recognizing that present attitudes of some Members of Congress toward economic assistance to South Vietnam are strongly influenced by disillusionment with the past. There are those who feel that such expenditures represent an eternal, "bottomless pit," that an end is never in sight.

I understand these feelings. I am willing to admit that past mistakes have been made in our policy toward Southeast Asia. With the benefit of hindsight, I share Ambassador Martin's view that the direct takeover of all military operations by U.S. forces was an error of judgment. I bear some responsibility for that decision, on the basis of my voting record.

The point is, however, that the tremendous sacrifices of U.S. lives and treasure have been made—for better or for worse. We are now faced with an entirely new situation: it is a different ball game. The game has been substantially won, but could just as easily be lost in this final inning, if we do not follow through and do what is necessary.

What is necessary is an adequate, short-term infusion of economic assistance to help the people of South Vietnam pass through this present period of transition toward self-sufficiency. The natural resources are there, incidentally, in greater abundance than those which existed for Korea and Taiwan—before the economic "takeoff" of these countries began. As the IMF observes:

> Viet-Nam is endowed with rich natural resources. Substantial infrastructure built for military purposes is left to be utilized, and the population is hard-working, literate, and disciplined. There exists ample land to bring into cultivation, and potential agricultural production is enormous.

Let me also point out that a maximum $1 billion investment in the Vietnamese economy for 1 year—and Ambassador Martin is recommending a level of $800 million for fiscal year 1975—comes to less than was spent in less than a 2-week period in the 1967–68 era. Economic and military assistance to Indochina at that time amounted to approximately $30 billion annually, excluding MAP funds for Cambodia. After fiscal year 1975, Ambassador Martin projects a 50-percent cut in this figure and a reduction to practically zero by fiscal year 1977. As President Thieu pointed out to me in our discussion, it is better to give a sick man an adequate dosage of medicine immediately and then stop—than inadequate dribbles over a period of time—which is what we have been doing recently.

Mr. Speaker, I hope that in the weeks ahead we may have an informed and constructive debate on this subject. I believe Vietnam merits a high priority on our agenda. I urge my colleagues to give this matter their serious attention and open minded consideration. I should add that I am encouraged to find that the distinguished chairman of the Appropriations Subcommittee on Foreign Operations (Mr. PASSMAN) shares some of my views on the important investment we have already made in this area of the world, and the necessity for taking reasonable measures to preserve it. I pledge to him, and to others who may share my conclusions, my steadfast support.

There is, in fact, some light at the end of the tunnel, Mr. Speaker, if we do not abruptly and unwisely turn off the switch.

TRIBUTE TO AUTHOR HOPE CHAMBERLIN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, I was extremely saddened to learn of the recent death of Hope Chamberlin, an excellent journalist and author, as well as a tremendous credit to the Republican Party.

As one of the 85 subjects of her popular book, "A Minority of Members—Women in the U.S. Congress," published in 1973, I became acquainted with Hope Chamberlin. For years, Miss Chamberlin spent endless hours investigating and researching the details of the careers of the women who served in Congress since 1917.

Miss Chamberlin sincerely believed that Americans know almost nothing about the history of the 75 women who have served in the House and the 11 women who have served in the Senate. She wrote "A Minority of Members" to set the record straight by shattering the myths which have depicted women in Congress as ineffective legislators interested in only social issues.

Upon completion of this comprehensive work, she observed that the most revealing thing she discovered about Congresswomen is "how conscientious they are." She pointed out that of the 85 women who have served as Senators and Representatives, not one of them has ever been involved in any illegal activity.

She once told a newspaper reporter that no Watergate could have happened if any of the women mentioned in her book had been in positions of real power in the administration.

If Hope Chamberlin were still alive, she would encourage women to run for public office because she sincerely believes that women have integrity and should be in the House and Senate. I am certain that her voice will live on through "A Minority of Members" to inspire women to enter public life.

CONGRESSMAN LENT DISCLOSES 1972 FINANCIAL STATUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LENT) is recognized for 5 minutes.

Mr. LENT. Mr. Speaker, because of the concern with possible conflicts of interest and the financial status of all public officials expressed by many citizens, I am pleased to disclose at this time pertinent information regarding my financial status for the year 1972. This financial disclosure is patterned after the recommendations of the ad hoc committee on financial disclosure of the New York State delegation to Congress, which consists of 39 Members of the House, made March 12, 1974.

A. Sources of all noncongressional income—law firm of Hill, Lent, and Troescher, Esqs., Lynbrook, N.Y. I received income from the practice of law, rent, speaking honorariums, bank interest and dividends. I do not practice law in the Federal courts or before Federal agencies.

B. Unsecured indebtedness in excess of $1,000—None.

C. The sources of all reimbursements for expenditures in excess of $300 per item—I had congressional expenses not compensated for by the Federal Government of $17,949. Of this sum, $9,543 was paid out of my personal funds; $6,406 was paid out of the Fourth Congressional District Congressional Club;[1] and $2,000 was paid by the National Republican Congressional Committee.

I had additional costs-of-living expenses directly related to my job as Congressman, including the maintenance of living quarters in Washington, D.C., travel, and so forth, estimated at $5,800, for which I was not reimbursed. I was allowed the statutory maximum deduction of $3,000 for these living expenses on my 1972 income tax return—IRC section 162(a). These expenses were entirely paid from personal funds.

D. The identity of all stocks, bonds, and other securities owned outright or beneficially—I owned shares in three mutual funds:

Scudder, Stevens & Clark Common Stock Fund.

Scudder, Stevens & Clark Special Fund.

Growth Industry Shares.

I owned shares in two business corporations listed in the New York Times:

Viewlex Corp.—American Stock Exchange.

SMC Industries—OTC.

I own no tax-free bonds or other securities.

E Business entities—including partnerships, corporations, trusts, and sole proprietorships—professional organizations—of a noneleemosynary nature—and foundations in which I am a director, officer, partner, or serve in an advisory or managerial capacity—I am a partner in the law firm of Hill, Lent, and Troescher, Esqs., Lynbrook, N.Y.

F. I paid $14,448 in Federal and New York State income taxes for the year 1972. I have filed a report of my earnings and sources of earnings with the Clerk of the House pursuant to rule XLIV of the House of Representatives every year I have been in Congress.

FINANCIAL STATEMENT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Maryland (Mr. HOGAN) is recognized for 5 minutes.

Mr. HOGAN. Mr. Speaker, it has been my practice since coming to Congress to insert in the CONGRESSIONAL RECORD a personal financial statement.

Set forth here is my financial statement as of March 15:

Financial statement

SCHEDULE A—CASH

Congressional Employees Credit Union (savings account)	$314.56
John Hanson Savings & Loan (savings account)	778.55
Central National Bank (savings account)	360.66
Sergeant at Arms (checking account)	797.78
Cash on hand	235.00
Accounts receivable	none
Total	2,486.55

SCHEDULE B—INVESTMENTS

Central National Bank of Maryland Stock	6,960.00
John Hanson Savings & Loan Stock	2,744.00
Total	9,704.00

SCHEDULE C—REAL ESTATE

Townhouse, Largo, Md	39,990.00
House, Landover, Md. (residence)	60,000.00
91.4 acres, Allegany County, Md	28,000.00
One-half interest, 95.343 acres Charles Co., Md. (unimproved land)	$21,500.00
Total	149,490.00

SCHEDULE D—MORTGAGES

Townhouse, Largo, Md	30,925.78
House, Landover, Md	35,245.95
91.4 acres, Allegany County Md	1,981.00
One-half interest, 95.343 acres, Charles Co., Md	9,250.00
Total	77,402.73

FINANCIAL STATEMENT OF LAWRENCE J. HOGAN, MARCH 15, 1974

Assets:	
Cash (see schedule A)	$2,486.55

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[1] The Congressional Club consists of individuals who pay annual dues of $100 each to maintain a fund used exclusively to help me defray the cost of newsletters, reports, and questionnaires sent to constituents, and to pay travel, telephone, dues, office, community relations, and other expenses directly related to my job as Congressman.

Investments (see schedule B)	9,704.00
Real estate (see schedule C)	149,490.00
Automobile: 1972 Buick	3,425.00
Household furnishings	8,000.00
Total assets	173,105.55
Liabilities:	
Accounts payable (miscellaneous)	1,004.90
Loan (National Bank of Washington)	300.00
Mortgages (see schedule D)	77,402.73
Total liabilities	78,707.63
Net worth	94,397.92

MR. HARRY DICKSTEIN

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDade) is recognized for 15 minutes.

Mr. McDADE. Mr. Speaker, it was my great privilege to be present on Sunday evening at the annual Americanism awards dinner of Amos Lodge of B'nai B'rith in the city of Scranton, and to witness the bestowal of that award on Mr. Harry Dickstein of that city. No man could be more deserving of that award than Harry. For nearly 50 years, he gave himself tirelessly to the betterment of his community and the people who live in it, and when the selection committee sat down to make the decision on the recipient for this year, they could hardly have missed so outstanding a man as Harry.

This was the 22d consecutive year that Amos lodge has given this coveted award. The past recipients, starting with Worthington Scranton, have all been individuals who have been a part of all that is fine and decent in our community. The addition of the name of Harry Dickstein follows that proud tradition. His contribution to the overall betterment of his fellow citizens have spanned nearly half a century.

He was active in the Scranton/Lackawanna Jewish Council, and in 1950 served as its president. He was active in the first central building fund drive which eventually led to the construction of the building which is today the Scranton Jewish Community Center, and in 1955 was awarded the Jewish Community Center Fellowship Award. He became involved with the Scranton Industrial Corp., which brought many new companies to this area, and jobs to our people.

He was closely associated with the American Red Cross, and headed the drive for flood relief when Hurricane Agnes struck in 1972; and when the Mississippi River flooded the valley in 1963, Harry was named chairman of the Red Cross emergency relief fund.

He was chairman of the executive committee, as well as board member and president of the old West Side Hospital, and was named a trustee of Community Medical Center, the successor to the West Side Hospital. He has served as president of the Scranton Chamber of Commerce, and president of the Scranton Campus of Pennsylvania State University. He was active in the campaigns for Lackawanna United Fund, chairman of Temple Israel, director and vice president of the Jewish Home of Northeastern Pennsylvania, director and vice president of the advisory board of Blue Cross, a director of the Boys Club of Scranton, a director of the Jewish Community Center, a director of the Legal Aid Society, and of the Visiting Nurses Association.

In a citation accompanying the award, it was said that—

> The man we honor here tonight is more than merely the total of a lifetime of achievement; his life has been an idea, an example for others to follow, a guiding spirit that is needed not only in our community, but in our country.

Harry Dickstein is indeed the complete man, the complete American. When men and women from other nations look to America to see that on these shores there can be found the dream they hear of so much, they need only to look to Harry Dickstein, who came among us in 1910 from Russia, and walked the long and remarkable path to the distinction he achieved on Sunday night.

What he touched he improved; what he improved he shared with others; and what he shared enriched all.

I should like also to pay particular tribute to the distinguished group which came to witness the award, and especially to Rabbi Dr. Simon H. Shoop, who gave both the invocation and the benediction; to Marvin Pollack, who welcomed us; to Harvey Gelb, the delightful toastmaster; to the Honorable Eugene Peters, who gave the welcome of the city of Scranton to all; to Milton Priedman, president, Amos Lodge, to Assistant Secretary of the Navy Joseph T. McCullen Jr., principal speaker of the evening whose well chosen remarks were so warmly received; to Robert Dawson who made the presentation of the Americanism award to our honored guest.

And above all I would pay my own personal tribute to the woman who sacrificed so much in giving her husband to the community when the community needed him so much, Harry's beloved wife, Ruth.

CAMPAIGN FUNDING

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Ruppe) is recognized for 5 minutes.

Mr. RUPPE. Mr. Speaker, today I rise to introduce legislation which, in all honesty, I wish was not necessary. In 1971, the Congress passed the Federal Election Campaign Act which deals with donations and expenditures of campaign funds. However, in the following year we were witness to such a debacle concerning campaign funding that it seems obvious that we did not go far enough with that enactment; loopholes remain so that the spirit of the act may be avoided and the penalities imposed are not stringent enough to deter illegal action. We cannot legislate campaign morality or ethics, so I feel we must give high priority to amending the 1971 statute, to strengthen the law and, in doing so we hopefully will begin a process which will return a good name to political campaigning.

The bill is basically divided into two parts. The first establishes in the executive branch a Federal Elections Commission whose function will be to monitor campaign fundraising and expenditures. It would be composed of six members, two appointed each by the Speaker of the House, the President pro tempore of the Senate, and the President. No more than three may be members of the same political party. The Commission would have the capability to conduct full scale investigations and audits of campaign financing, and this would include the power of subpena enforceable in the Federal courts.

Also the Commission would have the prerogative to make legislative recommendations to the Congress.

The second section of the bill deals with campaign committees and limitations on contributions. Every candidate for a Federal office must designate one political committee as his or her campaign committee. This committee would be required to file periodic reports with the Federal Elections Commission. All contributions to the campaign would have to be made directly to this designated committee by all persons. Pooled contributions through business or labor associations or similar organizations are not permitted. Also contributions of transportation, vehicles, room and board, and other in-kind services must be listed as cash contributions.

Also as a part of this second section, limits are put on the amount that one may contribute to a campaign. No person may give more than $2,500 to a congressional candidate running in a primary, primary runoff, or general election. Therefore, in most cases the candidate could receive at most $5,000 from any one person, and in the rare case where a primary runoff is needed, the maximum would be $7,500. In the case of a Presidential race the maximum legal contribution is $7,500 for a primary or general election. These limits I believe take a realistic approach to the situation. Campaigns are expensive, so we must devise a system whereby money can be raised, but not in such a way that the candidate is unduly obligated to the large contributor. This, I believe, is accomplished, by my legislation.

Perhaps the most novel aspect of this legislation is the "Penalties" section. To begin with, the bill provides for damages in the amount of three times the amount by which the contribution exceeds the applicable limitation. Second, not only is the contributor liable, as is the normal case, but my bill extends liability to the candidates as well who receives a contribution with the knowledge that it violates the law. No longer would the candidate be able to say that he did not concern himself with the problems of campaign financing, that that part of the race was left to trusted subordinates. From now on, with the enactment of this legislation, the candidate will be entrusted with the responsibility of knowing everything about the campaign. I cannot help but believe that if the candidate knows of his possible liability, there will be a minimal amount of violations.

I do not for a minute think that this legislation will clear up all the problems surrounding our elections. There are too many of them, and they are too diverse in nature, to be dealt with effectively in one bill. But I do know that we must make a start—we must make a start to bring honor and respectability back to our electoral process and in so doing, we will begin to bring honor and respectability back to government itself.

AMENDMENT TO H.R. 69

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. BURTON) is recognized for 5 minutes.

Mr. **BURTON**. Mr. Speaker, in accordance with House Resolution 963 providing for the consideration of H.R. 69, I hereby give notice of my intention to offer the following amendment to H.R. 69:

AMENDMENT TO H.R. 69, AS REPORTED OFFERED BY MR. BURTON

Page 28, line 15, strike out "1" and insert in lieu thereof "2".

Page 29, beginning with line 1, strike out everything after the period down through the period in line 8, and insert in lieu thereof the following: "The Commissioner shall allot (A) no less than 50 per centum of the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) the remaining per centum of such amount so appropriated to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to subsection (d) (1), and (ii) to make payments pursuant to subsection (d) (2). In making the allotments under the preceding sentence for any fiscal year, the Commissioner shall take into account any increase in the proportion of the number of children to be served by the allotment under clause (A) relative to the total number of children to be served by the allotments under clauses (A) and (B)."

SOUTH AFRICAN VISIT MARKS HIGHEST LEVEL CONTACT WITH UNITED STATES IN THREE DECADES

The **SPEAKER** pro tempore. Under a previous order of the House the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. **DIGGS**. Mr. Speaker, I would like to insert for the thoughtful attention of my colleagues an item from the African News, a news service by the Southern African Committee in Durham, N.C. The article is entitled "South African Visit Marks Highest Level Contact With United States in Three Decades" and is a comment on the recent visit of the South African Minister of Information to the United States. Mr. Mulder is not only the Minister of Information for South Africa, but I am advised that he is one of three people serving on the State Security Council which is in fact over the infamous Bureau of State Security—BOSS—as well as over the Ministry of Justice and the Ministry of Defense.

The text of the article is as follows:

SOUTH AFRICAN VISIT MARKS HIGHEST LEVEL CONTACT WITH UNITED STATES IN THREE DECADES

(An) cloaked in secrecy, the South African Minister of Information has just completed a two-week visit to the United States to put the case of South Africa's white government before American policy makers. South Africa is calling it the most comprehensive and highest level talks between Americans and South Africans in three decades.

The cabinet minister, Dr. Connie Mulder, left South Africa quietly, and only after he saw American Vice President Gerald Ford on Tuesday last (Jan. 22) week did the South Africans lift their official silence. Apparently, they feared that publicity might arouse public opinion making it difficult for Ford and other politicians to meet Mulder.

Radio South Africa, the official government broadcaster, is terming the trip "highly significant", and says it symbolizes (quote) "the refreshing new outlook foreign policy which the present U.S. administration has adopted." The radio reports that the talk with Ford, which took place in a "friendly atmosphere", discussed how South Africa and the United States can be of mutual assistance to each other in such matters as the energy crisis.

Mulder, who is often mentioned as a possible future prime minister of South Africa, met with top leaders during his time in the United States. Among the congressional officials he saw were Senate Minority Leader Hugh Scott, House Majority Leader Tip O'Neil, Chairman Thomas Morgan of the House Foreign Affairs Committee, and Senate Minority Whip Robert Griffin. In addition, the minister talked with two prominent conservative Republicans—Governor Ronald Reagan of California and Senator John Tower of Texas.

Peet is Deputy Assistant Secretary in the office of the Assistant Secretary of Defense for International Security Affairs (ISA)—sometimes referred to as the "Pentagon's State Department." As the post of Assistant Secretary is currently vacant, Peet is the ISA's senior official. Among the ISA's responsibilities are the development and co-ordination of Defense Department policies in international politico/military and foreign economic affairs. Indian Ocean strategy is planned and developed in the office.

The fact that the ambitious and influential South African Information Minister gained the ear of the senior ISA official takes on special significance in light of growing U.S. preoccupation with the Indian Ocean area. Historically, the Ocean had figured little in U.S. strategic planning—"near the bottom of the list of American priorities" according to a Defense Department spokesman in 1970.

But in March, 1973 the U.S. opened a communications center on the tiny British-controlled island of Diego Garcia in the middle of the Ocean. Seven months later the U.S. sent an aircraft carrier and five destroyers into the area from their stations in the Western Pacific. And in January of this year, the Pentagon announced plans for constructing a $20 million air and naval support facility on Diego Carcia.

This heightened interest in Indian Ocean affairs will certainly bring South Africa more fully into the thinking of American strategists like Admiral Peet. A 1970 School of Naval Warfare research team—including 5 Navy officers and an Air Force Colonel—reached a conclusion which may soon closely resemble U.S. policy. Proposing a multinational naval presence in the area the group suggested that "the Navy of the Republic of South Africa should be invited to participate even though political differences are to be anticipated, (since) (t)his state possessess the only strong maritime force in Southern Africa."

Co-operation on some levels is already apparent. The South African Navy recently opened a $21 million communications complex—buried in a mountain near Capetown and designed to withstand nuclear or bacteriological warfare. The facility is reportedly capable of accurately charting ship movements as far away as the Antarctic, Latin America, and the Bay of Bengal. An article in the authoritative *Armed Forces Journal International* says the silvermine facility "can flash these ship plottings to war rooms in the U.S. and U.K. in seconds", and that Western powers have received from the South Africans useful data on the activities of Soviet and Chinese naval vessels in the Indian Ocean.

If the International Security Affairs staff endorse a stronger U.S. policy tilt towards the white regime, ISA will soon be in a strong position to influence policy-making in that direction. According to the *New York Time's* Pentagon reporter, Leslie Gelb, Defense Secretary Schlesinger plans "to restore the Office of International Security Affairs to the influential role it played in the 60's"—after a five-year period of reduced status.

Gelb reported on February 9th that Schlesinger has decided to fill the vacant post of Assistant Secretary for International Security Affairs, by appointing Paul Nitze, a hawkish Democrat who supports a strong Pentagon role in foreign policy formulation.

ISA is responsible for negotiating and monitoring agreements with foreign countries and international organizations on military facilities, operating rights, and related matters. It also occupies a central position in the national security apparatus, since it screens all formal incoming and outgoing Pentagon communications.

The U.S. approach to the Indian Ocean—which is ISA's concern—has brought sharp protests from several nations in the Indian Ocean region who want to avoid big-power confrontation in that area. It also goes against the expressed will of the United Nations General Assembly, which in 1971, and again in 1972 and 1973, overwhelmingly passed resolutions designating the Ocean a "zone of peace."

Besides co-ordinating defense strategy, Peet has another task. As head of the Defense Secretary Assistance Agency (DSAA), he co-ordinates military aid, including sales of military hardware and excess equipment. DSAA also serves as a liaison between U.S. industry and foreign buyers of military equipment and services.

Since 1963 the United States has declared itself in compliance with United Nations resolutions against arms sales to South Africa. However, several millions of dollars of communications equipment is exported to South Africa each year, and since 1970 the Nixon administration has allowed the aviation industry to sell South Africa aircraft it declared "non-military." Mulder's talk with Peet may result in increased shipments under the guise of non-military equipment.

SOUTH AFRICAN MINISTER OF INTERIOR MULDER PAYS SECRET VISIT TO WOO U.S. OFFICIALS AND OPINION MAKERS

Dr. Connie Mulder, South African Minister of the Interior, has just completed a "private" two-week visit to the United States to win new friends for South Africa and to promote his own political future as heir apparent to Prime Minister Vorster.

The visit is the brainchild of Mulder's Secretary of Information, Dr. Eschel Rhoodie, who advocates selling to middle Americans rather than to converted rightwingers by public officials who are articulate and personable.

Dr. Mulder talked to editorial writers Sulzberger and Hovey at the *New York Times* and to several *Los Angeles Times* editors in the first week of his visit. An evening spent with the Pasadena Foreign Relations Council was enlivened by the presence of a half-dozen moderate blacks. Through a mutual friend, Mulder arranged a quiet get-together with the black mayor of Los Angeles, Tom Bradley.

Mulder did not neglect to visit possible successors to President Nixon. He saw Governor Reagan in California and then moved on to Washington for his final week and an interview with Vice President Jerry Ford. Ford's press secretary confirmed that Ford had met with Mulder for 25 minutes on Tuesday, the 22d, and that they had talked about the energy crisis.

Meanwhile, State Department spokesmen were expressing discomfort and embarrassment because the South African had made an "end run" around Secretary Kissinger and depreciated any political gains touted by the South African press. "Dr. Kissinger doesn't like end runs," one State Department source said. However, State embarrassment or anger, if any, did not prevent Deputy Assistant Secretary of State for African Affairs, "Tony" Ross, from attending a dinner at the South African Embassy in Mulder's honor.

The South African information service pulled another coup by getting affable "Doc" Morgan, chairman of the House Committee on Foreign Affairs, to host a reception at the International Club to which Charles Diggs, chairman of the Committee's subcommittee on Africa, was conspicuously uninvited. Mulder also briefed Democratic majority leader, Thomas ("Tip") O'Neill, a prominent moderate liberal. On the Senate side, Mulder cultivated the Republican leadership: Hugh Scott, minority leader, and Robert Griffin, minority whip, both liberals. He also saw conservative Senator John Tower.

Mulder's visit is the first installment in the South African plan to cultivate new friends rather than to preach to the converted. North American information officers are to be doubled. Washington will be beefed up to 3 officers, San Francisco and Ottawa will have 2 instead of 1 and a new 2 man office will be opened in Los Angeles.

Meanwhile South African press stories written by Rhoodie's service are ballyhooing the visit as "highly significant" and that it symbolizes the "refreshing new outlook in Foreign Policy which the present (Nixon) administration has adopted."

I would also like to insert for the thoughtful consideration of my colleagues a comment from the bulletin "Congress and Africa: 1974" by the Mennonite Central Committee. The text is as follows:

High Level South African Officials Visits United States

MULDER: TOP TALKS IN UNITED STATES

In bold type, this headline appeared on the front page of the January 26, 1974 issue of the *Johannesburg Star*. At the same time, the U.S. press was silent about the visit of this high ranking cabinet minister in the South African government. Cloaked in secrecy, Dr. Cornelius Mulder, South Africa's Minister of Information, met from January 13–16 with American policymakers in an attempt to rally support for South Africa's white government. The South African press called the discussions the most comprehensive and highest level talks between Americans and South Africans in three decades. Radio South Africa, the official government broadcaster, termed the trip "highly significant" and indicative of the "refreshing new outlook on foreign policy which the present U.S. administration has adopted."

Dr. Mulder, who is mentioned by some as the future prime minister of South Africa, met with Vice President Gerald Ford and several high ranking members of Congress including Rep. Thomas Morgan, Chairman of the House Foreign Affairs Committee. Although Mulder did not notify the State Department of his visit, he called on Vice Admiral Ray Peet, senior official in the office for International Security Affairs (ISA). ISA negotiates the sale of new and excess military equipment to foreign governments, develops and coordinates defense strategy, and screens all formal incoming and outgoing Pentagon communications.

Mulder's talks with Peet may indicate an eroding arms embargo. Since 1963, the United States has declared itself in compliance with U.N. resolutions against arms sales to South Africa. However, each year the U.S. exports several million dollars of communications equipment to the white regime. For four years U.S. aviation manufacturers have been allowed to sell "non-military" aircraft to South Africa.

The Peet-Mulder dialogue may also signal a future U.S.-South Africa alliance in the Indian Ocean. For some time, South Africa has expressed concern about what it calls the "communist penetration" of the Indian Ocean. For the past three years, the United Nations General Assembly has overwhelmingly passed resolutions designating the Indian Ocean as a "zone of peace". If Congress approves a $20 million request for the construction of an air and naval base on Diego Garcia, a British Island 1,000 miles off the southern tip of India, this could soon militarize the zone.

The Pentagon has justified the request by claiming that the base would deter a Soviet build-up in the area. Senator Pell (R.I.) has introduced amendment number 973 to Senate bill S. 2999 that would deny appropriations for the establishment of a base on Diego Garcia. In addressing the Senate, Pell asked, "Will not this Pavlovian U.S. response stimulate the very Soviet threat we fear and precipitate an escalation in our costly arms race which we both can ill afford?"

LABOR—FAIR WEATHER FRIEND—X

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, not long ago, the AFL–CIO sponsored Labor Council for Latin American Advancement attacked me for "union-busting" when in fact nothing could be further from the truth—and they knew it.

The AFL–CIO knows that I have always supported organized labor, in good times and bad, through thick and thin, because I believe in the fundamental right of workers to organize and bargain collectively. But for several years I have had to watch a dreary parade of people subsidized by the AFL–CIO criticize me, attempt to embarrass me, and create political problems for me. This last event is the last insult that I intend to suffer in silence. If the AFL–CIO subsidizes people who are against me, I am going to let the world know about it.

I am not attacking labor. The panjandrums in the AFL–CIO have known of my complaints for years, and have done nothing. After this last assault from the level of Mr. Meany's own penthouse, I tried to contact those responsible—not one time, but twice, and got no answer of any kind. I have had enough.

One of those in the LCLAA, the Labor Council for Latin-American Advancement, is my old friend Paul Montemayor. He is one of their founding members, and a board member. As an old friend, I would have expected him to express some concern about the charges that had been made against me, but he did not. I might have expected him to ask for the facts, but he did not. And he knows me well enough to know that I am not anti-labor, but he has made no effort to defend me against people who he knows perfectly well are not interested in whether I am for or against labor, because they are just plain against me.

But Paul is old enough to remember when unionism had a very tough row to hoe in Texas.

I remember back in the late 1950's when Paul was trying to organize a couple of ironworks in San Antonio. I was the only politician who would even talk to a labor man then. Everybody else was either against them or antiunion. Nobody in Texas had at that time ever run as a man in favor of labor.

So in this hostile climate Paul had a tough time. The San Antonio workers he was trying to organize were afraid to even meet to hear the union message, let alone sign preference cards. They feared for their jobs, and some of them even for their safety.

So the campaign was faltering and failing, and Paul called me in desperation. The workers would not come to meetings, because they were afraid and did not trust the organizers. Would I come? If I would come, the people would know that it was all right; they could trust me. So I listened to Paul's plea. I agreed to help.

I went into that meeting, and it was oppressive; you could feel and smell the fear. But I went in proud and head high, and told the people: "I am not here to tell you whether or not to join this union. I want you to know that you have a right to be here. You have a right to hear this message, and you have a right to organize and join a union."

That was a dangerous thing for me to do, in a time and place where unions were anathema—and where to this day, organized labor is only a pitiful percentage of the working population. But I believe in the right of organization, and believed in it enough to stand up for it.

Paul was grateful then, because it was help like that that enabled him to do his job and organize people.

But today that is not enough. It is not enough for his LCLAA friends to know that labor has a friend in me; they want me to be more than a friend. But I am not controlled by anybody, any more today than I was back then, when my independence made it possible for me to do what no one else would.

You would think that Paul would know me well, after all these years. And you would think that even if he does not always agree with me—which I do not expect—he would at least think enough of that past friendship and those past favors to expect and demand that his pals accord me at least honest treatment, at least decent treatment.

But I suppose not. I suppose that Paul either does not remember, or maybe he does not care. I have been a good friend to him and to labor. I think that friendship has been abused, and I'm tired of it. But because I believe in labor, this is painful to say. I doubt that I would have ever said a public word, if the AFL–CIO had not made a public attack on me. But that's been done, and I am not about to remain silent in the face of that.

CONYERS INTRODUCES GRAND JURY BILL

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. **CONYERS.** Mr. Speaker, today I am introducing a bill that would have the effect of returning the Federal grand jury system to its traditional role as guardian of American liberties. Though other legislation in this area was introduced during the 1st session of the 93d Congress, this legislation goes considerably further in addressing the problems in a long neglected and critically important realm of our criminal justice system.

The roots of the grand jury can be traced back as far as 12th century England. Historically, the grand jury has had two distinct functions. First, it was to evaluate the evidence gathered by the prosecutor, to determine whether the state was justified in bringing a person to trial, with the humiliation and the expense that entails. Second, it was to investigate, independent of the king's prosecutor, offenses committed by or aided by public officeholders. If the state would not investigate itself, a body of citizens would uncover and prosecute wrongdoers.

As might be expected of an institution 800 years old, the grand jury has had an ambivalent history. At times, the grand jury has acted as a "people's panel," shielding the innocent from unjust prosecution, or investigating government authorities misusing their position for private gain or public harm. Occasionally, particularly in the North American colonies prior to the Revolution, grand juries refused to indict colonists accused of violating British laws, like the Stamp Act or seditious libel laws, when the jurors believed the laws to be unjust.

But at other times, the grand jury has been a compliant instrument of the prosecutor. In recent history, this aspect has been dominant. In the words of former Senator Charles Goodell, writing in the May 1973 issue of Harper's magazine:

> Over the years, the complexion of grand juries has changed, their anti-authoritarian tradition has become diluted, and they have become subservient to the interests of the prosecuting authority over which they are assigned to watch.

By 1791, when the Bill of Rights was adopted, the grand jury was an important enough institution to be designated as the major barrier to unchecked prosecutorial authority. The fifth amendment provides that "no person shall be held to answer for a capital or otherwise infamous crime" unless a grand jury votes in favor of bringing the charge. The language of the amendment is the same today as it was in 1791; it has been interpreted by courts to mean that no person may be prosecuted in the Federal courts on a felony charge without a grand jury indictment. The Supreme Court has, however, permitted the States to initiate criminal proceedings without a grand jury indictment. In most States, a charge made by a district attorney, followed by a preliminary hearing before a magistrate, is used more often than grand jury indictment.

The grand jury plays an important role in the day-to-day operation of the Federal criminal justice system. Every Federal prosecution, for violation of Selective Service laws, antitrust laws, counterfeiting, smuggling, bank robbery, tax fraud, and a variety of other crimes, begins with a grand jury indictment.

In normal operation, the grand jury in the Federal system functions with little conflict and attracts little attention. At least one grand jury is in operation in every Federal district at all times. The 23 members of the jury normally are chosen at random from the voter registration lists of the counties within the district. A grand jury normally meets once a week or less often, for several hours at each meeting. Its work is directed by one or more assistant U.S. attorneys. At each session, the grand jury considers the evidence gathered by Government investigative agencies in numerous cases. Typically, the U.S. attorney calls into the grand jury room one witness at a time—an agent of the Federal Bureau of Investigation, the Customs Service, the Internal Revenue Service, or any one of a number of other Federal or local investigative agencies. Sometimes, a victim of the crime is called as a witness.

In response to the questions asked by the U.S. attorney, the witness, if an investigative agent, will describe the findings of his agency in the case in question. The U.S. attorney or the witness may introduce documentary evidence. After every witness has been questioned about a case, the U.S. attorney and the last witness leave the grand jury room. The grand jury, with no other people present, votes on whether to indict anybody for committing the crime(s) involved. The grand jury, which until that point has played no role in questioning or in shaping the investigation, almost always votes in favor of indictment.

The ABA's "Standards Relating to the Prosecution Function," Approved Draft, 1971, caution that—

> Where the prosecutor is authorized to act as legal adviser to the grand jury he may appropriately explain the law and express his opinion on the legal significance of the evidence but he should give due deference to its status as an independent legal body; The prosecutor should not make statements or arguments in an effort to influence grand jury action in a manner which would be impermissible at trial before a petit jury. (Approved Draft, 1971, p. 87).

Nevertheless, as Judge William Campbell of the Federal bench in Chicago wrote recently:

> Any experienced prosecutor will admit that he can indict anybody at any time for almost anything before any grand jury.

For several years, beginning in 1970, the Justice Department, and particularly its Internal Security Division, convened a series of special grand juries and used them in a way rarely seen before. Instead of calling as witnesses Government investigators or victims, the Government subpenaed as witnesses a wide variety of Americans who were neither victims nor Government employees. Many of them were associated with the antiwar movement, although some had only incidental ties with antiwar activists. Scores of witnesses were forced to choose between testifying about their friends, relatives, and political associates, or going to jail for contempt of court if they refused to answer the prosecutor's questions in the grand jury room.

The following is an extreme example of this practice:

> I want you to tell the grand jury what period of time during the years 1969 and 1970 you resided at 2201 Ocean Front Walk, Venice (Los Angeles), who resided there at the time you lived there, identifying all persons you have seen in or about the premises at that address, and tell the grand jury all of the conversations that were held by you or others in your presence during the time that you were at that address.—Question asked by Guy Goodwin of the Internal Security Division of the Justice Department, of a witness subpoenaed to appear before a federal grand jury in Tucson, Ariz., Fall, 1970.

Witnesses were jailed for their refusal to answer that and comparable questions. Dozens of people were jailed for refusing to testify. Others, unwilling to be jailed for a principle when they knew nothing to incriminate anybody, were forced to tell the Government about the private lives of their friends and relatives.

Probably because the grand jury has a long history as an institution independent of the prosecutor and other arms of the Government, Federal law says almost nothing about the internal operation of the grand jury. The codes are nearly silent on the relationship between the grand jury and the prosecutor. Courts also act as though the grand jury were independent of the prosecutor and need not be restrained by the limitations which the Bill of Rights places on the actions of the Government. Ironically, in the October 1973 decision upholding the subpena of the Watergate tapes, the court of appeals noted:

> If the grand jury were a legal appendage of the executive it could hardly serve its historic function as a shield for the innocent and a sword against corruption in high places.

In the absence of Federal law on the subject, prosecutors have taken control of the decisionmaking process that is, in theory, the province of the grand jury. The prosecutor decides who to subpena, what questions to ask, the general nature of the investigation, and the question of immunity grants, explained below. One result is that, in the last 3 years particularly, prosecutors have exploited this freedom from constitutional restraints in a way that represents a serious misuse of the power of the grand jury. Prosecutors have been able to force witnesses to answer questions before a grand jury which they would not have to answer if asked in the prosecutor's office, or in a police precinct. The question from Tucson cited above is an example.

Traditional safeguards have been eroded further. The Supreme Court in the recent Calandra decision ruled that illegally obtained evidence is admissible in grand jury proceedings.

The proposals in the legislation I am introducing are based on the belief that although the grand jury has not played an active role in the Federal legal system in recent years, it is better to strengthen the institution than to abandon it or curtail its role. There are two reasons. The place of the grand jury in the Federal court system is defined unequivocally by the fifth amendment. Elimination of the grand jury, or curtailment of its role, would require a constitutional amendment. Neither the fifth amendment nor any of the other amendments of the Bill of Rights has been changed by as much as a word since adoption of the 10 in 1791. I believe it would be a mistake to amend the Bill of Rights, particularly in a way which would remove restraints on the Federal Government which have been in effect 182 years.

Second, there are only two institutions in our judicial system in which decision-making authority is given to people independent of the Government. The trial jury is one; the grand jury is the other. I believe that it would be a mistake to eliminate the grand jury, or to minimize its role at a time when one widely recognized problem of American democracy is the increasing disaffection of American citizens with our political and legal institutions.

The bill is designed to prevent a recurrence of the pattern of grand jury misuse of recent years. The tool which has been crucial to prosecutors in this misuse of the grand jury's subpena power has been the ability of the prosecutors to obtain court orders of immunity, giving a witness limited immunity from prosecution, but ordering him to testify without regard to his fifth amendment privilege. Without an immunity order, the fifth amendment confers on every witness the privilege of refusing to testify if there is any possibility that his testimony might tend to incriminate him.

The legislation would make two changes in immunity procedures. A witness could be given immunity, and a corresponding order to testify, only if he agrees to this exchange. And, the prosecutor could not decide on this exchange on his own; the legislation would require the grand jury to vote on giving an immunity grant to a witness, by a majority vote of its 23 members. A judge might then sign an immunity order, once the grand jury, the prosecutor and the witness all agree to the procedure.

The bill would also require a favorable vote by a grand jury majority on whether or not to subpena a person; and on whether or not to seek a court finding of contempt if a witness refuses to testify.

Also in the area of immunity, the legislation would eliminate "use immunity" which was created in the Organized Crime Control Act of 1970, and since then applied to scores of witnesses with no visible or alleged connection with "organized crime"—racketeering, gambling, narcotics, and prostitution. Use immunity allows the Government to compel a witness to testify, even in a way which incriminates himself, and to later prosecute that person for the crime about which he testifies. The immunity offered provides only that at the later trial, the Government may not use any of the person's compelled testimony, or anything derived from that testimony.

Use immunity has been criticized for the narrowness of the protection which it offers the witness. There is no way for a defendant, a year or two earlier a recalcitrant witness, to trace the way his testimony was used by one, then another and another Federal, State, and local investigative agency. Nor is there any way for a defendant to know whether the prosecutor's tactical decisions concerning presentation of the case were shaped by information derived from the defendant's compelled testimony.

The legislation would permit the Government to grant to a witness only transactional immunity—protecting the witness from prosecution for any of the events or transactions about which he testifies.

In other sections, the legislation would provide a number of procedural safeguards, at each point strengthening the rights of the witness: providing for 10 days' notice prior to a hearing on a contempt charge, 7 days' notice before a subpena is returnable, requiring the transcribing of a witness's testimony and giving the witness the right to obtain a transcript of his testimony; allowing a witness to be represented by counsel in the grand jury room; barring any evidence gathered in violation of a witness' constitutional rights; requiring prosecutors to give "Miranda" warnings to witnesses prior to beginning questioning; and a number of other important procedural protections.

Recent events have pointed out the difficulties inherent in attempts by the grand jury to investigate criminal activity in which members of the executive branch may be implicated. Speaking to this problem, the legislation would allow grand juries to retain their own attorneys when they are investigating crimes in which current or former Government officeholders may be implicated.

A complete discussion of all of the provisions of the bill would be excessively lengthy. I include a summary of the proposed legislation in the RECORD at this point:

SUMMARY OF CONYERS GRAND JURY REFORM BILL

RECALCITRANT WITNESSES

Twelve or more members of the grand jury must vote to make application to the court for an order directing a recalcitrant witness to show cause in a hearing why he/she should not be held in contempt.

Gives the witness ten days notice of a contempt hearing. In the case of a witness subpoenaed to trial, and upon a showing of special need, shorter notice may be given, but not less than five days.

The witness has the right to appointed counsel in contempt proceedings, if the witness is unable to afford it.

Imprisonment shall be in a Federal institution, unless the witness waives this right.

Reduces the period of imprisonment from a maximum of 18 to 6 months for civil contempt, and prohibits reiterative contempt, by making the 6 months cumulative, applying it against any confinement resulting from prior, subsequent, or related grand jury investigations.

Provides that the confined person shall be admitted to bail, pending appeal, unless the appeal is patently frivolous and taken for delay. Appeals shall be disposed of pursuant to an expedited schedule, eliminating the unique "30 day rule", which requires that appeals be decided within 30 days.

Provides that a refusal to answer questions or provide other information shall not be punished if the question or the request is based on any violation of the witness's Constitutional or statutory rights.

Applies all of the above protections to witnesses subpoenaed to trial as well as grand jury witnesses, with the exception of grand jury voting, where in trial the determination is made by the court.

NOTICE TO THE GRAND JURY OF ITS RIGHTS AND DUTIES

Requires that the district court judge who empanels the grand jury give instructions to the grand jurors at the beginning of their term, including: grand jury powers with respect to independent investigation, its right to call and interrogate witnesses, its right to request documents and evidence, the subject matter of the investigation, the necessity of legally sufficient evidence to indict, and the power of the grand jury to vote before a witness may be subpoenaed, granted immunity, be given a contempt hearing or indicted.

Prescribes that failure to so instruct the grand jury is just cause for a refusal to testify or for dismissal of an indictment.

INDEPENDENT INQUIRY

Allows the grand jury, upon notice to the court, to inquire on its own initiative into offenses committed by government or former government officials. The grand jury shall serve for 12 months with no more than two extensions for a maximum of 24 months.

Provides that the court, upon a vote of the grand jury, shall appoint a special attorney to assist the grand jury in investigation. Such attorney will be paid $100/day and may fix compensation for such assistants as is deemed necessary, with the approval of the court. Such attorney shall have exclusive power to assist the grand jury and shall sign any indictment, in lieu of a government attorney.

RIGHTS OF GRAND JURY WITNESSES

Provides that subpoenas be issued only on an affirmative vote of 12 or more members of the grand jury. Subpoenas are not returnable on less than seven days notice. The subpoena must advise the witness of the right to counsel, the right against self-incrimination, whether his/her conduct is under investigation, the subject matter of the inquiry, and the substantive statutes involved. Any witness not advised of these rights cannot be prosecuted, subjected to penalty, or have the evidence used against him/her in court.

Gives witnesses the right to have counsel in the grand jury room, such counsel to be court appointed where appropriate. Counsel shall not be bound by secrecy.

Prescribes that when an investigation includes violations of substantive criminal statutes as well as conspiracy, the grand jury may not be convened in the district where only the conspiracy is alleged.

On the motion of the witness the court shall transfer the investigation to another district in which the proceedings may be properly convened. The court shall take into account the distance of the proceedings from the residence of the witness, other burdens on the witness, and the existence and nature of any related proceedings.

Provides that transcripts shall be made of the procedings, be available to the witness and counsel. In the case of an indigent witness, a copy will be furnished without cost.

Gives the witness and his/her counsel the right to examine and copy any statement of the witness in the possession of the United States which relates to the matter under investigation.

Provides that no person shall be required to testify or be confined if, upon evidentiary hearing, the court finds: (a) a primary purpose or effect of the subpoena is to secure for trial evidence against a person already under indictment, or formal accusation. (b) Compliance with the subpoena is unreasonable or oppressive and involves unnecessary appearances; or the only testimony that can reasonably be expected is cumulative, unnecessary, or privileged. (c) The primary purpose of the subpoena is punitive.

Gives the court in the district out of which the subpoena was issued, the court in the district in which the subpoena was served, and the court in the district in which a witness resides concurrent jurisdiction over motions to quash and other relief. It allows such motions at any time. If a motion is made prior to or during an appearance, the appearance is stayed, pending ruling. If the motion is made during or subsequent to the apperance, the motion must be made in the district of the empaneled grand jury.

IMMUNITY OF WITNESSES

Abolishes all forced and use immunity before grand juries and courts. Transactional immunity is allowed with the written consent of the witness, and by affirmative vote of twelve or more members of the grand jury; or, in the case of a trial proceeding, with the consent of the witness and by application of the U.S. attorney.

Provides transactional immunity for witnesses before Congressional committees and agency hearings.

REPORTS CONCERNING GRAND JURY INVESTIGATIONS

Requires the Attorney General to file detailed annual grand jury reports, describing: (a) the number and nature of investigations in which grand juries were utilized, (b) the number of requests for orders compelling testimony, and the number granted, (c) the number of immunity grants requested, the number approved, and the nature of the investigations, (d) the number of witnesses imprisoned for contempt, and the dates of their confinement, (e) an assessment of the effectiveness of immunity, including the number of arrests, indictments, no-bills, etc., resulting from compelled testimony, and (f) a description of the data banks, etc., by which grand jury data is processed and used by the Justice Department.

EVIDENCE

Requires the government to introduce all evidence in its possession tending to prove the innocence of a potential defendant.

Prohibits the grand jury from returning an indictment on the basis of hearsay evidence alone.

PROPOSED AMENDMENT TO H.R. 69

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. O'HARA) is recognized for 10 minutes.

Mr. O'HARA. Mr. Speaker, in compliance with the provisions of House Resolution 963, I ask unanimous consent that there be printed at this point in my remarks two additional amendments to H.R. 69, which I reserve the right to offer when that bill is read for amendment next week:

AMENDMENT TO H.R. 69, AS REPORTED, OFFERED BY MR. O'HARA

(O'HARA AMENDMENT NO. 1A)

Page 29, beginning with line 18, strike out everything after "be" down through the period in line 21, and insert in lieu thereof the following: ": (A) from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection), but not more than $2,000,000,000, the product obtained by multiplying the number of children aged five to seventeen, inclusive, in the school district of such agency by 40 per centum of the amount determined under the next sentence, and (B) from the remaining one-third of such amount so appropriated, but not more than $1,000,000,000, the product obtained by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence."

Page 31, line 17, insert after "be" the following: ": from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection), but not more than $2,000,000,000, the product obtained by multiplying the number of children aged five to seventeen, inclusive, in Puerto Rico by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States, and, from the remaining one-third of such amount so appropriated but not more than $1,000,000,000."

Page 48, line 10, strike out "85" and insert in lieu thereof "90".

AMENDMENT TO H.R. 69, AS REPORTED

OFFERED BY MR. O'HARA

(O'HARA AMENDMENT NO. 3A)

Page 28, beginning with line 1 strike out everything down through page 58, line 18, and insert in lieu thereof the following:

TITLE I—AMENDMENTS OF TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

DECLARATION OF POLICY

SEC. 101. Section 101 of title I of the Elementary and Secondary Education Act of 1965, as amended, is amended to read as follows:

"SEC. 101. In recognition of the special educational needs of educationally deprived children and the impact that the presence of such children have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving such children to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children."

EXTENSION OF TITLE I PROGRAMS

SEC. 102. Section 102 of title I of the Elementary and Secondary Education Act of 1965 (hereinafter referred to as "the Act") is amended (1) by striking out "for grants to local educational agencies", and (2) by striking out "1973" and inserting in lieu thereof "1977".

ALLOCATION OF FUNDS

SEC. 103. Section 103(a) of title I of the Act is amended to read as follows:

"SEC. 103. (a) (1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph an amount equal to not more than 1 per centum of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term 'State' by this subsection). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to subsection (d) (1), and (ii) to make payments pursuant to subsection (d) (2). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

"(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State shall be eligible to receive under this part for a fiscal year shall (except as provided in paragraph (3)) be: (A) from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdiction excluded from the term "State" by this subsection), but not more than $2,000,000,000, the product obtained by multiplying the number of children aged five to seventeen, inclusive, in the school district of such agency by 40 per centum of the amount determined under the next sentence, and (B) from the remaining one-third of such amount so appropriated, but not more than $1,000,000,000, the product obtained by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State, except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States. In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under the two preceding sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

"(3) (A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulation established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

"(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

"(C) The grant which Puerto Rico shall be eligible to receive under this part for a fiscal year shall be: from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection), but not more than $2,000,000,000, the product obtained by multiplying the number of children aged five to seventeen, inclusive, in Puerto Rico by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States, and, from the remaining one-third of such amount so appropriated, but not more than $1,000,000,000, the amount arrived at by multiplying the number of children counted under subsection (c) by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(4) For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands."

TECHNICAL AMENDMENT

Sec. 104. Section 103(b) of title I of the Act is amended by striking out "aged five to seventeen, inclusive, described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a)" and inserting in lieu thereof "counted under subsection (c)".

DETERMINATION OF NUMBER OF CHILDREN TO BE COUNTED

Sec. 105. (a) Section 103(c) of title I of the Act is amended to read as follows:

"(c)(1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A), (B) two-thirds of the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to section 123 for the purposes of a grant to a State agency, or being supported in foster homes with public funds."

(b)(1) Section 103(d) of the Act is redesignated as paragraph (2) of subsection (c) and the first sentence thereof is amended to read as follows:

"(A) For purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.".

(2) The second sentence of paragraph (2) of such section (as so redesignated) is deleted, and the third sentence of paragraph (2) of such section (as so redesignated) is amended to read as follows:

"(B) For purposes of this section, the Secretary of Health, Education, and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a non-farm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.".

(3) The fourth sentence of paragraph (2) of such section (as so redesignated) is amended by inserting "(C)" before "When" and by striking out "having an annual income less than the low-income factor (established pursuant to subsection (c))" and inserting in lieu thereof "below the poverty level (as determined under paragraph (A)).".

(c) Section 103 of the Act is amended by striking out subsection (e).

SPECIAL USE OF FUNDS FOR INDIAN CHILDREN

Sec. 106. Section 103 of title I the Act is amended by adding at the end thereof the following:

"(d)(1) From the amount allotted for payments to the Secretary of the Interior under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the United States, whichever is the greater.

"(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 131(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of section 131(a) and 133(a)(3)."

STATE OPERATED PROGRAMS

Sec. 107. Title I of the Act is amended by inserting the following in lieu of parts B and C:

"Part B—State Operated Programs

"PROGRAMS FOR HANDICAPPED CHILDREN

"Sec. 121. (a) A State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), shall be eligible to receive a grant under this section for any fiscal year.

"(b) Except as provided in section 124, the grant which an agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States), multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(c) A State agency shall use the payments made under this section only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of such children, and the State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

"(d) In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in subsection (c).

"PROGRAMS FOR MIGRATORY CHILDREN

"Sec. 122. (a)(1) A State educational agency or a combination of such agencies, upon application, may receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissoner may approve such an application only upon his determination—

"(A) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agriculture workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

"(B) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

"(C) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1) (B) and (3) through (12) of section 131(a), and of section 132; and

"(D) that, in planning and carrying out programs and projects, there has been adequate assurance that provisions will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering the funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

"(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for such State or States under this section.

"(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in the consideration of programs and activities contained in applications submitted under this subsection.

"(b) Except as provided in section 124, the total grants which shall be made available for use in any State (other than Puerto Rico) for this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (1) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (2) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary, to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. The total grant which shall be made available for use in Puerto Rico shall be arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

"PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN

"SEC. 123. (a) A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be eligible to receive a grant under this section for any fiscal year (but only if grants received under this section are used only for children in such institutions).

"(b) Except as provided in section 124, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditures is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(c) A State agency shall use payments under this section only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

"RESERVATION OF FUNDS FOR TERRITORIES

"SEC. 125. There is authorized to be appropriated for each fiscal year for purposes of each of sections 121, 122, and 123, an amount equal to not more than 1 per centum of the amount appropriated for such year for such sections for payments to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands under each such section. The amounts appropriated for each such section shall be allotted among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title."

USE OF FUNDS BY LOCAL EDUCATIONAL AGENCIES; PARENT ADVISORY COUNCILS

SEC. 108. (a) Section 141(a) (1) of the Act is amended by striking out so much thereof as precedes clause (B) and inserting in lieu thereof the following:

"(1) that payments under this title will be used for the excess costs of programs and projects (including the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools eligible for assistance under this title, the training of teachers, and, where necessary, the construction of school facilities and plans made or to be made for such programs, projects, and facilities) (A) which meet the individual needs of children demonstrating the need for remedial education, and such payments shall be used only for such needs of such children, without regard to race, sex, religion, national origin, family income, or any other socioeconomic criteria, and".

(b) Section 141(a)(2) of the Act is amended to read as follows:

"(2) that the local educational agency has provided satisfactory assurance that section 132 will be complied with;".

(d) Section 141 of the Act is amended by striking out subsection (c), by redesignating subsection (b) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b) It is the purpose of the Congress to encourage, where feasible, the development for each educationally deprived child participating in a program under this title of an individualzed written educational plan (maintained and periodically evaluated) agreed upon jointly by the local educational agency, a parent or guardian of the child, and when appropriate, the child. The plan shall include (1) a statement of the child's present levels of educational performance, (2) a statement of the long-range goals for the education of the child and the intermediate objectives related to the attainment of such goals, (3) a statement of the specific educational services to be provided to such child, (4) the projected date for initiation and the anticipated duration of such services, (5) objective criteria and evaluation procedures and a schedule for determining whether intermediate objectives are being achieved, and (6) a review of the plan with the parent or guardian at least annually with provision for such amendments as may be mutually agreed upon."

ADJUSTMENTS NECESSITATED BY APPROPRIATIONS

SEC. 109. Section 144 of title I of the Act is amended by striking out the first sentence and inserting in lieu thereof the following: "If the sums appropriated for any fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which all local and State educational agencies are eligible to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under section 121, 122, or 123 shall be equal to the total amount of the grant as computed under each such section. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under part A of this title for such year, the allocations to such agencies shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 90 per centum of its allocation under part A for the preceding fiscal year, shall be increased to such amount the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any of such remaining local educational agencies from being thereby reduced to less than such amount."

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 110. (a) Sections 142 through 144 of the Act (and all cross-references thereto) are redesignated as sections 143 through 145, respectively (and will be further redesignated under section 110(h) of this Act), and the following new section is inserted immediately after section 141:

"PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 132. (a) To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements meeting the requirements of section 131(a) (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate.

"(b)(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(3) When the Commissioner arranges for services pursuant to this section, he shall after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under this title."

TECHNICAL AND CONFORMING AMENDMENTS TO TITLE I OF ESEA

SEC. 111. (a) Section 141(a)(4) of title I of the Act is amended by striking out "section 145" and inserting in lieu thereof "section 433 of the General Education Provisions Act".

(b) Sections 141(a)(1)(B) and 144(a)(2) (as redesignated by section 109 of this Act) of the Act are each amended by striking out "maximum".

(c)(1) Section 143(a) (as redesignated by section 109 of this Act) of title I of the Act is amended by striking out "described in section 141(c)" and inserting in lieu thereof "provided for in section 122".

(2) Section 143(a)(1) (as redesignated by section 109 of this Act) of title I of the Act is amended by striking out "section 103(a)(5)" and inserting in lieu thereof "section 121".

(d) Section 144(a)(2) (as redesignated by section 109 of this Act) of title I of the Act is amended by striking out "or section 131".

(e) Section 144(b)(1) (as redesignated by section 109 of this Act) of title I of the Act is amended to read as follows:

"(1) 1 per centum of the amount allocated to the State and its local educational agencies as determined for that year under this title; or".

(f) The third and fourth sentences of section 145 (as redesignated by section 109 of this Act) of title I of the Act are each amended by striking out "section 103(a)(6)" and inserting in lieu thereof "section 122".

(g) Sections 146 and 147 of title I of the Act are each amended by striking out "section 141(c)" and inserting in lieu thereof "section 122".

(h) Part D of title I of the Act (and any cross-reference thereto) is redesignated as part C, section 141 of the Act (and any cross-reference thereto) is redesignated as section 131, sections 143 through 145 of the Act (as redesignated by section 109 of this Act) (and cross-references thereto) are further redesignated as sections 133 through 135, respectively, sections 146 through 149 of the Act (and cross-references thereto) are redesignated as sections 136 through 139, respectively, and section 150 of the Act (and any cross-references thereto) is redesignated as section 141.

(i) Section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new paragraphs:

"(16) For purposes of title II, the 'average per pupil expenditure' in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies as defined in section 403(6)(B) in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(17) For the purposes of title II, 'excess costs' means those costs directly attributable to programs and projects approved under that title which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects (but not including expenditures under that title for any comparable State or local special programs for educationally deprived children or expenditures for bilingual programs or special education for handicapped children or children with specific learning disabilities)."

STUDY OF PURPOSES AND EFFECTIVENESS OF COMPENSATORY EDUCATION PROGRAMS

SEC. 112. (a) In addition to the other authorities, responsibilities and duties conferred upon the National Institute of Education (hereinafter referred to as the "Institute") by section 405 of the General Education Provisions Act, the Institute shall undertake a thorough evaluation and study of compensatory education programs, including such programs conducted by States and such programs conducted under title I of the Elementary and Secondary Education Act of 1965. Such study shall include—

(1) an examination of the fundamental purposes of such programs, and the effectiveness of such programs in attaining such purposes,

(2) an analysis of means to accurately identify the children who have the greatest need for such programs, in keeping with the fundamental purposes thereof,

(3) an analysis of the effectiveness of methods and procedures for meeting the educational needs of children, including the use of individualized written educational plans for children, and programs for training the teachers of children,

(4) an exploration of alternative methods, including the use of procedures to assess educational disadvantage, for distributing funds under such programs to States, to State educational agencies, and to local educational agencies in an equitable and efficient manner, which will accurately reflect current conditions and insure that such funds reach the areas of greatest current need and are effectively used for such areas,

(5) experimental programs to be administered by the Institute, in cases where the Institute determines that such experimental programs are necessary to carry out clauses (1) through (4), and the Commissioner of Education is authorized, notwithstanding any provision of title I of the Elementary and Secondary Education Act of 1965, at the request of the Institute, to approve the use of grants which educational agencies are eligible to receive under such title I (in cases where the agency eligible for such grant agrees to such use) in order to carry out such experimental programs, and

(6) findings and recommendations, including recommendations for changes in such title I or for new legislation, with respect to the matters studied under clauses (1) through (5).

(b) The National Advisory Council on the Education of Disadvantaged Children shall advise the Institute with respect to the design and execution of such study. The Commissioner of Education shall obtain and transmit to the Institute such information as it shall request with respect to programs carried on under title I of the Act.

(c) The Institute shall make an interim report to the President and to the Congress not later than December 31, 1976, and shall make a final report thereto no later than nine months after the date of submission of such interim report, on the result of its study conducted under this section. Any other provision of law, rule, or regulation to the contrary notwithstanding, such reports shall not be submitted to any review outside of the Institute before its transmittal to the Congress, but the President and the Commissioner of Education may make to the Congress such recommendations with respect to the contents of the reports as each may deem appropriate.

(d) There is authorized to be appropriated to carry out the study under this section the sum of $15,000,000.

(e)(1) The Institute shall submit to the Congress, within one hundred and twenty days after the date of the enactment of this Act, a plan for its study to be conducted under this section. The Institute shall have such plan delivered to both Houses on the same day and to each House while it is in session. The Institute shall not commence such study until the first day after the close of the first period of thirty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress.

(2) For purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

SURVEY AND STUDY FOR UPDATING NUMBER OF CHILDREN COUNTED

SEC. 113. (a) The Secretary of Commerce shall, in consultation with the Secretary of Health, Education, and Welfare, expand the current population survey (or make such other survey) in order to furnish current data for each State with respect to the total number of school-age children in each State to be counted for purposes of section 103(c)(1)(A) of title I of the Act. Such survey shall be made, and a report of the results of such survey shall be made jointly by the Secretary of Commerce and the Secretary of Health, Education, and Welfare to the Congress, no later than February 1, 1975.

(b) The Secretary of Health, Education, and Welfare and the Secretary of Commerce shall study the feasibility of updating the number of children counted for purposes of section 103(c) of title I of the Act in school districts of local educational agencies in order to make adjustments in the amounts of the grants for which local educational agencies within a State are eligible under section 103(a)(2) of the Act, and shall report to the Congress, no later than February 1, 1975, the results of such study, which shall include an analysis of alternative methods for making such adjustments, together with the recommendations of the Secretary of Health, Education, and Welfare and the Secretary of Commerce with respect to which such method or methods are most promising for such purpose, together with a study of the results of the expanded population survey, authorized in subsection (a) (including analysis of its accuracy and the potential utility of data derived therefrom) for making adjustments in the amounts paid to each State under section 134(a)(1) of title I of the Act.

(c) No method for making adjustments directed to be considered pursuant to subsection (a) or subsection (b) shall be implemented unless such method shall first be enacted by the Congress.

AMNESTY: THE TIME HAS COME

The **SPEAKER** pro tempore. Under a previous order of the House, gentlewoman from New York (Ms. Abzug) is recognized for 15 minutes.

Ms. **ABZUG**. Mr. Speaker, yesterday it was my privilege to testify on the subject of amnesty before the Courts, Civil Liberties and Administration of Justice Subcommittee of the Judiciary Committee.

The chairman of that committee is to be congratulated for holding these important hearings and presenting to the House the important issue of amnesty.

In today's New York Times there is an editorial that ably states the position: we have made peace with our former "enemies" and now it is time to make peace with our sons and husbands who resisted the war in Vietnam. I would like to insert in the Record my testimony and the New York Times editorial:

Testimony of the Honorable Bella S. Abzug

Mr. Chairman, Members of the Committee, I am pleased to have the opportunity to appear before you this morning to discuss amnesty legislation including my bills, H.R. 236 and H.R. 5195, cosponsored by Representative John Conyers and Representative Parren Mitchell, and H.R. 3100, sponsored by Representative Ronald Dellums, all identical bills.

The war in Vietnam is supposedly over. Our prisoners of war have come home. But some 600,000 young Americans are still prisoners of the war system. For their refusal to take part in a war that the public now repudiates they are prohibited from contributing their talents to our society.

Over 52,000 young men resisted the draft; some 7,000 were classified as felons and some 39,000 await prosecution. Another 32,000 resisted after induction, went AWOL and are classed as deserters. Some 30,000 to 50,000 left the country. An astonishing 450,000 Vietnam era veterans received less than honorable discharges for acts that would not be crimes in the civilian world.

These citizens are as much the responsibility of Congress as were the POW's. They too are victims of the misguided policy that led us into Vientam. They and their families have suffered and the nation has been the loser. The time has come for reconciliation; the time has come for amnesty.

Since our earliest history, this government has granted amnesty after wars and rebellions at home and abroad. From the Shays and Whiskey Rebellions, through the War of 1812, the Civil War and the First and Second World Wars, the cessation of hostilities has generally been followed by one or another form of amnesty.

A brief review of these amnesties will illustrate their variety and the numerous instances of separate presidential or congressional action. During the Civil War period, when Presidents Lincoln and Andrew Johnson were more inclined to forgive the Confederates than were the Radical Republican Congresses, congressional action was piecemeal. In 1862, Congress authorized the President to "pardon and amnesty" those participating in the rebellion; in 1872, Congress reenfranchised many thousands of former rebels; in 1884, Congress removed disabilities of former rebels to serve on juries or hold civil office; in 1896, Congress lifted restrictions on former rebels to allow their appointment to military commissions; in 1898 that Congress passed a Universal Amnesty Act removing all disabilities against all former rebels.

Since that time, executive amnesties or pardons have predominated. President Wilson, in 1917, pardoned some political opponents of World War I, President Coolidge, in 1924, remitted citizenship and civil rights to men who had deserted the Armed Forces between the end of World War I hostilities and the formal termination of war in 1921. He called this an amnesty. In 1933, President Franklin Roosevelt granted "full pardon" to all violators of World War I draft laws and the 1917 Espionage Act. In 1946 President Truman appointed a "President's Amnesty Board," headed by Supreme Court Justice Roberts, which, acting in the nature of a parole board, considered Selective Service violators on a case by case basis. This board dissolved itself in December 1947. In December 1952 President Truman remitted citizenship and civil rights to all persons convicted of military desertion between the end of World War II and June 25, 1950. No further amnesties or general pardons have since been granted.

Despite this history of Congressional as well as executive action, the Nixon Administration now suggests that Congress may lack the constitutional authority to provide amnesty. Alleging that the President has exclusive power to grant pardons or amnesty to those who have violated federal laws, it is argued that Congress cannot infringe on that authority either by interference with the exercise of his power or by granting amnesties which the President has decided not to grant. This is nonsense!

It is quite clear, both from historical precedent and from a reading of the Constitution, that the authority to provide amnesty is not an exclusive one but one that may be exercised by the President or the Congress. No one can deny that the President, pursuant to Article II, Sec. 2 of the Constitution, has the authority to grant "pardons for offenses against the United States." Some legal scholars have expressed doubts as to whether this grant of power is broad enough to include the grant of complete amnesty,[1] including restoration of citizenship.[2] The President does have power to grant some types of amnesties for violations of federal laws. The Supreme Court long ago held, however, that this power is *not* exclusive and does not preclude the Congress from acting in pursuance of its powers.[3] Article I, Sec. 8, clauses 11, 12, 13 and 14 of the Constitution grant Congresses the power to declare war, to raise and support armies and navies and to make rules for the government and regulation of land and naval forces; clause 18 provides authority to make all laws "necessary and proper" for carrying out these powers and other powers vested by the Constitution. These are broad grants of authority and have been broadly interpreted by the Courts. Can it really be argued that the power to wage war and to prepare for it does not include the further power to deal with the problems of adjustment after hostilities have ceased? And can it be argued that Congress has the power to enact conscription laws and to set penalties for violation of such laws, that it can provide penalties for desertion, but that it cannot revoke those penalties? The power of Congress to define and provide punishment for crimes and offenses when "necessary and proper" has been universally conceded.[4]

Amnesty quite clearly can be granted either by the President or the Congress. It may be that, once the President has granted an amnesty, the Congress cannot limit its effect. At least one case, *United States* v. *Klein*,[5] has so held. But that involved a Congressional attempt to nullify the effect of Executive proclamations, pardons or amnesties. Chief Justice Chase there stated that "the legislature cannot change the effect of such a pardon any more than the executive can change a law." This is not what we are attempting to do here. Quite the contrary. There has been no executive action in this area. Congress is now attempting to fill that void by exercising its legitimate legislative functions.

This committee has under consideration several types of amnesty bills. Our legislation, H.R. 236, H.R. 5195 and H.R. 3100 varies from the others in that it would provide unconditional general amnesty to war resisters and deserters. I cannot argue too strongly against the imposition of any requirements—alternative service, punishment, or a showing of "repentance"—as a condition for amnesty. The imposition of such conditions can be justified only on the theory that these young men have enjoyed some unfair personal advantage vis-a-vis those who served in the Vietnam war and that they must now serve their time. But these men have already paid a huge price for their exercise of conscience. Having already suffered the hardships of exile, underground existence, imprisonment or life as an ex-convict, they should not be penalized further for their refusal or inability to support an illegal and unconstitutional war and what many now view as the most immoral war in our history.

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[1] For example, the Senate Judiciary Committee concluded in 1869 that the power of the President to grant pardons under Article II, Sec. 2 of the Constitution did not include the power to grant amnesties.

[2] Lusky, Louis, "Congressional Amnesty for War Resisters: Policy Considerations and Constitutional Problems," *Vanderbilt Law Review*, Vol. 25, p. 525, at 538. Professor Lusky points out that only the Congress, pursuant to Article I, Sec. 8, clause 4 of the Constitution, possesses the naturalization power.

[3] *The Laura*, 114 U.S. 411 (1885); *Brown* v. *Walker*, 161 U.S. 591 (1896).

[4] *United States* v. *Fox*, 95 U.S. 670, 672 (1878); *United States* v. *Hall*, 98 U.S. 343, 557 (1879); *United States* v. *Worrall*, 2 Dall. 384, 394 (1790); *McCullock V. Maryland*, 4 Wheat. 316 (1819).

[5] 13 Wall. 128, 143, 148 (1872).

I want to share with this Committee some very moving testimony I heard during two days of ad hoc hearings which I and other members of Congress held last spring and fall. I remember specifically the testimony of a young woman, the wife of a draft resister, who described their plight now that her husband was out of jail. She told us that because of her husband's "criminal" record, he could not get a job in his chosen career, teaching, and that they and their small child were forced to live on welfare while she tried to find a job to support them. Has this family paid a severe enough price?

I also recall the testimony of a middle-aged woman from San Francisco whose son was a deserter from the Army, living in Canada. She related how her son enlisted in the Army to please his father, who was a career noncommissioned soldier. After his enlistment the young man had come to the moral conclusion that he could not serve in Vietnam. Rather than live underground, he went to Canada. She had not seen her son in a number of years. Even when her husband was critically ill, her son could not risk returning to the United States. Her son was not even able to attend his father's funeral. Has this family paid a severe enough price?

Faced with the human beings to whom this law would apply, I believe that even former Secretary of the Army Froehlke, former Secretary of Defense Laird, and other advocates of conditional amnesty will see the need to eliminate punitive conditions. Even Mr. Froehlke suggests that convicted draft evaders who have served a prison term should not be required to perform an additional service in order to qualify for amnesty. "Their service in prison should be considered service to country," he stated in his testimony before this Subcommittee. But if a prison term be considered "service" for one's country, why not a fugitive's existence or a period of exile? Is he really talking of service or does he mean punishment? I submit that, in just the same way, those who faced self-imposed exile, those who lived precariously in the underground, those who cannot find work because of questionable discharges from military service, have suffered enough. So have their families.

They have paid the price for following a moral imperative: Thou shalt not kill. They were among the first to challenge the morality of our acts in Vietnam. They made us think more deeply about what we were doing there. The courage required by this lonely stance is hard to imagine until one has talked, as I have, with hundreds of such men and their families.

That is why my bill provides for unconditional amnesty. It would also apply to all classes of essentially non-violent war resisters, including not only draft evaders and of deserters but antiwar demonstrators as well. Amnesty would be granted automatically in most instances, but an Amnesty Commission would be established with authority to grant amnesty to violators of other Federal, State or local laws, if the Commission finds that such violations were substantially motivated by opposition to the war and did not result in significant property damage or substantial personal injury.

The amnesty granted under my proposed legislation would be complete and would contravene every legal consequence suffered as a result of war resistance. It would restore all civil, political, citizenship and property rights. It would immunize persons from criminal prosecution, release those imprisoned and expunge all criminal records. It would also require the Armed Forces to grant an honorable discharge in place of other than honorable discharges.

Other amnesty proposals have suggested automatic amnesty for draft violators but more careful consideration or no consideration at all for deserters. The theory, supposedly, is that the motives of draft evaders are more easily identifiable as conscientious, while the motives of deserters are more diverse or tend to be selfish. This theory is not supported by the facts. I question its relevance, since it is impossible to devise a fair administrative mechanism to identify motives. The records of draft boards and military boards who have ruled on the sincerity of conscientious objectors show that such proceedings are by nature arbitrary and capricious, discriminating flagrantly against those who are less well educated and less articulate in stating their beliefs. In fact, many war resisters, both convicts and fugitives, are themselves conscientious objectors who were unable to convince their draft boards but unwilling to compromise their beliefs. In *Seeger* v. *United States* (380 U.S. 163 (1965)), the Supreme Court acknowledged, "(O)ne deals with the beliefs of different individuals who will articulate them in a multitude of ways . . . Local boards and courts . . . are not free to reject beliefs because they consider them 'incomprehensible.'"

What recourse would they have if they failed a second time to establish their sincerity in an arbitrary administrative proceeding? The ineffectiveness, not to mention the injustice, of a case-by-case review board was demonstrated in Truman's "President's Amnesty Board" of 1946–47. Of the 15,805 resisters considered by this Board, only 1,523 were granted "amnesty." All Jehovah's witnesses were refused amnesty. Technically, this review board provided pardon, not amnesty.

More important, however, would be the gross inequity of discriminating between these two groups of war resisters. As we all know, a new, less restrictive definition of "Conscientious Objector" was enunciated by the Supreme Court in 1970. But this was long after many young men had already been refused C.O. status. Even after the Court's decision in the *Welsh* case,[6] there were many less educated young men who were unable to articulate their beliefs in such a manner as to qualify for C.O. status. Many more, I am sure, were not even aware of the Supreme Court's holding or of the procedures to be followed to qualify for such status. Others, feeling an obligation to serve their country, accepted induction but later found it impossible to participate in the war in Vietnam. All, I submit, acted on the basis of their strong moral beliefs. How can we possibly distinguish among them without doing violence to our own principles of justice and equity? We all know that the draft, as administered, was grossly discriminatory—allowing student deferments and providing loopholes for those who knew the ropes. Only by granting a blanket amnesty to all war resisters can we hope to overcome, at least in part, these past inequities and discriminations against the poor, the less well-educated, and members of minority groups.

Critics of amnesty are numerous, vocal, and in the main, sincere. Two arguments are most frequently advanced by them to counter the idea of amnesty. First, while few critics attempt to justify the war policy itself, they argue that amnesty for war-resisters would dishonor the sacrifices made by those Americans who fought in Southeast Asia. I do not belittle these sacrifices. On the contrary, I mourn them bitterly and deeply because I deem them to have been purposeless, squandered by the Government for wrongful ends or no ends at all. I am angered and I am sickened when I consider all the tragedies of the war, but I do not direct my anger at those who refused to fight who were themselves victimized. I direct my anger at the responsible parties—the warmakers in our Government. They are the ones who dishonored our soldiers, by using them and wasting them in a corrupt enterprise. If the Government had listened to the draft resister, the demonstrator, and the deserter long ago, many lives would have been saved and much suffering averted.

To make an analogy, when a court system sentences a man to death and later strikes down the law under which he was sentenced, reversal is ordered. The courts do not insist upon the sentence for the sake of consistency or to honor others who were wrongfully executed. In carrying out this war, the Government, in effect, pronounced sentence erroneously against 55,000 young soldiers. It is time for the Government to reverse itself now, and not blindly perpetuate this wrong by punishing those who refused to fight.

Futhermore, how can we be so concerned that amnesty would dishonor the veterans and casualties of Vietnam, when many of the veterans themselves are the most active, dedicated opponents of the war, and the most vocal proponents of amnesty? Many veterans, having witnessed the war's consequences, and having now examined its deceptive rationale, have concluded that they should not have fought and would themselves have refused to fight had they been aware of the facts at the time.

A second argument commonly advanced to oppose amnesty is that amnesty now would lead young men of the future to believe that they could shirk their military duties with impunity. Thus, the argument goes, in some future national emergency, we would be unable to raise armies. But, as I have pointed out, amnesty measures have followed nearly every major war in our history. Amnesty is an American tradition. And yet history also shows that whenever the country has been in danger, young citizens have responded and sacrificed willingly in combat.

In fact, this country never has experienced significant difficulty in raising armies for its real military needs. I have faith in the patriotism of young Americans. I have faith that they would rise to defend this country if a national emergency really required it. But I also have faith in their ability to think for themselves, to distinguish right from wrong where their Government's policies are concerned, and to have the courage to resist official policies where they are manifestly immoral.

For these reasons I reject the contentions of those who would deny amnesty. I submit, to the contrary, that a broad amnesty measure would honor us as a nation and serve our most vital national interests. It would heal at least some of the wounds remaining from this immoral war and would enable us—as a nation—to utilize one of our most valuable resources, the thousands of young men and women lost to self-imposed exile.

For the first time in our history, a significant segment of our young people—together with their families—have found it necessary to live abroad. A major purpose of any amnesty measure must be to bring these exiles home, so they can lend their energies to rebuilding the nation, to effecting the changes we need, and to work within the political structure to insure that we will have no more Vietnams. No measure short of unconditional, universal amnesty such as I have proposed will bring these men home.

They reject the concept of amnesty for some and not others and they reject the idea of alternative service. All those to whom I have spoken or written ask the same question in various ways, "If the war was criminal and we refused to commit the crime, why should we be punished?"

I join with war resisters in rejecting the tokenism inherent in other proposals for less than total, blanket amnesty.

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[6] *Welsh* v. *United States*, 398 U.S. 333 (1970).

Amnesty is not only a legal question, it is a moral one. It is the morality of the issue which caused millions of Americans to question the war, and it is the morality of the issue that has caused many of the leading religious institutions to raise their voices in favor of amnesty.

The Protestant Episcopal Church of the United States, in the fall of 1973, passed the following resolution:

"Whereas, American society must proceed to heal the wounds at home and abroad caused by the War in Indochina and to reconcile all people in peace . . . Resolved, that the House of Deputies concurring, that this Convention calls upon diocese and parishes of this church to include in their Christian education and social concerns program a serious consideration of the question of amnesty and the needs of returning veterans."

In November of last year, the Biennial General Assembly of the Union of American Hebrew Congregations passed the following:

"Based on the Jewish religious concern to reconcile generation with generation, person to person and in consonance with the prophetic cry of Malachi: to turn the hearts of the parents to the children and the hearts of the children to the parents, it is our considered judgment that the first way to effect this healing process is by Congress granting amnesty to those young men who found, early or late, that they could not participate in the war and went to prison, resisted or deserted. As we make peace with our enemies let us also make peace with these, our youth.

"With full respect for those who chose to serve and those who sacrificed so much for their country, we call upon Congress to grant unconditional amnesty as an act of reconciliation and compassion that can help speedily reunite the American people for the key task of justice and peace which lie ahead."

I would also like to note that the United States Catholic Conference has adopted a position favoring unconditional, universal amnesty. They said:

"Who should be granted amnesty?

"First, those young men who were subject to the draft but whose informed conscience led them to oppose participation in the Vietnam war, even though they could not say in conscience that they were opposed to all use of military force. These selective conscientious objectors are now serving prison terms. We do not believe any useful purpose is served at this time by continuing the incarceration in federal prisons of these young men whose consciences instructed them not to engage in the killing and dying in the Vietnam war . . . Secondly, we also recognize that an additional group of young men are in a somewhat similar position, that is, men in military service, who for reasons of their consciences were compelled to refuse to serve in the war and who were imprisoned or given less than honorable discharges. Here again the complicating impact of selective conscientious objection upon the structures of military law is evident. However, we do not believe that the individual forfeits his right to exercise the dictates of his conscience once he enters the ranks of the military, or, for that matter, any other form of employment. The request for amnesty for selective conscientious objectors in federal prisons, therefore, should also be extended similarly to men in military jails.

"Thirdly, there is the group of young men who have left the country or who have remained in the country as fugitives from the law because they felt compelled to follow their consciences rather than the law. Certainly their experiences of sufferings and separations have been trying for them personally as well as for their families and friends. We again urge officials and all Americans to respond to their conspicuous need to find a solution to the problems of these men through the reconciling work of amnesty."

I would also like to relate to the Committee testimony I heard from Eddie Sowders. Mr. Sowders was a deserter who turned himself back to military control after testifying at the ad hoc hearings I and other Members of Congress conducted in May, 1973.

Mr. Sowders related what he had seen and done in Vietnam and how this led to his decision to leave the Army. He told of what it was like to live "underground" in the United States, moving from one low-paying job to another, sometimes going hungry. But, as he told me and the other Members of Congress at the hearing: "I make no apology for my act of resistance. I could do nothing else at the time." He concluded his statement by saying: "Only by winning a universal, unconditional amnesty for all categories of war resisters can we begin the long process of changing our country and learning from the decade of blood and bitterness in Indochina."

When the Civil War ended, America tried no Confederate soldiers for treason, sent no one who had opposed the Union into exile, sent none of the officers and officials of the Confederacy to prison. Is it too much to ask that we in the 20th century, more than a year after we acted to conclude the longest war in our history, do the same for those who by their courage and the strength of their convictions showed many of us the wrongness of the war in Vietnam? This would go a long way to restoring the faith of our young—in fact of all our people—in our nation's past and future.

[From the New York Times, Mar. 14, 1974]

WE CAN FORGIVE

Ever since President Nixon said categorically more than a year ago that "we cannot provide forgiveness" for draft resisters and self-exiled opponents of the war in Vietnam, it has been evident that any hope of amnesty rests with Congress. Legislation to create an amnesty board to rule on individual cases is now under consideration in the House.

The case of amnesty is reinforced by the fact that the United States has made peace with its former enemies in Indochina and has extended the hand of friendship to the political and military powers that actively supported those former enemies. However, the Pentagon bases its opposition to amnesty on the argument that to show mercy to those who refused to fight in Vietnam is to jeopardize the nation's capacity to rally a military force in case of need. The Justice Department wants to block legislation on the theory that the right to pardon is the prerogative of the executive branch, not of Congress.

Neither of these objections is entirely convincing. In the years between 1795 and the end of the war in Korea, there have been 34 amnesty actions, seven of them granted by Congress, Abraham Lincoln started to pardon draft resisters, and even deserters, while the Civil War still raged. None of these past examples of forgiveness has crippled this country's capacity to defend itself in subsequent conflicts.

The nature of the war in Vietnam—its lack of public support and its questionable practical and moral justification makes it particularly inappropriate for the Pentagon to oppose amnesty on grounds of future military need. Americans are entitled to hope that their sons will not soon again be asked to don uniforms in so dubious a cause.

There is room for debate over the best way to handle the different categories of war resisters and deserters, but it should not be too difficult for a review board of thoughtful men and women to resolve such questions. Americans will long argue whether the settlement that ended this country's participation in the war can rightly be called a peace with honor; but at least we should delay no longer in sanctioning a peace with charity.

DANIELS CALLS FOR UNITED STATES-U.S.S.R. TREATY ON SUEZ CANAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. DOMINICK V. DANIELS) is recognized for 10 minutes.

Mr. DOMINICK V. DANIELS. Mr. Speaker, now that the reopening of the Suez Canal is fast becoming a reality, I would hope that the State Department would negotiate a treaty with the Soviet Union closing off this waterway to war vessels of all nations.

Mr. Speaker, unless this is done it seems fairly self evident that a major arms race will develop between the United States and the U.S.S.R. in the Indian Ocean.

It seems reasonable to me that such an agreement would be in the best interests of both nations, the United States because our military budget severely limits our ability to provide other governmental services and the Soviet Union because funds expended for military purposes are diverted from the consumer economy. Thus limiting the arms competition means a richer and fuller life for all Americans and all Russians, too.

But, Mr. Speaker, the danger of an arms buildup is the awful possibility that either side or both will use its military and naval might. Thus, I urge Secretary Kissinger to use his good offices to see that agreement is reached on this vital issue.

IMPROVEMENTS IN VETERANS PROGRAMS ARE IN ORDER

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, recently I saw as an opening sentence in a newspaper editorial this question: "What does it take for America to do right by its Vietnam veterans?" There have been too many reports of delays in veterans education checks. It has been demonstrated that payments to veterans are insufficient. The President has expressed concern about the matter and directed more vigorous efforts for veterans. This has helped in some instances but improvements are not universal. This is a situation which should not be allowed to continue. The Government must express a proper concern for the men who fought the war in Vietnam.

Computers and staff shortages have been blamed. This is not an acceptable excuse. Delivery of checks can be solved by proper and efficient management on the part of the Veterans' Administration. The question of adequacy of veterans' stipends can and must be solved by Congress. The great majority of Americans agree that the Vietnam veterans deserve something better than they are getting.

The House has passed and sent to the Senate a bill to substantially improve veterans' benefits, especially for those who served in the Vietnam war. Justification for improvements particularly in benefits to veterans of the Vietnam war have been demonstrated to be sound and needed,

The bill will cost $2.1 billion over the next 5 years. It increases educational allowances by 13.6 percent, increase the period of eligibility from the present 8 years following discharge, to 10 years, and it reduces the disability requirement for eligibility to receive vocational rehabilitation.

The bill also contains provisions allowing training time to be counted when computing eligibility, and makes provisions for POW's to have special consideration when computing eligible educational allowances. It allows 6 months for refresher training, extends eligibility to pursue farm cooperative training to wives, widows, and orphans of veterans, and it establishes a Vietnam Era Veterans Communication Center within the Veterans' Administration.

This bill now is in the Senate and hopefully, quick action will be taken there so the bill can go to the President and become law. This kind of action is overdue and corrective steps should be taken to bring Vietnam veterans on a par with World War II and other veterans in Federal benefits.

The President had previously proposed an 8-percent educational benefit increase. This was a step in the right direction, but an inadequate one. I believe the bill passed by the House on February 19 achieves a proper goal of educational opportunities for those who served during the Vietnam conflict. The Nation cannot expect Vietnam veterans to educate themselves for benefits which, comparatively speaking, are lower than benefits provided for education for veterans of earlier wars.

Back in the days of the post-World War II GI bill of rights, a veteran could enroll in a college or university, have his tuition paid, his books purchased, live in Government housing if it was available, and receive a check for $75 every month. Government leaders and business executives across the Nation owe their education to this program.

But today, things are different. Because of the soaring costs of higher education, the increase in the cost of living, and the stiff competition for outside jobs, veterans of the Vietnam war find themselves unable to pay for an education and meet day-to-day living expenses on the flat rate formula now in effect.

While it is true some States such as California offer higher education either at very reasonable cost or no cost at all, other State university systems and all private colleges and universities must charge substantial fees for tuition, books, meals, and lodging.

There is no uniformity to the cost of education, but we are asking our Vietnam veterans to educate themselves saddled with a uniform, substandard rate of compensation.

There still remain some areas of inequity even assuming final enactment of the most recent House bill.

Proposals now are being considered to provide supplements in those cases where educational costs exceed the national average. This would be a proper step.

Congress should arrive at formulas to meet all remaining problems in veterans programs. Having served their nation well in an unpopular war, these men and women who wore their country's uniform during the Vietnam conflict now have every right in civilian life to receive the help and cooperation of a nation which should not be hesitant in showing its gratitude. Their useful and productive careers were interrupted, some seriously because they served in uniform during this period. Now let us help to insure that they still find useful and productive careers.

A BILL TO END DISCRIMINATION AGAINST CONSCIENTIOUS OBJECTORS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on March 4 of this year, the U.S. Supreme Court upheld as constitutional a lower court ruling in which a conscientious objector who had served 2 years of alternative civil service was denied Veterans' Administration education benefits. I believe that this decision points out the error made by Congress in 1966 in not including among the beneficiaries conscientious objectors who gave their country 2 years of alternative service.

I am today introducing legislation to extend Veterans' Administration benefits to conscientious objectors who have given 2 years of alternative service. These persons have been excluded from such benefits, despite disruption of their lives and careers equal to those who have served in the Armed Forces.

Justice Douglas, in his dissent from the March 4 Supreme Court decision, pointed out that persons who work at noncombatant "safe desk jobs" in the military receive full benefits. Many, he continued, have even worked from 9 to 5 and attend college classes at night. No "hazardous duty" was required for these persons to receive benefits.

Justice Douglas also argued that it is demeaning to suggest that one must forego religious scruples to gain a monetary advantage. As precedent, he cited a 1963 case, Sherbert against Verner—374 U.S. 398—in which the Supreme Court held that a Seventh Day Adventist could not be denied State unemployment benefits because she refused to work on Saturday, her religions Sabbath Day.

According to the accompanying report—H. Rept. No. 89-1258—the 1966 legislation (H.R. 12410) was intended to "help the veteran to follow the educational plan that he might have adopted had he never entered the Armed Forces." This included persons who worked in noncombatant jobs. Certainly conscientious objectors who performed alternative service equally disrupted their pursuit of education.

From its earliest beginnings, including the Revolutionary War, the country has allowed bona fide conscientious objectors to provide civilian service as an alternative to military service. To deny such young men, who abide by both their consciences and the laws of the United States, veterans' benefits provided all other persons whose careers were interrupted by the draft, is unconscionable. The purpose of the VA benefits program is to assist in the readjustment of those removed from the mainstream of economic life; the need for this aid is the same whether a man served in the military or in a civilian hospital.

The civilian service required of a conscientious objector has never been construed as punishment, but rather as an acceptable decision of conscience and service in lieu of bearing arms. To deny veterans' benefits to those young men denigrates conscientious objector status and service, and effectively punishes them for exercising their religious, moral, and philosophical beliefs. This country is great because it has encouraged and guaranteed religious freedom. We lessen that greatness by discriminating against such conscientious objectors.

The legislation which I am introducing would retroactively extend veterans' benefits and eligibility for veterans home loans to conscientious objectors since 1964, the year the United States Code defines at the beginning of our involvement in the Vietnam war.

My colleagues who are cosponsors of this legislation include Mr. Badillo, Mr. Brown of California, Mr. Edwards of California, Mr. Young of Georgia, Mr. Mitchell of Maryland, Mr. Dellums, Ms. Abzug, Mr. Riegle, and Mr. Nix.

Mr. Speaker, I include for the Record the text of Justice Douglas' opinion, which states the reasons why justice demands that there be no discrimination against conscientious objectors.

The opinion follows:

[Supreme Court of the United States No. 72-1297—on Appeal from the United States District Court for the District of Massachusetts]

Donald E. Johnson, Administrator of Veterans' Affairs, et al., Appellants, *v.* William Robert Robison, Etc.

[March 4, 1974]

Mr. Justice Douglas, dessenting.

In *Braunfield* v. *Brown*, 366 U.S. 599, I expressed my view that Pennsylvania's Sunday closing law was unconstitutional as applied to Sabbatarians, see 366 U.S. at 561, 575, 577. The State imposed a penalty on a sabbatarian for keeping his shop open on the day which was the Sabbath of the Christian majority; and that seemed to me to exact an impermissible price for the free exercise of the Sabbatarian's religion. Indeed, in that case the Sabbatarian would be unable to continue in business if he could not stay open on Sunday and would lose his capital investment. See *id.*, at 611.

In *Girouard* v. *United States*, 328 U.S. 61, we held in overruling *United States* v. *Schwimmer*, 279 U.S. 644, that the words of the oath prescribed by Congress for naturalization—"will support and defend the Constitution and the laws of the United States of America against enemies, foreign and domestic"—should not be read as requiring the bearing of arms, as there is room under our Constitution for the support and defense of the Nation in times of great peril by those religious scruples bar them from shouldering arms. We said: "The effort of war is indivisible; and those who religious scruples prevent them from killing are no less patriots than those whose special traits or handicaps result in their assignment to duties far behind the fighting front. Each is making the utmost contribution according to his capacity. The fact that his role may be limited by religious convictions rather than by physical characteristics has no necessary bearing on his attachment to his country or on his willingness to support and defend it to his utmost." 328 U.S., at 64–65.

Closer in point to the present problem is *Sherbert* v. *Verner,* 374 U.S. 398, where a Seventh Day Adventist was denied unemployment benefits by the State because she would not work on Saturday, the Sabbath Day of her faith. We held that that disqualification for unemployment benefits imposed an impermissible burden on the free exercise of her religion, saying: "Here not only is it apparent that appellant's declared ineligibility for benefits derives solely from the practice of her religion, but the pressure upon her to forgo that practice is unmistakable. The ruling forces her to choose between following the precepts of her religion and forfeiting benefits, on the one hand, and abandoning one of the precepts of her religion in order to accept work, on the other hand. Governmental imposition of such a choice puts the same kind of burden upon the free exercise of religion as would a fine imposed against appellant for her Saturday worship." *Id.,* at 404.

And we found no "compelling" state interest to justify the State's infringement of one's religious liberty in that manner. *Id.,* 406–408.

In *Wisconsin* v. *Yoder,* 406 U.S. 205, we held that Wisconsin's compulsory school attendance law as applied to Amish children would gravely impair the free exercise of their religious beliefs.

The District Court in the present case said that the penalty which the present act places on conscientious objectors is of a lesser "order or magnitude"[1] than that imposed in the cases past maintained, 352 F. Supp., at 860.

That is true; yet the discrimination against a man with religious scruples seems apparent. The present Act derives from a House bill that had as its purpose solely an education program to "help the veteran to follow the educational plan that he might have adopted had he never entered the armed forces." H.R. Rep. No. 89–1258, 89th Cong., 1st Sess., p. 5. Full benefits are available to occupants of safe desk jobs and the thousands of veterans who performed civilian type duties at home and for whom the rigors of the "war" were far from "totally disruptive," to use the Government's phrase. The benefits are provided, though the draftee did not serve overseas but lived with his family in a civilian community and worked from nine until five as a file clerk on a military base or attended college courses in his off-duty hours. No condition of hazardous duty was attached to the educational assistance program. As Senator Yarborough said,[2] the benefits would accrue even to those who never served overseas, because their "educational progress and opportunity" "has been impaired in just as serious and damaging a fashion as if they had served on distant shores. Their educational needs are no less than those of their comrades who served abroad."

But the line drawn in the Act is between those who served as conscientious objectors and all other draftees. Conscientious objectors get no educational benefits whatsoever. It is, indeed, demeaning to those who have religious scruples against shouldering arms to suggest, as the Government does, that those religious scruples must be susceptible of compromise before they will be protected. The urge to forego religious scruples to gain a monetary advantag would certainly be a burden on the Free Exercise clause in cases of those who were spiritually weak. But that was not the test in *Sherbert* or *Girouard.* We deal with people whose religious scruples are unwavering. Those who would die at the stake for their religious scruples may not constitutionally be penalized by Government for the exaction of penalties because of their Free Exercise of religion. Where Government places a price on the Free Exercise of one's religious scruples it crosses the forbidden line.[3] The issue of "coercive effects," to use another Government phrase, is irrelevant, Government, as I read the Constitution and Bill of Rights, may not place a penalty on anyone for asserting his religious scruples. That is the nub of the present case and the reason why the judgment below should be affirmed.

FOOTNOTES

[1] "First, the denial is felt, not immediately, as in *Sherbert,* but at a point in time substantially removed from that when a prospective conscientious objector must consider whether to apply for an exemption from military service. Secondly, the denial does not produce a positive injury of the sort effected by a Sunday closing law or ineligibility for unemployment payments. Considering these factors, the court doubts that the denial tends to make a prospective alternate service performer choose between following and not following the dictates of his conscience." 352 F. Supp., at 860.

[2] Hearings, Subcommittee of Veterans Affairs of the Senate Committee on Labor and Public Welfare, "Cold war GI Bill—1965," 89th Cong., 1st Sess., pp. 2899–2900.

[3] *Gillette* v. *United States,* 401 U. S. 437, is irrelevant to the present case. There we were concerned with whether the petitioners were validly excluded from classification as conscientious objectors. Here the question is whether the Government can penalize the exercise of conscience it concedes is valid and which exempts these draftees from military service. Moreover in *Gillette* we relied upon the fact that the Government's classification was religiously neutral, 401 U. S., at 451, imposed only "incidental burdens" on the exercise of conscience, and was "strictly justified by substantial government interests that relate directly to the very impacts questioned," *id.,* at 462. Here the classification is not neutral but excludes only those concerned by the Government to have religious-based objections to war; and thus the burden it imposes on religious beliefs is not "incidental." And here we have no Government interest even approaching that found in *Gillette*—the danger that, because selective objection to war could not be administered fairly, our citizens would conclude that "those who go to war are chosen unfairly or capriciously [resulting in] a mood of bitterness and cynicism [that] might corrode the . . . values of willing performance of a citizen's duties that are the very heart of free government." *Id.,* at 460. The only Government interest here is the financial one of denying these petitioners educational benefits. That in my view is an invidious discrimination and a penalty on those who assert their religious scruples against joining the armed services which shoulder arms.

SENATOR ROBERT C. BYRD

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, under unanimous consent, I include an excellent column by Beth Spence, editor of the Logan News, Logan, W. Va., dated March 8, 1974. Miss Spence's column, entitled "Echoes From the Hills," is a regular weekly feature of the Logan News and is gaining increasing attention for its perceptive comments. This week's column includes some richy deserved praise for West Virginia Senator ROBERT C. BYRD, majority whip of the Senate, whose recent appearance on "Meet the Press" drew widespread favorable comment throughout West Virginia and the Nation.

The article follows:

ECHOES FROM THE HILLS

(By Beth Spence)

In his Sunday appearance on "Meet the Press," U.S. Senator Robert C. Byrd talked about Watergate and the energy crisis and the Nixon administration candidly, showing a depth of feeling about the man on the street who is trying to make ends meet, keep his car going and survive the present nationwide difficulties that Nixon and his hatchetmen have never been able to show.

His remarks concerning the possible guilt of Nixon in connection with the shoddy Watergate affair were guarded, lest he is part of the jury that must decide whether the president remains in office or not, but he was positive in the belief that a man is responsible for the conduct of his subordinates and that firm moral leadership is needed today. Byrd was also emphatic in his belief that the manila folder given Judge John Sirica by the grand jury investigating the Watergate scandal be turned over to the House committee investigating impeachment as was suggested by the grand jury. It is commonly believed that the information contained in the folder is relative to the president's own involvement in the scandal.

The Senator also stated the belief that the Congress is moving steadily toward impeachment and that, if the House does vote to impeach, the trial by the Senate would proceed immediately without the type of delay the House has encountered because Senate rules governing an impeachment trial are clear and no research needs to be done regarding them.

But by far the most provocative question which Byrd posed to the nation via the electronic medium was in response to a question about the current gasoline shortage. The Senator spoke out in favor of the rollback of oil prices and gasoline prices as contained in the energy conservation bill passed by the Congress which is waiting for the president's signature.

Byrd said he doesn't understand how the president can expect coal miners and poor people and the elderly dependent on their own transportation, as in southern West Virginia, to pay $3 to $4 more for gas. "Whose side is he on anyhow?" Byrd asked.

That question is a most important one and one which Americans must find the answer for. And this question may determine whether Richard Nixon remains in the Oval Office to serve out his term. For if he is on the side of the corporation at the expense of the people of the nation and if he is willing to put corporate interest ahead of the interest of the individual, then he is not living up to the moral responsibility of the office in which he serves.

"Whose side is he on anyway?" A very good question and one that might also be posed to the Trailways Bus Company whose executives are trimming schedules in an area that has no other public transportation at a time when people are most dependent on the bus service. Somehow those who cut the schedules and then refused to listen to those who came to what was supposed to be a public hearing do not seem to come out on the side of the old, the poor and the helpless.

And West Virginia's Governor Arch Moore acts as if he has never been to the southern coal fields. Whose side is he on anyhow when he imposes a quarter tank rule on individuals completely dependent on their automobiles in areas where gas stations are few and far between and where those few operate only a few, if any, hours a day? And whose side is he on when he modifies his plan under much pressure to create a system of bureaucratic red-tape and more problems for the already under-manned West Virginia State Police? Is he on the side of the elderly, who often have to go to Charleston for medical attention or to visit sick relatives? Is he really on the side of the coal miner who has to drive 100 miles a day to work? Is he on the side of the service station attendant who may endanger his life by following the executive order?

The quarter tank ruling has had some funny results. One couple was in Huntington coming to Logan and a service station attendant refused to fill the car up because it contained ⅜ tank of gas. So they drove around town, wasting time to run the tank to ¼ tank. Is this conserving energy?

In barrooms and barber shops, on the streets and in buses, in resaturants and in homes, the number one topic of conversation in Logan County among all types and kinds of people is gasoline. Whether they make monthly trips to Florida or if the monthly trip is merely to the county seat, Logan County is suffering. Our only salvation from the isolation from the rest of the world is the automobile and the gas that makes it run and this salvation has been taken away.

That question "Whose side is he on anyhow" needs to be answered by a lot of folks for a lot of Americans who need to make some sense of what has become of this country. Throughout the seventies Americans have watched with dismay as standards have been lowered in high places, corruption and greed for power have been exposed, presidential appointees have expressed their willingness to put loyalty to the president above their duty to their country and its constitution, there has occurred an erosion of confidence in America not only by citizens of other countries but by Americans themselves.

And as President Nixon fights for his political life he must face up to the question posed by Byrd, "Whose side is he on anyhow?"

FIGHTING ALCOHOLISM

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, recently I was one of a number of Members of this body who attended the 75th Anniversary Breakfast of the International Reform Federation. Known to many as the "First Christian Lobby on Capitol Hill," the International Reform Federation has been at work now for three-quarters of a century in combatting alcoholism through educational activity here and abroad and through programs urging the adoption of relevant legislation at all levels of Government.

This year, among the other pieces of legislation the federation is supporting is H.R. 11106, by our respected colleague, George E. Brown, Jr. of California. I have introduced a companion bill, H.R. 13501. I have also introduced H.R. 13500 to require a warning label on containers of alcoholic beverages similar to the warning now contained on packages of cigarettes.

Congressman Brown was the featured speaker before the Federation's Anniversary breakfast on March 6. Because of the tremendous burden to the Nation of alcoholism and because of the need to find better legislative remedies for this problem, at this point I wish to insert in the Record Congressman Brown's remarks to members of the International Reform Federation on the subject.

Remarks of Congressman George E. Brown, Jr.

It is an honor to have been invited to address the International Reform Federation this morning. There are many groups headquartered here in Washington because of their interest in national issues but few so prestigious, with such a long and honorable history, and with such worthy objectives as the Federation. I should pay special tribute at the outset to one of your Board members, Bill Plymat, and to Wilbur Korfhage for involving me in this area of reform. It is very gratifying to be a part of such an effort.

My remarks to you today are directed to the subject of alcoholism and a possible legislative approach to dealing with one aspect of the problem. In considering the problem, however, inevitably one is confronted with its sheer size. On the one hand you have the liquor industry consisting of 516,000 companies which together gross approximately $24 billion per year. The taxes alone on alcoholic beverages are enormous. In 1972, the Federal Government collected $3.7 billion as taxes on distilled spirits while the state and local governments were raising another $1.9 billion. From 1933 to 1972, public revenues from distilled spirits totaled over $100 billion. And on the other hand you have an estimated 9 million alcoholics and millions more who are "dependent drinkers." There are between 25,000 and 50,000 fatal auto accidents each year in which alcohol is a contributory factor. One-half of all homicides and one-third of all suicides are related to the use of alcohol.

Both government and private groups are struggling to find means of dealing with this staggering situation. Many programs have been tried over the years—educational, church, family, AA, government. Some have been abandoned; others continue in a valiant effort to come up with solutions.

But continuously undercutting all such efforts is the pernicious influence of cleverly designed advertisements for alcoholic beverages, advertisements which pour forth in a veritable flood in magazines, newspapers, posters, radio, and TV. One estimate placed the volume of this advertising at $247 million in 1972. The *Christian Science Monitor,* however, gauges it at more like between $288 million and $900 million. Whatever the correct figure, it dwarfs the $75 million which the Federal Government spends to combat alcoholism through research, training, community programs, etc.

Over the years the figures for advertising of alcohol show a steady increase. The *Statistical Abstract,* for example, reveals that newspaper advertising of liquor increased 11% from 1971 to 1972 and almost 10% for all types of alcoholic beverages. (I regret to note that one of the major newspapers in my own district, a part of the Gannett chain, is one of those which abandoned the old Gannett policy of refusing liquor advertising.) National advertising of beer and wine on television during the same period from 1971 to 1972 increased 35%.

One study of alcoholic beverage ads conducted several years ago found that in a single issue of a national magazine, whiskey, brandy, and liquers were described in the following glowing terms:

Rich in heritage, rich in flavor;
Having a supreme quality, a distinctive taste, a bouquet beyond imagination;
Traditionally fine, peerless, perfect;
A supreme taste-pleasure;
Having a tradition of quality begun 150 years ago;
An old and respected name;
A bottle for a friend;
Famous since 1804; soft flavor, delightful bouquet;
The world's most cherished liquer; and
Holidays deserve sunny morning flavor.

The copywriters for wines were equally enthusiastic:

A joy to taste, a pleasure to serve;
A wine of breeding, balance and delicacy;
A means of glorious living, distinguished dining, treasured remembrance;
Women who know and enjoy exquisite living prefer sherry;
An eminent wine, full and velvety;
Red magic, sorcery of the winemaker's art;
Makes all occasions gala, fine, blended; and
Unsurpassed for 100 years.

The *Monitor* last December took note of the ads appearing throughout the country during that, of all seasons, equating liquor with friendship, Christmas, romance, and good fellowships, and with some of them even artfully aimed at minority groups.

These ads are all pervasive. For one thing, unlike many other types of advertising, alcoholic beverage advertising is so varied that it is likely to be encountered by almost everyone. From ball games to news and drama, in the ever-present spot commercials, in magazine ads and on billboards, you are continuously being assailed. In addition, producers of alcoholic beverages also get a considerable amount of time from the media free in that these products are used in films, plays, stories, and other entertainment features.

Children are conditioned to the acceptance of drinking by cartoons, jingles, and the association of drinking with sports events. Young adults are led to favor drinking through identification with individuals depicted as men and women of breeding and discriminating taste in slick magazines, television, and motion pictures. There are even advertisements now which depict wines not as alcoholic beverages but as the equivalent of soda pop.

As these illustrations demonstrate, although advertising alone may not necessarily create a desire to drink alcoholic beverages, it does confirm and strengthen social appeals and values attached to their use. All advertising makes extensive use of the psychology of suggestion. In promoting products, advertising is directed toward emotional needs as well as actual needs of consumers. Whatever the product is that is being peddled, claims are made which will appeal to the buyer's desire for personal security, social superiority, and identification with symbols of prestige and achievement. Statements are phrased so that the consumer will be persuaded to try the product, and if the article satisfies his wants, he may continue to use it. If the product is not superior to others offered on the market, advertising will particularly focus on attaching emotional satisfaction to its use.

In the case of many products sold in the fashion I have just described, at worst they may constitute an unnecessary drain on one's pocketbook. Alcoholic beverages, however, go far beyond their immediate impact on the pocketbook when one is measuring their deleterious consequences. Even the liquor industry has recognized the need to police its own activities. This has taken the form of submitting advertising layouts to the Alcohol Tax Unit of the Treasury Department for review in advance of publication and keeping ads for hard liquor off television and radio. This very effort to police itself, however inadequate it may be, is a tacit recognition by the industry that its advertising accomplishes far more than simply maintaining the sales of brand-name products in a highly competitive market.

There have been several types of proposals as to how we should meet the problem of advertising. My distinguished colleague, Senator Strom Thurmond, is a foremost proponent of the approach which would require warning labels in view of the fact that alcohol is a drug and alcoholism has unknown causes. Congressman Hanna has introduced legislation which would curb all advertising on radio and TV, a step that has been adopted in British Columbia and recently recommended for Michigan by the Governor's Task Force on Victimless Crime. Another approach would try to obtain "equal time" under the FCC's fairness doctrine in order to reply to alcohol ads. And yet another proposal is to institute law suits under the provisions of the Uniform Sales Act against the liquor industry challenging the implied warranty of "fitness for purpose" of their product.

My approach is related to that of Congressman Hanna but is somewhat different. My bill H.R. 11106 would simply disallow the advertising of alcoholic beverages as a business tax deduction.

As such it is the counterpart in the House of Representatives of Senator Moss' bill although his would also apply to cigarettes. If H.R. 11106 is passed, not only would we be striking at all liquor advertising but generating considerable tax revenue, estimated at some $250 million for the Federal Government, something which might facilitate increasing the government's program to combat alcoholism from its present meager $75 million per year.

Last week I wrote each Member of the House inviting him or her to join as a cosponsor of H.R. 11106. One of the things which all of you can do while you are here in Washington is to contact all the Representatives you know and urge them to co-sponsor the bill. The prospects for serious consideration of the bill by the Ways and Means Committee will be tremendously enhanced if it bears the names of a significant number of Members of the House.

RAIL FREIGHT TRANSPORTATION IMPROVEMENT ACT

(Mr. ADAMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ADAMS. Mr. Speaker, I am introducing today the Rail Freight Transportation Improvement Act of 1974. The purpose of the bill is to provide Federal loan guarantees to railroads to add to their rolling stock fleet and to make necessary investments in improved rights-of-way, modern freight yards and physical plant. Its introduction today carries out a continuing program started by the Regional Rail Reorganization Act and I hope the House Interstate and Foreign Commerce Committee would promptly consider this freight car assistance bill.

The Rail Freight Transportation Improvement Act is very similar to the financial assistance provisions of the Surface Transportation Act (H.R. 5385) which I introduced early in 1973. The most significant changes would be to make equipment leases eligible for Federal guarantees and would require the Secretary of Transportation to give preference to carpooling companies in guaranteeing rolling stock obligations.

While leasing is not necessarily the best way for a railroad to acquire needed rolling stock, for some of the financially dispersed roads it is practically speaking the only method available. Since these are the roads we hope to revitalize it makes sense to provide explicitly in the bill for guarantees of leases.

I have suggested giving a preference to carpooling companies in obtaining guarantees. I believe this would encourage such developments as the proposed "rail box" subsidary of the Trailer Train Co., which would create a 10,000 carpool of free running general purpose boxcars.

I believe we should try to solve the boxcar shortage by private initiative rather than through direct Government involvement in the actual ownership of equipment. The "rail box" is a useful concept but I believe future efforts should be directed at increasing a national fleet of flatcars which can be generally utilized for carriage of truck trailers or containers. The shortage and high cost of diesel fuel emphasize the importance of intermodal coordination through the "piggybacking" of truck and container freight on railroad flatcars. Piggyback traffic increased nearly 20 percent in 1973 and should continue to increase this year. I am told that shortages of flatcars are already beginning to develop. By proper concentration on the acquisition of this type of equipment, I hope we can avoid a repeat of the boxcar shortage, and produce the flexibility necessary to achieve intermodal exchanges.

My bill will also provide for DOT research and development of a computer system on a nationwide basis to increase freight car utilization. I cannot stress enough the fact that the boxcar shortage is as much one of utilization as it is any actual lack of equipment. The fact that the average car moves loaded 25 days out of the year is dramatic evidence of the need for improved utilization. Some railroads now have excellent computer systems for their own lines and the Association of American Railroads will put into service this year "Trains II" a partial answer to a true nationwide computer system which can facilitate our car supply. Much more can be done and a DOT R. & D. program, performed in conjunction with the industry, can bring the full benefit of modern computer technology to the railroad industry.

Mr. Speaker, in the last session the House spent a great deal of time and effort in developing a solution to the Northeast rail crisis.

I believe we were successful in creating a legislative procedure which, if properly administered, will forestall a disaster and will lead to the creation of a healthy rail system in the Eastern part of the Nation. But the long-range health of our railroads depends on the creation of a financial assistance program part of which I am proposing today.

This is preventive medicine rather than drastic surgery. In effect it will make the Government a lender of last resort. Without such a program, the Northeast disaster will be repeated in other parts of the country. Without financial assistance, the weak railroads will limp along without being able to buy the equipment or pay for the facilities needed to meet the new demands that the energy crisis will place on our railroad network. They will soon be in bankruptcy court. Passage of this legislation can save us from this fate, which through another wave of railroad bankruptcies, would lead to renewed demands for nationalization. I would rather see the Government as the lender of last resort than the owner of last resort.

Finally, I am happy to say that the question of a Federal assistance program is a bipartisan one. The administration agrees with me that this must be done as shown in their Transportation Improvement Act. This proposal calls for $2 billion in loan guarantees for rolling stock and capital investment. Its regulatory reforms are controversial but I believe we can look to the compromises we achieved in the Surface Transportation Act to solve this problem. With strong bipartisan support, and given the fact that the Senate has already passed a freight car bill (S. 1149), I believe the time is ripe for prompt action by the House. Now is the time to act before another railroad crisis is upon us.

HARRY T. BURN PLAYED A MAJOR ROLE IN PASSAGE OF SUFFRAGE AMENDMENT

(Mr. DUNCAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DUNCAN. Mr. Speaker, the 19th amendment to the U.S. Constitution stands as a landmark in the struggle women have made to gain equal participation in all facets of American life.

Indeed the women of our country have achieved tremendous goals in the most recent few years.

Tennessee, and one Tennessean in particular, played a major role in the passage of the suffrage amendment. The State's ratification, by a majority of 1 vote, was the deciding factor in making the 19th amendment part of the Federal Constitution.

This week, Tennessee's participation in the suffrage movement again will be reviewed in a television special to be aired by the Columbia Broadcasting System.

It is part of a series of 13 historical programs to be broadcast over the next 3 years commemorating our Nation's Bicentennial.

The program, "We the Women," which can be seen on March 17, will center upon the historic vote of Harry T. Burn of Niota who cast the deciding ballot in the Tennessee Legislature favoring the vote for women.

Harry T. Burn, who is one of my constituents, is the only living member of that 1920 Tennessee Legislature, and, ironically, is the very man who broke a 48 to 48 tie in favor of ratification. At that time Burn was 24, the youngest member of the State legislature.

Today, he recalls what he felt the day he cast that historic vote:

> I appreciated the fact that an opportunity such as seldom comes to mortal man—to free 17 million women from political slavery—was mine.

Now 78 years old, the still active Harry Burn lives on a farm in Niota and also practices law. Burn recalls that—

> Nothing as big or tense ever happened again in the Tennessee Legislature.

After Burn cast his historic vote, such a turmoil erupted that he fled out an office window, along a narrow ledge, up a flight of stairs, and hid in the attic of the capitol building.

When the heat proved overwhelming, Burn retraced his steps and sought refuge in the nearby Hermitage Hotel.

Reflecting on the incident, Burn says:

> I don't believe I was crazy enough to walk out on (that ledge). It's only about 18 or 20 inches wide. I'd never do it again.

Burn said he would, however, vote again for women's suffrage.

Burn has been prominent in State politics for 55 years, and the folks that know him best have not forgotten his distinguished leadership.

The city of Niota has declared March 17 as Harry T. Burn Day and other communities and groups throughout McMinn County have joined in paying special recognition to Burn.

Among the groups honoring the outstanding legislator this month are the Etowah Rotary Club and the Englewood Lion's Club.

I hope my colleagues will have an opportunity to watch this first episode and see some facinating Tennessee history.

CONSTITUTIONALITY OF CAMPAIGN EXPENDITURE CEILINGS

(Mr. FRENZEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FRENZEL. Mr. Speaker, Mr. Albert D. Cover, a Ph. D. candidate at Yale University, has been working in my office for the past several months as an American Political Science Association Fellow. Mr. Cover's specialty lies in the field of election law.

One of the pieces of research work Mr. Cover has completed is an investigation into the constitutionality of campaign expenditure ceilings.

Whether one believes in campaign expenditure ceilings or not, Mr. Cover's discussion and analysis are particularly interesting, since the House is supposed to consider an election reform bill this month or next. Of special interest is Mr. Cover's discussion of the 1973 Jennings case which has been interpreted by legal students on all sides with no two of them in the same camp for long.

Because of the timeliness of this particular paper, I am including it in the RECORD in its entiretly as follows:

THE CONSTITUTIONALITY OF CAMPAIGN EXPENDITURE CEILINGS

(By Albert D. Cover)

In 1972 Congress enacted the first significant campaign reform legislation since the Federal Corrupt Practices Act of 1925. The Corrupt Practices Act nominally limited political contributions, but its loopholes were numerous and they were commonly exploited. No candidate was ever prosecuted for exceeding the contribution limitations of the Act.[1] With one minor exception the Federal Election Campaign Act of 1971 (FECA) repealed all contribution limitations, but it imposed expenditure limitations for the first time. Realizing that overall spending limitations would be very difficult to enforce, Congress set ceilings only on communications media.[2]

The 1972 election proved somewhat disappointing to those who had hoped FECA would reduce campaign spending and fraud, so more comprehensive reform proposals were introduced in the 93rd Congress. Many of these proposals linked overall spending limitations with some kind of public subsidy for campaigns. The intent of these proposed reforms is clearly praiseworthy. They presumably would foster the ability of less affluent citizens to run for federal office, prevent some well-financed political viewpoints from drowning out all others, and limit the influence of major contributors.[3] More generally, reforms are intended to imbue the electoral process with greater equality of political opportunity.[4]

Congress admittedly has broad powers to regulate the electoral process, but these powers are constitutionally limited ones. Unfortunately, none of the more sweeping proposals answer convincingly a number of grave constitutional questions inherent in attempts to regulate the First Amendment right of free speech. These questions are particularly significant in view of a recent federal court decision declaring unconstitutional the enforcement mechanism of FECA's limitations on media spending.

Section 104(b) of FECA provides that no newspaper may charge for advertisements "on behalf of" a candidate until the candidate certifies to the newspaper that such charges will not cause the candidate to exceed his media spending limitation. Similar certification is required of the candidate who would benefit from an advertisement critical of another candidate.[5] In 1972 the American Civil Liberties Union attempted to place an ad in the *New York Times* opposing legislation to limit court ordered busing. The ad included an "honor roll" of Representatives who had previously opposed this anti-busing policy. The *Times* declined to run the ad until the ACLU had complied with FECA's elaborate certification procedure. The ACLU refused to comply and then sought an injunction against enforcement of FECA's certification procedure on various constitutional grounds. In the fall of 1973 a three-judge federal court handed down its decision in the case, *ACLU* v. *Jennings*.[6]

The most egregious constitutional difficulty discussed in the court's opinion involved prior restraints on free speech arising under FECA's certification procedure. The court pointed out that "candidates favorably named in ads . . . are provided with the opportunity of effectively blocking publication by refusing to make the requisite certification statements. They simply may not desire, for political reasons or otherwise, their names associated with certain organizations. . . . But the airing of opinion in a public forum must not be subordinated to political expediences."

A second problem pointed out in the opinion was the vagueness of certain crucial phrases used in FECA. A major loophole in the old Corrupt Practices Act was that candidates only had to report contributions made with their "knowledge or consent."[7] To close the obvious loophole of limiting only expenditures made with the knowledge or consent of candidates, FECA included in its media limitations spending by or "on behalf of" candidates.

In *ACLU* v. *Jennings* the court repeatedly castigated Congress for its failure to define clearly the crucial phrase. The court was particularly concerned lest nonpartisan and politically unaffiliated groups submit advertisements for print which would be viewed by the media as requiring certification even though the ads were issue oriented. It stressed that the "press is entitled to, and the Constitution demands, proper guidance free from ambiguity and vagueness" to exclude from coverage "expressions of opinion unintended and incapable of regulation." Considering FECA's ill-defined standards and its restriction on First Amendment rights, the court declared Section 104(b) "facially unconstitutional" and therefore enjoined its enforcement. FECA's media limitations were left intact, but they could not be effectively implemented.

Of course the *ACLU* decision could be appealed to the Supreme Court, but it still raises thorny constitutional issues. If Congress engages in further electoral reform, it should face potential constitutional questions straightforwardly. Virtually all reform proposals raise vexing issues. For example, laws intended to improve the disclosure of campaign contributions might impermissibly contravene rights of association and privacy. Public subsidies for campaigns could easily discriminate against minor parties and independent candidates. Potential problems are numerous, and clearly only a small number can be discussed here. This article will focus on the chief issue raised by the *ACLU* decision—can Congress enact enforceable spending limitations while still respecting traditional First Amendment limitations on its powers?

The question could be answered directly if the Supreme Court had previously considered Congress' power to enact general spending limits, but there are no cases directly on this point. The Court has let stand prohibitions on the political activity of government employees and prohibitions on political expenditures by unions and corporations.[8] Based on these decisions a study by Common Cause concluded that "if an absolute ban on the political activities of groups of individuals . . . is permissible, it would seem *a fortiori* acceptable to set a ceiling on contributions and expenditures by individuals."[9]

Two points should be made in reply. First, the Court has carefully exercised its prerogative to decide cases on the narrowest of grounds whenever possible to avoid addressing major constitutional issues. For example, in *United States* v. *CIO*, one of the cases cited by Common Cause, the Court avoided the issue of whether bans on union political contributions were constitutional by dismissing the case on other grounds.[10] The Court did note, however, that if unions were prohibited from communicating with their members then "the gravest doubt would arise in our minds as to its constitutionality."[11] In other cases constitutional issues were sidestepped also.

A second point is that the Court has not considered cases involving *general* prohibitions on political activity in contrast to bans on certain kinds of activity or bans on the political activity of particular groups. There are ample reasons for Congress to forbid certain campaign practices (e.g., bribery), and it is arguable that some groups should have restrictions placed on their political activities. It does not follow that even if the courts directly sustained such restrictions they would approve blanket limitations on the political activities of the electorate.[12]

Lacking any firm judicial guidance on Congress' power to enact spending curbs, we must determine whether political expenditures are covered by the First Amendment's protection of free speech. As a preliminary point, "it is clear that the Amendment at times covers more than sheer verbal communications."[13] The protection of "symbolic speech" has been upheld on many occasions.

Furthermore, debate on public issues seems to be at the heart of what the First Amendment was intended to foster. In *Mills* v. *Alabama* Mr. Justice Black stated for the majority that "whatever differences may exist about interpretations of the First Amendment, there is practically universal agreement that a major purpose of the Amendment was to protect free discussion of governmental affairs. This of course includes discussions of candidates, structures and forms of government, the manner in which government is operated or should be operated, and all such matters relating to the political process."[14]

Footnotes at end of article.

The courts should be especially sensitive, therefore, to limitations on the amount of political information available to the electorate. Clearly spending limitations restrict political communication and infringe on First Amendment rights.[15]

This does not necessarily mean that expenditure ceilings are unconstitutional. Courts have not traditionally viewed First Amendment rights as absolute ones. Under a variety of circumstances their infringement has been sustained by the courts.

For example, under the "clear and present danger" test developed by the judiciary, First Amendment rights can be abridged if laws are needed to forestall some imminent and substantial evil.[16] Although the test has been used in a number of First Amendment cases, it has usually been applied in assessing the constitutionality of laws combating subversion, riot, and the like.[17] Even if we concur with the suggestive language of the Senate Commerce Committee's report on FECA—"the rapidly escalating cost of campaigning for public office poses a real and imminent threat to the integrity of the electoral process"—there are less strained ways to evaluate the validity of spending limits.[18]

A second standard used by the courts is the "balancing" test.[19] As its name implies, the crux of the test is to balance the government's interest in abridging constitutional rights against the individual's right to enjoy constitutionally guaranteed freedoms. In weighing governmental interests versus individual rights, courts are often forced to determine whether there are any "less drastic means" or "less restrictive alternatives" with which societal interests can be advanced.[20] The purpose of this standard is to ensure that if First Amendment rights must be abridged for some legitimate purpose, they will be restricted as little as possible. Therefore, "if expenditure limitations are clearly more restrictive of free expression than any of several alternatives, the Court should declare the spending ceiling unconstitutional and allow Congress to devise an appropriate alternative." [21]

The balancing test raises an extremely difficult question—what is the trade-off between governmental interests and individual rights? How much added equality of political opportunity must be created to outweigh the rights lost by some individuals? We cannot predict with any confidence how the courts would actually resolve this problem. Let us make the heroic assumption, however, that individual rights will be subordinated to governmental interests. Even conceding this, we must still ask whether there are alternatives which do less violence to the First Amendment than do expenditure limits.

Spending ceilings enforce a rough measure of political equality by reducing political communication to some arbitrary, maximum level. They do not guarantee that all viewpoints will be aired but that some viewpoints will receive less exposure than they could otherwise. They not only restrict the rights of candidates and their supporters, but they also ensure that some voters will be deprived of desired information.[22] Of course much campaign activity produces little information for the electorate anyway, but it is far from obvious that the informative core will be preserved by candidates if some activity must be curtailed.

In contrast to expenditure limits, a variety of other devices are available which reduce political inequality by increasing the flow of political information to the electorate. Their intent is not to restrict the activity of some candidates but to ensure that all candidates have at least some opportunity to present their case. They are not completely free of constitutional difficulties, but they are far more consistent with the spirit of the Constitution than are ceilings on political activity. Bcause of this, they raise less substantial constitutional questions.

The most commonly discussed device to guarantee at least a minimum amount of exposure for candidates is direct public subsidies for campaigns. Total public financing raises more constitutional questions than do the infinite variety of possible matching schemes, but all subsidy proposals involve difficulties concerning the equitable treatment of minor parties.

A particularly attractive reform proposal is an expanded system of tax incentives for political contributions.[23] The appeal of this approach is greatly enhanced by its avoidance of major constitutional problems. Unlike direct subsidies, tax incentives do not require Congress to develop any formula for distributing funds. An incentive system "permits the realities of the campaign—the relative importance of the major versus the minor candidates—to be reflected through the separate decisions of millions of taxpayers, thus relieving the government of the necessity and the onus of making those decisions itself." [24]

A practical disadvantage of this approach is that we cannot be sure in advance that it will produce an appreciable change in our campaign finance system. States apparently have had limited success with various tax incentive schemes.[25] It may be necessary, therefore, to provide public subsidies even with an expanded tax incentive system.

Other proposals would serve to increase equality of political opportunity to a lesser extent. The government could subsidize campaign information brochures; all candidates could receive a limited number of postal franks; broadcast advertising rates for political announcements could be reduced or subsidized. By themselves none of these proposals are likely to have much impact, but they do illustrate positive alternatives to expenditure limitations.

Although not often considered in this context, the equal protection doctrine raises further questions about the constitutionality of spending limitations. The crucial issue here is whether ceilings foster an invidious discrimination with respect to some class of candidates. If so, the proposed spending limitations would not be constitutional.

One could argue that spending limitations help challengers as a rule by preventing incumbents from exploiting fully their superior fund-raising capability. For example, in 1972 incumbent Representatives spent on average nearly twice as much as their challengers.[26] A strong counterargument, however, is that relatively few incumbents would actually be forced to curtail spending if Congress enacted "reasonable" ceilings ($90,000–$12,000). On the other hand challengers usually need to outspend incumbents by a substantial margin if they are to win. Only ten incumbent Representatives were defeated in the 1972 general election; on average they spent $40,000 less than their successful opponents.[27] Given the enormous electoral advantage enjoyed by incumbents from other sources, spending ceilings probably discriminate against challengers. A study of campaign financing concluded that "to limit the amount of money which a candidate may spend does not equalize political opportunity; it simply aggravates other inequalities." [28] And these other inequalities favor incumbents.

The list of official allowances and subsidies available to members of Congress is long and diverse. Office equipment, district office rent and equipment, stationery, postage, telephone and telegraph service, travel, printing, government publications, radio and television recording studios, and mass mailing assistance are just a few of the perquisites of office.[29] Between 1961 and 1973 the staff authorized for each Representative rose from nine to seventeen.[30] Since 1960 the volume of franked mail sent from congressional offices has tripled and now exceeds 250 million pieces annually.[31] The point is not that these resources are necessarily turned to overtly political ends but that using them will almost inevitably have beneficial political ramifications.

A neat example of this can be found in the timing of mass mailings from House offices. Many Representatives send out newsletters or questionnaires at the end of each Congress. This is a logical time to report on congressional affairs, but it also happens to mark the beginning of intensive pre-election campaigning. The pre-election increase in mass mailings is reflected in the work load of the House "folding room," more formally known as the Publications Distribution Service. The folding room has special facilities to handle mass mailings, so most of them are prepared there. As we would expect, the peak work load occurs immediately before an election.[32]

By keeping in touch with constituents, members help overcome the chief political handicap that faced many of them initially—the fact that relatively few voters knew them at all when they entered politics. Members understand very well Stokes and Miller's conclusion that "recognition carries a positive valence; to be perceived at all is to be perceived favorably." [33] One of the greatest political advantages of incumbency flows from this quite straightforwardly. As a rule incumbents are much more widely known than are their challengers. To the extent that spending limitations prevent a challenger from overcoming this recognition advantage, limitations make incumbents less vulnerable at the polls.[34]

The situation confronting challengers is illustrated in Table I. In House districts contested by an incumbent, about half the adults were unable to recall either candidate's name shortly after the 1964 and 1968 elections; almost two-thirds of the adults recognized neither candidate after recent mid-term elections. At best only a third of those surveyed could recall the names of both candidates. Most importantly, while 20 per cent of those surveyed know only the incumbent's name, a mere 1 or 2 per cent recognized the challenger exclusively. These figures help explain why challengers must substantially outspend incumbents to defeat them and why spending limitations would operate to entrench incumbents even more deeply than they are now.[35]

TABLE 1.—RECOGNITION OF INCUMBENTS AND CHALLENGERS IN POST-ELECTION SURVEYS

Year	Respondent recognized (percent)			
	Challenger only	Incumbent only	Both	Neither
1964	1.8	20.5	31.7	46.1 (n=1,256).
1966	1.0	18.1	19.6	61.3 (n=1,188).
1968	2.3	17.9	31.4	48.4 (n=1,224).
1970	1.0	21.5	11.9	65.9 (n=1,374).

If further electoral reforms are enacted, the government's interest in fostering political equality must be reconciled with the right of individuals to exercise their constitutionally guaranteed freedoms. Unfortunately, current measures do not indicate that constitutional issues have been seriously considered. The problems are admittedly difficult ones; but if Congress ignores the substantial conflict arising from attempts to reform the electoral process, then the courts will be left with the task of fashioning an acceptable solution. The prospect of having major electoral rules re-written by the courts should prod Congress into considering the constitutional issues likely to be raised there.

FOOTNOTES

[1] "Comment," 60 *The Georgetown Law Journal* 1310–11 (1972).

[2] S. Rept. 92–96 (1971), pp. 30–33.

[3] *Federal Election Reform: Hearings Before the Subcommittee on Elections of the Committee on House Administration*, 93rd Cong., 1st Sess., p. 401.

[4] J. Fleishman, "Freedom of Speech and Equality of Political Opportunity: The Constitutionality of the Federal Election Campaign Act of 1971," 51 *North Carolina Law Review* 455 (1973); I. Ferman, "Congressional Controls on Campaign Financing: An Expansion or Contraction of the First Amendment?" 22 *American University Law Review* 360 (1972).

[5] 11 C.F.R. Section 4.5(a).

[6] *ACLU* v. *Jennings,* — F. Supp. — (D.C. D.C., November 14, 1973).

[7] 2 U.S.C. Section 246(a) (1970).

[8] Fleishman, pp. 434–38.

[9] *Federal Election Reform,* p. 404.

[10] 335 U.S. 106 (1948).

[11] 335 U.S. at 121. For a brief discussion of this case and the other labor cases see Robert Burdette, "Brief Reply to Common Cause Memo of February 5, 1974, Discussing the Holding of *ACLU* v. *Jennings* (Washington: Congressional Research Service, February 14, 1974), pp. 2–3.

[12] Fleishman, p. 434.

[13] *Federal Election Reform,* p. 401. Also see citations given there.

[14] *Mills* v. *Alabama,* 384 U.S. 218, 219 (1966). Also see Fleishman, p. 409.

[15] For example, see Ralph K. Winter, Jr., "Money, Politics, and the First Amendment," in *Campaign Finances: Two Views of the Political and Constitutional Implications,* by Howard R. Penniman and Ralph K. Winter, Jr. (Washington: American Enterprise Institute, n.d.), p. 60.

[16] Ferman, pp. 351–52; H. Court and C. Harris, "Free Speech Implications of Campaign Expenditure Ceilings," 7 *Harvard Civil Rights—Civil Liberties Law Review* 221 (1972).

[17] For example, *Dennis* v. *United States,* 341 U.S. 494 (1951); *Brandenburg* v. *Ohio,* 395 U.S. 444 (1969); Court and Harris, p. 221.

[18] Quoted in Court and Harris, p. 222.

[19] Fleishman, pp. 408–09. For another formulation see Ferman, pp. 356–57.

[20] *Federal Election Reform,* p. 407; Court and Harris, p. 224; M. Redish, "Campaign Spending Laws and the First Amendment," 46 *New York University Law Review* 923–24 (1971).

[21] Court and Harris, p. 225.

[22] Fleishman, p. 409. Also see *United States* v. *CIO* 335 U.S. 106, 144 (1948).

[23] A. Rosenthal, "Campaign Financing and the Constitution," 9 *Harvard Journal of Legislation* 329–31 (1972).

[24] Ibid., p. 330.

[25] *Public Financing of Federal Elections: Hearings Before the Subcommittee on Privileges and Elections of the Committee on Rules and Administration,* 93rd Cong., 1st Sess., p. 187.

[26] "Common Cause: Incumbents Do Raise More Funds," *Congressional Quarterly Weekly Report,* XXXI, 48 (December 1, 1973), p. 3130,

[27] Ibid.

[28] Winter, p. 56.

[29] Many of these are described in Donald G. Tacheron and Morris K. Udall, *The Job of a Congressman: An Introduction to Service in the U.S. House of Representatives* (Indianapolis: The Bobbs-Merrill Company, 1966).

[30] Harrison W. Fox, Jr. and Susan Webb Hammond, "Congressional Staffs and Congressional Change," Paper Presented at the American Political Science Association (New Orleans: September, 1973), p. 8.

[31] Representative Bill Frenzel, "Election Reform Bill Expected in March," *Congressional Record,* vol. 119, pt. 33, p. 43602.

[32] Ibid. Representative Frenzel's remarks include monthly data from January 1967 through December 1972. A new franking law forbids most mass mailings immediately before elections, so presumably the peak work load will be somewhat earlier in the future.

[33] Donald Stokes and Warren Miller, "Party Government and the Saliency of Congress," *Public Opinion Quarterly,* XXVI (1962), p. 541.

[34] This is not to say that electoral suicide is impossible. An incumbent must continue to answer mail, vote correctly on salient issues, and so forth.

[35] The data was supplied by the Inter-University Consortium for Political Research. Of course, the ICPR is not responsible for any conclusions drawn from this analysis. It may be useful to emphasize that the data comes exclusively from House districts having an incumbent in the appropriate election.

PROPOSED AMENDMENTS TO H.R. 69

(Mr. MEEDS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MEEDS. Mr. Speaker, pursuant to previous unanimous-consent agreement, I hereby insert in the RECORD an amendment I propose to offer to title I of H.R. 69, as reported.

I am presenting my proposed amendment in two forms either of which will have an identical result in the wording of section 132 of the Elementary and Secondary Education Act of 1965. I present them in this fashion so that the effect of the amendment can be readily understood.

The proposed amendment follows:

AMENDMENT TO H.R. 69

Amend Section 109 of the bill by:

(1) Striking all the language after "arrangements" on line 8, page 49, down through line 11 on page 49 and substituting in lieu thereof: "(such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of clauses (A) and (B) of paragraph (1) of subsection (a) of Section 131, paragraph (2) of subsection (a) of such Section, and clauses (A) and (B) of paragraph (3) of subsection (a) of said Section.";

(2) By striking the words "may waive such requirement" on line 16, page 49, and substituting in lieu thereof the words "shall waive such requirement and the provisions of Section 131(a)(2)";

(3) Inserting after "subsection (a)" on page 50, line 2, the words "upon which determination the provisions of paragraph (a) and Section 131(a)(2) shall be waived"; and

(4) Adding after line 7 on page 50 the following new paragraph:

"(4)(i) The Commissioner shall not take any final action under this Section or Section 807 (d), (e), or (f) until he has afforded the State and local educational agency affected by such action at least 60 days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

(ii) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subsection (a), it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(iii) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(iv) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

ALTERNATE FORM OF MEEDS AMENDMENT

Beginning with line 1 on page 49, strike out everything down through line 7 on page 50 and insert in lieu thereof the following:

"PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

"SEC. 132. (a) To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of clauses (A) and (B) of paragraph (1) of subsection (a) of section 131, paragraph (2) of subsection (a) of such section and clauses (A) and (B) of paragraph (3) of subsection (a) of said section.

"(b)(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commission shall waive such requirement and the provisions of section 131(a)(2) and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a) upon which determination the provisions of paragraph (a) and section 131(a)(2) shall be waived.

"(3) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under this title."

"(4)(i) The Commissioner shall not take any final action under this section or section 807(d), (e), or (f) until he has afforded the State and local educational agency affected by such action at least 60 days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

(ii) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subsection (a), it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(iii) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(iv) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1974

(Mrs. MINK asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, H.R. 69, the Elementary and Secondary Education Amendments of 1974, as reported by the House Education and Labor Committee, inadvertently failed to provide adequate authorization for the offshore areas—Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. To correct this situation, I intend to offer an amendment to title I of H.R. 69 which reads as follows:

Amendment to be offered by Mrs. Mink to Title I of H.R. 69: "The first sentence of Section 103(a)(1), beginning on line 13 on page 28, is amended to read as follows: 'Sec. 103. (a)(1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 per centum of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term 'State' by this subsection), provided, however, there shall be authorized such additional sums to assure at least the same level of funding under this Title as in FY 1973 for Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.'"

AMENDMENTS TO H.R. 69

(Mr. SYMMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SYMMS. Mr. Speaker, myself or other Members will offer the following amendments to H.R. 69 when the House resumes consideration of this bill:

AMENDMENT TO H.R. 69, AS REPORTED

Page 131, immediately after line 15, insert the following new section:

AMENDMENT OF TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 906. Title X of the Act, as redesignated by section 201(a) of this Act, is amended by adding at the end thereof the following new section:

"PROTECTION OF PUPIL RIGHTS

"SEC. 1010. No program shall be assisted under this Act, or under title I of the Elementary and Secondary Education Act of 1965, under which teachers or other school employees, or other persons brought into the school, use psychotherapy techniques such as group therapy or sensitivity training. As used in this section, group therapy and sensitivity training mean group processes where the student's intimate and personal feelings, emotions, values, or beliefs are openly exposed to the group or where emotions, feelings, or attitudes are directed by one or more members of the group toward another member of the group or where roles are assigned to pupils for the purpose of classifying, controlling, or predicting behavior.".

AMENDMENT TO H.R. 69, AS REPORTED

Page 131, immediately after line 15, insert the following new section:

AMENDMENT OF TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 906. Title X of the Act, as redesignated by section 201(a) of this Act, is amended by adding at the end thereof the following new section:

"PROTECTION OF PUPIL RIGHTS

"SEC. 1010. Nothing in this Act, or in title I of the Elementary and Secondary Education Act of 1965, shall be construed or applied in such a way as to authorize the participation or use of any child in any research or experimentation program or project, or in any pilot project, without the prior, informed, written consent of the parents or legal guardians of such child. All instructional material, including teachers' manuals, films, tapes, or other supplementary instructional materials which will be used in connection with any such program or project shall be available for review by the parents or guardians upon verified request prior to a child's being enrolled or participating in such program or project. As used in this section, 'research or experimentation program or project, or pilot project' means any program or project designed to explore or develop new or unproven teaching methods or techniques.".

AMENDMENT TO H.R. 69, AS REPORTED

Page 131, immediately after line 15, insert the following new section:

AMENDMENT OF TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 906. Title X of the Act, as redesignated by section 201(a) of this Act, is amended by adding at the end thereof the following new section:

PROTECTION OF PUPIL RIGHTS

"SEC. 1010. Nothing in this Act, or in title I of the Elementary and Secondary Education Act of 1965, shall be construed or applied in such a manner as to infringe upon or usurp the moral or legal rights or responsibilities of parents or guardians with respect to the moral, emotional, or physical development of their children.".

AMENDMENT TO H.R. 69, AS REPORTED

Page 82, strike out line 1 through line 13, and insert in lieu thereof the following:

"(b) The second sentence of section 301 (b) of the Act is amended by inserting immediately after "succeeding fiscal years" the following: "ending prior to July 1, 1974"."

AMENDMENT TO H.R. 69, AS REPORTED

Page 131, immediately after line 15, insert the following new section:

LIMITATION ON AVAILABILITY OF CERTAIN FUNDS

SEC. 906. Section 303 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Funds appropriated pursuant to section 301 shall be available only for the support of programs or projects designed to assist in the cognitive development of students, as opposed to their social development or behavioral modification.".

AMENDMENT TO BE OFFERED BY MR. SYMMS OF IDAHO

I move that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RANGEL (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. PRICE of Texas (at the request of Mr. RHODES), for today, on account of official business.

Mr. METCALFE (at the request of Mr. O'NEILL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. CRANE (at the request of Mr. HEINZ), for 5 minutes, today, and to revise and extend his remarks and include extraneous matter.

Mr. DOMINICK V. DANIELS (at the request of Mr. BOWEN), for 10 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. HEINZ) to revise and extend their remarks and include extraneous matter:)

Mr. STEELMAN, for 5 minutes, today.

Mrs. HECKLER of Massachusetts, for 5 minutes, today.

Mr. KEMP, for 15 minutes, today.

Mr. DON H. CLAUSEN, for 30 minutes, today.

Mr. LENT, for 5 minutes, today.

Mr. HOGAN, for 5 minutes, today.

Mr. MCDADE, for 15 minutes, today.

Mr. BOB WILSON, for 60 minutes, on March 25.

Mr. RUPPE, for 5 minutes, today.

(The following Members (at the request of Mr. RIEGLE) to revise and extend their remarks and include extraneous material:)

Mr. FORD, for 5 minutes, today.

Mr. BURTON, for 5 minutes, today.

Mr. DIGGS, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. O'HARA, for 10 minutes, today.

Ms. ABZUG, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PERKINS, at the request of Mr. THOMPSON of New Jersey, to follow the remarks of Mr. THOMPSON of New Jersey during consideration of the funding resolution for Committee on Education and Labor (H. Res. 855) in the House today.

Mr. FRENZEL, and to include extraneous matter notwithstanding the fact it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $470.25.

(The following Members (at the request of Mr. HEINZ), and to include extraneous material:)

Mr. PEYSER in five instances.

Mr. VEYSEY in two instances.

Mr. WYMAN in two instances.

Mr. HOSMER in two instances.

Mr. BOB WILSON in two instances.

Mr. FRENZEL in two instances.

Mr. WALSH.

Mr. Kemp in three instances.

Mr. Steiger of Wisconsin in two instances.

Mr. Conlan in two instances.

Mr. McCloskey.

Mr. Esch.

Mr. Railsback.

Mr. Hunt.

Mr. Young of South Carolina.

Mr. Baker in two instances.

Mr. Huber in two instances.

Mr. Heinz in two instances.

Mr. Shuster.

Mr. Pettis in three instances.

Mr. Broomfield.

(The following Members (at the request of Mr. Riegle) and to include extraneous material:)

Mr. Wolff in five instances.

Mr. Reid.

Mr. Gunter in two instances.

Mr. Biaggi in five instances.

Mr. Rees.

Mr. Brademas in six instances.

Mr. Burton in two instances.

Mr. Dan Daniel.

Mr. Stokes in six instances.

Mr. Udall in five instances.

Mr. Fulton.

Miss Jordan.

Mr. Charles H. Wilson of California in three instances.

Mr. Corman in three instances.

Mr. Rarick in three instances.

Mr. Gonzalez in three instances.

Mr. Evins of Tennessee in three instances.

Mr. Edwards of California.

Mr. Taylor of North Carolina.

Mr. Conyers in 10 instances.

Mr. Hébert in two instances.

Mr. Pike.

Mr. Waldie in two instances.

Mr. Anderson of California in two instances.

Mr. Ginn.

Mr. Hungate.

Mr. Studds in two instances.

Mr. Rose.

Mr. Koch in five instances.

Mr. Kyros.

Mr. O'Hara.

Ms. Abzug in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1353. An act to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste material; to the Committee on Merchant Marine and Fisheries.

S. 1401. An act to establish rational criteria for the mandatory imposition of the sentence of death, and for other purposes; to the Committee on the Judiciary.

S. 3075. An act to amend the Agricultural Adjustment Act of 1938; to the Committee on Agriculture.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on March 13, 1974, present to the President, for his approval a bill of the House of the following title:

H.R. 6119. An act for the relief of Arturo Robles.

ADJOURNMENT

Mr. BOWEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 57 minutes p.m.), under its previous order, the House adjourned until Monday, March 18, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2047. A letter from the Administrator of General Services, transmitting the statistical supplement to the report on the stockpiling of strategic and critical materials for the 6 months ended December 31, 1973, pursuant to 50 U.S.C. 98c; to the Committee on Armed Services.

2048. A letter from the Chairman, National Commission on Productivity, transmitting the third annual report of the Commission, pursuant to Public Law 92–210; to the Committee on Banking and Currency.

2049. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report covering calendar year 1973 on third country transfers of U.S. origin defense articles to which consent has been granted under the provisions of section 3(a)(2) of the Foreign Military Sales Act of 1968, as amended, and section 505(a) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

2050. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to extend the appropriation authorization for reporting of weather modification activities; to the Committee on Interstate and Foreign Commerce.

2051. A letter from the Director of Federal Affairs, National Railroad Passenger Corporation, transmitting a report for the month of January 1974, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DANIELSON: Committee on the Judiciary. H.R. 2637. A bill for the relief of the estate of Peter Boscas, deceased; with an amendment (Rept. No. 93–910). Referred to the Committee of the Whole House.

Mr. FROEHLICH: Committee on the Judiciary. H.R. 8543. A bill for the relief of Viorica Anna Ghitescu, Alexander Ghitescu, and Serban George Ghitescu. (Rept. No. 93–911). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1206. An act for the relief of Concepcion Velasquez Rivas; with amendments (Rept. No. 93–912). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADAMS:

H.R. 13487. A bill to provide financial assistance and other aid to railroads and railroad-related companies to acquire and improve equipment and facilities necessary for better utilization of rolling stock to meet the needs of commerce and the national defense, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ANDERSON of California (for himself and Mr. Steele):

H.R. 13488. A bill to discourage the use of painful devices in the trapping of animals and birds; to the Committee on Merchant Marine and Fisheries.

By Mr. COHEN:

H.R. 13489. A bill to amend the Social Security Act to direct the Secretary of Health, Education, and Welfare to develop standards relating to the rights of patients in certain medical facilities; to the Committee on Ways and Means.

By Mr. COHEN (for himself and Mr. Esch):

H.R. 13490. A bill to amend the Internal Revenue Code of 1954 to encourage greater conservation of energy in home heating and cooling by providing an income tax deduction for expenditures made for more effective insulation and heating equipment in residential structures; to the Committee on Ways and Means.

By Mr. CONYERS:

H.R. 13491. A bill to establish certain rules with respect to the appearance of witnesses before grand juries in order better to protect the constitutional rights and liberties of such witnesses under the fourth, fifth, and sixth amendments to the Constitution; to provide for independent inquiries by grand juries, and for other purposes; to the Committee on the Judiciary.

By Mr. DIGGS:

H.R. 13492. A bill to require licensed undertakers in the District of Columbia to furnish financial statements when funeral arrangements are made; to the Committee on the District of Columbia.

By Mr. FRENZEL (for himself, Mr. Ashley, Mr. Brown of Michigan, Mr. Cleveland, Mr. Conte, Mr. Cotter, Mr. Coughlin, Mr. Cronin, Mr. Gilman, Mr. Moakley, Mr. Roe, Mr. Steiger of Wisconsin, and Mr. Williams):

H.R. 13493. A bill to improve the quality, reliability, and usefulness of data on urban mass transportation systems and on other urban transport operations, systems, and services; to the Committee on Banking and Currency.

By Mr. FREY:

H.R. 13494. A bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

By Mr. FULTON:

H.R. 13495. A bill to amend the Internal Revenue Code of 1954 to provide income tax incentives to improve the economics of recycling waste paper; to the Committee on Ways and Means.

By Mr. GUNTER (for himself, Mr. Seiberling, Mr. Edwards of California, Mr. Tiernan, Mr. Brown of California, Mr. Pepper, Mr. Whitehurst, Mr. Riegle, Ms. Abzug, Mr. Waldie, Ms. Schroeder, Mr. Burke of Massachusetts, Mr. Miller, and Mr. Thompson of New Jersey):

H.R. 13496. A bill to amend the Internal Revenue Code of 1954 to provide for the suspension of excise taxes on diesel fuel and special motor fuels, and to roll back the prices for such products; to the Committee on Ways and Means.

By Mr. HALEY:

H.R. 13497. A bill to commemorate the American Revolution Bicentennial by establishing a meeting house program, by making grants available to each of the several States for the purpose of acquiring and restoring certain historic sites with a view to designating and preserving such sites for use as meeting houses in connection with such bicentennial, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HARRINGTON:

H.R. 13498. A bill to amend the Federal Power Act to prohibit public utilities from increasing any rate or charge for electric energy, by means of any fuel adjustment clause in a wholesale rate schedule, in order to reflect more than 50 percent of any increased fuel cost; to the Committee on Interstate and Foreign Commerce.

By Mr. HARSHA:

H.R. 13499. A bill to amend section 402 of title 23, United States Code, relating to seatbelts; to the Committee on Public Works.

By Mr. HECHLER of West Virginia:

H.R. 13500. A bill to require a health warning on the labels of bottles containing certain alcoholic beverages; to the Committee on Ways and Means.

H.R. 13501. A bill to amend the Internal Revenue Code of 1954 to provide that advertising of alcoholic beverages is not a deductible expense; to the Committee on Ways and Means.

By Mrs. HOLT:

H.R. 13502. A bill to encourage the preservation of open lands in or near urban areas by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open scenic land and forms part of an estate shall be valued, for estate tax purposes, at its value as farmland if it continues to be used as such; to the Committee on Ways and Means.

By Mr. HOWARD:

H.R. 13503. A bill to amend title 38, United States Code, to improve the veterans' education loan program, to authorize an action plan for employment of disabled and Vietnam era veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 13504. A bill to amend title 38 of the United States Code in order to increase the rates of educational assistance allowances; to provide for the payment of tuition, the extension of educational assistance entitlement, acceleration of payment of educational assistance allowances, and expansion of the work-study program; to establish a Vietnam Era Veterans Communication Center and a Vietnam Era Advisory Committee; and to otherwise improve the educational and training assistance program for veterans; to the Committee on Veterans' Affairs.

By Mr. JOHNSON of Pennsylvania:

H.R. 13505. A bill to prohibit the exportation of fertilizer from the United States until the Secretary of Agriculture determines that an adequate domestic supply of fertilizer exists; to the Committee on Banking and Currency.

By Mr. KOCH (for himself, Ms. Abzug, Mr. Badillo, Mr. Brown of California, Mr. Dellums, Mr. Edwards of California, Mr. Mitchell of Maryland, Mr. Nix, Mr. Riegle, and Mr. Young of Georgia):

H.R. 13506. A bill to amend title 38 of the United States Code in order to provide veterans' educational assistance and home loan benefits to individuals who fulfill their obligation to perform alternative civilian service under the selective service laws; to the Committee on Veterans' Affairs.

By Mr. LAGOMARSINO:

H.R. 13507. A bill to authorize the Secretary of the Interior to acquire private lands in California for water quality control, recreation, and fish and wildlife enhancement, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LEHMAN:

H.R. 13508. A bill to establish a universal food service program for children; to the Committee on Education and Labor.

By Mr. McKINNEY (for himself and Mr. Sarasin):

H.R. 13509. A bill to amend the Internal Revenue Code of 1954 to allow any State an additional year in which to repay advances made before January 1, 1974, to the unemployment account of such State under title XII of the Social Security Act; to the Committee on Ways and Means.

By Mr. McSPADDEN:

H.R. 13510. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of professional standards review organizations to review services covered under the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. MOAKLEY (for himself, Mr. de Lugo, Mr. Vander Veen, Mr. Cotter, Mr. Ruppe, Mr. Green of Pennsylvania, Mr. Murtha, Mr. Stokes, and Mr. Burke of Massachusets):

H.R. 13511. A bill to provide assistance and full time employment to persons who are unemployed and underemployed as a result of the energy crisis; to the Committee on Education and Labor.

By Mr. MOSS (for himself, Mr, Dingell, Mr. Rooney of Pennsylvania, Mr. Adams, Mr. Eckhardt, Mr. Podell, Mr. Helstoski, Mr. Carney of Ohio, Mrs. Sullivan, Mr. Reuss, Mr. Ashley, Mr. Corman, Mr. Harrington, and Ms. Abzug):

H.R. 13512. A bill to regulate commerce and amend the Natural Gas Act so as to provide increased supplies of natural gas, oil, and related products at reasonable prices to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MOSS (for himself, Mr. Metcalfe, Ms. Chisholm, Mrs. Collins of Illinois, Mr. Drinan, Mr. Edwards of California, Mr. Eilberg, Mr. Foley, Mr. Ford, Mr. Hechler of West Virginia, Ms. Holtzman, Mr. Jones of North Carolina, Mr. Meeds, Mr. Morgan, Mr. Nix, Mr. Obey, Mr. O'Hara, Mr. Ryan, Ms. Schroeder, Mr. Studds, Mr. Charles H. Wilson of California, Mr. Yatron, and Mr. Won Pat):

H.R. 13513. A bill to regulate commerce and amend the Natural Gas Act so as to provide increased supplies of natural gas, oil, and related products at reasonable prices to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MURPHY of New York:

H.R. 13514. A bill to amend the Public Health Service Act to extend to commissioned officers of the Service the benefits and immunities of the Soldiers and Sailors' Civil Relief Act of 1940, as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. NEDZI:

H.R. 13515. A bill to provide that the incumbent Librarian of Congress shall on certain conditions be deemed a congressional employee for civil service retirement purposes; to the Committee on House Administration.

By Mr. PIKE:

H.R. 13516. A bill to amend the Small Business Act to provide low-interest operating loans to small businesses seriously affected by a shortage in energy-producing materials; to the Committee on Banking and Currency.

By Mr. RAILSBACK (for himself, Mr. du Pont, and Mr. Harrington):

H.R. 13517. A bill to provide for appropriate access by the Congress to information required in connection with proceedings relating to the impeachment of the President or the Vice President; to the Committee on the Judiciary.

By Mr. REID:

H.R. 13518. A bill to amend the Social Security Act to extend entitlement to health care benefits on the basis of age under the Federal medical insurance program (medicare) to all persons who are citizens or residents of the United States aged 65 or more; to add additional categories of benefits under the program (including health maintenance and preventive services, dental services, outpatient drugs, eyeglasses, hearing aids, and prosthetic devices) for all persons entitled (whether on the basis of age or disability) to the benefits of the program; to extend the duration of benefits under the program where now limited; to eliminate the premiums now required under the supplementary medical insurance benefits part of the medicare program and merge that part with the hospital insurance part; to eliminate all deductibles; to eliminate copayments for low-income persons under the program, and to provide, for others, copayments for certain services or items but only up to a variable income-related out-of-pocket expense limit (catastrophic expense limit); to provide for prospective review and approval of the rates of charges of hospitals and other institutions under the program, and for prospective establishment (on a negotiated basis when feasible) of fee schedules for physicians and other practitioners; to revise the tax provisions for financing the medicare program and increase the Government contribution to the program; and for other purposes; to the Committee on Ways and Means.

By Mr. ROYBAL:

H.R. 13519. A bill to regulate commerce by assuring adequate supplies of energy resource products will be available at the lowest possible cost to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 13520. A bill to amend the Railroad Retirement Act of 1937 to reduce from 65 to 60 the age at which a full spouse's annuity becomes payable (with a reduced annuity becoming payable at age 58); to the Committee on Interstate and Foreign Commerce.

By Mr. RUPPE:

H.R. 13521. A bill to amend the Federal Election Campaign Act of 1971 to improve the manner federal election campaigns are conducted; to the Committee on House Administration.

By Mr. SARASIN (for himself, Mr. Parris, Mr. Badillo, Mr. Blackburn, Mr. Brown of California, Mr. Derwinski, Mr. Gilman, Mr. Hastings, Mrs. Heckler of Massachusetts, Mr. Hogan, Mr. Riegle, and Mrs. Schroeder):

H.R. 13522. A bill to amend the Internal Revenue Code of 1954 to temporarily reduce the excise tax on gasoline by 2 cents per gallon; to the Committee on Ways and Means.

By Mr. SHIPLEY:

H.R. 13523. A bill to amend the Internal Revenue Code of 1954 to provide that advertising of alcoholic beverages is not a deductible expense; to the Committee on Ways and Means.

By Mr. STEELE (for himself and Mr. Biester):

H.R. 13524. A bill to provide financial assistance to the States for improved educational services for exceptional children; to establish a National Clearinghouse on Exceptional Children; and for other purposes; to the Committee on Education and Labor.

By Mr. STEELMAN:

H.R. 13525. A bill to amend the Public Health Service Act to provide for the making of grants to assist in the establishment and initial operation of agencies and expanding the services available in existing agencies which will provide home health services, and to provide grants to public and private agencies to train professional and paraprofessional personnel to provide home health services; to the Committee on Interstate and Foreign Commerce.

By Mr. TAYLOR of Missouri (for himself, Mr. Steed, and Ms. Holtzman):

H.R. 13526. A bill to amend the Emergency Petroleum Allocation Act of 1973 to roll back the price of propane gas; to the Committee on Interstate and Foreign Commerce.

By Mr. THONE:

H.R. 13527. A bill to amend the Emergency Petroleum Allocation Act of 1973 to roll back the price of propane gas; to the Committee on Interstate and Foreign Commerce.

By Mr. VANIK (for himself, Mr. BADILLO, Mr. DINGELL, Mr. DRINAN, Mr. EILBERG, Mrs. GRASSO, Mr. GRAY, Mr. HECHLER of West Virginia, Mr. HELSTOSKI, Ms. HOLTZMAN, Mr. MOSS, Mr. NIX, Mr. PODELL, Mr. RODINO, Mr. ROSENTHAL, Mr. SEIBERLING, Mr. STARK, and Mr. WALDIE):

H.R. 13528. A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on certain inventories of gasoline, crude oil, and petroleum products, for the purpose of discouraging the accumulation of such commodities in excess of the reasonable demands of industrial, business, or residential consumption; to the Committee on Ways and Means.

By Mr. WALDIE:

H.R. 13529. A bill to terminate the airlines mutual aid agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. WILLIAMS:

H.R. 13530. A bill to prohibit the transportation by water of merchandise between the United Sttaes and the Virgin Islands except in vessels built in, and documented under the laws of, the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. BOB WILSON:

H.R. 13531. A bill to provide retirement annuities for certain widows of members of the uniformed services who died before the effective date of the survivor benefit plan; to the Committee on Armed Services.

H.R. 13532. A bill to amend the Internal Revenue Code of 1954 to allow the nonrecognition of the gain from the sale of the principal residence of a member of the Armed Forces who is required to reside in Government-owned quarters if a new residence is purchased within 1 year after such member is no longer required to reside in such quarters; to the Committee on Ways and Means.

By Mr. BRINKLEY:

H.J. Res. 939. Joint resolution to designate the third week of September of each year as "National Medical Assistants' Week"; to the Committee on the Judiciary.

By Mr. ASHBROOK:

H. Res. 983. Resolution relating to the serious nature of the supply, demand, and price situation of fertilizer; to the Committee on Agriculture.

By Mr. JOHNSON of Pennsylvania:

H. Res. 984. Resolution relating to the serious nature of the supply, demand, and price situation of fertilizer; to the Committee on Agriculture.

By Mr. McSPADDEN (for himself, Mr. JARMAN, Mr. STEED, Mr. CAMP, Mr. JONES of Oklahoma, and Mr. ALEXANDER):

H. Res. 985. Resolution on the seriousness of the fertilizer shortage; to the Committee on Agriculture.

By Mr. MEZVINSKY:

H. Res. 986. Resolution relating to the serious nature of the supply, demand, and price situation of fertilizer; to the Committee on Agriculture.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

379. By Mr. HANSEN of Idaho: A memorial of the Legislature of the State of Idaho, relative to the streamflow of the Snake River; to the Committee on Interior and Insular Affairs.

380. By the SPEAKER: A memorial of the Senate of the State of Oklahoma, relative to Environmental Protection Agency regulations concerning the production of crude oil; to the Committee on Public Works.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FLYNT:

H.R. 13533. A bill for the relief of Stephen A. G. Goddard; to the Committee on the Judiciary.

By Mr. REES:

H.R. 13534. A bill for the relief of Ester Libkind; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

404. The SPEAKER presented a petition of the Board of Administration, Department of Oklahoma, Veterans of World War I of the U.S.A., Inc., relative to amnesty; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

CATTLEMEN LOSING MONEY

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. COLLINS of Texas. Mr. Speaker, a year ago the newspapers and television were crowded with the news that the cost of meat was pretty high. Ladies were striking at the grocery stores. Everyone was complaining about it.

Now the shoe is on the other foot and the cattlemen are losing money raising beef. I was not aware of this situation as I do not have a cattle rancher in my district and it is not publicized in the news.

Last week I was talking to a rancher and he told me about the poor financial condition that they are now in. Yesterday, buried over in the middle of the third section of the newspaper, I saw another story that got more specific about it.

In August of 1973, live cattle soared to record levels, with choice steer reaching a peak of $58 per hundred pounds. This same type of beef steer sold this week for $41 to $42 per hundred pounds. This is a good drop in price, but where the cattle feeders are getting caught in the middle is the fact that the price of corn has gone skyrocketing. Corn is now moving at $3 a bushel, and this means that feeding cattle represents a tremendous loss. I read of an example where a man and wife, with no hired labor, ran a 274-acre farm. They are raising 300 cattle per year. Under today's present cost of feeding cattle, they are losing $114 a head. This means they are losing over $34,000 this year, and for a small operator, that would take him completely out of the market.

When we are quick to criticize a cattle rancher, we do not always stop to realize that he is also caught in the middle of inflation. If he is feeding cattle to round them out, he must be buying a lot of corn. When he is paying $3 a bushel for corn, it is going to cost him more per pound. With the natural law of economics governing supply and demand, the excess cattle that are now available have forced the market price down.

As this cycle gradually eases out we will see higher beef prices, because the inevitable inflationary influences will take place. An interesting phase of this development is the fact that we tried to control the prices of beef. Control did not work, as it will not work for oil, gas, or for any other commodity. The other interesting feature is that, although cattlemen were severely criticized only 7 months ago as being big profiteers, they are now, in this very short time, losing more than they made last year. I have not heard any newsman come forward and express sorrow or regret at the tremendous losses that the cattlemen are now taking.

It is another example of the fact that price controls will not work. The cattlemen would have been better off if we had never tried to control the price; if we would have let them continue all last summer to place the cattle in the market in an orderly manner, we would have been able to maintain a more orderly price ratio in the market. I am hoping that the law of supply and demand will encourage greater agricultural production, so that the price of feeds will drop back to a lower, more balanced ratio.

Price control will never work. The cause of inflation in this country is the fact that we have excessive Government spending in Washington. The first term that Lyndon Johnson was President, his budget was $100 billion. Ten years later, this Congress is discussing a $304 billion budget. As long as Congress continues to overspend and to go in for excessive Government spending, we are leading this country into excessive inflation. We must balance the budget and we must reduce excessive Federal spending.

THIS LIFE WE TAKE

HON. VANCE HARTKE

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Wednesday, March 13, 1974

Mr. HARTKE. Mr. President, the Friends Committee on Legislation published an article entitled "This Life We Take" by Trevor Thomas which is a case against the death penalty. While the Senate debates the question whether to reimpose the death penalty in the United States in certain circumstances, we must be ever cognizant of the right to life.

The interest in which this distinguished body must consider whether to take the life of another voluntarily must be with an eye on the direction of civilization. Let us all lend our support to the direction which will lead men from violence.

I ask unanimous consent to have the article by Mr. Thomas printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THIS LIFE WE TAKE—A CASE AGAINST THE DEATH PENALTY

(By Trevor Thomas)

(Published by the Friends Committee on Legislation)

A Man Who Changed His Mind—

Ernest Gowers, Chairman of the British Royal Commission on Capital Punishment:

"Before serving on the Royal Commission, I, like most other people, had given no great thought to this problem. If I had been asked for my opinion, I should probably have said that I was in favor of the death penalty, and disposed to regard abolitionists as people whose hearts were bigger than their heads. Four years of close study of the subject gradually dispelled that feeling. In the end I became convinced that the abolitionists were right in their conclusions though I could not agree with all their arguments . . ."

"The only moral ground on which the State could conceivably possess the right to destroy human life would be if this were indispensable for the protection or preservation of other lives. This places the burden of proof on those who believe that capital punishment exercises a deterrent effect on the potential criminal. Unless they can establish that the death penalty does, in fact, protect other lives at the expense of one, there is no moral justification for the State to 'take life'."

Rev. Dana McLean Grefley, Rabbi Roland B. Gittelsohn, Rt. Rev. Monsignor Thomas J. Riley. Members of the subcommittee of the Massachusetts Commission to Investigate the Advisability of Abolishing Capital Punishment.

The man sits in a cage of steel and concrete under a single bright light that burns around the clock. He has been tried by a jury of his peers, judged and sentenced to die. He has killed and now society, through the anonymous machinery of the state, will kill him. He has been brought here to keep that appointment with death.

Two guards will watch him this last night so that he can do no violence to himself. Before setting down for the long night, they offer tobacco and a variety of food for the last "hearty" meal.

After an eternity of night they see the beginning of a new day and a last breakfast. There will be no reprieve. The time of death, so impossible, so unimaginable, has come. Now the warden and the captain of the guards move down the long corridor toward the cell. A physician harnesses a stethoscope across his chest, its black tube dangling like an obscene umbilical cord.

Shoeless, he walks—or is carried or dragged—between two guards through the green door of the octagon chamber. Inside he is strapped to a metal chair; first around the chest, then the stomach and each arm and leg. A guard connects the black tube.

Outside, the physician adjusts the stethoscope to his ears. Twelve witnesses of the people, as required by law, watch through thick glass windows.

Each step of the ritual is checked and checked again. The last guard steps from the chamber and seals the door. The executioner makes his motions, inside liquid acid gurgles into a well beneath the chair. A bag of cyanide eggs is immersed in the acid. The combination produces deadly hydrocyanic acid gas, sweet-smelling like peach blossoms.

The man in the metal chair gasps and throws his weight against the straps in a final convulsive bid for life. Minutes pass. The head snaps back, then slumps forward. The physician hears the pounding, straining heart hesitate, become faint and then stop. He notes the official time on the appropriate charts. The man is pronounced dead.

In California, death is by gas. In Massachusetts, New Jersey and Tennessee the condemned die by electrocution. New Hampshire, Kansas, and Washington hang the prisoner "by the neck until dead." In Utah he may be shot or hanged. From 1930 through 1969, nearly four thousand men and women were legally executed in the United States.

Why? For many the answer is obvious—to protect the rest of us, or to serve as a warning and prevent repetition of the crime. Others argue in the name of justice, or revenge.

Then why have some states and not others outlawed capital punishment? Does the destruction of an occasional criminal protect any of us? Is the penalty a just one? If it is evil for us to take life as individuals, do we compound that evil by killing in the name of the state?

These are questions which have social and moral implication for us all. They demand that we cast off old prejudices in our search for the truth; that we put to use the knowledge of criminologists and psychiatrists; that we and our legislators take a careful look at present practices. This pamphlet is one attempt to throw light into some of the dark corners of that ancient institution, legal killing.

THE BEGINNING OF THE END

The first record of abolition of capital punishment was by edict of King Leopold of Tuscany in 1786, followed by Joseph II of Austria in 1787. Yet the English courts in 1800 punished over 200 offenses by death. One might forfeit his life for stealing five shillings, fishing in private streams, or robbing a rabbit warren.

In 1801, a boy thirteen years old hanged in England for stealing a spoon. Another boy, ten was sentenced to death for murder in 1748. The judges all ruled it proper to hang the child because, ". . . the example of this boy's punishment may be a means of deterring other children from the like offenses."[1] And just as certainly, the judges reasoned, no one would risk his neck for five shillings. They were wrong. In fact, picking pockets, itself punishable by death, thrived at public hangings "when everybody was looking up." Stealing increased to a point where bankers from 214 English towns petitioned Parliament for milder punishment that could be enforced. By 1819 there were more than twelve thousand similar petitions.

But when Sir Samuel Romilly introduced a bill in 1810 to abolish the death penalty for stealing five shillings from a shop, not a single judge would support him. He was told such a law might even lead to abolition for stealing from a dwelling house and then no man "could trust himself for an hour without the most alarming apprehensions that, on his return, ever vestage of his property will be swept away by the hardened robber."

Gradually public opinion did away with the greatest number of capital crimes in England. The dire predictions did not come to pass. In fact, such crimes decreased after partial abolition.

After a four-year investigation by a Royal Commission, Parliament passed the Homicide Bill of 1957, eliminating three-fourths of the remaining crimes subject to execution. Eight years later Great Britain abolished capital punishment for a trial period of 5 years. In October, 1965, the House of Commons approved a bill introduced by abolitionists almost 20 years before; 155 years after Sir Romilly failed in his effort to stop the hanging of thieves. The new law allows the judge passing sentence for a crime formerly punishable by death to set the number of years to be served before the prisoner can be considered for parole. Before abolition, a murderer who escaped the gallows or received a life sentence served an average of eight to ten years before parole.

Britain's legislators, having studied the evidence of the last two centuries, in 1969 have decided that the death penalty is not a deterrent to serious crime, but an affront to humanity. In December, 1969, the abolition of capital punishment was made permanent.

THE TREND IN CAPITAL PUNISHMENT

The world trend is toward abolition of the death penalty. Over the past century more and more legislative bodies have abolished it. Those countries which still retain the death penalty use it less frequently. A United Nations study reports that "in general, the modern tendency is more and more to drop the mandatory character of the death penalty."[2] Another study, for the Council of Europe, noted an "undoubted decline in capital punishment" in European countries.[3]

The 1968 up-dating by the UN of its capital punishment report[4] lists 16 countries whose laws do not provide the death penalty for any offense. However, since most executions are for the crime of murder, a more accurate index to the prevalence of the death penalty is the number of countries which do not invoke death for any form of murder. The UN report lists 26 such countries. (See back cover.)

Countries may keep the death penalty on their statute books but not use it. This is de facto abolition, as contrasted to removal by law (de jure abolition). Belgium, Liechtenstein, Luxembourg and the Vatican State are abolitionist de facto.

The UN also reports a general trend toward limiting the categories of offenses for which the death penalty is exacted. The trend is to apply it less often for crimes, such as murder, to which it has traditionally applied. However, there is a slight contrary tendency to invoke it for economic and political crimes.

For some time the legislative direction has been toward making capital punishment a discretionary rather than a mandatory penalty. In many countries the death sentence is mandatory only for very specific crimes, or in special courts, such as military courts. Where capital punishment is mandatory, it is primarily for murder and crimes against the security of the state.

The trend away from capital punishment is disrupted in time of war. Abolitionist countries may restore the death sentence, as did Italy, which was abolitionist until 1928, when the death penalty was brought back for crimes against "national security." By 1930, capital punishment was again applied for felonies as well. Germany had the death penalty before the Nazis came to power and made a death-house of Europe. In wartime, even the abolitionist countries reintroduced the death penalty on a limited scale. Belguim, the Netherlands, and Norway executed traitors, persons guilty of war crimes, and collaborators with the enemy. After the war, the death penalty was abolished in both Italy and West Germany, and other abolition countries returned to their pre-war status. France and Spain still exact the death penalty. The Soviet Union once reserved death for "political crimes"; now the penalty applies to economic crimes as well as murder, spying and sabotage. Economic crimes include money speculation, large-scale embezzlement of state property, and counterfeiting.

In the United States the trend is also away from the use of capital punishment. Although death may still be imposed by 40 states, the District of Columbia and the federal government, in actual practice there is a steady decline in executions. In 1935 there were 199 executions, 82 in 1950, 7 in 1965, and none since two persons were executed in 1967.[5] Under the constitutional challenges which have been raised against the death penalty since 1968, all pending executions have been stayed. There are close to 500

Footnotes at end of article.

persons on death rows in the United States awaiting the outcome of court challenges.

Ten states have abolished the death penalty for all crimes—Alaska, Hawaii, Iowa, Maine, Michigan, Minnesota, New Mexico, Oregon, West Virginia and Wisconsin. Another four states retain the death penalty only for such crimes as treason, killing a policeman, or killing of a prison guard by a life-term prisoner—New York, North Dakota, Rhode Island and Vermont. Montana has not had an execution since the early forties.

The first state to abolish capital punishment was Michigan in 1847. The most recent is New Mexico in 1969. Ten states have abolished the death penalty, then re-established it. Delaware, the most recent to change its law, abolished the death penalty in 1958, then reinstated it in 1961, after the slaying of an 89-year-old woman by a young Negro man. Oregon, abolitionist from 1915 to 1920, revived capital punishment until 1964, when voters repealed the death penalty.

Restoration of capital punishment in these ten states, as in Delaware, has usually followed a particularly brutal crime, or an increase in the crime rate. The death penalty was again made law despite the fact that its existence or absence does not affect the number of annual murders. Five of the states which restored the death penalty did so under the impact of the crime wave at the end of World War I, which affected death penalty and abolition states alike. Lawmakers bowed to the demands for righteous vengeance and reinstated the death penalty. Thorsten Sellin, the University of Pennsylvania sociologist has made a thorough study of the homicide rates of states which have experimented with abolition then revived the death penalty. He concluded that abolition had no visible effect on those states' homicide rates.[6]

For the first time in history, the United States Department of Justice now stands opposed to the death penalty. "Modern penology with its correctional and rehabilitation skills affords far greater benefits to society than the death penalty which is inconsistent with its goals."[7]

Discussing the trend away from the death penalty, the *New York Hearld Tribune* said, editorially:

"These states (with abolition) have not found that the lack of a supreme penalty has affected their crime rate; careful comparisons of states, region by region, shows that capital punishment does not have the deterrent effect which is alleged as its principal social excuse. The number of executions, even in states which retain the death penalty, is declining more rapidly than the homicide rate which indicates a public revulsion which has not yet found expression in statutes.

"Over the centuries, society has moved away from the crueler forms of inflicting legal death; it has limited the number of capital crimes; banned public executions; tended to be less ready to carry existing laws to extremes. Evidently, capital punishment itself is becoming outdated . . . as the public conscience becomes more and more aware of the possibilities for fatal error, of the capriciousness, of the relative ineffectuality of the death penalty, its end is inevitable and should be hastened."

OUT OF FEAR FOR OUR LIVES

The most persuasive argument for capital punishment is that the threat of death keeps people from committing murder and other capital crimes. The argument goes something like this:

(a) People do not commit crimes because they fear punishment,

(b) Therefore, since people fear death more than anything else, the death penalty will better prevent capital crimes than any other form of punishment.

Though not supported by evidence, this argument is advanced as fact whenever the issue comes before a legislative body. The real question is whether the individual who commits a capital crime *considers* the death penalty *before he acts—whether the fear of death is sufficient to prevent murder.* We know this much—that the threat of death failed to stop 13,650 Americans who committed the crime of murder in 1968. Nor did it have any effect on those who also took their *own* lives—64 of the 461 Californians who killed in 1957 committed suicide afterward. Nor did it prevent passion murders—21% of those Californians *executed* between 1943 and 1963 who in a rage had killed their wives, mistresses, or girl friends. Prisoners trying to escape have killed guards in the very shadow of the gallows or gas chamber. There are even instances of murder and attempted murder by off-duty law enforcement officers, thoroughly acquainted with the (theoretical) penalty for killing. The penalty is even less a threat to the mentally ill, but psychiatric evaluations made at California's San Quentin prison over a 15-year period reveal that a *majority* of those executed were emotionally unstable, psychoneurotic, or psychopathic.

One of the most striking bits of evidence before the Royal Commission of 1866 was from the Bristol prison chaplain who pointed out that of 167 persons awaiting execution in that prison, 164 had previously witnessed at least one execution! What would the Medical Association say of the value of polio vaccine if it were found that of 167 polio cases, 164 had been treated with that vaccine?

Nearly thirty-two percent of those executed in California (1943–1963), killed in the course of a robbery. If a thief is surprised he often, rather than risk capture, (probable penalty five years) "chooses" to shoot it out, and is caught, gun in hand. Does he weigh the penalty for armed robbery against that for murder the instant before he pulls the trigger? No; for this act, like other crimes of violence, is usually committed in a blind rage or under great mental stress which shuts out any thoughts of penalty.

Thousands have *not* been deterred by the threat of the death penalty. It is not possible to prove that a single potential murderer *was ever deterred*. Ask yourself; is fear of the death penalty the primary reason that you do not kill a neighbor with whom you may be in violent disagreement? Social scientists and psychiatrists, ministers and criminologists know that this is not the case; that love, desire for approval and acceptance, favorable personal relationships, environment and other cultural factors all play greater roles than fear in controlling or giving direction to anti-social impulses. The "fear of death" theory omits another large factor—the inability of most people to comprehend their own destruction. Even men on death row cannot believe "this will happen to me."

But the opponents of abolition will still insist, what about the hardened criminal, the premeditated murderer? If he is a rarity, the lives he takes are no less precious. Can we be sure the death penalty does not deter him?

This we know; the man who kills has *not* been deterred by the threat of capital punishment. The claim that the penalty prevents murder, or that execution is a just punishment for murder is a belief, not a fact. That abstract rarity, the person whose hand may be stayed from killing because of the death penalty is a phantom, unknown and undetected. Neither do statistical studies, by themselves, finally decide the case for, or against, the death penalty.

What all careful evaluation of homicide rates before and after abolition *do* reveal is that in the long run changes in the *homicide rates are unrelated to the death penalty.* If capital punishment prevent murder, the murder rate should increase when the death penalty is removed. In case after case of countries and states with and without the penalty no such correlation can be shown. This is a fact corroborated by extensive study.

The Royal Commission on Capital Punishment sat for four years heard innumerable witnesses, and sifted hundreds of documents. They visited Norway, Sweden, Belgium, Holland and the United States to hear further evidence in those countries. In 1953, the Commission reported that "whether the death penalty is used or not, both death penalty and abolition states show homicide rates which suggest that these rates are conditioned by *other* factors than the death penalty"—another way of saying there is no deterrent effect.

Further, "the general conclusion which we have reached is that there is no clear evidence in any of the figures we have examined that the abolition of capital punishment has led to an increase in the homicide rate or that its re-introduction has led to a fall."[8]

Following the Royal Commission's findings, Parliament passed a bill in 1957 which reduced the number of crimes punishable by death. It also introduced the concept for "diminished responsibility" into law, whereby a man accused of a capital crime could be found guilty of a non-capital crime, thus saving him from death, upon presentation of psychiatric proof of substantial mental disorder.

Finally, in 1965, also on the basis of the Royal Commission study, Parliament abolished capital punishment. It did so despite the fact that 79% of Britains either opposed abolition or were uncertain. Overwhelming proof and careful evaluation outweighed emotional arguments in the minds of British legislators. (Sideny Silverman, the bill's author, said, "We don't, in matters of life and death, think it is right to decide what is just or unjust by a spot, unconsidered reaction taken on the street corner or in a club or pub.")

The conclusions of the Royal Commission were reconfirmed by Marc Ancel's United Nations study. While reporting that many governments reserve judgment on whether the death penalty is or is not a deterent, he concluded that all the information available appears to confirm that such a removal (of the death penalty) has, in fact, never been followed by a notable rise in the incidence of crime no longer punishable with death."

These conclusions are borne out in small-scale studies. Philadelphia had *more* known murders 60 days *following* five highly publicized executions than in the 60 days before.[9] Either the state killings stimulated the crime of murder, or other unknown factors were responsible. The only certain fact is that the "lesson" did not take. Murder increased.

Suppose, in this instance, there had been no death penalty and no executions. What would have happened in these 60 days? More murders, or less? There of course can be no verifiable answer, only speculation and opinion.

Another study of the effect of executions—this time on a state-wide level—points to the possibility that, though the homicide rate may drop after an execution, it is canceled out by abnormal rise just prior to the execution date.

An analysis of homicide rates in California from 1946 to 1955 on the week before and after executions showed that while a peak in murder normally occurred on Saturday-Sunday, it occurred on Thursday-Friday during execution weeks. (Until recently, executions were on Friday at 10 a.m., in California.) To the author of the study, William F. Graves, M.D., this fact suggested a "brutalizing effect" of the death penalty. The death penalty was found to have no overall deterrent effect.[10]

Any deterrent value in punishment depends upon swiftness and certainty. Yet capital punishment is the most uncertain punishment on the statute books. In 1963, there were 21 persons executed in the United States. In the same year, there were 8,404 cases of murder and non-negligent manslaughter.

Footnotes at end of article.

These are odds of better than 400 to 1 against a murderer paying the death penalty. In California, in 1963, the uncertainty of the law was even more striking:[11]

Willful homicides reported by police	656
Convictions for murder	208
Sentenced to death	24
Executed	1

COMPARISON OF OTHER STATES

If the death penalty is a deterrent to murder, then fewer murders should be committed in those states that retain the penalty than in those that have abolished it, other factors being approximately equal. This last qualification is important, for we cannot honestly compare Rhode Island with, say, Georgia. One has the death penalty, the other does not, but there are many other economic and social differences that are more significant. Rather, we must select states for comparison that are as alike as possible socially and economically, with about the same type of population distribution, one with the death penalty, and the other without.

The following states most nearly meet these qualifications:

MURDER AND NONNEGLIGENT MANSLAUGHTER[1]

[Rate per 100,000 population]

	1964	1965	1966	1967	1968
Rhode Island (abolished)	1.2	2.1	1.4	2.2	2.4
Connecticut (death penalty)	1.8	1.6	2.0	2.4	2.5
Wisconsin (abolished)	1.5	1.5	1.9	1.9	2.2
Indiana (death penalty)	3.0	3.5	4.0	3.7	4.7
Michigan (abolished)	3.3	4.4	4.7	6.2	7.3
Illinois (death penalty)	5.5	5.2	6.9	7.3	8.1
Oregon (abolished)	1.8	3.4	2.7	3.1	3.2
Washington (death penalty)	2.4	2.2	2.5	3.1	3.6

[1] Uniform Crime Reports, FBI 1969.

Rhode Island, an abolition state since 1852, has a homicide rate very similar to, though slightly and consistently lower than Connecticut, where the penalty has been retained. The murder rate in Michigan, where the penalty was abolished in 1847, parallels that of Indiana and Illinois, while Wisconsin, an abolition state for practically a hundred years, has a rate significantly below Michigan, again indicating that the murder rate is not affected by the presence or absence of the death penalty.

The murder rate seems to be affected more by social and economic conditions. Michigan and Wisconsin are both abolition states, yet Michigan is more industrial and has the higher murder rate, which seems to support the observation of Richard A. McGee, former head of the California Youth and Adult Corrections Agency: "One must conclude that there are many factors other than the presence or absence of the death penalty which result in a higher or lower incidence of murder."

Some of the highest murder rates in the United States are to be found in the feud counties of Kentucky. The generally high rates in our southern states reflect cultural conditions in those areas. A little noticed fact is that in the south not only is the homicide rate high among Negroes, but for whites it is far higher than among white people in other parts of the country—all this despite the fact that executions in our southern states have historically been far more frequent than in other regions.

Dr. Karl Schuessler summarizes: "Statistical findings and case studies converge to disprove the claim that the death penalty has any special deterrent value. The belief in the death penalty as a deterrent is repudiated by statistical studies, since they consistently demonstrate the differences in homicide rates are in no way correlated with differences in the use of the death penalty. Case studies consistently reveal that the murderer seldom considers the possible consequences of his action, and if he does, he evidently is not deterred by the death penalty. The fact that men continue to argue in favor of the death penalty on deterrence grounds may only demonstrate man's ability to confuse tradition with proof, and his related ability to justify his established way of behaving."[12]

THE DEATH PENALTY AND POLICE SAFETY

Law enforcement people are often the strongest supporters of the penalty. One readily sympathizes with their motivation, but does the death penalty protect police officers? Careful and extensive studies say "no."

A 1950 study of over 266 cities of over 10,000 population in 17 states (six abolition, eleven death penalty) revealed that "on the whole, abolition states . . . seem to have fewer police killings, but the differences are small."[13]

The claim that the death penalty protects police officers is also disproved by a study of police homicides in Chicago from 1920–54. Executions for Cook County take place in Chicago. If the death penalty is a deterrent, when the execution rates rise the homicide rates should fall. But between 1920 and 1954 the two rose and fell together. Here again, the homicide rate was unaffected by the death penalty.

The Chicago study also shows that most of the police killings resulted from interruption of robbery. Since robbery murders usually occur as a result of panic, they do not appear to be deterred by the death penalty. This suggests that the police homicide rate is affected primarily by the general crime rate, not by the presence or absence of the death penalty. The Chicago figures bear this out. The police homicide rate was highest between 1925 and 1936, a period when the general crime rate in this country was particularly high.

The British Royal Commission, referring to the fears of English police officers, reported: "We received no evidence that the abolition of capital punishment in other countries had in fact, led to the consequences apprehended by our witnesses in this country."

"After several killings of policemen, Austrian police claimed that the presence of the death penalty in the law offered such a threat to certain types of offenders that they would go to the extreme in attempting to avoid capture, and that if the death penalty were removed, there would be less danger for the police."[14] The penalty was removed.

Cases where armed robbers used toy guns have been cited as evidence of fear of the death penalty. This is difficult to prove—or to disprove because the interviews with criminals are always after the fact. It may even happen in isolated instances. But toy guns are also carried by hold-up men in *abolition* states! According to the former Director of the Michigan State Police, Dr. LeMoyne Snyder:

"The argument that criminals frequently use toy guns in the commission of armed robberies because they fear the death penalty is without merit in my opinion. Many longtime criminals have told me they have never heard of such a thing.

"The reason that toy guns are used is because they are cheap; they can be bought in any ten-cent store and usually accomplish their purpose as well as a regular weapon. In states such as Michigan which abolished capital punishment decades ago, the armed robbery with a toy gun is common.[15]

IN THE NAME OF JUSTICE

James V. Bennett, former Director of the Federal Bureau of Prisons, argues that the death penalty should be retained for certain crimes. Nevertheless, he writes: "Today, it is chiefly the indigent, the friendless, the Negro, and the mentally ill who are doomed to death. Or the young."[16]

The late Warden Lewis E. Lawes of Sing Sing Prison recalled:

"In the twelve years of my wardenship I have escorted 150 men and one woman to the death chamber and the electric chair. In ages they ranged from seventeen to sixty-three. They came from all kinds of homes and environments. In one respect they were all alike. All were poor, and most of them friendless.

"The defendant of wealth and position never goes to the electric chair or to the gallows. Juries do not intentionally favor the rich, the law is theoretically impartial, but the defendant with ample means is able to have his case presented with every favorable aspect, while the poor defendant often has a lawyer assigned by the court.

"Thus it is seldom that it happens that a person who is able to have eminent defense attorneys is convicted of murder in the first degree, and very rare indeed that such a person is executed. A large number of those who are executed were too poor to hire a lawyer, counsel being appointed by the State."

Warden Lawes' statement as to the discriminatory aspect of capital punishment is borne out by the facts. The trend can be briefly summarized: the death penalty in this country is predominantly and disproportionately imposed upon Negroes, the poor and the less educated, and upon men.

Statistics from the California Department of Corrections reveal much about those executed in a twenty-year period up to 1963.[17]

Ethnic Group: Of those executed, 65.8% were white, 22.8% Negro, 8.2% Mexican descent, 3.2% other groups. (Note: The Negro averaged 3% of the California population 1940–1960.)

Occupation: 50% were classified as unskilled workers.

Education: 47% had not attained the 9th grade level. 10.7% were illiterates.

Prior Commitment: 29% had no record of prior commitment for a criminal offense. 42% had a record of prior commitment to prison. 29% were first committed to a juvenile institution, jail, or prison between 15 and 19 years of age.

Home Life: 60.4% were from homes broken by death, divorce, separation, etc., prior to age 18.

Juvenile Record: Nearly 52% had a record of juvenile delinquency.

To these findings should be added the following fact from Robert M. Carter's study of executions in California, 1938–54: In general, the psychiatric evaluations made at San Quentin indicated that the majority of the men executed were emotionally unstable, psychoneurotic, or psychopathic.

As Sara Ehrmann writes, there is some basis in fact for belief that "a rich man never gets the chair."

"It is difficult to find cases where persons of means or social position have been executed. Defendants indicted for capital offenses who are able to employ expert legal counsel throughout their trials are almost certain to avoid death penalties. In the famous Finch-Tregoff case in California, there were three trials, two hung juries, and finally verdicts of guilty but *without* the death penalty. It is estimated that the cost of these trials was over $1 million. But in the trials of some defendants without funds, juries have deliberated for as little as nineteen minutes, or an hour more or less, and then returned verdicts of guilty and death."[18]

Legislators who have conducted impartial investigations have been aware of the discriminatory aspects of the penalty for many years. As far back as the sixty-ninth Congress, a House Committee on the District of Columbia reported favorably to out-law the death penalty in Washington, D.C., but the bill did not become law. The committee said:

"As it is now applied, the death penalty is nothing but an arbitrary discrimination against an occasional victim. It cannot even

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Footnotes at end of article.

be said that it is reserved as a weapon of retributive justice for the most atrocious criminals. For it is not necessarily the most guilty who suffer it. Almost any criminal with wealth or influence can escape it, but the poor and friendless convict, without means or power to fight his case from court to court or to exert pressure upon the pardoning executive, is the one singled out as a sacrifice to what is little more than a tradition."

Recent Congressional proposals for abolition or a moratorium on the death penalty for federal crimes have failed to reach the floor of either house for a vote.

The late August Vollmer, former Chief of Police of Berkeley and nationally known criminologist, contended that, "Until capital punishment is abolished, there is little hope of even-handed justice in murder trials."[19]

A classic case illustrating Vollmer's point is that of Alger Simmons (People vs. Simmons, August 1946). In the course of a hold-up of a service station operator by Simmons and his partner Webb, a repairman was shot and killed in a struggle for Webb's gun.

Webb entered a plea of guilty and was given a life sentence. At Simmon's trial, Webb testified "that he was the one who had the gun . . . and that he himself had fired the fatal shot." The station operator testified that Simmons was with him in the back room during the entire time, including the time the shot was fired. The Supreme Court concluded that there was a "strong showing made . . . that it was Webb and not the defendant (Simmons) who was in the front office at the time of the shooting."

But the jury found Simmons guilty of first degree murder. He was sentenced to death and executed in the San Quentin gas chamber.

DOLLAR VALUES AND HUMAN VALUES

At the close of 1968, a total of 497 prisoners were awaiting execution by civil authorities in the U.S. The median elapsed time on death row for the group was 33 months. A Negro prisoner had been awaiting execution for 13 years, 8 months and 28 days in Illinois. Nearly one-third of the 497 were distributed among three states: California 85, Florida 59, and Louisiana 36. During 1968, 16 prisoners had their sentences commuted to life imprisonment.

Capital punishment has been justified as an economical and legal means to rid society of criminals. A man can be killed neatly for less than two hundred dollars, the argument runs, whereas his maintenance in prison costs the taxpayers several hundred dollars more a year.

It is a specious claim; to effect any sizeable saving would necessitate executing not only death row inmates, but other unwanted members of society such as the hopelessly insane and mentally retarded.

Although a prisoner may not be self-supporting, he usually contributes something to his upkeep. Were we willing, the prisoner could contribute, not only toward his own support, but toward that of the dependents of the victim of his crime.

This question reaches beyond the issue of capital punishment. Our prison system does not keep just the men on Death Row in enforced idleness; it condemns men by the thousands to wasting years of their lives with little to do. Though we boast of academic and vocational training in prisons, and of correctional industries, in the best of our state systems these are inadequate. If we had work opportunities for all the men, those condemned to life for murder could well produce much more than the cost of keeping them.

Second, states retaining the death penalty are harassed by lengthy and costly trials and repeated appeals especially by men of means or exceptional intelligence. The less fortunate, but no less guilty, are often executed with comparative haste. Where there is no death penalty, there are fewer prolonged cases and a greater chance for even-handed justice.

It cost the State of California well over half a million dollars and 12 years to send Caryl Chessman to his death in the San Quentin gas chamber. (Had Chessman been on trial ten years later, it is possible he would not have been sentenced to death, but to life in prison under the kidnapping section of the California penal code, revised some years after his original conviction.)

Abolition could lead to substantial savings on the country level of government and in Superior and Supreme Court costs, by reducing the length of trials. In Michigan, a comparable abolition state, murder trials seldom last more than two or three days. Some California trials last two or three weeks. In addition, California laws require an automatic appeal to the State Supreme Court in every death penalty case. This is time-consuming and expensive, though necessary to the minimum requirement of justice.

Richard A. McGee draws an inescapable conclusion: "The actual costs of execution, the cost of operating the super-maximum security condemned unit, the years spent by some inmates in condemned status, and a pro-rata share of top level prison official's time spent in administering the unit add up to a cost substantially greater than the cost to retain them in prison for the rest of their lives . . . When the other costs of the death penalty cases are added—the longer trials, the sanity proceedings, the automatic and other appeals, the time of the Governor and his staff—then there seems no question but that economy is on the side of abolition."[20]

THE CHANCES FOR ERROR

"That is the man who killed my husband."

There was no doubt as the widow of Charles Drake identified James Foster as the slayer of her husband in June 1956. Mrs. Drake was an eyewitness. Neither was there doubt in the minds of the jury who sentenced Foster to death by electric chair in the Jefferson, Georgia jailhouse.

Appeals delayed the execution and Foster sat on death row for 29 months. In July, 1958, a former policeman confessed in detail the planned robbery which resulted in the death of Charles Drake. Foster, "positively identified as the murderer" was released.

John Rexinger of San Francisco, "practically has the pellets (in the gas chamber) dropping." So said a police officer working on this 1957 case. Everything pointed to Rexinger as a torture-rapist; he was an ex-convict; he could not account for his where-abouts at the time of the crime. Finally, he was *twice* identified by the victim. Several days later the actual criminal confessed. He was a full eight inches shorter than Rexinger.

"I pleaded guilty only because my lawyer told me to. I told her I was innocent." John Fry, a hard-drinking man with a long police record was convicted of manslaughter when he pleaded guilty to the strangling of his common-law wife.

After seven months in San Quentin, Fry was pardoned by Governor Brown after another man's confession was verified.

Charles Bernstein was convicted of murder in the District of Columbia and sentenced to death. Minutes before his scheduled execution the sentence was commuted. Two years later, police proved he was innocent and he was released and later pardoned by the President.

A forced confession figures in the recent campaign against the death penalty in New York which resulted in almost complete abolition. Police wrung a confession to the slaying of two girls from 19-year-old George Whitmore. But another man was later charged with the crime, and a statement issued by the district attorney's office completely absolved Whitmore.

Investigators in the Los Angeles Public Defenders office estimate they have saved the lives of 84 defendants charged with murder. The Police and the District Attorney were sure of their guilt. Some of them had even confessed. Many had been positively identified by witnesses. But eyewitness reports are notoriously fallible. A Los Angeles Police Department survey of identifications of suspects in a line-up once indicated that 28 percent—more than one out of four—are later proved false![21]

Until recently, there were several studies of men and women convicted of crimes who were later proved innocent, but no information on how many persons have been executed for murders they did not commit. Edwin Borchard cited cases of 65 innocent convictions; the late Judge Jerome Frank of the Second Circuit Court of Appeals documented 36 such cases. Now Hugo Adam Bedau has discovered 74 men wrongfully convicted of criminal homicide. Eight of these men were executed. Twenty-four others received a death sentence but were not executed. Of these Bedau writes, "Whether any of the eight cases really deserve to be classified as wrongful executions remains in some doubt. No doubt, however, attaches to the fact that nearly two dozen men have been sentenced to death for crimes they demonstrably did not commit." In nearly every one of the 74 cases, "the appellate court had sustained the conviction and usually unanimously."[22]

At the beginning of 1967, there were 415 prisoners under sentence of death in the U.S. Of these, 68 men finally had their cases disposed of *other than by execution:* 13 were commuted, 50 had reversals of judgment, sentences vacated or grants for new trials. Three men were transferred to mental hospitals and two died (one suicide and one natural death).

The degree to which the condemned man is subject to a capricious fate is summed up by Bedau: 'The whole pattern of treatment of capital convictions by the higher courts seems devoid of rhyme or reason. Thus, a man proven guilty is saved from execution by the striking ingenuity of his counsel on appeal to the Supreme Court. But another man goes to his death purely because his attorney neglected to raise a point of procedure at the trial, thereby barring the higher courts from touching the issue. One man is literally taken from the electric chair, after his counsel had the good luck to find a Supreme Court Justice who would issue a temporary stay of execution; upon re-hearing, the conviction was reversed. But another man is executed because the notice of stay of execution arrived seconds too late to halt the flow of lethal gas into the execution chamber."[23]

California has an automatic appeal to the State Supreme Court in all death penalty cases. Of 180 sentences of death (1942–57) there were 25 reversals on appeal. On retrial of these cases, six were dismissed or acquitted, and only three resentenced to death. This is strong evidence of the high rate of error in trial courts. Another eleven persons had their death sentences commuted to life imprisonment. Each of these eleven persons would have been executed after full judicial consideration except for executive clemency. What of the others, perhaps no more guilty, who were not so fortunate?

Those opposed to abolition have said that the innocent are seldom executed. By that measure, if we consider the number executed in relation to the total capital crimes committed, we seldom execute *anyone*. But the supporter of the penalty never claims its infrequent use to be one of its merits. To do so would be to advance one of the strongest arguments against it.

The question is not numerical nor utilitarian, but ethical. Whether it be one innocent man executed or one hundred, the system is not defensible. And until the death penalty is erased, the possibility of error is constant. To argue otherwise is to support

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Footnotes at end of article.

the notion that errors do not occur in sentencing for non-capital crimes, or in life terms for capital offenders, which clearly is not the case.

Seventy years ago, the state of Maine hanged an innocent man. As former Gov. Edmund Muskie wrote, "This unfortunate accident was the main reason for doing away with capital punishment in this state. . . ."[24]

In the year 1852, the state of Rhode Island abolished the death penalty when it was discovered that an innocent man was put to death for a murder he did not commit. Today, the F.B.I. Uniform Crime Report reveals that Rhode Island, with a 1.4 rate per 100,000 population has the fourth lowest murder rate in the nation. But Rhode Island would probably have a low murder rate with or without the death penalty.

MYTH OF THE LEGALLY SANE

Leandress Riley, Negro, defended by a Public Defender, convicted of robbery and first degree murder, executed February 20, 1953; family background: confused and unstable, St. Louis slum . . . left school at fourteen.

Legally sane when executed but reports by San Quentin psychiatrists point to medical insanity. June 26, 1950 report: ". . . at present he is so depressed and so agitated, despite electric shock treatment, that we are all agreed he is too insane to be executed. We recommend early transfer to Mendocino State Hospital." But Leandress Riley was executed two and one-half years later.

San Quentin records repeat this story again and again: execution of a legally "sane," but medically insane person. ". . . We are of the opinion that he has fundamentally a psychoneurotic personality, considerable cerebral deterioration . . . chronic alcoholic, and definitely a suicide risk."

". . . We are all in agreement that although he is medically insane, he knows fairly well the crime he committed . . . [so] he is considered to be legally sane at this time."[25]

On March 28, 1961, California's Governor Brown commuted to life the death sentence of Edwin Walker. Walker was convicted of killing a police officer. At his sanity trial he was found sane despite a strain of mental illness traced through five generations of his family which made fifteen of his relatives either mentally defective or psychotic. But, on the day of his scheduled execution, he was found to be insane and sent to a mental hospital. Years later, he was again declared sane and a new death warrant was signed. It was then that Governor Brown commuted his sentence, writing: "In my term as Governor, I have never before stayed the execution of one convicted of slaying a peace officer. And were it not for the overwhelming evidence of mental illness and the fuller light cast upon his behavior over these many years, I would be loathe to intervene now. But I cannot . . . find it possible to believe that California, after investing twelve years, thousands of dollars, and scientific resources in restoring this broken mind, has done so only that it may now be thrust into the cell for execution." (Governor's Commutation Order, p. 3.)

A recent study shows that of the 25 men whose sentences have been commuted in California between 1950 and 1965, 12 were on the basis of psychiatric evidence.[26] But why has it been necessary for a Governor to save the mentally ill from death? Why could not this have been possible in the courts?

For hundreds of years our criminal law has divided offenders into "sane" and "insane." Insane defendants are judged "not guilty" and today are committed to mental institutions. Legally "sane" defendants, on conviction, are sentenced to prison or death regardless of their respective mental conditions. For over a century, our criminal law has clung to the test of sanity laid down in the M'Naghten's case of 1843, vis:—did the accused, at the time of the crime, know that his act was wrong and contrary to law?

Psychiatry, on the other hand, has long since discarded such concepts of responsibility. Hence, from the medical standpoint, mentally diseased persons are executed, though the law may hold them sane through the haphazard application of the outdated "M'Naghten test."

This test was formulated without benefit of over a century of psychiatric knowledge accumulated since 1843. As Bernard L. Diamond, noted authority of psychiatry and the law, has observed: "Under a strict definition, the only persons who are so mentally ill that they do not know this [the difference between right and wrong] are a few far-deteriorated, schizophrenic toxic and delirious, or senile patients" incapable of aggressive impulses.[27]

The psychiatrist knows that knowledge of right and wrong alone is not an adequate test of a man's responsibility before the law. The M'Naghten test does not allow for the many factors other than reason which control human conduct. It assumes that all men are equal in their ability to conform to the law if they know what is right and wrong. Modern psychiatry shows that men are mentally and emotionally unequal the mentally ill do not have the same chance to lead law abiding lives as the mentally well.

By California Law (Penal Codes Sec. 1367) it is possible to be legally sane and medically judged mentally ill at the same time. A man may be judged legally sane at his trial, but then become legally insane by the time of his execution. If this happens, the execution is postponed until he is well, or, as in the case of Edwin Walker, his sentence may be commuted. Robert M. Carter's study of men executed in California between 1938 and 1953 shows that some condemned men cross the bridge between medical and legal sanity several times. In such cases how can we be sure a man was capable of conforming his conduct to the law at the time he committed a crime? If there is doubt, is it not far more humane to spare his life?

In the case of People vs. Wolff (August, 1964), California moved in the direction of a concept of diminished responsibility before the law based on evidence of mental illness. The Supreme Court determined that evidence of mental illness affects an offender's ability to reflect upon the seriousness of his criminal act. The Court held that Wolff should have been convicted of second rather than first degree murder.

But despite liberal court rulings, as long as the death penalty is on the books, the poor/or mentally ill, are at the mercy of a most capricious chance. It takes time and money to prove mental illness, or legal insanity.

IS THE DEATH PENALTY CONSTITUTIONAL?

Since 1965 a concerted effort has been mounted to challenge the death penalty in the courts as violating the Constitution of the United States. This litigation has been carried out largely through the efforts of the NAACP Legal Defense Fund and the American Civil Liberties Union, working in close cooperation with private attorneys throughout the country.

As a result, there were no executions in the United States between June, 1967 and January 1, 1970, when this was written. It is unlikely that any executions will take place until the United States Supreme Court has decided a number of cases now pending before it.

Early in the 1960's, the Supreme Court of the United States declined to review a case in which a constitutional challenge was made to the death penalty for rape. However, three justices dissented in a decision written by Mr. Justice Goldberg in which he raised a number of questions concerning the death penalty for rape.[28]

This case encouraged the Legal Defense Fund to embark on a systematic attempt to have the death penalty for rape declared unconstitutional on the grounds that it was applied discriminatorily against black defendants who had raped white women. (Significantly, the death penalty exists for rape only in Southern and border states, the District of Columbia and Nevada in the United States.)

Early in 1967 developments in Florida and California compelled the extension of this systematic approach to the death penalty in general. In both states the governors had been opposed to the death penalty. There had not been any executions over a number of years. As a result, Florida had more than 50 men on its death row and California more than 60. In 1967, however, new governors came into power who favored capital punishment.

Faced with the possibility of a mass slaughter, actions were brought in federal court in both states jointly by the Legal Defense Fund and the ACLU on behalf of all persons on death row. In both instances, the federal judges issued stays of all executions until final determinations of the constitutional issues raised. The federal court in California eventually vacated its stay but a similar stay was granted by the California Supreme Court. This remained in effect until November, 1968, when the court rejected the various constitutional arguments.

In the meantime, a number of the issues were raised in cases in the Supreme Court of the United States. In two cases the Supreme Court held unconstitutional certain practices involved in the administration of the death penalty. At the present time there is before the Court another case, *Maxwell* v. *Bishop*, which could have a profound effect on the administration of the death penalty in every state. Pending that decision, stays of execution have been obtained in many individual cases.

The constitutional challenges made in these cases can be divided into two broad categories. The first is a challenge to the death penalty on its face, and the second consists of a number of challenges to the ways in which it is administered.

The first urges that the death penalty violates constitutional prohibitions against cruel and unusual punishment; that is, the death penalty, regardless of the way it is carried out by the state, is in conflict with basic concepts of how a civilized society should act. Although the Supreme Court of the United States had in 1969 an opportunity to hold that the death penalty for robbery constituted cruel and unusual punishment; the Court avoided deciding the issue by reversing the conviction on other grounds.

The other challenges deal with the manner in which courts and juries determine whether or not the death penalty is to be given in any particular case. To understand these issues a brief description of the working of a court in a death case may be helpful.

In every state, if the defendant chooses to be tried by a jury, the jury itself decides whether or not he should receive the death penalty. In some states the jury must affirmatively vote for death; in others, the statutes provide that death will be the penalty unless the jury votes otherwise. In most states there is only a single trial in which the jury decides both whether the defendant is guilty and whether he will receive life or death. In certain states, however, California for example, the trial is split into two parts. In the first the jury decides only guilt and in the second, decides the penalty.

In virtually every state the jury is instructed that it is entirely up to its own conscience wheher or not a particular defendant will receive the death penalty; that is, it is not instructed as to any standards which, by law, govern its determination. Indeed, in many states, the jury is specifically instructed that there are no standards, but that the penalty is entirely up to the jury's own discretion.

Until a 1968 decision of the United States Supreme Court which will be discussed be-

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Footnotes at end of article.

low, virtually every state either required or allowed persons who were opposed to the death penalty to be excluded from the jury in a capital case. Opposition could be as mild as a general dislike for the death penalty.

The issues arising from this system are briefly these. First, the lack of standards to guide the jury in determining life or death is a violation of the Fourteenth Amendment's prohibition against depriving a person of life without due process of law. That is, the jury is allowed to act solely at its own discretion or, in effect, on the basis of whim or caprice. This is not permissible where the momentous decision of life or death is involved.

In November, 1968, the California Supreme Court rejected this argument by a vote of 4-to-3 decision. The Supreme Court of the United States, however, has agreed to hear the issue in the case of *Maxwell* v. *Bishop*, mentioned above. This case will be argued probably early in 1970.

The problem of the standardless jury is worse where there is only a single trial, since the defendant faces an impossible choice. He must testify on his own behalf in order to inform the jury of mitigating circumstances. If he does so, however, he leaves himself open to cross-examination as to whether or not he committed the crime. If he chooses not to testify in order to preserve his right not to give testimony against himself, the jury will decide whether he should live or die on incomplete or biased information. The single trial issue is also before the Court in *Maxwell*.

The next constitutional challenge combines the cruel and unusual punishment argument with the lack of standards argument. It argues that for a jury to act without standards, and hence arbitrarily and capriciously, is by its nature cruel and unusual punishment. That is, because the jury acts whimsically, it imposes punishment without regard to the circumstances of the crime or the character of the defendant and thus in any particular case it is arbitrary and cruel.

The next argument stems from the exclusion of persons opposed to the death penalty. In 1968 the Supreme Court, in the case of *Witherspoon* v. *Illinois*,[29] held that it violated the Constitution to exclude scrupled jurors from the penalty phase of the capital trial. The Court held that a jury must adequately represent a cross-section of the community when its function is to reflect the overall conscience of the community.

The Supreme Court did not hold that persons who would never vote for the death penalty regardless of the circumstances of the case could not be excluded. It left that issue open to be decided at some later time.

Following Witherspoon many death sentences imposed by improperly constituted juries were overturned by state and federal courts. In California over 30 death sentences were set aside and the cases returned to court for a new penalty trial within a year of the Witherspoon decision.

Finally, the Supreme Court handed down some significant decisions in cases involving the death penalty under specific federal statutes. The leading case, *United States* v. *Jackson*,[30] involved the federal kidnapping statute. That statute provided that the death penalty could be given only by a jury. If the defendant pled guilty or if he was tried by a judge without a jury he could not be executed.

The Supreme Court held that this necessarily imposed a burden on the exercise of the constitutional right to plead not guilty and to be tried by a jury. Faced with the possibility of the death penalty, a defendant would inevitably be coerced into avoiding the possibility by giving up his fundamental constitutional rights. As a result of *Jackson*, challenges to similar death penalty statutes in various states have been made.

The litigation described above has resulted in a two and a half year moratorium on the use of the death penalty in the United States. How long this moratorium will remain in effect will depend to a great extent on the outcome of *Maxwell* v. *Bishop*. In any case, it is certain that the attempt to eliminate the death penalty through legal action will continue to be vigorously pursued.

WHAT WE MUST DO

In 1748, solemn English judges ruled it proper to hang a boy of ten as an example to other children. We restrict such punishment to adults, but the arguments in support of the death penalty have not changed one whit in 200 years.

What plaintiff would want to be compensated for the loss of an eye by being permitted to pluck out one of the defendant's eyes. We no longer take "an eye for an eye, or a tooth for a tooth." Yet we continue the barbarous practice of taking a life for a life.

But what is the alternative? How is society to be protected against the murderer? The answer is epitomized in two words, *rehabilitation* and *prevention*.

MURDERERS CAN BE PAROLED

The alternative to punishment by death most commonly advanced by abolitionists is life imprisonment with no possibility of parole. It is frequently offered to meet the charge that one-time murderers will be paroled only to kill again. Both this fear and the life-without-parole alternative are mistaken. *Some* few murders may need to be permanently isolated without parole. But to abolish death as a punishment and then indiscriminately condemn *all* convicted men to prison with no chance for a new life, makes no sense at all. For the many who could succeed on parole, life in prison is a living death.

What happens to first-degree murder defendants who are convicted and imprisoned but not executed? Dr. A. LaMont Smith, University of California criminologist now with the Arizona Department of Corrections, cites a fifteen year period during which only *one* of 920 paroled murderers was returned to prison with the death penalty.

"On Janurary 1, 1945, there were 398 men *on parole* in California who had committed murder. In the following period 1945 to 1958, an additional 522 were placed under lifetime parole supervision for a total of 920. In this fifteen year period only *one man* was returned to prison with the death penalty or one-tenth of one percent of the total. An analysis of the remaining 919 reveals that 24% died, 8.2% were pardoned and 55.4% were still on parole, or a total of 87.6%. The balance of 12.3% were returned to prison as violators.

"An analysis of the 1959 *prison intake* for homicide in California reveals that only one-fifth (41/197) had prior prison records. There were 36% without a jail or reformatory record—first offenders. Less than half, 44%, had been in such institutions. In fact, the report, *California Prisoners 1958–1959*, states that homicide is one of the 'two offense groups with the highest proportion of men with *no* prior commitment history at time of admission to prison' . . .

"Ex-prison felons, therefore, are the least responsible for homicides. Life-imprisonment without possibility of parole to prevent homicides is not warranted by the known facts." [31]

Of 117 murderers paroled in New Jersey over a ten-year period, all under life sentence and some originally condemned to death, none had subsequently been charged with another murder. Only ten have violated parole in any way. They had served an average of 19 years in prison before being paroled.

Only the best risks among imprisoned first-degree murderers are selected for parole. For such men and women we now have a clear alternative to the death penalty; life imprisonment *with* possibility for parole. Murderers are clearly the best parole risks of any class of offenders.

Hugo Adam Bedau has collected parole statistics from eight states covering different periods of time ranging from 1900 to 1961. The longest period is 1900–1958 (Mass.), and the shortest period 1950–59 (New York):

	Paroled murderers	2d imprisonment for murder
California (1945–54)	342	1
Connecticut (1947–60)	60	0
Maryland (1936–61)	37	0
Massachusetts (1900–58)	10	0
Michigan (1938–59)	164	0
Ohio (1945–60)	169	0
New York (1950–59)	357	1
Rhode Island (1915–58)	19	0

Out of some 1,158 murderers paroled, two committed another murder, 9 committed a crime of personal violence short of murder, or a felony.

It is easy to overlook the much larger number of murderers who are either not apprehended or not convicted and are at large among the population. As Zechariah Chafee of the Harvard Law School wrote:

"It is not the occasional pardon to a murderer that endangers society but rather the fact that indictments of first degree so often lead to acquittal. Undoubtedly ten murderers are free on our streets due to lack of apprehension and conviction to everyone who is pardoned after careful consideration." [32]

SOCIETY AT FAULT TOO

Men in society are responsible for their acts, but the man society executes for a crime is society's own child. He has been reared and nurtured by it, and is considered by what that society has done or failed to do for him, sometimes by what it has done to him. He is evidence of the tragic fact that home and school, church and synagogue, social agency and institution have partially failed in their purpose.

Experience so far indicates that through psychiatry, psychotherapy and religious resources, most men whom we condemn to death cells, or to slow death for life behind bars, can be returned safely to life in society.

When there is a public philosophy which values rehabilitation and crime prevention more than revenue or punishment, other ideas will emerge, and proven experiments thrive and expand.

The death penalty is not consistent with that philosophy; it can no longer be accepted as right punishment. We now understand that it does not prevent crime. Let us abandon the death penalty, and quickly.

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WORLD TREND TOWARD ABOLITION OF CAPITAL PUNISHMENT

Abolitionist by Law (De Jure)

Argentina.
Australia (Queensland & New South Wales *).
Austria.
Brazil.*†
Colombia.
Costa Rica.
Denmark.*
Dominican Republic.
Ecuador.
Federal Republic of Germany.
Finland.
Great Britain.
Greenland.
Iceland.
Indonesia.*
Israel.*
Italy.
Mexico (24 of 29 states and the federal territory).
Netherlands * (1870).
Netherlands Antilles.*
New Zealand.*
Nicaragua.*
Norway.*
Portugal * (1867).
San Marino (1848).
Sweden.*
Switzerland.*
United States: Alaska, Hawaii, Iowa, Maine, Michigan (1847), Minnesota, New Mexico, New York,* North Dakota,* Oregon, Rhode Island * (1852), Vermont,* West Virginia, and Wisconsin (1853).
Uruguay.
Venezuela (1863).

*Abolitionist by Custom ** (De Facto)*

Belgium (1867).
Liechtenstein.
Luxembourg.
Vatican City State.
U.S. Navy (1849).

Source: "Capital Punishment," United Nations, New York, 1968.

Note: Only those countries which replied to the UN questionnaire are listed. Dates given only for jurisdictions which have been abolitionist 100 years or more.

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[23] Bedou, op. cit. pp. 410–11.

[24] Letter, dated March 20, 1958, from Edmund S. Muskie, Governor of Maine.

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[26] Lloyd Braithwaite, "Executive Clemency in California: A Case Study Interpretation of Criminal Responsibility," Issues in Criminology, Vol. I, No. 1, 1965.

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[28] Rudolph v. Alabama, 375 U.S. 889 (1963).

[29] 391 U.S. 510 (1968).

[30] 390 U.S. 570 (1968).

[31] Statement, A. LaMont Smith to the California Assembly Committee on Criminal Procedure, April 10, 1961.

[32] Abolish the Death Penalty, Massachusetts Council for the Abolition of the Death Penalty, 1928, p. 8.

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* No death penalty for murder. Death penalty retained only for certain exceptional crimes, such as treason, piracy, killing of policeman.

† Restored death penalty 1969 for acts of subversion and terrorism (New York Times, Sept. 10, 1969.)

** Death penalty on statute books but not used.

ABORTICIDE

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. HOGAN. Mr. Speaker, I would like to bring to the attention of my colleagues a poem written by Ms. Kay Magehheimer. Ms. Magehheimer, who is listed in the British International Who's Who in Poetry, was unable to take part in the demonstration for abortion on January 22.

I wish to insert Ms. Magehheimer's poem, "Aborticide," in the Record at this point.

ABORTICIDE

(By Kay Magehheimer)

Not all murderers
Are Cain-marked,
Stalking their brothers
By night;

Not all recognized
As demons
To be exorcised
By Light.

Some there are, by the
Sun of day,
Who defiantly
Slay, prod

The offspring of Man—
Lacking form
But still CHILD, by plan
Of God . . .

Who think this crime slight
And not sin;
But custom, made right
By law—

Not God's. Man's! Proclaimed
And published:
Humanity shamed
And flawed . . .

This life, most agree,
Is no dream
But reality.
Is all

We have to confront
God's judgment
When His Exeunt!
Clears th' stage.

How curse this crime? Curse
The ill-gained
Gold from such commerce?
What wage—

Sensed with their last gasps—
Must they pay?
Cain, fearful now, grasps
The hand

Of one who—somehow
Escaping
The kill—was allowed
To stand.

IN DEFENSE OF CONGRESS

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. HANRAHAN. Mr. Speaker, I submit the following two articles concerning our executive and legislative branches of government for the RECORD.

The article follows:

IN DEFENSE OF CONGRESS

(By Clayton Fritchey)

A RECORD OF SELF-IMPROVEMENT

Vice President Gerald Ford thinks "it is tragic and tremendously bad for America when only 20 per cent to 30 per cent of its citizens—if the polls are anywhere nearly correct—have a good word to say for their elected officials in Congress." It would be even more tragic if it were true, which is doubtful.

The Vice President was referring to the latest Harris poll which shows only 30 per cent public approval of President Nixon, but even less approval—21 per cent—for Congress. The Harris poll is one of the most reliable, but it is far more difficult to test opinion about an entity composed of 535 parts (like Congress) than to measure reaction to an individual like the President.

Americans have always griped about Congress. It's been a popular national pastime since the republic was founded. The real test, however, is what happens on election day when the voters have the opportunity of throwing out the rascals they don't approve of. And this test shows the people invariably and overwhelmingly reelecting the incumbents.

In the House, 96 per cent of incumbents were re-elected in 1972 and 1970. In 1968, the figure was 98 per cent. This hardly suggests deep dissatisfaction. The Harris poll also contradicts itself. It now says 72 per cent of the people disapprove of congressional handling of the Watergate case, but previous Harris polls showed very high approval of the Senate investigating committee. Other polls showed the same.

In any case, regardless of what people tell the pollsters, Congress has steadily done better in recent years, especially in the last decade. It has, and perhaps always will have, serious shortcomings, but those whose job it is to observe Congress on a daily basis can testify that there has been a consistent improvement in both intelligence and performance.

The old guard still wields great power, but every year it is being forced to give ground. A reinvigorated Congress is making headway in reforming itself, in reining in a willful Chief Executive and in protecting the courts from presidential debasement. So all three branches of the government are benefiting from the changes on Capitol Hill.

This year a record number of senators and representatives are quitting. At last count, 38 House members had announced they would not seek re-election. Nearly all the retirees are highranking veterans. In the Senate, six are stepping down, four of whom range in age from 73 to 81.

The congressional record would be still better were it not for the rash of Nixon vetoes, which killed legislation in behalf of raising the minimum wage, expanding health services, rehabilitating the blind and crippled, reforming campaign spending, funding poverty and child-care programs and helping rural water-sewage projects, to name only a few.

Meanwhile, to its credit, Congress forced through a much expanded Social Security program; it stopped the administration's impoundment of funds appropriated for crucial social and environmental purposes, and, on the foreign front, it ended the bombing of Cambodia, leashed the warmaking powers of the President and repealed that blank check for war, the Tonkin Gulf Resolution.

Above all, though, Congress has set about reforming itself, a more difficult task than reforming the other branches of government. The House, for instance, has ended the secrecy of committee hearings, curtailed the old seniority system and set up a new Steering and Policy Committee. Moreover, both the Senate and House are working much harder than they used to.

Back in the Fifties, Congress met only one day out of three, but the present 93d Congress is just about the best on attendance and voting. The average member was present for 82 per cent of all votes in 1972 and last year this rose to 89 per cent, an all-time record. There's still plenty of room for further improvement, but Congress deserves better than that 21 per cent approval in the Harris poll. In the light of Watergate, it's painful to imagine what the United States would have done without Congress to fall back on.

WEARY OF SPECULATION

President Nixon's offer of cooperation with the House Judiciary Committee removes some of the largest obstacles to getting the Watergate affair settled one way or another. And the events of the last week show the necessity for some kind of resolution.

When the indictments of the alleged cover-up conspirators were returned, it looked as if the grand jury had concluded the President was involved. It sent a sealed report to the judge, and charged H. R. Haldeman with lying in saying that the President said the payment of hush-money would be wrong. Since the President had also publicly given something like Mr. Haldeman's version, this seemed to suggest the possibility of a clearly provable presidential falsehood, which would bring down the whole tottering White House defense.

Today, though, the President's reply seems a strong one. The words "it is wrong" do appear on the tape of the March 21 conversation, he says, but the immediate context is not hush-money but grants of Executive clemency. The President says that in his mind this also included the hush-money. And this is in fact precisely what the President previously said in publicly supporting Mr. Haldeman's version of the conversation.

Also, a prosecution attorney remarked in court that the grand jury's report "isn't an accusatory document." Judge Sirica has suggested that the Judiciary Committee postpone its impeachment inquiry until after the trials of those indicted last week; this strikes us as a curious suggestion if the judge believes the grand jury's material is fodder for a successful impeachment.

So within a day those of us who have tried to suspend judgment on the President's involvement have been buffeted one way and another. And we are sure the last word still has to be spoken. Obviously the President is nervous that others may interpret the tape of the March 21 conversation in a less favorable light, as the grand jury did.

Our main reaction is utter weariness at this eternal speculation. Here we have a case in which, for the first time in this Republic's 200 years, a President may be removed from office by the impeachment process. The case obviously will be decided by public opinion. Yet the public is left to guess what this statement by that party or that statement by this party might suggest about what the actual evidence may show when it is finally revealed.

Now that the President has offered a compromise on the issue of Executive privilege, the chief argument standing in the way of public release of the evidence held by the grand jury and now offered to the House committee is that it might prejudice the trials of the indicted defendants. Surely this is the most hypothetical argument ever to be offered in a courtroom, which is saying a lot.

We are talking about the trials not of someone who would otherwise escape public notice, but of Mr. Haldeman and Mr. Ehrlichman and so on. Their case has been rehashed every night on every television news show for the last year. It is sad but true to say that speculation has already convicted them a hundred times over. We do not know how to deal with this problem, but we do not see what is to be gained by suppressing actual evidence when continued speculation cannot be stopped. And we certainly do see a compelling public interest in public release of evidence bearing on the President's involvement.

Since both the President and Judge Sirica are sticking to this argument, the best hope for public release of the March 21 tape and other key evidence probably lies with the Judiciary Committee. The President has offered it all the evidence given the special prosecutor's office, and we hope the committee will not delay public release of this information by bickering over prerogatives. The committee was wise to defer action on subpoenas, until it has seen the evidence already offered.

At this point the crying need is not to settle for once and for all the issue of Executive privilege, or the problems of pretrial publicity. The need is to bring the whole Watergate trauma to some kind of a resolution, and the way *to do that is* to get out the tapes and other key evidence and let the public start making its judgments on the basis of real information.

JUST WHAT IS FREE ENTERPRISE?

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. CARTER. Mr. Speaker, as our Nation approaches its 200th anniversary, it is important that we take a close look at the valuable role that our free enterprise system has played in the history of the United States. I submit that we should never lose sight of this meaningful aspect of our tradition. Further, we should always make every effort to strengthen our free enterprise system, for it will result in continued progress in the years to come.

The following item provides an interesting view on this matter which has an impact on every citizen of this country:

JUST WHAT IS FREE ENTERPRISE?

It has nothing to do with politics nor wealth nor class. It is a way of living in which you as an individual are important. Little things make up this way of living, but think what you would lose if you ever surrendered it:

Free enterprise is the right to open a gas station or grocery store or buy a farm, if you want to be your own boss, or change your job if you don't like the man you work for. (Under communism you work where you're told, and you live and die bossed by hard-fisted bureaucrats who tell you every move you dare make.)

Free enterprise is the right to lock your door at night. (In communist countries the dread secret police can break it down any time they like.)

Free enterprise is the right to argue. (In communist countries you humbly say "Yes" to whatever is told you.)

Free enterprise is the right to save money if you want, or blow it on a good time if that's what you prefer. (Under communism you'd never have the money to do either—back-breaking hours earn you only enough to keep alive.)

Free enterprise is looking on a policeman as someone to protect you, on a judge as a friend to help you. (In communist countries you had better be afraid of all police . . . and dread all judges and courts.)

Free enterprise is the right to raise your children as you think best. (Under communism the state decides what your child shall learn and do, where he or she shall go. Respect for parents, and family life, are held in contempt.)

Free enterprise is the right to speak freely about anything you wish. (In communist countries you can never know whether your best friend or your own child is an informer. You are told what opinions to have; you'd better not voice any others.)

Free enterprise has nothing to do with how much money you have or don't have, nor what your job is or is not. Free enterprise means the right to be yourself instead of some nameless number in a horde bossed by a few despots. Free enterprise is the sum of many little things—but how miserable you'd be if someone stole it from you!

NEED TO BAN THE HANDGUN—XXXI

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. BINGHAM. Mr. Speaker, the demand for effective and stringent gun control legislation is dramatically illustrated by the article reprinted below which appeared in the March 12 edition of the New York Daily News. That this brutal murder was by no means extraordinary is a depressing commentary on the level of violence this country is willing calmly to accept. What must be done to stop the senseless warfare that rages among people of the United States?

The article follows:

TIME TO GO HOME, BUSBOY MEETS BULLET OF DEATH

(By Frank Faso and Peter Coutros)

Having mopped his last table for the night, Andreas Antigua, a busboy in Tad's steak house at 228 W. 42d St., started to go down to the basement to change clothes before going home early yesterday.

A minute later, Antigua, a 29-year-old South American, lay face down at the foot of the steps, his life ebbing from a single bullet wound in the chest.

As reconstructed for police by Carlos Cllado, 37-year-old manager of the restaurant, he had locked the doors to the eatery at 1:20 a.m. barring any more new patrons while two latecomers finished their midnight snack.

Leaving the diners and Antigua to finish what they were doing, Cllado started to go below to join five other employees changing into their street clothes.

"All of a sudden, I felt a gun being poked at me," Cllado recalled," and this guy was telling me to get downstairs and not make any noise."

The gunman was described as a white man in his early 20s, 5-feet-6, black hair, brown eyes and wearing a gray suede Eisenhower jacket. His accomplice, also white, stood about 5-feet-9 and was wearing a three-quarter length black and white checkered coat.

"They made me open the safe, took about $1,000 in cash and then told all of us to lie down on the floor and not make any noise and no one would get hurt," said Cllado.

The two holdupmen turned and began to mount the steps.

"Then, there was this bang, this shot," Cllado continued. "At first, none of us moved. Then, we got up and ran out of the office toward the stairs. We saw Antigua lying there. He didn't say anything, but we could see the blood." He was pronounced dead at St. Clare's Hospital.

Antigua, a bachelor, lived in a room at 443 W. 37th St.

THE MOTIVES FOR IMPEACHMENT

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. DELLUMS. Mr. Speaker, there has been a great deal of debate about the exact nature of an impeachable offense. On the one hand, we have people who say that only an indictable offense under ordinary criminal law will qualify. They give the reason that this makes it very definite matter based on the long Western tradition of criminal law. But they soon contradict themselves, because it turns out that only a "serious" or "Government-connected" offense will do—and this, of course, involves a political judgment. The truth is that the Criminal Code was devised for quite other purposes than for deciding when the most powerful man in the country had become dangerous to that country's way of governing itself. There is no escaping a political judgment.

Many people who reject this argument in theory would still be much more comfortable if they could pin Nixon down to some indictable offense, especially if it could be proved he lied about his role. This, they believe, would be the most substantial, the strongest, impeachment case possible. I disagree. I believe the strongest impeachment case would rely on the acts that have been most subversive of our constitutional system—that have caused most suffering and loss of human life—that did more to disgrace the United States in the eyes of the world—that involved out-and-out lies to dupe the American people into supporting illegal Presidential initiatives. And this case is found in Richard Nixon's actions concerning Cambodia—the sorriest chapter in the whole tragic story of our involvement in Southeast Asia.

I would like to call to the attention of my colleagues to two articles that bring out the disproportion between the "safe" impeachment articles and the actions we have seen committed in relation to Cambodia. The first article, by Peter Weiss, discusses this issue in the context of the trial of Warren Hastings in 1788, and the motives of Edmund Burke, a defender of the American colonies during our Revolution, who attacked him. The second article is by my friend Congressman DRINAN, who points out that the real task confronting us is not to get rid of Richard Nixon, but to vindicate the ideals and traditions of our constitutional system.

The articles follow:

IS THERE AN EDMUND BURKE IN THE HOUSE?

(By Peter Weiss)

"I impeach Warren Hastings of high crimes and misdemeanors. I impeach him in the name of the Commons' House of Parliament, whose trust he has betrayed.

"I impeach him in the name of the English nation, whose ancient honour he has sullied. I impeach him in the name of the people of India, whose rights he has trodden under foot, and whose country he has turned into a desert."—Edmund Burke, M.P., in the High Court of Parliament, Feb. 13, 1788.

In the current debate on the impeachment of Richard Nixon, almost every conceivable "high crime and misdemeanor" is being offered up as a ground for conviction except those which ruined the largest number of lives, caused the greatest affront to human decency and wreaked the most lasting havoc on the political institutions of this country, and the world community: the high crimes and misdemeanors committed by Nixon and his agents in, and in connection with, the war in Indochina.

With the exception of a few hardy survivors of the moral wing of the peace movement—Congressman Drinan *AR*, Nov. 12), the Peace Education Division of the American Friends Service Committee, Redress, the Lawyers Committee on American Policy Toward Viet Nam, etc.—the pro-impeachment forces seem to be agreed that Nixon's war-related crimes should constitute, at best, a minor strand in the web of impeachment.

William Dobrovir's 163-page impeachment brief, *The Offenses of Richard M. Nixon*, the most thorough study of the subject available to date, lists not a single offense related to the administration's conduct in Indochina. Public Citizen's impeachment pamphlet, "Richard Nixon: Decision for the People," contains one brief, passing reference to the President's usurpation of Congress' warmaking powers, as does the impeachment resolution of the American Civil Liberties Union. The pamphlet issued by Americans for Democratic Action, "The Case for Impeachment," does list six "Illegalities in Foreign Policy," but none based on war crimes. And in the halls of the recently reconvened Congress, talk of Viet Nam in relation to impeachment is tantamount to a confession of naivete bordering on the ridiculous.

What accounts for this reticence? Why is it that, at the precise moment when Nixon stands exposed in all his moral nakedness, many of those who, for the past few years, have accused him of crimes against humanity, are content to see the impeachment process come to fruition on so trivial a question as the tampering with a tape or the backdating of a deed?

The answer probably lies in a misguided sense of political tactics and, perhaps more importantly, in a reluctance to press against one person charges in which a large number of others are, or feel themselves to be, implicated.

As to the first, there seems to be a developing consensus that whatever charge will bring Nixon down is the one that should be pressed, if necessary at the expense of the others. This, of course, reduces the impeachment process to its lowest common denominator and deprives it of the character of "national inquest" assigned to it by Hamilton in the *Federalist Papers* (No. 65).

It may well be that more members of Congress can be made to agree on a finding of old-fashioned tax evasion than on a charge of raping the Constitution or violating the laws of war. Indeed, such a result would be in the time-honored tradition of sending a hired gunman to Leavenworth for failing to declare the "income" he received for executing a contract.

But would it be worth it? Would it do justice to impeachment as "the chief institution for the preservation of government", as the House of Commons called it in 1679, or, as the ACLU defined it more recently, as "the means to declare that certain acts subvert the political principles on which our system of government itself is based"? And what would it say to a Henry Kissinger, who, according to a diplomat quoted by Flora Lewis of the *New York Times*, wanted "to bomb the daylights out of Hanoi" in December, 1972, but whose personal finances are probably in perfect order, or to a James Schlesinger, who reminds us almost daily that American bombers are standing by, ready to resume their attacks on North Viet Nam?

The second reason for keeping the war out of the impeachment debate reaches deeper and more complex levels of perception. It was no one in Congress, after all, who covered the traces of the uninvited visitors to Larry O'Brien's and Dr. Fielding's offices, or who authorized those visits, or, with knowledge of their impeding occurrence, failed to prevent them. But it was Congress that failed to say no to My Lai, to Bach Mai, to napalm, to Phoenix and Rolling Thunder, although, as it finally demonstrated in forcing a halt to the bombing of Cambodia last year, it had the power to do so. And it is Congress which, today, continues to vote the funds that keep Nguyen Van Thieu in power, and Thieu's opponents in prison, and the war going.

Thus, impeachment of Richard Nixon for war-related crimes—except those based on defiance or deception of Congress—would be an impeachment of Congress itself, and for that matter, of all of us, since all of us, with a very few exceptions, could have done more than we did against the war. No wonder, then, that these grounds for impeachment do not commend themselves to the House Judiciary Committee, or to the public.

Yet those Americans—and there are millions of them—whose opposition to the war was kindled, sooner or later, by a sense of humiliation at the brutalities being committed in their name, have a clear duty now to seize the opportunity of the impeachment debate to raise once more the issues around which their political and moral consciousness revoled for so many years, and to do it, perhaps, with some effect on the future.

There is an interesting parallel between the evolving consensus on Nixon's responsibility for the crimes of his subordinates and the principles of accountability and command responsibility which the peace movement sought to put forward during the war. Albert Jenner, counsel to the Republican minority on the Judiciary Committee, has said that Nixon may be impeachable for acts of his subordinates of which he had no direct knowledge. Is this not an application of the same principle which led so many veterans—and others—to feel that, if Lt. Calley was guilty, so were his commanders all the way up the line?

It may be useful, then, to consider whether there is a basis in law and precedent for holding Nixon accountable for his crimes in Indochina, as part of the impeachment process. It is common ground now, among students of impeachment, that, as Archibald Cox argues in a recent Op-Ed piece in the New York Times, impeachable offenses should be equated neither with the whim of Congress, nor with strict violations of criminal law, but with something larger and graver: what Cox calls "political offenses in the sense of governmental"; what Governor Johnston of South Carolina, in the course of the ratifying debates, called "great misdemeanors against the public"; what Hamilton called "injuries done immediately to the society itself." Do the unprovoked instigation of a foreign war, and the conduct of such a war in violation of fundamental principles of humanity, fall into this category?

There is at least one historical precedent which is instructive in this regard. Raoul Berger, everybody's authority on impeachment, points out that the Framers were fully aware of, and greatly influenced by, the long history of impeachment in Britain. In explaining the meaning of "high crimes and misdemeanors" in the impeachment clause, Berger recalls that impeachable offenses were originally proposed to be limited to treason and bribery. But George Mason of Virginia objected that "Treason as defined in the Constitution will not reach many great and dangerous offenses. Hastings is not guilty of treason." Mason moved to add "maladministration" and, following Madison's demurrer to the vagueness of this term, "high crimes and misdemeanors" was agreed upon.

Who was Hastings and what was he guilty of? Warren Hastings, the first Governor-General of India, was impeached by the House of Commons in 1787, the very year of the Federal Convention. He had recently retired from nearly 30 years of service in India, where, according the Columbia Encyclopedia, his administration had been "a distinct success, at least from the British imperialist viewpoint." He had greatly enlarged the area of the subcontinent under British control, had dismantled the system of dual government in favor of absolute British rule, and had done extremely well, in financial terms, by his employers, the East India Company.

He had also, during his service in the East, made the following contributions, among others, to Indian and British History:

For a consideration of 400,000 pounds, he arranged to lend British troops to a rich Indian prince for the purpose of conquering a neighboring tribe, the Rohillas. According to Macaulay, "the object of the Rohilla war was this, to deprive a large population, who had never done us the least harm, of a good government, and to place them, against their will, under an execrably bad one," by means of a military campaign which Hastings must have known would not "be conducted in conformity with the humane rules of civilized warfare."

Some years later, being again pressed for money by his employers, he deliberately provoked a quarrel with Chaith Singh, the Zamindar of Benares, resulting in the defeat of the latter's forces, his arrest and banishment, and an additional revenue of 200,000 pounds per year to the Company.

Shortly thereafter, he managed to relieve the Princesses (Begums) of Oude of their considerable treasures, in part by an order of confiscation based on a false charge of insurrection and in part by arranging to have two old eunuchs attached to the Begums' household tortured by some of their enemies, in order to extort what assets were left to their mistresses.

In retrospect, all of these episodes seem a normal part of imperial history and, indeed, so they seemed to Hastings' supporters in Britain, who were more numerous than his detractors. The Encyclopedia Britannica concludes in language which has a familiar ring to contemporary ears, that he became the scapegoat for the sins, "real and imaginary" of the East India Company and that even his least defensible acts were not dictated by dishonorable motives.

Yet he was impeached—not for treason, not for bribery (although there were some charges of fiscal improprieties), not for violation of any criminal statute applicable to him, but for the high crimes and misdemeanors characterizing his conduct in a country as far removed, culturally and geographically, from Britain as Viet Nam is from America. "The High Court of Parliament," says Macaulay, "was to sit, according to forms handed down from the days of the Plantagenets, on an Englishman accused of exercising tyranny over the lord of the holy city of Benares, and over the ladies of the princely house of Oude."

Hastings' accusers included the cream of British political and intellectual society; Edmund Burke, whose reputation as one of the great orators of all time is due in part to his opening speech at the impeachment proceedings. Charles Fox, who had been, and was again to be, Foreign Secretary, and Richard Sheridan, the playwright, whose speech on the despoliation of the Begums created such a sensation that he was offered a thousand pounds for the copyright.

Strangely—or perhaps not so strangely—the most serious charge by far, that based on the Rohilla war, was voted down by the House of Commons, 119 to 67. But on the next two charges, those based on the episodes in Benares and Oude, William Pitt, the Chancellor of the Exchequer, switched sides and impeachment was voted 119 to 79 and 175 to 68, respectively.

The trial in the House of Lords lasted seven years, from 1788 to 1795, and resulted in Hastings' acquittal.

There was, no doubt, a good deal of politics in the process, as there always is, but Edmund Burke's zeal was, at least according to Macaulay, prompted solely by his revulsion at the practices of the East Indian Company and its first Governor-General. "It is by this tribunal," he said, in opening the trial before the Lords, "that statesmen who abuse their power . . . are tried . . . not upon the niceties of a narrow jurisprudence, but upon the enlarged and solid principles of state morality." And he concluded, four sittings and several emotion-induced faintings in the galleries later:

"I impeach Warren Hastings of high crimes and misdemeanors, I impeach him in the name of the Commons' House of Parliament, whose trust he has betrayed. I impeach him in the name of the English nation, whose ancient honour he has sullied. I impeach him in the name of the people of India, whose rights he has trodden under foot, and whose country he has turned into a desert."

Why did Edmund Burke do it? Because, according to Macaulay, "oppression in Bengal was to him the same thing as oppression in the streets of London."

Is there a Burke in our House?

BEYOND IMPEACHMENT: DOING THE RIGHT THING FOR THE RIGHT REASON

(By Robert F. Drinan)

In the first eight days after the firing of Archibald Cox by President Nixon I received 2,359 letters urging the impeachment of the President with only 82 letters against impeachment. No one in Washington knows exactly why the *events of the* Saturday night massacre finally brought a tidal wave of opinion in favor of impeachment. There have been so many obscenities and illegalities in the "long train of abuses" prior to the departures of Cox-Richardson-Ruckelshaus.

My own mind keeps returning to a question which in my judgment is crucial: Why was there no outcry for impeachment when Nixon invaded neutral Cambodia, or when he savagely bombed Hanoi weeks after we had been told by Dr. Kissinger *that* "peace is at hand"?

On July 31, 1973 I introduced the very first resolution of impeachment in the 93rd Congress. I scrupulously avoided every scandal or act of lawlessness associated with Watergate. I went out of my way to indicate that impeachment is a non-criminal and non-penal proceeding. I stated that impeachment "should not be looked upon or compared with an indictment nor should the role of the

House of Representatives in considering the impeachment of a President be deemed to be that of a grand jury."

But despite all the new knowledge that is coming to the American people with regard to the precise nature of impeachment, the vast majority of Americans still cling to the notion that the President can be removed from office only if he commits some tangible crime. The atmosphere in Washington for weeks and weeks has been the expectation that the incredible series of events will somehow suddenly reveal Richard Nixon as a common criminal.

If events do develop along this line, the impeachment process, in which I am intimately involved as a member of the House Judiciary Committee, will be a good deal simpler. At the same time the country may well stand to lose a great deal because the first application of the process of impeachment in 100 years of American history will have been employed for the wrong reasons.

The relatively mysterious phrase in the Constitution which requires "high crimes and misdemeanors" for an impeachment actually has no roots in the ordinary criminal law of England.

English and American sources make it very clear that impeachment is a proceeding purely of a political nature. The classic work on jurisprudence of Justice Story said that impeachment "is not so much designed to punish an offender as to secure the state against gross official misdeameanors."

It is now becoming widely known that impeachment does not bring about double jeopardy, so that a person who is impeached, convicted and removed from office can later be punished for a crime by indictment and conviction.

The Framers of the American Constitution were men steeped in English history. While they feared that the executive branch of government might be transformed into a monarchy they nonetheless wanted a strong and independent executive branch of government. In order to maintain a system of checks against the executive the Framers of the Constitution provided for impeachment which, it could be argued, is a narrow exception to the separation of powers.

Impeachment is therefore not an arrangement by which the Congress can exercise a vote of no confidence. Impeachment on the other hand is not and should not be looked upon as the equivalent of an indictment for criminal offenses.

The Framers of the Constitution recognized the potential abuse of the power of impeachment. Nonetheless they chose to give this ultimate power to the House of Representatives. The Founding Fathers intended that impeachment should act as a curb on Presidential conduct which would be less than criminal but more than tolerable.

I often wonder whether I can justify my failure during 1971 and 1972 to file a resolution of impeachment against President Nixon. During those two years of the 92nd Congress some four or five members of the House actually filed impeachment resolutions. I apparently declined to join in these resolutions because the Congress by appropriating money for the continuation of the war in Southeast Asia had (it could be argued) ratified the perpetuation of that indefensible massacre. The repeal of the Tonkin Gulf Resolution in December, 1970 did not alter the unbelievable fact that Congress continued to fund a war the only legal justification for which had been expressly repealed by the Congress!

It was the continued lawlessness as revealed in the Watergate scandals that forced my mind to the conclusion that the same type of lawlessness in the conduct of the war should be a justification for impeachment even more compelling than whatever illegalities Mr. Nixon may have been involved in in connection with campaign "dirty tricks" or in the perversion of political process in America.

Now that thrust of events seems to point inexorably to resignation or impeachment I keep wondering whether or not the whole process of impeachment will be too narrowly viewed by the American people.

It is appalling to talk to members of Congress who will concede that if President Nixon has defied the order of the court and not surrendered the tapes they would vote for impeachment, but who can see no impeachable offense in the four and a half years during which Mr. Nixon has violated the rules of war as set forth in the Geneva Convention, trampled upon the rights of the people of America by impounding at least $12 billion of authorized and appropriated money and committed many other similar offenses against the laws of the United States and the moral law of all humanity.

As the work of the Judiciary Committee develops I think inevitably of the bill of particulars that will eventually be included in the statement of impeachable offenses which members of the Judiciary Committee will have concluded must be charged against President Nixon. This group of 38 lawyers will insist that every charge that is noted must have evidence and proof. Like all prosecuting attorneys they will want to have one or more clearly provable offenses rather than a list of offenses some of which may be difficult to prove in a court of law.

As a result the impeachment process may well be a series of events which removes the eyes of Americans from the long line of lawless acts which President Nixon and his Administration have committed. The people will not be able to connect President Nixon's involvement in the coverup over Watergate with the ghastly abuse of Presidential power in Indochina. As a result the impeachment process may be like a "cops and robbers" story in which the House and the Senate will substitute one provable crime for a long series of events that manifest the usurpation of power by the President and the despotic use of power by an entire administration.

Some persons are now so anxious to sweep away the powers of this lawless administration that they want the President to be impeached for any reason that will be sufficient to obtain a simple majority vote in the House and a two-thirds vote in the Senate. Such an offense could be, for example, a phone call made by John Ehrlichman from the White House to L. Patrick Gray, then director of the FBI. If these two individuals spoke on a phone that was tapped the person who arranged the tap, the President, clearly violated federal law since he arranged the electronic interception of a telephone conversation without the permission of the sender or the receiver of the message.

All well and good—but how much more instructive for the American people to come to some conclusion about impeachment because, for example, the President was not truthful with the citizens of America when he stated to them on April 30, 1970, that "for five years neither the United States nor South Viet Nam has moved against enemy sanctuaries—in Cambodia—because we did not wish to violate the territory of a neutral nation." The President stated that, knowing he personally had authorized at least 3,630 air strikes over Cambodia between March, 1969 and May, 1970! During that period of 14 months the President had expended $140 million unbeknownst to the Congress. Would it not really be better to impeach the President for having misled the American people in this way rather than for some technical violation of a law?

Impeachment in other words should be not a process by which we search for a criminal but a procedure by which a President suspected of betraying the basic moral ideas of the nation is given a forum in which he can vindicate himself.

Many commentators have suggested that the impeachment process would be a purification for the American spirit. As events are developing in Washington, however, this promised purification may never come about. The impeachment process will be more narrow than even the indictment procedure before the 23 members of a grand jury.

Those who contemplate impeachment suggest that the nation would acquire a certain purification by this process from the anguish of grief and guilt which they feel concerning the war in Viet Nam. President Nixon of course continually boasts that the way in which he terminated that war was one of the great triumphs of his administration. No one seems up to the challenge to point out that the pattern of lawlessness in which Mr. Nixon engaged to pulverize North Viet Nam and solidify the dictatorship of President Thieu is in all probability infinitely more lawless and impeachable than any crimes or scandals that may be revealed in the hearings.

To suggest that the bill of particulars against the President should be broad rather than narrow is not to suggest vengeance but rather to indicate that the impeachment process, being non-criminal by nature, should permit the Congress and the country to go about the removal of the President in a way which will clarify the objectives of the nation and make known to ourselves and to the entire world that we will no longer follow a chief executive who makes war without a mandate, bombs and destroys the lives of thousands of Asians without any justifiable reason and deceives the American people by political and electoral trickery.

The post-Watergate period is merging into the post-impeachment period. That era "beyond impeachment" could be a magnificent opportunity prior to the bicentennial of the nation on July 4, 1976. Let us hope that the first impeachment of a President in this century will reveal to all of us the sins of the past but also the potential glory of the future.

AMENDMENT TO H.R. 69

HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. TREEN. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following amendment intended to be offered by me to H.R. 69:

AMENDMENT TO H.R. 69, AS REPORTED, TO BE OFFERED BY MR. TREEN

On Page 131, immediately after line 15, insert the following new section:

AMENDMENT TO TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 906. Title X of the Act, as redesignated by section 201(a) of this Act, is amended by adding at the end thereof the following new section:

"CHILDREN'S RIGHT TO INSTRUCTION"

"SEC. 1010. The chief administrative official of any local educational agency receiving any Federal financial assistance under this Act shall enforce, notwithstanding any provision of existing Federal law, through injunction any State statute or local ordinance prohibiting, limiting or conditioning work stoppages and/or slowdowns by public employees, including instructional personnel, of such agency.

"(1) Any parent or guardian of any student affected by any such work stoppage or slowdown may seek a peremptory writ of mandamus in any United States District Court to compel compliance with this Section by the appropriate officials on the showing of financial assistance having been received under this Act.

"(2) Any parent or guardian of any student affected by any such work stoppage or slowdown shall have the right to recover damages on behalf of such child, notwithstanding any provision of existing Federal law, for any such work stoppage or slowdown in violation or in contempt of a Court order, which damages shall not exceed ten dollars ($10.00) per day per child and for which damages any and all persons participating in such work stoppage or slowdown shall be jointly and severally liable.

"(A) After the issuance of an injunction, or other Order, to halt a work stoppage or slowdown, continued absence from the classroom by any person participating, or having participated, in said work stoppage or slowdown shall create a rebuttable presumption of contempt."

ABORTION

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. HOGAN. Mr. Speaker, the issue of abortion is not only of great concern to a great many Americans, but it concerns men and women all over the world.

On November 20, 1973, more than 10,000 residents of England, Scotland, and Wales flooded the halls of Parliament in an effort to educate British politicians who have been misled by distortions of the mass media.

An article appeared in the January issue of the National Right to Life News reporting of the success of this rally. The article is written by Mr. Dexter Duggan, a member of the National Right to Life public relations and media committee and executive director of the Arizona Right to Life Committee.

I wish to insert the article in the RECORD at this point:

MASSIVE ENGLISH LOBBY BRINGS 10,000 TO TALK TO MEMBERS OF PARLIAMENT

(By Dexter Duggan)

(EDITOR'S NOTE: Mr. Duggan, a member of the NRLC public relations and media committee, arranged a trip to Europe at the time of the mass lobby and wrote this first-hand report after his return. He also visited with pro-life people in France and brought back reports from several countries of Western Europe.)

LONDON.—The Society for the Protection of Unborn Children, created on the brink of defeat and despair in 1967, proved itself as England's most vigorous, most valid citizens' action group in late November, when more than 10,000 SPUC members and sympathizers converged on Parliament for a massive lobbying effort.

All day long and into the evening of November 20, residents of England, Scotland, and Wales arrived to meet with their Members of Parliament, exchange views, and educate some politicians who had been misled by certain acrobatics of the mass media.

One young, bearded Anglican MP, John Selwyn Gummer, a vice-chairman of the ruling Conservative Party and opponent of capital punishment, admiringly described the gathering as the largest lobby ever in Britain on a moral issue. He was not refuted.

Leo Abse, a Labor Party MP known throughout Britain for his successful sponsorship of liberal laws on divorce, contraception, and homosexuality, repeatedly warned that the permissive Abortion Act is coarsening British society and must be drastically tightened up.

The following day, the SPUC office reported a number of reports from parliamentary sources that MPs were deeply impressed by the numbers of pro-life lobbyists, their well-informed presentations, and their manners. MPs said they had believed from media accounts that SPUC members were a narrow group of fanatics.

CHANGE "INEVITABLE"

Other parliamentarians said change in Britain's permissive Abortion Act of 1967 is inevitable because Parliament never would have voted for abortion on demand or abortion as a method of contraception or population control, which is what it has become. Abortion supporters realize they are in trouble, and hope to hold amendment of the act to a minimum. Yet they are far from confident of the easy success they enjoyed in pushing through their reckless measure seven years ago.

As a pro-abortion writer warned recently in a weekly British magazine of political and social opinion, the SPUC has "burning enthusiasm and abounding energy," and even "Machiavellian skill"!

Apparently he was seeking an explanation in his own mind for the public appeal and progress of a group sneered at by fashionable commentators, often lacking in funding, and run by a tiny unsalaried staff. Human decency never occurred to him as the reason.

Also in November it became known that Michael Grylls, a Conservative Party MP, would introduce a measure in February to tighten up the Abortion Act, which in 1972 was responsible for 157,000 legal abortions, only six of which were to save the woman's life, according to information given by doctors on legal abortion forms. With wide media cooperation, the act might already have been amended. With the actual grudging coverage, more innocent blood will flow for a while, but the tide is turning against the dangerous law, and even a partial victory for SPUC—and life—this year will begin to sound doom for the Doom Machine.

ILLEGAL ABORTIONS PERSIST

Even one of the abortionists' favorite claims, that permissive abortion laws make abortions safe by bringing them in from the back street and illegality, was exploded when Metropolitan Detective Chief Inspector Brenda Reeve, writing in the Police College magazine last summer on enforcement difficulties with the Abortion Act, said there are as many illegal aborations as legal ones—a finding the pro-abortionists still seem unaware of, but which illustrates that permissive abortion laws merely encourage permissive attitudes toward more abortion.

On November 20, Lobby Day, the SPUC people came from throughout the island nation by plane, train, bus, and car. Working people had to give up a day's pay, or more, while taking time off from their jobs in order to meet MPs with Parliament in session. Some Scotland residents sat up on buses Monday night to reach London, spent Tuesday lobbying and listening to speeches at Methodist Central Hall, the meeting and registration point for the delegations, and then returned home Tuesday night, on the road again. For at least one group, it was a 50-hour round trip.

While a series of speeches by various pro-life politicians continued for more than six hours in a packed Central Hall to a constantly changing audience, other pro-life people moved along in the line outside Parliament, awaiting scheduled meetings with their elected representatives.

ABORTION OR SOCIAL JUSTICE

At a press conference a day earlier, the SPUC released a 12-page manifesto, "Abortion or Social Justice?" which declared, "Unborn children are not to be blamed for poverty, poor housing, or harsh attitudes towards unsupported mothers. They are the innocent victims of an uncivilized society. Abortion kills. Reform the abortion law." An introductory article reminded readers that in 1967 the newly-founded SPUC had predicted all the disastrous consequences which have come about, but at that time the statements were dismissed as alarmist, emotional, and unfounded.

SPUC's pioneers had predicted private clinics, often owned and/or run by the very doctors getting rich from doing abortions, would make enormous profits and provide abortion for any reason at all; that the number of abortions would skyrocket and that National Health Service medical personnel would be pressured to help abort or else risk their jobs; that abortion would be pressed upon "irresponsible mothers" needing help, not abortion; that attitudes toward unwed mothers would harden because "she didn't have to have a baby;" and even that abortion would lead to threats to the lives of other weak members of society.

MP Jill Knight recalled for listeners in Central Hall that when in 1967 she sought to introduce an amendment to the Abortion Act to forbid experimentation on the aborted fetus, she lost out because, she was told, nothing like this could ever happen, and she was trying to add emotionalism to the issue. Since then, experimentation on both living and killed fetuses has come to Britain.

Yet she said it is not time to gloat or be smug about being proved right, but rather all the more reason to fight to save other innocent lives.

MPS CHANGE ATTITUDES

A telling example of changed attitudes was provided by Labor Party MP George Thomas, a Methodist, who frankly admitted to the Central Hall audience that he voted for the Abortion Act in 1967 in the belief this would show necessary sympathy to unfortunate women in serious circumstances.

But now, saying he was "delighted that there is such a mighty demonstration on such a vital issue" to restore the importance of people, Thomas declared:

"I am one who out of compassion voted for the measure, but I have enough experience of life to know when a thing's gone wrong, and I am appalled . . . even those who supported the measure realized it is not what Parliament intended . . . *abortion on demand* is an invitation to moral decrepitude." He said this ruined the country's moral credentials and dragged it through the muck.

Across the street from Central Hall, a small group of pro-abortionists, which fluctuated between approximately 30 and 100 people, left in bad spirits when busload after busload of pro-lifers continued to arrive. With them went two small vans that briefly drove around the area, one which carried a banner proclaiming abortion as "our human right!" and the other which was incredibly labeled "Men Against Masculinity"—and for abortion "solidarity."

HUMANIST SPEAKS

Meanwhile in Central Hall, MP Abse, the liberal Welsh Jewish humanist, lamented that permissive abortion had perverted British values in only a few short years. He relentlessly attacked the "social clause" of the act as the "anti-social clause" that seeks to solve problems by destroying the defenseless and making "psychopathic doctors" rich.

(The current law not only approves abortion for a pregnant woman's physical or mental health, but also for the physical or mental health of other children already born in the family. Needless to say, the abortion mills could not care less whether there are in fact any other children. As Detective Chief Inspector Brenda Reeve wrote in her Police College magazine article, the records of abortions are hardly reliable, especially so "if the doctor terminating the pregnancy is also the owner or director of the place in which he is operating, and the staff are his employes and are not independent witnesses and the records kept would be his property or under his control.")

Mr. Abse (who resigned from the British Humanist Association because of its support of permissive abortion) declared:

"We are aware that there is some belief that oddly, curiously, ending life is some progressive act . . . We know we must be able to respond, again and again, sensitively to the women who are the prey of the abortionists. We here today are expressing our concern for the born child, and for social justice, as well as for the unborn. He added, "No woman, because of the lack of a house, no woman, because of a lack of finances, must become the victim of the abortionists."

Gordon Oakes, Labor Party spokesman on Environment and Local Government, warned the audience that the rate of congenital malformation for infants has been increasing since the Abortion Act went into effect, from 16.8 per thousand births in 1968 to 18.2 in 1971, the latest year for available figures from the Health Ministry. In addition, the infant mortality rate has remained at a steady level—while infant mortality is decreasing in other countries, said Oakes, charging, "I doubt the Ministry of Health would ignore these figures if they related to anything else."

BLUNTS HUMAN SENSIBILITIES

Warning that abortion blunts human sensibilities and makes other destruction of life such as infanticide and euthanasia easier to accept, Oakes said, "The day when we consider that we can sweep the problems of human life away by destroying it, is the time when the gas chambers open in this country, as they did in Europe."

John Selwyn Gummer, the young vice-chairman of the Conservative Party, joked that abortionists are surprised because he opposes them even though he has a beard, but then he made some serious comments on the pro-abortion mentality in the news media, warning his audience that "every kind of unpleasantness" will be used against pro-life forces and asking for continued letters of support for pro-life efforts.

"Those of us on the younger end of the age scale have got to warn the country" that an attitude has been created whereby young people fail to use contraceptives and then say, "Well, I don't know, if worse comes to worse, we can always have an abortion," he charged.

He warned that just as abortion is advocated for convenience, so too do the media's pro-abortionists favor conveniently ignoring or distorting strong pro-life sentiment.

As one of several shocking confirmations of his charge, the following morning the London Times, the "Bible" of the English "establishment," carried no news story about the unprecedented lobby, but did run an item in its "Diary" column which, after failing to tell the relative sizes of the pro-life and pro-abortion gatherings the day before, blandly stated: "Both sides had come by coach and plane from all over the country." The item also recounted that "approximately one-third of the people on either side were men," without considering it necessary to indicate that one-third of one side meant about 3,333 pro-life males, whereas one-third of the other side meant about 33 pro-abortion males.

("We're winning," enthused an SPUC supporter after seeing the newspaper. "We would certainly have been on the front page if we'd failed.")

Despite this hostility, Gummer declared, the "biggest ever" lobby means "now not even the most extreme pro-abortion supporter in Parliament can ignore that things will be changed."

A STRUGGLE FOR INTEGRITY

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. ROSTENKOWSKI. Mr. Speaker, the last 10 years have seen the closing of many of the Nation's leading private secondary schools. While certainly, rising costs and a declining school age population are two of the clearest explanations for this occurrence, they are certainly not the only ones.

Today's young people seem more inclined not to chose the difficult road to their future. Long hours at preparatory schools or military schools apparently do not fit in with the trend of today's young society. And, while there is certainly much to be said for the philosophy of "free expression" in education, there is also much to be said for the sense of discipline and responsibility that was effectively promoted at these schools.

In light of the recent closings, it is encouraging for me to observe at least one school that has managed to go against the trend. St. John's Military Academy in Delafield, Wis., considered and rejected all the easy ways to make their program attractive. It chose instead to reenforce the traditional elements of education that the school had so long stood for.

Under the guidance of a strong new Headmaster, Bill West, it has managed to reverse a negative enrollment trend. It has done this not by loosening its standard, not by compromising its basic principles, but rather by reasserting them. And, although the long-range future of the school is still unclear, the positive approach of Bill West has made that future so much brighter.

As a graduate of St. John's Military Academy, I am proud to see that the school is determined to maintain its traditional format. The self-discipline learned at that early age has stood me well in the years that have passed since that time. It is a quality of enduring value in any profession—a quality often lost sight of in our modern laissez faire approach to secondary education.

Since the plight of St. John's is the story of so many of America's private schools, I insert in the RECORD, a recent article that appeared in the Tulsa Tribune which accurately captures the spirit of the dedicated little school and the determined man that heads it. I am sure my colleagues will find it of considerable interest.

The article folows:

A STRUGGLE FOR INTEGRITY

(By Jenkin Lloyd Jones)

I have been reading a peculiar and heartwarming document—an annual report of a shrunken, once-prestigious boys military school in a northern state.

It does not follow the pattern of most such reports, booming with optimism, row-dedow and puffery. It is a thoughtful and restrained account of a struggle, and issue still in doubt. The writer, who is the headmaster, is a West Pointer who was brought into a decaying situation four years ago.

As America moves into the last quarter of the Twentieth Century all prep-school military academies are in trouble. "Militarism" is a 10-letter dirty word.

Parents, generally, permit kids to pick these schools and not many kids go for spit, polish and reveille. Even the non-military preps are having trouble enough competing with the easy standards of most high schools and the free life around the drive-ins.

When our hero arrived at the old campus he found that the discipline was both overly-severe and overly-lax. Theoretically, the increasingly-turbulent cadet corps was being handed more demerits than it could possibly walk off around the guard path. Practically, there was little punishment for misbehavior. Drugs were becoming a problem.

Academically, the once-proud standards had softened. Students were allowed to go down a cafeteria line of courses and they selected the easiest. Many, having belly-flopped through youth before the tv set, could hardly read at all.

The new headmaster had several options. He could de-emphasize the bothersome military training, and produce something that could parade a little for the parents Saturday morning. He could make his institution co-ed and thus supply in a measure the social amenities of high school. He could further water down the academic standards and operate a holding pen for the lazy and directionless.

He chose none of these. The coddling teachers were fired. Fifteen major demerits got you thrown out—period. A tough remedial reading program was set up. Stiff courses were included in the requirements for graduation. Old students who had grown sloppy under a system that had turned plebes into their servants bent once more to make their beds and polish shoes. The right of older boys to haze, the old come-back come-on, was knocked off.

The result was awful. At the beginning of the school year of 1970 the enrollment was 343. In 1971 it was 270. In 1972 it was 220. The school sold off unneeded real estate. It pledged other assets for a $900,000 line of bank credit. The enrollment report for last fall was awaited with apprehension.

But the decline had stopped. There was a net gain—of exactly five. More cheerfully, alumni and parents were beginning to show some interest in what the headmaster was trying to do. Inquiries have been increasing. Tougher admission standards naturally haven't helped the new enrollment figures, but they've halved the drop-out rate. The "head" views the future with cautious optimism.

Maybe he's right. Maybe not. It is not really terribly important whether the little school survives, for redistributing 225 boys is no big thing in this huge land.

But he wrote something in his report that struck me, and here it is:

"America is faced with increased international competition from without and a deterioration of its educational systems from within. To maintain such a collision course would be disastrous, but to deviate from such a course requires discipline.

"It is time the 'do your own thing' attitude be overcome. It is time for educators to take their work seriously and do away with 'open campuses', a cop-out. It is time that judges supported school administrators who seek to maintain order in our schools, that 'discipline' and 'punishment' cease being synonymous in our society.

"We must benefit from history and have impressed upon us the repeated cycle of nations—hard work and discipline mean success; success means affluence and leisure time; affluence and leisure means lack of discipline, and lack of discipline means failure."

The ancient Greeks, who liked fancy words, spoke of the "macrocosm", meaning the big world, and the "microcosm", meaning the little world—or Man, himself. Out of the macrocosm Man is shaped, and as he changes so does the world in which he lives change, too. He succeeds and his world smiles. He rots and his world becomes a terrible place.

In the outcome of the struggle of the little military school to keep afloat in a cockleshell of standards on a vast sea of permissiveness one might be able to make some guesses about the future of America.

NEED FOR THE 200-MILE FISHING LIMIT—PART 2

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. HOWARD. Mr. Speaker, I am today inserting into the CONGRESSIONAL RECORD, the last two of a series of articles on the problems facing American fishermen off the east coast of our country, because of overfishing by foreign fleets.

The authors of this series, Bruce Bailey and James McQueeny, have done an excellent job of researching these problems, and I feel their presentation effectively describes current conditions. Most assuredly they have pointed out the need for full congressional discussion on this subject—before we find that there is no discussion necessary because the overfishing which is presently going on has destroyed the entire fish population.

I believe this is a subject which requires the attention of all Members of Congress—not just those representing coastal districts. Whether our constituency includes fishermen or not, our constituency does use the products of their labor as a relatively inexpensive, high-quality protein source. It is the responsibility of this body, I feel, to protect that source for all Americans.

I have introduced legislation to deal with this problem. This bill, while immediately extending our fishing limits to 197 miles outside the territorial sea, would also allow for consideration and adaption of any decisions arising from the Law of the Sea Conference. It has been my view that none of us would want to prevent other countries from obtaining a supply of fish, particularly fish which are not available off their own coastlines. We must, however, take care to insure that all fishing is done with great consideration for the continuing supply of such fish for the future. In the waters off the coast of New Jersey, this has simply not been the case. The foreign fishing fleets have been literally scraping the bottom of the ocean, leaving no fish at all and no means for the fish to regenerate and procreate for the coming seasons.

It is my hope that those who have had the opportunity to read the Star-Ledger series will contact their representatives and will urge their friends to do so, to demonstrate the great interest in this subject.

I also heartily commend this excellent series to my colleagues.

The articles follow:

ROUGH SEAS: MASSIVE FOREIGN FLEETS PUSHING OUT JERSEY FISHERS

(By James McQueeny **and** Bruce Bailey)

The future holds little promise for the commercial fishermen in New Jersey who have witnessed the exploitation of rich fishing grounds in the Atlantic Ocean by the foreign trawlers.

Direct competition with the subsidized foreign fishing armadas is economically impossible, leaving it to the United States government to establish new conservation regulations that will effectively halt the further depletition of East Coast fish stock to permit a resurgence of all species.

New Jersey fishermen view with alarm the ocean-going factory "cities" that are established within sight of the coast to receive nearly one million metric tons of fish each year from fleets of modern fishing trawlers flying the flags of 18 nations.

The vast majority of the intruders are Russian and Polish and they operate 24-hours-a-day with only the mildest of restrictions placed on them by the United States government.

The local fishermen protest that when they complain to the U.S. Department of State they are told: "It has taken years to build up working relations with the Communist bloc countries and there is fish enough for all."

However, within the federal government, itself, there is strong dissent. The Department of Commerce has warned the edible fish stock off the East Coast has declined 65 per cent during the last 10 years.

With quarter-mile stern nets dragging the rich fishing banks off the East Coast from top to bottom and taking everything that swims, the foreign fleets have pushed the New Jersey and New England fishermen to the wall.

Since the founding of the 13 original colonies, American fishermen have worked independently of each other and have fished the seas with restraint—taking only what the market could bear.

Ten years ago when the first of the crop failures were felt in Communist bloc nations, the American fishermen were quite unprepared for the onslaught on their fishing grounds by foreign trawlers which have multiplied by 1,000 per cent during the decade.

American trawlers—better known as draggers—are older, smaller and not nearly as equipped with sophisticated electronic fishing gear as are the foreign fleets.

As a result the American fishermen have been overwhelmed by the foreign flotillas which operate the year round, 24 hours a day during their sweeps from Cape Cod to Cape Hatteras.

The foreign fishermen are paid well by their governments and when they have filled their assigned quotas they return to their homelands and are replaced by fresh crews.

The American fishermen, on the other hand, usually operates at sea from two to 10 days and is assisted by a small crew, mainly family members. He has no "mother" factory ship to return to with a cargo and must head for port to sell on a market that is never stable. Then, he must refuel and return to the fishing banks where his foreign competitors have been fishing around-the-clock while he was gone.

The populous Bogan family of Brielle represents three generations of New Jersey fishermen who have been among the leaders in a losing battle to chase the foreign trawlers further off the coast.

The Bogans, who operate a fleet of commercial vessels, have witnessed the steady depletion of all fish stock in recent years—and the almost total extinction of the herring and mackerel off the New Jersey coast.

Capt. John Bogan, a graduate of the University of Notre Dame and a fisherman all his life, said commercial fishermen in New Jersey "are on the point of being wiped out financially—both by a fluctuating market at home and the pressure put on them at sea by the foreign fleets."

"The average fisherman today has $25,000 tied up in a dragger that is really too small for head-to-head competition with the foreign trawlers and in the last 10 years he has had to work twice as hard just to break even," Bogan said.

Prior to the invasion of the foreign trawlers, fish were abundant, Bogan said, "and with the aid of a couple of men a skipper could make a fairly comfortable living for himself and his family."

"Then the Russians came with their huge ships and electronic tracking gear and the schools of fish grew smaller. The foreigners simply took over the fishing banks. It was as simple as that," he said.

As a result American fishermen were forced to spend as much as $20,000 for electronic "pulse" tracking equipment and to economize, crews were reduced to members of the family.

When New Jersey fishermen put to sea for a two or three-day period, they found the foreign trawlers and their factory ships waiting for them.

Dwarfed by the foreign vessels, the American draggers are forced to fish the outer rims of the fishing banks and stay clear of their rivals who trawl night and day.

"Once the foreign trawlers particularly the Russians, are at work, it would be foolhardy for anyone to attempt to squeeze into the areas where they are dragging," Bogan said.

Capt. David Bogan, a brother, said foreign ships have been guilty of chasing schools of fish inside the forbidden 12-mile limit "and staying until the last fish is in the net."

Bogan said the foreign ship captains monitor the radio messages of American skippers and if a report is made that a foreigner has gone inside the 12-mile limit to the U.S. Coast Guard, the intruder quickly turns and heads for the open sea.

Bogan said bad weather usually forces American ships to seek the safety of inshore coves, while the larger foreign ships either hug the "mother" factory ship "or, if the weather isn't too severe, they just keep right on fishing."

However, Bogan said one of the chief concerns for New Jersey fishermen is the market at home.

"The foreigners get paid a good salary, they have quotas to fill and don't give a damn about the market. Americans, though, are constantly worried about the market," he said.

Some days, the skippers of local draggers will get 40 cents per pound for their silver and red hake and the following week, the price might drop to three cents a pound. The average is 25 cents a pound, which local fishermen claim hardly pays their expenses.

The Bogans say the American fishermen are hurt by the size and age of their vessels.

Unprepared for the competition forced on them by the foreign traders, American fishermen did not have the financial ability to purchase new vessels and the electronic tracking gear at the same time. "If we could depend on a stable market for the fish," Capt. Francis Bogan said, "fishermen would be in a position to invest in the future. But the market and the competition the way it is, it is tough to find money to invest in fishing."

Capt. Paul Bogan, holder of a skipper's license for a year, represents the younger New Jersey fishermen who see little future in the industry.

"This has been my life since I was old enough to walk," he said, "but unless the government does something to restrict the operations of the foreign fleets and I can see an improvement in the domestic market I am going to have to get out of the business."

The young Bogan, a Navy veteran of the Vietnam war, said he is presently taking courses in the operation of heavy duty construction equipment.

"This past year I put some time in on construction work," he said, "and I will probably have to tackle it fulltime. There would probably always be a job of some sort for me at Bogan's Basin but when there is not enough to go around, you have to get out."

Bogan estimated the foreign trawlers he has observed during the last two years outnumber the American vessels ten to one.

"With the schools of fish growing smaller and the work hours increasing, you can see what the future holds, especially when you are up against the present operations of the foreign fleets. You just can't cope," he said.

Bogan pointed out American fishermen have to catch 100 boxes of fish to market 50.

"The market just won't accept the smaller fish and they are getting smaller each year," he said. "But the foreign fleets throw nothing back. They take everything from top to bottom and keep them all."

His brother Francis said: "You never observe seagulls flying around the foreign fleets because those guys waste nothing. They use every single patricle of fish whether it be for the dinner table or the fertilizer grinders."

The Bogans are firm in their belief that the fishing industry from New England to Virginia will die out in the near future unless the government takes action now to curtail the presence of foreign trawlers in the Atlantic Ocean.

"I don't know what the final answer will be," John Bogan said, "but the way things are now. American fishing is going to continue its slide into oblivion."

"Then the politicians in Washington will probably show alarm," he added.

Foreign Fleets: Time Draining Away for Reversal of Overfishing

(By James McQueeny and Bruce Bailey)

This year may be the last chance for offshore foreign fisherman to show they can abide voluntarily by their own truce terms with nature and wind down their onslaught against the sea's vanishing fish stock.

The degree of their compliance with the first overall fish quotas, set on nearly all popular commercial species, may determine how much impetus is lent to a movement by domestic fishermen to extend the present 12-mile contiguous limit to 200 miles.

The quotas, which took effect last month, were created by the 15-nation International Commission for the Northwest Atlantic Fisheries (ICNAF).

Although created 25 years ago to monitor and protect the region's fishlife, the international agency has only recently undertaken intensive conservation measures to compensate for the massive fish harvests by foreign flotillas that began some 10 years ago.

Also, the fishing countries are acting on the very edge of nature's own deadline, with action required immediately for species to recover from drastic overfishing and replenish its exhausted stocks, according to U.S. government standards.

Flounder, mackerel, herring, haddock, cod and hake, have fallen to dangerously low levels, with the overall fish volume or "biomass" from Cape Hatteras, N.C., to Nova Scotia, dropping 65 per cent since the early 1960s when the foreign fleets started operations off the East Coast.

Haddock has been so overfished that a complete ban on its retrieval has been initiated this year by ICNAF.

Yet, even with the ICNAF quotas and haddock ban, as well as separate bi-lateral agreements between the United States, Soviet Russia, and East Bloc countries, which bar fishing in certain spawning areas for brief periods, it may take from five to 10 years for the affected species to reproduce themselves to former levels, the officials said.

The ICNAF quotas this year are based on 924,000 metric tons of total allowable catch by all nations, compared to an estimated 1.1 million tons last year when limits were set for certain species. The bonanza harvesting year was 1972 when 1.2 millions tons were caught.

This year, the largest quota, 342,500 metric tons, was awarded to the Soviet Union, followed by the United States, 195,000; Poland, 152,000, and East Germany, 97,600. Among other countries allotted quotas were Bugaria, Canada, West Germany, Italy, Japan, Romania and Spain.

ICNAF representatives negotiate the quotas based on each country's size and population, own available fishing grounds, and domestic market needs.

The 1975 quota has been set at 850,000 metric tons. It is anticipated that once fish stocks are replenished, the annual allowable yield will near one million tons.

However, the lack of enforcement powers by ICNAF has led one Massachusetts official, in a recent speech before the New England Governor's Conference, to doubt whether the agency will be able to police its members—because it has been unable to do so in the past.

Arthur W. Brownell, department of national resources commissioner, said: "ICNAF has been ineffective, an anachronism of less complicated times before pulse fishing and the advent of modern fishing fleets."

He said the organization "has been incapable of acting in time to prevent the decline of a species. It only reacts after the tragedy has occurred. The international machinery is so time-consuming that it cannot hope to keep pace with the technological capabilities of the foreign fishing nations involved."

ICNAF has received the backing of two officials of the National Marine Fisheries Service who feel the agency will be able to control overfishing.

Russell T. Norris, regional director, said the heightened levels of foreign fishing off the East Coast reflects "a reckless and irresponsible attitude toward the conservation on the part of the foreign nations.

He added, "With the establishment of a system for national allocation of the catch quota, the commission would seem to have a better chance to succeed.

"At least ICNAF is the best available tool with which we have to work with at the present time," he said.

Dr. Bradford Brown, in charge of fishery management and biology investigations, said of ICNAF:

"It's at least a conceptual scheme of management that is in actual practice nowhere else in the world—and that is at least a step toward the conservation of fish."

And if the ocean entente fails?

East Coast fishermen may lobby for the legal protection of U.S. law to the edge of the continental shelf (95 miles) or beyond—up to 200 miles, as in the cases of Ecuador, Chile and Peru.

At present, beyond the 12-mile limit, the United States claims the rights to oil, mineral, and most shellfish on the continental shelf, but no free-swimming creatures above it.

State Department officials have indicated they are not in favor of extending the present limit since reciprocal actions by other countries could pinch off militarily-strategic sea passages elsewhere—the Strait of Gibraltar, for instance.

The question is expected to be taken up next May when the UN International Law of the Sea Conference meets in Caracas, Venezuela, with legal guidelines on the issue expected.

Sen. Clifford P. Case (R-N.J.) an adviser to the conference, said the United States is currently involved in negotiations through the United Nations, to establish a body of international law to govern actions at sea beyond the limits of national jurisdiction.

Case said Secretary of State Henry Kissinger, in recent hearings before the Foreign Relations Committee, has indicated the Administration has "a new dimension of concern about exploitation of the Continental Shelf and other areas beyond the 12-mile limit. . . ."

The senator said Kissinger also recognizes the "international consequences of plans for deepwater oil terminals, offshore oil drilling and seabed mining."

Case said the U.S. position in UN discussions to establish a body of international law to govern actions at sea beyond 12 miles is that coastal nations should share jurisdiction from that limit to the edge of the continental shelf with an international body—such as the UN.

Beyond the 200-mile limit, the international organization would have exclusive jurisdiction, he said.

Presently, under the U.S. Fisherman's Act, U.S. trawlers seized by countries which have extended their 12-mile limit are released when the U.S. government pays the fine, which may be over $100,000 for each ship.

Under the act, the fishermen pay insurance premiums to the federal government which, in turn, deducts fine payments from foreign aid outlays to that country.

A state department spokesman, however, agreed, that despite the reciprocal slashes in aid payments, the countries, notably Peru and Ecuador, have been able to preserve their fishing stocks.

The overall picture for the offshore Atlantic fisheries offered by a National Marine Fisheries Service enforcement agent is bleak

"The outlook for our fishery is a dismal one," claimed Charles L. Philbrook. "I won't even try to forecast what will happen in the mid-Atlantic Fishery this winter or in the Georges Bank area next summer."

"Such things as the availability of fish, world food supplies, and many other factors will determine how much effort each country will expend to obtain fish," he said.

A spokesmen for the U.S. Department of Commerce's National Oceanic and Atmospheric Administration offered this outlook:

"Man's fishing activity is the pervasive and only controllable factor affecting abundance, and will seemingly persist as such for the foreseeable future.

"Moreover, man's use of the marine environment for waste disposal, mining, and oil extraction may be significant.

"The present harvest of fish seems to be beyond the total potential sustainable production . . . a significant increase in the invertebrate (squid, shellfish) catch is possible."

"Therein lies the greatest test potential for an expanding fishery," he said.

To one domestic fisherman, the continuance of foreign fleets' mass fish hauls represents a grim upset in the balance of nature.

John Bogan, whose family operates a fleet of fishing vessels from Brielle on the Jersey Shore, claims "the politicians in Washington turn a deaf ear to the argument that the foreign fishing fleets are tipping the balance of nature."

"When the fish are all gone, then the politicians will realize we're in trouble," he said angrily. "Unless action is taken now, there's no question the foreign fleets will wipe the fish out off the New Jersey coast."

PROHIBIT GRANTING OF AMNESTY

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. HOGAN. Mr. Speaker, the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the House Judiciary Committee, began 2 days of hearings today on the question of granting amnesty to those who deserted or evaded the draft during the Vietnam war.

I have introduced House Concurrent Resolution 144, which would prohibit the granting of amnesty to those individuals who chose to leave the country rather than face up to their responsibility and defend their country in time of emergency.

I submitted my testimony before that distinguished subcommittee today and I wish to have those remarks inserted in the RECORD at this point:

STATEMENT OF THE HONORABLE LAWRENCE J. HOGAN

My name is Lawrence J. Hogan and I represent the fifth Congressional district in the State of Maryland.

I wish to commend the chairman of this distinguished Subcommittee, Chairman Robert W. Kastenmeier, for calling these hearings to deliberate on the most emotional issue left in the wake of the Vietnam war; what to do about American draft dodgers and deserters.

The end of the war has prompted advocates of amnesty to again call for the free return of those who avoided their military obligation to the United States.

There are those who argue that these young men should be granted unconditional amnesty. Others argue that they should be allowed to return, but only if they commit themselves to a period of public service.

I am here today to express that no pardon, reprieve, or amnesty be enacted by the Congress or exercised by the President with respect to persons who are in violation of the Military Selective Service Act because of their refusal to register for the draft and/or their refusal to be inducted. This should hold true as well for those members of the Armed Forces who fled to a foreign country to avoid further military service in violation of the Uniform Code of Military Justice.

Certainly the right to choose is an intrinsic part of our American heritage. However, those who have chosen to leave their country rather than serve may have been within their rights to make that decision, but now they must live with the consequences.

Whatever their reasons, they are draft dodgers and deserters who refused to answer their country's call. While they were sitting safely in Canada or Sweden, over a million men were risking their lives in Vietnam and over 55,000 men were dying on the battlefield—for their country.

None of these men who left the country to avoid their military obligation will be marked by the scars of battle for the rest of their lives. None of their wives is a war widow.

What those who have fled the country now seek is not amnesty or forgiveness. They seek vindication, approval by the United States Government, that they were right and the U.S. wrong. To grant what these few thousand deserters demand would be to dishonor those millions who served their country with honor.

Exoneration of draft dodgers and deserters would set a precedent that might convince young men, in future emergencies, that they risk little or nothing in ducking their country's call to service. The impact would be dramatic and adverse upon the men in the service who either volunteered or answered the call of duty. Furthermore, our country would be divided, not united by such a policy.

Amnesty would also condone law breaking. The individual does not have the right to choose the laws he will obey and the laws he will disobey.

According to the Gallup Poll findings, Americans are moving toward a harder line of forgiveness for those draft evaders and deserters. In June, 1972, sixty percent of those questioned were opposed to unconditional amnesty. A following poll taken in February of 1973, showed 67 percent opposed. Only 29 percent favored unconditional amnesty.

It would be unwise to grant amnesty because it could establish a precedent inviting other young men to "cop out" in the future. It would be unjust because the returning men would in no way have offered equivalent service or sacrifice.

It would also be grossly inequitable, when returning Vietnam veterans are having such difficulty finding jobs, to allow those who shirked their duty to compete in the job market with men who performed their duty.

If draft dodgers wish to return to enjoy the freedoms and benefits of the country which they were unwilling to serve, then they should return as they left, expecting prosecution. The maximum federal penalty for desertion and draft evasion being five years in prison.

Mr. Chairman, as a sponsor of one of the bills before your Subcommittee, H. Con. Res. 144, I am deeply concerned that the Congress act according to the principle of law and insist that anyone who has evaded the draft or deserted, pay his full price for breaking the law. The price is a criminal penalty for disobeying the laws of the United States.

I appreciate having the opportunity to come before this distinguished Subcommittee today and I urge you to give due consideration to those principles and values I have espoused and which are intrinsic to our system of government.

AMENDMENT TO H.R. 69

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. BURTON. Mr. Speaker, in accordance with H.R. 963 providing for the consideration of H.R. 69, I hereby give notice of my intention to offer the following amendment to H.R. 69:

AMENDMENT TO H.R. 69, AS REPORTED OFFERED BY MR. BURTON

Page 28, line 15, strike out "1" and insert in lieu thereof "2".

Page 29, beginning with line 1, strike out everything after the period down through the period in line 8, and insert in lieu thereof the following:

The Commissioner shall allot (A) 50 per centum of the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) the remaining 50 per centum of such amount so appropriated to the Secretary of the Interior (i) to make payments pursuant to subsection (d)(1), and (ii) to make payments pursuant to subsection (d)(2).

SURVEY ON OSHA

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. ARCHER. Mr. Speaker, the American businessman has greatly suffered from the overambitious regulations and excessive zeal of the Occupational Safety and Health Administration. Many of the regulations adopted and the actions taken cannot be justified as *promoting* safety and health. Rather, these measures have created great difficulties for the operations of many businesses, large and small. The National Federation of Independent Business, Inc. surveyed businesses and the activities of OSHA and printed the results in a recent newsletter. It was an informative survey and reveals the need for Congress to take action to curb the abuses of OSHA. The survey follows:

OSHA STEPS UP HARASSMENT

The first month of the 1974 continuous field survey of the National Federation of Independent Business indicates stepped-up activity by Labor Department agents.

The data shows that among the independent business respondents in January, 7.7 per cent were inspected under the Labor Department regulations written from the Occupational Safety and Health Act, called OSHA, and of the number inspected, 42 per cent were found in violation.

Fines assessed, and costs of complying ran from less than $1,000 to more than $5,000.

For reasons that apparently have never been made clear, when Rep. William Steiger (R-Wis.) and Sen. Harrison Williams, Jr. (D-N.J.) co-authored the law it was made mandatory that Labor Department agents issue citations for violations, regardless of whether or not the business owner understood the complex regulations, and by law the agents are prohibited from giving any advice.

If an inspection is requested, and violations are found, a citation must be issued. This has resulted in some businesses taking complete photos of their operations and going to the Labor Department for an opinion. This sidesteps the mandatory steps required when the agents steps onto the premises.

Probably no legislation ever enacted has resulted in so much concern among independent business people, or has created so many charges of "gestapo" tactics.

A Montana business owner reports to the NFIB, "We were cited, but not fined, for having an extra fire extinguisher in our parts department that was not hung up. We couldn't hang it because there was already an extinguisher on the hanger. We were inspected Aug. 28, 1973. But the time we were fined on September 24, 1973, most of the non-compliance items had been corrected, but of course we were given no chance to get into compliance. We are of the opinion that $100 is a standard fine to cover the travel expenses of the inspector."

An electrical service firm owner in Oregon charges, "I believe OSHA's requirements and directives, many ridiculous, are disrupting our economic system, causing many small concerns to close their doors."

A California laundromat owner says. "This OSHA scares the pants off me. I wish they would let each of us know what is expected of us in advance so we could correct whatever we have in violations instead of living with the threat of this legalized Mafia gang going around doing their thing."

An Idaho house mover comments, "The OSHA law is the worst thing that has ever hit the small businessman. It should be completely repealed if possible. Under the Constitution, the American people are supposed to be the masters and the governing body the servants. OSHA has reversed this basic principle and those who have pushed it down our throats have overstepped and abused the powers that we the people have entrusted to them."

Even the supposedly protected workers are complaining that OSHA regulations are making their jobs unsafe as reported by a Colorado tool and die factory owner, "I am strongly against any more federal control over anything. It inevitably results in mismanagement, inequities, higher costs, loss of independence for individuals and power-hungry appointees.

"OSHA is a prime example. My shop was required to install so-called safety devices that in reality increase the chance of injury. My employes were upset to the extent that they protested by letter and phone calls to the OSHA office in Denver. Four months have elapsed and no representative from OSHA has called to evaluate their concern. My recommendation is that if the federal government can't supply the proper personnel to administer the policies of any given law, then they should keep the devil out of it."

A Kansas auto dealer charges, "Regard OSHA—As a small businessman I feel this is a gestapo agency and that they will force many small firms out of business. In discussing this agency with other businessmen, they advise not to seek information from them in regard to whether or not you are in compliance. Their regulations are almost impossible to interpret, their requirements unreasonable. I have been in business over 40 years and have not had any occupational accidents. Feel all small business places should be exempt with 25 or fewer employes."

A New Jersey fabric processor says, "I would recommend a review of OSHA requirements in certain areas that affect existing conditions that are too expensive to modify or correct. Also, government help on obtaining various supplies that are in short supply without justification, such as yarn, twine, corrugated boxes, etc."

And from New Mexico the owner of a printing plant claims, "I feel that one of the issues of most concern to me is the inflexibility of OSHA. I feel that changes should be made to help employers with five or fewer employes. At this point in my business if I were forced to comply with all OSHA standards it could conceivably put me out of business, if my reading and understanding of the Act is correct."

The owner of a small southern California manufacturing firm says, "I am terrified of OSHA. Because of the lack of qualified advisers in my area, and the subjective nature of many requirements, I feel very insecure. I wish OSHA had a program for the very small employers (under 25 employes) to have OSHA inspect (even for a nominal fee) and then allow 30 days grace to correct violations before fines can be levied. Amongst employers I know, a great preoccupation with OSHA occurs, and not in a productive sense. Understanding and compliance in many areas is difficult to achieve."

The Congress has before it many proposed amendments to OSHA, many of them eliminating the power to levy fines without due process of law, but so far no action has been taken.

H.R. 11500—BANANAS ON PIKE'S PEAK

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. HOSMER. Mr. Speaker, H.R. 11500 is not a bill to require good reclamation of mined land, but to harass and exterminate surface coal mining altogether. And, this crazy mixed up bill is full of contradictions.

Example: The bill says land must be restored after mining to a condition to support uses prior to mining, or higher or better uses. It also dictates that a diverse and permanent self generating vegetative cover be established over the mined land.

But, suppose the land had been used to produce wheat, corn or other grains, like a lot of coal land in the Midwest? I defy anybody to tell me how any farmer could go back to farming these crops on the land. They are harvested every year, and replanted the next season. They are not permanent vegetative cover, they are crops.

H.R. 11500 would condemn a lot of good farmland needed to grow food to perpetual use as scenery.

That is about as crazy as trying to grow bananas on Pike's Peak.

AMERICAN FOLKLIFE PRESERVATION ACT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. CONYERS. Mr. Speaker, inasmuch as the House Administration's Subcommittee on Library and Memorials may soon be holding hearings on the "American Folklife Preservation Act," I would like to call to the attention of my colleagues a letter which I received from Mr. William H. Wiggins, a lecturer at Indiana University's Department of Afro-American Studies. I think you will find that this letter effectively details not only the tenuous links most black Americans now have to their cultural heritage but the ways in which this legislation could strengthen and develop these links before they are lost completely:

INDIANA UNIVERSTY, DEPARTMENT
OF AFRO-AMERICAN STUDIES,
Bloomington, Ind., January 10, 1974.

Congressman JOHN CONYERS, JR.,
Rayburn Office Building
Washington, D.C.

DEAR CONGRESSMAN CONYERS: I want you to know how deeply I appreciate your active support of H.R. 9919 "American Folklife Preservation Act."

The passage of this bill will have an enormously positive effect upon the fledgling academic discipline of Afro-American Studies and the growing cultural pride of all Afro-Americans, because central to all research and appreciation of Afro-American culture is Black America's deeply rich and diverse oral tradition. For example, the growing edge of today's angry poetic chants of Don L. Lee and Imamu Baraka spring from the tap root of slavery's oral tradition of protest; today's soul hits spring from the cultural reservoir of the haunting levee moans heard and transcribed by W. C. Handy at the dawn of this century; last Sunday's gospel songs are cultural echoes of slavery's spirituals; and the intricate patterns of jazz improvizations rest upon the music our ancestors made in New Orleans' Congo Square.

The primacy of the oral tradition in Afro-American scholarship has been clearly demonstrated recently. Three outstanding studies can be cited. Folklorist Gladys-Marie Fry and journalist Alex Haley have successfully used the earlier field research technique of John B. Cade and tapped the rich but seldom used source of Afro-American oral history. Professor Fry has studied the Ku Klux Klan from the heither to unexplored vantage point of their Black victims. Mr. Haley has spent the past several years successfully tracing his family lineage back to Africa. In both instances, the primary sources of information were those memorats, legends and anecdotes passed on from generation to generation. And historian John W. Blassingame has reconstructed the slave community using autobiographies of ex-slaves.

My current research project is also based upon the oral tradition of Afro-Americans. Thanks to a generous Rockefeller Foundation Grant I have been able to travel extensively and interview hundreds of Afro-Americans on the subject of Emancipation Day celebrations. By going to the folk, I have been able to: (1) uncover the births of more than fifteen such celebrations between the dates January 1, 1808 and February 1, 1940, (2) determine the geographical spread of the various celebrations and (3) note three basic celebration types, namely secular, sacred and sacred/secular. This research would not have been possible without willing informants, who shared their knowledge with me, and pointed me to new leads, sometimes taking the time to smooth the way for me with either a letter or word of introduction. Their help was just as valuable as that of a reference librarian. The passage of H.R. 9919 will make similar research possible in the future.

The passage of this bill will financially aid the many departments and institutes of Afro-American culture. Like other educational institutions, these centers of research are feeling the current financial crunch. The timing of this present funding drought is ironic in that it comes at the precise moment when many of these centers have reached academic maturity and are in the process of developing meaningful research projects. These enclosures from Indiana University's Afro-American Studies Department, Afro-American Research Center and Black Music Center will give you some idea of what I mean. They represent many other centers which could benefit from H.R. 9919.

This will be money well invested. Firstly, it will allow valuable oral data to be collected which otherwise would be lost. This precious Black history and culture must be mined from the minds of aging Blacks before their irreplaceable knowledge of the Black experience is buried with them. Secondly, this bill will bring many young Black scholars into the discipline. And, thirdly, there will be great returns gained in interracial relations. The films, tapes, records, monographs, articles, workshops and concerts which will result from this national investment will help correct the distorted image that many Americans have of the Afro-American and his role in American history and culture. The soon-to-be-mined knowledge of the diversity and fecundity of Afro-American culture will dramatically improve our public education. Roger D. Abrahams has boldly pointed the way in which folklore data can be used to heighten cultural awareness and appreciation among Black and white Americans. For one thing, the quality and quantity of cultural information found in textbooks will be improved. As a parent of two children, one grade school and the other junior high school, I have noted the appearance of more black figures and stories in their school books. But all too often this change is achieved by simply switching a black character for a white one, with little or no effort made to utilize the didactic possibilities of authentic Afro-American culture. For example, on one occasion I used a basket from the Sea Islands of South Carolina to demonstrate to a second grade class its West African traits of construction and form. And at an inner city school in Louisville, Kentucky I brought order, and later serious questions, from an assembly of over one hundred and fifty sixth graders by reading the toast, "Stackolee." In both instances, interest, self pride and learning took place. This bill will provide more such material for the textbook writers and school teachers.

More importantly this bill will promote a broader appreciation of the folk artist and craftsman. Firstly, it will allow them the rare opportunity to perform before heterogeneous groups. These performances will make their audience aware of the viability and sophistication of Afro-American folk culture. Americans of all etbnic backgrounds will be less culturally deprived after hearing a bluesman sing and talk about his art or watch a quilt maker fashion a pattern, or a basketmaker weave a basket. Secondly, their honorariums will go a long way toward balancing out the sheet of past injustices. And thirdly, that governmental and academic recognitions of the folk artist will further dignify these beautiful folk art forms.

Finally, H. R. 9919 will allow academicians of Afro-American culture the necessary options of collecting and analyzing Black culture. This latter activity has been greatly neglected in past research. For example, many scholars have followed Robert Park and assumed that Afro-American culture is devoid any African influence. This bill will encourage such recent research in the African retention tradition of Melville J. Herskovits as Daniel Crowley's search for African analogs in Afro-American folktales, Mary A. Twining's comparative study of basket making in Senegal and the Sea Islands of South Carolina, and John Vlach's structural study of the "shot-gun" house in Black communities of America, Haiti, and Nigeria. Many past collectors have also been culturally blind to the cultural nuances of the narratives and songs that they collected. Some have been unable to detect and analyze the hostility and protest which is present in Afro-American folklore. This quaint school, which stems from the paternalism of Joel Chandler Harris, et. al, will be thwarted by such needed and imaginative research as Gerald Davis' film analysis of the blues tradition and Paulette Cross' incisive study of contemporary Black jokelore. This caliber of Afro-American folklore research is long overdue. And in the passage of this American Folklife Preservation Act I see an excellent chance to right these wrongs.

Sincerely yours,

William H. Wiggins, Jr.,
Lecturer.

AMENDMENT TO H.R. 69

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. BURTON. Mr. Speaker, in accordance with House Resolution 963 providing for the consideration of H.R. 69, I hereby give notice of my intention to offer the following amendment to H.R. 69:

AMENDMENT TO H.R. 69, AS REPORTED
OFFERED BY MR. BURTON

Page 28, line 15, strike out "1" and insert in lieu thereof "2".

Page 29, beginning with line 1, strike out everything after the period down through the period in line 8, and insert in lieu thereof the following:

The Commissioner shall allot (A) no less than 50 per centum of the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) the remaining per centum of such amount so appropriated to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to subsection (d)(1), and (ii) to make payments pursuant to subsection (d)(2).

THE EDUCATION OF A TEACHER— "CAN READ—BUT WON'T"

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. HANRAHAN. Mr. Speaker, education of our young people is of prime concern to all of us here in the Congress. The Washington Post ran an interesting article concerning education last Sunday, which I think my colleagues may enjoy. I submit that article for the RECORD.

The article follows:

THE EDUCATION OF A TEACHER—"CAN READ—BUT WON'T"

(By Caroline Potamkin)

The writer taught high school in Philadelphia and elementary school in the Washington suburbs until her retirement in 1972. This is the second of several articles drawn from her teaching experiences.

The fifth grader read through the prescribed text fluently. I wondered why his teacher had referred him to me as a reading problem. Perhaps he was one of those glib word-callers who have an innate phonetic sense but, as one child put it, "don't pay any attention" to what they read.

However, further investigation convinced me that this child knew very well what he was reading about. He had no comprehension problem in this so-called fifth-grade book (whatever it is that publishers mean by these grade level designations). I tried him in a book labeled sixth grade, with the same results.

According to any of the test criteria used by schools, this boy was reading "above grade level"—a quaint phrase which I link, in my mind, with that even quainter phrase, "overachiever". At any rate, he had no discernible reading problem; yet he wasn't getting along academically, and his teacher had indicated a reading problem.

"Do you enjoy reading?"

"Well, no—not really."

"Are there some books you like better than others?"

"Sports stories, I guess."

"Have you read, any sports stories lately?"

"No—not lately."

"What kinds of things do you like to do with your spare time?"

"I don't know—watch television sometimes."

I reported to the teacher that this child had no reading problem—that he had, in fact, superior reading skills. He was not performing because he didn't want to. He was uninterested, unmotivated, passive and uninvolved. He was going to grow up to be a nonreader and another alienated personality. There are lots of him, more and more, coming out of our elementary and secondary schools and, yes, colleges.

MIRROR OF SOCIETY

This is a kind of reading diagnosis that doesn't show up in the test scores. This boy would come out very well in the Iowa Test of Basic Skills. He would be one of those who helped to raise the statistical average of his school system.

Since he is far from unique, we can safely assume that, to the thousands of children who fall below the accepted levels of reading achievement we can add thousands more who score well and are, and will continue to be, non-readers. They can, but they don't want to.

The dimensions of our reading problem—insofar as reading is considered to be a good in our society—are greater than anything indicated by national test scores. They go beyond the inner-city children or the child anywhere with academic problems. They reach into the ranks of our mentally well endowed. Some of our brightest children don't like to read.

School children are not an isolated group. They mirror the society in which they live, and this is increasingly a society of nonreaders. The very educators who are so concerned with reading scores are largely (research studies show) non-readers themselves. This applies to the majority of the American public.

The 1972 World Almanac reports that: "A survey of U.S. reading habits disclosed that 26 per cent of all adults interviewed had read a complete book in the preceding month, according to a Gallup poll reported Feb. 5," which means that 74 per cent have not.

Yet this same public is almost hysterically anxious for its children to read.

Why? To participate in the cultural heritage bequeathed to us by the world's great thinkers and writers? To grow in insight and understanding? To become aware of the rich possibilities inherent in language?

Not at all. People want their children to read so that they can get better jobs and earn more money.

Every generation must see to it that its young can grow up and take their place in society. No one can quarrel with this as a basic responsibility. But if this is the whole story, then reading becomes a tool—a means to an end—about as exciting as learning the multiplication tables.

HOW IT'S TAUGHT

Not only is reading coming across to children as a tool, but it is far from the source of pleasure it had been for many people before the advent of the media age. With the downgrading of print, and the upgrading of direct sensory impression, visual and auditory, reading is no longer the only—or even primary—means of reaching out beyond the restricted circle of most lives.

Another factor in the "can—but won't" reading syndrome may be the way in which so much of reading has been taught—in boring detail, by conscientious teachers doing their best with Dick and Jane. So the children—most of them—learn to read, but don't like it.

There *are* schools, and individual classrooms, where reading has been made an enjoyable experience, geared to the child and his interests and level of maturity. In these classrooms children are not made aware of failure. Those who pick up phonetic decoding instinctively are not forced into formal phonics lessons. Those who need formal phonics are exposed to them without pressure.

It may take some children a little longer to learn to read; they may not be reading independently by the end of first grade. But when they do start they may—just possibly—like reading well enough to continue doing it on their own, as a voluntary, freely chosen activity.

Save for this type of unpressured, individualized classroom, reading is almost always overtaught. Parents want their children to learn to read in the first grade. That's what first grade is supposed to be for.

First-grade teachers want their children to learn to read by at least the end of the school year or they feel they haven't been doing their job. Instead of setting the stage for what should be the natural next step in the child's development, we push.

Teachers and parents feel that when children learn how to read, the desired outcome has been reached. Most children do learn to read—but I invite you to visit almost any classroom of fourth, fifth, or sixth-grade children, representing a normally wide range of ability and interests, during a free activity period. How many will you see who have chosen a book? Maybe two or three out of 30. This is the only kind of reading test that has any validity.

COURSES PROLIFERATE

Courses in reading proliferate. More and more textbooks on teaching reading are being written. More and more teachers are studying methods of teaching reading, under ever more stringent certification requirements. More and more reading specialists with M.A. and Ph.D. degrees in reading are being turned out by the graduate schools.

There are reading teachers, reading specialists, reading diagnosticians, reading supervisors, reading workshops, in addition to the daily classroom instruction in reading. Truly, there has been a tremendous mobilization of effort and money for the purposes of teaching children to read and of raising reading test scores.

Headlines are made by these reading scores. Parent lobbies base their activities on them. School systems, and their personnel, rise or fall by them. So far, these scores have not indicated any breakthrough in eliminating reading failures to any significant extent, despite the outpouring of work and treasure.

What is more, the very figures which purport to tell us how many children *can* read are delusory, because what they don't tell us is, how many ever *will*.

A BURNING FAITH, UNDERGROUND—LITHUANIAN CATHOLICS DEFY RUSS

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. BELL. Mr. Speaker, on Sunday, March 10, 1974, the Los Angeles Times had an article portraying the plight of the Lithuanian Catholics. I would like to share this article with my colleagues:

A BURNING FAITH, UNDERGROUND—LITHUANIAN CATHOLICS DEFY RUSS

(By Murray Seeger)

VILNIUS, LITHUANIA.—According to the Lithuanians, they were the last pagan tribe in Eastern Europe to succumb to Christianity. But once converted, at the end of the 14th century, they embraced Roman Catholicism with a grip that has survived all the tides of ensuing history, including 33 years of official atheism under Soviet rule.

The impact of the faith is clearly seen in the restored streets of Old Vilnius where there is a collection of noble church structures remarkable for the relatively small size of the city (just under half a million).

Even more remarkable, devotion to the church by believers and a hardy band of priests is so strong that Lithuanian Catholic Nationalists represent what is probably the biggest underground movement challenging the authority of the ruling Communist Party and Soviet government.

A year after secret police agents (KGB) scoured apartments in Moscow, Leningrad, Kiev and other major cities attempting to stamp out the production and distribution of an underground civil rights newspaper, The Chronicle of Current Events, a parallel campaign was being conducted in Lithuania.

The target was The Chronicle of the Lithuanian Catholic Church, which was still functioning in late 1973, a year after the national Chronicle had disappeared.

In addition to keeping track of arrests, searches, and unfair treatment of believers, Lithuanian Catholics have also produced the biggest and most frequent signed petitions and street protests in modern Soviet history.

One man and his son, claiming to be Lithuanian freedom fighters, pulled off one of the few successful hijackings of a Soviet airliner in 1970. A total of 17,000 believers managed to get a petition to the United Nations two years ago charging their civil rights were being violated.

That same year three men burned themselves to death, and a fourth attempted the same feat in the name of religious and national freedom.

Those agitation efforts were so strong that the KGB last year ordered every office, farm, store and institution in the republic to submit samples of their typewriters' printing in an effort to track down the organizers of the petition drives and secret scribes of the carbon-copied Chronicle.

Lithuania, like Latvia and Estonia, was absorbed into the Soviet Union in 1940. As part of the agreement between Stalin and Hitler in 1939, the Soviet Union was given a free hand in the Baltic states. Some of what is now Lithuania was taken from Poland by Stalin while the rest had been independent since World War I.

Of the three Baltic republics, Lithuania has proved the most difficult for the Russians to dominate for several reasons.

Unlike Latvia and Estonia, which were independent for only 22 years between the world wars, Lithuania was once a major empire with territory extending from the Baltic to the Black Sea, covering much of Byelorussia and the Ukraine.

The Lithuanians are also a bigger group with a higher birthrate than their neighbors and between 1959 and the present were able to increase their ethnic composition to more than 80% of the population while the other Baltic states were diminishing. Like their neighbors, the Lithuanians have maintained their own language.

The other major factor in the Lithuanians' inherent strength to resist ethnic and cultural subjugation is their church. While their neighbors to the north were dominated by Sweden and Germany and converted to Lutheranism, the Lithuanians clung to the more resistant Catholicism even when dominated by the official Orthodox faith of the old Russian Empire.

Soviet authorities recognize the volatility of the Lithuanian atmosphere by keeping the entire republic closed to foreigners except Vilnius, the capital.

Overseas Lithuanians who come back to visit relatives are limited to four-day visits which become shorter since they must arrive first in Moscow and then travel to Vilnius.

On a sunny, late winter day in Vilnius, there were no signs of tension. A steady stream of women entered the small door and climbed the old stairs to the tiny chapel of St. Theresa with its beautiful gold icon from the 17th century.

Workers were busy all along Gorky St., the longest in the city, with repairs and restoration work on the dozens of old buildings that have been officially designated as historic landmarks.

Although Vilnius is behind both Riga, the Latvian capital, and Tallinn, capital of Estonia, in the effort to restore their historic centers, the work is being done carefully and well. New souvenir shops, better than in most Soviet cities, have been opened, and an atmospheric cave restaurant named Lokys (The Bear) has been opened.

"We are keeping the menus very simple and short," the manager said. "This was a restaurant in the 16th century, and we want it to be as authentic as possible."

Workmen have also removed some of the modifications made in the historic buildings of Vilnius University, oldest in the Soviet Union, which was started by Jesuit priests in 1579.

In the center of the city, the old cathedral has been closed since 1956 and used as a picture gallery. The cathedral still used for religious worship now is St. Peter and Paul, a short distance away, a yellow 17th-century structure with an ornate, rococo white interior. Continuous religious music is played from tapes.

One local resident said there are now 12 of 30 Catholic churches functioning in Vilnius (and five of the 10 Orthodox.)

While Lithuanians are the largest single group in Vilnius (43%), the Catholic population is larger because of the minority of Catholic Poles—18% in the city. Twenty per cent of the population is Russian and the remainder divided among other nationalities, including Byelorussians, Jews and Ukrainians.

In their frequent petitions to both local Lithuanian Communist authorities and Moscow, the religious groups ask for the same sort of official toleration of their practices that the Polish Communist regime extends to its believers.

The campaign for religious freedom also promotes Lithuanian nationalism and attacks the effects of official atheism on the republic's culture.

In a "Letter to a Teacher" published in the last issue of the Chronicle to reach Western correspondents, a parent charged "instead of providing (my child) with objective scientific information, you are defiling my child's views."

"You brand my own views as religious superstitions and my education as a compulsion, while you consider as free and normal the atheism you are imposing . . .

"We are both children of the same Lithuanian nation, linked not only by ties of blood, language and cultural heritage, but also by our common concern about the nation's future. In this work there should be no destruction of what we have already accomplished. On the contrary, we must both cooperate, help each other, work together as unitedly as possible."

Two years ago, May 14, 1972, Roman Kalanta, a young night school student, son of a college lecturer and member of the Young Communist League, stood in a Kaunas park under a banner "Freedom for Lithuania" and set himself on fire while three friends stood guard. He died a few hours later.

After police secretly buried his body, a crowd of mourners moved to the death scene and became unruly. A policeman was killed in two days of rioting which was ended by the intercession of the special internal security troops known as "veyveys."

May 29 in Varena, a technician named Stonis who was prevented from raising the national flag the previous day, burned himself to death in the town square.

A worker named Andriuskevicus performed the same act in Kaunas on June 4, and June 10 police stopped a fourth attempt at self-immolation in Kapsukas by another worker named Zalickauskas.

The newest Lithuanian Chronicle reports no new such incidents but a continuous series of trials of priests for giving youngsters religious instructions and parents for signing petitions. Student believers are often expelled from the university.

Nine students last year were arrested and three—all Young Communists—were expelled from the university after they were caught putting flowers at a roadside monument to a 15th-century national hero, Vytautus the Great.

Late in 1973, the Moscow watchdog over the Lithuanian party committee, V. I. Kharazov, a Russian, attacked "malicious anti-Soviet clerical elements."

As with the other Baltic states, thousands of Lithuanians were exiled to Siberia and Central Asia after the Stalinist takeover in 1940. One million Lithuanians disappeared between 1940 and 1959. And from 1944 to 1953, when there was strong opposition to the return of Soviet power, an estimated 300,000 were killed or exiled. Only 35,000 returned from exile after Stalin's death.

There are Lithuanian nationalists in eastern exile and labor camps now, too. A Chronicle earlier last year reported that a group of students and young professionals had been accused by the KGB of contacting deportees and prisoners and also with meeting with nationalist groups in Georgia and Armenia, two other republics where anti-Soviet and anti-Russian feelings run high.

DID CONSUMER ADVOCATES TALK THE PRICE OF FOOD UP?

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. HOGAN. Mr. Speaker, on February 7, I attended the Maryland Agricultural Week dinner in Baltimore. One of the speakers at the dinner was our colleague from Missouri, Congressman JERRY LITTON.

Congressman LITTON, a staunch advocate of the "law of supply and demand," addressed himself to the recent increases in the price of food. Our colleague's speech was not only very interesting, informative, and humorous, but it abounded with commonsense. As I listened to him, I wished that all of our colleagues could hear his remarks. To partially remedy this situation I am inserting in the RECORD, some similar remarks he made which appeared in the issue of Family Weekly, February 17. I commend this to the attention of all Members:

DID CONSUMER ADVOCATES TALK THE PRICE OF FOOD UP?

(The following article was written by U.S. Congressman JERRY LITTON of Missouri for the February 17, 1974, issue of Family Weekly magazine which has a circulation of 9 million and is read by almost one out of every 10 adults in America.)

America, with over half of its citizens never living in times other than those of food surpluses, suddenly found itself in 1973 unable to cope with or understand food shortages which face the majority of the people of the world every day. Strangely enough, it was those who expressed the greatest concern for rising food prices in America who were the most responsible for both the food shortages and the even greater food price increases that followed.

Every year for the past 15 years until 1973, American consumers have spent a smaller percentage of their after-tax income for food than the previous year. Even with the food price increases in 1973, the average American consumers still spent a smaller percentage of their after-tax income for food than they did in 1970 or any year before 1970.

Food prices increased in 1972 although the percentage of average after-tax income going for food went down from 1971. Food prices went up because of increased demand for food both in America and throughout the world and not because of any conspiracy on the part of American farmers.

During this period food supply didn't increase as fast as food demand and thus the reason for food price increases. In their zeal to help the consumer many consumer advocates, including Members of Congress and eventually the President of the United States, turned to food price freezes as a means of solving the food crisis.

Trying to solve a problem of food shortages with a food price freeze is like trying to solve a teachers' shortage with a ceiling on teachers' salaries. Instead of easing the shortage, it creates additional shortages. You solve problems of shortages with programs which encourage production . . . not those which discourage production.

Unfortunately, many politicians in both the Congress and the Administration took the easy way out and yielded to pressure from would-be consumer advocates by supporting those programs which appeared to help the consumer when in fact they did just the opposite. Those in Congress who pointed out the fallacy of the food price freeze were labeled as being unsympathetic to the consumer when in fact they were the ones being honest with the consumer.

In February of 1973 food prices, responding to increased food demand, were on their way up. Farmers anticipating better pork, poultry, beef and grain prices were increasing their breeding herds, buying better machinery and preparing to produce record volumes of food.

Then came the boycotts and threatened freezes or price rollbacks in April. While the boycotts and demands for freezes or rollbacks were well intended, they accomplished only one thing. Farmers who in February were increasing their breeding herds in anticipation of better prices started decreasing them in April.

The louder the cries from consumers and consumer leaders for boycotts and food price freezes, the more farmers reduced their breeding herd numbers. Farmers weren't reducing their herd numbers or drowning baby chickens to hurt the consumer. Like everyone else, they are in business to make a profit, and I might add their income is substantially below that of non-farmers. Breeding herds were being reduced and chickens drowned only to lessen losses they anticipated they would take if the boycotts or freezes took place.

In June of 1970 President Nixon said, "I will not take this Nation down the road of wage and price controls, however politically expedient that may seem. . . ." On March 15, 1973 President Nixon said he opposed food price controls because they could lead to shortages and blackmarketing. A few days later Secretary of Agriculture Butz inferred that anyone who favored a food price freeze would be a damn fool. A few days after that, March 29, 1973, President Nixon announced a food price freeze. In all fairness to my Republican friends, I must admit many Democratic Members of Congress favored price rollbacks which would have been even worse.

The freeze meant farmers not only couldn't look forward to increased prices for their products, but were caught in a squeeze between ceiling prices and increasing costs of production. Instead of being encouraged to increase their production, they were discouraged. Tens of thousands of farmers across the country took this occasion to cull their herds of all but their very best breeding animals. Many farmers decided it was time to quit completely.

The high-quality dairy cows going to market and the fact that such an unusually high percentage of the sows going to the market were pregnant indicated that these were animals that farmers, before the boycotts and freezes, clearly had planned to keep to produce more milk and pork.

Pork and poultry prices were first to go up because of the sows that went to market and the eggs that weren't hatched. Pork and poultry shortages (caused by the freeze supposedly to help the consumer) caused prices for these food items to skyrocket when the freeze was lifted. Had the freeze not been lifted, severe shortages would have resulted. High pork and poultry prices caused by the freeze caused consumers to shift to beef which helped create a similar situation in beef.

Put yourself in the shoes of the farmer for just a minute. Imagine you own a farm. Farm debt has increased 400 percent since 1960 so chances are you own it with the bank. Imagine you have room on your farm to keep between 10 and 100 sows this winter. First you hear that corn prices are going up and since that will raise your feeding costs, you lean toward keeping 10 sows. Then you hear hog numbers are down, meaning better pork prices, so you decide to keep 100 sows. Then you hear of consumer boycotts being planned for meat and consumer advocates crying for food price freezes or price rollbacks. This causes you to decide to keep 10 sows.

The 90 sows you didn't keep (because of boycott and food price freeze threats) could have produced 10 pigs each (twice a year). The 900 pigs you didn't produce because of the 90 sows you didn't keep represent 180,000 pounds (200 pounds per market hog) of pork the consumer will never see. Multiply this by the thousands of hog farmers around the country who were frightened by the boycotts and food price freezes and you see why pork production went down. Consumers bidding against each other for a limited amount of pork simply bid up the price of pork.

Consumers in effect talked the farmers into raising less food (by their support of boycotts and cries for food price freezes) and then, by bidding against each other for reduced food supplies, bid the price of food up. If consumers (especially those who claimed to be consumer-leaders) had had a better understanding of what encourages farmers to produce more or less food, there would have been no food crisis in America this year. By now food production would have started responding to higher food prices and food supplies would have been more in line with demand instead of being short.

The food price freezes hurt everyone. It hurt the consumer by raising her food costs. It hurt the producer by denying him profits from higher production and in many cases by forcing him to take losses. It hurt the economy by reducing the production of goods we needed to help offset our balance of trade deficit.

What brought on the food price increases in the first place that triggered the boycotts and food price freezes? A series of economic factors in 1972 over which farmers had no control are to blame. Starting in September of 1972, we increased social security and medicare by 10 billion dollars annually and in an annual national budget of 250 billion, this is a big increase. Much of this increase was spent by retired people on food. Last year the food stamp program was increased 17 percent. All of this went for food. Russia and China changed their food policy, their trade policy with the U.S., and experienced a bad crop year . . . all last year. We too had unfavorable weather. The standard of living went up around the world. We devalued the dollar twice in 14 months, making American-produced food a much better bargain abroad, and foreign buyers bought more. We also experienced a period of high inflation. All of these factors combined last year to increase food prices in America.

One of the big reasons consumers are suspicious of food price increases is because these prices go up so suddenly, unlike the gradual price increase of most other products and services. This too can be easily explained. It is because the demand for food is inelastic.

The elasticity of demand is based on the essential nature of the product (food is very essential) and the price as it relates to the role performed by the product. The more essential the product and the lower the price in relation to the importance of the role of the product, the more inelastic we find the demand. This means the demand for food is very inelastic.

In cases where products have an elastic consumer demand, decreases in supply of the product result in corresponding increases in price which are offset by a corresponding decrease in demand (because of the higher price), thus both averting shortages and resulting in gradual increases or decreases in price.

However, in the case of food, increases in price are not offset by corresponding decreases in purchases because people must eat. With less food to go around and people trying to buy as much as always, this quickly bids the price up. And since increases in price are not offset by corresponding decreases in purchases, we have food shortages. Because of the inelastic demand for food (unlike the demand for many products), a one percent decrease in supply results in a 3 to 4 percent increase in price. The desire to stabilize food supply so as to avert radical price changes to the consumer and to give foreign buyers confidence in our market, the U.S. government has often been more involved in farming than either consumer or producer would like.

It has always surprised me that those groups who are the most critical of government farm programs and anything that comes close to a subsidy to the farmer are those on fixed incomes or those in the lower income range. Since the lower the income, the higher the percentage of it that goes for food, it would appear these people (and those in Congress who represent them) would be supporting those programs which lower food costs. One study showed that families with annual incomes of $15,000 and over spend about 12 percent of their after-tax incomes for food while families with incomes below $3,000 may spend more than 50 percent of their after-tax incomes on their food needs; however, they can get food assistance.

It is true inflation has driven skyhigh prices consumers pay for most things they need. Since food is both a family necessity and one that is purchased regularly, consumers noticed it here more than elsewhere. Irritating to farmers, however, during the meat boycotts in April was the fact that beef prices to the farmer were no higher than 20 years ago . . . how many other things were that cheap?

Farmers are proud of their production efficiency. Inflation is a situation whereby we have a shortage of goods and services in relation to dollars. It can be overcome by less government spending or more productivity. Farmers have increased their productivity per man-hour more than twice as much as the non-farmer in the past twenty years which means that if non-farmers had increased productivity as much as farmers, inflation would not be a problem in America today. Can't you now see why farmers are upset at being called the cause of our rising inflation?

The truth is that food prices have not increased nearly as much as the price of other goods or wages in the past 20 years. If food prices had gone up as much as wages in the past 20 years, round steak that sold in April, 1973 during the boycotts at $1.75 per pound would have sold at $2.67, eggs would have increased from 68 cents a dozen to $1.61 and a 59 cents-a-pound frying chicken would have sold at $1.46. The retail price of food from 1952 to 1972 went up 38 percent while wages went up 140 percent.

Less than 16 percent of the average after-tax income is spent on food in the U. S. In England it is 25 percent, in Japan it is 35 percent, in Russia it is 58 percent and in Asia it is 80 percent. With 50 to 80 percent of your income going for food, that doesn't leave much left over for other things. With less than 16 percent going for food in the U.S., that leaves much left over for those things Americans are known to have and enjoy. Therefore, the low percentage of income that goes for food in the U.S. (low food prices?) is one of the reasons Americans can afford TV sets, better homes, a second car, and many of those things Americans have that those abroad don't enjoy.

Once given a 7 percent return on his assets, the farmer received 74 cents and 81 cents an hour for his labor in 1971 and 1972. He could have gotten this by simply selling out and drawing interest. It is true the farmer breathes fresh air and lives in the wide open spaces, but his costs are going up too and he can't be expected to continue at these wages.

Have the consumer advocates and the short-sighted politicians vying for consumer votes learned a lesson? I fear they have not. Some of the same people are now asking the government to shut off exports of grain and other farm products.

Again imagine you are a farmer. Grain prices have gone up sharply in the past few months. Because of this you are considering making long-range investments in machinery and land improvements. Now you hear talk that the government is considering stopping exports of American grains. What do you do? Chances are you won't make the big investments. Once again when American farmers should have been encouraged to produce more, they were discouraged. Once again the consumer will have been used.

The shell game will stop only when the consumer learns what encourages farmers to produce more or less food and they stop supporting those who are misleading consumers for their attention and votes.

The years 1971 and 1972 were the first since 1893 that this great productive America has bought more goods than it sold. Were it not for farm commodities, our deficit in trade in manufactured goods would have reached ten billion dollars. How can it be said food is too high in America if it is the one thing we produce cheaply enough to sell on the world market at a surplus? What else do we have to sell to stabilize the American dollar, balance our trade deficit, and make it possible for us to import energy-producing products to keep the country running?

If we stop the sale of American grain and other farm products to countries which have a lower standard of living than ours, we not only again discourage farm production as we did with the food price freeze, but we are also admitting that the less privileged people of the world are willing to pay more to our farmers for the food they produce than we are in America.

RESERVE OFFICERS ASSOCIATION STATEMENT ON NATIONAL SECURITY

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. MONTGOMERY. Mr. Speaker, the Reserve Officers Association of the United States, with more than 80,000 members and now in its 52d year, has just completed its annual midwinter conference. During this significant event, which brought together our citizen-soldiers from all parts of America, a ringing call for peace through strength and preparedness was sounded. Because of the importance of this meeting, I commend to my colleagues the ROA position paper entitled "A Statement of Principles for National Security":

ROA POSITION PAPER: A STATEMENT OF PRINCIPLES FOR NATIONAL SECURITY

PREAMBLE

Perhaps the most precious of the privileges of our Association is the opportunity to express its convictions freely, without fear or favor, wholly independent of channels or officialdom, working for the common good, of Americans and mankind, and for the climate in our national community which will insure our national safety and perpetual survival.

It is in the exercise of this independence that we seek at this conference to articulate our convictions about the needs of national security.

We deem it our duty—not only because of our devotion to peace and freedom—but also because under the Law of our Land it is our charter to work for the strength of our nation, so that our military strength may be adequate, so the law says, to keep our nation in the security bought by the heroes of yesterday.

In working for national security, we must not wince nor cower before the challenge of questioning the highest given policy; we must never turn away from any difficulty; we must not accept any doctrine without a rigid scrutiny, letting no fallacy or incoherence or confusion of thought pass by unperceived.

The singular prosperity and the growing strength of America from two centuries' age must be attributed to the continued commitment to individual liberty of the dedicated men and women in this land.

But the rule of law in this world is no more secure today than to Washington at Valley Forge. The threat we face is that of an unprecedented tyranny. We live in a world which has existed but one year in ten without war for us as a nation.

Our homework has taught us one lesson of history: that peace in the world never has been built upon any foundation except strength.

We know we speak for our members—and we believe our plea for strength represents the deep-seated, fervent hope of the vast citizenry of this great country. We assert our right and our duty to urge and plead for "a military policy that will provide adequate national security for the United States of America." We commit ourselves under this oft-stated, continuing phrase of our charter: "to work for the execution thereof."

I. ROA AGAIN SOUNDS CALL FOR PEACE AND SAFETY IN PREPAREDNESS

If any characteristic of the Reserve Officers Association of the United States is more important than its group dedication to national security, it is our freedom from any outside influence in seeking this objective. ROA/US has no master, no elite oligarchy, no special interest, no "sacred cow." Its convictions and mandates must measure up to the highest sense of commitment to the national welfare and safety.

ROA's objective is based upon public law, enacted by the Congress and signed into law by a President of the United States who was a founder. The Association has carried on in patriotic honor, since 1922, an unremitting campaign for national preparedness as an inescapable and indispensable means of keeping secure the blessings of liberty for all of this nation's citizens.

The Association is aware of a world of envious and potentially rapacious rivals to whom suspicions of weakness and indifference to dangers on our part may again, as time and again in the past, draw us into bloody and unnecessarily costly wars. Unfortunately, these wars have been necessary to maintain a world climate favorable to continuance of America's unprecedentedly free and representative government, inimical to tyranny and fully responsive to all the people. ROA, resting its case upon the clear lessons of history, believes as fervently as ever that the path to peace and security lies through sacrificial preparedness, through a sense of commitment on the part of all the people, to an eagerness of men and women in all walks of life to serve their nation when it becomes necessary.

Time and again, ROA has marched up the hill to urge the Congress and the Executive Branch to create and carry forward such a program of national commitment. The latest such program was inspired in 1964 and carried forward for three years, culminating in the Reserve Vitalization Act.

The Congress and the President decreed together that the traditional American policy of maintaining a full-time military force, with an ever on-going leadership in development and production of weapons systems, would be effective only if it had full support of the citizenry. This was to be embodied in a highly trained, skillfully led and fully equipped Reserve Force of sufficient strength in all services to provide a broad line of defense. If carried through, this defense posture could have an historic stabilizing effect on world peace, could create a climate in this country of wholesome patriotic commitment and insure world peace for generations to come. In its broadest aspects it is a startling challenge, but the alternative is a continuing erosion of respect for the flag, the Constitution, our very system of government. We seek, therefore, to spell out once again the program, in large measure already the law, to urge action again where timidity in officialdom has faltered and to appeal to the highest sense of dedication of men and women who must sacrifice, if necessary, ambitions for personal advancement—to simply apply common sense for the common good.

II. TOTAL FORCE POLICY REQUIRES "ACTION," NOT MERE "LIP SERVICE"

The Total Force Concept of a small regular military reinforced by adequate Reserves is a doctrine fundamental to our national heritage. Through the years it has been referred to as "one Army," and applies in the same spirit and application to our Navy, Coast Guard, Marine Corps and Air Force.

Secretary of Defense Melvin Laird restated the ageless term, the "Total Force Concept." Secretary of Defense Schlesinger added emphasis and strength to it by his statement on 23 August 1973 when he said that it is no longer a concept but in fact a Total Force Policy. He challenged, "It must be clearly understood that implicit in the Total Force Policy, as emphasized by Presidential and National Security Council documents, the Congress and Secretary of Defense policy, is the fact that the Guard and Reserve Forces will be used as the initial and primary augmentation of the Active Forces. . . . It is now the Total Force Policy which integrates the Active, Guard and Reserve Forces into a homogenous whole."

Despite these pronouncements, the Total Force Policy remains today a hollow expression or at best a slogan robbed of its intended meaning.

With a shrinking Active Force and no draft, the Reserves are the only resource available to quickly expand our military forces in a national emergency. Therefore, we can no longer tolerate meaningless slogans. The obligation and reliance upon the nation's military Reserve Forces are increased to an historically unprecedented degree while at the same time the strength of the Reserve Forces is being reduced.

Inaction to equalize recruiting and retention incentives which languishes in the Office of the Secretary of Defense and in the Congress has further weakened the Reserve Forces both in numbers and morale.

We must act decisively to strengthen our Reserve Forces, to see to it that they are organized, equipped and trained to a state of readiness that will permit prompt deployment in the event of mobilization. A true partnership must be engendered among all Active and Reserve Forces.

It is a fact that the Reserves are better equipped today than at any time in recent history, largely because of equipment made available by shrinkage of the Active Forces. But this hardware prosperity must be matched by all the other elements needed to create the same caliber of fighting forces which have been America's bastion of strength at the peak of each past war!

The Total Force Concept is a national tradition. The Total Force Policy does not yet exist.

With this sound concept and good equipment, we need add only incentives and a watchdog attitude of no-nonsense by the Congress, the Secretary of Defense, the Service Chiefs and the leadership of each of us to make the Total Force again a working reality. Strength demands a legacy of action—not lip service!

III. RESERVE VITALIZATION ACT: THE RESERVE BILL OF RIGHTS MUST BE REINFORCED

The Reserve Bill of Rights and Vitalization Act (Public Law 90–168) grew out of the Congress' experience in the so-called merger fight in order to provide stability and organization in the management of the Reserves. The Congress decided that it would meet specifically its constitutional duty to determine strengths of the Reserves.

The purpose of the legislation is "to provide for . . . changes in the organizational and administrative structure of the Reserve Components . . . to enable [them] to more effectively meet their mobilization role . . .," as stated in the Senate's report.

This law, then, was the means by which the Reserves could become an integral part of the Total Force and by which Congress would exercise its constitutional authority.

Unfortunately, we see evidence of subversion of this intent in many areas. It is almost incredible but true that across the board premature reductions are being enforced in the Reserves, even before the required Congressional mandates are enacted.

The Reserves have been read out of force and logistic planning in most instances. While equipping of some Reserve segments has shown improvement, there remain shortages of weapons systems that should be overcome.

It is becoming more evident that the Reserve voice is being muted at the Secretarial level, both in the Office of the Secretary of Defense and at the Military Service level.

The conference report on Public Law 90–168 stated, "The Congress, as well as the American people, is well aware of the lack of combat readiness in our Reserve components. A significant factor to this condition is the historic failure of the Department of Defense and the individual Service departments adequately to support these components in terms of personnel, training and equipment."

Needed: An Assistant Secretary of Defense for Reserves

What is needed—and was provided for in the original bill—is an Assistant Secretary of Defense for Reserves.

There must then be appointed to that position of strength a person of eminent reputation, stature and influence empowered with authority to make policy and to provide direction to bring the Reserve Forces into a position of full partnership with the Active Forces.

A deputy in the Manpower office simply cannot make the Reserve influence felt in force planning, procurement, installations and logistics. He cannot get the "direct access to the Secretary" that Public Law 90–168 contemplated.

At the Service Secretarial level, a Deputy for Reserves, with broad Reserve background and with an adequate, experienced staff, is needed in each Service to provide the proper advice and support to the Secretary and Assistant Secretary (Manpower and Reserve) on Reserve matters.

Only when such action is taken can The Reserve Vitalization Act be properly implemented and the Reserve become an effective full-fledged partner in the Total Force.

IV. COST-READINESS AND EFFECTIVENESS

The administration has consistently characterized the Active Forces provided for under the budget as "a base line force," the minimum force considered necessary to carry out National Security objectives. In achieving this force, far greater responsibility has been assigned to the Reserve Components. Our traditional military equation, oft-stated by ROA, is that major reductions in our Active Forces shall be offset by strengthening our Reserve Forces. This is the very "guts" of the Total Force Policy. Our leaders have historically accepted this doctrine as indispensable to maintenance of an adequate military posture in peacetime at a price Americans will pay. The citizen-soldier offers more defense per dollar—20 percent of the cost of his active duty partner.

With the "tight dollars" in our overall national defense budget and the rising costs for personnel and hardware, we should be planning to increase our Reserve Forces to compensate for the reduction to our Active Forces, thereby providing the maximum defense for the minimum money.

To quote from the Secretary of Defense on the Defense Budget for Fiscal Year 1975:

"The Fiscal Year 1975 budget in constant dollars is smaller than the FY 64 budget of a decade ago. Similarly, the FY 75 budget outlays continue for the second year to claim less than six percent of the Gross National Product . . . the lowest allocation of resources to Defense since FY 50 . . . and continue the declining trend of Defense spending as a percent of the total Federal Budget, at 27.2 percent for FY 75."

This is a substantial reduction compared to 42 percent in FY 64.

Cost factors are always important, but they cannot be permitted to denigrate our defenses.

We believe that our national strategic planning should be reviewed to make sure that the degree of readiness assigned to our Reserves is matched with fiscal funding to realistically enable them to meet their mission.

If we wish to continue to pursue world peace by negotiation and not war, and at the same time protect our interests and meet our world commitments, we must continue to show the will and ability to maintain our national defense. With five Reservists for the cost of one Active, there can be no question that a strong Reserve is our best defense for the dollar.

V. PROPERLY BALANCED INCENTIVES ARE A PRIMARY FACTOR IN DEVELOPING A READY, COST-EFFECTIVE RESERVE

In 1963, ROA, foreseeing the need of incentives for continued participation of experienced personnel in the Reserve programs, urged a reenlistment bonus which had proved so successful in the Active Forces. The "Ready Reserve Participation Incentive Pay Plan" was embodied in a bill introduced by Representative F. Edward Hebert, and year after year, it picked up support. We believe that the Reserves are entitled to every reasonable support and that the Incentive Package—in all six of its parts—is essential. It would keep trained Reservists in the units and save substantial moneys now required for training.

There are various and many manifestations throughout our society of a changing climate which is deterrent to a national spirit of military preparedness.

Despite social and political turbulence now prevalent in the land, we believe that the young men and women of this nation and this generation are willing to face their duty to preserve our freedoms, when properly challenged.

Yet, we do know that today there is a sufficient reluctance to serve in the military, to indicate clearly that positive and prompt action must be taken to improve the national attitude—to replace what surely must be a false image with the true image of American patriotism.

This is a responsibility of leadership throughout every echelon of our government and of every citizen-leader throughout our society. It is an honorable duty an obligation which should be faced in the spirit of national unity for national safety.

There is an imperative need to return to this profound philosophy. Without a love of country, without patriotism, without pride in accomplishment, without the will to win and without respect for the nation's defenders who risk their lives for its security, any system—whether it depends upon volunteers or upon draftees or upon professionals or upon amateurs—is in dire jeopardy.

The American system is one based on incentives: economic, social, political—and the military defense is no exception—especially when in direct competition for the young men and women of our nation. In the draft year 1963, it was our conviction and in the all-volunteer environment of 1974, our resolution that new incentives to bring young people can and will have beneficial results and insure the manpower required for a secure national defense.

VI. AN ENLIGHTENED PUBLIC OPINION WILL SUPPORT A STRONG DEFENSE POSTURE, A TOTAL FORCE AND A RESERVE OF STATURE

Our military posture cannot be any stronger than the determination of the people to defend themselves and preserve their freedom. This "collective will," as it has been described, must in turn be made manifest to the American Congress before desire can be translated into working reality.

The responsibility thus resting upon the shoulders of the individual citizen is an awesome one, while the reminding of such an obligation is the duty of every military man, especially the citizen-soldier. The Reserve Officers Association started with this challenge. After World War I, General of the Armies John J. Pershing, while encouraging a group of such patriotic citizens to form an association which was to become ROA, counselled them of the obligation to promote a public awareness of the dangers inherent in an aggressive world.

He reminded them of an eternal truth: that the ideals of a free society cannot be attained through weakness, that all deliberations and negotiations with other nations must be carried forth from a position of strength. The United States, in addition to protecting her own freedom has yet greater commitments, actual or implied. Secretary of Defense James R. Schlesinger recently put it this way in testimony before the Senate on the 1975 defense budget: "... now we constitute democracy's first line of defense. There is no longer any large and friendly shield of defenses behind which we can take two or more years to mobilize our forces. It is our own ready defenses that constitute so much of the deterrent shield....

"We are not the policemen of the world, but we are the backbone of free world collective security."

And concerning the Reserve Component's role, Mr. Schlesinger posited:

"We must improve the organization and readiness of the Reserve and National Guard so that they can assume their increasingly important role in our total security posture."

Détente is not a fait accompli. In reality, this nation has taken only the first step toward a true détente. And this by definition does not imply long-term solutions of anything, but rather a relaxing of existing tensions.

Only by maintaining a substantial and credible military force can potential adversaries be persuaded to take the further necessary steps toward true world peace. And it is the duty of the men on "the firing line"—you and me—to make the public understand the meaning and necessity of the defense budget. The Total Force can be fully supported given an enlightened public opinion.

VII. CONGRESS IN RESPONSE TO PUBLIC OPINION WILL PROVIDE THE LEGISLATION NEEDED TO ACHIEVE STRONG DEFENSE

Congress is charged in the Constitution to provide for the common defense. As representative of and responsible to the people, Congress can and should be influenced from the "grass roots."

Congress this very day is considering further cuts in the defense budget because the "loudest" voices are demanding it. This in spite of the fact that the relative cost of defense is less than a decade ago. The Fiscal Year 1975 defense budget represents less than six percent of the GNP and only 27 percent of the Federal Budget. Computed in constant dollars, the FY 75 budget for defense is $8 billion less than in 1964, the last pre-Vietnam budget.

Too many inroads on the budget will weaken all segments of the Total Force. The enormity of the catastrophic consequences to our nation is staggering if Congress is led to erroneously believe that the will of the people is to weaken our defenses.

Our national commitments through treaties and alliances have not diminished—the dangers to our nation still are immense. Our Commander-in-Chief just three years ago summed it all up in these words:

"It needs to be understood with total clarity . . . that defense programs are not infinitely adjustable . . . there is an absolute point below which our security forces must not be allowed to go. That is the level of sufficiency. Above or at that level, our defense forces protect national security adequately. Below that level is one vast undifferentiated area of no security at all. For it serves no useful purpose in conflicts between nations to have been almost strong enough."

To do all that is required, we must have the active support of the Congress and the American people. Congress can and *must* respond to a demand for a strong defense. But our voice, the call of their constituents, must be one armed first with facts and common sense—that it be not only the loudest but also the clearest.

ROA rejects role of United States as second-class power

The United States of America has risen in less than two centuries from colonial status to be recognized as the most powerful nation in the world.

Our nation has had thrust upon it—and cannot evade— the responsibilities which accompany its role as the repository and guardian of the greatest concept of freedom in the history of man.

Fifty-two years ago, the great leader of the American Expeditionary Force of more than two million men in France and Germany, General John J. Pershing, told ROA's first National Convention:

"The influence of this organization should be very great in arousing our people to the necessity for reasonable appropriations for these purposes. It would be false economy to save a few dollars by neglecting common sense preparation in peace times and then to spend billions to make up the deficiency when war comes. Just as far as the people become interested in this matter, just that far will Congress stand ready to make the necessary appropriations."

Just this month, our fellow ROA member, the current Chairman of the Joint Chiefs of Staff Admiral Thomas Moorer, told the Congress:

"No task assigned senior U.S. military leaders is more important than the duty of keeping the Congress and the American people fully informed on military matters. In the final analysis, our military posture and our national security can be no stronger than the determination of the American people to defend our nation and its freedoms. This collective will is both developed and represented, in large measure, by Congressional attitudes and decision. Your role in this process is vital."

These seven positions then must be our National Council's mandate from our members in furtherance of our goal of achieving a United States military posture second to none. With unity of purpose we in the Reserve Officers Association of the United States will all join together in seeking fulfillment of these our goals.

Adopted by the National Council, 22 February 1974.

TAKING THE BAR EXAM TO COURT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. RANGEL. Mr. Speaker, although the number of black law students has increased markedly in the last 5 years, the number of black lawyers entering the legal profession has not been as great as the number of graduates because of the problem which has puzzled and angered many blacks who have successfully met the rigors of a law school education and feel themselves prepared to go out into the community and to begin to practice.

The failure of blacks to pass the bar examinations of the various States and the numbers which they have been able to graduate from law school perhaps can only be explained by pointing to a discriminatory bias in State bar examinations.

Although bias has been denied, one needs only to remember that bias has always been denied in so-called neutral testing procedures which in the last decade have oftentimes been found to be a primary bar to the entrance of blacks and other minorities into the professions and skilled trades.

I believe the time has now come for us to take a close look at the possible discriminatory effects of State bar examinations. This is being done by public interest law firms that are taking these bar examinations to court for the type of scrutiny under the civil rights laws which has served as bars for admission to blacks into law enforcement agencies, construction unions, and the professions.

To inform my colleagues on the present movement to test the validity of

State bar examinations, I place in the RECORD an article which appeared in the recent edition of Judicature magazine, "Taking the Bar Exam to Court."

The article follows:

TAKING THE BAR EXAM TO COURT

(By Wayne Green)

Jack LaSonde, a 1972 Duke Law School graduate, was suspicious when he failed the Georgia bar exam in July 1972.

But the 29-year-old black became downright distrustful a few days later. That's when he learned that, although some 300 whites had passed, none of the 40 or so other blacks who had taken the exam had received passing grades. Now LaSonde and 12 other blacks who failed in 1972 (LaSonde passed the exam in 1973) are suing the Georgia Board of Bar Examiners, alleging that the exam and the method of giving it are unconstitutionally designed to exclude blacks from practicing law in Georgia.

Georgia's examining board isn't the only one under fire. Ohio's bar exam system is facing similar charges of racial bias, prompted by sharp disparities in the failure rate of blacks (an alleged 57 to 73 percent) and whites (alleged to between 12 and 25 percent) in recent years. And just this month, Wayne State law graduate Thomas H. Oehmke, who is white, sued Michigan's board of bar examiners, saying its bar exam is prejudiced because it doesn't cover certain subjects (such as landlord-tenant relations) relevant to black communities. The Michigan exam covers "the type of law a white, middle-class male is likely to go into," asserts Oehmke, who's suing on behalf of 771 people who took the August 1973 test.

In all, blacks and Chicanos have filed race bias suits against bar exam groups in at least 10 states since 1972, seeking changes in exam subjects and procedures, admission of plaintiffs to practice, and in some states—including Michigan, Illinois, and Arizona—damages. And while state bar groups sharply dispute the charges, the suits are forcing a showdown over a long-simmering question: Why do whites generally fare so much better than minorities on bar exams?

The issue has been "building up a long time," says William H. Hastie, Jr., research director of Public Advocates, Inc., a public interest law firm in San Francisco that filed one of the first cases challenging the validity of a bar exam. "I have no doubt it will reach the Supreme Court," he adds.

At least three factors led to the current rash of litigation. For one, there's been a substantial increase in the number of minority law students in recent years, due partly to stepped-up recruiting efforts by the legal profession. Thus, the comparatively poor bar exam performance of minority students is being dramatized.

Second, recent decisions by the Supreme Court and lower federal courts have required increased justification for job-competency tests that seem to discriminate. And finally, the American Civil Liberties Union and the NAACP Legal Defense and Educational Fund, Inc. have added their voices to the many pending suits.

So far, the minority students have not done too well in court. They lost one case on the merits in South Carolina and another through summary judgment in Alabama. In both cases, the U.S. district judges rejected allegations that race discrimination should be presumed from disparities in the passing rates of blacks and whites. Both cases are being appealed. In addition, several other cases—in Virginia and California, for instance—were dismissed without prejudice or jurisdictional grounds.

Still, the litigation is apparently having some impact. For example, the California Bar Association, spurred at least partly by Public Advocates' lawsuit there, has launched a study to determine whether its bar exam is inherently discriminatory. And a consortium of legal and educational groups is conducting a second study, aimed at determining the relationship between undergraduate grades, Law School Admission Test scores, law school grades, and bar examination scores.

Moreover, some states are considering changes in their bar exam approach, ranging from simple subject matter revisions to new grading procedures designed to reduce even the appearance of discrimination.

Even though South Carolina's state bar won the first round of its lawsuits, for example, the state supreme court is pondering major revisions in its testing procedure—such as requiring the state to draft model exam answers with which students could compare their own efforts, and perhaps providing some sort of appeal for graduates who fail the exam.

Pennsylvania, now the "most progressive state" in addressing bar exam problems according to Public Advocates's Bill Hastie, overhauled its exam system in 1972, following a 1971 Philadelphia bar committee report that found "strong presumption" of discrimination against blacks (see *Juris Doctor*, February 1971).

Less tangible effects of the current litigation include increased concern, even among those who disagree with the race bias accusations, about the fate of efforts to recruit minorities into the legal profession. "It's enough that people believe there's discrimination," says Millard H. Ruud, executive director of the American Association of Law Schools. "If young black and Chicano students come to feel they won't be dealt with in an evenhanded way, they may be discouraged from going to law school."

There's little question about the scarcity of minority lawyers, according to statistics compiled by Public Advocates and the Legal Defense Fund. In California, where there is one white lawyer for every 450 white citizens, the proportions are obviously skewed: one black lawyer per 3,000 blacks, and one Chicano lawyer per 16,000 Chicanos. Alabama has 28 black lawyers out of a total of 3,410. Ohio has 235 out of 16,000 attorneys. In Delaware, where no suit has been filed, the last time a black passed the bar was in 1957, and there are only three black attorneys practicing in the whole state. These disparities are the basis for the current lawsuits; the pronounced differences in bar exam performances got them rolling.

"I believe the suits, in part at least, reflect a sense of frustration that there's not a larger outpouring of blacks into the legal profession," says Clyde O. Bowles, Jr., a Chicago lawyer who is coordinating the flow of litigation information for the National Conference of Bar Examiners.

According to Bowles's information, the lawsuits are attacking state bar examining boards on three basic grounds. One is based on a 1971 Supreme Court decision essentially holding that if a testing procedure has discriminatory effects, then it is unconstitutional unless it can be shown that the test accurately predicts job competency.

Thus the law graduates argued in the Alabama case that the bar exam provides "no demonstrable relationship between successful performance on the examinations and successful performance of the myriad functions in the practice of law." The U.S. district judges handling the South Carolina and Alabama cases both rejected that argument, saying they could find a "rational connection" between the exams and the ability to practice law.

Second, many of the lawsuits allege that the entire examination process lacks due process protections. These arguments are made in states that don't allow students who have failed the exam to review their papers and don't provide them with the right to appeal a failing grade. The suits also cite rules in some states limiting the number of times that the exam can be taken. The Alabama court rejected the due process argument, but U.S. District Judge Sol Blatt, Jr. of Charleston, South Carolina said that the issue should be taken first to the South Carolina Supreme Court, which has the authority to establish post-exam review procedures.

Finally, many of the suits argue that blacks are failing in disproportionate numbers, and that the system allows bar examiners to discriminate if they choose. Photographs of each person taking the exam, as well as other identifying information, are required in some states. This, coupled with the negligible percentage of blacks who pass the exams, the suits allege, should at least require the state to assume the burden of explaining and justifying the disparity.

There is considerable debate outside the courtroom over the significance of the disparities. Some lawyers and educators say the statistics don't account for the fact that many minority students come from educationally inadequate backgrounds or that some of them—because of the legal profession's recruiting efforts—are admitted to law schools under lowered standards. What happens then, goes the argument, is that these students often end up in the bottom quarter of their class.

"When one makes any examination of bar exam success," asserts Professor Ruud, "he can see there's a substantial difference in students who graduate in the top quarter and those who graduate in the bottom quarter."

Others, like Hastie, dispute that conclusion, saying there are "no comprehensive statistics to support it." The statistics show, he argues, that blacks do better on multiple choice sections of some exams than on written portions. In his view, that's "the most damning indictment of all" because it suggests that blacks lack not the educational tools but rather some "artificial fluency in written exams."

Even so, at least part of Professor Ruud's argument seemed to apply in South Carolina, where four black law graduates alleged that 90 percent of the whites were given passing grades, compared with only 15 percent of the blacks. Judge Blatt found it compelling that a significant percentage of those blacks attended Howard University Law School where, he claimed, "academic standards for admission are admittedly less stringent than the standards of virtually all other accredited law schools." Howard Dean Herbert O. Reid disputes that contention. The bar exam performance of Howard's graduates, Reid says, has been "above the national average more than below it."

Judge Blatt said the "uncontradicted evidence" shows that graduates of Howard, a predominantly black law school in Washington, D.C., don't do as well on a nationwide basis as other law school graduates taking the bar exam. So, while he lauded Howard's efforts to educate black lawyers, the judge said illegal discrimination wasn't proved simply because a state's bar admission standards worked a "disproportionate hardship" on some black law students.

Whatever the answer, most legal experts think that the courts' feelings about the bar exam controversy will be more clearly indicated in cases filed by black graduates of more widely known law schools. The Georgia case could be a key one. The 13 plaintiffs there include LaSonde from Duke plus law graduates of Columbia, Harvard, Georgia, and Indiana.

IRISH OF CLEVELAND TO HONOR FIVE ON ST. PATRICK'S DAY

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. JAMES V. STANTON. Mr. Speaker, the Irish of Cleveland will on St. Patrick's Day this year honor five of its number for their contribution to our community. I am particularly pleased to note that Mrs. James J. Sweeney, whose sons and daughters have achieved a notable record of public service in Cleveland, is being honored as Irish Mother of the Year. Mrs. Kevin Loftus has been chosen Queen of the West Side Irish Club, and Sean F. Fox is Member of the Year. James J. Bambrick will be honored as Hibernian Man of the Year, and Mrs. Michael Prendergast will hold the title of Hibernian Woman of the Year.

To these fine citizens I extend my warmest congratulations, and in their honor I am inserting into the RECORD statements which outline their many achievements. I also want to announce that Johnny McNea, who gained a wide following through his musical radio program of the 1930's and 1940's, and has been active in civic affairs since then, will be the grand marshal of the St. Patrick's Day Parade.

The statements follow:

MRS. JAMES J. SWEENEY NAMED IRISH MOTHER OF THE YEAR

Mrs. James J. Sweeney will be honored as Irish Mother of the Year in the 1974 Saint Patrick's Day Parade, it was announced today by executive director Augustine Boland of the parade-sponsoring United Irish Societies of Greater Cleveland. She is to be singled out as "a woman whose life has reflected credit upon the Irish nationality, and whose example has been a source of inspiration to the community," and as such, she will symbolize all Irish mothers everywhere.

Mrs. Sweeney, 81, was born Anna Joyce in Curraun, Achill, County Mayo, Ireland. She attended the National School there, and in 1912 she came to the U.S. and settled in Cleveland. In 1919, she became the bride of James J. Sweeney, who four years earlier had come here from Polranny, Achill Sound, also in County Mayo.

The five Sweeney children are: James P., a Cleveland police detective; Michael A., an attorney, former state representative and now executive assistant to Congressman James V. Stanton; Mary C., a Cuyahoga County probation officer; Mrs. Margaret Kleinpell, a housewife; and Hon. Francis E. Sweeney, Cuyahoga County common pleas judge. There are 13 grandchildren.

Mrs. Sweeney is a member of the Second Ward Democratic Club and of the Cuyahoga County Democratic Executive Committee. She and her husband, a retired Cleveland policeman, reside at 5320 Delora Avenue. They are members of Corpus Christi Church.

WEST SIDE IRISH-AMERICAN CLUB NAMES QUEEN, MEMBER OF YEAR

Sean F. Fox has been named member of the year, and Mrs. Kevin Loftus has been chosen 1974 queen, by the West Side Irish-American Club. They will be honored at the club's annual St. Patrick's Eve dance on Saturday, March 16, at 9 p.m. in the U.A.W. Hall, 5615 Stump Road, Parma. The event has been sold out for weeks.

Fox, 40, is a native of Cong, County Mayo, Ireland. He came to Cleveland in 1954 and has been active in the club continuously since that time. He currently is a trustee of the organization and a co-chairman of the committee developing the club's new 27-acre property in Olmsted Township. He is a landscape and cement contractor.

He and his wife of 13 years, the former Agnes McGrath, are parents of: Ann, 11, Kathleen, 10, Maura, 9, Eileen, 8, Eddie, 7, and John, 2. They reside at 3403 West 135th Street and are members of St. Vincent De Paul Parish where he also is a member of the Holy Name Society.

Mrs. Loftus, 31, was born Ann Chambers in Newport, also in County Mayo, Ireland. She moved to Cleveland in 1959 and joined the West Side club that same year. From 1960 to 1963 she marched in the women's drill team, and she has since been active on various club committees. She also is a member of the Cleveland Gaelic Society and the Gaelic Football Club auxiliary.

She and her husband of 11 years, a trucker, live at 3957 West 160th Street and are members of Our Lady of Angels Parish. They have five children: Theresa, 10, Brian, 8, John, 6, James, 5, and Christopher, 1.

HIBERNIANS TO HONOR MAN, WOMAN OF YEAR AT 107TH ANNUAL BANQUET

James J. Bambrick will be honored as Hibernian Man of the Year, and Mrs. Michael Prendergast as Hibnerian Woman of the Year, when the Ancient Order of Hibernians and its Ladies Auxiliary hold their 107th Annual St. Patrick's Day Banquet on Sunday, March 17, at 5:30 p.m., in the Cleveland Plaza.

Bambrick, 56, is a labor relations representative for The Standard Oil Co. with a lengthy and varied background in education and industry. He has served here in his present capacity since 1958. A native of New York City, he holds a B.S. and an M.B.A. from New York University, and a B.S. degree and U.S. Naval Reserve commission from the U.S. Merchant Marine Academy. In World War II, he served as third mate on troop transports in the European, African and Asian theaters. He has numerous professional, religious, education and civic affiliations and has written over 200 articles and 14 books.

He was president of the Hempstead, N.Y. Division of the AOH from 1954 to 1958, and was chairman of the Irish history committee of the Cleveland AOH Division #1 from 1959 to 1962. In 1972–73, he was county AOH vice president.

He and his wife of 25 years, the former Margaret Donlan of Long Island, live at 2704 Berkshire Road in Cleveland Heights and are members of St. Ann's Church. They have three daughters, two sons and one grandchild.

Mrs. Prendergast was born in Cleveland and educated at Notre Dame Academy. Her mother was the late Mary K. Duffy, who before her death in 1962 was a prime mover of the Irish Cultural Garden League and the Commodore Barry Day observances here.

Mrs. Prendergast is past Division #10 president and past county historian of the LAACH. She also is a member of the National Council of Catholic Women and of Christ the King Parish and its Altar and Rosary Society.

She and her husband, a native of Ballinrobe, County Mayo, Ireland and now a retired carpenter, recently celebrated their 50th wedding anniversary. They have seven children, 25 grandchildren, and one great-grandchild. The Prendergast home is at 862 Caledonia Road, Cleveland Heights.

The featured speaker at the March 17 banquet will be newly elected Cleveland Municipal Court Judge Ann A. McManamon. Master of ceremonies will be William E. Mahoney, Jr., AOH vice president. Chairman is Kevin Reynolds, 10223 Joan Avenue, Cleveland.

PATROLMAN TIMOTHY HURLEY, A TRIBUTE PAID

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. BIAGGI. Mr. Speaker, this morning a funeral was held in New York City. It was an especially tragic event not only for the family and loved ones of the deceased man, Timothy Hurley, but for this Nation as well, for with the death of Timothy Hurley we have been deprived of still another policeman, the victim of a senseless murder committed while serving in the line of duty.

The events leading to the untimely and brutal death of New York City Patrolman Hurley were sickeningly similar to the events which have led to the murders of so many other policemen in recent years. Early in the morning of March 9 Hurley and his partner William Cutter were responding to a holdup call at a bar in Queens, N.Y. As the two policemen arrived they were met by a number of fleeing patrons, one of whom informed the two officers that the individual responsible for the robbery was still inside. The two policemen responded immediately, and began to head for the inside of the bar. As they did the supposed informer began to shoot and pumped three bullets into Hurley. One of these bullets penetrated his heart, and he died shortly afterward on the operating table.

The death of Patrolman Hurley signifies the loss of more than another distinguished policeman. His passing represents the loss of a loving husband and father. Hurley who died at the tragically young age of 32 is survived by his wife Alice and a young son Joseph age 9.

Timothy Hurley's years with the New York City Police Department were short in length but distinguished in service. He had a desire for excellence in his work, and the fact that in his 6 year career, he was able to be awarded two commendations and seven citations for excellence in police work indicates that this desire was translated into concrete accomplishments.

The death of a policeman rocks the very foundation of this Nation. We are a nation committed to the preservation of law and the maintenance of order. We are a citizenry with a respect for the law, and a fear of lawbreakers. Yet far too often our respect for the law is not extended to the men and women who are dedicated to enforcing the law. In many States and localities policemen are treated as second-class citizens. The police in our cities and localities deserve and should receive the repect of the Americans they so ably protect.

Yet respect is far from the only thing the policemen of America need. We as a Nation must take steps to insure the protection of our law enforcement officials from the depraved and lunatic members of our society who, oblivious to the concept of law and order, only know the language of violence.

We in the Congress must take the initiative. We need and have legislation to provide the police of this Nation with protection. The most important legislation we could enact would be the restoration of the death penalty for certain crimes, especially the killing of law enforcement personnel. We must have an effective deterrent to prevent the police killer from committing these heinous acts. By clearly defining the terms of how to administer the death penalty, we will avoid the capriciousness which characterized the previous use of capital punishment in this Nation.

Since the Supreme Court ruled the death penalty unconstitutional in 1972, almost half of the States in the Union have enacted laws restoring the death penalty. Many of these States include police killing as one of the crimes worthy of death. I urge my colleagues in the House and Senate to take prompt and responsible action on legislation which will restore this vitally needed crime deterrent.

We must not abandon the widows and survivors of law enforcement officials who are killed in the line of duty. Many of these women and children after living their lives in constant apprehension and anxiety about the safety of their husbands and fathers have had their worst fears realized. They are then forced to face the world empty, and alone, and oftentimes without any substantial financial means. We must put an end to this national tragedy. I was pleased at the actions of the House Judiciary Committee in passing and reporting out legislation which would provide a $50,000 death benefit for the widows and survivors of law enforcement personnel killed in the line of hazardous duty. I urge the House leadership to schedule this bill for floor action in the near future so that widows such as Mrs. Alice Hurley are not forced to spend their lives in poverty and despair.

Mr. Speaker, let the death of Patrolman Hurley serve as a catalyst for strong congressional action to protect our police. Far too many of them have been killed already. We cannot afford to wait for another to die before we respond. I am confident that my call for action is shared by millions of law-abiding Americans who recognize the importance of police in our society. I know they also join with me in mourning the death of Patrolman Hurley and extending sincere condolences to his widow and child.

THE ELEMENTARY AND SECONDARY EDUCATION ACT

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. ESCH. Mr. Speaker, yesterday, I informed the Members of the House that I intend to offer an amendment to H.R. 69, the Elementary and Secondary Education Act, to strictly limit the use of school busing. The following is the amendment which I propose to offer on behalf of Mr. O'HARA, Mr. WILLIAM FORD, Mr. HUBER, and myself:

AMENDMENTS TO H.R. 69, AS REPORTED OFFERED BY MR. ESCH

Page 58, after line 18, insert a new Title II (and number the succeeding Titles and Sections accordingly):

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES

SEC. 201. This title may be cited as the "Equal Educational Opportunities Act of 1974".

PART A—POLICY AND PURPOSE

SEC. 202. (a) The Congress declares it to be the policy of the United States that—

(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

(2) the neighborhood is the appropriate basis for determining public school assignments.

(b) In order to carry out this policy, it is the purpose of this Act to specify appropriate remedies for the orderly removal of the vestiges of the dual school system.

SEC. 203. (a) The Congress finds that—

(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

(2) for the purpose of abolishing dual school systems and eliminating the vestiges thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

(6) the guidelines provided by the courts for fashioning remedies to dismantle dual control school systems have been, as the Supreme Court of the United States has said, "incomplete and imperfect," and have not established a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems.

PART B—UNLAWFUL PRACTICES

DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY PROHIBITED

SEC. 204. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with part D of this title, to remove the vestiges of a dual school system;

(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency providing the appropriate grade level and type of education for such student;

(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

BALANCE NOT REQUIRED

SEC. 205. The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

ASSIGNMENT ON NEIGHBORHOOD BASIS NOT A DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

SEC. 206. Subject to the other provisions of this title, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

PART C—ENFORCEMENT

CIVIL ACTIONS

SEC. 207. An individual denied an equal educational opportunity, as defined by this title, may institute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this title referred to as the "Attorney General"), for or in name of the United States, may also institute such a civil action on behalf of such an individual.

SEC. 208. When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

JURISDICTION OF DISTRICT COURTS

SEC. 209. The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 207.

INTERVENTION BY ATTORNEY GENERAL

SEC. 210. Whenever a civil action is instituted under section 207 by an individual, the Attorney General may intervene in such action upon timely application.

SUITS BY THE ATTORNEY GENERAL

SEC. 211. The Attorney General shall not institute a civil action under section 207 before he—

(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of Part B of this title; and

(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate remedial action.

ATTORNEYS' FEES

SEC. 212. In any civil action instituted under this Act, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorneys' fee as part of the costs, and the United States shall be liable for costs to the same extent as a private person.

PART D—REMEDIES

FORMULATING REMEDIES; APPLICABILITY

SEC. 213. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

SEC. 214. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 215;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 215 and 216 of this title.

TRANSPORTATION OF STUDENTS

SEC. 215. (a) No court, department, or agency of the United States shall, pursuant to section 214, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

(c) When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.

DISTRICT LINES

SEC. 216. In the formulation of remedies under section 213 or 214 of this title, the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

VOLUNTARY ADOPTION OF REMEDIES

SEC. 217. Nothing in this title prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this title, nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this title, if such plan is voluntarily proposed by the appropriate educational agency.

REOPENING PROCEEDINGS

SEC. 218. On the application of an educational agency, court orders, or desegregation plans under title VI of the Civil Rights Act of 1964 in effect on the date of enactment of this title and intended to end segregation of students on the basis of race, color, or national origin, shall be reopened and modified to comply with the provisions of this title. The Attorney General shall assist such educational agency in such reopening proceedings and modifications.

LIMITATION ON ORDERS

SEC. 219. Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws shall, to the extent of such transportation, be terminated if the court finds the defendant educational agency is not effectively excluding any person from any school because of race, color, or national origin, and this shall be so, whether or not the schools of such agency were in the past segregated de jure or de facto. No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found to be effectively excluding any person from any school because of race, color, or national origin, and this shall be so, whether or not the schools of such agency were in the past segregated de jure or de facto.

SEC. 220. Any court order requiring the desegregation of a school system shall be terminated, if the court finds the schools of the defendant educational agency are a unitary school system, one within which no person is to be effectively excluded from any school because of race, color, or national origin, and this shall be so, whether or not such school system was in the past segregated de jure or de facto. No additional order shall be entered against such agency for such purpose unless the schools of such agency are no longer a unitary school system.

PART E—DEFINITIONS

SEC. 221. For the purpose of this title—

(a) The term "educational agency" means a local educational agency or a "State educational agency" as defined by section 801(k) of the Elementary and Secondary Education Act of 1965.

(b) The term "local educational agency" means a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965.

(c) The term "segregation" means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin.

(d) The term "desegregation" means desegregation as defined by section 401(b) of the Civil Rights Act of 1964.

(e) An educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

PART F—MISCELLANEOUS PROVISIONS

SEC. 222. Section 709(a)(3) of the Emergency School Aid Act is hereby repealed.

SEPARABILITY OF PROVISIONS

SEC. 223. If any provision of this title or of any amendment made by this title, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this title and of the amendments made by this title and the application of such provision to other persons or circumstances shall not be affected thereby.

DISARRAY AT THE FEDERAL ENERGY OFFICE

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. HANRAHAN. Mr. Speaker, I think my colleagues may find interesting Mr. Jack Anderson's column concerning the Federal Energy Office, an office that is, of course, the center of almost everyone's attention these days. I would like to submit that article for the RECORD at this point:

[From the Washington Post, Mar. 10, 1974]

DISARRAY AT THE FEDERAL ENERGY OFFICE

(By Jack Anderson)

The consumers must shout to be heard inside the Federal Energy Office. For the oil barons, a whisper usually will do.

Yet favoritism isn't the only cause of high oil prices and long gas lines. The critics shouldn't underestimate the ability of the bureaucrats to foul up.

The FEO happens to be populated with bureaucrats recruited from the ranks of government. Its middle management has been plagued by rapid turnovers and small-scale blunders.

Their boss, William Simon, and his deputy, John Sawhill, are almost always tied up in policy meetings, press conferences and congressional hearings. This often has left FEO employees to function without direction.

The examples are legion. In an effort to straighten out the allocation mess, Simon ordered that gas be transferred from some states to others. The aide assigned to inform the governors simply forgot to tell the losing executives.

In a style reminiscent of the undercover White House "plumbers," two young computer experts from FEO recently infiltrated a secret Army computer facility in the dead of night to work on gasoline allocation figures. The foray was unauthorized and constituted a serious security breach.

The computer commandos sweettalked their way past building guards, spent the night pushing buttons and spinning tapes, and then departed with armloads of computer printouts and programs. The outraged general in charge of the computer command has ordered a formal investigation, although he decided not to press charges.

The day-to-day problems at the energy bureaucracy are less spectacular but more exasperating. Young college graduates are assigned to write job descriptions and place high-level executives. High school graduates with no training or experience are processing federal appointees. Phones are installed and no one assigned to answer them. And letters, if they cannot be answered with a handy form, are just piled on an ever-growing stack.

Many of the key energy employees, accustomed to the bureaucratic style, resent Simon's shoot-from-the-hip approach and favor a more cautious approach. Simon has shown no shyness in taking on such heavyweights as President Nixon and the Shah of Iran when they intrude upon his policies.

Simon loyalists defend his blunt, shake-'em-up style as necessary. But his approach has created some serious problems.

For example, a hasty decision helped choke off the importation of much needed crude oil. Simon ruled that if the eight major oil companies operated their refineries at more than 76 per cent capacity, they had to sell their additional crude to independent refiners, who have no assured crude sources.

The majors claimed they could not do this without losing money, so they cut back their imports. The ruling also made no distinction between West Coast imported crude and East Coast products, further complicating the picture.

Many areas were unnecessarily short of gas last month because of the ill-conceived allocation plan. FEO regional offices also failed to gather vital data from the oil companies and, therefore, allocations were often haphazard.

Simon's arbitrary decision to make 1972 the base allocation period compounded the problem, since population growth and traffic patterns have changed in two years.

Simon also embarrassed both superiors and subordinates at last month's Washington Energy Conference. He ordered the Treasury's energy office to come up with a background paper for the United States to present to the foreign ministers documenting long-range U.S. energy policy. Drafted on a tight deadline, the study was a poor and sometimes inaccurate hash that many of the foreign diplomats scoffed at.

Civil Service regulations apparently have been violated in the rush to staff the FEO. Although required advertisements are run for high-level personnel, often someone already has been secretly picked for the position. Some middle-level people have been bringing in friends and colleagues from their old agencies in an effort to tighten their hold on the new FEO turf.

The offenders often are disgruntled with Simon, who refuses to do things in the bureaucratic way. This attitude, with people lining up either with the bureaucratic faction, has helped to cripple the struggling agency.

These internal problems are hidden from the public by a smooth, over-staffed public relations operation. Just about 10 per cent of Simon's work force are involved in public relations. Their job, charge critics, is to polish his image.

Supporters insist the large public relations staff is necessary to inform the public about the oil crisis. Meanwhile, more than 200 of the 2,000 total employment are engaged in making Simon and his policies look good.

In fairness to Simon, he has had to create an agency overnight to deal with energy problems which the government had largely ignored for 20 years. He had to jolt the bureaucracy to get it moving.

Now he is caught between disgruntled bureaucrats and angry consumers. The pressures are intensifying from all sides; the President pushes him in one direction, Congress in the other. And the oilmen are constantly at his ear, whispering their warnings and pleadings.

Most of his staff have given him loyal service and have put in long hours. Increasingly, however, dissension is growing and the FEO is breaking apart. Now Simon must turn from the external problems to deal with the internal threat, which could paralyze future U.S. energy policy.

Footnote: Congressional critics have charged that Simon has been too sympathetic to oilmen and too hard on the consumers. As a former Treasury official, he is also close to the big banks whose directors sit on the boards of the major oil companies.

These bankers have been reluctant to finance the construction of independent refineries, which would compete with the refineries owned by the big oil companies. Meanwhile the world is awash in oil, but there aren't enough refineries to process it into gasoline.

AN IMAGE FOR THE OIL INDUSTRY

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. FRASER. Mr. Speaker, in 1973 after tax profits of the 21 dominant oil companies rose by 58 percent over 1972. It is not surprising that many Americans have become alarmed at these record earnings at a time of oil shortages, rising prices, and increasing unemployment.

The oil companies are understandably trying to improve their image, and they are doing it in the Madison Avenue tradition—by massive advertising. Full-page advertisements in defense of company prices and profits have appeared in papers throughout the country. "Texaco's profits last year were not excessive," reads an advertisement in the New York Times of February 8, 1974. "The current price of old domestic crude is too low," states a Gulf advertisement in the Wall Street Journal of February 20, 1974.

Gulf, in its advertisement admonishes us to "find facts—not fault." Let us take a look at the facts.

In the past year crude oil prices have almost doubled and gasoline prices have risen roughly 30 percent. The cost of heating homes with oil has risen more than $200 a year for the average household in the Northeast. For propane-heated homes, the increased cost has been much greater.

In the same period, Gulf's full-year earnings were up 79 percent; its fourth-quarter profits up 153 percent. Texaco's 1973 profits rose 45.4 percent, and in the last quarter of that year increased 70 percent over the corresponding quarter a year earlier. While the companies can argue that the 1973 percentage increase was due more to the poor earnings of the previous year than to excessive profits, they cannot explain away the sharp rise in the last quarter.

Anticipated profits at current crude oil price levels are even greater. Walter Heller and George Perry have estimated—in the National City Bank of Minneapolis Newsletter of January 8, 1974—that the industry's cash flow would increase by $16 billion in 1974.

Gulf tells us in its February 20 advertisement that it is investing $1.5 billion "in energy development alone." At the same time, it is seriously considering using some of its profits to acquire Ringling Brothers-Barnum & Bailey Combined Shows, Inc.

Many people have reacted with hostility to the companies' advertisements and profits. One such response was that of Tom Wicker in the New York Times of February 19, 1974. It is reprinted below. Mr. Wicker points out that the oil companies are profiting from their own failure to plan for the future.

Distasteful though the advertisements may be, the companies have a right under the first amendment to present their point of view. Image-advertisements are not trying to sell anything and, therefore, should not be subject to the FTC's advertisement-substantiation regulations.

At the same time I would recommend that if the companies really want to improve their image and avoid increased Government regulation, they should respond with actions rather than with words.

Federal Energy Administrator Simon recently spoke of the companies' need to act responsibly. He said:

> What is called for now is the greatest statesmanlike attitude on the part of the oil industry that any industry has ever had.

He remarked of the advertising that "you don't change people's attitudes with that type of approach" and suggested that the major oil companies bring gasoline from Europe, where it is plentiful, to ease the shortage here. Since European gasoline is more expensive than American, he indicated that the companies could absorb part of the price difference themselves. In the long run absorbing part of the cost of European gasoline would be cheaper than advertising.

A statesmanlike attitude requires that the oil industry use its profits for exploration, research, and development in the energy field rather than on advertising and on circuses. It also means providing reliable data to the Government and protecting the environment.

Mr. Wicker's article follows:

GRIM THOUGHTS FROM THE "GAS" LINE

(By Tom Wicker)

From Page One of The New York Times for Feb. 13: "The Gulf Oil Corporation yesterday announced operating results for 1973. The report indicated a 153 per cent gain in fourth-quarter earnings . . . a fourth-quarter profit of $230 million, compared with $91 million in the 1972 quarter."

From an advertisement by the Gulf Oil

Corporation on Page 19 of the same issue of The Times: "There is no digit on earth less pertinent to the solution of the energy crisis than 'the pointing finger.' If there is blame, there is certainly enough to go around . . . after all, a helping hand is a far more productive tool than any number of pointing fingers. To find energy, find facts—not fault."

Baloney. "If there is blame," and there certainly is, it lies only marginally on the hapless driver of the great American gas-guzzler or the housewife-consumer of electricity, both victims of relentless advertising, and neither of whom failed to build sufficient refinery capacity when it obviously was needed, or managed a 153 per cent gain in quarterly profits in one year, or lobbied for oil import quotas to "protect" the American market from 1959 to 1973, or gets a depletion allowance to help explore for gas.

And if, as the Gulf ad urges, we are to reach a sensible national energy policy (naturally, Gulf tells us, with the "expertise of private industry, aided and abetted by government" and "free market pricing and fair profit"), the fact is that quite a bit of fault will have to be found with the present chaotic situation, events leading to it, and those responsible for them.

To begin with, and whatever the effect on newspaper and television profits, I, for one, point the finger of fault at pious, self-serving, devious, mealy-mouthed, self-exculpating, holier-than-thou, positively sickening oil company advertisements in which these international behemoths depict themselves as poverty-stricken paragons of virtue embattled against a greedy and ignorant world.

Did you realize, before some of these ads suggested it, that ocean exploration for oil deposits in fact protects the fish of the sea? No profit in that. And did you understand that after some unnamed villain causes a horrid oil spill somewhere, your public-spirited local oil company bankrupts itself buying bales of hay to soak up all that nasty oil on the beach?

But this is a relatively insignificant if satisfying point of fault. There are at least four other areas in which the finger—like Dr. Strangelove's arm—can hardly be stopped from rising:

Oil company profits: Gulf, in this regard, is a relative piker. Exxon recently announced the largest annual profit ever earned by any industrial company—$2.4 billion after taxes. The others of the so-called "Seven Sisters" are doing just fine, too. No one, we are advised in those ads, should begrudge these windfalls, since in preceding years oil company profitability was down. But it still has to be asked: Isn't there an undeserved reward here for the companies' lack of foresight and unwillingness to take the kind of risks they are forever extrolling? And what is to be done with those new-found profits? How much really is being ploughed into removing the causes of the oil shortage?

The environment: In its Feb. 13 ad, Gulf called for development of a strong national energy policy, "without either destroying the environment or babying it to death." Aside from the question of where the environment of this sad planet ever was babied to death rather than being destroyed by predator industries and developers, the fact is that the oil shortage so far has resulted in authorization of the Alaska pipeline, and the companies' improved ability to circumvent environmentalist restrictions on off-shore drilling and processing of oil shale.

Regulation: Gasoline fuels the most dominant mode of transportation in the United States; 87 per cent of the population went to work by automobile in 1970, as against only 80 per cent in 1963. Yet, trains, planes, buses, and the power companies, are regulated as public utilities, while the oil producers are not. They are so unregulated that the Government does not know for sure how much oil is produced, on hand, in reserve, imported, or refined into what products. Shouldn't a new energy policy include stronger regulations in the interests of the consumers?

The current shortage: Does Gulf or anyone else seriously propose that no finger of blame should be pointed at anyone for the present situation in which vitally needed gasoline is so unevenly available around the nation, at such steep prices, under a system that no one seems to be administering effectively, and in which differences from state to state, in both availability and the regulation of sales, harass retailers and consumers alike and mock the very idea of equity?

So, come to think of it, maybe there is enough blame to go around. The oil companies, their political lackeys, the Nixon Administration, its predecessors, the various state governors and agencies—take your pick the next time you wait on line two hours for a $3 purchase of 53-cent gas. You can hardy go wrong, especially if you start from the top.

RUSTLING CASE HAS A FRENCH CONNECTION

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. HOGAN. Mr. Speaker, on February 4, I introduced legislation which would tighten export regulation on the shipment of horses.

I had heard reports where buyers from France and Italy are purchasing stolen horses at U.S. ports and shipping them to Europe where they are getting high prices for hides and horsemeat. In fact, the export of American horsemeat for human consumption abroad has tripled during the last 12 months with further increases predicted by east and west coast port authorities.

What my bill would do is require that proof of ownership be shown before any horse can be shipped out of this country. This would discourage the stealing of horses for exportation and would protect horses and their owners from such victimization in the future.

An article appeared in the Prince Georges County Sentinel on February 27, which illustrates an example of what is currently happening in our country with regard to horse rustling and the exporting of these horses overseas.

I insert this article in the RECORD at this point:

RUSTLING CASE HAS A FRENCH CONNECTION

(By Jennifer Frosh)

The Old West practice of horse rustling has moved East.

One case that hit Prince Georges County last fall involved international intrigue and suspense rivaling the "French Connection."

The adventure began on a horse farm in Laurel in mid-October when Audrey Melbourne, a lawyer and race horse breeder, discovered that two of her valuable thoroughbred mares had been stolen.

Mrs. Melbourne and County Det. William Seminuk had reason to suspect that the thieves were more than just itinerant cowpokes.

The resulting action landed Mrs. Melbourne in a French port, surrounded by French authorities, as she carried out the dramatic conclusion to the case.

Shortly after the theft, Mrs. Melbourne received a tip from an unlikely informer—an Amish blacksmith whom Mrs. Melbourne had run into at a horse auction in Pennsylvania.

She had traveled to the auction in the hopes of recovering her stolen mares, one of whom she said was worth $10,000 and in foal to a stallion whose sire was "Northern Dancer," a well-known race horse of the past.

The blacksmith cooly told her she had come to the wrong place. She should be at the Richmond Port instead.

It was there, he said, that stolen horses and cattle from the Maryland and Virginia area are sold to French and Italian buyers, loaded on boats, and exported to slaughter houses in Europe.

Mrs. Melbourne and the detective found out later that livestock shipments, including registered ponies and thoroughbred racers, leave the port several times a month. The meat, akin to round steak here, is used for human consumption and the hides for expensive shoes and clothes.

Seminuk said Prince Georges County alone has had about 10 cases of stolen horses in the past year, and the practice is common all along the East Coast. The "Richmond Port connection" is apparently profitable for European buyers, who pay between 25 to 40 cents a pound for an average 900-pound horse.

No proof of ownership is required to ship livestock out of the United States, according to Don Thompson of the U.S. Customs Office. U.S. authorities only require certificates of health for the livestock.

In November, Mrs. Melbourne learned from a Department of Agriculture examiner that a mare fitting her animal's description was on board a ship that had left Richmond Oct. 27 for Brest, France.

The boat she learned, was Dutch-owned, rented by a French buyer and manned with French sailors. It carried a load of 153 cattle and 182 horses, some of which were tatooed thoroughbreds.

The scene changed to Brest. Mrs. Melbourne had no intention of missing the boat twice.

Meanwhile, Seminuk advised the U.S. Embassy in France and the French police that Mrs. Melbourne wished to search for her horse when the ship docked and they more than complied.

When the boat arrived, an army of police officers circled the dock, cordoned off the area, and took horses off in groups for Mrs. Melbourne's inspection.

"I looked at each one to no avail. But then I noticed that one horse which fit the mare's description was missing. The sailors said the horse had died at sea and was thrown overboard."

Meanwhile, Rep. Larry Hogan (R-Md.), a horse-owner himself, has introduced a bill in Congress that would require proof of ownership before any horse could be shipped out of the United States.

Hogan said his action was prompted by Mrs. Melbourne's experience.

OUR EXTRAORDINARY FOUNDING FATHERS

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. MINISH. Mr. Speaker, in this calamitous era, with problems of gravest import besetting us at home and abroad, it is salutory that we reflect upon the beginnings of our noble American experiment. As we plan for observance of the Nation's 200th birthday, 1976, let us draw inspiration and strength from our extraordinary Founding Fathers who committed their lives, fortunes, and sacred honor to the goal of human liberty and national independence. Their Declaration, now on file at our National Archives in Washington, has yellowed and faded with time, but it remains the most powerful force in the world. The recently exiled Russian author, Alexander Solzhenitsyn, has given fresh affirmation to the enduring idea that "all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness." As Thomas Jefferson said:

> The disease of liberty is catching.

Mr. Jefferson and the other great men of the formative period of our history composed the most remarkable group devoted to government at any time since the golden age of Greece. They bequeathed to us conscience and courage and a passionate attachment to human liberty. They believed that "the God who gave us life, gave us liberty at the same time," and they acted upon that belief.

Of the 56 signers of the Declaration, 5, I am proud to say, were from New Jersey: Abraham Clark, John Hart, Francis Hopkinson, Richard Stockton, and John Witherspoon. Mr. Hart died before independence was won, but the other four had distinguished public careers. It is noteworthy that the Stockton homestead in Princeton serves as the Governor's Mansion; surely, his influence must pervade those hallowed halls.

A great new edifice is not built overnight. It was 11 years from the Declaration of Independence to the writing of the Constitution.

Six signers of the Declaration attended the Constitutional Convention: George Read, Roger Sherman, George Clymer, Ben Franklin, James Wilson and Robert Morris. Their enduring commitment to the public good is reflected in the fact that two of the signers, John Adams and Thomas Jefferson were to become our second and third Presidents. John Adams, Thomas Jefferson and Elbridge Gerry, were our first, second, and fifth Vice Presidents, and others served on the Supreme Court, in the Congress, as Cabinet members, and as Governors. Mr. John Witherspoon of New Jersey, was the president of the College of New Jersey, now Princeton University.

We who bear the proud title of citizens of the United States must, as have previous generations, prove our worthiness as heirs of a nation conceived in revolution and nurtured in liberty—"a spark never to be extinguished." It is up to us to determine whether that spark of national independence and individual freedom will continue to burn brightly or will in fact grow dim and die. I personally am confident that this generation of Americans, too, will put flesh on the noble words of the Declaration and will cherish and advance the values of our civilization. The struggle which began in Philadelphia in 1776 is a continuing one that demands the strength and energies of all of us to achieve a fuller life for our own people and a world of law and liberty for all.

MY RESPONSIBILITY AS A CITIZEN

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. MYERS. Mr. Speaker, I was honored this week to have an opportunity to visit with the winner of the Indiana Voice of Democracy Contest sponsored by the Veterans of foreign Wars of the United States.

I have known Claire Jerry since she was a baby. Her parents, Dr. and Mrs. Robert H. Jerry of Terre Haute, Ind., and I have been close personal friends for years. To see what a bright young American she has grown into was yet another reassuring sign that this Nation can be proud of its younger generation and confident we are leaving this great country in good hands.

Now a junior in South Vigo High School, Claire is one of some 500,000 high school students who participated in the 27th annual contest. This outstanding program focuses the attention of youth on the obligations of citizenship and calls for a personal evaluation of the responsibility in preserving democracy as a way of life in our Republic.

At this point in the RECORD I would like to share with my colleagues Claire Jerry's winning speech entitled, "My Responsibility as a Citizen":

MY RESPONSIBILITY AS A CITIZEN

America is a wonderful country. But she didn't get that way by having people sit around and let the other guy do it. America became wonderful through people just like you and me exercising their freedoms and fulfilling their responsibilities as individual citizens. As a young American these responsibilities are now being extended to me and those of my generation. As I reach to do my part, I find myself face to face with my responsibility as a citizen.

There are innumerable responsibilities that I must face, but three figure as most important to me. First, I must understand and exercise the freedoms given me by the Constitution and the Bill of Rights. Second, I must participate in what the National Council of Social Studies calls an "unfinished experiment in self-government," and third, I must cherish democracy. Just giving each responsibility a nice little title does not indicate the full bearing of them on my life. Each must be broken down and examined individually for complete understanding.

First, I must understand and execute my given freedoms. I must understand through study and examination why the Constitution gives me the privilege of voting, why the Bill of Rights gives me the privileges of peaceful assembly, free worship, free speech, and free press. But just understanding is not enough. I must exercise these privileges intelligently. I must be an informed citizen. When going to the polls, I must be informed on the issues and the candidates. I must be informed as to why I am assembling and the goals of the assembly. I need to know what my religion stands for and what the results of my speaking or writing might be. Then I can exercise my freedoms properly and fulfill my first responsibility as a citizen.

Second, I must help further the "unfinished experiment in self-government." Our nation was founded as a government by the people, and our experiment should never be totally finished. Each generation should further and better the experiment. I can help partially through leadership—if not my own leadership, then by aiding and cooperating with those delegated to lead me. I should also be determined to do my own part and not lean on others to do it for me. Responsibility begins with each individual. I must help combat the internal pressures on our self-government—the pressures of prejudice, hatred, and internal war. Finally, I can aid the experiment by being an idealistic realist. My idealism should be centered on achieving a better reality. When I accomplish all of these through civic participation, I am meeting my second responsibility as a citizen.

The final responsibility as a citizen which seems foremost to me is cherishing the democracy upon which our nation is built. My concern must be for the welfare of all citizens. When the decisions of the majority conflict with my own well-being, I must yield graciously. Yet in bowing to the majority, I must retain my individuality. This is a government of the people—approximately two hundred ten million. We need individuals with their own ideas and suggestions to improve our democracy for the power is in the people. And when the day comes when I can no longer say, "I am a young American," I must turn to the new generations and extend these same citizenship responsibilities to them. By giving them a better democracy, I have completed my third responsibility as a citizen.

If I am able to say that I understand my freedoms and that I intelligently vote, worship, assemble, and speak; if I can say I am furthering our "unfinished experiment in self-government" by leadership and determination, by overcoming my personal prejudices and hatreds; if I do cherish democracy by cherishing others and by preparing for new generations, then I can also say, "I am a responsible citizen."

My responsibilities are no different from yours, and my responsibility as a citizen is to be worthy of that title.

ILLEGAL HELP TO CAMBODIANS

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Ms. ABZUG. Mr. Speaker, I want to know by what authority a major in the U.S. Army is advising the Cambodian Government forces in the midst of a battle? The Congress has specifically prohibited the use of American military advisers there, yet Wednesday's Washington Post carried a firsthand report of the activities of a Major Ondecker, which I insert in the RECORD.

Are we to assume that only one individual is violating the law? or must we assume that if one violation exists there may be many others? Whether it is 1 or 100, it is still too many.

Last October the General Accounting Office charged that a 73-man military team in Cambodia was actually functioning as an advisory group in apparent violation of a 1971 congressional ban on sending either combat troops or U.S. military advisers to Cambodia—and that the State and Defense departments were trying to cover it up. What other coverup is going on now?

As we prepare to consider the President's new defense budget, it might be well to remind ourselves of some history. I insert also a Washington Post article of October 17, 1973, concerning the GAO report:

[From the Washington Post, Mar. 13, 1974]

American Advisers in Combat

(By Elizabeth Becker)

KAMPOT, CAMBODIA.—During the dark hours of dawn the Cambodian insurgents were lobbing mortars around the government's command post at Kampot. Inside, U.S. Maj. Lawrence W. Ondecker was showing the Cambodian officers how to mount a counterattack.

"I want you to respond very quickly he said. If even one mortar falls in your zone, you must answer back with fire immediately."

While the American major was pouring over maps, with the Cambodian staff officers, the Cambodian general officially in command of the post was writing in his diary, alone in an adjoining bunker.

The U.S. embassy in Phnom Pehn has repeatedly denied reports that Americans are serving as military advisers in the field. Congress has passed a law that prohibits the U.S. mission here from direct involvement in the conduct of the war.

But the situation in this coastal town about 80 miles south of Phnom Penh is critical, and Maj. Ondecker was flown down Sunday. "He was loaned to us from the 3d infantry Brigade," Lt. Col. Choey Yeun said. "He is attached to the 3d and normally works in the field with them, but he is needed here. I am surprised that you did not know him."

In the past month rebel troops have moved within one to four miles of Kampot, capturing the city's main water supply and the country's only cement factory. They regularly shell the town with 75-mm. recoilless rifles and 81-mm. mortars.

Although government intelligence officers warned of an impending offensive as early as January, the Kampot garrison made no defense preparations. Over the past week the Cambodian high command sent reinforcements—and they sent Maj. Ondecker.

"Protect this area immediately," Maj. Ondecker said while the 31 rounds were falling in and around the city Monday morning. "Good, perfect," he said as a Cambodian officer pointed on the map after accepting the American's proposal.

The day before rebel gunners shot down one of the two helicopter gunships stationed here, and the second one was recalled to Phnom Penh. Maj. Ondecker arranged with the U.S. embassy on the morning of the attack that additional gunships would be sent to Kampot to support the infantry.

A member of the U.S. military attache's staff in Phnom Penh, Ondecker, is in Kampot officially to gather information. Chuck Bernard, known as Monsieur Jacques, is the other U.S. representative in town. He has approximately the same official duties as Ondecker except that his area is civilian matters.

"Monsieur Jacques works with me," said Ker Sophay, director of political warfare. "He writes propaganda tracts with me. We have published and distributed 6,000 pamphlets in the three weeks he has been here."

While junior Cambodian officers say Americans advise in the field around Phnom Penh, it has never been confirmed. In Kampot, however, it is difficult to hide. Ondecker was in and out of the command post, openly recommending military maneuvers. Sometimes he prefaced his proposals with "I suggest and the general also suggests that you immediately fire in this direction."

The Cambodians were obviously pleased with the Americans help. "Maj. Ondecker was very good with the 3d Brigade: he will be good with us," said Col. Choey Yeun.

Changes were made quickly after Ondecker's arrival. Another infantry brigade was called in to bolster the 2,000-man government garrison, and the top command was replaced within 24 hours. The city's defense perimeter was stabilized for the first time throughout the siege.

Villagers are still leaving the town—the population has dropped from 50,000 to less than 20,000 in a month. Though all private shops are closed, and mortars still land withing the city, the city's small open-air market reopened Sunday with some fruit and fish offered for sale.

[From the Washington Post, Oct. 17, 1973]

Role of U.S. Team in Cambodia Rapped

A 73-man U.S. millitary team in Cambodia is actually functioning as an advisory group in apparent violation of a 1971 congressional ban, the General Accounting Office charged yesterday.

The GAO, in a 92-page report on U.S. operations in Cambodia, also said there has been a considerable number of questionable financial transactions by both U.S. and Cambodian officials in the three years since American aid to the Phnom Penh government resumed.

It charged, too, that State and Defense department officials and U.S. military officers including Adm. John S. McCain Jr., the former Pacific commander, tried to hinder its investigation and blocked access to some vital information.

The report cited congressional bans on sending either combat troops or U.S. military advisers ot Cambodia, and said that while Secretary of State William P. Rogers and Secretary of Defense Melvin R. Laird claimed in 1971 the government was abiding by the rules, in fact it was not doing so.

"As the Cambodia staff increased it assumed additional duties and became more involved with the Cambodian military. Except for not assigning advisers to specific field units, MEDT operated much the same as a military assistance advisory group," the report said. MEDT stands for military equipment delivery team.

The GAO said the team, which is supposed to oversee the arrival and allocation of supplies, helps the Cambodians draw up military plans, operate their headquarters, run the supply system and perform other military functions.

In addition, it said, the Defense Department sent in at least 61 special teams on temporary assignments in Cambodia that were "almost totally unrelated to equipment delivery."

The report made no mention of the role of U.S. military men in running the bombing program in Cambodia halted on Aug. 15 by congressional action. It did report that the military spent over $600,000 to set up communications for it and then concealed the money.

Among other irregular transactions it listed were:

Concealment of costs for 300 GIs who trained Cambodian soldiers in Vietnam and for "excess" equipment turned over to Cambodia.

Continued existence of large numbers of phantom soldiers on Cambodian military payrolls.

Diversion of weapons by Gen. Lon Nol, brother of chief of state Lon Nol, from a legitimate military unit to his personal bodyguard.

Aid requests for funds far in excess of what it knew Cambodia could absorb.

AMENDMENTS TO NATIONAL HEALTH SERVICE CORPS

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. ROGERS. Mr. Speaker, today, I, Chairman STAGGERS of the Committee on Interstate and Foreign Commerce, and 9 of the 10 members of the Subcommittee on Public Health and Environment, Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, and Mr. HUDNUT, introduced the National Health Service Corps Amendments of 1974. This legislation would revise and extend the provisions of section 329 of the Public Health Service Act, which establishes legislative authority for the National Health Service Corps.

The original legislation was enacted late in 1970 and has grown to be one of the most successful and popular legislative efforts in the last few years. It has succeeded in placing in medically underserved communities, both urban and rural, much needed physicians, dentists, nurses, and other health professionals who are now actively engaged in providing medical care to communities where it was previously unavailable or in short supply. This is a program which has enjoyed broad bipartisan support in past Congresses, and one which has the support of the members of this subcommittee.

I am attaching a brief description of the changes in the National Health Service Corps made by this legislation. The subcommittee plans to hold hearings on this bill within the next few weeks, and I hope we will have legislation ready for House consideration in the very near future.

The description follows:

CHANGES IN THE NHSC MADE BY THE "NATIONAL HEALTH SERVICE CORPS AMENDMENTS OF 1974"

1. Changes the definition of a "medically underserved area" to conform to the definition of a "medically underserved population" used in the HMO Act of 1973. Clarifies the present legislative intent that the Secretary is to publish a list of all of the underserved populations in the United States by requiring a report to Congress by September 1, 1974, on the criteria used in designating medically underserved populations, and the publication of such a list by January 1, 1975. Provides a new mechanism by which representatives of populations which are not designated by the Secretary as underserved may apply to him for such designation, and lists the indicators of the availability of health services which should be considered when reviewing such applications. Sec. 329(b)(1), (b)(2), and section 1(b).

2. Clarifies the existing requirements for applying for the assignment of NHSC personnel to make it clear that a community seeking such assignment must make application to the Secretary, and specifying that, in communities with several medical or dental societies, the approval of any one of these societies will be sufficient for the approval of an application. Section 329(c)(1)(A).

3. Adds a new requirement that the Secretary may approve applications for NHSC personnel for periods which do not exceed four years, and that, if a community desires assignment of NHSC personnel for more than four years, it must reapply to the Secretary at the end of the original four-year assistance period. Requires the Secretary in considering applications for continued assistance for a community to apply the criteria necessary for the original approval of an application and, in addition, to evaluate the community's continued need for NHSC personnel, the use of personnel assigned to date, the growth of the practice of the as-

signed personnel, the community's support for the assignment, the community's continued efforts to secure its own health manpower, and the quality of the management of the NHSC practice. Section 329(c)(2).

4. Adds a new requirement that the Secretary, in assigning Corps personnel to communities, make an effort to match the characteristics of the personnel (and their spouses) and the communities to which they may be assigned in such a way as to maximize the likelihood that the personnel will remain in the community after the completion of their assignment and leaving the NHSC. Further requires the Secretary to review the assignment of each Corps assignee and the situation in the community to which he is assigned for the purpose of determining the appropriateness of extending his assignment. Section 329(c)(4).

5. Makes new authority available to the Secretary to make grants, not in excess of $25,000, to medically underserved populations to be used for the purpose of establishing medical practices for NHSC personnel. This provision is written to repay to the Federal government the amounts of such grants using revenues generated by the practice. Section 329(d)(3) and (e)(1)(G).

6. Provides authority to the Secretary to sell to NHSC communities at fair market value any equipment in his ownership which has been used by NHSC assignees in providing health services. Sec. 329(d)(4).

7. Clarifies the financial arrangement that the Secretary and communities receiving NHSC personnel must enter into. Provides that a community must:

(1) charge patients seen for health services received.

(2) make reasonable efforts to collect the amounts of such charges, and

(3) pay to the United States the lesser of either:

(a) the amount collected under (2) or

(b) the pay and allowances of the NHSC personnel plus the amounts of any start-up grants provided to the community (suitably pro-rated over the period of NHSC assignment).

These provisions have the effect of assuring that NHSC communities will be responsible for payment to the Federal government of the reasonable costs incurred by it in the operation of the program, but, that in the event the practice generates additional revenues, these additional revenues may be retained by the community for its use in improving or expanding the practice, or recruiting its own health manpower. The ability of the community to retain some funds is intended to provide the community with a significant incentive for the efficient and effective collection of charges billed to patients. Sec. 329(e)(1).

8. Requires the Secretary, under regulations which he prescribes, to adjust the monthly pay of physicians and dentists serving in the NHSC so that their pay will be competitive with that of physicians and dentists in established practices with equivalent training. This provision constitutes, in effect, a pay bonus and is modeled after bonuses presently being considered for physicians and dentists serving in the Armed Forces. It will be limited to an amount, not to exceed $1,000 per month, which is intended to make service in the NHSC attractive on a financial basis for young physicians. Further, the pay bonus would be available in its full amount only during the first three years in which an individual served in the NHSC. Subsequently his salary would be held constant so that as the practice grows it will become financially wise for the NHSC personnel to leave the Corps and enter private practice in the community to which they are assigned. Sec. 329(f)(4).

9. Adds new requirements to the existing requirements for an annual report to the Congress that the report indicate the number of patients visits recorded in the previous year by the NHSC, the results of evaluations conducted by the NHSC, and the amounts charged, collected, and paid to the Federal government by NHSC communities. Sec. 329(g).

10. Renames the existing national advisory council as the National Advisory Council on the NHSC, requires membership on the Council from communities served and NHSC personnel assigned, and gives the Council the authority to review and approve program regulations. Sec. 329(h).

11. Provides the Secretary authority to seek appropriations for the NHSC a year in advance so that stable budget planning will be possible in order to facilitate long-range recruitment of physicians and dentists for the Corps. This is important because most physicians and dentists make their career plans as much as a year in advance and therefore the Corps must know as much as a year in advance how many physicians its appropriations bill will support. Sec. 329(i)(2).

12. Requires the Secretary of HEW to conduct or contract for studies of methods of assigning personnel in the NHSC with the purpose of identifying the characteristics of health manpower who are likely to remain in practice in medically underserved populations, the characteristics of areas which have been able to retain health manpower, the appropriate conditions for the assignment of independent nurse practitioners and physicians' assistants in medically underserved populations, and the effect of primary care residency training in such populations on the health care provided and the decisions of the residents respecting areas in which to locate their practice. Sec. 1(b)(2).

13. Amends the NHSC scholarship program to follow the provisions of the military health manpower scholarship program respecting monthly payments to participants and support by the Secretary for the costs born by institutions who increase their enrollment in order to accept participants in the scholarship program. Sec. 225(c)(1)(A) and (c)(2)

14. Provides that the payments under the scholarship program for individual living expenses may be adjusted by the Secretary in proportion to any inflation in living costs. Sec. 225(c)(1)(B).

15. Clarifies the legislative specification that individuals completing the scholarship program be available first for service in the NHSC or Indian Health Service, second, if no positions are available in the above, for service, in the Federal Health Programs Service, and third, if no positions are available in any of the above, for any service deemed appropriate by the Secretary. Sec. 225(d)(2).

16. Provides a penalty provision similar to the one contained in H.R. 7724, the Biomedical Research Training legislation, which would require individuals who fail to perform obligated service to pay back their scholarship and related Federal contributions to their education at twice their original value. This provision is responsive to the experience of existing, primarily state, loan and scholarship training programs which have been that without such penalty a substantial portion of the participants will repay the dollar value of their scholarship rather than perform the obligated service. Sec. 225(e)(1).

17. Authorizes appropriations for the NHSC as follows:

	Million
1975	$30
1976	35
1977	40
Total	105

Authorizes appropriations for the NHSC scholarship program as follows:

Fiscal year:	*Million*
1975	$20
1976	25
1977	30
Total	75

FIRST AMENDMENT EXTREMISM

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. WYMAN. Mr. Speaker, I was appalled to read in an editorial in today's Washington Post the contention that our national commitment in political debate includes the right to defamation and that this right is constitutionally protected under the first amendment. The precise editorial statement was as follows:

> The national commitment to robust, uninhibited political debate encompasses the liberty to criticize, to exaggerate, to vilify and even to defame.

Clearly the first amendment does not and cannot protect defamation no matter how heated, bitter, or vitriolic a political campaign may become. Individuals seeking public elective office must be protected against willful defamation or no person of decent reputation will be willing to become a candidate.

Surely this problem merits the attention of both the executive and legislative branches in the interest of fairness. Equally surely, a responsible response can be achieved within the context of the constitutional mandate, rationally interpreted.

In such a frame of reference, initiatives by the administration toward a workable solution should not be condemned on the basis that the Constitution protects willful libel and slander in political campaigns. It does no such thing.

The editorial follows:

Fiddling With the First Amendment

Under the guise of campaign reform, President Nixon has started something very mischievous. He has asked the Justice Department to develop legislation to give public officials and candidates greater recourse against libelous and slanderous attacks by their opponents and the press. The aim, Mr. Nixon said on Friday, is not "to restrict vigorous debate, but to enhance it," and to encourage "good and decent people" to run for office without fear of scurrilous attacks. But this new drive for truth in politics is likely to have quite different results. Intentionally or not, it may divert public attention from the real, substantial problems which discourage many citizens from involvement in politics. And it may also touch off, in a confused, bitter and unproductive way a new round of sniping at the press—though the primacy of the First Amendment was settled in this country, we had thought, about the time of the demise of the Sedition Act of 1798.

The present constitutional standard for libel actions involving public figures is quite clear. As the Supreme Court declared in *New York Times Co. v. Sullivan* in 1964, a public official must prove that an injurious statement not only was false, but was uttered or published "with 'actual malice'—that is, with knowledge that it was false or with reckless disregard of whether it was false or not." The same standard applies to attacks leveled by public officials against each other or against private citizens. In other words, all who participate in government or the discussion of public affairs enjoy broad liberty to comment and criticize, however wrongly or intemperately, unless actual malice can be shown.

Mr. Nixon has styled the *Sullivan* decision as "virtually a license to lie." But the standard does not make all libel suits impossible; Sen. Barry Goldwater, for instance, won a $75,001 judgment in a suit against Fact magazine and publisher Ralph Ginzberg a few years ago. Mr. Nixon did not mention this. He did not indicate what specific rhetorical abuses had prompted his sudden concern. He did not provide any evidence of "good and decent people" driven out of politics because they could not stand the heat. Nor has the administration settled on a new approach to recommend instead.

Administration spokesmen do concede that attempts to enact a federal libel law—even something more modest than a new sedition act—may run into some constitutional problems. That is an understatement; the constitutional problems are so immense that any such effort appears futile from the start. The national commitment to robust, uninhibited political debate encompasses the liberty to criticize, to exaggerate, to vilify and even to defame. Or as the Supreme Court said in another case, "It is a prized American privilege to speak one's mind, although not always with perfect good taste, on all public institutions."

For Mr. Nixon to sport with this subject in terms of encouraging "good and decent people" to enter the profession of politics or government is as ludicrous as it is cynical, when you consider what has happened to most of the men who were initially closest to the pinnacle of power in the original Nixon government. Nobody should know better than the President by now that far and away the best way to begin to encourage "good and decent people" to go into government is to conduct a good and decent government.

IT IS FOLLY TO ABROGATE THE PANAMA CANAL TREATY

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. HOGAN. Mr. Speaker, with the signing of the "Statement of Principles," guidelines have been set for the United States and Panama to begin negotiations for drafting a new treaty with respect to the Panama Canal Zone.

An article by columnist James J. Kilpatrick appeared in the Baltimore Sun on February 17 which I would like to insert in the RECORD at this point. The impact of a new treaty could have numerous ramifications and it is important that we formulate our objectives on this matter as early as possible.

The article follows:

IT'S FOLLY TO ABROGATE THE PANAMA CANAL TREATY

(By James J. Kilpatrick)

WASHINGTON.—Formal negotiations will get under way in the next few weeks or months between the United States and Panama, looking to the drafting of a new treaty that would put an end to U.S. possession and control of the Panama Canal. By the end of this year, a State Department spokesman has said, an agreement should be ready to present to the Senate.

But if the Nixon administration succeeds in marching this treaty to ratification, it will be over the dead body, metaphorically speaking, of Pennsylvania Representative Daniel J. Flood. The Democrat from Wilkes-Barre has been sounding Catonian warnings on this matter for the last 15 years. He has a couple of hundred allies in the House and a substantial number of senators who agree with his view: Abrogation of the treaty of 1903 would be folly.

In my own view, Mr. Flood and his cohort are precisely right. A dozen sound reasons can be advanced for leaving the treaty undisturbed. The only argument in favor of abrogation was put forward by Senator Edward M. Kennedy (D., Mass.) in a recent speech. The present treaty, he said, has embittered our relations with Panama and been an affront to every developing nation around the world. Mr. Kennedy describes the treaty of 1903 as "an embarrassing anachronism."

The senator embarrasses easily. Under the treaty of 1903, by which the United States acquired rights "in perpetuity" to the Canal Zone, our nation has poured billions of dollars into Panama. Since the canal was opened to traffic in 1914, it has been operated and maintained with scrupulous fidelity as an international waterway, freely available to the ships of the world. Doubtless a new treaty would have some advantage for Panama. What possible advantage would it have for us?

The eight principles that would under-lie a new treaty were set forward in the agreement signed in Panama February 7 by Henry A. Kissinger, the Secretary of State. These begin with outright abrogation of the 1903 treaty. The concept of perpetuity would be eliminated. At the end of some fixed period of years, all U.S. jurisdiction would be terminated, and Panama would assume total responsibility for operation of the canal. Meanwhile, Panama would participate in administration of the canal, and the U.S., now and hereafter, would continue to pay the expenses of maintenance and operation.

These are principles—for what? In Mr. Flood's view, they spell sellout and surrender. In return for its enormous investment, the United States gets nothing. In place of the canal's stable and orderly administration over these past 60 years, the United States wins the prospect of Communist domination.

To be sure, if the proposed new treaty were ratified, Panama no longer would be embarrassed. That is delightful, is it not? The people of Panama would be happy. Their leftist dictatorship would be pleased. The Soviet Union, now the first naval power in the world, would be ecstatic. But how in the name of common sense did these felicitous objectives come to be policies of the Nixon administration?

Great powers, if they would remain great powers, have to accept a measure of unpopularity. They cannot survive as everybody's chum. Senator Kennedy imagines that in today's world "nations relate to each other on a basis of equality." It is not so. Such equality may exist in the kindergartens of the United Nations, where everyone plays make-believe, but it is no part of the real world.

It seems highly unlikely that two-thirds of the Senate could be mustered to consent to a treaty of sellout. The House itself may have to be reckoned with; it shares with the Senate the power "to dispose of and make all needful rules and regualtions respecting the territory or other property belonging to the United States." It will be some time before the canal changes hands. Meanwhile, suppose we look to the canal's defenses and keep the old powder dry.

UNITED VETERANS COUNCIL OF LONG BEACH OPPOSES CLOSURE OF FORT MACARTHUR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1974

Mr. ANDERSON of California. Mr. Speaker, the Department of Defense announced intent to close Fort MacArthur—the only Army installation in the eight-county southern California area—has completely ignored the needs of the people in the area, many of whom located in the San Pedro vicinity in order to utilize the facilities at this historic post.

And such a disregard for the needs of the people in the Los Angeles area—which 1 out of 12 servicemen call home—adversely affects not only the retired military personnel, the dependents of servicemen, and the local economy, but it also adversely affects the efforts to achieve a volunteer Army. Obviously, without the support of the community, the volunteer Army cannot attract the kind of personnel needed to maintain a defense posture second to none.

Mr. Speaker, one such community organization, the United Veterans Council of Long Beach, under the able leadership of its Commander Raymond Krinsky and its Adjutant John Doran, has taken a strong stand in opposition to the closure of Fort MacArthur. At this point, Mr. Speaker, I place their views in the RECORD:

UNITED VETERANS COUNCIL OF LONG BEACH,
Long Beach, Calif., February 6, 1974.

Hon. GLENN M. ANDERSON,
1132 House Office Building,
Washington, D.C.

DEAR CONGRESSMAN ANDERSON: The United Veterans Council of Long Beach, California, would like to take this opportunity to thank you for your efforts in behalf of the retention of the Fort MacArthur Army Base at San Pedro, California.

In an emergency meeting of our Executive Council today, February 6, 1974, on the matter of the impending closure of Fort MacArthur Army Base, our delegates voted unanimously to support your position on this issue.

Our interest in this matter increased when a proportionate amount of our members, or members of their families, were found to be working at Fort MacArthur. In addition, many of the older military retirees living on fixed incomes who settled in this area many years ago with the expectation of utilizing the Post Exchange and Commissary which is a part of their retirement benefits, are deeply concerned.

With the closure of the Long Beach Naval Station slated for June 30, 1974, and the reduction of exchange facilities and overcrowded commissary, the burden on the military retiree in the San Pedro area and Long Beach area indicates a lack of planning or indifference by the Defense Department.

Our recommendation is as follows; if the proposed closure is for economy reasons, as we are led to believe, then why not move present Army Reserve and National Guard units in the Long Beach/Signal Hill areas to Fort MacArthur and any other governmental agencies in the surrounding areas? This would increase our security on government property and equipment at no additional cost at a time when these activities are vulnerable to revolutionary attacks. This could then release this land for development and placement on tax rolls.

In the event that this closure proceeds as planned, we would hope you realize the need for recomputation of military pay for retirees.

We would appreciate your comments and hope for a prompt reply on this matter.

Sincerely,

Raymond Krinsky,
Commander.

TRIBUTE TO THREE GREAT DEMOCRATIC LADIES: OUR COLLEAGUES, EDITH GREEN, MARTHA GRIFFITHS, AND JULIA BUTLER HANSEN

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. EVINS of Tennessee. Mr. Speaker, three of the brightest stars of the House will be absent from the Congress next year—the gentlelady from Oregon (Mrs. Green), the gentlelady from Michigan (Mrs. Griffiths), and the gentlelady from Washington (Mrs. Hansen).

It is with great regret that I learned of the decisions of these great ladies to retire—they have all served faithfully and well and have reflected great credit on their districts, States, and the Nation. They have demonstrated great ability, great creativity and they have enriched the legislative history of our Nation.

Mrs. Green, as a member of the Committee on Education and Labor, rendered outstanding service in the field of education—much of the progressive education legislation on the books today bears her imprint and attests to her keen insight into the educational needs of the young people of America.

She is presently serving ably and effectively, as a member of the Committee on Appropriations. Her service in the Congress began with the 84th Congress in 1954. Mrs. Green has been most effective throughout her service in the U.S. Congress—she is able, articulate, and skilled in the arts of legislation.

The many awards and honors which Mrs. Green has received defy description—she has received 29 doctorate degrees and many, many awards for outstanding and distinguished service in the public interest.

Mrs. Griffiths has served with great distinction as a member of the important Committee on Ways and Means, and has assisted in the preparation of important legislation with reference to tax reform and social security matters.

Perhaps, however, her greatest accomplishment has been as author of the equal rights for women amendment, which was passed by the Congress and has been ratified by a number of States. As a matter of fact, Mrs. Griffiths has been a champion and advocate of women's rights during her outstanding career in the Congress, and is highly respected and esteemed for her knowledgeable and cogent presentations and advocacy of this great cause.

Mrs. Hansen is genial, cooperative, and helpful—a true lady in every sense of the word—and also a gifted and talented leader and legislator whose great abilities have contributed much to the legislative enrichment of the Congress.

As chairman of the Subcommittee on Interior Appropriations of the Committee on Appropriations, Mrs. Hansen has provided vital leadership at a crucial time in our history when the demands for preservation of the environment must be balanced against the need for developing and providing vital and essential services for our expanding population.

Mrs. Hansen has demonstrated great ability and effectiveness in her concern for the environment, for progress, for our national parks and forests, fisheries, energy resources, reclamation, hydroelectric power, and the needs of the Indian people.

I am sure that my Democratic colleagues will recall that it was Mrs. Hansen who introduced proposals in 1972 for improvement of the efficiency of the House—proposals which were adopted and which have accomplished much toward broadening the base of participation by all Members.

These three great ladies—all talented and outstanding in their fields—have contributed much in legislative substance to the Nation's history during their years of public service in which they have served their districts, States, and Nation ably and faithfully.

Apart from their achievements and accomplishments, we shall miss the sparkle of their warm and friendly personalities—they are bright, engaging, Democratic ladies whom I count among my good friends. Their absence from the Congress next year will leave a void which will be difficult, indeed, to fill.

I am sure that all will wish these great ladies the very best of good luck, good health, and much happiness in their retirement, which they so richly deserve.

DEEP GRATITUDE TO MRS. HANSEN, U.S. REPRESENTATIVE

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 5, 1974

Mrs. BURKE of California. Mr. Speaker, Julia Butler Hansen's contributions to her country and to the American people cannot adequately be summarized by my few remarks; they have affected too many people, and covered too many great causes. But I wish to join my colleagues in expressing my very deep gratitude for having had the privilege of working with her this past year.

In her 37-year-long career of public service, Mrs. Hansen has devoted tremendous energy and spirit to dealing with the concerns and problems of all Americans. As the Representative from the Third District of Washington for 14 of those years, she has translated her special concern for the environment, mass transportation, public lands and the native American Indian people into solid legislative action. Her contribution to the U.S. Congress as chairwoman of the Committee on Organization, Study, and Review of the Democratic Caucus, will long be remembered and valued.

Having been born to a mother in public office, and having herself given birth to a child while a member of the Washington State Legislature, Mrs. Hansen understands the special rigors which effect women in public life, and has shared that understanding widely. Her leadership and character have inspired women throughout the United States who have set their sights on public office.

Those of us who have known Julia Butler Hansen as a private individual as well as a public servant have been forever impressed by her compassionate understanding of people as well as of complex issues. In her absence we can only hope that her good humor has been contagious, and that her courage and dedication have infected others. I can speak for my colleagues in affirming that she will be dearly missed, and wish her the best of good fortune and happiness in her retirement.

COMBATING CANCER

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. GINN. Mr. Speaker, while every Member of the House is aware of the efforts of my delegation colleague toward combating cancer, I wish to call to the attention of the House the recognition that Congressman Jack Brinkley has received from the State of Georgia for his work. During the 1974 session of the general assembly, the following resolution was read and adopted by the Georgia House of Representatives. I would like to take this opportunity to share it with my colleagues as further recognition of the importance of Congressman Brinkley's legislation:

A Resolution Commending Congressman Jack T. Brinkley of the Third District, for His Work in the Fight Against Cancer; and for Other Purposes

Whereas, Congressman Jack T. Brinkley of the Third District has introduced "The National Cancer Research Act of 1973" in the United States Congress; and

Whereas, this bill provides a massive research campaign to find a cure for cancer within a five-year period; and

Whereas, this legislation might lead the way to the cure of cancer, either through the development of a chemical which would effectively kill cancer cells or a vaccine which would actually prevent cancer; and

Whereas, he has been an outstanding Congressman, representing the Third District of Georgia in an exceptional manner, and is presently serving his fourth term in the United States House of Representatives; and

Whereas, it is only fitting and proper that Congressman Jack T. Brinkley be commended for his work in the fight against cancer and that the members of Congress and the Georgia Delegation, in particular, give serious consideration to this proposed legislation.

Now, therefore, be it resolved by the House of Representatives that this body does hereby commend Congressman Jack T. Brinkley for his work in the fight against cancer and urge the members of Congress and the Georgia

Delegation, in particular, to give serious consideration to the "National Cancer Research Act of 1973."

Be it further resolved that the Clerk of the House of Representatives is hereby authorized and directed to transmit an appropriate copy of this Resolution to Congressman Jack T. Brinkley and to the other members of the Georgia Congressional Delegation.

GOVERNOR BRISCOE ADDRESSES TEXAS AGRICULTURAL EXPERIMENT STATION'S STAFF CONFERENCE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. TEAGUE. Mr. Speaker, recently I had the privilege of listening to Gov. Dolph Briscoe of the great State of Texas address the Texas A. & M. Staff Conference of the Texas Agricultural Experiment Station.

At that meeting the Governor outlined the tremendous potential of Texas agriculture. I am sure Members of Congress and the general public would be interested in his remarks.

The remarks follow:

REMARKS OF GOV. DOLPH BRISCOE

Thank you for a kind and generous introduction.

I know of no other place where I feel more at home than I do with you. For a great number of years I have worked closely with you and I know personally the great contribution the men and women of the Texas Agricultural Experiment Station have made to the progress of Texas. Working with your partners—the Texas Agricultural Extension Service—the many lasting benefits of research have been carried to the people of this State, and as a result of these efforts, all Texans have enjoyed a more abundant life.

President Williams, I would like to thank you, Dean H. O. Kunkel, Directors Miller and Hutchison and the many dedicated members of this university staff both here and in the field for our favorable position in agriculture. Of course, many of you hold joint teaching appointments and I exprss appreciation also to those dedicated teachers who are training the young men and women who will lead agriculture and home economics in the future.

Dr. Williams, in my opinion the land grant university concept of teaching, research and extension is one of America's great achievements. I hope that the high priorities given to agriculture and rural life in the past will be accelerated in the future. You are assured of my continued support for your efforts.

You are aware that one of the goals of my administration is to make Texas Number One in Agriculture, not only in volume of sales but in profits to the farmers and ranchers of this State. If we achieve this goal then we all must accelerate our efforts. I believe no one could be engaged in a more exciting career than in today's dynamic agriculture.

Agriculture is really the great hope of our country. Not only does it feed and clothe our people but agriculture has become the one tool with which we can compete most efficiently in foreign markets.

Dean Kunkel, in his annual report message, said "an agronomist can no longer be concerned only with producing the seed, but he has to be part of the team concerned with the disposal of the straw." Yes, the agronomist has to be a team member. You are developing a team approach and I congratulate you on the strides you are making. The fourteen designated research and extension centers, one of which is located in my home town of Uvalde, provide truly effective multidisciplinary task forces, dedicating their efforts toward solution to the problems of the areas in which they are located. The conduct of research by the station is organized into projects which outline objectives. This provides for necessary coordination to insure that the most important priority problems are being investigated and prevents costly and unnecessary duplication. The Research and Extension Centers and dynamic area development programs such as B.E.T., B.I.G., P.E.P., South Plains, El Paso, Rolling Plains and the new one just recently organized at Uvalde can continue to make Texas agriculture a leading economic and social base for a more prosperous Texas. After all, the principal measure of research success is the impact that research has had on the economy and well being of the people of the State.

No one would deny that Texas agriculture and its associated supplying, processing and distributing industries have been transformed dramatically in recent years. And agricultural research has been the basis for every change—the new varieties of cotton, rice, vegetables and grain sorghums, the modern fertilization practices, the new equipment and processes, the new management and cultural practices, the new livestock rations and feeding systems. As only one measure of value of agricultural research in Texas, cash farm income increased almost 50 percent between 1962 and 1972. This increase was more than $1.1 billion.

Projects in rural economic development, cooperatives, financial institutions serving agriculture, foundation seed programs, insect and disease programs, poultry diagnostic services, water, livestock and crop programs and hundreds of other projects make the future exciting indeed.

We must see to it that the rural areas of Texas do not dry up and that they do not die; but that they offer to each Texan the opportunity to make that decision as to where he or she wants to live, to where they want to make a decent living, to where they want to have educational opportunities for their children. Rural Texas must provide medical services for families, library opportunities, and a way of life that is attractive to our citizens.

This we can do and I think nothing less will do.

We must work toward the attraction of job opportunities and economic development—the attraction of existing industry to rural areas—the orderly development and protection of our natural resources—the improvement of government services and facilities—more emphasis on vocational career-oriented education—a partnership between the business community, the agricultural community and our educational system. We must be sure that we are training the young people of today for the career opportunities and the job opportunities, that will exist in the world in which they will live.

Our aim then must be to increase jobs, to increase economic activity.

Certainly agriculture alone, in the rural areas of this state, cannot do it. But today because of very fortunate circumstances that exist throughout this world. I believe that we are in a position to achieve within a very few years what I think to be a most important goal for all of Texas and that is to make Texas number one in agricultural production and profit in the United States.

With your help—the help and the leadership of those assembled in this room—we can make known to those engaged in agriculture throughout the state the potential for additional productivity that exists in practically every field of agricultural endeavor in Texas today.

Your distinctive service, and the support of the other state agencies working towards this goal, certainly makes our goal of becoming number one in agriculture an obtainable objective.

I am convinced that as we look to the future, Texas agriculture will become more important in many, many ways; one of which will be the worldwide demand for agricultural products.

In terms of world trade, agriculture is a major contributor to America's balance of payments and Texas plays a major role in this worldwide market. Our State is the leader in the export of beef breeding cattle, cotton and rice. In fact, during fiscal 1973, Texas' agriculture exports totaled $835 million—or about 21 percent of the State's total farm cash receipts.

Foreign trade is important to the Texas agricultural economy, and it will have an even greater impact—and greater potential—in the future.

America has at last faced the realization that the days of importing low cost petroleum from the Arab nations is past. If we are to continue importing oil to meet our energy demands of the future, the cost will likely continue its upward spiral.

To offset these growing deficits we must be in the position to export those products which the United States can produce more efficiently and more economically than any other country in the world.

These products, of course, are the crops and livestock of our farmers and ranchers.

I think this gives us a great outlook, a great potential, of making Texas number one in agriculture in the United States.

I congratulate each of you on your profession and achievements. It was men and women of research and education who looked into test tubes and under the microscopes and built American agriculture into a success story unsurpassed anywhere else in the world.

We do not know what new worlds, what new frontiers of science, what new techniques, are as yet undiscovered. Some forecasts of developments before the year 2000 are: reliable weather forecasts and regional weather control, translation of languages by computers, production of primitive artificial life, blanket immunization against infectious disease, and the economic production of synthetic protein foods.

Expected in the succeeding quarter century—when children born this year will be only in their fifties are: direct links between the brain and the computer, chemicals to stimulate the growth of new organs and limbs, drugs to increase the life span, and other drugs to increase intelligence, education by direct recording on the brain, and production of a fifth of the world's food from ocean farming.

The future will be exciting. I am confident that the men and women of the Texas Agricultural Experiment Station will, as ever, be in the forefront in service to their fellow man.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1974

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. BRADEMAS. Mr. Speaker, when the House considers amendments to H.R. 69, the Elementary and Secondary Education Amendments of 1974, I plan to offer the following amendment:

Page 34, line 13, insert after "year" the following: "(using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the second calendar year preceding such month of January)."

CONGRESS' REPUTATION

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the Washington Star-News, Mar. 9, 1974]

CONGRESS' REPUTATION

About the only thing that gives Republicans any satisfaction these days—and this is very small succor at best—is that Congress rates lower than President Nixon in some poll showings. "I can assure you the President will never be as low as 21 percent in the polls," GOP National Chairman George Bush told a cheering crowd at the Louisiana Republican Convention the other day.

Whether Bush is walking on thin ice there, we have no idea, but his theme is familiar wherever Republicans gather. Yes, the President's popularity is mighty low, "yet the respect and feeling that people have for the Congress is even lower." The 21 percent referred to is what one recent survey shows for Congress (though others are more generous), while Mr. Nixon hovers about five points higher. Aside from the obvious fact that a large number of Republicans serve in Congress along with the Democratic majority, and presumably contribute to the rating, there are reasons why no one of any partisan stripe should take cheer from such comparisons. It is a chilling commentary on the times that central institutions of government vie on the basis of which is least unpopular, all having been kicked into the cellar of public esteem.

Congress perhaps is the more pitiable, since by nature, it is so unwieldly, so incapable of swift and decisive action on matters of high controversy. What the public doesn't realize is that 535 representatives of widely varying constituencies and interests simply cannot, except very rarely, move as one—cannot, in fact, run the country. As the great American arguing forum, Congress seldom can present a unified image, and hence cannot achieve the popularity of a single national leader at his best. So, in its milling diffusion, it always has been an all-purpose punching bag for the public when things go wrong, ridiculed for incompetence by Mark Twain, Mencken and scores of other popular pundits. Never, though, has its low rating matched the current slump. This is due, no doubt, to the poisonous Watergate ambience and assorted federal failures of recent years, but perhaps mainly to the increased visibility afforded by television.

Congress has, after all, been worse in times past than it is today. In much of what is considered the old Golden Age, it was more servile to a few greedy interests, and not long ago it was full of demagogic spewings, racial and otherwise. But Theodore G. Bilbo, and the fixers of yesteryear, did not come into our living rooms in living color, or the faith might have flagged long ago. Now the public is more knowledgeable, and Congress—despite its shortcomings of inaction and profligacy—is more circumspect.

But it must become more so, quite obviously, while continuing to reform its ancient mechanisms for more efficiency and public accountability. We doubt that Senator Muskie's idea of televising its sessions holds the potential for much more than public boredom on a massive scale, and maybe added disillusionment. The real need is for action to demonstrate responsibility—such as setting up a budgetary system through which Congress would plan and control its spending. This elementary reform, by itself, would do much to enhance Congress' image.

THE FLEMMING SISTERS—TWO OF THE BEST

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. HUNT. Mr. Speaker, recently I had the privilege of helping the Blenheim Elementary School, located in my district, celebrate its 50th anniversary. I want to say Mr. Speaker, that I have never been in a school that was so clean and orderly, and where the students conducted themselves so mannerly.

It is an old school, Mr. Speaker, run on the same principles that we hold so dear—dedication to purpose and love of job and students.

Two people who have contributed to the fine record of this institution are the Flemming sisters who have given dedicated service to the Blenheim school for 45 years. As a tribute to them and to the school, I submit the following article from the March 7, edition of the Woodbury Daily Times:

TWINS IN GLOUCESTER TEACH FOR 45 YEARS

(By Ann Wilson)

GLOUCESTER TOWNSHIP.—Rachel Flemming stepped into the Blenheim School office, leaned against the filing cabinet and asked: "Have you met my other half yet? Come on, I'll introduce her to you."

A walk across the school lobby into the kindergarten room found Rachel's "other half" behind a desk sorting some papers.

It became doubly apparent why the term "other half" was used . . . Catharine is Rachel's identical twin sister.

"We've never been separated except for one year when I taught in Almonesson," said Catharine.

That separation was by teaching districts only. The other 47 years of Catharine's career were spent in various schools throughout Gloucester Township. She has been teaching reading at the Blenheim School on Taranto Road the past four years.

Rachel, kindergarten teacher and principal of the school, has been there the entire 48 years.

The sisters, who will be 67 in April, have been living in the same house where they were born at 1022 Grant Ave., West Collingswood.

Why has Rachel spent all her career at the Blenheim School? "I love the people. I'm teaching my third generation now."

But things have changed in those years. When she first started at the Blenheim School, Rachel said, it was heated by pot bellied stoves.

"There was a big one right in that corner," she said, pointing to the other side of the classroom.

A water pump and outhouses were also near the school, she added.

Rachel and Catharine have dressed alike all their lives. Even the jewelry they wear matches. "Thats the way we were raised," Catharine explained.

Neither woman ever married. "Our mother said if we found someone as good as our father she would give us up," said Catharine. "It would have to be someone awfully close to separate us.

"We leave together and come home together," she said. Catharine was the only one who learned how to drive a car because "we always thought we would be together." Educational trends have come a long way since the Flemming sisters started their careers, but Catharine said they have been keeping up on everything by "studying the books."

When they first started teaching, Rachel and Catharine went to Glassboro Normal School (now Glassboro State College) for a permanent teachers certificate and diploma.

It was a two-year course then, Catharine explained, and they returned to GSC for two more years, receiving their degrees in 1955.

Both educators have each taken only one day of sick leave out of all their years of service. Catharine has 224 days of sick leave accumulated and Rachel has 223.

"We only hope and pray we never have to take them," said Rachel. "We're not looking for sick leave . . . we want to be with the children."

A DOCTOR PROVES A POINT

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. GAYDOS. Mr. Speaker, Dr. Frank R. Bondi, one of our country's outstanding surgeons, has been honored by the Greater McKeesport, Pa., Jaycees as the McKeesport community's "Man of the Year."

The honor is richly deserved. Dr. Bondi's professional and nonprofessional activities are many and distinguished. He is chairman of the department of surgery at McKeesport Hospital, a regional institution. He also is a past president of the American Cancer Society and remains very active in the affairs of this great national organization.

To me, as a member of the Education and Labor Committee of this Congress, Dr. Bondi's work in the field of student help has special interest. He was a founder, and has served as chairman from the beginning more than a decade ago, of the Elizabeth Forward student aid fund which serves worthy high school graduates who are in need of loans to further their educations.

The fund has been created under Dr. Bondi's guidance through contributions of residents and businesses of Elizabeth Township, Elizabeth Borough, and Forward Township, the three components of the Elizabeth Forward School District of western Pennsylvania. Dr. Bondi lives in Elizabeth Township. Help of local foundations has been obtained.

Over the years, the fund has grown steadily through annual solicitations and now has assets of around $60,000, most of which are loans outstanding to young people in college or technical schools. These loans are granted interest free until 2 years after the borrower's educational program is completed; the 6 percent is charged until the loan is paid off.

The fund has been one of the most successful of this kind in the country. Loans are paid back on regular schedule, thus creating a revolving fund which is helping more and more students every year. It is the pride of Dr. Bondi and his fund associates that every worthy applicant has received some measure of assistance.

In this age in which we have become accustomed to turning to government to solve our problems, Dr. Bondi and his efforts in the Elizabeth Forward district are inspiring. The success of the aid fund shows that the spirit of local and private response to our social problems is far from dead and that, under good leadership, still can work wonders. Almost a hundred young people so far have been aided by Dr. Bondi's organization.

In honoring Dr. Bondi as "Man of the Year", the Jaycees have paid tribute in part, I believe, to the proposition that government, though bearing heavy responsibilities in education and other endeavors in this Nation, need not, and should not, carry the entire load. There still is a role to be played locally, as Dr. Bondi and the fellow fund members are demonstrating with their student aid programs.

AMERICAN INDUSTRY IS FORGETTING THE GREATEST CONSUMER MARKET IN THE WORLD—THE UNITED STATES

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. RARICK. Mr. Speaker, yesterday's announcement that Motorola, Inc., has been purchased by Matsushita of Japan, should serve as a reminder to American market-seeking industrialists that the world's greatest market is still the American people right here in the United States.

Political manipulations such as devaluation of the dollar, world trade programs, and the pending move to adopt the metric system of weights and measures are all promoted as necessary for American industry to compete on the world market. Yet, the rest of the world is well aware that, in spite of our domestic problems, Americans are still the No. 1 consumers and the target market of foreign industrialists.

In fact, we have encouraged so much foreign capital to come into the United States, that the Federal Reserve Board now wants Congress to adopt nondiscriminatory, "equality of treatment" legislation so that all foreign banks in the United States would be subject to Federal Reserve requirements and FDIC insurance on deposits. They would also have access to the Fed's discount window.

While American industrialists are busy touring the world to make a fast buck, the foreign interests are capturing the American consumer market.

Several related newsclippings follow:

[From the Washington Star-News, Mar. 13, 1974]

JAPANESE FIRM TO BUY MOTOROLA TV BUSINESS

NEW YORK.—Motorola, Inc., and Matsushita Electric Industrial Co., Ltd., of Japan said they agreed in principle for the purchase for an undisclosed amount of cash of Motorola's home television receiver business by Matsushita.

Subject to final approval of the contract terms by the boards of the respective companies and to consideration and approval by pertinent Japanese governmental agencies, the parties contemplate closing the transaction in late April.

The transaction, originally proposed by Motorola, includes the purchase of Motorola's television production facilities at Franklin Park, Pontiac and Quincy, Ill., the leased assembly plant in Markham, Ontario, and related inventories in the United States and Canada.

Motorola will continue to operate the Quincy plant for two years before ownership passes.

Matsushita is contemplating continuing the Motorola operations through a separate company and to market its products under the "Quasar" brand. No change is contemplated in the present Motorola distribution system.

The new company, to be named Quasar Electronics Corp., will also fulfill Motorola's consumer product warranty obligations and will have replacement parts available for an extended period of time.

It is anticipated that all the personnel involved, including management, will be employed at their present job levels, with the same seniority, salary levels and fringe benefits.

U.S. PURCHASING POWER CALLED WORLD'S BEST

NEW YORK.—In spite of the high rate of domestic inflation, American salaries still have the highest purchasing power in the world, the Union Bank of Switzerland reports in a booklet entitled "Prices and Earnings Around the World."

A New Yorker must work 79 hours to pay rent in a modern four-room apartment. In Paris, a French worker would have to toil 351 hours to pay for a similar apartment.

In only one respect is the real cost of living in terms of wages earned higher in the United States than elsewhere, the Swiss bank said—restaurant prices. A meal that costs $10.20 in New York might cost as little as $1.16 in Bombay, but a teacher in Bombay earns only $684 a year.

But foods to take home are still cheaper in the United States than in most countries. The bank cited the $2 a pound price of butter in Switzerland, famous for its dairy herds and $7 a pound for beef in Tokyo as examples. But prices per se can be misleading.

Nevertheless, after studying more than 6,500 price-wage comparisons in 37 cities of the world, the Swiss bank concluded that Americans still get the best buys over-all.

FED UNIT DRAFTS FOREIGN BANK CURBS

A committee of the Federal Reserve Board has drafted proposed legislation which would place new restrictions on the operations of foreign banks within the United States.

The aim of the legislation, according to the panel's tentative outline, would be to provide for "equality of treatment" of foreign and domestic banks and to bring the foreign banks under the "purview" of the Fed "in order to promote the efficiency of monetary policy."

The draft proposals are tentative and unofficial at this point, a Fed spokesman said. He stressed that the board hasn't taken any final action or sent any legislation to Congress.

All foreign banks would be limited in operations to a single state, as are domestic banks. Foreign banks could operate nonbanking subsidiaries in the same way as domestic bank holding companies, but ownership of securities affiliates would be precluded."

The Comptroller of the Currency would be empowered to charter national banks by foreigners without any requirement that the directors be U.S. citizens. The draft states that this alternative to state chartering "would make possible the operations of foreign banks in states presently closed to them under state statues."

All foreign banks would be required to become members of the Federal Reserve System and would thus be subject to the same reserve requirements as domestic banks and would have access to the Fed's discount window.

Foreign banks would be required to obtain Federal Deposit Insurance Corporation insurance on deposits.

Foreign banks would be permitted to operate so-called Edge Act corporations or subsidiaries to conduct international loan and deposit business in the same way as domestic banks.

The proposed ban on multistate operations and certain activities such as brokerage and underwriting would apply to all offices and operations of foreign banks established after the date of introduction of the bill into Congress.

The committee suggested that existing multistate banking operations could be brought into conformity with the law "within a specified period of time" or the law could apply only to future expansion of foreign bank operations.

The full Federal Reserve Board is considering these tentative proposals and is expected to make a final decision within a matter of weeks.

OUR JUSTICE TODAY

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. CARTER. Mr. Speaker, I believe that the following item provides interesting insight into one aspect of justice in our Nation today:

SOFT JUDGES MAKE HARDENED CRIMINALS

Much too much sympathy is wasted in this country on criminals; and there is far, far too little concern for the victims they murder, rob, rape, beat and burn. Almost every day you read about some vicious human, freed on a ridiculous technicality, or turned loose after serving only a fraction of his sentence. And then the awful sequel—another victim of the same criminal who should not have been free to murder and burn and rob again.

For too many years the trend in this nation has been to permissiveness without punishment—too much ease and too little responsibility.

This country still belongs to those people who worked to build it, not to the shiftless who contribute nothing yet demand they be taken care of. It is high time the men and women who do the work and pay the taxes and carry the responsibility said a loud "no" to those who are destroying the decency and dignity and future of America.

SALUTE TO THE COMMUNITY SERVICE OF THE LADIES AUXILIARY OF THE TORRANCE, CALIF., FIRE DEPARTMENT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. ANDERSON of California. Mr. Speaker, I am sure that most of us recognize that the strength of a city lies in the hearts of its citizens. Torrance, Calif., is such a great city because of civic-minded groups like the ladies auxiliary of the Torrance Fire Department.

These benevolent women have generously given their time and talents to contribute to the benefit of less fortunate citizens.

The idea for the organization originated 22 years ago with Mrs. Maxine Flagg when she attended the 1952 California State Firemen's Association Convention with her delegate husband, Ray. She participated in State-level auxiliary meetings and became enthused about starting an auxiliary in Torrance. When she returned home from the convention she discussed the idea with the then chief, J. J. Benner, who gave his approval to establish the auxiliary.

Throughout the years this fine organization has done much to make Torrance such a great place to live. Among the departmental projects which this auxiliary has established are:

The burned-out family fund to help victims of home or apartment fires in their moment of crisis and despair;

The establishment of a mobile canteen to take food, coffee, and dry clothing to large fires which burn for extended periods;

The widow's fund to give financial assistance to the widow of a fireman, either active or retired, upon his death;

Service as hostesses for fire department functions.

In the area of community involvement, the ladies auxiliary has established a needy family fund which provides food, clothing, birthday, and Christmas gifts to three needy Torrance families. In addition, necessities are provided throughout the year. And, in conjunction with the firefighters local, the auxiliary has maintained a refreshment booth at the annual City of Torrance Bicycle Rodeo. Proceeds are used to purchase savings bonds that are then awarded to the runner-up winners of the rodeo.

Mr. Speaker, on March 22, the ladies auxiliary will hold their second annual spaghetti dinner at the Torrance Recreation Center. This event is open to the public and its proceeds will be donated to the burn care unit at Torrance Memorial Hospital for the purchase of needed equipment.

Torrance Memorial Hospital presently has the only unit of its kind in the South Bay and Southwest Los Angeles area. The first annual dinner, held last year, raised over a thousand dollars with which an Apollo heat shield was purchased for the benefit of improved care for burn patients.

I am confident that with the excellent leadership of Pam Goins, president; Margaret Spaan, first vice president; Gwen Meyers, second vice president; Cheryl Wiener, secretary; and Barbara Smith, treasurer, these women will continue to live up to their philosophy of upholding the Constitution of the United States, fostering and perpetuating a spirit of sisterhood and fraternal friendship among the families of the Torrance Fire Department, and assisting and upholding the integrity of the department.

PAUL THAYER—LTV DYNAMIC LEADER

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. COLLINS of Texas. Mr. Speaker, in Dallas, we have been fortunate in having great leadership. One of the most outstanding business leaders in the Nation is Paul Thayer, who is president of Ling-Temco-Vought. Last year he was named as one of the 10 outstanding corporate leaders in America.

Frank Langston just wrote an interesting article in the Dallas Times Herald about Paul Thayer. Here is a concise summary of a great man's insight:

Thayer, an Advocate of Less Control

(By Frank Langston)

The man who took a company on the verge of bankruptcy and in three and a half years has made it a going and profitable concern is apprehensive of the changes he sees surrounding him.

Paul Thayer, LTV board chairman and chief executive officer, isn't worried about changes in his own firm, most of which have been carefully calculated for streamlining and improvement. He is concerned, however, about the economic and political changes throughout the country.

"In recent years the biggest change we have faced in America is the increasing role of government in the affairs of individuals and corporations," he said as he talked about government, industry, technology and community efforts from his office in LTV Tower.

Many persons are inclined to associate LTV with the aerospace industry. Actually, it is only one of the multi-industry firm's activities.

The other two major subsidiaries are Wilson & Co., Inc. (foods) and Jones & Laughlin Steel Corp.

Thayer believes regulatory controls are a big factor, and a big problem, in both the food and steel industries.

"It is the very nature of bureaucracy to perpetuate itself," he pointed out. "Most bureaucrats feel that size—in terms of people and budget—is analogous with power.

"The typical bureaucratic approach is to overkill a problem. This throttles the rest of the economy to function in an efficient manner."

Thayer has moved through the ranks of corporate business and finance to his present position. Before succeeding James J. Ling as Ling-Tempco-Vought's chief executive officer in July 1970, he served as president and chief executive officer of LTV Aerospace Corp., guiding it through one of its most troubled periods in history to its present profitable status.

His aviation career, spanning 30 years, includes a stint as a World War II Navy fighter pilot; a production test pilot and later *chief* experimental test pilot for Chance Vought Aircraft;

The merger between Chance Vought and Ling-Tempco Electronics Inc. set in motion his elevation to president of Chance Vought and a director of the parent company. In 1964 he became executive vice president of LTV and in the following year he was made president of LTV Aerospace Corp.

Thayer blames the current fiscal dilemma on the government's attempt to control inflation some time ago "but refused to take the lid off and built up many conflicting pressures which have to be released." Ignoring the law of supply and demand has caused many imbalances and shortages, Thayer commented, increasing lead times by many months and directly preventing growth.

The fuel and steel problem has a negative impact hard to measure.

J&L is up to its capacity in the production of steel for petroleum and will ship between 500,000 to 600,000 tons of oil country goods this year, he said. There is no way to increase its capacity without capital.

"We were on the verge of bankruptcy in 1970," he said. "Since then we have received tremendous support from the people of Dallas, assisting where they could, even if they weren't stockholders," he said. "Without their help it would have been a lot tougher."

11500 BANANAS ON PIKE'S PEAK

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. HOSMER. Mr. Speaker, do you want to dig a little coal to help this energy-short Nation? Well, H.R. 11500 might let you dig a little of it, darn little, but by the time you get a license to dig it, you may be too old and out of the mood to do so.

In the guise of regulating strip mining, rabid environmentalists have turned H.R. 11500 into an administrative nightmare aimed to drive surface mining from the face of the Earth. And, if you think that is good, you will love freezing in the dark.

Under H.R. 11500 a surface coal mine operator can find himself involved in public hearings on at least five different occasions—when he seeks a mining permit, or a renewal, or amendment, or an exception from a return to original contour, or a release of reclaimed land from band.

Of course, all these hearings can occur even if he does everything strictly right and legal and every one of them can result in endless appeals to the courts under provision inviting harassing citizen suits by environmental diletantes.

All this makes as much sense as trying to grow bananas on Pike's Peak.

Let us pass sensible laws to dig coal and regulate the way it is done so the environment is respected. H.R. 11500 is a full employment bill for lawyers. It is antienergy.

VOTER REGISTRATION ACT

HON. ROY A. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. TAYLOR of North Carolina. Mr. Speaker, I desire to express concern and strong opposition in regard to a proposed Voter Registration Act which has been approved by the Senate and by the House Administration Committee. The announced purpose of this legislation is to increase voter registration by allowing registration by mail, using a postcard to be delivered to every household in the United States by the Postal Service, at least once every 2 years.

The bill provides for registration by mail for Federal elections only; however, the States are encouraged to adopt the Federal system. If a voter's State did not adopt postcard registration for all elections, he would have to comply with two registration procedures—one for Federal elections and another for State and local elections—which would produce administrative chaos.

North Carolina, like most other States, has accomplished unprecedented sophistications in the electoral process. We now have full-time registration available in all elections on a daily basis through every year. The postcard type of registration will wreck the permanent loose-leaf system now in effect in every county in my home State of North Carolina. At present, when a voter moves from one precinct in a county to another precinct, the voter informs the County Board of Elections and all records in the county office are corrected. This is also true if the voter moves from one county in the State to another county. When he registers in the new county, he is required to fill out a cancellation of registration form which is sent to his previous county board of elections and his name is removed from that system. Without being able to personally question a registrant, it will be almost impossible to get and give all information needed to insure the voter's right to one vote. Each county board of elections receives copies of all death certificates of those of voting age and each month names of those who have died are removed from the list of eligible voters and records are kept as current as possible.

I would like to quote from a letter written to me by Mrs. Lenoir Swicegood, executive secretary of Buncombe County Board of Elections, Asheville, N.C. Mrs. Swicegood has devoted most of her professional life to upgrading the election process and endeavoring to build public confidence in the efficiency and honesty of the system.

Mrs. Swicegood states:

> Rather than being of assistance to voters, I am convinced from experience that it will only add to their confusion and will result in their having to contact election boards about such things as how to fill out the card, did the board receive the card, where will they go to vote, and other questions too numerous to mention. The proposed changes would eliminate the safeguards that have been so painstakingly fought for to protect voters from fraud. In an effort to make voting convenient for a few, they are endangering the rights of the many.

The combination of nonnotarized postcard registration and absentee ballots appears to be tailored for fraudulent elections. Cards could be filled out with fictitious names and addresses. Pranksters could obtain hundreds of postcards and raise havoc with the registration system.

The proposal would take the time-honored responsibility of voter registration from the States and give it to the Federal Government, thereby establishing another Federal bureaucracy for the taxpayers to finance. It would give the Bureau of Census, already known for unbelievable miscalculations in its main area of responsibility, and the Postal Service, now a daily problem for all business and service establishments using its facilities, the authority for dealing with what can be described as the last true freedom in this country.

Mr. Alex K. Brock, director of elections, State of North Carolina, in a letter to me stated:

> We urge you to assist us in putting into proper perspective the real cancer in our election process. The true weakness is apathy, the failure of persons who are registered to exercise their right to vote. We submit that simply registering more people by lottery tactics does nothing to improve the problem. Only after we have attained a continuing turnout of 80–90% of our registered voters should we attempt to go out and pull people out of the woodwork to simply fill up space on the registration books. In North Carolina our priority project is to increase voter participation first, then design programs to flush out other prospective voters.

Since the mechanics of elections must be left in the hands of those who are trained in election laws and who are responsible to the public for seeing that elections are conducted properly, it is my hope that the Postcard Voter Registration Act will never be placed on the House Calendar for consideration and that if it is placed on the Calendar that it will be thoroughly defeated.

OFFERS AMENDMENT TO AID STATES FINANCIALLY

HON. OGDEN R. REID

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. REID. Mr. Speaker, in accordance with the requirements of House Resolution 963, the rule providing for consideration of H.R. 69, the Elementary and Secondary Education Amendments of 1974, I am today announcing my intention to offer an amendment, the text of which I am inserting in the RECORD.

My amendment to title I is a simple one, but one which will do much to aid those States, such as New York and New Jersey, which will lose millions of dollars under the newly proposed title I formula in H.R. 69. My amendment provides for 100-percent hold-harmless for local educational agencies, so that no LEA in the United States may receive less funds under title I in fiscal year 1975 than it did in the previous fiscal year.

In order to determine the costs of this amendment, we have requested the Congressional Reference Service in the Library of Congress to run a printout. However, preliminary estimates from several sources set the cost at a figure between $50 and $60 million for next year.

The text of the amendment follows:

> On page 48, line 10, strike out "85" and insert in lieu thereof "100".

EXECUTIVE PRIVILEGE—REPORT NO. 1 FROM GEORGE WASHINGTON TO 1860

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. HUNGATE. Mr. Speaker, what is the doctrine of Executive privilege?

> Executive privilege refers to the right of the Executive to withhold information from others. It is most frequently thought of in the context of withholding information from the Congress. The privilege has been asserted directly by the President to prevent information in the form of documents from being disclosed or on behalf of individuals within the executive branch to prevent them from testifying or being questioned. The privilege has also been asserted by other members of the executive branch on behalf of themselves or subordinates.
>
> Executive privilege has also been referred to as executive immunity or executive secrecy, although it is not entirely clear whether the users of these other expressions have in all cases intended the same meaning as executive privilege. The evidentiary privilege of the Executive to withhold documents in judicial proceedings involving private parties should not be confused with the doctrine of executive privilege. Nevertheless, the reasons underlying the rule of evidentiary privilege may be useful in establishing the scope of executive privilege since they raise analogous (albeit perhaps of different magnitude) problems and considerations for the courts in determining whether information in the control of the Executive should be revealed to the public. (From a memorandum prepared in 1971 for Senator Stevenson.)

U.S. PRESIDENTS 1789–1860

WASHINGTON—1792—ST. CLAIR EXPEDITION

A House committee, which had been appointed to investigate the failure of the St. Clair expedition, requested various documents from the Secretary of War. President Washington called a Cabinet meeting to discuss the request. The first meeting adjourned with no conclusion. A second meeting was held.

Thomas Jefferson took notes of these meetings. It has never been proven that his notes were made known to Congress or that Washington publicly asserted a plenary power to withhold information from Congress. At the second meeting Jefferson noted that the conferees were:

> Of one mind 1. that the house was an inquest, therefore might institute inquiries. 2. that they might call for papers, generally. 3. that the Executive ought to communicate such papers as the public good would per-

> mit and ought to refuse those the disclosure of which would injure the public. . .

This note has produced conjecture on both sides of the issue. The final result of the whole matter was that all of the St. Clair documents were turned over. The Secretaries of Treasury and War both also testified in person. James Madison voted for the investigation.

ALEXANDER HAMILTON—1792–93

During a period when rumors abounded that Alexander Hamilton would be investigated, Washington wrote in a letter:

> With respect to the fiscal conduct of the Secretary of the Treasury I will say nothing; because an enquiry, more than probable, will be instituted next session of Congress into some of the allegations against him; . . . and because if I mistake not, he will seek, rather than shrink from, an investigation. . . No one . . . wishes more devoutly than I do that they may be probed to the bottom, be the result that it will . . .

The House, sitting as a Committee of the Whole, debated several resolutions that charged Hamilton with grave dereliction of duty. After some debate, Hamilton was acquitted of wrongdoing. James Madison, who had been an advocate of the resolutions, said:

> It was the duty of the Secretary, in complying with the orders of the House, to inform the House how the law had been executed . . . to explain his own conduct . . .

THE JAY TREATY—1796

During the storm of protest over the negotiations of the Jay Treaty by John Jay, Washington refused to turn over materials to the House concerning documents, correspondence, and the instructions issued to Jay. Hamilton and Jefferson had already resigned at this point. Vice President John Adams disagreed with the refusal—

> I cannot deny the right of the House to ask for the papers. . . My ideas are very high of the rights and powers of the House of Representatives. . .

Washington had four reasons for his stand on the Jay issue:

First. The success of foreign negotiations depends on secrecy;

Second. The Constitution vested treatymaking power in the President and the Senate which confined it to a small number of Members;

Third. The only reason the House could legally ask for the papers was on a resolution of impeachment, which there was not; and

Four. All the involved papers had already been given to the Senate.

From this, it does not seem that Washington was trying to establish any kind of blanket executive privilege. This argument was rather a sound one, based on the constitutional process of treatymaking.

ACT OF 1789

Washington approved this act which directed the Secretary of the Treasury to furnish information required by the Congress:

> (a) to make report, and give information to either branch of the legislature, in person or in writing (as he may be required), respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office; and generally to perform all such services relative to the finances, as he shall be directed to perform.

THOMAS JEFFERSON AND THE BURR INCIDENT

The Burr conspiracy brought a request from the House for documents and information:

> Except such as he (Jefferson) may deem the public welfare to require not be disclosed . . .

Jefferson refused, claiming that in releasing names implicated both in rumor and conjecture:

> Neither safety nor justice will permit the exposing names. . .

JAMES MONROE

In 1823, the House requested Monroe to furnish "* * * so far as he may deem compatible with the public interest any correspondence * * *" involving the suspension of a naval officer for misconduct. He refused, feeling that the required documents "* * * might tend to excite prejudices which might operate to both—accuser and accused * * *."

It should be noted that in both the Jefferson and Monroe examples, the House itself conferred exemptions of a sort. Thus, it is difficult to state that if direct requests for documents had been made, they too would have been refused.

ANDREW JACKSON

Jackson furnished information to Congress at times. At other times he refused to do so. In 1835, he rejected a Senate request for information in a public land fraud scheme. His reasoning was based on his feeling that the information supplied would be utilized in secret session and this would deprive a citizen involved in the case—Gideon Fitz, who already had been removed from office—of a public investigation where he could confront his accusers. Note the similarity between this reasoning and that of Jefferson and Monroe.

Jackson's logic is even more difficult to sustain when one considers a statement he made in 1834:

> Cases may occur in the course of its legislative or executive proceedings in which it may be indispensable to the proper exercise of its powers that it should inquire or decide upon the conduct of the President or other public officers, and in every case its constitutional right to do so is cheerfully conceded. . . .

JOHN TYLER

Tyler refused the House certain reports on the funds perpetrated upon the Cherokee Indians. In doing so, he claimed no absolute right, but instead relied on the evidentiary privileges recognized in judicial proceedings instituted by private litigants. Using this he formed certain categories of information that he would not surrender. The House's responses were:

> The communication of evidence to a jury is promulgation of it to the country, and the law so regards it, and it is so in fact. Hence the rule which excludes evidence the disclosure of which would be detrimental to the interests of the State. But this rule is applicable only to the judicial, and not to parliamentary tribunals; and the error of the President consists in not having observed the distinction . . . (For) parliamentary tribunals . . . may conduct their investigations in secret, without divulging any evidence which may be prejudicial to the state.
>
> In the administration of justice between private individuals the courts will not permit that the public safety should be endangered by the production of evidence having such a tendency. But in parliamentary inquiries, where the object is generally to investigate abuses in the administration itself, and where such inquiry would be defeated if the chief of the administration or his subordinates were privileged to withhold the information or papers in their possession, no such rule prevails. The cases are entirely different. In the first, the public safety requires that particular evidence should be suppressed; in the second, the public safety requires that it should be disclosed.

JAMES K. POLK

Polk refused the House documents concerning his instructions to his Minister to Mexico. At the time ex-President John Quincy Adams was a Member of the House. He insisted "the House had the right to demand and receive all the papers" concerning the matter.

Polk, like Jackson, seems to be a man of contradiction. In a message to the House in 1846, he said:

> If the House of Representatives, as the grand inquest of the nation, should at any time have reason to believe that there has been malversation in office by an improper use or application of public money by a public officer, and should think proper to institute an inquiry into the matter, all the archives and papers of the Executive Department, public or private, would be subject to the inspection and control of a committee of their body and every facility in the power of the Executive be afforded to enable them to prosecute the investigation.

JAMES BUCHANAN

In a message to the House in 1860 concerning a House resolution on public abuses he stated:

> In such cases inquiries are highly proper in themselves and belong equally in the Senate and the House, as incident to their legislative duties and being necessary to enable them to discover and to provide the appropriate legislative remedies for any abuses which may be ascertained . . .

Buchanan did invoke the privilege anyway in a matter concerning alleged attempts to influence congressional Members through offers of money and patronage. He refused release of information, on the grounds that only an impeachment investigation would be a proper basis for release.

GROSS AMENDMENTS

HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. GROSS. Mr. Speaker, under the provisions of House Resolution 963, which makes in order the consideration of H.R. 69, and which limits amendments to title I to those printed in the CONGRESSIONAL RECORD at least 2 legislative days prior to consideration, I offer the following germane amendments:

> Strike the necessary number of words;
> Strike the requisite number of words;
> Strike the next to the last word;

Strike the penultimate word;
Strike the last word;
Strike the enacting clause.

PROPOSED AMENDMENT TO H.R. 69

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. ROSE. Mr. Speaker, I rise to offer an amendment to delete the proposed nonpublic school bypass provisions which appear in ESEA title I section 132 of the committee bill.

The proposed bypass provision for ESEA title I and program consolidation operates in two ways. First, it authorizes the U.S. Commissioner of Education to make direct grants to nonpublic schools in case wherein State or local law prohibit the local school district from equitably providing for its nonpublic schools. Second, the Commissioner may readjust the division of funds between the local educational agency and the private schools of the district when he determines that the LEA has substantially failed to provide for the private school. In both instances, the Commissioner, in effect, is making a judgment as to what would be adequate services to fulfill what he deems to be the balance of student needs in both the public and private schools. We question whether the Commissioner should be making such judgments since they presume that he knows what the children in each community should be learning and how they should be taught. But that presumption is contrary to the American education tradition that the people not the Federal Government make the final decision as to educational goals, direction, and the means by which our children learn.

Furthermore, in some communities it may be the case that the expenditure of public funds, the use of public facilities, and the deployment of public personnel for nonpublic school purposes is so philosophically unacceptable that a majority of the community would rather do without Federal funds for public purposes than to see the kind of nonpublic school involvement now being suggested for education. The H.R. 69 bypass provision takes that decision away from the will of the people and places it in the hands of appointed officials in Washington, D.C.

Thirdly, the bypass provision raises a whole specter of constitutional questions which bear close examination before enactment. Apart from not wanting to pass laws which may not be able to cut constitutional muster, Members of Congress, especially those who support aid for nonpublic schools, should consider that the bypass provision violates the compromise reached with the public school community in 1965. Accordingly, a challenge by the public school community may very well result not only in rendering the proposed bypass provisions unconstitutional, but the existing bypass provisions as well—not to mention a challenge to the child benefit theory pursuant to which nonpublic schools now participate in title I services. In other words, by attempting to increase their share, the nonpublic schools may wind up with nothing.

The amendment follows:

AMENDMENT TO H.R. 69, AS REPORTED

OFFERED BY MR. ROSE

Page 49, line 3, strike out "(a)".

Page 49, line 11, insert a quotation mark after the period.

Beginning with line 12 on page 49, strike out everything down through line 7 on page 50.

TRIBUTE TO LES ARENDS—A GREAT AMERICAN

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. EVINS of Tennessee. Mr. Speaker, the announcement by our colleague and friend, the genial gentleman from Illinois, LES ARENDS, that he intends to retire from Congress at the conclusion of his present term in 1974 has been received with regret.

While regretting his decision, certainly I can understand that, after almost 40 years' service, LES wants to seek the more tranquil climes of retirement "along the cool sequester'd vale of life," as one poet expressed it.

Congressman ARENDS has done a fantastic job in Congress, and at this point only one Congressman—Representative WRIGHT PATMAN, the dean of the Congress—has rendered a longer period of service.

LES has been a Congressman's Congressman—he is is known as and called "one of the good guys"—a gentleman.

He also is a people's Congressman.

Many observers in the gallery have been heard to remark when LES comes on the floor that he truly looks like a Congressman with his distinguished bearing and flowing white hair—he has the aura of Congress about him.

LES ARENDS has served his district, State, and Nation with great ability and effectiveness and distinction. As the minority whip, certainly he has served his party—but without partisanship in his personal relations with his colleagues.

I consider LES ARENDS one of the truly great Members of the House. I have had occasion to work with LES and have always found him to be helpful and cooperative—while I served as chairman of the Speaker's Patronage and Personnel Committee, he served as chairman of the Minority Patronage and Personnel Committee—and we had a most cooperative relationship as we assisted in providing employment for many young men and women on the Hill.

As a member of the Committee on Armed Services, he has served effectively and well—he stands tall as a great American and for a strong national defense.

Congress will not be quite the same when LES ARENDS leaves these sacred precincts for the last time as a Member—something will be lost—but we wish him the very best of health, good luck, and continued success as he contemplates his richly deserved retirement from public service.

COLONEL LAWLER NAMED CHAPLAIN OF THE YEAR BY ROA

HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. HÉBERT. Mr. Speaker, Col. Edward R. Lawler, a Catholic priest and an Air Force chaplain, recently received the Chaplain of the Year award from the Reserve Officers Association.

Colonel Lawler is currently chief of the Chaplain Division, Directorate of Inspection, Air Force Inspection and Safety Center, Norton Air Force Base, Calif.

I was so impressed with his acceptance remarks upon receiving this award that I want to insert them in the RECORD so that all may have the benefit of his thoughts. His comments follow:

ACCEPTANCE REMARKS ON THE OCCASION OF RECEIVING THE RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES AWARD "CHAPLAIN OF THE YEAR 1974"

(By Chaplain Col. Edward R. Lawler)

I am accepting this award on behalf on all the Chaplains in the Armed Service—Army, Navy and Air Force—both reserves and, if you will pardon the expression, the regulars also.

I realize it isn't the same as receiving the Heisman Trophy for personal achievement, or being voted into the Baseball Hall of Fame, or a Most Valuable Player Award or an Oscar. I realize the award is given to me as the representative of all Chaplains and I accept it in that spirit.

Tonight, however, is one of those nights filled with serendipity—those happy events coming together unexpectedly at the same time. It is especially pleasing to be here in the presence of so many men and women who have served our country in various branches of the government. But it is even more pleasing to be honored on the same program with Congressman George Mahon of Texas. For when I was first assigned as a young clergyman from New York, was I sent to a church in New York? No, my first assignment was to a church in Lubbock, Texas in Congressman Mahon's district. Six years later when I was appointed a Chaplain in the Air Force, my first base of assignment was in Big Spring, Texas. I checked with Mr. Mahon's staff and they tell me in 1952, Big Spring was in Congressman Mahon's district. So you have been sort of a godfather to me, Sir. But perhaps that word has less than an acceptable meaning these days, so maybe it is better if I just say, "Howdy Podner!"

In addition to all these nice coincidences, my commission as an officer in the Air Force was granted by President Harry Truman, the founder of our Reserve Officers Association. Also, it is a very happy happening that I, as an Air Force Chaplain, am receiving this award tonight because this year marks the 25th anniversary of the establishment of the Air Force Chaplaincy.

Some may wonder what a clergyman is doing associated with those who make war. A clergyman is supposed to speak the words of the Lord. The Psalmist says, "Let me hear the words of the Lord: Are they not words of peace." (Psalm 85:08) Of course they are! But in speaking words of peace, we must speak them in the midst of reality. Man is not really too expert at peace. Even the Bible mentions some sort of battle line between the angels. So peace is difficult to come by between creatures. President Truman once said:

"We must not fall victim to the . . . propaganda that peace can be obtained solely by wanting peace. This theory is advanced in the hope that it will deceive our people and that we will then permit our strength to dwindle because of the false belief that all is well in the world."

Facing the reality that all is not well in the world helps a clergyman to talk of peace with honesty and to recognize that man must be reminded often of the moral strengths that will enable him to work hard to obtain and retain peace.

A clergyman ministering to the members of the Armed Forces has many opportunities to remind military people of the sentiments of President Truman's ideas. (As you can tell, President Truman was one of my favorite people.) He said:

"The same moral principles that underlie our national life govern our relations with all other nations and peoples of the world. We have built our own nation not by trying to wipe out differences in religion or in tradition or in customs among us, not by attempting to conceal our political and economic conflicts, but instead by holding to a belief which rises above all differences and conflicts. That belief is that all men are equal before God. With this belief in our hearts, we can achieve unity without eliminating differences, we can advance the common welfare without harming the dissenting minority. Just as that belief has enabled us to build a great nation, so it can serve as the foundation of world peace."

And the Constitution of UNESCO says very well:

"Since wars begin in the minds of men it is in the minds of men that the defenses of peace must be constructed."

A clergyman serving in the military forces is able to speak to and reach the minds of men who wage wars and to remind them that their final goal is to bring peace. Adlai Stevenson once put it:

". . . let us dream of a world in which all states, great and small, work together for the peaceful flowering of the republic of man."

It is these ideas of world peace that a Chaplain is dedicated to. And he carries them to men and women who serve in the armed forces. That is why it is an honor for me to serve as a clergyman in the Armed Forces of the United States. Thank you.

AMENDMENT TO H.R. 69

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. MOAKLEY. Mr. Speaker, in accordance with House Resolution 963, the rule for H.R. 69, I am submitting to be printed in the RECORD an amendment to H.R. 69 which I plan to introduce.

This amendment would change the formula for the distribution of ESEA title I funds by counting 100 percent of AFDC children, rather than two-thirds of all AFDC children.

The text of the amendment follows:

AMENDMENT TO H.R. 69, AS REPORTED OFFERED BY MR. MOAKLEY

Page 32, line 19, strike out "two-thirds of".

THE AIRLINES MUTUAL AID PACT

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. WALDIE. Mr. Speaker, the Airlines Mutual Aid Pact—MAP—is an economic agreement among member airlines which goes into effect automatically when one of the member airlines is struck.

However, this agreement among the airlines has been slowly eroding the value of collective bargaining as an instrument for the resolution of labor disputes in the arlines industry. Since its inception 15 years ago, the MAP has contributed to the prolongment of strikes in the industry—from an average length when it started of 15 days to more than 100 days now.

After a strike is resorted to in normal labor-management relations, there is a financial incentive for both the employees and the employer to resolve their differences because neither is receiving substantive income during the strike. However, the MAP vitiates that incentive. A struck MAP member receives 50 percent of its normal operating costs, graduates downward to 35 percent after 4 weeks and remains at that level until the termination of the strike.

As a result, it is not uncommon now for a struck airline to show a profit. For example, in 1972 Northwest Airlines was struck for 95 days, but received enough money from MAP—$43.6 million—in order for it to chalk up a $17.25 million profit for that year.

On the other hand, airline payments into the pact are accounted for in the loss columns of the airlines. Thus we have the irony that payments from nonstruck airlines have helped to prevent them from showing a profit, while struck airlines have a profit. Additionally, these mutual aid payments serve as a tax writeoff for the airlines, which in fact means that the taxpayers are subsidizing the airlines industry in labor disputes.

Because of this, members of the pact have boasted about the profitability of strikes. The chairman of Trans World Airlines said that the longer the strike by its flight attendants in 1973, the better its profits would be for that year.

Strike benefits for airline workers cannot be compared to the benefits which accrue to the airlines during a strike: four unions pay no benefits, after 2 weeks the Machinists pay $40 a week, the Railway and Airline Clerks pay $15 a week after 2 weeks, and the Airline Pilots receive 18 percent of their pay.

Thus, it is manifestly apparent that the MAP constitutes an unfair advantage to management in labor disputes, and is destroying collective bargaining in the airline industry.

Accordingly, I am introducing the following bill to terminate the Airlines Mutual Aid Pact.

The bill follows:

H.R. 13529

A Bill to terminate the Airlines Mutual Aid Agreement

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 412 of the Federal Aviation Act of 1958 (49 U.S.C. 1382) is amended by adding the following new subsection:

"(c) The Airlines Mutual Aid Agreement approved by the Board in docket 9977 is adverse to the public interest and hereby terminated."

SEC. 2. The effective date of this Act is February 1, 1973.

OUR RETURN FROM SPACE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. BOB WILSON. Mr. Speaker, we hear much criticism of the space program as being too costly, yet it has proved to be one of man's greatest and most adventuresome experiments. We also have a general feeling that it has developed no particular lasting benefits except, as often quoted, the development of Teflon pans.

In Success magazine, the noted commentator, Paul Harvey, recently pointed out many interesting facts about the latest U.S. achievement in space, our Skylab.

I include it in the Appendix of the RECORD as a portion of my remarks:

OUR RETURN FROM SPACE

(By Paul Harvey)

The Senate has approved only three billion dollars for space.

That is the skimpiest expenditure for that purpose in more than ten years.

Yet our dividends from that investment—our "return from space"—if you will—is bigger than any big old Texas lie I could tell about it .

What a difference 272 miles makes.

If what's going on up there were going on in your local firehouse or schoolhouse or city hall you'd talk of nothing else.

But our interest cannot be sustained over spans of time or distance.

So blase have you and I become about Skylab that our attention is alerted only when a malfunction suggests danger and then only briefly. Yet perpetuation of a program which offers the best hope of keeping our home planet livable depends on interested voters and willing taxpayers.

How can men of science hope to bring home to you and me and the politicians the importance of intangible benefits; even tangible benefits.

On my desk is their latest effort. It is a scholarly treatise efficiently cataloguing the several thousand specific products and processes directly derived from NASA's efforts. Pages of geological data. Pages of medical innovations. Pages of practical, applied electronic and mechanical devices and metallurgical processes.

But scientists are schooled in how not to promote themselves.

And even those of us who are supposed to know how to condense and translate technical data for public consumption don't know where to start. It is that big!

I could take one or two or a few examples from this ream of "things" our space dollars bought but it seems such a pitifully inadequate summation for the defense.

Just under "safety" are identified insulations, fireproofings, alarm sensors, respirator systems, unbreakable glass which have cost you pennies and may already have saved your life.

In the kitchen you are using preservatives, "indestructible" ceramics, protective coatings, bonding techniques, electronics applications—the most likely source of heat, power and light for your children's home is being tested to perfection in today's space vehicles.

In geology and ecology our new knowledge fills volumes.

In medicine the new know-how handed down from above is adding useful, pain-free years to life on earth.

But there appears no way to convince the electorate that getting to the Moon really is more important than getting to work—though many Americans already owe their lives and many others their jobs to techniques, materials and devices which have been showered on industry, agriculture and medicine by our now taken-for-granted spacemen.

GETTING IT TOGETHER IN THE GRAPHIC ARTS

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. STEIGER of Wisconsin. Mr. Speaker, the primary objective of the Occupational Safety and Health Act of 1970 is to assure safe and healthful working conditions for working men and women of our Nation.

Achievement of this worthy objective is best attained through sincere efforts on the part of both labor and management. One very fine example of labor/management cooperation in the field of safety and health is an evaluation of hazards associated with the printing industry being conducted by the National Institute for Occupational Safety and Health, Graphic Arts International Union, and the workers and management of George Banta, Inc., in Menasha, Wis.

This initial attempt on the part of labor, management, and Government to develop safety and health practices is highly commendable. I would like to share with my colleagues an article on this project published in the November 1973 Job Safety and Health magazine.

The article follows:

GETTING IT TOGETHER IN THE GRAPHIC ARTS

(By Phyllis Lehmann)

"This is probably the first time in the United States that labor and management have come together voluntarily to request what amounts to a complete industrial hygiene survey," says Marshall NaNier, regional director of the National Institute for Occupational Safety and Health (NIOSH) in Chicago.

He is describing a pioneer project launched recently in Menasha, Wisconsin, by the Graphic Arts International Union (GAIU); the George Banta Company, Inc., a printing firm; and NIOSH. By focusing attention on one large company, the participants hope to point up job hazards common throughout the graphic arts industry and develop guidelines that other employers can use in complying with safety and health standards.

During the project, three Banta plants, employing 1,400 people, are serving as laboratories for a thorough NIOSH investigation of how such hazards as noise, vapors, and dust might affect workers' health. As a first step, NIOSH industrial hygienists and engineers are conducting a hazard survey of the plants. The company will make every effort to abide by NIOSH's findings and to follow NIOSH's recommendations for correcting any dangerous conditions.

Later stages of the study will include voluntary health examinations of workers and a survey of company records to determine if there are disease patterns or long-term health effects that can be related to employment in the plants. As yet another step, the GAIU is offering union members and management representatives a training program in detecting and taking action on workplace hazards. The formal classes, which will be coordinated by Dr. George Hagglund, professor of labor education at the University of Wisconsin School for Workers, will be followed by on-the-job training of union shop stewards as safety and health stewards. As a result, workers will be able to identify unsafe or unhealthy conditions and work with management to find ways of correcting them.

The program originated in early 1973 when Sheldon Samuels, director of health, safety, and environmental affairs for the AFL–CIO's Industrial Union Department, and William Schroeder, vice president of the GAIU, were looking for ways labor and management could work together on safety and health. They saw the technical assistance available through NIOSH as a valuable tool. "A project such as this demonstrates and tests a facet of the Act that has not been exploited—the nonenforcement part," says Samuels. "Most people view the Act only as an enforcement mechanism, and unfortunately many of us don't have time to do much but concern ourselves with that aspect. But enforcement is simply a lever to get people involved in nonenforcement activity. I should point out that I don't see such activity as strictly 'voluntary,' because let's face it, without the power of the Act, most employers would be doing very little in the area of safety and health."

Selecting the right company to participate in the program was the first problem, and in terms of a receptive management attitude, Banta was a logical choice. "First of all, the company was critical of its own safety record," says Bill Schroeder, "and that indicated a sincere commitment to improving working conditions. It showed that management was concerned. Besides, Banta has a healthy approach to the Occupational Safety and Health Act. The management people don't look at the Act as a form of harassment. Instead they see it as a meaningful law and recognize that they have a legal and moral obligation to comply. In fact, they indicated that they want to devote their time to looking for ways to comply instead of ways to circumvent it."

But it was more than attitude that made the Banta Company a natural for the study. As Thomas Hicks, marketing manager and company spokesman for the project, explains, "The Menasha plants offer a pretty total industry picture in one location." The company prints such diverse items as textbooks, paperbacks, educational workbooks and tests, packaging materials, advertising flyers, and annual reports. Consequently, the Menasha operations include two major printing processes—offset and letterpress—plus such related functions as color processing, binding, and distribution. The company faces the safety and health problems common throughout the printing industry—noise, dust, vapors, and various dangers in the loading and stacking areas—although Hicks thinks Banta already has gone a long way toward protecting its workers from these hazards.

"Printing presses are noisy, and the workers standing beside them are exposed to high levels of noise," he says, "but our employees in those areas wear ear protection. In the paper shredding areas, dust is definitely a problem, but there our workers wear dust masks. In the stacking and loading areas, there is the potential danger of large items toppling over, but the forklift trucks now have cages on them as a matter of course." However, if there are problems that aren't being adequately taken care of, or standards that aren't being complied with, the company wants to know—and that's the idea behind the project.

A third reason for the choice of Banta as a "laboratory" concerns the community of Menasha rather than the company itself. "That area of Wisconsin, south of Green Bay, is a very stable area," says Schoeder. "Most of the people are born there, work there all their lives, and retire there, so it's easy to trace former employees of the company." Banta was founded in 1901 and has been in continuous operation ever since, so two and three generations of some families have worked in the plants—a situation tailor-made for studying the health patterns of workers over the years.

For NIOSH, the project presented "a unique opportunity to look at a large industry from the point of view of good work practices," says Marshall LaNier. "It's an ideal situation in which to conduct a hazard evaluation, because everyone is in favor of it. In fact, this is probably the first time such a survey has had the cooperation of all concerned."

After the program was formally launched last spring, a NIOSH team toured the plants to get an idea of what the problems were and which areas would require extensive industrial hygiene surveys. After getting the results of testing conducted during the walk-through, Dick Krambowski, senior industrial hygientist on the project, and two engineers from NIOSH's Cincinnati laboratories visited the plants to conduct more detailed testing for noise and airborne solvents.

Realizing that the noise worker's can't hear is potentially as harmful as that they can hear, the scientists deployed sophisticated devices in the vicinity of the presses to test for ultra-sonic noise—noise at so high a pitch it can't be heard. Because a wide variety of solvents is used to clean ink off rollers and plates and in general clearup in a printing plant, the NIOSH team also took readings on airborne vapors. One method was to strap a sampling pump to a worker's waist and drape a plastic tube over his shoulder to test for solvent vapors in his breathing zone.

"We haven't found any situations of imminent danger," says Kramkowski. "When we get the complete information on our samples, we'll present the company with our findings and our recommendations for correcting any hazards." If the results indicate that further surveys are needed, the NIOSH group will return to the plants for additional testing.

When the entire study is completed—hopefully by the end of this year—NIOSH will present its report on Banta to both the company and the Graphic Arts Union.

All concerned see the impact of the study extending well beyond Menasha. The GAIU expects to hold a press conference to publicize the results of the study, and to dispense the information in NIOSH's report to the rank and file through its nationwide training and retraining program. "We have facilities in 58 cities where we conduct craft and technical training for apprentices and journeymen," says Shcroeder, "and we plan to make this study well known to the men who come through those facilities. It will be an important way of informing workers about the hazards common in their line of work and about what they can do to help eliminate those hazards in their own plants."

The Banta Company plans to circulate the final report among its eight subsidiaries across the country and hopes the study eventually will benefit the industry as a whole. "The printing industry isn't like the auto industry, for example, which is quite concentrated," explains Thomas Hicks. "We're very diverse. Something like 80 percent of the printers in the country have fewer than 20 employees, so it's difficult to bring the information on safety and health and workplace standards to bear in these plants. We're hoping that this project will help employers understand the standards and give them some practical guidelines on how to comply with them."

It is too early to know whether the project will fulfill predictions that it will ultimately help set standards for the entire graphic arts industry. But the fact that labor, management, and government could unite toward such a goal represents a giant step beyond mere enforcement of job safety and health.

VICE PRESIDENT SPEAKS ON DEFENSE OF OUR NATION

HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. HÉBERT. Mr. Speaker, the Vice President spoke at the 1974 Women's Forum on National Security held recently in Washington.

In my capacity as chairman of the Armed Services Committee, I viewed with interest his comments on our national defense. I would like to insert the Vice President's speech in the RECORD at this point, so everyone may have the benefit of his thoughts:

REMARKS BY VICE PRESIDENT GERALD R. FORD

Tonight I wish to express my profound appreciation to the Women's Forum on National Security for dedicating this beautiful dinner to the leadership of the Administration of President Richard M. Nixon.

I am honored to appear before you as spokesman for this Administration.

You are genuine advocates of peace. Our aspirations for peaceful relations with all other nations rest upon the sense of security and patriotism you help to generate through your many chapters and posts from the Atlantic coast to the shores of the Hawaii Islands. Your devotion to the preservation of freedom is in the finest tradition of the United States.

I wish to address myself tonight to the role of defense in the service of peace. Dr. Henry Kissinger, our Secretary of State, will go next month to Moscow to continue efforts that have already produced remarkable progress on the road to lasting peace. Dr. Kissinger is truly our Secretary of Peace. And our Secretary of Defense, Dr. Schlesinger, has strengthened Dr. Kissinger's hand by submitting a new defense budget that reinforces the credibility of American power.

Our Cabinet includes three professors. You might say the peace movement has taken over the Nixon Administration. Dr. Kissinger flies to the corners of the earth in pursuit of peace. Dr. Schlesinger guides a Defense establishment to assure peace. And Dr. Shultz, our Secretary of the Treasury, pays the bills.

The new defense budget is the first in over 10 years that does not provide for the support of American forces actively in combat. It is a budget designed to carry us through the delicate transition from long and arduous war to a period of enduring peace.

To have peace, we must be capable of defense to deter aggression. Unless the United States maintains its strength and resolve, there is little incentive for potential adversaries to keep the peace. That is why our first defense budget of the post-Vietnam era is so important.

We have extricated ourselves from the war in Vietnam. We achieved peace with honor and liberated our brave men who suffered so long as prisoners of war. We ended the draft and created an all-volunteer armed service. We reached understandings with the Soviet Union that would have been unthinkable years ago. We negotiated a new relationship with the People's Republic of China. And—by a masterpiece of diplomacy—we separated the armies of the Egyptians and Israelis, bringing the world back from the brink of catastrophe.

We are not the policeman of the world. But we continue to be the backbone of free world collective security. We are aware that the Soviet Union continues to pursue an extensive program to develop powerful new military weapons.

Even as we have reduced U.S. forces and defense spending—measured in dollars of constant purchasing power—Soviet forces and spending have increased. To prevent a serious imbalance, we must continue to modernize and improve the readiness of our combat forces.

President Nixon has created a climate of peace. Secretary Kissinger is a superb negotiator. The Soviet Union, by word and deed, has indicated a readiness to negotiate. Therefore, I sincerely hope that negotiations toward strategic arms limitations and mutual and balanced force reductions will be successful in preserving the present balance and in further reducing the threat of war.

It is essential to maintain adequate force levels and a technological lead while negotiations continue. If negotiations fail and the Soviet Union seeks military advantage, the United States must be prepared to increase its forces quickly and effectively.

Decisions made in 1974 will shape the ability of our forces to maintain their strength 5 to 10 years from now. This is because of the time required for development and deployment of major weapons systems.

We learned much from the tragic Middle East warfare last October. Specific material shortages were brought to light during the crisis. The new budget would eliminte those shortages. As a result of the events in October, we are increasing the readiness of ships, aircraft, and weapons, having adopted more realistic estimates.

A supplemental defense request reflects the most urgent deficiencies of our forces. We must increase our airlift capacity and buy certain weapons and equipment now in short supply.

Lessons of the Middle East war will be applied by giving high priority to programs such as modern antitank weapons, tanks, air defense of land forces and its opposite, defense suppression, improved munitions and more substantial stocks.

There are innovations to meet possible emergencies.

We are proposing, for instance, in the new budget to modify some commercial aircraft in order that they might have the required capacity to meet military cargo requirements. Because of our Middle East experience, we intend to improve our airlift capacity to deploy forces overseas in time of crisis.

Our force structure is much smaller than it has been since the Korean war. It is reduced by almost 40% from the 1968 Vietnam peak. If we are to have a credible peacetime deterrent force, we cannot allow our defense to shrink further. By strengthening airlift capacities and the strategic reserve, we will have fewer forces tied to a specific theater and greater flexibility in assignment during a crisis.

Admiral Moorer, the Chairman of the Joint Chiefs of Staff, reported to the Senate Armed Services Committee that Soviet modernization programs "could place the United States in a position of strategic inferiority in the foreseeable years ahead." The admiral pointed out that a major shift in the naval balance is taking place. The U.S. Navy's carrier and amphibious task forces still give us the edge in the global reach of our fleets. The Soviet Union, however, is building a powerful navy, including an aircraft carrier force that brings a new era in the projection of Russian seapower. The Soviet carriers are not yet comparable to U.S. carriers. But, with other new Soviet warships, they strengthen the ability of Soviet forces to operate worldwide.

Moscow is placing new emphasis on projecting military power from the sea as a national policy. Soviet naval forces are more frequently deployed in areas of serious international concern.

Detente is our goal. Its achievement requires that we be strong enough to negotiate with confidence. We must insure that our good will is not misconstrued as lack of will. An era of peace is within reach. To reach that objective, we have no alternative but to maintain a strong defense.

Your membership includes such groups as the Gold Star Mothers and the Gold Star Wives and the Ladies Auxiliary of the Military Order of the Purple Heart. You have experienced at first hand the sacrifices of war. We want to make sure that not a single additional mother or wife ever receives the tragic telegrams that you received.

I wanted to share with you my thinking on why we must not risk the peace that our President and our Secretary of State have done so much to promote. We will not betray your dedication to peace.

Tomorrow is the 165th anniversary of Abraham Lincoln's birthday. We strive to fulfill Abraham Lincoln's vision of binding up the Nation's wounds as we move forward—in the aftermath of Vietnam—to meet the challenges of our time.

In his Second Inaugural Address, Abraham Lincoln advocated "a just and lasting peace, among ourselves, and with all nations." Lincoln addressed himself to a nation then divided. Today—100 years later—we face different kinds of division and dissension. We search for new answers to new problems.

I want to tell you tonight of my confidence that we will solve the very serious problems of today—the issues of the energy shortage, inflation, unemployment, and even the transient readjustment crisis resulting in such upheavals as the interstate truck strike.

Our task is not easy. But I have faith in America. This is the same Nation that reunited after the Civil War to become the greatest and most inspiring republic the world has ever known. This is the same nation that—through its system of democracy and free enterprise—achieved technological and human growth which we generously shared with all mankind. This is the same Nation that transcended recessions and depressions to move forward to even higher levels of existence. And this is the same nation that recovered from the calamity of December 7, 1941, at Pearl Harbor to defeat powerful enemies.

Abraham Lincoln was forced to wage a war. His deeper instincts were those of conciliator, mediator, and moderator. Abraham Lincoln would be very proud of the work this Administration has done overseas to reconcile differences and promote peace.

I am proud to be part of an Administration that has opened the way for peace in the Middle East. It is my fervent hope that from such a peace will flow a spirit of greater cooperation not only between the Arabs and Israelis but among all peoples. We are now host to an international meeting here in Washington on the oil crisis.

To solve the energy crisis, we are concentrating all our energies—at home and in relations with other Nations—to conciliate, moderate, and mediate. We are proceeding, in the spirit of Abraham Lincoln, with malice toward none.

We have run short of gasoline. But we have not run short of our traditional American determination to overcome adversity. And we have not run short of American know-how. Or American initiative. Or American courage. Or American patriotism.

As we celebrate Abraham Lincoln's birthday, we seek the moral and spiritual idealism that inspired Lincoln. We seek to reconcile differences with all nations and among ourselves.

Our great challenge is not in seeking fights with anyone in the world. It is in avoiding conflict and in building peace and friendship with all people.

Our true task is to harness the natural resources and productive genius of humanity to assure better lives for all Americans and all mankind.

Just as we now take pride in the first peaceful Lincoln's birthday in many years, when no Americans are fighting abroad, so we dedicate ourselves to reconciling differences and achieving solutions within the United States.

I believe in the United States and in our capacities.

I draw fresh inspiration from this patriotic assembly.

Let us go forth from here with a new dedication to America which has been so richly blessed by the Supreme Creator.

I pray that God bless our efforts to promote peace and justice at home and abroad, and that He strengthen the bonds of friendship and fellowship among the inhabitants of all lands.

NORTHEAST REGIONAL RAIL REORGANIZATION AND THE CO-OP CITY COMMUTER

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. BINGHAM. Mr. Speaker, on March 11 I was the leadoff witness at the ICC's New York City hearing on the Northeast Rail Reorganization Act of 1973. The purpose of that public hearing as well as others to be held throughout the region is to insure that the public would be served by the final system plan to be submitted to the Congress for approval. Unfortunately, the administration's initial recommendations are designed solely to insure that the remaining lines are profitable after reorganization—the public be damned.

The DOT report, as pertains to New York City, fails to address the dire transportation problems facing the metropolitan area. Since 1969 I have been involved in the effort to bring rail mass transportation services to the 60,000 residents of Co-op City, the largest cooperative housing development in the United States. Neither the Metropolitan Transportation Authority, nor Amtrak, is willing to take responsibility for providing this needed service, and the DOT report has offered no solution to the problem.

Commuter service can no longer be everyone's stepchild, yet the preliminary system plan treats it as such. My testimony, reprinted herewith, stressed these very points, and I commend the same to my colleagues and other readers of the RECORD for consideration.

TESTIMONY OF CONGRESSMAN JONATHAN BINGHAM, REGIONAL RAIL REORGANIZATION ACT PLANNING HEARING

Judge Jennings, I am Jonathan Bingham, a Representative in Congress from the State of New York. The 22nd Congressional District which I have the privilege of representing is deeply concerned with the future of the region's rail system. In addition to my remarks today, I would like to submit a more detailed statement for the record.

A new era for rail transportation is the aim of this protracted planning process—an era in which service will meet the total needs of the region served. For this reason, the Congress required that the bureaucracy go to the people in the affected communities, listen to their unique transportation requirements and mold the individual pleas for assistance into a viably cohesive rail network. I commend the Commission for accepting this responsibility and complying with the intent of the Congress, and especially Ms. Gladys Kessler for her diligence and hard work to make this particular hearing a success.

I am, however, concerned that the bureaucracy has inadvertently impaired the usefulness of public counsel by erecting barriers hindering those interested individuals who seek to assert their right to be heard as provided by this law. First, the time schedule established for this hearing has worked against the ordinary citizen who has had neither the time nor money to follow the issue closely, but has as vital a stake as the biggest industrialist to see that the area's future rail system is responsive to his needs. Second, the DOT's initial report has not been made readily available to the public. In order for public counsel to be useful in the future, needed material must be as easily available as the expert assistance of public counsel.

The Congress in the Rail Reorganization Act has declared it to be in the national interest to reestablish, revitalize and thereafter maintain, if necessary, a viable rail transportation system in the region after nearly 50 years of general decline. There is no doubt in my mind that the railroad's continued well-being is essential to the region's continued development. As a matter of simple economics, if the seven bankrupt railroads were allowed to cease operations, 2.7 million jobs would be eliminated, the country's Gross National Product would decline by nearly 2.7 percent, and the value of the region's goods and services would decrease in value by nearly 5 percent.

But, it is equally clear that the DOT's overemphasis of the "profit-ability" aspects of the final system plan ignores totally the social and environmental effects the "profitability" posture would cause. It is essential, in my view, that the total transportation picture of the densely populated northeast region be considered. The DOT report, as pertains to New York City, while not calling for abandonment of any track, entirely neglects to mention the dire transportation problems facing the metropolitan area. For example, were it not for this hearing the planning process would provide no opportunity for the plight of the 60,000 Co-op City residents who are without commuter service to downtown New York City to be considered.

The DOT report states that "three of the six purposes set out in the declaration of policy in the Act are directly relevant to this planning process."

This represents a cavalier and an incorrect attitude, for all six of the Act's purposes are important, and I might add, equally so. This is more than mere oversight, and confirms my feeling that the Administration is solely concerned with establishing a profitable freight service for big shippers—the public be damned.

The DOT report's conclusions and recommendations, on page 2, are devoid of environmental, social and rail passenger service considerations.

The Declaration of Policy in Section 101 (a)(5) of the Act provides that rail transportation offers economic and environmental advantages over other transportation forms with respect to land use, air pollution, noise levels, energy efficiency and conservation, resource allocation, safety and cost per ton-mile. To an urban resident these considerations are paramount—not the profit ratio of the carrier. Yet, the DOT report, as is evident from even the most cursory reading, stresses the need to eliminate competition, discard less profitable track, give billions in federal aid, and then turn a profitable rail system back to the rail companies. Unless considerations of *the total transportation needs of the region* are weighed heavily and brought to bear in fashioning the final system plan, I state now that I would have no choice but to oppose final Congressional approval of the plan, and seek greater government control of the rail industry to ensure that the system is responsive to the real needs of the Northeast.

There are three specific areas which I shall direct the remainder of my remarks to: environmental considerations, competition, and passenger needs of the area, which I believe have not received proper emphasis.

ENVIRONMENTAL AND COMPETITIVE FACTORS

The environmental aspects of the proposed restructuring of the railroads were treated in three short paragraphs on page 15 of the report. First, argued the DOT, "the movement of rail traffic can be made more efficient with the consequent reduction in resource consumption and pollution." That is true, but the argument is a mere truism because cessation of operations would similarly result in less pollution and resource consumption. The report's second environmental statement, if one can call it that, states that the restructured railroads improved intermodal competitive ability would be able to attract traffic back to the rails from the highways either as piggyback or freight car traffic.

It is going to take much more than that DOT statement to change so many years of bureaucratic preference for motor carrier freight services. The ICC has, as a matter of policy, fostered the development of the trucking industry at the expense of the nation's railroads. Trucks have been encouraged to compete and have successfully wrestled from the railroads the high profit traffic, leaving the railroads with high volume but low profit commodities.

This is one area where the ICC should be able to take the lead in as much as it has contributed to the present regulatory malaise. There is, indeed, no logic to employing a truck to haul non-perishable goods across the country when the railroad could do it with four times the energy efficiency.

Perhaps one of the most abhorrent policies adopted by the ICC over the years has been the conscious discrimination against the transportation of recycled commodities. Though this country now suffers from severe commodity shortages, such as in paper, the ICC in parts of the U.S., requires the railroads to charge, for example $312 to haul a carload of recyclable waste paper from point A to point B while competing pulpwood costs only $172 per carload. Virgin aluminum generates freight revenue of approximately $669 per carload while scrap aluminum, from discarded beer and soda cans, must withstand a burdensome rate of $1,374 per carload for a representative movement.

An amendment which I originally introduced to effect this change in the Energy Emergency Act of 1973, accomplishes the purpose in the Rail Bill. Section 603 mandates that the ICC shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which will eliminate discrimination against the shipment of recyclable material in rate structures and in other Commission practices where such discrimination exists. It is now imperatve that the ICC begin to implement section 603, so that by the time the final system plan has been approved and the Consolidated Rail Corporation comes into existence the last vestige of this counterproductive discrimination has been eliminated.

PASSENGER SERVICE

Out of the entire 85 page report (Vol 1) barely over two pages are devoted to passenger service. Even in the so-called passenger service section, the report indicates that passenger service shall be determined on the basis of the freight service system designed by the process provided for—almost as an afterthought.

As correctly pointed out, the Northeast Corridor requires a very special intercity and commuter passenger operation. This conclusion is consonant with the Secretary of Transportation's Recommendations for the Northeast Corridor, published in 1971. Section 202(b) (3) of the Act, as a logical follow-up to that report, requires the USRA "to prepare a study of rail passenger services in the region, in terms of scope and quality." As the DOT report says, this also means that the "necessary engineering studies and improvements" be initiated.

CO-OP CITY COMMUTER SERVICE

Perhaps the best way to dramatize the need for the total rail transportation planning, the absence of which is the major flaw in the DOT report, would be to retell the saga of the heretofore ill-fated efforts to implement a rail commuter service for the 60,000 residents of Co-op City in the Bronx and improved service for other areas of Connecticut, Westchester County and the Bronx.

As early as 1969, I had become convinced that mass transit facilities would be required for the Co-op City area. There are approximately 60,000 people living in Co-op City which can be seen from the map, *infra*, is one of the most distant Bronx locations from mid- and lower Manhattan. From Co-op City, travel to Manhattan requires at least one interchange from the bus to the train, and at worst, the use of the bus and two trains, sometimes taking as much as two hours. The West Side and the World Trade Center area of Manhattan are especially difficult to reach by existing rail and bus services.

In April of 1969 the North Bronx Transportation Project headed by Mr. Andrew Wolf proposed using the Hell Gate Route of the New Haven Railroad for a commuter service to be run between the Northeast Bronx and Pennsylvania Station. On April 15, 1971, Dr. Roman, the Chairman of the Metropolitan Transportation Authority (MTA) said that such a plan was not feasible because the capacity of the tunnel under the East River was not sufficient to bear any increased traffic.

On June 11, 1973, along with Congressman Ogden Reid of Westchester, and Mayor Alfred Del Bello of Yonkers, I filed a joint application under section 1 (18)-(20) of the Interstate Commerce Act proposing that the MTA be authorized to perform a commuter service that would begin in Stamford, Connecticut, and run along the existing New Haven main line to New Rochelle, New York (making stops as needed); the trains would then run along the existing New Haven Railroad's Harlem River Branch tracks (used by Amtrak trains) stopping at Pelham Manor. The trains would continue into Bronx County and would stop at Co-op City and at Parkchester. They would then cut through the Southeast Bronx, over the Hell Gate Bridge and through the Penn-Central tunnels under the East River to Penn Station. That application now bears Finance Docket No. 27415. Not only would such meet a vital need for a number of communities, but it would tend to relieve congestion on existing subway lines and at Grand Central.

The MTA, through Dr. Ronan, has admitted the need for service to Co-op City, the latest manifestation being Dr. Ronan's concurrence with the objectives of the Tristate Regional Planning Association report entitled "Regional Transit 1990's" which proposed a number of new projects such as the Co-op City subway. The problem remains—until 1990 when the Second Avenue Subway system is scheduled to be extended to Co-op City, how shall the commuter living in the Northeast Bronx get to work?

By a letter dated August 7, 1973, the ICC indicated that MTA, as the proposed carrier, would have to join in the application for it to be considered further. MTA, however, has so far declined to do this. The energy crisis notwithstanding, Dr. Ronan has insisted that the service we proposed was either not feasible, or would require extensive alteration of present facilities. One of his major arguments against the route was the absence of sufficient tunnel head time in the East River tubes.

On December 11, 1973, in a letter to Dr. Ronan, I asked that my own transportation advisors be given the opportunity to look at the various studies he had mentioned as the basis for his earlier assertions regarding the feasibility of our proposal. Because the MTA has not formally refused to act as the carrier for the service we have proposed, and because MTA was created by the New York State legislature to act as the regional transportation authority and is the logical entity to undertake such a service, we have not sought any other potential carrier.

It is remarkable that an agency charged with the responsibility for providing the public with vital transportation services should withhold from the public it serves information which may eventually lead to the creation of a transportation service to relieve the inconvenience of 60,000 people, contribute to our efforts to restore New York's air quality, and conserve precious gasoline reserves which are being unncessarily depleted because the private auto must continue to be used.

Off the record, MTA has asserted the commuter service we have proposed is interstate in nature because it would originate in Connecticut and therefore is subject to Amtrak jurisdiction. Amtrak, on the other hand, as recently as two weeks ago, informed me again that they are not interested in this service because it is essentially a commuter service.

RECOMMENDATION

The Co-op City commuter problem represents in microcosm the situation I foresee for the Consolidated Rail Corporation should the USRA and the ICC not recommend the changes I have noted in the DOT report. The Congresssional intent, as I have indicated in my testimony, stresses factors other than just profitability, factors to which the DOT report merely pays lip service. The elected representatives of the U.S. taxpayer did not enact this legislation as an entry card into the public treasury to finance continuing mis-management and irresponsibility or ensure that the creditors of the Northeast Railroads receive 100 cents on the dollar for their investment, but rather believed that federal financial assistance would preserve vital rail transportation, and thereby serve a real public need. The small shipper must be considered with the large, and in the consideration of the total transportation needs of the Northeast, there is the very real problem of moving people in and out of the working centers of the region. The movement of freight would be meaningless if the people working in New York generating the need for that freight cannot get to work. The movement of commodities can be no more important than the movement of people.

If the final rail plan submitted to the Congress for approval is to receive such approval, the problem of the commuter must be considered. We urge that, as contemplated by the Act, the railroads, Amtrak, and especially the MTA, should be required to produce the data necessary to make the judgment regarding the feasibility of running additional trains over the route we have proposed.

The DOT report provides that the USRA must devote special attention to the current and projected requirements of commuter and intercity passenger service. The final system plan must insure that appropriate priority status is given to passenger train movements particularly in the Northeast Corridor, including such necessary improvements as the proposed Co-op City Service. Ultimately, a decision will also have to be made as to which entity is to operate the service.

Commuter service can no longer be everyone's stepchild. The energy crisis has made us painfully aware that we must adopt improved mass transportation if the economy and the standard of living each of us has come to know is to be preserved and enhanced.

I am confident that, if the appropriate agencies discharge their statutory duties with vigor, a national transportation policy, responsive to all competing needs, will emerge, and that the commuter will not continue to be the unwanted stepchild.

COLLEGE CLOSING WOULD MAR EISENHOWER'S MEMORY

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. WALSH. Mr. Speaker, the 93d Congress is about to do a serious disservice to the memory of a great American—President Dwight Eisenhower. When Eisenhower College in Seneca Falls, N.Y., opened its doors in the late 1960's, it did so as a living memorial to one of this country's greatest patriots, generals, and Presidents.

Rather than a mere stone monument, here was a memorial that educated our young people and contributed to the future betterment of our Nation.

Now, despite President Eisenhower's personal endorsement of this school, it will close its doors in June unless $369,994 can be raised by April 9 to balance the budget.

The House Education and Labor Committee has pending before it H.R. 10027, a bill that would grant Eisenhower College $10 million from the Federal Treasury. That legislation has been pending since August 3, 1973.

I fail to see how Congress will be able to explain its inaction on this matter. It will be just another case of disregarding public sentiment and it seems to me that this is not the time in our Nation's history to be guilty of that.

To give you an indication of how sentiment is running on the Eisenhower College issue, let me share with you an editorial that appeared in the March 13, 1974, edition of the Syracuse Post-Standard:

> It is grim news indeed that Eisenhower College, opened in 1968 as a national memorial to former U.S. President and general,

Dwight David Eisenhower, may be closed in June unless $369,994 can be raised by April 9 to balance the 1973–74 budget.

Like all private colleges and universities in New York State, the young, quality-educational, 729-student Eisenhower College has made heroic efforts this college year to make ends meet.

It opened the year with a projected operating deficit of $839,000. It cut operation costs and increased student fees by the amount of $118,498, and it has received gifts since July 1, 1973, totalling $337,008, for a current deficit of $383,494. Gifts pledged for payment before April 9 amount to $13,500 which would still leave a $369,994 projected deficit.

The trustees have appealed to the Congress for a $10 million grant to guarantee continuation of the college by eliminating short-term debts of $3,586,732 and saving current debt service costs of $512,875 annually. It was estimated that the balance of $6,413,268 would provide about $450,000 yearly income to balance the budget.

Favorable action in Albany on assistance to private colleges through larger student-aid grants would also help save the college.

It is inconceivable that federal and state governments, and the many friends of one of our greatest national heroes, would allow this living memorial to go out of existence on the $19 million campus at Seneca Falls.

NATIONAL SMALL BUSINESS PRIME CONTRACTOR OF THE YEAR

HON. OTIS G. PIKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. PIKE. Mr. Speaker, I am very pleased to be able to announce that the National Small Business Prime Contractor of the Year is a concern located in the First Congressional District of the State of New York, at Smithtown, Long Island, N.Y. While we have had area awards frequently in my own congressional district, this is the first time that the national award has gone to a company I have the honor to represent, and I am happy to pay tribute to them today:

National Small Business Prime Contractor of the Year

The Small Business Administration, whose duty is to aid, assist, and counsel small business firms, selects annually the outstanding small business firm in each of SBA's ten regional areas who are prime contractors to the military and civilian agencies of the Federal Government. Consideration for selection is based on the following criteria:

1. Stability of company.
a. Financial status.
b. Depth and efficiency of management.
2. Ability to bid competitively.
3. Ability to comprehend technical requirements.
4. Ability to comply with required delivery schedules.
5. Effectiveness in managing subcontractors to obtain timely delivery of supplies and material.
6. Effectiveness of quality control procedures.
7. Reliability of product or service.
8. Attitude towards and ability to cooperate with contracting officials.

The record of performance of each of the regional winners is forwarded to SBA's Central Office in Washington, D.C., where a board of judges is convened to select the National Small Business Prime Contractor of the Year. The judges are made up of the senior Small Business Advisors of the Department of the Army, Department of the Navy, Department of the Air Force, the Defense Supply Agency and the General Services Administration. These judges selected Comtech Laboratories, Inc., as winner of the 1973 National award.

Comtech Laboratories is a small firm, located in Smithtown, New York. It was formed in 1967, and is engaged in the design, development and production of military and commercial satellite communications ground stations. Its backlog of sales is approximately $8 million, about equally divided between Government and commercial customers. Government sales are principally with U. S. Army Satellite Communications Agency, Defense Communications Agency, National Aeronautics and Space Administration, and the Department of Commerce. Commercial customers include RCA Global Communications, ITT Space Communications, Western Union International, Communications Satellite Corporation (COMSAT), and numerous foreign communications agencies throughout the world.

Comtech Laboratories continues to be one of the most rapidly growing companies in the United States in the field of communications equipment and systems. Comtech has over the past four years grown at an average rate exceeding 100 percent per year and in the process has designed and developed the most comprehensive and technically advanced product line of receiving and transmitting equipment for defense and commercial satellite communications ground stations in the industry. During the past fiscal year plant space was increased from 20,000 to more than 100,000 square feet and the number of employees grew from less than 100 to more than 340.

In the period when many companies are faced with declining defense contracts and commercial business Comtech continues to grow, diversify its product line, expand its plant space and to provide increasing employment opportunities in the Long Island, New York, area, and I am most pleased it has received this well deserved recognition.

PRESIDENT NIXON HONORS TRADITION OF PRESIDENTIAL VISITS TO CAPITAL CITY OF TENNESSEE

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. EVINS of Tennessee. Mr. Speaker, the distinguished political columnist of the Tennessean in Nashville, Mr. Joe Hatcher, has written a most interesting and informative article concerning Presidential visits to Tennessee's capital city.

The article is timely and appropriate as President Nixon is visiting Nashville this weekend to join with others in celebrating the first performance of the Grand Ole Opry in its new quarters in fabulous Opryland U.S.A.

As Mr. Hatcher says in his column, Nashville and Tennessee have always given the Presidents of the United States warm and generous welcome regardless of party—and we welcome the President to Tennessee and wish for him a most enjoyable trip to Tennessee.

Because of the interest of my colleagues and the American people in the Presidents, I place in the RECORD herewith the article by Mr. Hatcher.

The article follows:

[From the Tennessean, Mar. 10, 1974]

"WELCOME MAT" FOR PRESIDENTS

(By Joe Hatcher)

So President Richard Nixon is coming to Nashville on March 16. Well, he won't be making history, to say the least. It has happened before.

Over the years, more than half the nation's Presidents have visited Nashville before, during or after serving in the White House.

Presidential visits to Nashville started with President James Monroe, the fifth President, in June of 1819. Since that time Nashville has welcomed and entertained warmly three of Tennessee's own sons who were Presidents. They were Andrew Jackson, James K. Polk and Andrew Johnson.

The others, in addition to Van Buren, were Rutherford B. Hayes, Teddy Roosevelt, William Howard Taft, Woodrow Wilson, Franklin D. Roosevelt, Harry S. Truman, John F. Kenndy and Lyndon B. Johnson—and now Richard M. Nixon for his third visit. It is, however, Nixon's first visit from the White House to Nashville.

POLITICAL VISITS

All presidential visits are political—some purely so. President Nixon's visit to dedicate the new Grand Ole Opry auditorium is a tribute to country music and to Music City, U.S.A., but at this time of Watergate it cannot be divorced from politics. Other political aspects are the energy crisis and the impeachment atmosphere.

But regardless of the politics of the man who held the office of President, Nashville has always tendered a warm and gracious welcome—if not to the man, perhaps—then to the office of the presidency.

One of the more unusual welcomes was that extended to Andrew Johnson after he had left the White House, after his impeachment by the House of Representatives, and after he had escaped conviction by the narrow margin of one vote. During the early years of the Civil War Johnson had not endeared himself to the people of the state when he served as the iron-fisted military governor during the Federal occupation.

LESS CEREMONIAL

All of Nashville's receptions in the early days were elaborate and some bordered on the spectacular. In modern times, however, Presidents fly in and out with somewhat less pomp and ceremony than in the old days, with often only political rallies in their honor.

President John F. Kennedy's visit to Vanderbilt University on May 18, 1963 was probably the last massive demonstration for a President in office. He spoke to a great audience in Vanderbilt Stadium, and touched a button exploding a charge that started work on the Cordell Hull dam at Carthage.

President Nixon was in Nashville for a speech on the public square back in 1960, the year he was defeated by John F. Kennedy for the presidency. In 1966 he returned to Nashville for an address at Vanderbilt, two years before his successful candidacy for President in 1968.

As a U.S. Senator, as Vice President, and as a candidate and later President, Lyndon B. Johnson was in Nashville so often he could refer to the city as a second home. He was the only President ever to throw out the first ball of the baseball season in Nashville, which he did for the Nashville Vols at old Sulphur Dell.

James Monroe, the first President to visit Nashville, came officially to visit Andrew Jackson and to show his support for Jackson's controversial handling of the "War With Spain" in Florida. Coming up from Georgia, he was met at the city's southern border by the Tennessee Volunteers, in coonskin caps and buckskin leggings.

MARCHING BAND

The Masonic marching band was on hand to escort the President to the home of Mayor Thomas Crutcher, where hundreds met him and shook his hand. He "reviewed the troops" at Nashville Female Academy, where 200 young ladies gave him a warm welcome. There was a reception at the Masonic Temple, followed by a big banquet at the Nashville Inn and another reception the next day at Jackson's home at the Hermitage.

As a parting sign of regard for President Monroe, General Jackson's carriage took him part of the way to Louisville as he traveled northward from Nashville.

President Martin Van Buren stayed longer in Nashville than any other presidential visitor, spending most of his time with General Jackson at the Hermitage. The old general had "handpicked" Van Buren as his successor in the White House.

Former President Andrew Johnson came to Nashville on April 7, 1869, just four years after the close of the Civil War. He was escorted by the Odd Fellows Brass Band to the St. Cloud Hotel, and spoke the next day to a great crowd on the public square.

FOUR GRAY HORSES

President Rutherford B. Hayes was in Nashville in 1877 on a mission of good will toward the former Confederate states. He was taken from the railroad station to the Maxwell House in a coach drawn by four gray horses. He spoke on the grounds of the State Capitol, and found time to lay the cornerstone for the new Federal Building at what is now Eighth and Broadway.

Teddy Roosevelt had been in Nashville several times before he came as President in October, 1907. His special train was met by a carriage drawn by four milk-white horses—presumably even more elegant than those that had drawn President Hayes. He spoke to a capacity crowd at the Ryman Auditorium—later to serve as the Grand Ole Opry House.

President Roosevelt was a luncheon guest at the Hermitage, where he was served from Andrew Jackson's own silver service, and was presented a spoon that had belonged to Jackson. His special train picked him up at the Hermitage Station.

President F. D. and Mrs. Roosevelt were likewise honored with a breakfast at the Hermitage in the 1930's after a great reception in Nashville. Roosevelt later returned to Nashville briefly for the funeral of House Speaker Joseph W. Byrns.

William Howard Taft was a frequent visitor in Nashville through the years, coming to the city as President on November 9, 1911. He spoke at the Ryman Auditorium and was banqueted at the new Hermitage Hotel.

COLLEGE REUNIONS

Woodrow Wilson came to Nashville in 1905 and again in 1907 to attend Princeton reunions, and to visit a brother who was a Nashville newspaperman. He came back in February of 1912, en route to the Democratic nomination and election to the presidency.

President Harry Truman was in Nashville in 1951 en route to dedicate the Arnold Engineering Center at Tullahoma. After leaving the White House he came back in 1955—ostensibly to visit the Ramp Festival at Cosby, Tennessee—but actually, perhaps, to measure Gov. Frank Clement as a Kefauver opponent in a race for the Democratic presidential nomination. He spent a night at the Governor's Mansion with Clement.

And now comes President Nixon.

CONGRESSMAN BADILLO EXPLORES THE FULL EMPLOYMENT "MYTH"

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. HARRINGTON. Mr. Speaker, earlier this month, several of our colleagues joined with people from the academic world and labor and civic leaders in a 2-day conference in New York City on the issue of full employment. The meeting at Columbia University was generated by a common concern over the seemingly endless unemployment crisis facing this Nation and the present administration's failure to take any effective initiatives to resolve it. The conferees also examined the history of this country's postwar employment policy, the factors which have contributed to the steady rise in unemployment and the elusive objective of achieving a full employment economy.

One of the two closing addresses was delivered by our colleague from New York, HERMAN BADILLO. In his remarks, Mr. BADILLO observed that the "objective of full employment—defined as providing some type of work for every person seeking a job," has never been a primary goal of any national administration. He further noted that the basic consideration of a full employment economy usually boils down to the classic struggle between the "haves" and the "have-nots" and that this country's minorities have borne much of the burden of the unemployment crisis. Charging that this Nation's majority has failed to take steps to fulfill the achievement of full employment and to aid the minority in securing jobs, Congressman BADILLO stated that he could offer little encouragement that any substantive attempts to create a full employment economy will be undertaken in the foreseeable future.

I commend Mr. BADILLO for his perceptive and forthright remarks and believe they warrant the careful consideration of every Member of Congress:

CLOSING ADDRESS OF CONGRESSMAN HERMAN BADILLO

Four decades ago Americans were encouraged by President Franklin D. Roosevelt's declaration that every American who was able and willing to work had the right to an opportunity for useful and rewarding paid employment. Tragically, the objective of a right to a paying job for every American envisioned in FDR's new economic bill of rights of 1944 not only has never been achieved but has been consistently avoided and remains a highly elusive goal. The 79th Congress, for example, considered legislation establishing a specific national commitment to full employment but the employment act of 1946 which was eventually enacted into law sought only an effort to achieve maximum employment. At no time has the objective of full employment—defined as providing some type of work for *every* person seeking a job—been a primary goal of any national administration of either political party.

Last October we saw the unemployment rate dip briefly to a three and a half year low of 4.5 per cent. However, this figure is now on the rise toward a predicted six per cent and even higher level. Especially hard hit are the nation's various minority groups as it is a known fact that official unemployment—not to mention underemployment—among blacks, Puerto Ricans, Chicanos and American Indians has averaged twice that reported for the rest of the Nation. In the teeming ghettoes of urban America officially-certified youth unemployment has reached the proportions of a massive depression. There is no question but that suitable paid employment just does not exist for numerous segments of American society who are willing and anxious to work—Vietnam-era veterans, women, senior citizens, those forced out of work or denied employment opportunities because of technological advances or the energy crisis, recipients of public assistance and certain others.

This seemingly endless unemployment crisis is seriously exacerbated by the fact that the private sector and the capitalist system simply cannot provide employment opportunities for all of those American citizens seeking work—not to mention those who are presently underemployed or who have become discouraged and rejected and are not actively seeking jobs. Up to this point we simply have refused to face this fact and the government continually looks to private business and industry to provide the jobs. The simple fact remains that not only are the jobs not available but the private sector is just not capable of providing these much needed work opportunities. Our economic system is just not geared to trying to fulfill the hopes created by the Employment Act of 1946 and the private sector is incapable of generating sufficient numbers of employment possibilities to even begin matching the number of unemployed, underemployed and unskilled. Further, I seriously doubt whether the private sector feels any sort of obligation to furnish jobs and training for those in need.

In light of this situation I continue to believe most strongly that in order to achieve a full employment economy the government—at the Federal, State, county and municipal levels—must furnish the jobs. Regretably, the present administration has demonstrated a singular lack of meaningful interest or leadership in this critical area. The woefully ineffective Nixon economic strategy has failed to provide any substantive solution to the problems of unemployment and underemployment. Also, by such ill-conceived moves as the veto of the Employment and Manpower Act of 1970 and, last year, the minimum wage bill, plus the deliberate scuttling of the Emergency Employment Act, Mr. Nixon and his clique have demonstrated nothing more than a callous disregard for the plight of not only the unemployed but also those who are earning less than a living wage even though they may be on the job for eight or more hours every day.

Therefore, in the absence of any moves by the executive branch in the direction of a lower rate of unemployment—much less full employment—the initiative must be taken by the Congress. For example I have authored a bill—the Guaranteed Employment Act—which provides that any person who is unable to find work in the private sector will be *guaranteed* a job in a municipal, county, State or Federal program, primarily in the public service area. My able colleague, Mr. Hawkins, has authored a measure, of which I am a co-sponsor, to provide employment for over 1 million persons in public service positions. There are a number of other similar measures—some of which have been precipitated by the so-called energy crisis—pending in the House and Senate. In some sectors there is a realization that full employment can serve as a viable and important tool in resolving the economic and unemployment crisis with which we have been saddled for the past five years.

Not only will more than four and a half million unemployed fellow citizens be given jobs but needed services could be furnished to our cities, counties and states. At one point some nine years ago it was estimated that 4.3 million *new* jobs could be filled in public service if the Government were to just fulfill its obligations in protecting and developing the physical environment and in carrying forward essential social service programs. In addition, if the poor and unemployed are able to obtain gainful employment, they will then be able to secure their own housing, provide education for their children, care for their own health needs and not be forced to seek aid from public agencies.

In the final analysis, however, much of this discussion of a full employment economy degenerates into the classic struggle between the "Haves" and the "Have-Nots." There has been a great deal of talk about full employment since the end of the Second World War but no real action. The fact remains that the achievement of this goal—particularly as it would benefit the Spanish-speaking, Blacks, Indians and the other minorities—has not been actively pursued as the nation's majority may be adversely affected. In October 1972, for example, CEA Chairman Herbert Stein declared that the idea of a maximum unemployment rate of four per cent as a national goal had been abandoned. He later stated that it would be counterproductive to establish any specific unemployment target.

Also, an increasing number of economists and others are citing the findings of Professor A. W. Phillips of the London School of Economics who made the first attempt to quantify the wage-unemployment relationship and they claim that a full employment economy will result in inflation. They cite Phillips' findings—based on his study of unemploymet in England between 1861 and 1957—that unemployment rates below two and a half per cent would cause wages to rise faster than productivity and presumably would be accompanied by rising prices as proof positive that the American economy cannot afford zero unemployment, or even a decline below four per cent unemployment, because there will be a proportional rise in prices.

As an example, in December 1972 Duke Economics Professor Juanita Kreps wrote in the *New York Times* that full employment and wage-price stability are incompatible—a statement consistent with the Phillips curve which showed an inverse relation between wage changes and the percentage of the unemployed labor force—and declared that prices have risen much faster in low-unemployment periods than in high ones.

Related to this state of affairs is the fact that the capitalist economy must have built-in unemployment at a substantial level in order to keep the workers in a constant state of anxiety and to thereby prevent them from seeking higher wages, knowing that if they protest too hard or too long that their jobs can be taken by others presently unemployed. Unfortunately, organized labor has changed significantly from the era of the 30's and early 40's—the time during which it actively endorsed FDR's efforts to extend the right of every citizen willing and able to work, irrespective of age, race, sex or social background, to a beneficial and "remunerative job in the industries or shops or farms or mines of the Nation. . . ." Today union support for a full employment economy is almost nonexistent. A rather large percentage of the working force is now unionized and organized labor has secured many of the rights and benefits it fought to achieve earlier in this century. Now they are unwilling in most instances to continue the cause and to work to extend those benefits and the simple right to an honest, decent-paying job to the underprivileged and the minorities. One need only cite the dismal record of the building trades as they continue to bar or severely limit minority participation in their unions.

What much of the struggle to achieve full employment is about is basically the problems of the minorities of this Nation and this is really what we are up against. However, this is more than simply a struggle for minority rights as you will always have the majority against you. It seems obvious to me that the employed majority would prefer to accept high unemployment—regardless of its effects on minorities—as an irritant or minor annoyance over rising prices. The present administration, for example, appears to maintain this attitude—especially when you consider comments of persons such as Federal Reserve Chairman Arthur Burns who claim that any programs which directly encourage Federal employment will constitute "undue intrusion" into the economy.

I seriously suspect, therefore, that, although many politicians and some academicians may talk about and urge the creation of a full employment economy, the country's "establishment"—and the generally well-off, middle-class, suburbanite American—simply dismisses such sentiments as another liberal shibboleth which must not be taken seriously. The majority knows full well that those with the power and authority to fulfill the quest for full employment and aid the minority in locating jobs with which to meet even the minimal demands of life will not do so.

Thus, even though we may very well have the capacity and resources to find work for every person who wants a job and despite the prospect that a full employment economy can, in fact, be achieved, I must tell you in all candor that I cannot offer any encouragement that any substantive efforts will be undertaken in the foreseeable future. Like so many other goals and objectives which would benefit the poor, the disadvantaged, the unemployed and underemployed, the uneducated and untrained and the minorities, full employment just has no constituency in either the public or private sector. Although the objective of achieving full employment is no longer simply some nebulous philosophical goal but a clear economic necessity I am afraid that it will remain unaccomplished for some time. Full employment is a vital goal of a progressive social policy yet the lack of support for it by the present administration just relegates it to another empty phrase. This Nation has the needed potential to achieve full employment. The only remaining ingredient is a willingness to make the necessary effort and to fulfill a long-standing moral commitment.

SUPPORT FOR THE PRESIDENT

HON. RICHARD H. FULTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. FULTON. Mr. Speaker, I would like to commend to the attention of my colleagues the names of a number of citizens of the Fifth District of Tennessee who have expressed their support for the President of the United States. As participants in the activities of the National Citizens' Committee for Fairness to the Presidency, they are exercising their right, indeed, their duty, to speak out, to voice their views on the issues of concern to all of us.

I therefore submit for the RECORD the following:

Maxie T. Bass.
——— ———.
Clarence E. Wood.
Mr. and Mrs. R. H. Wood.
Mrs. J. B. Barrett.
J. B. Barrett.
Richard A. Barrett.
Mrs. Richard A. Barrett.
Mrs. Willie B. Cain.
William A. Barrett.
William Rodman Morris.
J. C. Franklin.
Arthur H. Johnson.
George Hayewood.
T. E. Stamps.

THE WISDOM OF THE CONSUMER PRODUCT SAFETY COMMISSION

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. LANDGREBE. Mr. Speaker, while many people have been applauding the Consumer Product Safety Commission in its opposition to political appointments, almost no one has made the effort to point out the implications of the position of the CPSC on this matter. Fortunately, the Wall Street Journal did so in a recent editorial on January 31, 1974. I include the editorial in the RECORD in its entirety for the information of my colleagues:

THE WISDOM OF THE CPSC

Wouldn't it be wonderful if the Consumer Product Safety Commission could be so insulated from politics—from the White House, Capitol Hill, business and industry and other pressure groups—that it would be able to study each issue that comes before it on its merits and divine the public interest through its own wisdom?

No.

Things are not noticeably more wonderful in those other countries of the world where there are no politics or pressure groups to interfere with the wisdom of bureaucratic tribunals. There's no reason to believe our bureaucrats are any wiser than theirs. But it has somehow gotten into the heads of the five newly appointed CPSC commissioners that they indeed are, and that they could do a whale of a job in serving the public interest, as they see it, if only they didn't have to take any political heat. They currently are playing the White House off against the Congress to bring this about.

At issue is the matter of five commission staff jobs. The new agency has eight top staff positions, and on its own can decide which of these should be "career" positions, and which "non-career." Those it chooses to be career slots must be opened to Civil Service competition. The non-career slots need not be, but the candidate picked by the commission must, by Executive Branch tradition, get "political clearance" from the White House. Which doesn't mean, in the present instant, they have to be Republican. In fact, most are not. Rather the President doesn't want to people his administration with folks who have a partisan philosophy of government diametrically opposed to his. Mr. Nixon in particular feels there are already plenty of people in career slots in the government who enjoy that luxury.

The safety commissioners, in deciding to make five of the eight key slots non-career, also decided they didn't want these to run the political clearance process. In other words, they want to be able to pick their own people for these jobs and retain the right to fire them at *their* will, but want the Chief Executive to have no influence at all in the selection process. The people they chose are now at work and collect their salaries, and for all anyone knows they are rabid Nixonians. But because the commissioners refused to submit their names to the White House, a confrontation has been brewing, the likely outcome being White House orders to sever the five from the payroll. Naturally, a brouhaha in Congress and in the press will follow.

If recent history is any guide, Congress will come down on the side of the safety commissioners, who, being for safety and consumers, wear white hats. The Nixon administration, convulsed by Watergate, will sport the black. In the current Washington climate, almost any proposal to strip the Executive Branch of power will gain an immediate following.

But this confrontation would have come anyway. For at least the last three years Congress has been on an extraordinary kick, dealing out powers to the regulatory agencies at every chance. The excuse has always been that the White House had grown too powerful. In other words, after spending 40 years endowing the Executive with power and becoming alarmed at what it saw, Congress decided to correct the problem. Not by retrieving that power, for with power comes responsibility. But by giving it to the regulators. Without doubt, the White House struggle with the CPSC is part of this continuing process. If the CPSC wins, the White House fears it will only be a matter of time before the other regulatory agencies are cut loose from the administration that holds office.

As a result, the problem—as Senator Goldwater observed the other day—is not that the President has too much, but that both have been losing it to the bureaucracy. And the bureaucracy is not accountable at the polls. The only link it has to the political process are those tenuous strands that tie it to the one person who is elected by all the people and to those, in Congress, who annually review its budgets. The CPSC now desires to cut one of those strands.

And with the best of intentions. Like bureaucrats everywhere, they believe they could more easily steer the nation to the Promised Land if only they didn't have to worry about day-to-day politics. But as wise as they might be in the short run, they can never approach the collective wisdom of those who have to stand before the public at periodic intervals and seek renewal. By insulating themselves from politics they would insulate themselves from the vested interests, the moguls and the powerful lobbies, and the people too.

NOTICE OF HEARINGS ON H.R. 188, H.R. 9783, H.R. 12574, AND H.R. 12575

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. EDWARDS of California. Mr. Speaker, I wish to announce that the Subcommittee on Civil Rights and Constitutional Rights of the House Committee on the Judiciary will continue its hearings on H.R. 188, H.R. 9783, H.R. 12574, and H.R. 12575, bills to protect the constitutional rights and privacy of individuals in the dissemination of criminal justice information.

The hearing will be held on Thursday, March 21, 1974, at 10 a.m. in room 2237 of the Rayburn House Office Building. Representatives from the Civil Service Commission and the Department of Defense will be presenting their views on the above-mentioned legislation.

Those wishing to testify or to submit statements for the record should address their request to the Committee on the Judiciary, U.S. House of Representatives, Washington, D.C., 20515.

BEHIND THE OIL EIGHT BALL

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. DERWINSKI. Mr. Speaker, a very pertinent, factual, and penetrating article by Alex R. Seith in the March 10 edition of the Suburbanite Economist, directs our attention to the energy problems that have affected the black African nations.

I should wish to add that even though Mr. Seith is well known in Washington for his leadership in the Democratic National Committee, he is also highly regarded for his regular columns on foreign affairs issues.

The article follows:

BEHIND THE OIL EIGHT BALL

(By Alex R. Seith)

Is black Africa being black-balled? That question is now echoing through Africa in the wake of the Mid-West oil crisis.

Last fall, most black African nations reluctantly disrupted a history of cordial relations with Israel in response to urging by the Arab oil nations to break diplomatic ties with the Jewish state.

Despite years of financial and managerial assistance given by Israel to Africans, gratitude for the past yielded to concern for the future. In a new twist on the old saw—"What have you done for me lately"—the African leaders were persuaded that their interests would be best served by cultivating Arab good will through official breaches with Israel.

Through subtle threats and promises from certain Arabs, the Africans were led to believe that their proclamations of affinity with the Arabs would gain them preferential treatment in any oil crunch.

Now second thoughts abound. As the "official" price of oil has soared from $3.50 per barrel in September to $7 in December and skyrocketed to $10 and $15 per barrel on the open market, Africans have been forced to ante up hundreds of millions of precious money they need for development at home. Long victimized by the tendency in international economics for the rich to get richer and the poor to get poorer, the Africans thought that this time it would be different. Different because their "brothers" in the Mid-East would be grateful for Africa's breach with Israel and reward Africans by supplying oil at prices lower than those paid by "rich" nations like Japan, America and the countries of Western Europe.

But Africans are woefully beginning to wonder if this hope was a wild dream. Often hard-pressed to find funds for desperately needed investments in schools, roads, factories and other essentials of development, they find their limited resources ravaged by astronomical oil prices and the consequent inflation in nearly everything else they have to buy abroad.

"Fraternite matin," a respected newspaper in the Ivory Coast, expressed the concerns of many Africans in a recent article titled "Treason or Calculation." For the first time, the article expressed in public a suspicion which has been growing privately among Africans in recent months.

"Have the Arab states deceived our countries and agreed among themselves that we are gullible" was how the paper posed the question. Noting that the African franc, used by 13 nations, has been effectively devalued nearly 20 per cent because of rising oil prices, "Fraternite Matin" also asked whether this was the result of calculated treason by the Arabs, an outright renege on a clearly understood promise to protect "friendly" Africans from the inevitable economic crunch caused by inflated oil costs.

The government-owned newspaper carried a disclaimer stating that "this was a personal view and not the position of the Ivory Coast government." But neither that government nor any other in Africa specifically repudiated the suspicions expressed.

Very likely, the purpose of the article was to test the water or, to change the metaphor, float a trial balloon. By putting this position in print without putting the government officially behind it, the leaders of the Ivory Coast may be sending the Arabs a message in typically diplomatic form. The message is to ask whether the Arabs intend to make good on their promise that Africans would not suffer from the oil boycott supposedly directed only against the West and Japan.

But time is running out. One African diplomat, who asked not to be named, said, "We are hoping that the Arabs will do something fast, before things get out of hand."

What could get out of hand is the agreement between the Organization of African Unity (OAU) and the Arabs that the OAU would benefit from a break with Israel by the imposition of an oil blockade against the white-minority and colonalist powers in Africa such as Rhodesia and Angola.

And an Arab delegation currently touring several African nations has promised $200 million in development aid to help offset the soaring prices of oil. But sources close to the African Development Bank are complaining that they have seen no signs that the promised money is on the way.

And even if the $200 million were immediately forthcoming it would not fully alleviate the injury of higher petroleum prices. The Sudanese Foreign Minister, Mansour Khaled, who is also chairman of the African group's oil committee, estimates that in 1974 Africans will pay $600 million more for oil than in 1973. This is three times the aid promised by the Arabs.

Meanwhile, as Africans step up the search for sources of oil on their own continent, they are also asking the searching question: Is the price of Arab-African unity too high?

HOPE CHAMBERLIN—JOURNALIST AND AUTHOR

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mrs. GRASSO. Mr. Speaker, it was with deep sadness that I learned of the death Monday of Hope Chamberlin, a dynamic and perceptive woman, noted freelance writer, photographer, and researcher, and author of the book entitled "A Minority of Members—Women in Congress."

Her delightful manner, her wit and great charm will be gravely missed by all those who knew her. Yet, her contributions to history and to journalism will live on in the books and articles she wrote. Certainly, "A Minority of Members," is a book that will forever serve as a valuable source of information and insight into what it is like to be a woman in Congress.

My sympathy to the family of Hope Chamberlin. They should be very proud of the accomplishments of this noble woman, who will always be remembered as a fine writer and a wonderful human being.

TEL-MED

HON. JERRY L. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. PETTIS. Mr. Speaker, despite an annual U.S. expenditure of $70 billion for health care, all too frequently the average citizen does not have convenient access to medical and health care information. Tel-Med was created to alleviate part of this deficiency. I would like to invite the attention of my colleagues to this bold and innovative program.

Tel-Med provides a community with instant access, by telephone, to an excellent library of concise, accurate, physician-approved 5-minute tape recordings on many health care topics. To obtain information, the concerned person dials a toll-free number and asks to have a given tape played. The young man concerned about venereal disease, the mother concerned about rheumatic fever, the middle-aged person concerned about cancer and diabetes, the person who finds himself in immediate need of first aid information—each can obtain relevant health information easily, instantly, and at no cost to himself.

Tel-Med was first installed in my district in the San Bernardino-Riverside greater metropolitan areas, comprising nine separate municipalities and a combined population of 400,000 residents. This transitional area represents urban, suburban, and rural elements.

Response to Tel-Med has been overwhelming. The staggering sum of 380,000 telephone calls was received during the first 18 months of program operation. The numerous unsolicited comments of appreciation for the medical information provided give positive indication of widespread acceptance. There is a growing awareness of the medical society's role of sponsorship and of the significant contributions that physicians have made to bring this concept to fruition.

In particular:

There have been many requests for additional tapes. Based upon these requests, Tel-Med continuously updates the library to reflect consumer needs and interests accurately.

A number of individual callers have listened to multiple—10 or more—tapes in the library.

The aged have expressed particular appreciation for the service, because of their high interest in health matters, reduced mobility, and limited economic resources.

Translation of portions of the library into Spanish has caused considerable interest in heavily populated Mexican-American communities in southern California.

Ever-increasing numbers of children have responded, leading Tel-Med to consider a separate set of minihealth tapes geared to their comprehension.

Several high school teachers have assigned entire health classes to listen to the tapes on syphilis and gonorrhea.

Requests for brochures listing the available tapes have begun to pour in not only from individuals, but also from factories, department stores, health care service agencies, and welfare agencies.

One of the more encouraging aspects is that increasing numbers of callers have been introduced to the program upon the recommendation of friends or neighbors.

Evaluation by physicians of program concept and informational content has also been favorable. Numerous physicians are referring their patients to the program, particularly to the birth control series. An orthopedic group has referred a large number of patients to the tape on backaches. Doctors have requested brochures on the program to distribute to their patients. Every major hospital in the area has expressed encouragement and has requested tape listings to distribute to its patients.

Numerous inquiries have been received from health care service organizations expressing strong interest in the concept. The regional society of the American Dental Association has submitted 20 scripts on dental care and is preparing 5 more scripts for the library. Special interest groups, such as nutritional/dietary groups, optometric groups, emergency first-aid care committees, muscular dystrophy, diabetic, alcoholic and antismoking agencies, family planning groups, and others have requested permission to submit scripts relevant to their special areas of interest.

The importance of this project lies in the fact that organized medicine, in concert with public and private health care agencies, is willing to donate hundreds of thousands of dollars and knowledge, experience, and effort to create a truly comprehensive and meaningful library of tapes. Once the library is created, its duplication and distribution to any urban area in the Nation is simply and economically accomplished. In short, the anticipated product of this effort will provide a tangible product of high value to others on a nationwide basis.

At present, the Tel-Med program has been adopted by San Diego, Orange, Long Beach, Bakersfield, Santa Rosa, and West Oakland, all located within the State of California. Nationally, the program has expanded into Indianapolis, Ind.; Wichita, Kans.; and State College, Pa.

In addition, other cities appear close to reaching a decision about adopting the program. Among them are Seattle, Wash.; Portland, Oreg.; Kalamazoo, Mich.; Knoxville, Tenn.; Miami, Fla.; Richmond, Va.; Newark, N.J.; and Charleston, W. Va. The cities of Ventura, Santa Barbara, China Lake and Hemet, within the State of California, are nearing program adoption.

During 1973, Tel-Med delivered 100,000 5-minute health messages in the San Bernardino-Riverside-Fontana area. If equivalent response is experienced in just those communities currently implementing Tel-Med, 1 million additional health messages will be delivered in 1974. The sheer magnitude of this phenomenon is bound to have a beneficial impact upon the health and general well-being of the people in these communities.

This program benefits everyone in today's society—from the disadvantaged person facing a medical crisis to the wealthy parent whose child is involved in drug abuse. Not only has it uncovered a vast area of interests and concern for basic health information, but it appears to have demonstrated a channel of communication of extraordinarily effective, inexpensive and acceptable dimensions.

Tel-Med stands at the threshold of national awareness and acceptance.

AMENDMENT TO H.R. 69, ESEA

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. VEYSEY. Mr. Speaker, in accordance with the rule granted for H.R. 69, the Elementary and Secondary Education Act, I am taking this time to have published an amendment I intend to introduce next week.

This amendment would make it possible for us to find out which programs really improve education and which do not. Specifically, my amendment would require a statement, in advance, of the criteria by which the programs under title I would be judged. The Commissioner would be required to develop models for the evaluation of each program and make reports to the Congress on the findings of the evaluation studies.

The authority was granted in previous years to make the evaluation reports but, regrettably, it was never effectively carried out by the Office of Education. My amendment will go one step further and provide for congressional leadership in the development of those studies.

The Congress has often been asked to establish and continue broad social programs with very little, if any, basis for judging their effectiveness. We owe it to the taxpayers and to the people these education programs are designed to aid to be sure that ESEA is delivering what it promises.

We are all uncertain of the effects that title I has had. If I may quote our respected colleague from Oregon (Mrs. GREEN):

> As a long-time supporter of Federal financial aid for education, I have come to realize with much pain that many billions of Federal tax dollars have not brought the significant improvements we anticipated. There are even signs that we may be losing ground.

I believe my amendment is a step toward discovering what parts of title I are working and I earnestly seek my colleagues' support.

The amendment follows:

AMENDMENT TO H.R. 69, AS REPORTED
DEFERRED BY MR. VEYSEY

Page 51, line 25, strike out "141" and insert in lieu thereof "142".

Page 58, after line 18, insert:

EVALUATION OF TITLE I PROGRAMS

SEC. 114. Title I of the Act is further amended by inserting before section 142 (as redesignated by section 110(h) of this Act) the following new section:

"PROGRAM EVALUATION

"Sec. 141. (a) The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinion obtained from program or project participants about the strengths and weaknesses of such programs or projects.

"(b) The Commissioner shall develop and publish standards for evaluation of program or project effectiveness in achieving the objectives of this title.

"(c) The Commissioner shall, where appropriate, consult with State agencies in order to provide for jointly sponsored objective evaluation studies of programs and projects assisted under this title within a State.

"(d) The Commissioner shall provide to State educational agencies models for evaluations of all programs conducted under this title, for their use in carrying out their functions under section 133(a), which shall include uniform procedures and criteria to be utilized by local educational agencies, as well as by the State agency, in the evaluation of such programs.

"(e) The Commissioner shall provide such technical and other assistance as may be necessary to State educational agencies to enable them to assist local educational agencies in the development and application of a systematic evaluation of programs in accordance with the models developed by the Commissioner.

"(f) The models developed by the Commissioner shall specify objective criteria which shall be utilized in the evaluation of all programs and shall outline techniques (such as longitudinal studies of children involved in such programs) and methodology (such as the use of tests which yield comparable results) for producing data which are comparable on a Statewide and nationwide basis.

"(g) The Commissioner shall make a report to the respective Committees of the Congress having legislative jurisdiction over programs authorized by this title and the respective Committees on Appropriations concerning his progress in carrying out this section not later than January 31, 1975, and thereafter he shall report to such Committees not later than January 31 of each calendar year the results of the evaluations of programs and projects required under this section, which shall be comprehensive and detailed, as up-to-date as possible, and based to the maximum extent possible on objective measurements, together with any other related findings and evaluations, and his recommendations with respect to legislation.

"(h) The Commissioner shall also develop a system for the gathering and dissemination of results of evaluations and for the identification of exemplary programs and projects, or of particularly effective elements of programs and projects, and for the dissemination of information concerning such programs and projects or such elements thereof to State and local educational agencies responsible for the design and conduct of programs and projects under this title, and to the education profession and the general public.

"(i) The Commissioner is authorized, out of funds appropriated to carry out this title in any fiscal year, to expend such sums as may be necessary to carry out the provisions of this section, but not to exceed one-half of one percent of the amount authorized for such program."

JACK KEMP PRAISES GEORGE MEANY'S PLANS FOR A SOLZHENITSYN TOUR OF THE UNITED STATES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. KEMP. Mr. Speaker, AFL–CIO President George Meany, recently extended an invitation on behalf of the AFL–CIO to Nobel Prize-winning author, Alexandr Solzhenitsyn, to make a special lecture tour in the United States.

The AFL–CIO, whose recognition of international human rights has been a matter of record since the organization's inception, is once again furthering the cause of human freedom. The AFL–CIO invitation is one of the most visible manifestations of America's appreciation for Solzhenitsyn's ordeal and courage—laying bare the years of Soviet suppression of basic human rights.

On February 13, 1974, I urged the leadership of both the House and the Senate, majority and minority, to formally invite Solzhenitsyn to address a joint session of the Congress. Provided such a forum, Solzhenitsyn could serve the cause of freedom and justice with eloquence and distinction. Further, he could graphically demonstrate certain realities which should be part of the underlying premises of U.S. foreign policy—most importantly, as George Meany pointed out, the establishment and maintenance of fundamental human rights.

Solzhenitsyn reminded us in his Nobel Prize lecture:

> There are no internal affairs left on this crowded earth. The salvation of mankind lies only in making everything the concern of all.

I am proud that George Meany and the AFL–CIO have taken the lead in trying to bring Solzhenitsyn to the United States. Every American should have the privilege of hearing the man who, perhaps more than any other contemporary writer, is furthering the cause of freedom.

Let us never be asked what we were doing that we deemed more important than striving for the cause of human freedom.

I include the text of Mr. Meany's letter to Solzhenitsyn:

Letter

With all free men everywhere, the American trade union movement has followed with deep concern and admiration your courageous struggle for intellectual and human freedom against frightful odds.

We are profoundly aware that the forces which would smother your eloquent voice of dissent have been arrayed throughout history against the efforts of ordinary men and women to organize and maintain independent trade unions responsive to their own needs and not the dictates of the State. And, as we have witnessed your ordeal at the hands of these forces, we have been powerfully reminded of the words of your Nobel Prize lecture:

"There are no internal affairs left on this crowded earth. The salvation of mankind lies only in making everything the concern of all."

It was in this spirit that the American Federation of Labor, more than a quarter of a century ago, documented the existence of forced labor camps in the Soviet Union and published a map of the GULAG network, the subject of your latest work. It was, moreover, at the urging of the American labor movement that the United Nations Economic and Social Council established the Ad Hoc Committee on Forced Labor, whose reports verified the extent and horror of this appalling system of human degradation.

Because there are indeed no internal affairs left on this crowded earth, I want to extend to you, on behalf of the American trade union movement, a most cordial invitation to come to the United States as our guest.

We are prepared to organize a tour for you, so that you may have an opportunity to travel widely in our diverse country, and to arrange meetings and lectures for you, so that you may have an opportunity, to the extent of your wishes, to communicate freely with the American people.

I am confident that I express the heartfelt sentiments of our members, as well as of the American people generally, in saying that I hope you will find it possible to accept our invitation.

JOHN D. WEAVER HAS BEEN GOOD TO LOS ANGELES

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. REES. Mr. Speaker, I am privileged to have as my constituents John and Harriet Weaver. John Weaver is a very prominent author; his book "The Great Experiment" is, I believe, one of the finest in explaining the processes of the Federal Government.

John Weaver grew up in Washington, D.C., and his father served for more than 30 years as one of the official reporters of the debate in the House of Representatives. John became a journalist with the Kansas City Star and has since then branched out into various phases of writing. John and I served for many years as wine judges at the Los Angeles County Fair and he and his lovely wife have been active for some time in the civic affairs of Los Angeles.

I would like to insert for the Record an article by Sue Adelson, which appeared in the Van Nuys News and Green Sheet, honoring the Weavers:

John D. Weaver Has Been Good to Los Angeles

(By Sue Adelson)

Writer John D. Weaver and his wife Harriett greet you hospitably at the front door of their new home on the southern perimeter of Sherman Oaks.

A wide-screen, panoramic view of the San Fernando Valley greets the eye and one almost forgets the subject to be interviewed.

Spaciousness, tranquility and beauty create the perfect setting for the successful free-lance writer. Why shouldn't a writer be able to produce here? Why shouldn't he, unless, of course, he can't write.

But John D. Weaver can write, and he knows that it takes more than views and tranquility and a "collaborator" wife to achieve that status. It takes what he's got—ability, an insatiable curiosity, dedication to the task at hand, and, most of all, hard work.

None of this "bask in the beauty and

maybe a thought will come to me" attitude for the Weavers. They appreciate the beauty around them, but it's only a frame for the central object: well-researched and professional writing.

It's up at 4 a.m. if need be, and to the typewriter before sunrise frames the stately mountains that enclose the bowl of the Valley.

This is the "creative" period for John Weaver, the time when he can concentrate on the glossy articles he pens for "Travel and Leisure" magazine (he's West Coast editor); on the short stories he's written for almost every magazine published, Collier's, Liberty, Harper's, Holiday, Esquire, you name it.

Then, too, this is when he outlines and roughs in the prose for such works of fiction as "Wind Before the Rain" and "Another Such Victory," or non-fiction products like "As I Live and Breathe," "Warren: The Man, The Court, The Era," "The Brownsville Raid," "The Great Experiment" and even a juvenile book on "Tad Lincoln: Mischief-Maker in the White House."

They weren't all written in this modern-homey, white-walled, white-carpeted, glass-enclosed hilltop house, of course. But the procedure never varies, and John Weaver will tell all aspiring young writers today the secret of his success: hard work, tireless research and the guts to take the gaff.

The Weavers "crossed the plains from Kansas City, Mo., in 1940 in a covered Chevrolet to homestead in the Hollywood Hills," as the dedication to his wife Harriett reads in his latest published work, "El Pueblo Grande," a non-fiction book about Los Angeles.

They came here on a wing and a prayer. The "wing" was "The Harriett Weaver Fund" of $500 and the "prayer" was that they succeed as a free-lance writing team. Both had taken a six-month leave of absence as feature writers for The Kansas City Star and headed for warmer climates to find inspiration for their combined talents.

"Our agenda was spelled out to include a month each in five warm climates and a month to get home," John recalls. "Los Angeles was first on our list, then Mexico City. Do you know, we've never made it to Mexico City?"

They came here, rented an apartment in the Silver Lake District for just $46 a month, and set to work. They weren't an overnight success as a writing team, but they managed to keep the proverbial wolf away from the door long enough to survive past their six allotted months. John had two articles published in "Esquire" magazine and Harriett made a sale to "Coronet." Then John worked on his first novel, based on his boyhood years in the Virginia hills. Then came another novel, this one based on the "Bonus Army" march into Washington, D.C., in 1932, an event he witnessed.

They bought their first house on the proceeds from the sale of another book, "As I Live and Breathe," and further possessions were accumulated from the sales of scripts for the motion pictures, "Holiday Affair," starring Robert Mitchum and Janet Leigh, and "Dream Boat," with Clifton Webb and Ginger Rogers.

"I worked five years on the Star and I've been out of work ever since," John says, with a smile, knowing that being "out of a steady job" is the best thing that's ever happened to this 37-year-married writing team.

John's book, "As I Live and Breathe," was hailed by his friend Robert Nathan as "Not only one of the funniest books I've ever read, but also one of the fondest and most enchanting."

Then came "The Great Experiment," which Walter Cronkite says "has finally put the workings of our government into a perspective that has long been lacking."

The Warren era chronicle was termed "a piece of literature in its own right; graceful, perceptive, balanced in its judgments," by Emmet Lavery, writing in the American Bar Association Journal, and "The Brownsville Raid," published in 1970, combines the best features of a spine-tingling mystery with a historical monograph of lasting significance," according to Ray A. Billington, senior research associate, the Henry E. Huntington Library.

This piece of non-fiction, perhaps, has brought John the most personal fulfillment.

Few writers live to see their books right a wrong, but John Weaver has.

In "The Brownsville Raid," he crusaded to wipe out a shameful blot on American history, the only documented case of mass punishment in the Army's file, a massive denial of civil rights that had been buried in its dusty archives.

It involved 167 black soldiers dishonorably discharged without trial.

The first battalion of the Army's 25th Infantry (all black) was stationed in Brownsville, Tex., where, on Aug. 13, 1906, racial tensions were running high and a rowdy shoot-up followed, leaving one man dead and another wounded. Although there was no evidence of any involvement by the black soldiers, they were confronted with an ultimatum from then President Theodore Roosevelt to either hand over their guilty or all be summarily dismissed from the Army.

All 167 soldiers professed innocence and ignorance of the event. All were immediately dishonorably discharged without benefit of court martial.

About six years ago, when John's mother mentioned to him that his late father, in the line of duty as a court reporter, had traveled to Brownsville from his home in Washington, D.C., only to see the 167 black soldiers have their careers destroyed without benefit of court martial John was filled with indignant disbelief.

Some quick digging into the official records at the UCLA Research Library indicated that such a thing had indeed happened.

His "Brownsville Raid" is the result of his thorough research into this incident and leaves no doubt of the innocence of the black soldiers or of the guilt of the late president Theodore Roosevelt and of the military system.

Under fire from publicity surrounding the book, Secretary of the Army Robert F. Froehlke in Sept. of 1972 granted honorable discharges to the 167 soldiers involved in the incident, stipulating, however, that no compensation was due the wronged survivors.

Meanwhile, Rep. Augustus F. Hawkins (D-Cal.) had introduced a bill to provide $25,000 compensation to surviving veterans of the raid. Only one had been located, a Dorsie Willis of Minneapolis. After two years of opposition to the bill by the Nixon Administration, it was passed into a law just this last November.

And on the day of this interview, a grateful Dorsie was due to arrive in Los Angeles to celebrate his 88th birthday with his friends, the Weavers, and to visit with Mayor Thomas Bradley in City Hall, where his picture would be taken cutting a giant birthday cake.

"Dorsie has worked all these years shining shoes simply because he could never get a job due to his dishonorable discharge or the phony disgrace heaped on him by the Army," John says, "Now he's got $25,000 for himself and his wife and another dozen surviving widows will receive $10,000 each."

For this single act of justice, writer Weaver has earned the commendation of his fellow writers, as expressed in a recent communication from Clifton Fadiman. (John is presently working on a follow-up version of the Brownsville Incident reversal for Reader's Digest).

But it's his "El Pueblo Grande" book that's being hailed not only in Los Angeles but also all over the country for its refreshing, concise and humorous analysis of Los Angeles' past, present and predicted future. It comes complete with earlier-day photographs that will delight longtime residents and newcomers as well.

And this month, the Encyclopaedia Britannica is coming out with its first new edition since the 14th edition was published in 1929, one which will contain an exact 6760 words penned for the Los Angeles entry by, you guessed it, the prolific John D. Weaver.

John says practically all of his work is biographical and historical now. It not only sells better, but it's also his preference. He revels in the city's research libraries and archives and spends afternoon hours delightedly digging up facts and figures for editors who've learned to rely on the authenticity of his articles.

And what about Harriett? She works right along with her husband, helping condense voluminous notes, cataloguing file cards and reference material, and exchanging editorial opinions with him in the final drafting.

She's also right there building shelves to hold their ever-increasing supply of books (she went to a woodworking class in Beverly Hills to learn how), or refinishing family heirloom furniture, or repainting the walls of their new home, or reupholstering furniture.

"I like to work with my hands," she says, in modest explanation and drastic understatement of the redecorating miracles she's wrought around the house. She's also laid bricks for her patio, grown herbs for her kitchen and contrived a room divider to replace a shoji screen she didn't like.

Together the Weavers work to preserve "their hills," serve on the city's brush clearance committee and entertain their literary friends. John also is a vice president of Friends of the UCLA Library and a member of the Los Angeles Library Association.

His advice to aspiring young writers and those not so young?

Work at it, and work hard.

"It's not true that editors won't consider the works of new writers or that it's a 'closed shop' in the publishing world," John says.

"But editors want writers on whom they can depend."

John admits there may have been more markets in his earlier days, but he believes that good writers will always be accepted.

As for John, he can't help writing. His bylines show up everywhere. They can be seen in national magazines as well as in the local press. His Los Angeles Handbook is a "must" for those who want to know where to find what, and how to penetrate the maze of services offered by the megalopolies.

Los Angeles has indeed been good to John Weaver. But then John Weaver has been good to Los Angeles.

CASE FOR A FEDERAL OIL AND GAS CORPORATION—NO. 10

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. HARRINGTON. Mr. Speaker, I rise in support of proposed legislation to establish a Federal Oil and Gas Corporation.

Critics of this legislation have often maintained that the Corporation would not be an effective yardstick by which to compare and evaluate the performance of private corporations. This question as to whether the Corporation would, indeed, be a legitimate yardstick is critical.

Those opposed to the idea of a Federal corporation argue that a Government-owned enterprise would enjoy overwhelming advantages and special privileges. If it were true, for example, that a Government corporation would not have to pay State or local taxes, or their equivalent, this would constitute a potentially unique advantage, and distort the Corporation's yardstick effect. But the proposed legislation provides that—

> Whenever the Corporation owns land, facilities, equipment, or other items, which would normally be subject to taxation by a State or political subdivision thereof, the Corporation shall pay an amount to such entity in lieu of such taxes on the same basis and in like amount as would be paid in the form of taxes by a private owner.

Naturally, the question of Federal taxes remains to be considered. Given that the major oil companies now pay little Federal taxes of their own, complaints of any special tax advantages the Corporation might enjoy sound a little silly. In the future, however, the situation may change, and in a separate insert, I will discuss the relative positions of the Corporation and private firms with regard to their Federal tax situations.

TRAILBLAZING A STAR-STUDDED PATH INTO THE UNIVERSE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. TEAGUE. Mr. Speaker, I have just read an article that appeared in the Taunton Daily Gazette, February 11, 1974, in Taunton, Mass. Barbara M. Greenwood's article coincided with the Skylab 3 splashdown. Her words about our space program, I believe, will be of interest to Members of Congress and the general public:

TRAILBLAZING A STAR-STUDDED PATH INTO THE UNIVERSE

(By Barbara M. Greenwood)

NOTE.—With the Skylab 3 astronauts scheduled to splash down in the Pacific Ocean today after a 12-week mission, we feel this space article by Mrs. Barbara M. Greenwood of Swansea is, indeed, timely.)

The actual cornerstone of this nation's program of space exploration began on May 25, 1961 when our late President, John F. Kennedy, uttered his command to the peoples of this land, "Now it is time to take longer strides—time for a great new American enterprise—time for this nation to take a clearly leading role in space achievement, which in many ways may hold the key to our future here on earth . . ." These words are more prophetic today than when they were spoken to us back in 1961!

Most of our urgent problems today are global in nature. If we are to maintain earth as a livable dwelling place for mankind, we must learn to view it as a whole. We must understand that our existence depends on a delicate balance of nature and that this balance includes, not only all of mankind, but of all living things. One of our astronauts, William Anders of Apollo VIII, in the midst of the first circumlunar voyage, talked about our home planet as a small blue-green ball, about the size of a Christmas tree ornament and Al Worden, command module pilot of Apollo XV, made a similar comment before a joint session of Congress when he commented on the "oneness of the earth" that we do not see from the ground for in the deepness of space there are no visible boundaries.

To obtain this knowledge of understanding about our own earth and the universe, of which we are an integral part, is the prime objective of the National Aeronautics and Space Administration (NASA) space programs. It requires a sustained effort to develop the science and technology and the space vehicles to reveal what man's limited senses and capabilities cannot perceive unaided. In this perspective, we can readily see that our vision has been broadened to envelop nothing less than the conservation of the whole of earth for all of mankind!

There is an intricate relationship and reaction between our planet, earth, and a pulsating solar system—particularly with our sun. Despite blaring headlines of "energy crisis" this fault has not happened overnight! The widespread concern it has understandably evoked can be compared to a family (or a group) living off their savings, stored in a bank, and being steadily depleted. This process cannot go on for very long unless some income is added to the savings. In the field of energy, the most abundant income is solar energy. From all surveys and reports, it has been stated that we are using our fossil fuels at a tremendous and ever-increasing rate which means that, in the not-too-distant future, these supplies of energy (so vital to our present growth of civilization) must be abated. We will have to learn to use our fossil fuels more discreetly and learn to use the source of these fuels—radiant energy—directly by converting it into the forms of energy needed.

As an example:—solar collectors could be placed in orbit and transfer the collected energy to the earth. Already, in past and present space missions, solar collectors were capable of delivering several hundred kilowatts of thermal energy which operated at very high efficiency, were extremely lightweight and had a lifespan of five to ten years in space! This is our beginning.

Our very existence on this planet stems from Technology which can be made available as a result of pioneering aerospace programs. Already we have orbiting scientific satellites plus our fantastic Skylab. In the foreseeable future we have the European Space Research Organization Spacelab and alongside, on this threshold to celestial destiny, is the space shuttle!

In a real sense, we are "hatchlings of the earth" or, you might say, we are intelligent beings who have gained partial independence of earth bonds. The time has come for us to convert our "earth" from an all-supplying "moth" to a greater environment of many facets. Mankind is a searching creature—one who grows on challenges and futuristic dreams—and it makes little difference whether these challenges and dreams are found on earth or beyond, for man's relation to all entities is dictated by two consuming passions—love and conquest!

Preservation, therefore, has a much deeper meaning in this time more than ever before; that is, not only must we preserve our world's environment but also our world's infinite expanse, and it is now that we should single out our overriding generic responsibility to future generations and lay the foundation for a world that is bigger than a single planet! There is no effective alternative but to plan for a world in which earth and space are indivisible and interconnected by safe, cost-effective routine transportation.

The development and use of our space shuttle is man's first essential step towards such a scissor-like cut of the umbilical cord. We will take this baby-step into a greater environment of many worlds! Consider this: with space capabilities that begin with the shuttle, we will be able to remove things from earth that really are foreign to our environment; for instance, machines . . . our earth's surface raises constant havoc what with our humidity, fog and corrosive salt air! Space—orbits now (and later trans-lunar regions)—are favorable sites for many industrial activities. We cannot continue to the extent needed to raise mankind's living standard significantly by the continual industrialization on earth. We must immediately think of the separation of production and consumption from earth wherever practical and the degree of practicality depends largely on economic space transportation.

We cannot back-off and regress; we must move out in space for our planet, in actuality, is not isolated in space! Dr. Krafft Ehriche, chief scientific advisor, (advanced programs) for Rockwell International Space Division, made this statement: "The message we are receiving by our technology is this—space is opening the gates and earth is not the only world but a part of a greater system of worlds that has now become accessible to us."

Together—earth and space—is man's future and represents the boundlessness of a greater environment for tomorrow. This decade—the seventies—should project the successful explorations of the sixties into practical applications and, if we do not turnabout (as the dissidents of our space program would have us do!), the decade of the eighties will see the fruition our visionary capabilities have put to extensive use!

Dr. James C. Fletcher, NASA administrator, made the following statement at a news conference." . . . The United States space program, without the shuttle, would quickly become a dead-end program and near-earth space a place of peril instead of promise."

As a democratic and dynamic society, our country must assure its citizens certain national goals: 1) maintenance of national security 2) improvements of economic vitality 3) an enhancement of the "quality of life" and 4) an attainment of technological expertise as well as a maintenance of this expertise.

My urgent petition to my countrymen-women is that each individual will unite and support an above subsistent budget for our space program because this segment of our nation's economy is the critical point in the maintenance of our national security and ties in with the growth of our nation simply by the creation of new job opportunities and the expansion of our technological base in the development of new products which produce, in turn, a favorable balance of trade.

Today, we seem to be a people who need a sense of meaning and purpose. Before us is a challenge to emancipate mankind, for life is completely void without a titillating future! At our fingertips, we have a new awareness in science, and we are between two spheres—this planet we call "earth" and the unfolding of new worlds. The scientific intelligentsia that has already gone into our "whole" space program (especial note regarding our Pioneer 10's culmination of using nuclear power!) is one of America's greatest reources. Do not—and I cannot stress this enough—be misled by the skeptics for this technological scientific lead is, without a doubt, our country's greatest asset! We must rededicate ourselves and, in so doing, the continuity of our "flight to the stars" remains intact.

WAYNE A. WILCOX

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. BRADEMAS. Mr. Speaker, among those who lost their lives in the recent crash of a Turkish airliner near Paris was a valued friend and an outstanding educator and public servant, Dr. Wayne Ayre Wilcox. His wife, Ouida Neill Wilcox, a daughter, Kailan, and a son, Clark, two of their four children, were also killed in the crash.

Mr. Speaker, Dr. Wilcox, a foreign service officer of the U.S. Information Agency, had been the Cultural Attaché at the American Embassy in London where I frequently had the privilege of seeing him. He had served with distinction in a variety of educational and governmental positions.

He had served as professor of government, chairman of the department of political science and research member of the Institute of War and Peace Studies and the Asian Institute at Columbia University.

Mr. Speaker, I extend to the families and friends of Dr. and Mrs. Wayne A. Wilcox my expression of deep sympathy.

I insert at this point in the RECORD excerpts from a report on the death of Dr. Wayne A. Wilcox from the Washington Post of March 7, 1974:

WAYNE A. WILCOX, U.S. ATTACHÉ IN LONDON

Dr. Wilcox, who was an authority on political science and the author of four books as well as numerous other publications, had been assigned to the embassy in London since joining USIA in 1971.

Earlier he had been a professor of government, chairman of the department of political science and research member of the Institute of War and Peace Studies and the Asian Institute at Columbia University.

Born in Pendleton, Ind., Dr. Wilcox was a graduate of Purdue University. He received a master's degree and doctorate in international relations and comparative government from Columbia.

As a fellow of the university, of the Rockefeller Foundation, the Ford Foundation and of the Council for Research in the Social Sciences, he did research work in Pakistan, India, Ceylon, Burma and Nepal. He also was in those areas as senior research analyst of the Rand Corp., and as a consultant for the State Department.

From his work came four books, "Pakistan: The Consolidation of a Nation," "India, Pakistan and the Rise of China," "Asia and the United States Policy" and "Asia and the International System."

He also was the author or co-author of scores of articles stemming from his research.

Later, Dr. Wilcox moved into the areas of Western Europe and Russia (as a guest of the Soviet Academy of Sciences). He was in Great Britain as a Guggenheim Fellow when he joined USIA.

He was a visiting lecturer at the Foreign Service Institute of the State Department in 1968–71.

Dr. Wilcox had interrupted his academic life to serve at sea as a gunnery officer with the Navy from 1954 to 1956.

He was a member of numerous organizations, including the American Political Science Association, the Association of Asian Studies, the International Institute for Strategic Studies, the Academy of Political Science and the American Association of University Professors.

He was a fellow of the Royal Society of Arts and the Royal Society of Literature and a trustee of the American School in London.

CONTROLS FORCED GASOLINE PINCH, ECONOMISTS BELIEVE

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. HUBER. Mr. Speaker, many of us are of the opinion that controls on the economy have failed and ought to be lifted entirely in order to free up the economy. Recently, an article supporting this contention, as regards the gasoline shortage, appeared in the Detroit News on March 8, 1974. This article quotes economists of both liberal and conservative persuasion to support the unproductive role of Government interference in the economy. I commend the article to the attention of my colleagues:

CONTROLS FORCED GASOLINE PINCH, ECONOMISTS BELIEVE

(By John E. Peterson)

WASHINGTON.—Could the Great American Gas Shortage have been avoided?

A growing number of prominent economists are saying that gas would have remained a plentiful commodity if the government had kept its hands off the marketplace.

Under such conditions, they argue, gas prices long ago would have leveled off at a price high enough to allow the United States to compete on even terms with other industrialized nations for the world's oil supply.

The "clearing price" for gasoline would have stabilized at anywhere between 45 and 80 cents a gallon, depending on which economist you believe. Once reached, the price would have been attractive enough to provide the country with plenty of gas, they say.

To back their contention, the economists usually point to two countries which did not attempt full control of gas prices—West Germany and Canada. Both of those countries are heavily dependent on imported crude oil for gasoline.

In West Germany, which imports more than 90 percent of its oil, the price reached about $1.20 a gallon, but that included 74 cents in excise taxes. U.S. gas taxes average about 12 cents, causing many economists to believe that American prices would have leveled off at about 62 cents less than West Germany's—or at about 60 cents a gallon.

Although West Germany at first imposed a Sunday driving ban (since lifted), its motorists never had to put up with long gas queues.

Another country with few gasoline lines is Canada, particularly in the eastern provinces where most of the gasoline is refined from imported crude oil.

In Canada, the market in the east cleared at about 60 cents an imperial gallon, which has the same measure as five U.S. quarts. Including difference in taxes, that would mean about 50 cents a gallon in this country.

Canada depends on imported oil for its eastern provinces but exports from the West at world prices. The excess profits from these exports are used to keep the prices from soaring in the east.

The economists who are arguing that a free market would have prevented the U.S. shortage cross a broad ideological spectrum. They range from conservative Milton Friedman of the University of Chicago to the more liberal Hendrik Houthakker of Harvard and George Perry of the Brookings Institution.

Friedman, writing in the March 4 issue of Newsweek, estimated that current U.S. gas prices are slightly higher now than they would have been with no controls.

"The way to end long lines at gas stations is to abolish the Federal Energy Office," he writes, "and end all controls on the prices and allocation of petroleum products.

"How can thinking people believe that a government that cannot deliver the mail can deliver gas better than Exxon, Mobil, Texaco, Gulf and the rest?"

Houthakker, studying the elasticity of gasoline prices, believes that gas would have cleared at about 75 cents a gallon—an estimate which puts him in the same ballpark with federal energy chief William E. Simon.

The Wall Street Journal recently suggested that the whole reason for the being of Simon's FEO was to maneuver the price of gas up to the clearing price as quickly as possible but in a manner not designed to offend Congress.

In other words, the FEO was merely a political expedient to appease Congress, and particularly those members seeking to make the oil industry scapegoat for all, or almost all, of the pressing fuel problems, it suggested.

Brookings' Perry recently put the leveling off price of gas at about 80 cents.

What is interesting to note is that all of those who have actually studied the situation have predicted the clearing price would fall far short of the $1 a gallon that many politicians were talking about earlier this year.

The Wall Street Journal said U.S. gas prices would not hit $1 a gallon until crude oil prices reached $29.14 a barrel. The Arab oil cartel's recent price of $10.35—which is now starting to be cut back—would have had to nearly triple, according to the Journal's math work.

The economists favoring the free market solution to the nation's oil problem are quick to point out that all of the industrialized nations that imposed controls have now "decontrolled"—mainly because of West Germany's successful example.

The price of crude oil, which once reached $19 a barrel during the early days of the Arab oil embargo, appears to be ready to level off at about $7 a barrel or slightly less.

Kuwait recently offered 50 million barrels of oil to West European countries at $10 a barrel and could sell only half of that amount. It was forced to sell the rest at prices averaging less than $9 a barrel.

Secretary of State Henry Kissinger is reported to have told President Nixon that, with the Middle East peace solidifying, the 15 Arab oil ministers probably will vote to end the embargo at their meeting in Libya Sunday.

PRESIDENT'S FOREIGN POLICY GOALS ANNOUNCED

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. BROOMFIELD. Mr. Speaker, the other night I had the pleaure of hearing the President address the Veterans of Foreign Wars annual congressional banquet. The address, which dealt with the future of the U.S. foreign policy, was one of the President's finest. I certainly endorse the goals he has set forth for our country in foreign affairs, and I would like to bring to the attention of my fellow Members this excellent speech by the President on our future in this vital area:

EXCHANGE OF REMARKS BETWEEN THE PRESIDENT AND RAY R. SODEN, COMMANDER, VETERANS OF FOREIGN WARS

Mr. SODEN. The office of the President of the United States is awesome in its power and influence. The man that holds it has an immeasurable impact on the course of events in history. The power of this office parallels the strengths of the United States morally, economically and in every positive way.

The President of the United States is the only public official who is elected by all the American people. Wherever he goes, he carries with him the hopes and dreams of all Americans.

Richard M. Nixon has given the United States a lifetime of public service. From the moment he left the Navy at the end of World War II to this very instant, his life has been dedicated to America. He has served in the House and Senate. He was Vice President for eight years and is now well into his second term as President of the United States.

He is a life member of the Veterans of Foreign Wars. He was elected to his second term in 1972 with the largest mandate in history. He brought to a successful conclusion America's combat role in Vietnam, and we all painfully remember the hatred that war engendered.

He inherited and he ended it. Not only did he bring the men home, but he won freedom for our prisoners in North Vietnam. We all hope and pray that he will be just as successful in forcing North Vietnam to keep their word and let us know the fate of our men missing in action.

By skillful and firm negotiation he has given us all hope that the hatreds in the Middle East that have poisoned international relations for 50 years may at last be resolved.

While all of us in this room are fully committed to the proposition of America's security must be safeguarded at all costs, President Nixon has achieved a new direction in our relations with the Soviet Union and Communist China.

To use his phrase, "negotiation, not confrontation" is the order of the day. A generation of peace is his goal, and the whole world has breathed a sigh of relief. President Nixon has been one of the VFW's best friends. His position on world affairs generally has mirrored the view of this organization.

He is against the amnesty for draft dodgers and deserters. As you can see, so are we. He is for world peace above all, but not at any price. So are we.

Last year, in New Orleans, his Secretary of State, Henry Kissinger, told us that during the dark days of riotous dissent in his first Administration, President Nixon was heartened by the support this organization gave him. Those words gratified us all.

This organization has no political axes to grind. We support the office of the President of the United States because it represents us all. Once again, we are honored to welcome the President of the United States to our Congressional Banquet.

And, Mr. President, at this time I would like to have you join me at the podium, sir, for a brief presentation commemorating our Diamond Jubilee year, and I would like to present to you our gold medals commemorating our 75th anniversary.

Now, ladies and gentlemen, it gives me a great honor to present to you the President of the United States.

The PRESIDENT. Thank you very much.

Commander Soden, Congressman Mahon, all of the distinguished guests here at the two head tables and all of the distinguished guests in the audience:

I am very grateful to you, Commander, for being spoken of so eloquently and so generously and also grateful to receive this medalion which commemorates this organization's 75th anniversary, and I think that this is an occasion to perhaps pay a tribute to the VFW.

I have done it before, but I would like to do it especially because this is not only the Diamond Jubilee year for the VFW as an organization, but this is the Silver Anniversary of this annual dinner for the Members of the Congress, the House and the Senate.

As you have already noted, I am a lifetime member of the VFW. I have been a member for 27 years, so I know the organization well, and I believe I can safely say that I have addressed more dinners, conventions, State and national, of the VFW than perhaps any public figure in America today, and I am proud to have had that opportunity.

I know this organization in public life as Vice President for eight years and also as President for five years. I also have known it in private life, but there is one thing I particularly want to emphasize in terms of what this organiaztion means to anyone who serves in the highest office of this land.

It is very simply this: The VFW is an organization that when the hard decisions are made by a President of the United States, you can always count on this organization to stand above partisan interest and for the national interest. That is the VFW.

And that long and difficult war to which you have referred, when at times there were even hundreds of thousands of people who were marching around and on the White House, as I have often recalled, I didn't have to call the Commander of the VFW, the national Commander to ask for his support, he called me, and that is the way the VFW is when this country needs support.

It seems to me very appropriate, therefore, that the award, your annual award to the Member of Congress, should go to George Mahon of Texas. I would like to refer to him tonight in tandem with the man who was to receive it last year, who did receive it, but who could not be here for reasons we are aware and let us say that we are all thankful that John Stennis is back in the job as Chairman of the Armed Services Committee.

I have had the privilege of knowing both of these statesmen for 27 years. George Mahon has served for 40 years at the end of this year in the House of Representatives. As you can see, he married a woman much younger than himself. (Laughter)

But one thing that George Mahon and John Stennis have in common is this: They are both very loyal members of their party, but I can assure you that when the strength of America is involved, when the honor of America is involved, when respect for America is involved and the President of the United States, be he Republican or Democrat, has to make a decision involving the strength or the honor or respect for America, these men always put America first and party second. That is the kind of men we have in your two honorees.

And so I therefore am proud to be here as your guest, but also proud to be here to join you in honoring them. Since you have remarked about the progress that has been made toward peace, I would like to say just a word without impinging upon Congressman Mahon's time because we will want to hear, of course, from him primarily about where we stand and what we have to do if we are going to achieve our goal of a generation of peace, and we would trust much longer than a generation of peace.

We have ended America's longest and most difficult war, as you have pointed out. We have assisted in bringing about a time of peace in the Mideast with the possibility of building a more permanent peace in that trouble area of the world, where incidentally the hatreds go back more than 50 years. They go back 1000 years.

We also have begun a new relationship with those who lead one-fourth of all the people who live on the face of this earth. We have also begun a different relationship with those who lead the Soviet Union, who have been in constant confrontation with the United States since the end of World War II.

And when we think of these things, sometimes it is very tempting to say the United States carried such great burdens in World War I, World War II, then Korea almost by ourselves, in Vietnam by ourselves, and in all of these four wars in this century, we fought them, we lost our young men, we paid out great sums of money, we received nothing in return insofar as territory or conquest was concerned.

We helped rebuild not only the lands of our allies but those of our enemies until now they are competitors in the free world. All this we did, and there are those who would suggest now that we have peace in Vietnam, a new relationship with the Soviet Union and a new relationship with the PRC and the beginning of possibly peace in the Mideast, why can't the United States turn only to its problems at home or primarily to them and away from these great world responsibilities that we have carried.

It is very tempting to suggest that because there are so many things we would like to use, money that we could cut from our Defense budget here at home, but let me talk very directly to that point, to an audience that I know needs no persuasion on it but it needs—all of us need to be reminded of why.

We need to be reminded of what peace is in today's world. Sometimes we conclude that once you get peace, that is it, and then we just relax, but in the kind of a world in which we live, with great powerful nations with totally different systems of Governments and different interests, peace is never something that is achieved once and for all and then can be taken for granted. Peace is a continuing process, and the key to whether that process will work is in the hands of the United States of America.

I want to say to you, my friends of the VFW, and all others listening, that the cause of peace is in good hands, good hands because, while we are the most powerful and the richest country in the world, we have no designs on any other country, no other country fears that we are going to use our power to take away their freedom. They know that we will only use it to help them defend freedom. No other country fears that we will break the peace, we will only use it if it was necessary in order to help deter war and keep the peace.

But the key to the United States is to be able to play the role of peacemaker in the world lies in strength, military strength is part of it. The strength of our will is part of it. The respect that we have as a nation is part of it, respect for ourselves and respect from other nations that we gain by how we conduct ourselves in the world.

But in terms of peace in the years ahead, we must remember that as distinguished before World War I, when we could look across the ocean and look at other nations, then the British and the French, who were powerful and could carry the burden until we came in, and in the World War II when we could look to other nations, then again the British and the French before they were taken over, and let them hold until we came in.

Today the world has changed. And whether we like it or not—and many Americans don't like it—we do not like the burden because we would like to get it lifted from us. But this is the fact of international life.

There is no other nation in the free world that has the strength, that has the respect to help keep the peace and play the great role, an honored role of peacemaker in the world, whether it is in the Mideast or any other part of the world.

Let me put it quite directly, when we talk about budgets, on which Chairman Mahon is one of the premier experts, not only in the United States and the world, I am not suggesting that they are sacrosanct but I do know this, in terms of the Defense budget of the United States, it is essential that at this particular time when we finally have achieved peace, that the United States keep the strength that we need to keep the peace.

It is particularly essential that we not listen to those who say that we should unilaterally reduce our forces when others who are equally strong do not reduce theirs. Only when others mutually agree to reduce theirs do we reduce ours. Putting it quite bluntly, let us be sure that the United States never in this time becomes the second strongest nation in the world.

And in using that term, it is not said in any sense of jingoism, but only because that is the key to peace, the strength of America properly used, as it has been used in this century, for that great cause.

Could I now say a word to these 53 winners? I know there was only one tonight, Mr. Russo from California, but let me say that I consider all 53 to be winners. You won in your own states or territories, as the case might be. You have come here to Washington and, although you may not have been first today, remember, you can lose one time and win the next. I know, I'm an expert on that.

So keep trying, keep working, and we all know that we need each and every one of you, each of the young men and young women here. We need you in American public life and the fact that you are starting so young, with so much idealism at this period, speaks well for the future of our country.

Sometimes you may hear it said that this is rather a poor time for someone to be young in America because of all the burdens that we have, some of which I have referred to at home and abroad. But don't you believe it. The fact that America does have in this burden the opportunity to help build what the world has not had in this century, a generation of peace for ourselves and for three billion people, this makes this a great time to be living in America, to be young.

Our heritage, the one that we want to pass on to you, is a generation of peace. And I can assure each and every one of you that in the three years that I have in this office remaining, that one goal will be mine above every one else, and that goal is to help build a peaceful world, one which you can inherit and which you then can build on and pass on to the next generation and we can achieve that goal, I can assure you. We can achieve it with the support of great patriots like Congressman Mahon, Senator John Stennis and the others gathered up here. And we can achieve it with the support of patriotic organizations like the Veterans of Foreign Wars.

But above all, we shall achieve it because the American people, even at a time that we are almost 200 years old, has still not forgotten that when we were very young and very weak and very poor, we meant something to the rest of the world that could not be measured in terms of strength or wealth. America had a meaning far beyond itself and those who founded this country knew it.

Today we still have that same meaning. And at a time that we have become rich and that we have become strong, let us be worthy of the spirit of those who founded this country. If we are worthy of that spirit, the next 200 years can be greater than the first 200.

Thank you.

CONSUMER ENERGY ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mrs. SCHROEDER. Mr. Speaker, today I am cosponsoring the Consumer Energy Act, previously introduced by my colleague Mr. Moss and 13 other Members as H.R. 12888. I believe that this bill is an excellent alternative to the travesty of a bill known as the Energy Emergency Act, which has so recently died of a malady known as "crisis reaction."

The Consumer Energy Act, as opposed to the last energy bill we considered, is a well-thought out, long-range approach to the energy problem. It is not a short-term, shortsighted approach such as the administration has been proposing—an approach which creates more problems than it cures.

America's energy fix has hurt the consumer, the worker, and the small businessman at a much greater impact than others. The injury has much been caused by a lack of competitiveness among the major corporations engaged in the energy industry. The U.S. Government, including Congress, has been to a large extent the fostering agent of the present noncompetitive atmosphere in the industry. The Government has been idle or has too easily bowed to the vested interests, to alter the state of the industry. In turn, the major oil companies have used this Nation. What is good for the major oil companies, I have often been told, is good for America. I disagree. What has been good for the major oil companies is a lack of competition. There were 40,000 oil producers in the United States in 1954; there are now 10,000. I fail to see any good being done to America's free enterprise heritage and future where the number of capitalists engaged in an industry have dropped 75 percent in the last 20 years. Competition is obviously not fostered by a reduction in the number of competitors. Competition reduces prices honestly and forecloses the need for long term governmental interference at all levels of an industry.

Mr. Speaker, many people in this Nation would favor an immediate, calamitous alteration of the structure of the energy industry. The Consumer Energy Act, on the other hand, calls for a gradual restructuring of the industry, done on an incentive basis with the Government acting essentially as a watchdog, regulating only those in the industry who have no incentive to regulate themselves. For sure, this bill does call for a temporary rollback in crude oil prices to the December 1, 1973, level, but since December 1, prices for crude oil have gotten out of hand and have not been entirely based upon reason. On the other hand, the bill will after a short period deregulate the small producers of oil and natural gas, allowing them to raise the capital they need for further exploration. The independent oil operator—the wildcatter who finds new oil—is going to be extinct unless capital is available. Such a person, however, cannot float loans at the bank, sell bonds on the exchanges, or even arrange a loan with the Small Business Administration to finance his ventures, but only can risk all in exploration. The sole hope left that we in America can once again have a competitive energy industry is the small oil company, and the sole hope for the small oil company is an incentive for risks taken, access to pipelines, safety from being bought out, and access to Federal lands. The Consumer Energy Act supplies these needs.

Mr. Speaker, competitiveness will be fostered by the Consumer Energy Act. The major oil companies, which have evolved into massive octopi, would be monitored by the Federal Trade Commission and the Federal Power Commission. In addition, in order that all things be equal, a Federal Oil and Gas Corp., modeled on the TVA, would be set up to compete with the measures, at their level, and to supply a drastically needed yardstick by which to measure the majors' claims, which we all hear, about how they are always "doing their best."

Mr. Speaker, the energy industry is a dichotomy. It is to much extent a cut throat and competitive business among the dwindling number of independent oil men and a collusive and monopolistic interlock among the majors. It is very obvious where things will go in the future: We need only look at the trends of the last 20 years. We must turn these trends around now, and foster competition where competition can be fostered, or we will find ourselves strangled by our own inactivity and our lack of positive and long term solutions to a very grave problem. Only with a new era of competition in the energy industry will the consumer of this Nation's energy again benefit.

AMENDMENT TO H.R. 69

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. FORD. Mr. Speaker, pursuant to House Resolution 963, providing for the rule for the consideration of the bill H.R. 69, I am today submitting for publication in the CONGRESSIONAL RECORD the text of a proposed amendment.

My amendment is a substitute for the text of H.R. 69. It is basically the text of the Quality School Assistance Act which I introduced in January of last year.

The Quality School Assistance Act has one basic purpose, and it is set forth in section 2 of the bill. Its purpose is to furnish financial assistance to local educational agencies to assure that their resources, when supplemented by Federal assistance, will be adequate *to provide an excellent elementary and secondary education for all children.* (Emphasis added.)

The Quality School Assistance Act proposes to accomplish this goal by providing a greatly expanded form of Federal general aid to education, by providing special construction and modernization funds for overcrowded and impoverished school districts and by extending the impact aid program.

It proposes to accomplish this goal by increasing the Federal Government's contribution to the cost of educating our children fivefold.

The major provision of the Quality School Assistance Act would authorize a 5-year program of general aid during which the Federal contribution to the cost of educating our Nation's children would be increased from the present miserly rate of 7 percent to a full 35 percent of the actual cost.

Beginning in fiscal year 1975 the Quality School Assistance Act would authorize a basic grant to each local school district equivalent to 20 percent of the national average per pupil expenditure or the State average, whichever is greater, multiplied by the number of school age children in the attendance area of the district.

The rate of contribution would be increased by 5 percent in each of the 3 succeeding years, so that in fiscal year 1976 it would, be 25 percent; in fiscal year 1977, 30 percent, and would reach the level of 35 percent in fiscal year 1978. In 1979 the rate would remain constant at 35 percent.

I should like to point out that the concept of substantial Federal general aid is neither new nor novel. It is a concept which has been the topic of a great deal of discussion, and it has been received quite favorably by educators throughout the Nation. General Federal aid was endorsed by the National Education Finance project, a project funded by the U.S. Office of Education, nearly 2 years ago. It is also supported by virtually every education-oriented organization in the country.

Further, the target figure of 35 percent of the actual cost of education should not seem unrealistic. The National Education Finance Project, in its report issued in 1971, endorses a minimum rate of Federal contribution of 21 percent, but states that a figure closer to 30 percent would be more preferable.

The report states that "the minimum amount of Federal aid needed in order to at least make some significant impact on the accomplishment of Federal purposes—would total approximately 21 percent of total school revenue. Those purposes would be much more adequately accomlished if the Federal Government would provide 30 percent of the total school revenues." The report also refers to the need for both "present categorical aids plus the proposed general aid."

Yet the recommendations of this report, which was funded by the Federal Government, have been totally ignored—both by the executive branch and, unfortunately, by the Congress as well.

As one who is in constant contact with educators from all over the country, it has become my firm belief that the Federal Government must begin to face up to its responsibilities with respect to education now. Providing adequate funds to educate our children must become our No. 1 priority. The future of our country depends on it.

Mr. Speaker, following is the text of my amendment to H.R. 69.

AMENDMENT TO H.R. 69 OFFERED BY MR. FORD

Strike everything after the enacting clause and insert the following language in lieu thereof:

That this Act may be cited as the "Quality School Assistance Act of 1974".

PURPOSE

SEC. 2. It is the purpose of this Act to furnish financial assistance to local educational agencies to assure that their resources when supplemented by this Federal assistance, will be adequate to provide an excellent elementary and secondary education for all children.

AUTHORIZATION OF PROGRAM AND APPROPRIATIONS

SEC. 3. (a) The Secretary shall carry out a program during the fiscal year 1975, and each of the four succeeding fiscal years, for making grants to States and to local educational agencies as provided in section 4, and shall carry out a program during the fiscal year 1975 and the fiscal year 1976 for making grants to local educational agencies for the purposes of section 5.

(b) For the fiscal year 1975 and the succeeding four fiscal years there is authorized to be appropriated such amount as may be necessary to carry out section 5 of this Act.

(c) There is authorized to be appropriated for the fiscal year 1975 and the fiscal year 1976, such amount as may be necessary to make the grants provided for in section 5 of this Act.

QUALITY ASSISTANCE

SEC. 4. (a)(1) From the amount appropriated under section 3(b) for the fiscal year 1975, the Secretary shall allot to each local educational agency in a State for making grants under this section an amount equal to the aggregate of—

(A) 20 per centum of the product obtained by multiplying the estimated number of children who will be in the membership of elementary and secondary schools in the school district of such agency at the beginning of the school year ending during such fiscal year by the average current expenditure per public school child for the State or for all of the States, whichever is the higher, and

(B) an amount which bears the same ratio to one-third of the amount determined for all local educational agencies in the States under clause (A), as the number of children to be counted for purposes of this clause as determined under paragraph (4) bears to the number of children so counted for all local educational agencies in the States.

(2) From any amount appropriated under section 3(b) for the fiscal year 1975 and each of the four succeeding fiscal years, the Secretary shall make an allotment to each local educational agency in a State in the same manner as is provided in paragraph (1), except that the percentage factor to be applied in making determinations under clause (A) of such paragraph shall be 25 per centum for the fiscal year 1976, 30 per centum for the fiscal year 1977, and 35 per centum for the fiscal year 1978 and the fiscal year 1979.

(3) An amount equal to not more than 2 per centum of the amount allotted under paragraph (1) shall be allotted to Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands from the amount so appropriated according to their respective needs for assistance under this section, and the Secretary shall set the maximum amount which their local educational agencies shall be eligible to receive.

(4) The number of children to be counted for purposes of subparagraph (B) of paragraph (1) shall be determined as follows: If the Secretary determines that satisfactory data for that purpose are available, such number shall be the number of children who are aged 5–17, inclusive, in the school district of such agency (based on the latest available data from the Department of Commerce) who are in families having an annual income of less than $3,000, or in families receiving an annual income in excess of $3,000 from payments under the program of Aid to Families with Dependent Children under a State plan aprpoved under title IV of the Social Security Act. In any other case, such number shall be the number of children of such ages in such county or counties in which the school district of the particular agency is located who are described in the preceding sentence, and shall be allocated among those agencies upon such equitable basis as may be determined by the Secretary. In the case of local educational agencies which serve in all or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the Secretary may allocate the number of children among such agencies in such manner as he determines will best carry out the purposes of this section.

(5) For purposes of this subsection and subsection (b) the term "State" does not include Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(b) Any local educational agency in a State which desires to receive for any fiscal year a grant under this section shall submit to the appropriate State educational agency an application which contains—

(1)(A) an analysis of the facilities, curriculum, equipment, teacher preparation, and other related matters of the elementary and secondary schools in the school district of the local educational agency. (B) An assessment of the educational attainment of elementary and secondary school pupils in basic educational subject areas. (C) An analysis of the number of those students who proceed to postsecondary education, those who after completion leave the elementary and secondary education system and find substantial employment, and those who leave school before completion of elementary or secondary education. (D) An analysis of the need for adult education programs. (E) The need for special in-service, teacher-training programs. (F) A detailed description of the proposed use of funds granted under this section with assurance such use of the funds will best enable the local educational agency to meet the educational needs of children and adults in the school district as reflected by the analysis and assessment of the educational needs of such children and adults evidenced in the matters submitted in clauses (A), (B), (C), (D), and (E) above.

(2) an evaluation of the effectiveness, including objective measurements of educational achievement, of programs and projects funded in the preceding fiscal year from funds provided under this section;

(3) such other information as the State educational agency may reasonably need to enable it to perform its duties under this section; and

(4) assurances that—

(A)(i) to the extent consistent with the number of children in the school district of such agency who are enrolled in private nonprofit elementary and secondary schools, such agency, after consultation with the appropriate private school officials, will provide for the benefit of such children in such schools secular, neutral, or nonideological services, materials, and equipment including such facilities as necessary for their provision, consistent with subparagraph (B) of this section, or, if such are not feasible or necessary in one or more of such private schools as determined by the local educational agency after consultation with the appropriate private school officials, such other arrangements, as dual enrollments, which will assure adequate participation of such children, and (ii) from the funds received by such agency under the provisions of section 4(a)(1), such agency will expend for the purposes of fulfilling the requirements of this paragraph, an amount which bears the same ratio to the total amount received under section 4(a)(1) as the number of children enrolled in private nonprofit schools who are counted for purposes of section (4)(a)(1) (A) and (B) bears to the total number of such children enrolled in elementary and secondary schools in the school district of such agency;

(B) (i) the control of funds provided under this section and title to property acquired therewith shall be in a public agency for the uses and purposes provided in this section, and that a public agency will administer such funds and property; (ii) the provision of services pursuant to subparagraph (A) shall be provided by employees of such public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services, is independent of such private school and any religious organization, and such employment or contract shall be under the control and supervision of such public agency; (iii) the funds provided under this section shall not be commingled with State or local funds; and (iv) Federal funds made available under this section will be so used as to supplement and, to the extent possible, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this section;

(C) it will keep such records and afford such access thereto as the State educational agency may find necessary to assure the correctness and verification of such applications; and

(D) no more than 10 per centum of the funds received under this section in any fiscal year will be used for capital outlay and debt service.

(c) The State educational agency shall not finally disapprove in whole or in part any application for funds under this section without first affording the local educational agency submitting the application reasonable notice and opportunity for a hearing.

(d) Any State which desires to participate under this section or section 5 shall submit through its State educational agency to the Secretary an application, in such detail as the Secretary deems necessary, which provides satisfactory assurances that—

(1) except as provided in subsection (e) (2), payments under this section will be used only for programs and projects which have been approved by the State educational agency pursuant to subsection (c) and which meet the applicable requirements of that subsection, and that such agency will in all other respects comply with the provisions of this section, including the enforcement of any obligations imposed upon a local educational agency under subsection (d); and

(2) the State educational agency will make to the Secretary (A) periodic reports (including the results of objective measurements required by subsection (d) evaluating the effectiveness of programs and projects assisted under this section in improving educational attainment, and (B) such other reports as may be reasonably necessary to enable the Secretary to perform his duties under this section (including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year).

The Secretary shall approve an application which meets the requirements specified in this subsection, and he shall not finally disapprove an application except after reasonable notice and opportunity for a hearing to the State educational agency.

(e) (1) (A) The Secretary shall, subject to the provisions of subsection (f), from time to time pay to each State the amount which the local educational agencies of that State are eligible to receive under this section.

(B) From the funds paid to it pursuant to paragraph (A) each State educational agency shall distribute to each local educational agency of the State which has submitted an application approved pursuant to subsection (c) the amount for which such application has been approved, except that this amount shall not exceed the allotment to that agency pursuant to subsection (a).

(2) The Secretary is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this section (including technical assistance for the measurements and evaluations required by subsection (b)), except that the total of such payments in any fiscal year shall not exceed—

(A) 1 percentum of the total grants made to local educational agencies of such State within that fiscal year; or

(B) $150,000, whichever is the greater, or $25,000 in the case of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(3) No payments shall be made under this section for any fiscal year to a State which has taken into consideration payments under this section in determining the eligibility of any local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(f) Whenever the Secretary, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under subsection (d), the Secretary shall notify the agency that further payments will not be made to the State under this section (or, in his discretion, that the State educational agency shall not make further payments under this section to specified local educational agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this section, or payments by the State educational agency under this section shall be limited to local educational agencies not affected by the failure, as the case may be.

(g) (1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its application submitted under subsection (d) or with his final action under subsection (f), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

QUALITY CONSTRUCTION

SEC. 5. (a) In addition to the sums allocated to it under section 4, each local educational agency shall be entitled to receive the sum of $500 multiplied by the number of pupils of the local educational agency in the membership of elementary and secondary schools of such agency at the beginning of the school year for which payments are to be made pursuant to this section who are in excess of the classroom space available for elementary and secondary education in the schools of such educational agency assuming a maximum classroom size of thirty, with priority to districts now compelled to operate schools with less than full day sessions for all grades.

(b) There shall be added to the excess pupil count authorized by paragraph (a) an additional two hundred and fifty pupils for each one-room school in operation by such local educational agency and an additional five hundred excess pupil count for each school exclusive of one-room schools of which there are no library facilities and an additional five hundred excess pupil count for each school exclusive of one-room schools in which there are no scientific laboratory facilities.

(c) Funds allocated to a local educational agency for purposes of this section shall be utilized for the construction and modernization of facilities. Construction of facilities by any local educational agency from funds authorized by this section shall be approved by the State educational agency upon application by the local educational agency in which application there is indicated appropriate planning of its facility needs by the local educational agency in providing programs of educational excellence in conformance with the requirements of section 4(b).

REDUCTIONS NECESSITATED BY INSUFFICIENT APPROPRIATIONS

SEC. 6. If for any fiscal year the amount appropriated under section 3(b) is insufficient to make to local educational agencies the full amount of the allotments provided for in section 4(a) and section 5(a), then the amount of each such agency's allotment under each such section shall be reduced by a percentage (which shall be uniform for each such agency and both of such sections) which will result in allotments which do not exceed the appropriations available therefor.

DEFINITIONS

SEC. 7. As used in this Act, except when otherwise specified—

(a) The term "current expenditure per public school child" for a State or for all the States means (1) the expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under such Federal program of assistance as the Secretary may prescribe, divided by (2) the number of children in average daily attendance to whom local educational agencies in the State or in all the States provided free public education during the year for which the computation is made.

(b) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of education services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials and other related material.

(c) The term "gifted and talented children" means, in accordance with objective criteria prescribed by the Secretary, children who have outstanding intellectual ability or creative talent.

(d) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control, or direction, of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school; and where responsibility for the control and direction of the activities in such schools which are to be assisted under this Act is vested in an agency subordinate to such a board or other authority, the Secretary may consider such subordinate agency as a local educational agency for purpose of this Act.

(e) The term "nonprofit" as applied to an agency, organization, or institution means an agency, organization, or institution owned or operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and which is exempt from taxation under section 501 of the Internal Revenue Code of 1954, and charitable contributions to which are deductible under section 170 of such Code.

(f) The terms "elementary and secondary school" and "school" means a school which provides elementary or secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(g) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(h) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

(i) The term "State" means (1) one of the fifty States and the District of Columbia, and (2) for purposes of sections 4 and 5 (f), includes Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

EVALUATION

SEC. 8. Such sums as necessary but not to exceed a sum equal to 1 per centum of the amount appropriated for section 5 for any fiscal year shall be available to the Secretary for evaluation (directly or by grants or contracts) of the programs and projects authorized by sections 4 and 5.

JOINT FUNDING

SEC. 9. Pursuant to regulations prescribed by the President, where funds are advanced by the Department of Health, Education, and Welfare and one or more other Federal agencies for any program, project, or activity funded in whole or in part under sections 4 or 5 the Secretary may be designated to act for all in administering the funds advanced.

GENERAL PROVISIONS

SEC. 10. (a) The provision of parts B and C of the General Education Provisions Act (title IV of Public Law 247 (Ninetieth Congress) as amended by title IV of Public Law 230 (Ninety-first Congress)) shall apply to the program of Federal assistance authorized under this Act as if such program were an applicable program under such General Education Provisions Act, and the Secretary shall have the authority vested in the Commissioner of Education by such parts with respect to such program.

(b) Section 422 of such General Education Provisions Act is amended by inserting "Quality School Assistance Act of 1974;" after "the International Education Act of 1966;".

SEC. 11. (a) (1) Section 3 of the Act of September 30, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out "June 30, 1973" and inserting in lieu thereof "June 30, 1979".

(2) Section 15(15) of such Act is amended by striking out "1968–1969" and inserting in lieu thereof "1970–1971".

(b) Sections 2(a), 3(b), and 4(a) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), are each amended by striking out "1973" wherever it appears and inserting in lieu thereof "1979".

(c) Section 16(a) (1) (A) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1979" and section 7(a) (2) (A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1979".

REMARKS OF EWALD B. NYQUIST, NEW YORK STATE COMMISSIONER OF EDUCATION, CONCERNING TITLE I OF H.R. 69

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. PEYSER. Mr. Speaker, I think that the Members of the House will be interested in the remarks that Commissioner Nyquist has made concerning title I of H.R. 69.

His speech follows:

STATEMENT BY THE HONORABLE EWALD B. NYQUIST, COMMISSIONER OF EDUCATION OF THE STATE OF NEW YORK

A problem that should be noted first is that the formula for Title I, which was accepted by the House Education and Labor Committee, was not the formula which was actually printed in the union calendar bill. There continues to be controversy over what the formula will actually be in the final analysis. Although we do not like either version, the constant shifting of how the formula would be calculated presents a serious problem in attempting to show its impact around the country.

The amendment to Title I makes three significant changes in the way funds are distributed that drastically alter the character of the program. First, the previously used $2,000 poverty cut off is replaced with the 1969 levels of the Orshansky Poverty Index. Second, the $2,000 level used in the AFDC portion of the formula is replaced by the Orshansky Poverty Index, but as updated annually by the rises in the Consumer Price Index. Third is a change in the payment rate. I wish to comment on each item individually.

The payment rate in the current formula provides 50 percent of the state or national average per pupil expenditure, whichever is the greater. H.R. 69 reduces the Federal share to 40 percent and provides a floor of 80 percent of the national average per pupil expenditure and a ceiling of 120 percent of this national average. The effect is that states with average per pupil expenditures which fall below the national average will be computed at 80 percent of that amount; the states that fall between the floor and the ceiling will be computed at their state averages; and four states and the District of Columbia with state averages that naturally fall above the 120 percent ceiling will be limited to the ceiling.

We believe this 120 percent ceiling is a penalty to any state that is making a significantly greater effort to provide quality education for its children. In New York, our average per pupil expenditure is above the ceiling not only because of our high cost differentials, but also because we try to have a higher ratio of instructional staff to students in order to insure a better education for our children. A recent study has projected that at least seven other states are increasing their expenditures at a rate that will bring them over the 120 percent ceiling by the final year of this legislation. Certainly this "disincentive" would be a disastrous precedent in any legislation.

Further, the 40 percent share has the effect of reducing the handicapped program under Title I in every state in the Nation, as compared with Fiscal Year 1974. Even at an increased appropriation level as requested by the President for Title I, the program will decrease from $85 million to $61 million nationwide. This seems clearly inappropriate at a time when state and local governments are being required to provide greater educational services for the handicapped children of our Nation. In view of the high excess costs involved in providing these services, even the handicapped education legislation now pending in your Subcommittee will not go far enough in making up the difference.

Finally, we find these limitations not uniformly applied within the Title I program in H.R. 69. Although the payment rate is changed as described above, the payment section for Indian children attending out-of-state schools under contract with the Bureau of Indian Affairs is quite different. In that section, there is a floor of the state average, or 120 percent of the national average per pupil expenditure, whichever is the greater. Thus, Indian children being provided educational services under contract with BIA who are located in any of the four states or the District of Columbia mentioned previously, would be able to receive reimbursement at a level greater than the 120 percent of the national average. Yet, at the same time, the regular Title I program in those states would be limited to the 120 percent ceiling for the children being served. A floor of 80 percent of the national average in one part of the program and a floor of 120 percent of the national average in another part of the same title seems totally inconsistent. We believe that *all* children within a state whose average per pupil expenditure exceeds the national average should be reimbursed at the state average at a minimum.

For the purpose of determining eligible children, the new formula uses the number of children aged 5–17 in families below the Orshansky Poverty Index as used for the 1970 Census and two-thirds of the children aged 5–17 in families with AFDC payments above the various income levels in the Orshansky Poverty Index updated annually by the Consumer Price Index. Here I must point out my assumption that the formula as explained to, and accepted by the Committee, and as appeared in the first Committee print of H.R. 69, is the correct statement of the formula.

Under this version of the formula, AFDC and the updated Orshansky are virtually incompatible. Aside from the administrative monstrosity that would be created in making counts case by case, AFDC would be almost totally eliminated from the Title I formula. Both my own state and the state of California, which are two of the higher AFDC paying states, have determined that most of our AFDC payments are below present Orshansky levels and will continue to be decreasing during the life of the bill. Since our AFDC has leveled off and is on the decline, the AFDC portion of the formula will never catch up with the rises of the Consumer Price Index.

After having determined the impact of the formula in that light, the union calendar print of the bill was released which contained a significant change. Five words, "for a non-farm family of four," had been added to this section of the formula. The result of the change is the altering of the AFDC count by requiring a single income level of the Orshansky Index over which the AFDC will be determined, rather than the individual levels of the Orshansky Index.

Although this will relieve the administrative problem of obtaining the desired counts, it does not change the problem of the AFDC portion of the formula being virtually eliminated. Current estimates are that at the time the first fund obligations will presumably be determined sometime in June, the non-farm family of our Orshansky level will be approximately $4,600. H.R. 69 is explicit in requiring the Secretary of HEW to use the most recent "updated poverty criteria" for the counting of AFDC eligibles, available at the time of his determination. In my state, the number of eligibles that will be found under this criteria is very minimal. As the non-farm family of four figure rises with the Consumer Price Index over the next three years, the AFDC eligibles will be wiped out. I cannot accept the position that children on AFDC are not children from low-income families.

There is a further problem caused by the use of two Orshansky Index levels for the different portions of the formula. The basic Orshanky county which will be used for the major portion of the eligibility count was determined using 1969 Orshansky levels during the 1970 Census count. That count is static and will not change until the next decennial census count is made. The rising Orshansky levels will therefore apply only to the AFDC portion of the formula. The result is a continually widening gap of children who are above the poverty level of 1969 and below the AFDC over Orshansky non-farm family of four level, who will not be included in the formula. There appears to be no justification for their exclusion.

It has been stated that this critical shortcoming in the formula will be alleviated by the year-to-year updating of the Census counts as provided in H.R. 69, at a cost of approximately $30 million. Although H.R. 69 provides that a study will be made to determine its feasibility, we know some difficulties that will be encountered by reading the testimony of the officials from the Bureau of the Census before the General Education Subcommittee on May 3, 1973. One can find clear statements that a $30 million survey would provide only a state-by-state accurate count and not a county-by-county determination. To have accurate figures on population distributions below the state level would require a sample check of the same magnitude as a decennial census. This whole process could certainly not be completed before the expiration date of this legislation.

It would therefore appear quite evident that there are some difficulties in implementing the particular combination of Orshansky and AFDC as provided in your new formula. The AFDC factor is critically important to population centers in the country and it is currently the only adequate data that is collected county-by-county on a yearly basis. It will be effectively eliminated leaving only the still picture of the Orshansky count. I have expressed my feeling on several occasions that unless there is an attempt to regionalize the Orshansky Index and the Consumer Price Index that is used to update it, the Orshansky Index is an unfair measure of poverty in some sections of the country. It is heavily weighted in favor of low cost-of-living areas where it is far easier for a person to survive at poverty levels prescribed. This is evident by the fact that with the new formula, the State of Mississippi will have 42 percent of its total elementary and secondary school population counted under the Orshansky Index as eligible for Title I funds. At the same time, Title I becomes more and more a selective program for the more industrialized states, such as the state of California, which will have only 12 percent of its elementary and secondary school enrollment counted eligible for Title I. As the formula increases the total universe of eligibles and as the appropriation remains fairly constant, clearly the overall effect will be a dispersal of funds around the country and not a concentration as has been the intent of Title I since its origin in 1965.

A statement in the Congressional Record on March 6 (p. 5474) indicates that the shift in the Census data from 1960 to 1970 caused a "greater distortion in the allocations under the formula because there was a significant decline in the number of census children counted under the $2,000 low-income level, while at the same time the number of AFDC children count remained constant." The first city shown in the accompanying table is New York City. This statement absolutely does not apply to New York City. The fact is that the census count for children in families with income under $2,000 increased by 17 percent in New York City, thus reducing the effect which the count of AFDC children had in the allocation of monies to New York City. I agree that there was a general decline in the county in the number of children being counted under this level, but a general decline in the country in the number of children being counted under this level, but as I have been continually pointing out, large numbers of low-income children have been migrating to urban centers. This is evident by the increase in low-income population that falls below the comparable standard of living income levels in 1969, such as $3,000 or $3,500.

It also should be pointed out that the table in the March 6 Congressional Record compares allocations at three different funding levels. Further, the Fiscal Year 1973 data represent the impoundment level of the President and not the final allocations made to each of the cities following the release of the impounded Fiscal Year 1973 moneys, the data for which are available at the U.S. Office of Education. I believe the most telling method of analyzing any formula change is to use the same amount of money being allocated in the current fiscal year for the basis of comparison. Only by this method can one determine the actual direction local school districts will be taking under the proposed changes. (See attached table.)

At whatever level of appropriations might be assumed, however, it is necessary to calculate the amounts that must be set aside first for the handicapped, migrant, neglected and delinquent, and other programs that must come "off the top" before the local educational agency allocation can be made. It has been estimated that the change in the method of counting children eligible for the migrant program may result in an increase in the migrant program that may consume a large portion of any increase in appropriation fo Title I. These factors must be considered before one can truly analyze the impact of the formula change on the local educational agency program.

Each of the problems I have outlined has a seriously negative impact on population centers everywhere. Although I agree the existing Title I formula is in need of change in accordance with the new Census information and the growth of AFDC in the formula, such change should not be to the detriment of any region or any particular section of the country. Any new formula must simply restore the balance between the relative needs of the densely and less-densely populated areas of the country and their concentrations of low-income children. I believe the new formula illogically replaces the current imbalance with yet another.

A COMPARISON OF COUNTY LEA ALLOCATIONS FOR FISCAL YEAR 1974 AND H.R. 69 AT A COMPARABLE APPROPRIATIONS LEVEL OF $1.396 BILLION

100 largest cities	1974	H.R. 69	Percent change—Of city	Percent change—Of State
New York	154, 373, 065	131, 217, 035	−15	−14
Bronx	46, 234, 075	39, 298, 944	−15	−14
Kings	67, 172, 700	57, 096, 768	−15	−14
New York	26, 020, 783	22, 117, 648	−15	−14
Queens	12, 786, 676	10, 868, 670	−15	−14
Richmond	2, 158, 831	1, 835, 005	−15	−14
Chicago (Cook)	51, 866, 527	44, 086, 528	−15	−8
Los Angeles	49, 867, 494	42, 387, 734	−15	−4
Philadelphia	27, 131, 272	23, 061, 568	−15	−3
Detroit (Wayne)	25, 933, 205	22, 983, 552	−11	−2
Houston (Harris)	8, 019, 010	8, 754, 335	+9	+24
Baltimore City	12, 921, 187	11, 160, 270	−14	+4
Dallas	5, 110, 172	5, 818, 606	+14	+24
District of Columbia	11, 196, 398	9, 516, 934	−15	
Cleveland (Cuyahoga)	12, 448, 365	10, 581, 106	−15	−2
Indianapolis (Marion)	3, 169, 235	3, 463, 577	+9	+7
Milwaukee	6, 349, 363	6, 134, 475	−3	+19
San Francisco	4, 312, 040	3, 880, 919	−10	−4
San Diego	6, 643, 338	7, 008, 205	+5	−4
San Antonio (Bexer)	5, 797, 673	7, 331, 024	+26	+24
Boston (Suffolk)	8, 329, 899	7, 080, 411	−15	−10
Memphis (Shelby)	5, 489, 690	6, 670, 173	+12	+5
St. Louis	5, 678, 370	5, 419, 717	−5	+7
New Orleans (Orleans)	5, 960, 408	7, 477, 727	+25	+40
Phoenix (Maricopa)	3, 516, 739	4, 969, 869	+41	+48
Columbus (Franklin)	4, 099, 531	3, 484, 854	−15	−2
Seattle (King)	4, 417, 045	3, 962, 149	−10	+7
Jacksonville (Duval)	2, 585, 155	4, 296, 938	+69	+76
P'ttsburgh (Allegheny)	8, 651, 181	7, 995, 262	−8	−3
Denver	3, 435, 624	3, 026, 900	−12	+8
Kansas City, Mo.[1]	2, 562, 563	2, 885, 288	+13	+7
Atlanta (Fulton-Dekalb)	5, 968, 175	5, 402, 467	−9	−3
Buffalo (Erie)	8, 732, 161	7, 422, 333	−15	−14
Cincinnati (Hamilton)	4, 060, 561	4, 269, 840	+5	−2
Nashville (Davidson)	1, 716, 491	2, 248, 252	+31	+5
San Jose (Santa Clara)	4, 973, 262	4, 228, 610	−15	−4
Minneapolis (Hennepin)	5, 149, 435	4, 377, 018	−15	+6
Fort Worth (Torrant)	2, 433, 508	2, 727, 918	+12	+24
Toledo (Lucas)	2, 149, 538	1, 878, 348	−13	−2
Portland (Multnomah)	2, 640, 706	2, 812, 847	+7	+29
Newark (Essex)	13, 220, 988	11, 237, 835	−15	−14
Oklahoma	2, 826, 913	2, 404, 111	−15	−2
Oakland (Alameda)	6, 120, 938	5, 889, 132	−4	−4
Louisville (Jefferson)	5, 031, 569	4, 276, 831	−15	−8
Long Beach				
Omaha (Douglas)	2, 224, 586	1, 907, 897	−15	+6
Miami (Dade)	4, 330, 621	6, 760, 682	+56	+76
Tulsa	1, 869, 674	1, 809, 224	−3	+2
Honolulu	3, 419, 497	3, 435, 700	0	+6
El Paso	1, 921, 119	3, 555, 308	+85	+24
St. Paul (Ramsey)	2, 395, 789	2, 036, 419	−15	+6
Norfolk	3, 100, 406	2, 635, 344	−15	+1
Birmingham (Jefferson)	4, 447, 988	4, 917, 145	+11	+4
Rochester (Monroe)	5, 665, 322	4, 815, 521	−15	−14
Tampa (Hillsborough)	1, 710, 489	3, 276, 051	+92	+76
Wichita (Sedgwick)	1, 973, 900	1, 647, 274	−15	+6
Akron (Summit)	2, 237, 573	1, 901, 936	−15	−2
Tucson (Pima)	1, 380, 397	1, 983, 719	+44	+48
Jersey City (Hudson)	6, 086, 389	5, 173, 478	−15	−14
Sacramento	4, 613, 718	4, 144, 207	−10	−4
Austin (Travis)	952, 542	1, 464, 585	+54	+24
Richmond	2, 450, 360	2, 082, 805	−13	+1

			Percent change—	
100 largest cities	1974	H.R. 69	Of city	Of State
Albuquerque [2]	1,667,013	2,329,205	+40	+46
Dayton (Montgomery)	2,353,612	2,000,569	−15	−2
Charlotte (Mecklenburg)	2,448,123	2,080,903	−15	−12
St. Petersburg [3]	1,061,733	1,802,440	+70	+76
Corpus Christi	1,696,219	2,336,212	+38	+24
Yonkers (Westchester)	6,201,274	5,271,080	−15	−14
Des Moines (Polk)	1,560,867	1,326,736	−15	−5
Grand Rapids (Kent)	2,545,322	2,609,139	+3	−2
Syracuse (Onodage)	2,884,164	2,464,366	−15	−14
Flint (Genesse)	3,325,702	3,113,502	−6	−2
Mobile	3,037,523	3,374,629	+11	+4
Shreveport (Caddo)	1,484,466	2,580,790	+74	+40
Warren (Wayne)—See Detroit.				
Providence	3,595,579	3,670,488	−15	+8
Fort Wayne (Allen)	977,700	883,595	−15	+7
Worcester, Mass				
Salt Lake City [4]	1,975 007	1,897,900	−5	+2
Gary (Lake)	3,566,029	3,031,123	−15	+7
Knoxville (Knox)	1,277,118	1,610,670	+26	+5
Madison (Dane)	959,055	1,030,166	+7	+19
Virginia Beach	906,866	932,712	+3	+1
Spokane	1,380,542	1,459,724	+6	+7
Kansas City (Wyandotte)	1,592,036	1,353,230	−15	+2
Anaheim (Orange)	4,423,958	4,576,185	+3	−4
Fresno	4,061,527	4,975,991	+23	−4
Baton Rouge (East Baton Rouge)	1,264,284	2,064,154	+63	+40
Springfield				
Hartford	4,207,121	3,788,238	−10	−6
Santa Ana (Orange)—See Anaheim.				
Bridgeport				
Tacoma (Pierce)	2,040,594	2,101,150	+3	+7
Columbus (Muscogee)	1,327,209	1,398,872	+5	−3
Jackson (Hinds)	2,356,830	2,511,746	+7	−4
Lincoln (Lancaster)	390,269	374,271	−4	+6
Lubbock, Tex	839,472	1,415,590	+69	+40
Rockford, Ill	1,338,899	1,225,195	−8	−8
Paterson, N.J. (Passaic)	4,166,031	3,541,124	−15	−14
Greensboro (Guifford)	1,675,956	1,425,578	−15	−12
Riverside, Calif	3,079,943	3,294,699	+7	−4
Youngstown (Mahoning)	1,220,582	1,068,028	−12	−2
Fort Lauderdale (Broward)	1,453,948	2,488,813	+71	+76
Evansville (Vanderburgh)	664,475	663,727	0	+7
Newport News	1,016,433	982,091	−3	+1

[1] Jackson County.
[2] Bernalillo County.
[3] Pinellas County.
[4] Salt Lake County.

EDUCATION—AN INVESTMENT FOR THE FUTURE

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. ESCH. Mr. Speaker, the president of the University of Michigan, Robert W. Fleming, delivered a very interesting commencement address last weekend at Michigan State University. In his speech, President Fleming noted that an education is an investment for the future which graduates have an obligation to use wisely. He also pointed out some of the problems graduates are having today in a somewhat depressed job market.

I believe many Members will find President Fleming's speech entitled, "A Time for Reflection" of great interest and I insert a summary prepared by the University of Michigan News Service at this point in the RECORD:

UNIVERSITY OF MICHIGAN NEWS

March 11, 1974.

EAST LANSING.—Even in today's depressed job market, both young people and society are better for the goal of a college education having been attained, Michigan State University graduates were told Sunday (March 10) by University of Michigan President Robben W. Fleming.

Fleming was the winter term commencement speaker at ceremonies for some 1,485 MSU graduating students at 3 p.m. Sunday in MSU Auditorium. The president of U-M since 1968, Fleming had received an honorary degree from MSU in 1967.

"If the world into which you now go seems insecure, the history books will tell you it has usually seemed so," Fleming said. "That is why your education will mean so much to you. It is yours for keeps."

Entitled "A Time for Reflection," Fleming's address opened by asking the MSU graduates to reflect on who they are, both personally and as a group.

"Oddly enough the question 'Who Am I?' is one which my generation had to learn from yours," he said. The older generation would answer such a question in terms of names, home towns, and what they are now doing. "With you, I have learned, it is different. You ask the question in a more cosmic and philosophical sense."

He noted that those who complete a bachelor's degree represent only 20 of an original group of 100 persons who entered grade school 16 years earlier. Ten dropped out by the end of the eighth grade, 20 more did not finish high school, 30 did not go on to college, and only half of the remaining 40 who went on to college would ultimately graduate there, Fleming said.

But, he added, "In your parents' day, only five of that original 100 would have attained the same objectives.

"The point of all this, of course, is that you are about to join a select group. In doing so, I hope you will remember that aside from your own efforts, your presence here today is accounted for by your parents and all those others who encouraged you to continue.

"You should also know that from the time you first started school until now your education has been subsidized. This was apparent while you were in the K-12 system, but it may have been less so during your years at Michigan State University. In fact, you have doubtless paid somewhere between 20 and 30 per cent of the direct cost of your education at the university. It would be a reasonable guess that during all of these years of schooling the public has invested at least $20,000 in each one of you."

While the graduates thus have an obligation to use their education wisely, Fleming continued, they are understandably concerned with their personal welfare.

"Like many of us before you—it was true of my generation—you happen to be graduating at a time when the employment market is depressed. Moreover, you have seen the widely publicized manpower projections of the U.S. Department of Labor which suggest that a large proportion of the jobs of the future will not require a college education. You know also that teaching positions which many of you had hoped to get are scarce."

However, he continued, "I have no doubt at all that over a lifetime you will treasure the education you have had." While some positions, such as medicine, law and engineering, require specific skill training, this is not true for most positions, Fleming said.

"Most managements would prefer to give the people they hire the specific skills they want rather than having this done in school. This is partly because those skills are necessary but not the key to success in long run individual development, and partly because they involve practices unique to the particular employer and therefore learned on the job," Fleming said.

"What the college graduate brings to the employer is not so much specific skills as a larger perspective, a greater awareness of the world around him, and a more informed view of the implications inherent in changed conditions.

"You have reached maturity in a very different world from the one your parents knew," he continued. "Who among you would have predicted as little as a year ago what profound changes in our economy would be triggered by the Arab oil boycott—a factor beyond our control."

Aside from natural resources, the United States is confronted by a very different world market, he said. The European Common Market is "one of the great powerful trading groups of the world. Russia, and now China, are emerging on the world trade scene."

"Most astounding of all, perhaps, is the probability of a food shortage in this country. . . . Our closest and longest world ally, Great Britain, is going through an experience which is so severe that serious students are talking about whether democracy can survive in so inclement a setting.

"I am arguing, then, that we are not witnessing just a scene which is changing as it always must, but a whole new order which historians will identify as a watershed in history," Fleming stated.

He said the United States remains, as it always has been, one of the richest nations in the world. "We are far more fortunate than most."

Returning to the question, "Who am I?" the U-M President said that "college graduates tend to be more tolerant of the views of others, and more supportive of the democratic potential.

"We now know that equality is a product of many factors, of which education is but one. Nevertheless, those other factors are more likely to become operative if our citizens are tolerant of other views and if they remain committed to the basic principles of democracy."

Fleming told the MSU graduates that "the quality of your lives will have been immensely enhanced" by their education. "You are bound to live in a society which moves further towards leisure time. Some of it can be filled with sheer entertainment, or even beer and pretzels, but your mind is unlikely to be devoid of intellectual curiosity.

"Here on the campus of this great university you have come to know something of the world of books, art, music, the theater, and science. For most of you, it will never work off and your lives will be richer because of that."

THE GREAT PROTEIN ROBBERY: NO. 17: THE STUDDS-MAGNUSON BILL

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. STUDDS. Mr. Speaker, on January 12 of this year two completely modernized stern trawlers were christened and added to the New Bedford, Mass., fishing fleet. I am proud of this event not only because I have the honor to represent New Bedford in Congress, but because this modernization program—which cost nearly $200,000—shows that our domestic fishing fleet is still alive.

I salute the C. & R. Corp. of New Bedford, for having the vision and the faith in our domestic fishing industry to expend this large sum. This is an important step in rebuilding our domestic fishing fleet and, according to an article in the March 1974 issue of the Fish Boat, could mark the beginning of a truly modernized fleet.

According to the article, which I would like to enter at the conclusion of my remarks, the C. & R. Corp. plans to "buy eight more vessels, which would be similarly reequipped—if Congress established a 200-mile limit to protect the domestic fisheries from foreign incursions." As the sponsor—along with Senator WARREN MAGNUSON of Washington—of the Studds/Magnuson 200-mile fish conservation zone bill, I would like nothing better than to see our domestic fishing fleet given the protection of U.S. law in the valuable fishing areas off our shores. I urge any Member who is not already a cosponsor of the Studds/Magnuson bill to contact me if he or she wishes further information on how we can best make our domestic fishing fleet strong while protecting and conserving our valuable offshore marine resources.

The article follows:

TWO MODERNIZED TRAWLERS JOIN NEW BEDFORD FLEET

Two completely modernized stern trawlers were added to the New Bedford fishing fleet with a christening ceremony January 12.

The trawlers, rechristened the *Chivas Regal* and the *Crown Royal*, are steel-hulled, 83-foot sister ships. Both were built nine years ago by Blount Marine Corp. in Warren, Rhode Island, and have been fishing out of Gloucester.

The new owner of the vessels, C & R Corp. of New Bedford, spent about $100,000 on each ship for modernization.

Hathaway Machinery Company, Inc. of Fairhaven, Massachusetts, did most of the re-equipping. Among the new equipment installed by Hathaway were hydraulic winches, hydraulic net reels, hydraulic boom winches, power take-offs for both engines, hydraulic pump systems, and Aeroquip flexible hosing.

The trawlers are fully automated. Virtually every operation can be run from the pilot house. Each vessel carries a crew of six or seven men.

Paul F. Saunders, a principal stockholder in the corporation, said C & R has plans to buy eight more vessels, which would be similarly re-equipped—if Congress establishes a 200-mile limit to protect the domestic fisheries from foreign incursions.

Besides Saunders, major stockholders in C & R are William Q. MacLean and Richard F. Flood.

Chester Hathaway, assistant treasurer of Hathaway Machinery, pointed out that three new vessels have now joined the New Bedford fleet in the last eight months, despite some difficulties experienced by the fishing industry. "If the 200-mile limit is adopted," he said, "I think there would be a real boom. You'd see new boats entering the fleet, and owners of boats now in the fleet would be much more willing to invest money in modernization."

A brand-new trawler entered the fleet last May, the *Gen. George S. Patton*.

A bill to extend U.S. territorial waters to 200 miles offshore has been introduced in the House by Rep. Gerry Studds, whose district includes New Bedford, and in the Senate by Sen. Warren Magnuson of Washington State.

The vessels were christened by Gustave A. LaStaiti, president of Southeastern Bank and Trust Company of New Bedford, and Lazarus Chongarlides, New Bedford's harbormaster. Among those attending the ceremony was Bobby Watkins, a former star halfback at New Bedford High School, Ohio State University, and with the Chicago Bears. He's now national sales manager for Chivas Regal, a division of Seagram's.

URBAN HOMESTEADING

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. RANGEL. Mr. Speaker, it appears that if minorities and poor Americans were accorded the same advantages today that the great majority of Americans were given during the 19th century this country would indeed achieve greatness.

I speak specifically about the Homesteading Act of 1862 and the national urban homesteading legislation being proposed today. Under the Homesteading Act of 1862, 230 million acres were sold in $10 per 160-acre lots by 1933. Middle Americans are constantly howling about the welfare burden they bear. They forget that their predecessors were the direct recipients of a more lucrative welfare payment, which was land.

Urban homesteading is a first step toward local community solution of inner-city housing abandonment.

I have submitted an editorial from WWRL, a radio station in New York City, which saluted an East Harlem street gang in its effort, with the aid of urban homesteading funds, to rehabilitate tenement slum dwellings:

URBAN HOMESTEADING

The Renigades is the gang to watch in the East Harlem ghetto.

They're putting all of their energies into something known as urban homesteading. It's also called sweat equity. The Renigades, aided by members of 15 households, are working to make a tenement at 119th Street and Second Avenue liveable again. This is one of nine buildings that the city is encouraging residents or would-be residents to restore. The donated labor is regarded as the down payment. The city is putting up a $320,000 municipal loan for the Renigades' house.

The Cathedral of St. John the Divine plans to support such rehabilitations over the next two years that will create 3,000 apartments in 200 abandoned slum buildings.

WWRL salutes this effort to give the homeless homes.

But, most of all, we salute the truth that most of us—given the opportunity—will choose to live useful and meaningful lives.

Urban homesteading provides purpose as well as a roof over the Renigades' heads.

THE 75TH ANNIVERSARY OF THE VETERANS OF FOREIGN WARS

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mrs. GRASSO. Mr. Speaker, the late President Harry S. Truman said of the Veterans of Foreign Wars:

> My membership in the VFW has long been a source of pride and personal satisfaction because of the high ideals that have been exemplified throughout the lifetime of the VFW. I am sure that I speak for all our fellow Americans in voicing my confident expectation that the VFW will ever stand in the forefront in unselfish devotion to our nation.

The nearly one and a quarter million Americans who are members of the Veterans of Foreign Wars share this same sense of identity and purpose. They are one and all dedicated to the cherished and time-proven beliefs and ideals that have made America the great country it is today.

It gives me great pleasure to salute these veterans and their fine organization on its 75th anniversary.

This week, as all my colleagues know, representatives of VFW posts from throughout the country have come to Washington to gather at their midwinter conference and to celebrate the diamond aniversary of their distinguished organization.

The VFW had its beginnings in a group of Spanish-American War veterans known as the American Veterans of Foreign Service, which was established in September 1899. Fifteen years later, after three veteran's group mergers had occurred, the Veterans of Foreign Wars emerged in 1914. Over the years its membership grew, as veteran after veteran joined to become part of the proud heritage of this worthy organization. Today, the VFW boasts some 10,000 posts in all 50 States, the Panama Canal Zone, the Virgin Islands, Guam, Puerto Rico, and several foreign countries where American veterans reside.

Throughout its long and distinguished history, the VFW has held service to its members and their families as one of its primary objectives. Indeed, the congressional charter of the VFW lists as part of its purpose "to assist worthy comrades," and "to perpetuate the memory of our dead and to assist their widows and orphans."

Nowadays, the VFW's dedication to service for its members and their loved ones is evident in the organization's remarkable, nationwide rehabilitation service, which provides medical, legal, and claims assistance to those needing it. The service aids veterans in filing claims for badly needed benefits.

In local communities throughout the Nation, VFW posts prepare Christmas baskets, conduct safety seminars, and carry on innumerable other worthwhile projects. Many VFW community activities are intended to acquaint young people with their heritage as Americans. Among these programs are the Voice of Democracy essay contests, the sponsorship of Boy Scout troops, and the establishment of Sons of VFW organizations. It was with a deep sense of pride that I learned that this year's third-prize winner in the Voice of America essay contest was Veronica Hauge of Westport, Conn. Certainly, Veronica, her parents, and family and her friends can be very proud of this important accomplishment.

Another praiseworthy endeavor on the part of the VFW is its national home or hospital at Eton Rapids, Mich. There since 1925 the children of deceased and disabled VFW members have received hospital care.

In my own State of Connecticut, there are some 32,000 VFW members in 61 posts. My appreciation of the valuable service performed by the Connecticut VFW, and the comradeship and esprit de corps prevalent in this organization has come from personal observation of the dedication and hard work that have led to so many valuable contributions and accomplishments by VFW leaders and members across the State.

As a member of the Veterans' Affairs Committee, it has been my privilege on numerous occasions to work with VFW members in the drfting of meaningful legislation to aid our Nation's veterans. Often members of this organization have helped to give the committee and myself a better understanding of and appreciation for the problems besetting veterans, in addition to providing cogent, worthwhile suggestions as to how these problems can be solved.

For three-quarters of a century, the VFW has been a source of great national pride and patriotism for those loyal Americans who fought so bravely for their country in foreign lands. I am pleased to have the opportunity to wish this noble organization continued success in the years ahead.

JOSEPH ALEXANDER, 1896–1973

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. DE LUGO. Mr. Speaker, it is with deep sorrow that I note the passing of Mr. Joseph Alexander, a distinguished citizen of St. Croix. When I began my public career, Mr. Alexander was dean of the Democratic Party in the Virgin Islands. I came away from our first meeting with a strong sense of respect, an emotion I feel to this day.

Mr. Alexander has truly done the most for the rights and status of Virgin Islanders. He was architect of the Organic Act which extended U.S. citizenship to the people of the Virgin Islands. During his career, he successfully lobbied in Washington for the interests of his island home. From 1932 to 1956, he chaired the Virgin Islands delegation to the Democratic National Convention. Joseph Alexander's influence was also felt locally: He founded the Chamber of Commerce on St. Croix, and served on the Port Authority and Public Works Commission. His personal and community contributions are too extensive to fit on the printed page.

Joseph Alexander lived a truly inspirational life: As a politician, a citizen, a friend, and a human being.

I respectfully submit the following eulogy delivered by Rev. Father Manuel R. Roman:

EULOGY DELIVERED BY REV. FATHER MANUEL R. ROMAN

Your Excellency, Bishop Harper, Your Excellency, Governor Evans, Mrs. Jennie Alexander, Mr. John Alexander, Members of the Family, Reverend Fathers and Sisters, Members of the Administration, Legislature and Judiciary, Dear Friends in Christ: A week ago today someone very dear to all of us in the Virgin Islands was promptly and unexpectedly taken away from us. He will indeed be missed, and there are many many reasons why he will be missed.

If we go back in history for over a half of a century we come to the year 1917, a very important year in the history of the Virgin Islands. The specific date is March 31, 1917—Transfer Day. It was on that day that the Virgin Islands passed from the sovereignty of Denmark to that of the United States of America which had just made its fourth purchase in its short history. There was a great deal of concern over the status of the islanders, and among those showing a great deal of concern was a young man of 21 by the name of Joseph Alexander. He was vitally concerned about the civil and political rights of the people of the Virgin Islands, and keenly motivated about this issue he began his political work to effect full citizenship under the Star and Stripes. It was Joseph Alexander who was the architect or the father of the Organic Act which was subsequently passed by the Congress of the United States giving full citizenship to the people of the Virgin Islands. He may well be called the Thomas Jefferson of the Virgin Islands.

Through the course of the years he was a frequent visitor in Washington, D.C. fighting for the rights of Virgin Islanders. And who can forget Bill No. 27 in 1933? He and several members of the legislature went to Washington to confer with the late President Franklin D. Roosevelt in order to protect the rights of individual citizens against the encroachment of big government. He made many subsequent trips to Washington and played a leading role in the further amplification of the Organic Act in 1936. And who can ever forget the elections of 1938? The nation was in the midst of a depression struggling to improve itself economically. We can well remember the vibrant speeches and the interesting evenings we spent at the market and at the wharf listening to the various political candidates. Joseph Alexander was one of the successful candidates of that election in what may be termed one of the most colorful and dynamic in the history of St. Croix.

Mr. Alexander was also the founder and the President of the Chamber of Commerce for many years. He was one of the founders of the West Indies Bank which subsequently became the Chase Manhattan Bank.

But as a citizen he distinguished himself for the many years of service that he gave to this community. He held every elective office that was possible under the Constitution of the Islands between 1916 and 1960. He was a consultant to many governors and attended many of the Governors' Conferences. He was chairman of the Delegation to the Democratic Conventions from 1932 until 1956, and his voice was a familiar one heard at each convention as Mr. Alexander's voice was heard to say: "Mr. Chairman, the Virgin Islands, the Pearl of the Antilles casts its three votes for," and he would then name the candidate.

Joseph Alexander was a man who was not only dedicated to the community in the civic sense but in the religious as well. He was a member of the Administrative Board of the Catholic Church in the Virgin Islands which advises and assists Bishop Harper in the administration of the Church. He was a member and the President of the Parish Council of Holy Cross Church here in Christiansted. He was a member of the Board that advises the work of the Church in the field of Social Service. He played no small role in the growth and development of Catholic Education. It was his advice and assistance of all sorts that made it possible for St. Mary's to have its new building. He served as consultant and advisor to many many pastors through the years. He was an individual who was keenly concerned about the moral welfare of the islands. He was always ready and willing to give of his time to the Church and the community.

But I should like to take this opportunity to point out certain things in his life which should serve as motivation and inspiration for all of us as children of God and citizens of this community. Joseph Alexander was first and foremost a man of God. He was seen regularly here at Mass worshiping his God from Whom he derived his strength and his courage. The world, my dear friends in Christ, has many many problems today—the danger of atomic war, poverty, crime, drugs, discrimination, etc., but these can never be solved as long as man forgets his God. There can never be a brotherhood of man without the fatherhood of God. There can never be peace and understanding in this world as long as Love itself is left out. Joseph Alexander sought his strength and inspiration from his God and that is why he gave so much of his time to help his fellow man. There are some virtues in the life of this man that I should like to point out. In these days when there are investigations of many kinds, when the investigators are being investigated, when credibility has become a problem, Mr. Alexander stands out as a shining example of honesty and integrity. His word could always be trusted; we knew what his views were and where he stood. He didn't shift with the wind, and he fought for what he believed in regardless of the consequences even if it risked political oblivion or being ostracized.

He also stood out as a man of hard work. We know how long he worked. He worked not only for his business but he worked hard for his community and for his Church. The days were too short for what he wanted to accomplish, and sometimes some of our problems would be solved more quickly if we had more men with his dedication and stick-to-it-iveness. Yes, Joseph Alexander loved work and he never hesitated to take the helm whenever he was asked. He was always a servant of the people and the Church.

These are a few of the reasons why he will be sorely missed. This must indeed be an hour of deep sorrow for you, the members of his family. I should like to take this opportunity on behalf of all of us here and the entire community to express our condolences to all of you in this hour of grief. May Our Heavenly Father, the God of all Consolation, strengthen you and help you in this hour of sorrow. Your loss is also ours. May you be strengthened with the Christian faith and believe that in the not too distant future we shall all be reunited with him whose loss we suffer this day. And may God in His Mercy grant Joseph Alexander eternal life in reward for his many years of service to God and man.

LEROY JEFFERS, PRESIDENT OF STATE BAR OF TEXAS, EXPOSES IMPROPRIETY OF STATEMENT MADE BY CHESTERFIELD SMITH, PRESIDENT OF ABA

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. FISHER. Mr. Speaker, last month Honorable Leroy Jeffers, president of the State Bar of Texas, testified before the Senate Judiciary Committee regarding the firing of Special Prosecutor Archibald Cox and the obvious impropriety of some intemperate statements issued by Chesterfield Smith, president of the American Bar Association, regarding that matter. He also made it clear Smith was not reflecting the views of the American legal fraternity.

The statement made by Mr. Jeffers is sound and convincing. He upholds the dignity of the legal profession regarding treatment of this and related developments. His testimony should be read by all Members of the Congress. It follows:

STATEMENT OF LEROY JEFFERS, PRESIDENT OF THE STATE BAR OF TEXAS

I appear as President of the State Bar of Texas, a statutory agency of the State of Texas, of which all of the more than 24,000 lawyers licensed by the Supreme Court of Texas are members. The State Bar of Texas is declared by law to be a part of the Judicial Department of the State of Texas and it is therefore the agency of a public profession whose members are public officers of the State of Texas. On its behalf and on their behalf, I warmly welcome the distinguished members of this Subcommittee to our State of Texas and to my home city of Houston. We not only welcome you but we also welcome the opportunity to counterattack some of the assaults now being aimed at the American lawyer from various sources as a popular target under the passion of the times.

In the September issue of the *Texas Bar Journal*, the official monthly publication of the State Bar of Texas, I posed the point in these words:

"Pride of profession is called for now as seldom before. The American lawyer is under attack and the most cherished values he defends are under siege by his enemies. The Watergate hysteria is being exploited to the ultimate by the Bar's mortal foes in and out of the media to tarnish the armor of our honor. This is no hour at the Bar for the feeble or fainthearted. It is a time to stand tall and to live true to the most majestic traditions of this highest calling of free men. Spokesmen for the Bar and the individual lawyer with his own clients and in his own community must paint in bright, bold colors the clear, sharp line of distinction which the facts draw and which must be drawn in the public mind between the great body of lawyers engaged in the active practice of law and the people with law licenses engaged in political and governmental activities. They are not the same. We must sharply reject the frequent glib and shallow assertion that Watergate tarnishes the Bar and brings it into disrepute. Any acceptance of this stupid thesis should be left to the enemies of the Bar who are ever eager to seize upon any cause to defame lawyers."

The disappointing capitulation to the seige on the profession contained in the official reaction of the American Bar Association was covered in this further comment:

"Confronted with lawyer misconduct, we should not condone but neither should we condemn without fair trial unless we are to abandon our very basic tradition. There was an aura of prejudgment about the resolution adopted on this subject by the assembly of the American Bar Association recently calling upon grievance committees to prosecute and condemn which is gravely troubling."

While this initial ABA reaction was troubling, subsequent official statements by Honorable Chesterfield Smith, President of the American Bar Association, catering to the media and promoting the popular passions aroused by Watergate in the name of the legal profession became truly alarming. He coupled an intemperate attack on the President of the United States with an ill-considered and improvident proposal that the Legislative Department of the federal government enact a statute commanding the Judicial Department to appoint an official in the Executive Department in the person of a Special Prosecutor in apparent casual and callous disregard of the basic Constitutional doctrine of seperation of powers. My deep conviction that President Smith did not speak for the lawyers of my State or for the great body of American lawyers compelled me to protest his statements in a letter dated October 30, 1973. The substance of the letter is as follows:

"Your October 22 communication to all members of the House of Delegates and to the Presidents of all organizations represented in the House of Delegates has reached me as President of the State Bar of Texas. Honorable Joyce Cox of Houston, a member of the Board of Governors, had previously advised me of your statement attached to your October 22 communication and of your calling of a meeting of the Board of Governors on the subject of the termination of the Special Prosecutor and the resignations of the Attorney General and Deputy Attorney General. I reported these developments to our Board of Directors which was in session in Austin last Friday and Saturday, October 26 and October 27. There was no expression of support for any action or statement by the State Bar of Texas comparable to that suggested by your October 22 communication and its attachment.

"I cannot personally, either as a lawyer or as President of the State Bar of Texas, either support or condone what appears to me to be an intemperate and insupportable attack on the actions of the President of the United States. The charges that the President has taken 'overt action to abort the established processes of justice' and 'has instituted an intolerable assault upon the Courts' when matched with the further inflammatory and emotional charges that the President has been guilty of 'defiant flaunting of laws and Courts' and of a 'damaging incursion' not only 'upon the system of justice' but also 'upon the basic liberties of the citizens of this country' appear to me to be so unlawyer-like as to be unworthy of the American Bar Association.

"It is up to the Courts to determine whether judicial power permits or judicial propriety allows the judicial appointment of an executive official such as a Special Prosecutor under the facts and circumstances existing at this time. It is obvious that this decision should be made with cool and unimpassioned judicial deliberation free from the pressure of outside 'incursions' by the American Bar Association or any other group or organization. If the Legislative Branch of the federal government is going to pass a statute ordering the Judicial Branch to appoint an executive officer such as a special prosecutor, then it should be done after calm deliberation. It would seem to be singularly inappropriate for the American Bar Association or any other group to fan the flame of popular passion in an effort to bring emotional pressure to bear for the enactment of such legislation.

"It would seem that the country would best be served by the organized Bar counselling moderation instead of labeling as a 'Constitutional crisis' the removal by the Chief Executive of an executive officer appointed under him from an office created by him. If there is any Constitutional crisis, it may be posed both by the unsupported assertion of the proposition of judicial supremacy under our Constitutional system of separation of powers and by the claim of immunity for a Presidentially appointed prosecutor as in effect a fourth branch of government free from control by or responsibility to any of the three supposedly equal and coordinate branches of the federal government.

"It is my view that the flames are being sufficiently fanned by the media without the emission of further fuel from Bar presidents. Without any reference to the Constitutional or judicial merits of the controversy, I have no desire as a State Bar President to seek to induce our Bar to join belatedly in leading a lynching."

Copies of the letter of protest were mailed to State Bar Presidents and Presidents-Elect over a wide area and the wide response was overwhelmingly in accord with the position stated in the protest letter. Thereafter, President Smith secured approval of his statements and proposal by the Board of Governors of the American Bar Association and called a special meeting of the House of Delegates of the American Bar Association to be held on December 10, 1973, at which its approval was also to be sought. This meeting was thereafter cancelled on the basis of the statement that it was unnecessary, but with the claim that the Smith position had majority support in the House of Delegates. This is contrary to the expressions which I have received and which numerous other State Bar Presidents with whom I have been in contact reported receiving. I can testify to the strong body of opinion in state bars and in the great body of individual lawyers to the effect that the ABA and its officials should counsel moderation, restraint and objectivity in times of national stress such as we have been going through and should jealously assert the strict safeguarding of the Constitutional rights of all of the intended victims of political lynchings, whether of low estate or high. This body of opinion is that the ABA and its officials go too far when they join the popular and partisan clamor for blood in an effort to appease those who are after the scalps of the lawyers.

A DISTINGUISHED PROFESSOR OF LAW

HON. BARBARA JORDAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Ms. JORDAN. Mr. Speaker, it is my privilege today to bring to the attention of the Congress the story of a man who has dedicated his life to the noblest profession, education. We have all had a special place in our hearts for the teacher who gave us vision to see into the future. Dr. Earl L. Carl is one of those selfless individuals who has given 26 years of his life to opening up the future for young people in my own profession, law. Along with Texas Southern University Law School, I honor Dr. Carl as an outstanding professor and educator, and would like to insert into the RECORD their tribute to him:

TRIBUTE TO EARL L. CARL

Mr. Earl L. Carl received his appointment to join the faculty of the then Texas State

University for Negroes Law School in August, 1948. He arrived in Houston in September leaving a budding law practice in his hometown, New Haven, Connecticut. He left that working with young people eager to study law would be both an exciting challenge and a wonderful opportunity to make a contribution "to the cause," namely, to increase the number of black lawyers in the United States. According to the 1950 Census Bureau there were only 1450 black lawyers in the United States and all other minority lawyers, for all practical purposes, were nonexistant.

Professor Carl lost his sight when he was a junior in high school as the result of an injury sustained while playing football. However, he went on to complete his high school education and graduate from the Connecticut School for the Blind. He was the first blind student to be admitted to Fisk University, receiving his Bachelor of Arts degree in Sociology in 1942. He was admitted to Yale School of Law in 1945. He returned in 1959 to earn his Master of Law degree.

Professor Carl is married to the former Iris M. Harris, Assistant Principal in the Houston Independent School District, and they have two daughters, Francine Anne and Nina Earline, a junior and sophomore in college, respectively.

When asked about his philosophy regarding the teaching of law, Professor Carl replied, "the teaching of law can be fun." He makes every effort to convey this philosophy with cheerful but yet uncompromising attitude in his classroom and in his many personal conferences with his students. He gives occasional tests—not for the purpose of grading, but for the purpose of checking upon himself and his students. The results of these tests serve as guides in his classroom instruction and form the basis for his frequent personal conferences. He believes that a teacher should not have a rigid pattern or routine in his classroom or office, but that a teacher should be flexible and sensitive to the needs of his students and at the same time never lose sight of his high standards of performance and overall objectives. The key word in Professor Carl's classes is *"think"*. This he feels is equally applicable to the teacher as well as to the student.

Recently an interviewer for a national magazine asked Professor Carl if there were any advantages in being blind. He replied, "Yes, I see people as they really are. I am not at all distracted by the physical. I go right to the heart of the personality." He regards his blindness as an asset in his efforts to communicate with his students.

Professor Carl has written several law review articles. Among them are: *Reflections on the Sit-Ins; Negroes and the Law;* and *The Shortage of Negro Lawyers*. He is currently working on a case book tentatively titled *Cases and Materials on Minorities and the Law*.

He is actively involved in professional, civic and fraternal organizations. He is a member of the American Bar Association, the National Bar Association, and Alpha Phi Alpha Law Fraternity. He chaired a committee on Legal Affairs and served as First Vice President of the Parkwood Civic Club. The Student Bar Association elected Professor Earl L. Carl as their Silver Anniversary Professor of the Year.

The Texas Southern University Law School community salutes Dr. Earl L. Carl for his loving dedication and contribution to the law school's continued growth.

POST CARD REGISTRATION

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. FRENZEL. Mr. Speaker, today a very thoughtful editorial from the Milwaukee Journal, written by Peter N. Ehrmann, a senior in journalism at the University of Wisconsin, came to my attention. He has expressed the opinion that the post card registration bill is a poor answer to the apathy problem. His conclusion is one that has been expressed by many veteran election and registration observers and is worthy of my colleagues attention. The editorial follows:

[From the Milwaukee Journal, Mar. 4, 1974]

POST CARD REGISTRATION OF VOTERS IS A POOR ANSWER TO APATHY PROBLEM

(By Peter N. Ehrmann)

In brooding over some recent voter registration tables ("In My Opinion," Jan. 14), Sen. Nelson's assistant, Mark Barbash, exhibited glaring symptoms of a chronic delusion peculiar to the modern liberal species. "In 1972, 37 million Americans were not registered to vote," he complained, en route to a plug for postcard voter registration. "Fully 27% of the nation's electorate was unable to cast ballots in an election that has been called 'the clearest choice of candidates in history.'"

Such statistics are dangerous in the hands of people like Barbash, for they inevitably trip their hair-trigger instinct to believe that the reason X number of people don't take advantage of a given opportunity or "right" is because someone is thwarting them with malice aforethought.

In brief, they're conspiracy stalkers, and Barbash sniffs a whopper. Listen: The present system of voter registration, he says is "unfair and unequal," "discriminatory," placing "blocks to full citizenship . . . in front of millions of Americans," amounting to the "continued deprival of voting rights to the elderly, the uneducated, those with low incomes, and the black of this nation."

THE EXHORTATIONS BEGIN TO GRATE

I rise now, a properly registered, certified citizen with a record of having voted in every election since I qualified, to ask Barbash and his gentry to suspend their moralizing momentarily and consider the possibility that the high nonregistration statistics may reflect nothing more insidious than rampant citizen apathy. Apathy, moreover, that survives vigorous voter registration drives repeatedly launched against it with great fanfare by political candidates, party organizations, civic clubs, concerned citizens, and governmental committees.

Reminders, pleas, and exhortations to "Register and Vote!" are howled with almost grating regularity from the media, the pulpit, the soapbox and even from billboards.

But there I go being pejorative, like Barbash. Unlike him, I'm liberal enough to concede anyone the right to be driven by extreme boredom or tender sensibilities to insulation from American politics, even when it produces the sort of dream election Barbash evidently considers the last one to have been.

The postcard registration scheme touted by Barbash would make vote fraud ridiculously simply—a possibility not lost even on Barbash, who at least gave a perfunctory shudder at "the flaws . . . built into such a mail system—including false registration."

So he proposes a failsafe, a "statewide Universal Voter Registration System," aimed at "the establishment of a complete and accurate list of all eligible electors by the local clerk."

He doesn't explain, however, what's to keep the clerk from being snowed by a mountain of fraudulent postcards, since, under Barbash's plan, "no personal appearance on the part of the elector would be necessary." The investigating, indexing, and culling of the mail would indubitably necessitate the addition of another layer of bureaucracy, equal in cost and efficiency to—well to the Post Office?

THERE'S A FLAW IN THE QUESTIONING

Even his prescriptions, Barbash says, "will not guarantee a greater voter turnout, for that is a prerogative that belongs strictly to each individual (unlike, apparently, registration). But we can encourage such increased voting through a reduction in the administration procedures enhanced by outdated registration laws." But now if encouraging increased voting is the goal, why not simply flush out the inhibiting "administrative procedures" altogether and have postcard voting? That is the logical extension of Barbash's argument; logic, however, is not his game.

Barbash's conspiracy notion is hitched to a poll by New York opinion specialist Daniel Yankelovich, wherein 75% of the unregistered respondents said they would have voted last time if they had registered.

The right to vote is considered the American's greatest privilege—and beyond that, his gravest responsibility. So imagine yourself a target of Yankelovich's inqury, asked, in effect, whether you would have done your patriotic duty if you had bothered first to do your patriotic duty. I'm surprised he didn't record a *100% positive* response.

The answer is to keep after those people by maintaining the existing registration stations and rerunning the public harangues. But don't light out after the 27% in a manner that could easily jeopardize the legally cast ballots of the flesh and blood majority.

POVERTY IMPRISONS ELDERLY

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. HARRINGTON. Mr. Speaker, Americans today are facing unbelievably high food prices; inflation is expected to increase, and the cost of living is still on the rise. The elderly are perhaps the most affected by our weakening economy. Many older Americans, who depend on fixed incomes for existence, are steeped in poverty. Monthly social security checks do not provide sufficient funds to even insure the essentials for minimal livelihood.

An article by John Saar in the March 12 Washington Post describes the sad existence of two aging sisters who depend on monthly social security checks. Saar's article points up the urgent need for reform in federally funded programs for the elderly, as well as emphasizing our Government's obligation to ameliorate the worsening economic situation.

I would like to insert Mr. Saar's article in the RECORD at this time for the consideration of my colleagues, and hope that it will help contribute to badly needed reform. The text follows:

AGING SISTERS IMPRISONED BY POVERTY

(By John Saar)

Imprisoned by poverty and hounded by inflation, two elderly sisters are closing out their lives in a Massachusetts Avenue apartment in a constant state of anxiety and depression. Mary Smith, aged 82, and her younger and sicker sister Elsie Sager, 79, survive, and not much more. Rising prices have stolen even the smallest of life's material pleasures from them.

The sisters' lives provide a frightening case study of life in inflationary times for many of this city's 103,000 people over 60 years of age.

Too old to work, with no close relatives, the sisters depend on a Social Security income of $296.30 and a pinchpenny budget that allows them $2 a day for food.

Penury has forced an almost total divorce from the outside world upon the sisters. Only the buzz of traffic and their own suppressed longings remind them, they say, of a normal life. They have one another and all the comfort an antiquated and flickering television can bring.

In the course of a long interview, the suspicion of tears misted Mrs. Smith's spectacles just once as she was saying, "Sometimes I see women in this building all dressed up for a swell lunch at Woody's or Garfinckels and I almost burst out crying."

They lack sheets for their beds, shoes for their feet. Rising prices lay constant siege to their diminished diet, making one sacrifice after another—fresh fruit, then milk, then meat . . .

Stoic by nature, Mrs. Smith says their situation is "laughable." But she does not laugh. In fact the once jolly person whose pleasant face bears imprinted smile lines rarely laughs these days.

For the two sisters, the closing out of their lives is proving a bleak ordeal replete with depression, indignity and suffering by deprivation.

Inflation continually threatens their precarious existence on an already inadequate fixed income. And inflation, in a remorseless progression, has canceled the few pleasures from their lives. Mrs. Smith, for instance, is "an avid reader" who used to devour the morning paper cover to cover. She had to cancel it a while back.

The women worked a combined total of 39 years to earn their right to the monthly social security checks—Mrs. Sager as a beautician in Richmond, Mrs. Smith as timekeeper in a now defunct Washington laundry. They are single. Mrs. Smith was divorced in 1925 and here sister has been a widow for 44 years.

"Every night," says Mrs. Smith, "I thank God for what we have, but it's mighty little." Her dress was a gift from the manager of the building. The print flowers have been laundered to a pallor, so that the dress matches her indoor complexion—notepaper-white. Her shoes are a work of artistry—15 years old, the many slits and holes carefully welded shut with glue.

"In the past year or so," she says in her usual firm and unself-pitying manner, "it looks like I'm really getting crushed. I shouldn't and I'm trying to get out of it."

But her sister Elsie is depressed most of the time—"what we've been through is enough to tear the heart out of anyone," Mrs. Smith explains.

Asked to comment on how the sisters' situation could be equated with that of thousands of other elderly people in the city, social workers with various voluntary agencies and a spokesman for the District government's services to the aged office agreed it was typical. "These people are almost among the affluent aging," said George Robey, acting chief of the social services division.

In 1973 food prices soared by 25 per cent, placing a specially heavy burden on the fixed income poor like the two sisters. In January this year, grocery prices in the Washington area went up another 3 per cent.

"Inflation has had a tremendous impact on the elderly here," said Geraldine Brittain, a social worker with the private Family and Child Service who has helped the sisters. "There are relatively few social workers and it's a big population of elderly. We just touch the tip of the poverty iceberg. I think there's lots of real suffering."

Defenders of the Social Security system are quick to point out the payments are intended to supplement savings, pension or other retirement income. The two sisters were left with no savings when they retired due to ill-health in their early 60s—Mrs. Sager because from the small profits of her beauty shop she had to look after her mother and two nephews and Mrs. Smith because her $60-a-week salary permitted no saving.

Although the sisters are receiving their full entitlement, they are skeptical and disappointed: "All those years," says Mrs. Sager, "they kept telling me my social security was building up, building up, and then when I got where I couldn't work but half a day that's what they based it on."

The grim reality of the sisters' cheerless life is worsened by the contrast with their falsely optimistic anticipation of how "the golden years" would be. The absence of forethought to retirement is cited by experts as one of the contributory causes to distress in the aged. Arguing for more community concern in treatment of the vulnerable and powerless aged, they like to gently threaten that as a multitude advancing through life we should pay heed when distress falls on those in front.

Mrs. Sager, a stocky invalid figure in a white nightrobe had seen her retirement as a chance to go to the zoo, the Smithsonian, the Washington scenes she never got around to seeing while working. Now even those limited ambitions are beyond reach: "I was going to have myself a ball," she says in a voice huskily wistful with the memory.

"I thought when I got to be in my old age," remembers Mrs. Smith, "I'd have enough to eat, a place to sleep, plenty of time to read and nothing to worry about. And having a lunch out or something like that once in a while."

Her life now is, she says, "certainly nothing like that. We can't afford to buy a bus fare and if we got downtown we could not afford lunch. You couldn't do it for less than $1.50 or $2—we can manage for a day on that—it's out of the question for us."

In a splitting of financial responsibilities common among elderly roommates, Mrs. Sager uses her check to pay the $140-a-month rent on their two-room apartment and Mrs. Smith cashes hers to buy food and other essentials. Anxiety over making ends meet is a constant for them, incalculable to the outsider: "All the time you're figuring out 'can I buy this, or buy that' and you're scared to death something will happen and you won't have the money," says Mrs. Smith.

The telephone, for instance, is an oft-discussed but finally indispensable necessity that costs a precious $10.50 a month. The sisters seldom leave the dingy-walled apartment—"if they whitewash it the rent goes up"—except for their once-monthly shopping trip.

The telephone is a link to the outside world, with richer friends who call from Florida, New York or California—and for two old women with fragile health, a protection. Several weeks ago Mary picked up the red handset and called a doctor when her sister had a 3 a.m. heart attack.

The episode put Mrs. Sager into George Washington Hospital for two weeks under the Medicaid program and emptied the sisters' slender cash reserve. Mrs. Sager was too sick to ride buses. Hiring a friendly car-owner to transport her cost $5 each way and then Mrs. Smith had to come up with $3 a day to visit her. They dug into their loose change and used the last nickel before the hospitalization was over.

Lunch would be a can of beans Mrs. Smith said. How long since they last ate any meat?

Mrs. SAGER. "Four weeks."

Mrs. SMITH. "No, it was about six weeks ago we had some hamburger. So far as buying lamb chops or a roast of beef, we never do it."

Their diet now consists of eggs, oatmeal, hominy grits, fruit juices, crackers, and vegetables. They see no way of economizing further.

Outright hunger is not a problem said Mrs. Smith: "If I get hungry I go and eat a couple of crackers." Until a third sister died four years ago, Mrs. Smith and Mrs. Sager lived in relative prosperity and ate heartily because rent and overheads were shared three ways. "We used to eat a full-course meal then but we've been cutting down, cutting down, so now we're small eaters."

Asked if she was constantly aware of rising prices Mrs. Smith gave an outraged "Oh!" and snapped her head away. The prices have hounded them relentlessly, she said. When fresh milk went out of their price range they replaced it with condensed milk. A can of condensed milk that used to cost 18 cents, now costs 35, she said. "It seems to be getting worse all the time. Every time you buy something, it's so much more than it was before."

The two sisters are white. The significance of that is that in a city with an overall population 71 per cent black, whites are in a disproportionate majority among the elderly. Of 72,000 people over 65 in the District, 57 per cent are white.

The imbalance is attributed to the reluctance that settled whites of advanced age felt about joining the general white migration from the city in the 1950s and 1960s. Another critical factor is the shorter life expectancy of blacks usually believed to result from poorer health care in youth.

Nationally, life expectancy for a white female is 74 against 68 for a black female. In males the difference is even more striking with whites averaging 67.9 years and blacks 60.

The 103,000 people over 60 are distributed fairly evenly over the District's nine service areas with one striking exception. In the area west of Rock Creek Park, 26,411 are concentrated and 99 per cent of them are white, according to David Brooks of the District's office for the aged.

Exact income figures are unavailable, but Brooks and other experts see thousands of aged whites caught between low limited incomes and rising prices with an abundance of hardship and psychological suffering.

The sisters are luckier than most because their apartment, though taking half their income, is a bargain by current standards. "One of the most dramatic problems," according to Mrs. Brittain, the social worker "is the inability to pay rent. Old apartment buildings are being turned into condominiums, the residential hotels are being torn down right and left and the problem of finding these people somewhere to live is very very serious."

Brooks goes further. The waiting time for a subsidized apartment in National Capital Housing Authority projects is 2- to 4-years, with no emergency capability at all. "There is no housing available for the elderly," Brooks said flatly.

As viewed by the sisters, their situation could scarcely be worse. Social Security is due to go up by 11 per cent between now and July, but they expect a rent rise to more than take care of that. Whatever the increase is, they will have to pay it. The costs of moving, deposits, a month in advance are way beyond them, they say.

The experts do not agree on whether whites or blacks suffer most. Being black and old "is a double jeopardy," Mrs. Brittain believes. It makes for many more problems. They were usually in lower paid jobs so they rarely have as much income as whites and their needs are more severe. The effects of discriminatory education and health care are really exaggerated as they grow older.

On the basis that elderly blacks generally are paying lower rents and therefore have more money than aged whites, George Robey contends they may be better off. Besides, "people on the lower end of the scale manage better than those who are used to something better."

"The ones who seem to suffer the most are those numerous people—mostly women, who worked in government or business for years and years and retired with what seemed a good income. The little place on Massachusetts or Connecticut Avenue which might have cost them $60 in 1948 is $160 or $170 now. Everything else has gone up and they're still trying to hold on."

Holding on is what Mrs. Smith or Mrs. Sager have become very proficient at. With a ticking clock, paper flowers, fading photographs and a daguerro print of their father—a handsome man with stiff white collar and walrus moustache—the sisters pass their time in genteel poverty.

Just before Christmas the nephew Mrs. Sager brought up as her son died at 45. The funeral was in Richmond. They could not afford bus fare.

"Being too proud to borrow from somebody," Mrs. Sager related, "we didn't go—

"Well you can't borrow if you can't pay it back," her sister interrupted.

"Well, I'll tell you. It's a hard thing."

Of the two sisters Mrs. Smith is commanding, determined to exercise her responsibilities to the last. Her sister wants to make a trip to Richmond—"my mother and brother and everyone is buried there. She wants to go home so bad it's pathetic and by hook or crook I'm going to see she does it."

The inability to meet familiar standards of respectability is a source of under-stated shame to the sisters. Mrs. Smith calls her derelict shoes "perfectly awful, embarrassing" and says she ceased going to church when she could no longer dress properly for the Methodist pews.

In the view of another social worker, Lillian Teitelbaum, indignities await those aged who seek help from District and federal agencies. "Sometimes they are treated miserably. Wherever they go there are roadblocks and if they are uneducated they passively retire."

David Brooks, supervisor of information for the District's services to the aged, agrees there is a problem. "When they reach me, most old people are very, very frustrated. They've been calling and not finding any agency which can help them."

The aged service is limited in function—it finances certain programs undertaken by voluntary organizations and makes referrals to other agencies. "Sometimes our agency can't help," says Brooks. "Either we don't have the clout or there is simply no mechanism."

The plight of the two sisters and unknown thousands of their 60-plus peers leaves social workers angrily helpless.

"In this day and age $300 a month for two people is obviously inadequate. They and others are being deprived of essential living needs."—Mrs. Teitelbaum.

"I see them as having come to the ends of their lives and having to struggle. It's damn hard when you come this far and life doesn't offer any opportunity for enjoyment."—Mrs. Brittain.

With her ailing sister in the other room, the obvious question could be asked of Mrs. Smith. She stood still and delivered a bravely honest answer: "We've talked about it a lot. I just don't know what would happen to the one who was left."

THE OIL COMPANIES AS A PUBLIC UTILITY

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. ROYBAL. Mr. Speaker, in the last few months the people of this country have witnessed an energy crisis that has thrown hundreds of thousands of people out of work, caused long lines at the gas stations, and increased the pace of an already rampant inflationary spiral. There is a pervasive speculation in the country that the major oil companies have conspired to cause the shortage in order to reap economic benefits.

Whether this speculation is grounded in fact is still an unresolved question. However, the crisis has made us more aware of the importance of energy in our lives, and established the significance of certain facts.

First, the American people have learned that each segment of the Nation's economy is interrelated and interdependent, and every part relies on a sufficient and uninterrupted flow of energy.

Second, there is little question that the shortage can be traced in part to the decision of the major oil companies, whether made individually or collectively, not to expand refinery capacity in spite of the growing demand for energy. In the past, the decisions of private entrepreneurs have been motivated by the desire to maximize profits rather than by the welfare of the country. It is intolerable that this country should continue to allow wholly private, profit-motivated decisions to determine policy in a commodity that is the life blood of this country's economic well-being.

Finally, although almost every American is making some sort of sacrifice to conserve energy and is suffering inconvenience as a result of the energy crisis, the oil companies are not being called upon to make any sacrifice. Rather, they are experiencing a tremendous growth in profits as a result of the shortage. In 1973, each of the seven major oil companies reported significant profit increases over their 1972 results: Exxon, 59 percent; Texaco, 45 percent; Mobil, 47 percent; Shell, 28 percent; Standard Oil of Indiana, 36 percent; Standard Oil of California, 54 percent, and Gulf, 79 percent.

The oil industry today provides a text book example of the economic concentration that can occur in an industry controlled by a few powerful companies. Over the past two decades, concentration in crude oil production has increased dramatically. In 1952, the 20 largest companies accounted for 48 percent of the United States crude oil production. By 1960, the figure had climbed to 62 percent, and in 1970, to 80 percent.

The same economic concentration has occurred in the transportation facilities used by the oil companies. The major oil companies now own or lease approximately 40 percent of the oil tankers in the non-Communist world, amounting to nearly half the tonnage. Further, almost 70 percent of the oil pipelines in the United States, handling most of the bulk land movement of oil, is owned or controlled by the major companies.

Marketing is still the most competitive segment of the oil industry. But even here, there is a disturbing trend toward concentration, as many independent dealers have been forced to close, and some of the major oil companies have announced plans to close their entire operations in some States.

Consistent with the concentration in other elements of the industry, the major oil companies also control the majority of the refineries. In *1920, the top* 20 firms controlled 53 percent of the crude domestic refining capacity. In 1950, this figure had reached 80 percent, and by 1970, stood at 86 percent. Today, the four largest oil firms control 33 percent of the refineries, and the top eight, a staggering 53 percent of the refineries.

Today, I have introduced a bill which strikes a balance between the need for energy at a reasonable cost and the need to insure a reasonable rate of return on invested capital for the oil refineries. My bill, affecting approximately 129 companies controlling 282 refineries, will end vertical integration in the oil industry, and bring the refining industry under the regulatory umbrella of the public utility concept.

Title I of my bill prohibits any person engaged in refining energy resource products from acquiring an interest in a firm engaged in extracting, transporting or marketing of an energy resource. Firms that are presently vertically integrated are ordered to divest their extracting, transporting and marketing assets within 3 years of the passage of this bill.

The Attorney General and the Federal Trade Commission are to commence an independent investigation of the relationships of persons now engaged in one or more branches of the energy industry.

Title II of the bill establishes a five person Federal Energy Commission, with one member to be a representative of consumer interests. The Commission will have the power to divide the country into regional districts which shall be served by the refineries designated by the Commission.

The Commission also has power to set

the prices charged by refiners for their products. These prices must insure a fair rate of return on invested capital for the refiner.

The bill prohibits any person from granting an undue preference to any other person with respect to refined products, or maintaining any unreasonable difference in rates between customers.

The Commission may set the price of energy resource products at any point of the chain of sale if it finds that such action is necessary to avoid excessive prices to the ultimate consumer.

Finally, the Commission may set the price of energy resource products imported into the United States if it finds that action is necessary to avoid serious interference with the operation of the regulatory program established in the bill.

I include the following analysis:

SECTION-BY-SECTION ANALYSIS

TITLE I

Section 101.—In this section, Congress finds that the United States needs to develop new and expanded energy supplies at the lowest possible cost. To meet this goal consistent with a commitment to a free enterprise economy, Congress must act to (1) break the barriers to competition that presently exist in the energy industry, (2) put restrictions on those engaged in the business of refining energy resource products, (3) insure competition, equal access to supplies for all, and nondiscriminatory practices in the energy industry, and (4) divest certain assets in order to protect the consuming public, and promote the public interest in competition.

Section 102.—This section contains the definitions of terms used throughout the bill.

Section 103.—This section provides that after the date of enactment of the bill, it will be unlawful for anyone engaged in the refining of energy resources to acquire a firm or other interest, directly or indirectly, engaged in extraction, transporting or marketing of energy products.

Section 104.—This section makes it unlawful for any company engaged in the refining of energy products and presently owning or controlling an interest in the extraction, transporting or marketing of energy resources to retain such ownership or interest at a date three years after the passage of the bill.

Section 105.—This section orders each company owning a refining asset and either an extraction, transportation or marketing asset must file a report concerning the asset with the Attorney General and the Federal Trade Commission.

Section 106.—This section directs the Attorney General and the FTC to undertake their own investigation to determine the relationship of persons now engaged in the energy industry. Both the Attorney General and the FTC are given the power to institute suits to request appropriate relief when provisions of the bill are violated.

The Attorney General and the FTC are charged with the responsibility of taking all steps necessary to effect the divestiture of assets.

Section 107.—This section provides that a violation of Title I of the Act is punishable by a fine not to exceed $500,000.00 and ten years in prison in the case of a person, and by a fine not to exceed $500,000.00 and suspension of the right to do business in interstate commerce for a period not to exceed ten years in the case of a corporation.

TITLE II

Section 201.—This section establishes an independent five person regulatory commission known as the Federal Energy Commission. The commissioners are to be appointed by the President with the advice and consent of the Senate. At least one commissioner shall be a representative of consumer interests.

The section also contains rules concerning the length of time each commissioner will serve, and the political affiliation of the commissioners. A person who is employed by or owns a substantial pecuniary interest in a business that produces, imports, refines, markets or distributes crude oil or refined petroleum products is barred from serving on the commission.

Finally, there is a provision for the general rules under which the commission will operate.

Section 202.—This section provides that the commission shall divide the country into regional districts to be served by refineries designated by the commission. The commission may modify the districts as circumstances change in order to achieve the greatest economy for the consumer.

The commission shall complete the division of the country into districts within three years of the passage of the bill.

Each step in this process will be governed by the protections and safeguards of the Administrative Procedures Act.

Section 203.—This section provides that the commission will determine the rates and charges that refiners may charge its customers. These rates and charges will insure a fair rate of return on invested capital for the refiners and just and fair prices for their customers.

The section prohibits a refiner from granting an undue preference or advantage to any person, or maintaining an unreasonable difference in rates between consumers or classes of consumers.

The commission may prescribe rules under which the refiners will file rate schedules with the commission. These schedules will be kept in a convenient place, and open to the public.

The commission may set the price of energy resource products at any stage before or after the refining process if it finds such action is necessary to avoid excessive profits for the ultimate consumer.

Finally the commission may specify the price of energy resources imported into the United States if it finds such action is necessary to avoid serious interference with the operation of the regulatory program.

Section 204.—This section makes it unlawful for any person to violate any provision of Title II or any rule, regulation or order issued pursuant to such provisions.

Section 205.—This section prescribes a maximum of $2,500.00 civil penalty for a violation of Section 204. In the case of a willful violation of Section 204, the person would be liable to a fine not to exceed $5,000.00, or more than two years in jail. The Attorney General is also empowered to seek an injunction against those engaged in or about to engage in a violation of Section 204.

FEDERAL HOUSING PROJECTS IN HAWAII ARE SUCCESSFUL

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. MATSUNAGA. Mr. Speaker, to many millions of Americans in overcrowded or substandard shelter and to the millions of others whose housing needs cannot be met by the high-cost private market, federally assisted housing programs offers hope for safe, sanitary and decent housing. At a time when subsidized and public housing has been characterized by poor management, unconscionable profits, shoddy construction practices, and questionable financing arrangements, Hawaii has been remarkably successful in implementing Federal housing programs that work.

With a generous measure of pride in the administrators who planned and maintain the facilities and in the residents who have done what few others have accomplished to make public housing a place of decent and dignified living, I submit the following article by Kit Smith from the Honolulu Advertiser for inclusion in the CONGRESSIONAL RECORD:

U.S. HOUSING PROJECTS FAIL, EXCEPT IN HAWAII

(By Kit Smith)

The Federal Government's myriad housing programs "just aren't working." That's why the Administration is pushing the "new federalism" concept, to return decision-making to local governments and cut red tape.

So said H. R. Crawford, assistant secretary of the U.S. Department of Housing & Urban Development, in a press interview and address here.

One exception, he said, is Hawaii, "where you just don't see the kinds of problems you see on the Mainland."

Crawford, the highest-ranking black in the Administration, said the signs of failure on the Mainland are unmistakable:

Pruitt Igoe, a 3,000-unit public housing project in St. Louis built in the 1950's, is to be torn down. The disadvantaged persons for whom it was designed simply refuse to live there.

The majority of tenants in a Newark project have been on a "rent strike" (refusing to pay rent) for three years.

The Government now owns 102,000 living units on which the subsidized buyers defaulted—and 75,000 of these are single-family dwellings. In Detroit alone there are 12,000 abandoned housing units.

More than half of the housing authorities in the United States are operating at a negative cash flow, unable to meet expenses.

Pruitt Igoe failed partly because it concentrated the poor and deprived in one high-rise project in which they had no pride, said Crawford, who addressed the Hawaii Association of Realtors.

For example, the elevators were built to stop only on every third floor "and the people didn't want to live that way," he said.

Why have people even walked away from single-family dwellings in which they had an equity?

For one thing, many didn't understand what ownership meant, thinking their monthly payments were actually rent, said Crawford.

Or when need for a major repair arose, "rather than make it, some would move on," he said.

Because "the old ways have failed," the Administration now advocates direct cash assistance to needy families, Crawford said. This would allow each family to rent or buy wherever they chose.

Besides being simpler, it would tend to break up low-income pockets, he said.

Also, under the Administration's Better Communities Act pending in Congress, the Federal Government would turn over funds to local governments to spend on housing-related projects. There would be no strings attached. The money could go for housing, sewers, a water project or whatever the local need.

Crawford conceded the legislation faces "some tough sledding" in Congress and the best he hopes for, realistically, is a compromise.

Why have local federally assisted housing projects such as Kuhio Park Terrace, Kalihi Valley Homes and Kauluwela been a success where so many on the Mainland have failed?

Crawford credited "top quality management and tenant cooperation," for one thing. Too, "there's a pride there," he said. "Somebody cares—that's the difference."

THE 55TH ANNIVERSARY OF THE AMERICAN LEGION

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. ANNUNZIO. Mr. Speaker, March 15, marks the 55th anniversary of the American Legion. It was on that date in 1919 that delegates from the First American Expeditionary Force founded the American Legion in Paris, France.

Later that year, at the first Legion convention in Minneapolis, a recommendation was adopted to create the National Americanism Commission. That recommendation reads as follows:

> We recommend the establishment of a National Americanism Commission of the American Legion, whose duty shall be the endeavor to realize in the United States the basic ideal of this Legion of 100 percent Americanism through the planning, establishment and conduct of a continuous, constructive educational system designed to:
>
> (1) Combat all anti-American tendencies, activities and propaganda;
>
> (2) Work for the education of immigrants, prospective American citizens and alien residents in the principles of Americanism;
>
> (3) Inculcate the ideals of Americanism in the citizen population, particularly the basic American principle that the interests of all of the people are above those of any special interest or any so-called class or section of the people;
>
> (4) Spread throughout the people of the nation the information as to the real nature and principles of American government;
>
> (5) Foster the teachings of Americanism in all schools.

Mr. Speaker, in the 55 years since that recommendation was adopted, succeeding generations of Legionnaires have faithfully accepted its challenges by enthusiastically participating in wide-ranging community service, youth development, educational advancement, and counter-subversive activities. Legionnaires have accepted, as well, the challenge of guarding and improving our American heritage which has brought us greater spiritual and material wealth than any people the world has ever known.

The American Legion, through its Americanism Commission, continues to work for the creation of improved living for all Americans by recognizing the dignity and worth of the individual. Americanism activities are designed to embrace many phases of an individual's relationship to his community, State, and Nation by recognizing all of the inalienable rights of man and the human qualities of mind and heart.

The American Legion's efforts to aid students in advancing their education, to aid veterans in readjustment to civilian life, and to aid all Americans in their own communities with a better understanding of American values add up to an inspiring record of service, and I am honored to join the members of the American Legion in celebrating the 55th anniversary to these proud traditions.

I commend the Legionnaires of Illinois and our Nation for their dedication to the ideals of our American heritage, which they practice as a way of life, and extend my best wishes to them as they go forward in greater service to secure the blessings of liberty for us all.

WOLFF NEWSLETTER

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. WOLFF. Mr. Speaker, periodically, I distribute a newsletter to my constituents in a continuing effort to keep them informed on my activities as their representative in Washington. And often, I use the newsletter as a vehicle to obtain their views on major issues, thus allowing me to function more effectively on their behalf on Capitol Hill. I would like to share with my colleagues my latest newsletter:

WOLFF NEWSLETTER

DEAR FRIEND AND CONSTITUENT: There is widespread contention today that new legislation is what is needed to solve the shortages of heating fuel and gasoline and to prevent a recurrence of the long gas lines so familiar to the metropolitan area.

I believe, however, that the American consumer is being deliberately used as a hostage in a concerted effort by the oil companies to double and triple their prices and realize greater corporate profits, and what is really needed to check the "crisis" is strict enforcement of existing laws already enacted by Congress.

If the Department of Justice, the Federal Trade Commission and the Department of the Interior and Commerce exercised their obligation and authority to enforce existing legislation, the immediate problems of shortages and price gouging would vanish.

I believe that the consumer has been forced to bear the brunt of this neglect and permissiveness, condoned by the Administration, with the result that the very lifestyle of Americans has been altered by depriving them of their mobility and their ready access to a free and open market place. Additionally, the consumer now faces widespread economic turmoil as the cost-of-living index rises, small businessness flounder and employment opportunities dwindle.

The oil interests in this nation have been allowed to dictate policy and exploit the consumer for far too long and I assure you that I will vigorously continue my efforts to stop this conduct. It is time this government controlled the oil companies instead of the oil companies controlling the government.

To substantiate these contentions, I recently requested the General Accounting Office, the investigative arm of Congress, to under an in-depth probe of domestic oil production and imports and exports of petroleum products. The report clearly indicates that misleading information has been foisted on the American consumer and that the oil companies have been anything but candid in their appraisal of the energy situation.

For example, the report reveals that in 1973, the period of critical shortage in this country, the oil companies were permitted to export four times the amount of fuel oil than in any other previous period and that during this same time span domestic production was curtailed by 100 million barrels, or five times the amount needed to heat all Long Island homes for one year. These are appalling facts and evidence that the consumer has been deceived.

The report further notes that industry takes up approximately 70 percent of the nation's energy supplies and the consumer only 30 percent. Why then is the consumer the only one being hard pressed and inconvenienced?

I firmly believe that new constraints must be applied. While at first I agreed that the cosmetic techniques of lowering thermostats and curtailing home electric consumption would ease the shortage, I now feel this "bandaid" treatment is only a cover-up and not a cure for the problem.

I am convinced that we must break up the oil conglomerates and their vertical operations that control the flow of oil through ownership of the refineries, pipeliens, tankers, distribution depots and sales stations—operations that are forcing the independent dealer and small businessman to close shop. I believe, too, that the automobile industry must be made to realize its responsibility to develop and widely market trucks and small cars fired by innovative fuel-conserving engines.

Most important, as the long range step, we must erase our dependency on foreign oil sources which account for only 15% of this nation's total requirements, and as the President has now recognized, accelerate our efforts to pursue new concepts for new energy resources. As far back as 1965, when I first entered Congress, I predicted the United States would experience the current shortage and urged the development of alternate energy sources through the utilization of solar energy, shale and coal conversion methods.

But, as I have recommended for many years, we must start by evolving a National Energy Policy—one that will be determined on facts obtained from government sources, such as the U.S. Bureau of Mines, and not on figures supplied by the American Petroleum Institute which represents the industry and seeks to justify oil depletion allowances, windfall profits and tax loopholes for the major oil companies. We must establish a new partnership between government and industry—a partnership for progress—that ultimately will benefit the American consumer.

Sincerely,

LESTER WOLFF.

WOLFF TACKLES ENERGY PLIGHT . . . A RECORD FOR ACTION

1968, requested Antitrust Division of the Justice Department to investigate increased costs to the consumer of home heating oil and "two-tier" price structure that adversely affects the independent dealer.

1969 . . . 1969, called for an end to oil import quotas with legislation aimed at stabilizing prices and distribution and introduced measures to repeal so-called "Connolly Hot Oil Act" that permits states to limit production, a practice designed to hold down domestic supply and keep prices up. (Administration recently lifted oil import quotas, but "hot oil act" still in effect.)

1969, as ongoing effort to curtail lucrative tax advantages being enjoyed by oil industry, first introduced legislation to suspend oil depletion allowances and legislation to prohibit percentage depletion allowances in the instance of wells, mines and other natural deposits located in foreign countries.

1971, introduced legislation to combat depletion of domestic oil resources by calling for greater controls over exports. Updated legislation, (1973) continues effort to halt exports of not only crude oil but heating fuel, gasoline, propane, petrochemicals and coal until domestic supply is adequate to meet at-home needs at prices consumer can afford.

1971, proposed the establishment of a federal Office of Utility Consumers to represent consumer before federal and state agencies on matters pertaining to utility operations such as the "fuel adjustment" increases demanded by Con Edison and Long Island Lighting Company. Further recommended that a House Committee be formed to investigate all aspects of available energy resources in this country.

1973, introduced Resolution to create Special House Committee to investigate charges that the oil industry is contributing to shortages of oil and distillate products. Demanded that the Federal Trade Commission probe heating oil price increases and allegations major oil companies are conspiring to "squeeze out" independent dealer. Held ad hoc Congressional hearing in New York City (*Feb. 1974*) to gain greater insight into the growing plight of the independent dealer and to gather data on charges that major oil companies are not cooperating to meet nation's energy needs at reasonable prices. Urged federal energy "czar" William Simon to correct apparent fuel oil price discrepancies.

1974, continuing to press for roll back of oil prices to a level that will combat the rapid rise in retail costs to the consumer and for tax levy on windfall profits being realized by oil companies as unconscionable "rewards" in time of high costs and inadequate supplies.

1974, since the onset of gasoline shortage and recent intolerable long lines at gas stations, has pressed for greater allocations to metropolitan area and has called on local officials to exercise their obligation to petition the Governor to declare Long Island a major disaster area to receive a greater allocation under Emergency Petroleum Allocation Act.

1974, sponsor of legislation to establish National Energy Information System to mandate that the oil industry provide essential data to the Federal Energy Office and allow the General Accounting Office to audit and question data.

Related actions include proposed legislation (1969) to allow commuters to deduct from their federal income tax their travel expense to and from work by mass transit; legislation (1973) to permit tax deduction for cost of installing home insulation as fuel conservation method; co-sponsor of legislation (1974) to provide low cost loans to small businessmen who are encountering severe financial hardship as the result of the energy shortage.

INFLATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. HAMILTON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include my Washington report entitled "Inflation":

INFLATION

Not since I have been in the Congress have the letters and comments from constituents reflected a deeper frustration or anxiety about the economy, especially the horrendous price increases.

The soaring cost of living ranks with the energy shortage as the major concern of constituents, and for good reason. The consumer price index jumped 8.8% in 1973, the highest increase since 1947, and the wholesale price index increased 8.2%, the largest annual increase since 1946. In these early months of 1974 inflation is mounting to even higher levels. Consumer purchasing power has not kept pace with an inflation that has hit especially hard in essential commodities like food, clothing, fuel, housing and transportation. Moreover, there is no indication that the rate of inflation will moderate soon. Federal Reserve Chairman Arthur Burns told the Congress flatly, "Inflation cannot be halted this year."

All of this inflation did not come upon us suddenly. Bad policy and bad luck caused much of it. In the mid-1960's we failed to tax ourselves enough to pay for "guns and butter." In 1970 and again in 1972 we pumped up the economy before inflation was licked. In recent years wage and price controls have caused a spurt in prices in anticipation of a freeze and again after lifting the freeze. Two devaluations of the dollar, the sale of agricultural surpluses with little regard for the impact on food prices, reduced food production because of bad weather, and a simultaneous boom in all the major world economies, causing a world-wide demand and shortages of raw materials, all converged to make prices go even higher.

Since the American economy is heavily dependent upon foreign sources for several important raw materials, some parts of the inflation problem are largely beyond our control (e.g. the price of oil).

Government anti-inflation policy should focus on several areas. Production is the best weapon against inflation. Since the nation suffers from a lack of adequate productive capacity to meet demand, quick solutions to shortages cannot be expected, but the basic approach must be to expand supplies of food, fuel and many other materials in short supply.

Structural changes must take place in many areas in the economy, including an increase in the supply of trained people in inflationary areas (like health care), the removal of barriers of discrimination to increase the supply of trained people, and the encouragement of labor mobility so that workers can go where the jobs are. An open, competitive market will encourage domestic manufacturers to become more efficient, improve the quality of their goods, and hold prices stable. Competition must be strengthened by vigorous enforcement of the anti-trust laws, by re-examination of laws which encourage unfair trade practices and price discrimination, and by reduction of government support of inefficient industries. Consumers must be given better information so that they may make prudent purchases and exercise thrift.

Even though controls have not been very successful, controls of narrow scope should be retained, allowing the President the authority for controls over wages and prices in areas where competition is absent. American business and labor must be encouraged to keep their total increases in wages and profits in step with productivity.

No anti-inflationary policy can succeed without the appropriate mix of fiscal and monetary policy, the two most important tools we have to control the demand for goods and services in the economy. With the country now facing the twin dangers of inflation and recession, the great debate is whether to stimulate demand to ward off recession or restrain it to battle inflation. The right approach at the moment is neither "busting the budget" nor tight restraint, but flexibility and moderation, with a tempered, not restrictive, monetary policy, and selective fiscal stimulus in those areas of the economy where capacity is tight.

Economic policy must be given a higher priority by the government. The goal is a balanced economy with reasonable price stability, moderate economic growth and full employment. The art of economic policy is not to achieve any one of these targets, but to achieve all of them simultaneously. The major obstacle to such an achievement is not a lack of knowledge, or even a lack of tools, but a lack of political will and leadership to take the right action at the right time.

Finally, all of us must bear in mind that, despite the turmoil in the American economy as it confronts severe challenges from inflation, unemployment and shortages, it has plenty of muscle, having doubled itself in the last 10 years, and the ingredients are in place for a new economic boom, provided our economic leadership has the wit and the will to blend skillfully the various components of policy.

FAILURE OF YEAR-ROUND DAYLIGHT SAVING TIME

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. DAN DANIEL. Mr. Speaker, it has become obvious that this past winter's experiment in year-round daylight saving time was a monumental failure. Mothers of small children have advised me they must drive their children to the bus lines and wait with them in the dark, thereby using gasoline in addition to early-morning electricity. People who must be at work by 8 o'clock are equally unhappy with the time change, and for basically the same reason—dark is dark, whether it is a.m. or p.m. darkness.

The Danville, Va., Bee, a newspaper in the district I am honored to represent, carried an excellent editorial on this subject, and describes a measure introduced by Senator WILLIAM L. SCOTT, also of Virginia, which has considerable merit. I commend the reading of this editorial to my colleagues, and expeditious adoption of the Senator's proposal:

[From the Danville (Va.) Bee, Mar. 11, 1974]

SCOTT AND DAYLIGHT SAVING TIME

When it was first suggested and from time to time ever since, we have argued against mid-winter Daylight Saving Time.

We have argued that, under mid-winter DST, workers were having to arise and turn up the heat at the coldest part of the 24-hour span and turn on more houselights than they would have to at dawn. We have argued about the dangers of pre-dawn traffic and children going to the school in the darkness. We have argued.

And we felt all alone. We wondered if we were not only wrong again, but all that wrong.

When we were ready to toss in the towel, other voices were heard, other copy was being written—in a similar vein.

For just one example, columnist Jim Fain of American Syndicate Inc. wrote a lengthy essay which included this gem: "The theory that year-round Daylight Saving Time somehow could help solve the shortage of fossil fuels has to be the silliest notion propounded in this country since the Shakers decided to segregate men and women and thus eliminate sex."

While detailing his reasons for opposing midwinter DST, he pointed out: "The truth is that when you put an hour of daylight on one end of the day, you take it off the other. The sun doesn't stand still.

Although the hours of daylight now are becoming longer and the worst period of mid-winter DST has passed, opposition still is spreading as more and more people look back and reconsider.

In Washington, at the end of last week, the Associated Press quoted federal energy officials as saying they think DST is helping to save some fuel, but the final verdict is not in. We didn't expect Energy Czar William Simon and his horde of aides to admit that somebody goofed. Oh no!

Regardless of what these "experts" finally claim, Virginia Senator William Scott already has gone to work on a compromise which makes good, common sense. Senator Scott's monthly newsletter for March includes this:

"Some months ago the Congress passed an emergency measure to provide for daylight savings time on a year-round basis. It was thought that year-round daylight savings time would save energy and would be a reasonable method of cutting back on electricity.

"While preliminary reports indicate that some degree of success has been achieved many people report inconveniences and, in certain cases, tragic consequences. The problems caused by school children waiting for buses in the predawn hours concern many parents across Virginia. Workmen are also going to their jobs before daylight and this offsets energy saved in the evenings.

"To lessen adverse conditions created by the time change, I have sponsored legislation which would amend the Uniform Time Act to provide that daylight savings time will begin on the last Sunday in February of each year. Adoption of this proposal would allow the country to observe eight months of daylight savings time during which sunrise does not occur until 8:00 a.m. in the morning or later in many parts of the country. This appears to be a reasonable compromise to the problem and should warrant serious consideration."

Senator Scott's proposal definitely does deserve consideration. He deserves and needs public support to get action on Capitol Hill. Pass him the ammunition so he can make his colleagues see the light (so to speak).

EVALUATION OF ESEA

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. LANDGREBE. Mr. Speaker, I am opposed to H.R. 69 for reasons made clear in the minority views that the gentleman from Michigan (Mr. HUBER) and myself filed with the committee report.

Briefly, the Elementary and Secondary Education Act (ESEA) has brought the Federal Government's heavy-handed control into the classrooms of our public schools, usurped parental rights and responsibilities, promoted outrageous practices in our schools such as sensitivity training and behavior modification, and created a massive bureaucracy that operates outside public view and control.

Any of these is sufficient reason to phase out ESEA, as I have proposed in H.R. 10639, the "Freer Schools Act."

In addition, however, is the massive and overwhelming evidence of the total failure of ESEA to accomplish its alleged goal of improving education. In fact, there is much evidence that the supposedly "educationally disadvantaged" really are disadvantaged after their treatment by the Government's education planners.

Following is an outline of six major evaluations of the effectiveness of ESEA:

EVALUATION OF ESEA

I. American Institutes for Research (AIR) report, March, 1972.

A. It is the most thorough and complete evaluation of Title I programs to date.

B. It summarizes information from several sources:

1. Educational Resources Information Center (ERIC).

2. Research and Development Centers, funded by the Federal Government.

3. Regional Education Laboratories, funded by the Federal Government.

4. The AIR Library.

5. The Library of the Assistant Secretary for Planning and Evaluation in HEW.

6. The Library of the Division of Compensatory Education of the U.S. Office of Education.

7. Interviews with persons involved: ESEA teachers and Administrators.

8. 91 state annual evaluation reports for fiscal years 1969 and 1970.

9. The report has a bibliography of 273 entries.

C. Conclusions:

1. Needs of Educationally Disadvantaged Children:

a. "The emphasis of [ESEA] Title I program should be on provision of compensatory reading, language arts, and mathematics programs—those areas where the children have the most critical needs."

b. "The major academic problem in Title I schools is reading retardation. On the basis of teacher estimates of their pupil's 'critical needs', 43% of the children in Title I elementary schools were judged to have a critical need for remedial reading instruction, 37% needed remedial instruction in language, and another 37% required remedial mathematics."

2. ESEA is misdirected:

a. "The Washington Research Project (1969) provided evidence that many school system have used Title I funds in only a limited way for academic programs; rather, they have purchased excessive equipment; added to their administrative staff, provided health, food, cultural or recreational services that were not needed, were unrelated to meeting the educational needs of children, or should have been provided by other Federal or private programs."

b. "The majority of children judged to have academic needs did not participate in any compensatory academic program, while more than 5 times as many children participated in food programs as were judged by their teachers to need them . . . Apparently there has been an over-allocation of supportive services and an under-allocation of academic services in Title I programs since program inception."

3. ESEA Title I is ineffective.

a. Standardized achievement test data on children in Title I elementary schools (FY '68–'69) showed that "Participants gained less during the period of instruction than non-participants and consequently fell further behind their non-participating peers and national norms."

b. "Five of the six [State Title I Annual Evaluation Reports FY '69 and '70] that presented empirical evidence to support their conclusion found no positive relationship between Title I project expenditures and cognitive benefits."

c. "No significant evidence was reported between the two groups of students [those participating in ESEA programs, and those not participating] in improvement in creativity or in awareness of current events."

d. "Neither participants nor non-participants appeared to improve significantly in reading achievement during the academic year (1968–1969), and no relationship was found between hours of participation and gain."

e. "In short, there is no evidence, nationally, that compensatory reading programs, whether Title I supported or not, provide any benefits for participating children in Title I schools."

II. Education of the Disadvantaged: "An Evaluation Report on Title I ESEA—Fiscal Year 1968," HEW, Office of Education.

A. "For participating and non-participating pupils, the rate of progress in reading skills kept pace with their historical rate of progress."

B. "Compensatory reading programs did not seem to overcome the reading deficiencies that stem from poverty."

C. "Pupils taking part in compensatory reading programs were *not* progressing fast enough to allow them to catch up to non-participating pupils."

D. "There was no consistent relationship between the total hours per year that a pupil spent in compensatory reading activities and his reading achievement gains."

III. Inequality: "Studies in Elementary and Secondary Education," edited by Joseph Froomkin and Dennis J. Dugan, HEW, Office of Education.

A. More restricted in scope than the AIR Report.

1. Covers 4,852 pupils involved in ESEA Title I in school year 1967–1968.

2. Covers 155,000 Title I participants in FY '67, i.e., 2% of Title I participants.

B. Basis of Conclusion:

1. Conclusions were based on student scores before and after participation in Title I programs. The following objective achievement tests were utilized: Metropolitan Achievement Test (MAT), Iowa Test of Basic Skills (ITBS), California *Achievement* Test (CAT), Stanford Achievement Test (SAT), Nelson Reading Test (NRT), Gates Reading Test, and Science Research Associates Achievement Test.

2. "This sample of observations is not a representative sample of Title I projects. It is, most likely, representative of projects in which there was a higher than average investment in resources. Therefore, more significant achievement gains should be found here than in a more representative sample of Title I projects."

C. Conclusion:

"An analysis of the reading achievement scores of 155,000 participants in 189 Title I projects [reported by 8 states and 33 cities] during the school year ending 1967 indicates that a child who participated in a Title I project had only a 19% chance of a significant achievement gain, a 13% chance of significant achievement loss, and a 68% chance of no change at all."

IV. "Inequality," by Christopher Jencks 1972.

A. This book was written by Jencks and 7 other members of the Center for Educational Policy Research over a period of three years (1969–1972). It is not restricted to ESEA programs.

B. Conclusions:

1. "Students in Title I programs do worse than comparison groups as often as they do better."

2. "If, for example, principals or parents had control over their school budget and could spend their money on whatever they thought their school needed most, extra resources might affect test scores more than they do now."

3. "We can see no evidence that either school administrators or educational experts know how to raise [achievement] test scores, even when they have vast resources at their disposal."

V. "An Overview of Issues in Compensatory Education Especially As They Relate to Legislative Proposals in the Spring of 1973. Stanford Research Institute, February 12, 1973.

A. "Every objective achievement goal [of Federal ESEA Compensatory Education Programs] has failed to be met, and we can predict that this would continue to be the case." (p. 21)

B. "Moreover, evidence from existing programs suggests that even those students who benefit from early compensatory education do not retain those benefits when they enter the normal program."

C. "Little if any empirical evidence exists to show that such expenditures [Title I expenditures for supportive services such as health checkups, clothing, food, etc.] are of significant value at the level of deprivation existing among those in compensatory schools."

D. Furthermore, targeting [of ESEA programs] within the school creates a labeled group of children who are "dumb even for this school" and fosters a negative self-image which often undermines other positive aspects of the program.

VI. "The Efficiency of Educational Expenditures for Compensatory Education—An Interpretation of Current Evidence," by Educational Policy Research Center, Stanford Research Institute, May, 1972.

A. "There is no persuasive evidence of effectiveness for the average ESEA Title I project."

B. "Nearly all empirical analysis of survey data on educational inputs and outputs such as Project Talent, the Equal Educational Opportunity Survey, and national ESEA Title I evaluations show little or no relationship between variations in educational expenditures and educational outputs."

Given the history of and the nature of government bureaucratic programs, it is certainly no surprise that ESEA is a total failure. But what is truly incredible is the complete evasion of this evidence by the Committee on Education and Labor. During more than a year of hearings and markup on H.R. 69, no concern was expressed for education. There was great concern over who was getting the money under which new, complex formula. Interminable rhetoric poured forth about "equalizing educational opportunities." But with respect to the $15 billion that was wasted, nothing was said. In regard to the students who are worse off after ESEA, no mention was made.

Thus it is clear that the real concern of the proponents of H.R. 69 has nothing to do with improving education. From 1961 to 1972 enrollments in public elementary and secondary schools rose from 36.3 million to 45.9 million, an increase of 26 percent. During the same period, however, public school spending rose from $17 billion to $48.6 billion, an increase of 186 percent. And yet, the Educational Testing Service recently reported that the mean scores on the Scholastic Aptitude Test, taken annually by high school seniors, have declined in every year for the last 10 years.

It could not be more obvious that merely spending more and more money does not improve education.

The framers of H.R. 69 are aware, apparently, that sooner or later they will have to produce something to show ESEA is successful. Thus we have on page 54 of H.R. 69, as reported, section 112:

Study of purposes and effectiveness of compensatory educational programs.

Mr. Speaker, I submit that it is ludicrous to be calling for a study of the purpose of an act that is 9 years old and has expended over $15 billion. Do the members of the Education and Labor Committee not yet know the purposes of ESEA?

As for the effectiveness of compensatory education programs, what more evidence do we need? The evaluations outlined above are just some of the numerous studies already done on such programs.

Unwilling to admit the failure of ESEA, its proponents ignore the evidence and call for yet another study of its effectiveness. Unwilling to face the evidence that the purposes for which ESEA was created have not been approached let alone been met, they call for a study of its purposes.

To add insult to injury, H.R. 69 authorizes that this study be carried out by the National Institute of Education—NIE. Created less than 2 years ago to "provide leadership in the conduct and support of scientific inquiry into the educational process," NIE is now being given additional authority to study the effectiveness of the Federal Government's own education programs. Apparently the studies conducted by the American Institutes for Research, the Stanford Research Institute, and even the U.S. Office of Education are not good enough—after all, they do not come up with the "correct" results.

So now we are to have NIE conduct a study. Having one Government agency study the effectiveness of the programs of another Government agency is like having a student grade his own exams or having the milk industry study the value of price supports.

And what if the NIE study does not provide satisfactory answers? Will they have to do it over until they get it right?

In the meantime, while NIE is "studying" the matter, H.R. 69 will be extending and expanding this intolerable program.

Mr. Speaker, we must put a stop to ESEA now before the involvement of the Federal Government into education is so deep that it cannot be stopped—even if its failure is admitted.

PROPOSED AMENDMENT TO H.R. 69

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. THOMPSON of New Jersey. Mr. Speaker, pursuant to unanimous-consent agreement, I am providing for insertion in the CONGRESSIONAL RECORD an amendment to title I of H.R. 69:

AMENDMENT TO H.R. 69, AS REPORTED, OFFERED BY MR. THOMPSON OF NEW JERSEY

Beginning with line 1 on page 49, strike out everything down through line 7 on page 50, and insert in lieu thereof the following:

"PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

"SEC. 132. (a) To the extent consistent with the number and concentration of children in the school district of a local educational agency who are enrolled in private nonprofit elementary and secondary schools, such agency, after consultation with the appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the repair, minor remodeling, or construction of public school facilities as may be necessary for their provision (consistent with subsection (b) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this title.

"(b)(1) The control of funds provided under this title and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property.

"(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this title shall not be commingled with State or local funds.

"(c) If a State is prohibited by law from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(d) If the Commissioner determines that a State or a local educational agency has substantially failed to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he shall waive the requirement of section 131(a)(2) and arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(e) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation under this title.

"(f) The Commission shall take no action under subsections (c), (d), or (e) until the State and local educational agencies affected have been given 60 days notice and an opportunity for a hearing on the record."

(b) Section 147 of Title I of the Act is amended (1) by striking out "such State may" in subsection (a) and inserting in lieu thereof the following: "or if any State or local educational agency is dissatisfied with the Commissioner's final action under section 132(c), (d), or (e), such State or local educational agency may", and (2) by adding at the end thereof the following new subsection:

"(d) During the pendency of any civil action for review of the Commissioner's action under subsection (c), (d), or (e) of section 132, the Commissioner shall continue to make payments to the State or local educational agency involved (1) until such time as the final review to which such agency is entitled has been exhausted and (2) in the amounts to which such agency would be entitled if such action had not arisen in the first instance. To the extent the final order of the court in such civil action requires that a portion of the Federal funds allocated to such agency be withheld, such withholding shall only apply prospectively."

JOHN MacGUIRE—TOP STUDENT SCIENTIST

HON. JOHN Y. McCOLLISTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. McCOLLISTER. Mr. Speaker, one of my constituents, John C. MacGuire, a student at Mount Michael Benedictine High School in Elkhorn, Nebr., is in Washington this week as a participant in the "Westinghouse Science Talent Search." I want to salute this talented young man for the dedication and hard work that brought him here. I think it is particularly interesting that he is 1 of only 12 graduating seniors at Mount Michael. It is notable that the school had three members of that class as participants in the science talent search. All were named to the honors group, and John was named a winner.

The following newspaper article printed in the February 21 edition of the "Douglas County Gazette," of Waterloo, Nebr., provides an excellent description of John and his science project.

MacGuire—Top Student Scientist

John C. MacGuire, a student at Elkhorn's Mount Michael Benedictine High School, has received word that he is one of the most scientifically talented high school seniors in the nation.

MacGuire, 17, placed in the top 40 of the more than 1,100 entrants in the 33rd Annual Science Talent Search conducted by Science Service, an independent nonprofit organization based in Washington, D.C.

MacGuire and the other 39 winners have now been invited to attend the Science Talent Institute in Washington, D.C., for a five-day, expense-paid session, March 13–18. At the Institute, the Westinghouse Science Scholarships and Awards, totaling $67,500, will be awarded to those with the best projects.

MacGuire's project, an engineering precedent, is titled, "Slats as High Lift Devices". It adds a slat to the leading edge of an aircraft wing which increases the amount of lift afforded by the wing, while at the same time reduces the drag. John tested this slat, which he developed, in a wind tunnel which he also constructed himself.

"This seems to be a new kind of slat," MacGuire said. "At least I haven't run across any tests of it yet. I may try for a patent on it if I can stir up an interest in it. I've been working on the project since I was in the eighth grade."

Father Henry Masterson, head of the Science Department at Mt. Michael, urged John as well as fellow students David Hampton and Jack McCarthy to enter the Search competition. All three placed in the top 300.

While in Washington, MacGuire will spend five days being interviewed by the judges. The top winner in the Search will receive a $10,000, four-year college scholarship. The next two winners will receive an $8,000 scholarship, and the next four will receive a $4,000 award. Each remaining entrant receives a $250 award.

MacGuire will be graduated from Mt. Michael this year and hopes to continue his study of aerodynamics at Princeton University in New Jersey. He has also applied to MIT and Stanford University, but he ranks Princeton as his first choice.

Last summer, John worked with the U.S. Army at the NASA/Ames Research Center at Moffet Field, near San Jose, Calif. This opportunity came from John's winning the "Operation Cherry Blossom" competition at the International Science and Engineering Fair in San Diego last May.

The winners of this fair, held annually in the United States, are also presented with a trip to Japan to attend the All-Japan Student Science Awards. MacGuire and June Ann Vayo, an 18-year-old Harvard University freshmen, recently returned from this trip where they met Japan's Imperial Highnesses, Prince and Princess Hitachi.

"It was really an honor to meet the Prince and Princess," said John. "Nothing like this has ever happened to me."

Before returning to the U.S., MacGuire and Vayo visited historical and cultural landmarks in ancient Kyoto, and called on the Mayor of Sagamihara City, Masaru Kawzu. The mayor presented them with Japanese "happi-coats".

John is the son of Mr. and Mrs. John MacGuire, Casper, Wyo.

DREAMS ABOUT ISRAEL

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. RAILSBACK. Mr. Speaker, the following article relating a very special dream on the Israeli situation by Rabbi M. Levy of the Tri-City Jewish Center in Rock Island, Ill., was recently brought to my attention. I know that it will be of interest to my colleagues and I commend it to your attention:

Dreams About Israel

(By Rabbi M. Levy)

The other night I had a dream about Israel. It is, of course, very understandable in light of the recent and even now continuing problems faced by the State of Israel. No doubt many of you had dreams in which Israel is featured with great prominence.

However, I do believe that mine was totally different. And so, I would like to share it with you.

Dreams, as you know, result from various real situations with which we are faced. Dreams take unresolved bits of reality and work them into the complex and strange nature of dreams. The elements from "life" that prompted this dream obviously were the oil and energy crises. I had been bothered by all the statements that have been made. You know them . . . the Arab world is cutting the oil supply 10%, 15% . . . the NATO countries and Japan are urging Israel to withdraw, so as not to precipitate a true crisis in the fuel area.

And so, as I went to sleep disturbed by these statements that always seem to be blaming Israel for all things that happen, these matters must have played with my unconscious to produce the dream that I had.

I dreamed of tulips and stuffed geese. Sounds strange, indeed, but not so very! I know that in the Golan Heights, there is a new village that has sprung up since the '67 War. It is in the disputed area of Ramat Golan (Hills of Golan), and hence is related to the political problems of the disputed territories.

This particular kibbutz raises tulips of a special kind, and ships them to Holland! (Sounds like the old adage of "shipping coals to Newcastle".) The tulips raised by Israel are superior to the famous Dutch type. They survive better and are not subject to the various diseases that traditionally infect the flowers. Holland, therefore, turns to Israel for flowers. In my dream, the Israeli Ambassador to Holland told his Dutch counterpart, "As long as you people can't drive because of the fuel shortage, there is no point in having the beautiful fields of tulips for which you are famous. People can't travel, and so they can't enjoy the tulips. We, in Israel, are economically secure and we don't really need the monies from the export of the tulips. In short, either no oil from the Arabs, or no tulips from us." I cheered the Minister Plenipotentiary. My dream continued.

Israel raises geese; overstuffs them to produce the gourmet delight of stuffed goose liver . . . pate de foie gras. She then exports it to France. Because it is very expensive, only fashionable gourmets or rich people eat it in any quantity. Here again, I saw the Ambassadors of two countries talking. I eavesdropped on the heated discussion. Arms waving, the shouting in French and Hebrew, all this was in progress in their "chat". The Israeli threatened to stop all exports until France severed relations with the Arab world and publicly announced its support for Israel.

Because of the tulip crisis, the other scene came into view in my dream. "Ma sacre Dieux", the French shouted in Paris, Lyons, Cherbourg and throughout France. What will happen to "La Belle France" (charming France) without the pate de foie gras? The world knows that France and pate are one. The shouts in the streets of Paris rose to a crescendo. "Down with 'Juif' (Jew)!" "Mort a la Israel (death to Israel)!" Israel cannot boycott France and withhold what every true Frenchman regards as his possession, even though it comes from Israel! We would sooner capitulate in every endeavor . . . yes, even walk to work and have no fuel, or chill in winter, rather than to live without pate! Israel cannot do it! The world community will not allow! The storming of the Bastille was child's play compared to the unrest created by Israel and the pate shortage.

The final scene of the dream was the international discussion held at the World Tribunal. All the world ambassadors were there to debate the issue. At stake was world peace and contentment. Holland and France must be saved at all costs. They are peace-loving nations with a tradition. Why should they be caught in and punished by someone else's war? Israel must be condemned severely and be shown it cannot wittingly destroy other people. She must pull back from this disastrous course and release tulips and pate. If Israel wishes to commit national suicide, she has that right, but not at the expense of 50 million Frenchmen and millions of tulip-loving Dutch.

Israel reluctantly acquiesed. The ambassador, with tears in his eyes, said that Israel is not here to destroy even one hair on a Frenchman's head, nor one tulip in a Dutch boy's hand. Powerless Israel withdrew.

I awoke.

I suddenly realized, in the reality of my awakened state, that no matter what happens, Israel always seems to lose. I wondered to myself . . . suppose Israel had oil. What would happen if she cut oil shipments by 15%? But then again, dreams and reality are truly far apart!

TAX AIDS FOR THE ELDERLY

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. KOCH. Mr. Speaker, the chairman of the Senate Subcommittee on Aging, FRANK CHURCH, has provided information which would help the elderly in preparation of their tax returns. He stresses that the following checklist is not intended to be an exhaustive summary of all available deductions for every conceivable circumstance, but it can prove a helpful checklist for persons who itemize their allowable expenses. It can also provide guidance to determine whether it would be to the advantage of the taxpayer to itemize his or her deductions or take the standard deduction or low income allowance. Additionally, this summary can be useful for all age groups because most tax provisions apply with equal force to the young as well as the old.

The following is the checklist and other helpful information:

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses are deductible to the extent that they exceed 3% of a taxpayers adjusted gross income (line 15, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 15, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expenses (subject to 3% limitation):

Abdominal supports
Ambulance hire
Anesthetist
Arch supports
Artificial limbs and teeth
Back supports
Braces
Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have and independent appraisal made to reflect clearly the increase in value.
Cardiographs
Chiropodist
Chiropractor
Christian science practitioner, authorized
Convalescent home (for medical treatment only)
Crutches
Dental services (e.g., cleaning teeth, X-rays, filling teeth)
Dentures
Dermatologist
Eyeglasses
Gynecologist
Hearing aids and batteries
Hospital expenses
Insulin treatment
Invalid chair
Lab tests
Lip reading lessons (designed to overcome a handicap)
Neurologist
Nursing services (for medical care)
Ophthalmologist
Optician
Optometrist
Oral surgery
Osteopath, licensed
Pediatrician
Physical examinations
Physician
Physiotherapist
Podiatrist
Psychiatrist
Psychoanalyst
Psychologist
Psychotherapy
Radium therapy
Sacroiliac belt
Seeing-eye dog and maintenance
Splints
Supplementary medical insurance (Part B) under medicare
Surgeon
Transportation expenses for medical purposes (6¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.)
Vaccines
Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health)
Wheelchairs
Whirlpool baths for medical purpose
X-rays

TAXES

Real estate
State and local gasoline
General sales
State and local income
Personal property

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of five classes of items: automobiles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security or Railroad Retirement annuities).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, State or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 6¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.
Auto loan.
Installment purchases (television, washer, dryer, etc.)

Bank credit card—can deduct the finance charge as interest if no part is for service charges or loan fees, credit investigation reports. If classified as service charge, may still deduct 6 percent of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) limited to the portion of the total fee or service charge allocable to the year.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

CASUALTY OR THEFT LOSSES

Casualty (e.g., tornado, flood, storm, fire, or auto accident provided not caused by a willful act of willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

CHILD AND DISABLED DEPENDENT CARE EXPENSES

The deduction for child dependent care expenses for employment related purposes has been expanded substantially. Now a taxpayer who maintains a household may claim a deduction for employment-related expenses incurred in obtaining care for a (1) dependent who is under 15, (2) physically or mentally disabled dependent, or (3) disabled spouse. The maximum allowable deduction is $400 a month ($4,800 a year). As a general rule, employment-related expenses are deductible only if incurred for services for a qualifying individual in the taxpayer's household. However, an exception exists for child care expenses (as distinguished from a disabled dependent or a disabled spouse). In this case, expenses outside the household (e.g., day care expenditures) are deductible, but the maximum deduction is $200 per month for one child, $300 per month for 2 children, and $400 per month for 3 or more children.

When a taxpayer's adjusted gross income (line 15, Form 1040) exceeds $18,000, his deduction is reduced by $1 for each $2 of income above this amount. For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

MISCELLANEOUS

Alimony and separate maintenance (periodic payments).

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Campaign contributions (up to $100 for joint returns and $50 for single persons).

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees for securing employment.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—Taxpayers may now claim either a deduction (line 33, Schedule A, Form 1040) or a credit (line 52, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) State committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $50 ($100 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $12.50 ceiling ($25 for couples filing jointly).

Presidential Election Campaign Fund.—Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) to help defray the costs of the 1976 presidential election campaign. If you failed to earmark $1 of your 1972 taxes ($2 on joint returns) to help defray the cost of the 1976 presidential election campaign, you may do so in the space provided above the signature line on your 1973 tax return.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

OTHER TAX RELIEF MEASURES FOR OLDER AMERICANS

Filing status	*Required to file a tax return if gross income is at least—*
Single (under age 65)	$2,050
Single (age 65 or older)	2,800
Married couple (both spouses under 65) filing jointly	2,800
Married couple (1 spouse 65 or older) filing jointly	3,550
Married couple (both spouses 65 or older) filing jointly	4,300
Married filing separately	750

Additional Personal Exemption for Age.—In addition to the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1974, you will be entitled to the additional $750 personal exemption because of age for your 1973 Federal income tax return.

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support.

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10 percent of the mutual dependent's support, *but only one of them*, may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers.—A taxpayer may elect to exclude from gross income part, or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least 5 years within the 8-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $20,000, an election may be made to exclude part of the gain based on a ratio of $20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within 1 year before or 1 year after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

Retirement Income Credit.—To qualify for the retirement income credit, you must (a) be a U.S. citizen or resident (b) have received earned income in excess of $600 in each of any 10 calendar years before 1973, and (c) have certain types of qualifying "retirement income". Five types of income—pensions, annuities, interest, and dividends included on line 15, Form 1040, and gross rents from Schedule E, Part II, column (b)—qualify for the retirement income credit.

The credit is 15 percent of the lesser of:

1. A taxpayer's qualifying retirement income, or

2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxable pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62, he must reduce the $1,524 figure by the amount of earned income in exces of $900. For persons at least 62 years old but less than 72, this amount is reduced by one-half of the earned income in exces of $1,200 up to $1,700, plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer if he has requested that IRS compute his tax and he answers the questions for Columns A and B and completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayer should also write "RIC" on line 17, Form 1040.

PAT HALL OF CAROWINDS

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. DORN. Mr. Speaker, Pat Hall believes in young people. One of the trademarks of his fabulous, $30 million family amusement park complex on the North Carolina-South Carolina border is the large number of young people employed. Pat Hall's successful career, in the great free enterprise American tradition, is an inspiration for every young American.

Mr. Speaker, the Southeastern United States is increasingly a national and international recreational complex. As we approach the Bicentennial celebration of the birth of our country I commend a visit to Pat Hall's Carowinds, which very vividly depicts the rich heritage and folklore of one of America's most historic regions.

Carowinds portrays our region's proud history and provides a dramatic preview of Carolina's dynamic future.

Mr. Speaker, I commend to the attention of my colleagues and the American people the following splendid article about Pat Hall from the winter 1974 issue of the South magazine:

CAROWINDS—A GUTSY PROMOTER WITH $25 MILLION

When Pat Hall, a pistol-packing, Bible-quoting entrepreneur from Mecklenburg County, announced four years ago that he was going to build a $30-million amusement park, some people thought he was nuts. That was a lot of money to shell out for a family-oriented extravaganza capitalizing on the history of the Old South, and who knew if it would work or not?

Nevertheless, Hall went ahead on his plans for Carowinds and opened it this past March. By all indications it seems to be a resounding success. At least it has more than fulfilled Hall's expectations for its first year of operations.

During its six month season, more than 1.5-million people visited Carowinds, spending about $13-million. Hall had expected to gross no more than $2-million the first year. The number of visitors exceeded expectations so far that walkways had to be expanded between attractions, new restrooms had to be added, and additional hot dog and hamburger stands were thrown in at the last minute.

PROFIT

If things go as well as they did the first year, Hall expects to turn the corner of his $30-million mortgage and start turning a profit. He claims that the money isn't all that important to him since he is already a millionaire several times over.

"I didn't have to do this, you know," Hall said. "I don't need any more money. I just love to see people having a good time."

Hall is a lanky redhead, an earthy man with enormous appetites, who made his first million selling used textile mill equipment. He can move in black tie circles or chew straw in bib overalls with the equal ease. That versatility gave him the confidence he needed to rise from a department store clerk to one of North Carolina's most important citizens.

He gets up with the farmers, tours his other properties enroute to Carowinds, and stays there until closing time at 10 p.m. Often, he's there after everyone else has gone.

ENERGETIC

He moves through his chores with tremendous gusto, as if he's determined to share all that life can offer. A secretary who has been with him 20 years says he enjoys life more than anyone she has ever known. He's a straight-talking extrovert who can move from a towering rage into quiet, sweet-talking demeanor for a prospective customer.

Carowinds is Hall's personal fiefdom. The Vanderbilts have their Biltmore estate in Asheville, Hall his own version of the Old South. It's located on 73 acres and features special Carolina accents: country music, Gospel singers, large cornfields, a tractor-powered hay wagon ride and another ride driven by a mule. When the humane society protested about the mule's plight, Hall ordered a sign erected:

"This mule works four hours a day. It sleeps and eats 20 hours a day. The president of Carowinds works 20 hours a day and sleeps and eats four hours a day."

Carowinds is larger than Disneyland but much smaller than Walt Disney World in Florida. The operation fulfills a dream that was born when Hall visited Disneyland in 1956.

"I like children," Hall said. "I have four of my own. I had nine brothers and sisters. I like to see kids happy and enjoying themselves."

Somehow, when Hall says that, you believe him. Even when you know about his reputation as Charlotte's premier party-giver and hear tales of his gigantic Christmas galas.

BIG BUSINESS

Carowinds is actually much more than an amusement park. It's a carefully planned operation that encompasses an industrial park, interstate office centers, and a posh residential area that will include recreation-oriented townhouses, condominiums and single family homes.

"We'll always be enlarging the park," he said. "We've already started on the Carolina Center (office complex) and we have plans for all the property that surrounds the theme park. We intend to put up a hotel complex and low-rise, highly restricted offices. What we have to sell here, in addition to land, is the exposure to the million and a half people who will be coming out here all the time."

That sounds suspiciously like a man who's interested in making money instead of a man who's doing it just for fun. The project has been carefully planned to make the maximum advantage of what Carowinds—and the North-South Carolina area—has to offer.

The offices will face Interstate 77. And it doesn't seem to be an accident that the residential area is on 2,000 choice acres, much of which fronts Lake Wyley and the Catawba River. And when Hall quotes marketing statistics, he sounds like a man who has done his homework.

MARKET

"Our market area for this park, within a radius of 100 miles, is more than 5-million people," he said. "You take that same area around Atlanta, and you'll find we're bigger. We're also larger than the Dallas-Fort Worth area, and larger than the Houston area. This is the type of thing that's going to make Carowinds and the other operations a success."

If nothing else, Hall's knowledge of the market indicates that he leaves little to chance. The land he purchased is just off Interstate 77, meaning easy access from Charlotte and Columbia and, eventually, from Canton and Cleveland. Within a hundred mile radius, as he said, there are well over five-million people. That compares, for the same distances, to 3-million for Atlanta. Within a 250-mile radius, there are an estimated 16-million, all potential customers.

When Hall decided on the location for Carowinds, his biggest problem was convincing a farmer named McClelland, who owned a major share of the land, into selling. McClelland was not only reluctant to sell; he wanted a pledge that the park would not be open on Sundays. Hall courted McClelland diligently and finally established the McClelland Foundation, naming the reticent farmer executive director.

The story has it that Hall was hosting a party when he received word that McClelland was ready to sell. He quickly changed from black tie to red shirt and plowing pants and rushed out to get the contract signed. McClelland died a few months before Carowinds opened, but the park's chapel is named for him.

Carowinds features flume rides, plays and different attractions that Hall thinks interest the public. The overall theme of the park is a portrayal of the history of the Old South, but he has one persistent critic in that endeavor: *The Charlotte News*. That newspaper said he has distorted his story to his own liking, disregarding the truth.

ARTIFICIAL

"The whole damn thing is artificial," said Jack Clayburn, editor. "It's a very well run, well managed, well operated, clean, antiseptic carnival. You go there and ride and ride and ride. It's a child's playground for adults."

All that's well and good, Clayburn said, but he thinks the real problem is the presentation of the South's history. Instead of showing things the way they really were, Clayburn said Carowinds shows it as a mint julep, honeysuckle dream where nothing ever went wrong.

"Even the authentic Indian villages have crafts that were made in Japan," said Clayburn. "But Hall doesn't pretend that it's anything it isn't. It's just a place for people to go and have fun."

"Our biggest draw is that this is a place for the family to come in and have fun together," said Hall. "They come in through the big plantation entrance and spend the time as a family. That's what we offer."

About 1,400 people are employed at Carowinds, including 1,300 kids of high school age. They're not like the smiling good-lookers at Disney World and some other attractions.

"That's not the All-American child," said Hall. "The All-American child is tall, short, fat, thin, that chubby little shy girl who couldn't get any other job."

OPEN DOOR

All those Carolina kids walk past the president's office as they enter and leave the park.

"I wanted it that way so they know I'm in there, not up on the mountain top," said Hall. "They can come in and see me if they have some problem."

Hall loves shows, and has carried that theme over into Carowinds. The magic show seats 1,000. All the performers, about 90 in all, are high school kids.

"Everything there is handled by the youngsters," said Hall. "They do a darn good job, and they know what the people want."

There are also high school age kids working on the flumeride, monorail, sky tower, and on the two trains that run around the park. One of the trains is an old antique that came off a sugar plantation in Louisiana, the other is a new facsimile.

Hall said the average person stays about six hours at Carowinds. There's only one fee, which covers admission and all of the rides except the monorail. It costs $5.75 for an adult and $4.50 for children under 12. Children under three get in free. The average person at Carowinds spends $8, including admission. It costs 60 cents extra to ride the monorail and almost everybody does to get a bird's eye look at the park.

"They can come in and go on as many rides as they want," said Hall. "They don't have to keep shelling out."

OVERSEER

The energetic Hall is the man who keeps things running at Carowinds. He has several division managers, but he's always there, running in and out, keeping up a constant chatter, making certain things go the way he wants.

"I used to try and reason with my managers," said Hall. "Then one day I got tired of that, so I went out in the woods and cut myself a hickory stick. Now I just beat them. It's a lot easier."

Hall is only kidding when he makes jokes like that, but it's true that he takes a strong personal interest in all aspects of Carowinds. One person said he practically dragged a bulldozer operator off his rig when he ripped down a tree Hall wanted saved. That might explain why Hall carries a pistol.

When Carowinds was being constructed, Hall was constantly on the scene. He said if he had it to do over again, he would be even more prominent.

"The first thing I would do is to hit the architect in the head with a two by four," he said. "Then I'd know I had his attention so he would do what I told him to do."

One reason Hall feels that way is that here were several goofs when Carowinds was planned. First of all, the walkways were too narrow. They had to be enlarged to prevent monumental people-jams. Then there weren't enough food concessions. But, most importantly, there weren't enough toilet facilities.

MINOR TROUBLE

"When we first opened up, we noticed that there were long lines in front of the women's rest rooms," he said. "We made a study and found out that the decorator had put full-length mirrors in them. The women were standing there admiring themselves and causing a backup."

They took the mirrors out, but things still didn't get better.

"What we finally discovered is that mommies take children to the restrooms, but daddies don't," he said. "They were being used twice as much. So we put in some more women's rest rooms. Now things work just fine."

Hall has had to be a tough, hard-driver all his life. The seventh of 10 children, he came from the hills near Matthews, from a corn and cotton, mule-plowed farm a few miles southeast of Charlotte. There, behind a plow, he learned the meaning of hard work. By the time he entered high school, he was ready for more work: hauling ice. That helped put muscle on his raw-boned 6 ft. 2 in. frame. He also clerked in the Belk department store for $1.50 a day. Now he enjoys telling the

Belk boys how their daddy personally raised his salary to $2.

Thirty years later, he became campaign manager for a Belk who had inherited a reported $34-million. He headed the Action Team that helped put John Belk in the Charlotte mayor's office.

When he finished high school, he was an office boy for awhile, then did a three-year stint in the Army where he became a sergeant. After that, he took a job with a local firm that bought and sold textile machinery. He didn't like working for other people, and told his co-workers that some day he would own the place.

BIG BREAK

His big break came when he managed to swing a $25,000 loan to buy $250,000 worth of old textile machinery. That was in 1951. Every bank he had gone to turned him down until he came to Wachovia. He was 30 years old and didn't have two pennies to rub together.

"I had more trouble getting that loan than I do getting loans for a million dollars now," Hall said. "It was like getting blood out of a turnip."

The old mill was in Utica, N.Y. He started bidding on the equipment, even though he had no money. His top bid of $250,000 was accepted and Hall promised to give the owner $25,000 in three days and the remainder within 90.

"I didn't know where on God's earth I would be able to borrow that much," he said. "I didn't have a penny." But did that cause him any sleepless nights? "Hell, no," Hall recalled. I don't let things like that bother me."

Hall got the Wachovia loan, then started selling used equipment. In a month he made enough to pay the bank off. He paid the original owner the remaining $225,000 in 61 days. By the time he sold all the equipment, Hall made a $150,000 profit.

HECTIC PACE

He traveled and sold all day, did his correspondence and records at night. He couldn't afford a secretary so he did all the work himself. His schedule was hectic, and he didn't expect it to slow up. Hall made certain his wife understood the situation.

"I told my wife when we were first married that I would be working long hours, would be away from home in the office or on the road," he said. "I put it straight to her. If she couldn't go along with it, then she could leave then and there." His wife didn't leave, and she's still with him today.

By the end of the 50s, Charlotte had become the world headquarters for used textile machinery. Hall had 15 warehouses filled with it, but he was already thinking about moving in different directions. He bought a deactivated naval ammunition depot in Charlotte in 1958 and set out to make it into an industrial park. The 2,300 acre site already had its roads, railroad tracks, water and sewage systems. Hall paid $2,010,000 for the depot and, in the next few years, managed to locate 40 new companies there, including Hall Textile Machinery Co. and Pat Hall Enterprises.

When Hall bought the depot, which he named Arrowood, his most competitive bidder was Southern Railway. But, in what later appeared to be a monumental miscalculation, Southern dropped out at $1,650,000. Seven years later, Hall sold the complex to Southern for $6-million.

METEORIC RISE

Hall was only 44 at the time. His rise from clerk to multimillionaire had been meteoric by Carolina standards. But he absolutely had no intention of dropping out of the race, or of slowing his pace. Southern Railway retained him as a consultant for Arrowood, and he also kept busy at Pat Hall Enterprises selling land, machinery and buildings. He earned his consultant fee by helping attract a variety of companies to Arrowood, including a $15-million General Tire plant.

Even all that wasn't enough to keep the restless Hall contented. In 1966, he put together his own unique operation, a one-stop shopping area for textile supply and machinery buyers. He called this operation Texland and, according to him, it was the first of its kind in the U.S.

"It seemed a little bit ridiculous to me for people to have to run all over creation to find what they needed," Hall said. "These are busy people. So I thought I'd just bunch everything together so they would only have to make one trip. It saved them time and money."

Some of Hall's other accomplishments indicate why *The Charlotte News* refers to him as "a mover and a shaker." In 1967, he assembled the acreage and convinced Westinghouse to put its $65-million turbine plant in southern Mecklenburg County. Some people in the conty think he's the only man who could have done it.

A DOER

"He puts it all together while others are forming committees or giving up in frustration," said a former Wachovia Bank official. And, said a Charlotte realtor, "If Pat Hall says he wil do something, you know it will be done. He's not greedy; he's a gentleman. A fews years ago I took an out-of-towner interested in some commercial property out to Arrowood. I wasn't his broker or Hall's, but Pat sent me a generous check for my trouble. That's the kind of man he is."

Hall also has a reputation for being foxy. When he bought land for the Westinghouse site, he engaged in several diversionary actions to throw land speculators off his trail. He had soil borings made at the opposite end of the county. The speculators were caught flat-footed when Westinghouse announced the location of its new plant.

Two months after the Westinghouse announcement, Hall bought the Douglas missile plant for $2.4-million. Back in 1940, when it had been the Charlotte Quartermaster Depot, he had worked there as an office boy. In 1967, he converted the 1.3-million square feet at the depot into a profitable warehousing and distribution center.

It wasn't much of a surprise when official recognition started coming. The governor appointed him to the state board of conservation and, in 1968, he was named to the Charlotte housing board—a position he still holds. There was talk of him becoming a candidate for mayor, but Hall said no, and supported John Belk.

He had other plans that didn't include City Hall.

He wanted to build a theme park.

So he did it. Even when some people thought he had bitten off more than he could chew.

DETERMINATION

Editorialized *The Charlotte News*, which seems to like being a Hall-watcher: "This out-sized fellow with his country touch and his computer mind has an excellent track record converting visions into reality; he is thorough, leaves little to chance, and never piddles around. (Hall) with his know-how, drive and determination, is the man, probably the only man, who can do it."

Even though he is conspicuously on the scene in Carowinds, Hall believes in good management. He has a young staff, most of whom have experience in park management. The operations manager is 23, his deputy 21; both come from Houston's Astroworld. The sales director, a veteran of Six Flags Over Georgia, is 35, his deputy 28. The executive vice president and the communications director are slightly older and come from Charlotte. One was Charlotte's city manager for 11 years, the other news director for the local CBS television station.

"You've got to have people who know what they're doing," Hall said. "This kind of operation is a whole different type of ball game."

Each night, except for rare exceptions, the staff gathers with Hall for nightly drinks and snacks and what Hall calls a "head beating" session in the big lodge—a Carolina cabin with safari trappings. The cabin is just across from his office, on the other side of his railroad car.

"Sure we have problems," said Hall. "Anytime you get 1,400 people working on a job you're bound to have problems. I do a lot of delegating, and then we hash things over together."

COLLECTOR

In both his personal and business life, Hall is a man of immense energy, who seems to be both sophisticated and simple simultaneously. He has an antique auto collection, boats on Lake Wylie and a helicopter. At Christmas, he flies his employes' children over his timberlands so they can pick out their own trees. He has been known to roar through Carowinds in a Model-T well after midnight with Johnny Paycheck—or some other visiting entertainer—wide-eyed at his side.

His nine-year-old railroad car is fully equipped with beds, bath, bar and Victorian plush red and black leather lounge.

"I used it when traveling the country selling machinery," Hall said. "The first car I decorated looked just like a French whorehouse, so we scrapped it and started over again."

Now the car is subdued, but not all that much. It has a stereo and several telephones (He said he spends 10 per cent of his waking time on the phone) and wall plaques with slogans and sayings. Some are humorous. But most are serious and contain apparent guidelines for Hall, who has them in his lodge and office, too. In addition to his YCDBSOYA plaque, he has slogans reading: "The best angle to use in approaching a problem is probably the try angle." Or: "The biggest mistake of all for an executive, the surest way to fail, is not to act at all."

ONE-MAN SHOW

Up until Carowinds, Hall has been pretty much of a one-man band. He beat the drums, played the trumpet and, most importantly, waved the baton. Now that he's out on a $30-million credit limb, he knows he has to become a team man, a hard adjustment for a self-made millionaire.

First there's Wachovia. The bank arranged the Carowinds financing. Its real estate investment trust, associated with Wachovia Mortgage Co., raised $27-million. Another $7.3-million came directly from the bank. Hall put in $3-million.

But does Hall worry about his $30-million loan and $4-million annual payroll?

"Hell, no. Why lose sleep over a loan?" he said. "If I was worried, I'd get out of bed and go to work and worry where to get more money."

FUN

The amusement park apparently has been a lot of fun, even if there were headaches, because Hall said he wouldn't hesitate to undertake such a project again.

"Damn right I would do it," he said. "And when I do, I'm going to hire the finest architects in the world. When they finish their plans and models and we have all the feasibility studies done, I'll have the representative of that firm come into my office and I'll beat his head with a two by four. That way I'll know I've got his attention."

Hall is still appalled at mistakes made in the original design at Carowinds, i.e., the inadequate walkways, not enough hotdog stands, and women's restroom fiasco.

"I should have insisted on what my common sense told me was right or better," he said. "I should have taken a job under a false name at Disney World, then Six Flags, so I personally would have known what to do and what not to do."

R.I.P.

In what was wry humor, but perhaps indicative of his true feelings, Hall has a tombstone for the Carowinds architect in a little cemetery between his office and the railroad car. "Buried" next to him are his lawyer, banker, contractor and John Belk.

"Just in case they get out of line, they know I'm ready to put them under," Hall said.

Now that Carowinds is a reality, Hall is already setting his sights in another goal: this one capitalizing on the American frenzy over football. He wants to build a stadium, and attract a professional football team, to North and South Carolina.

"I want a big stadium," he said, apparently envisioning it as he talks. "The 50-yard line will be right on the North Carolina-South Carolina state line."

There hasn't been any interest so far by professional teams wanting to move to Mecklenburg County. Nevertheless, Hall already has blueprints for the stadium. A little thing like not having a professional football franchise doesn't stop him.

"Don't worry," he said. "We'll get a team. How could they stay away from here? We've got the market and they know it."

People who know Hall might shake their heads at his doings, but they don't take him lightly. He has a knack for jumping in feet first and coming out a winner. If he wants a professional football franchise, he'll probably get one. At least he'll have fun trying, and for Hall, that's nine-tenths game of business.

GREAT LAKES WATER LEVELS REMAIN AT "NORMAL"—FAR ABOVE AVERAGE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. VANIK. Mr. Speaker, the monthly Bulletin of Lake Levels for March 1974, is now available from the National Ocean Survey of the U.S. Department of Commerce. As usual, unfortunately, it holds nothing but bad news for the 40 million Canadian and American residents of the Great Lakes Basin.

Each of the 6 lakes is significantly above its "long-term average," the best factor to use in comparisons of the large fluctuations of the Great Lakes. The ocean survey reports that:

Lake Superior—6 inches above long term averages.

Lake Michigan-Huron—19 inches above long term averages.

Lake St. Clair—36 inches above long term averages.

Lake Erie—29 inches above long term averages.

Lake Ontario—16 inches above long term averages.

Mr. Speaker, it is interesting to see that Lake Superior and Lake Ontario, the only two lakes with any measure of regulatory controls, are far closer to long-term averages than any other of the Great Lakes. This fact continues to be the best evidence that construction of control facilities on the other lakes—the "middle Great Lakes"—would go a long way toward a permanent, lasting, and systemwide solution to the enormous damages caused by erosion resulting from the high waters.

Although installation of such controls would obviously be expensive, the consequences of allowing water levels to go on unchecked clearly warrant our close examination.

The normal toll of shoreline erosion damages is tremendous. Whole homes are lost, hundreds of yards of valuable land and topsoil, and expensive private properties, all fall prey to the relentless attack of high-water erosion.

Storms and high winds off the lakes which previously dissipated their energies on the long beaches and natural barriers of the lakes now simply ride over those obstacles. Lake Erie, when its waters were far over average in 1972, caused $22 million in damages to Ohio shorelines. A storm on Lake Erie in 1952, another high-water period, caused $120 million in damages—with the Corps of Engineers estimating that the same storm would cause twice that destruction today.

Mr. Speaker, the Congress must consider means to effect a lasting solution to this enormous problem. I hope that we all can give consideration to installing the controls necessary to avoid the continuing destruction.

USE OF U.S. SHIPS FOR OIL IMPORTS VITAL TO NATION

HON. PETER N. KYROS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. KYROS. Mr. Speaker, I would like to bring to the attention of my colleagues in the House of Representatives the importance of adopting legislation which would require that a percentage of American oil imports be carried on U.S.-flag tankers.

As a member of the House Merchant Marine and Fisheries Committee and a Congressman from the State of Maine, which has a great heritage and future as a maritime, seafaring State, I urge favorable consideration of H.R. 8193, which calls for 20 percent of the Nation's oil imports to be carried on American-flag vessels. Now undergoing public hearings in the Subcommittee on Merchant Marine, the bill would require the percentage to go to 25 in 1975 and to 30 in 1977.

In calling for this legislation, I would point out that its enactment would provide jobs for American seafaring and shipbuilding workers, improve the country's balance-of-payments position, strengthen the national security and enable the U.S. Government to initiate a much-needed oil transportation cost monitoring system.

First, H.R. 8193 would mean tens of thousands of jobs for American men and women who would produce the materials and build the ships: jobs for steelworkers, pipefitters, carpenters, welders, sheet-metal workers, electronic technicians, painters, electricians, and seafaring workers. Many of the shipyards in our Nation, and the economies of their surrounding areas would stand to gain from this legislation. For example, Bath Iron Works in my congressional district enjoys a national reputation for the fine ships that it produces. It recently completed construction of the first two of five 25,000 deadweight ton tankers in the "Sealift" series which will be leased to the Navy, and it has the capability of building tankers as large as 70,000 deadweight tons. Although everyone in our State is proud that employment at this private yard will reach an all-time high of 4,000 by June of this year, and contracts for work running well into the 1970's approach $300 million, the possibility of building U.S.-flag tankers there is both valuable to our State's economy and an honor the yard would relish.

Second, all of us know the precarious position of the American dollar in the international money market. We have experienced consistent balance-of-payments deficits. A major contributing factor to this deficit is our lack of U.S.-flag tankers. In 1972, the balance-of-payments deficit caused by the use of foreign-flag tankers to carry U.S. oil imports amounted to more than $500 million. In 1973 we saw this figure soar to around $600 million. By 1980, using Department of Interior oil import projections, and given no improvement in our own tanker capability, we look for the foreign-tanker-caused deficit to jump to more than $2.5 billion. To put it another way, our single largest commercial balance-of-payments deficit item soon will be the amount we pay for bringing this oil to our shores in foreign-flag ships. The second of these items is controllable and we must set about controlling it at once by achieving our own U.S.-flag oil-carrying capability. The chief way the balance-of-payments deficit which is attributable to the importation of foreign oil can be reduced is through the use of our own ships to carry the oil and, of course, doing whatever has to be done to reverse the growing trend to depend upon foreign sources and foreign refineries.

Third, we cannot support the fake theory that American-owned foreign-flag tankers are effectively controlled and available in emergency situations. America's defense posture faces a dual dependency: a dependency on other nations for oil, and a dependency on foreign ships to transport that oil to our shores. Under the conditions existing in the world today, it is clear that it is not in our national interest to formulate policies which perpetuate this dual dependency situation. Events flowing from the Middle East war are a case in point. Last November 2, Liberia, like other black African countries, broke diplomatic relations with Israel. But more importantly in their conduct, Liberia directed that no ship on its registry might haul any armaments to either Israel or belligerent Arab States. Although, with exceptions, the United States has not used "flag of convenience" or "flag of necessity" ships to haul weapons, Liberia's action does tend to demonstrate the unreliability of foreign flag nations in a crunch, and has renewed a long-standing debate over the so-called "effective control" doctrine, under which this country supposedly retains a "hold" on these U.S.-owned foreign flag vessels for emergency use.

Fourth, and finally, the United States would also gain from enactment of this legislation, because it will initiate a much-needed transportation cost monitoring system. For economic reasons, the big oil companies, which operate large fleets of foreign-flag tankers, have opposed H.R. 8193. But, if the energy crisis has brought any situation to light at all, it is that we simply do not have the price data and supply data we need from the oil companies to deal effectively with the energy crisis. Their operations are shrouded in secrecy, and this must not be. Most relevant to the Merchant Marine Subcommittee's hearings is that nobody really knows what the oil companies' transportation costs are, and to this extent we are at their mercy to pay whatever price they wish to charge, despite a relatively stable cost of crude oil at the wellhead. Now we have a bill before us which would protect the American consumer, because all the information relevant to the cost of shipping on U.S.-flag bottoms is available to the Government. Nor does the oil industry argument that carrying oil on foreign-bottom ships is less expensive hold much water any more. The skyrocketing price of imported oil, coupled with declining tanker charter rates, has suddenly changed the long-prevailing arithmetic and made the extra cost of using more expensive U.S.-flag tankers a much smaller percentage of the cost of oil. With tanker rates down as surplus tonnage accumulates in the face of cutbacks in shipments, and the price of foreign oil trippled or more, the consumer would be untouched or even benefit by a U.S.-flag requirement.

As a benefit to our employment and balance-of-payments situation, valuable resource in case of national emergency, and adjunct to other pending measures to meet the energy shortage, a requirement that U.S.-flag tankers be used to carry oil to our shores should be given swift and favorable consideration when it comes to the House floor for a vote.

SLOVAK INDEPENDENCE DAY

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. PATTEN. Mr. Speaker, 35 years ago on March 14, 1939, Slovak independence was proclaimed.

I know many of my colleagues will enjoy reading an article by Father Andrew V. Pier which recently appeared in the Jednota:

THIRTY-FIVE YEARS AGO: SLOVAK INDEPENDENCE DAY

(By Father Andrew V. Pier, O.S.B., M.A., Cleveland, Ohio)

Unfortunate, indeed, was the time when the declaration of Slovak national independence was proclaimed on March 14, 1939, but fortunate at the same time because the Slovak national parliament in Bratislava had the courage to declare Slovakia independent and place it on the map of central Europe as a country that belongs to the Slovaks who have their own language, literature, traditions and history that covers a span of more than twelve centuries in Central Europe.

Since their coming to the central Danube basin, the Slovaks have never been displaced or entirely subjugated despite wars, plagues, invasions, alien rule or exploitation under alien regime. They continued to be the chief inhabitants of the country—often in greatly reduced numbers—and they have survived all their would-be conquerors who failed to assimilate them. That they emerged in our time as a full-fledged nation and succeeded admirably in organizing their own state, the Slovak Republic, at a time when their powerful and less powerful neighbors were on the verge of a great war must be considered as an extraordinary achievement, if not a miracle.

What has made the historic homeland of our Slovak forefathers prone to invasions repeatedly from all sides? Its strategic position primarily, but aside from its importance as a military objective, Slovakia has much to lure the eyes of covetous neighbors: the fertile land and luxuriant forests, a variety of minerals, the picturesque low and high Tatra mountains, the many health spas, spectacular caverns, fresh water streams and navigable rivers . . . all these invaluable assets and certainly a delight for modern ecologists, an attraction to a thriving tourist trade summer and winter, and a source of great economic wealth that has not gone unnoticed (and certainly not unexploited) by the roving eyes of neighboring peoples.

Feudal landlords of Count Palfy's type in Slovakia, though ostensibly of Magyar affiliation, were actually descendants of ancient Slovak nobility that had become Magyarized and proffered loyalty to their Hungarian overlords in Budapest. They exercised great authority in their locality and exerted their influence over villages in their domain. It is to their credit that they showed unusual foresight in not only maintaining and preserving the natural ecology of the land but also in their extensive reforestation program that is paying dividends to this very day. In this work Slovak manpower was wisely utilized during the winter months when selective cutting down of timber made way for early spring planting of new trees. These lands were well protected from careless waste of natural resources, and when the new government of Czecho-Slovakia after World War I came into power, they were parcelled out to small landowners throughout the country.

Slovakia's struggle for political freedom was inextricably intertwined with the problem of preserving the national and cultural life of the Slovak people who were unjustly subjected to political, economic and educational pressures in an official movement by Magyar politicians to denationalize them. What had not been accomplished in a thousand years under Magyar domination chauvinistic political leaders in modern Hungary attempted to achieve in our time. The government in Budapest instituted a country-wide program of education in Slovakia that banned the native language from all schools . . . the Magyar tongue was officially declared the only language in Hungary . . . all others were silenced in public institutions . . . the home and the church were the only refuge of the native language of the Slovak nation in its historic homeland of more than a thousand years' duration.

Hungary's failure to assimilate the various nationalities within its confines of the dual Austro-Hungarian empire was due to the staunch opposition of patriotic leaders in Slovakia, Croatia and Transylvania, whose inhabitants constituted a vast majority in the kingdom. Repressive measures adopted by the policy-makers in Budapest served only to strengthen their subjects who ultimately won freedom, self-government and statehood (if only for a time) according to President Wilson's principle of self-determination solemnly enunciated during World War I that was fought "to save the world for democracy."

Starting on the road to freedom sadly handicapped by lack of personnel because the ruling Magyars had kept them suppressed in virtual serfdom, the Slovaks decided to accept the invitation of the Czechs (who had attained positions of power and influence in Prague under a mild Austrian rule) to join them in forming a dual democratic state with legal provisions and guarantees for a large measure of self-government in their own country in a dual alliance in a state to be known as Czecho-Slovakia, or the Czecho-Slovak Republic.

Despite assurances to respect the rights of the Slovak nation, the centralist Czech government of both President Masaryk and later President Benes must be held responsible for the ultimate failure of the joint venture and the collapse of the Republic, because they refused to honor their commitment to recognize Slovak state rights to local self-rule (autonomy) with specific guarantees for Slovak courts, a Slovak legislature and Slovak officials in Slovakia as solemnly agreed upon and officially signed by Thomas Masaryk in the Pittsburgh Pact on May 30, 1918. President Masaryk repudiated the document after the war and set the stage for the struggle of the Slovaks to win the right to self-government in their own country.

Refusal of the Czech centralist regime in Prague to keep the promise of autonomy to the Slovaks for twenty years united them under Hlinka's leadership that led them to victory on Oct. 6, 1938, when the Czech government finally gave in because of the imminent danger of a war with the Third Reich. In view of the bitter struggle to win self-rule, it was not at all surprising that less than six months later the Slovak diet (parliament) in Bratislava decided unanimously to sever the bonds of political union with Prague and declared Slovak national independence on March 14, 1939.

In no way can the circumstances of the declaration of Slovak independence justify a denial of the natural right of the Slovak nation to its own state. It was entirely in accord with Wilson's principle of self-determination as solemnly adopted and reiterated in the Atlantic Charter—nationhood for all nations—and later officially incorporated in the Charter of the United Nations. Moreover, the Slovak Republic received official recognition by all the powers of Europe almost a half year before the outbreak of World War II . . . therefore in the days of peace, uncertain as it was, peace nevertheless.

The shameful repudiation by the western allies of their solemn commitment to all nations aspiring to freedom and statehood in defense to Stalin at Teheran and Yalta was another instance of a solemn proclamation being treated by its creators as a mere scrap of paper. But this in no way destroyed the right of all nations, no matter how small, to be free.

Dissolution of the Slovak Republic is not a reflection upon the decision of the Slovak national parliament but a sad commentary on the powerful leaders of Great Britain and the United States who, when faced with a historic decision, backed off from it out of sheer expediency and abjectly agreed to give an unscrupluous dictator a free hand to establish communist regimes in central and eastern Europe.

At the moment, as we review the events of the past thirty-five years since the declaration of Slovak Independence on March 14, 1939, the aspirations of the Slovaks to freedom, nationhood and statehood have not changed because it is a God-given right for men to be free, and for people to enjoy political freedom in their own country. Their courage is truly admirable and their hopes of liberation have not been completely destroyed.

A country whose five million survived an abortive revolt during World War II, the invasion of several Soviet armies in the final stages of that world-wide conflict; suffered death and imprisonment of hundreds of its foremost citizens and leaders in the postwar political and religious persecution; forced to accept bloody reprisals again when the communists seized power in 1948; and again saw a second Soviet military invasion in 1968 that resulted in the return of hardline communists to power and military occupation of the land by foreign troops, has written a tragic but heroic chapter in modern world history. This is Slovakia, truly a home of the brave, though not of the free, but ever aspiring to national freedom and democratic self-governing statehood in the family of free nations in the heart of Europe.

What is the destiny of the Slovaks? Will they continue to survive additional blows to their country dealt by foreign oppressors, or are they doomed to perish? Will they succumb to the relentless attack of the forces of the hammer and sickle? Will they be eventually assimilated by their neighbors, or will they retain their pristine vitality to survive as a national entity?

Answers to all these questions are contingent, of course, on the direction of events in the future. But on the basis of the past history of the Slovaks who have endured many hardships and survived as a nation, Slovakia must assuredly emerge once again as a free country because here stout-hearted people have the indomitable will to persevere in the struggle to win their national freedom.

No fair-minded person can deny the right of any nation to have its own self-governing state because people the world over have learned to accept this principle as essential to the doctrine of human rights and hope for world peace.

We hope and pray that the Slovak nation will be finally granted the right to establish its own free, democratic state in a new age that will not only universally recognize the natural right of nations to be free but will provide the necessary means of world opinion and power to guarantee that all men be free on our planet that can no longer afford to tolerate human beings being half slave and half free.

CARDINAL MINDSZENTY: A VICTIM OF DÉTENTE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. CRANE. Mr. Speaker, on February 5, Pope Paul VI removed Josef Cardinal Mindszenty, the exiled foe of communism in Hungary, from the jurisdiction he had still nominally retained there, and from his honorary function as his nation's Roman Catholic primate. The papal decision on formal retirement for the 81-year-old cardinal was clearly aimed at improving church-state relations in Hungary.

Cardinal Mindszenty was tried for antistate activities by the Hungarian Government in 1949 and spent more than 22 years in imprisonment and in asylum in the U.S. Mission in Budapest. For years Communist officials in Hungary have told the Vatican publicly and privately that Cardinal Mindszenty must resign or be removed as primate before the church could expect to fill vacant sees or hold religious classes in schools.

Now, Cardinal Mindszenty has been forcibly removed from his position. Shortly after the Vatican announcement Lajos Lederer of the London Observer spoke with Cardinal Mindszenty in Vienna. He reported that—

> The spirit of the Cardinal—despite eight years in Stalinist prisons and 15 years in self-imposed exile in the U.S. embassy in Budapest—is unbent. He has taken off his gloves and is determined to spend the rest of his years battling against misguided concessions to Communist rulers from whatever quarter they come. . . . Mindszenty is convinced that the political advisers of the Pope have no inkling of the suffering of Catholics in Eastern Europe.

Cardinal Mindszenty has been a firm foe of tyranny, whether it was cloaked in the rhetoric of nazism, fascism, or communism. His name itself is evidence of that fact. Discussing his obstinate refusal to be cowed by the Nazis, Charles Fenyvesi, editor of the National Jewish Monthly and correspondent for the Israeli newspaper Ha'aretz, writes that—

> Of German origin himself, he changed his German name Pehm to Mindszenty—the name of his native village—at a time when Hitler called on descendants of German settlers in Eastern Europe to reassert their identity. In his sermons and letters, Mindszenty attacked Hitler's New Order as inhuman and atheistic. On one occasion, he called the police to remove Hungarian Nazis from a procession he led. . . . When Ferenc Szalasi's Nazi regime came to power, Mindszenty was one of the few priests jailed.

In an era of détente the firm hostility to tyranny of a man such as Cardinal Mindszenty is unwanted. Mr. Fenyvesi writes that—

> Like Alexander Solzhenitsyn, whose *Gulag Archipelago* was banned not only in Russia but on the airwaves of Voice of America, Cardinal Mindszenty is an unperson whose voice, like that of the uninvited wedding guest in Coleridge's *Ancient Mariner*, disturbs the merry din of the feast.

When he suffered in Hungary for his belief in God and in the church, many thought him a saint. Now, in an era of "good feeling" with the Communists he is an anachronism and the church is visibly uncomfortable with him. Saints, it seems, are unpopular in every era.

I wish to share with my colleagues the article, "Mindszenty: Unbending Martyr," by Charles Fenyvesi, which appeared in the Washington Post of February 24, 1974, and insert it into the RECORD at this time:

MINDSZENTY: UNBENDING MARTYR

(By Charles Fenyvesi)

I saw him once, in 1947 or 1948, leading a procession in a dusty petit bourgeois section of Budapest. It was a pageantry of satin church banners of blue and purple and medieval hymns. There was the glass-encased relic of the right hand of Saint Stephen—Hungary's first Christian king in the 10th Century. The procession moved slowly, impervious to the steady drizzle, in a setting of cheerless apartment buildings pockmarked with bullet holes.

From the sidewalk, filled with kneeling people, the prince primate of Hungary seemed miles and ages away. The burning eyes in the ashen-white face were fixed at some point in the sky. He was swathed in scarlet silks and surrounded by priests in embroidered robes. They were followed by clusters of village women in dull black from kerchief to boots and by city people of all ages in somber grays and blues.

Even in my grade school class we knew that Jozsef Cardinal Mindszenty and the new Communist regime were locked in a fateful struggle. My elders also knew that there could be but one end to that conflict.

The cardinal would not bend. There were many Hungarians who hoped that he would throw his weight behind the rivals of the Communist Party—like the Smallholders' Party which won close to 60 per cent of the vote in the free election of 1945—and search for ways to cope with the overwhelming fact of Soviet military occupation. But Mindszenty refused to play politics. He would only pray and resist. The slightest concession seemed to him a betrayal of principles—fatal weakness, abject surrender, high treason.

He sent a cable to Hungary's first democratically elected, non-Communist postwar premier: "The First Banneret of the Realm stands at the disposal of the nation." The position of the first banneret—the prince primate's feudal rank as the first officer of the kingdom—no longer existed. Hungary was declared a republic in 1946 and all aristocratic titles and privileges were rendered null and void. Mindszenty's cable read more like a challenge than the traditional congratulatory message from the head of the church.

STUBBORN, DETERMINED

Mindszenty was as stubborn and determined as the Communists; each knew that the other was an enemy with whom there could be no accommodation, no peace.

While the Communist leaders were successful in threatening and cajoling their democratic opposition into cooperation, they also felt that they had to dramatize to the restless nation—and to themselves—that no person or institution lay beyond the reach of "the iron fist of the dictatorship of the proletariat." What could have been a more telling demonstration of their power than the humiliation of the head of the conservative, traditionally Western-learning Catholic Church.

Many Hungarians who saw newsreels of his trial or listened to it on radio thought that Mindszenty had been beaten and drugged. After five weeks of interrogation, Mindzenty seemed like another person.

The strong, rich voice of a spell-binding orator was thin and monotonous; the piercing eyes had a dull sheen. There was an air of unreality about his listless confession to charges of high treason, the gathering of military intelligence and foreign currency speculation. The trial was absurd, macabre. It spread fear throughout the country and it signaled the beginning of a new era in which a few thousand angry, determined men loyal to Moscow would try to undo 1,000 years of Hungarian nationalism.

Next to the mysterious suicide of Czech Foreign Minister Jan Masaryk and the Berlin airlift, it was that trial in Budapest in February, 1949, which convinced the Western public that an iron curtain had indeed descended, cutting off the ancient capitals of Central and Eastern Europe from their lifelines to the West.

A SOLITARY MAN

Hungarian politics always had its fair share of priests. They were usually hearty, gregarious types, outdoing their lay brothers in their appreciation for food, wine and good company which sometimes included women.

Mindszenty is an exception. He has always slept on a pallet, and even in the majestic baroque palace of the prince primate he kept to his diet of cheese, bread and milk. When traveling, he has always refused the choice food and wine prepared for him; his wish is "only one course," often the soup.

He has had no cronies, no close personal friends. From the time he was ordained—in 1915—he preferred a solitary life of meditation, prayer and reading books on theology, philosophy and history.

All his life, Mindszenty lived in a posture of defiance and displayed a dogged obstinacy which reminded his class-conscious countrymen of his peasant origin. He never seemed to have talent for conformity or wise compromise.

In his 20s, he wrote newspaper articles attacking the police terror of the short-lived Hungarian Commune in 1919. He was first jailed, then deported to his native village. After that first Hungarian Communist experiment collapsed, Mindszenty angered many people by denouncing from the pulpit the white terror that followed the red.

Then for years he refused to celebrate mass on the name's day of the regent, Nicholas Horthy, whom he regarded as an usurper. Of German origin himself, he changed his German name Pehm to Mindszenty—the name of his native village—at a time when Hitler called on descendants of German settlers in Eastern Europe to reassert their German identity. In his sermons and letters, Mindszenty attacked Hitler's New Order as inhuman and atheistic. On one occasion, he called the police to remove Hungarian Nazis from a procession he led.

In 1941, he interceded with his schoolmate, the pro-German Premier Bardossy, on behalf of Jews in German-occupied Yugoslavia, across the border from his diocese. He also sent a telegram to Hitler to protest massacres of Jews. When Ferenc Szalasi's Nazi regime came to power, Mindszenty was one of the few priests jailed.

Partly because of his anti-Nazi record, he was named prince primate shortly after World War II ended. One of his first actions was to denounce Russian soldiers for looting and raping. He began a campaign against the Communists.

He demanded a referendum on declaring Hungary a republic. He accused the democratic parties of being soft on communism. After the democratic parties were liquidated, he thought it was his historic duty as the head of the church to resist the Communist regime.

He was arrested the day after Christmas, 1948, after all leaves were canceled in the Secret Police and the police force was put on alert.

The Communists had offered him free passage to the West. During his American tour in 1947, American churchmen had asked him not to return home.

He was not a man caught in the wheels of history. He chose martyrdom; he prepared himself for it. He thought he would be sentenced to death and hoped that his execution would arouse the world against Communism. And he knew that the Communists had ways to extract false confessions. A few days before his arrest, he wrote a message declaring his innocence and attributing any confession he might make to the weakness of the flesh.

He served eight years in jail, most of it in solitary confinement. In 1956, the rebels freed him, and a broadcast speech he made served as a pretext for the Russian intervention which crushed the uprising.

As Russian tanks rumbled through the streets of Budapest, Mindszenty sought asylum at the American legation; Premier Imre Nagy and his supporters went to the Yugoslav embassy. But for 13 of the 15 years that the Cardinal spent under U.S. protection, the United States, Hungary and the Vatican agreed that he must leave the country. All that the cardinal had to choose was one of the several face-saving formulas negotiated for him.

His argument was that as the prince primate of Hungary, he had taken an oath not to abandon his flock; that as a patriot it was his duty to stay in his homeland; and that as an innocent man convicted by a kangaroo court he had to be exonerated.

He resisted the steadily increasing pressures of the Holy See and three American administrations—Eisenhower, Kennedy and Johnson—which considered his asylum the chief obstacle to improving relations with the Hungarian government.

The State Department regarded him as its cross to bear; it was forever apprehensive about his falling sick or walking out in a huff. The handful of U.S. diplomats authorized to converse with him complained bitterly about his anti-Communist tirades and his unceasing criticism of the United States for failing to go to Hungary's aid in her hour of need in 1956.

His eventual departure, in September, 1971, Mindszenty described as his submission to the will of the Vatican. It removed the most conspicuous symbol of Catholic resistance to Communism and it enabled the church to accelerate its course of peaceful coexistence. For the Hungarian government, it represented a milestone in its search for detente at home and respectability abroad.

CENTER OF TALKS

"The stubborn old fool," as Hungarian communists called him, is now tucked away in Vienna, in a seminary that has belonged to the Hungarian Church for centuries. (The Pope had wanted him to stay in Rome, but the cardinal insisted on staying as close to Hungary as possible.)

His departure left Hungary so much the poorer. As long as he stayed at the American legation, his physical presence in Hungary was still a psychological factor to reckon with. In Vienna, he is of no real consequence.

Or so one imagines. But, according to the Catholic News Service, talks between the Hungarian government and the Holy See in January centered on Mindszenty. No normalization of relations is possible, it was established, unless the Vatican provided for the selection of a new primate of Hungary, which was the essence of Pope Paul's announcement in February, declaring Mindszenty's post "vacant"; the "neutralization" of the memoirs Mindszenty has been writing since 1956—whatever that means—and the cancellation of Mindszenty's Vatican passport.

IGNORED IN UNITED STATES

With an eerie vindictiveness—or was it a gesture to Budapest?—the Vatican announced Mindszenty's retirement 25 years to the day from the time he was sentenced to life imprisonment. Mindszenty promptly denied that he had voluntarily given up his post. In effect, he called the Pope a liar. He followed it up with a six-point attack on the Hungarian government's suppression of religious freedom.

Pope Paul's removal of Mindszenty as the head of the Hungarian Church is just another episode marking the end of the cold war. Mindszenty, the erstwhile patron saint of the Free World, has become an embarrassment to the new partnership of detente.

Like Alexander Solzhenitsyn, whose "Gulag Archipelago" was banned not only in Russia but on the airwaves of the Voice of America, Cardinal Mindszenty is an unperson whose voice, like that of the uninvited wedding guest in Coleridge's "Ancient Mariner," disturbs the merry din of the feast.

Mindszenty visited the United States last September, to bless a renovated Hungarian church in New Brunswick, N.J. His three-day stay was played down by church and state.

Except for Terence Cardinal Cooke of New York, the American church ignored his presence. President Nixon sent him a cable—assuring him of gratitude and wishing "a thoroughly pleasant stay"—but the telegram somehow did not reach the cardinal until the day he left.

Two weeks after his departure, Sen. Edward Kennedy declared on the Senate floor that Mindszenty reminded the world of "the indivisible nature of man's spirit and the eternal quest for individual liberty." But no government representative visited him; the institutions which once acclaimed him martyr had no more interest in him.

Mindszenty's ultimate tragedy is that he has outlived the usefulness of his martyrdom.

PROPOSED AMENDMENTS TO TITLE I OF H.R. 69

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. PEYSER. Mr. Speaker, I am enclosing in the RECORD today a number of amendments to the bill, H.R. 69, which under the rule adopted for consideration of this bill must be printed in today's RECORD. These are amendments to the title I formula for the distribution of funds under the act.

I support the programs of the Elementary and Secondary Education Act, but am convinced that the title I formula must be amended to provide for an equitable distribution of funds.

The 11 amendments follow:

AMENDMENT NO. 1

Page 28, beginning with line 10, strike out everything down through line 11, page 36, and insert in lieu thereof the following:

SEC. 102. Section 103 of title I of the Act is amended to read as follows:

SEC. 103. (a) (1) (A) There is hereby authorized to be appropriated for each fiscal year for the purpose of this paragraph an amount equal to not more than 1 per centum of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection). The Commissioner shall allot the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants. In addition, he shall allot from such amount to the Secretary of the Interior—

(i) the amount necessary to make payments pursuant to subgraph (B); and

(ii) the amount necessary to make payments pursuant to subparagraph (C).

The maximum grant which a local educational agency in Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this part.

(B) The terms on which payment shall be made to the Department of the Interior shall include provision for payments by the Secretary of the Interior to local educational agencies with respect to out-of-State Indian children in the elementary or secondary schools of such agencies under special contracts with that Department. The amount of any such payment may not exceed, for each such child, one-half the average per pupil expenditure in the State in which the agency is located.

(C) The maximum amount allotted for payments to the Secretary of the Interior under clause (ii) in the third sentence of subparagraph (A) for any fiscal year shall be the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, as determined pursuant to criteria established by the Commissioner. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this part. Such agreement shall contain (1) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section (3)(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (2) provision for carrying out the applicable provisions of sections 131(a) and 133(a)(3).

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the maximum grant which a local educational agency in a State shall be eligible to receive under this part for any fiscal year shall be (except as provided in paragraph (3)) an amount equal to the Federal percentage (established pursuant to subsection (c)) of the average per pupil expenditure in that State or, if greater, in the United States multiplied by the number of children in the school district of such agency who are aged five to seventeen, inclusive, and are (A) in families having an annual income of less than the low-income factor (established pursuant to subsection (c)), (B) all of the number of children in the school district of such agency who are aged five to seventeen, inclusive and who are in families receiving an annual income in excess of the low-income factor (established pursuant to subsection (c)) from payments under the program of aid to families with dependent children under a state plan approved under Title IV of the Social Security Act, or (C) living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to paragraph (7) of this subsection for the purpose of a grant to a State agency, or being supported in foster homes with public funds. In any other case, the maximum grant for any local educational agency in a State shall be determined on the basis of the aggregate maximum amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate maximum amount shall be equal to the Federal percentage of such per pupil expenditure multiplied by the number of children of such ages in such county or counties who are described in clauses (A), (B), or (C) of the previous sentence, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner. Notwithstanding the foregoing provisions of this paragraph, upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children, described in clause (C) of the first sentence of this paragraph, who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

(3) (A) If the maximum amount of the grant determined pursuant to paragraph (1) or (2) for any local educational agency is greater than 50 per centum of the sum budgeted by that agency for current expenditures for that year (as determined pursuant to regulations of the Commissioner), such maximum amount shall be reduced to 50 per centum of such budgeted sum.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the maximum grants for those agencies among them in such manner as it determines will best carry out the purpose of this part.

(4) The grant which Puerto Rico shall be eligible to receive under this part for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) by 50 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than the average per pupil expenditure in the United States.

(5) For purposes of this subsection, the term "States" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children aged five to seventeen, inclusive, described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a).

(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purposes of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c) For the purposes of this section, the "Federal percentage" shall be 50 per centum and the "low-income factor" shall be $3,500 for each fiscal year of this Act, except that no county shall receive less than 100 per centum of the amount they have received for the previous fiscal year.

(d) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, of families having an annual income of less than the low-income factor (as established pursuant to subsection (c)) on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary of Health, Education, and Welfare shall determine the number of children of such ages from families receiving an annual income in excess of the low-income factor from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.

When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families having an annual income less than the low-income factor (established pursuant to subsection (c)) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(e) For the purpose of this section, "the average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, (or, if satisfactory data for that year are not available at the time of computation, then during the earliest preceding fiscal year for which satisfactory data are available) of all local educational agencies as defined in section 303(6) (A) in the State, or in the United States (which for the purposes of this subsection means the fifty States and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

Renumber all following sections accordingly.

AMENDMENT NO. 2

Page 28, beginning with line 10, strike out everything down through line 11, p. 36, and insert in lieu thereof the following:

SEC. 102. Section 103 of Title I of the Act is amended to read as follows:

SEC. 103. (a) (1) (A) There is hereby authorized to be appropriated for each fiscal year for the purpose of this paragraph an amount equal to not more than 1 (one) per centum of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection). The Commissioner shall allot the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants. In addition, he shall allot from such amount to the Secretary of the Interior—

(i) the amount necessary to make payments pursuant to subparagraph (B); and

(ii) the amount necessary to make payments pursuant to subparagraph (C).
The maximum grant which a local educational agency in Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this part.

(B) The terms on which payment shall be made to the Department of the Interior shall include provision for payments by the Secretary of the Interior to local educational agencies with respect to out-of-State Indian children in the elementary or secondary schools of such agencies under special contracts with that Department. The amount of any such payment may not exceed, for each such child, one-half the average per pupil expenditure in the State in which the agency is located.

(C) The maximum amount allotted for payments to the Secretary of the Interior under clause (ii) in the third sentence of subparagraph (A) for any fiscal year shall be the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, as determined pursuant to criteria established by the Commissioner. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this part. Such agreement shall contain (1) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 131(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (2) provision for carrying out the applicable provisions of sections 131 (a) and 133(a)(3).

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the maximum grant which a local educational agency in a State shall be eligible to receive under this part for any fiscal year shall be (except as provided in paragraph (3)) an amount equal to the Federal percentage (established pursuant to subsection (c)) of the average per pupil expenditure in that State or, if greater, in the United States multiplied by the number of children in the school district of such agency who are aged five to seventeen, inclusive, and are (A) in families having an annual income of less than the low-income factor (established pursuant to subsection (c)), (B) all of the number of children in the school district of such agency who are aged five to seventeen, inclusive and who are in families receiving an annual income in excess of the low-income factor (established pursuant to subsection (c)) from payments under the program of aid to families with dependent children under a State plan approved under Title IV of the Social Security Act, or (C) living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to paragraph (7) of this subsection for the purpose of a grant to a State agency, or being supported in foster homes with public funds. In any other case, the maximum grant for any local educational agency in a State shall be determined on the basis of the aggregate maximum amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate maximum amount shall be equal to the Federal percentage of such per pupil expenditure multiplied by the number of children of such ages in such county or counties who are described in clauses (A), (B), or (C) of the previous sentence, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner. Notwithstanding the foregoing provisions of this paragraph, upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children, described in clause (C) of the first sentence of this paragraph, who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

(3)(A) If the maximum amount of the grant determined pursuant to paragraph (1) or (2) for any local educational agency is greater than 50 per centum of the sum budgeted by that agency for current expenditures for that year (as determined pursuant to regulations of the Commissioner), such maximum amount shall be reduced to 50 per centum of such budgeted sum.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the maximum grants for those agencies among them in such manner as it determines will best carry out the purpose of this part.

(4) The grant which Puerto Rico shall be eligible to receive under this part for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) by 50 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than the average per pupil expenditure in the United States, the average per pupil expenditure in the United States.

(5) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children aged five to seventeen, inclusive, described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a).

(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c) For the purposes of this section, the "Federal percentage" shall be 50 per centum and the "low-income factor" shall be $3,000 for each fiscal year of this Act, except that no county shall receive less than 100 per centum of the amount they have received for the previous fiscal year.

(d) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, of families having an annual income of less than the low-income factor (as established pursuant to subsection (c)) on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary of Health, Education, and Welfare shall determine the number of children of such ages from families receiving an annual income in excess of the low-income factor from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.

When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families having an annual income less than the low-income factor (established pursuant to subsection (c)) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(e) For the purpose of this section, "the average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or, if satisfactory data for that year are not available at the time of computation, then during the earliest preceding fiscal year for which satisfactory data are available) of all local educational agencies as defined in section 303(6) (A) in the State, or in the United States (which for the purposes of this subsection means the fifty States and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

Renumber all following sections accordingly.

AMENDMENT NO. 3

Page 28, beginning with line 10, strike out everything down through line 11, page 36, and insert in lieu thereof the following:

SEC. 102. Section 103 of Title I of the Act is amended to read as follows:

SEC. 103. (a) (1) (A) There is hereby authorized to be appropriated for each fiscal year for the purpose of this paragraph an amount equal to not more than 1 per centum of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection). The Commissioner shall allot the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants. In addition, he shall allot from such amount to the Secretary of the Interior—

(i) the amount necessary to make payments pursuant to subparagraph (B); and

(ii) the amount necessary to make payments pursuant to subparagraph (C).

The maximum grant which a local educational agency in Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this part.

(B) The terms on which payment shall be made to the Department of the Interior shall include provision for payments by the Secretary of the Interior to local educational agencies with respect to out-of-State Indian children in the elementary or secondary schools of such agencies under special contracts with that Department. The amount of any such payment may not exceed, for each such child, one-half the average per pupil expenditure in the State in which the agency is located.

(C) The maximum amount allotted for payments to the Secretary of the Interior under clause (ii) in the third sentence of subparagraph (A) for any fiscal year shall be the amount necessary to meet the special education needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, as determined pursuant to criteria established by the Commissioner. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this part. Such agreement shall contain (1) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 131(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (2) provision for carrying out the applicable provisions of sections 131(a) and 133(a) (3).

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the maximum grant which a local educational agency in a State shall be eligible to receive under this part for any fiscal year shall be (except as provided in paragraph (3)) an amount equal of the Federal percentage (established pursuant to subsection (c)) of the average per pupil expenditure in that State or, if greater, in the United States multiplied by the number of children in the school district of such agency who are aged five to seventeen, inclusive, and are (A) in families having an annual income of less than the low-income factor (established pursuant to subsection (c)), (B) all of the number of children in the school district of such agency who are aged five to seventeen, inclusive and who are in families receiving an annual income in excess of the low-income factor (established pursuant to subsection (c)) from payments under the program of aid to families with dependent children under a state plan approved under Title IV of the Social Security Act, or (C) living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to paragraph (7) of this subsection for the purpose of a grant to a State agency, or being supported in foster homes with public funds. In any other case, the maximum grant for any local educational agency in a State shall be determined on the basis of the aggregate maximum amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate maximum amount shall be equal to the Federal percentage of such per pupil expenditure multiplied by the number of children of such ages in such county or counties who are described in clauses (A), (B), or (C) of the previous sentence, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner. Notwithstanding the foregoing provisions of this paragraph, upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children, described in clause (C) of the first sentence of this paragraph, who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

(3) (A) If the maximum amount of the grant determined pursuant to paragraph (1) or (2) for any local educational agency is greater than 50 per centum of the sum budgeted by that agency for current expenditures for that year (as determined pursuant to regulations of the Commissioner), such maximum amount shall be reduced to 50 per centum of such budgeted sum.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the maximum grants for those agencies among them in such manner as it determines will best carry out the purpose of this part.

(4) The grant which Puerto Rico shall be eligible to receive under this part for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) by 50 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than the average per pupil expenditure in the United States.

(5) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children aged five to seventeen, inclusive, described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a).

(1) In any case (except as provided in paragraph (3) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c) For the purposes of this section, the "Federal percentage" shall be 50 per centum and the "low-income factor" shall be $3,500 for each fiscal year of this Act, except that no county shall receive less than 85 per centum of the amount they have received for the previous fiscal year.

(d) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, of families having an annual income of less than the low-income factor (as established pursuant to subsection (c)) on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary of Health, Education, and Welfare shall determine the number of children of such ages from families receiving an annual income in excess of the low-income factor from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.

When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families, having an annual income less than the low-income factor (established pursuant to subsection (c)) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(e) For the purpose of this section, "the average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, (or, if satisfactory data for that year are not available at the time of computation, then during the earliest preceding fiscal year for which satisfactory data are available) of all local educational agencies as defined in section 303(6)(A) in the State, or in the United States (which for the purposes of this subsection means the fifty States and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

Renumber all following sections accordingly.

AMENDMENT NO. 4

Page 28, beginning with line 10, strike out everything down through line 11, p. 36, and insert in lieu thereof the following:

SEC. 102. Section 103 of Title I of the Act is amended to read as follows:

SEC. 103. (a)(1)(A) There is hereby authorized to be appropriated for each fiscal year for the purpose of this paragraph an amount equal to not more than 1 (one) per centum of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection). The Commissioner shall allot the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants. In addition, he shall allot from such amount to the Secretary of the Interior—

(i) the amount necessary to make payments pursuant to subparagraph (B); and

(ii) the amount necessary to make payments pursuant to subparagraph (C).

The maximum grant which a local educational agency in Puerto Rico, Guam, American Samoa, the Virginia Islands, and the Trust Territory of the Pacific Islands shall be eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this part.

(B) The terms on which payment shall be made to the Department of the Interior shall include provision for payments by the Secretary of the Interior to local educational agencies with respect to out-of-State Indian children in the elementary or secondary schools of such agencies under special contracts with that Department. The amount of any such payment may not exceed, for each such child, one-half the average per pupil expenditure in the State in which the agency is located.

(C) The maximum amount allotted for payments to the Secretary of the Interior under clause (ii) in the third sentence of subparagraph (A) for any fiscal year shall be the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, as determined pursuant to criteria established by the Commissioner. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this part. Such agreement shall contain (1) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 131(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (2) provision for carrying out the applicable provisions of section 131(a) and 133(a)(3).

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the maximum grant which a local educational agency in a State shall be eligible to receive under this part for any fiscal year shall be (except as provided in paragraph (3)) an amount equal to the Federal percentage (established) pursuant to subsection (c)) of the average per pupil expenditure in that State or, if greater, in the United States multiplied by the number of children in the school district of such agency who are aged five to seventeen, inclusive, and are (A) in families having an annual income of less than the low-income factor (established pursuant to subsection (c)), (B) all of the number of children in the school district of such agency who are aged five to seventeen, inclusive and who are in families receiving an annual income in excess of the low-income factor (established pursuant to subsection (c)) from payments under the program of aid to families with dependent children under a state plan approved under Title IV of the Social Security Act, or (C) living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to paragraph (7) of this subsection for the purpose of a grant to a State agency, or being supported in foster homes with public funds. In any other case, the maximum grant for any local educational agency in a State shall be determined on the basis of the aggregate maximum amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate maximum amount shall be equal to the Federal percentage of such per pupil expenditure multiplied by the number of children of such ages in such county or counties who are described in clauses (A), (B), or (C) of the previous sentence, and shall be allocated among those agencies upon such equitable basis as many be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner. Notwithstanding the foregoing provisions of this paragraph, upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children, described in clause (C) of the first sentence of this paragraph, who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

(3)(A) If the maximum amount of the grant determined pursuant to paragraph (1) or (2) for any local educational agency is greater than 50 per centum of the sum budgeted by that agency for current expenditures for that year (as determined pursuant to regulations of the Commissioner), such maximum amount shall be reduced to 50 per centum of such budgeted sum.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the maximum grants for those agencies among them in such manner as it determines will best carry out the purpose of this part.

(4) The grant which Puerto Rico shall be eligible to receive under this part for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) by 50 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than the average per pupil expenditure in the United States.

(5)(a) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children aged five to seventeen, inclusive, described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a).

(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c) For the purposes of this section, the "Federal percentage" shall be 50 per centum and the "low-income factor" shall be $3,500 for each fiscal year of this Act, except that no county shall receive less than 95% of the amount they have received for the previous fiscal year.

(d) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, of families having an annual income of less than the low-income factor (as established pursuant to subsection (c)) on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary of Health, Education, and Welfare shall determine the number of children of such ages from families receiving an annual income in excess of the low-income factor from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.

When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families having an annual income less than the low-income factor (established pursuant to subsection (c)) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(e) For the purpose of this section, "the average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures during the second fiscal year preceding the fiscal year for which the computation is made, (or, if satisfactory data for that year are not available at the time of computation, then during the earliest preceding fiscal year for which satisfactory data are available) of all local educational agencies as defined in section 303(6)(A) in the State, or in the United States (which for the purposes of this subsection means the fifty States and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

Renumber all following sections accordingly.

AMENDMENT NO. 5

Page 28, beginning with line 10, strike out everything down through line 11, p. 36, and insert in lieu thereof the following:

SEC. 102. Section 103 of Title I of the Act is amended to read as follows:

SEC. 103. (a)(1)(A) There is hereby authorized to be appropriated for each fiscal year for the purpose of this paragraph an amount equal to not more than 1 per centum of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection). The Commissioner shall allot the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants. In addition, he shall allot from such amount to the Secretary of the Interior—

(i) the amount necessary to make payments pursuant to subparagraph (B); and

(ii) the amount necessary to make payments pursuant to subparagraph (C).

The maximum grant which a local educational agency in Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this part.

(B) The terms on which payments shall be made to the Department of the Interior shall include provision for payments by the Secretary of the Interior to local educational agencies with respect to out-of-State Indian children in the elementary or secondary schools of such agencies under special contracts with that Department. The amount of any such payment may not exceed, for each such child, one-half the average per pupil expenditure in the State in which the agency is located.

(C) The maximum amount allotted for payments to the Secretary of the Interior under clause (ii) in the third sentence of subparagraph (A) for any fiscal year shall be the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, as determined pursuant to criteria established by the Commissioner. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this part. Such agreement shall contain (1) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 131(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (2) provision for carrying out the applicable provisions of sections 131(a) and 133(a)(3).

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the maximum grant which a local educational agency in a State shall be eligible to receive under this part for any fiscal year shall be (except as provided in paragraph (3)) an amount equal to the Federal percentage (established pursuant to subsection (c)) of the average per pupil expenditure in that State or, if greater, in the United States multiplied by the number of children in the school district of such agency who are aged five to seventeen, inclusive, and are (A) in families having an annual income of less than the low-income factor (established pursuant to subsection (c)), (B) ⅔ of the number of children in the school district of such agency who are aged five to seventeen, inclusive and who are in families receiving an annual income in excess of the low-income factor (established pursuant to subsection (c)) from payments under the program of aid to families with dependent children under a state plan approved under Title IV of the Social Security Act, or (C) living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to paragraph (7) of this subsection for the purpose of a grant to a State agency, or being supported in foster homes with public funds. In any other case, the maximum grant for any local educational agency in a State shall be determined on the basis of the aggregate maximum amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate maximum amount shall be equal to the Federal percentage of such per pupil expenditure multiplied by the number of children of such ages in such county or counties who are described in clauses (A), (B), or (C) of the previous sentence, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner. Notwithstanding the foregoing provisions of this paragraph, upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children, described in clause (C) of the first sentence of this paragraph, who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

(3)(A) If the maximum amount of the grant determined pursuant to paragraph (1) or (2) for any local educational agency is greater than 50 per centum of the sum budgeted by that agency for current expenditures for that year (as determined pursuant to regulations of the Commissioner), such maximum amount shall be reduced to 50 per centum of such budgeted sum.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the maximum grants for those agencies among them in such manner as it determines will best carry out the purpose of this part.

(4) The grant which Puerto Rico shall be eligible to receive under this part for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) by 50 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than the average per pupil expenditure in the United States, the average per pupil expenditure in the United States.

(5) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children aged five to seventeen, inclusive, described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a).

(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c) For the purposes of this section, the "Federal percentage" shall be 50 per centum and the "low-income factor" shall be $3,500 for each fiscal year of this Act, except that no county shall receive less than 85 per centum of the amount they have received for the previous fiscal year.

(d) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, of families having an annual income of less than the low-income factor (as established pursuant to subsection (c)) on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary of Health, Education, and Welfare shall determine the number of children of such ages from families receiving an annual income in excess of the low-income factor from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.

When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families having an annual income less than the low-income factor (established pursuant to subsection (c)) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(e) For the purpose of this section, "the average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or, if satisfactory data for that year are not available at the time of computation, then during the earliest preceding fiscal year for which satisfactory data are available) of all local educational agencies as defined in section 303 (6)(A)[1] in the State, or in the United States (which for the purposes of this subsection means the fifty States and the District of Columbia), as the case may be plus any direct current expenditures by the State for operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

Renumber all following sections accordingly.

AMENDMENT NO. 6

Page 28, beginning with line 10, strike out everything down through line 11, p. 36, and insert in lieu thereof the following:

SEC. 102. Section 103 of Title I of the Act is amended to read as follows:

SEC. 103. (a)(1)(A) There is hereby authorized to be appropriated for each fiscal year for the purpose of this paragraph an amount equal to not more than 1 (one) per centum of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection). The Commissioner shall allot the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants. In addition, he shall allot from such amount to the Secretary of the Interior—

(i) the amount necessary to make payments pursuant to subparagraph (B); and

(ii) the amount necessary to make payments pursuant to subparagraph (C).

The maximum grant which a local educational agency in Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this part.

(B) The terms on which payment shall be made to the Department of the Interior shall include provision for payments by the Secretary of the Interior to local educational agencies with respect to out-of-State Indian children in the elementary or secondary schools of such agencies under special contracts with that Department. The amount of any such payment may not exceed, for each such child, one-half the average per pupil expenditure in the State in which the agency is located.

(C) The maximum amount allotted for payments to the Secretary of the Interior under clause (ii) in the third sentence of subparagraph (A) for any fiscal year shall be the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, as determined pursuant to criteria established by the Commissioner. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this part. Such agreement shall contain (1) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 131(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (2) provision for carrying out the applicable provisions of sections 131(a) and 133(a)(3).

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the maximum grant which a local educational agency in a State shall be eligible to receive under this part for any fiscal year shall be (except as provided in paragraph (3)) an amount equal to the Federal percentage (established pursuant to subsection (c)) of the average per pupil expenditure in that State or, if greater, in the United States multiplied by the number of children in the school district of such agency who are aged five to seventeen, inclusive, and are (A) in families having an annual income of less than the low-income factor (established pursuant to subsection (c)), (B) all of the number of children in the school district of such agency who are aged five to seventeen, inclusive and who are in families receiving an annual income in excess of the low-income factor (established pursuant to subsection (c)) from payments under the program of aid to families with dependent children under a state plan approved under Title IV of the Social Security Act, or (C) living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to paragraph (7) of this subsection for the purpose of a grant to a State agency, or being supported in foster homes with public funds. In any other case, the maximum grant for any local educational agency in a State shall be determined on the basis of the aggregate maximum amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate maximum amount shall be equal to the Federal percentage of such per pupil expenditure multiplied by the number of children of such ages in such county or counties who are described in clauses (A), (B), or (C) of the previous sentence, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner. Notwithstanding the foregoing provisions of this paragraph, upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children, described in clause (C) of the first sentence of this paragraph, who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibiltiy for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

(3)(A) If the maximum amount of the grant determined pursuant to paragraph (1) or (2) for any local educational agency is greater than 50 per centum of the sum budgeted by that agency for current expenditures for that year (as determined pursuant to regulations of the Commissioner), such maximum amount shall be reduced to 50 per centum of such budgeted sum.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the maximum grants for those agencies among them in such manner as it determines will best carry out the purpose of this part.

(4) The grant which Puerto Rico shall be eligible to receive under this part for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) by 50 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than the average per pupil expenditure in the United States, the average per pupil expenditure in the United States.

(5) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children aged five to seventeen, inclusive, described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a).

(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commis-

sioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c) For the purposes of this section, the "Federal percentage" shall be 50 per centum and the "low-income factor" shall be $3,750 for each fiscal year of this Act, except that no county shall receive less than 85 per centum of the amount they have received for the previous fiscal year.

(d) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, of families having an annual income of less than the low-income factor (as established pursuant to subsection (c)) on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary of Health, Education, and Welfare shall determine the number of children of such ages from families receiving an annual income in excess of the low-income factor from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.

When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families having an annual income less than the low-income factor (established pursuant to subsection (c)) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(e) For the purpose of this section, "the average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or, if satisfactory data for that year are not available at the time of computation, then during the earliest preceding fiscal year for which satisfactory data are available), of all local educational agencies as defined in section 303(6)(A) in the State, or in the United States (which for the purposes of this subsection means the fifty States and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

Renumber all following sections accordingly.

AMENDMENT NO. 7

Page 28, beginning with line 10, strike out everything down through line 11, page 36, and insert in lieu thereof the following:

SEC. 102. Section 103 of title I of the Act is amended to read as follows:

SEC. 103. (a)(1)(A) There is hereby authorized to be appropriated for each fiscal year for the purpose of this paragraph an amount equal to not more than 1 (one) per centum of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection). The Commissioner shall allot the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants. In addition, he shall allot from such amount to the Secretary of the Interior—

(ii) the amount necessary to make payments pursuant to subparagraph (B); and

(iii) the amount necessary to make payments pursuant to subparagraph (C).

The maximum grant which a local educational agency in Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this part.

(B) The terms on which payment shall be made to the Department of the Interior shall include provision for payments by the Secretary of the Interior to local educational agencies with respect to out-of-State Indian children in the elementary or secondary schools of such agencies under special contracts with that Department. The amount of any such payment may not exceed, for each such child, one-half the average per pupil expenditure in the State in which the agency is located.

(C) The maximum amount allotted for payments to the Secretary of the Interior under clause (ii) in the third sentence of subparagraph (A) for any fiscal year shall be the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, as determined pursuant to criteria established by the Commissioner. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this part. Such agreement shall contain (1) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 131(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (2) provision for carrying out the applicable provisions of sections 131(a) and 133(a)(3).

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the maximum grant which a local educational agency in a State shall be eligible to receive under this part for any fiscal year shall be (except as provided in paragraph (3)) an amount equal to the Federal percentage (established pursuant to subsection (c)) of the average per pupil expenditure in that State or, if greater, in the United States multiplied by the number of children in the school district of such agency who are aged five to seventeen, inclusive, and are (A) in families having an annual income of less than the low-income factor (established pursuant to subsection (c)), (B) all of the number of children in the school district of such agency who are aged five to seventeen, inclusive, and who are in families receiving an annual income in excess of the low-income factor (established pursuant to subsection (c)) from payments under the program of aid to families with dependent children under a state plan approved under title IV of the Social Security Act, or (C) living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to pargaraph (7) of this subsection for the purpose of a grant to a State agency, or being supported in foster homes with public funds. In any other case, the maximum grant for any local educational agency in a State shall be determined on the basis of the aggregate maximum amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate maximum amount shall be equal to the Federal percentage of such per pupil expenditure multiplied by the number of children of such ages in such county or counties who are described in clauses (A), (B), or (C) of the previous sentence, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner. Notwithstanding the foregoing provisions of this paragraph, upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children, described in clause (C) of the first sentence of this paragraph, who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

(3)(A) If the maximum amount of the grant determined pursuant to paragraph (1) or (2) for any local educational agency is greater than 50 per centum of the sum budgeted by that agency for current expenditure for that year (as determined pursuant to regulations of the Commissioner), such maximum amount shall be reduced to 50 per centum of such budgeted sum.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the maximum grants for those agencies among them in such manner as it determines will best carry out the purpose of this part.

(4) The grant which Puerto Rico shall be eligible to receive under this part for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) by 50 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than the average per pupil expenditure in the United States.

(5) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children aged five to seventeen, inclusive, described in clauses (A), (B), and

(C) of the first sentence of paragraph (2) of subsection (a).

(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c) For the purposes of this section, the "Federal percentage" shall be 50 per centum and the "low-income factor" shall be $4,000 for each fiscal year of this Act, except that no county shall receive less than 100% of the amount they have received for the previous fiscal year.

(d) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, of families having an annual income of less than the low-income factor (as established pursuant to subsection (c)) on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary of Health, Education, and Welfare shall determine the number of children of such ages from families receiving an annual income in excess of the low-income factor from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.

When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families having an annual income less than the low-income factor (established pursuant to subsection (c)) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(e) For the purpose of this section, "the average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures during the second fiscal year preceding the fiscal year for which the computation is made, (or, if satisfactory data for that year are not available at the time of computation, then during the earliest preceding fiscal year for which satisfactory data are available) of all local educational agencies as defined in section 303(6)(A) in the State, or in the United States (which for the purposes of this subsection means the fifty States and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

Renumber all the following sections accordingly.

Amendment No. 8

Page 48, beginning with line 9, strike out everything down through line 18, and insert in lieu thereof the following: "All other provisions of this Act notwithstanding, no local educational agency shall be allocated less funds under this title than it received under this title during the preceding fiscal year."

Amendment No. 9

Amendments to be considered together—

Page 37, line 1, strike out "40" and insert in lieu thereof "50" instead.

Page 37, line 3, strike the phrase "80 per centum of".

Page 37, beginning on line 4, strike the phrase "of 80 per centum of".

Page 37, line 7, strike the phrase "120 per centum of".

Page 37, beginning on line 8, strike the phrase, "of 120 per centum of".

Page 37, beginning on line 9, strike the words "United States" and insert the word "State" instead.

Page 37, line 20, strike out "40" and insert in lieu thereof "50".

Page 37, beginning on line 22, strike the phrase "120 per centum of".

Page 37, line 24, strike the phrase "120 per centum of".

Amendment No. 10

After the last section of title I, add a new section to read as follows: "All other provisions of this Act notwithstanding, no local educational agency shall be allocated less funds under this title than it received under this title during the preceding fiscal year."

Amendment No. 11

Page 28, Beginning with line 10, strike out everything down through line 11, p. 36, and insert in lieu thereof the following:

SEC. 102. Section 103 of Title I of the Act is amended to read as follows:

SEC. 103. (a)(1)(A) There is hereby authorized to be appropriated for each fiscal year for the purpose of this paragraph an amount equal to not more than 1 (one) per centum of the amount appropriated for such year for payments to States under section 134 (a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection). The Commissioner shall allot the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants. In addition, he shall allot from such amount to the Secretary of the Interior—

(i) the amount necessary to make payments pursuant to subparagraph (B); and

(ii) the amount necessary to make payments pursuant to subparagraph (C).

The maximum grant which a local educational agency in Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this part.

(B) The terms on which payment shall be made to the Department of the Interior shall include provision for payments by the Secretary of the Interior to local educational agencies with respect to out-of-State Indian children in the elementary or secondary schools of such agencies under special contracts with that Department. The amount of any such payment may not exceed, for each such child, one-half the average per pupil expenditure in the State in which the agency is located.

(C) The maximum amount allotted for payments to the Secretary of the Interior under clause (ii) in the third sentence of subparagraph (A) for any fiscal year shall be the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, as determined pursuant to criteria established by the Commissioner. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this part. Such agreement shall contain (1) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 131(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (2) provision for carrying out the applicable provisions of sections 131(a) and 133(a)(3).

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the maximum grant which a local educational agency in a State shall be eligible to receive under this part for any fiscal year shall be (except as provided in paragraph (3)) an amount equal to the Federal percentage (established pursuant to subsection (c)) of the average per pupil expenditure in that State or, if greater, in the United States multiplied by the number of children in the school district of such agency who are aged five to seventeen, inclusive, and are (A) in families having an annual income of less than the low-income factor (established pursuant to subsection (c)), (B) two-thirds of the number of children in the school district of such agency who are aged five to seventeen, inclusive, and who are in families receiving an annual income in excess of the low-income factor (established pursuant to subsection (c)) from payments under the program of aid to families with dependent children under a State plan approved under Title IV of the Social Security Act, or (C) living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to paragraph (7) of this subsection for the purpose of a grant to a State agency, or being supported in foster homes with public funds. In any other case, the maximum grant for any local educational agency in a State shall be determined on the basis of the aggregate maximum amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate maximum amount shall be equal to the Federal percentage of such per pupil expenditure multiplied by the number of children of such ages in such county or counties who are described in clauses (A), (B), or (C) of the previous sentence, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner. Notwithstanding the

foregoing provisions of this paragraph, upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children, described in clause (C) of the first sentence of this paragraph, who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

(3)(A) If the maximum amount of the grant determined pursuant to paragraph (1) or (2) for any local educational agency is greater than 50 per centum of the sum budgeted by that agency for current expenditures for that year (as determined pursuant to regulations of the Commissioner), such maximum amount shall be reduced to 50 per centum of such budgeted sum.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the maximum grants for those agencies among them in such manner as it determines will best carry out the purpose of this part.

(4) The grant which Puerto Rico shall be eligible to receive under this part for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) by 50 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than the average per pupil expenditure in the United States the average per pupil expenditure in the United States.

(5) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children aged five to seventeen, inclusive, described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a).

(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c) For the purposes of this section, the "Federal percentage" shall be 50 per centum and the "low-income factor" shall be $3,000 for each fiscal year of this Act, except that no county shall receive less than 100 per centum of the amount they have received for the previous fiscal year.

(d) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, of families having an annual income of less than the low-income factor (as established pursuant to subsection (c)) on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary of Health, Education, and Welfare shall determine the number of children of such ages from families receiving an annual income in excess of the low-income factor from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.

When requested by the Commission, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families having an annual income less than the low-income factor (established pursuant to subsection (c)) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(e) For the purpose of this section, "the average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures during the second fiscal year preceding the fiscal year for which the computation is made, (or, if satisfactory data for that year are not available at the time of computation, then during the earliest preceding fiscal year for which satisfactory data are available) of all local educational agencies as defined in section 303(6)(A) in the State, or in the United States (which for the purposes of this subsection means the fifty States and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

Renumber all following sections accordingly.

SPEECH TO THE NATIONAL NEWSPAPER PUBLISHERS ASSOCIATION, BY DR. CARLTON B. GOODLETT

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. BURTON. Mr. Speaker, earlier this year my very dear friend, Dr. Carlton B. Goodlett, publisher of the San Francisco Sun Reporter and president of the National Newspaper Publishers Association, delivered a speech entitled: "The Black Press: A Democratic Society's Catalytic Agent."

It was a thought-provoking speech delivered to the midwinter workshop of the National Newspaper Publishers Association at their Miami Beach, Fla., meeting, January 23–26, 1974.

I would like to share Dr. Goodlett's thoughts with my colleagues and I am therefore placing the complete text of his address in the RECORD at this time:

THE BLACK PRESS: A DEMOCRATIC SOCIETY'S CATALYTIC AGENT

(By Carlton B. Goodlett, Ph. D., M.D.)

The chemical definition of catalyst is "The causing or accelerating of a chemical change by the addition of a substance which is not permanently affected by the action;" the social definition is: "An action between two or more persons or forces, initiated by an agent that itself remains unaffected by the action." Frederick Douglass referred to such an agent when he wrote:

". . . Power concedes nothing without a demand. It never did and it never will. Find out just what any people will quietly submit to and you have found out the exact measure of injustice and wrong which will be imposed upon them, and these will continue till they are resisted with either words or blows, or with both. The limits of tyrants are prescribed by the endurance of those whom they oppress . . ."

To champion the cause of millions of the black masses who hover in the twilight zone of economic destitution has been the prophetic mission of the Black Press, from John Russwurm's Freedom's Journal through Frederick Douglass' North Star, John Murphy's Afro-American, Abbott's Chicago Defender, Vann's Pittsburgh Courier and Franklin's Kansas City Call. We have always been a catalytic agent, working to ameliorate the effects of racial discrimination and delineate the means by which Black America and White America would achieve a society devoid of racism; the Black Press has had an intra-group mission to clarify and to reconcile the areas of controversy in Black America, and to articulate the demand for economic justice in a society which denies Black America full economic participation because of the imposed psychosis of racism by White America.

We meet at an appropriate time in the life of Black America—at the beginning of the 111th "year of abeyance" since Black Emancipation was proclaimed by Lincoln in 1863. The dim economic promises of the decade of the '70's have been extinguished by the "energy crisis" which was merely triggered into public consciousness and recognition by the Arab oil boycott; overnight, the nation, because of this shattering development, finds itself facing massive unemployment which is projected conservatively to reach from 6.5 to 8.5 percent before the year's end.

This is no new experience for the black masses, who for the past four decades have lived on the brink of economic disaster. Was any voice of protest sounded in the land when, only a few short months ago, the political and economic leaders were proclaiming the lowest national unemployment level in the past decade—of 4.5 percent? Yet even then, since Black America suffers an unemployment rate three and one-half to four times the national rate, the black masses were enduring unemployment ranging from 15 to 18 percent (mind you, these are only quantitative figures which take into consideration persons who are unemployed for a period of from 36 weeks in some states to 52 weeks in others; after the end of this period one no longer remains a statistic, therefore the unemployment rate indicates only those who have not dropped out of the labor market within the past nine to twelve months.)

Think of it! A national unemployment rate of 6.5 to 8.5 percent foretells that Black America will be enduring staggering economic catastrophe in which 22 to 25 percent of all countable black adults will be unemployed! Truly the tomorrow's of the black masses are more hopeless today than ever before, and the safety of the nation cannot prevail if this festering cancer of racism, which has the capacity to destroy a great nation, is not the Number One item on the nation's agenda. We ignore it at our peril, for the black masses, faced with the sordid, bleak hopelessness of their lives, are slowly but surely being propelled toward a response of frenzied and sustained violence, terrorism and sabotage, the ultimate weapon of the oppressed.

I should like to share with you a letter I received recently from a distraught inmate at San Quentin:

#A–76996, Tamal, Calif.,
January 3, 1974.

"Dear C. B. Goodlett: If you will not print this small article, return it please. I dare you to read, and print these truths!!!

"Wake up Black People, Wake Up!!!

Black leaders, ministers, behavioral scientists and others are using you in as many ways as possible. With all of their credentials, public declarations, etc. What mass improvement have they made? The Black family is broke-up, we have male and female whores, crime has increased, suicide rate has rose, etc. Where's the progress?

Can"t you see, you are being exploited. In the name of Jesus Christ the Western world has conquered both physically and mentally all the known world. The ideas of being sinful, evil, etc. are lies, used to gain and keep control over the masses. How can a Perfect God create imperfection? You are all leaders, dare to desire, plan and achieve your goals!!!

Do it now!!!

Yours in Supreme Love,
James E. Flemings."

This man who has written from beyond the pale challenges black leadership; who will answer him, and how?

We know the dreaded results of racial conflict in America. While Black America cannot solely determine the course of the nation, we can serve either of two purposes: we can be the catalytic agent in the national struggle for the development of a society worthy of the American dream, or, if compelled by circumstances over which we have no control, the black masses can contribute significantly to the destruction of the nation.

It is the opinion of the Black Publishers of America that the sordid circumstances which daily demean the lives of Black America represents a serious threat to the viability of the nation, both Black and White. Therefore, it is important that we, the Black Publishers of America, the chief instrument of communication between minority and majority segments of our nation, speak clearly, forcefully and objectively about the true nature of the black crisis in America: economic discrimination.

The Civil Rights Laws of '64 through '67 took care of the needs of "the Black Boojies" (that's what they call us now, you know.) But what does it profit a man whose pockets are empty, who is unable to adequately feed, house, clothe or educate his children, to be able to eat in the finest restaurants, sleep in the finest hotels, to enjoy the good life in America, for a price? How many of our less fortunate brothers can enjoy a day at the Playboy Plaza in Miami Beach?

The 111th anniversary of the Emancipation Proclamation finds Black America's most urgent priority to be equity in the job market. Moreover, there are collectively millions of other Americans—red, yellow, brown and even white—who also suffer economic inequity, in a nation which spent $50 billion on the Marshall Plan to rehabilitate Western Europe after the ravages of World War II, a nation which spent $30 billion to put a man on the moon. Surely such a nation can use its resources to relieve the burdens and remove the inequities of the have-nots within her borders!

Let us beware the current effort of the national administration to return to local custody the responsibilities that have been gained and guaranteed through our Federal statutes and judicial mandates; our security requires the utilization of the nation's collective resources for the removal of injustices too long endured. Governmental assistance is as necessary to individuals as to corporate enterprise. Is it not as noble to assist in the education of the poor as to rescue the investments of the upper classes in such enterprises as Lockheed, to grant governmental subsidies to the great agribusinesses, the transportation tycoons, the oil industry et al? Let us put an end to Federal and State subsidy of the rich and neglect of the poor. For too long have we stood by and idly watched the giant corporations and agricultural interests fattening at the Federal trough, while there are those who desperately need help to escape from the slums, to obtain employment, to educate their children, to obtain adequate medical care, but are condemned because they allegedly violate the national creed of the "work ethic" while increasingly glorifying the dread concept of the "welfare ethic."

The Full Employment Act of 1952 expresses the will of the Congress and the American people that every able-bodied citizen shall be allowed and provided gainful employment. The Black Press must combat the myth that we have welfare because there are people who do not wish to work; we must disprove the misconception that most welfare recipients are black people who have moved to urban areas in order to draw welfare; that all welfare mothers do is have illegitimate children; that welfare is the good life of color TV and Cadillacs; that most welfare recipients are cheaters; or that most of the tax revenue goes to welfare. The truth must be told: that the welfare system is a cruel hoax that only helps perpetuate the misery of poor people and guarantees that the children forced to rely on it will never have a chance in life. And moreover, food stamps and rent subsidies eventually find their way into the coffers of the free enterprise system, providing a form of WPA for the rich in which the poor are only a transmission belt.

The Black Press's love for America is as dedicated as that of any of the sons and daughters of this great land. This love impels us, in the pursuit of our task, not to "love her or leave her." but to "love her and stay with her," to criticize and improve her. By healing her wounds, the Black Press displays the capacity tc love America even more. Remember, if we could attain equity for blacks in the job market alone, we could increase the Gross National Product of America from $125 to $155 billion!

It is the prophetic mission of the Black Press to tell it on the mountain: that our founding fathers had a dream—a dream that man, through representative government, can provide the services and protection which the people, individually, cannot hope to obtain; that the democratic promise is an ever-growing edge of man's quest to use the instruments of government to serve the expending needs of the masses—rather than the expanding greed of the upper economic classes.

A strong Black Press can be the needed catalyst to bring about a new national commitment: to guarantee to every citizen not only the right of a job, but a job; providing for those unable to work in private enterprise productive work in the public sector of our society; and failing this, providing an economic floor below which every American citizen, as a matter of birthright, shall not be allowed to fall!

TO DEVELOP A VIABLE PRESS

So that the Black Press may achieve its mission, we must develop a strong, unified and viable force. We must increase our efforts to combat an economic racism which has thwarted the dreams of 25 million black people to develop their own communications system, their own voice—namely, the Black Press. Until we are able to increase the advertising revenues as well as the circulation revenues of our newspapers, we can never hope to operate at full capacity. One of our prime objectives must necessarily be to develop new means by which the Black Press is guaranteed a more equitable share of the advertising dollars spent throughout the nation. With a $51 billion income for 1972 and spending $46 billion in the marketplace, Black America's purchasing power generated $900 million worth of advertising and PR monies; yet the share which came to black newspapers was miniscule. Of the $1.9 billion national advertising placed by the 100 largest white advertising agencies, the Black Press received only 0.14%.

We equate the importance of "fair advertising" with fair housing and fair employment practices, especially when that advertising money is derived from those who feed at the Federal trough. We must make a crusade of demanding that advertising agencies employ and obey this emerging concept of "fair advertising," which reaffirms Black America's right to anticipate that a fair share of the advertising expenditures derived from the black purchasing dollar be returned to the black community in the form of advertising in its most prominent communications medium, the Black Press.

With the litany of Martin Luther King and his desciples in SCLC under the chant "I am somebody!" and with the birth of Black Power in 1966, the urgency of defining who is Black America and what Black America must be about became imperative. For the totality of the Black Experience, blacks have been caught up in the semantics of "individual freedom" as opposed to the broad concept of "freedom for the masses." Rugged individualism and the myth of individual freedom and security has led to a black man's being described as the "9th American," when in truth the strength of Black America lies in the concept that we are "11 to 12 percent of America"—a force of over 25 million. In this light, we become a nation within white America which is the second most numerous aggregation of blacks within the boundaries of a nation on the face of the earth, second only to Nigeria with a population of 61 million. Only two nations of Africa's 52 nations are more numerous that Black America: Egypt and Nigeria. To bring us closer to home, of all the 36 nations of North and South America only three are bigger than Black America: White America—USA (184,000,000). Brazil (61,000,000) and Mexico (45,000,000.) In terms of education and even economic advantages, we are the most highly developed black people in the world. With approximately 7,500 physicians, 2,700 dentists 4,000 attorneys, thousands of public school teachers and academicians, we are a learned people; our black youth in institutions of higher learning number 467,000 which happens to be 200,000 more than British students in institutions of higher learning in Great Britain, with a 55,000,000 population. And based upon Dr. Andrew Brimmer's data, blacks earned $51,8 billion and spent $46 billion in 1972, making Black America the ninth wealthiest nation in the non-Communist world.

How is it that, despite all these flattering adjectives, Black Americans are still psychologically and economically second-class citizens? Perhaps it is because we are the only group of people with all these intellectuals who will accept a second-class citizenship status for our people. We have completely compromised man's eternal struggle for equality, and we do violence to Jean-Paul Sartre's concept that "Man is flung into the universe with the preordained purpose of being free!"

The sad fact is that we are the only people in recorded history who have endured more than 250 years of slavery and 110 years of crypto-freedom, yet have never developed a revolutionary class. A few years ago the possibilities of black liberation tingled our minds and imagination, but now we must grapple with the very problem of black survival.

50 percent of Black America is 20 years of age or younger. Even though 467,000 of our black youngsters are in institutions of higher learning, we know that the most conservative and reactionary elements of corporate enterprise are busily co-opting this "educated tenth;" these fortunate ones are being moved rapidly into the corporate enterprise structure, while another face and hand of private enterprise, the Mafia or Syndicate, is preying upon a large segment of our youth through the traffic in narcotics, hard drugs and alcohol. 38 percent of our adolescents are either unemployed, out of school or in jail; and 32 percent of these teenagers are even now enmeshed in hard drugs and narcotics.

With our best young minds co-opted, and with our restless young ghetto blacks who represent the fermentation potential for leadership enduring the living hell of narcotics, Black America has a bleak future—in fact, unless a strong outcry is raised, Black America has no future.

We must launch a crusade to save our youth, to save those who would be our heroes of liberation tomorrow from becoming the dregs of a decadent narcotics culture. Approximately 130 years the people of China were forced to make the choice of engaging in the Opium Wars, as a signal to their oppressor that they would not idly submit to the forcing of narcotics as a way of life on the people of China. Black America, too, may have to make a choice, of whether or not we will stand up and fight a war of survival to save our young.

Second only to the survival of the Black Press, is the survival of the youth of Black America; surival of Black youth is made secondary to our survival, because without the Black Press as an instrument to sound the alarm, the conveyor of good news and bad tidings, all hope is lost.

The Black Press, individually in New York, Chicago, Detroit, Washington, Los Angeles, Miami, San Francisco—has a power that ends at the city limits; but as the organized Black Press we serve as the communicators for the 26th largest nation of the world; and until some better concept is developed, your President is the Secretary of the Department of Communications of Black America.

I cannot emphasize too dramatically the importance of organized strength as opposed to individual publishers trying to make it alone. If the organized press in America, dedicated to the cause of the people—that no good cause shall lack a champion, and that evil shall not thrive unopposed, combines its great potentials, then we shall become an irresistible force challenging all who would deny to Black America its full and complete democratic rights—even in a racist nation. The Black Press will then become the most powerful guardian of the Black community.

Despite this awesome power potential, the Black Press has never attempted to plan or program for Black America, alone. Contrarywise, the organized Black Press will never permit or cooperate with those individuals or organizations which attempt to plan and program Black America without the counsel of the Black Press. Let friend and foe alike recognize this renewal of our faith and pledge: to uphold the sacred, historic trust of the Fourth Estate as the guardian, defender and protector of the liberties of the people. Our most sacred trust is to protect the teeming masses who comprise Black America, and in the performance of our mission we are guided by the incontrovertible fact that the strength and the greatness of Black America is that we hold and belong to each other.

SOLZHENITSYN'S BANISHMENT

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. McCLOSKEY. Mr. Speaker, the greatest imposition which may be brought to bear on a man is the forced separation from his family and his homeland. The following article which appeared in the San Francisco Chronicle and Examiner illustrates the gravity of the deprivation visited upon Alexander Solzhenitsyn for his refusal to conform intellectually to the demands of the state.

A constituent of mine, Peter Grothe, has captured in a very few well-chosen words, the immense significance and pathos of the circumstances of Mr. Solzhenitsyn. I offer those words in today's RECORD for the consideration of our colleagues:

SOLZHENITSYN'S BANISHMENT: "THE CRUELEST PUNISHMENT"

(By Peter Grothe)

(For my entire life, I have had the soil of my homeland under my feet; only its pain do I hear, only about it do I write.—ALEXANDER SOLZHENITSYN, Sept. 22, 1967.)

This writer attended the Nobel Prize ceremonies in Stockholm in December, 1970, and watched the normally-reserved Swede thunderously and emotionally applaud an empty chair. The empty chair, of course, belonged to Alexander Solzhenitsyn, the Nobel Prize winner for literature, who remained in Moscow.

He stayed away from the ceremonies because he received clear signals from the authorities that if he went to Stockholm, he would not be allowed to return. Despite the intense hounding of him, his family, and friends from the security apparatus, Solzhenitsyn preferred to stay in his homeland.

Banishment from one's country (which, incidentally is not provided for in Soviet law) is cruel enough punishment for any citizen. For a writer, it is doubly cruel.

If Solzhenitsyn were, say, a dentist or a plumber, he could at least take up his dental or plumbing tools in a foreign country and proceed with his work. But for a writer, especially a Russian writer, it means being cut off from the source of his inspiration.

"MOTHER RUSSIA"

For Russian writers in Tzarist and Soviet times, the worst punishment conceivable has been banishment from their countries. Russian writers cling to "Mother Russia" with a special intensity not fully understood by Westerners.

I had the opportunity to speak with another Nobel Prize winner, Boris Pasternak, in Moscow six months before his death in 1960. Pasternak, author of "Doctor Zhivago" and great poetry, had been called a "swine" by Nikita Khrushchev, and officials had suggested that it might be best if he leave the country.

Pasternak spoke intensely of his great love for his own people and motherland and said that for him the worst punishment would be exile abroad. Postoyevsky, Pushkin, and other Russian literary greats had spoken in the same terms.

Solzhenitsyn, who is generally regarded as a slavophile and a Russian writer in the classical tradition, once wrote (through a character, returning home after a long absence), "I wanted to efface myself, to lose myself in deepest Russia."

HARSH PENALTY

Thus, although it is true that Solzhenitsyn would have been dealt with much more severely during Stalinist times, it is also true that, from Solzhenitsyn's point of view, the punishment is a very harsh one, indeed.

Solzhenitsyn, with the publication of "August, 1914," began a project to which he expected to devote the rest of his life. In that book and the one to follow, "October, 1916," Solzhenitsyn deals with the social and spiritual currents on the eve of the Bolshevik Revolution.

In succeeding books, he has said that he plans to write about "the years that follow." His project has been compared with Tolstoy's "War and Peace."

Paradoxically enough, although he is cut off from the roots of his inspiration, it will be easier for him to obtain the historical documents necessary for his novels in the West. Although he received many diaries and memoirs from private Soviet citizens, he found that the archives were closed to him in the USSR. He told an interviewer in 1972:

"It is as hard for me to gather material as it would be if I were writing about Polynesia."

EFFECT ON DISSIDENTS

What will the effect on the small Soviet dissident community? The best guess is that the blow will be crippling but not fatal. The outster of Solzhenitsyn is a short-term palliative for the problem, but not a long-term solution.

In short, the Soviet authorities have dealt with the symptoms, rather than the causes, of the problem. Soviet dissidents, after observing what happened to unbending Solzhenitsyn, will, for the time being, probably be more cautious and withdrawn. Yet, physicist Andrei Sakharov, the other giant of the dissident community, remains. One cannot help but ponder about his future.

There can be little doubt that the decision to exile Solzhenitsyn was reached at the highest levels of the Soviet Communist Party, with Leonid Brezhnev taking a decisive hand. One can make an educated guess that others taking leading roles were Michael Suslov, the chief Party ideologist, and Yuri Andropov, head of the KGB (security police).

Why did the Politburo feel the need to take the decisive action it did? The answer is best provided by Solzhenitsyn himself in some of his writings. In "The Cancer Ward," one of Solzhenitsyn's characters clearly reflects the author's thoughts:

"Why should I reread 'Anna Karenina'? . . . Where I can read about us? Will that be only in a hundred years?"

Solzenitsyn, born in 1918 and thus a complete product of Soviet Society, wanted to write about the real Soviet Union he knew, not the one that the literary hacks wrote about, not more books on the theme of boy-loves-girl-loves-tractor. This was unacceptable to the Soviet regime.

"UNARMED TRUTH"

Perhaps a passage from Pasternak's "Doctor Zhivago" is most appropriate of all:

"If . . . man could be held down by threats, any kind of threats, then the highest emblem of humanity would be the lion tamer in the circus, but don't you see, that is just the point, what has moved man for centuries has not been the cudgel but an inner music—the example of unarmed truth."

Alexander Solzhenitsyn became "the example of unarmed truth" that Pasternak had written about. It was inconceivable, in the long run, that the Soviet authorities could allow this "second government" to remain in their midst. Thus, he was dragged from his apartment, charged with treason, stripped of his citizenship, and banished from his motherland.

FINANCIAL SQUEEZE ON MIDDLE-CLASS FAMILY

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. ASPIN. Mr. Speaker, my distinguished colleague from Wisconsin (Mr. Reuss) has pointed out that one of the most serious problems facing this country is the financial squeeze on the middle-class family. High taxes, inflation, and the energy crisis are constantly squeezing the average middle-class family in this country. Mr. Reuss' views are outlined in a recent article by Robert J. Donovan in the Los Angeles Times. The article follows:

REPRESENTATIVE REUSS SAYS ECONOMIC INEQUALITY IS ENDANGERING SOCIAL PEACE

(By Robert J. Donovan)

WASHINGTON.—This country will not enjoy social peace until something is done to ease the financial squeeze on the middle class, in the opinion of a member of Congress who has long been closely identified with middle-class problems.

Rep. Henry S. Reuss (D-Wis.), a member of the Joint Economic Committee, said in a recent interview that since 1969 the average-income family has been losing ground, economically, in relation to the higher-income groups.

Inflation and higher Social Security taxes are spreading discontent among the middle class, Reuss said.

"You find a very real additional burden on middle-income people," he continued. "You now see your middle-income families threatened with job loss because people in that income bracket are more prone to unemployment than people in much higher income brackets because of the nature of their jobs.

"You find the wife very often working. You find the fixed payments on refrigerators, vacuum cleaner, cars and so on represent a larger proportion of their costs than is the case in the higher brackets.

"So you find these middle Americans feel extremely squeezed and put upon. It is they who are convinced that the government has been in cahoots with the oil companies to bring on a phony oil crisis. It is they who are convinced that welfare recipients are being supported in idleness by their taxes. It is they who are convinced that if you have enough income and have access to good enough lawyers, you can substantially avoid your taxes. The revelation of Mr. Nixon's taxes, incidentally, infuriated them.

"Because their income is withheld at the source and each penny of tax collected before they have seen their pay, you have all sorts of psychological factors.

"The fact is that more and more citizens feel alienated from their government. In the days of the old city political machines, however corrupt, there was always someone who would help you when you needed help. Now people are shoved around from city to state to county and back again. And the TV screen shows them in the Madison Ave. version of the good life, which they increasingly realize is beyond them.

"So, as a result of letting our income distribution worsen, we have produced a very dangerous situation in this country. It was in such an atmosphere in Germany, with the middle class largely alienated that Hitler thrived. I am not suggesting that we are due for another Hitler, but, quite apart from the element of fairness and justice—which is the real reason we ought to end the maldistribution of income—we are not going to have social peace in this country until we do something about it.

"Census Bureau figures show that from 1950 through 1968 poor and moderate-income families—the bottom three-fifths of the social scale—increased their slice of the national income pie at the expense of the top two-fifths, who lost ground.

"However, beginning in 1969, the first year of the Nixon Administration, the trend reversed. By 1972 the share of the bottom three-fifths had declined, while the top two-fifths rose again. The richest one-fifth had a higher percentage of the national income then than in 15 of the last 16 years.

"The people who have lost ground and feel put upon are the middle Ameircans to whom Mr. Nixon appeals with the law-and-order issue and the like. They are the Archie Bunkers and the truck drivers who turned out in force recently. They are also the people who are concerned about how they are going to pay their bills and put their kids through college."

Reuss is a graduate of Cornell University and Harvard law school, and is the author of "The Critical Decade" and "Revenue Sharing: Crutch or Catalyst?" He was assistant general counsel to the Office of Price Administration in Washington before joining the Army in World War II. After the war he was on the legal staff of the Marshall Plan in Paris. He has served on several corporate boards. His congressional district centers in Milwaukee.

Reuss pointed out that the rich choose to spend a higher proportion of their income on luxuries, whereas the poor have no choice but to spend a higher proportion of theirs on such necessities as food, fuel and housing. And it is these items, he stressed, that are hard hit by inflation.

"Inflation," he continued, "has hurt the lower- and middle-income families more than it has the top-fifth in American life. A family making $10,000 a year, let us say, spends a major part of its income (all of its income is likely to be spent each year) on housing, fuel and food. Families making $100,000 obviously spend less, proportionately, on necessities, so the impact of inflation on them is less severe.

"And that is not all. The shift in income shares does not take into account recent tax increases, which were aimed at the three-fifths of American families earning $13,000 or less a year. The Social Security tax, which starts on the first dollar of earned income, had its rate increased from 5.2% to 5.8% and the wage base on which the tax is computed increased from $9,000 to $10,800 on Jan. 1, 1973. The wage base was further raised to $13,200 on Jan. 1, 1974. That means that somebody making $13,200 is paying more taxes now than he was a year ago but on the same income. But there has been no change in the income tax."

What of the belief that America is an affluent society?

"Not so," Reuss replied. "This is particularly true now that the energy shortage is going to be a brake on economic growth. We are no longer going to be able to satisfy the individual family out of an ever-and-ever larger national income pie. When the economy was growing, the individual could make more money in absolute terms even though in the whole economic picture his status was not changing relatively. Still the increase kept him comparatively happy.

"As growth levels off, this outlet for social tensions is diminished. The pie won't be getting larger and larger.

"You are going to have to compensate the middle-class worker for the fact he is being ripped off by inflation, taxes and maldistribution of income."

PROPOSED AMENDMENTS TO TITLE I OF H.R. 69

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. BADILLO. Mr. Speaker, in accordance with the requirements of House Resolution 963, I submit the text of two amendments which I may propose to title I of H.R. 69, the Elementary and Secondary Education Amendments of 1974.

The first amendment changes the 85-percent, hold-harmless provision to 95 percent. Under the new formula for allocation of title I funds adopted by the Education and Labor Committee, the loss of funds for States with large cities is so severe that the bill stipulates that no school district will receive less in any fiscal year than 85 percent of the amount it received in the preceding fiscal year. Even so, the committee's action cuts title I funds for New York City by approximately $23 million in fiscal year 1975, and though the committee made no figures for future years available, New York City could continue to lose 15 percent of its already reduced allocation each year thereafter.

The impact of this cutback will drop as many as 90,000 children from title I programs in New York City and mean the loss of more than 1,000 teaching positions and over 3,000 teaching paraprofessionals. The intent of this amendment is not to take money from any other State, but to prevent what could be a catastrophic loss of operating education programs in larger cities. It is my belief that most school districts in the country will still receive increases in title I funds with this change in the allocation formula, while the disruption of ongoing compensatory education programs in New York City and other urban centers would be considerably less than would be the case with the committee's 85-percent hold-harmless.

The committee bill also penalizes

States which spend more than the national average on education by limiting the title I payment formula to a maximum of 120 percent of the average per pupil expenditure in the United States. The 120-percent ceiling hurts Alaska, Connecticut, New Jersey, New York, and the District of Columbia immediately, and could in the near future reduce funds for Illinois, Michigan, Minnesota, Pennsylvania, Rhode Island, Wisconsin, Maryland, and any other State where public exepnditures for education rise to exceed 120 percent of the naitonal average.

My second amendment changes the 120-percent ceiling to 140 percent to more accurately reflect the extra effort being made by States like New York to provide quality education for their children. The committee formula is regressive in that it penalizes States which apply more of their resources to public education and is the type of disincentive to local effort that I believe we should not write into law. A ceiling of 140 percent of the national average per pupil will be more equitable to States spending heavily for education and will not discourage other States from increasing their educational spending out of fear that they will lose Federal funds for their trouble.

The proposed amendments follow:

AMENDMENT TO H.R. 69 AS REPORTED OFFERED BY MR. BADILLO

Page 48, beginning with line 10, strike out "85 per centum" and insert in lieu thereof "95 per centum".

AMENDMENTS TO H.R. 69, AS REPORTED, OFFERED BY MR. BADILLO

Page 30, line 4, strike out "120 per centum" and insert in lieu thereof "140 per centum".

Page 30, line 5, strike out "120 per centum" and insert in lieu thereof "140 per centum".

Page 31, lines 21 and 22, strike out "120 per centum" and insert in lieu thereof "140 per centum".

Page 31, line 23, strike out "120 per centum" and insert in lieu thereof "140 per centum".

AMENDMENT TO H.R. 69

HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. TREEN. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following amendment intended to be offered by me to H.R. 69:

AMENDMENT TO H.R. 69, AS REPORTED, TO BE OFFERED BY MR. TREEN OF LOUISIANA

On page 131, immediately after line 15, insert the following new section:

Amendment to title X of the Elementary and Secondary Education Act of 1965:

SEC. 906. Title X of the Act, as redesignated by section 201(a) of this Act, is amended by adding at the end thereof the following new section:

"CONTINUITY OF INSTRUCTION GUARANTEE"

SEC. 1010. No local educational agency shall receive funds under this Act or under Title I of the Elementary and Secondary Education Act except that it has received individual pledges from each of its classroom personnel against strikes, work stoppages, or slowdowns or, alternatively, such a provision is included in any contract it may make with any organization representing such personnel.

(1) As used in this section, "local educational agency" shall include any unit receiving such funds and employing teachers.

STATEMENT OF THE HONORABLE TOM RAILSBACK

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. RAILSBACK. Mr. Speaker, when I announced my candidacy for reelection to the U.S. House of Representatives, I said that I would make public, prior to the primary in Illinois on March 19, 1974, a financial disclosure of all my assets and liabilities, a summary of my 1973 Federal income tax return, and the campaign financial disclosure reports of the Railsback for Congress committee.

As an elected representative exercising the public trust, I believe full public disclosure is essential to assure the people of my district that I am free of financial ties or conflicts of interest which might influence the performance of my official duties.

I therefore insert in the RECORD at this point a statement of my wife's and my financial condition as of March 14, 1974, a summary of our 1973 Federal Income Tax Return, and the summary page of the 1974 campaign financial disclosure reports of the Railsback for Congress Committee:

I.

CONSOLIDATED FINANCIAL STATEMENT OF CONGRESSMAN AND MRS. TOM RAILSBACK, MARCH 14, 1974

ASSETS

Real estate	
Home, Moline, Ill., (original cost $75,000)	$75,000
Apartment residence and one rental unit, Washington, D.C. (original cost $57,750)	70,000
One-half interest in apartment building, Washington, D.C. (original cost $37,500)	40,000
Stocks and bonds	
Union Capitol Fund (2172 shares at $8.08 as of Dec. 31, 1973)	17,550
BYM Investment Club (1973 year end statement)	1,390
Garwood Chicago Trucking Equipment, Inc. (10 shares at $800 as of Dec. 31, 1972)	8,000
Cash	
U.S. Treasury Bills	10,000
Savings and Checking	12,055
Note receivable from Greater Sterling Industrial Corporation	5,000
Miscellaneous	
Personal Property, including cars, furniture, clothing, etc	23,875
Civil Service Retirement as of March 1, 1974	21,685
Total	279,605

LIABILITIES

Mortgage—First Federal Savings of Moline, Illinois (as of March 4, 1974)	47,957
Mortgage—Perpetual Building Assn., Washington, D.C. (as of Feb. 5, 1974)	41,937
Mortgage, one half liability—Bank of Silvis, Illinois (as of Feb. 18, 1974)	28,088
Note payable to the Elizabeth Railsback Estate (as of March 4, 1974)	5,855
Note payable to Fred Railsback (as of March, 1974	2,265
Note payable to the Moline National Bank (as of March 4, 1974)	17,379
Total	143,481

II.

The following summarizes the Joint Federal Income Tax Form submitted by Congressman and Mrs. Tom Railsback, Moline, Illinois.

Total Exemptions Claimed (Congressman and Mrs. Railsback and their four children, Kathy, Julie, Maggie and Lisa)	6
Wages and other compensation	$42,500
Adjusted Gross Income	$47,733
Federal Income Tax	$8,954

III.—REPORT OF RECEIPTS AND EXPENDITURES FOR THE RAILSBACK FOR CONGRESS COMMITTEE

A.—SUMMARY REPORT COVERING PERIOD FROM JAN. 1, 1974 THROUGH FEB. 25, 1974

	Column A, this period	Column B, calendar year to date
SECTION A—RECEIPTS		
Part 1. Individual contributions:		
a. Itemized (over $100.00)*	$650.00	
b. Unitemized	100.00	
Total individual contributions	750.00	$750.00
Part 2. Sales and collections: Itemize	None	None
Part 3. Loans received:		
a. Itemized		
b. Unitemized		
Total loans received	None	None
Part 4. Other receipts (refunds, rebates, interest, etc.):		
a. Itemized	$362.73	
b. Unitemized	50.00	
Total other receipts	412.73	$412.73
Part 5. Transfers in: Itemize all	None	None
Total receipts	1,162.73	1,162.73
SECTION B—EXPENDITURES		
Part 6. Communications media expenditures: Itemize all	422.53	422.53

	Column A, this period	Column B, calendar year to date
Part 7. Expenditures for personal services, salaries, and reimbursed expenses:		
a. Itemized	None	
b. Unitemized	$198.03	
Total expenditures for personal services, and reimbursed expenses	198.03	$198.03
Part 8. Loans made:		
a. Itemized		
b. Unitemized		
Total loans made	None	None
Part 9. Other expenditures:		
a. Itemized	1,194.38	
b. Unitemized	389.78	
Total other expenditures	1,584.16	1,584.16
Part 10. Transfers out:		
Itemize all	None	None
Total expenditures	$2,204.72	$2,204.72
SECTION C—CASH BALANCES		
Cash on hand at beginning of reporting period	9,951.49	
Add total receipts (section A above)	1,162.73	
Subtotal	11,114.22	
Subtract total expenditures (section B above)	2,204.72	
Cash on hand at close of reporting period	8,909.50	
SECTION D—DEBTS AND OBLIGATIONS		
Part 11. Debts and obligations owed to the committee	None	
Part 12. Debts and obligations owed by the committee	None	

*Contributions in excess of $100.00: Charles M. Koehler, Sterling, Ill., $150.00 (Jan. 15, 1974). U.A.W—C.A.P., Detroit, Mich., $500.00 (Feb. 15, 1974).

B.—SUMMARY REPORT COVERING PERIOD FROM FEB. 26, 1974 THROUGH MAR. 7, 1974

	Column A, this period	Column B, calendar year to date
SECTION A—RECEIPTS		
Part 1. Individual contributions:		
a. Itemized (over $100.00)		
b. Unitemized		
Total individual contributions	None	$750.00
Part 2. Sales and collections:		
Itemize	None	None
Part 3. Loans received:		
a. Itemized		
b. Unitemized		
Total loans received	None	None
Part 4. Other receipts (refunds, rebates, interest, etc.):		
a. Itemized	None	
b. Unitemized	$50.00	
Total other receipts	50.00	462.73
Part 5. Transfers in:		
Itemize all	None	None
Total receipts	50.00	1,212.73
SECTION B—EXPENDITURES		
Part 6. Communications media expenditures:		
Itemize all	95.49	518.02
Part 7. Expenditures for personal services, salaries, and reimbursed expenses:		
a. Itemized		
b. Unitemized		
Total expenditures for personal services, salaries, and reimbursed expenses	None	$198.03
Part 8. Loans made:		
a. Itemized		
b. Unitemized		
Total loans made	None	None
Part 9. Other expenditures:		
a. Itemized	$810.41	
b. Unitemized	45.57	
Total other expenditures	855.98	2,440.14
Part 10. Transfers out:		
Itemize all (use schedule D*)	None	None
Total expenditures	951.47	3,156.19
SECTION C—CASH BALANCES		
Cash on hand at beginning of reporting period	8,909.50	
Add total receipts (section A above)	50.00	
Subtotal	8,959.50	
Subtract total expenditures (section B above)	951.47	
Cash on hand at close of reporting period	8,008.03	
SECTION D—DEBTS AND OBLIGATIONS		
Part 11. Debts and obligations owned to the committee	None	
Part 12. Debts and obligations owed by the committee	None	

VETO OF EMERGENCY ENERGY LEGISLATION

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. ROSENTHAL, Mr. Speaker, President Nixon last week vetoed the Congress emergency energy legislation. The excuse for the veto, according to the President, was that the bill's rollback provision on the price of domestic crude oil would worsen our current energy crisis.

The president of Output Systems Corp. of Arlington, Va., Matthew J. Kerbec, has researched this subject thoroughly and has come to the opposite conclusion. A rollback in the price of crude oil is a necessity if the inflationary spiral now plaguing our economy is to be curbed, Kerbec writes in an article entitled "Environment, Energy, and Ecology: Energy Price Rollbacks or Economic Suicide."

In this excellent article Kerbec documents the dangerous ripple effects of uncontrolled energy prices on our economy. Kerbec did original research for the most part and has come up with extremely helpful information.

Kerbec prefaced his article with a recent letter to the President urging that several steps, including a rollback on oil prices, be taken to curb the dangerous inflationary spiral now hurting our economy. I would like to insert into the RECORD at this point Kerbec's letter to the President and his article:

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: This letter was stimulated by an article appearing on the front page of the February 21, 1974 edition of the New York Times. Simply stated the article announces new record highs for commodity prices and that farm production prices have increased 50% in one year. This is an economic danger signal when you realize this is at the farm level before any of the markups that occur between the farm and the complex marketing system required to bring food products to the consumer. In the same article a commodity broker is quoted as saying "The prices are not only undermining the value of paper money but in the case of grains they are destroying the cattle and hog industries." As you know new highs are being registered each month in all price indexes with no end in sight.

Mr. President, play the energy game and try to think of any product that does not have an energy cost as part of the price and you will begin to appreciate the enormity of the consequences associated with irresponsible price hikes at the crude oil level. Although we cannot control foreign oil prices we can stabilize our economy by subsidizing the difference between a fixed crude oil price and the price of imports in the same way Canada is handling the problem.

It can be demonstrated that cost and price ripples caused by sudden massive energy price hikes (energy includes crude oil, coal and natural gas) have an amplified effect greater than any other commodity. Natural gas and petroleum based chemicals account for over 43% of material costs needed to produce fertilizer. The Cost of Living Council decontrolled fertilizer in October 1973, and fertilizer selling prices increased by 37% in 3 months. Fertilizer is needed to grow corn and soybeans used for livestock feed, and, the increased price is forcing these prices up. These prices are marked up again and again as they travel through the marketing chain to the retail level. Also it is estimated that 6.5 billion gallons of gasoline and fuel oil were used on farms in 1973. An increase of 10c per gallon adds $650 million to farm costs that will ripple through the food marketing system before being passed on to the ultimate consumer.

The attached article covers some of the first round effects of the energy price hikes in several critical industries. Contrary to the opinion of some analysts, the effects of these price hikes should not be thought of as a one-shot phenomena. They are the first step in a chain reaction that will amplify prices as they ripple through the economy.

The following is a list of four major cumulative inflationary effects that are being triggered by sudden and massive energy price hikes:

1. Agriculture and industry responds by equivalent massive price hikes. Price controls become meaningless because massive increases in the prices of raw material fossil fuel inputs make higher product prices mandatory if the steel, food, transportation, petrochemical and power utilities and other industries are to survive.

2. Unions and workers demand equivalent massive wage hikes to maintain buying power. People with fixed incomes have no practical recourse and may resort to violence (in 1972 there were over 10 million families with an average income of $3,500 per year):

3. Reduced buying power caused by massive inflation will lead to layoffs. Greater percentages of income will go for necessities and distort spending patterns.

4. Demand for luxury products and nonessential items will dramatically decrease leading to more layoffs that will affect executives and workers at all income levels.

Events after Effect 4 are anyone's guess. The U.S. is now definitely at Effect I with prices rising at unprecedented rates. Effects 2, 3 and 4 are showing increasing activity. One thing is certain—there will be delayed effects long after the high priced energy is fed into our economic system. For example, coal prices are now following oil prices. One report states that Bethlehem Steel Corporation announced that it will lay off 1,250 people because the Cost of Living Council does not allow steel companies to bid up to the $27 to $35 the utilities are paying for coal. An international example of delayed cost effect that was triggered by energy price increases is that organized labor in Japan is asking for an unprecedented 30% increase in 1974. *These are effects not causes.*

I have reviewed many of the energy and economic policy statements made by your executives in the past three months but have not yet heard any meaningful detailed analysis of what massive energy price hikes are doing to the economy in terms of raw materials costs, profits, prices, wages, unemployment and inflation. These are all part of the same management problem. Knowingly or unknowingly your executives present a tremendously misleading picture when they only speak of economic effects caused by crude oil price increases as plus or minus a few cents at the gasoline pump.

The time has come for all thinking people to stand up to be counted, and it should be clearly understood by all elected and appointed government officials that the foundation is being laid now for future disruptions to our economic system. Specifically, we are now laying the groundwork that will lead to management-labor confrontations, antisocial acts by people being relentlessly squeezed between soaring prices and fixed incomes, unprecedented inflation and unemployment.

One fact clearly stands out. Great Britain, Japan, the United States and other countries who have allowed internal energy prices to reach cartel levels are all experiencing raging inflation. Canada has frozen crude oil at $4.00 per barrel and is not having problems with runaway inflation.

Because energy is the only commodity that is a necessity for all industries and activities I strongly urge an immediate rollback of energy prices and a realistic national energy policy that balances the need for energy self-sufficiency against the degree of economic disruption that can be tolerated. There are many ways to finance increased exploration for crude oil and to build additional refinery capacity without massive energy price increases that have no relationship to production costs. It is also true that no foreign country will cut their oil prices when our government does nothing about the uncontrolled $10.35 per barrel of crude oil produced domestically. Why should they? Until we start treating energy as a necessity in the same context as air and water and not as ordinary commodities such as steel, and grain we will continue to apply old nonapplicable remedies to a new problem requiring new basic policies.

Mr. President, I realize your burdens are heavy but I close this with the sincere hope that you can generate some priority decisive action to reduce this continuing suicidal inflationary spiral.

Sincerely,

MATTHEW J. KERBEC,
President.

ENVIRONMENT, ENERGY AND ECOLOGY—ENERGY PRICE ROLLBACKS OR ECONOMIC SUICIDE

(By Matthew J. Kerbec)

When inflationary pressures caused by sudden massive energy price hikes are added to already spiraling costs, profits and prices the effects in terms of unemployment, inflation and reduced buying power could far exceed any of our past economic crises.

There are arguments by oil people and officials in the Federal Government which justify large energy price hikes as necessary to stimulate more oil production and refining capacity. An opposing view holds that the capacity of any highly industrialized economy to absorb sudden large price increases in energy which is the most basic of all commodities is limited. In brief, *one test for governmental action should be answering the question: Will the high price medicine approach to the energy shortage have side effects that will be worse than the shortage?* One thing is sure—since August 1973 when the Cost of Living Council increased the price of crude oil about 35 cents a barrel and deregulated new oil, all indicators such as the Wholesale Price Index, Consumer Price Index and Farm Price Index have jumped by relatively large amounts. Since August 1973 the price of controlled domestic crude oil has gone from $3.86 per barrel to $5.25 and uncontrolled domestic and imported crude oil has jumped from about $3.93 per barrel to $10.00 per barrel.

Specifically, the annual cost of crude oil to the American economy will go from approximately $27.214 billion in 1973 to $44.974 billion in 1974. This is an increase of $17.560 billion on a crude oil level. (The basis for these estimates is the Cost of Living Council and the Federal Energy Office, see Table 1.)

The gasoline, distillate oil, jet fuel and other products derived from a 42 gallon barrel of crude oil costing about $5.00 sold for about $12.50 on a retail level in December 1973. Thus if we use a 2.5 multiplier the $17.560 turns into an additional $43.90 billion which the economy will have to absorb in 1974. Of this $13.17 (30%) will be paid for directly by the consumers for gasoline, fuel oil, and other petroleum products.

This article is concerned with how the inflationary effects of the remaining $30.73 billion (70%) will impact food prices, transportation costs, manufacturing cost prices, wage demands and ultimately the buying power of wage earners.

One fact should be made clear and it is a truism:

Energy is critically different from any other commodity in that it is necessary for all industries and this is not true of any other commodity. Until this fact is understood and accepted—decisions made to solve the energy crisis will lead to actions that will aggravate rather than help the situation, e.g., excess profit taxes for crude oil rather than price rollbacks.

This is another way of saying that there is an energy cost associated will all raw materials and products used or produced by all enterprises.

Each day more people are observing that the price of everything is going up—this literally is the case. In some industries the energy cost is small, in others such as steel, petrochemicals, transportation and agriculture the energy costs are significant and are directly related to the costs and selling prices associated with products and activities which are necessary to maintain life.

TABLE 1.—CALCULATIONS FOR DETERMINING TOTAL DAILY TOTAL DOLLAR VALUE OF CRUDE OIL USED IN THE U.S.

	1973					January 1974
	Jan. 10	May	Aug. 15	Oct. 15	Dec. 31	
Domestic crude prices:						
Old crude (per barrel)[1]	$3.40	$3.62	$3.86	$4.17	$4.25	$5.25
New crude and stripper (per barrel)[1]	3.40	3.62	3.86	5.17	6.17	8.00
Imported crude prices: Avage import delivered in the United States[1]	3.34		3.93	5.24	6.54	10.00
Barrels per day used (millions): Domestic:						
Old crude[2]	$9.26	$9.26	$9.26	$9.26	$9.26	$9.26
New crude[2]	3.093	3.093	3.093	3.093	3.093	3.093
Imported[2]	4.932	4.932	4.932	4.932	4.932	4.932
Daily total value in (millions):						
Old crude	31.48	33.52	35.74	38.61	39.35	48.61
New crude	10.50	11.18	11.93	15.99	19.08	24.74
Imported	16.46	16.46	19.38	25.84	32.25	49.32
Total (million per day)	58.44	61.16	67.05	80.44	90.68	122.67

[1] Source: Cost of Living Council news release Dec. 19, 1973—"Domestic Crude Oil Price Adjustments."

[2] Source: Federal Energy Office, petroleum situation report, week ending Dec. 14, 1973, table 1.

NOTE

	Billion
Estimated U.S. crude oil bill for 1974 is 365 times $122.67	$44.774
Estimated U.S. crude oil bill for 1973 is 365 times $\frac{\$58.44 \text{ plus } \$90.68}{2}$	27.214
Increase in crude oil costs in 1974	$17.560

Assume the selling price of refined petroleum products is 2.5 times the cost of crude oil. This multiplier includes refinery costs and profits, in addition to shipping costs and marketing and distribution markups. Then the total added cost to customers will be 2.5 times $17.560 equals $43.90 billion.

Approximately 70 percent or $30.73 billion will be purchased by agriculture and industry. Approximately 30 percent or $13.17 billion will be purchased by consumers (gasoline, oil, heating oil, etc.)

A firm basis for predicting how prices will go up in 1974 was provided by Mr. William E. Simon, Head of the Federal Energy Office, when he appeared before the Senate Permanent Subcommittee on Investigations on January 15, 1974. He testified that on the average the price of each gallon of refined petroleum products would increase by 10 or 11 cents a gallon in 1974 to offset the increased costs for a barrel of crude oil (42 gallons per barrel) due to pricing actions taken by the Cost of Living Council and the oil exporting countries. It is vital to see what this will mean to the economy. Gasoline now selling for 45 cents per gallon will go to 55 cents or an increase of 22%. Light distillates used for home heating and diesel fuel now selling for 25 cents a gallon will go to 35 cents or an increase of 40%. Fuel oil used in manufacturing steel and other industrial uses now selling for 20 cents a gallon will go to 30 cents a gallon or an increase of 50%. Jet fuel now selling for 14 cents a gallon will go to 24 cents a gallon or an increase of 71%. Now these are massive increases for the most vital commodity used by a highly industrialized country and they set up an ever-widening series of chain reactions that reverberate and are amplified throughout the entire economy. The effects from these reverberations, once started, will continue until they run their course and are in many cases irreversible. One example are the firms and entrepreneurs who will be forced out of business due to some combination of raw material shortages and energy related costs.

Given this relatively sudden massive energy price hike let us track a few of the cause-effect relationships these price hikes will have on the economy. Primarily, we will concern ourselves with the following two areas:

1. *Cause-Massive and sudden energy price hikes amplified by some shortages.*
2. *Effects of sudden large energy price hikes on food prices.*

1. CAUSE-MASSIVE AND SUDDEN ENERGY PRICE HIKES AMPLIFIED BY SOME SHORTAGES

Using the 2.5 multiplier, refined petroleum product prices rose from $146.10 million ($58.44 × 2.5) to $306.67 million per day (122.67 × 2.5) and this is expected to further increase in 1974. The Federal Energy Office is advocating a further 33% increase in 1974 in the controlled price of domestic crude oil from $5.25 per barrel to $7 per barrel and is also actively lobbying to deregulate natural gas. Coal to produce steam for electric power generation is also in short supply with the result that coal prices are following oil and natural gas prices.

As mentioned previously, the economy will have to absorb an additional minimum of $43.90 billion of which $30.73 billion will be paid by commercial enterprises.

Responsible officials in the Federal Government and the oil companies are on record as stating that energy shortages, even if the embargo is lifted, will continue to be a long term problem. This is another way of saying that prices under no circumstances are expected to decrease in the near future due to free market forces.

Now let us briefly examine some of the effects that energy price hikes will have on the food sector of the economy.

2. EFFECTS OF SUDDEN LARGE ENERGY PRICE HIKES ON FOOD

The Department of Agriculture reports that the index of prices received by farmers in mid-December 1973 was up 1.5% in one month and up 34% for the year. A vital question is, what will happen in 1974?

To provide a relationship between farm costs Table 2 was developed based on available 1972 farm income information. It is seen that chemical fertilizer, fuel oil, gasoline and electricity costs $4.489 billion or 12.9% of total operating costs while hired labor cost $4.188 billion or 12.7% of operating costs. Also it is important to note that pretax profit or net income was 41% of all production costs.

A 1972 Census of Manufacturers report shows that the consumption of fossil fuel derived materials received from other establishments to produce nitrogenous fertilizers amounted to 43% of the costs.

The fertilizer industry was decontrolled on October 25, 1973. According to a Cost of Living Council Report during the period October 25, 1973 to December 13, 1973 fertilizer prices at the retail level have increased 37%. From Table 2 the fertilizer bill for 1972 was $2.510 billion. If the same quantity is used in 1974, the additional cost for fertilizer in 1974 could be $928.7 million ($2.510 × .37).

Now let us transfer the 10 cents per gallon increase to the gasoline and fuel oil gallonages used in producing, transporting, processing and selling food.

A Department of Agriculture report, "Agriculture and Energy Use" provides estimated gallonages used in food production and these are detailed below:

TABLE 2—*Income farm earnings*

[In billions]

	1972
CASH RECEIPTS, FARMING	
	$60, 700
Government payments to farmers and other non-money income	8, 200
Realized gross farm income	68, 900
FARM PRODUCTION EXPENSES	
Current operating expenses:	
Feed	8, 951
Livestock	6, 667
Seed	1, 071
Lime	94
Fertilizer	2, 510
Fuel and oil	1, 797
Electricity	0, 182
	[1] 4, 489
Repair and operation	3, 614
Hired labor	4, 108
Other	5, 628
	34, 622
Overhead costs (depreciation, property taxes, mortgage interest, government payments, et cetera)	14, 545
Total production cost	[2] —49, 167
Farmer net income	19, 733
Net change in farm inventories	600
Total net income	20, 333
Total income as a percent of production cost	41%
Total income as a percent of gross farm income	29%

[1] Energy related costs as a percentage of current operating expenses

$$4,489/34,622 \times 100 = 12.9\%$$

[2] Energy related costs as a percent of total production cost

$$4,489/49,167 \times 100 = 9.1\%$$

Source: Department of Agriculture, Economic Research Service Report, Farm Income Situation, July 1973.

(a) L. P. gas or propane is used extensively in crop drying, poultry production and home heating. Major farm uses are drying corn and tobacco. Estimated propane use for drying corn in 1973 was 642.056 million gallons. At 10 cents a gallon the costs for drying corn at a minimum will increase by $64.2 million. Propane costs for drying tobacco in 1974 will increase $13.8 million.

(b) The report estimates that 1973 farm fuel consumption for tractors, combines, automobiles, trucks and other vehicles was 4.023 billion gallons of gasoline and 2.477 billion gallons of diesel oil for a total 6.500 billion gallons. Using the 10 cent per gallon increase this means a minimum farm cost increase of $650 million for 1974 less the amount sold to foreign countries.

(c) Aerial crop dusters in 1971 used about 38.5 million gallons of gasoline and 325 thousand gallons of jet fuel. At a minimum this will add $3 million to the food bill in 1974.

(d) Fertilizers and phosphate transportation to farms requires moving tremendous tonnages of products. In 1973 the Census Bureau found that 29 million tons of fertilizer has been shipped by superphosphate and associated mixing plants. Data on ton miles and gallonage of fuel to transport fertilizer is not available but the 10 cent increase is applicable and will help boost food costs.

The total increase in energy related costs for 1974 then is:

[In millions]

Fertilizer	$928. 7
Propane for drying corn	64. 2
Propane for drying tobacco	13. 8
Gasoline and fuel oil	650. 0
Crop dusting	3. 0
Total	1, 659. 7

When this $1,659.7 million is marked up by 41% the total farm bill could be increased by $2,340.17 million. This is somewhat unrealistic in that it includes, cotton, tobacco, feed grains, and exports but it provides a starting point. Actually farm prices are dependent on price variations in the commodity markets and other contract arrangements. The net farm income at times bear little relationship to the cost of production. However, one real effect higher prices for energy and fertilizer will have is that the farmer will think hard and long about how much acreage he plants in specific crops to make sure surpluses are kept to a minimum. Table 2 shows that purchase feed stocks (mostly corn and soybean) are the largest single item in the meat production. Feeder corn went up by 68% between the December 1973 and January 1974 period and soy beans went up 43% during the same period. No one can precisely say how much of these increases were due to increased energy and fertilizer costs.

According to the December 1973 issue of Marketing and Transportation Situation published by the Department of Agriculture's Economic Research Service, the value of farm products sold to U.S. consumers in 1973 is estimated at $51 billion and the costs to transport, process, and sell these products is estimated at $83 billion for 1973 and it is in this complex marketing chain that markups are added to markups.

Sudden massive energy price hikes also have equivalent price effects on vital industries such as transportation, steel, petrochemicals, and electric power generation.

SUGGESTIONS FOR BASIC LEGISLATIVE POLICY

1. A roll back in the price of crude oil is a necessity if the inflation spiral is to be curbed. The amount of the roll back should be geared to the December 1972 National Petroleum Council report submitted to the Secretary of the Interior. This report was compiled by representatives of the major oil companies and it estimated that domestic self-sufficiency of crude oil would be achieved if the price of a barrel of crude oil rose to $3.65 in 1975. Also in August 1972, the Independent Petroleum Association of America testified before the Senate Committee on Interior and Insular Affairs that a domestic price of $4.10 per barrel would be adequate to assure the United States 100% self-sufficiency by 1980.

2. The creation of a government owned petroleum company to expedite exploration and development of energy from federal lands and to build the technology that will minimize the costs of developing energy from sources such as shale oil, geothermal techniques, tar sands and others. This should be a government sponsored activity because managers of all publicly held companies must consider as the overriding priority the

well being of their stockholders in terms of profits as opposed to national or other problems.

3. There is an urgent necessity to stabilize our economy by establishing reliable energy price levels.

Perhaps the Canadian experience can provide some guidance in this area.

On December 9, 1973 Canada announced a shift in its energy policy designed to isolate Canada from rising foreign oil prices and to bring the Canadian Government into the oil business as a competitor to private industry. Prime Minister Pierre Trudeau said he would bring a law to parliament early in 1974 which would have authority to make overseas oil deals for Canada, and would also be involved in new exploration. The national company would also perform research for new methods of extracting oil from the Athabaska tar sands.

Russia is not raising her energy prices and if Canada is successful in isolating its economy from sharp energy price increases, these countries will have tremendous price advantages compared to the U.S. relative to competing in world markets. This will amplify our balance of payments problems and require the establishment of massive protective tariffs.

All countries which have allowed oil prices to rise to cartel levels are now experiencing raging inflation. Since 12 months ago inflation in the United States has risen from 4.7 to 9.4 percent with higher rates predicted.

PROF. STEPHEN L. McDONALD, CHAIRMAN, DEPARTMENT OF ECONOMICS, UNIVERSITY OF TEXAS, OFFERS VIEWS ON OIL TAXES

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. VANIK. Mr. Speaker, the Ways and Means Committee is continuing its consideration of a windfall profits tax for the oil companies. During the committee hearings on this legislation, I wrote to several economists with established reputations in the field of energy economics. The purpose of my letter was to explore their views on several key matters of tax policy now before the Congress.

Although I do not share all of his views, I offer below the comments of Prof. Stephen L. McDonald, chairman of the Department of Economics at the University of Texas. His remarks, provide insights into the complex policy questions surrounding oil industry taxation. It is interesting that, while Professor McDonald outlines the pros and cons to providing subsidies to domestic production, he finds the depletion allowance to be an especially ill-conceived policy. In comparing the depletion allowance with a hypothetical system of direct cash payments to producers, Professor McDonald writes in part:

> A direct cash subsidy to, say, exploration, would be preferable to the percentage depletion allowance. An important reason for this is that the percentage depletion allowance applies to royalty owners as well as producers, which serves no good purpose, while a (direct cash) subsidy would go only to producers.

In short, there are two major policy questions which Congress must decide. The first is whether or not the domestic industry should be subsidized to produce oil above and beyond the stimulus it already receives from the market price. If we choose to subsidize oil production, then the second question arises as to the best way to do it. Professor McDonald indicates that the percentage depletion allowance is a particularly inefficient method of subsidizing oil production.

Professor McDonald's analysis is bolstered with a review of the legislative history of the percentage depletion allowance. Looking back over the early legislative history of the provision, we find that no clear rationale was ever advanced in support of the concept. What is worse, there was no attempt to balance the costs of the subsidy with the benefits to the consumer and the security of the Nation. I have compiled a detailed legislative history of the depletion allowance which appeared in the RECORD on January 24, 1974, at E171 and January 29 at E248.

The complete text of Professor McDonald's responses to various questions on oil tax policy follows:

ANSWERS TO QUESTIONS RELATING TO TAXATION OF THE PETROLEUM INDUSTRY BY STEPHEN L. McDONALD, PROFESSOR OF ECONOMICS, THE UNIVERSITY OF TEXAS

(1) The Administration is proposing that the market price for crude oil reach a "long run equilibrium price." The Treasury Department estimates this price level to be about $7 a barrel. The Department also estimates that this equilibrium price will be achieved in three to five years. Are these realistic projections? As far as you can determine. are the assumptions underlying these projections valid? In an industry in which price has been closely regulated through such mechanisms as state prorationing and import quotas is it justified now to have confidence in the price mechanism to allocate available petroleum supplies?

1. The long-run equilibrium price of oil depends almost entirely on the tax and/or price policy of the OPEC countries. If after the end of the Arab embargo and domestic price controls the OPEC countries persist in their present tax policy, the equilibrium oil price is likely to be about $10/bbl. It is unlikely that state prorationing policy will ever again be a major determinant of the domestic price of oil, assuming no reintroduction of import quotas.

(2) It appears to me that the Administration's windfall profits tax is engineered to prevent wild fluctuations in the domestic price for crude, while at the same time allowing this price to reach its "equilibrium" level. Is this a correct interpretation of the primary function of the tax? What is your opinion of the Administration's proposal? Is it correct to label this tax an excise tax on the price of crude oil? If so, is the tax likely to be shifted forward to consumers? How regressive do you think this tax is likely to be?

2. I am not sufficiently familiar with the Administration's proposal to answer this question.

(3) Does the Administration's goal of achieving a long run equilibrium price for crude undercut in any way the case for production subsidies, such as the depletion allowance? I understand that the impact of such subsidies is to bring forth more supplies than a given price alone would justify. Accepting this interpretation, do you see a "price" policy as an adequate substitute for a "tax" policy? Would not the pursuance of both simultaneously be contradictory?

3. There is no conflict between an "equilibrium price" and subsidies. In a closed economy, subsidies simply make the equilibrium price lower than it otherwise would be. With free imports, however, the equilibrium price is determined basically by the supply price of imports, and subsidies simply increase the proportion of consumption produced at home.

(4) In your opinion, is the percentage depletion allowance an efficient means of guaranteeing our domestic production capacity as one component of national security? Should the depletion deduction be terminated altogether? If so, would you advise an immediate repeal of the depletion allowance for domestic properties? Or as an alternative, would you favor a gradual phasing out of the deduction?

4. With free imports, the percentage depletion allowance, which acts very much like a subsidy, tends to increase the share supplied by imports. This does contribute to national security. Eliminating percentage depletion would decrease security of supply. However, the allowance could safely be eliminated if simultaneously the oil tariff were increased to raise the supply price of imports as much as the domestic supply price of oil is raised by a higher tax burden.

(5) If you feel that some sort of subsidy for domestic oil production is warranted, would you favor substituting a direct cash payment system for tax subsidies? The advantages I see in such an approach is that such a cash system would be easily managed and accurately targeted to exploratory activity.

5. Yes, a direct subsidy to, say, exploration would be preferable to the percentage depletion allowance. An important reason for this is that the percentage depletion allowance applies to royalty owners as well as producers, which serves no good purpose, while a subsidy would go only to producers.

(6) A major argument against removal of the depletion allowance and other tax advantages for petroleum production is that these reforms would undermine the industry's ability to attract new capital. Could you evaluate this argument? Are the existing subsidies essential to meeting the financial requirements of the industry?

6. The subsidies are not essential. In a closed economy, they merely lower the price at which supply equals demand. With free imports, they increase the portion of consumption supplied at home. (See 4 above.) Eliminating them would indeed reduce the marginal rate of return on exploration and development at home, and would shrink supply from home sources.

(7) Would the national security be better served through the establishment of a national defense petroleum reserve (in situ or in above ground storage) on the public lands of the U.S.? Do you feel it is wise to establish inventory requirements for producers and/or refiners?

7. Yes, I think it would be desirable to have a security reserve of oil, so long as we are significantly dependent of insecure sources abroad.

(8) The Administration has recommended the repeal of the depletion deduction on foreign properties. Do you favor this step?

8. Yes, but it would not make much difference. With the foreign tax credit, most U.S. companies operating abroad now have sufficient tax credits to offset any increase in domestic tax liability due to elimination of percentage depletion on foreign income.

(9) The foreign tax credit has been criticized as an irresistable incentive for foreign investment by the petroleum companies. Do you agree? Do you feel that the foreign tax credit, in general, is a sound policy? Do you find the oil companies use of the credit as an unjustified abuse? If so, would you favor outright repeal of the credit for the oil companies or do you recommend that an effort be made to define what is a royalty payment and what is a tax?

9. The foreign tax credit is sound in principle. It avoids double taxation of the same income. However, the credit should be restricted to true income taxes and not apply to royalties or excise taxes, and surplus credits should not be applicable to income from domestic sources.

HOUSE OF REPRESENTATIVES—*Monday March 18, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Look unto Me and be ye saved, all the ends of the Earth; for I am God and there is no other.—Isaiah 45: 22.

O God of mercy and truth, who art the source of our being and the sustainer of our lives, we pray that the strength of Thy presence and the steady guidance of Thy spirit may be ours as we seek to find our way through the pressures and the perplexities of these disturbing days.

If we look only at the swiftly moving scenes about us we are filled with fear and feel frustrated. If we look up to Thee and keep on looking up to Thee, our assurances overcome our anxieties, our faith overpowers our fears, and our courage overwhelms our cynicism.

In this forum of freedom give us grace to promote the high principles of our democratic faith lest in seeking comfort or money or security we lose our soul as as a nation.

May the words on our lips, the thought in our minds, and the sympathies of our hearts be acceptable in Thy sight, O Lord, our strength and our redeemer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed, with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 11793. An act to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 11793) entitled "An act to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RIBICOFF, Mr. ERVIN, Mr. JACKSON, Mr. MUSKIE, Mr. METCALF, Mr. PERCY, Mr. JAVITS, and Mr. GURNEY to be the conferees on the part of the Senate.

CONTINUATION OF WAGE-PRICE LEGISLATION?

(Mr. PATMAN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. PATMAN. Mr. Speaker, your Committee on Banking and Currency recently held hearings on the subject of wage-price control legislation which expires on April 30 of this year. There is no need to go into detail as to the way the program has operated to date. Phase IV of the program, in my opinion and those of others, is an abysmal failure. Phase II of the program was, even as spokesmen of the administration admit, a success.

The bill sent to the Congress by the administration calls for continuation of controls only for the health industry. In my opinion, this proposal is highly discriminatory and completely unworkable. It is significant to note no Member of the House to date has seen fit to introduce the administration's proposal.

In order to have something before your Committee on Banking and Currency for consideration, I introduced a bill, which would simply have extended existing wage-price authority for 1 year.

Mr. Speaker, it appears as if the committee has concluded its hearings since no additional witnesses have asked to be heard. Those witnesses who did appear or submit statements, except for the administration, were unanimous in their opposition to an extension of any kind of wage-price legislation. In my opinion, any consideration of extension of this legislation is on dead center. Any hope for passage or even committee action appears to be dim, if not dead.

Mr. Speaker, no one will deny that operating an effective, fair, and equitable wage-price program is a complicated and exacting task. Unfortunately, in the opinion of many, the administration did not succeed in its efforts to conduct a fair and reasonable wage-price control program since the Congress gave it its authority in 1970. What is frightening to me is that if the program is allowed to expire, we will be faced with continuing high inflationary pressures—higher food prices, higher interest rates, and numerous other price increases—and, at the same time, continuing high levels of unemployment with no effective tools to deal with the situation.

Mr. Speaker, I take this time to inform the House that your Banking and Currency Committee is operating in a responsible manner on this legislation which, unless the Congress acts positively, will expire in a few days. The dissatisfaction which many seem to have of the inequitable way in which the program has been operated to date cannot be laid on Congress doorstep. Congress gave the authority under this legislation to the President to design a fair and equitable program. In other words, the President has failed to perform his duties under the Constitution. The congressionally passed wage-price legislation was given to the President for proper administration and execution. Everyone who has testified before the committee so far has, in my opinion, indicated that neither the President nor the executive has administered the program in a fair and equitable way.

Mr. Speaker, I make this statement to inform the House of this matter, because so many Members have asked me about the wage-price legislation. I repeat, it is my feeling at this time that the Banking and Currency Committee will not look favorably on any extension of this legislation.

WAGE AND PRICE CONTROLS SHOULD EXPIRE

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, I am delighted to hear the chairman of our Committee on Banking and Currency, Mr. PATMAN, state so clearly today that there was no testimony before the Committee on Banking and Currency that really encouraged an extension of wage and price controls. I am pleased to see that so many people throughout the country have objected to the way the program was administered. There were many of us who had grave doubts when this House passed the bill originally to provide for wage and price controls and the extension of this kind of power to the executive branch.

I hope we have learned our lesson. Many Members of the House now believe that we should not extend the power of wage and price controls, and that we will let the law expire as it properly should.

APPOINTMENT AS MEMBER OF COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT FOR THE CONDUCT OF FOREIGN POLICY

The SPEAKER. Pursuant to the provisions of section 602(b), title 6, Public Law 92-352, the Chair appoints as a member of the Commission on the Organization of the Government for the Conduct of Foreign Policy the gentleman from New Jersey, Mr. FRELINGHUYSEN, to fill the existing vacancy thereon.

TWENTY-THIRD ANNUAL REPORT OF THE NATIONAL SCIENCE FOUNDATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-242)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Science and Astronautics and ordered to be printed with illustrations:

To the Congress of the United States:

I am pleased to submit to the Congress the Twenty-Third Annual Report of the National Science Foundation.

The Nation today is faced with scientific and technological challenges and opportunities of unprecedented importance. As this report shows, the National Science Foundation is funding projects across a broad spectrum of scientific inquiry, from basic research to highly focused and sophisticated engineering techniques. Concurrently, National Science Foundation programs are encouraging the more rapid transfer of technological knowledge from the laboratories to the marketplace and are increasing the scientific and technical manpower base which the United States must have in the future.

I believe the annual report of the National Science Foundation merits the close attention of the Congress. It is a record of a very productive year.

RICHARD NIXON.

THE WHITE HOUSE, *March 18, 1974.*

COMMUNICATION FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following communication from the President of the United States:

THE WHITE HOUSE,
Washington, March 14, 1974.

The Honorable CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: As you know, I found it necessary to veto the Energy Emergency Act on March 6th. I can well understand and share the frustrations you must feel when legislation which has consumed great time and effort falls short of enactment, but for the reasons set forth in my message to the Senate on this subject, I felt that the act would hinder, not help, our efforts to solve this problem.

Now that the energy emergency bill is behind us, I would hope that everyone in the Executive and Legislative branches could join together in a spirit of constructive cooperation to pass the legislation that is still urgently needed for the future of our Nation.

I recognize that Members of the Congress have already made several proposals which merit attention and that others are likely to be forthcoming. This Administration will always welcome a healthy debate on these matters and seek to work with members of the House and Senate.

At the same time, I would hope that future energy bills passed by the Congress will be as direct and straightforward as possible without the burden of extraneous issues. Consistent with this approach, I have over the past thirteen months proposed a comprehensive package of seventeen legislative initiatives relating to energy. While some progress has been made toward enactment, a great deal remains to be done. I would therefore like to take this opportunity to summarize those initiatives for you:

Windfall Profits Tax—prevents oil producers from making undue profits as a result of the petroleum shortage by imposing a tax of up to 85 percent on that part of the selling price of domestic crude oil above its December 1, 1973 ceiling price.

Job Security Assistance Proposal—strengthens the unemployment insurance program that now exists by extending it to many workers not now covered and by providing additional benefits to those who lose jobs in areas where unemployment rates show that other jobs will be hard to find.

Special Energy Act of 1974—authorizes mandatory energy conservation measures and rationing (if it should become necessary) and grants to States to carry out energy emergency programs.

Natural Gas Supply Act—allows competitive pricing of newly developed gas supplies, thereby encouraging exploration and development of new wells. This bill should be of the highest priority.

Mandatory Reporting on Energy Information—requires all domestic energy companies to report energy inventories, production, cost, and reserves. Such information is needed to enable the Government to determine and carry out energy policies more effectively.

Naval Petroleum Reserves—allows limited production of oil from Elk Hills Naval Petroleum Reserve No. 1 and provides funds for further exploration and development of reserve No. 1 and exploration of reserve No. 4.

Mined Area Protection Act—establishes standards to govern surface effects of coal mining. This is needed to encourage the development of State programs which permit the mining of coal in a manner that is environmentally safe. The absence of clear legislation in this area is inhibiting the development of our coal reserves.

Deepwater Port Facilities Act—authorizes the Secretary of the Interior to grant permits for the construction, licensing and operation of ports beyond the three-mile limit. These facilities would permit the use of ships that are economically and environmentally sound for the importation of petroleum.

Mineral Leasing Act—places all mineral exploration and mining activities on Federal lands under a modernized leasing system. This proposal would assure that persons obtaining leases have an interest in early exploration for oil, gas and other minerals.

Drilling Investment Tax Credit—provides a tax credit similar to the investment tax credit for costs incurred for exploratory drilling for new oil and gas fields in the United States. Approval of this provision would provide an important incentive for new domestic oil and gas exploration.

Foreign Depletion Allowances—changes the present law to eliminate the 22 percent depletion deduction permitted in computing U.S. taxes on foreign production of oil and gas. This proposal would eliminate any incentive that percentage depletion provides for investment in foreign oil and gas development rather than U.S. energy resources.

Foreign Tax Credits—limits foreign tax credits available to U.S. oil and gas companies operating in foreign lands. Taxes paid to foreign oil producing countries by U.S. oil companies operating abroad have increased dramatically. It is no longer realistic to treat these payments to foreign governments entirely as income taxes creditable against the U.S. tax; it is proposed that the excessive portion of these payments be treated as an expense rather than as a tax credit.

Appliance and Motor Vehicle Energy Labeling Act—requires that major appliances and motor vehicles be labeled to show their energy use and efficiency so that consumers will have the information they need to make wise choices in purchasing.

Revision of Nuclear Licensing procedures—encourages standardization of nuclear plant designs and encourages early site review and approval so as to reduce the time required for getting nuclear plants on line from the current 9–10 years to 5–6 years, without compromising safety and environmental standards.

Federal Energy Administration—provides statutory responsibility to deal with the current energy problem through the allocation program and to carry out major new activities in encouraging the development of new energy supplies, collecting and analyzing energy information and supporting energy conservation.

Energy Research and Development Administration—provides a central agency for a series of $10 billion, five year energy research and development programs designed to develop new technologies for increasing energy supplies and for more efficient energy utilization. ERDA would include the research and development as well as production functions of the Atomic Energy Commission and selected energy R. & D. functions of the Department of the Interior, the National Science Foundation, and the Environmental Protection Agency.

Department of Energy and Natural Resources—provides a new Cabinet department for the comprehensive management of Federal energy and natural resource programs. DENR would incorporate most of the responsibilities of Interior, plus selected natural resource activities from the Departments of Agriculture, Commerce, Transportation and the Corps of Engineers. These responsibilities would form the basis of a modern department.

Our main concern now must be to work together to reconcile differing views so that important energy legislation can be brought to enactment as quickly as possible. I will personally guarantee the full cooperation of the executive branch in making this possible.

With warm personal regards,

Sincerely,

RICHARD NIXON.

CALL OF THE HOUSE

Mr. WYLIE. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 90]

Addabbo
Alexander
Andrews, N.C.
Annunzio
Ashley
Bell
Bergland
Blatnik
Brasco
Breckinridge
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Burke, Calif.
Burke, Fla.
Carey, N.Y.
Chamberlain
Chappell
Chisholm
Clark
Cochran
Collins, Ill.
Conyers
Cotter
Davis, Ga.
Dellums
Diggs
Dorn
Downing
Dulski
Eckhardt
Erlenborn
Esch
Fraser
Frelinghuysen
Froehlich
Fulton
Fuqua
Gibbons
Goldwater
Grasso
Gray
Green, Oreg.
Griffiths
Gubser
Gude
Gunter
Hanley
Hansen, Wash.
Hébert
Hinshaw
Huber
Jarman
Jones, Tenn.
Jordan
King
Kuykendall
Kyros
Landgrebe
Lehman
McClory
McCloskey
McCollister
McDade
McEwen
McKinney
McSpadden
Macdonald
Madden
Maraziti
Metcalfe
Milford
Minshall, Ohio
Mitchell, Md.
Moakley
Moorhead, Calif.
Morgan
Murphy, Ill.
Nichols
Nix
O'Brien
O'Hara
Pepper
Peyser
Pickle
Pike
Podell
Preyer
Railsback
Reid
Reuss
Riegle
Rooney, N.Y.
Roy
Ryan
St Germain
Sebelius
Slack
Steed
Steele
Stubblefield
Symington
Talcott
Teague
Thompson, N.J.
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Veen
Vigorito
Waldie
Wiggins
Wilson, Bob
Wilson, Charles, Tex.
Wolff
Yatron
Young, S.C.

The SPEAKER. On this rollcall 313 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the calendar.

AMENDING TITLE 35, UNITED STATES CODE, "PATENTS"

The Clerk called the bill (H.R. 9199) to amend title 35, United States Code, "Patents", and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 9199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3, title 35, of the United States Code is amended to read as follows:

§ 3. Officers and employees

"(a) There shall be in the Patent Office a Commissioner of Patents, a Deputy Commissioner, two Assistant Commissioners, and not more than fifteen examiners-in-chief. The Deputy Commissioner, or, in the event of a vacancy in that office, the Assistant Commissioner senior in date of appointment shall fill the office of Commissioner during a vacancy in that office until the Commissioner is appointed and takes office. The Commissioner of Patents, the Deputy Commissioner, and the Assistant Commissioners shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary of Commerce, upon the nomination of the Commissioner, in accordance with law, shall appoint all other officers and employees.

"(b) The Secretary of Commerce may vest in himself the functions of the Patent Office and its officers and employees specified in this title and may from time to time authorize their performance by any other officer or employee.

"(c) The Secretary of Commerce is authorized to fix the per annum rate of basic compensation of each examiner-in-chief in the Patent Office at not in excess of the maximum scheduled rate provided for positions in grade 17 of the General Schedule of the Classification Act of 1949, as amended."

SEC. 2. The first paragraph of section 7 of title 35 of the United States Code is amended to read as follows:

"The examiners-in-chief shall be persons of competent legal knowledge and scientific ability, who shall be, appointed under the classified civil service. The Commissioner, the deputy commissioner, the assistant commissioners, and the examiners-in-chief shall constitute a Board of Appeals, which on written appeal of the applicant, shall review adverse decisions of examiners upon applications for patents. Each appeal shall be heard by at least three members of the Board of Appeals, the members hearing such appeal to be designated by the Commissioner. The Board of Appeals has sole power to grant rehearings."

SEC. 3. The last sentence of section 151 of title 35 of the United States Code is amended to read as follows: "If any payment required by this section is not timely made, but is submitted with the fee for delayed payment and the delay in payment is shown to have been unavoidable, it may be accepted by the Commissioner as though no abandonment or lapse had ever occurred.".

SEC. 4. (a) The Commissioner of Patents, may, in accordance with section 3 of this Act, accept late payment of issue fees, the payment of which was governed by the provisions of Public Law 89–83: *Provided,* That the term of the patent for which late payment of such an issue fee is accepted shall expire earlier than the time specified in section 154 of title 35, United States Code, by a period equal to the delay between the time the application became abandoned or a patent lapsed for failure to pay the issue fee and the time the late payment is accepted after enactment of this Act: *Further provided,* That no patent, with respect to which the payment of the issue fee was governed by the provisions of Public Law 89–83 and for which a late payment of the issue fee is accepted under the authority created by section 3 of this Act, shall abridge or affect the right of any person or his successors in business who made, purchased, or used after the date the application became abandoned or patent lapsed for failure to pay the issue fee, but prior to the grant of the patent, anything covered by the patent, to continue the use of or to sell to others to be used or sold, the specific thing so made, purchased, or used. A court before which such matter is in question may provide for the continued manufacture, use, or sale of the thing made, purchased, or used as specified or for the manufacture, use, or sale of which substantial preparation was made after the date the application became abandoned or a patent lapsed for failure to pay the issue fee but prior to the grant of the patent, and it may also provide for the continued practice of any process covered by the patent, practiced, or for the practice for which substantial preparation was made, prior to the grant of the patent, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before the grant of a patent.

(b) This Act shall be effective upon enactment. Examiners-in-chief in office on the date of enactment shall continue in office under and in accordance with their then existing appointments.

With the following committee amendment:

Strike out all on page 3, line 13, down through page 4, line 21, and insert in lieu thereof the following:

SEC. 4. (a) The Commissioner of Patents may, in accordance with section 3 of this Act accept late payment of issue fees, the payment of which was governed by the provisions of Public Law 89–83; *Provided:* the term of the patent for which late payment of such an issue fee is accepted shall expire earlier than the time specified in section 154 of title 35, United States Code, by a period equal to the delay between the time the application became abandoned or the patent lapsed for failure to pay the issue fee and the time the late payment is accepted after enactment of this Act: *Further provided:* no patent with respect to which the payment of the issue fee was governed by the provision of Public Law 89–83 and for which a late payment of the issue fee is accepted under the authority created by section 3 of this Act, shall abridge or affect the right of any person or his successors in business who made, purchased or used anything covered by the patent, after the date of the application became abandoned or patent lapsed for failure to pay the issue fee but prior to the grant or restoration of the patent, to continue the use of or to sell to others to be used or sold, the specific thing so made, purchased, or used. A court before which such matter is in question may provide for the continued manufacture, use or sale of the thing made, purchased or used as specified, or for the manufacture, use or sale of which substantial preparation was made after the date the application became abandoned or patent lapsed for failure to pay the fee but prior to the grant or restoration of the patent, and it may also provide for the continued practice of any process covered by the patent, practiced, or for the practice of which substantial preparation was made, after the date the application became abandoned or patent lapsed for failure to pay the issue fee but prior to the grant or restoration of the patent, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before the grant or restoration of the patent.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DESIGNATING LANDS IN OKEFENOKEE NATIONAL WILDLIFE REFUGE, GA., AS WILDERNESS

The Clerk called the bill (H.R. 6395) to designate certain lands in the Okefenokee National Wildlife Refuge, Ga., as wilderness.

The **SPEAKER**. Is there objection to the present consideration of the bill?

Mr. **GROSS**. Mr. Speaker, reserving the right to object, I should like to ask someone who is knowledgeable concerning this bill, whether it is proposed to dump any Federal funds under this bill into the Okefenokee Swamp?

Mr. **MELCHER**. Mr. Speaker, if the gentleman will yield, the answer is no, there are no Federal funds involved here. I would advise the gentleman from Iowa that this would designate 340,000 acres of the Okefenokee Swamp as wilderness which requires that development be prohibited, therefore no expenditures.

Mr. **GROSS**. And is it anticipated that none will be involved in the future as a result of passage of this bill?

Mr. **MELCHER**. Again the answer is no. I will say to the gentleman from Iowa that there are no anticipated funds that would result from passage of the bill.

Mr. **GROSS**. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER**. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

H.R. 6395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 3(c) of the Wilderness Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1132 (c)), certain lands in the Okefenokee National Wildlife Refuge, Georgia, which comprise about three hundred forty-three thousand eight hundred and fifty acres and which are depicted on a map entitled "Okefenokee Wilderness Proposal" dated October 1967, revised March 1971, are hereby designated as wilderness. The map shall be on file and available for public inspection in the offices of the Bureau of Sport Fisheries and Wildlife, Department of the Interior.

Sec. 2. Within the wilderness designated by this Act, subject to such restrictions as the Secretary of the Interior deems necessary for public safety and to protect flora and fauna of the wilderness, (1) the use of powered watercraft, propelled by outboard motors of ten or less horsepower, will be permitted, (2) watercraft trails consisting of approximately one hundred twenty miles as delineated on the attached map will be maintained. Access to watercraft trails in the wilderness area will be provided from the Suwannee River Sill, Steven Foster State Park, Kings Landing, and Suwannee Recreation Area (Camp Cornelia).

Sec. 3. Fishing shall be permitted in the waters of the Okefenokee Wilderness, in accordance with applicable State and Federal regulations, except that the Secretary of the Interior may designate zones and establish periods when no fishing shall be permitted for reasons of public safety, administration, fish and wildlife management, or public use and enjoyment.

Sec. 4. As soon as practicable after the Act takes effect, a map and a legal description of the wilderness area shall be filed with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

Sec. 5. The area designated by this Act as wilderness shall be known as the Okefenokee Wilderness and shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act.

With the following committee amendments:

Page 2, line 7, strike the word "outboard".

Page 2, line 8, strike the words "consisting of" and insert in lieu thereof the word "including".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WITHHOLDING OF CERTAIN CITY TAXES FROM FEDERAL EMPLOYEES' PAY

The Clerk called the bill (H.R. 8660) to amend title 5 of the United States Code (relating to Government organization and employees) to assist Federal employees in meeting their tax obligations under city ordinances.

There being no objection, the Clerk read the bill as follows:

H.R. 8660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter II of chapter 55 of title 5 of the United States Code is amended by redesignating sections 5518 and 5519 as sections 5519 and 5520, respectively, and by inserting after section 5517 the following new section:

"§ 5518. Witholding of city income or employment taxes

"(a) When a city ordinance—

"(1) provides for the collection of a tax by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the city; and

"(2) imposes the duty to withhold generally on the payment of compensation earned within the jurisdiction of the city in the case of employees whose regular place of employment is within such jurisdiction; the Civil Service Commission shall, under regulations prescribed by the President, enter into an agreement with the city within one hundred and twenty days of a request for agreement by the proper city official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the city ordinance in the case of employees of the agency who are subject to the tax and whose regular place of Federal employment is within the jurisdiction of the city with which the agreement is made. The agreement may not apply to pay for service as a member of the Armed Forces.

"(b) This section does not give the consent of the United States to the application of an ordinance which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a city for services performed in withholding city income or employment taxes from the pay of employees of the agency.

"(c) For the purpose of this section, the term 'city' means a city which is duly incorporated under the laws of a State."

Sec. 2. The table of sections for chapter 55 of title 5 of the United States Code is amended by redesignating the items relating to sections 5518 and 5519 as 5519 and 5520, respectively and by inserting after the item relating to section 5517 the following new item:

"5518. Withholding of city income or employment taxes.".

Sec. 3. The amendments made by the first section of this Act shall apply only to requests for agreements made after the date of the enactment of this Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) subchapter II of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5520. Withholding of city income or employment taxes

"(a) When a city ordinance—

"(1) provides for the collection of a tax by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the city; and

"(2) imposes the duty to withhold generally on the payment of compensation earned within the jurisdiction of the city in the case of employees whose regular place of employment is within such jurisdiction;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the city within 120 days of a request for agreement by the proper city official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the city ordinance in the case of employees of the agency who are subject to the tax and whose regular place of Federal employment is within the jurisdiction of the city with which the agreement is made. The agreement may not permit withholding of a city tax from the pay of an employee who is not a resident of the State in which that city is located unless the employee consents to the withholding.

"(b) This section does not give the consent of the United States to the application of an ordinance which imposes more burdensome requirements on the United States than on other employers or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a city for services performed in withholding city income or employment taxes from the pay of employees of the agency.

"(c) For the purpose of this section—

"(1) 'city' means a city which is duly incorporated under the laws of a State and within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government; and

"(2) 'agency' means—

"(A) an Executive agency;

"(B) the judicial branch; and

"(C) the United States Postal Service."

(b) The analysis of subchapter II of chapter II of chapter 55 of title 5, United States Code, is amended by adding at the end thereof—

"5520. Withholding of city income or employment taxes.".

Sec. 2. Section 410(b) of title 39, United States Code, is amended by striking out the words "and section 5532 (dual pay)" and inserting in lieu thereof "section 5520 (withholding city income or employment taxes), and section 5532 (dual pay)".

Sec. 3. This section shall become effective on the date of enactment of this Act. The provisions of the first section and section 2 of this Act shall become effective on the ninetieth day following the date of enactment.

The committee amendment was agreed to.

Mr. CLAY. Mr. Speaker, H.R. 8660, the bill we are now considering, will assist Federal employees in meeting their tax obligations under city ordinances.

The bill provides that where required by a city ordinance, tax withholdings from the pay of employees will apply to employees of Federal agencies when there is an agreement for such withholding between the city and the Department of the Treasury. There are 196 cities in the United States that impose some form of income or employment tax. There is a total of 203,000 Federal employees, exclusive of Postal Service employees, located in these cities.

The bill defines "city" to mean a city which is duly incorporated under the laws of a State and within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government. Thirty of the 196 cities have 500 or more Federal employees within their taxing jurisdiction with a total Federal employee population of approximately 196,000. The bill, as amended, applies to 96 percent of the Federal work force who are subject to a city income tax. All of these figures are exclusive of Postal Service employees as the original bill did not apply to the Postal Service but the inclusion of the Postal Service in the reported bill is not expected to result in any great administrative burdens.

Currently, there is no authorization to withhold city income tax obligations from the pay of Federal employees except on a voluntary basis. H.R. 8660 will permit the Federal Government to withhold earnings taxes from the payroll of the wages of its employees. The Federal Government now withholds from the wages of its employees for Blue Cross, Blue Shield, U.S. savings bonds, union dues, savings accounts, State income tax, and of course, Federal income tax; yet it does not withhold municipal wage taxes, which are an important source of income for at least 30 cities, in 9 States. In addition to Federal employees being able to deduct union dues, United Fund contributions they will be able to deduct city earnings if this bill becomes law.

The administrative cost to the Government would be minimal. The Treasury Department has stated that there would be no significant additional costs resulting from the enactment of this bill. Although there will be some initial costs involved, the computerized payroll systems of the agencies are constantly being changed to reflect pay and deduction adjustments and, the cost of adding city tax withholding would not be any greater to the agency than the normal payroll adjustment. No additional equipment or personnel will be required to implement this legislation.

Many Federal employees are suffering undue financial problems as a result of being forced to pay city earnings taxes in a lump sum.

Since such a vast number as 196 cities are involved, the committee focused its attention on two—St. Louis and Philadelphia. In St. Louis, 30,000 Federal employees who work in or reside in that city will benefit from this legislation. During the past 4 years, the city of St. Louis has initiated 21,534 court cases involving Federal employees resulting in fines and court cases totaling approximately $200,000. In Philadelphia in 1972, there were 71,500 Federal employees subject to the Philadelphia wage tax. In fiscal year 1973, the city of Philadelphia collected from Federal employees alone a total of $662,000 in interest and penalties. During the past 5 years, Federal employees in Philadelphia have paid a total of $2,615,000 in interest and penalties.

The result is that these people have had to pay all these taxes plus penalties and interests. The adoption of mandatory withholding of local taxes from Federal employees would save all these cities hundreds of thousands of dollars in the cost of preparing, processing, and suit preparation. In addition to the cost factor, the city would benefit because it would receive the payments quarterly and could invest these tax funds for additional revenue.

For many years the passage of this legislation has been opposed by the Treasury Department, the Civil Service Commission, the Post Office and the administration—but all have now changed their position to support for the measure.

It makes good sense to pass the city earnings tax withholding bill since it presents no additional burden to the cities or the Federal Government and will alleviate the problems now encountered by Federal employees and those cities involved in collecting these revenues.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PLACING CERTAIN SUBMERGED LANDS WITHIN JURISDICTION OF GOVERNMENTS OF GUAM, VIRGIN ISLANDS, AND AMERICAN SAMOA

The Clerk called the bill (H.R. 11559) to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 11559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to valid existing rights, all right, title, and interest of the United States in lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coastlines of the territories of Guam, the Virgin Islands, and American Samoa, as heretofore or hereafter modified by accretion, erosion, and reliction, and in artificially made, filled in, or reclaimed lands which were formerly permanently or periodically covered by tidal waters, are hereby conveyed to the governments of Guam, the Virgin Islands, and American Samoa, as the case may be, to be administered in trust for the benefit of the people thereof.

(b) There are excepted from the transfer made by subsection (a) hereof—

(i) all deposits of oil, gas, and other minerals, but the term "minerals" shall not include coral, sand, and gravel;

(ii) all submerged lands adjacent to property owned by the United States above the line of mean high tide;

(iii) all submerged lands adjacent to property above the line of mean high tide acquired by the United States, after the date of enactment of this Act, by eminent domain proceedings, purchase, exchange, or gift;

(iv) all submerged lands filled in, built up, or otherwise reclaimed by the United States, before the date of enactment of this Act, for its own use;

(v) all tracts or parcels of submerged land containing on any part thereof any structures or improvements constructed by the United States;

(vi) all submerged lands that have heretofore been determined by the President or the Congress to be of such scientific, scenic, or historic character as to warrant preservation and administration under the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.);

(vii) all submerged lands designated by the President within one hundred and twenty days after the date of enactment of this Act;

(viii) all submerged lands that are within the administrative responsibility of any agency or department of the United States other than the Department of the Interior;

(ix) all submerged lands lawfully acquired by persons other than the United States through purchase, gift, exchange, or otherwise;

(x) all submerged lands within the Virgin Islands National Park established by the Act of August 2, 1956 (16 U.S.C. 398 et seq.), including the lands described in the Act of October 5, 1962 (16 U.S.C. 398c–398d); and

(xi) all submerged lands within the Buck Island Reef National Monument as described in Presidential Proclamation 3448 dated December 28, 1961.

Upon request of the Governor of Guam, the Virgin Islands, or American Samoa, the Secretary of the Interior may, with or without reimbursement, convey all right, title, and interest of the United States in any of the lands described in clauses (ii), (iii), (iv), (v), (vi), (vii), or (viii) of this subsection to the government of Guam, the Virgin Islands, or American Samoa, as the case may be, with the concurrence of the agency having custody thereof.

SEC. 2. (a) Nothing in this Act shall affect the right of the President to establish naval defensive sea areas and naval airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands when deemed necessary for national defense.

(b) Nothing in this Act shall affect the use, development, improvement, or control by or under the constitutional authority of the United States of the lands transferred by the first section of this Act, and the navigable waters overlying such lands, for the purposes of navigation or flood control or the production of power, or be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control or the production of power.

(c) The United States retains all of its navigational servitude and rights in and powers of regulation and control of the lands conveyed by the first section of this Act, and the navigable waters overlying such lands, for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources which are specifically conveyed to the governments of Guam, the Virgin Islands, or American Samoa, as the case may be, by the first section of this Act.

SEC. 3. Subsection (b) of section 31 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1545(b)) is amended to read as follows:

"(b) All right, title, and interest of the United States in the property placed under the control of the government of the Virgin Islands by section 4(a) of the Organic Act of the Virgin Islands of the United States (48 U.S.C. 1405c(a)), not reserved to the United States by the Secretary of the Interior within one hundred and twenty days after the date of enactment of this subsection, is hereby conveyed to such government. The conveyance effected by the preceding sentence shall not apply to that land and other property which on the date of enactment of this subsection is administered by the Secretary of the Interior as part of the National Park System and such lands and other property shall be retained by the United States.".

SEC. 4. On and after the date of enactment of this Act, all rents, royalties, or fees from leases, permits, or use rights, issued prior to such date of enactment by the United States with respect to the land conveyed by this Act, or by the amendment made by this Act, and rights of action for damages for trespass occupancies of such lands shall accrue and belong to the appropriate local government under whose jurisdiction the land is located.

SEC. 5. The first section, and sections 2 and 3 of the Act entitled "An Act to authorize the Secretary of the Interior to convey certain submerged lands to the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes", approved November 20, 1963 (48 U.S.C. 1701–1703), are repealed.

SEC. 6. No person shall be denied access to, or any of the benefits accruing from, the lands conveyed by this Act, or by the amendment made by this Act, on the basis of race, religion, creed, color, sex, national origin, or ancestry.

Mr. WON PAT. Mr. Speaker, I rise to speak out on behalf of H.R. 11559, a bill to vest the government of Guam and the Virgin Islands and the Governor of American Samoa with title to all tidelands extending from the high-water mark out to the 3-mile limit from the coastlines of each respective territory.

Our principal objective in this bill is to give the American citizens on Guam and the Virgin Islands and the residents of American Samoa a degree of control over their tidewater lands similar to that now enjoyed by residents of the States and the Commonwealth of Puerto Rico.

Title to the offshore areas in the three territories affected by our legislation presently rests with the Federal Government. Such lands are administered by the Department of the Interior, which, in testimony before the House Interior Committee last year, stated its support for the basic intentions of this legislation and recommended its enactment.

As the Department itself said on September 24, 1973, and I quote—

> We believe that the territories are fully competent to administer these tidelands and submerged lands under their own laws.

Enactment of this bill would eliminate several distinct problems:

First, local territorial residents would no longer be required to seek approval from the Department of the Interior in Washington for such mundane objectives as building a pier. Under present law, only the Interior Department may issue the necessary permits, a fact which has often caused officials in the Department considerable paperwork they would rather do without, and has forced a delay of up to 1 year in the approval of such permits.

Granting territorial governments jurisdiction over the offshore areas would also confer upon local authorities full police powers and the ability to collect all fees charged for offshore construction. The government of Guam has stated its concern over its present lack of authority in this matter, and has expressed its desire to have control of these areas where it rightfully belongs—with island authorities.

And finally, passage of H.R. 11559 would correct the impression now left on existing statutes that residents of the territories are unqualified to administer their own tidewater lands. Needless to say, such is certainly not the case, as the Department of the Interior itself pointed out. In the territories, as in the States, control of local affairs is a sensitive matter, as many so-called States righters have successfully noted in the past. Passage of our legislation would correct this unwarranted impression, and to silence charges by the United Nations of American colonialism in its territories.

I thank you for listening to me and stand ready to answer any questions.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of H.R. 11559 and H.R. 11573. H.R. 11559 conveys title and control of submerged lands on Guam, the Virgin Islands, and American Samoa from the U.S. Government to the territorial governments. Submerged land is that area extending from the high water mark to a point 3 miles at sea. Local control of such area is in consonance with the authority already vested in the 50 States and Puerto Rico, permitting better land and water use development and closing the time lag between requests to initiate shoreline improvement and their actual commencement. Excluded from the enactment, however, are U.S. oil, gas, and other mineral rights, and land currently within the administrative responsibility of Federal agencies other than the Department of the Interior. Also exempted are all submerged lands adjacent to property above the line of mean high tide acquired by the Federal Government after the date of enactment.

The act also turns over to the Virgin Islands' government title to properties which have been under territorial control since 1937. No change is effected, on the other hand, in Presidential power to establish naval defense areas, when required, and congressional authority to regulate or improve navigation and flood control within the territories.

H.R. 11573 amends the Organic Act of Guam, giving to the territorial government title to Federal property not specifically reserved by the President. Over one-third of the island is comprised of federally owned land with the Department of Defense being the primary real estate holder. In order to provide sufficient time for Federal review of such large holdings and to insure that future strategic requirements in the Pacific are met, a 1-year review period is specified. And, as an additional safeguard, Federal repossession of all conveyed property may be resorted to when in the interest of national security.

Additionally, H.R. 11573 amends the Organic Act of Guam by repealing the provision by which the President may suspend concurrent jurisdiction over crimes committed on Federal property. Considering the growth of self-government in Guam, Federal executive authority to suspend concurrent jurisdiction is an unnecessary stipulation and implies a lack of confidence in Guam's governmental institutions, particularly since this provision, historically, has never been enforced.

Thus, it is apparent that both measures provide for the protection of U.S. national interests while simultaneously stimulating political growth and maturity in America's territories. In meeting these two objectives, Mr. Speaker, I, therefore, recommend enactment of both legislative proposals.

Mr. DE LUGO. Mr. Speaker, I appreciate this opportunity to address the House on behalf of my bill H.R. 11559, which would transfer certain submerged and other lands to the jurisdiction of the Governments of Guam, the Virgin Islands, and American Samoa.

Basically, this legislation conveys to these three territories all right, title, and interest of the United States in land from the point of mean high tide seaward to a line 3 geographical miles from their respective coastlines. It would in effect grant the territories the same conditions of ownership of offshore lands now possessed by all of our coastal States and the commonwealth of Puerto Rico.

Among the major exceptions to this conveyance are:

First. All deposits of oil, gas, and other minerals but not including coral, sand, and gravel;

Second. Submerged land adjacent to property owned by the United States;

Third. All lands acquired by persons other than the United States;

Fourth. All lands designated by the President within 120 days of the enactment of this legislation, and;

Fifth. Lands previously determined by the President or Congress to be of scientific, scenic, or historic character and warrant preservation and administration under the National Park Service Act.

Also exempted are those naval defensive sea areas and naval airspace reservations around and over the insular possessions which the President finds necessary for the national defense. In addition to transferring lands permanently or periodically covered by tidal waters, this legislation would also transfer to the people of the Virgin Islands many of the most famous buildings and properties in the territory.

Among the better known Federal real property to which the Virgin Islands government would obtain title under this legislation are Government House; the former Marine barracks, now the Senate building, the Lieutenant Governor's Office; the old Public Works Headquarters, now housing the department of finance; the Budget Office, known as Quarters B; and a parcel of Estate Ross, now housing the Lucinda Millin Home for the Aged.

On St. Croix, Fort Louise Augusta, the Public Works Yard in Christiansted, the former Marine barracks, and the Kingshill Home for the Aged are among the properties to be transferred to the Virgin Islands government.

All of these properties on St. Thomas and St. Croix have great historic and cultural significance for the people of the Virgin Islands, and have been under the control and maintenance of the territorial government for many years.

Placing tidal and submerged lands under the jurisdiction of the Virgin Islands, Guam, and American Samoa will eliminate the present cumbersome and duplicative administrative processes which must be undertaken before these lands may be beneficially utilized. For example, even the simplest activity, such as the construction of a dock, requires not only the fulfillment of local administrative rules, but also the approval of the Department of the Interior. The Interior Department in turn must clear the request with the Environmental Protection Agency, and thus the most routine application may require up to a year before final action is taken. Passage of this legislation will not only eliminate these time consuming and frustrating delays, but will also free resources of the Department of the Interior from these nonproductive functions for more pressing needs.

The easing of the administrative burden in securing permission to use submerged lands will stimulate their greater commercial development and increase the rental and permit fees available to the Virgin Islands government. These fees are now payable to and administered by the Department of the Interior, but under my bill they would accrue to the Virgin Islands. While they are only a fractional amount of the Department's budget they would be a substantial addition to the critical needs of the Virgin Islands' treasury.

I wish to stress that while additional utilization of Virgin Islands tidal and submerged land may be anticipated, any such development will be subject to existing and future national air and water quality standards, as well as the environmental preservation laws of the Virgin Islands. Likewise, permits from the Army Corps of Engineers will continue to be required for activities which come within its jurisdiction. The placing of these lands under local jurisdiction and supervision will lead to stricter adherence to ecological considerations than is possible under the present absentee ownership.

Mr. BURTON. Mr. Speaker, H.R. 11559 would transfer ownership and jurisdiction of certain submerged and other lands to the governments of Guam, the Virgin Islands, and American Samoa. The lands to be transferred have been held too long by the Federal Government, and their administration has been too long marked by unnecessary and duplicative effort by the Federal Government and the governments of the respective territories.

H.R. 11559 would in effect grant the territories the same conditions of ownership of offshore lands now possessed by all of our coastal States and the Commonwealth of Puerto Rico. The legislation protects the basic interests of the United States by exempting from the transfer all deposits of oil, gas, and other minerals and all National Park Service properties.

The bill also specifically states that—

> Nothing in this Act shall affect the right of the President to establish naval defense sea areas and naval airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands when deemed necessary for national defense.

H.R. 11559 would convey to the Virgin Islands government the properties placed under the control of the Virgin Islands government by the Organic Act of the Virgin Islands, except for any properties reserved to the United States by the Secretary of the Interior within 120 days after the enactment of this legislation.

The properties to be conveyed to the territorial governments are to be administered in trust for the benefit of the people of the territory. The legislation is designed to accomplish public use and benefit by the transfer and does not permit sale or contemplate commercial leases with renewal options that would frustrate public use and benefit.

The total effect of this legislation will be to free the United States and the Department of the Interior from their present cumbersome administrative processes and eliminate one more vestige of colonialism from our relationship with these offshore areas.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING ORGANIC ACT OF GUAM TO PLACE CERTAIN LANDS WITHIN JURISDICTION OF GOVERNMENT OF GUAM

The Clerk called the bill (H.R. 11573) to amend the Organic Act of Guam to place certain lands within the jurisdiction of the government of Guam, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 11573

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 28(b) of the Organic Act of Guam (48 U.S.C. 1421f(b)) is amended to read as follows:

"(b) All right, title, and interest in all property, real and personal, owned by the United States in Guam on the date of enactment of this subsection, not reserved to the United States by the President within one year after the date of enactment of this subsection, is hereby conveyed to the government of Guam, to be administered for the benefit of the people of Guam, and the legislature shall have authority, subject to such limitations as may be imposed upon its acts by this Act or subsequent Acts of the Congress, to legislate with respect to such property, real and personal, in such manner as it may deem desirable. Whenever the President deems it necessary to the national security of the United States, he may repossess any of the property conveyed by this subsection to be used for so long as the national security interest requires."

(b) Section 28(c) of the Organic Act of Guam (48 U.S.C. 1421f(c)) is amended by striking out "subsection (a) hereof, or which is not placed under the control of the government of Guam by subsection (b) hereof," and inserting in lieu thereof "subsection (a) or (b) of this section."

Sec. 2. On and after the date of enactment of this Act, all rents, royalties, or fees from leases, permits, or use rights, issued prior to such date of enactment by the United States with respect to the land conveyed by the amendment made by this Act, and rights of action for damages for trespass occupancies of such lands, shall accrue and belong to the government of Guam.

Sec. 3. Section 4(b) of the Act entitled "An Act to authorize the Secretary of the Interior to convey certain submerged lands to the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes," approved November 20, 1963 (48 U.S.C. 1704(b)), is repealed.

Sec. 4. No person shall be denied access to, or any of the benefits accruing from, the lands conveyed by this Act, or the amendment made by this Act, on the basis of race, religion, creed, color, sex, national origin, or ancestry.

With the following committee amendment:

Page 2, line 14, strike out "section.'" and insert "section,'".

The committee amendment was agreed to.

Mr. WON PAT. Mr. Speaker, as the sponsor of H.R. 11573, I take pride in rising today to ask my colleagues in the House for their support of this measure which seeks to transfer certain land now owned by the Federal Government to the government of Guam and to confer upon the American citizens of Guam the same degree of concurrent jurisdiction in the matter of crimes committed on Federal property as is now extended to the residents of all other American areas.

In essence, H.R. 11573 aims to resolve the question of land use in Guam by asking the President to determine what territorial lands now owned by the Federal Government are needed for national defense purposes. All Federal lands, not specifically reserved within 1 year after the enactment of this legislation would then be given to the territorial government to be administered for the benefit of the people.

For an island of less than 225 square miles, this problem is an especially acute one. The Federal Government now holds title to slightly over one-third of Guam. While much of this land is being actively used by the military, a great deal has been allowed to lie fallow ever since it was acquired from the local citizenry in the 1940's and early 1950's.

In recent years, Guam has experienced enormous growth. More land than ever before is required to meet the needs of the public. Were this bill to become law, I am confident that a fair assessment by the President of Federal land holdings in the territory would reveal that the Federal Government is holding more acreage than it can legitimately utilize.

This excess property then could be utilized to meet the requirements of the local populations.

H.R. 11573 additionally would repeal title 48, section 1704(b) of the United States Code. This little known and thankfully never utilized law gives the President of the United States extraordinary powers over the legal rights of the people of Guam. He presently may exclude from the concurrent jurisdiction of the government of Guam persons charged with unspecified acts on Department of Defense property in the territory, for whatever reasons he finds in the interest of the national security.

This law, vague at best, and binding only on the residents of Guam, has no purpose except that of casting doubt on the loyalty of the people of Guam. Our courts in the territory are equally capable as those in the States and other American territories of handling crimes committed. And, the people of Guam are no more prone to commit acts of disloyalty or sabotage than are the residents of Washington, D.C., Honolulu, or San Diego.

There are sufficient statutes on the books to handle whatever problems may arise. And, since not one Guamanian has ever been charged with disloyalty to our Government, despite our being captured by the enemy in World War II, I believe the time has come to wipe this unfortunate law off the Nation's books once and for all. To do so would be welcomed by your fellow Americans in Guam and would end any question of distrust between the Federal Government and our territorial citizens.

I, therefore, urge my colleagues here today to vote for H.R. 11573.

Mr. BURTON. Mr. Speaker, H.R. 11573 would turn over title and control of unused or underutilized property of the United States in Guam to the government of Guam after reassessment and reevaluation of the true needs of the United States. The interest of the United States will be fully protected by the specific provision in the bill that gives the President a full year after enactment to assess and reserve to the United States all United States property in Guam which he wishes to reserve.

The bill also gives the right of repossession by the President of any of the conveyed properties whenever he deems it necessary in the interest of national security and for however long the national security requires.

The effect of the bill will be to allay the concerns of the people of Guam that the United States, which controls more than one-third of all the land in Guam, is holding many properties in unproductive use because of bureaucratic inertia and invalid estimates of the actual needs of the United States for this very limited land area.

The bill would also eliminate a provision of the Organic Act of Guam which, if invoked by the President, would deter the government of Guam from prosecuting persons who violate the laws of Guam. It is felt that the interests of the United States are fully protected by other laws and certainly by the powers granted the President as Commander in Chief in matters of national security.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This ends the call of the eligible bills on the Consent Calendar.

GENERAL LEAVE

Mr. BURTON. Mr. Speaker, I ask unanimous consent that all Members may have the balance of the day in order to revise and extend their remarks with reference to the bills just passed, H.R. 11559 and H.R. 11573.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CONCEPCION VELASQUEZ RIVAS

Mr. EILBERG. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1206) for the relief of Concepcion Velasquez Rivas, as amended.

The Clerk read as follows:

S. 1206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, the first proviso contained in paragraph (1) of section 312 of the Immigration and Nationality Act (8 U.S.C. 1423) is amended by striking out "or to any person who, on the effective date of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years" and by inserting in lieu thereof the following: "or to any person who, on the date of the filing of his petition for naturalization as provided in section 334 of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years".

Amend the title so as to read: "An Act to amend section 312 of the Immigration and Nationality Act."

The SPEAKER. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of S. 1206, as reported, is to exempt any alien over 50 years of age, and who has been living in the United States for 20 or more years at the time an application for naturalization is filed, from the requirement of an understanding of the English language. Identical legislation has been approved by the House in the last three Congresses.

Section 312 of existing law precludes the naturalization of a person who cannot demonstrate an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language. An exception to this prohibition is made in favor of those who are physically unable to meet the literacy requirements.

An additional exception is applied to those who, on December 24, 1952, were over 50 years of age and had been living in the United States for at least 20 years. Such persons qualify for naturalization, notwithstanding an inability to understand, read, write, or speak simple English.

The only individuals who can now qualify for the exception on the basis of age and length of residence must be at least 70 years of age and must have been living in the United States for at least 40 years. Other elderly, longtime residents who had not yet reached age 50 years or had not had the required 20 years of residence in 1952 do not qualify for the exception and will not qualify for it on a future date under existing law. These worthy residents may be fully qualified for citizenship in every other respect but are ineligible because of their illiteracy. Many have made significant contributions to the welfare of the country, are the parents of native-born children, many of whom have been sacrified for their country in military service, and would be an asset to the citizenry of the United States. Nevertheless, although literate in their native tongue and, through foreign language media, fully aware of political, foreign, and domestic matters affecting the United States, are not privileged to achieve the status of citizenship solely by reason of their illiteracy in the English language.

The persons involved are, for the most part, not those who deliberately chose to remain ignorant of our language. Rather, they represent persons who gravitated to communities in which their native language was spoken almost exclusively, and who, in raising families and earning livelihoods, had little or no opportunity to attend school or otherwise learn English. They have now reached the age where school attendance is practically impossible or, where possible the ability to learn no longer exists. Nevertheless, that handicap offers no valid reason for denying them the opportunity, if otherwise qualified, to become American citizens.

It must be remembered that from the beginning of the Republic until 1906 no law of the United States required a candidate for citizenship to understand the English language. From 1906 to 1940, the only literacy requirement was the ability to speak simple English. Not until 1940 did the naturalization statutes demand an ability to read and write, in addition to speaking the language. There is no basis upon which it can be properly assumed that those who were granted citizenship, although lacking the ability to read and write English, have made poorer citizens or contributed less to this country than those naturalized at a time when such abilities had to be shown. Nor is there room for questioning the quality of the citizenship of those completely illiterate in the English language who nevertheless have qualified for naturalization under the age 50/20-year residence exemption. Sound consideration and equity, and the welfare of the country, demand that the longtime resident who, since December 24, 1952, has reached age 50 years and has been living here for 20 years or more should be recognized as deserving of citizenship as much as his neighbor who met the identical prerequisites as far back as December 24, 1952.

Mr. FLOWERS. Mr. Speaker, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from Alabama.

Mr. FLOWERS. I thank the chairman for yielding.

Mr. Speaker, I would like to join with my colleagues in recommending approval of this bill that is so long overdue. The amendment we are considering today has passed the House on three different occasions and helps to remedy an unfair situation.

If an alien who is over 50 years of age resides in this country for 20 years and is fully integrated in every way into our society, it seems only logical that such individuals when seeking to be naturalized should be exempt from the English literacy requirements. Such persons would still be required to establish that they have knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States. Let me reiterate that we are bestowing the blessings of American citizenship on senior aliens who in every way have been productive members of our society.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

Do I understand this bill would provide citizenship for those who have been here for 20 years who have attained the age of 50?

Mr. EILBERG. An opportunity for citizenship. As of the date of filing of the naturalization petition, a person over the age of 50 years who has resided in the United States for at least 20 years could apply for citizenship and be exempt from knowledge of English.

Mr. GROSS. And they have not learned to speak the English language or are incapable of signing their own names in English?

Mr. EILBERG. That is correct.

Mr. GROSS. What do they come to this country for in the first place—to become citizens or partial citizens of the country?

Mr. EILBERG. If the gentleman will permit me to respond, the typical case appears in the Senate bill which came over to this Chamber, S. 1206.

Briefly the facts in that case are that a Mexican woman entered the country as an orphan at age 8. She did not know how to read or write or understand English. At a relatively early age she married, and she is now the widow of a veteran of our Armed Forces, and she is now 56 years of age and she wants very much to be a citizen of the United States. She has been here over 50 years and has not had the opportunity to learn English. The committee thinks that she would make a very good citizen.

Furthermore, we think that the Senate, in passing the private bill, embraces exactly the theory of this general bill. Many people who come to this country continue to live in relative exclusion or isolation and continue to speak the language of their native country. They never have the opportunity to speak English or learn English because of the circumstances in which they find themselves.

Mr. GROSS. What is the requirement or requisite of other countries for Americans who emigrate? What is the requirement laid upon them?

Mr. EILBERG. I cannot answer the gentleman.

Mr. GROSS. The committee did not go into that?

Mr. EILBERG. No, we did not explore that.

Mr. GROSS. This sounds as though these people who come to this country are not really interested in becoming citizens or they would learn at least the language, how to sign their names, and speak English at least to the point where they could converse with some of our citizens. I do not understand how they could live in this country for 20 years and attain the age of 50 and still not be able to speak the English language so as to converse with others. It seems to me that would be the first thing they would have to do, that is to be able to speak the language of the country of their adoption.

Mr. EILBERG. I would respond to the gentleman that I know, in at least northeast Philadelphia, there are neighborhoods which are Italian speaking and are known as Little Italy neighborhoods since they all speak Italian to one another. As their Congressman, I must have interpreters with me as I go through the neighborhoods. Sometimes, the people have been in this country for many years. This is the way these people live.

Mr. GROSS. And we condone it?

Mr. EILBERG. I did not understand the gentleman.

Mr. GROSS. We condone it? We are asked to underwrite that sort of situation? I think it is wrong.

Mr. EILBERG. I would say the House has already passed similar legislation three times, Mr. Chairman.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I wholeheartedly support this bill, as amended by the Committee on the Judiciary. As the House is aware, the matter of making special provision for older men and women who want to become citizens after living many years in the United States is a problem that the House has considered previously. Three times, as a sponsor of legislation covering this need for change in our immigration laws, I have been proud that the House has voted for this change. We have said, in effect, that if an applicant for citizenship is over 50 years of age and has lived more than 20 years in this country, we shall not require the English language literacy test.

We have said we would welcome these men and women as citizens. To my regret, there have been problems in the other body, but my inquiries show that these have been technical, and that this new attempt will be welcomed in the other body.

In my district, we have many persons of Mexican American and other heritages who have proven their loyalty to our Nation. Some of them have fought in our armed forces; others have sent their sons to military service. They have been —I want to say, "solid citizens," except we have not permitted them to be citizens. I believe the time has come to recognize them, and I urge passage of this bill.

Mr. RONCALIO of Wyoming. Mr. Speaker, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from Wyoming.

Mr. RONCALIO of Wyoming. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I associate myself with the remarks made by my friend, the gentleman from Texas, Mr. "CHICK" KAZEN. I know there are two situations in Wyoming which are comparable. I urge passage of the bill.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I welcome the opportunity to rise in support of favorable consideration of S. 1206 as amended, for the purpose of amending section 312(1) of the Immigration and Nationality Act. This section contains the general requirements that applicants for naturalization be able to speak, understand, read, and write the English language, and an exemption from those requirements. Since I came to the Congress I have supported this legislation—and three times saw the House pass it. Now as an amendment to a Senate bill maybe we have broken through.

Indeed, I respectfully submit that the bill merely implements an existing congressional policy which has become largely ineffective with the passage of time. It is safe to state that, during the interim period of the past 22 years, the vast majority of aliens who could qualify for the English-language exemption under section 312(1), in its present context, have availed themselves of the benefit and, if otherwise eligible, have become naturalized citizens of the United States. Accordingly to a very considerable extent, the exemption provision has a relatively negligible application at the present time.

On the other hand, among the more than 3 million aliens residing permanently in the United States, there are a very great many who were not eligible for the English-language exemption in 1952, either because they lacked a year or more of residence, or were 1 or more years under the age of 50. Although otherwise worthy of citizenship, these deserving persons have been unable to achieve their desire to become citizens, because of their inability to satisfy the English-language requirements. Within this large group are persons who have now lived in the United States for well over 40 years, and others who are more than 70 years of age. Logic and commonsense should convince us, I think, that aliens who have accumulated lengthy residence and have arrived at an advanced age during the past 22 years are no less worthy of the exemption than those who qualified for the benefit on December 24, 1952.

The aliens who will benefit from this bill are representative of diverse foreign nationalities, and live in all sections of the United States. I have been fortunate enough to meet, observe, and know personally many men and women in this elderly group. They are, for the most part, the fathers and mothers of a fine, representative generation of young American citizens, born and reared in this country. I am familiar with the extent to which these parents have sacrificed themselves to educate their children, and bring them up in the traditional American manner. To me these sacrifices show a spirit of loyalty and devotion to democratic ideals, and a dedication to the welfare of the United States, which betoken a sense of good citizenship in its highest form. Elderly longtime residents who have demonstrated their qualifications for citizenship in this fundamental manner should not be deprived of the opportunity to become citizens merely because they have been unable to learn the English language.

Of particular concern to me are the many members of this elderly group who have come from Mexico and other Spanish-speaking countries, and have been residing in my home State of Texas and other parts of the Southwest for many years. I have visited these Spanish-speaking people in their homes, have watched them at work, and I know their problems well.

In the past, I have taken the floor of the House to speak of the need of special measures to improve their living conditions and assure them better educational and job opportunities. Devoted as they have been to the solidarity of the home and the welfare of their families, their lives have been years of backbreaking toil, hardship, and poverty, years of constant struggle to earn the bare necessities of life for themselves and their children. Although their burdens have been far greater than those of other residents of foreign birth, who have been enjoying the good American life, these God-fearing people have withstood them with courage and forbearance, ever obedient to the law and loyal to the United States and the principles of government. The great majority, despite the heavy demands upon them, have successfully raised and educated children who have served this country well in agriculture, industry, the professions, and the Armed Forces. The cost of these accomplishments, however, has been a heavy one, for these elderly fathers and mothers have had to forego the opportunity to improve their lot by education. Throughout the years, few, if any of them, have had the time to attend citizenship classes where they could receive assistance in learning the English language. Moreover, with the passing of the years, the infirmities of advanced age and a diminished capacity to learn make it virtually impossible for them to acquire this knowledge.

My colleagues, I say to you with the utmost sincerity that these elderly Spanish-speaking men and women, my neighbors and friends, have been good citizens in fact for many years. Above all, my meetings with them have disclosed their fervent, heartfelt yearning to become citizens in name as well. This privilege is being denied them solely because, in the twilight of a life of sacrifice, they have been unable to master the intricacies of the English language. I counsel you to remove this obstacle, and to permit them to achieve full citizenship of the adopted country they have served so well. Indeed, how can we deny this assistance to them, when in some instances, their sons have surrendered their lives in the cause of freedom and justice upon battlefields abroad?

S. 1206 as amended will materially assist many of these deserving persons to become citizens and, again, I strongly urge you to accord the measure favorable consideration today.

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to express my very warm support for this legislation. I think it is very much in the tradition of this country. I think we would all do well to bear in mind our own ancestry—and I suspect there are many Members of this Chamber whose great-grandparents might have been immigrants into this country who became citizens before we imposed the literacy requirement.

Mr. Speaker, I represent an area where there are many Portuguese citizens who would be affected by this legislation and I commend this bill to the Members and thank them and the committee for their understanding.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. EILBERG. Mr. Speaker, I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I would like to rise in support of this legislation, and point out that many of the people in my district are of Portuguese descent or are Spanish speaking, and this legislation would work directly to their benefit.

Mr. Speaker, I commend the committee for the excellence of its work, and I urge passage of the bill.

Mr. FISH. Mr. Speaker, I yield to the gentlewoman from Massachusetts.

Mrs. HECKLER of Massachusetts. Mr. Speaker, for years the rights and privileges of citizenship have been denied to hundreds of thousands of people throughout the country, who immigrated to the United States to begin new lives as Americans, based on their inability to pass the required literacy examination.

I have been acquainted with this problem in my district, the 10th District of Massachusetts, which contains a large number of Portuguese, Italian and French Canadian immigrants. They came especially to Fall River where 60 percent of the city are of Portuguese descent.

Many of these people have spent their lives in Massachusetts, payings taxes as any average citizen does each year. The difference is that these thousands of people do not have a direct voice in our Government because they have no vote. Effectively, any individual who is over 50 years of age and has lived and worked in this country for 20 years or more is an American. However, if he is not technically a citizen, he will not be allowed full participation in our political system.

It is a great contradiction in the very fundamentals of our democracy that these people who have made their lives in this country and have contributed to our economic growth for 20 or more years should not be recognized as Americans in every sense of the word.

I urge my colleagues to vote in favor of the amendment to the Immigration and Naturalization Act which will grant citizenship to all naturalization applicants over 50 years who have lived in the United States for 20 years and will exempt them from the English language requirement.

Mr. FISH. Mr. Speaker, I am pleased to join my colleague from Pennsylvania, the chairman of the Subcommittee on Immigration in support of S. 1206 as amended by our subcommittee.

This amendment to the Immigration and Nationality Act has passed the House during the 90th, 91st, and 92d Congresses, only to fail to be enacted due to lack of action by the other body. It is not a new concept, but merely updates the policy expressed in the present immigration law that those immigrants who have lived in our country for 20 years, and are over 50 years of age should not be subjected to one requirement for naturalization—that of a knowledge of the English language. All those fortunate enough to have met these two conditions as of December 1952, the date the present law was enacted, have been able to seek naturalization without this one requirement. This bill would merely update that waiver of this single requirement and extend it to those who meet these conditions now and in the future.

It is possible today that an immigrant could have lived in our country a total of 41 years, 19 prior to 1952 and the 22 years since, and still be denied citizenship due to a deficiency in his or her knowledge of English. I submit that 20 years residence, much less for 41 years should be more than adequate proof of one's allegiance to the United States and interest in and love for our country.

Let us examine to whom this waiver would most likely apply. The beneficiaries for the most part would be those people who have spent at least their middle years here probably working hard to raise their families. However, if many years ago the home they established was in a neighborhood where others of their nationality lived, a common occurrence, it is not hard to understand how acquiring a knowledge of English was of lower priority than dealing with many struggles faced by immigrant families.

Mr. Speaker, I might point out that we are addressing ourselves very narrowly to one obligation of naturalization. This bill does not affect, does not change the requirement for a knowledge and understanding of the fundamentals of the history and the principles of the form of government of the United States.

Our subcommittee has felt, and this House has agreed in each of the last three Congresses, that the policy waiving the English language requirement should apply to all those persons who have lived here at least 20 years, and have passed the age of 50 years. The Immigration and Naturalization Service of the Department of Justice agrees, and I am happy to join the gentleman from Pennsylvania in urging that the House suspend the rules and pass S. 1206 as amended by our subcommittee.

Mr. HOGAN. Mr. Speaker, will the gentleman yield?

Mr. FISH. Mr. Speaker, I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Speaker, I am pleased to join my subcommittee chairman and ranking minority member in support of S. 1206, as amended by the subcommittee.

Mr. Speaker, I would just like to add to my colleagues' remarks that the enactment of this bill would be a very humanitarian gesture. Those persons who would qualify for an exemption under this legislation are those who have lived a good part of their lives already. If they have not learned English by the time they have reached the age of 50, I think it would be most difficult to learn even the basics of a new language at that point in their lives.

Mr. Speaker, I feel, as my colleagues on the subcommittee do, that if a person has spent 20 years in the country and can meet all the other qualifications of citizenship, which as the gentleman from New York pointed out include a knowledge and understanding of the fundamentals of our history and our form of government, it is totally proper to waive the English language requirements so that they can become citizens.

Mr. Speaker, I join my colleagues on the subcommittee in urging passage of this bill.

Mr. OWENS. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Utah.

Mr. OWENS. Mr. Speaker, I thank my colleague on the Committee on the Judiciary for yielding.

I join in commending the chairman of this subcommittee and the other members of the subcommittee for this excellent bill.

This bill will help solve the problem of a lovely lady in my district whose only basic impediment to her becoming a citizen of the United States is the language. There is no more sincere, devoted American than this lady. She is deserving of citizenship, and I am grateful that the subcommittee, along with the full committee, has seen fit to report out this bill.

Mr. Speaker, I support the bill very strongly.

Mr. WHITE. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Speaker, I thank the gentleman for yielding.

I represent a district in which as many as 50 percent of the citizens are Spanish-speaking. I would like to point out to the Members of the House that the Mexican-American communities of the United States have contributed more Medal of Honor winners proportionately than any other minority group. These people have paid their taxes, and they have been good citizens. I feel that they deserve this recognition which we will give them by this bill.

Mr. Speaker, I certainly strongly support the bill.

Mr. FISH. Mr. Speaker, I have no further requests for time.

Mr. EILBERG. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Speaker, I rise in support of this bill.

Mr. Speaker, the bill before us now amends the Immigration and Nationality Act to waive the English language requirement for any alien over 50 years of age who has been living in the United States for 20 years or more at the time when application for naturalization is filed. This bill is consistent with recent legislation setting conditions for removal of literacy tests as a prerequisite for voting. In other words, this bill merely updates the current law to conform it to the basic 1952 Immigration and Nationality Act.

Under existing law, an alien need not be literate in English only if such an alien were on December 24, 1952, over 50 years of age and then had lived in the United States for periods totaling at least 20 years. This bill relieves any alien living in this country for a period totaling 20 years or more who is over 50 years of age from the requirement of an understanding of the English language. In 1952, the Congress, and the Department of Justice, felt that persons of a specific age who had resided in this country for a specific period of time should be exempted from the English language requirement. There is no reason why that policy should not be the policy in 1974. There is, in short, no reason to exclude from naturalization proceedings those applicants with identical qualifications who reach a specified age and complete the necessary period of residence at a later date.

More than 21 years have passed since the cutoff date prescribed in the 1952 Immigration and Nationality Act. Those who could claim the exemption from the requirement of understanding the English language would have to be at least 71 years of age and have lived in this country for as much as 41 years. The principles underlying the legislation are not altered by permitting those who reach age 50 and who complete the 20 years of residence after the 1952 cutoff date to be exempted from the requirement of understanding the English language. The test of their ability to read, write, and speak English is not a test relevant to their appropriateness for citizenship.

Mr. EDWARDS of California. Mr. Speaker, I urge my colleagues to join the members of the Judiciary Committee in supporting this long overdue legislation. Simply stated, the bill would exempt from the requirement of understanding English, any alien over 50 years of age who has resided in the United States for 20 years and who meets all other requirements of our naturalization laws.

Quite frankly, the current law limiting this provision to individuals who immigrated to the United States in 1932 or before makes no sense at all in 1974.

However, the enactment of this legislation would permit many parents and grandparents of U.S. citizens to enjoy the rights and privileges of citizenship which I feel they have earned.

To continue to deny citizenship to 20-year residents whose only handicap is an inability to understand English speaks more loudly of our Government's failure to provide adequate bilingual education programs than it does of anything else.

I am sure that almost every Member of this body has constituents who could benefit from this legislation and from whose citizenship we as a country would benefit. Therefore, I urge unanimous consent on the passage of S. 1206.

Mr. PODELL. Mr. Speaker, there is a man who lives in my district, who has been living in this country for almost 30 years. He has raised two fine children, and he is a successful small businessman. He pays his taxes, he honors this country, he is, by all respects, a useful, productive member of our society. However, he is not fully a member of this society, because he is not a citizen.

This man of whom I speak came to the United States in 1946, a victim of Nazi oppression. He built a new life for himself in this country, a life which was full and rewarding and successful. But he never had the time or the opportunity to learn how to read or write the English language.

In spite of this so-called handicap, my consituent built a life which would have been the envy of his contemporaries in Europe. It cannot be denied that the inability to read or write English prevented him from making a success of his life against very high odds, and yet the laws of this country do not think he has done well enough to merit citizenship.

The bill before us today (S. 1206 confers the privilege of citizenship upon this man and thousands of others like him in my congressional district and throughout the country. When this man and all the others in his situation came to this country, they were fully grown. They had other concerns greater than learning how to read and write a new language. They had to worry about making a living, about providing for their families, about learning to surviving and get ahead in a strange, new society.

I most strongly urge my colleagues to

join me in voting for this measure. It is not a radical thing we are proposing. Rather, it is simply conferring the benefits of citizenship upon those who have already spent long years making contributions to our society. Their lack of facility in reading and writing English did not keep them from working, earning a living, paying taxes, educating their children to appreciate the values of American society, and it should not keep them any longer from being citizens of this country that they have chosen as their own.

There are many inequities in the immigration laws, many requirements which, in the light of today's society, look ridiculous to the thoughtful observer. The change we vote for today will change the letter of the law to comport with the spirit in which it was originally written. Citizenship ought not to be denied anyone except on the most serious grounds.

The mere inability to read and write English should not be reason enough to deny an otherwise valuable member of our society his full rights as a citizen of the United States.

Mr. RODINO. Mr. Speaker, I wish to express my strong support for S. 1206 as amended, for in substance, it is identical to H.R. 983, a bill which I originally sponsored.

Today we are considering an amendment to section 312 of the Immigration and Nationality Act, which would exempt an alien over 50 years of age and who has been living in the United States for 20 years or more at the time an application for naturalization is filed, from the requirement of understanding the English language. Existing law waives the literacy requirement only in the case of aliens who are physically unable to comply with the provisions and who on December 24, 1952, the effective date of the Immigration and Nationality Act, were over 50 years of age and had been living in the United States for at least 20 years. In other words, the benefits are today available only to persons who are 72 years of age or older. Hence, the effect of this amendment is to eliminate the cutoff date.

It is my belief that the legislation we are considering today helps to rectify an unfair and unfortunate situation. The individuals who will be benefited by this bill have passed the age where attending school to fulfill the reading, writing and speaking requirements of the law as it exists, is just not feasible. If an alien over 50 years of age and who has been living in this country for 20 years is otherwise qualified for naturalization there is no valid reason for denying him the privilege of American citizenship.

It was the intent of the Congress in enacting the original law that individuals who had lived in this country for many years and who had reached a certain age should be exempted from the obligation of learning to read, write and speak the English language. It is my opinion that the spirit which Congress originally displayed ought to serve as guidance today. I reiterate we are merely facilitating the acquisition of citizenship by those individuals who notwithstanding their total assimilation into American society, are unable to master the required English language skills.

Mr. MATSUNAGA. Mr. Speaker, I rise in support of S. 1206, as amended. This bill, as amended, will help resident aliens in the United States over the age of 50 years who have resided in the United States for over 20 years to become naturalized American citizens by waiving the requirement of reading, writing, and speaking the English language. The legislation would permit persons who, despite their language handicap, have, during their 20 years or more of domicile in this country become productive contributors to our society, to become full partners as Americans with their children and grandchildren.

In my State of Hawaii alone, there are approximately 5,000 persons who have enriched our multiracial society with their talents, skills, and cultural contributions, but who, simply because the English language examinations remain too difficult for them, are unable to become American citizens. Yet, they are as informed, as active, and as civic-minded as their English-speaking American neighbors.

Throughout our great land, there are thousands of others who live in our communities and who have become hard-working, productive members in our society. In their hearts, their work and recreation, and their daily lives, they are truly Americans. Only because of a senseless legal inadequacy—not in them but in the current law—they remain aliens under our law.

In 1952, Congress recognized the inadequacy and inconsistency of our immigration and naturalization laws. Thus, Congress amended the Immigration and Nationality Act to waive the English language requirement for aliens who were 50 years of age or older at the time the amendment became law and who had resided in this country for a total of 20 years or more. Over 20 years have passed since that amendment. Thus, the law, as it now exists, permits only aliens who are at least 70 years of age and who have resided no less than 40 years in the United States to apply for citizenship in a foreign language.

It is no wonder that the legislation we are now considering has been passed by this House three times before in the past three Congresses. It has the endorsement of the Department of State and the Department of Justice. No objections have been raised by the Office of Management and Budget. The House Judiciary Committee, guided by our respected and able colleague, Mr. EILBERG, chairman of the subcommittee, has wisely acted again to restore reason to our immigration and natralization laws. I commend Mr. EILBERG and members of the House Judiciary Committee for acting swiftly and boldly to correct the existing inequity in our law and hope that the Senate will awaken to the situation.

Mr. Speaker, I urge overwhelming approval of this worthy measure.

Mrs. MINK. Mr. Speaker, I urge this body to again give its approval to legislation offering the English language requirement exemption to those who meet the qualifications of Public Law 82-414 but who are presently excluded by the phrase, "as of the effective date of this act." This amendment retains the qualifications of Public Law 82-414, a permanent resident alien must be over 50 years of age and must have resided in this country for a total of 20 years. But where Public Law 82-414 limited its benefits to those born before 1902, this amendment would permit those born after 1902 to avail themselves of this exemption.

The House has passed this amendment several times previously only to have the bill die in the Senate. I sponsored legislation of this nature in 1967. My bill (at that time H.R. 3596) passed the House in December 1967, but failed to become law when the Senate did not act on it. I commend the Immigration Subcommittee for its diligent concern and its undiminished efforts to secure passage of this amendment in both Houses of Congress. Though the group we are hoping to help is a distinctly limited one—qualifications of 50 years of age and 20 years residence make the affected group a minority among our immigrant population—it is nonetheless a group much in need of our assistance and the bill speaks to a problem much in need of recognition and redress.

I would imagine that most of us have had some experience at learning a foreign language. Normally that experience is an academic one—one which, significantly, comes within the youthful, malleable stages of our mental development.

Linguists tell us that languages are most readily assimilated by the very young. Those of us who come from districts with sizable immigrant populations know first-hand the difficulties confronting immigrants trying to learn a new language. While their children seem to absorb the new language's slang and rhythms as well as its structures and idioms, the older immigrant must struggle to master even the bare rudiments of the new tongue.

This is a natural and expected phenomenon. Language is a tool, a process. By the time an individual reaches adulthood, language is a complex tool. It is an infrastructure whose very complexity resists discarding in favor of a new system where the learner is in a very real sense a child again.

Given the all too human barriers against achieving fluency in English among older immigrants, I would urge the House again approve this amendment. We know now that the inability of some of our older immigrants, those who enter the United States after the completion of their formal education and have, like so many of us, no particular gift for languages, to absorb a new language is characteristic of us all. I urge each of the Members to consider his own chances of learning a new language at this point in his life were he to be placed in a similar situation.

This amendment we have before us is a simple and limited one. Its principle has already been acknowledged by the passage of Public Law 82-414. I urge you now to extend its understanding and compassion to our older immigrants born after 1902.

These immigrants are mature. In mid-life they have chosen to break with a life they knew well and begin anew. Their commitment and courage I commend. I hope it will not go unfulfilled because the technical skills of mastering a new language have eluded them.

With 20 years residence in the United States, these immigrants have not only seen, felt, and enjoyed American life—they have enriched it. I urge you to grant them exemptions from the language requirement and permit them to become what they have made so many sacrifices for—American citizens.

Mr. GONZALEZ. Mr. Speaker, I am very pleased to see that the House is today considering a bill that amends section 312 of the Immigration and Nationality Act, as I have attempted to amend this section ever since I came to Congress in 1962.

Under existing law, section 312 of the Immigration and Nationality Act waives the requirement of an understanding of the English language for any person who, on December 25, 1952, was over 50 years of age, who then had lived in the United States for periods totaling at least 20 years. The bill we are considering today eliminates the 1952 cutoff date, something that should have been eliminated a long time ago.

As the law stands now, only those persons who came to the United States prior to December 24, 1932, that is, 20 years preceding the effective date of the act, could qualify for this exemption. The change that will be made by the passage of this bill would create an open-end classification, allowing persons to fall within the exception when they have lived in the United States for at least 20 years, even though they may have come in after 1932.

Since I have been in Congress I have received many letters from constituents who desperately wish to become citizens, some who say they wish to do so before they die, but they cannot under the existing law because they cannot read and write English and came into the United States after 1932.

For many it is not because they did not try to learn to read and write English. They went to classes when they could, but most had to work to support their families and did not have the time to devote to studying English and to become proficient in our language.

Some of these people have lived here 25 and 30 years. They have worked hard most of their lives. They have paid taxes to the State and Federal government. They have raised their families here, and have seen their children, who are citizens because they were born here, go off to fight and maybe die for America. Many may even have grandchildren and possibly even great grandchildren who are citizens of the United States, yet these people can never come within the exemption set out in section 312.

I have always believed that this law was unjust and I have worked to see it amended. I know that many of my colleagues feel the same way, and I am hopeful that today we can pass this bill that will correct the inequity in the law which has existed for too long.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) that the House suspend the rules and pass the Senate bill (S. 1206) as amended.

The question was taken.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 301, nays 21, not voting 110, as follows:

[Roll No. 91]

YEAS—301

Abdnor
Abzug
Adams
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Armstrong
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bennett
Bevill
Biaggi
Biester
Bingham
Blackburn
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Brooks
Brotzman
Brown, Calif.
Broyhill, Va.
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burton
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohen
Collier
Collins, Tex.
Conable
Conlan
Conte
Corman
Coughlin
Crane
Cronin
Culver
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Downing
Drinan
Duncan
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Foley
Ford
Forsythe
Fountain
Frenzel
Frey
Gaydos
Giaimo
Gilman
Gonzalez
Goodling
Green, Pa.
Grover
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hillis
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Hudnut
Hungate
Hunt
Hutchinson
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Karth
Kastenmeier
Kazen
Kemp
Ketchum
Kluczynski
Koch
Lagomarsino
Latta
Leggett
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McCormack
McFall
McKay
Madigan
Mahon
Mallary
Mann
Martin, Nebr.
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Miller
Mills
Minish
Mink
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, N.Y.
Murtha
Myers
Natcher
Nedzi
Nelsen
Obey
Owens
Parris
Passman
Patman
Patten
Perkins
Pettis
Pike
Poage
Podell
Powell, Ohio
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Randall
Rangel
Rees
Regula
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Ruth
Sandman
Sarasin
Sarbanes
Scherle
Schneebeli
Schroeder
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Vander Jagt
Vanik
Veysey
Waggonner
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Charles H., Calif.
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Young, Alaska
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—21

Ashbrook
Broyhill, N.C.
Burlison, Mo.
Daniel, Dan
Dennis
Flynt
Gettys
Ginn
Gross
Henderson
Ichord
Landrum
Martin, N.C.
Mathis, Ga.
Rarick
Rose
Rousselot
Satterfield
Snyder
Treen
Young, Fla.

NOT VOTING—110

Addabbo
Alexander
Andrews, N.C.
Annunzio
Ashley
Bell
Bergland
Blatnik
Brasco
Breckinridge
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Burke, Calif.
Burke, Fla.
Carey, N.Y.
Chamberlain
Chappell
Chisholm
Clancy
Cochran
Collins, Ill.
Conyers
Cotter
Davis, Ga.
Dorn
Dulski
Eckhardt
Esch
Fraser
Frelinghuysen
Froehlich
Fulton
Fuqua
Gibbons
Goldwater
Grasso
Gray
Green, Oreg.
Griffiths
Gubser
Gude
Gunter
Hinshaw
Huber
Jarman
Jones, Tenn.
Jordan
King
Kuykendall
Kyros
Landgrebe
Lehman
Luken
McClory
McCloskey
McCollister
McDade
McEwen
McKinney
McSpadden
Macdonald
Madden
Maraziti
Metcalfe
Milford
Minshall, Ohio
Mitchell, Md.
Moakley
Moss
Murphy, Ill.
Nichols
Nix
O'Brien
O'Hara
O'Neill
Pepper
Peyser
Pickle
Preyer
Railsback
Reid
Reuss
Riegle
Rooney, N.Y.
Roy
Ryan
St Germain
Sebelius
Seiberling
Slack
Steed
Steele
Stubblefield
Symington
Talcott
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Veen
Vigorito
Waldie
Wiggins
Wilson, Bob
Wilson, Charles, Tex.
Wolff
Yatron
Young, S.C.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. Annunzio with Mrs. Griffiths.
Mr. Rooney of New York with Mr. Lehman.
Mr. Pepper with Mr. Preyer.
Mr. Carey of New York with Mr. Chappell.
Mr. O'Neill with Mr. Jarman.
Mr. Brasco with Mr. Brinkley.
Mrs. Grasso with Mr. King.
Mr. Cotter with Mr. Kuykendall.
Mr. Fulton with Mr. Burke of Florida.
Mr. Macdonald with Mr. Gude.
Mr. Mitchell of Maryland with Mr. Waldie.
Mr. Nichols with Mr. Huber.
Mrs. Chisholm with Mr. Eckhardt.
Mr. Nix with Mr. Gray.
Mr. Kyros with Mr. Chamberlain.
Mr. St Germain with Mr. Brown of Ohio.
Mr. Steed with Mr. Reid.
Mr. Stubblefield with Mr. Cochran.
Mrs. Collins of Illinois with Mr. Blatnik.
Mr. Bergland with Mr. Brown of Michigan.
Mr. Addabbo with Mr. Clancy.
Mr. Metcalfe with Mr. Gray.
Mr. Murphy of Illinois with Mr. Broomfield.

Mr. Vigorito with Mr. Sebelius.

Mr. Conyers with Mr. Madden.

Mr. Yatron with Mr. Esch.

Mr. Wolff with Mr. Bell.

Mr. Pickle with Mr. Goldwater.

Mrs. Burke of California with Mr. O'Hara.

Mr. Davis of Georgia with Mr. Froehlich.

Mr. Moakley with Mr. Gubser.

Mr. Van Deerlin with Mr. Landgrebe.

Mr. Symington with Mr. Hinshaw.

Mr. Slack with Mr. Steele.

Mr. Riegle with Mr. McSpadden.

Mrs. Green of Oregon with Mr. McClory.

Mr. Ashley with Mr. Maraziti.

Mr. Alexander with Mr. McCloskey.

Mr. Andrews of North Carolina with Mr. McCollister.

Mr. Breckinridge with Mr. Luken.

Miss Jordan with Mr. McDade.

Mr. Jones of Tennessee with Mr. McEwen.

Mr. Fraser with Mr. Minshall of Ohio.

Mr. Fuqua with Mr. O'Brien.

Mr. Gibbons with Mr. Peyser.

Mr. Dulski with Mr. McKinney.

Mr. Dorn with Mr. Talcott.

Mr. Gunter with Mr. Towell of Nevada.

Mr. Milford with Mr. Wiggins.

Mr. Reuss with Mr. Bob Wilson.

Mr. Moss with Mr. Young of South Carolina.

Mr. Roy with Mr. Udall.

Mr. Ryan with Mr. Vander Veen.

Mr. Seiberling with Mr. Charles Wilson of Texas.

Mr. Ullman with Mr. Railsback.

The result of the vote was announced as above recorded.

The title was amended so as to read: "To amend section 312 of the Immigration and Nationality Act."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, S. 1206.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania.

There was no objection.

PROVIDING FOR FINANCING AND ECONOMIC DEVELOPMENT OF INDIANS AND INDIAN ORGANIZATIONS

Mr. MEEDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6371) to provide for financing and economic development of Indians and Indian organizations, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Financing Act of 1974".

DECLARATION OF POLICY

Sec. 2. It is hereby declared to be the policy of Congress to provide capital on a reimbursable basis to help develop and utilize Indian resources, both physical and human, to a point where the Indians will fully exercise responsibility for the utilization and management of their own resources and where they will enjoy a standard of living from their own productive efforts comparable to that enjoyed by non-Indians in neighboring communities.

DEFINITIONS

Sec. 3. For the purpose of this Act, the term—

(a) "Secretary" means the Secretary of the Interior.

(b) "Indian" means any person who is a member of any Indian tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act (85 Stat. 688).

(c) "Tribe" means any Indian tribe, band, group, pueblo, or community, including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(d) "Reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

(e) "Economic enterprise" means any Indian-owned (as defined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit: *Provided,* That such Indian ownership shall constitute not less than 51 per centum of the enterprise.

(f) "Organization", unless otherwise specified, shall be the governing body of any Indian tribe, as defined in subsection (c) hereof, or entity established or recognized by such governing body for the purpose of this Act.

(g) "Other organizations" means any non-Indian individual, firm, corporation, partnership, or association.

Sec. 4. No provision of this or any other Act shall be construed to terminate or otherwise curtail the assistance or activities of the Small Business Administration or any other Federal agency with respect to any Indian tribe, organization, or individual because of their eligibility for assistance under this Act.

TITLE I—INDIAN REVOLVING LOAN FUND

Sec. 101. In order to provide credit that is not available from private money markets, all funds that are now or hereafter a part of the revolving fund authorized by the Act of June 18, 1934 (48 Stat. 986), the Act of June 26, 1936 (49 Stat. 1968), and the Act of April 19, 1950 (64 Stat. 44), as amended and supplemented, including sums received in settlement of debts of livestock pursuant to the Act of May 24, 1950 (64 Stat. 190), and sums collected in repayment of loans heretofore or hereafter made, and as interest or other charges on loans, shall hereafter be administered as a single Indian Revolving Loan Fund. The fund shall be available for loans to Indians having a form of organization that is satisfactory to the Secretary and for loans to individual Indians who are not members of or eligible for membership in an organization which is making loans to its members: *Provided,* That, where the Secretary determines a rejection of a loan application from a member of an organization making loans to its membership from moneys borrowed from the fund is unwarranted, he may, in his discretion, make a direct loan to such individual from the fund. The fund shall also be available for administrative expenses incurred in connection therewith.

Sec. 102. Loans may be made for any purpose which will promote the economic development of (a) the individual Indian borrower, including loans for educational purposes, and (b) the Indian organization and its members including loans by such organizations to other organizations and investments in other organization regardless of whether they are organizations of Indians: *Provided,* That not more than —— per centum of loan made to an organization shall be used by such organization for the purpose of making loans to or investments in non-Indian organizations.

Sec. 103. Loans may be made only when, in the judgment of the Secretary, there is a reasonable prospect of repayment, and only to applicants who in the opinion of the Secretary are unable to obtain financing from other sources on reasonable terms and conditions.

Sec. 104. Loans shall be for terms that do not exceed thirty years and shall bear interest at (a) a rate determined by the Secretary of the Treasury taking into consideration the market yield on municipal bonds: *Provided,* That in no event shall the rate be greater than the rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity, plus (b) such additional charge, if any, toward other costs of the program as the Secretary may determine to be consistent with its purpose: *Provided,* That educational loans may provide for interest to be deferred while the borrower is in school or in the military service.

Sec. 105. The Secretary may cancel, adjust, compromise, or reduce the amount of any loan or any portion thereof heretofore, or hereafter made from the revolving loan fund established by this title and its predecessor constituent funds which he determines to be uncollectable in whole or in part, or which is collectable only at an unreasonable cost, or when such action would, in his judgment, be in the best interests of the United States: *Provided,* That proceedings pursuant to this sentence shall be effective only after following the procedure prescribed by the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386a). He may also adjust, compromise, subordinate, or modify the terms of any mortgage, lease, assignment, contract, agreement, or other document taken to secure such loans.

Sec. 106. Title to any land purchased by a tribe or by an individual Indian with loans made from the revolving loan fund may be taken in trust unless the land is located outside the boundaries of a reservation or a tribal consolidation area approved by the Secretary. Title to any land purchased by a tribe or an individual Indian which is outside the boundaries of the reservation or approved consolidation area may be taken in trust if the purchaser was the owner of trust or restricted interests in the land before the purchase, otherwise title shall be taken in the name of the purchasers without any restriction on alienation, control, or use. Title to any personal property purchased with a loan from the revolving loan fund shall be taken in the name of the purchaser.

Sec. 107. Any organization receiving a loan from the revolving loan fund shall be required to assign to the United States as security for the loan all securities acquired in connection with the loans made to its members from such funds unless the Secretary determines that the repayment of the loan to the United States is otherwise reasonably assured.

Sec. 108. There is authorized to be appropriated, to provide capital and to restore any impairment of capital for the revolving loan fund $50,000,000 exclusive of prior authorizations and appropriations.

Sec. 109. The Secretary shall promulgate rules and regulations to carry out the provisions of this title.

TITLE II—LOAN GUARANTY AND INSURANCE

Sec. 201. In order to provide access to private money sources which otherwise would not be available, the Secretary is authorized

(a) to guarantee not to exceed 90 per centum of the unpaid principal and interest due on any loan made to any organization of Indians having a form or organization satisfactory to the Secretary, and to individual Indians who are not members of or eligible for membership in an organization which is making loans to its members; and (b) in lieu of such guaranty, to insure loans under an agreement approved by the Secretary whereby the lender will be reimbursed for losses in an amount not to exceed 15 per centum of the aggregate of such loans made by it, but not to exceed 90 per centum of the loss on any one loan.

SEC. 202. The Secretary shall fix such premium charges for the insurance and guarantee of loans as are in his judgment adequate to cover expenses and probable losses, and deposit receipts from such charges in the Indian Loan Guaranty and Insurance Fund established pursuant to section 217(a) of this title.

SEC. 203. Loans guaranteed or insured pursuant to this title shall bear interest (exclusive of premium charges for insurance, and service charge, if any) at rates not to exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable taking into consideration the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

SEC. 204. The application for a loan to be guaranteed hereunder shall be submitted to the Secretary for prior approval. Upon approval, the Secretary shall issue a certificate as evidence of the guaranty. Such certificate shall be issued only when, in the judgment of the Secretary, there is a reasonable prospect of repayment. No loan to an individual Indian may be guaranteed or insured which would cause the total unpaid principal indebtedness to exceed $100,000. No loan to an economic enterprise (as defined in section 3) in excess of $100,000, or such lower amount as the Secretary may determine to be appropriate, shall be insured unless prior approval of the loan is obtained from the Secretary.

SEC. 205. Any loan guaranteed hereunder, including the security given therefor, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the United States or of any State or the District of Columbia.

SEC. 206. Loans made by any agency or instrumentality of the Federal Government, or by an organization of Indians from funds borrowed from the United States, and loans the interest on which is not included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, as amended, shall not be eligible for guaranty or insurance hereunder.

SEC. 207. Any loans insured hereunder shall be restricted to those made by a financial institution subject to examination and supervision by an agency of the United States, a State, or the District of Columbia, and to loans made by Indian organizations from their own funds to other tribes or organizations of Indians.

SEC. 208. Loans guaranteed hereunder may be made by any lender satisfactory to the Secretary, except as provided in section 206. The liability under the guaranty shall decrease or increase pro rata with any decrease or increase in the unpaid portion of the obligation.

SEC. 209. Any loan made by any national bank or Federal savings and loan association, or by any bank, trust company, building and loan association, or insurance company authorized to do business in the District of Columbia, at least 20 per centum of which is guaranteed hereunder, may be made without regard to the limitations and restrictions of any other Federal statute with respect to (a) ratio of amount of loan to the value of the property; (b) maturity of loans; (c) requirement of mortgage or other security; (d) priority of lien; or (e) percentage of assets which may be invested in real estate loans.

SEC. 210. The maturity of any loan guaranteed or insured hereunder shall not exceed thirty years.

SEC. 211. In the event of default of a loan guaranteed hereunder, the holder of the guaranty certificate may immediately notify the Secretary in writing of such default and the Secretary shall thereupon pay to such holder the pro rata portion of the amount guaranteed and shall be subrogated to the rights of the holder of the guaranty and receive an assignment of the obligation and security. The Secretary may cancel the uncollectable portion of any obligation, to which he has an assignment or a subrogated right under this section: *Provided,* That proceedings pursuant to this sentence shall be effective only after following the procedure prescribed by the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386a). Nothing in this section shall be construed to preclude any forbearance for the benefit of the borrower as may be agreed upon by the parties to the loan and approved by the Secretary. The Secretary may establish the date, not later than the date of judgment and decree of foreclosure or sale, upon which accrual of interest or charges shall cease.

SEC. 212. When a lender suffers a loss on a loan insured hereunder, including accrued interest, a claim therefor shall be submitted to the Secretary. If the Secretary finds that the loss has been suffered, he shall reimburse the lender therefor: *Provided,* That the amount payable to the lender for a loss on any one loan shall not exceed 90 per centum of such loss: *Provided further,* That no reimbursement may be made for losses in excess of 15 per centum of the aggregate of insured loans made by the lender: *Provided further,* That before any reimbursement is made, all reasonable collection efforts shall have been exhausted by the lender, and the security for the loan shall have been liquidated to the extent feasible, and the proceeds applied on the debt. Upon reimbursement, in whole or in part, to the lender, the note or judgment evidencing the debt shall be assigned to the United States, and the lender shall have no further claim against the borrower or the United States. The Secretary shall then take such further collection action as may be warranted, or may cancel the uncollectable portion of any debt assigned pursuant hereto. The Secretary may establish a date upon which accrual of interest or charges shall cease.

SEC. 213. Whenever the Secretary finds that any lender or holder of a guaranty certificate fails to maintain adequate accounting records, or to demonstrate proper ability to service adequately loans guaranteed or insured, or to exercise proper credit judgment, or has willfully or negligently engaged in practices otherwise detrimental to the interests of a borrower or of the United States, he may refuse, either temporarily or permanently, to guarantee or insure any further loans made by such lender or holder, and may bar such lender or holder from acquiring additional loans guaranteed or insured hereunder: *Provided,* That the Secretary shall not refuse to pay a valid guaranty or insurance claim on loans previously made in good faith.

SEC. 214. Any evidence of guaranty or insurance issued by the Secretary shall be conclusive evidence of the eligibility of the loan for guaranty or insurance under the provisions of this Act and the amount of such guaranty or insurance: *Provided,* That nothing in this section shall preclude the Secretary from establishing, as against the original lender, defenses based on fraud or material misrepresentation or bar him from establishing, by regulations in force at the date of such issuance or disbursement, whichever is the earlier, partial defenses to the amount payable on the guaranty or insurance.

SEC. 215. Title to any land purchased by a tribe or by an individual Indian with loans guaranteed or insured pursuant to this title may be taken in trust, unless the land is located outside the boundaries of a reservation or a tribal consolidation area approved by the Secretary. Title to any land purchased by a tribe or an individual Indian which is outside the boundaries of the reservation or approved consolidation area may be taken in trust if the purchaser was the owner of trust or restricted interests in the land before the purchase, otherwise title shall be taken in the name of the purchaser without any restriction on alienation, control, or use. Title to any personal property purchased with loans guaranteed or insured hereunder shall be taken in the name of the purchaser.

SEC. 216. The financial transactions of the Secretary incident to or arising out of the guarantee or insurance of loans, and the acquisition, management, and disposition of property, real, personal, or mixed, incident to such activities, shall be final and conclusive upon all officers of the Government. With respect to matters arising out of the guaranty or insurance program authorized by this title, and notwithstanding the provisions of any other laws, the Secretary may—

(a) sue and be sued in his official capacity in any court of competent jurisdiction;

(b) subject to the specific limitations in this title, consent to the modification, with respect to the rate of interest, time of payment on principal or interest or any portion thereof, security, or any other provisions of any note, contract, mortgage, or other instrument securing a loan which has been guaranteed or insured hereunder;

(c) subject to the specific limitations in this title, pay, or compromise, any claim on, or arising because of any loan guaranty or insurance;

(d) subject to the specific limitations in this title, pay, compromise, waive, or release any rights, title, claim, lien, or demand, however acquired, including, but not limited to, any equity or right of redemption;

(e) purchase at any sale, public or private, upon such terms and for such prices as he determines to be reasonable, and take title to property, real, personal, or mixed; and similarly sell, at public or private sale, exchange, assign, convey, or otherwise dispose of such property; and

(f) complete, administer, operate, obtain, and pay for insurance on, and maintain, renovate, repair, modernize, lease, or otherwise deal with any property acquired or held pursuant to the guaranty or insurance program authorized by this title.

SEC. 217. (a) There is hereby created an Indian Loan Guaranty and Insurance Fund (hereinafter referred to as the "fund") which shall be available to the Secretary as a revolving fund without fiscal year limitation for carrying out the provisions of this title.

(b) The Secretary may use the fund for the purpose of fulfilling the obligations with respect to loans guaranteed or insured under this title, but the aggregate of such loans which are insured or guaranteed by the Secretary shall be limited to $200,000,000.

(c) All funds, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and all collections and proceeds therefrom, shall constitute assets of the fund; and all liabilities and obligations of such assets shall be liabilities and obligations of the fund. The Secretary is authorized to make agreements with respect to servicing loans held, guaranteed, or insured by him under this title and purchasing such guaranteed or insured loans on such terms and conditions as he may prescribe.

(d) The Secretary may also utilize the

fund to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed or insured under this title or held by the Secretary, to acquire such security property at foreclosure sale or otherwise, and to pay administrative expenses.

SEC. 218. The Secretary shall promulgate rules and regulations to carry out the provisions of this title.

TITLE III—INTEREST SUBSIDIES AND ADMINISTRATIVE EXPENSES

SEC. 301. The Secretary is authorized under such rules and regulations as he may prescribe to pay as an interest subsidy on loans which are guaranteed or insured under the provisions of title II of this Act amounts which are necessary to reduce the rate payable by the borrower to the rate determined under section 104 of this Act.

SEC. 302. There are authorized to be appropriated to the Secretary (a) to carry out the provisions of section 217 and 301 of this Act, such sums to remain available until expended, and (b) for administrative expenses under this Act not to exceed $20,000,000 in each of the fiscal years 1975, 1976, and 1977.

TITLE IV—INDIAN BUSINESS GRANTS

SEC. 401. There is established within the Department of the Interior the Indian Business Development Program whose purpose is to stimulate and increase Indian entrepreneurship and employment by providing equity capital through nonreimbursable grants made by the Secretary of the Interior to Indians and Indian tribes to establish and expand profitmaking Indian-owned economic enterprises on or near reservations.

SEC. 402. (a) No grant in excess of $50,000, or such lower amount as the Secretary may determine to be appropriate, may be made to an Indian or Indian tribe.

(b) A grant may be made only to an applicant who, in the opinion of the Secretary, is unable to obtain adequate financing for its economic enterprise from other sources: *Provided*, That prior to making any grant under this title, the Secretary shall assure that, where practical, the applicant has reasonably made available for the economic enterprise funds from the applicant's own financial resources.

(c) No grant may be made to an applicant who is unable to obtain at least 60 per centum of the necessary funds for the economic enterprise from other sources.

SEC. 403. There are authorized to be appropriated not to exceed the sum of $10,000,000 for each of the fiscal years 1975, 1976, and 1977 for the purposes of this title.

SEC. 404. The Secretary of the Interior is authorized to prescribe such rules and regulations as may be necessary to carry out the purposes of this Act.

TITLE V

SEC. 501. Concurrent with the making or guaranteeing of any loan under titles I and II and with the making of a grant under title IV of this Act, the purpose of which is to fund the development of an economic enterprise, the Secretary shall insure that the loan or grant applicant shall be provided competent management and technical assistance consistent with the nature of the enterprise being funded.

SEC. 502. For the purpose of providing the assistance required under section 501, the Secretary is authorized to cooperate with the Small Business Administration and ACTION and other Federal agencies in the use of existing programs of this character in those agencies. In addition, the Secretary is authorized to enter into contracts with private organizations for providing such services and assistance.

SEC. 503. For the purpose of entering into contracts pursuant to section 502 of this title, the Secretary is authorized to use not to exceed 5 per centum of any funds appropriated for any fiscal year pursuant to section 302 of this Act.

The SPEAKER. Is a second demanded?

Mr. REGULA. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Washington is recognized.

Mr. MEEDS. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, one of the most serious problems on Indian reservations is the inadequate availability of financial resources to permit the Indian people to develop their own resources. All the traditional economic indicators on economic levels place Indians and the Indian reservations at the bottom. On every reservation today, there is almost a total lack of an economic community.

Where the reservation does have valuable economic resources, these resources either go undeveloped or are developed by outside promoters with only minimal return to the tribe and its membership.

Income generated through Federal, tribal, and other kinds of activity on the reservation does not stay on the reservation because of this lack of an economic community. With the absence of Indian-owned small businesses on the reservation, this income immediately flows off the reservation into the off-reservation, non-Indian communities.

Yet, the credit and capital resources necessary for Indian development of their resources and Indian-owned and operated small businesses is nowhere near adequate. Lacking their own capital, they must rely on the private money markets. Yet, these sources are practically closed to them. Indian tribes and individuals have been categorized as poor credit risks for reasons which are often beyond their control. As a consequence, credit, if available at all, is only available at interest rates so high as to be prohibitive.

Early attempts to remedy the lack of available credit for Indians resulted in the Congress authorizing direct Federal loan programs to be administered through the Bureau of Indian Affairs. The first of these was authorized by the Indian Reorganization Act of 1934. Later, three small revolving funds were authorized. The total amount authorized under these four funds is $28,800,000. For all practical purposes, this amount has been almost totally appropriated and the demand on the revolving loan funds is completely inadequate to meet the needs.

The Bureau of Indian Affairs estimates that the current credit needs of Indian tribes stands at $1.08 billion. This includes both tribal and individual credit demands and covers all aspects of economic development. If Indian people, both as tribal governments and individuals, are to become economically self-sufficient, the Federal Government will, necessarily, have to provide this kind of assistance.

H.R. 6371 is administrative legislation designed to fill this largely unmet need. The subcommittee has stricken everything in H.R. 6371 and substituted in lieu the language of H.R. 9843 which is identical to S. 1341 as passed by the Senate.

This legislation attempts to meet the capital and credit needs of Indians by establishing and funding three separate programs. Title I consolidates the four existing revolving loan funds administered by the Bureau of Indian Affairs and authorizes $50 million in additional appropriations. It additionally provides a statutory structure for the program which is currently implemented on administrative rules and regulations.

Title II and III creates a new Indian Loan Insurance and Guaranty Fund, with authorized appropriations of $20 million for the next 3 fiscal years. This fund will permit the Secretary of the Interior to either guarantee or insure Indian loans in the private money market. It is expected that such a program funded at a $20 million level will generate approximately $200 million in new credit for Indians and Indian tribes. The legislation provides that the interest rates charged both on the title I loans and on the titles II and III loans will be at approximately the rates charged on U.S. obligations of similar maturity, either through initial low rates or through interest subsidies.

Title IV establishes an Indian business development program funded at an authorized level of $10 million for the next 3 fiscal years. The purpose of the program is to provide "seed-money," nonreimbursable grants to Indians and Indian tribes to become established in small business entrepreneurship. The provisions of the title are written so as to insure that the applicant must avail himself of all other sources—including his own financial resources—before becoming eligible for a grant, but does not preclude the Secretary from making a grant to avoid a total debt financing for such an enterprise.

Title V is a new title added by the subcommittee requiring the Secretary to offer a borrower and/or grantee under the bill management and technical assistance in his economic enterprise.

Mr. HALEY. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. Mr. Speaker, I yield to the distinguished gentleman from Florida, the chairman of the full committee.

Mr. HALEY. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Washington. This legislation has been needed for some time. I am glad that the gentleman has gotten these funds together so that the Indians will have an opportunity to move forward.

Mr. Speaker, I urge the passage of this bill.

Mr. MEEDS. Mr. Speaker, I thank the gentleman for his comments.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. Mr. Speaker, I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, I rise in support of this legislation and to congratulate the gentleman from Washington for the fine leadership which he has provided our committee in working out this bill.

Mr. Speaker, I am pleased to join my colleagues today in support of the enactment of H.R. 6371—a bill providing for financing and economic development of Indians and Indian organizations.

As everyone knows, I represent the area where the eastern band of the Cherokee Indians live. We are proud of the independent spirit of these citizens and we are pleased with their economic growth over the years.

This bill will help the Indian people in all parts of the Nation. It combines into one program the four existing Indian revolving loan funds administered by the Bureau of Indian Affairs and it authorizes an additional $50 million to be available for direct Federal loans to Indian organizations and individuals at reasonable interest rates. In addition, it authorizes loans to be insured or guaranteed through a Federal program and it establishes an Indian business development program which will provide grants to Indians and Indian tribes to encourage small business operations.

In short, Mr. Speaker, H.R. 6371 is a bill which is designed to help the Indian people help themselves. It is a comprehensive effort to help our original Americans secure the financial assistance which they need in order to develop the economic security which they deserve.

I commend my colleague, Mr. MEEDS, the chairman of the Subcommittee on Indian Affairs, who worked so diligently to bring this legislation before the House and I am pleased to have this opportunity to join in support of the enactment of this legislation.

Mr. REGULA. Mr. Speaker, I agree with the statements by my distinguished colleague, the chairman of the Indian Affairs Subcommittee, and I am pleased to join him in supporting this bill. At this point, I yield myself as much time as I may require.

Mr. Speaker, this bill addresses a problem that is very real in the Indian community: The problem of obtaining sufficient credit to begin a business or develop an industry. Trust lands and restricted lands cannot be offered as security, and a lender's normal recourse to garnishment or repossession is complicated where tribal status is concerned. Thus, an Indian's access to normal credit markets is severely limited.

In providing alternative lending sources through this bill, we are not intending to provide a source of "soft" loans of Federal funds. On the contrary, we have built provisions into the bill that will insure a high degree of borrower's equity with whatever assets the individual or tribe may possess. Before the nonreimbursable seed-money grants in title IV can be made available, the Secretary must be certain that the borrower has exhausted all other sources of funds—including his own resources and including loans from the revolving, guaranteed, or insured loan programs in this bill.

I do not see this loan program as being in competition with any private lending program. On the contrary, we have built into the bill a mechanism for the profitable participation by commercial lending institutions through guaranteed and insured loans. This program is intended to supplement and complement—not to supplant—existing private lending programs.

Nor is this bill intended to duplicate or replace any other government lending program. The Small Business Administration has well-defined and fairly narrow purposes for which its programs are intended. It cannot lend money, for example, to a student for a college education. The purposes of this bill are much broader and include a very important provision for education loans. The programs in this bill are intended to extend Indian business loans and economic development loans beyond the scope of the Small Business Act.

It is designed as a self-help type of program in providing access to financial support for any Indian or tribe so desiring.

Mr. Speaker, I consider this a very worthwhile piece of legislation and one that has been long overdue. It is a bill that was first proposed 4 years ago, and I urge all of my colleagues to join in its unanimous passage.

Mr· Speaker, I might say that this is my first bill as the ranking minority member on the Committee on Indian Affairs, and I am pleased that for openers I can be here in support of such a fine piece of legislation that will do much to help Indians in achieving their goals.

Mr. ZWACH. Mr. Speaker, back on March 29, 1973, I joined with Mr. CAMP and the late Congressman from Pennsylvania, Mr. Saylor, in introducing H.R. 6371, legislation designed "to provide for financing and economic development of Indians and Indian organizations."

H.R. 6371 is one of the seven key administration-backed Indian affairs bills introduced into Congress. It has already passed the Senate—July 28, 1973—and was reported from the House Interior and Insular Affairs Committee on March 13, 1974.

Known as the "Indian Financing Act of 1974," this legislation provides three separate programs: First, a title I program which consolidates the four existing Indian revolving loan funds administered by BIA and authorizes $50 million in additional appropriations; second, a title II and III program creating a new Indian Loan Guaranty and Insurance Fund with $20 million in a revolving fund over 3 years; and third, a title IV program designed to provide seed money—$10 million over 3 years—for nonreimbursable grants to Indians and Indian tribes to become established in small business entrepreneurship. The interest rate on these "not to exceed 30 years" loans would be determined by the Secretary of the Treasury and based on the market yield of municipal bonds with certain stipulations.

The selected Indian reservation program of the Economic Development Administration, providing a supporting role for the Indians' own efforts in developing their resources, has brought about some gratifying results. We have seen the Blackfeet establish a logging and lumber industry in Montana, the White Mountain Apaches of Arizona develop a unique tourism complex, the Lummis of Washington, in a fish hatchery and oyster culture endeavor, to name some of them. We even find a pencil factory in Montana, with the controlling stock Indian-owned. Other enterprises have been developed through private and tribal funding, and many of these more directly reflect the native American culture and heritage, such as processing of wild rice products, jewelry, basketry, and other crafts. The advantages of prosperous enterprises in Indian communities are quite obvious.

Mr. Speaker, I feel the enactment of this bill would certainly improve the economic outlook for Indians in their home communities. We have not seen desirable results when Indians, nearly destitute, have been forced to leave their homes and seek hand-to-mouth existence in communities where much is alien to them.

In other words, the act would give more hope for growth of ideas and industry from the roots of Indian culture and resource. I feel it is a goal worth pursuing, and urge favorable action by this body today.

This bill is not only a beginning step in the strengthening of our native American's self-determination in their economic future, but also a tribute to the man who held the Indian a dear friend to his heart, the late Congressman from the 12th District of Pennsylvania, John P. Saylor.

The SPEAKER. The question is on the motion offered by the gentleman from Washington (Mr. MEEDS) that the House suspend the rules and pass the bill H.R. 6371, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1341) to provide for financing the economic development of Indians and Indian organizations, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Financing Act of 1973".

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress to provide capital on a reimbursable basis to help develop and utilize Indian resources, both physical and human, to a point where the Indians will fully exercise responsibility for the utilization and management of their own resources; where they will enjoy a standard of living from their own productive efforts comparable to that enjoyed by non-Indians in neighboring communities; and where they will have the opportunity to be integrated socially, politically, and economically into American life.

DEFINITIONS

SEC. 3. For the purpose of this Act, the term—

(a) "Secretary" means the Secretary of the Interior.

(b) "Indian" means any person who is a member of any Indian tribe, band, pueblo, group, or community of Indians or Alaska Natives which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(c) "Indian tribe" means any tribe, band, pueblo, group, or community of Indians or Alaska Natives which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(d) "Reservation" includes Indian reservations, public domain land occupied by Indians, former Indian reservations in Oklahoma, and land occupied by Alaska Native communities.

(e) "Economic enterprise" means any Indian-owned as defined by the Secretary of the Interior, commercial, industrial, or business activity established or organized for the purpose of profit.

(f) "Other organizations" means any non-Indian individual, firm, corporation, partnership, or association.

TITLE I—INDIAN REVOLVING LOAN FUND

SEC. 101. In order to provide credit that is not available from private money markets, all funds that are now or hereafter a part of the revolving fund authorized by the Act of June 18, 1934 (48 Stat. 986), the Act of June 26, 1936 (49 Stat. 1968), and the Act of April 19, 1950 (64 Stat. 44), as amended and supplemented, including sums received in settlement of debts of livestock pursuant to the Act of May 24, 1950 (64 Stat. 190), and sums collected in repayment of loans heretofore or hereafter made, and as interest or other charges on loans, shall hereafter be administered as a single revolving loan fund and shall be available for loans to Indians having a form of organization that is satisfactory to the Secretary and for loans to individual Indians who are not members of or eligible for membership in an organization which is making loans to its members as well as for administrative expenses incurred in connection therewith.

SEC. 102. Loans may be made for any purpose which will promote the economic development of (a) the individual Indian borrower, including loans for educational purposes, and (b) the Indian organization and its members including loans by such organizations to other organizations and investments in other organizations regardless of whether they are organizations of Indians.

SEC. 103. Loans may be made only when, in the judgment of the Secretary, there is a reasonable prospect of repayment, and only to applicants who in the opinion of the Secretary are unable to obtain financing from other sources on reasonable terms and conditions.

SEC. 104. Loans shall be for terms that do not exceed thirty years and shall bear interest at (a) a rate determined by the Secretary of the Treasury taking into consideration the market yield on municipal bonds: *Provided,* That in no event shall the rate be greater than the rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity, plus (b) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purpose: *Provided,* That educational loans may provide for interest to be deferred while the borrower is in school or in the military service.

SEC. 105. The Secretary may cancel, adjust, compromise, or reduce the amount of any loan or any portion thereof heretofore or hereafter made from the revolving loan fund established by this title and its predecessor constituent funds which he determines to be uncollectable in whole or in part, or which is collectable only at an unreasonable cost, or when such action would, in his judgment, be in the best interests of the United States. He may also adjust, compromise, subordinate, or modify the terms of any mortgage, lease, assignment, contract, agreement, or other document taken to secure such loans.

SEC. 106. Title to any land purchased by a tribe or by an individual Indian with loans made from the revolving loan fund may be taken in trust unless the land is located outside the boundaries of a reservation or a tribual consolidation area approved by the Secretary. Title to any land purchased by a tribe or an individual Indian which is outside the boundaries of the reservation or approved consolidation area may be taken in trust if the purchaser was the owner of trust or restrict interests in the land before the purchase, otherwise title shall be taken in the name of the purchasers without any restriction on alienation, control, or use. Title to any personal property purchased with a loan from the revolving loan fund shall be taken in the name of the purchaser.

SEC. 107. Any organization receiving a loan from the revolving loan fund shall be required to assign to the United States as security for the loan all securities acquired in connection with the loans made to its members from such funds unless the Secretary determines that the repayment of the loan to the United States is otherwise reasonably assured.

SEC. 108. The Secretary may not collect any loan from the revolving loan fund which becomes delinquent or the interest thereon from per capita payments or other distributions of tribual assets derived from a tribal judgment which are due the delinquent borrower.

SEC. 109. There is authorized to be appropriated, to provide capital and to restore any impairment of capital for the revolving loan fund $50,000,000 exclusive of prior authorizations and appropriations.

SEC. 110. The Secretary shall promulgate rules and regulations to carry out the provisions of this title.

TITLE II—LOAN GUARANTY AND INSURANCE

SEC. 201. In order to provide access to private money sources which otherwise would not be available, the Secretary is authorized (a) to guarantee not to exceed 90 per centum of the unpaid principal and interest due on any loan made to any organization of Indians having a form or organization satisfactory to the Secretary, and to individual Indians who are not members of or eligible for membership in an organization which is making loans to its members; and (b) in lieu of such guaranty, to insure loans under an agreement approved by the Secretary whereby the lender will be reimbursed for losses in an amount not to exceed 15 per centum of the aggregate of such loans made by it, but not to exceed 90 per centum of the loss on any one loan.

SEC. 202. The Secretary may, to the extent he deems consistent with the purposes of the program, fix such premium charges for the insurance and guarantee of loans as are in his judgment adequate to cover expenses and probable losses, and deposit receipts from such charges in the Indian Loan Guaranty and Insurance Fund established pursuant to section 217(a) on this title.

SEC. 203. Loans guaranteed or insured pursuant to this title shall bear interest (exclusive of premium charges for insurance, and service charge, if any) at rates not to exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable taking into consideration the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

SEC. 204. The application for a loan to be guaranteed hereunder shall be submitted to the Secretary for prior approval. Upon approval, the Secretary shall issue a certificate as evidence of the guaranty. Such certificate shall be issued only when, in the judgment of the Secretary, there is a reasonable prospect of repayment. No loan to an individual Indian may be guaranteed or insured which would cause the total unpaid principal indebtedness to exceed $100,000. No loan to an economic enterprise (as defined in section 3) in excess of $100,000, or such lower amount as the Secretary may determine to be appropriate, shall be insured unless prior approval of the loan is obtained from the Secretary.

SEC. 205. Any loan guaranteed hereunder, including the security given therefor, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the United States or of any State or the District of Columbia.

SEC. 206. Loans made by any agency or instrumentality of the Federal Government, or by an organization of Indians from funds borrowed from the United States, and loans the interest on which is not included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, as amended, shall not be eligible for guaranty or insurance hereunder.

SEC. 207. Any loans insured hereunder shall be restricted to those made by a financial institution subject to examination and supervision by an agency of the United States, a State, or the District of Columbia, and to loans made by Indian organizations from their own funds to other tribes or organizations of Indians.

SEC. 208. Loans guaranteed hereunder may be made by any lender satisfactory to the Secretary, except as provided in section 206. The liability under the guaranty shall decrease or increase pro rata with any decrease or increase in the unpaid portion of the obligation.

SEC. 209. Any loan made by any national bank or Federal savings and loan association, or by any bank, trust company, building and loan association, or insurance company authorized to do business in the District of Columbia, at least 20 per centum of which is guaranteed hereunder, may be made without regard to the limitations and restrictions of any other Federal statute with respect to (a) ratio of amount of loan to the value of the property; (b) maturity of loans; (c) requirement of mortgage or other security; (d) priority of lien; or (e) percentage of assets which may be invested in real estate loans.

SEC. 210. The maturity of any loan guaranteed or insured hereunder shall not exceed thirty years.

SEC. 211. In the event of a default of a loan guaranteed hereunder, the holder of the guaranty certificate may immediately notify the Secretary in writing of such default and the Secretary shall thereupon pay to such holder the pro rata portion of the amount guaranteed and shall be subrogated to the rights of the holder of the guaranty and receive an assignment of the obligation and security. The Secretary may cancel the uncollectable portion of any obligation to which he has an assignment or subrogated right under this section. Nothing in this section shall be construed to preclude any forbearance for the benefit of the borrower as may be agreed upon by the parties to the loan and approved by the Secretary. The Secretary may establish the date, not later than the date of judgment and decree of foreclosure or sale, upon which accrual of interest or charges shall cease.

SEC. 212. When a lender suffers a loss on a loan insured hereunder, including accrued interest, a claim therefor shall be submitted to the Secretary. If the Secretary finds that the loss has been suffered, he shall reimburse the lender therefor: *Provided*, That the amount payable to the lender for a loss on any one loan shall not exceed 90 per centum of such loss: *Provided further*, That no reimbursement may be made for losses in excess of 15 per centum of the aggregate of insured loans made by the lender: *Provided further*, That before any reimbursement is made, all reasonable collection efforts shall have been exhausted by the lender and the security for the loan shall have been liquidated to the extent feasible, and the proceeds applied on the debt. Upon reimbursement, in whole or in part, to the lender, the note or judgment evidencing the debt shall be assigned to the United States, and the lender shall have no further claim against the borrower or the United States. The Secretary shall then take such further collection action as may be warranted, or may cancel the uncollectable portion of any debt assigned pursuant hereto. The Secretary may establish a date upon which accrual of interest or charges shall cease.

Sec. 213. Whenever the Secretary finds that any lender or holder of a guaranty certificate fails to maintain adequate accounting records, or to demonstrate proper ability to service adequately loans guaranteed or insured, or to exercise proper credit judgment, or has willfully or negligently engaged in practices otherwise detrimental to the interests of a borrower or of the United States, he may refuse, either temporarily or permanently, to guarantee or insure any further loans made by such lender or holder, and may bar such lender or holder from acquiring additional loans guaranteed or insured hereunder: *Provided*, That the Secretary shall not refuse to pay a valid guaranty or insurance claim on loans previously made in good faith.

Sec. 214. Any evidence of guaranty or insurance issued by the Secretary shall be conclusive evidence of the eligibility of the loan for guaranty or insurance under the provisions of this Act and the amount of such guaranty or insurance: *Provided*, That nothing in this section shall preclude the Secretary from establishing, as against the original lender, defenses based on fraud or material misrepresentation or bar him from establishing, by regulations in force at the date of such issuance or disbursement, which ever is the earlier, partial defenses to the amount payable on the guaranty or insurance.

Sec. 215. Title to any land purchased by a tribe or by an individual Indian with loans guaranteed or insured pursuant to this title may be taken in trust, unless the land is located outside the boundaries of a reservation or a tribal consolidation area approved by the Secretary. Title to any land purchased by a tribe or an individual Indian which is outside the boundaries of the reservation or approved consolidation area may be taken in trust if the purchaser was the owner of trust or restricted interests in the land before the purchase, otherwise title shall be taken in the name of the purchaser without any restriction on alienation, control, or use. Title to any personal property purchased with loans guaranteed or insured hereunder shall be taken in the name of the purchaser.

Sec. 216. The financial transactions of the Secretary incident to or arising out of the guarantee or insurance of loans, and the acquisition, management, and disposition of property, real, personal, or mixed, incident to such activities, shall be final and conclusive upon all officers of the Government. With respect to matters arising out of the guaranty or insurance program authorized by this title, and notwithstanding the provisions of any other laws, the Secretary may—

(a) sue and be sued in his official capacity in any court of competent jurisdiction;

(b) subject to the specific limitations in this title, consent to the modification, with respect to the rate of interest, time of payment on principal or interest or any portion thereof, security, or any other provisions of any note, contract, mortgage, or other instrument securing a loan which has been guaranteed or insured hereunder;

(c) pay, or compromise, any claim on, or arising because of any loan guaranty or insurance;

(d) pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including, but not limited to, any equity or right of redemption;

(e) purchase at any sale, public or private, upon such terms and for such prices as he determines to be reasonable, and take title to property, real, personal, or mixed; and similarly sell, at public or private sale, exchange, assign, convey, or otherwise dispose of such property; and

(f) complete, administer, operate, obtain, and pay for insurance on, and maintain, renovate, repair, modernize, lease, or otherwise deal with any property acquired or held pursuant to the guaranty or insurance program authorized by this title.

Sec. 217. (a) There is hereby created an Indian Loan Guaranty and Insurance Fund (hereinafter referred to as the "fund") which shall be available to the Secretary as a revolving fund without fiscal year limitation for carrying out the provisions of this title. There are authorized to be appropriated to the Secretary to carry out the purposes of the fund and the purposes of section 301 of this Act not to exceed $10,000,000 in each of the fiscal years 1974, 1975, and 1976.

(b) The Secretary may use the fund for the purpose of fulfilling the obligations with respect to loans guaranteed or insured under this title, but the aggregate of such loans which are insured or guaranteed by the Secretary shall be limited to $200,000,000 as authorized in appropriation Acts.

(c) All funds, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and all collections and proceeds therefrom, shall constitute assets of the fund; and all liabilities and obligations of such assets shall be liabilities and obligations of the fund. The Secretary is authorized to make agreements with respect to servicing loans held, guaranteed, or insured by him under this title and purchasing such guaranteed or insured loans on such terms and conditions as he may prescribe.

(d) The Secretary may also utilize the fund to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed or insured under this title or held by the Secretary, to acquire such security property at foreclosure sale or otherwise, and to pay administrative expenses.

Sec. 218. The Secretary shall promulgate rules and regulations to carry out the provisions of this title.

TITLE III—INTEREST SUBSIDIES AND ADMINISTRATIVE EXPENSES

Sec. 301. The Secretary is authorized under such rules and regulations as he may prescribe to pay as an interest subsidy on loans which are guaranted or issued under the provisions of title II of this Act amounts which are necessary to reduce the rate payable by the borrower to the rate determined under section 104 of this Act.

Sec. 302. There are authorized to be appropriated to the Secretary (a) to carry out the provisions of section 217 and 301 of this Act, such sums to remain available until expended, and (b) for administrative expenses under this Act not to exceed $10,000,000 in each of the fiscal years 1974, 1975, and 1976.

TITLE IV—INDIAN BUSINESS GRANTS

Sec. 401. There is established within the Department of the Interior the Indian Business Development Program whose purpose is to stimulate and increase Indian enterpreneurship and employment by providing equity capital through nonreimbursable grants made by the Secretary of the Interior to Indians and Indian tribes to establish and expand profitmaking Indian-owned economic enterprises on or near reservations.

Sec. 402. No grant in excess of $50,000, or such lower amount as the Secretary may determine to be appropriate, may be made to an Indian or Indian tribe, band, group, pueblo, or community recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs. A grant may be made only to an applicant who, in the opinion of the Secretary, is unable to obtain adequate financing for its economic enterprise from other sources, including its own financial resources, except that no grant may be made to an applicant who is unable to obtain at least 60 per centum of the necessary funds for the economic enterprise from other sources.

Sec. 403. There are authorized to be appropriated not to exceed the sum of $10,000,000 for each of the fiscal years 1974, 1975, and 1976 for the purposes of this title.

Sec. 404. The Secretary of the Interior is authorized to prescribe such rules and regulations as may be necessary to carry out the purposes of this Act.

AMENDMENT OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Meeds: Strike out all after the enacting clause in S. 1341 and insert in lieu thereof the provisions of H.R. 6371, as passed by the House.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6371) was laid on the table.

GENERAL LEAVE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING PARTITION OF SURFACE RIGHTS AND SUBSURFACE RIGHTS IN THE 1934 NAVAJO RESERVATION BETWEEN THE HOPI AND NAVAJO TRIBES, AND PROVIDING FOR ALLOTMENTS TO CERTAIN PAIUTE INDIANS

Mr. MEEDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10337) to authorize the partition of the surface rights in the joint use area of the 1882 Executive Order Hopi Reservation and the surface and subsurface rights in the 1934 Navajo Reservation between the Hopi and Navajo Tribes, to provide for allotments to certain Paiute Indians, and for other purposes, as amended.

The Clerk read as follows:

H.R. 10337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all of the surface rights in and to that portion of the Hopi Indian Reservation created by the Executive order of December 16, 1882, in which the United States District Court for the District of Arizona found the Hopi and Navajo Indian Tribes to have joint, undivided, and equal interests in the case entitled "Healing against Jones" (210 Fed. Supp. 125 (1962), affirmed 373 U.S. 758), hereinafter referred to as the joint-use area, shall be partitioned in kind as provided in this Act.

SEC. 2. The United States District Court for the District of Arizona in the supplemental proceedings in Healing against Jones is hereby authorized to partition in kind the surface of the joint-use area between the Hopi and Navajo Indian Tribes share and share alike using the following criteria in establishing the boundary line between said tribes:

(a) The Navajo portion shall be contiguous to that portion of the 1934 Navajo Indian Reservation as defined in section 9 of this Act.

(b) The Hopi portion shall be contiguous to the exclusive Hopi Indian Reservation as established by the court in Healing against Jones, hereinafter referred to as Land Management District 6, and shall adjoin that portion of the 1934 Navajo Indian Reservation as partitioned to the Hopi Tribe in section 7 of this Act.

(c) The partition shall be established so as to include the high Navajo population density within the portion partitioned to the Navajo Tribe to avoid undue social, economic, and cultural disruption insofar as reasonably practicable.

(d) The lands partitioned to the Hopi and Navajo Tribes shall be equal in average insofar as reasonably practicable.

(e) The lands partitioned to the Hopi and Navajo Tribes shall be equal in quality and carrying capacity insofar as reasonably practicable.

(f) The boundary line between the Hopi and Navajo Tribes as delineated pursuant to this Act shall follow terrain so as to avoid or facilitate fencing insofar as reasonably practicable.

(g) In any division of the surface rights to the 1882 joint-use area, reasonable provision shall be made for the use and right of access to identified religious shrines of either party on the portion allocated to the party.

SEC. 3. The partition proceedings as authorized in section 2 hereof shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time and shall be expedited in every way by such court.

SEC. 4. The lands partitioned to the Navajo Tribe pursuant to section 2 hereof shall be held in trust by the United States exclusively for the Navajo Tribe and as a part of the Navajo Indian Reservation.

SEC. 5. The lands partitioned to the Hopi Tribe pursuant to section 2 hereof shall be held in trust by the United States exclusively for the Hopi Tribe and as a part of the Hopi Indian Reservation.

SEC. 6. Partition of the surface of the lands of the joint-use area shall not affect the joint ownership status of the coal, oil, gas, and all other minerals within or underlying said lands. All such coal, oil, gas, and all other minerals within or underlying said lands shall be managed jointly by the Hopi and Navajo Tribes, subject to supervision and approval by the Secretary of the Interior as otherwise required by law, and the proceeds therefrom shall be divided between the said tribes, share and share alike.

SEC. 7. Hereafter the United States shall hold in trust exclusively for the Hopi Indian Tribe and as a part of the Hopi Indian Reservation all right, title, and interest in and to the following described land which is a portion of the land described in the Act of June 14, 1934 (48 Stat. 960):

Beginning at a point on west boundary of Executive Order Reservation of 1882 where said boundary is intersected by right-of-way of United States Route 160;

thence south southwest along the centerline of said Route 160, a distance of approximately 8 miles to a point where said centerline intersects the township line between townships 32 and 33 north, range 12 east;

thence west, a distance of approximately 9 miles, to the north quarter corner of section 4, township 32 north, range 11 east;

thence south, a distance of approximately 4¾ miles following the centerlines of sections 4, 9, 16, 21, and 28 to a point where said boundary intersects the right-of-way of United States Route 160;

thence southwesterly, following the centerline of United States Route 160, a distance of approximately 11 miles, to a point where said centerline intersects the right-of-way of United States Route 89;

thence southwesterly, following the centerline of State Route 89, a distance of approximately 11 miles, to the south boundary of section 2, township 29 north, range 9 east (unsurveyed);

thence east following the south boundaries of sections 2 and 1, township 29 north, range 9 east, sections 6, 5, 4, and so forth, township 29 north, range 10 east, and continuing along the same bearing to the northwest corner of section 12, township 29 north, range 11 east (unsurveyed);

thence south, a distance of 1 mile to the southwest corner of section 12, township 29 north, range 11 east (unsurveyed);

thence east, a distance of 1 mile to the northwest corner of section 18, township 29 north, range 12 east (unsurveyed);

thence south, a distance of 1 mile, to the southwest corner of section 18, township 29 north, range 12 east (unsurveyed);

thence east, a distance of approximately 9 miles, following the section lines, unsurveyed, on the south boundaries of sections 18, 17, 16, and so forth in township 29 north, range 12 east and continuing to a point where said section lines intersect the west boundary of Executive Order Reservation of 1882;

thence due north, along the west boundary of the Executive Order Reservation of 1882, a distance of approximately 27½ miles to the point of beginning.

SEC. 8. The Secretary of the Interior is hereby authorized to allot in severalty to individual Paiute Indians, not now members of the Navajo Indian Tribe, who are located within the area described in the said Act of June 14, 1934, and who were located within said area or are direct descendants of Paiute Indians who were located within said area on June 14, 1934, land in quantities as specified in the Act of February 8, 1887 (24 Stat. 388), as amended, and patents shall be issued to them for such lands in the manner and with the restrictions as provided in sections 1, 5, and 6 of that Act, as amended.

SEC. 9. Hereafter the United States shall hold in trust exclusively for the Navajo Indian Tribe and as a part of the Navajo Indian Reservation the lands described in the said Act of June 14, 1934, except the lands partitioned to the Hopi Tribe pursuant to section 2 hereof and the lands as described in section 7 hereof and the lands in the exclusive Hopi Indian Reservation commonly known as Land Management District 6, and further excepting those lands allotted pursuant to section 8 hereof.

SEC. 10. The Secretary of the Interior is authorized and directed to remove all Navajo Indians and their personal property, including livestock, from the lands partitioned to the Hopi Tribe pursuant to section 2 hereof and as described in section 7 of this Act. Such removal shall take place over a period of five years from the date of final partition by the court referred to in section 2 with approximately 20 per centum of the Navajo occupants to be removed each year. No further settlement of Navajo Indians on the lands partitioned to the Hopi Tribe pursuant to section 2 hereof and as described in section 7 of this Act or Land Management District 6, shall be permitted unless advance written approval of the Hopi Tribe is obtained. No Navajo Indian shall hereafter be allowed to increase the number of livestock he grazes on the areas so partitioned to the Hopi Tribe pursuant to section 2 hereof and as described in section 7 of this Act, nor shall he retain any grazing rights in those areas subsequent to his removal therefrom.

SEC. 11. The Secretary of the Interior is authorized and directed to remove all Hopi Indians and their personal property, including livestock, from the lands so partitioned to the Navajo Tribe pursuant to section 2 hereof and as described in section 9 of this Act. Such removal shall take place over a period of two years from the date of final partition by the court referred to in section 2 with approximately 50 per centum of the Hopi occupants to be removed each year. No further settlement of Hopi Indians on the lands so partitioned to the Navajo Tribe pursuant to section 2 hereof and as described in section 9 of this Act shall be permitted unless advance written approval of the Navajo Tribe is obtained. No Hopi Indian shall hereafter be allowed to increase the number of livestock he grazes on the areas so partitioned to the Navajo Tribe pursuant to section 2 hereof and as described in section 9 of this Act, nor shall he retain any grazing rights in those areas subsequent to his removal therefrom.

SEC. 12. (a) The United States shall purchase from the head of each Navajo and Hopi household who is required to relocate under the terms of this Act the habitation and other improvements owned by him on the area from which he is required to move. The purchase price shall be the fair market value of such habitation and improvements.

(b) In addition to the payments made pursuant to subsection (a), the Secretary shall:

(1) reimburse each head of a household whose family is moved pursuant to this Act for his actual reasonable moving expenses as if he were a displaced person under section 202 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894);

(2) pay to each head of a household whose family is moved pursuant to this Act an amount which, when added to the fair market value of the habitation and improvements purchased under subsection (a), equals the reasonable cost of a decent, safe, and sanitary replacement dwelling adequate to accommodate such displaced household: *Provided,* That the additional payment authorized by this paragraph (2) shall not exceed $15,000 for a household of three or less and not more than $20,000 for a household of four or more: *Provided further,* That the additional payment authorized by this subsection shall be made only to a displaced person who purchases and occupies such replacement dwelling not later than the end of the one-year period beginning on the date on which he receives from the Secretary final payment for the habitation and improvements purchased under subsection (a), or on the date on which he moves from such habitation whichever is the later date. Nothing in this subsection shall require a displaced person to occupy a dwelling with a higher degree of safety and sanitation than he desires.

(c) In implementing subsections (b)(1) and (b)(2) of this section, the Secretary shall establish standards consistent with those established in the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(d) The Secretary is authorized to dispose of dwellings and other improvements acquired pursuant to this Act in such manner as he sees fit, including resale of such improvements to members of the tribe exercising jurisdiction over the area at prices no higher than their acquisition costs.

SEC. 13. The Navajo Tribe shall pay to the Hopi Tribe the fair rental value as determined by the Secretary of the Interior for all Navajo Indian use of the lands referred to in section 5 and described in section 7 of this Act subsequent to the date of the partition thereof.

SEC. 14. The Hopi Tribe shall pay to the Navajo Tribe the fair rental value as determined by the Secretary of the Interior for all Hopi Indian use of the lands referred to in section 4 and described in section 9 of this Act subsequent to the date of the partition thereof.

SEC. 15. Nothing herein contained shall affect the title, possession, and enjoyment of lands heretofore allotted to individual Hopi and Navajo Indians for which patents have been issued. Hopi Indians living on the Navajo Reservation shall be subject to the jurisdiction of the Navajo Tribe and Navajo Indians living on the Hopi Reservation shall be subject to the jurisdiction of the Hopi Indian Tribe.

SEC. 16. The Navajo Indian Tribe and the Hopi Indian Tribe, acting through the chairman of their respective tribal councils, for and on behalf of said tribes, including all villages, clans, and individual members thereof, are hereby authorized to commence or defend in the United States District Court for the District of Arizona an action or actions against each other for the following purposes:

(a) For an accounting of all sums collected by said Navajo Indian Tribe since the 17th day of September 1957 as trader license fees or commissions, lease proceeds or other similar charges for the doing of business or the use of lands within the Executive Order Reservation of December 16, 1882, and judgment for one-half of all sums so collected, and not paid to the Hopi Tribe, together with interest at the rate of 6 per centum per annum compounded annually.

(b) For the determination and recovery of the fair value of the grazing and agricultural use by said Navajo Tribe and its individual members since the 28th day of September 1962 of the undivided one-half interest of the Hopi Tribe in the lands on said day decreed to said Hopi and Navajo Tribes equally and undivided as a joint-use area, together with interest at the rate of 6 per centum per annum compounded annually, nothwithstanding the fact that said tribes are tenants in common of said lands.

(c) For the adjudication of any claims that either said Hopi or Navajo Tribe may have against the other for damages to the lands to which title was quieted as aforesaid by the United States District Court for the District of Arizona in said tribes, share and share alike, subject to the trust title of the United States, without interest, notwithstanding the fact that said tribes are tenants in common of said lands. Said claims shall, however, be limited to occurrences since the establishment of grazing districts on said lands in the year 1936, pursuant to section 6 of the Act of June 18, 1934 (48 Stat. 984).

Neither laches nor the statute of limitations shall constitute a defense to any action authorized by this Act for existing claims if commenced within two years from the effective date of this Act.

SEC. 17. The Navajo Tribe or the Hopi Tribe may institute such further original ancillary, or supplementary actions against the other tribe as may be necessary or desirable to insure the quiet and peaceful enjoyment of the reservation lands of said Hopi and Navajo Indians by said tribes and the members thereof, and to fully accomplish all objects and purposes of this Act. Such actions may be commenced in the United States District Court for the District of Arizona by either of said tribes against the other, acting through the chairman of the respective tribal councils, for and on behalf of said tribes, including all villages, clans, and individual members thereof.

SEC. 18. The United States shall not be an indispensable party to any action or actions commenced pursuant to this Act. Any judgment or judgments by the court shall not be regarded as a claim or claims against the United States.

SEC. 19. All applicable provisional and final remedies and special proceedings provided for by the Federal Rules of Civil Procedure and all other remedies and processes available for the enforcement and collection of judgments in the district courts of the United States may be used in the enforcement and collection of judgments obtained pursuant to the provisions of this Act.

SEC. 20. The Secretary of the Interior is hereby authorized and directed to survey and monument the boundaries of the Hopi Indian Reservation as defined in sections 5 and 7 of this Act.

SEC. 21. The members of the Hopi Indian Tribe shall have perpetual use of Cliff Spring as shown on USGS 7½ minute Quad named Toh Ne Zhonnie Spring, Arizona, Navajo County, dated 1968; and located 1,250 feet west and 200 feet south of the intersection of 36 degrees, 17 minutes, 30 seconds north latitude and 110 degrees, 9 minutes west longitude, as a shrine for religious ceremonial purposes, together with the right to gather branches of fir trees growing within a 2-mile radius of said spring for use in such religious ceremonies, and the further right of ingress, egress, and regress between the Hopi Reservation and said spring. The Hopi Tribe is hereby authorized to fence said spring upon the boundary lines as follows:

Beginning at a point on the 36 degrees, 17 minutes, 30 seconds north latitude 500 feet west of its intersection with 110 degrees, 9 minutes west longitude, the point of beginning;

thence, north 46 degrees west, 500 feet to a point on the rim top at elevation 6,900 feet;

thence southwesterly 1,200 feet (in a straight line) following the 6,900 feet contour;

thence south 46 degrees east, 600 feet;

thence north 38 degrees east, 1,300 feet to the point of beginning, 23.8 acres more or less: *Provided*, That if and when said spring is fenced the Hopi Tribe shall pipe the water therefrom, to the edge of the boundary as hereinabove described for the use of residents of the area. The natural stand of fir trees within said 2-mile radius shall be conserved for such religious purposes.

SEC. 22. Notwithstanding anything contained in this Act to the contrary, the Secretary of the Interior shall make reasonable provision for the use and right of access to identified religious shrines of the Navajo and Hopi Indians for the members of each tribe on the reservation of the other tribe.

SEC. 23. If any provison of this Act, or the application of any provision to any person, entity or circumstance, is held invalid, the remainder of this Act shall not be affected thereby.

SEC. 24. (a) For the purpose of carrying out the provisions of section 12 of this Act, there is hereby authorized to be appropriated not to exceed $28,800,000.

(b) For the purpose of carrying out the provisions of section 20 of this Act, there is hereby authorized to be appropriated not to exceed $300,000.

The SPEAKER. Is a second demanded?

Mr. REGULA. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. MEEDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will say to the Members of the House that this legislation today encompasses a legislative settlement of perhaps the largest and the most vexing title quiet action in the western United States, perhaps of all time. It consists of a dispute between the Hopi Indians and the Navajo Indians, and it presents us with a conflict in lifestyles.

The Hopis were located in the area which we see here on this map in white, in the middle of this map, since probably before the year 1300. At least we have records dating back to that era.

They lived in villages at the tops of mesas. They tended fields at the bottoms of the mesa and kept some small flocks. However, generally the Hopis were and are today village people. They lived in a village-based economy. They did not use very much of the land surrounding the area, and there are probably 6,000 Hopis in the various Hopi villages today in the disputed area.

The Navajo Indians, on the other hand, were a seminomadic, herd-grazing group which largely stayed in family groups or small community groups.

They roved extensively tending their sheep and their horses and would move from time to time. They are the largest, tribe of Indians in the entire United States, about 130,000 strong. Because of their population and nomadic habits, they occupied vast areas in the Southwest at approximately the same time as the Hopis did. They occupied areas completely surrounding the Hopi and the reservation today still does surround the Hopi in the middle of this map.

Also, because of their nomadic habits, they encroached on and moved into the middle of this area.

In 1882, this area outlined in orange was set aside by Executive order for the Hopi Indians and "such other Indians as the Secretary of the Interior may see fit to settle thereon." They set aside some 2,472,095 acres for that purpose. At that time there were approximately 300 Navajos residing within this area which was set aside. However, again because of the nomadic habits of the Navajo and their size and because the Hopis were not utilizing much land other than that immediately around their village, the Navajos continued to encroach on this land even within the 1882 set-aside area.

The Secretary of the Interior, who was charged with the responsibility, should have acted at that time to keep the Navajo from moving in, but did not. Friction between the two tribes increased until 1958 when, at the urging of the Hopis, the Congress passed legislation authoring a three-judge district court to adjudicate the conflicting claims existing between the Navajos and the Hopis. The result of that act brought us the case of Healing against Jones which was handed down in 1962 and which generally held five major things:

One was that neither tribe had a vested right in the Executive order land until the passage of the 1958 act because it was an unconfirmed executive reservation and it did not vest rights at that time. When the Congress passed the Jurisdictional Act in 1958 it did confer vested title in these two tribes. Second, by the 1943 action of the administration establishing this area outlined in white called Grazing District 6, the administration conferred exclusive use in that land in the Hopis. Trust title in land would be in the Federal Government for the benefit of the Hopi Indians.

Third, because of other executive actions and inactions, the Secretary of the Interior had impliedly settled the Navajos throughout this area with the exception of district 6. Fourth, the courts then decided that the two tribes had a joint, undivided, and equal interest in the entire 1882 area with the exception of district 6.

Finally the court held that the jurisdictional act of 1958 did not confer jurisdiction on the court to partition these lands, and thus each tribe had a joint, undivided, and equal interest in everything outside of the white and inside of the orange on the map. This is the course which brought us to the problem.

When the court said it did not have jurisdiction to partition, thereafter action was sought in the Congress, and in 1971 the House passed the Steiger bill.

The Steiger bill would have given trust title, to district 6 and to 905,000 acres within the 1882 land which is here outlined in blue to the Hopis. It would have given trust title to the Navajo to 917,000 acres, of the disputed 1882 land here outlined in orange. Additionally, that bill would have given the Hopis trust title to some 243,000 acres over here, outlined in green, which is known as the Moencopi area. I will cover that right now.

This Moencopi area is part of an area described in a 1934 act of Congress defining and enlarging the boundaries of the Navajo reservation in Arizona in which there were some Hopis also residing.

Actually, they were residing, as is their habit, in a village called Moencopi here, and there were few outside of that village. The language of the bill passed by the Congress was a little bit different than that under which the 1882 area was set up.

This 1934 area was set aside as a reservation for the Navajos "and such other Indians as may already be located thereon." Thus you will notice that that language is contemporaneous, in other words, for those who were there then. The 1882 language, "for such other Indians as the Secretary may see fit to settle thereon," was prospective.

The Navajo contend that there are only about 35,000 acres in the Moencopi area, under this contemporaneous language, that should go to the Hopi.

Some of the other matters covered by the Steiger bill that the Navajos who were residing within what is here the blue area, would be required to move in 5 years. Any Hopis that were residing in the area as encompassed by the orange would be required to move in 2 years. They were both to be compensated for their moving expenses. And the tribes were to administer the subsurface rights jointly. They have been doing that since and it apparently is working out well.

The House passed the Steiger bill in 1971, but the same type of legislation died in the Senate in the 92d Congress, and thus this matter was not resolved in the 92d Congress.

In the 93d Congress we have had some hearings on this matter. We visited the area. We had a markup at which the bill which we are presently considering today was presented to the subcommittee, and passed as a substitute for the Steiger bill which I have explained heretofore.

The Owens bill, the bill we have before us today, passed the full committee on a voice vote, after the failure of a substitute to carry, on a 20-to-20 tie vote. So it comes here somewhat embattled, but nevertheless a solution to this problem. It differs from the Steiger bill, which I described, insofar as it confers jurisdiction on the district court of Arizona to partition the 1882 joint use area. In other words, it is a supplemental proceeding to Healing versus Jones. Under the bill the court partitions according to certain criteria. These criteria are said by some to dictate the Steiger division which give to the Hopi all the lands in the white, the blue, and the green with the remainder to the Navajos. I do not believe this will necessarily result nor do I believe one can say that for a certainty. Additionally, the Owens bill directly partitions 243,400 acres in the Moencopi area to the Hopi. It does not give the court jurisdiction to consider that problem.

It provides for moving the Navajo from lands partitioned to the Hopi within 5 years and the Hopi from Navajo lands in 2 years. It provides $28 million for relocation expenses. It provides for accounting and other matters pending between the two groups.

Mr. Speaker, this is a complicated and deeply emotional issue to both tribes. The affection of Indian people for what they consider to be their own land can be compared to the zest of the crusaders magnified many times. Because of the failure of this Government for many years to make some tough decisions, both tribes consider much of the land in question to be theirs. It is our unfortunate lot to have to make those tough decisions that have thus far been avoided. They cannot be made now without serious and painful results, but time will only increase the seriousness and exacerbate the ultimate trauma which will come from the decisions.

I should have preferred a different method of settling this matter, but a majority of the committee has voted this one. The most important thing is that something be done and be done now.

Mr. HALEY. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the distinguished gentleman from Florida.

Mr. HALEY. I thank the gentleman for yielding.

Mr. Speaker, a similar bill to the bill at the desk was passed in the 92d Congress. Therefore, dispute over land has been going on for many, many years. It has been sometimes very bitter between the two tribes. I think that this bill will solve all of that problem. At least we will have more or less a guideline as to how the matter should be handled in the future, as the gentleman from Washington (Mr. MEEDS) said. I want to compliment him, Mr. Speaker, on the fine job that he has done here, which is his usual good job.

Mr. Speaker, H.R. 10337 partitions between the Navajo and Hopi Tribes some reservation land in which the two tribes have an undivided, joint, and equal interest.

It provides a legislative solution to a longstanding and highly emotional dispute between the Navajos and the Hopis.

This bill is before the House today because the Secretaries of Interior and the Commissioners of Indian Affairs during the past 40 years have not done their jobs properly. I am not criticizing the present incumbents alone, but include prior administrations under both parties.

A bill almost identical to H.R. 10337 was passed by the House in the 92d Congress but was not approved by the Senate.

In 1882, an Executive order was issued setting aside a reservation of approximately 2,472,095 acres for the Hopi Indians and such other Indians as the Secretary of the Interior may see fit to settle thereon. The purpose of the 1882 reservation was to protect the Hopis from encroachment by both the Navajos and non-Indians.

In 1882, the entire Navajo Reservation was located east of the Hopi Reservation, and the two reservations did not adjoin each other. During the years following 1882, however, the Navajo Reservation was expanded by a series of executive and legislative actions, and today the Navajo Reservation completely surrounds the 1882 reservation for the Hopis. The Navajo Reservation now contains 12,449,000 acres, and the tribe owns an additional 921,000 acres located outside the reservation boundaries.

The Navajos were a seminomadic people who did not stay within their reservation boundaries. They were constantly moving into new areas. In 1882, about 300 Navajos resided within the 1882 reservation established for the Hopis. The number steadily increased, and by 1958, the number was 8,800.

The friction between the Navajos and the Hopis was great. The Hopis claimed that the Navajos had no right to be in the 1882 reservation at all, and the Navajos claimed that they were there by permission of the Secretary of the Interior. In 1958, Congress enacted a statute authorizing a three-judge U.S. district court to adjudicate these conflicting claims and to determine the property rights of each tribe.

The court found as fact that no Secretary of the Interior had ever specifically settled any Navajos on the 1882 reservation, that the Navajos had moved there without any official authorization, but that since 1931 the Secretary of the Interior had acquiesced in their presence and had impliedly exercised his authority to settle them there. The court held that the Hopis had an exclusive right and interest in about 650,000 acres of the reservation known for administrative purposes as Grazing District No. 6, and that the Hopi Tribe and the Navajo Tribe had joint, undivided, and equal rights and interests in the remainder of the reservation, consisting of about 1,822,000 acres.

Notwithstanding the fact that the court determined that the two tribes have equal rights and interests in the 1,822,000 acres, the Navajos were then and are now in actual possession, and they have refused for the 10 years since the court's decision to permit the Hopis to use any part of the joint-use area. Moreover, the Secretary of the Interior has failed to do anything to permit the Hopis to exercise their joint-use rights. He has, in fact, refused to permit them to do so.

The joint-use area is badly overgrazed by the Navajos, perhaps to the extent of 400 percent, and the Secretary has been unable to persuade the Navajos to reduce grazing to the carrying capacity of the land. The Secretary has also refused to cancel any of the Navajo grazing permits and issue new permits to the Hopis.

Because of the severe overgrazing of the joint-use area, the Navajo livestock are constantly trespassing on the Hopi exclusive area, where the forage is better, and the Hopis are impounding those trespassing livestock. Violence and bloodshed have resulted. The Hopis are not only denied their joint-use rights, but their exclusive Hopi area is also threatened.

During the past 10 years the two tribes have attempted to negotiate a joint-use agreement, but the negotiations have failed. The Navajo position was, and still is, that they are in possession of the land and will not relinquish any part of it unless the United States provides lieu land to which the Navajos can be moved. The Navajos actually oppose that solution and ask that the United States purchase the Hopi interest in the joint-use area and give it to the Navajo Tribe. The Hopi position was, and still is, that they have been pushed back and encircled by the Navajos, that the Navajos have invaded and taken large parts of the 1882 reservation which was intended to be for the benefit of the Hopis, that the Hopis will give up no more land, and that the Navajos must vacate one-half of the joint-use area in order to give effect to the court decree.

A second problem relates to Navajo-Hopi conflict over lands immediately west of the 1882 reservation. When the boundaries of the Navajo Reservation were enlarged by the act of June 14, 1934 (48 Stat. 960), the vacant lands within the reservation boundaries were withdrawn for the benefit of the Navajos and such other Indians as were already located thereon. Hopi Indians were then living in the villages of Moencopi and Tuba City, which lie west of the 1882 Hopi Reservation, and Hopi Indians were living on the land between these villages and the 1882 reservation. The Hopi Indians have by statute the same type of joint interest in this land that the court determined they have in the joint-use area of the 1882 reservation.

The problems in the two areas are the same. The Navajo population pressures are compressing the Hopis into smaller and smaller areas, and the two tribes are unable to use the land jointly in harmony. There is a need to delineate the lands each tribe is entitled to use.

The committee concluded that the Navajo Tribe had refused to allow the Hopi to exercise its joint and equal right to use the land, as decreed by the court, and that there was no reasonable basis for believing that the Navajo Tribe would change its position on this basic issue as the result of further negotiation. The Navajo Tribe is in possession of the land, and it has adamantly refused to discuss any plan that called for a relinqushment of its possession. The committee also concluded that the Hopi Tribe was unwilling to sell its undivided but equal interest in the land, either for money or in exchange for other lands, and that there is no practical alternative to a partition of the joint use as provided in the bill.

The bill provides that the surface estate in approximately half of the joint-use area is added to the Hopi Reservation and the other half is added to the Navajo Reservation. About 775 Navajo families will need to move from the Hopi land, and two Hopi families will need to move from the Navajo land. The bill authorizes the appropriation of $28.8 million to relocate these families. Joint ownership of the subsurface estate is not changed by the bill.

With respect to the 1934 reservation, the bill adds to the Hopi Reservation both the surface and subsurface estates in approximately 234,400 acres, and extinguishes all Hopi and other Indian claims to the remainder of the area. The few Paiute families living there will receive allotments to the land they occupy.

I am convinced that the enactment of this bill is necessary to resolve a highly emotional issue, which has resulted in violence and bloodshed. There is no other way to permt the Hopi to exercise their joint and equal rights in the land. It is unfortunate that a partition of the land will require about 775 Navajo families to move, but those families came into the area without permission, and they have no moral or legal right to monopolize the use of the land by excluding the Hopis. Moreover, the bill provides generous financial assistance for relocating these families.

I urge enactment of the bill.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding.

Mr. Speaker, I have received some mail on the subject, surprisingly, inasmuch as my district is located so far from there, but there are several people in my district who are interested in it. They raise an objection to the bill on the ground that it would have been preferable first to have had a survey by the Geological Survey as to the number of wells that are in the area and as to the number of other resources that are in the area, prior to bringing this bill to the floor. Can the gentleman shed some light on that?

Mr. MEEDS. It is clearly possible for the court to do this under the guidelines which have been laid down in the Owens bill. I am sure that a court will give consideration to this in making any kind of provision.

Mr. YATES. Is the whole controversy thrown into the court, then?

Mr. MEEDS. Yes.

Mr. YATES. Is the court to make the total adjudication?

Mr. MEEDS. No. The court is to make a partition now in supplementary proceedings to its original proceedings under certain guidelines. It is said the guidelines dictate the boundaries which I have described here, but I do not think we can say that for certain. There is some indication that is true, but I do not think we can say that for sure.

Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield myself so much time as I may require.

Mr. Speaker, I agree with the thoughtful comments of my distinguished and experienced colleague, the chairman of the Subcommittee on Indian Affairs. I am pleased as the ranking member of the minority to join him in support of this bill to protect the rights of a minority Indian tribe, the Hopis. Passage of this bill would achieve justice for a tribe being overwhelmed by the superior numbers of the Navajo Tribe.

Mr. Speaker, this bill concerns a problem that has dragged on for nearly 100 years and badly needs a solution. Unless Congress provides that solution, there will certainly be more violence between the Hopi and Navajo Tribes.

Violence and bloodshed have already occurred, and my only interest as a member of the Indian Affairs Subcommittee is in achieving a fair and equitable arrangement that will settle the argument over this land.

The bill before us is a modified version of a bill that passed this House in 1972 as H.R. 11128. That bill died in the other body. The Senater from Arizona (Mr. GOLDWATER) testified in the House hearings in support of this bill during this session. I believe we have before us the most viable, workable, and passable bill that we can get on this thorny issue.

The gentleman from Florida and the gentleman from Washington have very ably described the bill in detail. I would only add, Mr. Speaker, that time is of the essence and we should resolve this matter promptly if justice is to be achieved for the Hopi Tribe.

The basic facts are clear. The Navajos use almost 100 percent of the disputed land even though the courts have ruled that 50 percent belongs to the Hopis.

But the Navajos, a stronger more aggresive tribe, will not permit the Hopis to use or occupy their 50 percent. This bill if passed by Congress directs the same court that awarded 50 percent of the land to the Hopis in law to now go one step further and award 50 percent to the Hopis in fact.

Legal title without the ability to use

or to occupy the land is no ownership. The Hopis obtained a court order that instructed the Navajos to grant them the use and occupancy to which they are legally entitled. That court order is difficult to implement because it does not spell out specific boundaries. This bill directs the court to establish those boundaries and it goes one step farther: It sets forth clear guidelines that the court must follow in establishing those boundaries.

The guidelines were well thought out in subcommittee and in committee. They do all that is humanly possible to avoid disruption of Navajo homes and moving large numbers of Navajo people.

The bill does not suggest that the court avoid large concentrations of Navajo people in drawing the boundary lines. It orders the court to avoid large concentrations of Navajo people.

If I have any reservation about this bill, Mr. Speaker, it would be with the fact that the bill does not spell out precisely where the displaced Navajo families should be located. However, I would point out that none of our laws on illegal occupancy contain any such provisions.

This bill recognizes that certain Navajos are illegally occupying land that belongs to the Hopis and it orders them to vacate that land. This is precisely what a court would do if any individual illegally occupied land belonging to another. In recognition of the Federal Government's unique relationship with and responsibility for Indian people, this bill does for the Navajos what no court would normally ever do for an individual in the same circumstances: It orders the Federal Government to pay not only the moving expenses but also the cost of relocating and building new homes for these people.

The fact that all mineral royalties received from the land jointly owned by the Navajos and Hopis have been divided equally between the two tribes without objection by the Navajos is a de facto recognition by the Navajos that ownership between the tribes is on a 50-50 basis and yet the Navajos are presently depriving the Hopis of their surface rights.

Mr. Speaker, far from being harsh and unhumanitarian toward the Navajos, this bill is extremely generous. It is a fair bill and a humanitarian bill, a just bill and a very necessary bill if we are to settle this intertribal matter without further violence between the tribes. I urge my colleagues to support its passage.

The SPEAKER. The gentleman consumed 5 minutes.

Mr. REGULA. Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, I thank the ranking minority member for yielding this time to me.

I rise in opposition, Mr. Speaker, to this legislation for several reasons, reasons which are valid and reasons which in my estimation are overriding.

Mr. Speaker, it is true that this bill seeks to solve a problem that has existed for over 100 years. It is true that there have been confrontations between the Hopis and the Navajos, and the sponsors point out these confrontations over the years. They tell us we must do something in order to avoid violence, but let me tell the Members, Mr. Speaker, what we are about to do.

We are not avoiding violence. We are not avoiding confrontation. We are setting the stage for a confrontation, not between the Hopis and the Navajos, but between the Navajos and the United States Army or the National Guard, or whoever it may be.

Mr. Speaker, this bill says that we will forcibly remove, if necessary, from 6,000 to 8,000 Navajos from the place where they live. We would not do this except in an Indian reservation. No one in this whole House would vote to move 6,000 or 7,000 people from their homes.

Mr. Speaker, I say that it will lead to a confrontation between the Armed Forces of this country and the Navajos. Some have said, "You are really, really getting dramatic over this issue."

But, Mr. Speaker, let me point out that I sent out a "Dear Colleague" to the Members. In it were some newspaper artices that appeared in my hometown newspaper, the Albuquerque Tribune, in which several people are quoted, several Navajos are quoted, as saying, "I won't move from here if it costs me my life."

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Mr. Speaker, I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I read the gentleman's very interesting and persuasive letter. The gentleman spoke about the fact that 6,000 to 8,000 Navajos would have to be moved. As I understand it, are they not occupying Hopi territory and land in dispute? That question depends upon a determination of the dispute by the courts, does it not, as to whether they have to move?

Mr. LUJAN. Mr. Speaker, they are not occupying Hopi territory. They are occupying what has been termed as joint-use land.

Mr. YATES. Will that not be determined by the court?

Mr. LUJAN. The court has determined that it is joint-use land. The court has determined that a line has to be drawn and those occupants be thrown out.

Mr. YATES. Does not the court have the jurisdiction to determine whether or not they should be dispossessed by future decree, or is that already determined?

Mr. LUJAN. No, according to this legislation the major authority the court has is to draw that line, so that the line would be divided more or less in a 50-50 proposition. The court, according to this legislation, must draw the line. Regardless of where they draw the line, some 6,000 to 8,000 Navajos will have to be displaced.

Mr. CONLAN. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Mr. Speaker, I yield to the gentleman from Arizona.

Mr. CONLAN. Mr. Speaker, I would like to rise in support of the gentleman from New Mexico and express my agreement with him.

Mr. Speaker, I rise in opposition to this bill, H.R. 10337, the Hopi-Navajo Land Partition.

We are confronted today with a unique problem. This legislation is an attempt on the part of Congress to correct a situation which exists as a result of Government inefficiency and mistakes over the past century. The central point of the dispute is which tribe, the Hopi or Navajo, is entitled to ownership and use of approximately 1.8 million acres of land in a joint-use area previously created by Congress.

Many solutions to this conflict have surfaced from time to time but none has yet been considered effective. Mr. Speaker, I am concerned today that this bill, with its awesome repercussions, is being brought to the House floor under suspension. If Congress is to face this problem and attempt to force a solution in favor of one side or the other, then the entire range of solutions should be open to the membership. Amendments and full discussion should be permitted.

I understand that in a vote by the full Interior Committee on a substitute bill, the result was a 20-20 tie and the substitute failed to pass. Mr. Speaker, this is a further indication to me that feelings on this bill are such that it should be defeated as a suspension.

The administration and the Department of the Interior are also opposed to this solution since it would require the United States to physically relocate an estimated 7,000 or 8,000 Navajos from lands on which they and their ancestors have resided for years.

Mr. Speaker, efforts are underway in Arizona to resolve this dispute by negotiation by the parties, and cases are pending in the Federal courts. Much time and effort has gone into working out solutions. It seems to me that this body should not gloss over these efforts by hasty legislative action which does not face the realities of life in that area of Arizona. Again, I urge defeat of this bill.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Mr. Speaker, I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, what percentage of the land is presently occupied by the Navajos?

Mr. LUJAN. All of it.

Mr. REGULA. Is it not a fact that 50 percent of it belongs to the Hopis?

Mr. LUJAN. An undivided 50 percent, that is correct, at the present time.

Mr. Speaker, that really is the overriding point, the fact that we will have to go in there and move from 6,000 to 8,000 people, forcibly remove them; many of them have lived there throughout their lives.

There are other considerations to be taken into account. We are making the Navajos pay with this suffering because the Bureau of Indian Affairs and the Department of the Interior have not lived up to their responsibilities. It was the responsibility of the Department to see that the land area was equitably divided so that not too many Navajos moved in or too many Hopis. The fact of the matter is that there are 120,000 Navajos to 6,000 Hopis, and it is natural that they are going to have more Navajos in there.

Mr. Speaker, let me also say that while we are saying that we are going to move them out of there, we have no provisions as to where we are going to move them to. As a matter of fact, Mr. Speaker, there is no place.

The SPEAKER. The time of the gentle from New Mexico has expired.

Mr. REGULA. Mr. Speaker, I yield 2 additional minutes to the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, as a matter of fact, there is no place for them to move. If any Member in this Chamber is acquainted with the Navajo Reservation, he will know that it is poor land that was given to them because nobody else wanted it, so there is no place for the 6,000 to 8,000 people to go.

Quickly, Mr. Speaker, there is another area in the green area over here, the Moencopi area. The Department of the Interior has said that there are some serious possible constitutional problems and we will leave the issue open for lawsuits which could cost millions of dollars. If I get more time, I will go into that in greater detail.

In committee, the chairman of the committee made a proposal as an alternate solution.

It was defeated by a 20 to 20 vote. So let us not kid ourselves that the whole committee is supporting this.

Mr. Speaker, let me say one other thing: Under the proposal I have promulgated, the Navajos would buy from the Hopis, and they would pay for it. Under this bill, it says that we will let the Federal Government pay the bill for $29 million; under the proposal I have offered, it would not cost the Federal Government a dime, except just for administration purposes. Basically it would cost something like $100,000 or $200,000.

For those reasons, primarily, Mr. Speaker, I really feel badly about this bill. It would be so much easier to just say, "Let us solve the problem," but let us not solve it at the price of the heartbreak of all the Navajos.

Mr. Speaker, this is a really terrible bill. I do not think we have had a piece of legislation come before this body that is as bad as this particular legislation.

Mr. REGULA. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HOSMER).

Mr. HOSMER. Mr. Speaker, as has been explained, there are almost 2 million acres of property in which these two tribes originally had some joint use. They cannot get along and the situation has worsened over the years. And, as has been explained, through some legislation and the results of some court cases the situation finally got down to a point where the real estate is going to have to be roughly divided so that one of the tribes will get about half of it, and the other will get about half of it.

Obviously, that means somebody is going to have to move, and that is a tough situation.

But, after all, that is what the Indians wanted. We are trying to respond to the wishes of the Indians who have asked not to have to be with each other, but to be separated according to their tribes, and ours is not to reason why.

Now, Mr. Speaker, when we do that separation job, as is proposed to be done here, a court will do it according to as good a set of guidelines as anybody could conceive for a situation where you have a spat between a couple of Indian tribes of long, long standing.

Mr. Speaker, I suggest the wisdom of adhearing to these guidelines and taking the bill as it is. If this matter is dragged through this House another time and in another way and then taken over to the other body and dragged through there, there are going to be a lot of people cut up in the process. Those who will be cut up are Congressmen and Senators, as they are being cut up today between and by two Indian tribes that none of us even pretend to understand. And, there are going to be a lot of Indians who are not going to be any further along toward their hopes and aspirations than they are at this particular moment.

Of course, this is not the best solution in the world, because there is no best solution in the world, to problems such as these. It is hardly even a solution at all. It is more like a fight that has legislatively reduced to a low key. We have tried to keep it in as low a key as possible.

Mr. Speaker, on that basis I urge that the Members support this bill. If they do not, they will sooner or later stand again in harm's way because of this historic dispute that is not even any of their real business.

Mr. GROSS. Mr. Speaker, will the gentleman yield for a question?

Mr. REGULA. Yes, I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I will ask the gentleman from Ohio this question:

Why is this bill up for consideration under suspension of the rules?

This involves, as I understand it, the future location of a minimum of 7,000 persons and $29 million.

Why is this matter up under suspension of the rules?

Why is it not before the House with adequate general debate provided and the ability to amend the bill?

Mr. REGULA. Mr. Speaker, I will respond to that by saying that I do not have control of that situation, and I would suggest that question be directed to the other side of the aisle.

Mr. GROSS. Mr. Speaker, will the gentleman yield me 1 minute to direct my question to the gentleman from Washington?

Mr. REGULA. Yes, I yield 1 minute to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding and I will ask the gentleman from Washington this question:

Why is this bill, with the ramifications of the transplanting of 7,000 persons and the expenditure of $29 million, before the House under suspension of the rules?

Mr. MEEDS. Mr. Speaker, if the gentleman will yield, I will answer his question.

Mr. GROSS. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Speaker, the bill is on the Suspension Calendar because the chairman of the committee asked for it to be there. I will also remind the gentleman from Iowa that a bill which was very similar to this had been passed by voice vote in this body in the 92d Congress.

Mr. REGULA. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. STEIGER).

Mr. STEIGER of Arizona. Mr. Speaker, those of you who recall this matter from the 92d Congress will recall that it was then, as now, a very emotional issue.

I will tell my colleagues that the congressional district involved in this situation is mine. In my view, there is only political jeopardy for anyone who gets involved in it.

And I will tell my colleagues further that I initiated the legislative solution for it 4 years ago. I did so because, in my view, we have a Federal responsibility that nobody has so far alluded to. As a result of a vague executive order initially, certain lands were designated for the use of certain Indians. Through a series of Bureau of Indian Affairs tacit neglects of the enforcement of the existing laws and regulations, Navajos were indeed permitted to occupy lands that the Federal court subsequently found did not belong to them. Thus the Federal Government at the executive level really compounded the problem both by an inefficient administration, and by cowardice with regard to the enforcement of the regulations.

The Federal court confronted the problem and decided that half of the land in question belonged to the Hopis, and then, I suppose with sufficient legal grounds, refused to bite the bullet and say which half was the Hopi's. The Congress then came along and we did confront the problem head on. In 1961 or 1962 we formed a Navajo-Hopi Boundary Dispute Commission, which was notable more for its title than for its activity. I have been a member of that commission as long as it has been in existence, and I do not know whether it does exist or not at this time, because, to the best of my knowledge, the commission never met. That was to be the congressional answer to this problem—a commission that never met.

The reason why we have this problem is because there are about 125,000 Navajos and 6,000 Hopis. If the numbers were anywhere near equal, the matter would have been resolved before this, but it is a simple fact that the bureaucrats do not like to go up against those kinds of numbers any more than the politicians do.

There is only one way to resolve this problem, namely, to divide the boundary and to give that which belongs to the Hopi to the Hopi and to give that which belongs to the Navajo to the Navajo.

In the absence of that, if we continue to permit the status quo to remain as it is, the problem will be compounded. Violence has alreary occurred. There is continued encroachment by the Navajo on the existing Hopi land, which is that land in white on the map provided by the chairman of the subcommittee.

Mr. Speaker, this is not a myth. I am not trying to romanticize this. I will tell the gentlemen here that my good friend from New Mexico (Mr. LUJAN) described mayhem in his letter urging you to vote against this bill.

I would also point out that follows a rather logical and typical transition with respect to the Navajo people. On first blush they simply attempt to occupy the land, and on second blush they attempt to maintain the occupation by force and attempt to win the right to occupy it in the courts and to circumvent the legislation and the legislative process. All else failing, they resort to pure emotion and excessive statements.

I simply tell the Members that we will not move 6,000 or 8,000 Navajos because at least half of them are going to move anyway since the livestock will be removed. They are tenders of sheep and cattle. We have reduced the livestock population and it is moving, so they will leave anyway whether we pass this bill or not. Of the 6,000, if there are indeed that number, at least half of them moved into the area since the legislative process began 4 years ago. So you are not really looking at the elderly Navajo couple abandoning their traditional homestead but, rather, at people who have been permitted to live where they are because of an oversight or lack of initiative on the part of the Bureau of Indian Affairs.

The only possible way to resolve this problem is to divide the lands, which the Owens bill does, and remove the Navajo.

We do, as was pointed out by the gentleman from Ohio (Mr. REGULA) authorize, in a manner that is calculated to sooth almost anybody's feelings for the 6,000 people involved, up to $26 million to ease the pain of separation from this land. I submit that this is an obligation that we properly have because the Federal Government is the source of the problem, and so the Federal Government should pay the bill. But let us face it, this is not an arbitrary committing of violence against the people who are being abused.

The SPEAKER. The time of the gentleman from Arizona has expired, and all time has expired for the gentleman from Ohio.

Mr. MEEDS. Mr. Speaker, may I inquire how many minutes I have remaining?

The SPEAKER. The Chair will state that the gentleman from Washington has 4 minutes remaining.

Mr. MEEDS. Mr. Speaker, I yield 4 minutes to the gentleman from Utah (Mr. OWENS).

Mr. OWENS. Mr. Speaker and Members of the House, this is an extremely complicated problem. For 15 years the District Court of Arizona, a three-man court, has considered the law and the equities in this matter, and have tried to settle the dispute of over 100 years' standing between the Hopi and the Navajo.

This is not a fight between white men and red men, this is a fight between two Indian tribes. The courts have held that each tribe is the undivided owner of one-half of the land which is in dispute here today, but the court has also found that the Navajo have effectively kept the Hopi from occupying and using their half.

This bill will continue an undivided one-half ownership of the mineral rights for each tribe, but in addition will provide that the court have the further authority to draw the line to insure that both the Hopi and the Navajo have the right to use their half of the land.

So the law in this matter is settled, I will say to the Members of the House neither side of this dispute has ever accused the court of being unfair or being arbitrary or unreasonable. We are not today, in this legislation, determining what the law is, or what the rights are; we are simply giving the courts the power to solve this problem according to the lawful interests, as the court has already determined them.

The Hopi have asked for justice, and they are entitled to this land. They do not want to be bought out of their land as the bill which the gentleman from New Mexico (Mr. LUJAN) has proposed. They want their land and the courts say they are entitled to have it. The Hopi are fewer, by 15 times than the Navajo, and the Navajo have, by their greater aggressiveness and number, effectively prevented the Hopi from the use of their land according to the District Court.

The point the gentleman from Arizona (Mr. STEIGER) made that this land is overgrazed, by 700 percent, according to the Department of the Interior, is accurate. The courts now have cancelled all the grazing leases on this disputed land because it is in such poor shape, and will not support the number of animals that the Navajo need in order to live. So the Navajo are going to be moving off this land because it will not support them any further because of the overpopulation of their flocks. And if this bill does not pass, there will not be any assistance given to them in moving. This bill attempts to handle, in a sensitive way, the very real, heart-rending situation which will come when these Navajo families are required to move, as they will move whether we pass this bill or not, because some of the Navajo will be forced to move, whether by drought and insufficient feed, or by the courts refusing to allow them to graze on the land, or by the terms of this bill. This bill directs the court to draw this line in a very sensitive way to displace the fewest number possible of Navajos or Hopi, and there will be some Hopis who will have to be moved, also.

And it will be a far more humane move, than if dictated by drought and hunger. If we do not pass this bill the thousands who will be forced to move, will be forced to move without any benefit of financial relocation assistance, which this bill provides in an amount up to some $30,000. This is an attempt to make that move as painless as possible and to upgrade the new residence of those who move.

This is a very equitable bill. It deals with an extremely sensitive matter, and I think it does so in a very sensible way. It solves a dispute which the Congress for a hundred years has refused to deal with, to the severe detriment of all parties involved, including the Congress itself.

The Hopis are entitled to justice and entitled to use of their land. To defeat this bill is to refuse to make a decision—to put off a solution. The real solution is to pass this bill, settle that dispute, and then let us get on other legislation to solve the land and commerce problems of the Hopis and the Navajos.

Mr. Speaker, the bill we are considering today represents a compromise solution to the protracted land dispute between the Hopi and Navajo Indian Tribes in northeastern Arizona. I urge my colleagues to adopt this bill as favorably reported without dissent by the Interior Committee.

H.R. 10337 is designed to resolve a disput which began almost a century ago. At times this battle has taken place by physical struggle over the land on the Hopi Reservation. At other times the battle has been taken to the negotiation table, into the courtroom, through the Washington bureaucracy and to the halls of Congress.

By Executive order in 1882, President Chester A. Arthur established a reservation in Arizona for the use and occupancy of the Hopi and such other Indians as the Secretary of the Interior saw fit to settle thereon. During the past 125 years the seminomadic Navajo have pressed their intrusion deeper into these traditionally Hopi lands. Conflict and distrust has grown between the two tribes.

Congress authorized the U.S. District Court of Arizona to determine the respective interests of the Hopi and Navajo Tribes in the disputed area. The district court ruled that 600,000 acres were exclusively Hopi and that the balance of 1,900,000 acres are owned jointly between the Hopi and Navajo Tribes. The court also ruled that it was without congressional authority to partition the jointly held lands. The dispute was therefore never completely resolved, and the two tribes have been unable to jointly administer their common reservation.

In supplemental proceedings, the district court has found that the Navajos, who number 120,000 and the U.S. Government, as trustee, have prevented the Hopis, who number about 6,500 from using any significant portion of their one-half interest in the joint-use area. Absence of proper land management has produced a condition which has virtually destroyed the areas' productivity. The district court said as late as last December that unless the unregulated overgrazing of Navajo livestock on the joint-use area is immediately controlled and the area restored, neither the Hopis nor the Navajos will be able to make any use of this land.

The bill as approved by committee is a compromise effort to reach a final settlement of this situation which will recognize what has already been determined by the court and will resolve remaining issues in an equitable manner for all concerned. The bill authorizes the district court to partition equally the surface of the joint-use area between the Hopi and Navajo Tribes, giving consideration to present population densities and locations and thereby avoiding undue social, economic and cultural disruption. The bill further implements the courts previous decision by providing that each tribe will receive an equal share in the quantity and quality of land.

The argument most often presented on behalf of the Navajo is that a partition will require the Navajo to squeeze together where they are already overcrowded. A quick review of census figures reveals that the Navajo Reservation contains more land mass than the combined acreage of the States of New Hampshire, Vermont, and Connecticut. The Navajo Reservation is located in the State of Arizona which boasts an average population density of 17 people per square mile of land area, while the population density on the Navajo Reservation is roughly 5 people per square mile. In other words, the proposed partition is a direct outgrowth of the overgrazing and the inability of the Hopi Tribe to use its fair share of the land as decreed by the Supreme Court.

Now, in order to protect the land in the interest of ecology for the use of members of both tribes, and in the best interest of both, we must take immediate action.

I will be introducing legislation which would enable the Navajo to use Federal lands contiguous to their reservation, and to help rebuild their reservation lands and to bring into the reservation lands industry and commerce sufficient to prosper. Any person required to relocate as a result of the partition will receive up to $30,000 in adjustment assistance.

This is not a population problem, but rather a grazing problem. At the present time, the land subject to this legislation is 700 percent overgrazed due to grazing practices and is in such deplorable condition that a Federal judge has ordered the removal of all livestock from the area in an attempt to let the land recover. However, the Navajo Tribe has refused to remove the livestock in definance of the court and sound range management practices.

Mr. Speaker, if we do not act promptly on this matter, the sometimes brutal forces of nature will cause mass reduction of livestock through drought, starvation, and disease, which in turn will result in the forced displacement of many more Indians without the assistance provided in this bill.

I strongly solicit support for this measure. We should have acted long before today. Through passage of this bill, we can attempt to salvage a reasonable and equitable solution.

The SPEAKER. The time of the gentleman has expired.

The question is on the motion offered by the gentleman from Washington (Mr. MEEDS) that the House suspend the rules and pass the bill H.R. 10337, as amended

The question was taken.

Mr. LUJAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 133, nays 199, not voting 100, as follows:

[Roll No. 92]

YEAS—133

Abdnor
Adams
Arends
Badillo
Bafalis
Biester
Bingham
Blackburn
Boggs
Bolling
Brademas
Bray
Breaux
Broyhill, Va.
Burke, Mass.
Butler
Camp
Cederberg
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cohen
Collins, Tex.
Conable
Crane
Cronin
Danielson
Davis, Wis.
Dent
Devine
Dickinson
Donohue
Duncan
Edwards, Ala.
Edwards, Calif.
Eshleman
Evins, Tenn.
Fascell
Fish
Fisher
Fulton
Gettys
Gilman
Haley
Hansen, Wash.
Harrington
Harsha
Hays
Hébert
Henderson
Hicks
Holifield
Holt
Hosmer
Hudnut
Hungate
Hunt
Johnson, Colo.
Karth
Kastenmeier
Leggett
Long, La.
Long, Md.
McFall
McKay
Macdonald
Madigan
Martin, N.C.
Matsunaga
Meeds
Melcher
Michel
Miller
Mink
Mitchell, Md.
Mollohan
Morgan
Myers
O'Neill
Owens
Parris
Passman
Poage
Podell
Powell, Ohio
Pritchard
Quie
Randall
Rangel
Regula
Rhodes
Robison, N.Y.
Rogers
Roncalio, Wyo.
Rousselot
Sarbanes
Satterfield
Schneebeli
Seiberling
Shoup
Shriver
Shuster
Sikes
Sisk
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Symms
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Tiernan
Vanik
Waggonner
Ware
White
Whitehurst
Winn
Wyatt
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Tex.
Zion

NAYS—199

Abzug
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Aspin
Baker
Barrett
Bauman
Beard
Bennett
Bevill
Biaggi
Boland
Bowen
Brooks
Brotzman
Brown, Calif.
Broyhill, N.C.
Buchanan
Burgener
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Carney, Ohio
Carter
Casey, Tex.
Clay
Cleveland
Collier
Conlan
Conte
Conyers
Corman
Coughlin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Derwinski
Diggs
Dingell
Downing
Drinan
Dulski
du Pont
Eilberg
Erlenborn
Esch
Evans, Colo.
Findley
Flood
Flowers
Flynt
Foley
Forsythe
Fountain
Frenzel
Frey
Gaydos
Giaimo
Ginn
Gonzalez
Goodling
Green, Pa.
Gross
Grover
Guyer
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hillis
Hogan
Holtzman
Horton
Howard
Hutchinson
Ichord
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Kazen
Kemp
Ketchum
Kluczynski
Koch
Lagomarsino
Landrum
Latta
Lent
Litton
Lott
Lujan
Luken
McCormack
Mahon
Mallary
Mann
Martin, Nebr.
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Mezvinsky
Mills
Minish
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Murphy, N.Y.
Murtha
Natcher
Nedzi
Nelsen
Obey
Patman
Patten
Perkins
Pettis
Peyser
Pike
Price, Ill.
Price, Tex.
Quillen
Railsback
Rarick
Rees
Rinaldo
Roberts
Robinson, Va.
Rodino
Roe
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Ruth
Sandman
Sarasin
Scherle
Schroeder
Shipley
Skubitz
Smith, Iowa
Snyder
Spence
Stratton
Studds
Sullivan
Taylor, Mo.
Teague
Thone
Thornton
Treen
Vander Jagt
Veysey
Walsh
Wampler
Whalen
Whitten
Widnall
Williams
Wilson, Charles H., Calif.
Wolff
Wright
Wyman
Yates
Young, Ga.
Young, Ill.
Zablocki
Zwach

NOT VOTING—100

Addabbo
Alexander
Andrews, N.C.
Annunzio
Ashley
Bell
Bergland
Blatnik
Brasco
Breckinridge
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Burke, Calif.
Burke, Fla.
Carey, N.Y.
Chamberlain
Chappell
Chisholm
Cochran
Collins, Ill.
Cotter
Davis, Ga.
Dorn
Eckhardt
Ford
Fraser
Frelinghuysen
Froehlich
Fuqua
Gibbons
Goldwater
Grasso
Gray
Green, Oreg.
Griffiths
Gubser
Gude
Gunter
Hanna
Hawkins
Hinshaw
Huber
Jarman
Jones, Tenn.
Jordan
King
Kuykendall
Kyros
Landgrebe
Lehman
McClory
McCloskey
McCollister
McDade
McEwen
McKinney
McSpadden
Madden
Maraziti
Metcalfe
Milford
Minshall, Ohio
Moakley
Murphy, Ill.
Nichols
Nix
O'Brien
O'Hara
Pepper
Pickle
Preyer
Reid
Reuss
Riegle
Rooney, N.Y.
Roy
Ryan
St Germain
Sebelius
Slack
Steed
Steele
Stubblefield
Stuckey
Symington
Talcott
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Veen
Vigorito
Waldie
Wiggins
Wilson, Bob
Wilson, Charles, Tex.
Yatron
Young, S.C.

So (two-thirds not having voted in favor thereof) the motion was rejected.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Eckhardt.

Mr. Rooney of New York with Mr. Gibbons.

Mr. Stubblefield with Mrs. Griffiths.

Mr. Carey of New York with Mr. Gunter.

Mr. Cotter with Mr. Madden.

Mrs. Grasso with Mr. McDade.

Mr. Nichols with Mr. McEwen.

Mr. Nix with Mr. Riegle.

Mr. Brasco with Mr. McCloskey.

Mr. Hawkins with Mr. Gray.

Mr. Pepper with Mr. King.

Mrs. Green of Oregon with Mr. Kuykendall.

Mr. Addabbo with Mr. Frelinghuysen.

Mr. Chappell with Mr. Huber.

Mr. Fuqua with Mr. Froehlich.

Mr. Moakley with Mr. Gude.

Mr. Metcalfe with Mr. Reid.

Mr. Jones of Tennessee with Mr. Gubser.

Mr. Pickle with Mr. Bell.

Mr. St Germain with Mr. Goldwater.

Mr. Steed with Mr. Broomfield.

Mr. Ullman with Mr. Hinshaw.

Mr. Vigorito with Mrs. Collins of Illinois.

Mr. Yatron with Mr. Landgrebe.

Mr. Murphy of Illinois with Mr. Brown of Michigan.

Mr. Davis of Georgia with Mr. McCollister.

Mr. Bergland with Mr. Brown of Ohio.

Mr. Alexander with Mr. Cochran.

Mr. Jarman with Mr. Burke of Florida.

Mr. Kyros with Mr. McClory.

Mr. McSpadden with Mr. Minshall of Ohio.

Mr. Milford with Mr. O'Brien.

Mr. Fraser with Mr. Maraziti.

Mr. Ford with Mr. Chamberlain.

Mrs. Chisholm with Mr. Charles Wilson of Texas.

Mr. Brinkley with Mr. McKinney.

Mr. Slack with Mr. Preyer.

Mr. Van Deerlin with Mr. Steele.

Mr. Symington with Mr. Young of South Carolina.

Ms. Jordan with Mr. Hanna.

Mr. Breckinridge with Mr. O'Hara.

Mr. Ashley with Mr. Bob Wilson.

Mr. Stuckey with Mr. Sebelius.

Mrs. Burke of California with Mr. Lehman.

Mr. Roy with Mr. Wiggins.

Mr. Ryan with Mr. Blatnik.

Mr. Udall with Mr. Talcott.

Mr. Waldie with Mr. Dorn.

Mr. Reuss with Mr. Andrews of North Carolina.

Mr. Vander Veen with Mr. Towell of Nevada.

The result of the vote was announced as above recorded.

SPECIAL PAY BONUS STRUCTURE RELATING TO MEMBERS OF THE ARMED FORCES

Mr. STRATTON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2771) to amend chapter 5 of title 37, United States Code, to revise the special pay bonus structure relating to members of the armed forces, and for other purposes, as amended.

The Clerk read as follows:

S. 2771

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Armed Forces Enlisted Personnel Bonus Revision Act of 1974".

SEC. 2. Chapter 5 of title 37, United States Code, is amended as follows:

(1) Section 308 is amended to read as follows:

"§ 308. Special pay: reenlistment bonus

"(a) A member of a uniformed service who—

"(1) has completed at least twenty-one months of continuous active duty (other than for training) but not more than ten years of active duty;

"(2) is designated as having a critical military skill by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy;

"(3) is not receiving special pay under section 312a of this title; and

"(4) reenlists or voluntarily extends his enlistment in a regular component of the service concerned for a period of at least three years;

may be paid a bonus, not to exceed six months of the basic pay to which he was entitled at the time of his discharge or release, multiplied by the number of years, or the monthly fractions thereof, of additional obligated service, not to exceed six years, or $15,000, whichever is the lesser amount. Obligated service in excess of twelve years will not be used for bonus computation. Bonus authority provided under this section shall be administered in such a manner that no member reenlisting for two or more reenlistments may receive a total bonus amount that is larger than the amount to which he would have been entitled had his initial reenlistment or active duty extension been for a total period of additional obligated service equal to the two or more reenlistments.

"(b) Bonus payments authorized under this section may be paid in either a lump sum or in installments.

"(c) For the purpose of computing the reenlistment bonus in the case of an officer with prior enlisted service who may be entitled to a bonus under subsection (a) of this section, the monthly basic pay of the grade in which he is enlisted, computed in accordance with his years of service computed under section 205 of this title, shall be used instead of the monthly basic pay to which he was entitled at the time of his release from active duty as an officer.

"(d) A member who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a bonus was paid to him under this section shall refund that percentage of the bonus that the unexpired part of his enlistment is of the total enlistment period for which the bonus was paid.

"(e) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

"(f) No bonus shall be paid under this section with respect to any reenlistment, or voluntary extension of an active-duty enlistment, in the armed forces entered into after, June 30, 1977.".

(2) Section 308a is amended to read as follows:

"§ 308a. Special pay: enlistment bonus

"(a) Notwithstanding section 514(a) of title 10 or any other law, under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a person who enlists in an armed force for a period of at least four years in a skill designated as critical, or who extends his initial period of active duty in that armed force to a total of at last four years in a skill designated as critical, may be paid a bonus in an amount prescribed by the appropriate Secretary, but not more than $3,000. The bonus may be paid in a lump sum or in equal periodic installments, as determined by the appropriate Secretary.

"(b) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a person who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a bonus was paid to him under this section shall refund that percentage of the bonus that the unexpired part of his enlistment is of the total enlistment period for which the bonus was paid.

"(c) No bonus shall be paid under this section with respect to any enlistment or extension of an initial period of active duty in the armed forces made after June 30, 1977.".

SEC. 3. Notwithstanding section 308 of title 37, United States Code, as amended by this Act, a member of a uniformed service on active duty on the effective date of this Act, who would have been eligible, at the end of his current or subsequent enlistment, for the reenlistment bonus prescribed in section 308 (a) or (d) of that title, as it existed on the day before the effective date of this Act, shall continue to be eligible for the reenlistment bonus under that section as it existed on the day before the effective date of this Act. If a member is also eligible for the reenlistment bonus prescribed in that section as amended by this Act, he may elect to receive either one of those reenlistment bonuses. However, a member's eligibility under section 308 (a) or (d) of that title, as it existed on the day before the effective date of this Act, terminates when he has received a total of $2,000 in reenlistment bonus payments, received under either section 308 (a) or (d) of that title as it existed on the day before the effective date of this Act, or under section 308 of that title, as amended by this Act, or from a combination of both.

SEC. 4. The amendments made by this Act become effective on the first day of the month following the date of enactment.

The SPEAKER. Is a second demanded?

Mr. HUNT. Mr. Speaker, I demand a second.

The SPEAKER. Is the gentleman from New Jersey (Mr. HUNT) opposed to the bill?

Mr. HUNT. No; I am not, Mr. Speaker.

The SPEAKER. The gentleman from New Jersey does not qualify.

The Chair recognizes the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I demand a second.

The SPEAKER. Is the gentlewoman from Colorado (Mrs. SCHROEDER) opposed to the bill?

Mrs. SCHROEDER. I am, Mr. Speaker.

The SPEAKER. The gentlewoman qualifies.

Without objection, a second will be considered as ordered.

There was no objection.

Mr. STRATTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, S. 2771 is designed to meet a critical retention problem in the all-volunteer environment—the attraction and retention of enlisted personnel.

S. 2771 revises both the present enlistment and reenlistment bonus authority.

ENLISTMENT BONUSES

Present law authorizes paying up to $3,000 for an initial enlistment only in the combat arms of the Army or Marine Corps.

S. 2771 would expand this authority to allow bonuses of up to $3,000 for an enlistment of at least 4 years in any critical skill area in any of the services.

REENLISTMENT BONUSES

Present law provides for a Regular reenlistment bonus—RRB—of up to $2,000 for all reenlistees regardless of skill area and regardless of need and a variable reenlistment bonus—VRB—of up to $8,000 for reenlistments in the critical skills. Since it is automatic, the Regular reenlistment bonus is frequently paid to adequately manned or overly manned skills. Thus it is not cost-effective. The variable reenlistment bonus can only be paid once.

S. 2771 would repeal both the Regular reenlistment bonus and the variable reenlistment bonus and in place thereof establish a selective reenlistment bonus—SRB. This would authorize a bonus of up to $15,000 for reenlistment in a critical skill area. The bonus could be paid at any problem point during the initial 10 years of service; the amount of the bonus would vary according to the severity of the retention problem and bonuses would not have to be paid in skills where no shortages exist. Thus, the SRB gives the services the flexibility to meet retention needs and at the same time is cost-effective as it is coupled with the elimination of bonuses in adequately manned skills.

LONG-RANGE COST SAVINGS

Because of the elimination of bonuses in areas where adequate retention can be achieved without extra pay, S. 2771 will result in a net budget saving of $44.5 million by fiscal year 1979. The cost of the bill for the first full fiscal year 1975 will be $85.4 million; but the cost drops rapidly beginning in fiscal 1977 as the savings from the phasing out of the regular reenlistment bonus begin to appear.

COMMITTEE AMENDMENTS

S. 2771 is a Defense Department proposal that was approved by the Senate with minor modification. The Committee on Armed Services made a number of changes, as follows:

The committee set the maximum amount of the reenlistment bonus at $15,000 as requested by the Department of Defense instead of $12,000 as provided in the Senate bill. This will provide the authority to meet exceptional retention problems in critical areas as well as allow for the effect of inflation. The present plans are to pay the maximum bonuses only in the case of personnel trained in nuclear-power skills for submarine duty. Under present law, which expires on June 30, 1975, nuclear-trained enlisted personnel can be paid bonuses of up to $15,000 and the bonus has proved very cost-effective. S. 2771 would allow for the continuation of these bonuses to nuclear-trained personnel.

It is the estimate of the Department of Defense that the average bonus under the bill will be approximately $5,300.

The committee added language to the bill to provide that a service member reenlisting for the maximum 6 years will not receive less in total bonus than one who reenlists for two 3-year periods.

The Senate bill contained no expiration date on the new selective reenlistment bonus. The committee inserted a termination date of June 30, 1977, since the committee believes that after a sufficient period the authority should be subject to a review by the Congress.

The Senate bill was effective on January 1, 1974. The committee amended the bill to make it effective the first day of the month following enactment. A retroactive date would serve no purpose for either attraction or retention of personnel.

The committee deleted a Senate floor amendment designed to allow admission of women to the service academies. The Senate amendment, which had not been subject to committee hearings, was technically defective and our committee deleted the provision without prejudice, believing the matter should be subject to full study at separate hearings.

SENATE AMENDMENT ON ADMISSION OF WOMEN TO THE SERVICE ACADEMIES

I want to make it very clear that rejection of the Senate amendment for admission of women at the service academies does not imply a rejection of the proposal in principle. I personally favor admission of women to the academies as I have stated for the record in the past. Because of the urgent requirements to act on the present bill promptly, the committee did not have time available for full hearings on the admission of women to the academies. The subcommittee that considered the bill, therefore, elected to delete the Senate amendment; and a majority of the committee rejected a motion to restore the amendment. The vote was 18 to 16. The question of admission of women to the academies involves consideration of the rate at which women would be admitted, the question of whether the student body would be enlarged or the number of male students would be reduced, the requirements for modification of the physical facilities at the academies with the attendant costs, and of the possibility of modification of the curriculum, and perhaps most important, a review of the legal and regulatory prohibitions against the use of women in combat since the principal purpose of the service academies is the training of combat leaders. These are all questions which should be addressed in informed hearings prior to action on the legislation by this body.

Again, I want to stress that I personally support the admission of women to the academies; and I have urged on the chairman of our committee consideration of such legislation. The present bill is simply not the proper vehicle.

BONUS EFFECTIVENESS

The examination by our committee has indicated that the use of bonuses in a selective way is a very effective way of meeting the manpower needs of the Armed Forces. The use of initial enlistment bonuses in hard-to-obtain skills has allowed the services to meet their requirements with longer terms of enlistment and with substantial saving in training costs. In effect, the longer periods of service achieved by use of the bonus more than amortizes the training costs; and the true cost per year of a trainee is less with the bonus than without. Illustrations of this will be found in the subcommittee's report.

Likewise, using the reenlistment bonus in a selective way allows us to concentrate the bonus dollar where the needs are. It has been estimated by the Department of Defense that in fiscal year 1973 $43 million was spent in bonuses in skills where the required manning could have been achieved without a bonus. This kind of procedure will be eliminated by S. 2771.

I urge the House to approve the bill.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to give the Members of the House a laundry list as to why I think this bill should be defeated. First and foremost is the procedure in which the bill has been reported by the Armed Services Committee.

The first thing that happened was that subcommittee No. 4 voted on this bill on February 27, 1974. We have a rule in the Committee on Armed Services, rule No. 8, that says that there should be a 3-day layover between when a subcommittee votes out a bill and when it comes before the full committee. Notwithstanding that rule, the bill was brought up the very next day after subcommittee action on February 28. By a two-thirds vote the committee can set a rule aside. The committee did not do this. There were many of us who were not present when the vote was taken in the full committee to strike this section from the Senate bill because some of us also serve on the Committee on Post Office and Civil Service. As the Members know, that was the day Post Office and Civil Service had a vote on the congressional pay raise.

Three members of the Armed Services Committee came into the committee room a little late, after the vote had been taken on the motion to strike the section permitting women to go to the academies. At the time we entered the room the vote was 18 to 16 in favor of deleting the provision that would allow women to go to the service academies. One Member asked for unanimous consent to record his vote. It was granted, and it then became 18 to 17. The other two of us had asked for permission to record our votes, and this was denied.

The committee had not yet adjourned.

I feel on that basis alone we should vote down this bill for committee rules and practices were not fully complied with.

Does the gentleman desire me to yield to him?

Mr. HÉBERT. Yes, Mr. Speaker, I would ask the gentlewoman to yield.

Mrs. SCHROEDER. I yield to the gentleman from Louisiana.

Mr. HÉBERT. Mr. Speaker, the gentlewoman from Colorado is very charming, and I appreciate the gentlewoman yielding to me, but I do believe that the record should be kept straight.

To begin with, I would ask the gentlewoman from Colorado whether the gentlewoman was ever present while the bill was being considered in the committee?

Mrs. SCHROEDER. I was not present until after it had been considered, but the committee was still in session at the time I came in.

Mr. HÉBERT. The committee was in session at the time, and that business had been done away with, it was finished business.

So the gentlewoman from Colorado was not present any time while the bill was under consideration?

Mrs. SCHROEDER. That is correct; three of us were not present, and we asked for unanimous consent.

Mr. HÉBERT. If the gentlewoman will yield further, No. 2, insofar as the suggestion that the bill was not brought up in a legal manner, under the rules of the committee a bill can be brought up at any time subject to a rollcall vote if the question was raised. The bill was brought up, and no question was raised. Therefore there was no challenge to the bill being brought up at any time.

If a point of order had been made against it, I would have sustained the point of order. That could have been overruled by a majority vote, and within the House could have been done by a two-thirds vote.

So there was no violation of the rules there.

Next, nobody asked me for unanimous consent to vote in the committee. One member asked that his vote be changed after the committee vote was taken, and anybody knows that you cannot change a vote once the vote is announced, and that is true here in the House Chamber.

Next, the gentlewoman asked for unanimous consent to vote, and the unanimous consent request was denied under the rules.

With all in order, there was nothing irregular, nothing sinister, and nothing that I could see at all except following the rules.

Mrs. SCHROEDER. Let me say that I think the gentleman's interpretation of the rules is one, mine is another. I would agree with him on the basis of facts as to when I was present. Let me proceed from there.

At that point my thought was the best way to go would be to attempt to amend the bill on the floor, to put the service academy amendment back in on the floor and have some discussion at that time. Unfortunately, the decision was then made to bring this bill under suspension of the rules so it could not be amended. We did not find out about that decision until 5 o'clock Thursday when many Members had already gone home. I think this is a very serious issue. I feel that Congress spoke out on this issue when it passed the equal rights amendment. To say that we have to wait until all of the States act before we can do anything about Federal institutions I think is wrong. We have to wait until States act to do something about State government and local government action, but not the Federal Government.

When the Congress passed the equal rights amendment, I think we made our statement as to how we thought the Federal Government should act. I think that under the Volunteer Army, with all of the different programs that are kept going, it is very important to open up these opportunities for women. I feel that this bill should at least be brought up under a regular rule so that it can be amended, or I would be in concurrence if they would agree to hold hearings, and pass the bill, and let the Members speak their will on it. But I think bringing up the bill under suspension is an incorrect way to proceed.

Mr. RONCALIO of Wyoming. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Wyoming.

Mr. RONCALIO of Wyoming. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I rise in opposition to S. 2771. When this legislation emerged from the Senate, it contained provisions to eliminate one more vestige of sex discrimination maintained and practiced within our Armed Forces. As referred, S. 2771 provided that women be permitted to attend our Armed Forces academies, an idea and a right whose time is overdue. The House Committee on Armed Services, however, by a narrow margin of 18 to 16 with 8 absent, chose to delete these provisions from the bill.

That is the condition under which this bill comes to us under suspension of the rules.

Mr. GROSS, when he was here, objected to suspending the rules on a bill relating to a battle between the Hopis and the Navajos. This is a man-women battle put on the Suspension Calendar.

If we support and pass this legislation as reported to the floor, we will be giving tacit approval to the perpetuation of sexual discrimination in admittance to the academies which our colleagues in the Senate justly saw fit to call to an end. The committee report states that these provisions were not germane to the bill and that they were of such a nature as to require separate consideration and hearings. I submit that time enough has past. Hearings are not necessary to determine the unjust and outdated nature of admission criteria based on sex.

With all due respect to the distinguished chairman, Mr. HÉBERT, I call for the defeat of this bill until the full equality of sex provisions can be reinstated.

Mr. HÉBERT. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. Mr. Speaker, I yield back the balance of my time.

Mr. HÉBERT. With all humility, I am pleading with the gentlewoman, if she wants to keep the record straight. If she does not want it to be kept straight, that is up to her.

Mr. STRATTON. Mr. Speaker, at the moment we have no requests for time. I would urge the gentlewoman from Colorado to yield some more time to her side. I think she has several speakers who want to speak.

The SPEAKER. Does the gentlewoman from Colorado desire to yield time?

Mrs. SCHROEDER. Mr. Speaker, I yield 5 minutes to the gentleman from Delaware (Mr. DU PONT).

Mr. DU PONT. Mr. Speaker, if we could take just one moment to try to put this bill in a little bit of perspective, I think that we can both pass the bill and achieve the objective that the gentlewoman from Colorado and I are both interested in achieving.

I am the sponsor of H.R. 10705, which is one of the first pieces of legislation introduced here to permit women to attend the military academies. I agree and associate myself with the remarks of the gentleman from New York (Mr. STRATTON), who points out some of the problems associated with having women in the service academies.

I am very strongly in favor of admitting women or I would not have sponsored the legislation, but I do recognize that we have got to make some decisions both within the Congress and within the Armed Services Committee first. I would hate to see this piece of legislation, which I basically support, defeated because of this possible tangle, so if I could address a question to the chairman of the Committee on Armed Services, I would ask if the chairman will be willing to commit himself to scheduling some hearings on H.R. 10705 and other similar legislation? I think with that kind of commitment we could go forward and pass this legislation with no trouble.

I yield to the gentleman from Louisiana.

Mr. HÉBERT. Mr. Speaker, I am very happy the gentleman from Delaware asked me that question. That is why I was trying to get the gentlewoman from Colorado to yield, so I could tell her some of the facts of life, but she did not want to hear them. These are the facts.

Mr. DU PONT. I am not too sure we need the facts as much as we need a commitment.

Mr. HÉBERT. My commitment is on the facts of life. The trouble is some people do not know what is going on sometimes. We have had a request to the Department of Defense to report on this bill and all others on October 10, 1973, and that is from the Departments of Defense and Transportation.

The mechanism had already been set into regular orderly motion.

When the Senate passed this amendment they did not debate it 5 minutes. We are in agreement with this. We will be having a hearing on the bill as soon as we can get the report.

On this entire thing we have nothing to hide. The thing I object to is an attempt to make it appear as if there is something insidious in practice. What we are doing is following the rules, and I assure the gentleman there will be hearings.

Mr. DU PONT. I do not think there is anything insidious being tried.

Mr. Speaker, under the understanding the gentleman from Louisiana has just given us I am prepared to support the legislation and I look forward to the hearings which I assume will be within the subcommittee chaired by the gentleman from New York. Am I correct?

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. DU PONT. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I appreciate the gentleman's statement because as he knows I am a cosponsor of this bill to have women admitted to the academies. I am in support of this and not just lately but beginning several years ago before this issue became a popular one. As a member of the Board of Visitors of the Naval Academy I have told the Naval Academy I thought they were behind the times and they ought to get with it.

But, as the gentleman recognizes, this is not a matter that can be settled simply by tacking a nongermane amendment onto something that is different. We ought to have some discussion and some idea of what we will be getting into in terms of legal obligation and cost as far as the women who are going to be involved.

Certainly if the bill is assigned to my subcommittee I can guarantee the gentleman these hearings will be extremely sympathetic.

I simply wanted the gentlewoman from Colorado to yield to me because she said she was prepared to settle it either one way or the other, to attack the amendment under this bill or to have hearings. This is exactly what our committee is prepared to do. But this is a reenlistment bonus designed to try to get people into the armed services under a volunteer environment. If we try to defeat it because of this other question we will be doing a great deal of harm to the armed services themselves.

Mr. DU PONT. Mr. Speaker, I thank the gentleman from New York for his remarks and I thank the gentleman from Louisiana for his commitment and I am looking forward to those hearings. I would urge my colleagues on both sides of the aisle to go ahead and pass this legislation because basically it is good legislation.

Mr. HUNGATE. Mr. Speaker, will the gentleman yield?

Mr. du PONT. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Speaker, I rise in support of the proposal that women be admitted to the academy as proposed by this and other legislation and I encourage hearings to be promptly held.

Mr. du PONT. I thank the gentleman from Missouri.

Mr. BRAY. Mr. Speaker, will the gentleman yield?

Mr. du PONT. I yield to the gentleman from Indiana.

Mr. BRAY. Mr. Speaker, in fact we already had planned to have these hearings on the bill which the gentleman introduced. I favor hearings on the legislation. However, it will take study and hearings to determine the additional facilities needed, the cost and numbers of women to be admitted. Otherwise we would simply cause chaos if the gentleman's legislation were passed without adequate hearings and study.

Mr. STRATTON. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. Hunt).

Mr. HUNT. Mr. Speaker, I rise in support of S. 2771. This is a bill to help us recruit and retain high quality enlisted personnel in the all-volunteer environment. Its net effect will be to save money, which everyone favors, and will appeal in particular to the frantic fiscal frenetics. In addition though, it provides the services with much-needed management flexibility and will result in increased retention in specific areas where shortages have become critical.

To put this bill in some historical perspective, this House passed much broader special pay legislation in October 1972, which the Senate did not act on. What we have before us now is one of the highest priority portions of that special pay package.

In order to understand the need for this bill, it is necessary to recount existing law and its practical shortcomings. Presently, bonuses are authorized at initial enlistment and only for specific fields, and there are two separate bonuses applicable only to reenlistments.

The enlistment bonus—payable at the time of initially entering service—is restricted to individuals enlisting in the combat elements of the Army and Marine Corps. This bonus has been an effective tool in increasing enlistments in these career fields, but its scope is too narrow in that it can not be applied in other areas of critical shortages. S. 2771 enlarges the enlistment bonus authority to allow its application to any other career field in which a critical deficiency exists. It simply broadens the scope of an already effective management tool.

Now, in the area of the reenlistment bonus we have a current bonus structure in which two types of reenlistment bonuses exist. The regular bonus is paid to all enlistees at a number of reenlistment points prior to the 20-year mark in their careers, with a career maximum of $2,000. The law requires this bonus be paid; it is not permissive authority. In practice, this turns out to be noncost-effective, because we end up paying bonuses to people in fields which are not critical and to people whose retention is not a problem. We are doing away with that.

The second type of reenlistment bonus, the variable reenlistment bonus, is used for critical shortage specialties, but may only be paid at the time of an individual's first reenlistment. The combined total payment for an individual entitled to these two bonuses cannot exceed $10,000.

Our bill eliminates these bonuses and combines the best parts of each into a selective reenlistment bonus. No longer will there be a reenlistment bonus paid to all people at every enlistment. That is gone. What we propose in this bill is to pay a bonus only in those career fields where the shortage is critical, and to allow it to be paid at any enlistment occurring within the first 10 years of the individual's active service. This is in recognition of the fact that certain skills remain highly marketable to the degree that individuals in those skills are not committed to a service career even after their first reenlistment.

The amount to be paid is not specified beyond the limitation that it not exceed $15,000. The services will have the authority to vary the increments paid to meet the specific situations. This management flexibility is important to make the bonus as attractive as necessary for the variety of career fields involved and yet remain cost effective. To illustrate, we do not need to pay an electronics technician $15,000 in order to be competitive with outside industry, but we may well have to pay that much to an individual in nuclear power.

The original DOD proposal requested a maximum limit of $15,000 for this selective reenlistment bonus; however, the Senate reduced this amount to $12,000. Our committee, after due consideration, has reinstated the $15,000 limit. The higher figure was chosen in order to give the services the flexibility to meet the exceptional or unique retention problem. It makes sense. The only field in which the service testified it is presently planning to pay such a maximum is nuclear power. This training is extremely marketable in industry, and in recognition of this a reenlistment bonus of up to $15,000 is presently authorized for this one field. This current authority expires in June 1975. Our bill will allow the service to continue this bonus at its present amount after the expiration of the current authority. The retention percentage for these nuclear power personnel went from 14 to 39 percent following the introduction of this bonus. So we know these bonuses are effective.

What I have told you up to now only talks of enlarged amounts and utilization for this bonus, and on its face it looks like more money. However, the framework in which these bonuses will be cast under this bill will result in substantial savings.

First, the undiscriminating regular bonus will be gone resulting in savings of approximately $43 million each year in unnecessary payments.

Second, substantial cost savings will accrue from enhanced retention. The skills in which critical shortages exist by and large are those requiring a considerable training investment. Keeping these personnel we have trained for a longer period leads to an immediate reduction in training costs, to say nothing of the improved unit effectiveness. In the area of nuclear power, alone, it is estimated that the introduction of this bonus achieves savings of $4 million per annum in training costs.

Third, use of this bonus will allow the service to phase out payment of proficiency pay.

Mr. Speaker, that concludes what I think is particularly important about this bill. When you have legislation that is necessary, saves money, and streamlines efficiency in the Defense Department, I am more than pleased to be able to speak in its behalf.

Mr. STRATTON. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. Montgomery).

Mr. MONTGOMERY. Mr. Speaker, I rise in support of the bill and urge its passage by the House. Under the all volunteer concept it is absolutely necessary that we take steps through enlistment and reenlistment bonuses to insure minimum manpower levels in the critical skill areas of the Armed Forces.

However, I am also reminded of the fact that we need the same type of legislative authority for members of the Reserve components. The Reserves and National Guard are also experiencing difficulties maintaining their minimum manpower needs. I have introduced legislation authorizing enlistment and reenlistment bonuses for the Reserve components and would hope that the Congress would also turn its attention to this important need.

I am concerned that this legislation deals with reenlistment bonuses and enlistment bonuses for the regular services, but as I understand the bill, there are no provisions to take care of the Reserves or the National Guard as far as reenlistment and enlistment bonuses are concerned.

Mr. Speaker, we do have a lot of problems in the Reserve. I would like to ask the chairman of the subcommittee whether there are any plans on considering bonuses for the Reserve and the National Guard, which is a strong arm in this country. The Pentagon is not moving out to give any incentives to this group.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. Mr. Speaker, I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, the answer to that question, of course, is that this matter of paying bonuses to reservists was raised by our subcommittee. The Defense Department witness indicated that the Defense Department would have recommendations regarding Reserve bonuses of this same type by the time the special pay bill is before us.

This is the legislation which our committee has indicated it will take up when this bill is completed and the committee schedule permits more hearings on personnel matters. At that time the subject of additional enlistment incentives for Reserves will be before the committee and will be discussed along with the special pay proposals.

Mr. Speaker, I think the gentleman has made a very good point. Obviously, if we are going to count on our Reserves, we must have adequate enlistments and adequate retention, and incentives similar to those used for Regulars would have to be considered for Reserves.

So we would give a very sympathetic ear to those proposals.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for his remarks.

I would like to point out to the committee that 40 percent of the combat arms of this country are in the Reserves and in the National Guard. Almost half of the combat units are in the Reserve forces.

Certainly some incentive should be considered for this group.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield

Mr. MONTGOMERY. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Speaker, I am grateful for the gentleman's yielding.

I wish to associate myself with the gentleman's remarks and express my support for this legislation. I hope we can pass it. I also will say that I am grateful for the announcement and the news provided by the gentleman from New York that his intention is to hold hearings on the special pay bills of all character, which I think is absolutely essential.

I applaud the gentleman from Mississippi for bringing this matter to the attention of the House.

Mr. STRATTON. Mr. Speaker, how much time do I have remaining

The SPEAKER. The gentleman from New York (Mr. STRATTON) has 7 minutes remaining.

Mr. STRATTON. Mr. Speaker, I reserve the balance of my time for conclusion on behalf of the Committee on Armed Services.

Mrs. SCHROEDER. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. PIKE).

Mr. PIKE. Mr. Speaker, I thank the gentlewoman for yielding time to me.

I rise in opposition to this legislation, Mr. Speaker. I do so for a couple of reasons:

First of all, any of the Members who want to get led down this primrose path on the premise that we will hold hearings on this subject can go down that primrose path if they want to. However, I do not think that is the way to treat women equally if we are interested in treating women equally.

If we are interested in treating women equally, we can do it today; we can do it right now. The Senate passed this bill with a provision allowing women to go to the service academies, and the only reason that there is any controversy whatsoever concerning this bill today is because the House knocked that provision out; the House committee knocked that provision out.

The committee knocked the provision out by an 18 to 16 vote originally, 18 in favor of knocking this out, and 16 opposed to knocking this out.

Another Member, a gentleman, came in, and he asked unanimous consent to vote, and he was allowed to vote. He voted against knocking the provision out, and that made the vote 18 to 17.

Then another Member, a gentlewoman, came in the room. The gentlewoman from Colorado (Mrs. SCHROEDER) came in the room, and she asked unanimous consent to be allowed to have her vote recorded. Well, obviously, this would have created a problem.

Mr. Speaker, I have been on the Committee on Armed Services for 14 years, and this was the first time I have ever heard a member denied the right to be recorded on a vote.

Mr. HÉBERT. Mr. Speaker, will the gentleman yield?

Mr. PIKE. I yield to the gentleman from Louisiana.

Mr. HÉBERT. Mr. Speaker, I would like to ask the gentleman which individual Member he is referring to.

Mr. PIKE. I am referring to the gentleman from Missouri (Mr. RANDALL).

Mr. HÉBERT. Mr. Speaker, the record does not show that in my book. It does not show it in the record. Moreover, I do not recall it at all.

Mr. PIKE. Mr. Speaker, I recall it. The gentleman sits only two seats or three seats from me, and I recall he came into the committee meeting late, and he asked unanimous consent to vote, and he was recorded in the negative.

Mr. HÉBERT. Mr. Speaker, I never put the question, and I have never heard of this until right now.

Mr. PIKE. Mr. Speaker, I do not wish to use all my time on this discussion, but I will repeat that it was the gentleman from Missouri (Mr. RANDALL) who came in late, and his vote made it 18 to 17. Then the gentlewoman from Colorado came in, and she was refused the right to record her vote.

There is only one issue here. There is only one reason this is controversial, and it has to do with whether or not women are going to be treated the same as men. That is all there is to it. It is just as simple as that. If we want to go this route of holding hearings, let us see what happens in the Committee on Armed Services when we have hearings.

The services come in. Do you think the Army will come in and say "Yeah, man. We sure want those women at West Point?" And do you think the Navy will come in and say "Yeah, man. We sure want those women at Annapolis" and that the Air Force will come in and say "Oh, we sure want them at the Air Force Academy"? Well, they could have done it at any time in the last 10 years or anytime this year, but they have never done it and will not do it.

So if you want to go down this primrose path and be convinced that you are treating the women of America equally, by the statement that you are going to hold hearings at some time in the future, it can be done.

Mr. HUNT. Will the gentleman yield?

Mr. PIKE. Not at the moment.

I suggest to you that if you want to do anything about getting this bill passed, the best thing to do is to make it as much like the bill passed in the other body so that in conference it will not take very long. The way to do that is to get rid of this prohibition against women going to the academies. Bring it up under a rule and let us have a vote on whether they can go to the academies or not. If it passes, then our bill will be very much like the bill of the other body and the conference will not take any time at all.

I yield to the gentleman from Louisiana.

Mr. HÉBERT. I thank the gentleman.

I want to make this clear for the record that the record shows Mr. RANDALL voted in opposition to the chairman's position.

Mr. PIKE. That is right. And he came in late. He did come in late and asked unanimous consent to be recorded and did in fact vote against the chairman's position.

Mr. HÉBERT. Will the gentleman yield further?

Mr. PIKE. I yield.

Mr. HÉBERT. This is what I did. These paths you follow may look very pretty, you know, but they are not so pretty because they are not so obvious.

Mr. PIKE. If you want to insult me, would you please do it on Mr. STRATTON's time and not on mine?

Mr. HÉBERT. No; I do not want to insult you, but I just want to expose you.

Mr. PIKE. What I think you really want to do is stall. That is what I think you really want, and you have accomplished it.

Mr. FRENZEL. Mr. Speaker, I support this bill. The bonuses are apparently necessary. But I also support the admission of women into our service academies.

I am tempted to vote "no" so that the Senate nongermane amendment allowing admission of women, could be added, but there is no guarantee either that the amendment could be added, or that it would be added in a timely fashion.

Lacking this assurance, I must rely on the assurances of the committee chairman that hearings on admitting women will be held. I will vote for the bill, and strongly urge that the committee bring out women's admission bill soon.

Mr. DRINAN. Mr. Speaker, I cast my vote against the special pay bonus structure bill (S. 2771) before us today, because I believe that it is improper to consider this bill under suspension of the rules.

When this bill was considered in the other body, Senator HATHAWAY introduced an amendment to allow female candidates for admission to military academies to be admitted. His amendment recognized that one of the basic problems we have had with the all-volunteer Army is that not enough people have enlisted. Complementing the bonuses provided for reenlistment in this bill, Senator HATHAWAY proposed that women also be allowed to enter the military academies as an inducement to women to enter military service. Women serve as commissioned officers in the WAVES, WACs, and WAFs. Certainly they should be entitled to the same high-caliber officer training as men.

The amendment was cosponsored on the Senate floor by Senators MANSFIELD, THURMOND, and JAVITS, and supported by Senator STENNIS.

The whole House should have the opportunity to vote against removing this vestige of discrimination against women. As the bill is presented to us, we are unable to vote on the committee amendment to delete the Hathaway amendment allowing women to attend the military academies. I am hopeful that the House will have an opportunity to vote on this important matter. I am also hopeful that the Armed Services Committee will conduct hearings on this matter, whether or not the legislation before us today passes, in order to develop an unbiased helpful record in this important area.

Senator STENNIS, chairman of the Senate Armed Services Committee, expressed his willingness, on the Senate floor, to take the Senate bill to conference and, "If necessary, we can hold some hearings by our committee, or the subcommittee, before the conference itself." I am hopeful the House will do the same.

Ms. HOLTZMAN. Mr. Speaker, the refusal of the U.S. military academies to admit women is deplorable and unjust. S. 2771, as it emerged from the Senate, contained a provision that would have permitted women to enter these service academies.

Unfortunately, the House Armed Services Committee deleted that provision. Consequently, I intend to oppose the bill. In this day and age, it should go without saying that women are entitled to be treated equally. Congress has recognized this principle by approving the equal rights amendment. Nonetheless, the blatant sex discrimination practiced by the military academies stands as a disgraceful blot on our country's efforts to insure that women are given the same opportunities as men.

The Armed Services Committee offers a very flimsy rationale for deleting the Senate provision, namely that it did not have time to hold hearings on this important subject. Surely if the Armed Services Committee had wanted to, it could have disposed of this matter in a relatively short time. After all, it held only one day of hearings on the other provisions of this bill, which involve $80 million in bonus payments to encourage reenlistment in the armed services.

I am afraid the real reason for the Armed Services Committee's inaction is its opposition to ending sex discrimination in the military academies.

By voting against S. 2771 now, we will have the opportunity at a later time to amend this bill by inserting the Senate provision that would permit women to enter the military academies.

Mr. GILMAN. Mr. Speaker, in considering the bill before us, S. 2771, providing a special bonus structure for members of the Armed Services, some of my colleagues are urging defeat of this measure to enable the House to consider a similar measure with a nongermane amendment allowing women to enter our service academies.

While I support the principle of allowing women to be trained and educated by our service academies, I do not support this effort to defeat the bill before us.

There are many important considerations which must be fully reviewed before opening our academies to women—we need to resolve the problems of constructing any new housing required, of defining their involvement in combat training, of health care needs, and so forth, before mandating an opening of the doors.

We must look before we leap and we must provide sufficient leadtime to the academies to adequately provide for their new students.

The chairman of the Armed Services Subcommittee having jurisdiction of this proposal has assured us that hearings on this issue will be held in the near future. That certainly is a more appropriate route to follow, providing for thorough consideration of the many factors involved in preparing our academies for the admission of women. Accordingly, I am supporting the bill now before us, withholding final decision on the matter of women in our academies until we have had an opportunity to complete congressional hearings on this matter.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. STRATTON) that the House suspend the rules and pass the Senate bill (S. 2771), as amended.

The question was taken.

Mr. STRATTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 237, nays 97, not voting 98, as follows:

[Roll No. 93]

YEAS—237

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Barrett
Bauman
Beard
Bennett
Bevill
Biaggi
Blackburn
Boggs
Bowen
Bray
Breaux
Brooks
Brotzman
Brown, Calif.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cohen
Collier
Collins, Tex.
Conable
Conlan
Conte
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, S.C.
Davis, Wis.
Dellenback
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Downing
Duncan
du Pont
Edwards, Ala.
Eilberg
Erlenborn
Esch
Eshleman
Findley
Fish
Fisher
Flowers
Flynt
Forsythe
Fountain
Frenzel
Frey
Gaydos
Gettys
Gilman
Ginn
Gonzalez
Goodling
Gross
Grover
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harsha
Hastings
Hébert
Henderson
Hicks
Hillis
Hogan
Holt
Horton
Hosmer
Hudnut
Hunt
Hutchinson
Ichord
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Kazen
Kemp
Ketchum
Kluczynski
Lagomarsino
Landrum
Latta
Leggett
Lott
McDade
McFall
McKay
Macdonald
Madigan
Mahon
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Michel
Miller
Mills
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Morgan
Murphy, N.Y.
Murtha
Myers
Nelsen
O'Neill
Parris
Passman
Patman
Patten
Perkins
Pettis
Peyser
Poage
Powell, Ohio
Price, Ill.
Price, Tex.
Quie
Quillen
Railsback
Randall
Rarick
Regula
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Roncallo, N.Y.
Rostenkowski
Roush
Rousselot
Runnels
Ruppe
Ruth
Sandman
Sarasin
Satterfield
Scherle
Schneebeli
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thomson, Wis.
Thone
Thornton
Tiernan
Treen
Veysey
Waggonner
Walsh
Wampler
Ware
White
Whitehurst
Widnall
Williams
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—97

Abzug
Adams
Anderson, Calif.
Aspin
Badillo
Biester
Bingham
Boland
Bolling
Brademas
Burke, Mass.
Burton
Clay
Conyers
Corman
Coughlin
Cronin
Culver
Danielson
de la Garza
Delaney
Dellums
Drinan
Dulski
Edwards, Calif.
Evans, Colo.
Evins, Tenn.
Fascell
Flood
Foley
Ford
Fraser
Fulton
Giaimo
Green, Pa.
Hanna
Harrington
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Holtzman
Howard
Hungate
Karth
Kastenmeier
Koch
Lent
Litton
Long, La.
Long, Md.
Lujan
Luken
McCormack
Mathis, Ga.
Mezvinsky
Minish
Mink
Mitchell, Md.
Moorhead, Pa.
Mosher
Moss
Natcher
Nedzi
Obey
Owens
Pike
Podell
Pritchard
Rangel
Rees
Rodino
Roe
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Roybal
Sarbanes
Schroeder
Seiberling
Shipley
Smith, Iowa
Stanton, James V.
Stark
Stokes
Studds
Sullivan
Thompson, N.J.
Vanik
Whalen
Wilson, Charles H., Calif.
Wolff
Yates
Young, Ga.

NOT VOTING—98

Addabbo
Alexander
Andrews, N.C.
Annunzio
Ashley
Bell
Bergland
Blatnik
Brasco
Breckinridge
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Burke, Calif.
Burke, Fla.
Carey, N.Y.
Chappell
Chisholm
Cochran
Collins, Ill.
Cotter
Crane
Davis, Ga.
Dorn
Eckhardt
Frelinghuysen
Froehlich
Fuqua
Gibbons
Goldwater
Grasso
Gray
Green, Oreg.
Griffiths
Gubser
Gude
Gunter
Hinshaw
Holifield
Huber
Jarman
Jones, Tenn.
Jordan
King
Kuykendall
Kyros
Landgrebe
Lehman
McClory
McCloskey
McCollister
McEwen
McKinney
McSpadden
Madden
Maraziti
Metcalfe
Milford
Minshall, Ohio
Moakley
Murphy, Ill.
Nichols
Nix
O'Brien
O'Hara
Pepper
Pickle
Preyer
Reid
Reuss
Riegle
Rooney, N.Y.
Roy
Ryan
St Germain
Sebelius
Slack
Steed
Steele
Stubblefield
Stuckey
Symington
Talcott
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waldie
Whitten
Wiggins
Wilson, Bob
Wilson, Charles, Tex.
Yatron
Young, S.C.

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Ashley.
Mr. Rooney of New York with Mr. Blatnik.
Mr. Stubblefield with Mr. Holifield.
Mr. Addabbo with Mr. Dorn.
Mr. Cotter with Mrs. Jordan.
Mr. Carey of New York with Mr. Eckhardt.
Mrs. Grasso with Mr. Gray.
Mr. Nichols with Mr. Huber.
Mr. Nix with Mr. Riegle.
Mr. Brasco with Mr. Coughlin.
Mr. Pepper with Mr. King.
Mrs. Green of Oregon with Mr. Burke of Florida.
Mr. Chappell with Mr. Landgrebe.
Mr. Fuqua with Mr. Hinshaw.
Mr. Moakley with Mr. Kuykendall.
Mr. Metcalfe with Mr. Reid.
Mr. Jones of Tennessee with Mr. McClory.
Mr. Pickle with Mr. Crane.
Mr. St Germain with Mr. Maraziti.
Mr. Steed with Mr. Bell.
Mr. Ullman with Mr. Gude.
Mr. Vigorito with Mr. Frelinghuysen.
Mr. Yatron with Mr. Broomfield.
Mr. Murphy of Illinois with Mr. McCloskey.
Mr. Davis of Georgia with Mr. Sebelius.
Mr. Bergland with Mr. McKinney.
Mr. Alexander with Mr. Froehlich.
Mr. Jarman with Mr. Brown of Michigan.
Mr. Kyros with Mr. O'Brien.
Mr. McSpadden with Mr. McCollister.
Mr. Milford with Mr. Goldwater.
Mr. Gibbons with Mr. Minshall of Ohio.
Mrs. Chisholm with Mr. Charles Wilson of Texas.
Mr. Brinkley with Mr. Brown of Ohio.
Mr. Lehman with Mr. McEwen.
Mr. O'Hara with Mr. Gubser.
Mr. Breckinridge with Mr. Talcott.
Mr. Andrews of North Carolina with Mr. Bob Wilson.
Mrs. Burke of California with Mr. Gunter.
Mrs. Collins of Illinois with Mr. Waldie.
Mr. Madden with Mr. Wiggins.
Mr. Symington with Mr. Steele.
Mr. Van Deerlin with Mr. Vander Jagt.
Mr. Stuckey with Mr. Towell of Nevada.
Mr. Roy with Mr. Young of South Carolina.
Mr. Ryan with Mr. Reuss.
Mrs. Griffiths with Mr. Vander Veen.
Mr. Udall with Mr. Whitten.
Mr. Slack with Mr. Preyer.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate bill (S. 2771) to amend chapter 5 of title 37, United States Code, to revise the special pay bonus structure relating to members of the Armed Forces, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from New York? The Chair hears none, and appoints the following conferees: Messrs. STRATTON, NICHOLS, HÉBERT, HUNT, and BRAY.

GENERAL LEAVE

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the contents of the bill (S. 2771) just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

CHANGE IN LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute.)

Mr. O'NEILL. Mr. Speaker, I take this time to announce that we will call up under suspension of the rules tomorrow the bill H.R. 11105, the nutrition program for the elderly. The bill had been scheduled for later in the week, subject to a rule being granted.

PARLIAMENTARY INQUIRY

Mr. PERKINS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. PERKINS. Mr. Speaker, under the rule, as I understood it, the rule granted on H.R. 69 and the colloquy that followed here last Thursday, H.R. 69 was to be called up tomorrow. Am I correct in that inquiry?

The SPEAKER. The Chair will have an announcement to make with respect to that entire issue.

Does the gentleman desire to make any statement further with respect to his inquiry?

Mr. PERKINS. Mr. Speaker, nothing except that I would like to know a day certain that the bill will be called up.

The SPEAKER. The Chair, of course, knows of the issue that has been raised with respect to the rule on the Elementary and Secondary Education Act. The Chair has, accordingly, had the rule, its legislative history, and the precedents studied, and the Chair is prepared to make the following statement:

House Resolution 963 which has made in order the consideration of H.R. 69, provides that "3 legislative days after the conclusion of general debate—the bill shall be read for amendment under the 5-minute rule."

The Chair has examined the provisions of House Resolution 963, as well as the debate on that resolution on March 12, 1974, in the House. On page 6269 of the CONGRESSIONAL RECORD of that day, the gentleman from California (Mr. DEL CLAWSON) inquired whether the reference to 3 legislative days meant that "at least 3 legislative days" must pass before the bill could be read for amendment under the 5-minute rule. The gentleman from Missouri (Mr. BOLLING), who reported the resolution from the Committee on Rules and managed the resolution on the floor, responded that—

> At least 3 legislative days (must pass) because the Committee on Rules, and to a considerable degree the House, would leave anything that was a matter of final scheduling to the leadership.

The Chair agrees with the interpretation placed upon this rule by the gentleman from Missouri, and would point out that such an interpretation is consistent with procedures contemplated in other resolutions reported from the Committee on Rules, except that under this rule the bill may be read for amendment only after the expiration of 3 legislative days from the conclusion of general debate. With other resolutions reported from the Committee on Rules, it has never been considered a mandatory requirement that the Committee of the Whole read a bill for amendment on the same day that it concludes general debate. The Chair retains the discretionary authority to recognize other Members to bring other privileged business before the House at that time.

For these reasons, the Chair feels that the provisions of House Resolution 693 do not necessarily require that H.R. 69 be read for amendment on Tuesday, March 19.

Mr. PERKINS. Mr. Speaker, in view of the ruling of the Chair, when does the Chair contemplate, or when does it intend that the bill be programed in order that the membership of the House may know now?

The SPEAKER. That is not a parliamentary inquiry, but the Chair will discuss the matter with the gentleman and with the leadership on both sides of the aisle. The program will be announced at an appropriate time.

NATIONAL HEALTH EDUCATION POLICY AND DEVELOPMENT ACT OF 1974

(Mr. COHEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. COHEN. Mr. Speaker, I am very pleased to introduce today legislation I have formulated entitled the "National Health Education Policy and Development Act of 1974".

Health care is the second largest expenditure in the United States. Yet, with the tremendous amount of money we devote to this area, we still are surrounded by evidence of inaccessible, inadequate, and poor quality medical care. The United States, one of the most prosperous nations in the world, ranks 14th in infant mortality, 11th in maternal mortality, 22d in life expectancy for men, and 7th in life expectancy for women. It is interesting to note that of the $75 billion spent last year for medical, hospital and health care, about 92 percent is spent for treatment after illness occurs. Clearly, these statistics point out the need for a new initiative to reduce costs and provide services more effectively to the citizens of this Nation.

Such an initiative lies in the area of health education. Certainly, it is in the interest of our entire country to educate and encourage each of our citizens to develop sensible health practices. Yet, we have given remarkably little attention to the health education of our people. Last year less than 1 cent of our health care dollar was spent on health education. While health education may not be a panacea that will solve all health problems, it is undeniably a fundamental part of any logical attack on these problems.

By health education I do not mean a program limited to a personal hygiene course taught in our public schools. Health education can and should be far more than that. It should include all processes which encourage and enable people to act in ways which will allow them to lead the healthiest, most satisfying life attainable, whatever their age or calling in life.

In the past, the Nation's No. 1 health problem was acute infectious disease. Afflicted with such diseases as polio, smallpox, and diphtheria, a patient virtually had no role in his own care. Instead the responsibility for prevention and control was left to medical research. Through extensive and concentrated efforts the ravages of many of these diseases have been effectively eliminated as national health problems.

Infectious disease, however, has been replaced by other health problems which are now the leading causes of disability and death in this country. The problems are in large part chronic conditions such as heart and respiratory diseases, diabetes, cancer, obesity, and alcoholism. Effective control of these conditions is impossible without the active cooperation of an informed patient.

In recognition of this necessary consumer involvement, there have been scattered efforts to educate our populace on such isolated subjects as drug abuse, VD, or family planning. The tragedy, however, is that a great many individuals are still unaware of their own role in the prevention and relief of these ills or accidents, including the knowledge needed to utilize the health care industry itself. They cannot answer such basic questions as How do I choose a doctor, who are the different specialists prepared to deal with my problem, and what services are available to me through the community?

Such personal neglect of one's own health brought about a Presidentially authorized committee to study the means of remedying the problem. In the committee's report, health education was seen as the most cost-effective means to alert the consumer to his health role. Thus, health education must become an integral part of overall health maintenance.

In becoming aware of the need for health education, we are also uncovering many problems which impede the progress of such education. In my State, the bureau of health—in cooperation with the Maine Lung Association—began a survey last July to provide some baseline data on the current status of health education in Maine. Over half of the agencies interviewed felt that health education should be playing a major role in their program and that some agency or program was needed to serve as a focal point in the State for the planning and coordination of health education activities. Unfortunately, only about one-fourth of the agencies could count health education as a major component of their program, and clearly, no widely recognized focal point exists.

In addition, there appears to be a lack of programs or activities to introduce to the public the variety of health services available to meet their problems. While many agencies see information and referral as a part of their function, duplication and gaps exists in these efforts. As can be seen in the case of health education in Maine's school systems most schools appear to operate on a "crisis of the year" curriculum in which one problem—drug abuse, sex education, or veneral disease prevention—becomes a major issue. Little overall perspective is given on what students want or need to know in order to be intelligent health care consumers upon graduation.

While the school system appears to be the logical place to focus on health education, we also have many other resources which should be used to educate the consumer, including public and private health care providers, and the media.

Utilization of these resources is now occurring on a scattered basis, but we need a consolidated effort, a national thrust, which would offer direction and coordination to these present divergent efforts in health education. Our goal should be to assure that every citizen has access to knowledge he needs about health resources available to him and his basic personal health care. In short, the consumer must be recruited as an active member of the health care team.

My bill, which has met with favorable responses through informal contacts with officials in the Department of Health, Education, and Welfare, takes several significant steps toward achieving that goal.

It establishes a National Health Education Administration as the focal point for health education under the direction of the Assistant Secretary of Health in Health, Education, and Welfare. In the past, most health education research has emanated from this office. Therefore, it is important that any Health Education Administration be located in close proximity to such expertise. However, my legislation also establishes an Advisory Council to advise, consult, and make recommendations to the Administration. This Council, composed of officials from the Office of Education and other persons involved with health education, public health, health care, health insurance, and the consumer, will greatly contribute to a balance of emphasis in the activities of the Administration.

After conducting studies into the current status of health education in the Nation, including factors which motivate the consumer to preserve his own health and utilize health care services, the Administration will begin to develop and evaluate specific cost-effective educational and informational mechanisms, aids and systems which will have the greatest potential impact for health education, particularly as it relates to personal health care motivation and resource utilization.

Following the identification of successful health education mechanisms, the Administration will use them not only for the education of our school-aged population, but will make grants for the development of comprehensive health planning. The plans will draw upon the available resources in a community or area to serve all its citizens and will give particular attention to the various cultural health needs of specific ethnic, economic, and geographic populations.

As is stressed in the Presidential report, this bill provides for the coordination and consolidation of various health information and consultation functions for a truly cost-effective and much-needed public service.

In summary, the purpose of this legislation I am introducing today is to provide for the development of the national resource most needed to assure high health standards in this country. That resource is a citizenry thoroughly knowledgeable about the actions needed to maintain personal health at a high level and most effectively utilize our health services. Our entire society has a stake in the health of each individual. And we can best help those who can help themselves.

CONGRESSIONAL COUNTDOWN ON CONTROLS

(Mr. STEELMAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. STEELMAN. Mr. Speaker, wage and price controls throughout history have proven to be a failure. The U.S. experience in World War II through the Korean war is a case in point, and I would like to submit for the record an article written by Robert L. Schuettinger, former assistant professor of political science at the Catholic University of America.

When the United States entered World War II, the Roosevelt administration delayed imposing price and wage control for almost 2 years. This reluctance may well have been stimulated by the example of Germany and Italy; restrictions on personal freedom were not altogether welcome in the midst of an all-out war in defense of freedom. From January 1941 until October 1942 the Government attempted to restrain the inevitable rise in both prices and wages by voluntary controls and moral persuasion. During that period wholesale prices rose almost 24 percent and consumer prices over 18 percent. With the establishment of the Office of Price Administration and the imposition of strict controls, however, consumer prices rose 8.7 percent from October 1942 to August 1945. Price and wage controls were relatively effective during the Second World War largely because of the strong patriotic feeling which supported any Government action which seemed to bring the end of the war nearer. Even so, hourly wage rates in manufacturing rose 14.7 percent in that same 35-month period. The rise in prices was not as steep in part because some manufacturers lowered the quality of goods while not raising the official selling price and many persons engaged in the black market, paying very high prices to get what they wanted when they wanted it.

After the war was over, however, the pent-up inflation burst and the controls broke down completely. From August 1945 to November 1946 wholesale prices rose over 32 percent and consumer prices almost 18 percent. It is entirely possible, therefore, that the end result would have been almost the same by the year 1946 if controls had never been introduced in the first place.

Much the same series of events occurred when the United States next imposed price and wage controls during the Korean war. In June 1950, when the war began, the Consumer Price Index stood at 177.8. Half a year later, when controls went into effect the index was at the level of 184.7. In September of 1952 when that freeze ended the Consumer Price Index had reached 191.1. It would seem clear from the experience of Korean war controls that price and wage restraints, in the long run, have little effect in controlling inflation. The effects, of course, are largely negative. Thousands of bureaucrats spend hundreds of thousands of man-hours doing essentially nonproductive work. In addition, the economy is distorted in numerous ways as workers, businessmen, and consumers devote their energies to getting around controls.

In that same year, 1952, the chairman of Lloyds Bank in England put the results of controls over the British economy in clear perspective.

He wrote:

> There cannot really be any dispute about the superior *efficiency* of a properly working price system . . . Rationing and controls are merely methods of *organizing* scarcity; the price system automatically works toward *overcoming* scarcity. If a commodity is in short supply, a rise in its price does not merely reduce demand but will also stimulate an increase in its supply. In this, the price system stands in direct contrast with rationing and controls, which tend to make it less profitable or less attractive in other ways, to engage in essential production than to produce the inessentials which are left uncontrolled.

OMNIBUS WILDERNESS BILL

(Mr. TAYLOR of North Carolina asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. TAYLOR of North Carolina. Mr. Speaker, it has been almost 10 years since the passage of the Wilderness Act by the 88th Congress. One of the provisions of this legislation was to direct the Secretary of the Interior to conduct studies of all units of the national park system, and to report to Congress on the suitability of any portions of those areas for inclusion into the National Wilderness Preservation System.

Today I have introduced legislation which will designate certain lands within 12 park system areas as legal wilderness. All of the proposed additions are in areas which have received favorable recommendations from the Department of the Interior. The bill does not entail any significant land acquisition costs; all of the proposals deal with existing park system areas. The inclusion of these areas in the Wilderness System will give further recognition to their unique natural qualities as well as offer the additional protection that wilderness designation will bring. In addition, there are lands in several of the proposals which will be classified as "potential wilderness." These areas will become part of the Wilderness System upon notification by the Secretary of the Interior that the existing nonconforming uses taking place on those areas have terminated.

Our hearings on this bill will permit full examination of the adequacy of each proposal. However, by including all 11 recommendations under a single omnibus bill, we expect to save time for both the committee and the House in considering this legislation. As the large number of my colleagues listed as cosponsors of this bill indicates, there is a high level of interest in the proposals. I believe this bill will give us the opportunity for thorough examination of each study area without burdening the House with an unnecessarily large number of closely related bills.

Mr. Speaker, I would like at this time to submit a tabular listing for the RECORD listing the specific areas and pertinent data regarding each proposal included in this bill:

Name of area	Total size (acres)	Proposed wilderness (acres)	Potential wilderness (acres)
Rocky Mountain Region:			
Black Canyon of the Gunnison, Colo	13,667	11,180	
Great Sand Dunes National Monument, Colo	36,740	32,930	670
Mesa Verde National Park, Colo	52,074	8,100	
Southwest Region:			
Bandelier National Monument, N. Mex	29,661	22,030	
Western Region:			
Chiricahua National Monument, Ariz	10,646	9,440	
Haleakala National Park, Hawaii	27,283	19,270	5,500
Joshua Tree National Monument, Calif	558,184	372,700	66,800
Kings Canyon, Sequoia National Parks, Calif	847,194	750,690	40,080
Pinnacles National Monument, Calif	14,498	7,313	320
Saguaro National Monument, Ariz	79,084	71,000	
Yosemite National Park, Calif	761,320	646,700	121

PHASEOUT OF WAGE AND PRICE CONTROLS

(Mr. DON H. CLAUSEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DON H. CLAUSEN. Mr. Speaker, I take this time in order to comment briefly on the earlier remarks of the gentleman from Texas (Mr. PATMAN), chairman of the House Banking and Currency Committee.

The time has come for wage and price controls to be phased out. It seems to me the reasons are obvious that controls have been ineffective and counterproductive.

First. Wage and price controls weaken a free market economy and inhibit the collective-bargaining process. They take economic decisions from the consumer and give them to Government. Consumers lose the ability to express their desires in the marketplace by the economic choices they make.

Second. Wage and price controls become more burdensome and unrealistic the longer they are in effect. Many marginal profit articles can be driven off the market causing hardship to those who can afford it least. And, since wage and price controls do not cure the real causes of inflation, they can never be a solution to the real problem which forces prices up.

Finally, wage and price controls not only do not provide incentives to end shortages, but generally they tend to create and perpetuate shortages as we have seen all too often in the past 2½ years.

Therefore, Mr. Speaker, the controls should be promptly ended on April 30 when they are scheduled to expire.

The basic law of supply and demand is still very relevant and should be adhered to as our guiding principle. Also, free collective bargaining and the free competitive enterprise system, working together have stood the test of time.

Controls have distored free market and collective bargaining, thus contributing to the confusion and uncertainty for our working men and women, Mr. and Mrs. Middle America, John Q. Taxpayer, as well as the poor.

In evaluating the effect and results of wages and price controls, I can only conclude that they have been a disaster and have not effectively contained or checked the inflation forces in our country's economy.

I do not believe the responsibility for inflation control should be in the hands of an executive agency. I believe that Congress should recapture control through the establishment of a budget and expenditure control ceiling that would bring the budget into balance between revenues and expenditures. This will more effectively eliminate the deficits which are the prime Government sector contributor to the inflation problem.

Whenever Government suggests that involvement or intervention in the economic marketplace is necessary they should be subject to congressional consideration, and specific statutory provisions, not administrative interpretation and/or determination.

Typical of Federal bureaus and agencies that have a tendency to feed on themselves to justify their existence, the establishment or continuance of a wage-price agency would tend to encourage price increases and discourage price decreases, thus again contributing to the inflationary spiral, minimizing efficiency and quality and disrupt our entire value system.

Controls are potentially dangerous. They have the effect of placing Government in the key position of economic decisionmaking and could lead us down the road to a centrally managed economy and a more dominant centralized Government.

I believe controls have been a significant factor in bringing about shortages. We can all remember what happened to beef. When they were being controlled there was no beef—when the controls came off, beef became available.

Perpetuating controls will contribute only to more shortages in agriculture, fiber, food, steel, paper, fuel and oil and other commodities and resources. There must be more incentives to invest and expand if we are to add to our needed supplies. With this increase will come jobs, payrolls, purchasing power, and increased wages for our working men and women. All of which add to the stabilization of our respective communities' economic and tax base.

Now ask yourself, is that not the American system? What is wrong with it? This country has advanced to a point in history where we are the envy of all nations—without economic controls—except in wartime.

Labor and capital have a much better understanding and grasp of the economic system than Government. Government's role is to create the proper environment and incentives that will permit free market and collective-bargaining systems to function and flourish.

It is not Government's role to constantly intervene, control, or impede those forces that provide the dynamics of our competitive free enterprise system.

It is, Mr. Speaker, for these reasons and more, that I strongly urge this Congress to let the wage-price control legislation expire on April 30.

GENERAL LEAVE

Mr. ARMSTRONG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the special order taken today by the gentleman from Alabama (Mr. Dickinson).

The SPEAKER pro tempore (Mr. Mazzoli). Is there objection to the request of the gentleman from Colorado?

There was no objection.

OUR VIETNAM PRISONERS OF WAR

The SPEAKER pro tempore (Mr. Mazzoli). Under a previous order of the House, the gentleman from Alabama (Mr. Dickinson) is recognized for 60 minutes.

Mr. DICKINSON. Mr. Speaker, today I had a very pleasant and rather heart-moving experience. I had lunch with some outstanding Americans, each of whom had been a prisoner of war of North Vietnam for many years.

Among those present were:

Comdr. Raymond Vohden, U.S. Navy, shot down on April 3, 1965, a prisoner of war for 8 years;

Col. W. D. Burroughs, U.S. Navy, shot down July 31, 1966, a prisoner of war for 6½ years;

Col. James E. Beam, U.S. Air Force, shot down in 1968, a prisoner of war for 6 years and 2 months;

Comdr. Ed H. Martin, shot down while flying an A-4, July 9, 1967, a prisoner of war almost 6 years;

Comdr. Robert B. Doremus, shot down flying a Navy Air Corps Phantom, a prisoner of war for 7½ years; and Army Lt. Col. Jim Thompson, who was held a prisoner the longest—9 years.

Col. Raymond Merritt, U.S. Air Force, a prisoner of war for 7½ years.

Col. James L. Lamar, U.S. Air Force, shot down May 6, 1966, a prisoner for 6 years and 9 months.

Mr. Speaker, the guests we had for lunch represented a total of almost 60 years of imprisonment as prisoners of the North Vietnamese and the Vietcong.

The reason why I take the well today is because of a matter of some urgency and I think great importance to this country and to us because there are certain facts that the American people ought to know.

To give you a little history, Mr. Speaker, a little over 4 years ago I took the well of this House, as I am doing today, to call the attention of the Congress and the country to an American tragedy. I refer to the plight of our POW's and MIA's in the Vietnamese war. At that time I was joined by over 150 of my colleagues. I believe this was the first time a major speech had been given in the Congress on this subject, and I had the cooperation for the first time of the Department of Defense and the administration. Others joined in after that, and the momentum began which resulted in better treatment of the American POW's.

Mr. Speaker, this special order today deals in part with our former POW's but is prompted by the antics and activities of one Jane Fonda.

According to press reports, Jane Fonda and her husband recently held anti-American seminars entitled "American Imperialism." Approximately 60 staffers from Capitol Hill attended them, and they lasted for 3 weeks.

I do not take this time to complain about her anti-American and pro-Communist statements and activities, but I want most vigorously and vociferously to complain about the official congressional office space used for that purpose and paid for by the taxpayers of this country.

Mr. Speaker, it was Jane Fonda who said on a North Vietnamese radio on July 21, 1972, after visiting Phnom Penh:

> What are your commanders telling you? How are they justifying this to you? Have you any idea what your bombs are doing when you pull the levers and push the buttons?

We were told at the luncheon about some firsthand experiences wherein they were assaulted repeatedly by radio broadcasts by Jane Fonda when she addressed the North Vietnamese saying that she was coming to them as their "comrade" and calling on the American servicemen not to obey their commanders and not to load the airplanes but, rather, to desert and defect and disobey their superiors.

It was Jane Fonda or others of her ilk who, according to statements of many of our former POW's, caused many of them to be tortured, to force them to meet with visitors and dignitaries from the United States and to make the statements that the North Vietnamese wanted them to hear. If they did not respond with that meeting, they were tortured after the visitors left.

And these statements from Miss Fonda actually gave encouragement to the North Vietnamese to continue the war. They actually helped to prolong the war rather than shorten it, thereby causing additional deaths on both sides.

Mr. Speaker, I have been asked by the press why I would take the time to sponsor this discussion today. I can think of at least three reasons why and probably many more.

First of all, Congress is held in low enough esteem at best, and when my constituents, and I am sure the American public, read that Jane Fonda is operating out of an office in the Capitol they get the impression that we, in Congress, condone her acts and it gives her a respectability that she does not deserve. We must make it amply clear that the Congress and an overwhelming majority of the Members disapprove of her and her anti-American activities.

Second, we in Congress, in the leadership, must set some reasonable standards as to whom or what organizations may legally use congressional office space, telephones, and eat in our public facilities, and so forth, which are all paid for and furnished by those who love this country.

Third and to the point, we want to point out the hypocrisy and the double standards of the leftwing media. Who of our so-called opinion molders have you heard raise their voices in opposition to such action and even raise an eyebrow? It is freedom of speech we are told. Is it indeed? What do you think the reaction of those same great "civil libertarians" would have been if the same space had been loaned to the Ku Klux Klan, for instance?

Would it be freedom of speech then? What would the reaction have been if, say, the Palestinian Liberation Front were given the use of the same space? Do you think there would not have been an uproar raised in the national press and over the TV networks that would not have even subsided today?

Mr. Speaker, in talking to these young men—and they are relatively young men—who have endured so much and who have suffered so much for their country, they tell you almost without exception that the thing that hurt them the most, that caused them the most grief, the thing that was most harmful to them of all that they endured was Jane Fonda, and those like her who visited North Vietnam making anti-American statements, plus the quotes of elected American officials making anti-American statements. It is reprehensible and it is deplorable.

I have in my possession an excellent study prepared by U.S. Navy Comdr. Raymond A. Vohden, the fourth longest held POW, which deals in depth with the amounts of stress and different stress factors encountered by the POW's while they were incarcerated. Commander Vohden made a study and surveyed almost 400 former POW's in compiling this paper. Throughout the paper one particular situation keeps appearing in the top 10 reasons for stress—U.S. citizens visiting Vietnam.

And, U.S. citizens visiting Vietnam is always No. 1 in the propaganda department no matter which group of POW's is surveyed. Commander Vohden puts it this way,

> In the general area categorized as propaganda the three factors that produced the greatest amount of stress were unfortunately those that had a connotation of betrayal by one's own countrymen. North Vietnamese propaganda efforts that attempted to sell communism, their way of life, or sympathy to their cause, produced very little stress.

The following tables point out just how great an impact visits by those who called themselves Americans had on the morale and mental and physical wellbeing of American POW's:

PROPAGANDA FACTORS ARE LISTED IN DESCENDING ORDER OF STRESS PRODUCED

(NOTE.—Stress figures run from 1 (no stress) to 6 (intense stress).)

Table 7-A—(All prisoners captured 1964–1973)

1. U.S. Citizens Visiting Vietnam	3.500
2. Early Release of Prisoners	3.348
3. Hearing Reports of U.S. Citizens Opposing the War	2.897
4. Quizzes (interrogations) Propaganda in Nature	2.871
5. Watching Movies of Anti-War Demonstrations in U.S	2.571
6. Listening to the Voice of Vietnam on Camp Radio	2.000
7. Watching Vietnamese Propaganda Movies in General	1.578
8. Reading Communist Literature	1.478

Table 7-B—All prisoners captured 1971–1973

1. U.S. Citizens Visiting Vietnam	3.017
2. Quizzes (interrogations) Propaganda in Nature	2.359
3. Hearing Reports of U.S. Citizens Opposing the War	2.194
4. Early Release of Prisoners	2.102
5. Listening to Voice of Vietnam on Camp Radio	1.776
6. Watching Movies of Anti-War Demonstrations in U.S	1.725
7. Watching Vietnamese Propaganda Movies in General	1.344
8. Reading Communist Literature	1.238

Table 7-C—All prisoners captured 1964–1968

1. U.S. Citizens Visiting Vietnam	3.618
2. Early Release of Prisoners	3.612
3. Hearing Reports of U.S. Citizens Opposing the War	3.098
4. Quizzes (Interrogations) Propaganda in Nature	3.012
5. Watching Movies of Anti-War Demonstrations in the U.S	2.718
6. Listening to the Voice of Vietnam on Camp Radio	2.067
7. Watching Vietnamese Propaganda Movies in General	1.641
8. Reading Communist Literature	1.548

Table 7-D—Prisoners captured 64–68, age 38+

1. U.S. Citizens Visiting Vietnam	3.583
2. Early Release of Prisoners	3.527
3. Hearing Reports of U.S. Citizens Opposing War	3.371
4. Quizzes (Interrogations) Propaganda in Nature	3.012
5. Watching Movies of Anti-War Demonstrations in the U.S	2.900
6. Listening to the Voice of Vietnam on Camp Radio	1.860
7. Watching Vietnamese Propaganda Movies in General	1.620
8. Reading Communist Literature	1.535

Table 7-E—Prisoners captured 64–68, age 29–37

1. U.S. Citizens Visiting Vietnam	3.680
2. Early Release of Prisoners	3.670
3. Hearing Reports of U.S. Citizens Opposing War	3.152
4. Quizzes (Interrogations) Propaganda in Nature	2.950
5. Watching Movies of Anti-War Demonstrations in U.S	2.760
6. Watching Vietnamese Propaganda Movies in General	2.152
7. Listening to the Voice of Vietnam on Camp Radio	1.910
8. Reading Communist Literature	1.523

Table 7-F—Prisoners captured 64–68, age 20–28

1. U.S. Citizens Visiting Vietnam	3.400
2. Early Release of Prisoners	3.400
3. Quizzes (Interrogations) Propaganda in Nature	2.900
4. Hearing Reports of U.S. Citizens Opposing the War	2.870
5. Watching Movies of Anti-War Demonstrations in U.S	2.451
6. Listening to the Voice of Vietnam on Camp Radio	2.100
7. Watching Vietnamese propaganda Movies in General	1.615
8. Reading Communist Literature	1.570

Commander Vohden gives this evaluation of the survey:

> In conversations with many prisoners, the controversial nature of the war was generally acknowledged (though not agreed with) but reports of U.S. citizens opposing the war were never enjoyed because it was the opinion of many prisoners that Vietnamese hopes for a military victory were never very high as compared to their hopes for the development of a large anit-war movement in the U.S. that would pressure the U.S. government into withdrawal from Vietnam, similar to that which occurred in France in 1954. It was generally believed that anti-war activities on the part of U.S. citizens would only delay our release.

Commander Vohden continued,

> When a man has been subjected to torture, months of solitary confinement, degradation and humiliation at the hands of his captors and then hears that a citizen from his own country is being 'wined and dined' by the very men responsible for his treatment, and when he is aware that his fellow prisoners are being forced by torture to meet with and tell them lies about our treatment, can there be any question why U.S. citizens visiting North Vietnam was the highest stress producing situation in this category (propaganda).

Commander Vohden also noted that:

> Propaganda efforts ranging from lengthy radio programs and personal indoctrination by enemy officers to visits in Communist Vietnam by well known U.S. citizens sympathetic to the enemies cause created conditions for the prisoners that have not been experienced by an American fighting man heretofore.
>
> In many ways the above mentioned stresses were not completely unlike the stresses experienced by prisoners in Korea. However, when the length of imprisonment and the controversial nature of the war are considered, many of the stress situations take on a new dimension.

I also have the results of another survey conducted by Col. William Merritt, also a former POW. Colonel Merritt's survey of 175 former POW's indicates that Americans visiting in North Vietnam had a "major negative effect" on morale and well-being.

Of 171 men responding to the question, 50.29 percent said that Americans visiting in North Vietnam had a major negative effect on their morale. On another question, 83.1 percent said that propaganda from U.S. sources was demoralizing.

I also have a letter from Com. Robert B. Doremus, also a former POW, in which he asserts,

> It's really amazing that someone can travel to the capital of the enemy's camp with impunity and can now conduct seminars in our public buildings with ease and facility. If there's something that can be done about that frustrating state of affairs—I'm all for it.

That is why I asked for this special order, to do something about that "frustrating state of affairs." I think the best thing that can be done is to make the public and the Congress aware of what Fonda and others did, what they are doing, who has suffered from their efforts, and who is paying the bill for their current escapade.

An eight-man factfinding team, which included Congressman PHIL CRANE, went to South Vietnam in January of this year. Their "Vietnam Report: 'Not in Vain'" disproves Fonda and company's charges of hundreds of thousands of political prisoners and also points out that "South Vietnam today stands on the threshold of viability, of being able to 'go it alone.'" This report also discusses the latest actions of Fonda and her cohorts. Since Congressman CRANE will be submitting this report during the special order, I will not try to steal his thunder, but I would like to make my colleagues aware that a report does exist which makes liars out of Fonda and her accomplice.

I might be able to tolerate snakes but that does not mean I have to clasp an asp to my breast.

I would just as soon have a bust of Benedict Arnold in Statuary Hall as to have Jane Fonda teaching anti-Americanism in the complex of the U.S. Capitol.

It is an insult to the memory of over 300,000 Americans who fought for their country in Vietnam and especially the 50,000 U.S. servicemen who will never come home—except in a box.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I will be glad to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman from Alabama for yielding to me, and I appreciate my colleague's bringing this matter to our attention. It has received some comment in the news media; but I am sure, not enough. On the basis of the facts that we have now heard firsthand from our prisoners of war I do not believe there is any doubt about the kind of help and aid that the enemy received as a result of some of the spokesmen in this country such as Jane Fonda, and even Senators from the other body. They encouraged people to believe that the North Vietnamese were nothing more than just a civil group of people on a revolutionary bent, and that they were in no way controlled by either the Red Chinese or the Russians. Much of the propaganda that was promoted by Jane Fonda and some of our colleagues in the Senate actually caused these prisoners of war to be kept longer in some cases, and to be pressured into trying to make statements on behalf of the North Vietnamese Communists. These men suffered a more harrowing experience because of encouragement from this country. And that is too bad, and it is wrong.

But I think, as my colleague, the gentleman from Alabama has brought out here today, it becomes more unfortunate when the facilities of the House of Representatives are used for a "school" to continue a propaganda effort. I think this is a double standard. I believe, as the gentleman from Alabama has pointed out, that there would have been no question if it had been the Nazi Party or some other well-known tyrannical group.

We should not allow supporters of communism to use the facilities of the U.S. Congress as a forum for the dissemination of their propaganda.

Additionally, I believe that it is unfortunate that the daughter of a well-known actor and movie star who has benefited very greatly from freedom in this country—a daughter who in her own right is considered a good actress—should attempt to overemphasize the so-called assets of Communist dictatorship in North Vietnam and at the same time downgrade and demean the prisoners of war from our country by asking that they desert or not obey their commanding officers.

It is wrong for Members of our House of Representatives to make it possible for this kind of spokesman to utilize our facilities in the House to continue to promote their theme especially when the Leader of the House himself has stated that he thinks it was incorrect and unwise use of facilities.

It is also my understanding that the facilities were lent to those who asked for them without an awareness as to exactly how they would be used. So there was even a form of deceit exhibited when the facilities were requested because it was not really understood for what purpose they were to be used.

Mr. DICKINSON. If the gentleman will permit me to interject at that point, I think that one additional thing should be brought out, and that is that they should not have been given to these people without full knowledge of their purpose.

Mr. ROUSSELOT. I am not talking about the Committee on the Judiciary, who had the basic responsibility for the space that was used. The chairman of that committee assures us that he was not aware how the facilities would be used, and I have to believe that the gentleman is giving us his understanding of the story.

But my point is that I think, as the gentleman from Alabama has made so clear, that for these facilities in this this forum to be used without the full understanding of the Committee on the Judiciary as to how they were to be used, is, in fact not a denial of freedom of speech, as the gentleman has indicated, but it is a denial of the right of taxpaying citizens to rest assured that Federal facilities will not be used to conduct subversive activities.

Secondly, even more tragic, when we now have so many of these men back who went through and suffered these tremendous indignities under a tyranny, is that we are allowing our facilities to again be used to propagandize and so-call train other people to think the way the North Vietnamese do.

I thank the gentleman for his willingness to provide this time.

Mr. DICKINSON. Mr. Speaker, I yield now to the gentleman from Indiana.

Mr. ZION. I thank the gentleman for yielding.

Mr. Speaker, I wish to associate myself with the sentiments expressed by my distinguished colleagues and add my own outrage at the reception accorded Jane Fonda and others of her ilk by some Members of Congress. I do not question the right of any American to lobby in behalf of a cause, but I believe that we, as representatives of the people, should know the truth about the people who are doing the lobbying.

In this case, we have been subjected to the oratory of a woman who is, according to her own statements, a believer in communism and an unregenerate partisan of the North Vietnamese Communist cause. Fonda and her claque of followers were advocating an enemy victory in Vietnam, while Americans—real Americans, not bogus "Americans" like Jane Fonda—were fighting and dying to help defend South Vietnam from Communist aggression. While the American fighting man was honoring our commitments to our allies in Southeast Asia, Jane Fonda, Ramsey Clark, and others, including some elected Representatives in Congress, were dishonoring our country by giving an incalculable morale boost to the Communist enemy.

Fonda even went so far as to have herself photographed sitting on a Communist antiaircraft gun as if she were shooting down an American plane. And she was proud of it.

Of course, Fonda does not profess pacifism. The current issue of Playboy magazine has an interview with Fonda and her husband, Tom Hayden, during which Fonda stated clearly that she is not a pacifist and that she fully supports the Communist resort to arms in Vietnam against American forces.

I cannot help but wonder what would have been the reaction of some of our colleagues who are now treating Jane Fonda with such deference had she been photographed sitting on a Nazi anticraft weapon during World War II. But, of course, we were fighting Nazis and Fascists then; it is an entirely different matter when the totalitarianism you are fighting is Communist. People like Jane Fonda harp ceaselessly on how the American people have been dulled by propaganda. If true, it is not the sort of propaganda she is talking about.

Jane Fonda's partisanship for the Communist cause in Southeast Asia, is demonstrated at pages 7581 to 7602 of the September 1972 hearings on "Restraints on Travel to Hostile Areas" held by the House Committee on Internal Security, on which I am proud to serve as a member. These pages contain excellent analyses of Jane Fonda's radio broadcasts for the North Vietnamese from the psychological warfare standpoint. These analyses leave no doubt that Jane Fonda was trying to bring about mass mutiny within the American military forces in Vietnam. Her broadcasts were full of outright Communist propaganda, coupled with obvious appeals for American soldiers to disobey their officers; the texts of these broadcasts are contained in the hearings.

Former American POW's who had undergone the horrors of captivity in Vietnamese Communist prisoner of war camps testified before our committee in 1973 that they had been tortured by the Communists to "play ball" and perform as ordered for visiting delegations of alleged Americans, and their descriptions of the means employed by the Communists are a vivid witness to the savagery of communism in practice, a savagery that seems to have offended the likes of Jane Fonda not at all.

I asked a former POW whether "the Communists issued specific invitations" to those Americans "that would have a more adverse effect on American morale and would have a better effect on Communist morale?" The witnesses indicated general agreement with this proposition, whereupon I proceeded to ask about Ramsey Clark, a former Attorney General of the United States.

Commander Edwin Shuman perhaps summed it up best in his statement that:

> Probably * * * his (Clark's) visit gave them more ammunition than anybody else, because he was so important.

Clark had participated in an International Commission of Inquiry into U.S. Crimes in Indochina that had traveled to North Vietnam in July 1972, according to an official document of the Stockholm Conference on Vietnam an international Communist "Peace" front, that was placed in the hearing record. During his testimony, however, Clark denied this, which seems somewhat disingenuous when one is confronted with the primary documentary evidence. My fellow committee member, Mr. BURKE of Florida, was even moved to castigate the former Attorney General for allowing himself and his prestige to be used by Communist propagandists, which is an assessment I heartily share.

A good example of Clark's disingenuousness was provided when I asked him about a picture of him standing beside a 2,000-pound bomb some 200 yards from a North Vietnamese hospital. This was an obvious propaganda ploy by the Communists to make it look at though Americans had dropped this bomb on a defenseless hospital. When I asked Clark whether such a huge bomb could have fallen on the ground without penetrating it, he replied:

> I have no reason to believe that would be very likely nor did I have any reason to believe that the bomb was laying where it fell.

And yet this picture was widely circulated and was of obvious propaganda value to the Communists.

Mr. Speaker, we must inform ourselves as to the nature of those who lobby for an end to American aid to South Vietnam. The record clearly shows that many of these people are at best ill-informed, like Ramsey Clark, and at worst conscious propagandists for the Communist cause, like Jane Fonda.

Mr. DICKINSON. I thank the gentleman from Indiana (Mr. Zion) for his very comprehensive statement.

Mr. SIKES. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Florida.

Mr. SIKES. Mr. Speaker, I commend my distinguished friend, the gentleman from Alabama, for the statements he has made today and for his action in scheduling this special order.

The good people that I represent were appalled by the spectacle of Jane Fonda and her group of anti-American radicals using a committee room of the Congress to conduct a so-called seminar against American imperialism. Such use of any of the facilities of the Nation's Capitol is an affront to all Americans and an insult to the hallowed and historic halls of the Capitol of the United States. In particular, it is an affront to the men and women in uniform in Southeast Asia; to those who were held prisoners by the Communists, and to those who are still missing in action in Vietnam.

This woman consorted with the enemy in time of war. Possibly this made it more difficult for our Nation to obtain peace in the Far East and made life harder for those who were prisoners. What she did encouraged the Communists to continue their aggression. Undoubtedly this delayed the release and return of those who were prisoners of war and it may have delayed an accounting of those who are still missing in action. What Jane Fonda did was traitorous. There was a time in this country when we knew better how to deal with the traitors than we seem to know today.

I am sure the Members of the House recall with considerable concern the fact that it was more than a year after the end of hostilities when the Communists returned the bodies of 23 American dead, men who died while they were prisoners, but whose bodies were held all of these months while anxious families and their countrymen wondered when, if ever, they would be returned.

We do not know that there are not MIA's alive today in Communist hands that they have not bothered to tell us about. We do know that they have denied access to much of the territory where MIA's disappeared. The Communist rulers, cold, callous, and inhuman, are the type of people whose wares Jane Fonda would peddle to the American people.

Mr. DICKINSON. In fact, they have shot down investigatory teams, as I recall.

Mr. SIKES. That is correct. This is a situation which is shocking to the American people. That any American would see fit to deal with an enemy of our country and act in a traitorous way in doing so is serious indictment; but that these people would be allowed to use the Capitol, the center of the Nation, the heart of the Nation, to carry on their activities against our own country is almost beyond comprehension. In whatever way it was allowed to happen, there should be steps taken to insure that it never happen again.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for his very deliberate statement and a very comprehensive statement.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. Mr. Speaker, I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, I commend the gentleman from Alabama for scheduling this special order, and I wish to add my remarks to the concern and indignation which has been expressed over the giving, the making available, rooms in this Capitol for the use of Jane Fonda.

Mr. Speaker, I hope that this special order may lead to the establishment of procedures that will prevent such an event occurring again. I would say to the gentleman from Alabama that the House Committee on Internal Security made an analysis of the broadcast of Jane Fonda in its hearings concerning illegal travel to North Vietnam during the time that we were engaged in the war in North Vietnam.

What Jane Fonda did during the time of our engagement in Vietnam; what she said in her radio broadcasts in Vietnam, were lost in the great unpopularity of the war, of our participation in the war in Vietnam. Now that we are disengaged, I think this is an appropriate time to focus public attention upon what Jane Fonda did and said.

In these broadcasts that she made in Hanoi, the thrust of her statements gave every appearance of being designed to cause American troops to disobey orders and to desert. She definitely added to the suffering of American POW's. Her statements were very cleverly worded, but a study of the tapes has led me to believe that she not only had the counsel and advice of North Vietnamese propaganda experts, she in all probability was operating under the instructions of North Vietnamese propaganda experts.

Again, Mr. Speaker, I commend the gentleman from Alabama for scheduling this special order.

Mr. DICKINSON. Mr. Speaker, I thank the distinguished chairman of the Internal Security Committee for his comments.

Mr. HUNT. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. Mr. Speaker, I yield to the gentleman from New Jersey.

Mr. HUNT. Mr. Speaker, I thank my colleague from Alabama for yielding to me. I am sincere when I say that to bring this matter to the floor today, he is doing this country a service. The matters concerning Jane Fonda's nefarious operations have too long been buried back on page so-and-so with the obituaries, where it has not been official to us.

Mr. Speaker, I took the liberty during the time when Jane Fonda was here to try to check a litle bit about her activities and where she was living and what was going on. The closest I could find out about that was an article that appeared in one of our pieces of local news media written by a sob sister deploring the fact that Miss Fonda had to take up quarters in a seamy rooming house near the Capitol in Washington, D.C.

Mr. Speaker, I sent a letter to the person who wrote the article and simply said, in effect:

> Insofar as your article is concerned, concerning the habitat of Miss Fonda in Washington, be advised that water seeks its own level.

I checked around a little bit further, and I tried to find out who gave permission for Miss Fonda to use this room. It was a sort of explanation that "I didn't do it, John, but maybe someone else did."

I spoke to my colleague, Mr. Diggs, the gentleman from out in Detroit, Mich. He said he did not know who gave permission to use this room.

Mr. DICKINSON. Mr. Speaker, which room is the gentleman talking about now? Is this a room of the Committee on the District of Columbia?

Mr. HUNT. Yes, a room of the Committee on the District of Columbia.

I checked around a little bit further, and finally I wrote a letter to the Speaker of the House, the Honorable Carl Albert, asking him who gave the permission. I have his answer here, and I will read it as follows:

> Washington, D.C.,
> *March 14, 1974.*
>
> Hon. John E. Hunt,
> *U.S. House of Representatives,*
> *Washington, D.C.*
>
> Dear Representative Hunt: Thank you for your letter expressing your concern over the meetings which Jane Fonda and Tom Hayden held with Congressional employees in a committee room of the House of Representatives. Space under my control, either in the Capitol or in the House Office Buildings, is never assigned by me for such purposes. I have had the matter investigated and find that no space under the jurisdiction of the Speaker was used by these people. The rooms of Members of Congress are under the control of the individual Members and Committee rooms are under the control of Committees and their Chairmen.
>
> I certainly did not authorize or have anything to do with or any knowledge of the use of any space in the House Office Buildings for the purposes and persons about whom you have complained.

I appreciated hearing from you about this matter.

Sincerely,

CARL ALBERT,
The Speaker.

So I will say to the gentleman from Alabama that I believe the Speaker. However, somewhere along the line someone is not telling us who assigned those rooms.

I think it behooves every Member of this body to find out as we go along who assigned the rooms or the room to Jane Fonda so that she might continue her poisonous utterances, not just to those people by radio overseas, but to employees of the U.S. Government who are working for Members of the House of Representatives and the Senate.

These things, Mr. Speaker, in my mind, are truly un-American. The activities of Jane Fonda during the Vietnam conflict gave me some very severe qualms. I have had the shingles for 150 days, but I had worse pains than that by just gazing upon the countenance of Jane Fonda and reading about some of the things she was doing.

The picture of Jane Fonda perched on an antiaircraft gun alongside a dike nauseated me. In fact, everything she does nauseates me.

I cannot imagine anybody bringing her to this House of Representatives for the purpose of trying to brainwash people in un-American attitudes. It is about time that we found out just exactly who assigned those rooms and have them explain to us why they did so.

Mr. Speaker, I want to commend the gentleman from Alabama (Mr. DICKINSON) once more for bringing this matter to the floor and giving us an opportunity to speak out. I am sorry that I could not be with the gentleman earlier today, because I have a very fine gentleman from my district, Col. John Dramesi, who was a prisoner of war for a number of years. He was the gentleman who made the American flag and presented it to our President. A finer man never lived, a more dedicated man never lived.

If we really want to find out what somebody thinks about Jane Fonda, we can just ask what Colonel Dramesi thinks of Jane Fonda. He will tell us, and he will tell us in no uncertain terms.

Mr. Speaker, I thank the gentleman for the opportunity of speaking.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for his remarks.

As to who did what, I think, as a result of this special order today, we might find out something.

I understand there was one newspaper reporter who had a microphone installed, and he had a press conference. He seemed very knowledgeable about the number of people who attended seminars, and so forth, and he made the statement that it was the gentleman from California (Mr. DELLUMS) who made the room available to her. I have no way of knowing that to this point.

Mr. Speaker, I am very pleased to yield now to the very distinguished gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

I want to add my compliments to those the gentleman has already received for the leadership he has exerted in bringing this matter before the Congress today and earlier in the day for the luncheon program that he had with Members of Congress and some of those great Americans who have been returned to us as former prisoners of war.

I know the gentleman would very much like to have noted, if the rules did not prohibit, the fact that these men are in the gallery today observing this special order. Obviously, since the rules do not permit, he was not able to mention their presence.

Mr. Speaker, during the luncheon discussion we held, Mr. DICKINSON will recall that one of the questions asked of our distinguished guests when they told of the very difficult times they had because of visits to Hanoi from delegations from the United States and other countries. The question was raised, "Do you have any documentation?" Well, as far as I am concerned, the best documentations are the words from the mouths of those men who spent so many years in Communist prison camps.

I pointed out, as you will recall—and I would like to call the attention of the Members to this—that there is more documentation. The Foreign Broadcast Information Service, on a daily basis, presented, to those who wanted to read it, copies of transcripts of radio broadcasts that took place in all of Southeast Asia during this very difficult period. Time after time not only the person we are talking about here today but others spoke out against the United States.

The only regret I have about this special order is that that person has been given so many references in the CONGRESSIONAL RECORD today.

But she is not the only one that we are speaking about. Some of our own colleagues in the U.S. Congress have been quoted and used by the propaganda machines of the North Vietnamese from time to time.

On numerous occasions in recent years I have called instances to the attention of the House and read quotations from some of these transcripts. I show you today a few of the many transcripts that are available to us. Let me read just one of the many statements available to us just to give you an idea. This is one of the many radio broadcasts of the lady in question today.

> I am Jane Fonda speaking to you in Hanoi. I have had the honor of visiting your country. I strongly condemn the crimes that the United States Government representing the American people is committing in Vietnam.

In the same broadcast she says:

> We also support the Vietnamese people's struggle. We understand you and we have a common enemy, U.S. imperialism.

She says further in the same broadcast:

> The United States society is not an answer to those who seek happiness.

I could read for the next several hours, Mr. Speaker, from these transcripts of statements made by this particular person, and others like her, that were used in the brainwashing attempts and the attemps to demoralize Americans held in captivity by the Communists, but I will not take up the time of the House to do that. When considering whether or not this person has a right to use a facility provided by the people of the United States of America, I suggest that we review very closely some of the things she has said and some of the things she did which were used very, very dramatically in an attempt to undermine and destroy the ability of these young Americans, who were held in captivity by the Communists, to survive their long and tortuous imprisonment.

Again I compliment the gentleman from Alabama for the leadership he has shown in this regard and hope that at least, if we can only call the attention of the American people to this abuse of public facilities, we might also call the attention of some of those in Congress who might have authority to act in future designations of public facilities rooms for similar purposes.

Mr. DICKINSON. If I may interject there, not only who have authority but who will make sure that it is not abused so that there will be some oversight of this so that people will not have House space made available to them for the purpose of abusing our Government or misrepresenting it.

Let me now yield to the gentleman from Florida (Mr. BAFALIS).

Mr. BAFALIS. Mr. Speaker, I rise to speak today for one reason and one reason only—to make it clear that I am adamant in my opposition to allowing Jane Fonda and Tom Hayden the use of congressional facilities to spread their anti-American propaganda.

I was appalled when I first learned of the decision to allow the Haydens use of a congressional hearing room. But my dismay was nothing compared to that of people I represent.

And yet my anger and the anger of my constituents pales when compared with that shown—and rightly so—by the men most affected by Miss Fonda and others of her ilk.

Mr. Speaker, I have just participated in a meeting attended by eight former POW's—men whose total time in bamboo prisons approximates 60 years.

And they are angry—angry that the actress who did so much to prolong their suffering should be allowed the use of facilities of the U.S. Congress. As one of the POW's—Army Lt. Col. James Thompson, who spent nearly 9 years in a bamboo prison—put it:

> She and the others like here were traitors and I see no reason why they shouldn't be hung for it.

Drastic punishment? Not really. The statements Miss Fonda and others issued so willingly to condemn our involvement in Southeast Asia were the tools the Communists used to pry so-called confessions from the POW's. And when the lies spread by Miss Fonda wouldn't break their spirit, they turned to torture.

Now Miss Fonda denies that American POW's were ever tortured. As a matter of fact, she called the POW's liars when they returned home with tales of the horrible deprivation they had suffered.

Well, we still haven't heard the real horror. Some of the tortures these men were made to suffer are so grim that even now, after a year of freedom, they cannot bring themselves to speak of them.

So, Colonel Thompson has every justification for calling Miss Fonda a traitor. If she can call the Vietcong "the conscience of the world" and proclaim they are "driven by the same spirit that drove Washington and Jefferson," then Colonel Thompson can call her a traitor.

Now, I know there will be some—both here in Congress and in the press—who will condemn us for our opposition to allowing Miss Fonda the use of congressional hearing rooms.

Yet, at the very meeting where the POW's blasted Miss Fonda earlier this afternoon, a group called the Indochina Peace Campaign peacefully passed out leaflets condemning the entire Vietnam war effort. Now, to me, that shows definitely that none of us are attempting to block anyone's right to free speech.

What I do object to—and object to vehemently—is any action which implies Miss Fonda's anti-American garbage is being spread with the sanction of the Congress.

That is the impression left by allowing her use of a congressional hearing room. And that is what I object to.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman from Florida.

Mr. DICKINSON. Mr. Speaker, I have inadvertently, as is so often the case, been guilty of omitting from the list of the prisoners of war I gave at the beginning of my remarks, that of the name of Army Lt. Col. James Thompson, who spent many long years as a prisoner of war, and I apologize for that oversight, but I am sure the completed record will reflect his presence.

Mr. Speaker, I now yield to the gentleman from Virginia (Mr. PARRIS).

Mr. PARRIS. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Alabama (Mr. DICKINSON) and those of the other speakers who have preceded me. It is my understanding that the lady that we have been discussing here today recently completed a movie that dealt with some of the more commercial and seamier aspects of some of the personal activities that are carried on in our American society by a few of our citizens, but never did any of us believe that she could "prostitute" the seat of government in the same way. I certainly believe her activities are highly questionable and inappropriate, and cannot be condoned by patriotic Americans, particularly when they are conducted in the Halls of Congress and at the expense of and in facilities supported by the taxpayers of this Nation.

We do not have to stretch our imagi-

If the Members might excuse a somewhat personal reference just for a moment, let me suggest that I also enjoyed the opportunity to chat very briefly with some of the gentlemen, our former POW's, who were in attendance today at the luncheon that was arranged by the gentleman from Alabama (Mr. DICKINSON).

Because of the nature of the Vietnam situation, many of these gentlemen were pilots. They found themselves as a result of that activity and those duties in the hands of the enemy.

I found somewhat to my surprise, very frankly, that several of these gentlemen were stationed at the same place and at the same time during the Korean conflict that I was and that we were flying the same equipment and in more than one instance, a part of the same outfit.

Although I sometimes feel like I am considerably older than these gentlemen, many of them were my contemporaries. On May 12, 1952, I was shot down in the Korean situation. I had the good fortune to crash into what was then an existing truce zone. I missed being a POW in the Korean war by just a couple of miles. For those of us who have been ordered into armed combat in defense of our country, if I might be so presumptuous as to speak for these gentlemen as well as for myself, that we suffered from many individual fears, one of which was certainly the fear for personal safety.

If anyone shows me a man who says that he is not concerned when he is being shot at, I will show him a liar or a damned fool, or both.

Of equal concern, however, Mr. Speaker, is the concern of ending up as a prisoner of war. I can say that certainly from personal reference, and I believe it is true of every other honest individual that I have talked to in those kinds of circumstances, the treatment that one knows is coming, that is inevitable as a criminal, even if a military criminal, is probably one of the deepest fears of all. These gentlemen certainly have suffered indescribable hardships and indignities, to which the gentlemen from California has previously referred. But I suggest, Mr. Speaker, that the former POW's who are here today, and other gentlemen in similar categories, are some of the finest examples of American manhood that we have in this Nation today.

I know that I speak for the rest of my congressional colleagues when I suggest that we salute their courage, we are very grateful for their belief and their dedication to the history, the heritage, and the principles of this Nation which they defended with such honor. We are delighted that they have been returned home and that they are safe, and we are extremely proud of them.

I thank the gentleman for yielding time.

Mr. DICKINSON. I thank the gentleman for his very gracious statement.

I now yield to the gentleman from California (Mr. DEL CLAWSON).

Mr. DEL CLAWSON. Mr. Speaker, I thank the gentleman for yielding.

This has been a service to the House and to the Nation on behalf of all of us who are speaking under this special order. The little editorial comment that has been in the district that I represent in California has evoked mail and certainly some rather adamant and vehement feelings on the part of people who have written to me suggesting that their consciences certainly have been disturbed as a result of the use of the facilities here. It was with disbelief that they wrote to us.

I find the same problem in writing to them and answering the mail that this was allowed to happen here in the seat of government of our country.

Mr. Speaker, it is not surprising that so little credence has been awarded by the American public to a small misguided army which is apparently still determined to wage running warfare on the United States—its theater of war appropriately the "theater of the absurd."

We can only speculate regarding the mental processes which finally produce a turn of mind which places every misdeed in a protracted conflict at the doorstep of the United States while simultaneously adopting what can only be termed "tunnel vision" with relation to aggressive acts of other combatants. How is it possible to exude sympathy for some prisoners while exempting our own men mouldering in captivity from those tender sentiments? We can only guess. Inability to follow this tortured reasoning may explain the lack of a ready audience for the deluded Americans who have aptly been described as the North Vietnam lobby. Nevertheless, it is surprising that such bizarre illogic should have commanded any audience at all on Capitol Hill, no matter how small the turnout in relation to the work force. Surprising too that there was so little recognition of the absurdity of the Government contribution to the farce—provision of the actual office space for frontal attacks on the governmental structure. No matter how puerile the attack this is a policy which makes no sense at all.

Obviously the American people were able to identify the twisted nature of the thinking underlying the attacks on U.S. maneuvers in defense of our own and allied forces. But how does a U.S. serviceman incarcerated for interminable years in a jungle prison under the cruelest physical, mental, and emotional hardships, under strain which can only be imagined, never fully, by those who have not experienced it—how does he react when he hears an American voice quoting the enemy propaganda line? And how did U.S. service personnel performing their duty under conditions of battle both confusing and arduous, react to broadcasts from enemy territory beamed at them in their jungle stations by Americans whose zeal in behalf of an enemy cause can have few parallels in our history?

nations very far. In fact, we have the testimony of the men themselves that the broadcasts lowered their morale, increased their deprivation and mistreatment and buoyed the confidence of the enemy. We have actual stories of the physical humiliation, the inhuman torture visited upon the prisoners before the publicized meetings with the American apologists for North Vietnam. The stories are graphic. They should not be forgotten.

I would hope that the comments of my colleagues in this Chamber today will serve to reassure the people at home that the balance of sanity has been restored in this ideological extension of a blessedly concluded war. I would hope, too, that there will be no repetition of the error of permitting the grievous misuse of Government facilities to which we have called attention.

Mr. DICKINSON. I now yield to the gentleman from California (Mr. Burgener).

Mr. BURGENER. I thank the gentleman for yielding.

Mr. Speaker, I want to associate myself with the remarks of the gentleman in the well. I want to commend him for his leadership in bringing this special order to the floor and for pinpointing this outrage to the American people.

Today I had the opportunity to lunch with a number of our returned prisoners of war who briefed me any my colleagues on the effect of Jane Fonda's antiwar activities on their treatment while in captivity. It was a moving experience, Mr. Speaker, and one that prompts me to stop and ponder the role of dissent in our society and the limits that can reasonably be applied to its exercise.

The activities of the past are still fresh in our minds as we are confronted with a new event that has stirred the concerns of many of my constituents and, I am sure, the concerns of many of the constituents of most of my colleagues. The apparent sanction of the House of Representatives for a course in "American imperialism" taught by Miss Fonda and Mr. Hayden for employees of this Congress is more than I can accept.

I know that no sanction was granted officially by this House but the use of the facilities of this body has given that impression to thousands of Americans. They are upset at the apparent sanction and at the use of their tax moneys to support such an activity—as well they should be.

I do not speak today of any American's right to express his or her dissent in a hired hall, on a street corner or on private property. But I am appalled, Mr. Speaker, at the use of facilities supported by the taxes levied on the American public for such an event.

The time has come, and this special order is the forum, for the Members of the House to publicly disassociate themselves with this outrage.

I thank the gentleman for yielding.

Mr. DICKINSON. I thank the gentleman for his very fine statement.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I am pleased to yield to another distinguished gentleman from California (Mr. Ketchum).

Mr. KETCHUM. Mr. Speaker, I thank the gentleman from Alabama for yielding.

I certainly want to make known my desire to associate myself with the remarks that every individual, Democrat and Republican, has made on this floor in this regard today.

It was my privilege and honor to have lunch with those prisoners of war who are today visiting the House in our gallery. I apologize to them and I apologize to the American people that the House is not full of people today to listen to this discussion, and I apologize to them and I apologize to the American people that the galleries we see above us are not full.

There is really no point in my becoming redundant as to my outrage as to what transpired or the stories that we read passed out by this woman. But the truth is here in this room and the answers are here in this room. I ask the American public to ask the men who were there for the answers. I believe them and I believe the public will, too.

Mr. DICKINSON. I thank the gentleman from California very much.

I promised to yield to the gentleman from Texas (Mr. Price) and I yield to him now.

Mr. PRICE of Texas. Mr. Speaker, I thank the gentleman from Alabama for yielding.

I thank the distinguished gentleman from Alabama (Mr. Dickinson) and I congratulate him for bringing this hour of discussion before the Congress. It is too bad there are not more Members of Congress to take part in this even though I am sure a great many of them have been concerned over this for the past several years.

I congratulate the gentleman from Alabama (Mr. Dickinson) also for having this luncheon today for the returned American prisoners of war. I am sure they appreciated it very much and I am sorry I was unable to be there because of previous commitments.

With regard to this problem I, too, fought in the Korean war and many of these men who were American prisoners were friends of mine. In fact five of them who were in North Vietnam were close friends of mine, so consequently I have been and I am always concerned about their situation.

In fact I made two trips to Paris during the conflict to try to talk to the North Vietnamese to find out how the prisoners were doing and to see if we could give them some assistance, get some assistance to them, but it was to no avail.

When I returned on several different occasions I asked the Department of Justice to bring treason charges against Jane Fonda and the others who had participated in her propaganda efforts in North Vietnam. However, the Justice Department did not see fit to bring treason charges against these people at that time. I felt their explanation was rather weak and that we need to instill into the law of our country what are treasonable offenses so that this does not happen in the future.

So here comes Jane Fonda recently arriving in the midst of fanfare and trumpeted by the Washington news media and cast in the role of a romantic folk hero and people's lobbyist. Recently actress Jane Fonda and her accomplice arrived in town.

Thanks to the generosity of an accommodating faction of the membership of the House, Miss Fonda and company took up residence in a Judiciary subcommittee room, courtesy of the U.S. taxpayers, where congressional staff personnel were allegedly educated in the facts of life about American involvement in Vietnam. To the surprise of no one, Miss Fonda and company told the story of mass murders, atrocities, of crimes against humanity and other sordid details to which the U.S. Government, including our President, the Congress of the United States, our servicemen, and ultimately the American people have been a party. As a model citizen who, according to the Washington Star, has become dedicated to working for the cause within the system, Miss Fonda and company, they say, will tell the tale of repression and brutality by the "Thieu clique."

But should we not rightfully ask—just where is Miss Fonda and company's cause? Just what is Miss Fonda and company's cause? Is Miss Fonda's cause made in America, or perhaps is it made in Hanoi? Perhaps we should ask American prisoners of war incarcerated in a hole known as "The Hanoi Hilton" how much they appreciated the extra suffering to which they were subjected while she bantered about in North Vietnam rice patties and basked in the spotlight of Communist propaganda platforms.

Or, perhaps, we should simply go to a source other than the Washington news media for an answer to this question. Let me quote from an authoritative source about Miss Fonda's recent activities:

> Since late September, Jane Fonda, carrying her newly born first son Troi (after South Vietnam hero Nguyen Van Troi) has been on a one-month march through 25 cities of the United States to arouse public opinion into action for the release of the political prisoners in South Viet Nam by the U.S. and the Saigon administration and their strict implementation of the Paris Agreement, and the cut-off of aid to the Saigon regime by the Congress. Also with her were her husband Tom Hayden, a social activist, the well-known Congressman Holy Nillard, P. Debris, a French jailed and tortured by the Thieu clique for many years, and Bob Snowet, an ex-Viet Nam POW. The march will be followed by the Fall National Convention of the U.S. Anti-War Organizations."

The source of the above information is South Vietnam in Struggle, the magazine of October 29, 1973, that is printed in Hanoi, North Vietnam. Here is a copy.

Yes, Miss Fonda and company have

come to lobby the Congress, but lobby for whom?

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman from Texas for his very fine statement.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. Mr. Speaker, I will be very pleased to yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I thank the gentleman from Alabama for yielding to me.

Mr. Speaker, I am very pleased that the 46-member class of the 93d Club, which is the GOP freshman class, has been able to participate and cosponsor this event today with the distinguished gentleman from Alabama. We are pleased that we have been able to play a role in focusing on the near-treasonous activities of Jane Fonda.

There have been those today who tried to cloud the issue, particularly at our luncheon and press conference. I would like to emphasize what the issue is not. The issue today is not whether there are political prisoners in South Vietnam, and if so, whether that is right or wrong. The issue, indeed, is not the rightness or the wrongness of the war in Vietnam; and indeed the issue is not that of free speech in America, because I believe most of us, or all of us, defend Miss Fonda's right to dissent here in America.

The issue, Mr. Speaker, is, should an American who gave aid and comfort to an enemy against American POW's in time of war have the use of taxpayers' facilities in our Nation's Capitol to continue her near-treasonous treacheries? I say, the answer to this question is no.

The answer is no. No, unless it is the will of this House that such facilities be made available.

Mr. Speaker, there is not one shred of evidence, there is not one scintilla of evidence that such is the will of this House.

Mr. Speaker, hell shall freeze over before it will be the will of this Congressman.

Mr. MOORHEAD of California. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I will be very pleased to yield to the gentleman from California.

Mr. MOORHEAD of California. Mr. Speaker, I wish to commend the gentleman in the well, the gentleman from Alabama (Mr. Dickinson) for taking this special order today and calling attention to what has been taken by many of the people in my district to be an outrage against the American taxpayer.

I do not think that the facilities of this House or of this Government should be used by any lobbying group. When those facilities are turned over to individuals whose activities work against the best interest of this country, it is certainly something that should be looked into and stopped.

I know that very few people throughout the country would support the political positions that have been taken by Miss Fonda and her action of going into North Vietnam and speaking against the best interests of our country and actively asking for the death and the defeat of our troops in action. When we give our taxpayers' facilities for that purpose, we are denying the American people the kind of responsibility that they should be able to look for from Members of Congress.

Mr. Speaker, I certainly wish to join all of those Members who oppose this kind of action, and I ask the leadership of this House in the future to use better judgment in determining who can use the facilities and the quarters available on Capitol Hill.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for his remarks.

Let me just say to the Members in the waning moments before time runs out that there has been a special order taken on this subject by the gentleman from Arizona (Mr. Conlan) so that we will have more time available in the event we should run out of time now. In the event we run out of time, we will thereby give the Members further opportunity to speak.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the distinguished gentleman for yielding to me.

Mr. Speaker, I wish to associate myself with the remarks which my colleagues have made here this afternoon, particularly those remarks of Members from California, many of whom have been my colleagues before I came here.

I think the remarks that were made were well put in laying the issue before this House and before the American people. It is difficult to follow all of these remarks and to say something that has not already been said before.

Mr. Speaker, I want to endorse what has been said. The Chambers are not full, and the galleries are not full, but I will say to the Members that I know the American people, or at least the vast majority of the American people, stand behind us and stand behind the purpose of this special order.

I would only say that I think it does behoove us to be more careful in the future to see that this House and its facilities are not used for the purposes for which they were used in this instance.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for his remarks. Mr. Speaker, I just wish to conclude with these thoughts:

Let me say this: that some would have us believe that this is a matter of free speech. This has nothing to do with free speech. Anybody has a right to get out on a public street and say what they please. This has to do with the right of a person to abuse the facilities of the U.S. Congress.

Mr. Speaker, I think that perhaps everything God made has a place in the world. I might be able to tolerate snakes, Mr. Speaker, but that does not mean I have to grasp an asp to my bosom.

I would just as soon have a bust of Benedict Arnold in Statuary Hall out here as I would to see the Congress afford Jane Fonda a place to work and carry on her nefarious activities against the Constitution and the Government of these United States. It is an insult to the memory of more than 300,000 servicemen who fought for the United States in Vietnam, 50,000 of whom will never come back except in a box.

It is a degradation to their memories; it is an insult to the American people; and I would certainly urge the leadership of this House to take whatever steps are necessary to see to it that neither this nor anything like it can ever happen again.

I thank the gentleman for yielding to me.

Mr. SPENCE. Mr. Speaker, first of all I want to commend my good friend, Bill Dickinson, for arranging this special order, as well as the press conference held earlier today. By presenting testimony from individuals who have experienced both mental and physical suffering as a direct result of shameful acts perpetrated by certain Americans during the Vietnam war, Congressman Dickinson has unequivocally proved what most of us knew must have been the case all along. That is, a person enjoying the public limelight for whatever reason, who travels to the home of the enemy and parrots the official enemy line under circumstances which are fully orchestrated by the enemy, is bound to adversely affect the interests of his or her own countrymen as a result. Since commonsense would command that this be so, one can only conclude that the performances of Jane Fonda, Ramsey Clark, and other of their ilk, were taken with malicious disregard of these inevitable consequences.

Today, former prisoners of war testified that tape-recorded statements of these individuals, and others, were played for them regularly while in captivity, thus creating "anger, frustration, and disgust" among the prisoners. Undoubtedly, it was not these reactions that the Communists and their American parrots had hoped for. No doubt, they expected the men to be persuaded by their countrymen that capitulation is the answer, and that further resistance was not only hopeless, but morally reprehensible. To their everlasting credit, our men are made of much sterner stuff!

Thus, I do not suggest here that the Fondas and Clarks were at all successful in their attempts to brainwash American fighting men. Rather, the contemptible indictment upon their acts is that they caused direct physical and mental harassment against fellow human beings, who were also Americans, and that they did this with full knowledge that this was the inevitable result.

The returning prisoners of war have been virtually unanimous in their judgment that Americans who willingly became political tools for the North Vietnamese acutely prolonged the war in Southeast Asia. They point out that, in a Communist society those who make public statements must necessarily be following the official government line, since otherwise no one would dare speak out. It was therefore believed in that part of the world that people such as Fonda represented the feelings of most Americans. Since North Vietnam realized that they had absolutely no hope of defeating the United States on the battlefield, the struggle for men's minds became all-important. They knew that they had to use the world's media to advance their version of the war. Obviously, they could not have asked for better cooperation in this effort than that presented by Jane Fonda and Ramsey Clark.

POW's have testified that they were tortured if they refused to meet with visiting American activists. They were tortured later if they said the wrong thing during a "showing" or if they neglected to say the right things, in the eyes of their Communist captors. They have testified that their morale was never so low as when they were made to hear the words of these visiting agitators. I have had the honor of meeting a number of former POW's, and I am proud to know a few personally. In my mind, there is no question at all of their sincerity, or the truth of their accounts. These are very articulate men on the whole, who have obviously given the issues surrounding their experiences a great deal of thought. There is no one in the world in a better position to assess the effects of Fonda-type activities on their own treatment than the POW's themselves.

All citizens of Communist nations throughout the world covet the right of Americans to dissent, and certainly we all agree that this is an important privilege which is central to the freedom we enjoy. But perhaps we have learned a very important lesson, albeit at a terrible price exacted from our prisoners of war. That is the right to dissent from official government policy carries along with it the responsibility to choose a proper forum for the expression of that dissent. If so, the outrages committed by Jane Fonda and others in the name of dissent—actions which so shocked the conscience of the American people—will have a beneficial effect in the end.

Mr. WALSH. Mr. Speaker, in early February, Representative JOHN CONYERS obtained the use of a subcommittee meeting room of the Judiciary Committee for one of his colleagues, Representative RONALD DELLUMS, of California.

In truth, the room was not for DELLUMS' use, but for the use of well-known activists Jane Fonda and Tom Hayden for the purpose of lobbying for the interests of North Vietnam.

While everyone is guaranteed free speech by the Constitution, some people use that guarantee to abuse the very privilege they claim they are defending.

In my opinion, the use of taxpayer-supported facilities to promote the interests of a nation with which the United States was so recently at war, is such an abuse.

Fortunately, the Judiciary Committee found out what the room was being used for and canceled permission for Mr. Hayden and Ms. Fonda to operate their lobbying effort from the room.

The fact that the subcommittee area was even used for one night is an insult to every veteran who fought in Vietnam. The fact that permission to use the room was withdrawn is at least an expiation of that insult.

I applaud the Judiciary Committee's action and urge more stringent screening of applications for Federal office space on Capitol Hill. The word of a Member of Congress should not be all that is necessary to secure a meeting room. The Member should have to state the purpose for the request and then the meeting room should be checked to insure that the stated purpose is, indeed, the purpose for which the room is being used.

VIETNAMESE PRISONERS OF WAR

The SPEAKER pro tempore under a previous order of the House, the gentleman from Arizona (Mr. CONLAN) is recognized for 60 minutes.

Mr. CONLAN. Mr. Speaker, one of the tragic ironies of the Vietnam war is that the anti-U.S. posturing of Jane Fonda, Ramsey Clark, and other leftists who traveled to Communist Hanoi during the war actually helped prolong the fighting that unnecessarily took the lives of additional thousands of Americans and South Vietnamese.

That is the view of Air Force Col. George E. "Bud" Day, an Arizona POW held captive in North Vietnam for almost 6 years, and many others intimately familiar with the effect of Fonda's anti-U.S. campaign on North Vietnamese morale and war policy.

Colonel Day, a squadron commander in all nine North Vietnamese prison camps at one time or another during his long captivity, told me just this past weekend:

> It is positively my absolute belief that the enemy was strengthened and the war prolonged by Jane Fonda's cooperative efforts in Hanoi against the United States.

Fonda's trip to war-wearied North Vietnam in August 1972 came at a time when the Communists were on the brink of serious peace initiatives. U.S. bombing had taken a heavy toll, and North Vietnamese morale and strength had been almost totally destroyed by the ceaseless punishing American air raids north of the Red River.

Hanoi officials saw Fonda as an American idol and cult heroine. They wrongly interpreted her visit, during which she made propaganda films and radio broadcasts for the Communists, as representing overwhelming popular opposition in our own country to U.S. war efforts.

North Vietnamese strategists, deceived by her propaganda line that this was "Johnson's war" and "Nixon's war" opposed by almost all the American people, thought our country was on the verge of revolution against the government responsible for U.S. military efforts in Southeast Asia. They believed that if North Vietnam could just hold out long enough and carry on the Communist war effort until that revolution materialized in the United States Hanoi could defeat South Vietnam and take over all Indochina.

Mr. Speaker, while it is tempting to believe that the major effect of Jane Fonda's trip to North Vietnam was to demoralize American POWs, it is clear from what POWs themselves have told us that Fonda and Clark never actually had personal contact with any of the more than 500 strongly pro-American prisoners. This was at the direction of the Communists themselves.

They instead met with no more than eight to 10 broken prisoners at The Zoo, the easy-treatment camp for cooperating Americans known as the "Peace Committee" 8 miles southwest of Hanoi, where anti-war petitions were signed and statements filmed for propaganda purposes.

Most of these prisoners were dismissed from the service shortly after they were repatriated to the United States.

Even Fonda's films and obscene anti-American radio shows from Hanoi, which prisoners were forced to watch and hear, failed to have the desired demoralizing effect on captive Americans, according to Colonel Day, who told me:

> Her treasonous actions strengthened us, while the morale of the North Vietnamese was in turn lifted because they thought overwhelming American opposition to the war at home was about to bring down the government and end American involvement.

Mr. Speaker, I know of no better testimony to the guilt of Jane Fonda. Her actions and her cunning propaganda against U.S. military efforts in Southeast Asia bolstered and helped prolong Communist aggression against South Vietnam, making her an effective instrument of war in behalf of Hanoi and against her own countrymen. Therefore, the blood of thousands of victims of the Vietnam war following her visit to Hanoi must be on her conscience.

Thanks only to the fact that the United States was not then in a formally declared state of war against North Vietnam, Jane Fonda and her followers are not legally guilty of treason. But it is only in that technical sense that her actions differ at all from those of William Joyce, Britain's "Lord Haw-Haw," who was executed as a traitor for his pro-Nazi propaganda activities following World War II.

It is for this reason that I strongly resent the action by some of our colleagues to provide Miss Fonda the use of congressional committee rooms to stage further propaganda efforts against our Government.

It demeans the sacrifice of our dedicated military men and women and insults the dignity of this body that Fonda's propaganda forum has been moved by a faction of our own number from Hanoi and the left-wing lecture circuit to the Halls of Congress itself. I am happy to join in this effort to protest that arrangement at taxpayer expense.

Mr. Speaker, I now yield to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I am pleased to join the gentleman from Alabama and the gentleman from Arizona in this special order involving our POW's and MIA's.

Earlier today, I had the honor to meet with eight of our former POW's, men who returned to our Nation just about a year ago, some of whom were held prisoner in Vietnam for as long as 8 years, most of whom tell vivid stories of their deprivation and hardships during their incarceration, all of whom attest to the harsh effects upon them of Jane Fonda's visits to Hanoi during their imprisonment.

Recently I had the opportunity to debate with Ms. Fonda in a TV forum about prisoners of war in Southeast Asia.

In Ms. Fonda's expression of concern for North Vietnam, it is obvious that Ms. Fonda's assessment of our involvement in Southeast Asia is myopic and completely one-sided.

During our January recess I visited Laos in an effort to glean information and to seek help concerning more than 1,100 U.S. servicemen who are still listed as missing in action. While in Southeast Asia, I was able to view, first hand, some of the results of the years of fighting in that part of the world. Our involvement in Vietnam has been questioned by many, but the fact remains that we have now terminated our direct military operations over there. And there still lingers one loose thread—our MIA's.

If any of our servicemen are still lingering in prison camps in Southeast Asia, it would be naive to be overly optimistic about their safe return. However, it is certainly not naive to expect the North Vietnamese Government to allow the searching of known crash and grave sites, permitting our joint casualty resolution teams to fully investigate and to report their findings to the families of those 1,100 men whose destiny is still so questionable. The provisions of the Paris Peace Treaty and the joint communique clearly detail the course to be followed in providing for seeking and exchanging prisoner information. But the provisions of those agreements are not being followed.

Accordingly, I suggest to Ms. Fonda and to her followers, rather than continually attacking our Nation, to take a closer look at the total Southeast Asian picture, to look at the blatant refusal by the North Vietnamese, to uphold even the humanitarian aspects of the peace agreements having to do with cooperation in investigating and searching for POW's and MIA's. I urge their interest in an area of great concern to our country, the issue of our missing American servicemen.

I suggest to Ms. Fonda and her cohorts to use their influences upon Hanoi to bring to light the failure of the North Vietnamese to abide by the provisions of the Paris Peace Treaty concerning exchange of prisoner and MIA information so that we might, once and for all, resolve the dubious fate of the more than 1,100 men whose lives remain unaccounted for in Southeast Asia.

The Jane Fondas and the Vietnam critics would do more constructive good in joining our Nation's efforts—an exhaustive effort to resolve the lingering uncertainty for our MIA families. We can do no less for those who have given so much.

Mr. CONLAN. I thank the gentleman from New York for his very thought-provoking remarks in bringing to our remembrance the status of those missing in action.

Mr. ICHORD. Mr. Speaker, I want to add my voice to the concern and indignation which has been expressed over the granting of taxpayers-financed space in the Rayburn House Office Building to dissidents, Jane Fonda and her husband, Tom Hayden. Making use of a committee hearing room, Fonda and Hayden during an eight-session seminar were able to preach to impressionable young congressional aides on the need to support one of Hanoi's primary objectives, namely, the cutting off of all U.S. aid to South Vietnam. If the many letters of protest reaching me from my constituents are only a partial assessment of the public outrage, the judgment of my colleague who permitted them to use House office space must indeed be viewed as grossly irresponsible.

Jane Fonda, better known as "Hanoi Jane," and Tom Hayden, the founder of the revolutionary Students for a Democratic Society, are not just a couple of insignificant political malcontents. No, indeed, they have a well-established reputation for consorting with the Communist regime in Hanoi, and for grossly distorting and misinforming the American public concerning U.S. involvement in Southeast Asia. As a matter of fact, I am of the personal opinion that there is a strong probability that Fonda's and Hayden's lobbying seminar was carried out by them at the direction of the Hanoi government. My opinion in this regard was considerably strengthened by a recent article in the St. Louis Globe-Democrat which reported that the "official Vietcong Communist organ printed in Hanoi" had boasted that Fonda and Hayden were touring 25 American cities to arouse public opinion for a cutoff of U.S. aid to the Saigon regime.

The Committee on Internal Security, which I chair, held hearings last year on legislation relating to "restraint on travel." These hearings revealed that Miss Fonda made a trip to North Vietnam in July 1972, at the invitation of the Vietnam Committee for Solidarity With the American People. This trip was made at a time when our Armed Forces were engaged in hostilities with the North Vietnamese Government. While in Hanoi, Miss Fonda made many broadcasts to American troops which were monitored and transcribed by the U.S. Foreign Broadcast Information Service. The thrust of her statements over Radio Hanoi gave every appearance of being designed to cause American troops to disobey orders and to desert. They were very clearly worded. Clearly, she was giving aid and comfort to the enemy. A study of the tapes led me to conclude that she at least had the counsel and advice, if not the instruction, of North Vietnamese propaganda experts.

When our heroic prisoners of war returned home, Miss Fonda egregiously insulted them by labeling as "liars and hypocrites" those who reported that they had been tortured by their North Vietnamese captors. At the same time, Miss Fonda, who Radio Moscow once characterized as a "true patriot," termed "laughable" reports by some of the prisoners of war that her visit to North Vietnam had actually prolonged the war.

This is the same Jane Fonda, who in 1971 took time out from her busy antiwar activities to visit militant Communist Party member Angela Davis, while Davis was incarcerated in the Marin County jail in California awaiting trial on charges of having furnished the guns used in a 1970 court shoot-out and kidnapping, which resulted in the death of four persons. Following her visit, Miss Fonda labeled Davis, who was subsequently acquitted, as a "political prisoner." Later that same year, Fonda told some 2,000 students at Michigan State University in East Lansing, Mich.:

> I would think that if you understood what communism was, you would hope, you would pray on your knees, that we could some day become communist.

Mr. Speaker, if there is one thing that is of vital concern to all of us, it is what is done with the people's money—the money they appropriate through us. The taxpayers of the United States, whose incomes are depleted each year by a multibillion dollar defense budget to insure the security of our Nation against the repressive forces of communism, are being tapped to provide a forum in a House office building to individuals whose past conduct demonstrates deep and abiding hostility to our democratic form of government.

I certainly deplore this misuse of House office space, and although I strongly question the judgment of my colleague who permitted Fonda and Hayden to use the space, I do not offer these comments today merely to chastise my colleague. My disappointment is more deepseated than that. I believe this action, in addition to being an affront to every loyal American citizen, has tended to undermine the confidence of the American people in their government and its goals at a time when the Watergate matter has shaken the very foundation of our democratic system. I can only hope that this denunciation of the granting of House office space to Fonda and Hayden will be instrumental in preventing a repetition of this shameful action.

Mr. MONTGOMERY. Mr. Speaker, I commend the gentleman from Alabama (Mr. DICKENSON) for securing this time today in order that we might fully discuss the recent activities of Jane Fonda and others of her kind that gave encouragement to the enemy during the Vietnam conflict. Like a majority of my colleagues, I have been appalled by the fact that Ms. Fonda has been allowed to conduct her classes on so-called American imperialism in the Halls of Congress at the expense of the U.S. taxpayers. No one can deny the right to freedom of speech, but I feel very strongly that we must draw the line when such speech is espousing a philosophy calling for the overthrow of the American Government and aiding and abetting the enemy. In my opinion, this is exactly what the Fonda classes have been doing.

Mr. Speaker, we have testimony from returned prisoners of war that the visit of Fonda and other misguided souls led to increased torture of the POW's by the North Vietnamese. These trips to and statements from Hanoi only served to prolong the imprisonment of our American servicemen. I, for one, cannot forget this inhumane act on the part of Jane Fonda.

Miss Fonda has taken great delight in belaboring the so-called atrocities and mass murders by the United States and South Vietnamese Governments. Because our liberal press appears to enjoy these types of stories, she has gained wide publicity without any factual data that will stand the test of cross-examination. She makes a statement and it is immediately accepted as gospel even though she has no proof other than what was told her by a Communist government in a controlled and dictatorial country. She has never questioned these so-called facts presented her by the Communists. Rather she has accepted them hook, line, and sinker and tried to sell them to the American people. In my opinion, Miss Fonda is no different than an American who went to Nazi Germany in the Second World War and started spouting the Hitler line to the detriment of our fighting men. She is just another Berlin Bessie or Tokyo Tessie of the 1940's who has once again reared their ugly head in the 1970's.

Mr. Speaker, I have heard time and time again about the wrong actions of America in Southeast Asia. But never once have I heard the alleged humanitarian Fonda utter the least bit of sympathy for our tortured prisoners of war. Quite the reverse, she appears to enjoy the fact that her actions may have led to their increased torture and then dismisses the plight of the prisoners by referring to them as liars. Just how sick can a person be.

I made eight trips to South Vietnam. During these visits I saw firsthand the homes and even entire villages of the South Vietnamese people that had been destroyed by the North Vietnamese and Vietcong. I saw the graves of former village chiefs and members of their families who were tortured and then brutally murdered by the Vietcong because they chose to support a free and democratic government for their country rather than paying allegiance to the Communist invaders. I saw South Vietnamese people missing hands, arms, legs, and ears as a result of the brutal treatment of the Vietcong and North Vietnamese. These parts of their bodies were severed by the Communists when the South Vietnamese refused to share their already meager rice crops or fish catches with the Communists or refused to give comfort to their country's enemy.

Mr. Speaker, I point out this firsthand information and easily verified facts to make note that never once have I heard the Fonda group condemn these atrocities. I do not want to appear to be making snap judgments as she has evidently done, but I cannot help but believe that Ms. Fonda's so-called humanitarianism extends only to the Communists.

Mr. Speaker, in the past the Congress has always shown a great deal of interest in truth. We have been involved in legislation calling for truth in advertising, truth in lending, and truth in labeling. I think it is time that we applied the same standards to those who abuse the right of free speech by preaching a philosophy detrimental to our American Government, the American people, the American servicemen and the American allies. It is high time that we had a little truth in speech involving those who appear to be more closely alined with our enemies than they are with their fellow Americans.

Mr. LOTT. Mr. Speaker, in a weekly newspaper report to my constituents in south Mississippi 3 weeks ago, I wondered out loud how America would take the fact that Jane Fonda, that romantic folk heroine and people's lobbyist, had settled in Washington to "work within the system." If the mail from my district is any indication, Americans are not taking it lightly. In fact, they are outraged to say the least.

South Mississippians remember Jane Fonda as the antiwar activist who took her radical beliefs all the way to Hanoi, where she announced to the world that the Americans were the villains in that Southeast Asian conflict—not the North Vietnamese or the Vietcong. She caught our attention again when our American POW's returned home only to hear her charge that they were lying about conditions in those prison camps.

I personally have wondered not only about the way the American public would take this latest outrage but also about the way our POW's reacted to the news that she was conducting political seminars right here on Capitol Hill. If the POW's here today are any indication, I think it is safe to say that they too are offended, outraged, and frustrated.

Mr. Speaker, I want to emphasize once again—in the strongest of terms—that I am very much opposed to such seminars conducted by the likes of Jane Fonda in the House office buildings. And I want to commend the POW's here today for their courage in once again standing up and being heard.

Mr. BAUMAN. Mr. Speaker, I want to add my praise to those of my many colleagues who have expressed their support for the patriotic efforts of the gentleman from Alabama (Mr. DICKINSON) in bringing to the attention of the House today the sordid facts concerning the use of the facilities of the House of Representatives by Mr. and Mrs. Tom Hayden, she better known as Jane Fonda. The gentleman has done a real service.

I and many of my colleagues were greatly impressed at the luncheon today when we heard the remarks made by the distinguished men who served years in North Vietnamese prisons and who never wavered in their support for their country. I fully concur with one of these returned heroes who said that Miss Fonda's past actions constitute treason against the United States.

By her past actions she has given aid and comfort to the enemies of the United States of America and that by any definition is treason. I find it hard to understand how a person of this ilk could possibly be permitted to use the House and its offices as a forum for her anti-American propaganda.

While I can tolerate, as most Americans can, dissent, I do not think we can tolerate disloyalty and the gentleman is to be commended for leading the initiative in exposing this totally un-American activity.

Mr. ASHBROOK. Mr. Speaker, I am pleased to associate myself with the thoughts of my colleagues on the activities of Jane Fonda and other Communist sympathizers who have been trying to lobby for an end to American aid to our Southeast Asian allies. I, too, am concerned over the extent to which people of Fonda's stripe are taken seriously, as if they were representative of the thoughts of true Americans; for the bald fact is that she is an open advocate of the North Vietnamese Communist cause who has given aid and comfort to an enemy of the United States during a time of armed hostilities.

She was quoted in November 1969, as stating during a speech at Michigan State University that—

> I would think that if you understood what communism was, you would hope, you would pray on your knees that we would someday become Communist.

In December 1970, she stated at Duke University that she believes we must strive for "a socialist society—all the way to communism."

In this striving, Jane Fonda has traveled to Communist North Vietnam, has had herself photographed sitting on a Communist antiaircraft gun, and has made propaganda broadcasts over Radio Hanoi that were obviously designed to encourage mutiny and desertion in our Armed Forces in South Vietnam. Such is Jane Fonda's sense of Americanism—just like the Americanism of Tokyo Rose.

It is the same sort of Americanism that prompted pro-Communist "peace" activist Dagmar Wilson, of Women Strike for Peace, to declare angrily that the sight of American planes flying over North Vietnam made her almost want to shoot them down.

And what is the communism that Fonda thinks we should strive for? The reality of communism was seen by American POWs who had to endure the degradation and tortures of Communist prison camps in Vietnam. Several of these brave men appeared before the Committee on Internal Security in 1973 and testified in stark detail about their experiences, both with the Communist Vietnamese and with some of the alleged Americans who had visited North Vietnam during their imprisonment and who had been used by the Communists to spread lies about our men in Vietnam.

One of these men, Air Force Capt. Larry Carriagan, testified that—

> These people (meaning people like Jane Fonda and Ramsey Clark) * * * gave aid and comfort to the Vietnamese. * * * It prolonged the war. * * * The Communists in North Vietnam wanted the American people there during the war. They knew they couldn't beat us in the battlefield. But they hoped to beat us back in Washington.

And Comdr. Edwin Shuman, of the U.S. Navy, testified that—

> Our morale was definitely lowered by Americans coming over there and saying the things that they did. It is my opinion that the only people they let into that country were either Communists or Communist sympathizers. And they almost without exception played ball with the Communists in the things they said.

The men described various beatings and other tortures to which they were subjected in efforts to make them meet with American "peace" delegations. One of the worst examples was described by Navy Lt. Comdr. David Hoffman as the "rope treatment." He stated:

> I happened to be in * * * a body cast, from the waist up with my arm out in front of me * * *. I was placed on a table and then on a chair, which was on top of the table. And there was a hook in the ceiling.
>
> I think the height of the ceiling was probably 20 feet or so. The rope was strung around my arm, up around the armpit. Then I was placed upon the chair on top of the table. And the table was kicked out from under me. I dropped the length of this rope, so that I would come to a couple of inches off the floor.
>
> They would put the table and chair back under me and stick me up there again and drop me again, until I eventually came very close to passing out. * * *

Such is the practice of communism as seen at first hand by American fighting men who served long and thanklessly in Vietnam. This is what the Jane Fondas of this country support in Southeast Asia and would have us support.

Mrs. HOLT. Mr. Speaker, I would like to commend my colleague from Alabama (Mr. DICKINSON) for taking the time to hold this special order. It will serve to focus attention on the deep distress held by some Members of Congress by the fact that Jane Fonda and her entourage have been provided with office space, financed ultimately by the American taxpayer, for the purpose of "educating" congressional staff members on supposed American "imperialism" in Southeast Asia.

The constitutional guarantees of free speech permit Miss Fonda to engage in this activity, but does it mandate that we provide her with a forum to vent her condemnation of our Government, our institutions, our policies, and those who have served in our Armed Forces? Let us not forget that the Jane Fonda, who is currently basking in the spotlight in Washington, is the same woman who enjoyed the propaganda spotlight in Hanoi while our POW's were being subjected to the worst form of atrocities in North Vietnamese prisons.

Mr. Speaker, Miss Fonda has every right to express her views; I have an equal right, which I am currently exercising, to vigorously reject her opinions and question the desirability of using public supported facilities to assist her in her misguided efforts.

Mr. WAGGONNER. Mr. Speaker, I would like to join with my other colleagues today in the discussion regarding the "American Imperialism" seminars conducted by Jane Fonda and Tom Hayden in a committee room of one of the House buildings.

I cannot speak for anyone but myself and the people I represent, but I can tell you one thing—we are sick and tired of anti-Americans using the freedoms they possess as Americans to downgrade their country at every opportunity. We are categorically opposed to providing a forum in a public building maintained by American tax dollars for two Communist sympathizers to engage in diatribes against the United States. To show the blatant hypocrisy of the so-called free-speech advocates like Fonda and Hayden, the seminars were on an invitation-only basis, which, of course, means that anyone with a different point of view was not allowed to participate. That is about par for the course.

What makes Jane Fonda and Tom Hayden think that they are qualified to give a seminar on Vietnam? What education or practical experience do either of them have which would make them think that they are even informed on the subject?

It is one thing for Americans to criticize or question their country's foreign policy. It is quite understandable that U.S. foreign policy in Vietnam and Southeast Asia be questioned as much misinformation surrounding it and as controversial as it has been. It is another thing, however, when public facilities are used as forums to downgrade the United States by a closed panel of anti-American experts.

Having talked with Maj. Nick Rowe and having read his book, "Five Years to Freedom," about his experiences as a POW of the Communists, I cannot buy the line that all is good with the North Vietnamese regime, that their efforts are only those of a peace-loving country, and that everything is bad when it comes to the efforts of the South Vietnamese Government.

I would like to ask Ms. Fonda and Mr. Hayden when was the last time they visited South Vietnam on a factfinding mission? The truth is they have never visited South Vietnam. Why is it that these people who are supposedly so interested in finding the facts about Vietnam only travel to the North? Are they afraid of what they might find in the South that would destroy the Communist propaganda line which they are only too willing to support? Are they afraid that they will not find a police state in South Vietnam and that they might not find 200,000 "political prisoners" squeezed together in tiny cages? Are they afraid to the contrary that they might find that the entire South Vietnam prison system has a capacity of no more than 52,000 and a prison occupancy at present of not more than 44,000 of civilian prisoners of all types?

How many South Vietnamese troops are there in North Vietnam? Surely, with the time Ms. Fonda spent in North Vietnam, she knows the answer to that one; there are none. If Ms. Fonda and Mr. Hayden want to do something worthwhile, why do they not ask their "peace-loving" friends in the North Vietnam Government to help us locate those American servicemen who are still listed as missing in action, or, at least, to provide an adequate accounting of them. Why do they not ask the North Vietnamese Government to withdraw all of its troops from South Vietnam, Cambodia, and Laos and to put an end to the useless bloodshed in those countries? I have not heard Ms. Fonda or Mr. Hayden crying out in the name of humanity for the innocent women and children being shelled in Phom Penh, Cambodia, and in other cities in South Vietnam and Laos.

The truth is the Haydens and the Fondas will not be satisfied until the Communists control all of Southeast Asia.

Mr. WYMAN. Mr. Speaker, on April 2, 1973, in a speech on the floor of this body I said:

> What on Earth is the matter with Jane Fonda? It was bad enough for her to go to Hanoi while the war was on and give aid and comfort to the enemy engaged in shooting and capturing Americans even while she spoke. Now back home, Miss Fonda claims our prisoner of war accounts of torture while in captivity are false and that our POW's are liars.

There is little question, but that such activity was provocatively misrepresentful in the extreme. It was also bitterly resented by men of indomitable spirit who were prisoners throughout her journeys to Hanoi and throughout her unfounded, unwarranted, and inaccurate recounting of their sufferings.

While all Americans, Miss Fonda included, enjoy the right of free speech there is a correlative duty on all U.S. citizens to exercise restraint especially when U.S. Armed Forces are fighting in honor of an American commitment. This is true whether one agrees with the commitment or not, for certainly along with the right of free speech goes the responsibility not to abuse it.

We have laws that enjoin private citizens from attempting to influence the conduct of foreign governments engaged in a dispute with the United States and when Miss Fonda traveled to North Vietnam and encouraged that nation in its hostilities against American forces, she at the very least grossly abused freedom of speech. Totally aside from the question of whether such conduct furnished "aid and comfort to an enemy," the effects of her words and conduct was to create additional human suffering for Americans.

The following excerpts from testimony by foreign American prisoners of war is relevant to an understanding of the gravity of her actions. Much of the recounted suffering could have been avoided if those who disagreed with U.S. policy in Southeast Asia had confined their opposition to the numerous channels available to those who cherish and accord with democratic traditions:

ADDED DETAIL OF TESTIMONY DURING MAY 9, 1973, HEARING BY HOUSE COMMITTEE ON INTERNAL SECURITY

The testimony of the eight witnesses was on behalf of H.R. 1594 by the Internal Security Committee Chairman, Richard H. Ichord (D-Mo.). Several identical bills have been submitted by some two dozen other Members of Congress.

Ichord opened the hearing by noting that the frequent visits of American antiwar delegations to Hanoi, the resulting propaganda broadcasts and statements, and the aid and comfort thus given the North Vietnamese showed that "present passport regulations are totally inadequate."

Ichord also stressed the fact that the hearings were not designed to determine the thresholds of pain and suffering endured by American POWs in North Vietnam but simply to receive their views about the effects antiwar visitors to the enemy camp had on the morale of U.S. servicemen both in the field and in prison camps.

Captain James Mulligan of Virginia Beach, Va., who became a POW after being shot down in 1966 testified that many prisoners were "heavily pressured, heavily threatened and some were tortured to force our appearance before visiting delegations. The North Vietnamese felt the war would be won in Washington and not on the battlefield and they thought the antiwar movement was truly representative of American thought."

Commander Edwin Shuman III, also of Virginia Beach, said the Vietnamese captors "wanted us to work for the camp and made it clear that one way we could do so was to agree to meet visiting delegations."

He said the North Vietnamese warned POWs repeatedly that they would be severely punished by the American people when they went home. "The got this idea from the antiwar delegations who convinced Hanoi that the American people were ready to overthrow their government because of the war."

Lt. Cmdr. Thomas Hall, Jr., presently assigned to the Balboa Naval hospital in San Diego, California, declared that American visitors "had a demoralizing effect on POWs" and that he lived with "many prisoners who were pressured and tortured to meet delegations. What bothered us most was not just what they (the delegations) had to say but the fact that Americans were walking around free in Hanoi while we were in prison."

Lt. Cmdr. Dave Hoffman said he was personally tortured after refusing to meet a delegation from the United States. "We were not at liberty to say what we wanted to these visitors. All of our statements were carefully programmed. Any deviation from the script led to punishment." He added that "it certainly did not help morale for a POW to see a picture of an American with a helmet on sitting on an antiaircraft battery as if shooting down a plane." He also said he was convinced that the antiwar delegations contributed to lengthening the war by giving encouragement to the Hanoi government.

Captain Larry Carrigan, USAF, who presently lives in Scottsdale, Arizona, said that during his nearly five years imprisonment he and his colleagues felt "we had a responsibility to the United States as POWs as well as fighting men to support our government's position on the war. Dissent is all right in its place but not when carried to the capital of the country with which we are fighting."

He added that in September of 1967 he met three women from the Women Strike for Peace organization and he asked them if they were communists and if they had the approval of the American government in coming to Hanoi. To both questions they answered 'no'."

He said he disputed the women's claim that American planes purposely attacked civilian targets by telling them of an experience he had had when his squadron had taken films to show that no bombs were dropped in the vicinity of a hospital. "This upset the North Vietnamese very much though the women visitors seemed to cheer our having taken such care to avoid a civilian target.

"Later the North Vietnamese came and asked me what was meant by the statement made by one of the women that I was 'a wayward individual'. When I finally was able to explain its meaning to them, they moved me to another camp and really pounded on me."

He said that hundreds of visitors came to Hanoi—many of them from communist bloc countries and many from the United States and that none of the American delegations did anything to help. "All they did was hurt us."

Hall told the Committee that he knew one POW who was given solitary confinement for a year and a half because he refused to meet an American antiwar delegation. He added that the broadcasts made over North Vietnam radio by visiting Americans "were quite subversive".

Mulligan said his refusal to meet a delegation not only led to three days of continual torture, a broken shoulder and cracked ribs but "some woman visitor from the U.S. told the North Vietnamese it would be a good idea for POWs to see the Hanoi war museum so six of us were dragged and beaten out of our cells, forcibly put on a bus and taken downtown to the museum, then dragged and beaten some more through the museum and finally returned to our prison."

Mulligan was also critical of American newsmen who came to Hanoi to write stories sympathetic to North Vietnam. "When Harrison Salisbury of the New York Times was writing his articles, he was just a few blocks away from a prison where Americans were being tortured and some of them killed."

The wives testified that they not only favored the proposed limitation on travel in the event of future conflicts in which America may become engaged but also a prohibition against organizations like the Committee of Liaison (an antiwar group) being selected by Hanoi to control all mail exchanged by POWs and their wives. They said the Committee of Liaison sent communist and antiwar propaganda long with every letter from a POW.

Mrs. Shuman said "I can never forget the hardship the Committee of Liaison caused."

Mulligan asserted that "the reason I am home today is because of our wives who fought a losing battle for a long time but finally went out in the open and forced the politicians to do something about the POWs and MIAs (Missing in Action). If our fate had been left in the hands of the antiwar politicians we would still be in prison."

Shuman said the activity of the wives and patriotic Americans who gave support to the cause of getting the POWs released greatly boosted morale of the American prisoners and hurt North Vietnam's image in world public opinion.

Mr. CARTER. Mr. Speaker, I want to take this opportunity to express my deep appreciation to our former prisoners of war for the high standards of patriotism that they maintained during the tragic conflict in Southeast Asia.

Many factors contribute to the underlying strength of a great nation, and I submit that the courage of these men has reflected and enhanced the strength of the United States. We owe them a large debt for their desire to uphold the spirit of America and for their deep conviction that our Nation and our people will continue to grow and prosper.

Service to one's country often entails unexpected and difficult sacrifices. Lincoln said:

> If we do not make common cause to save the good old ship of the Union on this voyage, nobody will have a chance to pilot her on another voyage.

I believe that these words are as meaningful today as they were during the crisis of Lincoln's time, and it is clear that our former prisoners of war and those still missing in action have made painful sacrifices in the course of our Nation's long voyage.

Mr. Speaker, we must never forget the patriotic spirit of our former prisoners of war, and we must have a full accounting of all Americans missing in action. Further, we must always work together for an even greater Nation in the years to come.

Mr. CRANE. Mr. Speaker, in recent days the American people have been subjected to a campaign on the part of Jane Fonda, Tom Hayden, and a variety of activist political organizations calling for a cessation of U.S. aid to the Government of South Vietnam.

A number of reasons are given for urging an end to U.S. aid. First, expressed by Tom Hayden in an interview with Playboy magazine, is that South Vietnam is in violation of the Paris peace accords. He stated that—

> The U.S. Government and its client Thieu are opposed to the agreement's political provisions, which call for democratic liberties and a free election in the south. . . . Our organization, the Indochina Peace Campaign, is demanding that the peace agreement be honored.

The Government of South Vietnam is, in addition, charged with imprisoning "202,000 political prisoners" and with being a "police state."

These are, of course, serious charges. If they were true, the position advocated by Miss Fonda, Mr. Hayden, and others would bear careful consideration. The fact is, however, that they are clearly untrue and represent only a carefully calculated propaganda campaign to discredit a government which, in the face of great difficulties, has made important strides toward a representative political system and which has adhered to the provisions of the Paris agreements.

What the apologists for the Hanoi regime overlook is the fact that the North Vietnamese Government, not the Government of South Vietnam, is in almost complete violation of the Paris accords.

Since the cease-fire went into effect, Communist terrorist acts are estimated at 8,785 incidents as of November 1, 1973, an average of 973 cases per month or 32 cases a day. Their attacks are totally indiscriminate. The chief of the New York Times' Saigon bureau, James Markham, notes that—

> Viet Cong units have almost regularly been dropping mortars on several district capitals, occasionally opening fire on farmers and other civilians in government held areas, and lately attacking village and hamlet offices.

Article 7 of the Paris agreement forbids the "introduction of troops, military advisers, and military personnel, including technical military personnel—into South Vietnam." Since the day the cease-fire went into effect, the Communists have brought at least 100,000 additional North Vietnamese troops into the South, in addition to the 300,000 they had there already—adding up to more troops than they had for their 1972 offensive.

In addition to the troops, the Communists have brought in 600 tanks and 600 artillery pieces of all types and doubled their antiaircraft capabilities. They have also constructed and improved 12 airfields inside South Vietnam, have extended oil pipelines from Communist China to the northern sector of the Demilitarized Zone, and opened up a network of strategic roads coming from Cambodia and Laos.

Article 18(c) of the Paris agreement provides that the South Vietnamese Government and the Vietcong will facilitate the operation of the International Control Commission teams. Between February 28 and March 9, 1973, a total of 10 helicopters making runs for the ICCS were fired on by Communist gunners. One shooting resulted in the deaths of nine passengers and crew including four ICCS workers and, ironically, two Vietcong officials. Shellings by the Communists have caused the evacuation of an ICCS headquarters in Tri Ton, Chau Duc Province. The Communists have also prevented the ICCS from operating in four of the five Vietcong-controlled areas stipulated by the Paris Accords.

Discussing the Vietnam peace Dieter Cycon, writing in the West German newspaper, Die Welt, declared that—

> Over the past year, some 60,000 people have been killed on both sides of the cease-fire lines. This is not much less than in times of open warfare, and little better was to be expected . . . Not for a moment did the Communists consider withdrawing their troops from the supply-line regions of Cambodia and Laos as required by the terms of the treaty.

Recently, I was a member of an eight-man factfinding mission to Vietnam. This mission was headed by Ambassador John M. Allison, retired, former Assistant Secretary of State for Far Eastern Affairs, and was carried out in cooperation with the American Security Council and the Vietnamese Council on Foreign Relations. It had the full and complete cooperation of both the United States and South Vietnamese Governments.

Among the questions we dealt with was the now familiar charge that there are 202,000 political prisoners in South Vietnam.

Following the charge that the Thieu government was holding this large number of political opponents in prisons, the U.S. Embassy in Saigon undertook what it described as "an exhaustive and painstaking analysis" utilizing all available sources, including the personal knowledge of U.S. police advisers who had been on the scene until early 1973. The results of this survey was that "the total prisoner detention population in South Vietnam in the July–August 1973, period—when the check was conducted—was 35,193. This figure comprises civilian prisoners of all types, not just 'political prisoners,' however defined."

In fact, the U.S. Embassy placed the total capacity of South Vietnam's prison and detention system at 51,941 as of December 31, 1972. The total prison occupancy on that date was 43,717.

We found that the allegation that the Saigon government harbored 202,000 political prisoners was found to have originated with a well-known government opponent, Father Chan Tin, a Paris-educated priest. He heads an organization called Committee To Investigate Mistreatment of Political Prisoners—which he defines, very broadly, to include arrested Communist cadre. In his most recent statement, Father Tin lists prisons that allegedly contain many thousands more prisoners than could possibly be physically accommodated.

Concerning the equally invalid contention that South Vietnam is a "police state" we discovered that South Vietnam's 122,000-man national police force has the function of preserving law and order in both the cities and the countryside. It is a vital element in the government's efforts to provide greater safety and security against terrorist attack, kidnaping, assassination, and sabotage. We learned that leftist propaganda attacks against the police within South Vietnam tended to increase in almost direct proportion to the improvement of police efficiency and effectiveness.

Our group, which included Ambassador Elbridge Dubrow, retired, Richard W. Smith, Charles A. Stewart, Prof. Anthony Kubek, and Philip C. Clarke, concluded that—

> The struggle for South Vietnam ultimately may be decided not on the battlefield but by the false facts and wrong impressions given to Congress and the American people by anti-Vietnam propagandists.

The charges upon which those who call for a cessation of U.S. aid to South Vietnam base their appeal are false. Since the charges are not true, the policy called for by such individuals and groups is hardly consistent with the best interests of our country, of the people of South Vietnam, or peace and stability in Southeast Asia.

Why Jane Fonda and the others find nothing to object to in the brutal campaign of terror conducted against the people of South Vietnam by the Vietcong for so many years is difficult to understand. Why they have no word of criticism for the North Vietnamese who cruelly refuse to live up to the Paris agreements and release word about the Americans who are listed as missing in action is equally puzzling.

Miss Fonda, Mr. Hayden, and the others claim that they have come to Washington to lobby for a cessation of U.S. aid to South Vietnam. Those who lobby usually do so on behalf of some interest. If the interest they are representing is that of the Government of North Vietnam, they should tell us this so that we can place their statements and charges in a proper perspective. As things stand today, their irresponsible charges can only serve the purpose of North Vietnam and if this is not their intention they must face the fact that they are being gratuitously used for this end.

Mr. LANDGREBE. Mr. Speaker, more than a year after the signing of the cease-fire in Paris, we are again faced with the continuing lobbying of the so-called peace faction in the United States which feels the goals of the Communists are more significant than the goals of the United States. What upsets me the most about this continuing effort is that it quite deliberately clouds one of the most important and urgent issues of our times—the accounting of the still missing prisoners of war and missing in action in Southeast Asia. It is quite evident that the United States has more than its share of "problem makers," but there seem few who are willing to stand firm for those who valiantly fought for their country and have not been accounted for.

Any and all discussions of amnesty for draft dodgers and deserters are premature until there is a resolution of the MIA problem. It is only just that those who chose not to serve their country should remain "missing" from the American scene until the men who are still missing in Southeast Asia have been returned from their limbo.

An estimated 1,100 to 1,300 men remain prisoner of war or missing in action—among them more than 100 military and civilian prisoners of war who have not been released or accounted for. Yet, Jane Fonda and Tom Hayden are not willing to even discuss this problem. We have many men who are easily accountable and some of their stories are in chilling detail. For example, Lt. Comdr. Ronald Wayne Dodge, who was captured in North Vietnam on May 17, 1967, appeared on the cover of the Paris Match. He had a head wound and was being guarded by the North Vietnamese. A Dutch free-lance photographer identified the photo as part of a movie taken in Hanoi. Yet, Hanoi did not release Ron Dodge nor is he listed as having died in captivity. In fact, no returnee has any information on Lieutenant Commander Dodge. Yet, this picture proves beyond a shadow of a doubt that Hanoi knows what happened to him. Since Jane Fonda and Tom Hayden have such excellent contacts with Hanoi, maybe they can find out what happened to him.

S. Sgt. Donald Lee Sparks, U.S. Army, was captured by the Vietcong June 17, 1969. On April 11, 1970 Don wrote his family saying that he had not seen another American in nearly 10 months and that he was longing for a letter from his family. This letter was found on the body of a Vietcong officer, cleared by the Department of Defense as being authentic, and sent to his mother. Yet, Staff Sergeant Sparks remains unaccounted for and unreleased. Is Don still a prisoner?

Lt. Col. David Louis Hrdlicka was captured in Laos on May 18, 1965. Several months after his capture, Moscow's Pravda released a photo showing David being captured and at the same time Red China confirmed capture through a propaganda broadcast. On May 22, 1966, the Pathet Lao released a tape of a letter David had written on April 24, 1966. When the POW releases took place in 1973, David Hrdlicka was not among the nine men "released by the Pathet Lao." The show in turning over these men masked the fact that all nine men had been immediately transported to Hanoi after their capture and knew nothing of Laos or the Pathet Lao. The show also masked a Pathet Lao propaganda broadcast in November 1969, stating that they held more than 158 Americans, and broadcasts heard by American POW's that more than 100 Americans were held in Laos. A brag on the part of the Pathet Lao? No way. But most likely the numbers were deliberately understated, so we would not have the complete truth. But, there is no fiction about Lieutenant Colonel Hrdlicka and many others captured in Laos. They were captured, the United States and the Pathet Laos know they were, and so do Jane Fonda, Tom Hayden, and their cohorts. Where is their lobbying effort aimed at the Southeast Asian Communists on behalf of these brave Americans?

Terry Lee Reynolds is typical of the journalists and military men captured in Cambodia. Terry's capture on April 26, 1972, was witnessed by a CBS broadcast crew not caught in the roadblock and Terry, his Australian photographer, and Cambodian driver were again seen, in August 1972, as prisoners of war and in good health. In February 1973, released ARVN POW's held by the Vietcong 75 miles north of Saigon reported that the foreign journalists were held in their camp, and in June of 1973, new information indicated Terry was still a prisoner. Walter Cronkite reported, in January 1974, that the journalists were seen again and Terry's family has had information to indicate that a release may be possible in the late spring. Yet, the "peace" faction in the United States has refused to acknowledge that more POW's are in Cambodia and also refuse to acknowledge that their comrades have deliberately held these men after the "peace."

New reports of Americans still held as prisoners continue to come in, including recent reports of men in Cambodia and small groups of Americans in North and South Vietnam. Congressman Benjamin Gilman was told that Americans were still held in San Neus, Laos; Walter Cronkite has reported on the journalists in January; released ARVN POW's told recently of two Americans they were held with in the Central Highlands. Some of these reports are more valid than others and some simply cannot be conclusively checked out. Yet, these reports and rumors will continue until the accounting is completed and there is much to make me believe that more Americans are being held in Southeast Asia.

Because Jane Fonda and Tom Hayden are citizens of this great country, they enjoy the privilege of dissent and free speech. These are privileges no longer enjoyed by 26 of my constituents in Indiana including Lt. Col. Glendon Lee Ammon, who ejected from his F-105 22 nautical miles northeast of Hanoi. Glendon was seen to have ejected and a beeper was heard from Glendon. However, because the territory was heavily entrenched with North Vietnamese, there was no search made. The family of Lieutenant Colonel Ammon and the families of the other still missing men are on "hold" waiting for a response from Southeast Asia. The draft evaders and the deserters must also be on "hold" until the fates of these fine men have been determined.

Mr. BAKER. Mr. Speaker, little more than a year ago when this country was rejoicing in the return of some of our prisoners of war from long months in North Vietnamese prison camps, Miss Jane Fonda was nominated for the worst performance of the year on the floor of the House of Representatives by one of my fellow Members. In my judgment, this recognition was richly deserved by her dogmatic insistence that they were all lying about the treatment which they received at the hands of their captors.

More recently, Miss Fonda, along with her anti-American activist husband, Tom Hayden, has devoted her time to visiting college campuses, appearing on TV shows, and other lobbying efforts. Now, Miss Fonda is entitled to her opinion in this free country. However, she apparently does not want to be confused by the facts.

On Friday, February 1, 1974, the couple had their appearance on WTTG canceled by the program director, because they refused to appear with knowledgeable persons who they feared might "challenge them." According to program director, Jane Henry Caper:

> I couldn't even consider letting them on the air with those demands. Nobody uses my show for a private forum, and nobody tyrannizes the format.

In another incident, the ABC network canceled a showing of the Dick Cavett show which featured Tom Hayden—along with three others of the Chicago Seven, for the same reason.

This poses a question for the Members of this body in connection with the use of a committee room by Jane Fonda and Tom Hayden, for the purposes of holding seminars on Vietnam and U.S. involvement there.

Many of us have often felt the networks often exhibited a bias which only presented one side of a question. Are we not guilty of the same kind of bias, at taxpayers' expense, if committee rooms are used as "a private forum" for the views of Jane Fonda and Tom Hayden? We are certainly laying ourselves open to such a charge.

If this is a worthwhile effort, perhaps we should invite someone to present another viewpoint. Perhaps it would prove of interest to listen to the comments of some of our returned prisoners. For example, Lt. Comdr. David W. Hoffman said he had been coerced into meeting with Miss Fonda and former Attorney General Ramsey Clark on the occasion of their visit to Vietnam. Miss Fonda and Clark determined on that visit that the POW's appeared to have been treated humanely and were in good health. In the words of Commander Hoffman:

> I had a broken arm. It was in a cast. I was hung by that broken arm several times and allowed to drop at the end of a rope from a table which was kicked out from under me. I reject everything I said in the conference—with Fonda and Clark.

Or we could invite Army Capt. Mark Smith who said in Los Angeles:

> What did you mean (addressing Miss Fonda) when you said "I'm speaking to the men who load the bombs. I'm speaking to the pilots. I'm speaking to all you people on the aircraft carriers. "Were you advocating that they commit acts of sabotage or just mutiny?
>
> I think that anyone who goes to a foreign country where we are involved in a conflict, and aids and abets the enemy is a traitor.

Or, in the words of Air Force Col. Quincy Collins, Jr., spoken recently in Chattanooga, Tenn.:

> The war didn't split this country. People did. People like Jane Fonda and Ramsey Clark. It is frightening to realize that such a small group of individuals was able to reach such prominence in America at the peak of the anti-war movement.

I do not believe the Congress of the United States should knowingly give a forum to such persons without challenging their statements.

Mr. McSPADDEN. Mr. Speaker, we were delighted to learn that Jane Fonda and her staff are no longer housed in the Longworth House Office Building. Ms. Fonda, in her zeal against the unpopular war in the Far East, was conducting "classes" on "American Imperialism" assisted by some persons, in a House office building complex. Testimony and documents revealed today by former prisoners of war have fully indicated that Ms. Fonda's statements in North Vietnam had a demoralizing effect on them. I dislike her actions and the reactions on the POW's.

Since July of 1973, I, as cochairman of the Congressional Rural Caucus, and my 21 colleagues of the Rural Caucus, have been trying to find office space for the staff of CRC. The CRC represents 16 States and 10 million people and is concerned basically with the orderly growth of rural America, not "American Imperialism."

The logic of assigning a room to a group teaching the evils of "American Imperialism" while a group of dedicated Congressmen concerned with the orderly growth and development of America goes begging completely loses me.

Not to detract from the seriousness of the above, but in desperation I have even attempted to get a fourth floor men's room in the Longworth Building for CRC space.

Mr. DERWINSKI. Mr. Speaker, at the onset, may I commend my colleague, BILL DICKINSON, for taking a special order this afternoon to discuss the radical propaganda escapades of Jane Fonda and Tom Hayden.

There is no doubt that her propaganda activities during the Vietnam conflict, especially when she performed for Communist propaganda purposes in North Vietnam, had a demoralizing effect on U.S. prisoners of war.

At a time when we must still be concerned with those missing in action, a number of whom are possibly held captive in North Vietnam, the performance of these two spokesmen for the North Vietnamese Communist Government is most unfortunate.

Mr. and Mrs. Hayden have been associated with so many anti-American causes over the years that the public is no longer outraged at their radical affiliations.

We should not forget their direct support for enemy propaganda throughout the period when the North Vietnamese were abusing U.S. POW's and parading them for visiting delegations.

We should continue to demand the necessary cooperation from the North Vietnamese so that there is a complete accounting for the MIA's and release of those that may still be held by the Communists.

The Haydens would perform a positive task for our country if they would use their influence with the North Vietnamese Communist regime to permit our special teams to check all leads which would permit accounting of our MIA's rather than continue their abuse of freedom of speech as they peddle propaganda on college campuses and through media outlets.

Mr. KEMP. Mr. Speaker, I oppose the use of congressional meeting rooms—built and maintained by the tax dollars of our people—for use as a forum for the espousal of views as essentially un-American as those espoused by Jane Fonda and her couterie.

I do not question Jane Fonda's right to proclaim her views. That is a right guaranteed under our Constitution and Bill of Rights to every American, irrespective of persuasion. But, I do question—and I condemn—the use of taxpayers' facilities to provide her a public platform to proclaim those views.

There is a right way and a wrong way to do anything. I think it was an indiscretion that the use of a committee meeting room was chosen by Jane Fonda and those who support her and her causes.

The intensity of my feelings is, however, mitigated by one sure fact: America and its institutions will long survive Jane Fonda and her causes. On that I have no question.

Mr. RARICK. Mr. Speaker, I compliment the gentleman from Alabama (Mr. Dickinson) for reserving this time so that we may direct public attention to this latest mockery of American people.

I am certain that the other Members were as shocked as I was to learn that the American taxpayers have been subsidizing the activities of the North Vietnam lobby on Capitol Hill.

The recent 3-week "seminar" to instruct congressional staff personnel in "American imperialism" in Vietnam was conducted at taxpayers' expense. I am sure that the total expense to heat, light, and maintain the subcommittee room used for these seminars in the totalitarian benefits of North Vietnam brand Communism was not great when compared to the millions of dollars wasted every day by the Federal Government. However, as a symbolic gesture, this misuse of Government funds and facilities is a slap in the face of every American.

Oddly enough, there was a virtual news blackout of the event. Of 12 daily newspapers I checked, only one, the Washington Evening Star, carried the story, and then as an "Opinion Column." This benign neglect by the news media may account for the lack of general public outrage at this affront.

On February 8, I inserted the newspaper account of the Fonda-Hayden lobby duo's use of Government property to further the aims of Communist North Vietnam into the Congressional Record—page 2886—because I felt that it deserved much more attention than it had been given. The American taxpayers have the right to know how their money is being used.

The American people have indicated time and again that they do not want their tax money being used to provide aid to North Vietnam. The response I received from those brief remarks in the Congressional Record indicates to me that our people still do not wish to kiss and make up with the Communist government of North Vietnam, which continues to wage war against our South Vietnamese allies.

Veterans groups in several States have been quite vocal in their opposition to rolling out the red carpet to Mr. Hayden and Ms. Fonda. Several prestigious newspapers have editorialized against this "gross misuse" of taxes. I insert the related editorial from the Los Angeles Herald-Examiner, March 7, following my remarks. Correspondence from concerned citizens expressing their outrage at this being allowed to happen continues to come into my office daily.

Hayden was quoted in the Star story as saying:

> The situation has changed. It calls for new tactics. Now a majority of the people are on our side about Vietnam.

I question who the "majority of the people" he refers to are. They are certainly not the American people.

The editorial follows:

Gross Misuse

> Rep. John R. Rarick (D-La.) discloses that U.S. taxpayers have been subsidizing the activities of a North Vietnam lobby on Capitol Hill.
>
> For three weeks, says Rarick, a subcommittee room was turned into a meeting place for a "seminar" conducted by the self-appointed North Vietnam lobby.
>
> Tom Hayden, a founder of Students for a Democratic Society (SDS), who gained national notoriety as a member of the "Chicago Seven," instructed 60 salaried congressional staff personnel in the "totalitarian benefits of North Vietnam brand communism," charges Congressman Rarick. Accompanying Hayden in his teach-in and lobbying rounds of congressional offices was his wife, Jane Fonda, whose sympathies for North Vietnamese Communists are well known.
>
> The purpose of the seminar was to instruct House staff members in the facts of life about American involvement in Vietnam. Assuredly, these "facts" came from Miss Fonda's first-hand knowledge of the situation, gathered during her much publicized trip to Hanoi as a guest of the North Vietnamese government.
>
> Arrangement for the subcommittee room for the Haydens was made by Rep. ———. Use of a taxpayer-owned facility, which is heated, lighted and maintained with tax money, to propagandize congressional personnel—whose salaries are paid for with tax money—is outrageous. It is an insult to every veteran who fought in the rice paddies of Vietnam, and to every taxpayer who doesn't want his money used to aid North Vietnam.
>
> Protesting this misuse of government facilities for lobbying purposes, the Louisiana congressman says, "It is a blatant affront to the American people, who have indicated time and again that they do not want their money used to aid and comfort the country which just one year ago, was killing American soldiers and continues to murder our South Vietnamese allies, in spite of 'peace with honor.' "
>
> We agree.

WHAT IS EATING AMERICANS—AND WHY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Heinz) is recognized for 15 minutes.

Mr. HEINZ. Mr. Speaker, certain recent national polls revealed that the public's level of confidence in Congress has sunk to an all-time low. While I would argue that such figures really represent a vague, hard-to-define Government rather than Congress in particular in most peoples' minds, I think such information should give all of us in the Congress ample reason to reflect on just what is eating the American people these days and why.

Several things leap to mind almost immediately:

A wage and price control policy that keeps wages locked in to 5.5 percent but allows prices and the cost of living to soar twice and three times that figure;

The price of bread at nearly 60 cents a loaf on one hand while on the other are Russian wheat deals and the Agriculture Department telling us not to worry, a bumper crop is due despite admissions of a fertilizer shortage;

A seeming shortage of oil but certainly no shortage of profits for the oil companies;

A minimum wage so low that people on welfare make more than the man who works for his pay;

A law we passed more than a year ago which made a promise to keep our senior citizens on social security at least even with the cost of living and that we have failed to deliver on;

The impossibility of the middle-income worker to save enough money to give his children a decent education yet facing a Government loan program that he fails to qualify for because he earns "too much";

A President, allegedly dedicated to tax reform, who then pays less than the guy who works hard for his $10,000 to $12,000 a year, and a Congress which simply will not act on the matter.

These absurdities and contradictions have been with us a long, long time, but only lately have they touched off recognition among people that even though things have supposedly never been better, their standard of living has gone down and they want to know why. People do not like it. They should not and I do not blame them for being frustrated, disillusioned, and disgusted.

Americans see ever-increasing food prices take away those few dollars that might have been used for the dentist. The 60 cents a gallon they have to pay for gas could well make the difference between another mending job on their child's pants rather than a new pair he needs. And a vacation this summer for the family? Well, what with the threat of no gas the realism of no money, forget it.

In case any of my colleagues doubt it is possible to be poor on $12,000 a year these days, and the anxieties and discontent such a situation can cause, I would like to insert the following letter received from a constituent of mine. It says it all, in a way probably none of us ever could say it, and I have it reprinted in its entirety:

DEAR JOHN: I've decided to call you John because I'm about to reveal some rather personal things about me and my family. It seems to be the best way to make you understand how I feel.

First of all, I've never written to a public official before. As a matter of fact, I probably wouldn't be writing this, except that I'm getting desperate. To tell you the truth, I really don't have much faith in politicians—I don't believe in the tooth fairy, either. Come to think of it, I don't believe in much, outside of God, myself, and my family. I see your main redeeming feature in the fact that you'd probably be making ketchup rather than political decisions if money was your main objective, so here goes.

This letter was conceived in the A & P Store last Saturday when the cashier gave me the bad news—$71.83 for two weeks of food. That doesn't include bread, milk and lunchmeat which probably works out to at least another $15. The $71.83 consists entirely of absolute necessities—no pop, cookies, or snacks of any kind. Okay, I admit it—my big splurge was a steak which cost $3.46.

My husband, Gary, and I are 28. We have two daughters—Susie, five years, and Sondy, five months. We've been married eight years. Gar's a radar technician on a Nike site and I'm a housewife, and up until the past year or so, we've gotten along very nicely financially. Gary gets raises pretty regularly, but all of a sudden we seem to be living beyond our means. Our monthly income is $662. Our bills are as follows: mortgage, $146; carpet, payment, $24; electricity, $14; combined garbage, sewage and water, $12; gas, $20; combined insurance, $36; telephone, $14; food, $170; gasoline, $36, and bus transportation for my daughter to go to public kindergarten, $15. That gives us a grand total of $494.

In addition, we still owe Sears $140 from Christmas. Gary gets $50 a month for his personal expenses. And our big extravagance is a bowling league we belong to which costs $14 every other Saturday or $28 a month. If we pay Sears $30 a month and the pediatrician $20 (we owe him $65) that's another $128. That brings our total to $622. That includes no clothing allowance. We're long overdue for a check-up at the dentist, we need four new tires, our new license for the car, and we owe the crummy township $30 from last year's wage tax.

Please don't think I'm crying in my beer. I guarantee you we'll get to the dentist, we'll buy our new tires, and we'll pay the township. But it hit me like a ton of bricks when I realized that we're the average family—look how many people are in worse shape all of a sudden. Why?

We had an income of $11,894.71 last year. We paid $1,087.24 in income tax to the Federal government. When I turn on the news and hear some of the tricks Nixon's pulling, it boggles my mind. How can we let it happen? I resent paying 53-cents for a loaf of bread when we were so generous with the Russian wheat deal.

Look, I didn't mean this to be another average letter from another average housewife complaining about the average American problems. But it's hard to avoid. Tell me why us good old Americans can't take care of our own first. Tell me how to get a bill passed so that Americans pay a flat 7 or 8 per cent income tax with no deductions. Tell me why the rich keep getting richer. I'm really disgusted. I used to feel a good deal of pride in being American. I'm now fed up with having every nation in the world use me.

Getting back to my personal problems, as you know, the Nike sites in the Pittsburgh area are closing down. As I'm sure you can imagine, six years experience as a radar technician isn't exactly applicable to anything else. The government will offer Gary another job with the National Guard somewhere else, but how could he buy another house with a $146 mortgage payment? So, if we did move, we'll be worse off. So, Gary's big dream is to get a job in the new Bulk Mail Center in Wexford. If you can tell me how he might be able to manage that, please let me know. But, like I said, John, I don't believe in the tooth fairy.

Of course, I can go to work. But you see, we're very methodical people. I was a secretary when we got married. I worked for three years to save for a down payment on this house. We had our first child and didn't have our second intentionally for five years so that we won't have two kids in college at the same time. And we had two kids because we truly wanted two kids, to raise and love and educate to the best of our ability. We won't have any more because we can't afford anymore and we feel our kids deserve as much of our individual attention as possible.

Believe me, I'd very much enjoy working. Being a housewife just don't fill the bill when it comes to improving the mind. And I'll be very eager to go back to work when my baby is in first grade. But these next five years of my life belong to her. And if I must leave her with some 65-year-old babysitter and go to work, who am I going to blame? By the way, I have every confidence that my husband will find some kind of a job, probably making as much as he does now. So if I have to go to work, it's the cost of living that's responsible. And who can I resent but the government?

Oh, another thing I'd like to mention. I have a very close friend working for the County. Are you aware of how much money he's forced to "contribute" every year to keep his job? But, he feels it's part of the job and you just dish it out when they tell you how much. I feel it's blackmail. Just one more segment of good old American democracy.

Well, John, that pretty well sums up how I feel. I hope you at least read my letter. (Gary tells me some secretary will dispose of it for you.) I really don't expect you to do anything to change the world, and I'm certainly not blaming you for any of this. So don't write back telling me about pending legislation or that Nixon's really a good guy—he belongs in jail. But, I realize worldwide repercussions could result if he were impeached, so, once again, grin and bear it.

There's one very important thing you can do for me. You can tell me how to have faith in this vast and awe-inspiring nation. I need something to believe in. I'd love to feel that twinge of pride again when I think about being American. How do I get it, John?

Sincerely,

CONNIE WATENPOOL.

ENERGY ANALYSIS—DIMENSIONS OF THE PROBLEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 5 minutes.

Mr. HANSEN of Idaho. Mr. Speaker, the energy problem is the single most important issue in America today. Before this decade has passed, our energy deployment capabilities—or the lack of them—will supersede all other political, economic, and environmental issues.

Recent trends indicate that we could have an energy gap of as much as 30 percent by the mid 1980's, and an energy catastrophe by the end of the century, if we do not act now to confront this problem.

What would America be like if power shortages of this magnitude developed without the option of alternate energy sources? The scenario is not pleasant to contemplate. At first, gas and oil prices would increase, causing inconvenience to many and hardship to some. Reductions in voltage to home and industrial users would be annoying at first, and drastic in the final stages. Use of luxury appliances such as air conditioners would be curtailed. Heating would also have to be dramatically cut back. After a while, our concern about convenience would be overcome by an overwhelming concern for essentials. Gas and oil would be rationed, mass public transportation and carpooling would be required, and pleasure driving would be a thing of the past. Lowered auto driving would force drastic cutbacks in the auto industry, and other industries would be severely affected. The domino effect of plant shutdowns and mass layoffs would come into play. Legislation would become necessary to restrict gasoline use to only the most essential activity. Even farm production would suffer, although protected initially by a priority fuel allocation system. Transportation of farm products to the market would be disrupted, and farmers would soon face difficulties in obtaining needed supplies, such as fertilizer. Costs would spiral, resulting in increased Government control of wages and prices. As the situation worsens, decisions would be made that would undercut our economic and social freedom. Gone would be our concern for the ideals of democracy. Survival would be the key issue. Controls and regulations would become inherent in our everyday life, leading to nothing short of industrial martial law.

In some respects, the Arab oil embargo has probably been a good thing for us. It produced a microcosm of the conditions I described above. We have had, and will continue to have, higher prices for gas and oil. We have narrowly averted gasoline rationing, for the time being. We have had mandatory fuel allocations to distribute available fuel supplies. We have had lines, layoffs, shortages, and violence. We have been able to get a glimpse of the future while there is still time to do something positive about it. If we fail to act now to lessen our dependence on petroleum products and to develop viable energy alternatives, we will surely be the architects of our own national economic disaster.

If you doubt the validity of this projection, pause to reflect just for a moment on our individual and national dependence on energy. Can you think of any aspect of your life that does not depend on energy? Your body runs on power derived from food, the production of which is dependent upon energy—from every aspect from fertilizer production to processing foods. How do you heat your home in winter, or cool it in summer? How do you see at night? How do you keep perishable foods safe for consumption? How do you travel? What supports the agricultural and industrial systems of the United States? What, in fact, forms the basis of our standard of living? The answer is simple. Power.

The ability to produce this power in the United States depends on fuel resources that are dwindling at an alarming rate. At the same time, demand is growing every year.

The reality of our energy problem cannot be denied. You cannot deny the fact that exploration for oil has been decreasing since 1956. You cannot deny the fact that domestic refinery production capacity peaked in 1970. You cannot deny the fact that coal production has been depressed for years and is only now starting to make a comeback. You cannot deny the fact that we should have started a vigorous nuclear fusion and synthetic fuel program 20 years ago.

The following table prepared by the U.S. Department of the Interior illustrates the increase in U.S. consumption of energy resources:

TABLE 1.—U.S. CONSUMPTION OF ENERGY RESOURCES BY MAJOR SOURCES

Source	10^{15} Btu 1950	1960	1970
Petroleum	13.489	20.067	29.614
Natural gas	6.150	12.699	22.029
Coal	12.913	10.140	12.922
Hydro	1.440	1.657	2.650
Nuclear		.006	.229
Total primary energy	33.992	44.569	67.444

Source: U.S. Department of the Interior, "United States Energy Through the Year 2000," December 1972.

The Interior Department has also prepared a projection on our anticipated energy shortfall, which will have to be filled with increasingly costly foreign imports:

TABLE 2.—U.S. ENERGY SHORTFALL[1]

Domestic supply	10^{15} Btu 1971	1975	1980	1985	2000
Natural gas	21.810	22.640	22.960	22.510	22.850
Petroleum	22.569	22.130	23.770	23.600	21.220
Coal	12.560	13.825	16.140	21.470	31.360
Hydro	2.833	3.570	3.990	4.320	5.950
Nuclear	.391	4.560	6.720	11.750	49.230
Total	60.163	64.725	73.580	83.650	130.610
Domestic consumption	68.728	80.265	96.020	116.630	191.900
Shortfall to be satisfied by imports	8.656	15.540	22.44	32.980	61.290

[1] Source: U.S. Department of the Interior, "United States Energy Through the Year 2000" December 1972.

Some people discount the reality of the crisis. They say that any "crisis" that developed so rapidly would have to have been contrived. The fact is that the crisis has been building for many years. Scientists from the Government and industry have been warning of impending fuel shortages for years. It seems we had the knowledge of the inevitable power default. but not the sense of urgency required to avert it.

Rather than recognize the role that each of us, as individuals, have contributed to this state of affairs, some have chosen instead to pursue scapegoats on which to pin the blame for the Nation's energy problems.

The oil companies have been blamed for conspiring together to create the crisis by some, and blamed for not conspiring enough to avert the crisis by others. The Government is castigated for its role in placing restrictions on the importation of foreign oil, and then alternately condemned for premitting "cheap' foreign imports to fill our energy gap. Let us look at this problem a little more closely. If we had not had oil import quotas, we would now be importing more than we do presently, and would be in a far more vulnerable position in the international strategy of oil brinksmanship. If we had instituted a 100 percent restriction against imported oil, we would now be further along than 50 percent in the depletion of our oil reserves, and we would undoubtedly be paying a higher price for gasoline. In this case, it seems we really could not win either way.

The Federal Power Commission has come under fire for depressing the price of natural gas in interstate sales. It is maintained that these low prices have caused utilities to switch to gas from coal because it was cheaper. The coal industry then declined, but the gas industry did not earn enough profits to explore extensively for new gas fields. If the prices had not been set, would our consumption patterns have been altered that significantly? Economic analysis maintain that the price elasticity factor for energy is .2—which means that the price would have to increase by 10 percent to decrease demand by 2 percent. Would this decrease in consumption have been enough to offset demand for natural gas? Back in the 1940's our gas consumption was rising at a rate of 6 percent per year and at that time, we had consumed less than 10 percent of nature's gas legacy. Today, our consumption is rising at a rate of over 7 percent per year, and we use three times as much gas as 20 years ago. The impending gas gap is due partially to the Federal Power Commission's pricing structures, partially to upgraded air quality standards which increased reliance on this cheap and clean fuel source, but mostly to increasing millions of Americans who double their energy consumption every 10 years.

The utilities have come under fire for promoting power consumption and luring the public into a false sense of complacency about our energy reserves. Did they do this? Or did they simply respond to the public's demand for greater goods and services? When they responded to this demand, they stimulated the growth of new industries and their related employment opportunities. The consumer has to recognize his role in this particular energy equation because energy deployment and economic growth are two sides of the same coin.

A lot of people are blaming the environmentalists for our energy problems, charging that the Federal Government capitulated to a short-sighted segment of the environmental movement in permitting the delay of the Alaska pipeline, atomic powerplants, refineries and pipelines, and so forth. I do not believe the Government capitulated to anyone. It simply recognized the fact that environmental degradation was a cost that had to be counted into the prospectus of our energy industry, instead of being blithely ignored. These costs are too large to be ignored or discounted. The current cost of air pollution related sickness and premature death is about $6 billion a year, which includes only medical costs and loss of work. Damage of crops and materials amounts to another $5 billion per year, and depression of property values as a result of pollution adds another $5 billion annually. Current estimates indicate $15 billion will have to be spent over the next 5 years to halt pollution. This represents a benefit-to-cost ratio of at least 5 to 1. Reflect for a moment, too, on the fact that the cost of air pollution surpasses our annual budget outlays for fusion research by at least 200 to 1.

One cannot blame the environmentalists for wanting to halt this tragic waste of money, resources and life. One might conceivably blame them for their sense of timing, and I fear that many worthwhile ecological goals might fall victim to energy expediency if our fuel shortages become protracted or intensified.

I am convinced that we can successfully coordinate environmental objectives and energy development. Concessions will have to be made on both sides, and a lot of effort and good will is required. If we could develop an effective standardization program for nuclear powerplants, we could allay the fears of many of our citizens who view the construction of such a facility in their communities as a nuclear threat. This standardization program could also facilitate our siting and licensing procedure to avoid costly delays. At the present time, we literally invent the wheel over and over again every time we require the same type of nuclear powerplant to go through the same exhaustive siting and licensing review procedure. The delays resulting from this present program have literally put us behind the power curve in nuclear energy. In the field of other energy resources, preplanning of reclamation, restoration and pollution control will dispel fears about desecration of the land and fouling of the air and water. This preplanning pays dividends to industry in time savings, by avoiding delays through court challenges over environmental impact, and in the long run, saves money, too.

As we analyze the energy crisis, it is clear that what we actually are confronting is a "petrocrisis." In this sense, our energy gap began the day the first barrel of oil was produced. This is because we then began to draw down on nature's inventory of fossil fuel. Once the supply is gone, it is gone forever.

Why can't we create fossil fuels?

Approximately 300 million years ago the geological processes that resulted in oil, gas, and coal formations were at their height. Nature still forms the fossil fuels, but at a formation rate 1 million times slower than man's consumption rate. This imperceptably slow formation rate classifies fossil fuels as nonrenewable.

We consume in a year what it took nature over a million years to create. In the time it takes to read this sentence, we have consumed what nature took the better part of a year to create.

Nuclear fuels are also finite—the present reserves are our finite energy bank. The success of our nuclear fusion program could expand the potential of these reserves into a billion year energy supply.

There are, of course, eternal power sources: sunshine, wind, tides, and flowing water. These sources, if tapped, would yield their energy as electricity. The most powerful but most unobtainable of the eternal energy sources is sunshine; the one most easily harnessed is flowing water—hydroelectric power. Theoretically, every energy need in the United States could be met by electrical power. This would require 2 trillion watts of power generation. Hydroelectric power potential is only about 5 percent of this figure. Thus, we have expanded in numbers and living standard far beyond the capacity of our most accessible and renewable energy source to sustain us even in the present.

What is the probable lifespan of our U.S. energy resources? Gas could last 40 years at the 1970 consumption rate, and less than 30 years at present rates. Oil could last 20 years at the 1970 consumption rate, and less than 15 years at the present rate. Coal could last 200 to 300 years if used to synthesize oil and gas at the present growth rates. Uranium could last 100 to 1,000 years after the breeder reactor is on-stream by the year 2000 or 2020 for a 6 trillion watt economy. Deuterium could last over a billion years if we could develop controlled thermonuclear fusion reactors. These figures, however, cannot fully take into account the rate of acquisition and deployment of energy from these and other sources. The employment of energy by U.S. industry is growing faster than the population. This is an index of our rising standard of living. In 1970, our growth rate was 1.1 percent while energy rate of growth was 7 percent.

To maintain this 7-percent growth rate will require a doubling of energy output in about 10 years. With a doubling time of 10 years, by 2000 we would be using 8 times as much energy as in 1970.

This compound rate cannot be maintained indefinitely. The future portends a trade-off—a massive power default or a massive population reduction or both. This trade-off can only be averted by the successful development of alternate energy sources, the most promising of which are coal for medium term needs, and thermonuclear fusion for long-term energy needs.

If we do not meet the energy challenge by developing a massive research and development effort, guided by farsighted Government and industry planning, we will not be able to close the energy gap in time to avert a shutdown of American industry, and with that, a collapse of our way of life and loss of our national independence.

JANE FONDA "AMERICAN IMPERIALISM" COURSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ARCHER) is recognized for 5 minutes.

Mr. ARCHER. Mr. Speaker, I totally share my colleagues' outrage at the gross misuse of congressional facilities in recent weeks by Jane Fonda and her husband Tom Hayden.

The right of dissent is one of the most sacred of American ideals, and I most certainly would not take that right from any American, regardless of whether or not I share his views. What I protest most strongly is the use of facilities paid for by the taxpayers of this country as a forum for lobbying activity by extremists.

A number of those taxpayers, residents of my district, have written to me in disbelief, astounded that the Congress of the United States would allow this to happen.

We have all read the accounts by former prisoners of war concerning the harmful effects of Ms. Fonda's work on their own captivity. And what of those still missing in action for whom there has been no total accounting? The Communist leaders in Hanoi must be laughing out loud at the propaganda fodder that this Congress has given them by allowing its facilities to be used for a course on "American imperialism."

While we cannot go back and undo what has been done, we can and must guarantee the taxpayers of this country that the seat of their Government will not be the target of abuse for those who would tear it down.

I can promise this House of Representatives that if any member of my staff had been among the 60 congressional aides allegedly registered for that course he would not be a member of my staff today.

AMENDMENTS TO H.R. 69

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. SYMMS) is recognized for 5 minutes.

Mr. SYMMS. Mr. Speaker the following amendments to H.R. 69 will be offered by myself and other Members:

Amendment to H.R. 69, as Reported

Page 82, strike out line 1 through line 13, and insert in lieu thereof the following:

(b) The second sentence of section 301 (b) of the Act is amended by inserting immediately after "succeeding fiscal years" the following: 'ending prior to July 1, 1974".

Amendment to H.R. 69, as Reported

Page 131, immediately after line 15, insert the following new section:

LIMITATION ON AVAILABILITY OF CERTAIN FUNDS

SEC. 906. Section 303 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Funds appropriated pursuant to section 301 shall be available only for the support of programs or projects designed to assist in the cognitive development of students, as opposed to their social development or behaviorial modification.".

Amendment to H.R. 69, as Reported

Page 131, immediately after line 15, insert the following new section:

AMENDMENT OF TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 906. Title X of the Act, as redesignated by section 201(a) of this Act, is amended by adding at the end thereof the following new section:

"PROTECTION OF PUPIL RIGHTS

"SEC. 1010. Nothing in this Act, or in title I of the Elementary and Secondary Education Act of 1965, shall be construed or applied in such a manner as to infringe upon or usurp the moral or legal rights or responsibilities of parents or guardians with respect to the moral, emotional, or physical development of their children.".

Amendment to H.R. 69, as Reported

Page 131, immediately after line 15, insert the following new section:

AMENDMENT OF TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 906. Title X of the Act, as redesignated by section 201(a) of this Act, is amended by adding at the end thereof the following new section:

"PROTECTION OF PUPIL RIGHTS

"SEC. 1010. Nothing in this Act, or in title I of the Elementary and Secondary Education Act of 1965, shall be construed or applied in such a way as to authorize the participation or use of any child in any research or experimentation program or project, or in any pilot project, without the prior, informed, written consent of the parents or legal guardians of such child. All instructional material, including teachers' manuals, films, tapes, or other supplementary instructional materials which will be used in connection with any such program or project shall be available for review by the parents or guardians upon verified request prior to a child's being enrolled or participating in such program or project. As used in this section, 'research or experimentation program or project, or pilot project' means any program or project designed to explore or develop new or unproven teaching methods or techniques.".

Amendment to H.R. 69, as Reported

Page 131, immediately after line 15, insert the following new section:

AMENDMENT OF TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 906. Title X of the Act, as redesignated by section 201(a) of this Act, is amended by adding at the end thereof the following new section:

"PROTECTION OF PUPIL RIGHTS

"SEC. 1010. No program shall be assisted under this Act, or under title I of the Elementary and Secondary Education Act of 1965, under which teachers or other school employees, or other persons brought into the school, use psychotherapy techniques such as group therapy or sensitivity training. As used in this section, group therapy and sensitivity training mean group processes where the student's intimate and personal feelings, emotions, values, or beliefs are openly exposed to the group or where emotions, feelings, or attitudes are directed by one or more members of the group toward another member of the group or where roles are assigned to pupils for the purpose of classifying, controlling, or predicting behavior.".

I move that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

REPEAL OF BYRD AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Diggs) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, in regard to the repeal of the infamous Byrd amendment under which the United States is violating its international legal obligations, namely United Nations sanctions against the illegal Smith regime in Southern Rhodesia, I would like to insert for the thoughtful attention of my colleagues the list of the U.S. firms which are lobbying against the repeal of the Byrd amendment. The list follows:

Andrews Sales Company, Saginaw, Michigan.

Applied Engineering Company, Inc., Orangeburg, S.C.

Associated Steel Company of Houston, Houston, Texas.

John A. Biewer Co., Inc., St. Clair, Michigan.

Brown Manufacturing Company, Oklahoma City, Oklahoma.

Buckeye Steel Castings, Columbus, Ohio.

The Feldspar Corporation, Spruce Pine, N.C.

Inca Metal Products Corporation, Carrollton, Texas.

Long Foods, Inc., Newmarket, Virginia.

McJunkin Corporation, Charleston, West Virginia.

Nordlie, Inc., Detroit, Michigan.

Schilling Trane Air Conditioning Company, Indianapolis, Ind.

Silvey Companies, Columbia, Missouri.

Socar, Inc., Florence, S.C.

South Florida Growers Association, Inc., Goulds, Florida.

Southern Alloy Corporation, Sylacauga, Alabama.

Werber Insurance Agency, Bethesda, Maryland.

Central Wood Preserving, Inc., formerly: The Central Creosoting Company, Inc., Slaughter, Louisiana.

Electro-Coatings, Inc., Moraga, California.

Quality Wood Preservers Society, Inc., College Park, Georgia.

LABOR—FAIR WEATHER FRIEND—XI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, last week I spent some time wondering about how an old acquaintance like Paul Montemayor could stand idly by while I was being unfairly attacked by an organization in which he is a board member. I have thought about this a great deal, because Paul is an old friend of mine.

When the Labor Council for Latin American Advancement attacked me, it did not have a meeting for that purpose. Probably only two or three members of the board even knew what was going on. I do not know what role Paul had, or if he was even aware of the attack. But despite the fact that most of the LCLAA board members undoubtedly had no idea of what had happened, or much less approved it, the attack was given credence and legitimacy by the AFL–CIO's house organ, which did not care whether the charges made against me were true or false—all they cared was reporting what had happened, or what they thought had happened.

But my old friend Paul has never lifted a finger to correct that attack, even though he knows it is false. He has never called me, written me, or anything else in an effort to learn what the facts are. Yet he knows what happened and knows that he has an obligation to defend the truth.

And the truth is that I am a friend of labor.

Paul Montemayor remembers well how, after I was elected to Congress, it was hard to find an elected official who was willing to identify with organized labor. He asked me to come down to his hometown of Corpus Christi to address a meeting of his local, and I did so gladly. It was not in my district, but I was willing to go, because it seemed important to Paul to have an elected official there. I went out of my way to help then, as I did many other times.

Paul Montemayor has always been privately friendly toward me. He has always, up until now, come around to assure me that he is my friend—always privately.

But I have noticed that Paul is a member of a number of organizations that have not been friendly toward me. That is his affair. He knows my feelings about these organizations. Yet, it has always been striking to me that Paul has been willing to be a private friend, while doing little or nothing to defend me against those antagonists with whom he associates in public.

Maybe that is the key to this situation. I do not expect, after all these years, for Paul Montemayor to defend me against those enemies that I do have in the Labor Council for Latin American Advancement. There is no sign that he has done this in any other organization, so there is no reason for him to start doing so now.

I do not really expect Paul to be my defender. I have not asked him to do that. And it certainly is not his style. Being a defender of mine might endanger Paul's personal ambitions, whatever they may be. His actions in my behalf might get him hard looks, or adverse actions by his friends on one board or another. And that is his business. If he wants to be a private friend, that is all right with me.

But friend or foe, I expect Paul and those associated with him to speak the truth. The Labor Council for Latin American Advancement has lied about me and mistreated me and allowed its name to be used falsely and probably illegally. Those fellows might not care about me, but they ought to care about the abuse of their organization, and do something about it.

Paul is a man who tells me privately that he stands for what is good and right and honest. This business is a fair test of his sincerity. If his organization has issued a lie, and he believes in telling the truth, I think he ought to actively seek to expunge the lie and establish the truth, and assure that such abuses do not happen again.

Paul has always told me that I am a friend of labor, and if he really meant that, it surely seems that he would be saying so now.

But unhappily I do not see Paul anywhere today, and I do not hear from him either. There is some truth that needs to be spoken, and he is one to speak it. But, Paul, "no te oigo—" I do not hear you.

NATIONAL EMPLOYMENT PRIORITIES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Ford) is recognized for 5 minutes.

Mr. FORD. Mr. Speaker, today I am introducing the National Employment Priorities Act, a bill to provide assistance to workers, businesses, and communities adversely affected by the arbitrary and unnecessary closings or relocations of industrial plants and other business and agricultural concerns.

This legislation is based on the premise that such closings and transfers may cause irreparable harm—both economic and social—to workers, to communities, and to the Nation.

During the past two decades, we have had firsthand experience with the kinds of problems created by plant closings within my own State of Michigan, which has lost at least 75 plants, and the problem seems to be getting worse. We lost nine plants in 1972 alone.

In most cases, when the plants close down and move away, they leave hundreds of unemployed workers in their wake. This not only creates a tremendous amount of human suffering, but it also has a severe economic impact on the community. One recent example is the city of Wayne in my own congressional district which became a victim in 1972. In that year the Gar Wood plant, with very little advance notice, moved away and left behind 600 unemployed workers.

There have been several other occurrences in and around my district. The city of Lincoln Park, which adjoins my district, had a similar experience with the Wolverine Tube Co.

In 1971, the Federal Mogul Co. in Detroit signed a contract with the United Auto Workers, and 6 months later announced that it was moving to Alabama—"not because we are not making in Detroit, but because we can make more money in Alabama." Recently the Huck Co. moved its operations to Texas, and a few years earlier, the Detroit Macoid Co. moved away leaving 200 unemployed workers behind.

Mr. Speaker, these are just some examples in my State. The General Subcommittee on Labor, in the course of its field hearings on welfare and pension plan legislation, heard similar stories from all over the country.

The Subcommittee on Agricultural Labor, which I chair, observed very recently a near catastrophic problem presently confronting the State of Hawaii because of the runaway pineapple industry. Hawaii is now faced with a shutdown of almost its entire pineapple industry because big corporate giants, such as Dole and Del Monte, have decided that it would be more profitable to grow and process pineapples elsewhere, such as Taiwan and the Philippines. The number of workers expected to lose their jobs by these moves have been estimated as high as 15,000—thousands more people are expected to be affected indirectly. The runaway pineapple industry problem in Hawaii will virtually paralyze one island—Molokai—whose economy is wholly dependent upon the pineapple industry.

Mr. Speaker, again, these are mere illustrations of the kinds of problems which can be found in nearly every State in the country.

The National Employment Priorities Act is designed both to prevent these problems and to aid the victims when the problem cannot be avoided.

Briefly, the bill would establish a National Employment Relocation Administration—NERA—to investigate and report on the economic justification for a plant closing or the transfer of an agricultural or business enterprise upon request of 10 percent of the employees or a collective bargaining representative. Based upon the recommendations of the NERA, the bill would authorize adjustment assistance to employees affected by relocations; assistance through grants and loans to communities that suffer substantial unemployment as the result of plant closings or relocations; or technical and financial assistance to business and agricultural concerns in order to prevent their closing or relocation. It would also authorize the denial of certain Federal tax benefits to businesses which relocate contrary to the will of the NERA.

The legislation I am proposing today is intended to be a starting point—a proposal for discussion and further consideration.

Those of us who are supporting it are not completely wedded to any specific approach, but we are committed to the goal of providing some form of assistance to workers and communities forced to suffer because of the arbitrary closings and transfers of business and agricultural enterprises.

The Congress has recently acted very responsibly in passing legislation to provide pension protection for workers who have been left behind. Our next goal should be to provide for job protection for workers and economic protection for communities.

We can do so by enacting legislation such as the National Employment Priorities Act which I am introducing today.

Mr. Speaker, at this point, I would like to insert into the RECORD a summary of the provisions of this proposal.

SUMMARY OF PROVISIONS

The National Employment Priorities Act of 1974 would amend the Fair Labor Standards Act of 1938 by adding a new chapter containing the following provisions:

TITLE I—GENERAL PROVISIONS

Title I contains the general provisions including a declaration of policy and purpose and the definitions.

TITLE II—ESTABLISHMENT OF THE NATIONAL EMPLOYMENT RELOCATION ADMINISTRATION

Title II authorizes the establishment of the National Employment Relocation Administration within the Department of Labor. The Administration would be headed by an Administrator appointed by the President with the advice and consent of the Senate. Title II also provides for the establishment of a National Employment Relocation Advisory Council consisting of eighteen members, which would include the Secretaries of Labor and Commerce, the Administrator of the Environmental Protection Agency, four members representing the general public, three members representing organized labor and three members representing management or the business community. The Council would advise and assist the Secretary and Administrator with respect to the actiivties of the NERA.

TITLE III—NOTICE, INVESTIGATIONS, HEARINGS, AND REPORTS, IN CLOSING AN ESTABLISHMENT OR TRANSFERRING OPERATIONS

Title III contains provisions requiring notice by a business or agricultural concern of not less than two years of its intent to close down or transfer its operations. This Title also provides that, within thirty days after receipt of notice of intent to close an establishment, or whenever the Secretary of Labor determines that it would serve the purposes of the Act, the Secretary shall conduct a thorough investigation which would include public hearings.

Title III provides further that at the conclusion of the investigation the Secretary is directed to prepare and publish a report containing the findings with respect to (1) the economic necessity or justification for the proposed closing or transfer; (2) the potential economic and social loss to affected employees; (3) the potential economic, social and environmental loss to the affected community and (4) recommendations of actions to be taken.

TITLE IV—ASSISTANCE TO EMPLOYEES WHO SUFFER AN ELIGIBLE EMPLOYMENT LOSS

Title IV provides for assistance to employees who suffer employment loss due to the relocation or closing of a business or agricultural establishment. The adjustment assistance under Part A of this Title would include, but would not be limited to, income and maintenance payments; maintenance of pension and health benefits; job placement and retraining benefits; relocation allowances; early retirement benefits; emergency mortgage and rent payments; and food stamps and surplus commodities for persons suffering an employment loss who have incomes below the poverty level.

Part B of Title IV provides a program for job placement and retraining benefits for affected employees.

TITLE V—ASSISTANCE TO AFFECTED COMMUNITIES AND TO BUSINESSES LOCATED IN SUCH COMMUNITIES

Title V provides for assistance to affected communities and to businesses located in such communities. Eligible units of local government would be designated by the Secretary upon the determination made by the Secretary that the closing or transfer of operations of one or more business or agricultural concerns has contributed substantially to an unemployment rate within the jurisdiction which exceeds 8 per cent.

Part B of Title V provides that a unit of general local government meeting the unemployment requirements would be eligible for direct grants not to exceed 85 per cent of the revenue loss which results from a closing or transfer.

Part C of Title V provides for assistance to business and agricultural concerns in dislocated communities. Assistance under Part C would be available to businesses which the Secretary determines (1) would have a capacity to expand and offer additional employment opportunities to persons residing within the jurisdiction or in the same labor market in which the general local government is located; (2) have the potential to continue to provide such employment opportunities over a substantial period of time and (3) that the assistance available is not readily available from other sources. The assistance would be in the form of direct or guaranteed loans.

TITLE VI—ASSISTANCE TO BUSINESSES THREATENED WITH DISLOCATION

Title VI provides for assistance to establishments planning to close or transfer operations. Agricultural and business concerns would be eligible for assistance under this Title if the Secretary finds that such a closing or transfer of operations would result in a substantial employment loss and is justifiable on economic grounds; that assistance is necessary in order to obviate the necessity for the proposed closing or transfer of operations and enable the establishment to operate on an improved economic basis within a reasonable period of time; and that the establishment will make all reasonable efforts to use its own resources, but that such resources are inadequate.

TITLE VII—WITHDRAWAL OF CERTAIN BENEFITS ON ACCOUNT OF UNJUSTIFIED RELOCATIONS, AND MISCELLANEOUS PROVISIONS

Title VII provides for the withdrawal of certain federal tax benefits because of unjustified relocations.

Under this Title, whenever the Secretary determines after an investigation that the closing or transfer of operations of an agricultural or business concern was not justified; or that if such closing or transfer of operations was justified, the transfer or closing could have been avoided if the business concern had accepted assistance under this Act; or that the employment loss resulting to the employees of the business concern could have been avoided except for its failure to file a notice of intent to close or transfer, as required under Title III; or because of some other unreasonable delay, bad faith or misrepresentation; or that the transfer of operations is to a new location outside the United States while other economically justifiable alternatives exist, then such agricultural or business concern shall be ineligible for several benefits, authorized by the Internal Revenue Code, for a period not to exceed ten years. Such benefits which could be denied include the investment credit, the accelerated depreciation range and the foreign tax credit, deferral of tax on income earned outside the United States, and deductions for ordinary and necessary expenses to the extent such expenses are related to the transfer of operations.

MRS. ELEANOR WILLIAMSON: HER DEDICATION TO CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ROONEY) is recognized for 5 minutes.

Mr. ROONEY of Pennsylvania. Mr. Speaker, Congressman ROSTENKOWSKI, myself, and all of us in this Chamber have lost an able and faithful staff member and many of us a dear friend in the recent death of Eleanor Williamson of the House Finance Office.

Mrs. Williamson was born January 26, 1918, in an area of Kansas near Wichita, the daughter of Nels and Agnes Lofgren, who were of Swedish descent. She, her sister Agnes, and brothers Gene and Mel grew up there in a community of mostly Swedish residents, and were trained in the family tradition of music. An aunt was an instructor at the local music conservatory and Eleanor played the cello.

Momma Lofgren never learned to drive, but she put each of the children behind the wheel of the old family touring car and told them "how Poppa did it." One day she put Agnes behind the wheel, instructed her to the ice cream parlor, but then could not remember how to stop the car. So Agnes drove in circles while the other children hopped off the moving car, got the ice cream, and hopped back on again.

In the depression of the mid-1930's, Eleanor headed west for a job as waitress at a national park and from there on to California. After several years, New York beckoned, and there she met a young man from Aiken, S.C., Luke Williamson, who was clerking in a bank and singing with a name band of the day. World War II came along, Luke enlisted. They moved to Washington, and Eleanor worked for American Red Cross and the National Science Foundation. The war ended and in January of 1946 their only child, Karin Louise was born.

Since May of 1955, Eleanor's warmth, pleasant, soft voice and graciousness have served to ease the task of Members of this body. Congressman Rostenkowski, myself, and I know all of us join in extending deepest sympathy to Luke, daughter Karin and son-in-law Bob Pedrick, and the delight of Mrs. Williamson's life, granddaughter 4-year-old Ingrid Pedrick.

DECLARE THE OKEFENOKEE NATIONAL WILDLIFE REFUGEE AS A FEDERAL WILDERNESS AREA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. Stuckey) is recognized for 5 minutes.

Mr. STUCKEY. Mr. Speaker, today the House of Representatives will be voting on legislation to declare the Okefenokee National Wildlife Refugee as a Federal Wilderness area. I have introduced this legislation, which was cosponsored by Hon. Bo Ginn, and strongly urge my colleagues to support this action, because it would preserve and protect this unique wilderness while allowing for its continued use as a superb recreational area.

The bill provides protection from any manmade action that would disturb the Okefenokee's unspoiled beauty. At the same time, it provides for the continued use of private boats of 10 horsepower or less in the swamp, and it requires at least 120 miles of trails to be maintained for the enjoyment of the public. These provisions insure the swamp's future value as an outstanding tourist attraction, thereby providing an economic asset to local communities.

The Okefenokee is certainly one of the greatest natural treasures left on our Earth. Enactment of this legislation would mark a giant step in guaranteeing that many thousands of Americans will continue to enjoy its primitive beauty. I urge my colleagues to join with me in taking this step.

PERSONAL STATEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. Montgomery) is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, for the most of the last 2 weeks I was unavoidably absent on official business. For the official record and the benefit of my constituents, I would like to announce my position on the votes taken in my absence.

Rollcall No. 57—To suspend rules and pass H.R. 11143; Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped. I would have voted "yea."

Rollcall No. 59—To suspend rules and pass House Resolution 947, to accept Senate amendments to H.R. 8245 regarding transfer of Bureau of Customs officials. I would have voted "yea."

Rollcall No. 62—In Committee of Whole on amendment to give Federal Energy Administration only the functions transferred to it by section 6 and any additional functions that are assigned by existing law or future legislation. I would have voted "yea."

Rollcall No. 65—In Committee of Whole on amendment to Federal Energy Administration bill to require congressional approval before implementing rationing. I would have voted "nay."

Rollcall No. 66—In Committee of Whole on amendment to Federal Energy Administration bill to roll back crude oil prices with exception of companies producing 30,000 barrels or less a day. I would have voted "nay."

Rollcall No. 70—Separate vote demanded on amendment regarding crude oil price rollback. I would have voted "nay."

Rollcall No. 71—Vote on final passage of H.R. 11793, Federal Energy Administration. I would have voted "yea."

Rollcall No. 73—Passage of House Resolution 790, funds for Committee on Armed Services. I would have voted "yea."

Rollcall No. 75—Motion to read Journal. I would have voted "nay."

Rollcall No. 76—Vote on rule to H.R. 69. I would have voted "yea."

Rollcall No. 89—Final passage of H.R. 1247, Freedom of Information Act Amendments. I would have voted "yea."

Mr. Speaker, all other rollcalls not covered by the above were quorum calls.

SOME ADDITIONAL FACTS ON H.R. 69

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. Quie) is recognized for 10 minutes.

Mr. QUIE. Mr. Speaker, since we began debate last week on H.R. 69, a number of Members have raised questions which imply that big cities are not getting their fair share of the funds under the ESEA title I formula developed by the Education and Labor Committee.

I thought that one way to deal with this question would be to examine the 100 largest school districts in the Nation to see what has happened to enrollments in those districts in the past few years. Based on enrollment figures supplied by the Office of Education for 1965–66, the year ESEA was enacted, and 1971–72, the latest year for which OE has district-by-district enrollment figures, 35 of the 100 largest school districts have lost enrollment. In some cases those losses are rather large; in a few they are minimal. In any event, the figures do provide some answer to the question of why some major cities have not had substantial increases in title I. Even though the title I formula is based on the number of low-income children, I suspect that the characteristics of the population of the 35 cities listed below have not changed very much in the period between 1965 and 1971.

School district	1965 total enrollment	1971 total enrollment
Chicago City	548, 100	537, 441
Detroit City	294, 800	266, 231
Houston	228, 200	221, 960
Cleveland	152, 700	145, 166
District of Columbia	146, 000	144, 326
St. Louis City	116, 200	110, 536
Atlanta City	110, 400	104, 240
Indianapolis	105, 000	100, 286
Cincinnati	89, 100	81, 857
Seattle	88, 400	79, 790
Portland	79, 000	72, 160
Pittsburgh	75, 600	71, 804
Buffalo City	73, 300	70, 321
Mobile (City-County)	77, 900	68, 855
Kansas City	71, 200	68, 817
Long Beach Unified	73, 300	68, 437
Minneapolis Special	77, 800	65, 953
Oakland City Unified	66, 200	62, 653
Wichita	71, 300	62, 394
Birmingham City	70, 300	60, 790
Jefferson County	65, 000	60, 020
Charleston County	56, 500	56, 358
Akron	58, 700	55, 793
Dayton	60, 400	54, 799
Norfolk City	56, 400	53, 594
Caddo Parish	56, 200	53, 594
Kanawha County	59, 400	51, 759
Sacramento City Unified	52, 300	50, 178
Louisville City	50, 200	48, 730
Des Moines	44, 879	44, 613
Gary	43, 800	43, 370
Flint	48, 500	42, 776
Muscogee County	43, 500	41, 837
Chatham County	42, 500	40, 839
Richmond Unified	43, 400	40, 384

THE URBAN BIKEWAY TRANSPORTATION ACT OF 1974

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, today, I am introducing with Representatives Glenn Anderson and James Howard the Urban Bikeway Transportation Act of 1974. If enacted, this bill would provide $20 million for the construction of bicycle lanes, paths, parking and support facilities, and traffic control devices in urbanized areas—50,000 or more population. The money would be administered by the Secretary of Transportation to States and/or local municipalities on an 80-to-20 schedule if the bikeway project is in accordance with the section 134 planning process. This money would be available only for bicycle use and not for new highway construction and would be in addition to the option granted cities under Public Law 93–87 to use up to $40 million of their urban roads moneys for bicycle lane construction.

There are those of you who might ask, "Why more money for bicycles?" The answer is really quite apparent. First, the money now available, limited as it is, requires a diversion from highway usage, which some localities are reluctant to do. Second, as we all know, the country is faced with a severe energy shortage. It has been estimated by the Ford Foundation that 14 to 23 percent of the energy consumed in this country is by the automobile and that 50 percent of this travel is less than 5 miles. In fact, the Department of Transportation has estimated that if 5 percent of the motorists using cars between 2.5 and 3.5 miles would convert to bicycles, over 780 million gallons of gasoline would be saved each year. However, anyone who has ridden a bike on a crowded city street knows that the bicycle and the auto are not compatible road fellows. The need for separate lanes is apparent when one considers that in 1973 over 330,000 bike accidents occurred requiring some type of hospital emergency treatment. In addition, a 1967 survey estimated that 90 percent of bicycle deaths were the result of collisions with autos.

The money provided would also act as seed money for the States and municipalities which should take action on this vitally underused transportation alternative. If the Congress is truly concerned about the fuel shortage and the need for different transportation alternatives, the bicycle provides a clean, quiet, economical, and partial solution for both these problems.

Mr. Speaker, there are over 85 million people in this country who ride bicycles and would benefit from this legislation and modest expenditure. With the approximately 500 miles of bikeways that could be built if this bill were to be enacted, the Congress will have provided one refreshing alternative to the gas guzzling polluting auto which now all but strangles our cities and our pocketbooks.

The text of the bill follows:

H.R. 13549

A bill to authorize the Secretary of Transportation to make grants for the construction of bikeways in urbanized areas

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of this Act the term—

(1) "Secretary" means the Secretary of Transportation;

(2) "bikeway" means a bicycle lane or path, a bicycle traffic control device, a shelter or a parking or a support facility to serve bicycles and persons using bicycles;

(3) "urbanized area" means an area so designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census; and

(4) "State" means any one of the fifty States, the District of Columbia, or Puerto Rico.

SEC. 2. (a) The Secretary is authorized to make grants to States and to municipalities wholly or partly within urbanized areas for projects for the construction of bikeways. Such bikeways shall be for commuting and for recreational purposes and shall be located in urbanized areas.

(b) The Federal share of any project for the construction of bikeways shall be 80 percent of the total cost of such project. The remaining 20 percent of such cost shall be paid by the grantee.

(c) No grant shall be made under authority of this Act unless such bikeway project is in accordance with a continuing comprehensive transportation planning process carried on cooperatively by States and local communities in accordance with section 134 of title 23 of the United States Code.

(d) The Secretary shall establish by regulation, construction standards for bikeway projects for which grants are authorized by this Act, and shall establish by regulation such other requirements as may be necessary to carry out this Act.

SEC. 3. Grants made under this Act shall be in addition to, and not in lieu of, any sums available for bicycle projects under section 217 of title 23, United States Code.

SEC. 4. There is authorized to be appropriated to the Secretary to carry out this Act, $10,000,000 per fiscal year out of the Highway Trust Fund, and $10,000,000 per fiscal year out of any other money in the Treasury not otherwise appropriated.

SEC. 5. This Act may be cited as the "Urban Bikeway Transportation Act of 1974".

ON CONDITIONAL AMNESTY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice, chaired by the gentleman from Wisconsin (Mr. KASTENMEIER), has just concluded hearings on the subject of amnesty for those who refused to serve in the Vietnam war.

I have introduced legislation—H.R. 674, H.R. 675, H.R. 2034—on this matter in this and the previous Congress, and I am particularly gratified that these hearings occurred and that I had the opportunity to testify.

Perhaps through the airing of many sides of the issue, we can bring all Americans home from the most tragic war in our history.

The dimensions of the problem are staggering. As early as December 1971, the New York Times estimated that 70,000 to 100,000 young people could face prosecution for violation of military law or the Selective Service Code. The number now is even greater.

Here is how the numbers break down:

From August 1964, the beginning of the Vietnam war as defined in the United States Code, through July 1973, over 19,000 young people have been prosecuted for violation of the Selective Service Code; that is, draft evasion. Of these, nearly 8,000 were convicted, and 5,300 went to jail, 3,900 were placed on probation. See tables.

This is only the surface of the number of draft resisters. There is an unexplained 4 percent difference between the live male births of 1953 and 1954 and the number of draft registrants in 1971 and 1972. Of course, everyone did not actually serve, but all 18-year-old men were required to register. The death rate would diminish the unaccounted-for difference slightly, and immigration would increase it. Yet as Mr. Samuel Shaw, Legislative Liaison for the Selective Service System, acknowledged in a recent telephone conversation with my office:

> There may be a bunch of people that didn't register, but how do we know?

Therefore, apparently, there are thousands of fugitives from justice in or outside the United States. Every one of these young people is legally subject to 5 years in jail, a fine of $10 thousand, a felony charge, and loss of the right to vote.

Most of those who did not register will never be prosecuted, because the Selective Service System does not even know who they are.

This is far from an equitable system. Some are free while those who left this country or stood prosecution, some because of their beliefs, others perhaps for less valid reasons, are now separated from their family, friends, and Nation, and their family, friends, and Nation from them. As Time magazine noted, these are "The Men Who Cannot Come Home."

Or as a draft counseling organization described the exiles, they live in "limbo."

I traveled to Canada in 1969, spoke with draft exiles in Toronto, Montreal, and Ottawa, and found at that time that many wanted to return. I believe the number is even greater today.

They are now unable to do so without fear of jail sentences.

Those who left are fugitives. Those who remained are convicted or leading underground lives in our society.

Is this how to heal the wounds of the Nation after the most bitter internal ideological struggle we have had in over 100 years? Just think of what we have made—justifiably—of the fact that the Soviet Union exiled one brilliant dissident writer from their country. How does it look to the rest of the world that America has developed an entire class of political exiles?

The Vietnam war was the first time in American history that a majority of the American people eventually opposed our taking part in a war once we were in it. The war created literally millions of active political workers who successfully began the trend that brought the Congress to action. They lobbied for legislation which we finally passed. They held meetings and called them marches and sit-ins. They organized drives for petitions that we began to read. After all, as Daniel Webster asked during the War of 1812:

> Where is it written in the Constitution that you may take children from their parents, and parents from their children, and compel them to fight the battles of any war in which the folly or the wickedness of government may engage it?

But are we prosecuting the war protesters? No, of course not—at least not any more. But those who were young enough and unlucky enough to be drafted, who then protested—dissent from this group we will not tolerate. They cannot vote. They cannot have full citizenship. They cannot return to this country which they may have even tried to help before they felt they had to leave.

Congress is behind the times. As early as November 7, 1972, the Gallup poll conducted for Newsweek showed that 71 percent of the American people favored either unconditional or conditional amnesty, with 22 percent opposed and 7 percent who did not know. A Gallup poll of February 1973 shows 78 percent in favor of either form of amnesty. As the war grows further and further from our minds, more people are willing to heal the wounds.

Since 1969, more and more American religious organizations have adopted official positions endorsing amnesty for persons who would not serve during the war. Here is a partial list: The American Baptists, the American Friends Service Committee, the Disciples of Christ, the Christian Reformed Church, the Church of the Brethren, Clergy and Laity Concerned, the House of the Bishops of the Episcopal Church, Fellowship of Reconciliation, the Interreligious Conference on Amnesty, the American Jewish Congress, the National Federation of Temple Sisterhoods, the Union of American Hebrew Congregations, the U.S. Lutheran Council, the Old Mennonite Church, the National Council of Churches of Christ, the National Conference of Catholic Bishops, the Southern Christian Leadership Conference, the United Church of Christ, the United Methodist Church, and the United Presbyterian Church in the U.S.A.

Both the President and the Congress have the power to grant amnesty. Article II, section 2 of the Constitution gives the President the "power to grant reprieves and pardons for offenses against the United States" and nowhere precludes congressional action. In ex parte Garland, 1886, the Supreme Court ruled that Presidential amnesty "extends to every offense known to the law, and may be exercised at any time either before legal proceedings are taken, or during their pendency, or after conviction." As for congressional amnesty, there are no grounds or precedent for a ruling as unconstitutional. In fact, the Congress has the power "To make rules for the Government and regulation of the land and naval forces—to provide for organizing, arming, and disciplining the militia—and to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof"—article I, section 8.

Yet the problem of authority may be far less complicated. My proposed conditional amnesty legislation, as an act of Congress, would be signed by the President. Only in the event of the need for and success in overriding a veto might the question even arise.

There are those who say that granting amnesty would weaken our country's future military policy by serving as precedent for future violators. Yet George Washington, who demonstrated a clear sense of America's proper direction by refusing the offer of kingship, must not have feared precedent when he granted amnesty after the Whisky Rebellion in 1794. Nor did Andrew Johnson fear precedent when he granted amnesty to deserters and opponents after the Civil War, conditional upon signing an oath of allegiance to the United States. In Johnson's own words from his 1868 proclamation:

> A universal amnesty and pardon . . . will tend to secure permanent peace, order, and prosperity throughout the land and to renew and fully restore confidence . . . among the whole people, and their respect for and attachment to the national government.

Nor did Theodore Roosevelt, Woodrow Wilson, Calvin Coolidge, Franklin Roosevelt, or Harry Truman fear precedent when each of them granted amnesty in some form.

In fact, there have been 34 instances of amnesty in some form in American history, restoring citizenship and full rights to many thousands of Americans.

After World War II, France, Norway, Germany, Belgium, Japan, and the Netherlands granted amnesty to persons who had engaged in "compromising" wartime activity. After the way we appeared to most other nations by the end of the Vietnam war—let us face it—amnesty would be a signal to the world that we are again leaders, not followers.

In 1969 and each session of Congress thereafter, I introduced legislation (H.R. 2034) granting conscientious objector status retroactively to persons who refused induction, because of the special nature of the Vietnam war, but whose refusal would not extend to all wars. This legislation recognized the grave implications of our involvement in Southeast Asia. Unfortunately, the selective conscientious objector bills were not adopted. Had they been, we would not be in this mess today. I also believe as John Kennedy did when he said:

> War will exist until the distant day when the Conscientious Objector enjoys the same reputation and prestige as the warrior does today.

Let me now comment on my amnesty legislation which I hope you will consider carefully in order to report a bill to your full committee and to the floor of the House.

H.R. 674 restates the President's authority to grant amnesty and urges him to set up the mechanism to do so. This could be, but would not have to be, similar to the amnesty board which Harry Truman established after World War II and which granted amnesty on an individual basis to 1,500 men. However, I am hopeful that any such current board or tribunal, or the President himself, would be far more broadminded than the earlier board. Only one-tenth of those eligible were pardoned. Whereas World War II was more and more accepted by the American people as the facts became clear, precisely the opposite was true for Vietnam. The facts served only to mobilize people against this war.

H.R. 675 would grant amnesty, conditional upon 2 years of alternative service, to all persons who refused induction during the Vietnam war, whether they are currently imprisoned, released, or in foreign countries. Those who already served or are serving prison sentences can receive up to 1 year's credit toward this national service. He may serve either in the military, or in action, a Veterans' Administration or Public Health Service Hospital, or some similarly approved position. He would serve at the same pay scale as he would have as a conscientious objector.

If he carries out these provisions, he will receive amnesty with a restoration of all citizenship rights. Administration will be carried out by the Attorney General's office.

Former Secretary of the Army, Robert F. Froehlke, was quoted in the February 26 CONGRESSIONAL RECORD as favoring an amnesty plan which is "not vindictive," but in which those who left must perform some national service. Former Defense Secretary Melvin Laird has issued a similar statement. But in Froehlke's opinion, even 3 months of such service could be sufficient if worthwhile duties are accomplished in that amount of time—showing the change in attitude on the part of so many who formerly opposed amnesty in any form.

I am aware that it is unrealistic to project the Congress now passing legislation with a 3-month alternative service requirement, or no requirement, as has been proposed by some of my colleagues. If such a bill were to come to the floor I would vote for it. I offer this bill, with a 2-year requirement, as a proposal which takes into consideration the feelings of the country at this time, which is a desire to come together after a divisive episode in our history.

You are well aware of the diminishing esteem citizens have for the Presidency, the Congress, and the Government as a whole. The granting of amnesty would be a symbol of strength by a democratic government, indicating our ability to welcome all who want to take part in the post-Vietnam era.

Our national policy has been inconsistent at best. The President sent Secretary of State Henry Kissinger to North Vietnam to negotiate economic reconstruction aid. If we can consider assisting the very nation with which we engaged in combat, resulting in the death of 55,000 of our men, do we not have the compassion to forgive our own men who are still alive and desire to return to the United States?

We insisted in the Nuremberg war trials that it was an individual's obligation to reject immoral orders. The United States prides itself on its capacity for allowing dissent in our democratic form of government.

Are we not a humane, compassionate people? Especially after a war where many of our own preconditions concerning foreign policy changed, do we not have the ability to forgive?

I urge our colleagues to support H.R. 675 and to indicate support for the concept of conditional amnesty to the House Judiciary Subcommittee chaired by the gentleman from Wisconsin (Mr. KASTENMEIER).

APPENDIX: RECENT POLLS ON AMNESTY

In a Gallup poll of March 5, 1973, a total of 78% of the respondents wanted to allow draft resisters to return to the United States, either unconditionally or with certain prerequisites. The breakdown was as follows:

	Percent
Favor unconditional amnesty	29
Require military service	18
Require nonmilitary service	10
Require either military or nonmilitary service	18
Require payment of fine	3
Total that would allow draft resisters to return	78

In addition, 10% wanted to require a jail sentence, and another 10% of those polled had no opinion. Only 12% would not allow draft resisters to return under any circumstances.

A recent (March 4, 1974) Harris poll confirmed these results. A plurality of respondents (45% to 43%, with 12% undecided) supported amnesty with a requirement of two years of alternative, non-military, national service upon the resister's return home. In a telephone conversation with my office, the Harris national organization acknowledged that if persons who wanted amnesty without any service requirement had been included in the number of those favoring amnesty (with the service requirement, such persons said they opposed the amnesty described), the percentage of respondents favoring amnesty would have been even greater.

PROSECUTIONS, ETC., FOR SELECTIVE SERVICE VIOLATIONS, 1945–73

Year	Prosecuted	Convicted	Not convicted	Imprisoned	Probation
1973	3,496	977	2,519	260	707
1972	4,906	1,642	3,264	458	1,178
1971	2,973	1,036	1,937	877	650
1970	2,833	1,027	1,806	450	572
1969	1,744	900	844	544	350
1968	1,192	784	408	580	202
1967	996	748	248	566	78
1966	516	371	145	301	64
1965	341	242	99	189	52
1964	276	206	70	149	59
Vietnam era, totals	19,273	7,933	11,340	4,371	3,912
1960	239	166	73	126	37
1950	449	175	274	109	65
1949	506	292	214	213	73
1948	833	304	529	212	84
1945	4,287	2,838	1,449	2,368	453

Source: Telephone Conversation Feb. 26, 1974, between office of Congressman Edward I. Koch and Mr. James McCafferty, Chief, Operations Branch, Division of Information Systems. Administrative Office, U.S. Court.

LIVE MALE BIRTHS AND DRAFT REGISTRANTS

	Live male births	Draft registrants	Difference
1953	2,034,000	1,990,234	43,766
1954	2,090,000	1,977,720	112,280

Sources: National Center for Health Statistics of the Department of Health, Education, and Welfare, and public records of the Selective Service System.

Complaints reported to U.S. attorneys by the Selective Service System

1967	19,774
1968	21,332
1969	27,389
1970	26,214
1971	26,417
1972	22,104
1973	16,575

Sources: Letter from Robert C. Maridan, Assistant Attorney General, to Congressman Edward I. Koch, January 31, 1972; also, 1973 U.S. attorneys' offices fiscal report, Department of Justice, page 3.

SOVIETS RENEGE ON WEST GERMAN OIL DEAL

(Mr. ICHORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ICHORD. Mr. Speaker, as the Members of this House consider the pros and cons of the administration's efforts to develop Soviet oil and gas resources and thus make the United States potentially dependent for a share of its energy needs on the good will of the Kremlin, let us take note of the latest news from West Germany, as reported March 13, 1974, by the Wall Street Journal.

Last year the Soviet Union signed a contract with Veba AG, a West German state-controlled oil company, promising to deliver 68,000 barrels per day at a realistic price.

The chairman of the company's management board now reports that the Russians reneged on the deal, delivering belatedly only 57,200 barrels daily and jumping the price to as much as $16 a barrel which is just about twice the price of Middle East oil on the going market.

The result—Veba AG is canceling its arrangement with Moscow declaring it cannot put any further reliance on a Soviet contract. Furthermore, the West German company suggests that the Bonn Government should immediately reconsider all proposed industrial development contracts with the Soviets in the light of the oil experience, possibly shelving those which involve any dependence on Soviet natural resources.

Those among our own industrialists and Government officials who think so highly of the Soviets that they are asking the American taxpayer to guarantee hundreds of millions—possibly even billions—in loans to the Soviet Union for energy development will do well to examine closely the West German experience.

FBI'S ROLE IN INTERNAL SECURITY MATTERS

(Mr. ICHORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ICHORD. Mr. Speaker, last October I had the pleasure of having an extensive discussion on internal security problems with FBI Director Clarence M. Kelley who is, incidentally, a fellow Missourian. The Committee on Internal Security, which I chair, has also begun oversight hearings concerning the domestic intelligence operations of the Department of Justice during which we will, of course, be dealing largely with problems facing the FBI. Accordingly the remarks of Director Kelley in the March 1974 issue of the FBI Law Enforcement Bulletin, in which he addresses himself to the need for greater public understanding of the FBI's role in internal security matters, are of particular interest to me and, I think, of sufficient importance to my colleagues that I am submitting Director Kelley's entire message for the RECORD. The article follows:

MESSAGE FROM THE DIRECTOR

The American public has recognized the role of the FBI in criminal investigations. Our performance concerning bank robberies, kidnapings, extortions, property thefts, and many other violations of Federal statutes has been widely publicized. Public support of this portion of the FBI's overall mission has been universally strong. This invaluable expression of confidence has not, however, always been evident in our equally important investigations relating to the internal security of our Nation. There exists some lack of understanding of what the FBI is doing and why.

I genuinely believe there should be greater understanding of our role in internal security matters. Mankind has always placed a high priority on its security. Nations, too, have an equally strong concern for their security. The concept has deep, historic roots in our Republic. It has toughened the Nation's will to withstand many serious challenges throughout its lifetime.

Two centuries ago, the American colonies, in an act of mutual security, joined together for the common goal of independence. Once freedom was gained through agonizing struggle, the duty of each citizen to defend and preserve America was all the more clear. Maintaining the Nation's independence and protecting its internal security are still honored traditions among our citizens.

While the FBI has many duties concerning the internal security of our country, it is not alone in this responsibility. The entire criminal justice system is involved. Observance of the law and the preservation of public order are the foundations for this country's domestic security. Without adequate and equitable enforcement of the law, whatever the source or circumstance of its violation, a democratic society cannot enjoy the stability it requires.

Among the investigative responsibilities of the FBI are those directly affecting the internal security of the United States. Part of our role is to enforce specific Federal laws involving espionage, sabotage, insurrection, sedition, the advocacy of overthrowing the Government, and other related matters which endanger national objectives. The authority to conduct these investigations firmly rests on duly enacted statutes.

Another investigative obligation of the FBI is intelligence gathering related to internal security matters. This, too, is based on specific statutes and directives. Unlike certain crimes against persons and property, the consequences of a violation concerned with the Nation's welfare are too grave to wait for the offense to occur before taking action. Obviously, the country cannot afford the theft of a vital national asset, the sabotage of an essential resource, the assassination of a President, or a full-blown insurrection before moving to determine who is responsible. While some of these most heinous crimes may occur with even the greatest vigilance, no nation is truly secure so long as the threat of them persists.

The major concern aroused by investigations regarding the internal security of the Nation is the protection of the rights of the individual. This is as it should be. It is a paramount consideration which under my direction of the FBI will always be given the highest priority in our investigations. The FBI is steadfastly committed to the principle that law enforcement must remain the servant of the people, never the oppressor. The cure for an illness of society should not be worse than the disease itself.

In fulfilling its internal security responsibilities, the FBI is strictly accountable for its actions—and we should be. The FBI answers to the President, the Attorney General, the Congress, the courts, the press, and the citizens of America. We serve many masters. We are determined to serve them well—with fairness, with justice, and with results.

It is an inescapable fact that this Nation houses persons who are militantly opposed to representative government, persons who seek to disrupt the orderly processes of the law, persons who would willingly use violence to achieve their goals, and still others who would foment anarchy. Indeed, there are those who would even subvert the country for profit or by misguided zeal. We are determined that they shall not succeed.

The FBI will continue to strive to protect the internal security of the Republic with not only the vigor this challenge commands but also the dignity our democratic heritage demands. As with the experience of our founding colonies, however, it is everyone's responsibility to insure that America remains strong—and secure. America needs the support of an informed public, and so does the FBI.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Pepper (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Burke of Florida (at the request of Mr. Rhodes), for today and balance of week, on account of official business.

Mr. Frelinghuysen (at the request of Mr. Rhodes), for 1 week, on account of official business.

Mr. Kyros (at the request of Mr. O'Neill), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Koch, for 60 minutes, March 26, immediately following the special order by Mr. Goldwater.

Mr. Conlan, for 60 minutes, today, following the special order of Mr. Dickinson.

(The following Members (at the request of Mr. Armstrong) to revise and extend their remarks and include extraneous matter:)

Mr. Heinz, for 15 minutes, today.

Mr. Kemp, for 15 minutes, today.

Mr. Cohen, for 10 minutes, today.

Mr. Goldwater, for 60 minutes, on March 26.

Mr. Hansen of Idaho, for 5 minutes, today.

Mr. Archer, for 5 minutes, today.

Mr. Hogan, for 30 minutes, today.

Mr. Anderson of Illinois, for 60 minutes, today.

Mr. Symms, for 5 minutes, today.

Mr. Ashbrook, for 5 minutes, today.

(The following Members (at the request of Mr. Hillis) to revise and extend their remarks, and to include extraneous matter:)

Mr. Mizell, for 5 minutes, today.

Mr. Quie, for 10 minutes, today.

(The following Members (at the request of Mr. Murtha) to revise and extend their remarks and include extraneous matter:)

Mr. Diggs, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Ford, for 5 minutes, today.

Mr. Rooney of Pennsylvania, for 5 minutes, today.

Mr. Stuckey, for 5 minutes, today.

Mr. Montgomery, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Clay, to extend his remarks before passage of H.R. 8660.

(The following Members (at the request of Mr. Armstrong), and to include extraneous matter:)

Mrs. Heckler of Massachusetts in 10 instances.

Mr. Kemp in three instances.

Mr. Dickinson.

Mr. Frelinghuysen.

Mr. Treen in two instances.

Mr. Steiger of Wisconsin in two instances.

Mr. Hanrahan in two instances.

Mr. Derwinski in two instances.

Mr. Zwach in two instances.

Mr. Horton in two instances.

Mr. Roncallo of New York.

Mr. Wyman in two instances.

Mr. Rhodes.

Mr. Young of Illinois.

Mr. Zion.

Mr. Miller in six instances.

Mr. Gilman.

Mr. Peyser in five instances.

(The following Members (at the request of Mr. Murtha), and to include extraneous material:)

Mr. Ginn.

Mr. Teague in 10 instances.

Mr. Roybal in 10 instances.

Mr. Harrington in 10 instances.

Mr. Annunzio in six instances.

Mr. Rarick in three instances.

Mr. Gonzalez in three instances.

Mr. Jones of Alabama.

Mr. Dingell in two instances.

Mr. de Lugo in five instances.

Mr. Reid.

Mr. Ford.

Mr. O'Hara.

Mr. McKay.

Mr. Corman.

Mr. Jones of Oklahoma.

Mr. Nichols in 10 instances.

Mr. Hungate.

Mr. Moorhead of Pennsylvania in 10 instances.

Mr. Roush in three instances.

Mr. Anderson of California in two instances.

Ms. Abzug in five instances.

ADJOURNMENT

Mr. MURTHA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 37 minutes p.m.), the House adjourned until tomorrow, Tuesday, March 19, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2052. A letter from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1974 for foreign assistance under the category of funds appropriated to the President (H. Doc. No. 93-240); to the Committee on Appropriations and ordered to be printed.

2053. A letter from the Assistant Secretary of Agriculture, transmitting a report on national reforestation needs as of the end of fiscal year 1973, pursuant to section 3 of Public Law 92-421; to the Committee on Agriculture.

2054. A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting a report covering fiscal year 1973 on independent research and development and bid and proposal costs, pursuant to 10 U.S.C. 2358, note; to the Committee on Armed Services.

2055. A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting detailed data to accompany the report on independent research and development and bid and proposal costs for fiscal year 1973; to the Committee on Armed Services.

2056. A letter from the First Vice President, Export-Import Bank of the United States, transmitting a report on the export expansion facility program for the quarter ended December 31, 1973, pursuant to Public Law 90-390; to the Committee on Banking and Currency.

2057. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend the Federal Employees' Compensation Acts, as amended, title 5, United States Code, by adding a new section providing for work injury coverage of Federal petit and grand jurors in the performance of their duties; to the Committee on Education and Labor.

2058. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties entered into by the United States, pursuant to Public Law 92-403; to the Committee on Foreign Affairs.

2059. A letter from the First Vice President, Export-Import Bank of the United States, transmitting a report on loan, guarantee, and insurance transactions supported by Eximbank to Yugoslavia, Romania, the U.S.S.R., and Poland during February 1974; to the Committee on Foreign Affairs.

2060. A letter from the Assistant Secretary of the Interior, transmitting the 17th annual report on the status of the Colorado River storage project and participating projects, covering fiscal year 1973, pursuant to 43 U.S.C. 620e; to the Committee on Interior and Insular Affairs.

2061. A letter from the Chairman, Federal Trade Commission, transmitting a report by the Commission's staff of its evaluation of the mandatory petroleum allocation program during the period January 15-February 28, 1974, pursuant to section 7(a) of Public Law 93-159; to the Committee on Interstate and Foreign Commerce.

2062. A letter from the Chief Justice of the United States, transmitting the rules and official forms governing proceedings under chapter XI of the Bankruptcy Act, together with an amendment to subdivision 14 of official bankruptcy form 7, and amendment to rule 41(a) and 50 of the Federal Rules of Criminal Procedure, pursuant to 28 U.S.C. 2075 and 18 U.S.C. 3771 (H. Doc. No. 93-241); to the Committee on the Judiciary and ordered to be printed.

2063. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to authorize two additional judgeships for the U.S. Court of Appeals for the Ninth Circuit; to the Committee on the Judiciary.

2064. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to provide an additional permanent district judgeship in Puerto Rico; to the Committee on the Judiciary.

2065. A letter from the Director, Administrative Office of the U.S. Court, transmitting a draft of proposed legislation to amend the Jury Selection and Service Act of 1968, as amended, by revising the section on fees of jurors; to the Committee on the Judiciary.

2066. A letter from the Administrator of General Services, transmitting a prospectus proposing renewal of the leasehold interest at 1800 G Street, NW., Washington, D.C., pursuant to 40 U.S.C. 606; to the Committee on Public Works.

2067. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38 of the United States Code to modify the pension program for veterans of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, and their widows and children; to the Committee on Veteran's Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Omitted from the Record of Mar. 14, 1974*]

Mr. PERKINS: Committee on Education and Labor. H.R. 12435. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act, to expand the coverage of that act, and for other purposes; with amendment (Rept. No. 93–913). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted Mar. 18, 1974*]

Mr. PERKINS: Committee on Education and Labor. H.R. 11105. A bill to amend title VII of the Older Americans Act relating to the nutrition program for the elderly to provide authorization of appropriations, and for other purposes; with amendment (Rept. No. 93–914). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BAUMAN (for himself, Mr. Cronin, Mr. Hogan, and Mr. Roe):

H.R. 13535. A bill to amend the Rail Passenger Service Act of 1970 to require the National Railroad Passenger Corporation to initiate additional rail passenger service in the Northeast corridor to determine the feasibility of utilizing such service to alleviate transportation problems caused by the energy crisis; to the Committee on Interstate and Foreign Commerce.

By Mr. BAUMAN (for himself, Mr. Burgener, Mr. Dan Daniel, Mr. Esch, Mr. Helstoski, Mrs. Holt, Mr. Kemp, Mr. Mann, Mr. Pritchard, Mr. Roncallo of New York, Mr. Sines, Mr. J. William Stanton, and Mr. Studds):

H.R. 13536. A bill to require the Secretary of the Army and the Chief of Engineers to act on certain applications within 90 days or explain his failure to do so; to the Committee on Public Works.

By Mr. COHEN:

H.R. 13537. A bill to establish a Health Education Administration within the Department of Health, Education, and Welfare, and to provide for the development and implementation of a national health education program; to the Committee on Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. Anderson of California, Mr. Bell, Mr. Don H. Clausen, Mr. Danielson, Mr. Hawkins, Mr. Goldwater, Mr. Pettis, Mr. Rees, and Mr. Roybal):

H.R. 13538. A bill to amend the customs brokers licensing provisions of the Tariff Act of 1930; to the Committee on Ways and Means.

By Mr. DIGGS:

H.R. 13539. A bill to regulate campaigns for elections to public office in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. DORN (for himself, Mr. Teague, Mr. Satterfield, Mr. Roberts, and Mr. Hammerschmidt):

H.R. 13540. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of dependency and indemnity compensation; to the Committee on Veterans' Affairs.

By Mr. FORD (for himself, Mrs. Mink, Mr. Dent, Mr. Clay, Mr. Thompson of New Jersey, Mr. O'Hara, and Mr. Meeds):

H.R. 13541. A bill to amend the Fair Labor Standards Act of 1938, to require prenotification to affected employees and communities of dislocation of business concerns, to provide assistance (including retraining) to employees who suffer employment loss through the dislocation of business concerns, to business concerns threatened with dislocation, and to affected communities, to prevent Federal support for unjustified dislocation, and for other purposes; to the Committee on Education and Labor.

By Mr. GOODLING (for himself, Mr. Dingell, Mr. Leggett, Mr. Forsythe, Mr. Biaggi, Mr. Anderson of California, Mr. Kyros, Mr. Metcalfe, Mr. Breaux, Mr. Rooney of Pennsylvania, Mr. Bowen, Mr. Lott, and Mr. Rogers):

H.R. 13542. A bill to abolish the position of Commissioner of Fish and Wildlife and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. HAMMERSCHMIDT:

H.R. 13543. A bill to amend title 38, United States Code, to increase rates of disability compensation for disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HAMMERSCHMIDT (for himself and Mr. Dorn) (by request):

H.R. 13544. A bill to amend title 38, United States Code, to increase rates of disability compensation and dependency and indemnity compensation, and to provide for automatic adjustment thereof commensurate with future increases in the cost of living, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HANRAHAN:

H.R. 13545. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

By Mr. HOGAN:

H.R. 13546. A bill to require each contract let without competitive bidding by the Federal Government to contain a notice of the right to revoke on the part of the United States, if the other party to the contract is convicted of any offense under section 201 of title 18 of the United States Code; to the Committee on the Judiciary.

By Mr. HORTON (for himself and Mr. Hastings):

H.R. 13547. A bill to amend the Public Health Service Act to provide for programs for the diagnosis and treatment of hemophilia; to the Committee on Interstate and Foreign Commerce.

By Mr. HOWARD:

H.R. 13548. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. KOCH (for himself, Mr. Anderson of California, and Mr. Howard):

H.R. 13549. A bill to authorize the Secretary of Transportation to make grants for the construction of bikeways in urbanized areas; to the Committee on Public Works.

By Mr. MATHIAS of California (for himself and Mr. Mitchell of Maryland):

H.R. 13550. A bill to amend the act which created U.S. Olympic Committee to require such committee to hold public proceedings before it may alter its constitution, to require arbitration of certain amateur athletic disputes, and for other purposes; to the Committee on the Judiciary.

By Mrs. MINK:

H.R. 13551. A bill to amend chapter 55 of title 10, United States *Code*, to require the Armed Forces to continue to provide certain special educational services to physically handicapped dependents of members serving on active duty; to the Committee on Armed Services.

By Mr. MOAKLEY:

H.R. 13552. A bill to amend title VII of the Older Americans Act relating to the nutrition program for the elderly to provide authorization of appropriations, and for other purposes; to the Committee on Education and Labor.

By Mr. PRICE of Illinois:

H.R. 13553. A bill to amend title 10, United States Code, to provide more efficient dental care for the personnel of the Army and Air Force, and for other purposes; to the Committee on Armed Services.

By Mr. QUILLEN:

H.R. 13554. A bill to provide for the crediting of certain past employment by certain persons subject to the National Guard Technicians Act of 1968; to the Committee on Armed Services.

H.R. 13555. A bill relating the treatment of certain changes in wills and trusts instruments for purposes of the Tax Reform Act of 1969; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 13556. A bill to authorize grants to States for the establishment of vision screening programs for public school students; to the Committee on Education and Labor.

H.R. 13557. A bill to waive the requirements of section 136(a) of title 28 of the United States Code to permit the present Chief Judge of the U.S. District Court for the District of Columbia to continue to preside for the duration of all Watergate related cases and trials; to the Committee on the Judiciary.

By Mr. SKUBITZ:

H.R. 13558. A bill to amend the Railroad Retirement Act of 1937 so as to increase the amount of the annuities payable thereunder to widows and widowers; to the Committee on Interstate and Foreign Commerce.

H.R. 13559. A bill to insure that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. STUDDS (for himself, Mr. Forsythe, Mr. Anderson of California, Mr. Breaux, and Mr. Pritchard):

H.R. 13560. A bill to authorize certain Federal agencies to detail personnel and to loan equipment to the Director of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration; to the Committee on Merchant Marine and Fisheries.

By Mrs. SULLIVAN (for herself, Mr. Clark, Mr. Dingell, Mr. Downing, Mr. Grover, and Mr. Pritchard):

H.R. 13561. A bill to amend the Intercoastal Shipping Act, 1933; to the Committee on Merchant Marine and Fisheries.

By Mr. TAYLOR of North Carolina (for himself, Mr. Haley, Mr. Hosmer, Mr. Johnson of California, Mr. Skubitz, Mr. Don H. Clausen, Mrs. Mink, Mr. Udall, Mr. Lujan, Mr. Evans of Colorado, Mr. Mathias of California, Mr. Pettis, Mr. Veysey, Mr. Talcott, Mr. Gubser, Mr. Kastenmeier, Mr. Ruppe, Mr. O'Hara, Mr. Meeds, Mr. Regula, Mr. Kazen, Mr. Martin of North Carolina, Mr. Stephens, Mr. Roncalio of Wyoming, and Mr. Ketchum):

H.R. 13562. A bill to designate certain lands in the National Park System as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. TAYLOR of North Carolina (for himself, Mr. Haley, Mr. Hosmer, Mr. Johnson of California, Mr. Skubitz, Mr. Bingham, Mr. Cronin, Mr. Seiberling, Mr. Won Pat, Mr. Owens, Mr. de Lugo, Mr. Steelman, and Mr. Bauman):

H.R. 13563. A bill to designate certain lands in the National Park System as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. UDALL:

H.R. 13564. A bill to designate certain public lands and waters in the State of Alaska for national conservation purposes to be administered as units of the National Park System, the National Wildlife Refuge System, National Wild and Scenic Rivers System, and the National Forest System; to the Committee on Interior and Insular Affairs.

By Mr. UDALL (for himself, Mr. Ruppe, Mr. Dellenback, Mr. Foley, Mr. Johnson of California, Mr. Kastenmeier, Mr. O'Hara, Mr. Vigorito, Mr. Melcher, Mr. Roncalio of Wyoming, Mr. Bingham, Mr. Seiberling, Mrs. Burke of California, Mr. Owens, Mr. de Lugo, Mr. Sebelius, Mr. Steelman, Mr. Martin of North Carolina, and Mr. Cronin):

H.R. 13565. A bill to establish a national program for research and development in nonnuclear energy sources; to the Committee on Interior and Insular Affairs.

By Mr. ZABLOCKI:

H.R. 13566. A bill to amend title 39, United States Code, to eliminate certain restrictions on the rights of officers and employees of the U.S. Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BROWN of California (for himself, Mr. Blackburn, Mr. Buchanan, Mrs. Burke of California, Mr. Del Clawson, Mr. Edwards of California, Mrs. Green of Oregon, Mr. Hanna, Mr. Hechler of West Virginia, Mr. Howard, Mr. McKay, Mr. Mann, Mr. Moakley, Mr. Moorhead of California, Mr. Moss, Mr. Preyer, Mr. Quie, Mr. Roe, Mr. Smith of Iowa, Mr. Stark, and Mr. Waldie):

H.R. 13567. A bill to amend the Internal Revenue Code of 1954 to provide that advertising of alcoholic beverages is not a deductible expense; to the Committee on Ways and Means.

By Mr. BOWEN:

H.J. Res. 940. Joint resolution to amend title 5 of the United States Code to provide for designation of the 11th day of November of each year as Veterans Day; to the Committee on the Judiciary.

By Mr. SHIPLEY:

H. Con. Res. 447. Concurrent resolution to express the sense of the Congress that the President should evaluate the commodity requirements of the domestic economy to determine which commodities should be designated as in short supply for purposes of taxation of Domestic International Sales Corporations; to the Committee on Ways and Means.

By Mr. BLATNIK:

H. Res. 987. Resolution to provide additional funds for the expenses of the investigation and study authorized by House Resolution 228; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

381. By Mr. HANSEN of Idaho: Memorial of the Legislature of the State of Idaho, relative to the Occupational Safety and Health Act of 1970; to the Committee on Education and Labor.

382. Also, memorial of the Legislature of the State of Idaho, urging the Secretary of Transportation and the National Rail Passenger Corporation to insure that the people of the State of Idaho shall have passenger service on an east-west basis; to the Committee on Interstate and Foreign Commerce.

383. By the SPEAKER: Memorial of the House of Representatives of the State of Oklahoma, relative to repeal of the National Occupational Safety and Health Act; to the Committee on Education and Labor.

384. Also, memorial of the Legislature of the State of Wisconsin, relative to continuation of the Lake Michigan ferry service between Manitowoc and Kewaunee, Wis., and Frankfort, Mich.; to the Committee on Interstate and Foreign Commerce.

385. Also, memorial of the Legislature of the Commonwealth of Massachusetts, requesting Congress to call a Constitutional Convention for the purpose of proposing an amendment to the Constitution of the United States relating to the use of public funds for secular education; to the Committee on the Judiciary.

386. Also, memorial of the House of Representatives of the Commonwealth of Puerto Rico, relative to the establishment of a bilingual part of the U.S. District Court for the District of Puerto Rico; to the Committee on the Judiciary.

387. Also, memorial of the Legislature of the State of Oklahoma, relative to lakeshore planning policies of the Army Corps of Engineers; to the Committee on Public Works.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FISHER:

H.R. 13568. A bill to authorize the President to appoint Cmdr. Thurman Roddy Schnitz, U.S. Navy Reserves, retired, to the rank of captain on the Reserves list; to the Committee on Armed Services.

By Mrs. MINK:

H.R. 13569. A bill for the relief of Evelyn Fegi Matayoshi and Wilma Fegi Matayoshi; to the Committee on the Judiciary.

H.R. 13570. A bill for the relief of Phan Manh Quynh; to the Committee on the Judiciary.

H.R. 13571. A bill for the relief of Terrence Jarome Caguiat; to the Committee on the Judiciary.

H.R. 13572. A bill for the relief of William M. Raisner; to the Committee on the Judiciary.

By Mr. RANGEL:

H.R. 13573. A bill for the relief of Resan Ocot; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

405. By the SPEAKER: Petition of the Legislature of Erie County, N.Y., relative to public transit operating assistance; to the Committee on Banking and Currency.

406. Also, petition of the Utah State Bar Association, Ogden, Utah, relative to the service of chief judges of U.S. district courts; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

PATRIOTISM CAN BE REVIVED—EVEN NOW

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. ZWACH. Mr. Speaker, I read an uncommonly good and very timely editorial in the Heron Lake News, which I insert in the Congressional Record so that all the Members of Congress may have the opportunity of reading it.

I particularly commend the closing paragraph:

Maybe a little more love of country and combined efforts to teach the youngsters what their country really means, may pave the road for the next generation somewhat. They need to know the cost of having Old Glory flying in the breeze.

Patriotism Can Be Revived—Even Now

The United States hasn't been in such a spot for many a year. This would be an excellent time to reactivate the wonderful feeling of patriotism, particularly among the young children. Time was when no day was begun without the Pledge of Allegiance to the flag which schoolchildren knew from the time they entered the classroom.

To those who have lived through a few wars, the remembrance of the feeling of pride in being an American that was experienced as the flag passed in review was something great. The military parades, military funerals and Memorial Day services were something to remember. Every student could tell you all of the causes and effects of every war from the Revolutionary War on down to the present time by the time he graduated from the eighth grade. He could also tell you what countries were adjacent to each other, the products, exports and industries of most of the nations of the world. He could tell with pride about the struggles of the Pilgrims and other immigrants who braved the many dangers of the new world to find freedom from oppression. He could tell with gratitude about the efforts of early statesmen who worked very hard to make America proud and beautiful—an example to other countries.

Because of the abundance of materials and technology, we have been the class of people to help all others. However, in our charity for others and being a benign Santa Claus we have neglected to remember that charity begins at home. As a result, the people of the United States are faced with shortages which should never have occurred.

Because of the many scandals which have put doubts in the minds of many, thoughts of patriotism have moved to the background as people are more concerned about self-preservation. During World War II, it was an honor to sacrifice for your country. No one minded not having meat on the table if it was being used to bolster the strength and health of our servicemen. Housewives did not mind using substitutes for sugar and coffee, and children wore their scuffed shoes a little longer because they were rationed. Gas was conserved because it was being used to fly supplies to the forces who were fighting a war. Nylons and cigarettes were in short supply, but people stood patiently in line for a quota when word was passed around that some would be available. No sacrifice was too great for the GI's who were defending their country.

Times have changed, to use an old cliche, and shortages exist now because of greed. Maybe a little more love of country and combined efforts to teach the youngsters what their country really means may pave the road for the next generation somewhat. They need to know the cost of having Old Glory flying in the breeze.

LEGISLATION TO HELP HEMOPHILIA PATIENTS

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. HORTON. Mr. Speaker, I am today introducing legislation, together with Congressman JAMES HASTINGS, to provide aid to families whose costs for treatment of hemophilia far outstrip their ability to pay.

Hemophilia is the inherited blood disease which causes a male child to bleed uncontrollably unless injected with that factor of blood plasma in which his blood is deficient. At first, all hemophilia victims were treated with transfusions of whole blood; then, as more was known about the disease, with blood plasma. Today doctors can identify different types of hemophilia, and can therefore supply each patient with just that part of plasma useful to prevent or stop his bleeding. This advance is invaluable because it permits other parts of the plasma to be used for other patients, and other diseases. Blood factor VIII, the coagulating factor, can now be separated from human plasma by a process called cryoprecipitation. Other factors can also be separated.

Unfortunately, treatment for hemophiliac patients has not been widely available, principally because of money. Costs of replacement therapy are increased because blood banks often do not fractionate or cryoprecipitate, or do not have the needed blood on hand. Many would have to purchase commercial forms of factor VIII. Some advances have been made to reduce the cost: Some patients can self-administer the clotting factor at home, and happily, the supply of factor VIII is somewhat more plentiful now. Thus, the earlier cost of replacement therapy could run to $25,000; today the average cost amounts to about $6,000 a year for a moderately affected patient, and far more for the severely affected person. But, Mr. Speaker, even $6,000 exceeds the amount most patients can afford.

We cannot allow a youngster to die for lack of money when we have the medical knowledge and technology to save his life. We could make a normal life possible for him, if we had enough money to provide him with preventive blood transfusions.

In Rochester, we have one of the few completely staffed and equipped hemophilia centers. A Community Chest agency, it has been able to add outreach persons to its staff, bringing many patients into the center for diagnosis and treatment. A private physician is in charge of the ongoing care of the patient, but the facilities and consulting staff at the center, which serves a 12-county area, are always available to him. This is doubly important when the patient cannot afford to private physician.

As the hemophiliac grows older, the disease causes various bone and dental problems. For this reason, the Hemophilia Center in Rochester provides orthopedic treatment and rehabilitation in the center, which is located in the Rochester General Hospital; it coordinates education in dental care with dental treatment supplied by and in the Eastman Dental Center. Psychiatric services help families to accept the child, and cope with the strains on the family generated by lifelong illness and staggering costs.

Our center has a comprehensive coagulation laboratory which provides blood analysis and a variety of services related to coagulation not only to hemophilia patients and their physicians, but to any physician who requests their aid in evaluation of any patient. The coagulation laboratory is licensed by the State of New York, and is directed by a full-time hemotologist. In 1973 it served 970 patients.

When a center is as comprehensive as this one, it can—and the Rochester Hemophilia Center does—function as a teaching and demonstration institution. Medical technologists, medical and dental students from the University of Rochester, and nursing students, rotate through the center, learning in formal classes and working in the laboratory. In this way the benefits of its research and methods extend beyond the vast region it directly serves.

Mr. Speaker, we need more centers, and, in some established centers, more complete facilities and services. The legislation I am introducing is identical to S. 1326, authored by Senator HARRISON A. WILLIAMS of New Jersey. It will provide for payments in whole or in part—depending upon income and third-party assumptions for portions of the cost—to the hemophiliac or his family for as long as he needs treatments. It will establish other hemophilia centers across the Nation, and blood fractionation facilities—which may be incorporated within the treatment centers or at different laboratory sites. It will establish a Hemophilia Advisory Board to be associated with the National Institutes of Health.

Mr. Speaker, I would hope that my colleagues, in reviewing patient needs, and the bill, will want to support this important legislation.

LINCOLN DAY REMARKS

HON. GEORGE A. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. GOODLING. Mr. Speaker, someone has said there is nothing new under the sun.

A recent event in Gettysburg proved that statement to be in error so far as that area is concerned.

For many years, the Adams County Council of Republican Women have commemorated the birthday of Lincoln with appropriate exercises. For the first time in the long history of this affair, a lady was the speaker of the evening.

Miss Georgiana Sheldon, Deputy Director, Defense Civil Preparedness Agency, broke that tradition. She delivered an excellent speech in which she touched on some of the lesser known facts concerning Lincoln. She also spoke of the increasing role women are playing in policymaking positions in practically every phase in business, government and the professions.

The local press used these words in commenting on her talk:

> The women liked Georgiana Sheldon for speaking out on the importance of woman's role in shaping and preserving the moral fiber of the nation. The men liked her because she is pretty, feminine and soft-spoken.

The speech follows:

LINCOLN DAY REMARKS, GETTYSBURG, PA., FEBRUARY 14, 1974

It's indeed an honor to celebrate the birthdate of Abraham Lincoln in the place he has enshrined in history of the human spirit.

The Gettysburg Address is a tough act to follow.

Nothing can nor need be added to what Abraham Lincoln said here; and there is little to be added to what we know today about Lincoln the man and the President.

Everyone knows that Honest Abe's solemn exterior hid a tremendous sense of humor. Everyone has his favorite sample of it. Mine is the story they tell about his famous debates with Stephen Douglas.

Douglas concluded one speech with a sharp attack on Lincoln's career up to that point. He said Lincoln had tried everything and had always been a failure. He'd tried farming and failed at that; tried flatboating and failed at that; sold liquor in a saloon and failed at that; tried law and failed at that; and now he had gone into politics and was doomed to the worst failure of all.

Lincoln simply sat there and laughed. He seemed greatly amused by it.

At length he rose to reply. He came forward and said he was very much obliged to Judge Douglas for the accurate history he'd taken the trouble to compile. It was true, every word of it.

"I have," said Lincoln, "worked on a farm; I have split rails; I have worked on a flatboat; I have tried to practice law. There is just one thing that Judge Douglas forgot to relate: He says I sold liquor over the counter. He forgot to tell you that, while I was on one side of the counter, he was always on the other.

"The difference between us now is this: I have left my side of the counter, but Judge Douglas still sticks to his as tenaciously as ever."

From Lincoln's life story, which we all

know so well, we can draw an analogy for our times which is encouraging and significant for today's woman.

Abe Lincoln is the American success story. He escaped from the depths of poverty to reach the highest office in the land, and provided us with matchless leadership in a great crisis.

Today—American women are escaping from the stereotyped mold of centuries past, assuming a full role in every element of our society, and providing their brand of leadership in a crisis of the 1970's.

If he were alive today, would Lincoln espouse our cause?

I don't doubt it for a minute.

He hated tyranny over the human spirit; he took delight in deflating stuffed shirts, and he exposed cant and hypocrisy wherever he found it.

Also, I'm pretty sure he liked women; he neither put them on a pedestal nor condescended to them. I heard a story recently that, for me at least, demonstrates this.

He once left his hat on a chair, and a lady of considerable proportions sat on it. When she arose, Abe surveyed the wreckage and said, very mildly, "Madam, I could have told you it couldn't have fitted."

We know Lincoln had a deep devotion to his stepmother, Sarah. He was unstinting in his praise of women for their contributions to the war effort.

It is a matter of record that he wasn't particularly surprised when a woman asked to be appointed Chaplain to a Wisconsin Regiment; he passed the request to the Secretary of War with the notation that he had no objection to it.

Lincoln was a logical man.

I think he would have appreciated a speech I recently noticed. It was given by Edward D. Eddy, President of Chatham College. He undertook to answer the pseudo-arguments advanced by the opponents of equal rights for women in business.

President Eddy said that women must fight against six myths. I shall give only a few of them. You will be able to guess the others, I'm sure:

Myth Number One: You can't keep a woman in the job. She'll leave to get married or have a baby. Untrue. Statistics show men leave jobs just as frequently as women.

Myth Number Two: The independent, self-directed woman is a homewrecker. As soon as she begins to think of herself, she loses interest in her husband and family. This is false, too. A study of divorce rates discloses that divorce is more common among housewives than career women. A bright, active woman usually finds her whole life more fulfilling if she has a chance "to be somebody" outside the narrow confines of the home.

Myth Number Three: A woman just can't wear two hats and do a decent job. How can she be a mother and a top lawyer, an executive and a happy wife? This is a cruel question, but it's easily answered. How can a man be a decent father and husband if he is a busy lawyer or a top management executive?

I can almost hear Abraham Lincoln making short work of these myths—because, in so many ways, he was ahead of his time.

We know Honest Abe liked the company of the ladies. Don't you think he'd thoroughly appreciate the fact that today 16 women sit in the House of Representatives, and others hold powerful posts in the White House, and in every agency and component of the Federal Government?

I'm proud of the fact that in my tenure at the Department of Defense, I have seen women reach flag rank in each of the military services. At the other end of the scale, women are serving as crewmen (or is it crewpersons?) on Navy ships.

In our States and communities, thousands of women are combining legislative and government executive careers with their family lives.

In the business world, a recent survey of national job patterns found more women, employed in a wider variety of jobs, and at higher levels of responsibility than ever before.

In education, women have had a profound influence on the youth of America through their numbers in elementary and high school teaching posts. Also, women are rising to increasingly more important jobs at the junior and senior college level.

It's no contradiction to say that Abraham Lincoln was also old-fashioned in many ways. He was in favor of old-fashioned virtues, like honesty and hard work—and he exemplified these in his life.

Young people today would "relate" to Abe Lincoln too, because he ridiculed hypocrisy and false dignity; and he recognized, when the crisis came that, and I quote: "The dogmas of the quiet past are inadequate to the stormy present."

Lincoln would be one of the first to perceive that the real crisis confronting our Nation today comes not from a shortage of oil or gas; it is an energy crisis of the human spirit.

We must energize ourselves!

In business, in the classroom, in the home—women must help resolve the crisis by establishing our integrity; and by recognizing, as Lincoln did, the merits of values like honesty and hard work;

By being prepared to express cogent opinions and views on relevant and vital issues; by recognizing and bearing witness to the fact that America's ideals are intact, and her goals are basically good and credible; and by reviving the do-it-yourself spirit which characterized our forefathers as they built America.

We in politics and in public service may tend to look to government for the answer to our national problems. There are some things, though, that government can't and shouldn't do.

Lincoln said, "The legitimate object of government is to do for a community whatever they need to have done, but cannot do so well for themselves in their separate and individual capabilities."

But he added this wise caveat: "In all that the people can individually do as well for themselves, the Government ought not to interfere."

We know Lincoln faced many crises—in private life, he suffered among other things the loss of his young son; in his political life, he carried the burden of the most tragic war in our history.

How he mustered the courage and the resources to face his crises, therefore, might be of surpassing interest to Americans today.

Let me conclude by reading what he said on another February day in 1861, in a speech at Pittsburgh:

"My advice is to keep cool. If the great American people can only keep their temper on both sides of the line, the troubles will come to an end, and the question which now distracts the country will be settled, just as surely as all other difficulties of a like character which have originated in this government have been adjusted.

"Let the people keep their self-possession, (and) this great Nation will continue to prosper as heretofore."

In short, long before we moderns took up the phrase, Lincoln, the man for all times, told us: "Don't blow your cool."

I know of no better time for all Americans to take that advice.

CYRUS EATON CALLS ON THE UNITED STATES TO END ITS BOYCOTT OF CUBA

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. STOKES. Mr. Speaker, several weeks ago I reprinted in these pages two reports on Mr. Cyrus Eaton's recent visit to Cuba.

It is my honor today to submit his own report on that visit. I urge my colleagues to pay special heed to his words. It is time for the United States to end one of its continuing foreign policy fiascos.

The report follows:

SAYS CASTRO IS READY TO MEET—CYRUS EATON CALLS ON UNITED STATES TO END ITS BOYCOTT OF CUBA

(By Cyrus Eaton)

Starting 150 years ago, my ancestors in Nova Scotia were engaged in the shipping industry between Halifax and Havana. Personally, I had substantial investments in Cuba before the revolution, and have been going there for more than 50 years.

I have just returned from another visit to Cuba. Prime Minister Fidel Castro and I have met on a number of occasions, and during this most recent trip to Havana I found him in excellent spirits, confident of his own and his country's future and considerably encouraged by the additional extension of credit arranged by Soviet Communist Party chief Leonid I. Brezhnev on Brezhnev's visit to Cuba a few days prior to mine.

In addition to meeting with Prime Minister Castro, I also had important discussions with Dr. Carlos Rafael Rodriguez, vice prime minister and minister of foreign affairs, with President Osvaldo Dorticos and with Jose Fernandez, minister of education, Ramon Castro, the prime ministers' brother, spent a day with me inspecting various agricultural facilities in the Cuban countryside about 75 miles from Havana. Every detail of my visit was handled efficiently by competent and well-trained individuals—despite my being an American.

Over the years, the U.S. government has not been sympathetic to the revolutionary government and has believed all along that it could overthrow Castro and bring Cuba to its knees through economic pressure. This not only closed American markets to Cuba, but also halted the flow of American products into Cuba. The embargo meant, among other hardships, the virtual overnight cutoff of Cuba's entire supply of fuel, including coal and oil from the United States.

As a result of the embargo, Cuba has had support from the entire Communist world, with a continuing supply of necessary goods and products. Cuba's allies have also lent her vast amounts of money at low interest rates.

Cuba has been fortunate to develop a worldwide market for all the products of her land. The world demand for sugar has driven the price from 1½ cents per pound at the time of the embargo up to the current price of about 20 cents.

In my talks with Cuba's leaders, I learned some of their plans for the future. There is an immediate program to expand and develop its electric power generating facilities by 50%. They want to increase their nickel production and bring about the mechanization of sugar-cane harvesting, to expand their sugar refining industry, to increase their port facilities and to reconstruct and modernize their railroads. (Seventy diesel locomotives have just been purchased from the Soviet Union.)

Plans are also under way to construct more roads and improve telephone and radio communications. Educational facilities, from the elementary level to the university, are being expanded greatly, and low-cost housing is being constructed on a mammoth scale. The Cubans plan, in addition, to construct more airfields and to improve computer technology.

In agriculture, Cuba has made great strides and has wisely improved the quality and quantity of both dairy and beef herds of cattle, through the importation of foundation stock from Canada and Europe.

The boycott—quite clearly—is not working, and the United States should put an immediate end to it. Our government should allow American companies to supply the raw materials and technology now being obtained from the Soviet Union, China, Germany, England and Canada.

In addition to this economic step, the United States should change its political approach to Cuba.

My uncle, the late congressman Charles A. Eaton (R-N.J.), was one of the five Americans who participated in the conference which set up the United Nations in 1945. I think the Cuban problem, from the beginning, should have been referred to the world body. Our government should make more use of the United Nations in all international questions.

The embargo could be terminated swiftly, handled directly either by President Nixon or Secretary of State Henry A. Kissinger. A couple of days spent by the President or Kissinger with Fidel Castro at some neutral spot such as Nassau or Jamaica should produce an immediate and satisfactory solution and lay the groundwork for friendship and understanding with the little nation whose progress, since its discovery by Columbus in 1492, has been affected by outside countries, including Spain, England, France and the United States.

As far as the government of Cuba is concerned, it appears prepared to act at once. The ball is now in our court.

THE TIME TO DEMAND LESS GOVERNMENT SPENDING!

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. CRANE. Mr. Speaker, if the public opinion polls are correct, Americans feel that they are paying more for government and getting less than ever before.

Yet, despite this fact, they have been presented with the hugest budget in American history. In addition, new plans are being introduced for national health insurance and welfare reform which will cost additional billions of dollars.

In a recent advertisement which I believe captures the public mood and attempts to point it in the proper direction, the Warner and Swasey Co. asks: "How long are you going to put up with having your taxes double in 10 years?"

The cure, this advertisement points out, is simple:

> Cut spending, especially for those pet projects whose objective is votes. There are too many government bureaus. There are too many government programs—bitter resistance against excessive taxes is long overdue.

I wish to commend the Warner and Swasey Co., for their advertising campaign which is attempting to make Americans aware of the dangerous growth in power of the National Government.

At this time, I want to share with my colleagues the advertisement of the Warner Swasey Co., which appeared in the February 4, 1974 issue of U.S. News & World Report and insert it into the RECORD at this time:

INSTEAD OF MEEKLY PAYING MORE TAXES WE'D BETTER DEMAND LESS SPENDING

How long are you going to put up with having your taxes double in ten years? That is what they have done—and will keep on doing, as long as you permit your Federal, State and Local governments to spend 410 billion dollars a year (up 11% from the year before) up year after year after year.

Estimated taxes are $5,070 per American household.

The cure is simple and sure—cut spending, especially for those pet projects whose objective is votes. There are too many government employees. There are too many government bureaus. There are too many government programs. And why should Federal civilian employees be paid an average of $11,749 a year in contrast to an all-industry wage (the people who do the producing) of $8,440?

Bitter resistance against excessive taxes is long overdue. If you agree, let's say so. Loud and clear.

THE COST OF THE ALL-VOLUNTEER FORCE

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. STEIGER of Wisconsin. Mr. Speaker, there has been great interest in recent months regarding the cost of the volunteer military.

One of the most incisive and comprehensive discussions of this issue was given today by Andrew Uscher, a systems analyst in the office of the Secretary of Defense, before the Operations Research Society.

I commend Mr. Uscher's remarks to all Members of the Congress and all others interested in a factual description of this matter:

THE COST OF THE ALL-VOLUNTEER FORCE

(By Andrew Uscher)

I would like to start off by giving you some good news and some bad news. The good news is that the All-Volunteer Force is continuing successfully. The bad news is that the All-Volunteer Force is continuing successfully. All this proves is what is good news to some people is bad news to others.

This kind of controversy especially applies to the cost of the All-Volunteer Force. Depending on your point of view, the All-Volunteer Force can be said to be extremely expensive or it can be said to exert only a minor influence on total Defense costs. In discussing this subject, it will soon become apparent that there is no single, correct cost of the All-Volunteer Force and there is no one, single, correct framework for viewing this issue. But even within this flexible mode of evaluation, I think that many of you will be quite surprised, as I was, at some of the conclusions about the cost of the All-Volunteer Force and especially the opportunity cost.

There has been much discussion and debate over the true cost of achieving and maintaining the volunteer force. Recent statements have been made in the Defense Department, by the press, and in Congress to the effect that the All-Volunteer Force has been the primary cause of rising manpower costs in DOD, which in turn have caused America to be placed at a relative disadvantage in competing with the Soviet Union in vital R&D efforts and in weapons systems procurement. Even more extreme statements have been made claiming that the All-Volunteer Force is bankrupting the Defense Department.

The true cost of the All-Volunteer Force is dependent upon what elements or programs from the total Defense budget one chooses to include as costs directly attributable to the decision to end reliance on the draft. For this reason, I will present no single figure for the AVF cost; but, instead, several cost cases will be explored with various underlying assumptions clearly presented.

The first AVF cost case takes the following point of view: Since the volunteer force effort involves total Defense manpower, it can be argued that all DOD manpower costs are really AVF costs. This may be an extreme view but it does put an upper bound on the problem and presents a framework of total manpower costs in which more realistic AVF cost cases can be viewed.

Chart I presents the total DOD manpower costs over time.

CHART I.—TOTAL DOD MANPOWER COSTS

[Dollars in billions]

	Fiscal year 1964		Fiscal year 1967		Fiscal year 1973		Fiscal year 1974		Fiscal year 1975	
	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent
Miliary personnel appropriations	12.3	24	19.1	25	22.1	28	22.6	26	22.9	25
Civilian compensation	7.3	14	10.3	14	13.0	16	13.8	16	14.1	16
Reserve and Guard personnel appropriations	.7	1	.9	1	1.6	2	1.7	2	1.7	2
Retired pay	1.2	2	2.1	3	4.4	6	5.2	6	5.7	6
Contingency fund									2.2	2
Personnel support costs	2.4	5	3.9	5	4.6	6	5.2	6	5.9	6
Total manpower costs	23.9	47	36.3	48	45.7	57	48.5	56	52.5	57

Here total manpower costs are divided into six categories:

(1) Military personnel appropriations which consist primarily of military pay.

(2) Civilian compensation.

(3) Reserve and Guard personnel appropriations.

(4) Retired pay.

(5) A contingency fund representing expected increases in military and civilian pay levels.

(6) Personnel support costs which include Defense family housing, individual training, medical support, and other programs.

Chart I reveals that total manpower costs have increased from their FY level of $23.9 billion, which represented 47% of the total Defense budget, to the current FY level of $48.5 billion, representing 56% of the total Defense budget. However, it is not sufficient to look only at these statistics and draw final conclusions such as: manpower costs have increased too rapidly, or manpower costs are too high or represent too high a percent of the total Defense budget.

In order to clarify this issue, I have analyzed the economic causes of increased DOD pay costs, both military and civilian, over the last ten years. A summary of my findings is presented in Chart II.

CHART II.—RELATIVE IMPACT OF EACH ECONOMIC FACTOR IN INCREASING PAY COSTS, 1964 TO 1973

	Civilian cost increases [1]		Military cost increases [2]	
	Cost (billions)	Percent	Cost (billions)	Percent
Private industry wage matching	$2.0	56.6	$6.4	55.2
Catch-up comparability	.2	4.6	4.5	39.0
Labor force changes	1.0	28.4	−3.3	
Grade distribution changes	.4	10.4	.7	5.8
Total	3.6	100.0	8.3	100.0

[1] Only includes the basic pay of general schedule employees.

[2] Includes the cost increase of regular military compensation.

Here, the increase in military pay costs of $8.3 billion over the past ten years was calculated by deriving the change in Regular Military Compensation, which consists of basic pay, food allowances, housing allowance, and tax advantages. This figure of $8.3 billion tracks rather closely with the increased cost in Military Personnel Appropriations in Chart I. The increase in civilian pay costs of $3.6 billion over the past ten years includes only the basic pay increases for General Schedule civilian employees, and this represents only about one half of the increased cost in total civilian compensation presented in Chart I, with the remainder largely consisting of the pay of Wage Board employees.

There are four variables which influence DOD pay costs. First is private industry wage matching which is the annual comparability process of matching military and civilian wage increases to those in corresponding occupations in the private sector. Second, is catch-up comparability which occurred because in FY 1964 civilian and military wage levels were not comparable to wage levels in the private sector and thus some special wage increases were necessary to achieve comparability. Third are changes in labor force size. Since FY 1964 military forces have been reduced 14% which in turn has caused pay costs to decrease, whereas the General Schedule civilian labor force has increased by 13% over this period causing pay costs to increase. Finally, there are grade distribution changes which include the effect known as grade creep.

Two important inferences can be drawn from Chart II. One is that the first two items on the chart, private industry wage matching and catch-up comparability, consist of the portion of increased pay costs due to the comparability effort. It can be seen that the comparability process is responsible for almost 95% of the increased military pay costs and about 60% of the increased civilian pay costs over the past ten years. Certainly, it is hard to argue that these increased expenditures represent poor or inefficient management of manpower resources. The second point is that grade creep, an area for which we have often been criticized, represents only 5–10% of the total increase in pay costs.

On close examination, this first AVF cost case does not seem reasonable. First of all, what do civilian costs, retired costs, or most support costs have to do with the All-Volunteer Force effort. Second, even in the military pay cost category, certainly not all costs are related to the decision to end the draft.

The second AVF cost case considers from an historical perspective what new programs were created or old programs expanded because reliance on the draft came to an end. Project Volunteer is the special budget category created to track this effort. The use of the funds for Project Volunteer began in FY 1972 and represented funds set aside for programs or initiatives the Secretary of Defense approved to assist in rapidly reducing reliance on the draft. Chart III presents the Project Volunteer budget for FY 1974.

CHART III.—*Project Volunteer (FY 74).*

(in millions)

Items	
Administrative Programs	$432.2
Recruiting (Active)	117.4
Advertising (Active)	51.7
Recruiting & Advertising (Reserve)	36.0
Travel Entitlements	59.5
Quarters Improvements	5.1
Education Programs	52.6
Special AVF Initiatives	109.9
Enacted Legislation	2,522.6
Bonuses	66.4
Combat Arms	(62.9)
Nuclear Enlisted	(3.5)
Scholarships	73.8
ROTC (and subsistence)	(35.8)
Health Profession	(38.0)
Special Pay (Optometrists)	4.7
Recruiter Out-of-Pocket Expenses	4.9
Basic Pay and Allowances	2,376.8
*Armed Forces Enlisted Personnel Bonus Revision Act**	77.8
Total	3,032.6
Percent of FY 74 DOD Budget	4.0

*This represents a projected FY 75 annual cost.

Project Volunteer consists of administrative programs, enacted legislative programs, and the Armed Forces Enlisted Personnel Bonus Revision Act; the latter consisting of authorizations requested from Congress to pay enlistment and reenlistment bonuses in critical skills. I do not think it would be helpful or interesting to go into the details of these Project Volunteer programs. However, there are several points about this chart worth emphasizing. First, notice that the total cost of Project Volunteer programs is about $3 billion which is the figure most of you are probably familiar with as the annual cost of the All-Volunteer Force. Second, it is interesting to note that enacted legislation programs account for more than 80% of the total Project Volunteer cost. Finally, one single program in Project Volunteer, basic pay and allowances, accounts for almost 80% of the total Project Volunteer cost. This item consists of the total annual cost of the November 1971 pay raise for lower grade military personnel. The chief purpose of this increase in compensation was to raise the pay of lower ranking military personnel to a level which was more comparable to civilian sector pay levels. It is important to emphasize that the principle of keeping military wages roughly comparable to civilian wages was operative long before the decision to abandon the draft. The November 1971 pay increase, by eliminating the large pay inequities for lower grade military personnel, can logically be viewed as an action taken primarily to achieve pay comparability. An additional effect was to help in making the All-Volunteer Force a workable concept.

The Gates Commission recognized that their recommendations for greater pay and benefits for military personnel should be implemented even if conscription were continued. They stated:

"Because conscription has been used to provide raw recruits, the pay of men entering the Services has been kept at a very low level. . . . Regardless of the fate of the draft, the Commission strongly recommends elimination of this discrimination against first termers."

Cost case 3 assumes that the cost of the 1971 pay raise should be attributed to the pay comparability process and not the All-Volunteer Force. Although the AVF effort certainly provided the needed political pressure for passage of the 1971 pay raise, it seems highly likely that even if the draft had continued to operate, equity considerations alone would have eventually led to the passage of this pay increase. It is especially interesting to note that F. Edward Hébert Chairman of the House Armed Services Committee, who opposes the All-Volunteer Force, was the single most important supporter of the 1971 pay raise.

By substracting from the $3 billion cost of Project Volunteer, the annual cost of the 1971 pay increase and with several other minor adjustments, the annual cost of the All-Volunteer Force can be said to be $733.6 million. From an historical perspective, I feel that this is the best estimate of the cost of the All-Volunteer Force.

However, none of these previous cost estimates cover the most relevant cost from a decision framework, that is the opportunity cost of the All-Volunteer Force. This opportunity cost can be represented by the annual budget savings which would occur if we returned to the draft. I feel that this final cost case, the opportunity cost of the All-Volunteer Force, is the most relevant and most interesting cost case. Chart IV presents the Project Volunteer programs which could be reduced if the draft were reinstituted.

CHART IV.—*Project Volunteer Cost Decreases Under a Return to the Draft*

(In millions)

Action:	*Decreased Annual DOD Costs*
Eliminate Health Profession Scholarships	$38.0
Reduce ROTC Scholarships to Pre-AVF Level	4.2
Eliminate Special Pay for Optometrists	0.7
Reduce Active Duty Recruiting Expenditures	131.1
Reduce Active Duty Advertising Expenditures	45.6
Total Annual Savings	305.7

This amount of potential savings, $350.7 million, which is mostly reductions in recruiting and advertising programs, may seem intuitively low, but one crucial assumption is in operation here. The assumption is that pay comparability levels would continue for all military personnel. This is a reasonable assumption given the political infeasibility of reducing pay levels once comparability levels have been established as the norm. Without the possibility of reducing pay expenditures, only a few, relatively low cost programs, could be reduced in a return to the draft.

However, Chart IV does not tell the entire story because by returning to the draft there would also be large cost increases which must be included in the calculation of the opportunity cost. This is a crucial point which many AVF critics have missed.

During the high draft years (FY 1966 to FY 1969), each military accession contributed an average of 3.0 trained man-years. Today, and over the next several years (FY 1973 to FY 1976), each accession will contribute an average of 3.7 trained man-years. This represents a 23% increase in manpower utilization. This increase in productive man-years per accession is a result of the interaction of three variables. First, the distrbution of initial terms of service have changed within each Military Service. During the high draft years, two-year terms of service dominated the accession picture, whereas, over recent years, three-year, four-year, and six-year terms of service have become increasingly more common. Second, Service loss rates have decreased with the introduction of the AVF. Especially important are first-term reenlistment rates which have increased substantially from their level in the late 1960's. Third, lower proportion of DOD accessions are now entering the Army, a Service with relatively low expected man-years contributed per accession. The combined effort of these three variables increases the expected utilization rate for DOD manpower.

If the draft were immediately reinstated and the high manpower turnover rates which the Military Services experienced before also returned, it would require an additional 39,000 training man-years to support the current trained strength. This translates into an increased annual DOD budget cost of $515.2 million. However, as I previously explained, this increased cost figure includes the effect of three variables: longer initial terms of service, lower loss rates, and proportionately fewer Army accessions. These first two factors are clearly AVF-related savings areas. However, I feel that the lower proportion of accessions entering the Army is primarily related to the end of the Vietnam War and not to the introduction of the All-Volunteer Force. By excluding this variable from consideration, the additional annual DOD training cost which would result in a return to the draft is reduced from $515.2 million to $374.3 million. Which cost one chooses to accept as more relevant to the AVF is debatable, but I would choose the lower figure. This amount of annual increased DOD cost in a return to the draft, $374.3 million, must be compared to the potential cost savings in a return to the draft, $305.7 million, presented in Chart IV, in order to derive the opportunity cost.

Two points must be stressed about these opportunity cost calculations. The first point is that these figures are only preliminary estimates and are currently being studied in more detail. The second point is that other potential AVF-related cost savings areas, such as reduced transients, which could result in substantial increases in expected DOD costs in a return to the draft, have not been included in these preliminary estimates, and are currently being evaluated.

The final conclusion is rather startling to some. A return to the draft will likely not result in any savings. In fact, these preliminary estimates indicate that the elimination of the All-Volunteer Force could result in additional annual DOD expenditures of over $50 million. The opportunity cost of the All-Volunteer Force appears to be small or possibly negative. This is why the statement that the All-Voluteer Force is bankrupting the Defense Department seems almost ironic in retrospect. Perhaps it is the draft, not the All-Volunteer Force, that we cannot afford.

FRED MILLER: A GEORGIA GIANT IN PEACEFUL TRANSITION

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. YOUNG of Georgia. Mr. Speaker, in today's Washington Post, Nicholas von Hoffman has written a perceptive appreciation of a little-known man who has made a major contribution to the cause of human rights and dignity in the South.

Fred Milller is, indeed, "a Georgia giant in peaceful transition." Many times I was privileged to view his quiet, effective work and to enjoy his abiding friendship.

I submit this richly deserved tribute to Fred Miller for the RECORD:

FRED MILLER: A GEORGIA GIANT IN PEACEFUL TRANSITION

(By Nicholas von Hoffman)

Fred Miller would never let any of us write about him. He used to say it would make his job with the United States Community Relations Service more difficult. He felt what he needed was anonymity, not glamor, to do the work of justice and reconciliation between races and people.

Bad health is forcing Fred to retire so we may now tell you about this Jackson, Ga. man, 6-feet-5, 280 pounds, bald, jug ears, and looking like the quintessential redneck behind every gas pump in the South. Fred, of course, knew that no matter where he went in Georgia, Alabama or Mississippi he looked like he came from just down the road, and, as he said, "It was one of the things in my favor. I could use it to get to the people. I would let it ride and wouldn't try to stop it until the right time and all."

It wasn't just looks with Fred, any more than it was his accent. I think we Yankee reporters loved his speech because it is a sweet Georgia melody, a singing murmur, not dramatic, not histrionic, so soft on the ear, but what counted was that Fred was the most trustworthy man any of us had ever met. There are a lot of people who speak the truth but aren't accurate and a lot of people who are accurate but don't speak the truth. Fred does both and does it all the time.

All sides trusted Fred. They had a retirement banquet for him in Atlanta the other day and I'm sure that ex-antagonists remembered how in days of riot and storm Fred had brought them together to begin the work of reconciliation.

We reporters remember in our own special way, like him picking us up when we were dead drunk in the Tally Ho restaurant outside of Selma and carrying us back to the Hotel Albert. Gene Roberts, then of The New York Times and now editor of The Philadelphia Inquirer, remembers taking refuge from the local hostiles in the Baker County Court House in southwest Georgia: "The sheriff and everybody slammed their doors and I was surrounded in the hall by five or six guys. One had a pistol, and then there was Fred banging up against the water cooler and almost knocking it over. 'Oops,' he said, 'I better not do that again or I'll knock my gun loose.' "

Fred saved me once, too. It was the day they integrated Veterans State Park in that same part of Georgia. After the civil rights people left I made the mistake of staying too long, and I was soon encircled by a number of white nasties. Fred came up in time to hear a local Alley-Oop announce. "We're gonna git yuuuu." Fred looked back at him and stuck a hand inside his coat jacket before replying. "Well, six of you ain't."

If Fred ever carried a gun in those days we never saw it, but Georgia produces fighting men and Fred enlisted in the Army in 19 and 40, as he would say it, to win a battlefield commission, two Bronze Stars, two Silver Stars, the Distinguished Service Cross and two Purple Hearts. "They gimme the others, but those two Purple Hearts I won."

Fred came home to Georgia where he grew a few peaches, coached football at Gordon Military College and, in the 1950s, integrated the 4th VFW District where he was the commander. How he did you can't understand if you don't know Fred. He is the ideal Southerner, strong in war, gentle in peace, humorous, inviting and never, never pushy.

When asked why he went into this work which took him to the Pettus Bridge at Selma and the Memphis motel room five minutes after Dr. King's murder, Fred doesn't give a big speech. "Knowing the situation in our area of the country, I felt like I'd be of some help in keepin' down violence. I certainly didn't go into it as a do-gooder, but so we could move along into a peaceful transition."

There were funny times and sad times, and horrible ones and scary ones, but one of the times I remember best was Fred outside that same Baker County courthouse. There had been a lot of trouble and it was a hot, hot afternoon in this place where the sheriff had even run state troopers out. Fred and I went into the local cafe, where the deputies were, to get a drink of water, but they wouldn't serve us. They said it was a private club.

Fred turned around and walked out into the street, and in the dusty, hot sun, he called them out, he dared them to come out, this Georgia giant, this white man, this son of the South, a singing voice of angry justice in a summer street, and inside they were too ashamed to come.

REISS-DAVIS CHILD STUDY CENTER

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. CORMAN. Mr. Speaker, today I would like to pay tribute to the Reiss-Davis Child Study Center, a nonprofit treatment center for emotionally disturbed children in Los Angeles. This center was founded in 1950 by a group of interested citizens to provide quality treatment for those children and their parents unable to afford private care.

Over the past 23 years, Reiss-Davis has expanded its facilities to include comprehensive training programs for child care professionals, major research projects in the field of mental health, and workshops and seminars conducted for the benefit of parents and community groups. The center is among the largest of its kind in the Nation and the only institution in the West to provide all of these services.

Reiss-Davis is now accredited by the Council on Medical Education of the American Medical Association and by the American Board of Psychiatry and Neurology. Its Anna Freud Research Library is recognized as the largest and most outstanding psychiatric library in southern California.

Reiss-Davis has truly made an outstanding contribution in the area of mental health, both locally and nationally, but there is much remaining to be done. Out of the 10 million children in the United States in need of psychiatric care, only 1 million are receiving any care at all. In addition, there are still only 600 qualified child psychiatrists in the Nation, 6 percent of whom were trained at Reiss-Davis. By its 10th anniversary in 1960, 2,300 patients had received treatment, and by 1967, the number of patients treated had increased to 5,000.

Approximately 70 percent of the Reiss-Davis operating budget comes from private sources. Only 7 percent is raised through patients' fees. The remaining 23 percent is derived from training and research grants by the National Institute of Mental Health, which are due to expire in June 1974.

As Reiss-Davis approaches its 25th anniversary date in 1975, it will be launching a major fund-raising drive to meet expenses incurred by its ever-expanding services. The center serves as a fine example of a community working together to provide care for its most helpless citizens. Through its research, training programs, and public education service, its voice has been heard throughout the Nation in the field of mental health.

AMENDMENT TO H.R. 69

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. DE LUGO. Mr. Speaker, in accordance with House Resolution 963 providing for the consideration of H.R. 69, I hereby give notice of my intention to offer the following amendments to H.R. 69:

Amendment to H.R. 69, as reported, offered by Mr. DE LUGO.

Page 28, line 15, strike out "1" and insert in lieu thereof "2".

Page 29, beginning with line 1, strike out everything after the period down through the period in line 8, and insert in lieu thereof the following:

The Commissioner shall allot (A) 50 per centum of the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) the remaining 50 per centum of such amount so appropriated to the Secretary of the Interior (i) to make payments pursuant to subsection (d)(1), and (ii) to make payments pursuant to subsection (d)(2).

Amendment to H.R. 69, as reported offered by Mr. DE LUGO.

Page 28, line 15, strike out "1" and insert in lieu thereof, "1½".

Page 29, beginning with line 1, strike out everything after the period down through the period in line 8, and insert in lieu thereof the following:

The Commissioner shall allot (A) no less than 50 per centum of the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) the remaining per centum of such amount so appropriated to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to subsection (d)(1), and (ii) to make payments pursuant to subsection (d)(2). In making the allotments under the preceding sentence for any fiscal year, the Commissioner shall take into account any increase in the proportion of the number of children to be served by the allotment under clause (A) relative to the total number of children to be served by the allotments under clauses (A) and (B).

NEED MORE FEDERAL FUNDS FOR EYE RESEARCH

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. GINN. Mr. Speaker, one of our most important personal possessions is the gift of sight. For many Americans, however, disease and accidents impair this precious sense.

I wish to call to the attention of my colleagues the need for more Federal research funds on the eye disease called toxoplasmosis. The Georgia House of Representatives has read and adopted the following resolution which I would like to share with the Members of the Congress:

GENERAL ASSEMBLY OF GEORGIA—H.R. No. 648

A resolution requesting the President and the Congress to participate in the fight against diseases of the eye; and for other purposes

Whereas, countless citizens of this State and of the United States are afflicted in each year by diseases of the eye, and especially the disease Toxoplasmosis; and

Whereas, the causes of almost all diseases of the eye are unknown to science, causing incorrect diagnoses and leading toward a lack of proper treatment which in turn may facilitate blindness and even mental retardation; and

Whereas, it is more feasible to appropriate money for research to prevent blindness than to appropriate money to provide for the blind whose sight might have been saved through research; and

Whereas, even when funds are appropriated by the Congress for this vital research into the causes and cures of eye diseases they are often impounded or vetoed by the President for reasons which are not related to the crying need for eye research; and

Whereas, it is absolutely imperative that research into diseases of the eyes be continued and expanded in the most rapid and most thorough fashion possible.

Now, therefore, be it resolved by the General Assembly of Georgia that this body respectfully requests the President and the Congress to immediately act for the support and expansion of research into the causes and cures of eye diseases, and particularly of the eye disease Toxoplasmosis.

Be it further resolved that the Congress is urgently requested to appropriate funds to the National Eye Institute to enable such research to be conducted.

Be it further resolved that the Secretary of State is authorized and directed to transmit an appropriate copy of this Resolution to the President of the United States; the President of the Senate and Speaker of the House of Representatives of the United States; to the Governors of the states of North Carolina, South Carolina, Florida, Alabama, Tennessee, Mississippi, Louisiana and Texas; to the Director of the National Eye Institute; to Secretary of the Army, Howard "Bo" Callaway; to Undersecretary of Agriculture, Phil Campbell; and to the members of the Georgia Congressional Delegation.

Be it further resolved that Senator Herman Talmadge and Congressman Bo Ginn are respectfully requested to read this Resolution to their respective Houses and, thereafter, to insert this Resolution into the Congressional Record.

Be it further resolved that the Governors and Legislators of our sister states are urged to join with us in our urgent request for action to find the causes and cures of diseases of the eye.

EDUCATION'S NEED FOR METRIC CONVERSION LEGISLATION

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. HANNA. Mr. Speaker, we will soon be debating a most important and far-reaching piece of legislation, the Metric Conversion Act. This bill is the best kind of legislation—the kind that causes minimal social and economic disruption and yet has profound and progressive consequences.

Mr. Speaker, I believe that I may speak for my other colleagues who have sponsored H.R. 11035 when I say that we have been aware of and impressed by the interest and forward action of the California education system relative to metric conversion. Educators in California have been farsighted in recognizing the coming reality and in preparing young Californians now for the future in which they will be adults.

I have received today an excellent statement by Dr. Wilson Riles, the superintendent of public instruction and director of education in California, regarding the value of and need for a unified national education effort to implement metric conversion. I commend his perceptive remarks to my colleagues during their consideration of this important legislation. These remarks once again support the urgent need for H.R. 11035 and once again demonstrate why all those who have had the singular pleasure of coming to know Wilson Riles hold him in such high regard.

The statement follows:

STATE OF CALIFORNIA,
DEPARTMENT OF EDUCATION,
Sacramento, March 8, 1974.

HON. RICHARD T. HANNA,
House of Representatives,
House Office Building,
Washington, D.C.

DEAR DICK: I have been following the progress of HR 11035 for several months. Last week it was voted out of the Rules Committee for consideration by the House of Representatives. I encourage you to support this measure for a 10-year transition to a metric standard of measurement.

Enthusiasm for changing over to metrics runs high in California where many schools have already implemented metrics in their math, science, industrial arts, home economics, and P.E. programs. Literally hundreds of metric inservice programs for teachers have been conducted to prepare the way for metrication. While many questions about metrics are directed to the California State Department of Education, nearly all of them ask for suggestions about what to teach and how to teach it. Very few are critical of a metric standard for measurement. Teachers, students, and parents all recognize the benefits of a changeover to a less complex, more easily understood system, and most are committed to the efficacy of a metric system.

Federal action for implementing a metric standard for measurement is of immediate importance for many reasons. If the United States acts now, we will have some say in decisions which impact on industrial and technological standards. Further, action now will get the nation moving together to effect a transition. The longer we wait, the more difficult it is for publishers of educational materials and others to participate in a smooth shift to metrics. Delay is the enemy.

My concern for metrics relates primarily to educating children and adults for productive lives in our society. I believe that the passage of HR 11035 is consistent with sound economic and educational goals. In commerce, metrics hold promise for improving our trade posture abroad, and at home. In education, a metric standard for measurement will facilitate the acquisition of measuring skill, and computational skills which involve measurements. The chance of measurement error is much lower when using metric units than when using U.S. customary units because of the decimal design of metrics. That benefit alone will improve both educational outcomes and commercially related outcomes, substantially.

America's greatest resource is its school children. They will soon manage business, industry, education and government. We owe them the advantages of a standard of measurement which allows efficient communication both at home and abroad.

Again I encourage you to vote yes in support of HR 11035.

Sincerely,

WILSON RILES.

PRIDE IN AMERICA

HON. EDWARD YOUNG

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. YOUNG of South Carolina. Mr. Speaker, the Jaycees of the United States have rendered much valuable service over the years. Today, they are concerned over the cynicism and pessimism that seems to be so popular today. I commend them for their program known as "Pride in America."

I insert the following resolution by the Jaycees of the United States

PRIDE IN AMERICA

It is becoming increasingly difficult to appreciate that our country offers more opportunity than any nation in the world . . .
Because

Today this country's detractors show little regard for our institutions.

Most Americans have strong convictions in these institutions that are the cornerstones of our great country

Faith in God
Brotherhood of Man
Free enterprise
Government by the People
Individualism
Service to Humanity

Constantly it is repeated that Americans no longer enjoy individual expression.

The United States Jaycees know better because of their affiliations in 6,700 communities throughout this great country.

History has proven that the American people can unite when threatened! Once again we are threatened but not by outside forces.

Our new threat is one of self-doubt reinforced daily by the repetition of negative examples.

The United States Jaycees are tired of those who daily condemn our society as deteriorating!

The time is now for the sleeping giant of public "Pride" and positive individual participation to awaken.

Unite with the United States Jaycees in rekindling our "Pride In America"—the key is YOU!

Adopted: February 16, 1974, The United States Jaycees, Executive Committee.

The UNITED STATES JAYCEES,
Executive Board of Directors.

RESEARCH AND TREATMENT FOR THE PROBLEMS OF HUMAN GROWTH

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. JONES of Oklahoma. Mr. Speaker, frequently in our rush to help our constituents and to represent them, on the floor and in committee, we may fail to stop and ponder the full effect of all that we do. In this way, a constituent's recent call to my district office to express to her view on the need for proper funding and better balance in health care research focused my attention on the fact that funds to train new doctors and to conduct research also results in the treatments of patients and the alleviation of suffering.

As my constituent, Mrs. Bill J. Schneider, so poignantly put it—

> You don't know what it's like to be told your son will never be more than three feet tall nor weigh more than thirty pounds. You don't know what it's like to be told, "There is no hope!" and, worse, to be given the feeling that no one cares.

One of my reasons for asking that Mrs. Schneider's letter to me be reprinted in the RECORD is her conviction that more doctors in general practice should know that there is hope—treatment is available. Mrs. Schneider's son received treatment as part of a research and training program funded by the National Institutes of Health in St. Louis, Mo.

Mrs. Schneider pleads for others whose children may be similarly afflicted, since her own son has now received help. She pleads not for more money, but that within the total amount available that not all of it be given to research and training in cancer and heart disease just because of the attention, publicity and fear they arouse. Let us not respond just to political popularity. Surely, the diseases of children and the problems of growth are just as important. Few people have spoken to me so convincingly on that subject and I commend her comments to my colleagues. I know many older people who, if asked personally, would cheerfully sacrifice their treatment for little children—for their children and grandchildren.

Mr. Speaker, another reason for calling this matter to my colleagues' attention is my pride in my constituent, Mrs. Schneider. She not only got help for her son, but she reached out and shared what she found with others. Mrs. Schneider was the unpaid but full-time national director of the Human Growth Foundation, which has now been established to help in this area. I wonder how many of us have such unsung, but dedicated people, unnoticed until something like this comes along, among our constituents.

The letter follows:

HUMAN GROWTH FOUNDATION,
Baltimore, Md., Jan. 14, 1974.

Congressman JIM JONES,
Cannon-House Office Bldg.,
Washington, D.C.

DEAR CONGRESSMAN JONES: It is virtually impossible for me to tell you what I would like to in a few short words, so I'm afraid this may very well turn into a lengthy dissertation. It would mean very much to me if you would stick with me to the finish.

First of all, my reason for writing is a very personal one. I am very concerned about the research project that is allowing one of my three sons to grow up, literally. With that, I'm concerned about other "little" children who may never be given this opportunity that he has had through research which, I believe, has been government funded for the most part.

Thirteen years ago, when my husband was a young new architect, I was asked by a young new physician if anyone had ever told me that my second son might be a dwarf . . . to which I responded with no . . . and went home in a state of shock. I looked in a reference book for information and found under DWARF . . . "Used to entertain the Kings and Queens of England in the seventeenth century—see Tom Thumb". No medical explanation was given! For three years, I did not know what a dwarf was and searched for any information I could find, finding very little and being totally confused. Finally, my pediatrician assumed the physician was correct and sent us to Oklahoma City for further testing and then, from there, we were sent on to St. Louis Children's Hospital to be a part of a then relatively new research program. Little did I realize then that researchers had reported the first successful results of administration of human growth hormone to dwarfed hypopituitary children, only the year before my son was born.

Stan was selected as one of the first 100 children in the U.S. to be a part of this program which has extended to some 200 children now, I believe. Many others could benefit if enough hormone were available, though! In one room, they were working with rats . . . in the other room with Stan! Admittedly, the decision to let him be a part of something that I had never heard about . . . and just the fact that it was research was the most difficult decision I have ever made in my life and I turned to God for an answer that was beyond my comprehension as a young mother. With God's help, a decision came immediately and Stan and I headed for St. Louis where he has spent ten weeks off and on in an effort to help research, to train pediatric endocrinologists, and to, hopefully, help him!

I don't think I would be incorrect if I were to say most all of the 100 children are now over five feet (or normal) in height. Stan was one of the youngest to start treatment at the age of 4—32" tall? and weighing 22 lbs. He cooperated through very difficult tests after I explained to him why we were there. From the ages of 1 to 4, Stan had gained 3 lbs. and his growth rate had slowed down more each year. At the age of four, he was the size of an 18 mos. old baby.

As a result of human growth hormone treatment, he has now grown 22 inches and gained 60 lbs. and is now 4'6'' tall and 82 lbs. at age 14. He is still growing rapidly and we are hopeful that he will reach five feet. We feel he would have already attained this height but he had a bone problem from an unrelated problem and was off hormone for a two year period, during which his growth remained at practically a standstill. It seems very probable that he would have grown no more than 5–7 inches during this time with a weight gain of 10 lbs., making him almost a candidate for the Guiness Book of Records! Thanks to eight years of treatment with human growth hormone through research, his growth rate has been normal those eight years!

I've been informed that if the Rogers-Kennedy Bill does not become reality that training for pediatric endocrinologists cannot go beyond July 1974. What I'm not sure about, but think, is will this be the end of Stan's growth rate as well? Will others not be given the opportunity he has been given? Are we throwing in the towel?

The source of Stan's hormone is from pituitary glands of deceased persons. 800 of these glands came from Oklahoma in 1972. I'm not sure of the '73 count! The National Pituitary Agency, under the direction of the National Institute for Arthritis and Metabolic Diseases, has been providing him with hormone through his researcher during this period. Will NPPA be phased out? Would all the programs concerning growth research be discontinued? What is being done under the National Institute for Child Health and Development? This may be the source of our funding . . . ?

My husband and I have spent over $20,000 for medical care in addition to what our son has received from insurance or through research funding. Research has spent $1,000's of dollars on him I am sure. I am aware that the costs of research are phenomenal. I know that they are not nearly as extravagant now as they were when the programs first started because we now pay for many of our services . . . x-rays, etc. We also are able to fly Stan to St. Louis for his periodic checkups. I don't know how many people could afford this. Nor do I know if we will be able to forever with inflation rising as rapidly as it is!

In writing this letter, I'm not wanting to ask that more money be spent for research. In fact, there might be ways that less could be spent more efficiently. Perhaps, only four centers in the U.S. should be training pediatric endocrinologists . . . maybe just one . . . but certainly not the elimination of all of them! Perhaps, if certain areas of research were given significance at different medical centers, then researchers could work cooperatively, sharing expensive diagnostic equipment, and the people could come to them (which doesn't do a lot for the energy crisis) and with more children being evaluated at one place, perhaps, an answer would be found more quickly and more data would be accumulated!

Equally important, is the need for practicing physicians to be aware of the latest developments in research via *continuing medical education* and to make this information available to their patients.

Please don't cut all research for cancer and heart disease!!!

Because of my concern for my small child, I became a member of Human Growth Foundation in 1965. I was a charter member of the only organization that is concerned with "helping medical science better understand the process of growth". In 1969, I became a national director for this foundation and I worked full-time for them for three years, without pay! As a director, my work resulted in corresponding with parents of children with growth problems from all over the U.S. and Canada.

My correspondence related to me that there were many parents that felt as I had earlier . . . completely lost with no one to turn to for help. I was able to refer them to researchers in different areas. Or, at least to comfort them with the knowledge that there were, indeed, researchers trying to find answers for the many and varied causes of dwarfism!

In our organization, our work has been done almost entirely by volunteers, although we are in the process of raising funds for our first full-time executive director. We have no paid staff and have only been able to raise, nationally, what the American Cancer Society raises in Tulsa alone! This leads me to believe that the American Cancer Society is doing fairly well without governmental help!!

Please don't think I'm opposed to cancer research. My best friend died of cancer and there's much heart disease in my own family, but to stop all research in other areas for these two is unrealistic . . . completely unrealistic!

I know there are no easy answers for these problems, but I think if researchers would work cooperatively, sharing equipment, and practicing physicians were made aware of existing services for patients and that this information were then shared with our general population, optimal, exciting results in research could be reached!

I would appreciate it very much if you could inform me about what the future of growth research will be. As I am now serving as Oklahoma Coordinator of Human Growth Foundation, I am still counseling parents of "little" children. I am concerned about all of them, as well as others throughout the U.S., in addition to my own small son who has been an honor student his first fourteen years, but he is becoming more sensitive about his small stature daily. However, he has been very fortunate indeed!

I appreciate the time your aide gave me on the phone in Tulsa. It was his suggestion that I write this letter to you.

Most cordially,

Mrs. Bill J. Schneider,
Oklahoma Coordinator.

SEATBELT DATA

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. HUNGATE. Mr. Speaker, many resent the invasion of privacy involved in mandatory seatbelts, and seek to repeal laws and regulations requiring such regimentation. Meanwhile, those favoring mandatory seatbelts cite the great gains made because of their use in Australia. Accordingly, it may be of value to compare traffic problems in the United States and Australia before reaching any hasty conclusions.

Statistics

1. Number of vehicles registered: USA, 118,000,000. Aus. 5,271,900.
2. Number of yearly traffic fatalities: USA, 56,300; Aus, 3,422.
3. Number of yearly traffic accidents: USA, 16,800,000; Aus, 65,750.
4. Total Population: USA, 208,000,000; Aus, 13,091,300.
5. Miles of paved highways: USA, 3,789,000; Aus, 119,729 bituminiod concrete.

These are the statistics for 1972, the latest year for which complete figures are presently available.

Much emphasis is given to a 20-percent reduction in motor vehicle occupant deaths in Australia. It is important to note that these statistics apply only to the states of Victoria and New South Wales, which account for some 5 million of the nation's 13 million people, as data is not yet available for the other four states or New Zealand.

Another interesting comparison with U.S. highways, which in 1972 generally featured a 70 miles per hour speed limit, in Australia, the speed on Sidney's main highways was 60 miles per hour and on other outside areas, from 40 to 50 miles per hour.

UNITED VETERANS COUNCIL OF LONG BEACH OPPOSES CLOSURE OF FORT MACARTHUR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. ANDERSON of California. Mr. Speaker, the Department of Defense's announced intent to close Fort MacArthur—the only Army installation in the eight-county southern California area—has completely ignored the needs of the people in the area, many of whom located in the San Pedro vicinity in order to utilize the facilities at this historic post.

And such a disregard for the needs of the people in the Los Angeles area—which 1 out of 12 servicemen call home—adversely affects not only the retired military personnel, the dependents of servicemen, and the local economy, but it also adversely affects the efforts to achieve a Volunteer Army. Obviously, without the support of the community, the Volunteer Army cannot attract the kind of personnel needed to maintain a defense posture second to none.

Mr. Speaker, one such community organization, the United Veterans Council of Long Beach, under the able leadership of its Comdr. Raymond Krinsky and its Adj. John Doran, has taken a strong stand in opposition to the closure of Fort MacArthur. At this point, Mr. Speaker, I place their views in the Record:

February 6, 1974.

Hon. Glenn M. Anderson,
House Office Building,
Washington, D.C.

Dear Congressman Anderson: The United Veterans Council of Long Beach, California, would like to take this opportunity to thank you for your efforts in behalf of the retention of the Fort MacArthur Army Base at San Pedro, California.

In an emergency meeting of our Executive Council today, February 6, 1974, on the matter of the impending closure of Fort MacArthur Army Base, our delegates voted unanimously to support your position on this issue.

Our interest in this matter increased when a proportionate amount of our members, or members of their families, were found to be working at Fort MacArthur. In addition, many of the older military retirees living on fixed incomes who settled in this area many years ago with the expectation of utilizing the Post Exchange and Commissary which is a part of their retirement benefits, are deeply concerned.

With the closure of the Long Beach Naval Station slated for June 30, 1974, and the reduction of exchange facilities and overcrowded commissary, the burden on the military retiree in the San Pedro area and Long Beach area indicates a lack of planning or indifference by the Defense Department.

Our recommendation is as follows; if the proposed closure is for economy reasons, as we are led to believe, then why not move present Army Reserve and National Guard units in the Long Beach/Signal Hill areas to Fort MacArthur and any other governmental agencies in the surrounding areas? This would increase our security on government property and equipment at no additional cost at a time when these activities are vulnerable to revolutionary attacks. This could then release this land for development and placement on tax rolls.

In the event that this closure proceeds as planned, we would hope you realize the need for *recomputation of military pay for retirees.*

We would appreciate your comments and hope for a prompt reply on this matter.

Sincerely,

RAYMOND KRINSKY,
Commander.

MEMBER ORGANIZATIONS

American Gold Star Mothers of Long Beach.

American Gold Star Hospital Corps.

American War Mothers, Chapters 43 and 61.

Blinded Veterans Association.

Canadian Legion, Chapter 14 and Auxiliary.

Disabled American Veterans, Chapter 17 and Auxiliary.

Daughters of the Union Vets, Chapters 15 and 58.

Fleet Reserve Association, Branch 43 and Auxiliary.

Jewish War Veterans, Post 593 and Auxiliary.

Ladies of the Grand Army of the Republic, Chapter 44.

Military Order of the Purple Heart, Chapter 210 and Auxiliary.

Military Order of the World Wars.

Marine Corps League.

Spanish War Veterans, Chapters 23 and 94.

Spanish War Veterans, Auxiliary Chapter 71.

Veterans of Foreign Wars, Post 1746 and Auxiliary.

Veterans of Foreign Wars, Post 279 and Auxiliary.

Veterans of World War I, Chapter 154 and Auxiliary.

Veterans of World War I, Chapter 599.

Women's Relief Corps, Chapter 93.

Widows of World War I, Chapter 4.

BAN THE HANDGUN—XXXII

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. BINGHAM. Mr. Speaker, armed with a pistol, any man can suddenly become a menace to his friends, neighbors and even innocent passers-by. The following article, reprinted from the March 12 edition of the New York Post, shows once again that indiscriminate possession of handguns too often leads to indiscriminate killing by handguns:

PROSECUTOR SHOOTS THREE AND KILLS HIMSELF

OREGON, ILL., March 11.—Ogle County's chief prosecutor, armed with two revolvers, killed himself in the sheriff's office and after slaying his son and wounding his former wife and a deputy sheriff, the authorities said.

Sheriff Jerry Brooks said that Richard Caldwell, 44 years old, in his first term as chief prosecutor, entered the sheriff's office Saturday carrying the pistols.

The sheriff said that Mr. Caldwell announced: "My name is Richard Caldwell. I have just shot my wife and I have killed my son, David. I am going to finish dictating this statement and then I am going to kill myself."

Mr. Caldwell held one gun at his head and pointed the other at Deputy Melvin Messer, the sheriff said. But deputy Messer escaped through a door into the lobby.

Sheriff Brooks said that a shot was fired and Robert Whipple, a detective sergeant who was in the office, was wounded in his stomach.

The sheriff said that Deputy Messer reentered the office with gun drawn, there was another shot and Mr. Caldwell fell to the floor, shot in the head. Deputy Messer then fired two shots at Mr. Caldwell, Sheriff Brooks said.

Coroner Robert Personette said that Mr. Caldwell was wounded three times, but the fatal injury appeared to be a self-inflicted gunshot wound in his head.

THE SAD FACTS ABOUT THE REPUBLIC OF VIETNAM

Hon. PETER H. B. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. FRELINGHUYSEN. Mr. Speaker, last week I made my first report to the House on the impressions I gathered during my recent visit to the Republic of Vietnam. At that time I placed my main emphasis on the continuing need for the United States to provide assistance to that beleaguered ally. By far the greater part of Vietnam's need is for economic assistance—assistance to add emphasis to reconstruction efforts; to offset the effects of worldwide inflation; to provide for vital imports of petroleum products; and to help compensate for the violent, disruptive efforts by North Vietnam which have continued unabated despite the signing of the Paris accords.

Once again, I wish to urge more Members of Congress to visit Vietnam for a first hand review of the situation. In the meantime, I would like to draw your attention to a most revealing article entitled, "The Shocking Sabotage of the Vietnam Truce." This article, which appeared in the latest issue of the Reader's Digest, summarizes Hanoi's flagrant, systematic violation of the peace agreement signed by North and South Vietnam 1 year ago. The writer, Charles J. V. Murphy, has authored several books and has had a long and distinguished journalistic career, much of it with Fortune magazine. His specialty is foreign affairs and strategic analysis. He is a seasoned observer whose factual appraisals of foreign policy developments have won praise on numerous occasions. Mr. Murphy is clearly disturbed by what he has seen. His assessment of North Vietnam's actions and possible intentions is well worth your persual:

THE SHOCKING SABOTAGE OF THE VIETNAM TRUCE

(By Charles J. V. Murphy)

South Vietnam, early 1974: Automatic-weapons fire rips through the night as North Vietnamese troops, backed by Soviet-built T-54 tanks, overrun an army outpost in the Central Highlands. In the Mekong Delta, a village chief is led into the town square and assassinated by a communist terror squad. Just outside Saigon, well-trained North Vietnamese sappers flee into the jungle as their explosive charges trigger an ammunition dump into an awesome eruption of smoke and flame.

On the cease-fire record to date, it is depressingly plain that South Vietnam remains, as it has been for nearly two decades, an arena of vicious combat in communism's implacable effort to achieve hegemony in Southeast Asia. After a year of the bloodiest truce in history, these are the gruesome statistics:

More than 12,000 South Vietnamese village and hamlet chiefs, policemen, schoolteachers and civil servants have been murdered, wounded or kidnaped by communist terror teams.

Thousands of clashes have occurred between North and South Vietnamese troops, with more than a dozen full-scale battles involving tanks and heavy artillery.

Thirteen thousand South Vietnamese soldiers have been killed and 50,000 wounded. North Vietnamese casualties over the period may be twice as great.

Today, even those American and foreign observers who once refused to believe that the Paris cease-fire wouldn't work now soberly admit that there is scarcely a section of the agreement that has not been flagrantly violated. Consider the main points:

TROOP BUILD-UP

Article 7 of the Paris agreement prohibits the communist forces in place at the time of the cease-fire from strengthening themselves by introducing fresh "troops, military advisers and military personnel" except for purpose of rotation or replacement. The expectation on the American side was that if the truce lasted, the forces on both sides would be progressively drawn down. Instead, as U.S. troops departed, some 75,000 fresh communist conscripts entered the battle zones during the first ten months of the cease-fire. Only a handful of sick and wounded were withdrawn, and perhaps 25,000 to 30,000 more were lost in battle. The net result has been to raise the combat strength of the communist forces inside South Vietnam by 40,000 to 50,000 troops

WEAPONS REPLENISHMENT

The same Article 7 limits both sides to the periodic replenishment of weapons and other fighting gear and matériel destroyed, damaged or worn out, but only on the basis of "piece for piece, of the same characteristics and properties." In blatant disregard of this constraint, the communists have tripled their armored forces by sending from 350 to 400 new Soviet and Chinese medium tanks into South Vietnam, and as many as 350 pieces of heavy artillery (twice as many as they had when the cease-fire went into effect). These heavy weapons include large numbers of Soviet 130-mm. guns—extremely accurate, highly reliable field pieces that far outshoot the U.S. 105-mm. and 155-mm. cannon on the South Vietnamese side. (In contrast, the Saigon government has been replacing supplies at less than the "piece for piece" rate, and all foreign troops have left South Vietnam.)

In the past, the South Vietnamese Army (ARVN) relied heavily on U.S. air support to negate the communist big guns. Now the U.S. aircraft are gone, and there are grave doubts whether ARVN's own jets can restore the balance in the battle equation—especially in the northern and western parts of South Vietnam where the communists now have heavy anti-aircraft guns and even some surface-to-air missiles.

RESUPPLY ROUTES

Because the 1973 cease-fire agreement fixed communist forces in the positions they then occupied, scattered in pockets down the entire length of South Vietnam, resupply has been for them a major burden. To prevent them from simply transforming the demilitarized zone (DMZ) into a handy transmission belt for war gear, Article 15(b) of the Paris agreement required that communist equipment and supplies be moved south only through predetermined points of entry.

The communists have totally ignored this understanding. A dozen usable roads have been bulldozed through the wooded hills of the DMZ, and columns of troops and long truck convoys make regular use of them, mostly in support of a massive communist buildup of infantry and armor in the northernmost provinces of South Vietnam, possibly for another fierce assault against the old imperial capital of Hue. One of the best roads has become the departure point for an ambitious new north-south route inside South Vietnam which parallels the famous Ho Chi Minh trail network for 300 miles. When finished, the all-weather road will provide the communists with a second major supply corridor all the way to the jungle strongholds near Cambodia, within a day's march of Saigon.

EXPLOITING CAMBODIA AND LAOS

Under Article 20 of the Paris agreement, Hanoi promised to withdraw its forces from both Cambodia and Laos; to refrain from starting up or supporting any new military adventures in either country; and to give up the sanctuaries there that have long served as bases for operations against the South Vietnamese government.

The North Vietnamese have unabashedly broken all three stipulations, sending men and supplies down the Ho Chi Minh trail through Laos and Cambodia without interruption. Some of these reinforcements have already gone into combat—in the struggles for control of the Central Highland road system, the Cambodian approaches toward Saigon, and the rice paddies of the Western Mekong Valley.

PRISONER INFORMATION

Articles 7 and 8 of the Paris agreements required both sides to cooperate in obtaining all possible information about missing civilian and military personnel. Although more than 1300 Americans are still unaccounted for, all attempts to obtain communist assistance in confirming the death of these men and bringing their remains back to the United States have been blocked. By wrangilng over procedural details, North Vietnam has circumvented requests to allow any outsiders, including the International Red Cross, to make on-site inspections either in the North or in communist-controlled areas of South Vietnam and Laos. This is particularly cruel for numerous families who must live in a state of agonizing doubt, not knowing for sure whether their loved ones have perished.

SABOTAGING TRUCE INSPECTION

The North Vietnamese have reduced to near futility the functions of the International Commission on Control and Supervision (ICCS). At the start of the truce, four countries (Poland, Hungary, Canada and Indonesia) assumed responsibility for policing the cease-fire and investigating the communist claims that they had stopped the infiltration of troops and weapons into the South. Under the Paris agreement, the communists are legally bound to allow the commission teams to be positioned in pre-determined sites, and to accord the inspectors all reasonable freedom of movement, assistance and courtesy. It has not worked out that way.

Communist gunners have shot down one of the commission's helicopters, killing all aboard, and fired upon others. Two Canadians officers were seized, roughly handled, and held incommunicado for 18 days. So far, the truce force has taken up residence in but one of the five localities that the communists agreed to open up for observation.

Moreover, the Hungarian and Polish members have behaved like the loyal communists they are—opposing, obstructing, filibustering and in diverse ways defeating every attempt by the commission to expose what is really going on. Last July, after Canadian members had protested the "massive" and "unrelenting" infiltration of North Vietnamese troops across the border. Canada withdrew its delegation in disgust. The only serious violations it had found during its tenure were committed by the North Vietnamese. (In fact, Saigon has cooperated fully with the ICCS, abiding by the troops and resupply provisions of the Paris agreement to what—given the situation—must be considered an extraordinary extent.) The Iranians have taken the place of the Canadians, but the obstructionism of the Hungarians and Poles has worsened. In truth, the ICCS is all but dead.

All-Out War Ahead? There is no debate among intelligence analysts about the renewed capacity of the North Vietnamese to launch yet another full-scale offensive, should such be Hanoi's intention. Will it happen?

President Thieu and his senior generals are by-and-large convinced that recent intense and costly preparations on the part of Hanoi presage an imminent return by the communists to an all-out offensive. General Giap launched the 1972 offensive on the mistaken assumption that the ARVN could be ground down to helplessness as U.S. infantry drew back into reserve position. Now the fear in Saigon is that the absence of both American air and ground forces may tempt the Hanoi strategists into yet another try for a knockout blow—all the more so because of the unexpected decline of President Nixon's prestige and influence.

At the U.S. embassy in Saigon, and in the intelligence community in Washington the prevailing view is somewhat more sanguine. This hopefulness derives in some degree from a widely based judgment that neither Peking nor Moscow, for all their incessant jockeying for political and strategic advantage in Asia, is disposed at this juncture to arouse American sensibilities on the issue of South Vietnam's continued survival. An equally important factor for optimism has been the stout behavior of the South Vietnamese armed forces under fire.

In the ascending sequence of battles since the start of the cease-fire, the ARVN has demonstrated repeatedly that it will stand and fight. Thus there has been no significant loss of territory or seeping of population into communist hamlets, and no discernible erosion of the government's authority. Instead, the central government in Saigon has come into effective control of all but five percent of the population.

Finally, Thieu himself has emerged from the cease-fire testing period as a strong leader. He has been the driving force in assembling the generally competent administrative elements which now permeate the countryside and have all but shut off the Delta's rice deliveries to the communists. Given his expanding performance, and the now established battle competence of ARVN, many U.S. observers are persuaded that the communists will stop short this year of another all-out assault. They see Giap limiting himself to a creeping, tentative campaign, the purpose of which will be to probe, test, deplete and wear down the South Vietnamese resolve and resources, as prelude to a climactic blow to be struck when circumstances are more favorable.

Thieu is acutely aware of the situation, and of the pressure upon him. And Americans who remain sensitive to the meaning of a free Vietnam also feel pressure. As Graham Martin, our experienced ambassador to Saigon, recently put it: "The Republic of Vietnam is finally functioning on its own. It will go on to become a vigorous, self-supporting and friendly society if we Americans only have the good sense to continue to give it the the economic and material support we have promised."

ENERGY RESEARCH: A TECHNICAL OVERVIEW

HON. ROBERT E. JONES

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. JONES of Alabama. Mr. Speaker, recommendations for alleviating the Nation's energy crisis by applying the technology transfer techniques used by the U.S. Army Missile Command Research, Development, and Engineering Laboratory at Redstone Arsenal in Huntsville, Ala., were presented recently by Dr. John L. McDaniel, director of the laboratory, at a "Development of Energy Resources" seminar at Athens College, Ala.

Because his remarks have meaning for each of us as we seek solutions to the need to develop more energy resources, I include his remarks at this point in the RECORD:

ENERGY RESEARCH: A TECHNICAL OVERVIEW

(By John L. McDaniel)

The background on energy research is now. In fiscal year 1973, the total federal funding level for energy research was only $622 million, and this includes nearly a dozen federal agencies.

This funding level is infinitesimal considering the vastness of the problem and the projected energy demands for the future, when the vast problem of today will be considered miniscule.

For the last 100 years energy consumption has increased steadily. In the 1940's, the rate of increase began to change rapidly. Since 1960 energy consumption has taken an even greater rise in the rate of increase. The amount of energy used in the United States in 1975 will be almost twice the amount used in 1960. A conservative estimate of the energy needed by the year 2000 is almost five times what was used in 1960.

One reason for this dramatic increase is the tremendous growth in per capita energy consumption. Per capita consumption of electrical energy almost doubled every ten years from 1930 through 1970. Combine this with the population increases during the same period, and we have a skyrocket effect on energy demands.

The reason for this is the increasing affluence which we enjoy in the United States.

The Gross National Product more than doubled between 1950 and 1970. With this increase in Gross National Product (and per capita income), there was a corresponding increase in per capita energy use.

Energy supplies face astronomical demands at present, and these demands will increase. This is unfortunate, because the problems of supply have been very close at hand for all of us during the past year.

Virtually all of our energy sources at present are fossil fuels. The problem here is immediate and obvious: Once the supply is gone, that's it, M. K. Hubbert's Energy Resources, predicts that domestic crude oil production by the year 2000 will be well below the 1940 level. By this time all the easily-obtained oil will have been used up, and production will depend on sources now considered economically unfeasible.

Different problems exist for alternative energy sources. Nuclear power plants have elicited sometimes strident opposition based upon concern for the environment or the safety of the nearby population. Also, nuclear fuel has the same limitation as fossil fuels; it can be used up.

Hydroelectric power has very definite geographic limitations, as well as the problem of space. Even when a river and suitable terrain exists near large population centers with the most urgent demands for power, flooding the required number of acres is impossible from both economic and sociological standpoints.

Solar power, at its present level of development, costs 100 to 1000 times that of conventional power generation methods. Each thousand megawatts would require four square miles of collection equipment, which introduces the problem of space. Also to be considered would be the problem of rainy days.

Geothermal power is more theory than possibility at the moment, although a geothermal plant is in operation at the Geyers, 90 miles north of San Francisco. This plant is possible only because natural geothermal phenomena existed to be tapped.

Also each of these methods have faced opposition from ecological or environmental groups. There seems to be no doubt that both the production and consummation of energy creates an adverse effect on the environment.

So vast are the ramifications of energy that its totality is difficult to comprehend. Moreover, the related R&D is pursued at so many levels and in so many different types of institutions that it is not easy to derive a composite picture of *what is being done, what is being neglected,* and *what should be started* now if a possible future disaster is to be averted.

In contrast to a field like defense, no Government agency has primary responsibility for the civilian energy sector—let alone energy R&D. Very recently (earlier in 1973) Executive Order 11726 established the Energy Policy Office. Under ideal conditions, this Office could be established sufficiently within six months to a year to play a significant role in shaping or developing a national energy program. Under worst conditions, the Office could become so entangled in separate emergency facets of the energy crisis that all potential for overall guidance would be negated.

If we are to have a complex of energy resources that can meet constantly changeable needs and choices, the energy planning for the future must provide a dynamically balanced program that makes optimum use of the various energy resources, that maximizes the potential of this country's diverse R&D apparatus, and that encompasses R&D efforts at different levels of technological advancement.

Before such a system can be achieved, it is imperative to recognize the existence of several conditions that, unless corrected or adjusted, would hamper or inhibit a long-term R&D program for civilian energy:

A dearth of R&D talent in many areas. It is futile to urge initiation or intensification of specific research and development if a body of trained scientists and engineers is not available. For years, young research workers gravitated toward jobs in the more prosperous areas of space, defense, or the life sciences, Structure and scope must be given to energy R&D—so that young minds will be encouraged to contribute to those fields that desperately need the stimuli of imagination and ideas. Far-sighted planning for the education of sophisticated energy technologists must be instituted.

Until recently, the glamor of certain disciplines and the relative ease of funding tend to accentuate space- and defense-oriented energy R&D. Although *some* colleges and technological institutions are engaged in some education and research for energy, the efforts are widely dispersed and diffused.

Government needs to readjust in those areas where it supports research and to revitalize those agencies involved in energy R&D that have lost ground in the face of modern developments. Such experience and talent could be capitalized upon if given cognizance over new or expanded programs—or made responsible for major feasibility analyses.

The Government needs to sponsor certain kinds of basic research that are difficult to fund privately.

A major deficiency is the lack of communication and of data interchange between and among energy research groups in different fields. Findings in one area are not necessarily available to another, nor is there productive cross-fertilization among activities. No single professional society is broadly concerned with energy—no technical journal serves as a clearinghouse for energy information. These communication gaps should be plugged.

However, if all these suggestions were implemented yesterday, we would still be late. We cannot avoid the energy crisis, since it's already upon us, but we can lessen the impact. Wise management and utilization of energy research can result in decided improvement, but ignoring the need for this research can result in catastrophe.

This research must be centrally coordinated, departing from the piecemeal and probably duplicative efforts which now exist. Research priorities must be established to solve the long-term problems. To solve the immediate problem we may face the necessity for establishing consumer priorities. Nationwide gasoline rationing has already been mentioned, and there's a possibility that electricity could be rationed.

Solving the energy problem will require a great deal of technological effort. Fortunately, this is a commodity with no acute shortages in the foreseeable future. Also, the supply of technological know-how can be replenished, which is not the case with fossil fuels. In the past, virtually all technological efforts have resulted in developments which consumed energy, with no thought given to conserving energy. If all of this effort could be rechanneled or transferred to the task of conserving or locating new sources of energy, there is little doubt that the problems would be speedily solved.

Some technology transfer has already taken place. Automotive engineers rechanneled their knowledge of building higher performance engines into efforts to decrease the pollutants which these engines expelled into the air. Unfortunately, the pollution control devices used even more energy, or gasoline, which did nothing to help the energy situation. Thus it appears that one additional transfer of objective might be desirable in this case.

Technology transfer has received increasing interest in the Federal Government recently, and several Federal agencies now have specific budget items for the transfer and maximum utilization of technology. In 1972, the General Accounting Office recommended: 1) A Government-wide policy for technology transfer with guidelines issued to Federal agencies to implement a formal, active technology transfer process; 2) that the Secretary of Defense establish policy and procedures to encourage more extensive application of existing defense technology to civilian problems; and 3) the establishment of a technology transfer consulting team as a central focus to assist Federal agencies in the matching of technological resources with pressing national needs.

Although technology transfer is not new, the urgency of current requirements calls for much more comprehensive and cohesive action than has been taken in the past. The traditional means of transferring technology—such as the intersectoral movement of people, organizational diversification, conventional library systems, technical journals, and college classrooms—while still important, are no longer wholly adequate.

At the Missile Command, we've been deeply involved in technology transfer since we've been in business. Some of the technology which evolved from development of the now-obsolete Redstone can be found in virtually every missile system in existence today.

Our technology is directed toward missile system development, but the method used is a good illustration of the concept of technology transfer. We have more than 1300 people involved in research and development support for over 30 missile systems. This support stays with a missile system throughout its life cycle, and the transfer of technology takes place in all directions. The knowledge gained in developing older systems is utilized in the development of newer systems, but the reverse is also true. Improvements discovered in developing new systems may be incorporated in older systems even though they've been in the field for years.

One organization charged specifically with the responsibility of transferring technology is the Redstone Scientific Information Center, which also supports NASA's Marshall Space Flight Center.

The Independent Research and Development (IR&D) program is another area in which MICOM has greatly expanded its technology transfer capability. The system consists of analyzing and indexing the tasks being performed by approximately 125 companies or profit centers under the Government's $600 million annual investment. Bibliographic information on each task is stored in a computer, and each month new entries are selectively disseminated to the functional activities of the laboratory—depending upon technical interest profiles.

In addition to IR&D, our Laboratory has on-line access to the Defense Documentation Center and NASA Library of Research and Technology Résumés. As in the case of IR&D each year before we forward our proposed tacks to higher headquarters for approval, we check our tasks against on-going DOD and NASA tasks to assure ourselves that we are not duplicating the efforts of others.

AMC's terminal homing data bank was established at MICOM in January 1971 to provide an Army-wide target signature measurements data base that will accelerate the development of unique and effective terminal homing weapon systems.

Though we have and use transfer mechanisms to check our in-house tasks against those being performer by Army, Navy, Air Force, NASA, and industry, no convenient mechanism for checking against other departments of the Government exists. We are working on this problem now.

Another example of effective technology transfer is our development of a laser scalpel for the National Institute of Health. The National Cancer Institute requested the Army's assistance in conducting experiments to assess the potential of a high energy laser to destroy cancerous tumors in experimental animals. Although we were pursuing only military missions, the fact that we possessed a capability to deliver large amounts of laser energy made us a unique source for such experimental equipment.

The laser scalpel was built in-house for the cancer research experiments. The beginning of this effort was made possible by the effective transfer of Army laser technology.

MICOM's parent organization, the Army Materiel Command (AMC) has established 10 lead laboratories to cover specific technologies. For example, MICOM has been designated lead laboratory for guidance and control/terminal homing and high energy laser technology. Seven other AMC laboratories have lead responsibility in various technology areas. One of the essential functions of the lead laboratory is to assure technology transfer from the bench scientist to the developing system.

You may already be wondering what relationship this has to the energy crisis. The point is that we as a nation have the ability and the resources to solve our energy problems on a long range basis. However, the available technology must be guided into the most effective channels. The decision which we must be prepared to face is how determined are we to solve these problems.

To solve the problem on a long-range basis, I recommend that several points be considered:

(1) That we, as a nation, redirect our thinking so that conservation of energy is a top priority item.

Auto engineers can place a higher priority on efficient gasoline utilization if the public so demands. Until very recently, gasoline consumption was not a major selling point for an automobile, but recent commercials indicate that the auto manufacturers have already gotten the message.

The same holds true in other areas. It's a safe bet that you didn't think to check on power consumption the last time you bought a clothes dryer, and you probably wouldn't have been able to, even had you thought about it. Efficient power consumption just hasn't been a major selling point in the past.

(2) That we determine the trade-offs or expense necessary to achieve the desired results.

We must first determine what the desired results are, and the acceptable trade-offs or expense could especially have a pronounced effect on the short-term energy situation. At current consumption levels, coal is by far our most plentiful fossil fuel. In addition to increasing expense, however, additional problems have arisen in connection with coal production and the environment. Strip mining increases the availability of coal, but restoring the land to its pre-mined state adds to the expense. And the question also arises as to what is an acceptable approximation of the pre-mined state.

And of course this isn't the end of the environmental problem. Coal-burning power systems are among the biggest contributors to air pollution, and controlling this pollution consumes more energy. For example, just one air pollution control system employed by Bethlehem Steel takes as much electric power as 1,700 average homes.

(3) That we establish a national clearinghouse or coordinating point for the effective dissemination and transfer of energy technology. This responsibility could be assumed by the recently-established Energy Policy Office.

This "Energy Center" could prevent the duplication of effort which would be more likely to occur as the nation became more energy-conscious and more work was initiated. The same methods used at MICOM in the IR&D transfer process would prove highly effective. Such a center could evaluate energy research programs and recommend priorities for those which appeared most promising, using what we at MICOM call the "Systems Approach." We could develop an equation to indicate the total weighted score of such a program by considering such factors as planned funding for each project, average weighted score per project, and the number of projects. To determine the average weighted score per project, we consider the objective, approach, and available resources. Such an equation would add a degree of concreteness to the abstractions encountered in planning any type of research program, and is a first step to the systems approach.

(4) That we encourage and provide additional funding, if necessary, for the most promising energy research programs.

This may be relatively simple if the most promising program happens to be conducted by a Federal agency. However, there is little doubt that industry will be conducting individual research programs aimed at conserving energy resources. If one of these appears to have exceptional promise, a Government contract could be awarded to conduct this program on an intensified level.

The energy crisis has been caused, in large measure, by ignoring facts which were known, but which were thought to be problems of the future. The future may have been the past summer for some of you, if you traveled in certain sections of Florida or Colorado where the gasoline shortage was especially severe. The future could be this winter, when there may not be enough gas or electricity to keep our homes at a comfortable temperature.

Along with the gloomier signs there is optimism. We are waking up on the national level to the magnitude of our problem. If the full resources of America technology are pitted against the energy crises, there is no doubt in my mind that technology will win.

THE DEDICATION OF THE WILLIAM B. WIDNALL TOWERS

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. RHODES. Mr. Speaker, I am pleased today to have an opportunity to pay tribute to one of my Republican colleagues who is being singularly honored in his home district.

Today a bright new future for senior citizens in Hackensack, N.J., begins with the dedication of William B. Widnall Towers. This 100-unit, 13-story building will provide modern facilities for elderly persons most in need of care.

It is the first development of its kind in the public housing program—located and designed specifically for the needs of senior citizens. Nearby is a county hospital within walking distance. A doctor's office and infirmary are within the project. Visiting health care personnel will emphasize preventative health care.

Security measures will include an individual call system and a TV monitor—soon to be expanded into a transmitting facility to serve the elderly within a 50-mile radius.

The project will feature central dining, and individual kitchens. Rooms for community gatherings are provided. The accent is on bright, airy units, offering safety, convenience and total care.

Too seldom in this world is a man honored for his achievements while still at work. BILL WIDNALL has been tireless in his efforts to secure good legislation for the elderly. It is most appropriate that in the place of his birth, he is being honored in this manner.

I join my colleagues in congratulating WIDNALL—and the good people of Hackensack for their wisdom in paying this homage to a man who has given so much of himself on behalf of others.

CHAIRMAN POAGE SPEAKS ON REA ACT OF 1973

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. ZWACH. Mr. Speaker, on February 11, 1974, chairman of the House Agriculture Committee, Mr. POAGE, addressed the NRECA Convention at San Francisco, Calif.

Mr. POAGE's remarks trace the legislative history of Public Law 93-32, the REA Act of 1973. It is a good account of the proceedings, and, therefore, I am inserting it into the RECORD for all the Members to read.

Chairman POAGE's address follows:

SPEECH BY CONGRESSMAN W. R. POAGE

It has been a number of years since I have had the pleasure of speaking to a convention of the N.R.E.C.A. I am pleased and honored to again have that opportunity. NRECA is an outstanding organization and has had a great influence on legislation that not only deals directly with the financing of electric cooperatives, but on legislation that deals with all the problems of rural America. I recall how helpful NRECA was in obtaining the passage of the Rural Development Act of 1972. Representatives of NRECA were most effective not only in making sure that Members of the House were aware of the merits of the Rural Development Act, but in suggesting a number of important points which were included in the bill.

It wasn't long ago that all of us were dealt a stunning surprise by the sudden cancellation and termination of the 2 percent loan program for electric and telephone borrowers. It didn't take NRECA long to begin an offensive to restore this program. It was not an easy job. I believe your convention was meeting in Dallas and I know you adopted several strong resolutions. Tempers were short and patience was thin, but after all the smoke cleared, NRECA was most helpful in formulating our current REA loan program which, in my opinion, is far more likely to remain viable than the old 2 percent loan program because there was considerable pressure to raise the interest rates and it was becoming more and more difficult to obtain adequate funds from this program to meet the tremendous need for rural electric and telephone service.

I would like to look back for a few minutes on what happened beginning with the Department's most unfortunate announcement terminating the old program.

As the year 1972 drew to a close, those of us on the Agriculture Committee knew that we had a reasonably busy year ahead of us because of the expiration of the Agriculture Act. We also knew that we would be dealing with the always controversial Food Stamp Act, but, in all of our wildest dreams, we never visualized just what type of bombshells the administration was about to throw at us.

I suppose we first realized what we were dealing with when on December 26, 1972, the administration coldly announced the termination of one of our most sound and helpful conservation programs, the rural environmental assistance program. The next victim was the emergency loan program for farmers who had been wiped out by natural disasters. These announcements were terrific blows, of course, but I must admit that December 29, 1972, yielded perhaps the most shocking of all the administration's offenses against long-standing programs that had so long benefited our farmers and ranchers and rural people in general.

This, of course, was the announcement that the rural electrification program as we had known it for many years was being cast aside and that the interest rates and loans for rural electric and telephone systems would be increased two and a half times. Not only did this strike fear throughout rural America but it raised deep questions as to the sincerity of the administration's professed interest in the people out in the country.

I must admit that I was especially dismayed and shocked by the reason given for terminating this vital program. That reason, as stated, was that there was a new source of financing which had been made possible by the enactment of the Rural Development Act of 1972. In the future, the administration said, rural electric and rural telephone loans would be known as community facility loans and would carry an interest rate of 5 percent and would be made out of the fund created specifically for rural development projects, the rural development insurance fund.

Just after I heard this sad news, I issued a press release from the committee in which I denounced this action as underhanded and I pointed out that as an original sponsor of the Rural Development Act of 1972, I never thought that its provisions would be "construed as legal basis for boosting REA loan rates." I felt sure I spoke for everyone else who had any type of interest in developing rural America.

It did not take long for the Congress to react to the administration's ill-founded attempt to dismantle the REA program. On January 16, 1973, Senator Humphrey introduced legislation to force the administration to continue the REA program as we have known it. Just two days later, Congressman Frank Denholm, who is a distinguished member of the House Agriculture Committee, introduced similar legislation in the House. In fact, between January 22 and February 17, 21 bills identical to the Humphrey and Denholm bills, with a total of 113 cosponsors, were introduced in the House.

Of course, through the years I have learned that an exact count of co-sponsors is not always an accurate way to predict a vote, especially if the vote is one to override a presidential veto. Neither can you rely on the vote by which a bill is passed in the House or Senate as a predicate for determining whether these supporters are going to vote to override a veto. Remember, we passed the revised Poage-Aiken Rural Water and Sewer bill by a vote of 297 to 54—almost 6 to 1—but when we tried to pass it over President Nixon's veto, we failed to get the needed 2 to 1 vote. Lots of members who were willing to vote for a bill which they believed to be good simply will not vote to directly challenge the President by voting to override his veto.

It was my opinion, therefore, from the very beginning that we needed to try to work out a reasonable compromise with the administration, if we were to have any REA loan program. As I was attempting to hold meetings and negotiate, the Senate was acting—and acting in a way which I feared could do nothing but assure us a political issue. Senator Humphrey had been busy and by the time the Senate Agriculture Committee reported his bill to the Senate on February 15, there were 52 Senators sponsoring this legislation. Just six days later, on February 21, Senator Humphrey's bill which would have restored the old program, passed without amendment by a vote of 69 to 20 and his bill was referred to our committee. I was of the opinion that the bill could easily pass our committee and probably pass the House, but I realized that it could never become law without the President's signature—which it simply could not get.

I wanted a bill—not an issue. I wanted a program which would get us some money, so we did not delay, and we had three days of hearings before our committee on February 26, 27, and 28. These were lengthy and emotional hearings. There was a great deal of pressure to rush out a bill to the floor along the lines of the Humphrey-Denholm bill, but there was also a growing feeling that perhaps there was an answer which would in the long run prove more fruitful to those who had always relied on the REA program. I met daily with Representatives from the Department of Agriculture, NRECA and the Office of Management and Budget. I negotiated with Secretary Butz and even personally spoke to the President.

At this point, we fortunately received the untiring and sincere cooperation of one of the men who has contributed so much to the Rural Electric and Rural Telephone programs; Congressman Ancher Nelsen. As you know, Congressman Nelsen was at one time the Administrator of the REA and I would not begin to try to count the number of times we met. Finally, Congressman Nelsen and I, with the help of a dedicated staff, worked out what we thought was a reasonable compromise which would establish an insured and guaranteed loan program for those borrowers who could afford to pay more than 2 percent. However, we made certain that we had provided direct 2 percent funds for those who simply could not pay any more and still stay in operation.

Congressman Nelsen and I, while we differed on some details, had the same goals in mind and we presented our ideas to the House Agriculture Committee. Up until that time we could not get the Department of Agriculture to put anything down on paper. We did not know what they had in mind but I believe the fact that with Mr. Nelsen's cooperation, we had been able to shape up a reasonable and workable compromise, lit a match under the Department's foot and, on March 13, they actually, though not formally, asked Congressman Nelsen to introduce their proposal, which he did that day. I felt we could not live with what they submitted and refused to join, but we were glad to at long last have their views in black and white. I know that it sounds unreasonable, but one of the hardest things in Washington is to get an agency, any administrative agency, to take a real clear stand on a controversial question.

Our committee continued its deliberations and, on March 15, the committee voted by a vote of 32 to 4 to instruct our colleague, Congressman Denholm, to introduce a bill which was substantially the compromise Congressman Nelsen and I had originally suggested. The bill provided insured loan funds at 5 percent frnm a newly-created rural electrification and telephone revolving fund. Borrowers meeting certain criteria would receive 2 percent loans. In addition, our rural telephone bank was strengthened.

I want to point out that our bill in addition did not point an accusing finger or try to single out generation and transmission cooperatives for punitive treatment as the administration had sought to do. In other words, the administration wanted to specifically provide that no G and Ts could get 2 percent money. We realized that very few G and Ts could qualify by meeting the criteria but I was unwilling to say that if a G and T met the other requirements that it should be disqualified simply because it produced electricity. As I see it, the real purpose of the administration's proposal was to make a legislative finding that REA should not be concerned with financing generation plants. I think we still need the means of providing our co-ops with generation in many instances.

This new bill passed the House on April 4, by a vote of 317 to 92. We went to conference with the Senate which had passed the Humphrey bill which would have simply forced the President to restore the old program and which certainly would have been vetoed. After a cooling-off period, the Senators had decided that we needed a program more than we needed an issue so we reached agreement. Of course, the agreement was substantially what the House had passed. The conference report was agreed to in the Senate on May 9, by a vote of 93 to 3, and on May 10 in the House, by a vote of 363 to 25. On May 11, 1973, the President signed the bill and it became law—Public Law 93–32. May 11—REA's birthday.

None of us felt that a law this complex would be perfect and we expected that some changes would be necessary from time to time. This past week, on February 4, I introduced legislation, H.R. 12526, designed to help CFC participate in the guaranteed loan program. The bill has three main provisions:

1. It would exempt from Securities Exchange Commission (SEC) regulations CFC bonds or securities which are fully secured by or which represent beneficial ownership in loans guaranteed by the REA.

2. It would add statuatory language to the REA Act to expressly authorize the assignment of REA guarantees.

3. It would clarify the provisions of sect. 308 of the REA Act which provides for incontestability of the government guarantee "except for fraud or misrepresentation of which the holder has actual knowledge."

While our committee will be extremely busy for some time to come, I do plan for us to consider this bill at the earliest opportunity. If enacted, it will give our loan program additional flexibility.

Another matter in which you must be vitally interested is the energy crisis. I know that the energy administrator, Mr. Simon, was to have appeared on your program tonight, but he has been detained. Let me, therefore, offer just a brief comment.

As you know, the Federal Energy Office (FEO) came out with revised regulations on January 15 which in effect said that agriculture and agriculturally related activities should receive 100 percent of their fuel requirements. As originally drafted, these regulations had some wholly impractical provisions, such as giving farmers an allocation of diesel oil equal to 100 percent of a fixed monthly base period in 1973. We had FEO administrator William E. Simon come before our committee at a night session just as he was taking over his duties in that office. We convinced him that changes in the proposed regulations were imperative. The changes were made, and we now have the 100 percent of requirement allocation.

Now that sounds fine, and I want to express my appreciation to Mr. Simon, but we have to keep in mind that having priorities which Mr. Simon can and has given us and having the gasoline or diesel fuel which simply is not always available might sometimes be a wholly different thing. In fact, our committee is continually receiving calls from farmers who have failed to get fuel for one reason or another—sometimes because their local supplier himself is out of gasoline or diesel oil. We are continuing to work on that particular problem, and we are hopeful that the situation will get better as every individual in the entire distribution chain comes to realize that agriculture is entitled to and must get all the fuel it needs.

Now these same regulations provide that utilities which happen to generate and/or distribute electricity produced in hydroelectric or nuclear plants will get 100 percent of their current gasoline and distillate fuel needs for the operation of their maintenance and repair vehicles whereas all other electric utility systems shall get only 100 percent of their base period vehicular uses.

I have protested this to administrator Simon.

To me it makes no sense to make a distinction between vehicles which service a system that transmits electricity generated by water power, and the same kind of trucks or other equipment servicing a line moving electricity originating at a steam generation plant.

The immediate explanation of FEO officials with whom my committee staff discussed this problem was that if they should make some kind of exception for the utilities, this would open the door for a wide range of exceptions that could wreck the allocations program.

When it was pointed out that a power line breakdown on an REA system could throw a hospital or a firehouse in the dark, there was a long pause in the explanation offered by these FEO officials, then a feeble suggestion that the REA should then turn to authorities for help under the emergency set-aside allocation each State is assigned. That is likely to take two weeks to two months. Meanwhile, I suppose, the hospitals will be expected to function with some kind of standby power generating equipment until orders can go out from the State capital and the needed gasoline gets delivered to your line repairmen's trucks. At any rate, I will keep trying to drive the point home.

Well, that's just a glance at one of the many problems we're wrestling with in Washington these days. We have shortages in fuel and in fertilizers and in chemicals that go into cattle feedstuffs, and when we get some relief in these shortages, we have soaring prices to contend with—in all the items that go into the production of food and fiber.

But with all these problems, America's farmers and ranchers will do their part. We should harvest some record crops this year.

It has been a pleasure to be with you. I look forward to continue working with you and the REA program. I've been around the REA program and those associated with it for a good long while. No program or group of people have been more of a blessing to the folks out in rural America.

Thank you again.

JOHN HUNT: AN ARDENT CONSERVATIVE

HON. GEORGE A. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. GOODLING. Mr. Speaker, in these days when the rating of the Congress has degenerated to an all-time low, it is refreshing to read an article in one of our prominent papers setting forth the virtues of one of our colleagues.

He is not a shrinking violet by any stretch of the imagination, nor does he swing back and forth like a pendulum. He is on one side or the other and it never becomes necessary to turn up one's hearing aid to learn where he stands. You may not agree with him but prepare to defend your position if you disagree.

I commend for your reading the article on Congressman JOHN HUNT that appeared in the March 3 edition of the New York Times:

[From the New York Times, Mar. 3, 1974]

JOHN HUNT: AN ARDENT CONSERVATIVE

(By David C. Berliner)

WOODBURY.—"When I first ran for sheriff here in Gloucester County," John Hunt recalled with a hearty laugh last week, "some people who were against me said that my election would put a 'gunslinger' into office. They even called me—'The Fastest Gun in the East.' "

The descriptions, while colorful (Mr. Hunt is, in fact, an avid hunter and an expert marksman), were more stylized than accurate and, so far as the local electorate was concerned, proved less intimidating than amusing.

Today, 15 years after that first successful bid for public office, Mr. Hunt is serving his fourth term as the Republican Representative from New Jersey's First Congressional District.

John Hunt is a "John Wayne American." If "The Duke" created a prototype for the "patriot's patriot," the design seemed custom-made for the Congressman. While the movie star has portrayed countless rough-and-ready heroes on the screen, the politician has filled the roles in real life.

AN ILLUSTRIOUS CAREER

In his 65 years, Mr. Hunt has not only been a sheriff, Congressman and a State Senator twice, but also a hard-punching middleweight boxer, a State Police officer and a decorated veteran of World War II.

Time has been kind to Mr. Hunt, as his trim physique, tanned, lightly lined face and full head of charcoal-gray hair will attest. And if little of his appearance has changed measurably over the years, his political philosophies seem to have been diverted even less. In surveys conducted in 1972, the liberally oriented Americans for Democratic Action gave the Congressman a zero rating, while the conservative-based Americans for Constitutional Action awarded him an 89 per cent mark.

Considered one of the most ardent conservatives in the House of Representatives, Mr. Hunt's hard-line approach to issues has enthralled followers and dismayed opponents.

"The experts say that mine is one of the most diversified districts in the United States," he observed during an interview in his office here. "It includes all of Gloucester County and a good part of Camden County, and we've got a major seaport, oil refineries, the world's largest record factory [Columbia], Corning Glass, a shipyard, light industry, huge asparagus, tomato and blueberry farms. And lots of apartment complexes are going up all around, turning us into a bedroom community as well."

It is this mixture—the hard hats and the inner-city blacks, the conservative homeowners with roots dating back to the Revolutionary War and the young college students and couples with more-liberal philosophies—that have both challenged and threatened Mr. Hunt's position.

CLEAR-CUT STANDS

His stands on the issues of the day, Mr. Hunt will tell you, are well formulated and clear cut. And, in the same manner that his orders to his Congressional assistants are conveyed in clipped no-nonsense military fashion so are his opinions on current issues:

"I don't care about a person's politics. Everyone should be heard, regardless. But I have no time for militancy or for people who are obnoxious instead of being respectful."

"I'm for neighborhood schools. I don't care if people are white, black, pink or green, as long as they are honest and forthright. Some of my best friends are Chinese, and I've grown up with the colored population. That's a lot more than I can say about some of those phony liberals who talk out of both sides of their mouths."

"We've got to maintain a strong defense posture. [Mr. Hunt is a member of the House Armed Services Committee.] I don't want us to be the policeman of the world—I want a volunteer army—but I always was, and still am, suspicious of the Russians. When I see them building up their military might, let's not kid ourselves. They're not getting ready for a tea party."

In addition, Mr. Hunt is against both foreign aid to nations that "kick us in the teeth" ["Look at Peru, which used our destroyers to capture our fishing boats"] and a continuing, wide-ranging investigation of "the so-called Watergate case."

"I've known President Nixon since World War II, and I think he's done a fine job on foreign relations, although I can't give him too much of a plus for the people he's surrounded himself with," Mr. Hunt declared during a walk to the center of town, during which his personal appeal and magnetism evidenced itself in countless smiling chats and exchanges with local residents.

"Watergate, to me, was a burglary by overzealous patriots. I've always felt we should convict anyone involved with that burglary.

"But I do think that a segment of the news media has poisoned the minds of many people with respect to politicians and the President. I happen to think that Mr. Nixon has been candid as far as he's gone."

OPPOSED TO RATIONING

When not involved with national issues, Mr. Hunt concentrates his efforts on local problems. Energy and mass transportation, two areas affecting large portions of the nation, interest and disturb him the most, he says, and have convinced him that "it is about time that New England and other parts of the country faced reality and realized that we have to build refineries around where they are."

Opposed to fuel rationing, but firm in his conviction that 20 new refineries must be built throughout the nation "as soon as possible," the Congressman said that the next one is scheduled to be constructed in his district by Shell Oil.

With a new campaign fast approaching, political observers are watching with interest how the Congressman will balance the impact of Watergate and the influx of increasing numbers of liberal-voting urbanites into his district before deciding whether to seek a fifth term.

"Until then," he said, slapping his hands together in glee, "I've got a really big day coming up April 1.

"That's when Doris and I make the last payment and burn the mortgage. Now, that's something to look forward to!"

NATIONAL FARMERS UNION VIEWS ON TRADE POLICY

HON. JOHN C. CULVER

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. CULVER. Mr. Speaker, the National Farmers Union has long been active in promoting international cooperation in agricultural trade, which provides so much positive input to our overall balance of trade and payments.

The NFU is fearful that current administration policies may be moving in the wrong direction, away from rather than toward international economic cooperation. This concern has been set forth most recently in an address by Robert J. Lewis, national secretary of the Farmers Union, which I am inserting in the RECORD at the close of my remarks.

I do not happen to agree with each of the specific points and recommendations in this speech. However, what is of underlying significance to me is the continuing recognition by the Farmers Union of the inescapable interdependence of a healthy U.S. farm economy with a healthy world economy. "Beggar thy neighbor" approaches will simply wind up beggaring ourselves.

The NFU endorses, as I have, the efforts by Secretary Kissinger to bring about a reduction in world energy prices and a stabilization in the terms of energy trade. The only alternative, a cannibalistic competition for scarce resources is a virus that would quickly spread to other sectors of our own and the world's economy.

In my own Subcommittee on Foreign Economic Policy, we have recently completed a set of hearings on foreign direct investment in the United States. This has given us a further insight into the economic distortions that can be produced by isolationist actions such as the export embargoes of last summer. Constructive alternatives must be developed, and I am pleased to see the Farmers Union support for a system of world food reserves as one alternative.

As we pursue these matters, we must bear in mind that this country's farmers have a vital stake in U.S. international trade and economic policy. I therefore invite my colleagues to acquaint themselves with the perspectives of the National Farmers Union.

The address follows:

Views on the Present U.S. Agricultural Trade Situation and the Nixon Administration Trade Policies

(Statement by Robert G. Lewis, National Secretary of the Farmers Union)

In my view, the Nixon Administration's trade policies are profoundly wrong. But before elaborating on and defending this view, I shall try to describe what the Nixon Administration's agricultural trade policy appears to be.

"Trade liberalization" is the basic theme expressed by Administration spokesmen to characterize their goals. "Trade liberalization" is a familiar term, generally meaning to remove obstacles to the exchange of goods across national boundaries.

The simplest and most direct obstacles are tariffs—taxes levied at the border by Country "A" to make competing goods from Country "B" and all other countries more expensive to buy within Country "A". These tariffs may make the other countries' goods less competitive, or they may price other countries' goods out of the market altogether. Either way, they give a measure of "protection" to the producers of the goods within Country "A". This "protection" makes it possible to maintain higher prices for domestic producers than would be possible if lower-priced foreign goods could compete freely. That's why tariffs are called "protectionist".

The "Kennedy Round" of trade negotiations in the 1960's resulted in sharp reductions in the tariffs remaining in effect on most kinds of goods after about 25 years of reductions under the Reciprocal Trade Act.

By now the "easiest" tariff barriers are pretty well down. Most of those that remain at high levels are of great importance to farmers in the United States, but the Nixon Administration isn't doing much about them. These are the tariffs and other trade barriers that are imposed against *labor-intensive goods*—things like textiles, apparel, shoes, and other things that require a lot of labor to produce. These are of great importance to farmers, because most of the money that is spent for labor-intensive goods creates *purchasing power for food*. Machines don't eat farm products, and machine-made goods don't generate nearly as much food-buying demand as labor-intensive goods. A bigger part of every dollar spent on imports of this kind of goods will return to buy farm products in the U.S.A. than of dollars spent on any other kind of imports.

Yet the Nixon Administration is not concentrating on removing trade barriers against this kind of imports. On the contrary, the Administration has completed negotiation of a "textile agreement" that will keep high tariffs and quantitative restrictions on textile and clothing products on a long-term basis. So it's a mistake to think that the Nixon Administration's top priority is to make changes in trade restrictions so as to help farmers. In the kind of trade liberalization that would do the most to expand demand for U.S. farm products, the Nixon Administration has put the interests of U.S. manufacturers and labor ahead of the interests of U.S. farmers and consumers, and has entered into an elaborate "international commodity agreement" to protect these other interests.

Let's get back now to the Nixon Administration's policy. The easiest tariff barriers were pretty well disposed of by the "Kennedy Round." The really tough ones, which are most important to American farmers have been put "off limits," by the Textile Agreement. The new trade negotiations, therefore, are expected to concentrate on eliminating or reducing "non-tariff barriers" to trade. In the professional lingo, these are called "NTB's."

One kind of NTB is *"quantitative restrictions"* on imports. The quotas on imports of dairy products are an example. Our quotas represent absolute limitations on the quantity of cheese, or dry milk, or wheat, that can be imported into the U.S.A. each year. So these are among the prime targets for elimination in the forthcoming trade negotiations.

Another kind of NTB is *quality restrictions*. Sanitation requirements are one example. Many of the quality restrictions can be defended as necessary or desirable to protect consumers. But some are only a dodge to stop trade, to keep out foreign goods from competing with domestic production. So quality restrictions will be on the griddle for close scrutiny in the forthcoming trade negotiations.

I want to digress again to point out another curious thing about the Nixon Administration's trade policy. You Wisconsin dairy farmers operate under very strict quality restrictions *right in your own home market*. But the dairy farmers in other countries who produce the imports that are competing with you and depressing your prices right at this hour don't have to cope with the same quality restrictions that you do. Wisconsin Congressman Dave Obey has introduced a bill that would put you and your foreign competitors on an even footing. His bill would require foreign dairy farms, and dairy plants, to satisfy the same sanitation standards as those in the U.S. before their products could be sold in our market. The Nixon Administration has not given encouragement to that bill. It will be interesting to see whether they will advocate either that this "NTB" against American dairy farmers in their own home market be lifted, or that the same "NTB" be applied against their overseas competitors.

Another kind of NTB is the "variable duty" system of the nine-nation European Economic Community. This one deserves special attention. The "variable duty" system is the prime target of the Nixon Administration's entire trade policy. What's it all about?

The EEC countries are sympathetic to their farmers. Farmers comprise two or more times the proportion of the total populations in most of the nine countries that they do in the U.S. There are other reasons as well for this public sympathy for farmers in the European countries, which I won't go into now. The Common Agricultural Policy of the EEC is a result. The governments of the nine countries, acting through the EEC, have determined that they will support the standard of living of their farm families by maintaining farm product prices at a level that is approximately half-way between our farm prices during the 1950's and 1960's and what 100 per cent of our "parity" would be.

Europe and the EEC do not produce enough food to meet all their needs. In a "free trade" situation, the price of imported farm products would determine the domestic farm price level. Most of the time in the past, import prices would drag down European farm prices. The key feature in the farm price support system of the EEC, therefore, is a "variable duty" provision which is calculated to bridge the gap between lower world market prices and the level at which the EEC has decided to support its own farmers' prices. For example, if the EEC "support price" for wheat is $2.75, and the price of imported wheat in European ports is $2.00, the EEC will apply a duty on imported wheat equal to the 75 cents difference plus a margin of safety of another dime or so. This means it would be economically unfeasible for anyone in the EEC to buy Canadian or American wheat until practically all of the European farmers' wheat had been sold at the support price or thereabouts.

Well, what's wrong with that?

The Farmers Union thinks that's a pretty good system. We have recommended that the same kind of thing be adopted here in the U.S.A. for dairy products, wheat, and cotton. We're ready to recommend it for American agriculture generally.

For dairy products, for example, we recommend that a variable duty be applied against any imported dairy products so that the importer would have to pay the difference between 110 per cent of parity and the cost of the product in international trade. This would make it practically unfeasible for any imported dairy products to enter the U.S. while American dairy farmers are getting prices lower than parity for their milk. But if there should be a shortage, then consumers would be assured of free access to imported supplies without restriction, at prices of around 110 per cent of parity.

This "variable duty system" seems to us a better way to make our farm price support programs workable than the quantitative restrictions that we now have. We've found, in the case of dairy products particularly, that our present system is both too rigid, and too loose. It takes months of the Tariff Commission's time and a Presidential Proclamation to let in a little wheat if we should have a shortage in this country, and even more time and bother to shut it out again if imports begin to burden the price support system. Yet the import quotas are continually being evaded by phony butter-sugar concoctions and mislabeled "Monterey cheese" and other shenanigans, as we've learned in the dairy industry.

Surely if we're going to have a price support system for American farmers, we've got to have *some way* to prevent low-priced imports from coming into the country and bogging it down. There's no way to avoid it—excepting by supporting the entire world market. This variable duty system is an effective and capable piece of machinery for making a price support system work smoothly and well. There is no reasonable argument against a variable duty system as being at least as good, and probably better than anything else that could be devised, for getting the job done—*if there is a genuine commitment to making the price support system really work*. But that's just the rub. That's precisely why the variable duty system is the main target of the Nixon Administration's trade negotiating policy. For what the Nixon Administration really means by the code word "trade liberalization" is *war against the price support programs of the European farmers.*

The goal is to force down European grain prices, and drive European farmers off their farms and out of production, so that cheap American grain can take over their markets.

Don't think that I came to Stevens Point to make a defense for European farmers. My real interest is in what it means to farmers in the U.S.A. The point of the Nixon Administration's so-called trade policy is aimed to strike much closer to home. The Nixon Administration is against farm price supports *anywhere* and *everywhere—and probably more here in Wisconsin than even in Holland and France*. "Trade liberalization" in the 1970's is the same old enmity against farm price support and stabilization programs that farmers have had to contend against ever since the first beginnings of the agricultural recovery from the Great Depression 40 years ago.

Ask not for whom the bell tolls, my friends. It tolls not alone for the farmers in England, and Belgium, and Germany, and the other countries over the sea; it tolls for thee.

Do you doubt it? Well, let"s look at the record:

The Nixon Administration has held dairy price supports down to the lowest level permitted by law, notwithstanding that dairy farmers' present adversities and uncertainty about the future have led to the worst milk shortage in a generation;

Secretary of Agriculture Earl Butz recommended to the Committees on Agriculture of both House and Senate that the 75 per cent of parity minimum price support floor for dairy products be abolished, so that dairy supports could be reduced even further, or eliminated completely;

President Nixon, in his farm message just a year ago, asked Congress to eliminate the dairy price support program within three years;

On the recommendation of Secretary Butz, President Nixon has opened up the nation's quotas to the all-time record of nearly four billion pounds of milk equivalent in imported dairy products with the expressed purpose of putting a damper on milk prices;

Only last week, in his statement to the House Committee on Agriculture about new sugar legislation, Secretary Butz declared, "It is now time to consider the elimination of all farm payments."

It seems to me that record should make Wisconsin dairy farmers feel something less than comfortable.

But that's only half of it. Wisconsin dairy farmers have been singled out, in the Flanigan and Atlantic Council reports, for the honor of being the sacrificial goats to be traded away for the Administration's ambitions to take over the European farmers' market for grains.

Tony Dechant, the national president of the Farmers Union, told Secretary Butz last week that many dairy farmers think his deeds correspond to what the Atlantic Council report recommends. Tony gave the Secretary all the encouragement he could to try to prove that conclusion is wrong.

The Atlantic Council report is the one that recommends that price supports on manufacturing milk should be cut, so that manufacturing milk producers will go out of business and let foreign imports take over their markets. In the meantime, it recommends, the dairy farmers in other sections of the country should keep their high prices under the milk marketing orders.

That recommendation, as well as the Flanigan report, should have been blown out of the tub for all-time by the analysis that was made by Professor Truman Graf of the University of Wisconsin's Madison Campus. I strongly recommend to everyone who hasn't read it to write for a copy. Unfortunately, the Administration seems not to have noticed, for it is still following their general direction.

I hope it will console you manufacturing milk producers to know that some of the grain and soybean farmers who were singled out to be the beneficiaries of the Administration's agricultural trade policies don't feel much better about it than you do about the honor of being its prime victims.

Year-in and year-out, wheat farmers in the United States get lower prices for their wheat than the producers of 80 per cent of all the wheat grown on earth. American farmers are among the very lowest-paid in the world. Yet the Nixon Administration's policy has been to drive down the price of wheat and other agricultural exports in the world market. Wheat prices were kept artificially low in the world market for the Russians, at a cost of $300 million to U.S. taxpayers in direct subsidies. Additional hundreds of millions of dollars were lost to U.S. farmers and our balance of payments for under-price wheat sold for three years after the Nixon Administration torpedoed the International Grains Agreement in 1969, shortly after taking office.

As for the future, grain and soybean farmers had better not count on today's prices lasting forever. And there's nothing that's more discouraging about future prospects than the explanations of Secretary Butz himself about how today's high grain prices happened, because what he says is out-of-touch with reality for one reason or another.

Mr. Butz has been proclaiming, in speech after speech, that the farm price support and stabilization programs that have been developed in this country since the Depression of the 1930's are, and here I quote directly, "40 years of wandering through the wilderness of artificial price props and irksome production controls". Invoking the names of Moses, Mr. Butz recalls that "it took the Chosen People 40 years to break out of bondage and find their way to the Promised Land". And then he promises, with supreme confidence: "Today the promised land for agriculture is near at hand."

I'm skeptical. Lots of farmers are skeptical. I'm even more skeptical when I hear Mr. Butz' claims for what brought this all about:

Mr. Butz would like us to think that the Nixon Administration's farm policies made the agricultural boom. I quote him again: "The change began . . . under the three-year Agricultural Act of 1970 . . . whereby Congress and the Administration created a refreshingly favorable climate within which farmers could react to market signals to produce the crops needed at home and abroad."

"It was a break with the past—a change from the philosophy of scarcity to the philosophy of plenty," Mr. Butz explains.

"For more than 40 years," says Mr. Butz, "we have operated in an atmosphere of curtailment. In one form or another, our public policies and programs have been largely designed to hold down production or dispose of surpluses."

Well, let's stop, look, and listen before we accept this kind of explanation. In the first place, what Mr. Butz says about 40 years of farm programs simply is not true.

We have had a reasonably well-managed abundance of food and fiber in America, not a "philosophy of scarcity," as Mr. Butz calls it. Our American people have had more and better food to eat, for lower prices, than any great nation in the history of the world.

Mr. Butz says, "For the first time in 40 years, we are being challenged to produce all we can—instead of being threatened not to produce too much."

That's simply not so. Anyone who can remember World War II, and the threatened famine in Europe and Japan afterwards, and the Korean emergency, and the famine in India in the mid-1960's, and the aftermath of the corn leaf blight of 1970 for that matter, knows that's just not so.

We have had an "ever normal granary" for most of the past 40 years. Our reserves of storable farm commodities have saved this nation's neck half a dozen times, and millions of human lives in the process, when we ran into bad weather or emergencies or natural disasters of one kind or another. Year-in and year-out, our reserves of feed grains have helped to stabilize your dairy feed costs, and to protect you against the kind of squeeze you're now going through.

From time to time, we have had to enable farmers to work together, through acreage allotments and marketing quotas and voluntary programs, to check production when supplies began to out-run all conceivable uses. We may very well need to do the same again, some day.

We'd better not be too quick to turn our backs on the past 40 years of experience and the farm programs and the economic philosophy that grew out of it.

The worst thing about what Mr. Butz is saying is the implication that all that's been necessary all along is to take off the farm program wraps and turn farmers loose "to produce all we can". Mr. Butz seems to imply that this is all the farm policy that's needed from now on—to free the farmers "to produce all we can".

You dairy farmers know better than that. Your fathers didn't have any "irksome production controls" when they were being crushed by the Depression of the 1930's. And you didn't either in the 1950's, nor in the 1960's, when low prices drove over half of your neighbors out of the dairy business. Most of you I'm sure know very well that simply getting rid of "artificial price props" as well as being free "to produce all we can" wouldn't have brought you to the Promised Land.

I think the truth of the matter is that the Land is Promised to somebody else, not to farmers. I think the game is to strip away farm price support protection for American farmers, as well as other world farmers, so that when the "bust" comes, as it very well might, the food processors and commodity traders won't have government price support programs getting in their way. This is their game—the game of the international commodity traders and food processors—they profiteer on the farmers in times of "bust" and they profiteer on the consumers in times of "boom" and they don't want interference from price supports and supply management and an "ever-normal granary" food reserve system.

This is the first thing that's fundamentally wrong with the Nixon Administration's trade policy. It's really a policy *against farm price support,* not *for expansion of trade.*

The second tthing that's fundamentally wrong with the Nixon Administration's trade policy is that it works against the things that really cause demand for food in the world to expand.

It's a policy that concentrates on the hole, instead of the doughnut.

Just take a realistic look at where the agricultural export boom of today came from. It didn't happen, as Mr. Butz seems to say, because the Agricultural Act of 1970 turned farmers loose "to produce all we can".

And it didn't come about either by wrecking other farmers' price support programs and driving down their prices and forcing them out of production and taking their markets away.

Today's farm boom is the direct result of a generation of positive international economic cooperation, led by the U.S.A.

It was started by the Marshall Plan, right after World War II.

It was given a powerful impetus by the formation and progress of the European Economic Community, which touched off the greatest explosion of prosperity in Western Europe and the Mediterranean Basin that part of the world has ever seen.

It was given further impetus by the Food for Peace Program, which taught the people of Japan to eat American wheat and to drink American milk and to raise chicken meat on American corn and soybeans. Later the process was repeated in Korea and Taiwan and other countries of Asia and South America and Africa. Soon what started as famine relief advanced to sales for soft currencies and has now arrived at commercial sales for hard cash to the tune of billions of dollars every year.

And don't make it: *Today's farm boom was powerfully speeded on its way by the Kennedy Round of trade agreements in the 1960's.*

It is all too often said that "farmers didn't get anything out of the Kennedy Round".

That's flat wrong. *American farmers were about the biggest winners in the world from the Kennedy Round.*

The trade expansion that resulted from the Kennedy Round stimulated economic growth, and it raised levels of income. It gave higher purchasing power to workers and their families, and that created stronger demand for food and fiber.

These are the reasons why wheat is over $6 and corn is above $5 and milk is pushing $10 per 100 lbs. today.

It's going to take *more international cooperation*—and a lot of it—to keep farm prices from crashing within months of now.

Some way must be found for both the rich and poor countries of the world to secure adequate supplies of energy, and to pay for it. If that isn't done, the world will be plunged into a massive depression, worse than the 1930's.

If there is depression in Europe, and in Japan, and in the less-prosperous countries which trade with them, then the exporting boom for American farm commodities could evaporate into thin air and crashing farm prices.

The international energy conference held in Washington this month was one of the first hopeful indications that we may escape from a worldwide energy-induced depression.

It's not so much what the conference accomplished, although it was timely and useful. The most hopeful thing about it is what Secretary of State Kissinger said, and is beginning to do, about international cooperation. It represents a 180 degree turnaround from the position that the Nixon Administration has been taking.

One of the most damaging things that's happened in our relations with our traditional allies and trading partners in Europe and Japan has been the Administration has held out for a go-it-alone policy, coupled with an all-out campaign to force other countries' farmers' prices down so we could take away their markets.

This has been a dangerous mistake. Along with bilateral deals with Russia and China, and our export embargoes, and other go-it-alone economic policies, our traditional friendships and alliances and trading parnerships have been seriously eroded. The world has gone far along on a course that is hell-bent for a worldwide economic depression and the American farmers would be the first to be caught in the crash.

Secretary Kissinger's entry on the economic policy scene, as demonstrated in the energy conference, is the first hopeful indication for a long time that we might rehabilitate the pattern of international cooperation that created the longest and richest era of prosperity in world history.

The hopes of American farmers for continuing prosperity ride on the continuation of world prosperity. And it is an ironic thing to have to say, but the hopes for prosperity of American farmers are riding on the back of Henry Kissinger. His principles in the energy conference are precisely the same that the Farmers Union has advocated should be applied in agreements among the trading nations of the world to stabilize and guarantee farm commodity supplies and prices at levels fair both to producers and consumers.

These are the very principles that all of our family of allies and friends among the nations of the world have sought to apply through an international grains agreement, an international sugar agreement, and others as needed.

We must hope that Secretary Kissinger will succeed in transforming the Nixon Administration's trade policy into positive action and international cooperation to promote continuing growth of world prosperity and expansion of demand for food.

PETITION SUBMITTED BY CITIZENS OF 16TH DISTRICT OF MICHIGAN

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. DINGELL. Mr. Speaker, I insert into the CONGRESSIONAL RECORD a petition just received by me from registered voters and citizens of southeastern Michigan which merits the consideration of my colleagues and the Nation.

PETITION

We, the undersigned, as registered voters in the United States, participators in the democratic processes of the State of Michigan and constituents in Wayne, Oakland, Macomb, Washtenaw and Livingston Counties, respectively, submit the following supplication and hope you will approve it in spirit by taking affirmative action.

We have chosen to address our appeal to you as you are our most influential legislator and you speak for us in the day to day portals of democratic government.

Our dilemma is with the energy crisis and the rash of public information, (news releases, editorials, magazines, personal interviews, with experts, personal interviews with non-experts, accusations, counter accusations)—What is truth?

From our own collective experience, we are all in car pools, have lowered our speed, do no pleasure driving—on the other hand, we cannot get normal service such as tire pressure checked, oil checked, battery checked because the line-ups for gasoline are so long that the time involved would cause greater inconvenience to the public in general. If there is a real crisis, why isn't it being handled in an organized, orderly manner, as any other major National crisis would be? Why are we being confused from official sources by the following statements, issued almost back to back.

There is a CRISIS

There isn't a crisis, there's a problem

There is more oil available now than there was one year ago

There is 25% less oil available

There is 10% more oil available

The situation will get better

The situation will get much worse

The oil companies are to blame

The government is to blame

The government had to slow down the economy

The gas station operators are greedy

When gas is $1.00 a gallon, you can buy all you want anytime

The government is out to get the Auto Companies

The oil companies and the government are in collusion

Michigan's allotment is going to other states (Florida, Illinois, etc)

In the interim, how do you personally suggest we get to our jobs to help keep this economy healthy and avert what looms as a first class depression?

LIST OF NAMES

Margaret M. King, Carol Miller, Elaine Sabo, Patricia M. Riffel, Ruth Williams, Shirlen Skrisson, Madonna Campbell, Elizabeth Turemlow, and Mary E. Blackman.

Mary A. Formaz, Patricia N. Knox, Elizabeth F. Glorio, Joan Bartlett, Yola Leinart, Darlene Jones, Brenda Lecrth, Wendy Donnelly, Juanita Sheet, and Ed Lochner.

Jenneta C. Gordon, William N. Hunter, Mary K. Burkhart, Barbara L. Weldon, Doris Miller, Marjorie Sheppard, Mary Gorlewski, Marguaret Engel, Marianne R. Hoak, and Celeste F. Druefer.

Eu Heyer, Mary Driff, Marian L. Holloway, Virginia M. Nogel, Mary M. Tata, Davis F. Weinberg, Douglas N. Stimmel, Thomas E. Mells, Fred Karenko, and Henry Haeger.

AID AND TRADE WITH THE COMMUNISTS

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. LANDGREBE. Mr. Speaker, in a recent issue of the Federal Register, February 6, there appeared on page 4677 a notice by the Department of the Treasury, Office of Foreign Assets Control, that from now on "humanitarian" supplies may be sent to North Vietnam without the requirement that impartial persons observe the distribution of such supplies in accordance with traditional relief practice. Apparently the North Vietnamese Government has refused to admit such impartial observers, and the American Government, in order to aid the Communists, must waive the requirement regarding impartial observers. I include the complete text of the notice in the RECORD at this point:

[Department of the Treasury, Office of Foreign Assets Control]

HUMANITARIAN ASSISTANCE TO NORTH VIETNAM—MODIFICATION OF LICENSING REQUIREMENTS

Notice is hereby given of the following modification in the licensing policies of the Office of Foreign Assets Control with respect to the sending of humanitarian relief assistance to civilians in North Vietnam.

Heretofore, the Office has licensed the sending of medical supplies to these areas for humanitarian relief purposes, provided the assistance was of a type and in an amount designed to fulfill legitimate humanitarian needs. The Office has also required applicants to submit satisfactory assurances that the distribution of such supplies would be witnessed by impartial observers in accordance with traditional relief practice. Applicants have been unable to meet this requirement in most instances because of North Vietnamese refusal to admit impartial observers.

The Office has reconsidered the utility and desirability of this requirement in the current context of humanitarian assistance to North Vietnam, and has decided in this context not to consider such observation to be a general requirement for the issuance of licenses in such cases. However, the possibility of such observation will be considered along with other relevant factors such as the nature and amount of the assistance involved, and the intended end-use, in reaching decisions on applications for licenses of this type.

The unlicensed sending of funds or supplies to these destinations for humanitarian or other purposes whether directly or through a third country, or through an organization in a third country, remains prohibited by the regulations.

STANLEY L. SOMMERFIELD,
Acting Director,
Office of Foreign Assets Control.

[FR Doc.74-3046 Filed 2-5-74;8:45 am]

THOUSANDS PROTEST SSI

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Ms. ABZUG. Mr. Speaker, thousands of blind, elderly, and disabled men and women are suffering extreme hardships due to the extraordinarily poor implementation of the SSI program by the Social Security Administration. The New York Times ran an article on Saturday reporting on a demonstration, held last Friday, organized by many of these men and women, to protest this unfair treatment. I believe this article, will be of interest to the other Members of Congress and the general public:

THE ELDERLY AND DISABLED PROTEST NEW U.S. PROGRAM

(By Barbara Campbell)

More than 2,000 disabled and elderly people held a rally yesterday in the auditorium at Pace College here to demand emergency funds because, they contended, a new Federal assistance program is not working.

They said that many of them were hungry and afraid they could not pay their rent.

Representative Bella S. Abzug, part of a Congressional delegation investigating the Federal Supplemental Security Income program, which replaced local welfare payments to the elderly, the blind and the disabled, called the program a "bureaucratic nightmare" and a "tragedy for thousands of its intended beneficiaries."

ARE WE A STIGMA?

Mrs. Abzug, who was received warmly by the crowd—she remained during the entire two-hour rally—said she had introduced four bills to help "alleviate the problems plaguing the operation."

Since the program began, elderly, disabled and blind people have had to stand in long lines in front of Social Security offices, have received checks in the wrong amounts or have received no checks at all. To many, the supplement represents a substantial part of their income.

"How are we older people going to survive? asked Bella Cutler, who spoke from the floor of the auditorium. "We built this beautiful city, our children fought in the wars and some did not come back. Don't we deserve to live in dignity?"

"As I look around," said another woman from one of the more than 80 different organizations for the elderly at the rally, "I feel ashamed that we have to come here and beg and plead. Are we a stigma on society? Is it a sin to be crippled?"

In a news conference held backstage before the rally, Mrs. Abzug said she would also call for a rent-increase exemption from the city for those receiving Supplemental Security Income, an immediate end to the reductions in Federal payments and an acceleration of "efforts by the Federal Government to locate additional persons who would be eligible for S.S.I. benefits."

Bronx Borough President Robert Abrams and Representative Edward T. Koch also took part in the news conference.

AMENDMENT TO H.R. 69

HON. GUNN McKAY

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. McKAY. Mr. Speaker, when H.R. 69, the long-awaited education bill, comes to the floor of the House, I intend to offer an amendment to title III, the title dealing with payments to federally impacted school districts. It is my understanding that the rule under which this legislation comes to the floor requires only that amendments to title I be printed in advance in the RECORD. However, as a convenience to my colleagues, I am taking this opportunity to set forth the text of my amendment and its purpose:

AMENDMENT TO H.R. 69, AS REPORTED

Page 87, beginning with line 18, strike out everything after "provides" down through "resources" in line 19, and insert in lieu thereof "for complete equalization of all local resources on the same support level."

Mr. Speaker, I offer my amendment to correct what I consider to be a problem with the way in which section 304 of H.R. 69 now is written. Section 304 addresses itself to certain problems in the relationship between Public Law 874 payments made to local districts, and State education equalization formulas. However, not all equalization formulas do, in fact, equalize. The bill as written, is too vague to distinguish between those State formulas that provide complete equalization of education, and those that provide only partial equalization. Because of this deficiency in wording, I believe the commendable purpose for which Public Law 874 was amended will not be served.

I believe we will see confusion in State and local governments, and I believe we may see some local districts wrongfully deprived of Public Law 874 moneys which the Congress intended should go to them.

Section 304 of H.R. 69, as reported, provides that—

> Payments under this title to local educational agencies in any State may be considered as local resources . . . in computations under a State equalization formula . . . if, as determined by the Secretary, such formula provides appropriate recognition of the relative tax resources per child to be educated which are available to the local educational agencies.

I agree with the intent of this amendment. In States that have equalization of school finance, Public Law 874 moneys which come to the local school district can cause the State formula to be thrown off balance; it can actually result in disequalization of school finance. In such cases, it is appropriate that the State be allowed to consider Public Law 874 payments in computing State aid.

However, as others have pointed out recently, the wording of section 304 is too vague, leaving room for considerable difference of opinion on what constitutes an equalization formula, and what constitutes "appropriate recognition" of relative tax resources. I have had indications already that this vagueness may lead to disputes between local school districts and State education agencies, and may even lead to court action.

Many States have moved ahead with some equalization of their school finances. In a number of these States, certain programs are equalized but the total school program is not equal. In these States, it is inappropriate that the local school districts which receive Public Law 874 funds and rely on them should be deprived of those funds.

The State of Utah is equalized with 28 mills for maintenance and operation, which guarantees a certain minimum expenditure per pupil and a minimum local tax rate. There is an additional 10 mill voted local leeway that is partially equalized.

The remaining funds that go into the basic education program, the capital outlay program, and the voted leeway program are not equalized. Thus, there are serious disparities in expenditures per pupil from district to district, with the wealthier districts providing the highest per pupil expenditure. Districts with lower assessed valuations have to make a greater tax effort to generate enough money to educate their students, whereas in districts with greater assessed valuation, a more modest tax effort will generate sufficient funds. A 1 mill increase in the voted leeway raises anywhere from $3.32 per pupil in Davis County and $3.84 in Weber County, to $9.95 in Jordan and $11.55 in Salt Lake City. The average for the State is $6.24 per pupil raised through a 1 mill increase on the voted leeway. The districts of Jordan and Salt Lake do not receive much from Public Law 874, but have the opportunity of raising a substantial amount of money through a mill levy, whereas Davis and Weber counties, both heavily impacted, do not have the same opportunity.

The point is, the school finance system in the State of Utah, while being a fine and progressive system, is only partially equalized. It is not equalized according to assessed valuation, that is, local resources. It would be an injustice in such a situation to remove Public Law 874 moneys from the impacted districts with low assessed valuation and distribute them throughout the State. To insure that this does not happen in my State and in other States where State aid to education is only partially equalized, I offer my amendment.

I believe my amendment provides a better definition of equalization and clarifies congressional intent—rather than leaving important determinations to the discretion of the Secretary of Health, Education, and Welfare. I hope my colleagues will join in support of this amendment.

A SEASONAL RENEWAL

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. ROUSH. Mr. Speaker, almost exactly a year ago I reported to the Members of the House of Representatives on a trip I made to the Congress Heights section of the District of Columbia. I went to learn more about this Federal City, particularly the often-forgotten area of Anacostia across the river. I hoped to increase by knowledge because I had recently become a member of the District of Columbia Subcommittee of the House Appropriations Committee.

Back in March of 1973 I reported on my visit to a community group then housed in an office on Martin Luther King, Jr., Avenue; in a recreation center at the Linda Pollin apartments; in a special office with staff working out of rooms at Hart Junior High School. The Mission of Community Concern is the name for this group of professionals and volunteers who then provided and continue to provide special educational programs for dropouts and truants, students with special educational problems; also social services reaching out to the families; athletic, recreational, and enrichment facilities for the more than 1,200 students registered at the Linda Pollin Center. All of this, I was surprised to note, was being accomplished on a meager Federal funding plus a great amount of donated services, facilities, etc. I credited, as I continue to, Father Shane MacCarthy, the president of the mission, with the financial wizardry to accomplish all that was being done. He is ably assisted by Will Hudgins, the executive director.

Last Friday I was honored to participate in the opening of an additional facility for the mission. It was a Giant Food Store, located at Atlantic and South Capitol, SE., and Giant donated it to the mission. Then McDonald's offered to refurbish and renovate. I think the philosophy of both companies cogently put by the McDonald's representative at Friday's opening when he said they thought it time businesses returned to the community some of the money they made there.

So Friday was a special day of celebration. Now the mission can greatly expand the alternative education program they have commenced with 39 students who need, and receive, special, individualized education. Education that does not rely on the textbooks they have rejected or cannot use, but which uses daily materials, like newspapers, to begin and expand their educational experience. Some of these students are sent over by the courts, some are referred from schools, others walk in off the streets. Here is an effort to not only salvage the lives of these young people, but to offer a model throughout the city for alternative education. Ms. Sizemore, superintendent of education, was unable to be at the formal opening on Friday, but she had written me that she wished she could be there and indicated her interest in the alternative education center as well as her favorable impression with what was underway there.

Several hundred people went to the center on Friday to listen to the Hart Junior High School band perform and to enjoy the beautiful and inspiring gospel chorus group from that same school. Following a benediction by the Rev. Aaron McCombs, pastor of Paramont Baptist Church, Father MacCarthy introduced several who spoke briefly. Mr. Michael Dana, special assistant to the Commissioner of the Office of Youth Services of HEW congratulated the mission group on the new center and brought the congratulations and kind regards of Stan Thomas, Assistant Secretary, Office of Human Development, Department of Health, Education, and Welfare. HEW has been the principal financial support of the mission.

Mr. Dana was followed by the Rev. Raymond Kemp, a member of the District of Columbia school board who was enthusiastic about the promise of the alternative education center as a model for the District. I spoke briefly about the enthusiasm of all those associated with the center and the significance of what was being done there and I was followed by Congressman FAUNTROY who delivered a moving "thank you" to all who had taken interest in making this center and its affiliates happen. Senator BIRCH BAYH, my colleague from Indiana, was back home in Indiana, but he sent a telegram of congratulations and best wishes along with his own praise for what has been accomplished by this dedicated group.

Cosmo Williams, representing McDonald then gave the keys of the center to Valentine Burroughs, social service director and we feasted on McDonald's fried chicken, some of the best I have ever eaten.

At a time in our national history when there is so much pessimism, frustration about us, it is specially satisfying and even healing to visit with people like those with whom I spent the day on Friday. They are people who are interested in the lives of children, and through those children reach into the lives of their parents, and their community. They give their all to this purpose, with no financial reward, but with the reward of knowing that they are changing the future for us all. They have my full respect and support. I find that each time I visit them I sense a renewal. I hope that they will pass this on to our whole community along with their interesting and valuable new program in alternative education, an adjunct to their youth services system.

DRUG TRIP TO TURKEY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. RANGEL. Mr. Speaker, Congressman LESTER WOLFF and I have just returned from a 4-day trip to Turkey where we discussed the possible resumption of opium poppy production with high Turkish officials. In our meetings with the Foreign Minister and Members of Parliament, we expressed our deepest concern over the potential deadly effects if Turkey once again permits opium cultivation.

It is clear that the ban, in full effect since mid-1972, has reduced both the quantity and quality of heroin available on the streets of America. In exchange for the ban, the United States agreed to pay $35.7 million to compensate the Turkish farmers and to encourage crop substitution projects. Tragically, much of that money has not been turned over to Turkey yet and little of the money already paid has filtered down to the Turkish farmers themselves.

Following our conferences with Turkish officials, we were assured that there will be no spring planting of poppies this year. But time is fast running out. Seeds are being germinated on Government farms for possible use in the future, and a fall planting is still a dangerous reality. If action does not soon take place, the insidious "French connection" will be back in full swing, and addiction will again skyrocket in all the Harlems of America.

The truth is that we are on a confrontation path with the newly elected Government of Turkey. That Governcame to power only a few months ago, ousting the military regime which origially imposed the ban. This new Government was elected through the support of rural areas and it feels a commitment to help the farmers by allowing poppy production.

The likelihood of this confrontation has grown due to State Department bungling. Until a week before our departure, Congressman WOLFF and I were assured by the State Department that rumors of an end to the ban were simply rumors, nothing more. That was not true. We were allowed to believe that newspaper reports of a shift in Turkish policy were merely campaign rhetoric. That was not true. We were led to believe by the State Department that the Turkish Government was not seriously considering lifting the opium poppy ban. That, too, was not true. This misinformation from the State Department—the very agency responsible for negotiating international agreements—is jeopardizing the chance of successfully renegotiating the American agreement to compensate Turkey for ending poppy cultivation.

To further complicate this delicate situation, American pharmaceutical companies with visions of higher profits have visited Turkey seeking an end to the ban. At the present time, however, India is producing legal opium for pharmaceutical use under the watchful eye of the International Narcotics Control Board. There is no valid medical need for Turkish opium.

We are requesting meetings with the President and the Secretary of State to discuss this most urgent problem. Personal diplomacy by Secretary Kissinger may be needed to insure that Turkey does not resume production of this deadly crop.

In view of the large amount of foreign aid which Turkey receives from the United States, and in view of the requirement that aid be cut off to countries which do not adequately fight drug traffic, we believe that it is in the best interest of both countries to continue the ban on opium poppies.

WAYNE SHARP RECEIVES DESERVED RECOGNITION

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. FISHER. Mr. Speaker, Wayne Sharp was recently selected to participate in the Federal executive development program. His selection, along with 24 other Federal employees, culminated a rigorous selection process. This was indeed a deserved and an outstanding recognition.

I include a report on the selection of

Mr. Sharp, who is a resident of the district I represent. The report follows:

WAYNE SHARP SELECTED FOR EXECUTIVE DEVELOPMENT PROGRAM

Wayne Sharp, Deputy Assistant Administrator for Foreign Commodity Analysis, and former agricultural attache to Guatemala, has been selected to participate in the newly created Federal Executive Development Program, sponsored by the OMB.

The program is a special year-long series of development experiences designed to prepare the participants for executive assignments. The competitive, government-wide procedure for selection included supervisory appraisals, an assessment center exercise, and a thorough review of the employee's record. Wayne is one of 25 Federal employees and the only one from USDA selected for the program.

Born in Dallas and raised on a ranch near San Angelo, Texas, Wayne graduated from Texas A&M in 1962 with a B.S. degree in range management with a minor in economics. He continued his education at Texas A&M, and received an M.S. degree in agricultural economics in 1964. While pursuing his master's degree, he received a Meritorious Research Award from the American Agricultural Economics Association for his master's thesis. In 1968, he was awarded his Ph.D. in agricultural economics from Michigan State.

Wayne first came to USDA in 1965 as an agricultural economist for ERS. After completing his doctorate, he returned to USDA in 1968, this time as an agricultural economist in FAS's Livestock and Meat Products Division. In 1970 he was named an attache to Guatemala. He returned from his post in September 1972 to assume duties as Deputy Assistant Administrator.

Wayne will begin initial training at the Federal Executive Institute, Charlottesville, Virginia, in early March.

SOCIAL SECURITY CHECK INCREASE TRIGGERS VETERANS BENEFIT DECREASE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. HARRINGTON. Mr. Speaker, recently I introduced legislation, H.R. 12787, to prevent increases in monthly social security checks from decreasing or totally abolishing pension benefits for veterans and their dependents.

Immediate action must be taken to guarantee recipients of veterans' pensions that they will get both the social security and veterans benefits we in Congress intended. It is cruel and unjust to turn around and slap the veterans in the face with this legal loophole which is forcing them to consider and apply for welfare to survive the crush of soaring prices.

The following letter, from a veteran in Burlingame, Calif., is one of many I have received from the concerned veterans of our Nation confronted by this critical situation. I would like to insert in the RECORD at this time and urge those of my colleagues not cosponsoring my legislation to do so today.

The text follows:

DEAR CONGRESSMAN HARRINGTON: I am a veteran of War II—having served 39 *hard* months of my healthier life during the Japanese conflict . . . I returned to my former occupation as landscape gardener, not once did I take advantage of any veterans' benefits offered me. I worked mostly for millionaires maintaining their large estates without any benefits such as: unemployment insurance, no income taxes withheld, etc.

Incidentally, I was sick after learning that my government refused to sign into law the unemployment insurance and withholding of taxes and all during my working years I could not have enough money each month for taxes due to the high cost of living, and come tax time I was usually forced to a loan shark for money to pay my taxes and forever in debt all because of a few of your fellow colleagues who refused to put the stamp of approval on laws protecting the scores of steadily employed domestics. I wish the government could force the rich to pay their share of taxes and less putting on $250,000 golf tournaments, etc., maybe we would have to add to the back to help our veterans who gave their sweat, blood, etc., to make this country what it stands for.

Just a year ago I was forced to quit my work because of Chronic Pulmonary Emphysema, arthritis, and bursitis. I applied for my Social Security and Veterans Pensions, since I had to drop my health insurance and life insurance due to the lack of funds and with unemployment insurance or state disability which certainly would have helped me somewhat pay my insurance premiums. I am grateful for the help they have given me, but the pension is far from enough to support my ill wife and myself with my staggering monthly medical bills which usually run about $100 a month which includes a Mark 7 respirator, oxygen and medicine which I use 7 to 10 times daily. My wife and I reside in an apartment a stones' throw from the busy Bay Shore Freeway with nothing but terrible smog which is worsening my emphysema. We had planned to move to the coast nearer the ocean so I can breathe easier, but due to the very high rental fees am just trapped to die here unless Congress gives we disabled vets more money along with the proposed increase in Social Security. I see no reason why veterans pensions couldn't equal Social Security payments which would really be a *tremendous* help. With *all* millionaires paying their fair share of taxes and less large sums of give away money to the rest of the world I am quite sure there is enough money for the financial means for the disabled and the poor.

Thank you, Congressman, for taking your important time to read my letter, and also to thank you once again for your support for the disabled veterans.

Sincerely yours,

ARTHER L. HOLTZBAUER.

ST. FRANCIS COLLEGE MARATHON TEAM

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. O'BRIEN. Mr. Speaker, I am proud to announce that the College of St. Francis in my hometown of Joliet, Ill., has produced the first collegiate marathon team in the United States.

The idea was conceived by Tom Brunick, a 23-year-old rookie coach. In 1 year it has won national recognition and has been hailed by the World Marathon Association as one of the "most innovative running programs in the country."

Mr. Brunick's success is even more impressive if you consider the odds he faced when he became coach in the fall of 1972. At that time, St. Francis had no reputation in men's athletics. In fact, it barely had men since it had gone from all women to co-ed only 2 years before. The school had no running track, offered no track scholarships, and could not begin to finance a full-scale track program.

To develop a full track program, it would have cost St. Francis $60,000 for scholarships, travel, and equipment plus the price of building a running track.

Mr. Brunick realized that the only way to beat the cost and still have the national caliber team he dreamed of was to focus on a specialty no other college offered. The answer was a marathon team.

Now, St. Francis offers five half-scholarships, travels first class all the way, and still only spends $12,000. Its training ground consists of the roads and hills surrounding the campus and costs the school nothing.

Although many collegiate distance programs have used marathons, none has ever carried it to the point of making it a varsity sport. Most coaches have opposed marathons and road races for fear they would detract from their indoor track programs. As a result, a runner is lucky if he competes in one a season.

Mr. Brunick believes there should be a place for the average distance runner who likes to run the roads and marathons but seldom gets the chance on a collegiate basis. His program provides that place.

The program he designed begins with a traditional cross-country season running from September to November. Then instead of a track season, a new marathon season follows comprised of four marathons spaced out over a period from December to June.

In addition, Mr. Brunick launched a new intercollegiate road racing season starting in January and continuing through March. Races are 5 to 15 miles long and are scored like cross-country meets.

As many of my colleagues may know, the first marathon was run in Greece in 490 B.C. and became a classic event. Today, however, many experts feel that marathon events in this country lack the quality and enthusiasm that this classic distance deserves.

Coach Brunick's program, with its special appeal to small colleges like St. Francis, is already creating renewed interest in marathons. Hopefully, his success will lead other colleges to specialize in this event and this classic will be restored to its former place of esteem.

The following editorial from "Runners World," the bible of distance fans, adds substance to that hope:

NEW SCHOOL OF ROAD RACING

Innovation often comes from unexpected places—like tiny College of St. Francis in Joliet, Ill. This winter, the school's running coach Tom Brunick will add road racing as a varsity sport, in addition to the regular cross-country and track programs.

St. Francis will have a separate road team, thought to be the first of its kind. Brunick says, "I know there have been other collegiate long distance running programs which have used marathons, but none has ever gone so far as making road racing an intercollegiate sport."

Brunick outlines his plans:

"The program consists of the traditional cross-country season which runs from September to mid-November. After that, we will get into something entirely new. Instead of a track season, we will have a marathon season comprised of four marathons—North Central in December, St. Louis in March, Drake Relays in April and the NAIA championship in June.

"We have set up a period from January through March in which we will take to the roads against other colleges. Races will be 5–15 miles, and will be scored like cross-country meets."

The main reason for the new program the coach says, "is not to attract big names to the school or big publicity, but rather to provide a program for the average distance runner, the guy who likes to run the roads but very seldom gets the chance when he's in college."

The idea's time has come. It was inevitable that colleges would sanction road racing teams. To Tom Brunick's credit, it happened to start at his school, and others are sure to join.

Road training brought it on. College and high school runners have been training on the roads for years. Many of them have raced there during the summer, and have either liked it better or found more success there than on the track.

Cross-country is the common meeting ground for track and road racers. But the winter and spring divide them again into short or long. Until recently, student-runners have had to go shorter to stay with their teams or longer and leave them.

The runners at Fullerton State faced that choice last year. They had won the NCAA college division cross-country championship. Three of the best runners preferred road racing to track. Doug Schmenk and Dave White had run 2:17 marathons, and Mark Covert was just over 2:20.

Schmenk, now the AAU marathon champion, said in the July '73 *RW*, "The coach doesn't dig this marathoning. He complimented our 2:17s with the infamous quote, '2:17 doesn't score points at the nationals.' But our success lies in the marathon, so that must be the direction we take."

Such resistance from coaches, though crudely stated, is understandable. They don't want to lose their most effective point scorers. If they feel that way, though, there's a simple solution. Make the marathon (or other shorter road races) scoring events, held in connection with big track meets.

The small-college NAIA already had done that. The marathon has been part of that group's national meet for two years now. Tom Brunick's St. Francis runners will be racing there next spring at the end of their road running season.

The NCAA hasn't yet come around, but this is not to imply that the coaches in that organization are against the idea. They have been talking for three years of adding a national collegiate marathon championship.

Hal Higdon thinks all the college championships will soon have road races. "This will come about not through pressure from coaches with axes to grind," he writes in a college coaching journal, "but as a natural recognition that this is where a lot of our runners are already at."

Once the NCAA gives its blessing, look out established older road racers! Young students usually train more than older specialists, have more basic speed, more free time, and less fear of distance and pace because of their background and youth.

It shouldn't be long before the national collegiate rulers go with the tide. The USTFF, an appendage of the big colleges, has held a marathon for several years now—the most recent one in Wichita, Kans., in June. The college-oriented Drake and Kansas Relays have had marathons, too. And the Penn and Kansas Relay meets joined the trend.

The change, for the most part, is evolving peacefully and quickly. The main problem has been how to fit this healthy and growing adopted child into the small overall scheme of things—to benefit both individual runners and the schools' programs.

In his article on college road racing Higdon made several suggestions. The first was to spread the emphasis around, don't center all the attention on the marathon itself, but give the other long distance a piece of the action. Then give road racing a season of its own.

"The next logical step, or perhaps concurrent one," Higdon writes, "will be the development of road racing a third rate sport, separate from cross-country or track and field.

"Word has it that the NCAA may schedule its inevitable marathon championship in December in a warm-climate state. This certainly is preferable to tossing the race in as an adjunct to the June track and field championships. But the December date would cause NCAA road running to become merely a tack-on to its cross-country program."

There are definite advantages of having a road race attached to track championships, mainly the team scoring aspect mentioned earlier. Making the marathon an event-for-points might break down lingering resistance from coaches.

But Higdon makes a good case for a winter-early spring season. He says, "I think an NCAA marathon championship might more logically come in early spring as a climax to a winter of outdoor road racing. There are several reasons for this.

"One is that racing more than two miles on a small indoor track is an act of insanity. It not only causes blisters, but also boredom. Second, it is difficult, if not impossible, to achieve the volume necessary for success as a long distance runner totally while remaining indoors. The risk of injury from running constantly around in circles far exceeds the risk of frostbite."

Regardless of final format, we have to start by lobbying for road races as collegiate championships. The teams like St. Francis' will follow, with full-scale programs (encompassing all distances above six miles) lasting a full season (at least the winter and early spring).

Then we start working on the high schools . . .

"IMPACTED" AID NEEDS OVERHAULING

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. COLLIER. Mr. Speaker, for all practical purposes Montgomery County, Md., has the highest median household income among the United States' approximately 3,000 counties. Its figure of $16,708 is exceeded only by Hinsdale County, Colo. Montgomery County has 522,809 people and Hinsdale County only 203—1970 census figures—so the Maryland area is, indeed, the most prosperous in the Nation.

Its figure is so high primarily because thousands of well-paid Federal employees live there, our National Capital having been right next door to it since 1800. Despite the proximity which has attracted such affluent people, who contribute substantially to the tax coffers of the county and its numerous local governments, Montgomery County receives millions of dollars additionally each year because it has been designated as an impacted area.

The impaction is not new, sudden, or overwhelming as the District of Columbia as presently constituted was originally a part of the State of Maryland. Every President of the United States except the first one has resided in the District and every Congress from the 7th to the 93d has met in Washington, D.C. The huge growth of the Federal Government that has occurred through the years has been of tremendous benefit to Montgomery County rather than a detriment.

A table that I am submitting for the RECORD shows that Montgomery County, Md., received more money from sections 2, 3, and 4 of Public Law 81–874 than did all the other 17 Montgomery counties put together. Payments to local education agencies cover the following items:

Section 2. Reduction in local revenue by reason of acquisition of real property by the United States.

Section 3. Education of children who reside on Federal property or reside with a parent employed on Federal property.

Section 4. Sudden and substantial increases in the number of pupils in average daily attendance as a direct result of activities of the United States carried on directly or through a contractor.

Payments for financial assistance to local education agencies for the education of low-income families, while a part of Public Law 81–874, are not included in the above-mentioned table.

Mr. Speaker, if there was ever a Federal program which needed overhauling it is the impacted aid program.

The table follows:

TABLE

County	Net payment final 1970–71	Net payment estimated 1971–72
Montgomery County, Ala	$794,978	$909,688
Montgomery County, Ark	30,640	32,053
Montgomery County, Ga		
Montgomery County, Ill		
Montgomery County, Ind		
Montgomery County, Iowa		
Montgomery County, Kans	51,480	42,403
Montgomery County, Ky	14,297	14,754
Montgomery County, Md	5,598,947	6,289,767
Montgomery County, Miss		
Montgomery County, Mo		
Montgomery County, N.Y	39,384	34,865
Montgomery County, N.C		
Montgomery County, Ohio	2,791,877	2,933,951
Montgomery County, Pa	262,810	243,009
Montgomery County, Tenn	477,205	519,072
Montgomery County, Tex	38,444	45,105
Montgomery County, Va	150,642	156,115
Total	10,250,704	11,220,783
Montgomery County, Md	5,598,947	6,289,765
Remaining 17 counties	4,651,757	4,931,016

THE PRESIDENT OF THE POLISH AMERICAN CONGRESS DECLARES THE PRINCIPAL AIM OF POLONIA TO BE POLISH INDEPENDENCE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. KEMP. Mr. Speaker, in a speech delivered on September 16, 1973, before the Illinois division of the Polish American Congress on the occasion of the anniversary of the Soviet Union's 1929 invasion of Poland, Mr. Aloysius A. Mazewski, president of the Polish American Congress, discussed the Polish American communities' attitudes toward the Polish nation, as opposed to the Communist Government of Poland.

The Polish American Congress is a highly influential organization among Americans of Polish heritage. We can all be proud of the outstanding work rendered by this organization.

The position expounded by President Mazewski is particularly relevant at this time, due to the significant increase in exchange between the United States and Poland, both on the official and the people-to-people levels. President Mazewski's speech constitutes an important statement, one which should be seriously studied by all Americans, irrespective of descent and heritage.

I commend excerpts of his speech to the attention of all my colleagues, particularly the members of the distinguished Committee on Foreign Affairs. Excerpts from the speech follow:

TOWARDS THE INDEPENDENCE OF THE POLISH NATION

(By Aloysius A. Mazewski)

During its tragic yet glorious history, the Polish nation became hardened and developed effective tools to fight for its very existence. One of the most important of them is emigration, which became a national institution. Being beyond the reach of the occupying and partitioning powers the emigration speaks to the world on matters about which the captive nation must remain silent. Thus, consecutive emigrations became the "soul" of the nation.

This division of purposes remains valid, since even though we can visit our relatives in Poland, the country is not independent. The Polish nation does not decide matters affecting its life; it has no influence on the foreign policy and alliances which are made in its name by a government named by the Moscow-controlled Politburo of the Communist Party.

There are those who insist that by speaking about Poland's colonial position and by criticizing the government which has been forced upon the Polish nation, we harm Poland. They are wrong. It's a lie, cunningly planted by the communist propaganda. Our sisters and brothers in Poland want us to tell the world the truth about their fate; they want us to explain that the views of the regime's diplomatic representatives are diametrically opposed to their own views; that Russian economic exploitation causes chronic lack of basic commodities; that the Polish army does not belong in Czechoslovakia or on the Chinese border.

Those who say that we may criticize all Communists except Polish Communists are also wrong. A Communist is a Communist regardless of nationality. Every Communist is an enemy of freedom, wanting to introduce the dictatorship of the Party clique. And Polish Communists are no better than others.

They are Moscow's instruments, they are the Kremlin's Quislings in Poland. We may be thankful, that not everybody is a Communist.

We can help Poland by a firm anti-communist stand and a critical view of the Warsaw regime. On the basis of my personal experience I can assure you that the President of the United States would not respect demands of people friendly to a government hostile to the United States, However, when critics of the Warsaw government demand, for instance, the removal of the ban on the sale of refinery equipment, the President and the State Department treat the matter seriously and favorably.

We would achieve more, if in the most important matters we would speak with one voice, if we would not fritter energy and means away. It is not a question of unanimity of opinion, which would be as dangerous as anarchy. We can differ in the selections of ways and methods. However, when a majority reaches a decision, we should conform to that decision, even if it is contrary to our personal viewpoint.

We rejoice in any improvements in Poland, no matter how small. But we may not forget our principal aim—independence. Before we attain it, our obligation is to facilitate the survival of the nation. There are different ways to accomplish this: individual and group help, commercial and cultural exchange, tourism, etc. Those are important means, but the most important is pressure brought to bear on the Warsaw regime to force concessions for the Polish people. For instance: consent for more churches in new suburbs; relaxed censorship of the press and publishing houses; no inteference in the religious education of young people; maintenance of historical monuments and art treasures; rescue from destruction and return to the people of the famous Raclawice Panorama, which decays in a cellar; discontinued censorship of letters and lowering of the duty on parcels from abroad.

The national temperament and tradition did not adapt us to arduous, everyday work. We prefer heroic deeds, after which we rest on our laurels. But the time for heroism and holocaust is passed. What is left to us is hard work without quick results and brilliant successes. We must do it, however. The Polish nation which waits and watches expects it from us.

We must be victorious in the fight for independence and we will.

JOBS AND THE "ENERGY CRISIS": TWO EXAMPLES OF IMPACT

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. YOUNG of Georgia. Mr. Speaker, we know that the energy crisis—real or contrived—is directly responsible for a rise in unemployment across the Nation.

The Atlanta Inquirer issue of March 9 focuses on two groups adversely affected by the crisis. In one group are the employees of gasoline stations operated by black people in Atlanta. Since last summer, the newspaper observes, dozens of these stations have been forced to close down. At the remaining 134 stations, lay-offs are commonplace. Thus, both the independent black businessmen operating these small enterprises, and many of their employees and their families, are victims of the crisis, and this has a harmful impact on the entire community.

The second group consists of former prisoners seeking work. As the Inquirer article says, in these days it is hard enough to find a job with a "clean nose." "But with a prison record, it comes close to being a miracle."

I submit the following two articles by Ernest M. Pharr and Boyd Lewis for the RECORD:

GAS CRISIS FORCING LAYOFFS AT BLACK DEALERS' STATIONS

(By Ernest M. Pharr)

Gasoline prices continue to skyrocket, dealers are getting about a third less allotments than a year ago, station hours are much shorter, consumers may be paying 65 cents a gallon for regular by May. . . .

And the situation has forced layoffs at the 134 stations currently operated by Blacks in Atlanta. (The number of stations operated by Blacks was higher a year ago but, since summer '73, several dozen that were in operation are now only "shells.")

One Southwest Atlanta owner, out of gas for about four days in December and a week before the end of February, told the Inquirer he has had to lay off some on his evening shift (three persons) and two of six at his auto parts business "and they haven't been able to find employment yet."

Open 16 and a half hours before the "crisis," the owner is now open for about 11 hours "and, for March, 74, I'm getting only 63 per cent of the gas I got a year ago. We've been cut 37 per cent."

That owner, like so many others, is limiting all his customers to $5 purchases. Some others have $3 limits and almost everybody with post-1972 cars is scrambling for regular gas, at current prices of 53.9 for regular, 57.9 for premium. One Monroe Drive independent, open last Sunday, was selling premium for 63 cents and regular for 57.

Some dealers say Atlantans will "probably" be paying 65 cents a gallon for regular by May, but speculate the price may "go down a little" this summer with less need for heating fuel and an expected end to the Arab embargo. But, don't expect to see the 35 cents a gallon again.

IT'S ROUGH

Frank Monteith, who operates a 24-hour Gulf station (no gas on Sundays) at I–20 and Hill Street and who is president of the Metro Atlanta Service Station Dealers Association, said his group will take a look at the unemployment situation when they meet Sunday.

Dealers, he said, have had to cut back on help "because you're pumping gas all the time and there's little time for other services. We provide employment for people—ex-cons, the unskilled—who can't get jobs other places. They're going to be the first people to commit crimes to make a living.

"It's rough on us," he said. "When our volume is cutback, we have to cut down on our help. Some guys are practically running their stations by themselves; they can't even afford a mechanic. Everybody has had to lay off people."

UNSYMPATHETIC PUBLIC

The public, Monteith says, is not as "sympathetic to dealers as they should be. If they drive in and we have no gas, they say why the hell don't you close up, (but) you've got to do something to stay alive. Gasoline just barely pay, or does not pay, expenses; it all depends on the volume." Monteith's station gets a lot of night traffic from Grady Hospital and the Police Department.

"But if you don't have gasoline, people just keep on going."

He predicts more stations will be closed "because the oil companies buy by how much volume is being done. They aren't interested in whether a man stays in business or not.

"The price is going to stay up, it's not gonna come down. Oil companies need money to do explorations, they say. The market might even get glutted in a year or so, but the price will stay up."

Stations without gasoline feel the crunch from laying off employees all the way down to vending machines. If there's no gas, people don't stop to buy cigarettes, cookies, aspirin and the like.

Another dealer, in business for more than 20 years said the "economy is worse than I have ever witnessed. It's affecting many other businesses. Look at the price of milk going up because there's a scarcity of plastics.

"I just hope," he concluded, "Nixon has some sort of feeling for this country and realizes he is no longer an effective president."

RATIONING

Tuesday, it was announced Georgia may have gas rationing by April 1 on the "odd-even, no gas if over half tank" plan. Gasless stations a week before the end of the shortest month led to thoughts of a ? ? ? March.

And customers complaining during February's dying days: "I had to go to five stations before I found some gas."

Energy Crunch Hurts Job-Finding Program for Ex-Offenders

(By Boyd Lewis)

What with the energy crisis, sagging economy and all, it's hard enough finding a job with a "clean nose". But with a prison record, it comes close to being a miracle.

Assistance to Offenders, Inc., has been trying to open society's doors to readmit the ex-offender in Atlanta for 16 months now.

Jim Pace, director of ATO, knows first hand how society treats the former offenders. He is an alumnus of the Georgia State Penitentiary at Reidsville, Ga.

"All kinds of jobs are available out there," Pace told the Inquirer in an interview Monday at ATO's offices at 848 Peachtree St. NE. "But they're the kind that pay $2.25 to $2.75 an hour."

"The job market right now is not too good at all, to put it mildly. A few months ago it was fairly easy if you had any work experience at all to get a job paying $3 an hour," Pace continued. "But now most of these places are laying off workers."

CRISIS CUT JOBS

The energy crisis has cut deep into available jobs for ex-cons who use the program as a source of job referrals, the ATO director said.

A tire manufacturing plant said they couldn't hire, in fact they were laying off present workers because their raw materials—made from petroleum products—just weren't getting through. A company which always had hired welders to make transport for new cars at General Motors has also been laying off because new cars aren't selling like they had been.

"Trainee jobs are especially suffering now," Pace said, "because employers can now pick from people who have experience already."

Bill Crawford, ATO's assistant director, said that before the energy shortages became severe late in 1973 that many Atlanta area employers were willing to "bend over a little" to give ex-offenders an employment opportunity.

Businessmen realized that without a steady job, men who spent time in prison would risk going back by returning to criminal activities to survive.

"Of all the companies I've approached, only one flatly refused to hire," Crawford said. "Very rarely do we get a straight out refusal from employers. But there are variations on how far they are willing to go to hire an ex-offender."

Pace said the average person he and ATO assist has limited education, little work experience and spotty work records although some men (who served time for embezzlement and forgery) have outstanding backgrounds.

Jobs for the average person who comes to ATO are mostly in food services at present, Pace continued. "There was only one man we couldn't get a job for within a week. Few of them tell us that if they can't get a job that they would go back to crime and we've never had a man through here who has gone back to prison."

NEW HAMPSHIRE'S VOICE OF DEMOCRACY WINNER MISS LISA BONENFANT

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. WYMAN. Mr. Speaker, as Miss Lisa Bonenfant of Epsom, N.H., so effectively points out in her prize-winning Voice of Democracy Essay, "A Country Is Only as Strong as Her People," one of the strengths of our great Nation is an informed electorate including just such outstanding young people as Miss Bonenfant.

Sometimes we seem to forget that freedom cannot be separated from responsibility without endangering freedom itself. Freedom cannot and must not be taken for granted lest it be lost forever.

In her essay for the New Hampshire Veterans of Foreign Wars contest known as the Voice of Democracy, Miss Bonenfant very effectively set forth the responsibilities that must attend the preservation of freedom in America. That Miss Bonenfant possesses insight beyond her years was recognized in her winning first prize in New Hampshire and I commend her remarks to readers of the Record:

My Responsibility as a Citizen

As a citizen, my primary responsibility is to myself and to my convictions. A true citizen does not see one side of an issue and blindy follow it. He must have an open mind and do what his conscience directs. Then, he must build up his convictions and not be afraid to voice his opinion. There are too many people who claim to be faithful citizens because they abide by consensus opinion. With this comes blind patriotism, and above all, a loss of individuality.

Not only is respect for my own convictions necessary, but also respect for the convictions of others. Known as "The Great Melting Pot", America has a mixture of peoples, and along with that mixture comes a mixture of ideas. To reject others' opinions and count them wrong because they don't agree with mine would be taking away another's freedom and would show a closed mind on my part. In order to formulate convictions, it is necessary to listen to the opinions of others and, in that way, my mind will open and my convictions will become stronger, being based on sounder reasoning.

In voting, convictions play a major role. It is hard, in a way, to understand why some people don't vote. Some believe that their vote doesn't count; others refuse to go to the polls out of sheer indifference. I believe there are no valid excuses to avoid voting. Voting is not only an honor, it is a duty. An involved citizen also knows who and what he's voting for. Many people vote for a candidate either on personality or personal appearance. These very same people a few months later, complain the loudest about the very man they voted for. If people actually listened to what politicians say, they would find out that many are noncommittal and rather contradictory. Yes, it is the duty of every person to vote, but it is also the duty of every responsible citizen to understand how big this responsibility is.

Along with my convictions I have an obligation to abide by the laws of the country. But above that, I have an obligation to understand what these laws say. It is the belief of some that laws hinder freedom. I believe laws preserve freedom. Without these guards the freedom and rights of others would be ignored. A country cannot exist without laws to protect its citizens. Because many people also do not understand the laws which they abide by, they misinterpret the laws and become blind patriots.

It is necessary for a country's citizens to be constantly aware of the importance of unity among her people. Indifference, shirking of responsibility, and prejudice all help to pull a country apart. A country is only as strong as her people, but I think it is better to say a country is only as strong as the bond of unity existing within it. To be able to see a country's weaknesses is good, but that's only a beginning. To realize a nation's assets and take a stand to preserve them is the mark of an involved citizen.

THE ECONOMICS OF ENERGY

HON. ROGER H. ZION

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. ZION. Mr. Speaker, Interior Secretary Morton, in a recent address to the Drug, Chemical, and Allied Trades Association in New York City has provided a good analysis of some of the economics of the current energy crisis. Secretary Morton outlines a legislative action program which I commend to my colleagues and under leave to extend my remarks in the Record include this address as follows:

Remarks by Secretary of the Interior Rogers C. B. Morton

I want to talk about three things this evening. First, I am going to talk about prices. Second, I want to say something about market controls. And last, I want to talk about some actions needed to deal with the problems of high prices and short supplies in the energy industries.

First, prices. Inflation. The Cost of Living. Whatever the name used to describe the condition, it's about as popular as a case of the flu. Everybody suffers, some more so than others. And, like so many other things, the indignation—and the remedies, very often—are directed to the wrong target.

Price rises perform the same service as pain. They hurt. They announce that something is wrong in the system. And they urgently demand attention.

But the pain is not the basic problem, and neither is the price rise. Both are symptoms of a basic disorder that requires treatment. Price rises are the normal response to any condition where demand exceeds the available supply. More than that, they provide the remedy to the problem by discouraging demand and encouraging supply. But because it is so often a painful remedy there is the temptation to direct the treatment to the symptom rather than the disease, by trying to stop the movement of price. What happens—and we've acquired considerable experience in this—is that very shortly after tight price controls are imposed, shortages and dislocations appear. Eventually these inflict more pain than the prices, so the price controls eventually have to be relaxed. Then you get all the price increases you would have had during the period of controls, plus the price rises that the controls themselves produce—and maybe some more caused by people scrambling to lay in supplies of scarce goods just in case they are taken off the shelves by more price controls in the future.

So we come to lesson No. 1. *Our problem is* *not prices. It is the inability of supply to keep pace with demand.*

Right now we are having problems with both high prices and shortages in petroleum products. We can properly blame the high prices on the Arab nations, who are getting something between $7 and $9 a barrel for oil that costs them 10 or 15 cents. The tax-paid cost of Persian Gulf oil has quadrupled in the past year.

But we have a lot to answer for on our own account in the case of the shortage. The basic cause of our energy problems today is the decay of the domestic oil and gas industry. There are a number of reasons for this decline, which all come down to the single fact that there wasn't enough return on oil and gas production in the United States to bring out the levels of investment that were needed to find new supplies. This condition was caused by the inability of domestic oil and gas prices to move to levels that would attract the needed amounts of investment. First, there was the imposition of Federal controls on the wellhead pricing of natural gas sold in the interstate market. We attempted to substitute the wisdom of bureaucrats for the wisdom of a free market place in setting the proper value for natural gas. We did the same thing for domestic crude oil, indirectly, by jawboning and political intimidation of producers through most of the 1960's, to the point where the price of crude oil was virtually flat during the whole period. It didn't even rise as much as the regulated price of natural gas.

The result was that the price of oil and natural gas ceased to have any relationship to the rising cost of finding new reserves to replace those being used up. Demand was stimulated by the artificially low prices, and producers found better things to do with their money than to put it into more exploration for domestic oil and gas. Exploration, drilling, discoveries, and additions to proved reserves fell off year after year, and finally we began to have shortages in both oil and gas. When we found we couldn't meet these shortages with domestic supplies, we began rapidly to increase our dependence on the Middle Eastern nations for oil to make good the deficit. So you might say that the Arab embargo and cutbacks precipitated the shortage, but the basic cause was our own doing. The so-called energy crisis ought to have a label sewed to it that says Made in America by Americans.

I have detailed our experience in oil and gas pricing—and its results—because right now, in the middle of a shortage that was caused by price controls, we are being asked to subscribe to more of the same medicine. The emergency energy legislation passed last week by the Congress, despite President Nixon's announcement that he would veto it, would have done even more. It proposed to roll back the price of newly discovered oil to levels well below the current free market prices. Other legislation would extend Federal price controls over natural gas that is used exclusively within the state of origin. It would be hard to imagine any more effective way of discouraging further effort by producers to find more oil and gas.

Lesson No. 2: *You get what you pay for. If you don't pay enough, you don't get enough.* Supply and demand are adjusted to each other by the free movement of price. If you lock the price down to any particular figure, one of two things will happen. If you guess too high, you will get a surplus. We did this with the farm parity prices we supported in the 30's, 40's and 50's, and all during that time one of the nagging worries we had to deal with was what to do with all that surplus wheat, corn, cotton and tobacco. If you set the price too low, you get a shortage. We are living with the shortage produced in domestic oil and gas by our interference with the pricing mechanism of those commodities during the 1960's.

But the shortages are only the beginning of the problem. Once shortages begin to appear, you start to get all sorts of market distortions as people try to work their way around the price mechanism that no longer operates. The marginal buyers get frozen out. Speculators and sharpies move in. Suppliers cut back on the low-profit lines and maximize the higher-profit ones. Some essential needs go unsatisfied. People start running to their State Houses and to their Congressmen for help, and the result in the case of fuels was that by the end of last summer we had placed mandatory distribution controls on propane and distillate fuels.

Which brings us to Lesson No. 3: *One thing leads to another. Price controls lead to shortages which lead to supply controls.*

As I have mentioned, we got into our present predicament because of government interference with the pricing of oil and gas. By last summer we had the demand for further government intervention to allocate the shortages caused by its earlier intervention in the pricing process. But you don't regulate just part of an integrated industry making a variety of products from the same raw material. The Arab cutoff precipitated the imposition of the industry-wide controls that are now in effect, but given the constraints we were already working under, there is a good chance we would have wound up where we now are even if there had been no embargo.

In any event, the Federal government now has control of every basic operating decision the oil companies used to make: who to buy from; who to sell to; how much can be sold and at what price; how much of each product to make; what inventory levels to carry, and where. The industry is literally in a straitjacket. About the only discretionary area remaining to it is the pricing of new supplies of domestic crude oil, plus stripper well production, which together amount to about a third of domestic crude oil supply. And as I mentioned earlier, even this one remaining area of discretion has been threatened by the emergency energy legislation which President Nixon is being forced to veto for this reason.

The problems that badger the Federal Energy Office today used to be solved so quietly and efficiently in the everyday transactions of buyers and sellers in the marketplace that the consuming public never noticed them. Now they have to be solved by some individual siting in judgment at an adversary proceeding, trying to work within a framework of rules which are inherently disposed to kill competition, stifle initiative, and which lock every entity in the oil business into a status quo that assesses no penalties for failure and grants no rewards for success.

With this kind of track record, you might expect some support for the notion of keeping Federal controls of energy supply and distribution at the bare minimum, and letting the market system carry as much of the load as it can be made to bear. Does it work out that way? No. Amid all the uproar and complaints against the way the fuel programs are being administered, we have proposals—from the same people, by the way—for even greater government interference in the supply and distribution of energy. There are proposals to dismember the oil industry; to reduce its ability to attract the capital it needs; to create Federal corporations to develop energy resources of Federal lands or to conduct research and development on energy-producing systems. Support for nationalization is not vocal at the moment, but it is there.

Hence, Lesson No. 4: *Substituting political decisions for economic decisions is destabilizing in its effects.* Once the Federal government steps in and assumes control of a function—or even part of it—it inherits the responsibility for performance. But because government is a political entity, its accountability is exacted in political terms, and the expediency of politics often triumphs over the logic of economics. As performance suffers through these non-logical political judgments on economic matters, the pressure rises for ever tighter and more detailed controls which in turn become self defeating. The end of the road is nationalization.

The point of all this is that we are in a box, and I'm not talking about the energy crisis. I'm talking about a crisis of confidence in the free enterprise system, a crisis in our ability to solve our problems within the traditional guidelines of a free society. The energy shortage—unless we are extremely careful—will tend to go on evoking political responses that will worsen and prolong the shortage and extend the control of the Federal government even farther over the affairs of State and local governments and the individual citizens. This will remain a threat as long as there is a shortage, and its implications go much farther, and run much deeper, than the energy crisis which preoccupies us today.

This is why it is of such importance that we concentrate on the measures that will increase energy supplies in our country, because adequate supplies of energy are the ransom, not just for the oil industry, but for the whole economy to the extent that critical shortages spur the temptation to substitute government regulations for the activity of the marketplace.

The President's energy programs, which are aimed at restoring our ability to be self-sufficient in energy, provide the framework for the efforts to be made. Among the major new initiatives which he announced in his energy message of January 23 was a directive to the Secretary of the Interior to lease 10 million acres of Outer Continental Shelf Lands in 1975 for oil and gas exploration. This is more than the total OCS acreage that has ever been leased. It is three times the acreage planned to be leased in 1974, and ten times the amount leased in 1973.

The permit to construct the Alaska Pipeline has been issued and we are hopeful that this will go forward without any further delay. If it does, we can expect the initial flow to reach the West Coast refineries in 1977. We can also expect that the construction of the line will stimulate a surge of additional exploration on the North Slope which I am confident will result in vast new additions to reserves in that region.

The President has announced a program for Federal Energy Research and Development which will total $10 billion in the five-year period beginning 1975. A very substantial part of this total is dedicated to coal programs, including improvement of mining efficiency, mine health and safety, conversion of coal to clean fuels, and the removal of pollutants during or after the combustion process of coal and other dirty fuels.

The President also called for Congressional action on important energy-related legislation which was submitted to the last session. Among these are:

The Natural Gas Supply Act, which would restore free market conditions to wellhead sales of newly-discovered natural gas destined for interstate commerce.

The Drilling Investment Act, which would provide a credit for all exploratory drilling for new oil and gas fields.

The Deepwater Port Facilities Act, which would authorize the Secretary of the Interior to grant permits for the construction and operation of ports beyond the three mile limit.

The Mined Area Protection Act, which would establish realistic standards to permit the mining of coal and other minerals with due regard to the environment, and end the confusion which now exists over what is permissible and what is not.

Legislation which would permit limited production of oil from the Elk Hills Naval Reserve in California, and provide funds for the further exploration and development of that field and for the exploration of the Naval Petroleum Reserve No. 4, which lies adjacent to the Prudhoe Bay field on the Alaskan North Slope.

These are only some of the measures designed to restore the balance between our energy supply and demand. There are others, running to legislative proposals for the improvement of siting and construction of nuclear power plants and other critical energy facilities; the mandatory labeling of major appliances and automobiles as to their energy efficiency; changes in the Clean Air Act to permit more flexibility in meeting the immediate needs of the current situation; and changes in the tax laws aimed at making investment in domestic energy ventures relatively more attractive vis-a-vis foreign investments than they have been until now. The thrust of these programs is specifically to focus attention on developing our own energy potential here in the United States.

The resources are here in abundance: oil, gas, coal, oil shale, and uranium. The problem is that of making them available in the forms and amounts and at the time they are needed. This requires a good deal more attention to exploration, development, research on new forms of energy, and capital commitment than we as a nation have chosen to make. But the job can certainly be done. Time, talent, money, and determination are neded in generous measure. But the return we receive on such an investment will also be generous, not only in terms of material advantage, but in countering the threat which enduring shortages pose to the institutions of a free society.

ANTI-NAZI FIGHTER DIES

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. SCHERLE. Mr. Speaker, on Friday, March 8, 1974, the Hungarian Freedom Fighters Federation lost one of their most valiant patriots, Col. Ferenc Koszorus, to cancer. We will miss this great man. His struggle against the despotic forces of Nazi Germany will long serve as a memorial to mankind's love of freedom. This legacy will be a continuous inspiration to those who seek perpetuation of liberty at home and abroad. Colonel Koszorus's remarkable perspective of Hungarian military history offers new insights for historians. I include the following tribute to him for my colleagues who were unaware of Colonel Koszorus' many contributions to his countrymen both in Hungary and in the United States:

[From the Washington Star-News, Mar. 11, 1974]

FERENC KOSZORUS DIES, ANTI-NAZI FIGHTER, 75

(By Richard Slusser)

Col. Ferenc Koszorus, 75, a hero of the anti-Nazi resistance in Hungary during World War II, died of cancer Friday at his home on N. Adams Street in Arlington.

In early July 1944—when most of the Jews in Hungary already had been deported—Col. Koszorus and the First Armored Division he commanded took up a position confronting the Hungarian gendarmerie controlled by the Germans.

Col. Koszorus had been stationed a day's march away when he offered his troops to Adm. Horthy, regent of Hungary, to keep the force of some 5,000 gendarmes from carrying out orders of Adolf Eichmann to deport 300,000 Jews from Budapest.

For a day a clash seemed inevitable, but the Nazis gave in and withdrew. The Jews of Budapest were saved because German forces could not be spared from the front in adequate numbers to deport such a mass of people.

Col. Koszorus was captured by the U.S. Army in 1945 and was a prisoner of war for a year. While in Germany from 1947 to 1951 he was the general superintendent of the Hungarian Reformed Church in exile for Germany and Austria.

He came to the United States in 1951 and was naturalized five years later. From 1960 until he retired last year he worked for the Army Map Service. He also was a chief contributor to a multi-volume work on recent Hungarian military history.

He was born in Debrecen, Hungary, and after graduation from the Budapest Military Academy became a lieutenant in the Royal Hungarian 2nd Hussar Regiment. Later he was a colonel in the Hungarian general staff and continued his military studies in Austria, Italy, Germany, France and England.

In the late 1930s he taught fundamental principles of modern strategy at the Royal Hungarian University in Budapest. In 1940 and 1941 he was deputy commander of the Military Academy and helped organize the Hungarian armored forces.

In 1941, when Hungary joined the war against the Soviet Union, Col. Koszorus became the chief of the operational staff of the Hungarian Mobile Corps, thus playing an important role in the battles of Uman, Kiev and Isyum. Later he was chief of staff of the First Armored Division and First Armored Army Corps and then commander of the First Army Division.

After foiling the deportation of Jews from Budapest he retook the town of Arad on the Great Hungarian Plain from a Romanian force three times the size of his armored division.

He leaves his wife, Gabriella, and a son, Ferenc Jr., at the University of Chicago.

Services were to be at 1 p.m. today in National Presbyterian Church, with burial in Columbia Gardens Cemetery. The family requests that expressions of sympathy be in the form of contributions to the Bethlen Home, Ligonier, Pa.

JOZSEF CARDINAL MINDSZENTY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. HORTON. Mr. Speaker, an intensely interesting commentary on the life of Jozsef Cardinal Mindszenty appeared recently in the Washington Post and other publications. The author of the article is Charles Fenyvesi, a Jewish-Hungarian refugee who is currently the editor of the National Jewish Monthly. In the event that my colleagues have not had an opportunity to read the article, I insert it in the CONGRESSIONAL RECORD at this point:

FEB. 20, 1974.

I saw him once, in 1947 or 48, leading a procession in a dusty petit bourgeois section of Budapest. It was a pageantry of satin church banners of blue and purple and medieval hymns. Under a baldochin was the glass-encased relic of the Right Hand of Saint Stephen—Hungary's first Christian king in the tenth century. The procession moved slowly, impervious to the steady drizzle, in a setting of cheerless apartment buildings pockmarked with bullet holes. Looking at him from the sidewalk, which was filled with kneeling people, the Prince Primate of Hungary seemed miles and ages away. The burning eyes in the ashen-white face were fixed at some point in the sky. He was swathed in scarlet silks and surrounded by priests in embroidered robes. They were followed by clusters of village women in dull black from kerchief to boots and by city people of all ages in somber grays and blues.

Even in my grade school class we knew that Jozsef Cardinal Mindszenty and the new communist regime were locked in a fateful struggle. My elders also knew that there could be but one end to that conflict.

The Cardinal would not bend. There were many Hungarians who hoped that he would throw his weight behind the rivals of the Communist Party—like the Smallholders' Party which won close to 60% of the vote in the free elections of 1945—and search for ways to cope with the overwhelming fact of Soviet military occupation. But Mindszenty refused to play politics. He would only pray and resist. The slightest concession seemed to him a betrayal of principles—fatal weakness, abject surrender, high treason.

He sent a cable to Hungary's first democratically elected, non-communist post-war Premier: "The First Banneret of the Realm stands at the disposal of the nation." The position of the First Banneret—the Prince Primate's feudal rank as the first officer of the kingdom—no longer existed. Hungary was declared a republic in 1946 and all aristocratic titles and privileges were rendered null and void. Mindszenty's cable read more like a challenge than the traditional congratulatory message from the head of the Church.

Mindszenty was as stubborn and determined as the communists; each knew that the other was an enemy with whom there could be no accommodation, no peace.

While the communist leaders were successful in threatening and cajoling their democratic opposition into cooperation, they also felt that they had to dramatize to the restless nation—and to themselves—that no person or institution lay beyond the reach of "the iron fist of the dictatorship of the proletariat." What could have been a more telling demonstration of their power than the humiliation of a Prince of the traditionally conservative, Western-leaning Church.

Many Hungarians who saw newsreels of the trial or listened to it on radio thought that Mindszenty had been beaten and drugged. After five weeks of interrogation, Mindszenty seemed like another person. The strong, rich voice of a spellbinding orator was thin and monotonous; the piercing eyes had a dull sheen. There was an air of unreality about his listless confession to charges of high treason, the gathering of military intelligence and foreign currency speculation. The trial was absurd, macabre. It spread fear throughout the country and it signaled the beginning of a new era in which a few thousand angry, determined men loyal to Moscow would try to undo 1,000 years of Hungarian nationalism.

Next to the mysterious suicide of Czech Foreign Minister Jan Masaryk and the Berlin airlift, it was that trial in Budapest in February 1949 which convinced the Western public that an iron curtain had indeed descended, cutting off the ancient capitals of Central and Eastern Europe from their lifelines to the West.

Twenty-five years later, Pope Paul's removal of Cardinal Mindszenty as the head of the Hungarian Church is just another episode marking the end of the cold war. Mindszenty, the erstwhile patron saint of the Free World, has become an embarrassment to the new partnership of detente. Like Alexander Solzhenitsyn, whose "Gulag Archipelago" was banned not only in Russia but on the airwaves of the Voice of America, Cardinal Mindszenty is an unperson whose voice, like that of the uninvited wedding guest in Coleridge's "Ancient Mariner" disturbs the merry din of the feast.

Mindszenty visited the United States last September, to bless a renovated Hungarian church in New Brunswick, N.J. His three-day stay was played down by Church and State.

Except for Terence Cardinal Cooke of New York, the American Church ignored his presence. President Nixon sent him a cable—assuring him of gratitude and wishing "a thoroughly pleasant stay"—but the telegram somehow did not reach the Cardinal until the day he left. Two weeks after his departure, Sen. Edward Kennedy declared on the Senate floor that Mindszenty reminded the world of "the indivisible nature of man's spirit and the eternal quest for individual liberty." But no government representative visited him; the institutions which once acclaimed him a martyr had no more interest in him.

Mindszenty's ultimate tragedy is that he has outlived the usefulness of his martyrdom.

All his life Mindszenty lived in a posture of defiance and displayed a dogged obstinacy which reminded his class-conscious countrymen of his peasant origin. He never seemed to have talent for conformity or wise compromise. In his 20s, he wrote newspaper articles attacking the police terror of the short-lived Hungarian Commune in 1919. He was first jailed, then deported to his native village. After that first Hungarian communist experiment collapsed, Mindszenty angered many people by denouncing from the pulpit the white terror that followed the red. Then for years he refused to celebrate mass on the name's day of the Regent, Nicholas Horthy, whom he regarded as an usurper. Of German origin himself, he changed his German name Pehm to Mindszenty—the name of his native village—at a time when Hitler called on descendants of German settlers in Eastern Europe to reassert their German identity. In his sermons and letters, Mindszenty attacked Hitler's New Order as inhuman and atheistic. On one occasion, he called the police to remove Hungarian Nazis from a procession he led. In 1941, he interceded with his schoolmate, the pro-German Premier Bardossy, on behalf of Jews in German-occupied Yugoslavia, across the border from his diocese. He also sent a telegram to Hitler to protest massacres of Jews. When Ferenc Szalasi's Nazi regime came to power, Mindszenty was one of the few priests jailed.

Partly because of his anti-Nazi record, he was named Prince Primate shortly after World War II ended. One of his first actions was to denounce Russian soldiers for looting and raping. He began a campaign against the communists. He demanded a referendum on declaring Hungary a republic. He accused the democratic parties of being soft on communism. After the democratic parties were liquidated, he thought it was his historic duty as the head of the Church to resist the communist regime.

He was arrested the day after Christmas, 1948, after all leaves were canceled in the Secret Police and the police force was put on alert.

The communists had offered him free passage to the West. During his American tour in 1947, American churchmen had asked him not to return home.

He was not a man caught in the wheels of history. He chose martyrdom; he prepared himself for it. He thought he would be sentenced to death and hoped that his execution would arouse the world against communism. And he knew that the communists had ways to extract false confessions. A few days before his arrest, he wrote a message declaring his innocence and attributing any confession he might make to the weakness of the flesh.

He served eight years in jail, most of it in solitary confinement. In 1956, the rebels freed him, and then his person served as a pretext for the Russian intervention which crushed the uprising. Much has been made of a broadcast of his which implied that his ideas had not changed but which stressed the need to return to normalcy and to eschew vengeance.

The intervention would have taken place with or without a sermon. In 1968, the Russians did not need a Mindszenty to prove that they had to rescue socialism in Czechoslovakia.

As Russian tanks rumbled through the streets of Budapest, Mindszenty sought asylum at the American legation; Premier Imre Nagy and his supporters went to the Yugoslav embassy. But for 13 of the 15 years that the Cardinal spent under U.S. protection, the United States, Hungary and Vatican agreed that he must leave the country. All that the Cardinal had to choose was one of the several facesaving formulas negotiated for him.

His argument was that as the Prince Primate of Hungary, he had taken an oath not to abandon his flock; that as a patriot it was his duty to stay in his homeland; that as an innocent man convicted by a kangaroo court he had to be exonerated.

He resisted the steadily increasing pressures of the Holy See and three American administrations—Eisenhower, Kennedy and Johnson—which considered his asylum a permanent embarrassment and the chief obstacle to improving relations with the Hungarian government. The State Department regarded him as its cross to bear; it was forever apprehensive about his falling sick or walking out in a huff. The handful of U.S. diplomats authorized to converse with him complained bitterly about his anticommunist tirades and his unceasing criticism of the United States for failing to go to Hungary's aid in her hour of need in 1956.

His eventual departure, in September 1971, Mindszenty described as his submission to the will of the Vatican. It removed the most conspicuous symbol of Catholic resistance to communism and it enabled the Church to accelerate its course of peaceful coexistence. For the Hungarian government, it represented a milestone in its search for detente at home and respectability abroad.

There were tears among the faithful. But perhaps the majority of Hungary's six and a half million Catholics was relieved: The Cardinal's self-imposed prison sentence on the top floor of the American legation was a reminder of a tragic revolution that Hungarians would rather not talk about.

"The stubborn old fool," as Hungarian communists called him, is now safely tucked away in Vienna, in a seminary that has belonged to the Hungarian Church for centuries. (The Pope had wanted him to stay in Rome, but the Cardinal insisted on staying as close to Hungary as possible.)

His departure left Hungary so much the poorer. He was the last rebel, locked up in a tower of his own making, while the nation made peace with the regime that turned out to be surprisingly kind and forgiving. He was the last knight errant while his countrymen learned to be cheerful cynics and bon vivants. As long as he stayed at the American legation, his physical presence in Hungary was still a psychological factor to reckon with. In Vienna, he is of no real consequence.

Or so one imagines. But according to the Catholic News Service, talks between the Hungarian government and the Holy See in January of this year centered on Mindszenty. No normalization of relations is possible, it was established, unless the Vatican provided for (1) the selection of a new Primate of Hungary—which was the essence of Pope Paul's announcement in February, declaring Mindszenty's post "vacant"—(2) the "neutralization" of the memoirs Mindszenty has been writing since 1956—whatever that means—and (3) the cancellation of Mindszenty's Vatican passport.

With an eerie vindictiveness—or was it a gesture to Budapest?—the Vatican announced Mindszenty's retirement twenty-five years to the day he was sentenced to life imprisonment. Mindszenty promptly denied that he had voluntarily given up his post. In effect, he called the Pope a liar. He followed it up with a six-point attack on the Hungarian government's suppression of religious freedom.

Had Mindszenty ever exercised political power, it might have been difficult for most people to live under his rule—except for those who believe in the mission of the Church to educate and to lead. But he never had a chance. He has always been in opposition—as a fighting priest, a gutsy peasant nationalist, a simple straightforward man. Had he not chosen priesthood, he might have become a soldier. Like Charles de Gaulle, he would have been the forever brooding patriot and the likeliest officer to rebel against his superiors in the name of a higher legitimacy—for the promise of grandeur instead of the expediency of compromise.

Hungarian politics always had its fair share of priests. They were usually hearty, gregarious types, outdoing their lay brothers in their appreciation for food, wine and good company which sometimes included women. Mindszenty is an exception. He has always slept on a pallet, and even in the majestic baroque palace of the Prince Primate he kept to his diet of cheese, bread and milk. When traveling, he has always refused the choice food and wine prepared for him; his wish is "only one course," often the soup. He has had no cronies, no close personal friends. From the time he was ordained—in 1915—he preferred a solitary life of meditation, prayer and reading books on theology, philosophy and history.

Mindszenty would have doubtless preferred the fate of murder in the cathedral. But these days peaceful accommodation is imperative. Moreover, his whereabouts and the extent of his activities are still useful items in the arsenals of diplomacy. There is still enough prestige and power in the man to wring out a gesture, to secure an advantage, or at least to score a point.

While the cold war lasted, he was a useful symbol to friend and enemy alike. Now that the last bugle of that crusade has been sounded, he is more of a threat to the new era than the Knight of the Rueful Countenance wandering through the fields of Montiel. The monsters Mindszenty is still fighting are not incorporeal.

But he does not seem to understand that the times call for bargaining, not martyrdom. At 82, the prelate is still fighting.

WHERE IS THAT COUNTRY WE USED TO KNOW?

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. CARTER. Mr. Speaker, there are many factors which contribute to the making of a great nation. As citizens of the United States, we can be proud that we have built a tradition of working together for strength and prosperity. The crises of the past have never diminished our characteristic desire to move ahead toward the worthy objectives of the future. I submit that we have the ability to continue to work together for an even greater nation in the years to come.

I believe that the following article presents some interesting thoughts for all of us.

The article follows:

WHERE IS THAT COUNTRY WE USED TO KNOW?

In the America of yesterday you paid your debts as quickly as possible, and went without things, to do it.

You disciplined your children—but disciplined yourself, first.

You spent less than you earned, and demanded your government do the same.

You went to church, your children to Sunday School, you held daily prayers—and no court would have dared to interpose any law into your private religion.

You would have been horrified at (and quick to change) men in high places who made "deals".

You expected to prosper only by doing a better and better job.

You obeyed the law—but took active enough part in government to see that the laws were just.

You "walked softly but carried a big stick".

And *that* was the *character* which brought this country victory in three wars in your lifetime, built it back from a shattering depression, and fed and saved the civilized world.

Is there enough of it left, to do it again?

PROJECT INDEPENDENCE

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. HANRAHAN. Mr. Speaker, in view of our current energy shortages, I think my colleagues may be interested in the following Wall Street Journal article of March 12, 1974, concerning the United States becoming self-sufficient for energy:

PROJECT INDEPENDENCE

President Nixon wants the nation to have "the capacity for self sufficiency" in energy by 1980. It's not only a good idea, it's well within the nation's capability. It wouldn't mean the United States would stop all imports of energy after 1980. At the "right prices" it would continue to do so, according to Treasury Secretary Shultz. But there would be sufficient reserve capacity here that could be called up if an Arab oil embargo were repeated.

How do we attain that degree of security? As last week's front-page articles by our Mr. Gannon indicate, there is considerable brainstorming already underway in Washington. There are proposals to enact multi-billion-dollar subsidy programs to entice oil and coal companies into developing energy alternatives. Some people want to firmly peg the price of oil high enough to attract investment to shales and coal gasification, then erect tariff walls or variable import levies to protect such investment from predatory Arab oil pricing. Others want to construct huge storage facilities to squirrel away a two- or three year energy supply. And there are proposals for a monumental conservation program, including orders to Detroit to build only autos that average 20 miles per gallon.

In our view, none of these schemes are necessary. The goal of Project Independence would be easily achieved if only the federal government would get out of the way and let the energy industry respond to market forces. Lifting price controls on the petroleum industry would be the first and most important step.

If U.S. prices were freed they would go up, expanding the incentive to look for oil here, and making other forms of energy more competitive. U.S. prices would be unlikely to reach recent world levels, which are not likely to be sustainable as non-Arab supplies increase. Indeed, the proposals for special import levies and such are intended to keep the U.S. price up if the Arabs started selling $2 crude. But having pushed the price up, the sheiks are unlikely to want to flood the world with artificially cheap oil. Even if they tried, they could not meet total world demand long enough at prices low enough to threaten the survival of the U.S. shale-oil operations, for example.

Nor does a mammoth U.S. surface reserve make any sense. Why should oil and coal be taken out of the ground, where it is now stored, and sealed off in containers above the ground? All that's necessary is that it be available as shut-in capacity within several months of a world-wide energy embargo against the U.S., which is a "worst case" contingency that in itself takes a wild imagination to conceive.

When it is free to respond to market forces, industry typically provides precisely such a capacity, by building facilities to meet not only this year's demand but next year's and so on. When oil was discovered on the North Slope of Alaska, crude prices were a quarter of what they are today. Still, the oil companies all but promised to goldplate a pipeline if the government would permit them to add two million barrels a day to the nation's oil supply. This would have covered the present shortfalls.

Finally, with congressional acquiescence, this oil may be available in 1980. But now Congress is doing its best to shut off the domestic coal equivalent of at least 5.6 million barrels of crude per day, an amount about equal to total current petroleum imports. It is doing this by writing strip-mining legislation that would effectively end the surface mining of the nation's most abundant energy resource. Its aim is not to insure reclamation of strip-mined land, a desirable and feasible objective, but simply to prevent strip mining altogether.

At the same time Congress acts to keep coal from competing with oil, and surface mining from competing with underground mining, it refuses to deregulate the wellhead price of natural gas. This has the same perverse effects on supply and demand as do the petroleum controls. Instead of exploring for domestic sources of natural gas, U.S. companies arrange long-term contracts to import liquefied natural gas at high prices that are not subject to controls.

The energy industries do not need economic activism by government—the subsidies, tariffs or federal corporations being brainstormed in Washington. In natural resources the U.S. is an energy-rich nation. Energy suppliers, who are no more anxious to be dependent on the Arabs than consumers are, are eager to expand here. Oil companies are out-bidding $200-plus million for shale-oil tracts. Electric utilities are trying to build nuclear generating plants whenever they are allowed to. They do not need artificial stimulus, only an end to price interference and some reasonable and stable rules on reclamation, safety and pollution.

To achieve the objectives of Project Independence, the government has to do only one thing: get out of the way.

THE PROBLEMS OF VIETNAM VETERANS

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. YOUNG of Georgia. Mr. Speaker, one of my constituents, a Vietnam era veteran, recently wrote to the Atlanta Journal and Constitution concerning the problems he and other veterans have experienced with the Veterans' Administration.

I would like to share with my colleagues this letter written by R. Ellington McLellan, who received the Navy Cross of Gallantry with V for Valor while serving with the Marine Corps. This article illustrates some of the frustrations which countless Vietnam era veterans must endure, in part because of attitudes they encounter at the VA:

VIETNAM VETERANS GET NOTHING BUT TROUBLE

The Editors: I am a Vietnam veteran and while serving with the Marine Corps I received a meritorious combat promotion and the Navy Cross of Gallantry with V for Valor.

I received an honorable discharge from the Marines in April 1970 and have gone through many changes and have grown very much since being discharged. I am a lucky Vietnam veteran because I had friends who supported me and tried to understand me and the problems that I had to deal with because of the senseless death and destruction I saw in that war.

I am very upset because of the lack of concern . . . the American people have concerning the Vietnam veteran. It seems that the American people just want to forget about that war and not deal with the problems the war left behind, especially the problems Vietnam veterans face upon returning to the mainstream of society.

The Veterans Administration does not seem to be dealing with the problems that Vietnam veterans face. Figures show the Vietnam veteran has a higher unemployment rate than nonveterans. Around 30 per cent of all the folk serving time in federal pens are Vietnam veterans. Close to 60,000 Vietnam veterans have died since returning to the states and many have died in violent deaths.

Since I have been doing counseling work here at the Central Committee for Conscientious Objectors, I have come in contact with many Vietnam veterans who say the Veterans Administration is not an advocate for them, and they are very bitter.

The death and destruction of that whole war is relived by tens of thousands of Vietnam veterans every day. . . . I talked to the folk who run the Veterans Administration with a group of other Vietnam veterans while in college and we went away from that meeting feeling that . . . they would never do anything about helping us deal with them through counseling and long term therapy.

Why doesn't the . . . public give the men who laid their lives on the line while in Vietnam the support and help they deserve? There are over 7.5 million Vietnam era veterans.

R. ELLINGTON MCLELLAN.

Atlanta.

IMPORTANCE OF UPCOMING ELECTION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. CONYERS. Mr. Speaker, in the never-ending effort to increase citizen participation in elections, I am communicating to all of the voters of the First District of Michigan the importance of the upcoming election in the statement that follows:

STATEMENT

Your vote is your direct weapon of control over matters of the highest importance to you and your family.

Too often, many people overlook a special election, even though it involves questions which are critical. On March 19th, Detroiters have an opportunity to vote on a key tax question, shown at the top of your ballot.

This vote has a direct effect on one-third of your present city school taxes.

Use your voter power. Make your own decision on the method of financing Detroit schools. Be sure you vote on Tuesday, March 19th on Proposition A at the top of your ballot.

KEEP INTERNAL SECURITY COMMITTEE

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1974

Mr. DICKINSON. Mr. Speaker, it is no secret that we will soon be asked to vote on a number of sweeping changes in the committee structure of the House. One such proposal, unfortunately, calls for the abolition of the House Committee on Internal Security by transferring its jurisdiction to another committee.

I am pleased to note that the distinguished editor, Mr. William R. Hearst, Jr., recently devoted his entire front page column to what is entitled "The Watchdog Committee" in which he explained in convincing detail the continuing need for the existence of the House Committee on Internal Security. For the benefit of my colleagues, I am inserting this column, which appeared in the San Francisco Examiner on March 3, 1974, and in the other Hearst newspapers, at this point in the RECORD:

WATCHDOG COMMITTEE

(By William Randolph Hearst, Jr.)

NEW YORK.—Since truth consists of provable facts, it is hardly surprising that students of Democratic freedom keep coming up with the same two fundamental observations. One is that liberty has more to fear from internal enemies than from those outside. The other is that liberty can be maintained only by keeping a constant protective vigil against the forces which would like to limit or destroy it.

The twin truisms have been expressed in various words by many different people. The U.S. philosopher William James, for example, said that "The deadliest of enemies are not foreign foes; they always dwell within." Its classic corollary is credited to an Irish judge, John Philpot Curran, who said in a 1790 speech: "Eternal vigilance is the price of liberty."

Now you might think just about everybody would agree automatically with these principles. After all, U.S. history is full of the disruptions which result whenever groups of our own people start believing that their personal convictions are more important than the freedom of their neighbors. And it certainly stands to reason that a constant, close watch be maintained if the subversive activities of such groups are to be kept at a minimum.

That's what you might think. And that's why it seems important today to tell you what is being plotted in Congress by a small but willful band of lawmakers who have somewhat different ideas. The object of their plotting is the House Internal Security Committee, which until 1969 was titled the House Un-American Activities Committee. Why and how they have made it a target confirms the warnings of William James and John Philpot Curran.

No agency of Congress has had a more stormy history. For more than 40 years the HUAC—and now the HISC—has been exhaustively and effectively probing all manner of subversive activity in this country. For the same length of time, significantly, it has been strongly resisted and regularly condemned as excessive by the usual loud chorus of liberals and left-wing Communist sympathizers.

They accused the committee of having a pathological fear of Communism, of making scarlet mountains out of pale pink molehills, of persecuting harmless political theorists and using the tactics of a bully to do it. They soft-pedaled the simple reality of why the Communists and their many subversive activities got so much attention.

The Communists and their various offshoots, from the labor agitators to organizers of student violence, got most of the committee headlines only because such radicals of the left far outnumbered such radicals of the right as members of the KKK, the German-American Bund and other neo-Fascist organizations. Yet all of the latter were as thoroughly explored as their leftist counterparts, with the same painstaking documentation of leadership, interlinkage, secret plans and actual operations.

The only difference was that the rightists did not have a claque of influential sympathizers to assail the committee and disparage its work.

These attacks have never ceased, nor are they likely to do so. The left never lets up on anything or anybody considered injurious to its efforts, nor do the people who troop along with the idea that it is smarter to be called liberal than patriotic. Patriotism, indeed, is widely considered a bad word today—which is a tribute to the sinister appeal which Communism in its many guises has for certain types of politically and socially-minded persons.

In the case of HUAC, and its less clumsily named successor, the most serious attacks have been the many congressional attempts at downright abolition. It makes no difference to its foes in Congress that the committee is acclaimed by our law enforcement officials everywhere as an invaluable source of continually updated information on radical groups of all description, left and right alike. The committee must go.

Such has always been the rallying cry of its determined enemies in Congress. And it is being sounded again right now.

Emphasizing the persistence of these people is important. It was their concerted attempt to abolish HUAC which resulted in its 1969 name change. And according to the Washington news-weekly Human Events—to which much of this column is indebted—in the 92d Congress alone a total of 37 resolutions to dissolve the committee were introduced with the backing of 67 members. None was acted upon.

Having so repeatedly failed to torpedo the committee by other means, its congressional foes now have invented a new approach—and it's a crafty one. Largely unnoticed by the press, it seems that the House Select Committee on Committees headed by liberal Missouri Democrat Richard Bolling has been working on a master plan to reorganize and streamline such bodies. The plan now has been submitted and you can imagine what it includes.

Sure enough, one of the recommendations would abolish the HISC, this time by transferring its legislative jurisdiction to the House Judiciary Committee. Communist Joseph Alsop, one of the most astute observers of the Washington political scene, recently described this grab-bag committee as "a kind of dumping ground for left-wing Democrats of the more far-out type."

The all-important point is that if the Bolling committee recommendation is adopted, it will almost certainly finish the kind of vigorous continuing probe of subversive activity for which the HUAC–HISC has been noted. Sixteen of the 21 Democrats on the Judiciary Committee have voted against appropriations for HISC in the past. The chairmen of six of its seven subcommittees have done the same. You can imagine the zeal with which they would continue the HISC work.

The legislative ploy aimed at killing the HISC, furthermore, involves an equally devious method of presentation. The recommendation for abolition is all but buried in a mass of other recommendations supported by over 2,000 pages of testimony and analysis. The liberals' hope is that many firm HISC supporters will go along with the generally good blunderbuss reorganization program lest they be accused of blocking progress toward a better and more effective Congress.

The plot COULD work—unless an enlightened public and a wide-awake House of Representatives flag it down before some kind of pressure vote is forced later in this session. And if the anti-HISC minority bloc gets away with the trickery, it will be another really major step in the steady eroding and downgrading of national security in recent years. As noted by Human Events in its issue of March 2:

"Long before Watergate, Sen. Sam Ervin (D.-N.C.), former Atty. Gen. Ramsey Clark, the American Civil Liberties Union, Sen. William Proxmire (D.-Wis.) and Sen. George McGovern (D.-S.C.) were waging open warfare against wiretapping, accumulation of data on subversives, police surveillance of potential terrorists and other security practices.

"In the wake of these campaigns, FBI and military surveillance operations, both here and abroad, have been drastically reduced The Subversive Activities Control Board has been abolished and the administration has unwisely eliminated the Justice Department Internal Security Division.

"This has created a 'climate of freedom' for all types of subversives. They believe no one is watching them closely—and their natural tendency is to go to even greater extremes in their efforts to undermine the U.S."

If you don't believe this, consider the two political kidnapings featured in all the news media during the past few weeks.

Many years ago my father wrote the following words in his newspaper column:

"The American people have been liberal to the point of lunacy. We have allowed our patriotic altars to be polluted by dirty and desecrating hands . . . by forces which would destroy us with their subversive teachings. And we can hardly blame the alien and hostile agencies and influences for having taken advantage of such public laxness and indifference."

In another column Pop said this:

"In the light of history it would certainly seem that liberty is the most precious possession of mankind. We Americans possessing liberty must exert the eternal viligance which is necessary to preserve it."

The House Internal Security Committee has long since proven its great value as one of the most effective instruments for government vigilance.

This watchdog committee must not be lost to us now—and you can help save it from the destruction plotted and hoped for by the Bolling committee.

Write your congressman and tell him how you feel. Make it strong and brief and do it right away.

If you don't know the name of the congressman supposedly representing you, call the city desk of this newspaper for the information.

THE GREAT PROTEIN ROBBERY: NO. 18: THE STUDDS-MAGNUSON 200-MILE LIMIT BILL

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. STUDDS. Mr. Speaker, the United States and Canada would have been engaged in a "haddock war" starting at midnight tonight if Canada had not agreed to withdraw an exception to international conservation regulations on Friday.

In January, the International Commission for the Northwest Atlantic Fisheries—ICNAF—adopted strengthened regulations to protect the declining stocks of haddock from complete destruction. The Government of Canada filed an exception to the new regulations in order to allow certain smaller Canadian fishing vessels to continue fishfor haddock in subarea 4X in violation of the conservation regulations. The Canadian Government agreed to withdraw its exception before the deadline comes tonight, but only after concerted efforts by officials of the State Department and the National Oceanic and Atmospheric Administration—NOAA—and leaders of the U.S. fishing industry.

Mr. Speaker, the Government of Canada took unilateral action on behalf of her fishermen. Because her unilateral action violated conservation regulations, the opposition to that action was great, and Canada agreed to withdraw her exception.

I applaud the Canadian Government's demonstrated high commitment to her fishermen, although I do not believe such a commitment should lead to actions which violate conservation regulations. Passage of the Studds-Magnuson interim 200-mile limit bill would demonstrate that the Government of the United States is also committed to our fishermen, and would do so in a way which will facilitate—rather than violate—effective measures to prevent overfishing and conserve fish stocks.

Mr. Speaker, many people have been asking me why the Congress does not immediately pass this bill to conserve the fish and protect our fishermen. I wish I could tell them the answer.

11500 BANANAS ON PIKE'S PEAK

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. HOSMER. Mr. Speaker, John C. Whitaker is the Under Secretary of the Interior. He thinks H.R. 11500 is defective because it will seriously interfere with the availability of energy from coal without adequate compensating advantages to the environment ethic.

H.R. 11500 runs counter to good sense and administration policy. Whitaker says:

It is our policy to encourage industry to produce our abundant coal reserves in an environmental sound manner. About 45 billion tons of coal can be recovered by environmental sound surface mining methods which are generally less wasteful of the coal reserves than underground mining.

He calls attention to administration plans to order oil burning electric powerplants to convert to coal during the energy emergency.

Yet H.R. 11500 would needlessly hamper production of coal where more sensible regulations would facilitate it and at the same time respect the environment.

H.R. 11500 makes just about as much sense as trying to grow bananas on Pike's Peak and that is why I do not understand the editorial pages of the Washington Post and Star-News. When students streak buck-naked through a campus, papers like these indulgently attribute it as a harmless prank. I would not argue that, but why are they so rabid in support of H.R. 11500, the bill that would prohibit topless coal mines and encourage fuelless boilers? Perhaps it is time to recall that whom the gods would destroy, they first make mad.

THE CLARKE SCHOOL OF DRESSMAKING

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. STOKES. Mr. Speaker, I wish to pay special tribute today to a woman and a school which have served my community well for nearly 50 years.

Mrs. Amanda Wicker founded the Clarke School of Dressmaking in 1925. A graduate of Tuskegee Institute, she prepared for her career with 5 years special training at the Traphagen School of Fashion in New York City. What is unique about her own school, however, is that it is designed particularly for teenagers. Every year the Clarke School awards scholarships to junior and high school students who wish to continue their education in the field of dressmaking and fashion design. To date more than 100 scholarships have been awarded.

The Clarke School of Dressmaking offers a challenging variety of courses to young people interested in either pursuing fashion careers, or just making their own clothes. Classes in "ladies' personal dressmaking" and "tailoring men's garments" are particularly suited to the latter. The course in "ladies' costume design," however, is training for would-be professional dressmakers and tailors, designers and patternmakers or patterngraders in the garment industry. A "factory power machine course" is also offered. Instructors Emma Curry and Eloise Brown Hodnett are very capably assisted by student-traineers Gwendoline Nevel, Veda General, and Enner Ree Ray.

From 1940 to 1965 Mrs. Wicker presented the annual "Book of Gold Fashion Show," famous throughout Cleveland. After a 9-year hiatus, the shows resume this month with the "Jet Set Premier" featuring teenagers modeling clothes made by the teenage sewing class at the Clarke School.

These young men and women exemplify the industrious creativity fostered by Mrs. Wicker and the Clarke School of Dressmaking. In a time of juvenile delinquency and school drop-outs Mrs. Wicker has made a solid and enduring contribution to the youth of her community. I know that the people of my district join me in saluting her. May the next 50 years of Mrs. Wicker's School be even more illustrious than the last.

UNIONS EYE $20 MILLION

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. MICHEL. Mr. Speaker, on previous occasions here on the House floor I have pointed out and called the attention of my colleagues to the aggressive and well-planned activities of organized labor in the special elections we have gone through in recent weeks.

This activity is spelled out in even more effective terms in a column by Mr. Victor Riesel appearing in the March 7, 1974, edition of the Hammond, Ind., Times, and I include the column in the RECORD at this point:

UNIONS EYE $20 MILLION

White House strategists predict that America's union leaders, determined to build a veto-proof political labor movement, will spend some $20 million in cash and millions more in "soft money" (services) to put a union label on Congress in this fall's elections.

These funds will provide the political oil for some of the most lubricated campaign machinery in history.

The machinery, made up of the Committee on Political Education personally "strategized" by AFL–CIO chief George Meany, the United Auto Workers' Community Action Program and a string of other "non-partisan" committees, is gung-ho this year. They're teaching the nation's politicians what a political drive really is—and their goal is to elect 23 more friends to the House and seven more to the Senate.

This would give them the breakthrough they've always sought when added to the already loyal 240 representatives and 56 senators—full labor control of the Congress, not just a Democratic Party majority. It would be the equivalent of a British Labor Party victory. In effect, an American labor party in all but name.

Labor expects few money-raising difficulties. During COPE's operating committee session and quiet hotel suite conferences between sessions of the AFL–CIO high command Executive Council midwinter meeting last month, it was estimated that some $7 million will be raised during the rest of this year by COPE alone.

Some of this money will be spent by the national COPE headquarters operating under Al Barkan's direction in the international AFL–CIO building on 16th street here. Half the funds will go to the state and local COPE committees such as those which have had practice runs in Vice-President Ford's former arena. Michigan's Fifth, and in the 12th congressional in the Johnstown, Pa., area.

Add to these funds the expensive services such as the movement's computerized list of some nine million union members—replete with memory box recall of addresses, precincts, registrations, etc. One of the nation's top computer specialists estimates the cost of installing such a list at about a million dollars. Maintenance would come to about 11 cents a name change. This would add tens of thousands of dollars annually.

And there is Leonard Woodcock's United Auto Workers' Community Action Program. This, too, is one of the most skilled political operations in history. It moved like a Roman legion into the "Jerry Ford district."

Phone banks were set up. Retirees made the rounds in this heavy General Motors plant area. The Detroit headquarters' Voters Identification round-the-year political education operation paid off among the 15,000 to 20,000 auto unionists.

Obviously this only part of this dramatic picture. But the pattern tells the story of the Republican rout.

It's more dramatic in Pennsylvania's 12th, the Johnstown area in which labor claims 60,000 members. Of these some 6,000 are International Ladies' Garment Workers' Union card carriers.

Johnstown is the Western Pennsylvania regional ILGWU headquarters. The union's staff is comparatively young and some are very bright.

They were motivated by one of labor's most articulate and astute political fellows, the ILGWU's national secretary-treasurer, Chic Chaikin. He's a buddy of the Kennedys' Larry O'Brien—and of the same shrewdness and tradition.

Chaikin reports that he motivated the union's local members—retirees worked during the day and the shop chairladies, stewards and activists operated out of their homes and some ad hoc headquarters during the evening.

National ILGWU President Lou Stulberg sent in additional funds to beef up what COPE was spending.

And working closely with them, all in the interests of building a strong machine for Governor Shapp's re-election, was the state COPE chief Mike Johnson (himself a former ILGWU manager).

Of course, the steelworkers and other unions with smaller memberships were active, too. But in their private councils, the union chiefs say the election would have been lost if it were left to the local Democratic Party.

So there's your pattern. COPE and CAP move in. And if it isn't CAP, then it's some other acronymed labor operation.

They hit hard. They're well equipped—money, manpower, a new movie "Victims of the Veto"—which praises Sen. Henry Jackson and lacerates Richard Nixon.

Politics is door-to-door nitty-gritty—not oratorical rhetoric. COPE and CAP have it—the computers, the huge mailings, the leaflets, the print and electronic media campaigns, the year-round action.

And they have centralized political generalship—George Meany, namely.

Added all up, it may top that $20 million estimate. Add it up and it comes to the most basic political realism of the era.

Yes, there is a third political party which can motivate its people election after election. It has a built-in machine-organized labor.

PSRO, MEDICAL CARE RATIONING

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. RARICK. Mr. Speaker, proposed rationing of gasoline drew an immediate response of indignation from the American public when it was announced as a measure to curb the energy shortage. When the test balloon burst, proponents of rationing immediately reconsidered the proposal.

Another form of rationing—medical care rationing—began January 1, but the great majority of American people have not realized that this rationing is in force. Professional standards review organizations—PSRO—are the agencies responsible for issuing this Government rationed health care.

When a Government employee, which PSRO inspectors are, can dictate to a medical doctor: whether or not his patients can be admitted to a hospital, how long his patients can receive hospitalization, and what medications, tests, and treatments his patients should receive, we have medical rationing. This is exactly what exists under HEW's PSRO program.

The Louisiana State Medical Society is currently making an effort to provide the public with the facts about PSRO, a subject that the news media has largely neglected. Louisiana doctors are alerting the working people that they will be the losers under rationed medical care, because their physicians will be forced by PSRO bureaucrats to practice medicine from a "medical cookbook" of health care "norms" established by HEW.

Approximately, the cover of the brochure published by the Louisiana State Medical Society bears a striking resemblance to the gasoline rationing coupons proposed by the Federal Energy Office. My bill, H.R. 9375 to repeal the PSRO section of the Social Security Act, would prevent this health care rationing by PSRO, if adopted.

Like all systems of Government rationing, the costs of medical care will continue to go up through increased social security taxes, while the benefits reach an alltime low through PSRO.

I ask that the "Message From Your Physician and the Louisiana State Medical Society" and a copy of H.R. 9375 follow:

A MESSAGE FROM YOUR PHYSICIAN AND THE LOUISIANA STATE MEDICAL SOCIETY

Ration Medical Care? That's right! The same Washington politicians and bureaucrats that brought you the energy crisis are now gearing up for the medical care crisis! Like oil, Washington now considers medical care a scarce and expensive commodity. The government's answer to both of these created crises appears to be the same—Rationing.

How Can the Government Ration Medical Care? By enforcing a little known section of a law already on the books, that's how! Section 249F of Public Law 92–603 provides the machinery for rationing medical care for the millions of Americans entitled to Medicare and Medicaid through something called Professional Standards Review Organizations.

Why Ration Medical Care? Health care benefits were promised to millions of Americans entitled to Medicare and Medicaid in big, bold headlines. Washington has now found, even by increasing Social Security taxes, that it does not have enough money (your tax dollars) to make good the promises made in those big, bold headlines. The politicians answer to the problem, which they created, is rationing so a lot of people will get a little bit of what was promised.

How Will Medical Care Rationing Work? First, the government will spend millions ($34,000,000.00 in 1974) not for health care, but for establishing 182 rationing systems called Professional Standards Review Organizations. No telling what the costs of PSROs will be by the time the program becomes fully operational in 1976.

How Can PSRO's Ration Medical Care? PSROs will control the amount and kind of medical care received by Medicare and Medicaid patients. Already plans are being made to extend PSRO control to all medical care. Under the law, PSROs will have the power to:

1. Tell your doctor if he can admit you to a hospital.
2. Tell your doctor how long you can stay in the hospital.
3. Tell your doctor what medications, tests, and treatment you should receive.

How Will PSRO's Be Able To Tell Your Doctor What To Do? PSROs will first develop a manual, many doctors call it a "medical cookbook", of norms and standards of care. As long as a doctor follows the PSRO manual, he will be protected by the law. Unfortunately, PSROs make no such guarantee to the patient. Nothing would be easier for your doctor than to look up your ailment and treat you according to "the book".

What Can You Do About Rationing Medical Care and PSRO's?

1. Write your Congressman and Senators. Tell them why the PSRO section (249F) of Public Law 92–603 is a bad law.
2. Tell your legislators that you do not want bureaucrats to ration the medical care you are entitled to and were promised under Medicare and Medicaid. Let them know that you have paid for these benefits through your Social Security tax—and this has not been rationed. The tax has gone up almost annually.
3. Tell them that you want no part of "cookbook" medicine.
4. Ask your Congressman and Senators to support H.R. 9375 and the other bills that have been introduced to repeal PSRO.

H.R. 9375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part B of title XI of the Social Security Act (as added by section 249F of the Social Security Amendments of 1972) is repealed.

SEC. 2. Title XI of the Social Security Act is further amended—

(1) by striking out "AND PROFESSIONAL STANDARDS REVIEW" in the heading; and

(2) by striking out "PART A—GENERAL PROVISIONS" immediately before section 1101.

ON THE RAILROAD REORGANIZATION ACT

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. HARRINGTON. Mr. Speaker, on February 1, 1974, Secretary of Transportation Claude S. Brinegar, submitted a comprehensive report which contained his recommendations for rail service in the Midwest and Northeast areas of our country. In that report, Mr. Brinegar suggested that rail service to many communities in my congressional district be terminated.

The ICC has begun hearings on Secretary Brinegar's report, which are expected to continue for the next 18 months. It seems to me that we must proceed carefully in order to develop a solid understanding as to what the local economic impact of the proposed recommendations would be. This is an essential measure given the present and projected unemployment statistics—especially in Massachusetts.

Recently, I received a letter from Mr. Phil Papa, plant manager of Owens-Illinois in Newburyport, Mass. Mr. Papa outlines the economic impact that the proposed termination of service would have on the Owens-Illinois plant in Newburyport. It seems to me that this letter, along with Mr. Papa's testimony before the ICC, is a good example of the kind of information we need to fully understand the circumstances behind Mr. Brinegar's report and act appropriately as dictated by law, in light of the projected economic impact.

Therefore, I insert Mr. Papa's letter and testimony in the RECORD at this time for the attention of my colleagues:

OWENS-ILLINOIS, INC.,
Newburyport, Mass., February 19, 1974.
Hon. MICHAEL HARRINGTON,
House of Representatives,
Washington, D.C.

DEAR MR. HARRINGTON: In one of the local newspapers, a recent article noted that the Interstate Commerce Commission was considering a plan which would eventually result in the discontinuance of the Boston & Maine service to the greater Newburyport area. I would like to formally voice my concern that such action would have a significant financial impact on Owens-Illinois and its employees.

As you know, Owens-Illinois is one of the major employees in the greater Newburyport area. We employ about 235 people on an hourly basis and an additional 25 people on our salaried payroll. In 1973, our total wages and salaries were over $1,700,000.00 and in 1974, we expect total wages and salaries to exceed the $2,000,000.00 level. In addition, future growth of Owens-Illinois in the Newburyport area is anticipated.

The Boston & Maine service is an integral part of our entire operation. Virtually 100% of our raw material requirements arrives in hopper cars; last year almost 70 such cars were received and we expect even more in 1974. In addition, our outbound shipments in 1973 totaled 496 cars. These cars either went directly to one of our customers or to an outside warehousing location for eventual shipment to our customers. Overall this represented 25% of our production or almost $1,800,000.00 in sales. Needless to say, the discontinuance of the Boston & Maine service could have a significant impact on our operation since it would put us at a competitive disadvantage relative to freight costs.

We would appreciate your assistance in pointing out to the appropriate state and federal officials our concern over the possible discontinuance of the Boston & Maine service. As you can see from the above, we are highly concerned about how such a service discontinuance would impact Owens-Illinois and the greater Newburyport area.

Very truly yours,

P. W. PAPA,
Plant Manager.

NORTHEASTERN RAILROAD INVESTIGATION REVIEW OF THE SECRETARY OF TRANSPORTATION'S RAIL SERVICE REPORT

My name is Philip W. Papa. My address is Parker Street, Newburyport, Massachusetts. My telephone number is (617) 462-6696. I am employed by Owens-Illinois, Inc., as Plant Manager of the Plastic Products Division operation at Newburyport, Massachusetts.

EXCEPTION TO THE REPORT ON RAIL SERVICE IN THE MIDWEST AND NORTHEAST REGION BY THE SECRETARY OF TRANSPORTATION

This statement is restricted to an exception to that part of the Report as it affects rail service to Newburyport, Massachusetts. This is covered in Volume II, Part I, Zone 12. Railroad service to all stations in Zone 12 is now provided by the Boston and Maine Corporation. The report does not include Newburyport, Massachusetts as a point recommended for local rail service. The rail lines of the Boston and Maine Corporation serving our plant at Newburyport, Massachusetts have been designated as "rail lines either not necessary to serve those points recommended for service or which are duplicate feeder lines."

The plant of Owens-Illinois, Inc. at Newburyport, Massachusetts in 1973 generated 566 carloads of inbound and outbound traffic, a substantial volume of which moved in covered hopper cars from rail stations in Texas. It is not known to your petitioner the criteria which was used in the preparation of the Report to reach the judgment that a present station qualifies as a "point recommended for local rail service." We submit to your Commission, however, that whatever these criteria may have been, they have not been uniformly applied. This is demonstrated by the fact that there are a very substantial number of points which have been recommended for local service which the Report shows generate annual carload traffic substantially less than 566. In Zone 14, for example, there are nine of such situations, the lowest one of which generated annual carload traffic amounting to 141 cars.

The anticipated growth in rail transportation service at the Newburyport, Massachusetts plant can be expected, under present service conditions, to increase to exceed 600 cars by 1975. With improved rail service, which is one of the objectives of the investigation by your Commission, it is anticipated that the rail tonnage to and from our Newburyport plant will show a substantially greater increase.

The recommendations contained in the Report by the Secretary of Transportation are preliminary and we submit are arbitrary to the extent that the full circumstances cannot have been evaluated nor can they be until all information has been submitted to your Commission and the full economic effects of the recommendations made in the Report, so far as they apply to Newburyport and the service to our plant at that station, can be considered. The Report recommends that the rail tracks of the Boston and Maine Corporation extend to Salisbury, Massachusetts, a point two miles distant from Newburyport. We submit to your Commission that before serious consideration can be given to the elimination of rail service to Newburyport that it must be shown that the incremental cost to the Boston and Maine Corporation of operating their equipment and maintaining their facilities for the additional two miles to Newburyport would exceed the revenue that is now being generated and will in the future be generated by the volume of carload transportation service now being performed and to be performed in the future.

We cannot in these preceedings develop the economic factors either in the cost of the Boston and Maine Corporation in providing this service or in the revenue lost to them if this traffic is no longer handled, but we do submit that your Commission should take note of this exception and to provide the opportunity for those economic factors to be determined before any further action is taken with respect to rail service at Newburyport, Massachusetts.

We further submit that there is no economic alternative form of transportation which can be substituted for all carload traffic now handled by the Boston and Maine Corporation to Newburyport. This is particularly apparent in the movement of raw material in extremely heavy unit shipments from such distant points as Texas. We submit further with respect to this point, that the use of alternative forms of transportation would be extremely wasteful of fuel and would be extremely costly to the detriment of our plant operations.

Other economic factors which must be considered is the economic impact upon our operations at the Newburyport, Massachusetts plant. We now employ a total of 270 people with total payment of wages and salaries of over $1,700,000 in 1973 which will exceed $2 million in 1974. We further submit that this operation is subject to intense economic competition and that the economy of rail transportation service is an important and necessary factor to maintain our competitive position.

In conclusion we submit to your Commission that the recommendation of the Report which potentially eliminates rail service to Newburyport, Massachusetts is not consistent with the intent of Congress in the enactment of the Rail Re-organization Act of 1973, is not consistent with the recommendation in the Report with other rail destinations to which rail service has been recommended to be continued, would create an unjustified economic hardship and would threaten the continued profitable operation of our Newburyport Plant.

Respectfully submitted.

P. W. PAPA.

AGAINST "PROGRESSIVE" SOCIAL SECURITY TAXES

HON. WILBUR D. MILLS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. MILLS. Mr. Speaker, on March 12 I introduced H.R. 13411, a bill that would amend various titles of the Social Security Act, and which, among other things, would result in the administration of the social security program by an independent agency reporting directly to the President. The bill also would result in the separation of the financial transactions of the social security program from those of the general budget. An identical bill, S. 3143, has been introduced by Senator CHURCH for himself and Senators RIBICOFF and CLARK.

I consider the changes that this legislation would make in the social security program to be of major importance and I urge all Members of the House to study these proposals.

Mr. Speaker, the case for this legislation is well stated in an article appearing in the Washington Star-News for Sunday, March 10, 1974, written by Robert M. Ball, Commissioner of Social Security from 1962 to 1973. I commend the article to the Members of the House and insert it at this point in the RECORD:

AGAINST "PROGRESSIVE" SOCIAL SECURITY TAXES

(By Robert M. Ball)

In the name of "tax reform" there is a movement afoot which would seriously undermine the contributory nature of the social security system.

One current proposal is to finance social security by a progressive tax, with complete exemption for low-wage earners. Under this proposal the present flat-rate social security deductions from earnings would be dropped, and the loss of income arising from the failure of low-wage earners to make contributions would be made up by higher payments from middle-level and higher-paid wage earners. As a consequence such earners would be called on to pay more for social security than their protection is worth to them.

Proposals to finance all or the major part of social security out of the general revenues of the United States are also being advanced.

I believe that such changes would be dangerous to the stability of the system and would threaten contributors' rights to future benefits.

A good argument can be made for direct government assistance to low-income workers, but this can be accomplished without making radical changes in the nature of our popular and successful social security system. Social security is a social *insurance* system similar to those found in major industrial countries throughout the world and is based on a long tradition of self-help. The fact that those who get protection for themselves and their families pay specifically toward the support of the system, together with the absence of a means test, are the main features of social insurance which sharply distinguish it from "welfare."

The proper financing principles for such a program—really a government-operated, contributory, retirement and group insurance plan—are by no means the same as the financing principles one would want to follow in raising money for the support of general government expenditures. Social security financing should not be considered separately from social security benefits or approached solely as a tax issue.

If the financing principles of social security are changed so that large numbers of people are paid benefits without contributing, while large numbers of other people are charged much more than they would have to pay for obtaining the protection elsewhere, fundamental changes in the benefit side of the program are almost bound to follow. Without a tie between benefit rights and previous contributions, questions would undoubtedly arise about the basis for paying benefits to those who can support themselves without the benefits. If financing were related to ability to pay, it is very likely that benefits would be related to need. Thus as a result of a change in financing, we could find that social security had been turned into a welfare or negative income tax program designed to help only the very poor and that it no longer was a self-help program serving as a base for all Americans to use in building family security.

The analysis of social security financing separately from social security benefits and solely in terms of taxation principles seems to me to be based on a misunderstanding of the nature of social security—a misunderstanding that grows in part out of the fact that social security today is lumped in with other government programs, both organizationally and in the presentation of the budget. I believe it would help make the nature of social security clear if it were operated by a separate government corporation or instrumentality and if social security transactions were kept separate from the rest of the federal budget.

Before considering this proposal, however, it would be well for the reader to have in mind the scope and nature of our social security system as it is today.

During 1974 the social security programs—cash benefits and Medicare—will pay out $75 billion in benefits.

Approximately 100 million working people will make social security contributions during 1974 and in return will receive credits toward benefits for themselves and their families designed to partly make up for the loss of earned income during retirement, during periods of extended and total disability before retirement age, or because of death. They also will receive credits toward paid-up hospital insurance during periods of extended and total disability and after age 65. Nearly 30 million people—one out of seven Americans—now receive a social security check each month, and practically all Americans are heavily dependent upon the system for future retirement, disability, survivors', and health insurance protection.

The Social Security system is a compact between the federal government and those who work in employment covered by the system. In return for paying social security contributions while earning, the worker and his family receive certain benefits under defined conditions when those earnings have ceased or may be presumed to have been reduced. As in all insurance, the covered individual exchanges the uncertainty of a relatively large potential loss for the certainty of a relatively small payment.

Social security involves very long-term commitments; not only are beneficiaries paid on the average over many years once they come on the rolls, but contributors today are being promised benefits which may not begin for 40 or more years in the future.

The system is almost entirely compulsory, and the employee contributions which are similar to employee contributions to private pension plans and group insurance are legally a tax—a benefit tax paid by the persons, who together with their families, are protected by the program. By law the income of the system can be used only for social security benefits and the administrative expenses of the social security system.

Unlike individual annuities under private insurance, social security does not, and indeed should not, build up reserves held to each worker's account sufficient to pay off accumulated rights. Social security is financed on a current-cost basis, with nearly all contributions in a given year ordinarily being used in that year to meet benefit payments and administrative expenses. The social security trust funds that do exist are contingency reserves designed to avoid the need for sudden and disruptive contribution rate increases that might otherwise be required by a sudden dislocation in the nation's economy which brought a cut in payroll and consequently in social security income.

Precisely because the honoring of expectations now being built up is dependent on future contribution income, it is essential to establish the inviolability of benefit rights and to guard the financing source from other uses or erosion. To a very considerable extent this has been done. To help make certain that the obligations now being created are honored in the distant future, the management of the system by the Executive Branch and the Congress has been conservative. All costs have been carefully estimated over the long run (for 75 years in the case of cash benefits and 25 years in the case of hospital insurance) and earmarked financing designed to meet the estimated cost has been provided for by law.

But the security of future benefit payments not only derives strength from there being *some* kind of long-range plan to fully meet cost, but is also greatly reinforced by the concept of a social security tax or contribution *paid by the people who will benefit under the system.* Putting it another way, the moral obligation of the government to honor future social security claims is made much stronger by the fact that the covered workers and their families who will benefit from the program made a specific sacrifice in anticipation of social security benefits in that they and their employers contributed to the cost of the social security system and thus they have a *right* to expect a return in the way of social security protection.

This is true in social security, railroad retirement, civil service, and state and local retirement systems, even though there is not ordinarily in any of these programs—nor, for that matter, in private group insurance—an exact relationship between the amount of protection provided and the contributions made by the individual. Very importantly, the contributory nature of the system helps to make clear that it would be unfair to introduce eligibility conditions that would deny benefits to people who have paid toward their protection.

I believe it would add significantly to public understanding of the trustee character of social security as a retirement and group insurance plan if the program were administered by a separate government corporation or instrumentality and if its financial transactions were kept separate from other government income and expenditures.

Social security now, with 70,000 employees and some 1,300 district offices across the country, is one of the very largest direct-line operations of the federal government. It accounts for nearly 60 percent of the personnel of the Department of Health, Education, and Welfare and pays out $1 for every $3 spent by all the rest of the federal government.

It does not make sense administratively to have this huge program, which intimately touches the lives of just about every American family, operated as a subordinate part of another government agency. The management of social security could be made more responsive to the needs of its beneficiaries and contributors if it were freed from the frequent changes in the levels of service to the public which grows out of short-term decisions about employment ceilings and the varying management value systems which follow the frequent changes of HEW secretaries and their immediate staffs.

Until the fiscal year 1969 budget, the financial transactions of the social security system were kept entirely separate from general revenue income and expenditures, except for purposes of economic analysis. Today they are a part of a unified budget, which lumps together general revenue income and expenditures and the separately financed social security system. This is leading in confusion on just how separate from other government programs social security really is. In the interest of protecting social security's long-term commitments, the separateness of social security financing should be made unmistakably clear.

The purpose of the annual budget is, on the one hand, to make choices among expenditures, giving preference in the budget period to one expenditure over another and, on the other hand, to determine who pays what and how much for the expenditures. Social security promises—stretching into the distant future, resting on past earnings and contributions, and with separate financing—are not a proper part of this essentially competitive process.

The inclusion of social security transactions in a unified budget is bad for other reasons as well. It leads to a distortion of the decision-making process on non-social security programs. Occasional excesses of income over outgo in social security operations in the short run tend to be used as an excuse for financing additional general revenue expenditures since social security income, though legally reserved for social security expenditures, is treated in the budget in the same way as general revenue income and shows up as if it were available money.

Just about every American has a major stake in protecting the long-term commitments of the social security program from fluctuations in politics and policy. The administration of social security by a separate government corporation or instrumentality and the separation of social security financial transactions from other government income and expenditures would strengthen public confidence in the security of the long-run commitments of the program and in the freedom of the administrative operations from short-cut political influence. It would give emphasis to the fact that in this program the government is acting as trustee for those who have built up rights under the system. Such changes would not only help

to preserve social security as our most effective anti-poverty program—keeping some 12 million people out of poverty and doing so under conditions that protect their dignity and self-respect—but would also help to preserve social security as a universal **retirement and** group insurance plan on which all Americans can rely.

EMERGENCY ENERGY EMPLOYMENT ACT

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. MOAKLEY. Mr. Speaker, our Nation is currently experiencing severe unemployment. Predictions for the year ahead are very pessimistic. Some economists estimate that unemployment may go as high as 6.5 or 7 percent. Jobless benefits are being paid weekly to more than 2½ million people. And, the numbers are increasing by 25,000 a week.

It appears as though the energy crisis is responsible for much of this unemployment. According to statistics published by the Department of Labor, energy-related layoffs account for 16 percent of nationwide unemployment. For the week ended March 2, of 313,000 new claims for unemployment benefits, 49,600 attributed their layoff to the energy crisis.

These are the exact figures as to energy-related unemployment. Many distinguished economists, as I said earlier, are predicting even higher levels. Wassily Leontief, the Nobel Prize-winning economist from Harvard, predicts a 10-percent reduction in total business activity this year. We have already seen that the gross output of the Nation has fallen for the fourth consecutive month. Recession is a word that must be faced.

And what does this mean?

This means that the American worker is bound to pay. The American worker is bound to be the helpless victim of the energy crisis.

Workers in the airline industry, the chemical industry, the plastics industry, the automotive industry—all are bound to suffer.

We are facing a new crisis. A crisis of unemployment as a result of the energy shortage.

And what kind of response has there been to this inevitable situation? None of significance.

The Nixon administration has proposed an increase in the compensations paid to unemployed. They would provide $1 billion in additional compensation to begin July 1, with the new fiscal year. While this will help the worker make ends meet, it will not provide a single new job. It will not help the workers whose benefits expire before July 1. It simply does not tackle the question of energy related unemployment.

What we need is a comprehensive plan to confront the problem of energy related layoffs. We need not only to provide assistance to these unfortunate workers, but we need to provide them with jobs.

For this reason, I introduced in the House several weeks ago such a comprehensive plan. The same bill was introduced in the Senate by Senator HUBERT HUMPHREY. This bill, the Energy Emergency Employment Act of 1974, is designed to meet the entire needs of the energy related unemployed, in a fair and equitable manner, and at the lowest possible cost to the American taxpayer.

The legislation which I have introduced has three main parts.

First, it establishes an Energy Emergency Employment Board. This Board is to be composed of the Secretary of Labor, the Director of the Federal Energy Office, and five public members. The Board will have five distinct functions—

Oversee the entire program as set up in this bill;

Develop an "early warning system" to anticipate energy related layoffs, and to effectively counter them as they occur;

Establish all guidelines and criteria under which the act is to be administered;

Recommend to Congress and to the President measures needed to combat energy related unemployment; and

Report to Congress and to the President every 6 months, in their success in dealing with energy layoffs, and their predictions as to energy unemployment and underemployment.

Second, the bill would establish a public service employment program. It would provide financial assistance to public service employers to provide jobs for the energy related unemployed. Funds for this part of the program are to be distributed equitably, with 80 percent of the funds being apportioned to States according to their proportionate share of energy related layoffs. The remaining 20 percent would go to areas that are hardest hit by the crisis, as determined by the Board.

This section of the bill would also provide for incentives for private sector employers to hire the energy-related jobless. This would be done in the form of a 15-percent tax credit on the first 12 months of wages paid to a worker formerly unemployed as a result of the crisis. Further, it would reimburse firms for costs incurred for the recruitment and training of such workers.

Finally, this title of the bill provides for a certification procedure, to certify jobless as energy related. This would insure against abuses of the program by workers and by employers.

The third and last title of the bill provides for economic assistance to workers affected by the energy crisis. The "economic adjustment allowance" outlined in this section includes the following provisions:

Readjustment assistance allowance;

Training and counseling help;

Relocation expenses; and

Health insurance benefits.

Mr. Speaker, I cannot stress enough the importance of this kind of legislation. This type of comprehensive approach is the only way in which we can begin to tackle the enormous question of energy-related unemployment.

Already, more than 30 of my colleagues have agreed to attach their names to this bill as cosponsors. This, I believe, is a great indication of the immediate need for a comprehensive plan to help our Nation's unemployed.

I urge the Congress to act quickly but carefully on this matter. We must help the energy-related jobless fairly and immediately, for their sake, and for the sake of the Nation's economy.

We must give them assistance, and jobs—to replace their unemployment checks with paychecks.

AMENDMENT TO H.R. 69

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. O'HARA. Mr. Speaker, in further compliance with the requirements of House Resolution 963, I include at the conclusion of these remarks, one further amendment to H.R. 69, which I am reserving the right to offer when that bill is called up for reading and amendment:

AMENDMENT TO H.R. 69, AS REPORTED—OFFERED BY MR. O'HARA

O'HARA AMENDMENT NO. 3b

Page 28, beginning with line 1 strike out everything down through page 58, line 18, and insert in lieu thereof the following:

TITLE I—AMENDMENTS OF TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

DECLARATION OF POLICY

SEC. 101. Section 101 of title I of the Elementary and Secondary Education Act of 1965, as amended, is amended to read as follows:

"SEC. 101. In recognition of the special educational needs of educationally deprived children and the impact that the presence of such children have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving such children to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children."

EXTENSION OF TITLE I PROGRAMS

SEC. 102. Section 1902 of title I of the Elementary and Secondary Education Act of 1965 (hereinafter referred to as "the Act") is amended (1) by striking out "for grants to local educational agencies", and (2) by striking out "1973" and inserting in lieu thereof "1977".

ALLOCATION OF FUNDS

SEC. 103. Section 103(a) of title I of the Act is amended to read as follows:

"SEC. 103. (a)(1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph an amount equal to not more than 1 per centum of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term 'State' by this subsection). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to subsection (d)(1), and (ii) to make payments pursuant to subsection (d)(2). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

"(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State shall be eligible to receive under this part for a fiscal year shall (except as provided in paragraph (3)) be: (A) from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection), but not more than $2,000,000,000, the product obtained by multiplying the number of children aged five to seventeen, inclusive, in the school district of such agency by 40 per centum of the amount determined under the next sentence, and (B) from the remaining one-third of such amount so appropriated, but not more than $1,000,000,000 the product obtained by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State, except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States. In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under the two preceding sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

"(3) (A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

"(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

"(C) The grant which Puerto Rico shall be eligible to receive under this part for a fiscal year shall be from two-thirds of the amount appropriated for such year for payments to States under section 134(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection), but not more than $2,000,000,000, the product obtained by multiplying the number of children aged five to seventeen, inclusive, in Puerto Rico by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States, and, from the remaining one-third of such amount so appropriated, but not more than $1,000,000,000, the amount arrived at by multiplying the number of children counted under subsection (c) by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(4) For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands."

TECHNICAL AMENDMENT

SEC. 104. Section 103(b) of title I of the Act is amended by striking out "aged five to seventeen, inclusive, described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a)" and inserting in lieu thereof "counted under subsection (c)".

DETERMINATION OF NUMBER OF CHILDREN TO BE COUNTED

SEC. 105. (a) Section 103(c) of title I of the Act is amended to read as follows:

"(c) (1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2) (A), (B) two-thirds of the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2) (B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to section 123 for the purposes of a grant to a State agency, or being supported in foster homes with public funds."

(b) (1) Section 103(d) of the Act is redesignated as paragraph (2) of subsection (c) and the first sentence thereof is amended to read as follows:

"(A) For purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.".

(2) The second sentence of paragraph (2) of such section (as so redesignated) is deleted, and the third sentence of paragraph (2) of such section (as so redesignated) is amended to read as follows:

"(B) For purposes of this section, the Secretary of Health, Education, and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.".

(3) The fourth sentence of paragraph (2) of such section (as so redesignated) is amended by inserting "(C)" before "When" and by striking out "having an annual income less than the low-income factor (established pursuant to subsection (c))" and inserting in lieu thereof "below the poverty level (as determined under paragraph (A))."

(c) Section 103 of the Act is amended by striking out subsection (e).

SPECIAL USE OF FUNDS FOR INDIAN CHILDREN

SEC. 106. Section 103 of title I of the Act is amended by adding at the end thereof the following:

"(d) (1) From the amount allotted for payments to the Secretary of the Interior under clause (B) (i) in the second sentence of subsection (a) (1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

"(2) The amount allotted for payments to the Secretary of the Interior under clause (B) (ii) in the second sentence of subsection (a) (1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 131(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of section 131(a) and 133(a) (3)."

STATE OPERATED PROGRAMS

SEC. 107. Title I of the Act is amended by inserting the following in lieu of parts B and C:

"PART B—STATE OPERATED PROGRAMS

"PROGRAMS FOR HANDICAPPED CHILDREN

"SEC. 121. (a) A State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), shall be eligible to receive a grant under this section for any fiscal year.

"(b) Except as provided in section 124, the grant which an agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States), multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(c) A State agency shall use the payments made under this section only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of such children, and the State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

"(d) In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in subsection (c).

"PROGRAMS FOR MIGRATORY CHILDREN

"SEC. 122. (a)(1) A State educational agency or a combination of such agencies, upon application, may receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application only upon his determination—

"(A) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

"(B) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

"(C) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1)(B) and (3) through (12) of section 131(a), and of section 132; and

"(D) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering the funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

"(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for such State or States under this section.

"(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in the consideration of programs and activities contained in applications submitted under this subsection.

"(b) Except as provided in section 124, the total grants which shall be made available for use in any State (other than Puerto Rico) for this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (1) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (2) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary, to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. The total grant which shall be made available for use in Puerto Rico shall be arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

"PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN

"SEC. 123. (a) A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be eligible to receive a grant under this section for any fiscal year (but only if grants received under this section are used only for children in such institutions).

"(b) Except as provided in section 124, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(c) A State agency shall use payments under this section only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

"RESERVATION OF FUNDS FOR TERRITORIES

"SEC. 120. There is authorized to be appropriated for each fiscal year for purposes of each of sections 121, 122, and 123, an amount equal to not more than 1 per centum of the amount appropriated for such year for such sections for payments to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands under each such section. The amounts appropriated for each such section shall be allotted among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title."

USE OF FUNDS BY LOCAL EDUCATIONAL AGENCIES; PARENT ADVISORY COUNCILS

SEC. 108. (a) Section 141(a)(1) of the Act is amended by striking out so much thereof as precedes clause (B) and inserting in lieu thereof the following:

"(1) that payments under this title will be used for the excess costs of programs and projects (including the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools eligible for assistance under this title, the training of teachers, and, where necessary, the construction of school facilities and plans made or to be made for such programs, projects, and facilities (A) which meet the individual needs of children demonstrating the need for remedial education, and such payments shall be used only for such needs of such children, without regard to race, sex, religion, national origin, family income, or any other socio-economic criteria, and".

(b) Section 141(a)(2) of the Act is amended to read as follows:

"(2) that the local educational agency has provided satisfactory assurance that section 132 will be complied with;".

(d) Section 141 of the Act is amended by striking out subsection (c), by redesignating subsection (b) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b) It is the purpose of the Congress to encourage, where feasible, the development for each educationally deprived child participating in a program under this title of an individualized written education plan (maintained and periodically evaluated) agreed upon jointly by the local educational agency, a parent or guardian of the child, and when appropriate, the child. The plan shall include (1) a statement of the child's present levels of educational performance, (2) a statement of the long-range goals for the education of the child and the intermediate objectives related to the attainment of such goals, (3) a statement of the specific educational services to be provided to such child, (4) the projected date for initiation and the anticipated duration of such services, (5) objective criteria and evaluation procedures and a schedule for determining whether intermediate objectives are being achieved, and (6) a review of the plan with the parent or guardian at least annually with provision for such amendments as may be mutually agreed upon.".

ADJUSTMENTS NECESSITATED BY APPROPRIATIONS

SEC. 109. Section 144 of title I of the Act is amended by striking out the first sentence and inserting in lieu thereof the following: "If the sums appropriated for any fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which all local and State educational agencies are eligible to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under section 121, 122, or 123 shall be equal to the total amount of the grant as computed under each such section. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under part A of this title for such year, the allocations to such agencies shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 90 per centum of its allocation under part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any of such remaining local educational agencies from being thereby reduced to less than such amount."

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 110. (a) Sections 142 through 144 of the Act (and all cross-references thereto) are redesignated as sections 143 through 145, respectively (and will be further redesignated under section 110(h) of this Act), and the following new section is inserted immediately after section 141:

"PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

"SEC. 132. (a) To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of clauses (A) and (B) of paragraph (1) of subsection (a) of section 131, paragraph (2) of subsection (a) of such section, and clauses (A) and (B) of paragraph (3) of subsection (a) of said section.

"(b)(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner shall waive such requirement and the provisions of section 131(a)(2) and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a) upon which determination the provisions of paragraph (a) and Section 131(a)(2) shall be waived.

"(3) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under this title.

"(4)(i) The Commissioner shall not take any final action under this section or section 807 (d), (e), or (f) until he has afforded the State and local educational agency affected by such action at least 60 days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

"(ii) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subsection (a), it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(iii) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(iv) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code."

TECHNICAL AND CONFORMING AMENDMENTS TO TITLE I OF ESEA

SEC. 111. (a) Section 141(a)(4) of title I of the Act is amended by striking out "section 145" and inserting in lieu thereof "section 433 of the General Education Provisions Act".

(b) Sections 141(a)(1)(B) and 144(a)(2) (as redesignated by section 109 of this Act) of the Act are each amended by striking out "maximum".

(c)(1) Section 143(a) (as redesignated by section 109 of this Act) of title I of the Act is amended by striking out "described in section 141(c)" and inserting in lieu thereof "provided for in section 122".

(2) Section 143(a)(1) (as redesignated by section 109 of this Act) of title I of the Act is amended by striking out "section 103(a)(5)" and inserting in lieu thereof "section 121".

(d) Section 144(a)(2) (as redesignated by section 109 of this Act) of title I of the Act is amended by striking out "or section 131".

(e) Section 144(b)(1) (as redesignated by section 109 of this Act) of title I of the Act is amended to read as follows:

"(1) 1 per centum of the amount allocated to the State and its local educational agencies as determined for that year under this title; or".

(f) The third and fourth sentences of section 145 (as redesignated by section 109 of this Act) of title I of the Act are each amended by striking out "section 103(a)(6)" and inserting in lieu thereof "section 122".

(g) Sections 146 and 147 of title I of the Act are each amended by striking out "section 141(c)" and inserting in lieu thereof "section 122".

(h) Part D of title I of the Act (and any cross-reference thereto) is redesignated as part C, section 141 of the Act (and any cross-reference thereto) is redesignated as section 131, sections 143 through 145 of the Act (as redesignated by section 109 of this Act) (and cross-references thereto) are further redesignated as sections 133 through 135, respectively, sections 146 through 149 of the Act (and cross-references thereto) are redesignated as sections 136 through 139, respectively, and section 150 of the Act (and any cross-reference thereto) is redesignated as section 141.

(i) Section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new paragraphs:

"(16) For purposes of title II, the 'average per pupil expenditure' in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies as defined in section 403(6)(B) in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(17) For the purposes of title II, 'excess costs' means those costs directly attributable to programs and projects approved under that title which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects (but not including expenditures under that title for any comparable State or local special programs for educationally deprived children or expenditures for bilingual programs or special education for handicapped children or children with specific learning disabilities)."

STUDY OF PURPOSES AND EFFECTIVENESS OF COMPENSATORY EDUCATION PROGRAMS

SEC. 112. (a) In addition to the other authorities, responsibilities, and duties conferred upon the National Institute of Education (hereinafter referred to as the "Institute") by section 405 of the General Education Provisions Act, the Institute shall undertake a thorough evaluation and study of compensatory education programs, including such programs conducted by States and such programs conducted under title I of the Elementary and Secondary Education Act of 1965. Such study shall include—

(1) an examination of the fundamental purposes of such programs, and the effectiveness of such programs in attaining such purposes,

(2) an analysis of means to accurately identify the children who have the greatest need for such programs, in keeping with the fundamental purposes thereof,

(3) an analysis of effectiveness of methods and procedures for meeting the educational needs of children, including the use of individualized written educational plans for children, and programs for training the teachers of children,

(4) an exploration of alternative methods, including the use of procedures to assess educational disadvantage, for distributing funds under such programs to States, to State educational agencies, and to local educational agencies in an equitable and efficient manner, which will accurately reflect current conditions and insure that such funds reach the areas of greatest current need and are effectively used for such areas,

(5) experimental programs to be administered by the Institute, in cases where the Institute determines that such experimental programs are necessary to carry out clauses (1) through (4), and the Commissioner of Education is authorized, notwithstanding any provision of title I of the Elementary and Secondary Education Act of 1965, at the request of the Institute, to approve the use of grants which educational agencies are eligible to receive under such title I (in cases where the agency eligible for such grant agrees to such use) in order to carry out such experimental programs, and

(6) findings and recommendations, including recommendations for changes in such title I or for new legislation, with respect to the matters studied under clauses (1) through (5).

(b) The National Advisory Council on the Education of Disadvantaged Children shall advise the Institute with respect to the design and execution of such study. The Commissioner of Education shall obtain and transmit to the Institute such information as it shall request with respect to programs carried on under title I of the Act.

(c) The Institute shall make an interim report to the President and to the Congress not later than December 31, 1976, and shall make a final report thereto no later than nine months after the date of submission of such interim report, on the result of its study conducted under this section. Any other provision of law, rule, or regulation to the contrary notwithstanding, such reports shall not be submitted to any review outside of the Institute before its transmittal to the Congress, but the President and the Commissioner of Education may make to the Congress such recommendations with respect to the contents of the reports as each may deem appropriate.

(d) There is authorized to be appropriated to carry out the study under this section the sum of $15,000,000.

(e)(1) The Institute shall submit to the Congress, within one hundred and twenty days after the date of the enactment of this Act, a plan for its study to be conducted under this section. The Institute shall have such plan delivered to both Houses on the same day and to each House while it is in session. The Institute shall not commence such study until the first day after the close of the first period of thirty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress.

(2) For purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computations of the thirty-day period.

SURVEY AND STUDY FOR UPGRADING NUMBER OF CHILDREN COUNTED

SEC. 113. (a) The Secretary of Commerce shall, in consultation with the Secretary of Health, Education, and Welfare, expand the current population survey (or make such other survey) in order to furnish current data (for each State with respect to the total number of school-age children in each State to be counted for purposes of section 103 (c)(1)(A) of title I of the Act. Such survey shall be made, and a report of the results of such survey shall be made jointly by the Secretary of Commerce and the Secretary of Health, Education, and Welfare to the Congress, no later than February 1, 1975.

(b) The Secretary of Health, Education, and Welfare and the Secretary of Commerce shall study the feasibility of updating the number of children counted for purposes of section 103(c) of title I of the Act in school districts of local educational agencies in order to make adjustments in the amounts of the grants for which local educational agencies within a State are eligible under section 103(a)(2) of the Act, and shall report to the Congress, no later than February 1, 1975, the results of such study, which shall include an analysis of alternative methods for making such adjustments, together with the recommendations of the Secretary of Health, Education, and Welfare and the Secretary of Commerce with respect to which such method or methods are most promising for such purpose, together with a study of the results of the expanded population survey, authorized in subsection (a) (including analysis of its accuracy and the potential utility of data derived therefrom) for making adjustments in the amounts paid to each State under section 134(a)(1) of title I of the Act.

(c) No method for making adjustments directed to be considered pursuant to subsection (a) or subsection (b) shall be implemented unless such method shall first be enacted by the Congress.

CONTINUATION OF MILITARY DEPENDENTS SPECIAL EDUCATION IN HAWAII

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mrs. MINK. Mr. Speaker, under a recent policy change proclaimed by the Department of Defense, Federal funds would no longer be provided for children's special educational needs who have severe learning disabilities. For years, these children have received benefits under the civilian health and medical program of the uniformed services—CHAMPUS—which provides financial assistance for medical services obtained from civilian health care providers. Now, the DOD has decided to discontinue cost-sharing for educational services where that kind of service is essentially the only one being provided.

On its face, the Department's policy switch is patently unfair. What difference should it make if only one kind of service is provided to any particular patient? Funds are not being cut off if a CHAMPUS participant is treated solely for measles, cancer, or a broken leg. The distinction adversely affecting children afflicted with learning disabilities appears to have no basis in fact.

According to the Department's statement on this matter, CHAMPUS payments for special education are being withdrawn because the problem is primarily one of education rather than medical treatment for which the program is intended. Yet the cutoff of funds is being imposed "even though a beneficiary may have an approved medical diagnosis and a recommendation or order from a medical professional that educational services should be provided for the treatment of the condition diagnosed."

This is certainly a heartless means of achieving budget cuts. In the State of Hawaii, one of the institutions most severely affected will be the Armed Services Special Education and Training School—ASSETS—a private, nonprofit school for elementary level children—dependents of active duty military personnel—who have learning disabilities and whose academic needs cannot be adequately met in public or other private schools in Hawaii.

The primary goal of ASSETS is to offer instruction, learning and academic therapy for those dependent children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language—spoken or written. Such a disorder can manifest itself in an imperfect ability to think, listen, read, write, spell, or do mathematical calculations.

These disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunctions, dyslexia, developmental aphasia, and other similar handicaps. Certainly these come under the category of medical conditions and special education is a form of treatment. CHAMPUS payments have been provided as such for years and only by twisted logic can it be suddenly discovered now that such payments are not authorized by the law.

Because it is heavily dependent on CHAMPUS funding, Hawaii's ASSETS and the military families who will need these services in the future will suffer greatly because of this shortsighted and discriminatory change. Accordingly, I am introducing today, legislation in the House, as a companion to that offered previously by my colleague Senator DANIEL K. INOUYE to require the Armed

Forces to continue to provide special education services to physically handicapped dependents of members serving on active duty. This will be accomplished by amending section 1079(d) of title 10, United States Code, to specify the eligibility of children in need of special education for learning disabilities.

I hope this legislation will receive early and favorable consideration by the Congress.

CETA IN PERSPECTIVE

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. STEIGER of Wisconsin. Mr. Speaker, in signing the Comprehensive Employment and Training Act of 1973 into law last December, the President hailed it as one of the finest pieces of legislation to have reached his desk that year. The act represents a significant shift in intergovernmental responsibilities and is, in a very real sense, the cutting edge of the new federalism. However, as is true of any piece of legislation, the proof of its value will lie in its implementation.

I commend to my colleagues the following article by Sar A. Levitan and Garth L. Mangum, the current and past chairman, respectively, of the National Manpower Policy Task Force. This article represents a constructive addition to the continuing policy debate surrounding our efforts to develop an effective national manpower policy.

The article follows:

AN OLD BUDGET FOR NEW LEGISLATION: IMPACT 1974

(By Sar A. Levitan and Garth L. Mangum)

The developments in manpower policy and priorities over the past year have left significant and lasting changes in our nation's manpower efforts. The signing of the Comprehensive Employment and Training Act (CETA) on December 28, 1973, was potentially the most far-reaching change. Hailed by the administration as a "substantial achievement in the movement toward special revenue sharing goals of decentralized and decategorized domestic programming," the act marks a departure from federal dominance in the manpower field.

CETA IN PERSPECTIVE

Many observers of the manpower system as it evolved during the past dozen years have agreed that the federal establishment has dominated the design, planning, and delivery of manpower programs at the expense of state and local involvement. The rhetoric of decentralization and decategorization promised more efficient and effective utilization of manpower resources—less time wasted in securing federal approval and less money diverted to national emphasis programs that do not meet local needs.

Given the conflicts between the Nixon administration and Congress over the past three years and the oft-noted deterioration of the bipartisanship which prevailed in manpower policy until about 1970, it is easy to forget that the administration and both parties in Congress have been pursuing essentially the same objectives. The differences were largely in detail and in rhetoric. The rhetoric in particular might lead the casual observer to believe that a radically new concept—manpower revenue sharing—had been introduced and had prevailed in a remarkably short time. Actually a consensus on the need for decentralization and decategorization had been building for a decade and the concepts had no serious opposition left. As early as 1964, the Senate Subcommittee on Employment and Manpower recommended the formation of manpower advisory committees in every major labor market area, which were to include representatives of each public and private agency and target groups in the community with substantial manpower interests. Committees were "to consider the full range of manpower problems and needs in the community for the present and future" and were to have their counterparts at the state and regional level.

On the legislative front, the 1967 amendments to the Economic Opportunity Act designated Community Work and Training Programs (CWTP) as single sponsors for local manpower programs and authorized Concentrated Employment Programs (CEP) to develop one-stop manpower service centers. The 1968 amendments to the Manpower Development and Training Act gave states the authority to approve all institutional projects as long as they conformed to a federally-approved state plan.

Administratively, the Department of Labor initiated the Cooperative Area Manpower Planning System (CAMPS) to encourage local decision making in manpower policy and shifted more of its contract approval decisions to regional offices. George P. Shultz, the first Secretary of Labor under President Nixon, indicated support of manpower decentralization and decategorization when he served as chairman of a pre-inauguration manpower task force.

The key policy decision was to consolidate responsibility for planning and delivery of manpower services in the hands of elected officials in the states and localities—not with the professional bureaucrats who earlier dominated local manpower operations. In 1972, manpower planning councils were reconstituted under the chairmanship of mayors and governors. Building on the 1967 "Green Amendment" to the Economic Opportunity Act (which authorized local governments to assume sponsorship of community action agencies and antipoverty manpower programs), the Department of Labor funded nine pilot projects in 1973 to consolidate authority for MDTA and EOA programs under the auspices of local government.

It took the new law, however, to give final approval to the choice of elected officials as manpower sponsors and more significantly, to clarify the relative roles of federal, state, and local governments and community organizations. The law gives the states a role both as sponsor for areas not covered by direct federal grants and as coordinator of state agencies—the employment security, vocational education and welfare agencies—and localities. Involvement of community groups, at least in the planning process, is assured. And, the federal government is left with oversight authority—that could be exercised as strictly as it chooses—to approve the sponsors' plans and to assure that CETA's standards of serving the "economically disadvantaged, unemployed, and underemployed" are met.

Though the "new" manpower policy embodied in CETA is really a decade old, this does not minimize the achievements of those who brought CETA into being. Nearly all groups recognized the desirability of assigning greater responsibility to state and local officials for manpower programs, but there were many objections to the comprehensive legislation. Some opponents were merely protecting their vested interest in some categorical programs or arguing for political purposes. Others questioned the extremeness of the administration's "put the money on the stump and run" language at some points, and feared that "revenue sharing" was a blind for cutting manpower budgets. None of these disagreements, however, go to the heart of the decentralization-decategorization debate.

Informed opposition to CETA raised two important questions that may haunt ardent proponents of decentralized and decategorized manpower programs: Can state and local governments be trusted to give priority to the needs of disadvantaged people? And will the feds supply as much money for a single comprehensive program as for the aggregate of many separate ones?

ACCOUNTABILITY UNDER CETA

The first fear was fostered by the extreme manpower revenue sharing rhetoric, which sounded as though the administration was in fact preparing to abandon responsibility for manpower efforts except for the supply of funds. Any such inclinations were tempered in CETA which leaves the federal establishment an opportunity and a mandate to remain the steward of appropriated funds. In fact, federal manpower agencies never had much influence over what occurred with manpower money in the field. They could audit to determine whether anyone had "his hand in the till." They could require reports stating that all or most of the enrollees fit the disadvantaged criteria. But they could never assure that the reports were accurate or that the criteria in fact identified those most in need of services. They could insist that program operators supply the services prescribed in program guidelines but they could never assure that the services fit the clients' needs nor that they were of high quality. All of these quality controls had to be left to the local jurisdiction's good faith and commitment.

Since manpower is only one of the many responsibilities of a governor, mayor, or county supervisor, his competence as a manpower practitioner is less important than his commitment to manpower as a local policy tool. The elected official is in a position to create his own bureaucracy to plan and administer programs. The tradeoff will be between the established, professional, federally-oriented bureaucracies and a new and smaller bureaucracy less experienced and accountable to an elected official who will likely be concerned only about the political consequences of his manpower policies. Inexperience is by definition temporary. The continuing issue will be political responsiveness to the manpower clientele. This responsiveness will now depend on clients' organization and political muscle, not on the relationship of the elected official to his bureaucrats.

THE 1975 MANPOWER BUDGET

Without minimizing the importance of good administration in the delivery of manpower services, it must be recognized that the most efficient administration does not create jobs or provide training facilities and opportunities. Funds are needed to plan and implement manpower programs and even the most ardent advocates of encouraging greater local participation in manpower programs recognize that decentralization of authority over manpower services will not increase the efficiency of these programs overnight. On the contrary, the period of transition may entail extra expenditures and little administrative savings. Clearly, the inclusion of state and local officials in the manpower system can bring about only marginal improvements in the short run. Some had hoped that the period of transition to greater roles for state and local manpower administrators would be accompanied by the necessary financial support to allow for the orderly continuation of existing programs and that the manpower budget would be sweetened to allow for greater local experimentation. This, regrettably, was not the case.

After the sharp reductions of manpower outlays in 1973, it is quite clear that the fat years for manpower are over. The budget demonstrates that the administration favors comprehensive programs only if they can be achieved with smaller aggregate costs. Total manpower expenditures peaked at the $5 billion level during fiscal 1973—a cut of $300 million from the earlier announced plans (Table 1). The Office of Management and Budget anticipates that fiscal 1974 outlays for manpower programs will be cut during the current year by an additional $153 million and that they will remain at the $4.8 billion level during the succeeding fiscal year.

The apparent stabilization of manpower outlays is, of course, misleading because it does not take into account the inflation that has occurred in recent years. Given the 8.8 percent rise in the Consumer Price Index during 1973 and an anticipated increase of about 7 percent (if not worse) during the current year, it would have required an increase of about $700 million in the manpower budget just to keep up the 1973 *real* level of expenditures.

TABLE 1.—MANPOWER BUDGET SUMMARY

[In millions of dollars]

Program	1973 actual	1974 estimate	1975 estimate
Total	4,952	4,808	4,831
Comprehensive manpower assistance training	1,388	1,398	1,902
Emergency employment assistance	1,005	631	
Work incentive training and placement	177	197	200
Veterans programs	292	337	339
Employment service	431	428	424
Vocational rehabilitation	636	715	770
Social services training	58	41	61
Other training and placement programs	276	282	260
Employment-related child care	433	502	584
Program direction, research, and support	209	220	219
Other supportive services	48	58	51

Source: U.S. Office of Management and Budget.

The aggregate manpower budget reduction of about 18 percent in real terms between 1973 and 1975 masks the disproportionate distribution of the losses. Programs for the poor, the unemployed, and underemployed served by CETA are slated for the sharpest cuts. In fiscal 1973, the outlays that are covered by the Comprehensive Employment and Training Act efforts amounted to $2.4 billion. The administration proposes to cut these outlays to $1.9 billion during fiscal 1975 (Table 2).

At the state and local level, the combination of manpower funds administered by the Department of Labor amounted to $2.1 billion of the $2.4 billion total. It was reduced to $1.9 billion in 1974 and to $1.6 billion in 1975. Institutional expenditures are expected to expand slightly in 1975 after their cut in 1974. This assumption seems reasonable since states and localities will receive a 5 percent funding bonus for planning institutional programs jointly with state vocational education agencies. On-the-job training programs, which underwent significant cutbacks in 1974, are expected to receive greater preference among state and local sponsors in 1975. Much of the increase is due to the fact that state and local governments will have to pick up funding for the JOBS program, which was a national program this year. Expeditures for work experience programs for school age youth, also retrenched in 1974, will grow by 30 percent in 1975 thanks to unexpended funds left over from previous appropriations. The legality of impounding these funds has been questioned by the lower courts.

TABLE 2.—ESTIMATED DISTRIBUTION OF COMPREHENSIVE EMPLOYMENT AND TRAINING FUNDS

[Dollar amounts in millions]

	1973		1974		1975	
	Actual	Percent	Estimate	Percent	Estimate	Percent
Total	$2,393	100.0	$2,029	100.0	$1,902	100.0
State and local:						
Institutional	410	17.1	365	18.0	417	21.9
OJT	143	6.0	91	4.5	242	12.7
In-school work support	295	12.3	289	14.2	394	20.7
Postschool work support	248	10.4	311	15.3	573	30.1
Subtota'	1,096	45.8	1,056	52.0	1,626	85.5
Public employment program	1,005	42.0	631	31.1		
National:						
Institutional			$30	1.5	$30	1.6
Job Corps	$188	7.9	183	9.0	171	9.0
OJT			40	2.0	50	2.6
JOBS	104	4.3	77	3.8		
Migrant Workers			11	.5	24	1.3
Subtotal	292	12.2	341	16.8	275	14.5

Note: Details may not add to totals due to rounding.

Source: U.S. Office of Management and Budget.

The major loss which state and local governments have been asked to absorb is in public service employment. During 1973, expenditures under the Emergency Employment Act added $1 billion to the $248 million spent in other public service employment programs. States and localities will have $631 million left for 1974 from EEA, to which comprehensive manpower funds are expected to add only $311 million, bringing the cut to 25 percent. However, despite the successful struggle to include a separate public employment program in CETA, states and localities must plan for even greater reduction in public service jobs in 1975. Based on the administration proposed budget, public employment funding in 1975 is likely to amount to $573 million—a 40 percent decrease from 1974—assuming the $350 million authorized will be expended and anticipated additional state and local expenditures for public employment materialize. The effectiveness of public service employment as a countercyclical tool may be lost because the legislation allows states and localities to intermingle the money nominally set aside for public employment in high unemployment areas with their regular manpower allotments without restrictions on the activities for which dollars from either account may be used. On the other hand, the reduction in the size of the separate public service employment allocation and the freedom to use regular CETA funds for public employment may tempt localities to forego other manpower services in order to maintain their public employment effort.

Even some of the administration's "pet" manpower efforts have suffered in the new budget. The January 1974 state of the union message alluded to plans for revamping the welfare payments system, but on the manpower front the administration budget indicates a dampening of enthusiasm for its policy of combating welfare with work. Last year the Work Incentive (WIN) program appeared a big winner in the manpower budget. However, proposed 1974 and 1975 expenditures for WIN training will increase by only 2 percent and the anticipated man-years of service to be offered are the same. WIN expenditures on direct placement of welfare recipients in jobs—mandated by the Talmadge welfare amendments of 1971—also will be held constant. The administration commitment to moving welfare recipients into permanent jobs appears to have dimmed, though, despite the regrettable loss of funding, this is not an unwelcome recognition of reality.

The administration also intends to clamp down on the expenditures of the United States Employment Service. Its budget fails to reflect this year's expected increase in the unemployment rate which would presumably add to its work load. Moreover, a reduced budget seems to hurt the Department of Labor plans for more services to employers in hopes of raising the numbers of replacements.

Outlays for vocational rehabilitation and for supportive services for WIN trainees, welfare recipients, and vocational rehabilitation trainees continue to expand slowly from year to year. Like veteran's programs, these seem to face little opposition in the annual battle for attention. This year, without U.S. military involvement in the Vietnam War, outlays on veterans programs are expected to stabilize.

Other aspects of CETA legislation threaten problems for some states and localities. The distribution of CETA funds are based on a formula which includes the previous year's allocation (50 percent), the number of unemployed (37.5 percent), and the adult population living on an annual income of below $7,000 (12.5 percent). Despite a hold harmless clause that would prevent cuts of more than 10 percent from the previous year, the formula continues the tendency to redistribute funds to suburban jurisdictions which began in 1973. For the central cities, the outlook is for continuing shrinking budgets.

Central cities can find little hope in other portions of the federal budget. Legislative authority for the Economic Opportunity Act will end in June 1974 and Model Cities is being phased out, threatening to curtail many manpower-related activities of the community action agencies. The CAA budget, which accounted for total outlays $396 million in 1973 and $243 million this year, includes only $87 million for 1975 to phase out federal support for the antipoverty agencies. Manpower expenditures by Model Cities agencies will be reduced from $57 million in 1973 and 1974 to $21 million in 1975. Facing reduced manpower allocations, many cities will find it difficult—if not impossible—to pick up part of the community action or Model Cities tab.

MAKING DO WITH A SMALLER BUDGET

The "decategorization" of manpower funding will not eliminate categorical needs and clients. The budget analysis recognizes these facts of life in its attempt to guess how areas will divide their CETA allotments among institutional, on-the-job training, in-school and post-school work support activities. Since states and localities will be planning this spring for fiscal 1975, the Office of Management and Budget can merely make educated guesses at the distribution of the funds.

Yet, with shrinking funds the predicted number of new enrollees and man-years of service are on the rise. The obvious question is how can this be achieved since higher costs per man-year are expected in each category of service. The "solution" is to cut down on the length of time clients stay in the programs. Presumably, the strategy is speedier placement in jobs. Indeed, the average period of enrollment in institutional training has already dropped from 4.9 months to 3.4 months between 1971 and 1973. The federal budget planners anticipate a further reduction in the next year. Estimated outlays per new enrollee will presumably decline from $2,931 in 1973 to $1,873 next year. Given the history of manpower programs during periods of loose labor markets, like those anticipated in the next year, such a strategy has little hope of succeeding.

The pressure on new local officials and policymakers to plan with reduced budgets places difficult obstacles on the success of the new system designed by CETA. State and local planners will be confronted with politically powerful manpower agencies whose established local manpower turfs may be difficult to alter. Even in areas with good manpower relations between professional bureaucracies and elected officials, additional funds will not be available for experimentation. Moreover, development of the technical skills and political acumen necessary to design and implement changes may not be forthcoming quickly. As long as manpower budgets fail to keep pace with the goals of the new legislation, the new manpower system will not be given a chance to show whether it can operate more effectively or efficiently than the old one.

However, forecasts based on the President's budget proposals may be unnecessarily pessimistic. The modest congressional CETA authorization and the equally skimpy administration budget recommendations were planned in relatively prosperous times as the pressing needs for manpower efforts were declining. Hopefully, the economic downturn and the rising unemployment will stimulate more generous manpower appropriations than the administration and Congress were ready to provide last year. Already, influential members of Congress from both parties have introduced large-scale public employment proposals. If they pass, more CETA funds will be available for other manpower services. The Comprehensive Employment and Training Act may still be given an opportunity to realize the potential inherent in the legislation.

EIGHTH ANNUAL QUESTIONNAIRE

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. HAMMERSCHMIDT. Mr. Speaker, each year since coming to Congress in 1966, it has been my custom to make available to each of my constituents a public opinion questionnaire.

I wish to share with my colleagues the thinking of the residents of Arkansas' Third Congressional District, as expressed in the results tabulated from the 21,783 responses received to my seventh annual questionnaire, which was distributed late in the 1st session of the 93d Congress.

SEVENTH ANNUAL QUESTIONNAIRE RESULTS

1. Would you favor a Federal law or Constitutional amendment reinstituting Capital Punishment for certain specified crimes? 98 percent responded: 88 percent yes, 12 percent no.

2. Should there be a shift in responsibility for funding projects from categorical grants at the federal level to local decision-making? 90 percent responded: 75 percent yes, 25 percent no.

3. Do you think President Nixon is charting a good course in expanding diplomatic and trade relations with Mainland China and the U.S.S.R? 93 percent responded: 74 percent yes, 26 percent no.

4. Do you think the President is correct in insisting through military strength if necessary, that North Vietnam live up to the Paris Peace Agreement? 92 percent responded: 64 percent yes, 36 percent no.

5. If Congress appropriates spending in excess of the budget request, should the President exercise his option of impounding the additional monies? 93 percent responded: 64 percent yes, 36 percent no.

6. Do you generally favor the President's selection of domestic priorities as we phase from a war-time to a peace-time economy? 87 percent responded: 63 percent yes, 37 percent no.

7. Do you believe this questionnaire is a legitimate and effective means of communicating your views to your elected Representative? 96 percent responded: 95 percent yes, 5 percent no.

8. The Senate Agriculture Committee has approved a farm bill to continue the set-aside production concept while establishing target prices for commodities. Should the federal government continue to insure the farmer a percent of his production cost (% of parity) when the market will not support the target price? 90 percent responded: 40 percent yes, 60 percent no.

9. Do you favor federal prohibition on the sale of cheap, short-range handguns (so-called "Saturday Night Specials"), not including longer range pistols and revolvers, rifles and shotguns? 96 percent responded, 67 percent yes, 33 percent no.

10. Do you favor legislation that would insure the continuance of the Office of Economic Opportunity? 92 percent responded: 36 percent yes; 64 percent no.

11. Do you favor legislation recently passed by the House of Representatives which increases the Minimum Wage to $2.20 within one year from enactment, and enlarges the group of employees covered? 95 percent responded: 64 percent yes; 36 percent no.

12. Do you think that the televised Senate hearings on 'Watergate' are (choose one): 94 percent responded.

(a) In the National Interest. 43 percent.

(b) Harmful to the National Interest. 57 percent.

13. Which Congressional course of action on abortion do you favor (choose one): 92 percent responded.

(a) Do nothing at all and let Supreme Court decision permitting abortion stand. 34 percent.

(b) Enact Constitutional amendment to prohibit abortion. 24 percent.

(c) Enact amendment to let each State decide abortion question. 42 percent.

14. Do you think wage-price controls should be (choose one): 91 percent responded.

(a) More strict. 52 percent.
(b) Less strict. 2 percent.
(c) Kept about as they are. 16 percent.
(d) Eliminated. 23 percent.

Mr. Speaker, my eighth annual questionnaire is now being mailed throughout the third district. I include the text of the questions in the hope that they may be of some interest or benefit to my colleagues.

1. To help meet our long-term goal of energy self-sufficiency, would you favor creation of a federal oil and gas corporation to lead accelerated but somewhat costly (estimated $10 billion or more long term) research and development efforts?

2. Should legislation be enacted proposing a Constitutional amendment which would negate the Supreme Court's decision striking down state and local statutes governing abortion?

3. Do you favor financing campaigns for federal office with tax dollars rather than private contributions?

4. Do you feel that network television fairly presents both sides of most issues?

5. In order to conserve energy, do you think auto emissions standards and pollution controls should be relaxed?

6. Do you favor the elimination of federal wage-price controls which still affect certain services & industries?

7. Would you favor a raise in and/or an extension of Social Security benefits coupled with an increase in the Social Security Tax?

8. Do you favor federal legislation to assist the states to develop land use programs for critical areas and uses of more than local concern?

9. Do you approve of the way the President has done his job?

10. Do you think it would be in the country's best interest for President Nixon to:
(a) Remain in office
(b) Resign
(c) Be impeached

11. Which of the alternatives listed below do you favor as the most effective approach to our current energy shortfall: (check one)

(a) a national program of gasoline rationing

(b) removal of petroleum price controls

(c) oil industry excess profits tax provisions to encourage reinvestment in energy resource recovery and development

(d) a roll-back in petroleum product prices

12. Regarding national health insurance, which do you prefer? (check one)

(a) a program financed and operated by the federal government

(b) federally-funded health insurance for welfare dependents

(c) complete reliance on the private health insurance structure

(d) government insurance against only catastrophic or prolonged illness

(e) no new legislation in this area.

BAR PRESIDENTIAL REELECTION SAID GROVER CLEVELAND

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. DULSKI. Mr. Speaker, today is the birthday anniversary of Grover Cleveland, our Nation's 22d and 24th President.

He did not believe a President should succeed himself. Indeed, he felt there should be an amendment to the Constitution to disqualify the President from reelection. It was in support of this philosophy that his terms were not consecutive, thus practicing what he preached.

Grover Cleveland adopted Buffalo, N.Y., as his home. He paid it high honor and public service by his professional and civic work, including terms as Erie County assistant attorney, sheriff, and then mayor, before going on to become Governor of New York State and then President.

In his many public appearances, Grover Cleveland displayed a public dedication and independence that is refreshing.

Anne McI. Matthews, columnist for the Buffalo Courier-Express, has woven a revealing story about Cleveland and his philosophy. Her story includes several quotations from him which make timely reading. Following is her excellent text:

[From the Buffalo Courier-Express, Mar. 17, 1974]

Grover Cleveland

(By Anne McI. Matthews)

He was born 137 years ago tomorrow in Caldwell, N.J., but he lived a lot of his life here and made Buffalo the home of his heart. He said so in dozens of speeches.

Grover Cleveland was certainly one of our greatest Presidents, unquestionably one of the most colorful citizens of Buffalo, and historically splendid, stamping the hallmark of incorruptibility on the office of mayor, governor, and President of the United States. He was truly a man for all ages—in politics. And he is too little remembered in this city and there is too little taught about him in our schools and year after year the anniversary of his birthday is shamefully ignored by a city he supremely enriched and brought renown to. Other than a school and golf course named for him and a statue in front of Buffalo's City Hall, the fame of Grover Cleveland and the incalulable service he rendered to this nation in taking the country entirely away from the prejudices and traditions of the Civil War, has dimmed. It should not be so.

Monday is Grover Cleveland Day. It should be a civic holiday with banners flying.

Grover was a fulltime President of the United States—two times—and an all time adopted son of Buffalo who not only motivated and made things happen here as citizen, Erie County Assistant Attorney, sheriff, and then mayor but went on to carry Buffalo's flag into the office of governor and twice into the White House, for the first time 89 years ago and the second time 81 years ago. He was the 22nd and the 24th President of the United States.

He never forgot his wealth of friends and his obligations to Buffalo. He came back again and again as governor and President to use this city as a forum for international and national speeches of importance. To know the man is to listen to him and the listening I did was through a book, "The Writings and Speeches of Grover Cleveland" by George F. Parker, printed in 1892 with Cleveland's imprimatur 16 years before his death and the speeches provided by himself.

MESSAGE TO SENATE

In a message chastizing the Senate for demands upon him which he deemed imprudent he summed up his credo . . . "no demands of that body are sufficient to discourage or deter me from following in the way which I am convinced leads to better government for the people."

He didn't give long speeches. He seized upon the idea of point of first importance or of practical value and presented it with skill and emphasis. He liked to give advice to his own Democratic party but in none of his speeches did he stress a motive which was partisan and nothing more. He said this in his speech before the City Convention of Buffalo Oct. 25, 1881 when he accepted the nomination for mayor.

"There is, or there should be, no reason why the affairs of our city should not be managed with the same care and the same economy as private interests. And when we consider that public officials are the trustees of the people and hold their places and exercise their powers for the benefit of the people, there should be no higher inducement to a faithful and honest discharge of public duty."

In his letter accepting the nomination for governor, Oct. 7, 1882—"Public officers are the servants and agents of the people to execute laws which the people have made, and within the limits of a constitution which they have established. Hence the interference of officials of any degree, and whether state or federal, for the purpose of controlling the popular wish, should not be tolerated."

REGARDING MUNICIPALITIES

He said further—"I am unalterably opposed to the interference by the Legislature with the government of municipalities. I believe in the intelligence of the people when left to an honest freedom in their choice, and that when the citizens of any section of the state have determined upon the details of a local government, they should be left in the undisturbed enjoyment of the same. The doctrine of home rule, as I understand it, lies at the foundation of republican institutions, and cannot be too strongly insisted upon."

One of his greatest campaign speeches was made in Albany, July 10, 1884—"The American people are about to exercize, in its highest sense, their power of right and sovereignty. They are to call in review before them their public servants and the representatives of political parties, and demand of them an account of their stewardship.

"Parties may be so long in power, and may become so arrogant and careless of the interests of the people, as to grow heedless of their responsibility to their masters. But the time comes, as certainly as death, when the people weigh them in the balance.

"We believe that the people are not receiving at the hands of the party which, for nearly 24 years, has directed the affairs of the nation, the full benefits to which they are entitled—of a pure, just, and economical rule—and we believe that the ascendency of genuine Democratic principles will insure a better government, and greater happiness and prosperity to all the people.

"To reach the sober thought of the nation and to dislodge an enemy entrenched behind spoils and patronage, involve a struggle, which, if we underestimate, we invite defeat. Let us do battle for a better government, confidently, courageously, always honorably, and with a firm reliance upon the intelligence and patriotism of the American people."

Would that all those involved in the Watergate mess could have learned from his letter accepting nomination as President mailed from Albany, Aug. 18, 1884—as follows—

VIEW ON PUBLIC SERVICE

"The people pay the wages of the public employees, and they are entitled to the fair and honest work which the money thus paid should command. It is the duty of those entrusted with the management of their affairs to see that such public service is forthcoming. The selection and retention of subordinates in government employment should depend on their ascertained fitness and the value of their work, and they should be neither expected nor allowed to do questionable party service.

"The interests of the people will be better protected; the estimate of public labor and duty will be immensely improved; public employment will be open to all who can demonstrate their fitness to enter it; the unseemly who scramble for place under government, with the consequent importunity which embitters official life, will cease, and the public departments will not be filled with those who conceive it to be their first duty to aid the party to which they owe their places, instead of rendering patient and honest return to the people.

"I believe that the public temper is such that the voters of the land are prepared to support the party which gives the promise of administering the government in the honest, simple, and plain manner which is consistent with its character and purposes. They have learned that mystery and concealment in the management of their affairs cover tricks and betrayal."

Cleveland came back to Buffalo to give speeches whenever he could—for instance—at Buffalo's 50th anniversary of incorporation as a city in St. James Hall, W. Eagle and Washington Sts.; at the celebration of the semi-centennial of the German Young Men's Assn. in 1891, in the Music Hall at Main and Edward Sts. (later the Teck Theater), which replaced a former hall destroyed by fire in 1885 along with St. Louis Church; and at the laying of the cornerstone of the Fitch Institute at Swan and Michigan, in 1882.

RISE WAS METEORIC

This was the first day care center to be established in the nation and was established by Philanthropist Benjamin Fitch as a home for children of working mothers at the behest of an oragnization headed by Maria Love, another Buffalonian who also gave generous sums to great causes in this city.

Cleveland's rise from an obscure lawyer to the highest office in the land was admittedly meteoric and he always in his many Buffalo speeches humbly acknowledged that it was to a great many prominent Buffalonians that he owed his successes. An example is his speech in Buffalo Oct. 2, 1884 when he acknowledged his nomination for President.

"I can hardly tell you how grateful I am for the confidence and esteem of my friends and fellow citizens. I have resided among you and in the city where all my success in private life has been achieved for nearly 30 years. But two short years ago you stood steadily by my side in every effort of mine as the chief executive of our city, to advance its interests and welfare.

"I can never forget the generous endorsement you gave my candidacy for governor.

"Because I love my state and her people, I cannot refrain from reminding you that she should be in the van of every movement which promises a safer and better administration of the general government, so closely related to her prosperity and greatness. And let me leave you with the thought that your safety lies in impressing upon the endeavor of those entrusted with the guardianship of your rights and interests, a pure, patriotic, and exacting popular sentiment.

CHARACTER OF GOVERNMENT

"The character of the government can hardly rise higher than the source from which it springs, and the integrity and faithfulness of public servants are not apt to be greater than the public demand."

Right here it might be pertinent to cite some Cleveland "sensational facts." A little known thing is the fact that he was the domino that set up a record that in 51 days—less than two months—Buffalo had four mayors in a row. When Cleveland was elected governor he resigned as mayor (Nov. 20, 1882). The city council met and promptly named Marcus Drake as interim mayor. He resigned Dec. 22. The council then appointed Harmon S. Cutting mayor on Dec. 29. On Jan. 9, 1883, ten days later, John Manning in a special election was named mayor.

Cleveland started in his mayoralty and continued through his governorship and presidency to be known as "Mister Veto". He never hesitated to declare his honest opposition to legislation he felt unnecessary or contrary to the public welfare.

He was the first Democrat in a long time to be elected mayor and President. He is the only President who succeeded his successor.

One of the most significant of Cleveland's great beliefs—and campaigns—was his opposition to a President succeeding himself or perpetuating himself in office (long before the Roosevelt determination to rule no matter what crisis might be obtained by disability). And this was despite his eventual serving two terms. In his letter accepting the presidental nomination in 1884 he said this which is prescient:

ON PRESIDENTIAL REELECTION

"When an election to office shall be the selection by the voters of one of their number to assume for a time a public trust, instead of his dedication to the profession of politics; when the holders of the ballot, quickened by sense of duty, shall avenge truth betrayed and pledges broken, and when the suffrage shall be altogether free and uncorrupted, the full realization of a government by the people will be at hand.

"And of the means to this end not one would, in my judgment, be more effective than an amendment to the Constitution disqualifying the President from re-election. When we consider the patronage of this great office, the allurements of power, the temptations to retain public place once gained and, more than all, the availability a party finds in an incumbent whom a horde of office holders, with a zeal borne of benefits received and fostered by the hope of favors yet to come, stand ready to aid with money and trained political service, we recognize in the eligibility of the President for re-election a most serious danger to that calm, deliberate and intelligent political action which must characterize a government by the people."

The following is "the record of Grover Cleveland." An explanatory note about the reference to the "Murchison Letter" in his first administration is that this was a cleverly contrived Republican trick to make it seem that Cleveland was unduly friendly towards the English and hence disloyal to American-Irish and other Anglophobes. In other words, political dirty tricks vintage 1888. The record:

CLEVELAND'S RECORD

Grover Cleveland—(1837–1908) Twenty-second and Twenty-fourth President.

Born, March 18, 1837

Place of birth, Caldwell, N.J.

Ancestry, English-Scotch, Irish

Father, Richard Falley Cleveland (1804–1853)

Mother, Ann Neal Cleveland (1804–1882)

Wife, Frances Folsom (1864–1947)

Children, Five: two boys, three girls

Education, public schools

Religion, Presbyterian

Occupation, lawyer

Military Service, none

Political Party, Democrat

Offices Held: Erie County assistant attorney; sheriff of Erie County; Maylor of Buffalo; governor of New York State

Age at Inaugurations: 47 and 55

Terms served: Two (1885–1889) (1893–1897).

Vice Presidents: Thomas A. Hendricks (1885, died in office) and Adlai E. Stevenson (1893-1897).

Died: June 24, 1908, Princeton, N.J., age 71.

Cause of Death: Natural causes.

HIS FIRST ADMINISTRATION

Highlights of historical events during Cleveland's first administration (1885-1889).

Political—1886—Presidential Succession Act; Treasury surplus grows; American Federation of Labor organized with Samuel Gompers as first President; Statue of Liberty dedicated at Bedloe's Island, New York.

1887—Interstate Commerce Commission formed; Hatch Act.

1888—"Murchison Letter".

1886—Capture of Apache Chief Geronimo ends South-West Indian hostilities.

Scientific—1895—Commercial adding machine—William Burroughs, U.S.

1888—Kodak camera—Eastman Kodak, U.S.

Territory—No states admitted.

HIS SECOND

Highlights of Historical Events during Second Administration (1893–1897).

Political—1893—Nationwide bank panic; repeal of Sherman Silver Purchase Act; World Columbian Exposition held in Chicago.

1894—Coxey's Army; Federal troops called out to control Pullman strike.

1896—Hawaii becomes a Republic; McKinley elected president.

Military—1895—Cuban revolt.

Scientific—1894—Wireless telegraph—Guglielmo Marconi, Italy.

1896—Electric Stove—Wm. S. Hadway, U.S.

Territory—state admitted: Utah, 1896.

The statue of Grover Cleveland on the north end outside the Buffalo City Hall is a masterpiece of the famous sculptor, Bryant Baker. It was unveiled in 1932 and was the first statue to be dedicated to him in the entire United States. Baker had previously sculptured models of Taft, Hoover, Coolidge, Theodore Roosevelt and Wilson. The statue is a true likeness of the President. In order to insure Cleveland's exact proportions Baker borrowed an overcoat from Mrs. Cleveland and for his facial expression he used the death mask of the President which is kept at Princeton University. The statue portrays Cleveland delivering an address so characteristic of his political career.

An amusing item of interest in connection with the situation of the statue is the significance of the exact site. It was argued that the statue of Millard Fillmore to the south should have faced the site of the Hotel Statler which was the location of Fillmore's mansion and that Cleveland should have been placed so that he might forever stare at the site of Louis Goetz' Pearl Street saloon which he frequented many times with scores of Buffalo cronies.

A bust of Grover Cleveland is presently in The Buffalo Club in Delaware Ave.

MARS—LIKE A MAGNET TO SOVIETS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. TEAGUE. Mr. Speaker, within the funds available, our national space program is attempting to utilize the technology of space more and more directly for the benefit of this Nation and the world. To provide the store of knowledge necessary to do this requires funding scientific research and development in space. A significant part of this scientific effort is the future exploration of Mars with unmanned landing vehicles in the NASA-Viking program. It is important to note that the Soviet Union continues to press on with their vigorous exploration of the solar system. Undoubtedly they are motivated by a similar concern to our own—that of developing the scientific basis upon which to build programs of strong and direct worth to their people. Mr. Kenneth W. Gatland in a recent issue of the Christian Science Monitor reviews the Soviet plans for scientific exploration of Mars. The article follows:

MARS—LIKE A MAGNET TO SOVIETS

(By Kenneth W. Gatland)

LONDON.—With an armada of four automatic interplanetary stations heading toward Mars, the determination of the Soviet Union to press ahead with the unmanned exploration of that great planet is beyond question.

Had the United States space budget not been cut two Viking spacecraft equipped with biological laboratories would have joined them. But now it will be August, 1975, the next opportunity to launch for Mars, before America's major Mars experiment can get off the ground.

Undoubtedly we are witnessing a major Soviet effort not only to survey the planet from orbit, but also to land television cameras and scientific instruments.

The first two craft, Mars 4 and Mars 5, were launched from the Soviet cosmodrome at Tyuratam in central Asia on July 21 and July 25, respectively. They should reach the planet in mid-February, 1974.

FOUR TRACKING SHIPS

Mars 6 and Mars 7 left the cosmodrome on Aug. 5 and Aug. 9. They are expected to arrive a few weeks after their predecessors. Their departure from earth-orbit was under the control of ground stations in the Soviet Union and four tracking ships strung out across the oceans with Molniya communications satellites completing the link.

The clue that the Soviets may have launched a major exploratory device for soft-landing on Mars was given by the official Tass announcement on the launching of Mars 6.

This gave the main objective as the exploration of the planet and the surrounding space, and in-flight studies of the interplanetary medium. It also stated that "Mars 6 differs somewhat in its design" from the craft launched in July.

ROBOT EQUIPMENT

The communique continued: "It is envisaged that Mars 6 will carry out part of the scientific exploration with the use of equipment of Mars 4."

It seems that one craft, probably Mars 4, is meant to serve as a relay station in Mars orbit for a major surface experiment that could involve television and the manipulation of robot equipment. The orbiter could also be used to boost TV signals from the lander to the Soviet deep-space tracking station at Yevpatoriya in the Crimea.

Mars 6 and 7 are stated to be similar in design. Both carry French instruments provided under the Franco-Soviet agreement for peaceful cooperation in space. This main experiment, also carried on Mars 3 in 1971, examines the sun's radio emission in the one-meter band simultaneously with ground stations in France and the Soviet Union. Other spaceborne instruments study the characteristics of solar plasma and cosmic rays.

The Russians are known to have two major projects for Mars exploration. One is an automatic microbiological laboratory. It will scoop up samples of Martian soil and analyze them automatically for traces of living organisms such as bacteria, yeasts, and fungal cultures. Air samples will be drawn into the capsule for analysis through a filter designed to trap microorganisms.

When I visited Moscow earlier this year I was told that scientists hope to land instruments in a region near the south polar gap where the thin carvon dioxide air might carry moisture. Initially, they plan to analyze the soil with a gamma-ray spectrometer of the type used on the Moon and Venus.

Russian scientists are paying particular attention to a broad region of the so-called Red Planet between 15 degrees and 50 degrees south and 20 degrees and 45 degrees west using photographs obtained from Mars orbit by America's highly successful Mariner 9 spacecraft.

REMOTE CHEMICAL ANALYSIS

Lev Mukhin, chief of the Laboratory of Exobiology of the Soviet Institute of Space Research, has already shown that microorganisms and simple plants in a Mass simulator can live in a thin, mainly carbon dioxide atmosphere with minute amounts of water vapor. Mariner 9 confirmed that the polar region of Mars contains both frozen carbon dioxide (dry ice) and water ice. However, the Soviet scientists know only too well how difficult the problems are. They may be content first to obtain panoramic television pictures of surface conditions at the landing site and to make a remote chemical analysis of the soil.

The other major project on which the Russians are working is a wheeled Mars rover.

CHRISTIAN SCIENCE MONITOR PRAISES AKRON'S NEW PERFORMING ARTS CENTER

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. SEIBERLING. Mr. Speaker, I am again delighted to offer for the Record another article praising the new Edwin J. Thomas Performing Arts Center at the University of Akron in my home city of Akron, Ohio. In an article in the Christian Science Monitor for March 15, William Marlin, editor in chief of the Architectural Forum, writes that the Thomas Hall—

> In pointed contrast to the bejeweled banality of so many "culture centers" of the 1950's and 1960's, is a structurally inventive and, expressing this, spatially dynamic experience.

Mr. Marlin goes on to say that—

> It is not stretching it to say that this eminently flexible building, with its Stradivarius of a room, has achieved at least one of the most memorable public spaces to appear since the 1960's resurgence of cultural concern at the grass-roots level.

Mr. Speaker, so striking is this magnificent building that one can only regret the lack of an opportunity, because of the format of our Rerord, to reproduce in the Record a graphic replica of the building. I can certainly recommend to all of our colleagues who may be in the vicinity of Akron, that they make a point of visiting this notable achievement, which Ada Louise Huxtable, the architectural critic of the New York Times, stated:

> Makes all other similar centers built in recent years look provincial.

In all fairness, I should point out that while the building was built with $11 million of local money, it was designed by architects from Houston, Tex., in association with architects from Cleveland.

Having achieved such a notable work of engineering skill and architectural finesse, the University of Akron and the surrounding community must now meet the challenge of insuring that this building is used in a manner befitting such a grand structure. The signs are that the community is meeting the challenge. However, it is also a challenge for the Nation as a whole. Most civilized countries have long since recognized that art and culture do not "pay their way." The classic theater, symphony orchestras, ballet, opera, art museums, historical museums, and other similar activities involving the preservation and dissemination of our magnificent cultural heritage require both private and public subsidies to keep them alive. Kept alive they must be, since they represent the most noble expressions of civilization.

There is no more reason why the arts should not be subsidized than there is that education should not be subsidized. In fact, the arts are part of our educational process, and unlike the formal phases of our education, serve people of all ages and backgrounds.

The Christian Science Monitor article follows:

ARTS CENTER IN AKRON, OHIO, LEAPS FREE OF THE ORDINARY

(By William Marlin)

AKRON, OHIO.—In the tiremaking city of Arkon, cultural concerns tread lightly among such big concerns as B. F. Goodrich, Goodyear, and Firestone.

Gradually, however, culture has developed a traction in these parts, and the result, opened six months ago, is the Edwin J. Thomas Performing Arts Hall, built with $11 million of local money, and designed by architects Caudill Rowlett Scott of Houston, in association with Dalton, Van Dijk, Johnson & Partners of Cleveland.

Thomas Hall, in pointed contrast to the bejeweled banality of so many "culture centers" of the 1950's and 1960's, is a structurally inventive and, expressing this, spatially dynamic experience.

Instead of inert encrustations of imported chic, like New York's Lincoln Center or Washington's Kennedy Center, the Akron job orchestrates structural and spatial essentials, and *only* essentials, eschewing applied effects.

ON-CAMPUS SITE

Located on the University of Akron campus, near downtown, the configuration of Thomas Hall reflects a variety of programmatic needs—space for seminars, business meetings, and conferences, space for campus programs, space where the city could pridefully house visiting performers, space to host conventions.

In other words, the architects were faced with one specific—that is, providing a nonspecific room in which a lot of very different things could be done.

The result is *some* room.

Or, to be more exact, some *three* rooms—rolled in one.

In concert with theater-design consultant George Izenour and acoustician Vern Knudsen, the architects have created a flexible instrument which, by way of changeable ceiling configuration, can be finely turned to an audience of 3,000, or 2,400, or an even more intimate 900 people.

The ceiling is an arresting, iridescent undulation of metallic, trapezoidal panels, adding up to a deceptively ethereal 44 tons. All of which is suspended from cables. These in turn thread out into the 90-foot-high lobby where, looping around a constellation of pulleys, they support 27 chrome-plated steel cylinders, adding up to an inadvertently artistic 47-ton "sculpture" of counterweights.

This element, plainly functional and yet compellingly beautiful, is a metaphor for all of Thomas Hall. Take a closer look, again, at that great room.

It's grandeur as a space directly expresses the need for flexibility and, at the same time, the tenets of acoustical science. Indeed, there are sweeps of continental seating, and nonstop expanses of vermilion upholstery. But more. The ceiling looks the way it does because its adjustable sections are purposely poised for action.

The hall is not your usual friendly neighborhood shoe box but is, instead, expressive of the building's unrelenting symmetry which generates a fan-shaped plan.

The seating is banked at a 30-degree angle, and because of both the plan and the seating angle, no one is more than 132 feet from the stage. The uppermost, third tier of seats, is held forward from the rear wall, not for effect of spatial movement, but because acousticians from Dankmar Adler to Vern Knudsen want *sound* to move, and not get caught topside.

We are reminded of the still-used triumph of Adler's Chicago Auditorium (1889), done with his partner Louis Henri Sullivan, which has a similar tier in the rear. Like the auditorium, Thomas Hall is a synthesis of science and art. And to think it took the better part of a century to excel that noble precedent.

The outside of the building is, as you might expect by now, a no-nonsense expression of what goes on inside. Its concrete structure is an outcropping of geometric shapes, all of which perform some very practical purpose.

A deft sequence of landscaped terraces step gradually up from a plaza and fountain, admitting patrons on several levels. Two stair towers read as triangular prisms. A block of backstage facilities, parallelogram-shape in plan, looms up as a stark mess, relieved on the outside by the low-lying planted terraces under which are tucked dressing rooms, spaces for the design and construction of sets, and assorted offices.

An immense envelop of concrete curves around the north and west sides of the building, like a great caress, keeping out the noise and vibration of nearby railroad tracks.

NONTREATMENT OF GLASS

The dominant vertical planes of these vertical masses give way, on the horizontal plane, to recessed concrete spandrels, denoting the edges of floors. And seeming to hover above this geometric array is a roof composed of concrete folded plates which, angling up from the back-stage mass, span across and clamp onto the northwesterly, curving wall.

This crystalline composition is further enhanced by the treatment or, more accurately, nontreatment of glass. There are great sheets of it between the prisms, curves, and folds. The planes are delicately joined by strong stainless-steel clamps, thus doing away with the typical mullion elements which would have done visual combat with the concrete structural masses.

Where glass meets mass, the panes are simply slid into an almost indiscernible slot. The juncture between glass and mass is that of the facet of a gem.

Once inside the building's outside (distinctions are aptly difficult to make here), the 90-foot-high lobby, with those counterweights hanging up above you, is marked by an incredible dimension of movement as bridges, balconies, and stairs give way to one another with a symphonic spatial flow.

It is a place where promenading is, itself, a performing art.

MOVABLE, FUNCTIONAL

Thomas Hall is more than architecture as object.

It is, literally, a movable array of functional and structural elements which, carefully counterpointing each other, create a symbol for culture and for Akron.

It is not stretching it to say that this eminently flexible building, with its Stradivarius of a room, has achieved at least one of the most memorable public spaces to appear since the 1960's resurgence of cultural concern at the grass-roots level.

But as important—indeed, more important—it is a building in which people can easily comprehend that culture, and its symbols, consist in more than just getting the best acts. As Emily Dickinson once observed, "The show is not the show, but they who go."

CASE FOR FEDERAL OIL AND GAS CORPORATION—NO. 11

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. HARRINGTON. Mr. Speaker, in the early part of this century, vast expanses of public-owned lands in the Western United States were purchased by private speculators. It had already become apparent, by this time, that petroleum was critically important to the future of the American economy.

During this same period, the Navy began to convert from coal to oil as its primary fuel source. To insure access to petroleum in emergencies, defense planners suggested that the Government not allow certain oil-bearing lands to be claimed by private entrepreneurs. In light of these factors, four naval petroleum reserves and three naval oil shale reserves were established between 1912 and 1923. It has been estimated that Naval Petroleum Reserve No. 1 at Elk Hills in California, Reserve No. 2 at Buena Vista Hills on lands adjacent to the southern boundaries of Elk Hills, Reserve No. 3 at Teapot Dome in Wyoming, and Reserve No. 4 in Alaska contain a total of approximately 39 billion barrels of recoverable oil reserves. In addition, Naval Oil Shale Reserves No. 1 and No. 2 in Colorado, and Reserve No. 3 in Wyoming are estimated to contain as much as 25.8 billion barrels of recoverable oil shale.

As we are all aware, these naval petroleum reserves have been the focal point of extensive controversy ever since, as private corporations have schemed and struggled to gain control of them.

For instance, the Teapot Dome scandal during the Harding administration centered on private attempts to exploit these lands.

A more recent example involves the President's statement of September 10, 1973. Against the advice of then acting Attorney General Kliendienst, the President recommended that Standard Oil of California—Socal—be permitted to extract up to 160,000 barrels a day from the Elk Hills Reserve, ostensibly to help relieve the energy crisis. As my colleague, Mr. Moss has pointed out, while the President's decision would allow Socal to realize profits of $200 million in the first year of production, development of this reserve would leave our energy plight virtually unaltered; the amount of oil which could be recovered from Elk Hills represents only nine-tenths of one percent of our total domestic consumption.

The need for Government petroleum reserves is certainly necessary, but I see no reason why private corporations should profit from activity on these lands. Socal seems especially unsuited to be permitted stewardship over Elk Hills; in fact, earlier this year Socal was successfully sued by the Justice Department, at the request of the Navy, for illegally draining certain oil pools within the reserve. Because of Socal's actions, the public has been illegally deprived of millions of barrels of oil.

It seems to me that a Federal Oil and Gas Corporation would be a more dependable and conscientious overseer of these reserves. The legislation to create the Corporation provides, "the Secretary of Defense, acting for the Secretary of the Navy, shall transfer possession of certain properties inside the naval petroleum and oil shale reserves, which are subject to such Secretary's jurisdiction and control, to the Corporation."

Through the Federal Oil and Gas Corporation, we could be assured, after more than 60 years of scandals and administrative confusion, that our Federal petroleum reserves would be responsibly controlled.

A PSYCHIATRIST TELLS WHY HE IS A GUN-CARRYING DOCTOR

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1974

Mr. DINGELL. Mr. Speaker, I insert into the CONGRESSIONAL RECORD two excellent articles appearing in the Manchester Union Leader of Manchester, N.H., on Monday, March 11, 1974.

The first, by the distinguished publisher of that newspaper, Mr. William Loeb, is entitled "A Psychiatrist Tells Why He's a Gun-Carrying Doctor," and the second is an editorial signed by Mr. William Loeb explaining his feelings regarding firearms ownership.

The articles follow:

A PSYCHIATRIST TELLS WHY HE'S A GUN-CARRYING DOCTOR

(By James A. Brussel, M.D.)

As I waited to renew my handgun permit at the New York City license bureau recently, I noticed that the police officer who paged applicants to step forward seemed to address about one in six as "Doctor."

Though I've carried a revolver for some time, I hadn't realized till then that many of my megalopolitan colleagues do, too. Before my name was called, I corralled several and asked why.

Through tales of office holdups and broad-daylight street muggings ran one theme: the need for protection against drug addicts.

I've never fired my .32-caliber Iver Johnson at anyone. But it's never far from reach while I attend patients in my mid-Manhattan office or on outside calls.

And, believe me, if I ever needed to shoot—I will. I remember all too well that three of my psychiatrist-colleagues have been savagely beaten (one fatally) by frenzied addicts for whom they'd refused to write narcotic prescriptions.

I could easily have met the same fate not long ago when the doorman for my building announced over the intercom that a Mr. Miller wanted to see me. I asked the stranger to explain why he'd come, and he said a young man whom I'd once had in therapy had recommended me. I told Mr. Miller to come to my office.

He was about 21, tall, well-built, and claimed to be an outpatient at a local methadone clinic that was closed for the day.

"All I need is one lousy pill, Doc," he insisted. But when I proposed calling the clinic to verify his story, he angrily offered me the choice of writing the prescription or taking a beating.

"I've got a choice for you, too," I said as I drew my revolver and pointed it at his head. "Either walk out of here quietly, or . . ." He stared at the weapon for a moment, then turned and left.

The gun has helped me out of tight spots on occasional emergency night calls. Usually, I'm summoned to an apartment by a former patient whose friend is unconscious from a drug overdose.

Getting a cab to some high-crime neighborhoods isn't hard, but getting back can be. Often, I have to walk several blocks to a subway. When I do, I carry the gun in my hand—not in my pocket.

Once, about midnight, an almost-stoned bruiser snarled, "I wanna talk to you, Mister." I leveled the gun, and he backed off hurriedly, hands raised.

Nor is the need for self-protection always connected with my practice. Last week, my wife and I returned home from the opera by subway because cabs were unavailable. As we climbed the steps of the exit adjacent to our apartment building, I saw three youths slouched against the wall. "Get behind me," I told my wife.

One youngster moved in front of us. "Hold it, Whitey," he sneered, "we got something to say to you."

"So do I," I answered, and aimed the revolver at his middle. All three fled down the street.

Before that night, my wife had constantly begged me not to carry the gun. She hasn't since.

REASONS WHY YOU NEED A GUN

In an article at the top of our back page today, a doctor tells why he carries a gun—not to shoot anybody, but to keep himself from being shot or assaulted by someone else. In his short and to-the-point article, he tells how, on three occasions, his having a gun protected him from serious bodily harm and possible death.

That's a point that the anti-gun people always miss. They say that if all handguns were confiscated, there would be fewer accidents in the home. That may be true. However, accidents in the home can be prevented through more training in the safe handling of guns.

They say, also, that fewer quarrels would end in murder, but that's speculation. People can kill people with anything that's handy, from knives to clubs.

But entirely aside from the constitutional right of citizens to have guns, the point that the anti-gun people always miss is that the presence of guns in the hands of good people deters criminals from attacks, just as the doctor describes at the top of our back page today.

Most gun-owners have never had to use a gun against anyone, but occasionally they have had to show they had a gun in order to make some wrongdoer back off and think better of his attack.

However, if wrongdoers know that, by law, their victims automatically have no possibility of having a weapon on them, then, of course, either by superior physical strength, greater numbers or by having guns of their own, they can easily work their will on their victims without risking retaliation.

Along this line, probably the most moving and effective testimony given against the confiscatory gun laws proposed for Massachusetts at a recent hearing at the Massachusetts State House was that given by a housewife who still exhibited bruises and injuries from a very severe beating she received from robbers who had entered her and her husband's house. The robbers tied up her husband and beat her unmercifully until she lapsed into unconsciousness. When she came to, she realized that she had one of the family guns within reach. She grabbed it and shot and killed one of the robbers. The other fled.

As she said most movingly at the hearing, "If it wasn't for that gun, probably I would be lying now alongside my husband in a grave in a New England cemetery."

We most sincerely commend to your attention this article at the top of our back page today because this New York psychiatrist tells so simply and so completely why the sensible people of the United States should be armed.

WILLIAM LOEB, *Publisher*.